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federal register

Thursday
April 26, 1979

Highlights

Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or hearing impaired persons who need information about documents published in the **Federal Register**. See the Reader Aids section for the telephone listing.

Briefings on How To Use the Federal Register—See announcement in the Reader Aids Section at the end of this issue.

24547 **Homes** HUD increases FHA maximum interest rate to 10.00 percent per annum

24554 **New Homes and Condominiums** VA increases maximum interest rate on guaranteed, insured and direct loans; effective 4–23–79

24638 **Indochinese Refugees** HEW/SSA issues a notice governing the award of grants made available for resettling in the U.S., apply by 6–11–79

24616 **Public Telecommunications Facilities** Commerce/NTIA invites applications for its grants program; apply by 8–4–79

24629 **Financial Analysis Model** DOE develops discounted cash flow procedure which can provide quantitative measures of the impact of proposed governmental actions on private investment decisions

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24800 **Energy Use; Federal Buildings** DOE proposes procedure for reporting of preliminary audit; comments by 5–29–79 (Part V of this issue)

24696 **Conduct of Employees** DOE promulgates prescribed standards for individuals under hire with the Department except for persons working under the Federal Energy Regulatory Commission; effective 4–26–79 (Part II of this issue)

24587 **Conduct of Employees** HEW/Secy' withdraws proposal to liberalize policy on outside work activities of certain employees

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24820 **Handicapped Research** HEW/HDSO publishes statement of organization, function, delegation of authority and agenda of prospective activities (2 documents) (Part VII of this issue)

24678 **Floodplain Management** DOT publishes final policies and procedures of protection; effective 4–26–79

24626 **Energy Emergency Management** DOE/EIA announces the publication of a program for development of the information system

24591 **Motor Vehicle Safety and Fuel Economy** DOT/NHTSA propose five year plan

24613 **Air Carriers: Schedule Failure** CAB issues order to show cause on Rule 380, which discusses failure to operate on schedule or failure to carry

24573 **Aircraft Registration** DOT/FAA proposes that holders of certificates file a report whenever there has been a three year lapse; comments by 6–11–79

24778 **Noise Limits** DOT/FAA proposes amendments to the aircraft operating rule; comments by 6–25–79 (2 documents) (Part III of this issue)

24576 **Semiannual Agenda** TVA publishes document to satisfy Executive Order 12044, "Improving Government Regulations"

24691 **Sunshine Act Meetings**

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF ENERGY

10 CFR Part 211

Amendment to Include Gasoline Retailers Within State Set-Aside Program

AGENCY: Economic Regulatory Administration, Department of Energy

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts an amendment to the Mandatory Petroleum Allocation Regulations that will, for the months of April and May 1979, permit a state to use the state set-aside for gasoline to assist retailers experiencing supply emergencies. The amendment will assist gasoline retailers that are currently experiencing difficulties in obtaining adequate supplies of gasoline due to the adjustments required in the national gasoline distribution system to comply with the newly established gasoline allocation base period of July 1, 1977 through June 30, 1978.

EFFECTIVE DATE: April 19, 1979.

FOR FURTHER INFORMATION CONTACT:
Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2222–A, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254–5201.
William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461 (202) 634–2170.
William E. Caldwell (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254–8034.
Alan T. Lockard (Office of Fuels Regulation), Economic Regulatory Administration, Room 6222, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254–7422.
Ben McRae (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–6739.

SUPPLEMENTARY INFORMATION:

I. *Background.*
II. *Amendment Adopted.*
III. *Procedural Requirements.*
A. *Section 553 of the Administrative Procedure Act.*
B. *Section 404 of the DOE Act.*
C. *Section 7 of the FEA Act.*

I. Background

On March 30, 1979, we issued a notice proposing a new Special Rule No. 8 for Subpart A of Part 211 which would permit a state to use the state set-aside for gasoline to assist gasoline retailers experiencing difficulties in obtaining adequate supplies of gasoline (44 FR 20444, April 5, 1979). The discussion in that notice of the difficulties of gasoline retailers, and the industry generally, in adapting to the revised motor gasoline base period remains valid and is incorporated herein by reference.

In order that Special Rule No. 8 might be made effective for use in April, we waived certain procedural requirements of section 501 of the Department of Energy Organization Act (Pub. L. 95–91, DOE Act) and of DOE Order 2030 in order to provide for an abbreviated period for public comment in this proceeding. We have considered all written comments received on or before April 12, 1979, as well as the oral comments presented at the public hearing on this matter held on April 12, 1979.

Seven state energy offices and four representatives of the industry commented on the proposal. One state energy office opposed adoption of the rule because of the increased administrative burden that operation of the rule would place on the states. The other commenters favored the inclusion of gasoline retailers within the state set-aside program. Several of these commenters felt that the proposed rule was too restrictive, especially that provision of the rule which prohibited assignments to retailers prior to the twentieth day of a month.

II. Amendment Adopted

In light of these comments and our further analysis of the situation, we have determined to adopt Special Rule No. 8 substantially as proposed and to make it effective immediately for the months of April and May 1979.

Special Rule No. 8 will permit a State to include gasoline retailers that are experiencing gasoline supply emergencies among the eligible recipients of gasoline from the State set-aside program during the months of April and May 1979. The Special Rule will be effective only in a State that elects to include gasoline retailers within the set-aside program for that particular State and notifies ERA of its decision. Notification should be sent to Alan T. Lockard, Office of Fuels Regulation, Economic Regulatory Administration, Room 6222, 2000 M Street, N.W., Washington, D.C. 20461.

Applications for assignment of set-aside volumes will be made to the appropriate State energy office which will approve or disapprove the application. Since an assignment will only be made in response to emergency situations, an applicant will not be required to make its application in writing. Each applicant will be required, however, to submit a written certification that it is experiencing a gasoline supply emergency within five days of its verbal or written application.

Applications for gasoline to meet hardship and emergency requirements of wholesale purchaser-consumers and end-users will have priority over those of gasoline retailers. We urge State energy offices to take appropriate steps to insure that sufficient set-aside volumes exist to meet the priority requirements of wholesale purchaser-consumers and end users throughout the month.

In this regard, we originally proposed that a State energy office not be permitted to issue an assignment to a gasoline retailer prior to the twentieth day of the month. Several States commented that this provision would restrict their ability to respond to the needs of some retailers and to administer the program efficiently. Therefore, we have determined to adopt a rule that permits a State energy office to issue assignments to gasoline

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retailers at any time during a month, provided that no more than fifty percent of the total set aside volume for that State for that particular month is assigned to gasoline retailers prior to the sixteenth day of the month.

III. Procedural Requirements

A. Section 553 of the Administrative Procedure Act

Section 553 of the Administrative Procedure Act (5 USC 551 *et seq.*) requires that a substantive rule not become effective less than thirty days after its publication unless the agency promulgating the rule finds good cause to waive this requirement and publishes this finding together with the rule. We have determined that good cause exists to waive the section 553(d) requirement because of the difficulties in obtaining adequate supplies of gasoline currently being experienced by certain gasoline retailers.

B. Section 404 of the DOE Act

Section 404(a) of the DOE Act requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary of Energy proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of functions transferred to him under section 301 or section 306 of the DOE Act. If the FERC determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any of its functions under sections 402 (a)(1), (b) and (c)(1) of the DOE Act, the Secretary shall immediately refer the matter to the FERC.

Following an opportunity to review Special Rule No. 8 the FERC has declined to determine that the rule may significantly affect one of its functions under the sections noted above.

C. Section 7 of the FEA Act

As required by section 7(a) of the Federal Energy Administration Act (Pub. L. 93–275), we submitted a copy of the notice of proposed rulemaking on Special Rule No. 8 to the Administrator of the Environmental Protection Agency for his comments concerning the impact of the proposal on the environment. The Administrator had no comments.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95–91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., April 19, 1979.

Hazel R. Rollins,

Deputy Administrator, Economic Regulatory Administration.

The Appendix to Subpart A of Part 211 is amended by adding Special Rule No. 8 to read as follows:

Appendix to Subpart A Part 211—Special Rule No. 8

1. *Scope.* This Special Rule provides that during the months of April and May 1979 gasoline retailers will be included among the eligible recipients of assignments of gasoline under the state set-aside program established by § 211.17.

2. *State election to include gasoline retailers.* The inclusion of gasoline retailers among the eligible recipients of assignments of gasoline under the state set-aside program will not be in effect in a particular state prior to notification to the Office of Fuels Regulation, ERA, by the appropriate State Office that such State elects to include gasoline retailers among the eligible recipients.

3. *Eligibility of Gasoline Retailers.* In addition for use to meet hardship and emergency requirements of wholesale purchasers-consumers and end users as provided in paragraph (a) of § 211.17, the state set-aside for gasoline may be utilized by a State Office during the months of April and May 1979 to meet the supply needs of a gasoline retailer in cases where the retailer has demonstrated that it has experienced or will experience a gasoline supply emergency; *provided that,* prior to the sixteenth day of a particular month, a State Office shall not issue assignments to gasoline retailers the total volume of which exceeds fifty percent of the set-aside volume for that month.

4. *Priority of Wholesale Purchaser-Consumers and End-Users.* Assignments to meet hardships and emergency requirements of wholesale purchaser-consumers and end-users shall receive priority over any assignments made to gasoline retailers under paragraph (3) of this Special Rule from the state set-aside.

5. *Application for assignment.* All applications for assignment under this Special Rule shall be made to the State Office having jurisdiction over the State in which the applicant conducts its business operations, in accordance with the procedures set forth in §§ 205.211–218 of Subpart Q of Part 205 of this chapter with respect to the state set-aside, except as otherwise provided in this Special Rule. Within five (5) days of its application for assignment of gasoline under this Special Rule, an applicant shall submit to the State Office a written certification that it has experienced a gasoline supply emergency.

[FR Doc. 79–12872 Filed 4–25–79; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

Airworthiness Directives; Boeing Model 727–100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) to require inspection and correction as necessary of the generator electrical leads on Boeing 727–100 series airplanes. Service experience since the issuance of FAA AD 66–30–02 (Amdt. 39–316, published in the **Federal Register** on December 13, 1966), which relates to this problem, reflects that those leads which have been re-routed in accordance with Option No. 2, referred to in that Directive, may have been spaced too closely to existing hydraulic lines and components which may result in cable insulation damage and fault to ground. Action is taken herein to eliminate this potentially unsafe condition.

DATES: Effective date May 8, 1979. Compliance times as indicated in the body of this AD.

ADDRESS: The service bulletin specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This document may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Charles H. Mackal, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2500.

SUPPLEMENTARY INFORMATION: Since issuance of AD 66–30–02, there have been two separate reports of generator feeder cable insulation damage caused by vibration contact with hydraulic system lines. One occurred on February 16, 1979, in flight, resulting in the loss of hydraulic system "A" pressure and a fire caused by the electrical ignition of the leaking hydraulic fluid. There is no assurance that a fire in this area would be contained in all cases. The other report involved cable and clamp damage found during an airline inspection on February 27, 1979. AD 66–30–02 required re-routing the generator electrical leds of Boeing Model 727–100 series airplanes in accordance with Boeing 727 Service Bulletin No. 24–30 revised May 18, 1966, or later FAA approved revisions. The recent reports reveal that aircraft generator electrical leads that have been re-routed in the tailcone area aft of the pressure bulkhead in accordance with Option No. 2 in the service bulletin may have been routed and spaced too close existing hydraulic lines and components, which may result in cable insulation damage and fault to ground. Option No. 2 permitted routing the cables to pass through the pressure bulkhead below the floor. Since this condition is likely to occur or develop in other Boeing 727–100 airplanes that have been modified to Option No. 2 as specified in Boeing 727 Service Bulletin No. 24–30, action is taken herein to require visual inspection of the generator feeder cables from the pressure bulkhead feed through fittings (below the floor level) to the engine strut feed through, adjacent to hydraulic systems and airframe and to repair or replace wiring as found necessary. It is further found that a situation exists that requires immediate adoption of this regulation, and, therefore, that notice and public procedure hereon are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 727–100 series airplanes certificated in all categories listed in Boeing 727 Service Bulletin No. 24–30, revised May 18, 1966, that complied with FAA AD 66–30–02 by having been modified to Option No. 2 in said service bulletin. Compliance required as indicated. To prevent generator electrical lead damage and possible hydraulic fire from cable clamp failure allowing the electrical leads to chafe against hydraulic lines or components, accomplish the following:

1. Within the next 100 hours time-in-service after the effective date of this AD, and every 2,000 hours time-in-service thereafter, inspect the No. 1 generator electrical leads from the pressure feed through fittings (below the floor level) to the engine strut feed through, all generator electrical lead clamps, hydraulic systems, and airframe for routing separation and insulation chafing. Repair or replace any electrical lead, hydraulic line, airframe part of clamp damage as required in accordance with approved maintenance procedures. The repetitive 2,000-hour inspection interval may be adjusted by FAA air carrier maintenance inspectors to the nearest scheduled maintenance inspection period.

2. If the generator electrical leads are not routed with at least three (3) inches separation from hydraulic lines or components, provide additional physical protection with aircraft quality Skydrol resistant insulation wrap and clamp as required.

3. If generator electrical leads are routed with at least three (3) inches separation from hydraulic lines or components, no further action is required under this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective May 8, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.85).

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on April 17, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[Docket No. 79–NW–7–AD; Amdt. 39–3452]

[FR Doc. 79–12753 Filed 4–25–79; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Extension of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends V–169 airway from Bismarck, N. Dak., direct to Devils Lake, N. Dak. This route is presently used as a direct route. Designation of this route as an airway reduces the coordination and communication time required for its use.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKission, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

SUPPLEMENTARY INFORMATION:

History

On March 19, 1979, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend V–169 airway from its present terminal at Bismarck direct to Devils Lake and to exclude the airspace within the Devils Lake East and West Military Operations Areas (MOAs) during their times of use, (44 FR 16440). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objection to the proposal. Section 71.123 of Part 71 was republished in the **Federal Register** on January 2, 1979 (44 FR 307).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations extends V–169 from Bismarck to Devils Lake. Description of this direct route as an airway reduces the flight planning, coordinating and communication time required for the use of the route. This rule is identical to the notice of proposed rulemaking. The description of V–169 presently excludes restricted area R–4701 which has been rescinded. For this reason the exclusion of R–4701 is no longer required and is omitted by this amendment.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) is amended, effective 0901 GMT, June 14, 1979, as follows:

In V–169, all after "Dupree, S. Dak.;" is deleted and "Bismarck, N. Dak.; to Devils Lake, N. Dak. The airspace from 4,000 feet MSL to 10,000 feet MSL between points 46 miles NE of Bismarck and 16 miles SW of Devils Lake is excluded during the time that the Devils Lake West Military Operations

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Area is activated by NOTAM. The airspace from 3,500 feet MSL to 10,000 feet MSL between points 18 miles SW and 29 miles SW of Devils Lake is excluded during the time that the Devils Lake East Military Operations Area is activated by NOTAM." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on April 18, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[Airspace Docket No. 78-RM-26]

[FR Doc. 79-12754 Filed 4-25-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Extension of VOR Federal Airway, Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In the rule published in the **Federal Register** dated March 1, 1979, Vol. 44, page 11530, the Ontario, Calif., radial that intersects the Hector, Calif., radial which describes the alignment of V–442, was incorrectly stated. This action corrects that error by changing the alignment by one degree.

EFFECTIVE DATE: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION: **Federal Register** Document 79–5845 was published March 1, 1979, (44 FR 11530) describing the alignment of V–442 between Hector, Calif., and Ontario, Calif. The enroute radial from Ontario, Calif., was stated as the Ontario 026° radial, when, in fact, it should have been the Ontario, Calif., 027° radial. This action corrects that error.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, **Federal Register** Document 79–5845 as published in the **Federal Register** on March 1, 1979, (44 FR 11530).

"via INT Ontario 026°" is deleted and "via INT Ontario 027°" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582: March 8, 1978).

Issued in Washington, D.C., on April 20, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[Airspace Docket No. 78-WE-20]

[FR Doc. 79-12862 Filed 4-25-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

15 CFR Parts 373, 379, and 399

Revisions in Commodity and Technical Data Controls

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce has determined that exports of commodities covered by CCL entries No. 5673, 4715, 5715, 5780, and 4801 would not contribute significantly to the development, production or use of military hardware in the USSR, the other Communist countries of Eastern Europe, Laos, or the People's Republic of China to the detriment of U.S. national security. In addition, selected commodities presently controlled under CCL entries 5391 and 4585 also have been found to fall in the same category. These revisions retain the commodities under validated license control for export only to the embargo destinations of Southern Rhodesia, North Korea, Vietnam, Cambodia, and Cuba, and to the Republic of South Africa and Namibia if intended for military or police entities. Also exports to Uganda are embargoed pursuant to Public Law 95–435 (See § 385.7 of the Export Administration Regulations). Exports to other destinations may now be made under General License G-DEST (See § 371.3 of the Export Administration Regulations). The Department also has determined that exports of commodities covered by CCL entry 4717 no longer need to be under validated license control to destinations other than the USSR, the other Communist countries of Eastern Europe, Laos, the People's Republic of China, and the embargo destinations listed above. The list of commodities excluded from certain special license procedures (Supplement No. 1 to Part 373) is revised to delete CCL entry No. 4717 and to reflect the reduced coverage of CCL entry No. 4585. Conforming changes also are made in the written assurance requirements of the Technical Data Regulations (Part 379) as they pertain to CCL entries 4585 and 5673.

EFFECTIVE DATE OF ACTION: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Dale F. Snell, Jr., Chief, Management Services Branch, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. 202–377–2440).

SUPPLEMENTARY INFORMATION: It has been determined that this regulatory revision is "not significant" within the meaning of Department of Commerce Administrative Order 218–7 (44 FR 2082 *et seq.*, January 9, 1979) and Industry and Trade Administration Administrative Instructions 1–6 (44 FR 2093 *et seq.*, January 9, 1979), which implement Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), "Improving Government Regulations". Accordingly, the Export Administration Regulations (15 CFR Parts 368 *et seq.*) are revised as follows:

Supplement No. 1 to Part 373 [Amended]

1. Supplement No. 1 to Part 373 is amended to delete CCL entry No. 4717, and to revise CCL entry No. 4585 to read as follows:

4585 Photographic equipment, as follows:
(a) Streak cameras capable of recording events which are initiated by, or synchronized with the camera mechanism (i.e., discontinuous access type), having a design capability for writing speeds of 8 mm per micro-second and above and a time resolution of 10 nanoseconds or less, and parts and accessories, n.e.s.;
(b) Aerial camera film, black and white, sensitized and unexposed, having spectral sensitivities at wavelengths greater than 7,500 Angstroms or at wavelengths less than 2,000 Angstroms;

(c) Aerial camera film, sensitized and unexposed, having resolving powers (using a Test-Object Contrast of 1,000:1) of 200 line pairs/mm or more with a base thickness before coating of 0.0025 inch or less;
(d) Continuous tone aerial duplicating film, sensitized and unexposed, having resolving powers (using a Test-Object Contrast of 1,000:1) of 300 line pairs/mm or more; and
(e) Instrumentation and/or recording film, sensitized and unexposed, having photo-recording sensitivities as based on the reciprocal of the tungsten exposure in meter-candle-seconds at an exposure time of 0.0001 second of 125 or more and resolving power (using a Test-Object Contrast of 1,000:1) of 55 line pairs/mm or more and with a base thickness before coating of 0.004 inch or less and capable of being processed in solutions with alkalinities of pH 10 or above at temperatures greater than 86° F.
4717 [Deleted]

§ 379.4 [Amended]

2. Paragraph 379.4(f)(1)(i) is amended to delete and reserve subparagraph (*a*), and to revise subparagraph (h) to read as follows:

* * * * *
(f) * * *
(1) * * *
(i) Technical data relating to the following commodities:
(*a*) [Reserved]
* * * * *
(h) Aerial camera film, sensitized and unexposed, as follows: (1) Having spectral sensitivities at wavelengths greater than 7,500 Angstroms or at wavelengths less than 2,000 Angstroms; or (2) having resolving powers (using a Test-Object Contrast of 1,000:1) of 200 line pairs/mm or more or with a base thickness before coating of 0.0025 inch or less;
* * * * *

§§ 399.1 and 399.2 [Amended]

3. The Commodity Control List and Commodity Interpretations, incorporated by reference at 15 CFR §§ 399.1 and 399.2 respectively, are revised as follows:

(a) The following commodities are deleted from CCL entry No. 5391. They are now included in CCL entry No. 6399 and Commodity Interpretation 29. Therefore, a validated license is no longer required to export these commodities to Country Groups Q, W, and Y.
Welding machines, n.e.s.
Gas or liquid supply meters, n.e.s.
Glass working machines, n.e.s.
Cranes, n.e.s., nonmilitary
Searchlights and spotlights,
Special purpose industrial vehicles, n.e.s., nonmilitary, e.g. cement mixers, street and airfield cleaning, asphalt mixers, seismograph thumper mounted trucks, mine shuttle vehicles, trucks with derrick assembly and similar equipment for drilling, mounted integral to truck frame, etc.
Hand tools, n.e.s.
Valves, plumbing fixtures, cocks, and taps, n.e.s.
Wheel tractors, including garden, log skidders, and contractors earthmoving types, n.e.s.

§ 399.1 [Amended]

(b) A validated license is no longer received to export the commodities covered by the following entry to Country Groups Q, W, and Y. This entry is deleted and these commodities are now included in CCL entry No. 6699.

5673D Other artificial graphite, whether or not coated or composited with other materials to improve its performance at elevated temperatures or to reduce its permeability to gases, having an apparent relative density of 1.70 or greater when compared to water at 60° F (15.5° C), and with a particle grain size of less than 0.001 inch (1 mil).
Lb. MG QSWYZ — — 500

§§ 399.1 and 399.2 [Amended]

(c) A validated license is no longer required to export the commodities covered by the following entry to Country Groups, Q, T, V, W, and Y. This entry is deleted and these commodities are now included in CCL entry No. 6799 and incorporated in Commodity Interpretation 24, § 399.2.

4715B Polyethylene film, sheeting, laminates, or wax containing any boron.
Lb. MG QSTVWYZ 500 500 100

(d) A validated license is no longer required to export the commodities covered by the following entry to Country Groups Q, W, and Y. This entry is deleted and these commodities are now included in CCL entry No. 6799 and incorporated in Commodity Interpretation 24; § 399.2.

5715D Boron n.e.s., except borons listed in § 399.2, Interpretation 24.
Lb. MG QSTVWYZ 500 500 100

§ 399.1 [Amended]

(e) A validated license is no longer required to export the commodities covered by the following entry to Country Groups T and V. This entry is deleted and these commodities are now included in CCL entry No. 5799.

4717B Trichlorotrifluoroethane (R–113); dichlorotetrafluoroethane (R–114); and cutting fluids, compounds, solvents or mixtures containing 95 percent or more of either.
Lb. MG QSTVWYZ 500 500 0

§§ 399.1 and 399.2 [Amended]

(f) A validated license is no longer required to export the commodities covered by the following entry to Country Groups W and Y. This entry is deleted and these commodities are now included in CCL entry No. 6799 and incorporated in Commodity Interpretation 24, § 399.2.

5780E Prepared additive for synthetic lubricants.
— MG SWYZ — — —

§ 399.1 [Amended]

(g) A validated license is no longer required to export the commodities covered by the following entry to Country Groups Q, T, V, W, and Y. This entry is deleted and these commodities are now included in CCL entry No. 6899.

4801B Articles of vulcanized and unvulcanized rubber made of fluorinated elastomeric material.
Lb. MG QSTVWYZ 500 500 0

(h) CCL entry 4585 is revised to indicate that a validated license is no longer required to export to Country Groups Q, T, V, W, and Y, aerial camera film having (1) spectral sensitivities at wavelengths from 7,200 to 7,500 Angstroms, and (2) resolving powers of 100 line pairs/mm up to but not including 200 line pairs/mm or with a base thickness before coating exceeding 0.0025 inch up to 0.004 inch. Films having spectral sentitivities at wavelengths from 7,200 to 7,500 Angstroms, resolving powers less than 200 line pairs/mm, or with a base thickness before coating exceeding 0.0025 inch are now included in CCL entry No. 6599. The revised entry reads as follows:

4585B Photographic equipment, as follows:
— MG QSTVWYZ 500 500 0
(a) Streak cameras capable of recording events which are initiated by, or synchronized with the camera mechanism (i.e., discontinous access type), having a design capability for writing speeds of 8 mm per microsecond and above and a time resolution of 10 nanoseconds or less, and parts and accessories, n.e.s.;
(b) Aerial camera film, black and white, sensitized and unexposed, having spectral sensitivities at wavelengths greater than 7,500 Angstroms or at wavelengths less than 2,000 Angstroms;
(c) Aerial camera film, sensitized and unexposed, having resolving powers (using a Test-Object Contrast of 1,000:1) of 200 line pairs/mm or more or with a base thickness before coating of 0.0025 inch or less;
(d) Continuous tone aerial duplicating film, sensitized and unexposed, having resolving powers (using a Test-Object Contrast of 1,000:1) of 300 line pairs/mm or more; and
(e) Instrumentation and/or recording film, sensitized and unexposed, having photo-recording sensitivities (as based on the reciprocal of the tungsten exposure in meter-candle-seconds at an exposure time of 0.0001 second) of 125 or more and resolving power (using a Test-Object Contrast of 1,000:1) of 55 line pairs/mm or more and with a base thickness before coating of 0.004 inch or less and capable of being processed in solutions with alkalinities of pH 10 or above at temperatures greater than 85° F.

(Sec. 4 Pub. L. 91–184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E. O. 12002, 42 FR 35623 (1977); Department Organization Order 10–3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function

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Order 45–1, dated December 4, 1977, 42 FR 64716 (1977).)

Stanley J. Marcuss,
Deputy Assistant Secretary for Trade Regulation.
[FR Doc. 79–12952 Filed 4–25–79; 8:45 am]

BILLING CODE 3510–25–M

15 CFR Parts 379 and 399

Technical Data; and Commodity Control List and Related Matters; Revision of Commodity Control List

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This revision reduces the level of control for exports of maraging and TRIP steels (ECCN 5635D) and for the copolymer of tetrafluoroethylene and perfluoroalkyl vinyl ether (ECCN 4754B sub-item(c)) to require a validated license for export only to the embargo destinations of Southern Rhodesia, North Korea, Vietnam, Cambodia, and Cuba, and to the Republic of South Africa and Namibia if intended for military or police entities. Also exports to Uganda are embargoed pursuant to Pub. L. 95–435. (See § 385.7 of the *Export Administration Regulations.*) The Department of Commerce has determined after consultation with its advisory agencies that exports of these commodities will not contribute significantly to the development, production or use of military hardware in the USSR, the other Communist countries of Eastern Europe, and the PRC, to the detriment of U.S. national security. These commodities may now be exported to all other destinations under General License *G–DEST* (see § 371.3 of the *Export Administration Regulations*). Technical data relating to maraging and TRIP steels are deleted from the written assurance requirement of General License *GTDR.* (See § 379.4 of the *Export Administration Regulations.*)

EFFECTIVE DATE OF ACTION: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Dale F. Snell, Jr., Chief, Management Services Branch, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. 202–377–2440).

SUPPLEMENTARY INFORMATION: It has been determined that this regulatory revision is "not significant" within the meaning of Department of Commerce Administrative Order 218–7 (44 FR 2082 *et seq.*, January 9, 1979) and Industry and Trade Administration, Administrative Instructions 1–6 (44 FR 2093 *et seq.*, January 9, 1979), which implement Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), "Improving Government Regulations."

§ 379.4 [Amended].

Accordingly, the *Export Administration Regulations,* (15 CFR Part 368 *et seq.*) are amended as follows:

1. § 379.4(f)(1)(i) (k) and (l) are deleted and reserved.

2. The Commodity Control List and Commodity Interpretations, incorporated by reference at 15 CFR §§ 399.1 and 399.2, respectively, are amended as follows:

§ 399.1 and 399.2 [Amended].

a. CCL entry 4754 is revised to indicate that a validated license is no longer required to export the copolymer of tetrafluoroethylene and perfluoroalkyl vinyl ether to Country Groups Q, T, V, W, and Y. The revised entry reads as follows:

Export Control Commodity Number and Commodity Description	Unit	Processing Code	Validated License Required	GLV $ Value Limits T	V	Q
Lb. MG QSTVWYZ 500 500 500						
4754B Synthetic resins, as follows:						
(a) * * *						
(b) * * *						
(c) Other fluorocarbon polymers and copolymers, *except the copolymer of tetrafluoroethylene and perfluoroalkyl vinyl ether, polyvinyl-fluoride, solid forms of polychlorotrifluoroethylene, and non-dispersion grades of polytetrafluoroethylene, and products wholly made thereof;* and						

(d) * * *

B. A validated license is no longer required to export the commodities covered by the following entry to Q, W, and Y destinations. This entry is deleted and these commodities are now included in CCL entry No. 6699:

Export Control Commodity Number and Commodity Description	Unit	Processing Code	Validated License Required	GLV $ Value Limits T	V	Q
Lb. MG QSWYZ — — 250						
5635D [1] Iron and steels, as follows:						
(a) Maraging steel containing 12 percent or more nickel, more than 3 percent molybdenum, more than 5 percent cobalt and less than 0.5 percent carbon; or						
(b) Transformation Induced Plasticity (TRIP) steels or penta-alloy ausforming stainless steel containing 8 to 14 percent chromium, 6 to 10 percent nickel, 2 to 5 percent molybdenum, 1 to 3 percent silicon, 0.75 to 3 percent manganese, and 0.15 to 0.35 percent carbon.						

[1] A validated license also is required for export to the Republic of South Africa and Namibia, if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 371.2(c)(11) and § 385.4(a).

§ 399.2 [Amended].

c. Commodity Interpretation 24, § 399.2, is amended to include the copolymer of tetrafluoroethylene and perfluoroalkyl vinyl ether in alphabetical order under the heading "Plastic materials, regenerated cellulose, and artificial resins, as follows:".

(Sec. 4 Pub. L. 91–184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E. O. 12002, 42 FR 35623 (1977); Department Organization Order 10–3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45–1, dated December 4, 1977, 42 FR 64716 (1977).)

Stanley J. Marcuss,
Deputy Assistant Secretary for Trade Regulation.
[FR Doc. 79–12955 Filed 4–25–79; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 274

Amendment to the Filing Requirements for New, Onshore Production Wells

April 20, 1970.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Errata Notice.

SUMMARY: This notice corrects the Commission's rule issued March 27, 1979 (FR Doc. 79–10040, 44 FR 21008, Monday, April 9, 1979), so that the effective date of such rule shall be May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Teresa Ponder, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Rm. 8100], Washington, D.C. 20426, (202) 275–0422.

SUPPLEMENTARY INFORMATION: Please note the following corrections in the Federal Energy Regulatory Commission's Final Rule issued March 27, entitled Amendments to the Filing Requirements for New, Onshore Production Wells (44 FR 21008, April 9, 1979), at page 21009.

1. "For these reasons, good cause exists to proceed without further public notice and comment and to make these amendments effective immediately," shall be corrected to read, "For these reasons, good cause exists to proceed without further public notice and comment and to make these amendments effective May 1, 1979."

2. "In consideration of the foregoing, the Commission amends § 274.204, Subchapter H, Part 274, Chapter 1 of Title 18, Code of Federal Regulations, as set forth below, effective immediately," shall be corrected to read, "In consideration of the foregoing, the Commission amends § 274.204, Subchapter H, Part 274, Chapter 1 of Title 18, Code of Federal Regulations, as set forth below, effective May 1, 1979."

Issued: March 27, 1979.

Lois D. Cashell,
Acting Secretary.

[Docket RM79–33; Order 28]
[FR Doc. 79–12820 Filed 4–25–79; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 213, 234

Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The change in the regulations increases the FHA maximum interest rate on homes. The change is necessitated by the current realities of high discounts and declining use of FHA financing in the mortgage market. This action by HUD is designed to bring the maximum interest rate on home mortgages into line with other interest rates currently prevailing in the mortgage market.

EFFECTIVE DATE: April 23, 1979.

FOR FURTHER INFORMATION CONTACT: Chester C. Foster, Director, Actuarial Division, Office of Financial Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410 (202–755–5898).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum interest rate which may be charged on mortgages insured by this Department. (The maximum interest rate on FHA mortgage and loan insurance programs has been raised from 9.50 percent to 10.00 percent.) The Secretary has determined that such changes are immediately necessary to meet the needs of the mortgage market, and to prevent speculation in anticipation of a change, in accordance with her authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public procedure are unnecessary and that good cause exists for making this amendment effective.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. In § 203.20 paragraph (a) is amended to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 10.00 percent per annum with respect to mortgages insured on or after April 23, 1979.

* * * * *

2. In § 203.74 paragraph (a) is amended to read as follows:

§ 203.74 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 10.00 percent per annum with respect to loans insured on or after April 23, 1979.

* * * * *

Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

1. In § 213.511 paragraph (a) is amended to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 10.00 percent per annum with respect to mortgages insured on or after April 23, 1979.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

1. In § 234.29 paragraph (a) is amended to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 10.00 percent per annum with respect to mortgages insured on or after April 23, 1979.

* * * * *

(Sec. 3(a), 82 Stat. 113 (12 U.S.C. 1709–1); sec. 7 of the Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., April 20, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing, Federal Housing Commissioner.

[Docket No. R–79–656]
[FR Doc. 79–12868 Filed 4–25–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 89

Civilian Pay Allotments (DOD Directive 1418.4) [1]

AGENCY: Office of the Secretary of Defense.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120 Attention: Code 301.

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ACTION: Final rule.

SUMMARY: This rule changes the allotment policy in that it authorizes multiple allotments for U.S. Savings Bonds where cost effective. It also authorizes allotments to pay dues to a professional or other organization that contributes to DoD's mission and program, or contributes to the morale and welfare of DoD employees. The allotments for the payment of dues were mandated by a recent change in Office of Personnel Management regulations.

EFFECTIVE DATE: March 16, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Floyd C. Fox, Office of the Deputy Assistant Secretary of Defense (Management Systems) ASD(C), The Pentagon, Washington, D.C. 20301, Telephone 202–697–6149.

SUPPLEMENTARY INFORMATION: In FR Doc. 68–3800, appearing in the **Federal Register** (33 FR 5216) on March 30, 1968, the Office of the Secretary of Defense published Part 89, effective January 20, 1968, to implement 5 CFR Part 550, Subpart C. A change to this part was issued in FR Doc 71–17267 appearing in the **Federal Register** (36 FR 22576) on November 25, 1971. This is a reissuance of Part 89 which, in addition to editorial improvements, changes the DoD allotment policy.

Accordingly, 32 CFR Chapter I, is amended by revising Part 89, reading as follows:

PART 89—CIVILIAN PAY ALLOTMENTS

Sec.

89.1 Reissuance and purpose.
89.2 Applicability and scope.
89.3 Definitions.
89.4 Criteria and standards.
Enclosure 1.

Authority: 5 U.S.C. 5525.

§ 89.1 Reissuance and purpose.

This part updates the uniform policies established in implementation of Office of Personnel Management (OPM) Regulation, "Allotments and Assignments from Federal Employees (5 CFR 550.301) and Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies (Volume 1, Part 3, "Payrolls, Deductions and Withholdings") and to provide for allotments to professional and other organizations as authorized by Federal Personnel Manual (Chapter 252, Professional and other Associations).

§ 89.2 Applicability and scope.

The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, and the Defense Agencies and govern the policy under which civilian employees may make allotments of their pay.

§ 89.3 Definitions.

Selected Terms used are defined below:

(a) *Allotment.* A recurring, specified deduction from pay authorized by a civilian employee to be paid to an allottee.

(b) *Allottee.* The person or institution to whom an allotment is made payable.

(c) *Allotter.* The employee from whose civilian pay the allotment is made.

(d) *Pay.* The net pay due an employee after all deductions authorized by law (such as retirement, social security, Federal and State withholding tax, health benefits, and group life insurance) have been made.

(e) *Continental United States.* The several States and the District of Columbia, but excluding Alaska and Hawaii.

§ 89.4 Criteria and standards.

(a) *Authorized allotments.* Allotments may be made for the following purposes:

(1) Support of relatives or dependents of the allotter.

(2) Savings.

(i) Unrestricted as to allottee. Two such allotments may be authorized an eligible employee at any one time. The eligibility criteria are specified in § 89.4 (b)(1).

(ii) Allotted to a financial organization for credit to a savings account of the allotter as authorized by the Treasury Fiscal Requirements Manual. Only two such allotments, in whole dollars, under this provision shall be allowed an eligible employee. Eligibility criteria are specified in § 89.4(b)(2). Monies thus credited to the allotter's savings account may be used for any purpose in accordance with the desires and direction of the allotter as long as that purpose does not circumvent any statute, executive order or other applicable regulation.

(3) Payment of commercial insurance premiums on the life of the allotter.

(4) Payments of U.S. Government Life Insurance or National Service Life Insurance premiums.

(5) Voluntary liquidation of indebtedness to the U.S. Government.

(6) Repayment of loans obtained for the purchase of a home.

(7) Payment of certain State and District of Columbia income taxes as authorized by OPM Regulation and the Treasury Fiscal Requirements Manual.

(8) Payment of certain city income taxes as authorized by OPM Regulation and the Treasury Fiscal Requirements Manual.

(9) Payment of labor organization dues as authorized by DoD Directive 1426.1,[1] "Labor-Management Relations in the Department of Defense".

(10) Charitable contributions to a Combined Federal Campaign as authorized by DoD Directive 5035.1,[1] "Fund-Raising within the Department of Defense" and DoD Instruction 5035.5,[1] "DoD Combined Federal Campaign—Overseas Area (CFC–OA)".

(11) Purchase of U.S. savings bonds. Employees normally will be permitted only two such allotments at any one time. Additional allotments for amounts of $18.75 or more in approved increments may be authorized to the extent the pay system can accommodate such allotments.

(12) Payment of dues to a professional or other association. One allotment in a calendar year may be made by an employee to an association when the association:

(i) Provides some worthwhile function or service that would contribute to the agency's mission and programs or to the morale and welfare of the agency's employees. (See also DoD Instruction 5010.30,[1] "Intramanagement Communication and Consultation".)

(ii) Has a sufficient number of members who request dues withholding to justify the administrative arrangements required; that is, a minimum of either 50 participants, or 1 percent of the total number, paid by the payroll office. This criterion may be waived by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) for associations of supervisors when circumstances warrant.

(iii) Is not a labor organization eligible for recognition under DoD Directive 1426.1[1] does not have the characteristics or purposes of a labor organization, and is not affiliated with a labor organization or federation of labor organizations.

(iv) Is a lawful nonprofit organization. The organization's constitution and bylaws must indicate that the organization subscribes to certain minimum standards of fiscal responsibility and that it employs democratic principles in the nomination and election of officers.

(v) Does not discriminate in regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120. Attention: Code: 301.

(vi) Does not advocate and has not assisted or participated in a strike, work stoppage, or slowdown against the Government of the United States or any agency thereof, nor does it impose a duty or obligation on its members to conduct, assist, or participate in such a strike.

(vii) Does not advocate the overthrow of the constitutional form of government in the United States.

(viii) Agrees to reimburse the United States for the full cost of establishing the allotment and making payment to the organization. Such costs will not be passed on to the employee by any special charge or assessment in excess of that paid by other members. This reimbursement may be waived, in whole or in part, by the ASD (MRA&L) for associations of supervisors when warranted.

(ix) Meets any additional criteria imposed by the Military Departments or Defense Agencies, or by the individual payroll offices.

(b) *Eligibility Rules.* Eligibility for the making of an allotment is dependent on such factors as residents of employee, place of employment and type of allotment desired. The specific rules listed below are summarized in the table "Allotments of Pay," enclosure 1. The table is in general terms and is for general guidance only. The specific rules are listed below:

(1) An employee may make an allotment of pay as provided in § 89.4 (a)(1), (a)(2)(i), (a) (3) through (6), and in § 89.4(a) (11) and (12) when the employee is:

(i) Assigned to a post of duty outside the continental United States;

(ii) Working on an assignment away from his regular post of duty when the assignment is expected to continue for 3 months or more;

(iii) Serving as an officer or member of a crew of a vessel under the control of the Federal Government.

(2) An employee whose place of employment is within the continental United States may authorize an allotment of pay as provided in § 89.4(a)(2)(ii) and § 89.4(a) (5), (11), and (12).

(3) An employee, who is employed outside of, but is a resident in, a State or the District of Columbia with which the Department of the Treasury has entered into an agreement to withhold income taxes from the pay of employees in accordance with the procedures prescribed in the Treasury Fiscal Requirements Manual, may make an allotment of pay for the purpose specified in § 89.4(a)(7).

(4) An employee, who is employed in, or a resident of, a city with which the Department of the Treasury has entered into an agreement to withhold city income taxes in accordance with the procedures prescribed in the Treasury Fiscal Requirements Manual, may make an allotment of pay for the purpose specified in § 89.4(a)(8).

(5) An employee who meets the eligibility requirements prescribed in DoD Directive 1426.1,[1] may make an allotment of pay for the purpose specified in § 89.4(a)(9).

(6) An employee who meets the eligibility requirements prescribed in DoD Directive 5035.1[1] may make an allotment of pay for the purpose specified in § 89.4(a)(10).

(c) *Emergency Allotments.* Allotments may be authorized to become effective during an emergency evacuation in accordance with provisions of the OPM Regulation, such allotments will not become effective until an evacuation order has been issued.

(d) *Allotments for Foreign Nationals.* Foreign nationals employed by the Department of Defense (DoD) and working outside their own country on assignments of three or more months duration may be permitted to make allotments for any of the purposes authorized in § 89.4(a), providing all other provisions of this Part are observed.

(1) Foreign nationals employed by the DoD to work in their own countries or in the Canal Zone may be permitted to make allotments for the purposes shown in § 89.4(a)(9) and § 89.4(a)(10), and to pay premiums on group health benefits and group life insurance.

(2) Foreign nationals may be permitted to make other allotments from pay when such allotments are based on local customs and practices or are pursuant to treaties or country-to-country agreements.

(e) *Allotment limitations.* (1) A power of attorney will not be accepted to establish, change, or discontinue an allotment.

(2) Allotment payments shall be made in accordance with the schedule established by the particular department or agency of the DoD, provided such allotment checks are not issued until the related earnings have accrued. This shall be stipulated as a requirement for the allotment.

(3) Except as provided by § 89.4(a)(2) and (11), a DoD employee shall not have more than one allotment payable to the same allottee at the same time.

(4) Allotments will not exceed the pay due the allotter.

(f) *Discontinuance of Allotments.* Allotments will be discontinued:

(1) Upon receipt of: (i) Notice of retirement, separation, or death of the allotter;

(ii) Notice that the allotter has been placed in an extended leave without pay status;

(iii) Written notice from the allotter unless this right is otherwise restricted by law;

(iv) Notice of death of the allottee; or

(v) Notice that the whereabouts of the allottee is unknown.

(2) When the conditions under which an allotment was permitted no longer exist.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

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Enclosure 1

TABLE

ALLOTMENTS OF PAY

| | Authorized Allotments | | |

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the pool elevation is forecast to be higher than elevation 683 feet, m.s.l., but less than 685 feet, m.s.l. When the pool elevation is forecast to be between 685 and 691 feet, m.s.l. a seasonal plan of regulation shall be followed: During the months of May, June, September, and October, the coordinated release rate shall be increased to the maximum amount which, when combined with local flows below the dam, does not exceed 30,000 c.f.s. (20.5 feet) at the Austin USGS gage, 45,000 c.f.s. (25.1 feet) at the Bastrop USGS gage, or 50,000 c.f.s. (25.5 feet) at the Columbus USGS gage. During the months of January through April, July, August, November, and December the release rate shall be 5,000 c.f.s.

(b) If conditions are such that the reservoir elevation is forecast to exceed elevation 710 feet, m.s.l. but not 714 (top of flood control pool) feet, m.s.l., the coordinated releases, when combined with downstream local flows, will not exceed the downstream control stage of 24.8 feet (50,000 c.f.s.) at the USGS gaging station at Austin.

(c) If the reservoir elevation is forecast to exceed elevation 714 feet, m.s.l. but not 722 feet, m.s.l. the rate of release shall not exceed the associated peak flood inflows into the reservoir or 90,000 c.f.s., whichever is the lesser. As the actual lake level exceeds elevation 714 feet, m.s.l., the Bureau of Reclamation assumes responsibility for determining releases to protect the safety of the structure.

Use of revised regulations prior to promulgation: The revised regulation will be used in the event of a flood in the Colorado River Basin which requires flood control regulation at Marshall Ford Dam, in lieu of the interim regulation plan of 1 April 1976.

Effective date: This revision of Section 208.19 becomes effective on May 29, 1979.

Dated: April 17, 1979.

Charles I. McGinnis,
Major General, USA, Director of Civil Works.

Accordingly, 33 CFR 208 is amended by revising Section 208.19 as set forth below.

§ 208.19 Marshall Ford Dam and Reservoir (Mansfield Dam and Lake Travis), Colorado River, Tex.

The Secretary of the Interior, through his agent, the Lower Colorado River Authority (LCRA) shall operate the Marshall Ford Dam and Reservoir in the interest of flood control as follows:

(a) Water Control Plan—(1) *General objectives.* The objectives of the Marshall Ford Reservoir (Lake Travis) are the improvement of navigation, flood control, stream regulation, generation of power, irrigation, water supply, and recreation uses.

(2) *Overall plan for water control.* Within the Colorado River Basin, four Federal projects provide flood control protection: Twin Buttes, O. C. Fisher, Hords Creek, Marshall Ford Reservoir. The considerable distance (328 river miles) and large intervening area (19,990 square miles) separating Marshall Ford Reservoir and the three upper basin flood-control projects prevent realizing any significant benefits from coordinating releases to control the inflow into Marshall Ford. Marshall Ford Reservoir is the fifth project in a tandem of six lakes operated and controlled by the Lower Colorado River Authority for the generation of hydroelectric power. These six projects in downstream order are: Lake Buchanan, Lake Inks, Lake Lyndon B. Johnson (Alvin Wirtz Dam), Lake Marble Falls (Max Starcke Dam), Marshall Ford Reservoir (Lake Travis and Mansfield Dam) and Lake Austin (Tom Miller Dam). The releases from each of the six projects are closely coordinated by the LCRA System Operation Control Center. Three of the projects (Lake Inks, Lake Marble Falls, and Lake Austin) are run-of-the-river projects. The capability of the four upstream lakes to control the inflow of flood water into Marshall Ford depends on their antecedent lake elevations. The majority of inflows to Marshall Ford are comprised of the mainstream flows of the Colorado River, the tributary flows of the Llano River (entering the Colorado River between Lakes Inks and Lyndon B. Johnson) and the unregulated tributary flows of the Pedernales River (entering between Lake Marble Falls and Marshall Ford Reservoir). During flood conditions, the following upstream U.S. Geological Survey gaging stations are used as indicators of the magnitude of the inflows to Marshall Ford Reservoir:

(i) Colorado River near San Saba (08147000)

(ii) Pedernales River near Johnson City (08153500)

(iii) Llano River at Llano (08151500)

(3) *Standing instructions to dam tender.* During normal conditions, the dam tender will regulate the project in accordance with instructions received from the LCRA System Operator. During flood conditions, when the Marshall Ford Reservoir level is within the flood control zone, the LCRA System Operator will regulate the project in accordance with instructions received from the Corps of Engineers. In the event of a communication outage, the LCRA System Operator will rely on the Emergency Release Schedule, to make changes in the rate of releases from the lake.

(4) *Flood control regulation*—(i) *General.* At all times, releases shall be coordinated such that the Colorado River, Texas, will be controlled when possible, to remain below control stages at downstream official U.S. Geological Survey (USGS) gaging stations; except that no curtailment of normal hydroelectric turbine releases shall result thereby at any time. The USGS river stations and their control stages are as follows:

Key Downstream Control Points

Station	Control stage (feet)	Equivalent cubic feet per second (c.f.s.)
Austin (08158000)	20.5	30,000
	[1] 24.8	[1] 50,000
Bastrop (08159200)	25.1	45,000
	[1] 26.7	[1] 50,000
Columbus (08161000)	25.5	50,000

[1] Control stage when elevation 710 is forecast to be exceeded.

Forecasted reservoir inflows and the upstream USGS gaging stations Pedernales River near Johnson City (08153500), Llano River at Llano (08151500), and Colorado River near San Saba (08147000) will be considered when scheduling flood releases.

(ii) *Flood control release schedule.* Marshall Ford will be regulated to reduce flooding on the Colorado River below the dam. This plan of regulation will govern flood control releases from Marshall Ford Dam as follows:

(A) *Elevation 681–683.* If the reservoir level is forecast to rise above elevation 681 feet, m.s.l. (top of conservation pool) but not to exceed elevation 683 feet, m.s.l., the releases shall be increased to 3,000 c.f.s. and maintained until the reservoir level recedes to elevation 681 feet, m.s.l. These release rates may need to be reduced due to excessive downstream runoff to prevent exceeding the control stages specified in paragraph 4(i).

(B) *Elevation 683–685.* If the reservoir elevation is forecast to rise above elevation 683 feet, m.s.l. but not to exceed elevation 685 the releases shall be increased to 5,000 c.f.s. and maintained until the reservoir level recedes below 683 feet, m.s.l. These release rates may need to be reduced due to excessive downstream runoff to prevent exceeding the control stages specified in paragraph 4(i).

(C) *Elevation 685–691.1* Seasonal Operation. (*1*) During the months of January through April, July through August, and November through December: If the reservoir elevation is forecast to rise above elevation 685 feet, m.s.l. but not to exceed elevation 691, the releases shall be increased to 5,000 c.f.s. and maintained until the reservoir level recedes below 683 feet, m.s.l. These release rates may need to be reduced due to excessive downstream runoff to prevent exceeding the control stages specified in paragraph 4(i).

(*2*) During the months of May, June, September, and October: Should the reservoir elevation be forecast to exceed 685 feet, m.s.l. but not to exceed elevation 691 feet, m.s.l: Releases will be made at 30,000 c.f.s. from the project or at a rate such that, when combined with local inflows below the dam, will equal but not exceed downstream control stages on the Colorado River as specified in paragraph 4(i) of this section. These release rates will be maintained until the reservoir level falls below elevation 685 feet, m.s.l.

(D) *Elevation 691–710.* Should the reservoir elevation be forecast to exceed 691 feet, m.s.l. (the top of the joint use pool) but not to exceed elevation 710 feet, m.s.l: Releases will be made at 30,000 c.f.s. from the project or at a rate such that, when combined with local inflows below the dam, will equal but not exceed downstream control stages on the Colorado River as specified in paragraph 4(i) of this section. These release rates will be so controlled until the reservoir level falls below elevation 691 feet, m.s.l.

(E) *Elevation 710–714.* If the reservoir level is forecast to exceed 710 feet, m.s.l. but not to exceed elevation 714 feet, m.s.l: Releases will be made at 50,000 c.f.s. from the project or at a rate such that, when combined with local inflows below the dam, will equal but not exceed the downstream control stages on the Colorado River as specified in paragraph 4(i) of this section. These release rates will be maintained until the reservoir level falls below elevation 710 feet, m.s.l.

(F) *Elevation 714–722.* If the reservoir level is forecast to exceed 714 feet, m.s.l. but not to exceed 722 feet, m.s.l: Releases will be made at 90,000 c.f.s. from the project. Releases shall not exceed the associated peak flood reservoir inflow.

(G) *Elevation 722 and above.* If the reservoir level is forecast to exceed elevation 722 feet, m.s.l., the Bureau of Reclamation will schedule releases as required for the safety of the structure.

(iii) *Normal flood control regulation schedule.* The following table, Flood Control Regulation Schedule, summarizes the flood control releases schedule for given reservoir levels and river conditions:

Marshall Ford Dam and Reservoir Normal Flood Control Regulation Schedule

Condition	Reservoir level	Flood control release	Control points
Pool Rising	Forecast: 681–683 [1]	3,000 c.f.s	30,000 c.f.s. (20.5 ft.) at Austin. 45,000 c.f.s. (25.1 ft.) at Bastrop. 50,000 c.f.s. (25.5 ft.) at Columbus.
Pool Rising	Forecast: 683–685	5,000 c.f.s	30,000 c.f.s. (20.5 ft.) at Austin. 45,000 c.f.s. (25.1 ft.) at Bastrop. 50,000 c.f.s. (25.5 ft.) at Columbus.
Pool Rising	Forecast: 685–691:		
	(a) During January, February, March, April, July, August, November, December.	5,000 c.f.s	30,000 c.f.s. (20.5 ft.) at Austin. 45,000 c.f.s. (25.1 ft.) at Bastrop. 50,000 c.f.s. (25.5 ft.) at Columbus.
	(b) During May, June, September, October.	30,000 c.f.s	30,000 c.f.s. (20.5 ft.) at Austin. 45,000 c.f.s. (25.1 ft.) at Bastrop. 50,000 c.f.s. (25.5 ft.) at Columbus.
Pool Rising	Forecast: 691–710	30,000 c.f.s	30,000 c.f.s. (20.5 ft.) at Austin. 45,000 c.f.s. (25.1 ft.) at Bastrop. 50,000 c.f.s. (25.5 ft.) at Columbus.
Pool Rising	Forecast: 710–714	50,000 c.f.s	50,000 c.f.s. (24.8 ft.) at Austin. 50,000 c.f.s. (26.7 ft.) at Bastrop. 50,000 c.f.s. (25.5 ft.) at Columbus.
Pool Rising	Forecast: 714–722 [2]	90,000 c.f.s	No controls.
Pool Rising	Forecast: above 722	The Bureau of Reclamation will specify the releases for safety of the structure.	
Pool Falling	Above 722	The Bureau of Reclamation will specify the releases for safety of the structure.	
Pool Falling	722–714 [2]	90,000 c.f.s	No controls.
Pool Falling	714–710	50,000 c.f.s	50,000 c.f.s. (24.8 ft.) at Austin. 50,000 c.f.s. (26.7 ft.) at Bastrop. 50,000 c.f.s. (25.5 ft.) at Columbus.
Pool Falling	710–691	30,000 c.f.s	30,000 c.f.s. (20.5 ft.) at Austin. 45,000 c.f.s. (25.1 ft.) at Bastrop. 50,000 c.f.s. (25.5 ft.) at Columbus.
Pool Falling	691–685:		
	(a) During May, June, September, October.	30,000 c.f.s	30,000 c.f.s. (20.5 ft.) at Austin. 45,000 c.f.s. (25.1 ft.) at Bastrop. 50,000 c.f.s. (25.5 ft.) at Columbus.
	(b) During January, February, March, April, July, August, November, December.	5,000 c.f.s	30,000 c.f.s. (20.5 ft.) at Austin. 45,000 c.f.s. (25.1 ft.) at Bastrop. 50,000 c.f.s. (25.5 ft.) at Columbus.
Pool Falling	685–683	5,000 c.f.s	30,000 c.f.s. (20.5 ft.) at Austin. 45,000 c.f.s. (25.1 ft.) at Bastrop. 50,000 c.f.s. (25.5 ft.) at Columbus.
Pool Falling	683–681	3,000 c.f.s	30,000 c.f.s. (20.5 ft.) at Austin. 45,000 c.f.s. (25.1 ft.) at Bastrop. 50,000 c.f.s. (25.5 ft.) at Columbus.

[1] During flood conditions, when the reservoir level is below elevation 681 ft., m.s.l., the Corps of Engineers will provide recommendations to the Lower Colorado River Authority on flood control releases.

[2] Releases shall not exceed the associated peak flood reservoir inflow.

NOTE.—No curtailment of normal hydroelectric turbine releases shall be required due to flood control operations.

(5) *Deviation from normal regulation.* (i) There are occasions when it is necessary or desirable to deviate from the water control plan for short periods of time as indicated in the following paragraphs:

(A) The water control plan is subject to temporary modification by the Corps of Engineers, if found necessary in time of emergency. Requests for and action on such modifications may be made by the fastest means of communication available. The action taken shall be confirmed in writing the same day to the project owner and shall include justification for the action.

(B) The project owner may temporarily deviate from the water control plan in the event an immediate short-term departure is deemed necessary for emergency reasons to protect the safety of the dam, or to avoid serious hazards. Such actions shall be immediately reported by the fastest means of communication available. Actions shall be confirmed in writing the same day to the Corps of Engineers and shall include justification for the action. Continuation of the deviation will require the express approval of the Chief of Engineers, or his duly authorized representative.

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(C) Advance approval of the Chief of Engineers, or this duly authorized representative, is required prior to any deviation from the plan of regulation prescribed or approved by the Corps of Engineers in the interest of flood control and/or navigation, except in emergency situations provided for in paragraph (5)(B) above. When conditions appear to warrant a prolonged deviation from the approved plan, the project owner and the Corps of Engineers will jointly investigate and evaluate the proposed deviation to insure that the overall intergrity of the plan would not be unduly compromised. Approval of prolonged deviations will not be granted unless such investigations and evaluations have been conducted to the extent deemed necessary by the Chief of Engineers, or his designated representative, to fully substantiate the deviations.

(ii) The Fort Worth District Corps of Engineers will serve as the LCRA contact point for any deviation from or modification of the water control plan. The communication network will be described in the Water Control Manual. The Fort Worth District will notify the Division Engineer, Southwestern Division, Corps of Engineers of any deviations or modifications of the water control plan and request his approval. The Division Engineer has been designated as the authorized representative of the Chief of Engineers in matters relating to projects within the Southwestern Division which are subject to provisions of Section 7 of the 1944 Flood Control Act.

(b) *Reports to the Corps of Engineers.* (1) The Authority shall furnish the District Engineer, Fort Worth District, U.S. Army Corps of Engineers, by 0900 hours daily, with the following:

(i) Project information.

(A) Lake elevations at midnight and 0800 hours.

(B) Uncontrolled spillway, flood-control conduits, and turbine releases: Cubic feet per second at 0800 hours, and day-second-feet average for the previous 24 hours, ending at midnight.

(C) Computed average inflow, in day-second-feet for the previous 24 hours, ending at midnight.

(D) Total precipitation in inches for the previous 24 hours at the dam, ending at 0800 hours.

(E) Summary of streamflow and channel conditions at gages named in paragraphs (a)(2) and (a)(4)(i) of this section.

(ii) Lake Buchanan Pool elevation at 0800 hours.

(2) Whenever flood conditions are imminent, or stages of 16 feet (20,000 c.f.s.) or more at the Austin gage have been reached, the Authority shall report at once to the District Engineer by the fastest means of communications available. Data listed in paragraph (b)(1) of this section shall be reported to, and at intervals prescribed by the District Engineer for the duration of flood surveillance and control operations.

[FR Doc. 79-12849 Filed 4-25-79; 8:45 am]

BILLING CODE 3710-92-M

VETERANS ADMINISTRATION

38 CFR Part 36

Loan Guaranty; Increase in Maximum Permissible Interest Rate on New, Guaranteed, Insured and Direct Loans

AGENCY: Veterans Administration.

ACTION: Final Regulations.

SUMMARY: The VA (Veterans Administration) is increasing the maximum interest rate on guaranteed, insured and direct loans for new homes and condominiums. The interest rate is also increased on loans for the purchase of a mobile home lot or for site preparation over $2,500 on a lot previously acquired by a veteran. The maximum interest rate is increased because the former interest rate was not sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. The increase in the interest rate will assure a continuing supply of funds for home mortgages; thereby allowing veterans to purchase a home with the assistance of a no downpayment VA loan.

EFFECTIVE DATE: April 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave., NW, Washington, D.C. 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The Administrator is required to establish a maximum interest rate for loans guaranteed, insured or made by the Veterans Administration as he finds the mortgage money market demands. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans, the general increase in interest rates charged by lenders on conventional loans, and the results of the bi-weekly Federal National Mortgage Association auctions—have shown that the mortgage money market has become more restrictive. The maximum rate in effect for VA guaranteed loans has not been sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. To assure a continuing supply of funds for home mortgages through the VA loan guaranty program it has been determined that an increase in the maximum permissible rate is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed and insured mortgages.

At present no change is being made in the maximum interest rate applicable to the mobile home loan program except as to loans to purchase mobile home lots. The lender's return on mobile home unit loans appears competitive with other forms of consumer financing to which this type of loan is comparable, and no change in rate is justified at this time.

However, a loan to purchase a mobile home lot is similar to other real estate loans and for the purpose of assuring a continuing supply of funds and consistency with other real estate programs, the rate on these loans is also being increased.

The increase in the maximum interest rate is accomplished by amending §§ 36.4212(a) (2) and (3), 36.4311(a), and 36.4504(a), Title 38, Code of Federal Regulations. Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would create an acute shortage of mortgage funds pending the final date which would necessarily be more than 30 days after publication in proposed form.

Approved: April 19, 1979.

Max Cleland,
Administrator.

1. In § 36.4212, paragraph (a) (2) and (3) is revised to read as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to April 23, 1979. (38 U.S.C. 1819(f))

* * * * *

(2) 10 percent simple interest per annum for that portion of the loan which finances the purchase of a lot and the cost of necessary site preparation, if any.

(3) 10 percent simple interest per annum on that portion of a loan which will finance the cost of the site preparation necessary to make a lot owned by the veteran acceptable as the site for the mobile home purchased with the proceeds of the loan except that a rate of not to exceed 12 percent may be charged if the portion of the loan to pay for the cost of such necessary site preparation does not exceed $2,500.

* * * * *

2. In § 36.4311, paragraph (a) is revised to read as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 10 per centum per annum, effective April 23, 1979, the interest rate on any loan guaranteed or insured wholly or in part on or after such date may not exceed 10 per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

* * * * *

3. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1978, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $25,000. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Loans made by the Veterans Administration shall bear interest at the rate of 10 percent per annum. (38 U.S.C. 1811(d)(1) and (2)(A))

* * * * *

[FR Doc. 79-12870 Filed 4-25-79; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 610

Fuel Economy Retrofit Devices, Final Test Procedures and Evaluation Criteria; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction.

SUMMARY: In FR Doc. 79-8735 appearing at page 17946 of the **Federal Register** of Friday, March 23, 1979, the following citation should appear just above the signature block on page 17946: "[Sec. 511, Motor Vehicle Information and Cost Savings Act as amended (Sec. 301, Pub. L. 94-163, 89 Stat. 915 (U.S.C. 2011)).]"

On the same page, under "Subpart A," Sec. 610.12 should read "Program Initiative" and under "Subpart B," Sec. 610.21 should read "Device Functional Category and Vehicle System Effects."

FOR FURTHER INFORMATION CONTACT: Peter Hutchins, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313)-668-4200.

Dated: April 19, 1979.

David G. Hawkins,
Assistant Administrator for Air, Noise and Radiation.

[FRL 1211-5]

[FR Doc. 79-12845 Filed 4-25-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

FM Broadcast Station in Columbia, N.C.; Changes Made in Table of Assignments.

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class C FM channel to Columbia, North Carolina, as that community's first FM assignment, in response to a petition filed by Thomas C. Cross and John Woolard. The channel provides for an FM station which could furnish first and second FM as well as first and second nighttime aural service to substantial areas and populations.

EFFECTIVE DATE: June 1, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 17, 1979.

Released: April 20, 1979.

By the Chief, Broadcast Bureau:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Columbia, North Carolina).

1. The Commission herein considers the *Notice of Proposed Rule Making*, 43 FR 59113, in the above-captioned proceeding, instituted in response to a petition filed by Thomas C. Cross and John Woolard ("petitioners"). The petition proposed the assignment of Class C FM Channel 289 to Columbia, North Carolina. No oppositions were filed to the petition. Petitioners filed supporting comments in which they submitted their intention to file for the channel, if assigned.

2. Columbia (pop. 902), seat of Tyrrell County (pop. 3,866),[1] is located on a peninsula between Albemarle Sound and Pamlico Sound in eastern North Carolina.

3. Petitioners state that the economy of Tyrrell County is based primarily on agriculture (including forestry) with fishing being second to agriculture in economic importance. They note that there are over fifty retail and service businesses in Columbia in addition to three major oil distributors.

4. Channel 289 could be assigned to Columbia in conformity with the minimum distance separation requirements, provided the transmitter site is located 9.6 kilometers (6 miles) east of Columbia. One community of greater than 1,000 population would sustain preclusion if Channel 289 were assigned to Columbia. That community is Belhaven (pop. 2,259) which has an unoccupied FM assignment.

5. Petitioners assert that the nearest existing FM facility to Columbia is a Class A station at Edenton, 96 kilometers (56 miles) from Columbia, and the nearest assigned but unoccupied FM channel is located at Belhaven, 109 kilometers (68 miles) from Columbia. Petitioners add that there are no FM assignments in the three-county eastern area of the peninsula proper. A Class C FM station operating with reasonable facilities would provide a first FM service to 9,755 persons in a 3,800 square kilometer (1,430 square miles) area and a second FM service to 10,248 persons in a 3,830 square kilometer (1,440 square miles) area. The same figures would apply to a first and second nighttime aural service.

6. We have given careful consideration to the proposal and believe that Channel 289 should be assigned to Columbia, North Carolina. Although a community of this size is not normally assigned a Class C channel, the proposed assignment would provide for an FM station which could render first and second FM service as well as first and second nighttime aural service to substantial areas and populations. Since a Class A channel would not provide such service, we believe the public interest would be served by assigning Channel 289 to Columbia, North Carolina.

7. Authority for the action taken herein is contained in Sections 4(i),

[1] Population figures are taken from the 1970 U.S. Census.

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5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

8. In view of the foregoing, It is ordered, That effective June 1, 1979, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regards Columbia, North Carolina, is amended to read as follows:

City	Channel No.
Columbia, North Carolina	269

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

10. It is further ordered, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

[BC Docket 78–377; RM–3098]

[FR Doc. 79–12848 Filed 4–25–79; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

Television Broadcast Station in Springfield, Mo.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a fourth commercial television channel to Springfield, Missouri, in response to a petition filed by the Christian Center of the Ozarks, Inc. The proposed assignment would provide for a station which could provide a first independent (non-network) television programming service to Springfield.

EFFECTIVE DATE: June 1, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order.—Proceeding Terminated

Adopted: April 17, 1979.

Released: April 19, 1979.

In the matter of Amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Springfield, Missouri), BC Docket No. 78–320, RM–3141.

1. The Commission has before it a *Notice of Proposed Rule Making,* adopted September 28, 1978, 43 FR 46871, in response to a petition filed by Christian Center of the Ozarks, Inc. ("petitioner"), requesting the assignment of UHF television Channel 33 to Springfield, Missouri, as its fourth commercial television assignment. Supporting comments were filed by petitioner in which it reaffirmed its intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Springfield (pop. 120,096), seat of Greene County (pop. 152,929) [1], is located in southwest Missouri, approximately 305 kilometers (190 miles) southwest of St. Louis, Missouri. Springfield has three network-affiliated commercial television stations (KYTV, Channel 3; KOLR–TV, Channel 10; and KMTC, Channel 27). It also has assigned to it Channel *21, which is used by Station KOZK, an educational station.

3. Petitioner states that the population of Springfield has increased by more than 25 percent between 1960–1970 and predicts that the city will have a population of 133,278 by 1980. Petitioner claims that the absence of a non-network television station deprives the people of Springfield and the surrounding area of the many and varied programs carried in numerous other cities by independent television stations.

4. We believe the public interest would be served by assigning television Channel 33 to Springfield, Missouri. A station on the proposed channel would provide the Springfield area with a fourth commercial television service and first non-network local service.

5. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

6. Accordingly, it is ordered, that effective June 1, 1979, the Television Table of Assignments (§ 73.606(b) of the Commission's rules) is amended as follows for the community listed below:

City:	Channel No.
Springfield, Missouri	3+, 10, *21–, 27–, 33–

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303))

[1] Population figures are taken from the 1970 U.S. Census.

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

[BC Docket No. 78–320; RM–3141]

[FR Doc. 79–12922 Filed 4–25–79; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

Television Broadcast Station in Angola, Ind.; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a first UHF television channel to Angola, Indiana, in response to a petition filed by James A. Chase. The assigned channel could bring a first local television service to the community.

EFFECTIVE DATE: June 1, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: April 17, 1979.

Released: April 18, 1979.

In the matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Angola, Indiana), BC Docket No. 78–272, RM–2945.

1. The Commission has before it the *Notice of Proposed Rule Making,* adopted August 24, 1978, 43 FR 39400, in response to a petition filed by James A. Chase ("petitioner"). Petitioner requested the assignment of Channel 51 to Angola, Indiana. In order to accomplish this, Channel 51 and Channel 65 (both unoccupied) would have to be deleted from Sandusky and Defiance, Ohio, respectively. In the *Notice,* we indicated that although no interest had yet been expressed for the use of the Sandusky and Defiance channels, there may well be a demand in the future for a local television service. A staff study showed that Channel 63 was available for assignment to Angola in conformity with the minimum mileage distance separation requirements and other technical criteria. Since this channel would require no changes in the existing Table of Television Assignments, it was proposed for assignment to Angola instead of Channel 51. No oppositions were received. In supporting comments, petitioner stated that if Channel 63 were assigned to Angola, he would apply for it.

2. Angola (pop. 5,117), in Steuben County (pop. 20,159) [1], is located in the extreme northeastern part of Indiana. Angola has no local television broadcast service.

3. Petitioner states that the proposed assignment could provide for a local television broadcast service to Angola and surrounding area, and that the television station would be made available to local schools and the university for dissemination of classroom instruction and training.

4. The Canadian Government has given its concurrence to the proposed assignment of television Channel 63 to Angola, Indiana.

5. In view of the foregoing, we conclude that it would be in the public interest to make this assignment so as to provide a first local television service to Angola.

6. Accordingly, it is ordered, That effective June 1, 1979, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended with regard to the city listed below as follows:

City:	Channel No.
Angola, Indiana	63

7. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau (202) 632–7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303))

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

[BC Docket No. 78–272; RM–2945]

[FR Doc. 79–12920 Filed 4–25–79; 8:45 am]

BILLING CODE 6712–01–M

[1] Population figures are taken from the 1970 U.S. Census.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. Third Revised Service Order No. 1323.

SUMMARY: There is a shortage of tri-level auto rack flat cars on the Union Pacific (UP) and on Chicago, Milwaukee, St. Paul and Pacific Railroad (MILW) for the shipment of automobiles. Bi-level auto rack cars are available but cannot be used because of tariff provisions requiring the use of tri-level cars. Third Revised Service Order No. 1323 authorizes two tri-level cars ordered by shippers for transporting automobiles.

DATES: Effective 11:59 p.m., April 20, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275–7840, Telex 89–2742.

Decided: April 20, 1979.

Service date: April 20, 1979.

There are shortages of tri-level type multi-level auto rack flat cars on the Union Pacific Railroad Company (UP) and on Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW), required to transport automobiles subject to tariff restrictions requiring the use of such tri-level cars. These railroads have available supplies of bi-level cars of similar type which could be used for transporting these automobiles if tariff provisions permitted. The economic loss suffered by shippers dependent upon the UP and MILW for their car supplies can be alleviated by the substitution of bi-level cars for tri-level cars at the ratio of three bi-level cars for each two tri-level cars ordered.

In the opinion of the Commission that present regulations and practices with respect to the use and supply of auto rack flat cars are ineffective to overcome these shortages of auto rack flat cars an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1323 Distribution of Freight Cars.

(a)[1] Subject to the concurrence of the shipper the Union Pacific Railroad Company (UP) and Chicago, Milwaukee, St. Paul, and Pacific Railroad Company (MILW) may substitute three bi-level auto rack flat cars, listed in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "FA" for each two tri-level auto rack flat cars ordered by the shipper for transporting automobiles.

(b) The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(c) *Rates and Minimum Weights Applicable.* The rates to be applied to shipments for which three bi-level cars have been substituted for two tri-level cars ordered as authorized by Section (a) of this order shall be the rates applicable to the larger cars ordered. The minimum weight to be applied to each group of three bi-level cars substituted for two tri-level cars shall be the combined minimum weights applicable to the two tri-level cars ordered.

(d) *Billing to be Endorsed.* The carrier substituting smaller cars for larger cars as authorized by Section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Two tri-level cars ordered. Three bi-level cars furnished authority I.C.C. Third Revised Service Order No. 1323.

(e) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(f) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroads Service Board, Washington, D.C., 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(g) *Rules and Regulations Suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(h) *Effective date.* This order shall become effective at 11:59 PM, April 20, 1979.

(i) *Expiration.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126).)

* * * * *

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C.,

[1] Chicago, Milwaukee, St. Paul and Pacific Railroad Company added.

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and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[Third Revised Service Order No. 1323]
[FR Doc. 79-12975 Filed 4-25-79; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Opening of Arrowwood National Wildlife Refuge, North Dakota to Sport Fishing.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Arrowwood National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Season dates for game fish May 5, 1979 to September 15, 1979 and from the end of the firearm deer season to March 23, 1980. Season dates for non-game fish same as for game fish but continuing to May 2, 1980.

FOR FURTHER INFORMATION CONTACT:
John R. Foster, Refuge Manager, Arrowwood National Wildlife Refuge, Pingree, North Dakota 58476. Phone number (701) 285–3341.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on all of the approximately 4,500 acres of lakes on the Arrowwood National Wildlife Refuge, North Dakota. Maps are available at the refuge headquarters. Sport fishing shall be in accordance with all applicable State regulations subject to the following condition:

(1) The use of boats, without motors, is permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuges generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that no area of the refuge system is used for forms of recreation not directly related to the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Arrowwood National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449. 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb)

John R. Foster,
Arrowwood Complex Manager.

April 17, 1979.

[FR Doc. 79-12864 Filed 4-25-79; 8:45 am]
BILLING CODE 4310-55-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period April 27–May 3, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT:
Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act by tending to establish and maintain, in the interests of producers and consumers, an orderly flow of oranges to market and avoid unreasonable fluctuations in supplies and prices. The action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on April 24, 1979 to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisible to be handled during the specified week. The committee reports the demand for navel oranges remains fairly strong.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 907.763 Navel Orange Regulation 463.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period April 27, 1979, through May 3, 1979, are established as follows:

(1) District 1: 990,557 cartons;

(2) District 2: Unlimited movement;

(3) District 3: Unlimited movement.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" means the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: April 25, 1979.

D. S. Kuryloski,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[Naval Orange Regulation 463]
[FR Doc. 79-13271 Filed 4-25-79; 11:21 am]
BILLING CODE 3410-02-M

7 CFR Part 908

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period April 27–May 3, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT:
Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on April 24, 1979 to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges remains good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 908.909 Valencia Orange Regulation 609.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period April 27, 1979, through May 3, 1979, are established as follows:

(1) District 1: Unlimited;

(2) District 2: Unlimited;

(3) District 3: 250,006 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: April 25, 1979.

D. S. Kuryloski,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[Valencia Orange Reg. 609]
[FR Doc. 79-13270 Filed 4-25-79; 11:21 am]
BILLING CODE 3410-02-M

7 CFR Part 946

Irish Potatoes Grown in Washington; Amdt. No. 1—Increase in Expenses

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes an increase of expenses for the functioning of the Washington Potato Committee. This will enable the committee to use the resulting funds for its expenses.

EFFECTIVE DATE: During fiscal period ending June 30, 1979.

FOR FURTHER INFORMATION CONTACT:
Donald S. Kuryloski, Acting Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447–6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 946 regulating the handling of potatoes grown in Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon other information, it is found that the increase in expenses, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments, engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) as the order requires that expenses shall apply to the appropriate fiscal period from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses at an open meeting of the committee, held March 22, 1979, in Moses Lake, Washington. It is necessary to effectuate the declared purposes of the act to make this provision effective as specified.

This regulation has not been determined significant under USDA criteria for implementing Executive Order 12044.

Amendment No. 1 is as follows:

Paragraph (a) of § 946.231 (43 FR 31882) is amended to read as follows:

§ 946.231 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1979, by the Washington Potato Committee, for its maintenance and functioning, and for such other purposes as the Secretary determines to be appropriate, will amount to not more than $17,850.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: April 23, 1979.

D. S. Kuryloski,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-12971 Filed 4-25-79; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 953

Potatoes Grown in Southeastern States; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

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ACTION: Final rule.

SUMMARY: This regulation authorizes expenses for the functioning of the Southeastern Potato Committee for the fiscal period beginning June 1, 1979. The regulation enables the committee to collect assessments from first handlers on all assessable potatoes and to use the resulting funds for its expenses.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT: Donald S. Kuryloski, Acting Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447–6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 953, as amended (7 CFR Part 953), regulatory the handling of potatoes grown in designated counties of Virginia and North Carolina, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments, engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) as the order requires that the rate of assessment for a particular period shall apply to all assessable potatoes from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee held April 5, 1979, in Norfolk, Virginia. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

This regulation has not been determined significant under USDA criteria for implementing Executive Order 12044.

The regulation is as follows:

§ 953.216 Expenses and rate of assessment.

(a) The expenses the Secretary finds may be necessary to be incurred during the fiscal period June 1, 1979, through May 31, 1980, by the Southeastern Potato Committee for its maintenance and functioning amount to $11,125.

(b) The rate of assessment to be paid during this period by each handler under this part shall be one-fourth cent ($0.0025) per hundredweight of potatoes of which he is the first handler. However, potatoes for canning, freezing, and other processing shall be exempt. Also, the minimum quantity exemption of up to five hundredweight of potatoes that may be shipped per day by each handler shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section have the same meanings as when used in the said amended marketing agreement and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: April 23, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-12970 Filed 4-25-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1079

Milk in the Iowa Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This order suspends a provision affecting the regulatory status of milk supply plants. The suspension action will allow a cooperative association's direct delivery of milk from producers' farms to its own pool distributing plant to be included as a qualifying shipment for pooling the cooperative association's supply plant. The suspension is for the months of May and June 1979.

DATE: Effective May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing: Issued September 5, 1978, published September 8, 1978 (43 FR 40028). Recommended Decision: Issued January 25, 1979, published January 30, 1979 (44 FR 5887). Final Decision: Issued April 16, 1979.

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Iowa marketing area.

It is hereby found and determined that for the months of May and June 1979 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1079.7(b)(1) the words "pursuant to § 1079.9(c)."

Statement of Consideration

This suspension will continue to remove for two additional months some pool supply plant provisions that prevent a cooperative association from earning pool plant shipping credit for milk which it causes to be delivered directly from producers' farms to its own pool distributing plant. Initially, these provisions were suspended for the months of May 1978 through April 1979. Prior to the suspension, only direct deliveries of milk by a cooperative association to the pool distributing plant of another handler were fully creditable as qualifying shipments for the cooperative's supply plant.

Several cooperative associations which supply milk to the Iowa market requested the 1978 suspension because, they claimed, uneconomic shipments of milk were required to maintain pool status for supply plants. This resulted because direct deliveries from farms to their pool distributing plants did not earn credit toward qualifying their supply plants. To eliminate this unnecessary and uneconomical movement of milk the Assistant Secretary suspended the pertinent provisions for the months of May 1978 through April 1979 (43 FR 24515).

In response to industry proposals, a public hearing was held at Urbandale, Iowa, September 20–21, 1978, to consider various proposed amendments to the Iowa order. One of the proposed changes considered at the hearing would permit a cooperative association's deliveries of milk from producers' farms to its own pool distributing plant to be counted as qualifying shipments for pooling a supply plant of the cooperative. In a decision issued January 25, 1979 (44 FR 5887), the Acting Deputy Administrator, Marketing Program Operations, recommended that the change be adopted. A final decision adopting the change was issued by the Deputy Assistant Secretary for Marketing and Transportation Services on April 16, 1979. The proposed amendments have been submitted to producers for their approval.

It is not possible for any order amendments resulting from this proceeding to become effective by May 1, 1979, the date on which the present suspension order terminates. Therefore, the current suspension should be extended for two additional months to allow sufficient time to complete the amendment proceeding. This will permit cooperative associations during this interim period to continue delivering milk to their own distributing plants in an economical manner without jeopardizing the pooling status of their supply plants.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that the suspension does not require of persons affected substantial or extensive preparation prior to the effective date and this suspension has been in effect since June 6, 1978 (43 FR 24515), and this action would continue such suspension.

Therefore good cause exists for making this order effective May 1, 1979.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of May and June 1979.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Effective date: May 1, 1979.

Signed at Washington, D.C., on April 23, 1979.

Jerry C. Hill,

Deputy Assistant Secretary.

[Milk Order No. 79]

[FR Doc. 79-12969 Filed 4-25-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 911 and 944

Limes; Grade and Size Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations specify minimum grade and size requirements for shipments of limes grown in Florida, and for limes imported into the United States. The action is necessary to assure the shipment of ample supplies of limes of acceptable grades and sizes in the interest of growers and consumers.

DATES: Effective May 1 through June 17, 1979.

FOR FURTHER INFORMATION CONTACT: Charles R. Brader, (202) 447–6393.

SUPPLEMENTARY INFORMATION: *Findings.* The Florida lime regulation is issued under the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911; 43 FR 39319), regulating the handling of limes grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The lime import regulation is issued under section 8e (7 U.S.C. 608e–1) of this act. The regulation applicable to limes grown in Florida is based upon recommendations and information submitted by the Florida Lime Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act. These regulations have not been determined significant under the USDA criteria for implementing Executive Order 12044.

These grade and size requirements reflect the Department's appraisal of the need for regulating limes during the period May 1 through June 17, 1979, based on the available supply and current and prospective market demand conditions. Production of Florida limes for the 1979–80 season is expected to amount to about 1,800,000 bushels, a level which indicates a complete recovery from the 1977 freeze. About 900,000 bushels of Florida limes are expected to be shipped to fresh markets in 1979–80, with the remainder of the crop being utilized in processing. More than adequate supplies of limes should be available to fill fresh market demands.

The grade and size requirements for imported limes are consistent with § 8e of the act. This section requires that whenever specified commodities, including limes, are regulated under a federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

It is concluded that the grade and size requirements hereinafter set forth are necessary to establish and maintain orderly marketing conditions, and to provide acceptable quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of these regulations until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which these regulations are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the Florida lime regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Accordingly, it is found that the requirements for the handling of Florida limes, and those applicable to imported limes should be and are established as follows:

§ 911.341 Lime Regulation 39.

(a) During the period May 1, 1979, through June 17, 1979, no handler shall handle:

(1) Any limes of the group known as true "seeded" limes (also known as Mexican, West Indian, and Key limes and by other synonyms), grown in the production area, which do not meet the requirements of at least U.S. No. 2 Grade for Persian (Tahiti) Limes, except as to color: *Provided,* That true limes, grown in the production area, which fail to meet the requirements of such grade may be heandled within the production area, if such limes meet all other applicable requirements of this section and the minimum juice content requirement prescribed in the U.S. Standards for Persian (Tahiti) Limes, and are handled in containers other than the containers prescribed in § 911.329 for the handling of limes between the production area and any point outside thereof;

(2) Any limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) which do not grade at least U.S. Combination, Mixed Color: *Provided,* That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet the requirements set forth in the U.S. Standards for Persian (Tahiti) Limes shall apply: *Provided further,* That Persian limes, grown in the production area, which fail to meet the requirements of such grade may be handled within the production area, if such limes meet all other applicable requirements of this section and meet the same minimum juice content requirement prescribed in the U.S. Standards for such limes and are handled in containers other than the containers prescribed in § 911.329 for the handling of limes between the production area any point outside thereof; or

(3) Any limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) which are of a size smaller than 1¾ inches in diameter: *Provided,* That not more than 10 percent, by count, of the limes in any lot of containers,

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other than master containers of individual bags, may fail to meet the applicable minimum size requirement: *Provided further,* That no individual container of limes having a net weight of more than four pounds may have more than 15 percent, by count, of the limes which fail to meet such applicable size requirement.

(b) Terms used in this section shall have the same meaning as in the marketing order, and terms relating to grade and diameter shall have the same meaning as in the U.S. Standards for Persian (Tahiti) Limes (7 CFR 2851.1000–1016).

§ 944.206 Lime Regulation 7.

(a) *Applicability to imports.* Pursuant to § 8e of the act Part 944—Fruits; Import Regulations, the importation into the United States of any limes is prohibited unless such limes meet the minimum grade and size requirements specified in § 911.341 Lime Regulation 39.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of limes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of limes, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 944; 43 FR 19340).

(c) *Minimum quantity exemption.* Any person may import up to 250 pounds of limes exempt from the requirements specified in this section.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, April 24, 1979, to become effective May 1, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-13242 Filed 4-25-79; 8:50 am]

BILLING CODE 3410-02-M

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Proposed Rules

Federal Register
Vol. 44, No. 82
Thursday, April 26, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1011]

Milk in the Tennessee Valley Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts certain changes in the order provisions pertaining to pooling standards for supply plants based on industry proposals considered at a public hearing held September 13; 1978. The amendments would allow a pool supply plant to meet its shipping requirements through both transfers and diversions of milk from the supply plant to pool distributing plants, rather than just through transfers. However, no more than half of the required shipments could be by diversions. The changes would permit milk to be moved more efficiently from farms to distributing plants for fluid use. Cooperative associations will be polled to determine whether producers favor the issuance of the proposed amended order.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued August 23, 1978; published August 28, 1978 (43 FR 38412).

Recommended Decision—Issued January 18, 1979; published January 23, 1979 (44 FR 4696).

Extension of Time for Filing Exceptions—Issued February 9, 1979; published February 15, 1979 (44 FR 9761).

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Tennessee Valley marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900), at Knoxville, Tennessee, on September 13, 1978, pursuant to notice thereof issued on August 23, 1978 (43 FR 38412).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Deputy Administrator, marketing Program Operations, on January 18, 1979 (44 FR 4696), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under the heading "1. *Pooling standards for supply plants.*", a new paragraph is added after paragraph 8, two new paragraphs are added after paragraph 16, paragraph 18 is revised, and six new paragraphs are added at the end of the discussion.

2. Under the subheading "2(b). *Diversions to nonpool plants.*", a new paragraph is added after paragraph 7.

The material issues on the record relate to:

1. Pooling standards for supply plants.
2. Diversions of producer milk.
(a) Diversions between pool plants.
(b) Diversions to nonpool plants.
(c) Identification of overdiverted milk.
3. Conforming changes.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pooling standards for supply plants.* The order should provide that a supply plant may qualify for pool status on the basis of both transfers and diversions of milk from the supply plant to pool distributing plants. However, such qualification credit for diversions should be limited to not more than one-half of the total required shipments.

The order currently affords pool status to any plant that tranfers to pool distributing plants not less than 50 percent of its milk receipts from dairy farmers and cooperative association bulk tank handlers. A plant that so qualifies each month during August through March may retain pool staus during the following months of April through July without shipping any milk to pool distributing plants.

Kraft, Inc., a proprietary handler, proposed that milk moved directly from producers' farms to pool distributing plants by a supply plant operator be considered as qualifying shipments in determining pool status for such supply plant. As part of a package of proposals to provide for this, Kraft proposed amending the order to allow unlimited diversions between pool plants. A discussion of this proposal appears elsewhere in this decision. Proponent also proposed certain other conforming changes in order provisions.

A witness for proponent testified that Kraft operates a pool supply plant located at Greeneville, Tennessee, that receives milk from farms located in nine Tennessee counties. The milk is then reloaded and transferred from the supply plant to a pool distributing plant at Knoxville, Tennessee. According to the Kraft spokesman, approximately 50 percent of the supply plant's milk is obtained from farms located such that the milk could move more economically directly from the farms to the Knoxville plant. He noted, however, that under current order provisions Kraft cannot be the handler on milk that is direct-shipped to another handler's pool plant.

The spokesman testified that Kraft has an agreement to supply milk to the Knoxville plant. He stated that it was Kraft's intent to utilize in its nonpool cheese manufacturing plant, also located in Greeneville, Tennesssee, any milk produced by the supply plants's regular producers that is not needed for fluid use at the Knoxville distributing plant. Thus, Kraft wishes to be the handler on the milk associated with its supply plant operation in order to maintain the payrolling function on its milk, even when delivered directly from farms to the Knoxville distributing plant. The witness testified that allowing milk to be diverted to the Knoxville distributing palnt would eliminate about 2,400 truck miles weekly, thus improving the overall

efficiency of the supply plant operation. He also claimed that the elimination of unnecessary pumping would help maintain the quality of the milk.

Dairymen, Inc. (DI), a dairy farmer cooperative whose members supply more than 85 percent of the producer milk on the market, opposed the adoption of the Kraft proposals. The cooperative's spokesman contended that marketing conditions do not warrant the order changes proposed by Kraft. He maintained that adoption of the proposals would merely make it easier for Kraft to pool a Grade A milk supply for its cheese plant.

DI's witness expressed the view that marketing efficiency was not the major concern here. To support this, he maintained that conditions in this market do not require milk to move through a supply plant in order to be delivered to a distributing plant. He held that milk supplies can move directly from the farm to plants located in, or near, the Tennessee Valley marketing area. He stated that "the operation of a supply plant in conjunction with a manufacturing grade milk plant is not a necessary or an efficient procedure for supplying milk to handlers." The DI spokesman maintained that if a distributing plant operator wants a supply of milk from producers who are not members of a cooperative the distributor should be the responsible handler for the milk rather thn a supply plant operator and the milk should be received directly from farms.

DI's witness contended that adoption of the proposals would permit the operator of a supply plant to pool its milk in effect on the same basis as now provided for pooling a balancing plant of a cooperative association, i.e., on the basis of the total performance of the handler rather than just on the performance of the handler's plant. He noted, however, that under the proposed provisions a cooperative would be able to pool its balancing plant as a supply plant under the less stringent pooling standards proposed for supply plants. He opposed this on the basis that current marketing conditions do not warrant a reduction in the present order requirements for qualifying a balancing plan as a pool plant. In additon, he noted that a balancing plant must be located in the marketing area in order to be a pool plant. He pointed out that this requirement would not apply to a supply plant under the Kraft proposals. The cooperative's witness expressed concern that the proponent, as well as other handlers, including DI, thus could "ride the pool" by pooling plants that otherwise would have no association with the Tennessee Valley market.

In its exceptions DI stated a belief that the Kraft supply plant has been "riding the pool" since the hearing. The cooperative requested the Secretary to verify or deny their statement by taking official notice of the monthly statistical summaries published by the market administrator since October 1978 to present. Section 900.8(d)(5) of the general regulations with respect to marketing agreements and marketing orders porvides that official notice may be taken of such information only if interested parties are given adequate opportunity to show that the data noticed are inaccurate or erroneous. Since there is no opportunity to so comment on the Department's final decision, this exception must be overruled.

It may be, as DI contends, that moving milk directly from farms to distributing plants is the most efficient way to handle producer milk associated with the Tennessee Valley order. Nevertheless, the order provides for the pooling of supply plants and Kraft is operating a supply plant that meets the pooling standards of the order. The present pooling standards require a supply plant operator to transfer at least 50 percent of his receipts at the supply plant to pool distribution plants. Stated another way, 50 percent of the supply plant's milk must be amde available to meet the fluid milk needs of the market. Once this requirement is met, the supply plant's total supply of milk has pool status, and the supply plant operator may dispose of the remaining 50 percent in whatever way he desires. Whether this kind of pooling standard is inappropriate for this market was not an issue at this hearing.

The Kraft supply plant first became a pool plant in September 1977 and at the time of the hearing had been a pool plant for one year. During that time, the plant's total supply of Grade A milk was received at the supply plan and then transferred to the distributing plant at Knoxville. A number of the farms that deliver milk to the supply plant are located between Greeneville and Knoxville. Many are closer to the distributing plant than they are to the supply plant. One such farm is approximately three miles from the distributing plant, and about 75–80 miles from the supply plant.

At the time of the hearing, Kraft was obtaining Grade A milk from farms located in nine Tennessee counties, which include territory around Greeneville and also between Greeneville and Knoxville. Kraft indicated that if its proposals were adopted, milk from farms in Greene, Hawkins and Washington Counties would continue to be moved to the supply plant, and then be shipped to Knoxville when needed. Milk produced on farms in Claiborne, Cocke, Hamblen, Jafferson, Knox and Sevier Counties, on the other hand, would then be moved directly to the Knoxville distributing plant. The milk from these six counties approximates 50 percent of the total Grade A supply currently pooled by Kraft. When not needed in Knoxville for fluid use, Kraft indicated that this latter milk would be moved to either the supply plant or the manufacturing plant at Greeneville.

The order should promote efficient milk handling practices by permitting a supply plant operator to move part of his milk supplies directly from farms to distributing plants and count them as part of his supply plant shipments. There are obvious savings in hauling costs that could be achieved in this market under such an arrangement. In addition, extra pumping of milk in reloading operations could be avoided, which would help preserve the high quality of the milk that distributors demand.

Adoption of this provision should not lessen in any way the effectiveness of the pooling standards. A supply plant operator would still have to make available to pool distributing plants not less than 50 percent of his Grade A milk that is associated with the supply plant.

Although the order should recognize a supply plant operator's deliveries of milk directly from producer's farms to pool distributing plants, a supply plant should not be able to qualify for pooling solely on the basis of such deliveries. Otherwise, there would be little discernible difference from an operational standpoint between a supply plant and a cooperative association balancing plant. Yet, the pooling standards for the two types of plants would be different.

Adoption of Kraft's proposal without any limitation on diversions would enable a supply plant to qualify as a pool plant without being required to transfer any milk from the supply plant to distributing plants. Pooling status could be achieved as long as the plant operator delivered at least half of his milk supply to pool distributing plants, which could be entirely by deliveries directly from farms. A similar method of pooling is now available to a cooperative association in the case of its balancing plant. However, the plant must be located in the marketing area and the cooperative must deliver at least

60 percent of its members' milk to pool distributing plants during each month of the year. No automatic pooling status is provided during the heavy production months, as is the case for supply plants.

Since there presumably would be little difference in the supply arrangements of the two types of handlers, the question arises as to whether any difference in the pool plant performance standards for a cooperative's balancing plant and for a handler's supply plant can be justified. The record does not support the pooling of a balancing plant under the pool standards now applicable to supply plants. On the other hand, it must be presumed that Kraft did not comtemplate for its supply plant the establishment of the higher or more stringent performance level that now applies to balancing plants.

The cooperative took exception to the preceding statement in the recommended decision and maintained that the 50 percent shipping standard for supply plants was an issue in this proceeding. The cooperative further contended that the 60 percent performance standard for pooling a cooperative's balancing plant also should apply to a proprietary supply plant operation.

At the hearing, DI pointed out that the cooperative must deliver 60 percent of its member producer milk to distributing plants to qualify its balancing plant for pooling. However, no one proposed a higher shipping percentage for supply plants. The cooperative's spokesman did explain the more stringent requirements its balancing plant must meet to qualify for pooling, but he did not propose that the supply plant pooling standards must be raised in order to be consistent with the pooling requirements for a balancing plant. He did, however, maintain that there was no need to lower the balancing plant requirements to the same performance level specified for pooling a supply plant. We can find no basis for deciding now that a higher pooling standard for supply plants was proposed. The language contained in Kraft's proposals noticed for the hearing did not change the T350 percent shipping requirement. Accordingly, the exception must be denied.

When a cooperative has a high overall level of performance in supplying and balancing the fluid milk needs of handlers, its balancing plant may have pool status without meeting specific plant performance criteria. This recognizes that a balancing plant provides an efficient means whereby handlers buying milk from the cooperative may adjust their receipts from day-to-day to fit their bottling needs and at the same time have assurance through arrangements with the cooperative that milk will always be available for fluid use as needed.

Accordingly, to maintain some distinction between the two types of plants, the order should not permit more the one-half of the required milk movements by a supply plant operator to be in the form of diversions to distributing plants. Under the current operating situation, this should still basically accommodate the needs of Kraft. At the same time, the order would continue to base a supply plant's eligibility for pooling to a significant degree on transfers of milk from the supply plant to distributing plants.

DI took exception to all of the findings and conclusions of the recommended decision on the Kraft proposals. Except as specifically discussed elsewhere, the exceptions reiterate views previously stated by the cooperative in opposing adoption of the Kraft proposals. These views were fully considered in reaching a recommended decision on the issues in this proceeding.

The final point raised in DI's exceptions was that all of the Kraft proposals should be denied and that the proceeding should be terminated. If this is not done, DI requested that the hearing be reopened, contending that it otherwise would be denied due process in this proceeding.

In the course of presenting testimony at the hearing, the DI spokesman proposed that the quantity of a producer's milk production that must be delivered to a pool plant in order to qualify the producer's milk for diversion to a nonpool plant be increased from two days' production to 10 days' production. An objection to any consideration of the proposal was raised by Kraft and the Administrative Law Judge ruled that the proposed modification was outside the scope of the hearing notice. DI was permitted to make an offer of proof and restated the proposal as its offer of proof. It is in regard to this proposal that the request to reopen the hearing was made.

The Department's Rules of Practice and Procedure state in § 900.9(b) that if "the person filing a brief desires the Secretary to consider any objection made by such person to a ruling of the judge, as provided in § 900.8(d), he shall include in the brief a concise statement concerning each such objection, referring where practicable, to the pertinent pages of the transcript." It is noted that the cooperative's brief made no reference to the Judge's ruling and the subsequent offer of proof. If this matter had been briefed, the Acting Deputy Administrator would have responded in the recommended decision, thus affording other interested parties an opportunity to take exception to that response. Raising the issue now precludes interested parties this opportunity. Put another way, DI's right to raise this issue now was waived by choosing not to brief the issue. Thus, the request for reopening the hearing could be denied on this basis alone.

Nevertheless, the offer of proof by DI was reviewed. The Department's rules state in this regard in § 900.8(d)(6) that "if the Secretary decides that the judge erred in excluding the evidence, and that such error was substantial, the hearing shall be reopened to permit the taking of such evidence." We find that the offer of proof provides no compelling basis for concluding that the hearing should be reopened. The record shows that DI's proposal was expressly independent of the adoption of the amendments proposed by Kraft. We cannot find, therefore, that the Judge erred in his conclusion that DI's proposal was outside the scope of the hearing notice.

A further point is that DI had an opportunity to submit proposals before the hearing for consideration prior to the issuance of a hearing notice. If DI believes that the order should be amended in accordance with its proposal, it may submit the proposal to the Department and request a hearing under § 900.3 of the rules of practice.

2. *Diversions of producer milk.* In connection with its proposal to change the supply plant pooling standards, Kraft proposed that the order be amended to (a) permit a pool plant operator to divert milk from such plant to other pool plants on an unlimited basis, (b) increase the amount of milk a handler may divert to nonpool plants, and (c) provide a procedure for determining which milk shall not be pooled under the order when a handler overdiverts milk to nonpool plants.

(a) *Diversions between pool plants.* The order should be amended to allow the operator of a pool plant to divert milk from such plant to another pool plant on any number of days during the month.

At the hearing, Kraft's witness testified that under the current order provisions Kraft must physically receive the milk of a producer at its pool supply plant in Greeneville, Tennessee, and then transfer the milk to a pool distributing plant in Knoxville, Tennessee, in order to maintain the payroll responsibility and accountability for such milk. Kraft contended that this method of operation has resulted in

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additional expense for the handler since the farms of some producers are closer to Knoxville than Greeneville. Kraft proposed, therefore, that the order be amended so that milk of producers associated with the Greeneville supply plant could be diverted from such plant to the Knoxville distributing plant as needed. Thus, Kraft could be the handler, even though the milk moved directly from the farm to another pool plant.

The order should promote the efficient handling of milk by permitting diversions between pool plants. This change will implement the supply plant modification adopted in this decision, as described earlier. It also will facilitate simplified accounting procedures with respect to producer milk weights, butterfat tests and payrolling. Under this procedure, the diverting handler may retain payroll responsibility for a producer's total monthly milk production irrespective of the plant to which the milk may actually be delivered. This additional operating flexibility will permit a pool plant operator to avoid uneconomic movements of milk for the purpose of being the accountable handler and paying the producer for all of his milk deliveries during the month.

Diversions to pool plants should be distinguished from diversions to nonpool plants in that when milk is diverted to another pool plant there is no question about its eligibility for pooling. Thus, no purpose would be served by placing a limitation on diversions of milk between pool plants and none is provided.

The pricing point for milk diverted from a pool plant to another pool plant should be the same as currently provided under the order for milk diverted to a nonpool plant, as was proposed by Kraft. Hence, the milk would be priced at the location of the plant to which it is diverted.

The order now excludes milk received at a supply plant by diversion from plants regulated under other orders and by transfer from other plants in determining how much of a pool supply plant's receipts must be shipped to distributing plants. Thus, a supply plant that is a manufacturing plant may receive surplus milk from other plants without affecting its qualification as a pool plant under the order. For the same reason, milk received at a supply plant by diversion from other pool plants should be excluded as a receipt for determining the pool status of the supply plant.

(b) *Diversions to nonpool plants.* A proposal to base allowable diversions to nonpool plants by pool plant operators and cooperatives on a handler's total producer milk supply, thereby increasing the limit on such diversions, should not be adopted. However, in conjunction with the change described earlier that would permit diversions between pool plants, such diversions by a pool plant operator should be counted along with the producer milk that he physically receives at his pool plant in determining how much milk he can divert to nonpool plants.

The current order provides that the total quantity of milk diverted to nonpool plants by a cooperative may not exceed one-third of the producer milk that the cooperative caused to be delivered to pool plants during the month. The operator of a pool plant may divert an amount of milk equal to not more than one-third of the producer milk that is physically received during the month at such plant that is eligible for diversion by the plant operator.

Kraft, Inc., proposed that a cooperative association be permitted to divert to nonpool plants up to one-third of the producer milk it caused to be delivered to or diverted from pool plants during the month. Also, a pool plant operator would be permitted to so divert up to one-third of his total producer milk supply, i.e., milk physically received at such plant plus diversions from the plant to pool and nonpool plants.

In supporting the adoption of the proposal, Kraft's witness testified that at the present time all of the producer milk associated with the Greeneville supply plant is needed to supply the distributing plant in Knoxville. He indicated, however, that Kraft expected to divert milk off the market in the near future as its Grade A supplies increase, and eventually in quantities greater than could be accommodated under the present provisions. This anticipation was the basis for the proposal to increase allowable diversions to nonpool plants.

Dairymen, Inc. (DI), opposed the adoption of the proposal on the basis that it would increase allowable diversions to nonpool plants. A witness for the association testified that an increase is not needed since such diversions generally have been far below the level currently permissible under the order.

Kraft's operation has been such that up to the time of the hearing, no milk had been diverted from the supply plant. Any increase in the diversion limits should be based on actual operating experience. Only in this way can there be a proper assessment of whether such a change is in fact needed.

It is noted that other information on the record does not suggest a need for increasing the diversion limits. An exhibit entered by DI set forth the quantity of the association's diversions to nonpool plants each month since the merged order became effective on October 1, 1976. During such months when diversions were limited (October 1976–March 1977 and August 1977–March 1978), DI's diversions averaged only 16 percent of its deliveries to pool plants. During those same months, the market's Class I utilization averaged 77 percent. Since DI supplies over 85 percent of the milk pooled under the order, it is evident that the present limit on allowable diversion is accommodating the handling of a very large proportion of the milk on the market. Therefore, current marketing conditions do not indicate that an increase in the base for computing allowable diversions to nonpool plants is warranted. Accordingly, the Kraft proposal is denied.

Kraft took exception to the recommended decision because it did not base diversions of milk to nonpool plants on the handler's total supply of producer milk. Also, the exception requested that the percentage limit on diversions to nonpool plants be increased from one-third to one-half of the prodicer milk for which the plant operator is the handler. It was Kraft's position that an increase in the diversion limit is necessary to reduce transporation and handling costs, thereby promoting efficient milk handling practices. As stated in the preceding paragraph, the record clearly demonstrates that the present limits on diversions to nonpool plants are adequate to accommodate the handling of this market's reserve milk supplies. The exception is denied.

With the adopted change that would permit diversions between pool plants, a pool plant operator's "base" for computing allowable diversions to nonpool plants would be reduced by the quantity of producer milk diverted to other pool plants in the absence of any corollary change in what the base should include. In recognition of this, the base for determining allowable diversions to nonpool plants should include all of the pool plant operator's producer milk that is received at pool plants, i.e., physical receipts at the plant plus diversions from such plant to other pool plants. This is consistent with present order provisions that permit a cooperative to divert milk to nonpool plants based on its total producer milk deliveries that are physically received at pool plants.

Since a pool plant operator that diverts milk to another pool plant would be accountable to the pool for such milk, the operator should get credit for such milk as a basis for diversions to nonpool plants. Conversely, the operator of the pool plant where the milk is physically received should not be eligible to divert milk on the basis of such receipts of milk.

Assuming a given amount of producer milk, this change would not allow a handler to divert any more milk to nonpool plants under the proposed amended order than may be so diverted under the present order provisions. It would, however, maintain the present level of allowable diversions to nonpool plants, which the record demonstrates is adequate to efficiently dispose of the market's reserve milk supplies. For the foregoing reasons, this modification should de adopted.

(c) *Identification of overdiverted milk.* The order should be amended to provide a procedure for identifying the milk that would lose pool status if a handler overdiverts milk to nonpool plants. As provided herein, the quantity of milk diverted in excess of the diversion allowance would not be produced milk. Also, if the diverting handler fails to designate the dairy farmers' deliveries that are not producer milk, no milk diverted to nonpool plants by the handler would be producer milk.

The current order does not specify which milk shall be depooled in the event a handler's total diversions to nonpool plants exceed the maximum allowance specified in the order. The order now covers only the situation where diversions by a cooperative from a pool plant of another handler would cause such plant to be a nonpool plant. In such cases, the order provides that the cooperative shall designate the dairy farmer deliveries that are not producer milk. If the cooperative fails to make such designation, no milk diverted by the handler to nonpool plants shall be producer milk.

Kraft, Inc., proposed that if total diversions exceed the allowance, then the diverting handler may designate the dairy farmers whose diverted milk will not be considered producer milk. If a handler fails to make such designation, the milk last diverted—in lots of an entire day's production—would be excluded first in determining which milk should not be producer milk.

Dairymen, Inc., supported the current order provisions. A spokesman for the cooperative pointed out that Kraft's proposal would not provide a procedure for identifying which milk would lose pool status when diversions by a cooperative from a pool plant of another handler would result in nonpool status for such plant. He also maintained that no marketing conditions exist or are expected to occur that would justify such a change.

The order should continue to provide the present method of determining which producers' milk should not be qualified as producer milk when a cooperative's diversions to nonpool plants would cause a plant to lose pool status. This procedure apparently has served the market well and should be retained. The same procedure should be adopted for determining which milk will not be producer milk in the case of any handler—proprietary or cooperative—that overdiverts milk to nonpool plants, i.e., the diverting handler should be responsible for specifying which dairy farmers' milk shall not be producer milk. The diverting handler is accountable to the pool for the producers' milk and therefore is in the best position to select the producer deliveries which should not be producer milk.

If the diverting handler fails to designate the dairy farmers' deliveries that are to be excluded as producer milk, no milk diverted by the handler to nonpool plants should be producer milk. This procedure is consistent with present provisions and would adequately provide a means for disqualifying milk when overdiversions occur. It represents a feasible alternative to the procedure that Kraft proposed.

3. *Conforming changes.* The current order does not provide for diversions between pool plants, and thus the classification and shrinkage provisions do not cover this type of milk movement. Since such diversions are provided in this decision, certain corollary changes in the classification and shrinkage provisions, as proposed by Kraft, are warranted and the order is appropriately revised to reflect these considerations.

Kraft proposed a conforming change in a paragraph dealing with the classification of transfers to producer-handlers and transfers and diversions to governmental agency plants (§ 1011.42(c)(1)). The order changes adopted in this decision would in no way change the application of that paragraph. For this reason, no change appears to be warranted.

The present order provides that a cooperative may qualify a balancing plant for pooling on the basis of shipments directly from the farm to pool distributing plants. This decision would also permit a supply plant to count such shipments for qualification purposes. Since a cooperative could operate both a balancing plant and a supply plant, it is necessary to provide that the same shipments not be used to qualify two plants of the cooperative for pooling. The changes in the balancing plant definition provided herein will assure this.

A change should be made in the definition of a handler with respect to a cooperative association as a handler for bulk tank milk delivered to pool plants of other handlers (§ 1011.9(c)). Since a cooperative may choose to utilize diversions to pool plants for qualifying a supply plant that it operates, the paragraph specified above is revised to exclude such milk. Also, the handler definition with respect to a cooperative association as a handler on milk diverted for its account to nonpool plants (§ 1011.9(b)) is revised to exclude milk that the cooperative diverts to a nonpool plant from a pool plant operated by the cooperative. These changes are necessary to make it clear that milk diverted to any other plant from a pool plant operated by the cooperative should be reported as a receipt and a disposition from the pool plant, and not on a report otherwise filed by the cooperative in any other capacity as a handler.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the

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Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Tennessee Valley marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

February 1979 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Tennessee Valley marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

(This decision constitutes the Department's Final Impact Analysis Statement for this proceeding.)

Signed at Washington, D.C., on April 23, 1979.

Jerry C. Hill,
Deputy Assistant Secretary.

Order[1] amending the order, regulating the handling of milk in the Tennessee Valley marketing area.

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Tennessee Valley marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supples of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Tennessee Valley marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Deputy Administrator, Marketing Program Operations, on January 18, 1979, and published in the **Federal Register** on January 23, 1979 (44 FR 4696), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

1. In § 1011.7, paragraphs (b) and (d) are revised to read as follows:

§ 1011.7 Pool plant.

* * * * *

(b) A plant, other than a plant described in paragraph (a) of this section, from which not less than 50 percent of the total quantity of milk approved by a duly constituted regulatory agency for fluid consumption that is physically received from dairy farmers (except by diversion from other plants) and handlers described in § 1011.9(c) at such plant or diverted therefrom pursuant to § 1011.13 during the month is shipped from such plant as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section. The operator of such a plant may include milk diverted pursuant to § 1011.13(c) from such plant to plants described in paragraph (a) of this section as qualifying shipments in meeting up to one-half of the shipping percentage specified in this paragraph.

* * * * *

(d) A plant located in the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month 60 percent or more of the producer milk of members of such cooperative association, excluding such milk that is received at or diverted from pool plants described in paragraph (b) of this section but including milk delivered by such cooperative as a handler described in § 1011.9(c), is delivered directly from their farms to pool plants described in paragraph (a) of this section or is transferred to such plants as a bulk fluid milk product from the plant of the cooperative association, subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a), (b) or (c) of this section or under the provisions of another Federal order applicable to a distributing plant or a supply plant; and

(2) The plant is approved by a duly constituted regulatory agency to handle milk for fluid consumption.

* * * * *

2. In § 1011.9, paragraphs (b) and (c) are revised to read as follows:

§ 1011.9 Handler.

* * * * *

(b) A cooperative association with respect to milk of producers diverted to nonpool plants for the account of such association pursuant to § 1011.13, excluding the milk of producers diverted by the association as a handler pursuant to paragraph (a) of this section;

(c) Any cooperative association with respect to milk, excluding the milk of producers diverted to pool plants by the association as a handler pursuant to paragraph (a) of this section, that it receives for its account from the farm of a producer for delivery to a pool plant of another handler, in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler of such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests detemined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

* * * * *

3. Section 1011.13 is revised to read as follows:

§ 1011.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant, excluding such milk that is diverted from another pool plant;

(b) Received by a handler described in § 1011.9(c); or

(c) Diverted from a pool plant for the account of the handler operating such plant to another pool plant or diverted from a pool plant to a nonpool plant (other than a producer-handler plant) for the account of the handler operating such pool plant or for the account of a handler described in § 1011.9(b), subject to the following conditions:

(1) A producer's milk may be diverted to another pool plant without limit in any month, and may be diverted to a nonpool plant without limit during any month of April through July;

(2) In any month of August through March, a producer's milk shall not be eligible for diversion to a nonpool plant unless at least two days' production from such producer is physically received at a pool plant during the month;

(3) In any month of August through March, the total quantity of milk diverted to nonpool plants during the month by a cooperative association shall not exceed one-third of the producer milk that the cooperative association caused to be delivered to, and is physically received at, pool plants during the month;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (c)(3) of this section. In any month of August through March, the total quantity of milk so diverted to nonpool plants shall not exceed one-third of the milk that is physically received at pool plants as producer milk for which the plant operator is the handler;

(5) Any milk diverted to nonpool plants in excess of the limits prescribed in paragraph (c)(3) and (4) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveries that will not be producer milk pursuant to paragraph (c)(3) or (4) of this section. If the handler fails to make such designation, no milk diverted by such handler to a nonpool plant shall be producer milk;

(6) To the extent that it would result in nonpool status for the pool plant from which diverted, milk diverted for the account of a coopertive association to nonpool plants from the pool plant of another handler shall not be producer milk;

(7) The cooperative association shall designate the dairy farmer deliveries that are not producer milk pursuant to paragraph (c)(6) of this section. If the cooperative association fails to make such designation, no milk diverted by it to a nonpool plant shall be producer milk; and

(8) Diverted milk shall be priced at the location of the plant to which diverted.

4. In § 1011.41, paragraph (b)(2) is revised to read as follows:

§ 1011.41 Shrinkage.

* * * * *

(b) * * *

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1011.9(c) and in milk diverted to such plant from another pool plant, except that in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be two percent;

* * * * *

5. In § 1011.42, paragraph (a) is revised to read as follows:

§ 1011.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1011.44(a)(12) and the corresponding step of § 1011.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1011.44(a)(7) or the corresponding step of § 1011.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1011.44(a)(11) or (12) or the corresponding steps of § 1011.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

other source milk had been received at the transferee-plant or divertee-plant.

* * * * *

[Docket No. AO-251-A-21]
[FR Doc. 79-12962 Filed 4-25-79; 8:45 am]
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NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 31 and 32]

In Vitro Uses of Byproduct Material; Addition of Veterinarians to the In Vitro General License

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its regulations in order to add veterinarians to the groups already authorized to use byproduct material for clinical or laboratory testing done outside the body by the issuance of a general license. The general license is useful for the regulation of a large number of identical or similar uses under circumstances in which the safety of the use is not highly dependent upon the competence of the user or when it is practical to identify a class of users who may be assumed to have the necessary qualifications. This action is in response to a petition for rulemaking.

DATES: Comment period expires June 25, 1979.

ADDRESSES: Interested persons are invited to submit written comments and suggestions on the proposed amendments and/or the supporting value/impact analysis to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Single copies of the value/impact analysis may be obtained on request from the Office of Standards Development. Copies of the value/impact analysis and of comments received by the Commission may be examined at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Deborah A. Bozik, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone 301-443-5860).

SUPPLEMENTARY INFORMATION: By letter dated June 19, 1978, Dr. R. F. Nachreiner of the Animal Health Diagnostic Laboratory in Lansing, Michigan, filed with the NRC a petition for rulemaking requesting an amendment to authorize the addition of veterinarians as general licensees to § 31.11 of 10 CFR Part 31, the general license for use of byproduct material for certain *in vitro* (outside the body) clinical or laboratory testing.

Currently, the veterinarian must use byproduct material under a specific license. A specific license is required for any activity in which the safety of the proposed use is highly dependent upon such factors as the qualifications of the particular licensee and the unique characteristics of the use. Currently, physicians use byproduct material for the same type of tests as the veterinarians; however, physicians use it under a general license. A general license is effective without the filing of applications with the Commission or the issuance of licensing documents to particular persons. The general license is useful for the regulation of a large number of identical or similar uses under circumstances in which the safety of the use is not highly dependent upon the competence of the user or when it is practical to identify a class of users who may be assumed to have the necessary qualifications.

Veterinarians have similar training to physicians in the areas of diagnostic radiology and radiation biology. The small quantity of radioactive material which the veterinarian would use and the similarity of that use to that of a physician's imply that licensing should be the same as a physician's. The proposed rule would add veterinarians to the general license in § 31.11 of 10 CFR Part 31 and a conforming amendment would also be made to § 32.71 of Part 32 which is the specific license for the manufacture and distribution of byproduct material for certain *in vitro* clinical or laboratory testing under general license.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that the adoption of the following amendments to 10 CFR Parts 31 and 32 is contemplated.

1. Section 31.11 of 10 CFR Part 31 is amended by changing the prefatory language of paragraph (a) and amending paragraph (d)(2) to read as follows:

§ 31.11 General license for use of byproduct material for certain in vitro clinical or laboratory testing.

(a) A general license is hereby issued to any physician, veterinarian in the practice of veterinary medicine, clinical laboratory or hospital to receive, acquire, possess, transfer, or use, for any of the following stated tests, in accordance with the provisions of paragraphs (b), (c), (d), (e), and (f) of this section, the following byproduct materials in prepackaged units:

* * * * *

(d) The general licensee shall not receive, acquire, possess, or use byproduct material pursuant to paragraph (a) of this section:

* * * * *

(2) Unless the following statement, or a substantially similar statement which contains the information called for in the following statement, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package: [1]

This radioactive material may be received, acquired, possessed, and used only by physicians, veterinarians in the practice of veterinary medicine, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority.

(Name of Manufacturer)

2. Paragraph (d) of § 32.71 of 10 CFR Part 32 is revised to read as follows:

§ 32.71 Manufacture and distribution of byproduct material for certain in vitro clinical or laboratory testing under general license.

An application for a specific license to manufacture or distribute byproduct material for use under the general license of § 31.11 of this chapter will be approved if:

* * * * *

(d) The following statement, or a substantially similar statement which contains the information called for in the following statement, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package: [1]

The radioactive material may be received, acquired, possessed, and used only by physicians, veterinarians in the practice of veterinary medicine, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority.

(Name of manufacturer)

[1] Material generally licensed under this section prior to (date of effective rule) also may bear labels authorized by the regulations in effect on (day before date of effective rule).

[1] Material licensed under § 32.71 prior to (date of effective rule) also may bear labels authorized by the regulation in effect on (day before date of effective rule).

(Secs. 81, 161, Pub. Law 83-703, 68 Stat. 935, 948 (42 U.S.C. 2111, 2201); Sec. 201, Pub. Law 93-438, 88 Stat. 1242 (42 U.S.C. 5841))

Dated at Bethesda, MD this 16th day of April, 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,
Executive Director for Operations.

[FR Doc. 79-12757 Filed 4-25-79; 8:45 am]
BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

Airworthiness Directives; Indiana Mills & Manufacturing, Inc., TSO-C22f Seat Belt Assemby Models: IMM 111040-1, IMM 111040-2, IMM 111040-3, IMM 111040-4, and IMM 111040-8

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require the removal from service within the next 90 days of the following safety belt assemblies manufactured by Indiana Mills and Manufacturing, Inc. and marked as meeting the standards of FAA TSO-C22f:

IMM 111040-1 Shoulder and Lap Belt Assembly (only Lap Belt Assembly TSO approved)
IMM 111040-2 Front Passenger Harness Assembly (only Lap Belt Assembly TSO approved)
IMM 111040-3 Rear Passenger Harness Assembly (only Lap Belt Assembly TSO approved)
IMM 111040-4 Shoulder and Lap Belt Assembly (only Lap Belt Assembly TSO approved)
IMM 111040-8 Lap Belt Assembly

The proposed AD is needed since it was determined that the criteria of TSO-C22f and previously accepted deviation criteria for push-button release mechanisms are not met by these safety belt assemblies. The high release forces required to release the latch mechanism under certain conditions are considered unsatisfactory.

DATES: Comments must be received on or before June 18, 1979.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket (AGL-7) Docket No. 79-GL-4-AD, 2300 East Devon Avenue, Des Plaines Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Alfred A. Maila, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 424.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The FAA has determined that the above identified Indiana Mills and Manufacturing, Inc. safety belt assemblies do not meet the requirements of TSO-C22f or acceptable deviation criteria for push-button release mechanisms. This latter criteria requires that the release force under a 250 pound load be no greater than 8 pounds on the push-button and under no conditions should the release force be less than 2.5 pounds on the push-button. Since this condition exists in the other safety belts of the noted models, the proposed AD would require that these safety belts be removed from service.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Indiana Mills & Manufacturing, Inc. Applies to Model IMM 111040-1, -2, -3, 4-, and -8 safety belt assemblies marked as meeting the standards of FAA TSO-C22f. These safety belts are installed in, but not limited to, Gulfstream American Corp. (formerly Grumman American Aviation Corp.) AA-1B, AA-1C, AA-5, AA-5A, AA-5B model airplanes.

These safety belts can no longer be considered to meet the standards prescribed by FAA TSO-C22f and the approved special criteria for push-button release mechanisms which requires the push-button release force to be between 2.5 and 8 pounds when using the loading conditions specified in FAA TSO-C22f (Section 4.3.2.2 of NAS 802).

Within 90 days from the effective date of this AD, these safety belts shall not be used in type certificated aircraft.

Note.—Information regarding replacement safety belts for Gulfstream American airplanes can be obtained from: Gulfstream Light Aircraft Customer Service, P.O. Box 2206, Savannah, Georgia 31410, Telephone (912) 964-3000, Telex 54-6470.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.— The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582, March 8, 1978).

Issued in Des Plaines, Illinois on April 17, 1979.

J. B. Barriage,
Acting Director, Great Lakes Region.

[Docket No. 79-GL-4-AD]
[FR Doc. 79-12857 Filed 4-25-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Part 39]

Airworthiness Directives; AiResearch Model GTCP85 Series APUs

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) which will require the incorporation of a heavy wall conical tailpipe assembly in specific series of the AiResearch Model GTCP85 Series Auxiliary Power Unit (APU). This AD is being proposed because thermal fatigue cracks in the rim saddle area of the turbine wheel have developed which could result in failure of a segment of the rim and possible release of high energy fragments of the turbine assembly.

DATES: Comments must be received on or before June 29, 1979.

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ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The applicable service information may be obtained from: AiResearch Manufacturing Company of Arizona, P.O. Box 5217, Phoenix, Arizona 85010, Telephone: (602) 267–3011.

FOR FURTHER INFORMATION CONTACT: Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

To date there have been 9 cast turbine wheel separations reported to the FAA wherein a segment of the rim becomes dislodged from the hub. In three cases involving GTCP85–98CK APUs, a blade segment exited the APU and surrounding aircraft shroud causing damage to a Boeing 727 aircraft right hand wheel well. Primary cause of the rim separation in the turbine wheel is development of thermal fatigue cracks between the turbine wheel blade roots, called the saddle area. Current experience indicates that all rim separations have occurred in low time turbine wheels Part Number 3604604–1 (hipped) or Part Number 968095 –1, –3, or –5 (unhipped) with 1250 to 4057 hours/cycles since new, where one cycle equals one start/shutdown. No separations have been reported on turbine wheels which have been inspected and/or repaired following hot section inspection (HSI) or overhaul.

While the GTCP85 series APU turbine wheel containment ring is designed to fully contain a maximum energy wheel burst, the failure mechanism of the rim failure can allow turbine wheel debris to escape this ring. Recent rim separation occurrences indicate that upon failure of the wheel rim the resultant unbalance causes the cantilevered wheel shaft to fracture. The turbine wheel is then free to rotate inside the turbine wheel shroud. The high axial thrust acts to drive the wheel aft collapsing the standard walled conical tailpipe. This allows the rotating turbine wheel to spin in a plane not enclosed by the containment ring with the consequence of blade fragments being radially released from the APU.

Failures of this nature may pose a safety hazard to ground crews or other persons near the aircraft. In addition, high energy blade fragments could also cause secondary damage to aircraft fuel, hydraulic and electrical systems with corresponding fire hazard while on the ground, or in flight, in those cases where the APU is certificated for in-flight operation.

Since this condition is likely to exist or develop on other APUs of the same TSO design, this AD would require the incorporation of a strengthened conical tailpipe design in order that turbine wheel failures of this type may be fully contained by the turbine wheel containment hardware.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

AiResearch Manufacturing Company of Arizona: Applies to the following groups of Model GTCP85 series Auxiliary Power Units (APUs) which have cast turbine wheel Part Number 968095 –1, –3, –5 or 3604604–1 installed:

Note.—These APUs are installed in but not limited to Boeing 727–100/–200, Lockheed L–100, Boeing 707 (conversion), Lockheed 382–Series, Douglas DC–9, Avions Marcel Dassault-Breguet Aviation Mercure and British Aerospace Corporation BAC 1–11, Trident 3B, Trident 1, and Trident 2E aircraft.

Group A: GTCP85–98CK, GTCP85–98CK(A), or GTCP85–98CK(B) with exhaust pipe assembly Part Number 379529 or 976987–1.

Note.—Part Number 976987–1 may be either a new production part or part reworked from Part Number 379529 per AiResearch Service Bulletin 49–1790, Revision 1, dated March 21, 1971, or original issue of this service bulletin.

Group B: GTCP-85–98DCK, GTCP85–115CK, GTCP85–115H, GTCP85–139H, or GTCP85–163CK with exhaust pipe assembly Part Number 379529 or 976987–1 reworked from Part Number 379529 per AiResearch Service Bulletin 49–1790, Revision 1, dated March 21, 1971, or original issue of this service bulletin.

Group C: GTCP85–185L with exhaust pipe assembly Part Number 899607–1.

Note.—Operators of airplanes incorporating the APUs affected by this airworthiness directive are advised to examine the applicable sections of AiResearch Alert Service Bulletin GTCP85–49–A5078, Revision 1, dated March 29, 1979, and AiResearch Service Bulletin GTCP85–49–3688, Revision 5, dated February 9, 1979, to identify production configuration of these units as well as the methods of reworking the exhaust pipe assemblies to the approved replacement configuration.

Compliance required as indicated.

To prevent the release of high energy turbine wheel blade fragments, accomplish the following, unless already accomplished:

(a) For APUs with turbine wheels Part Number 968095–1, –3, –5, or 3604604–1 installed, remove the exhaust pipe assemblies listed for Group A, B, and C above and install a strengthened exhaust pipe assembly as defined below at next APU overhaul, or within the next 3000 operating cycles after the effective date of this AD, whichever occurs first, or in any case, not later than three years from the effective date of this AD.

(1) APUs in Group A are to have a Part Number 3607748–1, 966580–1, or 966580–3 exhaust pipe assembly installed.

(2) APUs in Group B are to have a Part Number 3607748–1 or 966580–3 exhaust pipe assembly installed.

(3) APUs in Group C are to have a Part Number 3607748–1 exhaust pipe assembly installed.

Note.—For the purposes of this AD, one cycle equals one start/shutdown of the APU. If the operator does not have a record of operating cycles on individual turbine wheels, he may assume two starts have occurred for each recorded APU operating hour of service, or any other cycle per hour ratio approved by the operator's assigned FAA maintenance inspector, provided the request contains substantiating data to justify the alternative ratio. Operators who have not kept a record of APU operating hours of service shall estimate hours of APU operation by equating APU operation to airplane hours time in service using a ratio approved by the operator's assigned FAA maintenance inspector and justified by substantiating data.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(c) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Upon request of operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region may adjust the initial inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in interim Department of Transportation Guidelines.

Issued in Los Angeles, California on April 16, 1979.

Benjamin Dempe, Jr.
Acting Director, FAA Western Region.

[Docket No. 79–WE–2–AD]
[FR Doc. 79–12858 Filed 4–25–79; 8:45 am]
BILLING CODE 4910–13–M

[14 CFR Part 47]

Aircraft Registration; Triennial Aircraft Registration Report

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to establish a requirement that holders of a Certificate of Aircraft Registration file a report with the FAA Aircraft Registry on the current eligibility of the aircraft for registration whenever 3 years have elapsed since the FAA Aircraft Registry has received information indicating registration eligibility. The proposed requirement is intended to help ensure that continued aircraft registration is limited to eligible persons only and, to the extent practicable, to maintain current data on aircraft ownership. It is needed to supplement eligibility information that is received by the FAA Aircraft Registry in the ordinary course of business.

DATE: Comments must be received on or before June 11, 1979.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–24), Docket No. 18958, 800 Independence Avenue S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Virginia Swimmer, Technical Section, FAA Aircraft Registry, Aeronautical Center, P.O. Box 25082, Oklahoma City, Oklahoma 73125, Telephone: (405) 686–2284.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of this proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue S.W., Washington, D.C. 20591. All communications received on or before June 11, 1979, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for the comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Indpendence Avenue S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

Discussion of the Proposed Rule

Section 47.44 of the Federal Aviation Regulations (14 CFR 47.44) previously required a holder of a Certificate of Aircraft Registration to file a report before April 1 of each year providing information relative to the aircraft's eligibility for registration. The purpose of that requirement was to enable the FAA to obtain updated knowledge of the registration eligibility of aircraft. Section 47.44 was adopted as Amendment No. 47–10 (35 FR 2578; February 5, 1970). The amendment was necessary because the FAA had frequently not been advised of changed circumstances which affected registration eligibility, such as: destruction of the aircraft, transfer of ownership, loss of citizenship, registration in a foreign country, or the death of the certificate holder.

As a result of § 47.44, the FAA received reports annually from 1979 through 1977. Approximately 32,000 obsolete aircraft records were removed from the aircraft register, which is now relatively current.

On January 25, 1978, § 47.44 was revoked by Amendment No. 47–19 (43 FR 3900; January 30, 1978), because it was determined that the aircraft register could now be kept current, for the most part, with the use of information that is submitted to the FAA Aircraft Registry in the ordinary course of business. This information includes: notices of the sale, export, destruction, theft, and cannibalization of aircraft; notices of change of address and of the death of the certificate holder; and requests for change of registration number.

In the preamble to Amendment No. 47–19, the FAA pointed out that it might be necessary to require some holders of certificates of Aircraft Registration to file a report similar to that required by § 47.44, but that such a reporting system would be considerably less of a burden on the public and on the FAA than § 47.44. The experience of the FAA Aircraft Registry has shown that some form of registration activity occurs with respect to a considerable portion of the aircraft population during each 36-month period. The FAA believes that this activity, coupled with an eligibility certification from those certificate holders about whose aircraft the FAA Aircraft Registry has received no information in 3 years, will be sufficient to provide for reasonable currency of eligibility and ownership data.

Under this proposal, the FAA Aircraft Registry would send a Triennial Aircraft Registration Report to a holder of a Certificate of Aircraft Registration when no registration activity has occurred with respect to the certificate holder's aircraft in 36 months. The rule would specify the following as registration activity: the submission of an application for aircraft registration, the filing of a notice of a change of permanent mailing address, the filing of an application for a duplicate Certificate of Aircraft Registration, the filing of an application for a change of aircraft identification number, the submission of a report under former § 47.44, and the submission of a prior certification on a Triennial Aircraft Registration Report.

The proposed rule would require the certificate holder to certify and submit the report within 60 days after issuance by the FAA Aircraft Registry. It would

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have to be dated, legibly executed, and signed by the certificate holder in the manner prescribed by § 47.13, except that any co-owner would be allowed to sign for all co-owners.

The information certified by the certificate holder would be substantially the same as that formerly required by § 47.44, except that the registration eligibility certification requested would reflect the change in the eligibility requirements effected by Public Law 95–163 and Public Law 99–241. It is anticipated that the report form issued by the FAA Aircraft Registry will be preprinted with the information on each aircraft that is available in the aircraft register. The certificate holder will have merely to certify or correct the information printed on the report form and return it to the FAA Aircraft Registry.

The report would provide for certifying the current identification number of the aircraft, the name and permanent mailing address of the certificate holder, the name of the manufacturer of the aircraft and its model and serial number, and whether the certificate holder is a U.S. citizen, a foreign citizen lawfully admitted to permanent residence in the United States, or a corporation (not a U.S. citizen) lawfully organized and doing business under the laws of the United States. A non-citizen corporation would also have to certify whether its aircraft is based and primarily used in the United States. Finally, the report would provide for certifying whether the aircraft is registered under the laws of any foreign country.

Proposed § 47.51 is not expected to impose a significant burden on holders of Certificates of Aircraft Registration, in view of the 3-year period between reports and the ease with which it is expected that the certification form can be processed by the certificate holder. In addition, only those certificate holders for whom there has been no registration activity in 3 years will be required to submit a report.

The proposed rule is expected to be much less of a burden on the FAA Aircraft Registry because of the reduction in the number of eligibility reports. Workload is also expected to be more evenly distributed throughout the year, unlike the reporting system under former § 47.44 which resulted in a peak workload period focusing on one reporting date each year.

The Proposed Rule

Accordingly, it is proposed to amend Part 47 of the Federal Aviation Regulations by adding § 47.51 to read as follows:

§ 47.51 Triennial Aircraft Registration Report.

(a) Unless one of the registration activities listed in paragraph (b) of this section has occurred within the preceding 36 calendar months, the holder of each Certificate of Aircraft Registration issued under this subpart shall submit, on the form provided by the FAA Aircraft Registry and in the manner described in paragraph (c) of this section, a Triennial Aircraft Registration Report, certifying—

(1) The current identification number (registration mark) assigned to the aircraft;

(2) The name and permanent mailing address of the certificate holder;

(3) The name of the manufacturer of the aircraft and its model and serial number;

(4) Whether the certificate holder is:

(i) A citizen of the United States;

(ii) An individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States; or

(iii) A corporation (other than a corporation which is a citizen of the United States) lawfully organized and doing business under the laws of the United States or any State thereof;

(5) If the certificate holder is described in paragraph (a)(4)(iii) of the section, whether the aircraft is based and primarily used in the United States; and

(6) Whether the aircraft is currently registered under the laws of any foreign country.

(b) The FAA Aircraft Registry will forward A Triennial Aircraft Registration Report to each holder of a Certificate of Aircraft Registration whenever 36 months has expired since the latest of the following registration activities occurred with respect to the certificate holder's aircraft:

(1) The submission of an Application for Aircraft Registration.

(2) The filing of a notice of change of permanent mailing address.

(3) The filing of an application for a duplicate Certificate of Aircraft Registration.

(4) The filing of an application for a change of aircraft identification number.

(5) The submission of an Aircraft Registration Eligibility, Identification, and Activity Report, Part 1, AC Form 8050–73, under former § 47.44.

(6) The submission of a Triennial Aircraft Registration Report under this section.

(c) The holder of the Certificate of Aircraft Registration shall return the Triennial Aircraft Registration Report to the FAA Aircraft Registry within 60 days after issuance by the FAA Aircraft Registry. The report must be dated, legibly executed, and signed by the certificate holder in the manner prescribed by § 47.13, except that any co-owner may sign for all co-owners.

(d) Refusal or failure to submit the Triennial Aircraft Registration Report required by this section and containing the required information may be cause for suspension or revocation of the Certificate of Aircraft Registration in accordance with Part 13 of this chapter.

(Sections 313(a), 501, and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1401, and 1421); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves proposed regulations which are not significant under the procedures and criteria required by Executive Order 12044, and implemented by the Department of Transportation Regulatory Policies and Procedures published in the **Federal Register** February 26, 1979 (44 FR 11034). In addition, the Federal Aviation Administration has determined that the expected impact of the proposed regulations is so minimal that they do not require an evaluation.

Issued in Oklahoma City, Oklahoma, on April 11, 1979.

Calvin H. Davenport,

Acting Director, Aeronautical Center.

[Docket 18958; Notice 79–10]
[FR Doc. 79–12861 Filed 4–25–79; 8:45 am]
BILLING CODE 4910–13–M

[14 CFR Part 71]

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Establishment and Alteration of Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Termination of Notice of Proposed Rulemaking (NPRM).

SUMMARY: On March 1, 1979, an NPRM was published in the **Federal Register** (44 FR 1156) covering the establishment of airspace at Durango, Colorado to contain the holding patterns on a proposed new airway. Subsequent to the issuance of the NPRM for the proposed rulemaking action, it was disclosed that the proposed airway would be unusable below flight level (FL–180) and serve no useful purpose to air traffic control; therefore, the action is cancelled.

FOR FURTHER INFORMATION CONTACT: Pruett B. Helm, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM–500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837–3937.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69).)

Issued in Aurora, Colorado on April 17, 1979.

M. M. Martin,

Director, Rocky Mountain Region.

[Airspace Docket No. 79–RM–03]
[FR Doc. 79–12859 Filed 4–25–79; 8:45 am]
BILLING CODE 4910–13–M

[14 CFR Part 71]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes to alter the 1,200-foot transition area at Gillette, Wyoming to provide controlled airspace for holding aircraft and additional controlled airspace for air traffic control purposes. There will no be no change to the 700-foot transition area.

DATES: Comments must be received on or before June 1, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Air Traffic Division, Attn.: ARM–500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

FOR FURTHER INFORMATION CONTACT: David M. Laschinger, Airspace and Procedures Specialist, Operations, Procedures and Airspace Branch (ARM–539), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837–3937.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The Federal aviation Administration is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 1,200-foot transition area at Gillette, Wyoming. This proposal is necessary to provide controlled airspace for holding aircraft and for air traffic control purposes. Accordingly, the Federal Aviation Administration proposes to amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

By amending 71.181 by designating the following transition areas:

Gillette, Wyoming

That airspace extending upward from 700 feet above the surface within 6 miles east and 9.5 miles west of the Gillette VOR (latitude 40°20'52" N., longitude 105°32'34" W.) 176° and 356° radials, extending from 8 miles south to 18.5 miles north of the VOR, and that airspace extending upward from 1,200 feet above the surface bounded on the north by the southern edge of V66S, on the south by the northern edge of V23S, on the west by the eastern edge of V19, V19E, excluding that area designated as the Sheridan, Wyoming, Casper, Wyoming, and the Newcastle, Wyoming 1,200-foot transition areas.

Drafting Information

The principal authors of this document are David M. Laschinger, Air Traffic Division, and Daniel J. Peterson, office of the Regional Counsel, Rocky Mountain Region.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation, and a comment period of less than 45 days is appropriate.

Issued in Aurora, Colorado on April 17, 1979.

M. M. Martin,

Director, Rocky Mountain Region.

[Airspace Docket No. 79–RM–12]
[FR Doc. 79–12860 Filed 4–25–79; 8:45 am]
BILLING CODE 4910–13–M

[14 CFR Part 73]

Establishment of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Restricted Area R–5114 located near Gallup, N. Mex. This restricted airspace is necessary so that the U.S. Air Force can conduct training missions utilizing advance missile systems. In addition, the Air Force proposes this area be designated as joint use.

DATES: Comments must be received on or before May 29, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 78–SW–56, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

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FOR FURTHER INFORMATION CONTACT:
Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before May 29, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would establish Restricted Area R-5114, Fort Wingate, N. Mex., located southeast of Gallup, N. Mex. This area would be designated as joint use so that maximum utilization of the restricted area could be realized since the missile firings would be periodic. The requested altitudes are from the surface to unlimited. This restricted area would provide airspace for launching Advanced Strategic Air Launched Missiles (ASALM). Also, this airspace was preciously used for ground launched missiles and was designated as R-5114 and revoked due to lack of use. The training would require that missiles be air launched and the airspace must be void of all nonparticipating aircraft. The airspace utilization time would be approximately 15 minutes per launch once per month for six months. The using agency, Deputy for Air Force, Armament Development and Testing Center, White Sands Missile Range, N. Mex. 88002, will serve as lead agency for purposes of compliance with the National Environmental Policy Act (NEPA). Comments on any land use problems can be addressed to Douglas W. Brazelton, LT COL, USAF Representative, FAA SW Region, P.O. Box 1689, Fort Worth, Tex. 761-1. Subpart B of Part 73 was republished in the **Federal Register** on January 2, 1979 (44 FR 702).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.51 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 702) as follows:

Under § 73.51 "R-5114 Fort Wingate, N. Mex.

Boundaries. Beginning at Lat. 35°26'00" N., Long. 108°35'00" W., to Lat. 35°05'00" N., Long. 108°07'00" W., to Lat. 34°56'00" N., Long. 108°21'40" W., to Lat. 35°25'00" N., Long. 108°37'00" W., to point of beginning.
Time of designation. Intermittent, September 1, 1979, through March 31, 1980, by NOTAM, 48 hours in advance.
Altitudes. Surface to unlimited.
Controlling agency. Federal Aviation Administration, Albuquerque, ARTC Center.
Using agency. Deputy for Air Force, Armament Development and Testing Center, White Sands Missile Range, N. Mex. 88002."

would be added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on April 19, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[Airspace Docket No. 78-SW-56]
[FR Doc. 79-12755 Filed 4-25-79; 8:45 am]
BILLING CODE 4910-13-M

TENNESSEE VALLEY AUTHORITY

[18 CFR Chapter II]

Second Semiannual Agenda of Significant Regulations

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Second semiannual notice of agenda of significant regulations under development or review.

SUMMARY: This document is intended to satisfy the requirements of Executive Order No. 12044, "Improving Government Regulations" (the "order"), by informing the public of the determination made by the Board of Directors of TVA that no regulation under development or review qualify as "significant" under the order.

EFFECTIVE DATE: The determination of which this document gives notice was made at a public meeting of TVA's Board of Directors on April 5, 1979, and covers the period through November 6, 1979.

ADDRESS: Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Lynn G. Morehous, Assistant General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E10D76, Knoxville, Tennessee 37902, 615-632-3081.

SUPPLEMENTARY INFORMATION: On February 23, 1979, TVA published in the **Federal Register** (44 FR 10806) its final revised report implementing Executive Order No. 12044. That report identified existing TVA regulations, outlined the process by which TVA develops and revises the regulations it issues, and described the mechanisms TVA uses to actively encourage public input to TVA programs. TVA currently has under development or review three regulations which are subject to the order. These are: (1) amendments to its regulations under Section 26a of the TVA Act, which would (a) increase public participation in the process for issuing permits under that section and (b) provide applicants a formal right of appeal to the Board; (2) procedures implementing the Public Utility Regulatory Policies Act of 1978; and (3) procedures to implement sections 504 and 505 of the Rehabilitation Act of 1973, as amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. On April 5, 1979, based on the criteria set forth in the order, the TVA Board of Directors determined that none of the regulations subject to the order which are under development or review are "significant" within the meaning of the order.

Semiannual Agenda of Regulations

No significant regulations are expected to be developed or reviewed in the period covered by this notice.

Approved by TVA Board of Directors, April 5, 1979.

Dated: April 5, 1979.

Leon E. Ring,
General Manager.

[FR Doc. 79-11829 Filed 4-25-79; 8:45 am]
BILLING CODE 8120-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Parts 2, 3, 4, 141, and 260]

Discontinuation of the Use of Certain FERC Forms

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to discontinue the use of data collection forms no longer needed by the Commission for its regulatory functions. The proposal is part of a continuing Commission effort to re-evaluate data collection by the Commission, and limit its data requirements to the minimum amount of information required to discharge its regulatory responsibilities.

DATE: Written comments by May 25, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (Reference Docket No. RM79-38).

FOR FURTHER INFORMATION CONTACT: Ronald D. Storey, Office of the Executive Director, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 9200, Washington, D.C. 20426, (202) 275-4111 or Teresa Ponder, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 8100-J, Washington, D.C. 20426, (202) 275-4236.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Federal Energy Regulatory Commission (Commission) proposes to amend §§ 2.10, 2.11(c), 2.11(d), 3.142(a), 3.170(a), 4.1, 4.2, 4.3, 4.6, 4.7, 4.10, 4.14, 4.20, 4.25, 141.7, 141.11, 141.12, 141.13, 141.26, 141.60, 141.300, 260.20, and 260.21 of Title 18 of the Code of Federal Regulations to discontinue the use of data collection forms no longer needed by the Commission for its regulatory functions.

Background

The Commission has initiated this rulemaking in accordance with the policy set forth in President Carter's Executive Order No. 12044 (Order) entitled "Improving Government Regulations."[1] The Order generally requires federal agencies, not including independent regulatory agencies, to evaluate and, where necessary, to improve their regulations in order to, among other things, minimize "compliance costs, paperwork, and other burdens on the public." Although this Commission is not required to comply with the Order, it has chosen to comply with the President's request that independent regulatory agencies voluntarily apply the policies and procedures enunciated in the Order.

This rulemaking is part of an ongoing effort to eliminate unnecessary burdens on the industries regulated by the Commission. All data elements contained in forms submitted to the Commission are being evaluated to determine how many of the data are needed by the Commission to carry out its regulatory functions. Forms which do not produce information needed by the Commission will be eliminated as FERC forms.

Some of the forms which the Commission proposes to discontinue were originally promulgated under authority granted to the Federal Power Commission (FPC) by sections 202(a) and 311 of the Federal Power Act (FPA) (49 Stat. 863; 16 U.S.C. 791(a)). Section 202(a) deals with the division of the country into regional districts for the voluntary interconnection and coordination of electric facilities.[2] Section 311 authorizes investigations and information gathering relating to electric energy. These functions, among others, were transferred to the Secretary of Energy (Secretary) by section 301(b) of the Department of Energy Organization Act[3] (DOE Act) (Pub. L. No. 95-91, 91 Stat. 565). The authority to administer these functions was in turn delegated by the Secretary to the Energy Information Administration (EIA)[4], the Economic Regulatory Administration (ERA)[5], and the Commission.[6] The Secretary gave FRA the authority to administer section 202(a) of the FPA, and gave EIA the authority to administer section 311 of the FPA. The Commission was also given the authority to carry out the functions under section 311 to the extent needed to perform its other vested or delegated functions.

These changes in the Commission's regulatory responsibilities coupled with a desire to reduce the reporting burden on industry to require only those data necessary to the discharge of those responsibilities, permit us to propose that several forms be discontinued. While the Commission proposes to discontinue the requirement that these data be reported, the public should be aware that EIA or ERA may determine that collection of some of the data elements is necessary to the proper discharge of their respective statutory responsibilities. The effective date of a final rule issued by the Commission discontinuing collection of any forms listed herein will be such that EIA, ERA, or any other Federal agency will have sufficient time to justify the need for and receive OMB approval of collection of such data under that agency's own authority.

The evaluation of the Commission's forms has involved extensive staff review. Forms were inventoried and identified by the staff as necessary or unnecessary for the fulfillment of the Commission's regulatory responsibilities.

The forms which the Commission proposes to discontinue were determined to be unnecessary to the fulfillment of the Commission's regulatory functions.

Forms To Be Discontinued

The Commission considers the following forms unnecessary and proposes to discontinue their collection:

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[1] 43 FR 12661, March 24, 1978.

[2] The Commission still has the authority under section 202(b) to order interconnections when necessary or appropriate in the public interest.

[3] Section 301(b) provides, generally, that powers given the FPC under the FPA and the Natural Gas Act (15 U.S.C. 717) which were not transferred to the Commission by Title IV of the DOE Act are vested in the Secretary.

[4] Delegation Order No. 0204-3, October 1, 1977, 42 FR ——.

[5] Delegation Order No. 0204-4, October 1, 1977, 42 FR ——.

[6] Delegation Order No. 0204-1, October 1, 1977, 42 FR 55637.

Form No.	Title as shown in C.F.R.	18 C.F.R. §§
6	Initial Cost Statement for Licensed Projects	141.11, 3.142(a)(23).
7	Statement of Actual Legitimate Original Cost of Construction	141.12, 3.142(a)(24).
9	Annual Report for Licensees of Privately Owned Major Projects (Utility and Industrial).	141.13, 3.142(a)(25).
17	Monthly Report of Natural Gas Pipeline Curtailments	None.
23B	Quarterly Electric Utility Generation and Fuel Planning Report (Expired 6-31-79).	141.300, 3.142(a)(42).
38	No C.F.R. title. Title of form: Electric Generating Station and Substation Data and Location.	(None—internal use only).
45	Report of New Non-Jurisdictional Sales of Natural Gas	260.20, 3.170(a)(30).
64	Natural Gas Companies, Annual Report of Producer Expenditures, Exploration and Development Activity, Production, Reserve Additions, and Revenues (Expired 12-31-78).	260.21, 3.170(a)(27).
37A	Weekly Fuel Emergency Report, Revised (Coal)	141.60, 3.142(a)(45).
237B	Weekly Fuel Emergency Report, Revised (Oil)	141.60, 3.142(a)(45).
ICC, ARC-41	No C.F.R. title. Title of form: Report of Expenditures for Additions and Betterment—Oil Pipeline Companies.	(None—internal use only).

It should be noted that Form Nos. 6, 7, and 9 contained in the above table are presently filed by licensed projects in accordance with section 4(b) of the FPA.[7] The Commission feels that the proposed amendments to Part 4 of the regulations, which eliminate the requirements for filing these forms with the Commission, will, nevertheless, meet the requirements of section 4(b) of the FPA. Under the current and proposed regulations, the actual legitimate original cost of and the net investment in the project is determined by the Commission after an audit conducted by its representatives. The proposed regulations require the licensed project, prior to the audit, to file a letter instead of the forms stating that all the information needed for the Commission's determination is contained in the project's books of account and is recorded in compliance with the Commission's Uniform System of Accounts.

The Commission also proposes to discontinue collection of the following forms. It should be noted, however, that some or all of the information reported on these forms may be collected by the EIA in carrying out its information gathering functions.

[7] Section 4(b) of the FPA provides, in part, that the Commission is authorized and empowered:

(b) To determine the actual legitimate original cost of and the net investment in a licensed project, and to aid the Commission in such determinations, each licensee shall, upon oath, within a reasonable period of time to be fixed by the Commission, after the construction of the original project or any addition thereto or betterment thereof, file with the Commission, in such detail as the Commission may require, a statement in duplicate showing the actual legitimate original cost of construction of such project, addition, or betterment, and of the price paid for water rights, rights-of-ways, lands, or interest in lands.

Form No.	Title as shown in C.F.R.	18 C.F.R. §§
1M	Annual Report for Municipal Electric Utilities Having Annual Electric Operating Revenues of $250,000 or More.	141.7, 3.142(a)(22).
13	Summary for National Electric Rate Book	141.26, 3.142(a)(32).

Finally, information reported on the following forms may be needed by the ERA but would no longer be collected by the Commission under this proposal.

Form No.	Title as shown in C.F.R.	18 C.F.R. §§
Unnumbered (GAO authorization No. RO309.	Untitled. Information reported: Reliability and adequacy of electric services—report by regional councils on coordinated regional bulk power supply programs.	2.11(c), (d).
Unnumbered (GAO authorization No. RO327.	Untitled. Information reported: Actions for minimizing the consequences of bulk power supply interruptions or shortages—report on contingency plans for operating in emergency situations and for possible load reductions or curtailment.	2.10(b).

The Commission invites written comments relevant to this proposal. Because the information received through these comments will be shared by the Commission and the EIA, any comments should separate the issues addressed according to the following categories:

1. Whether the data in question serve any Commission regulatory function;

2. If they do not, whether there is, nevertheless any reason for continued collection of the data by another federal agency;

3. Whether State Commissions have a regulatory need for any of the data; and

4. Whether the discontinuation of the use of Form Nos. 6, 7, and 9 and the related changes to Part 4 of the regulations satisfy the requirements of section 4(b) of the FPA.

The Commission has already allowed Form Nos. 23B and 64 expire, and respondents to this proposed rulemaking should address comments to only those forms currently filed with the Commission and specifically enumerated in this proposal. Anyone suggesting the continued collection of data which are contained in the forms we propose to eliminate and which are no longer needed by the Commission, should identify who can use the data, and for what purpose.

Public Comment Procedure

Interested persons may participate in this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 25, 1979. Each person submitting a comment should include his or her name and address, identify the notice (Docket No. RM79), and give reasons for any recommendations. An original and 14 conformed copies should be filed with the Secretary of the Commission.

Comments should indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours.

(Natural Gas Act, *as amended*, 15 U.S.C. 717; Federal Power Act, 16 U.S.C. 791(a); Administrative Procedure Act, 5 U.S.C. 553; Department of Energy Organization Act, Pub. L. No. 95-91; E.O. 12009, 42 FR 46267; Delegation Order No. 0204-1, 42 FR 55638.)

In consideration of the foregoing, it is proposed to:

1. Discontinue use of FPC Form No. 38, entitled Electric Generating Station and Substation Data and Location;

2. Discontinue use of Form No. ICC-ACR-41, entitled Expenditures for Additions and Betterments;

3. Discontinue use of FPC Form No. 17, entitled Monthly Report of Natural Gas Pipeline Curtailments; and

4. Amend Parts 2, 3, 4, 141, and 260 of Chapter I, Title 18 Code of Federal Regulations, as set forth below.

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

§ 2.10 [Amended]

1. Section 2.10 is amended by deleting paragraph (b) in its entirety and deleting the words "(a) *Actions.*" from paragraph (a).

§ 2.11 [Amended]

2. Section 2.11 is amended by deleting paragraphs (c) and (d) in their entirety.

PART 3—ORGANIZATION OPERATION; INFORMATION AND REQUESTS

§ 3.142 [Amended]

3. Section 3.142 is amended in paragraph (a) by deleting subparagraphs (22), (23), (24), (25), (32), (42), and (45) in their entirety and redesignating subparagraphs (26) as (22); (27) as (23); (28) as (24); (29) as (25); (30) as (26); (31) as (27); (33) as (28); (34) as (29); (35) as (30); (36) as (31); (37) as (32); (38) as (33); (39) as (34); (40) as (35); (41) as (36); (43) as (37); (44) as (38); (46) as (39); (47) as (40); and (48) as (41).

§ 3.170 [Amended]

4. Section 3.170 is amended in paragraph (a) by deleting subparagraphs (27) and (30) in their entirety and redesignating subparagraphs (28) as (27); (29) as (28); and (31) as (29).

PART 4—LICENSES, PERMITS, AND DETERMINATION OF PROJECT COSTS

5. Section 4.1 is amended to read as follows:

§ 4.1 Initial cost statement.

When a project is constructed under a license issued under the act, the licensee shall, within one year after the original project is ready for service, file with the Commission a letter, in quadruplicate, declaring that the original costs have been booked in compliance with the Commission's Uniform System of Accounts and that the books of accounts are ready for audit. The licensee's books of accounts for each project shall be maintained in such a fashion that each year's additions, betterments, and deletions to the project may be readily ascertained. Duplicates of the information made available in accordance with this section must be released for public use when specifically requested. Complying with the provisions of this section (§ 4.1), satisfies the filing requirements of section 4(b) of the Federal Power Act (16 U.S.C. 797(b)).

§ 4.2 [Removed]

6. Section 4.2 is deleted in its entirely.

§ 4.3 [Redesignated as § 4.2]

7. Section 4.3 is redesignated as § 4.2 and is amended to read as follows:

§ 4.2 Report on project cost.

When the original cost declaration letter, filed in accordance with § 4.1, is received by the Commission, its representative will schedule and conduct an audit of the accounts and examine and analyze the books, cost records, engineering reports, and other records supporting the project's original cost. The cost records shall be supported by memorandum accounts reflecting the indirect and overhead costs prior to their spread to primary accounts as well as all the details of allocations including formulas utilized to spread the indirect and overhead cost to primary accounts. The audit may include an inspection of the project works. Upon completion of the audit, a report will be prepared for the Commission setting forth the audit findings and recommendations with respect to the cost as claimed.

§ 4.4 [Redesignated as § 4.3; § 4.5 Redesignated as § 4.4]

8. Section 4.4 is redesignated as § 4.3 and § 4.5 is redesignated as § 4.4.

§ 4.6 [Redesignated as § 4.5]

9. Section 4.6 is redesignated as § 4.5 and is amended to read as follows:

§ 4.5 Burden of proof.

The burden of proof to sustain each item of claimed cost shall be upon the licensee and only such items as are in the opinion of the Commission supported by satisfactory proof may be entered in the electric plant accounts of the licensee.

§4.7 [Redesignated as § 4.6]

10. Section 4.7 is redesignated as § 4.6 and is amended to read as follows.

§4.6 Findings.

Finding action by the Commission will be in the form of a finding and order entered upon its minutes and served upon all parties to the proceeding. One copy of the order will be furnished to the Secretary of Treasury by the Commission. The licensee's books of account for the project shall be adjusted to conform to the actual legitimate cost as revised by the order of the Commission. These adjustments and the project may be audited by Commission representatives, as scheduled.

11. Section 4.10 is revised to read as follows:

§4.10 Valuation data.

In every case arising under section 23(a) of the act requiring the determination of fair value of a project already constructed, the licensee shall, within six months after the date of issuance of a license, file with the Commission a letter, in quadruplicate, containing a statement to the effect that an inventory and appraisal in detail, as of the effective date of the license, of all property subject thereto and to be so valued has been completed. The letter shall also include a statement to the effect that actual legitimate original cost, or if not known, the estimated original cost of the property, by prescribed structural and functional items and units, and an estimate of accrued depreciation segregated as to each separate major item or unit of property have been established and classified as prescribed in the Commission's Uniform System of Accounts. The licensee's books of account for each project shall be maintained in such a fashion that each year's additions, betterments, and deletions to the projects may be readily ascertained. Duplicates of the information made available in accordance with this section must be released for public use when specifically requested.

12. Section 4.14 is revised to read as follows:

§4.14 Hearing upon report.

After the expiration of the time within which a protest may be filed, a public hearing will be ordered in accordance with § 1.20 of this chapter. The Commission after the conclusion of the hearing will make a finding of fair value, accompanied by an order which will be served upon the licensee and all parties to the proceeding. One copy of the order shall be furnished to the Secretary of the Treasury by the Commission. The licensee's books of account for the project shall be adjusted to conform to the fair value of the project as revised by the order of the Commission. These adjustments and the project may be audited by Commission representatives, as scheduled.

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13. Section 4.20 is revised to read as follows:

§4.20 Initial statement.

In all cases where licenses are issued for projects already constructed, but which are not subject to the provisions of section 23(a) of the act (49 Stat. 846; 16 U.S.C. 816), the licensee shall, within 6 months after the date of issuance of license, file with the Commission a letter, in quadruplicate, containing a statement to the effect that an inventory in detail of all property included under the license, as of the effective date of such license, has been completed. The letter shall also include a statement to the effect that actual legitimate original cost, or if not known, the estimated original cost of the property, by prescribed structural and functional items and units, and an estimate of the accrued depreciation segregated as to each separate major item or unit of property have been established and classified as prescribed in the Commission's Uniform System of Accounts. The licensee's books of account for each project shall be maintained in such a fashion that each year's additions, betterments, and deletions to the project may be readily ascertained. Duplicates of the information made available in accordance with this section must be released when specifically requested. Complying with the provisions of this section (§ 4.20) satisfies the filing requirements of section 4(b) of the Federal Power Act (16 U.S.C. 797(b)).

14. Section 4.25 is revised to read as follows:

§4.25 Findings

Final action by the Commission will be in the form of a finding and order entered upon its minutes and served upon all parties to the proceeding. One copy of the order shall be furnished to the Secretary of Treasury by the Commission. The licensee's books of account for the project shall be adjusted to conform to the actual legitimate cost as revised by the order of the Commission. These adjustments and the project may be audited by Commission representatives, as scheduled.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

§ 141.7 [Removed]

15. Section 141.7 is deleted in its entirety.

§ 141.11 [Removed]

16. Section 141.11 is deleted in its entirety.

§ 141.12 [Removed]

17. Section 141.12 is deleted in its entirety.

§ 141.13 [Removed]

18. Section 141.13 is deleted in its entirety.

§ 141.26 [Removed]

19. Section 141.26 is deleted in its entirety.

§ 141.60 [Removed]

20. Section 141.60 is deleted in its entirety.

§ 141.300 [Removed]

21. Section 141.300 is deleted in its entirety.

PART 260—STATEMENT AND REPORTS (SCHEDULES)

§ 260.20 [Removed]

22. Section 260.20 is deleted in its entirety.

§ 260.21 [Removed]

23. Section 260.21 is deleted in its entirety.

[Docket RM79-38]
[FR Doc. 79-12808 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

[18 CFR Part 4]

Exemption of Small Conduit Hydroelectric Facilities From Part I of the Federal Power Act

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission gives notice that it proposes to adopt regulations providing procedures for granting exemptions from regulation under Part I of the Federal Power Act, including the licensing of facilities, to conduit hydroelectric facilities having no more than 15 megawatts of installed capacity. The regulations are proposed under section 213 of the Public Utilities Regulatory Policies Act of 1978 which created a new section 30 of the Federal Power Act and granted the Commission discretion to determine the extent of exemptions from regulation.

DATE: Written comments by June 1, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, reference Docket No. RM79-35.

FOR FURTHER INFORMATION CONTACT:
Ronald Corso, Office of Electric Power Regulation, Federal Energy Regulatory Commission, Room 4400, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-4863, or
Howard Jack, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8608, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-4269.

SUPPLEMENTARY INFORMATION:

The Federal Energy Regulatory Commission (Commission) gives notice that it proposes to adopt regulations providing procedures for exemption of conduit hydroelectric facilities from regulation under Part I of the Federal Power Act.

Background

Section 213 of the Public Utility Regulatory Policies Act of 1978 (PURPA) amended the Federal Power Act (Act) by creating a new section 30 of the Act. Section 30 gives the Commission discretion to grant to certain facilities exemptions from the requirements of Part I of the Act. Such exemptions may be in whole or in part and may include exemption from Commission licensing. The facilities which may be exempted under section 30 must be located on non-federal lands and utilize only a man-made conduit operated primarily for distribution of water rather than generation of electricity. No facilities with an installed capacity greater than 15 megawatts are eligible for exemption.

The proposed rules establish procedures under which case-by-case determinations can be made on whether, and the extent to which, a particular facility under particular site conditions warrants exemption. Contents of an application for exemption are desinged to require the minimum information necessary to support an informed decision. In order to minimize necessary filings, exemption application requirements are in lieu of those that would be required for a license application. If an exemption from licensing is denied, the exemption application will be treated as the basis for an application for license. (Additional information not contained in the exemption application, however, may be required to complete the application as one seeking a license.) In addition, to minimize and simplify any burden on exemption applicants, these requirements are substantially less than those for the short-form license (minor) adopted in our recent rulemaking (Docket No. RM78-9) which covers projects up to only 1.5 megawatts.[1] The proposed rules, moreover, apply these reduced application requirements to facilities up to 15 megawatts.

These proposed regulations have also been drafted with reference to the proposed regulations for general procedures for license and preliminary permit applications under Part I of the Act (Docket No. RM79-23). Those proposed regulations were promulgated by notice issued March 5, 1979, [44 FR 12432 (March 7, 1979)]. By reference to paragraphs (c) through (g) of proposed § 4.31 in that docket, the regulations proposed here would treat filings of exemption applications in the same manner as filings of preliminary permit or license applications with respect to accepting, rejecting, or curing deficiencies in the filing, requirements for additional information, and pre-application advice from the Commission staff.

The Commission believes that in many instances grant or denial of a small conduit hydroelectric facility exemption will be straightforward. Normally, it should be possible to review the merits of an application which meets the filing requirements of these new sections within 90 days and determine whether to grant or deny exemption. Accordingly, the proposed regulations provide for an automatic exemption, with certain standard terms and conditions, if the Commission has not specifically acted within that time. Where a particular application warrants, the Commission may act specifically within the 90 days to grant an exemption on special terms and conditions or to deny exemption. In extraordinary circumstances requiring additional time for information gathering or lengthier proceedings or deliberations (for instance, if an evidentiary hearing were ordered), the Commission may suspend the 90-day period. These provisions should assure expeditious action on exemption applications. The proposed regulations also provide the limited standard terms and conditions that would be included in any grant of exemption, even an automatic one.

As noted earlier, the proposed regulations take a case-by-case approach to exemption. The Commission and its staff have also considered the possibility of establishing generic exemptions by rule. There appear to be several difficulties with that approach, however. First, many important factual variables for any particular site and facility might affect whether and to what extent a facility should be exempted, as well as the proper terms and conditions for exemption. Second, there are many different possible combinations of the provisions of the Act that might appropriately by waived depending on the particular characteristics of various facilities and sites. Third, the consultation with fish and wildlife agencies required by section 30 appears to be facility-specific. For these reasons, the proposed regulations do not include generic exemptions. To gather additional views on these questions, however, the Commission invites persons interested in this rulemaking to comment on the efficacy of providing generic, rather than or in addition to facility-specific exemptions.

Three applications for exemption of the kind addressed by this proposed rulemaking have been filed with the Commission. Upon receipt of information sufficient to satisfy the application requirements in the proposed regulations, the Commission will proceed to consider those applications on an *ad hoc* basis under the authority of section 30 of the Federal Power Act. Although the 90-day automatic exemption provision in the proposed regulations would not apply, the Commission hopes to act on such an application within 90 days after the applicant is notified of acceptance for filing. Other applications that may be filed before final regulations are promulgated would also be considered on the same basis. Applicants who file acceptable applications for exemption before final regulations are adopted will not be required to refile in accordance with those regulations.

Summary of Proposed Regulations

Paragraph 4.65(a) explains that exemptions for small conduit hydroelectric facilities would be available for either constructed or unconstructed facilities that would otherwise need a license under Part I of the Act. Subparagraph 4.65(b)(4) defines "small conduit hydroelectric facilities" in terms similar to those in section 30 of the Act, with some clarifying details. Interested persons are invited to comment on whether the scope of the definition should be narrower or broader than that provided in this section.

Paragraph 4.66(a) provides that any person may apply for the exemption of a qualified facility from Part I of the Act. Paragraph (b) requires that an exemption application conform to various existing procedural requirements. An application must also provide certain specific information about the facility, to be contained in an initial statement, Exhibits A, B, and L, and an environmental report, as described in paragraph (b) of § 4.66. Among other things, Exhibit A must include a general location map; the recommendations which the applicant has obtained from the U.S. Fish and Wildlife Service, the National Marine Fisheries Service (in instances where anadromous fish may be involved), and any state agency regulating fish or wildlife resources; the applicant's comments on such recommendations; and other information considered relevant by the applicant. Exhibit B must include a description of the facility. An Exhibit L and an environmental report similar to those required for a minor project must also be filed. The Commission reemphasizes that these proposed exemption application regulations do not impose any additional filing requirements. Instead, they call for information in lieu of, and in simpler form than, that required for the license applications that would otherwise have to be filed.

Section 4.67 sets forth the avenues open to the Commission in processing applications for exemption. Under paragraph (a), the Commission would generally follow the same procedures articulated in paragraphs (c) through (g) of proposed § 4.31 for license and preliminary permit applications.[2] Notice of an exemption application would be published once in the county where the project is located. In paragraph (b) the Commission retains discretion to order a hearing on an application and to limit the issues to be considered there.

Paragraph (c) of § 4.67 automatically grants an exemption if the Commission does not take action within 90 days after the applicant is notified that its application is accepted for filing. In the alternative, the Commission may take action within that period to grant or deny the application explicitly under paragraph (d). That paragraph also provides for suspension of the 90-day action requirement in extraordinary circumstances.

Paragraph (f) of § 4.67 elaborates the standard terms and conditions for all exemptions. They include: Compliance with rules and orders to protect life, health, or property; the Commission's rights of investigation and enforcement; and compliance with the terms and conditions recommended by state and federal fish and wildlife agencies. In paragraph (g) the Commission also reserves the right to impose other conditions to protect water supply for consumption, the environment, public safety, and the water power resources of the region. Finally, under paragraph (h), interested agencies will be notified of

[1] For example, mapping requirements for an exemption application are less stringent than those for a minor license application.

[2] Docket No. RM79-23, *supra* p. 3.

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the application for exemption and have 45 days to comment. Because of the relatively short period for comment and Commission consideration, fish and wildlife agencies will also receive copies of the application. Any agency that does not comment within the 45 days will be presumed to have no objection to the exemption.

Written Comment Procedures

The Commission invites interested persons to submit written comments on the matters proposed in this notice. An original and 14 conformed copies of such comments must be filed with the Commission by June 1, 1979. Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. All comments should refer to Docket No. RM79–35.

Written comments will be available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426. The Commission will consider all timely comments before acting on the matters in this notice.

(Federal Power Act, as amended, 16 U.S.C. 792 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.* Public Utilities Regulatory Policies Act, Pub. L. No. 95–617, 92 Stat. 3117 *et seq.*; Executive Order No. 12009, 42 FR 46267.)

In consideration of the foregoing, the Commission proposes to amend Part 4 of Subchapter B, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Lois D. Cashell,
Acting Secretary.

1. Part 4 of Subchapter B, Chapter I, of Title 18 of the Code of Federal Regulations is amended by adding after § 4.60 the following sections 4.65, 4.66, and 4.67 to read:

Application for Exemption for Small Conduit Hydroelectric Facility

§ 4.65 Applicability and purpose.

(a) The provisions of these sections apply to applications for exemption of constructed or unconstructed small conduit hydroelectric facilities from all or part of the requirements of Part I of the Federal Power Act (including licensing) and of the regulations issued under Part I.

(b) *Definitions.* For the purposes of these sections:

(1) "Conduit" means any tunnel, canal, pipeline, aqueduct, flume, or similar man-made water conveyance which is operated for the distribution of water for agricultural, municipal, or industrial consumption, and not primarily for the generation of electricity.

(2) "Construction of a dam" means any construction, repair, reconstruction, or modification of a dam that either creates a new impoundment or increases the normal maximum surface elevation or the normal maximum surface area of an existing impoundment.

(3) "Dam" means any structure for impounding water.

(4) "Exempted facility" means a small conduit hydroelectric facility which has been granted an exemption under § 4.67.

(5) "Fish and wildlife agencies" means the U.S. Fish and Wildlife Service, the National Marine Fisheries Service (in any instance where anadromous fish may be affected), and any state agency exercising administration over fish or wildlife resources of the state in which a particular small conduit hydroelectric facility will be located.

(6) "Impoundment" means any body of water that a dam impounds.

(7) "Small conduit hydroelectric facility" means a facility, including all structures, fixtures, equipment, and lands used and useful in the facility's operation or maintenance, that is constructed, operated, or maintained for the generation of electric power and that:

(i) Utilizes for electric power generation the hydroelectric potential of a conduit;

(ii) Is not located, in whole or in part, on any of the public lands or reservations of the United States;

(iii) Has an installed generating capacity of 15 megawatts or less;

(iv) Does not rely, in whole or in significant part, upon a dam for its structural support or stability;

(v) Does not rely upon construction of a dam for any portion of the hydrostatic head that the facility uses for power generation; and

(vi) Releases the water it uses for power generation back to a conduit after power generation.

§ 4.66 Application for exemption.

(a) Any citizen, association of citizens, domestic corporation, municipality, or state may apply for an exemption for a small conduit hydroelectric facility from all or part of the provisions of Part I of the Federal Power Act (including any licensing requirements) and the regulations issued under Part I.

(b) Except as otherwise prescribed in this part, an application for exemption for a constructed or unconstructed small conduit hydroelectric facility must conform to the requirements set forth in §§ 1.5, 1.14, 1.15, 1.16, and 1.17 of this chapter. An application must also include an initial statement, Exhibits A, B, and L, and an Environmental Report.

(1) An initial statement must be set forth as follows:

Before the Federal Energy Regulatory Commission

Application for Exemption for Small Conduit Hydroelectric Facility

[Name of applicant] applies to the Federal Energy Regulatory Commission for an exemption for the [name of facility] small conduit hydroelectric facility from certain provisions of Part I of the Federal Power Act.

The location of the facility is:

State or territory: ———
County: ———
Township or nearby town: ———

The exact name and business address of each applicant are:

———
———
———

The exact name and business address of each person authorized to act as agent for the applicant in this application are:

———
———
———

[Name of applicant] is a [citizen, association of citizens, domestic corporation, municipality, or state, as appropriate].

The provisions of Part I of the Federal Power Act for which exemption is requested are:

[List here all sections or subsections for which exemption is requested.]

(2) *Exhibit A* must contain:

(i) A brief description of the related conduit, the purposes for which it is used, and the purposes for which power from the small conduit hydroelectric facility will be used;

(ii) A statement of the sources of the water supply for the related conduit;

(iii) A general location map showing:

(A) The physical structures of the small conduit hydroelectric facility in relation to the conduit and any dam to which any of those structures may be attached,

(B) A proposed boundary for the facility, delineatd by indicating distances from the facility's structures,

(C) The centerline and width of right-of-way for any transmission line that will transmit power from the facility to the point of junction with a disribution system or an interconnected primary transmission system, and

(D) The ownership of the parcels of lands within the proposed boundary for the facility;

(iv) Documentary evidence that the applicant consulted with fish and wildlife agencies before filing, including any terms or conditions those agencies may determine are appropriate to prevent loss of, or damage to, fish or wildlife resources and to carry out the provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*);

(v) The applicant's comments on any recommendations made under paragraph (b)(2)(iv) of this section;

(vi) A description of the nature and extent of any construction, reconstruction, repair, or other modification of any dam that would occur in association with construction of the proposed facility, including a statement of the normal maximum surface elevations and normal maximum surface areas of the impoundment for that dam before and after that construction, reconstruction, modification, or repair; and

(vii) Any additional information the applicant considers important.

(3) *Exhibit B* must contain a facility description and proposed mode of operation (with appropriate references to Exhibits A and L), including, as appropriate: the number of generating units, including auxiliary units, the capacity of each unit, and provisions, if any, for future units; type of hydraulic turbine(s); description of how the plant is to be operated, manual or automatic, and whether the plant is to be used for peaking; estimated average annual generation in kilowatt-hours; estimated average head on the plant; estimated hydraulic capacity of the plant (flow through the plant) in cubic feet per second; estimated average flow of the conduit at the plant or point of diversion and the estimated average amount of that flow available for power generation; sizes, capacities, and construction materials, as appropriate, of pipelines, ditches, flumes, canals, intake facilities, powerhouses, transmission lines, and any other structures associated with the facility; estimated cost of the facility; and the planned date for beginning construction of the facility.

(4) *Exhibit L* must consist of a drawing of facility structures and equipment. It must be a simple ink drawing or a drawing of similar quality on a sheet *no smaller than* 8 inches by 10½ inches, drawn to a scale no smaller than one inch equals 50 feet for plans and profiles, and one inch equals 10 feet for sections. The drawing must show a plan, elevation, profile, and section of the power plant and any other principal facility structure and of any dam to which a facility structure would be attached. Generating and auxiliary equipment proposed must be clearly and simply depicted and described. The plan view must include a north arrow.

(5) The *Environmental Report* must contain information consistent with the scope and environmental impact of the proposed facility's construction and operation. The environmental report must set forth in a clear and concise manner:

(i) A description of the environmental setting in and near the facility area, including vegetative cover, fish and wildlife resources, water quality and quantity, land and water uses, recreational use, socio-economic aspects, historical and archeological resources, and visual resources. Special attention must be given to endangered and threatened plant and animal species, critical habitats, and sites eligible for or included on the National Register of Historic Places. Assistance in the preparation of this information may be obtained from state natural resources departments and from local offices of federal natural resources agencies.

(ii) A description of the expected environmental impacts resulting from the continued operation of a constructed facility or from the construction and operation of an unconstructed facility. Include a discussion of specific measures proposed by the applicant and others to protect and enhance environmental resources and to mitigate adverse impacts of the facility on the environmental resources and values, the costs of those measures, and the party undertaking to implement those measures if other than the applicant.

(iii) A description of alternative means of obtaining an amount of power equivalent to that provided by the facility in the event that the facility were not constructed (or, if in the facility is already constructed, in the event that the facility's operation ceased).

(iv) A description of any steps taken by the applicant in consulting with federal, state, or local agencies during the preparation of the environmental report. Indicate any agencies that have received the final report and provide copies of any letters containing comments from those agencies.

(c) An applicant for exemption must submit to the Commission's Secretary for filing an original and 14 copies of the application, including full-size prints of all required maps and drawings. The originals (microfilm) of maps and drawings are not to be filed with the initial application, but may be requested pursuant to paragraph (c) of § 4.31.

§ 4.67 Action on application for exemption.

(a) An application for exemption for a small conduit hydroelectric facility will be processed in accordance with paragraphs (c) through (g) of § 4.31 of this part, except that notice will be published only once in a daily or weekly newspaper of general circulation in any county in which the facility would be located. The additional time that may be allowed under paragraph (d) of § 4.31 for correcting deficiencies in an application for exemption may not exceed 45 days.

(b) The Commission may order a hearing on an application for exemption either on its own motion or the motion of any party in interest. Any such hearing shall be limited to the issues prescribed by order of the Commission.

(c) If the Commission has not taken one of the actions set forth in paragraph (d) of this section within 90 days after notifying the applicant that its application for exemption is accepted for filing, the application will be considered granted as requested.

(d) Within 90 days after notifying an applicant for exemption that its application is accepted for filing, the Commission may take any of these affirmative actions:

(1) Grant the exemption as requested;

(2) Grant an exemption from provisions of Part I of the Federal Power Act (and the regulations issued under those provisions) other than those for which exemption was requested, upon finding that modification of the exemption requested is necessary or desirable to carry out the purposes of Part I;

(3) Deny exemption, upon finding that exemption is inconsistent with the provisions of Part I of the Federal Power Act or is otherwise inconsistent with the public interest; or

(4) Suspend the 90-day period for action under paragraphs (d) (1) through (3) of this section upon finding that additional time is necessary for gathering additional information, conducting additional proceedings, or deliberating on the issues raised by the application for exemption.

(e) If exemption from licensing is denied, the application for exemption will be treated as the basis of an application for license. Additional information conforming with the requirements of the Commission's regulations for license applications may be required in order to complete an application for license.

(f) Any exemption granted under paragraph (c) or (d) of this section for a small conduit hydroelectric facility is

subject to the following standard terms and conditions:

(1) *Article 1.* The construction, operation, and maintenance of the exempted facility must comply with any rule or order the Commission may from time to time prescribe for the protection of life, health, or property.

(2) *Article 2.* The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of an exempted facility. If any term or condition of the exemption for an exempted facility is violated, the Commission may revoke the exemption, issue a suitable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalties under Part III of the Federal Power Act.

(3) *Article 3.* The construction, operation, and maintenance of the exempted facility must comply with any terms and conditions that fish and wildlife agencies may determine are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the purposes of the Fish and Wildlife Coordination Act.

(g) The Commission may also prescribe additional terms or conditions in granting an exemption for a small conduit hydroelectric facility, in order to:

(1) Protect the quality or quantity of the related water supply for agricultural, municipal, or industrial consumption;

(2) Otherwise protect life, health, or property;

(3) Avoid or mitigate adverse environmental impact; or

(4) Conserve, develop, or utilize in the public interest the water power resources of the region.

(h) Notice of an application for exemption will be circulated to interested agencies at the time the applicant is notified that the application is accepted for filing. Fish and wildlife agencies will also receive copies of the application. If a particular agency does not comment within 45 days from the issuance of that notice, that agency will be presumed to have no objection to the exemption requested. A fish or wildlife agency that does not comment within that time will also be presumed to have no recommendations for terms or conditions of the exemption other than those that may be included in Exhibit A of the application for exemption.

[Docket No. RM79-85]
[FR Doc. 79-12821 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[21 CFR Part 1308]

Schedules of Controlled Substances; Determination of Schedule for Preparations Containing Narcotic Drugs

AGENCY: Drug Enforcement Administration, Justice

ACTION: Notice of proposed rulemaking.

SUMMARY: This is a notice of proposed rulemaking to specify the method to be used in calculating the amount of a narcotic drug present in a Schedule III, IV or V preparation.

DATE: Comments should be received on or before May 29, 1979.

ADDRESS: Send comments in quintuplicate to: Administrator, Drug Enforcement Administration, U.S. Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Telephone 202-633-1366.

SUPPLEMENTARY INFORMATION: The Controlled Substances Act (Public Law 91-513) allows preparations containing certain Schedule I or II narcotic drugs to be placed in lower schedules if requirements specified in the Act are met. These requirements include a maximum permitted quantity of narcotic drug. Recent occurrences involving the scheduling of these types of preparations have demonstrated to DEA that confusion exists as to the correct method of calculating the quantity of narcotic drug present. The narcotic substance in a preparation may be in the form of the free anhydrous base or alkaloid or combined in the form of various salts, both anhydrous and hydrated. All calculations of the quantity of a narcotic substance contained in a preparation are to be made based on the amount of free anhydrous base or alkaloid present and not on the amount expressed as the salt form. It is proposed to specify this procedure by modifying 21 CFR as follows:

§ 1308.13 Schedule III.

* * * * *

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or salts thereof (the quantity of narcotic drug shall be calculated as the free anhydrous base or alkaloid):

* * * * *

§ 1308.14 Schedule IV.

* * * * *

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof (the quantity of narcotic drug shall be calculated as the free anhydrous base or alkaloid):

* * * * *

§ 1308.15 Schedule V.

* * * * *

(b) Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or any salts thereof, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone (the quantity of narcotic drug shall be calculated as the free anhydrous base or alkaloid):

* * * * *

All interested persons are invited to submit their comments in writing regarding this proposal. The comments should state with particularity the issues concerning which the person desires to be heard.

Dated: April 18, 1979.

Peter B. Bensinger,
Administrator, Drug Enforcement Administration.
[FR Doc. 79-12873 Filed 4-25-79; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 171]

Leasing of Tribal Lands for Mining

AGENCY: Bureau of Indian Affairs.

ACTION: Proposed rule to toll running of certain oil and gas lease terms On Jicarilla Apache Reservation.

SUMMARY: Four oil and gas leases sales from 1970 to 1972 resulted in the approval of 121 leases on the Jicarilla Apache Reservation in which no prior compliance with the National Environmental Policy Act was taken. In order to now complete adequate compliance with that Act, lessee development activities are being halted during the compliance period. And in order to avoid the expiration of the primary lease term of ten years where the lease has not been put into actual production, this proposed rule will authorize the Secretary of the Interior to suspend the running of the term during the compliance period.

DATES: Comments are to be received by May 29, 1979.

FOR FURTHER INFORMATION CONTACT: David E. Jones, Indian Affairs Div., Solicitor's Office, Interior Department, Washington, D.C. 20240; (202) 343-9331.

SUPPLEMENTARY INFORMATION: An amendment is being proposed to 25 CFR Pt. 171 to authorize the Secretary of the Interior to toll the running of primary oil and gas lease terms on the Jicarilla Apache Reservation while the Bureau of Indian Affairs undertakes and completes adequate compliance with the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*

When the National Environmental Policy Act was passed and became effective the Interior Department's position was that approval of a lease of Indian tribal lands—whether for mining, grazing, farming, or business purposes as is required by law, 25 U.S.C. §§ 415 and 396a-d—did not fall within the ambit of the Act. This position was challenged in litigation. The United States Court of Appeals for the Tenth Circuit in *Davis v. Morton,* 494 F.2d 595 (10th Cir. 1972), held that lease approval did fall within the scope of the Act. However, during the period from the effective date of the Act, January 1, 1970, and the date of the decision in *Davis* many leases were approved without such compliance. Adequate compliance must be completed for Jicarilla Apache Reservation oil and gas leasing approval action occurring during that period. It is this Department's position that it must review the lease approval actions as if they were only proposed. The lease approvals will be reviewed in light of the information brought out through the current compliance.

Four sales of oil and gas leases were conducted for Jicarilla Apache Reservation lands on April 22, 1970, July 14, 1971, November 14, 1971, and September 6, 1972, in which there was no compliance with the Act prior to the approval of 121 leases covering 276,117.62 acres. Because of litigation brought by the Tribe, *Jicarilla Apache Tribe v. C. D. Andrus, et al.,* Civ. No. 76-588P, U.S.D.C. N.M., the determination has been made that compliance with the National Environmental Policy Act must now be undertaken. While compliance is undertaken for each application to permit the drilling of a particular well on a lease, that compliance only concerns the expected site specific environmental effects. In order to comprehensively consider all the effects of oil and gas development activities, the lessees of those affected leases are being prohibited from conducting any future activities pending the completion of adequate compliance. This ban on activities prevents them from putting their leases in production. Each lease has a term of ten years and as long thereafter as oil and/or gas are produced from the lands in paying quantities. This term is set by statute, 25 U.S.C. § 396a. See also 25 CFR § 171.10. In order to protect the leases from expiration during the compliance period, a rule is being proposed under the authority of another section of the same statute, 25 U.S.C. § 396d, to authorize the Secretary to suspend the running of the lease terms in order to undertake and complete compliance with the National Environmental Policy Act.

It has been determined that the proposed rule does not meet the criteria of significance established by Executive Order 12044 (43 FR 12661, March 23, 1978) and that a regulatory analysis is not required. See revision to 25 CFR Pt. 14—Departmental Proceedings, 43 FR 22573, at 22578 (May 25, 1978).

The principal author of the proposed rule in David E. Jones of the Office of the Solicitor.

Accordingly, the following section is proposed to be added to 25 CFR Pt. 171.

§ 171.31 Tolling of oil and gas lease terms, Jicarilla Apache Reservation.

(a) The Secretary of the Interior may toll the running of the primary oil and gas lease term of ten years for already approved leases on the Jicarilla Apache Reservation in order to comply with the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.* The running of the term will be suspended by notice to each lessee of record sent by certified mail, return receipt requested, and published in the **Federal Register.** The date upon which the running of the term will be suspended will be specified in the notice. For the period during which the running of the primary term is tolled, all obligations of the lessee under the lease will be suspended. The tolling period will end by furnishing notice to each lessee of record 30 days in advance of the date the primary term is to recommence running. The primary term will thereby be extended by the length of time it was tolled.

(b) In the event that, during the period of suspension, acreage under lease is being drained by other producing wells, the lessee may be informed of this occurrence and notified that the tolling of the lease term will be ended and lease obligations reinstituted for purposes of avoiding drainage. A reasonable time will be allowed during which drainage can be offset. If the lessee elects not to avoid drainage, the compensatory royalty obligation under the lease will be imposed for the remainder of the primary term.

James A. Joseph,
Under Secretary.
April 23, 1979.
[FR Doc. 79-12873 Filed 4-25-79; 8:45 am]
BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

[31 CFR Ch. II]

Semiannual Agenda of Regulations

AGENCY: Bureau of the Public Debt, Department of the Treasury.

ACTION: Semiannual agenda.

SUMMARY: Pursuant to Executive Order 12044, "improving Government Regulations", and the Department of the Treasury directive implementing that Executive Order, the Bureau of the Public Debt is publishing for public information a listing of significant and nonsignificant regulations that it will be reviewing and/or publishing during the next six-month period.

FOR FURTHER INFORMATION CONTACT: Charles A. Guerin, Assistant Chief Counsel, Bureau of the Public Debt, Room 309, Washington Building, Washington, D.C. 20226, Telephone: 202-376-0243.

Significant Regulations Under Development

(1) Regulations Governing United States Savings Bonds, Series EE and HH, Department of the Treasury Circular, Public Debt Series No. 3-80, 31 CFR, Part 353. (Legal authority: 31 U.S.C. 757c)

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These regulations will govern the two new series of savings bonds authorized to be issued beginning in January 1980. These bonds will replace the current Series E and H bonds. This will be a new regulation applicable only to Series EE and HH bonds. A regulatory analysis will not be prepared.

(2) Regulations Governing United States Savings Bonds, Department of the Treasury Circular No. 530, 10th Rev., as amended, 31 CFR, Part 315. (Legal authority: 31 U.S.C. 757c)

This circular, which contans the regulations applicable to all outstanding series of savings bonds (Series A, B, C, D, E, F, G, H, J and K), will be amended to specify that it will not be applicable to the new savings bonds, Series EE and HH; to provide for less record-keeping for matured bonds; and to make some minor technical changes. The circular will continue to govern all savings bonds other than the bonds of Series EE and HH. No regulatory analysis will be prepared.

Nohsignificant Regulations Under Development

(1) The regulations and offering circulars listed below, all involving United States Savings Bonds, are classified as nonsignificant regulations in terms of this semiannual agenda for two separate reasons. First, as to the three regulations listed below, the amendments now under preparation will only extend the coverage of the affected regulations to the new Series EE nd HH bonds. Such changes are essentially procedural and nonsubstantive and are considered nonsignificant. Second, as to the offering circulars, they prescribe the terms and conditions under which Treasury securities are offered to the public and, as such, they involve the fiscal policy of the United States and are exempt from the public procedure requirements of the Administrative Procedure Act. Accordingly, the amendmentsof existing regulations and offering circulars and the publication of new circulars are classified as nonsignificant regulations. The legal authority for the regulations and circulars is 31 U.S.C. 757c. No regulatory analysis will be prepared.

(a) Regulations Governing Agencies for the Issue of United States Savings Bonds, Department of the Treasury Circular, Public Debt Series No. 4–67, as amended, 31 CFR, Part 317;

(b) Regulations Governing Payments by Banks and Other Financial Institutions of United States Savings Bonds and United States Savings Notes (Freedom Shares), Department of the Treasury Circular No. 750, Second Rev., 31 CFR, Part 321;

(c) Regulations Governing Payment Under Special Endorsement of U.S. Savings Bonds and U.S. Savings Notes (Freedom Shares), Department of the Treasury Circular No. 888, Third Rev., 31 CFR, Part 330;

(d) Offering of U.S. Savings Bonds of Series E, Department of the Treasury Circular No. 653, Ninth Rev., as amended and supplemented, 31 CFR, Part 316;

(e) Offering of U.S. Savings Bonds of Series H, Department of the Treasury Circular No. 905, Sixth Rev., as amended and supplemented, 31 CFR, Part 332;

(f) Exchange Offering of U.S. Savings Bonds, Series H, Department of the Treasury Circular No. 1036, First Rev., 31 CFR, Part 339;

(g) Offering of U.S. Savings Bonds of Series EE, Department of the Treasury Circular, Public Debt Series No. 1–80, 31 CFR, Part 351;

(h) Offering of U.S. Savings Bonds of Series HH, Department of the Treasury Circular, Public Debt Series No. 2–80, 31 CFR, Part 352.

(2) Regulations Governing U.S. Treasury Certificates of Indebtedness, Notes and Bonds—State and Local Government Series, Department of the Treasury Circular, Public Debt Series 3–72, Second Rev., 31 CFR, Part 344. (Legal authority: 31 U.S.C. 752, 753, 754)

An Amendment of this regulation is under consideration to require advance notice of subscriptions for the securities. This amendment is procedural in nature and a regulatory analysis will not be prepared.

Regulations To Be Reviewed

General Regulations Governing U.S. Securities, Department of the Treasury Circular No. 300, Fourth Rev., 31 CFR, Part 306. (Legal authority: 31 U.S.C. 738a, 739, 752, 752a, 753, 754, 754a, and 754b)

These regulations govern marketable U.S. securities and are undergoing review in light of proposals to offer at some future date Treasury bonds and notes in book-entry form and to make other changes to improve the regulations.

Dated: April 20, 1979.

By Direction of the Secretary of the Treasury,

H. J. Hintgen,

Commissioner of the Public Debt.

[FR Doc. 79-12976 Filed 4-25-79; 8:45 am]

BILLING CODE 4810-40-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

Anchorage Grounds, Disestablishment of Anchorage B, Buffalo Harbor, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: The Coast Guard is proposing the disestablishment of Explosives and Inflammables Anchorage B, Buffalo Harbor, New York. Due to a reduction in the transfer of explosives in the harbor the anchorage is unnecessary. Since the harbor contains an additional explosive anchorage, this proposal will not affect the ability of the harbor to efficiently handle explosive cargoes.

DATES: Comments must be received on or before May 29, 1979.

ADDRESSES: Comments should be submitted to and are available for examination at the Office of the Commander, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, Ohio 44199.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Howard E. Snow, Office of Marine Environment and Systems (G–WLE/73), Room 7315, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426–1934.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include the writers name and address, identify this notice (77–210) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. All comments received before the expiration date of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the **Federal Register** if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are Lieutenant Commander H. E. Snow, Project Manager Office of Marine Environment and Systems, and Lieutenant J. W. Salter, Project Attorney, Office of the Chief Counsel.

Discussion of Proposed Rule

The Coast Guard is proposing the disestablishment of Explosive and Inflammables Anchorage B, Buffalo Harbor, New York. Due to a reduction in the transfer of explosives in the harbor the anchorage is considered unnecessary. Buffalo Marine Safety Office records indicate that the anchorage has not been used in over five years. Additionally a diked dredge spoil disposal area, nearing completion, will fill the eastern one-third of the anchorage. Since the harbor contains an additional explosives anchorage that can adequately serve the harbor's needs, disestablishment of the anchorage is warranted.

An Environmental Assessment was completed in August 1978 which determined that there would be no impact on the quality of the human environment.

The Coast Guard has determined in accordance with DOT notice "Improving Government Regulations" (44 FR 11034) that these amendments are not significant. The impact of these amendments will be minimal and, accordingly, they do not warrant a full evaluation. The harbor contains an additional explosives anchorage that can adequately handle explosives transfers in the harbor.

In consideration of the foregoing it is proposed to amend Part 110 of Title 33, Code of Federal Regulations as follows:

§ 110.208 [Amended]

By deleting from § 110.208 paragraphs (a)(2), (b)(1), and (b)(2).

(Sec. 7, 38 Stat. 1053, as amended, (33 U.S.C. 471); Sec. 6(g)(1)(A), 80 Stat. 940, (49 U.S.C. 1655(g)(1)(A)); 49 CFR 1.46(c)(1))

Dated: April 18, 1979.

R. H. Scarborough,

Vice Admiral, U.S. Coast Guard Acting Commandant.

[CGD 77–210]

[FR Doc. 79-13005 Filed 4-25-79; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[45 CFR Part 73b]

Standards of Conduct; Withdrawal of Notice of Proposed Rulemaking

AGENCY: Office of the Secretary, DHEW.

ACTION: Withdrawal of Notice of Proposed Rulemaking.

SUMMARY: HEW withdraws the Notice of Proposed Rulemaking published in the **Federal Register** August 2, 1976 (41 FR 32235) which invited interested persons to submit written comments regarding a proposal to liberalize the policy on outside work activities of employees of the National Institutes of Health (NIH). One comment was received.

EFFECTIVE DATE: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lowell D. Peart, NIH Regulations Officer, National Institutes of Health, OA, DMP, Building 31, Room 3B–11, 9000 Rockville Pike, Bethesda, Maryland 20014, (301) 496–4606.

SUPPLEMENTARY INFORMATION: The Department is now carefully reviewing the justification for all regulations. It has been determined that some of the conditions that prompted the Department to consider a separate set of supplementary regulations for the employees of the NIH have changed. These employees are and will continue to be subject to the DHEW Standards of Conduct (45 CFR Part 73), which apply to all DHEW employees. Only one organizational component of DHEW has special supplementing rules of conduct. That organization is the Food and Drug Administration, which has functions of a regulatory nature, and, therefore, warrants special consideration. The National Institutes of Health does not have regulatory functions. For these reasons, the Secretary has determined that it is unnecessary to promulgate final regulations as a supplement to the DHEW Standards of Conduct.

Dated: August 31, 1978.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: April 16, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-12924 Filed 4-25-79; 8:45 am]

BILLING CODE 4110-08-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

Television Broadcast Station in Allen, S. Dak.; Proposed Changes in Table of Assignments

AGENCY: Federal communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of television Channel 22 to Allen, South Dakota, in response to a petition filed by Oglala Sioux Broadcasting Company. Petitioner states that the proposed station could bring a first local television service to the Pine Ridge Indian Reservation on which Allen is located.

DATES: Comment must be filed on or before June 18, 1979, and reply comments on or before July 9, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 17, 1979.
Released: April 19, 1979.

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Allen, South Dakota), BC Docket No. 79–89, RM–3274.

1. The Commission has before it for consideration a petition for rule making [1] filed on behalf of Oglala Sioux Broadcasting Company ("petitioner"), proposing the assignment of UHF television Channel 22 to Allen, South Dakota. A letter in support of the proposal was filed by the native American Public Broadcasting Consortium, Inc. A letter in opposition was filed by Mr. Donald N. Leui of Martin, South Dakota.

2. Allen (pop. 100),[2] an unincorporated community in Bennett County (pop. 3,088), is located on the Pine Ridge Reservation in southwest South Dakota, approximately 140 kilometers (90 miles) southeast of Rapid City. The only television assignment in the area is educationally reserved Channel *8 at Martin, seat of Bennett County. The channel is used by noncommercial educational Station KZSD–TV. Martin is located approximately 19 kilometers (12 miles) southeast of Allen. Channel 22 can be assigned to Allen in conformity with the distance separation requirements and other technical criteria.

3. Petitioner asserts that seventy percent of the Indian population speaks the native tongue, and the customs, culture, and in many cases the religion, are totally Indian. It notes that there are some significant industries on the Reservation, and land near some of the larger communities has been zoned exclusively for industrial development. We are told that although Allen is unincorporated, it does have its own post office. Petitioner claims that television stations allocated to communities whose transmissions reach

[1] Public Notice of the petition was given on December 18, 1978, Report No. 1155.

[2] The community does not appear in the 1970 U.S. Census. Petitioner estimates the population to be 100 and the population of Pine Ridge Reservation to be 16,000, 2,000 of whom are non-Indian.

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Indian country are set up and designed to serve the white, middle class urban and rural population of their viewing audience. It adds that a television station on the reservation would provide tribal news, personalities, and tribal processes and government functions which are of vital interest to Reservation people.

4. Petitioner states that Allen was selected as the proposed community of license because of its central location on the Pine Ridge Reservation. It claims that from a transmitter site in this area satisfactory television service could be provided to a majority of people on the Reservation. Petitioner adds that it will promptly apply for a construction permit to operate on the proposed channel, if assigned.

5. Mr. Leui contends that the proposed television channel for Allen should not be considered but does not state the nature of his opposition. He requests that he be given an opportunity to provide information in support of his position. The period set forth in the Notice for comment will provide him this opportunity.

6. In light of the foregoing, and the fact that the proposed assignment could provide a first local television service to the Pine Ridge Reservation, the Commission proposes to amend the Television Table of Assignments, § 73.606(b) of the Commission's rules, as it pertains to the community listed below:

City	Channel No. Present	Proposed
Allen, South Dakota		22+

7. Authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before June 18, 1979, and reply comments on or before July 9, 1979.

9. For further information concerning this proceeding contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An ex parte contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Wallace E. Johnson,
Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[BC Docket No. 79–89; RM–3274]
[FR Doc. 79–12821 Filed 4–25–79; 8:45 am]
BILLING CODE 6712–01–M

[47 CFR Part 73]

FM Broadcast Station in Nevada, Missouri; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Nevada, Missouri, as that community's first FM channel. The proposal was made in a petition filed by Everett G. Wenrick who states the proposed station could provide a first local FM broadcast service to the community.

DATES: Comments must be filed on or before June 18, 1979, and reply comments on or before July 9, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

In the Matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Nevada, Missouri), BC Docket No. 79–88, RM–3264.

Adopted: April 17, 1979.

Released: April 20, 1979.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Everett G. Wenrick ("petitioner"), proposing the assignment of FM Channel 249A to Nevada, Missouri, as a first FM assignment to that community. No responses to the petition have been filed.

(b) The channel can be assigned in conformity with the minimum distance separation requirements provided the transmitter site is located approximately 8 kilometers (5 miles) southwest of Nevada.

(c) Petitioner states that he will promptly file an application for a construction permit, if the channel is assigned, and if granted, will construct the station.

2. *Community Data*—(a) *Location.* Nevada, seat of Vernon County, is located approximately 134 kilometers (83 miles) south of Kansas City, Missouri.

(b) *Population.* Nevada—9,736; Vernon County—19,065.[2]

(c) *Local Broadcast Service.* Nevada is served by one full-time AM station (KNEM).

3. *Economic Considerations.* Petitioner states that Nevada, in addition to being the center of the county government, is also the commercial and social center for the surrounding area. In support of its proposal petitioner has submitted detailed information with respect to population, recreation facilities, local industry and transportation, in order to demonstrate the need for a first FM assignment in Nevada.

4. In view of the foregoing, and the fact that the proposed FM station could provide Nevada with its first FM broadcast service, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the rules, with regard to Nevada, Missouri, as follows:

City	Channel No. Present	Proposed
Nevada, Missouri		249A

5. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragragh 2 of the Appendix before a channel will be assigned.

[1] Public Notice of the petition was given on December 6, 1978, Report No. 1154.

[2] Population figures are taken from the 1970 U.S. Census.

6. Interested parties may file comments on or before June 18, 1979, and reply comments on or before July 9, 1979.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Wallace E. Johnson,
Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[BC Docket 79–88; RM–3264]
[FR Doc. 79–12919 Filed 4–25–79; 8:45 am]
BILLING CODE 6712–01–M

[47 CFR Part 73]

Television Broadcast Station in Orange Park, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposed the assignment of UHF television Channel 25 to Orange Park, Florida, at the request of Clay Television, Inc. The proposed station could bring a first local television broadcast service to Orange Park.

DATES: Comments must be filed on or before June 18, 1979, and reply comments must be filed on or before July 9, 1979.

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ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 17, 1979.
Released: April 24, 1979.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations, (Orange Park, Florida), BC Docket No. 79–90. RM–3142.

1. The Commission has before it a petition [1] filed on June 20, 1978, by Clay Television, Inc. ("petitioner"), requesting the assignment of UHF television Channel 25 to Orange Park, Florida. Comments were filed by the Association of Maximum Service Telecasters ("MST"). No other responses to the proposal were received.

2. Orange Park (pop. 7,619) [2] in Clay County (pop. 32,059) is located in northeast Florida approximately 19 kilometers (12 miles) south of Jacksonville, Florida. In requesting a channel for this small community, petitioner states its intention of providing a first local commercial television service to Orange Park and Clay County. It already receives service from one educational and three commercial television stations in Jacksonville, Florida, which also has applications pending for two nonreserved assignments. Orange Park is served locally by daytime-only AM Station WAYD.

3. Petitioner states that Orange Park is the largest of the three incorporated municipalities in Clay County. It asserts that the U.S. Department of Commerce, Bureau of Census, estimates Orange Park's population to be 8,344 as of July 1976, and according to the University of Florida's Division of Population Studies, Clay County's population is almost 50,000. Petitioner alleges that close to three-quarters of the county population resides within a 10-mile radius of the Orange Park city limits. We are told that the community is mainly residential in character. However, petitioner notes, the area has many businesses, some of which include Johns-Manville, Gustafson's Dairy, and Pyramid Company, manufacturer of metal molding. It contends that there has been a significant increase in population and business activity, and that Clay County and Orange Park are large enough and have a sufficient economic base to support a local television station. It avers that while Orange Park is located close to Jacksonville and receives coverage from all the television stations there, the area still remains without local broadcast coverage to reflect the suburban/rural character of the county and municipal areas. Petitioner claims that no economic disadvantages would accrue to the Jacksonville metropolitan market since the proposed operation would be almost totally directed to the greater Orange Park/Clay County audience, providing a source for local advertisers who want to reach the local residents. Petitioner has submitted detailed demographic data in order to demonstrate the need for a first television assignment in Orange Park, Florida.

4. AMST, in its comments, notes that a Channel 25 assignment from the Orange Park reference coordinates would be short-spaced to two Jacksonville, Florida, assignments (one occupied and the other applied for). However, it adds, since petitioner recognizes the site restrictions involved, and intends to apply for the use of the channel at a site which meets the spacing requirements, MST does not oppose the channel assignment.

5. Petitioner makes no showing from which we could conclude that the Jacksonville stations are not adequately serving the local needs of Orange Park. Petitioner is requested to address this in comments providing documented information with respect to the need for a local television service in Orange Park and Clay County.

6. The Commission believes that consideration of this proposed channel assignment would be in the public interest. Channel 25 can be assigned to Orange Park in compliance with the distance separation requirements and other technical criteria provided the transmitter site is located at least 14.5 kilometers (9 miles) southwest of Orange Park. The channel assignment would provide the community an opportunity to acquire its first local television station. Accordingly, we propose to consider the following revision in the Television Table of Assignments (§ 73.606(b) of the rules) with respect to the community listed below:

City	Channel No.	
	Present	Proposed
Orange Park, Florida		—25

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before June 18, 1979, and reply comments on or before July 9, 1979.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Wallace E. Johnson,
Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, Section 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other docements shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[1] Public Notice of the petition was given on July 10, 1978. Report No. 1132.

[2] Population figures are taken from the 1970 U.S. Census unless otherwise indicated.

[BC Docket No. 79–90; RM 3142]
[FR Doc. 79–12923 Filed 4–25–79; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Chapter V]

5-Year Plan for Motor Vehicle Safety and Fuel Economy Rulemaking

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Five Year Plan for Motor Vehicle Safety and Fuel Economy Rulemaking.

SUMMARY: This revised plan for the motor vehicle safety and fuel economy rulemaking of the National Highway Traffic Administration (NHTSA) is an update of the five-year rulemaking plan published March 16, 1978 (43 FR 11100). It is based on public comments received on that plan as well as recent accident data and progress in rulemaking. The plan briefly describes the proposed rulemaking priorities and each planned rulemaking action. Also discussed is a variety of rulemaking actions that the Agency is terminating or deferring. This plan will be updated periodically in response to the dynamic environment in which rulemaking must take place.

It is an expression of NHTSA's current intent and can serve as a guide to the Agency's performance. It will also permit the manufacturers to anticipate NHTSA priorities as an aid to their own long-range corporate planning.

ADDRESS: Interested persons may obtain additional copies of the plan or its appendix free of charge by contacting Ms. Kitts, Office of Management Services, National Highway Traffic Safety Administration, Room 4423, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–1874.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Parker, Special Projects Planning Staff, Plans and Programs, National Highway Traffic Safety Administration, Room 5212, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–1570.

(Sec. 9, Pub. L. 89–670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94–163, 89 Stat. 901 (15 U.S.C. 2002) secs. 103, 112, 119, 203, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1423); delegation of authority at 49 CFR 1.500

Issued on April 20, 1979.

Joan Claybrook,
Administrator.

Update

5-Year Plan for Motor Vehicle Safety and Fuel Economy Rulemaking

This is NHTSA's plan for motor vehicle safety and fuel economy rulemaking for the next five years, which updates the draft plan published for public comment on March 16, 1978 (43 FR 11100). The objectives of the plan are two-fold.

- First, to provide policy guidance for use within NHTSA for the development and issuance of motor vehicle safety and fuel economy standards.
- Second, to provide the public with information on proposed future activities and priorities, and permit the industry to anticipate potential requirements in its long-range planning.

The plan is presented in three sections. Section I briefly describes the tentative rulemaking goals and priorities, summarizes and analyzes public comments on those goals and priorities, addresses accomplishments since the March 16, 1978 publication, and identifies those areas where significant rulemaking is not expected to take place.

Section II presents a rulemaking schedule showing the anticipated dates for issuance of proposals and final rules and a rough estimate of the anticipated effective dates. Also included are those pending rulemaking actions which NHTSA contemplates terminating.

Section III provides cross reference indices covering three areas: changes since the March 1978 rulemaking plan, proposed safety rulemaking by vehicle type, and rulemaking by proposed effective date.

An Appendix describes in more detail the individual motor vehicle safety rulemaking actions, including a discussion of the safety problem that a regulation is designed to ameliorate, the approach to be used in developing and issuing the rule, and some of the major issues to be resolved in the development of the final rule. Fuel economy standards are described fully in the main body of the five-year plan and thus are not included in the Appendix. Interested persons may obtain copies of the Appendix free of charge by contacting Ms. Eleanor Kitts, Office of Management Services, National Highway Traffic Administration, Room 4423, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–0874).

This plan is intended to be a dynamic document. As the current plan updates the March 16, 1978 version, it is expected that the future updates and amendments in the plan will occur in response to technological innovations, new crash injury findings, persistent safety hazards, changes in Agency resource availability, formal Agency evaluations, or other pertinent information. The plan is an expression of the Agency's current intent, that can serve as a guide to the government's performance. It contains specific goals and timetables against which the Agency's rulemaking progress can be judged.

This plan for improving vehicle safety and fuel economy is also the result of a careful assessment of the

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capabilities of the Agency. The plan will use all of the funding and staffing resources NHTSA now has available, which will be concentrated in those areas where the greatest payoff lies. Additional resources would be required to pursue additional areas of safety rulemaking. Although the plan is ambitious in relation to Agency resources, it is anticipated that with efficient and effective management, the rulemaking program can be successfully implemented under this plan.

Section I: Rulemaking Priorities

A. *Public Comments*

The draft Five Year Plan, published for comment on March 16, 1978, ellicited widespread response from the public. Comments were received from over 50 individuals and organizations offering many helpful suggestions and reactions.

All comments applauded NHTSA for implementing a long term planning program. Encouragement for further government/industry dialogue was offered by Ford, Volkswagen, and Chrysler. Ford also encouraged a five-year plan for highway safety, to parallel that for vehicle safety and fuel economy. A draft highway safety plan is now available. It is entitled "Proposed Plan for Highway Safety Research, Development and Demonstration (Section 403 of Title 23 U.S.C.) for Fiscal Years 1980–1984," and is available as noted in the April 5, 1979 **Federal Register** (44 FR 20533).

The majority of respondents offered comments on many or all of the individual proposed rulemaking actions. These comments were fully considered in updating the plan. In addition, many responses addressed NHTSA's overall approach and policy direction in the vehicle safety rulemaking and fuel economy rulemaking. Comments of this nature are summarized in Sections I–B and I–C below.

NHTSA is encouraged by the informative nature of the comments and appreciative of the time and effort given by all who responded to the request for views on the March 16, 1978 draft plan.

B. *Accomplishments Since March 1978 Draft*

This plan represents NHTSA's current thinking on the nature of future motor vehicle rulemaking activities. Because the motor vehicle regulatory programs operate in a dymanic environment, there have been a number of changes since the March 16, 1978 draft. NHTSA spent the past months revising the plan based on public comments as well as recent accident data and progress in rulemaking. New areas of activity have been added, schedules have been changed, and some of the activities comtemplated in the March plan have been deleted. As a result of public petitions, technological advancement, and new safety problems revealed by accident investigation studies, additional rules and modifications to existing rules have been required. Similarly, cancellations or delays in the scheduled issuance dates of certain rules have been necessary, resulting from a variety of factors including indecisive research findings, redundancy among various rules, and unanticipated cost impacts. At the same time, some proposals have been advanced.

All changes from the previous plan, as well as actions not included in the plan, are presented in the Appendix. The majority of changes are in projected dates (NPRM, Rule, or Effective Date), category (e.g., from Near-Term Rulemaking to Exploratory Rulemaking), and addition or removal of a planned section. Further, certain types of rulemaking actions have occurred, and will continue to occur, without references in the plan. These are items which are either of minor significance to a five-year planning document (changes for clarification or consistency) or responses to petitions which, if not minor, could not be anticipated.

C. *Motor Vehicle Safety*

Motor vehicle traffic crashes claimed over 50,000 lives in 1978, or almost 140 lives every day of the year, the equivalent of a major airline disaster each day. This represents about one-half of the deaths due to all types of accidents in the United States. Motor vehicle crashes are by far the largest killer of young people betwen ages 1 to 24. Fatalities are only a part of the problem. Approximately 2 million people suffer disabling injuries each year and millions more are injured less severely. Vehicle crashes are the single most common cause of paraplegia and a major of epilepsy. The societal loss due to these accidents is estimated to be more than $48 billion per year, a sum that does not begin to show the true magnitude of the cost of crashes since it is impossible to place a dollar value on life or to quantify the cost of pain and suffering. With many more lighter passenger cars being sold, motor vehicle crashes may become an even more serious problem unless appropriate actions are taken to ensure adequate levels of occupant protection.

Substantial progress has been and is being made in motor vehicle safety, but traffic crashes remain a serious public health problem and there is considerable work yet to be accomplished. With the decision on automatic restraint systems, the hazard confronting the motoring public is expected to be reduced significantly. When all passenger cars have been equipped with automatic restraints, the Agency anticipates a reduction in automobile fatalities approaching 20 percent or approximately 9,000 lives per year. The Agency is following the progress of the manufacturers and suppliers in implementing the automatic restraint system rule and will be evaluating the effectiveness of the new systems.

The challenge now facing the Agency is to address other areas and other vehicles where the promulgation of Federal motor vehicle safety standards would significantly enhance the safety of the public. In some areas this can be achieved very quickly. In others, the existence of a serious safety hazard, in and of itself, may not be a sufficient basis for preparing immediate rulemaking. There must also be a solution reasonable chance of developing a solution to that problem. Where certain types of deaths and injuries are occuring, but solutions are not readily apparent, research is required. Even where solutions may be available, research may be necessary to characterize the cause of the harm with sufficient precision that an objective performance standard to ameliorate the injuries can be established. In other cases innovative suppliers have developed remedies which makes it possible for the Agency to move quickly.

In setting motor vehicle safety rulemaking priorities, and in establishing the scope of the program, the NHTSA considered the following factors:

- Number of deaths and injuries
- Availability of practical solutions
- Lifesaving potential of a safety standard
- Research and engineering data on the problem
- Anticipated costs to consumers and industry

These are the same factors that were considered in developing the draft plan published on March 16, 1978. Many public comments expressed concern as to how vehicle safety rulemaking priorities were set relative to these factors. Specifically, a number of respondents looked for quantification of benefits and measures of effectiveness considering the five factors listed above. Comments of this nature were offered by the Japanese Automobile Manufacturers Association, Ford, General Motors, Chrysler, American Motors, Truck-Trailer Manufacturers Association, Public Interest Economics Foundation, Volkswagen, International Harvester, and Peugot-Renault.

The level of detail sought by these respondents regarding quantification of benefits and measures of effectiveness on a rule-by-rule basis will not be found in this document. In fact, the rulemaking priorities underlying this plan were established based on available death and injury data and on the considered judgment and analysis by NHTSA's high level technical staff and senior management. NHTSA is currently expanding its accident data gathering activities to assemble the data needed to support some of the proposed rulemakings in this plan. Quantitative analysis of the benefits and costs of prospective rules will be performed and subjected to public view as an intrinsic part of specific rulemaking proceedings.

Another concern expressed in the public comments, specifically by General Motors, Peugot-Renault, and Chrysler, was that public ability to comment on specifics of the plan was limited by the lack of detail on individual proposed rules. These respondents wanted additional detail, such as costs, performance tests for compliance, and numbers of lives saved. Again, it is premature, and indeed impossible, to provide this level of detail in a program plan. The information is not fully available. It will be developed during the rulemaking process for each specific proposed action, and will be offered as a part of each individual rulemaking proposal as it is published for comment.

Criticism of the lead time allowed for the effective date of standards was put forth by General Motors, Chrysler, American Motors, Volvo, Japanese Automobile Manufacturers Association, Toyo Kogyo, Volkswagen, and International Harvester. Overall, it was felt that the lead times were too short. However, the lead times stated in the plan (i.e., the difference between the rule's issuance date and its effective date) can only be characterized as rough estimates at this time. At the time of issuance of a proposal, for each standard, NHTSA determines lead time considering the need for the safety or fuel economy provisions and the capabilities of the industry to respond.

There also appeared to be a misunderstanding regarding lead time, specifically that NHTSA was putting manufacturers "on notice" to begin complying with items in the plan and that NHTSA would then shorten the lead times. This is a mistaken impression. NHTSA does not expect commitments from manufacturers at this stage in the development process. Of course, voluntary actions to improve vehicle safety in advance or in the absence of rulemaking would be most appropriate and in the public interest.

Several comments were offered on the economic impact to the industry of NHTSA's regulatory activities in vehicle safety, expressing concern at the potential for unnecessary increased costs to industry and consumers and an adverse effect on employment. However, the rulemaking proposals listed in this plan are high-payoff items designed to address severe safety problems or fuel economy issues. Ford, the Truck Trailer Manufacturers Association, and California Citizen Action Group spoke to this concern. NHTSA conducts a detailed economic impact assessment of the impact on industry, consumers, and society in general, for each regulation issued. These rule-by-rule documents are placed in the public docket for comment and represent the Agency's assessment of the potential economic and safety consequences of its proposals. The assessments take particular cognizance of industry's ability to raise capital to meet the safety, fuel economy and environmental regulations. Also, over the last two years, the NHTSA has begun a systematic evaluation of existing standards to determine their effectiveness. Based on the results of these evaluations, standards may be amended or revoked.

Several comments urged conformity and harmonization with international organizations such as the International Standards Organization (ISO), the European Economic Community (EEC), and the Economic Commission for Europe (ECE), especially in regard to standardized Vehicle Identification Number (VIN), pedestrian safety, rear lighting, handling and stability, controls and displays, and visibility proposals. Comments of this nature were offered by Volvo, Volkswagen, General Motors, Japanese Automobile Manufacturers Association, Toyo Kogyo, and Peugot-Renault. The NHTSA agrees that harmonization is beneficial, and intends to increase its commitment to international standards to the extent that they are consistent with the Agency's mission.

The lack of an emphasis on heavy truck safety was addressed by the International Brotherhood of Teamsters, John Hopkins University, the Professional Drivers Council, and the Teamsters Safety and Health Department. The current plan includes several proposed regulations affecting the safety aspects of vehicles over 10,000 pounds GVWR, as well as research activities which may result in further rulemaking in the near future. These are listed in Section II–B of the plan, which describes proposed actions by type of vehicle.

The plan classified safety rulemaking activities into three categories: *near-term rulemaking, technical amendments,* and *exploratory research and rulemaking.* Near-term rulemaking includes those areas in which research has advanced to the point where it is clear that rulemaking is a reasonable way to solve fairly well-defined problems. Technical amendments include that class of projected rulemaking actions in which the principal focus is to clarify present standards, remove minor inconsistencies, or resolve a specific technical problems. In most cases, the technical amendments listed would reduce the costs to both consumers and manufacturers. The final class, exploratory research and rulemaking, covers those categories of activities where a safety problem has been determined but additional reserach and engineering analysis are necessary to explore feasible solutions. At such time as the necessary research and analysis is completed, if rulemaking is shown to be warranted, and appropriate action will be initiated promptly. The NHTSA is devoting a significant amount of its resources to both research and engineering analysis for exploratory activities, and expects this commitment to result in rulemaking during the next several years.

The current plan retains its priority areas of occupant crash protection, light truck and van safety, pedestrian safety, and braking. It adds one additional priority, motorcycle safety, and area where fatalities increased 24 percent from 1976 to 1977, and an additional 10 percent from 1977 to 1978. Heavy truck safety is also given greater emphasis in the current plan. Some areas of emphasis are truck rear underride protection, fields of view, interior noise levels, fuel system integrity, and lighting.

1. *Motor Vehicle Safety Rulemaking Priorities Occupant Protection.*— Increased protection will be afforded passenger car occupants in frontal crashes as a result of the automatic restraint rule issued in 1977. The Agency has as one of its priorities the extension of automatic protection to occupants of light trucks, vans, and multi-purpose vehicles. The next major cause of injuries and fatalities is side crashes. Of the nearly 25,000 passenger car front

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seat occupants who were killed in crashes during 1978, about 8,200 were victims of side crashes. Thus, improving the safety of people involved in side crashes in passenger cars, light trucks, vans and multi-purpose passenger vehicles is the NHTSA's highest short-term occupant protection priority. In the near-term, resources will be focused on upgrading present side crash requirements with the ultimate intention of requiring significantly higher levels of side crash protection as a part of a comprehensive set of total vehicle crashworthiness performance standards.

The major, longer-term objectives will be to consolidate and upgrade all occupant protection rules through a systems approach toward improving safety of vehicle occupants. The requirements will be applicable to passenger cars, light trucks, and vans. The safety benefits in terms of lives saved and injuries prevented are expected to be substantial, perhaps equal to or surpassing those anticipated from the current occupant crash protection standard issued in June 1977. In addition to safety improvements, benefits in economy and innovation are expected to accrue since manufacturers will be afforded a significantly greater amount of design flexibility as compared to that permitted by present component oriented performance standards.

The concept upon which the long-term occupant protection upgrade is based is the integration of a major portion of the existing crashworthiness standards into a set of comprehensive performance standards along with an upgrade in performance levels. These standards will deal with four major crash modes—frontal, side, rear, and rollover— and with the aggressiveness of vehicles when colliding with other vehicles.

These standards will build upon the knowledge that was gained in developing the automatic restraint requirement. They will specify requirements for overall vehicle performance as measured by injury levels with test dummies.

These new comprehensive standards will be designed to reduce injury levels that would occur in frontal, side, rear, or rollover dynamic crashes. For these standards, NHTSA will develop and advanced test dummy as a high priority activity.

Light Trucks and Vans. Another safety problem stems from the increased growth of light trucks and vans in the vehicle fleet, projected to number 55–60 million by 1990. Many of the standards applicable to passenger cars do not apply to light trucks and vans. With the enormous increase in the use of these vehicles, the number of preventable, accident-related injuries and fatalities is growing. In 1978, over 6,000 light truck and van occupants were killed in vehicle crashes. Thus, in the near future, the NHTSA plans to extend the applicability of many of its present standards to cover these vehicles in either their present form, or modified to be consistent with the particular characteristics of these vehicles. Rulemaking in the near future will address occupant interior protection, steering column displacement and energy absorption (for which proposals have been published for public comment) and hydraulic brake performance.

Pedestrian Safety. Another critical area is pedestrian safety. About 7,900 pedestrians were killed in vehicle accidents during 1978. This is an area where little has been accomplished in reducing pedestrian fatalities and injuries with vehicle safety standards. It is an area where the options open to the NHTSA include measures other than rulemaking. To date, most of NHTSA's pedestrian programs have been in the traffic safety program under the Highway Safety Act. The Agency will continue to use its research and demonstration funds under this Act to further enhance pedestrian protection. However, the magnitude and nature of the problem are such that the Agency must explore all options. Given that vehicle-pedestrian impacts cannot be totally eliminated, a long-term priority of the NHTSA is the development of vehicle standards that will reduce injuries to pedestrians who are struck by motor vehicles. In the near-term, the Agency contemplates issuing a rule to modify vehicle front-end bumpers and hood edges to lessen pedestrian injury, particularly for children, and to substantially expand research into the causes and prevention of pedestrian injuries.

Braking Systems. Braking is the fourth area in which an increase in the NHTSA's efforts is contemplated. Although substantial improvements have been made, vehicle braking performance should be susceptible to further improvement with a consequent reduction in crash occurrences and severity. Additionally, NHTSA will be completing rulemaking to resolve the issues raised by the *Paccar vs NHTSA and vs D.O.T.* decision on FMVSS 121.

There is a wide array of problems associated with current braking systems. Some examples are different stopping distances among vehicles of various types (e.g., passenger cars and light and heavy trucks), the varied reliability and performance of aftermarket brakes, and the problems associated with inspection and diagnosis of degraded systems. NHTSA is contemplating issuing several rules in the area of braking in the near future.

Over the longer term, high priority is being given to improving braking performance of both air and hydraulically braked non-passenger vehicles through automatic adjusting devices, as well as exploring advanced concepts such as anti-lock brakes for passenger cars and motorcycles, automatic brakes and long-life brake systems. Although more research and development is needed before rulemaking can be completed, the work to date has been promising.

Motorcycles. The motorcycle population has increased fivefold since 1964 to a current 5 million and motorcycle travel has increased sixfold. Deaths have also increased dramatically, from 1,175 fatalities in 1964 to an estimated 4,500 in 1978. NHTSA views these statistics as alarming, particularly the 24 percent increase in motorcycle fatalities from 1976 to 1977, and the further increase of 10 percent in 1978. Thus, this is a high priority area for attention, both through the traffic safety program under the Highway Safety Act, and through increased attention to vehicle safety standards. Options will be explored in the areas of rider protection, motorcycle braking, rider and vehicle visibility, and education and training.

In the near-term rulemaking, NHTSA is focusing on motorcycle helmets to assure that all sizes of helmets provide adequate safety protection. Over the longer term, NHTSA will place primary program emphasis on crash avoidance, that is, improvements of both the rider's skill and knowledge, and the vehicle's braking, which will reduce the probability of an accident, thus preventing both injuries and fatalities.

2. *Terminated and Deferred Rulemaking Activities*

The March 16, 1978 draft plan listed a number of motor vehicle safety areas where rulemaking was planned to be either terminated or deferred until further action is warranted. While none of these areas is without potential safety benefits, NHTSA resources are limited, and priorities must be established and efforts concentrated on the most serious problems and in program areas where the greatest reduction in fatalities and injuries can be expected.

a. *Terminated Rulemaking Actions.*—In the past, the NHTSA initiated rulemaking in a number of areas by issuing an Advanced Notice of Proposed Rulemaking (ANPRM) or a Notice of Proposed Rulemaking (NPRM) or by granting a petition, but never completed the action by issuing a rule. A review of the active dockets revealed that a number of actions were not completed either because limited resources were directed toward higher priority actions, the magnitude of the problem was not large, or the NHTSA was unable to adequately document the nature and extent of the problem. A listing and brief discussion of each of the 13 actions which the Agency contemplated terminating was presented in Section II-C of the March 16, 1978 draft plan.

Few public comments were offered on the terminations. The Center for Auto Safety urged that rulemaking should be considered to make vehicle mounted bicycle carriers less aggressive. However, since NHTSA resources are fully committed under the Plan, this could be done only at the expense of rulemaking actions or research now proposed in the plan. Such a substitution does not appear to be warranted in terms of safety payoff. Similar comments regarding Electrical Systems Integrity and Spray Protectors will be addressed through NHTSA's exploratory research in the categories of Visibility and Electromagnetic Interference/Reliability. Ford agreed with NHTSA's intent to terminate the 13 actions. No other comments were received.

Consequently, NHTSA has now terminated these actions:

Lamps, Reflection Devices and Associated Equipment (Docket 74–5)
New Pneumatic Tires (Docket 74–2)
Occupant Protection in Interior Impacts, Passenger Cars (Docket 2–1)
Head Restraints and Seating Systems (Docket 74–13)
Door Locks and Door Retention Components (Docket 74–30)
Odometer Study (Docket 73–11)
High Speed Warning (Docket 74–8)
Mounted Bicycle Carriers (Docket 70–21)
Spray Protectors (Docket 70–21)
Multi-Purpose Passenger Vehicle Definition (Docket 73–21)
Vehicle Seating Reference (Docket 73–1)
Electrical System Integrity (Docket 75–23)
Seatbelt Assembly Anchorages (Docket 72–23)

In the above dockets, issues were raised which are no longer relevant or have been resolved, however in the future, new dockets may be opened in these subject areas. For example, although NHTSA will terminate the present Docket 74–41, "Flammability of Interior Materials," the Agency is considering opening a new docket relating to flammability requirements for school buses. Also NHTSA will terminate Docket 74–8, "High Speed Warning,", but proposes to explore the feasibility of road speed governors for heavy trucks and buses. Depending on the results of this effort, a new docket may be opened.

b. *Deferred Rulemaking Activities.*—In the March 16, 1978 draft plan, a number of other areas were listed in which NHTSA plans no new initiatives. However, it was pointed out that NHTSA does intend to issue technical amendments as needed to maintain the effectiveness of the existing standards and to respond to petitions to amend standards when justified.

The following list from the March plan identifies current Federal Motor Vehicle Safety Standards (FMVSS) and other areas in which new rulemaking activity will be at a minimum unless some event occurs to warrant a reexamination of an area. (Trailer Towing has been removed from the list published in the March 1978 draft plan since the Agency now expects to do exploratory research on trailer towing handling and stability; similarly FMVSS 215, "Exterior Protection" (Bumper Standard), has been removed from the list since the Agency is contemplating near term rulemaking under Part 581, "Bumper Standard.")

FMVSS:
102 Transmission Shift Sequence, etc.
103 Windshield Defrosting and Defogging
104 Windshield Wiping
106 Brake Hoses
107 Reflecting Surfaces
110 Tire Selection and Rims
112 Headlamp Concealment
113 Hood Latch Systems
116 Brake Fluids
117 Retreaded Tires
118 Power Windows
123 Motorcycle Controls
124 Accelerator Controls
125 Warning Devices
126 Truck—Camper Loading
205 Glazing Materials
211 Wheel Nuts, etc.
212 Windshield Mounting
217 Bus Window Retention
219 Windshield Zone Intrusion
220 School Bus Rollover
221 School Bus Body Strength
301 Fuel System Integrity Jacking Systems

A special case, which shows one possible way NHTSA may react to changing circumstances is shown by Standard 301, "Fuel System Integrity." As a result of some recent serious accidents that resulted in vehicle fires, NHTSA has been testing a number of vehicles in car-to-car, rear-end crashes. In addition, NHTSA is in the process of formally evaluating the current standard with preliminary results expected in the Fall of 1979. When these actions are completed, an amendment to the present standard may be proposed.

A few public comments were offered on the deferred rules. The California Highway Patrol suggested consideration be given to developing a standard for motorcycle safety rims (FMVSS 110), recommended further activity with respect to triangular warning devices (FMVSS 125) and suggested updating the glazing material standard for bullet resistant materials and glass in opera windows (FMVSS 205). Alliance, Prudential and Chrysler commented on FMVSS 215 (as well as the Part 581 Standard), Chrysler questioning the safety benefits of the 5 mph bumpers, while the others urged the mandating of a 10 mph bumper.

While we agree that each of these areas may have potential safety implications, evidence was not offered that these areas offer greater safety benefits than the priority emphasis areas to which the plan directs NHTSA's rulemaking resources. Since, as mentioned before, the plan totally commits NHTSA's resources, it is our judgment that the above-listed areas must continue to be considered in the Deferred Rulemaking Category, other than Trailer Towing and the FMVSS 215 Bumper Standard.

D. *Motor Vehicle Fuel Economy*

This section summarizes the current plan for establishing and modifying average fuel economy standards for passenger automobiles and light trucks, and for establishing and revising procedural regulations under the authority of Title V, Motor Vehicle Information and Cost Savings Act (hereafter called "the Act"). It identifies each planned rulemaking activity with milestones for issuance of ANPRMS's, NPRM's, and final rules through 1983. The Voluntary Truck and Bus Fuel Economy Improvement Program, which is also administered by NHTSA, is not included in this Plan.

1. *Passenger Automobiles.*—The Act required an evaluation of the capability of the automobile manufacturers to meet the passenger automobile average fuel economy standard of 27.5 miles per gallon for model year 1985. NHTSA's analysis in this regard is contained in the "Automotive Fuel Economy Program: Third Annual Report to the Congress," January 1979. Further, the President has directed the Secretary of Transportation to "begin the analytic work necessary to examine how his authority should be used to raise mileage standards above 27.5 mph beyond 1985."

To meet these requirements, NHTSA is conducting the necessary analyses and may issue a notice of proposed rulemaking covering at least model

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years (MY) 1985 and 1986 passenger automobiles before the end of the year. Approximately two years later, this process will be repeated for MY 1986–1988 passenger automobiles with an NPRM to be issued in early 1981 and the final rule about six months later. This contemplated sequence of passenger car rulemaking will maintain the 4-to-6 year lead-time between issuance of the standards and start of production. In some cases, an ANPRM may be listed about one year in advance of the NPRM.

Several public comments were offered regarding the fuel economy section of the March 16, 1978 Five Year Plan. Ford and Chrysler requested a reconsideration of the 2 mpg intervals in the fuel economy standard as being inflationary, and raised concern over possible increases above 27.5 mpg in 1985 due to their perception of the impact on cost without comparable benefits. In regard to the first issue, NHTSA has been examining newly supplied information from the industry concerning economic practicability as well as manufacturing costs and consumer prices associated with the existing standards and the industry's proposed "straight line" standards (i.e., equal annual mile per gallon increments from 20.0 mpg in 1980 to 27.5 mpg in 1985). A decision as to whether to reopen rulemaking on the 1981–1984 standards; that is, whether to issue an NPRM, is expected to be made by late April or early May 1979.

In response to the second issue concerning standards beyond 1985, NHTSA will assess the industry's capabilities to meet higher fuel economy standards while also considering the effect of possible future safety and emission regulations. This assessment will be made prior to a decision to initiate rulemaking.

Volkswagen requested that NHTSA address the fact that the present method of calculating Corporate Average Fuel Economy (CAFE) makes it disadvantageous for Volkswagen to manufacture cars whose content is over 75 percent domestically produced. Also, Volkswagen commented that classifying vehicles based on interior volume means that manufacturers will attempt to maximize shoulder room and thus reduce padding on the door.

NHTSA has examined Volkswagen's concern regarding the current method of calculating the CAFE and addressed this issue in the 1979 Annual Report to Congress on Fuel Economy. A recommendation was made that the statute be amended to allow a manufacturer to average U.S. assembled automobiles with imports if U.S. production began after the Act was passed. Regarding how interior room is measured, NHTSA has calculated that the reduction in interior volume from additional padding should not affect the current classification of vehicles.

2. *Light Trucks.*—The Act requires fuel economy standards to be set for light trucks and vans at least 18 months before the start of the model year. The NHTSA set the requirements for MY 1979 light trucks and vans of certain classes on March 14, 1977 (42 FR 13807). NHTSA issued the final rule establishing standards for classes of MY 1980 and 1981 light trucks and vans in March 1978. The NPRM was published in December 1977 (December 15, 1977, 42 FR 63184). Work on the standards for MY's 1982–1984 has begun. An NPRM is planned for August 1979 and a final rule for December 1979. The 1982–1984 rulemaking is expected to give a four-year lead-time for the MY 1984 vehicles.

The next rulemaking will cover MY's 1985–1986 later with an NPRM in March 1980 and a final rule in August 1980. Rules for MY 1987–1988 light trucks and vans will be set with an NPRM in March 1982 and a final rule in August 1982.

Recently Chrysler has requested an amendment to the MY 1981 standards. To address the issue raised by Chrysler, NHTSA issued an NPRM in December 1978. A final rule is expected by the end of April 1979.

Since most of the research on automotive fuel economy issues to date has emphasized the passenger automobile, additional research must be conducted on the fuel economy of light trucks and vans to provide the substantive basis for rulemaking that most accurately reflects the manufacturers' potential capability to improve the fuel economy of those vehicles.

3. *Low-Volume Manufacturers.*—The Act permits manufacturers with less than 10,000 passenger automobiles annual production to petition for a reduction in the average fuel economy standards applicable to them under certain conditions. In July 1977, NHTSA issued the regulations pertaining to petitions for reduction for low-volume manufacturers and the procedures for handling such petitions (July 28, 1972; 42 FR 38374). The Act requires that NHTSA set an alternative standard at the maximum feasible level if it grants a waiver from the applicable standards. There must also be an opportunity for public comment.

In the Annual Report to Congress, NHTSA recommended that, because of the burden on small businesses and the extremely small possible fuel savings, automobile manufacturers producing fewer than 10,000 vehicles per year be exempt from both the fuel economy standards and the statute's semi-annual reporting requirements. In carrying out its present responsibilities, the Agency has just published (April 1979) a proposal to revise the procedures which it follows in considering a petition for exemption. The new procedures are expected to streamline the process. A final rule on this proposal, assuming no Congressional action, could be issued in September 1979.

Rulemaking Schedule

Section II summarizes the contemplated milestones for the various rulemaking activities described previously and shows their relations in time. As discussed previously, these schedules are subject to change.

In specific instances, the timing of the effective date will depend on such factors as the urgent need to remedy a severe safety problem, the availability of known solutions, the complexity of the rule and research and engineering requirements.

It should be noted that the schedule for ANPRM's, NPRM's and RULES is based on calendar years. (This is a change from the March 1978 Plan.) Effective dates refer to the vehicle model years, which usually begin on September 1 and are identified by the calendar year in which they end. Thus, model year 1980 vehicles generally become available for sale on September 1, 1979.

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SECTION II: RULEMAKING SCHEDULE AND RESEARCH SUMMARY

A. MOTOR VEHICLE SAFETY RULEMAKING

1. Near-Term Rulemaking*

Side Impact Protection (Upgrade):

Amend FMVSS 214 relative to performance when struck by a moving barrier. Requirements will be based on dummy performance and will possibly include occupant protection and compartment integrity criteria. Applicability will be to passenger cars, light trucks, vans and multi-purpose passenger vehicles. — NPRM 1980; RULE 1981

Collapsible Steering Columns, Column Displacement and Interior Impact Requirements.

	EXTENSION
Extend FMVSS 201, 203, and 204 to all vehicles under 10,000 pounds Gross Vehicle Weight Rating (GVWR) (i.e., light trucks, vans and multi-purpose passenger vehicles). Upgrading of the present FMVSS 203 requirements will also be considered.	NPRM Issued ROLE 1979 **EFFECTIVE Model 1981

Automatic Restraints.

Passive protection requirements of FMVSS 208 will be extended to all vehicles under 10,000 pounds Gross Vehicle Weight Rating (GVWR) (i.e., light trucks, vans and multi-purpose passenger vehicles.) — NPRM 1980; RULE 1981; EFFECTIVE Model 1984

Pedestrian Initial Impact Protection.

Standards to require appropriate modification to vehicle bumpers and hood edges to reduce the severity of pedestrian initial impact injuries will be applied to passenger cars, light trucks, vans, and multi-purpose passenger vehicles. — NPRM 1979; RULE 1980; EFFECTIVE Model 1983 (Passenger Cars); EFFECTIVE Model 1984 (Other)

Hydraulic Brake Systems

This rule will expand the coverage of FMVSS 105 to light trucks, vans, and multi-purpose vehicles and include a split system requirement for heavy trucks and buses. The standard now only covers passenger car and school buses. Other performance requirements for heavy duty trucks and buses will be proposed in 1980 with an effective date of 1984. — NPRM 1979; RULE 1979; EFFECTIVE Model 1981

* Near-Term Rulemaking represent areas where information now available appears sufficient to justify Federal rulemaking action.
** FMVSS 203 and 204: Model 1981 effective date applies to non-forward control vehicles; effective date of Model 1982 will apply to forward-control vehicles.

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Motorcycle Helmet Compliance Test

Extend FMVSS 218 to cover large and small motorcycle helmets. The current standard applies only to medium sized helmets. (There is an interim technical amendment in process to allow the testing of additional helmets which will fit on the existing size C headform.)

NPRM 1979
RULE 1979
EFFECTIVE 1980

Seat Belt Assemblies (Manual and Automatic Belts).

Improved seat belt comfort and convenience by prescribing parameters for performance of seat belt assemblies in passenger cars, light trucks and vans.

ANPRM Issued
NPRM 1979
RULE 1980
EFFECTIVE Model 1981

Child Restraint Systems.

Extend the applicability of FMVSS 213 to infant restraints and child harnesses and require a dynamic test using test dummies.

NPRM Issued
RULE 1979
EFFECTIVE Model 1980

Truck Rear Underride Protection

Require protective devices to eliminate vehicle penetration under the rear-ends of heavy trucks and trailers and to dissipate crash force, thus reducing accident severity. Anticipate earlier implementation (partial coverage) for vehicles with operational conditions compatible with state-of-the-art devices.

	TYPE OF COVERAGE	
	PARTIAL	FULL
NPRM	1979	1980
RULE	1980	1981
EFFECTIVE Model	1981	1982

Brake Inspectability.

Require that brakes on all vehicles under 10,000 pounds GVWR (i.e., new passenger cars, light trucks, multi-purpose passenger vehicles and vans) be designed so that the brake shoes or pads and other components can be inspected without removing the wheel.

NPRM 1979
RULE 1980
EFFECTIVE Model 1982

Air Brake Systems.

In the interest of resolving safety issues raised by the Paccar vs NHTSA and DOT decision on FMVSS 121 a solicitation of views will be undertaken regarding a new Air Brake Standard No. 130 for trucks, buses and trailers to replace Air Brake Standard 121 in its present form.

ANPRM Issued
NPRM 1979
RULE: TO BE DETERMINED
EFFECTIVE: TO BE DETERMINED

Rearview Mirror Systems.

Require that drivers of all vehicles*, including motorcycles, be able to see specified percentages of target areas directly behind and on either rear side of the vehicle, and require that outside mirrors meet breakaway or foldaway requirements to reduce pedestrian injuries.

NPRM Issued
RULE 1979/1980
EFFECTIVE Model 1982

*Where it appears in Sections II.A.1, and II, A.2, the term "all vehicles" includes all motor vehicles except motorcycles, unless otherwise specified.

Direct Fields of View.

Specify requirements for all vehicles by limiting the extent to which vehicle structures obstruct the driver's line of sight, improve night-time visibility by establishing glazing surface light transmission levels and specify visibility of ground surface targets from buses.

NPRM Issued
RULE 1979/1980
EFFECTIVE Model 1982

Control and Displays.

Amend FMVSS 101 to specify the location and method of operation for certain controls on the instrument panel and steering column of passenger cars, light trucks, vans and multipurpose passenger vehicles and to specify the location and visibility of certain displays on the instrument panel.

NPRM 1982
RULE 1983
EFFECTIVE Model 1985

Consumer Information Regulation.

Amend Part 575 by deleting acceleration and passing ability requirments, modifying tire reserve load requirements to include heavy use vehicles, and deleting applicability to most passenger cars.

NPRM Issued
RULE 1980
EFFECTIVE Model 1981

Tire Selection and Rims (Multi-Piece Wheels).

Amend FMVSS 120 to prohibit the manufacture of motor vehicles with multi-piece wheels and require the manufacture for all vehicles other than passenger cars of single piece, drop center rims and tubeless tires. A phase-in schedule of effective dates will be established.

ANPRM Issued
NPRM 1980
RULE 1980
EFFECTIVE DATE TO BE DETERMINED

Rear Lighting and Signalling.

A recent study on a taxi fleet showed that rear-end accidents were reduced by almost 50 percent on taxis equipped with a separate high-mounted brake light. If additional research confirms these findings, FMVSS 108 will be amended to require a separate high-mounted brake light on all passenger vehicles.

ANPRM 1979
NPRM 1980
RULE 1981
EFFECTIVE Model 1983

Battery Explosion.

Provide requirements to insure battery safety by reducing the likelihood of battery explosion from lead acid batteries in all vehicles including motorcycles.

NPRM 1979
RULE 1980
EFFECTIVE Model 1981

Interior Noise Levels.

Provide requirements establishing maximum interior sound levels for new heavy trucks and buses over 10,000 pounds GVWR.

NPRM 1979
RULE 1980
EFFECTIVE Model 1982

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Gross Coupling Weight Rating.

An amendment to the regulations on certification (Part 567) of the vehicles manufactured in two or more stages (Part 568) will require labelling of the Gross Coupling Weight Rating (GCWR) on all semi-trailers

NPRM Issued
RULE 1979
EFFECTIVE Model 1980

Theft Protection.

Amend FMVSS 114 by providing requirments that would further impede entry into, and operation of, a vehicle by unauthorized persons. Also extend the standard to light trucks, vans, and multi-purpose vehicles.

NPRM Issued
RULE 1979
EFFECTIVE Model 1982 (Passenger Cars)
EFFECTIVE Model 1983 (Light Trucks, Vans, Multi-purpose Vehicles)

Bumper Standard

Extend Part 581 bumper standard height regulation to include light trucks, vans and multi-purpose vehicles. The height requirement is 16 to 20 inches above the ground.

ANPRM 1979
NPRM 1980
RULE 1981
EFFECTIVE Model 1983

Consider amending the Part 581 bumper standard as it pertains to passenger cars by determining the impact speed which yields the greatest net consumer benefits.

ANPRM Issued
FURTHER ACTION TO BE DETERMINED

Flammability of Interior Materials

Solicit views and information regarding flammability of interior materials used in school buses for possible amendment to FMVSS 302, or creation of an interior flammability standard for school buses in accordance with guidelines of the Urban Mass Transportation Administration, U.S. DOT (UMTA) for public service vehicles. UMTA guidelines have been submitted to NHTSA for this purpose.

ANPRM: 1979
NPRM, RULE and EFFECTIVE DATE TO BE DETERMINED

2. Technical Amendments*.

Door Locks and Retention Components.

This amendment will extend the applicability of the present FMVSS 206 to cover transverse rear doors, e.g., those on hatchback passenger cars. Existing FMVSS 206 test procedures will be clarified.

NPRM 1979
RULE 1980
**EFFECTIVE Model 1981-1982

* The purpose of these rulemaking actions is primarily to clarify existing requirements or resolve specific technical problems.

** The range of dates reflects the Agency's present uncertainty of the specific model year for which it is anticipated the rule will first become mandatory.

School Bus Crash Protection.

Consider amending FMVSS 222 to allow for greater passenger comfort on long distance and special activity trips by permitting seats on activity buses to be spaced farther apart.

NPRM 1979
RULE 1980
EFFECTIVE Model 1980

Motorcycle Brakes - Test Procedure.

Change the current FMVSS 122 test procedure. The proposed procedure involves towing the motorcycle behind a truck so that the motorcycle is roll-constrained (i.e. supported so that it cannot tip over) and eliminates the need for a test rider during high-speed braking tests. The current water immersion procedure may be replaced by a water spraying system during the wet recovery tests.

NPRM 1981
RULE 1982
EFFECTIVE Model 1984

Speedometers and Odometers.

Amends FMVSS 127 by specifying requirements for distinguishing between original equipment and replacement odometers. This proposed amendment is in response to a petition for reconsideration of the speedometers and odometers final rule issued in March 1979.

NPRM Issued
RULE 1979
EFFECTIVE Model 1982

3. Exploratory Research and Rulemaking*

a. Crashworthiness

Pedestrian Impact Protection

Explore appropriate modification to hood surfaces and windshield headers to reduce the severity of pedestrian injuries. Exploratory activity in the pedestrian area is intended to complement the proposed near-term rulemaking for pedestrian initial impact protection.

Occupant Protection Upgrade

The concept upon which the long-term occupant protection upgrade is based is a total systems approach evaluating a vehicle's occupant protection capability by exposing it to a series of crash exposures representative of the real world. Many of the existing component oriented standards would be discarded, and the product will be a set of comprehensive performance standards which will significantly increase the level of occupant protection with regard to four major crash modes (frontal, side, rear, and rollover) and will deal with the aggressiveness of vehicles impacting other vehicles. These new comprehensive standards will be developed in terms of injury levels that occur in frontal, side, rear, or rollover dynamic crashes. This requires developing an advanced test dummy, an activity which is being given very high priority. The new standard would apply to passenger cars, light trucks and vans.

* This category includes motor vehicle safety areas where the need for improvement is obvious but where precise solutions have not yet been defined or developed.

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Motorcycle Rider Protection

Explore means to insure the integrity of safety related vehicle components and increase the level of rider protection, particularly focusing on the potential for motorcycle rider leg protection through performance requirements for crash bars.

Electric, Hybrid, and Restricted Performance Vehicles

A substantial increase in the number of electric and lighweight restricted performance vehicles is expected in the future. Requirements will be developed to insure a satisfactory level of crashworthiness and operational safety of these unique vehicles.

School Bus Crash Protection

Monitor school bus accident data and other information to assure satisfactory level of safety, including assurance of safe transportation by day-care centers using small van-type buses.

Fuel System Integrity (Heavy Trucks)

Data from the Bureau of Motor Carrier Safety (BMCS) and other sources will be reviewed to determine if NHTSA rulemaking is required to ensure compatibility with BMCS reguations or to upgrade requirements.

b. Crash Avoidance

Brakes

Exploratory braking activity will focus on a variety of possible means to increase safety, with an ANPRM to be issued in 1979 soliciting views on long range issues of brake technology such as automatic brake adjusters and other means to impose vehicle stability, including antilock systems. Exploratory activities will consider:

- o improved stopping distances, greater stability during braking, preventing or reducing wheel lock-up for motorcycles (FMVSS 122).
- o increased downhill retardation through engine driveline retarders for heavy trucks in mountainous terrain.
- o upgrade braking performance (air and hydraulic) through automatic brake adjustment devices for all vehicles other than passenger cars (FMVSS 105/121).
- o automatic warning and actuation systems for passenger cars, light trucks, vans, buses and multi-purpose vehicles.
- o increased reliability and performance of aftermarket brake shoe and pad assemblies (friction properties, fade, wear rate, wet performance).
- o longer life braking systems for passenger cars, light trucks, vans, buses and multi-purpose passenger vehicles.

Tires

Exploratory tire safety activity will include consideration of:

- o means to assure that the current minimum traction performance for passenger car tires does not suffer degradation from possible emphasis by manufacturers on treadwear.
- o reevaluation of the passenger car tire standard (FMVSS 109) as it applies to radial tire performance as experienced by the consumer.
- o means to warn when tire inflation pressure drops below recommended levels, including minimum performance for warning devices, for all vehicles.
- o establishing tire traction requirements under FMVSS 119 applicable to all vehicles except passenger cars and including motorcycles.

Electromagnetic Interference/Reliability/Maintainability

Exploratory activities in this area will be of general vehicle applicability and will focus on insuring that electronic on-vehicle devices and systems (e.g., brake antilocks, air cushion electronic devices, fuel injection monitors) are electromagnetically compatible both among themselves and with other external and internal electronic devices.

Controls and Displays

Exploratory activities for controls and displays will focus on two areas:

- o safety requirements of adaptive driving aids used by handicapped drivers, based on the nature and extent of the handicapped driver problem and the effectiveness of adaptive aids presently in use. NHTSA is working closely with and depending primarily on the activities of the Veterans Administration regarding adaptive aids.
- o standardization of control and display accessibility, location and identification on heavy trucks and buses to improve accessibility and operation.

Heavy Vehicle Environment

Exploratory activity will be focused on upgrading the quality of the ride in heavy trucks for safer driving. Considerations will include definition and limitation of vibration and other hazardous ride quality characteristics, and location requirements for the "fifth wheel" on tractor-trailer combinations.

Visibility

Exploratory activities are planned to focus on reducing the splash and spray problem that heavy trucks, buses and trailers create for following vehicles. The NHTSA safety issuance may be in the form of a recommended practice or a safety standard.

Handling and Stability

Handling and stability research will concentrate on three areas:

- o improving, in both normal and emergency manuevers, the handling and stability of all vehicles including towing trailers for passenger car and light trucks. An early focus will be on yaw stability for passenger cars and heavy vehicles.
- o the potential of increasing safety and energy conservation through vehicle speed control devices, such as road speed governors, particularly on heavy trucks and buses. Consideration will include issuing a recommended practice or a safety standard.
- o establishing performance requirements for strength of fifth wheel and pintle hook assemblies mounted on heavy trucks to be coupled with either semi-trailers or full trailers or both.

Lighting

Exploratory lighting work will be carried on for all vehicles:

- o for motorcycles and mopeds, the focus will be on increased conspicuity through requirements for daytime lighting systems; and, in addition, work will proceed to determine physical and photometric characteristics to provide the driver with safe nighttime illumination.

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- o for heavy trucks and buses, review will be made of lighting and marking systems (excluding headlights) in view of present day lighting, signalling and conspicuity requirements, in order to define performance requirements for these vehicles.
- o for all vehicles, headlighting systems will be researched for the safety potential of an upgrade in terms of deterioration requirements, beam pattern and candlepower.

B. FUEL ECONOMY RULEMAKING

		SCHEDULE: MY 85-86	MY 86-88
Passenger Automobiles			
Two rules are to be issued to establish fuel economy standards for Model Years 1985 through 1988. Included in the rulemaking actions will be a reexamination of previous standards.	ANPRM	----	1980
	NPRM	1979	1981
	RULE	1980	1981

		MY 82 84	MY 85 86	MY 87 88
Light Trucks and Vans				
Four rules are anticipated for light trucks and vans. Standards are to be established at least 18 months before the start of the model year.	NPRM	1979	1980	1982
	RULE	1979	1980	1982

Low Volume Manufacturers

A rule may be proposed and issued to refine the requirements regarding the contents of and procedures for disposition of petitions from low volume manufacturers for exemption and for establishment of alternative standards	NPRM	1979
	RULE	1979

SECTION III: CROSS REFERENCE INDICES

INDEX A
CHANGES SINCE MARCH 16, 1978 RULEMAKING PLAN
(Listed in Order Presented in March Plan, 43 FR 11104-11106)

A. MOTOR VEHICLE SAFETY RULEMAKING	MARCH 16 PLAN	CURRENT PLAN
1. Rulemaking Initiatives--category changed to Near-Term Rulemaking		
Side Impact Protection	NPRM: 1980	NPRM: 1980
	RULE: 1981	RULE: 1981
	EFFECTIVE: MY* 1984-1985	EFFECTIVE: MY 1984
Collapsible Steering Columns, Column Displacement and Interior Impact Requirements	NPRM: 1978	Issued
	RULE: 1980	1979
	EFFECTIVE: MY 1981-1983	MY 1981 (For FMVSS 203 and 204, effective dates for forward control vehicles will be 1982.)
Automatic (Passive) Restraints	NPRM: 1980	NO CHANGE
	RULE: 1981	
	EFFECTIVE: MY 1984	
Exterior Protrusion	NPRM: 1978	INCORPORATED IN PEDESTRIAN PROTECTION RULEMAKING
	RULE: 1979	
	EFFECTIVE: MY 1980-1981	

*Model Year

	MARCH 16 PLAN	CURRENT PLAN COVERAGE PARTIAL	FULL
Truck Rear Underride Protection			
	NPRM: 1980	1979	1980
	RULE: 1981	1980	1981
	EFFECTIVE: MY 1982-1983	MY 1981	MY 1982
Child Restraint Systems	NPRM: 1978	Issued	
	RULE: 1979	NO CHANGE	
	EFFECTIVE: MY 1980		
School Bus Crash Protection		Activity Buses	
1. Activity Buses Moved to Technical Amendment	NPRM: 1978	1979	
	RULE: 1979	1980	
	EFFECTIVE: MY 1979-1980	MY 1980	
2. Day Care Center Buses Moved to Exploratory (No Dates)			
Hydraulic Brake Systems	NPRM: 1979	1979	
	RULE: 1980	1979	
	EFFECTIVE: MY 1983	MY 1981	

	MARCH 16 PLAN	CURRENT PLAN
Standardized Vehicle Identification Number--Removed from Plan When Rule Was Issued	NPRM: Issued RULE: 1979 EFFECTIVE: MY 1980-1981	Issued MY 1981
Passenger Car Tire Traction Moved to Exploratory Category, therefore, No Projected Dates	NPRM: 1979 RULE: 1980 EFFECTIVE: MY 1982	NO DATES
Low Tire Pressure Warning Moved To Exploratory Category; therefore, No Projected Dates	NPRM: 1978 RULE: 1979 EFFECTIVE: MY 1981	NO DATES
Direct Fields of View	NPRM: 1978 RULE: 1979 EFFECTIVE: MY 1981-1982	Issued 1979/1980 MY 1982
Rearview Mirror Systems	NPRM: 1978 RULE: 1979 EFFECTIVE: MY 1981-1982	Issued 1979/1980 MY 1982
Rear Lighting and Signalling	ANPRM: 1979 NPRM: 1980 RULE: 1981 EFFECTIVE: MY 1983	1980 1981 MY 1983
Uniform Tire Quality Grading System	SET EFFECTIVE DATES: 1978 & 1979 EFFECTIVE MY: 1979 & 1980 EFFECTIVE DATE SET: 1978 for bias belted and bias ply. 1979 for radials EFFECTIVE: All Except Molding 1979 - for bias ply and bias belted 1980 - for radials EFFECTIVE: Molding 1979 - for bias ply 1980 - for bias belted and radials	Issued as described below
Brake Inspectability	ANPRM: 1978 NPRM: 1979 RULE: 1980 EFFEFCTIVE: MY 1982-1983	Will Not be Issued 1979 1980 MY 1982
Theft Protection	NPRM: 1978 RULE: 1979 EFFECTIVE: MY 1980-1981	Issued 1979 MY 1982 (passenger cars) MY 1983 (light trucks, vans, multi-purpose vehicles)

	MARCH 16 PLAN	CURRENT PLAN
Speedometers and Odometers	NPRM: Issued RULE: 1978 EFFECTIVE: MY 1980-1981	Issued MY 1980 (All Except Speedometer Accuracy) MY 1981 (Speedometer Accuracy)
Controls and Displays	NPRM: 1979 RULE: 1980 EFFECTIVE: MY 1982	1982 1983 MY 1985
Seat Belt Assemblies: Comfort and Convenience for Manual and Autonatic Belts	ANPRM: Issued NPRM: 1978 RULE: 1979 EFFECTIVE: MY 1931	1979 1979 MY 1981

2. Technical Amendments

	MARCH 16 PLAN	CURRENT PLAN
Motorcycle Helmet Compliance Test Moved to Near-Term Rulemaking Under Current Plan	NPRM: 1979 RULE: 1980 EFFECTIVE: 1981	NPRM: 1979 RULE: 1979 1980
Roadwheel Identification and Selection	NPRM: 1979 RULE: 1980 EFFECTIVE: 1981-1982	REMOVED FROM RULEMAKING PLAN
Rearview Mirror Systems (optional plane and convex mirrors on trucks)	NPRM: Issued RULE: 1978 EFFECTIVE: 1980	REMOVED FROM RULEMAKING PLAN
Headlight Candlepower Rule Issued on High Beam Candlepower. Low Beam Pattern and Headlight Aiming Moved to the Exploratory Category (No Dates)	NPRM: Issued RULE: 1978 EFFECTIVE: 1978	Issued (High Beam) MY 1978 (High Beam)
Clearance and Identification Lamps Moved to Exploratory Category (No Dates)	NPRM: Issued RULE: 1979 EFFECTIVE: MY 1979-1981	NO DATES

		MARCH 16 PLAN	CURRENT PLAN
Controls and Displays	NPRM:	Issued	
	RULE:	1978	Issued
	EFFECTIVE:	MY 1979-1981	MY 1981
Motorcycle Brakes-Test Procedure	NPRM:	1979	1981
	RULE:	1980	1982
	EFFECTIVE:	MY 1981-1982	MY 1984
Gross Coupling Weight Rating. Moved to Near-Term Rulemaking	NPRM:	Issued	
	RULE:	1978	1979
	EFFECTIVE:	MY 1979	MY 1980
Door Locks and Retention	NPRM:	1978	1979
	RULE:	1979	1980
	EFFECTIVE:	MY 1980-1981	MY 1981-1982

Exploratory Rulemaking

Occupant Protection Upgrade -- No Change

Pedestrian Impact Protection

-- Modifications to Vehicle Bumper and Hood Edges Moved to Near-Term Rulemaking with NPRM 1979; RULE 1980; EFFECTIVE MY 1983 (Passenger Cars), MY 1984 (Other Than Passenger Cars)

-- Modifications to Hood Surfaces and Windshield Headers--No change.

Motorcycle Rider Protection -- Motorcycle Visibility Moved to Exploratory: Lighting; No Other Change

Aftermarket Brakes -- Exploratory: Brakes

Truck Brakes -- Exploratory: Brakes

Advanced Braking Systems -- Exploratory: Brakes

Motorcycle Brake Upgrade -- Exploratory: Brakes

Traction Amendment -- Exploratory: Tires

Truck Ride Quality -- Exploratory: Vehicle Environment

Electric, Hybrid and Restricted Performance Vehicles -- No Change

Flammability and Toxicity of Interior Materials -- Moved to Near-Term Rulemaking with Focus on School Buses

Electromagnetic Interference (EMI) -- Exploratory: EMI/Reliability/ Maintainability

Controls for the Handicapped -- Exploratory: Controls and Displays

Handling and Stability -- No Change

B. FUEL ECONOMY RULEMAKING

Passenger Automobiles

	MY 1985-1986	
	MARCH 16 PLAN	CURRENT PLAN
ANPRM:	1978	Will Not Be Issued
NPRM:	1979	1979
RULE:	1979	1980

	MY 1986-1988	
	MARCH 16 PLAN	CURRENT PLAN
ANPRM:	1980	1980
NPRM:	1981	1981
RULE:	1981	1981

Light Trucks and Vans

MARCH 16 PLAN		
MY 1982-1983**	MY 1984-1986***	MY 1986-1988****
1979	1980	1982
1979	1980	1982

CHANGES IN CURRENT PLAN

* Issued

** MY 1982-1984

*** MY 1985-1986

**** MY 1987-1988

		MARCH 16 PLAN	CURRENT PLAN
Low Volume Manufacturers	NPRM:	1978	Issued
	RULE:	1978	1979

	MARCH 16 PLAN	CURRENT PLAN
Petitions for Reduction in 1980 Fuel Economy Standards	Proposed Decision: 1979	DELETED
	Final Decision: 1979	

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C. Rulemaking Actions Initiated But Not Referenced in Rulemaking Plan: March 16, 1978–December 31, 1978

1. *NPRM Issued.*—Part 571.3: Defines "Designated Seating Position" in dimensional terms. Proposed Effective MY 1980.

FMVSS 115: Standardized Vehicle Identification Number. Several Minor Amendments, In Response to Petitions for Reconsideration. Proposed Effective MY 1980.

FMVSS 109: New Tire Sizes. Addition of New Tire Sizes. Proposed Effective On Date Rule is Issued.

FMVSS 108: Tail Lamps. Increases Maximum Candlepower, In Response to Petitions. Proposed Effective On Date Rule is Issued.

Part 575: Uniform Tire Quality Grading System. Revised Symbols for Traction Grades and Amends Tire Testing Temperatures. Effective October 23, 1978.

Part 572: Anthropomorphic Test Dummies. Amends Specifications for Child Dummies (2 NPRM's). Proposed Effective On Date Rules are Issued.

2. *NPRM and Rule Issued.*—FMVSS 208: Seat Belt Spool Emergency Release. Allows Design Experimentation for Automatic Belt Systems. Effective November 13, 1978.

FMVSS 210: Seat Belt Assembly Anchorage. Eliminates Anchorage Location Requirement for Automatic Belts that Meet FMVSS 208 Standard. Effective November 16, 1978.

3. *Rules Issued.*—FMVSS 121: School Bus Air Brakes. Suspends 121 Requirement on School Buses. Effective March 23, 1978.

FMVSS 126: Truck-Camper Loading. Eliminates Requirement that Standardized Vehicle Identification Number be Printed in Owner's Manual. Effective April 27, 1978.

FMVSS 210: Seat Belt Anchorage. Eliminates "Buckle Cutout" as an Option. Effective May 18, 1978.

FMVSS 106–74: Brake Hoses. Permits Less Expensive Labeling and Gives Relief on Several Requirements. Effective May 25, 1978.

FMVSS 109: New Tire Sizes. Added Four New Metric Tire Sizes; Sets Criteria for Testing and Labeling Higher Pressure Tires; In Response to Petitions. Effective June 5, 1978.

FMVSS 108: Colors for Signal Lights. Amends Color Specifications to Facilitate OSHA Rules; Response to Petition. Effective June 1, 1979.

Part 568: Vehicles manufactured in Two or More Stages. Denial Response to Petitions, Except for the Effective Date. Effective January 1, 1979.

Part 575: Uniform Tire Quality Grading System. Permits a Single Temperature for Testing. Effective July 17, 1978.

FMVSS 108: Side Marker Lamps. Restricts Height on Large Trailers, Consistent with BMCS Rules. Effective March 1, 1979.

FMVSS 108: Moped Lamps. Interim Rule to Allow Smaller Stop Lamps. Effective September 11, 1978.

FMVSS 109: New Tire Sizes. Allows Ten New Tire Sizes. Effective November 1, 1978. Allows Four New Tire Sizes. Effective January 3, 1979.

FMVSS 122: Motorcycle Brake Systems. Modifies Parking Brake Requirements for Three-Wheel Cycles.

FMVSS 121: Air Brakes. Amends as Specified by the Court to Provide for "Due Care" Specification. Effective October 13, 1978.

FMVSS 121: Air Brakes. Amends Volume and Stopping Distance of Air Brake Systems. Effective December 18, 1978.

Index B.—Proposed Safety Rulemaking by Vehicle Type

Passenger Car

1. *Near-Term Rulemaking*
Side Impact Protection (Upgrade)
Pedestrian Initial Impact Protection
Seat Belt Assemblies: Comfort and Convenience
Brake Inspectability
Rearview Mirror Systems
Direct Fields of View
Controls and Displays
Rear Lighting and Signalling
Battery Explosion
Theft Protection
Consumer Information Regulation
Bumper Standard

2. *Technical Amendments*
Door Locks and Retention Components

3. *Exploratory Research and Rulemaking*
Pedestrian Impact Protection
Occupant Protection Upgrade
Electric, Hybrid and Restricted Performance Vehicles
Brakes—Longer Life
Tires—Minimum Traction Performance
Tires—Tire Inflation Pressure
Electromagnetic Interference/Reliability—Electromagnetic Compatibility
Controls and Displays—Driving Aids for Handicapped Drivers
Handling and Stability—Handling and Stability
Lighting—Headlighting

Light Truck, Van, and Multi-Purpose Passenger Vehicle

1. *Near-Term Rulemaking*
Side Impact Protection (Upgrade)
Collapsible Steering Columns, Column Displacement and Interior Impact Requirements
Automatic restraints
Pedestrian Initial Impact Protection
Hydraulic Brake Systems
Seat Belt Assemblies: Comfort and Convenience
Brake Inspectability
Rearview Mirror Systems
Direct Fields of View
Controls and Displays
Tire Selection and Rims
Battery Explosion
Theft Protection
Bumper Standard
Consumer Information Regulation

2. *Technical Amendments*
Door Locks and Retention Components

3. *Exploratory Research and Rulemaking*
Pedestrian Impact Protection
Occupant Protection Upgrade
Electric, Hybrid and Restricted Performance Vehicles
Brakes—Longer Life
Brakes—Upgraded Braking Performance
Tires—Upgrade of 119
Tires—Minimum Traction Performance
Tires—Tire Inflation Pressure
Electromagnetic Interference/Reliability—Electromagnetic Compatibility
Controls and Displays—Driving Aids for Handicapped Drivers
Handling and Stability—Handling and Stability
Lighting—Headlighting

Motorcycle

1. *Near-Term Rulemaking*
Motorcycle Helmet Compliance Test
Rearview Mirror Systems
Battery Explosion

2. *Technical Amendments*
Motorcycle Brakes—Test Procedure

3. *Exploratory Research and Rulemaking*
Motorcycle Rider Protection
Brakes—Stopping Distance
Tires—Upgrade of 119
Electromagnetic Interference/Reliability—Electromagnetic Compatibility
Lighting—Conspicuity
Lighting—Headlighting

Heavy Trucks (Greater Than 10,000 Pounds GVWR) (+ Includes Trailers)

1. *Near-Term Rulemaking*
+ Truck Rear Underride Protection
+ Air Brake Systems
Hydraulic Brake Systems
Rearview Mirror Systems
Direct Fields of View
+ Tire Selection and Rims
Battery Explosion

Interior Noise Levels
+ Gross Coupling Weight Rating

2. *Exploratory Research and Rulemaking*
Fuel System Integrity
Brakes—Increased Downhill Retardation
+ Brakes—Upgraded Braking Performance
+ Tires—Upgrade of 119
Tires—Tire Inflation Pressure
+ Electromagnetic Interference/Reliability—Electromagnetic Compatibility
Controls and Displays—Standardization
Vehicle Environment—Ride Quality
+ Visibility—Splash and Spray
+ Handling and Stability—Handling and Stability
Handling and Stability—Speed Control Devices
+ Handling and Stability—Coupling
+ Lighting—Lighting and Marking

Intercity and Transit Buses

1. *Near-Term Rulemaking*
Air Brake Systems
Hydraulic Brake Systems
Rearview Mirror Systems
Direct Fields of View
Tire Selection and Rims
Battery Explosion
Interior Noise Levels

2. *Exploratory Research and Rulemaking*
Brakes—Upgraded Braking Performance
Tires—Upgrade of 119
Tires—Tire Inflation Pressure
Electromagnetic Interference/Reliability—Electromagnetic Compatibility
Controls and Displays—Standardization
Visibility—Splash and Spray
Handling and Stability—Speed Control Devices
Lighting—Lighting and Marking

School Buses

1. *Near-Term Rulemaking*
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[FR Doc. 79-12750 Filed 4-25-79; 8:45 am]
BILLING CODE 4910-59-M

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Notices

Federal Register
Vol. 44, No. 82
Thursday, April 26, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Availability of Report on Closed Meeting Activities

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I, and OMB Circular A–63 (revised March 27, 1974), a report on the activities of the General Advisory Committee on Arms Control and Disarmament covering closed meetings held in 1978 has been prepared and is available for public inspection as follows:

Library of Congress, Federal Advisory Committee Desk, Federal Documents Section, Exchange and Gift Division, Washington, D.C.

U.S. Arms Control and Disarmament Agency, ACDA Library, 8th Floor, State Annex 6, 1700 North Lynn Street, Rosslyn, VA.

Dated: April 19, 1979.

Sidney D. Anderson,
Advisory Committee Management Officer.
[FR Doc. 79-13080 Filed 4-25-79; 8:45 am]
BILLING CODE 6820-32-M

General Advisory Committee; Meeting

Notice is hereby given in accordance with Section 10(a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. I, (the Act) and paragraph 8b of Office of Management and Budget Circular No. A–63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on May 10, 1979 from 9 a.m. to 6 p.m. and on May 11, 1979 from 9 a.m. to 6 p.m. at 2201 C Street, NW, Washington, D.C., in Room 75616.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 12065, dated June 28, 1978.

The meeting will be closed to the public in accordance with the determination of April 9, 1979 made by the Acting Director of the U.S. Arms Control and Disarmament Agency pursuant to Section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b) (1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11769 dated February 21, 1974.

Dated: April 20, 1979.

Sidney D. Anderson,
Advisory Committee Management Officer.
[FR Doc. 79-13081 Filed 4-25-79; 8:45 am]
BILLING CODE 6820-32-M

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Plan for the Arapaho and Roosevelt National Forests and Pawnee National Grasslands; Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the Forest Plan. This Plan will provide resource goals for the Arapaho and Roosevelt National Forests and the Pawnee National Grassland administered by the Forest Supervisor located in Fort Collins, Colorado. These National Forest System lands are located in Weld, Larimer, Boulder, Gilpin, Grand, Jefferson, and Clear Creek Counties.

This Plan is being developed in accordance with the provisions of the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), as amended by the National Forest Management Act of 1976 (NFMA).

The purpose of this Plan is to establish the multiple use and sustained yield levels of the products and services provided by the two National Forests and the National Grassland. The Plan, when implemented, will guide resource management activities.

Three public meetings and several workshops have been conducted. The two purposes of the sessions were to (1) describe the planning process in general, and (2) gain input on the public issues significant to the management of the two National Forests and the National Grassland.

Based on the input received from the sessions, as well as from previous public involvement efforts on the Forests, a listing of public issues affecting plan development was developed. These public issues will be addressed in the Forest planning effort. A summary of the public issues is available from the Forest Supervisor, Arapaho and Roosevelt National Forests, 301 South Howes Street, Fort Collins, Colorado 80521.

The proposed regulations implementing the National Forest Management Act state that an environmental impact statement will be prepared.

The responsible official for approving the Plan is Craig W. Rupp, Regional Forester, Rocky Mountain Region, Forest Service-USDA. The Draft Environmental Impact Statement for the Plan is scheduled for filing in the summer of 1979. The Final Environmental Impact Statement is scheduled for filing in late fall of 1979.

Comments on this Notice of Intent or the Forest's planning process should be sent to Gray F. Reynolds, Forest Supervisor, Arapaho and Roosevelt National Forests, at the address mentioned above.

Dated, April 18, 1979.

F. A. Dorrell,
Acting Regional Forester, Rocky Mountain Region.
[FR Doc. 79-12879 Filed 4-25-79; 8:45 am]
BILLING CODE 3410-11-M

Soil Conservation Service

Horse Pasture Creek Watershed, Va.; Notice of Intent Not To Prepare an Environmental Impact Statement

Correction

In FR Doc. 79–101–32, appearing at page 19498, in the issue of Tuesday, April 3, 1979, on page 19499, in the first column, the third full paragraph, the third line, insert the words "until thirty days after the date of this publication" after the word "taken".

BILLING CODE 1505-01-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

Notice is hereby given pursuant to Section 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on May 8, 1979, at 7:30 p.m., a public information meeting will be held at the Town Hall in Lone Pine, California. The meeting is being called by the Executive Director of the Council in accordance with Section 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed Coso Geothermal Element Program, an undertaking of the U.S. Department of the Navy, Naval Weapons Center, that will adversely affect Coso Hot Springs, a property included in the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the property by the Department of the Navy.

III. A statement by the California State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, Western Office of Review and Compliance, P.O. Box 2508, Denver, Colorado 80255, (303) 234–4946.

Robert M. Utley,
Deputy Executive Director.
[FR Doc. 79-12847 Filed 4-25-79; 8:45 am]

BILLING CODE 4310-01-M

CIVIL AERONAUTICS BOARD

Air Carrier Rules Governing Failure To Operate on Schedule or Failure To Carry; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of April 1979.

Most U.S. carriers subscribe to Rule 380 in the domestic passenger rules tariffs, CAB No. 142, which sets forth the responsibilities carriers accept or, more importantly, do not accept when they are unable to carry passengers to their destinations. Primarily, the rule covers schedule irregularities and schedule changes. When a delay or schedule change occurs, for example, Rule 380 states that the airline will arrange alternate transportation or make a refund to the passenger. In addition, the rule describes some basic amenities, such as hotel rooms, meals, and telephone calls, that may be provided to stranded or delayed passengers by the subscribing carriers under some circumstances. Rule 380(H) explicitly disavows any additional carrier responsibility to passengers beyond that which is provided in the tariff:

> Except to the extent provided in this rule, no carrier shall be liable for failing to operate any flight according to schedule or for changing the schedule of any flight, with or without notice to the passenger.

For reasons discussed in this order, the Board has tentatively decided that this provision is unjust, unreasonable and unlawful, and we are ordering all interested parties to show cause why it should not be cancelled.

Recently, carriers have begun to exercise the greater flexibility afforded them by the Deregulation Act to enter and withdraw from markets. They have also been experimenting with different flight frequencies and schedules in various markets to improve their operating efficiency and meet increased competition. These developments, while healthy from the point of view of the overall transportation system, may increase the exposure of passengers to inconvenience resulting from schedule changes and service terminations, and we are now reexamining existing tariff provisions governing passenger rights in such cases. We are concerned that Rule 380(H) may be overly broad and that it may unreasonably exculpate airlines, since it covers virtually any situation in which a passenger might be inconvenienced by any type of scheduling problem.

This provision may be applied, for example, to changes that are planned and programmed into the carriers' reservations computer weeks, or even months, before the new schedules are to go into effect, regardless of when or whether the carrier notifies the passenger of the changes. We believe a rule which purports to relieve carriers of any obligation to provide advance notice to passengers of schedule changes affecting the passenger and of which the carrier has advance knowledge is unreasonable and therefore unlawful.

The problem is particularly serious when service is discontinued in a particular market, since the language of other provisions in Rule 380 does not clearly indicate what protections, if any, most carriers will afford passengers in these situations. The rule divides scheduling problems into two basic categories: Schedule irregularities and schedule changes. When an airline must rebook passengers because of a "schedule change", a term not defined in the rule, Rule 380(F) provides, in most cases, for rebooking only on another flight or flights of that airline. Treating withdrawal from a market as a scheduling change, therefore, would not help affected passengers, since an airline that is leaving a market obviously will not be able to accommodate passengers on its own flights.[1] If, on the other hand, the problem is considered a "schedule irregularity", most carriers will arrange alternate transportation on competing airlines if necessary. Schedule irregularities, according to Rule 380(B)(8), include:

(a) Delay in scheduled departure or arrival of a carrier's flight resulting in a misconnection, or

(b) Flight cancellation, omission of a scheduled stop, or any other delay or interruption in the scheduled operation of a carrier's flight, or

(c) Substitution of equipment of a different class of service, or

(d) Schedule changes which require rerouting of passenger at departure time of the original flight.

The Board's staff has interpreted this definition of schedule irregularity to

[1] United Airlines has filed an exception to Rule 380(F)(1)(a), effective April 14, 1979, stating it will reroute confirmed passengers at no additional charge on other carriers when the schedule change results in the cancellation of all United service at a city.

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include all flight cancellations, including suspensions of service, and we agree with this interpretation. At least one Federal district court, however, disagreed that the rule covered flight cancellations resulting from strikes, finding that it "was intended for the assistance of passengers whose air travel is delayed or interrupted by unexpected events with a short-term duration effects." [2] We are concerned that this reasoning may be applied in the future, by carriers or by a court, to situations in which carrier withdrawal from markets results in wholesale cancellations. Should this occur, Rule 380 would not provide for rerouting on other carriers for some passengers holding tickets or confirmed reservations on flights cancelled because of suspension of service. Passengers could, as a result, incur substantial inconvenience and additional expense if they cannot find reservations on other airlines, if they must pay fares higher than those agreed to or if they must accept circuitous routings to reach their destinations, with the possibility of redress through civil litigation effectively cut off by the provisions of Rule 380(H). To permit carriers to exculpate themselves through such tariff language from legal responsibility to passengers with confirmed reservations whose travel plans may be disrupted by the carriers' withdrawal from markets, without even notifying the passengers, seems to us patently unjust and unreasonable.

We understand that carriers cannot realistically guarantee their schedules and that some scheduling problems are unforeseeable or clearly beyond the carriers' control. We do not believe, however, that the elimination of Rule 380(H) would make airlines automatically liable for damages in the event of delays and cancellations due to factors such as inclement weather, air traffic congestion, or last-minute mechanical malfunctions. Carriers may, of course, wish to reexamine Rule 380 and seek ways to more clearly state their positive obligations.

Similarly, we do not anticipate that removal of this rule will adversely affect the ability of carriers to make schedule changes or to experiment with innovative low-cost service offerings. While the presence of a broad exculpatory tariff provision clearly affords the carriers some protection against customer claims, the absence of such a rule will not, in our view, be the determining factor in the way disputes over schedule changes, market withdrawals, economic cancellations, and other irregularities are resolved. The airline's complaint department or a court will consider things like the cause of the irregularity, the notice given to the passenger of the airline's scheduling practices, and the reasonableness of the claimant's expectations and demands. Potential civil liability should provide the incentive for carriers to make their best efforts, under the particular circumstances, to notify and accommodate passengers affected by schedule changes and irregularities, just as the same considerations encourage unregulated companies to make their best efforts to perform the services they have advertised and sold. Whether those efforts are reasonable and adequate under the circumstances can be decided by both parties and, if necessary, a court. All we are proposing by this tentative action is to remove an absolute technical defense to all legal claims against the carrier, not to establish its liability for such claims.

Accordingly:

1. The Board directs all interested parties to show cause why we should not issue an order making final the tentative findings and conclusions that Rule 380(H) in CAB No. 142 should be cancelled;

2. Any interested party objecting to the issuance of such an order shall, within 45 days after the service of this order, file with the Board a statement of objection which shall set forth in detail any facts, economic or statistical data, and other evidence relied upon in support of the objection. Answers to objections shall be filed with the Board within an additional 14 days;

3. Parties requesting an evidentiary on-the-record hearing in this matter shall set forth in detail the reasons why a hearing is needed, including a statement of the facts they intend to develop in a hearing and the reasons why such facts cannot otherwise be presented;

4. If timely and properly supported objections are filed, we will consider fully the matters or issues they raise before taking further action; and

5. If no objections are filed, all further procedural steps will be deemed to have been waived, and the matter will be submitted to the Board for final action.

This order shall be served on all U.S. certificated air carriers and shall be published in the Federal Register.

By the Civil Aeronautics Board.[3]

Phyllis T. Kaylor,
Secretary.

[Order 79-4-115; Docket 35361]

[FR Doc. 79-12816 Filed 4-25-79; 8:45 am]

BILLING CODE 6320-01-M

[2] *Civil Aeronautics Board v. Frontier Airlines, Inc.*, C.A. No. 78-1216 D.D.C., July 28, 1978).

[3] All Members concurred.

Braniff Airways and Nothwest Airlines; Order

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order (79-4-120)

SUMMARY: The Board is proposing to grant Atlanta-Raleigh/Durham and Atlanta-Greensboro/High Point/Winston-Salem nonstop authority to Northwest Airlines, Braniff Airways, and any other fit, willing, and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than May 24, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than May 9, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 35363, Docket Section, Civil Aeronautics Board, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Charles W. McNagny, B-72, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5342.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: Delta Air Lines, Piedmont Aviation, Braniff Airways, Northwest Airlines, Eastern Air Lines, the City of Atlanta and Atlanta Chamber of Commerce, the Raleigh-Durham Airport, the Research Triangle Foundation of North Carolina, and the Environmental Protection Agency.

The complete text of Order 79-4-120 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-4-120 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: April 19, 1979.

Phyllis T. Kaylor,
Secretary.

[Order 79-4-120]

[FR Doc. 79-12866 Filed 4-25-79; 8:45 am]

BILLING CODE 6320-01-M

Cochise Airlines, Inc., Proposed Temporary Subsidy Mail Rate

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 79-4-133 proposing a temporary subsidy mail rate for Cochise Airlines, Inc., for annual periods beginning December 4, 1978.

SUMMARY: The Board adopted an order directing Cochise Airlines, Inc., to show cause why the following subsidy rate should not be established:

Annual periods effective December 4, 1978; $400,000.

DATES: Parties must file notices of objection within ten days of the date of service and must file objections within 30 days of the date of service.

FOR FURTHER INFORMATION: John R. Hokanson or James Craun, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., 20428, 202-673-5132.

The complete text of Order 79-4-133 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-4-133 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, April 20, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-12867 Filed 4-25-79; 8:45 am]

BILLING CODE 6320-01-M

Salt Lake City Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-4-123, Salt Lake City Show-Cause Proceeding.

SUMMARY: The Board is proposing to grant the applications of all fit, willing and able applicants whose fitness can be established by officially noticeable material to the extent that they request nonstop Salt Lake City-Baltimore, Billings, Burbank, Denver, Houston, Minneapolis/St. Paul, Long Beach, Los Angeles, Ontario, Portland, Sacramento, St. Louis, San Diego, San Francisco, San Jose, Seattle/Tacoma, Spokane and Washington authority. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than May 24, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than May 9, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 35372, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Richard Clusman, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave., Washington, D.C., 20428, (202) 673-5216.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: Braniff Airways, Hughes Airwest, American Airlines, Western Air Lines, Pacific Southwest Airlines, Frontier Airlines, Allegheny Airlines, Northwest Airlines, Continental Air Lines, Trans World Airlines, Ozark Air Lines, Utah Air Travel Commission, The City of Long Beach, and the Public Utilities Commission of the State of California.

The complete text of Order 79-4-123 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-4-123 to the Distribution Section, Civil Aeronautics Board, Washington, D.C., 20428.

By the Civil Aeronautics Board, April 16, 1979.

Phyllis T. Kaylor,
Secretary.

[Order 79-4-123]

[FR Doc. 79-12865 Filed 4-25-79; 8:45 am]

BILLING CODE 6320-01-M

Transpacific Low-Fare Route Investigation; Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Stephen J. Gross to Administrative Law Judge Rudolf Sobernheim.

Dated at Washington, D.C., April 20, 1979.

Nahum Litt,
Chief Administrative Law Judge.

[Docket 23808]

[FR Doc. 79-12864 Filed 4-25-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

North Carolina Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a press conference of the North Carolina Advisory Committee (SAC) of the Commission will convene at 10:30 am and will end at 12 noon, May 10, 1979, at Velvet Cloak, 1515 Hillsborough Street, Queen Elizabeth Room, Raleigh, North Carolina 27605.

Persons wishing to attend this press conference should contact the Committee Chairperson, or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303.

The purpose of this conference is to release migrant report.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., April 23, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-13085 Filed 4-25-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Office of Eligibility and Industry Studies; Petitions by Eleven Producing Firms for Determinations of Eligibility to Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from 11 firms: (1) Auerbach & Company, 1200 South Grand Avenue, Los Angeles, California 90015, a producer of men's slacks and jackets (accepted April 12, 1979); (2) The Torsion Balance Company, 125 Ellsworth Street, Clifton, New Jersey 07012, a producer of balances and laboratory equipment, and credit card readers (accepted April 12, 1979); (3) Snappy Garments Manufacturing, Inc., 1-3 Central Avenue, East Newark, New Jersey 07029, a producer of women's coats [accepted April 16, 1979); (4) Tram/Diamond Corporation, Lower Bay Road, P.O. Box 187, Winnisquam, New Hamphire 03289, a producer of citizens band radios

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(accepted April 16, 1979); (5) Spectronics, Inc., 1491 East 28th Street, Signal Hill, California 90806, a producer of digital displays and frequency counters for amateur radios (accepted April 17, 1979); (6) AroTex Mills, Inc., Unity and Leiper Streets, Philadelphia, Pennsylvania 19124, a producer of yarn (accepted April 17, 1979); (7) United Plastics, Inc., 109 North Duncan Road, P.O. Box 3353, Champaign, Illinois 61820, a producer of plastic aprons, boots, gloves and table covers (accepted April 18, 1979); (8) Custom Casuals, Inc., 205 West 39th Street, New York, New York 10018, a producer of women's dresses, suits, blouses, jackets and coats (accepted April 18, 1979); (9) Draco Laboratories, Inc., 1005 Washington Street, Grafton, Wisconsin 53024, a producer of automotive alarms and power amplifiers, and FM tuners (accepted April 19, 1979); (10) Screen Print Corporation, Industrial Park, Coventry, Rhode Island 02816, a producer of printed textiles (accepted April 19, 1979); and (11) Condor Footwear, Inc., 50 Grand Avenue, Englewood, New Jersey 07631, a producer of footwear (accepted April 19, 1979). The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to decrease in sales of production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

Jack W. Osburn, Jr.,
Chief, Trade Act Certification Divison, Office of Eligibility and Industry Studies.

[FR Doc. 79-12913 Filed 4-25-79; 8:45 am]

BILLING CODE 3510-24-M

Foreign-Trade Zones Board

Foreign-Trade Zone No. 23, Buffalo, New York; Application for Expansion

Notice is hereby given that the County of Erie, New York, grantee of Foreign-Trade Zone No. 23, has applied to the Foreign-Trade Zones Board (the Board) for authority to expand its zone to include an additional zone site (Site No. 2) in the Town of Amherst, Erie County, some ten miles from the existing zone. This expansion application was formally filed on April 23, 1979.

The existing zone site, located at the Niagara Frontier Transportation Authority's Buffalo Marine Terminal on Lake Erie, was authorized by the Board on March 31, 1976 (Board Order No. 110), and became operational on May 28, 1976. During fiscal 1978 the zone was used by 26 firms which received $5.8 million in merchandise. Seventy percent of the goods shipped from the zone, valued at $4.4 million, were for export.

The application seeks zone status for a 33-acre parcel within the 273-acre Wehrle Drive Industrial Park, located in the Town of Amherst immediately adjacent to the New York State I–90 Thruway and the Greater Buffalo International Airport. The industrial park developer is the Amherst Industrial Development Agency, a public agency, which will contract the zone operation to Buffalo Foreign-Trade Zone Operators Inc., operator of the existing site. A 40,000 square foot multi-tenant warehouse structure is planned as the zone's initial facility.

Erie County is requesting the additional site in order to provide zone facilities for light industrial users and distributors. The proposed facility is expected to be used at the outset for storage, testing, manipulation, exhibition and distribution activities involving such products as heavy machinery, electronic items, leather goods, jewelry, bicycles, and sporting equipment.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230; Donald F. Kelly, Assistant Regional Commissioner (Operations), U.S. Customs Service, Region I, 100 Summer Street, Suite 1819, Boston, Massachusetts 02110; and Colonel Daniel D. Ludwig, District Engineer, U.S. Army Engineer District Buffalo, 1776 Niagara Street, Buffalo, New York 14207.

Comments concerning the proposed zone expansion are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and be postmarked on or before May 25, 1979.

A copy of Erie County's application is available for public inspection at each of the following locations:

Office of the District Director, U.S. Customs Service, 111 West Huron Street, Buffalo, New York 14202.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886–B, 14th and E Street, NW, Washington, D.C. 20230.

Dated: April 23, 1979.

John J. Da Ponte, Jr.,
Executive Secretary, Foreign-Trade Zones Board.

[Docket No. 3–79]

[FR Doc. 79-12916 Filed 4-25-79; 8:45 am]

BILLING CODE 3510-25-M

National Telecommunications and Information Administration

Public Telecommunications Facilities Program; Applications

Applications are invited under the Public Telecommunications Facilities Program.

Authority for this program is contained in the Public Telecommunications Financing Act of 1978 (Pub. Law 95–567, 92 Stat. 2405).

The purpose of this program is stated in 47 U.S.C. 390: "* * * to assist, through matching grants, in the planning and construction of public telecommunications facilities in order to achieve the following objectives: (1) Extend delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies; (2) increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and (3) strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public."

Proposed rules and polices to govern administration of the program were published on March 9, 1979, 44 FR 13262. Public comments on the proposal were requested by April 12, 1979. In order to make it possible to make grant awards in fiscal year 1979, NTIA is proceeding with this solication of applications at the same time that it is preparing the final version of the rules. While the final rules will not be available in time to be included in the application form, final rules will be available prior to the closing date for submission of applications. Applications should be guided by the proposed rules in the preparation of their applications.

Closing date for transmittal of applications: Applications for awards must be mailed or be hand delivered by June 4, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the Public Telecommunications Facilities Program, NTIA/DOC, 1325 G Street, NW., Room 298, Washington, D.C. 20005. The National Telecommunications and Information Administration prefers a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of the mailing stamped by the U.S. Postal Service as proof of mailing.

Note. The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand: An application that is hand delivered must be taken to 1325 G Street, NW., Room 298, Washington, D.C. Hand delivered applications will be accepted between 8 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

Application forms: Application forms, which include copies of the authorizing legislation and of the proposed rules for the program, may be obtained by writing to John Cameron, Public Telecommunications Facilities Program, NTIA/DOC 1325 G Street, NW., Washington, D.C. 20005, or by calling 202/724–3307.

Further information: For further information contact John Cameron at 202/724–3307.

Catalog Number: Catalog of Federal Domestic Assistance Number 11–550.

Lloyd C. Dodson,
Director of Administration.

April 23, 1979.

[FR Doc. 79-12983 Filed 4-25-79; 8:45 am]

BILLING CODE 3510-60-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council's Sharks Advisory Subpanel, Billfishes Advisory Subpanel, and Scientific and Statistical Committee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) and the Council has established a Sharks Advisory Subpanel (AP); a Billfishes Advisory Subpanel (AP); and a Scientific and Statistical Committee (SSC) which will meet separately to review draft fishery management plans (FMP's).

DATES: The Billfishes AP will meet on Monday, May 14, 1979, 8 a.m. to 4 p.m.; the Sharks AP will meet on Tuesday, May 15, 1979, 8:30 a.m. to 4 p.m.; the SSC will meet on Wednesday, May 16, 1979, 10 a.m. to 5 p.m. and on Thursday, May 17, 1979, 8 a.m. to 12 noon to review the Shark FMP; the SSC will meet on Thursday, May 17, 1979, 1 p.m. to 5 p.m. and Friday, May 18, 1979, 8 a.m. to 12 noon to review the Billfish FMP. The meetings are open to the public.

ADDRESS: The Billfishes AP will meet in the Tampa Room of the Barclay Best Western Hotel, 5303 West Kennedy Boulevard, Tampa, Florida; the Sharks AP will meet in the Chateau Room B of the Landmark Motor Hotel, 2601 Severn Avenue, Metairie, Louisiana; and the SSC will meet in the Hacienda Room A of the Landmark Motor Hotel.

FOR FURTHER INFORMATION CONTACT: Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: April 20, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-12841 Filed 4-25-79; 8:45 am]

BILLING CODE 3510-22-M

Outer Continental Shelf Diver Research Program; Availability of Draft Plan

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of availability of the draft plan for the Outer Continental Shelf Diver Research Program. Notice of a public forum to receive comments and review the above plan.

SUMMARY: In response to the recently passed Outer Continental Shelf (OCS) Lands Act Amendments of 1978 Section 21(e), a preliminary draft of a diver research program plan has been developed by NOAA with the assistance of other federal agencies. To ensure that this program is responsive to the needs of the OCS diving industry, comments from the private sector are being sought.

DATE: The public forum will be held on May 29, 1979 at the Key Biscayne Hotel and Villas, Key Biscayne, Florida. The meeting will take place in the Santa Marta Room from 9:00 a.m. to 4:00 p.m.

ADDRESSES: Copies of the draft Diver Research Program Plan and further information about the public forum, can be obtained by contacting Dr. James W. Miller, Deputy Director, Manned Undersea Science and Technology, Office of Ocean Engineering, NOAA, 6010 Executive Boulevard, Rockville, MD 20852, Phone (301) 443–8391.

SUPPLEMENTARY INFORMATION: It is considered essential that representatives from the national diving community participate in the development of this program. Interested parties are encouraged to obtain copies of the draft plan and to attend the public forum on May 29.

James W. Miller,
Deputy Director, Manned Undersea Science and Technology.

[FR Doc. 79-12840 Filed 4-25-79; 8:45 am]

BILLING CODE 3510-12-M

Office of the Secretary

Bureau of the Census; Organization Order

Subject: This order effective March 26, 1979 amends the material appearing at 43 FR 12356 of March 24, 1978.

Department Organization Order 35–2B, dated February 14, 1978, is hereby amended as shown below. The purpose of this amendment is to (1) establish the 1980 Census Promotional Office (Subparagraph 3.03d.), (2) change the name of the Demographic Analysis Staff to the Center for Demographic Studies (subparagraph 5.01e.), and (3) establish the Center for Human Factors Research (subparagraph 7.d.).

1. *Section 3. Office of the Director.* A new subparagraph .03d. is added, to read as follows:

"d. The *1980 Census Promotional Office* shall plan, develop, coordinate, and administer a comprehensive national informational and educational program to encourage and foster support of the 1980 Decennial Census of Population and Housing by the public.

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private interests and government entitites; prepare and disseminate informational and instructional materials for use by public information and communications media; plan and carry out programs to obtain the support of national and local organizations and associations, especially those representing selected minorities and women; and coordinate a program of promotional support to draw the public's attention to the importance of the census."

2. *Section 5. Office of the Associate Director for Demographic Fields.* Subparagraph .01e. is revised to read as follows:

"e. The *Center for Demographic Studies* shall plan and develop analyses of and publish social and socioeconomic data; prepare articles, position papers, and detailed analytic reports related to current policy issues; develop measures of social well-being and publish social indicator reports; develop and publish a quarterly journal on social, socioeconomic, and demographic trends; conduct research on possible data gaps and develop recommendations to fill these needs; and conduct research on new analytic techniques."

3. *Section 7. Office of the Associate Director for Statistical Standards and Methodology.* A new subparagraph d. is added, to read as follows:

"d. The *Center for Human Factors Research* shall provide the Bureau with a research and consulting facility oriented specifically to human factors which affect respondent cooperation, the quality of data obtained, and the efficiency of Bureau data collection activities."

4. The organization chart attached to this amendment supersedes the organization chart dated February 14, 1978. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Elsa A. Porter,
Assistant Secretary for Administration.

[Transmittal 448; Order No. 35–2B, Amdt. 1]
[FR Doc. 79–12911 Filed 4–25–79; 8:45 am]
BILLING CODE 3510–17–M

Economic Advisory Board; Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that the meeting of the Department of Commerce Economic Advisory Board will be held on Wednesday, May 23, 1979, from 9:30 a.m. to 4:00 p.m. in Room 4830 Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C.

The Board was established by the Secretary of Commerce on January 13, 1967. The purpose of the Board is to advise the Secretary of Commerce on economic policy issues. The intended agenda for this meeting is as follows:

A review of the economic outlook by major sector.

A discussion of the outlook for prices and employment and of strategies for sustaining economic growth and dealing with inflation.

A limited number of seats will be available to the public on a first-come, first-served basis. Public participation will be limited to request for clarification of items under discussion. Additional statements or inquiries may be submitted to the chair before or after the meeting. Copies of the minutes will be available on request 30 days after the meeting.

Additional information concerning this meeting may be obtained by contacting Ms. Virginia R. Marketti, Office of the Chief Economist for the Department of Commerce, Room 4848, Department of Commerce, Washington, D.C. 20230 (202) 377–3523.

Dated: April 23, 1979.

Courtenay M. Slater,
Chief Economist for the Department of Commerce.
[FR Doc. 79–12917 Filed 4–25–79; 8:45 am]
BILLING CODE 3510–17–M

Industry and Trade Administration; Organization Order

Subject: This order effective April 8, 1979 further amends the material appearing at 42 FR 64724 of December 28, 1977, 43 FR 35522 of August 10, 1978, and 43 FR 38614 of August 29, 1978.

Department Organization Order 40–1, dated December 4, 1977, is hereby further amended as shown below. The purpose of this amendment is to change the organization and realign the functions of the Bureau of Export Development (Section 5.), and remove consumer affairs functions which have been transferred to the Office of the Deputy Under Secretary (paragraph 9.02).

1. *Section 5. Bureau of Export Development.* Section 5. is revised to read as follows:

"Section 5. Bureau of Export Development.—"The Deputy Assistant Secretary for Export Development shall direct the Bureau and shall be assisted by a Deputy Director who shall perform the functions of the DAs in the latter's absence. The DAS shall serve as the National Export Expansion Coordinator and shall assist and advise the Assistant Secretary for Industry and Trade in creating an export awareness among U.S. industries, providing counseling, marketing information services and promotional assistance to U.S. business firms and organizing and conducting overseas sales events, trade missions and trade promotions in specific foreign countries, excluding those countries which are the responsibility of the Bureau of East-West Trade. The Office of the DAS shall develop the Worldwide Information and Trade System. The functions of the DAS shall be carried out through the principal organizational elements prescribed below:

".01 The *Office of Export Marketing Assistance* shall develop programs designed to foster an export consciousness in the United States; identify and attract to exporting U.S. companies that do not export and assist U.S. companies to export to their full potential; inform U.S. companies of export methods, benefits and opportunities; develop and carry out programs to attract small and minority businesses to exporting; assess industry's needs for promotional assistance and marketing information through contacts with trade associations, experienced exporters, government entities and individual U.S. companies; maintain information about the United States and foreign trading communities; serve the needs of U.S. exporters by identifying and assisting them to select and establish relationships with specific foreign sales representatives, distributors, licensees, and direct purchase customers; assist U.S. companies to compete for major infrastructure and industrial systems contracts; attract foreign buyers to U.S. trade shows and assist foreign buyers to meet with appropriate U.S. producers; and facilitate foreign direct capital investments and licensing by foreign firms in the U.S.

".02 The *The Office of Export Promotion* shall implement the Bureau's overseas trade promotion programs; be responsible for recruitment of participants in all oversees trade events; provide logistical, design, and operations support for all overseas trade promotion events; conduct market promotion activities at U.S. trade fairs and marketing centers; and develop and carry out special trade promotion techniques such as trade and seminar missions and other selective marketing techniques.

".03 The *Office of Country Marketing* shall develop and monitor the Country Commercial Programs which govern the U.S. Government's marketing strategies with its major trading partners; develop and maintain information on countries and developments and other commercial information on countries and regional economic groupings of the free world; counsel and assist the U.S. business community with commercial and marketing information on these countries and regions; and develop program recommendations for the overseas trade promotions activities of the Bureau.

".04 The *Office of Export Planning and Evaluation* shall develop short and long term goals, objectives, and strategies for the Bureau's export development activities; acquire or produce market research for U.S. products abroad for use by the U.S. business community and for use in the Bureau's domestic and oveseas export development activities; and measure and evaluate the performance and effectiveness of all Bureau programs."

2. *Section 9. Bureau of Domestic Business Development.* Paragraph .02 is revised read as follows:

".02 The *Office of Ombudsman* shall serve as a focal point for business assistance, consultation, and advice; receive and respond to inquiries from business and industry, the Congress, other agencies of the Government, trade and professional associations, the academic community, State and local Governments, and the public; and identify and take action to clarify business and public concerns involving Government policies and programs. In carrying out its functions, the Office shall not represent, intervene on behalf of, or otherwise seek to assista business and individuals on specific matters, cases, or issues before Federal regulatory agencies or before Federal departments exercising a regulatory function with respect thereto; nor shall it participate in, intervene in regard to, or in any way seek to influence the negotiation or renegotiation of the terms of contracts between business and the Government."

3. The attached organization chart, Exhibit 1, supersedes the organization chart dated August 9, 1978. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

4. The attached list of ITA District Offices supersedes Exhibit 2 dated December 4, 1977. A copy of the ITA District Offices list is on file with the original of this document in the Office of the Federal Register.

Elsa A. Porter,
Assistant Secretary for Administration.

[Transmittal 445; Order No. 40–1, Amdt. 3]
[FR Doc. 79–12912 Filed 4–25–79; 8:45 am]
BILLING CODE 1610–01–M

Maritime Administration; Organization Order

Subject: This order effective March 29, 1979 supersedes the materials appearing at 42 FR 5743 of January 31, 1977, 42 FR 38420 of July 28, 1977 and 43 FR 32445 of July 27, 1978.

Section 1. Purpose.—.01 This Order prescribes the organization and assignment of functions within the Maritime Administration. The delegations of authority to the Assistant Secretary for Maritime Affairs and the Maritime Subsidy Board are set forth in Department Organization Order 10–8.

.02 This revision reflects the abolishment of the Office of Civil Rights (as a result of transfer of its contract compliance functions to the Department of Labor); changes the title of Assistant Administrator for Operations to Assistant Administrator for Shipbuilding and Ship Operations, and the name of the Office of Domestic Shipping to Office of Ship Operations (Section 11.); incorporates the provisions of previous amendments (Sections 9. and 12.); and, in general, updates the language of the Order.

Section 2. Organization Structure.—The organization structure and line of authority of the Maritime Administration shall be as depicted in the attached organization chart (Exhibit 1). A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Section 3. Office of the Assistant Secretary for Maritime Affairs.—.01 The *Assistant Secretary for Maritime Affairs* (the "Assistant Secretary"), who is ex-officio Maritime Administrator, is the head of the Maritime Administration and serves as Chairman of the Maritime Subsidy Board.

.02 The *Deputy Assistant Secretary for Maritime Affairs* shall be the principal assistant to the Assistant Secretary and perform such duties as the Assistant Secretary shall prescribe, together with the duties which are to be performed as a member of the Maritime Subsidy Board. In addition, the Deputy Assistant Secretary shall be the Acting Assistant Secretary during the absence or disability of the Assistant Secretary and, unless the Secretary of Commerce designates another person, during a vacancy in the office of the Assistant Secretary.

.03 The *Executive Staffs* shall consist of the Secretary of the Maritime Administration who also serves as Secretary of the Maritime Subsidy Board, the administrative law judges, and officials concerned with other special services for the Assistant Secretary and the Maritime Subsidy Board.

Section 4. Maritime Subsidy Board.—The Maritime Subsidy Board shall be responsible for and perform the following functions:

a. The functions with respect to making, amending, and terminating subsidy contracts, which shall be deemed to include, in the case of construction-differential subsidy, (1) the contract for the construction, reconstruction or reconditioning of a vessel, and (2) the contract for the sale of the vessel to the subsidy applicant or the contract to pay a construction-differential subsidy and the cost of the national defense features, and, in the case of operating-differential subsidy, the contract with the subsidy applicant for the payment of the subsidy;

b. The functions with respect to: (1) conducting hearings and making determinations antecedent to making, amending, and terminating subsidy contracts, under the provisions of Titles V, VI, and VIII, and Sections 301 (except investigations, hearings and determinations, including changes in determinations, with respect to minimum manning scales, minimum wage scales and minimum working conditions), 708, 805(a) and 805(f) of the Merchant Marine Act, 1936, as amended (the "Act"), (2) making readjustments in determinations as to operating cost differentials under Section 606 of the Act, and (3) the approval of the sale, assignment, or transfer of any operating subsidy contract under Section 608 of the Act;

c. The functions with respect to investigating and determining: (1) the relative cost of construction of comparable vessels in the United States and foreign countries, (2) the relative cost of operating vessels under the registry of the United States and under foreign registry, and (3) the extent and character of aids and subsidies granted by foreign governments to their merchant marines, under the provisions of subsections (c), (d), and (e) of Section 211 of the Act;

d. So much of the functions specified in Section 12 of the Shipping Act, 1916, as amended, as the same relate to the functions of the Board under

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subparagraphs a. through c. of this paragraph; and

e. So much of the functions with respect to adopting rules and regulations, subpoenaing witnesses, administering oaths, taking evidence, and requiring the production of books, papers, and documents, under Sections 204 and 214 of the Act, as relate to the functions of the Board.

Section 5. Office of the General Counsel.—The *Office of the General Counsel* shall, subject to the overall authority of the Department's General Counsel as provided in Department Organization Order 10–6, serve as the law office of the Maritime Administration (hereinafter, the "Administration"); review and give legal clearance to applications for subsidy and other Government aids to shipping, sales, mortgages, charters, and transfers of ships; prepare and approve as to form and legality, contracts, agreements, performance bonds, deeds, leases, regulations, and related documents; render legal opinions as to the interpretation of such documents and the statutes; coordinate preparation and issuance of regulations for guidance of the public and outside organizations; prepare drafts of proposed legislation, executive orders, and legislative reports to Congressional committees and the Office of Management and Budget; provide advice to Administration officials on matters concerning the Privacy and Freedom of Information Acts; negotiate and settle, or recommend settlements of, admiralty claims, just compensation claims, tort claims, and claims referred to the Office for litigation; assist the Department of Justice in the trial, appeal and settlement of litigation; represent the Administration in public proceedings involving all shipping matters before administrative agencies of the Government; and represent the Administration before State and Federal courts with the permission of the Department of Justice.

Section 6. Office of Public Affairs.—The *Office of Public Affairs* shall develop and coordinate a public information and publications program as needed to further the objectives of the Administration's programs; issue or clear for issuance all information for the general public on shipping and on decisions and activities of the Administration; and prepare periodic and special reports, as assigned. These activities shall be carried out in coordination with the Departmental Office of Public Affairs.

Section 7. Office of International Activities.—The *Office of International Activities* shall plan, conduct and coordinate the Administration's participation in intergovernmental and international organizations concerned with shipping matters; keep abreast of developments in the United States and foreign countries with a foreign relations impact that may affect the U.S. merchant marine; take and/or coordinate action to establish and present the Administration's position in these matters. Within this Office are personnel responsible for representing the Administration in international activities, as assigned, for development of maritime foreign cost data, and other technical maritime activities in foreign countries.

Section 8. Office of Maritime Labor and Training.—The *Office of Maritime Labor and Training* shall analyze and advise the Administration regarding labor management relations and problems as they apply to seafaring, longshore and shipyard workers, including labor trends, potential areas of dispute, and the effects of technological changes and proposed legislation on labor; develop plans in cooperation with the Department of Labor to provide a reserve maritime work force for mobilization and other emergencies; obtain, analyze, and publish data for use of industry, labor, Government and the public concerning maritime employment, wages, hours, working conditions, crewing, and work force requirements; process nominations for appointment of Mishipmen to the U.S. Merchant Marine Academy; administer a grant-in-aid program for the State maritime academies; determine need for and coordinate training programs for licensed and unlicensed personnel in maritime industries; coordinate technical maritime training assistance to foreign countries under international cooperative programs; and issue merchant marine decorations and awards.

Section 9. Assistant Administrator for Policy and Administration.—The Assistant Administrator for Policy and Administration shall be the principal assistant and adviser to the Assistant Secretary on administrative services and procurement, budget and program evaluation, financial analysis and accounting, data processing and management information systems, management and organization, personnel, and policy and planning activities. Within the immediate office of the Assistant Administrator are personnel responsible for ADP planning and evaluation activities, and for planning and administering the equal employment opportunity program of the Administration. The Assistant Administrator shall direct the activites of the following organizational units:

.01 The *Office of Administrative Services and Procurement* shall plan and establish national policies and programs for the conduct of facilities and supply management and office services activities, including material control and disposal of real and personal property, other than ships; provide procurement services, within delegated authority; administer the security program; settle loss or damage claims arising from shipments on Government bills of lading; secure allocations of the production capacity of private plants for the manufacture of components and materials required in the event of mobilization; administer programs for the management of mail, files, records equipment, vital records, and records disposition; and, for headquarters of the Administration, provide or obtain travel and office services, including space, communications, correspondence control, and administrative property management services.

.02 The *Office of Budget and Program Evaluation* shall develop the Administration's program structure and objectives for budget formulation and program reporting; conduct studies to evaluate the effectiveness of programs in accomplishing established objectives; prepare analyses of special program issues; collect and disseminate summarized program and management information; formulate, recommend, and interpret budgetary policies and procedures; develop and present budget requests and justifications; allocate and maintain budgetary control of funds available; analyze fiscal and program plans and reprogramming proposals for conformance with established policies; and maintain a continuous review of the status of funds and program performance in relation to fiscal plans.

.03 The *Office of Financial Management* shall render financial advice and opinions with respect to the substantive programs and contractual activities of the Administration; prescribe a uniform system of accounts for subsidized operators, agents, charterers, and other contractors; administer a program of audits of contractors' accounts (except those of Research and Development contracts) to determine compliance with applicable laws, regulations and contract provisions concerning subsidizable expenses under operational-differential subsidy contracts, qualified deposits and withdrawals under capital construction fund agreements, vessel

expenses under general agency agreements, and construction costs under construction-differential subsidy contracts; analyze financial statements and other data submitted by contractors to determine financial qualifications and limitations; make special financial surveys and analyses of contractors or of their operations, when necessary; develop a data base and a financial analysis system to determine the financial conditions of the American merchant marine, or segments thereof; perform accounting, payrolling and related functions, including preparation of financial statements and reports, auditing and certification of vouchers for payment, and collection of amounts due the Administration; and develop and maintain a financial information reporting system to assist officials in managing their programs and resources.

.04 The *Office of Management Information Systems* shall plan, design, develop, program, document and maintain the Administration's computer based information systems; conduct and review feasibility studies to determine costs and benefits of acquiring ADP equipment and systems; provide systems analysis, programming, and system software support to all components of the Administration; and manage and operate the electronic data processing facility, including auxiliary equipment.

.05 The *Office of Management and Organization* shall conduct staffing surveys to determine personnel requirements for all components of the Administration; conduct surveys and studies to improve management practices, organization structures, delegations of authorities, procedures, and work methods; coordinate management improvement activities; maintain a system for the issuance of the manual of orders and other directives; administer programs for the management of reports, forms, correspondence, and committee activities; and prepare special progress and administrative reports to the Office of the Secretary and others, as required.

.06 The *Office of Personnel* shall plan and administer personnel programs and activities relating to recuitment, placement, promotion, separation, employee performance evaluation, training and career development, employee recognition and incentive awards, employee relations and services, employee-management relations, position classification, pay management, and various employee benefit programs.

.07 The *Office of Policy and Plans* shall develop and recommend long-range marine affairs policies and plans, including new program initiatives and modifications of policies and plans for the revitalization of the United States merchant marine; conduct economic studies and operations analysis activities in support of the policy and planning functions; identify major issues and problems affecting shipping, and conduct or direct and coordinate studies and analyses to provide solutions thereto; generate methodologies for the conduct of economic and operational analyses, and provide analytic services to other offices of the Administration; direct and coordinate the development and maintenance of plans for carrying out the Administration's responsibilities and functions in the event of mobilization for war or other national emergency; provide representation and participate in the formulation of international and national plans for emergency and mobilization activities; and coordinate disaster assistance plans and programs, energy conservation and related activities of the Administration.

Section 10. Assistant Administrator for Commercial Development.—The Assistant Administrator for Commercial Development shall be the principal assistant and adviser to the Assistant Secretary on research and development, market development, port and intermodal transportation development, and related promotion activities. Within the immediate office of the Assistant Administrator are personnel responsible for overall program development and control in the above areas, and for planning, directing and coordinating the activities of the National Maritime Research Center located at Kings Point, N.Y. The Assistant Administrator shall direct the activities of the following organizational units:

.01 The *Office of Maritime Technology* shall develop, coordinate and manage programs to establish a scientific and technological base for achieving a more productive and competitive United States merchant marine; initiate, solicit, develop and recommend specific projects, such as research in advanced ship analysis, marine science, energy and environmental control subjects which have a bearing on improvements in the merchant marine, and institutional and university research in these subjects appropriate to maritime affairs; develop technical scopes of work for contracts; and administer technical aspects of contracts in above areas.

.02 The *Office of Advanced Ship Development* shall develop, organize, coordinate and manage programs for the application of scientific and technology developments to improve ship systems, shipbuilding, ship machinery, equipment, and other components, with the objective of increasing the efficiency, productivity, and effectiveness of the United States merchant marine; initiate, solicit, develop, and recommend specific projects; develop technical scopes of work for contracts; and administer technical aspects of contracts in these areas.

.03 The *Office of Advanced Ship Operations* shall develop, organize, coordinate and manage programs for the application of scientific, technological, and other developments to upgrade the operational efficiency and competitive position of the United States merchant marine; initiate, solicit, develop, and recommend specific projects in these areas, including navigation and communications, port and terminal operations, cargo handling, marine personnel requirements, automation, ship handling and other operational aspects of the ship; develop technical scopes of work for contracts; and administer technical aspects of contracts in above areas.

.04 The *Office of Market Development* shall formulate national policies and programs, and conduct programs for the promotion and development of increased trade for U.S.-flag ships in the foreign commerce of the United States; develop and maintain cooperative efforts with Government agencies, and with shippers, forwarders, bankers, insurance and other groups to promote cargo and trade expansion for U.S.-flag ships; calculate and recommend guideline rates, terms and conditions for transportation of Government-financed cargoes; and regulate, review and report on the administration of cargo preference activities under Public Law 664, 83rd Congress, Public Resolution 17, 73rd Congress, and other statutes, in accordance with Section 901 of the Act.

.05 The *Office of Port and Intermodal Development* shall formulate national policies and programs, and conduct programs for the development and promotion of intermodal transportation systems; conduct studies and formulate plans for the promotion, development and utilization of ports and port facilities; provide technical advice to other Government agencies, private industry and State and municipal governments in the above fields; coordinate and provide leadership to the Department's overall effort to reduce, simplify and otherwise facilities the use of documents required for trade, travel, and transport purposes; and conduct

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emergency planning for the utilization and control of ports and port facilities under national mobilization conditions.

Section 11. Assistant Administrator for Shipbuilding and Ship Operations.—The Assistant Administrator for Shipbuilding and Ship Operations shall be the principal assistant and adviser to the Assistant Secretary on ship construction, shipbuilding costs, ship operations, and domestic shipping activities, and shall direct the activities of the following organizational units:

.01 The *Office of Ship Construction* shall conduct studies in naval architecture, marine engineering, electrical engineering, and engineering economics; develop preliminary designs establishing the basic characteristics of proposed ships; review and approve ship designs submitted by applicants for Government aid; recommend and, upon request, conduct research and development projects in ship design and construction; develop or approve contract plans and specifications for the construction of ships; review, obtain approval and certification of national defense features by the Department of the Navy; inspect ships during course of construction to determine progress and assure conformance with approved plans and specifications; approve or recommend approval of changes in contract plans and specifications; provide naval architectural and engineering services in connection with construction of special purpose ships for other Government agencies; maintain current records of facilities, capacities, workload and employment in commercial shipyards in the United States; develop requirements for mobilization ship construction programs; and plan and conduct programs for the development of minority business enterprises through contractors and subcontractors of the Administration and for assuring compliance by recipients of Federal financial assistance with the provisions of Title VI of the Civil Rights Act of 1964 and related regulations.

.02 The *Office of Shipbuilding Costs* shall collect, analyze, and maintain data on the relative costs of shipbuilding in the United States and foreign countries; calculate and recommend the amount of construction-differential subsidy; prepare cost estimates, invitations to bid, and recommendations for the award of ship construction type contracts; authorize progress payments; prepare cost estimates of changes in contract plans and specifications, adjudicate change orders, and recommend approval of cost settlements and contract addenda; secure, analyze and maintain data on domestic and world market values of ships; direct and coordinate a pollution abatement program to protect and enhance the quality of the marine environment by control and abatement of ship-generated pollution; and coordinate implementation of the provisions of the National Environmental Policy Act of 1969 within the Administration.

.03 The *Office of Ship Operations* shall formulate national policies and programs for the operation, maintenance and repair of Administration-owned or acquired merchant ships, conduct of ship conditions surveys, maintenance of the national defense reserve fleet, including the ship preservation programs, and related ship operations activities; recommend terms of and administer general agency, charter, and related agreements for operation of ships; award or recommend approval of the award of ship repair contracts; administer the ship sales program; provide safety engineering services; approve or recommend approval of transfers of ships to foreign ownership, registry or flag; develop plans for the acquisition, allocation, and operation of merchant ships in time of national emergency and administer these activities, as required; formulate and implement national policies and programs for the development and promotion of the domestic waterborne commerce of the United States; and collect, maintain, analyze and disseminate data on cargo and commodity movements in the domestic waterborne commerce of the United States.

Sec. 12. Assistant Administrator for Maritime Aids.—The Assistant Administrator for Maritime Aids shall be the principal assistant and adviser to the Assistant Secretary on subsidy administration, Title XI ship financing guarantees, capital construction funds, marine insurance activities, and related Government aids programs. The Assistant Administrator for Maritime Aids shall direct the activities of the following organizational units:

.01 The *Office of Subsidy Contracts* shall receive and process applications for construction-differential subsidy, operating-differential subsidy, construction reserve and capital construction fund agreements, and other forms of Government aid to shipping pursuant to Titles V, VI and VII of the Act; conduct negotiations with applicants, obtain comments of other offices, and recommend approval or disapproval of these applications; and take other actions within delegated authority, or recommend approval or disapproval thereof, as required, in relation to the administration of the contracts and agreements entered into by the Administration in the above areas.

.02 The *Office of Ship Financing Guarantees* shall receive and process applications for Federal ship financing guarantees to aid in the financing of ship construction, reconstruction, and reconditioning of vessels pursuant to Title XI of the Act; conduct negotiations with applicants, obtain comments of other offices, and recommend approval or disapproval of these applications; approve and take other actions within delegated authority, or recommend approval or disapproval thereof, as required, in relation to the administration of Title XI contracts and related agreements entered into by the Administration.

.03 The *Office of Ship Operating Costs* shall collect, analyze, and maintain data on the relative costs of operating ships under United States and foreign flags; calculate and recommend approval of operating-differential subsidy rates by the Maritime Subsidy Board; review applications for construction-differential subsidy and operating-differential subsidy with respect to proposed crewing scales and estimated subsidizable operating costs; review and prepare administrative determinations and recommendations on the eligibility of costs for subsidy rate-making and accrual purposes; and develop related vessel operating cost statements and reports, as required.

.04 The *Office of Trade Studies and Statistics* shall analyze and recommend the trade route structure and service requirements of the foreign oceanborne commerce of the United States, pursuant to Section 211 of the Act; analyze and recommend the substantiality and extent of foreign-flag competition on essential trade routes; review and approve or disapprove voyages of subsidized U.S.-flag operators; evaluate and prepare recommendations on requests of subsidized operators for changes in service descriptions, sailings, and related requirements; prepare reports on traffic and related aspects of applications for construction and operating-differential subsidies and ship financing guarantees; and to collect, maintain, analyze, and disseminate statistical data on cargo and commodity movements in the foreign oceanborne commerce of the United States, on composition and characteristics of world's merchant fleets, and on employment and utilization of U.S.-flag ships.

.05 The *Office of Marine Insurance* shall develop, coordinate, control, and administer the marine insurance and the marine war risk insurance activities and programs of the Administration; maintain contact with the commercial insurance markets, analyze events and trends, and take action to meet changing conditions and foster cooperation between the Federal Government and American marine insurance underwriters in helping to strengthen the domestic marine insurance market; gather, analyze, and disseminate information on marine insurance useful to ship operators and the marine insurance industry; and settle or recommend settlement of claims of a marine insurance and marine war risk insurance nature.

Section 13. Field Organization.—.01a. There shall be four field organizations called Regions, each headed by a Region Director, as specified below:

Region and Headquarters Location
Eastern Region, New York, New York.
Great Lakes Region, Cleveland, Ohio.
Central Region, New Orleans, Louisiana.
Western Region, San Francisco, California.

b. The Regions shall have geographic areas of responsibility as shown in Exhibit 2. A copy of geographic areas is on file with the original of this document in the Office of the Federal Register.

c.1. The *Region Directors* shall be responsible for all field operations and programs of the Administration within their respective Regions, except ship construction and the United States Merchant Marine Academy, subject to national policies, determinations, procedures and directives of the appropriate headquarters office in Washington, D.C. The programs and activities under their jurisdiction shall include marine inspections; training for marine personnel in radar, loran, etc.; market development; port and intermodal transportation development; development of minority business enterprises through contractors and subcontractors of the Administration; compliance activities under Title VI of the Civil Rights Act of 1964; external auditing; financial analysis of the shipping industry; and administrative support activities.

2. In addition, the Eastern, Central, and Western Region Directors shall be responsible for the custody and preservation of ships in the national defense reserve fleets; activities relating to the award and/or administration of contracts for operation, repair and maintenance of ships; facilities management; accounting; and procurement and disposal of property and supplies.

3. The Great Lakes Region Director shall conduct programs and activities to promote the development of Great Lakes shipping.

.02 The *United States Merchant Marine Academy*, Kings Point, New York, shall develop and maintain programs for the training of United States citizens to become officers in the United States merchant marine.

Elsa A. Porter,
Assistant Secretary for Administration.

[Transmittal 449; Order No. 25–2]
[FR Doc. 79–12909 Filed 4–25–79; 8:45 am]
BILLING CODE 3510–17–M

National Oceanic and Atmospheric Administration; Organization Order

Subject: This order effective March 23, 1979 further amends the materials appearing at 43 FR 51438 of November 3, 1978, 44 FR 3303 of January 16, 1979, and 44 FR 15522 of March 14, 1979.

Department Organization Order 25–5B, dated October 16, 1978, is hereby further amended as shown below. The purpose of this amendment is to abolish the Office of Congressional Liaison, establish the Office of Congressional Affairs, and establish the Office of University Affairs.

1. *Section 4. Special Staff Offices.* a. Paragraph .01 is revised to read as follows:

".01 *The Office of Congressional Affairs* shall coordinate contacts with Congress involving NOAA (except for budgetary matters involving the Appropriations Committees); identify and track all legislation of interest to NOAA; develop positions setting forth NOAA's views as to the merits of proposed or pending legislation; receive all requests for NOAA testimony before Congress (except for budgetary matters) and coordinate preparation of testimony; and assist the NOAA Office of General Counsel in clearing legislative positions and testimony through the appropriate Departmental offices. The activities shall be carried out in coordination with and in recognition of the responsibilities of the Departmental Office of Congressional Affairs and Office of General Counsel."

b. A new paragraph .06 is added, as shown below:

".06 The *Office of University Affairs* shall develop policies and programs designed to improve NOAA's relations with the academic and research communities. It shall serve as the focal point and assist managers in locating and attracting highly-qualified academic scientists to work in NOAA. The Office shall maintain cognizance of University research, studies, curriculum and personnel applicable to NOAA programs."

2. *Section 5. General Counsel.* Section 5 is revised to read as follows:

Section 5. General Counsel—"The *General Counsel* shall provide the full range of legal services for all components of NOAA; review and process claims against NOAA; be responsible for the drafting of legislation and the legal review of legislative positions and testimony to be given before Congress; and, in cooperation with the NOAA Office of Congressional Affairs, clear legislative positions and testimony through appropriate Departmental offices. These activities shall be carried out subject to the overall authority of the Department's General Counsel as provided in Department Organization Order 10–6. Legislative activities shall be carried out in cooperation with and in recognition of the responsibilities of the Departmental Office of General Counsel and the Office of Congressional Affairs."

3. The organization chart, Exhibit 1, attached to this amendment supersedes the organization chart dated January 28, 1979. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Elsa A. Porter,
Assistant Secretary for Administration.

[Transmittal 447; Order No. 25–5B, Amdt. 3]
[FR Doc. 79–12910 Filed 4–25–79; 8:45 am]
BILLING CODE 3510–17–M

Office of the Secretary

Advisory Committee on Minority Enterprise Development; Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1976)) and Office of Management and Budget Circular A–63, and after consultation with General Services Administration, the Secretary of Commerce has determined that the establishment of the Advisory Committee on Minority Enterprise Development is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee will identify, evaluate and make recommendations to the Secretary concerning current and proposed Federal and Department of Commerce programs, policies, and activities pertinent to the enhancement of minority business and economic development.

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The Committee will consist of not more than 35 members, with a balanced representation from among the business, industry, banking and academic sectors as well as others representing the public interest. These members will be appointed by the Secretary of Commerce.

The Committee will report and be responsible to the Secretary of Commerce, and will function solely as an advisory body in compliance with the Federal Advisory Committee Act. Copies of its charter shall be filed pursuant to the provisions of the Act 15 days after the publication of this notice.

Interested persons are invited to submit comments regarding the establishment of the Advisory Committee on Minority Enterprise Development. Such comments, as well as any related inquiries, may be addressed to the Special Assistant to the Secretary of Commerce, Mr. Joseph B. Anderson, Jr., Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377–5151.

Dated: March 26, 1979.

Guy W. Chamberlin,

Assistant Secretary for Administration.

[FR Doc. 79–12933 Filed 4–25–79; 8:45 am]

BILLING CODE 3510–17–M

Proposed East and West Flower Gardens, Marine Sanctuary; Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold a public hearing for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) Prepared on the Proposed East and West Flower Gardens, Marine Sanctuary.

The hearings will being 7:00 p.m. The hearing schedule is:

Thursday, May 17, 1979, LeCentre Civique—Room A, 900 Lakeshore Drive, Lake Charles, Louisiana

Friday, May 18, 1979, Cabin Fever Room—Galvez Mall, 6402 Broadway, Galveston, Texas

The views of interested persons and organizations on the adequacy of the impact statement, the proposed East and West Flower Gardens, Marine Sanctuary, and the proposed regulations for activities in the Marine Sanctuary, are solicited, and may be expressed orally or in written statements. Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (phone: 202/634–4353), so that an appearance schedule may be prepared. In addition, requests for presentations will be accepted immediately prior to the hearing. Presentations are scheduled on a first-come, first-served basis, and should be limited to ten minutes in order to assure that all views can be heard. Office of Coastal Zone Management staff may wish to question each speaker following the conclusion of his/her statement. If time permits, additional statements (and general discussion) may be scheduled at the conclusion of presentations. A verbatim transcript of the hearing will be prepared; staff present will also record the general thrust of the remarks.

As part of the review of the Proposed East and West Flower Gardens, Marine Sanctuary, the Assistant Administrator for Coastal Zone Management will consider fully all comments received at these hearings, as well as written statements submitted to, and received by OCZM on or before June 12, 1979. As part of the procedures leading toward designation of this sanctuary, a Final Environmental Impact Statement, reflecting consideration of these comments, will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: April 20, 1979.

R. L. Carnahan,

Acting Assistant Administrator for Administration.

[FR Doc. 79–12977 Filed 4–25–79; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Engineers Corps

Intent To Prepare a Draft Environmental Impact Statement, Fernandina Beach, Fla.

To prepare a draft Environmental Impact Statement on the permit application by the Eastern Seaboard Petroleum Company for a petroleum off-loading facility near Fernandina Beach, Florida.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to prepare a draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The project consists of construction of a pier, dredging, and placing riprap along the shore of the Amelia River incidental to the construction of an oil off-loading terminal near Fernandina Beach, Florida.

2. Alternatives under consideration are to issue the permit, deny the permit, or issue the permit with conditions.

3. A preliminary list of significant issues to be analyzed in depth in the DEIS is as follows:

a. Relative risks of oil spills under present conditions and with proposed project.

b. Effects on recreational value of Fort Clinch State Park.

c. Effects on endangered species.

d. Economic effects of the project.

e. Alternative sites for the project.

4. A scoping meeting with participation by affected Federal, State, and local agencies, and other interested private organizations has been scheduled for 17 May 1979, 10:00 a.m., in the Federal Building, Room 930, 400 West Bay Street, Jacksonville, Florida.

5. Consultation and environmental review will be coordinated in accordance with the Endangered Species Act, Section 404b of the Federal Water Pollution Control Act, and the National Historic Preservation Act.

6. The DEIS is expected to be available for review in the fourth quarter of FY 1979.

ADDRESS: Questions about the proposed action and DEIS can be referred to Mr. Moray Harrel, Chief of the Environmental Quality Section, U.S. Army Engineer District, P.O. Box 4907, Jacksonville, Florida 32201, telephone (904) 791–3615.

Dated: April 20, 1979.

James W. R. Adams,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79–12863 Filed 4–25–79; 8:45 am]

BILLING CODE 3710–AJ–M

Intent To Prepare a Draft Environmental Impact Statement; Marco Island, Fla.

To prepare a draft Environmental Impact Statement on the permit application by the Deltona Corporation for a residential development at Marco Island, Florida.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent to prepare a draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The project consists of construction of 4,300 single-family lots and 10,500 multifamily units on 4,000 acres of wetlands and 1,500 acres of uplands.

2. Alternatives under consideration are to issue the permit, deny the permit, or issue the permit with conditions.

3. Following is a list of significant issues to be analyzed in depth in the DEIS.

a. Do the subject wetlands serve important natural biological functions.

b. Effects of the proposed project on the quality and quantity of freshwater drainage.

c. Economic effects of the project.

d. Alternative sites for the project.

4. The scoping process has been completed.

5. Consultation and environmental review has been coordinated in accordance with the Endangered Species Act, Section 404b of the Federal Water Pollution Control Act, and the National Historic Preservation Act.

6. The DEIS is expected to be available for review in the third quarter of FY 1979.

ADDRESS: Questions about the proposed action and DEIS can be referred to Mr. Moray Harrell, Chief of the Environmental Quality Section, U.S. Army Engineer District, P.O. Box 4970, Jacksonville, Florida 32201, telephone (904) 791–3615.

Dated: April 20, 1979.

James W. R. Adams,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79–12880 Filed 4–25–79; 8:45 am]

BILLING CODE 3710–01–M

Department of the Navy

Navy Resale System Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Navy Resale System Advisory Committee will meet on May 14, 1979, at the Royal Orleans Hotel, 621 St. Louis Street, New Orleans, LA. The first session from 9:00 a.m. to 10:30 a.m. will be open to the public. The second session from 10:45 a.m. to 12:00 Noon will be closed to the public.

The agenda will consist of discussions of operations, organization, industrial relations, procurement, distribution, field support, and financial management.

The Secretary of the Navy has determined in writing that the public interest requires that the second session of the meeting, which will involve discussion of information relating solely to either internal agency personnel rules and practices or trade secrets, or confidential and privileged business information, be closed to the public. These matters fall within the exemptions listed in subsections 552b (c)(2) and (c)(4) of title 5, United States Code. The first session of the meeting, which will involve other non-privileged matters related to the Navy Exchange Resale System, will be open to the public.

For further information concerning this meeting, contact: Commander J. D. Felt, USN, Navy Supply Systems Command, NAVSUP 09B, Room 801, Crystal Mall, Building No. 3, Arlington, VA 20376, telephone number (202) 695–5457.

Dated: April 17, 1979.

P.B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Administrative Law).

[FR Doc. 79–12844 Filed 4–25–79; 8:45 am]

BILLING CODE 3810–71–M

DEPARTMENT OF ENERGY

Rocky Flats Plant Site; Trespassing on DOE Property

Correction

In FR Doc. 79–11571 appearing at page 22145 in the issue for Friday, April 13, 1979, the following corrections should be made on page 22146:

1. In the first column, in the paragraph immediately following the paragraph designated as "1.", in the third to the last line, the figure "2713" should read "2701.13".

2. In the second column, in the paragraph designated as "3.", in the second line, the phrase "right-of-way" should read "rights-of-way".

3. In the third column, in the second paragraph following the paragraph designated as "b", in the second to the last line, the phrase "of the point of beginning." Should read "to the point of beginning."

4. In the third column, in the paragraph designated as "c.", in the second line, the word "adjourns" should read "adjouins".

5. In the third column, in the paragraph immediately following the paragraph designated as "c.", in the third to the last line, the phrase "and a radius of" should read "and having a radius of".

BILLING CODE 1505–01–M

Economic Regulatory Administration

Application for Presidential Permit, PP–68 San Diego Gas & Electric

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application for Presidential Permit for 230 kV International Transmission Line: San Diego Gas and Electric.

SUMMARY: San Diego Gas and Electric filed an application for a Presidential Permit, PP–68, to construct, connect, operate and maintain a 230 kV international transmission line at the United States-Mexican boundary.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4070, Vanguard Building, 1111 20th Street, N.W., Washington, D.C. 20461, (202) 634–5620.

Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5113, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633–9380.

SUPPLEMENTARY INFORMATION: On April 2, 1979, San Diego Gas and Electric (SDG&E) filed an application with the Economic Regulatory Administration for a presidential permit pursuant to Executive Order No. 10485, as amended. SDG&E requests authority to construct, connect, operate and maintain a 230 kV international transmission line at a point on the U.S.-Mexican border in the vicinity of San Diego County. SDG&E proposes to construct the line from its Miguel substation in Southern San Diego County to the international border where it will interconnect with a similar line owned by the Comision Federal de Electridad de Mexico (CFE), an agency of the Republic of Mexico.

Applicant states that if the two systems are interconnected both will operate at a greater level of reliability than when operated as separate systems. The expected magnitude and frequency of loss of load on both systems will also be reduced.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the System Reliability and Emergency Response Branch, Economic Regulatory Administration, Room 4070, 1111 20th Street, N.W., Washington, D.C. 20461, in accordance with sections 1.8 and 1.10 of the Rules of Practice and Procedure (18 CFR 1.8, 1.10).

All such protests and petitions should be filed on or before May 14, 1979.

Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Economic Regulatory Administration and will, upon request, be made available for public inspection and copying at the ERA Docket Room, Room B-110, 2000 M Street, N.W., Washington, D.C., and at the System Reliability and Emergency Response Branch, Room 4070, 1111 20th Street, N.W., Washington, D.C.

Dated: April 17, 1979.

Jerry L. Pfeffer,
Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 79-12832 Filed 4-25-79; 8:45 am]

BILLING CODE 6450-01-M

Lowe Oil Co.; Proposed Remedial Order

Pursuant to 10 C.F.R. § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Lowe Oil Company, 510 Price Lane, Clinton, Missouri 64735. This Proposed Remedial Order charges Lowe Oil with pricing violations in the amount of $83,298.31, in sales of the motor oils and motor gasoline during the time period November 1, 1973, through April 30, 1974, in the State of Missouri.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Robert D. Gerring, District Manager of Enforcement, 324 East 11th Street, Kansas City, Missouri 64106. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 C.F.R. § 205.193. Issued in Kansas City, MO, on the 17th day of April 1979.

Robert D. Gerring,
District Manager, Central Enforcement District.

I, David H. Jackson, Chief Enforcement Counsel, Central Enforcement District, concur in the issuance of the Proposed Remedial Order (PRO) to Lowe Oil Company, and in the notice prepared for publication in the Federal Register.

Dated: April 17, 1979.

David H. Jackson,
Chief Enforcement Counsel, Central Enforcement District.

[FR Doc. 79-12875 Filed 4-25-79; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Publication of Energy Emergency Management Information System Program Plan

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of Publication of Energy Emergency Management Information System Program Plan.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) announces the publication of a program plan for development of the Energy Emergency Management Information System (EEMIS). The objective of EEMIS is to assemble and provide rapid access to information that is used in the management of energy emergencies, including the capability to monitor and forecast supply/demand conditions and to assess the probable impact of alternative emergency response measures.

FOR FURTHER INFORMATION CONTACT:

Robert Gillette (Office of Public Hearing Management), Department of Energy, 2000 M Street, N.W., Room 2313, Washington, D.C. 20461, 202-254-5201.

Barry Yaffe (Energy Emergency Management Information System Project Office), Department of Energy, 1726 M Street, N.W., Room 820, Washington, D.C. 20461, 202-634-2079.

Peter J. Schaumberg (Office of General Counsel), Department of Energy, 1726 M Street, N.W., Room 510, Washington, D.C. 20461, 202-634-5545.

SUPPLEMENTAL INFORMATION:

I. Background Information

On September 29, 1978, the Energy Information Administration issued a notice (43 FR 46564, October 10, 1978), announcing publication of a proposed EEMIS program plan, the schedule for public hearings and the opportunity for the submission of written comments. Although the EEMIS program plan is not a rule within the meaning of 5 U.S.C. section 551 and section 501 of the Department of Energy Organization Act (Pub. L. 95-91), EIA was of the view that publication of the EEMIS program plan for public comment would result in the development of a better plan, and would serve to give notice to the public of how EIA was implementing its responsibility of gathering and disseminating relevant information.

Public hearings were held in Boston, Massachusetts, and Washington, D.C. In addition, over 65 comments were received by EIA. The comments came from the following groups: 22 energy industry companies, 28 governmental units or associations, 11 private or trade associations, 4 public interest groups or private citizens. Of the 65 respondents, 41 can be considered as supporting the EEMIS program plan, 18 as opposing it, and 6 were not clear as to their position. Of the total of 65 respondents, 51 wish to participate in the continued development and operation of EEMIS, 13 do not wish to participate further and 1 took no position.

EIA hereby is giving notice that the EEMIS program plan is being adopted. Section 205 (a)(2) of the Department of Energy Organization Act (Pub. L. 95-91) assigns to the Administrator of EIA the responsibility for carrying out a central, comprehensive and unified energy data and information program to collect, evaluate, assemble, analyze and disseminate data and information which is relevant to energy resource reserves, energy production, demand and technology, and related information. EEMIS is one part of the implementation of this responsibility. It is essential to recognize that the EEMIS program plan being adopted today is only a plan, and as EIA determines that needs have changed during the process of implementation, alterations to the plan will be made. EIA encourages continued public participation during the period of plan development.

EEMIS will assemble and provide rapid access to information useful to the management of energy emergencies. This information will be provided to government officials responsible for dealing with energy emergencies involving petroleum, natural gas, coal and electric power. Information provided will include current and projected fuel supply and demand, fuel transportation and substitution capabilities, the potential impact of the emergency on various sectors of the population and the status of actions to deal with it.

II. Discussion of Major Comments and Changes to the Plan

Major comments were: (1) DOE does not have statutory authority to undertake the system; (2) the system is burdensome and should not go beyond current reporting mechanisms; (3) EEMIS should work closely with the States; and (4) proprietary data should be protected and sharing of such data should be carefully weighed.

The plan has been adjusted where applicable to reflect the above comments. In reply to these concerns: (1) in addition to the authorities cited in the first notice of comment and hearings (43 FR 46564), EIA has authority under section 205(a)(2) of the Department of Energy Organization Act (Pub. L. 95-91) to implement the EEMIS system; (2) The interim system will use existing data systems and reporting mechanisms; therefore, no additional reporting requirement will be necessary. The advanced system will be developed with the objective of minimizing new reporting requirements, and it will entail a comprehensive review of all relevant information systems. (3) The concerns and needs of the States will continue to be represented in the EEMIS program by the National Governors Association, representatives of which are members of the EEMIS Users Panel. Additionally, the EIA intends to work closely with individual States whenever possible, since the ultimate utility of the system will depend on State participation and support; (4) The EIA intends to insure full protection from unauthorized disclosure of any information it determines to be proprietary or classified data. Non-DOE users will not be provided protected data until data-sharing agreements and safeguards have been adopted.

Chapters 4 and 5 have been updated to reflect the passage of the National Energy Act and the organizational changes in DOE. Language has also been introduced to explain the relationship that has been established between the National Governors Association and the Energy Information Administration to design and implement this information system.

The content of Chapter 7 (Development Approach) has been reorganized from a four-step development process to a two-step development process. The first step is the development of an interim system that relies on current technology and equipment and utilizes data currently being reported to DOE. The second step consists of development of an advanced system, the design for which would be started in 1979, with results forthcoming in subsequent years.

III. Discussion of Other Comments

Over 65 comments were received in response to the notice of the proposed EEMIS plan. Some of these comments addressed issues leading to plan changes discussed in the previous section. Others will be considered by the EIA in the development of the system.

All comments and the adopted program plan are available for review in the Department of Energy Freedom of Information Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C.

Copies of the adopted plan are available from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Price $3.00, Stock No. 061-000-00289-8.

Issued in Washington, D.C. on April 20, 1979.

Lincoln E. Moses,
Administrator, Energy Information Administration.

[FR Doc. 79-12833 Filed 4-25-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Arkansas-Missouri Power Co.; Certification of Settlement Agreement

Take notice that on March 28, 1979 Presiding Administrative Law Judge Bruce L. Birchman in the above captioned proceeding certified to the Commission a proposed settlement agreement between FERC Staff and the utility company.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 1, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the filing are on file with the Commission and are available for public inspection.

April 20, 1979.

Lois D. Cashell,
Acting Secretary.

[Docket ER78-469]

[FR Doc. 79-12850 Filed 4-25-79; 8:45 am]

BILLING CODE 6450-01-M

East Tennessee Natural Gas Co.; Amendment to Stipulation and Agreement

Take notice that on April 17, 1979, East Tennessee Natural Gas Company (East Tennessee) tendered for filing a proposed revision to the Stipulation and Agreement (Stipulation) dated November 6, 1978.

East Tennessee states that the filings consists of a revised Article X which is in substitution for the Article X as set forth in the November 6, 1978 Stipulation. East Tennessee states the revision would modify Article X of the Stipulation providing for a sales refund obligation based on total jurisdictional sales to a sales refund obligation based on total system sales.

East Tennessee further states that a copy of the revised Article X is being served on all parties to the proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D. C. 20428, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

April 20, 1979.

[Docket RP78-12]

[FR Doc. 79-12851 Filed 4-25-79; 8:45 am]

BILLING CODE 6450-01-M

Iowa Electric Light & Power Co.; Notice of Application

Take notice that on April 18, 1979, the Iowa Electric Light and Power Company (Applicant) filed an application pursuant to Section 204 of the Federal Power Act with the Federal Energy Regulatory Commission seeking authority to issue and sell 50,000 shares of Common Stock. Applicant is incorporated under the laws of the State of Iowa and is authorized to do business in the States of Iowa, Minnesota, Colorado and Nebraska with its principal business office at Cedar Rapids, Iowa. Applicant is engaged primarily in the generation, transmission and sale at retail of electric energy in 55 counties in the State of Iowa.

The Common Stock is to be issued pursuant to the Company's Employee Stock Purchase Plan. The Common Stock is subject to the prior rights and preferences of the existing outstanding classes of Cumulative Preferred Stock and to the prior rights and preferences of the existing outstanding classes of Cumulative Preference Stock. The price to the Company for the Common Stock will be determined in accordance with terms of the Plan.

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According to the Applicant, the purpose for which the Common Stock is to be issued is for the Company's continuing construction program and for other corporate purposes.

Any person desiring to be heard or to make protest with reference to this Application should on or before May 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The Application is on file with the Commission and available for public inspection.

Lois D. Cashell,
Acting Secretary.
April 20, 1979.

[Docket ES-79-38]
[FR Doc. 79-12852 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

Minnesota Power & Light Co.; Filing Integrated Transmission Service Agreement

Take notice that on April 18, 1979, Minnesota Power & Light Company (Applicant) filed pursuant to the Federal Power Act an Integrated Transmission Agreement (Agreement) between United Power Association and Minnesota Power & Light Company. Applicant and UPA propose an effective date of June 18, 1979.

Applicant states that the purpose of the Agreement is to establish an integrated transmission system in order to obtain the benefits of coordinated development of bulk power transmission facilities and to avoid duplicative construction. Under the Agreement, UPA and MP&L will equalize investment in existing and future transmission facilities included in the Agreement. Where UPA or MP&L uses distribution facilities owned by the other party which are not included in the integrated system, it shall pay for such use in accordance with the applicable part of the other party's currently effective standard wheeling rate.

Copies of the filing were mailed to UPA, the Minnesota Public Service Commission, the Rural Electrification Administration, and the City of Wadena.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and should be filed on or before May 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.
April 20, 1979.

[Docket ER79-315]
[FR Doc. 79-12853 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

Pennsylvania Department of Environmental Resources, J & J Enterprises, Inc., et al; Notice of Application for Adjustment and Staff Order Granting Interim Relief Under Natural Gas Policy Act

Take notice that on March 22, 1979, the Pennsylvania Dept. of Environmental Resources, P.O. Box 1467, Harrisburg, Pa., 17120, filed with the Federal Energy Regulatory Commission (Commission) an application for extension of time pursuant to the notification provisions of sections 273.202(c) and 273.204(b) of the Commission's interim regulations under the Natural Gas Policy Act of 1978 (NGPA).

Take further notice that on March 29, 1979, a petition seeking the same relief was filed by the following parties.

J & J Enterprises, Inc., Post Office Box 754, Indiana, Pennsylvania 15701.
Doran Associates, Inc., 728 Washington Road, Pittsburgh, Pennsylvania 15228.
Fairman Brothers Drilling Company, Post Office Box 288, DuBois, Pennsylvania 15801.
Castle Gas Co., Post Office Box 10396, Pittsburgh, Pennsylvania 15234.
Fox Oil & Gas, Inc., 900 Washington Road, Pittsburgh, Pennsylvania 15228.

Take further notice that on April 9, 1979, J & J Enterprises, Inc., et al., filed a pleading to amend its petition of March 29, 1979, and to extend the filing deadline in § 273.204(a).

All of the above pleadings are being treated as requests for adjustments and interim relief under the NGPA pursuant to section 502(c) of that Act and section 1.41 of the Commission's regulations (44 Fed. Reg. 18961 (March 30, 1979)).

Pursuant to the authority delegated to it by the Commission in § 1.41(g), (h), (i), and (m), staff has conducted a preliminary evaluation of the applications dated March 22, 1979, and March 29, 1979. Upon examination of the facts presented by the parties, staff has determined that irreparable injury will result if interim relief is denied, and further that denial of interim relief will result in a more immediate special hardship or inequity to the parties requesting such relief than the consequences which would result to other persons if the interim relief were granted. Accordingly, by letter dated March 30, 1979, extension of the filing deadline in sections 273.202(c) and 273.204(b) has been granted on an interim basis in response to the March 22 and 29 pleadings. Such interim relief is applicable only to filings made to the jurisdictional agency for Pennsylvania, and extends only for the time necessary to conduct public procedures under § 1.41 on the application for the adjustment and on the interim relief.

Any person desiring to file a reply to the requests for interim relief may, on or before May 7, 1979, file such reply pursuant to the requirements of § 1.41(m)(3). That portion of § 1.41(m)(3) wherein replies to requests for interim relief may be filed only by a party has been waived by staff, pursuant to the authority delegated to it in § 1.41(o). Copies of any such reply shall be served on each of the party applicants.

Any person desiring to participate in the adjustment proceding shall file a petition to intervene in accordance with the provisions of § 1.41(e) of the Commission's Rules of Practice and Procedure. All petitions to intervene must be filed on or before May 11, 1979.

Lois D. Cashell,
Acting Secretary.

[Docket SA79-1]
[FR Doc. 79-12854 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

Public Service Company of Indiana, Inc.; Notice of Tariff Change

April 20, 1979

Take notice that Public Service Company of Indiana, Inc. on April 18, 1979 tendered for filing pursuant to the Interconnection Agreement between Public Service Company of Indiana, Inc. and Central Illinois Public Service Company a Sixth Supplemental Agreement to become effective June 18, 1979.

Said Supplemental Agreement increases the demand charge for Short Term Power from 65¢ per kilowatt per week to 70¢ per kilowatt per week.

Copies of the filing were served upon Central Illinois Public Service Company, Public Service Commission of Indiana, and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol, N.E., Washington D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before May 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Energy Regulatory Commission.

Lois D. Cashell,
Acting Secretary.

[Docket ER79-314]
[FR Doc. 79-12855 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

Public Service Company of Indiana, Inc.; Tariff Change

Take notice that Public Service of Indiana, Inc. on April 18, 1979 tendered for filing pursuant to the Interconection agreement between Public Service Company of Indiana, Inc. and Central Illinois Public Service Company a Sixth Supplemental Agreement to become effective June 18, 1979.

Said Supplemental Agreement increases the demand charge for Short Term Power from 65¢ per kilowatt per week to 70¢ per kilowatt per week. Copies of the filing were served upon Central Illinois Public Service Company, Public Service Commission of Indiana, and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol, N.E., Washington D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before May 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Energy Regulatory Commission.

Lois D. Cashell,
Acting Secretary.

[Docket ER79-314]
[FR Doc. 79-12856 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

Resource Applications; Public Meeting on Financial Analysis Model for Shale Oil Ventures; Meeting

The Department of Energy has developed a discounted cash flow analysis procedure which can be used to provide quantitative measures of the impact of proposed governmental actions on private venture investment decisions. This procedure is presently programmed to forecast the effect of a production tax credit on a commercial scale surface retorting shale oil venture. The purpose of the meeting herein announced is to solicit comments on the adequacy of the model and the data being used therein.

The meeting will be held in Washington, D.C. on Thursday, May 10, 1979 from 9:00 am to approximately 1:00 pm in Room 3000–B, 12th & Pennsylvania Avenue, N.W. The analysis procedure will be described in detail, and summary sheets of the input data presently being used will be provided. Attendees may choose to submit written suggestions at a later date.

Though participation in the meeting will be by invitation, the meeting will be open to the public and a transcript will be prepared. Opportunity for public comment will be provided at the end of the working session.

For further information, contact C. Branson Smith (telephone 202–633–8373). Office of Policy, Planning and Analysis, Resource Applications, Department of Energy.

Issued at Washington, D.C. on April 19, 1979.

George S. McIsaac,
Assistant Secretary, Resource Applications.

[FR Doc. 79-12871 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

John E. Dolan, Filing

April 19, 1979.

Take notice that on March 26, 1979 John E. Dolan, (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Appalachian Power Company, Electric Utility.
Vice President, Indianan & Michigan Electric Company, Electric Utility.
Vice President, Indiana & Michigan Power Company, Electric Utility.
Vice President, Kentucky Power Company, Electric Utility.
Vice President, Kingsport Power Company, Electric Utility.
Vice President, Michigan Power Company, Electric Utility.
Vice President, Ohio Electric Company, Electric Utility.
Vice President, Ohio Power Company, Electric Utility.
Vice President, Wheeling Electric Company, Electric Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 8, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[Docket No. ID-1735]
[FR Doc. 79-12944 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

Alfred Christian Thawley, Jr.; Application

April 19, 1979.

Take notice that on April 5, 1979, Alfred Christian Trawley, Jr., (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Secretary and Treasurer, Delmarva Power & Light Company—Public Utility.
Secretary and Director, Delmarva Power & Light Company of Maryland—Public Utility.
Secretary and Director, Delmarva Power & Light Company of Virginia—Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 8, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[Docket No. ID-1881]
[FR Doc. 79-12943 Filed 4-26-79; 8:45 am]
BILLING CODE 6450-01-M

Northern Natural Gas Co.; Petition for Extraordinary Relief

April 20, 1979.

Take notice that on March 22, 1979, Northern Natural Gas Company (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. TC79-50 a petition for extraordinary relief pursuant to Section 1.7(b) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(b)) seeking authorization to provide natural gas service to its existing utility customers in accordance with its presently effective Agricultural Crop Drying Service Rate Schedule ACDS-1. Petitioner seeks authorization to make available, on a best-efforts basis, volumes of gas for the drying of seed, grain, and other agricultural crops during a twelve-month period commencing with the expiration of the current period of authorized service in Docket No. TC78-3, all as more fully set forth in the petition on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order of August 23, 1978, Petitioner was granted extraordinary relief permitting it to provide natural gas service to its existing utility customers for a twelve-month period pursuant to Rate Schedule ACDS-1. Petitioner states that the service that it is requesting in the instant docket is similar to the services authorized by the Commission in Docket No. TC78-3.

Petitioner estimates that it would have available for sale under its ACDS-1 Rate Schedule, a total of 750,000 Mcf of natural gas for the period of September 15, 1979, through March 15, 1980. Petitioner states that under normal operating conditions, it is anticipated that no ACDS-1 volumes would be required during the remaining six months. However, it is felt such volumes should be made available in the event crop drying is needed, it is said. It is stated that volumes under Rate Schedule ACDS-1 would be made available by Petitioner on a best efforts basis pursuant to advanced operating arrangements on a daily basis.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,
Acting Secretary.

[Docket No. TC79-50]
[FR Doc. 79-12945 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

Michigan Wisconsin Pipe Line Co.; Petition To Amend

April 19, 1979.

Take notice that on March 21, 1979, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP78-341 a petition to amend the order of July 18, 1978, as amended March 8, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)), so as to authorize an increase in the total authorized limitation contained in its presently effective budget-type certificate from $18,000,000 to $23,000,000, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of July 18, 1978, as amended March 8, 1979, Petitioner was authorized to construct, during the 12-month period commencing July 13, 1978, and operate certain natural gas facilities to enable it to take into its certificated pipeline system natural gas which would be purchased from producers or other similar sellers thereof pursuant to the Commission's budget-type gas purchase facility procedure. Petitioner was granted authorization for a total expenditure of $18,000,000, with no single offshore project to exceed $3,500,000 and no single onshore project to exceed $3,500,000 it is stated.

Petitioner requests herein an increase in authorized total expenditures to $23,000,000. Petitioner indicates that such increase is necessary because its gas supply activity with the impetus of the Natural Gas Policy Act of 1978 is continuing to generate additional supply sources, so that in view of gas supply projects already constructed or planned, the amounts authorized to be expended are insufficient to permit Petitioner to attach the supplies that it anticipated being able to connect.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP78-341]
[FR Doc. 79-12946 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

Sohio Natural Resources Co.; Petition for Special Relief

April 19, 1979.

Take notice that on March 28, 1979, Sohio Natural Resources Company (Petitioner), 50 Penn Place, Suite 1100, Oklahoma City, Oklahoma 73118, filed a petition for special relief in Docket No. RI79-35, pursuant to § 2.76 of the Commission's General Policy and Interpretation. Petitioner seeks to increase its rate for the sale of natural gas to Panhandle Eastern Pipe Line Company from the McCaslin No. 1, N.E. Keenan Field, Woodward County, Oklahoma. Petitioner states that the McCaslin No. 1 has started producing salt water and in order to continue producing gas it must be periodically swabbed to remove the water from the wellbore. Petitioner is seeking rate relief in order to be able to install a beam pumping unit on the well which will pump the salt water off the formation and allow continued production.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[Docket No. RI79-35]
[FR Doc. 79-12947 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

April 19, 1979.

Take notice that on March 30, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-247 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon for a twelve month period commencing April 1, 1979, various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction, requisition, relocation, and operation and abandonment of facilities which would not result in changing Applicant's system saleable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of proposed construction and abandonment under Section 157.7(g) would not exceed $3,000,000 and no single project would exceed $500,000. Applicant also states that the cost of said facilities would be financed utilizing existing corporate funds and/or borrowings under Applicant's revolving credit agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP79-247]
[FR Doc. 79-12948 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

Texas Eastern Transmission Corp.; Application

April 20, 1979.

Take notice that on March 23, 1979, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP79-238 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas to Southern Indiana Gas and Electric Company (Southern Indiana), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to sell and deliver to Southern Indiana under Applicant's SGS-C Rate Schedule a maximum daily quanity of 1,915 dekatherms (dth), and annual contract quantity of 698,975 dth, and to sell such quantities of natural gas under the Rate Schedule I-C as may be offered by Applicant on an interruptible basis. The application states that such authorization would implement Applicant's intent to transfer existing contractual obligations, previously authorized in Docket Nos. G-15376 and CP61-203, and entititlements to Southern Indiana from Ft. Branch Natural Gas Company (Ft. Branch), whose properties have been acquired by and contractual rights succeeded to by Southern Indiana.

Applicant indicates that deliveries were heretofore made to Ft. Branch and not to its successor Southern Indiana, under Rate Schedule SGS-C at a single delivery point in Gibson County, Indiana, with a maximum daily quantity of 1,915 dth. On August 25, 1978, Southern Indiana acquired all of the properties of Ft. Branch and is the successor in interest to contracts between Applicant and Ft. Branch. Consequently, Applicant has executed a service agreement, dated January 5, 1979, with Southern Indiana which transfers the contract obligations between applicant and Ft. Branch to Southern Indiana, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public

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convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP79-238]
[FR Doc. 79-12949 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

Tri-State Gas Corp.; Petition for Special Relief

April 19, 1979.

Take notice that on March 29, 1979, Tri-State Gas Corporation (Petitioner), Route 2, Box 7E, Greenwood, Louisiana 71033, filed a petition for special relief in Docket No. RI79-34 pursuant to § 2.76 of the Commission's General Policy and Interpretations. Petitioner seeks to increase its rate for the sale of natural gas to Texas Eastern Transmission Corporation (Texas Eastern) from the Bagley 4A and Bagley 1, Canadian Bayou Area, DeSoto Parish, Louisiana. Petitioner indicates that Texas Eastern is willing to pay up to $2.20 per Mcf for this gas subject to Commission approval. Petitioner further states that production has ceased due to the lack of a compressor and that it will be forced to shut down permanently if it is not allowed to charge a much higher price for this gas.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[Docket No. RI79-34]
[FR Doc. 79-12950 Filed 4-25-79; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Charles A. Esposito and Highlands Ridge, Inc., Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

In re Applications of Charles A. Esposito, Avon Park, Florida, Req: 106.3 MHz, Channel 292 2.95 kW (H&V), 310 feet; Highlands Ridge, Inc., Avon Park, Florida, Req: 106.3 MHz, Channel 292 3.0 kW (H&V), 200 feet; for Construction Permits.

Adopted: April 10, 1979.

Released: April 23, 1979.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications, a petition to dismiss the Highlands Ridge application, filed by Charles Esposito, and responsive pleadings.

2. A brief history of Highlands Ridge, Inc. will be helpful to an understanding of Esposito's petition to dismiss. Ralph B. Hunter and his wife, Mary L. Hunter, originally owned 50 percent of the applicant jointly. The other 50 percent was held by Chester D. and Betty B. Miller. An amendment to the application filed March 3, 1977, revealed that the Millers had withdrawn from the applicant. On January 11, 1978, the Hunters were divorced. This resulted in the division of the stock of Mary L. Hunter between her ex-husband and her son, George B. Hunter.

3. In pertinent part, § 1.573(b) of the Commission's rules requires the assignment of a new file number to an application upon a voluntary transfer of control—that is, one for which an application for Commission consent would have to be filed on a Form 315. In his petition to dismiss, Esposito argues that the changes in the structure of Highlands Ridge constituted a voluntary transfer of control, requiring the assignment of a new file number to the application. This would result in its dismissal, since the applicable cut-off date has long since past.

4. Esposito's contentions are without merit. In *Barnes Enterprises, Inc.*, 55 FCC 2d 721, 725 n.4, 35 RR 2d 17, 180 n.4, (1975), the Commission specifed that where an existing stockholder with negative control (50%) acquires positive control, the application for consent to the transfer may be filed on a Form 316 (short form) rather than on Form 315. See also *Gaffney Broadcasting, Inc.*, 35 RR 2d 1607 (1975). In this case, the Millers' withdrawal did not require assignment of a new file number, because the Hunters simply went from negative to positive control. Mary Hunter's departure from the applicant produced a similar result in that Ralph Hunter then acquired positive control of Highlands Ridge. We cannot agree with Esposito that the various changes in the ownership of Highlands Ridge were but one change effectuated by a series of amendments. The retirement of the Millers and the withdrawal of Mary Hunter were entirely distinct transactions, separated by a long period of time and prompted by unrelated causes. As a practical matter, there is every indication that Highlands Ridge has always been—and continues to be—controlled by Ralph B. Hunter. Thus, we find that the purpose of § 1.573(b) would be served by assignment of a new file number to the Highlands Ridge application. Accordingly, the petition will be denied.

5. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(2) To determine, in the light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 1.594(g) of the Rules.

10. It is further ordered, That the petition to dismiss filed by Charles A. Esposito is denied.

Federal Communications Commission.
Martin I. Levy,
Acting Chief, Broadcast Bureau.

[BC Docket No. 79-84, File No. BPH-10,334; BC Docket No. 79-85, File No. BPH-10, 337]
[FR Doc. 79-12885 Filed 4-25-79; 8:45 am]
BILLING CODE 6712-01-M

Robert J. Reverman and KI-PEN-BRO Corp.; Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

In re Applications of Robert J. Reverman, Enumclaw, Washington, Req: 1330 kHz, 0.5 kW, Day; KI-PEN-BRO Corporation, Bremerton, Washington, Req:1330 kHz, 1.0 kW, Day, For Construction Permits.

Adopted: April 9, 1979.

Released: April 23, 1979.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for a new AM station.

2. Analysis of the financial data submitted by Ki-Pen-Bro reveals that $96,148 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$13,124
Equipment payments with interest	3,347
Land	600
Building	6,000
Miscellaneous	31,000
Interest on bank loan (three months)	3,750
Operating costs (three months)	38,325
Total	96,146

Ki-Pen-Bro plans to finance construction and operation with the following funds: $50,000 in stock subscriptions and a $750,000 bank loan. The stockholders have demonstrated their ability to fulfill their subscription agreements. The letter from the Rainier National Bank provides that security for the loan will be "assets of the radio station and/or the individual stockholders as deemed appropriate by the bank at the time funds are made available." Although this provision is somewhat vague, the stockholders' guarantee of the loan establishes Ki-Pen-Bro's compliance with the requirements of Section III of FCC Form 301. The loan therefore appears available. Even if the bank were to require a first lien on the station equipment, thus voiding Ki-Pen-Bro's reliance on a letter of credit from the equipment supplier, the applicant would have ample funds to construct and operate as proposed.

3. The application of Robert Reverman shows estimated expenses of construction and first three months operation of $41,361, including payments on a $50,000 line of credit from the Commercial Bank of Seattle. Since Reverman has demonstrated the availability of this line of credit, no financial issue is warranted as to either applicant.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, It is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary aural service (1 mV/m or greater in the case of FM) from the respective proposals and the availability of other primary service to such areas and populations.

2. To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

7. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 1.594(g) of the Rules.

Federal Communications Commission.
Wallace E. Johnson,
Chief, Broadcast Bureau.

[BC Docket No. 79-82, File No. BP-20,112; BC Docket No. 79-83; File No. BP-20, 588]
[FR Doc. 79-12886 Filed 4-25-79; 8:45 am]
BILLING CODE 6712-01-M

Inquiry and Investigation Concerning American Telephone & Telegraph Co.

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry and Investigation.

SUMMARY: The FCC is asking for public comment on whether all, or some part of the expenses associated with AT&T and GSAT's lease of the Comstar Satellite system should be disallowed for purposes of revenue requirement determination. Investigation and comment upon the reasons and justification for apparent low utilization of the System, and criteria by which to measure reasonable utilization, and/or compute disallowance is also anticipated.

DATES: Comment must be received on or before May 21, 1979. Reply comments may be filed on or before June 6, 1979.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gary M. Fereno, Common Carrier Bureau, (202) 632-4890.

In the matter of American Telephone and Telegraph Company for authorization to construct and operate a domestic communications satellite

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system for the provision of its authorized services: Notice of inquiry and investigation, Adopted: April 12, 1979; Released: April 20, 1979.

By the Commission: Commissioner Washburn absent; Commissioner Fogarty issuing a separate statement.

1. This is a proceeding to determine whether all or any portion of the American Telephone and Telegraph Company's and General Telephone and Electronics Company's, past or future, costs and expenses for the COMSTAR domestic satellite system should be removed from their revenue requirement and charged against surplus. The issue here arises from a proceeding involving our authorization to COMSAT General Corporation to launch its third satellite. See *Comsat General Corporation*, 69 FCC 2d 1278. The satellites, constituting the space segment of the COMSTAR domestic satellite communications system, are leased to AT&T and GTE and used by them to provide Message Telecommunications Service (MTS), Wide Area Telecommunications Service (WATS), and certain governmental private line services.

2. In our recent decision authorizing the satellite launch, we discussed an allegation of RCA American Communications, Inc. that AT&T/GTE had insufficient demand for the capacity of the two satellites already in orbit to warrant additional satellite communications capacity, since less than 10 percent of the existing capacity was then in use. In a prior order concerning the launch of Comsat General's first COMSTAR satellite we decided to limit our review of applications concerning launch authority to questions which addressed technical operations. In furtherance of that policy, we declined to consider the merits of RCA Americom's claims regarding AT&T/GTE's commercial operation of the COMSTAR system in the launch application proceedings. See *Comsat General Corporation*, 59 FCC 2d 344 (1976). However, we are now initiating this proceeding to determine whether AT&T/GTE's present use of the COMSTAR system justifies retention of all of the system costs in their respective revenue requirements.

3. Our policies governing the implementation of domestic satellite communications were established through a broad rulemaking proceeding in Docket 16495. See *Second Report and Order*, 35 FCC 2d 844 (1972), as modified on reconsideration in 38 FCC 2d 665 (1972). The *Second Report and Order* recognized that the public benefits arising from domestic satellite operatins could not be evaluated until the proposed systems had some reasonable time and opportunity to operate. For this reason, we adopted a policy of affording reasonable opportunity for entry to qualified applicants, subject to showings, and conditions intended to serve the public interest. With this policy in mind, we explored AT&T's proposal for a satellite communications system using satellites leased from Comsat General. In doing so, we were aware that AT&T, as the sole carrier of MTS and WATS, had a ready market for usage of its satellite facilities totally within its control. For this reason, AT&T alone, among the prospective satellite entrants, could potentially control the loading of its satellite facilities to adjust the per circuit cost and, hence, the pricing of satellite private line services well below that of its competitors.

4. To allow other satellite aspirants an opportunity "to demonstrate how any operational and economic characteristics peculiar to the satellite technology can be used to provide existing and new specialized services more economically and efficiently than can be done by terrestrial facilities," we determined that certain restrictions on AT&T's entry were necessary and cautioned that we stood ready to take whatever measures were necessary in the event abuses occurred. See 35 FCC 2d at 846–847. Among the conditions that we imposed on AT&T was a restriction limiting AT&T's use of the satellite for a three year period to MTS, WATS, certain government private line services and possibly other services in the case of Alaska, Hawaii, Puerto Rico and the Virgin Islands.[1] While this condition did not preclude AT&T from competing by use of terrestrial facilities with specialized common carriers including those using satellite facilities, it did bar AT&T from providing any non-governmental private line service via satellite except in cases of need for emergency restoral of terrestrial outages.

5. In response to this and other conditions placed on AT&T in the *Second Report and Order*, 35 FCC 2d 844, AT&T filed amended applications for authorization of its satellite system. The applications included representations explaining how it would comply with the various restrictions. AT&T explicitly recognized that its satellite system, unlike systems designed by other entrants, would not for a three year period offer private line services to the public generally. Instead, it would provide only "Message Telecommunications Service ('MTS'), Wide Area Telecommunications Services ('WATS') and services provided to the U.S. government." In this regard, AT&T stated "[T]he System will be operated as in integral part of AT&T's existing domestic network for the provision, initially, of message switched services and the special services the Commission has authorized." See Applications, filed March 29, 1973, Summary. AT&T asked only for authority to use its satellite system to meet increasing demand for its MTS, WATS and government private line services during the initial three year period. By separate applications, GTE requested authority to participate in the COMSTAR system on the exact terms applying to AT&T, in lieu of going ahead with its own separate system. After a hearing on the matter, GTE was granted authority to jointly participate, with AT&T, in the utilization of the COMSTAR System. Thus, as presently operated, non-government private line service is destinguished from other traffic and is not transmitted over satellite relay portions of AT&T's domestic long-haul network. Upon the expiration of the moratorium, this non-government private line traffic will no longer be required to be differentiated, and the satellite system would be completely integrated into the domestic long-haul network so that all traffic would be routed over appropriate facilities and paths, and tariffed rates would apply uniformly without regard to the particular facilities used to handle the traffic (i.e., radio, cable, or satellite).

Statutory Obligation

6. Section 214 mandates that we control entry into and exit from the communication market through authorizations relating to the construction, operation and retirement of facilities, or other actions which may reduce or impair service. In recognition of the uncertainties inherent in applying satellite technology to the domestic communications field at that time, we adopted in the *Second Report and Order*, flexible procedures for review of applications proposing entry. Nonetheless, we did not abdicate our responsibility to assure efficient use of the facilities we authorized. While we decided that COMSAT General's lease of satellites to AT&T and GTE did not constitute a common carrier activity and consequently was not subject to Section 214, we found that the provision of communications services to the public via those facilities by AT&T and GTE did constitute a common carrier activity and was subject to the certification requirements of Section 214.[2] Further, being aware of the uncertainties associated with the provision of satellite communications, we acted to assure that the customers of AT&T and GTE would not be burdened by unreasonable costs. Thus, we stated that in the event AT&T and GTE did not "[o]perate facilities in the most economical and efficient manner possible, any excess costs will not be included in any rate base, or charged to expense for rate purposes, but will be charged against surplus." 38 FCC 2d 665 (1972) at paragraph 52, fn. 22.

7. In its application for Section 214 authorization, AT&T set forth plans for the satellite system. The system was to commence operations in two phases. The first phase would make use of two in-orbit satellites. The second and last phase was scheduled to commence in nine months after the first phase and would make use of all three satellites. In each phase, one satellite would serve primarily as a backup in case of a major satellite failure. A fourth satellite was to be constructed to serve as an on the ground spare.

8. As part of its showing to support its applications, AT&T, pursuant to § 63.01 of the Commission's Rules, stated that Phase I of the system was planned to be in service by the end of 1975, and that this timing was crucial, since "delay could result in the need to construct alternative facilities to meet AT&T's 1976 construction program requirements." Application at paragraph 22. AT&T stated that transponders in the primary satellite would be used during Phase I to provide two way mastergroups equivalent to 1200 full duplex circuits. The satellite would provide service among the following points and to the extent shown below.

Stations	Transponders 1976
De Luz-Hanover	2
De Luz-Hawley	4
De Luz-Woodbury	2
Hanover-Three Peaks	2
Hawley-Three Peaks	2
Hawley-Woodbury	2
Reserved for Off-Shore Use	10
Total	24

Further, its application at paragraph 24 contained forecasts concerning facility requirements needed to meet demand for new long-haul circuits during the second phase of the system's operation. The following are AT&T's Phase II forecasts:

Stations	Transponders 1977	1978	1979	1980
De Luz-Hanover	2	2	4	4
De Luz-Hawley	6	6	10	12
De Luz-Woodbury	2	4	4	4
Hanover-Three Peaks	2	2	2	2
Hawley-Three Peaks	2	4	4	4
Hawley-Woodbury	4	8	10	12
Reserved for Off-Shore Use	10	10	10	10
Total	28	36	44	48

For purposes of evaluation and comparison, it should be noted that the De Luz Earth station was not built, but was replaced by the Triunfo Pass installation for providing service to the same general areas.

Present Commission Concerns

9. This Commission has previously concluded that "AT&T's interstate network is presently underutilized and that it has been underused in previous years as well." *AT&T, (No. 19129)* 64 FCC 2d 1, 51–52 (1977). In its pleadings and comments addressed to the COMSTAR D–3 launch application, RCA Americom urged this Commission to defer the launch of the third COMSTAR satellite on the grounds that AT&T had shown no need for additional satellite capacity. AT&T responded to this petition. In a separate application [3] filed after the launch, requesting a modification of its earth station licenses to add COMSTAR III as a point of communication, AT&T appended additional data which set forth a description and analysis of its present use of the system and a justification of its need for a third operational satellite. Since we believe that AT&T's explanation warrants the comments of interested persons we will set forth a summary of AT&T's position. Persons filing comments, however, are urged to review AT&T's comments in the launch proceeding and those attached to its application for the modification of its earth station licenses.

10. In the attachment to its applications, AT&T describes how the third COMSTAR satellite will be integrated into its nationwide communications network. The attachment shows present satellite loading, offers an explanation for the disparity between the circuit needs projected in its Section 214 application and the circuit loading actually in existence, offers revised satellite circuit requirements through 1981, and further addresses certain reliability and availability factors in support of its need for a full three satellite system. In its justification for a third satellite and the use of the initial two satellites, AT&T notes that unlike terrestrial long haul systems which allow incremental addition of capacity over a period of time, satellite capacity is equipped and available in total immediately following launch. AT&T also discusses the ability of transponder pairs to serve various points of communication through flexible circuit routing and reconfiguration arrangements as a feature which distinguishes a satellite transponder system from a terrestrial system.

11. AT&T describes the present use of the COMSTAR system as providing seven distinct paths of connectivity between continental United States locations, as meeting its needs for unexpected growth, and as providing additional network diversity and reliability. It further notes that three transponders are assigned to full time Hawaiian service, and two additional transponders will be added to Hawaiian service this September. The second in orbit satellite, primarily a back–up satellite in case of the massive failure of the first, is being used to provide TV relay capacity to the international record carriers serving Hawaii. Finally, as many as ten transponders have been held in reserve for potential service to Puerto Rico and Alaska pending a final Commission decision on offshore and Alaska services.

12. The need for the third satellite is addressed in terms of its ability to allow extended battery life to be realized for the whole system through optional turn off cycles during eclipse periods. Additionally, it is claimed that system reliability and circuit availability would be enhanced appreciably by its integration at this time into the system. Present transponder utilization and fill percentages are provided, along with

[1] AT&T's use of domestic satellites would be limited initially to MTS, WATS, certain government private line services, emergency restoration in the event of terrestrial outage, and possibly other services in the case of Alaska, Hawaii, Puerto Rico—Virgin Islands (*Second Report*, para. 21). We also imposed a condition, pursuant to Section 214, that for three years, AT&T/GTE could not provide non-government private line service over their satellite facilities. This restriction will automatically expire July 23, 1979, at which time AT&T may also apply for authorization pursuant to Section 214 to provide specialized types of satellite-only services as well. Petitions to extend this period are on file with the Commission. See Footnote 4.

[2] It should be understood that as a practical matter, the public interest determinations underlying the authorization of a common carrier to provide service to the public by use of COMSTAR facilities, subsume the public interest determinations which would relate to the separate authorization to acquire and use the COMSTAR facilities themselves. Therefore, the conduct of two separate Section 214 proceedings on the same issue would be redundant and wasteful.

[3] Authority to undertake functional and operating testing of the D–3 satellite has been granted.

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updated circuit capacity requirements and projected transponder fill percentages for various pairs of points, out through 1981. This chart, showing detailed current transponder use forecast as of January 1978, is appended to this notice for consideration by interested persons, as Attachment 1.

13. In light of the Commission's expressed concern in this matter, and, as a result of the supplemental information filed by AT&T along with its modification of license application, the staff identified some particular areas requiring fuller explanation. On October 17, 1978 the staff submitted an informational request, consisting of 17 questions to AT&T/GSAT, Attachment 2. On November 15, 1978, responses were received, and additional information supplementing these responses was received on December 1, 1978. This December 1 supplement contained a revised satellite loading forecast based upon a "July 1978 view." This revision of the information contained in the previously mentioned attachment 1 is appended hereto as Attachment 3.

14. The responses to the 17 questions are factually complete, and owing to the detail and scope of the information requested, are also voluminous. Consequently, it is not practical to include this material as an attachment to this notice. However, it will be included in the public docket and persons wishing to comment or otherwise contribute to this proceeding are urged to review this material, and frame their comments in terms of the material contained therein.

Conclusion

15. In light of the above discussion, as well as our previously expressed concern that AT&T's interstate network is presently underutilized, all interested parties are asked to address 1) whether the integration of the full COMSTAR three satellite system into AT&T's total network could create an unreasonably high percentage of facilities presently being held available for future growth, and thereby give rise to an unfair burden on present monopoly ratepayers, and 2) whether the capacity available in the 1976 to 1978 timeframe was so excessive as to raise the question of the costs associated with the COMSTAR system being allowed for purposes of revenue requirement determination. In particular, the Commission finds that the public interest would be best served by an inquiry and investigation into these matters by exploring the specific issues identified below.

16. Accordingly, the Commission is issuing this Notice of Inquiry and Investigation to obtain the views and comments of interested persons and to develop appropriate remedies concerning the following specific issues:

(a) Whether the AT&T–GTE lease of three satellites at this time is in the public interest.

(b) The reasons for the apparent disparity between satellite circuit use projections which AT&T put forward as economic justification in support of its application to acquire and use the COMSTAR System, and the actual traffic loading presently in existence, including comment on the explanation of this disparity provided by AT&T–GSAT.

(c) Whether, and to what extent, past or future monthly lease payments made to Comsat General Corporation for the use of COMSTAR space facilities should be disallowed as operating expenses, and consequently, be borne by the shareholders of AT&T–GTE and the basis for such possible disallowance computations.

(d) Such additional issues as may be identified in comments related to the above named considerations.[4]

17. It is further ordered, that a special trial staff of the Common Carrier Bureau to be designated by the Chief, Common Carrier Bureau pursuant to 47 U.S.C. § 0.101, will participate in the above-captioned proceedings as Commission counsel.

18. It is further ordered, that pursuant to Section 5(d) (1) of the Communications Act of 1934, as amended, for the purpose of this inquiry authority is hereby delegated to the Chief Administrative Law Judge of the Commission, at the request of Commission counsel to require by subpoena the production of books, papers, correspondence, memoranda and other records deemed relevant to the inquiry; to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence; and to perform such other duties in this connection as may be necessary or appropriate to the compilation of a complete record concerning the subject matter of this inquiry.

19. It is further ordered, that the Chief Administrative Law Judge is specifically authorized to designate a Commission Administrative Law Judge to exercise the authority conferred by this Order; require witnesses to testify and produce evidence under authority of, and in the manner provided in, Section 409 of the Communications Act of 1934, as amended, only when requested to do so by Commission counsel.

20. It is further ordered, that the subpoena powers delegated by this Order shall be exercised in accordance with Sections 1.331 through 1.340 of the Commission's Rules. Motions to quash or limit subpoena shall be directed to the presiding Administrative Law Judge in accordance with Section 1.334 of the Rules.

21. It is further ordered, that the provisions of Section 1.27 of the Commission's Rules shall apply to the production of oral and documentary evidence under subpoena.

22. It is further ordered, that, upon conclusion of the inquiry and any associated investigation as ordered herein, the Commission Counsel shall report their initial findings and recommendations to the Commission on or before Sept. 17, 1979. AT&T or any other interested person shall have 30 days from the date of the filing of such report in which to submit a Reply.

23. This inquiry is instituted pursuant to the authority set forth in Sections 4(i), 4(j), 201, 205, 213(f), 218, 220 and 403, 409(e) of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's Rules, interested parties may file comments with supporting briefs on or before May 21, 1979, and Reply Comments on or before June 6, 1979. In accordance with the provisions of Section 1.419 of the Commission's Rules, an Original and 5 copies of all statements, briefs, or comments shall be furnished to the Commission.

Federal Communications Commission. [5]

William J. Tricarico,

Secretary.

Separate Statement of Commissioner Joseph R. Fogarty

In the Matter of: Notice of Inquiry and Investigation of the Comstar Satellite System

This Notice of Inquiry and Investigation deals with the question of carrier accountability. In the past, when the Commission has approved facility applications that contain projected utilization figures, or when we have allowed tariffs to become effective when they are accompanied by market figures, we rarely have required carriers to file follow-up studies of actual usage or demand. Fill and demand projections are notoriously inaccurate, and we have seen numerous cases where AT&T has predicted a geometric or other level of accelerated growth in demand when historical growth has been less than linear.[1]

In the case of Comstar, the Commission granted applications for three in-orbit satellites based in large part upon AT&T and GTE's projected traffic demands. Since these estimates proved far removed from reality, it is reasonable now for the Commission to question whether the carriers' ratepayers should be burdened with the obligation to pay for underutilized facilities. Certainly it is possible that AT&T and GTE can explain the low demand experienced. However, I hope at least that this proceeding demonstrates to all carriers that henceforth, the Commission will hold them accountable, within a reasonable range of error, for projections they submit in Commission filings.

[CC Docket No. 79–87; FCC 79–223]

[FR Doc. 79–12918 Filed 4–25–79; 8:45 am]

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[4] Petitions to extend the 3 year moratorium have been filed, and the period for filing pleadings thereon has expired. The issue of the moratorium is therefore the subject of a separate and ongoing proceeding. Parties filing comments here should not attempt to use the forum of this inquiry as an opportunity for additional comments on that matter.

[5] See attached Separate Statement of Commissioner Joseph R. Fogarty.

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on April 20, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before May 14, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Federal Communications Commission

The FCC requests clearance of revisions to Form 313–R, Application for Renewal of Auxiliary Broadcast License (Short Form). Form 313–R is required by § 1.539 of the Commission's Rules. The form is filed by licensees to renew a station license in the auxiliary broadcast service if there have been no changes in the data previously filed with the FCC in the initial application for a station license. The revisions to Form 313–R are the addition of the data element "county" and a few editorial changes to the instructions for clarity. The FCC estimates respondent burden to average 15 minutes per response and that approximately 3,500 renewals are received annually.

Norman F. Heyl,

Regulatory Reports. Review Officer.

[FR Doc. 79–12926 Filed 4–25–79; 8:45 am]

BILLING CODE 1610–01–M

[1] See, e.g., DDS, 62 FCC 2d 774 (1977); International Facilities Planning, Docket No. 18675, 67 FCC 2d 358 (1977), FCC 79–171, released March 16, 1979. Our decision on cost allocations in Docket No. 18128, 61 FCC 2d 587 (1976) recognized the need for accountability and contained a built-in mechanism for rate adjustment.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Federal Council on the Aging

Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress, on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 1, sec. 10, 1976) that the Committee will hold a meeting on Tuesday, May 15, from 9:30 a.m. to 4:30 p.m. in Room 703–705A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

This agenda will consist of discussions with Federal program and research staff on the issues and problems in long term care.

Further information on the Committee may be obtained from Mrs. Muriel Shurr, Federal Council on the Aging, Washington, D.C. 20201, telephone (202) 245–0441. FCA meetings are open for public observation.

Dated: April 18, 1979.

Nelson H. Cruikshank,

Chairman, Federal Council on the Aging.

[FR Doc. 79–12951 Filed 4–25–79; 8:45 am]

BILLING DATE 4110–92–M

Health Care Financing Administration

Statewide Professional Standards Review Council of Pennsylvania; Request for Nominations for Public Member Positions on the Council

There are four public representatives on the Statewide Council. Membership terms for two of those representatives will expire on September 30, 1979.

Professional Standards Review Organizations (PSROs) review medical care services paid for under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs in order to assure that those services are medically necessary, of acceptable quality, and provided at the appropriate level of care.

Statewide Councils are established in States that have 3 or more PSROs to: (1) help to coordinate PSRO activities and disseminate information among them; (2) assist the Secretary in the development of uniform data gathering and operating procedures; (3) review certain determinations and recommendations made by PSROs as a result of their reviews of medical care; (4) work with doctors and other practitioners and with medical facilities so that they will assure that medical care provided is necessary, appropriate, and of acceptable quality; and (5) assist the Secretary to carry out several of his responsibilities, including the evaluation of the PSROs' review activities and the designation of replacement PSROs when necessary.

Nominees for public representatives are considered on the basis of whether they are:

(1) Knowledgeable about health care provided in Pennsylvania under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs:

(2) willing and able to represent the interests of the public; and

(3) willing and able to discharge the responsibilities of membership in the Statewide Council.

Special consideration will be given to qualified individuals who are not affiliated with:

(1) Organizations and groups that must, under law, be represented on the Council (PSROs and physician groups); or

(2) Organizations and groups that must, under law, be represented on the Council's Advisory Group (hospitals and other health care facilities and health

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care practitioners other than physicians).

Please include biographical data which demonstrate each nominee's qualifications, particularly his/her knowledge of health care in the State and their willingness and ability to represent the interests of the public. Persons or organizations may submit nominations to:

Everett F. Bryant, Regional Administrator, Health Care Financing Administration, P.O. Box 7760, Philadelphia, PA 19101.

After consideration of all nominations received within 60 days of this Notice, the Secretary will appoint two new public representatives.

For further information about the nature and functions of the Council and the role of public members in Council activities, please call the Office of the Regional Administrator, HCFA, (215) 596–1351

Dated: April 16, 1979.

Everett F. Bryant,

Regional Administrator, Health Care Financing Administration.

[FR Doc. 79-12887 Filed 4-25-79; 8:45 am]

BILLING CODE 4110-35-M

Request for Nominations for Public Member Positions on Statewide Professional Standards Review Council of Maryland

There are four public representatives on the Statewide Council. Membership terms for two of those representatives will expire on September 30, 1979.

Professional Standards Review Organizations (PSROs) review medical care services paid for under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs in order to assure that those services are medically necessary, of acceptable quality, and provided at the appropriate level of care.

Statewide Councils are established in States that have 3 or more PSROs to: (1) Help to coordinate PSRO activities and disseminate information among them; (2) Assist the Secretary in the development of uniform data gathering and operating procedures; (3) Review certain determinations and recommendations made by PSROs as a result of their reviews of medical care; (4) Work with doctors and other practitioners and with medical facilities so that they will assure that medical care provided is necessary, appropriate, and of acceptable quality; and (5) Assist the Secretary to carry out several of his responsibilities, including the evaluation of the PSRO's review activities and the designation of replacement PSROs when necessary.

Nominees for public representatives are considered on the basis of whether they are:

(1) Knowledgeable about health care provided in Maryland under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs;

(2) willing and able to represent the interests of the public; and

(3) willing and able to discharge the responsibilities of membership in the Statewide Council.

Special consideration will be given to qualified individuals who are not affiliated with:

(1) Organizations and groups that must, under law, be represented on the Council (PSROs and physician groups); or

(2) Organizations and groups that must, under law, be represented on the Council's Advisory Group (hospitals and other health care facilities and health care practitioners other than physicians).

Please include biographical data which demonstrate each nominee's qualifications, particularly his/her knowledge of health care in the State and their willingness and ability to represent the interests of the public. Persons or organizations may submit nominations to:

Everett F. Bryant, Regional Administrator, Health Care Financing Administration, P.O. Box 7760, Philadelphia, PA 19101.

After consideration of all nominations received within 60 days of this Notice, the Secretary will appoint two new public representatives.

For further information about the nature and functions of the Council and the role of public members in Council activities, please call the Office of the Regional Administrator, HCFA, (215) 596–1351.

Dated: April 16, 1979.

Everett F. Bryant,

Regional Administrator, Health Care Financing Administration.

[FR Doc. 79-12888 Filed 4-25-79; 8:45 am]

BILLING CODE 4110-35-M

SOCIAL SECURITY ADMINISTRATION

English Language and Employment Services for Indochinese Refugees; Availability of Funding

AGENCY: Office of Family Assistance, Social Security Administration, HEW.

ACTION: Notice of availability of funding.

SUMMARY: This document governs the award of grants to public and private non-profit agencies for the purpose of operating English language and employment services for Indochinese refugees in order to assist them in resettling in the United States and in gaining skills and education necessary to become self-reliant.

DATE: Applications for these grants must be received by 5 p.m. on June 11, 1979. This date should also be shown in section VIII below.

FOR FURTHER INFORMATION CONTACT: Gerard R. Wynne, telephone 202–472–2417.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice describes the availability of national funding for special projects and programs of English language instruction, training, and employment services for Indochinese refugees. The objective of such project and programs is to assist refugees in resettling in the United States and in gaining skills and education necessary to become self-reliant.

Funding will be available through the Special Programs Staff, Office of Family Assistance, Social Security Administration, HEW, for project grant awards to public and non-profit private agencies for intensive employment assistance activities for Indochinese refugees currently receiving cash assistance or likely to receive such assistance in the future.

In addition to addressing the problem of refugee unemployment which results in the need for public cash assistance, these projects will also attack the problem of refugee underemployment by upgrading refugee vocational skills and earning power to the point where supplementary cash assistance is no longer needed by working refugees.

Projects to be funded will be those which emphasize direct job placement whenever possible and provide work-related English language and vocational training leading to secure jobs with advancement potential and the usual range of employee fringe benefits.

II. Authorization

Funds for the activities listed below are authorized under the Indochina Migration and Refugee Assistance Act of 1975 and Pub. L. 94–23 as amended by Pub. L. 95–145 and Pub. L. 95–549. Specifically, that act authorizes funds to be appropriated to the Department of Health, Education, and Welfare for the performance of functions set forth in the

Migration and Refugee Assistance Act of 1962, Pub. L. 87–510. It is intended that the grants be for up to 12 months from the date of award.

III. Eligible Grantees

Section 2(c) of Pub. L. 95–145 states that special projects and programs are to be "administered in whole or in part by State or local public agencies or by private voluntry agencies participating in the Indochina Refugee Assistance Program, to assist refugees in resettling and in gaining skills and education necessary to become self-reliant."

Eligible grantees are State and local governments, public and incorporated nonprofit private agencies, or any combination of these. Private for-profit agencies or firms are not eligible for grants.

In its FY 1979 appropriation action Congress directed that special projects funds ". . . be administered primarily by the private voluntary resettlement agencies." At least fifty-one percent (51%) of FY 1979 special projects funds will be awarded to private, non-profit agencies.

IV. Allotment of Funds

Approximately $5,000,000 will be made available for the purposes of this announcement. The allocation of funds nationwide will be based on the need for maximum impact on reducing cash assistance dependency and assisting Indochinese refugees to achieve self-support.

V. Eligible Projects

Proposed projects must provide for direct services to refugees and must be designed to move employable adult refugees receiving cash assistance, likely to receive cash assistance, or in need of employment services into permanent full-time employment, and to upgrade the earning power of currently underemployed refugees.

Allowable activities include:

(1) Identification and employability assessment of eligible audits.

(2) Job placement services.

(3) Provision of English language training, provided that such training emphasizes the teaching of English that is essential to the attainment of employment, including language training which is related to the needs of a specific occupation.

(4) Vocational training.

(5) Vocational counseling, testing, employment-enhancing job training, skill training, and follow-up counseling. Special emphasis on career planning, with the goal of steady advancement in a field of specialty, is strongly encouraged.

The payment of stipends is not an allowable activity.

Project plans must show how the selected activities will support the objectives as outlined in section I, "Purpose and Scope" above. A range of services and a mix of activities that reflect the individual needs of each area to be served are encouraged. Jointly funded or supported activities are allowed and encouraged.

Creation of advisory boards, made up of representatives from the Indochinese community, the public sector, and the private sector (such as voluntary agencies, labor organizations and employers) is required for all projects.

Intent to contract with third parties (including profit-making organizations) must be fully described in the grant application. If, subsequent to the grant, the grantee desires to enter into a contract with a third party, a request for prior approval must be submitted through the Regional Commissioner SSA, and approved by the Director, Special Programs Staff, Office of Family Assistance, as outlined in Chapter 1–430 of the HEW Grants Administration Manual.

VI. Definition of a Refugee

For the purpose of participation in these projects, refugees are defined as: "Aliens who (A) because of persecution or on account of race, religion, or political opinion, fled from Cambodia, Vietnam, or Laos; (B) cannot return there because of fear of persecution on account of race, religion, or political opinion."

To be eligible, a refugee must have status as described by one of the following: (1) An individual with parole, voluntary departure or conditional entry status as indicated by an Immigration and Naturalization Service (INS) Form I—94; (2) An individual admitted to the United States with permanent resident status on or after April 8, 1975, or an individual who has permanent resident status as a result of adjustment of status under Pub. L. 95–145, as indicated by INS Form I–151 or I–551.

VII. Eligible Participants

Consistent with the scope and purpose of the authorizing legislation, the eligible participants shall be:

(1) Unemployed, employable adult refugees receiving public cash assistance or likely to receive public cash assistance.

(2) Underemployed adult refugees needing job upgrading to achieve or maintain self-sufficiency.

(3) Underemployed adult refugees needing job upgrading to achieve career potential.

(4) Minors age 16 or 17 who are not in school.

VIII. Application Submission and Approval Procedures

Eligible applicants may request grant applications and information from the HEW Regional offices listed at the end of this notice, or from the Special Programs Staff, Office of Family Assistance, Social Security Administration, Room 1124, Donohoe Building, HEW, 330 Independence Avenue S.W., Washington, D.C. 20201.

An original application and two copies must be received by the Regional Commissioner, Social Security Administration, by 5 P.M. (local time) on June 11, 1979. No grant application will be accepted after this date.

Regional panels to be convened by the Regional Commissioners, Social Security Administration, will review, evaluate, and rank the proposals received, based on (1) the criteria outlined in Item IX of this notice; (2) the needs of the refugee population within the region; and (3) existing resources available to refugees in the target area. The review panel's recommendations and the Regional Commissioners' concurrence and/or comments will be forwarded to the Director, Special Programs Staff, Office of Family Assistance for review.

All applications are subject to the Project Notification and Review procedures required by OMB Circular A–95 Part I. This circular requires applicants to notify State and areawide clearinghouses of their intention to apply for a grant and, if requested by a clearinghouse, to submit a copy of the application.

The effective date of grant awards under this Announcement will be September 1, 1979.

IX. Criteria for Evaluating Applications

Applicants must specify how they meet the statutory requirement of "participating in the Indochina Refugee Assistance Program."

Project grant applications will be evaluated on the following criteria:

1. Familiarity and experience of the applicant organization in Indochinese refugee resettlement, manpower programs, and/or teaching English as a second language (0–10 Points).

2. Qualifications of applicant organization in operating human service programs, including:

(a) Provision of direct services; (b) project administration; (c) monitoring of

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subcontracts, if applicable; (d) training and supervision of staff; and (e) demonstration of commitment and responsiveness to refugee concerns through implementation of Advisory Boards, feedback mechanisms, and program evaluation (0–15 Points).

3. Projected impact of the proposed program in increasing self-sufficiency and reducing dependency—i.e., specific project objectives (0–15 Points).

4. Qualifications of individual professional personnel delivering the services and administering the project (0–10 Points).

5. Understanding and analysis of the problem, in light of local conditions and the needs of the target population to be served (0–10 Points).

6. The extent to which the grant application outlines a clear and achievable plan to reduce unemployment and/or underemployment among target adult refugees (0–15 Points).

7. The extent to which the proposed project mobilizes, coordinates, and expands existing resources and activities which are providing, or could provide, services to refugees, including:

(a) Ongoing activities funded through the Office of Family Assistance and Office of Education under the Refugee Assistance Program; (b) State or local resettlement task forces or committees; and (c) Voluntary efforts undertaken by Voluntary Agencies (VOLAGs), other resettlement agencies, and Indochinese associations and coalitions (0–15 Points).

8. Comprehensiveness and coordination of proposed project components (0–10 Points).

9. Adequacy and accessibility of facilities and other resources (0–10 Points).

10. Reasonableness of estimated costs in relation to anticipated results (cost/benefit ratio) (0–15 Points).

Selection of a State for a grant award does not preclude a grant award to other public or non-profit private agencies within the State. Applicants must demonstrate their willingness and intention to work cooperatively with other agencies serving the same population.

X. Application Content

All applicants will use Standard Form 424, "Federal Assistance" in submitting project proposals. Grants applications must also include the following:

(1) Description of the applicant organization. Description of the proposer (public agency, private nonprofit, consortium). If other than a public agency, description of its organizational mandate, funding sources, principal officers, address, and telephone number. A description of the advisory board's makeup, the selection process used for its members, and the board's function. If the applicant is a unit of a larger institution, assurances must be provided that the operation and objectives of the project will not be subordinated to other institutional objectives.

(2) Applicant experience with Indochinese refugees. Description of other projects or experience which the applicant has had in serving the Indochinese refugee population.

(3) Identification of the target population. Includes estimates of the number of people to be served (compared to the total refugee population in the area), number receiving cash assistance, and other relevant distinctions, such as:

a. Number unemployed and underemployed.

b. Heads of households and secondary wage earners.

c. Sex and family status.

d. Native language (Vietnamese, Cambodian, Lao, H'mong).

This section will include an explanation of the methodology and data sources used in arriving at the estimates.

(4) Project objectives. Description of proposed project objectives, including the number of enrollees who will achieve each of the listed objectives.

(5) Existing service deliverers. Brief overview of existing services to Indochinese refugees which have bearing on the proposed project. Where other service projects are in operation, proposer should provide assurances that either:

a. Coordinative linkages with such projects have been arranged (demonstrated by letters of commitment or support or descriptions of working agreements), or

b. The proposed project is not in competition with, nor duplicative of, existing projects.

(6) Work plan. A work plan to meet the project objectives including identification of all service deliverers and a procedure to insure service linkages. A description of proposed contracting with third parties should be included. The work plan should describe in detail the proposed services and components, such as:

a. Outreach and recruitment. Description of how proposer plans to locate and recruit the target population, along with a schedule of enrollment goals.

b. Intake and assessment. Description of how proposer plans to determine eligibility and make assessments of enrollee needs, including assessment tools or proposed tests.

c. Counseling and career planning. Description of how proposer plans to provide counseling and career planning services. If already developed, samples should be included of Employment Plan or Career Plan forms which will be completed for enrollees.

d. Language training. Description of how proposer plans to deal with the language problems of the refugees. If English as a Second Language (ESL) programs are planned, description of class sizes, amount of instruction, and assurance that classes will be refugee-specific.

e. Vocational training. If proposed, description of how proposer plans to provide or arrange for vocational training, including skill areas, length of training, and likelihood of related employment.

f. Job development and placement. Description of how proposer plans to develop jobs, or other positive alternatives (such as on-the-job training or higher education). Description of placement methodology.

g. Follow-up. Description of how proposer plans to maintain follow-up contacts and records for ninety days after all placements.

(7) Supportive services. Supportive services required, with an indication of how they will be provided.

(8) Management plan. A plan for fiscal and program management to accomplish the program objectives. The program management plan should describe how the proposer plans to administer the project, train and supervise staff, monitor sub-contracts (if proposed), maintain records, and evaluate performance.

(9) Program budget.

XI. Records and Reports

Grantees will be required to maintain such fiscal and operational records as are necessary for Federal monitoring and auditing of the grants. This record-keeping shall include but is not limited to:

(1) Individual case records on all refugees counted as enrolled and receiving services. At a minimum these records must include identification data; career planning and counseling data; services provided; progress reports; job referrals; job placements; and follow-up.

(2) Quarterly program progress reports, due 10 days after the last calendar day of each quarter following the effective date of the contract award. The quarterly report shall include:

a. A narrative statement of project status: Progress achieved, problems encountered, and proposed actions to resolve problems.

b. The number of refugees receiving services, including current enrollment and cumulative totals for each service provided by the grant project.

c. The number of refugees placed in jobs and hourly wage rates.

d. Of those placed, the number still employed 30, 60, and 90 days after job placement.

e. A cash assistance status report of the refugees served.

(3) Fiscal reports.

(4) Fiscal records.

(5) Additional reports as required for effective Federal monitoring.

XII. Conditions of Award

All grants made under this announcement will be subject to:

1. The following HEW regulations in 45 CFR, as amended: Part 16, "Department Grant Appeals Process;" Part 74 "Administration of Grants;" Part 75, "Informal Grant Appeals Procedures;" and Parts 80, 84, and 86 relating to nondiscrimination.

2. The HEW Grants Administration Manual. Copies of these documents may be inspected in the offices of Regional Commissioners, SSA, or of the Special Programs Staff, Office of Family Assitance, HEW, Room 1124, Donohoe Building, 400 Sixth Street S.W., Washington, D.C.

XIII. Additional Information

Additional information and grant applications can be obtained from the following persons in the HEW Regional Offices:

Region I

Tran Phuc Truong, Social Security Administration, HEW, John F. Kennedy Federal Building, Government Center, Boston, Mass. 02003, telephone 617–223–6833, FTS 223–6833.

Region II

Georgianna Gleason, Social Security Administration, HEW, 26 Federal Plaza, New York, N.Y. 10007, telephone 212–264–7202, FTS 264–7202.

Region III

Robert T. Clifford, Office of Family Assistance, Social Security Administration, HEW, P.O. Box 8788, Philadelphia, Pa. 19101, telephone 215–596–6615, FTS 596–6615

Region IV

Hoang T. Phan, Social Security Administration, HEW, Marietta Tower, 101 Marietta Street N.W., Atlanta, Ga. 30323, telephone 404–221–2466, FTS 242–2466.

Region V

Gene Niewoehner, Social Security Administration, HEW, 300 South Wacker Drive, Chicago, ILL. 60606, telephone 312–353–5182., FTS 353–5182..

Region VI

Carol Sedanko, Social Security Administration, HEW, 1200 Main Tower Building, Dallas, Texas 75202, telephone 214–767–4301, FTS 729–4301.

Region VII

Don Belknap, Social Security Administration, HEW, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816–374–6127, FTS 758–6127.

Region VIII

Vo Van Ha, Social Security Administration, HEW, 1961 Stout Street, Denver, Colo. 80202 telephone 303–837–5361, FTS 327–5361.

Region IX

Robert Harberson, Social Security Administration, HEW, 100 Van Ness Avenue, San Francisco, Calif. 94102, telephone 415–556–8582, FTS 556–8582.

Region X

Ray Napierkowski, Social Security Administration, HEW, Arcade Plaza, 131 Second Avenue, Seattle, Wash. 98101, telephone 206–442–5734, FTS 399–5734.

(1976 Catalog of Federal Domestic Assistance No. 13.814—Refugee Assistance-Indochinese Refugees (previously Catalog No. 13.769-Special Assistance to Refugees from Cambodia, Vietnam, and Laos in the United States.)

Dated: April 19, 1979.

Stanford G. Ross,
Commissioner of Social Security.

[FR Doc. 79–13002 Filed 4–25–79; 8:45 am]

BILLING CODE 4110–07–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Deputy Area Manager, et al.: Boston Area Office—Region 1; Designation To Serve as Acting Area Manager

Republication

In FR Doc. 79–12120 published on page 23381 in the issue of Thursday, April 19, 1979, part of the heading was inadvertently omitted. For the convenience of the reader, the document with the heading corrected is being republished in its entirety.

The officials appointed to the following listed positions are hereby designated to serve as Acting Manager, Boston Region 1, during the absence of the Area Manager, with all the powers, functions, and duties redelegated or assigned to the Area Manager; Provided, That no official is authorized to serve as Acting Area Manager unless all other officials whose titles precede his in this designation are unable to act by reason of absence or vacancy in the position:

(1) Deputy Area Manager.

(2) Director, Housing Division.

(3) Director, Community Planning and Development Division.

(4) Area Counsel.

This designation supersedes the designation published at 40 FR 24041, June 4, 1975.

Effective Date. This designation and delegation shall be effective as of March 16, 1979.

Marvin Siflinger,
Area Manager, Boston Area Office, Region 1.

[Docket No. D–79–580]

[FR Doc. 79–12120 Filed 4–18–79; 8:45 am]

BILLING CODE 1505–01–M

Office of the Service Office Supervisor; Shreveport Service Office; Designation

Republication

In FR Doc. 79–12121 published on page 23381 in the issue of Thursday, April 19, 1979, part of the heading was inadvertently omitted. For the convenience of the reader, the document with the heading corrected is being republished in its entirety.

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of Line of Succession.

SUMMARY: The Service Office Supervisor is designating officials who may serve as Acting Service Office Supervisor during the absence of, or vacancy in the position of, the Service Office Supervisor.

EFFECTIVE DATE: March 29, 1979.

SUPPLEMENTARY INFORMATION: Each of the officials appointed to the following position is designated to serve as Acting Service Office Supervisor during the absence of, or vacancy in the position of, the Service Office Supevisor, with all the powers, functions, and duties redelegated or assigned to the Service Office Supervisor: Provided, that no official is authorized to serve as Acting Service Office Supervisor unless all officials before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Service Office Supervisor.

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2. Chief, Loan Management Branch.

Terrence R. Duvernay,
Area Manager, New Orleans Area Office, Region VI (Dallas).
Walter G. Sevier,
Deputy Regional Administrator, Region VI (Dallas).
[FR Doc. 79-12121 Filed 4-18-79; 8:45 am]
BILLING CODE 1505-01-M

Deputy Area Manager et al.; Buffalo Area Office; Designation and Delegation of Authority

Republication

In FR Doc. 79-12122 published on page 23381 in the issue of Thursday, April 19, 1979, part of the heading was inadvertently omitted. For the convenience of the reader, the document with the heading corrected is being republished in its entirety.

Section A. Designation of Acting Area Manager

Each of the officials appointed to the following positions is designated to serve as Acting Area Manager during the absence of, or vacancy in the position of, the Area Manager, with all the powers, functions and duties redelegated or assigned to the Area Manager; Provided, that no official is authorized to serve as Acting Area Manager unless all officials listed before him/her in this designation are unavailable to act by reason of absence or vacancy in the position:

1. The Deputy Area Manager.
2. The Director, Community Planning and Development Division.
3. The Director, Housing Division.
4. The Area Counsel.
5. The Director, Fair Housing and Equal Opportunity Division.

Effective Date. This designation and delegation shall be effective as of March 7, 1979.

Thomas Appleby,
Regional Administrator, New York Regional Office.
[Docket No. D-79-561]
[FR Doc. 79-12122 Filed 4-18-79; 8:45 am]
BILLING CODE 1505-01-M

Federal Disaster Assistance Administration

Iowa; Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Iowa (FDAA-3076-EM), dated April 6, 1979, and related determinations.

DATED: April 6, 1979.

FOR FURTHER INFORMATION CONTACT:
John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter on April 6, 1979 to the Secretary, the President declared an emergency as follows:

I have determined that the impact of severe storms and tornadoes on the State of Iowa is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Iowa.

In order to provide Federal assistance, you are hereby authorized to donate Government-owned mobile homes to the State of Iowa for the purpose of providing temporary housing under the provisions of Section 404 of Public Law 93-288.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Francis X. Tobin of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency.

The Counties of: Madison, Taylor, Warren, Page, Union.

William H. Wilcox,
Administrator, Federal Disaster Assistance Administration.
(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance)
[FDAA-3076-EM; Docket NFD-6753]
[FR Doc. 79-12863 Filed 4-25-79; 8:45 am]
BILLING CODE: 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

April 19, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 230 DM 2.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the

Hattadare Indian Nation, c/o James N. Lowery, D.D., Bunnlevel, North Carolina 28323

has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on March 16. The petition was forwarded and signed by James N. Lowery D.D.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

Forrest J. Gerard,
Assistant Secretary—Indian Affairs.
[FR Doc. 79-12889 Filed 4-25-79; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

New Mexico; Intent To Prepare an Environmental Impact Statement

April 13, 1979.

The Department of the Interior, Bureau of Land Management, Socorro District Office will prepare an environmental impact statement on the proposed El Malpais Wilderness Area. The statement will analyze the proposed wilderness designation on 115,000 acres of the El Malpais lava flow. Analysis of alternate designations for the area will be considered in the statement.

A citizens work group, representing various interest groups, met and developed tentative multiple land use recommendations for the Bureau's planning on the El Malpais lava flow. These recommendations are being used to formulate the proposed action and alternatives and were presented to the public at public meetings held early in April. A 45 day comment period, March 12, 1979 to April 26, 1979, will allow the public to submit written comments on the proposed wilderness designation of El Malpais. Upon completion of the 45 day comment period and an analysis of the comments, the proposed action, alternatives, scope and issues to be discussed in the statement will be formulated.

The contact for the El Malpais Wilderness Environmental Impact Statement is:

Paul Tanner, Bureau of Land Management, Socorro District Office, Post Office Box 1456, 200 Neel Avenue NW., Socorro, New Mexico 87801.

Telephone: Commercial—Area Code (505) 835-0412 FTS—476-1614

Art Zimmerman,
State Director.
[FR Doc. 79-12842 Filed 4-25-79; 8:45 am]
BILLING CODE 4310-84-M

Wyoming; Notice of Application

April 16, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Mountain Fuel Supply Company of Salt Lake City, Utah filed an application for a right-of-way to construct a 3½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 18 N., R. 112 W.,
Sec. 14, S½NW¼.

The proposed pipeline will transport natural gas from the Bruff Well #1-14 located in section 14 southwesterly to a point of connection with their main line located in the NE¼SW¼ section 15, T. 18 N., R. 112 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyo. 82901.

Maria B. Bohl,
Acting Chief, Branch of Lands and Minerals Operations.
[W-67625]
[FR Doc. 79-12843 Filed 4-25-79; 8:45 am]
BILLING CODE 4310-84-M

Ely District, Nevada; Release From Further Wilderness Consideration

The Bureau of Land Management has decided to release from further wilderness consideration 12 roadless areas covering 205,700 acres in the Ely District, Nevada.

The special project inventory, covering prospective oil and gas drilling areas, a proposed prison site, and a powerline right-of-way, was conducted late last year and a 90-day public comment period ended April 4. The Bureau recommended that the areas be dropped because they lacked wilderness characteristics described in the 1964 Wilderness Act. Since there was general public agreement with these findings, the inventory is now complete and the decision to release the areas from all management restrictions imposed by Section 603 of the Federal Land Policy and Management Act will be implemented May 4.

The inventory units involved and the reasons for releasing them are: Currant, Eldridge Ranch, Coal Valley Reservoir, Smith Valley, Water Canyon Flats, and East Preston Reservoir, due to lack of opportunities for outstanding solitude or a primitive and unconfined type of recreation; Murry Creek, Squaw Peak, West Ely, Dark Peak, West Preston Reservoir, and Lion Spring, due to lack of naturalness and insufficient size.

Information on these units and the special inventory can be obtained from the BLM, Ely District Offices, Star Route 5, Box 1, Ely, Nevada 89301.

Dated: April 20, 1979.

E. I. Rowland,
State Director, Nevada.
[FR Doc. 79-12867 Filed 4-25-79; 8:45 am]
BILLING CODE 4310-84-M

North Atlantic Outer Continental Shelf; Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Withdrawal of Blocks

In the Call for Nominations of and Comments on Areas for Oil and Gas Leasing published at 43 FR 60237 on December 26, 1978, certain areas were included that are currently in litigation. Blocks listed in this notice are hereby withdrawn from the Call. Nominations and comments concerning such blocks will not be considered by the Department of the Interior until pending litigation has been resolved.

Description of Blocks Withdrawn

OCS Official Protraction Diagram, NK 19-7, Providence.

Blocks: 549, 593, 594, 626, 627, 628, 629, 630, 638, 639, 640, 666, 667, 668, 669, 670, 671, 672, 673, 674, 684, 708, 710, 711, 712, 713, 714, 717, 718, 752, 753, 754, 755, 756, 757, 758, 761, 762, 796, 797, 798, 799, 800, 801, 802, 805, 843, 844, 845, 846, 847, 887, 888, 889, 890, 931.

OCS Official Protraction Diagram, NK 19-8.

Blocks: 446, 489, 490, 533, 534, 578.

Dated: April 18, 1979.

Arnold E. Petty,
Acting Associate Director, Bureau of Land Management.

Dated: April 20, 1979.

Larry E. Meierotto,
Assistant Secretary of the Interior.
[FR Doc. 79-12890 Filed 4-25-79; 8:45 am]
BILLING CODE 4310-84-M

Wilderness Review of Instant Study Areas; Oregon

A report on a preliminary determination that five instant study areas in Oregon do not possess wilderness characteristics is available for public review and comment until June 26, 1979.

Copies of the report can be obtained by writing to the Bureau of Land Management, Office of Public Affairs (912), P. O. Box 2965, Portland, Oregon 97208.

Public meetings will be held to explain the wilderness review of the instant study areas and to receive comments. The report includes instructions on how people who cannot attend one of the meetings may submit comments directly to offices which administer the areas.

Meetings will be held at the following locations:

Lakeview, Oreg.

Wednesday, May 9, 7:00 PM, Lakeview Community Center basement, 11 North "G" Street.

Grants Pass, Oreg.

Wednesday May 9, 7:00 PM, Josephine county Courthouse, 500 Sixth Street.

Klamath Falls, Oreg.

Monday, May 14, 7:00 PM, County Library, 126 South 3rd.

Portland, Oreg.

Wednesday, May 16, 3:00 PM and 7:30 PM, BLM State Office basement conference room, 729 NE Oregon Street.

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Salem, Oreg.

Wednesday, May 16, 1:30 to 4:40 PM, and 7:00 to 9:30 PM, Salem Heights Hall, 3505 Liberty Road South.

Coos Bay, Oreg.

Wednesday, May 16, 9:00 AM, Southwestern Oregon Community College, Tioga Hall, Empire Lakes.

Bend, Oreg.

Saturday, May 19, 9:30 AM, Pilot Butte Junior High School Cafetorium, 1500 NE Penn Avenue.

Dated: April 16, 1979.

Muri W. Storms,

State Director, Oregon State Office.

[FR Doc. 79-12925 Filed 4-25-79; 8:45 am]

BILLING CODE 4310-84-M

Wilderness Inventory Findings or Public Lands in Nevada; Meetings

The Bureau of Land Management in Nevada has scheduled two series of open houses to present and discuss its initial wilderness inventory findings on public lands in Nevada.

The first series will be held during the month of May at district offices and other locations throughout the state. Dates, times, and locations of those meetings are listed below. The second series will provide the public an overall look at the statewide findings at four strategic locations. The dates, times, and locations of these sessions, tentatively scheduled for mid-June, will be announced in the **Federal Register** shortly.

The district open houses are as follows:

May 14—Tonopah, BLM area office, 1 to 6:30 p.m.
May 14—Battle Mountain, BLM district office, 1 to 6:30 p.m.
May 16—Yerington, Lyon County Library, 7 to 9 p.m.
May 18—Ely, White Pine County Library, 5 to 8 p.m. (Pacific Daylight Time)
May 21—Lovelock, Pershing County Courthouse, 7:30 to 9 p.m.
May 22—Goldfield, Esmeralda County Courthouse, 4 to 8 p.m.
May 22—Winnemucca, BLM district office, 1:30 to 4:30 p.m. and 7 to 8 p.m.
May 23—Fallon, Nevada Dept. of Fish and Game Conference Room, 7 to 9 p.m.
May 23—Elko, BLM district office, 7 p.m.
May 23—Las Vegas, Garden Club Center, Lorenzi Park, 2 to 5 p.m. and 7 to 9 p.m.
May 24—Caliente, BLM office, 4 to 9 p.m.
May 30—Hawthorne, Hawthorne Convention Center, 7 to 9 p.m.

In addition, information on the initial inventory can be obtained from any BLM office in Nevada during normal business hours.

Dated: April 20, 1979.

E. I. Rowland,

State Director, Nevada.

[FR Doc. 79-12898 Filed 4-25-79; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Application

April 18, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Mountain Fuel Supply Company of Salt Lake City, Utah filed an application for a right-of-way to construct a 3½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 20 N., R. 112 W.,
Sec. 34, S½SE¼ and SW¼.

The proposed pipeline will transport natural gas from the Fabian Ditch No. 1–34 well located within the SW¼ of section 34, T. 20 N., R. 112 W., Lincoln County, extending easterly to an existing line in the SW¼ of section 35, T. 20 N., R. 112 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyoming 82901.

Marie B. Bohl,

Acting Chief, Branch of Lands and Minerals Operations.

[Wyoming 67824]

[FR Doc. 79-12899 Filed 4-25-79; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Application

April 17, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct an access road for the purpose of access to their gathering system in the Willow Creek area and to their existing Willow Creek compressor station site and will affect the following described public lands:

Sixth Principal Meridian, Wyoming

T. 24 N., R. 112 W.,
Secs. 30, 31 and 32.
T. 24 N., R. 113 W.,
Secs. 16, 17, 21, 22, 25, 26 and 27.
T. 24 N., R. 114 W.,
Secs. 11, 13 and 14.

The proposed access road will extend from a point of intersection with an existing highway right-of-way located in the NE¼NW¼ of section 32, T. 24 N., R. 112 W., and will end at a point located in Tract 14-B, section 11, T. 24 N., R. 114 W., all within Lincoln County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 N., Rock Springs, Wyoming 82901.

Marie B. Bohl,

Acting Chief, Branch of Lands and Minerals Operations.

[Wyoming 67247]

[FR Doc. 79-12900 Filed 4-25-79; 8:45 am]

BILLING CODE 4310-84-M

Grand Junction District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Grand Junction District Grazing Advisory Board will be held on June 5, 1979.

The meeting will begin at 9:00 A.M. in the conference room of the Bureau of Land Management Office at 764 Horizon Drive, Grand Junction, Colorado. In the afternoon attendees will tour a portion of the district and discuss riparian area management as related to allotment management plans.

The agenda for the meeting will include: (1) Election of officers; (2) expenditure of range betterment and advisory board funds for range improvements; (3) discussion of the advisory board election and rechartering process; (4) riparian area tour, and; (5) arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 11:15 and 11:45 A.M. on June 5, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501, by May 29, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager. Persons desiring to make the tour should furnish their own transportation.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

David A. Jones,

District Manager.

[FR Doc. 79-12902 Filed 4-25-79; 8:45 am]

BILLING CODE 4310-84-M

Montana; Proposed Withdrawal and Reservation of Lands

April 18, 1979.

The Soil Conservation Service, Department of Agriculture, on April 5, 1979, filed application, Serial No. M 43234, for the withdrawal of the following described lands from settlement, sale, location, or entry under all the general land laws including the mining laws subject to valid existing rights:

Principal Meridian, Mont.

Deer Lodge National Forest

T. 5 N., R. 4 W.,
Sec. 7, SE¼SW¼SW¼SE¼, S½SE¼ SW¼SE¼, E½NE¼SE¼SE¼, E½SW¼ SE¼SE¼, SW¼SW¼SE¼SE¼, and SE¼SE¼SE¼;
Sec. 17, N½N½N½NW¼ and S½NE¼ NE¼NW¼; and
Sec. 18, N½N½NE¼NE¼, N½NE¼NW¼ NE¼, and NE¼NW¼NW¼NE¼.

Public Lands

T. 4 N., R. 2 W.,
Sec. 6, Lots 3, 4, 5, 6, and 7 and SE¼NW¼; and
Sec. 18, SE¼SW¼.
T. 5 N., R. 3 W.,
Sec. 32, NW¼NE¼, S½NE¼, and NW¼.
T. 5 N., R. 4 W.,
Sec. 8, SE¼NE¼SW¼NW¼, E½SE¼ SW¼NW¼, S½N½SE¼NW¼, S½SE¼NW¼, E½NE¼SW¼, W½NW¼SW¼SW¼, S½S½SW¼, NE¼SE¼SW¼, S½NW¼SE¼, and NW diagonal ½ of SW¼SE¼; and
Sec. 13, S½ of Lot 3.

The areas described aggregate 72.50 acres of National Forest System lands and 679.06 acres of public lands in Jefferson, County, Montana.

The applicant desires the withdrawal to protect the lands needed for installation of structural measures in connection with Public Law 83–566, Boulder River Watershed Project. The withdrawal will be needed until a right-of-way is issued to the North Boulder Drainage District for the project. The withdrawal applied for would be in addition to existing withdrawals and reservations.

On or before May 30, 1979, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing in connection with the withdrawal is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below by May 30, 1979. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximun concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the **Federal Register**. A separate notice will be sent to each interested party of record.

For a period of two years from the date of publication of this notice in the **Federal Register**, the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, the lands will remain segregated until the necessary right-of-way is issued.

All communications in connection with this withdrawal should be addressed to the Bureau of Land Management, Department of the Interior, Montana State Office, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[M 43234]

[FR Doc. 79-12888 Filed 4-25-79; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Application for Gas Pipeline Right-of-Way

April 19, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 2-inch pipeline right-of-way across the following land:

New Mexico Principal Meridian, N. Mex.

T. 27 N., R. 9 W.,
Sec. 5, lot 2.

This pipeline will convey natural gas across 0.064 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87017.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[NM 36528]

[FR Doc. 79-12886 Filed 4-25-79; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Application for Natural Gas Pipelines Right-of-Way

April 19, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipelines right-of-way across the following lands:

New Mexico Principal Meridian, N. Mex.

T. 20 S., R. 26 E.,
Sec. 34, S½SW¼.
T. 21 S., R. 26 E.,
Sec. 2, lots 1 and 9.

These pipelines will convey natural gas across 0.714 of a mile of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of

V 4 4 / 8 2

whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,
Chief, Branch of Lands and Minerals Operations.

[NM 36181]

[FR Doc. 79-12896 Filed 4-25-79; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Alaska; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The U.S. Army Corps of Engineers filed application, serial No. F-020174, on May 11, 1975, for a withdrawal in relation to the following described lands:

Fort Wainwright Maneuver Area.—Tract A

A parcel of land situated approximately 20 miles southeast of Fairbanks, Fourth Judicial District, State of Alaska. Said parcel being in the following unsurveyed townships and ranges:

T. 1 S., R. 3 E., Fairbanks Meridian
Sec. 22: E½SE¼;
Sec. 23: S½;
Sec. 24: S½;
Secs. 25, 26,: all;
Secs. 27: E½E½.
Sec. 34: E½E½;
Secs. 35, 36: all.

Containing 3,600 acres, more or less.

T. 1 S., R. 4 E., Fairbanks Meridian
Sec. 19: S½;
Sec. 21: SE¼;
Sec. 22: S½;
Sec. 23: S½;
Sec. 24: S½
Secs. 25 to 36 inclusive: all.

Containing 9,120 acres, more or less.

T. 1 S., R. 5 E., Fairbanks Meridian
Sec. 19: S½;
Sec. 20: S½;
Sec. 21: S½
Sec. 22: S½;
Sec. 23: S½;
Sec. 24: S½;
Secs. 25 to 36 inclusive: all.

Containing 9,600 acres, more or less.

T. 1 S., R. 6 E., Fairbanks Meridian
Sec. 19: S½;
Sec. 20: S½;
Sec. 21: S½;
Sec. 22: S½;
Secs. 27 to 34 inclusive: all.

Containing 6,400 acres, more or less.

T. 2 S., R. 3 E., Fairbanks Meridian
Secs. 1, 2: all;
Sec. 3: E½E½;
Sec. 10: E½E½;
Secs. 11, 12: all;
Sec. 14: N½, W½SW¼;
Sec. 15: E½E½;
Sec. 22: E½NE¼, NE¼SE¼;
Sec. 23: W½NW¼, S½SE¼, NE¼SE¼;
Sec. 24: S½;
Sec. 25: all;
Sec. 26: E½, SW¼, S½NW¼, NE¼NW¼.

Containing 5,320 acres, more or less.

T. 2 S., R. 4 E., Fairbanks Meridian
Secs. 1 to 16 inclusive,
Sec. 17: E½;
Sec. 19: S½;
Sec. 20: E½, SW¼.
Secs. 21 to 30 inclusive: all;
Secs. 34 to 36 inclusive: all.

Containing 19,680 acres, more or less.

T. 2 S., R. 5 E., Fairbanks Meridian
Secs. 1 to 36 inclusive: all.

Containing 23,040 acres, more or less.

T. 2 S., R. 6 E., Fairbanks Meridian
Secs. 1 to 36 inclusive: all.

Containing 23,040 acres, more or less.

T. 2 S., R. 7 E., Fairbanks Meridian,
Secs. 1 to 36 inclusive: all.

Containing 23,040 acres, more or less.

T. 2 S., R. 8 E., Fairbanks Meridian,
Sec. 5: W½, W½E½;
Secs. 6, 7: all;
Sec. 8: W½, W½E½;
Sec. 17: W½, W½E½;
Secs. 18, 19: all;
Sec. 20: W½, W½E½;
Sec. 29: W½, W½E½;
Secs. 30, 31: all;
Sec. 32: W½, W½E½.

Containing 6,720 acres, more or less.

T. 3 S., R. 4 E., Fairbanks Meridian,
Secs. 1 to 3 inclusive, 10 to 15 inclusive, 22 to 27 inclusive, 34 to 36 inclusive: all.

Containing 11,520 acres, more or less.

T. 3 S., Range 5 E., Fairbanks Meridian,
Secs. 1 to 36 inclusive: all. Excepting therefrom that parcel of land, (Fairbanks Serial No. 012866) withdrawn by PLO No. 1345 dated 16 October 1956 as amended by PLO No. 1523 dated 8 October 1957.

Containing 22,078.58 acres, more or less.

T. 3 S., R. 6 E., Fairbanks Meridian,
Secs. 1 to 36 inclusive: all.

Containing 23,040 acres, more or less.

T. 3 S., R. 7 E., Fairbanks Meridian,
Secs. 1 to 36 inclusive: all.

Containing 23,040 acres, more or less.

T. 3 S., R. 8 E., Fairbanks Meridian,
Sec. 5: W½, W½E½;
Secs. 6, 7: all;
Sec. 8: W½, W½E½;
Sec. 17: W½, W½E½;
Secs. 18, 19: all;
Sec. 20: W½, W½E½;
Sec. 29: W½, W½E½;
Secs. 30, 31: all;
Sec. 32: W½, W½E½.

Containing 6,720 acres, more or less.

T. 4 S., R. 4 E., Fairbanks Meridian,
Sec. 1: all;
Sec. 2: E½, NW¼, N½SW¼;
Sec. 3: NE¼, N½NW¼;
Sec. 12: NE¼, N½NW¼.

Containing 1,680 acres, more or less.

T. 4 S., R. 5 E., Fairbanks Meridian,
Secs. 1 to 6 inclusive: all;
Sec. 7: N½, SE¼, N½SW¼;
Secs. 8 to 15 inclusive: all;
Sec. 16: N½, SE¼, N½SW¼;
Sec. 17: NE¼, N½NW¼. Excepting therefrom that parcel of land (Fairbanks Serial No. 012867) withdrawn by PLO No. 1345 dated 16 October 1956 as amended by PLO No. 1523 dated 8 October 1957.

Containing 9,393.09 acres, more or less.

T. 4 S., R. 6 E., Fairbanks Meridian,
Secs. 1 to 18 inclusive: all.

Containing 11,520 acres, more or less.

T. 4 S., R. 7 E., Fairbanks Meridian,
Secs. 1 to 11 inclusive: all;
Sec. 12: N½, N½SW¼;
Sec. 14: N½NW¼, SW¼NW¼, NW¼NE¼.
Sec. 15: N½, N½SW¼, SW¼SW¼, NW¼SE¼.
Secs. 16 to 18 inclusive: all.

Containing 10,000 acres, more or less.

T. 4 S., R. 8 E., Fairbanks Meridian,
Sec. 5: NW¼, W½NE¼, NW¼SW¼;
Sec. 6: all;
Sec. 7: N½NW¼.

Containing 1,000 acres, more or less.

The above described parcels of land contain 249,551.67 acres, more or less.

The applicant desires that the land be reserved for an impact range for testing weapons and for training purposes.

A notice of the proposed withdrawal was published in the **Federal Register** on July 9, 1975, 40 FR 28820.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513 on or before May 11, 1979. Notice of the public hearing will be published in the **Federal Register**, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before June 4, 1979.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Alaska State Office, Bureau of Land Management, Department of the Interior, 701 C Street, Box 13, Anchorage, Alaska 99513.

Robert E. Serranno,
Chief, Branch of Lands, and Minerals Operations.

[F-020174]

[FR Doc. 79-12891 Filed 4-25-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Authorities Issuing Permits Under the Endangered Species Convention

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Notice.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249) is a multi-national treaty designed to protect certain species of wildlife and plants from overexploitation due to international trade. The operation of this Convention depends on a system of permits that are issued by designated authorities in each Party nation. At their first meeting in 1976, the Parties agreed to require comparable documents from competent authorities of non-party nations. The present notice states where the public may obtain information and lists of the permit-issuing Management Authorities in Party nations and competent authorities in non-party nations.

ADDRESS: Inquiries about permit-issuing authorities should be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703/235-1903) or any one of the following Service's Law Enforcement Offices.

813 D Street, Anchorage, AK 99501, telephone: (907/265-5491).
Lloyd 500 Bldg., Suite 1490, 500 NE. Multnomah St., Portland, OR 97232, telephone: (503/231-6125).
Room E 1924, 2800 Cottage Way, Sacramento, CA 95825, telephone: (916/484-4748).
P.O. Box 25486 DFC, Lakewood, CO 80225, telephone: (303/234-4612).
P.O. Box 1038, Independence, MO 64051, telephone: (816/374-6273).
P.O. Box 329, Albuquerque, NM 87103, telephone: (505/766-2091).
P.O. Box 45, Twin Cities, MN 55111, telephone: (612/725-3530).
546 Carondelet St., Rm. 100, New Orleans, LA 70130, telephone: (504/589-2692).
P.O. Box 95467, Atlanta, GA 30347, telephone: (404/881-4761).
P.O. Box 290, Nashville, TN 37202, telephone: (615/251-5532).
95 Aquahart Road, Glen Burnie, MD 21601, telephone: (301/761-8033 or 8034).
Century Bank Bldg., 2nd Floor, 700 Rockaway Turnpike, Lawrence, NY 11559, telephone: (212/995-8613).
P.O. Box 277, Newtonville, MA 02160, telephone: (617/965-5100 x254).

SUPPLEMENTARY INFORMATION: The Service has prepared a list of Management Authorities and competent authorities in non-party nations to guide the public in obtaining proper documents for international trade in specimens of species subject to the Convention. It should be noted that the Convention requires (1) that documents authorizing such trade must be issued by appropriate authorities, and (2) that the documents must contain certain types of information set forth in Article VI and Appendix IV of the Convention, which are reprinted below.

Article VI

Permits and Certificates

1. Permits and certificates granted under the provisions of Articles III, IV, and V shall be in accordance with the provisions of this Article.

2. An export permit shall contain the information specified in the model set forth in Appendix IV, and may only be used for export within a period of six months from the date on which it was granted.

3. Each permit or certificate shall contain the title of the present Convention, the name and any identifying stamp of the Management Authority granting it and a control number assigned by the Management Authority.

4. Any copies of a permit or certificate issued by a Management Authority shall be clearly marked as copies only and no such copy may be used in place of the original, except to the extent endorsed thereon.

5. A separate permit or certificate shall be required for each consignment of specimens.

6. A Management Authority of the State of import of any specimen shall cancel and retain the export permit or re-export certificate and any corresponding import permit presented in respect of the import of that specimen.

7. Where appropriate and feasible a Management Authority may affix a mark upon any specimen to assist in identifying the specimen. For these purposes "mark" means any indelible imprint, lead seal or other suitable means of identifying a specimen, designed in such a way as to render its imitation by unauthorized persons as difficult as possible.

BILLING CODE 4310-55-M

A P 2 6 7 9 UMI

APPENDIX IV

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

EXPORT PERMIT NO.——

Exporting Country: *Valid Until:*

Date

This permit is issued to: .....
address: .....
who declares that he is aware of the provisions of the Convention, for the purpose of exporting: .....
(specimen(s), or part(s) or derivative(s) of specimen(s))[1]
of a species listed in
Appendix I)
Appendix II)[2]
Appendix III of the Convention as specified below.)
(bred in captivity or cultivated in .....)[2]
This (these) specimen(s) is (are) consigned to: .....
address: ..... country: .....
.....
at ..... on .....
.....
(signature of the applicant for the permit)
at ..... on .....
.....
(stamp and signature of the Management Authority issuing the export permit)

Description of the specimen(s) or part(s) or derivative(s) of specimen(s), including any mark(s) affixed

Species (scientific and common name)	Living specimens				Parts or derivatives		
	Number	Sex	Size (or volume)	Mark (if any)	Quantity	Type of goods	Mark (if any)

Note: Stamps of the authorities inspecting:
(a) On exportation.
(b) On importation. (This stamp voids this permit for further trade purposes, and this permit shall be surrendered to the Management Authority.)

[1] Indicate the type of product.
[2] Delete if not applicable.

BILLING CODE 4310-55-C

In addition to the information set forth in Appendix IV, the regulations implementing the Convention in the United States (50 CFR Part 23) require that documents from non-party nations contain a statement to the effect that the shipment of wildlife or plants is in accordance with the laws of that nation, that it will not be detrimental to the survival of the species in the wild, and that living specimens will be transported in a manner which minimize the risk of injury, damage to health, or cruel treatment.

This notice was prepared by Dr. Richard J. Jachowski of the Federal Wildlife Permit Office, Washington, D.C. 20240, telephone (703/235-2418).

Dated: April 19, 1979.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

[FR Doc. 79-12865 Filed 4-25-79; 8:45 am]

BILLING CODE 4310-55-M

Office of the Secretary

Proposed Grazing Management Program for the Shoshone Resource Planning Area, Idaho; Availability of Draft Environmental Statement and Public Hearings

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for a proposed grazing management program for the Bennett Hills, Timerman Hills, and Magic Planning Units of the Shoshone District located in southcentral Idaho. Written comments are invited and should be received at Shoshone District Office, Bureau of Land Management, 400 West F Street, Shoshone, Idaho 83352 by June 11, 1979.

The proposal involves changes in initial stocking rates, implementing improved grazing systems and installation of certain range improvements. Approximately 565,000 acres of public lands were involved.

Copies of the draft environmental statement are available for inspection at the following locations:

Shoshone District Office, Bureau of Land Management, 400 West F Street, Shoshone, Idaho 83352, Telephone: (208) 886-2207.

Idaho State Office, Bureau of Land Management, Federal Building, 500 W. Fort Street, Boise, Idaho 83724, Telephone: (208) 384-1770.

Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

A limited number of single copies may be obtained from the Idaho State Director, and the Shoshone District Manager, Bureau of Land Management at the above addresses.

Notice is also given that public hearings will be held at: (1) Lincoln Elementary School, Shoshone, Idaho, May 30, 1979, at 7 a.m., MDT; and (2) Rodeway Inn, 29th and Chinden, Boise, Idaho, May 31, 1979, at 7 p.m., MDT.

The public hearings will be conducted by an Administrative Law Judge, U.S. Department of the Interior. Individuals wishing to testify may do so by appearing at a hearing place as previously specified. Persons wishing to give testimony will be limited to 10 minutes, with written submissions invited. Prior to giving testimony at public hearings, individuals or spokesmen are requested to complete a hearing registration form. Registration forms may be obtained by contacting the Shoshone District Manager at the above address.

Dated: April 20, 1979.

Larry E. Meierotto,
Assistant Secretary of the Interior.

[INT DES 79-21]

[FR Doc. 79-12839 Filed 4-25-79; 8:45 am]

BILLING CODE 4310-84-M

INTERNATIONAL TRADE COMMISSION

Certain Steel Wire Nails from Korea; Inquiry and Hearing

The United States International Trade Commission (Commission) received advice from the Treasury Department (Treasury) on April 17, 1979, that, during the course of determining whether to institute an investigation with respect to certain steel wire nails from Korea in accordance with section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)), Treasury had concluded from the information developed during its preliminary investigation that there is substantial doubt that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of this merchandise into the United States. Therefore, the Commission on April 20, 1979, instituted inquiry No. AA1921-Inq.-26, under section 201(c)(2) of that act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of steel wire brads, nails, spikes, staples, and tacks of one-piece construction which are (1) under 1 inch in length and under 0.065 inch in diameter, or (2) which are 1 inch or more in length and 0.065 inch or more in diameter, provided for in item numbers 646.25 and 646.26, respectively, of the Tariff Schedules of the United States.

The Treasury advised the Commission as follows:

The General Counsel of the Treasury,
Washington, D.C., April 13, 1979.

Dear Mr. Chairman: In accordance with section 201(c) of the Antidumping Act of 1921, as amended, an antidumping investigation is being initiated with respect to certain steel wire nails from Korea. Pursuant to section 201(c)(2) of the Act, you are hereby advised that the information developed during our preliminary investigation has led me to the conclusion that there is substantial doubt that an industry in the United States is being, or is likely to be, injured by reason of the importation of this merchandise into the United States.

The bases for my determination are summarized in the attached copy of the Antidumping Proceeding Notice in this case. Additional information will be provided by the U.S. Customs Service.

Some of the information involved in this case is regarded by Treasury to be of a confidential nature. It is therefore requested that the Commission consider all the information provided for its investigation to be for the official use of the ITC only, not to be disclosed to others without prior clearance from the Treasury Department.

Sincerely,

Robert H. Mundheim.

The Honorable Joseph Parker,
Chairman, International Trade Commission, Washington, D.C. 20436.

Enclosure.

Hearing. A public hearing in connection with the inquiry will be held in Washington, D.C. on Friday, May 4, 1979, at 10:00 a.m., e.d.t. The hearing will be held in the Hearing Room, United States International Trade Commission Building, 701 E Street, NW., Washington, D.C. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received in writing in the office of the Secretary to the Commission not later than noon Thursday, May 3, 1979.

Written statements. Interested parties may submit statements in writing in lieu of, and in addition to, appearing at the public hearing. A signed original and nineteen true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received not later than Wednesday, May 9, 1979.

By order of the Commission.

V 4 4 / 8 2 A P 2 6 7 9 UMI

Issued: April 23, 1979

Kenneth R. Mason,
Secretary.

[AA1921–Ihq.–20]
[FR Doc. 79–12834 Filed 4–25–79; 8:45 am]
BILLING CODE 7020–02–M

Steel Wire Coat Hangers from Canada; Inquiry and Hearing

The United States International Trade Commission (Commission) received advice from the Department of the Treasury (Treasury) on April 17, 1979, that during the course of determining, in accordance with section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)) whether to institute an investigation with respect to steel wire coat hangers from Canada, Treasury had concluded from the information available to it that there is substantial doubt that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of this merchandise into the United States. For purposes of this inquiry, steel wire coat hangers are defined as "coat and garment hangers of steel, wholly or in chief value of wire, provided for in TSUS item 657.25." Therefore, the Commission on April 20, 1979, instituted inquiry No. AA1921–Inq.–25, under section 201(c)(2) of the act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the inquiry will be held in Washington, D.C., at 10:00 a.m., e.d.t., on Wednesday, May 2, 1979, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW. All parties will be given an opportunity to be present, to produce information and the be heard at such hearing. Requests to appear at the public hearing should be received in writing in the office of the Secretary to the Commission not later than 3:00 p.m., Friday, April 27, 1979.

Written statements. Interested parties may submit statements in writing in lieu of, or in addition to, appearing at the public hearing. A signed original and nineteen true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received no later than Friday, May 4, 1979.

By order of the Commission.

Issued: April 23, 1979.

Kenneth R. Mason,
Secretary.

[AA1921–Inq.–25]
[FR Doc. 79–12835 Filed 4–25–79; 8:45 am]
BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Thomas R. Prendergast, Conroys Pharmacy, Denial of Application for Registration

On June 30, 1978, the Administrator of the Drug Enforcement Administration (DEA) issued to Thomas R. Prendergast, Conroys Pharmacy (Respondent) an order to show cause proposing to deny Respondent's application for registration for reason that on March 21, 1978, in the U.S. District Court for the Western District of Pennsylvania, Respondent was convicted of two counts of making a false and fraudulent statement of material fact in relation to controlled substances, each being a drug-related felony in violation of 18 U.S.C. 1001, and one count of knowingly refusing and failing to keep records required under the Controlled Substances Act, in violation of 21 U.S.C. 842(a)(5).

On October 27, 1978, a hearing was held in Washington, D.C., on the issues raised by the order to show cause. The Honorable Francis L. Young, administative law judge, presided.

On February 13, 1979, the administrative law judge pursuant to 21 CFR 1316.55, transmitted to the Administrator the record of these proceedings together with this report containing recommended findings of fact and conclusions of law. After reviewing this material the Administrator hereby issues his final order in this proceeding.

The administrative law judge found that Respondent was indicted and convicted for telling DEA compliance investigators that he had obtained a partial bottle of phentermine which they discovered on his pharmacy's shelves during their audit of his pharmacy, from a neighboring pharmacy, when he in fact knew he had obtained it from a drug manufacturer. The administrative law judge found Respondent was indicted and convicted for falsely telling DEA compliance investigators that he had given 5,000 phentermine capsules to one Dr. R. W. Willison when, in fact, he knew that he had not done so. The administrative law judge found that Respondent was indicted and convicted for failing to make, keep and furnish records required under the Controlled Substances Act. The administrative law judge further found that Respondent was indicted on one count of unlawfully distributing and dispensing a controlled substance phentermine and, although acquitted, was yet responsible in the opinion of the administrative law judge for disposing unlawfully of 15,000 phentermine capsules by covering up through falsehoods and deceit, his receipt of those capsules and this disposition of them.

Considering Respondent's testimony at the hearing and reviewing it from transcript during his trial on the criminal charges, the administrative law judge provided the following observations:

Dr. Willison testified at Respondent's trial and flatly denied ever having purchased an phentermine from Respondent. Although Respondent testified that the purported Dr. Willison who brought the phentermine had displayed a motor vehicle operator's permit and a State medical license card with Dr. Willison's name on them, the real Dr. Willison testified that he had never lost nor misplaced his permit or his license card.

Respondent's story of his sales of phentermine to a purported Dr. Willison do not ring true. The administrative law judge, after careful consideration of all the trial testimony and of the tesimony at the hearing, finds that Respondent's testimony is unworthy of belief. The preponderance of the evidence amply justifies a finding that Respondent clandestinely disposed of about 15,000 capsules of phentermine, a Schedule IV controlled substance, during the period from about September, 1975, to about March, 1976, and failed to keep the records of disposition required by law.

The evidence establishes beyond any question, indeed Respondent himself testified, that during the audit period he received approximately 15,000 phentermine capsules but that he did not keep the required record of these deliveries, did not present any such records to the investigators when they requested such at the time of the audit. The same is true with respect to records of Respondent's purported sales to a person masquerading as Dr. Willison.

The preponderance of the evidence shows, as the criminal trial jury found, that Respondent knowingly answered falsely when the investigators, after finding a partial Veratex bottle of phentermine, asked Respondent to account for it. His statement that he had obtained it from John Oellig was made on April 30, 1976. Although he testified that this was due to faulty memory and that he remembered his Veratex purchases of phentermine shortly after the investigators left that day, Respondent made no effort to contact them, and tell them about his orders to Veratex, until June 9, after he had been confronted with copies of two Veratex invoices obtained by the investigators from Veratex.

The administrative law judge concluded that there is a lawful basis for denial of Respondent's application for DEA registration as a pharmacy.

Having reviewed the record of these proceedings in its entirety, and pursuant to 21 CFR 1316.66, the Administrator adopts the administrative law judge's findings of fact and conclusions of law.

Accordingly, under the authority vested in the Attorney General by section 304 of the Controlled Substances Act, (21 U.S.C. 824) and delegated to the Administrator of the Drug Enforcement Administration, it is ordered that Respondent's application for registration under the Controlled Substances Act be denied, effective immediately.

Dated: April 18, 1979.

Peter B. Bensinger,
Administrator.

[Docket No. 78–14]
[FR Doc. 79–12928 Filed 4–25–79; 8:45 am]
BILLING CODE 4410–09–M

Office of the Attorney General

Designating Leon Ulman as the Representative From the Department of Justice on the Administrative Committee of the Federal Register

By virtue of the authority vested in me by 44 U.S.C. 1506, I hereby designate Leon Ulman, Deputy Assistant Attorney General, Office of Legal Counsel, as the representative of the Department of Justice on the Administrative Committee of the Federal Register.

Order No. 363–66 of May 12, 1966, is revoked.

Dated: April 16, 1979.

Griffin B. Bell,
Attorney General.

[Order No. 828–79]
[FR Doc. 79–12931 Filed 4–20–79; 8:45 am]
BILLING CODE 4410–01–M

Review of Advisory Committees

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: Pursuant to the provision of section 7(b) of the Federal Advisory Committee Act (Pub. L. 92–463), the Department of Justice is conducting a comprehensive review of the following advisory committees:

1. Advisory Committee of the National Institute of Law Enforcement and Criminal Justice.
2. Advisory Corrections Council.
3. Committee on Selection of Federal Judicial Officers.
4. Federal Advisory Committee on Immigration and Naturalization.
5. National Advisory Committee for Juvenile Justice and Delinquency Prevention.
6. United States Circuit Judge Nominating Commission.

The review will determine for each committee:

1. whether the committee is carrying out its purpose;
2. whether consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;
3. whether it should be merged with other advisory committees; or
4. whether it should be abolished.

DATES: Interested persons are invited to submit comments by April 30, 1979, on the items covered in the comprehensive review as outlined above.

ADDRESS: Address any comments to Phillip Cover, Advisory Committee Management Office, Department of Justice, Room 1616, Tenth and Constitution Avenues, N.W., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Phillip B. Cover, 202–633–4321.

Kevin D. Rooney,
Advisory Committee Management Officer.

[FR Doc. 79–12844 Filed 4–25–79; 8:45 am]
BILLING CODE 4410–01–M

NATIONAL ENDOWMENT FOR THE HUMANITIES

Humanities Panel; Cancellation of Meeting

April 20, 1979.

Notice is hereby given that the meeting of the Humanities Panel scheduled to be held at 806 15th Street, N.W., Washington, D.C. 20506 in Room 1134, from 9:00 a.m. to 5:30 p.m. on 27 April 1979 is canceled.

This meeting was to have reviewed applications in Basic Research that have been submitted to the General Research Program of the National Endowment for the Humanities for projects beginning 1 July 1979.

Victor Loughman,
Advisory Committee Acting Management Officer.

[FR Doc. 79–13054 Filed 4–25–79; 8:45 am]
BILLING CODE 7536–01–M

NATIONAL COMMUNICATIONS SYSTEM

Telecommunications: Coding and Modulation Requirements for Duplex 600 and 1200 Bit/Second Modems

The Administrator of the General Services Administration (GSA) is responsible under the provisions of the Federal Property and Administrative Service Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the National Communications System (NCS) was designated by the Administrator, GSA, as the responsible agent for the development of telecommunication standards for NCS interoperability and the computer-communications interface. Further information on the NCS can be found in DoD Directive 5100.41, "Arrangements for Discharge of Executive Agent Responsibilities for the NCS" and in an BCS Information Brochure available upon request from the National Communications System.

The purpose of this notice is to solicit comments on a proposed Federal standard for duplex 600 and 1200 bit/second modems. This proposed Federal standard has been developed under the Federal Telecommunication Standards Program by the National Communication System's Office of Technology and Standards based primarily upon International Telegraph and Telepone Consultative Committee (CCITT) draft Recommendation V. 22. The latest draft of the standard reflects comments received from modem manufacturers previously contacted by letter during February 1979.

The primary purpose of the proposed Federal standard is to facilitate the interoperability of telecommunication systems and networks of the Federal Government. Copies of this standard may be obtained from the Office of Technology and Standards, National Communications System, Washington, D.C. 20305.

Prior to formal coordination and adoption of the proposed Federal standard, it is considered essential that proper consideration be given to the needs and views of industry, the public, and State and local government. Interested parties may submit their comments to the Office of Technology and Standards, National Communications System, Washington, D.C. 20305. All comments should be submitted within 90 days of the date of this Notice. Telephone inquires should be directed to Mr. Robert M. Fenichel, telephone (202) 692–2124.

Joseph Rose,
Deputy Manager, NCS.

[FR Doc. 79–12856 Filed 4–25–79; 8:45 am]
BILLING CODE 3610–05–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Chemistry; Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92–463, the National Science Foundation announces the following meeting:

V 4 / 82 A P 26 79 UMI

Name: Advisory Committee for Chemistry.
Date and Time: May 14–15, 1979; 9:00 a.m. to 5:00 p.m. each day.
Place: Room 523, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of Meeting: Part Open—Open 5–14—9:00 a.m. to 5:00 p.m., Open 5–15—9:00 a.m. to 12:00 p.m.; Closed 5–15—1:00 p.m. to 5:00 p.m.
Contact Person: Dr. Richard S. Nicholson, Division of Chemistry, National Science Foundation, Washington, D.C., Telephone (202) 632–4262.
Summary Minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of Committee: To provide advice and recommendations concerning, NSF support for research in chemistry.
Agenda: Open—May 14, 9:00 a.m. to 5:00 p.m. and May 15, 9:00 a.m. to 12:00 p.m. General discussion of the current status and future plans of the Chemistry Division. Closed—May 15, 1:00 p.m. to 5:00 p.m. to review and evaluate research proposals and projects as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. The matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

April 23, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79–12938 Filed 4–25–79; 8:45 am]
BILLING CODE 7555–01–M

Advisory Committee for Physiology, Cellular, and Molecular Biology; Subcommittee on Human Cell Biology; Meeting

March 27, 1979.

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Human Cell Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: May 18, 1979 at 9:00 am.
Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of Meeting: Closed.
Contact person: Dr. Herman W. Lewis, Program Director, Human Cell Biology Program, Room 326, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–4200.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Human Cell Biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. Rebecca Winkler,
Committee Management Coordinator.
April 23, 1979.
[FR Doc. 79–12941 Filed 4–25–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee on Linguistics; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Linguistics of the Advisory Committee for Behavioral and Neural Sciences.
Date: May 13, 14, and 15, 1979.
Time: 1:00 p.m.–5:00 p.m. May 13, 9:00 a.m.–5:00 p.m. May 14 and May 15.
Place: Room 338, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.
Type of meeting: Part Open May 15—9:00 a.m.–12 noon; Closed May 13—1:00 p.m.–5:00 p.m. May 14—9:00 a.m.–5:00 p.m. May 15—12:00 noon–5:00 p.m.
Contact Person: Dr. Paul G. Chapin, Program Director, Linguistics Program, room 320, National Science Foundation, Washington, D.C. 20550, Telephone (202) 254–6328.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Linguistics.
Agenda: Closed—May 13, 1:00 p.m.–5:00 p.m., May 14 all day, and May 15, 12:00 noon–5:00 p.m. to review and evaluate research proposals and projects as part of the selection process for awards. Open—May 15, 9:00 a.m.–12:00 noon. General discussion of the current status and future plans of the Linguistics Program.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. Rebecca Winkler,
Committee Management Coordinator.
April 23, 1979.
[FR Doc. 79–12939 Filed 4–25–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee on Psychobiology; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Psychobiology of the Advisory Committee for Behavioral and Neural Sciences.
Date; May 16, 17, and 18, 1979.
Time: 8:30 a.m.–5:00 p.m. each day.
Place: Room 321, National Science Foundation, 1800 G. Street, N.W., Washington, D.C. 20550.
Type of meeting: Part Open—Open May 18. Closed May 16 and May 17.
Contact person: Dr. Fred Stollnitz, Program Director, Psychobiology Program, room 320, National Science Foundation, Washington, D.C., 20550, telephone (202) 632–4264
Summary minutes: May be obtained from the Committee Management Coordinator, Divison of Financial & Adminstrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Psychobiology.
Agenda: May 16 and 17—To review and evaluate research proposals as part of the selection process for awards; May 18: (1) Executive Committee's oversight review, (2) Issues posed by certain types of proposals, (3) Interfaces with other NSF programs, (4) NSF role in National Primate Plan, (5) Budget outlook for 1979, (6) Making the case for 1980 and beyond.
Reason for closing: The proposals being reviewed include information for a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information conecerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provision of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the autority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. Rebecca Winkler,
Committee Management Coordinator.
April 23, 1979.
[FR Doc. 79–12940 Filed 4–25–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee on History and Philosophy of Science of the Advisory Committee for Social Science; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on History and Philosophy of Science of The Advisory Committee for Social Sciences.
Date and time: May 18 and 19, 1979—9 a.m. to 5 p.m., both days.
Place: National Science Foundation, Room 338, 1800 G Street NW., Washington, D.C. 20550.
Type meeting: Open 3 p.m. to 5 p.m. May 18, 1979; Closed 9 a.m.–3 p.m. May 18, 1979; 9 a.m.–5 p.m. May 19, 1979.
Contact person: Dr. Ronald J. Overmann, Associate Program Director for History and Philosophy of Science, room 312, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 632–4182.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in history and philosophy of science.
Agenda: Closed session: To review and evaluate research proposals and projects as part of the selection process for awards. Open session: To discuss (1) postdoctoral program, (2) other ways to reduce load on H&PS subcommittee, and (3) long range plans.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the autority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. Rebecca Winkler,
Committee Management Coordinator.
April 23, 1979.
[FR Doc. 79–12942 Filed 4–25–79; 8:45 am]
BILLING CODE 7555–01–M

Ocean Margin Drilling Program; Preparation of Environmental Impact Statement

Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the National Science Foundation will prepare a draft environmental impact statement on a Scientific Deep Ocean/Ocean Margin Drilling Program which has been proposed for the 1980's. This proposed program envisions expanded efforts in future scientific deep-ocean drilling and research to explore the earth's crust beneath the oceans and to provide a geological framework for a better understanding of the resource potential of the continental margins.

Possible alternatives to the proposed action are: no program in ocean margin drilling; delay of the proposed program; continuation of the type of drilling being done now; and a greater effort than the one being planned.

Ocean drilling is a complicated process which must pass through several phases of planning before a program is launched. Major considerations are: regional and specific site surveys; selection and approval of drilling sites; safety aspects (utilizing safety experts); probability of encountering hydrocarbons; different types of drilling processes; available scientific and engineering expertise; long- and short-term effects of the program; international implications and possible cooperative endeavors with other countries; actual and/or potential environmental impacts and ways to prevent or mitigate such impacts; and appropriate technological advances which will facilitate drilling. NSF has done an EIS on the International Phase of Ocean Drilling, the current drilling program, which will be useful in preparing the EIS described in this notice.

Technical expertise, both in the Federal and private sectors, including universities, is being utilized in studies relevant to the proposed program. The results of the studies will be factored into the EIS.

The contact point within NSF for queries on the proposed program and the EIS is Dr. Peter E. Wilkniss, Program Manager, Ocean Sediment Coring Program, Division of Earth Sciences, National Science Foundation, 1800 "C" Street, N.W., Washington, D.C., 20550, telephone (202) 632–4134. All interested agencies, organizations, or persons desiring to submit comments or suggestions for consideration during the preparation of the draft EIS should contact Dr. Wilkniss by June 15, 1979.

Dated at Washington, D.C., this 13th day of April 1979.

For the National Science Foundation.

John B. Slaughter,
Assistant Director, Astronomical, Atmospheric, Earth and Ocean Sciences.
[FR Doc. 79–12897 Filed 4–25–79; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Texas Utilities Generating Co., et al.; Receipt of Additional Antitrust Information and Time for Submission of Views on Antitrust Matters

Texas Utilities Generating Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information concerns two proposed additional ownership participants, Texas Municipal Power Agency and Brazos Electric Power Cooperative, Inc. for the Comanche Peak Steam Electric Station, Units 1 and 2. The current holders of the construction permits are Texas Utilities Generating Company, Dallas Power & Light Company, Texas Electric Service Company, and Texas Power & Light Company.

The information was filed in connection with the Texas Utilities Generating Company's application for construction permits and operating licenses for two pressurized water reactors. Construction was authorized on December 19, 1974 at the Comanche Peak site located in Sommervell County, Texas.

The original antitrust portion of the application was docketed on July 20, 1973, and the Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters was published in the Federal Register on August 1, 1973 (38 FR 20494). The notice of Hearing was published in the Federal Register on August 2, 1973 (38 FR 20835); and the Notice of Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing was published

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in the **Federal Register** on February 5, 1979 (44 FR 6995).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Sommervell County Public Library, On the Square, P.O. Bx 417, Glen Rose, Texas 76043.

Persons who wish to have their views on the antitrust matters with respect to Texas Municipal Power Agency and Brazos Electric Power Cooperative presented to the Attorney General for consideration or who desire additional information regarding the matter covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before June 4, 1979.

Dated at Bethesda, Maryland, this 23rd day of March 1979.

For the Nuclear Regulatory Commission.

Robert L. Baer,

Chief, Light Water Reactors, Branch No. 2, Division of Project Management.

[Docket Nos. 50-445A and 50-446A]

[FR Doc. 79-10186 Filed 4-4-79; 8:45 am]

BILLING CODE: 7590-01-M

Abnormal Occurrence Event; Extortion Attempt Involving Alleged Theft of Licensed Material

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950). Appendix A (Example I.C.2) of the Policy Statement notes that a substantiated case of actual or attempted theft or diversion of licensed material can be considered an abnormal occurrence. The following description of the event also contains the remedial actions taken.

Date and Place—On January 29, 1979, the General Electric (GE) Company's fuel fabrication facility at Wilmington, N.C., reported to NRC's Region II office (Atlanta, Ga.) the receipt of an anonymous extortion letter.

Nature and Probable Consequences—An alleged theft of low-enriched uranium oxide and an attempted extortion occurred. An individual was arrested on criminal charges and the material was recovered. The amount of material involved was too small for any nuclear reaction, and was not the type that could be used to make a nuclear bomb. It also represented a minimal health hazard, and was less hazardous than many industrial chemicals. The details of the event are described below.

On January 29, 1979, the Plant Manager of General Electric's fuel fabrication facility in Wilmington, N.C. received a letter in which the author claimed possession of two five-gallon cans of low-enriched uranium dioxide powder; a small vial containing a sample of the material accompanied the letter. The anonymous letter contained a threat to mail samples of the material to various persons and to spread the material in major American cities if payment of $100,000 was not received by February 1, 1979. Prior to the receipt of the extortion letter and vial of material, the licensee's material control system had detected that two cans, containing about 62 kilograms of the material, were missing and the licensee had already commenced a search for the material.

GE reported the matter to NRC's Region II office in Atlanta, Ga. The NRC, in turn, notified the Atlanta, Georgia office of the Federal Bureau of Investigation (FBI), and the FBI immediately began an investigation. Two NRC inspectors were sent to Wilmington, N.C. to provide technical assistance.

On February 1, 1979, the FBI arrested an employee of a subcontractor of the GE plant on Federal criminal charges. The two cans of uranium dioxide powder were recovered on the same day in a field a few miles from the GE facility. If the threat had been carried out and the material dispersed, it would have presented a minimal health hazard except under conditions where an amount of the material could have been inhaled or ingested. The uranium dioxide was in the form of a fine brown powder, which is essentially insoluble in water or body fluids. The principal radiation hazard from the material would have been inhalation into the lungs. For an appreciable hazard to occur from inhalation, an individual would have to remain in a visible, thick brown cloud of the suspended uranium dioxide for more than ten minutes. This situation is thought to be highly unlikely since an individual would have a natural tendency to avoid such a situation, even without the knowledge that the material was radioactive.

If, in the highly unlikely event, the uranium dioxide were somehow ingested (for example, eaten alone or with food), a large amount (two pounds or more) would have to be taken into the body to be of any appreciable radiological concern. Experiments with animals have shown no significant toxic effects from uranium dioxide such as that processed at the GE plant.

In view of the minimal health and safety hazards of this low-enriched material, the NRC does not prescribe specific details of how it should be protected. NRC's current requirements for protection of this material are satisfied by reasonable industrial security measures appropriate for material of comparable monetary value. As discussed below, NRC's requirements are currently being reviewed for potential changes.

Cause or Causes—The cause of the incident was the alleged criminal action involved in the unauthorized removal of the low-enriched uranium dioxide from the facility confines.

Actions Taken To Prevent Recurrence

Licensee—The General Electric Company is reevaluating its present security and accountability system for such materials.

NRC—The NRC's inspectors observed the GE verification that the low-enriched uranium powder recovered by the FBI was, in fact, that missing from the licensee's facility. The NRC staff met with GE representatives on February 12, 1979 to discuss the regulatory aspects of this occurrence.

On February 2, 1979, NRC Inspection and Enforcement Information Notice No. 79-02 was issued to all fuel facilities licensed by the NRC. The notice informed the licensees of the event and advised extra caution be exercised in their existing security programs.

For some time, the NRC has been reexamining requirements for the protection of nuclear materials. As a result, new rules are being proposed. The rule pertaining to materials, such as low-enriched uranium, includes the following requirements:

—Storage or use of the material only within a controlled access area which is monitored to detect unauthorized intrusions.

—Use of watchmen or off-site response force to respond to unauthorized intrusion or activities.

—Establishment of response procedures for dealing with threats or thefts of special nuclear materials.

In addition, as a result of this incident, the proposed rule is being reexamined in regard to specific requirements for establishing exit controls for areas that process or store low-enriched uranium.

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Dated at Washington, D.C. this 18th day of April 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-12804 Filed 4-25-79; 8:45 am]

BILLING CODE 7590-01-M

Atomic Safety and Licensing Appeal Board; Pacific Gas & Electric Co., Order

April 20, 1979.

In the matter of Pacific Gas and Electric Company (Stanislaus Nuclear Project, Unit 1).

Oral argument of the appeal of the Southern California Edison Company from the Licensing Board's order of January 25, 1979 will be heard at *9:30 a.m. on Tuesday, May 22, 1979* in the Commission's Public Hearing Room, 5th floor, 4350 East-West Highway, Bethesda, Md. Southern California Edison will be heard first and will be allowed one hour for argument; a portion of its time may be reserved for rebuttal. The State of California Department of Water Resources and the NRC staff will be afforded a total of one hour for their argument, to be divided equally between them unless they agree otherwise. They are encouraged to coordinate their arguments to avoid unnecessary duplication. It may be assumed that, at the time of the argument, the Board will be fully familiar with the parties' positions as developed in their briefs.

Each party shall advise the Secretary to this Board, by letter mailed no later than May 11, 1979, of the name(s) of the counsel who will present oral argument on its behalf.

It is so *ordered.*

For the Appeal Board.

Margaret E. Du Flo,

Secretary to the Appeal Board.

[Docket No. P-564A]

[FR Doc. 79-12902 Filed 4-25-79; 8:45 am]

BILLING CODE 7590-01-M

Iowa Electric Light & Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative (the licensee) which revised the license for operation of the Duane Arnold Energy Center, located in Linn County, Iowa.

The amendment became effective February 23, 1979.

The amendment adds a license condition to include the Commission-approved physical security plan as part of the license.

The licensee's filings comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensee's filings dated December 1, 1978, January 19, March 9 and 21, 1979, and the Commission's Security Plan Evaluation Report are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR Section 9.12.

For further details with respect to this action, see (1) Amendment No. 50 to License No. DPR-49, and (2) the Commission's related letter to the licensee dated April 19, 1979. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 19th day of April 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[Docket No. 50-331]

[FR Doc. 79-12901 Filed 4-25-79; 8:45 am]

BILLING CODE 7590-01-M

Power Authority of the State of New York; Cancellation of Scheduled Hearings

In the matter of Power Authority of the State of New York, (Greene County Nuclear Power Plant).

At the request of the Applicant Power Authority of the State of New York (PASNY), all scheduled hearings in Docket No. 50-549 are hereby cancelled.

Dated at Bethesda, Maryland, this 19th day of April, 1979.

For the Atomic Safety and Licensing Board.

Richard F. Cole,

Member.

[Docket No. 50-549 CP]

[FR Doc. 79-12903 Filed 4-25-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Accident Reports, Safety Recommendations and Responses; Availability

Highway Accident Report

Gateway Transportation Co., Inc., Tractor-Semitrailer Penetration of Median Barrier and Collision with Automobile, I-70, St. Louis, Mo., September 25, 1977 (NTSB-HAR-79-3).—The National Transportation Safety Board's investigation report, released April 16, shows that at 8:07 p.m. on Sunday, September 25, an empty tractor-semitrailer was traveling eastbound on I-70 in downtown St. Louis when the truckdriver lost control of his vehicle on wet concrete pavement. The tractor struck, broke, and overrode a concrete median barrier, vaulted into the westbound lanes, and collided with a westbound automobile. All three occupants in the automobile died; the truckdriver was injured slightly.

As a result of its investigation, the Safety Board has determined that the probable cause of this accident was the loss of tractor-semitrailer control during evasive maneuvers made by the truckdriver in response to improper lane changes by an eastbound automobile driver. Contributing to the severity of the accident were the barrier impact speed and attack angle of the tractor-semitrailer which may have only slightly exceeded the design limits of the functional "New Jersey" concrete barrier.

The Safety Board, as a further result of its investigation of this accident, has issued seven recommendations. On April 4, the Board asked the Federal Highway Administration to determine what improvement can be made to

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insure a more progressive pavement surface improvement program by the Missouri State Highway Commission (MSHC) (recommendation H–79–18), and to examine the feasibility of developing ways to improve the performance of concrete highway barriers already in place on roadways (H–79–19). Also on April 4 the Safety Board recommended that MSHC accelerate closure of the Delmar Avenue on-ramp on I–70, establish a new pavement surface improvement policy, insure that the current MSHC wet pavement surface improvement policy is being consistently followed, develop a more progressive wet pavement surface improvement policy, and determine whether additional resources are necessary to attain such policy (H–79–20 through 24). (See also 44 FR 21907, April 12, 1979.)

Highway Special Study

"Safety of Multipurpose Vans" (NTSB–HSS–79–1).—A threefold increase in the use of multipurpose vans since 1970, and the increasing number of van fatalities, prompted the Safety Board to undertake a special study on van safety. The official report on the study was made public April 18. To collect data for ths study the Board investigated 18 low-to-moderate speed crashes involving 19 vans. The data were then analyzed from the standpoint of injury-producing environments, occupant restraints, crashworthiness, postcrash fires, and ease or difficulty of escape.

The study disclosed that in 1977 there were 740 fatalities in van accidents. By comparison, for the same year, fatalities in other transportation modes totaled 655 in air carriers, 653 in railroads, 216 in commercial marine, and 43 in pipelines.

The Board found that many van owners have customized the interiors of their vans with sinks, TV's, bars, stoves, tables, refrigerators, beds, chairs, and paneling. However, there are no existing standards or voluntary specifications on how to install or secure this equipment to the van structure. As a result, in a crash, these items often break loose and injure or kill the van occupants.

Specific objectives in making the study included determining the injurious effects of custom interior modifications to vans, the injurious effects on occupants because certain Federal safety standards do not apply to vans, and the provision of crash data to the National Highway Traffic Safety Administration to support the extension of existing Federal safety standards to light trucks and vans. As a result of this study, the Safety Board on April 4 reiterated a previous recommendation, H–76–8, and issued a new one, H–79–13, to the Recreation Vehicle Industry Association. These recommendations asked the Association to determine the best methods of securing appliances in recreational vehicles and amend the Standard for Recreational Vehicles to specify these methods, and to determine the best methods of securing furnishings and amend the Standards to specify these methods.

Also on April 4 the Safety Board recommended that NHTSA study the failures of custom highback seats and anchorage systems, and the failures of custom steering wheels which do not meet Federal Motor Vehicle Safety Standards, to determine whether they pose a significant injury or safety problem. NHTSA was also asked to study the extent to which doors jam in collisions, and to determine whether Federal standards covering steering wheels, steering columns, and windshields should be extended to all classes of vans, or whether new requirements are needed for vans. The Board also recommended that NHTSA intensify its study to explore the Federal standard on passive restraint requirements to all classes of vans, to specify in rulemaking action on the Federal standard on door locks and door retention a requirement for a locking mechanism on cargo-type doors that can be operated from the interior of the vehicle, and to include in its exploratory rulemaking and research activity control of crash aggressiveness of vans in relation to other vehicles. (Recommendations H–79–14 through 17.) (See also 44 FR 21907, April 12, 1979.)

Marine Accident Report

Ferry M/V George Prince Collision with the Tanker SS Frosta (Norwegian) on the Mississippi River, Luling/Destrehan, La., October 20, 1976 (NTSB–MAR–79–4).—On October 20, 1976, the *George Prince* was maneuvered from the east bank ferry landing across the path of the upbound tanker *Frosta* at mile 120.8 AHP on the Mississippi River. The *Frosta's* engine was reversed too late and the ship struck and capsized the ferry. When the ferry capsized, 71 passengers and the crew of five were killed; one passenger is missing and presumed dead, and only 18 passengers survived. Thirty-four vehicles were cast overboard. The *George Prince* was a total loss; the *Frosta* sustained only minor damage.

This accident was investigated by a U.S. Coast Guard Marine Board Investigation which convened at New Orleans, La., on October 23, 1976. A Safety Board representative participated in the investigation proceedings. The Safety Board has considered all facts pertinent to the Safety Board's statutory responsibility to determine the cause or probable cause of the accident and to make recommendations. The accident report, released April 13, is based on the factual information developed by the investigation.

The Safety Board has determined that the probable cause of the accident was the ferry boatmaster's deficient conning and maneuvering judgment. Contributing to the accident were the failure of the *Frosta's* pilot to take sufficiently early action to slow or stop the *Frosta* before it struck the *George Prince* and the impairment of the ferry boatmaster's judgment due to alcohol ingestion.

As a result of the investigation, the Safety Board on April 6, independently of any recommendations proposed by the Coast Guard, issued six safety recommendations asking Coast Guard to require ship pilots to alert the engineroom when approaching cross traffic lanes where they may be required to institute emergency engine maneuvers, to require passenger-ferry operators to issue written instructions to their crews concerning passenger safety in the event of a collision, to require such operators to post information in ferry terminals on the use of life-saving equipment if the short length of the trip prevents indoctrinating passengers, and to revise the Western River Rules of the Road to include a requirement that crossing ferries keep clear of channel-bound traffic and avoid any maneuver toward such traffic that may be misinterpreted. (Recommendations M–79–32 through 37.) (See also 44 FR 21908, April 12, 1979.)

Safety Recommendation Letters

Aviation: A–79–21 through 24.—On March 9, 1979, the pilot of a Learjet Model 24B reported longitudinal control problems while en route from Greensboro, N.C., to Nashville, Tenn. While cruising at altitude, the aircraft abruptly pitched nosedown. The pilot regained control and deactivated the aircraft's stall warning system and automatic flight control system. After the aircraft was configured for landing, during an instrument approach to Nashville, it became longitudinally unstable; the pilot, unable to control the pitching oscillation, aborted the approach. As airspeed was increased, the aircraft became controllable. The pilot declared an emergency and returned to Greensboro where better

weather existed. Similar problems were encountered while attempting to land at Greensboro. Three approaches were aborted before the aircraft was landed. The fourth approach was conducted without flaps, at a higher-than-normal airspeed, and with stabilizer trim for pitch control. Postflight examination of the aircraft disclosed a resistance to motion of the longitudinal control system which was traced to the pitch axis servo drive unit.

Two recent fatal accidents, still under investigation by the Safety Board, involved loss of control of Learjet Model 25 aircraft which were equipped with the same type of servo drive units. In view of the potential catastrophic results of control difficulties caused by jammed servo drive unit clutches, the Safety Board is extremely concerned and believes expedited action is justified. Accordingly, on April 18, the Board recommended that the Federal Aviation Administration:

Initiate a program immediately to expedite the determination of cause for the clutch malfunction in JET Electronic part No. 2360068, servo drive unit, devise a means to detect potential problems, and define corrective action. (A–79–21)

If defining and implementing the corrective action described above will require prolonged effort, restrict the operation of all Learjet aircraft equipped with this servo drive unit. (A–79–22)

Issue immediately an Operations Alert Bulletin to FAA inspectors and notify operators of Learjet aircraft equipped with this type of servo drive unit to advise the pilots of these aircraft of the possible control difficulties which can be encountered as a result of clutch malfunction. (A–79–23)

Determine whether other model aircraft use the same servo drive unit clutches and take appropriate action to advise the operators of those aircraft of the potential problem. (A–79–24)

Aviation: A–79–25 and 26.—New York Airways, Inc., Flight 972, a Sikorsky S61L helicopter with 15 passengers and a crew of three crashed on Newark International Airport at 1825 on April 18, 1979, shortly after takeoff. Three passengers were killed, nine others and the crewmembers were injured.

Preliminary evidence obtained in the Board's investigation disclosed that a 35-inch outboard section of one of the tail rotor blades separated in flight. It appears that the resultant unbalance caused a massive failure in the tail rotor gear box. The gearbox and the remainder of the tail rotor assembly separated before the aircraft could effect a safe landing.

The failed tail rotor blade has been examined in the Board's metallurgical laboratory. A fatigue crack through approximately 90 percent of the leading edge spar was disclosed. The aluminum skin covering the spar also exhibited a fatigue crack extending from the leading edge approximately 2 inches. This crack may not have been detectable by visual examination prior to flight.

The Safety Board believes that the serious consequences of this failure and the potential for other accidents justifies the need for immediate Federal Aviation Administration action. Pending more detailed investigative examination, establishment and implementation of suitable corrective actions, the Safety Board believes that further flight operations with the S61 aircraft should be suspended. Accordingly, on April 19 the Board recommended that FAA:

Withdraw the airworthiness certificates of Sikorsky S61 helicopters until a means of detecting potential tail rotor blade failures can be devised and implemented. (A–79–25)

Notify foreign operators of Sikorsky S61 aircraft of this action. (A–79–26)

The Safety Board has designated all of the above aviation safety recommendations "Class I—Urgent Action."

Marine: M–79–39 through 54.—About 1100 on April 14, 1976, the self-elevating mobile offshore drilling unit *Ocean Express* departed a drilling site near the Texas coast in the Gulf of Mexico under tow for a new drilling site about 33 nmi northeast. The *Ocean Express* arrived at the new site about 2330, but was not set in place because of adverse seas. Three tugs held the *Ocean Express* in position awaiting better weather, but the seas continued to increase. About 1530 on April 5, one tug became partially disabled because of a reduction gear failure. At 1930, another tug's towline broke. With only one effective tug remaining, the *Ocean Express* turned broadside to the wind and seas, drifted, grounded, capsized, and sank about 2115. The vessel was valued at $20 million.

The bargemover was rescued by a Coast Guard helicopter. The crew abandoned the *Ocean Express* in the unit's survival capsules. The 14 persons in one capsule were rescued without incident. The other capsule capsized with 20 persons inside; 13 persons drowned, seven escaped.

The Safety Board's analysis of this accident indicated that the *Ocean Express* operating manual did not provide adequate guidance regarding the unit's stability characteristics, towing arrangements, severe weather operations, transit preparations, and operational limitations. The bargemover was not aware that the unit's stability was affected by the position of the mat. No provisions were made for towing emergencies, and the tubs were not repositioned after one tug's starboard reduction gear failed.

As a result of its analysis of this accident, the Safety Board on April 17 recommended that the U.S. Coast Guard:

Require that operating manuals for self-elevating mobile offshore drilling units include guidance regarding: (1) the stability of the unit for the complete range of mat-platform separations; (2) the number of tugs and the horsepower required for towing the unit, and the recommended towing arrangements and equipment; (3) contingency plans for emergencies afloat, including towing mishaps and severe weather; (4) transit preparations, including an appropriate checklist; (5) the expected results of exceeding the design limits for jacking operations; and (6) the minimum wind speeds, sea conditions, and unit motions which would result in instability or structural failure. (M–79–39)

Require self-evaluating mobile offshore drilling units to be equipped with a recording fathometer and a recording anemometer. (M–79–40)

Require that critical operating limits for self-elevating mobile offshore drilling units be specified in terms of motion amplitudes and periods, and require on-board motion sensing and recording instruments to determine the actual unit motions. (M–79–41)

Study the feasibility of predicting self-evaluating mobile offshore drilling unit motions by on-board computer analysis of data from motion sensors and wave-measuring instruments. (M–79–42)

Expedite the promulgation of regulations for personnel qualifications and manning standards for self-elevating mobile offshore drilling units, and require that industrial personnel who perform seafaring duties obtain appropriate training and licenses. (M–79–43)

Determine and require a functional chain of command on mobile offshore drilling units to effectively cope with extreme situations. (M–79–44)

Develop appropriate survival capsule performance standards, including standards for safe towing. (M–79–45)

Conduct model tests and computer simulations with Whittaker Corporation to determine the survival capsule's capsizing characteristics and behavior in storm seas. (M–79–46)

Require that survival capsules be equipped with accessible towing and mooring fittings, proper fendering, and markings to indicate the location of the towing and mooring points. (M–79–47)

Also on April 17 the Safety Board by separate letters recommended that—

Bethlehem Steel Corporation: Equip its future self-elevating mobile offshore drilling units with towing fittings accessible in heavy weather. (M–79–48)

Ocean Drilling and Exploration Company: Review and revise the operating manuals for

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its existing self-elevating mobile offshore drilling units to include guidance regarding: (1) the stability of the unit for the complete range of mat-platform separations; (2) the number of tugs and the horsepower required for arrangements and equipment; (3) contingency plans for emergencies afloat, including towing mishaps and severe weather; (4) transit preparations, including an appropriate checklist; (5) the expected results of exceeding the design limits for jacking operations; and the minimum wind speeds, sea conditions, and unit motions which would result in instability or structural failure. (M-79-49)

Whittaker Corporation: Revise its survival capsule training program to include guidance on towing, securing alongside another vessel, and emergency escape from the capsule. (M-79-50)

International Association of Drilling Contractors: Recommend that its members use private meteorological services which provide the special information needed when engaged in weather-sensitive operations. (M-79-51)

Each of the above marine safety recommendations has been designated "Class II, Priority Action," with the exception of M-79-41 and 42 which are "Class III, Longer Term Action" recommendations. The Safety Board's formal investigation report is now being prepared for distribution and will be released in the near future.

Safety Recommendation Responses

Aviation

A-75-28.—On April 11 the Federal Aviation Administration responded to the Safety Board's letter of February 16 which commented on the recommendation issued April 2, 1975, citing several incidents in which large pieces of blue ice had separated from aircraft in flight and had caused varying degrees of damage on ground contact. Specifically, the recommendation discussed an incident involving a National Airlines Boeing 727 where a leaking toilet service drain created an ice buildup on the exterior of the aircraft to the extent that the ice separated and was ingested into the No. 3 engine.

The Board noted that the ice caused the engine to stop suddenly, creating excessive loads on the engine mount bolt. As a result, the bolt failed and the engine separated from the fuselage. The Board's concern was not only that an engine had separated and fallen to the ground, but that blue ice was being allowed to build up and separate from the fluid leakage. A number of these incidents damaged ground structures and jeopardized safety of persons on the ground.

FAA's initial response indicated issuance of a GENOT to alert the FAA inspectors and operators of the potential safety implications and an advance notice of proposed rulemaking, No. 76-9 dated April 5, 1976, concerning the blue-ice problem. On October 20, 1978, FAA informed the Board that ANPRM 76-9 had been withdrawn because of the number of incidents involving in-flight overboard leakage of fluids subject to freezing had decreased and because of the comments received. (See 43 FR 52307, November 9, 1978.) The Safety Board's February 16 letter cited three more recent blue-ice incidents, two in the Denver, Colo., area and one in Kansas City, Mo. The Board asked that FAA reinstitute research concerning the problem and issue an Airworthiness Directive which would satisfactorily implement the intent of recommendation A-75-28.

FAA's April 11 response indicates that a restudy of the in-flight freezing of water and resultant ice accumulation at overboard drains on air carrier aircraft shows that:

> There are no known design deficiencies in the present potable water or lavatory waste drain systems. "Blue ice" incidents occur from lavatory drains; clear ice incidents occur from potable drains.
>
> There were 14 total incidents in 1974, 7 in 1975, and none reported in 1977. Three incidents were reported in 1978—one involved a B-707 when clear ice fell from the aircraft, two involved "blue ice." FAA was unable to identify the aircraft or operators in these two cases.
>
> There were two reported Service Difficulty Reports in 1977 involving a B-707 and an L-188 aircraft. There were no reports from 1978 through February 1979.
>
> Improved personnel training and more efficient maintenance procedures have significantly reduced the number of incidents.

FAA concludes that in view of the downward trend in incidents and reduction in total numbers in recent years, a requirement to redesign the system is not feasible.

A-78-1.—FAA's letter of April 9 is in response to the Safety Board's request of March 14 as to the status of FAA's actions with respect to this recommendation, stemming from the Southern Airways DC-9 thunderstorm accident at New Hope, Ga., April 4, 1977. FAA was asked to initiate research to determine attenuating effects of precipitation and icing on airborne radomes and to disseminate to the aviation community the limitations of airborne radar in precipitation. FAA's response of April 17, 1978, indicated that research may not be necessary since a large portion of the data needed was already available.

FAA's April 9 response indicates that a review of the data has been completed. According to FAA, experience with the earlier heated radomes revealed much poorer performance than those which were not heated; icing has not been a problem since radome heating was generally discontinued. FAA has no evidence of serious problems caused by the accumulation of ice and water on radomes. The attenuation effects of ice and water are well-known, and FAA does not believe that research is necessary.

To ensure that air carrier training programs are satisfactory in this area, FAA will request that each Principal Operations Inspector check the training program of his assigned carrier to ensure that all pilots are being given information on the limitations of airborne weather radar with special emphasis on the attenuation effects of precipitation. FAA plans to issue the request to Principal Operations Inspectors within the next 30 days.

With respect to the dissemination of the information to the aviation community, FAA expects to issue an advisory circular and an operations bulletin within the next 90 days.

Highway

H-79-1 and 2.—On April 2 the National Highway Traffic Safety Administration responded to recommendations resulting from investigation of an ambulance overturn near Littleton, N.H., on August 22, 1978. The recommendations asked NHTSA to modify Highway Safety Program Standard No. 11, "Emergency Medical Service," and NHTSA's "Training Program for Operation of Emergency Vehicles" to provide for training in high-speed driving techniques and to require that a student successfully complete both a written and a behind-the-wheel examination before he is licensed (R-79-1); and to urge the States to maintain and make available through the State driver licensing agency, the records of all licensed emergency vehicle operators so that employers can determine if an applicant for an emergency vehicle driver position is licensed for operating emergency vehicles (R-79-2). (See 44 FR 8045, February 8, 1979.)

In response to H-79-1, NHTSA states that there is no known justification for driving an ambulance at 90 mph. As a matter of policy, NHTSA does not encourage ambulance operators to violate speed limits or other rules of the road. The concept of quality ambulance service rests on stabilizing the patient and getting him to help rather than on racing the patient to the hospital. NHTSA does not advocate exceeding posted speed limits; therefore, the training program omits high-speed driving training. NHTSA states that training must emphasize the importance of operating within the posted speed rather than tacitly approving disrespect for these laws by training the students to exceed them. NHTSA maintains that its Course Guide details at length the necessity for both internal and field evaluation.

NHTSA agrees in part with recommendation H-79-2, stating that the best indicator of emergency medical services (EMS) driver capability is the holding of a valid license for that vehicle type. Licenses should be issued only to individuals who have successfully completed an approved emergency vehicle driver training course and have demonstrated competence in that vehicle. Licenses should be held only by those whose records show that they are operating in a responsible manner, thus precluding the need to review a prospective employee's records. NHTSA says it will take steps to achieve this licensing/certification objective as a part of EMS efforts.

Pipeline

P-78-3.—Consolidated Gas Supply Corporation of Clarksburg, W. Va., on March 30 forwarded to the Safety Board a copy of its written procedures for the operation and maintenance of liquid petroleum gas (LPG) facilities, in response to one of eight recommendations issued to Consolidated following investigation of the propane pipeline rupture and fire at Ruff Creek, Pa., July 20, 1977. (See 44 FR 8046, February 8, 1979.) Consolidated notes that these procedures were issued to its field operating personnel on March 20, 1979.

Railroad

R-73-8 and 9.—Letter of March 28 from the Federal Railroad Administration concerns two recommendations originally issued as a result of investigation of the head-on collision of Penn Central freight trains at Herndon Pa., March 12, 1972, and reiterated last December 29 in connection with the Safety Board's report on the derailment of a St. Louis Southwestern Railway Company freight train at Lewisville, Ark., March 29, 1978. (See 44 FR 6536, February 1, 1979.)

Recommendation R-73-8 asked FRA to cooperate with the Association of American Railroads in developing a fail-safe device to stop a train if the engineer should become incapacitated and to promulgate regulations to require installation, use, and maintenance of such a device. FRA reports intention to conduct research pertinent to this area of concern. Last November 27, FRA issued a "Request for Proposal" on a research locomotive and train handling evaluator, to be operational in 1982. FRA states that until such time that this unit can be utilized in examining the many-faceted problems associated with operating personnel within the locomotive cab, FRA will not be in a position to accurately evaluate the need for regulatory action.

Recommendation R-73-9 asked FRA to include in its present investigation of the safety of locomotive-control compartments a study of environmental conditions that could distract crews from their duties or cause them to fall asleep at the controls; also, promulgate regulations to correct any undesirable conditions disclosed. FRA notes that one of its studies did isolate and identify hazardous conditions in the locomotive cab which affect crew alertness. Two primary areas, in-cab noise and in-cab fumes, were determined by this study to be of particular interest. FRA is concerned with any potentially bothersome environmental in-cab condition, and intends to continue research, utilizing the research locomotive and train handling evaluator when this device becomes operational in 1982.

R-79-1 and 2.—Letter of March 8 from the New York City Transit Authority (NYCTA) is in response to recommendations issued following investigation of the derailment of an NYCTA subway train in New York City, December 12, 1978. (See 44 FR 6537, February 1, 1979.)

In response to R-79-1, which urged that all NYCTA rapid transit cars be inspected immediately to determine if their wheels have been subjected to above normal heat conditions, NYTCA advises that a fleetwide examination of the wheels of all passenger revenue cars in the "A" and "B" divisions was conducted over weekend periods of February 10-11 and 17-18, 1979. Any wheels found with signs of overheating or thermal damage were removed from service. A fleetwide wheel inspection was also scheduled for March 17-18.

Also, NYCTA's car maintenance department has developed an action plan to retrofit the 5,700 R10 to R42 series cars with a handbrake indication light system in the motorman's cab. The system will have a microswitch mounted on the handbrake. When the handbrake is operated to apply a mechanical brake, light-emitting diodes mounted in the operating motorman's cab will light up. The car maintenance department is presently developing two prototypes for each of the three types of cars (R10-15, R17-38, R40-42) to cover the different designs of handbrakes. This information was supplied in response to R-79-2, which asked NYCTA to immediately equip handbrakes on its rapid transit cars with a positive indicator so that an operator can determine if the brake is applied or fully released. NYCTA states that all cars should be retrofitted by March 1980.

Note.—Single copies of the Safety Board's accident reports and special studies are available without charge, as long as limited supplies last. Copies of the Board's recommendation letters, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

Margaret L. Fisher,
Federal Register Liaison Officer.

April 23, 1979.

[N-AR 79-17]

[FR Doc. 79-12829 Filed 4-25-79; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and

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grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send then to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer, Donald W. Barrowman—447–6202

New Forms

Food and Nutrition Service
Grant Applications for Demonstration Projects for WIC Program
SF–424
On occasion
State or local agencies; 50 responses; 6,800 hours
Charles A. Bilett, 395–5080

Food and Nutrition Service
Food Distribution Program for Households on Indian Reservations
On occasion
State agencies; Indian Reservation; 400,807 responses; 103,629 hours
Charles A. Bilett, 395–5080

Revisions

Economics, Statistics, and Cooperatives Service
Cost of production survey
Annually
Selected crop producers; 7,800 responses; 7,800 hours
Office of Federal Statistical Policy and Standard 673–7974

Extensions

Food and Nutrition Service
Agreement (Child Care Food Program)
Part 226
Annually
Institutions Admin. by FNS; 6,000 responses; 6,000 hours
Charles A. Ellett, 395–5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michaels—377–4217

Extensions

Office of Minority Business Enterprise
*Confirmation of assistance to clients
MBE–88
On occasion
Minority business; 5,250 responses; 1,312 hours
Richard Sheppard, 395–3211

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderote—697–1195

New Forms

Department of the Army
Military option evaluation study of civilian males
Single time
16–21 yr. old civilian males; 60,000 responses; 4,083 hours
David P. Caywood, 395–6140

Revisions

Department of the Air Force
*Application for training leading to a commission in the United States Air Force
AF 56
On occasion
College graduates and active duty airmen; 8,000 responses; 2,000 hours
David P. Caywood, 395–6140

DEPARTMENT OF ENERGY

Agency Clearance Officer—Albert H. Linden—566–9021

New Forms

Refiners and Wholesalers Gasoline Prices and Sales
EIA–151
Single time
Wholesalers and refiners of petroleum products; 175 responses; 17,500 hours
Jefferson B. Hill, 395–5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245–7488

New Forms

National Institutes of Health
Cardiology patient simulator evaluation
Single time
Medical students, teaching and support staff; 3,520 responses; 2,523 hours
Richard Eisinger, 395–3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—John Kalagher—755–5184

New Forms

Housing Management
*Supplemental statistical data sheet
FHA 2501, SUPP/FHA, 3100 SUPP
On occasion
Seller mortgagors and/or mortgagees; 150,000 responses; 12,500 hours
Arnold Strasser, 395–5080

Extensions

Housing Production and Mortgage Credit
*Request for extension of title I claim period
FHA–299
On occasion
Banks, Savings, and Loans Credit Unions, etc.; 10,000 responses; 1,000 hours
Arnold Strasser, 395–5080

Housing Production and Mortgage Credit
*Title I—dealer/contractor application
FH–13
On occasion
Banks accept from dealers, contractors, suppliers; 10,000 responses; 5,000 hours
Arnold Strasser, 395–5080

Housing Production and Mortgage Credit
Schedule of land development lots—title X
FHA 3554
On occasion
Seeking insured financing; 30 responses; 30 hours
Arnold Strasser, 395–5080

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523–6341

Extensions

Bureau of Labor Statistics
Employment, wages, and contribution report (ES 202)
BLS –303—(ES–202)
Quarterly
States
212 responses; 530,000 hours
Arnold Strasser, 395–5080

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—John J. Stanton—245–3064

New Forms

A Study of Current and Potential Hazardous Waste Facility at Generator Owned Sites
Single time
Manufacturing firms; 3,000 responses; 12,000 hours
Edward H. Clarke, 395–5867

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—W. V. Radesk—312–751–4690

Extensions

*Claim for Sickness Benefits—Employees Statement
SI–3—(4–68)
On occasion
Claimant for sickness benefits; 460,000 responses; 15,333 hours
Barbara F. Young, 395–6132

Claim for Unemployment Benefits
UI–3—(4–68)
On occasion
Claimant for unemployment benefits; 450,000 responses; 37,500 hours
Barbara F. Young, 395–6132

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79–12975 Filed 4–25–79; 8:45 am]

BILLING CODE 3110–01–M

POSTAL RATE COMMISSION

Albuquerque, N. Mex., Associated Service Facility and Denver Colo., BMC; Visit

April 23, 1979.

Notice is hereby given that a member of the Postal Rate Commission advisory staff will make visits to the following postal facilities for the purpose of acquiring general background knowledge of postal operations.

May 2—Albuquerque, NM, Associated Service Facility
May 3—Denver, CO, BMC

A report of the visit will be on file in the Commission's Docket Room.

David F. Harris,

Secretary.

[FR Doc. 79–12968 Filed 4–25–79; 8:45 am]

BILLING CODE 7715–01

PRESIDENTIAL COMMISSION ON WORLD HUNGER

Subcommittee Meetings

Subcommittees of the Presidential Commission on World Hunger have scheduled meetings as follows:

The Domestic, Agriculture Policy, Consumer and Nutrition Subcommittees will meet on May 8, 1979, in Room 2010, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C., beginning at 9:30 a.m.

The International Policy Subcommittee will meet on May 18, 1979, at the Ford Foundation, 320 E. 43rd Street, New York, New York, beginning at 9:30 a.m.

These meetings are open to observation by the public. Persons interested in attending the meetings should address a letter to the Presidential Commission on World Hunger, 734 Jackson Place, N.W., Washington, D.C. 20006. Admission of observers will be on the basis of the earliest postmark and to the extent space is available.

Donald B. Harper,

Administrative Officer, Presidential Commission on World Hunger.

[FR Doc. 79–12927 Filed 4–25–79; 8:45 am]

BILLING CODE 6820–97–M

SECURITIES AND EXCHANGE COMMISSION

The Barrett, Smith, Schapiro, Simon & Armstrong Retirement Plan; Notice of Application and Opportunity for Hearing

April 20, 1979.

In the matter of the Barrett, Smith, Schapiro, Simon & Armstrong Retirement Plan, 26 Broadway, New York, NY 10004.

Notice is hereby given that Barrett, Smith, Schapiro, Simon & Armstrong (hereinafter referred to as "Applicant" or the "Firm"), a law firm organized as a partnership under the laws of the State of New York, on October 23, 1978, filed an application for an exemption from the registration requirements of the Securities Act of 1933 ("Act") for participations or interests issued in connection with the Barrett, Smith, Schapiro, Simon & Armstrong Retirement Plan ("Plan"). All interested persons are referred to that document, which is on file with the Commission for the facts and representations contained therein, which are summarized below.

Applicant states that the Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case, Applicant's partners) who are employees withfn the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 ("Code"), and therefore, is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in employee benefit plans of certain employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act, any interests or participations issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that the Plan covers all partners and employees of the Firm who satisfy the Plan's requirements for participation. As of October 1, 1978, 20 partners and 47 employees were active participants in the Plan. A partner or employee of the Firm is entitled to become a participant after completion of three years of service with the Firm. Each year, the Firm contributes on behalf of each participant who is a partner an amount equal to 8% of such partner's Basic Earned Income, but not to exceed $7,500. All contributions by the Firm are made out of its profits for the year. A participant's interest in all Firm contributions made on his behalf is fully vested and remains nonforfeitable at all times. In addition, a participant who is not a partner may make annual voluntary contributions in an amount not to exceed 10% of his earned income, or, in the case of an "owner employee," $2,500. Applicant represents that voluntary contributions have not been, and will not at any time be, solicited from participants.

Applicant states that the Plan was originally established effective as of January 1, 1968 and was amended and restated in its entirety, effective as of January 1, 1976, in order to comply with the requirements of the Employee

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Retirement Income Security Act of 1974 ("ERISA"). By letter dated December 3, 1976, the Internal Revenue Service ("IRS") determined that the Plan, as so amended, was a qualified plan under Section 401(a) of the Internal Revenue Code (the "Code"). Further amendments to the Plan were adopted effective as of November 1, 1977 (the "1977 Amendments"). The IRS determination letter was issued prior to the adoption of the 1977 Amendments. However, Applicant represents that the 1977 Amendments do not affect the qualification of the Plan.

The trust forming a part of the Plan was originally established by an Agreement of Trust ("Agreement of Trust") between the Firm and Irving Trust Company ("Trustee"), made as of December 30, 1968. The Agreement of Trust was amended and restated in its entirety, effective January 1, 1976, in order to comply with the requirements of ERISA, and was further amended as of November 1, 1977 to make provision for the 1977 Amendments.

Applicant states that all contributions under the Plan are paid over to a trust fund maintained by the Trustee. The Trustee maintains two separate funds under the Agreement of Trust, a Fixed Income Fund which is invested principally in bonds, and an Equity Fund which is invested principally in common stocks. The choice of investments within each Fund rests in the Trustee's sole discretion. Each participant has, however, the right to direct how contributions made on his behalf are to be divided between the two Funds, and to have amounts credited to his account in the Fixed Income Fund invested in savings deposits or United States government obligations. The agreement of Trust does not authorize commingling the assets of the Plan with the assets of the plan of any other employer, and Plan assets have not been and will not be so commingled.

The Firm has overall responsibility and authority for administration of the Plan, including the determination of all questions arising out of the administration, interpretation and application of the Plan, authorization of distributions from the trust fund, establishment and enforcement of rules and regulations relating to administration of the Plan, determination of the time, manner and amount of benefit payments to participants and authorization of the proper expenses for administering the Plan.

Applicant states that the Plan is an "employee pension benefit plan" subject to regulation by the Department of Labor under ERISA and is subject to the fiduciary standards and to the full reporting and disclosure requirements of ERISA.

Applicant submits that in excluding plans in which self-employed persons are participating from the exemption from registration afforded by Section 3(a)(2) of the Act, Congress apparently recognized that such plans constitute complex investment vehicles, interests in which could be sold by sponsoring financial institutions to self-employed individuals who might not be sophisticated in the securities field or who might be unable to protect their interests or the interests of their participating employees. Applicant further submits that the Plan does not present the risks associated with the sale of interests or participations in plans sponsored by financial institutions with which Congress was primarily concerned. The Plan is not a uniform prototype or master plan of a type designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons. It is an individual plan sponsored by the Firm for the benefit of partners and employees of the Firm, with its assets held in an individual trust which is separately invested and administered. Applicant states that it maintains extensive administrative control over the Plan, and has retained the services of an independent financial expert, as trustee, to manage investments. Applicant further states that it is engaged in furnishing legal services which involve financially sophisticated and complex matters. For these reasons, Applicant submits that it is able to represent adequately its own interests and those of its employees.

Applicant concludes that for the foregoing reasons, granting the requested exemption would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 16, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as a course following May 16, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Release No. 8057; (18-25)]

[FR Doc. 79-12987 Filed 4-25-79; 8:45 am]

BILLING CODE 8010-01-M

Corporate Income Trust, Series 1, and Donaldson, Lufkin & Jenrette Securities Corp.; Notice of Application and Opportunity for Hearing

April 19, 1979.

In the matter of Corporate Income Trust, Series 1 (and subsequent Series) and Donaldson, Lufkin & Jenrette Securities Corporation 140 Broadway New York, New York 10005.

Notice is hereby given that Corporate Income Trust, Series 1 (and subsequent Series) (hereinafter each series is referred to as "a Trust" and the series collectively are referred to as "the Trust"), a unit investment trust, and its sponsor, Donaldson, Lufkin & Jenrette Securities Corporation ("Sponsor") (the Trust and the Sponsor are hereinafter referred to collectively as "Applicants"), filed an application on February 21, 1979, and amendments thereto on April 11, 1979 and April 16, 1979, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicants from the provisions of Sections 14(a) and 22(d) of the Act, and Rule 19b-1 thereunder, and pursuant to Section 11 of the Act, for an order permitting certain offers of exchange described herein. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Trust will be created under Massachusetts law pursuant to a trust agreement ("Trust Agreement") among the Sponsor, State Street Bank and Trust Company, as trustee ("Trustee"), and Interactive Data Services, Inc. as evaluator ("Evaluator"). Applicants state that in the case of Trusts created subsequent to the first series of the Trust ("Trust, Series 1") one or more additional entities may act as Sponsor, Trustee and Evaluator, respectively. The sponsor represents that if it ceases to remain Sponsor of a Trust, it will cause to be filed a new registration statement under the Act concerning the Trust.

In additions to the Trusts, the Sponsor is planning to offer units in other unit investment trusts in the future. Such trusts may include long-term, intermediate-term and short-term series and such other series as may be offered by the Sponsor from time to time. Any series of trust sponsored by the Sponsor and not consisting primarily of short-term securities will hereinafter be referred to as a "Conversion Trust." The securities to be deposited in the Trust, Series 1 will primarily be long-term corporate debt obligations. Future Trusts may consist primarily of other types of corporate securities, such as intermediate or short-term debt obligations (including but not limited to bank certificates of deposit) or preferred stocks. Any future Trust consisting primarily of short-term obligations will hereinafter be referred to as a "Short-term Trust".

Applicants state that once the Sponsor decides to offer a Trust to the public, it will prepare and file with the Commission under the Securities Act of 1933 and the Act the documents necessary to create the Trust's structure. Applicants represent that the Sponsor intends to deposit with the Trustee approximately $10,000,000 principal amount of securities to be included in the portfolio of the Trust, Series 1, ("Securities"), and that, simultaneously with such deposit, the Trustee will deliver to the Sponsor a certificate representing units ("Units") of fractional undivided interest in the Trust at the rate of approximately one Unit of fractional undivided interest for each $1,000 principal amount or par or liquidation value of the Securities deposited (interests in any Trust will hereinafter also be referred to as "Units", and holders of such Units as "Unitholders"). Such Units will represent the entire ownership of the Trust.

Applicants state that contemporaneously with the deposit of the Securities with the Trustee, and amendment which forms the basis for the final prospectus relating to the Trust will be filed with the Commission and that the Units will then be offered to the public separately through a final prospectus at a public offering price. Applicants represent that the maximum public offering price during the initial public offering period will be computed by adding to the offering-side evaluation of the Securities, divided by the number of Units, a sales charge in an amount not exceeding 4.712% of such evaluation.

Applicants state that the aggregate offering-side evaluation of the Securities will be determined by the Evaluator on each business day during the initial public offering period as of the time ("Evaluation Time") set forth in the prospectus for each Trust (in the case of the Trust, Series 1, 4:00 P.M. New York time, the current close of trading on the New York Stock Exchange and, in the case of subsequent Trusts, a time determined in accordance with Rule 22c-1 under the Act) effective for all sales made during the preceding 24 hours.

Applicants represent that while not obligated to do so, the Sponsor intends to maintain a market for Units by offering to purchase such Units at prices based upon (i) the aggregate offering-side evaluation of the securities during the initial public offering period and (ii) the aggregate bid-side evaluation of the Securities thereafter. Units purchased by the Sponsor during the initial offering period will be reoffered for sale during the initial offering period at prices determined on the basis of the offering-side evaluation of the Securities, and Units purchased by the Sponsor in the secondary market will be reoffered for sale at prices determined on the basis of the bid-side evaluation of the Securities. Applicants state that the aggregate bid-side evaluation of the Securities will be determined by the Evaluator upon completion of the initial public offering period on each business day thereafter as of the Evaluation Time, effective for all sales made during the preceding 24 hours. Applicants represent that the maximum public offering price in the secondary market will be computed by adding to such bid-side evaluation of the Securities, divided by the number of Units, a sales charge in an amount not exceeding 5.263% of such evaluation. Applicants state that if the supply of Units of any Trust exceeds demand, or for some other business reason, the Sponsor may discontinue secondary market purchases of Units of such Trust.

Applicants represent that Units may be redeemed at any time at a price based on the bid-side evaluation of the Securities determined as of the Evaluation Time on the date of tender. Applicants further represent that so long as the Sponsor is maintaining a bid in the secondary market, the Trustee will offer any Units tendered for redemption to the Sponsor for purchase on the conditions described in the prospectus. Applicants state that if the Sponsor does not so purchase the tendered Units, the Trustee will liquidate certain of the Securities in the Trust and the tendering Unitholder will receive cash from the proceeds of such liquidation.

Section 6(c)

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provisions of the Act or from any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 14(a)

Section 14(a) of the Act provides, in substance, that no registered investment company and no principal underwriter for such company shall make a public offering of securities of which such company is the issuer unless (1) the company has a net worth of at least $100,000; (2) such company has previously made a public offering of its securities, and at the time of such offering has a net worth of $100,000; or (3) provision is made that a net worth of $100,000 will be obtained from not more that twenty-five responsible persons within ninety days, or the entire proceeds received by such company, including any sales charge, will be refunded on demand.

Applicants request an order, pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Section 14(a) of the Act. In support of the requested exemption, Applicants represent that each Trust, at the date of deposit and before any Unit is offered to the public, will have a net worth far in excess of $100,000. In addition, Applicants have agreed that the Sponsor will (1) refund all sales charges, on demand and without deduction, to purchasers of Units of any Trust from the Sponsor, or from any dealer particiating in the distribution, and liquidate the Securities held by the Trust and distribute the proceeds thereof, if, within 90 days from the time that the registration statement relating to the Units of such Trust shall have become effective, the net worth of the Trust shall

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have been reduced to less than $100,000 or if such Trust shall have been terminated; (2) instuct the Trustee to terminate such Trust in the event redemption by the Sponsor of unsold Units results in such Trust having a net worth of less than 40% of the principal amount of Securities in the initial portfolio; and (3) in the event of any such termination, refund all sales charges, on demand and without deduction, to purchasers of Units of such Trust from the Sponsor or from any underwriter or dealer participating in the distribution.

Rule 19b–1

Rule 19b–1(a) under the Act provides, in substance, that no registered investment company which is a "regulated investment company" as defined in Section 851 of the Internal Revenue Code shall distribute more than one capital gain dividend in any one taxable year.

In the case of the Trust, Series 1, Applicants state that interest and principal received by the Trust will be paid out, less applicable expenses, on the fifteenth day of each month on a pro rata basis to Unitholders of record on the first day of the month. Applicants state that distributions of principal constituting capital gains to Unitholders may arise in the following instances: (1) an issuer might call or redeem Securities held in the portfolio, (2) Securities might be liquidated in order to provide the funds necessary to meet redemptions, or (3) Securities may be disposed of in order to maintain the qualification of such Trust as a regulated investment company under the Internal Revenue Code. Applicants state that it is unlikely that any capital gains will arise from sale upon default in payment of principal or interest or upon the occurrence of other market or credit factors that, in the opinion of the Sponsor, would make retention of such Securities in the Trust detrimental to the interests of Unitholders. Applicants further state that any such capital gains would be distributed to Unitholders on the next succeeding distribution day.

Applicants request an order, pursuant to Section 6(c) of the Act, exempting the frequency of the capital gains distributions of the Trust from the provisions of Rule 19b–1(a) under the Act. In support of their request, Applicants assert that the dangers against which Rule 19b–1(a) was intended to guard do not exist in the situation at hand, since neither the Sponsor nor the Trustee control the events which might trigger capital gains. In addition, Applicants assert that the regular distribution per Unit will be fairly constant, and that any capital-gain or return-of-capital ditributions will be clearly distinguished from income distributions in the accompanying report by the Trustee to Unitholders. Applicants argue that in order to comply with the literal requirements of Rule 19b–1(a), each Trust would be forced to hold any monies constituting capital gains from the disposition of Securities until the end of its taxable year and that such a practice would be to the detriment of the Unitholders.

Section 22(d)

Applicants state that the Sponsor intends to offer to Unitholders of the Trusts for which the Sponsor is maintaining a market, except for Unitholders of a Short-term Trust, a conversion privilege. Applicants state that this privilege will entitle the Unitholder to exchange, at a lower sales charge than offered to the general public, Trust Units for interests in a Conversion Trust, in either the initial public offering or the secondary market for the Conversion Trust, and would permit Conversion Trust unitholders to exchange, at reduced sales charges, units of a Conversion Trust for Units of any Trust, including the Trust, Series 1, except a Short-term Trust, in either the initial public offering or the secondary market for such Trust. Applicants represent that when any Unitholder notifies the Sponsor of his desire to exercise his conversion privilege, the Sponsor will deliver to the Unitholder a current prospectus for those Conversion Trusts in which the Unitholder has indicated an interest and which the Sponsor has available to offer to the Unitholder either in the initial public offering period or in the secondary market. A similar procedure would be followed in the case of a Conversion Trust Unitholder electing to exchange his unit for a Trust Unit. Applicants propose to sell both Trust Units and Conversion Trust units pursuant to the conversion privilege at a price in the secondary market equal to the bid-side evaluation of the underlying portfolio securities divided by the number of units outstanding and, during the initial public offering period, equal to the offering-side evaluation of the underlying portfolio securities divided by the number of units outstanding, plus, in both cases, a fixed charge of $15 per unit. Applicants state that the $15 fixed charge can be expected to approximate about 1½% of the offering price. Applicants state that pursuant to the conversion privilege, a unitholder would be permitted to acquire whole units only, and that any excess amount representing the sale price of units submitted for conversion would be remitted to the unitholder.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it except to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person, except a dealer, a principal underwriter or the issuer, except at a current public offering price described in the prospectus.

Applicants request an order, pursuant to Section 6(c) of the Act, exempting them from the provisions of Sections 22(d) of the Act to permit the operation of the proposed conversion privilege. In support of the requested exemption, Applicants state that an investor desiring to exercise the conversion privilege would be an exising customer whose essential investment needs have been identified. Accordingly, Applicants assert that he real cost of a conversion transaction should be less than the cost of an initial purchase transaction. Applicants further assert that the reduced charge of $15.00 achieves a major goal of passing cost savings on to investors and yet fairly compensates brokers for their investment advice, financial planning and operational expenses. Finally, Applicants assert that the proposed conversion privilege is consistent with past statements by the Commission and with Commission precedent.

Section 11

Section 11(a) of the Act, in pertinent part, makes it unlawful for any registered open-end company or any principal underwriter for such company to make or cause to be made an offer to the holder of a security of such company or or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) of the Act provides, in part, that the provisions of Section 11(a) shall be applicable, irrespective of the basis of exchange, to any type of offer of exchange of the securities of a registered unit investment trust for the securities of any other investment company.

Applicants are requesting an order pursuant to Section 11 of the Act approving the proposed conversion privilege to the extent it would involve an exchange offer prohibited by Section 11(a). In support of the requested exemption, Applicants point out that the exchange of units would be effected at the relative net asset values of the units and that the only charge to the unitholder would be the $15 fixed dollar fee. Because this charge would reflect the real cost of effectuating a conversion privilege transaction, Applicants assert that exchanges made pursuant to the conversion privilege would be consistent with Section 11.

Notice is further given that any interested person may, not later than May 11, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such comunication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Release No. 10667 (812–4440)]
[FR Doc. 79–12984 Filed 4–25–79; 8:45 am]
BILLING CODE 8010–01–M

IDS Growth To Maturity Fund, Inc.; Notice of Application and Opportunity for Hearing

April 20, 1979

In the matter of IDS Growth to Maturity Fund, Inc., 1000 Roanoke Building, Minneapolis, Minn. 55402.

Notice is hereby given that IDS Growth to Maturity Fund, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on March 19, 1979, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as that term is defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant was organized under the laws of the State of Nevada. It registered under the Act on July 17, 1978, and on the same date it filed a registration statement under the Securities Act of 1933 ("1933 Act") covering 7,500,000 shares of Discount Bond I Shares (one dollar par value) and an indefinite number of shares of common stock (one dollar par value). The registration statement under the 1933 Act (File No. 2–62149) became effective on October 25, 1978, and the public offering of Applicant's shares commenced on November 1, 1978.

The application states that in its initial prospectus the Applicant set forth a condition, approved by its Board of Directors on July 13, 1978, that if $20,000,000 worth of shares was not sold during the initial offering period or a thirty day extension, Applicant would return to each shareholder his initial investment (including sales charge), plus any interest earned from investments in short-term securities that exceeded the management fee and expenses. Applicant states that when it became apparent that the required minimum level of sales of shares could not be achieved, such sales were discontinued and procedures implemented to return to the shareholders the amount of the initial investment (including sales chafge).

The application further states that Applicant is not now engaged, nor does it propose to engage in any business activities; that all shareholders have received the amount of their initial investment plus interest; and that Applicant currently has no security holders, no assets, no current liabilities outstanding and that it is not a party to any litigation or administrative proceedings. Moreover, the application states that all expenses incurred in connection with the return to the shareholders of the amount of their initial investment plus interest were paid by Applicant's investment adviser (Investors Diversified Services, Inc.). In addition, Applicant states that it is not making and does not presently propose to make a public offering of its securities. Finally, Applicant states that it presently has not and does not intend to file with the State of Nevada any articles of merger, certificate of dissolution or similar document.

On the basis of the above information Applicant maintains that it is not presently an "investment company" as that term is defined in the Act.

Section 3(c)(1) of the Act provides, in pertinent part, that any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities is not an investment company within the meaning of the Act.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 17, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by Affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's

own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, prusuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Release No. 10669; (811-2852)]
[FR Doc. 79-12985 Filed 4-25-79; 8:45 am]
BILLING CODE 8010-01-M

Public Service Co. of Okla.; Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

April 20, 1979.

In the matter of Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Oklahoma 74102.

Notice is hereby given that Public Service Company of Oklahoma ("PSO"), an electric utility subsidiary of Central and South West Corporation ("CSW"), a registered holding company, has filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b) and 12(c) of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement concerning the proposed transaction.

PSO proposes to issue and sell at competitive bidding up to $75,000,000 aggregate principal amount of its first mortgage bonds, Series O, due June 1, 2009 ("Bonds"), to be dated June 1, 1979. The interest rate (which will be expressed in a multiple of ⅛ of 1%) and the price to be paid to PSO for the Bonds (which will not be less than 99% nor more than 102.75%) will be determined by competitive bidding. Except pursuant to the sinking fund provision mentioned below, none of the Bonds may be deemed before June 1, 1984, if such redemption is for the purpose of refunding them through the use, directly or indirectly, of borrowed funds having an effective interest cost less than the effective interest cost of the Bonds. The Bonds will be subject to a sinking fund provision requiring the annual redemption of one percent of the aggregate principal amount of Bonds issued, such redemptions to commence for the 12 month period ending March 31, 1981.

The Bonds will be issued under and secured by PSO's First Mortgage Indenture dated July 1, 1945, as amended and supplemented, and as to be further amended by a supplemental indenture to be dated June 1, 1979.

The net proceeds from the sale of the Bonds will be used by PSO to repay in full its short-term debt, which is expected to aggregate approximately $55,000,000 at the time of sale of the Bonds, and to pay costs incurred in its construction program. PSO estimates its construction expenditures (excluding allowance for funds used during construction) at $214,000,000 for 1979 and at $198,000,000 for 1980.

None of the proceeds from sale of the Bonds shall be utilized to pay the cost of facilities ("interconnection facilities") which would not be needed to provide service to customers of PSO if PSO were not part of the CSW System, nor will any expenditures be made by PSO for the construction or acquisition of any facility not so needed prior to the time all funds covered by this application-declaration have been expended. For the purpose of the foregoing representation, there are included within the meaning of the term "interconnection facilities" all facilities, the construction or acquisition of which are or would be part of any proposal for synchronous interstate operation of the CSW System forming the subject of the proceedings in *Central and South West Corporation, et al.* (Admin. Proc. File No. 3-4951) which would not also be required for the continuation of dissynchronous interstate/intrastate operation in the mode presently prevailing in the CSW System.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Corporation Commission of the State of Oklahoma has jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction thereover.

Notice is further given that any interested person may, not later than May 17, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 21011 (70-6296)]
[FR Doc. 79-12986 Filed 4-25-79; 8:45 am]
BILLING CODE 8010-01-M

Schnader, Harrison, Segal & Lewis H.R. 10 Retirement Plan; Notice of Application and Opportunity for Hearing

April 18, 1979.

In the matter of H.R. Retirement Plan of Schnader, Harrison, Segal & Lewis, 1719 Packard Building, Philadelphia, PA 19102.

Notice is hereby given that Schnader, Harrison, Segal & Lewis (the "Applicant"), a law firm organized as a partnership under the laws of the State of Pennsylvania, has, on September 20, 1978 and March 8, 1979, filed an application for exemption from the registration requirements of the Securities Act of 1933 ("Act") for participations or interests issued in connection with the Schnader, Harrison, Segal & Lewis H.R. 10 Retirement Plan ("Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. Introduction

Applicant states that it has adopted the Plan to provide retirement benefits to its partners and employees. The plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case, Applicant's partners) who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 (the "Code"), and, therefore is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in employee benefit plans of certain employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description of the Plan

Applicant states that the Plan was originally adopted in 1969. The Plan was amended and restated effective January 1, 1976 to comply with requirements of the federal income tax law and the Employee Retirement Income Security Act of 1974 ("ERISA"). Applicant further states that the Plan is qualified under Section 401(a) of the Code. The Plan covers all partners and employees of Applicant provided that the participant has attained age 25 and completed a twelve month period of service (1000 or more hours of service). As of September 1, 1978, the participants consisted of 59 partners, 31 associates and 77 clerical, secretarial and other staff personnel.

Applicant contributes to the Plan an amount determined as follows: For Plan years after December 31, 1977, for participants who are lawyers the rate of contribution by Applicant is 1.5% of participant's compensation in excess of $17,000. Each participant, partners and otherwise, may make voluntary contributions to the Plan of at least 1% but not more than 10% of his compensation.

All contributions are paid to the trustees of the Plan, Bernard G. Segal, Fred L. Rosenbloom and Gilbert W. Oswald. The funds are held by the trustees in two collective investment funds solely and separately for the benefit of the participants in the Plan. Each participant may elect to have his contributions and those made on his behalf by the Applicant invested in a general fund, which consists of a portfolio of stocks, bonds and other securities and bank certificates of deposit and corporate bonds selected by the Investment Committee, or in the debt fund, which consists of bonds and other instruments of indebtedness, including bank certificates of deposit and corporate bonds selected by the Investment Committee and which is designed to provide a greater degree of protection against market losses than is the portfolio of the general fund. The Plan is administered by a Pension Committee, consisting of at least three partners of Applicant and serving at the pleasure of Applicant. The Pension Committee has appointed an Investment Committee to manage the portfolios of the two funds in accordance with investment policies determined by the Pension Committee. The Pension Committee establishes regulations for the administration of the Plan and has the exclusive right to interpret the Plan and decide any matters arising in the administration and operation of the Plan.

The Plan is subject to ERISA and Applicant has complied with and will comply with all of the ERISA reporting and disclosure requirements. a Summary Plan Description, written in language understandable by the average participant, is delivered to each participant. In addition, a Summary Plan Report is delivered to each participant and also to persons currently receiving benefits. Each participant and person receiving benefits is informed that the full Annual Report for the Plan is available upon request.

Applicant states that if the partnership were a corporation, interests and participations in the Plan would be exempt under Section 3(a)(2) of the Act. Applicant submits that merely because Applicant is unincorporated is no reason for subjecting such interests and participations to the registration requirements of the Act. Applicant further submits that the intent of Congress in excluding from the exemption plans in which self-employed persons were participants was to prevent the sale without registration of interests in prepackaged plans offered by financial institutions to self-employed persons lacking the sophistication to protect themselves and their employees, and that the provision permitting the Commission to grant exemption upon application was included in Section 3(a)(2) of the Act to make available an exemption for partnership plans where the plan and the entity involved are comparable to corporate plans exempted by Section 3(a)(2).

Applicant states that the Plan covers partners and employees of a single firm and is not a uniform prototype plan of a type designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons. Applicant represents that it has not distributed and does not intend to distribute any type of promotional material relating to the Plan (other than such material as Applicant is required under ERISA to distribute to participants or to employees) and has not made and does not intend to make any solicitation of voluntary contributions under the Plan. Applicant makes available to Plan participants, upon request and without charge, copies of the Plan and interim financial statements of the Plan.

Applicant states that it is engaged in furnishing legal services of a type which necessarily involves financially sophisticated and complex matters and, for that reason as well as the extensive administrative control over the Plan maintained by the Partnership, is able to represent adequately its interests and the interests of its employees who are participants in the Plan.

Applicant concludes that for the foregoing reasons, granting the requested exemptive order would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 14, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed comtemporaneously with the request. An order disposing of the application will be issued as of course following May 14, 1979, unless the Commission thereafter orders a hearing upon request, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Release No. 8056 (18-17)]
[FR Doc. 79-12988 Filed 4-25-79; 8:45 am]
BILLING CODE 8010-01-M

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Self-Regulatory Organizations; Proposed Rule Change by the Depository Trust Co.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on March 28, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change involves the submission of pledge data via DTC's Participant Terminal System (PTS) in DTC's Collateral Loan Program. The proposed rule change is attached as Exhibit 2 to DTC's filing on Form 19b–4A, File No. SR–DTC–79–2.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to permit DTC's Participants to pledge securities in DTC's Collateral Loan Program by means of pledge data submitted via PTS. Submission of pledge data via PTS is an alternative to submission of the paper DTC pledge of collateral form which is used for the same purpose. The Pledgee Bank can receive the pledge data via PTS or as a paper report from DTC if the Pledgee Bank does not participate in PTS or does not choose to utilize PTS to receive pledge data.

The proposed rule change would carry out the purposes of Section 17A of the Securities Exchange Act of 1934 (the Act) by facilitating the prompt and accurate clearance and settlement of securities transactions for which DTC is responsible in that submission of pledge data via PTS will improve the timeliness and cost of the collateral loan process. The Participant and DTC will be able to identify errors in pledge data at the time of submission, thereby avoiding the delay and expense of rejecting and correcting erroneous pledge data, and the Pledgee Bank will receive pledge data processed by DTC more promptly.

Submission of pledge data via PTS in DTC's Collateral Loan Program was developed in close coordination with Participants and Pledgee Banks. Numerous discussions were held with users of the Collateral Loan Program. Articles on the subject appeared in the DTC Newsletters of January 1979 and March 1979.

DTC perceives no burden on completion by reason of the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 17, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

April 17, 1979.

[Release No. 34–15743; File No. SR–DTC–79–2]
[FR Doc. 79–12288 Filed 4–25–79; 8:45 am]
BILLING CODE 8010–01–M

Self-Regulatory Organizations; Proposed Rule Change by the Depository Trust Co.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on March 21, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change provides for an addition to the Fee Schedule for Major Services, filed on Form 19b–4A, File No. SR–DTC–78–6:

G. Legal Deposits: [$25.00] *$10.00* per deposit. Discount for bulk deposits varies based on DTC's costs.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed change in the Fee Schedule for Major Services is to align the fees for DTC's legal deposit service more closely to the costs incurred in providing that service.

The proposed change in the Fee Schedule for Major Services relates to DTC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 by equitably allocating fees among DTC Participants.

Comments on the proposed rule change have not been solicited or received. All Participants have been notified of the proposed fee reduction by a DTC Important Notice.

DTC perceives no burden on competition by reason of the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 17, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

April 17, 1979.

[Release No. 34–15742; File No. SR–DTC–79–1]
[FR Doc. 79–12908 Filed 4–25–79; 8:45 am]
BILLING CODE 8010–01–M

Self-Regulatory Organizations; Proposed Rule Changes by Midwest Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94–29, 16 (June 4, 1975), notice is hereby given that on March 22, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

Statement of Terms of Substance of the Proposed Rule Changes; Additions Italicized—[Deletions Bracketed]

Section 2 of Article VII of the Constitution is hereby amended as follows:

Article VII

Discipline

Sec. 2. The Exchange shall have authority to discipline any member organization violating any provision of the Constitution or Rules [or the By-Laws or Rules of the Midwest Clearing Corporation, Midwest Securities Trust Company or the Options Clearing Corporation as provided in the Rules]. Discipline may be by censure, fine, suspension, expulsion or as the Board of Governors may determine. The Exchange, as and to the extent provided in the Rules, shall have regulatory and disciplinary jurisdiction over partners of member firms; officers, directors and principal stockholders of member corporations; employees of members and member organizations; subsidiaries of member organizations; parent firms and principal officers and subsidiaries of parent firms. As and to the extent provided in the Rules, the disciplinary authority of the Exchange over any person or organization occupying a status described by this section shall continue after the termination of such status with respect to acts or omissions occurring prior to such termination. Disciplinary proceedings shall be in accordance with the Rules.

Sections 2 and 3 of Article VIII of the Constitution are hereby amended as follows:

Article VIII

Terms and Conditions

Sec. 2. *The terms and conditions of all Exchange Contracts shall be deemed to include* [T]*he* provisions of the Certificate of Incorporation, Constitution and the Rules *of the Exchange* [shall be a part of the terms and conditions of all Exchange Contracts] and the By-Laws and the Rules of the [Midwest Clearing Corporation and the Options Clearing Corporation] *registered clearing agency or agencies through which the Contract is to be cleared and settled.* [shall be part of the terms and conditions of every contract which is to be cleared and conditions of every contract which is to be cleared or settled through such Clearing Corporation and a] *All* such contracts shall be subject to the exercise by the Board of Governors and the appropriate [clearing corporation] *registered clearing agency* of the powers with respect thereto vested in them by the Certificate of Incorporation, Constitution and Rules of the Exchange and by the By-Laws and Rules of [either of the appropriate clearing corporations, respectively.] *the appropriate registered clearing agency.*

Delivery and Payment

Sec. 3. *The comparison of data respecting the terms of settlement of Exchange Contracts and the resolution of any disagreements about the terms of such Contracts shall be accomplished by the parties thereto through the facilities and in accordance with the Rules of the Exchange.* On every Exchange Contract *clearance and settlement* [delivery and payment] shall be made through *and in accordance with the By-Laws and Rules of a registered clearing agency,* [the Midwest Clearing Corporation or Options Clearing Corporation as required by the By-Laws and Rules of the Midwest Clearing Corporation or Options Clearing Corporation] unless it is otherwise mutually agreed by the parties to the contract. [, or the appropriate Clearing Corporation, either in the particular instance or in pursuance of its By-Laws and Rules, refuses to act in the matter.]

A party to an Exchange Contract who is not a *participant in* [clearing member of] *a registered clearing agency* [the Midwest Clearing Corporation or Options Clearing Corporation] shall cause the transaction to be cleared and settled for him or it by a [clearing member of] *member organization who is a participant in a registered clearing agency* [the appropriate Clearing Corporation]; however, such non-clearing *participant* [member] having both the purchase and selling orders of a proposed transaction may have such transaction completed on the Exchange without the services of a clearing [member] *agency participant,* provided it is duly reported to the [e] *Exchange for comparison* [and the appropriate Clearing Corporation].

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule changes is as follows:

The purpose of these amendments is to eliminate the references to Midwest Clearing Corporation, Midwest Securities Trust Company and The Options Clearing Corporation in order to better allow for the development of a national system for the settlement of transactions insecurities.

Sections 6(b)(8) and 15A(b)(9) of the Act prohibit the rules of a national securities exchange from imposing any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. These sections complement Section 17A(a)(2) of the Act which directs the Commission to use its authority under the Act to facilitate the establishment of a national system for the settlement of transactions in securities.

Comments have neither been solicited nor received by the Midwest Stock Exchange, Incorporated.

The Midwest Stock Exchange, Incorporated believes that no burden has been placed on competition.

On or before May 31, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regualtory organization consents, the Commission will:

A. By order approve such proposed rule changes, or

B. Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for

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inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 17, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

April 20, 1979.

[Release No. 34-15751; File No. SR-MSE-79-8]
[FR Doc. 79-12990 Filed 4-25-79; 8:45 am]
BILLING CODE 8010-01-M

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 2, 1979, the Midwest Stock Exchange, Incorporated (the "MSE") filed with the Securities and Exchange Commission a proposed rule change. As amended by Amendment No. 1 to SR-MSE-79-9, filed on April 13, 1979, the proposal provides as follows:

MSE's Statement of the Terms of Substance of the Proposed Rule Change

Article XXI, Rules 19(a) and 19(b)(1) of the MSE are hereby amended as follows:

Additions Italicized—[Deletions Bracketed]

Article XXI

Floor Trading for Own Account

Rule 19. (a) No member, partner in a member firm or officer or director of a member corporation, while on the Floor, shall effect a transaction for his own account, or an account in which he has an interest, in a security solely listed on the Exchange, unless he acts as the specialist, co-specialist, relief specialist or odd lot dealer, or he has been duly registered as a "Floor Trader", for the privilege of effecting transactions as principal, and had at the time of application for the privilege a liquid net worth of not less than $10,000 *and is in compliance with Section 11(a)(1)(G) of the Act and Rule 11a1-1(T) thereunder.*

(b) All trading by a Floor Trader under this privilege shall conform to the following provisions:

1. bids or offers shall [be subordinate to all regular-way orders at the same price.] *yield priority, parity and precedence to orders originating off the floor other than off floor orders to be executed pursuant to Section 11(a)(1)(G) of the Act and Rule 11a1-1(T) thereunder.*

MSE's Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule changes is to conform MSE rules to the requirements of Section 11(a)(1) of the Act which became applicable to all members of all national securities exchanges on February 1, 1979. The proposed rule changes relate to Section 6(b)(1) of the Securities Exchange Act of 1934 in that they would provide the Exchange with the capacity for it to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the Act and the rules and regulations thereunder.

Comments Received From Members, Participants, or Others

The Midwest Stock Exchange, Incorporated has neither solicited nor received any comments on this proposal.

Burden on Competition

The Midwest Stock Exchange, Incorporated believes that this proposal imposes no burdens on competition.

On or before May 31, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 17, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

April 18, 1979.

[Release No. 34-15745; File No. SR-MSE-79-9]
[FR Doc. 79-12991 Filed 4-25-79; 8:45 am]
BILLING CODE 8010-01-M

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.

April 12, 1979.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 6, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Philadelphia Stock Exchange's Statement of Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX") pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 ("the Act") hereby proposes to amend Rule 1014(c)(i) ("Obligations of Specialists and Registered Options Traders") as follows: (Brackets indicate words to be deleted and italics indicate words to be added.)

(i) [Bidding and/or offering so as to create differences of no more than ⅛ of $1 between the bid and the offer for each option contract for which the mid-point of the quote is less than $1, no more than ¼ of $1 where the mid-point of the quote is from $1 but not greater than $3, no more than ⅜ of $1 where the mid-point of the quote is more than $3 but not greater than $6, no more than ½ of $1 where the mid-point of the quote is more than $6, no more than ½ of $1 where the mid-point of the quote is more than $6 but not greater than $10, no more than ⅝ of $1 where the mid-point of the quote is more than $10 but not greater than $15, no more than ¾ of $1 where the mid-point of the quote is more than $15 but not greater than $20, and no more than $1 where the mid-point of the quote is more than $20] *Bidding and/or offering so as to create differences of no more than ¼ of $1 between the bid and the offer for each option contract for which the last preceding transaction price was $.50 or less, no more than ½ of $1 where the last preceding transaction price was more than $.50 but did not exceed $10, no more than ¾ of $1 where the last preceding transaction price was more than $10 but less than $20, and no more than $1 where the last preceding transaction price was $20 or more,* provided that the Exchange may establish differences other than the above for one or more series or classes of options. The bid-ask differentials as stated above shall apply to all but the longest term series of options open for trading in each class. For these series, the bid-ask differential shall be twice that stated above.

Philadelphia Stock Exchange's Statement of Basis and Purpose Under the Act for Proposed Rule Change

The proposed rule change represents a return to the original spread parameters contained in Rule 1014(c)(i) from the beginning of the PHLX option program until SEC approval of the current spread parameters on November 28, 1977. Upon review and discussion of the current spread parameters, the PHLX Committee on Options concluded that they had not resulted in the increased depth that had been originally projected. In the Committee's opinion, this was particulary the case in the less active option classes where the lack of volume combined with the narrower spread requirement to discourage specialists and registered option traders from making deeper markets than the minimum one contract market required by PHLX rules. For these reasons, the Committee determined to propose a return to the original spread parameters. These parameters are the same as those contained in the American Stock Exchange Rule 958 with respect to "Registered Traders".

Although the proposed parameters may in some situations permit wider spreads, the PHLX Committee on Options believes that they should encourage specialists and registered option traders to make substantially deeper markets in less active option classes. At the same time, the proposed parameters should encourage specialist and registered option traders to make markets with narrower spreads and substantial depth in active option classes where the volume is a sufficient economic incentive. Consequently, the Committee on Options believes that on balance, overall market liquidity should increase by a return to the parameters contained in the proposed rule change.

The basis for the proposed rule change is found in Section 6(b)(5) of the Act which provides, in pertinent part, that the rules of the Exchange be designed to facilitate transactions in securities and to protect investors and the public interest.

Comments were neither solicited nor received.

The PHLX has determined that the proposed rule change will not impose any burden on competition.

On or before May 31, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determined whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted or or before May 17, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

April 12, 1979.

[Release No. 34-15721; File No. SR-PHLX-79-2]
[FR Doc. 79-12992 Filed 4-25-79; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Alabama; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Autauga, Chambers, Chilton, Choctaw, Clay, Coosa, Dallas, DeKalb, Elmore, Fayette, Greene, Houston, Jefferson, Lamar, Marshall, Marengo, Pickens, Randolph, Shelby, St. Clair, Sumter, Talladega, Tallapoosa, Tuscaloosa and Walker Counties and adjacent counties within the State of Alabama, constitute a disaster area because of damage resulting from severe storms, high winds and flooding beginning on or about April 11, 1979. Applications will be processed under provisions of Public Law 94-305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until close of business on June 18, 1979, and for economic injury until the close of business on January 18, 1980, at:

Small Business Administration, District Office, 908 South 20th Street, Birmingham, Alabama 35205

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59006.)

Dated: April 20, 1979.

William A. Hawks, Jr.,
Acting Administrator.

[Declaration of Disaster Loan Area 1617]
[FR Doc. 79-12956 Filed 4-25-79; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Agency for International Development

Joint Research Committee of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the twenty-third meeting of the Joint Research Committee (JRC) of the Board for International Food and Agricultural Development on May 8 and 9, 1979.

The purpose of the meeting is to discuss the standardization of procedures for implementing Collaborative Research Support Programs (CRSPs), to consider priorities and alternative program levels for research in food, agricultural development and nutrition, and to consider implications for JRC's role in organizational changes proposed under the Foreign Assistance Act for FY-80, being discussed in Congress now.

The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on May 8 and 9, 1979. The meeting will be held in the Dynasty Room of the Holiday Inn, 1850 N. Ft. Myer Drive, Arlington, Virginia, 22209. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Office of Title XII Coordination and University Relations,

Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235–8929.

Dated: April 17, 1979.

Erven J. Long,

A.I.D. Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 79-12906 Filed 4-25-79; 8:45 am]

BILLING CODE 4710-02-M

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will conduct an open meeting at 1:30 p.m. on May 17, 1979, in Room 8442 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the Twenty-first Session of the Subcommittee on Radio-communications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London in January, 1980. In particular, the working group will discuss the following topics:

—Survival craft radio equipment
—Operational requirements for future EPIRB's
—Operational standards for shipboard radio equipment
—Maritime distress system

Requests for further information should be directed to Lt. R. F. Carlson, United States Coast Guard, (G–OTM/74), Washington, D.C. 20590, telephone (202) 426–1345.

The Chairman will entertain comments from the public as time permits.

John Lloyd III,

Acting Director, Office of Maritime Affairs.

April 18, 1979

[Public Notice CM–8/187]

[FR Doc. 79-12905 Filed 4-25-79; 8:45 am]

BILLING CODE 4710-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

Chemical Transportation Advisory Committee, Subcommittee on Commercial Explosives; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Advisory Committee's Subcommittee on Commercial Explosives to be held on Wednesday, June 6, 1979, beginning at 9:30 a.m. Room 6200, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. The agenda for this meeting is as follows:

1. Presentation of the Subcommittee's recommendations for regulation of explosives waterfront facilities by Dr. W. J. Taylor, Jr., Chairman.
2. Open discussion of those recommendations.
3. Open discussion of status of Coast Guard waterfront facilities rulemaking.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, Lt. L. H. Gibson, c/o Commandant (G–MHM/83), U.S. Coast Guard, Washington, D.C. 20590, 202–426–1577. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on April 20, 1979.

F. P. Schubert,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[CGD 79-082]

[FR Doc. 79-12980 Filed 4-25-79; 8:45 am]

BILLING CODE 4910-14-M

OMEGA Radionavigation System

This notice is to announce the OMEGA radionavigation system signal transmission format and other information regarding the OMEGA transmitting stations.

The OMEGA radionavigation system was developed by the United States and is being implemented and operated in partnership with other nations. OMEGA signals, transmitted from eight stations, provide nearly worldwide service. Seven of the eight permanent stations are now being operated by Norway, Liberia, United States, France, Argentina, and Japan. The last permanent station in Australia is expected to be complete in late 1980. In the meantime, a temporary station in Trinidad is operating in Australia's place. OMEGA is available to, and is used widely by the marine and air communities. In July 1978 the U.S Coast Guard assumed full U.S. responsibility for the operation and maintenance of OMEGA.

OMEGA is a VLF, continuous-wave, radionavigation system operating on a time-shared basis, with all stations transmitting phase-synchronized signals. OMEGA transmissions are referenced to the atomic time scale which differs from Coordinated Universal Time (UTC) which is more commonly in use. UTC can be referenced to OMEGA by comparison of signal transmissions to published phase delays. The OMEGA epoch, in 1979, leads UTC by eight seconds.

The practicality of the OMEGA system is based on the fact that the radio signals in the VLF band have a sufficiently predictable phase-stability over extremely long distances to provide nearly worldwide service. The accuracy of the system is dependent upon this inherent stability and the predictability of the phase variations along the progagation path.

Information regarding the OMEGA Transmitting Stations:

Station name	Letter designation	Geographic location	Geodetic location *
Norway	A	Aldra, Norway	66°25'12.62" N 13°08'12.52" E
Liberia	B	Monrovia, Liberia	6°18'19.11" N 10°39'52.40" W
Hawaii	C	Oahu Island, Hawaii, U.S.	21°24'16.78" N 157°49'51.51" W
North Dakota	D	La Moure, North Dakota, U.S.	46°21'57.29" N 98°20'08.77" W
La Reunion	E	La Reunion Island, France	20°58'27.03" S 55°17'23.07" E
Argentina	F	Golfo Nuevo, Argentina	43°03'12.89" S 65°11'27.36" W
Australia	G	Woodside, Australia	38°28'52.53" S 146°56'06.51" E
Trinidad **	G'	Trinidad Island, Trinidad & Tabago	10°41'58.12" N 61°38'17.73" W
Japan	H	Tsushima Island, Japan	34°36'52.93" N 129°27'12.57" E

* Based upon World Geodetic System 1972 (WGS–72).
** Trinidad is transmitting temporarily in Australia's place.

Table 1 shows the OMEGA radionavigation system signal transmission format. The common frequencies which are transmitted are 10.2 kHz, 13.6 kHz, 11⅓ kHz and 11.05 kHz. A unique frequency is transmitted also by each station. All the frequencies are usable for navigation.

The stations always transmit each assigned frequency in order, with the length of the transmission varying between 0.9 and 1.2 seconds with an interval of 0.2 seconds between successive transmissions. The 0.2-second interval eliminates the possibility of an overlap of the signals received from different stations. The entire 10-second pattern is repeated continuously, i.e., at the end of the eighth segment the stations start their transmissions again at segment one.

Note.—The notation for the transmission segments of the OMEGA format has been changed to numerical designations. Previously, letter designations were used to denote the segments as well as stations.

Dated: April 18, 1979.

F. P. Schubert,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

BILLING CODE 4910-14-M

V 4 4 / 8 2 A P 2 6 7 9 UMI

V 4 4 / 8 2 A P 2 6 7 9 UMI

OMEGA RADIONAVIGATION SYSTEM SIGNAL TRANSMISSION FORMAT

Station \ Segment	1	2	3	4	5	6	7	8
Norway (A)	10.2	13.6	11 1/3	12.1†	12.1†	11.05	12.1†	12.1†
Liberia (B)	12.0†	10.2	13.6	11 1/3	12.0†	12.0†	11.05	12.0†
Hawaii (C)	11.8†	11.8†	10.2	13.6	11 1/3	11.8†	11.8†	11.05
North Dakota (D)	11.05	13.1†	13.1†	10.2	13.6	11 1/3	13.1†	13.1†
La Reunion (E)	12.3†	11.05	12.3†	12.3†	10.2	13.6	11 1/3	12.3†
Argentina (F)	12.9†	12.9†	11.05	12.9†	12.9†	10.2	13.6	11 1/3
Australia* (G)	11 1/3	13.0†	13.0†	11.05	13.0†	13.0†	10.2	13.6
Japan (H)	13.6	11 1/3	12.8†	12.8†	11.05	12.8†	12.8†	10.2
Transmission Interval	0.9	.2 1.0	.2 1.1	.2 1.2	.2 1.1	.2 0.9	.2 1.2	.2 1.0

10 seconds

TABLE 1

Frequencies in kHz.

* OMEGA Station Trinidad is presently (March 1979) occupying the Australian time slot and transmits only the 10.2, 11 1/3, and 13.6 kHz frequencies. Trinidad is a low power station and will be discontinued once Australia is completed.

† is the unique frequency for the respective station.

[CGD 79-052]
[FR Doc. 79-12862 Filed 4-25-79; 8:45 am]
BILLING CODE 4910-14-C

Proposed Conversion of a Drawbridge to a Fixed Structure Across the Bohemia River, Mile 4.0, at Cayots, Md.; Public Hearing

Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, Fifth Coast Guard District, at the Bohemia Manor High School, Maryland Route 213, Chesapeake City, Md., at 8:00 p.m. on May 31, 1979. The purpose of the hearing is to consider the application from the State of Maryland for a Coast Guard permit to convert an existing drawbridge to a fixed structure across the Bohemia River, mile 4.0, at Cayots, Md. All interested persons may present data, views and comments orally or in writing at the public hearing concerning the impacts the proposed bridge conversion may have on the environment and on navigation. Of particular importance at this time are the effects a fixed bridge with a vertical clearance of 12 feet at mean high water and a horizontal clearance of 40 feet may have on navigation. Presentations should include factual data to support comments presented.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Va. 23705 by May 30, 1979. Such notification should include the approximate time required to make the presentation. A transcript will be made of the hearing and may be purchased by the public. Comments previously submitted are a matter of record and need not be resubmitted at the hearing. Speakers are encouraged to provide written copies of their oral statements to the hearing officer. Those wishing to make written comments only may submit those comments at the hearing, or to the Commander (oan), Fifth Coast Guard District, by June 14, 1979. Each comment should identify the proposed project, and clearly state the reasons for any objections, comments or proposed changes to the plans, and the name and address of the person or organization submitting the comment.

Copies of all written communications will be available for examination by interested persons at the office of the Commander (oan), Fifth Coast Guard District. All comments received will be considered before final agency action is taken on the proposed bridge permit application. After the time set for the submission of comments, the Commander, Fifth Coast Guard District, will forward the case record, including all written comments, his findings, conclusions and recommendations to the Commandant, U.S. Coast Guard, Washington, D.C. 20590. The commandant will review the case record and make the final determination of issuance or denial of the bridge permit application.

(Section 502, 60 Stat. 847, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C); 49 CFR 1.46(c)(10))

Dated: April 18, 1979.

F. P. Schubert,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[CGD 79-057]
[FR Doc. 79-12981 Filed 4-25-79; 8:45 am]
BILLING CODE 4910-14-M

Federal Aviation Administration

Informal Airspace Meeting No. 8

TIME: 7:00 p.m., June 13, 1979.

PLACE: Alamo Room, Convention Center, South Alamo and Market Street, San Antonio, Texas.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Proposed Terminal Control Area (TCA) for International Airport, San Antonio, Texas.

COMMENTS: No verbatim minutes or transcripts will be taken. However, participants may submit written comments to be made a matter of record if they so desire. This action will not prevent participants from submitting comments later in response to a Notice of Proposed Rule Making (NPRM) in the event the item is formally proposed. Public comments are invited at this meeting on development of the configuration of the proposed TCA.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone (817) 624-4911, extension 302.

Ralph L. Frick,
Chief, Airspace and Procedures Branch, ASW-530, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. 76101.

[FR Doc. 79-12556 Filed 4-25-79; 8:45 am]
BILLING CODE 4910-13-M

Informal Airspace Meeting No. 4, May 22, 1979

TIME: 7:30 p.m.

PLACE: Auditorium, Mike Monroney Aeronautical Center, 6500 S. McArthur, Oklahoma City, Oklahoma.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Proposed Terminal Control Area (TCA) for Will Rogers World Airport, Oklahoma City, Oklahoma.

COMMENTS: No verbatim minutes or transcripts will be taken. However, participants may submit written comments to be made a matter of record if they so desire. This action will not prevent participants from submitting comments later in response to a Notice of Proposed Rule Making (NPRM) in the event the item is formally proposed. Public comments are invited at this meeting on development of the configuration of the proposed TCA.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone (817) 624-4911, extension 302.

Ralph L. Frick,
Chief, Airspace and Procedures Branch, ASW-530, Southwest Region, Federal Aviation Administration, Fort Worth, Texas 76101.

[FR Doc. 79-12741 Filed 4-25-79; 8:45 am]
BILLING CODE 4910-13-M

Proposed Memphis, Tenn., Terminal Control Area; Informal Airspace Meeting

May 30, 1979.

The purpose of this meeting is to discuss a proposed Terminal Control Area configuration for Memphis, Tennessee. Comments on the potential economic and environmental effects are also invited.

Memphis is one of the 44 new Group II TCA proposals being developed as announced in the Notice of Proposed Rulemaking 78-19, titled Proposed "Controlled Visual Flight" Rules, which closed for comments on April 4, 1979. NPRM 78-19 will not be a topic of discussion.

The meeting will convene at 7:00 p.m., Wednesday, May 30, 1979, in the Memphis Air Route Traffic Control Center, 3229 Democrat Road, Memphis, Tennessee (between Airways Avenue and Lamar Avenue, north of airport). Attendance is open to the interested public, but is limited to the space available.

With the approval of the chairman, members of the public may present statements at the meeting. Individuals speakers will be limited to five minutes, with ten minutes for a group spokesman.

There will be no relinquishing of time by one speaker to another. The time limit may be waived at the discretion of the chairman. Written statements in addition to, or in lieu of, oral presentations will be accepted. These should be submitted to the chairman or as directed at the meeting.

Issued in Atlanta, Georgia on April 12, 1979.

Lonnie D. Parrish,
Chief, Air Traffic Division Southern Region.

[FR Doc. 79-12742 Filed 4-25-79; 8:45 am]

BILLING CODE 4910-13-M

Air Carrier District Office at Newark, N.J.; Notice of Relocation and Merger

Notice is hereby given that on or about May 30, 1979, the Newark, New Jersey, Air Carrier District Office will be relocated and merged with the Teterboro, New Jersey, General Aviation District Office. This office will then be known as the Teterboro Flight Standards District Office. It will provide all services to air carrier and general aviation in the area. Communication to the Flight Standards District Office should be addressed as follows:

Teterboro Flight Standards District Office, Department of Transportation, Federal Aviation Administration, 150 Riser Road, Teterboro Airport, Teterboro, New Jersey 07608.

(Sec. 313(a) of the Federal Aviation Act of 1958, 72 Stat. 752, 49 U.S.C. 1354.)

Issued in New York, New York on April 12, 1979.

Louis J. Cardinali,
Acting Director, Eastern Region.

[FR Doc. 79-12846 Filed 4-25-79; 8:45 am]

BILLING CODE 4910-13-M

Informal Airspace Meeting No. 7, June 6, 1979

TIME: 7:30 p.m.

PLACE: Aldine High School, 11101 Airline Drive, Houston, Texas.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Proposed Terminal Control Area (TCA) Expansion for Intercontinental Airport, Houston, Texas.

COMMENTS: No verbatim minutes or transcripts will be taken. However, participants may submit written comments to be made a matter of record if they so desire. This action will not prevent participants from submitting comments later in response to a Notice of Proposed Rule Making (NPRM) in the event the item is formally proposed. Public comments are invited at this meeting on the proposed changes to the existing TCA.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone (817) 624-4911, extension 302.

Ralph L. Frick,
Chief, Airspace and Procedures Branch, ASW-530, Southwest Region, Federal Aviation Administration, Fort Worth, Texas 76101.

[FR Doc. 79-12866 Filed 4-25-79; 8:45 am]

BILLING CODE 4910-13-M

Informal Airspace Meeting No. 6, May 31, 1979.

TIME: 7 p.m.

PLACE: Grapevine High School, 3223 Mustang Drive, Grapevine, Texas.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Proposed Terminal Control Area (TCA) Expansion for Dallas-Fort Worth Regional Airport, Texas.

COMMENTS: No verbatim minutes or transcript will be taken. However, participants may submit written comments to be made a matter of record if they so desire. This section will not prevent participants from submitting comments later in response to a Notice of Proposed Rule Making (NPRM) in the event the item is formally proposed. Public comments are invited at this meeting on the proposed changes to the existing TCA.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone (817) 624-4911, extension 302.

Ralph L. Frick,
Chief, Airspace and Procedures Branch, ASW-530, Southwest Region, Federal Aviation Administration, Fort Worth, Texas 76101.

[FR Doc. 79-12867 Filed 4-25-79; 8:45 am]

BILLING CODE 4910-13-M

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final dispositon.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: May 16, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on April 20, 1979.

Carl B. Schellenberg,
Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
18950	Summit Airlines	14 CFR Section 121.351(a)	To permit Summit Airlines to conduct extended over water operations of CV-580 aircraft with only one high frequency transceiver.
18957	National aircraft maintenance, Inc. (NAMI)	14 CFR Section 135.173(a)	To be exempted from the requirement to equip their Grumman G-73 aircraft with thunderstorm detection equipment as required by Section 135.173(a) when flying between Long Beach Municipal Airport and Catalina Island, California.
18956	Thunderbird Airways, Inc.	14 CFR Section 135.89(b)(3), 121.333(c) (2), (3) and (4).	To permit Thunderbird Airways, Inc. to operate its Learjet and Sabreliner aircraft under Section 121.333(c) (2), (3) and (4), which allow for oxygen masks to be worn, secured and seated, above FL 410 with both crewmembers at their stations equipped with quick-donning masks.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
18900	British Midland	Appropriate portions of 14 CFR Parts 21, 61, 63, and 91.	Requests an amendment to Exemption No. 2704 to include additional airmen in the appendix so that they may serve as flight crewmembers on B-707 aircraft N449M leased from Robert F. Beauchamp. *Granted 4/16/79.*
18735	Flying Tigers	14 CFR 121.153(a)(1)	To amend Exemption 2681 to allow the carriage of nonmilitary cargo on a one-time basis while returning the Cargolux Airline DC-8-63-F aircraft to Luxembourg on or before April 30, 1979. *Granted 4/17/79.*
18953	Air New England, Inc.	14 CFR Section 121.291(a)	To permit Air New England, Inc., to operate three Convair 580 aircraft without having to conduct the required emergency evacuation demonstrations. *Granted 4/20/79.*

[Summary Notice No. PE-79-2]

[FR Doc. 79-12882 Filed 4-25-79; 8:45 am]

BILLING CODE 4910-13-M

Petitions for Rule Making; Summary of Petitions Received and Dispositions of Petitions Denied

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rule making and of dispositions of petitions denied.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before: May 16, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. , 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on April 20, 1979.

Carl B. Schellenberg,
Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Rulemaking

Docket No.	Petitioner	Description of the Rule Requested
		DESCRIPTION OF PETITION
18882	Aircraft Owners and Pilots Asso	Amendment of 14 CFR 77.17(a) to require construction sponsors to submit, as part of the "Notice of Proposed Construction or Alteration," construction plans, engineering data, or similar substantial information which discloses the overall dimensions of the proposed structure. *Petitioner's reasons for rule:* That information is needed for the FAA (1) to determine the actual dimensions of the structure if constructed, including horizontal dimensions (such as guy wires); (2) to evaluate the basis and necessity of the dimensions of the proposed structure; and (3) to meaningfully negotiate any possible reductions in the proposed dimensions. The amendment is needed to eliminate the practice of specifying excessive heights in required notices and to provide the FAA with more precise construction or alteration information.

Petitions for Rulemaking: Denied

Docket No.	Petitioner	Description of the Rule Requested
		None during the period from March 20 through April 20, 1979

[Summary Notice No. PR-79-2]

[FR Doc. 79-2881 Filed 4-25-79; 8:45 am]

BILLING CODE 4910-13-M

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Federal Railroad Administration

Sandersville Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR § 211.41 and § 211.9, notice is hereby given that the Sandersville Railroad Company (SAN) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64a(e)). That petition requests that the SAN be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The SAN seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–79–3, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, 2100 Second Street, SW., Washington, D.C. 20590. Communications received before May 30, 1979, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 4406, Trans Point Building, 2100 Second Street, SW., Washington, D.C. 20590.

Authority: Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a). 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d).

Issued in Washington, D.C. on April 17, 1979.

J. W. Walsh,
Chairman, Railroad Safety Board.

[FRA Waiver Petition Docket HS–79–3]
[FR Doc. 79–12907 Filed 4–25–79; 8:45 am]
BILLING CODE 4910–06–M

Office of the Secretary

Floodplain Management and Protection; Policies and Procedures

AGENCY: Department of Transportation.

ACTION: Publication of DOT Order 5650.2, "Floodplain Management and Protection."

SUMMARY: This notice publishes the Department of Transportation's final policies and procedures on protection and management of floodplains, which are contained in an internal directive developed pursuant to an Executive Order.

EFFECTIVE DATE: April 26, 1979.

FOR FURTHER INFORMATION CONTACT:
Robert P. Thurber, Office of Environment and Safety (202) 426–4396.

SUPPLEMENTARY INFORMATION:
Executive Order 11988, "Floodplain Management," was promulgated on May 24, 1977, and guidelines for implementing it were issued by the Water Resources Council on January 25, 1978. The objective of the Executive Order is to avoid adverse impacts due to occupancy and alteration of floodplains, which are lowland areas adjoining inland and coastal waters, including flood-prone areas of offshore islands. It applies to all relevant Federal actions and to all floodplains and requires agencies to avoid impacting the base floodplain (the area which would be inundated by a 100-year flood) unless that location is the only practicable alternative. In such circumstances, every effort must be made to minimize the potential risks to human safety and to property and to minimize negative effects on natural and beneficial floodplain values.

The Executive Order requires Federal agencies to issue procedures to accomplish these goals, as well as to ensure that the public is properly informed regarding floodplain-related plans and proposals. The Department of Transportation's floodplain directive, which appears below as DOT Order 5650.2, applies to all elements of the Department but leaves to each element the option of applying the directive directly or of issuing its own policies and procedures, consistent with the Departmental directive.

Disposition of Major Comments

A draft version of the Department's floodplain order was published for comment in the **Federal Register** on June 22, 1978, and a docket was established wih a closing date of July 24, 1978. Twenty-three parties submitted comments. Most of those comments were received from State Departments of Transportation.

A number of commentors expressed concern about the problems involved in delineating a 500-year floodplain, as would have been required for "critical actions" (any action for which even a slight chance of flooding would be unacceptable). Since a subsequent inventory of the Department's programs indicated that the Department's activities and operations do not encompass actions of that nature, all references to a "500-year floodplain" and to "critical action" were deleted from the Order.

Another key issue raised was whether floodplain delineations and assessments would, in effect, require that detailed engineering design be accomplished for projects earlier than is usual and for multiple alternatives. In response to this point, the draft Order was modified to suggest that conceptual design, in most cases, should be sufficient.

The requirement that notices related to hearings refer to significant floodplain encroachments, where these are involved in one or more of the alternatives under consideration, generated considerable comment. Some commentors expressed the view that floodplain matters should not be highlighted in such notices, given the fact that other important areas (e.g. historic preservation) would not ordinarily receive the same treatment. The Department concluded, however, that special attention of this sort was in fact warranted for significant encroachments on floodplains in light of their potential for serious consequences to life, property, and/or the natural environment. Other commentors took an opposite position, maintaining that still more extensive and specific steps should be outlined in the Order to assure appropriate early public review of possible floodplain encroachments.

This comment was not accepted because the Department believes that existing mechanisms for public involvement will be adequate after appropriate adjustments to reflect the requirements of Executive Order 11988 and this Order.

A few of the respondents took issue with one or more of the exceptions and exemptions addressed in paragraph 5 of the draft Order. Several commentors felt that the exceptions should be broadened, while a few others urged omitting or limiting them. After an analysis of these concerns, it was determined that paragraph 5c, which exempts all nonmajor Federal actions from the requirements of the Order, was too broad in its application. Instead, Departmental elements will be permitted to develop a narrower range of project categories which would not be subject to this Order due to their negligible potential for having an adverse impact on floodplains. On the other hand, all encroachments (not only significant ones) are now governed by all relevant provisions in the Order; only paragraphs 7b and 9, which address public involvement concerns and the "only practicable alternative" finding, respectively, are specifically limited in their application to significant encroachments.

The exceptions from the Order for projects where (1) final environmental impact statements will have been filed within 12 months of the effective date of this Order or (2) any public hearings will have been held and a negative declaration approved within 120 days of that date, stand. These provisions appear to be essential for the orderly integration of the new floodplain management requirements with the Department's ongoing programs and activities. The Order still includes the exception for cases where the only step being taken in the base floodplain is the relocation of persons into existing housing units.

Other Changes to the Order

Sections 10 and 13 were clarified regarding the responsibilities assigned to the Office of the Assistant Secretary for Policy and International Affairs.

Matters regarding direct and indirect land development likely to be induced by a transportation action in or near a floodplain were also reconsidered. In order to eliminate possible confusion on the matter, support of floodplain development is now treated as an impact in the Order rather than as an encroachment in and of itself. The draft Order was modified in a way that ensures adequate and even-handed attention to both direct and indirect support of development.

In addition, provisions were included with regard to the Unified National Program for Flood Plain Management and the Flood Disaster Protection Act of 1973, and the "grace period" for draft environmental impact statements already in preparation was reduced to six months from the date of this Order's publication in the **Federal Register.**

Finally, the draft Order was clarified on (1) the format for the "only practicable alternative" finding when there is a companion final environmental impact statement or negative declaration, and (2) the transmittal of such findings to State and local clearinghouse (A–95) agencies. A number of minor editorial and substantive revisions proposed by commentors or recommended by Departmental staff were incorporated into the Order as well.

A proposed Federal Highway Administration floodplain regulation, "Location and Hydraulic Design of Encroachments on Flood Plains" (23 CFR 650, Subpart A), which was published in the **Federal Register** on December 27, 1978, was development in accordance with this Order.

Issued in Washington, D.C. on April 12, 1979.

Brock Adams,
Secretary of Transportation.

[DOT 5650.2]

Subject: Floodplain Management and Protection.

1. *Purpose.*—This Order prescribes policies and procedures for ensuring that proper consideration is given to the avoidance and mitigation of adverse floodplain impacts in agency actions, planning programs, and budget requests.

2. *Authority.*—This Order is issued pursuant to the following statutes and executive order:

a. The National Environmental Policy Act of 1969 (NEPA) (Pub. L. 91–190) establishes a national policy to, among other things, ". . . promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man. . . ." NEPA requires preparation of an environmental impact statement (EIS) for any major Federal action significantly affecting the quality of the human environment. DOT 5610.1B, Procedures for Considering Environmental Impacts, of 9–30–74, Attachment 2, paragraph 11, requires that information on flood hazards, if relevant, be included in the EIS.

b. The National Flood Insurance Act of 1968, Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448, 8–1–68), provides previously unavailable flood insurance protection to property owners in flood-prone areas. Section 1302(c) of the Act stipulates that "the objectives of a flood insurance program should be integrally related to a unified national program for flood plain management. . . ."

c. Executive Order 11988—Floodplain Management, promulgated on 5–24–77, links the need to protect lives and property with the need to restore and preserve natural and beneficial floodplain values. Federal agencies are directed to avoid conducting, allowing, or supporting actions on the base floodplain unless the agency finds that the base floodplain is the only practicable alternative location, and to issue procedures for implementing the requirements of the Executive Order.

d. The Flood Disaster Protection Act of 1973 (Pub. L. 93–234, 87 Stat. 975) requires the purchase of flood insurance as a condition of receiving any form of federal or federally-related financial assistance for acquisition or construction purposes with respect to insurable buildings and mobile homes within an identified special flood, mudslide, or flood-related erosion hazard area.

3. *Policy.*—It is the policy of the Department of Transportation (DOT) (1) to encourage a broad and unified effort to prevent uneconomic, hazardous, or incompatible use and development of the Nation's floodplains, (2) to avoid, where practicable, encroachments by Departmental actions, (3) to minimize the adverse impacts which such actions may have on base floodplains, including direct or indirect support for development, and (4) to restore and preserve natural and beneficial floodplain values that are adversely affected by such actions.

4. *Definitions.*—a. Action—the construction or reconstruction of a federal or federally-financed, licensed, or approved transportation improvement (including any relocation housing built or moved to a new site); and the acquisition, management, or disposition of Departmental lands and facilities.

b. Base Flood—that flood having a one percent chance of being exceeded in any given year (commonly known as a 100-year flood).

c. Base Floodplain—the area which would be inundated by a base flood.

d. Encroachment—an action within the limits of the base floodplain.

e. Environmental Impact Statement—the detailed statement mandated by section 102(2)(C) of the National Environmental Policy Act of 1969 (ref: DOT 5610.1B).

f. Facility—any element of the built environment other than a walled or roofed building.

f. Flood or Flooding—a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any source.

g. Flood of Record—the largest historical flood event which has been reliably determined and recorded.

h. Floodplain—the lowland areas adjoining inland and coastal waters which are periodically inundated by flood waters, including flood-prone areas of offshore islands.

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i. Floodproofing—the incorporation of design features in, or modifications to, individual structures and facilities, their sites and their contents to protect against structural failure, to keep water out, or to reduce effects of water entry, so that threats to human life and property are reduced.

j. Minimize—to reduce to the smallest practicable amount or degree.

k. Natural and Beneficial Floodplain Values—include but are not limited to: natural moderation of floods, water quality maintenance, groundwater recharge, fish, wildlife, plants, open space, natural beauty, scientific study, outdoor recreation, agriculture, aquaculture, and forestry.

l. Negative Declaration—a determination by the responsible official that a particular action does not significantly affect the quality of the human environment.

m. Practicable—capable of being done within natural, social, and economic constraints.

n. Restore—to establish a setting or environment in which the natural and beneficial values impacted by the transportation agency action can again operate. In some situations, a transportation improvement may represent a positive enhancement or negligible use of natural and beneficial floodplain values.

o. Risk—the adverse consequences associated with the probability of flooding attributable to an encroachment, specifically including the potential for property loss and the hazard to life.

p. Significant Encroachment—an encroachment resulting in one or more of the following construction or flood-related impacts:

(1) a considerable probability of loss of human life;

(2) likely future damage associated with the encroachment that could be substantial in cost or extent, including interruption of service on or loss of a vital transportation facility; and

(3) a notable adverse impact on "natural and beneficial floodplain values", as defined in item k, above.

It is not contemplated that detailed design would be necessary in order to determine whether there is a significant encroachment.

q. Support Base Floodplain Development—to encourage, allow, serve, or otherwise facilitate additional development in a base floodplain. Direct support results from an action on the base floodplain. Indirect support results from actions out of the base floodplain.

5. *Application.*—a. Paragraph 3 of this Order applies to all actions affecting base floodplains. The other provisions apply, except as indicated in subparagraphs b and c below.

b. The provisions of this Order do not apply to or alter decisions, approvals, or authorizations which were given by the Department or its elements pursuant to directives in effect before the date of this Order's publication in the Federal Register, not do they apply to transportation projects where:

(1) The final EIS is filed with the Environmental Protection Agency within 12 months after the date of this Order's publication in the Federal Register; or any public hearings have been held and a negative declaration had been approved, within 120 days after that publication date; or

(2) The only step being taken in the floodplain is the relocation of persons into existing housing units, except that potential occupants shall be advised at the appropriate stage if the relocation housing is located in a base floodplain and be offered alternative comparable housing at their option.

c. DOT elements may develop categories of projects which are not subject to the requirements of this Order due to their negligible potential, alone or cumulatively, for resulting in adverse impacts associated with the occupancy of modification of floodplains, or the direct or indirect support of floodplain development.

6. *Floodplain Identification.*—Base floodplain limits shall be determined and encroachments delineated for reasonable alternative actions through the following sources:

a. Federal Insurance Administration (FIA) maps shall be used as the primary reference for establishing base floodplain limits (obtain maps from the U.S. Department of Housing and Urban Development sources listed in 43 FR 6050).

(1) A Flood Insurance Rate Map (FIRM) or Flood Insurance Study Report (FIS) shall be consulted first.

(2) If a FIRM or FIS is not available, a Flood Hazard Boundary Map (FHBM) may be available from the same sources. These approximate maps shall be used to determine if the alternatives under consideration are clearly out of the floodplain. If one or more of the alternatives appears to be near or inside the indicated base floodplain boundary, more detailed information on the floodplain boundary shall be developed or obtained.

b. If a FIRM, FIS, or floodplain delineation from other agency sources as listed in 43 FR 6049–51 is not available and current, or if the site is near or inside the FHBM boundaries, base floodplain limits shall be established by the best available method meeting acceptable professional engineering standards.

c. The delineation of floodplain limits shall take proper account of previous alterations to the floodplain by flood retention works or other elements of the built environment.

7. *Public Involvement.*—Where any of the alternatives identified for accomplishing an action are proposed in the base floodplain, opportunity shall be provided for early public review and comment. The following steps shall be made a part of existing review procedures (including the EIS review process) as appropriate to the nature of the encroachment.

a. Public hearing presentations shall include identification of encroachments.

b. If one or more alternatives under consideration include significant encroachments, any public notices, public hearing notices, notices offering an opportunity for a hearing, and notices of availability for negative declarations shall make reference to that fact.

8. *Environmental Review Process.*—Whenever appropriate, the procedures established in DOT 5610.1B, Procedures for Considering Environmental Impacts, of 9–30–74, shall be the vehicle through which implementation of this policy is documented.

a. Draft environmental review documents (draft EISs [1] and any preliminary versions of negative declarations) shall cover the items below for all alternatives involving encroachments:

(1) Any risk to, or resulting from, the transportation action;

(2) The impacts on natural and beneficial floodplain values; and

(3) The degree to which the action provides direct or indirect support for development in the base floodplain.

b. Draft environmental review documents shall also include sufficient discussion to permit an initial review of the adequacy of methods proposed to minimize harm, and, where practicable, to restore and preserve the natural and beneficial floodplain values affected.[2] In most cases, conceptual design (as opposed to detailed engineering studies) should be sufficient to help establish the adequacy of mitigation measures. Commitments to later compliance with special flood-related design criteria or the imposition, in advance, of protective conditions may be warranted in some situations.

c. Final environmental review documents (final EISs and final versions of negative declarations) reflecting a decision on the preferred alternative shall clearly identify the floodplain concerns and impacts associated with that alternative and cover the items listed in subparagraphs a and b above.

9. *Only Practicable Alternative Finding.*—Where it is proposed to conduct, support, or allow an action involving a significant encroachment, the final EIS or final version of the negative declaration shall reflect consideration of alternatives to avoid such encroachment, and to reduce its adverse base floodplain impacts.

a. A preferred alternative involving a significant encroachment shall not be approved unless the responsible official can make a finding, in writing, that the proposed significant encroachment is the only practicable alternative, together with:

(1) A description of why the proposed action must be located in the floodplain, including the alternatives considered and why they were not practicable.

(2) A statement indicating that the action conforms to applicable State and/or local floodplain protection standards.

b. The finding shall be incorporated into, or attached to, the final environmental review document.

c. On occasion, a proposal for which an environmental review document is unnecessary may nevertheless have the potential for causing a significant encroachment. Under such circumstances, the above written finding shall still be made and included with the project records.

d. The above written finding, within or together with any final EIS prepared for the proposed action, shall be provided to State and areawide clearinghouses and other interested parties.

e. A determination that a given action outside of a floodplain is or is not practicable requires a careful balancing and application of individual judgment. While such balancing should include the full range of environmental, social, economic, and engineering considerations, special weight should be given to floodplain management concerns.

10. *Program Directives.*—a. DOT elements which have programs potentially affecting base floodplains shall include adequate provision consistent with this Order for the evaluation and consideration of flood hazards and measures to avoid or minimize floodplain impacts. As appropriate, modifications shall be made to regulations and operating procedures for licenses, permits, and loan or grant-in-aid programs to accomplish this purpose. These changes should be submitted to the Assistant Secretary for Policy and International Affairs for review within 120 days after the date of this Order's publication in the Federal Register.

b. Each DOT element shall have the option of applying this Order directly to its programs and activities within 120 days of its date of publication in the Federal Register or of issuing its own floodplain regulations or procedures, consistent with this Order. Such regulations or procedures shall be submitted within the same 120-day period, to the Assistant Secretary for Policy and International Affairs for concurrence.

c. DOT elements may elect to develop project-related engineering design standards reflecting flood hazard and floodplain considerations, for their individual programs.

11. *Budget Requests.*—Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if a specific proposal will involve significant encroachment upon a floodplain, that the proposed action is in accord with Executive Order 11988.

12. *Federal Real Property and Facilities.*—Departmental elements with responsibilities for Federal real property and facilities shall take the following measures, in addition to those specified in the other sections of this Order.

a. The construction of walled or roofed buildings or other facilities shall be consistent with the intent of the standards and criteria promulgated under the National Flood Insurance Program, and shall deviate only to the extent that the standards of the Flood Insurance Program are demonstrably inappropriate for the given case.

b. If, after compliance with the requirements of this Order, new or rehabilitated buildings are to be located in a floodplain, accepted floodproofing and other flood protection measures shall be applied. To achieve flood protection DOT elements shall elevate the buildings above the base flood level, wherever practicable, rather than filling in land.

c. If property used by the general public has suffered flood damage or is located in an identified flood hazard area, the responsible DOT element shall provide on buildings or other places, where appropriate, conspicuous delineation of the level of the base flood and flood of record (if larger), in order to enhance public awareness of flood hazards.

d. When property in floodplains is proposed for lease, easement, right-of-way, or disposal to nonfederal parties, the responsible DOT element shall indicate if a flood hazard exists and (1) identify in the conveyance those uses that are restricted under Federal, State, or local floodplain regulations; and (2) attach other restrictions consistent with this Order to the uses of properties by the grantee or purchaser and any successors, except as prohibited by law; or (3) withhold such properties from conveyance.

13. *Responsibilities.*—a. The Assistant Secretary for Administration and Heads of Operating Administrations shall assure that the requirements of this Order are met and that appropriate steps are taken to implement it.

b. The Assistant Secretary for Policy and International Affairs shall oversee the implementation of the policy set forth in paragraph 3, review and concur in any floodplain procedures of the operating administrations, and recommend any modifications of procedures that may be appropriate. The Assistant Secretary shall consult periodically with the Council on Environmental Quality, the Water Resources Council, and FIA to evaluate the Department's implementation of these policies and shall be responsible for the preparation of any required reports on floodplain management, including such monitoring of the floodplain evaluation process as may be appropriate.

14. *Unified National Program for Floodplain Management.*—This Order incorporates by reference "A Unified National Program for Flood Plain Management," a report to the Congress by the Water Resources Council, July 1976 (available from the U.S. Government Printing Office, Documents Department, Washington, D.C. 20402, Order Number GPO 052–045–00047, price $1.95), and future revisions.

15. *Flood Disaster Protection Act.*—The Flood Disaster Protection Act contains certain provisions which can affect DOT programs. Basically, the Act mandates the purchase of flood insurance as a condition of receiving Federal assistance for the construction or repair of buildings located in areas having special flood hazards as identified by FIA. The requirement also applies when Federal assistance is being used to purchase equipment which will be housed in buildings which are located in such special flood hazard areas. Flood-prone communities may arrange for flood insurance through FIA's National Flood Insurance Program. DOT elements shall take steps to assure full compliance with this requirement (set forth in section 202(a) of the Act), where applicable.

16. *Emergency Provisions.*—Nothing in this Order shall prevent the timely provision of assistance or funds for emergency repairs essential to save lives and to protect property and public health and safety. However, a reasonable effort to comply with the Order shall be made during and/or after the emergency period.

For the Secretary of Transportation.

Alan Butchman,

Deputy Secretary.

[FR Doc. 79-12932 Filed 4-25-79; 8:45 am]

BILLING CODE 4910-62-M

[1] DOT elements shall follow a rule of reason in determining how much floodplain information needs to be incorporated in draft EISs circulated during a six-month period after the date of the Order's publication in the Federal Register.

[2] Guidance and examples regarding methods for minimizing harm to floodplains and for restoring and preserving the natural and beneficial floodplain values affected can be found in 43 FR 6047–48.

DEPARTMENT OF THE TREASURY

U.S. Tax Court Nominating Commission; Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that the United States Tax Court Nominating Commission will meet in the General Counsel's office in the Treasury Department on May 17, 1979, at 8:00 a.m. The Commission was established by Executive Order 12064 of June 5, 1978 (43 FR 24661).

The members of the Commission will continue to examine the qualifications of persons to be recommended to the President for appointment to the United States Tax Court. This process will necessarily involve consideration of information of a personal nature relating to candidates for appointment. Discussion of sensitive and confidential matters relating to such persons in a meeting open to the public would constitute a clearly unwarranted invasion of personal privacy of the individuals being considered for appointment to the Tax Court.

Meetings of the Commission must be conducted in a manner conducive to a frank exchange of views and searching evaluation of the qualifications of candidates for appointment to the Tax Court. Open meetings would have a chilling effect on candid comments by Commission members about the qualifications of such candidates and would inhibit the ability of the Commission to obtain comments of third parties. Open meetings would thus significantly frustrate the Commission's efforts to implement its primary function under the Executive Order.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting will concern matters within section 552b(c)(6) and 9(B) of Title 5, United States Code, and that the public interest requires that this meeting be closed to public participation.

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Dated: April 23, 1979.

Robert H. Mundheim,
General Counsel.

[FR Doc. 79-12930 Filed 4-25-79; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Medical Center, Memphis, Tenn; Intent To Prepare an Environmental Impact Statement

Notice is hereby given that an Environmental Impact Statement for Land Acquisition and Construction of a Spinal Cord Injury Facility at the Veterans Administration Medical Center, Memphis, Tennessee, will be prepared as required by the National Environmental Policy Act of 1969.

An Environmental Assessment was prepared and findings indicate that environmental impacts of the proposed action are potentially significant. The Statement will discuss the environmental impacts of the proposed acquisition of residential property along the west and north boundaries of the existing Veterans Administration Medical Center property and construction of a spinal cord injury facility at the Medical Center. The document is being prepared by the Veterans Administration in Washington, D.C. Persons wishing to provide input to the scoping process should contact the following office: Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420 (202 389-2526).

Dated: April 23, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,
Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-12878 Filed 4-25-79; 8:45 am]

BILLING CODE 8320-01-M

Medical Center, San Francisco, Calif.; Intent To Prepare an Environmental Impact Statement

Notice is hereby given that an Environmental Impact Statement for construction of a 120 Bed Nursing Home Care Unit at the San Francisco, VAMC, San Francisco, California, will be prepared as required by the National Environmental Policy Act of 1969.

An Environmental Assessment was prepared and the findings indicate that environmental impacts of the proposed action are potentially significant. The statement will discuss the environmental impacts of the proposed action upon neighboring streets (parking) as well as the adjacent historic property and the Pacific Ocean coastal area. The document is being prepared by the Veterans Administration in Washington, D.C. Persons wishing to provide input to the scoping process should contact the following office: Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: April 23, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,
Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-12877 Filed 4-25-79; 8:45 am]

BILLING CODE 8320-01-M

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on May 21, 1979, at 9:30 a.m., the St. Paul VA Center Station Committee on Educational Allowances shall at Room 114B, Federal Building, Fort Snelling, St. Paul, Minnesota 55111 conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in On-the-job training at Sperry-Univac for Customer Engineer Computer Systems, 1000 Apollo Road, Eagan, Minnesota 55121 should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Morris Noonar, Jr.,
Director, VA Center, Federal Bldg., Ft. Snelling, St. Paul, Minn.

April 20, 1979.

[FR Doc. 79-12908 Filed 4-25-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Applications; Decision-Notice

Decided: April 11, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the

public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

H. G. Homme, Jr.,
Secretary.

MC 21866 (Sub-110F), filed January 22, 1979. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Avenue, Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *mail sorting machines,* and (2) *materials, parts,* and *supplies* used in the manufacture of mail sorting machines, between the facilities of Burroughs Corporation at Downingtown, PA, on the one hand, and, on the other, points in the United States (except AK, HI, and PA). (Hearing site: Washington, DC, or Philadephia, PA.)

MC 29886 (Sub-363F), filed January 24, 1979. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Avenue, Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *rental construction equipment,* between points in IL, IN, MO, WI, MI, IA, KY, TN, WV, OH, AR, LA, TX, OK, and NC. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 42487 (Sub-895F), filed January 19 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities,* (except commodities in bulk and household goods as defined by the Commission), serving the facilities of Cold Spring Granite Company and Granit-Bronz, Inc., at Cold Spring, MN, as an off-route point in connection with carrier's presently authorized regular route operations. (Hearing site: Minnespolis, MN.)

MC 42487 (Sub-896F), filed January 26 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and assembled automobiles), (1) between Billings, MT, and junction U.S. Hwy 26 and 30 near Ogallala, NE; from Billings over Interstate Hwy 90 to junction U.S. Hwy 87 near Buffalo, WY, then over U.S. Hwy 87 to junction U.S. Hwy 26 near Casper, WY, then over U.S. Hwy 26 to junction NE Hwy 79E near Minatare, NE, then over NE Hwy 79E to junction NE Hwy 92, then over NE Hwy 92 to junction U.S. Hwy 26, then over U.S. Hwy 26 to junction U.S. Hwy 30 near Ogallala, (2) between junction Interstate Hwys 90 and 25 near Buffalo, WY, and junction Interstate Hwy 25 and U.S. Hwy 26 near Casper, WY, over Interstate Hwy 25, serving the termini for purposes of joinder only, (3) between Cheyenne, WY, and junction U.S. Hwys 26 and 30 near Ogallala, NE; from Cheyenne over Interstate Hwy 80 to junction U.S. Hwy 30 near Pine Bluffs, WY, then over U.S. Hwy 30 to junction U.S. Hwy 26, serving the intermediate point of junction Interstate Hwy 80 and U.S. Hwy 30 for the purpose of joinder only, (4) between junction U.S. Hwys 26 and 30 near Ogallala, NE; and Omaha, NE; from junction U.S. Hwys 26 and 30 over U.S. Hwy 30 to junction NE Hwy 25 near Sutherland, NE, then over NE Hwy 25 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Omaha, serving the junction of NE Hwy 25 and Interstate 80 as an intermediate point for the purpose of joinder only, (5) between Pine Bluffs, WY, and junction Interstate Hwy 80 and NE Hwy 25, over Interstate Hwy 80, serving the junctions of Interstate Hwy 80 and U.S. Hwy 30 and Interstate Hwy 80 and NE Hwy 25 as intermedate points for purpose of joinder only, (6) between Kansas City, MO, and Omaha, NE; from Kansas City over Interstate Hwy 29 to junction U.S. Hwy 136 near Rockport, MO, then over U.S. Hwy 136 to Auburn, NE, then over U.S. Hwy 75 to Omaha, and (7) between Kansas City, MO, and Omaha, NE; from Kansas City over Interstate Hwy 29 to Council Bluffs, IA, then over Interstate Hwy 80 to Omaha, in (1) through (7) above, return over the same route, serving no intermediate points except as noted, and serving the junction of U.S. Hwy 26 and 30 for purposes of joinder only, as alternate routes for operating convenience only. (Hearing site: Washington, DC, or Chicago, IL.)

MC 43246 (Sub-28F), filed January 22, 1979. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard Buske (same address as applicant). To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alcoholic beverages,* in containers, from the facilities of Hiram Walker & Sons, Inc., at or near Detroit, MI, to points in the United States (except AK and HI), under continuing contract(s) with Hiram Walker & Sons, Inc. of Detroit, MI. Note: Dual operations may be involved.

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(Hearing site: Springfield, IL or St. Louis, MO.)

MC 59396 (Sub-28F), filed January 22, 1979. Applicant: BUILDERS EXPRESS, INC., R.D. Limecrest Road, Lafayette, NJ 07848. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing granules and pulverized stone*, in bulk, from Bound Brook and Belle Mead, NJ, to the facilities of Georgia-Pacific Corporation at or near Quakertown, PA. (Hearing site: New York, NY, or Washington, DC.)

MC 69397 (Sub-54F), filed January 24, 1979. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, MD 21851. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of H. H. Robertson Company at or near Ambridge, PA, to points in CT, DE, GA, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, VT, VA, WV, and DC. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 95876 (Sub-264F), filed January 22, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *derricks, booms, and machine parts*, and (2) *equipment, materials, and supplies* used in the manufacture, distribution, and installation of the commodities named in (1) above, (except commodities in bulk), between the facilities of Telelect, Inc., at Watertown, SD, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Pierre, SD, or St. Paul, MN.)

MC 97457 (Sub-8F), filed January 22, 1979. Applicant: WARNER & SONS TRUCKING COMPANY, a corporation, 3224 Sand Creek Highway, R.F.D. #1, Adrian, MI 49221. Representative: David E. Jerome, P.O. Box 400, 22375 Haggerty Road, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Grand Rapids and Belding, MI, and (2) between Grand Rapids and Greenville, MI. (Hearing site: Lansing or Grand Rapids, MI.)

MC 100666 (Sub-426F), filed January 23, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *knocked down prefabricated steel buildings*, and *parts and accessories* for prefabricated steel buildings, and (2) *iron and steel articles*, from the facilities of INRYCO, INC., at Milwaukee, WI, to points in AL, AZ, CA, CO, FL, GA, KS, MO, NV, NC, SC, TN, and UT. (Hearing site: Milwaukee, WI.)

MC 108676 (Sub-136F), filed January 22, 1979. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, TN 37917. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *air cleaners, air coolers, and air pollution control equipment*, and (2) *parts, materials, and attachments* used in the manufacture and installation of the commodities named in (1) above, (except commodities in bulk), between the facilities of American Air Filter at or near Elizabethton and Brownsville, TN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Nashville, TN, or Louisville, KY.)

MC 109397 (Sub-436F), filed January 15, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural, forestry, and nursery equipment, machinery, and implements* (except hand equipment, hand implements, and hand machinery), from the facilities of R. A. Whitfield Manufacturing Co., at or near Mableton, GA, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Kansas City, MO.)

MC 109397 (Sub-438F), filed January 19, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as Applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *Compressed wood fireplace logs and briquettes*, from Flagstaff, AZ, to points in the United States (except AK and HI). (Hearing site: Phoenix, AZ or Kansas City, MO.)

MC 109397 (Sub-439F), filed January 22, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as Applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural parts* and *implements*, from Clearfield, UT, to points in the United States (except AK and HI). (Hearing site: Salt Lake City, UT.)

MC 109397 (Sub-440F), filed January 22, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801 Representative: A. N. Jacobs (same address as Applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cranes*, and (2) *machinery, attachments, accessories, and parts* used in connection with cranes, between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Essex Crane Rental Corporation. (Hearing site: Birmingham, AL, or Kansas City, MO.)

MC 109397 (Sub-441F), filed January 22, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as Applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic and plastic articles*, and (2) *materials and supplies* use in the manufacture of plactis and plastic articles (except commodities in bulk), between the facilities of

International Paper Company, at or near Hudson, NC, on the one hand, and, on the other, points in the United States (except AK & HI). (Hearing site: New York, NY or St. Paul, MN.)

MC 114457 (Sub-472F), filed January 22, 1979. Applicant: DART TRANSIT COMPANY, 2120 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, (1) *vinyl and plastic siding, clapboard siding, plastic articles, paper articles, and building materials*, and (2) *accessories and supplies* for the commodities named in (1) above, (except commodities in bulk), from the facilities of Bird & Son, Inc., at Bardstown, KY, to points in AZ, CA, CO, CT, DE, ID, IL, IN, IO, KS, ME, MD, MA, MI, MS, NE, NJ, NH, NY, OH, OR, PA, UT, VT, WA, WV, WI, and DC. (Hearing site: Boston, MA, or St. Paul, MN.)

MC 114457 (Sub-473F), filed January 23, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting foodstuffs* (except in bulk), from points in WI to points in the United States (except AK, HI, and WI), restricted to the transportation of traffic originating at the facilities of the The Larsen Company. (Hearing site: Madison, WI, or St. paul, MN.)

MC 115917 (Sub-34F), filed January 24, 1979. Applicant: UNDERWOOD & WELD COMPANY, INC., P.O. Box 247, Crossnore, NC 28616. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt, in bulk, from Asheville, NC, to Glade Springs, VA. (Hearing site: Atlanta, GA, or Washington, DC.)*

MC 117686 (Sub-237F) filed January 22, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of The Pillsbury Company, at or near Minneapolis and St. Paul, MN, to points in AZ, CA, CO, ID, NV, OR, UT, and WA, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Minneapolis, MN, or Washington, DC.)

Note.—Dual operations may be involved.

MC 119917 (Sub-52F) filed January 19, 1979. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Drive, S.E., Atlanta, GA 30316. Representative: William F. Dudley (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *kraft paper and waste paper*, and (2) *materials, equipment, and supplies* used in the manufacture of cardboard boxes, from points in GA, FL, AL, MS, NC, SC, and TN, to the facilities of Chesapeake Container Corporation at Sandston, VA. (Hearing site: Richmond, VA, or Atlanta, GA.)

MC 124896 (Sub-82F), filed January 23, 1979. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Wilson, NC 27893. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer and sound deadener compounds, and filters* (except commodities in bulk, in tank vehicles), from points in Warren County, MS, to points in AL, AZ, CA, CO, FL, GA, IN, IA, KS, KY, MD, MI, MN, MO, NE, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VA, WI, and WV, and (2) the *commodities* named in (1) above, and *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named above (except commodities in bulk, in tank vehicles), from points in AL, GA, KY, NY, OH, PA, RI, SC, VA, and WV, to points in Warren County, MS, restricted to the transportation of traffic originating at or destined to the facilities of Quaker State Refining Corporation in Warren County, MS. (Hearing site: Pittsburgh, PA.)

MC 125777 (Sub-303F), filed January 17, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pig iron*, in dump vehicles, from Chicago, IL, to points in ME, VT, NH, MA, CT, DE, NY, PA, NJ, MD, RI, WV, VA, NC, SC, AL, MS, ND, SD, and DC. (Hearing site: Chicago, IL.)

MC 126717 (Sub-15F), filed December 4, 1978. Applicant: Walt's DRIVE-A-WAY SERVICE, INC., 1103 East Franklin Street, Evansville, IN 47711. Representative: Warren C. Moberly, 320 North Meridian Street, Suite 777, Indianapolis, IN 46204 To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Trucks* (except trucks weighing less than 1500 pounds), and (2) *Mine, well, or quarry-drilling equipment* and *A-frames* in drive-away service, in secondary movements, (a) from Waverly, IA, to Bryan, OH, and Chattanooga, TN, to Ashland, Corbin, and Louisville, KY, and Evansville and Indianapolis, IN, (b) from Ashland and Corbin, KY, to points in OH, (c) from Louisville, KY, to those points in IN on and south of Interstate Hwy 70, including Indianapolis, IN, (d) from Evansville, IN, to those points in KY on and west of U.S. Hwy 65, and in IL on and south of U.S. Hwy 70, (e) from Indianapolis, IN, to Louisville, KY, (f) from Olathe, KS, and Minneapolis, MN, to Indianapolis, IN, and (g) from Indianapolis, IN, to points in Darke, Clark, Franklin, Greene, Madison, Miami, Montgomery, and Preble Counties, OH, and Vermilion and Gallatin Counties, IL. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 128616 (Sub-25F), filed January 23, 1979. Applicant: GELCO COURIER SERVICES, INC., PO. Box 1975, St. Paul, MN 55111. Representative: Sally G. Galway (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commercial papers, documents, and written instruments* as are used in the business of banks and banking institutions (except currency and negotiable securities), between Salt Lake City, UT, on the one hand, and, on the other, points in Uinta and Sweetwater Counties, WY, under continuing contract(s) with banks and banking institutions. (Hearing site: Salt Lake City, UT, or Evanston, WY.)

Note.—Dual operations may be involved.

MC 129387 (Sub-86F), filed January 23, 1979. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Charles E. Dye (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts and articles distributed by meat packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Omaha, NE, to points in AZ, CA and NV, restricted

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to the transportation of traffic originating at the facilities of Dubuque Packing Co. (Hearing Site: Omaha, NE or Chicago, IL.)

MC 130556F filed March 1, 1979. Applicant: SIERRA WEST TRAVEL, 228 North Main Street, Porterville, CA 93257. Representative: Barry Roberts, 888 17th Street, NW., Washington, DC 20006. To engage in operations, in interstate or foreign commerce, as a *broker*, at Porterville, CA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Obispo, Tulare, and San Luis Counties, CA, and extending to points in the United States, including AK and HI. (Hearing site: Los Angeles, CA.)

MC 134286 (Sub-93F), filed January 23, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products* and *meat byproducts*, and *articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE, to points in AZ, CA, and NV, restricted to the transportation of traffic originating at the named facilities and destined to the named points (except on export traffic). (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 134477 (Sub-314F), filed January 24, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automotive parts*, and *materials and supplies* used in the manufacture of automobiles (except commodities in bulk) from points in IL, IN, MI, and OH, to the facilities of Ford Motor Company, at or near St. Paul, MN. (Hearing site: St. Paul, MN.)

MC 134806 (Sub-57F), filed January 22, 1979. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *skis, skiing equipment, and skiing accessories*, from Middletown, CT, to points in CA, and (2) *fiberglass strips*, from points in San Diego County, CA, to Middletown, CT, service in (1) and (2) to be performed under continuing contract(s) with Olin Ski Company, Inc., of Middletown, CT. (Hearing site: Boston, MA, or Washington, DC.)

MC 135007 (Sub-71F), filed January 22, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 68127. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE, to points in AZ, CA, and NV, under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE. (Hearing site: Kansas City, MO, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 135997 (Sub-1F), filed January 19, 1979. Applicant: TEXAS TANK LEASING, INC., Route 5, Box 99, Conroe, TX 77301. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass fiber reinforced plastic products, fiberglass storage vessels, fiberglass pipe, manholes, and wetwells* (except insulation materials) between points in Galveston, Harris, and Montgomery Counties, TX, on the one hand, and, on the other, points in AZ, CO, IL, KY, NM, TX, UT, LA, KS, MO, AR, MS, AL, TN, FL, GA, and OK. (Hearing site: Houston, TX.)

MC 136897 (Sub-27F), filed January 23, 1979. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 355 West Elwood Road, P.O. Box 3902. Representative: Donald E. Fernaays, 4040 East McDowell Road, Suite 320, Phoenix, AZ 85008. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, in vehicles equipped with mechanical refrigeration (except commodities in bulk) from the facilities of Kraft, Inc., at (1) Los Angeles, CA, and its commercial zone, and (2) Ontario, CA, to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY, under continuing contract(s) with Kraft, Inc. of Chicago, IL. (Hearing site: Los Angeles, CA, or Phoenix, AZ.)

Note.—Dual operations may be involved.

MC 138157 (Sub-110F), filed January 19, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wheels and parts for wheels*, from Riverside, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 138627 (Sub-52F), filed January 18, 1979. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber mill products*, from points in SD and WY, to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, PA, SD, TN, and WI. (Hearing site: Omaha, NE.)

MC 138627 (Sub-No. 53F), filed January 18, 1979. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber mill products*, from points in AR to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, TN, WI, and WY. (Hearing site: Little Rock, AR or Omaha, NE.)

MC 139577 (Sub-30F), filed January 22, 1979. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), (a) from Hoopeston and Princeville, IL, to points in IN, IA, KY, MI, MO, OH, TN, and WI, and (b) from Mayville, WI, to points in AL, CT, DE, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC, restricted in

all instances to the transportation of traffic originating at the facilities of Joan of Arc Company. (Hearing site: Peoria, IL, or Madison, WI.)

MC 139906 (Sub-30F), filed January 22, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *radios, phonographs, and sound reproduction* and *amplification equipment*, and (2) *parts, components*, and *accessories* for the commodities named in (1) above, (except commodities in bulk, and those because of size or weight requiring special handling or equipment), from the facilities of Superscope, Inc., at Chatsworth, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

Note.—Dual operations may be involved.

MC 140587 (Sub-10F), filed January 16, 1979. Applicant: CECIL CLAXTON, Box 7, Route 3, Wrightsville, GA 31096. Representative: Ronald K. Kolins, 1055 Thomas Jefferson Street, N.W., Washington, D.C. 20007. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages and related advertising materials and* (2) *malt beverages and materials* used in the manufacture and distribution of malt beverages (1) from the facilities of Pabst Brewing Co. in Pabst, GA (Houston County, GA) and Neward, NJ, to points in DE, FL, IN, KY, MI, NC, OH, SC, VA, and DC and (2) between the facilities of the Pabst Brewing Co., located at Pabst, GA (Houston County, GA), Newark, NJ, and Peoria, IL. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 140677 (Sub-20F), filed January 22, 1979. Applicant: EDNA K. BREWER, JOHN R. BREWER, AND LEWIS BREWER, d/b/a BREWER TRUCKING, 1603 East Tallent, Rapid City, SD 57701. Representative: J. Maurice Audren, 1734 Sheridan Lake Road, Rapid City, SD 57701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of Northwestern Steel & Wire Co., at or near Sterling and Rock Falls, IL, to points in CO, NE, ND, SD, and WY, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Chicago or Rock Island, IL.)

MC 140827 (Sub-10F), filed January 22, 1979. Applicant: MARKET TRANSPORT, LTD., 33 NE Middlefield Rd., Portland, OR 97211. Representative: Nick I. Goyak, 555 Benjamin Franklin Plaza, One Southwest Columbia, Portland, OR 97258. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages*, from Vancouver, WA, to points in CA; and (2) *empty containers, pallets and brewer's supplies*, from points in CA, to points in Vancouver, WA. (Hearing site: Portland, OR or Seattle, WA.)

Note.—Dual operations may be involved.

MC 141076 (Sub-22F), filed January 22, 1979. Applicant: ROGERS MOTOR LINES, INC., R.D. #2, P.O. Box 388 D2, Hackettstown, NJ 07840. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of Campbell Soup Company, at or near Napoleon, OH, to Camden, NJ, and points in NY, and PA. (Hearing site: Cleveland, OH, or Washington, DC.)

Note.—Dual operations may be involved.

MC 141426 (Sub-17F), filed January 22, 1979. Applicant: WHEATON CARTAGE CO., a corporation, Millville, NJ 08332. Representative: E. Stephen Heisley, 805 MaLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *medical supplies, surgical supplies*, and *hospital supplies*, from Benicia and Los Gatos, CA, to points in CT, NJ, and NY, under continuing contract(s) with Becton-Dickinson and Company of Rutherford, NJ. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 141426 (Sub-18F), filed January 23, 1979. Applicant: WHEATON CARTAGE CO. (a corporation), Millville, NJ 08332. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *medical supplies, surgical supplies, and hospital supplies*, from Sumter, SC, to points in NE, IL, NJ, and CT, under continuing contract(s) with Becton-Dickinson and Company of Rutherford, NJ. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 141426 (Sub-19F), filed January 23, 1979. Applicant: WHEATON CARTAGE CO. (a corporation), Millville, NJ 08332. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *medical supplies, surgical supplies, and hospital supplies*, from North Canaan, CT, to points in TX, GA, FL, IL, and CA, under continuing contract(s) with Becton-Dickinson and Company of Rutherford, NJ. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 141426 (Sub-20F), filed January 24, 1979. Applicant: WHEATON CARTAGE CO. (a corporation), Millville, NJ 08332. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *medical supplies, surgical supplies*, and *hospital supplies*, from Hancock, NY, to points in FL, GA, and CA, under continuing contract(s) with Becton-Dickinson and Company of Rutherford, NJ. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 142207 (Sub-25F), filed January 22, 1979. Applicant: BRANNAN SYSTEMS, INC., P.O. Box 29287, New Orleans, LA 70189. Representative: Bruce E. Mitchell, Fifth Floor-Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission and commodities in bulk), in containers or in trailers, having immediately prior or subsequent movement by water, and, (2) *empty containers, used trailers and used trailer chassis*, between New Orleans, LA and points in Mobile County, AL, on the one hand, and, on the other, those points in the United States in and east of TX, OK, KS, NE, IA and MN. (Hearing site: New Orleans, LA.)

MC 143267 (Sub-46F), filed January 23, 1979. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in

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interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* from the facilities of National Wire Products, Inc., at (1) Baltimore, MD, (2) Toledo, OH, (3) Atlanta, GA, (4) Savannah, GA, and (5) Tampa, FL, to those points in the United States in and east of WI, IL, KY, TN, and MS. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 144407 (Sub-6F), filed January 19, 1979. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 412 Route 23, Pompton Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs,* and *materials, equipment, and supplies* used in the manufacture and sale of the above named commodities (except commodities in bulk), between the facilities of Nabisco., Inc, at or near Fair Lawn, NJ, Philadelphia, PA, and McComb, OH, on the one hand, and, on the other, points in FL, TX, LA, OH, IN, IL, and MS restricted to the transportation of traffic originating at the named origin facilities and destined to the above destinations. (Hearing site: New York, NY or Washington, DC.)

Note.—Dual operations may be involved.

MC 144557 (Sub-2F), filed January 19, 1979. Applicant: HUDSON TRANSPORTATION, INC., P.O. Box 847, Troy, AL 36081. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, transporting flour and corn meal (except in bulk), from the facilities of Shawnee Milling Co., at or near Shawnee, OK, to points in AL, FL, GA, LA, MS, MC, SC, TN, and KY. (Hearing site: Oklahoma City, OK.)

Note.—Dual operations may be involved.

MC 144626 (Sub-1F), filed January 24, 1979. Applicant: TRANS NATIONAL EXPRESS, INC., 520 Otter Hole Road, West Milford, NJ 07480. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs,* and (2) *materials, equipment, and supplies* used in the manufacture and sale of foodstuffs, (except commodities in bulk), between the facilities of Nabisco, Inc., at or near (a) Fair Lawn, NJ, (b) Philadelphia, PA, and (c) McComb, OH, on the one hand, and, on the other, points in AZ, CA, OR, and WA, restricted in (1) and (2) above to the transportation of traffic orginating at the named origin facilities and destined to the indicated destinations. (Hearing site: New York, NY, or Washington, DC.)

MC 144747 (Sub-5F), filed January 19, 1979. Applicant: INTERSTATE EQUIPMENT CO., INC., 22821 N. 81st Avenue, Peoria, AZ 85345. Representative: Phil B. Hammond, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass fiber, glass yarn, fiberglass cloth and fabric, and waste fiber,* (1) from the facilities of Owens-Corning at (a) Anderson, SC, (b) Jackson, TN, (c) Huntingdon, PA, and (d) Amarillo, TX, to the facilities of Royell, Inc., at (a) Mountain View, CA, (b) Anderson, CA, (c) Sacramento, CA, (d) Marysville, CA, (e) Woodland, CA, (f) Los Angeles, CA, (g) Bakersfield, CA, (h) Fresno, CA, and (i) Carson City, NV, and (2) from the facilities named in (1) above to points in CA and NV, under continuing contract(s) with Royell, Inc., of Mountain View, CA. (Hearing site: Mountain View, CA, or Phoenix, AZ.)

MC 145267 (Sub-5F), filed January 23, 1979. Applicant: CAMPBELL TRANSPORT, INC., P.O. Box 386, Vineland, NJ 08360. Representative: Mark D. Russell, 407 Walker Building, 734 15th Street, N.W., Washington, DC 20005. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal feed, feed ingredients,* and *additives,* and (2) *materials and supplies* used in the manufacture and promotion of animal feed, (except commodites in bulk), between the facilities of Kal Kan Foods, Inc., at or near (a) Matoon, IL, (b) Indianapolis, IN, (c) Terre Haute, IN, (d) Hutchinson, KS, (e) Sherburne, NY, and (f) Columbus, OH, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Kal Kan Foods, Inc., of Vernon, CA. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 145446 (Sub-1F), filed January 22, 1979. Applicant: TRADE FURNITURE DELIVERY, INC., 18 Thames Street, Brooklyn, NY 11206. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *uncrated furniture,* between New York, NY, on the one hand, and, on the other, points in NY, CT, and NJ. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

Mc 145487 (Sub-1F), filed January 22, 1979. Applicant: SMITH TRUCK BROKERAGE, INC., P.O. Box 974, Willmar, MN 56201. Respresentative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *protective floor finishes,* from Chicago, IL, to points in ND, SD, WY, MT, ID, WA, and OR, under continuing contract(s) with Magee Chemical Company, of Des Plaines, IL. (Hearing site: Minneapolis or St. Paul, MN.)

Mc 146146 (Sub-1F), filed January 23, 1979. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Avenue, Dearborn, MI 48126. Respresentative: J. F. Schouman, 21925 Garrison Road, Dearborn, MI 48124. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *fluid drives, couplings, gas and air moving equipment, dust collectors, and industrial coils,* and (b) *equipment and supplies* for the commodities named in (1)(a) above, from Dearborn, MI, to points the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, from points in IL, IN, PA, and MI, to Dearborn, MI, under continuing contract(s) with American Standard of New Brunswick, NJ. (Hearing site: Detroit, MI, or Washington, DC.)

Mc 146237F, filed January 24, 1979. Applicant: MELBA S. POWELL d.b.a. C.B.M. TRANSPORT, 922 South 2300 East, Salt Lake City, UT 84108. Respresentative: Harry D. Pugsley, 310 South Main Street, Suite 1200, Salt Lake City, UT 84101. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *soda ash,* from the facilities of FMC at or near Green River, WY, to points in CA, and (2) *Water heaters,* from points in Los Angeles County, CA, to points in UT, CO, ID, OR, WA, and MT. (Hearing site: Salt Lake City, UT.)

[Decisions Vol. No. 36]
[FR Doc. 79-12710 Filed 4-25-79; 8:45 am]
BILLING CODE 7035-01-M

Assignment of Hearings

April 23, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 143978 (Sub-2), Emerson Delivery, Inc., MC-143978 (Sub-No. 3), Emerson Delivery, Inc., now assigned for hearing on May 14, 1979, at Chicago, IL, and will be held in Room No. 572, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

MC 145491F, Piggyback Transportation Services, Inc., now assigned for hearing on May 16, 1979 at Chicago, IL, and will be held in Room No. 572, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

MC 114632 (Sub-161F), Apple Lines, Inc., now assigned for hearing on May 14, 1979, is canceled and reassigned to May 14, 1979 (5 days), in Room B-15, Federal Building, U.S. Courthouse, 110 South 4th Street, Minneapolis, MN.

MC 118638 (Sub-5F), GCS Air Service, Inc., now assigned for hearing on May 15, 1979 at Columbus, OH, is postponed indefinitely.

MC 103993 (Sub-931F), Morgan Drive-Away, Inc., now assigned for hearing on May 7, 1979 at Chicago, Illinois and will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

No. 37087, Clevepak Corporation V. Checker Express Co. and O.K. Motor Service, Inc., now assigned for hearing on, May 3, 1979 at Chicago, Illinois and will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

H. G. Homme, Jr.,
Secretary.

[Notice No. 76]
[FR Doc. 79-12859 Filed 4-25-79; 8:45 am]
BILLING CODE 7035-01-M

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

April 23, 1979.

To: The Atchison, Topeka and Santa Fe Railway Company; Boston and Maine Corporation; Chicago, Milwaukee, St. Paul and Pacific Railroad Company; Chicago, Rock Island and Pacific Railroad Company; Consolidated Rail Corporation;[1] Illinois Central Gulf Railroad Company; Louisville and Nashville Railroad Company; Missouri-Illinois Railroad Company; Missouri Pacific Railroad Company, and Seaboard Coast Line Railroad Company.

It appearing, That the railroads have mutually agreed to the use of each other's empty plain cars having mechanical designations "XM," "XMI," "XMIH," "FM"—less than 200,000 lbs., "GA," "GB," "GD," "GH," and "GS" and bearing reporting marks assigned to such carriers.

It further appearing, That these railroads have mutually agreed to participate in an Expanded Clearinghouse Project in which each road will treat the cars of the other roads as system cars, with the Car Service Division of the AAR acting as agent.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, empty plain cars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations of "XM," "XMI," "XMIH," "FM"—less than 200,000 lbs., "GA," "GB," "GD," "GH," and "GS" and bearing the following reporting marks are exempt from provisions of Car Service Rules 1 and 2, while on the lines of any of the railroads named below. Any clearinghouse ownership car bearing one of the applicable mechanical designations may be loaded out via a non-clearinghouse railroad if the car is placed empty by a clearinghouse road at a point open to reciprocal switching.

The Atchison, Topeka and Santa Fe Railway Company
Reporting Marks: ATSF Effective August 22, 1976.

Boston and Maine Corporation
Reporting Marks: BM Effective [2] February 4, 1979.

Chicago, Milwaukee, St. Paul and Pacific Railroad Company
Reporting Marks: MILW Effective July 15, 1976.

Chicago, Rock Island and Pacific Railroad Company
Reporting Marks: RI-ROCK Effective September 12, 1976.

Consolidated Rail Corporation
Reporting Marks: BCK-CNJ-CR-DL&W-EL-ERIE-LV-NH-NYC-PAE-PC-PCA PRR-RDG-TOC Effective November 6, 1977.[1]

Illinois Central Gulf Railroad Company
Reporting Marks: ICG-GM&O-IC Effective August 22, 1976.

Louisville and Nashville Railroad Company
Reporting Marks: L&N-CIL-MON-NC Effective August 15, 1976.

Missouri-Illinois Railroad Company
Reporting Marks: MI Effective July 15, 1976.

Missouri Pacific Railroad Company
Reporting Marks: MP-C&EI-KO&G-T&P Effective July 15, 1976.

Seaboard Coast Line Railroad Company
Reporting Marks: SCL-ACL-C&WC-SAL Effective August 15, 1976.

[2] Change.
[1] Delaware and Hudson Railway Company eliminated effective April 15, 1979.

It is further ordered, That this order will become effective for specific ownerships on dates to be set by the Car Service Division as each road is phased into the Project participants, and to advise the undersigned.

Effective 12:01 a.m., April 15, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., April 12, 1979.

Interstate Commerce Commission.

Robert S. Turkington,
Agent.

[Fifteenth Revised Exemption No. 128]
[FR Doc. 79-12860 Filed 4-25-79; 8:45 am]
BILLING CODE 7035-01-M

Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

April 23, 1979.

Because of the inability of the railroad to assemble the cars, a movement of 50 empty covered hopper cars has been seriously delayed enroute to Houston, Texas, for loading. The Pillsbury Company desires to ship a fifty car unit-grain-train of corn to Houston, Texas, routed MILW-ATSF. The consignee at Houston, Texas, is badly in need of the corn. Only 25 empty covered hoppers have arrived at Wells, Minnesota. Section (a) of Revised Service Order No. 1312 authorizes any railroad which is unable to supply the number of covered hopper cars required by its tariff to transport unit-grain-trains of fewer cars in accordance with the scale in Section (b).

Pursuant to the authority vested in the Director, Bureau of Operations, by Section (h) of Revised Service Order No. 1312, The Chicago, Milwaukee, St. Paul and Pacific Railroad Company is authorized to operate a fifty (50) car unit-grain-train from Wells, Minnesota, to Houston, Texas, comprised of fifty (50) covered hoppers, on a one trip basis, with a minimum of 25 loaded cars operated in the first movement, and the remaining cars of the unit-train operated together in the final movement of this unit-grain-train. The total tariff minimum weight will be transported as required except if the railroad is unable to move all of the empty covered hoppers to the loading point on the final movement, the train can be reduced by the allowable number of cars or allowable weight percentage, as set forth in Section (b) of this Service Order.

This exception applies to railroad owned and private covered hopper cars.

The bills of lading and waybills shall bear the following endorsement: "Unit-grain-train of ( ) tons or ( ) cars. Partial movement of ( ) tons or ( )

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cars forwarded authority Exception No. 7 to ICC Revised Service Order No. 1312. ( ) tons or ( ) cars to follow."

Demurrage rules will be treated as if each of the movements of the unit-train is a complete movement in itself.

Effective 10:00 a.m., April 6, 1979.
Expires 11:59 p.m., May 31, 1979.

Issued at Washington, D.C., April 6, 1979.

Robert S. Turkington,
Assistant Director, Bureau of Operations.

[Rev. S.O. 1312, Exception 7]
[FR Doc. 79-12962 Filed 4-25-79; 8:45 am]
BILLING CODE 7035-01-M

Norfolk & Western Railway Co. and Southern Railway Co.; Petition for Waiver of Consolidation Procedures; Decision

Decided: April 18, 1979.

On April 11, 1979, Norfolk and Western Railway Company (N&W) and Southern Railway Company (Southern) filed a petition seeking waiver of section 1111.2(b)(3)(i) of the Commission's Railroad Acquisition, Control, Merger, Consolidation Project, Trackage Rights and Lease Procedures, 49 C.F.R. Part 1111 (1977), revised at 44 Fed. Reg. 2,177 (1979) (Consolidation Procedures). The petition was filed in anticipation of the submission by N&W and Southern of an application under 49 U.S.C. § 11343 for authority to consolidate the two railroads. Both N&W and Southern are class I railroads, N&W and subsidiaries serving the East and Midwest, and the Southern system operating throughout the Southeast.

Section 1111.2(b)(3)(i) of the Consolidation Procedures specifies that the traffic study submitted as Exhibit A-16 (formerly Exhibit A-15) to an application shall cover the latest full calendar for which data are available. This provision would require N&W and Southern to present a traffic study for calendar year 1978. The prospective applicants request waiver to permit use of calendar year 1977 data in preparing traffic studies, asserting that 1978 data do not accurately reflect normal traffic patterns and would bias the estimated gains and diversions from the proposed consolidation.

The petitioners indicate that two major strikes in 1978 affected N&W's operations, and in turn those of Southern and other connecting carriers. During an 82-day strike by the Brotherhood of Railway and Airline Clerks against N&W, the railroad handled only 43 percent of its normal traffic. A strike by the United Mine Workers against the coal mining industry combined with the clerks' strike to reduce N&W coal traffic originated and received by 24.3 percent and 22.4 percent, respectively, from 1977 levels.

We find, That the petitioners have demonstrated good cause to justify granting the waiver requested. To facilitate valid comparisons, we should require all traffic studies submitted in the proposed proceeding to cover calendar year 1977. We shall notify the public by delivering a copy of this decision for publication in the **Federal Register.**

This decision will not affect the quality of the human environment or the level of energy consumption.

It is ordered, The petition for waiver of 49 CFR § 1111.2(b)(3)(i) is granted to the extent indicated above.

If the petitioners file an application for consolidation, all traffic studies submitted by parties to the proceeding shall cover calendar year 1977.

Public notice shall be given by delivery of a copy of this decision to the Director, **Federal Register,** for publication. This decision shall be effective on the day it is served.

By the Commission, Chairman O'Neal, vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian.

H. G. Homme, Jr.,
Secretary.

[Finance Docket No. 29012]
[FR Doc. 79-12963 Filed 4-25-79; 8:45 am]
BILLING CODE 7035-01-M

St. Louis-San Francisco Railway Co.; Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

April 23, 1979.

Becaue of flooding conditions at Cantonment, Florida; Green Tree, Alabama; MacMillan, Alabama and Fountain, Alabama, the St. Louis-San Francisco Railway Company is unable to relocate empty cars to the industries at Cantonment, Florida; Green Tree, Alabama; MacMillan, Alabama and Fountain, Alabama, for loading in accordance with Car Service Rules 1 and 2. Consequently, the St. Louis-San Francisco Railway Company is unable to furnish cars of suitable ownership to shippers in order that the cars can be loaded in accordance with Car Service Rules 1 and 2.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19:

(a) The St. Louis-San Francisco Railway Company, is authorized to accept from shippers at Cantonment, Florida; Green Tree, Alabama; MacMillan, Alabama and Fountain, Alabama, General service freight cars described in paragraph (b) owned by other railroads regardless of the provisions of Car Service Rules 1 and 2.

(b) This exemption is applicable to general service freight cars bearing reporting marks assigned to railroads listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having the following mechanical designations:

Plain boxcars: "XM", "XMI"

It is further ordered, (c) This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owners.

Effective 10:00 a.m., April 16, 1979.
Expires 11:59 p.m., April 20, 1979.

Issued at Washington, D.C., April 16, 1979.

Interstate Commerce Commission.

Joel E. Burns,
Agent.

[Exemption No. 162]
[FR Doc. 79-12961 Filed 4-25-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 82
Thursday, April 26, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the April 19, 1979, meting agenda.

TIME AND DATE: 10 a.m., April 19, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 18. Dockets 31213, 31529, 33222, 34678, 34699, 34701, 34702, and 34703; Fort Myers-Atlanta/Tampa authority portion (memo 8233-B, 8233-C, 8233-D and 8233-E, BPDA, BLJ, OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 18 is being deleted from the April 19, agenda so that the Chairman may be provided with additional information. Accordingly, the following Members have voted that agency business requires that Item 18 be deleted from the agenda and that no earlier announcement of this deletion was possible:

Chairman Marvin S. Cohen, Member Richard J. O'Melia, Member Elizabeth E. Bailey, Member Gloria Schaffer.

[S-795-79 File 4-26-79; 10:11 am]
BILLING CODE 6320-01-M

2

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, April 25, 1979.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be open to the public.

Due to extraordinary circumstances, the Commission will meet in special session following the executive session to discuss administrative cost estimates for S. 623.

PERSON TO CONTACT FOR INFORMATION: Fred S. Riland, Public Information Officer, telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[FR Doc. S-799-79 Filed 4-24-79; 12:11 pm]
BILLING CODE 6715-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 24244, Apr. 24, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., April 25, 1979.

CHANGE IN MEETING: The following item has been added:

Item No., Docket No., and Company

ER-1(A). Investigation of practices under automatic adjustment clauses.

ER-1(B). Investigation of automatic clauses in public utility rate schedules.

Lois Cashell,
Acting Secretary.

[S-800-79 Filed 4-24-79; 1:13 pm]
BILLING CODE 6740-02-M

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 24244, April 24, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., April 25, 1979.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

M-6(A). Notice of well category determination by the Office of Conservation of Louisiana.

M-6(B). Proration units and their applicability to section 103 of the NGPA.

Lois Cashell,
Acting Secretary.

[S-801-79 Filed 4-24-79; 1:13 pm]
BILLING CODE 6740-02-M

5

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 79, page 23975, April 23, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:30 p.m., April 26, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling, 202-377-6677.

CHANGES IN THE MEETING:

The following item has been added to the agenda for the open meeting:

Application to acquire control of Benjamin Franklin Savings Association, Houston, Tex., by Mischer Corp., Houston, Tex.

No. 233, April 23, 1979.

[S-794-79 Filed 4-24-79; 10:11 am]
BILLING CODE 6720-01-M

6

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 9:30 a.m., April 27, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION: Henry Judy, 202-789-4734.

MATTERS TO BE CONSIDERED:

Appointment of Chief Financial Officer. Consideration of Salary Resolution on Deputy General Counsel.

Announcement is being made at the earliest practicable time.

No. 231, April 24, 1979.

J. J. Finn,
Secretary.

[S-798-79 Filed 4-24-79; 10:55 am]
BILLING CODE 6720-02-M

7

INTER-AMERICAN FOUNDATION.

TIME AND DATE: 8 p.m. May 11, 1979; 6 p.m. May 12 1979.

PLACE: Hotel Crillon Lima, Peru.

STATUS: Open.

MATTERS TO BE CONSIDERED: Onsite review of Inter-American Foundation funded projects.

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CONTACT PERSON FOR MORE INFORMATION: Lawrence E. Bruce, Jr., 703–841–3812.

[S–804–79 Filed 4–24–79; 2:28 pm]

BILLING CODE 7025–01–M

8

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, May 3, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public; The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public.

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary):
   a. Injection blow molding apparatus (Docket No. 568).
5. Any items left over from previous agenda.

PORTIONS CLOSED TO THE PUBLIC:

6. Status report on Investigation 332–101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, 202–523–0161.

[USITC SE–79–18]

[S–796–79 Filed 4–24–79; 10:11 am]

BILLING CODE 7020–02–M

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, May 3, 1979 [NM–79–15]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Rocky Mountain Airways, Inc., DeHavilland DHC–6 Twin Otter, N25RM, near Steamboat Springs, Colo., December 4, 1978.
2. *Highway Accident Report*—Ross Ambulance Service, ambulance high-speed overturn, State Route 116, Littleton, N.H., Aug. 22, 1978.
3. *Pipeline Accident Report*—Mid-America Pipeline System, ruptured 8-inch liquefied petroleum gas pipeline, Donnellson, Iowa, August 4, 1978.
4. *Special Investigation Report* on the Safe Transportation of Hazardous Materials—Hazardous Materials Accident Mapping Standards.
5. *Letters* to attorneys for pilot of *Santa Cruz II* and Empress Lineas Maritimas re *Cuyahoga/Santa Cruz II* marine accident report.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

April 24, 1979.

[S–805–79 Filed 4–24–79; 3:05 pm]

BILLING CODE 4910–58–M

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of April 23, 1979 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Tuesday, April 24, 2 p.m.

1. Discussion of personnel matter (Tentative, approx. 1 hour—closed—exemption 6—postponed from April 23).

Wednesday, April 25, 9:30 a.m.

1. Staff briefing on emergency planning (Approx. 2 hours—public meeting—rescheduled from April 26).

Wednesday, April 25, 1:30 p.m.

1. Interim briefing by study group on construction during review (Approx. 1 hour—public meeting—postponed from April 18).
2. Continuation of briefing on principal factors related to current status of operating plants (including B & W) (Approx. 1½ hours—public meeting—continued from April 23).

Thursday, April 26, 9:30 a.m.

1. Discussion of legislative matters (including siting and licensing) (Approx. 2 hours—public meeting—rescheduled from April 25).

Thursday, April 26, 1:30 p.m.

1. Staff briefing on five-plant shutdown (Seismic design) (Approx. 1½ hours—public meeting—postponed from April 20).
2. Affirmation Session (Approx. 10 minutes—public meeting). (Items as announced).
3. Discussion of petition for institution of proceedings regarding proposal to use shorter pilings for the foundation of the Bailly Generating Facility, nuclear–1 (Approx. 1½ hours—closed—Exemption 10).

ADDITIONAL INFORMATION: The "Briefing on the Resident Inspector Program" scheduled for April 26 is postponed.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, 202–634–1410.

Walter Magee,

Office of the Secretary.

[S–802–79 Filed 4–24–79; 1:26 pm]

BILLING CODE 7590–01–M

11

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of April 30, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Wednesday, May 2, 1979, at 10 a.m. An open meeting will be held on Thursday, May 3, 1979, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans and Pollack determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, May 2, 1979, at 10 a.m., will be:

Litigation matter.
Formal orders of investigation.
Access to investigative files by Federal, State, or Self-Regulatory Authorities.
Settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Institution and settlement of administrative proceedings of an enforcement nature.
Regulatory matters bearing enforcement implications.
Freedom of information act appeal.

The subject matter of the open meeting scheduled for Thursday, May 3, 1979, at 10 a.m., will be:

1. Consideration of a release announcing the adoption of a new rule 3a40–1 (17 CFR 240.3a40–1) under the Securities Exchange Act designating "financial responsibility rules" for purposes of the Securities Investor Protection Act of 1970. For further information, please contact Gregory N. Smith at (202) 755–7484.
2. Consideration of proposed amendments to plans filed under Rules 17a–5(a)(4) and 17a–10(b) of the Exchange Act to implement the FOCUS reporting system and delegation of authority to the Division of Market Regulation to approve future proposed amendments to the plans. For further information, please contact Elizabeth S. York at (202) 376–8137.
3. Consideration of (1) a request for leave to withdraw an application by The First National Bank of Chicago and the Midwest Association of Credit Unions, which sought an exemption from all provisions of the Investment Company Act of 1940 for a common trust fund to be offered to credit unions, and (2) the discontinuation of a related administrated proceeding. For further information, please contact H. R. Hallock, Jr. at (202) 755–1648 or Suzanne Brannan at (202) 376–3228.
4. Consideration of whether to adopt new Rule 14a–3 and amend Rules 19b–1 and 22c–1 under the Investment Company Act of 1940 ("Act"). This rulemaking would provide certain unit investment trusts with "start-up" exemptions pertaining to the Act's minimum net worth requirements, limitation on the frequency of distributing capital gains, and forward pricing requirements. For further information, please contact Mark B. Goldfus at (202) 755–0230 or Mark J. Mackey at (202) 755–1547.
5. Consideration of whether to propose for public comment an amendment to Rule 22c–1(b) under the Investment Company Act of 1940 ("Act"). This rulemaking would provide that (1) the board of directors of an investment company determine the time that the investment company prices its redeemable securities; and (2) an investment company compute the current net asset value of its redeemable securities on each day in which there is a sufficient degree of trading in its portfolio securities such that the current net asset value of its redeemable securities might be materially affected by changes in the value of its portfolio securities. For further information, please contact Mark B. Goldfus at (202) 755–0230 or Mark J. Mackey at (202) 755–1547.
6. Consideration of whether to propose for public comment an amendment to Rule 17d–1 under the Investment Company Act of 1940 ("Act"). New paragraph (d)(6) would exempt from the prohibitions of Section 17(d) of the Act, and Rule 17d–1 thereunder, the joint participation by investment companies and certain affiliated persons in the reorganization of a portfolio company, provided that certain conditions were satisfied. For further information, please contact Mark B. Goldfus at (202) 755–0230 or Cathy G. Douglas at (202) 755–6972.
7. Consideration of whether to propose for public comment an amendment to Rule 17d–1 under the Investment Company Act of 1940 ("Act"). New paragraph (d)(7) would exempt joint liability insurance policies covering an investment company and an affiliated person thereof from the prohibitions of Section 17(d) of that Act, and Rule 17d–1 thereunder, provided that certain conditions were satisfied. For further information, please contact Mark B. Goldfus at (202) 755–0230 or Cathy G. Douglas at (202) 755–6972.
8. Consideration of an application by Temporary Investment Fund, Inc. ("Fund"), a registered open-end, diversified, management investment company, for an order, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Fund from certain provisions of the Act. The requested exemptions would enable the Fund to issue two classes of shares with differing record dates for the purpose of dividend declarations in order that investors may elect to receive their first dividend either on the day shares of the Fund are purchased or on the day subsequent to the purchase of Fund shares. For further information, please contact Chris Townsend at (202) 755–1734.
9. Consideration of whether to propose for public comment an amendment to Rule 17a–6 under the Investment Company Act of 1940 ("Act"). The amendment would expand the existing exemptions from the prohibitions of Section 17(a) of the Act, which are provided by Rule 17a–6, to transactions between any investment company and a company that is an affiliated person thereof solely because 5 percent or more of its outstanding voting securities are owned by the investment company. For further information, please contact Mark B. Goldfus (202) 755–0230 or Cathy G. Douglas at (202) 755–6972.

FOR FURTHER INFORMATION, CONTACT: George Yearsich at (202) 755–1100.

April 23, 1979.

[S–797–79 Filed 4–24–79; 10:26 am]

BILLING CODE 8010–01–M

12

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., May 3, 1979.

PLACE: 955 L'Enfant Plaza North SW., Board Room, Room 2–500, Fifth Floor, Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

Portions closed to the public (9 a.m.)

1. Consideration of internal personnel matters.
2. Review of Conrail proprietary and financial information for monitoring and investment purposes.
3. Review of Delaware and Hudson Railway Company proprietary and financial information for monitoring and investment purposes.
4. Litigation report.

Portions open to the public (1:30 p.m.)

5. Approval of minutes of the April 4, 1979, Board of Directors meeting.
6. May 31 Conrail Performance Report.
7. Report on Conrail monitoring.
8. Consideration of Financing Agreement amendments.
9. Report on Supplemental Transaction Proposal.
10. Consideration of 211(h) loan program.
11. Consideration of Conrail May drawdown request.
12. Contract actions (extensions and approvals).

[S–803–79 Filed 4–24–79; 1:55 pm]

BILLING CODE 8240–01–M

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federal register

Thursday
April 26, 1979

Part II

Department of Energy

Conduct of Employees

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DEPARTMENT OF ENERGY

10 CFR Parts 203, 735, 1010

Conduct of Employees

AGENCY: Department of Energy.

ACTION: Final Regulations.

SUMMARY: These regulations prescribe standards of conduct for all employees of the Department of Energy (DOE) except employees of the Federal Energy Regulatory Commission (FERC). DOE intends these regulations to incorporate those prohibitions, restrictions, and requirements, statutory and otherwise, designed to assure the ethical conduct of employees. All DOE employees except employees of FERC are subject to these regulations, which are intended to supersede other regulations applicable to employees prior to their commencement of DOE service. FERC employees are subject to only those provisions implementing the requirements of sections 601 through 608 of the Department of Energy Organization Act (Pub. L. 95–91). Those provisions are specifically listed and identified in the regulations.

EFFECTIVE DATE: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: Ralph D. Goldenberg, Acting Assistant General Counsel for Standards of Conduct (301–353–5285).

SUPPLEMENTARY INFORMATION:

I. Background

These regulations prescribe standards of conduct for all employees of the Department of Energy (DOE) except employees of the Federal Energy Regulatory Commission (FERC). Only those provisions specifically designated are applied to employees of FERC. Incorporated in these regulations are the requirements of sections 601 through 608 of the Department of Energy Organization Act (Pub. L. 95–91), section 522 of the Energy Policy and Conservation Act (Pub. L. 94–163), section 308 of the Energy Research and Development Administration Appropriation Authorization Act (Pub. L. 95–39), and section 201(f) of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87). These regulations also reflect requirements of 18 U.S.C. 201–209, Executive Order 11222 and applicable regulations of the Office of Personnel Management (5 CFR Part 735). These regulations do not incorporate requirements of the Ethics in Government Act of 1978 (Pub. L. 95–521). After issuance by the Office of Personnel Management of Government-wide regulations implementing that Act, these regulations will be amended as required. These regulations supersede conduct of employee regulations for the Energy Research and Development Administration (10 CFR Part 735), and the Federal Energy Administration (10 CFR Part 203).

On October 19, 1978, the Department of Energy published proposed regulations (43 FR 48922) to govern the conduct of DOE employees. The preamble to that document contained a detailed explanation of the provisions of the proposed regulations. The discussion below addresses the significant differences between the proposed and the final regulations.

II. Discussion

Gifts, Entertainment, and Favors (§ 1010.205)

One comment pointed out that the exceptions to the general prohibition against an employee's acceptance of any gift, entertainment or favor from an interested party did not include an exception for specialty advertising materials of nominal value. The Department has concluded that such an exception would be appropriate and therefore has added an exception at § 1010.205(b)(12) to allow for acceptance of "unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value." This exception is consistent with regulations of the Office of Personnel Management (5 CFR 735.202(b)(4)).

It is Department policy that, except in certain limited circumstances, official travel by employees of the Department will be paid for by the Government. Section 1010.205(b)(11) has been expanded to define the circumstances under which acceptance of transportation, lodging, or subsistence from educational institutions, or from certain associations or similar groups, is permissible. Also, the Department's policy prohibiting employee acceptance of transportation, lodging, or subsistence, while on official travel, from any source outside DOE that is not an interested party, unless such acceptance is consistent with the rules for acceptance from interested parties, has been added at § 1010.205(c). Finally, guidelines concerning the mechanics of acceptance of transportation, lodging, or subsistence have been added at § 1010.205(d).

Procedures

The proposed regulations at § 1010.402(f) would have required that the Counselor maintain a record of persons requesting access to copies of any particular employee's reports filed pursuant to sections 603, 604, or 605 of Pub. L. 95–91. The Department has concluded that, in addition, the employee should be notified by the Counselor whenever such a request is received, and § 1010.402(f) has been modified accordingly.

It was discovered during the comment period that the designation of reviewing officials in § 1010.407(h) did not adequately cover field organizations. To correct that deficiency, a new § 1010.407(i) has been added to identify reviewing officials for field organizations.

Delegation of Authorities to the Federal Energy Regulatory Commission

The Department has concluded that certain authorities vested in the Secretary by the conflict of interest provisions of Pub. L. 95–91 may appropriately be delegated to the Chairman, FERC, for actions involving FERC employees. Such delegation appears consistent with the spirit of section 401(d) of Pub. L. 95–91, which provides that, in the performance of their functions, FERC employees "shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department." In an effort to give FERC the widest possible latitude in dealing with its own employees, while retaining in the Secretary the primary responsibility for implementation of the conflict of interest provisions of Pub. L. 95–91, five authorities have been delegated in these final regulations to the Chairman, FERC.

Section 601(a)(4) of Pub. L. 95–91 permits the Secretary to designate as "supervisory" those employees (other than employees covered by sections 601(a)(1), (2), or (3)) who, in the judgment of the Secretary, exercise "sufficient decisionmaking or regulatory authority" so that the conflict of interest provisions of Pub. L. 95–91 should apply to them. In § 1010.103(t)(4) of these regulations, the Chairman, FERC, is delegated the authority to designate supervisory employees of FERC pursuant to this provision.

Section 602(c) of Pub. L. 95–91 permits the Secretary to waive the divestiture requirements of section 602 in cases where exceptional hardship would result or where the interest in question is a pension, insurance, or other similarly vested interest. The chairman, FERC, is delegated the authority to grant such waivers in § 1010.501(a)(1) of these regulations.

Section 603(c) of Pub. L. 95–91 requires that the Secretary identify specific positions, or classes thereof, within the Department which are of a nonregulatory or nonpolicymaking nature at or below GS–12 of the General Schedule and exempt such positions from the reporting requirements of section 603. In § 1010.403(a) of these regulations, the Chairman, FERC, is delegated the authority to identify and exempt such positions within FERC.

Section 606(c) of Pub. L. 95–91 permits the Secretary to waive the participation prohibitions of section 606 in cases where application of the prohibitions would work an exceptional hardship upon the employee involved or would be contrary to the national interest. A delegation of this authority to the Chairman, FERC, for FERC employees is reflected in § 1010.304(c) and § 1010.501(a)(2) of these regulations.

Section 608(b) of Pub. L. 95–91 authorizes the Secretary to impose a civil penalty of up to $10,000 for violation of any of sections 602 through 606. That authority is delegated in § 1010.502(b)(2) of these regulations to the Chairman, FERC, for violations by FERC employees.

Positions Exempt From the Reporting Requirements of Section 603 of Pub. L. 95–91

Section 603(c) of Pub. L. 95–91 requires that the Secretary identify specific positions, or classes thereof, within the Department which are of a nonregulatory or nonpolicymaking nature at or below GS–12 of the General Schedule and exempt such positions from the reporting requirements of section 603 of Pub. L. 95–91. On January 27, 1978, a list of positions so identified and exempted was published (43 FR 3746). That list of exempt positions has been updated and now appears as Appendix I to these regulations.

III. Revocations

These regulations supersede conduct of employee regulations for the Energy Research and Development Administration (10 CFR Part 735), and the Federal Energy Administration (10 CFR Part 203).

(Department of Energy Organization Act, sections 601–608, 42 U.S.C. 7211–7218; Energy Policy and Conservation Act, section 522, 42 U.S.C. 6392; Energy Research and Development Administration Appropriation Authorization Act, section 308, 42 U.S.C. 5816a; and 5 CFR Part 735.)

Issued in Washington, D.C., April 13, 1979.

Lynn R. Coleman,
General Counsel.

PART 203 [REVOKED]

PART 735 [REVOKED]

In consideration of the foregoing, 10 CFR Parts 203 and 735 are revoked, and title 10 CFR is amended to add a new Part 1010 to read as set forth below.

PART 1010—CONDUCT OF EMPLOYEES

Subpart A—General

Sec.
1010.101 Purpose and scope.
1010.102 Applicability.
1010.103 Definitions.
1010.104 Responsibilities and authorities.
1010.105 Counseling and interpretations.

Subpart B—Standards of Conduct

1010.201 General.
1010.202 Additional statutory provisions.
1010.203 Salary of an employee payable only by the United States.
1010.204 Outside employment and other outside activity.
1010.205 Gifts, entertainment, and favors.
1010.206 Political activity.
1010.207 Use of Government property.
1010.208 Nondiscrimination.
1010.209 Misuse of information.
1010.210 Indebtness.
1010.211 Gambling, betting, and lotteries.
1010.212 Handling of funds entrusted by fellow employees.
1010.213 Endorsements.
1010.214 Use of credentials.
1010.215 General conduct prejudicial to the Government.
1010.216 Guidelines for Economic Regulatory Administration Employees in Conduct of Audits.

Subpart C—Restrictions on Financial, Employment, and Similar Interests

1010.301 General.
1010.302 Restrictions concerning private financial interests.
1010.303 Postemployment restrictions.
1010.304 Participation prohibitions.
1010.305 Assignees pursuant to the Intergovernmental Personnel Act and the President's Executive Interchange Program.
1010.306 Exceptions and waivers.

Subpart D—Reports

1010.401 General.
1010.402 Availability of reports.
1010.403 Statements of employment and financial interests, and interests in energy concerns.
1010.404 Statement of interests in coal mining operations.
1010.405 Prior employment report—supervisory employees.
1010.406 Postemployment report—supervisory employees.
1010.407 Filing of forms DOE–459, DOE–460, and DOE–461.

Subpart E—Procedures and Sanctions

1010.501 Waivers.
1010.502 Sanctions.
1010.503 Appeals and grievances.
1010.504 Cancellation of contracts.

Subpart F—Special Government Employees

1010.601 Use of Government employment.
1010.602 Use of inside information.
1010.603 Coercion.
1010.604 Gifts, entertainment, and favors.
1010.605 Other provisions.

Appendix I List of DOE Positions Exempt from the Disclosure Requirements of Section 603 of the DOE Organization Act.
Appendix II [Reserved]
Appendix III A Form DOE–459.
Appendix III B Form DOE–460.
Appendix III C Form DOE–461.
Appendix IV [Reserved]

Authority: Pub. L. 95–91, section 644, 91 Stat. 599 (42 U.S.C. 7254); Pub. L. 95–91, Title VI, Part A, 91 Stat. 591–596 (42 U.S.C. 7211–7218); Pub. L. 94–163, section 522, 89 Stat. 961 (42 U.S.C. 6392); Pub. L. 95–39, section 308 (42 U.S.C. 5816a).

Subpart A—General

§ 1010.101 Purpose and scope.

(a) The following regulations are designed to assure that the business of the Department of Energy (DOE) is conducted effectively, objectively and without improper influence or the appearance thereof. Further, DOE expects that its employees will observe courtesy, consideration, and promptness in dealings with the public and other governmental agencies, and will avoid any action, whether or not specifically prohibited by the regulations, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

(b) The following regulations are issued in compliance with Executive Order 11222, 5 CFR Part 735, and:

(1) 18 U.S.C. 201–209.

(2) Pub. L. 95–91, sections 601–608 (42 U.S.C. 7211–7218).

(3) Pub. L. 94–163, section 522 (42 U.S.C. 6392).

(4) Pub. L. 95–39, section 308 (42 U.S.C. 5816a).

(5) Pub. L. 95–87, section 201(f) (30 U.S.C. 1211(f)).

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(6) 30 U.S.C. 6.

In addition to the foregoing, the regulations implement other statutes cited elsewhere herein.

(c) The following regulations, among other things, reflect prohibitions and requirements imposed by the criminal and civil laws of the United States. The regulations do not purport to reflect or enumerate all restrictions or requirements imposed by statutes, Executive Orders, regulations or otherwise upon Federal employees and former Federal employees. The omission of a restatement of or a reference to any such restriction or requirement in no way alters the legal effect of that restriction or requirement and any such restriction or requirement, as the case may be, continues to be applicable to employees in accordance with its own terms.

(d) It is expected that the provisions of the following regulations will be observed and administered in a manner which is consistent with both their spirit and their letter.

§ 1010.102 Applicability.

(a) Except where specifically provided otherwise, these regulations apply to all officers, employees, and special Government employees of DOE, excluding officers, employees, or special Government employees of the Federal Energy Regulatory Commission (FERC).

(b) Those provisions hereinafter that are applicable to officers, employees, and special Government employees of FERC in addition to DOE employees are designated by "(APPLICABLE TO FERC)" and include: §§ 1010.103, 1010.104(g), 1010.302(b), 1010.303(b), 1010.303(c), 1010.304(b), 1010.304(c), 1010.305(a), 1010.306(d), 1010.401, 1010.402, 1010.403(a), 1010.403(b), 1010.403(c), 1010.403(d), 1010.405, 1010.406, 1010.407, 1010.501(a)(1), 1010.501(a)(2), 1010.501(a)(4), 1010.501(c), 1010.501(d), 1010.501(e), 1010.502(b), 1010.502(c), 1010.502(d), 1010.502(e), 1010.503, 1010.605(b), Appendix II, Appendix IIIA, Appendix IIIB, and Appendix IIIC.

(c) Special Government employees should also see subpart F of these regulations.

§ 1010.103 Definitions (applicable to FERC).

(a) "Secretary" means the Secretary of Energy as provided by the Department of Energy Organization Act, section 201, Pub. L. 95–91 (42 U.S.C. 7131), or his delegate.

(b) "Administrator" means any of the heads of the Energy Information Administration, Economic Regulatory Administration, Bonneville Power Administration, Southeastern Power Administration, Southwestern Power Administration, Alaska Power Administration, or Western Area Power Administration.

(c) "Appearance or attendance" means, for the purposes of section 605 of Pub. L. 95–91 (42 U.S.C. 7215), a former employee's personal presence before a DOE employee conducting official DOE business involving direct or indirect contact between the former employee and the DOE employee relating to such official business. In person, or other responses to requests from DOE officials for information relating to the former employee's duties in the Department are not encompassed by this definition.

(d) "Chairman" means the Chairman of the Federal Energy Regulatory Commission established by Title IV of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7171–7177), or his delegate.

(e) "Commission" or "FERC" means the Federal Energy Regulatory Commission, or its delegate.

(f) "Counselor" means the General Counsel of the Department or the General Counsel of the Commission or their delegates, as appropriate.

(g) "DOE" or "Department" means the Department of Energy established by the Department of Energy Organization Act, section 201, Pub. L. 95–91 (42 U.S.C. 7131).

(h) "Department proceeding" means, for the purposes of section 606 of Pub. L. 95–91 (42 U.S.C. 7216), any judicial proceeding, Department hearing, application, rulemaking, order, license, contract, grant, award, fund transfer, claim, controversy, charge, accusation, or arrest, in which the Department is directly involved.

(i) "Dependent" means dependent as defined in section 152 of the Internal Revenue Code of 1954, as amended.

(j) "Employee" means a DOE officer or employee (including, except where otherwise indicated, a special Government employee), or a member of the Uniformed Services (other than enlisted members), or an employee of another Government agency assigned or detailed to DOE, or an individual assigned or detailed to DOE pursuant to the Intergovernmental Personnel Act or the President's Executive Interchange Program.

(k) "Energy concern" means:

(1) Any person listed on the Energy Concern List published by DOE; or

(2) Any other person:

(i) Holding an interest in property from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained;

(ii) Significantly engaged in the business of:

(A) Developing, extracting, producing, refining, transporting by pipeline, converting into synthetic fuel, distributing, or selling minerals for use as an energy source, or in the generation or transmission of energy from such minerals or from wastes or renewable resources;

(B) Producing, generating, transmitting, distributing, or selling electric power;

(C) Development, production, processing, sale, or distribution of nuclear materials, facilities, or technology; or

(D) Conducting research, development, or demonstration related to an activity described in paragraphs (k)(2)(i), (2)(ii)(A), (2)(ii)(B) or (2)(ii)(C) of this section; or

(iii) Significantly engaged, whether or not for profit, in conducting research, development, or demonstration related to an activity described in paragraph (k)(2)(i) or (2)(ii)(A), (2)(ii)(B) or (2)(ii)(C) of this section, with financial assistance under any Act the functions of which are vested in or delegated or transferred to the Secretary or the Department.

(3) For the purposes of reports required by Pub. L. 94–163 and Pub. L. 95–39, "energy concern" includes "energy businesses" and "energy properties" as those terms are used in those Acts.

(4) "Energy concern" does not include religious organizations; mutual funds or regulated investment companies the portfolios of which are widely diversified, or similarly constituted, commercially fungible entities. Membership or ownership in utility cooperatives required to obtain services is not considered an interest in an energy concern.

(l) "Interested party" means any person, firm, corporation, or other entity, or representative thereof, which:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with DOE;

(2) Conducts operations or activities that are regulated by DOE; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the official duty of the DOE employee concerned.

(m) "Known financial interest" means any pecuniary interest of an employee, or which such employee has or should have knowledge.

(n) "Organization" means a university; foundation; nonprofit research entity or similar nonprofit organization; or State, county or municipality or subdivision thereof; as well as a business organization.

(o) "Participate" means, for the purposes of section 606 of Pub. L. 95–91 (42 U.S.C. 7216), involvement by an employee in a Department proceeding through decision, approval, disapproval, recommendation, the rendering of advice, or investigation.

(p) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(q) "Represent" means, but is not limited to, acting as an agent or attorney.

(r) "Reviewing official" means, for each employee, the individual to whom reports are submitted as set forth in § 1010.407(h) or (i). The functions of a reviewing official may not be delegated.

(s) "Special Government employee" means an officer or employee retained, designated, appointed, or employed with or without compensation for 130 days or fewer during any 365 consecutive days, to perform temporary duties either on a full-time or part-time or intermittent basis. The term includes experts and consultants, but does not include enlisted members of the Uniformed Services.

(t) "Supervisory employee" means:

(1) An individual holding a position in the Department at GS–16, GS–17, or GS–18 of the General Schedule or at level I, II, III, IV, or V of the Executive Schedule, or who is in a position at a comparable or higher level on any other Federal pay scale, or who holds a position pursuant to subsection (b) or (d) of section 621 of the DOE Organization Act (including an employee in the Energy Executive Service) or who is an expert or consultant employed pursuant to section 3109 of Title 5, United States Code, for more than ninety days in any calendar year and receives compensation at an annual rate equal to or in excess of the minimum rate prescribed for individuals at GS–16 of the General Schedule;

(2) The Director and Deputy Director of any State, regional, district, local, or other field office;

(3) An employee or officer who has primary responsibility for the award, review, modification, or termination of any grant, contract, award, or fund transfer within the authority of the Secretary; including:

(i) Contracting officers;

(ii) Any other employees with authority or warrants to commit the Department to a transfer of appropriated funds to a non-Federal entity;

(iii) Source selection officials; and

(4) Any other employee or officer who, in the judgment of the Secretary or the Chairman, as appropriate, exercises sufficient decisionmaking or regulatory authority so that the provisions of Title VI of the DOE Organization Act should apply to such individual (See Appendix II).

(u) "Uniformed Services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Services (37 U.S.C. 101(3)).

(v) "Waiver" means any action by the Secretary or the Chairman, where appropriate, to exempt or exclude an individual from particular restrictions, prohibitions or requirements of these regulations, including but not limited to actions under sections 602(c), 605(a)(3) and 606(c) of the DOE Organization Act, and 18 U.S.C. 205, 207 and 208.

§ 1010.104 Responsibilities and authorities.

(a) Employees shall:

(1) Read and comply with the statutes and the rules, standards of conduct, and other regulations referred to herein. Each employee shall receive a copy of these regulations and acknowledge, in writing, such receipt prior to assuming duties in the DOE;

(2) Be mindful of the high standards of integrity expected of them in all their activities, personal and official;

(3) Not give favored treatment or competitive advantage to any member of the public, including former employees of DOE;

(4) Recognize that violation of any of the instructions or statutes referred to in these regulations may subject them to disciplinary action in addition to the penalty prescribed by law for such violation (see subpart E); and

(5) Discuss with the reviewing official, or the Counselor, as appropriate, any problem arising out of these regulations.

(b) Reviewing officials shall:

(1) Assure that required reports are promptly filed by employees in each Office;

(2) Personally review all reports submitted to them, make determinations as appropriate, and forward all reports to the Counselor. Failure to fulfill these responsibilities may result in sanctions imposed in accordance with subpart E;

(3) Notify employees at the time of entrance on duty and periodically thereafter of the availability of counseling services and how and where these services are available;

(4) Bring the provisions of these regulations to the attention of each employee at such times as circumstances warrant;

(5) Bring to the attention of contractors dealing with their offices those provisions of these regulations (such as "Gifts, entertainment, and favors"; "Cancellation of contracts"; and others) which may affect the actions of contractors and their employees in dealing with DOE employees; and

(6) Report to the Counselor and the Inspector General all alleged or actual misconduct of DOE employees; in consultation with the Counselor, take action where appropriate as a result of any investigation, and report to the Counselor on any action taken.

(c) The Director of Administration shall:

(1) Provide a copy of these regulations and any subsequent revision to each employee;

(2) Be responsible for transmitting notice to employees of applicable reporting requirements; and

(3) Distribute to reviewing officials those annual report forms required in subpart D no later than May 1 of each year.

(d) The Director of Personnel shall:

(1) Distribute to prospective employees, departing employees and former supervisory employees those forms required to be submitted pursuant to subpart D; and

(2) Distribute copies of these regulations to all prospective employees at the time an offer of employment with the DOE is made or prior to the making of such offer, if possible.

(e) The Deputy Secretary shall assume those responsibilities placed upon the Deputy Secretary by subpart E.

(f) The General Counsel of DOE shall:

(1) Serve as the Counselor for DOE employees other than employees performing functions within the jurisdiction of FERC;

(2) Serve as DOE's designee to the Office of Personnel Management on matters covered by these regulations;

(3) Have available for review by employees copies of pertinent laws, Executive Orders, DOE regulations, and Office of Personnel Management regulations relating to ethical standards and other conduct;

(4) Bring the provisions of these regulations to the attention of all employees annual, and at such other times as circumstances warrant;

(5) Coordinate counseling services, and assure that counseling and interpretations on questions of conflicts of interest and other matters covered by

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these regulations are available to employees and reviewing officials;

(6) Be responsible for the review and referral of alleged violations of these regulations to the Department of Justice or the Inspector General of DOE, as appropriate; and

(7) Maintain liaison with the General Counsel of FERC to maximize consistency in application of these regulations.

(g) The General Counsel of FERC shall: (Applicable to FERC)

(1) Serve as Counselor for employees performing functions within the jurisdiction of FERC;

(2) Perform for FERC those duties described in paragraphs (f)(3) through (f)(6) of this section; and

(3) Maintain liaison with the General Counsel of DOE to maximize consistency in application of these regulations.

(h) The Inspector General shall investigate alleged violations of these regulations.

§ 1010.105 Counseling and interpretations.

(a) Each employee's reviewing official shall be available to discuss with employees any questions or requests under these regulations.

(b) The Counselor shall be available to render advice or interpretations of these regulations to reviewing officials or to individual employees.

Subpart B—Standards of Conduct

§ 1010.201 General.

(a) It is DOE policy not to interfere in the private lives of DOE employees. However, certain standards of conduct are required by statute. This subpart sets forth DOE's regulations prescribing those and other standards of conduct designed to assure the proper performance of Government business and the maintenance of public confidence in the Government.

(b) Adherence to the regulations in this subpart requires that employees not do indirectly what would be improper to do directly.

§ 1010.202 Additional statutory provisions.

Attention of employees is directed to the following statutory provisions:

(a) The prohibitions contained in the following sections of the Atomic Energy Act of 1954, as amended: sections 224, 225 and 226, relating to communication, receipt, and tampering with Restricted Data involving potential injury to the United States or potential advantage to a foreign nation; and section 227 relating to unauthorized disclosure of Restricted Data (42 U.S.C. 2274 through 2277).

(b) The prohibitions against the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783).

(c) The prohibitions against the disclosure of confidential information (18 U.S.C. 1905).

(d) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(e) The prohibition against proscribed political activities in subchapter III of chapter 73 of Title 5, United States Code, and 18 U.S.C. 602, 603, 607 and 608.

(f) The prohibition against acceptance or solicitation to obtain appointive public office (18 U.S.C. 211).

(g) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(h) The provisions relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(i) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(j) The prohibition against the misuse of the franking priviliege (18 U.S.C. 1719).

(k) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(l) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(m) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(n) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(o) The prohibition against embezzlement of Government money or property (18 U.S.C. 641).

(p) The prohibition against failing to account for public money (18 U.S.C. 643).

(q) The prohibition against an employee's private use of public money (18 U.S.C. 653).

(r) The prohibition against embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(s) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(t) The prohibition against making false entries in official records with intent to defraud or making false reports concerning money and securities with such intent (18 U.S.C. 2073).

(u) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219). The criminal penalties of this section do not apply in any case in which the Secretary sends to the Attorney General a certification that the employment of the agent as a special Government employee is in the national interest.

(v) The prohibition relating to the denial of the right to petition Congress (5 U.S.C. 7102).

(w) The prohibition against a public official appointing or promoting a relative, or advocating such an appointment or promotion (5 U.S.C. 3110).

(x) The prohibition against the employment of an individual convicted of felonious rioting or related offenses (5 U.S.C. 7313).

(y) The prohibition against arbitrary and capricious withholding of agency records requested under the Freedom of Information Act (5 U.S.C. 552).

(z) The prohibition against knowing disclosure of information the disclosure of which is prohibited; the prohibition against willfully maintaining a system of records without appropriate notice provisions; and the prohibition against knowingly and willfully requesting or obtaining any record concerning an individual under false pretenses (5 U.S.C. 552a).

(aa) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service".

(bb) Prohibition against acceptance of an honorarium of more than $2,000 or honoraria totalling more than $25,000 in any calendar year (2 U.S.C. 441i).

§ 1010.203 Salary of an employee payable only by the United States.

(a) No employee, other than a special Government employee or an employee serving without compensation, shall receive any salary, or any contribution to or supplementation of salary, as compensation for services as a Federal employee, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality (18 U.S.C. 209).

(b) Nothing in this section shall be deemed to prohibit an employee from continuing to participate in a bona fide pension, retirement, group life, health, or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer, which does not cause a conflict of interest, nor from accepting contributions, awards, or other expenses under section 4111 ("Acceptance of contributions, awards and other payments") of Title 5, United States Code.

§ 1010.204 Outside employment and other outside activity.

(a) Employees shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of their Government employment. Incompatible activities include, but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest;

(2) Outside employment which tends to impair the employee's mental or physical capacity to perform assigned Government duties and responsibilities in an acceptable manner;

(3) Outside work or activity that takes the employee's time or attention during the employee's official work hours. Examples of the type of work or activity that often can require the employee's time or attention during the employee's official work hours, and which would be prohibited under such circumstances, include:

(i) Lawyers conducting private practice;

(ii) Auditors doing income tax forms for fellow employees or private persons;

(iii) Real estate agents handling home or land buying/selling activities.

(b) An employee who intends to engage in outside employment shall inform the employee's reviewing official and the Counselor in advance of undertaking such activity. In addition, supervisory employees shall obtain advance approval of the employee's reviewing official and the Counselor. A record of each approval under this paragraph shall be filed in the employee's official personnel folder. In addition, a record of each approval shall be retained in the Office of the General Counsel.

(c) Within the limitations imposed by this section, employees are encouraged to engage in teaching, lecturing, and writing. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of the employee's Government employment, except when that information has been made available to the general public or will be made available on request, or when the Secretary gives written authorization for the use of non-public information on the basis that the use is in the public interest. In addition, DOE employees, including Presidential appointees, shall not receive compensation or anything of monetary value (such as an honorarium) for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of DOE, or which draws substantially on official data or ideas which have not become part of the body of public information, or where the sponsor is an interested party.

(d) Though not necessarily outside employment, an employee may accept a fee or other compensation for a private activity which is not prohibited by law or these regulations, after providing notice or receiving advance approval pursuant to paragraph (b) of this section. The amounts of honoraria are limited by 2 U.S.C. 441i.

(e) Except as allowed for training or to attend meetings under section 4111 ("Acceptance of contributions, awards and other payments") of Title 5, United States Code, and Executive Order 10800 ("Implementing the Government Employees Training Act"), no employee shall accept a fee from an outside source on account of a public appearance, a speech, or lecture, if the public appearance or the preparation or delivery of the speech or lecture was a part of the official duties of the employee; if the public appearance, speech, or lecture was made during official working hours; or if travel for the purpose of the public appearance, speech, or lecture was made at Government expense. In addition, no employee shall accept a fee for the preparation, publication, or review of an article, story, or book if it was prepared during official working hours and/or was a part of the official duties of the employee.

(f) An employee shall not engage in outside employment with a State or local government, except in accordance with applicable regulations of the Office of Personnel Management.

(g) This section does not preclude an employee from:

(1) Participation in the activities of national or State political parties not proscribed by law or § 1010.206 of these regulations.

(2) Participation in the affairs of or acceptance of an award for meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational or recreational, public service, or civic organization.

(h) This section does not apply to special Government employees, who are subject to the provisions of subpart F.

§ 1010.205 Gifts, entertainment, and favors.

(a) Acceptance of gifts, entertainment, or favors, no matter how innocently tendered and received, from those who have or seek business with DOE may be a source of embarrassment to DOE and the employee involved, may affect the objective judgment of the recipient and may impair public confidence in the integrity of the business relations between DOE and industry. Therefore, except as provided in paragraph (b) of this section, DOE employees shall not knowingly solicit or accept any gift, entertainment, or favor (including complimentary meals and beverages), either directly or indirectly from any interested party. For the purpose of this section, gifts, entertainment, and favors include, but are not limited to any benefits, gratuities, loans, discounts, tickets, passes, transportation, accommodations, or hospitality given or extended to or on behalf of the recipient. This prohibition, of course, does not preclude an employee from such actions as purchasing his or her own ticket to a function sponsored by an interested party, or sitting at the same table with a representative of an interested party so long as the employee pays for his or her own meal.

(b) The following are generally exceptions to the rule set forth in paragraph (a) of this section; however, employees are cautioned to avoid any situation (even if it might be viewed as one of the stated exceptions) which might raise questions of conflict of interest or reflect discredit upon the Department.

(1) Trophies, entertainment, prizes, or awards given for public service or achievement, or given in contests which are clearly open to the public generally or which are officially approved by the Secretary for DOE employee participation.

(2) Things available impersonally to the general public or classes of the general public, such as a free exhibition at a fair.

(3) Participation in civic and community activities by DOE employees when the relationship with the interested party can reasonably be characterized as remote; for example, participation in a little league Combined Federal Campaign luncheon which is subsidized by an interested party.

(4) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans.

(5) Acceptance of gifts, entertainment, of favors where there is an obvious

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family or personal relationship between the employee and the other party, where the circumstances make it clear that it is that relationship rather than the business of the persons concerened which is the motivating factor for the gift, entertainment, or favor.

(6) Acceptance of food and refreshment of insubstantial value or acceptance of local transportation, while on official business when no provision for individual payment can be made and alternative arrangements are clearly impracticable. This exception would allow a DOE employee attending an informal business meeting at the place of business of an interested party to accept a lunch provided by the interested party where arrangements for the DOE employee to pay for the lunch are clearly impracticable. Also local transportation may be provided where alternative arrangements are impracticable, such as transportation to and from an offshore drilling rig on official business, or contractor-provided transportation from an airport to a remote site for business purposes.

(7) Exchanges of food, refreshments, and social amenities with representatives of foreign governments or international organizations, where such exchanges are in accordance with diplomatic custom and are clearly incident to the conduct of official business.

(8) Consistent with the guidelines set forth in paragraph (d) of this section, acceptance of transportation, lodging, or subsistence from foreign governments or international organizations where the offer of such services is pursuant to the performance of functions under a treaty or United States Statute (e.g., Statute of the International Atomic Energy Agency).

(9) Consistent with the guidelines set forth in paragraph (d) below, acceptance of transportation, lodging, or subsistence from an entity providing training pursuant to a contract with a Federal Department of Agency, by a DOE employee serving as an instructor or lecturer at such training.

(10) Acceptance of gifts from foreign governments, under limited circumstances, in accordance with 5 U.S.C. 7342, as amended by Pub. L. 95–105, § 515 (August 15, 1977), and implementing regulations. Any such gift or thing which cannot appropriately be refused will be brought to the attention of the Counselor for advice concerning appropriate disposition.

(11) Acceptance of food and refreshment, or, consistent with the guidelines set forth in paragraph (d) of this section, acceptance of transportation, lodging, or subsistence, from a university or other educational institution, or from a consumer, environmental, industrial, technical, trade, professional, or other association or similar group, in connection with a DOE employee's participation in a widely attended luncheon, dinner, seminar, conference, or similar gathering sponsored by the donor. Such acceptance will be permitted only when the employee's reviewing official has determined it to be in the Government's interest and the Counselor has granted prior approval. Acceptance of transportation, lodging, or subsistence will not be permitted under this exception when the donor is an energy concern or an association or similar group composed mostly of energy concerns.

(12) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(13) Situations not specifically covered by paragraphs (b)(1)–(12) of this section where, in the judgment of the individual concerned, the Government's interest will be served and where the Counselor has granted prior approval.

(c) An employee shall not accept transportation, lodging, or subsistence while on official travel from any source outside DOE that is not an interested party, unless such acceptance is consistent with the rules for acceptance from interested parties set forth in paragraph (b) of this section.

(d) When transportation, lodging, or subsistence, in kind, is furnished to an employee by any source outside DOE in connection with official travel, appropriate deductions shall be made in the travel, per diem, and other allowances otherwise payable to the employee. An employee may not accept personal reimbursement from a source outside DOE for expenses incident to official travel, unless authorized pursuant to 5 U.S.C. 4111 or other express statutory authority; rather, any reimbursement must be made to the Government by check payable to the Department of Energy; personnel will be reimbursed by the Government in accordance with travel regulations. In no case shall an employee accept benefits which are under prudent standards extravagent or excessive in nature.

§ 1010.206 Political activity.

(a) All employees in the Executive Branch of the Federal Government are subject to basic political activity restrictions in subchapter III of Chapter 73 of Title 5, U.S.C. (commonly known as the Hatch Act) and Civil Service Rule IV (5 CFR Part 4). Employees are individually responsible for refraining from prohibited political activity. Ignorance of a prohibition does not excuse a violation. This section summarizes provisions of law and regulation concerning political activity of employees.

(b) Employees on leave, on leave without pay, or on furlough or terminal leave, even though the employee's resignations have been accepted, are subject to the restrictions. A separated employee who has received a lump-sum payment for annual leave, however, is not subject to the restriction during the period covered by the lump-sum payment or thereafter, provided the employee does not return to Federal employment during that period. An employee is not permitted to take leave of absence to work with a political candidate, committee, or organization or become a candidate for office with the understanding that the employee will resign his position if nominated or elected.

(c) An employee is accountable for political activity by another person acting as the employee's agent or under the employee's direction or control if the employee is thus accomplishing indirectly what may not lawfully be done directly and openly.

(d) Section 7324 of Title 5, U.S.C., provides that employees have the right to vote as they please and the right to express their opinions on political subjects and candidates. Generally, however, they are prohibited from taking an active part in political management or political campaigns or using official authority of influence to interfere with an election or affect its results. The following are exemptions from the restrictions of the statute:

(1) Employees may engage in political activity in connection with any question not specifically identified with any National or State political party. They also may engage in political activity in connection with an election if none of the candidates represent a party any of whose candidates for presidential elector received votes at the last preceding election at which presidential electors were selected.

(2) An exception relates to political campaigns in communities adjacent to the District of Columbia or in communities the majority of whose voters are employees of the Federal Government. Communities in which the exception applies are specifically designated by the Office of Personnel Management. Information regarding the localities and the conditions under which the exceptions are granted may be obtained from the personnel office or the Counselor.

(3) Employees who work on an irregular or occasional basis are exempt on those days during which they are at no time in active duty status.

(4) The Secretary as well as other officials appointed by the President by and with the advice and consent of the Senate, who determine policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws are exempt from the prohibitions concerning active participation in political management and political campaigns.

(e) There are restrictions other than those imposed by subchapter III of Chapter 73 of Title 5, U.S.C. (the Hatch Act), and Civil Service Rule IV which relate to:

(1) Political contributions and assessments;

(2) Circulars of solicitation;

(3) Solicitation in Federal buildings;

(4) Solicitation by letter;

(5) Payment by one employee to another;

(6) Discrimination because of political contributions;

(7) Purchase and sale of public office;

(8) Political recommendations and discrimination; and

(9) Other criminal offenses set forth in 18 U.S.C., Chapter 29.

Further information concerning these restrictions may be obtained from the Counselor.

§ 1010.207 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property including equipment, supplies, and other property entrusted or issued to the employee.

§ 1010.208 Nondiscrimination.

An employee shall not be discriminated against because of race, color, religion, national origin, sex, age, politics, marital status, or on the basis of a physical handicap with respect to any position the duties of which may be efficiently performed by a person with a physical handicap. This prohibition applies to both employment and utilization of DOE employees.

§ 1010.209 Misuse of information.

(a) For the purpose of furthering a private interest, an employee shall not, except as provided in paragraph (c) of § 1010.204, directly or indirectly use, or allow the use of, official information obtained through or in connection with the employee's Government employment which has not been made available to the general public.

(b) An employee of DOE shall not improperly divulge or disclose any trade secrets, processes, financial data, or other business information which is submitted to or filed with DOE on a confidential basis.

(c) In addition to the prohibitions specified in paragraphs (a) and (b) of this section, employees are subject to the prohibition imposed by section 68a of the Atomic Energy Act of 1954, 42 U.S.C. 2098(a), "Public and Acquired Lands":

No individual, corporation, partnership, or association, which had any part, directly or indirectly, in the development of the atomic energy program, may benefit by any location, entry, or settlement upon the public domain made after such individual, corporation, partnership, or association took part in such project, if such individual, corporation, partnership, or association, by reason of having had such part in the development of the atomic energy program, acquired confidential official information as to the existence of deposits of uranium, thorium, or other materials in the specific lands upon which such location, entry, or settlement is made and subsequent to August 30, 1954, made such location, entry, or settlement, or, caused the same to be made for his, or its, or their benefit.

§ 1010.210 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as a Federal, State, or local tax. For the purpose of this section, "in a proper and timely manner" means in a manner which DOE determines does not, under the circumstances, reflect adversely on the Government. Also, for the purpose of this section, a "just financial obligation" means one acknowledged by the employee, or reduced to judgment by a court, or one imposed by law such as Federal, State, or local taxes; any other debt contested in good faith by an employee is not subject to this section. In the event of dispute between an employee and an alleged creditor, this section does not require DOE to determine the validity or amount of the disputed debt.

§ 1010.211 Gambling, betting, and lotteries.

(a) An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

(b) This section does not preclude activities:

(1) Necessitated by an employee's law enforcement duties; or

(2) Under section 3 of Executive Order 10927 (on Conduct of Fund Raising Activities) and similar Department-approved activities.

§ 1010.212 Handling of funds entrusted by fellow employees.

No employee shall receive, retain, or disburse funds entrusted to the employee by fellow employees (e.g., credit union deposits or donations to charitable organizations) except with the utmost care in the safeguarding of such funds and the maintenance of full and complete records with regard to the receipt, custody, and disbursement of such funds. Such records shall be made available to appropriate authorities upon proper request.

§ 1010.213 Endorsements.

(a) Employees are prohibited from endorsing in an official capacity the proprietary products or processes of manufacturers or the services of commercial firms for advertising, publicity; or sales purposes. Use of materials, products, or services by the Department does not constitute official endorsement.

(b) Employees are prohibited from engaging in outside employment or other outside activity which identifies DOE or any employee in an official capacity with any organization commercializing products relating to work conducted by DOE or with any commercial advertising matter.

§ 1010.214 Use of credentials.

Credentials and other Department of Energy identification devices are for use only in establishing identity or authority in connection with official business. Such credentials and identification devices or an employee's official position, status, or designation are not to be used by employees to exert influence or obtain—either directly or indirectly—privileges or rewards for themselves or others.

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§ 1010.215 General conduct prejudicial to the Government.

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct or other conduct prejudicial to the Government.

§ 1010.216 Guidelines for Economic Regulatory Administration employees in conduct of audits.

(a) When an employee of the Economic Regulatory Administration receives an assignment involving a person acting as either principal, or agent, with whom the employee has had a prior social or business association or any relationship which might impair or give the appearance of impairing the employee's impartiality or independence, the employee will discuss with his supervisor the possible need to have the assignment transferred to another employee.

(b) During the execution of the assignment, an employee should not enter into a social or business association with any person who is a principal or agent of the firm being audited, or into any relationship which might impair, or give the appearance of impairing his impartiality or independence. Should such a relationship develop, the employee will discuss with his supervisor the possible need to have the assignment transferred to another employee.

Subpart C—Restrictions on Financial, Employment, and Similar Interests

§ 1010.301 General.

(a) The maintenance of public confidence in the Government clearly demands that a DOE employee take no action which would constitute the use of official position to advance personal or private interests.

(b) All employees must read carefully this subpart to ascertain those restrictions applicable only to certain classes of DOE employees. Any question concerning the class in which an individual belongs should be directed to the reviewing official concerned.

(c) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with the employee's Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through Government employment which has not been made available to the general public.

§ 1010.302. Restrictions concerning private financial interests.

(a) *All employees (18 U.S.C. 208).* Unless authorized to do so as provided hereafter in this section, no employee shall participate personally and substantially as a Government employee in a particular matter in which the employee knowingly has a financial interest.

(1) For purposes of this section—

(i) An employee "participates" in a particular matter through decision, approval, disapproval, recommendations, the rendering of advice, investigation or otherwise.

(ii) A "particular matter" is a judicial or other proceeding, application, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other such matter.

(iii) A "financial interest" includes the interest of the employee or the employee's spouse, minor child, partner, organization in which the employee is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the employee is negotiating or has an arrangement concerning prospective employment. An employee shall be deemed to be negotiating for prospective employment upon an expression of interest in response to a solicitation for future employment by either the employee or the person or organization.

(2) *Administrative waiver.* The employee's reviewing official may waive the restrictions of paragraph (a) in a particular matter for an individual if the employee's reviewing official determines in writing that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of the individual. See subpart E, § 1010.501(b) for procedures applicable to this waiver. Where it appears that the conflict of interest would arise in other matters in which the employee would be involved in the performance of normal duties, remedial action shall be taken.

(3) *Waiver by rule or regulations.* The Secretary may by rule or regulation waive the restrictions of paragraph (a) of this section for classes of financial interest which the Secretary determines are too remote or too inconsequential to affect the integrity of an employee's services. (See §1010.501.) The restrictions on the following financial interests are waived pursuant to this paragraph:

(i) Financial interests in mutual funds or regulated investment companies the portfolios of which are widely diversified, and similarly constituted, commercially fungible entities.

(ii) [Reserved]

(b) *Supervisory employees (42 U.S.C. 7212)* (Applicable to FERC). In addition to the above restrictions, no supervisory employee shall knowingly receive compensation from, or hold any official relation with, any energy concern, or own stocks or bonds of any energy concern, or have any pecuniary interest therein.

(1) All supervisory employees shall comply with the provisions of paragraph (b) prior to assuming their duties in the DOE.

(2) Waivers of the restrictions of paragraph (b) may be requested in accordance with § 1010. 501.

(c) *Employees holding positions listed in Appendix IV (30 U.S.C. 1211(f)).* No employee holding a position listed in Appendix IV shall have a direct or indirect financial interest in underground or surface coal mining operations. Such covered employees shall comply with the provisions of this paragraph prior to assuming their duties in DOE.

(d) Notwithstanding the reporting requirements of subpart D, any employee who has a financial interest (other than a financial interest waived under paragraph (a)(3) of this section) in a particular matter which is within the scope of the employee's official duties shall make a full disclosure of that interest in writing to both the employee's reviewing official and the Counselor at such time as the employee acquires the financial interest or begins participating in the particular matter.

§ 1010.303 Postemployment restrictions.

(a) *All employees (18 U.S.C. 207).* After Government employment has ceased, no former employee may:

(1) Knowingly act as agent or attorney for anyone other than the United States in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or has an interest and in which the former employee participated personally and substantially for the Government through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise; and

(2) Appear personally before any Government court, department or agency as agent or attorney for anyone other than the United States in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or has an interest and which was within the boundaries of the former employee's official responsibilities during the last year of that employee's Government service, for a period of one year after termination of the employee's official responsibility for that matter.

(b) *Supervisory employees (42 U.S.C. 7215).* (Applicable to FERC) In addition to the above, for one year after employment with DOE ceases, except as provided in paragraph (b)(2), no supervisory employee shall knowingly make any appearance or attendance (see § 1010.103(c)) before the Department, or make any written or oral communication to, with the intent to influence the action of, the Department, if such appearance or communication relates to any particular matter which is pending before the DOE.

(1) The prohibition in paragraph (b) does not prevent a former supervisory employee from responding to requests from DOE officials for information relating to the former employee's duties in the Department.

(2) The prohibition in (b) shall not apply to:

(i) Any appearance, attendance or communication by a former supervisory employee who is employed by and acting on behalf of, the United States; or

(ii) Any appearance or communication by the individual where such appearance or communication is made in response to a subpoena, or concerns any matter of an exclusively personal and individual nature such as pension benefits.

(c) *Scientific and technological waiver.* (Applicable to FERC) The Secretary or the Chairman may waive the provisions of this section for a former DOE employee in connection with a particular matter in a scientific or technological field, if the Secretary or the Chairman, as appropriate, determines that the national interest would be served by such waiver because the former employee possesses outstanding scientific or technological qualifications. (See § 1010.501.)

(d) A limited exception from the restrictions contained in paragraph (a) is available, pursuant to the Indian Self-Determination Act (25 U.S.C. 450i(f)), to former employees who are employed by Indian tribes.

§ 1010.304 Participation prohibitions.

(a) *All employees (18 U.S.C. 203 and 205).* No employee except in the proper discharge of official duties shall represent anyone before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another.

(1) A special Government employee is subject to this restriction only if it is a matter in which that employee participated personally and substantially for the Government.

(2) Notwithstanding (a)(1), no special Government employee who has served more than 60 days during the preceding 365 days may represent anyone else in a matter pending before DOE.

(3) Waivers from the prohibitions of this paragraph are permitted in accordance with § 1010.501.

(b) *Supervisory employees (42 U.S.C. 7216).* (Applicable to FERC) No supervisory employee shall knowingly participate:

(1) For a period of one year after terminating any employment with any energy concern, in any Department proceeding in which the supervisory employee's former employer is substantially, directly, or materially involved, other than in a rulemaking proceeding which has a substantial effect on numerous energy concerns; or

(2) For a period of one year after commencing service in the DOE, in any Department proceeding for which, within the previous 5 years, the supervisory employee had direct responsibility, or in which the supervisory employee participated substantially or personally, while in the employment of any energy concern.

(c) (Applicable to FERC) The Secretary or the Chairman, as appropriate, may waive the restrictions of paragraph (b) in accordance with § 1010.501.

(d) A limited exception from the restrictions contained in paragraph (a) of this section is available, pursuant to the Indian Self-Determination Act (25 U.S.C. 450i(f)), to employees who are assigned to Indian tribes.

§ 1010.305 Assignees pursuant to the Intergovernmental Personnel Act and the President's Executive Interchange Program.

(a) (Applicable to FERC) The DOE may utilize individuals assigned under the Intergovernmental Personnel Act and the President's Executive Interchange Program. However, no individual will be invited by the DOE to participate in such programs if such individual would be a supervisory employee in the DOE and the business, government or institution by whom such individual is employed is an energy concern, unless the Secretary or the Chairman, as the case may be, grants an appropriate waiver pursuant to § 1010.501.

(b) Reviewing officials proposing to utilize an individual under the Intergovernmental Personnel Act or the President's Executive Interchange Program shall, prior to commencing negotiations with such individual, or the individual's current employer, submit to the Counselor, the individual's name, proposed position, salary, and current employer. The Counselor shall then determine whether it is appropriate to utilize such individual.

§ 1010.306 Exceptions and waivers.

(a) Nothing in this subpart shall be deemed to prohibit employees, if it is not otherwise inconsistent with the faithful performance of their duties, from representing without compensation any person in a disciplinary, loyalty, or other Federal personnel administrative proceeding involving such person.

(b) Provided that an employee obtains prior approval, or provides advance notification in accordance with the provisions of § 1010.204 regarding outside employment, nothing in these regulations shall be deemed to prohibit employees from representing, with or without compensation, their parents, spouse, child, or any person for whom, or for any estate for which, they are serving as guardian, executor, administrator, trustee, or other personal fiduciary, *except* in those matters in which they have participated personally and substantially as Government employees, or which are the subject of their official responsibilities.

(c) Nothing in these regulations shall be deemed to prohibit employees from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

(d) (Applicable to FERC) Nothing in this subpart shall prevent employees from requesting a waiver pursuant to subpart E.

Subpart D—Reports

§ 1010.401 General (applicable to FERC).

(a) The Director of Personnel shall provide appropriate forms to new employees prior to their assumption of duties in the Department, and to a DOE employee assigned new duties prior to the employee's assumption of such new duties. The Director of Administration shall provide Form DOE–459 to DOE employees annually prior to May 1.

(b) Forms DOE–459 and DOE–460 shall be filed no later than the times stated in §§ 1010.403, and 1010.405 with the employee's reviewing official who

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shall make a determination regarding financial interests therein revealed. The reviewing official shall complete this review and forward each form with the relevant determination to the Counselor within 15 days of receipt of the form.

(c) The Counselor shall review Form DOE–461 pursuant to § 1010.406 and other forms and determinations following receipt from the reviewing officials.

(1) The Counselor or the reviewing official in coordination with the Counselor may require divestiture of certain financial interests pursuant to § 1010.302. Any required divestiture action shall be taken within the time required by the Counselor or reviewing official and confirmed in writing.

(2) A required divestiture action may be appealed pursuant to § 1010.503, or a waiver may be requested pursuant to § 1010.501 within 30 days of receipt of such advice.

(d) An employee may request from the Counselor an extension(s) of time for filing Form DOE–459. The Counselor may grant such extensions for periods up to a total of 90 days.

(e) Persons aggrieved by application of this subpart may proceed in accordance with § 1010.503.

§ 1010.402 Availability of reports (applicable to FERC).

(a) Reports under the provisions of §§ 1010.403(b), 1010.405(a)(1) and 1010.406(a)(1) will be made available to the public. Reports under the provisions of §§ 1010.403(c), 1010.405(a)(2) and 1010.406(a)(2) will be held in confidence.

(b) Reports required by law to be publicly available shall be made available at a location specified by the Counselor within 30 days after receipt of the reports by the reviewing official, or in the case of Form DOE–461, within 30 days after receipt by the Counselor.

(c) Written requests for copies of publicly available reports should be addressed to:

The General Counsel, Department of Energy or Federal Energy Regulatory Commission, (as appropriate) Washington, D.C. 20585 (20426 for FERC).

(1) Persons requesting copies of reports may be required to pay a reasonable fee which may be necessary to recover the cost of reproduction and mailing of such reports.

(d) Publicly available reports will be retained by the Counselor for six years.

(e) A file of the waivers granted pursuant to § 1010.501, shall be available from the Counselor for inspection and copying during regular working hours.

(f) A record of persons requesting access pursuant to this section to any particular employee's reports shall be maintained by the Counselor and shall be available to that employee. The Counselor shall notify an employee whenever access to the employee's reports has been requested pursuant to this section.

§ 1010.403 Statements of employment and financial interests and interests in energy concerns.

(a) (Applicable to FERC) The Secretary or the Chairman, as appropriate, shall identify specific positions, or classes thereof, within the Department which are of a nonregulatory or nonpolicymaking nature at or below GS–12 of the General Schedule and shall exempt such positions and the individuals occupying those positions from the reporting requirements of section 603 of the Department of Energy Organization Act. Such exempted positions are listed in Appendix I. The requirements of this section are applicable to all employees, except those whose positions are specifically listed in Appendix I.

(b) Form DOE–459, Part A. (Applicable to FERC) This report of interests in energy concerns:

(1) Shall be publicly available;

(2) Shall include information as requested in the sample form in Appendix III A;

(3) Shall be completed by employees within 30 days of commencement of service in the Department and on every May 15 thereafter. Notwithstanding the allowable 30 day period, prospective supervisory employees and prospective special Government employees and their appointing officials are urged to assure the filing of such reports and their appropriate review by the Counselor to identify and avoid potential violations of section 602 of the DOE Organization Act (§ 1010.302(b) of these regulations) prior to entry on duty; and

(4) Shall satisfy the requirements of section 522 of the Energy Policy and Conservation Act (EPCA), Pub. L. 94–163, section 601 *et seq.* of the DOE Organization Act, Pub. L. 95–91, and section 308 of Pub. L. 95–39.

(c) Form DOE–459, Part B. (Applicable to FERC) This confidential statement of employment and financial interests:

(1) Shall be held in confidence;

(2) Shall include that information requested on the sample form in Appendix III A; and

(3) Shall be filed by employees within 30 days of commencement of service in the DOE and on each May 15 thereafter. Notwithstanding the allowable 30 day period, prospective supervisory employees and prospective special Government employees and their appointing officials are urged to assure the filing of such reports and their appropriate review by the Counselor to identify and avoid potential violations of 18 U.S.C. 208 (§ 1010.302(a) of these regulations) prior to entry on duty.

(d) (Applicable to FERC) Employees required to file Form DOE–459 who cease to be DOE employees during any calendar year shall file the report within 30 days of the date of termination concerning that portion of such year beginning on January 1 and ending on the date employment terminates.

(e) Special Government employees shall keep the Form DOE–459 current throughout their employment with the Department by submission of supplementary statements, as needed, in addition to the annual report.

§ 1010.404 Statement of interests in coal mining operations.

(a) All employees occupying positions listed in Appendix IV as involving functions under the Surface Mining Control and Reclamation Act (Pub. L. 95–87) must so indicate on Part C of Form DOE–459.

(b) Each employee occupying a position listed in Appendix IV must certify in Part C of Form DOE–459 that none of the listed financial interests represent a direct or indirect financial interest in an underground or surface coal mining operation except as specifically indentified and described.

§ 1010.405 Prior employment report—Supervisory employees (applicable to FERC).

(a) Each supervisory employee shall file Form DOE–460 identifying any entity which paid that employee compensation in excess of $2,500 in the calendar year in which he is reporting or in any of the five preceding calendar years.

(1) Those entities which the supervisory employee believes to be energy concerns shall be listed in part A of the report.

(2) Other entities shall be listed in part B.

(b) Such report shall include information as requested on the sample form in Appendix III B.

(c) Such report need not include:

(1) Any information considered confidential as a result of a privileged relationship, recognized by law, between such supervisory employee and any person; or

(2) Any information with respect to any person for whom services were provided by any firm or association of which such supervisory employee was a member, partner, or employee unless such supervisory employee was directly involved in the provision of such services.

(d) Part A of the report listing energy concerns shall be available to the public.

(e) Such report shall be filed within 60 days of becoming a supervisory employee in the DOE. Notwithstanding the allowable 60 day period, prospective supervisory employees and their appointing officials are urged to assure the filing of such reports and their appropriate review by the Counselor to identify and avoid potential violations of section 606 of the DOE Organization Act (§ 1010.304 of these regulations) prior to commencement of supervisory employee functions.

§ 1010.406 Postemployment report—Supervisory employees (applicable to FERC).

(a) Each former supervisory employee shall file with the Counselor a report, Form DOE–461, describing any employment with any entity during the period to which such report relates, including any employment as a consultant, agent, attorney, or otherwise.

(1) Those entities which the former supervisory employee believes are energy concerns shall be listed in part A of the report.

(2) The other entities shall be listed in part B.

(b) Such report shall include that information requested on the sample form in Appendix III C.

(c) Part A of this report listing energy concerns shall be available to the public.

(d) This requirement shall not apply to an individual who, at the time employment with DOE ceases, has any contract, promise, or other agreement with respect to future employment with an energy concern, provided:

(1) The individual describes such agreement in any publicly available report filed within 30 days after the individual ceases to be an employee of the DOE (including Form DOE–459); and

(2) The individual amends such report by May 15 of either of the next 2 years during which the individual has accepted any other employment.

(e) Reports under paragraph (a) of this section shall be filed in the first and second calendar years (no later than May 15 of each such year) following December 31 of the calendar year in which the reporting individual ceased to be an officer or employee of the DOE.

§ 1010.407 Filing of Forms DOE–459, DOE–460, and DOE–461 (applicable to FERC).

(a) Form DOE–459:

(1) Form DOE–459 shall be submitted by all employees whose positions are *not* listed in Appendix I.

(2) Form DOE–459 shall be submitted in accordance with § 1010.403.

(b) (1) Reviewing officials shall, as of April 15 of each year, review the positions under their jurisdiction and determine, in accordance with Appendix I, the positions which require the submission of reports from their incumbents. The affected employees shall be notified of that fact and shall be furnished with copies of the report form by their reviewing officials. By copy of the notification (or a list of the names, grades and positions of employees required to file reports), the Counselor shall be informed by the reviewing officials of those employees required to submit forms.

(2) Whenever a new position is established, the reviewing official shall determine whether the position calls for the submission of a form in accordance with Appendix I. If it is determined that a report is a requirement, the individual to be assigned to that position shall be notified (with copy to the Counselor) of the requirement (see § 1010.403 for filing procedures).

(c) Notwithstanding the filing of the annual reports required by these regulations, each employee shall at all times avoid acquiring a financial interest that could result in a violation of the conflicts of interest provisions of these regulations.

(d) *Form DOE–460 (Report on prior employment).*

(1) Form DOE–460 shall be submitted in accordance with § 1010.405.

(2) Form DOE–460 shall be submitted by all supervisory employees.

(e) *Form DOE–461 (Postemployment report).*

(1) Form DOE–461 shall be submitted in accordance with § 1010.406.

(2) Form DOE–461 shall be submitted by all former supervisory employees.

(3) Form DOE–461 shall be filed with the Counselor not later than May 15 of the first and second calendar years following the first full year such former employee ceased to be an employee of the DOE.

(f) Upon completion of processing, copies of reports shall be filed in the office of the Counselor.

(g) The reports required of employees by this subpart are in addition to, not in substitution for or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a report by an employee or the absence of any requirement that an employee submit such a report does not permit the employee or any other person to participate in a matter in which the employee's or the other person's participation is prohibited by law, order, or regulation.

(h) To whom reports are to be submitted (Headquarters). Submission of required reports shall be to the reviewing official as indicated below:

(1) To the Director, Office of Government Ethics, (Government-wide Forms) and to the appropriate Counselor (Forms DOE–459, 460, and 461):

(i) The Secretary.

(ii) The Commissioners of FERC.

(2) To the Secretary:

(i) Members of the Secretary's immediate staff.

(ii) The Deputy Secretary.

(iii) The Under Secretary.

(iv) Special Government employees reporting directly to the Secretary.

(3) To the Deputy Secretary:

(i) Members of the Deputy Secretary's immediate staff.

(ii) Special Government employees reporting directly to the Deputy Secretary.

(iii) Heads of DOE organizational components who report directly to the Deputy Secretary.

(iv) Level 2 personnel (Assistant Secretary, Administrator EIA, Administrator ERA, Inspector General, Director ER, Director AD, Controller, General Counsel, Director PR, or equivalent) except those who report directly to the Under Secretary.

(4) To the Under Secretary:

(i) Members of the Under Secretary's immediate staff.

(ii) Special Government employees reporting directly to the Under Secretary.

(iii) Heads of DOE organizational components who report directly to the Under Secretary.

(5) To the Chairman of the Commission:

(i) Members of the Chairman's immediate staff.

(ii) Special Government employees reporting directly to the Chairman.

(iii) Heads of FERC organizational components who report directly to the Commission.

(6) To appropriate level 2 supervisor (Assistant Secretary, Administrator EIA, Administrator ERA, Inspector General, Director ER, Director AD, Controller, General Counsel, Director PR, or equivalent):

(i) Members of the level 2 supervisor's immediate staff.

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(ii) Special Government employees reporting directly to the level 2 supervisor.

(iii) Level 3 personnel (Office Directors or equivalent) under the jurisdiction of such level 2 supervisor.

(7) To appropriate level 3 supervisor (Office Director or equivalent):

(i) Members of the level 3 supervisor's immediate staff.

(ii) Special Government employees reporting directly to the level 3 supervisor.

(iii) Level 4 personnel (Division Director or equivalent) under the jurisdiction of such level 3 supervisor.

(8) To appropriate level 4 supervisor (Division Director or equivalent):

All other employees or special Government employees required by these regulations to submit a report.

(9) In special situations, the Counselor may arrange for submission of reports to other than the employee's normal reviewing official.

(i) To whom reports are to be submitted (Field Organizations). Submission of required reports shall be to the reviewing official as indicated below.

(1) To Regional Representative, Administrator of Power Administration, Manager of Operations Office, Director of Energy Technology Center, or equivalent.

(i) Members of that official's immediate staff.

(ii) Special Government employees reporting directly to that official.

(iii) Assistant Managers, Assistant Administrators, Area Managers, heads of other field organizational components who report directly to that official, or equivalent.

(2) To Assistant Managers, Assistant Administrators, Area Managers, heads of other field organizational components who report directly to officials listed in paragraph (i)(1) hereof, or equivalent.

(i) Members of that official's immediate staff.

(ii) Special Government employees reporting directly to that official.

(iii) Office Directors, Division Directors, heads of other field organizational components who report directly to that official, or equivalent.

(3) To Office Directors, Division Directors, heads of other field organizational components who report directly to officials listed in paragraph (i)(2) hereof, or equivalent:

All other employees or special Government employees required by these regulations to submit a report.

(4) In special situations, the Counselor may arrange for submission of reports to other than the employee's normal reviewing official.

Subpart E—Procedures and Sanctions

§ 1010.501 Waivers.

(a) (Paragraphs (a)(1), (a)(2) and (a)(4) are Applicable to FERC.) Waivers may be granted of the requirements and restrictions in:

(1) Section 1010.302(b) (prohibited interests for supervisory employees) if the Secretary or the Chairman, as appropriate, finds that application of the restrictions would work an exceptional hardship on the supervisory employee or that the prohibited interest is a pension, insurance, or other similarly vested interest;

(2) Section 1010.304(b) (participation prohibitions for supervisory employees) if the Secretary or the Chairman, as appropriate, finds that application of the restrictions would work an exceptional hardship on the supervisory employee or would be contrary to the national interest;

(3) Section 1010.302(a) (participation restrictions in particular matters for all employees) if the Secretary by rule or regulation finds that a particular interest is too remote or too inconsequential to be one which can be expected to cause a conflict of interest for any employee who may hold that interest; (see also § 1010.501(b))

(4) Section 1010.303 (a) and (b) (postemployment restrictions for all former employees and former supervisory employees, respectively) if the Secretary or the Chairman, as the case may be, finds that the national interest would be served if a former employee with outstanding scientific or technological qualifications were permitted to appear, attend, or communicate with the DOE, in connection with a particular matter in a scientific or technological field; and

(5) Section 1010.304 (a)(1) and (2) (participation prohibitions for special Government employees) if the Secretary finds that the national interest would be served if a special Government employee were permitted to represent another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States.

(b) The employee's reviewing official in consultation with the Counselor may waive the provisions of § 1010.302(a) if he finds that the individual employee's financial interest is not so substantial as to be likely to affect the integrity of the services which the Government may expect of that employee.

(c) (Applicable to FERC) An employee requesting a waiver under paragraph (a) or (b) of this section shall submit a written request for waiver to the employee's reviewing official. The request shall explain the employee's duties, the nature of the conflict of interest, potential conflict of interest, or appearance of conflict of interest, the effect on the employee of the restriction or prohibition for which the employee seeks the waiver, and the reasons why the waiver should be granted.

(1) In the case of requests under paragraph (a) of this section, the reviewing official shall review the request and forward the request with the reviewing official's recommended action to the Counselor. The Counselor will review the request and the reviewing official's recommendation and, where appropriate, forward a waiver statement to the Secretary or the Chairman, as appropriate, for approval and signature.

(2) In the case of requests under paragraph (b) of this section, the employee's reviewing official, in consultation with the Counselor, shall review and determine in writing whether to grant the request.

(d) (Applicable to FERC) Waivers under paragraphs (a)(1), (a)(3), or (a)(4) of this section shall be published in the Federal Register.

(e) (Applicable to FERC) Waivers under paragraph (a)(2) of this section shall be filed with any record of the Department proceeding as to which the waiver, for purposes of participation, is granted.

(f) Waivers under paragraphs (a)(5) or (b) of this section shall be filed in the employee's conflicts of interest file maintained by the Counselor.

§ 1010.502 Sanctions.

(a) *General criminal sanctions.* (1) Violations of 18 U.S.C. 203, 205, or 208 (§§ 1010.302 or 1010.304 of these regulations) may result in a fine of $10,000 or imprisonment for 2 years, or both.

(2) Violations of 18 U.S.C. 207 or 209 (§§ 1010.203, or 1010.303 of these regulations) may result in a fine of $5,000 or imprisonment for 1 year, or both.

(b) (Applicable to FERC) Criminal and civil sanctions under the DOE Organization Act.

(1) Any individual who is subject to, and knowingly violates, section 603 of the DOE Organization Act (§ 1010.403(b) of these regulations) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

(2) Any individual who violates any of sections 602 through 606 of the DOE Organization Act (§§ 1010.302(b), 1010.303(b), 1010.304(b), 1010.403, 1010.405, or 1010.406 of these regulations) shall be subject to a civil penalty, assessed by the Secretary or the Chairman, as appropriate, in accordance with applicable law or by any district court of the United States, not to exceed $10,000 for each violation.

(3) Notwithstanding any penalty imposed under paragraph (b)(1) of this section, any violation of section 605(a) of the DOE Organization Act (§ 1010.303(b) of these regulations) shall be taken into consideration in deciding the outcome of any Department proceeding in connection with which the prohibited appearance, attendance, communication, or submission was made.

(c) (Applicable to FERC) All alleged violations of these regulations shall be referred to the Counselor and the Inspector General. The Counselor shall review the allegations and determine whether the matter should be referred to the Department of Justice for investigation, or is appropriate for investigation by the Inspector General.

(d) (Applicable to FERC) General administrative sanctions.

(1) The Secretary or the Chairman may impose administrative sanctions for violations of these regulations to the fullest extent provided by law and DOE regulations.

(2) Such administrative sanctions may be imposed for violations which include, but are not limited to:

(i) Late submission by employees of required reports; and

(ii) Failure by reviewing officials to perform counseling or review functions.

(e) (Applicable to FERC) (1) An individual shall be deemed to have known of or knowingly committed a described act or to have known of or knowingly held a described status or position if the employee knew or should have known of such act, interest, status, or position.

(2) An employee shall be deemed to have known of or knowingly held an interest in an energy concern if such interest is sold or otherwise transferred to the employee's spouse or dependent while such employee is, or within 6 months prior to the date on which such employee becomes, an employee of DOE.

(3) Placing of an interest under a trust by an individual shall not satisfy the requirement of § 1010.302(b) of these regulations unless none of the interests placed under such trust by such individual consists of known financial interests in any energy concern. Further information concerning trusts may be obtained from the Counselor.

§ 1010.503 Appeals and grievances (applicable to FERC).

(a) An employee may request review by the Counselor of an action or decision by a reviewing official, under these regulations, which adversely affects that employee. Any action or decision by the Counselor pursuant to these regulations may be appealed in writing to the Deputy Secretary, or the Chairman, as appropriate.

(b) The DOE grievance procedure shall be available for review of the following actions and decisions:

(1) Failure to include an employee's position on the list of employees exempt from reporting requirements (Appendix I);

(2) Inclusion of an employee on the list of employees identified as supervisory employees (Appendix II);

(3) Inclusion of employees on the list of employees covered under the Surface Mining Control and Reclamation Act of 1977 (Appendix IV); and

(4) Inclusion of a person or organization on the list of energy concerns.

§ 1010.504 Cancellation of contracts.

The Secretary reserves the right to declare void, in accordance with law, any Department award, contract, decision or other Department action or proceeding in connection with which provisions of statutes or DOE regulations are violated.

Subpart F—Special Government Employees

§ 1010.601 Use of Government employment.

Special Government employees shall not use Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for themselves or other persons, particularly those with whom they have family, business, or financial ties.

§ 1010.602 Use of inside information.

(a) Special Government employees shall not use inside information obtained as a result of Government employment for private gain for themselves or other persons either by direct action on their part or by counsel, recommendation or suggestion to other persons, particularly ones with whom they have family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) A special Government employee may teach, lecture, or write in a manner not inconsistent with § 1010.204(c).

§ 1010.603 Coercion.

Special Government employees shall not use their Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to themselves or other persons, particularly those with whom they have family, business or financial ties.

§ 1010.604 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, special Government employees, while so employed or in connection with their employment, shall not knowingly receive or solicit from a person having business with the DOE anything of value as a gift, gratuity, loan, entertainment, or favor for themselves or other persons, particularly one with whom they have family, business, or financial ties.

(b) The exceptions and limitations set forth in §§ 1010.205 (b), (c) and (d) shall be applicable to special Government employees.

§ 1010.605 Other provisions.

(a) In addition to the requirements of this subpart, special Government employees shall be responsible for knowing the restrictions contained in subparts B, C, and D.

(b) (Applicable to FERC) Any special Government employee who is compensated at an annual rate equal to or greater than a GS–16 of the General Schedule, and who serves for more than 90 days in a calendar year, is considered to be a supervisory employee under these regulations and is subject to the restrictions contained in §§ 1010.302(b), 1010.303(b), and 1010.304(b).

Editorial Note.—The following appendices will not appear in the Code of Federal Regulations.

Appendix I.—List of DOE Positions Exempt From the Disclosure Requirements of Section 603 of the DOE Organization Act

The following is a list of specific positions and classes thereof within the Department of Energy other than the Federal Energy Regulatory Commission, which are of a nonregulatory and nonpolicymaking nature at or below GS–12 of the General Schedule or the equivalent. The individuals occupying these listed positions have been exempted from the disclosure requirements of section 603 of the Department of Energy Organization Act (Pub. L. 95–91).

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Office of the Secretary
(Including the Offices of the Deputy Secretary, Under Secretary, The Special Assistant, and the Office of the Director, Office of the Secretary)

Position Title	Series	Grade
Correspondence Management Technician	301	GS 12 or below
Correspondence Management Assistant	301	"
Correspondence Control Assistant	301	"
Correspondence Control Clerk	301	"
Staff Assistant	301	"
Aide, Cables	301	"
Chief, Cables	301	"
Correspondence Management Analyst	301	"
Administrative Technician	301	"
Correspondence Management Specialist	301	"
Secretary	301	"
Staff Assistant to the Deputy Secretary	301	"
Receptionist	301	"
Confidential Assistant	301	"
Clerk	301	"
Aide to Assistant Administrative Services	301	"
Specialist, Reproduction and Printing	301	"
Staff Assistant for Correspondence	301	"
Messenger	302	"
File Clerk*	305	"
Correspondence Control Assistant	305	"
Clerk-Stenographer	312	"
Secretary	318	"
Secretary-Travel Aide	318	"
Staff Analysis and Documentation Specialist	342	"
Records Specialist	342	GS 10 or below
Word Processor	350	GS 12 or below
Word Processing Specialist	350	"
Word Processing Technician	350	"
Steward	1667	"
Specialist, Office Supplies and Equipment	2005	"
Supply Clerk	2005	"
Courier and Transportation Aide	2101	"
All hourly paid employees in the Office of the Secretary		

Executive Secretariat

Position Title	Series	Grade
Historical Analyst	170	GS 12 or below
Chief, Administrative Correspondence Control Section	301	"
Survey Correspondence Management Specialist	301	"
Correspondence Management Specialist	301	"
Administrative Technician	301	"
Correspondence Control Assistant	301	"
Staff Assistant	301	"
Correspondence Management Technician	301	"
Corespondence Control Clerk	301	"
Confidential Assistant/Secretary	301	"
Document Coordination Analyst	301	"
Assistant Document Coordination Analyst	301	"
Document Control Officer	301	"
Document Control Clerk	301	"
Secretary	301	"
Historical Analyst	301	"
Assistant Archivist	301	"
Assistant Historian	301	"
Staff Historian	301	"
Research Assistant	301	"
Records Analyst	301	"
Correspondence Control Assistant	305	"
Records Assistant	305	"
Correspondence Technician	309	"
Clerk-Stenographer	312	"
Secretary	318	"
Secretary/Administrative Aide	318	"
Clerk-Typist	322	"
Staff Assistant	341	"
Records Specialist	342	"
Archivist	1420	"

Assistant Secretary for
Conservation and Solar Applications
(Includes all Divisions and Offices thereunder)

Position Title	Series	Grade
Contracts Management Information Specialist	301	GS 11 or below
Confidential Secretary	301	GS 12 or below
Research Assistant	301	GS 11 or below
Communications Technician	301	GS 12 or below
Correspondence Management Specialist	301	"
Staff Assistant	301	GS 12 or below
Program Assistant	301	"
Program Support Analyst	301	GS 9 or below
Energy Policy Analyst	301	"
Administrative Services Assistant	301	GS 12 or below
Administrative Assistant	301	"
Clerk (Typing)	301	"
Office Services Assistant	301	"
Mail & Records Clerk	301	"
Energy Conservation Specialist	301	GS 9 or below
Energy Program Assistant	301	GS 12 or below
Management Information Specialist	301	"
Program Support Assistant	301	"
Statistical Program Assistant	301	"
Solar Energy Program Assistant	301	"
Mail & Records Officer	305	"
Mail & Records Clerk	305	"
Clerk-Stenographer	312	"
Secretary (Typing/Steno)	318	"
Secretary (Typist)	322	"
Clerk-Typist	322	"
Administrative Officer	341	"
Management Analyst	343	"
Management Specialist	344	"
Program Analyst	345	GS 9 or below
Budget Analyst	560	GS 12 or below
Public Information Specialist	1081	"
Information Specialist	1082	"

Position Title	Series	Grade
Statistician	1530	GS 12 or below
Statistical Assistant	1531	"
Student Aide	YW 3506	Hourly

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Assistant Secretary for Defense Programs
(Including all Divisions and Offices thereunder)

Position Title	Series	Grade
International Safeguards Specialist	080	GS 12 or below
Screener Analyst	080	"
Screener	080	"
Security Officer	080	"
Physical Security Specialist	080	"
Assessments Reports Specialist	080	"
Systems Specialist	080	"
Security Specialist	080	"
Technical Reviewer	080	"
Special Security Officer	080	"
Personnel Security Analyst	080	"
Intelligence Reference Aide	080	"
Staff Assistant	131	"
Intelligence Research Specialist	132	"
Staff Assistant	132	"
Administrative Clerk	301	"
Administrative Assistant	301	"
Clerk, CPCI	301	"
Chief, CPCI	301	"
Clerk-Typist	301	"
H.Q. File Supervisor	301	"
T.S. Control Clerk	301	"
File Clerk	301	"
Pre-Screening and Reviewing Clerk	301	"
Intelligence Reference Aide	301	"
Budgetary and Reports Analyst	301	"
Management Analyst	301	"
Project Control Analyst	301	"
Emergency Operations Coordinator	301	"
Data Base Maintenance and Retrieval Assistant	301	"
Staff Assistant	301	"
Mail Clerk	301	"
Chief, Records Section	305	"
Assistant Chief, Records Section	305	"
Records Assistant	305	"
Code and Reference Clerk	305	"

Position Title	Series	Grade
Mail and Records Analyst	305	GS 12 or below
Mail and Records Clerk	305	"
Mail/Records Supervisor	305	"
Mail/Records Assistant	305	"
Clerk, CPCI	305	"
Mail and File Clerk	305	"
Clerk Stenographer	312	"
Secretary	312	"
Secretary	318	"
Secretary Typist	322	"
Clerk Stenographer	322	"
Clerk Typist	322	"
Administrative Officer	341	"
Chief, Administrative Branch	341	"
Management Specialist	343	"
Budget Assistant	501	"
Budget and Accounting Analyst	560	"
Program Analyst	560	"
Nuclear Engineer	840	GS 9 or below
Visual Aid Specialist	1001	GS 12 or below
Classification Analyst	1301	"
Classification Analyst	1310	"
Foreign Affairs Specialist	1320	"
Weapon Data Clearance Specialist	1412	"
Safeguards Reference and Research Assistant	1412	"
Nuclear Materials Statistician	1530	"
Staff Assistant to the Director of Military Applications	Military	E-9 or below

Assistant Secretary for Energy Technology
(Including all Divisions and Offices thereunder)

Position Title	Series	Grade
Mineral Economist	110	GS 12 or below
Research Assistant	170	"
Staff Assistant	301	"
Program Assistant	301	"
Program Resource Assistant	301	"
Research Assistant	301	"
Program Coordination Assistant	301	"
Correspondence Control Specialist	301	"
Correspondence Control Assistant	301	"
Senior Proposal Specialist	301	"
Management Specialist	301	"
Administrative Aide	301	"
Administrative Assistant	301	"
Research Analyst	301	"
Committee Management Assistant	301	"
Administrative Management Assistant	301	"
Correspondence Aide	301	"
Management Intern	301	"
Office Services Assistant	301	"
Proposal Specialist	301	"
Reports Technician	301	"
Acquisition Management Clerk	301	"
Technical Assistant (Typing)	301	"
Clerk	301	"
Clerk-Typing	301	"
Mailroom Supervisor	305	"
Mail & File Supervisor	305	"
Records & Mail Control Clerk	305	"
Correspondence Control Clerk	305	"
Control Clerk	305	"
Mail & File Clerk	305	"
Action Control Clerk	305	"
File Clerk	305	"
Secretary	312	"
Clerk-Stenographer	312	"
Word Processing Operator	316	"
Secretary	318	"

Position Title	Series	Grade
Secretary-Typing	322	GS 12 or below
Secretary	322	"
Clerk-Typist	322	"
Clerk-Stenographer Trainee	322	"
Administrative Officer	341	"
Administrative Assistant	341	"
Management Specialist	343	"
Management Analyst	343	"
Records Management Analyst	343	"
Management Assistant	343	"
Management Intern	343	"
Management Specialist (Intern)	344	"
Management Specialist	345	"
Program Analyst	345	GS 11 or below
Policy & Systems Analyst	345	"
Program Analyst Trainee	345	GS 12 or below
Senior Word Processing Operator	350	"
Word Processing Operator	350	"
Fiscal Liaison Officer	501	"
Budget Assistant	501	"
Fiscal Liaison Assistant	501	"
Budget Analyst	504	"
Accountant	510	"
Budget Analyst	560	"
Financial Analyst	560	"
Budget & Statistical Analyst	560	"
Budget Assistant	560	"
General Engineer	801	GS 9 or below
Research Technician	802	GS 12 or below
Mechanical Engineer	830	GS 9 or below
Reactor Engineer	840	"
Reactor Engineer (Intern)	840	GS 11 or below
Nuclear Engineer (Intern)	840	"
Nuclear Engineer	840	GS 9 or below

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Position Title	Series	Grade
Chemical Engineer (Intern)	893	GS 11 or below
Chemical Engineer	893	GS 9 or below
Program Communications Specialist	1082	GS 12 or below
Information Specialist	1082	
Presentation Coordinator	1084	
Communications Analyst	1084	
Editorial Assistant	1087	
Business and Industrial Analyst	1101	
Physical Scientist	1301	GS 9 or below
Management Assistant	1601	GS 12 or below

Assistant Secretary for Environment
(Includes all Divisions and Offices thereunder)

Position Title	Series	Grade
Information Systems Analyst	301	GS 12 or below
Records Management Analyst	301	"
Research Contract Analyst	301	"
Staff Assistant	301	"
Management Assistant (Economics)	301	"
Reports Analyst	301	"
Information Systems Coordinator	301	"
Travel Coordinator	301	"
Travel and Administrative Clerk	301	"
Environmental Assistant (Secretary)	301	"
Planning Aide	301	"
Clerical Assistant (Typing)	301	"
Clerk (DMT)	301	"
Mail and Records Specialist	305	"
Mail and File Clerk	305	"
Mail Clerk (Typing)	305	"
Clerk-Stenographer	312	"
Secretary	318	"
Administrative Secretary	318	"
Secretary Typist	322	"
Management Assistant	340	"
Administrative Officer	341	"
Policy Analyst Social Science	343	"
Budget Analyst	560	"
Staff Assistant	601	"
Fire Protection Engineer	803	GS 9 or below
Systems Analyst	1520	GS 12 or below

Assistant Secretary for Intergovernmental
and Institutional Relations
(Including all Divisions & Offices thereunder)

Position Title	Series	Grade
Social Science Analyst	101	GS 12 or below
Staff Analyst	301	"
Special Assistant	301	"
Staff Assistant	301	"
Adv. Committee Program Specialist	301	"
Cons. Aff./Spec. Impact Program Specialist	301	"
Confidential Assistant	301	"
Legislative Staff Assistant	301	"
Administrative Assistant	301	"
Administrative Service Specialist	301	"
Intergovernmental Relations Specialist	301	GS 9 or below
Legislative Research Specialist	301	GS 12 or below
Exhibits Assistant	301	"
Publications Assistant	301	"
Legislative Affairs Specialist	301	GS 9 or below
Correspondence Management Specialist	301	GS 12 or below
Conferences Coordinator	301	"
Publications Clerk	301	"
Legislative Information Specialist	301	"
Clerk	301	"
Clerk-Typing	301	"
Supervisor, Correspondence Control Branch	301	"
Records Management Aide	305	"
Mail & File Clerk	305	"
Correspondence Control Specialist	309	"
Correspondence Assistant	309	"
Clerk Stenographer	312	"
Secretary	318	"
Secretary-Stenographer	318	"
Secretary-Typist	318	"
Secretary	322	"
Secretary-Typist	322	"
Clerk Typist	322	"
Administrative Officer	341	"
Administrative Assistant	341	"

Position Title	Series	Grade
Management Analyst	343	GS 12 or below
Intergovernmental Relations Analyst	345	"
Policy and Planning Analyst	345	"
Senior Legislative Research Analyst	345	"
Research Analyst	345	"
Program Analyst	345	"
Budget-Accounting Assistant	504	"
Budget Analyst	560	"
Radio Production Specialist	1071	"
Radio Production Assistant	1071	"
Public Information Officer	1081	GS 9 or below
Public Information Specialist	1081	"
Public Programs Assistant	1081	"
Writer Editor	1082	"
Writer	1082	"
Information Publications Officer	1083	"
Publications Assistant	1083	"
Visual Information Specialist	1084	GS 12 or below
Editorial Assistant	1087	"
Legislative Librarian	1410	"
Information Specialist	1412	"
Technical Information Officer	1412	"

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Assistant Secretary for International Affairs

Position Title	Series	Grade
International Economist	110	GS 9 or below
Foreign Affairs Specialist	130	"
Foreign Affairs Officer	130	"
International Relations Officer	131	"
Intelligence Operations Specialist	132	GS 12 or below
Staff Assistant (Intern)	132	"
Intelligence Reference Assistant	134	"
Staff Assistant	301	"
Confidential Assistant	301	"
Visits Coordinator	301	"
Foreign Affairs Assistant	301	GS 9 or below
Research Assistant	301	GS 12 or below
Administrative Services Assistant	301	"
Clerk (Typing)	301	"
Top Secret Control and Reference Clerk	301	"
Clerk Stenographer	312	"
Secretary	318	"
Secretary (Typing)	318	"
Secretary (Typing)	322	"
Records Management Officer	340	"
Special Assistant	343	"
Budget Analyst	560	GS 9 or below

Assistant Secretary for Policy & Evaluation
(Includes all Divisions and Offices Thereunder)

Position Title	Series	Grade
Economist (Division of Advanced Energy Systems and Office of Analytical Services only)	110	GS 12 or below
Special Assistant	301	"
Policy Program Specialist	301	"
Policy Coordinator	301	"
Competition Assistant	301	"
Clerical Assistant	301	"
Administrative Services Specialist	301	"
Management Services Specialist	301	"
Administrative Assistant	301	"
Management Services Analyst	301	"
Technical Assistant	301	"
Clerk	301	"
Confidential Assistant	301	"
Secretary (Steno)	301	"
Program Staff Assistant	301	"
Program Assistant	301	"
Administrative Technician	301	"
Office Clerk	301	"
Policy Analyst (Office of Coal & Electrical Systems Policy, Office of Oil & Gas Policy and Office of Conservation & Advanced Energy Systems Policy only)	301	"
Systems Program Assistant	301	"
Conservation Program Specialist	301	"
Project Coordination Specialist	301	"
Project Assistant	301	"
Clerk-Steno	312	"
Secretary (Typing)	318	"
Secretary (Steno)	318	"
Clerk-Typist	322	"
Program Analyst (Office of Conservation & Advanced Energy Systems Policy only)	345	"
Operations Research Analyst (Office of Coal & Electrical Systems Policy, Office of Oil & Gas Policy, and Office of Analytical Services only)	1515	"
Operations Research Analyst (Office of DAS for Planning & Evaluation only)	1515	GS 7 or below
Student Aide (SIS)		Hourly

Assistant Secretary for Resource Applications
(All Headquarters Offices except Naval Petroleum Reserves)

Position Title	Series	Grade
Economist (SPRO and URE only)	110	GS 12 or below
Administrative Services Specialist	301	"
Administrative Services Assistant	301	"
Environmental Specialist	301	"
Paralegal Specialist	301	"
Program Assistant	301	"
Clerk (Typing)	301	"
Correspondence Management Specialist	301	"
Staff Assistant	301	"
Administrative Assistant	301	"
Administrative Aide	301	"
Clerical Assistant (Steno)	301	"
Research Analyst	301	"
Facility Siting Program Specialist	301	"
Materials Analyst	301	"
Program Specialist	301	"
Legislative Assistant	301	"
Mail and File Clerk	301	"
Clerk (Stenographer)	301	"
Clerical Assistant (Typing)	301	"
Research Assistant	301	"
Management Services Specialist	301	"
Energy Program Specialist (Loan Guarantee)	301	"
Energy Resources Specialist	301	"
Research Assistant (Steno)	301	"
Presidential Management Intern	301	"
Chief, Mail and Records Section	305	"
Mail Analyst	305	"
File Clerk	305	"
Records Clerk	305	"
Clerk-Stenographer	312	"
Secretary (Steno)	312	"
Secretary (Typing)	318	"
Secretary	318	"
Secretary (DMT)	318	"
Clerk-Typist	322	"
Computer Specialist	334	"

Position Title	Series	Grade
Assistant Administrative Officer	341	GS 12 or below
Office Services Supervisor	342	"
Program Analyst	345	"
Communications Aide	394	"
Supervisory Staff Accountant	510	"
Accounting Technician	525	"
Voucher Examiner	540	"
Budget Analyst	560	"
General Engineer	801	GS 9 or below
Civil Engineer	810	"
Engineering Draftsman	818	GS 12 or below
Mechanical Engineer	830	GS 9 or below
Petroleum Engineer	881	"
Chemical Engineer	893	"
Production Systems Analyst	893	"
Petroleum Distribution Analyst	1101	"
Contract Specialist	1102	"
Industrial Specialist	1150	GS 11 or below
Chemist	1320	GS 9 or below
Hydrologist	1320	"
Geologist	1350	"
Operations Research Analyst	1515	GS 11 or below
General Supply Specialist	2001	GS 12 or below
Transportation Specialist	2101	"
Traffic Management Specialist	2130	"
Travel Coordinator	2132	"
Student Aide	YU-3506	Hourly

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Committees & Boards

Position Title	Series	Grade
Secretary	318	GS 12 or below
Administrative Assistant	341	"

Directorate of Administration
(Includes all Offices thereunder)

Position Title	Series	Grade
Facility Planning and Utilization Specialist	020	GS 12 or below
Personnel Management Specialist	201	"
Personnel Assistant	203	"
Employee Relations & Development Assistant	203	"
Staffing Assistant (Typing)	203	"
Personnel Clerk	203	"
Personnel Assistant (Typing)	203	"
Staffing Clerk (Typing)	203	"
Personnel Staffing Specialist	212	"
Position Classification Specialist	221	"
Employee Relations Specialist	230	"
Employee Relations Assistant	230	"
Labor Relations Specialist	233	"
Employee Development Specialist	235	"
Employee Development Assistant	235	"
Employee Relations & Development Specialist	235	"
Clerk	301	"
Alcohol & Drug Abuse Program Specialist	301	"
Staff Assistant	301	"
Chief, Mail & Distribution Section	301	"
Staff Assistant (Legal Affairs)	301	"
Asst. Chief, Mail & Distribution Section	301	"
Supervisory FOI Specialist	301	"
Executive Services Specialist	301	"

Position Title	Series	Grade
Correspondence Management Specialist	301	GS 12 or below
Supervisory Management Information Specialist	301	"
Freedom of Information Specialist	301	"
Executive Assistant	301	"
Industrial Relations Assistant	301	GS 9 or below
Management Technician	301	GS 12 or below
Audio Visual Assistant	301	"
Services Assistant	301	"
Data Control Specialist	301	"
Management Information Technician	301	"
Automotive Maintenance Aide	301	"
Administrative Clerk	301	"
Building Services Assistant	301	"
Technical Program Analyst	301	"
Administrative Aide	301	"
Research Assistant	301	"
Office Services Assistant	301	"
Clerk (Stenography)	301	"
Mail & Distribution Coordinator	301	"
Clerk (Typing)	301	"
Office Services Clerk	301	"
Data Control Clerk	301	"
Correspondence Analyst	301	"
Clerical Assistant (Typing)	301	"
Services Aide	301	"
Mail Analyst	301	"
Senior Receptionist	304	"
Receptionist	304	"
Mail & File Supervisor	305	"
Mail Supervisor	305	"
Mail & Records Clerk	305	"
Mail & Postal Clerk	305	"
Mail Clerk	305	"

Position Title	Series	Grade
Clerk Stenographer	312	GS 12 or below
Secretary (Typing)	318	"
Secretary (Stenography)	318	"
Clerk-Typist	322	"
Composition Specialist	324	"
Senior Compositor/Proofreader	324	"
Computer Operations Analyst	332	"
Computer Operations Shift Supervisor	332	"
Computer Operator	332	"
RJE Operator	332	"
ADP Management Analyst	334	"
Computer Programmer	334	"
Computer Systems Analyst	334	"
Computer Specialist	334	"
Computer Operator	334	"
Chief, Data Management Unit	335	"
Chief, Data Control Unit	335	"
Computer Technician	335	"
Computer Aide	335	"
Computer Services Technician	335	"
Data Processing Technician	335	"
Administrative Officer	341	"
Administrative Assistant	341	"
Records Specialist	342	"
Management Analyst	343	"
Records Management Analyst	343	"
Management Assistant	343	"
Management Analysis Assistant	344	"
Reports Analyst	344	"
Management Assistant	344	"
Records Management Technician	344	"
Program Analyst	345	"

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Position Title	Series	Grade
Word Processing Specialist	350	GS 12 or below
Word Processor	350	"
Composition/Word Processing Operator	350	"
Reprographic Operator	350	"
Office Machine Operator	350	"
Printing Assistant	351	"
Printing Clerk	351	"
Chief, Input/Output Support Unit	356	"
Supervisory Data Transcriber	356	"
Data Transcriber	356	"
Card Punch Operator	356	"
Auxiliary Equipment Operator	359	"
Chief Telephone Operator	382	"
Telephone Operator	382	"
Supervisory Communications Equipment Operator	390	"
Supervisory Communications Relay Operator	390	"
Communications Relay Operator	390	"
SACNET Operations Shift Supervisor	392	"
SACNET Center Senior Operator	392	"
Communications Equipment Operator	392	"
SACNET Operations Analyst	393	"
Communications Specialist	393	"
Communications Services Coordinator	394	"
Radio Frequency Management Assistant	394	"
Communications Assistant	394	"
Funds Control Assistant	501	"
Fiscal Assistant	501	"
Budget & Fiscal Assistant	501	"
Accounting Technician	525	"
Voucher Examiner	540	"

Position Title	Series	Grade
Budget Officer	560	GS 12 or below
Budget & Funds Control Analyst	560	"
Space Management & Designer	1001	"
Illustrator	1020	"
Photographic Specialist	1060	"
Photographer	1060	"
Photographic Technician	1060	"
Equipment & Program Specialist	1071	"
Video Production Specialist	1071	"
Console & Equipment Specialist	1071	"
Visual Information Specialist	1084	"
Graphics Specialist	1084	"
Building Management Specialist	1176	"
Space Management Assistant	1176	"
Supervisory Cartographer	1370	"
Cartographic Technician	1371	"
Senior Cataloger	1410	"
Senior Acquisition Librarian	1410	"
Reference Librarian	1410	"
Librarian	1410	"
Library Technician	1411	"
Information Specialist	1412	"
Pension & Insurance Trainee	1510	"
Mathemetician	1520	"
Space Management Specialist	1640	"
Printing Management Assistant	1654	GS 11 or below
Printing Procurement Assistant	1654	GS 9 or below

Position Title	Series	Grade
Supply Management Officer	2003	GS 12 or below
Supply Managerment Assistant	2003	"
Property Management Assistant	2003	"
Supply Technician	2005	"
Supply Clerk	2005	"
Property & Supply Clerk	2005	"
Supply Assistant	2005	"
Chief, Transportation Section	2101	"
Transportation Specialist	2101	"
Asst. Chief, Transportation Section	2101	"
Transportation Aide	2101	"
Courier & Transportation Aide	2101	"
Chief, Travel Unit	2132	"
Travel Specialist	2132	"
Travel Assistant	2132	"
Travel Clerk	2132	"

Hourly Paid Employees Occupational Code

2648
3506
4401
4402
4405
4414
4417
5703
5704
6907

Economic Regulatory Administration

Position Title	Series	Grade
Environmental Protection Specialist	028	GS 12 or below
Economist (Crude Oil Supply and Allocation Division and Coal Utilization Division only)	110	
Clerk Typing	300	"
Research Assistant	301	"
Staff Assistant	301	"
Supervisory Correspondence Management Specialist	301	"
Correspondence Control Clerk	301	"
Clerk	301	"
Reproduction Machine Operator	301	"
Clerk (Typing)	301	"
Information Assistant	301	"
Compliance Specialist (Training)	301	GS 11 or below
Project Coordinator	301	GS 12 or below
Program Assistant	301	"
Compliance Technician	301	GS 9 or below
Compliance Analyst (Office of Enforcement Administration)	301	GS 12 or below
Clerk/Microfiche Operator	301	"
Clerical Assistant	301	"
Administrative Assistant	301	"
Clerk (Steno)	301	"
Project Assistant	301	"
Industrial Assistant	301	"
Program Specialist	301	"
Management Information Specialist	301	"
License Control Clerk	301	"
Statistical Technician	301	"
Applications Examiner	301	GS 9 or below
Document Control Clerk	301	GS 12 or below
Examiner	301	"
Freedom of Information Specialist	301	"
Environmental Assistant	301	GS 9 or below
Energy Conservation Specialist	301	"
Mail Clerk	302	GS 12 or below
Messenger	302	"
Correspondence Clerk	309	"
Clerk-Steno	312	"

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Position Title	Series	Grade
Secretary	318	GS 12 or below
Program Analyst (Trainee)	318	GS 9 or below
Clerk-Steno	318	GS 12 or below
Clerk Typist	318	"
Clerk-Typist	322	"
Peripheral Equipment Operator	322	"
Computer Specialist	334	"
Computer Programmer	334	"
Computer Terminal Operator	335	"
Computer Technician	335	"
Computer Aide	335	"
Administrative Assistant	341	"
Administrative Officer	341	"
Office Services Specialist	342	"
Administrative Services Specialist	342	"
Management Analyst	343	"
Management Assistant	344	"
Natural Gas Analyst (Office of Short Term Emergency Planning)	345	"
Natural Gas Technical Assistant (Office of Short Term Emergency Planning)	345	"
Emergency Center Program Analyst (Office of Short Term Emergency Planning)	345	"
Research Assistant (All Offices)	345	"
Program Analyst (Office of Petroleum Allocation Regulations R&EP)	345	GS 11 or below
Program Analyst (Economic Data & Analysis Division, R&EP)	345	GS 9 or below
Program Analyst (Office of Operations, Planning & Evaluation)	345	GS 11 or below
Analyst (Office of Field Liaison)	345	"
Program Analyst (Office of Resource Management, Special Counsel)	345	GS 12 or below
Program Analyst (Industry and Regional Operations Division, Fuels Regulations)	345	"
Program Analyst (Crude Oil Allocation Branch, Crude Oil Supply & Allocation Division, Fuels Regulation)	345	GS 9 or below

Position Title	Series	Grade
Program Analyst (Crude Oil Price Branch, Crude Oil Supply & Allocation Division, Fuels Regulation)	345	GS 7 or below
Program Analyst (Petroleum Products Branch, Fuel Supply & Allocation Division, Fuels Regulation)	345	GS 9 or below
Program Analyst (Coal Utilization Division, Fuels Regulation)	345	"
Commo. Operator	392	GS 12 or below
Commo. Center Supervisor	393	"
Budget and Accounting Analyst	504	"
General Engineer	840	"
Legal Technician	986	"
Public Information Specialist	1081	"
Writer/Editor	1081	"
Financial Analyst	1160	"
Statistical Assistant	1531	"
Supervisory Statistical Assistant	1531	"
Energy Compliance Training Officer	1701	"
Supply Clerk	2005	"
Supply/Repro Machine Specialist	WG-5	Hourly

Energy Information Administration

Position Title	Series	Grade
Social Science Analyst	101	GS 12 or below
Economist	110	"
Industry Economist	110	"
Economic Assistant	119	"
Management Services Officer	301	"
Data Collection Program Specialist	301	"
Research Analyst	301	"
Project Manager	301	"
Oil & Gas Program Specialist	301	"
Data Validation Program Specialist	301	"
Program Analyst	301	"
Program Specialist	301	"
Management Information Sys. Program Specialist	301	"
Program Assistant	301	"
Administrative Services Assistant	301	"
Research Assistant	301	"
Special Projects Assistant	301	"
Fuel Management & Data Analyst	301	"
Correspondence Management Specialist	301	"
Confidential Assistant (Sec.)	301	"
Management Services Assistant	301	"
Data Management Specialist	301	"
Energy Program Assistant	301	"
Staff Assistant (Steno)	301	"
NEIC Program Assistant	301	"
Data Research Program Assistant	301	"
Administrative Technician	301	"
Energy Data Reports Coordinator	301	"
Staff Program Assistant (Typing)	301	"
Data Validation Program Assistant	301	"
Correspondence Management Technician	301	"
Administrative Clerk	301	"
ADP Training Coordinator	301	"
Oversight/Access Program Assistant (Typing)	301	"
Data Processing Technician	301	"
Reports Control Technician	301	"
Clerical Assistant (Typing)	301	"
Office Services Assistant	301	"
Inquiry Clerk	301	"
Clerk-Typist	301	"
General Clerk (Typing)	301	"
Contract Program Assistant	301	"
Clerk (Typing)	301	"
Administrative Services Technician	301	"
Administrative Clerk (Typing)	301	"
Clerk	301	"

Position Title	Series	Grade
File Clerk	305	GS 12 or below
Correspondence Clerk	309	"
Clerk-Steno	312	"
Confidential Assistant (Secretary to Adm.)	318	"
Secretary (Steno)	318	"
Secretary (Typing)	318	"
Secretary	318	"
Clerk-Typist	322	"
Digital Computer Operator Supervisory	330	"
Supervisory Computer Operator	332	"
Computer Operator	332	"
Peripheral Equipment Operator	332	"
Supervisory Peripheral Equipment Operator	332	"
Data Transcriber	332	"
Computer Systems Analyst	334	"
Computer Specialist	334	"
Computer Programmer	334	"
Supervisory Computer Technician	335	"
Computer Technician	335	"
Computer Aide	335	"
Management Analyst	343	"
Computer Specialist	344	"
Management Assistant	344	"
Program Analyst	345	"
Data Transcriber	356	"
Staff Accountant	510	"
Accountant	510	"
Accounting Technician	525	"
General Engineer	801	"
Engineer	801	"
Engineering Technician	802	"

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Position Title	Series	Grade
Electrical Engineer	850	GS 12 or below
Mining Engineer	880	"
Petroleum Engineer	881	"
Chemical Engineer	893	"
Paralegal Specialist	950	"
Writer Editor	1082	"
Writer	1082	"
Supervisory Technical Publications Editor	1083	"
Technical Publications Writer (Engineering)	1083	"
Technical Publications Writer/Editor	1083	"
Technical Publications Writer (Public Utilities)	1083	"
Mineral Specialist (Coal)	1101	"
Mineral Specialist (Energy)	1101	"
Electric Utilities Program Specialist	1101	"
Industry Reports Analyst	1101	"
Mineral Specialist	1101	"
Mineral Specialist (Natural Gas)	1101	"
Mineral Specialist (Solid Fuels)	1101	"
Physical Scientist	1301	"
Geologist	1350	"
Geologist (Student Assistant)	1350	"
Cartographic Technician (DFTG)	1371	"
Librarian	1410	"
Technical Information Specialist	1412	"
Operations Research Analyst	1515	"
Mathematician	1520	"
Mathematics Aide	1521	"
Mathematical Statistician	1529	"
Statistician	1530	"
Survey Statistician	1530	"
Statistician (General)	1530	"

Position Title	Series	Grade
Supervisory Statistical Assistant	1531	GS 12 or below
Statistical Assistant	1531	"
Statistical Assistant (Typing)	1531	"
Statistical Clerk	1531	"
Investigator	1810	"

Office of the Controller (Headquarters)

Position Title	Series	Grade
Administrative Technician	301	GS 12 or below
Administrative Aide	301	"
Program Control Center Coordinator	301	"
Management Systems Design Control Officer	301	"
Clerk (SIS)	301	"
Clerk (Typing)	301	"
Scheduling Clerk (Typing)	301	"
Confidential Assistant (Secretary)	301	"
Correspondence Assistant (Typing)	301	"
Policy and Procedures Specialist	301	"
Mail Analyst	305	"
Clerk Stenographer	312	"
Secretary	318	"
Clerk Typist	322	"
Secretary (Typist)	322	"
Systems Analyst	334	"
Computer Systems Analyst	334	"
Administrative Assistant	341	"
Management Analyst	343	"
Project Management Analyst	343	"
Management Assistant (Typing)	344	"
Program Analyst	345	"
Accounting Reports Analyst	501	"
Accounting Clerk	501	"
Senior Accounting Clerk	501	"
Section Chief (Commercial Payments)	501	"
Cashier	501	"
Section Chief (Commercial Payments)	501	"
Unit Chief (Contract Payments)	501	"
Budget Assistant	501	"
Budget Analyst Technician	501	"
Budget Technician	501	"
Fiscal Specialist	501	"
Supervisory Fiscal Specialist	501	"

Position Title	Series	Grade
Budget and Accounting Analyst	504	GS 12 or below
Staff Accountant	510	GS 9 or below
Accountant	510	"
Systems Accountant	510	"
Accounting Clerk	520	GS 12 or below
Accounting Technician	520	"
Senior Accounting Clerk	520	"
Accounting Technician	525	"
Supervisory Accounting Technician	525	"
Voucher Examiner	540	"
Unit Chief (Miscellaneous Payments)	540	"
Payroll Technician	544	"
Payroll Clerk	544	"
Payroll Supervisor	544	"
Budget Analyst	560	GS 9 or below
Assistant Project Engineer	801	"
Financial Systems Analyst	1160	GS 12 or below
Statistical Assistant	1531	"

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Office of Energy Research

Position Title	Series	Grade
Budget Analyst	140	GS 9 or below
Staff Assistant	301	GS 12 or below
Administrative Assistant	301	"
Research Assistant	301	"
Administrative Aide	301	"
Committee Staff Assistant	301	"
Foreign Travel and Proposal Analyst	301	"
Field & Laboratory Coordination Specialist	301	"
Mail & Records Supervisor	305	"
Mail & File Clerk	305	"
Clerk-Stenographer	312	"
Secretary	318	"
Administrative Officer	341	"
Data Management Assistant	394	"
Contracts and Proposal Analyst	1102	GS 9 or below

Office of the General Counsel (Headquarters)

Position Title	Series	Grade
Litigation Aide (Secretary)	301	GS 12 and below
Administrative Assistant	301	"
Administrative Aide	301	"
Legislative Assistant	301	"
Patent Clerk	301	"
Mail Clerk (Typist)	301	"
Docket Clerk (Secretary)	301	"
Clerk (Patents)	301	"
Clerical Assistant	301	"
Admin. Services Technician	301	"
Admin. Technician	301	"
Clerical Assistant (Typing)	301	"
Clerk (Typing)	301	"
Contract Analyst	301	"
Freedom of Information Technical Specialist	301	"
Legal Services Program Assistant	301	"
Staff Assistant	301	"
Chief Mail & Records Section (Germantown)	305	"
Mail and Records Assistant	305	"
Clerk (Patents)	310	"
Clerk-Stenographer	312	"
Secretary	318	"
Foreign Patent Clerk	318	"
Secretary	322	"
Administrative Officer	341	"
Budget and Fiscal Assistant	501	"
Paralegal Specialist	950	"
Miscellaneous Documents Examiner	963	"
Legal Technician (excluding Standards of Conduct)	986	"
Librarian (Law)	1410	"
Library Technician	1411	"

Office of Inspector General

Position Title	Series	Grade
Correspondence Technician	301	GS 12 or below
File Clerk	301	"
Confidential Assistant	318	"
Secretary	318	"
Secretary (Steno)	318	"
Clerk Typist	322	"
Office Services Manager	341	"
Administrative Assistant	341	"
Management Analyst	343	"

Procurement and Contracts Management

Position Title	Series	Grade
Business Liaison Specialist	301	GS 12 or below
Supervisory Clerical Assistant	301	"
Reports Technician	301	"
Administrative Assistant	301	"
Administrative Technician	301	"
Clerk (Typing)	301	"
Proposal Control Clerk	301	"
Contract Control Specialist	301	"
Mail & File Clerk	305	"
File Clerk	305	"
Secretary	318	"
Clerk (Steno)	318	"
Secretary-Typist	322	"
Clerk-Typist	322	"
Administrative Officer	341	"
Property Management Assistant	342	"
Procurement Analyst	344	"
Contract Administration Technician	1101	GS 7 or below
Procurement Analyst	1102	GS 9 or below
Contract Specialist	1102	GS 7 or below
Minority Business Specialist	1102	"
Purchasing Agent	1105	"
Procurement Assistant	1106	GS 12 or below
Procurement Clerk	1106	"

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Region I - Boston, Mass.

Position Title	Series	Grade
Personnel Management Specialist	201	GS 12 or below
Personnel Assistant	203	"
Word Processing Supervisor	203	"
General Clerk	301	"
Records Control Clerk	301	"
Federal Regional Council Liaison Officer	301	"
Intergovernmental Relations Officer	301	"
Consumer Affairs Officer	301	"
Utilities and Power Plant Specialist	301	"
Receptionist	304	"
Secretary	312	"
Secretary	318	"
Clerk-Typist	322	"
Computer Systems Specialist	334	"
Computer Aide	335	"
Energy Research Program Analyst	345	"
Budget and Accounting Technician	501	"
Public Information Officer	1081	"

Region II - New York

Position Title	Series	Grade
Personnel Management Specialist	201	GS 12 or below
Personnel Clerk - Typing	203	"
Energy Conservation Clerk	301	"
Clerk	301	"
Office Services Clerk	301	"
Mail and File Clerk	305	"
Steno and Typing Supervisor	313	"
Secretary-Steno	318	"
Secretary-Typing	318	"
Secretary	318	"
Clerk-Typist	322	"
Accounts Maintenance Clerk	520	"
Accounting Technician	525	"
Supply Clerk	2005	"
Travel Clerk	2132	"

Region III - Philadelphia

Position Title	Series	Grade
Personnel Management Specialist	201	GS 12 or below
Personnel Clerk	203	"
Consumer Affairs/Special Impact Officer	301	"
Intergovernmental Program Specialist	301	"
Energy Conservation Specialist	301	"
Energy Resource Specialist	301	"
Clerk (Typing)	301	"
Administrative Clerk	301	"
Clerk (Stenography)	301	"
Mail Clerk	305	"
Secretary (Stenography)	318	"
Clerk Typist	322	"
Office Services Supervisor	342	"
Management Analyst	343	"
Fiscal and Budget Assistant	501	"
Voucher Examiner	540	"
General Engineer	801	"

Region IV - Atlanta

Position Title	Series	Grade
Personnel Management Specialist	201	GS 12 or below
Personnel Clerk	203	"
Support Services Officer	301	"
Consumer Affairs Officer	301	"
Energy Conservation Specialist	301	"
Clerk (Typing)	301	"
File Clerk	305	"
Clerk/Steno	312	"
Secretary	318	"
Clerk/Typist	322	"
Coding Clerk	357	"
Accounts Maintenance Clerk	520	"
Voucher Examiner	540	"
Public Information Officer	1081	"
Procurement Clerk	1106	GS 5 or below
Statistical Assistant	1531	GS 12 or below
Supply Clerk	2005	"

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Region V - Chicago

Position Title	Series	Grade
Social Science Analyst	101	GS 12 or below
Personnel Assistant	203	"
Staff Assistant (Stenography)	301	"
Support Services Specialist	301	"
Clerk Typist	301	"
Log Control Clerk	301	"
Clerk General	301	"
Clerk Typing	301	"
Administrative Technician	301	"
Mail Clerk	305	"
Clerk Stenographer	312	"
Secretary - Typing	318	"
Secretary (Stenographer)	318	"
Secretary Stenography	318	"
Secretary	318	"
Clerk Typist	322	"
Office Services Supervisor	342	"
Communications Relay Operator	390	"
Payroll and Accounting Technician	501	"
Budget and Accounting Officer	504	"
Budget and Accounting Analyst	504	"
Legal Technician (Typing)	98[illegible]	"

Region VI - Dallas

Position Title	Series	Grade
Equal Employment Officer	160	GS 12 or below
Personnel Officer	201	"
Personnel Management Specialist	201	"
Personnel Clerk (typing)	203	"
Position Classification Specialist	221	"
Employee Relations Specialist	230	"
General Clerk	301	"
Data Specialist	301	"
Energy Conservation Specialist	301	"
Log Control Clerk	301	"
Clerk (typing)	301	"
Staff Assistant (typing)	301	"
Consumer Affairs/Special Impact Specialist	301	"
Staff Assistant	301	"
Case Tracking Specialist	301	"
Data Review Clerk	301	"
Government Relations Specialist	301	"
Clerk (Steno)	301	"
Receptionist (typist)	301	"
Clerk (steno)	312	"
Secretary	318	"
Clerk-Typist	322	"
Program Analyst	345	GS 11 or below
Communications Technician	392	GS 12 or below
Accounting Clerk	520	"
Accounting Technician	525	"
Voucher Examiner	540	"
Payroll Clerk	544	"
General Engineer	801	"
Petroleum Engineer (Energy Resource Development only)	881	"

Position Title	Series	Grade
Purchasing Agent	1105	GS 6 or below
Physical Scientist	1301	GS 12 or below
Supply Clerk	2005	"
Inventory Management Specialist	2010	"

Region VII - Kansas City

Position Title	Series	Grade
Supervisory Personnel Management Specialist	201	GS 12 or below
Personnel Management Specialist	201	"
Personnel Clerk (Typing)	203	"
Personnel Staffing Specialist	212	"
Position Classification Specialist	221	"
Clerk (Typing)	301	"
Energy Resource Development Specialist	301	"
Energy Conservation Specialist	301	"
Clerk (Steno)	301	"
Staff Assistant	301	"
Congressional & Consumer Affairs Specialist	301	"
Intergovernmental Relations Specialist	301	"
Mail and File Clerk	305	"
Clerk-Stenographer	312	"
Secretary	318	"
Management Analyst	343	"
Management Assistant (Typing)	344	"
Program Analyst	345	GS 11 or below
Operating Accountant	510	GS 12 or below
Accounting Technician	525	"
Voucher Examiner	540	"
Applications Clerk (Steno)	963	"
Public Information Specialist	1081	"

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Region VIII - Denver

Position Title	Series	Grade
Social Service Analyst	101	GS 12 or below
Equal Opportunity Specialist	160	"
Personnel Management Specialist	201	"
Personnel Assistant	203	"
Personnel Clerk	203	"
Clerk (Typing)	301	"
Clerk	301	"
Administrative Services Specialist	301	"
Mail Clerk	305	"
Clerk-Stenographer	312	"
Secretary	318	"
Clerk-Typist	322	"
Computer Systems Analyst	334	"
Computer Technician	335	"
Teletypist	385	"
Voucher Examiner	540	"
General Engineer	801	"
Physical Scientist	1301	"
Student Aide	YW-3506	Hourly

Region IX - San Francisco

Position Title	Series	Grade
Personnel Management Specialist	201	GS 12 or below
Personnel Clerk	203	"
Personnel Staffing Specialist	212	"
Office Services Clerk	301	"
Clerk (Typing)	301	"
Energy Conservation Specialist	301	"
Secretary (Steno)	318	"
Clerk Typist	322	"
Office Services Supervisor	342	"
Teletypist	385	"
Accounting Technician	525	"
Voucher Examiner	540	"
Application Clerk	963	"
Public Information Specialist	1081	"
Technical Information Specialist	1412	"
Statistical Assistant (Steno)	1531	"
Program Training Specialist	1701	"

Region X - Seattle

Position Title	Series	Grade
Environmental Specialist	028	GS 12 or below
Economist	110	"
Personnel Officer	201	"
Personnel Management Specialist	201	"
Personnel Clerk	203	"
Clerk (Typing)	301	"
Energy Program Specialist	301	"
Clerk (Public Information)	301	"
Clerk	301	"
Conservation Program Specialist	301	"
Information Receptionist (Typing)	304	"
Clerk-Stenographer	312	"
Secretary (Typing)	318	"
Clerk-Typist	322	"
Computer Technician	335	"
Office Service Manager	342	"
Budget and Accounting Officer	504	"
Voucher Examiner	504	"
General Engineer	801	"
Applications Clerk (Typing)	963	"
Public Information Specialist	1081	"
Physical Scientist (Student Trainee)	1399	"
Technical Information Specialist	1412	"

Alaska Power Administration

Position Title	Series	Grade
Personnel Specialist	201	GS 12 or below
Clerk (Division Assistant)	301	"
Energy Program Specialist	301	"
Assistant to the Administrator	318	"
Secretary (Division Assistant)	318	"
Clerk Typist	322	"
Administrative Assistant	341	"
Management Assistant	344	"
Fiscal Accounting Specialist	501	"
Accounting Technician	525	"
Civil Engineer	810	GS 9 or below
Electronics Technician	856	GS 12 or below
Office Draftsman	1021	"
Property Management Officer	2001	"

Hourly Employees Occupational Codes

WG 2806
WG 2843
WG 4742
WG 5349
WG 5407
WG 5803
WS 5803

Albuquerque Operations Office

Position Title	Series	Grade
Safety Specialist	018	GS 12 or below
Security Officer	080	"
Security Assistant	080	"
Security Specialist	080	"
Logistics Officer	080	"
Logistics Specialist	080	"
Safeguards Specialist	080	"
Training Specialist	080	"
Chief, Albuquerque Courier Section	080	"
Clearance Processing Supervisor	080	"
Chief, Western Courier Section	080	"
Asst. Chief, Southeastern Courier Section	080	"
Personnel and Security Specialist	080	"
Personnel Security Specialist	080	"
Fire Chief	081	"
Deputy Fire Chief	081	"
Fire Protection Specialist (Training)	081	"
Platoon Chief	081	"
Firefighter (Structural)	081	"
Courier (Trainee)	085	"
Convoy Commander	085	"
Training Officer	085	"
Chief, Protective Force Section	085	"
Operations Officer	085	"
Captains	085	"
Lieutenant	085	"
Area Sargeant	085	"
Security Inspector	085	"
Junior Security Inspector	085	"
Shift Sargeant	085	"
Chief Protective Force	085	"
Security Specialist (Shipment)	085	"
Teacher-Demonstrator	090	"

Position Title	Series	Grade
Personnel Officer	201	GS 12 or below
Personnel Intern	201	"
Personnel Management Specialist	201	"
Personnel Assistant	203	"
Training Assistant	203	"
Personnel Assistant	203	"
Personnel Clerk	203	"
Chief, Personnel Records Section	203	"
Position Classification Specialist	221	"
Industrial Relations Analyst	246	"
Statistical Assistant	301	"
Processing and Reports Supervisor	301	"
Industrial Relations Assistant	301	GS 6 or below
Administrative Aide	301	GS 12 or below
Administrative Records Specialist	301	"
Program Information Coordinator	301	"
Program Coordination Assistant	301	"
Reports Analyst	301	"
Word Processing Center Supervisor	301	"
Equipment Assistant	301	"
Clerk (Typing)	301	"
Clerk (Steno)	301	"
Administrative Assistant	301	"
Word Processing Operator	301	"
E.O.C. Specialist	301	"
Clerk (General)	301	"
Office Engineering Technician	301	"
Records and Accounting Clerk	301	"
Administrative Clerk	301	"
Quality Assurance Technical Aide	301	"
Technical Clerk	301	"
Security Clerk	301	"
Clerk (Administrative)	301	"
Procurement Clerk	301	"
Clerk	301	"
Technical Analyst	301	"
Records Control Clerk	305	"
Mail and Records Clerk	305	"
Mail and File Assistant	305	"

Position Title	Series	Grade
Coding and Filing Clerk	305	GS 12 or below
Mail Clerk	305	"
Chief, M.R. and T. Section	305	"
Records Specialist	305	"
Chief, Mail Distribution and Travel Unit	305	"
Chief, Records and Document Control Unit	305	"
Document Control Clerk	305	"
Sr. File Reference Clerk	305	"
Sr. Document Control Clerk	305	"
File Reference Clerk	305	"
Clerk Stenographer	312	"
Secretary	318	"
Secretary (Steno)	318	"
Secretary (Typing)	322	"
Clerk Typist	322	"
Contract Clerk Typist	322	"
General Clerk	322	"
Word Processing Operator	322	"
Computer Operator	332	"
Chief, Computer Unit	334	"
Computer Software Specialist	334	"
Programmer	334	"
Data Base Administrator	334	"
Weapons Information Coordinator	334	"
Transportation Analyst	334	"
Systems Software Programmer	334	"
ADP Systems Librarian	334	"
Computer Aide Scheduler	335	"
ADP Systems Librarian	335	"
Project Control Officer	341	"
Administrative Assistant	341	"
Administrative Aide	341	"
Chief, Administrative Support Section LAAO	341	"
Administrative Officer (Except LAAO)	341	"
Administrative Analyst	341	"

Position Title	Series	Grade
Chief, Office Services Section	342	GS 12 or below
Chief, PS&C Section	342	"
Top Secret Control Officer	342	"
Management Analyst (Intern)	343	GS 11 or below
Management Assistant	344	GS 12 or below
Systems Analyst	345	"
Special Projects Coordinator	345	"
Key Punch Operator	356	"
Processing Reports Records Clerk	356	"
Chief, Data Prep. and Control Unit	359	"
Data Control Clerk	359	"
Data Preparation Clerk	359	"
Chief, Telecommunications Section	391	"
Chief, Communication Controller (Computer)	392	"
Communications and Fire Alarm Operator	392	"
Communications Equipment Operator	392	"
Sr. Communication Controller (Computer)	392	"
Communication Controller	392	"
Communications Clerk	394	"
Financial Management Assistant	501	"
Chief, Administrative Support Section	501	"
Chief, Accounts Payable Section	501	"
Chief, Commercial Accounts	501	"
Budget Clerk	501	"
Accountant	510	GS 11 or below
Chief, General Accounting Unit	510	"
Accountant Auditor (SS Material)	510	"
Accounts Maintenance Clerk	520	GS 12 or below
Accounting Clerk	520	"
Accounting Technician	525	"
Financial Analyst	525	"
Materials Control Assistant	525	"

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Position Title	Series	Grade
Voucher Examiner	540	GS 12 or below
Voucher Clerk	540	"
Chief Travel	540	"
Travel Clerk	540	"
Chief, Payroll	544	"
Payroll Clerk	544	"
Financial Management Specialist	560	"
Budget Analyst	560	"
Budget Examiner	560	"
Budget Assistant	560	"
Industrial Health Nurse	610	"
Project Engineer	801	GS 9 or below
General Engineer	801	"
Weapons Engineer	801	"
Facilities Engineer	801	"
Technical Assistant	802	GS 12 or below
Health and Safety Engineer Intern	803	GS 9 or below
Operational Safety Specialist	803	"
Operational Safety Engineer	804	"
Fire Prevention Engineer	804	"
Administrative Assistant	809	"
Mechanical Engineer	830	"
Electrical Engineer	850	"
Chief C&M Branch	856	GS 12 or below
Electronics Technician	856	"
Communications Specialist	856	"
Chief, Electronics Section	856	"
Industrial Engineer (Intern)	896	GS 9 or below
Engineer Trainee	896	"
Assistant Program Engineer	896	"

Position Title	Series	Grade
Administrative Assistant	986	GS 12 or below
Museum Director	1015	"
Museum Tech/Historian	1016	"
Museum Technician	1016	"
Museum Aide	1016	"
Chief, Graphic Arts Section	1020	"
Illustrator	1020	"
Public Affairs Assistant	1081	"
Writer	1082	"
Contract Specialist	1102	GS 9 or below
Contract and Property Mgt. Specialist	1102	"
Procurement Assistant	1102	GS 6 or below
Property Management Technician	1103	GS 12 or below
Property Management Specialist	1103	"
Procurement Assistant	1105	"
Contracts Assistant	1106	"
Solar Project Coordinator	1150	GS 9 or below
Program Coordinator	1150	"
Production Analyst	1150	"
Production Assistant	1150	"
Industrial Specialist	1150	"
Weapons Engineer (Intern)	1301	"
Program Coordinator	1301	"
Health Physicist	1306	GS 12 or below
Safeguards Chemist	1320	GS 9 or below
Registrar-Librarian (Typing)	1410	GS 12 or below
Operations Research Analyst	1515	GS 9 or below

Position Title	Series	Grade
Statistical Clerk	1531	GS 12 or below
Training Specialist	1712	"
Supervisory Supply Clerk	2005	"
Distribution Clerk	2005	"
Supply Clerk	2005	"
Equipment Controller	2005	"
Stores Equipment Specialist	2005	"
Fleet Maintenance & Document Disposal Coordinator	2101	"
Equipment Maintenance Specialist	2101	"
Travel Clerk	2132	"
Shipment Planning Assistant	2151	"

Hourly Employees

Occupational Code
3502
3566
4401
4414
4417
4742
4749

Bartlesville Energy Technology Center

Position Title	Series	Grade
Personnel Officer	201	GS 12 or below
Personnel Management Specialist	201	"
Personnel Clerk	203	"
File Clerk (Typing)	305	"
Clerk Stenographer	312	"
Clerk Dict Machine Transcriber	316	"
Secretary	318	"
Engineering Draftsman	318	"
Clerk Typist	322	"
Computer Specialist	334	"
Computer Programmer	334	"
Computer Technician	335	"
Administrative Officer	341	"
Telephone Operator (Typing)	382	"
Accounting Technician	525	"
Budget Officer	560	"
Supervisory Engineering Technician	802	"
Engineering Technician	802	"
Supervisory Mechanical Engineering Tech	802	"
Mechanical Engineering Technician	802	"
Petroleum Engineering Technician	802	"
Engineering Aide	802	"
Safety Engineer	803	"
Mechanical Engineer	830	"
Electronics Engineer	855	"
Electronics Technician	856	"
Petroleum Engineer	881	"
Chemical Engineer	893	"
Office Draftsman	1021	"

Position Title	Series	Grade
Photographer	1060	GS 12 or below
Visual Information Specialist	1084	"
Procurement Clerk (Typing)	1106	"
Research Physicist	1310	"
Physical Science Technician	1311	"
Physical Science Aide	1311	"
Research Chemist	1320	"
Research Chemist (Project Leader)	1320	"
Supervisory Research Chemist	1320	"
Chemist	1320	"
Geologist	1350	"
Administrative Librarian	1410	"
Librarian (Assistant Librarian)	1410	"
Library Technician (Typing)	1411	"
Library Aide (Typing)	1411	"
Library Aide	1411	"
Statistical Assistant	1531	"
Supply Technician	2005	"
Travel Clerk (Typing)	2132	"

Hourly Employees Occupational Code

2805
3359
3414
3506
3566
4605
4607
4749
5306
5406
6907

Bonneville Power Administration

Position Title	Series	Grade
Safety Specialist	018	GS 12 or below
Safety Manager	018	"
Environmental Specialist	028	"
Fire Protection	081	"
Guard	085	"
Economist	110	"
Industry Economist	110	"
Regional Economist	110	"
Economics Assistant	119	"
Geographer	150	"
Equal Opportunity Specialist	160	"
Counseling Psychologist	180	"
Sociologist	184	"
Counseling Assistant	186	"
Archeologist	193	"
Personnel Management Specialist	201	"
Labor-Management Relations and Wages	201	"
Personnel Clerk	203	"
Staffing Clerk	203	"
Classification Clerk	203	"
Employee Development Clerk	203	"
Employee Relations Clerk	203	"
Personnel Assistant	203	"
Staffing Assistant	203	"
Employee Relations Assistant	203	"
Classification Assistant	203	"
Personnel Staffing Specialist	212	"
Position Classification Specialist	221	"
Employee Relations Specialist	230	"
Labor Relations Specialist	233	"
Employee Development Specialist	235	"

Position Title	Series	Grade
Executive Assistant	301	GS 12 or below
Environmental Specialist	301	"
Right-of-way Management Specialist	301	"
Right-of-way Management Inspector	301	"
Confidential Assistant to the Administrator	301	"
Personnel Assistant	301	"
Right-of-way Maintenance Specialist	301	"
Office Services Specialist	301	"
Property Management Clerk	301	"
Property Management Officer	301	"
Property Management Assistant	301	"
Power Marketing Information Specialist	301	"
Substation Construction Supt.	301	"
EIS Process Coordinator	301	"
Administrative Manager	301	"
Administrative Technician	301	"
Office Assistant	301	"
Lead Administrative Technician	301	"
Administrative Clerk	301	"
General Clerk	301	"
Vouchering Clerk	301	"
Engineering Clerk	301	"
Drawing and Blueprint Clerk	301	"
Construction Clerk	301	"
Document Control Clerk	301	"
Lead Word Processing Clerk	301	"
Student Aide	301	"
Clerk	301	"
Realty Clerk	301	"
Appraisal Assistant	301	"
Work Order Clerk	301	"
Substation Operation Instructor	301	"
Substation Operation Specialist	301	"
Maintenance Aide	301	"
General Aide	301	"
Information Receptionist	304	"
Mail and File Clerk	305	"
Mail Clerk	305	"
Mail Supervisor	305	"
Files	305	"
File Clerk	305	"
Clerk-Stenographer	312	"
Word Processing Supervisor	313	"
Clerk-Dictating Machine Transcriber	316	"
Lead Clerk-Dictating Machine Transcriber	316	"

Position Title	Series	Grade
Secretary	318	GS 12 or below
Clerk-Typist	322	"
Computer Operator	332	"
Peripheral Equipment Operator	332	"
Computer Systems Analyst	334	"
Computer Programmer	334	"
Computer Specialist	334	"
Computer Aide	335	"
Computer Technician	335	"
Administrative Officer	341	"
Administrative Assistant	341	"
Office Services Supervisor	342	"
Management Analyst	343	"
Management Assistant	344	"
Program Analyst	345	GS 11 or below
Print Shop Clerk	351	GS 12 or below
Card Punch Operator	356	"
Lead Card Punch	356	"
Data Transcriber	356	"
Coding Clerk	357	"
Telephone Supervisor	382	"
Telephone Operator	382	"
Lead Telephone Operator	382	"
Biological Technician	404	"
Forester	460	"
Forestry Technician	462	"
Forestry Aide	462	"
Conservation Agronomist	471	"
Fishery Biologist	482	"
Wildlife Biologist	486	"

Position Title	Series	Grade
Supervisory Fiscal Specialist	501	GS 12 or below
Budget Technician	501	"
Travel Officer	501	"
Travel Assistant	501	"
Plant Accounting Assistant	501	"
Plant Accounting Analyst	501	"
Fiscal Specialist	501	"
Budget Clerk	501	"
Assistant Travel Officer	501	"
Operating Accountant	510	"
Systems Accountant	510	"
Cost Accountant	510	"
Accountant	510	"
Staff Accountant	510	"
Accounts Maintenance Clerk	520	"
Accounting Technician	525	"
Voucher Examining Supervisor	540	"
Lead Voucher Examiner	540	"
Voucher Examiner	540	"
Payroll Supervisor	544	"
Lead Payroll Technician	544	"
Payroll Clerk	544	"
Budget Analyst	560	"
Student Trainee (Accountant)	599	"
Nurse	610	"
Occupational Health Nurse	610	"
General Engineer	801	"
Engineering Technician	802	"
Engineering Aide	802	"
Civil Engineering Technician	802	"
Electrical Engineering Technician	802	"
Mechanical Engineering Technician	802	"
Architecture Technician	802	"
Nuclear Energy Technician	802	"
Materials Engineer	806	"
Landscape Architect	807	"
Architect	808	"
Construction Inspector Trainee	809	GS 7 or below
Construction Inspector Aide	809	"

Position Title	Series	Grade
Civil Engineer	810	GS 12 or below
Hydraulic Engineer	810	"
Structural Engineer	810	"
Surveying Technician	817	"
Surveying Aide	817	"
Engineering Draftsman	818	"
Sanitary Engineer	819	"
Mechanical Engineer	830	"
Nuclear Engineer	840	"
Electrical Engineer	850	"
Electronics Engineer	855	"
Electronics Technician	856	"
Chemical Engineer	893	"
Industrial Engineer	896	"
Student Trainee (Electrical Engineer)	899	"
Student Trainee (Civil Engineer)	899	"
Student Trainee (General Engineer)	899	"
Student Trainee (Electronic Engineer)	899	"
Student Trainee (Mechanical Engineer)	899	"
Paralegal Specialist	950	"
Legal Assistant (General)	954	"
Conveyance Examiner	963	"
Paralegal Assistant	986	"
Illustration and Exhibits Specialist	1001	"
Graphic Designer	1001	"
Graphics Aide	1001	"
Exhibits Specialist	1010	"
Illustrator	1020	"
Office Draftsman	1021	"
Photographer	1060	"

Position Title	Series	Grade
Public Information Specialist	1081	GS 12 or below
Writer-Editor	1082	"
Writer	1082	"
Technician Publication Writer-Editor	1083	"
Technician Manuals Writer	1083	"
Visual Information Specialist	1084	"
Editorial Assistant	1087	"
Power Billing Clerk	1101	"
Small Business Specialist	1102	GS 9 or below
Procurement Clerk	1106	GS 12 or below
Procurement Assistant	1106	"
Public Utilities Assistant	1130	GS 7 or below
Public Utilities Specialist	1130	"
Production Controller	1150	GS 12 or below
Realty Specialist	1170	GS 9 or below
Realty Officer	1170	"
Power Operations Specialist	1301	GS 12 or below
Physicist	1310	"
Physical Science Technician	1311	"
Physical Science Aide	1311	"
Hydrologist	1315	"
Chemist	1320	"
Meteorologist	1340	"
Meteorological Technician	1341	"
Meteorologist Aide	1341	"
Geologist	1350	"
Supervisory Cartographer	1370	"
Cartographer	1370	"
Cartographic Technician	1370	"
Supervisory Librarian	1410	"
Librarian	1410	"

Position Title	Series	Grade
Library Technician	1411	GS 12 or below
Library Aide	1411	"
Technical Information Specialist	1412	"
Operations Research Analyst	1515	"
Mathematician	1520	"
Statistical Assistant	1531	"
Operations Superintendent	1601	"
Assistant Operations Superintendent	1601	"
General Shops Superintendent	1601	"
Vehicle Maintenance Superintendent	1601	"
Line Vehicle Specialist	1601	"
Vehicle Records Officer	1601	"
Plant Maintenance Superintendent	1601	"
Line Maintenance Specialist	1601	"
Assistant Transmission Maintenance Supervisor	1601	"
Vehicle Records Assistant	1601	"
Assistant Substation Maintenance Superintendent	1601	"
Facility Manager	1640	"
Facility Management Specialist	1640	"
Printing Officer	1654	"
Equipment Specialist	1670	"
Training Instructor	1712	"
Supply Control Assistant	2001	"
Supply Control Specialist	2001	"
Property Management Officer	2001	"
Property Management Specialist	2001	"
Tools and Equipment Officer	2001	"
Tools and Equipment Specialist	2001	"
Tools and Equipment Assistant	2001	"
Supply Systems Analyst	2003	"
Supply Management Representative	2003	"
Supply Clerk	2005	"
Supply Technician	2005	"
Inventory Management Specialist	2010	"

Position Title	Series	Grade
Distribution Facilities Officer	2030	GS 12 or below
Supply Distribution Facilities Specialist	2030	"
Transportation Officer	2101	"
Traffic Manager	2130	"
Traffic Management Specialist	2130	"
Freight Rate Assistant	2131	"
Transportation Operations Officer	2150	"
Aircraft Dispatcher	2151	"
Airplane Pilot	2181	"
Helicopter Pilot	2181	"
Aircraft Pilot	2181	"

All Hourly Paid Employees

Carbondale Mining Operation

Position Title	Series	Grade
Personnel Management Specialist	201	GS 12 or below
General Clerk	301	"
Messenger	302	"
Secretary	318	"
Clerk Typist	322	"
Administrative Officer	341	"
Telephone Operator	382	"
Mining Engineer Technician	802	"
Civil Engineer	810	"
Electronics Technician	865	"
Mining Engineer	880	"
Technical Writer	1083	"
Purchasing Agent	1105	GS 7 or below
Physical Scientist	1301	GS 12 or below
Librarian	1410	"
Mathematical Statistician	1529	"

Chicago Operations Office

Position Title	Series	Grade
Security Representative	0080	GS 12 or below
Security Officer	0080	"
Security Assistant	0080	"
Management Assistant	201	"
Personnel Specialist	201	"
Personnel Clerk	203	"
Data Control Clerk	301	"
Administrative Assistant	301	"
Administrative Aide	301	"
Clerk	301	"
Administrative Coordinator	301	"
Junior Accounting Clerk	301	"
Nculear Materials Information Analyst	301	"
Information Receptionist/File Clerk	304	"
Mail Records and Secretary Supervisor	305	"
Clerk	305	"
Mail and File Clerk	305	"
Distribution Clerk	305	"
Records and Document Control Clerk	305	"
Clerk-Stenographer	312	"
Secretary	318	"
Secretary-Receptionist	318	"
Secretary and Docket Clerk	318	"
Clerk-Typist	322	"
Analyst Programmer	334	"
Programs/Systems Analyst	334	"
Administrative Officer	341	"
Management Trainee	341	"
Office Services Specialist	342	"
Records Management Analyst	343	"
Personnel Assistant	344	"
Teletype Operator	385	"
Communications Specialist	390	"

Position Title	Series	Grade
Communications Clerk	394	GS 12 or below
Accounting Clerk	501	"
Program Coordinator	501	"
Accounting Technician	525	"
Nuclear Materials Rep.	525	"
Payroll Technician	554	"
Budget Analyst	560	"
Electronic Engineer	855	"
Public Information Officer	1081	"
Information Assistant	1081	"
Contract Management Trainee	1102	GS 7 or below
Materials Management Specialist	1103	GS 12 or below
Property Management Specialist	1103	GS 7 or below
Purchasing Assistant	1105	"
Procurement Assistant	1106	"
Mass Spectroscopist	1301	GS 12 or below
Health Physicist	1306	"
Scientific Aide	1311	"
Nuclear Material Control Tech	1311	"
Nuclear Material Technician	1311	"
Laboratory Technician	1311	"
Instrument Technician	1311	"
Chemist	1320	"
Mathematical Statistician	1529	"
Property Clerk	2010	"
Travel Services Supervisor	2132	"
Travel Clerk	2132	"

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Environmental Measurements Lab.

Position Title	Series	Grade
Personnel Specialist	201	GS 12 or below
Administrative Aide	301	"
Clerk	301	"
Clerk-Stenographer	312	"
Secretary	318	"
Clerk-Stenographer	318	"
Clerk-Typist	322	"
Computer Operator	332	"
Accountant	510	"
Industrial Hygenist	690	"
Mech. Des. Tech.	802	"
Mechanical Engineer	830	"
Electrical Engineer	850	"
Lab Tech.	856	"
Elec. Dev. Tech.	856	"
Editorial Assistant	1087	"
Purchasing Agent	1105	GS 7 or below
Physical Scientist	1301	GS 12 or below
Lab Tech	1311	"
Physicist	1310	"
Chemist	1320	"
Librarian	1410	"
Mathematician	1520	"
Distribution Facilities Specialist	2030	"

Hourly Employees Occupational Code

4443
4712
4749
6907
7002

Grand Forks Energy Technology Center

Position Title	Series	Grade
Economist	110	GS 12 or below
Personnel Officer	201	"
Clerk-Typist	322	"
Administrative Officer	341	"
Administrative Assistant	341	"
Engineering Technician	802	"
Mechanical Engineering Technician	802	"
Engineering Draftsman	818	"
Mechanical Engineer	830	"
Chemical Engineer	893	"
Purchasing Clerk	1105	"
Physical Scientist	1301	"
Physicist	1310	"
Physical Science Aide	1311	"
Chemist	1320	"
Research Chemist	1320	"
Geologist	1350	"
Geologist Graduate Student	1350	"

Hourly Paid Employees Occupational Code

3359
3414
3506
4806
4740
4749
5441

Grand Junction Office

Position Title	Series	Grade
Clerk	203	GS 12 or below
Mail and Records Clerk	305	"
Secretary	318	"
Administrative Secretary	318	"
Clerk Typist	322	"
Computer Programmer	334	"
Accountant	510	GS 9 or below
Payroll Technician	544	GS 12 or below
Mining Engineer	880	GS 9 or below

Idaho Operations Office

Position Title	Series	Grade
Sr. Personnel Security Officer	080	GS 12 or below
Security Assistant	080	"
Security Representative	080	"
Fire Chief	081	"
Deputy Fire Chief	081	"
Captain	081	"
Lieutenant	081	"
Lieutenant - Inspector	081	"
Pump Operator	081	"
Fire Alarm Operator	081	"
Firefighter	081	"
Captain	085	"
Security Officer	085	"
Lieutenant	085	"
Patrol Sergeant	085	"
Area Sergeant	085	"
Security Inspector	085	"
Security Guide	085	"
Traffic and Shipment Officer	085	"
Personnel Specialist	203	"
Personnel Assistant	203	"
Personnel Clerk	203	"
Security Clerk	301	"
Administrative Assistant	301	"
Administrative and Clerical Assistant	301	"
Administrative Clerk	301	"
Institutional Relations Specialist	301	"
Receptionist	301	"
ADP and Telecommunications Spec.	301	"
New College Hire-Plans, Budget, and Eng.	301	"
Dosimetry Technician	301	"
Personnel Metering Clerk	301	"
Clerk-Stenographer	312	"
Executive Assistant	318	"
Secretary	318	"
Secretary-Timekeeper	318	"
Secretary (Typing)	318	"
Secretary (Stenography)	318	"

Position Title	Series	Grade
Clerk-Stenographer	322	GS 12 or below
Clerk-Typist	322	"
Administrative Officer	341	"
New College Hire-Energy and Techno.	343	"
Management Technician	344	"
Reports Analyst	344	"
Planning Analyst	345	"
Text Processing Machine Operator	350	"
Warning Communications Specialist	392	"
Radioecologist	401	"
Budget Clerk-Secretary	501	"
Budget Technician	504	"
Financial Analyst	510	"
Accountant	510	GS 9 or below
Accounting Technician	525	GS 12 or below
Voucher Examiner	540	"
Payroll Technician	544	"
Budget Analyst	560	"
Examining Technician	601	"
Resident Engineer	801	"
New College Hires-Reactor Ops. Programs, Engineering Constr. Management	810	"
Electronics Engineer	855	"

Position Title	Series	Grade
Electronics Development Tech.	856	GS 12 or below
Technical Communications Rep.	856	"
Calibration Technicians	856	"
Electronics Technicians	856	"
Project Management Analyst	895	"
Information Assistant	1087	"
Property Management Assistant	1103	"
Dosimetry Systems Specialist	1301	"
Environmental Radiation Specialist	1301	"
Health Physicist (Except in Operation Safety Division)	1306	"
Physicist	1310	"
Counting Room Technician	1311	"
Radiation Spectrometry Technician	1311	"
Health Physicist Technician	1311	"
Dosimetry Technician	1311	"
Chemist	1320	"
Radiochemist	1320	"
New College Hire-Energy and Technology	1350	"
Travel Assistant	2132	"

Laramie Energy Technology Center

Position Title	Series	Grade
Supv. Personnel Officer	201	GS 12 or below
Personnel Clerk	203	"
Mail Clerk	305	"
Secretary	318	"
Secretary (Steno)	318	"
Clerk-Typist	322	"
Computer Systems Analyst	334	"
Computer Specialist	334	"
Computer Aide	335	"
Office Services Supervisor	342	"
Telephone Operator	382	"
Time, Leave and Payroll Clerk	544	"
Environmental Engineer	801	"
Engineering Technician	802	"
Petro. Engineering Technician	802	"
Eng. Draftsman	818	"
Mechanical Engineer	830	"
Res. Mechanical Engineer	830	"
Electronics Engineer	835	"
Instrumentation Engineer	855	"
Electronics Technician	856	"
Petroleum Engineer	881	"
Chemical Engineer	893	"
Photographer	1060	"
Editor	1082	"

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Position Title	Series	Grade
Visual Info. Specialist	1084	GS 12 or below
Procurement Clerk	1106	"
Process Analyst	1301	"
Physicist	1310	"
Research Physicist	1310	"
Phys. Sci. Technician	1311	"
Phys. Sci. Aide	1311	"
Chemist	1320	"
Res. Chemist	1320	"
Geologist	1350	"
Mathematician	1520	"
Supply Technician	2005	"
Supply Clerk	2005	"
Travel Clerk	2132	"

Hourly Paid Employees

WG 1343
WG 2805
WG 3413
WG 3502
WG 3566
WG 3703
WG 3743
WG 4204
WG 4712
WG 4749
WG 5402
WS 5402
WG 5441
WG 5716
WG 5729
WG 5803
WL 5803
WG 5823

Morgantown Energy Technology Center

Position Title	Series	Grade
Personnel Management Specialist	201	GS 12 or below
Personnel Assistant	203	"
Personnel Clerk (Typing)	203	"
Clerk Stenographer	212	"
Staff Assistant	301	"
Information Receptionist	304	"
Clerk Stenographer	312	"
Secretary	318	"
Clerk Typist	322	"
Computer Systems Operator	332	"
Computer Specialist	334	"
Computer Programmer	334	"
Supervisory Program Analyst	345	"
Program Analyst	345	"
Office Machine Operator	350	"
Budget and Accounting Clerk	501	"
Petro. Engineer Tech.	802	"
Physical Science Technician	802	"
Engineering Technician	802	"
Electronics Technician	802	"
Supervisory Engineering Technician	802	"
Safety Engineer	803	"
Civil Engineer	810	"
Supervisory Engineering Draftsman	818	"
Engineering Draftsman	818	"
Mechanical Engineer	830	"
Electrical Engineer	850	"

Position Title	Series	Grade
Electronics Engineer	855	GS 12 or below
Electronics Technician	856	"
Petroleum Engineer	881	"
Chemical Engineer	893	"
Photographer	1060	"
Property Management Assistant	1103	GS 7 or below
Procurement Clerk	1106	GS 12 or below
Purchasing Assistant	1106	"
Research Physicist	1210	"
Supervisory Research Physicist	1310	"
Research Physicist	1310	"
Physicist	1310	"
Physical Science Technician	1311	"
Geochemist	1320	"
Chemist	1320	"
Research Chemist	1320	"
Biochemist	1320	"
Supervisory Chemist	1320	"
Geologist	1350	"
Librarian	1410	"
Assistant Librarian	1410	"
Library Aide (Typing)	1411	"
Library Aide (Student Assistant)	1411	"
Technical Information Analyst	1412	"
Mathematician	1520	"
Statistical Clerk	1530	"
Shop Manager	1640	"
Supervisory Supply Specialist	2001	"
Travel Clerk (Typing)	2132	"

Hourly Paid Employees Occupational Code

2805
3305
3359
3414
3502
3703
3806
4204
4607
4749
5402
5823
6907

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Naval Petroleum and Oil Shale Reserve
Headquarters and Field Organizations

Position Title	Series	Grade
Personnel Assistant	203	GS 12 or below
Clerk	203	"
Clerk (Typing and Steno)	301	"
Head, Administrative Department & Division	301	"
Head, Administrative Section	301	"
Staff Asst. Engineering Department	301	"
Supply/Travel Clerk	301	"
Clerk-Engineering Division	301	"
Mail and File Clerk	305	"
Clerk (Stenography)	312	"
Mail and File Clerk-Typing	312	"
File Clerk	315	"
Clerk-Dictating Machine Transcriber	316	"
Secretary	318	"
Secretary (Stenography)	318	"
Secretary (Typing)	318	"
Clerk-Typist	322	"
Director, Admin. Division	341	"
Administrative Officer	341	"
Accountant	510	"
Accounts Maintenance Clerk	520	"
Accounting Technician	525	"
Budget Analyst	560	"
Engineering Technician	802	"
Petro. Engr. Technician	802	"
Geological Technician	802	"
Procurement Clerk	1106	"

Nevada Operations Office

Position Title	Series	Grade
Emergency Response Officer	018	GS 12 or below
Security Specialist	080	"
Security Assistant	080	"
Clearance Processing Specialist	080	"
Security Screener	080	"
Visit Control Security Specialist	080	"
Visitor Control Clerk	080	"
Physical Security Specialist	080	"
Personnel Representative	201	"
Personnel Clerk	203	"
Office Services/Travel Assistant	301	"
Administrative Assistant	301	"
Administrative Services Coord.	301	"
Clearance Processing Assistant	301	"
Clearance Processing Clerk	301	"
Management/Training Technician	301	"
Management/Training Analyst	301	"
Test Authorities Administrative Assistant	301	"
Test Authorities Records Clerk	301	"
Clerk-Messenger	302	"
Mail and Records Supervisor	305	"
Mail and Records Clerk	305	"
Administrative Services Clerk	305	"
Clerk-Stenographer	312	"
Administrative Assistant	318	"
Secretary-Stenographer	318	"
Secretary	318	"
Clerk-Typist	322	"
Computer Specialist	334	"
Records Management Assistant	342	"
Operations Officer	345	"
Operations Coordinator	345	"
Air Operations Coordinator	345	"
Operations of A/C Coordinator	345	"
Operations Assistant	345	"
Planning Analyst	345	GS 9 or below

Position Title	Series	Grade
Accounting Clerk	501	GS 12 or below
Accountant Trainee	510	"
Accountant (Internal Accounting Only)	510	"
Fiscal Accountant	525	"
Audit Technician	525	GS 7 or below
Budget Analyst	560	GS 12 or below
Electronics Engineer	855	GS 9 or below
Law Librarian	986	GS 12 or below
Information Assistant	1001	"
Nuclear Materials Officer	1103	"
Health Physicist	1306	"
Library Technician	1411	"

Oak Ridge Operations Office

Position Title	Series	Grade
Security Assistant	080	GS 12 or below
Security Officer	080	"
Security Education Officer	080	"
Security Screener	080	"
Senior Personnel Security Analyst	080	"
Security Clearance Processing Supervisor	080	"
Security Clerk (Typing)	080	"
Chief, Oak Ridge Security Patrol Section	085	"
Security Inspector (Operations Officer)	085	"
Security Inspector (Asst. Operations Officer)	085	"
Operations Officer Trainee	085	"
Security Inspector (Field Supervisor)	085	"
Security Inspector (Facility)	085	"
Assistant Shipment Sec. Coordinator	085	"
Shipment Security Coordinator	085	"
Shipment Crew Chief	085	"
Security Inspector (Shipment)	085	"
Chief, Shipment Operations	085	"
Student Trainee	099	"
Personnel Officer	201	"
Personnel Management Specialist	201	"
Personnel Assistant	203	"
Personnel Clerk (Typing)	203	"
Industrial Relations Assistant	246	"
Industrial Relations Officer	246	"
Administrative Assistant	301	"
Student Aide	301	"
Clerk (Typing)	301	"
Equal Opportunity Assistant	301	"
Security Clerk (Typing)	301	"
Office Services Clerk	301	"
Document Control Clerk	301	"
Administrative Officer	301	"
Contract Control Clerk	301	"
Clerk (Stenography)	301	"
Information Receptionist (Typing)	304	"
Legal Clerk	305	"
Mail and File Clerk (Typing)	305	"
Mail and File Clerk	305	"
Records Clerk (Typing)	305	"

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Position Title	Series	Grade
Mail Clerk	305	GS 12 or below
Clerk (Typing)	305	"
Data Control Clerk	305	"
Mail and File Supervisor	305	"
Clerk-Stenographer	312	"
Clerk-Steno (Mag Card Typ. Operator)	312	"
Clerk (Stenography)	312	"
Clerk-Dict. Mchn. Transcriber	316	"
Secretary	318	"
Clerk-Typist	322	"
File Clerk (Typist)	322	"
Clerk Typist (Mag Card Typ. Operator)	322	"
Clerk (Typing)	322	"
General Clerk (Typing)	322	"
Security Clerk (Typing)	322	"
Mail and File Clerk (Typing)	322	"
Chief, Composing Section (TIC)	324	"
Assistant Chief, Composing Section (TIC)	324	"
Sr. Systems Compositor	324	"
Systems Compositor	324	"
Journal Compilation Gr. Ldr.	324	"
Composing Machine Oper.	324	"
Comp. Machine Oper. (Trainee)	324	"
Cold Type Comp. Mach. Oper. (Data Trans.)	324	"
Remote Station Operator	332	"
Remote Station Operator (Trainee)	332	"
Computer Operator (Supv.)	332	"
Computer Operator	332	"
Computer Operator (Trainee)	332	"
Programmer Analyst	334	"
Operations Analyst	334	"
ADP Systems Analyst	334	"
Computer Programmer	334	"
Programmer Aide	335	"
Computer Operations Spec.	335	"
Senior Data Control Clerk	335	"
Administrative Officer	341	"
Chief, Administrative Division, CRBRPO	341	"

Position Title	Series	Grade
Assistant Chief, Office Services Branch	342	GS 12 or below
Records Officer	342	"
Records Analyst	342	"
Mail and File Supervisor	342	"
Office Services Supervisor	342	"
Assistant Chief, Document Management Br. (TIC)	342	"
Administrative Assistant	342	"
Management Analyst	343	"
Management Analyst	344	"
Reproduction and Stores Clerk	350	"
Reproduction and Distribution Clerk	350	"
Publications Clerk	351	"
Printing Assistant	351	"
Clerk (Typing)	351	"
Keypunch Operator	356	"
Communications Equipment Oper. (Supr.)	392	"
Communications Equipment Oper. (Comp.)	392	"
Communications Specialist	393	"
Chief, Accounts Payable, Payroll, and Travel Section	501	"
Accounting Technician	501	"
Accountant (SS Matls.)	501	GS 11 or below
Accountant	510	"
Systems Accountant	510	"
Accountant (SS Matls)	510	"
Staff Accountant	510	"
Contract Finance Specialist	510	"
Accounting Technician	525	GS 12 or below
Accounting Technician (SS Matls)	525	"
Fiscal Accountant	525	"
Voucher Examiner	540	"
Payroll-Operations Supv.	544	"
Employment Records and Payroll Clerk	544	"
Payroll Technician	544	"
Budget Analyst	560	GS 9 or below
Accounting Co-op Student	599	GS 12 or below
Student Trainee (Accounting)	599	"

Position Title	Series	Grade
Occupational Health Nurse	610	GS 12 or below
Industrial Hygienist	690	"
General Engineer	801	GS 9 or below
Technical Security Engineer	801	GS 12 or below
Engineering Technician	802	"
Safety and Fire Protection Engineer	804	GS 9 or below
Civil Engineer	810	"
Engineering Draftsman (Patent)	818	GS 12 or below
Environmental Engineer	819	GS 9 or below
Mechanical Engineer	830	"
Scientific Analyst (Mech. Engr.) (TIC)	830	GS 12 or below
Nuclear Engineer	840	GS 9 or below
Operations Analyst	840	"
Scientific Analyst (Reactor Tech.) (TIC)	840	GS 12 or below
Facility Safety Engineer	840	GS 9 or below
Electrical Engineer	850	"
Electronics Engineer	855	"
Chemical Engineer	893	"
Operations Analyst	896	"
Engineer Co-op Student	899	GS 12 or below
Student Trainee (Engineer)	899	"
Publications Illustrator	1001	"
Layout Artist (Publs.)	1001	"
Layout Artist	1001	"
Assistant Chief, Publishing Services Section (TIC)	1020	"
Scientific Illustrator (Supv.)	1020	"
Scientific Illustrator	1020	"
Illustrator (Scientific)	1020	"
Photographer	1060	"
Publications Editor	1082	"
FIND Publications Editor	1082	"

Position Title	Series	Grade
Editorial Assistant	1087	GS 12 or below
Senior Editorial Assistant	1087	"
Proofreading Clerk	1087	"
FIND Publications Editor	1087	"
Property Management Officer	1103	GS 12 or below
Property Management Assistant	1103	"
Industrial Property Management Specialist	1103	"
General Clerk (Typing)	1106	"
Procurement Clerk	1106	"
Industrial Participation Assistant	1150	GS 9 or below
Production Specialist	1152	GS 12 or below
Production Analyst	1152	"
Physical Scientist	1301	GS 9 or below
General Physical Scientist (TIC)	1301	GS 12 or below
Scientific Analyst (Gen. Phys. Sc.) (TIC)	1301	"
Classification Analyst	1301	"
Scientific Analyst (Reactor Tech) (TIC)	1310	"
Scientific Analyst (Physics) (TIC)	1310	"
Chemist	1320	GS 9 or below
Scientific Analyst (Chemistry) (TIC)	1320	GS 12 or below
Radiochemist	1320	GS 9 or below
Librarian	1410	GS 12 or below
Library Assistant	1411	"
Library Technician	1411	"
Library Assistant (Typing)	1411	"
Chief Publications Request Section (TIC)	1411	"
Library Technician (Research)	1411	"
Library Technician (Education)	1411	"
Chief, Motion Picture Services Section (TIC)	1411	"
Library Specialist (Motion Picture)	1411	"
Supervisory Library Technician	1411	"
Library Technician (Data Trans.)	1411	"
Tech Info. Spec. (Educ.)	1412	"
Library Assistant (Educ.)	1412	"
Technical Info. Spec. (Bio. & Phys. Sc.)	1412	"
Technical Info. Spec. (Phys. Sc.)	1412	"
Operations Analyst	1515	GS 9 or below
Statistical Assistant	1531	GS 12 or below

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Position Title	Series	Grade
Building Superintendent	1640	GS 12 or below
Assistant Chief, Printing Branch	1654	"
Equip. Prior. Asst. Spec.	1670	"
Motor Vehicle Specialist	1670	"
Supply Management Assistant	2003	"
Supply Officer	2003	"
Printing and Publs. Clerk	2005	GS 12 or below
Storekeeping Clerk	2005	"
Supervisory Storekeeping Clerk	2005	"
Receiving Clerk	2005	"
Assistant Chief, Transportation Branch	2130	"
Travel Reservation and Disbursement Clerk	2132	"
Shipment Clerk (Steno)	2134	"

Hourly Paid Employees Occupational Code

4402
4414
4417
6908

Pittsburgh Energy Research Center

Position Title	Series	Grade
Safety Specialist	018	GS 12 or below
Personnel Management Specialist	201	"
Personnel Clerk	203	"
Word Processing Clerk	301	"
Clerical Aide	301	"
Staff Assistant	301	"
Clerk-Stenographer	312	"
Secretary	318	"
Clerk-Typist	322	"
Computer Programmer	334	"
Computer Aide	335	"
Chief, Administrative Services Branch	342	"
Office Machine Operator	350	"
Budget Analyst	560	"
Occupational Health Nurse	610	"
Research Industrial Hygienist	690	"
Chemical Engineering Tech. (non-supv.)	802	"
Engineering Tech. (non-supv.)	802	"
Electrical Eng. Tech. (non-supv.)	802	"
Engineering Draftsman	818	"
Mechanical Engineer (non-supv.)	830	"
Technical Assistant	830	"

Position Title	Series	Grade
Electrical Engineer (non-supv.)	850	GS 12 or below
Electronics Technician (non-supv.)	856	"
Chemical Engineer (non-supv.)	893	"
Chemical Engineer (Coop Student)	899	"
Public Information Officer	1081	"
Photographer	1060	"
Procurement Clerk	1106	"
Physical Scientist (non-supv.)	1301	"
Research Physicist (non-supv.)	1310	"
Physicist (non-supv.)	1310	"
Physical Science Tech. (non-supv.)	1311	"
Physical Science Aide	1311	"
Research Chemist (non-supv.)	1320	"
Chemist (non-supv.)	1320	"
Mathmetician	1520	"
Computer Specialist	1521	"
Supply Technician	2005	"
Supply Clerk	2005	"
Travel Clerk	2132	"

Hourly Paid Employees

WG 3305
WG 3359
WL 3359
WG 3501
WG 3703
WG 4204
WG 4740
WS 4740
WG 5348
WG 5441
WL 5441
WS 5441
WG 6907

Pittsburgh Naval Reactors Office

Position Title	Series	Grade
Security Assistant	080	GS 12 or below
Visitor Control Clerk	080	"
Personnel Management Specialist	201	"
Personnel Assistant	203	"
Travel Voucher Clerk (Steno)	301	"
Clerk Stenographer	312	"
Secretary	318	"
Administrative Officer	341	"
Records Management Technician	344	"
Teletypist	385	"
Accountant	501	"
Accounting Technician	525	"
Budget Analyst	560	"
Nuclear Engineer	840	GS 9 or below
Industrial Engineer	896	"
Industrial Property Management Specialist	1103	GS 12 or below

Richland Operations Office

Position Title	Series	Grade
Personnel Security Analyst	080	GS 12 or below
Inspector/Escort	080	"
Security Screener	080	"
Escort	080	"
Security Officer	080	"
Security Operations Specialist	080	"
Personnel Officer	201	"
Personnel Management Specialist	201	"
Personnel Technician	203	"
Personnel Clerk	203	"
Labor Relations Specialist	246	"
Administrative Assistant	301	"
Clerk	301	"
Public Affairs Clerk	301	"
Insurance and Processing Clerk	301	"
Mail and Commitment Control Clerk	301	"
Contract Clerk	301	"
Messenger	302	"
Receptionist	304	"
Supervisor, Mail & File	305	"
Commitment Control Clerk	305	"
Mail & File Clerk	305	"
Clerk Stenographer	312	"
Supervisory Clerk - Dict. Mach. Transcriber	316	"
Clerk - Dictating Machine Transcriber	316	"
Secretary	318	"
Clerk-Typist	322	"
Administrative Assistant	341	"
International Programs Specialist	342	"
Management Assistant	344	"
Planning Analyst	345	GS 11 or below
Telecommunications Operator	392	GS 12 or below

Position Title	Series	Grade
Telecommunications Assistant	393	GS 12 or below
Telecommunications Specialist	393	"
Budget Technician	501	"
Budget Clerk	501	"
Financial Officer	504	"
Accountant	510	"
Accounting Clerk	520	"
Accounting Technician	525	"
Financial Technician	525	"
Budget Analyst	560	"
Public Information Specialist	1081	"
Public Affairs Specialist	1081	"
Technical Assistant	1081	"
Industrial Property Management Specialist	1103	"
Procurement Assistant	1106	"
Emergency Preparedness Assistant	1301	"
Health Physicist	1306	"
Travel Clerk	2132	"
Transportation Assistant	2134	"

San Francisco Operations Office

Position Title	Series	Grade
Security Specialist	080	GS 12 or below
Personnel Security Specialist	080	"
Security Assistant	080	"
Convoy Commander	085	"
Convoy Commander-Mail Channels	085	"
Security Specialist	085	"
Personnel Relations Officer	201	"
Personnel Assistant	201	"
Personnel Assistant	203	"
Management Trainee (except Procurement)	301	"
Administrative Assistant	301	"
Administrative Clerk	301	"
Security Clerk	301	"
Office Services Assistant	301	"
Clerk	301	"
Engineering Management Staff Assistant	301	"
Staff Assistant	301	"
Proofreader	301	"
Mail and Records Supervisor	305	"
Records Clerk	305	"
Mail and Records Clerk	305	"
Clerk-Stenographer	312	"
Supervisor, Word Processing Center	313	"
Word Processing Technician	316	"
Clerk-Transcriber	316	"
Secretary	318	"
Administrative Clerk	318	"
Clerk Typist	322	"
Clerk Typist Admin. Clerk	322	"
Computer Specialist	334	"
Computer Programmer/Analyst	334	"
Programmer Assistant	334	"
Assistant Program Coordinator	340	GS 9 or below
Assistant Program Coordinator Trainee	340	"

Position Title	Series	Grade
Chief Communications Services Branch	342	GS 12 or below
Assistant Program Coordinator	345	GS 9 or below
Data Transcriber	356	GS 12 or below
Communications Equipment Operator	390	"
Communications Officer	393	"
Communications Specialist	393	"
Management Accountant	510	GS 11 or below
Accounting Technician	525	GS 12 or below
Nuclear Materials Analyst	525	"
Budget Analyst	560	GS 9 or below
Assistant Budget Analyst	560	GS 12 or below
Assistant Project Manager	801	GS 9 or below
Project Engineer	801	"
Assistant Program Coordinator	840	"
Project Engineer	840	"
Assistant Program Coordinator	893	"
Illustrator	1021	GS 12 or below
Office Services Coordinator	1101	"
Reports Analyst	1106	"
Administrative Clerk	1106	"
Training Consultant	1720	"
Supply Clerk	2005	"
Assistant Supply Clerk	2005	"
Administative Travel Clerk	2132	"

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Savannah River Operations Office

Position Title	Series	Grade
Security Representative	080	GS 12 or below
Visitor Control Assistant	080	"
Security Assistant	080	"
Security Couriers	080	"
Processing Clerk	080	"
Student Trainee (General)	099	"
Personnel Officer	201	"
Personnel Assistant	201	"
Personnel Management Specialist	201	"
Administrative Assistant	301	"
Reports Clerk	301	"
Records and Services Clerk	301	"
Technical Services Assistant	301	"
Office Assistant (Stenography)	301	"
Records and Services Clerk	301	"
Office Services Clerk	301	"
Mail Clerk	305	"
Clerk-Stenographer	312	"
Word Processing Center Supervisor	316	"
Clerk-Dictating Machine Transcribers	316	"
Secretary	318	"
Administrative Secretary	318	"
Clerk-Typist	322	"
ADP Analyst	334	"
Administrative Assistant	341	"
Chief, Records & Services Section	342	"
Miscellaneous Duplicating Equipment Operator	350	"
Communications Management Specialist	391	"
SACNET Supervisor	392	"
Communications Equipment Operations	392	"
Accounting Clerk	501	"
Voucher Examining and Payroll Clerk	501	"

Position Title	Series	Grade
Accountant	510	GS 7 or below
Voucher Examiner	540	GS 12 or below
Budget Analyst	560	"
Student Trainee (Accounting)	599	GS 7 or below
Industrial Hygienist	690	GS 12 or below
Technical Assistant	802	"
Nuclear Engineer	840	GS 9 or below
Student Trainee (Engineering)	899	"
Public Affairs Assistant	1081	GS 12 or below
Minority and Small Business Analyst	1101	GS 9 or below
Contracts Clerk	1106	GS 12 or below
Realty Specialist	1170	GS 9 or below
Transportation Assistant	2130	GS 12 or below
Transportation Specialist	2130	"

Schenectady Naval Reactors Office

Position Title	Series	Grade
Security Screener	080	GS 12 or below
Security Assistant	080	"
Visitor Control Clerk	080	"
Industrial Relations Assistant	201	"
Personnel Management Specialist	201	"
Clerk Stenographer	312	"
Secretary-Stenography	318	"
Clerk Typist	322	"
Communications Specialist	393	"
Accounting Clerk	510	"
Accountant	510	"
Accounting Technician	525	"
Budget Analyst	560	"
General Engineer	801	"
Nuclear Engineer	840	"
Industrial Property Management Specialist	1103	"
Property Management Specialist	1103	"

Southeastern Power Administration

Position Title	Series	Grade
Personnel Clerk	201	GS 12 or below
Clerk	301	"
Mail and File Clerk	305	"
Clerk-Stenographer	312	"
Secretary	318	"
Clerk-Typist	322	"
Office Services Supervisor	342	"
Accountant	510	GS 11 or below
Accounts Maintenance Clerk	520	GS 12 or below
Electrical Engineering Technician	802	"
Engineering Technician	802	"
Hydraulic Engineer	810	"
Janitor	3566	Wage Grade

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Southwestern Power Administration

Position Title	Series	Grade
EEO Officer	160	GS 12 or below
Personnel Management Specialist	201	"
Personnel Clerk	203	"
Area Office Clerk	301	"
Confidential Assistant	301	"
Executive Assistant	301	"
Management Assistant	301	"
Clerk (Office Services)	301	"
Clerk (Typing)	301	"
Billing Assistant	301	"
Supervisory System Operator	301	"
System Operator	301	"
Clerk-Stenographer	312	"
Secretary (Stenography)	318	"
Clerk-Typist	322	"
ADP Systems Manager	330	"
Computer Operator	332	"
Peripher. Computer Equipment Operator	332	"
Computer Programmer	334	"
Computer Specialist	334	"
Office Services Manager	342	"
Office Services Supervisor	342	"
Office Machine Operator	350	"
Operating Accountant	510	"
Accounts Maintenance Clerk (Budget)	520	GS 12 or below
Accounting Technician	525	"
Budget Analyst	560	"
Engineer Technician	802	"
Construction Inspector General	809	GS 9 or below
Structural Engineer	810	GS 12 or below
Engineering Draftsman	818	"
Electrical Engineer	850	"
Electronics Engineering	855	"
Electronics Technician	856	"
Legal Technician (Steno)	986	"
Realty Specialist	1170	GS 9 or below
Statistical Clerk and Assistant	1531	GS 12 or below
Supply Management Representative	2003	"
Supply Technician/Clerk	2005	"

All hourly paid employees at South Western Power Administration.

Strategic Petroleum Reserve Management Office
(New Orleans)

Position Title	Series	Grade
Security Officer	080	GS 12 or below
Administrative Officer	301	"
Special Projects Coordinator	301	"
Administrative Services Specialist	301	"
Correspondence Management Specialist	301	"
Administrative Services Assistant	301	"
Clerical Assistant	301	"
Clerk-Typing	301	"
Administrative Aide	301	"
Secretary-Steno	312	"
Secretary	318	"
Secretary (Typing)	318	"
Secretary-Steno	318	"
Clerk-Typist	322	"
Accounting Technician	525	"
Voucher Examiner	540	"
Procurement Assistant	1106	"

Western Area Power Administration
(All Locations)

Position Title	Series	Grade
Safety Manager	018	GS 12 or below
Personnel Staffing and Class. Spec.	201	GS 11 or below
Personnel Officer	201	GS 12 or below
Supervisory Personnel Assistant	203	"
Personnel Assistant (Typing)	203	"
Staffing Assistant	203	"
Personnel Clerk (Typing)	203	"
Employee Relations Assistant	203	"
Personnel Clerk	203	"
Position Classification Specialist	221	"
Administrative Aid (Steno)	301	"
Office Assistant (Steno)	301	"
Power Billing Clerk	301	"
Power System Dispatcher	301	"
Administrative Clerk	301	"
Power Operations Specialist	301	"
Supervisory Power Systems Dispatcher	301	"
Power Resources Clerk	301	"
Power Contracts Clerk (Steno)	301	"
Clerk	301	"
Clerk (Typing)	301	"
Power Control Scheduling Clerk	301	"
Switching Program Coordinator	301	"
Power Control Billing Clerk	301	"
Mail and File Clerk	305	"
Mail and File Supervisor	305	"
Supervisory Clerk (Typing, Steno)	312	"
Clerk Steno	312	"
Safety Clerk (Steno)	312	"
Secretary	318	"
Clerk-Typist	322	"
Computer Operator	332	"
Computer Programmer	334	"
Supervisory Computer Systems Analyst	334	"
Computer Systems Analyst	334	"
Computer Specialist	334	"

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Position Title	Series	Grade
Administrative Officer	341	GS 12 or below
Administrative Assistant	341	"
Office Services Supervisor	342	"
Chief, Office Services Section	342	"
Program Analyst	345	"
Data Transcriber	356	"
Telephone Operator	382	"
Accounting Assistant	501	"
Fiscal Clerk (Typing)	501	"
Power Accounts Specialist	501	"
Finance Technician	501	"
Accountant	510	"
Chief, Fiscal Services Branch	510	"
Cost Accountant	510	"
Accounting Technician	525	"
Voucher Examiner	540	"
Payroll Technician	544	"
Budget Analyst	560	"
General Engineer	801	"
Architecture Technician (Drafting)	802	"
Supervisory Materials Engineer	802	"
Civil Engineering Technician (Drafting)	802	"
Civil Engineering Technician	802	"
Electrical Engineering Technician (Drafting)	802	"
Materials Engineering Technician	802	"
Electrical Engineering Technician	802	"
Head, Reports and Specification Section	802	"
Architect	808	"
Supervisory Contruction Representative	809	"
Construction Representative	809	"
Construction Inspector	809	"

Position Title	Series	Grade
Civil Engineer	810	GS 12 or below
Structural Engineer	810	"
Head, Location and Survey Section	817	"
Engineering Draftsman	818	"
Electrical Engineer	850	"
Chief, Power Control Branch	850	"
Electronic Engineer	855	"
Chief, Communication Control	856	"
Electronic Technician	856	"
Student Trainee Engineering	899	"
Title Procurement Clerk	986	"
Procurement Assistant	1102	GS 7 or below
Procurement Agent	1102	"
Procurement Assistant	1102	"
Purchasing Agent	1105	"
Procurement Clerk	1106	GS 12 or below
Public Utilities Technician	1130	"
Public Utilities Specialist	1130	GS 9 or below
Public Utilities Assistant	1130	"
Public Utilities Clerk	1130	GS 12 or below
Realty Specialist	1170	GS 7 or below
Appraiser	1171	"
Power Operations Specialist	1601	GS 12 or below
Chief, Transmission Lines	1640	"
Facility Manager	1640	"
General Supply Specialist	2001	"
General Supply Supervisor	2001	"
Property Management Officer	2001	"
Supply Management Officer	2003	"
Supply Management Specialist	2003	"

Position Title	Series	Grade
Supply Clerk	2005	GS 12 or below
Supply Technician	2005	"
Inventory Management Specialist	2010	"
Travel Assistant	2132	"
Aircraft Pilot	2181	"
Helicopter Pilot	2181	"
Chief, Transportation and Shop	2181	"

All hourly paid employees

Offices (Headquarters and Field) Not Listed Elsewhere

All positions GS 12 or below in the following occupational series:

018	357	1106
080	382	1311
081	393	1341
085	394	1370
099	520	1371
201	525	1374
203	540	1410
212	544	1412
221	590	1531
243	599	1654
302	610	1712
304	644	2005
305	647	2151
312	690	2181
313	802	
316	818	
318	856	
322	899	
330	1001	
332	1015	
334	1060	
335	1081	
344	1082	
350	1083	
351	1084	
356	1087	

The following positions in occupational series 301, GS 12 or below are exempted:

Correspondence Information Coordinator
Correspondence Management Specialist
Correspondence Control Clerk
Administrative Fiscal Service Assistant (Typing)
Clerk (Typing)
Clerk
Administrative Assistant
Clerical Assistant
Clerk (Stenography)
Word Processing Assistant (Editorial)
Chief, Correspondence Unit
Staff Technician (Stenography)
Information Clerk

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Advisory Committee Management Officer
Document Control Clerk
Correspondence Management Technician
Staff Assistant (Stenography)
Advisory Committee Program Specialist
Office Services Assistant
Clerical Assistant (Typing)
Clerical Assistant (Stenography)
Management Information Assistant
Information Assistant
Administrative Clerk
Administrative Aide (Typing)
Project Assistant
Program Assistant
Correspondence Control Clerk (Typing)
Supervisory Correspondence Management Specialist

Form DOE-459
Revised 79

APPENDIX III A (APPLICABLE TO FERC)
CAUTION
PRIVACY ACT DOCUMENT

REPORT OF FINANCIAL INTERESTS
PRIVACY ACT INFORMATION STATEMENT

(A) This request for information is authorized by Executive Order 11222, "Prescribing Standards of Ethical Conduct for Government Officers and Employees;" Office of Personnel Management Regulations, 5 C.F.R. Part 735 (See also Federal Personnel Manual, Chapter 735); Pub. L. 95-91, 42 U.S.C. 7213, and DOE Regulations, 10 C.F.R. Part 1010. The submission of information is required for all DOE employees other than those occupying positions exempted under 10 C.F.R. 1010.403(a).

(B) The information is intended to help identify financial and employment interests of the employee or the employee's spouse, minor child, or dependent(s) which create conflicts of interest or the appearance thereof in the context of the employee's duties and responsibilities.

(C) The uses which may be made of the requested information consist of review by the employee's reviewing official and the Counselor to assist in determining whether the employee's employment and financial interests conflict or appear to conflict with the performance of official duties; counseling the employee in avoiding conflicts; and assignment of duties. The information may also be used by authorized representatives of the Department of Justice, Office of Government Ethics, and the Comptroller General in the course of the performance of their law enforcement and administrative responsibilities. Part A of this form shall be available to the public in accordance with section 607 of Pub. L. 95-91, 42 U.S.C. 7217 and 10 C.F.R. 1010.402. Part B is not subject to public disclosure (but see paragraph 8 of General Instructions below).

(D) Failure to provide all of the requested information may result in disciplinary action or denial of employment. (10 C.F.R. 1010.502)

GENERAL INSTRUCTIONS

1. This form consists of Parts A, B, C, and D. All DOE employees except those occupying positions listed in Appendix I of 10 C.F.R. Part 1010 shall complete Parts A, B, and C of this form and submit it to their respective reviewing officials. If additional pages are necessary, attach them hereto and identify them by reference to the appropriate Part(s) of the statement. The employee's name should be indicated on each page of this form, including any additional pages attached. Reviewing officials shall complete paragraph 1. of Part D of the form and forward the form to the Counselor.

2. This report is made on a calendar year basis and is to include interests held at any time during the reporting period even if no longer held at the time the report is made. New employees (including reappointed special Government employees) shall report for the current year through the date of the report; all others shall report for the immediately previous calendar year ending December 31.

3. The interest, if any, of a spouse, minor child or dependent (as dependent is defined by section 152 of the Internal Revenue Code of 1954) shall be reported in this statement and marked with an "X" to the left of the block where that interest is reported.

4. It is your responsibility to provide all requested information. In the event you are not permitted access to any of the required information, such as holdings placed in certain forms of trust, but that information is known to another person, you should request that other person to submit the information on your behalf and should report such request in your statement. The information submitted on your behalf should be submitted to your reviewing official. Also report in your statement requests made to other persons to furnish required information directly to you when responses to the requests have not been received.

5. "Energy concern" means:

(1) Any person listed on the Energy Concern List published by DOE, or

(2) Any other person

(i) holding an interest in property from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained;

(ii) significantly engaged in the business of:

(A) Developing, extracting, producing, refining, transporting by pipeline, converting into synthetic fuel, distributing, or selling minerals for use as an energy source, or in the generation or transmission of energy from such minerals or from wastes or renewable resources;

(B) Producing, generating, transmitting, distributing, or selling electric power;

(C) Development, production, processing, sale, or distribution of nuclear materials, facilities, or technology; or;

(D) Conducting research, development, or demonstration related to an activity described in paragraphs (2)(i), (2)(ii)(A), (2)(ii)(B) or (2)(ii)(C); or

(iii) significantly engaged, whether or not for profit, in conducting such research, development, or demonstration related to an activity described in paragraphs (2)(i), (2)(ii)(A), (2)(ii)(B) or (2)(ii)(C) with financial assistance under any Act the functions of which are vested in or delegated or transferred to the Secretary or the Department.

(3) For the purposes of reports required by Pub. L. 94-163 and Pub. L. 95-39, "energy concern" includes "energy businesses" and "energy properties" as those terms are used in those Acts.

(4) "Energy Concern" does not include religious organizations; mutual funds or regulated investment companies the portfolios of which are widely diversified, or similarly constituted, commercially fungible entities. Membership or ownership in utility cooperatives required to obtain services is not considered an interest in an energy concern.

6. Notwithstanding the filing of this report, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts of interest provisions of 10 C.F.R. Part 1010.

7. Energy concern clients of a firm or association for which a new supervisory employee was directly involved in the provision of services (as a member, partner or employee of the firm or association) need not be disclosed in this report so long as such disclosure is made on Form DOE-460.

8. Part A of this report is subject to public disclosure pursuant to section 607 of Pub. L. 95-91 (42 U.S.C. 7217) and is designed for use by employees to disclose interests in "energy concerns" required by section 603 of Pub. L. 95-91 (42 U.S.C. 7213). Part B is not subject to public disclosure; it is designed to implement the disclosure requirements of Executive Order 11222 and Office of Personnel Management implementing regulations (5 C.F.R. Part 735). In addition, it is designed for the purpose of assuring against inadvertent failure to disclose interests in a person or entity which, pursuant to Pub. L. 95-91, is determined by the Secretary to be an energy concern. Employees may be asked to supply additional information regarding interests reported in Part B when the Counselor believes such interests may be interests in energy concerns. Such additional information will remain confidential unless and until the entity in which the interest is held is determined by the Secretary to be an energy concern.

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Form DOE-459

DEPARTMENT OF ENERGY

PART A — STATEMENT OF INTERESTS IN ENERGY CONCERNS
(See Attached Sheet for General Instructions)

NAME (Last, first, initial)

I. EMPLOYMENT AND FINANCIAL INTERESTS

(1) List the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations and educational institutions, or other entities that are or you believe to be energy concerns --

(a) with which you, your spouse, minor child, or dependent(s) are connected as an employee, officer, owner, director, member, trustee, partner, adviser, or consultant; or

(b) in which you, your spouse, minor child, or dependent(s) have any continuing financial interest, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional associations; or

(c) in which you, your spouse, minor child or dependent(s) have any financial interest through ownership of stocks, stock options, bonds, securities, or other arrangements, including trusts.

(2) If none, write NONE.

(3) Do not abbreviate names of organizations.

NAME, KIND OF ORGANIZATION (e.g., corporation, partnership, nonprofit organization, etc.) AND NATURE OF ITS ACTIVITY	ADDRESS (or the exchange in which the securities are traded)	(1) NATURE OF FINANCIAL INTERESTS, e.g., stock, prior business income, etc. and (2) total value of and compensation from interest	POSITION IN ORGANIZATION (e.g., employee, officer, owner, etc.)

(PUBLIC)

Form DOE-459

NAME

PART A - Cont.

II. CREDITORS

List the names of your creditors that are, or you believe to be, energy concerns other than those to whom you may be indebted by reason of a mortgage on property which you occupy as a personal residence or to whom you may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses. If none, write NONE.

NAME AND ADDRESS OF CREDITOR	CHARACTER OF INDEBTEDNESS (e.g., Personal Loan, Note, Security)

III. INTERESTS IN REAL PROPERTY

List your interest in real property or rights in lands from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained. If none, write NONE.

NATURE OF INTEREST e.g., ownership, mortgage, lien, investment trust, etc.	TYPE OF PROPERTY, e.g., residence hotel, apartment, farm, undeveloped land, oil and gas rights, other mineral interests, etc.	ADDRESS (if rural, give RFD, or county & state

(PUBLIC)

Form DOE-459

NAME

PART B — STATEMENT OF FINANCIAL INTERESTS
(Information reported in Part A need not be repeated)

I. EMPLOYMENT AND FINANCIAL INTERESTS

(1) List the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations and educational or other institutions --

(a) with which you, your spouse, minor child or dependent are connected as an employee, officer, owner, director, member, trustee, partner, adviser, or consultant or with which you are negotiating or have any arrangement concerning prospective employment; or

(b) in which you, your spouse, minor child, or dependent have any continuing financial interest, through a pension or retirement plan, shared income, or otherwise, as a result of any current or prior employment or business or professional associations; or

(c) in which you, your spouse, minor child or dependent have any financial interest through ownership of stocks, stock options, bonds, securities, or other arrangements, including trusts.

(2) The information to be listed does not include any information relating to your, your spouse's, your minor child's, or your dependent's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed to be "business enterprises" for the purposes of this report and should be included.

(3) The information to be listed in this part does not require a showing of the amount of financial interest, indebtedness, or the value of real property.

(4) If none, write NONE.

(5) Do not abbreviate names of organizations.

Form DOE-459

NAME

PART B — I. EMPLOYMENT AND FINANCIAL INTERESTS — Continued

NAME, KIND OF ORGANIZATION (e.g., corporation partnership, nonprofit organization etc.) AND NATURE OF ACTIVITY	ADDRESS (or the exchange in which the securities are traded)	NATURE OF FINANCIAL INTEREST (e.g., stock, prior business income, etc.)	POSITION IN ORGANIZATION (e.g., employee, officer, owner, etc.)

(NOT AVAILABLE FOR PUBLIC REVIEW)

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Form DOE-459

NAME

PART B - Cont.

II. CREDITORS

List the names of your creditors other than those to whom you may be indebted by reason of a mortgage on property which you occupy as a personal residence or to whom you may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses. If none, write NONE.

	NAME AND ADDRESS OF CREDITOR	CHARACTER OF INDEBTEDNESS (e.g., Personal Loan, Note, Security)

III. INTERESTS IN REAL PROPERTY

List your interest in real property or rights in lands, other than property which you occupy as a personal residence. If none, write NONE.

	NATURE OF INTEREST, (e.g., ownership mortgage, lien, investment trust, etc.)	TYPE OF PROPERTY, (e.g., residence hotel, apartment, farm, undeveloped land, oil and gas rights, other mineral interests, etc.)	ADDRESS (if rural, give RFD, or county & state)

(NOT AVAILABLE FOR PUBLIC REVIEW)

Form DOE-459

DEPARTMENT OF ENERGY

PART C

1. NAME (Last, First, Initial)

2. HOME ADDRESS (Street, City, State, Zip Code)

3. TELEPHONE

Home:

Business:

4. TITLE OF POSITION (or prospective position in DOE):

5. DATE OF APPOINTMENT IN PRESENT POSITION (or expected date of appointment):

6. OFFICE AND/OR DIVISION (or prospective office and/or division):

7. PLEASE INDICATE ONE OF THE FOLLOWING:

( ) Regular Employee
( ) EES
( ) Special Government Employee
( ) IGPA (Intergovernmental Personnel Act)
( ) PIA (Professional Term Appointment)
( ) President's Executive Interchange Program
( ) Other (Specify)

8. PRESENT GRADE OR LEVEL OF PAY (or expected Grade or level of pay):

9. DESCRIPTION OF SERVICES YOU ARE OR WILL BE PERFORMING:

10. Are you performing functions under the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, and is your position listed in Appendix IV of 10 C.F.R. Part 1010?

( ) Yes

( ) No

11. If the answer to question #10 is yes, please identify which, if any, of the listed financial interests represents an interest in an underground or surface coal mining operation: (If none, write NONE)

(NOT AVAILABLE FOR PUBLIC REVIEW)

Form DOE-459

NAME

PART C - Cont.

12. INFORMATION REQUESTED OF OTHER PERSONS

If any information is to be supplied by other persons, e.g., trustee, attorney, accountant, relative, etc., please indicate the name and address of such persons, the date upon which you requested that the information be supplied, and the nature of subject matter involved. If none, write NONE.

NAME AND ADDRESS	DATE OF REQUEST	NATURE OF SUBJECT MATTER

I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief. I understand falsification of statements on this form is punishable in accordance with law (18 U.S.C. 1001).

Signature _____ Date _____

(NOT AVAILABLE FOR PUBLIC REVIEW)

Form DOE-459

NAME

FOR USE BY DOE

PART D -- DETERMINATIONS:

Instructions to reviewing official:

CAUTION: Administrative sanctions may be imposed against you for failure to perform review functions properly. (See 10 C.F.R. 1010.502(d).) Your review functions may not be redelegated. (See 10 C.F.R. 1010.103(r).) DO NOT REPRODUCE OR RETAIN COPIES OF THIS FORM. Upon completion of your review, forward this form to the Counselor in a sealed envelope marked "TO BE OPENED BY ADDRESSEE ONLY - CONFIDENTIAL STATEMENT OF FINANCIAL INTERESTS".

Under applicable law and DOE regulations:

- No employee is to participate in any particular matter of any type the outcome of which could have a direct and predictable effect upon a business entity, including nonprofit organization or educational institution, by which he is employed or with which he is negotiating for or has any arrangement concerning prospective employment, or to which he renders consultant services, or in which he has a financial interest not exempted under 10 C.F.R. 1010.302.

1. Reviewing official: I have reviewed this report in the context of the applicable law stated above and in relation to the employee's duties and responsibilities, and I find:

( ) no conflict or apparent conflict of interest.
( ) the following interests pose potential conflict of interest situations:

The following steps have been taken to effect resolution of the potential conflict situations referred to above:

(NOT AVAILABLE FOR PUBLIC REVIEW)

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Form DOE-459

NAME

PART D - Cont.

( ) the following questions require resolution:

Signature _____ Date _____

2. Counselor (or deputy counselor): I have reviewed the statement of the employee and the reviewing official's findings above and find:

( ) no evidence of conflict or apparent conflict of interest.
( ) the following interests pose potential conflict of interest:

The following steps have been taken to effect resolution of the potential conflict situations referred to above:

( ) the following questions require resolution:

Signature _____ Date _____

(NOT AVAILABLE FOR PUBLIC REVIEW)

Revised 79

APPENDIX III B (APPLICABLE TO FERC)

CAUTION

PRIVACY ACT DOCUMENT

REPORT ON PRIOR EMPLOYMENT

PRIVACY ACT INFORMATION STATEMENT

(A) This request for information from DOE "supervisory employees" is authorized by Pub. L. 95-91, section 604 (42 U.S.C. 7214).

(B) The information will be used to help identify prior employment interests of the employee which create conflicts of interest or the appearance thereof in the context of the employee's duties and responsibilities.

(C) The uses which may be made of the requested information consist of review by the cognizant reviewing official and the Counselor to assist in determining whether the individual's prior employment interests conflict or appear to conflict with the performance of official duties; counseling those individuals in avoiding conflicts; and assignment of duties. The information may also be used by authorized representatives of the Department of Justice, Office of Government Ethics, and the Comptroller General in the course of the performance of their law enforcement and administrative responsibilities. Part A of this form shall be available to the public in accordance with section 607 of Pub. L. 95-91, 42 U.S.C. 7217, and 10 C.F.R. 1010.402. Part B is not subject to public disclosure (but see paragraph 4 of General Instructions below).

(D) Failure to provide the information requested on Part A may result in assessment of a civil penalty of up to $10,000 (section 608, Pub. L. 95-91, 42 U.S.C. 7218).

GENERAL INSTRUCTIONS

1. This form consists of Parts A, B, C, and D. All "supervisory employees" (as defined in section 601(a), Pub. L. 95-91, 42 U.S.C. 7211(a)) shall complete Parts A, B, and C of this form and submit the form to their respective reviewing officials. If additional pages are necessary, they should be attached hereto and identified by reference to the appropriate Part(s) of the statement. Reviewing officials shall complete paragraph 1 of Part D of the form and forward the form to the Counselor.

2. This one-time report is required to be submitted by all supervisory employees within 60 days of becoming a supervisory employee in the DOE. Each entity which paid the employee compensation in excess of $2,500 in the year in which the employee is reporting or in any of the five preceeding calendar years shall be disclosed.

3. "Energy concern" means:

(1) Any person listed on the Energy Concern List published by DOE, or

(2) Any person:

(i) holding an interest in property from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained;

(ii) significantly engaged in the business of:

(A) Developing, extracting, producing, refining, transporting by pipeline, converting into synthetic fuel, distributing, or selling minerals for use as an energy source, or in the generation or transmission of energy from such minerals or from wastes or renewable resources;

(B) Producing, generating, transmitting, distributing, or selling electric power;

(C) Development, production, processing, sale, or distribution of nuclear materials, facilities, or technology; or

(D) Conducting research, development, or demonstration related to an activity described in paragraphs (2)(ii), (2)(ii)(A), (2)(ii)(B) or (2)(ii)(C); or

(iii) significantly engaged, whether or not for profit, in conducting such research, development, or demonstration related to an activity described in paragraphs (b) or (b)(i), (b)(ii), or (b)(iii) with financial assistance under any Act the functions of which are vested in or delegated or transferred to the Secretary or the Department.

(3) "Energy Concern" does not include religious organizations; mutual funds or regulated investment companies the portfolios of which are widely diversified, or similarly constituted, commercially fungible entities. Membership or ownership in utility cooperatives required to obtain services is not considered an interest in an energy concern.

4. Part A of this report is subject to public disclosure pursuant to section 607 of Pub. L. 95-91 (42 U.S.C. 7217) and is designed for use by "supervisory employees" required to disclose certain prior employment information by section 604 of Pub. L. 95-91 (42 U.S.C. 7214). Part B is not subject to public disclosure; it is designed solely for the purpose of assuring against inadvertent failure to disclose prior employment with a person or entity which, pursuant to the Act, is determined by the Secretary to be an energy concern. Employees may be asked to supply additional information regarding employment listed in Part B when the Counselor believes such employment may be energy concern employment. Such additional information will remain confidential unless and until the employer is determined by the Secretary to be an energy concern.

Form DOE-460

REPORT ON PRIOR EMPLOYMENT

1. NAME (last, first, initial)

PART A

1. Identify all energy concerns from which you received compensation in excess of $2,500 in this calendar year or in any of the five preceeding calendar years. If none, write NONE. You need not include any information which is considered confidential as a result of a privileged relationship, recognized by law, between you and any person; nor need you report any information with respect to any person for whom services were provided by any firm or association of which you were a member, partner, or employee unless you were directly involved in the provision of such services.

NAME OF ENERGY CONCERN AND NATURE OF ITS BUSINESS OR ACTIVITY	ADDRESS	PERIOD OF TIME COMPENSATION RECEIVED	POSITION HELD OR OTHER RELATIONSHIP WITH ORGANIZATION	DUTIES PERFORMED OR SERVICES RENDERED

(PUBLIC)

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Form DOE-460

NAME

PART B

Identify all sources (other than those listed in Part A) from which you received compensation in excess of $2,500 in this calendar year or in any of the five preceeding calendar years. If none, write NONE. You need not include any information which is considered confidential as a result of a privileged relationship, recognized by law, between you and any person; you need not report any information with respect to any person for whom services were provided by any firm or association of which you were a member, partner, or employee unless you were directly involved in the provision of such services.

NAME OF PERSON OR OTHER ENTITY	ADDRESS	NATURE OF BUSINESS OR ACTIVITY OF ENTITY AND DATE OF ASSOCIATION

(NOT AVAILABLE FOR PUBLIC REVIEW)

Form DOE-460

PART C

1. NAME (last, First, Initial)
2. HOME ADDRESS (Street, City, State, Zip Code)
3. TELEPHONE

   Home:

   Business:
4. TITLE OF POSITION (or prospective position in DOE):
5. DATE OF APPOINTMENT IN PRESENT POSITION (or expected date of appointment):
6. OFFICE AND/OR DIVISION (or prospective office and/or division):
7. PLEASE INDICATE ONE OF THE FOLLOWING:

   ( ) Regular Employee
   ( ) EES
   ( ) Special Government Employee
   ( ) IGPA (Intergovernmental Personnel Act)
   ( ) PTA (Professional Term Appointment)
   ( ) President's Executive Interchange Program
   ( ) Other (Specify)
8. PRESENT GRADE OR LEVEL OF PAY (or expected grade or level of pay):
9. DESCRIPTION OF SERVICES YOU ARE OR WILL BE PERFORMING:

I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief. I understand falsification of statements on this form is punishable in accordance with law (18 U.S.C. 1001).

Signature _____ Date _____

(NOT AVAILABLE FOR PUBLIC REVIEW)

Form DOE-460

NAME

FOR USE BY DOE

PART D — DETERMINATIONS:

Instructions to reviewing official:

CAUTION: Administrative sanctions may be imposed against you for failure to perform review functions properly. (See 10 C.F.R. 1010.502(d).) Your review functions may not be redelegated. (See 10 C.F.R. 1010.103(r).) You are required to review Part A of this form and indicate the results of your review below. DO NOT REPRODUCE OR RETAIN COPIES OF PART B OF THIS FORM. Following completion of your review, forward this form to the Counselor in a sealed envelope marked "TO BE OPENED BY ADDRESSEE ONLY - CONFIDENTIAL STATEMENT OF PRIOR EMPLOYMENT."

Under applicable law and DOE regulations:

- For a period of one year after terminating any employment with any energy concern, no supervisory employee shall knowingly participate in any Department proceeding in which his former employer is substantially, directly, or materially involved, other than in a rulemaking proceeding which has a substantial effect on numerous energy concerns.
- For a period of one year after commencing service in the Department, no supervisory employee shall knowingly participate in any Department proceeding for which, within the previous five years, he had direct responsibility or in which he participated substantially or personally while in the employment of any energy concern. (Section 606, Pub. L. 95-91, 42 U.S.C. 7216).

1. Reviewing official: I have reviewed Part A of this form in relation to the employee's duties and responsibilities and find:

   ( ) no conflict or apparent conflict of interest.
   ( ) the following pose potential conflict of interest situations:

   The following steps have been taken to effect resolution of the potential conflict situations referred to above:

(NOT AVAILABLE FOR PUBLIC REVIEW)

Form DOE-460

NAME

PART D - Cont.

( ) The following questions require resolution:

Signature _____ Date _____

2. Counselor (or deputy counselor); I have reviewed the statement of the employee and the reviewing official's findings above and find:

   ( ) no evidence of conflict of interest.
   ( ) the following pose potential conflict of interest situations.

   The following steps have been taken to effect resolution of the potential conflict situations referred to above:

   ( ) The following questions require resolution:

Signature _____ Date _____

(NOT AVAILABLE FOR PUBLIC REVIEW)

UMI 97 62 PA 28/44

Form DOE-461
Revised 79

APPENDIX III C (APPLICABLE TO FERC)

C A U T I O N

PRIVACY ACT DOCUMENT

REPORT OF EMPLOYMENT - FORMER SUPERVISORY EMPLOYEES

PRIVACY ACT INFORMATION STATEMENT

(A) This request for information from former DOE "supervisory employees" is authorized by Pub. L. 95-91, section 605, 42 U.S.C. 7215; and DOE Regulations, 10 C.F.R. Part 1010.

(B) The information is intended to notify the DOE of positions with energy concerns held by former supervisory employees.

(C) The uses which may be made of the requested information consist of review by the Counselor to assist in determining whether the individual's employment interests conflict or appear to conflict with former duties; and for counseling those individuals in avoiding conflict of interest violations. The information may also be used by authorized representatives of the Department of Justice, Office of Government Ethics, and the Comptroller General in the course of the performance of their law enforcement and administrative responsibilities. Part A of this form shall be made available to the public in accordance with section 607 of Pub. L. 95-91, 42 U.S.C. 7217 and 10 C.F.R. 1010.402. Part B is not subject to public disclosure (but see paragraph 3 of General Instructions below).

(D) Failure to provide all of the requested information may result in assessment of a civil penalty of up to $10,000 (section 608, Pub. L. 95-91, 42 U.S.C. 7218).

GENERAL INSTRUCTIONS

1. All former supervisory employees (see 10 C.F.R. Part 1010, Appendix II) shall complete this form. Submit this report to the Counselor. If additional pages are necessary, attach them hereto and identify them by reference to the appropriate Part(s) of the statement.

2. "Energy concern" means:

(1) Any person listed on the Energy Concern List published by DOE; or

(2) Any other person:

(i) holding an interest in property from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained;

(ii) significantly engaged in the business of:

(A) Developing, extracting, producing, refining, transporting by pipeline, converting into synthetic fuel, distributing, or selling minerals for use as an energy source, or in the generation or transmission of energy from such minerals or from wastes or renewable resources;

(B) Producing, generating, transmitting, distributing, or selling electric power;

(C) Development, production, processing, sale, or distribution of nuclear materials, facilities, or technology; or

(D) Conducting research, development, or demonstration related to an activity described in paragraphs (2)(i), (2)(ii)(A), (2)(ii)(B) or (2)(ii)(C); or

(iii) Any person or entity significantly engaged, whether or not for profit, in conducting such research, development, or demonstration relating to an activity described in paragraphs (2)(i), (2)(ii)(A), (2)(ii)(B) or (2)(ii)(C) with financial assistance under any Act the functions of which are vested in or delegated or transferred to the Secretary or the Department.

(3) "Energy Concern" does not include religious organizations; mutual funds or regulated investment companies the portfolios of which are widely diversified, or similarly constituted, commercially fungible entities. Membership or ownership in utility cooperatives required to obtain services is not considered an interest in an energy concern.

3. Part A of this report is subject to public disclosure pursuant to section 607 of Pub. L. 95-91 (42 U.S.C. 7217) and is designed for use by former "supervisory employees" of the Department of Energy required to disclose certain employment information by section 605 of Pub. L. 95-91 (42 U.S.C. 7215). Part B is not subject to public disclosure; it is designed solely for the purpose of assuring against inadvertent failure to disclose employment with a person or entity which, pursuant to the Act, is determined by the Secretary to be an energy concern. This report must be filed with the Counselor not later than May 15 of the first and second calendar years following the first full year in which the supervisory employee ceased to be an officer or employee of the Department. This report requirement does not apply to any former supervisory employee who, at the time such employment with the Department ceases, has any contract, promise, or other agreement with respect to future employment with any energy concern if (A) the former supervisory employee describes such agreement in any report filed within thirty days after the individual ceases to be an employee of the Department, and (B) the former supervisory employee amends the report by May 15 of either of the next two years during which he has accepted employment with another energy concern.

Form DOE-461

1. NAME (last, first, initial)
2. TITLE OR FORMER POSITION
3. DATE DOE EMPLOYMENT CEASED
4. ADDRESS
5. DATE OF REPORT:

PART A

1. Describe any employment with any energy concern since your DOE employment ceased, including any employment as a consultant, agent, attorney, or otherwise.

NAME OF ENERGY CONCERN	ADDRESS	POSITION HELD	DATES OF EMPLOYMENT	BRIEF DESCRIPTION OF DUTIES PERFORMED OR SERVICES RENDERED

(PUBLIC)

Form DOE-461

NAME

PART B

1. Describe any employment not reported in Part A since your DOE employment ceased, including any employment as a consultant, agent, attorney, or otherwise.

NAME OF EMPLOYER	ADDRESS	POSITION HELD	DATES OF EMPLOYMENT	BRIEF DESCRIPTION OF DUTIES PERFORMED OR SERVICES RENDERED

I certify that the statements I have made in Part A and Part B of this report are true, complete, and correct to the best of my knowledge and belief. I understand that falsification of statements on this form is punishable in accordance with law and that failure to provide all information requested may result in assessment of a civil penalty of up to $10,000 (18 U.S.C. 1001).

Signature _____ Date _____

(NOT AVAILABLE FOR PUBLIC REVIEW)

BILLING CODE 6450-01-C

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federal register

Thursday
April 26, 1979

Part III

Department of Transportation

Federal Aviation Administration

Aircraft Operating Noise Limits; Compliance Plans, Expanded Definition of "Replacement Airplanes", Publication of Petition for Rule Making and Request for Comments

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DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration

[14 CFR Part 91]

Aircraft Operating Noise Limits; Compliance Plans and Expanded Definition of "Replacement Airplanes"

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes amendments to the aircraft operating noise limits rule (1) to expand the definition of "replacement airplanes" under the rule and (2) to require operators of turbojet airplanes covered by the rule to submit their respective plans for achieving timely and continuing compliance with the applicable noise limits. The operating noise limits rule applies to "U.S. registered, civil subsonic turbojet airplanes with maximum weights over 75,000 pounds and having standard airworthiness certificates" which are not operated in foreign air commerce.

This notice proposes to permit replacement of noncomplying airplanes with currently ineligible "Stage 1" or "Stage 2" airplanes that have been re-engined, or otherwise modified, and certificated as "Stage 3 airplanes." The current rule assumed that this kind of modification would not be attractive within the compliance period. Accordingly, it permits replacement only by airplanes shown to comply with Part 36 noise levels prior to the issuance of an original standard airworthiness certificate. Recent developments suggest that this assumption may be wrong. If it were possible to have foreseen the current re-engining proposals that would modify existing aircraft to become Stage 3 airplanes, the FAA would have proposed to include those re-engined airplanes as replacement airplanes in the original rule making. Therefore, the FAA believes that those recertificated "Stage 3 airplanes" should be eligible as "replacement airplanes" under the rule in order to increase the protection provided to the public health and welfare as contemplated under § 611 of the Federal Aviation Act of 1958, as amended.

The nature and mobility of airplane fleets of the various aircraft operators covered by the rule, make it difficult for the FAA to obtain specific fleet and airplane compliance information in a comprehensive and uniform manner from established reports. While the FAA has continuously stated its intent to enforce the prescribed compliance schedule, the effectiveness of that enforcement would be improved if current and up-dated operator plans for achieving and maintaining compliance are developed and made available to the FAA and the public.

DATES: Comments must be received on or before June 25, 1979.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24), Docket No. 18955, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Richard Tedrick, Noise Policy and Regulations Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-9027.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before June 25, 1979 will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Discussion of the Proposed Rule

The FAA is considering amendments to the aircraft operating noise limits rule prescribed under Subpart E of Part 91 of the Federal Aviation Regulations (14 CFR Part 91). One proposal would amend § 91.305(c) to expand the definition of "replacement airplanes" to include previously ineligible airplanes which are re-engined or otherwise modified, and certificated as "Stage 3 airplanes" under Part 36. The other substantive proposal would add a new § 91.308 to require operators of airplanes covered by the rule to submit compliance plans for achieving the noise requirements in accordance with the prescribed compliance schedule. This notice also reflects editorial changes to Subpart E, including a minor language change to conform to Special Federal Aviation Regulation No. 38 (43 FR 58366; December 14, 1978) concerning issuance of certain operating certificates.

Relationship to ATA Petition for Rule Making

The FAA recently received a petition for rule making from the Air Transport Association of America (ATA), on behalf of its members, to amend Subpart E of Part 91. That petition, which is published for public comment elsewhere in today's **Federal Register**, requests the FAA to initiate rule-making procedures to eliminate the 1981 initial, phased compliance date and to substitute for it a requirement that each operator submit to the FAA by January 1, 1980, a plan showing how the operator intends to comply with the applicable 1983 and 1985 requirements. This notice, while proposing compliance plans, does not respond to that petition and should not be confused with it. While this notice necessarily involves some issues similar to those raised by the ATA petition, it does not prejudge the disposition which will be made of the petition by the FAA after due consideration of its merits in accordance with the applicable provisions of Part 11 of the Federal Aviation Regulations.

Background of the Proposals

Subpart E of Part 91 of the Federal Aviation Regulations (FARs) prescribes operating noise limits for certain "U.S. registered, civil subsonic turbojet airplanes with maximum weights over 75,000 pounds and having standard airworthiness certificates." Those requirements, adopted by Amendment 91-136 (41 FR 56046; December 23, 1976), prohibit the operation in the United States of affected airplanes after specified dates unless they have been shown to comply with the noise levels ("Stage 2"), prescribed under Part 36, in accordance with the provisions of Subpart E. For airplanes operated under operating certificates issued under Parts 121 and 135, Subpart E prescribes a phased compliance schedule requiring specified portions of an operator's fleets to achieve and maintain compliance by 1981 and 1983, with full and continuing compliance by all affected airplanes by 1985. For airplanes operated under Parts 91 and 123, full compliance must be achieved by 1985. Thus, on and after January 1, 1985, no person may operate any airplane covered by Subpart E, including those operated under Parts 91, 121, 123, and 135, unless compliance has been shown. Compliance may be achieved by the acoustical modification, or "retrofit," of noncomplying airplanes or through their replacement with complying airplanes. The purpose of this proposal is to expand the class of airplanes that are eligible "replacement airplanes under § 91.305(c).

Replacement Airplanes

In its original investigation of the "replacement airplane" concept the FAA did not contemplate that the older, noncomplying airplane types were susceptile to re-engining, or other acceptable modification much below the "Stage 2" noise limits. At the time the newest technology represented by turbojet engines with bypass ratios greater than two had no successful application to these older airplanes for which airworthiness certificates had been issued in the past. Accordingly, the rule was written to permit replacement only by the newest airplanes, that is, airplanes shown to comply with Part 36 ("Stage 2" or "Stage 3") noise levels prior to the issuance of an original standard airworthiness certificate. However, current type design modification programs, involving the re-engining of certain noncomplying airplanes with high bypass ratio engines to achieve significant noise reductions and improve performance, appear promising enough that United Air Lines and several other airplane operators have expressed the commitment or interest in using DC-8 airframes re-engined with the newest technology engines. There is also a program underway at Boeing to re-engine the B-707 with engines that may bring that aircraft into Stage 3 compliance.

To provide an additional option to operators for achieving required noise compliance and to encourage the introduction of more aircraft that have shown compliance with the more stringent noise requirements for "Stage 3 airplanes," the FAA believes the definition of "replacement airplanes" under the rule should be expanded. If adopted, the proposal would encourage the use of the new technology engines on certain airframes of Stage 1 airplanes with relatively low flight time, such as Boeing 707 and DC-8 airplanes delivered during the last decade. The newer engine applications would also have the benefits of increased fuel efficiency and reduced engine emissions. To the extent that such applications will be made to existing, low flight-time airframes of Stage 1 airplanes, the public and the economy would benefit from the efficiencies that result from extending the service life of those airframes.

While the FAA believes that the additional option under the rule should be available to airplane operators, comments are invited on the specific impact of the extended service life of those airframes, including detailed views and data regarding (1) the extent to which the re-engining option for replacement airplanes would actually be used; (2) the anticipated number of airplanes which would be affected; and (3) the extent to which useful airframe service life could be extended. Comments should also treat the economic, energy, environmental, and regulatory implications of the proposal. While re-engining is a specific modification that is acceptable under the proposal, the FAA believes other modifications involving acoustical redesign, which achieve the same demonstrated noise reduction, should also be accepted. For that reason, the proposal would permit, as "replacement aircraft," those that have been re-engined "or otherwise modified."

Noise Compliance Plans

Since its adoption in 1976, public, Congressional, and other governmental interest in the achievement of the full benefits of the rule has increased significantly. The FAA has received numerous suggestions from the public and members of Congress that, in light of the rapidly approaching compliance dates of a rule which provide vital relief to millions of Americans living near airports, the FAA should move promptly to remedy its compliance monitoring ability and take the actions necessary to compel submission of compliance plans by airplane operators at the earliest practicable date. Of particular interest is the progess being made by air carrier and commercial operators who face the first phased compliance date in 1981.

At the time it adopted the rule, the FAA had data and status reports concerning Part 36 compliance of airplanes in the various U.S. operator fleets upon which it based its analysis of the effects of the rule. However, since that time, the FAA has not had sufficient information on which to accurately assess the current or planned compliance status of the individual airplanes within the respective operator fleets. The complexities of the composition of those fleets, with numerous types and models of aircraft, their mobility, their requirements for repair and maintenance, and the generally changing nature and composition of the fleets, has made it virtually impossible for the FAA to obtain reliable, continuously current information on fleet composition showing its current and planned future compliance status.

The FAA intends to ensure that compliance with the provisions of Subpart E is not compromised by planning failures that could have been avoided. If the agency is unaware of problems or potential problems that might delay full compliance, it is unable to respond or take corrective action to alleviate those matters. Every effort will be made to ensure that the benefits of the Subpart E operating noise limits are achieved without delay.

Therefore, to avoid potential problems associated with inadequate monitoring of compliance and unreasonable delays in operator planning which may make compliance uncertain or impractical, the FAA believes that it should establish a program of required operators' noise compliance plans. This notice proposes to establish such a program. Since airplane operators covered by the noise compliance rule should already have the necessary information as part of their fleet management programs and the strategies developed to achieve the required compliance, the FAA believes the objectives of the proposal can be achieved with a minimum of cost or other burden on the operators in submitting those plans and data under the proposed reporting requirements.

The FAA has considered alternative means by which it might attempt to obtain the information needed to monitor compliance, such as through its general aviation and air carrier inspector or principle maintenance inspector programs. However, the FAA recognizes that no program currently exists which would provide both timely and uniform information concerning the many and varied operator's plans for achieving compliance of highly mobile fleets. Since the largest air carrier fleet

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is composed of fewer than 350 airplanes and most operators affected by the rule have fewer than 25 airplanes, no operator should have an unreasonable burden under this proposal. Further, once the initial compliance plan is developed, any further submissions required under the proposal can be made by up-dating the plan or, if appropriate, certifying that no change has occurred since the previously submitted plan.

Under the proposal, a new § 91.308 would be added to Subpart E of Part 91 containing the form and content requirements of compliance plans and prescribing the schedule for submitting the compliance plans to the Administrator. Plans would be certified as true and complete by the operator. In order to provide a fixed and uniform date, unless otherwise approved by the Administrator, the plan would present the compliance plan and status as it exists on the date 30 days before the date prescribed for submission. However, if no change in the plan or status of any airplane covered by the plan has occurred since the last plan was submitted, the operator may submit a certified statement to that effect, instead of the unchanged plan.

For all subsonic airplanes covered by Subpart E, submission of the first compliance plan would be required 90 days after the effective date of the final rule based on this notice or the operator's commencing air transportation operations. In addition, an up-dated plan would be required 30 days after (1) any change in fleet compliance or the operator's planning decisions that has a separate or cumulative effect on 5% or more of the airplanes in either class of airplane types established for compliance puposes under § 91.305(b) and (2) each prescribed compliance date and annually thereafter for reporting the continuing compliance status of the fleet. Under the proposal, for airplanes operated under Parts 91 and 123, compliance plan up-dates would also be submitted annually through 1985. For airplanes operated under Parts 121 or 135, compliance plan up-dates would also be submitted six months before each compliance date applicable to the respective airplane types covered under Subpart E.

Each compliance plan would specify the name and address of the airplane operator submitting the plan and identify the person responsible for the contents of the plan and its submission to the FAA.

For each airplane covered by the plan, the operator would provide (1) the aircraft registration ("N") number; (2) the aircraft manufacturer's serial number; (3) the aircraft engine make and model; (4) year of manufacture of the airplane; (5) whether compliance with Part 36 noise levels has been shown for the airplane and whether the airplane remains in the complying configuration; and (6) whether compliance in accordance with Part 91 noise limits has been shown. Using a set of specified symbols, the operator would identify any accoustical technology applied or treatment installed or planned to be installed on the airplane, and its engines. If the compliance plan calls for future application of technology or treatment for the airplane to achieve compliance or for its retirement, the scheduled date of its application, installation, or retirement from service would be provided. Airplanes covered by an approved replacement plan under § 91.305(c) and the date scheduled for replacement would be identified in the compliance plan. Airplanes designated as "engaged in foreign commerce" in accordance with an FAA approved method of apportionment under § 91.307 of Subpart E, would be so indicated in the compliance plan. In addition, each operator would specify (1) the number of spare ship-sets of acoustical components needed to ensure continuous compliance by the affected airplanes; and (2) the number of spare ship-sets of acoustical components available on demand to the operator in support of maintaining continuous compliance.

Editorial Amendments

In December 1978, the FAA adopted Special Federal Aviation Regulation (SFAR) No. 38 (FR 58366; December 14, 1978) which, among other things, simplified the operating certificate issuance procedures for air carriers and other operators engaged in air transportation. SFAR No. 38 eliminates the practice of issuing multiple FAA certificates for operations conducted under the operating rules prescribed in different FAR Parts. Accordingly, this notice includes minor language changes to the provisions that refer to certificates no longer being issued.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart E of Part 91 of the Federal Aviation Regulations (14 CFR Part 91) as follows:

1. By amending paragraph (a)(1) of § 91.301, at the beginning of the paragraph, by deleting the words "Sections 91.303, 91.305, and 91.307" and substituting for them the words "Sections 91.303, 91.305, 91.307, and 91.308."

2. By amending paragraph (a) and the last sentence of paragraph (c) of § 91.305 to read as follows:

§ 91.305 Phased compliance under Parts 121 and 135: subsonic airplanes.

(a) Except as provided under § 91.307, each person operating subsonic airplanes covered by this subpart under Parts 121 or 135 of this chapter shall, with respect to those airplanes, comply with this section.

* * * * *

(c) * * * For purposes of this paragraph, replacement airplanes are airplanes which have been shown to comply with Part 36 prior to the issuance of an original standard airworthiness certificate or which have been re-engined, or otherwise modified, and shown to comply with Stage 3 noise level requirements under Part 36.

3. By adding a new § 91.308 to read a follows:

§ 91.308 Compliance plans.

(a) Each operator of a civil subsonic airplane covered by this subpart shall submit to the FAA, in accordance with this section, the operator's current plan for achieving and maintaining compliance with the applicable noise level requirements of this subpart. If approrpriate, an operator may substitute for a required plan a notice, certified by that operator, that no change in the plan or status of any airplane affected by the plan has occurred since the date of the plan most recently submitted under this section.

(b) Each compliance plan, including any revised plans, must contain the information specfied under paragraph (c) of this section for each airplane covered by this section that is operated by the operator. Unless otherwise approved by the Administrator, compliance plans must provide the required plan and status information as it exists on the date 30 days before the date specified for subsmission of the plan. Plans must be certified by the operator as true and complete and be submitted according to the following schedule:

(1) For each airplane covered by this section, on the dates—

(i) Ninety days after the effective date of the final rule or commencing air transportation operations;

(ii) Thirty days after any change in the operator's fleet or compliance planning decisions that has a separate or cumulative effect on 5 percent or more of the airplanes in either class of airplane types covered by § 91.305(b); and

(iii) Thirty days after each compliance date applicable to that airplane type under this subpart and annually thereafter, on the anniversary of that submission date, to show continuous compliance with this subpart.

(2) For each airplane operated under part 121 or 135 of this chapter, six months before each compliance date applicable to that airplane type under this subpart.

(3) For each airplane operated under Part 91 or 123 of this chapter, annually, through 1985, on the anniversary of the date for submitting the original compliance plan under paragraph (b)(1)(i) of this section.

(c) Each compliance plan submitted under this section must identify the operator and include information regarding the compliance plan and status for each airplane covered by the plan as follows:

(1) Name and address of the airplane operator.

(2) Name and telephone number of the person responsible for the content of the compliance plan and its submission.

(3) For each airplane covered by this section—

(i) Aircraft registration number;

(ii) Aircraft manufacturer serial number;

(iii) Aircraft power plant make and model;

(iv) Aircraft year of manufacture;

(v) Whether Part 36 noise level compliance have been shown: Yes/No;

(vi) Whether Part 91, Subpart E, operating noise limit compliance has been shown: Yes/No;

(vii) The appropriate code (specified in the following Table) which indicates the acoustical technology installed, or to be installed, on the airplane;

(viii) For airplanes on which acoustical technology will be applied, following the code of entry, the scheduled date of installation on the airplane;

(ix) For airplanes which will be retired, following the code entry, the scheduled date for retirement of the airplane from service;

(x) For airplanes covered by an approved replacement plan under § 91.305(c) of this subpart, the appropriate code entry under the following Table followed by the scheduled date for replacement of the airplane;

(xi) For airplanes designated as "engaged in foreign commerce" in accordance with an approved method of apportionment under § 91.307 of this subpart, the appropriate code entry under the following Table; and

(xii) For all airplanes covered by this section, sufficient additional information showing the operation's ability to maintain continuous compliance, including specifying the number of spare ship-sets of acoustical components needed for continuous compliance and the number of spare ship-sets of acoustical components available on demand to the operator in support of those airplanes.

Table of Acoustical Technology Applications Codes

Code	Airplane type/model	Technology
A	B-707-120B B-707-320B/C. B-720B.	Quiet Nacelles + 1-Ring.
B	B-727-100	Double Wall Fan Duct Treatment.
C	B-727-200 B-737-100. B-737-200.	Quiet Nacelles + Double Wall Fan Duct Treatment.
D	B-747-100 (pre-December 1971). B-747-200 (pre-December 1971).	Fixed Lip Inlets + Sound Absorbing Material Treatment.
E	DC-8	New Extended Inlet and Bullet with Treatment + Fan Duct Treatment Areas.
F	DC-9	P-36 Sound Absorbing Material Treatment Kit.
G	BAC 1-11-200	Silencer Kit (BAC Acoustic Report 522).

REP—For airplanes covered by an approved replacement plan under § 91.305(c) of this subpart.
EFC—For airplanes designated as "engaged in foreign commerce" in accordance with an approved method of apportionment under § 91.307 of this subject.
RETIRE—For airplanes to be retired from service without replacement.

(Secs. 307, 313(a), 601, 603, 604, and 611, Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1348, 1354(a), 1421, 1423, 1424, and 1431); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); Executive Order 11514, March 5, 1970; and 14 CFR 11.45.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on April 20, 1979.

Langhorne Bond,
Administrator.

[Docket No. 18553; Notice 79-6]

[FR Doc. 79-13788 Filed 4-20-79; 4:58 pm]
BILLING CODE 4910-13-M

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Operating Noise Limits: Operators' Compliance Plan and Elimination of the 1981 Phased Compliance Date

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Publication of petition for rule making; request for comments.

SUMMARY: This notice publishes for public comment the petition of the Air Transport Association of America (ATA), dated March 23, 1979, on behalf of its member air carriers, for amendment of Subpart E of Part 91 of the Federal Aviation Regulations (14 CFR Part 91). Subpart E prescribes the compliance schedule for meeting the specified operating noise limits applicable to certain U.S. registered, civil subsonic turbojet airplanes not operated in foreign air commerce. The ATA petition requests, for the reasons disclosed, the elimination of the initial, January 1, 1981, phased compliance date under § 91.305 of Subpart E and substitution, for it, of a requirement that each operator submit a plan to the FAA by January 1, 1980, showing how it intends to comply with the 1983 and 1985 compliance dates. The FAA notes that the petition could have the effect of inducing individual operators to delay their plans for meeting the 1981 compliance date. While the FAA has every intention of giving full consideration to the petition and comments received in response to it, aircraft operators are put on notice that if the FAA decides not to adopt the ATA proposal, the processing of the petition will not be given any substantial weight in determining how to treat any subsequent individual carrier requests for relaxation of the compliance deadlines. Any other course would be antithetical to orderly administrative processes.

The petition involves issues similar to those involved in a FAA initiated notice of proposed rulemaking also published in this issue of the **Federal Register**. That Notice (Notice No. 79–9), among other things, proposes to require submission of compliance plans and periodic up-dates to those plans by all operators of subsonic airplanes covered by Subpart E. The FAA believes the ATA petition should be published verbatim in order to receive public comment on both matters simultaneously and ensure due consideration of each separately under the applicable FAA general rule-making procedures. Although this notice sets forth the contents of the ATA petition as received by the FAA without change, its publication in accordance with FAA procedures governing the processing of petitions for rule making does not present an FAA position on the merits of the petition. This notice does not propose am amendment of the current noise rules.

DATES: Comments must be received on or before June 25, 1979.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel. Attn: Rules Docket (AGC–24), Docket No. 18924, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Richard Tedrick, Noise Policy and Regulations Branch (AEE–110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755–9027.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments on the petition for rule making as they may desire. Communications should identify the docket or petition notice number and be submitted in duplicate to the address for submitting comments indicated above under the caption "ADDRESSES." All communications received on or before June 25, 1979 will be considered by the FAA before taking action on the petition for rule making. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments.

Background

The ATA petitioned the FAA under the general rulemaking procedures contained in FAR Part 11 to amend the provisions of § 91.305 of Subpart E of Part 91 of the Federal Aviation Regulations (FARs).

Subpart E of FAR Part 91 prescribes the operating noise limits rule which applies to "U.S. registered, civil subsonic turbojet airplanes with maximum weights over 75,000 pounds having standard airworthiness certificates" and not operated in foreign air commerce. Section 91.305 currently states—

§ 91.305 Phased compliance under Parts 121 and 135: Subsonic airplanes.

(a) Except as provided in § 91.307, each person operating subsonic airplanes covered by this subpart under an operating certificate issued under Parts 121 or 135 of this chapter shall comply with this section with respect to airplanes operated under that certificate.

(b) Unless scheduled for replacement in a plan approved under paragraph (c) of this section, airplanes shall be shown to comply with Part 36, or may not be operated in the United States, in accordance with the following schedule:

(1) By January 1, 1981:

(i) At least one quarter of the airplanes in each other airplane type that has four engines with no bypass ratio or with a bypass ratio less than two.

(ii) At least one half of the airplanes in each other airplane type.

(2) By January 1, 1983:

(i) At least one half of the airplanes in each airplane type that has four engines with no bypass ratio or with a bypass ratio less than two.

(ii) All other airplanes.

(c) Airplanes may be operated if, under an appoved plan, replacement airplanes have been ordered and are scheduled for delivery prior to January 1, 1985, but not after the dates specified in the plan. For the purpose of this paragraph, replacement airplanes are airplanes shown to comply with Part 36 prior to the issuance of an original standard airworthiness certificate.

Section 91.307, referred to in § 91.305, governs apportionment, under FAA approved methods, of operator fleets engaged in both domestic and foreign air commerce.

The ATA petition raises some detailed issues similar to those involved in FAA Notice No. 79–9, and adds issues concerning the elimination of the initial phased compliance date in 1981, which is not proposed in that FAA notice of proposed rule making. Therefore, rather than publishing a synopsis only, it is believed that public comments on the full text of the petition would be helpful.

As stated in the "SUMMARY," the FAA is concerned that the filing and publication of the ATA petition may be misunderstood by aircraft operators as a basis for postponing their compliance decisions regarding the January 1, 1981, compliance date. The FAA has continuously asserted its intent to meet its commitment to the environmental concerns underlying the regulation as adopted. The petition itself estimates, for a major class of airplanes subject to the 1981 compliance date, that "on a total industry basis," 49% of the total non-complying airplanes will be in compliance by that date (only 1% short of the 50% required for operators individually rather than collectively) and that fully 42% of those airplanes were already in compliance as of last January 1. Thus, the public interest test is whether the ATA has demonstrated a sufficient public interest, more persuasive and compelling than the environnemtal basis for the rule, that justifies relaxing for the entire class of affected airplanes a regulation for which a very large percentage of those airplanes can comply. Operators are strongly advised in considering their compliance planning not to assume that that issue will be resolved in favor of the petitioner in light of the established public interest basis of the current rule.

While all comments are invited and will receive due consideration, to assist the FAA in its review of the ATA petition, comments are particularly welcomed on the following matters concerning the petition:

1. Any content and submission requirements for ATA's proposed compliance plans that should be considered, including the need for the specific requirements.

2. Any specific economic, environmental, and other consequences (including costs and benefits) that could be anticipated as to (1) each operator individually and (2) all operators collectively from eliminating, or retaining, the 1981 phased compliance requirements.

3. Since the petition is on behalf of ATA member carriers, any additional implications that could be anticipated for non-ATA aircraft operators, including those operating under Parts 91 and 123.

4. Any uneven impacts on different airport communities because of the different types of airplanes and aircraft operators that operate at those airports.

5. Any impacts on the public in communities near airports served by airplanes affected by the proposed relaxation of the compliance deadline.

6. Any changes in noise distribution around those airports represented by airport (NEF) noise contours over noise sensitive areas.

7. Any compliance plans, and specific implementation of those plans (such as ordering acoustical hardware or complying airplanes), that have already been undertaken by operators to achieve the required noise limits according to the prescribed schedule.

8. Any benefit or disadvantage that could be anticipated for any operator who has, or will have, significantly or completely achieved the compliance required by the current rule (including potential discrimination for or against those operators that have made commitments in order to achieve timely compliance.)

9. Any economic impacts or other burdens of the current rule that affect different operators, or classes of operators, differently than was expected in adopting Subpart E requirements and any change anticipated from eliminating the 1981 compliance requirements.

10. Any specific changes that may have occurred in the factual basis for the FAA regulatory conclusions since December 1977, when the 1981 compliance requirements were adopted (including considerations of the benefit to the public health and welfare, economic reasonableness, technological practicability, and other factors).

11. Any other matters considered to affect a decision whether public rule making procedures should be initiated on the proposals presented in the petition.

The ATA Petition

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petition for rule making of the Air Transport Association, dated March 23, 1979.

Issued in Washington, D.C., on April 20, 1979.

Langhorne Bond,
Administrator.

Before the Federal Aviation Administration, Washington, D.C., Air Transport Association of America, Amendment to FAR Part 91, Subpart E

Petition for Rulemaking

In accordance with Section 11.25 of FAA's General Rulemaking Procedures, the Air Transport Association ("ATA") petitions FAA to amend Subpart E of its General Operating and Flight Rules (14 CFR Part 91) by eliminating the interim compliance date (January 1, 1981) and replacing it with a requirement that each operator submit a plan to FAA by January 1, 1980 showing how it intends to comply with the January 1, 1983 and January 1, 1985 deadlines established in Section 91.305. The available means of achieving compliance—i.e., by SAM Retrofit, reengining, retirement or replacement—will be unchanged by the proposed amendment which is set forth in Attachment "A". The Proposal is summarized in Attachment "B".

The dilemma facing many airlines in achieving compliance with the rule as it now stands was explained in a letter from me to The Secretary of Transportation on January 22, 1979 (Attachment "C") and in a follow-up meeting with the Secretary and the Administrator on January 23, 1979. A number of possible regulatory solutions were suggested and our proposed amendment is a variation of one of those solutions. This formal petition will result in what we consider an equitable and achievable solution which will be in the public interest. In addition it will follow closely the recommendations made to Secretary Adams by Senator Cannon in his letter of January 30, 1979, where he suggested a delay to allow completion of pending legislation to "better serve the environmental interest of all citizens."

The aforesaid dilemma has resulted from the following:

1. Delay in obtaining from FAA its interpretation of and the intent of several aspects of the rule.

During 1977 and continuing in 1978, ATA attempted to obtain this information which was vital to the airlines in formulating compliance plans. Although ATA made a number of inquiries, it was not until August 11, 1978 that the final response from FAA was received. Of particular importance to the airlines was a clear understanding of the credit to be given by FAA for retired airplanes—i.e., airplanes which were not being retrofitted, reengined or replaced.[1] The ultimate interpretation by FAA had a significant impact on the operators of four engine narrow body aircraft.[2]

2. Pending legislation in the 95th Congress. Legislation, endorsed by both the House and Senate would have required changes to the rule and would have impacted the method of compliance selected by some airlines. That proposed legislation failed of enactment only in the dying moments of the 95th Congress when time ran out for resolution of certain differences between House and Senate measures.

3. Current Congressional Deliberations. Again this year, both houses of Congress are considering legislation sponsored by Committee chairmen which, if enacted, will also require changes in the rule and could impact the method of compliance selected by some airlines.

It is not difficult to see why a prudent airline executive would hesitate to commit his airline to the expenditure of significant amounts of money when he did not know the intended meaning of significant parts of the rule, or even that the rule would remain unchanged. In view of the significant variance in the makeup of the individual airline fleets, the impact of these delays have been different for each airline.

It should be noted that the long lead time for receipt of the necessary hardware has resulted in the inability of some airlines to comply with the interim compliance date of January 1, 1981. The pending legislation would provide an incentive for replacement with new technology airplanes meeting the latest FAR 36 noise requirements, an option which may not be available under the present schedule of compliance. It must be said that this option, if the legislation is adopted, may be available to only a relatively few airlines.

[1] For other important concerns we call attention to the following exchanges of correspondence between ATA in behalf of its member airlines and FAA: ATA letters, June 3, 1977 from C. F. von Kann to D. W. Freer, FAA, Acting Associate Administrator for Policy Development & Review; FAA Letter of Aug. 1, 1977 to C. F. von Kann, ATA, from Mr. Freer; FAA Letter of Jan. 31, 1978 to Wm. Becker, ATA, from Mr. Foster, Director of Environmental Quality; FAA Letter of Aug. 11, 1978 to C. F. von Kann, ATA, from M. M. Anderson, Assoc. Adm. for Policy Development and Review.

[2] Airplanes having 4 engines with a "no bypass ratio or with a bypass ratio of less than two."

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primarily those with the larger four engine narrow body airplanes. Such replacement airplanes are not even on the drawing boards for many of the smaller two and three engine airplanes. Accordingly, the airlines hope that this deficiency will be recognized as Congress continues its legislative efforts, and that ways will be found in the public interest to encourage replacement rather than retrofit of these smaller airplanes.

The proposed amendment would accomplish three things, all of which we believe to be in the public interest:

1. It would require specific plans for meeting the 1983 and 1985 requirements.

2. It would take cognizance of current legislative efforts, and avoid premature decisions on compliance methodology which could result in less effective noise reductions.

3. It would allow additional time for those airlines who now find themselves unable to meet the interim compliance date of January 1, 1981 due to their inability to obtain the necessary hardward in a timely fashion.

The intent of Subpart E was to provide a progressive reduction of noise. We submit that the proposed amendment preserves that intent thereby serving the public interest. Moreover it will have a minimal effect on the compliance schedule on a total industry basis. A survey conducted by ATA of its member airlines in 1978 indicated that the four engine narrow body fleet would be reduced from 443 airplanes on January 24, 1977, the effective date of the regulations, to 294 by January 1, 1981.[3] This is a reduction of over 33% on a total industry basis.

In the case of the fleet comprised of "all other airplanes" [4] 50% of which are required to meet Part 36 by January 1, 1981, on the basis of the combined fleets of our member carriers, approximately 42% of those airplanes were already in compliance as of January 1, 1979. Approximately 7% will be added by January 1, 1981 through attrition of some of the older two and three engine airplanes and the acquisition of new airplanes meeting Part 36. This would bring the total complying airplanes in the combined industry fleet to 49%, 1% short of the required 50%. It should be emphasized that this is on a total industry basis and the percentages in individual airline fleet will vary.

If the proposed amendment is adopted, airlines will be required to submit their firm plans to FAA by January 1, 1980. In order to meet the final date of January 1, 1983 for the "all other airplanes" fleet and the 50% requirement by that date for the four engine narrow body fleet, further action will be required between now and the present interim date of January 1, 1981. This will result in a further increase in the percentages of complying airplanes by that date on an industry basis. It must be recognized, however, that in some cases individual airlines will be unable to achieve the required percentages.

In summary, we believe the proposed amendment would resolve the airlines' dilemma. It would permit completion of the current legislative effort which could require changes in the rule and encourage, where possible, replacement of noncomplying airplanes with new technology, quieter, and more fuel efficient airplanes. On a total industry basis the proposed amendment in and of itself would have little or no impact on the progresssive noise reduction envisioned by Subpart E.

We believe, as we indicated in our January 22, 1979 letter to the Secretary, that retrofit of the two and three engine airplanes is wasteful and inflationary and will not provide meaningful noise relief to the public. We will continue to reiterate that view.

In view of its urgency, we respectfully request prompt consideration of this Petition.

Respectfully submitted,

Paul R. Ignatius,
President and Chief Executive Officer, Air Transport Association, 1709 New York Avenue, NW., Washington, D.C. 20006

March 23, 1979.

Attachment A

Amend the Federal Air Regulations Part 95, Subpart E as follows:

1. Delete Section 95.305(b) in its entirety.

2. Substitute the following:

"(b) Unless scheduled for replacement in a plan approved under paragraph (c) of this section, airplanes shall be shown to comply with FAR Part 36, or may not be operated in the United States, in accordance with a plan to be submitted to the Administrator by January 1, 1980. Such plan must show that compliance will be achieved in accordance with the following schedule:

(1) By January 1, 1983

(i) at least one half of the airplanes in each airplane type that has four engines with no bypass ratio or with a bypass ratio less than two.

(ii) All other airplanes

(2) By January 1, 1985—all airplanes."

Attachment B

Summary of Petition for Rulemaking

The Petition for Rulemaking filed by the Air Transport Association of America would amend FAR Part 91, Subpart E, by eliminating the interim compliance date (January 1, 1981) and replacing it with a requirement that each airline submit a compliance plan to the Federal Aviation Administration by January 1, 1980, showing how it intends to comply with the January 1, 1983 and January 1, 1985 deadlines for showing compliance with Part 36 as established by Section 91.305.

The statement in support of the petition will show that on an overall basis the proposed amendment would have a minimal impact on the progressive noise reduction program required by Subpart E.

* * * * *

Attachment C

Air Transport Association of America,
Washington, D.C., January 22, 1979.

The Honorable Brock Adams,
Secretary of Transportation,
Washington, D.C.

Dear Mr. Secretary: I look forward to our meeting tomorrow to discuss aircraft noise retrofit, and enclose some information which may be helpful in considering the problem:

- A background paper prepared by the Air Transport Association staff.
- A copy of my letter to Chairman Kahn of the Council on Wage and Price Stability, expressing our view that the requirement to retrofit two- and three-engine airplanes is contrary to the objectives of the President's anti-inflation program.
- A copy of a letter from Clifton F. von Kann, Senior Vice President, ATA, to the General Counsel of the Council on Wage and Price Stability on the two- and three-engine aircraft retrofit problem.

As you will see from these attachments, we can see some basis for requiring retrofit of the noisier four engine aircraft. We do not believe that the expenditure of substantial sums of money to retrofit the smaller aircraft can be justified on the basis of meaningful relief to the public. That being the case, the retrofit cost of over $200 million for the two- and three-engine aircraft would be money wasted at a time when neither industry nor the United States can countenance expenditures that increase costs without commensurate public benefit.

We understand that the Congress will soon be considering legislation on aircraft noise, and hope that this effort will substantially mitigate the problem of retrofitting two- and three-engine aircraft. Pending the enactment of such legislation, we hope that the Department of Transportation will take whatever steps are necessary to enable the Administration and the airlines to await the outcome of the legislative endeavor.

Sincerely,

Paul R. Ignatius,
President and Chief Executive Officer.

Retrofit of 2 and 3 Engine Aircraft

Background

During the early seventies, FAA noise abatement rule-making had been limited to future aircraft not yet certificated and newly manufactured versions of existing aircraft. In December 1976 a futher step was taken when FAA published Subpart E to FAR Part 91. This rule required that by January 1, 1985 *all* airline aircraft meet the FAR Part 36 standards, and estalished interim dates in 1981 and 1983 for achieving specified percentage levels of compliance.

The effect of FAR Part 91 was to condemn about three-fourths of the planes in the airline fleet, even though these aircraft met all federal standards when purchased.

To comply with FAR Part 91, these aircraft would have to be (1) replaced with new technology aircraft, or (2) re-engined with new technology engines, or (3) retrofitted by placing sound absorbing materials in engines, fan ducts and/or nacelles. Of these approaches (1) would produce the greatest noise reduction but would be relatively expensive ($6–$8 billion), (2) would be effective for some airplanes and would also be expensive, while (3) would produce little or no perceptible noise reduction and would cost the least. The airlines have always opposed (3) because it would be cost/ineffective and a waste of money, a view shared by Senator Cannon.

Because of the inequity involved in condemming aircraft purchases in good faith, and because the benefits of replacing old, noisy airplanes by new modern, quieter, fuel efficient aircraft were so substantial (but beyond the financial resources of the air carriers), the last two administrations have proposed, and both houses of Congress have passed, legislation which would provide financing mechanisms by which surcharges or surtaxes on airline passengers and shippers could be used to defray a part of the capital outlay for replacement aircraft. However, due to a filibuster and lack of time, the 95th Congress adjourned before the differences in the two bills could be reconciled in conference.

Chairman Cannon of the Senate Aviation Subcommittee has proposed to reintroduce a noise bill early in the new Congress. The bill will probbly not include a financing mechanism, but is expected to provide some relief for 2 and 3 engine narrow body aircraft. However, the airlines are faced with a dilemma in that the noise rule is on the books, the clock is running, yet intelligent managment decisions cannot be made without knowing what provisions may be contained in pending legislation. This management dilemma was recognized during consideration of noise legislation before the last session of the Congress.

New Developments

Three developments of the past two years bear on the public interest aspects of the case:

- Reduction of airline fares has become a high priority federal objective.
- The fight against inflation has become the No. 1 national issue.
- FAA Noise Monitoring Reports are bearing out the long held view of Senator Cannon and of the airlines that compliance with FAR Part 36 would provide no meaningful improvement for 2 and 3 engine aircraft. As a matter of fact, it now seems to be agreed (even by FAA) that the decibel changes from retrofitting these aircraft will be appreciably less than those resulting from differences in wind, weather and pilot techniques.

Situation

As the clock continues to run, the specifics of the airline dilemma are these:

- The airlines have insufficient lead time available to order and install retrofit kits for DC–9's and barely enough lead time for B–727's B–737's to meet the interim compliance date of January 1, 1981.
- If retrofit kits are ordered now for these aircraft, airlines may lose the flexibility which pending noise legislation can be expected to provide. In any event, funds expended for retrofit cannot be used for newer, quieter and more fuel efficient airplanes; thus rigid compliance with the rule could result in less than the maximum achievable noise reduction.
- As noted in Senate colloquy on Section 304 of S. 3279, there is no way to retrofit the BAC 1–11 without excessive cost and operating penalties. Technology now available costs $400,000/airplane and imposes a 584 lb. weight penalty, a 2% increase in specific fuel consumption, and a potential payload loss up to 1190 lbs. (equal to as many as 6 passengers). In short, retrofit of this aircraft under current technology is not economically reasonable.
- Inconsistency between Part 36 and Part 91 on tradeoffs results in incongruous situation where newly purchased 727's can use the part 36 tradeoffs while older 727's being retrofitted cannot. Loss of tradeoffs increases cost of retrofitting 727's from $41 to $70 million—a 70% increase.
- Assuming that the airlines must adopt the cheapest (and least effective) method of compliance, i.e., retrofit, the total costs would be:

[In millions of dollars]	
445 727's	$70
134 737's	43
318 DC–9's	76
90 BAC 1–11's	13
927 aircraft	202

These costs will have unequal impact on airlines, and the local service/regional carriers will bear a particularly heavy burden. 43. 5% of the $202 million total will fall upon these smaller carriers. 64% of the cost of retrofitting 2 engine aircraft will fall on these carriers, who can least afford the expenditure. *One* local service carrier would have to pay $25 million of the $202 million total.

- In light of the anti-inflation program and the paten ineffectiveness of retrofitting these aircraft, the airlines are reluctant to incur these costs, which must be passed on to their passengers and shippers. At the same time the airlines have not opposed the rule insofar as the older, noisier 707/DC–8 fleet is concerned; so the public will receive all the major (and all the perceivable) noise reduction benefits which the rule provides.

Regulatory Alternatives

1. Exempt 2 and 3 engine aircraft from Part 91 requirements.

2. Exempt 2 engine aircraft from Part 91 requirements; resolve tradeoff contradiction between Part 36 and Part 91 by removing tradeoff restriction from Part 91.

3. Exempt BAC 1–11 from Part 91 requirements; resolve tradeoff contradiction between Part 36 and Part 91 by removing tradeoff restriction from Part 91; retain January 1, 1983 deadline, but replace interim date of January 1, 1981 by requirement that carriers submit compliance plans by January 1, 1980 for meeting deadline, followed by quarterly progress reports.

4. Reaffirm January 1, 1983 date, but defer other decisions on regulatory alternatives for 6 months pending congressional action; if no such action has been taken by August 1, 1979 initiate regulatory action to implement alternative 1, 2 or 3 above.

Estimated Compliance Cost, Subpart E, Part 91, 2/3 Engine Aircraft (No Tradeoff)

Airline	Cost	Percent of lots cost
AS	$1,992,350	1.0
AL	25,370,000	12 5
TS	1,750,000	1.0
AA	12,031,096	6.0
BN	6,660,027	3.0
CO	7,329,531	4 0
DL	10,115,000	5.0
EA	29,800,000	14.8
FL	5,431,000	2.7
RW	9,225,000	4 6
NA	7,718,000	3.8
NC	4,400,000	2.1
NW	3,365,000	1.7
OZ	8,769,943	4.3
PA	1,500,000	0.7
PI	7,869,890	3.9
SO	8,729,940	4.3
TI	5,061,625	2.5
TW	6,498,000	3.2
UA	28,500,000	14.1
WA	8,100,000	4.0
WC	1,625,000	0.8
Total	201,841,402	100.0

Trunks + Pa = $121,616,654—60.3%
Locals/regionals = $80,224,748—39.7%.

NOTE.—AL is 12.5% of total, 31.6% of local/regional. The only airlines higher than AL are EA & UA.

Air Transport Association of America
Washington, D.C., December 14, 1978.

The Honorable Alfred E. Kahn,
Chairman, Council on Wage and Price Stability,
726 Jackson Place, N.W.,
Washington, D.C.

Dear Mr. Chairman: Since you took over the anti-inflation program, you have indicated your interest in government actions

[3] These computations are based on a 1978 estimate of the jet airplane fleet plans of the ATA member airlines. The following carriers were not members at that time: Air California, Air Florida, Capitol International Airways, Evergreen International Airlines, Pacific Southwest Airlines and Trans Carib Air.

[4] The term "all other airplanes" includes all airplanes except the 4 engine narrow body airplanes. See Section 91.305(b)(2)(ii).

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which increase costs to the public and reduce productivity without public benefit. I therefore suggest that you look into:

● FAR Part 91, which mandated the retrofit or replacement of about two-thirds of the aircraft in the scheduled air carrier fleets in order to comply retroactively with FAR Par 36 noise standards, which were published after these aircraft had been certified and purchased in good faith by the air carriers. Indeed, FAR Part 91 is even more rigid (and more expensive) than Part 36.

● User taxes on airline passengers and shippers, which are far in excess of needs and which are accumulating billions of dollars in Aviation Trust Fund surplus.

As early as 1975 the Council on Wage and Price Stability found that the retrofit rule would be inflationary and opposed its promulgation. (Pertinent extracts are attached). The absence of benefit, loss of productivity and unnecessary expense of a retrofit program was also summarized by Senator Cannon in his remarks at the Airline Federal Affairs Committee Meeting in San Francisco on December 1, 1976 (extract also attached). During the hearings of his Aviation Subcommittee last May and June on the noise reduction bill, Senator Cannon reinforced these views, especially in regard to two- and three-engine airplanes. While some of these arguments may apply to four-engine aircraft as well, the case is particularly compelling for the two- and three-engine types which would require an expenditure of a minimum of $200 million in 1978 dollars to retrofit without producing any meaningful noise abatement.

Before the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24

Coniments of the Council on Wage and Price Stability Regarding Proposed Aircraft Noise Retrofit Requirements

The staff of the Council has reviewed EPA's proposed FAA regulations, EPA's supporting economic analysis, and several outside studies of the benefits of aircraft noise abatement and has concluded (i) that the economic benefits are not commensurate with the costs that the proposal would incur and (ii) that, absent substantial as yet unspecified non-economic benefits, the proposal would be unduly inflationary.

Aircraft noise at the levels and durations under consideration here is not a hazard to public health. Instead, it is most accurately classified as an annoyance.

Third again, unlike certain other types of pollutants and public health hazards, noise pollution at the levels being considered here does not accumulate in its effects over time to some danger point. Instead it is a completely transitory phenomenon.

Fourth, and perhaps most important, all the projected benefits that would be achieved under the proposed rule would eventually be achieved under existing regulations. The retrofit program merely moves these benefits forward in time.

By extrapolating from the EPA data, we were able to determine that if nothing is done except to implement the proposed two-segment landing approach, approximately 5.8 million people will be living within the 30 NEF or higher noise contours by 1978. Retrofitting the entire non-Part 36 fleet by 1978 would result in a 2 to 3 NEF dB reduction in noise exposure for these people as compared to the exposure they would otherwise experience.

We therefore conclude that, based upon the weight of the evidence, the retrofit program to be implemented by the proposed EPA amendment to Part 36 would be inflationary and should not proceed.

As for the user taxes, you noted in your testimony before Senator Cannon on June 14, 1978 that reducing the tax would be simple, anti-inflationary, a step in the direction of reducing government interference in the market process, and a recognition that the Airport/Airway Program does not need the 2%. We support these points and can document the fact that even with increased outlays for safety and reliever airports, a lower tax scale would still produce more than enough trust fund money to meet all foreseeable needs.

I therefore urge that you initiate action to exempt two- and three-engine aircraft from FAR Part 91 requirements, and to support reduction of the airline user taxes as we have recommended. We are prepared to assist you in providing any necessary documentation.

Sincerely,

Paul R. Ignatius,
President and Chief Executive Officer

Extract From Remarks of Senator Howard W. Cannon Before the Air Transport Association, Federal Affairs Committee, San Francisco—December 1, 1976

"I need not tell you that the whole area of retrofitting old jet aricraft with quiet nacelles is not a practical solution. The trouble is that the zealous within EPA, the FAA and many of the nation's airport authorities have seized on retrofit as a political solution. The thinking is that, if you tell the public that the retrofitted plane is quieter, they will believe it so. That is sheer nonsense. I have sat through hours of hearings and demonstrations on this question and can honestly say that retrofit makes so little impact on perceived noise that it is a worthless gesture. Incredible, too, is the fact that it only deals with half the noise problem—the aircraft approach noise. On takeoff, retrofit doesn't do a thing except add weight, provide fuel inefficiency and cost an enormous amount of money. I am particularly troubled by Mr. Coleman's decision to require retrofit on the vast fleet of JT-8 powered aircraft such as the 727, and 737 and the DC-9. These aircraft are not the noisy offenders, as are the 707s and DC-8s, and retrofit on the two- and three-engine aircraft will produce, by anyone's estimate, negligible benefits."

January 4, 1979.

Peter H. Lowry, Esq.,
General Counsel, Council on Wage and Price Stability, Executive Office of the President, Room 4025, 726 Jackson Place, NW., Washington, D.C.

Dear Mr. Lowry: I have just received a copy of the Airport Operators Council International (AOCI) letter to you on aircraft noise retrofits, dated December 19, 1978. My comments follow.

It should first be noted that there are 516 domestic airports which are served by the scheduled U.S. air carriers. The roughly 125 U.S. members of AOCI operate all of the large hub airports and most of the medium hub airports served by B-707 and DC-8 aircraft, which are universally recognized as the noisiest aircraft in the air carrier fleets. It is therefore understandable that AOCI should be concerned about these aircraft and should desire the noise abatement which retrofit or replacement of these aircraft would afford.

What AOCI does not seem to realize is that, in our dialogue with COWPS, the scheduled airlines have not requested relief from FAR Part 91 for the B-707/DC-8 aircraft in their fleets.

Instead, our pleadings have been directed to the 2 and 3 engine aircraft in the air carrier fleets which are an entirley different case. Theoretically, retrofit of these aircraft would provide as small decrease in noise. However, this decrement is less than the variations which occur from local weather conditions and pilot techniques. Under the usual ambient noise conditions around airports, the difference is imperceptible for all practical purposes.

As for the Borsky testimony cited by AOCI, this is one expert's opinion. Another expert, equally qualified, Dr. Dixon Ward, Director of the University of Minnesota Hearing Research Laboratory, has said:

"There is no evidence that retrofit measures applied to 727 aircraft will have any effect on annoyance. . . . The problem, it is clear, is not whether a reduction of noise will occur, but whether any one will notice the difference and that annoyance will therefore be reduced."

But more important than this debate between experts, all men of integrity and good standing, is the question whether or not retrofit of 2 and 3 engine aircraft will produce even the small decibel reductions which have been primed. FAA's October 1978 "Aircraft Noise Monitoring Report" (copy attached) demonstrates that even where a fleet has been completely converted to FAR Part 36 noise levels, the theoretical noise reductions claimed for retrofit do not materialize.

The AOCI letter attempts to make the case that the cost of retrofitting these aircraft will be negligible in terms of overall fleet operating costs. This approach ignores the fact that the costs of retrofit will be borne by the individual airlines, and that a significant part of the cost of meeting the January 1, 1981 interim compliance date in FAR Part 91 will fall on the local service/regional airlines. In one case, it will cost a local service airline about $11.8 million to meet that interim date. The smaller airlines can least afford this type of unproductive (and therefore inflationary) expense. So the cost will not be negligible, it will not be productive, and it will be inflationary since it will work against reduction of airline fares.

Finally, the AOCI letter attempts to cite the benefits developed in the final Environmental

Impact Statment on the noise rule through assumed property value increases. I doubt that COWPS has ever accepted this far-fetched argument; in any event, ATA has ample data to refute the point. AOCI also pleads that unless retrofit of the 2 and 3 engine aricraft is forced upon the operators, 75% of all U.S. airports would receive no benefit from the retroactive noise regulation. Except for LaGuardia and Washington National Airports, all large hub airports are served by B-707 and DC-8 aircraft which will be modified or replaced. Similarly, most of the medium hub airports and several small hub airports are served by B-707 and DC-8 aircraft. All those airports will benefit from the noise regulation. For the 98 small hub airports, average daily departures range from a high of 44 to a low of 5. The 352 non-hub airports have an average ranging from 20 per day to less than 1. A majority of these small airports are not affiliated with AOCI, and our experience with them indicates that given a choice, they are far more interested in adequact of jet service than in noise abatement.

We therefore stand on our strong recommendation that the 2 and 3 engine aircraft be exempted from the retroactive requirements of FAR Part 91 and will be happy to amplify any of the points we have made.

Sincerely,

Clifton F. von Kann,
Senior Vice President, Operations and Airports.

[Docket 18924; Petion Notice PR-79]
[FR Doc. 79-12775 Filed 4-25-79; 8:45 am]
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federal register

Thursday
April 26, 1979

Part IV

Department of the Interior

National Park Service

Revised Land Acquisition Policy

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DEPARTMENT OF THE INTERIOR

National Park Service

Revised Land Acquisition Policy

AGENCY: National Park Service, USDI.

ACTION: Notice of Revised Management Policy on Land Acquisition.

SUMMARY: The National Park Service's program to acquire private property for park use has accelerated sharply in the last two decades as Congress has authorized a great number of parks drawn largely from private property holdings and has established the Land and Water Conservation Fund to provide a sufficient source of funding.

To allow for public examination and review of the Service's land acquisition policy, the text of the existing policy and a notice of public hearings was published in the **Federal Register**, Vol. 43, No. 156, pages 35752–35754, Friday, August 11, 1978. The notice was intended to: (1) informa the public of the land acquisition policy under discussion; (2) provide for public comment on the policy; and (3) announce the formal schedule of hearing dates, times and locations.

In addition, news releases were sent to daily newspapers and radio and television stations across the country. Letters were sent from regional offices and parks to conservation groups, organizations of property owners, and persons owning property in inholding areas.

Public hearings were held in five cities. Oral and written testimony was received by a hearing officer at each location and recorded by a court stenographer. The hearing officers and the court stenographers were not employees of the Department of the Interior. In addition, the public was invited to send written comments through September 20, 1978. This date was later extended to October 20, 1978. A report and analysis of this public response is included in this notice.

This notice is an attempt to deal with the concerns raised in public comment, clarify the Service's land acquisition policy, and facilitate and improve its implementation. Included in this publication is a revised land acquisition policy statement, and implementation guideline, and the report and analysis of public response indicated above.

The revised land acquisition policy identifies parks for land acquisition purposes in three categories: newly authorized areas (those established since July 1959); inholding areas (those established prior to July 1959); and areas where acquisition is limited to donation or exchange.

The policy states that NPS will acquire land and water in fee simple or less-than-fee interest—consistent with legislation—to protect resources and provide for visitor use, and further requires that each park with an active land acquisition program have a land acquisition plan.

The land acquisition policy implementation guideline deals specifically with the development of the individual park area acquisition plans. Acquisition priorities and definitions of compatible and incompatible uses, among other things, are to be included in the plan. The plan must be developed with public participation.

The guideline also discusses the responsibilities of NPS Officials and the authorities and procedures for land acquisition. It further highlights other land protection methods such as easements, zoning, cooperative planning and management, access limitations and rights-of-way. The guideline also provides a review procedure for proposed condemnation actions in inholding areas.

With regard to land acquisition in Alaska, the Service intends to purchase private inholdings in the new Alaska National Monuments basically on a willing seller-willing buyer basis. It is not anticipated that an active land acquisition program will be developed there, especially in the first few years. The Service, however, stands ready to purchase inholdings where desired by the landowner, and as a last resort acquire lands by condemnation if serious threats occur which would be contrary to the purposes for which the areas were established. It is the Administration's legislative recommendation and policy to acquire State-owned inholdings or lands selected by Native Corporations under the Alaska Native Claims Settlement Act only with the consent of the State or Corporation.

The National Park Service wishes to express its appreciation to the individuals and organizations who took the time to prepare oral and written comments on the proposed land acquisition policy.

The public input to this policy has provided the Service with the great deal of useful information. The result, hopefully, is a fair and equitable policy and implementation guideline that both recognizes the rights of property owners and protects the resources that the park area was established to preserve.

EFFECTIVE DATE: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: George Gowans, Chief, Office of Management Policy, National Park Service, 18th & C Streets, N.W. Washington, D.C. 20240 (202) 343–7456 or 2703.

REMARKS: All of those who submitted oral and/or written comments will receive copies of the revised policy and the implementation guideline, as well as the report and analysis of public response as it appears in this notice. The various NPS regional offices will have additional copies of this notice available upon request.

Holders of the National Park Service *Management Policies* notebook may obtain copies of the revised policy also by writing to the nearest regional office after May 15, 1979. Please specify that you are requesting a copy of the new pages for insertion in the *Management Policies* notebook.

Mid-Atlantic Regional Office, National Park Service, 143 South Third St., Philadelphia, Pa. 19106.

Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebr. 68102.

National Capital Region, National Park Service, 1100 Ohio Drive, S.W., Washington, D.C. 20242.

North Atlantic Regional Office, National Park Service, 15 State Street, Boston, Mass. 02109.

Pacific Northwest Regional Office, National Park Service, 601 Fourth and Pike Building, Seattle, Wash. 98101.

Southeast Regional Office, National Park Service, 1895 Phoenix, Blvd., Atlanta, Ga. 30349.

Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colo. 80225.

Southwest Regional Office, National Park Service, P.O. Box 728, Santa Fe. N. Mex. 87501.

Western Regional Office, National Park Service, 450 Golden Gate Ave., Box 36063, San Francisco, Calif. 94102.

I. Public Response Analysis

A. *Background*

The National Park System consists of 320 park areas covering 76.7 million acres. The majority of these park areas still contain lands in private, State or local ownership.

As of December 31, 1978, there were 25,616 private property owners within National Park System areas exclusive of Alaska. This private property consists of 29,700 number of tracts and 864,613 acres.

In inholding areas, those units of the National Park System established prior to July 1959, 2054 private owners hold 2584 tracts of property totalling 32,123 acres. In newly authorized areas, those established after July 1959, 23,562 private owners hold 27,116 tracts of property totalling 832,490 acres. A complete listing of inholding and newly authorized areas is listed below.

B. *Methodology*

A procedure called Content Analysis was used to insure a systematic review of the public comments that were received. This technique involved the development of response categories which summarized the content of the oral and written comments.

Approximately 30 hours of testimony were recorded at the five public hearings. Although the deadline for public comment was October 20th, all letters mailed by that date and received through October 30th were reviewed, coded for computer purposes, and included in the analysis. Letters received after October 30th, while not included in the formal analysis, have been reviewed for content to identify any additional concerns that should be addressed in a revised policy statement or implementation guideline.

The overall responsibility for the coordination of the data collection and analysis was assigned to the National Park Service, Office of Management Policy. To insure greater impartiality in the interpretation of responses, Opportunity Systems, Inc., a private organization in Washington, D.C., was selected to review and code all responses. A computer program was used to assist in summarizing the information.

C. *Findings*

A summary of the pubic response to the proposed policy is found in the following tables. A total of 1,029 comments were received and analyzed. Responses were received from residents of 47 of the 50 states. The majority (72.5%) were in the form of personal letters (Table 1).

Table 2 shows that individuals who identified themselves as current landowners in National Park System areas accounted for approximately one third of the total letters and testimonies (32.7%). Those who specifically stated that they did not own property in the parks accounted for 29.9%. The remainder (37.4%) did not indicate whether or not they were landowners in park areas.

At the five public hearings, nearly half of the individuals presenting testimony identified themselves as private landowners in park areas. This type of participation was considered a success since the NPS had made special efforts to insure that comments would be received from those directly affected by the Service's land acquisition policy.

A total of 49 park areas were mentioned in one or more of 620 letters and personal testimonies. Table 3 gives a listing of those parks by National Park Service administrative region. Most comments referred to parks within the Southwest, Rocky Mountain, Western and Pacific Northwest Regions.

The parks identified by the largest number of letters and testimonies were Blue Ridge Parkway, located in Virginia and North Carolina (183), Yosemite National Park, California (54), and Olympic National Park, Washington (94). These parks are located in the three states with the highest number of respondents: Washington (235 respondents); California (191); and Virginia (198), accounting for 62% of the total responses.

A total of 283 responses were in the form of personal testimony given by individuals at one of five public hearing sites throughout the country. (See Table 4). More than 600 people attended these hearings. The largest number of testifiers spoke in Denver (Golden), Colorado, and Washington, D.C.

Although many of the responses contained no specific recommendations, Table 5 shows those concerns most frequently mentioned in the oral and written comments. Approximately 175 of the responses recommended that the NPS use the willing seller-willing buyer approach to land acquisition instead of condemnation proceedings. Alternative methods of property protection also were suggested including the use of zoning, scenic easement and community planning.

The responses indicated that certain types of development on privately owned land within park areas were not considered desirable. One hundred and five responses opposed commercial development while 42 of the responses suggested that subdivisions of privately-owned land should be prohibited.

Fifty responses recommended that the Service should improve implementation of the policy. The major concerns centered on the present lack of specific condemnation criteria, the inadequacy of the current definition of incompatible use, and the need for the treatment of each homeowner tract as a separate case.

Summary of Public Responses

Table 1.—*Type of responses*

Type	Number	Percentage
Letters	746	72.5
Testimony	283	27.5
Total	1,029	100.0

Table 2.—*Sources of responses* [1]

Source	Number	Percentage
Landowners within National Park Areas	336	32.7
Non-Landowners	308	29.9
Unidentified	385	37.4
Total	1,029	100.0

[1] Based upon those people who specifically stated that they were or were not owners of property within National Park Areas.

Table 3.—*List of Parks Referenced by Respondents*

	Number of responses
North Atlantic Region:	
Acadia NP	3
Fire Island NS	7
	10
National Capital Region:	
Chesapeake and Ohio Canal NHP	1
Manassas NBP	4
	5
Mid-Atlantic Region:	
Appalachian NST (Maine to Georgia)	34
Colonial NHP	1
Gettysburg NMP	2
Shenandoah NP	1
	38
Southeast Region:	
Blue Ridge Pkwy	183
Cape Hatteras NS	1
Cape Lookout NS	5
Chattahoochee River NRA	8
Chickamauga and Chattanooga NMP	2
Cumberland Island NS	2
Great Smoky Mountains NP	1
Obed Wild and Scenic River	3
	206
Southwest Region:	
Buffalo NR	5
Hot Springs NP	1
	6
Midwest Region:	
Cuyahoga Valley NRA	12
Homestead NM	1
Indiana Dunes NL	4
Lower St. Croix NSR	1
St. Croix NSR	3
Voyageurs NP	1
	22
Rocky Mountain Region:	
Badlands NM	3
Bryce Canyon NP	1
Capitol Reef NP	1
Dinosaur NM	2
Glen Canyon NRA	23
Grand Teton NP	51
Rocky Mountain NP	33
Shadow Mountain NRA	2
Yellowstone NP	2
Zion NP	4
	122

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Table 3.—*List of Parks Referenced by Respondents*—Continued

	Number of responses
Western Region	
Death Valley NM	1
Haleakala NP	4
Joshua Tree NM	1
Kings Canyon NP	34
Lake Mead NRA	1
Lassen Volcanic NP	3
Sequoia NP	5
Walnut Canyon NM	1
Yosemite NP	54
	104
Pacific Northwest	
Crater Lake NP	1
Glacier Bay NM	1
Lake Chelan NRA	6
Mount Rainier NP	1
North Cascades NP	4
Olympic NP	94
	107
Grand total	620

Table 4.—*Public Hearing Locations*

Locations	Total attendance	Total testifiers	Percentage of testifiers
Fresno, California	208	44	15.5
Seattle, Washington	134	61	21.6
Golden, Colorado	84	76	26.6
Atlanta, Georgia	45	30	10.6
Washington, D.C.	160	72	25.4
Total	631	283	100.0

Table 5.—*Recommended Changes*

Recommendation	Number of responses
Prevent subdivision	42
Prevent commercial development	105
Modify program implementation	50
Define and explain incompatible use	54
Use scenic easements instead of fee	29
Use zoning instead of fee	35
Use community planning instead of fee	7
Use willing seller policy—no condemnation	175
Consider each inholding or tract separately	32
Develop specific condemnation criteria	17
Total	546

D. Summary and Conclusions

Congress by law, and the President by proclamation, designate those areas which are to be administered by the National Park Service. The resources of these areas, where feasible, are to be made available for public use and enjoyment; yet in each case, the Park Service also has the responsibility to protect the resources for future generations. To meet these responsibilities, Congress usually authorized, and often required, the Service to acquire privately-owned land.

Recently, the Service encountered some criticism on its land acquisition program. In an effort to assess the fairness and effectiveness of its land acquisition policy and practices the National Park Service conducted five public hearings in September. Written comments from those unable to attend or make presentations were also sought.

A careful review has been made of both the testimony presented at the public hearings and all letters that were received through the October 20, 1978 deadline. Later the closing date was extended to October 30, 1978, to assure consideration of letters which may have been delayed by mail and handling. Opportunity Systems, Inc., a private organization, was selected to review and code all responses to insure impartiality in the process.

The responses have provided the Park Service with useful information regarding current NPS land acquisition policy and practices. The comments reflect the views of private citizens and private landowners within park areas. Two broad areas of concern were raised by the responses. First was a need to clarify certain portions of the proposed policy. The other was a need for more specific guidelines on Service implementation of the policy.

The Service found the willing seller-willing buyer concept advocated in many public comments, to be consistent with bureau policy, but could not justify it as a complete alternative to condemnation. To do so would leave the development and management of the parks at the discretion of property owners whose actions may conflict with the public use or resource protection intended when Congress created a park in law. The revised policy, however, still reflects the Service's commitment to willing seller-willing buyer concept, and acquisition of less than full fee title to property, wherever it will suit public use and resource management requirements.

The comments opposing certain types of development of privately owned land within park areas are consistent with both the revised policy and its predecessors. The current revision reflects an effort to clarify the Service's opposition to unacceptable development.

These ideas and suggestions, and others less commonly raised, were carefully considered. In an effort to satisfy these and other concerns, the Park Service has taken the following steps: (1) rewritten the policy to clarify those portions which had not been clearly understood and (2) developed a separate guideline that: requires individual land acquisition plans for each park area to implement the policy; assigns specific responsibilities to NPS staff; addresses the rights and responsibilities of property owners in the parks; and clarifies criteria for condemnation and the definition of incompatible uses in inholding areas.

II. Land Acquisition Policy Statement

The National Park Service will acquire lands and waters in fee simple or less-than-fee interest within areas of the National Park System, consistent with legislation or other congressional guidelines and executive orders, to assure the protection of the natural, scenic, cultural, recreational, or other significant resources and to provide for adequate visitor use.

In carrying out this policy, each park area with an active land acquisition program shall have a land acquisition plan which conforms to Departmental and Park Service policies and all applicable laws. The plan shall be simple, concise and prepared with public participation.

In terms of the various park authorizing acts and other Congressional mandates, areas of the National Park System are divided into three categories for purposes of land acquisition policy. These three categories are as follows:

Newly Authorized Areas—In these areas, authorized since July 1959, acquisition is carried out in accordance with the policies prescribed by Congress in the authorizing legislation.

Inholding Areas—In these areas, authorized prior to July 1959, the Service shall pursue an opportunity purchase program, acquiring those lands offered for sale by property owners. The Service shall also acquire land to prevent uses which would damage the resources that the park area was established to protect. On undeveloped tracts the threat of development or subdivision will cause the Service to initiate acquisition.

Areas Where Acquisition is Limited to Donation or Exchange—In these areas, land is acquired by donation or exchange as opportunities occur.

Policy Implementation—Land acquisition in all areas of the National Park System is executed in accordance with the provisions of applicable legislation, including Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. This latter-cited statute requires fair and equitable treatment of owners from whom property is acquired and provides many benefits to both owners and tenants.

The land acquisition policy implementation guideline contains

detailed information on the individual park area acquisition plan, responsibilities of NPS officials, the authority and procedures for land acquisition and various land protection methods. The guideline also contains a complete listing of park areas by category.

III. Land Acquisition Policy Implementation Guideline

The Land Acquisition Policy of the National Park Service is stated in Chapter IX of the Service's *Management Policies* Notebook. This guideline assigns responsibility and provides procedures for its implementation.

Individual Park Area Acquisition Plan

Each area of the National Park System with an active land acquisition program shall have a land acquisition plan. The plan shall be developed by the park manager and approved by the Regional Director. The purpose of the plan shall be to inform the park staff, land acquisition personnel, the affected landowners, and the general public of the Service's land acquisition program for the area.

The land acquisition plan should be clearly understandable. It will be developed with public participation.

The plan shall be consistent with Congressionally mandated requirements for the park area, other laws, executive orders, and applicable policies or regulations of the Department of the Interior and the National Park Service.

1. *Content.*—The plan shall outline, in general terms, the overall strategy of the land acquisition program. It shall establish a general order of acquisition priority, recognizing such factors as resource protection, public and adminstrative use, changing land values and uses, and willingness of owners to sell. These conditions will be defined for each park in its land acquisition plan.

Plans shall make clear what interest is to be acquired, e.g. fee or scenic easements, or if the park values are or can be protected through zoning or cooperative agreement. The plan shall identify those structures which the owner may be permitted to remove from the property to a new site outside of the park area's authorized boundaries.

The reason for acquisition or alternate protection methods must be clearly stated. In many cases it will simply require reference to legislative mandates. In other cases it will define incompatible uses, or needs for resource management, public or administrative use.

2. *Planning Schedule.*—Land acquisition and the land acquisition plan for newly authorized areas will be done as soon as reasonably possible and will not be delayed pending completion of the General Management Plan (GMP). The land acquisition plan for any remaining private properties shall be incorporated into the GMP.

Because of the varying complexity of the land acquisition programs at individual park areas, Regional Directors will establish a time frame for the completion of each park's land acquisition plan. Priority should be given to those park areas with the more complex and active acquisition programs, especially those where imminent resource threats exist on privately owned property.

Simpler plans should be completed within a few months, and all plans should be completed within a year of issuance of the new land acquisition policy and this guideline. Exceptions to this time frame must be justified and approved by the Regional Director. Acquisition, however, in new and ongoing projects shall not be delayed pending completion and approval of plans.

In newly authorized areas, priority will be given to acquiring property needed to make the park operational and to protect primary park resources. Except where not reasonably practicable owners will be advised of the timetable. (Every effort should be made to make contact).

Land acquisition plans will be reviewed each year. Changes will require approval by the Regional Director. Any such changes should be made known to the landowners involved as soon as the changes have been approved.

3. *Public Participation.*—During development of a park area's land acquisition plan, and of any major changes to it, property owners and members of the public will be given an opportunity to express their views in person or in writing. When completed, copies of the plan will be made available to owners and occupants of affected properties. Where practical, especially in inholding areas, each landowner should be contacted in person, at a meeting, or in writing by a member of the park's management staff, who will be accompanied by a land acquisition staff member to explain technical aspects.

The public participation process during the development of the plan will at a minimum address the following: notification of the planning schedule to each known landowner at the last known address; information as to what the plan will accomplish and how it might affect each landowner; information as to whom they may contact to express their views; public presentation of the plan upon completion and prior to submission to the Regional Office for approval; and general distribution of the plan to individuals, local organizations of property owners, the news media, Congressional delegations, and other public officials. The plan shall be formally provided to State and local planning agencies and an effort will be made to file it in the county land records for general public availability.

4. *Property Owned By Other Government Agencies.*—All lands within authorized park area boundaries administered by other Federal agencies are to be acquired by transfer. Lands owned by State or local government agencies, shall be acquired in accordance with the authority provided by the authorizing legislation. If not prohibited by the authorizing legislation some publicly-owned lands may be purchased with appropriated funds. These are (a) so-called "State School lands," guidance for which is contained in Senate Report 95-276, (b) lands transferred to public ownership after authorization of the area, (c) lands in public ownership because of unpaid taxes or other debt, or (d) land acquired by the public body at the request of the Service for subsequent conveyance for use as Federal parkland. Guidance for the latter three is contained in Senate Report 94-991.

The land acquisition plan should address any proposed schedule for the acquisition or transfer of property owned by other government agencies.

5. *Compatible/Incompatible Uses in Inholding Areas.*—Land acquisition plans in these areas shall each define compatible and incompatible uses. (See Appendix, for a list of these areas).

The following are examples of compatibles uses:

A. normal maintenance and upkeep of private property.

B. minor modifications to existing structures and outbuildings.

C. repairs and reconstruction to comply with safety or sanitation codes.

D. replacement of roofing or siding.

E. shoring up structures threatened by subsidence of soil.

F. repair or replacement of utility lines.

Structures may be razed and replaced so long as the new structure is essentially the same size, is designed to serve the same purpose as its predecessor, and occupies essentially the same site. Internal or external renovation or remodeling of an existing

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structure is acceptable provided the structure will continue to be used for the same purpose as before. The park manager should be notified of any of the above changes. On farmland, construction of minor ancillary outbuildings consistent with sound agricultural practices will be permitted. Each park acquisition plan should provide instructions concerning these compatible uses from the perspective of that park area.

When the present owners anticipate a change in ownership, other than within the immediate family, they should notify the Service who will make an offer to purchase. The Service will immediately notify the appropriate Congressional Committees of its offer and the landowners response. This will afford the Committees the opportunity to take the appropriate action.

The Service will acquire and pay just compensation for any tract where proposed use or development could significantly damage the park resources or is incompatible with park values. Incompatible uses will be further defined in the park's land acquisition plan. The following actions or proposed actions are examples of incompatible uses.

(1). On presently unimproved land.—Subdivision, including splits in ownership or sell off portions of the land; construction or development of any kind; timbering, strip mining, initiation of new uses affecting park resources, or intensification of current uses such as an excess increase to the grazing load on pasturage.

(2). *On presently developed land.*—(a). Alterations to existing structures or new construction having one or more of these characteristics:

New separate residences or new residences physically linked to the existing structure.

Documented increase in damage to resources, scenery, or the historic scene.

Replacement of a major structure with one that is substantially different in size, location or purpose from its predecessor.

Impairment of historical integrity of an identified historic structure.

(b). Expansion of existing uses to a point where they cause documented increase in damage to the scenic, cultural or natural resources of the area.

(3). *On any private lands in inholding areas.*—Conversion of non-commercial property to commercial uses.

Clear and significant damage to natural, scientific, or cultural resources including topographic changes or disruptions of natural drainage patterns, or disturbance of natural vegetation or wildlife.

Creation of hazards that endanger the safety of park visitors.

Major increase in commercial use or traffic at access or crossing points on main park roads, resulting in hazardous conditions.

If the landowner persists in the identified incompatible use the Service will initiate a request for acquisition.

6. *Alternatives To Fee Acquisition.*—Full consideration will be given to all types of land protection methods such as fee acquisition, scenic easements, zoning, cooperative management, rights-of-way acquisition, or other alternatives. The land protection methods used will be discussed in the individual land acquisition plan.

Scenic easements or other less-than-fee interests shall be described in terms of the degree of protection required to meet the resource managmeent and visitor use needs of the park area. The terms of the sceinic or other easement estate to be acquired should be included in the plan to the degree possible.

Property owners within park area boundaries are responsible for complying with whatever local zoning or development controls are in effect. The park manager should encourage property owners to discuss proposed changes in ownership or structural improvements to the property with him/her.

Private access to or through park areas sometimes must be limited or eliminated in order to assure adequate resource protection and visitor safety. The plan must identify those points or routes of access to or through park property which may be eliminated and the conditions under which this may occur. Before any limitation on or elimination of access the Service shall take steps to locate alternate means of access to the private property and compensate the property owners for any access that is acquired.

7. *Reservations of Use and Occupancy.* A. Inholding Areas.—Reservations for private use and occupancy of acquired property will be permitted on a liberal basis. The land acquisition plan shall identify those properties where such reservations may or may not be permitted, and the reasons.

Typically, as a condition of sale to the National Park Service, legal owners of record of single family non-commercial residences are permitted to reserve the use and occupancy of the dwelling, along with a designated portion of the land (usually up to three acres) for a period of twenty-five years or less, or alternately, life estates for the owner or co-owners and respective spouses. This practice is beneficial to the owners and is encouraged to expedite the acquisition of non-Federal land within areas of the National Park System.

For this right, it has been administratively determined that one percent of the negotiated amount of the reserved areas is to be deducted (in advance) at time of closing for each year the premise is reserved. For life estates, the length of the estate is based on the life expectancy of the owner or co-owners with the longest life expectancy, and the number of years calculated by use of actuarial tables published by the Department of Health, Education and Welfare.

The one percent formula is not applicable to commerical, industrial, agricultural, ranching or similar incom-producing properties. In these instances the value of the reservation is determined by the usual appraisal process.

The Service assumes no responsibility for maintenance or upkeep of any property subject to a reserved use and occupancy or life estate right. In historic structures, the Service may, under terms of the use and occupancy provisions, provide for preservation and general upkeep of the reserved properties.

The following terms and conditions are required in all offers and deeds to the National Park Service involving use and occupancy for single-family residential purposes unless otherwise provided by law:

(1). *Definitions.* Within the meaning of this instrument, "single-family noncommercial residential purposes" is occupancy of the reserved premises solely as a residence by any owner or owners having attained the age of eighteen on the date of the acquisition of the herein described property. "The Reservoir" is the person or persons conveying the land covered by this instrument to the United States and reserving a right of use and occupancy.

(2). *Use.* The reserved premises shall be used only for residential purposes. The reserved premises shall not be used for any commercial, industrial, mining or similar use or for the accommodation of any paying guests for a period of less than 90 days. The Reservoir in the use of the premises shall conform to all applicable laws, oridinances, and regulations in effect in the area, including but not limited to all applicable general National Park Service regulations and general and special regulations for the area in particular.

(3). *Preservation.* The Reservoir shall not add to or materially alter the character of existing imporvements or

structures or perform any new construction or change the topography of the land without first having obtained the permission in writing of the National Park Service. Any building or structure damaged or destroyed by fire or other casualty or deteriorated by the elements or wear and tear may be maintained, reparied, renovated, remodeled, or reconstructed so long as the basic character of the building or structure is not materially altered.

(4). *Maintenance of reserved premises.* The Reservoir shall keep the grounds of the reserved premises in a clean and neat condition and shall maintain all structures and improvements in good repair. The Reservoir is responsible for all costs arising out of the reserved premises, including all costs of maintenance and repair and all utility charges. The United States has no respsonsibility for any charges or expenses in connection with the reserved premises.

(5). *Precautions.* The Reservoir shall take reasonable care to avoid damage to adjacent or nearby Federal lands or property through the spread of fire originating on the reserved premises, through the spread of sewage or other polluting substances originating on the reserved premises, or by any other acitivities representing a nuisance or hazard to adjacent or nearby Federal lands or property.

(6). *Taxes.* The Reservoir is responsible for the payment of any taxes or assessments that may be levied against his interest in the reserved premises.

(7). *Liability.* The Reservoir shall hold the United States harmless for any liability arising out of the use of the reserved premises by the Reservoir. The Reservoir shall at his expense carry such public liability insurance as is customary by homeowners in the vicinity, providing such insurance is available.

(8). *Insurance.* The Reservoir is responsible for insuring his interest in the reserved premises.

(9). *Transfer.* The reserved premises may be conveyed or subleased for not less than 90 days by the Reservoir or his successors or assigns provided the instrument of conveyance or sublease imposes on the new Reservoir all of the restrictions and requirements of these provisions. A copy of any such conveyance or sublease shall be furnished the National Park Service prior to the effective date of such conveyance.

(10). *Expiration of term.* The Reservoir shall peacefully relinquish possession and control of the reserved premises upon the expiration of the term of the right of use and occupancy. He shall leave the reserved premises in a neat and clean condition. He shall not remove any structures or other improvements which are permanently affixed to the realty unless proper arrangements, with adequate consideration for such removal, have been made with the National Park Service. Any personal property left on the reserved premises upon the expiration of the term may be disposed of by the National Park Service.

(11). *Waiver of replacement housing benefits.* The Reservoir fully understands that by reserving the rights of use and occupancy reserved herein he waives replacement housing benefits under Sections 203, 204, 205, and 206 of Public Law 91–646.

The provisions of the use and occupancy instruments will be enforced by judicial action, if necessary.

Reserved use and occupancy rights for single-family residential purposes may, with the consent of the reservoir, be repurchased by the Service for the pro rata unexpired portion of the amount deducted for such right. Because of the need to maintain fiscal control, this will be done only with the concurrence of the Land Acquisition Division, Washington Office. The use of reserved single-family residences for commercial purposes other than rental on a minimum of a 90 day basis, including occupation by paying transients, is not allowed.

B. Newly Authorized Areas.—Where authorized in the legislation establishing the park area, the reservation of use and occupancy rights in these areas will follow the guideline in subsection A, above.

C. Areas Where Acquisition is Limited to Donation or Exchange.—Where authorized in the legislation establishing the park area, the reservation of use and occupancy rights in these areas will also follow the guideline in subsection A, above.

8. *Commercial Property.*—Because of the complexity and variety of commercial property within units of the National Park System these properties will be dealt with on a case-by-case basis in the park area's land acquisition plan.

Responsibilities of NPS Officials in Implementation of Land Acquisition Plan

1. *Regional Director* is responsible for establishing the general criteria and the completion date for the land acquisition plan for each land area within his/her Region. Upon completion of the draft plan, including the public participation process at the park level, the Regional Director reviews the plan and, if it is satisfactory, gives it final approval on behalf of the Service.

2. *Park Manager* will develop the plan for his/her area in accordance with legislation establishing the area, the criteria set by the Regional Director, and the provisions of the Land Acquisition Policy Statement. The Park Manager will arrange for public participation and will contact landowners where ownership can be determined through a reasonable title search. He/she will provide all known landowners with a copy of the completed and approved plan.

3. *Land Acquisition Personnel* assigned to the Region and/or the area will provide technical advice and assistance to the Regional Director and park managers in all phases of the preparation of the plan, including the public participation process.

Execution of the Land Acquisition Program Within Park Areas

Land acquisition personnel assigned to the area or Region are responsible for executing the land acquisition program. They will be guided by the plan, once it is approved, and by priorities and other criteria established by the Regional Director and the park manager. Land acquisition personnel will arrange for title evidence, surveys, and appraisals. They will review appraisals and establish the amount of the estimated just compensation. They will negotiate with landowners and arrange for title closing. They will prepare condemnation assemblies on tracts which it has been determined will be acquired by condemnation. They will perform required owner relocation services and all other technical aspects of land acquisition.

In the performance of the land acquisition program, all personnel will be guided by the provisions of Public Law 91–646, the Uniform Appraisal Standards for Federal Land Acquisition, the Standards for the Preparation of Title Evidence in Land Acquisition by the United States, the Procedural Guide for the Acquisition of Real Property by Governmental Agencies, and any other applicable directives.

Land acquisition and other personnel in contact with landowners shall at all times remember that they represent the image of the Service to the public. Land acquisition personnel will keep park managers advised as to the progress of land acquisition in their area and will inform them before condemnation

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actions or other matters that may arouse controversy occur.

Review of Proposed Condemnation Actions in Inholding Areas

Any private property owner in an inholding area where property is proposed for condemnation because of an incompatible use or adverse development may seek review of a proposed condemnation of his or her property. Requests for review may follow any written or oral notification by an employee or representative of the Service that condemnation of the property is being seriously considered.

The owner must give notice of intent to seek review with the park manager prior to the submission of the condemnation request to the Department of Justice. In conjunction with the notice of intent to seek review the owner must provide written agreement to halt all activities which might affect the property until the review process is exhausted. Failure to provide such written agreement will constitute grounds for the Service to request the initiation of condemnation immediately. The written request for review must be addressed to the Director of the National Park Service within 30 days of giving notice of intent to seek review.

For condemnation reviews the Director shall appoint an interdisciplinary panel of three professionals. No member of the panel shall have any direct responsibility for land acquisition on behalf of the National Park Service or for the management of the area concerned.

The panel will consider information and arguments in informal session and will make a recommendation to the Director as to whether the use or acts affecting the property constitute incompatible use within the meaning of the Land Acquisition Policy Statement and this implementation guideline. The Director shall then render a decision based upon the recommendation of the panel and the information gathered by it. The decision of the Director shall be final and not subject to further review. This review process is an informal procedure, not a hearing.

Authority and Procedures for Land Acquisition

1. *Legal Basis for Acquisition*—The acquisition of lands or interest in lands, or the use of measures other than acquisition for the protection of land resources, is governed by the terms of each park's authorizing act and its amendments, or other Congressional mandates.

Most of these acts specifically authorize acquisition by purchase, donation, or exchange. The use of exchange is severely limited by the general nonavailability of lands to be given by the Government in the exchange, and so is not widely used.

Condemnation is a sovereign power of the Federal Government. The authority of the United States of America to spend public money for the acquisition of privately owned land for park purposes through the process of condemnation (eminent domain) has been considered by the courts as constitutional since 1896. *See United States* v. *Gettyburg Electric Railroad Company*, 160 U.S. 668 (1896).

Accordingly, legislation which provides for the acquisition of lands and appropriation of funds for payment to landowners is supported by the courts and is the basic process by which the Park Service acquires land.

As a part of this process the Congress has also provided for the use of a declaration of taking, which vests property in the United States immediately upon filling papers in the court and the deposit of an estimate of just compensation. (See 40 U.S.C. 258.)

Condemnation proceedings are regarded by the National Park Service as a last resort. The Service will make every effort to seek negotiated settlement wherever possible before initiation of condemnation. Condemnations initiated by the filing of a complaint are used in most eminent domain cases requested by the National Park Service. In these situations title to the land does not pass to the Government until the court or jury has determined the amount of just compensation and this amount has been paid to the owner. Condemnation also may be employed by the Service to determine title issues or when an owner willingly agrees to acquisition by the Federal Government, but wishes the courts to determine the value of the property.

Declarations of taking are typically used where title to the land must be vested in the United States immediately in order to prevent resource damage.

In the earlier years of the National Park Service, appropriation of money for land acquisition was from general funds in the Treasury. However, in 1965 Congress authorized the Land and Water Conservation Fund to be a continuing source of money for the acquisition of land for the National Park Service and other Federal, State, conservation and recreation agencies.

2. *How Land is Acquired*—Acquisition of lands and interests in lands is conducted in accordance with provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646).

Acquisition must be in an authorized park area. The first step in the acquisition of land is its identification and mapping. Title to the land must then be searched and the Service must obtain an abstract of title, title insurance policy, or other valid title evidence in a form approved by the Department of Justice.

This, accompanied by a title opinion rendered by the Department of Justice, or Office of the Solicitor of the Department of Interior, identifies the person(s) from whom title must be obtained.

It is required by Pub. L. 91–646 that real property be appraised prior to the initiation of negotiation and the owner afforded an opportunity to accompany the appraiser. If the owner will not grant permission to appraise, the Service may, in appropriate instances, file a condemnation action and request a court order authorizing entry for appraisal purposes. Appraisals will conform to the Uniform Appraisal Standards for Federal Land Acquisition, as described in part 3 of this chapter, and are reviewed by the Service for conformance with sound appraisal principles.

As required by Pub. L. 91–646, the owner is provided with a written summary of the estimate of just compensation, which shall be in an amount not less than the approved appraisal, and every reasonable effort is made to acquire the property by negotiated purchase.

Additionally, property owners are entitled to a number of relocation benefits under the provisions of Pub. L. 91–646, such as expenses for moving personal belongings. This law also provides for replacement housing benefits—subject to certain requirements and limitations—of up to $15,000 for homeowners and up to $4,000 for tenants, to enable owners to obtain suitable dwellings after they move from the Government acquired property. Replacement housing benefits, but not moving expenses, are lost if the owner decides to keep a reservation for use and occupancy for residential purposes.

3. *Appraisals*—The guiding document for the National Park Service Appraisal Program is the publication entitled "Uniform Appraisal Standards for Federal Land Acquisition." These standards were published by the Interagency Land Acquisition Conference of 1973. They serve as the unifying element in appraisal practices for all Federal agencies acquiring real property for the United States acting under Pub. L. 91–646, the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970.

The National Park Service uses a mix between staff appraisers and contract appraisers. Contractors are those independent appraisers who perform professional appraisal services not only for the National Park Service, but for other clients as well.

In accordance with Pub. L. 91–646, the landowner will be offered an opportunity to accompany the appraiser on the inspection of the property in order to afford the owner an opportunity to point out significant features of the property.

To assure the quality of appraisals, staff appraisers review all reports for compliance with proper appraisal procedures and check such elements as the thoroughness of the research performed and whether or not the appraiser has afforded the landowner the opportunity to accompany the appraiser.

As a double check upon proper appraisal practices, the Washington Office conducts overview of the appraisal program at the regional and project level. At all levels, it is the policy of the National Park Service appraisers to strive for an objective estimate of fair market value which has been defined in the Uniform Appraisal Standards for Federal Land Acquisition as follows:

The amount in cash, or in terms reasonably equivalent to cash, for which in all probability the property would be sold in the open market by a knowledgeable seller who is willing but not obligated to sell, allowing a reasonable time to find a knowledgeable buyer who is willing but not obligated to buy.

Appraisals not conforming to sound appraisal principles will be disapproved by the Service and another appraisal obtained.

Owners may be provided with a copy of the agency's appraisal upon request.

Land Protection Methods

The National Park Service has long recognized the fact that it is not necessary to own all land in order to assure its protection and appropriate use. The following land protection methods have been and are being used when allowed by the legislation establishing the particular park area.

1. *Fee simple*—This tool denotes absolute ownership of land, though reservation of rights of use and occupancy for life or for years, or of easements for some more minor use (such as power lines, water rights, highways) are frequently involved in actual practice. Fee simple carries with it the power to control use of the land and as such provides for maximum resource protection. Either fee simple or some interest approaching fee simple is requisite for lands to be available to the visiting public.

2. *Scenic or Restrictive Easements*—These are interests in property less-than-fee simple ownership. They place development and use restrictions on the owner to assure that the private use of the land shall be compatible with the preservation and public use of the park area. The cost of easements will depend on the type of restrictions put on the land and also on the development potential (highest and best use) of the land. These easements are used where required by law and/or when they can be justified on cost, as compared with fee simple interest, and where public access or construction of park facilites is not involved and resource protection is not hampered.

3. *Zoning*—This is the regulation of land use through ordinances passed by States or local units of government. Acceptable zoning if enforced and not subject to variances can assure that private uses are maintained and developed in a manner that would not impair the primary purposes of the area. Congress has provided that private uses, in specific locations within areas of the National Park System, may be continued as long as individuals, villages or communities observe appropriate zoning in accordance with standards established by the Secretary of the Interior. The service shall work actively with appropriate agencies in establishing acceptable zoning standards.

4. *Cooperative Planning and Management*—These areas involve a coordinated concept of property protection utilizing a combination of methods and encompassing the cooperation of various Federal, State and local jurisdictions, conservation groups and landowners. This approach includes but is not limited to:

A. National Reserves (Areas of National Concern)—Federal, State and local governments form a special partnership around an area to be protected. Planning, implementation and maintenance is a joint effort and is based on a mutual desire to protect the resource. Under this concept, the Federal Government, through the National Park Service, may acquire core zones intended to protect and permit appropriate use of the most vital physical resources within authorized boundaries of the area. The balance of property within these areas may be protected through a combination of acquisition and management by the State and local governments, and the development of zoning or similar controls acceptable to the Secretary of the Interior.

B. Cooperative Agreements—The Secretary of the Interior in suitable instances may enter into a written cooperative agreement with State or local governments, or others for the use, protection or management of lands.

5. *Access Limitation*—This is a method in which non-Federal rights-of-way (previously reserved) to or across present Federal lands may be eliminated. In some instances when authorized by the legislation establishing the park area, the Service may acquire and develop alternative means of access to the private property in full or partial settlement for elimination of the access to park property. In those instances where development of alternative means of access is infeasible or unacceptable to the owner of the land to be served by the access, it may be necessary to acquire the property in fee.

6. *Rights-of-Way*—This is a form of easement which can provide public or administrative uses of private property for specified purposes without acquiring fee title to the property. The acquisition of rights-of-way is ofter for roads, trails, and utility corridors needed for park use and development.

Appendix

1. *List of Newly Authorized Areas*

For the purpose of the National Park Service's land acquisition policy, the following are considered newly authorized areas as of the date of this guideline:

Agate Fossil Beds National Monument (NE)
Allegheny Portage Railroad National Historic Site (PA)
Andersonville National Historic Site (GA)
Antietam National Battlefield (MD)
Apostle Islands National Lakeshore (WI)
Appalachian National Scenic Trail (ME/NH/VT/MA/CT/NY/PA/NJ/MD/WV/VA/TN/NC/GA)
Appomattox Court House National Historical Park (VA)
Arkansas Post National Memorial (AR)
Assategue Island National Seashore (MD/VA)
Bent's Old Fort National Historic Site (CO)
Big Cypress National Preserve (FL)
Big Thicket National Preserve (TX)
Bighorn Canyon National Recreation Area (MT/WY)
Biscayne National Monument (FL)
Boston National Historical Park (MA)
Buffalo National River (AR)
Canaveral National Seashore (FL)
Cape Cod National Seashore (MA)
Cape Hatteras National Seashore (NC)
Cape Lookout National Seashore (NC)

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Capitol Reef National Park (UT)
Carl Sandburg Home National Historic Site (NC)
Chattahoochee River National Recreation Area (GA)
Chesapeake and Ohio Canal National Historical Park (MD/DC/WV)
Chickasaw National Recreational Area (OK)
Colonial National Historical Park (VA)
Colorado National Monument (CO)
Congaree Swamp National Monument (SC)
Coronado National Memorial (AZ)
Cowpens National Battlefield (SC)
Cumberland Island National Seashore (GA)
Cuyahoga Valley National Recreation Area (OH)
Delaware Water Gap National Recreation Area (NJ/PA/NY)
Edgar Allen Poe National Historic Site (PA)
Everglades National Park (FL)
Fire Island National Seashore (NY)
Fort Bowie National Historic Site (AZ)
Fort Donelson National Military Park (TN)
Fort Laramie National Historic Site (WY)
Fort Smith National Historic Site (AR/OK)
Fort Union Trading Post National Historic Site (ND/MT)
Friendship Hill National Historic Site (PA)
Gateway National Recreation Area (NY/NJ)
George Washington Memorial Parkway (VA/MD)
Golden Gate National Recreation Area (CA)
Grand Canyon National Park (AZ)
Grant-Kohrs Ranch National Historic Site (MT)
Gulf Islands National Seashore (FL/MS)
Haleakala National Park (HI)
Harpers Ferry National Historical Park (MD/WV)
Hawaii Volcanoes National Park (HI)
Herbert Hoover National Historic Site (IA)
Homestead National Monument of America (NE)
Independence National Historical Park (PA)
Indiana Dunes National Lakeshore (IN)
Jean Lafitte National Historical Park and Preserve (LA)
John Day Fossil Beds National Monument (OR)
Johnstown Flood National Memorial (PA)
Kaloko-Honokohau National Historical Park (HI)
Klondike Gold Rush National Historical Park (AK/WA)
Knife River Indian Villages National Historic Site (ND)
Lake Chelan National Recreation Area (WA)
Lake Mead National Recreation Area (AZ/NV)
Lincoln Boyhood National Memorial (IN)
Lincoln Home National Historic Site (IL)
Lowell National Historic Park (MA)
Lower Saint Croix National Scenic River (MN/WI)
Maggie L. Walker National Historic Site (VA)
Martin Van Buren National Historic Site (NY)
Mineral King addition to Sequoia National Park (CA)
Minute Man National Historical Park (MA)
Monocacy National Battlefield (MD)
Moores Creek National Military Park (NC)
Morristown National Historical Park (NJ)
New River Gorge National River (WV)
Nez Perce National Historical Park (ID)
Ninety Six National Historic Site (SC)
North Cascades National Park (WA)
Obed Wild and Scenic River (TN)
Ozark National Scenic Riverways (MO)
Padre Island National Seashore (TX)
Palo Alto Battlefield National Historic Site (TX)
Perry's Victory and International Peace Memorial (OH)
Pictured Rocks National Lakeshore (MI)
Pinelands National Reserve (NJ)
Pinnacles National Monument (CA)
Piscataway Park (MD)
Point Reyes National Seashore (CA)
Redwood National Park (CA)
Rio Grand National Scenic Riverway (TX)
Ross Lake National Recreation Area (WA)
Saguaro National Monument (AZ)
Saint Croix National Scenic Riverway (WI/MN)
Saint Gaudens National Historic Site (NH)
San Antonio Missions National Historic Park (TX)
Santa Monica Mountains National Recreation Area (CA)
Shiloh National Military Park (TN)
Sleeping Bear Dunes National Lakeshore (MI)
Thomas Stone National Historic Site (MD)
Tumacacori National Monument (AZ)
Tuskegee Institute National Historic Site (AL)
Tuzigoot National Monument (AZ)
Upper Delaware Scenic and Recreation River (NY/PA)
Valley Forge National Historic Park (PA)
Virgin Islands National Park (VI)
Voyageurs National Park (MN)
War in the Pacific National Historic Park (GU)
Whiskeytown-Shasta-Trinity National Recreation Area (CA)
Wind Cave National Park (SD)

2. *List of Inholding Areas.*—For the purpose of the National Park Service's land acquisition policy, the following are considered inholding areas:

Badlands National Park (SD)
Big Bend National Park (TX)
Black Canyon of the Gunnison National Monument (CO)
Blue Ridge Parkway (NC/VA)
Bryce Canyon National Park (UT)
Chaco Canyon National Monument (NM)
Chiricahua National Monument (AZ)
Death Valley National Monument (CA/NV)
Dinosaur National Monument (CO/UT)
El Morro National Monument (NM)
Fort Raleigh National Historic Site (NC)
Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park (VA)
Gettysburg National Military Park (PA)
Glacier National Park (MT)
Grand Teton National Park (WY)
Great Sand Dunes National Monument (CO)
Great Smokey Mountains National Park (NC/TN)
Guilford Court House National Military Park (NC)
Hot Springs National Park (AR)
Joshua Tree National Monument (CA)
Katmai National Monument (AK)
Kings Canyon National Park (CA)
Lassen Volcanic National Park (CA)
Manassas National Battlefield Park (VA)
Mesa Verde National Park (CO)
Montezuma Castle National Monument (AZ)
Mount Rainier National Park (WA)
Natchez Trace Parkway (MS/TN/AL)
Olympic National Park (WA)
Organ Pipe Cactus National Monument (AZ)
Petersburg National Battlefield (VA)
Rocky Mountain National Park (CO)
Scotts Bluff National Monument (NE)
Sequoia National Park (CA)
Theodore Roosevelt National Park (ND)
Walnut Canyon National Monument (AZ)
Yosemite National Park (CA)
Zion National Park (UT)

3. *List of Areas Where Acquisition is Limited to Donation or Exchange.* For the purpose of the National Park Service land acquisition policy the following are considered areas where acquisition is restricted to donation or exchange as of the date of this guideline:

Acadia National Park (ME)
Adams National Historic Site (MA)
Carlsbad Caverns National Park (NM)
De Soto National Memorial (FL)
Fort Scott National Historic Site (KS)
Hamilton Grange National Memorial (NY)
Hokokam Pima National Monument (AZ)
Lewis and Clark National Historic Trail (IL/MO/KS/IA/NE/SD/ND/MT/ID/WA/OR)
Lyndon B. Johnson National Historic Site (TX)
Mormon Pioneer National Historic Trail (IL/IA/NE/WY/UT)
Oregon National Historic Trail (MO/IA/NE/WY/ID/OR/WA)
Pea Ridge National Military Park (AR)
Pecos National Monument (NM)
Puukohola Heiau National Historic Site (HI)
Sewall-Belmont House National Historic Site (DC)
Shenandoah National Park (VA)
Springfield Armory National Historic Site (MA)

4. *Areas Requiring Cooperative Management/Zoning.* The authorizing legislation for the following park areas requires cooperative management and/or zoning as of the date of this guideline:

Jean Lafitte National Historic Park and Preserve (LA)
Lowell National Historic Park (MA)
San Antonio Missions National Historic Park (TX)
Santa Monica Mountains National Recreation Area (CA)

5. *Areas of National Concern.*—The authorizing legislation for the following area allows for limited land acquisition to occur which may eventually be managed in whole or part by the National Park Service.

Pinelands National Reserve (NJ)

Dated: April 20, 1979.

William J. Whalen,
Director, National Park Service.

[FR Doc. 79-12831 Filed 4-25-79; 8:45 am]

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federal register

Thursday
April 26, 1979

Part V

Department of Energy

Federal Energy Management and Planning Programs; Procedures for Preliminary Energy Audits and Guidelines for Buildings Plans

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DEPARTMENT OF ENERGY

[10 CFR Part 436]

Federal Energy Management and Planning Programs; Procedures for Preliminary Energy Audits and Guidelines for Buildings Plans

AGENCY: Department of Energy.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Department of Energy today proposes rules intended to enhance ongoing energy conservation efforts regarding reductions in Federal buildings energy use. This proposal contains procedures for the conduct of, and reporting on, preliminary energy audits of Federal buildings in order to develop data regarding their energy consumption characteristics. This proposal also contains guidelines for preparation of 10-year Buildings Plans by each affected Federal agency to reduce consumption of non-renewable energy sources in Federal buildings principally for heating, ventilation, cooling, domestic hot water, and lighting.

DATES: Written comments must be received by May 29, 1979, 4:30 p.m., e.d.t., in order to ensure their consideration. Hearings will be held at the places and on the dates indicated below.

ADDRESSES: Comments to: Margaret W. Sibley, Office of Conservation and Solar Applications, Department of Energy, 20 Massachusetts Ave., N.W., Washington, D.C. 20545.

HEARINGS: Public Hearings will be held in three cities, beginning at 9:30 a.m. local time on the dates and locations specified below:

City	Hearing date	Request to testify by 4:30 p.m.	Submit requests to testify to—	Hearing location
San Francisco	May 18	May 7	Robert Lafiel, DOE, 1111 Pine Street, San Francisco, CA 94111.	Holiday Inn, Golden Gate Way, 1500 Van Ness Ave., San Francisco, CA.
Kansas City	May 22	May 14	Suzanne Mathews, 324 East 11th Street, Kansas City, MO 64106.	Federal Building, 911 Walnut Street, Kansas City, MO.
Washington, D.C.	May 24	May 16	Margaret Sibley, DOE, 20 Mass. Avenue, N.W., Wash., D.C. 20545.	Room 2105, 2000 M Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William H. Rhodes, 376–4017, Office of Conservation and Solar Applications, Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545.

Mark Friedrichs, 633–8595, Office of Policy and Evaluation, Department of Energy, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Margaret W. Sibley, 376–1651, Office of Conservation and Solar Applications, Department of Energy, 20 Massachusetts Avenue, NW., Washington, D.C. 20545.

Neal J. Strauss, 376–9472, Office of the General Counsel, Department of Energy, 12th and Pennsylvania Avenue, NW., Washington, D.C.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Preliminary Energy Audits.
A. Basic Requirements.
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I. Introduction

The Department of Energy (DOE) today proposes rules to promote energy conservation in Federal buildings under section 381 of the Energy Policy and Conservation Act, as amended (EPCA) 42 U.S.C. 6361; Executive Order 11912, as amended by Executive Order 12003 (Executive Order), 42 FR 37523 (July 20, 1977); Title V, Part 3, of the National Energy Conservation Policy Act (NECPA), 92 Stat. 3275; and section 644 of the Department of Energy Organization Act, 42 U.S.C. 7254.

Section 381 of the EPCA requires the President to develop and, to the extent of his authority under other law, implement a 10-day plan for energy conservation with respect to buildings owned or leased by the Executive agencies as defined in 5 U.S.C. 105 and the United States Postal Service (Federal agencies). The 10-year plan is to include mandatory lighting efficiency standards, mandatory thermal efficiency standards and insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation, and plans for replacing or retrofitting to meet such standards. Section 381 further requires reporting, by the President to the Congress, on the steps taken each year in the development and implementation of the 10-year plan.

Under the Executive Order and by operation of section 301 of the Department of Energy Organization Act, 42 U.S.C. 7151, the Secretary of the DOE (Secretary) is responsible for developing the 10-year plan, with the concurrence of the Director of the Office of Management and Budget (OMB) and in consultation with the heads of certain other Federal agencies.[1]

The Executive Order sets out a framework for the development and implementation of the 10-year plan which includes:

- 20 percent and 45 percent goals, measured on a Btu per gross square foot basis, for reduced energy use from 1975 to 1985 for Federally-owned existing and new buildings, respectively;
- A limitation on Federal leasing of new buildings to those which will likely meet or exceed the 45 percent goal for new Federal buildings;
- 10-year buildings plans by each of the affected Federal agencies (Buildings Plans), to be submitted to DOE, and designed to the maximum extent practicable to meet the 20 percent and 45 percent goals by cost-effective improvements in existing Federal buildings and by cost-effective designs for new Federal buildings, respectively;
- DOE guidelines, issued with the concurrence of the Director of the OMB and after consultation with the heads of certain other Federal agencies, establishing requirements and procedures for the Buildings Plans to be submitted to DOE;
- The conduct of, and reporting on, preliminary energy audits of important energy consumption characteristics of Federal buildings;
- Systematic life cycle costing procedures for adoption and use in achieving cost-effective reductions in the energy use of Federal buildings;
- Budgeting for implementation of the Buildings Plans; and
- Federal agency reporting to the President, through DOE, on the progress made each year under the Buildings Plans.

The Executive Order also requires that each Executive agency submit to the DOE an overall energy management plan for conserving fuel and energy in all its operations. The overall plan is intended to be in addition to and include the agency's Buildings Plan. Reporting on the progress of the non-buildings aspects of overall plans would be handled in conjunction with reporting on Buildings Plans, discussed above.

Title V, Part 3, of the NECPA builds upon the approach of the Executive Order for developing and implementing the 10-year plan under the EPCA for energy conservation with respect to Federal Buildings. The NECPA requires the Secretary, in consultation with the heads of other Federal agencies, to establish practical and effective methods for estimating and comparing life cycle costs for Federal buildings and to develop and prescribe the procedures to be followed in applying these methods and in conducting preliminary energy audits. All new Federal buildings are to be cost effective as determined by DOE-established life cycle costing methods, with life cycle cost rather than initial cost being the basis for cost evaluation of new building designs.

Federal agencies are required to conduct preliminary energy audits of their existing buildings, with some exceptions, and to report the results to the Secretary. The Secretary is required to provide reports based upon this information to the Congress.

The NECPA further requires each Federal agency by 1990 to have retrofitted all of its buildings for which preliminary energy audits have been performed so as to assure their minimum life cycle costs to the extent consistent with basic requirements for the occupation and use of the buildings. Actions or arrangements for at least 1 percent of this work must be undertaken in FY 1980, with at least a further 2 percent in FY 1981 and at least an additional 3 percent in FY 1982.

The NECPA also has requirements for:

- The development of Federal building energy performance targets, a target being a rate of energy consumption which is the minimum practically achievable, taking into account life-cycle cost, by adjusting maintenance and operating procedures, or by modifying a Federal building's equipment or structure, or both;
- A preference in Federal agency leasing for buildings which use solar heating and cooling equipment or other renewable resources or which otherwise minimize life cycle costs;
- Identification of funds requested in the President's Budget for retrofit measures undertaken under Title V, Part III, of the NECPA and for the portion of any other funds requested which represent to the maximum extent practicable the initial costs of construction or renovation attributable to capital equipment for energy conservation or the utilization of solar energy and other renewable energy sources; and
- Periodic information from the Federal agencies to the Secretary on their progress under Title V, Part III, of the NECPA, with the Secretary submitting to the Congress an annual report based upon this information.

The rules proposed today provide procedures for the conduct of, and reporting on, preliminary energy audits of important energy consumption characteristics of Federal Buildings, and guidelines for Federal agencies to formulate, update, and report progress on Buildings Plans to achieve cost-effective reductions in the use of non-renewable energy resources principally for heating, ventilation, cooling, domestic how water, and lighting in Federal buildings.

Today's proposed preliminary energy audit procedures and guidelines for Buildings Plans will be promulgated as subparts of Part 436 of Title 10 Code of Federal Regulations (10 CFR Part 436) which is entitled "Federal Energy Management and Planning Programs." Part 436 comprises the DOE rules for conservation and solar programs for Federal energy use under Section 381 of the EPCA, the Executive Order, and Title V of the NECPA. The subparts which are expected to be included are—

- Subpart A—Methodology and Procedures for Life Cycle Cost Analyses for Federal Buildings;
- Subpart B—Procedures for Preliminary Energy Audits;
- Subpart C—Guidelines for Buildings Plans;
- Subpart D—Solar in Federal Buildings Demonstration Program Rules; and
- Subpart E—Monitoring and Assessment Methods for Federal Photovoltaic Systems Evaluation and Purchase Program.

Today's proposal was developed in consultation with the Office of Management and Budget (OMB), the National Bureau of Standards (NBS), the General Services Administration (GSA), the Department of Defense (DOD), the Veterans Administration (VA), the Department of Housing and Urban Development (HUD) and other Federal agencies who provided advice, participated in interagency meetings, and reviewed drafts of the guidelines. The Director of OMB has concurred in today's proposal.

The rule for preliminary energy audits is expected to result in augmentation of the data base for energy investment decisions with respect to existing Federal buildings. Inasmuch as some of the audit data is already collected, the DOE anticipates that the final procedures will not be unduly burdensome.

The guidelines are expected to promote ongoing energy conservation efforts of Federal agencies and continued planning to achieve reductions in building energy use throughout the Federal Government. The DOE expects that under the guidelines the future benefits in cost savings will substantially outweigh the initial dollars expended.

II. Preliminary Energy Audits

A. Basic Requirements

"Preliminary energy audits" of existing Federal buildings are required by both the Executive Order and the NECPA. In accordance with the NECPA, the proposed rule defines the term "preliminary energy audit" as "a

[1] While the Executive Order speaks of "Executive agencies," the effect of § 501 of the NECPA, 92 Stat. 3275, is to make many of the Executive Order provisions regarding the 10-year plan applicable to Executive agencies as defined by 5 U.S.C. 105 and the United States Postal Service. These agencies are referred to in this notice as "Federal agencies."

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determination of the energy consumption characteristics of an existing Federal building, including the size, type, rate of energy consumption and major energy using systems of such building, and the climate characterizing the region where such building is located." The NECPA provides for a two-year data collection period for the conduct of preliminary energy audits, with reports of results as soon as possible and at least annually to the DOE which must in turn submit full reports annually to the Congress. Priority for collecting and reporting on the data goes to the larger buildings, those with 30,000 or more gross square feet, which must be audited in the first year to the maximum extent feasible. Smaller buildings, those 1,000 or more, but less than 30,000 gross square feet, are to be audited concurrently to the maximum extent feasible, and in any event not later than the end of the second year.

B. Extent of Data Collection Effort

Proposed § 436.32 sets forth the procedures for performing a preliminary energy audit, but specifically states that a Federal agency is not required to audit buildings for which the required data has already been collected. This exception will serve to avoid duplication of effort. With respect to Federal buildings with 30,000 or more gross square feet, the proposed rule limits the data required to be collected by agencies basically to the five building characteristics specified in NECPA—size, type, rate of energy consumption, major energy using systems, and climate. While these requirements are consistent with the provisions of NECPA and would serve to minimize the extent of additional data gathering required of agencies, the resulting information could provide only a very rough indication of whether a particular building required additional conservation actions. Further, the resulting data would not provide an indication of which buildings would be most appropriate for the installation of renewable energy systems.

Therefore, for the purpose of identifying possible retrofits to reduce use of scarce fossil fuels and to promote use of renewable energy sources, DOE is proposing that, with respect to Federal buildings between 1,000 and 30,000 gross square feet, more extensive information regarding site, building, and heating and hot water systems should be collected. The additional items of information to be collected are set forth at proposed § 436.32(e).

DOE is not proposing collection of this data for Federal buildings over 30,000 gross square feet because the 1979 deadline for submission of audit reports precludes such an option. However, to the extent that Federal agencies have collected this data, the agency is encouraged to report it to DOE.

DOE specifically solicits comments with respect to the benefits, costs, and problems associated with the preliminary energy audit requirements specified in the proposed rule, and with the reporting burden of these requirements.

C. Special Circumstances and Waivers for Impracticability

Proposed § 436.32(b) provides for a waiver from the audit requirements for "special circumstances" which make the conduct of such an audit "impracticable." National security or inaccessibility are mentioned as examples of "special circumstances," but the proposed rule provides for others which cannot be anticipated in detail at the present time.

Proposed § 436.33(d)(1) provides for submission of a notice of special circumstances in national security cases by the applicable deadline for submission of reports as the mechanism for a Federal agency to notify the DOE of the exception of a building from the audit requirement. The notice would contain enough information so that the DOE could fulfill its statutory responsibility to report to Congress. Proposed § 436.33(d)(2) provides for an application procedure and DOE review with respect to all other claims of special circumstances.

D. Individual Buildings and Facilities

The proposed rule distinguishes between auditing and reporting on individual buildings on the one hand, and facilities on the other. Proposed § 436.31 defines a facility as "any group of closely located buildings, none of which is individually metered for all energy sources and for which the actual rate of energy consumption of all energy sources can be determined." Both individual buildings and facilities are included in the statutory definition of the term "Federal building" in the NECPA, and the separate treatment for each in the proposed rule is essential for rational data collection and reporting and for a usable set of data upon which to base investment decisions.

The term "facility" is defined in the proposed rule in accordance with the context of the building conservation program. In other contexts outside of this rulemaking, the term "facility" is used in a broader sense to include such items as airport runways. Those familiar with broader use of this term should take note of the narrower definition proposed for Subpart B.

E. Rate of Energy Consumption

The proposed rule provides for auditing each Federal building to identify the rate of energy consumption as expressed in British thermal units (Btu's) for the previous fiscal year. The previous fiscal year was selected as a sufficient, convenient, and up-to-date period.

Proposed § 436.34 provides for standard measurement points for measuring energy use which are essential for a rational set of data. It calls for calculation using the Btu conversion table set forth in a proposed Appendix C.[2] A standard engineering reference manual may be used to obtain conversion factors for energy sources not listed in the appendix.

F. Climatic Data

As noted above, the NECPA requires that the audits identify the climate characterizing the region where each building is located. In accordance with the NECPA, the proposed rule provides for identification of the number of heating and cooling degree days or the climate zone of the building. A map delineating seven climate zones will be provided with the forms for reporting audit result.

G. Forms

The DOE considered providing a form for the conduct of the simplified audits under § 436.32 (c) and (d). However, after consulting with Federal agencies and in light of the extent to which the data has already been collected, the DOE elected not to propose such a form. The DOE is considering the need for a special form in light of the requirements of § 436.32(e), and the public is invited to comment on the advisability of this course of action.

The DOE does intend to provide a form for use in reporting aggregated data as stated in proposed § 436.33. The form will serve as a convenient vehicle for aggregation and is considered essential so that the DOE can in turn report to the Congress on a timely basis. The DOE is considering whether to require reporting of complete results for information collected under § 436.32(e) for each Federal building.

[2]The conversion table provides for 11,600 as the Btu conversion value per kilowatt hour of purchased electricity and 1,390 as the Btu conversion value per pound of purchased steam. These figures include Btu's attributable to line losses in transmission from the point of generation of 9 and 12 percent, respectively.

H. Delays for Infeasible Reporting Deadlines

Proposed § 436.33(c) provides for delayed reports when circumstances make meeting the deadlines for reporting infeasible with respect to a particular Federal building. The proposed rule would require that an application for DOE approval of a delay be submitted with the report on other Federal buildings by the applicable deadline date set forth in proposed § 436.33(b).

III. Guidelines for Buildings Plans

A. Responsibility to Submit a Buildings Plan

The proposed guidelines provide for each Federal agency to submit a Buildings Plan with respect to Federal buildings under its "jurisdiction or control". Under today's proposal, the Federal agency have "jurisdiction or control" is defined as the Federal agency which has the "power or authority to direct, administer or control the use or operation of a Federal building." Suggestions for clarification regarding the responsible Federal agency are invited.

B. Elements of Buildings Plans

The proposed guidelines identify the following elements of a Building Plan:

- General Information;
- Goals;
- Incorporating Pre-Existing Plans, Programs, and Accomplishments;
- Technical Surveys;
- Operation and Maintenance Program;
- Retrofit Program;
- Design Program for New Federal Buildings; and
- Standards and Other Conditions of Operation.

C. General Information

Proposed § 436.43 calls for each Federal agency to include certain items of general information relevant to a Buildings Plan. These items include identification of responsible officials, building management policies, and procedures for monitoring implementation of the Buildings Plans.

D. Goals

The "Goals" guideline is proposed § 436.44 which includes the 20 and 45 percent reduction goals for owned Federal buildings set forth in the Executive Order and discussed above. The baseline for calculation of these goals is the total building energy use (with certain buildings excluded) expressed in Btu's for FY 1975 divided by the total gross square footage of owned Federal buildings in service on June 30, 1975. That date was chosen to simplify calculation by eliminating buildings not in service throughout FY 1975.

Proposed § 436.44 would also have Federal agencies set their own goals for leased existing Federal buildings, and incorporate the owned new Federal building goal as a guideline for entering into new leases, pursuant to the Executive Order. The DOE is not proposing a specific goal for leased exisitng Federal buildings because it does not have sufficient information to justify any particular goal for Federal agencies.

Lastly, proposed § 436.44 calls for goals to install renewable energy systems, and to achieve an overall 30 percent reduction in FY 1975 consumption of petroleum-based fuels in Federal buildings by FY 1985. These goals are intended to emphasize reduced use of scarce fossil fuels in efforts to achieve the overall reduction goals for building energy use on a life cycle cost effective basis.

E. Incorporating Pre-Existing Plans, Programs, and Accomplishments

In anticipation of the guidelines proposed today and of enactment of the NECPA, and in order to make progress toward achievement of the Executive Order goals for FY 1985, a number of Federal agencies have already developed plans and programs for reduction of building energy use, and have achieved energy savings as a result of these efforts since 1975. Proposed § 436.46 provides for including information with regard to such energy-saving actions. It also provides for including the same information with respect to plans, programs, and accomplishments to and including FY 1980. Development of Federal budgets always occurs long in advance of actual expenditures.

The DOE is not proposing that actions taken with respect to specific buildings be described. Rather, the information to be identified concerns the general types of energy-saving actions planned and data regarding their aggregate savings and costs.

F. Technical Surveys

A "technical survey" is a procedure for use in identifying apropriate changes in operation and maintenance procedures, cost effective alternative building systems for retrofit to an existing Federal building, as well as the costs and energy and cost savings likely to result from either kind of energy-saving action. Proposed § 436.41 defines the term "technical survey". Technical surveys are frequently conducted by professional architects and engineers, but may also be performed by other persons who are experienced with building systems and trained to estimate the cost and savings likely to result from investments in energy conservation measures. Most of the Federal agencies have been performing such surveys of their buildings. These kinds of surveys tend to minimize unnecessary capital expenditures by identifying what can be achieved by altering operation and maintenance procedures, and by identification and life cycle cost analysis of investments to retrofit a Federal building (assuming that all changes in operation and maintenance procedures are completed). A technical survey may involve a range of different analysis techniques. The most sophisticated techniques, often required to analyze large and complex buildings can involve computer simulation of the major energy using systems of a building to determine accurately the effects of several interdependent conservation measures. For many buildings, however, simpler and considerably less costly techniques may be used. For example, in recent years, DOE has circulated to agencies a manual entitled "Identifying Retrofit Projects for Federal Buildings" which might be used effectively by an individual to perform technical surveys of many buildings. The proposed guidelines provide Federal agencies with the discretion to conduct a technical survey appropriate to the size and complexity of each Federal building to be surveyed.

Proposed § 436.48, the guideline for technical surveys, governs the requirements for conducting technical surveys.

For the development of a Buildings Plan to submit to DOE six months from the effective date of the guidelines, as required by the Executive Order, proposed § 436.48 would require Federal agencies to assemble a sample of technical survey data for a representative group of their Federal buildings. The sample may be based in whole or in part on technical surveys performed prior to issuance of the guidelines if those surveys substantially comply with the definition of a technical survey. DOE believes sampling is essential in order to plan for retrofitting parts of the building inventory and to estimate energy and cost savings, as well as the costs of achieving those savings.

In the Buildings Plan itself, Federal agencies would have to include a

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schedule for completing technical surveys on all their Federal buildings by the end of FY 1982 (with exceptions of course for buildings identical to those already surveyed).

DOE believes it essential that technical surveys particularly identify appropriate opportunities to retrofit Federal buildings with renewable energy systems, such as solar heating and cooling systems, or to convert Federal buildings from the use of oil or other scarce fossil fuels.

Comments on the technical survey provisions of the guidelines and their applicability to leased Federal buildings would be welcome.

G. Operation and Maintenance Program

Proposed § 436.49 would have Federal agencies provide for appropriate improvements, in the operation and maintenance of existing Federal buildings. Each Buildings Plan would describe the types of changes in operation and maintenance practices together with estimates of the affected gross square footage, energy savings, cost savings, and costs of achieving savings.

In accordance with the NECPA, the proposed guideline gives priority to changes in operation and maintenance practices designed to achieve energy reduction goals. This priority reflects the generally higher costs of achieving energy savings through retrofitting Federal buildings by structural modification or replacing equipment.

Comments are invited with respect to any particular problems which might result from applying proposed § 436.49 to leased existing Federal buildings. Suggestions for elaboration of this proposed section with regard to leased buildings would be welcome.

H. Retrofit Program for Existing Federal Buildings

Proposed § 436.50 is the intended guideline for planning a retrofit program for a Buildings Plan. The scope of a retrofit program is in part governed by the definition of ther term "existing Federal building" in proposed § 436.41. That section provides that "existing Federal building" means a "Federal building [owned or leased] for which construction was complete on November 9, 1978 [date of enactment for the NECPA], or for which the design cannot feasibly be modified after the effective date of these guidelines."

The object of the retrofit program is to replace existing building systems with life cycle cost effective "alternative building systems" in order to achieve the 20 percent energy use reduction goal for owned existing Federal buildings and the goal for leased existing Federal buildings set by Federal agencies for themselves. An "alternative building system" is an energy conservation measure as defined in § 436.41, including a renewable energy system, for an existing Federal building, or a primarily energy-saving building system, including a renewable energy system, for consideration as part of the design for a new Federal building." This definition is based on the definition of the term in the rules for the grant program for energy conservation in public and non-profit schools and hospitals under Title III of the NECPA. The DOE considered limiting the definition of "alternative building system" by excluding energy conservation measures where less than 50 percent of the cost savings attributable to the system are energy cost savings in order to screen out projects which should not be regarded as primarily energy-savings retrofits. Comment is invited on the advisability of such a screening device.

Proposed § 436.50 provides for each Federal agency to state in its Buildings Plan the portion of its owned and leased building inventory to be retrofitted each fiscal year to meet its goals. The Buildings Plan is to provide, by fiscal year, the number and gross square footage of buildings to be retrofitted with alternative buildings systems intended to meet the goals, as well as estimated savings and costs. In addition to these overall estimates, each Federal agency should provide estimates of the number and gross square footage of buildings to be retrofitted with "renewable energy systems", together with estimates of the savings and costs of such systems. (As described by proposed § 436.41, a "renewable energy system" is a building system which is specifically designed to use renewable energy sources such as sunlight to provide all or part of building energy use.)

The proposed guideline calls for application of rigorous cost effectiveness measures under Subpart A for planned retrofits to be analyzed and selected for budgeting. Subpart A provides for analyzing cost effectiveness on the basis of the savings to investment ratio of each project. The proposed guideline also provides for ranking alternative building systems on the basis of their relative savings to investment ratios. Priority among equally cost-effective alternative building systems is proposed to be based on the estimated annual MMBtu savings per thousand dollars invested.

No special adjustment of priorities among retrofits would be authorized for alternative building systems which would use renewable energy resources. The public is invited to comment specifically on the advisability of such an adjustment, as well as generally on the proposed method for ranking different retrofits.

Comments are also invited with respect to any particular problems which might result from applying proposed § 436.50, to leased existing Federal buildings. Suggestions for expanding or modifying the provisions of this proposed section with regard to those Federal buildings would be welcome.

I. Design Program for New Federal Buildings

The greatest opportunities for conserving building energy use are in the design of a new Federal building. These opportunities are the reason for the more ambitious 45 percent reduction goal. Once the design is fixed, one is forced to focus on individual building systems for retrofit, and conservation opportunities diminish markedly.

Proposed § 436.51 calls for each Federal agency to provide in its Buildings Plan to aim to achieve the overall 45 percent reduction goal for new Federal buildings under proposed § 436.44. The reduction goal for any particular new Federal building is to be determined by each agency be setting a category goal, as appropriate, for each type of new Federal building to be designed, based on the FY 1975 Btu per gross square foot figure for a representative building or buildings of the category. The DOE recognizes that this categorical approach is an indirect method of aiming to achieve the overall goal for new Federal buildings, but believes that it is nevertheless the appropriate approach. This approach was recommended by several Federal agencies who thought that categorical design goals would be more sensible, particularly for the most and the least energy intensive categories where an overall average goal would be unrealistic for design purposes.

Proposed § 436.51 requires consideration of at least two alternative building designs, but Federal agencies are encouraged to analyze as many design alternatives as they deem appropriate. The requirement should not be interpreted as requiring consideration of two entirely different designs with no common building systems. However, proposed § 436.51(c) would at least require consideration of the desirability of installing one or more renewable energy systems in each new Federal building, and if such a system is not adopted, a statement (to be provided in writing in the annual report) that inclusion of such a system in the building design ultimately chosen would not minimize the life cycle costs of that building.

Comments are invited with respect to any particular problems which might result from applying proposed § 436.51 to leased new Federal buildings. Suggestions for elaboration of this proposed section with regard to those Federal buildings would be welcome.

J. Standards and Other Conditions of Operation

Section 381 of the EPCA provides that the President's 10-year plan is to include mandatory lighting efficiency standards, mandatory thermal efficiency standards and insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation, and plans for replacing or retrofitting to meet such standards.

Reflecting these provisions of the EPCA, proposed § 436.52 (a) and (b) would have Federal agencies provide in their Buildings Plans for compliance with the standards for existing Federal buildings applicable under regulations of the GSA and for meeting or exceeding applicable new building energy performance standards (BEPS) to be promulgated under the Energy Conservation Standards for New Buildings Act of 1976, 42 U.S.C. 6831 *et seq.* (1970). In addition, the proposed guidelines, § 436.52(c), would have Federal agencies discuss their use of the standards and methods for controlling energy use listed in the EPCA.

The GSA regulations, 41 CFR 101–20.116, include lighting level standards, limits on space temperature during the seasonably hot and cold months that in most cases are achieved by thermostat controls, and other conditions of operation—such as use of draperies and blinds and restricted operation of portable heaters and fans—applicable to most building space covered by the Buildings Plans.

Other than the BEPS, which include lighting efficiency but are primarily related to building thermal efficiencies, today's proposal would impose no specific thermal efficiency standards; nor would it impose any direct insulation requirements on the Federal agencies. Under proposed § 436.52(c), however, the agencies are expected to discuss their own use of any thermal efficiency standards and insulation requirements for controlling energy use. For example, some agencies have U-value tests for various building components, and some agencies utilize a variety of insulation standards regarding the thermal resistance, safety, and other characteristics of insulation. Moreover, at such time as there are generally accepted materials and installation standards for insulation, the DOE will give serious consideration to incorporating them in the guidelines for Buildings Plans.

Today's proposal contains no restrictions on the hours of operation of Federal buildings. Any such restrictions might complicate the three years of Federal experimentation regarding flexible and compressed work schedules, to be undertaken under recently enacted legislation, Pub. L. 95–390. This experimentation is intended to determine whether and in what situations varied work schedules, such as the four-day workweek and flexible working hours, can be successfully used by Federal agencies on a permanent basis. As part of the Federal experimentation, there will be study and evaluation of the impact of varied work schedules on the levels of energy consumption of Federal buildings.

The DOE believes that today's proposal contains as much as is reasonably possible regarding mandatory lighting efficiency standards, mandatory thermal efficiency standards and insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation, and plans for replacing or retrofitting to meet such standards. The DOE is, however, particularly interested in receiving comments recommending any further steps that could be taken in these areas, which could ultimately be reflected in the President's 10-year plan.

K. Excluded Buildings

The Buildings Plan for each Federal agency is oriented toward achieving progress toward goals for reduction of "building energy use." That term is defined in proposed § 436.41 so as to include energy used principally for heating, ventilation, cooling, domestic hot water, or lighting.

In some existing Federal buildings, however, major portions of the energy used are consumed for other purposes which fall within the scope of generaly operations. Proposed § 436.42 would permit the exclusion of these buildings from the Buildings Plan if the Federal agency concluded that the portions of energy so used were "substantial" and not individually measurable on a reliable basis. This exclusion is expected to cover Federal buildings where energy is consumed at extraordinary rates for research or industrial-type processes. To include these buildings would distort the FY 1975 baseline. The public is invited to comment on this exclusion because the problem that it addresses proved particularly troublesome in developing today's proposal. The public is also invited to make suggestions for narrowing the scope of the exclusion and issuing guidelines for conserving process energy use for some processes where feasible.

L. Waivers

The Executive Order requires that the DOE provide a mechanism for waiving parts of the guidelines. Proposed § 436.54 provides for submission of a request for waiver by the head of the Federal agency who would identify the requirement of procedure to be waived and provide documentary justification. Such requests will be evaluated on a case-by-case basis.

M. Review of Initial and Revised Buildings Plans

In accordance with the Executive Order and under proposed § 436.55, the DOE will review Buildings Plans for comformance to the guidelines, as well as revisions submitted under § 436.53. Adverse DOE decisions are appealable by Federal agencies to the Director of OMB.

N. Annual Report

Proposed § 436.56 contains the guideline for annual reporting on the Buildings Plan portion of the overall energy management plan (discussed above) by July 1 of each year so that the DOE can in turn report to the President by the following August 15. Key proposed features of annual reports are quantitative measures of progress and updates on technical surveys and programs to be implemented under the Buildings Plan. The DOE specifically proposes that agencies should take credit for savings related to solar and substitution of other renewable resources under any Federal statute in reporting measures of progress. This credit could be taken, for example, in the case of a solar demonstration project under Title V, Part 2, of the NECPA.

The DOE intends to provide a suggested format for annual reports.

IV. Energy Performance Targets

Title V, Part 3, of the NECPA provides for establishment of "energy performance targets" for Federal buildings. The term "energy performance target" is defined as "a

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rate of energy consumption which is the minimum practically achievable, taking into account life cycle cost, by adjusting maintenance and operating procedures, or modifying a Federal building's equipment or structure or both." DOE is tentatively interpreting "energy performance target" to be a goal expressed as an annual rate of energy consumption per square foot of floor space per year for a type of building rather than as a "goal" which is expressed in the Executive Order as a percentage reduction from the 1975 energy consumption for buildings of an agency. The public is invited to comment on this tentative interpretation, and to provide suggestions for DOE as to the best way to develop such targets, the content of the targets, and actions the DOE could feasibly take to promote their achievement.

V. NECPA Retrofit Schedule

As noted in the introduction to this preamble, Title V, Part 3, of the NECPA directs Federal agencies to retrofit certain percentages of their gross square footage in accordance with a schedule prescribed in the statute. NECPA also provides that cost-effective retrofitting of Federal buildings be completed on or before January 1, 1990.

These statutory requirements have not been included in the proposed guidelines since they are directed to the agencies. However, questions may arise concerning the relationship of the NECPA retrofit requirements to the retrofit program in the Buildings Plans which is largely responsive to goals in the Executive Order. DOE believes that the two requirements complement rather than conflict with each other and that the agencies may make progress in fulfilling the NECPA requirements by carrying out plans to achieve the Executive Order goal for FY 1985. Progress toward achieving the NECPA requirement should be a matter of discussion in the annual report to be submitted to the DOE as provided in the NECPA.

VI. General Operations

As indicated above, the Executive Order directs all Executive agencies to "submit to the [Secretary of DOE] an overall plan for conserving fuel and energy in all operations; * * *" This overall energy managment plan is to be in addition to and include the agency 10-year plan for Federal buildings. Further, the Executive Order directs that each agency submit a report to the Secretary on progress made toward the goals established in the overall plan and that such report include quantitative measures and accomplishments with respect to the energy actions taken, the cost of these actions, the energy saved, the costs saved and other benefits realized. An agency plan for conservation in all operations not covered by its ten-year buildings plan is subsequently referred to as the "general operations plan".

The DOE presently intends to issue in the near future more detailed guidance to Executive agencies on general operations planning. This guidance may eventually take the form of published advisory guidelines which would specify the types of goals and programs that should be addressed in agency general operations plans and reports. The guidance is likely to cover the establishment of goals for general operations, establishment of a baseline from which to measure progress toward achievement of the goals, and the specific categories of energy use to be addressed. Areas of major energy use which are likely to be addressed by such advisory guidance include:

- General Vehicle Transportation Programs, including ground vehicle transportation projects such as proposed changes in fleet profile and mileage efficiency, driver training and improved maintenance and operating procedures.
- Industrial Programs, including the operation and maintenance of major production and manufacturing plants and the institution of energy conserving capital modifications.
- Research and Development Programs, including basic or applied research activities, which use massive amounts of energy. Some examples include wind tunnels and linear accelerators.
- Utilities Programs, including power generation and transmission and fuel storage. This program could also include sewage treatment, solid waste disposal and water treatment and distribution.
- Training and Operational Readiness Programs, including such conserving activities as the use of aircraft simulation devices, and combined or consolidated training.
- Administrative Operations Programs, including administrative actions taken to reduce energy use in agency operations, or to reduce energy use generally, in such activities as procurement of goods and services, employee awareness, vanpooling, and the use of employee parking privileges to encourage carpooling. With regard to these or other possible elements of the general operations plan, DOE would indicate the types of programs that should be identified in the agency's general operations plan, such as contingency plans to respond to future energy emergencies, and indicate the information necessary for DOE to report effectively on program implementation by the agencies.

Comments are specifically solicited on the appropriate form and content of general operations guidelines.

VII. Environmental Review

A. NEPA

It has been determined that promulgation of these rules will not constitute a major Federal action significantly affecting the quality of the human environment pursuant to the National Environmental Policy Act, as amended, 42 U.S.C. 4321 *et seq.* however, actions resulting from implementation of these rules must be evaluated to determine the need for further environmental review on a specific project-by-project basis.

B. EPA Review

The DOE has provided a draft of today's proposed rule making to the Administrator of the Environmental Protection Agency for written comments concerning impacts on the quality of the environment, pursuant to section 7(a) of the Federal Energy Administration Act, as amended, 15 U.S.C. 766(a). The Administrator had no comments.

VIII. Determinations Under Executive Order 12044 and Effective Date

Today's proposed rules have been reviewed under Executive Order 12044, 43 FR 12661, and are deemed to be "significant" because of the widespread impact on Federal agencies of the Executive Branch. The proposed rules are not considered to be "major", however, because they will not have the kind or amount of gross effects which call for a regulatory analysis.

Ordinarily, a comment period of 60 days is provided on a proposed "significant" rule. However, pursuant to Executive Order 12044, the Under Secretary has waived this requirement and authorized a 30–day comment period. Moreover, in order to expedite the rulemaking process further, the DOE intends to make these rules effective upon final publication in the **Federal Register**. An expedited comment period and effective date for preliminary energy audit procedures are necessary since the first set of audit results are due by August, 1979. Further, an expedited comment period and effective date for the guidelines are necessary to affect agencies on a timely basis during the cycle for developing the Federal budget for fiscal year 1981, which ongoing throughout most of calendar year 1979. No adverse impacts are anticipated from such an action.

IX. Comment and Hearing Procedures

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to today's proposed rules. Comments should be submitted by May 29, 1979, before 4:30 p.m., e.d.t, to the address indicated in the addresses section of this preamble. Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "FEMP GUIDELINES—Proposed Rule (Docket No. CAS–RM–79–103)." Fifteen copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., between 8 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and treat it according to its determination.

B. Request Procedures

The time and place of this public hearing are indicated in the dates and addresses section of this preamble. DOE invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest in today's proposed rulemaking, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated in the addresses section of this preamble and must be received before 4:30 p.m. d.s.t. on:

May 7 for San Francisco Hearing
May 14 for Kansas City Hearing
May 16 for Washington, D.C. Hearing

Such a request may be hand-delivered to such address, between the hours of 8:00 a.m. and 4:30 p.m. Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "FEMP Guidelines—Proposed Rule (Docket No. CAS–RM–79–103)." Fifteen copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., between 8 a.m. and 4:30 p.m., Monday through Friday.

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted through the day before the hearing.

DOE will notify each person selected to appear at the hearing, before 4:30 p.m., d.s.t., on:

May 10 for San Francisco Hearing
May 17 for Kansas City Hearing
May 18 for Washington, D.C. Hearing

Each person selected to be heard must bring 15 copies of his or her statement to the hearing location.

C. Conduct of Hearings

DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked by those conducting the hearing, and there will be no cross-examination. Any decision made by DOE with respect to the subject matter of the hearing will be based on all information available to DOE. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to have a question asked at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In consideration of the foregoing, the DOE hereby proposes to amend chapter II of title 10, Code of Federal Regulations, by establishing Subparts B and C and Appendix C of Part 436 as set forth below.

Issued in Washington, D.C., April 20, 1979.

Kelly C. Sandy,
Executive Director, Conservation and Solar Applications.

Subpart B—Procedures for Preliminary Energy Audits

Sec.
436.30 Purpose.
436.31 Definitions.
436.32 Conduct of preliminary energy audits.
436.33 Reporting of audit results.
436.34 Measurement of energy.
436.35–436.39 [Reserved]

Subpart C—Guidelines for Buildings Plans

436.40 Purpose.
436.41 Definitions.
436.42 Scope of Buildings Plan.
436.43 General information in a Buildings Plan.
436.44 Goals for the Buildings Plan.
436.45 Measurement of energy.
436.46 Incorporating ongoing plans.
436.47 Programs to be planned.
436.48 Technical surveys.
436.49 Operation and Maintenance Program.
436.50 Retrofit Program for existing Federal buildings.
436.51 Design Program for new Federal buildings.
436.52 Standards and other conditions of operation.
436.53 Submitting and revising a Buildings Plan.
436.54 Waivers.
436.55 Review of Buildings Plans.
436.56 Annual report.
436.57–436.69 [Reserved]

Appendix C to Part 436—Energy Source BTU Conversion Table

Authority: Energy Policy and Conservation Act, as amended, 42 U.S.C. 6361; Executive Order 11912, as amended, 42 FR 37523 (July 20, 1977); National Energy Conservation Policy Act, Title V, Part 3, 92 Stat. 3275; Department of Energy Organization Act, 42 U.S.C. 7254.

Subpart B—Procedures for Preliminary Energy Audits

§ 436.30 Purpose.

Subpart B of this Part provides the procedures for conducting and reporting on preliminary energy audits of Federal buildings as required by Title V, Part 3, of the National Energy Conservation Policy Act, 92 Stat. 3275 (1978) and

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Section 10 of Executive Order 11912, as amended, 41 FR 37523 (July 20, 1977).

§ 436.31 Definitions.

As used in this subpart—

"Category" means a grouping of Federal buildings by the primary function performed in or by the building, such as office buildings, hospitals, schools, prison facilities, multi-family dwellings, and storage facilites.

"Cooling degree days" means the annual sum of the number of Fahrenheit degrees of each day's mean temperature above 65° for a given locality.

"DOE" means the Department of Energy.

"Energy source" means non-renewable resources such as fuel oil, natural gas, liquified petroleum gas, coal, and purchased steam or electricity generated from such non-renewable resources.

"Facility" means any group of closely located buildings none of which is individually metered for all energy sources and for which the actual rate of energy consumption of all energy sources can be determined.

"Federal agency" means any Executive agency under 5 U.S.C. 105 (1970) and the United States Postal Service.

"Federal building" means any building, structure, or facility which is constructed, renovated, leased or purchased in whole or in significant part for use by the United States, and which includes a heating system, a cooling system, or both.

"Gross square feet" means the sum of all heated or cooled floor area enclosed in a building calculated from the outside dimensions, or from the centerline of common walls.

"Heating degree days" means the annual sum of the number of Fahrenheit degrees of each day's mean temperature below 65° for a given locality.

"Jurisdiction or control" means power or authority to direct, administer or control the use or operation of a Federal building.

"Major energy using system" means any set of devices which, relative to all energy consuming devices in a Federal building, consumes a major portion of energy used in the Federal building.

"Meter" means to measure actual energy used by type over a given period of time.

"Owned" means to hold title to the Federal building in fee simple.

"Preliminary energy audit" means a determination of the energy consumption characteristics of an existing Federal building, including the size, type, rate of energy consumption and major energy using systems of such building and the climate characterizing the region where such building is located.

"Renewable energy sources" means sunlight, wind, geothermal, biomass, solid wastes, or other renewable sources of energy.

§ 436.32 Conduct of preliminary energy audits.

(a) This section contains the procedures for conducting preliminary energy audits of energy consumption characteristics of Federal buildings to the maximum extent practicable. With respect to a particular Federal building, the Federal agency responsible for conducting preliminary energy audits is the Federal agency having jurisdiction or control over that Federal building. A Federal agency is not required to conduct a preliminary energy audit with respect to a Federal building if it has already collected the data specified by subsection (c) or subsection (d) of this section. Nor is a Federal agency required to conduct a preliminary energy audit of additional individual buildings in a facility which are identical to a building already audited in that facility.

(b) With respect to particular Federal buildings, special circumstances such as national security or inaccessability may make the conduct of a preliminary energy audit impracticable. If the special circumstance is national security, the Federal agency shall provide a notice of special circumstances to the DOE in accordance with § 436.33(d)(1) of this subpart. Any other claims of impracticability due to special circumstances shall be submitted to and be subject to approval by DOE under § 436.33(d)(2) of this subpart.

(c) Except as provided by subsection (a) of this section, with respect to an individual Federal building, the following data shall be collected.

(1) Location;

(2) Category;

(3) Size in gross square feet;

(4) Rate of energy consumption as expressed in Btu's for the previous fiscal year by energy source as calculated in accordance with § 436.34;

(5) Major energy using systems by energy source;

(6) The number of heating and cooling degree days, or the climate zone in which the Federal building is located; and

(7) Whether the Federal building is owned or leased by the U.S. Government.

(d) Except as provided by subsection (a) of this section, with respect to Federal buildings constituting a facility, the following data shall be collected—

(1) Location;

(2) The number of buildings in the facility;

(3) The category for each building;

(4) The size of each building in gross square feet;

(5) The major energy using systems by energy source for each building and for the facility;

(6) The rate of energy consumption as expressed in Btu's for the previous fiscal year by energy source for all buildings in the facility as calculated in accordance with § 436.34;

(7) The number of heating and cooling degree days or the climate zone in which the facility is located; and

(8) Whether the facility is owned or leased.

(e) With respect to individual Federal buildings greater than 1,000 but less than 30,000 gross square feet or facilities which contain only buildings of that size, a Federal agency, if not excepted from the requirement to conduct a preliminary energy audit under subsection (a) of this section, shall collect the following additional data indicative of the potential for application of solar energy systems or other energy conserving techniques—

(1) The age of the building;

(2) Approximate daily hours of operation, including periods of partial use if applicable;

(3) Approximate quarterly operating schedule if other than year-round, and an indication of whether the building is partially used during vacation periods or other times when the building is not fully utilized for periods of a week or more;

(4) Type of lighting, such as incandescent or fluorescent;

(5) Cost of fuel by type;

(6) An indication of whether open land, such as fields, yards, and parking areas is available within the immediate vicinity of the building which is not heavily shaded by tall buildings, trees, or other obstructions;

(7) A statement of whether the building is located generally within an urban, suburban, or rural area;

(8) An approximation of whether more than half the building's roof area or other southern oriented wall surface is heavily shaded by shrubs, trees, buildings, or other obstructions;

(9) the number of stories;

(10) A general description of the building's shape, such as square, rectangular, E-shaped, H-shaped, or L-shaped;

(11) An indication of whether the roof is flat or pitched, and if pitched whether it has a southern orientation;

(12) Whether there are existing roof-top obstructions, such as chimneys space conditioning equipment, water towers, mechanical rooms, stairwells, or other permanent structures;

(13) An indication of the exterior material of the southern facing wall, such as masonry, wood, aluminum; and

(14) An approximation of the glass area of the southern facing wall, such as less than 25 percent, 25–75 percent, or more than 75 percent.

(15) A brief description of activities which have been undertaken to conserve energy in the building being audited, including whether—

(i) A person has been designated to monitor and evaluate energy use;

(ii) Detailed studies have been conducted by architects, engineers or other highly trained individuals of energy use and energy conservation; and

(iii) Any major energy conserving investments have been implemented, together with a listing of such investments, and estimates of their costs and energy savings if available.

§ 436.33 Reporting of audit results.

(a) The data listed under § 436.32 (c), (d), and (e) shall be aggregated and reported on a form provided by the DOE.

(b) The schedule for submitting a report of results is as follows—

(1) For individual Federal buildings with 30,000 gross square feet or more and for facilities with at least one building of that size, as soon as possible but in no event later than 30 days after the effective date of these rules; and

(2) For individual Federal buildings with less than 30,000 but with 1,000 or more gross square feet, and for facilities with all buildings in the same range, as soon as possible but in no event later than May 15, 1980.

(c) If, with respect to particular Federal buildings, the deadlines for submission of reports under this section are infeasible, the Federal agency shall submit by the applicable deadline under subsection (b) of this section a written application for a delay which is signed by the head of the agency, states the reasons for granting the delay, and specifies a date for reporting to the DOE. DOE shall promptly review the application and make a determination thereon.

(d) On or before 30 days after the effective date of these rules, if it is impracticable to conduct a preliminary energy audit of a Federal building under § 436.32(b) of this subpart, the Federal agency shall—

(1) In a case of national security special circumstances, submit a notice of special circumstances by the applicable deadline stating the aggregate number of Federal buildings and gross square footage involved; and

(2) In any other case, submit a written application for a waiver which is signed by the head of the agency and states the reasons for seeking the waiver. DOE shall promptly review the application and make a determination thereon.

(e) Each agency shall retain, through FY 1985, records of the data upon which reports under this section are based.

§ 436.34 Measurement of energy.

Energy use shall be calculated using the Btu conservation table in Appendix C, except that a Federal agency may use the conversion factors of a standard engineering reference manual for energy sources which are not listed.

§§ 436.35–436.39 [Reserved]

Subpart C—Guidelines for Buildings Plans

§ 436.40 Purpose.

Subpart C of this Part provides the guidelines for the formulation and updating of Buildings Plans by Federal agencies to achieve goals for reduction of building energy use pursuant to Section 10 of Executive Order 11912, as amended, 41 FR 37523 (July 20, 1977), Section 381 of the Energy Policy and Conservation Act, as amended, 41 U.S.C. 6361 (1970) and the National Energy Conservation Policy Act, 92 Stat. 3275 (1978).

§ 436.41 Definitions.

As used in this subpart—

"Alternative building system" means an energy conservation measure, as defined by this section, including a renewable energy system, for an existing Federal building, or a primarily energy-saving building system, including a renewable energy system, for consideration as part of the design for a new Federal building.

"Btu" means British thermal unit.

"Building energy use" means any energy use related to a Federal building principally for heating, ventilation, cooling, domestic hot water, or lighting.

"Building system" means any part of the structure of a Federal building significantly affecting building energy use, or any energy using system contributing to building energy use.

"Category" means a grouping of Federal buildings by the primary functions performed in or by the building, such as office buildings, hospitals, schools, prison facilities, multi-family dwellings, and storage facilities.

"Construction" means the erection of a new structure, or the alteration, renovation or enlargement of an existing structure, which substantially increases the gross square feet of floor space available, significantly changes its use from that existing immediately prior to the structural changes, or substantially prolongs its useful life.

"DOE" means the Department of Energy.

"Energy conservation measure" means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of a renewable energy source, including, but not limited to—

(1) Insulation of the building structure and systems within the building;

(2) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area and other window and door system modifications;

(3) Automatic energy control systems;

(4) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(5) Solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(6) Solar water heating systems;

(7) Furnace or utility plant and distribution system modifications including—

(A) Replacement burners, furnaces, boilers, or any combination thereof, which substantially increase the energy efficiency of the heating system;

(B) Devices for modifying flue openings which will increase the energy efficiency of the heating system;

(C) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights; and

(D) Utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

(8) Caulking and weatherstripping;

(9) Replacement or modification of lighting fixtures which replacement or modification increases the energy efficiency of the lighting system;

(10) Energy recovery systems; and

(11) Cogeneration systems which produce steam or forms of energy such as heat, as well as electricity for use

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primarily within a building or a complex of buildings.

"Energy-saving action" means a change in operation and maintenance practices, retrofit of an alternative building system to an existing Federal building, or selection of an energy-saving alternative building design for a new Federal building.

"Energy source" means non-renewable resources such as fuel oil, natural gas, liquified petroleum gas, and coal, and purchased steam or electricity generated from such non-renewable resources.

"Existing Federal building" means a Federal building the construction of which was complete by November 9, 1978, or the design for which cannot be feasibly modified after the effective date of these guidelines.

"Facility" means any group of closely located buildings none of which is individually metered for all energy sources and for which the actual rate of use of all energy sources can be determined.

"Federal agency" means any Executive agency under 5 U.S.C. 105 (1970) and the United States Postal Service.

"Federal building" means any building, structure, or facility which is constructed, renovated or leased or purchased in whole or in significant part for use by the United States, and which includes a heating system, a cooling system, or both.

"Fiscal year or FY" means for a given year, October 1 of the prior year through September 30 of the given year regardless of whether the Federal fiscal year actually began and ended on those dates in the given year.

"Gross square feet" means the sum of all heated or cooled floor area enclosed in a building calculated from the outside dimensions, or from the centerline of common walls.

"Jurisdiction or control" means power or authority to direct, administer or control the use or operation of a Federal building.

"Major energy-using system" means any set of devices which, relative to all energy consuming devices in a Federal building, consumes a major portion of energy used in the Federal building.

"Maintenance" means activities undertaken in a Federal building to assure that equipment and energy-using systems operate effectively and efficiently.

"Meter" means to measure actual energy use by type over a given period to time.

"New Federal building" means any Federal building for which construction was not completed prior to November 9, 1978, and the design of which can be feasibly modified after the effective date of these Guidelines.

"Operation" means the operation of equipment and energy-using systems in a building to achieve or maintain specified levels of environmental conditions or service.

"Owned" means to hold title to the Federal building in fee simple.

"Renewable energy sources" means sunlight, wind, geothermal, biomass, solid wastes, or other renewable sources of energy.

"Renewable energy system" means a building system which is specifically designed to use renewable energy sources to meet all or part of building energy use.

"Retrofit" means to install an alternative building system in an existing Federal building.

"Technical survey" means a detailed architectural and engineering energy survey, as defined by section 545 of the National Energy Conservation Policy Act, including a technical analysis to identify appropriate alternative building systems.

§ 436.42 Scope of buildings plans.

(a) The Buildings Plans prepared by Federal agencies under these guidelines are 10-year plans for the reduction of building energy use in Federal buildings under their jurisdiction or control. Buildings Plans are to be prepared as part of the Overall Energy Management Plan required of each Federal agency under Executive Order 11912, as amended. The other part of each Overall Energy Management Plan is a General Operations Plan which covers energy conservation for all other energy use by a Federal agency including energy use in Federal buildings excluded from the Buildings Plan pursuant to § 436.42(b).

(b) Federal buildings in which a substantial amount of energy is consumed for purposes other than building energy use and is not separately metered may be excluded from the Buildings Plan. Energy use and energy-saving actions for Federal buildings excluded from the Buildings Plans under this section should be included in the General Operations Plan.

(c) Information from the Buildings Plans prepared under these guidelines will be incorporated into the President's 10-year plan for energy conservation with respect to buildings owned or leased by Federal agencies under section 381(a)(2) of the Energy Policy and Conservation Act, as amended.

(d) The Buildings Plans and these guidelines provide for actions which are expected to contribute to fulfilling the requirements of Title V, Part 3, of the National Energy Conservation Policy Act.

§ 436.43 General information in a buildings plan.

The following general information shall be included in a Buildings Plan—

(a) The name and title of a senior policymaking official such as an Assistant Secretary or an Assistant Administrator who is responsible for supervising preparation, updating, and execution of the Buildings Plan;

(b) A statement describing the Federal agency's overall energy program and management objectives, as well as how they have been integrated with management objectives designed to achieve the primary mission of the Federal agency;

(c) A description of procedures to ensure effective implementation of the Buildings Plan;

(d) A statement describing the specific actions taken to ensure compliance with the National Environmental Policy Act, as amended, and Executive Order 12088

§ 436.44 Goals for the buildings plan.

(a) The goals calculated under this section shall be stated in the Bulidings Plan and are established pursuant to the Executive Order. Consistent with applicable requirements for life cycle cost analyses under Subpart A of this Part, each Federal agency shall aim to achieve the goals to the maximum extent practicable unless a waiver is granted under § 436.54 of this Part.

(b) The overall goal of a Federal agency for owned existing Federal buildings shall be a 20 percent reduction in average energy use per gross square foot of floor area in FY 1985, from the average energy use per gross square foot of floor area of the Federal agency in FY 1975 as calculated under §§ 436.44(d) and 436.45.

(c) The overall goal of a Federal agency for owned and leased new Federal buildings shall be a 45 percent reduction in average energy use per gross square foot of floor area in FY 1985, from the average energy use per gross square foot of floor area of the Federal agency in FY 1975 as calculated under §§ 436.44(d) and 436.45.

(d) The average energy use per gross square foot of floor space in FY 1975 is the total building energy use, as expressed in Btu's measured in accordance with § 436.45, divided by the total gross square footage, for owned Federal buildings in service on June 30, 1975, except for those excluded under § 436.42(b).

(e) Each Federal agency shall separately state a goal for reducing building energy use for leased existing Federal buildings and the basis therefor.

(f) For the purpose of promoting reduced dependence on scarce fossil fuels, in planning to achieve overall building goals under this section in a manner consistent with subpart A of this Part, each Federal agency shall provide in its Buildings Plan—

(1) Goals for installing renewable energy systems in existing and new Federal buildings;

(2) For a reduction of 30 percent in use of petroleum-based fuels by FY 1985 compared to FY 1975.

§ 436.45 Measurement of energy.

Energy use or energy savings shall be calculated using the Btu converson table in Appendix C, except that a Federal agency may use the conversion factors of a standard engineering reference manual for energy sources which are not listed.

§ 436.46 Incorporating ongoing plans.

(a) The Buildings Plan shall include information on existing Federal buildings which, as a result of energy-saving actions such as changes in operation and maintenance practices or installation of alternative building systems occurring between October 1, 1975, and September 30, 1980, have made progress toward the 20 percent goal set forth in § 436.44.

(b) The information on existing Federal buildings under § 436.46(a) shall include by fiscal year and category—

(1) The number and gross square footage of Federal buildings in which envergy-saving actions occurred or are already budgeted to occur;

(2) A description of the energy-saving actions, particularly those involving renewable energy systems, which were taken or are budgeted to occur;

(3) Total energy savings as expressed in Btu's calculated in accordance with § 436.45;

(4) Energy savings in average energy use, as expressed in Btu's per gross square foot of floor area calculated in accordance with § 436.45;

(5) Energy cost savings; and

(6) Costs of achieving the savings.

§ 436.47 Programs to be planned.

Each Buildings Plan to achieve the goals under § 436.44 shall be based on—

(a) The conduct of technical surveys, under § 436.48;

(b) The initiation of changes in operation and maintenance practices under § 436.49;

(c) The retrofitting of existing Federal buildings with alternative building systems under § 436.50;

(d) The evaluation of alternative building designs for new Federal buildings under § 436.51; and

(e) The maximum use of renewable energy systems consistent with these guidelines.

§ 436.48 Technical surveys.

(a) This section sets forth the requirements for the conduct of technical surveys and the use of the results of such surveys in the development and execution of a Buildings Plan under this subpart.

(b) A technical survey of any Federal Building shall contain the information required for a preliminary energy audit, in accordance with section 436.32(e), and shall also include a description of—

(1) Major changes in functional use or mode of operation, if any, planned in the next five years, such as demolition, sale, reconstruction, or conversion from office to warehouse;

(2) For a building in excess of 200,000 gross square feet, if available–

(i) Peak electric demand for both daily and annual cycles; and

(ii) Annual energy use by fuel type of major mechanical or electrical system if the information is available or can be reasonably estimated;

(3) Terminal heating or cooling, or both, such as radiators, unit ventilators, fancoil units, or double-duct reheat systems;

(4) Building site and structural characteristics related to solar energy or other renewable resource potential, including but not limited to—

(i) Climatic factors, specifically—

(A) Average solar insolation by month;

(B) Average monthly wind speed; and

(ii) Roof characteristics, including—

(A) An identification of primary structural component such as steel, wood, or concrete; and

(B) Type of roofing material such as shingles, slate, or built-up materials; and

(5) A description of general building conditions.

(c) A technical survey shall include a detailed architectural and engineering analysis of a building to identify the energy and cost savings likely to be realized as a result of implementing all energy conservations maintenance and operating procedures appropriate for the type of building, including—

(1) Effective operation of ventilation systems and control of infiltration conditions, including—

(i) Repair of caulking or weather stripping around windows and doors;

(ii) Reduction of outside air intake, shutting down ventilation systems in unoccupied areas, and shutting down ventilation systems when the building is not occupied; and

(iii) Assuring central or unitary ventilation controls, or both, are operating properly;

(2) Changes in the operation of heating or cooling systems through—

(i) Lowering or raising indoor temperatures;

(ii) Locking thermostats;

(iii) Adjusting supply or heat transfer medium temperatures; and

(iv) Reducing or eliminating heating or cooling at night or at times when a building or complex is unoccupied;

(3) Changes in the operation of lighting systems through—

(i) Reducing illumination levels;

(ii) Maximizing use of daylight;

(iii) Using higher efficiency lamps; and

(iv) Reducing or eliminating evening cleaning of buildings;

(4) Changes in the operation of water systems through—

(i) Repairing leaks;

(ii) Reducing the quantity of water used, e.g., flow restrictors;

(iii) Lowering settings for hot water temperatures;

(iv) Raising settings for chilled water temperatures; and

(5) Changes in the maintenance and operating procedures of the utility plant and distribution systems through—

(i) Cleaning equipment;

(ii) Adjusting air/fuel ratio;

(iii) Monitoring combustion;

(iv) Adjusting fan, motor, or belt drive systems;

(v) Maintaining steam traps; and

(vi) Repairing distribution pipe insulation; and

(6) Such other action as each Federal agency may determine useful or necessary.

(d) A technical survey shall also include a detailed architectural and engineering analysis of a building to identify and evaluate, one or more energy conservation measures, including measures for conversion to renewable energy sources. Such analysis shall include—

(1) The estimated energy consumption of the building at peak efficienoy (assuming implementation of all appropriate operations and maintenance procedures);

(2) The building's potential for solar conversion, particularly for water heating systems;

(3) All recommendations for acquisition and installation of energy conservation measures (including the

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potential for conversion to renewable energy sources) setting forth–

(i) A description of each recommended energy conservation measure;

(ii) An estimate of the cost of each such energy conservation measure;

(iii) An estimate of the energy and energy cost savings expected from acquisition and installation of each energy conservation measure; and

(iv) A life cycle cost analysis of each energy conservation measure in accordance with Subpart A of this Part; and

(4) Any additional analyses considered appropriate by each Federal agency.

(e) In developing a Buildings Plan, each Federal agency shall plan a retrofit program under § 436.50(a) on the basis of the results of technical surveys of a representative sample of its Federal buildings. The sample may include previously conducted architectural and engineering studies substantially complying with the content of a technical survey under these guidelines.

(f) Each Federal agency shall include in its Buildings Plan a schedule for completion of technical surveys of all of its Federal buildings to the maximum extent practicable by the end of FY 1982 except that there is no requirement to conduct a technical survey on a Federal building which is substantially identical to another such building previously surveyed.

(g) Distinguishing between owned and leased existing Federal buildings, the Buildings Plan should estimate, by fiscal year through FY 1982, the number and gross square footage of existing Federal buildings to be surveyed and the cost of such surveys to the Federal agency.

(h) Provisions of the Buildings Plan applicable to the technical surveys, particularly those estimating the number and gross square footage of buildings to be surveyed through FY 1985 and the cost of such surveys, shall be updated under § 436.53.

§ 436.49 Operation and maintenance program.

(a) Each Federal agency shall provide in its Buildings Plan for appropriate improvements in operation and maintenance practices.

(b) Distinguishing between owned and leased existing Federal buildings, the Buildings Plan shall identify by fiscal year through fiscal year 1985—

(1) The types of operation and maintenance practices to be initiated;

(2) Program goals under this section;

(3) The number of existing Federal buildings to be affected by planned changes;

(4) The gross square footage affected by changes;

(5) Estimated or actual energy savings, as measured in accordance with § 435.45;

(6) Estimated or actual cost savings; and

(7) Estimated or actual costs of achieving the energy savings and cost savings.

(c) Each Federal agency shall provide in its Buildings Plan for progress toward achievement of the goals for existing Federal buildings under § 436.44 to the maximum extent practicable by changes in operation and maintenance practices.

(d) Provisions of the Buildings Plan applicable to the Operation and Maintenance Program, particularly those estimates of the cost of actions taken, and the energy and cost savings of such actions, through fiscal year 1985, shall be updated under § 436.53.

§ 436.50 Retrofit program for existing Federal buildings.

(a) Consistent with § 436.48 and § 436.49(c) and on the basis of preliminary energy audit data and technical surveys, each Federal agency shall provide in its Buildings Plan for progress toward achievement of the goals for existing Federal buildings under § 436.44 by retrofitting its existing Federal buildings with alternative building systems which are life cycle cost effective to the Federal agency as measured by a savings to investment ratio calculated under subpart A of this Part and are selected in accordance with this section.

(b) In planning for the retrofit of existing Federal buildings with life cycle cost-effective alternative building systems, each Federal agency shall provide in its Buildings Plan to assign highest priority to those existing Federal buildings in which installation of alternative building systems is likely to be most life-cycle cost-effective.

(c) Distinguishing between owned and leased existing Federal buildings, the Buildings Plan should, for each fiscal year—

(1) Indicate the number and gross square footage of Federal buildings to be retrofitted with alternative building systems;

(2) Describe the types of alternative building systems expected to be used;

(3) State the estimated or actual energy savings as measured in accordance with § 436.45;

(4) State the estimated or actual cost savings; and

(5) State the estimated or actual costs of achieving estimated energy savings and cost savings.

(d) With respect to alternative building systems which use renewable energy sources, the Buildings Plan shall—

(1) State the number and gross square footage of Federal buildings to be retrofitted;

(2) Describe the types of renewable energy systems to be used;

(3) State the estimated or actual cost savings; and

(4) State the estimated or actual cost of achieving estimated energy savings and cost savings.

(e) With respect to existing Federal buildings planned for retrofit in fiscal year 1981 and each fiscal year thereafter, each Federal agency should provide in its Buildings Plan for determining the cost effectiveness of alternative building systems in accordance with subpart A of this Part. Except as otherwise provided in this paragraph, each Federal agency shall further provide for programming proposed alternative building systems on the basis of relative savings-to-investment ratios calculated under subpart A, giving priority to higher ratios. Further ranking of alternative building systems which are equally cost-effective, may be based on the ratio of annual millions of Btu's saved per thousand dollars of investment costs. If investment costs for an alternative building system are insignificant, the Federal agency shall program the installation of the system at any time based on a presumption of cost-effectiveness as provided in § 436.13.

(f) For the purpose of emphasizing reduction of scarce fossil fuels in planning to reduce building energy use, each Federal agency shall plan to achieve the goals under § 436.44(f).

(g) After approval of budget estimates for the retrofit program for fiscal year 1981 and for each fiscal year thereafter, the provisions of the Buildings Plan required by this section, particularly those estimates of the number and gross square footage of buildings to be retrofitted and the cost, and energy and cost savings of such retrofit actions, shall be updated under § 436.53.

§ 436.51 Design program for new Federal buildings.

(a) Each Federal agency shall provide in its Buildings Plan—

(1) For the metering of building energy use in new Federal buildings;

(2) For the achievement of its goal for new Federal buildings as calculated under § 435.44(c) by aiming, with respect to each new Federal building, to achieve a design goal for the category of that Federal building calculated accordance with § 436.51(b);

(3) For analysis of at least two alternative building designs under subpart A of this Part, at least one of which includes a renewable energy system and both of which are consistent with budget limitations and basic requirements for heating, ventilation, cooling, lighting, domestic hot water, and functional purposes; and

(4) For selection of the building design which minimizes total life cycle costs costs as measured in accordance with subpart A of this Part;

(b) The design goal for a new Federal building shall be set by category at the rate of energy consumption equivalent to a reduction of 45 percent in average energy use per gross square foot of floor area in FY 1985, from the average energy use per gross square foot of floor area of a representative Federal building of that category in FY 1975 as calculated in accordance with § 436.44(d). The design goal may be adjusted in light of the number of heating and cooling degree days.

(c) Each Federal agency shall plan to install one or more active or passive solar or other renewable energy systems to provide energy for building energy use unless the Federal agency states in the annual report under § 436.56 that such a system would not minimize total life cycle costs as calculated under Subpart A of this Part.

(d) Distinguishing between owned and leased new Federal buildings to be designed, the Buildings Plan shall provide by fiscal year, to and including FY 1985—

(1) Estimated amounts of construction, by number of buildings and gross square feet, for each category of new Federal buildings;

(2) Estimated average annual energy use per gross square foot for each category of new Federal buildings; and

(3) The percentage reduction in estimated average annual energy use per gross square foot from the average annual energy use in FY 1975 as calculated under § 436.44.

(4) Estimated additional construction costs attributable to the alternative building systems incorporated in the designs of new Federal buildings in order to achieve the 45 percent reduction goal, and estimates of related cost savings.

(e) The provisions of the Buildings Plan set forth in this section, particularly those estimates of the number and gross square footage of new Federal buildings, for each category, to be constructed through FY 1985, shall be updated in the next annual report submitted under § 436.56.

§ 436.52 Standards and other conditions of operation.

(a) The Buildings Plan shall provide for compliance with the minimum requirements for lighting, heating, and cooling set forth in 41 CFR 101–20.116.

(b) Each Federal agency shall provide in its Buildings Plan for the automatic adoption of such procedures as may be necessary to assure that the construction of new Federal buildings meets or exceeds applicable final energy performance standards under the Energy Conservation standards for New Buildings Act of 1976 (Pub. L. 94–385) as originally enacted or thereafter amended.

(c) Each Federal agency shall discuss in its Buildings Plan its policies and practices with respect to its use of lighting efficiency standards, thermal efficiency standards, insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation.

§ 436.53 Submitting and revising a buildings plan.

Each Federal agency shall have six months from the effective date of these guidelines to submit a Buildings Plan. In each annual report under § 436.56, each Federal agency shall submit a revised Buildings Plan, together with a statement describing the revisions to the Federal Agency's preceding Buildings Plan and explaining the reasons for such revisions.

§ 436.54 Waivers.

(a) The head of any Federal agency may submit a written request for a waiver from the procedures and requirements of these guidelines. The request must identify the specific requirements and procedures from which a waiver is sought and provide appropriate documentation in support of a request.

(b) In order to assure timely consideration, a request for waiver under this section shall be submitted to the DOE at least 60 days prior to the due date for submission of the Buildings Plan.

(c) DOE shall review each application under this section promptly and make a determination thereon.

§ 436.55 Review of buildings plans.

(a) The initial and each revised Buildings Plan shall be reviewed by the DOE, and if determined to be deficient under subsection (b) of this section, will be returned to the head of the Federal agency with an explanation of deficiencies.

(b) A Building Plan under these guidelines is deficient if it—

(1) Lacks adequate information or program content required to be included by this subpart;

(2) Provides for a Retrofit Program based on insufficient technical surveys under § 436.48.

(3) Does not provide a reasonable basis for concluding that the Federal agency is likely to achieve the goals for owned Federal buildings under § 436.44;

(4) Shows insufficient attention to use of solar and other renewable energy sources; or

(5) Otherwise fails to comply with the requirements of this subpart.

(c) The head of a Federal agency may appeal adverse determinations by the DOE to the Director of the Office of Management and Budget.

§ 436.56 Annual report.

(a) Each Federal agency shall have until July 1 of each year to submit an annual report with respect to its approved Buildings Plan.

(b) Distinguishing between owned and leased Federal buildings, between existing and new buildings, and between operations and maintenance and retrofit actions, a report under these guidelines should include quantitative measures and accomplishments for the most recent completed fiscal year, and for the first six months of the current fiscal year, with respect to—

(1) Energy used by energy source and its cost;

(2) Energy-saving actions and the costs of such action;

(3) Energy saved;

(4) Costs saved;

(5) Progress toward goals under § 436.44; and

(6) Any other benefits.

(c) For technical surveys, the report should include quantitative measures and accomplishments with respect to the number and gross square feet of buildings surveyed, and the cost of such surveys.

(d) With respect to new Federal buildings to be constructed without a renewable energy system, each Federal agency shall provide in writing the statement required by § 436.51(c).

(e) Credit may be taken for energy savings related to projects authorized under any Federal statute to substitute renewable energy sources for fossil fuels in building energy use in Federal buildings. Any such credit taken shall be separately identified together with the number and gross square footage of the Federal buildings involved.

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(f) No credit may be taken for reductions of building energy use in Federal buildings excluded from the Buildings Plan pursuant to § 436.42.

§§ 436.57–436.69 [Reserved]

Appendix C to Part 436—Energy Source Btu Conversion Table

Energy Source and Btu Conversion Factors

Electricity: 11,600 Btu per Kilowatt Hour.[1]
Fuel Oil (distillate): 5,825,400 Btu per barrel.
Residual Fuel: 6,287,000 Btu per barrel.
Natural Gas: 1,030,000 Btu per thousand Cubic Feet.
Liquified Petroleum Gas (Including Propane & Butane): 4,011,000 Btu per barrel.
Coal: 24,500,000 Btu per Short Ton.
Purchased Steam: 1,390 Btu per Pound.[2]

[Docket No. CAS–RM–79–103]
[FR Doc. 79–12876 Filed 4–25–79; 8:45 am]
BILLING CODE 6450–01–M

[1] This conversion factor reflects the amount of primary energy required to generate, transmit and distribute one kilowatt hour of electricity. It is based on an approximation of the actual generation efficiency of electric power plants. In addition, this conversion factor includes line losses of 9 percent attributable to transmission and distribution from the point of generation to the point of use.

[2] This conversion factor reflects the approximate number of Btu's required to generate and distribute one pound of steam. It includes line losses of 12 percent attributable to transmission and distribution from the point of generation to the point of use.

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Part VI

Department of Transportation

Coast Guard Great Lakes Pilotage Regulations

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 401

Great Lakes Pilotage Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Great Lakes Pilotage Regulations increases U.S. pilotage rates by 10 percent in all three Pilotage Districts. This amendment is necessary in order to increase U.S. pilot compensation, to cover increased operating costs, and to provide the three U.S. Pilot Associations with funds for pilot training.

EFFECTIVE DATE: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke (G–MVP–4/82) Room 8214, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–755–8683).

SUPPLEMENTARY INFORMATION: On March 15, 1979, the Coast Guard published a proposed rule (44 FR 15984) concerning this amendment. Interested persons were given until April 16, 1979, to submit comments. No comments were received.

This rule is effective in less than 30 days from publication so that these rates may be in effect as early as possible this shipping season. This is necessary in order to meet the goals of pilot compensation comparability and adequate funds for pilot training.

Drafting information

The principal persons involved in drafting this rule are: John J. Hartke, Project Manager, Office of Merchant Marine Safety, and, LT. G. S. Karavitis, Project Attorney, Office of the Chief Counsel.

This rule has been evaluated under the Department of Transportation Regulatory Policies and Procedures published on February 26, 1979 (44 FR 11034). The rule will have no environmental effects. As discussed in the document containing the proposed rule, the estimated cost of the rule is $721,080. A copy of the final evaluation may be obtained from Commandant (G–CMC/81), (CGD 79–030), U.S. Coast Guard, Washington, D.C. 20590.

Accordingly, the proposed amendment is adopted, without change, as set forth below:

Dated: April 23, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard Commandant.

PART 401 GREAT LAKES PILOTAGE REGULATIONS

1. § 401.405 is revised to read as follows:

§ 401.405 Basic rates and charges on designated waters.

Except as provided under § 401.420, the following basic rates shall be payable for all services and assignments performed by U.S. Registered Pilots in the areas described in § 401.300:

(a) District 1:

(1) For passage through the District or any part thereof, $6.27 for each statute mile, plus $83 for each lock transited, but with a minimum basic rate of $183 and a maximum basic rate for a through trip of $803.
(2) for a movage in any harbor, $275.

(b) District 2:

(1) Southeast Shoal to Toledo or any point on Lake Erie west of Southeast Shoal, $406.
(2) Between points on Lake Erie west of Southeast Shoal, $240.
(3) Southeast Shoal to Port Huron Change Point or any point on the St. Clair River when pilots are not changed at Detroit Pilot Boat, $706.
(4) Southeast Shoal to Detroit/Windsor or any point on the Detroit River, $406.
(5) Southeast Shoal to Detroit Pilot Boat, $294.
(6) Toledo or any point on Lake Erie west of Southeast Shoal and Port Huron Change Point, when pilots are not changed at Detroit Pilot Boat, $818.
(7) Toledo or any point on Lake Erie west of Southeast Shoal and Detroit/Windsor or any point on the Detroit River, $527.
(8) Toledo or any point on Lake Erie west of Southeast Shoal and the Detroit Pilot Boat, $406.
(9) Detroit/Windsor or any point on the Detroit River and between points on the Detroit River, $240.
(10) Detroit/Windsor or any point on the Detroit River to Port Huron Change Point or any point on the St. Clair River, $532.
(11) Detroit Pilot Boat to any point on the St. Clair River, $532.
(12) Detroit Pilot Boat to Port Huron Change Point, $413.
(13) Between points on the St. Clair River, $240.
(14) Port Huron Change Point to any point on the St. Clair River, $294.

(c) District 3:

(1) Between the southerly limit of the District and the northerly limit of the District or the Algoma Steel Corporation Wharf at Sault Ste. Marie, Ontario, $730.
(2) Between the southerly limit of the District and Sault Ste. Marie, Ontario or any point in Sault Ste. Marie, Ontario other than the Algoma Steel Corporation Wharf, $613.
(3) Between the northerly limit of the District and Sault Ste. Marie, Ontario, including the Algoma Steel Corporation Wharf, or Sault Ste. Marie, Michigan, $275.
(4) For a movage in any harbor, $275.

2. § 401.410(a) is revised to read as follows:

§ 401.410 Basic rates and charges on undesignated waters.

(a) Except as provided under § 401.420 and subject to paragraph (b) of this section, the basic rates for each 6 hour period or part thereof that the U.S. pilot is on board in the undesignated waters shall be:

(1) In Lake Ontario, $146.
(2) In Lake Erie, $191.
(3) In Lakes Huron, Michigan and Superior, $146.

plus $140 for each time the U.S. pilot performs the docking or undocking of the ship.

* * * * *

3. § 401.420 is revised to read as follows:

§ 401.420 Cancellation, delay or interruption in rendition of services.

(a) When, in designated or undesignated waters, the passage of a ship is interrupted for the purpose of loading or discharging cargo or for any reason and the services of the U.S. pilot are retained during the interruption or when a U.S. pilot is detained on board a ship after the end of an assignment for the convenience of the ship, the ship shall pay an additional charge calculated on a basic rate of $23 for each hour or part of an hour during which each interruption lasts with a maximum basic rate of $354 for each 24 hour period during which the interruption continues. However, there is no charge for any interruption caused by ice, weather, or traffic, except during the period beginning the 1st of December and ending on the 8th of the following April. Additionally, no charge shall be made for any interruption if the total interruption ends during the 6 hour period for which a charge has been made under § 401.410.

(b) When, in designated or undesignated waters, the departure or movage of a ship for which a U.S. pilot has been ordered is delayed for the convenience of the ship for more than one hour after the U.S. pilot reports for duty at the designated boarding point or after the time for which he is ordered, whichever is later, the ship shall pay an additional charge calculated on a basic rate of $23 for each hour or part of an hour after the first hour of the delay, with a maximum basic rate of $354 for each 24 hour period of the delay.

(c) When, in designated or undesignated waters, a U.S. pilot reports for duty as ordered and the order is cancelled, the ship shall pay:

(1) A cancellation charge calculated on a basic rate of $138.

(2) If the cancellation is more than one hour after the U.S. pilot reports for duty at the designated boarding point or after the time for which he is ordered, whichever is the later, a further charge calculated on a basic rate of $23 for each hour or part of an hour after the first hour, with a maximum basic rate of $354 for each 24 hour period.

4. § 401.428 is revised to read as follows:

§ 401.428 Basic rates and charges for carrying a U.S. pilot beyond normal change point.

If a U.S. pilot is carried beyond his normal change point or is unable to board at his normal boarding place, the U.S. pilot shall be paid at the rate of $140 per day or part thereof, plus reasonable travel expenses to or from his base. These charges are not applicable if the ship utilizes the services of the U.S. pilot beyond his normal change point and the ship is billed for those services. The change points to which this section applies are designated in § 401.450.

(Sec. 5, 74 Stat. 260 (46 U.S.C. 216c); sec. 6(a)(4), 80 Stat. 937, as amended (49 U.S.C. 1655(a)(4); 49 CFR 1.46(a).)

[CGD 79–030]

[FR Doc. 79–12979 Filed 4–25–79; 8:45 am]

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Part VII

Department of Health, Education, and Welfare

Office of Human Development Services

National Institute of Handicapped Research

Statement of Organization, Functions, and Delegations of Authority

General Notice; Additional Information on the Prospective Activities of the National Institute of Handicapped Research

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

National Institute of Handicapped Research; Statement of Organization, Functions, and Delegations of Authority

This notice amends Part D of the statement of organization, functions, and delegations of authority of the Department of Health, Education, and Welfare, Office of Human Development Services (OHDS), (43 FR 33327, 7/31/78) to add a new chapter DZ, National Institute of Handicapped Research (NIHR). The recently enacted Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (P.L. 95–602) amended the Rehabilitation Act of 1973 to establish the NIHR and prescribe the duties of its Director and Deputy Director. In addition the amendments established an Interagency Committee on Handicapped Research and the National Council on the Handicapped. The following statement of functions and organizational structure of the NIHR will be subject to changes as programs administered by the NIHR develop. This will call for corresponding amendments to this statement.

Further details on this subject will be included in an HEW General Notice.

The new Chapter DZ reads as follows:

DZ.00 Mission. The National Institute of Handicapped Research is the single agency designated to administer research programs authorized under: (1) title II, sections 202 and 204, of the Rehabilitation Act of 1973, PL 93–112, as amended by PL 95–602; (2) PL 86–610 for international programs related to rehabilitation research; and (3) PL 83–480 for foreign currency programs related to rehabilitation research. The mission of the Institute is to provide leadership and resources for research and its utilization to improve the lives of people of all ages with physical and mental handicaps, especially the severly disabled. The results to be achieved through the exercise of this mission include:

(1) Identifying and eliminating the causes and consequences of disability.

(2) Maximizing the healthy physical and emotional status of handicapped persons, their functional ability, self-sufficiency, self-development, and personal autonomy.

(3) Preventing or minimizing personal and family, physical, mental, social, educational, vocational, and economic effects of disability.

(4) Reducing and eliminating physical, social, educational, vocational and environmental barriers to permit access to service and assistance, and to use their abilities in daily life.

NIHR activities to achieve these end results include: consulting, planning, coordinating, developing, evaluating and funding basic and applied research and related activities of public, private, domestic, and international origin; disseminating known and new findings; establishing methods for evaluating and investigating obstacles to the use of the results of basic and applied research efforts; and promoting technological research and development, distribution, and utilization for handicapped people.

The ultimate aim is to provide knowledge for defining needs and the means for improvement of services and assistance and the conditions leading to the fullest possible participation of handicapped persons in all aspects of American society.

DZ.10 Organization. The National Institute on Handicapped Research is headed by a Director and Deputy Director. The Director, in accordance with section 202(a) of the Rehabilitation Act of 1973, as amended by PL 95–602, is responsible to the Assistant Secretary for Human Development Services.

DZ.20 Order of Succession. In accordance with section 202(c)(2) of the Act, the Deputy Director shall act for the Director during his or her absence or disability, exercising such powers as the Director may prescribe. In the case of any vacancy in the Office of the Director, the Deputy Director shall serve as Director until a Director is appointed.

DZ.30 Functions. A. Source of Authority.

The functions of the Director of the National Institute of Handicapped Research are as specified in section 202 of the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978.

Dated: April 19, 1979.

Hale Champion,
Acting Secretary.

[FR Doc. 79-12914 Filed 4-25-79; 8:45 am]

BILLING CODE 4110-82-M

National Institute of Handicapped Research; General Notice; Additional Information on the Prospective Activities of the National Institute of Handicapped Research

A. *Summary of Activities.* To develop a Federal, long-range plan for rehabilitation research in consultation with the Commissioner of Rehabilitation Services, the National Council on the Handicapped, the Commissioner of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act, the Interagency Committee, and other persons or entities as deemed appropriate by the Director.

2. Continue and provide for comprehensive and integrated approach to the administration and conduct of various existing and new categorical research activities as authorized by section 204(b) and other relevant sections, under PL 95–602 as designated by the Secretary. These activities include special centers, research-oriented demonstrations, special demonstrations, service and equipment experiment stations, and related activities for the comprehensive habilitation or rehabilitation of handicapped individuals, including programs designed to train persons who provide rehabilitation services and persons who conduct research.

3. To develop and apply methods and procedures of evaluation and planning relevant to the mission.

4. To develop and coordinate an integrated program of research and technology development in this country and abroad by targeting the most cost-effective use of resources available to the Institute, including regular appropriations and special foreign currencies.

5. To improve the development, evaluation, production, and distribution of technological devices and equipment for handicapped individuals by providing financial support, consultation, and special evaluation and/or distribution centers.

6. To facilitate access to, and collection of information concerning developments and use of, rehabilitation procedures, methods, and devices for handicapped people to assist such handicapped people to live more independently and to participate in family and community life, including activities related to education, vocations, and avocations.

7. To increase and disseminate the scientific and technological information presently available in the field of comprehensive habilitation and rehabilitation, and to provide a comprehensive information service for handicapped individuals.

8. To provide for, consistent with Department policy and procedure, representation of the United States in WHO, ILO, UN, private and voluntary international organizations in matters dealing with research and research utilization for handicapped individuals.

9. To coordinate with the National Council on the Handicapped to assure that general policies established by it are adhered to within the available national research resources committed to the purposes and functions of the National Institute. To provide the National Council the available information and services to support its officers and staff for policy development, formulation, and promulgation and its reporting functions appropriate to the Institute's function and responsibilities.

10. To participate with and give support to the Interagency Committee on Handicapped Research in its efforts to promote coordination and cooperation among Federal departments and agencies coordinating programs relating to research in rehabilititation of handicapped people, both children and adults, including the elderly disabled.

11. To serve as policy and program advisor for the Office of Human Development Services on research programs designed to address problems affecting handicapped individuals and the broad range of service delivery systems that serve them.

12. To provide necessary administration, grants management, and fiscal services for program purposes under title II (Pub. L. 93-112, as amended), to enable proper coordination with the administrative and staff offices of OHDS.

B. *Administrative Activities.* The Institute, through the following types of administrative and other activities and consistent with Department plans, programs, and budgetary resources, will carry out the intent of the Rehabilitation Act of 1973, as amended:

The Institute administers research, demonstrations, research and training, fellowships, special studies, and other special project programs under the Rehabilitation Act, as amended. Specifiacly, under section 204 of the Rehabilitation Act, the Institute is responsible for making grants to or contracts and cooperative agreements with States and public or private agencies and organizations in the United States or foreign countries, including institutions of higher education, to pay part of the cost of projects to plan and conduct research, demonstrations, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational and other rehabilitation services to handicapped people, especially those with the most severe handicaps, under the Act. Such projects may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and including basic research where related to rehabilitation techniques or services or basic or applied medical rehabilitation research in special centers; studies and analyses of industrial, vocational, social, psychiatric, psychological, economic, educational, and other factors affecting rehabilitation of handicapped individuals; special problems of homebound and institutionalized individuals; studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of handicapped individuals; and related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of handicapped individuals and especially individuals with the most severe handicaps. In addition to carrying out projects described above, the Institute may make grants or contracts and cooperative agreements to pay part or all of the cost of the following specialized research activities:

(1) Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of (a) providing training (including graduate training) to assist individuals to more effectively provide rehabilitation services, (b) providing coordinated and advanced programs of research in rehabilitation, and (c) providing training (including graduate training) for rehabilitation research and other rehabilitation personnel. The research to be carried out at each Center shall be determined on the basis of the particular needs of handicapped individuals in the geographic area served by the Center, and may include basic or applied medical rehabilitation research, research regarding the psychological and social aspects of rehabilitation, and research related to vocational rehabilitation.

The Centers shall be encouraged to develop practical applications for the findings of their research. Grants may include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.

(2) Establishment and support of Rehabilitation Engineering Research Centers to (a) develop innovative methods of applying advanced medical technology, scientific achievement, and psychiatric psychological and social knowledge to solve rehabilitation problems through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, equipment, and devices suitable for solving problems in the rehabilitation of handicapped individuals and for reducing environmental barriers, and to (b) cooperate with State agencies designated pursuant to section 101 of the Rehabilitation Act of 1973, as amended, in developing systems of information exchange and coordination to promote the prompt utilization of engineering and other scientific research to assist in solving problems in the rehabilitation of handicapped individuals.

(3) Conduct of a program for spinal cord injury research to include support of spinal cord injuries projects and demonstrations established pursuant to section 311(b) of the Rehabilitation Act of 1973, as amended, which will (a) insure dissemination of research findings among all such centers, (b) provide encouragement and support for initiatives and new approaches by individual and institutional investigators, and (c) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigators.

(4) Conduct of a program for end-stage renal disease research, to include support of projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supples necessary for the rehabilitation of individuals suffering from such disease and which will (a) insure dissemination of research findings, (b) provide encouragement and support for initiatives and new approaches by individual and institutional investigators, and (c) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of end-stage renal disease. These projects and demonstrations will serve individuals who are ineligible for services for such disease under any other provision of law.

(5) Consistent with Department policies and procedures, conduct of a program for international rehabilitation

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research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of handicapped individuals in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of handicapped individuals, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of handicapped individuals with other nations as a means of increasing the levels of skill of rehabilitation personnel in this country and abroad.

(6) Conduct of research programs concerning the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods and the development of appropriate programing to meet the particular needs of handicapped individuals.

(7) Conduct of a program of joint projects with the National Institutes of Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans Administration, the Office of Education, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

(8) Conduct of a program of research related to the habilitation and rehabilitation of handicapped children, the handicapped working age adult, and handicapped individuals who are aged sixty or older.

(9) Conduct of a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of handicapped and severly handicapped individuals.

(10) Conduct of a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to deaf individuals captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programing.

(11) Conduct of a model research and demonstration program to develop innovative methods of providing services for preschool age handicapped children, including the following: (a) early intervention, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of severely handicapped children up to the age of five, with a special emphasis on severely handicapped children up to the age of three; (b) such physical thereapy, language development, pediatric, nursing, and psychiatric services as are necessary for such children; (c) appropriate services for the parents of such children, including psychiatric services, parent counseling, and training, and (d) activities in research utilization.

(12) Conduct of a model reserch and training program under which model training centers shall be established to develop and use more advanced and effective methods of evaluating and developing the employment potential of handicapped individuals, including programs which—

(a) Provide training and continuing education for personnel involved with the employment of handicapped individuals;

(b) Develop model procedures for testing and evaluating the employment potential of handicapped individuals;

(c) Develop model training programs to teach handicapped individuals skills which will lead to appropriate employment;

(d) Develop new approaches for job placement of handicapped individuals, including new followup procedures relating to such placement; and

(e) Provide information services regarding education, training, employment, and job placement for handicapped individuals.

The institute conducts numerous activities to develop and maintain vital linkages across Government and throughout the rehabilitation system. These include:

(1) Disseminating information, utilizing appropriate techniques, acquired through research funded by the Institute to other Federal, State, and local public agencies and to private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

(2) Coordinating, through the Interagency Committee established by Section 203 of the Rehabilitation Act of 1973, as amended, all Federal programs and policies relating to research in rehabilitation. The Director shall chair this Committee;

(3) Disseminating educational materials to primary and secondary schools, institutions of higher education, and to public and private entities concerning how the quality of life of handicapped individuals may be improved;

(4) Conducting an education program to inform the public about ways of providing for the rehabilitation of handicapped individuals, including information relating to family care and self-care.

(5) Conducting conferences, seminars, and workshops (including in-service training programs) concerning research and engineering advances in rehabilitation pertinent to the problems of handicapped individuals.

(6) In accordance with Department policies and procedures, keeping the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title; and

(7) Producing, in conjuction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Social Security Administration, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of handicapped individuals and disseminating such reports and studies to rehabilitation professionals and others to assist in the planning and evaluation of vocational and other rehabilitation services for the handicapped.

The Institute, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5, United States Code, as the Director considers necessary to procure the assistance of highly qualified research fellows from the United States and foreign countries.

The Director shall, pursuant to regulations which the Secretary shall prescribe, provide for scientific review of all research grants and programs over which he has authority by utilizing, to the maximum extent possible, appropriate peer review groups which are composed of non-Federal scientists and other experts in the rehabilitation field established within the Institute.

The Director shall develop and through appropriate Department policies and procedures, submit to appropriate committees of the Congress a long-range plan for rehabilitation research which—

(a) Identifies any research which should be conducted respecting the problems encountered by handicapped individuals in their daily activities, especially problems related to employment;

(b) Determines the funding priorities for research activities of the Institute and explains the basis for such priorities, including a detailed description of any new types of research recommended under this paragraph for funding; and

(c) Specifies appropriate goals and timetables for activities to be conducted.

The plan shall be developed by the Director in consultation with the Commissioner of Rehabilitation Services, the National Council on the Handicapped established under title IV, the Commissioner of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act, the Interagency Committee established by section 203, and any other persons or entities the Director considers appropriate. The plan is reviewed at least once every three years and may be revised at any time by the Director to the extent he considers necessary with the advice of the Commissioner and Council.

In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult with the administrators of such programs, and with the Interagency Committee established by section 203 regarding the design of research projects conducted by such entities and the results and applications of such research.

The Director shall take whatever other actions he considers appropriate to provide for a comprehensive and coordinated research program under this part. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Through the Interagency Committee established by section 203, the Director shall consult with any Federal entity proposing to establish any research project related to the purposes of this Act and shall comment on such projects.

The Director shall, through the Interagency Committee, consult with and cooperate in the conduct of any program of the National Institutes of Health, the Veterans Administration, the National Science Foundation, the National Aeronautics and Space Administration, the Bureau of Education for the Handicapped, or of any other Federal entity related to the purposes of section 202.

One of the more important functions of the Institute is to chair, through its Director, the Interagency Committee on Handicapped Research (ICHR). In its linkage role, the Committee promotes coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs. The Institute will provide staff support to the Director in his capacity as chairperson of ICHR. The Committee chaired by the Director is comprised of such members as the President may designate, including the following (or their designees having policy-level authority): the Commissioner of Rehabilitation Services, the Commissioner of Education, the Administrator of Veterans Affairs, the Director of the National Institutes of Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, and the Director of the National Science Foundation. The Committee meets not less than four times each year. As a working Committee, the membership identifies, assesses, and seeks to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of handicapped individuals.

The Committee annually submits to the President and to the appropriate committees of the Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of handicapped individuals.

Dated: April 19, 1979.

T. M. Parham,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 79-12915 Filed 4-25-79; 8:45 am]

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Federal Register

Vol. 44, No. 82

Thursday, April 26, 1979

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

INTERSTATE COMMERCE COMMISSION

18458 3–27–79 / Entry control of brokers; deletion of vacated rules, interim procedures for property broker applicants, and policy statement regarding licensed brokers

TRANSPORTATION DEPARTMENT

Coast Guard—

18664 3–29–79 / Drawbridge operations; Lake Champlain, Vt.
18663 3–29–79 / Drawbridge operations; Perquimans River, N.C.
18663 3–29–79 / Special anchorage areas; Jacobs Nose Cove, Elk River, Md.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing Apr. 24, 1979

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.
WHO: The Office of the Federal Register.
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: May 4, 18; June 1, 15; July 6, 20, at 9 a.m. (identical sessions).
WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.
RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.

TULSA, OKLAHOMA

WHEN: May 16 from 2–5 p.m.
WHERE: Aaronson Auditorium, Tulsa County Library, 400 Civic Center, Tulsa, Oklahoma.
RESERVATIONS: Call 918–581–5211.

KANSAS CITY, MISSOURI

WHEN: May 17, at 10 a.m.
WHERE: Federal Building, Room 140, 601 E. 12th Street, Kansas City, Missouri.
RESERVATIONS: Call 816–374–2466.

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Highlights

Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or hearing impaired persons who need information about documents published in the **Federal Register**. See the Reader Aids section for the telephone listing.

Principles of Regulations Writing Seminar—See the Reader Aids section at the end of this issue.

24868 **Nondiscrimination on the Basis of Handicap** State/AID proposes rules which apply to all recipients of federal financial assistance; comments by 5–29–79

24851 **Nondiscrimination in Construction** USDA/FmHA amends rules to simplify procedure for contract compliance and clarify responsibility for monitoring compliance in certain construction; effective 4–27–79

25186 **Medicare Program** HEW/HCFA proposes to modify rules dealing with validation of accreditation surveys of hospitals; comments by 6–26–79 (Part XI of this issue)

25142 **Public Housing** HUD proposes to expand public housing Modernization Program to include certain homeownership projects; comments by 6–26–79 (Part VII of this issue)

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Highlights

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Area Code 202–523–5240

24863 **Rural Rental Housing** USDA/FmHA intends to redesignate and revise rules pertaining to loans and assistance; comments by 6–26–79

24844 **Express Mail Metro Service** PS temporarily implements new classification for certain areas of country, and requests comments for drafting permanent classification change; effective 4–30–79, comments by 6–30–79

24889 **Health Professions Capitation Grants Program** HEW/PHS proposes to establish criteria for educational programs of certain schools; comments by 6–26–79

25136 **Nursing School Grants** HEW/PHS establishes criteria for nursing capitation grants program; effective 4–27–79 (Part VI of this issue)

25148 **Basic Skills and Educational Proficiency Programs** HEW/OE requests comments and will hold meetings on proposals governing several programs established through the Education Amendments of 1978; comments by 6–26–79, meetings May 1979 (Part VIII of this issue)

24876 **Employee Retirement Income Security** Labor proposes rules relating to certain loans, leases, and dispositions of property prior to June 30, 1984; comments by 6–26–79

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of Macomb County in Michigan because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in Macomb County on April 16, 1979. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine a portion of Macomb County in Michigan.

EFFECTIVE DATE: April 19, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, Maryland 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This amendment quarantines a portion of Macomb County in Michigan because of the existence of exotic Newcastle disease in such area. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

In § 82.3, the introductory portion of paragraph (a) is amended by adding thereto the name of the State of Michigan and a new paragraph (7) relating to the State of Michigan is added to read:

§ 82.3 Areas quarantined.

(a) * * *

(7) *Michigan.* The premises of All Pets, owned by Bertrum Mink and Bryan Villani, 2230 Metro Parkway, Sterling Heights, Macomb County.

* * * * *

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–112, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, and, therefore, must be made effective immediately to accomplish its purpose in the public interest.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Dr. J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C. this 19th day of April 1979.

E. A. Schiff,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79–12811 Filed 4–26–79; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 3, 157

Certification of Pipeline Transportation for Certain High Priority Uses

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission is promulgating a final rule to implement Section 608 of the Public Utilities Regulatory Policies Act of 1978. The rule establishes procedures for the certification of transportation of natural gas purchased by agricultural or other high-priority users directly from producers.

EFFECTIVE DATE: April 23, 1979.

FOR FURTHER INFORMATION CONTACT: Robert C. Platt, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202–275–0161.

SUPPLEMENTARY INFORMATION:

I. Introduction

This rule implements, in part, the direct sale provision of the Public Utilities Regulatory Policy Act of 1978 (PURPA), Pub. L. 95–617, section 608, in conformance with the curtailment policies expressed in section 401 of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. 95–621. Section 401 of the NGPA recognizes the high curtailment priorities of consumers such as residences, small commercial establishments, schools, hospitals, and essential agriculture users. Section 608 of PURPA adds Section 7(c)(2) of the Natural Gas Act to provide for the transportation of natural gas sold by a producer to an eligible user or produced and consumed by an eligible user (hereinafter referred to as "direct sale gas").

The Commission issued a Notice of Proposed Rulemaking in this Docket on February 5, 1979.[1] Public hearings were held on the proposal in Amarillo, Texas (on March 9, 1979), Little Rock, Arkansas (on March 16, 1979), Madison, Wisconsin (on March 16, 1979), San Francisco, California (on March 6, 1979), and Washington, D.C. (on March 13 and

[1] 44 FR 7740 (February 7, 1979).

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14, 1979). Representatives of the United States Department of Agriculture and the United States Department of Energy participated on the hearing panels. This final rule is based upon the record compiled at these hearings, as well as the written comments submitted in this docket.

II. Summary of Comments

The February 5, 1979 Notice specifically sought comments on a number of issues including: (1) The expansion of the direct sales program into other areas, (2) the shifting of filing requirements from the pipelines onto the end users, (3) the appropriate length of certificate terms, (4) the possible interruption of direct sale deliveries to permit service to higher-priority users, and (5) various eligibility requirements for participation in the program.

A. *Expansion of User Eligibility.*— Some comments suggested expanding the program to serve process and feedstock users and to displace the consumption of imported fuel oil. The Commission will address the curtailment priority of non-agricultural process and feedstock users by implementing NGPA section 402. The eligibility of such users to participate in a direct sales program is deferred to permit consideration of their needs in light of the NGPA section 402 regulations and other pending proposals with respect to direct sales policies. The use of direct sale gas to displace imported fuel oil is now being considered in Docket No. RM79–34. Should the Commission later decide to permit other users to be included in the program, the resulting amendments would not disrupt transactions commenced under this subpart.

Such a step-by-step implementation of PURPA section 608 is prudent. As noted by some commentors, purchasers of direct sale gas may well be competing with interstate pipelines for supplies. Yet the Commission's direct sale program is designed to supplement and not to supplant the existing markets for natural gas. A step-by-step implementation process will enable the Commission to monitor the markets and avoid potential disruption.

Several comments advocated stricter eligibility requirements by imposing an alternative fuel test. NGPA section 401(b) specifies that the curtailment priority for essential agricultural uses does not apply when an alternative fuel is economically practicable and that the fuel is reasonably available. Although NGPA section 401(b) imposes this alternative fuel test upon essential agricultural users which seek priority access to low-cost pipeline system supplies, the policy underlying that test does not apply to direct sales. Congress fashioned NGPA section 401 to provide essential agricultural uses with a high-curtailment priority to the maximum extent practicable within the context of existing curtailment plans. Unlike curtailment priorities, direct sale gas is not allocated at the expense of other consumers. Hence, the public policy of affording a priority treatment to schools, hospitals, and essential agricultural uses can be implemented under this program without regard to alternative fuel capability. Such an approach has the added advantage of eliminating the practical difficulties of determining the alternative fuel capability of loads not previously classified in curtailment proceedings.

B. *Application Procedure.*— Several comments noted the practical difficulties in implementing direct sales transactions and observed that the application requirements placed upon a pipeline applicant posed an obstacle to participation by pipelines. The proposed rule eased the burden on the pipeline applicant by permitting the eligible user to apply on its behalf. The final rule would permit either the pipeline or the end user to file for transportation authority. In addition, the final rule clarifies the fact that the pipeline, the eligible user, or any other party may request a rehearing of the Commission's order on the application.

C. *Term.*—The proposed five-year certificate term drew varied reactions. Some parties contended that a five-year term, even with the option of renewal, did not provide the necessary certainty required to justify substantial investment in new plant and equipment. Others argued that given the changing nature of the natural gas industry and the undesirability of making long-term commitments of pipeline capacity, a shorter term may be preferable. The Commission finds that a five-year maximum term is reasonable. Parties with capacity concerns remain free to apply for certificates of shorter duration.

Some comments requested that reserves purchased in place by eligible users should qualify for certificates which last for the life of the reserves. Because this is an issue in a pending adjudication, Docket No. CP77–71, the Commission will defer the decision on this issue.

D. *Emergency Service to High Priority Users.*—The Commission sought comment upon the desirability of conditioning certificates with an interruption requirement. This condition would permit a pipeline to divert direct sale gas to serve high-priority users when curtailment of pipeline system supplies to these users was imminent. Some of the comments noted that the President has the authority to redirect direct sales gas during declared natural gas supply emergencies under NGPA section 303(d). Because the President may declare natural gas supply emergencies on a regional basis, the Commission views NGPA section 303(d) as offering sufficient flexibility to respond to emergency situations at this time.

Although NGPA section 303(d) provides for supply curtailment emergencies, capacity curtailment poses a separate problem. The Commission considers the interruption of direct sales gas deliveries as a result of pipeline capacity limitations to be a matter best left to the contractual negotiations between the parties.

E. *Relationship With Existing Programs.*—A number of comments suggested clarification of the direct sale program's relationship to the Commission's other regulations. In general, all applicable regulations apply unless expressly waived in the final rule. Hence, no provision for the interim collection of an incentive price by a producer is necessary, since NGPA section 503(c) and §§ 273.202 and 273.203 of this chapter provide for such collections pending the determination of a maximum lawful price. Similarly, the general procedures stated in Subpart A of Part 157 concerning certificate applications apply and need not be restated in this rule.

Several comments suggested adding additional eligibility requirements. Some have suggested that an eligible user who is served by a distributor must file an affidavit that the distributor cannot serve the user from the distributor's sources of supply. The Commission views such a filing requirement as unnecessary. User-distributor discussions are ensured by both the execution of the distributor's transportation contract and the filing of a statement by the distributor that it has capacity sufficient to perform the transportation services without detriment or disadvantage to its other customers (§ 157.103(d)). In addition, the price differential between the distributor's rolled-in systems supplies and the more expensive direct sale gas makes competition between direct sales and firm service by a distributor unlikely. Instead, the direct sale program established by this rule serves to complement the other services provided by distributors, within the framework of the applicable state regulation.

Similarly, the direct sale program complements the role of the interstate pipelines in meeting their customer's needs. Interstate natural gas pipelines are not common carriers,[2] and their participation in this program is voluntary. However, several commentators note that some interstate pipelines have excess capacity which although not being utilized to meet the needs of current customers is being paid for by the pipeline's ratepayers. Direct sales programs offer interstate pipelines an opportunity to utilize unused capacity and to reduce the burden upon their ratepayers.[3] If an interstate pipeline is unwilling to avail itself of such opportunities, it becomes difficult to see why the ratepayer should continue to bear this burden. However, if necessary, such considerations are best addressed in individual rate proceedings where all facts can be fully developed.

In summary, we have concluded that the public interest is best served by accommodating customer requirements through pipeline system supply. Such an approach offers both economic and administrative advantages to the pipelines as well as reducing the regulatory burden of approving transactions on a case-by-case basis. However, a direct sale program is appropriate to serve high priority uses which cannot be served through pipeline system supplies.

F. *Eligibility of Gas Reserves.*— Several parties request that Outer Continental Shelf (OCS) gas should be eligible for participation in the direct sale program. In addition, the First Mississippi Corporation contends that excluding OCS gas from the program is "unlawful."[4]

The Commission views First Mississippi's legal objection to be without merit. First, the requirement that the reserves must not be "committed or dedicated to interstate commerce"[5] is subject to waiver under § 157.104(b). Although request for waivers will receive careful consideration in light of the public interest served by the individual transactions, the Commission considers the § 157.104(a) general eligibility rule to be necessary in order to provide guidance to parties in planning transactions. Second, the courts have repeatedly held that the Commission has discretion in evaluating the present and future public convenience and necessity of transportation of direct sale gas. In the context of direct sales, the Commission may consider,

> "among other factors, those of end use, preemption of pipeline facilities and price. * * *" (*F.P.C.* v. *Transcontinental Gas Corp.*, 365 U.S. 1, 31 (1961)).

Given the special nature of OCS gas and the pipeline facilities used to bring such gas onshore, the Commission acts within its discretion by cautiously approaching direct sales of OCS gas.

The "committed or dedicated" test adopted in § 157.104(a) furthers several important policies. The Commission seeks to avoid disruption of OCS supply patterns. Such disruptions are particularly undesirable in light of pending litigation.[6] In addition, the public interest is best served when low-cost "committed or dedicated" reserves are allocated according to priority of use within the framework of state-approved or FERC-approved curtailment plans. Continued allocation of "committed or dedicated" reserves according to the terms of such plans will protect existing high-priority uses. In contrast to the policy considerations which resulted in the assignment of a high-curtailment priority to residential and other uses, the eligible uses served by the direct sale program do not have as compelling an equitable claim to the traditional sources of interstate pipeline system supply. At this time of transition toward the new regulatory patterns established by the NGPA, the Commission is not prepared to jeopardize the availability of low-cost supplies to existing customers to make such gas available through direct sales to new customers or to existing customers seeking increased loads.

The selection of the "committed or dedicated" test is predicated upon an additional policy consideration. NGPA section 315(b)(3) gives interstate pipelines the opportunity to match the terms of a sales agreement "substantially accepted in principle" by a competing buyer. Because "committed or dedicated" gas is ineligible for transportation in the proposed direct sale program, and because section 315(b)(3) applies only to gas which is "committed or dedicated," the test prevents the direct sales program from affecting the contract terms available to interstate pipelines under section 315(b)(3).

For these reasons, the Commission will consider the use of "committed or dedicated" reserves only on a case-by-case basis under the waiver provision of § 157.104(b).

III. Summary of Final Rule

Subpart E of Part 157 supplements the Commission's existing direct sale authorization of allowing the transportation of direct sale gas to certain users that may not currently be eligible to have natural gas transported under 18 CFR 2.79.

Section 157.101 indicates the manner in which such direct sale authority is implemented. Subpart E would permit the transportation of direct sale gas to all essential agricultural users as certified by the Secretary of Agriculture, and all schools, hospitals, and similar institutions.

A transportation certificate under section 7(c)(2) of the Natural Gas Act would be issued to the transporting interstate pipeline. However, as indicated in § 157.10(a), either the pipeline or the eligible user on behalf of the pipeline may make application for the certificate. Because the application must include executed contracts, applications cannot be filed until the producer, pipeline, eligible user, and any distributor all consent to the transaction.

Applications for a permanent certificate may include application for a temporary transportation certificate. All applications will be processed on an expedited basis. Although section 7(c)(2) of the Natural Gas Act makes no explicit provision for temporary certificates, section 16 of the Natural Gas Act is sufficient legal authority for the Commission to grant such temporary certificates. (See *Hunt Oil Company* v. *F.P.C.*, 334 F.2d 474 (5th Cir. 1964).)

Temporary certificates may be issued by the Director of the Office of Pipeline and Producer Regulation. This delegation is achieved by including a conforming amendment to § 3.5(f)(1)(iv) of this chapter in this rulemaking. Permanent certificates will be issued by the Commission after notice, an opportunity for protest and, where appropriate, a hearing.

Secton 157.101(c) assures that the pipeline, the eligible user, as well as any

[2] See NGPA Section 602(b).

[3] Section 157.105(g) requires the Part 284 rate to be used. Section 284.103(d) requires revenues in excess of out-of-pocket costs to be flowed through the ratepayers in Account 191.

[4] Washington Public Hearing transcript at 237.

[5] All OCS gas is defined to be "committed or dedicated" by NGPA section 2(18)(a)(i). The Commission recognizes that the "committed or dedicated" standard is applied to OCS gas in the NGPA for jurisdictional and pricing purposes only. While the legal application of the definition is limited to 16 substantive NGPA provisions, the test still represents the most practicable test for classifying reserves in a manner which will achieve the Commission's policy objectives. Many producers would have previously applied this test when filing under the NGPA interim collection procedures as set forth in § 273.201(c)(2) and § 273.202(d)(1)(v) of this chapter.

[6] *See, Air Products & Chemicals, Inc.* v. *F.E.R.C.*, 5th Cir., Docket No. 78–2011, and *Public Service Commission of the State of New York* v. *F.E.R.C.*, D.C. Cir., Docket No. 78–1572.

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other party will have the opportunity to seek rehearing of a Commission order acting upon the application.

Section 157.102 defines "eligible uses" to include any use certified as an "essential agricultural use" by the Secretary of Agriculture pursuant to section 401(c) of the NGPA, and uses by hospitals and schools or similar institutions as those terms are defined in §§ 281.103(b)(2) and (3) of this chapter. These definitions reflect the priorities of section 401 of the NGPA. An "eligible user" is defined as anyone who consumes natural gas for an eligible use. Residential and small commercial users have historically been protected from curtailment of service from general pipeline supplies, and NGPA section 311(a) provides these users further protection through local distribution companies. As a result, they do not require the access to direct sales provided under the final rule. Additionally, the large number of such users in this category could not be accommodated practically under the direct sale program.

The Commission has determined that its policy governing the transportation of direct sale gas should be expanded to include eligible users who are not facing curtailment, to serve new eligible users, and to supply the increased loads of existing eligible users.

A determination under NGPA section 401(b) by the Commission that an essential agricultural user has an available alternative fuel will have no effect upon that user's eligibility to have its direct sale gas transported. (See Part II(A) above). Thus, eligible users can utilize direct sale gas to replace other fuels, in whole or in part, to meet its energy requirements.

Congress, in section 401(f), elevated the previously low-priority boiler fuel use by schools and hospitals to high-priority status. Such a change reflects a shift from "end-use" to "end-product" tests in determining curtailment priorities for the uses designated in NGPA section 401. The Department of Agriculture has used an "end-product" test as the sole criterion for defining "essential agricultural uses" in its Interim Final Rule.[7] The Commission has applied this same test in its proposed definition of "eligible uses" for direct sale gas transportation.

Section 157.102(c) is an exercise of the Commission's rulemaking authority under section 7(c)(2) of the Natural Gas Act. It determines that "high-priority uses" shall include eligible uses as defined in § 157.102. Section 157.103 sets out the data that must be supplied in an application for direct sale transportation authorization.

Section 157.104 limits the type of gas that qualifies for direct sale transportation by reliance upon the "committed or dedicated" test defined in NGPA section 2(18). This test is designed to prevent the disruption of the offshore supply patterns and to preserve low-cost supplies for interstate system supply. Proposed § 157.104(a) applies the "committed or dedicated" test as of November 8, 1978. This date is used for applying the test because it is used in pricing determinations under NGPA section 104, 105, 106, and 109 and in deciding which natural gas is subject to the right of first refusal under NGPA section 315(b). (See Part II(F) above.)

Should an applicant wish to transport direct sale gas that is ineligible for transportation under § 157.104(a), paragraph (b) authorizes a request for a waiver of the § 157.104(a) requirement. For example, the Commission could consider waivers for "committed or dedicated" gas classified under NGPA section 107, even though such natural gas does not qualify under § 157.104(a).

Section 157.105 establishes general conditions that are automatically incorporated into any certificates issued under the proposed rule.

The maximum term for the certificate is five years. The five-year term reflects several considerations. First, comments received during the Commission's consideration of 18 CFR 2.79 indicate that more than two years are required to attract many of the potential sources of new gas supplies. Second, users served by this program do not require more frequent recertification, as their progress toward conversion to alternative fuel is not a consideration under this program. Third, a number of optimistic supply projections have recently been put forward and, if correct, could provide a basis for extending the maximum term. On the other hand, natural gas production is in an evident period of transition and uncertainty. The public interest would not appear to be served by long-term transportation commitments, at this time.

The Commission will entertain requests for a ten-year term in applications by the users who develop and produce their own reserves. However, the ten-year term will not be available to eligible users who merely acquire reserves-in-place. This longer certificate term is intended to provide eligible users an incentive to develop new natural gas supplies.

Under § 157.105(b), a pipeline may apply for a renewal certificate. Such reapplication will be reviewed *de novo*. Thus, an eligible user who enters into a contract for the purchase of direct sale gas for a period of more than five years does so at its own risk. Paragraph (c) provides a six-month grace period to permit delivery of volumes beyond the end of the certificate's term if the producer contract includes a take-or-pay provision.

Section 157.105(d) requires an acceptance of the certificate to be filed only by the interstate pipeline company. The eligible user, the producer, and any nonjurisdictional transporter of the direct sale gas are deemed to consent to the transportation certificate through their execution of the contracts filed with the application. Under paragraph (e) if the gas is diverted to uses other than the eligible uses, the certificate authorization ceases and any further deliveries by the pipeline would be in violation of the Natural Gas Act. While interstate pipelines cannot completely monitor the end-uses of their customers, the sanctions of Natural Gas Act section 21 will apply to any pipeline which willfully and knowingly continues to transport direct sale gas to a customer who has diverted gas from eligible uses.

Paragraph (f) requires the eligible user to file an annual report within 60 days of the anniversary of the issue date of the certificate. The report will deter possible diversion of direct sale gas from eligible uses.

Paragraph (g) requires the interstate and intrastate pipelines transporting direct sale gas to use the same rate methodology that applies to transportation under section 311(a) of the NGPA. This rate methodology is also used in the recently promulgated emergency purchase regulations (Subpart C of Part 157).

(Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.* Public Utilities Regulatory Policies Act of 1978, Pub. L. 95–617, Natural Gas Policy Act of 1978, Pub. L. 95–621, Department of Energy Organization Act, Pub. L. 95–91, E.O. 12009, 43 FR 46267).

In consideration of the foregoing, Chapter I of Title 18, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Lois D. Cashell,
Acting Secretary.

[7] 7 CFR Part 2900, 44 FR 11518 (March 1, 1979). Although some end-use tests are incorporated into the Department of Agriculture's certification of Essential Agricultural Volumetric Requirements in 7 CFR 2900.4, such requirements are not incorporated into the 7 CFR 2900.3 test used here.

PART 3—ORGANIZATION, OPERATION, INFORMATION AND REQUESTS

1. Section 3.5(f) of Subchapter A of Chapter I, Title 18, Code of Federal Regulations, is amended to read as follows:

§ 3.5 Delegations of final authority.

The Commission authorizes:

* * * * *

(f) The Director of the Office of Pipeline and Producer Regulation or in the Director's absence, the Director's designee to:

(1) Pass upon the following types of applications or amendments to applications: *Provided*, That no formal opposition to the applications or amendments is timely filed with the Commission.

* * * * *

(iv) Applications for temporary certificates for the transportation of natural gas to end-users, pursuant to § 2.79 or § 157.101 of this chapter.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENTS UNDER SECTION 7 OF THE NATURAL GAS ACT

2. Subchapter E is amended by designating § 157.5 through 157.22 as Subchapter A—Applications for certificates of public convenience and necessity and for Orders permitting and approving abandonment under section 7 of the Natural Gas Act, as amended, concerning any operation, sales service, construction, extension, acquisition or abandonment and § 157.23 through 157.42 as subpart B—Filings by producers and gatherers of natural gas which are also natural gas companies.

Subpart A—Applications for Certificates of Public Convenience and Necessity and for Orders Permitting and Approving Abandonment Under Section 7 of the Natural Gas Act, as Amended, Concerning any Operation, Sales, Service, Construction, Extension, Acquisition, or Abandonment

§§ 157.5 through 157.22 [Redesignated as Subpart A]

Subpart B—Filings by Producers and Gatherers of Natural Gas Which Are Also Natural Gas Companies

§§ 157.23 through 157.42 [Redesignated as Subpart B]

3. Subchapter E is further amended by adding a new Subpart E to read as follows:

Subpart E—Transportation Certificates Under Section 7(c)(2) of the Natural Gas Act

Sec.
157.100 Applicability.
157.101 General rule.
157.102 Eligible uses.
157.103 Application requirements.
157.104 Eligible gas reserves.
157.105 General conditions.

Authority:

Natural Gas Act, as amended, 15 U.S.C. 717, *et seq.* Public Utilities Regulatory Policies Act of 1978, Pub. L. 95–617, Natural Gas Policy Act of 1978, Pub. L. 95–621, Department of Energy Organization Act, Pub. L. 95–91, E.O. 12009, (43 FR 46267).

Subpart E—Transportation Certificates Under Section 7(c)(2) of the Natural Gas Act

§ 157.100 Applicability.

This subpart implements section 7(c)(2) of the Natural Gas Act and applies to transportation certificates of public convenience and necessity for direct sales of natural gas to certain high-priority users. This subpart covers both the transportation of gas sold by a producer and natural gas produced by high-priority users.

§ 157.101 General rule.

(a) *Applications.* Any interstate pipeline, or eligible user on behalf of an interstate pipeline, may file an application as described in § 157.103 for transportation to serve eligible uses as defined in § 157.102.

(b) *Temporary certificates.* Any such application may include a request for a temporary certificate and shall be processed by the Commission staff on an expedited basis.

(1) If the application for a temporary transportation certificate is sufficient on its face, a temporary transportation certificate may be issued by the Director of the Office of Pipeline and Producer Regulation pursuant to his authority under § 3.5(f)(1)(iv) of this chapter.

(2) The pipeline may, within 30 days of the date of issuance, file in writing its acceptance or rejection of the temporary certificate. If no acceptance or rejection has been filed within the 30 days, the temporary certificate shall be deemed to have been accepted and shall be effective on the issue date of the order granting such temporary certificate, or such other date prescribed by the Commission.

(c) *Rehearing.* The eligible user, the interstate pipeline or any other party may file for rehearing in any proceeding involving the application, under the provisions of § 1.34 of this chapter.

§ 157.102 Eligible uses.

(a) For the purposes of this subpart, the term "eligible uses" means:

(1) Any use of natural gas certified by the Secretary of Agriculture under 7 CFR 2900.3 as an "essential agricultural use" under section 401(c) of the Natural Gas Policy Act of 1978; or

(2) Any use of natural gas by a person who uses natural gas in a hospital or school or similar institution as defined in §§ 281.103(b)(2) and (3) of this chapter.

(b) An "eligible user" is any person who consumes natural gas for an eligible use.

(c) These eligible uses are "high-priority uses" within the meaning of section 7(c)(2) of the Natural Gas Act.

§ 157.103 Application requirements.

All applications pursuant to this subpart must:

(a) Indicate volumes to be transported under the proposed certificate on a peak day, average day and annual basis;

(b) Include a statement by the interstate pipeline that it has capacity sufficient to perform the transportation service without detriment or disadvantage to its existing customers who are dependent on the pipeline's general system supply;

(c) Indicate the impact of the proposed transportation on the pipeline's ability to provide systemwide deliveries for requirements defined in § 2.78(a)(1)(i) of this chapter;

(d) Provide a copy of the proposed transporation agreement, indicating the proposed transportation rate together with a breakdown and justification of the proposed rate level to the extent indicated in § 284.106 of this chapter for interstate pipelines or § 284.126 of this chapter for intrastate pipelines;

(e) Include a statement by the distributor or intrastate pipeline that it has capacity sufficient to perform the transportation service without detriment or disadvantage to its other customers;

(f) Describe any facilities that will be constructed in order to provide the services, as well as any other facilities that will be utilized, and specify their location. For purposes of this paragraph, interstate pipelines may file abbreviated applications without stating a justification. For purposes of this paragraph, the following provisions are waived for intrastate pipelines:

(1) 18 CFR 157.13—Form of Exhibits to be attached to applications;

(2) 18 CFR 157.14—Exhibits;

(3) 18 CFR Part 159—Fees and annual charges under the Natural Gas Act;

(4) 18 CFR Part 201—Uniform system of accounts for natural gas companies; and

(5) 18 CFR Part 260—Statements and reports (schedules).

(g) Indicate that the proposed end-users of such consumption are eligible uses;

(h) Indicate the total end-use requirements profile for natural gas at the location where the transported natural gas will be used;

(i) Provide a copy of the gas purchase contract with the producer underlying the proposed transportation;

(j) Provide a certified copy, if one has been obtained, of any currently effective determination by a jurisdictional agency under section 503 of the Natural Gas Policy Act of 1978 and Part 274 of this chapter applicable to the natural gas to be transported;

(k) File an affidavit that includes the well number of numbers from which the natural gas will be produced, and either state that the natural gas meets the eligibility requirements of § 157.104, or make applications for waiver of such requirements;

(l) If an intermediary participates in the transaction between the eligible user and the producer and charges a fee, indicate the amount of the fee and terms of payment and the intermediary's affiliation, if any, with the producer, pipeline and/or distributor;

(m) If the eligible user assumes the cost of the construction of any facilities in order to consummate the purchase, provide the cost, terms of payment, ownership and date of construction of the facilities.

§ 157.104 Eligible gas reserves.

(a) *Eligiblity test.* No certificate issued under this subpart may authorize the transportation of natural gas which was committed or dedicated to interstate commerce, as defined in section 2(18) of the Natural Gas Policy Act of 1978, on November 8, 1978.

(b) *Waiver.* A waiver of the requirement of paragraph (a) may be granted by the Commission upon a showing that such waiver is in the public interest.

§ 157.105 General conditions.

(a) *Term.* (1) Transportation certificates under this subpart may be issued for a term of up to 5 years.

(2) If the natural gas reserves are owned and developed by an eligible user, as determined by the Commission, a certificate may be issued under this subpart for a term of up to 10 years upon a showing that such longer term is necessary to permit the economical recovery of the reserves.

(3) The term shall commence upon the issuance of the certificate.

(b) *Renewal.* Certificates issued under this subpart may be renewed upon reapplication, within 12 months of its expiration.

(c) *Extention of term for take-or-pay users.* If an eligible user is unable to receive natural gas supplies for which it has paid under a take-or-pay provision in the underlying sales contract, the transporting pipelines may file a request for a six-month extension of the certificate authorization. The request shall include a statement of the undelivered volumes and the time necessary to complete delivery thereof. Upon receipt of a letter from the Secretary of the Commission acknowledging a filing of such purposes, the requested extension shall be deemed approved.

(d) *Acceptance of certificate.* Except as provided in subparagraphs (1) and (2) of this paragraph or in § 157.101(b) of this chapter, the certificate shall be void and without force or effect unless accepted in writing by the pipeline within 30 days from the issue date of the order issuing such certificate.

(1) When an application for rehearing of such order is filed in accordance with section 19 of the Natural Gas Act, the acceptance shall be filed within 30 days from the date on which the application for rehearing is denied or deemed to have been denied.

(2) When a petition for review is filed in accordance with the provisions of section 19 of the Natural Gas Act, acceptance shall be filed within 30 days after the final judicial review.

(e) *Termination.* The certificate issued to the pipeline is not transferable in any manner and shall be effective only so long as the natural gas is consumed for eligible uses and the pipeline continues the operations authorized by the order issuing such certificate and in accordance with the provisions of the Natural Gas Act, as well as the applicable rules, regulations, and orders of the Commission.

(f) *Annual filing.* The eligible user shall file annual reports, within 60 days of the anniversaries of the issue date of the certificate, containing:

(1) The total amount of natural gas consumed during the preceding 12 month period.

(2) The end-use of such amounts,

(3) The amount of natural gas consumed from other sources during the 12-month period.

(4) The end-use of the natural gas from those other sources together with a list of those other sources, and

(5) The average delivered cost per Mcf paid, itemized by amounts paid to:

(i) The producer,

(ii) Each pipeline and distributor involved in transporting the natural gas, and

(iii) Any other parties.

(g) *Rates and charges.* The rates for transporation by any interstate or intrastate pipelines will be charged in accordance with Part 284 of this chapter.

[Docket No. RM79-18]

[FR Doc. 79-13177 Filed 4-26-79; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 841

Public Housing Program; Development Phase; Prototype Cost Limits for Low Income Housing

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development.

ACTION: Notice of Prototype Cost Determination Under 24 CFR, Part 841, Subpart A.

SUMMARY: On June 22, 1978, the Department published a revised Schedule of "Prototype Cost Limits for Low-Income Housing". After consideration of additional factual data, a revision is necessary to increase the elevator prototype cost limits for the Kennewick, Washington Prototype area.

DATE: Effective April 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Jack R. VanNess, Director, Technical Support Division, Office of Public Housing, Room 6282, 451 7th Street, SW., Washington, D.C., 20410. (202) 755-5880. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: This schedule establishes per unit limits on prototype costs (dwelling construction and equipment) for development of public housing under the United States Housing Act of 1937. The Act provides (Section 6(b)) that the prototype costs shall become effective upon the date of publication in the **Federal Register**, and this Notice is therefore made effective April 27, 1979.

Timely written comments will be considered and additional amendments will be published if the Department determines that acceptance of the comments is appropriate. Comments with respect to cost limits for a given location should be sent to the address indicated above.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969, has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk.

Accordingly, the Prototype Per Unit Cost Schedules issued under 24 CFR, Part 841, Appendix A, Prototype Cost Limits for Low-Income Housing are amended as follows:

1. At FR 27054, revise the prototype per unit cost schedule for the elevator dwellings as shown on the prototype per unit cost schedule, Region X, Kennewick, Washington.

(Sec. 7(d), Department of HUD Act, (42 U.S.C. 3535(d)); sec. 6(d), U.S. Housing Act of 1937, (42 U.S.C. 1437(d)).)

Issued at Washington, D.C. on April 16, 1979.

Morton Baruch,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

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PROTOTYPE PER UNIT COST SCHEDULE

REGION X

KENNEWICK	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure	22,250	24,500	31,100				

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

[Docket No. R-79-657]
[FR Doc. 79-13062 Filed 4-26-79; 8:45 am]
BILLING CODE 4210-01-C

24 CFR Part 888

Section 8 Housing Assistance Payment Program; Fair Market Rents for New Construction and Substantial Rehabilitation

AGENCY: Office of Assistant Secretary for Housing-Federal Housing Commissioner—Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This final rule revises Fair Market Rents (FMRs) for the Ada, Ardmore, Enid, Guymon, Lawton, Oklahoma City, Shawnee, Stillwater, and Woodward, Oklahoma; and the Santa Ana and San Bernardino, California market areas.

EFFECTIVE DATE: May 29, 1979.

FOR FURTHER INFORMATION CONTACT: Edward M. Winiarski, Supervisory Appraiser, Valuation Branch, Technical Support Division, Office of Multifamily Housing Development, 451–7th Street, SW., Washington, D.C. 20410 (202) 755–9320. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Notice was given on December 28, 1978 at 43 FR 60584, 60585, and 60586 that HUD was proposing to amend Title 24 of the Code of Federal Regulations by incorporating in Part 888 Subpart A, a revised Schedule A, "Fair Market Rents for New Construction and Substantial Rehabilitation (including Housing Finance and Development Agencies Program)" for the above Oklahoma and California market areas. HUD has received no comments in response to the December 28, 1978 publication; therefore, the Fair Market Rents as proposed are adopted without change.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Accordingly, Schedule A of Part 888 is amended as set forth below.

(Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., on April 16, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing—Federal Housing Commissioner.

Schedule A—Fair Market Rents for New Construction and Substantial Rehabilitation (Including Housing Finance and Development Agencies Program).

These Fair Market Rents have been trended ahead two years to allow time for processing and construction of proposed new construction and substantial rehabilitation rental projects.

Note.—The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed 2-Bedroom, multiplied by 1.05 rounded to the next higher whole dollar, (2) congregate housing dwelling units are the same as for non-congregate housing units, and (3) single room occupancy dwelling units are those for 0-Bedroom units of the same type.

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AREA OFFICE OKLAHOMA CITY, OKLAHOMA REGION VI - DALLAS.

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
OKLAHOMA CITY, OKLA.	DETACHED			307	386	452
	SEMI-DETACHED/ROW	218	252	284	350	404
	WALKUP	195	225	254	313	361
	ELEVATOR-2-4 Sty	219	249	278		
	5 + Sty	329	353	400		
ADA, OKLA.	DETACHED			362	414	468
	SEMI-DETACHED/ROW	213	251	335	382	451
	WALKUP	190	224	299	341	403
	ELEVATOR-2-4 Sty	214	248	323		
	5 + Sty	286	339	424		
ARDMORE, OKLA.	DETACHED			322	397	453
	SEMI-DETACHED/ROW	214	246	305	375	414
	WALKUP	191	220	272	335	370
	ELEVATOR-2-4 Sty	215	244	296		
	5 + Sty	311	334	414		
ENID, OKLA.	DETACHED			395	457	532
	SEMI-DETACHED/ROW	256	277	348	400	454
	WALKUP	229	247	311	358	405
	ELEVATOR-2-4 Sty	253	271	335		
	5 + Sty	370	401	511		
GUYMON, OKLA.	DETACHED			351	426	493
	SEMI-DETACHED/ROW	192	225	324	393	440
	WALKUP	171	201	289	351	393
	ELEVATOR-2-4 Sty	195	225	313		
	5 + Sty	284	315	450		
LAWTON, OKLA.	DETACHED			318	434	493
	SEMI-DETACHED/ROW	206	271	296	399	440
	WALKUP	184	242	264	356	393
	ELEVATOR-2-4 Sty	208	266	288		
	5 + Sty	301	366	401		

AREA OFFICE OKLAHOMA CITY, OKLAHOMA REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SHAWNEE, OKLA.	DETACHED			322	381	429
	SEMI-DETACHED/ROW	199	239	298	352	384
	WALKUP	178	213	266	314	343
	ELEVATOR-2-4 Sty	202	237	290		
	5 + Sty	293	323	406		
STILLWATER, OKLA.	DETACHED			313	404	474
	SEMI-DETACHED/ROW	218	244	289	373	424
	WALKUP	195	218	258	333	379
	ELEVATOR-2-4 Sty	219	242	282		
	5 + Sty	294	330	394		
WOODWARD, OKLA.	DETACHED			317	297	470
	SEMI-DETACHED/ROW	206	246	293	366	420
	WALKUP	184	220	262	327	375
	ELEVATOR-2-4 Sty	208	244	286		
	5 + Sty	309	340	410		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

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AREA OFFICE LOS ANGELES, CA. REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SANTA ANA, CALIF.	DETACHED			472	530	570
	SEMI-DETACHED/ROW		369	450	502	543
	WALKUP	295	351	417	461	495
	ELEVATOR-2-4 Sty	310	367	435		
	5 + Sty	424	491	592		
SAN BERNARDINO, CALIF.	DETACHED			460	512	568
	SEMI-DETACHED/ROW		348	425	471	535
	WALKUP	362	316	377	409	454
	ELEVATOR-2-4 Sty	280	336	399		
	5 + Sty	387	428	544		
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

[Docket No. R-79-589]
[FR Doc. 79-13081 Filed 4-26-79; 8:45 am]
BILLING CODE 4210-01-C

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 221

Colorado River Indian Irrigation Project, Arizona

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The purpose of this final regulation is to delete provisions from Title 25 of the Code of Federal Regulations that are being replaced by a Public Notice to be published in the **Federal Register** simultaneously with this final rule.

EFFECTIVE DATE: This final rule shall become effective on June 30, 1979.

FOR FURTHER INFORMATION CONTACT: Vernon M. Hughes, Bureau of Indian Affairs, Colorado River Agency, Parker, Arizona 85344, telephone number 602–669–2187.

SUPPLEMENTARY INFORMATION: Pursuant to § 191.1(e) of Part 191, Chapter I, Subchapter T of Title 25 of the Code of Federal Regulations, this final rule is published under authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary of Indian Affairs to the Area Director in 10 BIAM 3. The principal author of this document is Vernon M. Hughes, Bureau of Indian Affairs, Colorado River Agency, Parker, Arizona 85344, telephone number 602–669–2187.

§§ 221.6, 221.7, 221.8, and 221.8a [Deleted]

Chapter I, Subchapter T of Title 25, Code of Federal Regulations is amended by deleting §§ 221.6, 221.7, 221.8, and 221.8a, of Part 221.

Note.—It is hereby certified that the economic and inflationary impacts of this final regulation have been carefully evaluated in accordance with Executive Order 11821.

Harold D. Roberson,
Assistant Area Director.
[FR Doc. 79-13073 Filed 4-26-79; 8:45 am]
BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Income taxes; One-Time Exclusion of Gain From Sale of Principal Residence by Individual Who Has Attained Age 55

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the one-time exclusion of gain from the sale of a principal residence by an individual who has attained age 55. These regulations make conforming changes in the existing regulations to reflect the amendments made by section 404 of the Revenue Act of 1978.

DATE: These regulations are effective for sales or exchanges after July 26, 1978.

FOR FURTHER INFORMATION CONTACT: Stephen J. Small of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This Treasury decision revises the existing regulations under section 121 of the Internal Revenue Code of 1954 to reflect the statutory changes made by section 404 of the Revenue Act of 1978 (Pub. L. 95–600, 92 Stat. 2763). Prior law allowed a taxpayer who had attained age 65 to exclude from gross income, on a one-time basis, the entire gain realized on the sale of his or her principal residence only if the adjusted sales price was $35,000 or less. If the adjusted sales price exceeded $35,000, the amount excludable was the portion of the gain determined by multiplying the total gain by a fraction, the numerator of which was $35,000 and the denominator of which was the adjusted sales price of the residence. The new law lowers the age requirement to 55 years and raises the ceiling on the amount of gain excludable from gross income to $100,000 ($50,000 in the case of a separate return by a married individual).

Additionally, prior law required that in order to qualify for the section 121 exclusion, the taxpayer must have owned and used the property as his or her principal place of residence for periods aggregating at least five of the eight years immediately preceding the sale. Section 404 of the Revenue Act of 1978 substituted an ownership and use requirement generally of three out of the five years preceding the sale.

Because the amendment to the regulations is nonsubstantive and essentially a computational change that reduces the burden of taxation for eligible taxpayers, it is found unnecessary to issue this Treasury decision with notice and public procedure. For the same reasons, this regulation is not a significant regulation under paragraph 8 of the Treasury Directive appearing in the **Federal Register** for November 8, 1978 (43 FR 52120).

Drafting Information

The principal author of this regulation is Stephen J. Small of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Waiver of Certain Procedural Requirements of the Treasury Directive

A determination has been made by Jerome Kurtz, Commissioner of Internal Revenue, that there is an immediate need for amendment of the regulations under section 121 in order to clarify for eligible taxpayers the application of the new provisions of the law in this area. Because of the immediate need for clarification, compliance with the procedural requirements of paragraphs 8 through 14 of the Treasury directive relating to improving regulations (43 FR 52120) would be impractical and, therefore, these requirements have not been followed.

Adoption of Amendments to the Regulations

PART 1—INCOME TAXES

Accordingly, 26 CFR Part 1 is amended as follows:

§ 1.121 [Deleted]

Paragraph 1. Section 1.121 is deleted.

§ 1.121-1 [Amended]

Par. 2. Section 1.121–1 is amended as follows:

1. The heading of § 1.121–1 is amended by deleting the number "65" and inserting in lieu thereof the number "55".

2. Paragraph (a) is amended by deleting the word "his" wherever it appears and inserting in lieu thereof the phrase "the taxpayer's", by deleting the number "65" and inserting in lieu thereof the number "55", by deleting the number

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"5" and inserting in lieu thereof the number "3", by deleting the phrase "During the 8-year" and inserting in lieu thereof the phrase "Except as provided in paragraph (b) of this section, during the 5-year", and by deleting the last two sentences.

3. Paragraph (b) is amended as follows:

a. Example (1) is deleted and a new example (1) is inserted to read as set forth below.

b. Examples (2), (3), and (4) are re-designated (3), (4), and (5).

c. Example (3), as re-designated, is amended as follows:

i. The number "5" is deleted wherever it appears and the number "3" is inserted in lieu thereof.

ii. The letter "B" is deleted and the letter "C" is inserted in lieu thereof.

iii. The date "1957" is deleted and the date "1973" is inserted in lieu thereof.

iv. The date "1963" is deleted and the date "1979" is inserted in lieu thereof.

v. The phrase "January 1, 1964" is deleted and the phrase "January 1, 1980" is inserted in lieu thereof.

vi. The phrase "December 31, 1967" is deleted and the phrase "July 31, 1982" is inserted in lieu thereof.

vii. The number "8" is deleted and the number "5" is inserted in lieu thereof.

d. Example (4), as re-designated, is amended as follows:

i. The letter "C" is deleted wherever it appears and the letter "D" is inserted in lieu thereof.

ii. The date "January 1, 1960" is deleted and the date "January 1, 1980" is inserted in lieu thereof.

iii. The date "February 1, 1964," is deleted and the date "February 1, 1982," is inserted in lieu thereof.

iv. The date "March 1, 1965," is deleted and the date "March 1, 1983," is inserted in lieu thereof.

v. The number "5" is deleted and the number "3" is inserted in lieu thereof.

vi. The number "8" is deleted and the number "5" is inserted in lieu thereof.

e. Example (5), as re-designated, is amended as follows:

i. The phrase "years 1956 through 1961, inclusive," is deleted and the phrase "three summers from 1977 through 1979," is inserted in lieu thereof.

ii. The word "summer" is deleted.

iii. The number "8" is deleted and the number "5" is inserted in lieu thereof.

iv. The number "12" is deleted and the number "6" is inserted in lieu thereof.

v. The phrase "January 1, 1962, to July 1, 1964 (30 months) exceeds 3 years, he" is deleted and the phrase "January 1, 1980, to September 30, 1981 (21 months) exceeds 2 years, he" is inserted in lieu thereof.

f. A new example (2) is inserted, as set forth below.

4. Paragraph (b) is redesignated as paragraph (d).

5. A new paragraph (b) is inserted to read as set forth below.

6. A new paragraph (c) is inserted to read as set forth below.

§ 1.121–1 Gain from sale or exchange of residence of individual who has attained age 55.

* * * * *

(b) *Transitional rule.* In the case of a sale or exchange of a residence before July 26, 1981, a taxpayer who has attained age 65 on the date of such sale or exchange may elect to have this section applied by substituting "8-year period" for "5-year period" and "5 years" for "3 years" in paragraph (a) of this section and where appropriate in §§ 1.121–4 and 1.121–5.

(c) *Ownership and use.* The requirements of ownership and use for periods aggregating 3 years or more may be satisfied by establishing ownership and use for 36 full months (or 60 full months if the transitional rule is elected) or for 1,095 days (365 × 3) (or 1,825 days if the transitional rule is elected). In establishing whether a taxpayer has satisfied the requirement of three years of use, short temporary absences such as for vacation or other seasonal absence (although accompanied with rental of the residence) are counted as periods of use.

(d) *Examples.* * * *

Example (1). Taxpayer A owned and used his house as his principal residence since 1966. On January 1, 1980, when he is over 55, A retires and moves to another state with his wife. A leases his house from then until September 30, 1981, when he sells it. A may make an election under section 121 with respect to any gain on such sale since he has owned and used the house as his principal residence for 3 years out of the 5 years preceding the sale.

Example (2). Taxpayer B purchased his house in 1971 when he was 65 and lived there with his wife. On July 1, 1977, he moved out and leased the house to a tenant. On September 15, 1979, he sold the house. Although he does not meet the use requirements of section 1.121–1 he may elect to use the transitional rule in section 1.121–1 (b), since the sale was made before July 26, 1981. Because he owned and used the house as his principal residence for 5 out of the 8 years preceding the sale, under the transitional rule he may elect the section 121 exclusion.

§ 1.121–2 [Amended]

Par. 3. Secton 1.121–2 is amended as follows:

1. Paragraph (a)(1) is deleted and a new paragraph (a)(1) is inserted to read as set forth below.

2. Paragraph (a)(2) is amended as follows:

a. The word "Example" is inserted after "(2)".

b. The number "$30,800", is deleted and the number "$160,800" is inserted in lieu thereof.

c. The number "$30,400" is deleted and the number "$160,400" is inserted in lieu thereof.

d. The phrase "that the adjusted sales price is $30,000 (amount realized reduced by fixing-up expenses described in § 1.1034–1(b)(6) of $400)," is deleted.

e. The number "$15,000" is deleted and the number "$107,900" is inserted in lieu thereof.

f. The number "$15,400" is deleted and the number "$52,500" is inserted in lieu thereof.

g. The phrase "bears the same ratio to the total amount of such gain as $20,000 bears to the adjusted sales price as $10,000 ($20,000/$30,000 × $15,000)" is deleted and the phrase "Is taxable is $7,900 ($107,900 − $100,000)." is inserted in lieu thereof.

h. The number "$10,000" is deleted and the number "$100,000" is inserted in lieu thereof.

3. Paragraph (b)(1) is amended by inserting the phrase "Except as provided in paragraph (c)," immediately following (1).

4. A new Paragraph (c) is inserted to read as set forth below.

§ 1.121–2 Limitations.

(a) *Dollar limitation—(1) Amount excludable.* Under secton 121(a), an individual may exclude from gross income up to $100,000 of gain from the sale of his or her principal residence ($50,000 in the case of a separate return by a married individual).

* * * * *

(c) *Additional election if prior sale was made on or before July 26, 1978.* In the case of any sale or exchange after July 26, 1978, section 121 shall be applied by not taking into account any election made with respect to a sale or exchange on or before such date.

§ 1.121–3 [Amended]

Par. 4. Section 1.121–3 is amended as follows:

1. Paragraph (d) is deleted.

§ 1.121–4 [Amended]

Par. 5. Section 1.121–4 is amended as follows:

1. Paragraph (b) is amended as follows:

a. The phrase "(see Form 2119 and the accompanying instructions)" is inserted after the first sentence.

b. Number (4) is deleted.

c. Number (5) is redesignated as (4).

d. Number (6) is redesignated as (5); the words "8 years" are deleted and the phrase "5 years (8 years under the transitional rule)" is inserted in lieu thereof.

e. Number (7) is redesignated as (6).

§ 1.121–5 [Amended]

Par. 6. Section 1.121–5 is amended as follows:

1. Paragraph (a) is amended as follows:

a. The word "as" in paragraph (a)(1)(ii) is deleted and the word "is" is inserted in lieu thereof.

b. Paragraph (a)(2) is amended by deleting the date "January 1, 1964," and inserting in lieu thereof the date "January 1, 1979," by deleting the date "1958" and inserting in lieu thereof the date "1968", by deleting the number "66" and inserting in lieu thereof the number "56", and by deleting the number "62" and inserting in lieu thereof the number "54".

2. Paragraph (b) is amended as follows:

a. The word "decreased" in paragraph (b)(1) is deleted wherever it appears and the word "deceased" is inserted in lieu thereof.

b. The number "8" is deleted and the number "5" is inserted in lieu thereof.

3. Paragraph (b)(2) is amended as follows:

a. The date "January 1, 1964" is deleted and the date January 1, 1979 is inserted in lieu thereof.

b. The date "January 1, 1957" is deleted and the date January 1, 1967 is inserted in lieu thereof.

c. The date "January 1, 1966" is deleted and the date January 1, 1981, is inserted in lieu thereof.

d. The date "December 31, 1967" is deleted and the date August 31, 1981, is inserted in lieu thereof.

e. The number "65" is deleted and the number "55" is inserted in lieu thereof.

f. The number "8" is deleted and the number "5" is inserted in lieu thereof.

g. The phrase "(January 1, 1960, through December 31, 1967)" is deleted and the phrase "(September 1, 1976, through August 31, 1981)" is inserted in lieu thereof.

h. The number "5" is deleted and the number "3" is inserted in lieu thereof.

i. The phrase "by owning and using the property as his principal residence for 6 years (1960 through 1965)" is deleted and a "." is inserted in lieu thereof.

4. Paragraph (d) is deleted and a new paragraph (d) is inserted to read as set forth below.

5. Paragraph (e)(2) is amended by deleting the number "3" and inserting in lieu thereof the number "2" and by deleting the number "8" and inserting in lieu thereof the number "5".

6. Paragraph (g)(2) is deleted and a new paragraph (g)(2) is inserted to read as set forth below.

§ 1.121–5 Special Rules.

* * * * *

(d) *Tacking of holding periods in the case of involuntary conversion.* If the basis of the property sold or exchanged is determined (in whole or in part) under subsection (b) of section 1033 (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged.

For the treatment of involuntary conversion as a "sale or exchange" see § 1.121–3(b).

* * * * *

(g) *Application of sections 1033 and 1034.* * * * (2) The provisions of this paragraph are illustrated by the following examples:

Example (1). Taxpayer A sells his residence for $180,000, incurring $2,000 in fixing-up expenses described in section 1034(b)(2). He has a basis of $65,000 for the residence. Of his total gain of $115,000 ($180,000 − $65,000), $100,000 is excluded from his gross income under this section.

He may still use the provisions of section 1034 to defer all or part of the remaining $15,000 of gain. To determine the adjusted sales price for purposes of section 1034, the amount realized (consideration received minus selling expenses, described in paragraph (b)(4)(i) of section 1.1034–1) is reduced by the sum of the fixing-up expenses (described in paragraph (b)(6) of section 1.1034–1) plus the amount excluded under section 121. Here, then, for purposes of section 1034, A's adjusted sales price is $78,000 ([$180,000 − $2,000) − ($100,000)]. If his new residence costs at least $78,000, all $15,000 of the remaining gain will be deferred. However, if he purchases a new residence for $72,000, then $6,000 ($78,000 − $72,000) of his gain is currently taxable.

Example (2). Taxpayer B's residence has a basis of $65,000. She sells the residence for $115,000. If she makes an election under section 121(a), her gain of $50,000 is all excluded from gross income, and, accordingly, no portion of the realized gain remains to be deferred under section 1034.

* * * * *

This Treasury decision amends the regulations under section 121 in order to clarify for eligible taxpayers the application of the new provisions of the law in this area. Additionally, the amendment allows eligible taxpayers to reduce their burden of taxation. For these reasons, it is found unnecessary and impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: April 19, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury

§ 1.121 [Deleted]

§ 1.121–1 Gain from sale or exchange of residence of individual who has attained age 55.

(a) *General rule.* Section 121(a) provides that a taxpayer may, under certain circumstances, elect to exclude from gross income gain realized on the sale or exchange of property which was the taxpayer's principal residence. Subject to the other provisions of section 121 and the regulations thereunder, the election may be made only if—

(1) The taxpayer attained the age of 55 before the date of the sale or exchange of the taxpayer's principal residence, and

(2) Except as provided in paragraph (b) of this section, during the 5-year period ending on the date of the sale or exchange of the property the taxpayer owned and used the property as the taxpayer's principal residence for periods aggregating 3 years or more.

(b) *Transitional rule.* In the case of a sale or exchange of a residence before July 26, 1981, a taxpayer who has attained age 65 on the date of such sale or exchange may elect to have this section applied by substituting "8-year period" for "5-year period" and "5 years" for "3 years" in paragraph (a) of this section and where appropriate in §§ 1.121–4 and 1.121–5.

(c) *Ownership and use.* The requirements of ownership and use for periods aggregating 3 years or more may be satisfied by establishing ownership and use for 36 full months (or 60 full months if the transitional rule is elected) or for 1,095 days (365 × 3) (or 1,825 days if the transitional rule is elected). In establishing whether a taxpayer has satisfied the requirement of three years of use, short temporary absences such as for vacation or other seasonal absence (although accompanied with rental of the residence) are counted as periods of use.

(d) *Examples.* The provisions of paragraph (a) are illustrated by the following examples:

Example (1). Taxpayer A owned and used his house as his principal residence since 1966. On January 1, 1980, when he is over 55, A retires and moves to another state with his wife. A leases his house from then until September 30, 1981, when he sells it. A may make an election under section 121(a) with

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respect to any gain on such sale since he has owned and used the house as his principal residence for 3 years out of the 5 years preceding the sale.

Example (2). Taxpayer B purchased his house in 1971 when he was 65 and lived there with his wife. On July 1, 1977, he moved out and leased the house to a tenant. On September 15, 1979, he sold the house. Although he does not meet the use requirements of section 1.121–1(a), he may elect to use the transitional rule in section 1.121–1(b), since the sale was made before July 26, 1981. Because he owned and used the house as his principal residence for 5 out of the 8 years preceding the sale, under the transitional rule he may elect the section 121 exclusion.

Example (3). Taxpayer C lived with his son and daughter-in-law in a house owned by his son from 1973 through 1979. On January 1, 1980, he purchased this house and on July 31, 1982 , he sold it. Although B used the property as his principal residence for more than 3 years, he is not entitled to make an election under section 121(a) in respect of such sale since he did not own the residence for a period aggregating 3 years during the 5 year period ending on the date of the sale.

Example (4). Taxpayer D, a college professor, purchased and moved into a house on January 1, 1980. He used the house as his principal residence continuously to February 1, 1982, on which date he went abroad for a 1-year sabbatical leave. During a portion of the period of leave the property was unoccupied and it was leased during the balance of the period. On March 1, 1983, 1 month after returning from such leave, he sold the house. Since his leave is not considered to be a short temporary absence for purposes of section 121(a), the period of such leave may not be included in determining whether D used the house as his principal residence for periods aggregating 3 years during the 5 year period ending on the date of the sale. Thus, D is not entitled to make an election under section 121(a) since he did not use the residence for the requisite period.

Example (5). Assume the same facts as in example (1) except that during the three summers from 1977 through 1979, A left his residence for a 2-month vacation each year. Although, in the 5 year period preceding the date of sale, the total time spent away from his residence on such vacations (6 months) plus the time spent away from such residence from January 1, 1980, to September 30, 1981 (21 months) exceeds 2 years, he may make an election under section 121(a) since the 2-month vacations are counted as periods of use in determining whether A used the residence for the requisite period.

[T.D. 6856, 30 FR 13316, Oct. 20, 1965]

§ 1.121–2 Limitations.

(a) *Dollar limitation*—(1) Amount excludable. Under section 121(a), an individual may exclude form gross income up to $100,000 of gain from the sale of his or her principal residence ($50,000 in the case of a separate return by a married individual).

(2) *Example.* The provisions of this paragraph are illustrated by the following example:

Example. Assume that A sells his principal residence for $160,800, that the amount realized is $160,400 (selling price reduced by selling expenses, described in paragraph (b)(4)(i) of § 1.1034–1, of $400); and that A's gain realized from the sale is $107,900 (amount realized reduced by adjusted basis of $52,500). The portion of the gain which is taxable is $7,900 ($107,900) – ($100,000). Thus $100,000 is the portion of the gain excludable from gross income pursuant to an election under section 121(a).

(b) *Application to only one sale or exchange.* (1) Except as provided in paragraph (c), a taxpayer may not make an election to exclude from gross income gain from the sale or exchange or a principal residence if there is in effect at the time the taxpayer wishes to make such election—

(i) An election made by the taxpayer, under section 121(a), in respect of any other sale or exchange of a residence, or

(ii) An election made by the taxpayer's spouse (such marital status to be determined at the time of the sale or exchange by the taxpayer, see paragraph (f) of § 1.121–5) under the provisions of section 121(a) in respect of any other sale or exchange of a residence (without regard to whether at the time of such sale or exchange such spouse was married to the taxpayer).

If the taxpayer and his spouse, before their marriage each owned and used a separate residence and if (after their marriage) both residences are sold, whether or not in a single transaction, an election under section 121(a) may be made with respect to a sale of either residence (but not with respect to both residences) if, at the time of sale, the age, ownership, and use requirements are met.

(2) The provisions of this paragraph are illustrated by the following examples:

Example (1). While A and B are married, A sells his separately owned residence and makes an election under section 121(a) in respect of such sale. Pursuant to the requirement of section 121(c), B joins in such election. Subsequently, A and B are divorced and B married C. While B and C are married, C sells his residence. C is not entitled to make an election under section 121(a) since an election by B, his spouse, is in effect. It does not matter that B obtained no personal benefit from her election

Example (2). The facts are the same as in example (1) except that after the sale of C's residence, A and B, pursuant to the provisions of paragraph (c) of § 1.121–4, revoke their election. B and C, subject to the other provisions of this section, may then make an election with respect to any gain realized on the sale of C's residence.

Example (3). The facts are the same as in example (1) except that C marries B after C sells his residence but before he makes an election under section 121(a) with respect to any gain realized on such sale. C, if there is not in effect an election made by him under section 121(a) with respect to a prior sale, may make an election with respect to his sale since B does not have to join with him in such election. (In the case of a sale of property jointly held by husband and wife, see paragraph (a) of § 1.121–5.)

[T.D. 6856, 30 F.R. 13317, Oct. 20, 1965]

(c) *Additional election if prior sale was made on or before July 26, 1978.* In the case of any sale or exchange after July 26, 1978, section 121 shall be applied by not taking into account any election made with respect to a sale or exchange on or before such date.

§ 1.121–3 Definitions.

(a) *Principal residence.* The term "principal residence" has the same meaning as in section 1034 (relating to sale or exchange of residence) and the regulations thereunder (see paragraph (c) (3) of § 1.1034–1).

(b) *Sale or exchange.* A "sale or exchange" of a residence includes the destruction, theft, seizure, requisition, or condemnation of such residence.

(c) *Gain realized.* The term "gain realized" has the same meaning as in paragraph (b)(5) of § 1.1034–1 (determined without regard to section 121(d) (7) and paragraph (g) of § 1.121–5).

[T.D. 6856, 30 F.R. 13317, Oct. 20, 1965]

§ 1.121–4 Election.

(a) *General rule.* A taxpayer may make an election under section 121(a) in respect of a particular sale (or may revoke any such election) at any time before the expiration of the period for making a claim for credit or refund of Federal income tax for the taxable year in which the sale or exchange occurred. A taxpayer who is married at the time of the sale or exchange—

(1) May not make an election under section 121(a) unless his spouse (at the time of the sale or exchange) joins him in such election, and

(2) May not revoke an election previously made by him unless his spouse (at the time of the sale or exchange) joins him in the revocation.

If the taxpayer's spouse dies after the sale or exchange but before the expiration of the time for making an election under this section (and an election was not made by the husband and wife), the deceased spouse's personal representative (administrator or executor, etc.) must join with the taxpayer in making an election. For purposes of making an election under section 121(a), if no personal representative of the deceased spouse has been appointed at or before the time of making the election, then the surviving spouse shall be considered the personal representative of such deceased spouse. Any election previously made by the taxpayer may be revoked only if the personal representative of the taxpayer's deceased spouse joins in such revocation.

(b) *Manner of making election.* The election under section 121(a) shall be made in a statement signed by the taxpayer and (where required) by his spouse and attached to the taxpayer's income tax return, when filed, for the taxable year during which the sale or exchange of his residence occurs. (See Form 2119 and the accompanying instructions). The statement shall indicate that the taxpayer elects to exclude from his gross income for such year so much of the gain realized on such sale or exchange as may be excluded under section 121. The statement shall also show—

(1) The adjusted basis of the residence as of the date of disposition;

(2) The date of its acquisition;

(3) The date of its disposition;

(4) The names and social security numbers of the owners of the residence as of the date of sale, the form of such ownership, and the age and marital status (as determined under paragraph (f) of § 1.121–5) of such owner or owners at the time of the sale;

(5) The duration of any absences (other than vacation or other seasonal absence) by such owner or owners during the 5 years (8 years under the transitional rule) preceding the sale; and

(6) Whether any such owner or owners have previously made an election under section 121(a), the date of such election, the taxable year with respect to which such election was made, the district director with whom such election was filed, and, if such election has been revoked, the date of such revocation.

(c) *Manner of revoking election.* The revocation of an election under section 121(a) shall be made by the taxpayer by filing a signed statement showing his name and social security number and indicating that the taxpayer revokes the election he made under section 121(a). The statement shall also show the taxable year of the taxpayer for which such election was made. The statement shall be signed by the taxpayer and (where required) by his spouse or their personal representatives and filed with the district director with whom the election was filed. In addition, if, at the time the statement is filed, the statutory period for assessment of a deficiency for the taxable year for which the election was made will expire within one year, then, the revocation is not effective unless the taxpayer also consents, in writing, that the statutory period for assessment of any deficiency (to the extent that such deficiency is attributable to the revocation of the election) shall not expire before the expiration of one year after the date the statement was filed with the district director. Such consent must be filed prior to the date of the expiration of the statutory period for assessment for the taxable year for which the election was made.

[T.D. 6856, 30 F.R. 13317, Oct. 20, 1965]

§ 1.121–5 Special rules.

(a) *Property held jointly by husband and wife.* (1) If—

(i) On the date of the sale or exchange of a residence, such residence is held by a husband and wife as joint tenants, tenants by the entirety, or community property,

(ii) A joint return under section 6013 is made by such husband and wife for the taxable year in which the residence is sold or exchanged, and

(iii) One spouse satisfies the age, ownership, and use requirements of section 121(a),

then both the husband and wife are treated as satisfying the age, ownership, and use requirements of section 121(a). Thus, if the above conditions exist and one spouse meets all the requirements of section 121(a), the other spouse will be treated as meeting all such requirements.

(2) The provisions of this paragraph are illustrated by the following example:

Example. On January 1, 1979, A and B while married, sell their jointly owned residence which they have owned and used as their prinicipal residence continuously since 1968. At the time of the sale, A is age 56 and B is age 54. If A and B file a joint return for the year of the sale, B will be considered to have satisfied the age, ownership and use requirements of section 121(a) since A has satisfied such requirements.

(b) *Property of deceased spouse.* (1) A taxpayer is treated as satisfying the ownership and use requirements of section 121(a)(2) with respect to property if—

(i) His spouse is deceased on the date of the sale or exchange of such property, and

(ii) Such deceased spouse, had, during the 5-year period ending on the date of the sale or exchange of the property, satisfied such ownership and use requirements with respect to such property.

This rule, however, has no application if the surviving spouse is married at the time of the sale or exchange of such property, or if an election made by the deceased spouse under section 121(a) is in effect with respect to any other sale or exchange.

(2) The provisions of this paragraph are illustrated by the following example:

Example. H and W become husband and wife on January 1, 1979. On and after such date they use as their principal residence property which H has owned and used as his principal residence since January 1, 1967. H dies on January 1, 1981, and W inherits the property and continues to use the property as her principal residence. W sells the property on August 31, 1981, at which time she is over 55 and not married. H, during the 5-year period ending on the date of the sale (September 1, 1976, through August 31, 1981), satisfied the 3-year use and ownership requirements of section 121(a)(2) with respect to such property. Accordingly, W may make an election under section 121(a).

(c) *Tenant-stockholder in cooperative housing corporation.* An individual who holds stock as a "tenant-stockholder" in a "cooperative housing corporation", as those terms are defined in section 216(b), may be eligible to make an election under section 121(a) in respect of the sale or exchange of such stock. In determining whether the taxpayer meets the requirements of section 121(a), the ownership requirements of such section are applied to the holding of such stock and the use requirements of such section are applied to the house or apartment which the individual was entitled to occupy because of such stock ownership.

(d) *Tacking of holding periods in the case of involuntary conversion.* If the basis of the property sold or exchanged is determined (in whole or in part) under subsection (b) of section 1033 (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged.

For the treatment of involuntary conversion as a "sale or exchange" see section 1.121–3(b).

(e) *Property used in part as principal residence.* (1) When a taxpayer can satisfy the ownership and use requirements of section 121(a)(2) only with respect to a portion of the property sold, then section 121 shall apply only with respect to so much of the gain from the sale or exchange of the property as

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is attributable to such portion. Thus, if the residence was used only partially for residential purposes, only that part of the gain allocable to the residential portion is not to be recognized under section 121(a).

(2) The provisions of this paragraph are illustrated by the following example:

Example. Taxpayer A, an attorney, uses a portion of the property constituting his principal residence as a law office for a period in excess of 2 years out of the 5 years preceding the sale of such residence. Accordingly, section 121 does not apply with respect to so much of the gain on the sale of the property as is allocable to the portion of the property used as a law office.

(f) *Determination of marital status.* Marital status is to be determined as of the date of the sale or exchange of the residence. An individual who on the date of the sale or exchange is legally separated from his spouse under a decree of divorce or of separate maintenance is not considered as married on such date.

(g) *Application of sections 1033 and 1034.* (1) In applying sections 1033 (relating to involuntary conversions) and 1034 (relating to sale or exchange of residence), the amount realized from the sale or exchange of property used as one's principal residence is treated as being the amount determined without regard to section 121, reduced by the amount of gain excluded from gross income pursuant to an election made under section 121(a). Thus, the amount which must be invested in a new residence in order to fully satisfy the nonrecognition provisions of section 1033 or 1034 is reduced by the amount of gain not included in the taxpayer's gross income because of an election made under section 121(a).

(2) The provisions of this paragraph are illustrated by the following examples:

Example (1). Taxpayer A sells his residence for $180,000, incurring $2,000 in fixing-up expenses described in section 1034(b)(2). He has a basis of $65,000 for the residence. Of his total gain of $115,000 ($180,000–$65,000), $100,000 is excluded from his gross income under this section.

He may still use the provisions of section 1034 to defer all or part of the remaining $15,000 of gain. To determine the adjusted sales price for purposes of section 1034, the amount realized (consideration received minus selling expenses, described in paragraph (b)(4)(i) of section 1.1034–1) is reduced by the sum of the fixing-up expenses (described in paragraph (b)(6) of section 1.1034–1) plus the amount excluded under section 121. Here, then, for purposes of section 1034, A's adjusted sales price is $78,000 ($180,000—$2,000)—$100,000)). If his new residence costs at least $78,000, all $15,000 of the remaining gain will be deferred. However, if he purchases a new residence for $72,000, then $6,000 ($78,000—$72,000) of his gain is currently taxable.

Example (2). Taxpayer B's residence has a basis of $65,000. She sells the residence for $115,000. If she makes an election under section 121(a), her gain of $50,000 is all excluded from gross income, and, accordingly, no portion of the realized gain remains to be deferred under section 1034.

(h) *Special rules applicable to certain reacquisitions of real property.* For special rules relating to a case where real property with respect to which an election under this section is in effect is reacquired by the seller in partial or full satisfaction of the indebtedness arising from the sale of such property and resold by him within 1 year after the date of such reacquisition, sec. § 1.1038–2.

[T.D. 7614]

[FR Doc. 79-13241 Filed 4-26-79; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 222, 231

Grazing and Livestock Use on the National Forest System; Annual Grazing Fees

AGENCY: USDA, Forest Service.

ACTION: Final rulemaking.

SUMMARY: This rule amends the procedures for determining annual grazing fees on certain Federal lands administered by the Forest Service, U.S. Department of Agriculture. It implements the grazing fee procedures for the fee years 1979 through 1985 as prescribed in the Public Rangelands Improvement Act of 1978 for the National Forests in the 16 contiguous Western States.

DATE: Effective March 1, 1979.

ADDRESS: Chief John McGuire (2200), Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Melvin Bellinger, Range Managment Staff, Forest Service, P.O. Box 2417, Washington, D.C. 20013, Telephone, 703–235–8139.

SUPPLEMENTARY INFORMATION: This final rule implements the proposed rule published in the **Federal Register** at pages 58387–58389, December 14, 1978. This change is necessitated by the enactment of Pub. L. 95–514, which specifies a fee formula.

The Bureau of Land Management, U.S. Department of the Interior, published a similar final rule implementing Pub. L. 95–514, on January 10, 1979.

Pub. L. 95–514, the Public Rangelands Improvement Act, Sec. 6, states:

> For the grazing years 1979 through 1985, the Secretaries of Agriculture and the Interior shall charge the fee for domestic livestock grazing on the public rangelands which Congress finds represents the economic value of the use of the land to the user, and under which Congress finds fair market value for public grazing equals the $1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index (computed annually from data supplies by the Economic Research Service (sic)) added to the Combined Index (Beef Cattle Price Index minus the Price Paid Index) and divided by 100: Provided, That the annual increase or decrease in such fee for any given year shall be limited to not more than plus or minus 25 percentum of the previous year's fee.

Formula Used

The formula specified by Pub. L. 95–514 and implemented by this regulation follows:

$$EC = \$1.23 \times \frac{FVI + (BCPI - PPI)}{100}$$

In which:
EC = Economic value.
FVI = Forage value index.
BCPI = Beef cattle prices index.
PPI = Prices paid index.

Implementation

Data for 1978 are used to compute the fee for the 1979 fee year (March 1, 1979, through February 29, 1980).

The economic value of grazing for the 1979 fee year is $2.03 per animal unit month.

Annual increases or decreases shall be limited to 25 percent of the previous year's fee.

Grazing fees have varied from unit to unit on the National Forests since 1933, and use of the 25 percent limit will continue the varying fees until all fees equal the economic value. Fees per unit month are shown below.

Fee year	Economic value	Fee	
		Low	High
1976–78	—	$1.25	$1.94
1979	$2.03	$1.56	$2.03

Any individual fee for 1979 can be computed by adding 25 percent to the fee paid in 1978, except that no fee will exceed the economic value of $2.03.

Public Participation

Previous publication in the **Federal Register** on February 4, 1977, and November 23, 1977, together with public meetings in March and April of 1977, and Congressional Hearings during 1977 and 1978, have provided many opportunities for participation by many groups and individuals in the decisionmaking processes on grazing fees. Public comments on the proposal for this final rule were accepted throughout a review period of 60 days, ending February 12, 1979. A very limited number of public comments was received. These comments addressed several questions.

Summary of Comments

1. Grazing fee increases in 1979 of 25 percent are excessive and exceed the voluntary limits established by the Federal Government to control inflation.

2. The $1.23 base is outdated and fails to recognize the rancher's expenditures for a grazing permit (permit value) and construction of improvements.

3. A uniform fee is inadequate because it does not adjust for differences in forage quality, season of use, animal type and class.

Response to Public Comment

Pub. L. 95–514 is very specific concerning the establishment of grazing fees. Fees must be established by use of the formula in the law. This results in a single fee for all of the public lands covered by the law. The only exception to a single fee is when the existing variable fee is being adjusted to the fee prescribed by the law. At this time, the limit of 25 percent on change from the previous year's fee will result in fees at varying levels. Once economic value is reached, all fees will be the same. The increases in grazing fees of 25 percent are required by law and these cannot be changed by the President's Executive Order on control of inflation. However, since grazing fees were not increased in 1977 and 1978, the real rate of increase for the three year period is an annual rate of 7.75 percent for fees increased by 25 percent in 1979. Most fees increase at a rate less than 25 percent since they are closer to economic value. In addition, the noninflationary pay and price standards have certain exclusions. Sales of raw agricultural products and products exchanged in other than open and arms-length transactions are excluded from the price standards. This exclusion applies to grazing fees because fees are for a raw agricultural product, forage, and because fees are administered prices rather than open market transactions.

The 1966 base fee level of $1.23 is specified by Pub. L. 95–914. The law requires a single base fee, and does not allow for differences by geographic area, differences by forage quality or animal type and class. The Congress by selecting the $1.23 also eliminated from consideration the use of the permit value to reduce fees.

Paragraph (c) of § 222.50 as published on December 14, 1978, has been rewritten. The intent and interpretation of this paragraph has not been changed, but the new language clarifies the definition of animals for which payment is required.

Note.—The Department of Agriculture has determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment, and that a detailed statement pursuant to Section 102(2)(c) of the National Environment Policy Act of 1969 (42 U.S.C. 4332(2)(c) is not required.

Note.—An approved Final Environmental Assessment Report (includes Impact Analysis) is available from Range Management Staff, Forest Service, P.O. Box 2417, Washington, D.C. 20013.

Recodification

As part of an effort to correlate the numbering schemes used in 36 CFR Chapter II and the Forest Service Manual, regulations previously published in Part 231—GRAZING have been moved to Part 222—RANGE MANAGEMENT (42 FR 56730). This final rule completes the recodification by deleting 36 CFR Part 231 and establishing a new Subpart C in 36 CFR Part 222.

Accordingly, 36 CFR Chapter II is amended as follows:

PART 231—GRAZING [DELETED]

1. By deleting 36 CFR Part 231 in its entirety.

PART 222—RANGE MANAGEMENT

2. By adding a new Subpart C to Part 222 to read as follows:

Subpart C—Grazing Fees

Sec.
222.50 General Procedures.
222.51 National Forests in 16 Western States.
222.52 National Grasslands.
222.53 Other National Forest System Lands.

Authority: Sec. 1, 30 Stat. 35 as amended (16 U.S.C. 551; sec. 501, 65 Stat. 290, 31 U.S.C. 483a; 92 Stat. 1803, 43 U.S.C. 1901, note.)

Subpart C—Grazing Fees

§ 222.50 General Procedures.

(a) Fees shall be charged for all livestock grazing or livestock use of National Forest system lands, or other lands under Forest Service control. An exception is livestock authorized free of charge under provisions of § 222.3(c)(2)(ii)(B)–(G).

(b) Guiding establishment of fees are the law and general governmental policy as established by Bureau of the Budget (now, Office of Management and Budget) Circular A–25 of September 23, 1959, which directs that a fair market value be obtained for all services and resources provided the public through establishment of a system of reasonable fee charges, and that the users be afford equitable treatment. This policy precludes a monetary consideration in the fee structure for any permit value that may be capitalized into the permit holder's private ranching operation.

(c) The grazing fee shall be charged for each unit month of grazing or livestock use. A unit is: each cow, bull, steer, heifer, horse or mule, six (6) months of age or older at the time of entering National Forest System lands for grazing, or which becomes twelve (12) months of age during the permitted period of use; each weaned cow, bull, steer, heifer, horse or mule regardless of age; five (5) adult sheep or goats; or, five weaned sheep or goats regardless of age. A unit month is one unit of grazing or use for one month.

(d) No additional charge will be made for the privilege of lambing upon National Forest System lands, or other lands under Forest Service control.

(e) Transportation livestock may be charged for at a special rate, and at a minimum established for such use. Fees for horses, mules, or burros associated with management of permitted livestock on an allotment, or for research purposes and administrative studies, and authorized on a charge basis, are determined under provisions of paragraph (b) of this section.

(f) The fees for trailing livestock across National Forest System lands will conform with the rates established for other livestock. Where practicable, fees for trailing permitted livestock will be covered in the regular grazing fee and the crossing period covered in the regular grazing period.

(g) All fees for livestock grazing or livestock use of National Forest System lands or other lands under Forest Service control are payable in advance of the opening date of the grazing period, entry, or livestock use unless otherwise authorized by the Chief, Forest Service.

(h) Unauthorized grazing use rate will be determined by establishing a base value without giving consideration for those contributions normally made by the permittee under terms of the grazing permit. The base will be adjusted annually by the same indexes used to adjust the regular fee. This rate also will apply to excess numbers of livestock

grazed by permittees; or, to livestock grazed outside the permitted grazing season.

(i) Refunds or credits may be allowed under justifiable conditions and circumstances as the Chief, Forest Service, may specify.

(j) The fee year for the purpose of charging grazing fees will be March 1 through the following February.

(k) The data year for the purpose of collecting beef cattle price data for computing indexes will be November 1 through the following October and apply to the following fee year.

§ 222.51 National Forests in 16 Western States.

(a) Grazing fees are established on lands designated National Forests and Land Utilization Projects in the 16 contiguous Western States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming. (National Grasslands are excluded, see § 222.52.)

(b) The fee for domestic livestock grazing on the National Forests and Land Utilization Projects in the 16 contiguous Western States shall be the amount which Congress finds represents the economic value of the use of the land to the user, and under which Congress finds fair market value for public grazing equals the $1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index, added to the Combined Index (Beef Cattle Price Index minus the Price Paid Index) and divided by 100.

(c) Starting with 1979 and continuing through 1985 fees shall be adjusted each year to the fee as computed by formula in (b) of this section, subject only to the provision that no fee shall be increased or decreased by more than 25 percent over the fee charged the previous year.

§ 222.52 National Grasslands.

Grazing fees for National Grasslands will be established under concepts and principles similar to those in § 222.51(b).

§ 222.53 Other National Forest System lands.

Grazing fees for all other National Forest System lands not listed in § 222.51(a), or § 222.52, will be established under concepts and principles similar to those in § 222.51(b), except that in some instances fees may be negotiated.

(Sec. 1, 30 Stat. 35 as amended (16 U.S.C. 551); sec. 501, 65 Stat. 290 (31 U.S.C. 483a); 92 Stat. 1803 (43 U.S.C. 1901 note).)

M. Rupert Cutler,
Assistant Secretary.
April 23, 1979.

[FR Doc. 79-13065 Filed 4-26-79; 8:45 am]
BILLING CODE 3410-11-M

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36 CFR Part 251

Land Uses; Home and Industrial Sites in Alaska

AGENCY: Forest Service, USDA

ACTION: Rescind Regulation

SUMMARY: Section 9 of the National Forest Management Act of 1976, repealed the authority to eliminate lands from the National Forests in Alaska entered upon by special use permittees for establishing homes or industrial sites. Such action is now possible only by special Act of Congress.

It has been determined not to be in the public interest to follow the proposed rule and public comment procedures since this action is required by law.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT:
George Liddicoatt, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, 202-235-8107.

§ 251.7 [Rescinded].

Section 251.7 of Title 36 of the Code of Federal Regulations is hereby rescinded.

Bob Bergland,
Secretary.
April 18, 1979.

[FR Doc. 79-13045 Filed 4-26-79; 8:45 am]
BILLING CODE 3410-11-M

POSTAL SERVICE

39 CFR Part 111

Express Mail Metro Service

AGENCY: Postal Service.

ACTION: Interim regulations with comments invited for consideration in final rule making.

SUMMARY: As announced in the **Federal Register** on April 19, 1979 (44 FR 23396), the Postal Service will implement a new classification for Express Mail Metro Service on April 30, 1979, on a temporary basis. Until further notice, the service will only be offered in three areas: Chicago, Ill.; Columbus, Ohio; and Gulfport, Miss. Implementing regulations for this new subclass have been developed and are set forth below. Although they are to take effect on April 30, 1979, comments on these regulations are solicited, and will be considered in drafting regulations for a permanent classification change if the Postal Service proposal is approved.

EFFECTIVE DATE: April 30, 1979, and until final regulations are issued. Comment Date: Written comments should be received on or before June 30, 1979.

ADDRESS: Written comments should be directed to the General Manager, Expedited Mail Services Division, Customer Services Department, Room 5986, 475 L'Enfant Plaza, SW., Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9:00 a.m. and 4:00 p.m. Monday through Friday at the above location.

FOR FURTHER INFORMATION CONTACT:
Walter (Cap) Neilson, 202/245-5624.

SUPPLEMENTARY INFORMATION:
Classification schedule provisions on Express Mail presently provide for three domestic subclasses of Express Mail. These services offer inter-city and inter-metropolitan area movement of highly expedited, time sensitive materials. They do not readily fulfill the needs of the mailer of such materials who mails intra-city and intra-metropolitan area shipments. This temporary classification change recognizes that need and establishes a new subclass of Express Mail, called Express Mail Metro Service. This subclass will provide for same day and overnight service with early morning delivery within specified metropolitan areas. Until further notice, the service will be limited to three areas. Scheduled pickup is available (by pre-arranged agreement) and standard Express Mail features (insurance, receipting, etc.) are included. To implement this temporary classification change, acceptance and delivery procedures considered necessary by the Postal Service are set forth here. These regulations take effect when the Express Mail Metro Service sub-class is temporarily implemented on April 30, 1979. Although exempt from the notice and comment requirement of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rule-making by 39 U.S.C. 410(a), the Postal Service ordinarily invites comments from the public whenever it proposes a new or amended regulation such as this, which might eventually have a substantial effect on the public. In this case, however, publishing these rules as proposals, with a comment delay of 30 days, would delay even the very limited implementation of this new subclass.

Accordingly, the Postal Service finds it unnecessary and contrary to the public interest to follow its customary practice of publishing these rules as proposed rules for comment before they become effective. See 5 U.S.C. 553(d). However, we reiterate that comments are welcomed on the published rules, and that any proposed changes will be considered and acted upon as appropriate.

In view of the considerations discussed above, the Postal Service adopts the following revisions of the Postal Service Manual:

Part 181—Rates

1. In Part 181, add new 181.5 reading as follows:

181.5 Express Mail Metro Service Rates
.51 Rates per piece:

Lbs. and Rate	
1 Lb and under	$ 9
Over 1 through 8 lbs	.12
Over 8 through 70 lbs	.15

.52 For each collection stop, add $5.25 per occurrence.

Part 182—Classification

2. In Part 182, add new 182.5, reading as follows:

182.5 Express Mail Metro Service
.51 Availability of Service
Express Mail Metro Service is available in Chicago, Illinois; Columbia, Ohio; and Gulfport, Mississippi, at designated retail postal facilities for same day and next day delivery within their designated metropolitan areas. A metropolitan area consists of the city delivery area of one or more post offices. Names and locations of these designated facilities and post offices are in Notice 77, *Express Mail Metro Service Directory*, available at participating post offices. Service to or from post offices not listed is prohibited.
.52 Types of Service Available
.521 Items tendered by 10:00 AM in accordance with 182.51 will be delivered to the addressee within the designated metropolitan area by 5:00 PM of the same day.
.522 Items tendered by 12:00 Noon in accordance with 182.51, at selected designated retail facilities, will be delivered to the addressee within the designated metropolitan area by 5:00 PM of the same day. (Not available in all participating post offices.)
.523 Items tendered by 5:00 PM in accordance with 182.51 will be delivered to the addressee within the designated metropolitan area by 10:00 AM of the next day.
.53 Service Agreement
Pickup service is available for Express Mail Metro Service only on a scheduled basis, pursuant to a service agreement (Form 5631) between the Postal Service and a mailer. The service agreement shall specify the time, place, day or date, and frequency of such service. Service under a service agreement shall not be offered in a manner that makes any undue or unreasonable preference to any such user. Commencement and termination of service agreements are subject to the provisions of 182.322 and 182.323.
.54 Service Guarantee
The Postal Service will refund postage under provisions in 189.5 for an item not delivered in accordance with 182.52 unless the item was delayed by strike or work stoppage.

Part 186—Preparation Requirements

3. In Part 186, add new 186.4 reading as follows:

186.4 Express Mail Metro Service
.41 Customers must complete Label 11D, *Express Mail Metro Service*, for each piece of mail.
.42 Use Label 63-A, *Express Mail Metro Service-Outside Shipment*, for identification of outside pieces as defined in 186.12.
.43 For Express Mail Metro Service pickup (182.53) the customer must complete Form 5625B, *Mailing Statement for Next Day and Same Day Airport Express Mail Service*, for each pickup. Volume mailers must tender the mail in containers provided or approved by the Postal Service.

Additionally, sections, 181.1, 182.12, 183, 184.1, 187, 188.4, 189.3, and 189.421c should be read in conformity with the interim regulations and the limited offering of this service.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the Postal Service proposal on Express Mail Metro Service is approved.

(39 U.S.C. 401, 403, 404, 3621, 3623, 3641)

W. Allen Sanders,
Acting Deputy General Counsel.
[FR Doc. 79-13060 Filed 4-26-79; 8:45 am]
BILLING CODE 7715-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

Air Quality Control Regions, Criteria, and Control Techniques; Attainment Status Designations: Florida and North Carolina

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Final rule.

SUMMARY: Review of air quality data from Florida and North Carolina has shown that the original nonattainment designations made pursuant to section 107 of the Clean Air Act were based on invalid data in some cases. These were described in a notice of proposed rulemaking which appeared in the **Federal Register** on January 12, 1979 (44 FR 2617). The purpose of this notice is to announce that the proposed changes are now final: the designation of two ozone areas is changed from nonattainment to unclassifiable/attainment; and one particulate area, from nonattainment to unclassifiable.

DATE: These changes are effective April 27, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Walter Bishop, Air Programs Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308, 404/881-3286; FTS 257-3286.

SUPPLEMENTARY INFORMATION: The designation for ozone of Buncombe County, North Carolina, is changed from nonattainment to unclassifiable/attainment. Review of the air quality data on which the original designation was based has revealed that the data are not of sufficient quality to serve as the basis for designating an area nonattainment, primarily because proper procedures were not followed in calibrating the monitor showing the violation. In addition, the observance of quality assurance procedures cannot be verified in regard to the data, and anomalous recorder operation has been noted. The instrument will continue to operate, but under approved quality assurance procedures; if subsequently gathered data indicate nonattainment, the designation will be changed accordingly.

The designation for particulate matter of Seminole County, Florida, is changed from nonattainment for the secondary standards to unclassifiable. This change is based on an on-site review of the monitor showing violation. This review showed that the monitor was improperly sited according to the Agency's criteria, and was not collecting valid, representative data. In addition, quality control of sample measurement was found to be inadequate. The monitor is being relocated and will continue to operate. When sufficient valid data have been collected, the designation will be changed to attainment or nonattainment.

The designation for ozone of Leon County, Florida is changed from nonattainment to unclassifiable/attainment. A data audit conducted by EPA showed inadequate calibration of the monitor indicating nonattainment. The instrument will continue to operate, but under approved quality assurance procedures; if subsequently gathered data indicate nonattainment, the designation will be changed accordingly.

These changes were proposed in a notice of proposed rulemaking which appeared in the **Federal Register** of January 12, 1979 (44 FR 2617). No comments were received in response to

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that notice. Background materials providing in greater detail the reasons for judging the data in these three cases to be unreliable may be obtained by contacting Walter Bishop of the Region IV Air Programs Branch (see address and telephone number above.)

These changes are effective immediately.

(Sections 107(d), 171(2), and 301(a) of the Clean Air Act as amended 1977 (42 U.S.C. 7407(d), 7501(2), and 7601(a)).)

Dated: April 20, 1979.

Douglas M. Costle,
Administrator.

It is proposed to amend Part 81 of Chapter I, Title 40, Code of Federal Regulations, as follows:

Subpart 81—Section 107 Attainment Status Designations

* * * * *

1. In § 81.310, the attainment status designation tables for TSP and ozone are amended as follows:

§ 81.310 Florida.

Florida—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
The downtown Jacksonville area located just north and west of the St. Johns River and east of I-95.	.....	X**	.....	.....
Seminole County	.....	.....	X**	.....
Polk County	.....	.....	X**	.....
That portion of Hillsborough County which falls within the area of the circle having a centerpoint at the intersection of US 41 and State Road 60 and a radius of 12 km.	.....	X**	.....	.....
Rest of State	.....	.....	.....	X**

* * * * * * *

Florida—O,

Designated area	Does not meet primary standard	Cannot be classified or better than national standards
Duval County	X**	.....
Broward County	X**	.....
Dade County	X**	.....
Palm Beach County	X**	.....
Escambia County	X**	.....
Orange County	X**	.....
Hillsborough County	X**	.....
Pinellas County	X**	.....
Rest of State	.....	X**

* * * * *

**EPA designation only.

2. In § 81.334, the attainment status designation table for ozone is amended as follows:

§ 81.334 North Carolina.

* * * * *

North Carolina—O,

Designated area	Does not meet primary standard	Cannot be classified or better than national standards
Mecklenburg County	X	.....
Rest of State	.....	X

* * * * *

[FRL 1211-7]
[FR Doc. 79-13234 Filed 4-26-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 180

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Methomyl

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide methomyl on blueberries at 6 parts per million. The regulation was requested by E. I. du Pont de Nemours & Co. This rule establishes a maximum permissible level for residues of methomyl on blueberries.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Sanders, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington DC 20460 (202/426-9425).

SUPPLEMENTARY INFORMATION: On April 28, 1978, notice was given (43 FR 18246) that E. I. du Pont de Nemours & Co., Inc., Wilmington, DE 19898, had filed a pesticide petition (PP 8F2064) with the EPA. This petition proposed that 40 CFR 180.253 be amended to establish a tolerance for residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy] thioacetimidate) in or on the raw agricultural commodity blueberries at 6 parts per million (ppm). No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included two-year rat and dog feeding studies with no-observed-effect levels (NOEL) of 100 ppm; a three-generation rat reproduction study with an NOEL of 100 ppm; a hen neurotoxicity study, which was negative at 28 milligrams (mg)/kilogram (kg) of body weight (bw); and a teratology study with an NOEL of 100 ppm.

Based on the two-year dog feeding study with an NOEL of 100 ppm and using a safety factor of 100, the acceptable daily intake (ADI) for man is 0.025 mg/kg bw/day. Tolerances have previously been established for residues of methomyl on a variety of raw agricultural commodities at levels ranging from 40 ppm to 0.1 ppm. The theoretical maximal residue contribution (TMRC) in the human diet from the previously established tolerances and the proposed tolerance does not exceed the ADI.

Desirable data lacking from the petition is an oncogenicity study in a second mammalian species. In a letter of April 20, 1978, the petitioner indicated that the study is underway and is expected to be completed in late 1980. The petitioner also agreed to voluntarily delete the use of methomyl on blueberries from the label should this study exceed the risk criteria for chronic toxicity in 40 CFR 162.11.

The metabolism of methomyl is adequately understood, and an adequate analytical method (gas chromatography using a microcoulometric detector) is available for enforcement purposes. No actions are currently pending against continued registration of methomyl, nor are there any other relevant considerations involved in establishing the proposed tolerance. There is no reasonable expectation of residues in eggs, meat, milk, or poultry since blueberries is not an animal feed.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the tolerance of 6 ppm on blueberries established by amending 40 CFR 180.253 will protect the public health. It is concluded, therefore, that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, on or before May 29, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on April 27, 1979, Part 180 is amended as set forth below.

Dated: April 19, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

Statutory Authority: Section 408(d)(2) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(d)(2)].

Part 180, Subpart C, § 180.253 is amended by alphabetically inserting blueberries at 6 ppm in the table to read as follows:

§ 180.253 Methomyl; tolerance for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Blueberries	6.
* * * * *	

[PP8F2064/R203]
[FRL 1210-3]
[FR Doc. 79-13028 Filed 4-26-79; 8:45 am]
BILLING CODE 6560-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Consolidated Rail Corp. Authorized To Operate Unit-Grain-Train Comprised of Privately Owned and Railroad Owned Covered Hoppers

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. Service Order No. 1376.

SUMMARY: Service Order No. 1376 authorizes Consolidated Rail Corporation to operate a unit-grain-train from Toledo, Ohio, to Codorus Mills, Pennsylvania, comprised of 43 privately owned covered hopper cars and 7 railroad owned covered hopper cars.

DATES: Effective 4:00 p.m., April 24, 1979. Expires 11:59 p.m., May 10, 1979.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Section of Rail and Pipeline Operations, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided April 24, 1979.

Consolidated Rail Corporation (CR) operates unit-grain-trains between Toledo, Ohio, and Codorus Mills, Pennsylvania, of wheat loaded in shipper or receiver owned or leased covered hopper cars. CR has published certain rates in Consolidated Rail Corporation Freight Tariff 22302 I.C.C. CR-4164 which require the use of at least fifty (50) shipper or receiver owned or leased covered hopper cars to transport a minimum of 5,000 net tons per shipment of wheat with a minimum of 200,000 pounds per car. CR is able to assemble only 43 cars for the next shipment but is willing to substitute 7 railroad owned covered hopper cars. The tariff does not authorize substitution of railroad owned covered hopper cars for privately owned cars. The consignee is badly in need of this shipment of wheat.

It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, that:

§ 1033.1376 Service Order No. 1376.

(a) *Consolidated Rail Corporation authorized to operate unit-grain-train comprised of privately owned and railroad owned covered hoppers.*—Consolidated Rail Corporation (CR) is authorized to waive the requirement that shipments of wheat move in at least 50 shipper or receiver owned or leased covered hopper cars provided in Consolidated Rail Corporation Freight Tariff 22302 I.C.C. CR-4164. CR is authorized to transport on a one trip basis one shipment comprised of 43 privately owned covered hoppers and 7 railroad owned covered hoppers from Toledo, Ohio, to Codorus Mills, Pennsylvania. The rate to be charged is the rate listed in that tariff. All other provisions of that tariff shall remain in effect.

(b) *Concurrence of Shipper Required.*—The concurrence of the shipper must be obtained before railroad owned covered hopper cars are substituted for privately owned covered hopper cars.

(c) *Minimum Weights.*—The minimum weight for this shipment shall be the minimum weight specified in the applicable tariff.

(d) *Endorsement of Billing.*—Bills of lading and waybills covering the shipment authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1376.

(e) *Rules and regulations suspended.*—The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(f) *Application.*—The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(g) *Effective date.*—This order shall become effective at 4:00 p.m., April 24, 1979.

(h) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., May 10, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[Service Order No. 1376]
[FR Doc. 79-13239 Filed 4-26-79; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR PART 33

Sport Fishing; National Wildlife Refuges in Illinois, Iowa, Minnesota, Missouri, and Wisconsin

AGENCY: Fish and Wildlife Service.

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ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the condition under which sport fishing will be permitted on portions of certain National Wildlife Refuges in Illinois, Iowa, Minnesota, Missouri and Wisconsin.

DATES: Effective on April 27, 1979, for duration of calendar year 1979, subject to exceptions noted below for individual refuge areas.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

George G. P. Bekeris, Area Office Manager, U.S. Fish and Wildlife Service, 530 Federal Building & U.S. Court House, 316 North Robert Street, St. Paul, MN 55101. Telephone: (612) 725–7641.

James Heinecke, Refuge Manager, Big Stone National Wildlife Refuge, 25 N.W. 2nd Street, Ortonville, MN 56278. Telephone: (612)839–3700.

Thomas S. Sanford, Refuge Manager, Chautauqua National Wildlife Refuge, RR#2, Havanna, IL 62644. Telephone: (309)535–2290.

John Toll, Refuge Manager, Horicon National Wildlife Refuge, Route #2, Mayville, WI 53050. Telephone: (414)387–2658.

James M. Carroll, Jr., Refuge Manager, Necedah National Wildlife Refuge, Star Route, Necedah, WI 54646. Telephone: (608)565–2551.

Howard Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, Great River Plaza, 311 N. 5th Street, Suite 100, Quincy, IL 62301. Telephone: (217)224–8580.

David Heffernan, Refuge Manager, Rice Lake National Wildlife Refuge, Route 2, McGregor, MN 55760. Telephone: (218)768–2402.

Ronald Papike, Refuge Manager, Sherburne National Wildlife Refuge, Route #2, Zimmerman, MN 55398. Telephone: (612)389–3323.

Jerry Schotzko, Refuge Manager, Upper Mississippi Wild Life and Fish Refuge, 122 W. 2nd Street, Winona, MN 55987. Telephone: (507) 452–4232.

SUPPLEMENTARY INFORMATION: Sport fishing on portions of the following refuges shall be in accordance with all applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to sport fishing are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Illinois

Chautauqua National Wildlife Refuge

From December 15, 1978 through October 15, 1979, all waters of Chautauqua National Wildlife Refuge are open for sport fishing from a boat or through the ice. Bank fishing is permitted along the Cross dike, at the Recreation Area, and at Boatyard No. 3 as posted. All other areas of the refuge are closed to bank fishing. The use of boats, powered by motors of ten (10) horse power or less, is permitted in the waters of Lake Chautauqua. Fishing is allowed between sunrise and sunset only.

Minnesota

Big Stone National Wildlife Refuge

Sport fishing on Big Stone National Wildlife Refuge is allowed between sunrise and sunset during State fishing seasons. The Minnesota and Yellow Bank Rivers are open to fishing for their entire length through the refuge. Canoes, without motors, are allowed only on the Minnesota River channel canoe trail which is designated by signs. Bank fishing only is allowed in the pool areas or open marshes. No ice fishing is permitted.

Rice Lake National Wildlife Refuge

Sport fishing is permitted on the Rice Lake National Wildlife Refuge, Aitkin County, Minnesota, and the Sandstone Unit, Pine County, Minnesota, only on those areas designated by signs as being open to fishing. These areas comprise approximately 80 acres. The open season for sport fishing extends from May 12, 1979 through November 30, 1979, inclusive. Fishing is allowed between sunrise and sunset only. The use of canoes and boats, without motors, is allowed for sport fishing on that portion of Rice River posted as open to fishing and on the Twin Lakes fishing area only.

Sherburne National Wildlife Refuge

Sport fishing is permitted on the Sherburne National Wildlife Refuge only on those areas designated by signs as being open to fishing. The open season for sport fishing extends from May 1, 1979 through February 28, 1980, inclusive. Fishing is allowed between sunrise and sunset only. During periods when no ice exists, fishing activity is confined to the St. Francis River. Access to all fishing areas is permitted only at designated access sites. Boats, without motors, may be used on the St. Francis River only from designated access sites.

Wisconsin

Horicon National Wildlife Refuge

Sport fishing is permitted on the Horicon National Wildlife Refuge only on the areas designated by signs as being open to fishing. These areas comprise approximately five acres. The fishing season extends from May 15, 1979 through September 15, 1979, inclusive. Fishing is allowed between sunrise and sunset only. The use of boats or other floating devices is not permitted.

Necedah National Wildlife Refuge

Sport fishing is permitted on the Necedah National Wildlife Refuge only on those areas designated by signs as being open to fishing. Summer fishing is permitted on Sprague and Goose Pools from June 1 through September 30, 1979. Winter fishing is allowed on the entire refuge, except Rynearson No. 1 Pool, from December 15 through December 31, 1979. Fishing is allowed between sunrise and sunset only. The use of boats and canoes, without motors, is permitted.

Illinois, Iowa, Minnesota, Wisconsin

Upper Mississippi River Wild Life and Fish Refuge

Sport fishing, commercial fishing, and the taking of frogs, turtles, crayfish and clams on the Upper Mississippi River Wild Life and Fish Refuge, is permitted on all water areas of the refuge. The refuge water areas comprise 125,000 acres. All fish, frogs, turtles, crayfish and clams shall be taken in accordance with all applicable state regulations and seasons which are adopted herein and made a part hereof. All sport and commercial fishing on the Spring Lake Closed Area of the Upper Mississippi River Wild Life and Fish Refuge in Carroll County, Illinois, is prohibited from October 1 through December 20. All persons, including their helpers, exercising the privilege of commercial fishing on the Spring Lake Closed Area must possess a valid commercial fishing permit issued by the Refuge Manager and must comply with the conditions which are set forth in the permit.

Illinois, Iowa, Missouri

Mark Twain National Wildlife Refuge

The open season for sport fishing on the Batchtown Division, Calhoun County, Illinois, extends from January 1, 1979 through October 15, 1979, with the exception of certain designated areas which are open through December 31, 1979.

The open season for sport fishing on the southern portion of Swan Lake on the Calhoun Division, Calhoun County, Illinois, extends from April 1, 1979 through October 15, 1979. The northern portion of Swan Lake, from the man-made ditch at Six-Mile Island to the northern refuge boundary will be open from January 1, 1979 through December 31, 1979.

The open season for sport fishing on the Keithsburg Division, Mercer County, Illinois, and the Gardner Division, Adams County, Illinois, extends from January 1, 1979 through October 15, 1979.

The open season for sport fishing on the Louisa Division, Louisa County, Iowa, extends from January 1, 1979 through September 30, 1979, with the exception of certain designated areas adjacent to the Port Louisa Road which are open through December 31, 1979.

The open season for sport fishing on the Big Timber Division, Louisa County, Iowa, extends from January 1, 1979 through December 31, 1979.

The open season for sport fishing on the Clarence Cannon National Wildlife Refuge, Pike County, Missouri, is limited to Bryants Creek which is open from January 1, 1979 through December 31, 1979.

April 19, 1979.

George G. P. Bekeris,
Area Manager.

[FR Doc. 79-13083 Filed 4-26-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 654

Stone Crab Fishery Management Plan; Repromulgation of Emergency Regulations

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Repromulgation of emergency regulations.

SUMMARY: The emergency regulation implementing a portion of the Stone Crab Fishery Management Plan (FMP) (44 FR 18031) is continued in effect until final regulations are promulgated, but not later than June 19, 1979 if no final regulations are promulgated by that time.

EFFECTIVE DATE: The emergency regulations are extended from 0001 hours E.D.T. May 5, 1979 until June 19, 1979, or to the time when final regulations are promulgated, if sooner.

FOR FURTHER INFORMATION CONTACT: Mr. Willian H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702, Telephone: 813–896–3141.

On March 26, 1979, an emergency regulation implementing a portion of the Stone Crab Fishery Management Plan was published to govern that fishery in the Gulf of Mexico (44 FR 18031). This regulation created a line in the fishery conservation zone which separated crab fishermen who fish with fixed gear (pots or traps) from shrimp fishermen who fish with moving gear (otter trawls).

The Stone Crab Fishery Management Plan, Notice of Approval and proposed regulations, including the emergency regulation, implementing the entire FMP appeared in the **Federal Register** on April 3, 1979 (44 FR 19444).

The regulation is hereby extended, under provisions of sec. 305(e) of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 *et seq.*, as amended, because the Assistant Administrator for Fisheries finds that the emergency continues to exist.

Executive Order 12044 does not apply to the emergency regulation, except for the 60-day comment period which began on March 26, 1979. The final environmental impact statement covering the FMP was filed with the Environmental Protection Agency on February 8, 1979.

(16 U.S.C. 1801 *et seq.*)

Signed in Washington, D.C. this 20th day of April, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-13236 Filed 4-26-79; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 724

Fire-Cured and Dark Air-Cured Tobacco; Marketing Quota Referendum Results

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final Rule.

SUMMARY: This rule announces the results of the fire-cured (types 21–24) and dark air-cured (types 35–36) tobacco marketing quota referendums. Producers of these kinds of tobacco approved marketing quotas for the 1979–80, 1980–81, and 1981–82 marketing years.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, (202) 447–7601.

SUPPLEMENTARY INFORMATION: Sections 724.23 and 724.24 are issued pursuant to and in accordance with section 312 of the Agricultural Adjustment Act of 1938, as amended, to proclaim the marketing quota referenda results for fire-cured (types 21–24) and dark air-cured (types 35 & 36) tobacco, respectively, for the three marketing years beginning October 1, 1979, October 1, 1980, and October 1, 1981. The Secretary has proclaimed national marketing quotas for fire-cured (type 21), fire-cured (types 22–24) and dark air-cured (type 35 & 36) tobacco, for the 1979–80, 1980–81 and 1981–82 marketing years, and has announced the amount of the national marketing quota for each of such kinds of tobacco for the 1979–80 marketing year (44 FR 7108). The Secretary has announced (44 FR 10387) that separate referenda would be conducted by mail ballot during the period February 20–23, 1979, each inclusive, to determine whether producers of such tobacco were in favor of or opposed to marketing

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quotas for the three marketing years beginning October 1, 1979, October 1, 1980 and October 1, 1981.

The material previously appearing in these sections under centerhead "Marketing Quota Referendum Results" remains in full force and effect as to the crops to which each is applicable.

The only purpose of this document is to proclaim the results of the referenda. It is hereby found and determined that with respect to this proclamation, compliance with the notice of proposed rulemaking procedure in 5 U.S.C. 553 and the requirements of E.O. 12044 is unnecessary.

PART 724-FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), AND CIGAR FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55) TOBACCO

Subpart—Proclamations, Determinations, and Announcements of National Marketing Quotas and Referendum Results

Therefore, 7 CFR Part 724 is amended by revising §§ 724.23 and 724.24 to read as follows:

§ 724.23 Fire-cured (types 21-24) tobacco—1979-80, 1980-81, and 1981-82 marketing years.

In a referendum of farmers engaged in the production of the 1978 crop of fire-cured (types 21-24) tobacco held during the period February 20 to 23, each inclusive, 9,885 farmers voted. Of those voting, 9,376 or 94.9 percent, favored quotas for a period of three years beginning October 1, 1979; 509 or 5.1 percent were opposed to quotas. Therefore, marketing quotas will be in effect for these kinds of tobacco for the three marketing years beginning October 1, 1979, October 1, 1980, and October 1, 1981.

§ 724.24 Dark air-cured (types 35 and 36) tobacco—1979-80, 1980-81, and 1981-82 marketing years.

In a referendum of farmers engaged in the production of the 1978 crop of dark air-cured (types 35 & 36) tobacco held during the period February 20 to 23, each inclusive, 10,302 farmers voted. Of those voting, 9,838 or 95.5 percent, favored quotas for a period of three years beginning October 1, 1979; 464 or 4.5 percent were opposed to quotas. Therefore, marketing quotas will be in effect for this kind of tobacco for the three marketing years beginning October 1, 1979, October 1, 1980, and October 1, 1981.

(Secs. 312, 375, 52 Stat. 46, as amended, 66, as amended; 7 U.S.C. 1312, 1375).

Note.—An Impact Analysis Statement is available from Jerome F. Sitter, Director, Price Support and Loan Division, Room 3741-South Building, P.O. Box 2415, Washington, D.C. 20013.

Note.—This proposal has been determined not significant under the USDA criteria implementing Executive Order 12044.

Signed at Washington, D.C. on: April 20, 1979.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-13215 Filed 4-26-79; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 905

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Amendment of Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to Final rule.

SUMMARY: This amendment lowers the minimum grade requirements for domestic and export shipments of fresh Florida pink seedless grapefruit and white seedless grapefruit from Improved No. 2 to U.S. No. 2 Russet during the period April 23, 1979, through August 26, 1979. This action recognizes current market demand for U.S. No. 2 Russet grade pink and white seedless grapefruit and is consistent with the grade composition of the available crop in the interest of growers and consumers.

EFFECTIVE DATES: April 23, 1979, through August 26, 1979.

SUPPLEMENTARY INFORMATION: *Findings.* (1) This action is taken pursuant to the marketing agreement and Order No. 905, both as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This order is effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). Based on the recommendations of the committee established under the marketing agreement and order, and upon other available information, it is found that the regulation of shipments of Florida pink seedless grapefruit and white seedless grapefruit will tend to effectuate the declared policy of the act.

This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

(2) The minimum grade requirement, herein specified, for domestic and export shipments of pink seedless grapefruit and white seedless grapefruit reflect the Department's appraisal of the need for the amendment of the current regulation based on current supply and demand conditions. Relaxation of the minimum grade will make additional supplies of grapefruit available to meet market needs and will tend to promote orderly marketing.

The Citrus Administrative Committee, at an open meeting on April 17, 1979, reported there is market demand for larger quantities of pink and white seedless grapefruit.

It is concluded that the amendment of the grade requirement is necessary to establish and maintain orderly marketing conditions and to provide acceptable grades of fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Growers, handlers, and other interested persons were given an opportunity to submit information and views on the amendment at an open meeting, and the amendment relieves restrictions on the handling of Florida pink seedless grapefruit and white seedless grapefruit. It is necessary to effectuate the declared purposes of the act to make the regulatory provisions effective as specified, and handlers have been apprised of such provisions and effective time.

Accordingly, it is found that the provisions of § 905.302 (Orange, Grapefruit, Tangerine, and Tangelo Regulation 2) (43 F.R. 43013; 52197; 53027; 54617; 57139; 58175; 58353; 59335; 44 F.R. 6349; 9589; 12605; 21759), should be and are amended by revising Table I, paragraph (a) applicable to domestic shipments, and Table II, paragraph (b) applicable to export shipments, to read as follows:

§ 905.302 Orange, Grapefruit, Tangerine, and Tangelo Regulation 2.

(a) * * *

Table I

Variety	Regulation period	Minimum grade	Minimum diameter (in.)
(1)	(2)	(3)	(4)
Grapefruit:			
Seedless, pink	Apr. 23, 1979, thru Aug. 26, 1979	U.S. No. 2 Russet	3 1/16
Do	Aug. 27, 1979, thru Oct. 14, 1979	Improved No. 2	3 1/16
Seedless, except pink	Apr. 23, 1979, thru Aug. 26, 1979	U.S. No. 2 Russet	3 1/16
Do	Aug. 27, 1979, thru Oct. 14, 1979	Improved No. 2	3 1/16

(b) * * *

Table II

Variety	Regulation period	Minimum grade	Minimum diameter (in.)
(1)	(2)	(3)	(4)
Grapefruit:			
Seedless, pink	Apr. 23, 1979, thru Aug. 26, 1979	U.S. No. 2 Russet	3 1/16
Do	Aug. 27, 1979, thru Oct. 14, 1979	Improved No. 2	3 1/16
Seedless, except pink	Apr. 23, 1979, thru Aug. 26, 1979	U.S. No. 2 Russet	3 1/16
Do	Aug. 27, 1979, thru Oct. 14, 1979	Improved No. 2	3 1/16

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: April 23, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[Orange, Grapefruit, Tangerine, and Tangelo Regulation 2, Amendment 13]

[FR Doc. 79-13071 Filed 4-26-79; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1901

Nondiscrimination in Construction Financed by FmHA

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations concerning nondiscrimination in construction financed by FmHA. The action is taken to add a new Exhibit and provide for the use of a new Form. The intended effect of the action is to simplify the procedure for contract compliance and clarify responsibility for monitoring compliance.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT: Ras L. Smith, (202) 447-2243.

SUPPLEMENTARY INFORMATION: FmHA amends Subpart E of Part 1901, Subchapter H, Chapter XVIII, Title 7, Code of Federal Regulations, as follows:

(1) Section 1901.205(b)(2)(ii) is revised to reference Form CC 257 "Monthly Employment Utilization Report", and to add a reference to Exhibit E.

(2) Section 1901.205(b)(3)(i)(C) is revised to read "Form CC 257" rather than "Standard Form 257".

(3) Section 1901.205(b)(3)(iii) is revised by adding a reference to Exhibit E.

(4) Section 1901.205(b)(3)(iv) is revised to make reference to the "appropriate regional office of USDL * * *" rather than "Department of Labor".

(5) Section 1901.205(e)(3) is revised to make reference to the "appropriate regional office of USDL * * *" rather than "agency charged with monitoring compliance with Executive Order 11246".

(6) Section 1901.205(g)(1) is revised to make reference to the "appropriate regional office of USDL" rather than "Director, Office of Federal Contract Compliance * * *"

(7) Section 1901.205(g)(4) is deleted.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This regulation, however, is being published as a final rule. Publication for comment is unnecessary because the changes are made to simplify procedure and to clarify responsibility for contract compliance. Due to the demand for loans for construction, any delay in issuing these regulations would be contrary to the public interest. This determination was made by William A. Tippins, Equal Opportunity Officer, Room 3106, Auditors Building, Washington, D.C., 20250.

This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044. A copy of the Impact Statement prepared by FmHA is available at the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C., 20250.

This document has been reviewed in accordance with FmHA Instruction 1901-G "Environmental Impact Statement". It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Accordingly, various paragraphs of § 1901.205 are revised and § 1901.205(g)(4) is deleted as follows:

APR 27 79 UMI

1. The Table of Sections is amended by adding a new Exhibit E as follows:

* * * * *

Subpart E—Civil Rights Compliance Requirement *C*

Exhibit E—List of Regional Offices, Office of Contract Compliance Programs (OFCCP), U.S. Department of Labor (USDL)

* * * * *

2. Section 1901.205 is amended as follows:

§ 1901.205 Nondiscrimination in construction financed with FmHA loan or grant.

* * * * *

(b) *Requirements of applicants, contractors or subcontractors and responsible FmHA officials.* * * *

(2) *Contractor or subcontractor.* (i) The prospective contractor or subcontractor must submit Form FmHA 400–6, "Compliance Statement", to the County Supervisor before contract bid negotiations, and comply with the requirements of Executive Order 11246 which are included with Form FmHA 424–6, "Construction Contract", during the performance of the contract. The contract will contain the required "Standard Federal Equal Employment Opportunity Construction Contract Specifications" goals and timetables as set forth in Exhibit D.

(ii) The contractor or subcontractor will prepare and submit Form Contract Compliance (CC) 257, "Monthly Employment Utilization Report", to the appropriate regional office of the U.S. Department of Labor (USDL) (see Exhibit E, "List of Regional Offices") by the fifth of each month through completion of the contract.

(3) * * *

(i) * * *

* * * * * *

(C) Form CC 257.

(ii) * * *

(iii) Explain to applicant and contractor the requirements of Executive Order 11246, when needed. However, inquiries concerning compliance must be addressed to the appropriate regional office of USDL (see Exhibit E).

(iv) Submit a report similar in form and content to Exhibit C ("FmHA Financed Contract") of this Instruction to the appropriate regional office of USDL (Exhibit E) within 10 days of the date a contract or subcontract in excess of $10,000 is awarded.

* * * * * *

(e) *Compliance during construction.* * * *

* * * * * *

(3) If there is any evidence of noncompliance, the County Supervisor will report all the facts to the appropriate regional office of USDL (see Exhibit E).

* * * * * *

(g) *Discrimination complaints.* (1) Complaints alleging discriminatory acts may be filed directly with the appropriate regional office of USDL (see Exhibit E) or with the County Supervisor or the State Director for subsequent forwarding to the above address by any employee or applicant for employment with a contractor or subcontractor.

* * * * * *

(4) [Deleted]

* * * * * *

FmHA Instruction 1901–E—Exhibit E

List of Regional Offices, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor (USDL)

Region I (ME, NH, VT, MA, RI, CT)
Associate Regional Administrator, USDL/OFCCP, JFK Building, Room 1612–C, Government Center, Boston, MA 12203, (617) 223–4232.

Region II (NY, NJ, PR, VI)
Associate Regional Administrator, USDL/OFCCP, 1515 Broadway, Room 3306, New York, NY 10036, (212) 662–5563.

Region III (PA, MD, DE, VA, WV, DC)
Associate Regional Administrator, USDL/OFCCP, Gateway Building, Room 15434, 3535 Market Street, Philadelphia, PA 19104, (215) 596–1213.

Region IV (NC, SC, KY, TN, MS, AL, GA, FL)
Associate Regional Administrator, USDL/OFCCP, 1371 Peachtree Street, NE, Room 729, Atlanta, GA 30309, (402) 881–4211).

Region V (OH, IN, MI, IL, WI, MN)
Associate Regional Administrator, USDL/OFCCP, New Federal Building, 16th Floor, 2340 South Dearborn Street, Chicago, IL 60604, (312) 353–8887.

Region VI (LA, AR, OK, TX, NM)
Associate Regional Administrator, USDL/OFCCP), 555 Griffin Square Building, Room 506, Dallas, TX 75202, (214) 767–4771.

Region VII (MO, IA, NE, KS)
Associate Regional Administrator, USDL/OFCCP Regional Administrator, Federal Office Building, Room 2000, 911 Walnut Street, Kansas City, MO 64106, (816) 374–5384.

Region VII (ND, SD, MT, WY, CO, UT)
Associate Regional Administrator, USDL/OFCCP, 14431 Federal Office Building, 1961 Stout Street, Denver, CO 80202, (303) 837–5011.

Region IX (CA, NV, AZ, HI, GU)
Associate Regional Administrator, USDL/OFCCP, Federal Office Building, Room 10341, 450 Golden Gate, San Francisco, CA 94102, (415) 556–3597.

Region X (WA, OR, ID)
Associate Regional Administrator, USDL/OFCCP, Federal Office Building, 909 First Avenue, Room 4095, Seattle, WA 98174, (206) 44–4508.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; Section 10 Pub. L. 93–357; 88 stat. 392; delegation of authority by the Secretary of Agriculture, CFR 223; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegation of authority by Director, Office of Equal Opportunity, 29 FR 14764, 33 FR 9850)

Dated: April 9, 1979.

Gordon Cavanaugh,
Administrator, Farmers Home Administration.
[FmHA Instruction 1901–E]
[FR Doc. 79–13087 Filed 4–26–79; 8:45 am]
BILLING CODE 3410–07–M

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period April 29–May 5, 1979, and increases the quantity of such lemons that may be so shipped during the period April 22–28. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective April 29, 1979 and the amendment is effective for the period April 22–28, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on April 24, 1979, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons continues strong.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. Lemon Regulation 196 is set forth as follows:

§ 910.496 Lemon Regulation 196.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period April 29, 1979, through May 5, 1979, is established at 290,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

2. Paragraph (a) of § 910.495 Lemon Regulation 195 (44 FR 23514) is amended to read as follows:

§ 910.495 Lemon Regulation 195.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period April 22, 1979, through April 28, 1979, is established at 295,000 cartons.

* * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: April 26, 1979.

D. S. Kuryloski,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.
[Lemon Reg. 196; Lemon Reg. 195, Amdt. 1]
[FR Doc. 79–13412 Filed 4–26–79; 11:33 am]
BILLING CODE 3410–02–M

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Proposed Rules

Federal Register
Vol. 44, No. 83
Friday, April 27, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1446]

General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: These proposed regulations provide the terms and conditions under which producers acting through their associations may receive price support on their eligible peanuts through warehouse storage loans for the 1979 and subsequent crop peanuts. Producers and handlers may market peanuts in accordance with the provisions of this subpart. This proposed revision is necessary so that the program may be administered more effectively.

DATES: Comments must be received before May 29, 1979.

ADDRESS: Send comments to the Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3741-South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas A. VonGarlem (ASCS), 202–447–7954.

SUPPLEMENTARY INFORMATION: The Commodity Credit Corporation (CCC), is inviting comments on the proposed revision of the regulation. Major changes are as follows:

Section 1446.3(o) is amended to provide that farmers stock peanuts shall include any loose shelled kernels removed by farmers from farmers stock peanuts. This change is necessary to permit producers to market loose shelled kernels separate from other farmers stock peanuts. Section 1446.3(z) is changed to provide that the raw or inshell peanuts of any crop exported for human consumption shall meet requirements as specified in the outgoing quality regulations of the peanut marketing agreement for such crops. This change is necessary in order to be consistent with industry requirements which are designed to provide that only quality peanuts are exported for edible consumption. Section 1446.3(ff) added to provide a definition for peanut products. This change is necessary in order for peanut handlers to market additional peanuts in accordance with the regulations. Section 1446.3(hh) is amended to provide that segregation 2 or 3 peanuts which have been placed under additional loan and purchased under the buy back provision shall be considered segregation 1 additional peanuts for allocation to pools. This provision will permit producers producing peanuts which are in demand to take advantage of the increased value. Section 1446.3(ll) is amended to provide a definition for raw peanuts.

Section 1446.5(a) is amended to delete from contract provisions the language that the amount of segregation 1 peanuts required to be delivered shall not exceed the difference between the farm base production poundage and the sum of the farm poundage quota and the quantity of additional peanuts covered by prior contracts. Section 1446.5(b) is amended to provide that a specified quantity in excess of the amount specified in part 2.A, of the contract may be delivered under part 2.B, of the contract provided the producers delivered the quantity specified under 2.A, of the contract and retains the right to market such peanuts as quota peanuts. These changes will enable additional peanuts to be traded more efficiently.

Section 1446.7 is amended to provide that the check and MQ–94 for additional peanuts must be postmarked not later than the second workday excluding Saturdays, Sundays, and Federal holidays following the day the peanuts were inspected. This will give handlers additional time in order to complete paperwork on such peanuts. Section 1446.8(b) is amended to delete the provision that shellers may account for commingled additional peanuts on a shelled basis. This procedure is deleted to eliminate substantial handler reports and recordkeeping requirements from the regulations.

Section 1446.9(d) is added to provide procedures for handling replacement of quota peanuts exported and for additional peanuts sold as domestic edible for which approval has not been previously given. Such additional peanuts may be used as domestic edible provided the handler pays CCC a penalty of 120 percent of the quota loan rate for such peanuts. When the handler establishes to the satisfaction of CCC that a like amount of quota peanuts has been exported, the money will be refunded and no penalty will be due. This will permit some handlers to use additional peanuts as quota peanuts without incurring needless expense when shipping additional peanuts when small quantities are needed to complete shipments.

Section 1446.10(b) is expanded to show associations authorized to make CCC advances and Section 1446.10(i) added to assess liquidated damages against any person who causes ineligible peanuts to enter the loan. The provision is necessary since in many instances, ineligible peanuts have been mixed with eligible peanuts and cause damages to CCC since such peanuts cannot be accepted for loans. Section 1446.14(b) is amended to provide specified circumstances under which peanuts containing more than 10 percent foreign material and/or moisture may be eligible for additional loan. This will reduce farmers' marketing costs in making such peanuts eligible for the additional loan.

Section 1446.15 is amended to provide that segregation 2 peanuts are deleted from the antishopping procedure. Such peanuts do not create a hazard to health or the integrity of the support and inspection programs. Section 1446.15 is also amended to require as a condition for eligibility for continued quota support on all peanuts delivered for the rest of the marketing year that farmers make marketing decisions on any lot of peanuts graded as segregation 3 on the day of inspection. Farmers will not be permitted to attempt to clean such peanuts. This change is necessary in order to prevent these peanuts from being reclassed as segregation 1 or 2, entering the loan, contaminating other peanuts, and rendering all such peanuts unmerchantable as edible peanuts. Records show that buyers do not buy such peanuts after they have previously been graded segregation 3.

Executive Order 12044 (43 FR 12661, March 24, 1978) requires at least a 60-day public comment period on proposed significant regulations except where the Agency determines that this is not possible or in the best interests of the producers. Peanut producers are making production plans. Peanut producers and handlers need to know the content of these regulations prior to entering into contracts for the marketing of additional peanuts. It is in the best interests of producers to have the final regulations published by late May 1979. Therefore, I have determined that compliance with the notice of proposed rulemaking and public procedure of 5 U.S.C. 553 and the requirements of Executive Order 12044 is impossible and contrary to the public interest. Accordingly, this notice is being issued without compliance with such procedure and requirements.

Proposed Rule

It is proposed to amend 7 CFR Section 1446.1–1446.16 and title of the subpart to read as follows effective for the 1979 and subsequent crops.

Subpart—General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations

General

Sec.

1446.1 General statement.
1446.2 Administration.
1446.3 Definitions.

Handler Operations

1446.4 Handler operations.
1446.5 Contracts for additional peanuts for crushing or export.
1446.6 Commingling quota and additional peanuts.
1446.7 Use of additional peanuts as domestic edible peanuts.
1446.8 Compliance by handlers of contract additional peanuts.
1446.9 Supervision and handling of additional contract peanuts.

Warehouse Storage Loans

1446.10 Availability of warehouse storage loans.
1446.11 Pooling and distribution of proceeds.
1446.12 Producers indebtedness.
1446.13 Eligible producer.
1446.14 Eligible peanuts.
1446.15 Disposition and liquidated damages on segregation 3 peanuts.
1446.16 Producers transfer of additional loan stocks to quota pools.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 108, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1421); sec. 359, 52 Stat. 31, as amended (7 U.S.C. 1359).

Subpart—General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations

General

§ 1446.1 General statement.

(a) *Scope.* This subpart sets forth conditions under which producers and handlers may trade in 1979 and subsequent crop(s) peanuts. This subpart also sets forth the terms and conditions under which eligible producers acting collectively through specified marketing associations (referred to severally in this subpart as "the association") may obtain price support on their 1979 and subsequent crop farmers stock peanuts. Eligible farmers stock peanuts produced by eligible producers which are quota peanuts shall be eligible for price support at the quota support rate. Farmers stock peanuts which are not quota peanuts shall be eligible for price support at the additional support rate. Additional peanuts may only be marketed through contracts with handlers or by being pledged to Commodity Credit Corporation for loans. Annual supplements to this subpart will specify support prices, and other terms and conditions not contained in this subpart which are applicable to the warehouse storage loan program for peanuts of a particular crop.

(b) *Price Support Advances.* Producers may obtain price support loans at the rates specified in the applicable annual supplement through the applicable association. Each association will make appropriate loan advances on peanuts delivered to it by producers at warehouses operating under peanut receiving and warehouse contracts with the association. CCC will make a loan (referred to in this subpart as a "warehouse storage loan") to the association. Such loan will be secured by peanuts received by the association.

(c) *Farm storage loans and purchases from producers.* Regulations containing the terms and conditions under which CCC will make farm storage loans directly to producers and purchases directly from producers on any crop farmers stock peanuts will be published separately in the **Federal Register.**

§ 1446.2 Administration.

(a) *Responsibility.* Under the general direction and supervision of the Executive Vice President, CCC, the Producer Association Division, Agricultural Stabilization and Conservation Service (referred to in this subpart as "ASCS") will administer this subpart.

(b) *Limitation of authority.* State and county committees or their employees and the associations have no authority to modify or waive any of the provisions of this subpart or any amendments or supplements thereto.

(c) *Supervisory authority.* No delegation of authority in this subpart shall preclude the Executive Vice President, CCC, or the Executive Vice President's designee from determining any questions arising under the regulations or from reversing or modifying any determination made pursuant to such delegation.

§ 1446.3 Definitions.

As used in this subpart, and in instructions and documents in connection herewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the content or subject matter otherwise requires.

(a) *Additional peanuts.* Any peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

(b) *Additional support rate.* The support rate published in annual crop supplements to this part applicable to additional peanuts.

(c) *ASCS.* The Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

(d) *Association.* An area marketing association which is operated primarily for the purpose of conducting loan activities and which is selected and approved for such activities by the Secretary.

(e) *CCC.* The Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture.

(f) *Compliance regulations.* The Regulations Governing Acreage and Compliance Determinations for Farm Marketing Quotas, Acreage, Allotments, and Related ASCS Programs, as amended, issued by the Administrator, ASCS, and effective for the applicable crop, Part 718 of this title.

(g) *Contract additional peanuts.* Additional peanuts for crushing or exporting, or both, on which a contract has been entered into between a handler and producer in accordance with § 1446.5.

(h) *County committee.* Persons elected within a county as the county committee under the regulations governing the selection and function of Agricultural Stabilization and Conservation county and community committees in Part 7 of

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subtitle A of this title, except that for Puerto Rico and the Virgin Islands, the Carribbean Area Agricultural Stabilization and Conservation committee shall insofar as applicable, perform the functions of the county committee.

(i) *County office.* The office of the county ASC committee where records for the farm are kept.

(j) *Domestic edible use.* Use for milling to produce domestic food products or seed and use on the farm.

(k) *Effective farm allotment.* The effective farm peanut acreage allotment for the applicable crop of peanuts, as defined in the peanut marketing quota regulations, Part 729 of this title.

(l) *Effective farm poundage quota.* The effective farm poundage quota for the applicable crop of peanuts as defined in the marketing quota regulations, Part 729 of this title.

(m) *Extra large kernals.* Shelled Virginia type peanuts which are "whole" and free from "minor defects" and "damage" as such terms are defined in the U.S. Standards for Shelled Virginia type peanuts effective on the date of inspection and which will not pass through a screen having 21.5/64 by 1 inch openings.

(n) *Farm.* A farm, as defined in the Regulations Governing Reconstitution of Farm, Allotments, and Bases, Part 719 of this title.

(o) *Farmers stock peanuts.* Picked or threshed peanuts produced in the United States which have not been changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers, plus any loose shelled kernels removed by producers from farmers stock peanuts.

(p) *Final acreage.* The acreage on the farm from which peanuts are picked or threshed as determined and adjusted under Part 718 of this title.

(q) *Form MQ–94 and Form FVQ–95.*— (1) *Form MQ–94.* Inspection Certificate and Sales Memorandum for farmers stock peanuts.

(2) *Form FVQ–95.* Federal-State Inspection Service, Peanut Inspection Note Sheet.

(r) *Handler.* Any person or firm who acquires peanuts through a business of buying, shelling, or drying peanuts.

(s) *Inspector.* A Federal-State inspector authorized or licensed by the Secretary, U.S. Department of Agriculture.

(t) *Lot.* That quantity of farmers stock peanuts for which one MQ–94 or other inspection certificate is issued. In case of farmers stock peanuts delivered to the association for a loan advance, a lot shall consist of not more than the content of one vehicle, or two or more vehicles containing approximately 24,000 pounds.

(u) *Marketing cards.* Forms MQ–76 issued each year according to Part 729 of this title by ASCS county offices to growers for use in marketing peanuts of the applicable crop. Each Form MQ–76 shall indicate the farm operator's eligibility for quota price support and the pounds that may be marketed as quota peanuts and contract additional peanuts.

(v) *Marketing quota penalties.* The penalties prescribed in the marketing quota regulations, Part 729 of this title, which shall be computed and collected in accordance with those regulations.

(w) *Marketing quota regulations.* The Allotment and Marketing Quota Regulations for Peanuts of the 1978 and Subsequent Crops, as amended, issued by the Administrator, ASCS, Part 729 of this title.

(x) *Marketing year.* The period beginning on August 1 of the year in which the peanuts of the applicable crop are planted and ending on July 31 of the following year.

(y) *Net weight.* That weight of farmers stock peanuts obtained by deducting from the gross scale weight of the peanuts (1) foreign material, and (2) moisture in excess of seven percent in the Southwestern and Southeastern areas, and eight percent in the Virginia-Carolina area.

(z) *Edible export standard for contract additional peanuts.* (1) Raw shelled or inshell peanuts of any crop exported for human consumption shall meet such U.S. grade requirements, or modifications thereof, or requirements as to wholesomeness as specified in the outgoing quality regulations for such crop in the Marketing Agreement for peanuts No. 146.

(2) Peanuts shown by the applicable Federal-State Inspection Certificate to deviate from these requirements may be exported if the handler certifies to the association that such deviations are acceptable (i) to the export buyer and (ii) under the Marketing Agreement.

(aa) *Eligible country.* Any destination outside the United States, other than any country or area for which a validated export license is required under regulations issued by the Bureau of International Commerce, unless such license for shipment or transshipment thereto has been obtained from the Bureau, except that neither Canada nor Mexico shall be considered an eligible country for the export of peanut products other than treated seed peanuts.

(bb) *Export and exportation.* A shipment of peanuts or peanut products from the United States directed to a destination outside the United States to become part of the mass of goods of the country of destination.

(cc) *Fragmented peanuts.* Peanuts not more than 20 percent of which are whole kernels which will not pass through the following openings, by type: Spanish $^{15}/_{64} \times {}^{3}/_{4}$ inch slot; Runner $^{15}/_{64} \times {}^{3}/_{4}$ inch slot; and Virginia $^{15}/_{64} \times 1$ inch slot.

(dd) *Loan value.* The amount of the loan which may be obtained under these regulations on a lot of eligible farmers stock peanuts computed for quota or additional peanuts, as applicable, on the basis of the weight, quality, and the support values for such type appearing in the applicable crop supplement.

(ee) *Peanut meal.* Any meal, cake pellets, or other forms of residue remaining after extraction or expulsion of oil from peanut kernels, but not including pressed peanuts.

(ff) *Peanut Products.* Any products manufactured or derived from peanuts such as peanut candy, peanut butter, peanut granules or peanut flakes.

(gg) *Peanut receiving and warehouse contract.* Form CCC—1028 Identity Preserved, Form CCC–1028–A, Commingled Storage, or any other form approved by CCC for this purpose.

(hh) *Peanut segregations-(1) Segregation 1.* Farmers stock peanuts which (i) have at least 99 percent peanuts of one type, (ii) have not more than two percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay, nor more than 0.5 percent freeze damage, and (iii) are free from visible Aspergillus flavus mold;

(2) *Segregation 2.* Farmers stock peanuts which (i) have less than 99 percent peanuts of one type, or (ii) have more than two percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay, or more than 0.5 percent freeze damage, and (iii) are free from visible Aspergillus flavus mold; *Provided, however,* If such peanuts are placed under additional loan and purchased under the immediate buy back procedure, as provided in § 1446.7 of these regulations, such peanuts shall be considered Segregation 1 additional peanuts for loan pool accounting purposes.

(3) *Segregation 3.* Farmers stock peanuts which have visible Aspergillus flavus mold. *Provided, however,* if such peanuts are placed under additional loan and purchased under the immediate buy back procedure as provided in § 1446.7 of these regulations, such peanuts shall be considered Segregation 1 additional peanuts for loan pool accounting purposes.

(ii) *Pools.* Accounting pools established by the association and on which complete and accurate records are maintained by area, by type, and by segregation for quota peanuts and additional peanuts not under contract.

(jj) *Quota peanuts.* Peanuts which are eligible for domestic edible and related use, are marketed or considered marketed from a farm as quota peanuts, and which are not in excess of the farm poundage quota.

(kk) *Quota support rate.* The support rate published in annual crop supplements applicable to quota peanuts.

(ll) *Raw Peanuts.* Inshell, shelled peanuts, or blanched peanuts which have not passed through any other processing operation.

(mm) *Sound mature kernels.* Kernels which are free from "damage" and "minor defects" as defined in the U.S. Standards for the applicable type of peanuts effective on the date of the inspection, and which will not pass through screens with the following openings:

Runner type: $^{15}/_{64} \times {}^{3}/_{4}$ inch slot
Spanish type: $^{15}/_{64} \times {}^{3}/_{4}$ inch slot
Virginia type: $^{15}/_{64} \times 1$ inch slot

(nn) *Type.* The generally known types of peanuts (i.e., Runner, Spanish, Valencia, and Virginia), as defined in the marketing quota regulations.

(oo) *United States.* The 50 States of the United States, Puerto Rico, the territories and possessions of the United States, and the District of Columbia.

(pp) *United States government agency.* Any corporation wholly owned by the Federal Government, and any department, bureau, administration, or other agency of the Federal Government.

(qq) *Valencia type peanuts produced in the Southwest suitable for cleaning and roasting.* Valencia type peanuts produced in the Southwest containing not more than 25 percent having shells damaged by (1) discoloration, (2) cracks or broken ends, or (3) both.

Handler Operations

§ 1446.4 Handler responsibilities.

(a) *Examination of producer's marketing card.* All handlers shall examine producer's marketing cards and record each purchase or delivery of peanuts as required in Part 729 of this title. Any peanuts delivered under the additional peanut contract (Form CCC–1005) in excess of the provisions of such contract shall be considered as a marketing of quota peanuts. No peanuts shall be handled from any producer who does not present a marketing card and farm identification card at time of delivery.

(b) *Purchase records.* (1) Purchases of quota peanuts on which and MQ 94 is prepared. Each handler shall maintain records of the peanuts, the State and county code, and the farm number of the farm on which the peanuts were produced or the registration number of the seller if the seller is a handler and must indicate the quantity, type, date of purchase, and applicable MQ 94 serial number. The handler shall imprint forms MQ–94 and FVQ–95 (Peanut Note Sheet) with the farm identification card, the peanut buyers card, and the buying point card.

(2) Purchases of quota peanuts from producers on which MQ–94 is not prepared. The handler shall immediately transmit a record of such purchase to CCC. Such record shall show name and addrss of producer, State and county code, farm number, handler's name, address and registration number, buying point, any marketing quota penalty collected, quantity, and date of purchase.

(c) *Sales and disposal records.* Each handler shall maintain records of all sales and other disposals of peanuts. Such records shall show date of sale, quantity, type, to whom sold, whether sold as edible peanuts or for crushing, and any other information required by this subpart.

(d) *Method of keeping records.* Handler records shall be maintained within their operation in such a manner than will enable representatives of the Secretary to readily reconcile the quantities, grades, and qualities of all such peanuts disposed of by a handler. Records concerning the acquistion and disposal of contract additional peanuts must also be kept in such a manner that representatives of the Secretary can readily determine compliance with the regulations and contract provisions.

(e) *Retention of records.* All records shall be maintained for a period of three years following the end of the marketing year in which the peanuts were produced.

§ 1446.5 Contracts for additional peanuts for crushing and export.

(a) *Contracts between handlers and producers.* Handlers who have a U.S. address may contract with producers on form CCC–1005 to buy additional peanuts from the producers for crushing or export, or both. The type and quality of each lot of contract peanuts delivered under contract shall be determined by an inspector when such peanuts are delivered by a producer. All such contracts shall be completed and submitted to the county office for approval prior to June 15 of the year in which the crop is produced. Such contracts cannot be sold or traded: *Provided,* That if a handler is unable to perform under such contracts because of conditions beyond his control, including but not limited to insolvency, bankruptcy, death, or destruction of warehouse facilities, the handler and the producers may agree to the delivery of the peanuts to other handlers under the terms of the original contract, if specifically authorized by the Deputy Administrator, State and County Operations, ASCS. The county office shall summarize contracts and send such summary to the association through the State office. Contracts shall include at least the following provisions:

(1) Name and address of operator, State and county code, and farm serial number of the farm.

(2) Name, address of handler, and registration number.

(3) Amount of segregation 1 peanuts in pounds by type.

(4) Contract price shown as a percentage of quota peanut support rate.

(5) Requirement for disclosure by producer of any liens on peanuts on date of delivery.

(6) A provision that the producer shall not be liable for failure to deliver against such contract above the actual production of such type and quality on the farm: *Provided,* That such physical loss of production resulted solely from an external source such as drought, fire, lighting, inherent explosion, windstorm, tornado, flood, or other acts of God.

(7) Signature of farm operator and producer if different from operator.

(8) Signature of handler or authorized agent.

(9) The following agreement by the handler:

I agree that I will either export or crush the peanuts delivered under this contract as provided in Part 1446, Subpart-General Regulations Governing 1979 and Subsequent Crops Peanuts Warehouse Storage Loan and Handler Operations, by August 31 following the calendar year in which the crop is grown and that, upon my failure to do so, I shall be subject to liquidated damages as specified in such regulations, on all such peanuts which have not been so crushed or exported. I further agree that if I contract with another Handler to market any such peanuts, I shall include as part of the contract the agreement contained herein, and upon my failure to do so, I shall be subject to liquidated damages,

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as specified in the regulations on all such peanuts.

(b) *Deliveries under optional provisions of the contract.* Contracts may also include provisions under which a specified quantity of segregation 1 peanuts in excess of the quantity specified in paragraph (a) of this section may be delivered under the contract: *Provided,* The quantity of segregation 1 peanuts specified in paragraph (a) of this section has been delivered and the producer retains the right to market Segregation 1 peanuts as quota peanuts to the extent that the farm poundage quota has not been filled. Contracts may also provide for delivery of segregations 2 and 3 peanuts without regard to any quantity limits specified in this section.

(c) *Contracts between handlers.* Handlers may contract with other handlers to market additional contract peanuts. Such contracts must contain the agreement specified in paragraph (a)(9) of this section and an agreement that such agreement will be included in all subsequent contracts covering resale of such peanuts.

§ 1446.6 Commingling of quota and additional peanuts.

Quota and additional farmers stock peanuts of like type and segregation may be commingled and exchanged on a dollar value basis to facilitate handling and marketing. The dollar value basis shall be determined on the basis of the quota support rate. The handler shall receive, store, and deliver all such peanuts in accordance with good commercial practice and instructions provided by CCC. For each lot of quota and/or additional peanuts stored commingled, the records of the handler shall show at all times the date of place received, name and address of the producer, the type, segregation, pounds, and dollar-value-in. The handler shall keep such other accounts and records and furnish such information and reports relating to the dollar value out and disposition of such peanuts as may be prescribed by the association or CCC.

§ 1446.7 Use of additional peanuts as domestic edible peanuts.

During harvest season, a handler shall have the right to purchase additional peanuts for domestic edible use at buying points owned or controlled by such handler at 100 percent of the quota loan value of such peanuts plus handling charges. Such purchase may be made only from the association and only on the date such peanuts were offered by producers to the association for loan. The handler shall advance to the producer, as an agent for the association, price support at the additional level and forward to the association a check payable to CCC for the peanuts at the quota support rate plus handling charges. The check and applicable MQ–94 will identify the peanuts as additional peanuts that may be used as domestic edible peanuts and must be postmarked not later than the second work day excluding Saturdays, Sundays, and Federal holidays following the day the peanuts were inspected. The association shall credit such receipts to the additional pool for such peanuts. Handlers may also purchase additional peanuts from the loan pool for domestic edible use after delivery by producers to the association, under terms and conditions announced by CCC. The minimum price for such purchases shall be not less than carrying charges plus (a) 105 percent of the quota loan value if purchased not later than December 31 of the marketing year, or (b) 107 percent of the quota loan value if purchased after December 31 of the marketing year.

§ 1446.8 Compliance by handlers of contract additional peanuts.

All contract additional peanuts acquired by a handler shall be disposed of by domestic crushing or export to an eligible country. All handler's records shall be subject to a review by CCC or other representatives of the Secretary, to determine compliance with the provisions of this subpart. Failure to dispose of such peanuts by August 31 following the calendar year in which the crop was grown or such later date as may be authorized by the association shall constitute noncompliance with the provisions of this subpart. Refusal to make such handler's records available to authorized representatives of the Secretary or failure of such records submitted to establish such disposition shall constitute prima-facie evidence of noncompliance with this subpart. Reviews shall be made by the association in accordance with guidelines established by CCC and the association shall not take any administrative or any other actions concerning indicated program violations until directed to do so by the Director, Producer Associations Division, ASCS.

(a) *Quota peanuts.* A handler will be subject to a penalty for noncompliance if it is determined by CCC that he marketed from any crop, for domestic edible use, a larger quantity, or higher grades or quality of peanuts than could reasonably be produced from the quantity of peanuts having the grade, kernel content and quality of quota farmers stock peanuts purchased by the handler for domestic edible use during the applicable marketing year and of those purchased under § 1446.7, whether or not additional peanuts were acquired by the handler. In such case, the handler will be obligated to pay a penalty equal to 120 percent of the basic quota support rate on that quantity of farmers stock peanuts determined by CCC to be necessary to produce the excess quantity or grade or quality of peanuts sold.

(b) *Method of determining compliance (1) Commingled storage.* Handlers may commingle quota loan, quota commercial, additional loan and contract additional peanuts. In such instance, quota loan and additional loan peanuts must be inspected as farmers stock peanuts and settled on a dollar value basis less adjustments for shrinkage except when such peanuts are purchased from the association for domestic edible and related use on an in-grade, in-weight basis. Contract additional peanuts must be inspected on a farmers stock basis and accounted for on a dollar value basis less a one time adjustment for shrinkage for each crop equal to 3.5 percent of the dollar value for Virginia type peanuts and 3.0 percent for all other types except that if the additional contract peanuts are graded out and accounted for prior to February 1, the adjustment shall be 3.0 for Virginia type and 2.5 percent of the dollar value for all other peanuts.

(2) *Identity preserved storage.* Contract additional peanuts stored identity preserved shall be inspected as farmers stock peanuts and settled on a dollar value basis. The handler shall receive, store, and otherwise handle such peanuts in accordance with good commercial practices.

§ 1446.9 Supervision and handling of additional contract peanuts.

The association shall supervise domestic handling of contract additional peanuts including storing, shelling, crushing, cleaning, weighing, and shipping.

(a) *Access to facilities.* The handler, by entering into contracts to receive contract additional peanuts, shall be deemed to have agreed that authorized representative(s) of CCC and the association:

(1) May enter and remain upon any of the premises when such peanuts are being received, shelled, cleaned, bagged, sealed, weighed, graded, stored, crushed, packaged, shipped, or otherwise handled.

(2) May inspect such peanuts and the oil, meal, and other products thereof, and

(3) May inspect the premises, facilities, operations, books, and records to the extent necessary to determine that such peanuts have been handled in accordance with these regulations.

(b) *Notifying the association.* Before moving or processing any peanuts, the handler (or cleaner, sheller, or processor under contract with the handler) shall notify the association of the time such operation will begin and the approximate period of time required to complete the operation. When a plant is not currently under supervision, the handler shall give at least five working days advance notice to the association so that supervision can be arranged.

(c) *Processing.* The peanuts shall be shelled or otherwise milled, crushed, or shelled and crushed as a continuous operation separate from other peanuts. Shelled peanuts shall be identified with positive lot identify tags before being stored and moved for crushing, export or domestic use in peanut products to be exported. Except as authorized by the association, positive lot identify shall be maintained when peanuts are transported or stored in the following manner:

(1) *Transportation.* The peanuts shall be transported from the storage location in a covered vehicle, such as a truck or railroad car. The vehicle shall be sealed unless the association determines that identify of the peanuts can be maintained without sealing.

(2) *Storage.* The peanuts shall be stored in separate building(s) or bin(s) which can be sealed or which the association determines will satisfactorily maintain lot identify.

(d) *Replacements.* The identical additional farmer stock peanuts contracted shall be handled in accordance with this section except that with prior notification and approval of the association, farmer stock quota peanuts of the same crop, type, quality, and area may be used to replace such additional peanuts. The identical additional milled peanuts shelled under supervision of the association shall be disposed of in accordance with this section except that with prior notification and approval of the association, such peanuts may be used to replace in domestic use quota peanuts of the same crop, type, area, and screen size which have been exported. The quota peanuts exported, for which replacement is requested, must have been positive lot identified and otherwise handled as additional peanuts. Additional peanuts may be used in domestic edible and related uses with prior notification of the association and upon full payment of the marketing quota penalty of 120 percent of the quota support rate on any portion of the lot for which replacement has not been approved. The handler may, at a later date, obtain a refund of such payment upon delivery to the association of satisfactory evidence that a like amount of quota peanuts of appropriate screen sizes have been exported in accordance with these regulations. Such evidence must be submitted no later than 30 days after August 31, the final date for exportation or such later date as may be approved by the association.

(e) *Expense charged to handlers.* All supervision costs shall be borne by handlers.

(f) *Domestic sale or transfer-(1) farmers stock.* The handler must submit contracts covering any domestic sale, transfer, or other dispostion of farmers stock contract additional peanuts to the association and obtain written approval prior to any physical movement of the peanuts from the buying point. Approval of such contracts may be made before or after delivery by the producer. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transfered, or diposed of agrees in writing to handle and crush or export as raw peanuts or peanut products in accordance with the terms and conditions of these regulations.

(2) *Milled peanuts.* The handler must submit contracts covering any domestic sale, transfer, or other disposition of milled contract addtional peanuts to the association and obtain approval prior to any physical movement of the peanuts. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transfered, or disposed of agrees, in writing, to handle and crush or export the peanuts in accordance with the terms and conditions of these regulations.

(g) *Disposal of additional contract peanuts.* Contract additional peanuts may be disposed of by domestic crushing or by exporting to an eligible county as follows:

(1) All kernels may be crushed domestically, or

(2) All kernels may be exported for crushing, if fragmented, or

(3) All kernels that are graded to meet the edible export standards may be exported and the remaining kernels:

(i) Crushed domestically, or

(ii) Exported for crushing if peanuts are fragmented, or

(4) All of the peanuts may be exported as farmers stock peanuts, or

(5) Peanuts may be exported as peanut products if such peanuts meet edible export standards, or

(6) Peanuts may be exported as milled or inshell peanuts.

(h) *Disposal of meal contaminated by aflatoxin.* All meal produced from peanuts which are crushed domestically and found to be unsuitable for use as feed because of contamination by aflatoxin shall be disposed of for nonfeed purposes only. If the meal is exported, the export bill of lading shall reflect the analysis of the lot by inclusion thereon of the following statement, "This shipment consists of lots of meal which contain aflatoxin ranging from ——— to ——— PPB and averaging ——— PPB."

(i) *Final dates for scheduling supervision.* Additional contract peanuts shall be scheduled for supervision by the association during the normal marketing period but not later than July 31 following the calendar year in which the crop is grown unless prior approval of a later date is authorized by the association.

(j) *Export provisions-*

(1) *General.* Exports to Southern Rhodesia, North Korea, Vietnam, Cambodia, and Cuba are regulated by U.S. Department of Commerce regulations and require a validated export license. Additional information concerning the regulations may be obtained from the Bureau of International Commerce or from the field office of the Department of Commerce.

(2) *Export to a U.S. Government agency.* Except for the export of raw peanuts to the military exchange services for processing outside the United States, export of peanuts in any form by or to a United States government agency shall not be considered an export to an eligible country. However, sales to a foreign government which are financed with funds made available by a United States agency such as the Agency for International Development are not considered sales to a United States government agency: Provided, The peanuts were not purchased by the foreign buyer for transfer to a United States agency.

(3) *Exportation of contract additional peanuts.* All contract additional peanuts which are not crushed domestically and which are eligible for export shall be exported to an eligible country as peanuts or peanut products.

(4) *Reentry-Transshipment and Liquidated Damages—*(i) *Reentry*

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Transshipment. Peanuts and peanut produts exported shall not be reentered by anyone into the United States in any form or product and shall not be caused by the handler to be diverted or transshipped to other than an eligible country in any form or product, and if they are reentered, the handler shall be subject to liquidated damages as specified in subparagraph (4)(ii) of this paragraph.

(ii) *Liquidated Damages.* The handler, by entering into contracts to receive contract additional peanuts, shall be deemed to have agreed that CCC will incur serious and substantial damages to its program to support the price of quota peanuts if additional contract peanuts are exported and later are reentered into the United States or diverted or transshipped to other than an eligible country in any form or product; that the amount of such damages will be difficult, if not impossible, to ascertain exactly; and that the handler shall, with respect to any peanuts or peanut products reentered into the United States or diverted or transshipped to other than an eligible country, pay to CCC, as liquidated damages and not as a penalty, ten cents ($.10) per net pound for such peanuts or peanut products. It is agreed that such liquidated damages are a reasonable etimate of the probable actual damages which CCC would suffer because of such reentry, diversion, or transshipment.

(5) *Evidence of Export.* The handler shall furnish the association with the following documentary evidence of exportation of peanuts or permit products not later than 30 days after August 31, the final date for exportation, or such later date as may be approved by the association:

(i) *Export by water.* A nonnegotiable copy of an onboard ocean bill of lading, signed, on behalf of the carrier, showing the date and place of loading onboard vessel, the weight of the peanuts, peanut meal, or products exported, the name of the vessel, the name and address of the exporter, and the country of destination. Peanut meal which is unsuitable for use as feed because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this section.

(ii) *Export by rail or truck.* A copy of the bill of lading (showing the weight of the peanuts or peanut meal exported), supplemented by a copy of the Shipper's Export Declaration or other documentation acceptable to the association. Peanut meal which is unsuitable for feed use because of contamination by aflatoxin shall be identified on the bill of lading according to this section.

(iii) *Certified Statement.* A statement signed by the handler specifying the name and address of the consignee and the applicable Bureau license number if exportation has been made to one or more of the countires or areas for which a validated license is required under regulations issued by the Bureau of International Commerce, U.S. Department of Commerce.

(6) *Penalties.* Failure to dispose of contract additional peanuts acquired by a handler for domestic crushing or export by August 31 following the calendar year in which the crop was grown or such later date as may be authorized by the association shall constitute noncompliance with the provisions of this subpart. In such case, the handler will be obligated to pay a penalty equal to 120 percent of the basic quota support rate on that quantity of the additional peanuts not crushed or exported.

Warehouse Storage Loans

§ 1446.10 Availability of warehouse storage loans.

(a) *Loans to associations.* CCC will make warehouse storage loans to the associations specified in paragraph (b) of this section which contract with CCC to arrange for the storing and handling of farmers stock peanuts, make price support advances to producers on such peanuts, and use such peanuts as collateral for loans to be obtained from CCC. Loans on quota peanuts shall be made on the basis of the quota support rate, and loans on additional peanuts shall be made on the basis of the additional support rate. The association shall establish an adequate system of records to identify each lot of peanuts delivered from producers as quota or additional peanuts and shall establish adequate records to identify whether such peanuts were pledged to CCC at the quota loan rate or additional loan rate. Such loans will mature on demand.

(b) *Associations and Areas.* Price support advances will be available through:

(1) GFA Peanut Association, Camilla, Georgia, in the Southeastern area consisting of the States of Alabama, Georgia, Mississippi, Florida, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers.

(2) The Southwestern Peanut Growers Association, Gorman, Texas, in the Southwestern area consisting of the States of Arizona, Arkansas, California, Louisiana, New Mexico, Oklahoma, and Texas.

(3) The Peanut Growers Cooperative Marketing Association, Franklin, Virginia, in the Virginia-Carolina area consisting of the States of Missouri, North Carolina, Tennessee, Virginia, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

(c) *Where available.* Price support advances will be available to eligible producers at warehouses which have entered into peanut receiving and warehouse contracts with the association. Such contracts will require the warehouses to inform producers that price support advances are available and to make advances to producers on eligible peanuts tendered for price support as provided in paragraph (g) of this section. The contracts will require warehousemen to examine the producer's marketing cards to determine price support eligibility and make entries on the marketing card as required by Part 729 of this title and record each delivery as to quota or additional peanuts and date of delivery. If quota peanuts or contract additional peanuts are delivered, the balance of the quota or contract additional peanuts must be shown on the marketing card after each delivery. The names and locations of such warehouses may be obtained from the office of the appropriate association or from a State or county ASCS office. The associations shall pledge to CCC all peanuts upon which they have made price support advances as security for loans obtained pursuant to agreements with CCC.

(d) *Time.* Price support advances to eligible producers on peanuts of any crop will be available from the beginning of harvest through the following January 31 or such later date as may be established by the Executive Vice President, CCC. If the final date of availability falls on a nonworkday for the association, the applicable final date shall be the next workday.

(e) *Inspection.* The type and quality of each lot of farmers stock peanuts delivered to an association for a price support advance shall be determined by an inspector when such peanuts are received at a warehouse under contract with an association.

(f) *Producer agreement.* To obtain a price support advance, the producer shall, in writing, authorize the association to pledge peanuts delivered to the association to CCC as collateral for a warehouse storage loan and relinquish any right to redeem or obtain possession of such peanuts.

(g) *Advance to producer.* For each lot of peanuts received, the associations will make a price support advance to the producer in an amount equal to the support value of such peanuts, except that, in addition to marketing quota penalties and the deductions specified in § 1446.12, the association will deduct from such advances and pay over to the proper State authorities, any assessments or excise taxes imposed by State law, and the Southwestern Peanut Growers Association will, upon the prior agreement of the producer, deduct from such advance an amount approved by CCC, not to exceed 50 cents per net weight ton of peanuts upon which such advance was made, to be used in payment for its peanut activities outside the price support program.

(h) *Fraud by Producer.* The making of any fraudulent representation by a producer in the loan documents or in obtaining a loan or an advance shall render him subject to criminal prosecution under Federal law. The producer shall be personally liable to CCC, aside from any additional liability under criminal or civil frauds statutes, for the amount of such advance and for all costs which CCC would not have incurred except for the producer's fraudulent representation, together with interest upon such amounts at the rate for fraudulent representation as shown in a separate notice in the **Federal Register**: *Provided,* That the producer shall be given credit for the proceeds received by CCC upon sale of the peanuts upon which such advance was made.

(i) *Ineligible Peanuts.* Any person who causes ineligible peanuts, as defined in § 1446.14, to enter the loan, shall pay to CCC, as liquidate damages, the amount by which the average quota or additional loan level for that type of peanuts exceeds the market price as determined by CCC and shall pay such amount to CCC promptly upon demand. The market price shall be based upon the estimated value for crushing stock.

§ 1446.11 Pooling and distribution of net gains.

The association shall establish separate pools by area, type, and segregation or quality of peanuts and maintain separate, complete and accurate records for quota peanuts under loan and for additional peanuts not under contract. Net gains on peanuts in each pool shall be distributed to each grower in proportion to the value of peanuts placed in the pool by the grower except any distribution of net gains on additional pools of any type to a producer shall be reduced to the extent of any loss incurred by CCC on quota peanuts of a different type placed under loan by the same producer, and the proceeds available to any producer from any pool shall be reduced by the amount of any losses to CCC on peanuts transfered from an additional loan pool to a quota loan pool under the provisions of this subpart.

(a) *Quota pool.* Net gains from peanuts in the quota pool consist of:

(1) The net gains over and above the loan indebtedness on quota peanuts and other costs or losses incurred by CCC on such peanuts placed in the pool by a producer, plus

(2) An amount from the net gains on additional peanuts sold into domestic food and related uses equal to the losses incurred on disposing of an equal quantity of quota peanuts of the same type and segregation in the same production area, considering sales of quota peanuts for export first and then as necessary sales for crushing.

(b) *Addtional pool.* Net gains for peanuts in the additional pool consist of:

(1) The net gains over and above the loan indebtedness on additional peanuts and other costs or losses incurred by CCC on such peanuts placed in the pool by a grower, less

(2) An amount of the net gains on the additional pool allocated to the quota pool to offset any loss on that pool attributed to addtional peanuts being used in domestic edible use.

§ 1446.12 Producer indebtedness.

(a) *Facility and drying equipment loans.* If any installment or installments on any loan made by CCC on farm storage facilties or drying equipment are payable under the provisions of the note evidencing such loan and the amount due is recorded on the producer's marketing card, any amount due the producer under this subpart, after deduction of amounts due prior lienholders, shall be applied to such installment(s).

(b) *Producers listed on county debt record.* If the producer is indebted to CCC or to any other agency of the United States and such indebtedness is listed on the county debt record and recorded on the producer's marketing card, amounts due the producer under this subpart, after deduction of amounts due prior lienholders and on farm storage facilities or drying equipment, shall be applied to such indebtedness as provided in the Secretary's Setoff Regulations, Part 13 of this title.

(c) *Producer's right.* Compliance with the provisions of this section shall not deprive the producer of any right to otherwise contest the justness of the indebtedness involved in the setoff action either by administrative appeal or by legal action.

§ 1446.13 Eligible producer.

(a) *Requirements.* An eligible producer is an individual, partnership, association, corporation, estate, trust, or other legal entity, and whenever applicable, a State, political subdivision of a State or any agency thereof, producing peanuts as a landowner, landlord, tenant, or sharecropper on a farm. No producer on a farm for which the farm operator fails timely to file a report of crop or land use acreages as required by Part 718 of this title shall be eligible for price support at the quota rate unless the late filed report was accepted by the county committee.

(b) *Estates and trusts.* A receiver of an insolvent debtor's estate, an executor or an administrator of a deceased persons' estate, a guardian of an estate or of a ward or of an incompetent person, and trustees of a trust estate shall be considered to represent the insolvent debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the production of the receiver, executor, administrator, guardian or trustees shall be considered to be the production of the person represented. Loan documents executed by any such person shall be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if such minor meets one of the following requirements: (1) the right of majority has been conferred on such minor by court proceedings or by statute; (2) a guardian has been appointed to manage such minor's property and the applicable price support documents are signed by the guardian; or (3) a bond is furnished under which a surely guaranteed to protect CCC from any loss incurred for which the minor would be liable had such minor been an adult.

§ 1446.14 Eligible peanuts.

Eligible peanuts shall be farmers stock peanuts of the applicable crop which were produced in the United States by an eligible producer.

(a) *Quota support.* Peanuts eligible for quota support are peanuts which (1) are segregation 1 peanuts; and (2) contain not more than 10 percent moisture, nor less than 6 percent moisture; and (3) contain not more than 10 percent foreign material; (4) are free and clear of all liens and encumbrances, including landlord's lien, or if liens or encumbrances exist on the peanuts, acceptable waivers are obtained; and (5) the beneficial interest is in the producer who delivers them to the association

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and has always been in such producer or in such producer and a former producer whom such producer succeeded before the peanuts were harvested. To meet the requirements of succession to a former producer, the rights, responsibilities, and interest of the former producer with respect to the farm on which the peanuts were produced shall have been substantially assumed by the person claiming succession. Mere purchase of a crop prior to harvest, without acquisition of any additional interest in the farm on which the peanuts were produced, shall not constitute succession. Any producer in doubt as to whether such interest in the peanuts complies with the requirements of this section should, before applying for price support, make available to the county ASC committee all pertinent information which will permit a determination with respect to succession to be made by CCC; (6) are, if delivered to the association in bags in the Southwestern area, in new or thoroughly cleaned used bags which are made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers, are free from holes and are finished at the top with either the selvage edge of the material, binding, or a hem. Such bags shall be of uniform size with approximately 2 bushel capacity; (7) must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession; (8) must have been produced on a farm on which the effective farm allotment has not been knowingly exceeded; and (9) must have been inspected as farmer stock peanuts and have an official grade determined by an inspector.

(b) *Additional support.* Peanuts eligible for additional support are peanuts which (1) contain not more than 10 percent moisture; and (2) contain not more than 10 percent foreign material, except that such peanuts may contain more foreign material if the handler agrees to purchase for domestic edible use as provided in the first sentence in § 1446.7 of these regulations; (3) segregation 2 or 3 peanuts which will be sold without storage for crushing, may contain more than 10 percent moisture and/or foreign material up to a maximum determined appropriate by the producer association based on the crushing market and other local conditions; (4) are free and clear of all liens and encumbrances, including landlord's lien, or if liens or encumbrances exist on the peanuts, acceptable waivers are obtained; and (5) the beneficial interest is in the producer who delivers them to the association and has always been in such producer or in such producer and a former producer whom such producer succeeded before the peanuts were harvested. To meet the requirements of succession to a former producer, the rights, responsibilities, and interest of the former producer with respect to the farm on which the peanuts were produced shall have been substantially assumed by the person claiming succession. Mere purchase of a crop prior to harvest, without acquisition of any additional interest in the farm on which the peanuts were produced, shall not constitute succession. Any producer in doubt as to whether such interest in the peanuts complies with the requirements of his section should, before applying for price support, make available to the county ASC committee all pertinent information which will permit a determination with respect to succession to be made by CCC; (6) are, if delivered to the association in bags in the Southwestern area, in new or thoroughly cleaned used bags which are made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers, are free from holes and are finished at the top with either the selvage edge of the material, binding, or a hem. Such bags shall be of uniform size with approximately 2 bushel capacity; (7) must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession; (8) if produced on acreage in excess of the effective farm allotment, the penalty has been collected in accordance with Part 729 of this title; and (9) must have been inspected as farmer stock peanuts and have an official grade determined by an inspector.

§ 1446.15 Disposition and liquidated damges on segregation 3 peanuts.

(a) Any producer who has a lot of farmers stock peanuts classified by the inspector as segregation 3 peanuts shall (1) deliver the peanuts to the association for loan at the additional loan rate, (2) deliver such lot as contract additional peanuts under the provisions of § 1446.5, (3) sell as quota peanuts to a handler who is a signer of the peanut marketing agreement or (4) retain the lot for seed. If the producer does not dispose of or market such peanuts as provided above on the day of inspection, such producer shall be ineligible for continued quota price support for the rest of the marketing year on all peanuts at the close of business on the day of the inspection. If the producer elects to retain a lot for seed, he shall designate such peanuts as quota peanuts, have the net weight of such peanuts determined and deducted from the farm marketing card, and advise the inspector that the peanuts are being retained for seed. The producer shall be given a copy of the MQ–94 as a record showing the quantity and quality factors of the peanuts and must store such peanuts separate from other peanuts on the farm. The producer shall notify CCC when such peanuts are used and otherwise account for the disposition of such peanuts. Should it later be determined that such peanuts are unfit for seed use, the producer may sell such peanuts for crushing as quota peanuts without benefit of price support after receiving prior approval from the county office.

(b) *Liquidated damages.* The producer, by participating in the loan program, shall be deemed to have agreed that CCC will incur serious and substantial damages to its program to support the price of peanuts if segregation 3 peanuts are disposed of other than in accordance with the provisions of paragraph (a) of this section; that the amount of such damage will be difficult, if not impossible, to ascertain exactly; and that the producer shall, with respect to any lot of peanuts ineligible for quota support which are placed under quota loan or any lot of peanuts which is placed under quota loan by a producer after he has disposed of any lot of segregation 3 peanuts in any manner other than in the manner prescribed in paragraph (a) of this section, pay to CCC as liquidated damages and not as a penalty, seven cents ($.07) per net pound of such peanuts. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such action by the producer. The provisions of § 1446.11 relating to the producer's liability (aside from liability under criminal and civil frauds statutes) shall not be applicable to such peanuts.

§ 1446.16 Producer transfers of additional loan stocks to quota pools.

Producers may transfer Segregation 2 and 3 additional loan stocks to quota loan after the producer has completed marketing and returned his marketing card to the county office not to exceed the smaller of the farm poundage quota minus the production of segregation 1 peanuts on the farm, or the undermarketing of quota peanuts shown on the farm marketing card: *Provided:* That the proceeds available to such producer from peanuts in any other pool shall be reduced by the amount of any losses to CCC on the peanuts so transferred. The support values for any segregation 2 peanuts so transferred shall be the support value for quota peanuts minus the damage discount published in the quota support schedule and the support value for segregation 3 peanuts shall be the support value for quota peanuts minus the applicable discount published in the quota support schedule. Producers eligible to transfer additional loan peanuts to the quota loan in accordance with this section may apply for such transfers with the county office. The county office shall determine the quantity of undermarketing of quota peanuts and the quantity of additional peanuts which are eligible for transfer. The producer may indicate to the county office the net weight and applicable Form MQ–94 numbers for the peanuts to be transferred. Such pounds shall be considered as quota peanuts marketed, the applicable MQ–94's recomputed at the quota loan level, and the producer advanced the difference between the additional and quota support.

All written submissions will be available at the Office of the Director, Price Support and Loan Division, Room 3741-South Building, 14th & Independence Avenue, Southwest during regular business hours (7 CFR 127(b)).

Note.—This regulation has been determined to be not significant under the USDA criteria implementing Executive Order 12044 and only contains necessary operating decisions and requirements to implement the national average peanut price support rates announced on February 15, 1979. An approved draft impact analysis is available from Thomas A. VonGarlem (ASCS) 202 447–7954.

Signed at Washington, D.C., on April 23, 1979.

Ray Fitzgerald,
Executive Vice President, Commodity Credit Corporation.

[CCC Warehouse Stored Peanut Price Support Regs.]
[FR Doc. 79–13108 Filed 4–26–79; 8:45 am]
BILLING CODE 3410–05–M

Farmers Home Administration

[7 CFR Part 1822]

Rural Housing Loans and Grants; Rural Rental Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: Notice is hereby given that the Farmers Home Administration intends to redesignate and revise its regulation pertaining to rural rental housing (RRH) loans and rural rental assistance. This action is taken in accordance with the review requirements of Executive Order 12044. The intended effect of this action is to develop a regulation which can be easily understood by the public and FmHA employees.

DATES: Comments must be received on or before June 26, 1979.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Mr. L. D. Elwell, Acting Assistant Administrator, Multiple Family Housing, telephone (202) 447–5177; or Mr. Lynn E. Voigt, Multiple Family Housing Loan Officer, Rural Rental Housing Loan Division, telephone (202) 447–7207.

SUPPLEMENTARY INFORMATION: The Farmers Home Admionistration intends to revise and redesignate the present Subpart D of Part 1822, Subchapter B, Title 7 in the Code of Federal Regulations to a new Part 1944, Subpart E of Subpart H.

This redesignation and revision action is being undertaken for the following purposes:

1. To redesign and reformat Part 1822 Subpart D so that it will be consistent with the **Federal Register** format.

2. To reflect the internal restructuring of the FmHA, giving primary responsibility for the RRH program to FmHA District Offices rather than County Offices.

3. To simplify and clarify loan application and processing procedures.

4. To revise procedures by which rental market demand can be demonstrated or documented.

5. To clarify occupancy requirements, especially occupancy by students and active military personnel.

6. To establish criteria by which loan funds can be targeted toward providing housing in rural communities having the greatest need, those communities with and significant populations of poor and disadvantaged persons.

7. To revise the FmHA requirement for financial statements from limited partners holding an interest of 10 percent or more in limited partnership applicants.

8. To change the 5-year term of rental assistance agreements used for existing projects and the 20-year term of rental assistance agreements used for new projects, to a common term for either use.

9. To consolidate, to the extent possible, the numerous exhibits to the present regulation.

FmHA desires the comments of any interested parties that may wish to express their views on the purposes for this proposed action, or suggest other items for consideration in the proposed amendments. All communications received in accordance with this notice will be considered in developing the proposed amendments.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: April 18, 1979.

Gordon Cavanaugh,
Administrator, Farmers Home Administration.

[FmHA Instruction 444.5]
[FR Doc. 79–13088 Filed 4–26–79; 8:45 am]
BILLING CODE 3410–07–M

Animal and Plant Health Inspection Service

[9 CFR Part 92]

Importation of Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed Rulemaking.

SUMMARY: This document proposes to amend the regulations to delete the requirement for a negative equine piroplasmosis test on horses imported into the United States. This action would eliminate a procedure no longer believed necessary. The intended effect of this action would be to reduce unnecessary time and expense associated with the importation of horses.

DATE: Comments on or before June 19, 1979.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 821, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, MD 20782 (301) 436–8170.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to Section 2 of the Act of February 2, 1903, as amended; and Sections 4 and 11 of the Act of July

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2, 1962 (21 U.S.C. 111, 134c, and 134f), the Animal and Plant Health Inspection Service, is considering amending Part 92, Title 9, Code of Federal Regulations.

Equine piroplasmosis (EP) is a tick-borne diseasecaused by species of Babesia, which penetrate and destroy red blood cells. The two recognized types of this equine disease are Babesia equi (B. equi) and Babesia caballi (B. caballi). B. caballi is the type most frequently encountered in the United States. The tropical horse tick, Dermacentor nitens (D. nitens), is known to transmit B. caballi and is a suspected vector of B. equi. In the United States, D. nitens is established only in Southern Florida and several counties in the extreme tip of Southern Texas. The tick Rhipicephalous sanguineus (R. Sanguineus) has been reported to be capable of transmitting the B. equi in other countries. In the United States, R. sanguineus does not commonly feed on horses. Dermacentor albipictus also has been infected with piroplasmosis under experimental conditions but natural infection under field conditions has not been demonstrated.

In August 1961, equine piroplasmosis (B. caballi) was first reported in Southern Florida. Florida has developed and is continuing its own broad control program requiring tick control, quarantine, and chemotherapy of infected animals.

Equine piroplasmosis has also been diagnosed on a limited basis and dealt with in horses through quarantine, tick control, and babesiacidal treatments in Arizona, Arkansas, California, Colorado, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Nebraska, New Jersey, New York, North Carolina, Ohio, South Dakota, Tennessee, and Virginia. Neither these, nor any of the other States, except Florida, have found the disease to be significant enough to make it necessary to develop equine piroplasmosis control programs.

A negative test for equine piroplasmosis has been required as a prerequisite for importation of horses into the United States since October 1970. This rulemaking document proposes to amend the regulations to delete such requirement.

A drug, imidocarb® has been found to be effective in treating piroplasmosis infected equines. Further measures taken by the States should be adequate to control the disease domestically.

Additionally, from a review of the situation, the administrative officials of the Department believe that (1.) the tick vectors of this disease are severely limited in number and distribution in this country; (2.) without the availability of vectors, the potential for disease dissemination is markedly lower than with other forms of communicable disease; (3.) many animals with positive test reactions do not show symptoms of the disease; (4.) many horses that otherwise meet the import requirements are denied entry because they are carrying antibodies; (5.) the presence of antibodies does not always mean there is infection in animals; (6.) the disease has not been shown to be a significant economic threat to the United States, nor has been considered a significant economic threat to other countries. Testing for the disease in other countries is usually limited to those equines to be exported to the United States.

The Department will continue to maintain laboratory capability to assist the horse industry in identifying horses affected with equine piroplasmosis in the United States and to assist in the differential diagnosis. The Department will also continue to offer the training to prepare the antigen and conduct the test to any country that desires to develop this laboratory capability.

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended in the following respects:

§ 92.11 [Amended].

1. In the fourth sentence of § 92.11(d), the term "equine piroplasmosis" would be deleted.

§ 92.34 [Amended].

1. In the second sentence of § 92.34(c), the term "equine piroplasmosis" would be deleted.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 821, Hyattsville, Maryland, during regular hours of business (8:00 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 20th day of April 1979.

Note.—This proposal has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations," and has been designated "significant." A Draft Impact Analysis Statement has been prepared and is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301–436–8695.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-13008 Filed 4-26-79; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

[12 CFR Part 225]

Bank Holding Companies and Change in Bank Control

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board of Governors of the Federal Reserve System proposes to revise its regulation governing foreign bank holding companies. Under current regulations, foreign bank holding companies are afforded certain exemptions from the nonbanking prohibitions applicable to bank holding companies. The proposed rule would amend the definition of "foreign bank holding company" to include only those foreign organizations principally engaged in banking outside the United States.

DATE: Comments must be received by June 20, 1979.

ADDRESS: Send comments to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All comments should refer to Docket No. R–0219.

FOR FURTHER INFORMATION CONTACT: Michael G. Martinson, Senior Financial Analyst, Division of Banking Supervision and Regulation (202–452–3621); or C. Keefe Hurley, Jr., Senior Attorney, Legal Division (202–452–3269), Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: Section 4(c)(9) of the Bank Holding Company Act ("Act") (12 U.S.C. 1843(c)(9)) permits the Board, by regulation or order, to grant an exemption from the nonbanking prohibitions of the Act with respect to the nonbanking activities of foreign bank holding companies that do the greater part of their business outside the United States if the exemption would not be substantially at variance with the purposes of the Act and would be in the public interest. The Board has exercised its regulatory authority pursuant to section 4(c)(9) and granted foreign bank holding companies limited exemptions from the nonbanking prohibitions of the Act (see § 225.4(g) of Regulation Y, 12 CFR 225.4(g)). The Board's regulatory exemptions relate primarily to nonbanking activities that are conducted outside the United States. In order to qualify for these exemptions, the foreign organization must be a "foreign bank holding company" which, according to the regulation, means a bank holding company organized under the laws of a foreign country, more than half of whose consolidated assets are located, or consolidated revenues derived, outside the United States.

Although not required by the regulation, most foreign bank holding companies are also foreign banks with a high degree of banking expertise. The banking experience of such foreign banks has generally contributed to the managerial strength of their subsidiary banks. In the Board's judgment, it would be inconsistent with the purposes of the Act and would not be in the public interest for the exemptions afforded by section 4(c)(9) of the Act and § 225.4(g) of Regulation Y to be extended to a foreign organization that is not principally engaged in banking.

Accordingly, the Board proposes to amend the regulatory definition of "foreign bank holding company" so as to include only those foreign organizations that are principally engaged in the banking business outside the United States. In order to meet this test, more than one-half of an organization's consolidated deposits must be located outside the United States. For the purpose of this test, the foreign deposits of a United States bank will not be considered to be located outside the United States.

The Board specifically invites comment on the desirability of using a proportion of deposits as a criteria for determining foreign bank holding company status. Also, the Board invites comment on the question of whether the criteria for determining foreign bank holding company status should be applied solely at the time of application or on a continuing basis. Those few foreign organizations that qualify as foreign bank holding companies under the current regulation but which would not qualify under the proposed definition, would be permitted to retain investments and engage in activities that were undertaken in reliance on the current exemption.

This action is taken in connection with a regulatory analysis of the need and purposes of the regulation, and pursuant to the Board's authority under sections 4(c)(9) and 5(b) of the Act (12 U.S.C. 1843(c)(9) and 1844(b)).

It is proposed that 12 CFR Chapter II be amended as follows:

PART 225—BANK HOLDING COMPANIES

1. By deleting existing § 225.4(g)(1)(iii) and adding a new subsection; and by adding a new § 225.4(g)(4) so that § 225.4(g) reads as follows:

§ 225.4 Nonbanking activities.

* * * * *

(g) Foreign bank holding companies.

(1) As used in this paragraph: * * *

(iii) "foreign bank holding company" means a bank holding company, organized under the laws of a foreign country, that is principally engaged in the banking business outside the United States. A company will not be considered to be principally engaged in the banking business outside the United States unless at least 50 per cent of its consolidated deposits are located outside the United States.

* * * * *

(4) A company that (i) was a bank holding company on April 21, 1979; (ii) is organized under the laws of a foreign country; and (iii) has more than half of its consolidated assets located, or consolidated revenues derived, outside the United States may continue to engage in activities or retain investments that were permissible at the time they were commenced or acquired.

* * * * *

By order of the Board of Governors, April 18, 1979.

Theodore E. Allison,

Secretary of the Board.

Regulatory Analysis of Proposed Amendment to § 225.4(g) of Regulation Y

Section 4(c)(9) of the Bank Holding Company Act allows the Board to exempt foreign bank holding companies from certain prohibitions on ownership of nonbanking companies. The proposed change in Regulation Y narrows the definition of foreign companies that can qualify for these exemptions to those that are primarily in banking abroad.

Need for the Purpose of the Amendment

The Board recently completed a review of its policies toward foreign bank holding companies. That review took account of the growth of foreign ownership of U.S. banking institutions, the experience gained with foreign bank holding companies since the 1970 amendments to the Bank Holding Company Act, and the provisions of the recently enacted International Banking Act of 1978. The Board's policy statement of February 23, 1979, which was issued as a consequence of that review, emphasized the Board's position that foreign bank holding companies, like domestic bank holding companies, should be sources of strength to their U.S. subsidiary banks.

In U.S. banking law, Congress has mandated a separation of banking and commerce as a way of discouraging conflicts of interest and potentially unfair competition in the United States. However, an exception to these rules and standards was provided for bona fide foreign organizations in their operations outside the United States. Thus, in Section 4(c)(9) of the Bank Holding Company Act, the Board was empowered to grant exemptions from the nonbanking prohibitions of that Act to foreign companies conducting the greater part of their business outside the United States. The legislative history of that section makes it clear that it was intended to apply to companies principally engaged in the banking business. That view was reinforced by the 1978 amendments to section 2(h) of that Act which enlarged the statutory exemptions given to foreign companies principally engaged in the banking business outside the United States.

Present provisions of Regulation Y implementing Section 4(c)(9) permit any foreign company, whether principally engaged in banking or not, to qualify for these exemptions so long as the majority of its assets or revenues are outside the United States. Most of the companies qualifying for these exemptions have in fact been principally engaged in banking, and indeed have been the large international banks. However, experience has indicated that nonbanking companies can qualify as foreign bank holding companies. Moreover, because of the revenue-generating capabilities of certain nonbanking businesses, even relatively small companies can meet the criteria and acquire a U.S. bank that by most other standards is larger than itself. These possibilities contradict the policy objective that a foreign bank holding company should be a source of financial and managerial strength to the U.S. subsidiary bank.

The purpose of the amendment is to correct this potential dificiency by limiting exemptions under section 4(c)(9) to companies principally engaged in the business of banking outside the United States.

Possible Alternatives to the Proposed Regulatory Change

One alternative would be to substantially increase the supervision of foreign bank holding companies that are not primarily banking institutions. This avoids changing the Regulation, but would increase supervisory costs and

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would require bank examiners to assess operations in which they lack expertise. It also continues to permit foreign firms that are essentially commercial in nature to own U.S. banks, while similar domestic firms are prohibited from doing so.

A second alternative would be to increase the required percentage of foreign assets or revenues. This approach would ensure that the foreign organization is larger relative to the U.S. bank than is permitted now, but would not prevent a foreign nonbanking organization from acquiring a U.S. bank and qualifying for Section 4(c)9 exemptions. Additionally, it might conflict with the intent of (amended) Section 2(h) of the Bank Holding Company Act, which states that the Act's restrictions on nonbank activities do not apply to foreign organizations "principally engaged in business outside the U.S. if such shares are held or acquired by a bank holding company organized under the laws of a foreign country that is *principally* engaged in the banking business outside the U.S." (emphasis added).

A third approach would be to drop the revenue test. This would disqualify relatively small revenue intensive companies, but also fails to address the issued of nonbanking business. Foreign commercial companies could continue to apply for foreign bank holding company status based on the assets of their foreign activities.

Economic Implications and Competitive Effects

Few foreign bank holding companies would be affected by the proposed change. With few exceptions, existing foreign bank holding companies are relatively large foreign banks that meet the proposed test. Activities of any existing foreign bank holding company not meeting the test would be grandfathered by the proposed regulation. Consequently, no existing foreign bank holding company would be required to divest its U.S. bank subsidiary or its foreign nonbanking activities due to the proposed change.

Preventing nonbanking organizations from becoming foreign bank holding companies in the future should not have an adverse competitive effect in U.S. financial markets. Foreign bank holding companies generally increase competition by establishing new U.S. banks or by providing financial support and growth to existing banks. The companies most likely to do this are foreign *banks*, which are unaffected by this proposal. Foreign nonbank organizations can still acquire U.S. banks, but they would be treated as domestic bank holding companies, and required to divest of any nonbanking activities not permitted under Section 4(c)8 or 4(c)13 of the Bank Holding Company Act.

There would also be no additional compliance, reporting, or recordkeeping requirements associated with this regulatory change. Bank holding companies must continue to demonstrate that they meet the standards required to qualify as a foreign bank holding company, but the procedures would be similar to those under existing requirements.

The proposed change is designed to discourage misuse of the U.S. bank's resources and to reduce its possible risk exposure. To that extent the primary beneficiaries are the U.S. banking industry, U.S. bank depositors, creditors, and shareholders, the FDIC as insurer of bank deposits, and the other state and federal bank supervisory agencies.

Advantages of the Recommended Change

The proposed change has several advantages over the existing requirements and over the specified alternatives. Requiring that the foreign company be principally engaged in banking provides greater assurance that its management is familiar with the banking business and gives priority to managing its banking activities and maintaining its reputation in financial markets. When banking is a minor part of the parent company's business, the parent may be less inclined to monitor the bank's activities and to provide adequate support. Moreover, when the foreign parent is primarily a banking organization, there is less likelihood that the U.S. bank's resources would be diverted to its nonbanking affiliates.

Domestic bank holding companies must restrict their nonbanking activities to those permissible under Sections 4(c)8 or 4(c)13 of the Bank Holding Company Act. Section 2(h) of that Act permits other nonbanking activities, but only for foreign bank holding companies that are primarily banks. Only the recommended change restricts the Section 4(c)9 exemptions to similar institutions and avoids an unnecessarily wide exemption. The change to measurement of holding company size based on deposits, rather than assets or revenues, recognizes that banking includes different activities outside the U.S. but that deposit-taking activities are central to any banking function involving risks similar to those taken by U.S. banks.

In most countries banking is more highly regulated and supervised than other industries. Where U.S. authorities are limited in supervising the parent companies, this foreign supervision and the restriction of risks to those of a banking nature provide an additional layer of protection for U.S. banking subsidiaries, financial markets, and the U.S. public.

[Regulation Y; Docket No. R-0219]
[FR Doc. 79-13043 Filed 4-26-79; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 546]

Chlortetracycline Soluble Powder for Animal Use; Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Director of the Bureau of Veterinary Medicine proposes to amend the regulations that provide for the certification of chlortetracycline soluble powders for animal use by deleting certain provisions and editorially revising the regulations. The products currently being certified under these provisions are subject to a notice of opportunity for hearing published elsewhere in this issue of the **Federal Register.**

DATE: Comments by May 29, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Donald Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register,** the Director is announcing the effective conditions of use for chlortetracycline soluble powder in animals and is proposing to withdraw those products labeled for conditions of use lacking substantial evidence of effectiveness.

Consistent with that notice, the Director is proposing to revoke the conditions of use lacking substantial evidence of effectiveness in § 546.110c (21 CFR 546.110c) and editorially amend the section, and to revoke and reserve § 546.113a (21 CFR 546.113a) because the products certified under it are proposed to be withdrawn. The Director is also editorially amending § 546.113b (21 CFR 546.113b) because it cross-references certain certification requirements to be revoked.

The sponsors of products subject to the corresponding notice of opportunity for hearing may submit supplemental applications and labeling in accordance with the requirements of the notice. When a supplement is approved, notice will be published in the **Federal Register** in accordance with section 512(i) of the act (21 U.S.C. 360b(i)) amending the appropriate regulation and identifying the sponsor.

The Director has carefully considered the environmental effects of the amendments to the regulation and, because they will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk (HFA-305), Food and Drug Administration (address above).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463 as amended, 82 Stat. 343-351 (21 U.S.C. 357, 360b)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director (21 CFR 5.84), it is proposed that Part 546 be amended as follows:

1. In § 546.110c by revising paragraph (c)(2) and (5) to read as follows:

§ 546.110c Chlortetracycline powder (chlortetracycline hydrochloride powder).

* * * * *

(c) * * *

(2) *Sponsor.* No. 000010 in § 510.600(c) of this chapter.

* * * * *

(5) *Conditions of use*—(i) *Swine.* It is used as chlortetracycline hyrochloride in drinking water as follows:

(*a*) *Amount.* A drug level per gallon to provide approximately 10 milligrams per pound of body weight daily. The concentration of drug required in medicated water must be adjusted to compensate for variations (.e.g., age of the animal, environmental temperature) that affect water consumption.[1]

(*b*) *Indications for use.* It is used as an aid in the control and treatment of bacterial enteritis (scours) caused by *Escherichia coli* and bacterial pneumonia associated with *Pasteurella* spp., *Hemophilus* spp., *and Klebsiella* spp.[1]

(*c*) *Limitations.* Prepare a fresh solution twice daily, as sole source of chlortetracycline; administer for not more than 45 days; do not slaughter animals for food within 5 days of treatment.

(ii) *Calves:* It is used as a chlortetracycline hydrochloride drench as follows:

(*a*) *Amount.* Use of 10 milligrams per pound of body weight daily in divided doses.[1]

(*b*) *Indications for use.* It is used as an aid in the control and treatment of bacterial enteritis (scours) caused by *Escherichia coli* and bacterial pneumonia (shipping fever) associated with *Pasteurella* spps., *Hemophilus* spp., and *Klebsiella* spp.[1]

(*c*) *Limitations.* As sole source of chlortetracycline, administer for not more than 5 days; do not slaughter animals for food within 24 hours of treatment.

* * * * *

§ 546.113a [Revoked]

2. By revoking § 546.113a *Chlortetracycline bisulfate soluble powder* and marking it "Reserved."

3. In § 546.113b by revising paragraphs (a), (b), and (c)(2) to read as follows:

§ 546.113b Chlortetracycline bisulfate-sulfamethazine bisulfate soluble powder.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Chlortetracycline bisulfate-sulfamethazine bisulfate soluble powder is chlortetracycline bisulfate and sulfamethazine bisulfate with or without one or more suitable and harmless colorings, buffer substances, and diluents. It contains the equivalent of 102.4 grams of chlortetracycline hydrochloride and 102.4 grams of sulfamethazine per pound. The moisture content is not more than 2 percent. The chlortetracycline bisulfate used conforms to the requirements of § 539.210b of this chapter. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

(2) *Labeling.* It shall be labeled in accordance with the requirements of paragraph (c) of this section and § 510.55 of this chapter.

(3) *Request for certification; samples.* In addition to complying with the requirements of § 514.50 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The chlortetracycline used in making the batch for potency, safety, moisture, butyl alcohol content, sulfate content, absorptivity, and crystallinity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The chlortetracycline bisulfate used in making the batch, 10 packages, each containing approximately 0.5 gram.

(*b*) The batch: One 1-ounce portion for each 5,000 immediate containers in the batch, but in no case less than five 1-ounce portions.

(b) *Tests and methods of assay*—(1) *Potency.* Using an accurately weighed sample of approximately 500 milligrams, proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve the 500 milligrams to be tested in 0.01*N* HC1 to make a stock solution of convenient conentration. Further dilute with sterile distilled water to the reference concentration of 0.06 microgram of chlortetracycline hydrochloride equivalent (estimated).

(2) *Moisture.* Proceed as directed in § 436.200(b) of this chapter.

(c) * * *

(2) *Specifications.* Meets the requirements in paragraph (a) of this section.

* * * * *

Interested persons may, on or before May 29, 1979, file with the Hearing Clerk (address given above) written comments (preferably four copies and identified with the docket number appearing in the heading) regarding this proposal, except that comments pertaining to issues which are the subject of the related notice of opportunity for hearing published elsewhere in this issue of the **Federal Register** shall be filled in accordance with that notice. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may by seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this action have been carefully analyzed, and it has been determined that this action does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk.

Dated: April 19, 1979.

Terence Harvey,
Acting Director, Bureau of Veterinary Medicine.

[Docket No. 79N-0024]
[FR Doc. 79-13029 Filed 4-26-79; 8:45 am]
BILLING CODE 4110-03-M

[1] These claims are NAS/NRC reviewed and are deemed effective. Applications for these uses need not include the effectiveness data specified by § 514.111 of this chapter.

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[21 CFR Part 882]

Medical Devices; Classification of Preformed Alterable Cranioplasty Plates

Correction

In FR Doc. 78–32942, appearing at page 55709 in the issue for Tuesday, November 28, 1978, the sixteenth line of the first complete paragraph in column two of page 55710 should read, "can be modified freely by cutting, bending."

[Docket No. 78N–1065]

BILLING CODE 1505–01–M

[21 CFR Part 882]

Medical Devices; Classification of Lesion Temperature Monitors

Correction

In FR Doc. 78–32945, appearing at page 55713 in the issue of Tuesday, November 28, 1978, the fifth line of paragraph 1. at the bottom of the third column on page 55713, should read, "surgeon uses a radiofrequency (RF) lesion".

[Docket No. 78N–1069]

BILLING CODE 1505–01–M

[21 CFR Part 882]

Medical devices; classification of central nervous system fluid shunts and components

Correction

In FR Doc. 78–32946, appearing at page 55714 in the issue for Tuesday, November 28, 1978, make the following changes:

1. On page 55716, first column, the initials in the first line of reference 1. on page 55716 should read, "T.H.".

2. On page 55716, first column, the section heading at the bottom of the page should read. "§ 882.5550".

[Docket No. 78N–1080]

BILLING CODE 1505–01–M

DEPARTMENT OF STATE

Agency for International Development,

[22 CFR Part 217]

Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting From Federal Financial Assistance

AGENCY: Agency for International Development, State.

ACTION: Proposed rule.

SUMMARY: This regulation implements section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 706, with regard to federal financial assistance administered by the Agency for International Development. Section 504 provides that "no otherwise qualified handicapped individual * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving federal financial assistance." The regulation, which applies to all recipients of federal financial assistance from AID in the United States is intended to ensure that their federally assisted programs and activities are operated without discrimination on the basis of handicap. The regulation defines and forbids acts of discrimination against qualified handicapped persons in employment and in the operation of programs and activities receiving assistance from the Agency. As employers, recipients must make reasonable accommodation to the handicaps of applicants and employees unless the accommodation would cause the employer undue hardship. As providers of services, recipients are required to make programs operated in existing facilities accessible to handicapped persons, to ensure that new facilities are constructed so as to be readily accessible to handicapped persons, and to operate their programs in a nondiscriminatory manner.

DATE: Comments must be received on or before May 29, 1979.

FOR FURTHER INFORMATION, CONTACT: Pauline G. Johnson, Director, Office of Equal Opportunity Programs, Agency for International Development, Room 2864 Department of State, Washington, D.C. 20523, (202–632–7996).

SUPPLEMENTARY INFORMATION:

Background

As part of the Rehabilitation Act of 1973 (Pub. L. 93–112) Congress enacted section 504, which provides that "no otherwise qualified handicapped individual in the United States, as defined in section 7(6), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance". In the same statute, Congress defined the term "handicapped individual" solely with relationship to employment; section 7(6) of the 1973 Act defined the term "Handicapped individual" as "any individual who (a) has a physical or mental disability which for such individual constitutes or results in substantial handicap to employment and (b) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services * * *." However, the following year, in section 111(a) of the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516), Congress amended the definition of "handicapped individual" for purposes of section 504 and the Rehabilitation Act so that the definition is no longer limited to the dimension of employability. For purposes of section 504 of the Act, a "handicapped individual" is defined as "any person who (A) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment." With this amended definition, it became clear that section 504 was intended to forbid discrimination against all handicapped individuals, regardless of their need for or ability to benefit from vocational rehabilitation services.

Section 504 thus represents the first Federal civil rights law protecting the rights of handicapped persons and reflects a national commitment to end discrimination on the basis of handicap. The language of section 504 is almost identical to the comparable nondiscrimination provisions of title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972 (applying to racial discrimination and to discrimination in education on the basis of sex). It establishes a mandate to end discrimination and to bring handicapped persons into the mainstream of American life.

In consideration of the foregoing, Part 217, to read as set forth below, is hereby proposed to be added to Title 22 of the Code of Federal Regulations.

Robert H. Nooter

Acting Administrator.

April 13, 1979.

Subpart A.—General Provisions

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Subpart E—Procedures

217.61 Procedures.

Appendix A.—Federal Financial Assistance to Which These Regulations Apply.

Authority: Sec. 504, Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794); sec. 111(a), Rehabilitation Act Amendments of 1974, Pub. L. 93–516, 88 Stat. 1619 (29 U.S.C. 706).

Subpart A—General Provisions

§ 217.1 Purpose.

The purpose of this part is to effectuate section 504 of the rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity within the United States receiving Federal financial assistance.

§ 217.2 Application.

This part applies to all programs carried on within the United States by recipients of Federal financial assistance pursuant to any authority held or delegated by the Administrator of the Agency for International Development, including the Federally-assisted programs and activities listed in Appendix A of this part. (Appendix A may be revised from time to time by notice in the **Federal Register**). It applies to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of this regulation, even if the application for such assistance is approved prior to such effective date. This part does not apply to (a) any Federal financial assistance by way of insurance or guaranty contracts, (b) money paid, property transferred or other assistance extended uner any such program before the effective date of this part, (c) any assistance to any individual who is the ultimate beneficiary under any such program, (d) any procurement of goods or services, including the procurement of training. This part does not bar selection and treatment reasonably related to the foreign assistance objective or such other authorized purpose as the Federal assistance may have. It does not bar selections which are limited to particular groups where the purpose of the program calls for such a limitation nor does it bar special treatment including special courses of training, orientation or counseling consistent with such purpose.

§ 217.3 Definitions.

As used in this part, the term:

(a) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93–112, as amended by the Rehabilitation Act Amendments of 1974 Pub. L. 93–516, 29 U.S.C. 794.

(b) "Section 504" means section 504 of the Act.

(c) "Agency" means the Agency for International Development.

(d) The Term "Administrator" means the Administrator of the Agency for International Development or any person specifically designated by him to perform any function provided for under this part.

(e) "Recipient" means any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance and any sovereign foreign government.

(f) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by an Agency official or by a recipient as a condition to becoming a recipient.

(g) "Federal financial assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the Agency provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than the fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(h) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(i) "Handicapped Person." (1) "Handicapped persons" means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.

(2) As used in paragraph (i)(1) of this section the phrase:

(i) "Physical or mental impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems; neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(iii) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(iv) "Is regarded as having an impairment" means (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such impairment; or (C) has none of the impairments defined in paragraph (i)(2)(i) of this section but is treated by a recipient as having such an impairment.

(j) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

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(2) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity;

(3) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(k) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (j) of this section.

§ 217.4 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(b) *Discriminatory actions prohibited.* (1) A recepient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefits, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) For purposes of this part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

(3) Despite the existence of separate or different programs or activities provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such programs or activities that are not separate or different.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal finanical assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(c) *Programs limited by Federal law.* The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

§ 217.5 Assurances required.

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance, on a form specified by the Administrator, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Agency.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Agency the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (c)(1) of this section in the effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Agency the covenant shall also include a condition coupled with a right to be reserved by the Agency to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvment of existing, facilities on the property for the purposes for which the property was transferred, the Administrator may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as he or she deems appropriate, agree to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

§ 217.6 Remedial action, voluntary action, and self-evaluation.

(a) *Remedial action.* (1) if the Administrator finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 or this part, the recipient shall take such remedial action as the Administrator deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of section 504 or this part and where another recipient exercises control over the recipient that had discriminated, the Administrator, where appropriate, may require either or both recipients to take remedial action.

(3) The Administrator may, where necessary to overcome the effects of discrimination in violation of section 504 or this part, require a recipient to take remedial action (i) with respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred or (ii) with respect to handicapped persons who would have been participants in the program had the discrimination not occurred.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation.* (1) A recipient shall, within one year of the effective date of this part:

(i) Evaluate with the assistance of interested persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part;

(ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirement of this part; and

(iii) Take, after consultation with interested persons, including handicapped persons or organization representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient that employs fifteen or more persons shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Administrator upon request: (i) A list of the interested persons consulted, (ii) a description of areas examined and any problems identified, and (iii) a description of any modifications made and of any remedial steps taken.

§ 217.7 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A recipient that employs fifteen or more persons shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of grievance procedures.* A recipient that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

§ 217.8 Notice.

(a) A recipient that employs fifteen or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504, and this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employement in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to § 217.7(a). A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publication, and distribution of memoranda or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising an reprinting the materials and publications.

§ 217.9 Administrative requirements for small recipients.

The Administrator may require any receipient with fewer than fifteen employees, or any class of such recipients, to comply with §§ 217.7 and 217.8 in whole or in part, when the Administrator finds a violation of this part or finds that such compliance will not significantly impair the ability of the recipient or class of recipients to provide benefits or services.

§ 217.10 Effect of state or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any state or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportuities in amy occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

Subpart B—Employment Practices

§ 217.11 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity to which this part applies.

(2) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely

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affects their opportunities or status because of handicap.

(3) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this subparagraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(b) *Specific activities.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the procession of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virture of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(c) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 217.12 Reasonable accommodation.

(a) A recipient shall make reasonable accomodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include: (1) Making facilities used by employees readily accessible to and usable by handicapped persons, and (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipients workforce; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 217.13 Employment criteria.

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless: (1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question, and (2) alternative job-related tests or criteria that do not screen out or tend to screen out as many handicapped persons are not shown by the Administrator to be available.

(b) A recipient shall select and administer tests concerning employment so as best to ensure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual or speaking skills (except where those skills are the factors that the test purports to measure).

§ 217.14 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 217.6(a), when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted programs or activity pursuant to § 217.6(b) or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient may invite applicants fo employment to indicate whether and to what extent they are handicapped. *Provided,* That:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty: *Provided,* That: (1) All entering employees are subjected to such an examination regardless of handicap, and (2) the results of such an examination are used only in accordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

§§ 217.15–217.20 [Reserved]

Subpart C—Program Accessibility

§ 217.21 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities within the United States are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

§ 217.22 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program or activity to which this part applies so that the program or activity, when viewed in its entirety, is readily accessible to handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirement of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, alteration of existing facilities and construction of new facilities in conformance with the requirements of §217.23, or any other methods that may result in making its program or activity accessible to handicapped persons. A recipient is not require to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(c) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within sixty days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(e) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

§ 217.23 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by handicapped persons, if the construction was commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *American Standards Institute accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.1–1961 (R1971)),[1] which is incorporated by reference in this part, shall constitute compliance with paragraphs (a) and (b) of this section. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

[1] Copies obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018.

§§ 217.24–217.40 [Reserved]

Subpart D—Postsecondary Education

§ 217.41 Application of this subpart.

Subpart D applies within the United States to postsecondary education programs and activities, including postsecondary vocational education programs and activities, that receive or benefit from federal financial assistance and to recipients that operate, or that receive or benefit from federal financial assistance for the operation of such programs or activities within the United States.

§ 217.42 Admissions and recruitment.

(a) *General.* Qualified handicapped persons may not, on the basis of handicap, be denied admission or be subjected to discrimination in admission or recruitment by a recipient to which this subpart applies.

(b) *Admissions.* In administering its admission policies, a recipient to which this subpart applies:

(1) May not apply limitation upon the number or proportion of handicapped persons who may be admitted;

(2) May not make use of any test or criterion for admission that has a disproportionate, adverse effect on handicapped persons or any class of handicapped persons (i) the test or criterion, as used by the recipient has been validated as a predictor of success in the education program or activity in question and (ii) alternate tests or criteria that have a less disproportionate, adverse effect are not shown by the Administrator to be available;

(3) Shall assure itself that (i) admissions tests are selected and administered so as to best to ensure that, when a test is administered to an applicant who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the applicant's impaired sensory, manual or speaking skills (except where those skills are the factors that the test purports to measure); (ii) admissions tests that are designed for persons with impaired sensory, manual or speaking skills are offered as often and in as timely a

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manner as are other admissions tests; and (iii) admissions tests are administered in facilities that, on the whole, are accessible to handicapped persons; and

(4) Except as provided in paragraph (c) of this section, may not make preadmission inquiry as to whether an applicant for admission is a handicapped person but, after admission, may make inquiries on a confidential basis as to handicaps that may require accommodation.

(c) *Preadmission inquiry exception.* When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 217.6(a) or when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 217.6(b), the recipient may invite applicants for admission to indicate whether and to what extent they are handicapped: *Provided,* That:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with this part.

(d) *Validity studies.* For the purpose of paragraph (b)(2) of this section, a recipient may base prediction equations on first year grades, but shall conduct periodic validity studies against the criterion of overall success in the education program or activity in question in order to monitor the general validity of the test scores.

§ 217.43 Treatment of students; general.

(a) No qualified handicapped student shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, research, occupational training, housing, health, insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other postsecondary education program or activity to which this subpart applies.

(b) A recipient to which this subpart applies that considers participation by students in education programs or activities not operated wholly by the recipient as part of, or equivalent to, an education program or activity operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified handicapped persons.

(c) A recipient to which this subpart applies may not, on the basis of handicap, exclude any qualified handicapped student from any course, course of study, or other part of its education program or activity.

(d) A recipient to which this subpart applies shall operate its programs and activities in the most integrated setting appropriate.

§ 217.44 Academic adjustments.

(a) *Academic requirements.* A recipient to which this subpart applies shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of handicap, against a qualified handicapped applicant or student. Academic requirements that the recipient can demonstrate are essential to the program of instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaption of the manner in which specific courses are conducted.

(b) *Other rules.* A recipient to which this subpart applies may not impose upon handicapped students other rules, such as the prohibition of tape recorders in classrooms or of dog guides in campus buildings, that have the effect of limiting the participation of handicapped students in the recipient's education program or activity.

(c) *Course examinations.* In its course examinations or other procedures for evaluating students' academic achievement in its program, a recipient to which this subpart applies shall provide such methods for evaluating the achievement of students who have a handicap that impairs sensory, manual, or speaking skills as will best ensure that the results of the evaluations represents the student's achievement in the course, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure).

(d) *Auxiliary aids.* (1) A recipient to which this subpart applies shall take such steps as are necessary to ensure that no handicapped student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity operated by the recipient because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

(2) Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

§ 217.45 Housing.

(a) *Housing provided by the recipient.* A recipient that provides housing to its nonhandicapped students shall provide comparable, convenient, and accessible housing to handicapped students at the same cost as to others. At the end of the transition period provided for in Subpart C, such housing shall be available in sufficient quantity and variety so that the scope of handicapped students' choice of living accommodations is, as a whole, comparable to that of nonhandicapped students.

(b) *Other housing.* A recipient that assists any agency, organization, or person in making housing available to any of its students shall take such action as may be necessary to assure itself that such housing is, as a whole, made available in a manner that does not result in discrimination on the basis of handicap.

§ 217.46 Financial and employment assistance to students.

(a) *Provision of financial assistance.* (1) In providing financial assistance to qualified handicapped persons, a recipient to which this subpart applies may not (i), on the basis of handicap, provide less assistance than is provided to nonhandicapped persons, limit eligibility for assistance, or otherwise discriminate or (ii) assist any entity or person that provides assistance to any of the recipient's students in a manner that discriminates against qualified handicapped persons on the basis of handicap.

(2) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments that require awards to be made on the basis of factors that discriminate or have the effect of discriminating on the basis of handicap only if the overall effect of the award of scholarships, fellowships, and other forms of financial assistance is not discriminatory on the basis of handicap.

(b) *Assistance in making available outside employment.* A recipient that assists any agency, organization, or person in providing employment opportunities to any of its students shall assure itself that such employment opportunities, as a whole, are made available in a manner that would not violate Subpart B if they were provided by the recipient.

(c) *Employment of students by recipients.* A recipient that employs any of its students may not do so in a manner that violates Subpart B.

§ 217.47 Nonacademic services.

(a) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation in these activities.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different only if separation or differentiation is consistent with the requirements of § 217.43(d) and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

(b) *Counseling and placement services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities. This requirement does not preclude a recipient from providing factual information about licensing and certification requirements that may present obstacles to handicapped persons in their pursuit of particular carrers.

(c) *Social organizations.* A recipient that provides significant assistance to fraternities, sororities, or similar organizations shall assure itself that the membership practices of such organizations do not permit discrimination otherwise prohibited by this subpart.

§§ 217.48–217.60 [Reserved]

Subpart E—Procedures

§ 217.61 Procedures.

The procedural provisions applicable to title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in §§209.6–209.13 of this title.

§§ 217.62–217.99 [Reserved]

Appendix A—Federal Financial Assistance to Which This Regulation Applies

1. Grants to research and educational insitutions in the United States to strengthen their capacity to carry on programs concerned with the economic and social development of less developed friendly countries (Section 122d, Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2221 and Section 297 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2220(b).

2. Grants to non-profit organizations, universities, hospitals, accredited health institutions and voluntary health or other qualified organizations with respect to problems of populations growth and family planning in friendly countries and areas. (Section 104(b), Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151b).

3. Grants to land grant and other qualified agricultural universities and colleges to develop their capabilities to assist developing countries in agricultural teaching, research and extension services. (Section 297, Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2220(b)).

[FR Doc.79-13084 Filed 4-26-79; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Cape Coral, Lee County, Fla., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Cape Coral, Lee County, Florida.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 815 Nicholas Parkway, Cape Coral, Florida.

Send comments to: Hon. Lyman Moore, Mayor, city of Cape Coral, P.O. Box 900, Cape Coral, Florida 33904.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Cape Coral, Florida, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganizaion Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gulf of Mexico	Intersection of Durden Parkway West and Northwest 34th Avenue.	11
	Intersection of Pine Island Road and Santa Barbar Boulevard.	11
	Intersection of Chiquita Boulevard and Miracle Parkway.	10
	Intersection of Country Club Boulevard and Retunda Parkway.	11
	Intersection of Pelican Boulevard and Gleason Parkway.	10
	Intersection of Tropicana Parkway and Northwest 36th Avenue.	10
	Intersection of Diplomat Parkway and Chiquita Boulevard.	11
	Intersection of Pine Island Road and Nicholas Parkway.	11
	Intersection of Hancock Bridge Parkway and Del Prado Parkway.	11
	Intersection of Cape Coral Parkway West and South Chiquita Boulevard.	10
	Junction of Sands Boulevard and El Dorado Parkway West.	11
	Intersection of Cape Coral Parkway and Coronodo Parkway.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 23, 1979.

Gloria M. Jiminez,

Federal Insurance Administrator.

[Docket No. FI–5379]

[FR Doc. 79–13056 Filed 4–26–79; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR PART 1917]

Proposed Flood Elevation Determinations for the Borough of Oradell, Bergen County, N.J.; Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Oradell, Bergen County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the borough hall in Oradell.

Send comments to: Hon. Carl Marggraff, mayor, borough of Oradell, Borough Hall, 355 Kinderkamack Road, Oradell, New Jersey 07649.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–5581 or Toll-Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Oradell, New Jersey, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic
Hackensack River	Corporate Limits—200 feet*	10
	New Milford Avenue**	12
	Oradell Avenue—200 feet*	15
	Oradell Reservoir	25
Hackensack River Bypass.	New Milford Avenue—60 feet***	13
	Elm Street—180 feet*	14

* Upstream from centerline
** At centerline
*** Downstream from centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI–5378]

[FR Doc. 79–3055 Filed 4–26–79; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension Welfare and Benefits Program

[26 CFR Part 54]

[29 CFR Part 2550]

Proposed Regulations Relating to Certain Loans, Leases, and Dispositions of Property Prior to June 30, 1984

AGENCY: Department of Labor.[1]

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document contains proposed regulations under the Employee Retirement Income Security Act of 1974 (Act) relating to loans or other extensions of credit, leases or joint uses of property, and sales of leased or jointly used property where an employee benefit plan is involved in the transaction. The proposed regulations are intended to clarify the scope of certain provisions of the Act which, in effect, allow such transactions to take place for a limited period of time and under specified circumstances. If adopted, the regulations might affect participants and beneficiaries of employee benefit plans, and employers and other persons engaged in loan, lease, joint use, or sale transactions with employee benefit plans.

DATES: Written comments concerning the proposed regulations must be received by the Department of Labor (the Department) on or before June 26, 1979. The regulations, if adopted, would be effective as of January 1, 1975.

ADDRESS: Interested persons are invited to submit written data, views or arguments concerning the proposed regulations to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, Washington, D.C. 20216, Attention: Proposed regulations 2550.414c–1,2, and 3. All submissions will be open to public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William J. Flanagan, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20216, telephone (202)–523–7931. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of Labor proposes to adopt regulations under sections 414(c)(1), (2) and (3) of the Act.[2] The Department's reasons for issuing the proposed regulations are set forth below, followed by a discussion of the provisions of the proposed regulations.

A. Background

Section 406(a) of the Act generally prohibits a fiduciary [3] with respect to an employee benefit plan from causing the plan to engage in certain types of transactions with a party in interest.[4] These prohibited transactions with parties in interest include, among others, leases, loans, and sales or exchanges of property. Moreover, section 406(b) of the Act among other things prohibits fiduciaries from acting with respect to the plan in certain situations where they have a conflict of interest or in such a way as to benefit themselves. In addition, section 406(a) of the Act, together with section 407(a), delimits the circumstances under which a plan may acquire or hold real property which is leased to an employer of persons covered by the plan.

However, section 414(c)(1) of the Act provides that the prohibitions and limitations of sections 406 and 407(a) will not apply until June 30, 1984 to a loan of money or other extension of credit between a plan and a party in interest, provided, among other things, that the loan or extension of credit is made pursuant to either a binding contract which was in effect on July 1, 1974, or a renewal of such a contract. Section 414(c)(2) of the Act contains similar provisions with respect to leases or joint uses of property involving a plan and a party in interest, and, under section 414(c)(3), property described in section 414(c)(2) may, until June 30, 1984, be the subject of a sale, exchange, or other disposition between the plan and the party in interest provided that the plan receives no less than, or pays no more than, fair market value for the property. The purpose of including these provisions in the Act was to avoid the undue hardship which might have resulted from making the prohibitions of the Act applicable immediately with respect to certain activities which were being engaged in by employee benefit plans at the time the Act was passed, and which did not violate prior law.[5]

If the proposed regulations are adopted, the Department will generally not regard transactions as coming within the terms of section 414(c)(1), 414(c)(2), or 414(c)(3) of the Act unless the transactions come within the terms of the regulations. Whether or not the proposed regulations are adopted, determinations as to whether particular transactions come within the scope of the transitional rules should be made by plan fiduciaries on the basis of relevant facts and circumstances. Because the question of whether a transaction is within the scope of a transitional rule is essentially factual, the Department generally will not issue advisory opinions with regard to questions of this nature.[6]

It should be noted that the fact that a transaction comes within the scope of the transitional rules of section 414(c) does not relieve a fiduciary with respect to the plan from the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of plan participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must be operated for the exclusive benefit of employees and their beneficiaries. Even though a transaction might be within the scope of the transitional rules of section 414(c)(1), (2) or (3), a plan fiduciary could not lawfully cause the plan to engage in such a transaction unless the action on the part of the fiduciary was consistent with the requirements of section 404 of the Act.

[1] Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to promulgate regulations of the type proposed herein to the Secretary of Labor. Therefore, if the Department determines to adopt the proposed regulations on the basis of comments received, it contemplates adopting provisions for similar treatment under the Internal Revenue Code of 1954 of the transitional rules contained in section 2003(c)(2)(A)–(C) of ERISA. Those provisions were formerly administered by the Secretary of Treasury.

This document does not meet the criteria for significant regulations set forth in Department of Labor guidelines (44 FR 5570, January 26, 1979) issued to implement Executive Order 12044 (43 FR 12661, March 23, 1978).

[2] As noted in footnote 1 above, the Department, on the basis of comments received on this proposal, will consider adopting similar regulations under section 2003(c)(2)(A)–(C) of ERISA.

[3] Section 3(21)(A) of the Act provides in part that, in general, a person is a fiduciary with respect to a plan to the extent (i) he exercises any discretionary authority or discretionary control respecting management of such plan or exercises any authority or control respecting management or disposition of its assets, (ii) he renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or (iii) he has any discretionary authority or discretionary responsibility in the administration of such plan.

[4] The term "party in interest" is defined in section 3(14) of the Act to include fiduciaries, employers of individuals covered by the plan, and persons or organizations having other relationships with the plan which are specified in that section.

[5] *See* H.R. Rep. No. 93–1280, 93d Cong., 2d Sess. 325 (1974). Transitional relief relating to certain other types of activities and transactions is provided in section 414(c)(4) and (5) of the Act. The Department previously has adopted Regulation 2550.414c–4, clarifying the scope of the transitional relief provided in section 414(c)(4) of the Act.

[6] *See* section 5 of ERISA Proc. 76–1 (41 FR 36281 August 7, 1976), the Advisory Opinion Procedure.

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In this connection, plan fiduciaries should also note that the transitional relief provided by section 414(c) (1), (2) and (3) extends only until June 30, 1984. In determining whether to renew existing contracts or dispose of property in transactions consistent with the section 414(c) (1), (2) or (3) transitional rules, plan fiduciaries should take into account the fact that existing arrangements must terminate, and any dispositions of property must be completed, by June 30, 1984.

B. Discussion of Proposed Regulations

1. *Proposed Regulations § 2550.414c–1 and § 2550.414c–2.*—Proposed regulation § 2550.414c–1, concerning loans or other extensions of credit, and proposed regulation § 2550.414c–2, concerning leases or joint uses of property, each contains certain provisions substantially identical to the statutory transitional rule to which it relates. Thus, proposed regulation § 2550.414c–1 provides in part that sections 406 and 407(a) of the Act will not apply until June 30, 1984 to a loan of money or other extension of credit between a plan and a party in interest made pursuant to either a binding contract which was in effect on July 1, 1974, or a renewal of such a contract, provided that the loan or extension of credit remains at least as favorable to the plan as an arm's-length transaction with an unrelated party would be, and provided that the execution of the contract, the making of the loan, or the extension of credit was not, at the time of such execution, making, or extension, a prohibited transaction within the meaning of section 503(b) of the Code or the corresponding provisions of prior law. Proposed regulation § 2550.414c–2 contains a similar provision with regard to leases or joint uses of property involving a plan and a party in interest. The two proposed regulations then set forth provisions defining or clarifying certain of the terms used therein. These provisions are discussed below.

a. *Binding contract.* The proposed regulations state that a "binding contract" means one which is binding under applicable state law.[7] The validity of contracts generally is determined under State law, and it would appear unnecessary and impractical to formulate special federal rules for determining whether a contract is binding for purposes of section 414(c) of the Act. In this connection, the Department recognizes that the laws governing contracts vary from state to state, and that an arrangement which would constitute a binding contract under the law of one state might not be binding under the law of another state. To this extent, the effect of the proposed regulations could vary depending upon which state law is applicable. However, such a result does not seem unreasonable in view of the fact that, as suggested above, the purpose of providing transitional relief in section 414(c) of the Act was to avoid precipitous disruption of certain arrangements which were in effect prior to passage of the Act. Since the validity of contracts relating to such arrangements would have been determined under state law if the Act had not been passed, the purpose of section 414(c) may be served by referring to state law in this area.

b. *At least as favorable:* Under proposed regulations 2550.414c–1 and 2550.414c–2, arrangements will be regarded as remaining "at least as favorable to the plan as an arm's-length transaction with an unrelated party would be" only if two conditions are met. First, the arrangement, at the time it is entered into and at any time it it renewed, must be on terms at least as favorable to the plan as those which reasonably would be expected to exist in the case of an otherwise identical transaction in a normal commercial setting between the plan and the party in interest if they were unrelated parties. Secondly, the plan must require termination or modification of the contract at such time as, and in such manner and to such extent that, it reasonably would be expected to do so in a normal commercial setting if the plan and the party in interest were unrelated parties.

The first of the two conditions described above is self-explanatory. With regard to the second condition, the question of whether a plan would have to require termination or modification of an agreement would depend upon both the plan's legal rights under the agreement and relevant economic considerations. For example, if a plan loaned money to a party in interest in exchange for a demand note and prevailing interest rates increased while the loan was outstanding, the plan normally would have to require either a corresponding increase in the interest paid on the note or immediate repayment of the note. Similarly, if a plan were leasing property to a party in interest pursuant to a month-to-month lease and the fair rental value of the property increased, in most cases the plan either would have to require an increase in the rent paid by the party in interest to reflect such increase in value, or would have to terminate the lease.

On the other hand, under the proposed regulations, renegotiation of an existing contract would not be required if the terms of the contract did not permit an adjustment of the contract terms.[8]

c. *Renewal.* A renewal of a contract will be regarded as coming within the terms of proposed regulations 2550.414c–1 and 2550.414c–2 only if two conditions are met.

First, the renewal must be one which the plan reasonably would be expected to agree to in the case of an identical transaction in a normal commercial setting with unrelated parties. It should be noted that these proposed regulations do not require that the original contract explicitly provide for renewal.

Second, except as required in order for the arrangement to remain at least as favorable to the plan as an arm's length transaction with an unrelated party would be, a renewal would come within the scope of the proposed regulations only if any changes in the terms of the existing contract or arrangement are not substantial. For example, if a plan leased office space in a portion of an upper floor of an office building to a party in interest pursuant to the transitional rules, a renewal of the lease which was otherwise in accord with those rules would, depending upon the facts and circumstances of the particular transactions, generally be permissible if the renewal involved office space in the same portion of that floor or the same plus some additional portion of that floor. However, a lease by the party in interest of office space in the same portion of the floor and commercial storefront space in the building owned by the plan would appear to involve a substantial change from the original lease, and thus, would not be considered a renewal for purposes of the proposed regulations.[9]

[7] For example, the question of whether an oral agreement is a binding contract would be determined according to applicable state law.

[8] In this respect the proposed regulations differ from Department of the Treasury regulation 26 CFR § 53.4941(d)–4 issued under section 101(1)(2) of the Tax Reform Act of 1969, 83 Stat. 533. Section 101(1)(2), which provides transitional relief for private foundations from the prohibited transaction provisions of section 4941 of the Code, is similar to the transitional provisions of ERISA. Despite this similarity in statutory language, the Department believes that this liberalization in treatment (by expanding the class of transactions to which the transitional rules apply) is justified in view of the substantial differences in the operation of employee benefit plans and private foundations under their respective transitional rules.

[9] Similarly, if a contract provided for a line of credit, renewal would not represent a substantial change in the existing arrangement so long as the amount of credit committed upon renewal, including any amount outstanding at the time of renewal, does not exceed the limit placed on the line of credit

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With respect to the requirement that the transaction remain at least as favorable to the plan as an arm's-length transaction with an unrelated party would be, it should be noted that it would not be necessary to renegotiate a contract at the time of renewal if the plan is obligated to renew on terms which had been set by the original contract. Such an obligatory renewal clause would be taken into account in determining whether the original contract was, at time of its making, at least as favorable to the plan as an otherwise identical arm's-length transaction in a normal commercial setting would be. If this criterion is met and the contract otherwise qualifies for transitional relief, the renewal could, under the proposed regulations, take place on the predetermined terms even though those terms might not appear favorable in light of developments occurring subsequent to the making of the original contract. This is because it could reasonably be expected that an unrelated party would renew a contract at terms it was obligated to accept.

However, where a contract indicates that any renewal must take place under predetermined terms but the plan has the right not to renew the contract at all, such renewal could, under the proposed regulations, take place only if the predetermined terms are, at the time of renewal, terms which the plan would reasonably be expected to agree to in an otherwise identical arm's-length transaction. If the predetermined terms fail to satisfy this criterion, the plan could not enter into the renewal under the proposed regulations.

Similarly, where renewal terms have not been predetermined, it could reasonably be expected that unrelated parties to a contract would renegotiate its terms at the time of renewal in order to reflect changed circumstances. Therefore, to the extent that changed circumstances placed a plan in a position to obtain renewal terms more favorable that those of the original contract, such terms would have to be obtained in order for the renewal to qualify for transitional relief under the proposed regulations.

2. *Proposed Regulation 2550.414c–3.*—Paragraph (a) of proposed regulation 2550.414c–3 is similar in substance to section 414(c)(3) of the Act. That paragraph provides that sections 406 and 407(a) of the Act will not apply until June 30, 1984 with respect to a sale, exchange, or other disposition of leased or jointly-used property described in regulation 2550.414c–2 between a plan and a party in interest,[10] provided that, in the case of a sale, exchange, or other disposition of the property by the plan to the party in interest, the plan receives an amount which is not less than the fair market value of the property at the time of such disposition, and, in the case of the acquisition of the property by the plan, the plan does not pay more than such an amount.[11]

However, the proposed regulation is drafted in recognition of the fact that transitional relief might not be necessary where one or more unrelated persons leases or jointly uses any portion or portions of the property representing a total value equal to or greater than the value of the portion of the property leased to or jointly used by parties in interest. In such a circumstance, the plan presumably would be able to sell such property to a person other than the party in interest. Thus, no undue hardship to the plan or party in interest participating in a lease or joint use would seem likely to result from applying the restrictions of section 406 of the Act with respect to disposition of the property. Accordingly, paragraph (b) of proposed regulation 2550.414c–3 provides that a sale of property, a portion of which is subject to a lease or joint use between a plan and a party in interest, will not be within the scope of the transitional relief afforded by that section if one or more unrelated persons leases or jointly uses any portion or portions of the property representing a total value equal to or greater than the value of the portion of the property leased to or jointly used by parties in interest. Under this provision, the relief provided in the proposed regulation would be available where, for example, a portion of property representing 40% of the property's total value was leased to or jointly used by a party in interest and the remainder of the property was vacant. However, if in that example the remainder of the property *i.e.*, a portion representing 60% of its value, was leased to or jointly used by one or more persons unrelated to the plan, the relief provided in the proposed regulation would not be available. On the other hand, the relief afforded by the proposed regulation would be available if, for example, the plan were selling to a party in interest only that portion of the property leased to the party in interest, even if a sale of the entire property would not be within the scope of the regulation.

In addition, paragraph (b) of proposed regulation 2550.414c–3 provides that fair market value must be determined without regard to any diminution in value resulting from the property being subject to a lease to, or joint use by, a party in interest. This provision is included because it would seem inappropriate to allow a party in interest to acquire property from a plan for a price lower than the plan would otherwise be able to receive, where the plan's inability to obtain the higher price results from the property's being burdened by a party in interest lease which depresses the property's market price.

STATUTORY AUTHORITY: The proposed regulations set forth herein are issued pursuant to sections 414(c) and 505 of the Act.

PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

PROPOSED REGULATIONS: In consideration of the matters discussed above, it is proposed to amend Part 2550 of Chapter XXV of Title 29 of the Code of Federal Regulations by adding after § 2550.414b–1 the following new sections:

§ 2550.414c–1 Transitional rule relating to certain loans or other extensions of credit prior to July 1, 1984.

(a) Before July 1, 1984, sections 406 and 407(a) of the Employee Retirement Income Security act of 1974 (Act) shall not apply with respect to a loan of money or other extension of credit between a plan and a party in interest under a binding contract in effect on July 1, 1974, or pursuant to renewals of such a contract, if such loan or other extension of credit remains at least as favorable to the plan as an arm's-length transaction with an unrelated party would be, and if the execution of the contract, the making of the loan, or the extension of credit was not, at the time of such execution, making, or extension, a prohibited transaction within the meaning of section 503(b) of the Internal Revenue Code of 1954 or the corresponding provisions of prior law.

(b) For purposes of this section,

(1) "Binding contract" means only a contract which is binding under applicable state law;

Footnotes continued from last page
in the existing contract. On the other hand, where a loan has been made for a fixed amount, renewal of that loan would not represent a substantial change in the existing arrangement only if the amount of the loan renewed does not exceed the original loan amount minus any amounts repaid before renewal.

[10] For the purposes of proposed regulation 2550.414(c)–1, the term "property described in 29 CFR § 2550.414c–2" includes all properties subject to a lease or joint use involving a plan and a party in interest under a binding contract in effect on July 1, 1974, or pursuant to renewals of such contracts.

[11] The fact that a transaction does not meet the criteria of section 414(c)(3) of the Act and the regulations thereunder does not preclude the possibility that the transaction might nonetheless qualify for relief under section 414(c)(5) of the Act.

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(2) A loan or other extension of credit will not be considered to "remain at least as favorable to the plan as an arm's-length transaction with an unrelated party would be" unless:

(i) Such loan or extension of credit, at the time of the execution of the contract and any renewal, is on terms at least as favorable to the plan as those which reasonably would be expected to exist in the case of an otherwise identical transaction in a normal commercial setting between the plan and the party in interest if they were unrelated parties, and

(ii) The plan requires termination or modification of the contract at such time as, and in such manner and to such extent that, it reasonably would be expected to require such termination or modification in the case of an otherwise identical transaction in a normal commercial setting with the party in interest if they were unrelated parties; and

(3) "Renewal" of a contract means only a renewal which:

(i) The plan reasonably would be expected to agree to in the case of an otherwise identical transaction in a normal commercial setting with the party in interest if they were unrelated parties, and

(ii) Except to the extent required by paragraph (b)(2)(ii) of this section, does not result in any substantial change or modification of the terms of the existing contract.

§ 2550.414c-2 Transitional rule relating to certain leases or joint uses of property prior to July 1, 1984.

(a) Before July 1, 1984, sections 406 and 407(a) of the Employee Retirement Income Security Act of 1974 shall not apply with respect to a lease or joint use of property involving the plan and a party in interest pursuant to a binding contract in effect on July 1, 1974 or pursuant to renewals of such a contract, if such lease or joint use remains at least as favorable to the plan as an arm's length transaction with an unrelated party would be and if the execution of the contract was not, at the time of such execution, a prohibited transaction within the meaning of section 503(b) of the Internal Revenue Code of 1954 or the corresponding provisions of prior law.

(b) For purposes of this section,

(1) "Binding contract" means only a contract which in binding under applicable state law;

(2) A lease or joint use of property will not be considered to "remain at least as favorable to the plan as an arm's-length transaction with an unrelated party would be" unless:

(i) The contract for such lease or joint use of property, at the time of the execution and any renewal thereof, is on terms at least as favorable to the plan as those which reasonably would be expected to exist in the case of an otherwise identical transaction in a normal commercial setting between the plan and the party in interest if they were unrelated parties, and

(ii) The plan requires termination or modification of the contract at such time as, and in such manner and to such extent that, it reasonably would be expected to require such termination or modification in the case of an otherwise identical transaction in a normal commercial setting with the party in interest if they were unrelated parties; and

(3) "Renewal" of a contract means only a renewal which:

(i) The plan reasonably would be expected to agree to in the case of an otherwise identical transaction in a normal commercial setting with the party in interest if they were unrelated parties, and

(ii) Except to the extent required by paragraph (b)(2)(ii) of this section, does not result in any substantial change or modification of the terms of the existing contract.

§ 2550.414c-3 Transitional rule relating to certain sales, exchanges, or other dispositions of property prior to July 1, 1984.

(a) Before July 1, 1984, section 406 of the Employee Retirement Income Security Act of 1974 shall not apply with respect to a sale, exchange, or other disposition of leased or jointly used property described in 29 CFR § 2550.414c-2 between a plan and a party in interest provided that:

(1) In the case of a sale, exchange, or other disposition of such property by the plan to the party in interest, the plan receives an amount which is not less than the fair market value of the property at the time of such disposition; and

(2) In the case of the acquisition of such property by the plan, the plan pays an amount which is not in excess of the fair market value of the property at the time of such acquisition.

(b) For purposes of this section,

(1) The term "property described in 29 CFR § 2550.414c-2" includes all properties subject to a lease or joint use involving a plan and a party in interest under a binding contract in effect on July 1, 1974, or pursuant to renewals of such contracts;

(2) A property will not be regarded as the subject of a lease or joint use between a plan and a party in interest to the extent that one or more unrelated persons leases or jointly uses any portion or portions of such property representing a total value equal to or greater than the value of the portion of the property leased to or jointly used by one or more parties in interest and the plan; and

(3) Fair market value must be determined without regard to any diminution in value resulting from the property being subject to a lease to, or joint use by, a party in interest.

(4) The term "property" means any property or part thereof.

Signed at Washington, D. C., this 20th day of April 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, United States Department of Labor.

[FR Doc. 79-12934 Filed 4-26-79; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

Approval and Promulgation of Implementation Plans; Nevada State Implementation Plan Revision; Truckee Meadows Nonattainment Area Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Revisions to the Truckee Meadows portion of the Nevada State Implementation Plan (SIP) have been submitted to the Environmental Protection Agency (EPA) by the Governor. The intended effect of the revisions is to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas." This notice provides a description of the proposed SIP revisions, summarizes the Part D requirements, compares the revisions to these requirements, identifies major issues in the proposed revisions, and suggests corrections. On April 4, 1979 (44 FR 20372) EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. The general preamble supplements this proposal, by identifying the major considerations that will guide EPA's evaluation of the submittal. The EPA invites public comments on these revisions, the identified issues, suggested corrections, and whether the revisions should be approved or disapproved, especially

with respect to the requirements of Part D of the Clean Air Act.

DATES: Comments may be submitted up to June 26, 1979.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn.: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the Proposed Revisions/Nonattainment Area Plan and EPA's associated Evaluation Report are contained in document file NAP-NV-6 and are available for public inspection during normal business hours at the EPA Region IX Library at the above address and at the following locations:

Washoe Council of Governments, 241 Ridge Street, Reno, NV 89502.
Department of Conservation and Natural Resources, 201 S. Fall Street, Carson City, NV 89710.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
Douglas Grano, Chief, Regulatory Section, Air & Hazardous Materials Division, EPA, Region IX, (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Background

New provisions of the Clean Air Act, enacted in August 1977, Public Law No. 95-95, require states to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the NAAQS attainment status for all areas within the state. The Administrator promulgated these lists, with certain modifications, on March 3, 1978 (43 FR 8962). State and local governments were required to develop, adopt, and submit to EPA revisions to their SIP, for nonattainment areas, by January 1, 1979 which meet the requirements of Part D of the Clean Air Act and which provide for attainment of the NAAQS as expeditiously as practicable. The Truckee Meadows area has been designated nonattainment for particulate matter, photochemical oxidants (ozone), and carbon monoxide.

Description of Proposed SIP Revisions

On December 29, 1978 the Governor submitted the Truckee Meadows Air Quality Implementation Plan to EPA as a revision to the Nevada SIP. Preparation of the proposed SIP revisions was coordinated by the Washoe Council of Governments, which was designated by the Governor as the air quality planning organization for the Truckee Meadows nonattainment area. The nonattainment area plan for the Truckee Meadows area consists of the following major components:

—A basic description of the Federal, State, and local air pollution control requirements both past and present;

—A discussion of those pollutants that exceed the NAAQS, specifying the violations by pollutant, and their health effects;

—An examination of air quality trends through the use of growth projections and emission inventories, and a determination of the level of control needed to attain the standards;

—A discussion of alternative air quality control measures that examines feasibility, costs, technical effectiveness, and enforcement aspects;

—An examination of the impact that new, modified, or relocated sources will have on air quality;

—A discussion of the specific strategies for particulate matter, carbon monoxide, and photochemical oxidants (ozone) that describes the implementation mechanisms, schedules for reasonable further progress, annual reporting provisions, and continuing planning requirements, as well as the environmental, social and economic impacts for the strategies; and

—A discussion of the planning process including: how the plan was prepared, the agencies involved in the process, public participation, intergovernmental consultation, and the transportation planning process.

The plan proposes to attain the carbon monoxide standard by 1982. The control measures to be used include: inspection and maintenance programs, road improvements, traffic controls, and areawide ride-sharing programs.

The plan proposes to attain the particulate standard by 1982 by using construction dust control, street sweeping, and the paving of unpaved roads, alleys, driveways, and parking lots.

The plan proposes to attain the 0.08 ppm photochemical oxidants (ozone) standard by 1987 using new regulations controlling emissions from the storage and transfer of fuels, asphalt paving, degreasing activities, dry cleaning operations, and oil based paints. In addition, the plan proposes to use one or more of the following controls to reduce emissions: expanded public transit, land use controls, vapor recovery systems for filling vehicle gas tanks, moving Reno International Airport, and energy conservation measures.

Criteria for Approval

The following list summarizes the basic requirements for Nonattainment Area Plans.

1. An accurate inventory of existing emissions.
2. A provision for expeditious attainment of the standards.
3. A determination of the level of control needed to attain by 1982 and, in the case of an extension request, by 1987.
4. Adoption in legally enforceable form of all reasonably available control measures necessary to provide for attainment or, for some measures, where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures.
5. Emission reduction estimates for each adopted control measure.
6. Provisions for reasonable further progress as defined in Section 171 of the Clean Air Act.
7. An identification of emissions growth.
8. Provisions for annual reporting with respect to items (4) and (6) above.
9. A permit program for major new or modified sources consistent with Section 173 of the Clean Air Act.
10. An identification of and commitment to the resources necessary to carry out the plan.
11. Evidence of public, local government, and state involvement and consultation.
12. Evidence that the proposed SIP revisions were adopted by the state after reasonable notice and public hearing.
13. For carbon monoxide and photochemical oxidants (ozone) SIP revisions that provide for attainment of the primary standards later than 1982:

a. A permit program for major new or modified sources requiring an evalution of alternative sites and consideration of environmental and social costs.

b. In addition, in urbanized areas:

(1) An Inspection/Maintenance program or schedule for development, adoption, and implementation of such a program.

(2) A provision for implementation of reasonably available control measures for mobile sources.

(3) A commitment to establish, expand, or improve public transportation measures.

14. In photochemical oxidants (ozone) nonattainment areas requiring an extension beyond 1982, the revision must provide for adoption of legally enforceable regulations to reflect the application of reasonably available

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control technology (RACT) to those stationary sources for which EPA has published a Control Techniques Guideline by January 1978, and a commitment to adopt RACT regulations for additional sources to be covered by guidelines. For rural areas, only large sources (more than 100 tons/year potential emissions) must be so regulated.

Issues

This section discusses whether the plan elements of the Truckee Meadows Nonattainment Area Plan satisfy the basic criteria for approval. The paragraph numbers correspond to the preceding section, Criteria for Approval. Where a significant plan discrepancy is identified, recommendations for revision of the plan are specified. The citations in the comments refer to Sections 108, 110, and Part D, Sections 171–178, of the Clean Air Act, as amended.

1. Emission Inventory

The plan includes an emission inventory for particulate matter, hydrocarbons, nitrogen oxides, and carbon monoxide, which identifies emission source categories and present and future emissions. The inventory is used in formulating control strategies designed to attain the national standards. Stationary, mobile, and area source estimates, which comprise the inventory, are based on emission factors cited in EPA's "Compilation of Air Pollution Emission Factors" (AP–42), or derived from source test data, surveys, computer models, or transportation studies. The emission inventory for each pollutant is reasonably comprehensive, current, and accurate for air pollution planning purposes for this area, as required by Section 172(b)(4).

2. Attainment Provision

Particulate matter. This plan provides for attainment of the total suspended particulate primary standards through a commitment to an emissions reduction schedule from 1979 to the attainment year of 1982. For purposes of this demonstration, the more stringent annual standard was used.

The plan commits to a schedule of studies to improve the accuracy of emission factors, refine the baseline emissions inventory, and estimate more precisely area-specific emission reductions from control strategies for nontraditional sources. Adopted tactics, commitments to implement them, and amendments to the control strategy must be submitted to EPA as SIP revisions following completion of the scheduled studies.

The State requested an extension of 18 months for submittal of a plan showing attainment of the secondary standard for total suspended particulates. This request appears to be consistent with the provisions of 40 CFR 51.31, since the SIP revision shows that attainment of this standard will require emission reductions greater than those that would result from the expeditious application of reasonably available control technology.

Ozone. The plan addresses the national standard for photochemical oxidants of 0.08 ppm, which was superseded on February 8, 1979 (44 FR 8202) by the promulgation of a revised standard for ozone of 0.12 ppm. This revision to the standard may provide the opportunity to amend the plan, including changes in the control tactics and the attainment date. Upon receipt of an official SIP revision, EPA will consider the proposed changes. The present plan, however, provides for attainment of the 0.08 ppm level by 1987 through regular annual reductions achieved by identified measures.

Justification in the plan for an extension beyond the 1982 deadline is based upon a showing that the standard for photochemical oxidants of 0.08 ppm cannot be achieved, despite expeditious implementation of reasonably available control measures.

Carbon Monoxide. The plan attempts to provide for the attainment of the carbon monoxide standards through reductions in emissions from 1979 to the attainment year of 1982. The provision for attainment depends in part upon a strategy no longer included in the plan. This strategy (enhancement of the existing vehicle inspection and maintenance program) must be replaced by other tactics with equivalent emission reductions.

3. Level of Control

For all three pollutants the plan uses a proportional or rollback analysis to relate ambient concentrations to emissions. This is an acceptable screening method for estimating required reductions in emissions. The plan indicates that dispersion models conforming to EPA guidelines will be used to refine the analysis and identify the need for geographical- and seasonal-specific controls for each pollutant.

4. Legally Adopted Measures/Schedules

The SIP revision does not indicate that all necessary control measures have been adopted at the state or local level, as required by Sections 172(b)(2), 172(b)(8), and 172(b)(10). Specifically, the plan fails to show adoption in legally enforceable form of reasonably available control measures and, for all other measures, either adopted control strategies or schedules and commitments for development, adoption, submittal, and implementation. Upon EPA's receipt of evidence that all essential plan elements have been adopted by the implementing agencies, the requirements of Section 172(b) would be satisfied.

Particulate. For particulate matter the plan includes adopted regulations establishing, for source categories, an emission limit that can be met by reasonably available control technology. The plan indicates that local agencies have committed to necessary additional scheduled studies, pilot projects, and control provisions for nontraditional emission sources of fugitive dust.

Carbon Monoxide. The plan does not include written evidence that the agencies identified as responsible for transportation related measures have adopted, by legally enforceable commitments, the necessary transportation control measures and schedules of implementation, and are committed to implement and enforce the transportation elements of the plan. The plan must provide evidence that agencies with transportation planning and implementing authority have (1) adopted an emissions reduction target for the transportation sector, and (2) clearly acknowledged and accepted responsibility for the implementation of the transportation control measures presented in the plan on a schedule consistent with the requirements for reasonable further progress.

Ozone. The plan must include adopted regulations reflecting reasonably available control technology, for stationary source categories, for which EPA has published a Control Techniques Guideline document by January 1978. Transportation measures, which account for necessary hydrocarbon emission reductions, must be supported by the commitments identified in the above discussion of carbon monoxide controls.

5. *Emission Reduction Estimates.* Due to the unavailability of area-specific data, the plan includes only tentative emission reduction estimates for transportation and fugitive dust control measures for all pollutants. The plan provides for studies to determine the local effectiveness of these control tactics. This information must be supplied in future annual reports. The hydrocarbon emission reduction estimates for stationary source ozone strategies appear to be accurate.

6. *Reasonable Further Progress.* The showing of planned emission reductions for each of the three pollutants appears to be consistent with the requirements of Section 172(b)(3) and the definition of reasonable further progress in Section 171(1). The schedule represents regular incremental reductions needed for expeditious attainment, with application of reasonably available control technology. The schedule must be supported by adoption of regulations identified in the plan.

7. *Emissions Growth.* The plan indicates no growth in emissions from major stationary sources since new or expanded sources will be subject to permit conditions requiring full offsets of emissions. In order to satisfy the requirements of Section 172(b)(5), the State and the Washo County District Health Department (WCDHD) must submit permit regulations requiring these emissions offsets or conformity with an identified emissions growth increment.

8. *Annual Reporting.* The plan contains a commitment to submit annual reports of reasonable further progress, including an updated emissions inventory. This commitment should be further supplemented by additional specific commitments from all participating agencies to develop and describe in the SIP:

(1) Procedures for determination of conformity between transportation programs and projects and SIP revisions;

(2) Programs to monitor and report on actual field effectiveness of each transportation control measure.

9. *Permit Program.* The plan does not contain regulations for a permit program for major new or modified sources conforming to the provisions of Section 173. Because the State has exclusive statewide permitting authority over fossil fuel-fired steam generators, both the State and WCDHD must submit regulations for a permit program satisfying the Part D provisions.

10. *Resources.* The plan does not specifically identify and commit all financial and manpower resources necessary for plan implementation, nor does the plan provide commitments to these resources on the part of all implementing agencies. Upon receipt of these essential commitments, the provisions of Section 172(b)(7) would be met.

11. *Public and Government Involvement.* The plan provides evidence of public, local government, and State involvement and consultation in the planning process. In addition, the plan identifies air quality, health, welfare, economic, energy, and social effects of the plan provisions. The plan also documents the process used in designating responsible entities for preparing and implementing the revised SIP. Upon EPA's receipt of a summary of public comments, all requirements of Section 172(b)(9) would be satisfied.

12. *Public Hearing.* The plan conforms to Section 172(b)(1) and 40 CFR 51.4, since it includes evidence that the SIP was adopted by the State after reasonable notice and public hearing.

13. *Extension Requirements.* Since the State has requested an extension of the attainment date beyond 1982 for photochemical oxidants (ozone), the plan must meet additional requirements of the Act. The revision of the NAAQS for ozone, however, may provide the opportunity to show attainment of the standard by December 31, 1982. Upon EPA's receipt and approval of an SIP revision making such a demonstration of attainment, these Clean Air Act requirements would not be applicable.

In order to meet the requirements of Section 172(b)(11)(A), both the State and the WCDHD must submit a new source review permit program requiring an analysis of alternative sites, sizes, processes, and controls, and demonstrating that the benefits of a major emitting facility outweigh environmental costs.

The plan must also include a vehicle emission control inspection and maintenance program or specific schedule for adoption and implementation of such a program. This requirement of Section 172(b)(11)(B) appears to be satisfied by the State's submittal of additional statutory authority and regulations for such a program. The revision to the State's inspection and maintenance program is the subject of a separate Notice of Proposed Rulemaking.

As required by Section 172(b)(11)(C), the plan identifies and commits to other measures, which are not now reasonably available, that are necessary to provide for the attainment of the ozone NAAQS by the end of 1987.

The provisions of Sections 110(a)(3)(D), and 110(c)(5)(B) are not met, since the plan does not contain adequate commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs. These basic transportation needs must be met as expeditiously as practicable using Federal grants and State and local funds to implement public transportation programs. Explicit commitments and schedules must be provided by agencies with transportation planning and implementing authority to conduct the necessary studies to determine basic transportation needs in the Truckee Meadows nonattainment area, and to develop and implement the public transportation measures necessary to meet those needs. Further commitments must be provided to use all available funding for the purpose of implementing the necessary measures to meet basic transportation needs.

The plan fails to provide adequate commitments to undertake a comprehensive technical analysis of transportation control options including, at a minimum, those measures listed in Section 108(f).

14. *Extension Requirements for RACT.* The plan indicates that attainment of the 0.08 ppm oxidant standard is not possible by 1982. Therefore, the plan must contain adopted, legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for those stationary source categories for which EPA has published a Control Techniques Guideline (CTG) document by January 1978. The plan does include a commitment to adopt RACT regulations for additional source Categories, to be covered by future CTG documents.

The plan indicates that, of the eleven source categories for which adopted regulations are required, only six exist in the nonattainment area. These categories are service stations (stage I gasoline vapor recovery), gasoline bulk plants, gasoline bulk terminals, fixed roof tanks, solvent metal cleaning (degreasing), and cutback asphalt. Adpoted regulations which reflect RACT have not as yet been submitted to EPA for these six applicable source categories.

The WCDHD has adopted regulations for only five of these six categories, following public notice and hearing. Upon official submittal from the State, the regulations pertaining to the following categories may be approved as providing enforceable controls comparable to those identified in the EPA guidance documents: service stations (stage I gasoline vapor recovery), gasoline bulk plants, gasoline bulk terminals, fixed roof tanks, and solvent metal cleaning. However, all future effective regulations must be accompanied by schedules of compliance.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP

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submitted by the State. This proposal includes draft VOC RACT regulations which have been adopted after public hearing by the local agency, but not yet adopted by the State. The State has requested EPA to review these draft regulations and invite public comment on whether these regulatons meet the requirements of Part D of the Clean Air Act. EPA may proceed to final rulemaking on these VOC RACT regulations without providing further opportunity for public comment, if the State adopts and submits regulations to EPA in accordance with those described here, along with any recommended changes. The Regional Administrator hereby issues this notice setting forth the above described revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office during the specified comment period. Comments received will be available for public inspection at the EPA Region IX Library and at the locations listed in the Addressees Section of this notice.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions meet the requirements of Section 110, and Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

(Section 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410, 7429, 7501 to 7508, and 7601(a)).)

Dated: March 28, 1979.

Paul De Falco, Jr.,

Regional Administrator.

[FRL 1211–1]

[FR Doc 79–13028 Filed 4–26–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 52]

Approval and Promulgation of Implementation Plans; Nevada State Implementation Plan Revision, Las Vegas Valley Nonattainment Area Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Revisions to the Las Vegas Valley portion of the Nevada State Implementation Plan (SIP) have been submitted to the Environmental Protection Agency (EPA) by the Governor. The intended effect of the revisions is to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas." This notice provides a description of the proposed SIP revisions, summarizes the Part D requirements, compares the revisons to these requirements, identifies major issues in the proposed revisions, and suggests corrections. On April 4, 1979 (44 FR 20372) EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas. The general preamble supplements this proposal by identifying the major considerations that will guide EPA's evaluation of the submittal. The EPA invites public comments on these revisions, the identified issues, suggested corrections, and whether the revisions should be approved or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATE: Comments may be submitted on or before June 26, 1979.

ADDRESS: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A–4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco CA 94105.

Copies of the Proposed Revisions/Nonattainment Area Plan and EPA's associated Evaluation Report are contained in document file No. NAP–NV–4 and are available for public inspection during normal business hours at the EPA Region IX Library at the above address and at the following locations:

Clark County Department of Comprehensive Planning, Environmental Planning Division, 200 East Carson Avenue, Las Vegas NV 89101.

Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 201 South Fall Street, Carson City NV 89710.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air and Hazardous Materials Division, EPA, Region IX, (415) 556–2938.

SUPPLEMENTARY INFORMATION:

Background

New provisions of the Clean Air Act enacted in August 1977, Public Law No. 95–95, require states to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the NAAQS attainment status for all areas within the state. The Administrator promulgated these lists, with certain modifications, on March 3, 1978 (43 FR 8962). State and local governments are required to develop, adopt, and submit to EPA revisions to their SIP, for nonattainment areas, by January 1, 1979 which meet the requirements of Part D of the Clean Air Act and which provide for attainment of the NAAQS as expeditiously as practicable. The Las Vegas Valley area has been designated nonattainment for carbon monoxide, photochemical oxidants (ozone), and particulate matter.

Description of Proposed SIP Revisions

On December 29, 1978 the Governor submitted the Las Vegas Valley Air Quality Implementation Plan to EPA as a revision to the Nevada SIP. Preparation of the proposed SIP revision was coordinated by the Clark County Board of Commissioners which was designated by the Governor as the air quality planning organization for the Las Vegas Valley nonattainment area. The nonattainment area plan for the Las Vegas Valley area consists of the following major components:

A basic description of the Federal, State, and local air pollution control requirements;

A discussion of ambient air quality past and present, with identification of those pollutants that exceed the standards, listing violations by pollutant and their health effects. The plan also discusses the topography and meteorology of the area;

An examination of air pollution sources and air quality trends through the use of emission inventories by pollutant and growth projections;

A discussion of alternative air quality control strategies, by pollutant that examines feasibility, costs, technical effectiveness, and enforcement aspects;

An examination of the impact that new, modified, or relocated sources of air pollution may have on air quality;

A discussion of specific strategies for particulate matter, carbon monoxide, and photochemical oxidants (ozone) that describes the implementation mechanisms, schedules for reasonable further progress, annual reporting provisions, and continuing planning requirements;

An analysis of the environmental, social and economic impacts of the recommended plan; and

An identification of the agencies responsible for implementation of the plan and a description of the planning process.

Strategies for controlling particulate matter emissions are divided into two broad categories—traditional, stationary sources and nontraditional sources. The proposed plan indicates that all stationary sources presently are in compliance with the Clark County Health District's restrictive emission regulations for new and existing sources or are on compliance schedules. Nontraditional sources are more difficult to define and control. Examples of nontraditional sources include emissions from roads and land disturbing activities. Recommended actions for controlling nontraditional sources include requirements for reducing vehicle miles traveled on unpaved roads and demonstration projects for other source categories to identify the most cost-effective methods for controlling emissions from cleared areas, paved roads, and construction activities.

The plan addresses the national standard for photochemical oxidants of 0.08 ppm, which was superseded on February 8, 1979 (44 FR 8202) by the promulgation of a revised standard for ozone of 0.12 ppm. The plan proposes to provide for the attainment of the 0.08 ppm photochemical oxidants standard prior to December 31, 1987. The attainment will require enforcement by the Clark County Health District (CCHD) of stationary source hydrocarbon control strategies (degreasing; cutback asphalt; bulk gasoline terminals; gasoline bulk plants; service stations, Stage I gasoline vapor recovery; large appliance manufacture; and gasoline and crude oil storage), enforcement by the Department of Motor Vehicles of the current inspection/maintenance regulations and enforcement of EPA of the Federal motor vehicle emission control programs.

For carbon monoxide and also for photochemical oxidants (ozone), the plan includes a request for an extension of the attainment date beyond 1982 based on a showing that the standards cannot be achieved despite expeditious implementation of reasonably available control measures, including reasonably available control technology on stationary sources, and inspection and maintenance program for automobiles, traffic flow improvements, carpooling, and enhanced public transit system, and increased bicycle use.

Criteria for Approval

The following list summarizes the basic requirements for Nonattainment Area Plans.

1. An accurate inventory of existing emissions.
2. A provision of expeditious attainment of the standards.
3. A determination of the level of control needed to attain by 1982 and, in the case of an extension request, by 1987.
4. Adoption in legally enforceable form of all reasonably available control measures necessary to provide for attainment or, for some measures, where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures.
5. Emission reduction estimates for each adopted control measure.
6. Provisions for reasonable further progress as defined in Section 171 of the Clean Air Act.
7. An identification of emissions growth.
8. Provisions for annual reporting with respect to items (4) and (6) above.
9. A permit program for major new or modified sources consistent with Section 173 of the Clean Air Act.
10. An identification of and commitment to the resources necessary to carry out the plan.
11. Evidence of public, local government, and state involvement and consultation.
12. Evidence that the proposed SIP revisions were adopted by the state after reasonable notice and public hearing.
13. For carbon monoxide and photochemical oxidants (ozone) SIP revisions that provide for attainment of the primary standards later than 1982:
   a. A permit program for major new or modified sources requiring an evaluation of alternative sites and consideration of environmental and social costs.
   b. In addition, in urbanized areas:
   (1) An Inspection/Maintenance program or schedule for development, adoption, and implementation of such a program.
   (2) A provision for implementation of reasonably available control measures for mobile sources.
   (3) A commitment to establish, expand, or improve public transportation measures.
14. In photochemical oxidants (ozone) nonattainment areas requiring an extension beyond 1982, the revision must provide for adoption of legally enforceable regulations to reflect the application of reasonably available control technology (RACT) to those stationary sources for which EPA has published a Control Techniques Guideline by January 1978 and a commitment to adopt RACT regulations for additional sources to be covered by guidelines. For rural areas, only large sources (more than 100 tons/year potential emissions) must be so regulated.

Issues

This section discusses whether the plan elements of the Las Vegas Valley Nonattainment Area Plan satisfy the basic criteria for approval. The paragraph numbers correspond to the preceding section, Criteria for Approval. Where a significant plan discrepancy is identified, recommendations for revision of the plan may be specified. The citations in the comments refer to Sections 108, 110, and Part D, Sections 171 to 178, of the Clean Air Act, as amended.

1. Emission Inventory

The plan includes an emission inventory for particulate matter, hydrocarbons, nitrogen oxides, and carbon monoxide, identifying emission source categories and present and future emissions. The inventory is used in formulating control strategies designed to attain the national standards. Stationary, mobile, and area source estimates, which comprise the inventory, are based on emission factors cited in EPA's "Compilation of Air Pollution Emission Factors" (AP–42), or derived from source test data, surveys, computer models, or transportation studies. The emission inventory for each pollutant is reasonably comprehensive, current, and accurate for air pollution planning purposes for this area, as required by Section 172(b)(4).

2. Attainment Provision

Particulate matter: This plan provides for attainment of the total suspended particulate primary standards through a commitment to an emissions reduction schedule from 1979 to the attainment year of 1982. For purposes of this demonstration, the more stringent annual standard was used.

The plan commits to a schedule of studies to improve the accuracy of emission factors, refine the baseline emissions inventory, and estimate more precisely area-specific emission reductions from control strategies for nontraditional sources. Adopted tactics, commitments to implement them, and amendments to the control strategy must be submitted to EPA and SIP revisions following completion of the scheduled studies.

The State requested an extension of 18 months for submittal of a plan showing attainment of the secondary standard for total suspended particulates. This request appears to be consistent with the provisions of 40 CFR 51.31, since the SIP revision shows that attainment of this standard will require emission reductions greater than those that would result from the expeditious application of reasonably available control technology.

Ozone: The plan addresses the national standard for photochemical oxidants of 0.08 ppm, which was superseded on February 8, 1979 (44 FR 8202) by the promulgation of a revised standard for ozone of 0.12 ppm. This revision to the standard may provide the opportunity to amend the plan, including changes in the control tactics and the attainment date. Upon receipt of an official SIP revision, EPA will consider the proposed changes. The present plan,

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however, provides for attainment of the 0.08 ppm level by 1987 through regular annual reductions achieved by identified measures. Justification in the plan for an extension beyond the 1982 deadline is based upon a showing that the standard for photochemical oxidants of 0.08 ppm cannot be achieved, despite expeditious implementation of reasonably available control measures.

Carbon Monoxide: The plan attempts to provide for the attainment of the carbon monoxide standards through reductions in emissions from 1979 to the attainment year of 1987. For purposes of this showing, the more stringent 8-hour standard was used, rather than the 1-hour standard, However, the plan does not show sufficient emission reductions to reach the allowable emission level to attain the standards.

The plan includes a request for an extension of the attainment date beyond 1982 based on a showing that the standards cannot be achieved despite expeditious implementation of reasonably available control measures, including an inspection and maintenance program for automobiles, traffic flow improvements, carpooling, and an enhanced public tansit system.

3. Level of Control

For both particulate matter and carbon monoxide the plan uses a linear regression model to relate ambient concentrations to emissions. A trajectory model is employed to forecast ozone concentrations. These models conform to EPA guidelines in essential respects. While a validation study has shown the particulate model to be good predictor of amibient levels, both the carbon monoxide and ozone models remain to be validated. Hotspot analyses may be needed in the future SIP revisions if ambient carbon monoxide concentrations are not proportionally diminished after emissions have been reduced in accordance with the existing control strategy.

4. Legally Adopted Measures/Schedules

The SIP revision does not indicate that all necessary control measures have been adopted at the state or local level, as required by Sections 172(b)(2), 172(b)(8), and 172(b)(10). Specifically, the plan fails to show adoption in legally enforceable form of reasonably available control measures and, for all other measures, either adopted control strategies or schedules and commitments for development, adoption, submittal, and implementation. Upon EPA's reciept of evidence that all essential plan elements have been adopted by the implementing agencies, the requirements of Section 172(b) would be satisfied.

Particulate: For particulate matter the plan includes adopted regulations establishing for source categories an emission limit that can be met by reasonably available control technology. Although the State and County have provided commitments, the plan does not provide written evidence that other local governments and all other implementing entities have committed to necessary additional scheduled studies, pilot projects, and control provisions.

Carbon Monoxide: For carbon monoxide, modeling indicates that emissions from a major stationary source contribute to violations of the standard. The state must submit approvable regulations to EPA for that source.

The requirements of Section 172(b)(10) are not met, since the plan does not include written evidence that the agencies identified as responsible for transportation related measures have adopted, by legally enforceable commitments, the necessary transportation control measures and schedules of implementation, and are committed to implement and enforce the transporation elements of the plan. The plan must provide evidence that agencies with transportation planning and implementing authority have (1) adopted an emissions reduction target for the transportation sector, and (2) clearly acknowledged and accepted responsibility for the implementation of the transportation control measures presented in the plan on a scheduled consistent with the requirements of reasonable further progress.

Ozone: The plan must include adopted regulations reflecting reasonably available control technology, for stationary source categories, for which EPA has published a Control Techniques Guideline document by January 1978. Transportation measures, which account for necessary hydrocarbon emission reductions must be supported by the commitments identified in the above discussion of carbon monoxide controls.

3. Emission Reduction Estimates

Due to the unavailability of area-specific data, the plan includes only tentative emission reduction estimates for transportation and fugitive dust control measures for all pollutants. The plan provides for studies to determine the local effectiveness of these control tactics. This information must be supplied in future annual reports. The hydrocarbon emission reduction estimates for stationary source ozone strategies appear to be accurate.

6. Reasonable Further Progress

The showing of planned emission reductions for each of the three pollutants appears to be consistent with the requirements of Section 172(b)(3) and the definition of reasonable further progress in Section 171(1). The schedule represents regular incremental reductions needed for expeditious attainment, with application of reasonably available control technology (RACT). The schedule should be supported and further quantified by estimated reductions from specific control tactics. In addition, all RACT regulations identified in the plan must be submitted as SIP revisions in order to justify the claimed reductions.

7. Emissions Growth

The plan indicates no growth in emissions from major stationary sources since new or expanded sources will be subject to permit conditions requiring full offsets of emissions. In order to satisfy the requirements of Section 172(b)(5), the State and CCHD must submit permit regulations requiring these emissions offsets or conformity with an identified emissions growth increment.

8. Annual Reporting

The plan contains a commitment to submit annual reports of reasonable further progress, including an updated emissions inventory. These reports are to be supplemented by interim progress reports every six months to identify the status of the air quality related transportation programs. This commitment should be further supplemented by additional specific commitments from all particpating agencies to develop and describe in the SIP:

(1) Procedures for determination of conformity between transportation programs and projects and SIP revisions;

(2) Programs to monitor and report on actual field effectiveness of each transportation control measure.

9. Permit Program

The plan does not contain regulations for a permit program for major new or modified sources conforming to the provisions of Section 173. Because the State has exclusive statewide permitting authority over fossil fuel-fired steam generators, both the State and CCHD must submit regulations for a permit program satisfying the Part D provisions.

10. Resources

The plan does not specifically identify and commit all financial and manpower resources necessary for plan implementation, nor does the plan provide commitments to these resources on the part of all implementing agencies. The plan indicates that such documentation is forthcoming. Upon receipt of these essential commitments, the provisions of Section 172(b)(7) would be met.

11. Public and Government Involvement

The plan provides evidence of public, local government, and State involvement and consultation in the planning process, and includes a summary of public comments. In addition, the plan identifies air quality, health, welfare, economic, energy, and social effects of the plan provisions. The plan also documents the process used in designating responsible entities for preparing and implementing the revised SIP. All requirements of Section 172(b)(9) appear to be satisfied.

12. Public Hearing

The plan conforms to Section 172(b)(1) and 40 CFR 51.4, since it includes evidence that the SIP was adopted by the State after reasonable notice and public hearing.

13. Extension Requirements

Since the State has requested an extension of the attainment date beyond 1982 for carbon monoxide and photochemical oxidants (ozone), the plan must meet the requirements of Section 172(b)(11)(A). Both the State and the CCHD must submit a new source review permit program requiring an analysis of alternative sites, sizes, processes, and controls, and demonstrating that the benefits of a major emitting facility outweigh environmental costs.

The plan must also include a vehicle emission control inspection and maintenance program or specific schedule for adoption and implementation of such a program. This requirement of Section 172(b)(11)(B) appears to be satisfied by the State's submittal of additional statutory authority and regulations for such a program. The revision to the State's inspection and maintenance program is the subject of a separate Notice of Proposed Rulemaking.

The plan identifies other measures, which are not now reasonably available, that may be necessary to provide for the attainment of the NAAQS by the end of 1987.

The requirements of Section 172(b)(11)(C) may be met if additional documentation is submitted specifying (1) planning activities that are expected to result in the evaluation, adoption, and implementation of these other measures; and (2) emission reductions attributable to these other measures.

The provisions of Sections 110(a)(3)(D) and 110(c)(5)(B) are not met, since the plan does not contain adequate commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs. These basic transportation needs must be met as expeditiously as practicable using Federal grants and State and local funds to implement public transportation programs. Explicit commitments and schedules must be provided by agencies with transportation planning and implementing authority to conduct the necessary studies to determine basic transportation needs in the Las Vegas Valley nonattainment area, and to develop and implement the public transportation measures necessary to meet those needs. Further commitments must be provided to use all available funding for the purpose of implementing the necessary measures to meet basic transportation needs.

The plan fails to provide adequate commitments to undertake a comprehensive technical analysis of transportation control options including, at a minimum, those measures listed in Section 108(f).

14. Extension Requirements for RACT

The plan indicates that attainment of the 0.08 ppm photochemical oxidants standard is not possible by 1982. Therefore, the plan must contain adopted, legally enforceable regulations which reflect the application of reasonably available control technology (RACT) for those stationary source categories for which EPA has published a Control Techniques Guideline (CTG) document by January 1978. In addition, a commitment to adopt RACT regulations for additional source categories, to be covered by future CTG documents, must be made. The revision of the NAAQS for ozone may provide the opportunity to show attainment of the standard by December 31, 1982. Upon EPA's receipt and approval of a SIP revision making such a demonstration, these Clean Air Act requirements may not be applicable.

The plan submitted by the State indicates that, of the eleven source categories for which adopted regulations are required, only seven source categories exist in the nonattainment area. These categories are service stations (Stage I, gasoline vapor recovery), gasoline bulk plants, gasoline bulk terminals, fixed roof tanks, solvent metal cleaning (degreasing), cutback asphalt, and surface coating at large appliance manufacturers.

The CCHD has adopted regulations for these categories, following public notice and hearing. The regulations provide controls comparable to those identified in the EPA guidance documents.

However, the locally adopted regulations pertaining to cutback asphalt and to surface coating at large appliance manufacturers contain provisions which could render the requirements potentially unenforceable.

The regulation for cutback asphalt contains an exemption for days when the forecast ambient temperature will not exceed 50°F. This provision would be difficult to enforce. It is proposed that specifying the months when the ambient tenperature is generally not expected to exceed 50°F as an exemption would be an appropriate remedy. Additionally, since this is a future effective regulation, it should be accompanied by schedules of compliance.

The regulation for large appliance manufacturers may be difficult to enforce because it does not clearly identify what sources and emission points are affected. The regulation could be improved by specifying the sources affected and the means of emission reduction.

The plan includes a commitment to adopt RACT regulations for additional source categories to be covered by future CTG documents.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. This proposal also includes draft VOC RACT regulations which have been adopted after public hearing by the local agency, but not yet adopted by the State. The State has requested EPA to review these draft regulations and invite public comment on whether these regulations meet the requirements of Part D of the Clean Air Act. EPA may proceed to final rulemaking on these VOC RACT regulations without providing further opportunity for public comment if the State adopts and submits regulations in accordance with those described here, along with any recommended changes. The Regional Administrator hereby issues this notice setting forth the above described revisions as proposed rulemaking and advises the public that

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interested persons may participate by submitting written comments to the Region IX Office during the specified comment period. Comments received will be available for public inspection at the EPA Region IX Library and at the locations listed in the Addressees Section of this notice.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions meet the requirements of Section 110 and Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

(Sections 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410, 7501 to 7508, and 7601(a)).

Dated: March 28, 1979.

Paul D. Falco,
Regional Administrator.

[FRL 1210-8]
[FR Doc. 79-13027 Filed 4-26-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 65]

State and Federal Administrative Orders Permitting a Delay in Compliance with State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Mobile County Board of Health to the Alabama State Docks Department of the State of Alabama

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Mobile County Board of Health to the Alabama State Docks Department of the State of Alabama (hereinafter referred to as the "State Docks"). The Order requires the State Docks to bring air emissions from its bulk handling and unloading facility in Mobile County, Alabama, into compliance with air pollution control regulations contained in the federally approved Alabama State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it become effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before May 29, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert R. Geddis, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street; N.E., Atlanta, Georgia 30308, Telephone Number: (404) 881-4253.

SUPPLEMENTARY INFORMATION: The State Docks operate a bulk handling and unloading facility in Mobile County, Alabama.

The Order under consideration addresses visible and fugitive emissions from the bulk handling and unloading facility. These emissions are subject to Sections 6.1 and 6.2 of the Mobile County Air Pollution Control Rules and Regulations, respectively, which are indentical to Sections 4.1 and 4.2 of the Alabama Air Pollution Control Rules and Regulations. These regulations limit the emissions of particulate matter and are part of the federally approved Alabama State Implementation Plan. The order requires final compliance with the regulations by June 30, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

January 20, 1979—Delivery of baghouses, fans and rotary valves.
February 1, 1979—Start installation of dust control system on "H" Tower.
May 1, 1979—Complete modifications on conveyors No. 2 and No. 3.
June 22, 1979—Complete installation of dust control system on "H" Tower.
June 30, 1979—Demonstrate final compliance.

The order requires the source to submit, no later than ten (10) days after the deadline for completing each milestone required by the above schedule, certification to the Mobile County Department of Health whether or not such milestone has been met.

As an interim control measure, the State Docks shall utilize water sprays on the conveying system on all materials other than bauxite, utilize water spraying of a ship's hold when necessary to minimize fugitive dust emissions from materials other than bauxite, and maintain and utilize the existing control device on the east end transfer point.

Because this Order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable state air pollution control regulations, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced order satisifies these legal requirements.

If the submitted administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Alabama SIP. Compliance with the proposed order will not exempt the company from the requirements contained in any subsequent revision to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: April 18, 1979.

John C. White,
Regional Administrator, Region IV.

[Docket No. DCO-79-59; FRL 1210-5]
[FR Doc. 79-13020 Filed 4-26-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 65]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Virginia State Air Pollution Control Board to Jewell Coal & Coke Co., Plant No. 1

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Virginia State Air Pollution Control Board ("SAPCB") to Jewell Coal and Coke Company. The order requires the company to bring air emissions from its Plant No. 1 coke ovens in Vansant, Virginia into compliance with certain regulations contained in the federally-approved Virginia State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order which occur during the period of the Order's effectiveness. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before May 29, 1979.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:
Mr. Gary Gross at the above address or telephone (215)597-8907.

SUPPLEMENTARY INFORMATION: Jewell Coal and Coke Company operates a coke plant at Vansant, Virginia. The order under consideration addresses emissions from 168 non-recovery coke ovens known as Plant No. 1 at the facility, which are subject to Sections 4.20 and 4.40 of the Virginia Regulations for the Control and Abatement of Air Pollution. The regulations limit the emissions of particulate matter and visible emissions, and are part of the federally approved Virginia State Implementation Plan. The order requires final compliance with the regulation by June 30, 1979 through installation of common tunnel afterburners, a coke-side enclosure, and a baffled quench tower using clean water make-up.

This notice supersedes the notice of proposed rulemaking which appeared in the **Federal Register** on October 24, 1978 (43 FR 49546). The previous notice annouced EPA's proposed disapproval of an order issued by the Virginia SAPCB to Jewell. In response to that notice, the Company made substantive comments indicating their willingness to have the State order amended to correct deficiencies to which EPA had objected.

On December 22, 1978, the SAPCB submitted a revised order to EPA for approval as a DCO. The revised order contains monitoring procedures and work practices which the SAPCB and Jewell have certified to be adequate to ensure compliance with all applicable provisions of the SIP. These provisions are to be implemented on a portion of the facility no later than February 7, 1979. EPA intends to conduct an on-site evaluation of the work practices during the public comment period provided by this notice. EPA's final action with respect to the State order will depend on the findings of the on-site evaluation as well as public comment received in response to this notice.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Virginia SIP.

Approval of this proposed Order does not constitute a finding by EPA that the source has made a good faith effort to comply with the Virginia SIP, nor does it preclude EPA action for violations which have occurred prior to such approval.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: March 15, 1979.

Jack J. Schramm,
Regional Administrator, Region III.

[FRL 1210-7]
[FR Doc. 79-13235 Filed 4-26-79; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 57]

Grants to Schools of Medicine, Osteopathy, Dentistry, Public Health, Veterinary Medicine, Optometry, Pharmacy, and Podiatry for Support of Their Educational Programs; Proposed Rulemaking

AGENCY: Public Health Service, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: These proposed regulations establish criteria for the health professions capitation grants program under section 770 of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976. These grants are made annually to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, podiatry and pharmacy for support of their educational programs. The Health Professions Educational Assistance Act revised the conditions for receiving grants under this program and extended eligibility to schools of public health.

DATES: Comments must be received on or before June 26, 1979.

ADDRESSES: Written comments should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, 4th Floor, Hyattsville, Maryland 20782. All comments received will be available for public inspection and copying at the Office of Program Support, Bureau of Health Manpower, at the above address (3rd Floor), weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:
John R. Westcott, Grants Management Officer, Bureau of Health Manpower, Room 4-27 at the above address. (Telephone 301-436-6564).

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Under Secretary of Health, Education, and Welfare, proposes to add a new Subpart JJ to Part 57 of Title 42 of the Code of Federal Regulations to implement the

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amendments made by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94–484, October 12, 1976) to the existing authority for Health Professions Capitation Grants in Title VII of the Public Health Service Act.

Section 770 of the Public Health Service Act ("Act")(42 U.S.C. 295f) provides that the Secretary of Health, Education, and Welfare will make annual grants, based on enrollment, to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy and podiatry for the support of their educational programs ("capitation grants"). To receive a capitation grant, all schools must meet statutory requirements to maintain their level of first-year enrollment and their level of expenditures from non-Federal sources for educational purposes. Additional conditions, some of which are options and some requirements, are set by the statute for schools in each of the professional disciplines. Among these conditions are submission of plans for clinical training in ambulatory care settings (schools of osteopathy and dentistry); increases in first-year enrollment (schools of dentistry, public health, optometry and podiatry); clinical training emphasizing care to food-producing or fiber-producing animals or to both types of animals (schools of veterinary medicine); enrollment of specified percentages of students from States without accredited schools in that professional discipline (schools of veterinary medicine, optometry, and podiatry); and a requirement that all students complete a program in clinical pharmacy (schools of pharmacy). When this authorizing legislation was enacted in 1976, there was a general consensus that (a) more health professionals were needed, and (b) if more professionals were produced, more would elect to practice in underserved geographic areas and in primary care fields. Accordingly, a number of Federal programs enacted at that time provided incentives for increased student enrollment in an effort to increase overall supply.

Recent developments affect this earlier consensus. Preliminary studies of projected supply and requirements in the health professions now seriously question the assumption that the nation faces a shortage in the aggregate supply of health professionals. Indeed it appears there may be a possible oversupply in certain professions by 1990, depending on which model and which assumptions are employed in projecting requirements. Further, there is increasing recognition that greater numbers of health professionals do not necessarily alleviate the nation's distributional problems. Over the last ten years, there have been significant increases in the supply of health professionals, but the maldistribution in rural areas and inner cities continues. The statute provides that schools of dentistry, veterinary medicine, optometry, and podiatry as a condition of receiving capitation support must either increase their first-year enrollments or submit plans relating to clinical training programs in ambulatory care settings or enrollment of students from States without accredited schools in that particular discipline.

The Department prefers that schools of veterinary medicine, optometry, and podiatry select the option of enrolling students from States without an accredited school or, in the case of dental schools, the option of clinical training in ambulatory care settings rather than choosing the enrollment increase option. This policy reflects the Department's priority to concentrate Federal efforts on addressing specialty and geographic maldistribution of health professionals as opposed to simply increasing their supply. Regardless of the Department's preference, however, schools which choose the enrollment increase option and meet other statutory requirements will receive capitation support under this program.

Interested persons are invited to submit written comments, data, views, and arguments relating to these proposed regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received on or before June 26, 1979, will be considered before adoption of the final regulations.

It is therefore proposed to add a new Subpart JJ to Part 57 of Title 42 of the Code of Federal Regulations to read as set forth below.

Dated: January 19, 1979.

Julius B. Richmond,
Assistant Secretary for Health.

Approved: April 12, 1979.

Hale Champion,
Acting Secretary.

Subpart JJ—Grants to Schools of Medicine, Osteopathy, Dentistry, Public Health, Veterinary Medicine, Optometry, Pharmacy, and Podiatry for Support of Their Educational Programs

Sec.

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57.3521 What additional conditions apply to grantees?

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216) Secs. 770–72 of the Public Health Service Act, 90 Stat. 2290 as amended by 91 Stat. 391 and 91 Stat. 1503, and 92 Stat. 3456 and 3457 (42 U.S.C. 295f).

§ 57.3501 To whom do these regulations apply?

The regulations in this subpart apply to the award of annual grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry for the support of the education programs of these schools.

§ 57.3502 Definitions.

For purposes of sections 770–72 of the Act and this subpart, the following definitions apply:

"Act" means the Public Health Service Act, as amended.

"Ambulatory care setting" means a facility in which health care is delivered to persons who are ambulatory and who are not patients in a hospital or other inpatient care facility for the purpose of receiving the particular care being provided.

"Construction" means (a) the construction of new buildings or the expansion or acquisition of existing buildings (including related costs such as architects' fees, acquisition of land, offsite improvements, and the initial equipping of buildings); and (b) the remodeling, alteration, and repair of existing buildings.

"Council" means the National Advisory Council on Health Professions Education established by section 702 of the Act.

"Dental specialty program" means a program in any dental specialty which is accredited by a body or bodies recognized for this purpose by the Commissioner of Education and is at least one academic year in length. For purposes of this subpart a residency training program in the general practice of dentistry is considered a dental specialty.

"Fiscal year" means the Federal fiscal year beginning October 1 and ending the following September 30.

"Full-time course of study" means a course of study in which the student is enrolled for a sufficient number of credit hours in a semester or other academic term to enable the student to complete the course of study within not more than the number of semesters or other academic terms normally required to complete the course of study on a full-time basis.

"Full-time student" means a student as defined in section 770(c) of the Act.

"Medically underserved population" means a population group designated under section 332(b) of the Act, a population group served by a facility designated under that section, or a population group residing in an area designated under that section.

"Resident of a State" means one who was residing in that State at the time of his or her application to the school.

"School" means a public or other nonprofit school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry as defined in section 701(4) of the Act and which is accredited as provided in section 772(b) of the Act.

"Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

"State" means in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.3503 Who is eligible to apply for a health professions capitation grant?

Any school which is located in a State may apply for a grant under this subpart.

§ 57.3504 How must application be made for a capitation grant?

Each school seeking a capitation grant must submit an application in the form and at the time that the Secretary requires. This application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

§ 57.3505 What assurances are required of all applicants for capitation grants?

In accordance with the requirements of section 771(a) of the Act, each school must furnish reasonable assurances satisfactory to the Secretary that:

(a) The first-year enrollment of full-time students in the school, in the school year beginning in the fiscal year for which the grant applied for is to be made, will not be less than the first-year enrollment of full-time students in the school in the preceding school year or in the school year which began in the fiscal year ending September 30, 1976, whichever is greater.

(b) The applicant will spend an amount of funds from non-Federal sources (other than funds for construction) in carrying out its functions as a school during the fiscal year for which the grant is sought, which is at least as great as the amount of funds spent by the applicant for this purpose (excluding expenses of a nonrecurring nature) in the fiscal year preceding the fiscal year for which the grant is made.

§ 57.3506 What additional requirements apply to school of medicine?

(a) *Medical residency training program requirements.*—Under section 771(b)(2) of the Act (42 U.S.C. 295f–1(b)(2)), the Secretary must determine as of July 15, 1977, and July 15 of each subsequent year, the percentage of filled first-year positions in direct or affiliated medical residency training programs in primary care in all schools in the States. If the percentage is not 35%, 40%, and 50%, respectively, on the July 15 dates, each school of medicine in order to be eligible for a grant must achieve that percentage in the filed first-year positions in its direct or affiliated medical residency training programs on July 15 one year later. The Secretary will publish a notice in the **Federal Register** announcing the results of his or her annual determination and whether individual schools will be required to comply with the provisions of this paragraph.

(1) For the purpose of making this determination:

(i) "Medical residency training program" means a medical residency training program which is approved or provisionally approved by the Liaison Committee on Graduate Medical Education.

(ii) "Direct or affiliated medical residency training program" means a medical residency training program conducted in facilities owned by the applicant school or its parent organization or a medical residency training program which has an arrangement with the school or one of the school's constituent units, providing for any of the following:

(A) The exchange of three or more students enrolled in the school of medicine for a total of at least 12 months of education within any given school year; or any exchange of at least one medical resident for at least one year; or

(B) The exchange of faculty between the school of medicine or one of its consituent units and the residency program; or the appointment to any faculty position at the school of medicine of any individual on the staff of the entity sponsoring the residency program who has any responsibility for the program (the term "faculty" excludes individuals who receive no financial compensation for their teaching activities or who have no responsibility for the instruction of students or residents in the medical residency training program); or

(C) The provision or receipt by the school of medicine or one of its constituent units of any funds for the residency program.

(iii) "Filled first-year position" means any filled position in:

(A) The first year of a medical residency training program sponsored by a residency program in family practice, internal medicine, pediatrics, obstetrics and gynecology, pathology or general surgery;

(B) The first year of a medical residency training program jointly sponsored by two or more medical residency training programs; or

(C) Any position in any other type of medical residency training program in which a resident is enrolled in his or her fist year of graduate medical education.

(iv) "Filled first-year position in primary care" means all filled positions in:

(A) The first year of medical residency training programs sponsored

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by a residency program in family practice, internal medicine or pediatrics; and

(B) The first year of medical residency training programs jointly sponsored by any combination of residency programs in family practice, internal medicine, or pediatrics.

(b) *Student transfer provisions.*—Under section 771(b)(3) of the Act, a school of medicine must also increase its enrollment of full-time third-year students in school year 1978–79 by not less than 5 percent of (1) the number of full-time first-year students enrolled in the school in school 1977–78 or (2) the number of full-time third-year students enrolled in school year 1977–78, whichever is less. The pool of eligible students who can be counted toward meeting this increase consists of (1) U.S. citizens enrolled in a medical school not in the United States prior to October 12, 1976, (2) individuals enrolled in two-year programs at schools in the United States which prepare students to enter the third-year of medical school in the United States, (3) individuals enrolled in Ph.D.—M.D. programs in the United States, and (4) other individuals accepted into the third year as transfer students unless specifically exlcuded by the statute. Interim-Final regulations implementing this statutory requirement can be found at 43 FR 36441 (August 17, 1978).

§ 57.3507 What additional requirements apply to schools of osteopathy?

Each school of osteopahty must also submit, for the Secretary's approval, a plan or participate in the joint submission of a plan to train full-time students in ambulatory care settings either in areas geographically remote from the main site of the teaching facilities of the applicant school or schools, or in areas in which medically underserved populations reside. An ambulatory care setting is considered to be geographically remote if it is physically removed from the facility or facllities where the major part of the educational program of the school is conducted and should, to the maximum extent feasible, be located in areas in which medically underserved population reside. The training must occur in the school year beginning in the fiscal year for which the grant is made and in each subsequent school year for which a grant is made. In the case of a joint submission of a plan by two or more schools, the plan must detail the specific responsibilities of each school submitting the plan, and must be signed by an authorized official of each school. In addition, beginning with applications for fiscal year 1979, each grantee must provide evidence of adequate progress in implementing the plan approved in the fiscal year immediately preceding the year of re-application.

§ 57.3508 What additional requirements apply to schools of dentistry?

(a) Each school of dentistry must also meet the requirements of section 771(d)(2) of the Act and either the requirements of section 771(d)(3) or section 771(d)(4) of the Act at the option of the school of dentistry. Where a school elects to meet the requirements of section 771(d)(4) of the Act, the school must submit a plan or participate in the joint submission of a plan to train full-time students in ambulatory care settings either in areas geographically remote from the main site of the teaching facilities of the school or in areas in which a medically underserved population resides. An amabulatory care setting is considered to be geographically remote if it is physically removed from the facility or facilities where the major part of the educational program of the school is conducted and should to the maximum extent feasible be located in areas in which there is a need for dentists. The clinical training must occur in a health care delivery setting which enables the student, under practitioner-instructor supervision, to integrate and assume the roles, functions, and responsibilities that characterize a dental practitioner and that trains the student to provide primary dental care.

(b) The Secretary may waive requirements for a school of dentisty under section 771(d) if he or she determines, after receiving the written recommendation of the appropriate accreditation body or bodies approved for this purpose by the Commissioner of Education, that compliance with the requirements would prevent the school from maintaining accreditation.

§ 57.3509 What additional requirements apply to schools of public health?

Each school of public health must also meet the requirements of section 771(e)(1) of the Act with respect to increasing its enrollment of full-time first-year students.

§ 57.3510 What additional requirements apply to schools of veterinary medicine?

Each school of veterinary medicine must also meet the requirements of section 771(f)(2) and either section 771(f)(3) or section 771(f)(4) of the Act at the option of the school of veterinary medicine. A school of veterinary medicine will be able to meet the reqirements of section 771(f)(2) of the Act relating to emphasizing care to food-producing or fiber-producing animals if over 50 percent of the total credits or contact hours of both the clinical aspects of the basic biomedical sciences and the clinical care training programs consist of treating food-producing and/or fiber-producing animals.

§ 57.3511 What additional requirements apply to schools of optometry?

A school of optometry must also meet the requirements of either section 771(g)(2) or section 711(g)(3) of the Act at the option of the school of optometry.

§ 57.3512 What additional requirements apply to schools of podiatry?

A school of podiatry must also meet the requirements of section 771(h)(2) or section 711(h)(3) of the Act at the option of the school of podiatry.

§ 57.3513 What additional requirements apply to schools of pharmacy?

A school of pharmacy must also meet the requirements of section 771(i) of the Act.

§ 57.3514 How will the number of students at each school be determined?

(a) The number of full-time students enrolled in a school, or the number of full-time, first-year students enrolled in a school, for any year, will be the number of students enrolled or to be enrolled in the school on September 15 of the fiscal year in which the grant is made except that in the case of a school of pharmacy or school of medicine with a course of study of more than 4 years (1) full-time students mean only those students enrolled in the last four years of the school, and (2) full-time first-year students mean those students enrolled in the first of the last four years. The Secretary may, upon application, approve a date other than September 15 as the official counting date for schools whose academic calendars make the September 15 date inappropriate.

(b) The classification of a full-time student as a first-year student, will be in accordance with the policies of the particular school except that for the purpose of the assurances required by section 771 of the Act:

(1) A student may not be counted as a first-year student more than once.

(2) A first-year student enrolled in a school of public health is one who is enrolled in the first year of a course of study leading to a master's degree or in the first year of a course of study leading to a doctoral degree for which no post-baccalaureate studies are a prerequisite for admission into the program.

§ 57.3515 Under what circumstances and in what amounts may these grants be made?

(a) The Secretary will award a capitation grant to each applicant whose application is found by the Secretary, after consultation with the Council, to meet the requirements of the applicable provisions of the Act, and of this subpart.

(b) the amount of each capitation grant will be an amount computed in accordance with the formula set forth in section 770(a) of the Act. If the amount of funds appropriated under section 770(e) of the Act for each category of health professions schools for any fiscal year is less than the total of the amounts so computed for each school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry with an approved application, the grant awarded to each school will be reduced proportionately in accordance with section 770(b) of the Act.

§ 57.3516 What expenses are allowable under these capitation grants?

(a) Capitation grant funds may be obligated by the school at any time before the end of the 24-month period specified in the grant award document for any purpose related to the educational program of the school, except as otherwise provided in paragraph (b) of this section. Any funds not obligated must be refunded to the Federal Government.

(b) Capitation grant funds may not be expended for the following purposes:

(1) Construction, except that grant funds may be used for remodeling, alteration and repair of existing buildings;

(2) Student assistance; or

(3) Sectarian instruction or any religious purpose.

§ 57.3517 What nondiscrimination requirements apply to grantees?

(a) Recipients of grants under this subpart are advised that in addition to complying with the terms and conditions of these regulations, the following laws and regulations are applicable:

(1) Section 704 of the Act (42 U.S.C. 292d) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to training programs).

(2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and its implementing regulation, 45 CFR Part 80 (prohibiting discrimination in federally assisted programs on the ground of race, color, or national origin).

(3) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et. seq.*) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in federally assisted education programs).

(4) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap).

(b) Grant funds used for alteration or renovation shall be subject to the condition that the grantee comply with the requirements of Executive Order 11246, 30 FR 12319 (September 24, 1965) as amended, and with the applicable rules, regulations, and procedures.

§57.3518 How will payments be made to grantees?

The Secretary will from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement.

§57.3519 What recordkeeping, audit, inspection, and reporting requirements apply to grantees?

(a)Each school which receives a capitation grant must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act, concerning recordkeeping, audit, and inspection.

(b) Each school which receives a capitation grant must meet the requirements of section 708(c) of the Act, concerning reporting information on students who attent the school.

§ 57.3520 What provisions of 45 CFR Part 74 apply to grantees?

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants awarded under this subpart:

§ 57.3521 What additional conditions apply to grantees?

The Secretary may, with respect to any grant award, impose additional conditions prior to or at the time of any award when in his or her judgment these conditions are necessary to assure or protect advancement of the grant purposes, the interest of the public health, or the conservation of grant funds.

[FR Doc. 79-13089 Filed 4-26-79; 8:45 am]

BILLING CODE 4110-83-M

INTERSTATE COMMERCE COMMISSION

[49 CFR Chapter X]

Grains and Grain Products; seasonal and demand-sensitive rates; separate rates for distinct rail service; domestic and export rates

AGENCY: Interstate Commerce Commission.

ACTION: Request for public comment.

SUMMARY: Public comment is requested on the appropriate action to implement Commission findings adopted in Ex Parte No. 270 (Sub.-No. 9), *Investigation of Railroad Frt. Rate Structure—Grain*, 345 I.C.C. 2975 (1979), decided February 1. In that decision the Commission found appropriate revisions in the rail rate structure on grain and grain products to provide for: (1) greater use of seasonal and demand-sensitive rates; (2) separate rates for distinct rail services; and (3) rate treatment on domestic and export traffic reflecting today's economic needs. Public comment is requested on how to implement these policy findings into the rate structure. For administrative convenience we plan to consider each issue separately and seek separate comments, appropriately identified. Cross-service is not required.

DATES: Verified comments (15 copies if possible) should be filed with the Commission on or before June 26, 1979.

ADDRESSES: The original and 15 copies should be forwarded to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Janice M. Rosenak or Harvey Gobetz, Telephone: (202) 275–7693.

SUPPLEMENTARY INFORMATION: In regard to each of the three issues, comment could be particularly helpful on the following matters:

I. Ex Parte No. 270 (Sub. 9A), Action Needed to Advance the Publication of Seasonal and Demand-Sensitive Rates on Grain and Grain Products.

(a) What would be the impact on grain marketing patterns of shorter notice for seasonal rates?

(b) What peaking problems are caused by specific grain product movements?

(c) What evidence is available, if any, that peak and seasonal movements are equipment related rather than commodity related?

(d) Do peaking problems vary with export and domestic movements of particular grain commodities?

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(e) Would peak and seasonal pricing resolve peaking problems raised in (b) and (d)?

(f) If peaking would not be reduced by demand-sensitive and seasonal rates, can these rates still be used to give railroads incentive to allocate equipment (i.e. by reflecting the carrier's investment costs of providing adequate peak service)?

(g) What is the cost differential in peak and off-peak transportation of grain?

(h) Does the cost of distinct services vary with peak and non-peak traffic?

(i) To what extent can contract rates resolve peaking problems involving grain shipments and does the practicality of this solution vary with the size of the shipper and his location?

(j) Does transit inhibit the use of seasonal and peak-period pricing?

(k) What notice of proposed rate changes is normally needed by shippers?

(l) What minimum notice period is required of such changes?

(m) What would be the impact of the proposed changes on the equipment availability of other modes of transport?

(n) Do different railroads have different revenue needs, i.e. are general seasonal rate increases justifiable?

(o) Do any railroads have merger conditions which would be adversely affected by imposition of seasonal and demand-sensitive rates?

(p) Would car shortages make it impossible, as a practical matter, for shippers to enjoy advantageous rates?

(q) What is the impact of car shortages on projected shipping schedules for grain?

(r) What other comments do you have?

II. Ex Parte No. 270 (Sub No. 9B), Action Needed to Advance the Publication of Separate Rates for Distinct Rail Services on Grains and Grain Products.

(a) What are the costs and revenues of the inbound and outbound moves on transited shipments?

(b) What is the average time span between inbound and outbound transit movements on the same bill of lading?

(c) What would be the impact of prohibiting transit rates where the inbound and outbound movements are of different commodities, such as inbound agricultural products and outbound food products?

(d) Do transit charges adequately reflect the costs of providing the grain gathering network?

(e) Does transit inhibit the rational use of surcharges?

(f) What is the impact of transit on equipment utilization?

(g) What would be the impact on the outbound movements if transit privileges were reduced or eliminated?

(h) What would be the impact on particular locations or on geographic regions of the reduction or elimination of transit?

(i) How might the reduction or elimination of transit affect the marketing practices of individual railroads?

(j) What is the relationship between transit and maximum reasonable rate levels on transited commodities?

(k) What other elements of grain transportation besides transit are suited for distinct services, e.g., special grain doors and the like?

(l) How much notice would shippers need of any proposal to change the existing rules?

(m) Should transit time be limited?

(n) Has inflation made transit privileges, not limited in time, an undue luxury?

(o) Would elimination of transit unduly affect interior processors as compared to those located at terminal points?

(p) Would a change in transit affect carriers differently?

(q) Would existing merger conditions be affected by a change in transit?

(r) What proportion of traffic receives transit privileges?

(s) What other comments on appropriate action to foster the publication of separate rates for distinct rail services do you have?

III. Ex Parte No. 270 (Sub. 9C), Appropraite Domestic and Export Rates Relationships on Grain.

(a) Do the pricing differences in the final markets for export and domestic grains justify different regulatory treatment, including:

1. Market dominance,
2. Discrimination,
3. Service standards and obligations, and
4. Rate levels?

(b) Do the differences in intermodal transportation competition justify different treatment of import and domestic grains?

(c) What is the geographic coverage of effective intermodal competition for domestic as against export grain shipments? Comment on truck, truck-barge, rail-barge movements and provide maps, charts and tonnage and revenue figures.

(d) Do grain surpluses and competition from foreign grain exporters continue to exert same influence that lead to the domestic/export differentials?

(e) To what extent does port equalization account for domestic/export differentials? Does port equalization justify continuing these differentials?

(f) Any other commenters on the relationship between domestic and export rates.

IV. Persons submitting comments are reminded that, to the extent practical, three *separate* issues are being addressed. We hope to isolate discussion of these issues as much as possible. It is unnecessary for parties to comment on all issues and questions.

Decided: April 16, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian.

H. G. Homme, Jr.,
Secretary.

[Ex Parte 270 (Sub No. 9A, 9B, 9C)]
[FR Doc. 79-13049 Filed 4-26-79; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 44, No. 83
Friday, April 27, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Meat Pricing Task Force; Additional Meeting and Extension of Time in Which To File Written Statements

On Wednesday, March 28, 1979, five meetings of the Meat Pricing Task Force were announced (**Federal Register**, Vol. 44, No. 61). All meetings are to be open to the public, and public participation was announced for the meetings of April 23 and 24, 1979, at the Winnebago Room, Omaha Hilton Hotel, Omaha, Nebraska; April 26 and 27 at Texas A&M University Research and Extension Center, Amarillo, Texas; and May 10, 1979, at Room 218A Administration Building, USDA, Washington, D.C.

An additional meeting is hereby announced for the Meat Pricing Task Force. This meeting will begin at 9 a.m., June 11, 1979, at the Airport Marina Hotel, Dallas-Fort Worth Regional Airport, Dallas, Texas (phone: 214–453–8400).

This meeting, like all other meetings of the Task Force, is open to the public but no public participation will be invited.

An announcement was also made in the Wednesday, March 28, **Federal Register** notice that written statements from any interested person would be accepted if postmarked no later than May 5, 1979. That date is now extended. Any person interested in submitting a written statement to the Task Force should address such statement to Chas B. Jennings, Deputy Administrator, Packers and Stockyards, AMS, U.S. Department of Agriculture, Room 3039-South, Washington, D.C. 20250, and must be postmarked no later than May 21, 1979.

Dated: April 24, 1979.

Paschal O. Drake,
Acting Deputy Administrator, Packers and Stockyards.

[FR Doc. 79-13218 Filed 4-26-79; 8:45 am]
BILLING CODE 3410-02

Forest Service

Coronado National Forest Grazing Advisory Board; Meeting

The Coronado National Forest Grazing Advisory Board will meet at 10:00 a.m., May 22, 1979, at the Ramada Inn (Ocotillo Room), 404 N. Freeway, Tucson, Arizona 85705. The purpose of this meeting is to discuss allotment management planning and the use of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify Larry Allen, Coronado Supervisor's Office, telephone 602–792–6418. Written statements will be filed with the board before or after the meeting.

The board has established the following rule for public participation: Nonmembers are asked to withhold comments until the close of business.

Howard Shupe,
Acting Forest Supervisor.

April 19, 1979.

[FR Doc. 79-13074 Filed 4-26-79; 8:45 am]
BILLING CODE 3410-11-M

National Forest System Advisory Committee; Meeting

The National Forest System Advisory Committee will meet at 9 a.m. on May 29, 30 and 31 at the Village Motor Inn, 100 Madison, Missoula, Montana.

This Committee, comprised of 12 members from a broad spectrum of geographic and interest areas, advises the Secretary of Agriculture and the Forest Service on the planning and management of the National Forests. The portion of the meeting scheduled for May 29 will be devoted to a review of land management planning activities on the Lolo National Forest. On May 30 and 31 the Committee will discuss and develop Committee positions on the Resources Planning Act, reforestation, and National Grasslands management. Dr. M. Rupert Cutler, Assistant Secretary for Conservation, Research and Education, will chair the meeting.

The meeting will be open to the public. Persons who wish to attend should notify the Committee's Executive Secretary, James C. Overbay, USDA-Forest Service, P.O. Box 2417, Room 3021–S, Washington, D.C. 20013, telephone (202) 447–6341. Written statements may be filed with the Committee before or after the meeting.

Jerome A. Miles,
Deputy Chief.

[FR Doc. 79-13041 Filed 4-26-79; 8:45 am]
BILLING CODE 3410-11-M

Rural Electrification Administration

Seminole Electric Cooperative, Inc.; Draft Environmental Impact Statement and Notice of Public Hearing

Notice is hereby given that the Rural Electrification Administration as lead Federal agency has prepared a Draft Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with potential financial assistance to Seminole Electric Cooperative, Inc. ("Seminole"), 2410 East Busch Boulevard, Tampa, Florida 33612. The U.S. Environmental Protection Agency, Region IV; U.S. Army Corps of Engineers, Jacksonville District; U.S. Department of the Interior (U.S. Fish & Wildlife Service) and U.S. Department of Commerce (National Marine Fisheries Service) have acted as cooperating agencies during the NEPA process.

The anticipated financial assistance would allow Seminole to secure funds required for the construction of a proposed steam-electric generating station near Palatka, Putnam County, Florida. The project consists of two 600 MW coal-fired generating units scheduled for operation in 1983 and 1985 respectively, and ancillary facilities. Proposed electric transmission associated with the project involves (1) a 230 kV double circuit from the generating station to a point east of Palatka, and (2) a 230 kV double circuit from the generating station to Silver Springs. The project will provide a reliable source of electrical power to fill existing and projected future needs of Seminole's member distribution cooperatives.

The U.S. Environmental Protection Agency (EPA) is proposing to give approval to construct the facility under

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the regulations for prevention of significant deterioration of air quality, 40 CFR 52.21. A public notice of the Preliminary Determination was published on February 27, 1979.

The U.S. Environmental Protection Agency also proposes to issue a National Pollutant Discharge Elimination System (NPDES) Permit, NPDES and application number FL0036498. The permit application describes one proposed discharge from construction and operation of the facility which will generate and transmit electricity SIC Code 4911. The discharge will enter the St. Johns River approximately 73 miles above its mouth and five miles north of Palatka, Florida. This reach has been classified by the State of Florida as follows: Class III—Recreation-Propagation and Management of Fish and Wildlife. The Florida Department of Environmental Regulation has been requested to certify the discharge(s) in accordance with the provisions of Section 401 of the Clean Water Act (33 U.S.C. Section 1251 et seq.).

The proposed NPDES permit contains limitations on the amounts of pollutants allowed to be discharged and was drafted in accordance with the provisions of the Clean Water Act (33 U.S.C. Section 1251 et seq.) and other lawful standards and regulations. The pollutant limitations and other permit conditions are tentative and open to comment from the public both in writing and at the public hearing.

A fact sheet which outlines the applicant's current discharge(s) and EPA's proposed pollutant limitations and conditions is available by writing or calling the EPA. A copy of the draft permit is also available from EPA. The application, supporting data, environmental impact statement, comments received, and other information are available for review and copying at 345 Courtland Street, 3rd floor, Atlanta, Georgia, between the hours of 8:15 a.m. and 4:30 p.m., Monday through Friday. A copying machine is available for public use at a charge of 20¢ per page.

In order to foster further public participation on the proposed financial assistance, necessary permits, determinations and approvals for the proposed project, the Rural Electrification Administration in conjunction with the U.S. Environmental Protection Agency and the Florida Department of Environmental Regulation will hold a public hearing. The hearing is scheduled for June 4, 1979, and will begin at 7 p.m. in the Holiday Inn at Palatka, Florida. The Florida Division of Administrative Hearings will chair the hearing. The hearing panel will also include representatives from REA and EPA.

Both oral and written comments will be accepted and a transcript of the proceedings will be made. For the accuracy of the record, written comments are encouraged. The Hearing Officer reserves the right to fix reasonable limits on the time allowed for oral statements.

Additional information on the proposed project may be secured from Mr. Joe S. Zoller, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Persons wishing to comment upon or object to the project, the Draft Environmental Impact Statement, approval of financial assistance, the NPDES permit issuance, the proposed permit limitations and conditions and the State certification are invited to respond in writing within 45 days of this notice or EPA's notice of availability of the Draft EIS, whichever is later. Comments are invited from the public and particularly from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the Federal Draft Environmental Impact Statement have been sent to various Federal, State and local agencies, as outlined in the Council on Environmental Quality Guidelines. Limited supplies of the Draft EIS are available upon request to Mr. Zoller at the address given above. Copies of the Draft EIS, which includes the Seminole Environemtal Analysis, Preliminary PSD Determination, and draft NPDES permit may be examined during regular business hours at the following locations:

Rural Electrification Administration, USDA, 14th & Independence Avenue, S.W., Room 5906, Washington, D.C. 20250.
U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.
Florida Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32301.
Florida Department of Environmental Regulation, St. Johns River Subdistrict Office, 3476 Bills Road, Jacksonville, Florida 32201.
Putnam County Courthouse, Office of Zoning Code, Palatka, Florida 32077.
Palatka Public Library, Palatka, Florida 32077.
Clay Electric Cooperative, Inc., District Office, Palatka, Florida 32077.
Seminole Electric Cooperative, Inc., 2410 East Busch Boulevard, Suite 108, Tampa, Florida 33612.

Persons, organizations and agencies wishing to comment should do so in writing within the 45-day period indicated above and address their correspondence to Mr. Zoller of REA at the address given above; the Enforcement Division, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30308, Attention: Ms. Mona Ellison; and the Florida Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32301, Attention: Mr. Hamilton S. Oven, Jr. The NPDES number (FL0036498) should be included in the first page of comments. All comments received within the 45-day period will be considered in the formulation of final determinations regarding the approval of REA funding of the project, the Final EIS, the NPDES permit, and permit conditions, the significant deterioration of air quality construction approval, and the State certification. Response to all substantive comments made at the public hearing will be published in the Final EIS. Requests for adjudicatory hearings on the NPDES Permit may be filed after the Regional Administrator makes the above-described determinations. Additional information regarding adjudicatory hearing is available in the July 24, 1974, **Federal Register**, 39, page 27081 or by contacting the Legal Support Branch at the address above or at 404/881-3506.

Final REA action pursuant to this proposed Seminole project (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 and requirements of other environmentally-related statutes, regulations, and Executive Orders have been met.

Dated at Washington, D.C., this 24th day of April, 1979.

Joseph Vellema,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 79-13040 Filed 4-26-79; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Lake George Critical Area Treatment RC&D Measure, New York; Intent Not To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lake George Critical Area Treatment RC&D Measure, Warren County, New York.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert L. Hilliard, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include stabilizing an 80 foot high, 500 foot long section of roadbank along Diamond Point Road.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert L. Hilliard, State Conservationist, Soil Conservation Service, U.S. Courthouse and Federal Building, 100 South Clinton Street, Room 771, Syracuse, New York 13260, telephone 315-423-5493. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until May 29, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590 a-f, q))

Dated: April 19, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-12994 Filed 4-26-79; 8:45 am]

BILLING CODE 3410-16-M

Upper Clear Boggy Creek Watershed, Oklahoma; Intent Not To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the remaining work in the Upper Clear Boggy Creek Watershed Project, Pontotoc, Coal, and Johnston Counties, Oklahoma.

The environmental assessment of the remaining work in this federally-assisted action indicates that the project will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for the remaining work in this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement include land treatment, 4 single purpose floodwater retarding structures, and 7 acres of wildlife mitigation area.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, Farm Road and Brumley Street, Stillwater, Oklahoma 74074. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until May 29, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Act, Public Law 83-566 16 U.S.C. 1001-1008)

Dated: April 17, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-12997 Filed 4-26-79; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Aerlinte Eireann Teoranta

In the matter of Aerlinte Eireann Teoranta; authority to operate on-route charters.

Aerlinte Eireann Teoranta (Aerlinte), an Irish-flag airline, holds a foreign air carrier permit, issued by Order 74-3-34, which authorizes it to engage in foreign air transportation of persons, property and mail between Ireland and the U.S. cities of New York, Boston and Chicago.[1] The permit also authorizes Aerlinte to conduct charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations. Under this charter authority, Aerlinte may perform an unlimited number of on-route charters without any requirement for advance approval. The carrier may also perform off-route charters upon prior approval of the Board with as little as five days' advance application required for passenger charters (two days' for cargo charters). The applicant must attest that its government reciprocates for U.S. carriers.

Scheduled air services between the United States and Ireland are covered by a February 3, 1945 agreement, amended June 11, 1973; no charter services agreement between the two countries exists. Nevertheless, Aerlinte holds authority to operate charters to the United States, as described above, in accordance with our long-standing policy of unilaterally granting charter rights to foreign air carriers providing scheduled services. Such charter rights are, however, strictly dependent upon comity and reciprocity; 14 CFR 212.6(a).[2]

The Board firmly believes that the development of an international air transportation system responsive to the needs of the public is furthered by liberal exchanges of charter rights between countries. However, when foreign governments sharply restrict the charter operations of United States carriers, we will respond. Indeed, we are required by law to do so. Section 2 of

[1] Specifically, Aerlinte may operate (1) between Ireland and New York, via Newfoundland and Boston; and (2) between Ireland and Chicago, via Newfoundland, Montreal and Boston. It may not serve Boston on route (2) during the months of May to October, inclusive.

[2] In the matter of On-Route Charter Authority of Foreign Air Carrier Permits, Order 70-7-58, July 13, 1970; Foreign Carrier Off-Route Charter Investigation, 27 CAB 198, 197 (1958); 30 C.A.B. 1547-48 (1960); Japan Air Lines Foreign Air Carrier Permit, Order E-24295, served October 19, 1966; In the matter of on-route charter trips of El Al Israel Airlines Limited Order 73-2-99, February 26, 1973; In the matter of Iran Air, Order 75-9-83, September 24, 1975.

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the International Air Transportation Fair Competitive Practices Act of 1974 [3] expressly requires that several agencies, including the Board, keep under review "all forms of discrimination or unfair competitive practices to which United States air carriers are subject in providing foreign air transportation services and each *shall take all appropriate actions within its jurisdiction to eliminate such forms of discrimination or unfair competitive practices found to exist." (emphasis added).*

We have been advised that the Government of Ireland has given its national airline, Aerlinte, a right of first refusal over several charter programs proposed by Trans International Airlines and World Airways to Shannon this summer. As a result, the Irish Government has denied TIA's request to perform 34 charter flights between New York/Boston and Shannon on the grounds that "adequate capacity can be made available by the on-route carrier. * * *" [4] It also has failed so far to approve a series of weekly Chicago-Shannon charters proposed by World for this summer and has advised that carrier that Aerlinte may exercise a first refusal.[5] These particular actions of the Irish Government are a reflection of its general policy of offering to those airlines designated under the bilateral agreement to perform scheduled service, rights of first refusal over on-route charters proposed by other carriers. The Irish Government adheres to this policy despite the fact that TIA and World are authorized by the United States Government to perform U.S.-Ireland charter services—services that we have found to be required by the public convenience and necessity.[6]

We have been aware for some time of the Irish Government's protectionist charter policy and previously have taken measured responses. In 1975, we denied Aerlinte authority to conduct various off-route charters during a period when the Irish Government's exercise of its first refusal policy toward U.S. supplementals precluded a finding of reciprocity.[7] We have continued to consider each Aerlinte off-route charter application individually, although we grant many foreign airlines blanket rights to conduct off-route charters without prior Board approval.[8]

It now is evident that these actions have not been effective, in light of the experiences this year of TIA and World. Reciprocity has not been achieved on the less restrictive regulatory terms we would prefer. Reciprocity now appears possible only in the form of a more tightly controlled charter regime of the sort that renounces consumers' welfare and discourages tourism.

The Irish authorities' first-refusal charter policy discriminates among equally authorized U.S. air carriers and subjects a segment of them—the charter air carriers—to an unfair competitive disadvantage *vis-a-vis* carriers designated under the scheduled air service agreement. The Irish policy is based on the unilaterally determined theory, uniquely held by Ireland in the United States-Western Europe air travel market, that designated scheduled airlines should have so-called "primary rights" to take over any charter programs their potential competitors have developed, often at great expense to these competitors, whenever they propose charter flights between points where regular scheduled services are conducted. Rather than seeing the entitlement to provide scheduled service as an opportunity to compete to enlarge a market in the public interest, the policy sees the entitlement as one carrying a concomitant right to protection against charter competitors at the public expense. Even if unexercised, the policy discourages charter organizers from dealing with charter air carriers or other undesignated airlines. When exercised, it can idle expensive aircraft or result in their use for less profitable operations. It can force organizers to use aircraft with seating capacities too small or too large for their programs, usually at higher prices, often on unwanted itineraries. It can also mean that thousands who would travel only on charter flights in a relatively high-priced scheduled market will not travel to Ireland at all. This approach, in our view, represents a practice that the Congress has mandated that we take steps to eliminate.

We therefore conclude that the Irish first-refusal charter policy is not in accord with the character of comity and reciprocity on which the Board has relied in granting Aerlinte charter authority. Under section 212.4(b), the Board may at any time, with or without hearing, notify a foreign air carrier that it cannot perform on-route charter trips without prior Board approval. We find this notification to Aerlinte is now required by the public interest.[9]

We regret this action is necessary. We would much prefer that all U.S. and Irish carriers and organizers wishing to provide charter flights in the market be left free by both Governments to do so. It is unfortunate that the Government of Ireland's decision to attempt to give Aerlinte a favored position, and Aerline's use of the discriminatory practices offered to it, compel us to impose this requirement. Continuation of this Irish policy could adversely affect the plans of both Irish and American travelers, as well as harm others who would benefit from a freer exchange of visitors than the Government of Ireland now appears willing to allow. Finally, we look toward intergovernmental talks and/or policy changes by the Government of Ireland and Aerlinte on this issue. We hope Ireland will abandon the concept of "primary" or first refusal rights now unilaterally exercised in the air travel market between these two friendly nations.

Accordingly,

1. We notify Aerlinte Eireann Teoranta (Aerlinte) that effective thirty (30) days after service of this order, it shall not perform any on-route charter trip unless specific authority in the form of a Statement of Authorization to conduct such charter trip has been granted by the Board. In the event that an application for a Statement of Authorization has been properly filed at least 30 days in advance of a proposed flight, notice of the Board's failure to approve either the whole or part of such application will be submitted to the President of the United States at least 10 days prior to the date of the proposed flight. Any such failure to approve a timely-filed on-route charter trip application shall be subject to stay or disapproval by the President within 10 days after the date of the Board's notification;

2. We will serve copies of this order upon Aerlinte, the Ambassador of Ireland in Washington, D.C., Trans International Airlines, World Airways, Trans World Airlines, and Pan American World Airways; and

3. We close Docket 28012.

This order will be published in the **Federal Register**, and will be transmitted to the President.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[Docket 35381; Order 79-4-138]
[FR Doc. 79-13173 Filed 4-26-79; 8:45 am]
BILLING CODE 6320-01-M

[3] Pub. L. 93-623, 88 Stat. 2102.

[4] See *Application of Trans International Airlines* for emergency exemption in Docket 34875, in general, and Exhibit 1, page 2, in particular. Only Pan American, Trans World Airlines, and Aerlinte are designated under the United States-Ireland Air Transport Services Agreement to perform scheduled services. Although in a March 8, 1979, filing in Docket 34875, Aerlinte states that all designated airlines may exercise first refusal rights, both PAA and TWA have reported that they had not been approached by the Irish authorities with respect to the TIA program. We therefore conclude that "the on-route carrier" referred to by the Irish authorities is Aerlinte.

[5] See *Application of World Airways* for an emergency exemption in Docket 35010.

[6] *Transatlantic Route Proceeding*, Order 77-1-98/100.

[7] See letter dated February 28, 1975, from Director, Bureau of Operating Rights, and letter dated March 24, 1975, from Edwin Z. Holland for the Board, to Jones, Day, Reavis, and Pogue (Aerlinte's Washington, D.C. counsel).

[8] See Order 78-12-175.

[9] In Docket 28012, TIA petitioned the Board to subject Aerlinte to the prior approval procedures under 212.4(b) for much the same reasons we are doing so today. Since our action here effectively grants the authority sought by TIA, we will terminate the proceeding in Docket 28012.

Application for an All-Cargo Air Service Certificate

April 23, 1979.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 34371, from Northern Air Cargo of Anchorage, Alaska for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application within twenty-one (21) days after publication of this notice in the **Federal Register**. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 79-13174 Filed 4-26-79; 8:45 am]
BILLING CODE 6320-01-M

Texas/Great Lakes-Eastern Canada Service Investigation; Hearing

The hearing herein will be held at 10:00 a.m. on 19 June 1979 in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., April 23, 1979.

Rudolf Sobernheim,
Administrative Law Judge.

[Docket 33477]
[FR Doc. 79-13175 Filed 4-26-79; 8:45 am]
BILLING CODE 6320-01-M

Yucatan Service Case; Hearing

By the prehearing conference report dated 15 December 1978 the hearing was set for 24 April 1979. Due to an inadvertence, a notice of this hearing was not published in the Federal Register. Nevertheless, all parties to the proceeding were notified and are ready to proceed on 24 April 1979. In the event, however, that there is any party or member of the public who has not had an opportunity to make their position known or to present such point as they may desire to present, a further hearing will be held on 14 June 1979 at 10:00 a.m. in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

However, any party desiring to appear to such hearing is required to so advise the presiding administrative law judge and counsel for the Bureau of International Aviation, Civil Aeronautics Board, no later than the close of business on 8 June 1979.

Dated at Washington, D.C., 23 April 1979.

Rudolf Sobernheim,
Administrative Law Judge.

[Docket 33220]
[FR Doc. 79-13176 Filed 4-26-79; 8:45 am]
BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Maine Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the Maine Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and will end at 5:30 p.m., on June 8 and 9, 1979, at the Holiday Inn, 88 Spring Street, Portland, Maine 04111.

Persons wishing to attend this conference should contact the Committee Chairperson, or the Northeastern Regional Office, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose is a conference on bilingualism.

This meeting will be conducted pursuant to the provisions of Rules and Regulations of the Commission.

Dated at Washington, D.C., April 23, 1979.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-13091 Filed 4-26-79; 8:45 am]
BILLING CODE 6335-01-M

Maine Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 1:00 p.m. and will end at 9:00 p.m., on June 7, 1979, at the Holiday Inn, 88 Spring Street, Portland, Maine 04111.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office, 26 Federal Plaza, Room 1639, New York, New York 1007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 23, 1979.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-13080 Filed 4-26-79; 8:45 am]
BILLING CODE 6335-01-M

Maryland Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 6:30 pm and will end at 10:00 pm, on May 14, 1979, at the Holiday Inn, Airport and Elkridge Landing Roads, Baltimore, Maryland.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to review the proposal for a consultation on citizen complaint procedures in the Baltimore Police Department.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. April 24, 1979.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-13092 Filed 4-26-79; 8:45 am]
BILLING CODE 6335-01-M

Michigan Advisory Committee; Change of Meeting Date

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) of the Commission originally scheduled for

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May 25, 1979 (FR Doc. 79–12352) on page 23550 has been changed to May 24, 1979.

The meeting place and time will remain the same.

Dated at Washington, D.C., April 24, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79–13093 Filed 4–26–79; 8:45 am]

BILLING CODE 6335–01–M

Michigan Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Kentucky Advisory Committee (SAC) of the Commission will convene at 12:00 noon and will end at 3:00 pm, on June 5, 1979, at Executive West, Freedom Way at the Fairgrounds, Paisley Room, Louisville, Kentucky, 40206.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303.

The purpose of this meeting is orientation for new SAC members, review of local police department statistics and continue plans for follow-up.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 23, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79–13094 Filed 4–26–79; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Madhu Vrajmir Desai; Order Denying Export Privileges

In the Matter of Madhu Vrajmir Desai, 34 Jalan Taman Pantai, Kuala Lumpur, Malaysia, Respondent.

By letter of February 1, 1979, the Compliance Division charged that Madhu Vrajmir Desai violated the U.S. Export Administration Regulations, 15 CFR Part 368 *et seq.* It alleged that respondent reexported and diverted controlled U.S. origin equipment, machinery and instruments used for the production of integrated circuits and semiconductors in the approximate value of $278,000, to a proscribed destination without authorization of U.S. Government. This precluded the Office of Export Administration from determining whether the ultimate consignee should be approved for receipt of the commodities, and is in violation of 15 CFR 374.1.

In 1974–1975, the now defunct Hugle International, Inc., of Sunnyvale, California, devised a scheme to subvert the law and regulations. It mislabelled exports and shipped them to the respondent, an American citizen living in Malaysia, (Desai was previously employed in the U.S. by Hugle International). Desai, in turn, then transshipped the commodities to a Polish consignee. The scheme was the subject of inquiry by the United States as well as Malaysian authorities.

Respondent was interrogated by the American Consul. His testimony supports the finding that respondent was a pass-through agent and that he knew that his actions were contrary and in violation of the Export Administration laws and regulations. Further, Desai failed to answer the charging letter. Therefore, the allegations of the charging letter are taken as confessed. In view of the respondent's admission to violations of the Export Administration regulations, the Hearing Commissioner recommended that the respondent be denied all United States export privileges for a period of five years.

In accordance with the evidence outlined by the Hearing Commissioner and his recommendations, I find that respondent knowingly violated the Export Administration Regulations as alleged in the charging letter of February 1, 1979. I find that an order denying export privileges to the respondent for a period ending May 31, 1984, is reasonably necessary to protect the public interest and achieve effective enforcement of the Export Administration Regulations.

Therefore, pursuant to the authority delegated to me, 15 CFR 388, *it is ordered:*

I. All outstanding export licenses in which respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Department of Commerce, Industry and Trade Administration.

II. The respondent is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities, or technical data, in whole or in part, exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent but also to his agents, employees, representatives, and partners and to any other person, firm, corporation, or business organization with which the respondent now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Industry and Trade Administration, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer or use any license, shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for said respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. This order shall remain in effect until May 31, 1984, except insofar as this order may be amended or modified hereafter in accordance with the Export Control Regulations.

VI. In accordance with the provisions of section 388.15 of the Export Control Regulations, the respondent may move at any time to vacate or modify this Denial Order by filing with the Hearing Commissioner, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which if requested shall be held before the Hearing Commissioner at the earliest convenient date.

This order shall become effective immediately.

Dated: April 20, 1979.

Lawrence J. Brady,
Acting Director, Office of Export Administration.

[Case No. 584]

[FR Doc. 79–12996 Filed 4–26–79; 8:45 am]

BILLING CODE 3510–25–M

Panametrics, Inc.; Order

In the Matter of Panametrics, Inc., 221 Crescent Street, Waltham, Massachusetts 02154, Respondent.

By letter of December 14, 1978, the Compliance Division charged that Panametrics, Inc. violated the Export Administration Regulations. It alleged that respondent exported an ultrasonic spectroscope console, valued at $28,450.50, to the People's Republic of China without the required validated license. A main frame oscilloscope, a dual trace amplifier, and a spectrum analyzer composed the console.

Panametrics, for the purposes of this proceeding, admitted the single violation. It showed that, in 1973, OEA stated that its equipment could be shipped under a general license. However, following that opinion, respondent upgraded its console and substituted more sophisticated components. Although the substitutions mandated a validated license for export purposes, Panametrics failed to recognize that fact.

Shortly after exporting the console, the unit required certain repairs. Respondent arranged for servicing of the equipment by an American company in Japan. It was then that Panametrics learned that, although the servicing could be performed, the item could not be reexported to the People's Republic of China without a validated license. Panametrics immediately attempted to rectify its original error. It has since sought to recover the equipment and to substitute less sophisticated components and to otherwise comply with the export regulations.

The Hearing Commissioner reports that Panametrics made its export with apparent lack of knowledge of the requirements. He stated that this was an isolated transaction and the effort put forth by the respondent to recover the equipment demonstrates its desire to comply with all rules and regulations. He noted that the company is not otherwise suspect and has properly instructed its personnel and taken other appropriate measures to insure continued compliance. He recommends that a consent proposal, 15 CFR 388.10, be approved.

Based on the foregoing and the recommendations of the Hearing Commissioner, I find that respondent violated the Export Administration Regulations, as alleged in the charging letter. In view of respondent's efforts to regularize the export and the measures taken to insure that its export activities will conform with law and policy, I find the agreed penalty, as outlined below, is fair and designed to achieve the purposes of the law and regulations.

Therefore, pursuant to the authority delegated to me, 15 CFR 387.1, *it is Ordered:*

A period of probation ending December 31, 1979 is imposed upon respondent. The terms of probation are that respondent shall fully comply with all requirements of the Export Administration Act of 1969, as amended, and all regulations and orders issued thereunder.

Upon a finding by the Director, Office of Export Administration, or such other official as may be exercising the duties now exercised by him, that the respondent has knowingly failed to comply with the requirements and conditions of the order or with any of the conditions of probation, said official without notice when national security or foreign policy considerations are involved, or with notice if such considerations are not involved, by supplemental order may revoke the probation of the respondent, revoke all outstanding validated export licenses to which said respondent may be a party and deny to said respondent all export privileges for the period of the order. Such supplemental order shall not preclude the Bureau of Trade Regulation from taking such further action for any violations as it shall deem warranted. On the entry of a supplemental order revoking respondent's probation without notice, it may file objections and request for an oral hearing as provided in Section 388.16 of the United States Export Administration Regulations, but pending such further proceedings the order of revocation shall remain in effect.

This order is effective immediately.

Dated: April 20, 1979.

Lawrence J. Brady,
Acting Director, Office of Export Administration.

[Case No. 581]

[FR Doc. 79–12995 Filed 4–26–79; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council, Scientific and Statistical Committee, and Advisory Panel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), and the Council has established a Scientific and Statistical Committee (SSC) and an Advisory Panel (AP). Joint and separate meetings will be held on May 22–25, 1979.

DATES: The Council meeting will convene on Thursday, May 24, 1979, at 8:30 a.m. and will adjourn on Friday, May 25, 1979, at 5 p.m. at the Anchorage/Westward/Hilton Hotel, Kenai-Aleutian Room, 3rd & E Streets, Anchorage, Alaska. The SSC will convene on Tuesday, May 22, 1979, at 9:30 a.m. and will adjourn on Wednesday, May 23, 1979, at 5 p.m. at the Council Headquarters, Post Office Mall Building, 333 West 4th Avenue, Anchorage, Alaska. The AP meeting will convene on Wednesday, May 23, 1979, at 9 a.m. and will adjourn at 5 p.m. at the Anchorage/Westward/Hilton Hotel, Kenai-Aleutian Room. The SSC and AP will meet jointly, as necessary, on May 24–25, 1979. The meetings may be lengthened or shortened depending upon progress on the agenda. The meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, Telephone: (907) 274–4563.

Proposed Agendas

Council

(1) Provisional Agenda; (2) February 22–23, 1979, and March 22–23, 1979, minutes; (3) subsequent reports: Executive Director, Alaska Department of Fish and Game (ADF&G), National Marine Fisheries Service (NMFS), U.S. Coast Guard (USCG), SSC and AP; (4) preliminary Council review of the draft

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Fishery Management Plan (FMP)/ environmental impact statement (EIS) for the Herring Fishery in the Bering/ Chulhchi Sea; (5) Gulf of Alaska Groundfish Fishery—possible FMP amendment: establish a separate Optimum Yield (OY) for rattails or create a special category for unutilized and unwanted commercial species; (6) Tanner Crab FMP: possible amendment reducing total allowable level of foreign fishing (TALFF) and/or modifying the area open to foreign fishing; (7) Bering Sea/Aleutian Islands Groundfish Fishery FMP: Council approval of the section previously reserved dealing with Aleutian Islands openings and closures for foreign fishing; (8) Gulf of Alaska Groundfish Fishery FMP and regulations: discussion of Federal/State regulations and problems; (9) Gulf of Alaska Groundfish Fishery FMP: consideration of the last planned release of reserves (July 2) to TALFF; (10) domestic annual harvest (DAH)/ Processor Preference Working Group report; (11) Troll Salmon FMP discussion of west coast resource problem including the potential for emergency closures off Alaska; (12) consideration of Fishery Conservation Management Act (FCMA) changes for Oversight Hearings; (13) report on FMP Development Workshop held May 3–4, 1979, in Anchorage; (14) public comment period scheduled for May 24, 1979, at 3:30 p.m.

Scientific and Statistical Committee

(1) Review: King Crab FMP, draft herring FMP/EIS, Contract 78–4 report (The Development and Enhancement of a Computerized Information System), alternative statistical reporting requirements for the Bering Sea/ Aleutian Islands Groundfish Fishery FMP, Southeast Coho/Chinook Plan progress, possible Gulf of Alaska Groundfish Fishery FMP rattail amendment, progress report of the ADF&G Tag Recovery Contract 78–7, DAH/Processor Preference Working Group report, possible Tanner Crab FMP amendment, "reserved" section options for Bering Sea/Aleutian Islands Groundfish Fishery FMP, final report "Graphical and Printed Summaries of Troll Salmon Fishery Data" from the Alaska Trollers Association 1977 Troll Logbook Program, and discuss staff support concept.

Advisory Panel

(1) Review: draft FMP/EIS for herring fishery in the Bering/Chukchi Seas, possible rattail amendment to the Gulf of Alaska Groundfish Fishery FMP, possible amendments to the Tanner Crab FMP, "Reserved" section options in the Bering Sea/Aleutian Islands Groundfish Fishery FMP, report from DAH/Processor Preference Working Group, west coast slamon problem and possible emergency closures off Alaska, report of FMP Development Workshop: discuss Federal/State regulations and problems with Gulf of Alaska Groundfish Fishery FMP; consider the last planned release of reserves (July 2) to the Gulf of Alaska Groundfish Fishery FMP and FCMA changes for Oversight Hearings.

Dated: April 24, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-13231 Filed 4-26-79; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), will meet to discuss: preliminary review of Billfish Fishery Management Plan (FMP) decision elements; review of final Snapper-Grouper FMP, final draft of Spiny Lobster FMP, and foreign fishing permit applications, if any; status reports of Calico Scallop and Coral FMP; and other business.

DATES: The meeting will convene on Tuesday, May 22, 1979, at 1:30 p.m. and will adjourn on Thursday, May 24, 1979, at approximately 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place at Headquarters, 1 Southpark Circle, Suite 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTRACT: South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: April 24, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-13232 Filed 4-26-79; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1979 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: April 27, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On February 9, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (44 FR 8323) of proposed addition to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1979:

Class 7340

Flatware, Plastic, Picnic
7340–00–170–8374 (Spoon)
7340–00–205–3187 (Knife)
7340–00–205–3342 (Fork)
(Requirements for GSA Regions 4 and 7 only)

C. W. Fletcher,
Executive Director.

[FR Doc. 79-13046 Filed 4-26-79; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1979; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1979 commodities to be produced and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 30, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1979, November 15, 1978 (43 FR 53151):

Class 7110

Blackboard, Portable
7110–00–132–6651 (Increase from 60% to 100% of Government requirements)

Class 7210

Pillowcase, Cotton/Polyester, White
7210–00–119–7357

Class 8115

Wood, Boxes, Nailed, Hand Grenade
8115–00–N00–0019 (Requirements for Pine Bluff Arsenal,
8115–00–N00–0020 Arkansas only)

Class 3990

Pallet
3990–00–935–7826 (Requirements for Pine Bluff Arsenal, Arkansas only)

SIC 0782

Grounds Maintenance
Fairways and Roughs, Golf Course
Fort Ord, California

SIC 7399

Labeling of Supplies
Defense Depot Mechanicsburg
Mechanicsburg, Pennsylvania

C. W. Fletcher,
Executive Director.

[FR Doc. 79-13047 Filed 4-26-79; 8:45 am]

BILLING CODE 6820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Interagency Regulatory Liaison Group; Public Meeting

The U.S. Consumer Product Safety Commission, the U.S. Environmental Protection Agency, the Food and Drug Administration, the Food Safety and Quality Service, and the Occupational Safety and Health Administration have agreed to work together as the Interagency Regulatory Liaison Group (IRLG) to improve the effectiveness of their programs, while eliminating duplicative or inconsistent regulatory actions and unnecessary paperwork. The IRLG agreement was announced at a joint press conference on August 2, 1977 and was published in the **Federal Register** on October 11, 1977 (42 FR 54856). In January 1979 the Food Safety and Quality Service of the U.S. Department of Agriculture joined the IRLG as a fifth member.

On Tuesday, May 22, 1979 a meeting of the regional administrators and key headquarters staff of the five agencies will be held. This meeting will begin at 8:30 a.m. at the General Services Administration (GSA) auditorium, 18th and F Streets, NW., Washington, D.C. with registration beginning at 8:00 a.m. and will end at 11:30 a.m. The purpose of the meeting is to present and discuss updated information about IRLG activities, goals, and procedures of the regional offices of the five agencies. The tentative agenda for the meeting on May 22 is as follows:

8:30–8:45 a.m.—Introduction and Opening Remarks.
8:45–9:00—Review of Progress and Organizational Changes.
9:00–9:10—Inclusion and Role of FSQS.
9:10–9:20—Regulatory Development Work Group Update.
9:20–9:30—Overview of Regional Assessment.
9:30–9:45—Information Exchange, Regional Activities, Headquarters Activities—Common Codes Project—Libraries.
9:45–10:00—Internal Management & Training, Regional Activities, Headquarters Activities—General Orientation Training.
10:00–10:15—Laboratories, Regional Activities, Headquarters Activities—Inventory of Lab Equipment.
10:15–11:00—Compliance and Enforcement, Regional Activities, Headquarters Activities—Emergency Response—Referral Inspection Program—Joint and Crossover Inspection Programs.
11:00–11:20—External Relations, Regional Activities, Headquarters Activities.
11:20–11:30—Closing Remarks.

The public is invited to attend this meeting. A list of issues on which public input is desired will be distributed there. These issues and others will be discussed by the IRLG participants during the meeting.

On the following day, Wednesday, May 23, 1979, there will be a second public meeting to obtain comment on these issues. This second meeting will take place at the General Services Administration (GSA) auditorium, 18th and F Streets, NW., Washington, D.C. with registration beginning at 8:00 a.m. This meeting will end at 11:30 a.m.

For further information, contact Ms. Susan Guenette, IRLG Executive Assistant, at 202–634–4350 or address correspondence to Ms. Susan Guenette, IRLG Executive Assistant, Room 509, 1111 18th Street, NW., Washington, D.C. 20207.

Dated: April 25, 1979.

Dr. Edwin H. Clark II,
EPA IRLG Surrogate.

[FRL 1212-4]

[FR Doc. 79-13340 Filed 4-26-79; 8:45 am]

BILLING CODE 6560-01-M

CONSUMER PRODUCT SAFETY COMMISSION

National Advisory Committee for the Flammable Fabric Act; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: National Advisory Committee for the Flammable Fabrics Act.

SUMMARY: This notice announces a meeting of the National Advisory Committee on Monday, May 14, 1979 from 9:30 AM to 4:30 PM and Tuesday, May 15, 1979 from 9:30 AM to 1:00 PM.

FOR FURTHER INFORMATION CONTACT: Sadye E. Dunn, Office of the Secretary, Suite 300, 1111 18th Street, NW., Washington, DC 20207 (202) 634–7700.

SUPPLEMENTARY INFORMATION: The National Advisory Committee provides advice and recommendations on Commission proposals and plans to reduce the frequency and severity of burn injuries involving flammable fabrics. The meeting on Monday, May 14, 1979 will include discussions on hazard data collection, the comprehensive fire and burn collection data project and the need for a flammable fabrics annual report, as well as a presentation on burn care.

On Tuesday, May 15, 1979, the meeting will be devoted to a number of compliance issues: amendments to the flammable fabrics regulations, definition of children's sleepwear, and testing of multi-layered fabrics. The Committee

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will also be briefed on the status of Commission activities in the flammable fabrics area. The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations to the National Advisory Committee should notify the Office of the Secretary (see address above) by May 9, 1979. The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the Committee may be allowed by the presiding officer.

Dated: April 20, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-13059 Filed 4-26-79; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of The Secretary

Task Force on Evaluation of Audit, Inspection, and Investigative Components of the Department of Defense; Advisory Committee Meeting

The Task Force on Evaluation of Audit, Inspection and Investigative Components of the Department of Defense will meet on May 4, 1979, from 10:00 AM to 12:00 noon at the Pentagon, Washington, D.C., Room 3D973.

The mission of the Task Force is to advise Congress and the Secretary of Defense of the effectiveness of the audit, inspection and investigative components of the Department of Defense.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services.

April 23, 1979.

[FR Doc. 79-13039 Filed 4-26-79; 8:45 am]

BILLING CODE 3810-70-M

Department of the Army

Privacy Act of 1974; Deletion and Amendments to Systems of Records

AGENCY: Department of the Army.

ACTION: Notice of deletion and amendments to Systems of Records.

SUMMARY: The Army proposes to delete 1 and amend 3 systems of records subject to the Privacy Act of 1974. Specific changes to the systems being amended are set forth below followed by the systems published in their entirety as amended.

DATE: The systems shall be amended as proposed without further notice on May 29, 1979 unless comments are received on or before May 29, 1979 which would result in a contrary determination and require republication for further comments.

ADDRESS: Any comments, including written data, views or arguments concerning the amendments should be addressed to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Cyrus H. Fraker, the Adjutant General Center (DAAG–AMR–R), Department of the Army, 1000 Independence Avenue, SW, Washington, DC 20314; telephone 202/693–0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices, as prescribed by the Privacy Act, have been published in the **Federal Register** as follows:

FR Doc. 77–28225 (42 FR 50396) September 28, 1977
FR Doc. 78–23953 (43 FR 38070) August 25, 1978
FR Doc. 78–22562 (43 FR 40272) September 11, 1978
FR Doc. 78–26732 (43 FR 42026) September 19, 1978
FR Doc. 78–25819 (43 FR 42374) September 20, 1978
FR Doc. 78–26699 (43 FR 43059) September 22, 1978
FR Doc. 78–26996 (43 FR 43539) September 26, 1978
FR Doc. 78–29130 (43 FR 47604) October 16, 1978
FR Doc. 78–29211 (43 FR 48894) October 19, 1978
FR Doc. 78–29982 (43 FR 49557) October 24, 1978
FR Doc. 78–31795 (43 FR 52512) November 13, 1978
0R Doc. 78–34586 (43 FR 58111) December 12, 1978
FR Doc. 78–35523 (43 FR 59869) December 22, 1978
FR Doc. 79–5788 (44 FR 11105) February 27, 1979
FR Doc. 79–6621 (44 FR 12231) March 6, 1979
FR Doc. 79–8787 (44 FR 17767) March 23, 1979
FR Doc. 79–11350 (44 FR 22140) April 13, 1979

The proposed amendments are not within the purview of the provisions of 5 USC 552a(o) of the Act which requires the submission of a new or altered system report.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

April 23, 1979.

Deletion

A1012.05aTRADOC

System name: 1012.05 Student and Faculty Expertise (SAFE) (42 FR 50618) September 28, 1977.

Reason: System is no longer required; data have been purged.

Amendments

A0102.02aDARCOM

System name: 102.02 Office Personnel Register Files (44 FR 17769) March 23, 1979.

Change:

System location: Delete period after "(DARCOM)" and add: "and all subordinate elements."

A0225.11gDAPC

System name: 225.11 Recruit Quota System (REQUEST) (44 FR 17771) March 23, 1979.

Change:

Categories of records in the system: After the word "sex;" add: "race;".

A1012.04bTRADOC

System name: 1012.04 Resident Student Record System (RSR) (43 FR 43061) September 22, 1978.

Changes:

System location: Delete "(ATSW-DA)" and substitute: "(ATZLSW-DOA)".

Categories of individuals covered by the system: Delete period after "USACGSC" and add: "resident program."

Categories of records in the system: Delete entry and substitute: "File contains: Personal data which includes name, social security number (SSN), student number, branch of service, rank, component, alternate Officer Personnel Management System (OPMS), primary OPMS; administrative data including counselor's name, class division, class section, class work group, type course (i.e., regular United States, reserve component, Ally); and academic data including test scores, courses, student exam code, cooperative degree program, course number, academic term, course module, course block, and selected related data."

Authority for maintenance of the system: Delete entry and substitute: "Title 10 U.S.C., Section 3012."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete entry and substitute: "The file is used to schedule students for courses, process student grades and prepare school transcripts. Records are used by USACGSC instructional departments and the Director of Education and Curriculum Affairs to prepare rosters, and by USACGSC resident academic records personnel to prepare transcripts.

The automated grading examination system (GRADEX) constitutes a subsystem of this file, in that it provides an important element of front end curriculcum analysis, and basis for curriculum changes and evaluation of entry level knowledges. It also provides the capability to administer various course/subcourse tests with MARK SENSE forms during the academic year.

Computerized interactive quizes provide the capability to administer course/subcourse tests interactively using computer terminals."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Delete the period and add: "and magnetic tape."

Retrievability: Delete entry and substitute: "Records are retrieved by SSN, name, student number, or by one or a combination of data elements contained in the system."

Safeguards: Delete entry and substitute: "At the USACGSC, the computer programs are kept in locked cabinets in building secured by guards. Computer access is controlled by passwords which are periodically changed. Access to the computer programs is further restricted by addtional passwords which are changed weekly. Data files are maintained in a secure environment restricted to authorized employees.

Retention and disposal: Delete entry and substitute: "Records are destroyed at completion of an academic year."

Record access procedures: Delete "ATSW–DA" and substitute: "ATZLSW–DOA".

A0102.02aDARCOM

SYSTEM NAME:

102.02 Office Personnel Register Files

SYSTEM LOCATION:

Visitor registration forms are maintained at the US Army Materiel Development and Readiness Command (DARCOM) and all subordinate elements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any visitor who represents a person, firm, corporation, academic institution, or other entity involved in business transactions with DARCOM.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records comprise business registration forms that give an individual's name, name and address of company represented, purpose of visit and individual's affiliation with the Department of Defense.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C., Section 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information obtained is used to determine the visitor's purpose and status to prevent a conflict of interest.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in locked file cabinets.

RETRIEVABILITY:

By name of visitor.

SAFEGUARDS:

Paper records are maintained in the Office of the General Counsel (GC), with access limited to Division and Branch Chiefs having primary interest.

RETENTION AND DISPOSAL:

The information is retained for 1 year, after which timne it is destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, US Army Materiel Development and Readiness Command, 5001 Eisenhower Avenue, Alexandria, VA 22333.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Information may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records, for contesting contents and appealing initial determinations may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information on the Visitor Registration Form is obtained from the individual concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A0225.11gDAPC

SYSTEM NAME:

225.11 Recruit Quota System (REQUEST)

SYSTEM LOCATION:

United States Army Military Personnel Center (MILPERCEN). The official mailing address is in the Department of Defense Directory in the Appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Non-prior and prior service personnel who have indicated a desire to enlist in the US Army, USARNG or USAR.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; social security number (SSN); sex; race; citizenship; date of birth; education level achieved and school subjects; driver's license; physical profile; color perception; Army standard score from the Armed Services Vocational Aptitude Battery; Audio Perception score; Defense Language Aptitude Battery (DLAB) score; Motor Vehicle Battery Test score; type of enlistment; enlistment date, term and option; military occupational specialty; enlistee's initial processing and training assignments, type, locations, and dates; unit of assignment; system identificaton of location that created an accession record; recruiter identification; and recruiting area credit code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C., Section 301; Title 10 U.S.C., Section 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEMS, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Department of Army: Records are used for personnel management, manpower, training, and accession management.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on disk and magnetic tape.

RETRIEVABILITY:

By name and/or SSN.

SAFEGUARDS:

Data security; entry protection, password; auto-logged, user identification.

RETENTION AND DISPOSAL:

Records are retained for 2 years, then erased.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

NOTIFICATION PROCEDURE:

Information may be obtained from US Army Military Personnel Center, Enlisted Personnel Directorate, 2461 Eisenhower Avenue, Alexandria, VA 22331.

RECORD ACCESS PROCEDURES:

Written requests for information should contain the full name, SSN, and current address. Requests should be made to Commander, US Army Military Personnel Center, Enlisted Personnel Directorate (DAPE–EP), 2461 Eisenhower Avenue, Alexandria, VA 22331.

For personal visits, the requester should provide acceptable identification, i.e., military identification card or other identification normally acceptable in the transaction of business.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Data are obtained from individual's application (DD Form 1966) and from tests given to applicants. This information is maintained at the Armed Forces Examining and Entrance Stations (AFEES).

A1012.04bTRADOC

SYSTEM NAME:

1012.04 Resident Student Record System (RSR)

SYSTEM LOCATION:

Director of Automation (ATZLSW–DOA), United States Army Command and General Staff College (USACGSC), Ft Leavenworth, KS 66027.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEMS:

Any officer, United States or Allied, enrolled in the USACGSC resident program.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains: Personal data which includes name, social security number (SSN), student number, branch of service, rank, component, alternate Officer Personnel Management System (OPMS), primary OPMS; administrative data including counselor's name, class division, class section, class work group, type course (i.e., regular United States, reserve component, Ally); and academic data including test scores, courses, student exam code, cooperative degree program, course number, academic term, course module, course block, and selected related data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C., Section 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND THE PURPOSES, OF SUCH USES:

The file is used to schedule students for courses, process student grades and other academic related information, record student grades and prepare school transcripts. Records are used by USACGSC instructional departments and the Director of Education and Curriculum Affairs to prepare rosters, and by USACGSC resident academic records personnel to prepare transcripts.

The automated grading examination system (GRADEX) constitutes a subsystem of this file, in that it provides an important element of front end curriculum analysis, and basis for curriculum changes and evaluation of entry level knowledges. It also provides the capability to administer various course/subcourse tests with MARK SENSE forms during the academic year.

Computerized interactive quizzes provide the capability to administer course/subcourse tests interactively using computer terminals.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer disk and magnetic tape.

RETRIEVABILITY:

Records are retrieved by SSN, name, student number, or by one or a combination of data elements contained in the system.

SAFEGUARDS:

At the USACGSC, the computer programs are kept in locked cabinets in building secured by guards. Computer access is controlled by passwords which are periodically changed. Access to the computer programs are further restricted by additional passwords which are changed weekly. Data files are maintained in a secure environment restricted to authorized employees.

RETENTION AND DISPOSAL:

Records are destroyed at completion of an academic year.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Automation, United States Army Command and General Staff College, Ft Leavenworth, KS 66027.

NOTIFICATION PROCEDURE:

Information may be obtained from: Commandant, United States Army Command and General Staff College, ATTN: Director of Automation, Bell Hall, Ft Leaveworth, KS 66027; Telephone: Area Code 913/684–3685.

RECORD ACCESS PROCEDURES:

Requests should be addressed to: Commandant, United States Army Command and General Staff College, ATTN: ATZLSW–DOA, Ft Leavenworth, KS 66027.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Personnel data and enrollment information are obtained from the students at the time they complete enrollment and from Department of the Army orders. Grades, class section number, and academic information is obtained from the USACGSC academic departments. Data for the GRADEX system are obtained from the MARK SENSE cards completed by the students and information extracted from the RSR.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79–13252 Filed 4–26–79; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Naval Discharge Review System; Hearing Locations

In November 1975, the Naval Discharge Review Board began to convene and conduct prescheduled discharge review hearings for a number of days each quarter in locations outside of the Washington, D.C. area. The cities in which these hearings are scheduled are determined in part by the concentration of applicants in a geographical area.

The following NDRB itinerary for April 1979 through September 1979 has been approved, but remains subject to modification if required:

April 1979—Chicago, Illinois.
May 1979—Chicago, Illinois; Albany, New York; Minneapolis, Minnesota; St. Louis, Missouri.
June 1979—Minneapolis, Minnesota; St. Louis, Missouri; El Paso, Texas; San Diego, California; Portland, Oregon; San Francisco, California; Denver, Colorado; and San Diego, California.
July 1979—San Francisco, California; selected cities in: South Dakota, North Dakota, Montana, Idaho, Nevada, Utah, Wyoming, Nebraska; Chicago, Illinois; Minneapolis, Minnesota; Boston, Massachusetts.
August 1979—Chicago, Illinois; Minneapolis, Minnesota; Boston, Massachusetts; Dallas, Texas; Kansas City, Missouri; Albuquerque, New Mexico; Dallas, Texas; San Diego, California; San Francisco, California.
September 1979—New Orleans, Louisiana; Atlanta, Georgia; Tampa, Florida; Columbus, Ohio; and Memphis, Tennessee.

The foregoing schedule supersedes the schedule published in the **Federal Register** for Thursday, March 15, 1979.

Any former member of the Navy or Marine Corps who desires to obtain a discharge review, either in Washington, D.C., or in a city nearer his or her residence, should file an application with the Naval Discharge Review Board using DD Form 293. If a personal appearance is requested, the petitioner should enter on the application the hearing location which is preferred. Application forms (DD 293) may be obtained from, and the completed application should be mailed to, the following address:

Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, Virginia 22203.

Notice is hereby given that the foregoing itinerary is subject to modification. Additionally, notice is hereby given that following receipt of a new application, the Naval Discharge Review Board must obtain the applicant's military records before a hearing may be scheduled. Accordingly, the submission of an application to the Naval Discharge Review Board is not tantamount to scheduling a hearing. Applicants and their representatives, if any, will be notified by mail of the date and place of their scheduled hearing when a personal appearance has been requested.

For further information concerning the NDRB, contact: Captain John G. Shaw, U.S. Navy, Executive Secretary, Naval Discharge Review Board, Suite 910, 801 North Randolph Street, Arlington, Virginia 22203, telephone number (202)–696–4881.

Dated: April 23, 1979.

P. B. Walker,

Captain, JAGC, U.S. Navy Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79–13075 Filed 4–26–79; 8:45 am]

BILLING CODE 3810–71–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

April 26, 1979

The USAF Sceintific Advisory Board Ad Hoc Committee on Space Defense will meet on May 14–15, 1979 at the HQ SAMSO facilities, El Segundo, California. The purpose of the meeting is to review the space defense technology options. The Committee will meet from 9:00 a.m. to 4:30 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79–13302 Filed 4–26–79; 10:16 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

National Petroleum Council, Task Groups of the Committee on Materials and Manpower Requirements; Meeting

Notice is hereby given that a subcommittee of the Committee on Materials and Manpower Requirements will meet in April 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The subcommittee scheduling a meeting is the Government Subcommittee. The time, location and agenda of the meeting follows:

The third meeting of the Government Subcommittee, scheduled for Thursday, April 19, 1979, has been canceled and is rescheduled for Friday, April 27, 1979, starting at 9:00 a.m. in the Main Conference Room of the General Crude Oil Company's offices, One Allen Center Building, 500 Dallas Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and government Cochairman.
2. Discussion of the progress of the Business Environment Task Group and the Regulatory Impact Task Group.
3. Discussion of the timetable of the Government Subcommittee.
4. Discussion of any other matters pertient to the overall assignment of the Government Subcommittee.

The meeting is open to the public. The chairman of the subcommittee is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202/633–8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on April 20, 1979.

George S. Mclsaac,

Assistant Secretary for Resource Applications.

April 20, 1979.

[FR Doc. 79–13113 Filed 4–25–79; 8:45 am]

BILLING CODE 6450–01

Economic Regulatory Administration

Energy Supply and Environmental Coordination Act; Intention To Rescind a Prohibition Order

The Department of Energy (DOE) [1] Hereby gives notice that, acting under the authority granted to it in Section 2(f) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended (15 U.S.C. 792(f)) and implemented by 10 CFR 303.130(b), it intends to rescind the Prohibition Orders issued on December 26, 1978, to the powerplants named below. This action is taken in accordance with the provisions of 10 CFR Part 303, Subpart J ("Modification or Rescission of Prohibition Orders and Construction Orders") of the ESECA regulations.

[1] Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

V 4 / 4 / 8 3

Docket No.	Owner	Generating Station	Powerplant	Location
DCU-175	Public Service Co. of Colorado	Arapahoe	1	Denver, Colo.
DCU-176	do	do	2	Do.
DCU-177	do	do	3	Do.
DCU-178	do	do	4	Do.

The Prohibition Orders, if made effective by the issuance of a Notice of Effectiveness (NOE), would have prohibited these powerplants from burning natural gas or petroleum products as their primary energy source.

By letter of March 7, 1979, George P. Green, Manager, Governmental Licensing and Planning, Public Service Company of Colorado, reported to DOE that Arapahoe Generating Station Units 1, 2, 3, and 4, are presently burning coal as a primary energy source, pursuant to the terms of the outstanding Prohibition Orders.

In view of Public Service Company of Colorado's voluntary accomplishments, DOE believes that further action toward making the outstanding ESECA Prohibition Orders effective would not be in the public interest, and accordingly, rescission of the orders is now appropriate.

Comment on DOE's intention to rescind the Prohibition Orders is invited. Interested persons may submit written data, views or arguments with respect to the proposed action to the Office of Public Hearing Management, Room 2313, 2000 M Street, NW., Washington, D.C. 20461 (Attn: D. Kidwell). All comments and other documents should be identified both on the outside of the envelope and on the document itself with the designation, "Proposed Rescission of Arapahoe Generating Station Units 1, 2, 3, and 4 Prohibition Orders (DCU-175 & 176 & 177 & 178)." All written comments must be received no later than ten (10) days after the date of publication in order to receive consideration. In making its decision regarding the proposed rescission action, DOE will consider all relevant information submitted to it or otherwise available to it.

Any information considered to be confidential by the person furnishing it must be so identified at the time of submission in accordance with 10 C.F.R. 303.9(f). DOE reserves the right to determine the confidential status of the information and to treat it in accordance with that determination.

Questions regarding this proposed action should be directed to DOE as follows: R. James Caverly, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, Room 2104, 2000 M Street NW., Washington, D.C. 20461 (telephone: (202) 632-5140). Written questions should be identified on the envelope and in the correspondence with the designation set out above.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 *et seq.*) as amended by Pub. L. 95-70 and Pub. L. 95-620; Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) as amended by Pub. L. 95-91; Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*); E.O. 11790 (39 FR 23185); E.O. 12009 (42 FR 46267)

Issued in Washington, D.C. April 24, 1979.

Doris J. Dewton,

Deputy Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-13317 Filed 4-26-79; 8:45 am]

BILLING CODE 6450-01-M

Energy Supply and Environmental Coordination Act; Intention To Rescind a Prohibition Order

The Department of Energy (DOE) [1] hereby gives notice that, acting under the authority granted to it in Section 2(f) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended (15 U.S.C. 792(f)) and implemented by 10 CFR 303.130(b), it intends to rescind the Prohibition Orders issued on December 26, 1978, to the powerplants named below. This action is taken in accordance with the provisions of 10 CFR Part 303, Subpart J ("Modification or Rescission of Prohibition Orders and Construction Orders") of the ESECA regulations.

[1] Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

Docket No.	Owner	Generating station	Powerplant	Location
DCU-169	Public Service Co. of Colorado	Cameo	1	Palisade, Colo.
DCU-170	do	do	2	Do.

The Prohibition Orders, if made effective by the issuance of a Notice of Effectiveness (NOE), would have prohibited these powerplants from burning natural gas or petroleum products as their primary energy source.

By letter of March 7, 1979, George P. Green, Manager, Governmental Licensing and Planning, Public Service Company of Colorado, informed DOE that Cameo Generating Station Unit 2 was using coal as the primary energy source and that Cameo Unit 1 will begin using coal as the primary energy source in March 1979, pursuant to the terms of the outstanding Prohibition Orders.

In view of Public Service Company of Colorado's voluntary accomplishments, DOE believes that further action toward making the outstanding ESECA Prohibition Orders effective would not be in the public interest, and accordingly, rescission of the orders is now appropriate.

Comment on DOE's intention to rescind the Prohibition Orders is invited. Interested persons may submit written data, views or arguments with respect to the proposed action to the Office of Public Hearing Management, Room 2313, 2000 M Street NW., Washington, D.C. 20461 (Attn: D. Kidwell). All comments and other documents should be identified both on the outside of the envelope and on the document itself with the designation, "Proposed Rescission of Cameo Generating Station Units 1 and 2 Prohibition Orders (DCU-169 & 170)." All written comments must be received no later than ten (10) days after the date of publication in order to receive consideration. In making its decision regarding the proposed rescission action, DOE will consider all relevant information submitted to it or otherwise available to it.

Any information considered to be confidential by the person furnishing it must be so identified at the time of submission in accordance with 10 CFR 303.9(f). DOE reserves the right to determine the confidential status of the information and to treat it in accordance with that determination.

Questions regarding this proposed action should be directed to DOE as follows: R. James Caverly, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, Room 2104, 2000 M Street NW., Washington, D.C. 20461 (telephone: (202) 632-5140). Written questions should be identified on the envelope and in the correspondence with the designation set out above.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 *et seq.*) as amended by Pub. L. 95-70 and Pub. L. 95-620; Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) as amended by Pub. L. 95-91; Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*); E.O. 11790 (39 FR 23185); E.O. 12009 (42 FR 46267).)

Issued in Washington, D.C. April 24, 1979.

Doris J. Dewton,

Deputy Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-13318 Filed 4-26-79; 8:45 am]

BILLING CODE 6450-01-M

Energy Supply and Environmental Coordination Act; Intention To Rescind a Prohibition Order

The Department of Energy (DOE) [1] hereby gives notice that, acting under the authority granted to it in Section 2(f) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended (15 U.S.C. 792(f)) and implemented by 10 CFR 303.130(b), it intends to rescind the Prohibition Order issued on December 26, 1978, to the powerplant named below. This action is taken in accordance with the provisions of 10 CFR Part 303, Subpart J ("Modification or Rescission of Prohibition Orders and Construction Orders") of the ESECA regulations.

Docket No.	Owner	Generating station	Powerplant	Location
DCU-175	Public Service Co. of Colorado	Valmont	5	Boulder, Colo.

The Prohibition Order, if made effective by the issuance of a Notice of Effectiveness (NOE), would have prohibited this powerplant from burning natural gas or petroleum products as its primary energy source.

By letter of March 7, 1979, George P. Green, Manager, Governmental Licensing and Planning, Public Service Company of Colorado, reported to DOE that Valmont Generating Station Unit 5 is presently burning coal as the primary energy source pursuant to the terms of the outstanding Prohibition Order.

In view of Public Service of Colorado Company voluntary accomplishments, DOE believes that further action toward making the outstanding ESECA Prohibition Order effective would not be in the public interest and accordingly rescission of the order is now appropriate.

Comment on DOE's intention to rescind the Prohibition Orders is invited. Interested persons may submit written data, views or arguments with respect to the proposed action to the Office of Public Hearing Management, Room 2313, 2000 M Street, NW., Washington, D.C. 20461 (Attn: D. Kidwell). All comments and other documents should be identified both on the outside of the envelope and on the document itself with the designation, "Proposed Rescission of Valmont Generating Station Unit 5 Prohibition Order (DCU-179)." All written comments must be received no later than ten (10) days after the date of publication in order to receive consideration. In making its decision regarding the proposed rescission action, DOE will consider all relevant information submitted to it or otherwise available to it.

Any information considered to be confidential by the person furnishing it must be so identified at the time of submission in accordance with 10 CFR 303.9(f). DOE reserves the right to determine the confidential status of the information and to treat it in accordance with that determination.

Questions regarding this proposed action should be directed to DOE as follows: R. James Caverly, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, Room 2104, 2000 M Street, NW., Washington, D.C. 20461 (telephone: (202) 632-5140). Written questions should be identified on the evelope and in the correspondence with the designation set out above.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 *et seq.*) as amended by Pub. L. 95-70 and Pub. L. 95-620; Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) as amended by Pub. L. 95-91; Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*); E.O. 11790 (39 FR 23185); E.O. 12009 (42 FR 46267).)

Issued in Washington, D.C. April 24, 1979.

Doris J. Dewton,

Deputy Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-13319 Filed 4-26-79; 8:45 am]

BILLING CODE 6450-01-M

[1] Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

Issuance of Proposed Decision and Order

April 18, 1979.

Notice is hereby given that the Economic Regulatory Administration has issued to the City of Long Beach, California a Proposed Decision and Order with regard to an application for incentive prices pursuant to 10 CFR 212.78, the Tertiary Enhanced Recovery Program. Under the Provisions of 10 CFR 205.98, such a Decision and Order must be published in the Federal Register. Interested parties have thirty calendar days from the date of publication to submit objections or comments. Upon review of any matters submitted, we may issue a final Decision and Order in the form proposed, issue a modified proposed or final Decision and Order, or take other appropriate action. All parties offering objections or comments will be notifed of the action taken and will be furnished a copy of that action. Objections or comments should cite the Docket number and be addressed to: Administrator, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461, Attention: Chief, Branch, of Crude Oil Production.

As required a copy of the Proposed Decision and Order to the City of Long Beach is supplied in this Notice. In addition, a copy of the test of the Proposed Decision and Order, together with a copy of the City's application is available in the Public Docket Room, Room B-120, 2000 M Street, N.W., Washington, D.C. between 1:00 p.m. and 5:00 p.m., Monday through Friday.

Barton R. House

Assistant Administrator, Office of Fuels Regulation, Economic Regulatory Administration.

April 18, 1979

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Proposed Decision and Order of the Department of Energy

Application for Price Incentives Tertiary Enhanced Recovery Project (Ranger Zone, Fault Block VII Project)

Docket Number ERA-TA-79-2

Name of Petitioner: The City of Long Beach, California

Background.—Between August 14, 1978 and March 6, 1979 the City of Long Beach, California (City) submitted to the Economic Regulatory Administration (ERA) several documents which comprise a complete application for incentive pricing under the Tertiary Enhanced Recovery Program of 10 CFR 212.78. The application concerns crude oil production from the Ranger Zone of Fault Block VII in the Long Beach Unit of the Wilmington Oil Field.

The Wilmington Oil Field lies in the Los Angeles Basin. It is the largest oil field in California. First drilled in 1932, the Field extends over approximately 33 square miles of highly developed industrial-commerical-residential zones of the Los Angeles metropolitan area. The Wilmington field extends from offshore west of Torrance and Redondo Beach on the Northwest to offshore in San Pedro Bay on the Southeast. The field is a broad asymmetrical anticline with a northwest-southeast axis broken by a series of transverse normal faults. The faults divide the reservoir into separate pools and have proven to be effective barriers to fluid and pressure communication. Bed dips range from a maximum of 20 degrees on the northern flank to 60 degrees on the southern flank. The entire structure, approximately 11 miles long and 3 miles wide, underlies approximately 13,000 acres. There are seven major producing zones in the field (Tar, Range, Upper Terminal, Lower Terminal, Union Pacific, Ford and 237) which lie between the depths of 2,000 and 7,000 feet subsea and range in age from late Miocene to early Pliocene. The upper four zones containing low gravity, high viscosity crude are the major oil reservoirs. The reservoir rock in all zones is sand or sandstone in differing degrees of consolidation with varied silt and clay content.

The Long Beach Unit embraces most of the East Wilmington Oil Field (the southeastern end of the Wilmington Field), but excludes the Belmont Offshore Field. Beginning in the early 1940's, land subsidence was observed in Wilmington. Because of the increasing danger of subsidence, the City of Long Beach delayed further development of Wilmington to the east and southeast of the Wilmington anticline. In mid-1953, a pilot waterflooding operation was commenced to determine the feasibility of water injection for repressurization to control subsidence. The repressuring operation's success in subsidence control and secondary oil recovery led to fieldwide operations starting in 1958. After field pressuring operations were proved successful, the ban on development of East Wilmington was lifted. In 1965, the Long Beach Unit was formed to develop the remaining fault blocks of the Wilmington field lying to the east. THUMS Long Beach Company, a joint venture of Texaco, Inc., Humble Oil and Refining Company, Union Oil Company of California, Mobil Oil Corporation, and the Shell Oil Company was selected as field contractor for the City of Long Beach for the development of the Long Beach Unit. The City is the trustee and operator of the Unit for 69 working interest owners and hold 85% participation in the unit.

Fault Block VII, within the Long Beach Unit, is a north-south slice across the East Wilmington Field between the Junipero Fault on the west and the Long Beach Unit Fault on the east and extending roughly from 7th Street south out into San Pedro Bay. The Range Zone Fault Block VII Project is located on the western side of Fault Block VII. The Pilot pattern area is offshore between the Junipero and Temple Avenue Faults. A modified staggered line drive configuation represents a typical waterflood well pattern for the Ranger Zone of the Long Beach Unit portion of the field.

The Ranger Zone is the largest and most prolific of the Long Beach Unit's reservoirs. It consists of several distinct pay intervals or subzones separated by impermeable shale sections. Each subzone is an interbedded sequence of shales and unconsolidated to semi-consolidated, poorly sorted, medium-to-fine grain sands. The structure is a monocline in the project area with a northeasterly dip of approximately 8 degrees. There are six productive subzones within the Ranger Zone underlying the project area. These have been designated from top to bottom as the Fo, F, H, X, G and G 4. These subzones lie at depths of 2600 to 3400 feet subsea and comprise a gross thickness of approximately 850 feet and a net thickness of 310 feet.

Waterflooding has been undertaken in the Ranger Zone. However, the overall recovery efficiency has been low. Various approaches including polymer, micellar solution and caustic flooding have been studied since 1966. Independent laboratory investigations by THUMS and the City's Department of Oil Properties tended to corroborate each other in finding that an entrapment and entrainment process obtained by sequencing a low concentration caustic solution with one containing additions of sodium chloride would bring about an improvement in sweep efficiency over that resulting from a caustic flood alone.

On September 30, 1976 the City and the energy Research and Development Administration (ERDA, now a part of the Department of Energy) contracted to conduct jointly a 95 acre pattern area in the Fault Block VII section of the Long Beach Unit as a pilot demonstration of the caustic flood entrapment-entrainment process. The total contract cost of $11,584,572 was to be shared 60% by the City and 40% by the ERDA.

Core testing and laboratory work began shortly after October 1, 1976. Laboratory work included core floods (involving sample preparation, waterflooding, and caustic enhanced waterflooding); selection of crude oils for core flood tests, and evaluation of core flood tests results (tests of both entrapment and entrainment); interfacial tension tests, oil dehydration, and produced water softening.

Simulation of reservoir performance was performed under contract with Scientific Software Corporation of Denver, Colorado. Facilities and equipment design and installation covered full scale pre-flush and caustic-brine injection, caustic storage, handling and pumping. Injection well redrills and workovers were undertaken. Pre-project tracer studies were re-evaluated. Static pressure, operating pressure, fluid entry and spinner surveys have been conducted. Producing well redrills, workovers and stimulation have been performed. By the end of November, 1978, ERDA contract expenditures amounted to $6,969,000. Additional incremental costs of $852,000 will be required to initiate the pilot, leaving a balance not yet expended or committed as of November 30, 1978 of $3,763,572.

After reviewing some of the laboratory tests and simulations, the City determined that, for purposes of this application, the test pattern area defined by the ERDA contract should be extended to the north and south to embrace wells which would be affected by the caustic flood operation. No eastward or westward expansion is possible because the Junipero and Temple Avenue faults block communication to the west and to the east, respectively, of those two faults. Thus, for purposes of this application for price incentives, the surface boundaries

of the Ranger Zone Fault Block VII Project are as follows:

a. On the West: the Junipero Fault

b. On the East: The Temple Avenue Fault

c. On the North: a line running generally WNW–ESE parallel with the 3500 foot contour which is about 400 feet north of the line drawn of the line drawn through producing wells B–710 and B–120.

d. On the South: a line running generally WNW–ESE parallel with the 2640 foot contour and which is not more than 400 feet south of the line drawn through producing wells B–705 and B–707A so as to exclude producing well B–639 from the project area, all as shown in Exhibit B to the City's letter of September 25, 1978.

On the Ranger Zone Fault Block VII Project virtually all of the laboratory and simulation work, mini-injection tests, and workover requisites have been essentially complete by the end of February, 1979. Softened water pre-flush began about that date to continue for about 6 months before commencing the caustic injection. Caustic injection, (NaOH at about 0.1 wt/% concentration) will start about August 1, 1979 and will (should) continue for some 5 to 5½ years, (that is, until late 1984). Following termination of caustic injection, a post chemical waterflood injection flush will be performed for 10 years, perhaps longer.

The initial reservoir response in producing incremental crude is forecast to occur in 1981 when it will average 200 BPD or 73,000 barrels for the year. Incremental production is predicted to rise to 660 BPD or nearly 241,000 barrels in 1987 and to decline thereafter, falling to 490 BPD or just short of 179,000 barrels in 1993.

Findings and Analysis

A. Section 212.78 provides that the "incremental crude oil" from a "qualified tertiary enhanced recovery project" may be sold at prices not subject to the ceiling price limitations of Subpart D of Part 212. In order for crude oil production from a particular project to be priced in accordance with the price rule of § 212.78, ERA must certify the project as a qualified tertiary enhanced recovery project. Prior to granting this certification, § 2.2.78(d) requires ERA to determine that (1) the project involves one of enhanced oil recovery techniques listed in the definition of a qualified tertiary enhanced recovery project set forth in § 212.78 (c) and (2) the project would be uneconomic at the otherwise applicable ceiling prices. With respect to a project that is initiated prior to receipt of the required certification, § 212.78(b)(2) provides an additional requirement that certification will be granted only if (1) the producer affirms that it intends to discontinue the project (or the particular high-cost phase of the project) because continuation would be uneconomic at the otherwise applicable ceiling prices and (2) there has been a material change of circumstances since the initiation of the project.

B. The City has submitted information indicating that it has undertaken, in conjunction with the ERDA Contract, a thorough investigation of alternative methods of enhanced oil recovery on its properties in the Wilmington Oil Field. As a result of an extensive sequence of laboratory, field mini-test, and field work, it has prepared to commence a caustic flood of the Ranger Zone. The Division of Fossil Fuel Extraction of the Office of Energy Technology of the Department of Energy, (currently administering the ERDA contract) has stated, in response to an inquiry by this office that the City has tested and prepared the Ranger Zone project for employment of an alkaline waterflood tertiary enhanced recovery effort. In its evaluation of the project, the State of California Division of Oil and Gas found that all project operations will be conducted in accordance with the requirements of both the Division and of the State Water Quality Control Board, and certifies that it meets the State Regulatory Agency review and evaluation criteria. Inasmuch as alkaline (or caustic) waterflood is one of the techniques listed in § 212.78(c), we have determined on the basis of the statements by the City and the Office of Energy Technology that the Ranger Zone Project meets the first requirement for certification as a qualified tertiary enhanced recovery project.

C. The City has submitted information indicating that the Ranger Zone Project will be an uneconomic venture unless a higher price than permitted under existing ceiling prices is authorized for the crude oil produced from that project. The materials submitted by the City show that, under the current price control system, the caustic flood operation would have an annual negative cash flow for each year from the present to beyond 1985. Projections extended through 1993 indicate negative cash flows annually for every year except a negligible positive cash flow of about $4,000 in the year 1992. These projections are set forth in Table 1.

Based on the information submitted by the City we have determined that the Ranger Zone Fault Block VII Project meets the second requirement for certification as a qualified tertiary enhanced recovery project since the expected rate of return under existing ceiling price regulations through 1991 is negative.

D. In evaluating the City's application, we have taken full cognizance of the City's contract with ERDA, by which ERDA committed to assist the City with the preparatory phases of the subject project with the contribution of $4,634,000 over a period of time extending through 1980. The City has excised this amount from relevant data in the application, and the excision has been confirmed by the ERA. Thus, ERA's analysis of the City's application relates only to the City's share in that project.

E. As a result of the ERDA contract, the City has made certain expenditures necessary for the caustic waterflood tertiary enhanced recovery project. Section 212.78(b)(1) defines the initiation of a project as the point at which the first expenditure necessary for the project is made. Thus, the requirements of § 212.78(b)(2) must be met prior to ERA's granting certification.

We have determined that these requirements have been met. In its submission the City affirmed that it would not undertake the next steps in the tertiary project if the incremental crude oil produced by the project was subject to ceiling price limitations other than those set forth in § 212.78(a). Moreover, these steps represent a material change in circumstances since they will not be partially financed by the federal government under the ERDA contract.

F. Inasmuch as the requirements for certification have been satisfied, we are proposing to certify the Ranger Zone Fault Block VII Project as a qualified tertiary enhanced recovery project. The price for incremental crude oil from this project would be determined in accordance with the price rule of § 212.78.

G. Section 212.78(d) requires ERA to determine, at the time that it certifies a project as a qualified tertiary enhanced recovery project, the amount of incremental and non-incremental crude oil (as defined in § 212.78(c)) that will result from that project. In general the incremental crude oil resulting from a project initiated after certification by ERA is the amount of crude oil above that which would have occurred had the qualified tertiary enhanced recovery project not been undertaken. We have determined the amounts of non-incremental production from March, 1979 through December, 1993, and have

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set forth these amounts in the proposed order. These amounts were calculated from the forecasts of annual production of non-incremental crude furnished by the City. Conversion to monthly estimates were performed by an interpolation of monthly values adjusted for days in the month.

H. In its application, the City requests that 50% of the non-incremental crude oil production from the project be exempted from price regulations and be authorized to be sold at free market prices. No regulation currently exists under which this request of the City might be considered. Therefore, we have not evaluated the merits of that request. Our determination not to act on this request does not prejudice the City from applying for such relief if a regulation is issued to permit adjustment to the price of non-incremental crude oil.

I. 10 CFR 205.98 sets forth the procedures for objecting to this Proposed Decision and Order. Any objection must be received by ERA within thirty calendar days from the date of publication in the **Federal Register** of the Proposed Decision and Order.

J. All relevant submissions with respect to this application will be available for public inspection in the Public Docket Room, Room B–120, 2000 M street, N.W., Washington, D.C., between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday.

It is, therefore, ordered, that:

1. The Ranger Zone Fault Block VII Project, operated by the City of Long Beach, California for itself and other working interests, producing crude oil from the Ranger Zone of Fault Block VII in the Wilmington Oil Field in Los Angeles County, California is declared to be a qualified Tertiary Enhanced Recovery Project within the meaning of 10 CFR 212.78.

2. Crude oil produced each month from the Ranger Zone Fault Block VII Project in excess of the following schedule of "Non-Incremental Crude" is not subject to the ceiling price limitations of 10 CFR, Part 212, Subpart D:

Monthly Non-Incremental Crude Volumes

Year	Month	Barrels
1979	March	87,100
	April	83,600
	May	85,700
	June	82,200
	July	84,100
	August	83,100
	September	79,500
	October	81,200
	November	77,670
	December	79,200
1980	January	78,200
	February	69,800

Monthly Non-Incremental Crude Volumes—Continued

Year	Month	Barrels
	March	76,300
	April	72,900
	May	74,300
	June	71,000
	July	72,500
	August	71,900
	September	68,900
	October	70,600
	November	67,700
	December	69,300
1981	January	68,600
	February	61,400
	March	67,400
	April	64,600
	May	66,100
	June	63,300
	July	64,800
	August	64,100
	September	61,400
	October	62,800
	November	60,200
	December	61,500
1982	January	60,900
	February	54,400
	March	59,600
	April	57,100
	May	58,300
	June	55,800
	July	57,000
	August	56,400
	September	54,000
	October	55,300
	November	52,900
	December	54,100
1983	January	53,500
	February	47,800
	March	52,300
	April	50,000
	May	51,100
	June	48,900
	July	49,900
	August	49,200
	September	47,000
	October	47,900
	November	45,800
	December	46,600
1984	January	46,000
	February	41,000
	March	44,700
	April	42,700
	May	43,400
	June	41,400
	July	42,200
	August	41,800
	September	40,000
	October	40,900
	November	39,200
	December	40,000
1985	January	39,600
	February	35,400
	March	38,700
	April	37,100
	May	37,900
	June	36,200
	July	37,000
	August	36,500
	September	35,100
	October	35,900
	November	34,400
	December	35,200
1986	January	34,800
	February	31,100
	March	34,100
	April	32,700
	May	33,400
	June	32,000
	July	32,700
	August	32,400
	September	31,000
	October	31,800
	November	30,400
	December	31,100
1987	January	30,800
	February	27,600
	March	30,200
	April	28,900
	May	29,600
	June	28,300
	July	29,000
	August	28,800

Monthly Non-Incremental Crude Volumes—Continued

Year	Month	Barrels
	September	27,600
	October	28,300
	November	27,200
	December	27,900
1988	January	27,600
	February	24,700
	March	27,200
	April	26,100
	May	26,700
	June	25,600
	July	26,200
	August	26,000
	September	25,000
	October	25,600
	November	24,600
	December	25,200
1989	January	25,000
	February	22,400
	March	24,600
	April	23,600
	May	24,200
	June	23,200
	July	23,800
	August	23,700
	September	22,800
	October	23,400
	November	22,500
	December	23,100
1990	January	22,900
	February	20,600
	March	22,700
	April	21,800
	May	22,400
	June	21,500
	July	22,100
	August	21,900
	September	21,000
	October	21,600
	November	20,700
	December	21,200
1991	January	21,100
	February	18,900
	March	20,700
	April	19,900
	May	20,400
	June	19,600
	July	20,000
	August	19,800
	September	19,000
	October	19,400
	November	18,600
	December	19,000
1992	January	18,800
	February	16,800
	March	18,400
	April	17,600
	May	18,000
	June	17,200
	July	17,600
	August	17,400
	September	16,700
	October	17,100
	November	16,400
	December	16,800
1993	January	16,700
	February	14,900
	March	16,400
	April	15,700
	May	16,000
	June	15,400
	July	15,700
	August	15,600
	September	14,900
	October	15,300
	November	14,600
	December	15,000

3. The Base Production Control Level (BPCL) for the Ranger Zone Fault Block VII Project shall be, in accordance with 10 CFR 212.78(f)(1), for any month in which the production of incremental crude oil first occurs (as determined in this certification) and thereafter in the same proportion to the total amount of non-incremental crude oil (as such non-incremental crude oil is determined in the preceding section) as the amount of old crude oil produced from the project area in the twelve-month period immediately preceding the month in which incremental crude oil production commences bears to total crude oil produced from that property during the same twelved-month period.

4. Incremental crude oil production will be deemed to occur in any month subsequent to the date of this Decision and Order in which total production exceeds the schedule of "Non-Incremental Crude" in this Order, *and* which is subsequent to the initiation of the pre-flush operation.

5. This certificate is based on the presumed validity of statements, assertions, and documentary materials submitted by the City. It is based on the City's implicit assurance that all actual and projected costs reported by the firm have been determined on an arm's length basis and represent fair and reasonable market price valuations for the expenditures involved, that all actual and projected production figures have been derived from reliable records or made on the basis of generally acceptable engineering practice, and that every effort has been made to insure that all cost revenue and production estimates are reasonably accurate.

6. This order will continue in effect from the date of this order so long as the City of Long Beach pursues the caustic flood program in the Ranger Zone of Fault Block VII of the Wilmington Field, provided that it may be revoked or modified at any time upon a determination that the factual basis underlying the application is materially incorrect.

Issued in Washington, D.C., April 18, 1979.

Table 1.—*Incremental Cash Flow to the City of Long Beach Ranger Zone Fault Block VII Project*

	Non-incr. prod. B/D	Incr. prod. B/D	Incr. costs, $/day	Incr. income $/ day, $5.316/ bbl.	Incr. income $/ day, $11.435/ bbl.	Cash flow at lower tier pr. $5.316/ bbl.	Cash flow at free price $11.435/ bbl.
Year:							
1976*	4,800	0	2,006	0	0	(2,006)	(2,006)
1977	3,000	0	5,339	0	0	(5,399)	(5,339)
1978	3,000	0	3,800	0	0	(3,800)	(3,800)
1979	2,730	0	3,717	0	0	(3,711)	(3,711)
1980	2,350	0	6,718	0	0	(6,817)	(6,817)
1981	2,100	200	6,787	1,063	2,287	(5,316)	(4,509)
1982	1,850	440	6,756	2,339	5,031	(4,417)	(1,725)
1983	1,620	550	6,519	2,923	6,289	(3,596)	(230)
1984	1,370	580	6,257	3,083	6,632	(3,174)	375
1985	1,200	620	6,026	3,295	7,090	(2,550)	1,064
1986	1,080	640	5,955	3,402	7,318	(2,553)	1,364
1987	940	660	5,774	3,509	7,547	(2,265)	1,774
1988	850	650	5,631	3,455	7,433	(2,176)	1,802
1989	770	630	5,878	3,349	7,204	(2,327)	1,526
1990	715	585	5,736	3,110	6,689	(2,628)	951
1991	650	550	5,647	2,924	6,289	(2,773)	542
1992	570	490	2,805	2,817	6,061	11	3,255
1993	510	490	2,711	2,805	5,803	(106)	2,592

* Fourth quarter only.

[Docket Number ERA–TA–79–2]

[FR Doc. 79–12819 Filed 4–26–79; 8:45 am]

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DEPARTMENT OF ENERGY

Albert B. Alkek; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order.

DATES: Issue date: March 22, 1979. Comments by May 30, 1979.

ADDRESS: Send comments to: Thomas Holleran, Chief, Crude Oil Branch, Office on Enforcement Policy and Planning, 2000 M Street, N.W., Room 5204D, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Robert G. Heiss, Acting Assistant General Counsel for Enforcement, 2000 M Street, N.W., Room 5308B, Washington, D.C. 20461. (202–254–8700).

SUPPLEMENTARY INFORMATION: Albert B. Alkek (Alkek) of Victoria, Texas executed a Consent Order dated March 22, 1979, which the Office of Enforcement of the ERA has accepted. Under 10 CFR § 205.199J(b), a Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, becomes effective upon its execution only if the DOE expressly finds it to be in the public interest to do so.

The Consent Order by and between the Office of Enforcement, ERA, and Alkek is an integral part of the disposition of certain criminal and civil disputes in regard to Alkek as directed in the Statement of Plea Bargaining and other documents filed on February 28, 1979, with the United States District Court for the Southern District of Texas in the action styled *United States v. Albert B. Alkek* (Crim. No. H–79–39). Accordingly, in order to resolve both criminal and civil matters as directed and agreed, the DOE made this Consent Order effective immediately upon execution by both Alkek and the DOE in furtherance of the public interest, pursuant to 10 CFR § 205.199J(b).

I. The Consent Order

In settlement of possible civil liability of Alkek within the jurisdiction of the DOE and arising out of or related to the DOE regulations and statutes, the Office of Enforcement, ERA, and Alkek entered into a Consent Order, the significant terms of which are as follows:

1. The Consent Order covers Alkek's relationship to (M&A Petroleum Company)M&A) and Uni Oil, Inc. (Uni) and his dealings with M&A, Uni, and their agents, employees and directors with respect to transactions and events between Uni and M&A involving the purchase and sale of crude oil, during the period December 1, 1975 through July 1, 1977;

2. Execution of the Consent Order does not constitute an admission by Alkek that the DOE statutes or regulations have been violated and does not constitute a finding by the DOE that

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Alkek has committed any such violations;

3. Alkek agrees to refund, in full settlement of any and all civil liability within the jurisdiction of the DOE in regard to actions that might be brought by the DOE arising out of the specified transactions, the sum of $3,240,000 on or before March 22, 1979;

4. The DOE shall deposit the refund into an interim account with the United States Treasury Department and shall transfer the refund into a suitable interest bearing escrow account upon establishment of the same in order that the monies in the fund may be administered in accordance with 10 CFR Part 205, Subpart V; and

5. The provisions of 10 CFR § 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Alkek agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $3,240,000 on or before March 22, 1979. The refund has been delivered to the Assistant Administrator for Enforcement, ERA, and deposited in an interim account with the United States Treasury Department. These funds will remain in a suitable account with the Treasury Department pending the determination of their proper disposition.

In order to effect proper disposition of these funds, the Assistant Administrator for Enforcement, ERA, filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals, DOE, pursuant to 10 CFR Part 205, Subpart V on April 19, 1979. In proceedings under Subpart V, the Director of the Office of Hearings and Appeals or his designee shall issue a Proposed Decision and Order which shall be published in the **Federal Register.** The Proposed Decision and Order shall generally describe the nature of the particular refund proceedings for the disposition of the refund made by Alkek and shall set forth the standards and procedures that the Office of Hearings and Appeals intends to apply in evaluating claims to this refund. Opportunity for public comment on this Proposed Decision and Order will be provided. *See* 10 CFR § 205,280 *et seq.*

III. Submission of Written Comments

The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments to Thomas Holleran, Chief, Crude Oil Branch, Office of Enforcement Policy and Planning, ERA, 2000 M Stret, N.W., Room 5204D, Washington, D.C. 20461. You may obtain a free copy of this Consent Order by writing to the same address.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation, "Comments on the Albert B Alkek Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on May 30, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR § 205.9(f).

Issued in Washington, D.C. on the 23rd day of April 1979.

Barton Isenberg,

Assistant Administrator for Enforcement, Economic Regulatory Administration.

[FR Doc. 79-13112 Filed 4-26-79; 8:45 am]

BILLING CODE 6450-01-M

Inter-City Minnesota Pipelines Ltd., Inc.

AGENCY: Department of Energy, Economic Regulatory Administration

ACTION: Notice of application for amendment to import already authorized quantities of natural gas from Canada at the newly determined border price, and invitation to submit petitions to intervene.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of the application of Inter-City Minnesota Pipelines Ltd., Inc. (Inter-City), to amend its current import authorization to increase the established U.S.A.-Canadian border export price of $2.16 per million Btu (MMBtu) ($2.013 per Gigajoule (GJ)). The Canadian National Energy Board (NEB) on March 28, 1979, issued a notice implementing an order issued by the Canadian Privy Council on March 28, 1979, that the new authorized export price will be $2.30 per MMBtu ($2.14 per GJ), effective May 1, 1979. The March 28, 1979, Order will affect only NEB License No. GL 28 which allows ICG Transmission Limited (ICG), of Canada to export gas to Inter-City.

This application is filed with ERA pursuant to Section 3 of the Natural Gas Act and the Secretary of Energy's Delegation Order No. 0204–25. Petitions to intervene are invited.

DATES: Petitions to intervene: to be filed on or before the fifth day after the date of publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Mr. Finn K. Neilsen, Director, Import/Export Division, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461, Telephone (202) 254–9730; Mr. Martin S. Kaufman, Office of General Counsel, 12th and Pennsylvania Avenue, N.W., Room 5116, Washington, D.C. 20461, Telephone (202) 633–9380.

SUPPLEMENTARY INFORMATION: Inter-City states that on March 28, 1979, the NEB amended its license to establish a border price of U.S. $2.30, effective May 1, 1979. Presently, Inter-City purchases gas at a border price of $2.16 per MMBtu ($2.013 GJ). In addition, Inter-City states that if the import authorization is not amended before May 1, 1979, its ability to render natural gas service to its customers will be impaired in a fundamental way.

OTHER INFORMATION: The ERA invites petitions for intervention in this proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 6318, 2000 M Street, N.W., Washington, D.C., 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., on May 2, 1979.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened herein must file a petition to intervene. Any person desiring to make any protest with reference to the petition should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is required, due notice will be given.

A copy of Inter-City's petition is available for public inspection and copying in Room B–120, 2000 M Street, N.W., Washington, D.C. 20461 between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. April 23, 1979.

Barton R. House,

Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[ERA Docket No. 79-12-NG, FERC Docket No. CP 70-280]

[FR Doc. 79-13109 Filed 4-26-79; 8:45 am]

BILLING CODE 6450-01-M

Michigan Wisconsin Pipe Line Co.

AGENCY: Department of Energy, Economic Regulatory Administration

ACTION: Notice of application for amendment to import natural gas from Canada at the newly determined price, and invitation to submit petitions to intervene.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of the application by Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) to amend its natural gas import authorization to pay to TransCanada Pipelines Limited (TransCanada) the increased border price of $2.30 per MMBtu ($2.14 per Gigajoule (GJ)), announced by the Privy Council of the Dominion of Canada on March 28, 1979, and effective May 1, 1979. Michigan Wisconsin presently purchases gas from TransCanada at a border price of $2.16 MMBtu. In addition, Michigan Wisconsin states that if the import authorization is not amended before May 1, 1979, it will be faced with termination or suspension of imports of gas from TransCanada. This application is filed with ERA pursuant to Section 3 of the Natural Gas Act and the Secretary of Energy's Delegation Order No. 0204–25.

Petitions to intervene are invited.

DATES: Petitions to intervene: to be filed on or before May 2, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Finn K. Neilsen, Director, Import/Export Division, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461, Telephone (202) 254–9730; Mr. Martin S. Kaufman, Office of General Counsel 12th and Pennsylvania Avenue, N.W., Room 5116, Washington, D.C. 20461, Telephone (202) 633–9380.

OTHER INFORMATION: The ERA invites petitions for intervention in this proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 6318, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., May 2, 1979.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened herein must file a petition to intervene. Any person desiring to make any protest with reference to the petition should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is required, due notice will be given.

A copy of Michigan Wisconsin's petition is availale for public inspection and copying in Room B–120, 2000 M Street, N.W., Washington, D.C. 20461 between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. April 23, 1979.

Barton R. House,

Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[ERA Docket No. 79-13-NG]

[FR Doc. 79-13108 Filed 4-26-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

April 23, 1979.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on April 11, 1979, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Substitute 5th Revised Sheet No. 29–E and Second Substitute 3rd Revised Sheet No. 29–F.

Algonquin Gas states that the above tariff sheets were filed in substitution for Substitute 5th Revised Sheet No. 29–E and Substitute 3rd Revised Sheet No. 29–F to reflect lower revised Opinion No. 21–A rates filed by its supplier, Texas Eastern Transmission Corporation ("Texas Eastern"), in Docket No. RP74–41 under its Rate Schedule ISS than were used in the determination of Substitute 5th Revised Sheet No. 29–E and Substitute 3rd Revised Sheet No. 29–F.

The proposed effective date of Second Substitute 5th Revised Sheet No. 29–E and Second Substitute 3rd Revised Sheet No. 29–F is March 1, 1979.

Algonquin Gas recognizes that Texas Eastern filed its rates pursuant to Opinion No. 21–A without prejudice to the right of any other party to the proceedings in Docket No. RP74–41 to seek rehearing and/or judicial review of Opinion No. 21–A. For that reason, Algonquin Gas hereby requests that the Commission accept those tariff sheets filed by Algonquin Gas to be effective March 1, 1979, which synchronize their rates with the underlying rates of Texas Eastern.

Algonquin Gas states that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[Docket No. CP77-337]

[FR Doc. 79-13086 Filed 4-26-79; 8:45 am]

BILLING CODE 6450-01-M

Bixco, Inc.; Petition for Declaratory Order

April 16, 1979.

Take notice that on February 16, 1979, Bixco, Inc. (Bixco) filed a petition for a declaratory order in Docket No. CS72–621. Bixco requests that the Commission issue a declaratory order allowing Bixco to sell gas supplies to Arizona Public Service Commission (APS) and El Paso Natural Gas Company (El Paso), pursuant to the small producer certificate held by Bixco, at the large producer rate (where applicable) or the small producer rate (where applicable), and declaring that other sales may be made without certificate authorization to the extent removed from the Commission's nonpricing jurisdiction by Section 601 of the Natural Gas Policy Act of 1978 (NGPA).

Bixco indicates that it is a wholly-owned subsidiary of APS and that it is engaged in the exploration, gathering, development and sale of natural gas with the primary purpose of serving the resale requirements of its parent, APS.

in Arizona. Bixco further indicates that APS, which is supplied by EL Paso, has been subject to increasing curtailments in recent years. Bixco states that it has entered into a Gas Transportation Agreement with El Paso, dated September 1, 1978, for the purpose of having gas supplies which it acquires or develops transported to APS in the State of Arizona. In addition, Bixco states that it has entered into an Excess Gas Purchase Agreement with El Paso, also dated September 1, 1978, whereby Bixco has the right, but not the obligation, to sell, and El Paso has the right, but not the obligation, to purchase gas in excess of that which APS may require for its customers' high priority use (including potential injection into storage for that purpose). Bixco therefore seeks a declaration by this Commission that it can sell natural gas, pursuant to the foregoing agreements, to APS and to El Paso under the small producer certificate issued to Bixco by the Commission in Docket No. CS72–621, and also that no certificate authorization is necessary for sales of natural gas to the extent that they are removed from the Commission's nonpricing jursidiction by Section 601 of the NGPA.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 9, 1979. All protestss filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Lois D. Cashell,
Acting Secretary.

[Docket No. CS72–621]
[FR Doc. 79–13097 Filed 4–26–79; 8:45 am]
BILLING CODE 6450–01–M

Calaveras County Water District; Application for Major License

April 19, 1979.

Take notice that on November 30, 1978, the Calaveras County Water District (Calaveras) filed an application for license for Project No. 2409. Project No. 2409, also called the North Fork Stanislaus River development, would be located on the Stanislaus and North Fork Stanislaus Rivers, and Highland, Silver, Beaver, and Duck Creeks. It would be in Calaveras, Alpine, and Tuolumne Counties, California, near the towns of Sonora, City of Angels, and San Andreas, and would affect lands of the United States within the Stanislaus National Forest. Correspondence with the applicant should be sent to: Steve Felte, Manager, Calaveras County Water District, P.O. Box 846, San Andreas, California 95249, and Robert L. McCarty, Special Counsel, McCarty & Noone, 490 L'Enfant Plaza East, Suite 3306, Washington, D.C. 20024.

Project No. 2409 would have an installed capacity of 205,200 kW. Power from the project would be integrated into power systems in Northern California. It would consist of the following works:

1. The 37–foot high concrete gravity North Fork Diversion Dam, impounding a 350 acre–foot reservoir immediately downstream of the confluence of Silver and Duck Creeks, and an 11,300-foot long unlined tunnel.

2. A 200-foot high rockfill dam, 200 feet downstream of the existing dam for Spicer Meadow Reservoir, and the resulting New Spicer Meadow Reservoir, enlarged to 189,000 acre-feet of storage capacity. The crest elevation of the new dam would be at 6,610 feet. A 120-foot high rockfill dike would also be constructed. New Spicer Meadow Power Plant, at the toe of the main dam, would contain four 1,300 kW generating units to be connected with the Pacific Gas and Electric Company's (PG&E) transmission facilities near Cabbage Patch.

3. The 170-foot high concrete arch McKay's Point Diversion Dam, with a crest elevation of 3,395 feet, creating a 2,200 acre-foot reservor with a surface area of 40 acres at the normal maximum water surface elevation of 3,370 feet.

4. A 15-foot high concrete weir, the Beaver Creek Diversion Dam, to be located downstream of the Calaveras Big Trees State Park. This dam would create a 25 acre-foot reservoir with a surface area of five acres at the normal maximum water surface elevation of 4,195 feet. It would divert Beaver Creek flows through a 7-foot diameter, 900-foot long tunnel into McKay's Point Diversion.

5. Collierville Tunnel, 17 feet in diameter and 40,100 feet long, from a gated intake structure 135 feet high in the right abutment of the McCay's Point Diversion Dam to a 6,620-foot long penstock.

6. Collierville Powerhouse, to be located at Clark Flat on the Stanislaus River about a mile below the confluence of the North and Middle Fork Stanislaus Rivers. The Powerhouse will house two 100,000 kW generating units connected through transformers to an adjacent switchyard and thence to the existing area transmission system.

7. The 56-foot high concrete gravity Collierville Afterbay Dam, with a crest elevation of 1,076 feet and impounding a 920 acre-foot reservoir with a surface area of about 40 acres. The dam will reregulate releases from the Collierville and Stanislaus power plants.

8. Eleven miles of buried 21 kV sheathed transmission cable from the New Spicer Meadow Power Plant to PG&E's existing Cabbage Patch switchyard and 35 miles of 230 kV, double circuit, 3-phase transmission line from the Collierville Power Plant to PG&E's existing Bellota switchyard.

9. Recreation facilities in the New Spicer Meadow Reservoir and the North Fork Diversion Dam areas. At New Spicer, the Applicant proposes to develop 60 campsites on a 60-acre area with water and sanitary facilities; a boat launch facility for small boats and canoes where Road 7NO1 would be inundated, with sanitary facilities and parking for 25 cars; and re-routing of inundated trails to connect with existing trails in the area. At the North Fork Diversion Dam, Applicant would develop a jeep road for day-use access.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commision's rules. Any protest or petition to itervene must be filed on or before June 25, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois. D. Cashell,
Acting Secretary.

[Project No. 2409]
[FR Doc. 79–13098 Filed 4–26–79; 8:45 am]
BILLING CODE 6450–01–M

Electric Plant Board of the City of Glasgow, Ky.; Application for Preliminary Permit

April 19, 1979.

Take notice that an application was filed October 17, 1978, by the Electric Plant Board of the City of Glasgow, Kentucky under the Federal Power Act, 16 U.S.C. §§ 791a–825r, for a preliminary permit for 24 months to study the feasibility of installing hydroelectric generating units at the United States Army Corps of Engineers' existing Barren River Lake Dam. The project would be on the Barren River in Allen, Barren, and Monroe Counties, Kentucky. Correspondence with the Applicant should be sent to: H. Jefferson Herbert, Jr., Wilson, Herbert, Garmon & Sparks, Richards Building, Glasgow, Kentucky 42141.

The Barren River Lake Dam is a rolled earthfill dam 3,970 feet long and 146 feet high. Project No. 2874 would consist of an intake with a control gate, a conduit through the dam, and a powerhouse. The number, size, and preferable type of generating units would be determined in the course of the study. The Applicant estimates an installed capacity of 15,000 kW and a project cost of $40,000,000. The Applicant proposes that the project's generating station be operated in coordination with the Tennessee Valley Authority's inter-connected system. The Applicant would use all the power generated at the project.

A preliminary permit does not authorize construction. It only gives a permittee the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the project, the market for the power, and all other necessary information for inclusion in an application for license.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before June 25, 1979. The Commission's address is: 825 N. Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,
Acting Secretary.

[Project No. 2874]
[FR Doc. 79–13095 Filed 4–26–79; 8:45 am]
BILLING CODE 6450–01–M

Interstate Power Co.; Filing

April 23, 1979.

Take notice that Interstate Power Company on April 19, 1979, tendered for filing a letter agreement ancillary to Interstate Power Rate Schedule FERC No. 114.

Interstate indicates that this letter agreement replaces condition (8) of a letter agreement dated March 28, 1978. Interstate also indicates that this letter agreement extends the services rendered to Springfield, Minnesota through the scheduling month ending December 19, 1985.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8,1.10). All such petitions or protests should be filed on or before May 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[Docket No. ER79–318]
[FR Doc. 79–13099 Filed 4–26–79; 8:45 am]
BILLING CODE 6450–01–M

Lawrenceburg Gas Transmission Corp.; Tariff Filing

April 23, 1979.

Take notice that on March 28, 1979, Lawrenceburg Gas Transmission Corporation (Lawrenceburg), 230 West High Street, Lawrenceburg, Indiana 47025, filed in Docket No. TC79–55 tariff sheets as part of its FERC Gas Tariff, First Revised Volume No. 1, to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with Section 401 of the Natural Gas Policy Act of 1978 and Part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Lawrenceburg adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Lawrenceburg's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket NO. RM79–13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by Section 4 of the Natural Gas Act and 154.22 of the regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before May 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Lois D. Cashell,
Acting Secretary.

[Docket No. TC79–55]
[FR Doc. 79–13100 Filed 4–26–79; 8:45 am]
BILLING CODE 6450–01–M

Natural Gas Pipeline Co. of America; Tariff Filing

April 20, 1979.

Take notice that on April 4, 1979, Natural Gas Pipeline Company of America (Respondent), 122 South Michigan Ave., Chicago, Illinois 60603, tendered for filing in Docket No. TC79–15, Substitute Original Sheet No. 150 as part of its FERC Gas Tariff, Third Revised Volume No. 1. The tendered filing is stated to be in compliance with the Commission's order of March 30, 1979, in the instant docket. That order directed Respondent to delete paragraph (d) contained in Original Sheet No. 150

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as tendered on March 16, 1979, in order to conform to the Commission's Interim Curtailment Rule issued on March 6, 1979, in Docket No. RM79–13 (18 CFR, Part 281), in accordance with Section 401 of the Natural Gas Policy Act of 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 7, 1979. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Copies of the filing are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–13101 Filed 4–26–79; 8:45 am]

BILLING CODE 6450–01–M

Otter Tail Power Co.; Rate Filing

April 23, 1979.

Take notice on April 19, 1979, Otter Tail Power Company (Otter Tail) tendered for filing rate schedules covering scheduling and dispatching service provided to Cooperative Power Association (Association) and Central Power Electric Cooperative (Central). An effective date of April 1, 1979, is requested for the increase, estimated at approximately $1,250 per year, in rates to be charged the Association per Supplement No. 3 to Otter Tail's Rate Schedule FERC No. 154. An effective date of March 20, 1979, is requested for a decrease estimated at approximately $2,000 annually in rates to be charged Central per Supplement No. 3 to Otter Tail's Rate Schedule FERC No. 171.

Otter Tail requests waiver of the Commission's notice requirements to allow these two Schedules to become effective on April 1, 1979, and March 20, 1979, respectively.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the processing. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[Docket No. ER79–316]

[FR Doc. 79–13102 Filed 4–26–79; 8:45 am]

BILLING CODE 6450–01–M

Public Service Co. of Indiana, Inc.; Tariff Change

April 23, 1979.

Take notice that Public Service Company of Indiana, Inc. on April 19, 1979 tendered for filing pursuant to the Interconnection Agreement between Public Service Company of Indiana, Inc. and Northern Indiana Public Service Company a Fifth Supplemental Agreement to become effective June 18, 1979.

Said Supplemental Agreement increases the demand charge for Short Term Power from 60¢ per kilowatt per week to 70¢ per kilowatt per week.

Copies of the filing were served upon Northern Indiana Public Service Company and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before May 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Energy Regulatory Commission.

Lois D. Cashell,

Acting Secretary.

[Docket No. ER79–317]

[FR Doc. 79–13103 Filed 4–26–79; 8:45 am]

BILLING CODE 6450–01–M

Kentucky West Virginia Gas Co. et. al.; Request for Waiver

April 19, 1979.

The petitioners listed in the appendix have requested the Commission to waive the filing requirements of 18 CFR 281.104. Part 281 of the Commission's regulations implement the curtailment priority for essential agricultural uses established by Section 401 of the Natural Gas Policy Act of 1978 (NGPA).

Some petitioners do not cite a procedural basis for their requested waiver. Others cite either NGPA Section 502(c) or 18 CFR 1.7 or both. For all the petitioners listed in the appendix, the Commission shall deem their filings as requests for wavier pursuant to § 1.7(b) of the Commission's regulations.

The petitioners state eight different reasons for requesting a wavier. Petitioners in Group I assert that they do not have curtailment plan on file with the Commission. As a result, "the granting of adjustments to the otherwise applicable provisions of its curtailment plan" required by 18 CFR 281.104 is claimed to be unnecessary. Similarly, petitioners in Group II assert that they have no applicable tariff on file with the Commission.

Petitioners in Group III assert that they only engage in the transportation of natural gas and do not make sales for resale. They note that the Commission's supply curtailment policies, including Part 281, apply to natural gas sales, and as a result the filing required by 18 CFR § 281.104 is unnecessary.

Petitioners in Group V claim that all of their natural gas sales are made to customers with their own curtailament plans. They assert that Part 281 should be applied to their customers rather than to the petitioners in Group IV.

Petitioners in Group IV claim to have only one customer. Because the purpose of a curtailment plan is to allocate natural gas among customers, they argue that a filing under 18 CFR § 281.104 is unnecessary.

The C.B. Gas Gathering, Inc., Docket No. TC79–90, claims to have ceased operations in 1973. Louisiana-Nevada Transit Company does not state facts in support of its request for waiver in Docket No. TC79–59. Commercial Pipeline Co., Inc., Docket No. TC79–60, claims that it does not anticipate any curtailments during the time period covered by the interim rule.

Any person desiring to be heard or to make any protest with reference to any petition for waiver should on or before May 18, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in the appropriate docket in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR or 1.6 or 1.10). All protests filed with the Commission will be considered by it in determing the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

Group I.—No Curtailment Plan on File With the FERC

Docket No.	Petitioner	Date filed	Address
TC79–52	Kentucky-West Virginia Gas Company.	3/26/79	420 Blvd. of the Allies, Pittsburgh, PA 15219.
TC79–53	Equitable Gas Company	3/26/79	420 Blvd. of the Allies, Pittsburgh, PA 15219.
TC79–56	Michigan Consolidated Gas Company.	3/27/79	One Woodward Avenue, Detroit, MI 48226.
TC79–58	Honeoye Storage Corporation	3/27/79	c/o Energy Storage Ventures, 8 Arlington, St., Boston, MA 02116.
TC79–62	Pacific Interstate Transmission Company.	3/26/79	720 West Eighth St., Los Angeles, CA 90017.
TC79–63	Raton Natural Gas Company	3/26/79	1115 South 2nd St., Raton, NM 87740.
TC79–72	West Texas Gathering Company.	3/29/79	P.O. Box 3908, Odessa, TX 79760.
TC79–76	Washington Natural Gas Company.	4/2/79	P.O. Box 1869, 815 Mercer St., Seattle, WA 98111.
TC79–77	Union Light, Heat and Power company.	4/2/79	P.O. Box 960, 139 E. 4th St., Cincinnati, OH 45201.
TC79–80	Carnegie Natural Gas Company	4/15/79	3904 Main St., Munhall, PA 15120.
TC79–81	South Texas Natural Gas Gathering Company.	3/29/79	5 Greenway Plaza East, Houston, TX 77046.
TC79–85	Cimarron Transmission Company.	3/27/79	58 Broadtown Village, Ardmore, OK 73401.
TC79–87	Chattanooga Gas Company	3/28/79	811 Broad St., Chattanooga, TN 37402.
TC79–89	R.M.N.G. Gathering Company	3/28/79	420 Capital Life Center, 1600 Sherman St., Denver, CO 80203.
TC79–91	McCulloch Interstate Gas Corporation.	3/30/79	10880 Wilshire Blvd., Los Angeles, CA 90024.
TC79–92	Zenith Natural Gas Company and Oklahoma Natural Gas Gathering Corporation.	4/6/79	624 South Boston Ave., Tulsa, OK 74119.
TC79–93	Northern States Power Company.	4/6/79	414 Nicollet Mall, Minneapolis, MN 55401.
TC79–123	Hampshire Gas Company	4/12/79	1100 H Street, N.W., Washington, D.C. 20080.

Group II.—No Tariff on File With the Commission

TC79–74	Pacific Coal Gasification Company.	3/30/79	720 West 8th St., Los Angeles, CA 90017.
TC79–86	Ohio River Pipeline Corporation	3/27/79	1630 N. Meridan St., Indianapolis, IN 46202.

Group III.—Makes No Sales for Resale

TC79–54	Associated Natural Gas Company.	3/22/79	P.O. Box 629, Blytheville, AR 72315.
TC79–57	Penn-Jersey Pipe Line Company.	3/22/79	One Elizabethtown Plaza, Elizabethtown, NJ 07207.
TC79–61	Blue Dolphin Pipe Line Company.	3/26/79	P.O. Box 2436, Houston, TX 77001.
TC79–64	Gulf Energy & Development Corporation.	3/28/79	P.O. Box 17349, San Antonio, TX 78217.
TC79–65	Sabine Pipe Line Company	3/29/79	1111 Rusk St., Houston, TX 77002.
TC79–67	Jupiter Corporation	3/29/79	400 East Randolph St., Chicago, IL 60601.
TC79–69	Tarpon Transmission Company.	3/29/79	4665 First International Bldg., Dallas, TX 75270.
TC79–71	Gas Transport, Inc	3/29/79	109 N. Broad St., Lancaster, OH 43130.
TC79–73	Bluefield Gas Company	3/30/79	602 Raleigh St., Bluefield, W VA 24701.
TC79–75	Standard Pacific Gas	3/30/79	77 Beale St., San Francisco, CA 94106.
TC79–78	Lone Star Gathering Company	4/2/79	301 S. Harwood St., Dallas, TX 75201.
TC79–82	Stingray Pipeline Company	3/27/79	P.O. Box 1642, Houston, TX 77001.
TC79–83	High Island Offshore System, Inc.	3/27/79	700 Milan St., Houston, TX 77001.
TC79–88	U-T Offshore System	3/28/79	P.O. Box 1396, Houston, TX 77001.

Group IV.—No Gas Sold Directly to End Users; Customers Have Curtailment Plans

TC79–68	Western Transmission Corporation.	3/29/79	2700 Fidelity Union Tower Bldg., Dallas, TX 75201.
TC79–70	Sea Robin Pipeline Company	3/30/79	P.O. Box 1478, Houston, TX 77001.

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Group V.—*Pipeline Has Only One Customer*

TC79-66	Michigan Gas Storage Company.	3/28/79	212 W. Michigan Ave., Jackson, MI 49201.
TC79-84	Urbana Pipe Line Company	3/27/79	1800 First National Bank Bldg., Dallas, TX 75202.

Group VI.—*Others*

TC79-59	Louisiana-Nevada Transit Company.	3/27/79	P.O. Box 8789, Denver, CO 80201.
TC79-60	Commercial Pipeline Company, Inc.	3/27/79	201 Century Plaza Bldg., Wichita, KN 67202.
TC79-90	C.B. Gas Gathering	4/5/79	P.O. Box 1673, Corpus Christi, TX 78403.

[Docket No. TC79-52 *et seg.*]
[FR Doc. 79-12936 Filed 4-26-79; 8:45 am]
BILLING CODE 6450-01-M

Texas Eastern Transmission Corp.; Filing of Pipeline Refund Reports and Refund Plans

April 19, 1979.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 8, 1979. Copies of the respective filings are on file with the Commission and available for public inspection.

Lois D. Cashell,
Acting Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
Jan. 15, 1979	Texas Eastern	AR64-2, *et al.*	Plan.
Mar. 28, 1979	Texas Gas	G-18886	Report.
Mar. 30, 1979	United Gas	RP60-2	Report.
Apr. 9, 1979	Lawrenceburg	RP78-37	Report.

[Docket Nos. AR64-2, *et al.*]
[FR Doc. 79-12935 Filed 4-26-79; 8:45 am]
BILLING CODE 6450-01-M

Office of Hearings and Appeals

Objections Filed Week of April 2 Through April 6, 1979

Notice is hereby given that during the week of April 2 through April 6, 1979 the Notice of Objection to a Proposed Remedial Order listed in the Appendix to this notice was filed with the Office of Hearings and Appeals of the Department of Energy.

On or before May 17, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Order described in the Appendix to this notice must file a request to participate, pursuant to 10 CFR 205.194 (44 Fed. Reg. 7926, February 7, 1979). On or before May 29, 1979, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C., April 23, 1979.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

Earl E. Wall, New Orleans, Louisiana—DRO-0188, crude oil.

On April 5, 1979, Earl E. Wall filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest Enforcement District issued to him on March 19, 1979. In the Proposed Remedial Order, the Enforcement District office found that during the period September 1973 through October 1976, Earl E. Wall sold crude oil produced from certain properties in Louisiana at prices which were in excess of the ceiling price levels specified in 10 CFR Part 212. According to the Proposed Remedial Order, Earl E. Wall's violations of the provisions of 10 CFR, Part 212 resulted in overcharges to his customers of $496,484.43.

[FR Doc. 79-13110 Filed 4-26-79; 8:45 am]
BILLING CODE 6450-01-M

Objection Filed; Week of April 9 Through April 13, 1979

Notice is hereby given that during the week of April 9 through April 13, 1979, the Notice of Objection to a Proposed Remedial Order listed in the Appendix to this notice was filed with the Office of Hearings and Appeals of the Department of Energy.

On or before May 17, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Order described in the Appendix to this notice must file a request to participate, pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before May 29, 1979, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C., April 23, 1979.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

Brock Exploration Corporation, New Orleans, Louisiana; Freeport Oil Company, Midland, Texas—DRO-0190, crude oil.

On April 9, 1979, Freeport Oil Company, P.O. Box 3038, Midland, Texas 79701, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest Enforcement District issued to its predecessor in interest, Freeport Minerals Company (Freeport Minerals) and to Brock Exploration Corporation (Brock), on March 19, 1979. In the Proposed Remedial Order, the Enforcement District found that during the time period September 1, 1973 through December 31, 1975, Brock and Freeport Minerals committed pricing violations in the State of Louisiana in connection with the production and sale of crude oil. According to the Proposed Remedial Order, Brock and Freeport Mineral Company's violations resulted in overcharges to its customers of $456,444.91.

[FR Doc. 79-13111 Filed 4-26-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Amendment to Experimental Use Permit Issued to Elanco Products Co.

On Friday, August 25, 1978 (43 FR 38085), information appeared pertaining to the issuance of an experimental use permit, No. 1471-EUP-60 to Elanco Products Co. At the request of the company, that permit has been amended. The experimental use permit allows the use of the remaining supply of 210 pounds (the amount previously authorized) of the fungicide tricyclazole on rice to evaluate control of rice blast disease. A total of 200 acres is involved; the program is authorized only in the States of Arkansas, Louisiana, Mississippi, and Texas. The experimental use permit period is also extended, and the permit is now effective from May 26, 1978 to August 21, 1979. A temporary tolerance for residues of the active ingredient in or on rice has been established. This permit is being issued with the limitation that all treated rice straw is to be destroyed or used for research purposes only. (PM-21, Room: E-305, Telephone: 202/755-2562)

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: April 18, 1979.

Douglas D. Campt,
Acting Director, Registration Division.

[FRL 1211-3: OPP-50378A]
[FR Doc. 79-13021 Filed 4-26-79; 8:45 am]
BILLING CODE 6560-01-M

Amendment to Experimental Use Permit Issued to Lowden, Inc.

On Thursday, June 3, 1976 (41 FR 22413), information appeared pertaining to the issuance of an experimental use permit, No. 23614-EUP-1, to Lowden, Inc. At the request of the company, that permit has been amended. The experimental use permit allows the use of 10 pounds (the amount previously authorized) of the fungicide nystatin on elm trees to evaluate control of Dutch elm disease on approximately 35 trees in the States of Maryland, Massachusetts, Nebraska, New Hampshire, and Rhode Island. The experimental use permit period is also extended and the permit is now effective from May 12, 1979 to May 30, 1980. (PM-21, Room: E-305, Telephone: 202/755-2562)

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: April 18, 1979.

Douglas D. Campt,
Acting Director, Registration Division.

[FRL 1211-4; OPP-50160A]
[FR Doc. 79-13021 Filed 4-26-79; 8:45 am]
BILLING CODE 6560-01-M

Notice of Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of April 16 to April 20, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from April 27, 1979 and will end on June 11, 1979. The 30-day wait period for final EIS's will be computed from the date of receipt by EPA and commenting parties.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Environmental Review A-104, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-0780.

SUMMARY OF NOTICE: Appendix I sets forth a list of EIS's filed with EPA during the week of April 16 to april 20, 1979, the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: April 24, 1979.

William N. Hedeman, Jr.,
Director, Office of Environmental Review.

Appendix I

EIS's Filed With EPA During the Week of April 16 to 20, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447-3965.

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Soil Conservation Service

Draft

Blind Brook Watershed, flood control, Westchester County, N.Y.; Fairfield County, Conn., April 16: Proposed is a flood control project for the Blind Brook Watershed located in Westchester County, New York and Fairfield County, Connecticut, which has a drainage area of 6,980 acres. The plan provides for the installation of land treatment measures, two floodwater retarding structures, and four dikes. About 117 acres of land will be committed to the installation of structural measures and will become permanent grassland, concrete dikes, water, wetland, or will retain existing cover. (EIS order No. 90399.)

Forest Service

Final Supplement

Elk Summit Land Management Plan, revision (S–2), Idaho County, Idaho, April 20: This statement supplements an EIS issued in March 1975 concerning the Elk Summit Land Use Plan, Clearwater National Forest, located in Idaho County, Idaho. The issues of water quality, fisheries and wildlife were reviewed and reanalyzed and as a result the FS has determined that some changes were needed in the original land use plan and have proposed emphasis of several areas including timber production, wildlife habitat management, recreation, natural areas, and others. (USDA–FS–FES–ADM–R1–74–7) Comments made by: COE, AHP, DOE, DOI, EPA, State and local agencies, groups, individuals and businesses. (EIS order No. 90416.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, (202) 693–6795.

Draft Supplement

Big Pine Lake and Creek, regulatory exemption, Red River County, Tex., April 16: This statement supplements a final EIS (No. 51424) filed September 1975. Proposed for regulatory exemption is the placement of dredged or fill material into the waters of Big Pine Creek of Big Pine Lake located in Red River County, Texas. This action is in conjunction with the construction of Big Pine (earthen) Dam and the relocation of four sections of two county roads totaling approximately 2.9 miles. Fill material would be obtained from the flood plain of Big Pine Creek and from borrow areas in adjacent terrace deposits. (Tulsa District). (EIS order No. 90400.)

Baytown Flood Control, evacuate/relocate (DS–1), Harris County, Tex., April 20: This statement supplements a final EIS (No. 80911) filed August 1978. Proposed is the evacuation and relocation of all residents from the flood plain area of the city of Baytown, Harris County, Texas. The plan also involves removal of structures from the flood plain and deeding of the lands to the city of Baytown for management as a nature area or other passive uses. (Galveston District). (EIS order No. 90414.)

DEPARTMENT OF DEFENSE, ARMY

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN–ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202) 694–4269.

Draft

Fort Monroe base realignment, relocation, closure, York County, Va., April 19: Proposed is the relocation of Headquarters, U.S. Army Training and Doctrine Command (HQ TRADOC) from Fort Monroe, York County, Virginia to Fort Eustis, Virginia and the closure and excessing of Fort Monroe. Closure will not include facilities occupied by the Naval Surface Weapons Center and the 72d Tactical Control Flight. The purpose of this action is to reduce expenditures by consolidating Army activities. (EIS order No. 90406.)

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station E–201 GTN, Washington, DC 20545, (202) 376–5998.

Draft

Management of commercially generated radioactive waste, programmatic April 20: This is a generic statement concerning the management of commerically generated radioactive waste. The action involves the selection of an appropriate programmatic strategy leading to the permanent isolation of commercial radioactive wastes in a fashion that provides reasonable assurance of safe, permanent isolation of this material. The statement replaces a draft EIS (#41405) filed September 1974 by the Atomic Energy Commission. (EIS order No. 90415.)

Waste Isolation Pilot Plant, Construction, Eddy County, N. Mex., April 19: Proposed is the construction and operation of a waste isolation pilot plant for the defense transuranic nuclear wastes (TRU), experimental research and development with high level waste forms and for the potential disposal of up to a thousand spent fuel assemblies in an intermediate scale facility. The site under consideration is located in Eddy County, New Mexico. Seven alternative are considered which include: No action, alternatives to tru-waste disposal, alternatives for the intermediate-scale facility, alternative time schedules and potential alternative locations. (DOE/EIS–0026–D). (EIS order No. 90407.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. PHIL MYERS, Office of Drinking Water (WH–550), Environmental Protection Agency 401 M Street SW., Washington, D.C. 20460, (202) 426–3934.

EPA, Headquarters

Draft Supplement

State underground Injection Control Program (DS) Regulatory, April 16: this statement supplements a DEIS (No. 61338) filed September 1976. Proposed are new regluations concerning the State underground injection control program. These regulations set requirements for effective State programs to prevent underground injection of contaminated fluids which endanger sources of drinking water, revisions affect: permitting, monitoring, reporting, and control costs; area of review; existing enhanced recovery and hydrocarbon storage wells; geologic, hydrolic, and historical conditions; performance requirements of oil and gas wells; annular injection; cementing/sealing, and tubing/packing techniques; and permit issuance procedures. (EIS Order No. 90403)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Carl W. Penland, Acting Director, Environmental Affairs Division, General Services Administration, 18th and F Street NW., Washington, D.C. 20405, (202) 566–1416.

Draft

Hamilton Air Force Base, Disposition and use, Martin County, California, April 19: Proposed is the disposition of approximately 1653.5 fee acres and 258.6 acres of easements, permits and licenses, with associated facilities, on Hamilton Air Force Base, located in the City of Novato, Martin County, California. The alternatives address the following land uses: Aviation, commerical/industrial, residential, and public. Also considered is no action, and holding of the land by the Federal Government. (EIS Order No. 90408)

Lease Construction of Federal Building, Milwaukee, Milwaukee County, Wisconsin, April 16: Proposed is the lease of 327,000 occupiable square feet of space in a building which is to be constructed for GSA by a private developer in the City and County of Milwaukee, Wisconsin. Additionally, parking will be provided for 338 vehicles. The facilty would provide replacement space for agencies presently housed in two federally owned building, and provide for the consolidation of agency activities housed in 11 widely scattered locations. (EWI–78001) (EIS Order No. 90398)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, room 7274, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, (202) 755–6306.

Final

Maryvale Terrace, Phoenix, Mortgage Insurance, Maricopa County, Arizona, April 16: Proposed is the Issuance of HUD Home Mortgage Insurance for the Maryvale Terrace Subdivision located in Phoenix, Maricopa County, Arizona. The project will encompass approximately 141 acres and consist of the development of 618 living units. Alternatives considered include: 1) no development, 2) increased density, 3) decreased density, and 4) recreational use. (HUD–R09–EIS–78–3F) Comments made by: AHP, USDA, COE, EPA, DOI, VA, State Agencies, Individuals. (EIS Order No. 90401.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, room 4256 Interior Building, Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Bureau of Land Management

Draft

Shoshone Area, Livestock Grazing Management program, several counties in Idaho, April 20: Proposed is a revised livestock grazing management program for the Bennett Hills, Timmerman Hills and Magic Planning Units, of the Shoshone grazing area district, located in the counties of Lincoln, Gooding, Elmore, Blaine, and Camas, Idaho. The plan involves rest-rotation and deferred-rotation grazing, along with minor annual spring use. Proposed initial livestock use in the area would be 38,138 animal unit months. Also included are water developments, pipelines, fencing, seeding, herbicide spraying, and burning. (DES–79–21) (EIS Order No. 90413.)

Bureau of Reclamation

Draft

Closed Basin Division, San Luis Valley Project, Alamosa and Saguache Counties, Colorado, April 19: Proposed is a multiple-purpose water resource project for the Closed Basin Division of the San Luis Valley Project, located in Alamosa and Saguache Counties, Colorado. The project will deliver water to the Rio Grande River which is removed by evaporative processes from the Closed Basin. Project features consist of: 95 to 165 production wells, laterals, electric transmission facilities, conveyance channel, and miscellaneous structures. The project will also include the establishment of the Mishak National Wildlife Refuge (NWR), delivery of water to the Alamosa NWR, stabilization of the San Luis Lake water level, and recreational facilities at San Luis Lake. (DES–79–20) (EIS Order No. 90409.)

NUCLEAR REGULATORY COMMISSION

Contact: John B. Martin, Director, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Draft

Uranium Milling, Generic Statement, Programmatic: April 20: This is a generic EIS concerning uranium milling which examines associated problems for the purpose of future regulatory changes. To be proposed as a result of this analysis. The problems examined include controlling emissions from mills during operations and the problem of mill decommissioning. The latter includes the special problem of dealing with the large volume wastes (mill tailing) produced by milling operations. (NUREG–0511) (EIS Order No. 90412.)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Harry G. Moore, Jr., Acting Director, Division of Environmental Planning, Tennessee Valley Authority, 288 401 Building, Chattanooga, Tennessee 37401, (615) 755–3161 FTS 854–3161.

Draft

Melton Hill Reservoir, sale of permanent easement, Anderson County, Tennessee, April 17: Proposed is the granting for sale of a 64 acre, permanent industrial easement on Melton Hill Reservoir in Anderson County, Tennessee. The easement would enable the contruction and operation of a rail to barge regional coal-loading facility. Operation would involve the movement of coal from local and regional coal fields by rail to the facility where it would be loaded onto barges for further movement. Truck off-loading facilities would be available for emergencies. (EIS Order No. 90404.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, (202) 426–4357.

Federal Aviation Administration

Draft

Airport and Airway Improvement/Revenue Acts, 1979, Legislative, April 20: Proposed for submission to Congress is a draft bill which contains three titles. Title I replaces the Airport and Airway Development Act of 1970 and provides authorization for airport and airway development and planning for 1981 through 1985. Title II amends the Internal Revenue Code and the Airport and Airway Revenue Act of 1970 to continue the airport and airway trust fund and the aviation user taxes; and modifies the existing tax on aviation fuel and assesses a new tax on the sale of new aircraft and avionics for use in noncommercial aviation. Title III contains miscellaneous amendments to the Federal Aviation Act of 1958 and the Airport and Airway Development Act of 1970. (EIS Order No. 9041.

Federal Highway Administration

Draft

TN–34, TN–137 to Bluff City Bypass, Improvement, Washington and Sullivan Counties, Tennessee, April 18: Proposed is improvement of a segment of TN–34 from TN–137 in Johnson City, Washington County to Bluff City Bypass, Sullivan County located within the State of Tennessee, for a distance of approximately nine miles. At the Johnson City end of the improvement, two alternate alignments on new location are being considered. Throughout the rural portion of the project widening of the existing two-lane roadway to four-lane facility is proposed. A new structure over the Watauga River will be part of the improvement. (FHWA–TN—EIS–78–02–D) (EIS Order No. 90405.)

Final

OH–7 and Belmont County Road 46, relocation, Belmont County, Ohio, April 20: Proposed is the relocation and improvement of 2.3 miles of OH–7 in Belmont County, Ohio. The project begins near the south corporation line of Shadyside and ends near the south corporation line of Belaire. This project will involve the construction of a new 4-lane pavement on new location with limited access through the urban area of Shadyside, Ohio, by-passing the central business district of the city. The relocation and improvement of Belmont County Road 46 for a relocation length of 0.83 miles is also included in the project. (FHWA–OHIO–78–05–F). Comments made by: DOI, HUD, USDA, EPA, State and local agencies. (EIS Order No. 90417.)

US 7, Manchester and Dorset, construction, Bennington County, Vermont, April 16: The proposed action consists of the construction of a section of US 7 in the towns of Manchester and Dorset, Bennington County, Vermont. The highway will be two-lane on four-lane right-of-way with fully controlled access. The project begins at just south of VT–11 and about 1.4 miles easterly of the US 7/VT–11 intersection in Manchester center extending northerly to existing US 7 north of the Manchester-Dorset town line. (FHWA–VT–EIS–78–03–F.) Comments made by: DOT, HUD, EPA, DOI, COE, State and local agencies. (EIS Order No. 90402.)

VETERANS ADMINISTRATION

Contact: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, (202) 389–2526.

Draft

Oklahoma City VA Medical Center, addition, Canadian and Cleveland Counties, Oklahoma, April 20: Proposed is the construction of a new clinical addition to the VA Medical Center in Oklahoma City which includes portions of Canadian, Cleveland, and Oklahoma Counties, Oklahoma. Seismic deficiencies will also be corrected in portions of the medical center. The addition will provide expanded facilities for ambulatory care, clinical and administrative services, radiology, nuclear medicine, laboratory, cardiac catheterization, nursing education, canteen service, and pharmacy. New ambulance entrances will be constructed. (EIS Order No. 90410.)

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EIS's Filed During the Week of April 16 to 20, 1979

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Orig. Agency No.
Arizona	Maricopa	Final	Maryvale Terrace, Phoenix, Mortgage Insurance	90401	04–16–79	HUD.
California	Marin	Draft	Hamilton Air Force Base, Disposition and Use	90408	04–19–79	GSA.
Colorado	Alamosa	Draft	Closed Basin Division, San Luis Valley Project	90409	04–19–79	DOI.
	Saguache	Draft	Closed Basin Division, San Luis Valley Project	90409	04–19–79	DOI.
Connecticut		Draft	Blind Brook Watershed, Flood Control	90399	04–16–79	USDA.
Idaho	Several	Draft	Shoshone Area, Livestock Grazing Mgmt. Program	90413	04–20–79	DOI.
	Idaho	Supple	Elk Summit Land Management Plan, Revision (S–2)	90416	04–20–79	USDA.
Legislative		Draft	Airport and Airway Improvement/Revenue Acts, 1979.	90411	04–20–79	DOT.
Programmatic		Draft	Uranium Milling, Generic Statement	90412	04–20–79	NRC.
		Draft	Mgmt. of Commercially Generated Radioactive Waste.	90415	04–20–79	DOE.
New Mexico	Eddy	Draft	Waste Isolation Pilot Plant, Construction	90407	04–19–79	DOE.
New York		Draft	Blind Brook Watershed, Flood Control	90399	04–16–79	USDA.
Ohio	Belmont	Final	OH–7 and Belmont County Road 46, Relocation	90417	04–20–79	DOT.
Oklahoma	Canadian	Draft	Oklahoma City VA Medical Center, Addition	90410	04–20–79	VA.
	Cleveland	Draft	Oklahoma City VA Medical Center, Addition	90410	04–20–79	VA.
	Oklahoma	Draft	Oklahoma City VA Medical Center, Addition	90410	04–20–79	VA.
Regulatory		Supple	State Underground Injection Control Program (DS)	90403	04–16–79	EPA.
Tennessee	Anderson	Draft	Melton Hill Reservoir, Sale of Permanent Easement	90404	04–17–79	TVA.
	Sullivan	Draft	TN–34, TN–137 to Bluff City Bypass, Improvement	90405	04–18–79	DOT.
	Washington	Draft	TN–34, TN–137 to Bluff City Bypass, Improvement	90405	04–18–79	DOT.
Texas	Harris	Supple	Baytown Flood Control, Evacuate/Relocate (DS–1)	90414	04–20–79	COE.
	Red River	Supple	Big Pine Lake and Creek, Regulatory Exemption	90400	04–16–79	COE.
Vermont	Bennington	Final	US 7, Manchester and Dorset, Construction	90402	04–16–79	DOT.
Virginia	York	Draft	Fort Monroe Base Realignment, Relocation, Closure	90406	04–19–79	USA.
Wisconsin	Milwaukee	Draft	Lease Construction of Federal Building, Milwaukee	90398	04–16–79	GSA.

Appendix II.—Extension/Waiver of Review Periods on EIS's Filed With EPA

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
TENNESSEE VALLEY AUTHORITY					
Dr. Harry G. Moore, Jr., Acting Director, Division of Environmental Planning, Tennessee Valley Authority, 268 401 Building, Chattanooga, Tennessee 37401 (615) 755–3161, FTS 854–3161.	Mallard-Fox Creek area development and use.	Draft 90284	03/26/79	Extension	05/14/79
NUCLEAR REGULATORY COMMISSION					
Mr. John B. Martin, Director, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.	Uranium milling, generic	Draft 90412	04/27/79 (see appendix I).	Extension	07/26/79

Appendix III.—EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
DEPARTMENT OF ENERGY				
Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station E–201 GTN, Washington, D.C. 20545 (202) 376–5998.	Commercial high-level, transuranium—contaminated wastes.	Draft 41405	Filed 09/05/74	April 1975
		This DEIS was originally filed by the Atomic Energy Commission in September 1974 and has since been withdrawn by the Energy Research and Development Administration in April 1975. The Department of Energy has filed a new DEIS (#90415) on April 20, 1979 (see Appendix I of this report).		

Appendix IV.—Notice of Official Retraction

Federal agency contact	Title of EIS	Status/number	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—Official Correction

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
None.				

[FRL 1212–1]

[FR Doc. 79–13107 Filed 4–26–79; 8:45 am]

BILLING CODE 6560–01–M

Michigan and Washington State Departments of Agriculture; Specific Exemptions To Use Triforine To Control Mummyberry on Blueberries

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued specific exemptions to the Michigan and Washington State Departments of Agriculture (hereafter referred to by State individually or as the "Applicants" collectively) to use triforine (Funginex EC) to control mummyberry on 3,000 acres of blueberries in Michigan and 700 acres in Washington. The specific exemptions end on July 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E–315, Washington, D.C. 20460, Telephone: 202/755–4851.

SUPPLEMENTARY INFORMATION: Mummyberry is caused by the fungus *Monilinia vaccinii corymbosi*. Primary infection by ascospores takes place early in the spring just as the leaf and flower buds begin to grow. These ascospores are released from spore cups that develop from mummified fruit. Spore cup emergence coincides with the emergence of the young susceptible tissues of the plant.

Mummies are a result of the disease from the previous crop and have overwintered on or near the surface of the soil beneath the bushes. Infected blossoms and leaves turn brown and wither as a result of these primary infections. The fungus then produces a second spore type on these infected tissues. These are blown onto remaining blossoms where secondary infection takes place on the developing pistil of the flowers. These flower infections remain undetected until the fruit begins to enlarge. The infected fruit turns off-color and usually drops to the ground before healthy berries mature. These mummified fruits persist through the winter and act as a source of the fungus for the primary infection the following spring.

Currently there are four fungicides registered for the control of the primary infection stage: Benomyl, Captan, Ferbam, and Ziram. The Applicants submitted data which indicated that these fungicides are relatively ineffective in controlling primary infections of this disease. Cultural practices have also not been successful in commercial planting. However, triforine (N,N-[1,4-piperazinediylbis (2,2,2-trichloroethylidene)]-bis-[formamide]) appeared to be efficacious in suppressing this pathogen. Triforine is registered in the United States under the trade name Funginex EC. It was estimated by Michigan that the economic loss from shoot damage and fruit loss might be as much as $575,000 in that State, and by Washington that losses could reach a value of $600,000 in that State, if an effective fungicide was not available this growing season.

The Applicants proposed to use Funginex EC at a maximum rate of 0.316 pound active ingredient (a.i.) in Michigan, and 0.3 pound a.i. in Washington per acre, in a maximum of five applications. EPA has determined that residues of triforine from this use should not exceed 0.1 part per million (ppm). This level has been deemed adequate to protect the public health. Based on the low toxicity, short half-life, and low application rate, no serious hazards to fish and wildlife are expected.

After reviewing the applications and other available information, EPA has determined that (a) a pest outbreak of *Monilinia* mummyberry is likely to occur this year on blueberries in Michigan and Washington; (b) there is no effective pesticide presently registered and available for use to control this pest in these States; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until July 30, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are subject to the following conditions:

1. The product Funginex EC, EPA Reg. No. 21137–4, may be applied;

2. The total acreage treated in Michigan will not exceed 3,000 acres. The total acreage treated in Washington will not exceed 700 acres;

3. Ground or aerial application may be made in Michigan, triforine will be applied at a rate of 24 ounces of formulation (0.316 pound a.i.) per acre for four treatments and a fifth application will be made at 16 ounces formulation per acre. In Washington, triforine will be applied at a rate of 0.3 pound a.i. per acre in sufficient water for coverage by ground. If applied by air, triforine will be applied at a rate of 0.3 pounds a.i. in a minimum of five gallons of water per acre;

4. A maximum of five applications may be made. The first application may be made at bud break. Thereafter, application may be made at seven-to ten-day intervals, with the last application at full bloom;

5. In Michigan a maximum of 2,625 gallons Funginex may be used. In Washington, a maximum of 656 gallons may be used;

6. If applied by aircraft, precautions will be taken to avoid or minimize spray drift to non-target areas;

7. A minimum of 40 days will elapse between the last application of triforine and harvest;

8. Applications of this pesticide will be made licensed commercial applicators or State-certified private applicators. Information pertaining to timing, rates, and procedures will be

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made available to the applicators through the respective University Extension Services;

9. Harvested blueberries with a triforine residue level not exceeding 0.1 ppm may enter into interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

10. All applicable directions, restrictions, and precautions on the product label must be followed;

11. The EPA will be immediately informed of any adverse effects resulting from the use of triforine in connection with these exemptions and;

12. Michigan and Washington are each responsible for assuring that all of the provisions of its specific exemption are met and must submit a report summarizing the results of its program by October 30, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: April 19, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[OPP–18023; FRL 1210–2]

[FR Doc. 79–13025 Filed 4–26–79; 8:45 am]

BILLING CODE 6560–01–M

Grants for Construction of Treatment Works; Class Deviation

Under authority of 40 CFR 30.1000, EPA has issued a class deviation from the provisions of 40 CFR 30.615–1(a) and 40 CFR 35.945 for construction grant projects awarded under section 201 of the Clean Water Act.

Section 203(b) of the Clean Water Act, the EPA General Grant regulations in 40 CFR 30.615–1(a) and EPA construction Grant regulations in 40 CFR 35.945 require that EPA make construction grant payments on a reimbursement basis. The Uniform Relocation Assistance and Real Property Acquisition Policy Act regulations in 40 CFR Part 4 provide that if it is necessary for the expeditious completion of a program or project, EPA may make advance payments for its share of the cost of relocation assistance. An EPA General Counsel opinion of December 5, 1978, advised that the Clean Water Act was never intended to restrict advance payment of relocation costs associated with a construction project.

On February 15, 1979, EPA approved a class deviation from 40 CFR 30.615–1(a) and 40 CFR 35.945 to allow the Regional Administrator to exercise discretion to make advance payments of relocation assistance costs to a construction grantee under 40 CFR 4.502(c).

Under our policy to publish class deviations in the **Federal Register**, EPA is publishing the deviation as part of this Notice. The provisions of the deviation will be incorporated in the next revision to 40 CFR Parts 30 and 35.

For further information contact: Mr. Alexander J. Greene, Director, Grants Administrator Division (PM–216), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (Tel. No. 202/755–0850).

Dated: April 17, 1979.

C. W. Carter,

Acting Assistant Administrator for Planning and Management.

Date: February 15, 1979.

Subject: Class Deviation from 40 CFR 30.615–1(a) and 35.945, Advance Payment of Relocation Assistance Under the Construction Grants Program.

From: Alexander J. Greene, Director Grants Administration Division (PM–216).

To: Regional Administrators.

40 CFR 30.615–1(a) and 35.945 provide that payment for waste treatment construction grants will be on a reimbursement basis. 40 CFR 4.502(c) provides in part that if the Administrator determines it is necessary for the expeditious completion of a program or project, he may advance the EPA share of the cost of any payment of relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Action

I am approving a limited class deviation from 40 CFR 30.615–1(a) and 35.945 for the construction grants program. This approval allows the Regional Administrators to exercise discretion to make advance payments of relocation assistance costs to a construction grantee under section 4.502(c).

Background

An Office of General Counsel opinion of December 5, 1978, advises us that section 203(b) of the Clean Water Act was never intended to restrict advance payment of relocation costs associated with a construction project. While relocation costs are not traditionally thought of as construction costs, so long as compliance with the Act is required by all Federal agencies, there is nothing in the Clean Water Act which prohibits advance payments of relocation costs.

When EPA makes advance payments for relocation costs, 40 CFR 30.615–1(b) and (d) will apply. The provision of this deviation will be incorporated in the next revision to 40 CFR Parts 30 and 35.

Dated: February 16, 1979.

Concur:

C. W. Carter for William Drayton, Jr.

Dated: February 5, 1979.

Concur:

Thomas Jorling.

cc: *Water Division Directors, Management Division Directors, Grants Administration Offices.*

[FRL 1211–2]

[FR Doc. 79–13023 Filed 4–26–79; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 100 L Street, N.W., Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, Louisiana, San Franscisco, California, and San Juan, Puerto, Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 7, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination of unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularily. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or deteriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 9901–11.

Filing Party: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P.C., 1800 Massachusetts Avenue N.W., Washington, D.C. 20036.

Summary: Agreement No. 9902–11, by and among Hapag-Lloyd Aktiengesellschaft (Hapag-Lloyd), Compagnie Generale Maritime (CGM), and Intercontinental Transporat (ICT) B.V. (ICT), amends the basic joint service agreement of Hapag-Lloyd and CGM, operating under the trade name of "Euro-Pacific Joint Service" in the trade, generally, between ports on the Pacific Coast of the United States and parts in the United Kingdom, Scandinavia and Continental Europe, by providing for the participation ICT as a party to the joint service. All deposits, costs, expenses, profits, and losses incurred by the derived from the joint service shall be shared as follows: Hapag-Lloyd, 50 percent; CGM, 30 percent; and ICT, 20 percent.

Further, the amendment provides that CGM and ICT shall appoint agents to represent their interests, and Hapag-Lloyd shall appoint separate agents to represent its interest, in which event the respective agents shall each be allocated one-half of the space available on each sailing of the joint service.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79–13088 Filed 4–26–79; 8:45 am]

BILLING CODE 6730–01–M

Astro Maritime Agency, Inc.; Independent Ocean Freight Forwarder License No. 2057; Vacating Revocation

By Decision served July 24, 1978, in Docket No. 77–53, *Licensing of Independent Ocean Freight Forwarders* (Federal Register Vol. 43, No. 146, P. 32776, July 28, 1978), the Federal Maritime Commission amended its General Order 4 (46 CFR 510) to require all licensed independent ocean freight forwarders to file with the Commission a surety bond in the amount of $30,000. Previously, a bond in the amount of $10,000 was required. The Order stated that if a licensee failed to file a bond in the increased amount on or before December 1, 1978, the license shall be revoked in accordance with Rule 510.9 of General Order 4.

Following the Order of July 24, 1978, the Commission published a Notice of Revocation in the **Federal Register** on January 3, 1979, which identified various-named licensees which had failed to file the required surety bond within the period specified, and in accordance with the terms of that Order, the licenses held by those identified parties were revoked.

After December 1, 1978, Astro Maritime Agency, Inc. obtained a valid surety bond with an effective date on or before December 1, 1978, in accordance with the Commission's Order of July 24, 1978. Substantive compliance with the Commission's new bonding requirement has been achieved. The licensee has now evidenced continuous coverage and has met the new $30,000 minimum amount. Therefore, the revocation and the Notice of Revocation as it pertains to Astro Maritime Agency, Inc. (FMC 2057) is vacated based upon the newly discovered evidence that the new $30,000 bond has been in effect from December 1, 1978.

A copy of this Notice Vacating Revocation shall be published in the **Federal Register** and served upon the licensee.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79–13089 Filed 4–26–79; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate [Performance]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Glacier Bay Lodge, Inc., Suite 312, Park Place Building, Seattle, Washington 98101.

Dated: April 24, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79–13087 Filed 4–26–79; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Austin Bancshares Corp.; Acquisition of Bank

Austin Bancshares Corporation, Austin, Texas, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Austin National Bank Northwest, Austin, Texas, a proposed *de novo* bank. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 18, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 19, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79–13011 Filed 4–26–79; 8:45 am]

BILLING CODE 6210–01–M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in

writing and received by the appropriate Federal Reserve Bank not later than May 21, 1979.

A. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

Rainier Bancorporation, Seattle, Washington (finance, leasing, and insurance activities; Washington): to engage, through its subsidiary, Rainier Credit Company, in making or acquiring loans and other extensions of credit, including making consumer installment loans, purchashing consumer installment sales finance contracts, and making loans to small businesses; leasing personal property and equipment, or acting as agent, broker, or advisor in such leasing in accordance with the Board's Regulation Y; and acting as agent or broker with regard to life, disability, and property and casualty insurance directly related to its extensions of credit. These activities would be conducted from an office in Vancouver, Washington, and the geographic area to be served is the southwestern portion of Washington.

B. *Other Federal reserve Banks:* None.

Board of Governors of the Federal Reserve System, April 20, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-13012 Filed 4-26-79; 8:45 am]

BILLING CODE 6210-01-M

European American Bancorp; Proposed Establishment of Foreign Branch

European American Bancorp, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to establish an office in Luxembourg of its subsidiary, European American Banking Corporation, New York, New York. Applicant states that the new office would engage in international banking activities in Luxembourg, principally making interbank Eurodollar and Eurocurrency placements and deposits, Eurodollar and Eurocurrency commercial loans, and foreign exchange transactions. Certain of these activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b), and others have not.

Interested persons may express their views on the question whether, the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 18, 1979.

Board of Governors of the Federal Reserve System, April 19, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-13013 Filed 4-26-79; 8:45 am]

BILLING CODE 6210-01-M

First National Bank Shares, Ltd.; Formation of Bank Holding Company

First National Bank Shares, Ltd., Great Bend, Kansas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 61.4 percent or more of the voting shares of First National Bank and Trust Company, Great Bend, Kansas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 16, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-13014 Filed 4-26-79; 8:45 am]

BILLING CODE 6210-01-M

First National Bancshares Corp.; Formation of Bank Holding Company

First National Bancshares Corporation, Lexington, Tennessee, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of The First National Bank of Lexington, Lexington, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than May 18, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 19, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-13015 Filed 4-26-79; 8:45 am]

BILLING CODE 6210-01-M

Independent Bank Corp.; Acquisition of Bank

Independent Bank Corporation, Ionia, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3) to acquire 100 per cent of the voting shares of the successor by consolidation to the Olivet State Bank, Olivet, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 21, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 19, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-13016 Filed 4-26-79; 8:45 am]

BILLING CODE 6210-01-M

Marshall County Bankshares, Inc.; Formation of Bank Holding Company

Marshall County Bankshares, Beattie, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 86 per cent of the voting shares (less directors' qualifying shares) of First National Bank, Beattie, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than May 17, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 17, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-13017 Filed 4-26-79; 8:45 am]

BILLING CODE 6210-01-M

Pittsburgh National Corp.; Proposal To Engage De Novo in Insurance Activities

Pittsburgh National Corporation, Pittsburgh, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the underwriting, on a reinsurance basis, of credit life and credit accident and health insurance sold in connection with extensions of credit by Applicant's subsidiary, Pittsburgh National Bank, Jeannette, Pennsylvania. These activities would be performed from offices of Applicants' subsidiary, Pittsburgh National Life Insurance Company, Phoenix, Arizona, and the geographic areas to be served are the following six counties in Pennsylvania: Westmoreland, Allegheny, Washington, Fayette, Indiana and Butler Counties. Such activity has been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 14, 1979.

Board of Governors of the Federal Reserve System, April 18, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-13018 Filed 4-26-79; 8:45 am]

BILLING CODE 6210-01-M

Request for Comments on Federal Reserve Handling of Noninterest Bearing Negotiable Orders of Withdrawal (NINOWs) and Other "Check-like" Payment Instruments

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comments on Federal Reserve handling of noninterest bearing negotiable orders of withdrawal (NINOWs) and other "check-like" payment instruments.

SUMMARY STATEMENT: The Board of Governors is considering two questions involving the handling of new "check-like" payments instruments in the Federal Reserve's check collection process. These questions are: (1) should Federal Reserve Banks continue to collect, as cash items, noninterest bearing negotiable orders of withdrawal ("NINOWs"), and (2) what other types of payments instruments should be handled by the Federal Reserve's collection system. These questions address the same policy issues concerning the appropriateness of the System's handling, as cash items, increasing numbers and varieties of hybrid "check-like" payment instruments whose legal characteristics vary from those of traditional checks. The Board has invited public comment on these questions by June 1, 1979.

DATE: Comments must be received on or before June 1, 1979.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All materials submitted should refer to docket number R-0220.

FOR FURTHER INFORMATION CONTACT: Allen L. Raiken, Associate General Council ((202) 452-3625); or Lee S. Adams, Senior Attorney ((202) 452-3594), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Board of Governors is reviewing the current practice of the Federal Reserve System to collect, as cash items, noninterest-bearing negotiable orders of withdrawal ("NINOWs") payment instruments that are drawn on mutual savings banks in the State of Pennsylvania. This review has been made necessary because the Supreme Court of Pennsylvania in 1978 ruled that NINOWs in their present form are not payable on demand and hence are not checks within the Uniform Commercial Code definition *(Pennsylvania Bankers Association* v. *Secretary of Banking,* (October 5, 1978)).

Because the Board's definition of cash item in Regulation J (12 CFR 210.2(i)(2)) requires that cash items be checks or other items payable on demand, this definition, unless amended, would not permit Reserve Banks to continue to handle NINOW instruments as cash items. Before reaching a decision on

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whether or not to amend Regulation J, the Board believes that it will be helpful to receive comments from interested parties on whether such an amendment, which would permit the continued handling of NINOWs by the Federal Reserve System, would be in the public interest and consistent with the Federal Reserve's responsibilities for ensuring an efficient payment system.

Reserve Banks have been handling NINOW instruments as cash items since regulations were issued in 1977 by the Pennsylvania Secretary of Banking that permitted State-chartered mutual savings banks to offer NINOWs to their depositors. That State's regulations require that NINOW instruments bear on their face a legend stating that the mutual savings bank reserves the right to require not less than 14 days' prior withdrawal notice before paying the instrument. In determining that the Secretary of Banking had authority to issue this regulation, the Supreme Court of Pennsylvania recently stated that because of this legend, a NINOW "is obviously not 'payable on demand' and hence not a check within the Uniform Commercial Code definition." Under commercial law, therefore, NINOWs would be considered time drafts rather than demand drafts.

The Board has been requested to consider whether Reserve Banks should continue handling these instruments as cash items. If it is determined that NINOW instruments should be collected through Federal Reserve facilities, Regulation J must be amended. Such an amendment could provide that a Federal Reserve Bank is authorized to accord cash item treatment to any payment instrument that is determined to have characteristics consistent with treatment as a cash item.

Such an amendment raises broad issues concerning the types of payments instruments which should be handled by the Federal Reserve's payments collection system. It is likely that, in the future, additional variations of traditional checks and drafts will be made available to the public, and thus it is expected that questions also will be raised whether the Federal Reserve System's "cash item" collection mechanism should accommodate these instruments. For example, the Federal Home Loan Bank Board has proposed, 43 FR 52254 (November 9, 1978), to allow Federal savings and loan associations to permit customers to issue nonnegotiable nontransferable orders for payment. A payment instrument is "negotiable" if it provides "holder in due course" status upon transfer, and "transferability" refers to the assignment of rights in the instrument. While an amendment to Regulation J would be necessary to permit handling of NINOW drafts, such an amendment may not be required to permit the handling of the proposed savings and loan payment order provided such instruments are payable on demand.

The permissibility and appropriateness of such items being handled through the Federal Reserve System have already been the subject of discussion between the staffs of the two agencies. While an amendment to Regulation J to permit handling of NINOW drafts would not necessarily address the Federal Home Loan Bank Board proposal, since no amendment may be required, the Board wishes guidance on the extent to which the cash item definition in Regulation J should be amended or the Board's present policies should be broadened to permit handling of new payments instruments, some of which may be nonnegotiable or nontransferable.

The Board is cognizant of the problems of setting appropriate definitional parameters if Regulation J were changed to permit cash item handling of NINOWs or if payment orders were accorded cash item treatment. Thus the Board would appreciate comment on the scope of change desirable and the most logical point to draw the distinction between cash and noncash collection items.

The Board is also aware that NINOWs have obtained general public acceptance in Pennsylvania and the Federal Reserve System has not experienced any difficulties in providing its collection facilities for these instruments. The Board solicits comment from commercial banks whether they have experienced any difficulties in collecting NINOWs deposited with them and, if so, what is the nature of these difficulties. In addition, the Board wishes to know what possible future difficulties commercial banks might experience if NINOWs gain wide acceptance. It is recognized that a significant number of customers of mutual savings banks and others could be inconvenienced if NINOW instruments were less readily acceptable in the marketplace because they could no longer be collected through the Federal Reserve. The Board is concerned about the potential impact that a failure to amend Regulation J ultimately would have on consumers using NINOW instruments in Pennsylvania and therefore solicits comment on the public benefits that would occur if such an amendment were adopted to permit continued collection of these instruments. Comment is requested on the acceptance by the public of NINOWs for the payment of goods or services, and on the number of individuals who are using NINOWs as payment instruments.

The Board notes that NOW instruments authorized by Federal law, which are also subject to a notice of withdrawal, do not require any legend. Further, the legend itself may not be fully informative since in offering these instruments a mutal savings bank whose deposits are insured by the Federal Deposit Insurance Corporation must provide for a 30-day notice of withdrawal period, which is a greater restriction than the 14-day period required for NINOWs by State law and reflected in the legend on the instrument. Comment is requested on the consumer protection value that the notice of withdrawal legend serves. In addition, the Board solicits comment on the costs, if any, that would be experienced by financial institutions both in competition and risk exposure by the Federal Reserve continuing to handle these instruments as cash items. Commenters may also wish to address the likelihood of State action to remove the legend requirements and thus make unnecessary further Board consideration of an amendment to the cash item definition in Regulation J.

To aid the Board in its consideration of this matter, interested persons are invited to submit comments, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 1, 1979. Such material will be made available for inspection and copying upon request except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

Board of Governors of the Federal Reserve System, April 18, 1979.

Theodore E. Allison,

Secretary of the Board.

[Docket No. R-0220]

[FR Doc. 79-13010 Filed 4-26-79; 8:45 am]

BILLING CODE 6210-01-M

Shelbank, Corp.; Formation of Bank Holding Company

Shelbank, Corp., Sheldon, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85.73 percent or more of the voting shares of Sheldon State Bank, Sheldon, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of facts that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 18, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-13019 Filed 4-26-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Pharmaceutical Reimbursement Board; Proposed MAC's and Announcement of Public Hearing

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Correction of Error.

SUMMARY: In FR document Vol. 44, No. 70, appearing in the **Federal Register** on April 10, 1979 at page 21367, an error occurred in the proposed maximum allowable cost (MAC) limit on penicillin G 400 mu tablets. The proposed limit should read $.0237 instead of $.0235.

FOR FURTHER INFORMATION CONTACT: Mr. Peter J. Rodler, Executive Secretary, Pharmaceutical Reimbursement Board, 3076 Switzer Building, 330 C Street, S.W., Washington, D.C. 20201, 202-472-3820.

Dated: April 23, 1979.

Peter J. Rodler,

Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc. 79-12998 Filed 4-26-79; 8:45 am]

BILLING CODE 4110-35-M

Office of the Assistant Secretary for Health

Select Panel for the Promotion of Child Health; Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the Select Panel for the Promotion of Child Health, established pursuant to Section 211 of the Health Services and Centers Amendments of 1978 (Pub. L. 95-626), will meet on Thursday, May 3, at 9:00 a.m. in Room 607G1, on the sixth floor of the Hubert H. Humphrey Building, Third Street and Independence Avenue, S.W., Washington, D.C. The Panel has responsibility for the formulation of national goals with respect to the promotion of the health status of children and expectant mothers, the development of a comprehensive national plan for the achievement of these goals and otherwise promoting the health of children in the United States, and, the transmittal of a report to the Secretary and the Congress detailing the comprehensive national plan and recommendations for administrative, legislative, and other actions necessary to implement this plan and to otherwise promote the health of children in the United States. This first meeting of the Panel will be devoted to organizational matters and to planning the Panel's activities in carrying out the mandate contained in Pub. L. 95-626. Meetings of the Panel are open for public observation.

Scheduling considerations prevented the publication of this Notice in compliance with the normal requirements of Pub. L. 92-463.

Further information on the Panel may be obtained by contacting Thomas P. Reutershan, Acting Staff Director, Select Panel for the Promotion of Child Health, Room 731G, Hubert H. Humphrey Building, 300 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 472-5588.

Dated: April 23, 1979.

Thomas P. Reutershan,

Acting Staff Director, Select Panel for the Promotion of Child Health.

[FR Doc. 79-13310 Filed 4-26-79; 8:45 am]

BILLING CODE 4110-85-M

Center for Disease Control

Workshop on Occupational Health Engineering Control Technology; Open Meeting

The following workshop will convened by the National Institute for Occupational Safety and Health of the Center for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: May 16-17, 1979
Time: May 16, 8:15 a.m. to 5 p.m., May 17, 9 a.m. to 11:30 a.m.
Place: Room 5407D, Federal Building, 550 Main Street, Cincinnati, Ohio 45202.
Purpose: To discuss the needs for occupational health engineering training in universities.

Additional information may be obtained from:

Mr. Al Amendola, Division of Physical Sciences and Engineering, National Institute for Occupational Safety and Health, Center for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: 513-684-4221.

Dated: April 23, 1979.

Robert L. Kaiser,

Acting Director, Center for Disease Control.

[FR Doc. 79-13076 Filed 4-26-79; 8:45 am]

BILLING CODE 4110-87-M

Food and Drug Administration

Chlortetracycline Soluble Powders; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces the effective indications for which chlortetracycline soluble powders for animal use may be marketed and proposes to withdraw approval of new animal drug applications (NADA's) for products labeled for conditions lacking substantial evidence of effectiveness. The agency is also providing an opportunity for hearing on the indications that lack such evidence.

DATES: Written appearances requesting a hearing, comments in response to this notice, and supplements to NADA's must be submitted by May 29, 1979; supporting data by June 26, 1979.

ADDRESSES: Written appearances requesting a hearing, and written comments, to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857; supplements to NADA's to the Division of Drugs for Swine and Minor Species (HFV-130), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Donald Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: Published elsewhere in this issue of the **Federal Register** is a proposal to amend § 546.110c *Chlortetracycline powder (chlortetracycline hydrochloride powder)* (21 CFR 546.110c) by deleting

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the indications for use that lack substantial evidence of effectiveness. This document announces the effective indications for which chlortetracycline soluble powders may be marketed and provides an opportunity for hearing on the other indications.

A. The Drug

Generic name: Chlortetracyline, as bisulfate or hydrochloride.

Dosage form: Soluble powder.

The following companies either hold or have held effective approvals for products that were evaluated by the National Academy of Sciences/National Research Council (NAS/NRC) under the Drug Efficacy Study Implementation (DESI) or have marketed similar products that are covered by this notice:

NADA 55–020, Aureomycin Soluble Powder (chlortetracycline bisulfate); NADA 65–071, Aureomycin Soluble Powder (chlortetracycline hydrochloride); NADA 65–217, Aureomycin Soluble Powder (chlortetracycline bisulfate); NADA 65–440, Aureomycin Soluble Concentrate (chlortetracyline hydrochloride). American Cyanamid Co., P.O. Box 400, Princeton, NY 08540.

NADA 65–025, Chemichloro S (chlortetracycline soluble powder). Chemifer s.p.a., Milan, Italy (firm no longer in existence).

NADA 65–178, Chlortetracycline Hydrochloride Soluble Powder, Chlortetracycline Bisulfate Soluble Powder. Diamond Shamrock Corp., Nutrition & Health Division, 1100 Superior Ave., Cleveland, OH 44114.

NADA 65–096 (DESI–049), Tetra-Plus, and Vita Treet (vitaminized antibiotic formula containing chlortetracycline). Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, MO 64502.

NADA 65–253, Prochlor-S (chlortetracycline soluble powder). Pierrel America, Inc., 576 Fifth Ave., New York, NY 10036.

NAS–038, Purina Boost-R-Aid (chlortetracycline with vitamins soluble powder). Ralston Purina Co., Checkerboard Square, St. Louis, MO 63199.

NADA 65–077, Chlortetracycline Soluble Powder. Rhinecliff Labs., 723–733 E. Manchester Ave., Los Angeles, CA 90001 (firm no longer in existence).

NADA 65–256, Vi-Mycin (chlortetracycline hydrochloride soluble powder). Vineland Laboratories, Inc., Vineland, NJ 08360.

Under section 108(b)(2) of Pub. L. 90–399 (82 Stat. 353), the Animal Drug Amendments of 1968, any approval of a new animal drug granted prior to the effective date, whether through approval of a new drug application, master file, antibiotic regulation, or food additive regulation, continues in effect until withdrawn in accordance with the provisions of section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b). Many such approvals were made long ago and may never have been used by the holder of the approval. Consequently, the current Food and Drug Administration (FDA) files may be incomplete and may not reflect the existence of some approvals. Also, many approvals have been withdrawn by other agency actions. To permit definitive revocation or amendment of the regulations, the burden of coming forward with proof of an unnamed approval in such circumstances is therefore properly placed on the holder.

The director of the Bureau of Veterinary Medicine, FDA, knows of no approvals affected by this proposal other than those named herein. Any person who intends to assert or rely on such an approval that is not listed in this notice shall submit proof of its existence within the period allowed by this notice for opportunity to request a hearing. The failure of any person holding such a approval to submit proof of its existence within that period shall constitute a waiver of any right to assert or rely on it. If proof of the existence of such an approval is presented, this notice shall also constitute an notice of opportunity for hearing with respect to that approval, under the same requirements as to the approvals named in this notice.

B. Labeled Uses

In chickens: For prevention, control, and treatment of chronic respiratory disease (air sac infection) and blue comb (nonspecific infectious enteritis); for prevention and control of synovitis; for control of mortality due to fowl cholera.

In turkeys: For prevention, control, and treatment of blue comb (nonspecific infectious enteritis, mud fever); for prevention and treatment of infectious sinusitis and hexamitiasis; for prevention and control of synovitis.

In swine: For prevention, control, and treatment of bacterial enteritis; for prevention, control, and treatment of bacterial pneumonia.

In cattle: For treatment of bacterial diarrhea and shipping fever; for control and treatment of bacterial pneumonia and bacterial enteritis.

C. Background

1. *NAS/NRC review of chlortetracycline with vitamins for water medication.* In the **Federal Register** of June 20, 1970 (35 FR 10162, DESI 2–0038NV), FDA announced the conclusions of the NAS/NRC Drug Efficacy Study Group for Purina Boost-R-Aid (various vitamins with 5 grams (g) of chlortetracycline hydrochloride per pound) marketed by Ralston Purina Co. The product is intended for use in poultry drinking water for the prevention and treatment of certain respiratory diseases in chickens and turkeys under normal conditions and during periods of stress. The NAS/NRC concluded the product was probably not effective as an antibiotic-vitamin fortification for use in the presence of diseases during periods of stress such as chilling, moving, vaccination, and debeaking. The NAS/NRC stated:

(1) The effectiveness of the recommended dosage schedule has not been adequately documented;

(2) Administration of the drug via drinking water for severely ill animals is questioned;

(3) Information is needed to document the value of vitamins in the preparation;

(4) Dose response curves are needed for many of the recommended uses;

(5) Each disease claim should be qualified as "appropriate for use in (*name of disease*) caused by pathogens sensitive to (*name of drug*)." If the disease cannot be so qualified, the claim must be dropped;

(6) Claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of";

(7) The label should carry a warning statement that treated animals must actually consume enough medicated water to provide a therapeutic dose under the conditions that prevail and, as a precaution, state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparation in drinking water; and

(8) Substantial evidence was not presented to estalish that each ingredient designated as active makes a contribution to the total effect claimed for the drug combination.

FDA agreed with the NAS/NRC evalution and recommendations.

2. *NAS/NRC review of certain feed premixes containing chlortetracyline.* In the **Federal Register** of July 21, 1970 (35 FR 11646, DESI 0113NV), FDA announced the conclusions of the NAS/NRS Drug Efficacy Study Group on certain feed premixes containing chlortetracycline. In this review were several chlortetracycline soluble powders, including:

a. Aureomycin Soluble Powder, containing 25 g chlortetracycline hydrochloride per pound; marketed by American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540.

b. Nopco CTC 4/ss, containing 4 g chlortetracycline per pond and 50 percent sodium sulfate; originally marketed by Nopco Chemical Co., Fine Chemicals Division, 60 Park Place, Newark, NJ 07111.

c. Nopco CTC 6.66/ss, containing 6.6 g chlortetracycline and 83.33 percent sodium sulfate; originally marketed by Nopco Chemical Co.

d. Nopco CTC 10, 25, 50, and 100; containing 10, 25, 50, and 100 g of chlortetracycline per pound, respectively; originally marketed by Nopco Chemical Co.

The NAS/NRC evaluated these products as probably effective for growth promotion, feed efficiency, and the treatment of animal diseases caused by pathogens sensitive to chlortetracycline.

The NAS/NRC stated:

(1) Claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of";

(2) Claims for growth promotion or stimulation are disallowed and claims for faster gains and/or feed efficiency should be stated as "may result in faster gains and/or improved feed efficiency under appropriate conditions";

(3) Each disease claim should be properly qualified as "appropriate for use in *(name of disease)* caused by pathogens sensitive to *(name of drug)*"; if the disease cannot be so qualified, the claim must be dropped;

(4) Claims pertaining to egg production and hatchability should be changed to "may aid in maintaining egg production, and hatchability, under appropriate conditions, by controlling pathogenic microorganisms";

(5) The labels should warn that treated animals must actually be consuming enough medicated water or medicated feed to provide a therapeutic dosage under the conditions that prevail and, as a precaution, state the desired oral dose per unit of animal weight per day for each species as a guide to effective usage of the preparation in drinking water; and

(6) Effective blood levels are required for each recommended dosage.

FDA agreed with the NAS/NRC evaluation; however, the agency concluded the claims for faster weight gains and improved feed efficiency should be reworded as "for increased rate of weight gain and improved feed efficiency for (under appropriate conditions of use)."

NAS/NRC review of certain drug products containing chlortetracycline. In the **Federal Register** of August 22, 1970 (35 FR 13485, DESI 0048NV), FDA announced the conclusions of the NAS/NRC Drug Efficacy Study Group concerning several chlortetracycline products, including the following soluble powders:

a. Tetra-Plus, Vitamized Antibiotic Formula (each pound contains 16 g of chlortetracycline as chlortetracycline hydrochloride, 4 milligrams (mg) of vitamin B_{12} supplement, 500,000 international units (IU) of vitamin A, 400,000 IU vitamin D^3, 128,000 IU vitamin C, 100 IU vitamin E, 1.8 g of riboflavin, 5.6 g of niacin, 2.4 g *d*-calcium pantothenate, 900 mg of ferrous carbonate, and 520 mg of cobalt carbonate); marketed by Bio-Ceutic Laboratories, 2621 North Belt Highway, St. Joseph, MO 64502.

b. Vita-Treet, Vitamized Antibiotic Formula (each pound contains 16 g of chlortetracycline as chlortetracycline hydrochloride, 4 mg of vitamin B_{12} supplement, 500,000 IU vitamin A, 400,000 IU vitamin D_3, 128,000 IU vitamin C, 100 IU vitamin E, 1.8 g of riboflavin, 5.6 g of niacin, 2.4 g of *d*-calcium pantothenate, 900 mg of ferrous carbonate, and 520 mg of cobalt carbonate); marketed by Anchor Serum Co., a division of Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, MO 64502.

The NAS/NRC classified these preparations as probably not effective for the prevention and treatment of scours in calves and for the prevention and treatment of infections in cattle, chickens, swine, sheep, and turkeys.

The NAS/NRC stated:

(1) Each disease claim should be properly qualified as "appropriate for use in *(name of disease)* caused by pathogens sensitive to *(name of drug)*," and if the disease claim cannot be so qualified, the claim must be dropped;

(2) Claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of";

(3) Each active ingredient in a preparation containing more than one drug must be effective, or contribute to the effectiveness of the preparation, to warrant acceptance as an active ingredient. Tetra-Plus and Vita-Treet have not satisfied these conditions; and

(4) The label should warn that treated animals must actually consume enough medicated water or medicated feed to provide a therapuetic dose under the conditions that prevail, and, as a precaution, the label should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparation in drinking water or feed.

Again, FDA agreed with the NAS/NRC findings.

4. Request for additional information. Each of the above announcements informed the drug sponsors of the NAS/NRC and FDA conclusions about the effectiveness of the drug and gave notice to all interested persons that such articles must be the subject of an approved NADA and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act for continued marketing; 6 months were provided to submit adequate documentation in support of the labeling used.

5. *FDA policy regarding vitamins as active ingredients.* FDA will not approve an application for any new animal drug dosage form, regardless of route of administration, if it contains nutritional ingredients (i.e., vitamins and minerals), unless each nutritional ingredient qualifies as an active ingredient and the product is labeled with appropriate directions for use. If a single claim for the treatment or control of a disease is made, the nutrient ingredients must be demonstrated as contributing in an additive manner to the overall efficacy of the label claim; if separate claims are made for the nutritional components other than those made for the drug component, e.g., for the treatment of dietary deficiency disease as a concurrent problem in an animal suffering from a particular disease for which the drug component is proposed, then the data must be adequate to show that the nutritional deficiency does occur concurrently with the disease in question in a significant portion of the target population.

D. Effectiveness Classification

In response to the NAS/NRC findings, Philips Roxane, Inc., submitted data that established the safety and effectiveness of chlortetracycline soluble powder as an aid in the control and treatment of bacterial pneumonia and bacterial enteritis in calves and swine. The Philips-Roxane application was approved and § 546.110c amended to identify the sponsor and the approved indications for use in the **Federal Register** of June 14, 1976 (42 FR 23947). The approved indications of use were footnoted to indicate that they were deemed effective by NAS/NRC and FDA, and that applications for these uses need not include the efficacy data required by § 514.111 (21 CFR 514.111), but that bioequivalency and safety data may be required.

The Philips-Roxane approval was identified as NADA 65–096V in the June 14, 1976 notice; however, because NADA 65–096V refers to Philips Roxane's vitamized antibiotic formulations with chlortetracycline (Vita Treet and Tetra Plus), the approved drug has been assigned NADA 65–480. Philips Roxane's vitamized antibiotic formulations with chlortetracycline, NADA 65–096V, is subject to this notice of opportunity for hearing. The approved indications of use in § 546.110c(c)(5)(iii) and (iv) are as follows:

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a. Chlortetracycline hydrochloride soluble powder may be used in the drinking water of swine at one g per gallon to provide approximately 10 mg per pound of body weight daily. It is used as an aid in the control and treatment of bacterial enteritis (scours) caused by *Escherichia coli* and bacterial pneumonia accociated with *Pasteurella* spp., *Hemophilus* spp., and *Klebsiella* spp.

b. Chlortetracycline hydrochloride soluble powder may be used as a drench in calves at one level teaspoonful per each 98 pounds of body weight every 12 hours to provide approximately 10 mg per pound of body weight daily. It is used as an aid in the control and treatment of bacterial enteritis (scours) caused by *Escherichia coli* and bacterial pneumonia (shipping fever) associated with *Pasteurella* spp., *Hemophilus* spp., and *Klebsiella* spp. The Director has reviewed the NAS/NRC reports and also concludes that chlortetracycline hydrochloride soluble powder is effective in calves and swine when used at 10 mg per pound body weight daily as an aid in the control and treatment of bacterial enteritis (scours) caused by *Salmonella* spp.

The Director has reviewed the NAS/NRC reports and other published materials (Refs. 1 through 11) pertaining to chlortetracycline soluble powder for use in the drinking water of chickens and turkeys and concludes that it is effective for the following indications:

a. Chlortetracycline hydrochloride may be used in the drinking water of chickens at 200 to 400 mg per gallon when labeled for use as an aid in the control of infectious synovitis caused by *M. synoviae* suspeptible to chlortetracycline.

b. Chlortetracycline hydrochloride may be used in the drinking water of chickens at 400 to 800 mg per gallon when labeled for use as an aid in the control of chronic respiratory disease (CRD) or air sac infection caused by *M. gallisepticum* and *E. coli* susceptible to chlortetracycline.

c. Chlortetracycline hydrochloride may be used in the drinking water of turkeys at 400 mg per gallon when labeled as an aid in the control of infectious synovitis caused by *M. synoviae* susceptible to chlortetracycline.

d. Chlortetracycline hydrochloride may be used in the drinking water of growing turkeys at a drug level per gallon to provide approximately 25 mg per pound of body weight daily when labeled for use as an aid in the control of bluecomb (transmissible enteritis) complicated by organisms susceptible to chlortetracycline.

Additionally, chlortetracycline preparations for use in the drinking water of animals must warn that the concentration of drug required in medicated water must be adjusted to compensate for variation in the age of the animal, class for chickens and turkeys, and environmental temperature, each of which affects water consumption. The sponsor should provide directions to obtain the drug levels needed. Chlortetracycline preparations for use in the drinking water of chickens and turkeys must also be labeled with directions for use and a warning statement as follows:

1. Directions for Use—Chickens and Turkeys. Administer for 7 to 14 days. Medicate continuously at the first clinical signs of disease. The dosage ranges permitted provide for different levels based on the severity of the infection. Consult a poultry diagnostic laboratory or a poultry pathologist to determine the diagnosis and advice regarding the optimal level of the drug where ranges are permitted. The desired oral dose per unit of animal weight per day must be stated as a guide to effective use in drinking water.

2. Warning: Use as the sole source of chlortetracycline. Not to be used for more than 14 consecutive days. Do not use in laying chickens. For growing turkeys only. Caution: Prepare a fresh solution ——— (the blank to be filled in by the time period for which stability data are available).

This evaluation is concerned only with the effectiveness and safety of these drugs to the animal to which they are administered. It does not take into account the safety of food products derived from drug-treated animals. Nothing in this notice prevents further proceedings on questions of safety of these drugs or their metabolites as residues in food products derived from treated animals.

The Director also concludes that there lacks substantial evidence of effectiveness for all other labeled indications for chlortetracycline soluble powder, and that chlortetracycline soluble powder in combination with vitamins is not supported by adequate data to establish that the vitamins contribute to the overall efficacy of the label claims, or that a nutritional deficiency occurs concurrently with the disease being treated.

F. Marketing

Chlortetracycline soluble powders that are the subject of an approved NADA may continue to be marketed provided that, on or before May 29, 1979, the holder of the application submits, if he or she has not previously done so, (1) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (2) a supplement to provide updating information with respect to items 4 (components and composition) and 5 (manufacturing methods, facilities, and controls) of the NADA FD Form 356V (see § 514.1(b) (21 CFR 514.1(b))). Any products that are approved but that were not reviewed by NAS/NRC may additionally be required to submit bioequivalency and safety data.

Sponsors of products for chlortetracycline soluble powders that are not subject of an approved NADA who submit applications for the effective conditions of use identified in this notice need not include efficacy data required by § 514.111 for these uses but may be required to submit bioequivalency and safety data. The approval of an NADA must be obtained prior to marketing any such products. Marketing prior to approval of an NADA will subject such products, and those persons who caused the products to be marketed, to regulatory action. NADA's and supplemental NADA's that are filed in response to this notice and comply with the requirements set forth will be approved and notice will be published in the **Federal Register**, amending the appropriate regulations in accord with the approval and identifying the sponsor pursuant to section 512(i) of the act.

G. Notice of Opportunity for a Hearing

Section 512 of the act requires that a new animal drug have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. Section 512 of the act imposes a precise standard for demonstrating effectiveness: Effectiveness must be established by substantial evidence based upon adequate and well-controlled investigations, as provided in § 514.1(b)(8)(ii). Additionally, for the chlortetracycline soluble powder products that are in combination with vitamins, § 514.1(b)(8)(v) requires that each ingredient designated as active must make a contribution to the effect in the manner claimed or suggested in the labeling, and if, in the absence of express labeling claims of advantages for the combination, such a product purports to be better than either component alone, it must be established that the new animal drug has that purported effectiveness. The requirement of effectiveness includes the requirement that the most effective level for each component be used. In the case of drug combinations for concurrent therapy, the requirement of effectiveness also includes the requirement that the dosage of each component is such that the combination is safe and effective for a population of significant size specifically described in the labeling as requiring such concurrent therapy. On the basis of all available data and information, the Director is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 512 of the act, § 514.1(b)(8)(ii), and, for the vitamin combination products, § 514.1(b)(8)(v), demonstrating the effectiveness of chlortetracycline soluble powders for their labeled indications of use other than the effective claims as stated in this notice.

Therefore, notice is given to the holders of the approvals of the products listed above and to all other interested persons, that the Director proposes to issue an order under section 512(e) of the act and under section 108(b) of Pub. L. 90–399 withdrawing approval of the NADA's providing for any claims other than for those classified in this notice as effective. The ground for the proposed withdrawal is that new information about the drug products, provided by the NAS/NRC reviews, evaluated together with the evidence available at the time of their approval, shows there is a lack of substantial evidence that the drug products meet the requirements of section 512 of the act and the regulations promulgated thereunder. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

This notice of opportunity for hearing encompasses, in addition to the ground for the proposed withdrawal of the approvals, all issues relating to the legal status of the drug products subject to it, e.g., any contention that any such product is not a new animal drug within the meaning of section 201(w) of the act (21 U.S.C. 321(w)).

In accordance with the provisions of section 512 of the act, section 108 of Pub. L. 90–399, and the regulations promulgated thereunder (21 CFR Part 514), the holders of approvals for the drug products named above and all other persons subject to this notice are hereby given an opportunity for a hearing to show why approval of the NADA's providing for claims other than those identified in this notice as effective should not be withdrawn and an opportunity to raise, for administrative determination, all issues related to the legal status of the drug products named above. Any other interested person may also submit comments on this notice within the time and under the requirements specified in this notice.

If a holder of an approval or any other interested party elects to avail itself of an opportunity for hearing under section 512(e)(1)(C) of the act and § 514.200 (21 CFR 514.200), the party must file with the Hearing Clerk (address above) a written appearance requesting such a hearing by May 29, 1979, and provide a well-organized and full-factual analysis of the scientific and other investigational data that the party is prepared to prove by June 26, 1979, in support of its opposition to the Director's proposal.

Such analysis shall include all protocols and underlying raw data. The Director requests that the information by submitted in accordance with the provisions of § 314.200(c)(2) and (d) (21 CFR 314.200(c)(2) and (d)), which are hereby made applicable to this notice by reference. Wherever in § 314.200(d) reference is made to the requirements of § 300.50 (21 CFR 300.50), that reference shall be deemed, for the purposes of this notice, to be a reference to the requirements for combination drug products as expressed in § 514.1(b)(8) and this notice.

The failure of the holder of an approval, or any other party subject to this notice, to file timely written appearance and request for hearing as required by § 514.200 constitutes an election by such party not to avail itself of the opportunity for a hearing concerning the action proposed with respect to such drug products and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product labeled other than for the effective claims identified in this notice may not thereafter lawfully be marketed, and FDA will initiate appropriate regulatory action to remove such drug product(s) from the market. Any new animal drug product marketed without an approved NADA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must sety forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data submitted and from the reasons and a factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the drug products and revocation or amendment of the underlying monographs (for example, no adequate and well-controlled clinical investigations to support the claims of effectiveness have been identified), the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions, and denying a hearing, and any applicable regulation will be immediately revoked or amended consistent with such determination without further opportunity for objection or hearing.

Written appearances requesting a hearing and comments responding to this opportunity for hearing shall be filed, on or before May 29, 1979, in five copies, identified with the Hearing Clerk docket number found in brackets in the heading of this document, with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857. Such submissions, except for data and information prohibited from public disclosure under section 301(j) of the act (21 U.S.C 331(j)) or 18 U.S.C. 1905, may be seen in the Hearing Clerk's office from 9 a.m. to 4 p.m., Monday through Friday.

Submissions of NADA's or supplemental NADA's in accord with the NAS/NRC-reviewed claims deemed effective by this notice shall be submitted to the Division of Drugs for Swine and Minor Species (HFV–130), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

H. References

The following references have been placed on file in the office of the Hearing Clerk, FDA, and may be seen in that office from 9 a.m. to 4 p.m., Monday through Friday:

(1) "Diseases of Poultry," 6th Ed., Edited by N. O. Olson, Iowa State University Press, pp. 328–329, 1972.

(2) Snoeyenbos, G. H., H. I. Basch, and M. Sevoian, "infectious Synovitis: II. Drug Prophylaxis and Therapy," *Avian Diseases*, 2:514–530, 1975.

(3) Olson, N.O., D. C. Shelton, J. K. Bletner, and C. E. Weakley, "Infectious Synovitis Control. II. A Comparison of Levels of Antibiotics." *American Journal of Veterinary Research*, 18:200–203, 1957.

(4) Cover, M. S., W. J. Benton, L. M. Green, and F. D'Armi, "Potentiation of Tetracycline Antibiotics with Terephthalic Acid and Low Dietary Calcium," *Avian Diseases*, 3:354–361, 1959.

(5) "Diseases of Poultry," 6th Ed., Edited by N. O. Olson, Iowa state University Press, p. 750, 1972.

(6) Pomeroy, B. S. and J. M. Seiburth, "Bluecomb Diseases of Turkeys,"

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Proceedings of Annual Meeting of the American Veterinary Medical Association, pp. 321–328, 1953.

(7) Peterson, E. H. and T. A. Hymas, "Antibiotic in the Treatment of an Unfamiliar Turkey Disease," *Poultry Science*, 30:466–468, 1951.

(8) Olesiuk, O. M., H. Van Roekel, and N. K. Chandiramini, "Antibiotic Medication of Chickens Experimentally Infected with Mycoplasma Gallisepticum and Escherichia Coli," *Avian Diseases*, 8:135–152, 1964.

(9) White-Stevens, R. and G. H. Ziebel, "The Effect of Chlortetracycline (Aureomycin) on the Growth Efficiency of broilers in the Presence of Chronic respiratory Disease," *Poultry Science, 33:1164–1174, 1954.*

(10) Scott, M. L., M. C. Nesheim, and R. J. Young, "Nutrition of the Chicken," 1st Ed., Scott, pp. 332–333, 1969.

(11) "The Merck Poultry Serviceman's Manual," 2d Ed., New York, pp. 189–197, 1967.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463 as amended, 82 Stat. 343–351 (21 U.S.C. 357 and 360b)) and the Animal Drug Amendments of 1968 (sec. 108(b), Pub. L. 90–399; 82 Stat. 353), and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84).

Dated: April 19, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[Docket No. 79N–0025]

[FR Doc. 79–13009 Filed 4–26–79; 8:45 am]

BILLING CODE 4110–03–M

Salsbury Laboratories; Dr. Salsbury's Sulquin Powder; Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency withdraws approval of a new animal drug application (NADA) providing for use of a powdered premix containing sulfaquinoxaline and sulfur in chicken feed as a coccidiostat and to control mortality due to fowl cholera. The sponsor, Salsbury Laboratories, requested this action.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV–138), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Salsbury Laboratories, Charles City, IA 50616, is sponsor of NADA 6–524V which provides for use in chicken feed of Dr. Salsbury's Sulquin Powder (containing 25 percent sulfaquinoxaline and 75 percent sulfur) for prevention and control of coccidiosis and for checking mortality in outbreaks of acute fowl cholera. The NADA was originally approved July 6, 1948. By letter of December 5, 1978, the firm requested that approval of the NADA be withdrawn because the product is no longer being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 6–524V and all supplements for Dr. Salsbury's Sulquin Power is hereby withdrawn, effective April 27, 1979.

Dated: April 19, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79–13008 Filed 4–26–79; 8:45 am]

BILLING CODE 4110–03–M

Office of Education

National Advisory Council on the Education of Disadvantaged Children; Meeting/Site Visits

Notice is hereby given, pursuant to Pub. L. 92–463, that the National Advisory Council on the Education of Disadvantaged Children will hold its next meeting in Portland, Oregon on May 18 and 19, 1979. On May 17, from 1–4 p.m., the members will conduct site visits to Title I Technical Assistance Centers in Olympia, Washington; Salem, Oregon; Sacramento, California; and Boise, Idaho (states being served by the Northwest Regional Educational Laboratory (NWREL)). On May 18, the full Council will meet at the NWREL from 9:00 a.m. to 4:30 p.m., and on May 19, the Council will meet from 9:00 a.m. to 12 noon (specific location to be announced at a later date).

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The purpose of the meeting is to review the 1979–80 Annual Plan, review and approve committee activities and develop specific areas and issues for Council's Special Report on Technical Assistance Centers. The Friday, May 18 meeting will be a general session for members to meet with TAC director and personnel to discuss various topics on national evaluation efforts.

The meeting will be open to the public. Because of limited space, all persons wishing to attend should call for reservations by May 11, 1979, area code 202/724–0114 and speak with Mrs. Lisa Haywood.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children located at 425 Thirteenth Street, NW., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C. on April 24, 1979.

Gloria B. Strickland,

Acting Executive Director.

[FR Doc. 79–13044 Filed 4–26–79; 8:45 am]

BILLING CODE 4110–02–M

Social Security Administration

Advisory Council on Social Security; Public Meetings

AGENCY: Advisory Council on Social Security, HEW.

ACTION: Notice is hereby given, pursuant to Pub. L. 92–463, that, the Advisory Council on Social Security, established pursuant to section 706 of the Social Security Act, as amended, will meet on Sunday, June 10, 1979, from 9:00 a.m. to 5:00 p.m. and Monday, June 11, 1979, from 9:00 a.m. to 5:00 p.m. at the Marriot Twin Bridges Hotel, U.S. 1 and I–395, Washington, D.C. 20024. The meetings will be devoted to the topics of the treatment of minorities under Social Security, universal coverage, and the relationship of Social Security to other income-maintenance programs.

These meetings are open to the public.

Individuals and groups who wish to have their interest in the Social Security program taken into account by the Council may submit written comments, views, or suggestions to Mr. Lawrence H. Thompson.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence H. Thompson, Executive Director, Advisory Council on Social Security, P.O. Box 17054, Baltimore, Maryland 21235.

Telephone inquiries should be directed to Mr. Edward F. Moore, (301) 594–3171.

(Catalog of Federal Domestic Assistance Program Numbers 13.800–13.807 Social Security Program)

Dated: April 23, 1979.

Lawrence H. Thompson,

Executive Director, Advisory Council on Social Security.

[FR Doc. 79–13053 Filed 4–26–79; 8:45 am]

BILLING CODE 4110–07–M

National Institutes of Health

Report on Bioassay of Diazinon for Possible Carcinogenicity; Availability

Diazinon (CAS 333–41–5) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of diazinon for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice. Applications of the chemical include use as an insecticide.

It is concluded that under the conditions of this bioassay, diazinon was not carcinogenic for F344 rats or B6C3F1 mice of either sex.

Single copies of the report, Bioassay of Diazinon for Possible Carcinogenicity (T.R. 137), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.,

Dated: April 19, 1979.

Donald S. Fredrickson, M.D.,

Director, National Institutes of Health.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

[FR doc. 79–12842 File 4–26–79; 8:45 am]

BILLING CODE 4110–08–M

Report on Bioassay of Fenthion for Possible Carcinogenicity; Availability

Fenthion (CAS 55–38–9) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of fenthion for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice. Applications of the chemical include use as a pesticide.

It is concluded that under the conditions of this bioassay, fenthion was not carcinogenic for male of female F344 rats or for female B6C3F1 mice. The results with male B6C3F1 mice were inconclusive. The male mice developed sarcomas, fibrosarcomas and rhabdomyosarcomas of the integumentary system at incidences not significantly greater than observed in non-dosed control mice. However, the incidences were significantly higher than rates in male mice of the same strain used as controls in other bioassay tests at the same laboratory and at the same time.

Single copies of the report, Bioassay of Fenthion for Possible Carcinogenicity (T.R. 103), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: April 19, 1979.

Donald S. Fredrickson, M.D.,

Director, National Institutes of Health.

[FR Doc. 79–12839 Filed 4–26–79; 8:45 am]

BILLING CODE 4110–08–M

National Institutes of Health

Review of Papers on Health Effects of Radiation Exposure; Meeting

At his press conference on February 27, 1979, Secretary Joseph A. Califano indicated that the Director, NIH, would request outside scientific experts to review the previously unpublished HEW papers on health effects of radiation exposure which may have been associated with the atmospheric testing of nuclear weapons and recommend any additional research needs identified in this review.

Notice is hereby given of the first meeting of the scientific experts to review the content of HEW papers, May 3, 1979, at the Marriott Hotel, Dulles International Airport, Virginia. The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. Attendance by the public will be limited to space available.

Dr. Victor H. Zeve, Special Assistant to the Deputy Director, National Cancer Institute, Building 31, Room 10A34, Bethesda, Maryland 20205 (301/496–5515) will provide additional information.

Dated: April 25, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79–13299 Filed 4–26–79; 8:45 am]

BILLING CODE 4110–08–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Colorado River Indian Irrigation Project, Arizona; Annual Operation and Maintenance Charges

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Public Notice.

SUMMARY: The purpose of this public notice is to make the following changes:

(a) Increase the basic annual per acre assessment rate for operation and maintenance from $14.00 to $16.00 per irrigable acre to properly reflect the actual costs for labor, materials, equipment and services.

(b) Increase the per acre-foot charge for water in excess of the basic allowance from $3.50 to $5.50 per acre-foot to properly reflect the actual cost for labor, materials, equipment and services.

(c) Decrease the basic water allowance for certain sandy soils from 8 acre-feet per acre to 5 acre-feet per acre to eliminate an inequity between these areas and sandy soil areas developed under the basic 5 acre-feet per acre allowance and provide a uniform basic water allocation from the Colorado River as the project expands its irrigated area.

(d) Change the date payment is due for the first half of the annual basic water charge from February 1 to January 1 and the date payment is due for the second half of the annual basic water charge from June 15 to July 1 to provide a more uniform collection schedule.

This public notice will replace §§ 221.6, 221.7, 221.8, and 221.8a of Part 221, Chapter I, Subchapter T of Title 25 of the Code of Federal Regulations, which are being deleted by a Final Rule to be published in the **Federal Register** simultaneously with this public notice

EFFECTIVE DATE: This public notice shall become effective June 30, 1979.

FOR FURTHER INFORMATION CONTACT: Vernon Hughes, Bureau of Indian Affairs, Colorado River Agency, Parker, Arizona 85344, telephone 602–669–2187.

SUPPLEMENTARY INFORMATION: The current operation and maintenance charges were established in 1974. The inflation rate on labor and materials has continued to increase each year until costs now exceed revenue from current charges.

A notice of the proposed changes in water charges and changes in procedures were sent to all water users on February 14, 1979 and also published in the local newspaper. The notice

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requested written comments be submitted within thirty days. No comments were received.

The principal author of this document is Vernon M. Hughes, Bureau of Indian Affairs, Colorado River Agency, Parker, Arizona 85344, telephone 602–669–2187.

Pursuant to § 191.1(e) of Part 191, Chapter I, Subchapter R, of Title 25 of the Code of Federal Regulations, this public notice is issued under authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary for Indian Affairs to the Area Directors in 10 BIAM 3.

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 385.

The public notice shall read as follows:

Colorado River Indian Irrigation Project, Arizona

Annual Operation and Maintenance Charges

1. *Basic Water Charges.* The annual basic charges against the land to which water can be delivered under the Colorado River Indian Irrigation Project in Arizona for operation and maintenance of the Project, is hereby fixed at $16.00 per irrigable acre, whether water is used or not. Payment of this charge will entitle the water user to, but not in excess of 5 acre-feet of water per annum per irrigable acre of land. The foregoing charges and allotments of water shall become effective for the second half of the calendar year 1979 and continue in effect until further notice.

2. *Excess Water Charge.* Additional water, if and when available, in excess of the basic allowance, may be delivered upon written request to the Superintendent by landowners or users at the rate of $5.50 per acre foot or fraction thereof.

3. *Payment.* One-half of the annual basic water charge shall become due and payable on January 1 of each year, which entitles the water user to not more than one-half of the annual basic water allotment prior to July 1. The second half of the annual basic water charge will be due and payable on July 1 which shall entitle the water user to not more than the remaining one-half of the annual basic water allotment. Water delivery will not be continued for any tract after July 1 of any year unless and until the remaining half of the basic water charge shall have been paid. To all charges assessed against fee land and Indian lands under lease to a non-Indian which are not paid on or before July 1 of each year, there shall be added a penalty of one percent per month or fraction thereof from January 1 until paid. Water will not be delivered to any tract of land in succeeding years until full payment of the previous years' operation and maintenance assessments, inclusive of penalties, has been made or unless arrangements have been made under Part 191 Operation and Maintenance, Paragraph 191.17 CFR 25, Indians and (a) and (b) of this section.

(a) Assignments or leases of Indian lands that become effective during the last half of the calendar year, and basic charges have not been paid in full, and irrigation water is desired during that half of the calendar year, the assignee or lessee will be required to pay prior to delivery of water, one-half the annual basic charge, for delivery of not to exceed one-half of the annual basic allotment of water, and if the lease term ends on June 30, the lessee shall be charged one-half of annual basic assessment for the calendar year, plus excess water charges for water used in excess of one-half of the annual basic allotment.

(b) No water shall be delivered for use on Indian trust lands under lease until the Superintendent of the Indian Reservation has certified that the lessee has paid the required operation and maintenance charges and complied with all the terms of the lease contract.

The excess water charge is payable at the time of written request for such water and must be paid prior to delivery of the excess water.

Note.—It is hereby certified that the economic and inflationary impacts of this Public Notice have been evaluated in accordance with Executive Order 11821.

Harold D. Roberson,
Assistant Area Director.
[FR Doc. 79-13072 Filed 4-26-79; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

New Mexico; Application

April 17, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 6-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico
T. 18 S., R. 29 E.,
Sec. 17, N½NW¼ and SW¼NW¼;
Sec. 18, NE¼SW¼.

This pipeline will convey natural gas across 0.641 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Raul E. Martinez,
Acting Chief, Branch of Lands and Minerals Operations.
[NM 36529]
[FR Doc. 79-12884 Filed 4-26-79; 8:45 am]
BILLING CODE 4310-84-M

Alaska; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

Correction

In FR Doc. 78–23740 appearing on page 37768, in the issue of Thursday, August 24, 1978, in the first column before the last paragraph insert the following:

"Thence S. 52°40′ E., 160,843 feet, more or less, to a point identical with a point located at Latitude 63°59′ N., Longitude 145°55′ W., approximately;"

[F–35671]
BILLING CODE 1505–01–M

Alaska Native Claims Selection

Correction

In FR Doc. 79–9993, appearing at page 19259 in the issue for Monday, April 2, 1979, make the following corrections:

(1) One page 19259, in the middle column, in the second full paragraph, in the 11th line, "Tokotna" should be corrected to read "Takotna".

(2) On page 19259, in the third column, under the first heading for **Kateel River Meridian, Alaska (Unsurveyed),** under application AA–12633, in the 2nd line of the land description, substitute "Secs. 1 to 16" for "Secs. 1 and 16".

(3) On page 19259, in the third column, under the first heading for **Fairbanks Meridian, Alaska (Unsurveyed),** under application AA–12644, in the 2nd line of the land description, substitute "Secs. 13 to 30" for "Secs. 13 and 30".

(4) On page 19259, in the third column, under the second heading for **Fairbanks Meridian, Alaska (Unsurveyed),** in the 2nd line of the land description, substitute "Secs. 13 to 30" for "Secs. 13 and 30".

(2) On page 19260, in the first column in the series of section listings for T. 24 S., R. 29 E., make the following substitutions:

(a) In the 1st line, replace "Secs. 1 and 4" with "Secs. 1 to 4".

(b) In the 2nd line, replace "Secs. 5 and 8" with "Secs. 5 to 8".

(c) In the 4th line, replace "Secs. 9 and 13" with "Secs. 9 to 13".

(d) In the 10th line, replace "Secs. 17 and 20" with "Secs. 17 to 20".

(e) In the 12th line, replace "Secs. 21 and 27" with "Secs. 21 to 27".

(f) In the 19th line, replace "Secs. 31 and 36" with "Secs. 31 to 36".

(6) On page 19260, in the middle column, below the explanatory line "The grant of the above-described lands shall be subject to:", under no. 2, in the 11th line, "ANSCA" should read "ANCSA".

(7) On page 19260, in the middle column, below the explanatory line "The grant of the above-described lands shall be subject to:", under no. 2, in the 12th line, "NSCSA" should read "ANCSA".

(8) On page 19260, in the last column, in the first full paragraph, the 4th line should read, "the Alaska Native Claims Settlement Act".

BILLING CODE 1505–01–M

Intent To Prepare an Environmental Statement and Request for Comments

The Department of the Interior's Bureau of Land Management (BLM) intends to prepare an environmental impact statement to consider the effects of a proposed oil and gas leasing program being developed under Section 18 of the Outer Continental Shelf Lands Act, as amended, the "OCS Lands Act," 43 U.S.C. 1331 *et seq.* Under Section 18, such a leasing program is defined as consisting of:

> A schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which he [the Secretary] determines will best meet national energy needs for the five year period following its approval.

While such schedules have been developed in the past, the Amendments require a new approval process involving significant participation of affected States, Federal agencies, and the public, as well as submission to the President and Congress. The proposed OCS planning schedules issued by the Department of the Interior prior to the OCS Lands Act Amendments were program planning documents enabling the Department of the Interior to proceed with an orderly consideration of potential OCS lease sales, and aided in: establishing the order of resource and environmental examination; planning work assignments and allocation of resources for studies; and apprising government agencies, industry and the public of the general time frame for examinations of potential sales. Those schedules were flexible documents, which specifically stated that consideration of any listed potential sale was subject to being terminated, modified, deferred, or advanced. Like the schedule being developed, the earlier schedules did not represent a decision to lease in any of the specified OCS areas, but only the Department's intent to consider leasing in such areas, and to proceed with leasing and development only upon determining that such activities were environmentally, technically, and economically acceptable.

The Bureau of Land Management is requesting comments on this proposal and alternatives to be addressed in the environmental statement, as well as on issues defined to date which require in-depth analysis in the statement.

Background

The Department of the Interior has been issuing leases for Outer Continental Shelf oil and gas development since 1954, pursuant to the Outer Continental Shelf Lands Act of 1953 (67 Stat. 462, 43 U.S.C. 1331 *et seq.*). In recognition of energy shortages and supply difficulties brought about by the OPEC oil embargo of 1973, a program to accelerate leasing of the OCS was initiated. A programmatic environmental statement on this initiative was prepared and submitted to the public and the Council on Environmental Quality in July 1975. In addition, environmental statements concerning specific sale proposals have been developed regularly since 1970. To date, 25 final environmental statements have been prepared for specific sale areas in the Gulf of Mexico, South Atlantic, Mid-Atlantic, North Atlantic, Southern California and Alaska. In addition, six statements are under preparation.

Congress has recognized the need to establish policies and procedures to better manage oil and gas resources in a manner so as to expedite exploration and development, and at the same time to meet other goals and policies, including balancing orderly energy resource development with protection of the human, marine, and coastal environments. To this end, the OCS Lands Act of 1953 was amended on September 18, 1978 (92 Stat. 632). An integral part of these Amendments is the requirement to prepare a leasing program, in the form of a five-year schedule. Once the schedule has been approved, leasing activities must be consistent with the schedule. Prior schedules were not statutorily mandated and did not legally constrain leasing activity.

On October 25 and 26, 1978, the Secretary of the Interior requested comments and information in order to develop a proposed program. Specific information regarding environmental concerns and risks, and other uses of the Outer Continental Shelf were requested, as well as information pertaining to industry interest, location of OCS regions with respect to energy markets, and laws, goals and policies of affected States. The information requested pertained to considerations, outlined in Section 18(a), with which the proposed program must be consistent.

On March 9, 1979, after reviewing and analyzing comments and information received as a result of his request, the Secretary submitted to the Governors of affected coastal States for their comments, and made available to the public, a draft proposed schedule. An analysis and discussion of considerations upon which the draft proposed schedule was based was included in the submission to the Governors, as was a summary of comments received. This material was also available to the public upon request.

Public meetings concerning the draft proposed schedule were held March 21 through April 9, 1979, in Boston, Massachusetts; Trenton, New Jersey; Atlanta, Georgia; New Orleans, Louisiana; Los Angeles, California; Burlingame, California; and Juneau, Alaska (radio broadcast town meeting). Comments obtained from the Governors and those resulting from public meetings and comments from other interested parties, are presently being considered in developing a proposed leasing program to be submitted to Congress, the Attorney General and the Governors of affected States, by June 18, 1979, pursuant to Section 18(c)(3), and to be finally submitted to the President and Congress at least sixty days prior to Secretarial approval, pursuant to Section 18(d)(2).

Proposal

The proposed action to be evaluated in the environmental statement is a schedule of 26 oil and gas lease sales to be held over a five-year period. Depending on the area, up to one million acres are proposed to be offered per

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sale. For details concerning the timing and location of sale areas, see the draft schedule attached. This draft schedule is the same schedule which was previously made available for public comment on March 9, 1979.

Comments received to date through the public participation process outlined above, and comments received as a result of this Notice, will be considered in further defining or amending the proposal and defining the scope of the environmental statement.

Alternatives

The program to be considered is being developed pursuant to Section 18 of the OCS Lands Act, cited above. The purposes of the OCS Lands Act include making oil and gas resources available to meet the Nation's energy needs as rapidly as possible and balancing orderly energy resource development with protection of the human, marine, and coastal environments.

A mandate to develop OCS oil and gas resources as a part of a larger national energy plan has been given to the Department of the Interior by the Department of Energy, which has been given responsibility to develop such an energy plan. The general guidance from the Department of Energy is that increased OCS production will be necessary to reduce the gap between domestic supply and demand for petroleum, or at least restrain its rate of growth.

The proposed action is the adoption of a five-year OCS leasing schedule, as required by law. Accordingly, alternatives to the proposed schedule consist of, in addition to a "no action" or conservation alternative, alternative sale schedules. Such alternatives would involve: (1) a different number of sales in each year and in the five-year period as a whole, (2) addition or deletion of specific sale areas or sales, and (3) alternative sale sizes. Comments received to date, and as a result of this Notice, will be utilized to define these alternatives for consideration in the environmental statement.

Mandatory Considerations

In developing a five-year leasing schedule, the OCS Lands Act Amendments (Section 18(a)(2)) mandate consideration of the following:

—Existing information concerning the geographical, geological, and ecological characteristics of oil and gas-bearing regions of the outer Continental Shelf;

—An equitable sharing of developmental benefits and environmental risks among the various regions;

—The location of these regions with respect to, and the relative needs of, regional and national energy markets;

—The location of these regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

—The interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

—Laws, goals and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

—The relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and,

—Relevant environmental and predictive information for different areas of the outer Continental Shelf.

Significant Environmental Impact Issues

On the basis of the above considerations and comments received to date, as well as through past experience in the OCS leasing program, significant environmental issues which need to be addressed in depth in the environmental statement have been identified. In addressing these issues in the environmental statement, the relative risks of various regions will be evaluated. These environmental issues (impacts) are not tract specific in nature. While some of these issues may be involved in tract specific decisions, they are also national and programmatic in scope. Tract specific issues will be addressed and responded to on a sale-by-sale basis as individual environmental statements are prepared for each sale. The following are considered to be the significant issues and the focus of the environmental statement.

1. Effect of chronic and accidental release of oil and toxic materials on populations of marine organisms. (Impact on marine biologic populations)

2. Interference with commercial fish harvesting and effects of oil and gas development, particularly a large oil spill, on commercial fish stocks or year classes. (Impact on commercial fisheries)

3. Effects of major oil spills on recreation resources and on local tourism economies. (Impact on recreation and tourism)

4. Adequacy of knowledge and technology to respond to potential geologic hazards, adverse meteorologic and oceanographic conditions, and deepwater operating requirements. (Impact on operations of geologic hazards, meteorologic and oceanographic conditions)

5. Effect of chronic release of oil and toxic materials on unique, important, or productive biological resources. (Impact on coral, wetlands, estuaries, etc.)

6. Compatibility with potential designation of areas as marine sanctuaries. (Impact on marine sanctuary program)

7. Effect of OCS operations and related onshore facilities on air quality in adjacent onshore areas. (Impact on air quality)

8. Impact of oil and gas operations on subsistence cultures. (Impact on native culture/socioeconomic impact)

Comments concerning the significance of the issues identified above are invited, as well as comments identifying additional environmental issues that should be addressed in depth in the environmental statement.

Any comments concerning the proposed action or the environmental statement should be received by May 11, 1979, and should be addressed to the Director (700), Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240. Comments previously provided in response to the request for comments on the proposed schedule (43 FR 49983, October 26, 1978) will be considered in developing the environmental statement. Respondents to that request need not resubmit their comments in order for their views to be considered. However, additional comment may be provided. Any questions on the proposal or the environmental statement may be directed to Donald Truesdell (202–343–4437).

Arnold Petty,

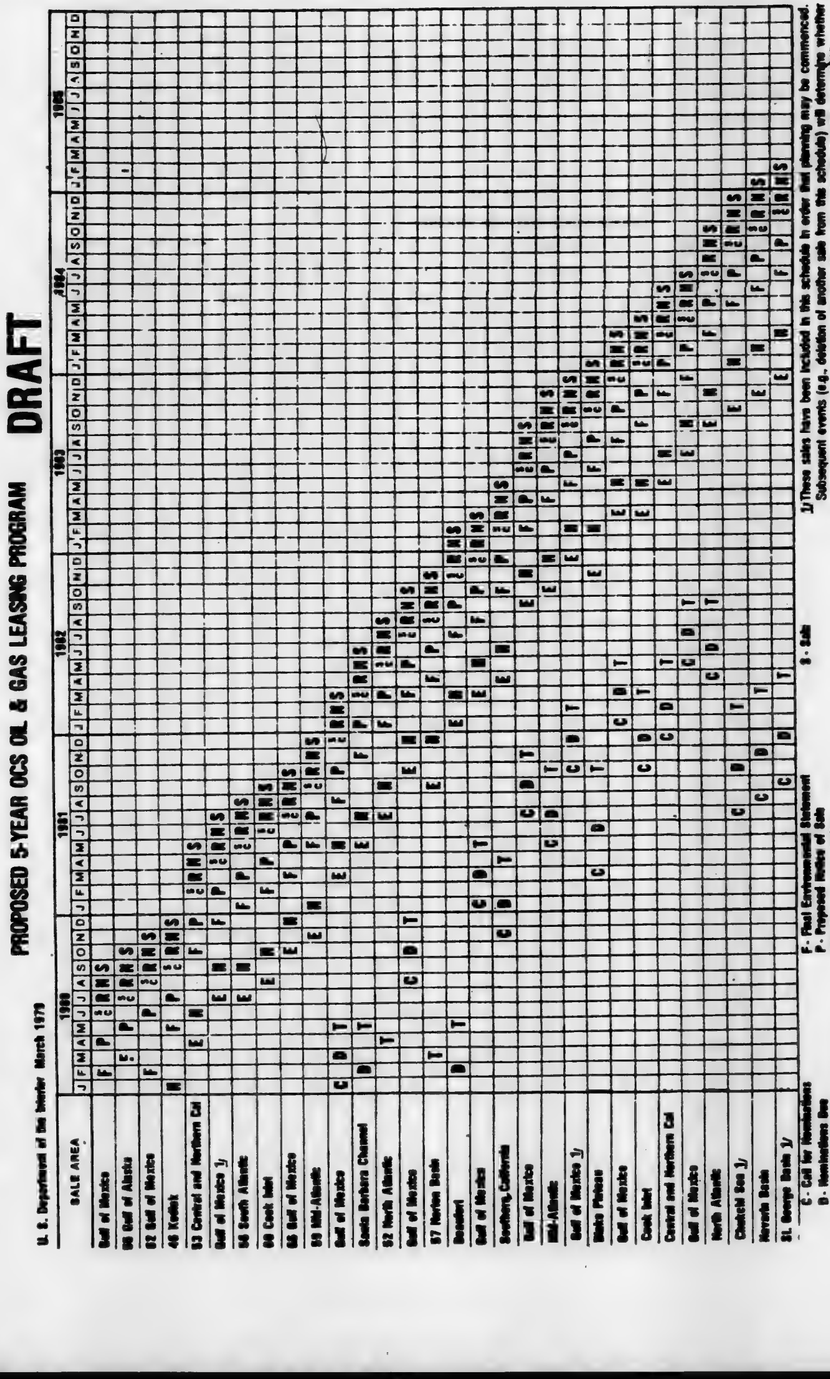
Acting Assistant Director, Bureau of Land Management.

Approved: April 24, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

BILLING CODE 4310-84-M



[FR Doc. 79-13004 Filed 4-26-79; 8:45 am]

BILLING CODE 4310-84-C

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Utah; Termination of Proposed Withdrawal and Reservations of Lands

Notice of an application filed by the Bureau of Reclamation, U.S. Department of the Interior, U–33567, for withdrawal and reservation of public lands was published as **Federal Register** Document 76–21549 on pages 30697 and 30698 of the issue for July 26, 1976. The Bureau of Reclamation has canceled its application involving the lands described in the **Federal Register** publication referred to above. Therefore, pursuant to the regulations contained in 43 CFR 2091.2–5(b)(1) such lands will be relieved of the segregative effect of the above-mentioned application at 10:00 a.m. on June 11, 1979.

Dated: April 18, 1979.

Paul L. Howard,

State Director.

[U–33567]

[FR Doc. 79–13001 Filed 4–26–79; 8:45 am]

BILLING CODE 4310–84–M

California Desert Conservation Area Advisory Committee; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 and 94–579 that the California Desert Conservation Area Advisory Committee to the Bureau of Land Management, U.S. Department of the Interior, will meet May 17–18, 1979, in Palm Springs, California. The meeting Thursday evening, May 17 will be a business meeting devoted to reports of subcommittees and the report of the State Director of the Bureau of Land Management. As previously announced, the meeting Friday, May 18, will include a report on the committee's April workshop on methods to be used in developing the California Desert Plan, the handling of alternatives in the plan and environmental statement, and the substance of a first generation balanced plan, as well as the form the advisory committee's advice shall take. The afternoon session will be devoted to obtaining public input into the planning process.

The meeting will be held at the Convention Center of the International Resort, 1800 East Palm Canyon Drive, Palm Springs, California 92262, from 7:30 p.m. to 9 p.m., Thursday, May 17, and from 8 a.m. to 5 p.m., Friday, May 18 1979. The meeting is open to the public and interested persons may attend and file statements with the advisory committee. Further information, including the meeting agenda, may be obtained from the Chairman, California Desert Conservation Area Advisory Committee, c/o Desert Plan Staff, Bureau of Land Management, 3610 Central Avenue, Suite 402, Riverside, California 92506.

John E. Birch,

Acting State Director.

[FR Doc. 79–13078 Filed 4–26–79; 8:45 am]

BILLING CODE 4310–84–M

R/W Applications for Pipeline Northwest Pipeline Corp.

April 20, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, 315 East 200 South, Salt Lake City, Utah 84111, has applied for a right-of-way for 4½" o.d. natural gas pipeline for the Great Divide Gathering System approximately 3.276 miles long, across the following Public Lands:

Sixth Principal Meridian, Moffat County, Colorado

T. 9 N., R. 93 W.,
Sec. 5, Lots 2, 3, 4, SE¼NW¼, NE¼SW¼.
Sec. 9, E½SW¼.
Sec. 16, NE¼NE¼.
T. 10 N., R. 93 W.,
Sec. 28, SW¼, SW¼NW¼, W½SE¼, W½NE¼, NE¼NE¼.
Sec. 33, W½NW¼.

The above-named gathering system will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicant's customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of the environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) To give all interested parties the opportunity to comment on the applications. (3) To allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claims or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation.*

Any comments, claims, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[Colorado 28178–1]

[FR Doc. 79–13079 Filed 4–26–79; 8:45 am]

BILLING CODE 4310–84–M

Outer Continental Shelf Western and Central Gulf of Mexico; Proposed Oil and Gas Lease Sale No. 58

Correction

In FR Doc. 79–12094 appearing at page 23584 in the issue for Friday, April 20, 1979, Make the following corrections:

(1) On page 23584, in the third column, in paragraph "3. *Method of Bidding*", in the second line, the word "enevlope" should be "envelope".

(2) Also on page 23584, in the third column, in the last paragraph, in the next to last line, the world "formal" should read "formula".

(3) On page 23585, in the first column, in the formula, the value for "Rj" should read as follows:

Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production saved removed or sold in quarter j

(4) On page 23585, Table 1 should read as follows:

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(1) Actual Value of Quarterly Production (Millions of Dollars)	(2) GNP Fixed Weighted Price Index	(3) Inflation Factor[1]	(4) Adjusted Value of Quarterly Production[2] (V_j, Millions of $)	(5) Percent Royalty Rate (R_j)	(6) Royalty Payment[3] (Millions of Dollars
10.000000	200.0	4/3	7.500000	16.66667	1.666667
30.000000	200.0	4/3	22.500000	21.97225	6.591675
90.000000	200.0	4/3	67.500000	32.95837	29.662533
270.000000	200.0	4/3	202.500000	43.94449	118.650123
810.000000	200.0	4/3	607.500000	54.93061	444.937941
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	19.74081	5.922243
90.000000	250.0	5/3	54.000000	30.72693	27.654237
270.000000	250.0	5/3	162.000000	41.71306	112.625262
810.000000	250.0	5/3	486.000000	52.69918	426.863358

a Column (2) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

b Column (1) divided by Inflation Factor.

c Column (1) times Column (5). All values are rounded for display purposes only.

(5) On page 25587, in the middle column, in paragraph 12. (c), after NG 14–3, "Corpus Cristi" should be spelled "Corpus Christi".

(6) On page 25587, in the third column, in the second table, the heading should read: "OCS Leasing Map, Mustang Island Area, Texas Map No. 3".

(7) On page 25587, third column, the table for "OCS Leasing Map, Brazos Area, Texas Map No. 5" should read as follows:

OCS LEASING MAP, BRAZOS AREA, TEXAS MAP NO. 5
(Approved July 16, 1954)

Tract	Block	Description	Acreage
58–10	(341 (342	7/ 7/	5004.64

(8) On page 25587, in the third column, the table heading "OCS Leasing Map, South Addition, Texas Map No. 5 B" should read "OCS Leasing Map, Brazos Area, South Addition, Texas Map No. 5 B".

(9) On page 25587, in the third column, in the table for "OCS Leasing Map, Galveston Area, Texas Map No. 6", Blocks 103 and 104 shoud be preceded by open parentheses.

(10) On page 25587, in the third column, the table for "OCS Leasing Map, High Island Area, South Addition, Texas Map No. 7 B" should read as follows:

OCS LEASING MAP, HIGH ISLAND AREA, SOUTH ADDITION, TEXAS MAP NO. 7B
(Approved September 24, 1959)

Tract	Block	Description	Acreage
58–26	A–441	All	5760
58–27	A–549	All	5760
58–28	A–550	All	5760

(11) On page 23588, in the first column, the last two tables now headed "OCS Leasing May, Vermillion Area * * *" should be corrected to begin "OCS Leasing Map, Vermillion Area * * *".

(12) On page 23588, in the middle column, the table headed "OCS Leasing May, South Pelto Area * * *" should be corrected to read "OCS Leasing Map, South Pelto Area * * *".

(13) On pages 23588 and 23589 the following tables are corrected:

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OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
58-92	43	E1/2NE1/4SW1/4; S1/2SW1/4; SE1/4	2029.03
58-93	44	5/	2708.31
58-94	121	All	4994.55

OCS LEASING MAP, MAIN PASS AND BRETON SOUND AREAS, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Area	Block	Description	Acreage
58-95	Main Pass	(37	6/	
	Breton Sound	(56	2/	1738.82

OCS LEASING MAP, MATAGORDA ISLAND AREA, TEXAS MAP NO. 4
(Approved July 16, 1954)

Tract	Block	Description	Acreage
58-111	526	1/	1355
58-112	557	1/	5620
58-113	(558		
	(565	1/	5743
58-114	657	7/	5071.18

OCS LEASING MAP, BRAZOS AREA, TEXAS MAP NO. 5
(Approved July 16, 1954)

Tract	Block	Description	Acreage
58-115	374	1/	1177
58-116	437	All	5760
58-117	(438		
	(439	1/	5055

OCS LEASING MAP, SABINE PASS AREA, LOUISIANA MAP NO. 12
(Approved March 7, 1977)

Tract	Block	Description	Acreage
58-122	3	8/	1316.62
58-123	(5		
	(6	8/	4983.20
58-124	9	All	4254.39

OCS LEASING MAP, EAST CAMERON AREA, LOUISIANA MAP NO. 2
(Approved June 8, 1954; Revised August 1, 1973)

Tract	Block	Description	Acreage
58-127	9	9/	203.62
58-128	9	10/	884.30

BILLING CODE 1505-01-C

(14) On page 23590, in the middle column, in Stipulation No. 4, in paragraph b., in the sixth line, the word "save" should read "saved".

(15) On page 23590, in the middle column, in Stipulation 5, in the second paragraph, in the third line, the second "of" should read "or".

(16) On page 23590, in the third column, the first full paragraph should be corrected to read: Notwithstanding any limitation of the lessee's liability in Sec. 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of its officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against and to defend at its own expense the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against, and to defend at its own expense the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installations, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(17) Also on page 23590, in the third column, in the second complete paragraph, in the fourth line, the word "contrators" should read "contractors".

(18) On page 23591, in the middle column, in the fourth line from the top, the word "the" should be "and".

(19) On page 23591, in the third column, in the first paragraph, in the seventh line, the word "instance" should read "instances".

(20) On page 23591, in the third column, in paragraph "17. *Suggested Bid Form.*", in the third line, "Pacific" should read "New Orleans".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Announcement of Solicitation for Grant Applications To Evaluate the Denver Project New Pride Replication Discretionary Program

The National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP), Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice is sponsoring an evaluation of its Denver Project New Pride Replication Program. Denver Project New Pride is a community-based treatment program for adjudicated juveniles with a history of serious offenses.

Applications will be considered from public or private agencies and organizations or individuals for the first phase (12 months) of a proposed three to four year evaluation. The deadline for receipt of applications is June 15, 1979. Potential applicants may obtain a copy of the solicitation by writing to: National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, 633 Indiana Avenue, N.W., Room 304, Washington, D.C. 20531, attention: Pamela Swain; or by calling area code 202-724-5893.

John M. Rector,
Administrator, Office of Juvenile Justice and Delinquency Prevention.
[FR Doc. 13000 Filed 4-26-79; 8:45 am]
BILLING CODE 4410-18-M

Development of a Discretionary Grant Program To Support a National Victim/Witness Strategy

The Office of Criminal Justice Programs, Law Enforcement Assistance Administration, under the legislative authority of Title 1 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3701, et seq., is in the process of developing a program announcement for a discretionary grant program to support a National Victim/Witness Strategy. This program announcement will represent an addition to Guideline Manual M 4500.1G, *Guide for Discretionary Grant Programs*. The addition of this program will in no way impact on programs already described in the Guide nor will it affect the eligibility of any applicants to existing programs.

It is anticipated that funds will be available for programs that enhance, strengthen, and further develop victim/witness assistance through initiatives aimed at improving the service delivery system to victims/witnesses of crime on a federal, state, and local level. These new initiatives will support an LEAA National Victim/Witness Strategy designed to create a solid network of support for victim/witness services.

It is expected that these funds will be utilized to:

1. Establish Statewide Coordinating Networks;
2. Assist National Organizations in addressing victim/witness problems in their local communities; and
3. Develop joint Intergovernmental Victim/Witness Programs on the federal level.

This comprehensive approach will provide a link between those concerned with or delivering services to the victim/witness and will promote coordination and cooperation between the wide diversity of both public and private groups.

The Draft Program Announcement will be published in the **Federal Register.** Interested parties are invited to submit written comments or suggestions to Jan Kirby, Program Manager, Victim/Witness Unit, Special Programs Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

J. Robert Grimes,
Assistant Administrator, Office of Criminal Justice Programs.
[FR Doc. 79-12999 Filed 4-26-79; 8:45 am]
BILLING CODE 4410-18-M

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DEPARTMENT OF LABOR

Office of the Secretary

ACMI Knitwear, et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified below. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 12th day of April 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: (Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
ACMI Knitwear (I.L.G.W.U.)	Perth Amboy, N.J	4-10-79	4-2-79	TA-W-5,216	Knit products.
Autocrat Corporation (Intern'l Molders Union)	New Athens, Ill	4-10-79	4-6-79	TA-W-5,217	Wood burning stoves.
Brady Cline Company (U.M.W.A.)	Summersville, W. Va	4-09-79	4-4-79	TA-W-5,218	Produce coal.
Buckeye Sugars, Inc. (U.S.W.A.)	Ottawa, Ohio	4-09-79	4-5-79	TA-W-5,219	Refine sugar beets and sugar beet pulp.
Critcheley Trucking Co. (U.M.W.A.)	Danese, W. Va	4-02-79	3-27-79	TA-W-5,220	Transport coal.
Detroit Steel Corp., Detroit Strip Division (U.S.W.A.).	Hamden, Conn	4-10-79	4-6-79	TA-W-5,221	Produce cold rolled strip steel (high carbon).
Gauley Coal Sales Co. (U.M.W.A.)	Summersville, W. Va	4-09-79	4-4-79	TA-W-5,222	Manufacture coal.
G & I Coal Company (U.M.W.A.)	Cool Ridge, W. Va	4-09-79	4-4-79	TA-W-5,223	Produce coal.
Island Creek Coal Co. North Division (U.M.W.A.).	Craigsville, W. Va	4-09-79	4-4-79	TA-W-5,224	Produce coal.
Jenny Mining Corp. (U.M.W.A.)	Rupert, W. Va	4-09-79	4-4-79	TA-W-5,225	Manufacture coal.
Leckie Smokeless Coal Company (U.M.W.A.)	Rupert, W. Va	4-09-79	4-4-79	TA-W-5,226	Produce coal.
Lucy-Ann Footwear Manufacturer (U.S.A.)	Paterson, N.J	4-09-79	3-30-79	TA-W-5,227	Ladies footwear.
Margaret Peerless Coal Company, (U.M.W.A.)	Summersville, W. Va	4-09-79	4-4-79	TA-W-5,228	Manufacture coal.
Middletown Leather (Company)	Hackettstown, N.J	4-10-79	4-2-79	TA-W-5,229	Finish leather for sale to retailers.
Sewell Coal Company No. 4 (U.M.W.A.)	Nettie, W. Va	4-09-79	4-4-79	TA-W-5,230	Manufacture coal.
Tenna Inc., Motor Div. (Company)	Caguas, P.R	4-05-79	3-30-79	TA-W-5,231	Motor components (direct current for multiple use, like car's air conditioners).
Will-Bob Truck Service, Inc. (U.M.W.A.)	Charmco, W. Va	4-2-79	3-27-79	TA-W-5,232	Transport coal.

[FR Doc. 79-13184 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Allied Chemical Corp., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified below. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible

to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the data on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 23rd day of April 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Allied Chemical Corp., Semet Solday Div., Harewood Mine (workers).	Montgomery, W. Va	4/18/79	4/16/79	TA-W-5,270	Mining of coal.
Allied Chemical Corp., Semet Solday Div., Harewood Mine (Preparation Plant) (workers).	Montgomery, W. Va	4/18/79	4/16/79	TA-W-5,271	Cleaning of coal.
American Biltrite Corp., Cambridge Plant (workers).	Cambridge, Mass	4/17/79	4/9/79	TA-W-5,272	Rubber and plastic conveyor belts, matting, packing and hose.
Figure Flattery, Inc. (Intimate Apparel Worker's Union, ILGWU).	New York, N.Y	4/16/79	4/11/79	TA-W-5,273	Men's briefs.
Florsheim Shoe Co. (United Shoe Workers of America).	Chaffee, Mo	4/10/79	4/4/79	TA-W-5,274	Men's shoes.
Interstate Mining Company, Mine #1 (U.M.W.A.).	Mahawk, W. Va	4/2/79	3/27/79	TA-W-5,275	Contract mining for larger coal companies.
National Footwear (workers)	Epping, N.H	4/16/79	4/10/79	TA-W-5,276	Children's shoes.
Renauld Int'l, Ltd., Div. of Bonneau Company (Retail, Wholesale Department Stores Union).	Fitchburg, Mass	4/17/79	4/12/79	TA-W-5,277	Sunglasses.
Stanhope Sewing (workers)	Netcong, N.J	4/11/79	4/5/79	TA-W-5,278	Sew blouses.
T & R Auto Handling Corp. (Teamsters)	Mahwah, N.J	4/12/79	4/9/79	TA-W-5,279	Load cars on railcars.
United States Pipe & Foundry Company (U.S.W.A.).	Burlington, N.J	4/16/79	4/11/79	TA-W-5,280	Steel pipe and ductile iron pipe.

Amstar Corp. et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified below. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 18th day of April 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-13185 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Amstar Corporation, Spreckels Sugar Div. (Company).	Chandler, Ariz	4-16-79	4-11-79	TA-W-5,247	Granulated sugar and by-products (molasses and sugar beet pulp).
Converse Rubber Company, Lumberton Division (Company).	Lumberton, N.C.	4-16-79	4-11-79	TA-W-5,248	Athletic canvas footwear.
Energy Development Corporation (UMWA)	Wharncliffe, W. Va	4-10-79	4-5-79	TA-W-5,249	Mining of coal.
Florsheim Shoe Company (USWA)	Poplar Bluff, Mo	4-10-79	4-5-79	TA-W-5,250	Men's shoes.
Gay Coat Company, Inc. (Workers)	Union City, N.J.	4-16-79	4-13-79	TA-W-5,251	Contractor of ladies' coats, jackets, vests.
Gould Mine, Inc., Gram 1 Surface Mine	Greenbrier County, W. Va	4-16-79	4-11-79	TA-W-5,252	Mining of coal.
Gould Mine, Inc., Surface Mine 6 (U.M.W.A.)	Greenbrier County, W. Va	4-16-79	4-11-79	TA-W-5,253	Mining of coal.
Gould Mine, Inc., Gould 1 Surface Mine (U.M.W.A.)	Greenbrier County, W. Va	4-16-79	4-11-79	TA-W-5,254	Mining of coal.
Gould Mine, Inc., Viking 5 Surface Mine (U.M.W.A.).	Greenbrier County, W. Va	4-16-79	4-11-79	TA-W-5,255	Mining of coal.
H. Warshow & Son, Inc. (Company)	Milton, Pa	4-11-79	4-9-79	TA-W-5,256	Dyeing and finishing of elastic fabrics.
Hallowell Shoe Company (Workers)	Augusta, Maine	4-10-79	4-4-79	TA-W-5,257	Women's boots and shoes.
Lorraine Foundry (IMAWU)	Maquokets, Iowa	4-10-79	4-4-79	TA-W-5,258	Grey ductile castings.
Mercer Rubber Company (IRWU)	Hamilton Square, N.J.	4-12-79	4-8-79	TA-W-5,259	Conveyor belt, hand made hoses and rubber expansion joints.
Kim Michaels, Inc. (Company)	Burlington, N.J.	4-12-79	4-5-79	TA-W-5,260	Ladies' sportswear—skirts (90%) some pants.
Ohio Brass Company (Teamsters Local 175)	Oak Hill, W. Va	4-16-79	4-10-79	TA-W-5,261	Electrical equipment for coal mines.
Perennial Print (Workers)	Paterson, N.J	4-16-79	4-11-79	TA-W-5,262	Textile printing and finishing.
River Falls Manufacturing (ACIWU)	Falls River, Mass	4-8-79	4-6-79	TA-W-5,263	Children's and ladies' outerwear.
Star Coal Company (UMWA)	Craigsville, W. Va	4-9-79	4-4-79	TA-W-5,264	Mining of coal.
Sunday's Workclothes Inc. (Workers)	Hauppauge, N.Y	4-11-79	4-6-79	TA-W-5,265	Ladies' and juniors' sportswear.
Wiley Manufacturing Company (IUMSWA)	Port Deposit, Md	4-12-79	4-11-79	TA-W-5,266	Ocean going ships, tankers, cargo vessels, cranes.

[FR Doc. 79-13186 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Arrived Sportswear, et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified below. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 18th day of April 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Arrived Sportswear (workers)	Hauppauge, N.Y	4/11/79	4/6/79	TA-W-5,267	Ladies' and junior's sportswear.
Going On Sportswear, Inc. (workers)	Hauppauge, N.Y	4/10/79	4/4/79	TA-W-5,268	Ladies' and junior's sportswear.
Headline Sportswear, Inc. (workers)	Hauppauge, N.Y	4/16/79	4/6/79	TA-W-5,269	Ladies' and junior's sportswear.

[FR Doc. 79-13187 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Aspen Skiwear; Revised Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Adjustment Assistance on February 27, 1979, applicable to workers and former workers of Aspen Skiwear, Pueblo, Colorado. The Notice of Certification was published in the **Federal Register** on March 6, 1979 (44 FR 12290).

At the request of some former workers, a further investigation was instituted by the Director of the Office of Trade Adjustment Assistance. A review of the case revealed that layoffs of workers occurred before the original impact date of June 1, 1978.

The intent of the certification is to cover all workers at the Pueblo, Colorado, plant of Aspen Skiwear who were affected by the decline in production of ski jackets and men's and boys' knit sport shirts related to import competition. The certification, therefore, is revised providing a new impact date of May 1, 1978.

The revised certification applicable to TA-W-4326 is hereby issued as follows:

All workers of the Pueblo, Colorado, plant of Aspen Skiwear, Denver, Colorado, who became totally or partially separated from employment on or after May 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of April, 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[TA-W-4326]

[FR Doc. 79-13188 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Binni Bon, Inc., et al.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the trade Act of 1974 the Department of Labor herein presents the results of TA-W-4842, 4845, 4845A, 4850, 5027 and 5029: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigations were initiated on February 26, 1979, and March 23, 1979, respectively, in response to worker petitions received on February 22, 1979, and March 19, 1979, which were filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's brassieres and briefs at Binni Bon, Inc., Adjuntas, Puerto Rico; Carol Foundations, Inc., Bayamon and Adjuntas, Puerto Rico; Ken Foundations, Inc., Carolina, Puerto Rico; Forever Yours, Inc., Brooklyn, New York and J. Stevens Foundations, Inc., Brooklyn, New York. The investigations revealed that the firms primarily produced women's brassieres.

The Notices of Investigation were published in the **Federal Register** on March 9 and March 30, 1979 (44 FR 13093-94 and 44 FR 19074-75), respectively. No public hearing was requested and none was held. The determination was based upon information obtained principally from officials of Forever Yours, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Women's brassieres are included in the import, production category, Brassieres, Bralettes and Bandeaux. U.S. imports in this category increased absolutely and relative to domestic production in 1977 compared to 1976. U.S. imports increased absolutely in the January through September period of 1978 compared to the same period of 1977.

The Department surveyed the Major customers who decreased purchases of brassieres from Forever Yours, Inc., in 1978 compared to 1977. Respondents accounting for a substantial proportion of Forever Yours' decline in sales reported increased purchases of imported brassieres in 1978 compared to 1977.

Conclusion

After careful review of the facts obtained in the investigations, I conclude that increased imports of articles like or directly competitive with women's brassieres produced at Binni Bon, Inc., Adjuntas, Puerto Rico; Carol Foundations, Inc., Bayamon and Adjuntas, Puerto Rico; Ken Foundations, Inc., Carolina, Puerto Rico; Forever Yours, Inc., Brooklyn, New York and J. Stevens Foundations, Inc., Brooklyn, New York contributed importantly to the decline in sales and to the separation of workers of those firms. In accordance with the provisions of the Act, I make the following certification:

All workers of Binni Bon, Inc., Adjuntas, Puerto Rico; Carol Foundations, Inc., Bayamon and Adjuntas, Puerto Rico; Ken Foundations, Inc., Carolina, Puerto Rico; Forever Yours, Inc., Brooklyn, New York and J. Stevens Foundations, Inc., Brooklyn, New York who became totally or partially separated from employment on or after March 12, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[TA-W-4842, et al.]

[FR Doc. 79-13189 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Brown Shoe Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4950: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1979, in response to a worker petition received on March 6, 1979, which was filed on behalf of workers and former workers producing ladies' shoes and boots at the Bernie, Missouri, plant of the Brown Shoe Company.

The Notice of Investigation was published in the **Federal Register** on March 23, 1979, (44 FR 17833). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Brown Shoe Company, the U.S. Department of Commerce, The U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criteria has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

The Department's investigation revealed that sales and production of women's shoe's and boots at the Bernie, Missouri plant of Brown Shoe increased both in quantity and value from 1976

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through 1978 and increased during the January-February period of 1979 compared with the same period of 1978.

Conclusion

After careful review, I determine that all workers of the Bernie, Missouri, plant of the Brown Shoe Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of April 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[TA-W-4950]

[FR Doc. 79-13190 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

C. G. Conn Ltd.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4829: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 22, 1979, in response to a worker petition received on February 15, 1979, which was filed on behalf of workers and former workers testing and assembling transistors, diodes, and capacitors at C. G. Conn Ltd., Organ Division, Madison, Indiana. The investigation revealed that the workers assemble, test and tume electronic organs. A petition was subsequently filed on behalf of workers at the above mentioned facility by the United Automobile, Aerospace, and Agricultural Implement Workers of America.

The Notice of Investigation was published in the **Federal Register** on March 2, 1979 (44 FR 11865). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of C. G. Conn Ltd., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of electronic organs, not including chord organs, increased both absolutely and relative to domestic production in 1978 from 1977.

A survey was conducted of franchised dealers who sell Conn Organs. The survey revealed dealers which reduced purchases from the subject firm increased purchases of imported electronic organs.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the electronic organs produced at C. G. Conn Ltd., Organ Division, Madison, Indiana, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of C. G. Conn Ltd., Organ Division, Madison, Indiana, who became totally or partially separated from employment on or after February 9, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[TA-W-4829]

[FR Doc. 79-13191 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

The Cambridge Tailoring Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4912: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigtion was initiated on March 12, 1979 in response to a worker petition received on March 5, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers formerly producing men's suits and sportcoats at the Cambridge Tailoring Company, Baltimore, Maryland. The investigtion revealed that the firm primarily produced men's suits.

The Notice of Investigation was published in the **Federal Register** on March 23, 1979 (44 FR 17835). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Cambridge Tailoring Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Cambridge Tailoring Company was a manufacturer of men's custom-tailored suits. The suits were produced by Cambridge Tailoring for custom tailor shops. A Department survey of these tailor shops revealed that virtually all sold only custom-made suits and did not fit customers for imported suits during the period 1976 through 1978.

Conclusion

After careful review, I determine that all workers of the Cambridge Tailoring Company, Baltimore, Maryland are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23d day of April 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[TA-W-4912]

[FR Doc. 79-13192 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Columbian Rope Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4866: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 26, 1979 in response to a worker petition received on February 22, 1979 which was filed by the American Clothing and Textile Workers Union on behalf of workers and former workers producing manila rope and synthetic rope at Columbian Rope Company, Jefferson, Louisiana.

The Notice of Investigation was published in the **Federal Register** on March 9, 1979 (44 FR 13093-4). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Columbian Rope Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of hard fiber rope increased from 25,465,000 pounds in 1977 to 30,035,000 pounds in 1978. The ratio of imports to domestic production increased from 244.8 percent in 1977 to 322.9 percent in 1978.

U.S. imports of synthetic fiber rope increased from 2,474,000 pounds in 1977 to 3,219,000 pounds in 1978. The ratio of imports to domestic production increased from 6.2 percent in 1977 to 6.8 percent in 1978.

Imports of rope by Columbian Rope Company increased in 1977 compared with 1976, and increased in 1978 compared with 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with rope produced at the Jefferson, Louisiana plant of Columbian Rope Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Jefferson, Louisiana plant of Columbian Rope Company who became totally or partially separated from employment on or after February 16, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[TA-W-4866]

[FR Doc. 79-131934 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Consolidation Coal Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-5071: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 29, 1979 in response to a worker petition received on March 27, 1979 which was filed by the United Mine Workers of America Local 6633 on behalf of workers formerly producing metallurgical coal at Consolidation Coal Company, Beechfork No. 10 Mine, Amonate, Virginia. The investigation revealed that the correct company name is Consolidation Coal Company and that the mine is located in McDowell County, West Virginia.

The Notice of Investigation was published in the **Federal Register** on April 6, 1979 (44 FR 20820-1). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Consolidation Coal Company, its customers, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Beechfork No. 10 mine produced metallurgical coal which is used to produce coke. Coke is metallurgical coal at a later stage of production, and therefore can be considered "like or directly competitive" with metallurgical coal.

The Beechfork No. 10 mine's coal was cleaned at the Jenkin Jones Preparation Plant until October, 1978. After October, 1978 the coal was cleaned at the Amonate Preparation Plant. The majority of coal cleaned at these two plants is exported. The only domestic customers who decreased their purchases of coal from these two plants did not purchase imported metallurgical coal or coke.

Conclusion

After careful review, I determine that all workers of Consolidation Coal Company, Beechfork No. 10 Mine, McDowell County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[TA-W-5071]

[FR Doc. 79-13194 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Converse Rubber Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4928: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 13, 1979 in response to a worker petition received on March 12, 1979 which was filed on behalf of workers and former workers producing rubber, canvas and leather athletic and leisure footwear at the Presque Isle, Maine plant of Converse Rubber Company.

Workers at the Presque Isle, Maine plant were certified eligible to apply for adjustment assistance by the Department in a previous determination (TA-W-1590). Certification under that determination expires on April 29, 1979.

The Notice of Investigation was published in the **Federal Register** on March 23, 1979 (44 FR 17834). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Converse Rubber Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of rubber/canvas footwear increased from 106.0 million pair in 1977 to 172.7 million pair in 1978. The ratio of imports to domestic production increased from 119.0 percent in 1977 to 207.1 percent in 1978.

Customers of Converse Rubber Company surveyed by the Department indicated that they had decreased purchases of canvas and athletic

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footwear from Converse and increased purchases of imports.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that incrases of imports of articles like or directly competitive with canvas and athletic footwear produced at the Presque Isle, Maine plant of Converse Rubber Company contributed importantly to the decline in sales or production and to the total or partial spearation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Presque Isle, Maine plant of Converse Rubber Company who become totally or partially separated from employment on or after April 29, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of April 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[TA-W-4928]

[FR Doc. 79-13195 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Converse Rubber Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4929: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 13, 1979 in response to a worker petition received on March 12, 1979 which was filed on behalf of workers and former workers engaged in employment related to the production of rubber, canvas and leather athletic footwear at the Division Headquarters of Converse Rubber Company, Wilmington, Massachusetts. The investigation revealed that the Division Headquarters includes regional sales offices in Elk Grove Village, Illinois; Dallas, Texas; Burlingame, California; New York City, New York; Charlotte, North Carolina; and Wilmington, Massachusetts and all sales personnel under their jurisdiction.

Workers at the Division Headquarters of Converse were certified eligible to apply for adjustment assistance by the Department in a previous determination (TA-Wp1672). Certification under that determination expires on April 29, 1979.

The Notice of Investigation was published in the **Federal Register** on March 23, 1979 (44 FR 17834). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Converse Rubber Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of rubber/canvas footwear increased from 106.0 million pair in 1977 to 172.7 million pair in 1978. The ratio of import to domestic production increased from 119.0 percent in 1977 to 207.1 percent in 1978.

Customers of Converse Rubber Company surveyed by the Department indicated that they had decreased purchases of canvas and athletic footwear from Converse and increased purchases of imports.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with canvas and athletic footwear produced by Converse Rubber Company contributed importantly to the decline in sales or production and to the total or partial separation of workers at the corporate and sale offices listed below. In accordance with the provisions of the Act, I make the following certification:

All workers of the Wilmington, Massachusetts corporate office and the Elk Grove Village, Illinois; Dallas, Texas; Burlingame, California; New York City, New York; Charlotte, North Carolina; and Wilmington, Massachusetts regional sales offices and all sales personnel under their jurisdiction, of Converse Rubber Company who become totally or partially separated from employment on or after April 29, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of April 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[TA-W-4929]

[FR Doc. 79-13196 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Converse Rubber Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4930: investigation regarding certification of eligibility to apply for worker ajustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 13, 1979 response to a worker petition received on March 12, 1979 which was filed on behalf of workers and former workers producing rubber, canvas and leather athletic and leisure footwear at the Berlin, New Hampshire plant of Converse Rubber Company, Granite State Division.

Workers at the Berlin, New Hampshire plant were certified eligible to apply for adjustment assistance by the Department in a previous determination (TA-W-1614). Certification under that determination expires on April 29, 1979.

The Notice of Investigation was published in the **Federal Register** on March 23, 1979 (44 FR 17834). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Converse Rubber Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of rubber/canvas footwear increased from 106.0 million pair in 1977 to 172.7 million pair in 1978. The ratio of imports to domestic production increased from 119.0 percent in 1977 to 207.1 percent in 1978.

Customers of Converse Rubber Company surveyed by the Department indicated that they had decreased purchases of canvas and athletic footwear from Converse and increased purchases of imports.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with canvas and athletic footwear produced at the Berlin, New Hampshire plant of Converse Rubber Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Berlin, New Hampshire plant of Converse Rubber Company who become totally or partially separated from employment on or after April 29, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of April 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[TA-W-4930]

[FR Doc. 79-13197 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Diebold, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4442: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1978 in response to a worker petition received on November 15, 1978 which was filed by the International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers on behalf of workers and former workers producing safety deposit boxes, vault doors and bank equipment at the Canton, Ohio facility of Diebold, Incorporated. The investigation revealed that the plant primarily produces safe deposit boxes, vault doors, steel lockers, steel chests and visual auto tellers.

The Notice of Investigation was published in the **Federal Register** on December 5, 1978 (43 FR 56953). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Diebold, Incorporated, its customers, its potential customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers engaged in employment related to the production of steel lockers, steel chests and visual auto tellers and to the production of safe deposit boxes, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The average number of production workers engaged in employment related to the production of steel lockers, steel chests and visual auto tellers declined less than two percent in the first eleven months of 1978 compared to the like period of 1977. The average number of production workers engaged in employment related to the production of steel lockers, steel chests and visual auto tellers declined less than five percent in each of the first three quarters of 1978 compared to the corresponding quarters of 1977. Most of the declines were due to causes other than layoffs. The one week shutdown in August 1978 was due to inventory adjustments. The average number of production workers engaged in employment related to the production of steel lockers, steel chests and visual auto tellers increased in September, October and November 1978 compared to the same months in 1977.

The average number of production workers engaged in employment related to the production of safe deposit boxes increased in the first eleven months of 1978 compared to the like period in 1977. The average number of production workers increased in each of the first three quarters of 1978 compared to the corresponding quarter one year earlier. A one-week shutdown occurred in August, 1978, due to inventory adjustments. The average number of production workers engaged in employment related to the production of safe deposit boxes increased in September, October and November 1978 compared to the same months in 1977.

Sales and production of safe deposit boxes produced at the Canton, Ohio facility of Diebold, Incorporated increased in the first eleven months of 1978 compared to the like period of 1977.

With respect to workers engaged in the production of vault doors, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production of vault doors at the Canton, Ohio facility increased in quantity and value in the fourth quarter of 1977 and in each of the first three quarters of 1978 compared to the same quarter one year earlier.

Conclusion

After careful review I determine that all workers of the Canton, Ohio facility of Diebold, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of April 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[TA-W-4442]

[FR Doc 79-13198 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Diversified Southern Industries and Mr. Jeans, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4813 & 4818: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 15, 1979 in response to a worker petition received on February 9, 1979 which was filed on behalf of workers and former workers producing men's, women's and children's fashion jeans at Diversified Southern Industries, High Point, North Carolina and at Mr. Jeans, Incorporated, Randleman, North Carolina. Mr. Jeans is owned by Diversified Southern Industries.

The Notice of Investigation was published in the **Federal Register** February 27, 1979 (44 FR 11140). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Diversified Southern Industries, Omnico, Omnico's customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven cotton and man-made jeans and dungarees increased in 1977 compared to 1976 and increased absolutely in 1978 compared to 1977. Imports of women's, misses', and children's slacks and shorts

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increased in 1977 compared to 1976 and increased absolutely in 1978 compared to 1977.

The production of Diversified Southern Industries (DSI) and Mr. Jeans is sold through Omnico, another subsidiary of DSI's parent firm, United States Industries. A survey of customers of Omnico revealed that customers representing a significant proportion of the decline in Omnico's sales, in the first ten months of 1978 compared to the first ten months of 1977 increased purchases of imported jeans during the same time period. Workers at Omnico, Inwood, New York were certified eligible to apply for adjustment assistance by the Department on April 10, 1979 (TA–W–4853).

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's, women's and children's jeans produced at Diversified Southern Industries, High Point, North Carolina and Mr. Jeans, Incorporated, Randleman, North Carolina contributed importantly to the decline in sales or production and to the total or partial separation of workers of those firms. In accordance with the provisions of the Act, I make the following certification:

All workers of Diversified Southern Industries, High Point, North Carolina who became totally or partially separated from employment on or after July 8, 1978 and all workers of Mr. Jeans, Incorporated, Randleman, North Carolina who totally or partially separated from employment on or after February 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of April 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[TA–W–4813 and 4818]
[FR Doc. 79–13199 Filed 4–26–79; 8:45 am]
BILLING CODE 4510–28–M

Florsheim Shoe Co., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified below. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of March 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Petitioner: Union/Workers or former workers of—	Location	Date Received	Date of petition	Petition No.	Articles produced
Florsheim Shoe Co., Outsole Leather Plant (workers).	Cape Girardeau, Mo.	3/13/79	3/8/79	TA–W–4,975	Leather shoe soles.
Malden Knitting Mills, Malden Plant (company).	Malden, Mass	3/12/79	3/7/79	TA–W–4,976	Men's and women's sweaters and shirts.
Malden Knitting Mills, Lawrence Plant (company).	Lawrence, Mass	3/12/79	3/7/79	TA–W–4,977	Men's and women's sweaters and shirts.
Malden Mills, Inc., Lawrence Plant (company)	Lawrence, Mass	3/12/79	3/7/79	TA–W–4,978	Knitted, woven and flocked pile fabrics.
Malden Mills Inc., North Berwick Plant (company).	North Berwick, Maine	3/12/79	3/7/79	TA–W–4,979	Knitting, woven and flocked pile fabrics.
Malden Mills, Inc., Hudson Plant (company)	Hudson, N.H.	3/12/79	3/7/79	TA–W–4,980	Knitted, woven and flocked pile fabrics.
Malden Mills, Inc., Barre Plant (company)	Barre, Vt	3/12/79	3/7/79	TA–W–4,981	Knitted, woven and flocked pile fabrics.
Malden Mills, Inc., Bridgeton Plant (company).	Bridgeton, Maine	3/12/79	3/7/79	TA–W–4,982	Knitted, woven and flocked pile fabrics.
Meggan, Inc. (ILGWU)	Los Angeles, Calif	3/15/79	3/5/79	TA–W–4,983	Ladies' dresses.
Messerman Sports Wear (ILGWU)	Los Angeles, Calif	3/15/79	3/5/79	TA–W–4,984	Ladies' sportswear (blouses, dresses, pants).
Anna Myers (ILGWU)	Los Angeles, Calif	3/15/79	3/5/79	TA–W–4,985	Ladies' sportswear and dresses.
Ronay (Leather Goods, Plastics, Handbags, & Novelty Workers' Union).	New York, N.Y	3/12/79	3/7/79	TA–W–4,986	Handbags.
Shenango, Inc., Buffalo, N.Y. Division (USWA).	Buffalo, N.Y	3/5/79	3/1/79	TA–W–4,987	Cast iron ingot molds.
Venus of Calif. (ILGWU)	Los Angeles, Calif	3/15/79	3/5/79	TA–W–4,988	Ladies' sportswear.

[FR Doc. 79–13200 Filed 4–26–79; 8:45 am]
BILLING CODE 4510–28–M

International Shoe Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–4867: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on Februray 28, 1979 in response to a worker petition received on February 22, 1979 which was filed on behalf of workers and former workers producing ladies' footwear at the Belle, Missouri plant of International Shoe Company.

The Notice of Investigation was published in the **Federal Register** on March 9, 1979 (44 FR 13095). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of International Shoe Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certifiation of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's non-rubber footwear, except athletic, increased absolutely from 1975 to 1976, and then decreased in absolute terms from 1976 to 1977. Imports increased absolutely from 1977 to 1978. The import to domestic production ratio increased each year from 1975 to 1978.

A Department survey, conducted with customers who purchased shoes produced by International Shoe Company, revealed that customers increased imports of women's shoes from 1976 to 1977 and in the first nine months of 1978 compared to the same period of 1977, while decreasing purchases from International Shoe Company.

Conclusion

After careful review of te facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's shoes produced at the Belle, Missouri plant of the International Shoe Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Belle, Missouri plant of the International Shoe Company who became totally or partially separated from employment on or after February 14, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of April 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[TA–W–4867]
[FR Doc. 79–13202 Filed 4–26–79; 8:45 am]
BILLING CODE 4510–28–M

L. W. Foster Sportswear Co., Inc.; Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance: Correction

In FR Doc. 79–11573 appearing on page 22208 in the **Federal Register** of April 13, 1979, the date of petition in Appendix under L. W. Foster Sportswear Company, Inc., Philadelphia, Pennsylvania, TA–W–5199 is corrected to read as follows: "April 2, 1979."

Signed at Washington, D C. this 19th day of April 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[TA–W–5199]
[FR Doc. 79–13203 Filed 4–26–79; 8:45 am]
BILLING CODE 4510–28–M

Marion Harwood Manufacturing Co.; Negative Determination Regarding Application for Reconsideration

On March 1, 1979, the petitioning union requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance in the case of former workers of Marion Harwood Manufacturing Company, Holston Plant, Marion, Virginia. The determination was published in the **Federal Register** on February 27, 1979, (44 FR 11145).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioning union claimed that workers at the Holston plant of the Marion Harwood Manufacturing Company are integrated into the production process of the Marion plant whose workers are covered under certification TA–W–4532. The petitioning union claims that the proximity of the Holston plant to the Marion plant and Holston's dependency upon the Marion plant for its cuttings of pajamas and robes supports the integration-of-production-process thesis and warrants certification. In support of the petitioning union, a company official claims that the Holston workers lost time from their work on pajamas because had the Marion plant been able to provide additional pajama cuttings, workers at Holston could have produced more pajamas.

The Department's review revealed that the Trade Act criterion of a decrease in production was not met by workers at the Holston plant producing men's and boys' pajamas. The test of increased imports contributing importantly to separations of workers producing robes was also not met. Production of pajamas at the Holston plant increased in 1978 compared to 1977 and in each of the last three quarters of 1978 compared to the like periods in 1977. The Department's survey of Marion Harwood's customers revealed that those responding represented most of Marion Harwood's sales of robes in 1978. The customers who showed decreased purchases from the subject firm and increased purchases of foreign robes in 1978 compared to 1977 accounted for only an insignificant percent of Holston's decline in robe production for 1978.

The fact that sewing and other operations are performed at the Holston plant on men's and boys' pajamas and robes which were cut by workers at the Marion plant, who are covered by a trade adjustment assistance certification, TA–W–4532, does not by itself provide a basis for certification.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

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Signed at Washington, D.C., this 19th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[TA–W–4553]

[FR Doc 79–13204 Filed 4–26–79; 8:45 am]

BILLING CODE 4510–28–M

Mr. Casuals, Inc.; Certification Regarding Eligibility To Apply For Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–4817: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on Feburary 15, 1979, in response to a worker petition received on February 9, 1979, which was filed on behalf of workers and former workers producing men's women's and children's fashions jeans at the Elk Creek, Virginia plant of Mr. Casuals, Incorporated, a subsidiary of Diversified Southern Industries, High Point, North Carolina.

The Notice of Investigation was published in the **Federal Register** on February 27, 1979 (44 FR 11140). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Diversified Southern Industries, Omnico's customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven cotton and man-made jeans and dungarees increased in 1977 compared to 1976 and increased absolutely in 1978 compared to 1977. Imports of women's misses', and children's slacks and shorts increased in 1977 compared to 1976 and increased absolutely in 1978 compared to 1977.

Production at Mr. Casuals is sold through Omnico, the sales affiliate of Mr. Casuals' parent firm, Diversified Southern Industries.

A survey of customers of Omnico revealed that customers representing a significant proportion of the decline in Omnico's sales in the first ten months of 1978 compared to the first ten months of 1977 increased purchases of imported jeans during the same period. Workers at Omnico, Inwood, New York were certified eligible to apply for adjustment assistance on April 10, 1979 (TA–W–4853). Workers producing men's, women's, and children's jeans the at Troutdale, Virginia plant of Mr. Casuals were certified eligible to apply for adjustment assistance by the Department on February 15, 1979 (TA–W–4465).

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's, women's and children's jeans produced at the Elk Creek, Virginia plant of Mr. Casuals, Incorporated, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Elk Creek, Virginia plant of Mr. Casuals, Incorporated, who became totally or partially separated from employment on or after February 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of April 1970.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[TA–W–4817]

[FR Doc. 79–13205 Filed 4–26–79; 8:45 am]

BILLING CODE 4510–28–M

Opelika Manufacturing Corp., Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–4900: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 7, 1979 in response to a worker petition received on February 26, 1979 which was filed on behalf of workers and former workers weaving raw cotton into towelling material at the Opelika, Alabama mill of the Opelika Manufacturing Corporation.

The Notice of Investigation was published in the **Federal Register** on March 20, 1979 (44 FR 16972). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Opelika Manufacturing Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Opelika, Alabama mill weaves flat goods (cloth) which is assembled by other Opelika Manufacturing Corporation plants into industrial towelling and housewares.

Total sales of the Opelika Manufacturing Corporation increased from 1977 to 1978. Sales of the divisions to which most of the fabric is transferred increased from FY 1977 to FY 1978.

Production of fabric at the Opelika mill increased from 1977 to 1978.

Layoffs which occurred at the Opelika, Alabama mill in June, 1978 were attributable to the replacement of flat goods looms with terry cloth looms. Workers have been recalled as the terry cloth looms have been installed and put into operation. No other layoffs occurred during the period from February 22, 1978, one year prior to the date of the petition, to the present.

Conclusion

After careful review, I determine that all workers of the Opelika, Alabama mill of the Opelika Manufacturing Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of April 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[TA–W–4900]

[FR Doc. 79–13206 Filed 4–26–79; 8:45 am]

BILLING CODE 4510–28–M

Pecos Trail Jeans; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–4819: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 15, 1979, in response to a worker petition received on February 9, 1979, which was filed on behalf of workers and former workers producing men's, women's and children's fashion jeans at Pecos Trail Jeans, Santa Fe, New Mexico, a subsidiary of Diversified Southern Industries, High Point, North Carolina.

The Notice of Investigation was published in the **Federal Register** on February 27, 1979 (44 FR 11140). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Diversified Southern Industries, Omnico, Omnico's customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven cotton and man-made jeans and dungarees increased in 1977 compared to 1976 and increased absolutely in 1978 compared to 1977. Imports of women's, misses', and children's slacks and shorts increased in 1977 compared to 1976 and increased absolutely in 1978 compared to 1977.

Production at Pecos Trails Jeans is sold through Omnico, the sales affiliate of Pecos Trails' parent firm, Diversified Southern Industries.

A survey of customers of Omnico revealed that customers representing a significant proportion of the decline in Omnico sales, in the first ten months of 1978 compared to the first ten months of 1977 increased purchases of imported jeans during the same period. Workers at Omnico, Inwood, New York were certified eligible to apply for adjustment assistance by the Department on April 10, 1979 (TA–W–4853).

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's, women's and children's jeans produced at Pecos Trail Jeans, Santa Fe, New Mexico contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Pecos Trail Jeans, Santa Fe, New Mexico who became totally or partially separated from employment on or after February 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of April 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[TA–W–4819]

[FR Doc. 79–13207 Filed 4–26–79; 8:45 am]

BILLING CODE 4510–28–M

Putnam-Herzl Finishing Co., Inc.; Negative Determination Regarding Application for Reconsideration

By letter of March 27, 1979, the President of Putnam-Herzl Finishing Company requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of the Putnam-Herzl Finishing Company, Inc., Putnam, Connecticut. The determination was published in the **Federal Register** on February 27, 1979, (44 FR 11149).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The President of the firm, on behalf of workers and former workers, claims that increased imports of finished garments contributed importantly to the decline in sales and production and to the separation of workers dyeing and finishing fabric at Putnam-Herzl since Putnam-Herzl workers do not have the opportunity to process the cloth for such imports. Further, the President provided letters from his customers which suggest that imports of finished fabric and finished garments have injured their business with Putnam-Herzl. The President also states that he does not understand how the failure to meet the "contributed importantly" test could affect the workers' claim for trade adjustment assistance especially when company sales and employment decreased in 1978 compared to 1977 while U.S. aggregate imports of finished fabric increased.

The Department's review revealed that the "contributed importantly" test was not met by workers at the Putnam-Herzl Finishing Company. In the Department's survey of Putnam-Herzl's customers, responses were received which accounted for over half of Putnam-Herzl's 1978 sales. Further, the survey revealed that the customers which decreased business with Putnam-Herzl did not import finished fabric. Also, the ratio of U.S. imports of finished fabric to total domestic production was less than 2 percent in 1976 and 1977.

The Department does not consider the President of the firm's claim of lost business because of increased imports of finished garments as relevant because imported finished garments cannot be considered like or directly competitive with finished fabric. Imports of finished fabric must be considered in determinig import injury to workers producing finished fabric. Further, all three statutory group criteria including the "contributed importantly" test must be met for certification. The failure to meet any one of the group criteria including the "contributed importantly" test vitiates the workers group claim for trade adjustment assistance.

The Department contacted Putnam-Herzl's customers identified in the application for reconsideration as claiming that imports of finished fabric and finished garments by their competitors have injured their business with Putnam. Of these customers who decreased their business with Putnam-Herzl in 1978, none imported finished fabric.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 24th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[TA–W–4459]

[FR Doc. 79–13208 Filed 4–26–79; 8:45 am]

BILLING CODE 4510–28–M

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Strickland Cotton Mills; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4765: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 29, 1979 in response to a worker petition received on January 24, 1979 which was filed on behalf of workers and former workers producing cotton sheeting, cotton drill, cotton and polyester blend twill, and single fille duck fabrics at Strickland Cotton Mills, Valdosta, Georgia. The investigation revealed that the plant primarily produced greige woven cotton fabric.

The Notice of Investigation was published in the **Federal Register** on February 6, 1979 (44 FR 7249-50). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Strickland Cotton Mills, its customers, the American Textile Manufacturer's Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of greige woven cotton fabric increased from 479 million square yards during the period January through September 1977 to 582 million square yards during the same period in 1978.

The Department conducted a survey of Strickland Cotton Mills' customers. The survey revealed that some customers increased purchases of imported greige woven cotton fabric during the period 1976 through 1978 and decreased purchases from Strickland Cotton Mills.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with greige woven cotton fabric produced at Strickland Cotton Mills, Valdosta, Georgia contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Strickland Cotton Mills, Valdosta, Georgia who became totally or partially separated from employment on or after June 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of April 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[TA-W-4765]

[FR Doc. 79-13209 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Textron, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4744: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 24, 1979 in response to a worker petition received on January 22, 1979 which was filed on behalf of workers and former workers producing metal and nylon zippers, buttons, snaps, hooks, and eyes for clothing, luggage, sleeping bags and footwear at the Meadville, Pennsylvania plants of the Talon Division of Textron, Inc. The investigation revealed that the plants produce component parts for metal slide fasteners and finished metal slide fasteners.

The Notice of Investigation was published in the **Federal Register** on January 30, 1979 (44 FR 5952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Talon Division of Textron, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation revealed allegations that imports of finished apparel and luggage adversely affected production and employment levels at the Talon Division. However, neither finished apparel nor luggage can be considered to be like or directly competitive with zippers. Imports of zippers must be considered in determining import injury to workers producing zippers.

The Department surveyed customers which reduced purchases from the Talon Division from 1977 to 1978. The survey revealed that customers which increased purchases of imported zippers from 1977 to 1978 were an insignificant percentage of the decline in sales at the subject firm during the same period.

Conclusion

After careful review, I determine that all workers of the Meadville, Pennsylvania plants of the Talon Division of Textron, Inc. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[TA-W-4744]

FR Doc. 79-13210 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Tri-Star Mining Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4878: investigation regarding certification of eligibility to apply for worker adjustment assistance as precribed in Section 222 of the Act.

The investigation was initiated on February 28, 1979 in response to a worker petition received on February 23, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining metallurgical coal at the Welch, West Virginia mine for Tri-Star Mining Company, Incorporated.

The Notice of Investigation was published in the **Federal Register** on March 9, 1979 (44 FR 13094). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Tri-Star Mining Company, Incorporated, its customer, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Tri/Star Mining Company, incorporated is a contract coal mine operator that worked at the Welch, West Virginia mine of the Southern Coal Company until May 1978. Virtually all of coal mined by Tri-Star was exported. Consequently, increased imports of coal or coke into the United States did not affect sales and production levels at this mine.

Conclusion

After careful review, I determine that all workers at the Welch, West Virginia mine for Tri-Star Mining Company, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[TA-W-4878]

[FR Doc 79-13211 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Worcester Knitting Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4911: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 8, 1979, in response to a worker petition received on March 5, 1979, which was filed on behalf of workers and former workers producing children's and boys' polo shirts at Worcester Knitting Company, Worcester, Massachusetts.

The Notice of Investigation was published in the **Federal Register** on March 20, 1979 (44 FR 16971). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Worcester Knitting Company, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of customers of Worcester Knitting Company. The survey indicated that most surveyed customers did not reduce purchases from Worcester while increasing purchases from foreign sources. Decreased purchases from Worcester Knitting Company by a customer which increased purchases of imported children's and boys' polo shirts represented an insignificant proportion of Worcester's decline in sales.

Conclusion

After careful review, I determine that all workers of Worcester Knitting Company, Worcester, Massachusetts, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of April 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[TA-W-4911]

[FR Doc. 79-13212 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Bureau of Labor Statistics

Meeting of the Business Research Advisory Council

The regular spring meeting of the Business Research Advisory Council will be held at 9:30 a.m., May 16, 1979, at the New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C., Room N4437 (A,B,&C). The agenda for the meeting is as follows:

1. Chairman's Opening Remarks—J. Frank Gaston.
2. Acting Commissioner's Remarks—Janet L. Norwood.
3. Committee Reports:
   (a) Occupational Safety and Health.
   (b) Productivity and Technology.
   (c) Foreign Labor and Trade.
   (d) Manpower and Employment.
   (e) Price Indexes.
   (f) Wages and Industrial Relations.
4. BRAC Operating Procedure.
5. Chairman's Closing Remarks.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 523-1559.

Signed at Washington, D.C. this 18th day of April 1979.

Janet L. Norwood,

Acting Commissioner of Labor Statistics.

[FR Doc. 79-13213 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-24-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on Wednesday, May 16, and Thursday, May 17, 1979 at the Harvey Holiday Inn (Regency Room) 171st Street and South Halsted, Harvey, Illinois 60426.

The meetings are open to the public and will begin at 9:00 a.m.

The meeting agenda includes a general discussion of standards development and enforcement activities, as well as continued discussion and development of recommendations on the application of the coke oven standard to non-coke oven employees, and an update on the OSHA-MSHA interface.

Written data, views or arguments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the

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person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the chairman, depending on the extent to which time permits. Communications may be mailed to:

Ken Hunt, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Third Street and Constitution Avenue, NW., Room N-3635, Washington, D.C. 20210, Phone: 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 24th day of April 1979.

Eula Bingham,

Assistant Secretary of Labor

[FR Doc. 79-13267 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

Imperial Reading Corp., Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4866 and 4866A: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 28, 1979 in response to a worker petition received on February 26, 1979 which was filed on behalf of workers and former workers providing administrative and support services at the corporate hedquarters of Imperial Reading Corporation, Lynchburg, Virginia. The investigation was expanded to include the company's sales office in New York, New York.

The Notice of Investigation was published in the **Federal Register** on March 9, 1979 (44 FR 13095). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Imperial Reading Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

The corporate headquarters and sales office provide services which are integral to the production and marketing of shirts and jeans produced by the Imperial Reading Corporation. Employees at various company manufacturing facilities engaged in employment related to the production of approximately 30 percent of the company's total 1977 production have previously been certified eligible to apply for trade adjustment assistance benefits. (See Department notices of determinations for TA-W-3449, 4260 and 4917.)

Employment at the corporate headquarters in Lynchburg, Virginia was relatively stable from January 1976 through August 1978. Employment began to decline in September 1978 and has continued to decline in each month thereafter through March 1979.

Employment at the company's sales office in New York, New York declined in 1977 compared to 1976 and declined in 1978 compared to 1977. Employment further declined in the first quarter of 1979 compared to the first quarter of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with shirts and jeans produced at various locations of the Imperial Reading Corporation contributed importantly to the decline in sales and production and to the total or partial separation of workers at the Imperial Reading Corporation's corporate headquarters in Lynchburg, Virginia and sales office in New York, New York. In accordance with the provisions of the Act, I make the following certifications:

"All workers of the Imperial Reading Corporation's corporate headquarters in Lynchburg, Virginia, who became totally or partially separated from employment on or after September 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

"All workers of the Imperial Reading Corporation's sales office in New York, New York who became totally or partially separated from employment on or after February 23, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 23rd day of April 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[TA-W-4866 and 4866A]

[FR Doc. 79-13201 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 7, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 16th day of April 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of Petition	Petition No.	Articles produced
Ace Equipment Rentals, Inc. (U.M.W.A.)	South Charleston, W. Va	4-9-79	4-4-79	TA-W-5,233	Heavy equipment rental for construction.
Beth-Elkhorn Coal Corporation (Mine #22) (Workers).	Jenkins Ky	4-10-79	4-5-79	TA-W-5,234	Manufacture coal-steam.
Campbell Mining Co. (U.M.W.A.)	Summersville, W. Va	4-9-79	4-4-79	TA-W-5,235	Produce coal.
Dyna Coal #1 (U.M.W.A.)	Anawalt, W. Va	4-2-79	3-27-79	TA-W-5,236	Produce coal.
Green Leaf Fashions, Inc. (Workers)	New York, N.Y	4-10-79	4-3-79	TA-W-5,237	Ladies coats and suits.
Fantasia Fashions (I.L.G.W.U.)	Perth Amboy, N.J	4-10-79	4-2-79	TA-W-5,238	Knitwear fabrics.
Fleshman Trucking, Inc. (U.M.W.A.)	Rainelle, W. Va	4-2-79	3-27-79	TA-W-5,239	Haul coal.
Fisher Coal Company (U.M.W.A.)	Hilleboro, W. Va	4-9-79	4-4-79	TA-W-5,240	Manufacture coal.
Fugerson Coal Company, Corporation (U.M.W.A.).	Craigsville, W. Va	4-9-79	4-4-79	TA-W-5,241	Manufacture coal.
Jeffery Coal Company (U.M.W.A.)	Lynco. W. Va	4-2-79	3-27-79	TA-W-5,242	Produce coal.
Kärstan Corporation (U.M.W.A.)	Richwood W. Va	4-9-79	4-4-79	TA-W-5,243	Manufacture coal.
Lee-Norse Company (Teamsters Union Local 175).	Beckley, W. Va	4-10-79	4-6-79	TA-W-5,244	Underground mining machines.
Sigler Mining, Inc. (U.M.W.A.)	Jodie, W. Va	4-2-79	3-29-79	TA-W-5,245	Produce coal.
Ury Coal Company (U.M.W.A.)	Pineville, W. Va	4-2-79	3-27-79	TA-W-5,246	Haul coal.

[FR Doc. 79-12981 Filed 4-26-79; 8:45 am]

BILLING CODE 4510-28-M

Pension and Welfare Benefit Programs Office

Proposed Exemption for Certain Transactions Involving Electric Hose & Rubber Co. Pension Trust

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the leasing to Electric Hose and Rubber Company (Electric Hose) from the Bank of Delaware (the Trustee), of real property held by the Trustee for the Electric Hose and Rubber Company Pension Trust (the Trust), a trust established by Electric Hose for two pension plans. The proposed exemption would also exempt the guarantee by Dayco Corporation (Dayco) of payment by Electric Hose of all rent due under the above lease. The proposed exemption, if granted, would affect participants and beneficiaries of the Trust, Electric Hose, and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before May 28, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-017. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: C. E. Beaver of the Department of Labor, (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of Labor (the Department) of a proposed exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a)(1)(B) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code), by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Electric Hose pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

(1) Electric Hose has two pension plans, one covering an estimated 284 salaried employees and the other covering an estimated 772 hourly paid employees. The Trust was established on February 18, 1966, to hold the assets of both plans. One August 9, 1966, the Internal Revenue Service (the Service) issued a determination letter stating that the Trust was exempt from taxation under section 501(a) of the Code.

(2) Wyatt and Company, actuaries employed to determine the amount necessary to fund the two plans, found that for the fiscal year ended August 31, 1971, Electric Hose should contribute $926,500. Electric Hose did not have that

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amount of cash available at that time, and decided to explore the possibility of contributing various parcels of real estate. Electric Hose had applied for, and received, an extension of time until February 15, 1972, to file its federal income tax return for the fiscal year ended August 31, 1971.

(3) In January 1972, Electric Hose had its warehouse with the land thereunder, located on Vandever Avenue in Wilmington, Delaware, appraised by a member of the American Institute of Real Estate Appraisers, who was familiar with the Wilmington real estate market. The appraised value of the warehouse property was $864,000. Electric Hose then entered into negotiations with the Trustee with regard to the terms of the possible contribution to the Trust of the warehouse property and two nearby unimproved parcels of real property. On February 14, 1972, Electric Hose deeded to the Trustee the warehouse building and the two nearby unimproved parcels of land. The Trustee and Electric Hose agreed that the fair market value of the warehouse building was $848,127. The two unimproved parcels of land, which had been purchased in 1970 for $113,832, were valued at that figure. Therefore, the stated value of the contribution by Electric Hose for funding the Trust for the fiscal year ended August 31, 1971, totaled $961,959.

(4) Immediately after the contribution, Electric Hose and the Trustee executed a leaseback to Electric Hose of the described real property for ten years at an annual "net-net-net" rental of $69,300. The lease required the lessee to pay all costs of maintenance, taxes, and any other expenses of operating the properties.

(5) The Philadelphia District of the Service audited Electric Hose's tax return for the fiscal year ending August 31, 1971, and concluded that the fair market value of the unimproved properties contributed to the Trust was $113,832, as agreed to by the Trustee and Electric Hose, but determined, on the basis of the rental in the leaseback, that the fair market value of the warehouse building subject to lease was $429,500. On November 26, 1973, the Service issued a letter to Trust proposing to revoke the Trust's tax-exempt status retroactive to September 1, 1970, on the grounds that the contribution and leaseback did not operate for the exclusive benefit of employees or their beneficiaries and that it resulted in a prohibited transaction within the meaning of section 503 of the Code.

(6) Electric Hose and Trustee protested the proposed revocation on January 4, 1974, and requested that, in accordance with Internal Revenue Service procedures, the issues raised be referred to the National Office of the Service for Technical Advice.

(7) On April 22, 1974, counsel for the Trust advised Electric Hose that the Trust intended to call upon Electric Hose to make up any difference ultimately determined between the rentals provided in the leaseback arrangement and the fair rental of the properties leased.

(8) On August 28, 1974, the lease was amended to raise the annual minimum net rent to $132,600 and to compel Electric Hose to make up the deficiency in rentals since February 15, 1972.

(9) On December 6, 1974, the Service forwarded to Electric Hose its final determination that the lease transaction was a prohibited transaction within the meaning of section 503(b)(6) of the Code because there was a substantial diversion of trust corpus when the Trust's assets were leased to Electric Hose at too low a rent. The determination was based on the Service's finding that the fair market value of the warehouse building conveyed to the Trust was $848,127, and that, based on that value as appraised in fee simple and as free and clear of any liens or encumbrances, the fair rental of the property contributed to the Trust would have been $133,199 net rent per annum. By letter of December 6, 1974, the Service revoked the exempt status of the Trust for the taxable year beginning September 1, 1975.

(10) On December 27, 1974, the lease was amended for the second time to increase the annual rental to $133,200 and Electric Hose completed payment of $165,275 in make-up rentals.

(11) In August 1975 Electric Hose filed an election pursuant to section 2003(c)(1)(B) of the Act to avoid the loss of the tax-exempt status of the Trust by paying an excise tax, and paid an excise tax of $16,783.67.

(12) From November 10, 1975, a Wilmington realtor has had a listing to sell the warehouse building which had been contributed to the Trust. Electric Hose represented by a letter of July 1, 1976, that it had been told by real estate brokers that the reason for the inability to sell the warehouse building for its fair value to date was that the real estate market in the Wilmington area had been generally depressed.

(13) On February 28, 1979, Dayco, a Delaware corporation with its principal place of business in Dayton, Ohio and owner of all the outstanding shares of stock of Electric Hose, wrote to the Trustee guaranteeing payment by Electric Hose of all rent due under the aforedescribed lease of real property by the Trustee to Electric Hose. Dayco is a diversified corporation with thirty domestic and six foreign manufacturing facilities producing products marketed throughout the world. As of October 31, 1978, Dayco had annual net sales of $653,017,699 and net earnings of $17,328,066. Its total assets were $386,502,057 and shareholders' equity was $11,761,246.

(14) If the exemption is granted, the Trust will avoid a distressed termination of the lease, executed on February 15, 1972, before its expiration date on February 15, 1982. This proposed exemption of the lease would permit the continuation of rentals from the real property while avoiding a forced sale at an unfavorable price with an unrelated third-party. The proposed exemption of the guarantee by Dayco of the rental payments by Electric Hose would protect the rights of the participants and beneficiaries of the Trust.

Notice to Interested Persons

Within two weeks after Electric Hose obtains a copy of the notice published in the **Federal Register**, a copy of the notice and a statement to the effect that interested persons have a right to comment within the period set forth in the notice will be provided to employees working at the plants of Electric Hose where the pension plans are in effect and Local Number 184 of the United Rubber, Cork, Linoleum and Plastic Workers of America in Wilmington, Delaware, which is an employee organization of which participants in the pension plan for hourly employees are members. The notice will be mailed to the union and posted upon bulletin boards maintained by Electric Hose at plants and offices where either affected plan is in effect. Copies of all such notifications will be forwarded to the Department at the time they are available or distributed.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The pending exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The pending exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Request

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with procedures set forth in ERISA Procedure 75–1. If the exemption is granted, restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a)(1)(B) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply until after February 15, 1982, to the aforedescribed lease of real property by the Trustee to Electric Hose provided the lease remains at least as favorable to the Trust as an arm's length transaction with an unrelated party, and to the guarantee by Dayco of payment by Electric Hose of all rent under the aforedescribed lease. The pending exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 18th day of April, 1979.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[Application No. D–017]

[FR Doc. 79–13057 Filed 4–26–79; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

Public Meeting

Notice is hereby given that the National Commission on Employment and Unemployment Statistics will hold a public meeting on May 31 and June 1, 1979, in Room 550, 2000 K Street, NW., Washington, D.C. 20006.

The National Commission on Employment and Unemployment Statistics was established under Section 13 of the Emergency Jobs Program Extension Act of 1975, Pub. L. 94–444. Its purpose is to advise the President and the Congress on reliable and comprehensive measurements of employment and unemployment by examining the procedures, concepts, and methodology involved in employment and unemployment statistics, and suggesting ways and means of improving them.

The meetings will begin each day at 9:00 a.m. to review public comments on the Commission's Preliminary Draft Report. The public is invited to attend. Official records of the meetings will be available for public inspection by contacting:

Mr. Wesley H. Lacey, Administrative Officer, National Commission on Employment and Unemployment Statistics, Suite 550, 2000 K Street, N.W., Washington, D.C. 20006.

Signed at Washington, D.C., this 23rd day of April, 1979.

Sar A. Levitan,

Chairman.

[FR Doc. 79–13058 Filed 4–26–79; 8:45 am]

BILLING CODE 4510–23–M

NUCLEAR REGULATORY COMMISSION

Availability of Draft Generic Environmental Impact Statement on Uranium Milling

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Generic Environmental Impact Statement (GEIS) on Uranium Milling prepared by the Commission's Office of Nuclear Material Safety and Safeguards is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. Notice of the Commission's intent to prepare such a statement was published in the **Federal Register** on June 3, 1976 (41 FR 22430). A proposed scope and outline for the study was published on March 14, 1977 (42 FR 13874). The Draft Environmental Statement is also being made available at the State Clearinghouses. Requests for single copies of the Draft Environmental Statement (identified as NUREG–0511) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Techincal Information and Document Control.

In preparing the GEIS, the staff has evaluated a wide range of issues. It has examined the problem of controlling emissions from mills during operations and the problem of mill decommissioning. The latter, of course, includes the special problem of dealing with the large volume wastes—mill tailings—produced by milling operations. These wastes will remain hazardous for very long periods of time owing to the long half-lives of radioactivity present. They emit a radioactive gas, Radon–222, which can be transported long distances exposing large populations, albeit to concentrations of radioactivity which are small increments above background. In addition to technical controls, supplementary institutional and financial arrangements for dealing with these problems have been addressed.

In formulating proposals for dealing with these problems to assure public health and safety and environmental

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protection, the staff has developed a full range of perspectives and facts. It has analyzed the problems from short and long term points of view. Potential health risks to individuals living in the immediate vicinity of mills, to individuals living in mining and milling regions, to mill workers, and to large populations which can be exposed to radon, have been addressed. Potential impacts on land use, air quality, water quality, water use, biota and soils, and potential socioeconomic effects of milling operation are assessed. Alternatives for tailings diposal which have been examined have ranged from the past practice of doing virtually nothing to isolate tailings to utilizing potential advance treatment methods such as incorporation of tailings in a solid matrix, such as cement or asphalt.

A set of specific conclusions concerning both technical and institutional aspects of uranium mill operation, decommissioning and tailings disposal are drawn in the GEIS. These conclusions are being incorporated into regulation changes which will be proposed shortly.

Interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain these documents upon request).

Comments are due by July 26, 1979. An extended period of comment is provided because of the large scope and importance of the document. Furthermore, the staff is now working to set up public meetings on the GEIS at several locations in the western milling regions to make it easy for the public to participate in decisions being made. The meetings will be held after the NRC issues proposed new rules on uranium milling and mill tailings diposal which incorporate conclusions of the GEIS. It is expected that these rules will be issued shortly. Notice of the time and place of the public meetings will be in the **Federal Register.** The purpose of these meetings will be to allow persons to make statements and comments for the record on the GEIS and proposed rules, and to ask clarifying questions of NRC staff members and consultants involved in preparing the document. A record of comments from the public meetings, as well as written comments received, will be considered in preparing the Final GEIS and associated regulations.

Comments by Federal, State and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public document Room in Washington, D.C. After consideration of comments obtained on the Draft Environmental Statement, a Final Environmental Statement will be prepared and published. A notice of availability of the Final Environmental Impact Statement will be published in the **Federal Register.**

Comments on the Draft Environmental Statement from interested persons should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Waste Management.

Dated at Silver Spring, Maryland, this 16th day of April, 1979.

For the Nuclear Regulatory Commission.

Ross A. Scarano,

Section leader, New Facilities Section, Uranium Recovery Licensing Branch, Division of Waste Management.

[Project M-25]

[FR Doc. 79-12734 Filed 4-26-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on May 10–12, 1979, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published on April 20, 1979 (44 FR 23609).

The agenda for the subject meeting will be as follows:

Thursday, May 10, 1979

8:30 a.m.–10:00 a.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

The Committee will hear and discuss the report of its Subcommittee on the Implications regarding Nuclear Power Plant Design of the Three Mile Island Nuclear Plant Unit 2 Accident on March 28, 1979.

10:00 a.m.–12:00 Noon: Meeting with NRC Staff (Open)—The Committee will meet with members of the NRC Staff to hear reports on the status of the Three Mile Island Nuclear Station Unit 2 and the NRC Staff evaluation of industry replies to I&E Bulletins 79–05, 79–05A, 79–06, 79–06A, 79–06B, and 79–08 and NRC Staff action in response to ACRS recommendations of April 7, 1979; April 17, 1979; and April 20, 1979 resulting from the March 28, 1979 accident at the Three Mile Island Nuclear Station Unit 2 (TMI–2).

1:00 p.m.–3:00 p.m.: Meeting with Babcock and Wilcox Company (Open)—The Committee will continue discussion with representatives of the Babcock and Wilcox Company regarding I&E Bulletins 79–05 and 79–05A and action taken in response to ACRS recommendations of April 7, 17, and 20, 1979 resulting from the March 28, 1979 accident at TMI–2.

Portions of this session will be closed as required to discuss Proprietary Information related to Babcock and Wilcox Nuclear Steam Supply Systems.

3:00 p.m.–5:00 p.m.: Meeting with Westinghouse Electric Corporation (Open)—The Committee will hear presentations by and hold discussions with representatives of the Westinghouse Electric Corporation regarding I&E Bulletins 79–06 and 79–06A and ACRS recommendations of April 7, 17, and 20 resulting from the March 28, 1979 accident at TMI–2.

Portions of this session will be closed as required to discuss Proprietary Information related to Westinghouse Nuclear Steam Supply Systems.

5:00 p.m.–8:00 p.m.: Executive Session (Open)—The Committee will consider proposed recommendations to NRC resulting from the discussions noted above.

Friday, May 11, 1979

8:30 a.m.–10:30 a.m.: Meeting with Combustion Engineering, Incorporated (Open)—The Committee will hear reports by and hold discussions with representatives of Combustion Engineering, Incorporated regarding I&E Bulletins 79–06 and 79–06B and ACRS recommendations of April 7, 17, and 20, 1979 resulting from the March 28, 1979 accident at TMI–2.

Portions of this session will be closed as required to discuss Proprietary Information related to Combustion Engineering, Incorporated Nuclear Steam Supply Systems.

10:30 a.m.–11:30 a.m.: Meeting With General Electric Company (Open)—The Committee will hear presentations by and hold discussions with representatives of the General Electric Company regarding I&E Bulletin 79–08 and ACRS recommendations of April 7, 17, and 20, 1979 resulting from the March 28, 1979 accident at TMI–2.

Portions of this session will be closed as required to discuss Proprietary Information related to General Electric Company Nuclear Steam Supply Systems.

11:30 a.m.–12:30 p.m.: Meeting With Union of Concerned Scientists (Open)—The Committee will hear and discuss with respresentatives of the Union of Concerned Scientists their interpretation of and conclusions regarding events which occurred at the Three Mile Island Nuclear Plant Unit 2.

1:30 a.m.–3:30 p.m.: Sequoyah Nuclear Plant (Open)—The Committee will hear presentations by and hold discussions with the applicant for an Operating License for this plant and their actions resulting from I&E Bulletins 79–06 and 79–06A and ACRS recommendations of April 7, 17 and 20, 1979 resulting from the March 28, 1979 accident at TMI–2.

Portions of this session will be closed as required to discuss Proprietary Information related to this facility.

3:30 p.m.–6:30 p.m.: Executive Session (Open)—The Committee will discuss proposed reports to the NRC regarding the Three Mile Island Nuclear Plant Unit 2 and the implications of the March 28, 1979 accident at this facility to other light-water cooled and moderated nuclear power stations. The Committee will also discuss proposed reports to the NRC regarding the request for an Operating License for the Sequoyah Nuclear Plant and a Construction Permit for the Palo Verde Nuclear Generating Station Units 4 and 5.

Portions of this session will be closed as required to discuss Proprietary Information, arrangements for physical protection of these nuclear facilities, and matters involved in an adjudicatory proceeding.

Saturday, May 12, 1979

8:30 a.m.–4:00 p.m.: Executive Session (Open)—The Committee will continue discussion of proposed reports to NRC regarding items noted above.

Portions of this session will be closed as required to discuss Proprietary Information, arrangements for physical protection of these nuclear facilities, and matters involved in an adjudicatory proceeding.

The Committee will hear and discuss reports of its Subcommittee and consultants who may be present regarding matters related to nuclear power plant design and operation including: Evaluation of Licensee Event Reports; Combination of Dynamic Loads as a Design Basis for Nuclear Facilities; and proposed Regulatory Guides.

The future schedule for ACRS activities will also be discussed.

Procedures for the conduct of and participation in ACRS meetings were outlined in the **Federal Register** on October 4, 1978 (43 FR 45926). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to protect Proprietary Information (5 U.S.C. 552b(c)(4)), to preserve the confidentiality of classified and Proprietary Information related to safeguarding of special nuclear material and the arrangements for physical protection of the TMI–2 and Sequoyah plants (5 U.S.C. 552b(c)(1)) and to permit discussion of matters involved in a adjudicatory proceeding (5 U.S.C. 552b(b)(10)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202–634–3265), between 8:15 a.m. and 5:00 p.m. EST.

Dated: April 24, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 13052 Filed 4-26-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Adoption of System of Records

AGENCY: Office of Personnel Management.

ACTION: NOTICE.

SUMMARY: The purpose of this document is to give notice pursuant to 5 U.S.C. 552a(o) of the adoption of a new system of records, Ethics in Government Financial Disclosure Records, OPM/GOVT–4. This system was proposed and described in the **Federal Register** (43 FR 66983) on December 29, 1978. The notice invited interested parties to submit comments. No comments have been received that required any changes to the system as proposed. The system was to become effective on the date the Office of Management and Budget waived its 60-day advance notice requirement. The waiver was granted and the system adopted as proposed on February 22, 1979.

EFFECTIVE DATE: FEBRUARY 22, 1979.

FOR FURTHER INFORMATION CONTACT: David Reich, Office of Government Ethics (202) 632–5421.

Beverly M. Jones,

Issuance System Manager, Office of Personnel Management.

[FR Doc. 79-13253 Filed 4-26-79; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

Metropolitan Edison Co.; Proposed Sale of Transmission Lines and Substations to an Unaffiliated Electric Utility

April 23, 1979.

Notice is hereby given that Metropolitan Edison Company ("Met-Ed"), 2800 Pottsville Pike, Muhlenberg Township, Berks County, Pennsylvania 19605, an electric utility subsidiary of General Public Utilities Corporation, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(d) of the Act and Rule 44 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Met-Ed is the owner of three 69 kV electric transmission lines and two substations, located in Dauphin County, Pennsylvania, which were constructed and are currently used solely to provide electric service to Hershey Electric Company ("Hershey").

Hershey was recently acquired by Pennsylvania Power and Light Company ("PP&L"), which is an electric utility company, and an exempt holding company. Hershey has therefore notified Met-Ed that effective March 1, 1980, or such other date as may be mutually acceptable (the "termination date"), Hershey will discontinue obtaining its electric service requirements from Met-Ed and will, instead, obtain service from PP&L.

The above mentioned facilities of Met-Ed will no longer be useful to Met-Ed after the termination date. Met-Ed therefore proposes to sell such facilities to PP&L in accordance with a sales agreement already worked out between the two companies, but subject to Commission approval.

In order to enable PP&L to perform certain required engineering and construction work on the facilities prior to the termination date, Met-Ed has agreed to sell these facilities to PP&L on or about September 1, 1979, and lease back the facilities, for the consideration of $1.00, until the termination date.

It is stated by Met-Ed that the net book cost of the facilities at the expected date of sale, September 1, 1979, will be approximately $523,055. The sale price of these facilities, determined on the basis of negotiations between Met-Ed and PP&L is $737,094.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed transaction. The Federal Energy Regulatory Commission has jurisdiction over the acquisition by PP&L of the facilities that it will purchase from Met-Ed. It is stated that no other state commission and no federal commission,

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other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 17, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the declaration as filed or as it may be amended may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[Rel. No. 21015; 70-6288]

[FR Doc. 79-13104 Filed 4-26-79; 8:45 am]

BILLING CODE 8010-01-M

Municipal Securities Rulemaking Board; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 17, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission the proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The Municipal Securities Rulemaking Board (the "Board") is filing herewith proposed rule A-16 (hereafter referred to as the "proposed rule change"), as set forth below:

Rule A-16. Arbitration Fees and Charges

Except as provided in section 35 of rule G-35, each party to an arbitration proceeding submitted pursuant to rule G-35 shall pay the following fees and assessments in accordance with the provisions set forth below:

1. Each party shall pay a filing fee of $25 at the time of the filing of the Submission Agreement provided for in section 5 of rule G-35. This fee shall not be refundable.

2. In addition to the filing fee, each party may be assessed by the arbitrators, pursuant to section 34 of rule G-35, an additional amount which shall not exceed the following:

If the amount (exclusive of interest and costs) involved is:

$500 or less per matter	$25
More than $500 to $1,000 per matter	$50
More than $1,000 to $2,500 per matter	$60
More than $2,500 to $5,000 per matter	$90
More than $5,000 to $10,000 per hearing	$90
More than $10,000 per hearing	$120

The initiating party and the responding party shall each deposit the amount prescribed by the schedule above. In the case of multiple hearings, the additional amounts required by the above schedule shall be submitted in accordance with the direction of the panel of arbitrators. A hearing for fee purposes shall include all the proceedings conducted in any one calendar day.

3. If the claim, dispute or controversy does not involve a money claim or the amount of damages cannot be readily ascertained at the time of the commencement of the proceeding, the initial amount to be deposited by each party shall be $50 or such amount as the Director of Arbitration or the panel of arbitrators may from time to time thereafter require, provided that such amount shall not exceed $250 per hearing.

4. Any matter submitted and thereafter settled or withdrawn prior to the date of the first hearing, shall entitle the parties to a refund of the amount deposited, except for the filing fee.

5. Any matter submitted and thereafter settled or withdrawn on the date set for the initial hearing or subsequent thereto, shall be subject to such partial refund as the panel of arbitrators may permit.

6. The fees or other charges which the arbitrators are empowered to assess under section 34 of rule G-35 shall in no event exceed the maximum amount chargeable to the parties as set forth in this rule.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

Purpose of Proposed Rule Change

The purpose of the proposed rule change is to establish a continuing source of revenue to defray the costs and expenses of operating and administering the arbitration system established by the Board under rule G-35.

Basis Under the Act for Proposed Rule Change

The Board has adopted the proposed rule change pursuant to sections 15B(b)(2)(D) and 15B(b)(2)(I) of the Securities Exchange Act of 1934, as amended (the "Act"). Section 15B(b)(2)(D) of the Act authorizes the Board to provide for the arbitration of claims, disputes, and controversies relating to transactions in municipal securities. Section 15B(b)(2)(I) authorizes and directs the Board to adopt rules providing for the operation and administration of the Board.

Comments Received From Members, Participants, or Others on Proposed Rule Change

Although the Board did not solicit comments on the proposed rule change, the substance of the proposed rule change was set forth in the exposure draft of rule G-35, as well as in notices, circulated to the industry and other interested persons, relating to the filing of rule G-35 with the Commission and its approval by the Commission. No comments were received by the Board in response to the exposure draft or notices concerning the subject of fees and costs.

Burden on Competition

The Board does not believe that the proposed rule change imposes any burden on competition in the municipal securities industry. The fees and charges provided for in the proposed rule change will be equally applicable to all parties who submit claims, disputes, or controversies to arbitration under rule G-35.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 18, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

April 19, 1979.

[Release No. 34-15750; File No. SR-MSRB-79-3]

[FR Doc. 79-13105 Filed 4-26-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Small Business Conference Commission; Meeting

In accordance with Section 10(a) of the Federal Advisory Committee Act (5 USC appendix I), announcement is made of the following national commission meeting.

Small Business Conference Commission

May 25, 1979—9:30 a.m.–10:30 a.m.—The Harry S. Truman Library, Auditorium, 24 Highway and Delaware Streets, Independence, MO 64050; open meetings.

Purpose: The Small Business Conference Commission was established by Executive Order to provide advice with respect to the holding of a White House Conference on Small Business in early 1980. In pursuit of the goal of a strong small business community, the Commission shall recommend issues to be considered by the conference including those related to fostering of small business and the expansion of opportunities for entry into small business enterprises. The Commission shall make recommendations for legislative and policy changes primarily based upon the findings of the White House Conference on Small Business.

Agenda: The Commission shall address the above issues and review preliminary activities of task forces in a brief meeting.

Contact: Cynthia Howar, Commission Liaison, White House Conference on Small Business, 730 Jackson Place NW., Washington, D.C. 20006.

Please write before May 15, 1979, if you wish to attend this meeting. Attendance by the public will be limited to space available.

Summaries of the transcripts of the meeting will be made available to the public upon request at cost.

Dated: April 24, 1979.

K Drew,

Deputy Advocate for Advisory Councils, Small Business Administration.

[FR Doc. 79-13217 Filed 4-26-79; 8:45 am]

BILLING CODE 8025-01-M

Arkansas; Declaration of Disaster Loan Area

The above-numbered Declaration (See 44 FR 23397) is amended in accordance with the President's declaration of April 11, 1979, to include Polk County in the State of Arkansas and to make disaster relief loan assistance available as a result of severe storms and tornadoes beginning about April 8, 1979.

The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named county and adjacent counties within the State of Arkansas. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on June 11, 1979, and for economic injury until close of business on January 11, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 17, 1979.

A. Vernon Weaver,

Administrator.

[Declaration of Disaster Loan Area #1613; Amendment #1]

[FR Doc. 79-13219 Filed 4-26-79; 8:45 am]

BILLING CODE 8025-01-M

Maryland; Declaration of Disaster Loan Area

The above numbered Declaration (see 44 FR 18577), is amended by adding the civil disorders which included looting and vandalism involving a number of business premises, suffering considerable physical damage to real property, and the loss of merchandise. Therefore, this amendment to this declaration is a result of civil disorders in Prince Georges County, Maryland, which occurred on February 18–19, 1979. All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business of May 21, 1979, and for economic injury until the close of business on December 20, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 13, 1979.

A. Vernon Weaver,

Administrator.

[Declaration of Disaster Loan Area #1593; Amendment #1]

[FR Doc. 79-13220 Filed 4-26-79; 8:45 am]

BILLING CODE 8025-01-M

Michigan; Declaration of Disaster Loan Area

The above numbered Declaration (see 44 FR 18577), is amended by adding Van Buren County and adjacent counties within the State of Michigan, which constitute a disaster area because of damage resulting from ice and snow storm which occurred on December 31, 1978 through January 31, 1979. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on May 21, 1979, and for economic injury until the close of business on December 21, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 3, 1979.

A. Vernon Weaver,

Administrator.

[Declaration of Disaster Loan Area #1592; Amendment #1]

[FR Doc. 79-13221 Filed 4-26-79; 8:45 am]

BILLING CODE 8025-01-M

Montana; Declaration of Disaster Loan Area

Custer County and adjacent counties within the State of Montana constitute a disaster area as a result of damage caused by ice jams and flooding which occurred on March 15, 1979. Applications will be processed under provisions of Pub. L. 94-305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 22, 1979, and for economic injury until close of business on January 23, 1980, at:

Small Business Administration, District Office, 301 South Park, Room 528, Federal Office Building, Helena, Montana 59601

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 23, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-13222 Filed 4-26-79; 8:45 am]

BILLING CODE 8025-01-M

New York; Declaration of Disaster Loan Area

The above numbered Declaration (See 44 FR 10170) and Amendment No. 1 (See 44 FR 18060) are amended by extending

the filling date for physical damage until the close of business on April 17, 1979, and for economic injury until the close of business on November 14, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 13, 1979.

A. Vernon Weaver,

Administrator.

[Declaration of Disaster Loan Area No. 1571; Amendment No. 2]

[FR Doc. 79-13223 Filed 4-26-79; 8:45 am]

BILLING CODE 8025-01-M

New York; Declaration of Disaster Loan Area

The above-numbered Declaration (See 44 FR 11019) and Amendment No. 1 (See 44 FR 16060) are amended by extending the filing date for physical damage until the close of business on April 17, 1979, and for economic injury until the close of business on November 14, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 13, 1979.

A. Vernon Weaver,

Administrator.

[Declaration of Disaster Loan Area No. 1576; Amendment No. 2]

[FR Doc. 79-13224 Filed 4-26-79; 8:45 am]

BILLING CODE 8025-01-M

Texas; Declaration of Disaster Loan Area

The above-numbered Declaration (See 44 FR 23398) is amended in accordance with the President's declaration of April 11, 1979, to include Baylor, Clay and Foard Counties in the State of Texas. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named counties and adjacent counties within the State of Texas. All other information remains the same; i.e., the termination date for filing applicaitons for physical damage is close of business on June 11, 1979, and for economic injury until close of business on January 11, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 17, 1979.

A. Vernon Weaver,

Administrator.

[Declaration of Disaster Loan Area No. 1614; Amendment No. 1]

[FR Doc. 79-13225 Filed 4-26-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

Gifts to Federal Empolyees From Foreign Governments Reported to Employing Agencies in Calendar Year 1978

The Department of State submits the following comprehensive listing of the statements which, as required by law, Federal employees filed with their employing agencies during calendar year 1978 concerning gifts received from foreign government sources. The compilation includes reports of both tangible gifts and gifts of travel or travel expenses of more than minimal value, as defined by statue.

Publication of this listing in the **Federal Register** is required by Section 7342(f) of Title 5, United States Code, as added by Section 515(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Pub. L. 95-105, August 17, 1977, 91 Stat. 865).

Dated: April 16, 1979.

Michael M. Conlin,

Acting Under Secretary for Management.

AGENCY: White House—President and Mrs. Carter, and Other First Family Members

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President and Mrs. Carter	The Louvain Bible in Dutch, 1553, bound in calf over wooden boards decorated w/fillets & rolls, 2 clasps—inscribed by donors. Recd. January 18, 1978. Est. Value—Over $100. Transferred and stored at Archives.	King Baudouin I and Queen Fabiola, Belgium.	Non-acceptance would have caused embarrasement to donors.
President and Mrs. Carter	Fine Belgium lace doily, white, 22: diameter. Recd January 18, 1978. Est. Value—Over $100. Transferred and stored at Archives.	King Baudouin I and Queen Fabiola, Belgium.	Non-acceptance would have caused embarrassment to donors.
President and Mrs. Carter	Sisal tablecloth of hand crocheted raw linen hemp in overall design, 4" diameter rosettes, ecru color, 16' x 4'. Recd April 14, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Mrs. Ernesto Geisel, Wife of President of Brazil.	Non-acceptance would have caused embarrassment to donors.
President Carter	Stamp album of color issues commemorating Bicentennial of Discovery of Hawaian Islands. Recd February 16, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Geoffrey A. Henry, Minister of Finance and Posts, Cook Island.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Gold pin of abstract dancing figure. Recd. May 16, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Rafael Angel Fournier Calderon, Minister of Foreign Affairs, Costa Rica.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Linen hooded cape, front buttoned, of black wool w/colorful hand embroidered floral motifs on front edges and back. Recd March 20, 1978. Est. Value—Over $100. Retained for official use.	Raul Jativa Nieto, Director General de Promocion de Exportacion, Quito, Ecuador.	Non-acceptance would have caused embarrassment to donor.
President Carter	Circular mirror in silver frame, copied from antique Egyptian design, handle shaped as bird 8" diameter, wooden easel incl. Recd November 20, 1978. Est. Value—$175. Transferred and stored at Archives.	Major General Mohamed Hosni Moubarek, Vice President, Arab Republic of Egypt.	Non-acceptance would have caused embarrassment to donor.
President Carter	Statuette of Isis nursing Horus, of metal mounted on wooden block 5" high, found in Tunah-El-Gabal, Late period Circa 700 B.C. Recd February 9, 1978. Est. Value—Over $100. Retained for Official Display.	Pres. Anwar El-Sadat, Egypt	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Circular mirror in hand tolled silver frame of antique Egyptian design w/bird as handle, 6" diameter, wooden easel included. Recd September 27, 1978. Est. Value—$175. Transferred and sotred at Archives.	President Anwar El Sadat, Egypt	Non-acceptance would have caused embarrassment to donor.
President Carter	Silver hand engraved plate w/overall Egyptian motif, 8" diameter, wooden easel included. Recd September 27, 1978. Est. Value—$125. Transferred and stored at Archives.	President Anwar El Sadat, Egypt	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Circular mirror in silver frame, copied from antique Egyptian design, handle shaped as bird, 8" diameter. Recd February 9, 1978. Est. Value—$175. Transferred and stored at Archives.	Mrs. Jehan El Sadaw, Wife of President of Egypy.	Non-acceptance would have caused embarrassement to donor.
President Carter	Book: "Institutions du Droit de la Nature et des Gens" by Gerard de Rayneval. Recd January 14, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Jacquse Chirac, Mayor of Paris, France.	Non-acceptance would have caused embarrassment to donor.
President Carter	Book: "Constitution Francaise, Decretee par l'Assemblee Nationale Constituante, aux annees, 1789, 1790," No. 3749 of limited edition, hand-blocked and tooled in Paris, navy blue leather binding, with inscribed presentation card on inside front cover, 15" x 10", produced by Hermes Recd January 19, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Valery Discard d'Estaing, President of France.	Non-acceptance would have caused embarrassment to donor.

AGENCY: White House—President and Mrs. Carter, and Other First Family Members—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Mrs. Rosalynn Carter	Oval tablecloth, white organdy-like material with machine embroidered design and ruffled edge; included are 12 small hand napkins matching and white tablecloth undercover. Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Mrs. Valery Giscard d'Estaing, Wife of President of France.	Non-acceptance would have caused embarrassment to donor.
President Carter	Set of 12 crystal wine goblets entitled "The King's Goblet", each bearing etched monogram of Landgrave Frederic I of the German States of Hesse & Kassel, handblown by Suessmuth glassworks and contained in compartmentalized chest. Recd August 1, 1978. Est. Value—Over $100. Transferred and stored at Archives.	President an Mrs. Boerner, State of Hesse, Germeny.	Non-acceptance would have caused embarrassment to donors.
Mrs. Rosalynn Carter	Coffee service, mocha color, 6-cup porcelain by Hochst Porcelain Co. Recd August 1, 1978. Est. Value—Over $100. Transferred and stored at Archives.	President and Mrs. Boerner, State of Hesse, Germany.	Non-acceptance would have caused embarrassment to donors.
President Carter	3 "Beethoven 9 Symphonies" performed by Berliner Philharmonic Orches., directed by Herbert Von Karajan (8 recordings), incl. souvenir booklet; "Beethoven's Symphony No. 5 & Schumann's Concert for violin & orchestra" performed by Orchestra of Beethoven Hall, Bonn, conducted by Volker Wangenheim (2 recordings) "Music for the Stage" Beethoven edition (3 recordings) incl souvenir booklet—recorded in Germany by Deutsche Grammophon & Stadt, Bonn—contained in maroon leather case imprinted w/coat of arms of Bonn, specially lettered to donee and signed by Dr. Hans Daniels on inside cover. Recd July 25, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Honorable Hans Daniels, Lord Mayor of Bonn, West Germany.	Non-acceptance would have caused embarrassment to donor.
President and Mrs. Carter	Porcelain table decoration entitled "Horse Rider", 10 in. diameter, surrounded by 4 other individual porcelain horses w/riders, 9" high—by Staatliche Porzellan Mfg. Nymphenburg (Official State Gift of Federal Republic of Germany). Recd July 24, 1978. Est. Value—Over $100. Transferred and stored at Archives.	President & Mrs. Walter Scheel, Federal Republic of Germany.	Non-acceptance would have caused embarrassment to donors.
Amy Carter	Dollhouse, fully furnished and specially lighted. Recd July 24, 1978. Est. Value—Over $100. Retained in Donee's Room.	President and Mrs. Walter Scheel, Federal Republic of Germany.	Non-acceptance would have caused embarrassment to donors.
President Carter	Gold medallion depicting German double eagle & Bundesrepublik Deutschland, 2" dia. commemorating Bonn Economic Summit, July 16-17, 1978. Recd July 27, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Helmut Schmidt, Chancellor of Federal Republic of Germany.	Non-acceptance would have caused embarrassment to donor.
President Carter	2 lead crystal goblets, etched w/buildings of Health Spa & Town Hall of Wiesbaden, 6" high. Recd August 2, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Rudi Schmitt, Mayor of Wiesbaden (Oberburgermeister).	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Demitasse procelain set w/hand-painted floral motifs consisting of coffeepot, 6 cups & matching saucers, creamer and sugar holder, by Koenig L. Porzellan Mfg. contained in compartmentalized chest. Recd July 25, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Governing Mayor of Berlin and Mrs. Stobbe.	Non-acceptance would have caused embarrassment to donors.
President Carter	Book: "Die Goldene Bulle" (The Golden Bull), leather bound illustrated facsimile of Charter containing constitution of Holy Roman Empire of the German Nation, as well as procedures to be observed at an election of an emperor in Frankfurt, published by the Diet of Nuremberg on Jan. 10, 1356. Recd August 1, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Lord Mayor and Mrs. Wallmann, Frankfurt, Germany.	Non-acceptance would have caused embarrassment to donors.
Amy Carter	19th century antique doll, from collection of Frankfurt Historical Museum, in pedestal, 19" tall. Recd August 1, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Lord Mayor and Mrs. Wallmann, Frankfurt, Germany.	Non-acceptance would have caused embarrassment to donors.
Mrs. Rosalynn Carter	Covered vase, manufactured by Hochst Porcelain Co. and based on an 18th century design, 16" tall. Recd August 1, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Lord Mayor and Mrs. Wallmann, Frankfurt, Germany.	Non-acceptance would have caused embarrassment to donors.
President and Mrs. Carter	10 Commandments, each hand-written on grain of rice formed into cross under plastic, contained in handcrafted wood box w/magnifying glass. Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Morarji Desai, Prime Minister of India.	Non-acceptance would have caused embarrassment to donor.
President and Mrs. Carter	Collected works of Mahatma Gandhi, 70 volumes. Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Morarji Desai, Prime Minister of India.	Non-acceptance would have caused embarrassment to donor.
Amy Carter	Black velvet evening purse, encrusted w/floral motifs of gold thread & semi precious stones; matching belt. Recd June 14, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Morarji Desai, Prime Minister of India.	Non-acceptance would have caused embarrassment to donor.
President Carter	Sculpture "Rising Spirit", modernistic bronze on wooden base w/brass engraved plate, 45" tall, by Amar Nath Sehgal. Recd June 14, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Morarji Desai, Prime Minister of India.	Non-acceptance would have caused embarrassment to donor.
President Carter	Sterling silver cigarette box, hand engraved in India—lid bears oval picture of Indian lady. Recd June 14, 1978. Est. Value—$275. Transferred and stored at Archives.	Morarji Desai, Prime Minister of India.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Silver filigree container designed as peacock, housing vial for perfume, 6" high. Recd June 14, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Prime Minister of India Morarji Desai, and Padma Desai (daughter-in-law).	Non-acceptance would have caused embarrassment to donor.
President Carter	Red 3-speed bicycle, made by Hero in India. Recd August 9, 1978. Est. Value—Over $100. Retained at Residence of Donee.	George M. Fernandes, Minister of Industries of India.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Blue 3-speed bicycle, made by Hero in India. Recd August 9, 1978. Est. Value—Over $100 Retained at Residence.	George M. Fernandes, Minister of Industries of India.	Non-acceptance would have caused embarrassment to donor.
Amy Carter	Blue 3-speed bicycle, made by Hero in India. Recd August 9, 1978. Est. Value—Over $100. Retained at Residence.	George M. Fernandes, Minister of Industries of India.	Non-acceptance would have caused embarrassment to donor.
President Carter	Gold (or brass) box w/motif of crossed sabres set with 17 diamond chips, lined in velvet 11" x 9" x 3". Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	King Khalid, Saudi Arabia	Non-acceptance would have caused embarrassment to donor.
President Carter	Cart, intricately carved of wood, drawn by 4 horses w/driver, engraved plate attached on wood base 17" x 6" Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Chaudhri Devi Lal, Chief Minister Haryana State, India.	Non-acceptance would have caused embarrassment to donor.
President Carter	Carving, courtyard w/intricate 5 story scale model of obelisk containing electric bulb in tower, smaller ivory objects & fence surrounding, silver plates engraved w/Indian characters on gift & padded box. Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	R. K. Gupta, Mayor of New Delhi, India.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Evening purse and stole, gold thread; purse made w/pearls and semi-precious stones; stole w/colorful Indian motif, blue velvet box w/silver engraved	R. K. Gupta, Mayor of New Delhi, India.	Non-acceptance would have caused embarrassment to

AGENCY: White House—President and Mrs. Carter, and Other First Family Members—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
	plaque. Recd January 10, 1978. Est. Value—Over $100. Transferred and stored at Archives.		donor.
Mrs. Rosalynn Carter	Silver bracelet containing numerous turquoise stones, hinged with latched closure. Recd February 13, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Amb. and Mrs. Palkhivala, Embassy of India.	Non-acceptance would have caused embarrassment to donors.
Mrs. Rosalynn Carter	Gold colored pin with numerous turquoise stones, shaped as peacock. Recd February 13, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Amb. and Mrs. Palkhivala, Embassy of India.	Non-acceptance would have caused embarrassment to donors.
President Carter	Dark wood chest w/intricate ivory inlaid elephant scenes, top mirrored inside, standing on 4 carved elephant feet, 35" x 23" x 20". Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Neelam Sanjeeva Reddy, President of India.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Sari, magenta w/gold threaded motif; head shawl, fuscia w/gold thread fringe & motif; evening bag w/gold encrusted motif and semi-precious stones; sandals, red leather w/gold trimwork. Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Neelam Sanjeeva Reddy and Mrs. Reddy, President of India.	Non-acceptance would have caused embarrassment to donors.
Mrs. Rosalynn Carter	Handmade jewelry box depicting intricately painted Indian portraits & motifs, octagonal w/8 feet, velvet lined, 9" dia. Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Neelam Sanjeeva Reddy and Mrs. Reddy, President of India.	Non-acceptance would have caused embarrassment to donors.
President Carter	Color photograph of donor in silver frame bearing gold crest, walnut backing, 18" x 13". Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Neelam Sanjeeva Reddy, President of India.	Non-acceptance would have caused embarrassment to donors.
Mrs. Rosalynn Carter	Silver bowl and tray, engraved inscription on bottom, 10" x 16". Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Omesh Saigal, President, New Delhi Municipal Committee, India.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Flower arrangement of multicolor orchids ingold colored pedestal vase. Recd January 20, 1978. Est. Value—Over $100. Transferred to Flower Room at Residence.	Her Imperial Majesty, the Shabanou of Iran.	Non-acceptance would have caused embarrassment to donor.
President and Mrs. Carter	Gold box lined w/wood, Imperial crest on top, 7" x 4" x 2". Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Their Imperial Majesties, the Shahanshah and Shabanou of Iran.	Non-acceptance would have caused embarrassment to donors.
President and Mrs. Carter	6 tins of caviar. Recd December 22, 1978. Est. Value—Over $100. Retrained at Residence for Official Use.	Their Imperial Majesties, the Shahanshah and Shabanou of Iran.	Non-acceptance would have caused embarrassment to donors.
President and Mrs. Carter	32 deep red long stem roses in plastic pot within wicker basket. Recd February 14, 1978. Est. Value—Over $100. Transferred to Flower Room at Residence.	Ambassador Ardeshir Zahedi	Non-acceptance would have caused embarrassment to donors.
Mrs. Rosalyn Carter	4 dozen deep red roses in wicker basket. Recd June 23, 1978. Est. Value—Over $100. Transferred to Flower Room at Residence.	Ambassador Ardeshir Zahedi, Embassy of Iran.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalyn Carter	1 large tin of caviar. Recd June 23, 1978. Est. Value—Over $100. Destroyed—per instructions of Secret Service.	Ambassador Ardeshir Zahedi, Embassy of Iran.	Non-acceptance would have caused embarrassment to donor.
President and Mrs. Carter	30 anthuriums in pressed glass vase. Recd July 10, 1978. Est. Value—Over $100. Transferred to Flower Room at Residence.	Ambassador Ardeshir Zahedi, Embassy of Iran.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalyn Carter	Vermeil cachepot w/figures of 3 lions in bas relief thereon, 3" high. Recd July 31, 1978. Est. Value— $500. Transferred and stored at Archives.	Ambassador Ardeshir Zahedi, Embassy of Iran.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalyn Carter	Caviar. Recd September 12, 1978. Est. Value—Over $100. Retained by Donee for official use.	Ambassador Ardeshir Zahedi, Embassy of Iran.	Non-acceptance would have caused embarrassment to donor.
President Carter	16-volume set of books: "A Survey of Persian Art" (from prehistoric times to the present), edited by Arthur Upham Pope & Phyllis Ackerman. Recd December 1, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Ambassador Ardeshir Zahedi, Embassy of Iran.	Non-acceptance would have caused embarrassment to donor.
President and Mrs. Carter	Waterford crystal vase w/scene from Hamlet etched thereon, 11" high. Recd March 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Ambassador John G. Molloy, Embassy of Ireland.	Non-acceptance would have caused embarrassment to donor.
President and Mrs. Carter	Portfolio of 20 color prints of original modernistic works by Israeli artists, entitled "Tem Painters on War and Peace", each limited Ed. print 26" x 20", signed by artist; portfolio edited by Dr. Haim Gamzu, Graphart Publishers, Tel Aviv, title page inscribed. Recd September 26, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Menachem Begin, Prime Minster of Israel.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	18K gold ring w/coral stone, handcrafted in Jordan. Recd December 14, 1978. Est. Value—$300. Transferred and stored at Archives.	Her Royal Highness, Princess Basmah of Jordan.	Non-acceptance would have caused embarrassment to donor.
President Carter	Lamp, floor pedestal style handcrafted from light colored native woods w/lattice work type globe, electrified; 70" tall. Recd April 5, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Dr. William R. Tolbert, Jr., President of Libena.	Non-acceptance would have caused embarrassment to donor.
President Carter	Bust of Christ in ivory, mounted on 4-sided obelisk style, pedestal wood w/light colored inset, engraved plate on front, 43" high. Recd April 5, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Dr. William R. Tolbert, Jr., President of Liberia.	Non-acceptance would have caused embarrassment to donor.
President Carter	Handmade satin quilt depicting Liberian & American flag in center, surrounded by floral motifs, on white background, in green, yellow & red, 90" x 86", contained in polished wooden chest w/outline of Libena inlaid in top. Recd April 5, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Dr. William R. Tolbert, Jr., President of Liberia.	Non-acceptance would have caused embarrassment to donor.
President Carter	Handwoven wall hanging of 23rd Psalm, displayed under glass in light colored wooden frame w/heart and diamond shape insets, 42" x 35". Recd April 5, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Dr. William R. Tolbert, Jr., President of Liberia.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Gold pendant encircling red gold medallion commemorating Donor's inauguration, suspended on gold chain contained in velvet lined polished wood chest inlaid w/Liberian Star on top. Recd April 14, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Dr. William R. Tolbert, Jr., President of Liberia.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Traditional Liberian gown of heavy white cotton w/hand embroidered gold colored thread design on sleeves, neck and down front. Recd April 14, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Dr. William R. Tolbert, Jr., President of Liberia.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Chimalli (Shield), representative of Mixtec Warriors, 14K gold w/22K mixture. Recd May 4, 1978. Est. Value—$800. Transferred and stored at Archives.	Margarita Lopez Portillo Y Pacheco, Sister of President of Mexico.	Non-acceptance would have caused embarrassment to donor.
President Carter	Jasper inkstand w/2 vials for ink (detachable lids), inlaid w/brass engraved w/names of 50 U.S. states, removable brass presentation disc in center, 15" x 12", mfg. in 1889 in Ekaterinburg, Russia by Mr. Mostovenko at Imperial workshop of Czar; included are 2 matching candlesticks 11" high made in	King Hassan II, Morocco	Non-acceptance would have caused embarrassment to donor.

AGENCY: White House—President and Mrs. Carter, and Other First Family Members—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
	Louis XVI style. Recd November 15, 1978. Est. Value—Over $100. Transferred and stored at Archives.		
Mrs. Rosalynn Carter	Minaudiere—an evening case for cosmetics, etc., of hand tooled solid gold, set w/diamonds, rubies & green onyx, attached to gold chain, approx. 5" x 1½", contained in red leather gold embossed case bearing crest of donor. Recd November 24, 1978. Est. Value—Between $5,000–$6,000. Transferred and stored at Archives.	King Hassan II, Morocco	Non-acceptance would have caused embarrassment to donor.
President Carter	Stamp album of color issues commemorating discovery of Hawaiian Islands. Recd February 16, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Terry Chapman, Special Representative of Premier of Niue, New Zealand.	Non-acceptance would have caused embarrassment to donor.
President Carter	3 leather hassocks, green & orange suede finished w/white piping stamped with donee's name in snakeskin, encircling seal of Nigeria, zipper openings, 4' diameter. Recd April 14, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Lt. Gen. Olusegun Obasanjo, Head of State, Nigeria.	Non-acceptance would have caused embarrassment to donor.
President and Mrs. Carter	Republic of Panama coin proof set—8 silver coins and 1 copper coin—2 identical sets, each in box, minted at Franklin Mint. Recd May 25, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Demetrio Lakas, President of Panama.	Non-acceptance would have caused embarrassment to donor.
Amy Carter	Miniature TV set, 2" screen, made in England by Sinclair. Recd June 23, 1978. Est. Value—Over $100. Retained in Donee's room.	Demetrio Lakas, President of Panama.	Non-acceptance would have caused embarrassment to donor.
President and Mrs. Carter	Pectoral, gold pre-Columban diec worn on chest(s) of Chiefs of Cacique Indians of Panama, made circa 1000 A.D. Recd June 23, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Demetrio Lakas, & Family, President of Panama.	Non-acceptance would have caused embarrasment to donor.
President and Mrs. Carter	Pen & ink drawing of Washington Hotel in Panama, 1913, made from a photo of the Times by Daniel chen 1978, 22" x 28". Recd June 23, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Demetrio B. Lakas, President of Panama.	Non-acceptance would have caused embarrassrment to donor.
President and Mrs. Carter	Framed watercolor of boats 28" x 22". Recd June 26, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Brigadier General and Mrs. Omar Torrijos, Chief of Govt. and Commander of Natl. Guard, Panama.	Non-acceptance would have caused embarrassment to donor.
President and Mrs. Carter	Gobelin wall hanging depicting Warsaw's Royal Castle, wood, 55" x 36". Recd January 26, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Edward Gierek, 1st Secretary of Central Committee of Polish United Worker's Party.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Neeklace of topaz colored chips in graduated sizes on string. Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Stanislawa Gierek (Mrs. Edward), Wife of 1st Secretary of Central Committee of Polish United Worker's Party.	Non-acceptance would have caused embarrassment to donor.
President Carter	Prints: "Portugaliae Monumenta Cartografica" (cartographic monuments of Portugal) by Armando Cortesao & Avelino Teixeira da Mota, Volumes I–VI w/Index Volume VI; bound prints of maps w/text in Portuguese & English 25" x 19" each. Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Antonio Dos Santos Ramalho, President of Portugal.	Non-acceptance would have caused embarrassment to donor.
President Carter	12 volume set of books in English by donor, bound in red leather; gold tooling, contained in red pullout leather case; top interior lid impressed w/seal of Romania (1st volume inscribed). Recd April 13, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Nicolae Ceausescu, President of Romania.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Maroon leather briefcase w/brass fittings & Cartier crest interior pockets, combination lock, 17" x 13" x 13"; Sony Video cassette on Saudi folklore enclosed, with 2 books "Wild Flowers of Central Saudi Arabia" and "The Kingdom of Saudi Arabia", 3 cassette tapes on Saudi popular music, packet of souvenir slides and packet of color postcards. Recd January 17, 1978. Est. Value—Over $100. Transferred and stored at Archives.	King Khalid, Saudi Arabia	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Butterfly pin, gold filigree, handmade in Senegal. Recd June 9, 1978. Est. Value—$175. Transferred and stored at Archives.	Leopold Sedar Senghor, President of Senegal.	Non-acceptance would have caused embarrasement to donor
Amy Carter	Gold bracelet w/entwined animal hair made therein, hand fashioned in Senegal. Recd June 9, 1978. Est. Value—$250. Transferred and stored at Archives.	Leopold Sedar Senghor, President of Senegal.	Non-acceptance would have caused embarrassment to donor.
President Carter	Portfolio of poems "Chants d'Ombre" (Sons of Darkness) by Donor, accompanied by 20 original signed gravures by Andre Masson, No. 18 of Limited Ed. Recd June 9, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Leopold Sedar Senghor, President of Senegal.	Non-acceptance would have caused embarrassment to donor.
Mrs. Lillian Carter, Mother of President	"Diankha" wall hanging, depicts African lady on multi-colored background, handwoven of wool. Recd September 21, 1978. Est. Value—Over $100. Retained for Official Display by Presidential Staff.	Leopold Sedar Senghor, President of Senegal.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Matched set of ivory & gold necklace, bracelet, earrings and ring, made in Sudan, contained in wooden box w/ivory & mother-of-pearl inlay. Recd November 14, 1978. Est. Value—$1,150. Transferred and stored at Archives.	Mrs. Buthaina Nimeiri, Wife of President of Sudan.	Non-acceptance would have caused embarrassment to donor.
President Carter	Stamp album of color issues from French Polynesia. Recd February 16, 1978. Est. Value—Over $100. Transferred and stored at Archies.	Francois Audibert, Telecommunications and Postal Service of French Polynesia, Tahiti.	Non-acceptance would have caused embarrassment to donor.
Mrs. Rosalynn Carter	Green hooded cape, floor length, finely woven burlap w/rasied gold & silver star motifs overall. Recd December 4, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Prime Minister of Tunisia and Mrs. Noura.	Non-acceptance would have cause embarrassment to donor.
President and Mrs. Carter	3 tins of caviar. Recd December 27, 1978. Est. Value—Over $100. Retained at Residence for Official Use.	Ambassador Anatoliy F. Dobrynin, Soviet Embassy.	Non-acceptance would have cause embarrassment to donor.
President and Mrs. Carter	Palekh panel—depicts a young girl in native Russian costume standing on a knoll surrounded by vines & tree, handmade in USSR. Recd Dec. 27, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Ambassador and Mrs. Anatoliy Dobrynin, Soviet Embassy.	Non-acceptance would have cause embarrassment to donor.
Mrs. Rosalynn Carter	Necklace, bracelet and pin set, amber colored. Recd January 26, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Boris N. Ponomarev, Chairman, Affairs Commission of Council of Nationalities of Supreme Soviet—USSR.	Non-acceptance would have cause embarrassment to donor.
President Carter	Key to City—silver w/religious shield motif in handle, 10" long, in presentation box w/engraved plate. Recd April 5, 1978. Est. Value—Over $100. Transferred and stored at Archies.	Sieco Rafael Dominguez, President, Municipal Council of the Federal District, Caracas, Venezuela.	Non-acceptance would have cause embarrassment to donor.
President and Mrs. Carter	Modernistic painting entitled "Jnio Intenso" (Intense June) by Mercedes Pardo 1977—acrylic. Predominantly black w/reds, blue, greys & greens, framed. Recd April 6, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Carlos Andres Perez, President of Venezuela.	Non-acceptance would have cause embarrassment to donor.

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AGENCY: White House—President and Mrs. Carter, and Other First Family Members—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President Carter	Painting "Holy Family and St. Catherine", 18th century icon from Town of Boka Kotorska, late Italo-Greek style, tempera on wood panel, by unknown artist, in ornate gilt frame 22" x 19". Recd March 14, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Josip Broz Tito, President of Yugoslavia.	Non-acceptance would have caused embarrassment to donors.
Mrs. Rosalynn Carter	Tablecloth (9'6" x 5'7") w/tatted center and corner designs, 1 doz. lap napkins and 1 doz. cocktail napkins w/tatted corners & edgings, ecru linen. Recd March 14, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Josip Broz Tito, President of Yugoslavia.	Non-acceptance would have caused embarrassment to donors.
President Carter	2 pieques: buffalo in copper bas relief on copper background, framed, 25" x 19"; and impala in copper bas relief on copper disc 13" diameter, made in Zambia. Recd May 18, 1978. Est. Value—Over $100. Transferred and stored at Archives.	Kenneth D. Kaunda, President of Zambia.	Non-acceptance would have caused embarrassment to donors.

AGENCY: White House Staff

Major Bob Peterson, Air Force Aide to the President.	Silver footed dish with beaded edging, hand hammered in Egypt, 4½" diameter. Recd November 20, 1978. Est. Value—$130 Reported and transferred to GSA.	Maj. General Mohamed Hosni Moubarek, Vice President, Arab Republic of Egypt.	Non-acceptance would have caused embarrassment to donors.
Dr. Zbigniew Brzezinski, Assistant to the President for National Security Affairs.	Silver footed dish with beaded edging, hand hammered in Egypt. Recd November 20, 1978. Est. Value—$130. Retained for official display in Donee's office.	Maj. General Mohamed Hosni Moubarek, Vice President, Arab Republic of Egypt.	Non-acceptance would have caused embarrassment to donors.
Dr. Zbigniew Brzezinski, Assistant to the President for National Security Affairs.	Circular brass wall hanging with silver colored overlay, intricate bas relief figures, 2 ft. diameter; included are 2 matching urns, 9" diameter. Recd January 11, 1978. Est. Value—Over $100. Retained for official display in Donee's office.	Neelam Sanjeeva Reddy, President of India.	Non-acceptance would have caused embarrassment to donors.
Mark Weiner, Staff Assistant, Office of Presidential Appointments.	2 Bark sailing ships of silver in filigree pattern, handcrafted in Indonesia, each approx. 11" x 11" long. Recd February 28, 1978. Est. Value—$170. Reported and transferred to GSA.	Yani Haryanto, Advisor to Pres. Duharto, Indonesia.	Non-acceptance would have caused embarrassment to donors.
Amb. Robert S. Strauss, Special Representative for Trade Negotiations.	Seiko Digital wristwatch, World Time model, stainless steel, No. M158 5000; serial No. 820477. Recd September 18, 1978. Est. Value—$215. Reported and transferred to GSA.	Nobuhiko Ushiba, State Minister Without Portfolio—Japan.	Non-acceptance would have caused embarrassment to donors.
Amb. Alonzo L. McDonald Deputy Special Representative Office of Special Representative for Trade Negotiations.	Seiko digital wristwatch, World Time model, stainless steel case and band, No. M158–5000, Serial No. 784702. Recd October 11, 1978. Est. Value—$215. Reported and transferred to GSA.	Nubuhiko Ushiba State Minister Without Portfolio—Japan.	Non-acceptance would have caused embarrassment to donor.
Dr. Zbigniew Brzezinski Assistant to the President for National Security Affairs.	White traditional Liberian Chief's robe w/matching cap, of heavy broadcloth-like material with off white raised motifs, partially lined. Recd April 6, 1978. Est. Value—Over $100. Retained for official display in Donee's office.	William R. Tolbert, Jr. President of Liberia.	Non-acceptance would have caused embarrassment to donor.
Dr. Zbigniew Brzezinski Assistant to the President for National Security Affairs.	Map, shaped as Liberia, made from various polished rock samples, mounted on composite wooden background w/lettered key explanation in shadowbox frame, 28" square. Recd April 6, 1978. Est. Value—Over $100. Retained for official display in Donee's office.	William R. Tolbert, Jr. President of Liberia.	Non-acceptance would have caused embarrassment to donor.
Susan Clough Personal Assistant/Secretary to the President.	Wool rug, predominantly beige with blues, fringed, made in Morocco; 74" x 49". Recd December 4, 1978. Est. Value—Over $100. Retained for official display in Donee's office.	King Hassan II Morocco	Non-acceptance would have caused embarrassment to donor.
Hamilton Jordan Assistant to the President	Wool rug, various shades of blue, fringed, 79" x 56", handmade in Morocco. Recd December 1, 1978. Est. Value—Over $100. Retained for official display in Donee's office.	King Hassan II Morocco	Non-acceptance would have caused embarrassment to donor.
Dr. Zbigniew Brzezinski Assistant to the President for National Security Affairs.	Wool rug, multicolored designs, approx. 12' x 16', made in Morocco. Recd December 4, 1978. Est. Value—Over $100. Retained for official display in Donee's office.	King Hassan II Morocco	Non-acceptance would have caused embarrassment to donor.
Susan Clough Personal Assistant/Secretary to the President.	4 yards of fabric, approx 15" long by 36" wide, interspersed with gold thread design. Recd December 4, 1978. Est. Value—Over $100. Retained for official display.	King Hassan II Morocco	Non-acceptance would have caused embarrassment to donor.
Dr. William Quandt National Security Council	Sheep's wool rug, predominantly red w/multicolored motifs, beige fringed, approx 8' x 14', crafted in Morocco. Recd December 15, 1978. Est. Value—Over $100. Retained for official display in Donee's office.	King Hassan II Morocco	Non-acceptance would have caused embarrassment to donor.
Phil Wise Deputy Appointments Secretary	Longines white gold watch, Roman numerals w/King Khalid's name in Arabic letters. Recd January 18, 1978. Est. Value—Over $200. Reported and transferred to GSA.	King Khalid Saudi Arabia	Non-acceptance would have caused embarrassment to donor.
Madeline MacBean Personal Assistant to Mrs. Carter.	Dark brown dress, gauze-like material w/intricate raised handwork of gold thread and sequins. Recd January 17, 1978. Est. Value—Over $100. Reported and transferred to GSA.	King Khalid Saudi Arabia	Non-acceptance would have caused embarrassment to donor.

AGENCY: Office and Staff of Vice President

Walter F. Mondale, Vice President	Solid gold medallion in honor of John Paul's coronation as Pope. Recd September 3, 1978. Est. Value—$150. Held in VP Gift Storage Room.	Pope John Paul I, Vatican	Non-acceptance would have caused embarrassment to U.S. Government.
Vice President and Mrs. Walter F. Mondale	Large oval mirror with shell border. Recd April 29, 1978. Est. Value—$300. Held in VP Gift Storage Room.	President and Mrs. Ferdinand Marcos, Philippines.	Non-acceptance would have caused embarrassment to U.S. Government and donors.
Vice President and Mrs. Walter F. Mondale	Hand carved reak statue of an old man feeding a bird. Recd May 6, 1978. Est. Value—$200. On Display in Vice President's office.	Vice President and Mrs. Adam Malek, Indonesia.	Non-acceptance would have caused embarrassment to donors.
Mrs Joan Mondale, Wife of Vice President	12 beige lace and linen placemats. Recd April 29, 1978. Est. Value—$200. Retained for Official Use at Residence.	President and Mrs. Ferdinand Marcos, Philippines.	Non-acceptance would have caused embarrassment to donors.
Walter F. Mondale, Vice President	Large blue-glazed china vase with lid. Recd May 6, 1978. Est. Value—$200. Retained for Official Use at Residence.	President and Mrs. Suharto, Indonesia.	Non-acceptance would have caused embarrassment to donors.
Mrs Joan Mondale, Wife of Vice President	Large brown pottery vase. Recd May 6, 1978. Est. Value—$200. Retained for Official Use at Residence.	Vice President and Mrs. Adam Malek, Indonesia.	Non-acceptance would have caused embarrassment to donors.
Vice President and Mrs. Walter F. Mondale	3 pottery items, lt. green (1 bowl; 2 vases)—antiques. Recd May 4, 1978. Est. Value—$300. Retained for Official Use at Residence.	Prime Minister Kringsak Chomanan, Thailand.	Non-acceptance would have caused embarrassment to donor.
Mrs. Joan Mondale, Wife of Vice President	2 brown pottery pots from the Iron Age (200–500 A.D.). Recd April 29, 1978. Est. Value—$500–$1,000 each. Retained for Official Display in Vice President's Office.	President and Mrs. Ferdinand Marcos, Philippines.	Non-acceptance would have caused embarrassment to donors.

AGENCY: Office and Staff of Vice President—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Vice President and Mrs. Walter F. Mondale	Large scenic painting in shades of green (46" x 66"). Recd May 5, 1978. Est. Value—$750. Retained for Official Use in Vice President's Office.	President Suharto, Indonesia	Non-acceptance would have caused embarrassment to donor.
Maj. John Matheny, Military Aide to the Vice President.	Set of bronze flatware. Recd May 6, 1978. Est. Value—$200. Held in VP Gift Storage Room.	Prime Minister K. Chomanan, Thailand.	Non-acceptance would have caused embarrassment to donor.
David Bieging, Special Assistant to Vice President.	Set of bronze flatware. Recd May 6, 1978. Est. Value—$200. Held in VP Gift Storage Room.	Prime Minister K. Chomanan, Thailand.	Non-acceptance would have caused embarrassment to donor.
Deborah Sale, Special Assistant to Vice President.	Sterling silver compact. Recd May 4, 1978. Est. Value—$125. Held in VP Gift Storage Room.	General Chomanan, Prime Minister of Thailand.	Non-acceptance would have caused embarrassment to donor.
Bess Abell, Executive Assistant to Mrs. Mondale.	Sterling silver compact. Recd May 4, 1978. Est. Value—$125. Held in VP Gift Storage Room.	General Chomanan, Prime of Minister Thailand.	Non-acceptance would have caused embarrassment to donor.
Maxine Burns, Deputy Press Secretary	Sterling silver compact. Recd May 4, 1978. Est. Value—$125. Held in VP Gift Storage Room.	General Chomanan, Prime of Minister Thailand.	Non-acceptance would have caused embarrassment to donor.
Penny Miller, Personal Secretary to Vice President.	Sterling silver compact. Recd May 4, 1978. Est. Value—$125. Held in VP Gift Storage Room.	General Chomanan, Prime Minister of Thailand.	Non-acceptance would have caused embarrassment to donor.
James Johnson, Executive Assistant to Vice President.	Silver-tooled box (sterling silver). Recd May 4, 1978. Est. Value—$400. Held in VP Gift Storage Room.	General Chomanan, Prime Minister of Thailand.	Non-acceptance would have caused embarrassment to donor.
Rebecca McGowan, Special Assistant to Vice President for Scheduling.	Broach pin—gold bird with large pearl body and stones for eyes and tail. Recd April 29, 1978. Est. Value—$450. Held in VP Gift Storage Room.	Mrs. Imelda Marcos, Wife of President of Philippines.	Non-acceptance would have caused embarrassment to donor.

AGENCY: U.S. Senate (Gifts)

Edward M. Kennedy, U.S. Senator	One balalaika, a traditional stringed musical instrument. Recd September 7, 1978. Est. Value—$250. Deposited with Secretary of the Senate.	Members of Michurin Collective Farm, Alma Ata, Russia.	Non-acceptance would have caused embarrassment to donors.
Edward M. Kennedy, U.S. Senator	Framed oil painting of home of Leo Tolstoy. Recd September 9, 1978. Est. Value—$150. Deposited with Secretary of the Senate.	Leonid Brezhnev,. General Secretary, U.S.S.R.	Non-acceptance would have caused embarrassment to donor.

AGENCY: U.S. Senate (Travel/Travel Expenses)

Name and position of employee	Brief description of travel or travel expenses taken place entirely outside of United States	Circumstances justifying acceptance	Identity of foreign donor and government
Howard Baker, Jr., United States Senator—and Mrs. Baker.	(a) Transportation by Panamanian aircraft. January 4, 1979	To facilitate travel within Panamanian interior at request of Government of Republic of Panama.	Republic of Panama, General Omar Torrijos.
John Chafee, United States Senator	See Ref. (a)		
Jake Garn, United States Senator—and Mrs. Garn.	See Ref. (a)		
Howard Baker, Jr., United States Senator	(b) Transportation by Panamanian aircraft to Farralon and return to Panama City. January 7, 1978.	Request of Government of Panama.	Republic of Panama, General Omar Torrijos.
John Chafee, United States Senator	See Ref. (b)		
Jake Garn, United States Senator	See Ref. (b)		
Howard Baker, Jr., United States Senator	(c) Round trip air transportation from Rio de Janeiro to Angro dos Reis on Brazilian aircraft. January 12, 1978.	To tour a nuclear facility at request of Government of Brazil.	Government of Brazil, President Geisel.
Jake Garn, United States Senator	See Ref. (c)		
Henry Bellmon, United States Senator—and Mrs. Bellmon.	(d) Travel by Soviet Government aircraft from Leningrad to Minsk, Nov. 12, 1978 and travel by Soviet Government aircraft from Minsk to Moscow, Nov. 14, 1978. Ground transportation provided by Soviet Government in official government sedans and buses.	Insistance of Soviet authorities	Soviet Government.
Quinton Burdick, United States Senator—and Mrs. Burdick.	See Ref. (d)		
Dennis DeConcini, United States Senator—and Mrs. DeConcini.	See Ref. (d)		
John Durkin, United States Senator—and Mrs. Durkin.	See Ref. (d)		
Thomas Eagleton, United States Senator—and Mrs. Eagleton.	See Ref. (d)		
John Glenn, United States Senator—and Mrs. Glenn.	See Ref. (d)		
Jacob Javits, United States Senator	See Ref. (d)		
Paul Laxalt, United States Senator—and Mrs. Laxalt.	See Ref. (d)		
Sam Nunn, United States Senator—and Mrs. Nunn.	See Ref. (d)		
Abraham Ribicoff, United States Senator—and Mrs. Ribicoff.	See Ref. (d)		
Richard Schweiker, United States Senator—and Mrs. Schweiker.	See Ref. (d)		
Adlai Stevenson, United States Senator—and Mrs. Stevenson.	See Ref. (d)		
Catherine Buchanan, Personal Secretary to Henry Bellmon, United States Senator.	See Ref. (d)		
Arthur House, Administrative Assistant to Abraham Ribicoff, United States Senator.	See Ref. (d)		
Douglas Jackson, Legislative Assistant to Henry Bellmon, United States Senator.	See Ref. (d)		

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AGENCY: U.S. Senate (Travel/Travel Expenses)—Continued

Name and position of employee	Brief description of travel or travel expenses taken place entirely outside of United States	Circumstances justifying acceptance	Identity of foreign donor and government
J. S. Kimmitt, Secretary of the Senate	See Ref. (d)		
Albert Lakeland, Executive Assistant to Jacob Javits, United States Senator.	See Ref. (d)		
Gail Martin, Administrative Assistant to Secretary of the Senate.	See Ref. (d)		
Robert Maynes, Special Assistant to Dennis Deconcini, United States Senator.	See Ref. (d)		
Jeffrey Record, Legislative Assistant to Sam Nunn, United States Senator.	See Ref. (d)		
David Schaefer, Special Assistant to Abraham Ribicoff, United States Senator.	See Ref. (d)		
Roy Werner, Professional Staff Member Committee on Foreign Relations.	See Ref. (d)		
Mike Gravel, United States Senator	(e) Travel by private jet from Riyadh to Dhahran to Jeddah to Cairo; included in acceptance of above travel were five days of hotel accommodations in Saudi Arbia—December 1978.	To further a mutual exchange of information between US and govt. of Saudi Arabia—refusal would have caused offense to govt. of Saudi Arabia.	Arranged by H.R.H. Turki bin Faisel bin Abdul-Aziz at request of govt. of Saudi Arabia.
William L. Hoffman, Legislative Assistant to Mike Gravel, United States Senator.	See Ref. (e)		
Adlai Stevenson, United States Senator	Local transportation provided by host governments in Hungary, Rumania, Poland, USSR and Switzerland; hotel accommodations in Moscow provided by Soviet Government at latter's request.	Request of host governments; Soviet accommodations accepted upon advice of Dept. of State that refusal would have caused offense to Soviet Union.	As indicated.
Eric Lee, Staff Counsel, Committee on Commerce, Science and Transportation.	Travel grant from foreign governmental organization (The European Community) for purposes of studying European industrial policy; travel within Belgium, Luxembourg, France, Netherlands, Germany, United Kingdom, and Ireland—November 4–December 9 1978.	In the interests of the Senate and the United States.	European Community.

AGENCY: U.S. House of Representatives (Travel/Travel Expenses)

William S. Broomfield, Member of Congress	Lodging for 2 days in the Intercontinental Hotel in Riyadh, Saudi Arabia—January 9–10, 1978.	Non-acceptance would have caused embarrassment to donor.	Government of Saudi Arabia
J. Herbert Burke, Member of Congress John Joseph Cavanaugh, Member of Congress. Del Clawson, Member of Congress Christopher J. Dodd, Member of Congress Dante B. Fascell, Member of Congress Paul Findley, Member of Congress Benjamin A. Gilman, Member of Congress Helen S. Meyner, Member of Congress Donald James Pease, Member of Congress Shirley N. Pettis, Member of Congress Leo J. Ryan, Member of Congress Larry Winn, Jr., Member of Congress Clement J. Zablocki, Member of Congress George R. Berdes, Committee on International Relations, Staff Consultant. Everett E. Bierman, Committee on International Relations, Minority Staff Director. John J. Brady, Jr., Committee on International Relations, Chief of Staff. Kenneth R. Harding, Sergeant at Arms Keith Jewel, Photographer Helen C. Mattas, Committee on International Relations, Staff Consultant. Ivo J. Spalatin, Subcommittee on International Security & Scientific Affairs, Subcommittee Staff Director.	Above information identical for all employees listed at left.		
Hon. Mario Biaggi, Member of Congress	Surface transportation in Cyprus, lodgings and meals, March 24–27, 1978	Problems involving continued participation of Cyprus are again heating up so a personal inspection of the situation while in Europe on the other business was deemed beneficial.	Consul General of Cyprus in NY, Government of Cyprus
Hon. Lucien N. Nedzi, Member of Congress	Automobile transportation, one dinner & three lunches; no lodging, June 8–17, 1978.	Personal representative of the President at Poznan Trade Fair.	Government of Poland.

AGENCY: U.S. House of Representatives (Gifts)

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Fortney H. (Pete) Stark, Jr., Member of Congress.	Hungarian, hand-painted, china smoking set. Recd January 1978. Est. Value—Over $100. Deposited with Clerk of U.S. House of Representatives.	Frigyes Puja, Minister for Foreign Affairs, Hungary.	Non-acceptance would have caused embarrassment to donor.
Charles W. Whalen, Jr., Member of Congress	Crocodile briefcase. Recd July 31, 1978. Est. Value—Approx. $475. Deposited with Clerk of House for disposition to GSA.	Moussa Traore, President of Mali.	Non-acceptance would have caused embarrassment to donor
Clement J. Zablocki, Member of Congress	Moroccan carpet, 9' x 12". Recd November 15, 1978. Est. Value—Over $100. Retained for official use in Office of Committee on International Relations.	King Hassan II, Morocco	Non-acceptance would have caused embarrassment donor.

AGENCY: Department of the Air Force

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
John C. Stetson, Secretary of the Air Force and Mrs. Stetson.	Persian Rug, 7' x" x 4' x". Recd April 8, 1978. Est. Value—$1,800. Retained for official display in Office of Secretary of Air Force.	LTG Amir H. Rabii, Commander, Imperial Iranian Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
John C. Stetson, Secretary of the Air Force and Mrs. Stetson.	18K Gold pendant w/Persian turquoise stones and center green agate. Recd May 15, 1978. Est. Value—$550. Held in office of Administrative Assistant to Secretary of Air Force pending disposition by GSA.	LTG Amir H. Rabii, Commander, Imperial Iranian Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
John C. Stetson, Secretary of the Air Force and Mrs. Stetson.	18K gold necklace w/13 marquise shaped Persian turquoise stone bib. Recd April 8, 1978. Est. Value—$350. Held in office of Administrative Assistant to Secretary of Air Force pending disposition by GSA.	LTG Amir H. Rabii, Commander, Imperial Iranian Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
John C. Stetson, Secretary of the Air Force and Mrs. Stetson.	Persian rug 7'2" x 4'7". Recd May 15, 1978. Est. Value—$4,200. Retained for official use in office of Secretary of Air Force.	LTG Amir H. Rabii, Commander, Imperial Iranian Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
John C. Stetson, Secretary of the Air Force and Mrs. Stetson.	18K gold lady's ring w/center Persian turquoise and 32 2-point brilliant cut diamonds. Recd April 8, 1978. Est. Value—$225. Held in office of Administrative Assistant to Secretary of Air Force pending dispositions by GSA.	LTG Amir H. Rabii, Commander, Imperial Iranian Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
John J. Martin, Assistant Secretary of Air Force (Research, Development and Logistics).	Round sterling silver tray, 15", elaborately chased with gold Royal Iranian Air Force emblem, in velvet box. Recd April 8, 1978. Est. Value—$1,800. Retained for official display in donee's office.	LTG Amir H. Rabii, Commander, Imperial Iranian Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
Peter B. Hamilton, General Counsel, U.S. Air Force.	Round sterling silver tray, elaborately chased with gold Royal Iranian Air Force emblem, in velvet box. Recd April 8, 1978. Est. Value—$650. Held in office of Administrative Assistant to Secretary of Air Force pending disposition by GSA.	LTG Amir H. Rabii, Commander, Imperial Iranian Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
BG John T. Chain, Military Assistant to Secretary of Air Force.	Round sterling silver tray, 15", elaborately chased w/gold Royal Iranian Air Force emblem, in velvet box. Recd April 8, 1978. Est. Value—$1,800. Retained for official display in office of Secretary of Air Force.	LTG Amir H. Rabii, Commander, Imperial Iranian Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
BG William W. Hoover, Military Assistant to Secretary of Air Force.	Sterling silver tray, 15" round, elaborately chased w/gold Royal Iranian AF emblem, in velvet box. Recd April 8, 1978. Est. Value—$1,800. Retained for official display in office of Secretary of Air Force.	LTG Amir H. Rabii, Commander, Imperial Iranian Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
Mrs. William W. Hoover, Wife of Military Assistant to Secretary of Air Force.	Wide 18K gold bracelet w/21 Persian turquoise stones. Recd April 8, 1978. Est. Value—$500. Held in office of Administrative Assistant to Secretary of Air Force pending disposition by GSA.	LTG Amir H. Rabii, Commander, Imperial Iranian Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
LTC Roger Smith, Office of Policy Analysis Group, Office of Secretary of Air Force.	Sterling silver tray, 12½" round, elaborately chased w/gold Royal Iranian Air Force emblem, in velvet box. Recd April 8, 1978. Est. Value—$650. Retained for official display in office of Secretary of Air Force.	LTG Amir H. Rabii, Commander, Imperial Iranian Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
Gen. David C. Jones, Chief of Staff, USAF (Currently Chairman, JCS).	French Manurain .357 magnum revolver, Serial No. K9272 and Model No. 73. Recd January 1978. Est. Value—$250. Retained for official display in office of Chairman, Joint Chiefs of Staff.	Gen. St. Cricq, Chief of Staff, French Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
General David C. Jones, Chief of Staff, USAF (Currently Chairman, JCS).	Silver Tray, Rec'd June 1978, Est. Value—$200; Turned in for disposition to Air Force Military Personnel Center, Randolph Air Force Base.	General Azhari, Chief, Supreme Commander's Staff, Imperial Iranian Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
General David C. Jones, Chief of Staff, USAF (Currently Chairman, JCS).	Turquoise ring, Recd June 1978, Est. Value—$500, Turned in for disposition to Air Force Military Personnel Center, Randolph Air Force Base.	LTG Amir H. Rabii, Commander, Imperial Iranian Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
General David C. Jones, Chief of Staff, USAF (Currently Chairman, JCS).	Hand woven oriental-type rug, Recd July 1978, Est. Value—in excess of $100, Retained for offical display in Govt. quarters of Chairman, Joint Chiefs of Staff.	LTG Amir H. Rabii, Commander, Imperial Iranian Air Force.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
LTG K. L. Tallman, Superintendant, U.S. Air Force Academy.	Persian rug, Recd July 1978, Est. Value—$200, Retained for official display in Govt. quarters of donee.	Crown Prince Raza Pahlavi, Iran.	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.
Col. Joseph E. Clarkson, 48th Tactical Fighter Wing Commander.	Sterling silver trophy plate, 12¼" diameter, w/bronze Imperial Iranian Air Force emblem mounted in center, Recd November 1977, Est. Value—$400, Approved for official display in office of Donee March 6, 1978.	Iranian Air Force official	Tendered as official courtesy. Non-acceptance would have caused offense or embarrassment.

AGENCY: Department of the Army

General Bernard W. Rogers, Army Chief of Staff.	Carved wooden table, Recd October 24, 1978, Est. Value—in excess of $100, Approved for Official Use in Quarters of Donee.	General Malhotra, Chief of Staff, Indian Army.	Non-acceptance would have caused embarrassment to donor
General Bernard W. Rogers, Army Chief of Staff.	Kashmiar Rug 4' x 6', Recd March 12, 1978, Est. Value—$1000 to $2000, Approved for Official Use in Quarters of Donee.	General Raina, Chief of Staff, Indian Army.	Non-acceptance would have caused embarrassment to donor
General Bernard W. Rogers, Army Chief of Staff.	Carved ivory tusk, 4 ft. long, Recd September 30, 1978, Est. Value—over $1000, Reported to GSA and presently held at Army Personnel Center pending disposition by GSA.	BG Lekwot, Commanding Officer, 3d Bde, One Infantry Division, Nigeria.	Non-acceptance would have caused embarrassment to donor
General Bernard W. Rogers, Army Chief of Staff.	African Cerimonial Dresses (2), Recd September 27, 1978, Est. Value—$100, Reported to GSA and presently held at Army Personnel Center pending disposition by GSA.	General Danjuma, Chief of Staff, Nigerian Army.	Non-acceptance would have caused embarrassment to donor
General Bernard W. Rogers, Army Chief of Staff.	Carved solid ebony lion statue with light, Recd September 27, 1978, Est. Value—$100 to $700, Reported to GSA and presently held at Army Personnel Center pending disposition by GSA.	General Danjuma, Chief of Staff, Nigerian Army.	Non-acceptance would have caused embarrassment to donor
General Bernard W. Rogers, Army Chief of Staff.	Model Pluton Missile with wooden case. Recd May 10, 1978. Est. Value—$100, Reported to GSA and presently held at Army Personnel Center pending disposition by GSA.	General John P. LaGerde, Chief of Staff, French Army.	Non-acceptanee would have caused embarrassment to donor.
Major Dean L. Parker, U.S. Army Command and General Staff College, Ft. Leavenworth, Kansas.	Rolex Oyster wristwatch. Recd November 15, 1978. Est. Value—$100 to $300. Reported to GSA and presently held at Army Personnel Center pending disposition by GSA.	LTG Mohammad Abdul al-Sheikh, Commander, Land Forces, Saudi Arabia.	Non-acceptance would have caused embarrassment to donor.

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AGENCY: Department of the Army

Name and title of recipient	Gift, date of acceptance, estmated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Cpt Gary K. Maxwell	Parker pen set, gold color with checkerboard design. Recd November 15, 1978. Est. Value—$110. Reported to GSA and presently held at Army Personnel Center pending disposition by GSA.	LTG Mohammad Abdul al-Sheikh, Commander, Land Forces, Saudi Arabia.	Non-acceptance would have caused embarrassment to donor.
Melvin R. Bowdan, Jr., LTC, USA (Ret.), Former U.S. Defense Attache, Port-au-Prince, Hais.	Swiss Piaget wristwatch, 18K white gold, rectangular, 4mm thick case with leather band, Serial No. 601006. Recd May 27, 1977. Est. Value—$1,665. Reported to GSA and presently held at Army Personnel Center pending disposition by GSA.	Jean-Claude Duvalier, President, Republic of Haiti.	Non-acceptance would have caused embarrassment to donor.
Gregory D. Lee, WO1, USA, USA Criminal Investigation Command, Fort Ord, California.	S. R. Dupont cigarette lighter (silver). Recd June 29, 1978. Est. Value—$160. Reported to GSA and presently held at Army Personnel Center pending disposition by GSA.	L. de Guiringaud, Minister of Foreign Affairs, France.	Non-acceptance would have caused embarrassment to donor.
Colonel Myron J. Longmore, Chief of Staff, USA Field Artillery Ctr., Fort Sill, Oklahoma.	Man's Rolex Oyster watch. Recd November 27, 1978. Est. Value—$400. Reported to GSA and presently held at Army Personnel Center pending disposition by GSA.	MG Abu Sulaiman, Commander, Alkarj Depot, Saudi Arabia.	Non-acceptance would have caused embarrassment to donor.

AGENCY: Central Intelligence Agency

Stansfield Turner, Director, CIA	Replica of Mexican church bell; medallion with Mexico's seal on obverse and engraving of donee on reverse. Recd August 29, 1978. Est. Value—$360. Reported to GSA and presently held at CIA pending disposition by GSA.		Refusal would have caused embarrassment to donor.
Stansfield Turner, Director, CIA	Ten cans of caviar. Recd July 7, 1978. Est. Value—$1,000. Retained for Official Use		Refusal would have caused embarrassment to donor.
Stansfield Turner, Director, CIA	One leopard skin and one anaconda skin. Recd May 10, 1978. Est. Value—$285. Reported to GSA and presently held at CIA pending disposition by GSA.		Refusal would have caused embarrassment to donor.
Stansfield Turner, Director, CIA	Reproduction of belt pistol, flintlock with sculptured ormolu mounts. Recd May 17, 1978. Est. Value—$150. Retained for Official Display.		Refusal would have caused embarrassment to donor.
Stansfield Turner, Director, CIA	Gentlemen's set—notebook and passport folio of black snakeskin and a de Laneau watch. Recd March 20, 1978. Est. Value—$175. Reported to GSA and presently held at CIA pending disposition by GSA.		Refusal would have caused embarrassment to donor
Stansfield Turner, Director, CIA	Bronze sculpture of Italian infantryman with bugle. Recd March 20, 1978. Est. Value—$1,200. Reported to GSA and presently held at CIA pending disposition by GSA.		Refusal would have caused embarrassment to donor
Stansfield Turner, Director, CIA	Bokhara rug, 7' x 5', emerald green background. Recd April 6, 1978. Est. Value—$1,750. Retained for official display.		Refusal would have caused embarrassment to donor
Stansfield Turner, Director, CIA	Lady's diamond, lapis lazuli and mother-of-pearl watch, by Chaumet. Recd March 20, 1978. Est. Value—$1,600. Reported to GSA and presently held at CIA pending disposition by GSA.		Refusal would have caused embarrassment to donor
Stansfield Turner, Director, CIA	Oriental rug, 8½' x 13', salmon background. Recd December 5, 1978. Est. Value—$1,700. Retained for official display.		Refusal would have caused embarrassment to donor.
Stansfield Turner, Director, CIA	Smokey topaz pendant, cuff links and tie tack. Recd December 18, 1978. Est. Value—$125. Reported to GSA and presently held at CIA pending disposition by GSA.		Refusal would have caused embarrassment to donor
Frank C. Carlucci, Deputy Director, CIA	Oriental rug, 8¼' x 9½', salmon background. Recd November 1978. Est. Value—$350. Retained for official display.		Refusal would have caused embarrassment to donor.
Frank C. Carlucci, Deputy Director, CIA	21-piece silver samovar set. Recd November 1978. Est. Value—$1,100. Reported to GSA and presently held at CIA pending disposition by GSA.		Refusal would have caused embarrassment to donor.
Frank C. Carlucci, Deputy Director, CIA	Oriental rug, 6' x 9', dark red background. Recd November 1978. Est. Value—$350. Retained for official display.		Refusal would have caused embarrasament to donor.
Frank C. Carlucci, Deputy Director, CIA	Carved mother-of-pearl shrine of Last Supper in shadow-box. Recd November 1978. Est. Value—$100. Reported to GSA and presently held at CIA pending disposition by GSA.		Refusal would have caused embarrassment to donor
Frank C. Carlucci, Deputy Director, CIA	Silver tray, 25" diameter. Recd October 1978. Est. Value—$350. Reported to GSA and presently held at CIA pending disposition by GSA.		Refusal would have caused embarrasament to donor.
Frank C. Carlucci, Deputy Director, CIA	Silver tray, 20½" diameter. Recd October 1978. Est. Value—$175. Reported to GSA and presently held at CIA pending disposition by GSA.		Refusal would have caused embarrassment to donor
Agency employee	Stone mosaic picture of Mt. Fuji with clock in upper right corner. Recd August 24, 1978. Est. Value—$205. Retained for official display..		Refusal would have caused embarrasament to donor.
Agency employee	Oriental rug, 4' x 6'. Recd March 1978. Est. Value—$500. Retained for official display		Refusal would have caused embarrassment to donor.
Agency employee	Two miniature temple dog statues, 4" in height, light green jade. Recd July 1978. Est. Value—$300. Retained for official display.		Refusal would have caused embarrassment to donor.
Agency employee	Oriental rug. Recd August 12, 1978. Est. Value—$375. Retained for official display		Refusal would have caused embarrassment to donor.
Agency employee	Oriental rug. Recd August 14, 1978. Est. Value—$750. Retained for official display		Refusal would have caused embarrassment to donor
Agency employee	$1000 cash. Recd June 17, 1978. Transmitted to Department of the Treasury		Refusal would have caused embarrassment to donor.
Agency employee	Gold medallion commemoratng country's 20th independence anniversary. Recd January 1978. Reported to GSA and presently held at CIA pending disposition by GSA.		Refusal would have caused embarrassment to donor.
Agency employee	Man's Tudor watch and Lady's Omega watch. Recd June 6, 1978. Est. Value—$245. Reported to GSA and presently held at CIA pending disposition by GSA.		Refusal would have caused embarrassment to donor.
Agency employee	Coral necklace, 3-strand, with cabochon emerald and marcasite clasp. Recd July 1978. Est. Value—$150. Reported to GSA and presently held at CIA pending disposition by GSA.		Refusal would have caused embarrassment to donor.

AGENCY: Department of Commerce

Juanita M. Kreps, Secretary of Commerce	Gold ring with pearl. Recd Feb. 21, 1978. Est. Value—$200. Reported to GSA and presently held at Dept. of Commerce pending disposition.	Ghazi A. Algosaibi, Minister of Industry & Electricity, Saudi Arabia.	Gift presented to donee at time of official visit of donor—non-acceptance would have cause embarrassment to donor.
Juanita M. Kreps, Secretary of Commerce	Twelve inch hand cut crystal bowl. Recd as Christmas gift—1978. Est. Value—$250. Reported to GSA and presently held in Office of Donee.	Commercial Section, Czechoslovak Embassy, Washington, D.C..	Non-acceptance would have cause embarrassment to Government.

AGENCY: Department of Defense

Harold Brown, Secretary of Defense	Porcelain figure, "Hidalgo de la Mancha" (Don Quixote), Lladro model #1269. Recd August 1, 1978. Est. Value—$350. Retained for official display in donee's office.	Gutierrez Mellado, Minister of Defense, Spain.	Non-acceptance would have cause embarrassment to donor.
	Japanese "Satsuma" Vase, cream colored w/bird/flower. Recd November 10, 1978. Est. Value—$250–$300. Held in Defense Protocol Office, pending disposition.	Governor Kaname Kamada, Governor of Kagoshima Prefecture, Japan.	Non-acceptance would have cause embarrassment to donor
	Moroccan Carpet, 10'x20'. Recd December 2, 1978. Est. Value—$700. Retained for official use in office of donee.	King Hassan II, Morocco	Non-acceptance would have cause embarrassment to donor.

AGENCY: Department of Defense

Name and title of recipient	Gift, date of acceptance, estmated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
	"Armee Francaise" revolver, Caliber 11 mm, manu. 1873, in presentation case. Recd November 21, 1977. Est. Value—$300. Held in Defense Protocol Office, pending disposition.	Yvon Bourges, Minister of Defense, France.	Non-acceptance would have cause embarrassment to donor
Charles W. Duncan, Jr., Deputy Secretary of Defense.	Moroccan carpet, 15' x 10'. Recd December 2, 1978. Est. Value—$550. Retained for official use in office of donee.	King Hassan II, Morocco	Non-acceptance would have caused embarrassment to donor
David E. McGiffert, Principal Deputy Under Secretary of Defense for Policy and Assistant Secretary of Defense.	One wooden box (8" x 4" x 2"), one necklace, one bracelet. Recd July 5, 1978. Est. Value—$200. Being considered for official display.	Deputy Prime Minister, Minister of War and Military Production, Arab Republic of Egypt.	Non-acceptance would have caused embarrassment to donor
General David C. Jones, USAF Chairman, Joint Chiefs of Staff.	Oriental rug (handwoven) Recd July 1978. Est. Value—Over $100. Forwarded to USAF Office of Information, Community Relations Division, Art and Museum Branch, for use in their art collection.	LTG and Mrs. Rabii, Commander of Imperial Iranian Air Force.	Non-acceptance would have caused embarrassment to donor
General George S. Brown, USAF, Former Chairman, Joint Chiefs of Staff (deceased).	Replica of Korean Golden Crown (Kum Kwan-chang). Recd Spring 1978. Est. Value—over $100. Retained in Space Management Directorate for official display.	General Ock Man Ho, Korean Armed Forces.	Non-acceptance would have caused embarrassment to donor
LTG Ernest Graves, USA	Wooden box, approx. 8" x 4" x 2" (ornate) with silver necklace and bracelet. Recd July 5, 1978. Est. Value—$200. Held in Office of Deputy Asst. Secy. of Defense (Administration).	Gen. Mohammed El-Gamasy, Deputy Prime Minister, Minister of War and Military Production, Arab Republic of Egypt.	Non-acceptance would have caused embarrassment to donor

AGENCY: Defense Mapping Agency

Lt. Gen. Abner B. Martin, USAF, Director, Defense Mapping Agency.	Oriental rug, 40" x 70". Recd November 1978. Est. Value—not established but well over $100. Approved for official use to become part of permanent display of mementoes presented to Agency by cooperating foreign mapping organizations.	Lt. Gen. Mahmood Sadeghian, Technical Deputy Minister of War and Director, Natl Geographic Organization, Tehran, Iran.	Circumstances such as to preclude refusal of gift, presented as mark of courtesy in appreciation of U.S. cooperative mapping effort.

AGENCY: Environmental Protection Agency (Gifts)

Alice Brandeis Popkin, Associate Administrator, Office of Intl. Activities.	18K gold chain and gold and pearl drop. Recd November 3, 1978. Est. Value—$150. Reported to GSA and presently held at EPA pending disposition by GSA.	Dr. Jokeshi Kubo, Vice President, Japan Sewage Works Agency	Non-acceptance would have caused embarrassment to Japanese Government.
Stephen J. Gage, Assistant Administrator for Research and Development.	18K gold flower centered with pearl on 18K gold 14" chain. Recd November 3, 1978. Est. Value—$150. Reported to GSA and presently held at EPA pending disposition by GSA.	Dr. Jokeshi Kubo, Vice President, Japan Sewage Works Agency.	Non-acceptance would have caused embarrassment to Japanese Government.

AGENCY: National Science Foundation

Robert M. Colton, Program Manager, Industrial Programs, ISPT.	Seiko Wristwatch, Model #4006 Red Nov 16, 1977. Est. Value—$145. Held at 1800 G Street pending disposition by GSA.	Mr. Kazuo Noda, Japanese Venture Enterprise, Tokyo, Japan.	Received following meeting with visiting Japanese Delegation at Dupont Plaza Hotel—non-acceptance would have caused embarrassment to donor.
Roland Tibbets, Program Manager, Industrial Programs, ISPT.	Seiko Wristwatch, Model #4006 Red Nov 16, 1977. Est. Value—$145. Held at 1800 G Street pending disposition by GSA.	Mr. Kazuo Noda, Japanese Venture Enterprise, Tokyo, Japan.	Received following meeting with visiting Japanese Delegation at Dupont Plaza Hotel—non-acceptance would have caused embarrassment to donor.

AGENCY: Department of the Navy (Gifts)

Adm. James L. Holloway, III, Chief of Naval Operations.	Silver and gold Saudi Arabian, samovar (tea pitcher), approx. 12" high. Recd June 15, 1978. Est. Value—$282. Placed in custody of Curator of Navy for permanent official display in donee's office.	Capt. Ibrahim M. Al-Saja Commander, Royal Saudi Arabian Naval Forces.	Non-acceptance would have caused embarrassment to donor
R/ADM James A. Sagerholm Commander, South Atlantic Fleet.	Three gold medallions of varying size in small leather case; each bears likeness of donor on one side; reverse sides include various designs and slogans, as well as "L100", "L$200" & "L$400", respectively. Rec February 1978. Est. Value—$700. Held in office of donee pending disposition by GSA.	William R. Tolbert, Jr President of Liberia.	Non-acceptance would have caused embarrassment to donor
R/ADM W. Haley Rogers Commander, Naval Base, San Diego, California.	Bird on a stand. Recd. October 16, 1974. Est. Value—$350. Held in Office of Chief of Naval Operations pending disposition instructions from GSA (Approved for official display in 1975 and returned in July 1978 following termination of official use).	Citizens Groups, Yokosuka, Japan	Non-acceptance would have caused embarrassment to donor

AGENCY: Office of Science and Technology Policy

Dr. Frank Press, Director	Mantel Clock. Recd September 8, 1978. Est. Value—$200. Designated U.S. Government property and offered for use of Office of Science and Technology Policy.	Tasaburo Kumagai, Director General, Science and Technology Agency, Tokyo.	Non-acceptance would have caused embarrassment to donor.
Dr. Frank Press, Director	Indonesian silver filigree boat. Recd December 4, 1978. Est. Value—$250. Designated U.S. Government property and offered for use of Office of Science and Technology Policy.	Dr. Ing. B.J. Habibi, State Minister for Research & Technology, Republic of Indonesia.	Non-acceptance would have caused embarrassment to donor
Dr. Frank Press, Director	Japanese wood block print. Recd November 20, 1978. Est. Value—$100. Designated U.S. Government property and offered for use of Office of Science and Technology Policy.	Katsuhiko Azuma, Senior Counsellor, Bank of Tokyo	Non-acceptance would have caused embarrassment to donor

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AGENCY: Department of State

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
James K. Bishop, Director of North African Affairs.	Moroccan rug, approx. 5' x 7', dominant color pink. Recd December 6, 1978. Est. Value—$350. Approved for Official Use in Office of Donee.	King Hassan II, Morocco	Delivered in absence of donee—return of gift would have been considered an insult.
James K. Bishop, Director of North African Affairs.	Wool rug, approx. 5' x 7', brown, black, grey and white. Recd November 18, 1978. Est. Value—$350. Approved for Official Use in Office of Donee.	Dr. Ali Turayaki, Foreign Minister of Libya.	Gift delivered impromptu at residence of donee—there was no opportunity to decline acceptance of gift, which was unsolicited.
David A. Botsko, Office of Security, San Francisco Field Office.	Man's Baume & Mercier watch, gold case, Roman numerals, Serial No. 35134/870183, inscribed on reverse from donor. Recd December 6, 1978. Est. Value—$600. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Prince Abdallah, Morocco	Non-acceptance would have caused offense or embarrassment to donor
Mark Boyett, Special Agent, Office of Security, New York Field Office.	1 pair 18K gold cuff links, made from antique gold Saudi Arabian coins. Recd May 16, 1978. Est. Value—$200. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Dr. Ghazi Algosaibi, Minister of Industry and Electricity, Saudi Arabia.	Gift given as token of remembrance following protective security detail—non-acceptance would have caused embarrassment to donor
Richard J. Bloomfield, U.S. Ambassador to Ecuador	Statuette of man in red toga, approx. 10½" high, from 17th Century, ascribed to School of Caspicara in colonial Quito. Recd February 1978. Est. Value—$200. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Santiago Sevilla, Minister of Finance, Ecuador	Non-acceptance would have been considered an insult
Ellsworth Bunker, Ambassador-at-Large	Republic of Panama Mint Proof Set—9 coins. Recd—Date not stated. Est. Value—$250. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Government of Panama	Non-acceptance would have caused embarrassment to donor Government.
James T. Cronin, Special Agent, Office of Security	Man's Vacheron et Constantin wristwatch, black face, colg case, black alligator strap, Serial No. 488306. Recd July 1978. Est. Value—$1,800. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Iranian Embassy	Non-acceptance would have caused embarrassment to donor Government.
Patrick J. Daly, Protocol Officer	Hand woven Moroccan "Artisan" rug, approx. 4' x 6', blue background with small design in center and floral border design. Recd December 15, 1978. Est. Value—$775. Approved for Official Use in Donee's office.	Ambassador Ali Bengelloun, Morocco.	Delivered to donee's office in his absence following visit of King Hassan II of Morocco. There was no opportunity to refuse acceptance
Patricia M. Derian, Assistant Secretary for Human Rights and Humanitarian Affairs.	Dinner table linens consisting of 12 place mats, 12 coaster mats, 1 table runner and 11 napkins of beige Pina fiber, with embroidered design. Recd January 1978. Est. Value—$220. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	President and Mrs. Marcos, Philippines.	Rejection of gift would have been considered an insult and an embarrassment to donors.
Patricia M. Derian, Assistant Secretary for Human Rights and Humanitarian Affairs.	Mahogany chest with inlaid motif—chest approx. 32" x 17" x 18½"—containing assortment of Philippine items. Recd January 1978. Est. Value—$198. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	President and Mrs. Marcos, Philippines.	Rejection of gift would have been considered an insult and an embarrassment to donors.
Mrs. Francois M. Dickman, Wife of U.S. Ambassador to United Arab Emirates.	Silver and gold-plated Arab coffee pot, two rose water holders, incense burner and tray, eye make-up urn, six small Arab coffee cups and a serving tray. Recd April 10, 1978. Est. Value—Well in excess of $100. Approved for Official Display at Embassy Residence or Chancery.	Shaikha Fatima, Wife of President of United Arab Emirates.	Rejection of gift would have been considered an insult and an embarrassment to donors.
Joseph Duffey, Assistant Secretary for Educational and Cultural Affairs.	Chalice—approx. 6½" high, silver lined and decorated on outside in silver and enamel. Recd June 1977. Est. Value—$225. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Madame Lyudmila Zhivkova, Chairman of Bulgarian, Committee for Culture.	Gift delivered to donee following departure of donor from U.S.
Mrs. Evan S. Dobelle, Wife of Chief of Protocol.	Ladies watch, R. Chabloz, Geneva, gold band with 9 diamonds on face and picture of King Khalid. Recd January 1978. Est. Value—$800. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	King Khalid, Saudi Arabia	Rejection of gift would have been considered an insult to donor
Max Fratoddi, Special Agent, Office of Security	Man's Vacheron et Constantin wristwatch, white face and case, alligator strap, Serial No. 488436. Recd July 1978. Est. Value—$1,800. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Embassy of Iran	Gift was unsolicited and delivered through channels following departure of Iranian Prince and Princesses for whom donee provided protective security.
Richard M. Gannon, Special Agent, Office of Security.	Two $100 bills (Federal Reserve Notes). Recd October 25, 1978. Deposited with U.S. Treasury.	Sheik Zaki Yamani, Minister of Petroleum and Mineral Resources, Saudi Arabia.	Gift presented upon departure of donor at airport. Envelope was sealed and contents unknown to donee at time of tender.
Richard M. Gannon, Special Agent, Office of Security.	Man's watch, brown suede strap, coral and gold face. Recd October 25, 1978. Est. Value—$250. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Sheik Zaki Yamani, Minister of Petroleum and Mineral Resources, Saudi Arabia.	Gift presented upon departure of donor at airport. Gift was wrapped and contents unknown to donee at time of tender.
Grace Gooder, Special Agent, Office of Security.	Ladies Vacheron et Constantin wristwatch, gold face and case, black alligator strap, Serial No. 480156, Recd July 28, 1978. Est. Value—$1,800. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Embassy of Iran	Gift presented at conclusion of visit of Iranian Prince and Princesses following departure of official guests
David Haas, Special Agent, Office of Security, New York Office.	Man's gold Vacheron et Constantin watch with black alligator strap, Serial No. 484644, Recd August 1978, Est. Value—$1,800, Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Ambassador Zahedi, Embassy of Iran	Gift presented at conclusion of visit of Iranian Prince and Princesses following departure of official guests.
Philip C. Habib, Under Secretary of State.	Silver cigarette box, approx. 7" x 4" x 2", inscribed from donor. Recd September 27, 1977. Est. Value—$225. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Datuk Hussein Onn, Prime Minister of Malaysia.	Gift return to Office of Protocol March 31, 1978 following termination of official use.
Kenneth Hall, Special Agent, Office of Security	Man's watch—black reptile strap, green and gold face. Recd October 25, 1978. Est. Value—$250. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Sheik Yamani, Saudi Arabia	Gifted presented upon departure of donor at airport. Contents unknown at time of tender.
Kenneth Hall, Special Agent, Office of Security	Two $100 bills (Federal Reserve Notes). Recd October 25, 1978. Deposited with U.S. Treasury.	Sheik Zaki Yamani, Minister of Petroleum and Mineral Resources, Saudi Arabia.	Gifted presented upon departure of donor at airport. Envelope was sealed and contents unknow to donee at time of tender.
Frank E. Juni, Special Agent, Office of Security, Boston Field Office.	Man's gold Vacheron et Constantin watch, Serial No. 498509, black alligator strap, Recd August 16, 1978, Est. Value—$1,800. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Ambassador Ardeshir Zahedi, Embassy of Iran	Gift delivered following departure of Iranian official visitors for whom donee provided protective security.
Kim G. Kuzmuk, Special Agent, Office of Security, New York Field Office.	Ladies gold Vacheron et Constantin watch with black alligator strap, Serial No. 506585, Recd August 1978, Est. Value—$1,800, Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Ambassador Ardeshir Zahedi, Embassy of Iran	Gift delivered following departure of Iranian official visitors for whom donee provided protective security
Kevin P. O'Neil, Special Agent, Office of Security.	Man's Vacheron et Constantin wristwatch, white gold case, black alligator strap, Serial No. 514999, Recd July 1978, Est. Value—$1,800, Reported to	Embassy of Iran	Gift delivered following departure of Iranian official visitors for

AGENCY: Department of State—Continued

Name and title of recipient	Gift, date of acceptance estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
	GSA and stored in Office of Protocol pending disposition by GSA.		whom donee provided protective security
William H. O'Rourke, Jr., Special Agent, Office of Security.	Man's Piaget gold watch #13342 B 56 245668. Recd December 7, 1978. Est. Value—$6,000. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Prince Sultan bin, Minister of Defense and Aviation, Saudi Arabia.	Non-acceptance by recipient may have proved to be an embarrassment to U.S. Govt.
William H. O'Rourke, Jr., Special Agent, Office of Security	Ladies Piaget gold watch, No. 9557 B 2 304925. Recd October 10, 1978. Est. Value—$4,000. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Prince Sultan bin, Minister of Defense and Aviation, Saudi Arabia.	Non-acceptance by recipient may have proved to be an embarrassment to U.S. Govt.
William H. O'Rourke, Jr., Special Agent, Office of Security.	Gold pierced earrings with alternating stones, 3 each, of diamonds and garnets. Recd December 7, 1978. Est. Value—$500. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Prince Moulay Abdallah, Brother of King Hassan II, Morocco.	Unsolicited gift, delivered by second party to donee after departure of donor
Rozanne L. Ridgway, U.S. Ambassador to Finland.	Pair of cross-country skis—"Jarvinen" fiberglas, approx. 82" long, with poles, boots, clampers and bag. Recd February 17, 1978. Est. Value—$200. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Veli Kokkila, Head of Provincial Chancery for Central Finland Province.	Non-acceptance would have caused embarrassment to donor
Rozanne L. Ridgway, U.S. Ambassador to Finland.	Transparent wall hanging. Recd February 17, 1978. Est. Value—$400. Approved for Official Display at Embassy Residence.	Leo Kukkka, Chairman of City Council, Saarijarvi, Finland.	Non-acceptance would have caused embarrassment to donor
Harold H. Saunders, Assistant Secretary for Near Eastern and South Asian Affairs.	Oriental wool rug, blue background with geometric pattern, approx. 4' x 6'. Recd December 6, 1978. Est. Value—$250. Approved for Official Use in office of donee.	Ambassador Ali Bengelloun, Morocco.	Non-acceptance would be considered insult to donor.
Gerard C. Smith, Ambassador at Large	Gold Seiko Clock, approx 7¼" high, 8½" wide, 3" deep. Recd. September 15, 1978. Est. Value—$110. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Tasaburo Kumagai, Minister of State for Science and Technology, Japan.	Delivered to donee's office during his absence out of the country
R. Grant Smith, Moroccan Country Officer	Moroccan wool rug, red with medallion—approx 4' x 6'. Recd December 5, 1978. Est. Value—$150. Approved for Official Use in office of donee.	Ambassador Ali Bengelloun, Morocco.	Non-acceptance would be considered insult to donor
Mrs. William H. Sullivan, Wife of U.S. Ambassador to Iran.	Necklace, pair of earrings and ring, all fashioned from turquoise and diamonds. Recd August 13, 1977. Est. Value—$1,000. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Deputy Trustee of Shrine of Imam Reza, Mashed, Iran.	Attempts to return the gift were unsuccessful.
Terance A. Todman, Assistant Secretary, Bureau of Inter-American Affairs.	Unframed oil painting (42" x 54") depicting ancient Dominican warrior. Recd October 1977. Est. Value—$150. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Dr. Jose de Jesus Alvarez Bogaert, Member of City Council of Santiago de los Caballeros, Dominican Republic.	Non-acceptance would have been considered insult to donor
Mrs. Cyrus Vance, Wife of Secretary of State.	Set of table linens, ecru with embroidered floral design of same color—12 napkins, 12 place mats, 12 coaster mats, and 1 table runner. Recd September 1977. Est. Value—$350. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	President and Mrs. Ferdinand Marcos, Philippines.	Non-acceptance would have been considered insult and adversely affect U.S.-Philippine relations.
Cyrus Vance, Secretary of State	Man's gold Baume & Mercier watch with donor's name in Arabic on face of watch. Recd January 1978. Est. Value—$1,500. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	King Khalid, Saudi Arabia	Non-acceptance would have been considered insult to donor.
Cyrus Vance, Secretary of State	Coffee table with carved elephant designs, inlaid caravan design in center—approx. 16" x 60" x 22". Recd January 3, 1978. Est. Value—$350. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	President Reddy, India	Non-acceptance would have been considered insult to donor
Cyrus Vance, Secretary of State	Hand carved ivory tusk, approx. 36" long, mounted on Liberian wood base, approx. 43" x 15½" with map of Libena in center of base. Recd April 1978. Est. Value—$300. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	William R. Tolbert, Jr., President of Libena.	Rejection of gift would have been considered insult and an embarrassment to donor
Cyrus Vance, Secretary of State	Traditional Liberian Chief's gown and hat—made of duck cloth or similar material, white with eggshell applique design. Recd April 1978. Est. Value—$300. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	William R. Tolbert, Jr., President of Libena.	Rejection of gift would have been considered an insult and an embarrassment to donor
Mrs. Cyrus R. Vance, Wife of Secretary of State	Tourmaline pear-shaped pendant drop. Recd March 29, 1978. Est. Value—$130. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	President Ernesto Geisel, Brazil	Rejection of gift would have been considered an insult and an embarrassment to donor
Mrs. Cyrus R. Vance, Wife of Secretary of State.	Necklace, bracelet, and earrings of ivory—yellow gold setting. Recd April 3, 1978. Est. Value—$225. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	President William Tolbert, Libena	Rejection of gift would have been considered an insult and an embarrassment to donor
Cyrus Vance, Secretary of State	3 hassocks—2 round and 1 rectangular, leather, centered with appliqued cut-out seal of Nigena in snakeskin. Recd March 31, 1978. Est. Value—$180. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	Lt. Gen. Obasanjo, Nigeria	Rejection of gift would have been considered an insult and an embarrassment to donor
Cyrus Vance, Secretary of State	Carved ivory tusk—approx 33" long with 8 carved elephants in graduated size. Recd May 5, 1978. Est. Value—$225. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	President H. Kamuza Banda, Malawi.	Rejection might have adversely affected relations between U.S. and Malawi.
Cyrus Vance, Secretary of State	Gold dagger with ivory handle, encrusted with jewels. Recd November 16, 1978. Est. Value—$1,700. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	King Hassan II, Morocco	Rejection would have caused embarrassment to donee and to U.S. Government.
Cyrus Vance, Secretary of State	Cobalt, manganese and copper samples set on malachite slab, inscribed with plaque. Recd December 8, 1978. Est. Value—$160. Reported to GSA and stored in Office of Protocol pending disposition by GSA.	President Mobutu Sese Seko, Zaire.	Rejection would have caused embarrassment to donee and to U.S. Government.
Cyrus Vance, Secretary of State	Hand woven Moroccan "Artisan" rug, "Supeneure" quality, approx 9½' x 12½', rust color center with border of floral design. Recd November 1978. Est. Value—$1,300. Approved for Official Use in Office of Deputy Chief of Protocol.	Ambassador Ali Bengelloun, Morocco.	Rejection would have caused embarrassment to donee and to U.S. Government.

AGENCY: Department of the Treasury

W. Michael Blumenthal, Secretary of the Treasury.	Incense burner, approx 9" ht., of various metals: brass, tin, etc., with inset colored stones and small gold emblem trim. Recd November 1978. Est. Value—$100+. Retained for official display by Secretary.	Finance Minister, Abalkhail, Saudi Arabia.	Non-acceptance would have caused offence.
Robert Carswell, Deputy Secretary of the Treasury.	Gold key holder, with attached gold ¾" diameter Saudi medal of King Faisal. Recd March 1978. Est. Value—$120. Retained by Protocol Officer for possible official display.	Minister of Industry and Electricity, Algosaibi, Saudi Arabia.	Non-acceptance would have caused offence.

[Pub. Notice 659]

[FR Doc. 79-12817 Filed 4-26-79; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Wabash Valley Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR §§ 211.41 and 211.9, notice is hereby given that the Wabash Valley Railroad (WVR) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. 64a(e)). That petition requests that the WVR be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The WVR seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–79–5, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

(Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d).)

Issued in Washington, D.C., on April 8, 1979.

J. W. Walsh,
Chairman, Railroad Safety Board.

[FRA Waiver Petition Docket HS–79–5]
[FR Doc. 79–13082 Filed 4–26–79; 8:45 am]
BILLING CODE 4910–06–M

Federal Aviation Administration

Aviation Safety Reporting Program; Amendment to Memorandum of Agreement Between National Aeronautics and Space Administration and Department of Transportation, Federal Aviation Administration

On March 21, 1979, the Federal Aviation Administration (FAA) modified the Aviation Safety Reporting Program (44 FR 18128, March 26, 1979). The modification provides that when a violation of the Federal Aviation Regulations comes to the attention of the FAA from a source other than a report filed with the National Aeronautics and Space Administration (NASA) under the Aviation Safety Reporting Program, appropriate action will be taken. Reports filed with NASA by persons involved in incidents will not be made available to the FAA, however, and these reports cannot be used as the basis for enforcement or disciplinary action against the reporter or other persons named in the report.

The Memorandum of Agreement entered into by NASA and the FAA under which NASA operates the Aviation Safety Reporting System (ASRS) has been amended to eliminate references to the immunity program. The amendment also provides an interim period during which an advisory circular and new reporting forms will be provided and distributed to implement the modification to the ASRS. The original immunity shall continue to apply to reports that are timely filed concerning incidents that occur before July 1, 1979. The new reporting forms and an advisory circular describing the modified program will be available by that date.

The Amended Memorandum of Agreement is published below.

Issued in Washington, DC on April 24, 1979.

Langhorne Bond,
Administrator.

Amended Memorandum of Agreement Between National Aeronautics and Space Administration and Department of Transportation, Federal Aviation Administration; Aviation Safety Reporting System

I. Background

A. The Administrator of the Federal Aviation Administration (FAA), Department of Transportation is empowered and directed to encourage and foster the safety in air commerce. Pursuant to this authority, the Administrator adopted a voluntary Aviation Safety Reporting Program (ASRP) (40 FR 17775, April 22, 1975) designed to acquire previously unobtainable information concerning potential deficiencies and discrepancies in the national aviation system.

B. The National Aeronautics and Space Administration (NASA) has a continuing responsibility to engage in aviation research and development programs and is authorized in carrying out this responsibility to enter into appropriate agreements with other government agencies.

C. The Aviation Safety Reporting System (ASRS) was agreed to be established in the original Memorandum of Agreement signed August 15, 1975. The Agreement and a description of the ASRS were published in the **Federal Register** on April 15, 1976 (41 FR 15,903 15,914). The ASRS was designed and established by NASA and became operational April 15, 1976. (Section I.C. added April 24, 1979.)

D. The Administrator of the FAA has determined that the immunity feature described in Section IV.D. of the original agreement shall be eliminated (44 FR 18128, March 26, 1979). Accordingly, it is necessary to amend the original agreement to eliminate references in Sections IV.C., IV.D., and V.D. to the immunity provisions. NASA and the FAA agree that sufficient time is required to print and distribute an advisory circular and new reporting forms to implement this modification to the ASRS program. Therefore the original immunity feature shall continue to apply to reports that are timely filed concerning incidents that occur before July 1, 1979, the date by which the new reporting forms and an advisory circular describing the modified program will be available. (Section I.D. added April 24, 1979.)

II. Purpose

The FAA has determined that the effectivness of the ASRP would be greatly enhanced if the receipt, processing, and analysis of the raw information received were to be accomplished by NASA rather than the FAA. This would further ensure the anonymity of the reporter and consequently increase the flow of information so necessary for the effective evaluation of the safety and efficiency of the aviation system. NASA has determined that undertaking this task would be consistent with its aviation research and development responsibilities and would significantly increase its ability to fulfill those responsibilities.

III. Authority

This agreement is entered into under the authority of Section 302(k) and 313 of the Federal Aviation Act of 1958, as amended, Section 601 of the Economy Act, as amended, and the National Aeronautics and Space Act of 1958, as amended.

IV. Aviation Safety Reporting System

A. *General.* NASA will design and implement an Aviation Safety Reporting System (ASRS). This system will be designed primarily to provide information to the FAA and the aviation community to assist the FAA in reaching its goal of eliminating unsafe conditions and preventing avoidable accidents. In addition, the system will be designed in a manner that will permit its operation by another party at the expiration of this agreement.

B. *Description.* The ASRS will be designed to perform four primary functions. They are (1) receipt, de-identification and initial processing; (2) analysis and interpretation; (3) dissemination of reports and other data; and (4) system evaluation and review.

1. NASA will develop procedures for receiving, de-identifying, and processing ASRS reports including those covered by the FAA's ASRP. This procedure will assure that reports are initially screened by NASA officials for—

(a) Time critical information which will be promptly referred to the FAA and other interested parties for appropriate action;

(b) Information concerning criminal offenses which will be promptly referred to the Department of Justice and the FAA; and

(c) Information concerning accidents which will be promptly referred to the National Transportation Safety Board and the FAA.

Except for reports covered by paragraphs (b) and (c), reports will be de-identified by deleting all informtion that would reveal identities of persons filing reports and persons named in those reports. De-identification will be accomplished as soon as possible after determining that no additional data is needed, normally within 24–48 hours. The person submitting the report will be mailed a receipt and the anonymous data placed in the NASA data base. The data base will be made available for public inspection except as authorized or required by Federal law to be withheld.

2. NASA will establish procedures to provide for the analysis and interpretation of safety reports.

3. NASA will prepare periodic reports, statistical summaries, and other data necessary to depict the results of the analysis and interpretation of the safety reports. This material will be transmitted to the FAA and other users of the system to facilitate their evaluation and action to eliminate unsafe conditions or practices.

4. NASA will provide for the continuing review and evaluation of the system to ensure that it is operating as efficiently and effectively as practicable.

C. (Section VI.C. deleted April 24, 1979.)

D. *Confidentiality.* Experience gained by the FAA under its near mid-air collision program and the ASRP has indicated that the willingness of persons to submit a report depends to a large degree on preserving the anonymity of persons filing reports and persons named in those reports. Accordingly, FAA will not seek and NASA will not release to the FAA any information that might reveal the identity of such persons. (Section IV.D. revised April 24, 1979.)

E. *Staffing and Management.* The ASRS functions will be performed by NASA with assistance of such others as may be necessary. All forms used in the ASRS will be NASA forms. All records will be the records of NASA.

F. *Advisory Committee.* NASA will form an ASRS Advisory Committee within the framework of the NASA Research and Technology Advisory Council. The purpose of the Committee will be to advise NASA of the design and conduct of the ASRS program and to provide an additional means of communication with the aviation community concerning the ASRS. The Committee will also be responsible for advising NASA with respect to the maintenance of the anonymity of persons submitting reports or named therein. The membership of the Committee will be appointed by NASA from all elements involved in the operational aspects of the national aviation system including FAA and DOD.

G. *Schedule.* The ASRS will become operational by April 15, 1976, on which data NASA will begin receiving safety reports. The first report summarizing ASRS operations will be published three months thereafter. A full evaluation of ASRS operations and procedures will be made in June 1977 by the ASRS Advisory Committee and necessary system and procedural changes designed and implemented. The utility and effectiveness of the ASRS will be re-evaluated by the Committee in June 1979. At that time, the Committee will make recommendations to the Administrators of NASA and the FAA concerning the future utilization and continuance of the system.

V. Responsibilities

A. NASA will provide the personnel, services, materials, and facilities necessary for the design and implementation of the ASRS until termination of this Agreement or June 1980, whichever first occurs.

B. NASA will formally establish the ASRS and provide for the publication of a description of the system and such other information concerning that system as is necessary to ensure its maximum utilization by the aviation community and other interested persons.

C. FAA will provide the following:

1. The services to NASA of a senior ATC specialist for one month for advice and

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instruction on the FAA's air traffic control system. The specialist will also be made available for consultation at NASA's request for approximately 20 percent of the following year.

2. Assist NASA in obtaining necessary information about other areas of the national aviation system, including operational incidents and problems relevant to the research studies to be conducted under the ASRS.

3. Make FAA personnel available to assist NASA in the design of the ASRS.

4. Distribute the NASA ASRS forms, designed by NASA and bearing the NASA logo.

D. The FAA will not use any report submitted under the ASRS (or information derived therefrom) in any disciplinary action except information concerning criminal violations or accidents. In addition, the FAA will delete aspects of its ASRP program, such as reporting, which would duplicate NASA's efforts under this agreement. (Section V.D. revised April 24, 1979.)

E. Prior to the time that the ASRS becomes operational, the FAA and NASA will agree on criteria to be used by NASA to determine whether a report contains time critical information within the meaning of Section IV B.1. (a).

F. The FAA and NASA will jointly develop a continuing information program designed to fully acquaint the aviation community and the public with all aspects of the ASRP, ASRS, and their interrelationship. All press releases and other public announcements will be subject to prior consultation between the parties.

G. FAA and NASA will each designate an official for the purpose of ensuring continuing liaison concerning the administration of the ASRS. These officials will meet as required to exchange information and ensure that the system is meeting its objectives.

VI. Funding

A. The FAA will reimburse NASA for amounts paid by NASA to any contractor assisting NASA in the performance of its ASRS functions up to a maximum of $560,000 for FY–1976, which maximum amount may be increased or decreased by mutual agreement of the parties. Appropriate maximum levels of obligation on the part of the FAA for subsequent fiscal years shall be periodically mutually agreed to by the parties.

B. NASA will provide all necessary funding for the salary and administrative service costs associated with the design and implementation of the ASRS, costs associated with the operation of the Advisory Committee, and any other costs relating to the ASRS not otherwise specifically provided for herein.

VII. Other Provisions

A. NASA will publish quarterly reports providing routine statistical ASRS findings. These reports will each contain an appendix identifying time critical reports processed during the reporting period. NASA will also publish from time to time special reports describing the findings of special analyses conducted as a result of requests by the Advisory Committee or by others.

B. NASA will provide the FAA with quarterly reports summarizing project highlights, accomplishments, and resource utilization and annual reports summarizing ASRS findings and results of special studies.

VIII. Effective Date

This Agreement shall enter into force and effect when signed by both parties and shall remain in force and effect until June 1980 unless and until sooner terminated. Such termination may be by mutual agreement of the parties or by notice in writing forwarded by one party to the other not less than twelve months in advance of such termination.

George M. Low,
Deputy Administrator, National Aeronautics and Space Administration.

James E. Dow,
Acting Administrator, Department of Transportation Federal Aviation Administration.

Signed in Washington, D. C., on August 15, 1975.

Modifications to the original Memorandum of Agreement concurred in by both parties to the Agreement.

A.M. Lovelace,
Deputy Administrator, National Aeronautics and Space Administration.

Longhorne Bond,
Administrator, Department of Transportation, Federal Aviation Administration.

Signed in Washington, D. C., on April 24, 1979.

[FR Doc. 79-13266 Filed 4-26-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $3,528,000 has been established for the company.

Name of Company, Business Address, and State in Which Incorporated

Northbrook Property and Casualty Insurance Company, Allstate Plaza, Northbrook, Illinois 60062.

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: April 16, 1979.

D. A. Paglial,
Commissioner, Bureau of Government Financial Operations.

[Dept. Circ. 570, 1978 Rev., Supp. No. 12]

[FR Doc. 79-13042 Filed 4-26-79; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Cooperative Studies Evaluation Committee, Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92–463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held at the Ramada Inn, 4641 Kenmore Avenue (Seminary Road East & I–95), Alexandria, VA, on June 11 and 12, 1979. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the property of technical details, including involvement of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 to 8:30 a.m., June 11 and 12, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans Administration Central Office, Washington, DC (202–389–3702) prior to May 25.

The meeting will be closed from 8:30 a.m. to 6:15 p.m., June 11, and 8:30 a.m. to 3:45 p.m., June 12, for consideration of specific proposals in accordance with provisions set forth in Subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and Subsection 552b(c)(6) of Title 5, United States Code. During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: April 19, 1979.

By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

[FR Doc. 79-13050 Filed 4-26-79; 8:45 am]

BILLING CODE 6320-01-M

INTERSTATE COMMERCE COMMISSION

Office of Proceedings

Permanent Authority Decisions; Decision-Notice

Decided: April 12, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before May 29, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied. By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. Homme, Jr.,
Secretary.

MC 29934 (Sub-20F), Filed January 15, 1979. Applicant: LO BIONDO BROTHERS MOTOR EXPRESS, INC., P.O. Box 160, Bridgeton, NJ 08302. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by chain grocery and food business houses, from the facilities of Ralston-Purina Company, in Cumberland County, PA, to points in NJ and those in NY on and south of Interstate Hwy 84. (Hearing site: New York, NY.)

MC 30844 (Sub-621F), Filed August 7, 1978, previously noticed in the FR issue of December 28, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wisconsin Beef Industries, Inc., at Eau Claire, WI, to points in CT, DE, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, TN, VA, VT, WV, and DC, restricted to the transportation of traffic originating at the named origins. (Hearing site: St. Paul, MN.).

Note.—This republication adds VA as a destination State.

MC 35334 (Sub-82F), Filed January 2, 1979. Applicant: COOPER-JARRETT, INC., Hanover Plaza, Morristown, NJ 07960. Representative: Irving Klein, 371 Seventh Ave., New York, NY 10001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes,

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transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Jeffersonville, IN and Cincinnati, OH, over Interstate Hwy 71, serving no intermediate points, and serving Cincinnati, for the purposes of joinder only. (Hearing site: Louisville, KY, or Washington, DC.)

MC 48784 (Sub-4F), Filed January 4, 1979. Applicant: P. J. GARVEY CARTING & STORAGE, INC., 465 Cornwall Ave., Buffalo, NY 14215. Representative: James P. Burgio, 3350 Marine Midland Center, Buffalo, NY 14203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household goods*, between Buffalo, NY, and points within 60 miles of Buffalo, on the one hand, and, on the other, points in TX, OK, MS, LA, and AR. (Hearing site: Buffalo or Rochester, NY.)

MC 52704 (Sub-204F), filed January 15, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *coin operated devices*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of *coin operated devices* (a) between the facilities of Vendo Co., at or near (i) Corinth, MS, (ii) Memphis, TN, and (iii) Pinedale, CA, and (b) between the facilities named in (a) above, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MD, MI, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, WI, and DC. (Hearing site: Atlanta, GA)

MC 67234 (Sub-19F), filed January 15, 1979. Applicant: UNITED VAN LINES, INC., 1 United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *gambling equipment, materials, and supplies*, from Las Vegas, NV, to points in CA, FL, and NJ. (Hearing site: Las Vegas, NV, or St. Louis, MO)

MC 98964 (Sub-17F), filed January 4, 1979. Applicant: P. B. I. FREIGHT SERVICE, a Corporation, 960 North 1200 West, Orem, UT 84057. Representative: Lon Rodney Kump, 33 East Fourth South, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Page, AZ, and Phoenix, AZ, over U.S. Hwy 89, serving all intermediate points, and the off-route point of the North Rim of the Grand Canyon, AZ, and (2) between Fredonia, AZ, and junction Alternate U.S. Hwy 89 and U.S. Hwy 89, over Alternate U.S. Hwy 89, serving all intermediate points, and the off-route point of the North Rim of the Grand Canyon, AZ, restriction to the extent the certificate to be issued here authorizes the transportation of classes A and B explosives, it shall be limited in term to a period expiring five years from the date of issuance. (Hearing site: Salt Lake City, UT, or Las Vegas, NV)

MC 104654 (Sub-163F), filed January 12, 1979. Applicant: COMMERCIAL TRANSPORT, INC., P.O. Box 469, Belleville, IL 62222. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th St., NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid fertilizer*, in bulk, from Chaffee, MO, to points in AR, IL, KY, and TN. (Hearing site: St. Louis, MO, or Washington, DC)

MC 106074 (Sub-82F), filed January 16, 1979. Applicant: B AND P MOTOR LINES, INC., Oakland Rd. and U.S. Hwy. 221 South, Forest City, NC 28043. Representive: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE, Atlanta, GA. 30342. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture* and *furniture parts*, from the facilities of Thomasville Furniture Industries, Inc., at (a) Appomattox and Brookneal, VA, and (b) Pleasant Garden, NC, to those points in the United States in and west of MN, IA, MO, AR, and LA, (except AK and HI). NOTE: Dual operations may be involved. (Hearing site: Charlotte, NC, or Washington, DC)

MC 112304 (Sub-168F), filed January 22, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a Corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representive: Fred Schmits, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ferro alloys* (except commodities in bulk), from the facilities of Marc Rich & Co. International Ltd., at or near (1) Chicago, IL, to points in AR, CO, IL, IN, IA, KS, KY, LA, MI, MO, NE, OH, OK, TN, and TX, and (2) East Liverpoool, OH, to points in IL, IN, KY, MI, NY, NC, OH, PA, SC, TN, VA, and WV. (Hearing site: Chicago, IL, or Washington, DC)

MC 114604 (Sub-66F), filed January 15, 1979. Applicant: CAUDELL TRANSPORT, INC. P.O. Drawer I, Forest Park, GA 30050. Representive: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk, and in tank vehicles), in vehicles equipped with mechanical refrigeration, between the facilities of Kraft, Inc., in Clayton, Cobb, De Kalb, Fulton, and Gwinnett Counties, GA, on the one hand, and, on the other, points in AL, FL, KY, LA, MS, NC, SC, TN, VA, and WV, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Atlanta, GA)

MC 115554 (Sub-16F), filed January 18, 1979. Applicant: SCOTT'S TRANSPORTATION SERVICE, INC., P.O. Box 89B, R.R. 6, Iowa City, IA 52240. Representive: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electric motors, grinders, buffers, dental lathes, dust collectors, and pedestals*, (2) *parts, accessories, and attachments* for the commodities named in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above, from Columbus, MS, to Fort Smith, AR, and points in IL, IN, IA, MI, MN, OH, and WI. (Hearing site: Fort Smith or Little Rock, AR)

MC 116254 (Sub-237F), filed by January 15, 1979. Applicant: CHEM-HAULERS, INC., 118 E. Mobile Plaza, Florence, AL 35603. Representative: William H. Shawn, 1730 M Street, N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *potassium muriate, potassium sulfate*, and *potassium nitrate*, in bulk, in dump vehicles, from Baltimore, MD, to points in DE, NJ, NY, OH, PA, VA, and WV. (Hearing site: New York, NY, or Washington, DC)

MC 116254 (Sub-238F), filed January 15, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cast iron pipe fittings, valves, hydrants, and castings*, and (2) *accessories and parts* for the commodities named in (1) above, from the facilities of U.S. Pipe and Foundry, at Birmingham and Bessemer, AL, to points in AR, GA, FL, KY, MO, NC, SC, and TN. (Hearing site: Birmingham or Montgomery, AL)

MC 116254 (Sub-239F), filed January 16, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Forence, AL 35630. Representative: Hampton M. Mills, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealers, and sound deadener compounds* (except commodities in bulk, in tank vehicles), and *filters*, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to points in the United States (except AK and HI), and (2)(a) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds*, (except commodities in bulk, in tank vehicles), and *filters*, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV, to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the above-named facilities. (Hearing site: Philadelphia, PA, or Washington, DC)

MC 116254 (Sub-240F), filed January 18, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum articles*, from the facilities of Kaiser Aluminum and Chemical Corporation, at or near Ravenswood, WV, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, MD, MI, MN, MS, MO, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, WV, WI, and DC. (Hearing site: Charleston, WV, or Washington, DC)

MC 116544 (Sub-167F), filed January 16, 1979. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representive: Kirk Wm. Horton, P.O. Box 10061, Palo Alto, CA 94303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of The Larsen Company, at points in WI, to points in NY, PA, NJ, CT, RI, MA, MD, DE, NC, SC, GA, FL, AL, MS, LA, AR, MO, NE, KS, CO, OK, TX, NM, AZ, CA, OR, WA, and DC, restricted to the transportation of traffic originating at the above-named origin facilities. (Hearing site: Green Bay, WI, or Kansas City, MO)

MC 119934 (Sub-226F), filed January 16, 1979. Applicant: ECOFF TRUCKING, INC., 625 E. Broadway, Fortville, IN 46040. Representative: Roberrt W. Loser, II, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum sulphate*, in bulk, in tank vehicles, from Indianapolis, IN, to points in OH, KY, IL, and TN. (Hearing site: Indianapolis, IN, or Washington, DC)

Note.—Dual operations may be involved.

MC 124174 (Sub-129F), filed January 22, 1979. Applicant: MOMSEN TRUCKING CO., a Corporation, 13811 "L" St., Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electric cable*, from the facilities of Western Electric Company, Inc., at Omaha, NE, to points in IN, MI, NY, OH, and PA. (Hearing site: Omaha, NE, or Washington, DC)

Note.—Dual operations may be involved.

MC 125254 (Sub-52F), filed January 17, 1979. Applicant: MORGAN TRUCKING CO., A Corporation, P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *materials, and supplies*, used in the manufacture, distribution and sale of the commodities in (1) above, (except commodities in bulk), between Clinton, and Davenport, IA, on the one hand, and, on the other, points in IN, KY, MO, MI, OH, and WI. (Hearing site: St. Louis, MO)

MC 128304 (Sub-1F), filed January 15, 1979. Applicant: I. T. L., INC., 2155 N. 10th St., Box 280, Gering, NE 69341. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery houses (except commodities in bulk), from those points in the United States in and west of LA, AR, MO, IL, and WI (except AK and HI), to the facilities of Associated Grocers of Nebraska Cooperative, Inc., at or near Gering, NE, under continuing contract(s) with Associated Grocers of Nebraska Cooperative, Inc., of Gering, NE. (Hearing site: Scottsbluff, NE)

MC 129624 (Sub-20F), filed January 17, 1979. Applicant: ROUTE MESSENGERS OF PENNSYLVANIA, INC., 2425 Bainbridge St., Philadelphia, PA 19102. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cleaning compounds, insecticides, air fresheners, deodorizers, brooms, brushes, mops, toilet preparations, cosmetics, food supplements, food seasonings, household utensils, clothing hangers, mirrors, costume jewelry, books magnetic tapes, hosiery, and fire extinguishers*, (1) from Dayton, NJ, to the facilities of Route Messengers of Pennsylvania, Inc., at (a) New York, NY and points in its commercial zone, (b) Camden, NJ, and (c) Philadelphia, PA, and (2) from the facilities named in (1) above, to points in CT, DE, and NJ, points in Alleghany, Steuben, Schuyler, Chemung, Tompkins, Tioga, Broome, and Delaware Counties, NY, points in PA in and east of Potter, Clinton, Centre, Huntingdon, and Fulton Counties, and points in MD on and east of the Susquehanna River and the Chesapeake Bay. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343 (a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Washington, DC, or Philadelphia, PA)

Note.—Applicant intends to tack the authority in (1) above, with the authority in (2) above.

MC 134134 (Sub-36F), filed January 15, 1979. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue,

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P.O. Box 7439, Omaha, NE 68107. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts,* and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk, in tank vehicles), from the facilities of Armour Food Company, at or near Omaha, NE, to points in ME, NH, OH, VT, VA, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Phoenix, AZ, or Omaha, NE)

MC 136774 (Sub-12F), filed January 15, 1979. Applicant: MC-MOR-HAN TRUCKING CO., INC., Shullsburg, WI 53586. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corn syrup* and *high fructose corn sweeteners*, in bulk, in tank vehicles, from the facilities of Hubinger Company, at Keokuk, IA, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Des Moines, IA.)

Note.—Dual operations may be involved.

MC 138174 (Sub-3F), filed December 29, 1978. Applicant: JJ & JL COMPANY, INC., d.b.a. JET AIR FREIGHT SERVICE, 6136 NE 87th Ave., Portland, OR 97220. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, radiopharmaceuticals, radioactive drugs, and medical isotopes), (1) between Portland, OR, on the one hand, and, on the other, points in Lane County, OR, and (2) between the Eugene-Mahlon Sweet Airfield, at or near Eugene, OR, and Salem Airport, at Salem, OR, on the one hand, and, on the other, points in Benton, Linn, Lane, Multnomah, Polk, Clackamas, Marion, and Washington Counties, OR, restricted in (1) and (2) above to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Portland, OR.)

MC 138824 (Sub-19F), filed January 15, 1979. Applicant: REDWAY CARRIERS, INC., 5910 49th Street, Kenosha, WI 53140. Representative: Paul J. Maton, 10 S. LaSalle St., Room 1620, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *food products*, in containers, and (2) *materials and supplies* used in the processing, containerization, and sale of food products, (except commodities in bulk), between the facilities of RJR Foods, Inc., at Plymouth and Argos, IN, on the one hand, and, on the other, points in MI, under continuing contract(s) with RJR Foods, Inc., of Winston-Salem, NC. (Hearing site: Chicago, IL.)

MC 140134 (Sub-9F), filed November 2, 1978, and previously noticed in FR issue of February 1, 1979. Applicant: CALDARULO TRADING CO., a CORPORATION, 2840 South Ashland Avenue, Chicago, IL 60608. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery, and dessert preparations*, (except commodities in bulk), from Chicago, IL, to points in CA, AZ, NM, UT, CO, NV, WY, ID, OR, WA, MT, OH, PA, NY, WV, VA, MD, DE, NJ, CT, RI, MA, and DC, under continuing contract(s) with Leaf Confectionery, Inc., of Chicago, IL. (Hearing site: Chicago, IL.)

Note.—The republication adds RI as a destination state.

MC 141124 (Sub-32F), filed October 30, 1978, previously noticed in the FR issue of February 1, 1979. Applicant: EVANGELIST COMMERCIAL CORPORATION, P.O. Box 1709, Wilmington, DE 19899. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, from Philadelphia, PA, and Fort Edward and Albany, NY, to points in MI, SC, NC, WI, OH, IN, IL, and KY, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products, reverse direction. (Hearing site: Philadelphia, PA, or Columbus, OH.)

Note.—This republication clarifies the territory in part (2).

MC 145064 (Sub-9F), filed January 18, 1979. Applicant: HUNTER TRUCKING, INC., 805 32nd Avenue, Council Bluffs, IA 51501. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *lumber*, from those points in the United States in and east of TX, AR, MO, IA, and MN, to ports of entry on the international boundary line, between the United States, and Canada at (a) Pembina, ND, and (b) Noyes, MN, under continuing contract(s) with Theo A. Burrows Lumber Company, of Winnipeg, Manitoba, Canada. (Hearing site: Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 145624 (Sub-1F), filed December 4, 1978. Applicant: J. V. CARBONE, INC., 33 Marion Ave., New Providence, NJ 07974. Representative: Mr. Mezzacca, P.O. Box 265, Hwy. 27, Edison, NJ 08817. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand, gravel, stone, slag, and slag products*, in bulk, from Falls Township, PA to points to NY and NJ. (Hearing site: Trenton or Newark, NJ.)

MC 145904 (Sub-1F), filed January 19, 1979. Applicant: SOUTH WEST LEASING INC., P.O. Box 152, Waterloo, IA 50704. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *meats, meat products and meat byproducts,* and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from the facilities used by Wilson Foods Corporation, at Cedar Rapids, IA, to St. Louis, MO, and those points in IL within the Chicago, IL Commercial Zone, and (2) from the facilities of Tama Packing Corp., at Tama, IA, to points in IL, KS, MN, MO, NE, SD, and WI, restricted in (1) and (2) above, to the transportation of traffic originating at the above named facilities and destined to the indicated destinations. (Hearing site: Kansas City, MO, or Des Moines, IA.)

Passenger

MC 146254F, filed January 18, 1979. Applicant: THUNDERBIRD EXPRESS, INC., 2401 North Belmont, Wichita, KA 67220. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *passengers and their baggage*, in the same vehicle with passengers, in round trip charter operations, beginning and ending at points in KS, and extending to points in the United States (except AK and HI). (Hearing site: Wichita, KS.)

[Permanent Authority Decisions Vol. No. 34]
[FR Doc. 79-12958 Filed 4-26-79; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Applications; Decision-Notice

Correction

In FR Doc. 79–5131 appearing at page 10469 in the issue for Tuesday, February 20, 1979, on page 10476, in the middle column, the paragraph beginning "MC 116254 (Sub-271F)" should begin "MC 116254 (Sub-217F)".

[Decisions Volume No. 10]
BILLING CODE 1505-01-M

Permanent Authority Applications; Decision-Notice

Correction

In FR Doc. 79–5130 appearing at page 10456 in the issue for Tuesday, February 20, 1979, on page 10465, in the middle column, the paragraph beginning "MC 134477 (Sub-28F)" should begin "MC 134477 (Sub-287F)".

[Decisions Volume No. 11]
BILLING CODE 1505-01-M

Boston & Maine Corp. Reorganization Compensation Petition of Group of Institutional Bondholders for Allowance of Expenses Incurred

Howard C. Westwood, Lewis H. Weinstein, and Charles C. Shannon seek compensation for allowance of Expenses incurred in connection with this proceeding, represented by the firm of Bingham, Dana & Gould, 100 Federal Street, Boston, Massachusetts 02110, hereby give notice that on March 26, 1979, they filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 77(c)(12) of the Bankruptcy Act, requesting Compensation for expenditures of the group in connection with this proceeding for the period from March 1, 1970 through January 3, 1973, for which it seeks reimbursement of the Group's counsel and of its transportation consultants. These services are fully described in the affidavits of Mr. Howard C. Westwood of Covington & Burlington, of Mr. Lewis H. Weinstein of Foley, Hoag & Eliot, and of Mr. Charles C. Shannon of Wyer, Dick & Company. The expenditures set forth in each of such affidavits were paid for by the Group in the amounts stated. Those expenditures amount, in all, to $655,101.98.

Interested persons may participate as parties in the hearing to be held before the Commission required by section 77(c)(12) of the Bankruptcy Act. In order to be considered a party, a written statement should be submitted which shall include the person's position, e.g. party protestant, or party in support, of the requested authorization, the interest of the person in the reorganization proceeding, and a request for oral hearing if one is desired. Such submissions shall indicate the proceeding designation Finance Docket No. 26115 (Sub-No. 10F) and an original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 30 days after the date notice of the filing of the application is published in the **Federal Register.** Persons submitting written statements to the Commission shall, at the same time serve copies of such statements upon the applicant and upon the Clerk, United States District Court, 1525 Federal Building, Boston, Massachusetts 02109.

H. G. Homme, Jr.,
Secretary.

[Finance Docket No. 26115 (Sub-No. 10F)]
[FR Doc. 79-13228 Filed 4-26-79; 8:45 am]
BILLING CODE 7035-01-M

Petition of the Commuter Operating Agency of the Department of Transportation of the State of New Jersey for Exemption From Certain Jurisdiction of the Interstate Commerce Act

AGENCY: Interstate Commerce Commission.

ACTION: Petition for exemption of commuter bus operations conducted under contract with the State of New Jersey.

SUMMARY: The Commission must decide whether various interstate commuter bus operations subsidized by the State of New Jersey should continue to be subject to our regulation.

COMMENTS: Any interested person wishing to participate in this proceeding must notify the Commission in writing by May 14, 1979.

FOR FURTHER INFORMATION CONTACT: Janice M. Rosenak or Harvey Gobetz (202) 275–7693.

SUPPLEMENTARY INFORMATION: Commuter Operating Agency of the Department of Transportation of New Jersey (COA) asks that the Commission exempt from regulation regular route mass transportation services provided pursuant to contract with COA. Contracting carriers, listed with their Interstate Commerce Commission certificate numbers, are Lincoln Transit Company, Inc., MC–589159; Maplewood Equipment Company, MC–138828; New York-Keansburg-Long Branch Bus Company, MC–106207; Somerset Bus Company, MC–2880; and Transport of New Jersey, MC–3467.

Under 49 U.S.C. 1608(f) the Commission is required to exempt mass transportation services unless it finds within 180 days that the public interest would not be served, that an undue burden on interstate or foreign commerce would result, or that the mass transportation services are not subject to regulation by any state or local public agency.

Requests for documents relating to the proposal should be addressed to the following representative of the State of New Jersey: Robert H. Stoloff, Deputy Attorney General, 1035 Parkway Avenue, Trenton, New Jersey 08625.

Decided: April 20, 1979.

By the Commission. Chairman O'Neal. Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian.

H. G. Homme, Jr.
Secretary.

[No. 37157]
[FR Doc. 79-13229 Filed 4-26-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

April 20, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use

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in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 1334 (Sub-24TA), filed March 15, 1979. Applicant: RITEWAY TRANSPORT, INC., 2131 W. Roosevelt St., Phoenix, AZ 85012. Representative: David Robinson, 3003 N. Central, Suite 2101, Phoenix, AZ 85012. *Boric acid, fire retardant chemicals and commodities used in the manufacture of fire retardant chemicals,* from Phoenix, AZ to points in CA, CO, GA, ID, IL, IN, KS, MI, MN, NB, OH, OK, OR, TX, UT, WI and WA, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): H. J. H. Chemicals Co., 2229 E. Magnolia, Phoenix, AZ. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 1824 (Sub-88TA), filed March 14, 1979. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Charles S. Perry, same as above. *Common Carrier:* Regular route: *General Commodities, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* serving Metamora, OH as an off-route point in conjunction with applicant's presently authorized regular route authority between Elkhart, IN and Toledo, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Parker Hannifin, Filter Div., 16810 Fulton County Road #2, Metamora, OH 43540. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 2934 (Sub-20TA), filed March 6, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, IN 46204. *Lawn and patio furniture,* from the facilities of Sun Terrace Casual Furniture Co., at or near Columbus, OH, to points in PA on and West of U.S. Hwy 220, points in NY on and West of Interstate Hwy. 81, points in IN, MI, IL, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sun Terrace Casual Furniture Co., P.O. Box 2377, Clearwater, FL 33517. Send protests to: Beverly Williams, Transportation Assistant, 429 Federal Building & U.S. Court House, 46 East Ohio Street, Indianapolis, IN 46204.

MC 4024 (Sub-5TA), filed March 12, 1979. Applicant: HORN TRUCKING CO., 300 Schmetter Road, Highland, Illinois 62249. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, Illinois 62703. *Iron and Steel Articles:* (1) From East Chicago, IN and Chicago, IL and its commercial zone to points in Illinois on and south of U.S. 24 and to points in MO, (2) Between Maverick Tube Corp. at or near Union, MO on the one hand and points in AK, KY, TN, OH, and WI on the other, (3) From St. Louis, MO and Staunton, IL to points in AK, KY, TN, and from Staunton, IL to points in MO. (4) From the plantsites of Inland Steel Corp. at East Chicago, IN to points in IL on and south of U.S. 24 and points in MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tubular Steel, Inc., 7220 Polson Lane, Hazelwood, MO 63042; Whittaker Metal, 4504 Euclid, East Chicago, IN 46312; Maverick Tube Corp., P.O. Box 696, Union, MO 63084. Send protests to: Charles D. Little, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, Illinois 62701.

MC 8535 (Sub-77TA), filed February 28, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: Charles J. McLaughlin, same as above. *Iron and Steel Articles* (except in dump vehicles), from the facilities of Kentucky Electrical Steel Co. of Coalton, Boyd Co., KY to points in IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kentucky Electric Steel Company, P.O. Box 1179, Ashland, KY 41101. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 7914 (Sub-5TA), filed April 2, 1979. Applicant: UTICA ROME BUS CO., INC., Kirkland Avenue, Clinton, New York 13323. Representative: Mr. Harwood Jones, Kirkland Avenue, Clinton, NY 13323. *Passengers and their baggage in round trip special operations,* beginning and ending at Rome and Utica, NY and extending to all points in OH, MI, IN, KY, AR, MO, IA, MN, ND, SD, NE, KS, OK, TX, NM, CO, WY, MT, ID, WA, UT, AZ, CA, OR, NV, IL and WI, including points on the United States-Canadian boundary line. For 180 days. Supporting shipper(s): There are 9 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St.—Rm. 1259, Syracuse, NY 13260.

MC 8535 (Sub-78TA), filed March 16, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: Charles J. McLaughlin, same as above. *Aluminum and Aluminum Articles,* from the facilities of Kaiser Aluminum & Chemical Corporation at or near Ravenswood, WV to points in DE, DC, IL, IN, KY, MD, MI, NJ, NY, NC, OH, PA, TN, VA, and WV, for 180 days. Supporting shipper(s): Kaiser Aluminum & Chemical Corporation, P.O. Box 98, Ravenswood, WV 26164. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 8535 (Sub-79TA), filed March 16, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: Charles J. McLaughlin (same as above). *Iron and steel articles (except in dump vehicles),* originating at the facilities of the Weirton Steel Division of National Steel Corporation at Steubenville, OH and Weirton, WV to points in IN, on or south of Interstate Route 70, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Richard T. Symons, Weirton Steel Div., National Steel Corp., Weirton, WV 26062. Send protests to: W. L. Hughes, DS, Interstate Commerce Comm., 1025 Federal Bldg., Baltimore, MD 21201.

MC 8535 (Sub-80TA), filed March 16, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: Charles J. McLaughlin (same as above). *Iron and steel articles (except in dump vehicles),* from the facilities of United States Steel Corporation located at or near Braddock, Clairton, Duquesne, Dravosburg, Fairless, Homestead, Johnstown, McKeesport, McKees Rocks, and Pittsburgh, PA, Cleveland, Lorain and Youngstown, OH to IL and IN; for

180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gary M. Bleakley, United States Steel Corporation, 600 Grant St., Room 568, Pittsburgh, PA 15230. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 9914 (Sub-8TA), filed March 19, 1979. Applicant: WARREN TRUCKING COMPANY, INC., P.O. Box 5224, Martinsville, VA. Representative: Richard L. Hollow, P.O. Box 550, Knoxville, TN. *New furniture, materials, equipment and supplies used in the manufacture and distribution of new furniture and furniture parts,* from Martinsville, VA and Smyth Co., VA to points in NY and points in that part of OH west of a line beginning at the OH–KT state line at Portsmouth, OH and extending north along US Hwy 23 to junction OH Hwy 4 near Marion, OH, thence northerly along OH Hwy 4 to the OH state line at Sandusky, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chatmoss Furniture Corp., P.O. Box 4983, Martinsville, VA 24112; American Furniture Corp., Martinsville, VA 24112; Hooker Furniture Corp., Martinsville, VA. Send protests to: Paul D. Collins, DA, ICC, Room 10–502, Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 13134 (Sub-64TA), filed March 13, 1979. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: David A. Turano, Ste. 1800, 100 East Broad St., Columbus, OH 43215. *Refractories and refractory products,* from the facilities of United Refractories, Inc. at Warren, OH to points in the Chicago, IL Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Refractories, Inc., Edward Esposito, President, P.O. Box 1289, Warren, OH 44482. Send protests to: ICC, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 14215 (Sub-28TA) filed February 22, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 W. 5th Ave., Columbus, OH 43212. *Silica sand,* in bulk, in dump vehicles, from Wedron, Ottawa, and Utica, IL, to Sharon, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Castings Division, Midland-Ross Corporation, 700 South Dock St., Sharon, PA 16146. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 14215 (Sub-29TA) filed March 28, 1979. Applicant: SMITH TRUCK SERVICE, INC., 1118 Commercial ST., Mingo Junction, OH 43938. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. *Iron and steel articles,* from the facilities of Bar Steel Co., at Detroit, MI to points in OH, PA and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bar Steel Company, 18695 Sherwood, Detroit, MI 48235. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 14215 (Sub-30TA) filed March 23, 1979. Applicant: SMITH TRUCK SERVICE, INC., 1118 Commercial St., Mingo Junction, OH 43938. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. *Iron and steel articles,* from the facilities of Jones & Laughlin Steel Corporation at Aliquippa and Pittsburgh, PA to points in IN, and OH, for 180 days. Supporting shipper(s): Jones & Laughlin Steel Corporation, Room 121, 1600 W. Carson St., Pittsburgh, PA 15263. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 21244 (Sub-3TA), filed March 14, 1979. Applicant: WESTERN EXPRESS, INC., 1522 S. Caton Ave., Baltimore, MD 21227. Representative: Edward N. Button, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Furniture, materials and supplies (except in bulk) used in the manufacture and distribution thereof,* between Baltimore and Westminster, MD and their respective commercial zones, on the one hand, and, on the other, points in NC, SC, GA and FL. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Woodvalley Furniture Corporation, 289 E. Green St., Westminster, MD 21157; Sheraton Manufacturing Co., 1680 Clough St., Baltimore, MD 21213; Chesapeake Manufacturing Company, Inc., 4001 Washington Blvd., Baltimore, MD 21227. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 24784 (Sub-23TA), filed March 9, 1979. Applicant: BARRY, INC., 463 South Water, Olathe, KS 66061. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. *Iron and steel articles,* from Tulsa and Muskogee, OK to points in CO, IA, KS, MO, and NE for 180 days. Supporting shipper(s): Steel and Pipe Supply Co., Manhattan, KS. Send protests to: DS John V. Barry, Rm. 600, 911 Walnut, Kansas City, MO 64106.

MC 52704 (Sub-212TA), filed March 30, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) Animal and poultry feed, fish feed, and corn products, (except in bulk), from Birmingham and Decatur, AL, and Springfield, TN to points in Oklahoma and Texas, and (2) Materials, equipment and supplies used in the manufacture or distribution of commodities named in (1) above (except commodities in bulk), from points in Oklahoma and Texas to Birmingham and Decatur, AL, and Springfield, TN. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jim Dandy Company, P.O. Box 10687, Birmingham, AL 35203. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-213TA), filed March 9, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Metal containers,* from the facilities of Kaiser Aluminum & Chemical Co., at or near Jacksonville, FL, to Greensboro, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaiser Aluminum & Chemical Co., 10001 Lake Forest Blvd., New Orleans, LA 70127. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 52704 (Sub-214TA), filed March 30, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Meal, flour, prepared baking mixes and birdseed,* from Shawnee, OK, to points in AL, FL, GA, KY, LA, MS, NC, SC, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shawnee Milling Company, P.O. Box 1567, Shawnee, OK 74801. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 56244 (Sub-77TA), filed March 13, 1979. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. No. 2, Gardners, PA 17324. Representative: John M. Musselman, Rhoads, Sinon & Hendershot, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. Such merchandise as is dealt in by grocery and food business houses (except commodities in bulk and frozen foods),

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from the facilities of Libby, McNeill & Libby, Inc., at Chicago, IL and points in its commercial zone to points in Maryland and Pennsylvania, and Washington, D.C. and points in its commercial zone as defined by the Commission, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Libby, McNeill & Libby, Inc., 200 S. Michigan Avenue, Chicago, IL 60604. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869 Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 56244 (Sub-78TA), filed March 2, 1979. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. No. 2, Gardners, PA 17324. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. (1) *Foodstuffs* (except in bulk) and (2) *Materials, supplies and equipment* used in connection with or incidental to the manufacturing, packing or distribution of foodstuffs (except in bulk), between the facilities of Anderson Clayton Foods, Division of Anderson Clayton and Company, at Jacksonville, IL, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, and Pennsylvania, and Washington, D.C. and points in its commercial zone as defined by the Commission, restricted to the transportation of shipments originating at the indicated origins and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anderson Clayton Foods, P.O. Box 368, East Morton Road, Jacksonville, IL 62650. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 58035 (Sub-19TA), filed February 27, 1979. Applicant: TRANS-WESTERN EXPRESS, LTD., 48 East 56th Avenue, Denver, CO 80216. Representative: Edward T. Lyons, Jr., 1600 Lincoln Center Bldg., Denver, CO 80264. *Photographic apparatus, equipment, materials, supplies and products* (1) From the facilities of Eastman Kodak Company at or near Rochester, NY to the facilities of Eastman Kodak Company at or near San Ramon, Palo Alto, Whittier and Hollywood, CA; Dallas, TX and Oak Brook, IL (2) From the facilities of Eastman Kodak Company at or near Windsor, CO to the facilities of Eastman Kodak Company at or near Palo Alto, CA; Dallas, TX; Dayton, NJ; and Oak Brook, IL (3) Between the facilities of Eastman Kodak Company at or near Windsor, CO; San Ramon and Whittier, CA (4) Between the facilities of Eastman Kodak Company at or near Windsor, CO and Rochester, NY for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Eastman Kodak Company, 2400 Mount Read Blvd., Rochester, NY 14650. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 61445 (Sub-12TA), filed March 7, 1979. Applicant: CONTRACTORS TRANSPORT CORP., 5800 Farrington Avenue, Alexandria, VA 22304. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC. *Iron and steel articles,* from Pittsburgh, Phila., and Bethlehem, PA, to points in VA, MD, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Steele and Moroney, Inc., P.O. Box 9276, Alexandria, VA 22304. Send protests to: Carol Rosen, TA, ICC, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 61825 (Sub-97TA), filed March 20, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, P.O. Box 305, Collinsville, VA 24078. Representative: John D. Stone (same address as above). *Lawn and Garden Machinery, Snow throwers and Accessories,* from Plymouth, WI to Charlotte, NC and Richmond, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gilson Brothers Company, P.O. Box 152, Plymouth, WI 53073. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 72235 (Sub-11TA), filed March 23, 1979. Applicant: IVORY VANLINES, INC., 5601 Corporate Way, Suite 107, West Palm Beach, FL 33407. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Zinc* or *zinc alloys* between Josephtown, Beaver County, Potter, Township, PA, on the one hand and on the other, points in NJ, NY, CT, MA, and MD for 180 days. Supporting shipper(s): St. Joe Zinc Company, Two Oliver Plaza, Pittsburgh, PA 15222. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 77424 (Sub-47TA), filed February 2, 1979. Applicant: WENHAM TRANSPORTATION, INC., 3200 East 79th Street, Cleveland, OH 44140. Representative: James Johnson (same address as applicant). *Building materials and equipment, material and supplies* used in the installation, erection or application thereof between Sidney, OH on the one hand, and, on the other, Fairview and Hammonton, NJ for 180 days. Supporting shipper(s): Aluminum Company of America, 1501 Alcoa Building, Pittsburgh, PA 15219. Send protests to: Mrs. Mary A. Wehner, District Supervisor, Interstate Commerce Commission, 1240 E. Ninth Street, Cleveland, OH 44199.

MC 77424 (Sub-48TA), filed March 29, 1979. Applicant: WENHAM TRANSPORTATION, INC., 3200 East 79th Street, Cleveland, OH 44104. Representative: James Johnson (same address as applicant). *Chemicals,* liquid or dry, except in bulk, from Louisiana, MO, to Painesville, OH, for 180 days. Supporting shipper(s) The Lubrizol Corporation, 29400 Lakeland Blvd., Wickliffe, OH 44092. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Bldg., Cleveland, OH 44199.

MC 77424 (Sub-49TA), filed March 29, 1979. Applicant: WENHAM TRANSPORTATION, INC., 3200 East 79th Street, Cleveland, OH 44199. Representative: James Johnson (same address as applicant). *Chemicals,* liquid or dry, and *plastics or plastic materials,* except in bulk in tank vehicles from Delaware City and New Castle, DE, to points in IL, IN, MI (southern peninsula), NY, OH, and PA, for 180 days. Supporting shipper(s): Diamond Shamrock Corp., 1100 Superior Avenue, Cleveland, OH 44114. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Bldg., Cleveland, OH 44199.

MC 85934 (Sub-99TA), filed March 6, 1979. Applicant: MICHIGAN TRANSPORTATION COMPANY, 3601 Wyoming Ave., P.O. Box 248, Dearborn, MI 48120. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48168. *Cement,* in bulk and in bag, from the facilities of Penn Dixie Industries at or near Petosky, MI to all points in the States of IL, IN, OH, and WI, for 180 days. Supporting shipper(s): David L. Williams, Director, Traffic and Distribution, Penn Dixie Industries, Inc., Cement Division, P.O. Box 152, Nazareth, PA. 18064. Send protests to: Tim Quinn, DS, ICC, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 93224 (Sub-25TA), filed March 1, 1979. Applicant: S & N FREIGHT LINE, INC., P.O. Box 12147, Norfolk, Virginia 23502. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, D.C. 20005. Wrapping paper, woodpulp board

woodpulp and scrap paper and equipment, materials and supplies used in the manufacture and distribution of the above-referenced commodities, (except commodities in bulk) between the facilities of the Chesapeake Corp. of Va., at West Point, VA, on the one hand, and, on the other, points in MD, DE, NJ, NY, MA, CT, RI, DC, NC, SC and points in PA located on and east of Interstate 81 for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chesapeake Corp. of Va., Box 311, West Point, Virginia 23181. Send protests to: Paul D. Collins, DS, ICC, Room 10–502, Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 93235 (Sub-13TA), filed February 13, 1979. Applicant: INDIANA TRUCKING, INC., 400 Blaine Street, Gary, IN 46406. Representative: Eugene Cohn, One North LaSalle, Chicago, IL 60602. Contract carrier, over irregular routes, *iron and steel articles,* from the facilities of Inland Steel Company, East Chicago, IN to points in Kenosha, Racine, Milwaukee, Washington, Ozaukee and Waukesha Counties, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Inland Steel Company, 30 West Monroe Street, Chicago, IL 60603. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Everett McKinley Dirksen Building, Chicago, IL 60604.

MC 94265 (Sub-296TA), filed March 7, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Olin C. Cooper, Jr. (same address as applicant). *Foodstuffs* (except in bulk) in controlled temperature vehicles, from the plantsite and storage facilities owned and/or utilized by J. H. Filbert, Inc., located in Fulton, Clayton, DeKalb, Cobb, and Douglas Counties, GA, to points in the states of IL, IN, and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. H. Filbert, Inc., 3701 Southwestern Boulevard, Baltimore, MD 21229. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 94265 (Sub-297TA), filed March 9, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, Virginia 23487. Representative: Olin C. Copper (same address as applicant). *Bananas, and agricultural commodities* the transportation of which is exempt from economic regulation pursuant to Title 49 USC Section 1052.6 (formerly Section 203(b)(6) of the Interstate Commerce Act) when transported at the same time in the same vehicle with commodities subject to economic regulation (as otherwise authorized), from Portsmouth, Norfolk, Newport News, VA to points in the states of VA, NC, TN, KY, WV, MD, DE, OH, MI, IN, IL, WI, IA, MO, NE, KS, MN and the District of Columbia, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Best Banana Co., Inc., 910 Maple Road, Buffalo, N.Y. 14221. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, Virginia 23240.

MC 95084 (Sub-135TA), filed March 14, 1979. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Iron and steel articles* from the facilities of Nucor Corporation, Vulcraft Division, at or near Norfolk, NE to points in IL, IN, IA, KS, KY, MI, MN, MO, OH, PA, SD, WV, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nucor Corporation, Vulcraft Division, P.O. Box 59, Norfolk, NE 68701. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 95084 (Sub-136TA), filed March 26, 1979. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, 611 Church Street, Ottumwa, IA 52501. *Such commodities as are dealt in or used by agricultural equipment, industrial equipment, and lawn and leisure products manufacturers and dealers* (except commodities in bulk) between the facilities of International Harvester Company at Canton, East Moline, and Rock Island, IL, and Memphis, TN, on the one hand, and, on the other, points in CT, DE, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, WV, and DC. Restricted to transportation of traffic originating at the facilities or used by International Harvester Company named therein and originating at points in the states named therein and destined to the facilities of International Harvester Company named therein except that restrictions shall not apply to traffic moving in foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Harvester Company, 401 North Michigan Avenue, Chicago, IL 60611. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 95084 (Sub-137TA), filed March 29, 1979. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Plastic pipe* from the plantsite of Johns-Manville Sales Corp. at or near Wilton, IA to points in IL, IN, KY, KS, MI, MN, MO, NE, ND, OH, SD and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Johns-Manville Sales Corporation, 2222 Kensington Court, Oak Brook, IL 60521. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 106074 (Sub-98TA), filed February 28, 1979. Applicant: B AND P MOTOR LINES, INC., Oakland Road and U.S. Highway 221 South, Forest City, NC 28043. Representative: John J. Capo, Suite 212, 5299 Roswell Rd, NE, Atlanta, GA 30342. (1) *Plastic articles and material, and (2) materials, equipment, and supplies used in the manufacture and distribution of plastic articles* (1) from Forest City, NC to all points in CA, FL, KS, MN, MO, MS, NJ, OH, PA, and TX, and (2) from points in CA, MN, FL, NJ, OH, PA, and TX to Forest City, NC, for 180 days. Supporting shipper(s): A & E Warbern, Incorporated, Foothill Road and Vance St., Forest City, NC 28043. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Rd—Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 106074 (Sub-99TA), filed February 28, 1979. Applicant: B & P MOTOR LINES, INC., P.O. Box 741, Forest City, NC 28043. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Meats and packinghouse products* from the facilities of Wilson Foods Corporation located at Cedar Rapids, IA to points in DE, MD, VA and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Rd—Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 106074 (Sub-100TA), filed March 14, 1979. Applicant: B & P MOTOR LINES, INC., Oakland Rd. and U.S. Highway 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Foodstuffs (except in bulk)* from the facilities of Sunmark, Inc., at St. Louis, MO to all points in AL, FL, GA, NC, and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Summark, Inc., 10795 Watson Rd., St. Louis, MO 63127. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd—Rm. CC516, Mart Office Building, Charlotte, NC 28205.

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MC 106074 (Sub-101TA), filed March 29, 1979. Applicant: B and P MOTOR LINES, INC., Oakland Road and U.S. Highway 221 South, Forest City, NC 28043. Representative: John J. Capo, Suite 212, 5299 Roswell Rd, NE, Atlanta, GA 30342. (1) *Saw blades; and (2) hand tools and saw blades* (1) from Toccoa, GA to Lincolnton, NC; and (2) from Lincolnton, NC to all points in AR, AZ, CA, CO, KS, MO, NM, NV, OK, TX, and UT, for 180 days. Supporting shipper(s): Vermont America Corporation, Hardware Tool Div., P.O. Box 340, Lincolnton, NC 28092. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd—Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 106674 (Sub-370TA), filed February 22, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same as applicant). *Paper and paper products,* (1) from the facilities of Scott Paper Company in the commercial zone of Philadelphia, PA to points in the States of OH, IN, IL and WI, (2) from the facilities of Scott Paper Company in the commercial zone of Mobile, AL to points in the States of PA, OH, IN, IL, and WI, (3) from the facilities of Scott Paper Company in the commercial zones of Oconoto Falls, Green Bay, Marinette and Fond du Lac, WI to points in the States of IL, OH, IN and AL, for 180 days. Supporting shipper: Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Room 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 106672 (Sub-371TA), filed March 6, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same as applicant). *Fabricated Metal Products,* from the plantsite of United States Gypsum Company at Franklin Park, IL, to points in MI, OH, IN and KY, for 180 days. Supporting shipper: U.S. Gypsum Company, 101 S. Wacker Drive, Chicago IL 60606. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 East Ohio Street, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 107064 (Sub-132TA), filed March 5, 1979. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Fuel oil, in bulk, in tank vehicles,* from Borger, TX to Golden, CO for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): McDougald Oil, Inc., South Highway 163, Moab, UT. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 109124 (Sub-66TA), filed March 2, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James H. Burtch, 100 East Broad St., Suite 1800, Columbus, OH 43215. *Mill scale, in bulk,* from the Detroit, MI Commercial Zone, to Woodville, OH for 180 days. Common-carrier-irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ohio Lime Company—A Subsidiary of General Refractories, P.O. Box 128, Woodville, OH 43469. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 111434 (Sub-98TA), filed March 1, 1979. Applicant: DON WARD, INC., 241 West 56th Ave., Denver, CO 80216. Representative: J. Albert Sebald, 1700 Western Federal Building, Denver, CO 80202. *Liquid concrete admixtures, in bulk,* from Seattle, WA to points in CA, OR, NV, ID, UT, WY and MT for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper: Master Builders, Division of Martin Marietta Corp., Lee at Mayfield Roads, Cleveland Heights, OH 44118. Send protests to: D/S Roger L. Buchanan, ICC, 492 U.S. Customs House, Denver, CO 80202.

MC 112304 (Sub-182TA), filed March 2, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: Fred Schmits (same as applicant). *Tractors, tractor excavation, grading or loading attachments, combinds,* from Burlington, IA, to NC, SC, TN, MS, AL, GA and FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J I Case Company, Robert L. Henderson, Manager, Corporate Traffic, 700 State St., Racine, WI 53404. Send protests to: Paul J. Lowry, DS, ICC, 5514–B Federal Bldg., 550 Main St., Cincinnati, OH 45202.

MC 112304 (Sub-183TA), filed March 26, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: Fred Schmits (same as applicant). *(1) Storage or warehouse pallet racks, bins or shelving, and (2) equipment materials and supplies used in the manufacture of items in (1) above.* (1) between the facilities of Speedrack, Inc., at or near Quincy, IL. on the one hand, and, on the other, all points in the U.S. (except AK and HI); from the facilities of Joslyn Empire Galvanizing, at Franklin Park, IL, and from the facilities of Reliable Galvanizing at Chicago, IL, to all points in the U.S. (except AK and HI); and (2) from all points in the U.S. to the facilities of Speedrack, Inc., at Quincy, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Speedrack, Inc., Robert E. Tofall, Traffic Manager, 5300 Golf Road, Skokie, IL 60077. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg. 600 Arch St., Room 63238, Philadelphia, PA 19106.

MC 113784 (Sub-79–TA), filed March 28, 1979. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton, Ontario L8L 4M1. Representative: DOUGLAS R. GOWLAND (same address as above). *Iron and Steel articles,* from the facilities of U.S. Steel Corp. at or near Cleveland, lorain and Youngstown, OH and Braddock, Clairton, Dravosburg, Duquesne, Homestead, Irwin, Johnstown, McKeesport, McKees Rocks, Pittsburgh and Vandergrift, PA to the International Boundry between United States and Canada located on the Niagara and Detroit Rivers, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corp., 600 Grant Street, Pittsburgh, PA 15230. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron St., Buffalo, NY 14202.

MC 114045 (Sub-536TA), filed February 23, 1979. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). *Prepared Foodstuffs (except in bulk) in vehicles equipped with mechanical refrigeration,* (1) From the facilities of the Pillsbury Company at New Albany, IN to Denison, TX and (2) from the facilities of Pillsbury Company at Denison, TX to the City of Commerce, CA for 180 days. Supporting shipper(s): The Pillsbury Company, 608 Second Avenue South, Minneapolis, MN 55402. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 114045 (Sub-537TA), filed March 23, 1979. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same as above). *(1) Acids, chemicals and solvents (except in bulk) (2) materials, equipment, and supplies (except in bulk) used in the manufacture, sale or distribution of acids, chemicals and solvents,* from points in CA to points in NJ and PA for 180 days. Supporting shipper(s): J. T. Baker Chemical Co., Phillipsburg, NJ 08865. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 114045 (Sub-538TA), filed March 5, 1979. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Reprentative: J. B. Stuart (same address as above). *(1) Such commodities as are dealt in by grocery, hardware, and drug stores (except foodstuff) in containers (except in bulk) (2) materials ud in manufacture of the commodities,* from the facilities of Boyle-Midway, a division of American Home Products Corp., at Chicago, IL and points in its commercial zone to Dallas, TX for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Boyle-Midway, 685 Third Avenue, New York, NY 10017. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13012, Dallas, TX 75242.

MC 114604 (Sub-70TA), filed February 23, 1979. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Reprentative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *Citrus products* from the facilities of Citrus Central, Inc., at or near Bartow, Winter Haven, Lakeland, Howey-in-the-Hills, Plymouth, Haines City and Umatilla, FL, to points in AL, GA, IL, IN, KY, LA, MI, MS, NC, OH, PA, SC, TN, VA and WV. For 180 days. An underlying ETA eks 90 days authority. Supporting shipper(s): Citrus Central, Inc., P.O. Box 17774, Orlando, FL 32810. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 114604 (Sub-71TA), filed February 27, 1979. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Reprentative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *Margarine, except in bulk, when moving in mechanically refrigerated equipment* from the facilities of Deep South Products, Inc., at or near Gainesville, GA to the warehou and storage facilities of Winn-Dixie Stores at Montgomery, AL, Jacksonville, Miami, Orlando and Tampa, FL, Louisville, KY, New Orleans, LA, Charlotte and Raleigh, NC, Greenville, SC and Ft. Worth, TX, for 180 days. An underlying ETA eks 90 days authority. Supporting shipper(s): Deep South Products, Inc., P.O. Box 2534, Gainesville, GA 30501. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 114965 (Sub-84TA), filed March 8, 1979. CYRUS TRUCK LINE, INC., P.O. Box 327, Iola, KS 66749. Reprentative: Charles H. Apt., P.O. Box 328, Iola, IS 66749. *Liquefied petroleum gas,* in bulk, in tank vehicles from Ringer Pipeline Terminal at or near Paola, KS to points and places in MO 180 days, common, irregular, 90-day ETA granted, R–37; Supporting shipper: Getty Refining and Marketing Co., Tulsa, OK.; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 115654 (Sub-131TA), filed February 27, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Reprentative: Hank Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St., N.W., Washington, DC 20004. *Charcoal birquettes* from the facilities utilized by Husky Industries, at or near Meridian and Pachuta, MS, to points in AL, GA, and TN, for 180 days. An underlying ETA eks 90 days authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: Glenda Kuss, TA, ICC, Suite A–422 U.S. Court Hou, 801 Broadway, Nashville, TN 37203.

MC 115654 (Sub-132TA), filed March 20, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St. NW., Washington, DC 20004. *Foodstuffs (except commodities in bulk), moving in mechanically refrigerated equipment* (a) from the facilities of Vlasic Foods, Inc. at or near Imlay City, Bridgeport, or Memphis, MI, to Greenville, MS, and (b) From Greenville, MS, to points in AL, AR, GA, IL, IN, KY, MO, OH, and TN, for 180 days. Restricted to traffic originating at the facilities of Vlasic Foods, Inc. Supporting shipper(s): Vlasic Foods, Inc., 33200 W. 14 Mile Road, W. Bloomfield, MI 48033. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115654 (Sub-133TA), filed March 23, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Hank Seaton, 929 Pennsylvania Building, 424 Thirteenth St. NW., Washington, DC 20004. *Confectionery and confectionery products (except in bulk), moving in mechanically refrigerated equipment* from Nashville, TN to points in that part of AL south of U.S. Highway 80; Columbus, OH; and points in WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Standard Candy Company, 443 2nd Avenue, North, Nashville, TN. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115654 (Sub-134TA), filed March 21, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Building, 425 Thirteenth St. NW., Washington, DC 20004. *Foodstuffs, canned and preserved,* from the facilities of Heinz, USA, at or near Fremont and Toledo, OH to points in AL, GA, MS, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115975 (Sub-34TA), filed March 7, 1979. Applicant: C.B.W. TRANSPORT SERVICE, INC., P.O. Box 48, Wood River, IL 62985. Representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. Petroleum lubricating oil in bulk in tank vehicles, from St. Louis, MO to the facilities of Pennzoil Company at or near Marion, IL (Williamson County, IL) (under bilateral contract with Pennzoil Company of Oil City, PA), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pennzoil Company, Drake Building, Oil City, PA 16301. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Building, Springfield, Illinois 62701.

MC 116045 (Sub-49TA), filed March 15, 1979. Applicant: NEUMAN TRANSIT CO., INC., P.O. Box 38, Rawlins, WY 82301. Representative: Leslie R. Kehl, Jones, Meiklejohn, Kehl & Lyons, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. *Liquid sulphur,* in bulk, from Park County, WY to Denver, CO for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Public Service Company of Colorado, 5900 E. 39th Avenue, Denver, CO 80207. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105 Federal Building & Court House, 111 South Wolcott, Casper, WY 82601.

MC 116254 (Sub-257TA), filed March 2, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence,

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AL 35630. Representative: Randy C. Luffman (same address as applicant). *Aluminum Sheet and Aluminum Industrial Foil,* from Fairmont, WV, to points in AR, GA, MS, OK, TN and TX, for 180 days. Supporting shipper(s): Alcan Aluminum Corporation, P.O. Box 6977, Cleveland, OH 44101. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616 2121 Building, Birmingham, AL 35203.

MC 116254 (Sub-258TA), filed March 14, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman (same address as applicant). *Liquid Chemicals,* in bulk, in tank vehicles, from Union Carbide Corporation located at Taft, LA, to points in the U.S., except MS, AL, LA, AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Carbide Corporation, 270 Park Ave 6th Floor, New York, NY 10017. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616 2121 Building, Birmingham, AL 35203.

MC 116254 (Sub-259TA), filed March 14, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman (same address as applicant). *Liquid chemicals,* in bulk, in tank vehicles, from Texas City, TX, and Chocolate Bayou, TX, to points in AL, FL, GA, IL, IN, IA, KY, LA, MS, MO, NJ, NC, OH, PA, SC, TN, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616 2121 Building, Birmingham, AL 35203.

MC 116254 (Sub-260TA), filed March 14, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman, P.O. Box 339, Florence, AL 35630. *Aluminum and aluminum articles,* from the facilities of Kaiser Aluminum and Chemical Corporation, at or near Ravenswood, WV; to AR, AL, CT, DE, FL, GA, IL, IN, IA, KY, LA, MD, MI, MN, MS, MO, NJ, NY, NC, OH, PA, RI, SC, TX, TN, VA, WV, WI and the District of Columbia, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaiser Aluminum & Chemical Corporation, P.O. Box 98, Ravenswood, WV 26164. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616 2121 Building, Birmingham, AL 35203.

MC 116254 (Sub-261TA), filed March 21, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman, P.O. Box 339, Florence, AL 35630. *Chemicals,* in bulk, in tank vehicles, between the facilities of Dow Chemical U.S.A., located in Brazoria County, TX and AL, GA, TN, FL, MS, LA, AR, NC, SC, KY, VA, WV, IN, MO, KS, IL, IA, WI, MN, MI, OH, PA, NJ, and NY. For 180 days. Supporting shipper(s): Dow Chemical USA, Freeport, TX 77541. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616 2121 Building, Birmingham, AL 35203.

MC 116474 (Sub-43TA), filed March 2, 1979. Applicant: LEAVITTS FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, OR 97477. Representative: Earle V. White, 2400 SW. 4th Avenue, Portland, OR 97201. *Contract* carrier, *irregular* routes, *laminated wood products, prefabricated wood timbers, trusses, and beams* from Saginaw, OR to points in CA, WA, ID, and NV, for 180 days. An underlying ETA seeks 90 days authority. ETA seeks 90 days authority. Supporting Shipper(s): Bohemia, Inc., P.O. Box 1819, Eugene, OR 97401. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 117644 (Sub-51TA), filed March 28, 1979. Applicant: D & T TRUCKING CO., INC., 498 First Street, Northwest, New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Contract carrier, over irregular routes. *Meats, meat products, meat by-products and articles distributed by meat packaginghouses as described in Sections A, C and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* between the plantsite and storage facilities of Lauridsen Foods, Inc. located at or near Britt, IA, on the one hand, and, on the other, points in AL, GA, FL, NC, SC, TN, KY, VA, WV and MS, restricted to the transportation of shipments originating at the above named origins and destined to the named destinations, for 180 days. Supporting shipper(s): Armour and Company, Manager of Transportation, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 119654 (Sub-71TA), filed March 6, 1979. Applicant: HI-WAY DISPATCHER, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Such commodities as are dealt in or used by producers and distributors of paper and plastic products (except commodities in bulk and commodities which because of size or weight require special handling or special equipment),* from the facilities of Continental Plastic Industries Bondware Division at or near Shelbyville, IL to Milwaukee and Madison, WI, for 180 days. Supporting shipper: Continental Plastic Industries, 800 East Northwest Highway, Palatine, IL 60067. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 120675 (Sub-6TA), filed March 2, 1979. Applicant: ACME TRUCK LINE, INC., P.O. Box 183, Harvey, LA 70059. Representative: Paul D. Angenend, 1806 Rio Grande (P.O. Box 2207), Austin, TX 78768. *Drilling mud (except in bulk, and tank vehicles),* between points in CA on the one hand, and, on the other, points in LA, for 180 days. Applicant has filed an underlying ETA for 90 days. Supporting Shipper(s): Chromalloy Co., P.O. Box 7036, Houma, LA 70361. Send protests to: Connie A. Guillory, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 120675 (Sub-7TA), filed March 13, 1979. Applicant: ACME TRUCK LINE, INC., P.O. Box 183, Harvey, LA 70059. Representative: Robert W. Minyard (same address as applicant). *Machinery, materials, supplies, and equipment incidental to or used in, the construction development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum* between points in AL, AR, FL, LA, GA, MS, and TX on the one hand, and, on the other, points in IL, IN, KY, and TN, for 180 days. Applicant has filed an underlying ETA for 90 days operating authority. Supporting Shipper(s): Santa Fe Marine, Inc., P.O. Box 2518, Houma, LA 70361, Norwell Welder Supply Co., P.O. Box 36, Harvey, LA 70059, Conmaco, Inc., 708 Engineers Road, Belle Chasse, LA 70037. Send protests to: Connie A. Guillory, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 121664 (Sub-64TA), filed March 27, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460 Representative: W. E. Grant, 1702 First Avenue South, Birmingham, AL 35233. *Lumber,* From New Augusta, MS to points in AL, FL, GA, NC, SC, TN, KY, PA, OH, MI, MN, WI, IA, IN, IL, MO, AR, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leaf River Forest Products, Inc., P.O. Box 326, New Augusta, MI 39462. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 121664 (Sub-65TA), filed March 30, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460 Representative: W. E. Grant, 1702 First Avenue South, Birmingham, AL 35233. *Composition board, particleboard, lumber, wood fiber insulation sheathing, hardboard siding and wallboard,* in straight or mixed shipments. From: Facilities of Temple Industries located at or near West Memphis, AR; Diboll and Pineland, TX; and Thomson, GA To: points in the United States in and east of ND, SD, NB, KS, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Temple Industries, Inc., P.O. Drawer N, Diboll, TX 75941. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 121725 (Sub-1TA), filed March 9, 1979. Applicant: ARCO, INC., d.b.a. THRASHER FREIGHT, 495 Lovitt Lane, Reno, NV 89507. Representative: Reese H. Taylor, Jr., Esq., P.O. Box 646, Carson City, NV 89701. *Construction, Logging and Mining Equipment* and Parts and Accessories for such Equipment when moving in the same shipments with such equipment via low-bed equipment, between points in NV on and north of U.S. Highway 6 on the one hand, and points in the states of OR and WA, and points in and north of Monterey, Kings, Tulare and Inyo Counties, CA, on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 12 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: W. J. Huetig, DS, ICC, Room 203, Federal Building, 705 North Plaza St., Carson City, NV 89701.

MC 121794 (Sub-4TA), filed February 27, 1979. Applicant: JAMES WILKETT, d.b.a. WILKETT TRUCKING COMPANY, P.O. Box 209, Stigler, OK 74462. Representative: George G. Olsen, Esq., 1101 Connecticut Avenue, N.W., Suite 500, Washington, D.C. 20036. *Coal,* from points in Haskell, LeFlore, Muskogee, Latimer and Pittsburg Counties, OK, to points in Bosque, Morris, Freestone and Harris Counties, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Westhoff Brothers, Inc., Box 1096, Great Bend, KS 67930; Randall & Blake, Oklahoma, Inc., Route 1, Box 133E, Kinta, OK 74552; Great National Corp., P.O. Box 35, McCurtain, OK 74944. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 121794 (Sub-5TA), filed February 27, 1979. Applicant: JAMES WILKETT, d.b.a. WILKETT TRUCKING COMPANY, P.O. Box 209, Stigler, OK 74462. Representative: George G. Olsen, Esq., 1101 Connecticut Avenue, N.W., Suite 500, Washington, DC. 20036. *Coal,* from points in Haskell and Pittsburg Counties, OK, to points in Dallas, Johnson, and Tarrant Counties, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Randall & Blake, Oklahoma, Inc., Route 1, Box 133E, Kinta, OK 74552; Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 124554 (Sub-33TA), filed March 14, 1979. Applicant: LANG CARTAGE CORP., P.O. Box 1465, Waukesha, WI 53187. Representative: Richard Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. Contract carrier; irregular routes; *Paper and paper products,* (1) from the facilities of Schilling Paper Co., at LaCrosse, WI to points in IA and MN; and (2) from the facilities of Dieter Paper Co., at Rochester, MN to points in IA and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Schilling Paper Co., P.O. Box 607, LaCrosse, WI 54601; and Dieter Paper Co., P.O. Box 607, LaCrosse, WI 54601. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 124964 (Sub-31TA), filed March 2, 1979. Applicant: JOSEPH M. BOOTH, d.b.a., J. M. BOOTH TRUCKING, P.O. Box 907, Eustis, FL 32726. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier;* irregular routes; *Canned and preserved foodstuffs,* from the facilities of Heinz USA at or near Holland, MI, Fremont, OH, Mechanicsburg and Pittsburgh, PA, to points in AL, FL, GA, LA, MS, NC, SC, restricted to traffic originating at the named origins and destined to the above destinations, for 180 days. Under continuing contract with Heinz USA, Pittsburgh, PA. An underlying ETA seeks 90 days authority. Supporting shipper(s): H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 125254 (Sub-58TA), filed March 15, 1979. Applicant: MORGAN TRUCKING CO., P.O. Boxs 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Blvd., Des Moines, IA 50309. *Cellulose bands and plastic articles,* (1) from the facilities of Thatcher Plastic Packaging at or near Muscatine, IA to Dover, NJ; Newark, DE; Lewiston, ME; New York, NY; Dunkirk, NY; Fort Washington, PA; and Boston, MA, and (2) from the facilities of Thatcher Plastic Packaging at or near Muscatine, IA to Cincinnati, OH and Hamburg, MI and their respective commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thatcher Plastic Packaging, Division of Dart Industries, R. R. #5, P.O. Box 409, Muscatine, IA 52761. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 125254 (Sub-57TA), filed March 14, 1979. Applicant: MORGAN TRUCKING CO., P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Liquid foundry compound, in drums,* from Muscatine, IA to Chicago, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carver Foundry Products, Progress Park, Capitol Road, Muscatine, IA 52761. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 125535 (Sub-15TA), filed March 1, 1979. Applicant: NATIONAL SERVICE LINES, INC., OF NEW JERSEY, 12015 Manchester Rd., Suite 118, St. Louis, MO 63131. Representative: Donald S. Helm, (same as above). *(1) Paper and paper products and (2) commodities used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk in tank vehicles,* between S. Glens Falls, Carthage and Syracuse, NY, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MD, MA, MI, MO, NJ, NC, OH, PA, RI, SC, TN, VA, WV, WI, and DC, for 180 days. An underlying ETA seeks 90 days authority. Contract carrier under continuing contract with Crown Zellerbach Corp. Supporting shipper(s): Crown Zellerbach Corporation, 8966 Latty Ave., Berkeley, MO 63134. Send protests to: P. E. Binder, Officer in

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Charge, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 126514 (Sub-51TA), filed March 2, 1979. Applicant: SCHAEFFER TRUCKING, INC., 5200 W. Bethany Home Rd., Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 LaSalle St., Chicago, IL 60603. *Photgraphic equipment, materials and supplies, and materials and supplies used in the manufacture and sale thereof,* from Andover, North Andover, New Bedford, Waltham, Cambridge, Needham, Needham Heights, Westwood and Norwood, MA to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Polaroid Corporation, 140 Kendrick St, Needham Heights, MA 02194. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N 1st Ave., Phoenix, AZ 85025. Supporting shipper(s): Polaroid Corporation, 140 Kendrick St., Needham Heights, MA 02194. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N 1st Ave., Phoenix, AZ 85025.

MC 126514 (Sub-52TA), filed March 6, 1979. Applicant: SHAEFFER TRUCKING, INC., 5200 W. Bethany Home Rd., Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 S. LaSalle St., Chicago, IL 60603. *Chemicals, salt, alloys, and chemical products, and materials used in the manufacture and sale of chemicals,* between Marlboro, Newton, Salem and Westwood, MA, Dallas, TX, and Irvine and Berkeley, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Shipley Company, Inc., 2300 Washington, St., Newton, MA 02162. Send Protests To: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025. Supporting shipper(s): Shipley Company, Inc., 2300 Washington St., Newton, MA 02162. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 127705 (Sub-76TA), filed February 20, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Fibreboard cans,* from Sonoco Products Company located at Alpha, OH to Buffalo, NY, for 180 days. Supporting shipper: Sonoco Products Company, North 2nd St., Hartsville, SC 29550. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 East Ohio Street, Room 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 127705 (Sub-77TA), filed March 1, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Glass containers,* from Terre Haute, IN to Milwaukee, WI, for 180 days. Supporting shipper: Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ, 07721. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 249 Federal Bldg., 46 East Ohio Street, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 128095 (Sub-27TA), filed March 27, 1979. Applicant: IBCO TRUCK LINE, INC., P.O. Box 1402, Tupelo, MS 38801. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. *Foam padding* from the facilities of E. I. DuPont De Nemours & Co. (Inc.) at Wurtland, KY to points in AL, FL, LA and MO, for 180 Days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. I. DuPont De Numours & Co., T&D Dept. DuPont Co., Wilmington, DE 19898. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Street, 100 North Main Building, Suite 2006, Memphis, TN 38103.

MC 128235 (Sub-22TA), filed March 28, 1979. Applicant: AL JOHNSON TRUCKING INC., 1516 Marshall Avenue, Northeast, Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Boulevard, Minneapolis, MN 55413. *Malt beverages in containers* from Chippewa Falls, WI to Raleigh, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carolina Distributing Co., Inc., Vice President, 2341 University Avenue, St. Paul, MN 55114. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 128964 (Sub-6TA), filed March 23, 1979. Applicant: REES TRUCKING CO., INC., P.O. Box G, Houston, MO 65483. Representative: Herman W. Huber, Attorney, 101 East High Street, Jefferson City, MO 65101. *Iron and steel articles,* from the facilities of Inland Steel Company at East Chicago, Indiana to points in Missouri and Arkansas for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Inland Steel Company, Chicago, IL 60603. Send protests to: DS John V. Barry, 600 Fed. Bldg., 911 Walnut, Kansas City, MO 64106.

MC 129124 (Sub-19TA), filed March 5, 1979. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: Herbert R. Nurick, Attorney at Law, McNees, Wallace & Nurick, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. *Sand,* in bulk, in dump vehicles, from points at or near Mapleton, PA and Berkeley Springs, WV to a point at or near Niagara Falls, NY; with the right to interline at the origin and destination points, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Consumers Glass Co., Ltd., 777 Kipling Avenue, Toronto, Ontario, Canada M8Z 5G6. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 129124 (Sub-20TA), filed March 1, 1979. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: Herbert R. Nurick, Esquire, McNees, Wallace & Nurick, P.O. Box 1166, Harrisburg, PA 17108. *Sand,* in bulk, in dump vehicles, from a point at or near Mapleton, PA to the facilities of Thatcher Glass Manufacturing Co., a Division of Dart Industries, at Elmira, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thatcher Glass Manufacturing Co., a Division of Dart Industries, P.O. Box 265, Elmira, NY 14902. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 129124 (Sub-21TA), filed March 29, 1979. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: Herbert R. Nurick, Esquire, McNees, Wallace & Nurick, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. *Clay,* in bulk, in dump vehicles, from Bloom Township, Clearfield County, PA to a point at or near Jennings, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Harbison-Walker Refractories, Division of Dresser Industries, Inc., Two Gateway Center, Pittsburgh, PA 15222. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 129184 (Sub-17TA), filed February 13, 1979. Applicant: KENNETH L. KELLAR, Box 449, Blaine, WA 98320. Representative: Michael D. Duppenthaler, 211 South Washington St., Seattle, WA 98104. *Contract carrier:* irregular routes: *Liquor and cigarettes,* from the United States-Canada

International Boundary line located at or near Champlain, NY to West Palm Beach, FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Exports, Inc., P.O. Box 449, Blaine, WA 98320. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 129625 (Sub-13TA), filed March 12, 1979. Applicant: ROBERT COLE TRUCKING COMPANY, P.O. Box M, Falls Creek, PA 15840. Representative: William J. Lavelle, Esquire, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. *Rock salt,* in bulk, in dump vehicles, for ice control purposes from Erie, PA to Niagara, Erie, Cattaraugus and Chautauqua Counties, NY, for 180 days. Supporting shipper(s): Morton Salt Company, 110 N. Wacker Drive, Chicago, IL 60606. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 129664 (Sub-7TA), filed March 21, 1979. Applicant: COMET MESSENGER & DELIVERY SERVICE, INC., 2 River Road, Chatham, NJ 07928. Representative: Norman Weiss, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. *Wallpaper,* in shipments weighing not more than 250 pounds from one shipper to one consignee in any one day. From Bellmore, NY to Philadelphia, PA and points in the commercial zone thereof and points in NJ, irregular routes for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Embassy Wallcoverings, Inc., 1305 Newbridge Road, Bellmore, NY 11710. Send protests to: Joel Morrows, DS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 133085 (Sub-12TA), filed March 13, 1979. Applicant: TRENCO, INC., P.O. Box 697, Williamsport, PA 17701. Representative: Dwight L. Koerber, Jr., 666 Eleventh St. NW, Suite 805, Washington, DC 20001. *Building materials and supplies,* in cargo containers, Between the facilities of Masonite Corporation, in Bradford County, PA, on the one hand, and, on the other, the Ports of New York, NY, and Philadelphia, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Masonite Corporation, P.O. Box 311, Towanda, PA 18848. Send protests to: ICC, Wm. J. Green, Jr. Federal Building, 600 Arch Street, Philadelphia, PA 19106.

MC 133095 (Sub-243TA), filed March 9, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Paper, paper products and wood pulp* from the facilities of International Paper Company, at or near Mobile, AL; Moss Point, MS; Bastrop, LA; Springhill, LA and South Texarkana, TX to points in AZ and CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Paper Company, P.O. Box 160707, Mobile, AL 36616. Send protests to: Martha A. Powell, TA, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133095 (Sub-244TA), filed March 6, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Paper and paper articles* (1) from the facilities of Scott Paper Company, at or near Mobile, AL to points MN, MI, WI, PA (except Philadelphia, PA); Huntington, WV; Fairmont, WV and their respective commercial zones. (2) from the facilities of Scott Paper Company, at or near Marinette, WI; Oconto Falls, WI; Green Bay, WI and Fond du Lack, WI to Atlanta, GA; Mobile, AL and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: Robert J. Kirspel, DS, ICC, Room 9A27 Federal Bldg., 819 Taylor, St., Fort Worth, TX 76102.

MC 133095 (Sub-245TA), filed March 9, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Ralph B. Matthews, P.O. Box 872, Atlanta, GA 30301. (1) *Such merchandise as is dealt in by discount and variety stores, except foodstuffs, furniture, and commodities in bulk; and (2) foodstuffs (except in bulk) and furniture in mixed loads with those commodities named in (1) above,* from the facilities of Chicago Shippers' Association at Jersey City, NJ and Chicago, IL, to points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chicago Shippers Association, Inc., No. 2 Sixth Street, Jersey City, NJ 07302. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 133095 (Sub-246TA), filed March 26, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Plastic containers and materials, equipment, and supplies* used in the manufacture and distribution (except commodities in bulk) between Morris and Passaic Counties, NJ, on the one hand, and on the other, points in AL, KY, LA, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Plastics Industries, Member of the Continental Group, Inc., 633 Third Avenue, New York, NY 10017. Send protests to: James H. Berry, ROD, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133775 (Sub-20 TA), filed February 21, 1979. Applicant: REEFER TRANSIT LINE, INC., 1977 West 103rd Street, Chicago, IL 60643. Representative: Elaine M. Conway, Sullivan and Associates, Ltd., 10 South LaSalle Street, Suite 1600, Chicago, Il 60603. *Meats, meat products, meat by-products and articles distributed by meat packinghouses,* (except commodities in bulk), from Worthington, MN to AL, FL, GA, LA, MS, NC, SC and TN, for 180 days. Supporting shipper(s): Armour Food Company, 111 West Clarendon, Greyhound Tower, Phoenix, Arizona 85077. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Il 60604.

MC 133805 (Sub-9 TA), filed March 9, 1979. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, 5001 Brentwood Stair Road, Suite 115, Fort Worth, TX 76112. (1) *Containers and container lids,* from Oil City, PA, to the facilities used by Power Service Products, Inc., at or near Weatherford, TX; and (2) *such merchandise as is dealt in by automotive supply stores (except commodities in bulk, in tank vehicles),* from the facilities used by Power Service Products, Inc. at or near Weatherford, TX, to all points in the U.S. (except AK, HI and TX), restricted to Shipments originating at said facility and destined to points in the destination states, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Power Service Products, Inc., P.O. Box 459, Weatherford, TX 76086. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 133805 (Sub-10TA), filed March 9, 1979. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, 5001 Brentwood Stair Road, Suite

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115, Fort Worth, TX 76112. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions of Motor Carrier Certificates, 61 M.C.C. 209 & 766 (except hides and commodities in bulk),* from the facilities used by Freezer Service, Inc., at or near Amarillo, TX, to points in CA, LA, MS, AL, IL, IN, OH, PA, NY, NJ, RI, CT, and MA, restricted to shipments originating at said origin and destined to points in the named destination states, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Freezer Services, Inc., P.O. Box 30220, Amarillo, TX 79120. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX, 76102.

MC 133805 (Sub-11TA), filed March 26, 1979. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, 5001 Brentwood Stair Rd., Suite 115, Fort Worth, TX 76112. *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions of Motor Carrier Certificates, 61 M.C.C. 209 & 766 (except hides and commodities in bulk) from the facilities used by Freezer Industries, Inc., at or near Amarillo, TX to points in FL, GA, SC, NC, and VA, restricted to shipments originating at named origin and destined to points in the indicated destination states, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Freezer Services, Inc., P.O. Box 30220, Amarillo, TX 79120. Send protests to: James H. Berry, ROD, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 134134 (Sub-42TA), filed March 20, 1979. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, P.O. Box 7439, Omaha, NE 68107. Representative: Lavern R. Holdeman, Peterson, Bowman, Swanson & Johanns, P.O. Box 81849, Lincoln, NE 68501. *Pipe fittings and rough iron castings,* from the facilities of J. P. Ward Foundries, Inc., at or near Blossburg, PA, to points in the states of NE, CO, KS, MO, IA, IL, WI, IN, OH, MI, KY, and WV, for 180 days. Supporting shipper(s): Bernard Kazman, J. P. Ward Foundries, Inc., Blossburg, PA 16912. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 134145 (Sub-73TA), filed March 26, 1979. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Hwy. 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Contract carrier:* irregular routes: (1) *Parts for computing machines,* and (2) *Materials and supplies used in the manufacture or operation of computing machines (except commodities in bulk),* between points in the United States (except Alaska and Hawaii), on the one hand, and the facilities of Control Data Corporation located at or near Merced, Los Angeles, LaJolla, San Francisco and San Diego, CA, Campton, KY, Arlington, TX, Rochester, MI, Omaha and Lincoln, NE, Rapid City, SD, Washington, D.C., Baltimore, MD, Manchester, CT, Norristown, PA, Minneapolis, MN, and Oklahoma City, OK, on the other hand, for the account of Control Data Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Control Data Corporation, P.O. Box 42–A, Minneapolis, MN 55440. Send protests to: DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 134145 (Sub-74TA), filed March 26, 1979. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Hwy. 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Contract carrier:* irregular routes: *Computer parts and materials and supplies used in the manufacture thereof,* from Gallapolis, OH, Bloomington and Chicago, IL, Indianapolis and Ft. Wayne, IN, and Milwaukee, WI to Minneapolis, MN, for the account of Control Data Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Control Data Corporation, P.O. Box 42–A, Minneapolis, MN 55440. Send protests to: DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 134405 (Sub-67TA), filed March 22, 1979. Applicant: BACON TRANSPORT CO., P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615, East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Petroleum and petroleum products,* in bulk, in tank vehicles, from Ardmore and Wynnewood, OK, to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lucky Lady Oil Co., Inc., 2311 East Grauwyler, Irving, TX 75061; Kerr-McGee Refining Corp., P.O. Box 25861, Oklahoma City, OK 73125; Knox Oil of Texas, Inc., 4255 LBJ Freeway, Suite 186, Dallas, TX 75234. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Building, 215 N.W. Third, Oklahoma City, OK 73102.

MC 134405 (Sub-68TA), filed March 27, 1979. Applicant: BACON TRANSPORT CO., P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615, East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Dry fertilizer,* in bulk, from Plainview, TX, to points in OK, NM, KS, and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Occidental Chemical Co., P.O. Box 1185, Houston, TX 77001. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Building, 215 N.W. Third, Oklahoma City, OK 73102.

MC 134405 (Sub-36TA), filed March 29, 1979. Applicant: BACON TRANSPORT CO., P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615, East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Liquid chemicals,* in bulk, in tank vehicles from Deer Park, TX, to Sand Springs, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kimball Chemical Co., Inc., P.O. Box 880, Sand Springs, OK 74063. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Building, 215 N.W. Third, Oklahoma City, OK 73102.

MC 134574 (Sub-36TA), filed March 14, 1979. Applicant: FIGOL DISTRIBUTORS LTD., P.O. Box 6298, Station C, Edmonton, AB, Canada T5B 5K6. Representative: Ray F. Koby, 314 Montana Building, Great Falls, MT 59401. Beer and malt liquor, in containers, from points in WA to the U.S.-Canada International Boundary line, restricted to foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alberta Liquor Control Board, P.O. Box 2360, Edmonton, AB, Canada T5J 2R4. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 134574 (Sub-37TA), filed March 22, 1979. Applicant: FIGOL DISTRIBUTORS LTD., P.O. Box 6298, Station C, Edmonton, AB, Canada T5B 5K6. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. *Meat, meat products, and meat by-products and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766,* in vehicles equipped with mechanical refrigeration, from ports of entry on the International Boundary line between the U.S. and Canada located in WA to points in AZ, CA, NV, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Forrest Randolph Co., 4340 Redwood Highway, San Rafael, CA 94903; Fletcher's, Limited, 8385 Fraser Street, Vancouver, BC, Canada. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 134644 (Sub-5TA), filed March 29, 1979. Applicant: CLARA L. MARTIN, d.b.a. MARTIN TRUCKING, Route 1, Box 219B, Sullivan, WI 53178. Representative: David V. Purcell, 111 E. Wisconsin Avenue, Milwaukee, WI 53202. Contract carrier; irregular routes: *Such commodities as are dealt in by warehousers of agricultural, construction, industrial, internal combustion engine, medical, mining, self-propelled vehicular and vending equipment, parts and subassemblies* (except commodities in bulk and those requiring special equipment), from the facilities of Sajac Co., Inc. at or near Beaver Dam, WI to Chicago, IL under a continuing contract(s) with Sajac Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sajac Co., Inc., 1100 Green Valley Road, Beaver Dam, WI 53916. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 134724 (Sub-9TA), filed March 15, 1979. Applicant: BIG RIG REFRIGERATION, INC., 6465 South 86th Street, Omaha, NE 68127. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Meat and packinghouse products,* from the facilities of Wilson Foods Corporation at Omaha, NE to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fred Sinkankas, Wilson Foods Corp., 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 134755 (Sub-179TA), filed March 1, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Frozen foods and exempt commodities when moving in the same vehicle with frozen foods,* from the plantsite of Empire Freezers of Syracuse, Inc., Syracuse, NY to points in PA west of U.S. Highway 15 and points in OH for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Empire Freezers of Syracuse, Inc., Syracuse, NY. Send protests to: DS John V. Barry, 600 Fed Building, 911 Walnut, Kansas City, MO 64106.

MC 134755 (Sub-180TA), filed March 26, 1979. Applicant: CHARTER EXPRESS, INC., 1959 East Turner Street, P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Clay products,* from Summerville, and Lewis Run, PA and Canton and Minerva, OH, to points in MO, KS, OK, and AR, for 180 days. Supporting shipper(s): S–G Metals Industries, Inc., Riverview at Second Street, Kansas City, KS 66118. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 135215 (Sub-6TA), filed March 29, 1979. Applicant: BULK TRANSPORTATION, 415 Lemon Avenue, Walnut, CA 91789. Representative: Melvin Thurman, 415 Lemon Avenue (P.O. Box 390), Walnut, CA 91789. *Common:* Irregular: *Dry fertilizers, Truckload and in bulk.* From points in California to points in Arizona and Nevada, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Western Ag Supply, Inc., 1251 N. Red Gum Street, Anaheim, CA 92806. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 135605 (Sub-2TA), filed March 27, 1979. Applicant: WILKINSON TRANSPORT, INC., P.O. Box 25, Barton, AR 72312. Representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Building, Memphis, TN 38103. *Iron and steel articles,* from Burns Harbor, IN to St. Louis, MO, restricted to shipments originating at Burns Harbor, IN and destined to St. Louis, MO facilities of Baldor Electric Company, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Baldor Electric Co., 5711 South Seventh Street, Fort Smith, AR 72901. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 136645 (Sub-3TA), filed March 7, 1979. Applicant: DIME DELIVERY LTD., 5836 Valley Way, Niagara Falls, Ontario, Canada L2E 1Y1. Representative: Robert D. Dunderman, Esq., 710 Statler Building, Buffalo, NY 14202. *Machine parts and related materials.* Restricted against the transportation of shipments weighing in the aggregate of 2,500 pounds or more from one consignee to one consignor on any one day. Between ports of entry on the International Boundary line between the US and Canada located on the Niagara River on the one hand, and, on the other, Geneva, NY. Restricted to transportation between the facilities of American Can Company located in Geneva, NY and Niagara Falls, Ontario, Canada, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Can of Candad Limited, 5695 Lewis Avenue, Niagara Falls, Ontario, Canada L2G 3R9. Send protests to: Richard H. Cattadoris, DS, 111 West Huron Street, Buffalo, NY 14202.

MC 136814 (Sub-6TA), filed March 16, 1979. Applicant: MATLOCK TRANSPORTATION, INC., 1988 West Valley Boulevard, Colton, CA 92324. Representative: Richard C. Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. Contract: irregular. *Printed material,* from the printing and warehouse facilities of McGraw-Hill at or near Goleta, CA to points in OR, WA, AZ and NV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Multi-List McGraw-Hill, 420 S. Fairview Avenue, Goleta, CA 93017. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 134484 (Sub-24TA), filed March 22, 1979. Applicant: EDWARD BROS., INC., P.O. Box 1684, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, registered practitioner, P.O. Box 162, Boise, ID 83701. *Meats, carcass,* from the plantsite of and cold storage facilities used by Iowa Beef Processors, Inc. (IBP), in Boise, ID to points in the States of AZ, OR, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 136635 (Sub-16TA), filed February 23, 1979. Applicant: UNIVERSAL CARTAGE, INC., P.O. Box 2769, South Bend, IN 46680. Representative: Don W.

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Smith, P.O. Box 40248, Indianapolis, IN 46240. *Iron and steel articles* (1) from the facilities of Inland Steel Company at East Chicago, IN, to points in IL, MI, OH and WI, and (2) from the facilities of Bethlehem Steel Corporation at or near Burns Harbor, IN to points in IL, WI, for 180 days. Supporting shipper(s): Inland Steel Company, 30 W. Monroe St., Chicago, IL 60603, Bethlehem Steel Corporation, P.O. Box 248, Chesterton, IN 46304. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 East Ohio Street, Room 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 136635 (Sub-17TA), filed March 1, 1979. Applicant: UNIVERSAL CARTAGE, INC., 640 W. Ireland Road, South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. General commodities (with the usual exceptions), from Indianapolis, IN to points in IN, for 180 days. Supporting shippers: Central Union Warehouse, Inc., 449 S. Pennsylvania, Indianapolis, IN 46225, Merchandise Warehouse Co., Inc., 1414 S. West Street, Indianapolis, IN 46206. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 136635 (Sub-18TA), filed February 20, 1979. Applicant: UNIVERSAL CARTAGE, INC., P.O. Box 2769, South Bend, IN 46680. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Paper and paper products, materials and supplies used in the manufacture of paper and paper products,* between the facilities of Weston Paper & Manufacturing Company at Terre Haute, IN on the one hand, and on the other, points in IL, MO, for 180 days. Supporting shipper: Weston Paper & Manufacturing Co., P.O. Box 539, Terre Haute, IN 47802. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 East Ohio Street, Room 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 69]
[FR Doc. 79-13178 Filed 4-26-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

April 17, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the day the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 25518 (Sub-21TA), filed March 29, 1979. Applicant: JOHN BUNNING TRANSFER COMPANY INC., P.O. Box 128, Rock Springs, WY 82901. Representative: Christian Bunning (same address as applicant). *Petroleum products and petroleum distillates,* between Salt Lake and Davis Counties, UT and points in WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Delgado Oil Company, P.O. Box 66, Pinedale, WY 82941, Red Horse Oil Co., Inc., P.O. Box 128, Rock Springs, WY 82901. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105, Federal Bldg & Crt House, 111 South Wolcott, Casper, WY 82601.

MC 81779 (Sub-1TA), filed March 15, 1979. Applicant: PAUL JOHNSON, INC., 340 West Adams, Waterman, IL 60556. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. *Iron and steel articles,* from the facilities of Jones and Laughlin Steel Corporation located in the Chicago, IL commercial zone to points in IL, IA and St. Louis, MO commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jones and Laughlin Steel Corporation, 3001 Dickey Road, East Chicago, IN 46312. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 106398 (Sub-874TA), filed April 3, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). (1) *Building materials and construction materials,* from the facilities of Barclay Industries at: (a) Lodi, NJ, to points in AL, AR, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NY, NC, ND, OH, OK, OR, PA, RI, SC, TN, TX, VT, VA, WV, WI, WY, & DC, and (b) Deer Park, NY, to all points in the U.S., (except AK and HI), and (c) Los Angeles, CA, to all points in the U.S., (except AK and HI); and (2) *Materials and supplies used in the manufacture of commodities named in (1) above,* from all points in the United States, to the facilities of Barclay Industries named in (a), (b), and (c) above, restricted to shipments originating at or destined to the facilities of Barclay Industries, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Barclay Industries, Inc., 65 Industrial Rd., Lodi, NJ 07644. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-875TA), filed April 4, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). (1) *Plywood, paneling, gypsum board, hardboard, particle board, pressboard, moulding, roofing and trim,* from the facilities of Sequoia Supply Company, at or near Jacksonville, FL, to points in AL, AR, GA, IL, IN, KY, LA, MS, MO, NY, NC, OH, PA, SC, TN, TX, VA, WV, & WI; and (2) *materials used in the manufacture of commodities named in (1) above,* from destination states named above, to Sequoia Supply Company, at Jacksonville, FL, restricted to shipments originating at or destined to the facilities

of Sequoia Supply Company at Jacksonville, FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sequoia Supply Inc., P.O. Box 2990, 2355 Dennis, Jacksonville, FL 32203. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 107478 (Sub-44TA), filed March 9, 1979. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, High Point, NC 27261. Representative: K. Edward Wolcott, 235 Peachtree Street, NE., Atlanta, GA 30303. *General commodities,* except classes A and B explosives, household goods as defined by the Commission, commodities of unusual value, commodities in bulk, and those requiring special equipment (1) between points in that part of NC in and east of Transylvania, Haywood, Madison, Yancey, Mitchell, Avery, Watauga, Ashe, and Alleghany Counties, in and west of Onslow, Jones, Carteret, Pamlico, Beaufort, Washington, Chowan, and Gates Counties on the one hand, and, on the other, points in SC and GA; (2) between points in that part of NC in and west of Transylvania, Haywood, Madison, Yancey, Mitchell, Avery, Watauga, Ashe, and Alleghany Counties, on the one hand and, on the other, points in that part of NC in and east of Onslow, Jones, Carteret, Pamlico, Beaufort, Washington, Chowan, and Gates Counties for 180 days. Supporting shipper(s): There are 70 shippers. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 109449 (Sub-26TA), filed March 15, 1979. Applicant: KUJAK TRANSPORT, INC., Junction Avenue, Winona, MN 55987. Representative: Gary Huntbatch, (same address as applicant). *Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 & 766 (except hides and commodities in bulk)* from the facilities utilized by Geo. A. Hormel & Co. at Huron, SD and Austin, MN to all points in PA east of Highway 219, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Company, Supervisor, Motor Carrier Services, P.O. Box 800, Austin, MN 55912. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 111729 (Sub-754TA), filed March 28, 1979. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch, Staff Vice President (same address as applicant). *Business papers, records, and audit and accounting media of all kinds,* between Nashville, TN, and Jonesboro, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. I. DuPont de Nemours & Co., Inc., 1007 Market Street, Wilmington, DE 19898. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 112989 (Sub-90TA), filed April 5, 1979. Applicant: WEST COAST TRUCK LINES INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405. *Iron and steel articles* as described in Appendix V to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 from the facilities of Copperweld Steel Company at or near Warren, Ohio, to points in California, Oregon, and Washington, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Copperweld Steel Company, P.O. Box 351, Warren, OH 44482. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 117439 (Sub-63TA), filed March 28, 1979. Applicant: BULK TRANSPORT, INC., P.O. Box 1429, Baton Rouge, LA 70821. Representative: Edward A. Winter, 235 Rosewood Drive, Metairie, LA 70005. *Dry fertilizer,* from the facilities of Monsanto Company, located at or near Luling, LA to points in AL, GA, and MS for 180 days. Applicant has filed an underlying ETA for 90 days. Supporting shipper(s): Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 118838 (Sub-47TA), filed April 2, 1979. Applicant: GABOR TRUCKING, INC., Rural Route No. 4, Box 124B, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Rail car parts,* from Youngstown, OH to Renton, WA and Portland, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Youngstown Steel Door, P.O. Box 1379, Youngstown, OH 44501. Send protests to: DS, ICC, Bureau of Operations, Room 268, Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 119789 (Sub-561TA), filed March 13, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas TX 75266. Representative: James K. Newbold, Jr. (Address same as above). *Foodstuffs (except in bulk),* From Frankfort, IN to AR, MO, KS, TX, CA, CO, LA, and NE for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Peter Paul Cadbury, Inc., State Road 28 West, Frankfort, IN 46041. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, TX 75242.

MC 119789 (Sub-562TA), filed March 19, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (Same as above). (1) *Plastic siding, and fittings and accessories used in the installation of plastic siding* from Weatherford, TX to points in the U.S. (except AK, HI, and TX); (2) *Materials and supplies used in the prduction and distribution of plastic siding* from points in the U.S. (except AK, HI, and TX), to Weatherford, TX for 180 days. Supporting shipper(s): Robintech, Inc., 1202 N. Bowie Dr., Weatherford, TX 76086. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 120419 (Sub-5TA), filed April 4, 1979. Applicant: SERVICE TRANSFER, INC., 1501 West Main Street, Henryetta, OK 74437. Representative: Clifford Neal (same address as applicant). *Glass containers,* from Henryetta, OK, to Detroit and Frankenmuth, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midland Glass Company, Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 120999 (Sub-3TA), filed March 12, 1979. Applicant: CALIFORNIA AND WESTERN STATES AMMONIA TRANSPORT, INC., d.b.a. CALIFORNIA AMMONIA TRANSPORT, INC., 415 Lemon Avenue, Walnut, California 91789. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Liquid fertilizers, in bulk,* from points in CA to points in AZ and NV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): U.S.A. Petrochem Corporation, P.O. Box 1839, Santa

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Monica, CA 90406; Occidental Chemical Company, P.O. Box 198, Lathrop, CA 95330; Ind/Ag Chemicals, Inc., 3075 Citrus Circle, Walnut Creek, CA 94598. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 121658 (Sub-16TA), filed March 14, 1979. Applicant: STEVE D. THOMPSON TRUCKING, INC., 1205 Percy Street, P.O. Drawer 149, Winnsboro, LA 71295. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds* (except commodities in bulk, in tank vehicles) and *filters*, from points in Warren County, MS, to Dallas and Fort Worth, TX; Little Rock, AR; Memphis, TN and points in LA, restricted to the transportation of traffic originating at the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 124078 (Sub-954TA), filed February 28, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). *Calcium carbonate*, from Quincy, IL to Milwaukee, Oak Creek and West Allis, WI, for 180 days. Supporting shipper(s): Thiem Corp., 500 W. Marquette Ave., Oak Creek, WI 53154. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 124078 (Sub-955TA), filed March 15, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard H. Prevette (Same address as applicant). *Vegetable oils*, in bulk, in tank vehicles from Maxton, NC; Darlington, SC; Dawson, Gainesville & Augusta, GA; Birmingham, Dothan & Enterprise, AL and Graceville, FL to Saint Rose, LA, for 180 days. Supporting shipper(s): Alimenta (USA), Inc., P.O. Box 88987, Atlanta, GA 30338. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 124839 (Sub-40TA), filed March 8, 1979. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, 4800 Augusta Road, Savannah, GA 31408. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. *Contract carrier;* irregular routes; *Paper and paper products*, (1) from Plattsburgh, NY to DC, FL, GA, NC, SC, VA, and WV, and (2) from Crossett, AR to AL, FL, GA, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia Pacific, 800 Summer Street, Stamford, CT 06901. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 125368 (Sub-51TA), filed February 28, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same address as applicant). *Meats, meat products and supplies used in the manufacture of meat products* between meat packinghouses in MI and NC, on the one hand, and, on the other, points in the U.S. except AK and HI, for 180 days. An underlying ETA has been filed seeking 90 days authority. Supporting shipper(s): Frederick and Herrud, Herco, Carolina Meat Processors, and other subsidiaries, 1487 Farnsworth, Detroit, MI 48211. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, P.O. Box 26896, Raleigh, NC 27611.

MC 125368 (Sub-52TA), filed February 28, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same address as applicant). *Glass and glass products* from the facilities of Libbey-Owens Ford Glass, Inc., at or near Laurinburg, and Clinton, NC to points in IA and MN for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, P.O. Box 26896, Raleigh, NC 27611.

MC 125368 (Sub-53TA), filed February 28, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, (same address as applicant). *Food products* from the facilities of Campbell Soup Company, at or near Worthington, MN; Omaha, Freemont, and Tecumseh, NE to points in AR, CA, CO, DE, DC, IL, IN, IA, KS, MD, MI, MN, MO, NJ, NY, NC, ND, OH, PA, SC, SD, TX, UT, VA, and WI for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): Campbell Soup Company, 1202 Douglas Street, Omaha, NE. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commisson, P.O. Box 26896, Raleigh, NC 27611.

MC 125479 (Sub-15TA), filed March 7, 1979. Applicant: P-N-J KORNACKER, INC. d.b.a.-KORNACKER TRUCKING CO., 3050 West 10th Street, Waukegan, IL 60085. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. *Cranberry Products and Fruit Juices* (not frozen and except in bulk), from the facilities of Ocean Spray Products at Kenosha, WI and North Chicago, IL to the Lower Peninsula of MI, Fort Wayne, IN, Peoria, IL, Louisville, Lexington, Covington and East Bernstadt, KY, Montgomery, Birmingham and Anniston, AL, Green Bay and LaCrosse, WI, Minneapolis, MN, St. Louis, MO and Columbus, OH, for 180 days. Supporting shipper(s): Ocean Spray Cranberries, Inc., 7800 South 60th Avenue, Kenosha, WI 53142. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 126118 (Sub-141TA), filed March 1, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). *Such commodities as are manufactured by, used by and dealt in by manufacturers of paper and paper products*, Between Green Bay, WI, on the one hand, and, on the other, points in AL, AR, CA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NY, ND, OH, OK, PA, SD, TN, TX, UT, VA, WV, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): D. E. Hitchcock, Manager of Transportation, Fort Howard Paper Company, P.O. Box 130, 1919 South Broadway, Green Bay, WI 54305. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 126118 (Sub-142TA), filed March 1, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). *Park and playground apparatus and equipment*, and *equipment, materials and supplies used in the sale and distribution thereof*, from Litchfield, MI to points in the United States in and west of MN, IA, MO, OK and TX and points in FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Richard L. Tarnow, Dist. Manager, Game Time, Inc., 900 Anderson Road, Litchfield, MI, 49252. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 126118 (Sub-143TA), filed March 8, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). (1) *Paper* from Arkansas Kraft Corp. at or near Morrilton, AR and (2) *Talc* from Cyprus Industrial Chemicals at or near Three Forks, MT to Kaukauna, WI and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. NOTE: Common control may be involved. Supporting shipper(s): John R. Washatka, Thilmany Pulp & Paper Company, Kaukauna, WI 54130. Send protests to: Max Johnston, ICC, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 126118 (Sub-144TA), filed March 30, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE, 68501. Representative: Duane W. Acklie (same address as applicant). *Such commodities as are used by and dealt in by manufacturers of motorcycles, snowmobiles and recreational vehicles* (except size and weight commodities and bulk), From Los Angeles and Orange Counties, CA, to the facilities of Kawasaki Motors Corp., U.S.A. located at Lincoln, NE, and its commercial zone, and (2) Meat, meat products and meat by-products (except in bulk), from the plant site of American Stores Packing Company at Lincoln, NE, to Buffalo, NY; Syracuse, NY, and Johnstown, PA, and their Commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kawasaki Motors Corporation, 2009 East Edinger Avenue, Santa Ana, CA, 92711. American Stores Packing Company, 200 South 2nd Street, Lincoln, NE, 68501. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE, 68508.

MC 126118 (Sub-145TA), filed March 30, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE, 68501. Representative: Duane W. Acklie, (same address as applicant). Flammable stains, sealers, or lacquers in drums or pails; unfinished wooden shapes, viz: Front frames and sides for storage cabinets, drawer components, and miscellaneous shapes bedroom furniture, K.D., in cartons; and drawer and cabinet hardware in cartons or bundles in straight or mixed loads, from the plant site of Bal Harbour Manufacturing, Inc., located at Santa Ana, CA, to points located on and east of U.S. Hwy 85 in the Continental United States, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bal Harbour Mfg., Inc., 1900 South Susan St., Santa Ana, CA, 92074. Send protests to Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE, 68508.

MC 127478 (Sub-16TA), filed February 13, 1979. Applicant: WILLIAM M. HAYES, d.b.a. HAYES TRUCKING CO., P.O. Box 31, Winterville, GA 30683. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Frozen Foodstuffs, from the facilities of the Kitchens of Sara Lee at New Hampton, IA and Deerfield, IL to points in GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kitchens of Sara Lee, Deerfield, IL 60015. Send protests to: Sara K. Davis, Transportation Assistant, ICC, Room 300, 1252 West Peachtree Street, NW, Atlanta, Georgia 30309.

MC 127579 (Sub-18TA), filed March 13, 1979. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same as above). *Green Fibre Mulch*, in bags, from the facilities of Hampton Roads Recycling at Hampton, VA to points in PA, MD, DC, WV, NY, NJ and DE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hampton Roads Recycling, 1 Newsome Pl., Box 1435, Hampton, VA 23661. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 133189 (Sub-21TA), filed March 15, 1979. Applicant: VANT TRANSFER, INC., 1229 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101. (1) *Metal and metal articles* from the facilities of Gate City Steel Corporation located at Gary, IN, Sterling, IL, Davenport, IA, St. Paul, MN and Omaha, NE to points in IL, IN, WI, IA, NE, MN, MO, ND, and SD; and (2) *Materials, equipment and supplies (except in bulk) used in the manufacture and processing of metal and metal articles* from the destination points described in (1) above to the facilities of Gate City Steel Corporation described in (1) above; and (3) *Metal and metal articles and materials, equipment and supplies (except in bulk) used in the manufacture and processing of metal and metal articles*, between the facilities of Gate City Steel Corporation described in (1) above, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gate City Steel Corporation, 100 Essex Court, Omaha, NE 68114. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 133189 (Sub-22TA), filed April 4, 1979. Applicant: VANT TRANSFER, INC., 1229 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101. *Metal and metal articles* from points in the Chicago, IL Commercial Zone to points in MN, WI, IA and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Central Steel & Wire Company, Manager-Transportation, 3000 West 51st Street, Chicago, IL 60632. Northern Industries, Traffic Manager, 4677 West Cal Sag Road, Crestwood, IL 60445. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 134289 (Sub-5TA), filed March 27, 1979. Applicant: CALDWELL TRUCK RENTALS, INC., 625 South Blvd., Lenoir, NC 28645. Representative: Jack L. Hawn (same address as applicant). *New furniture, crated or uncrated, and new furniture parts* (see attached for scope), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 35 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 134328 (Sub-8TA), filed March 8, 1979. Applicant: D & G TRUCKING CO., INC., P.O. Box 1004, Wynne, AR 72396. Representative: James N. Clay, III, 2700 Sterick Building, Memphis, TN 38103. *Commodities* used or dealt in by manufacturers of electrical appliances, electrical equipment, wood products and parts thereof, between Forest City, AR and Edinburg, IN, on the one hand, and on the other, points in the United States (except AK and HI), for 180 days, as a contract carrier over irregular routes.

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Supporting shipper(s): Sanyo Manufacturing Corporation, 3333 Sanyo Road, Forest City, AR 72335. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 134369 (Sub-13TA), filed March 2, 1979. Applicant: CARLSON TRANSPORT, INC., P.O. Box R, Byron, IL 61010. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. *Sand and sand with additives,* in bulk from the facilities of Acme Resin Company, a unit of CPC International, Inc., at Chicago, IL to the facilities of Central Foundry Division of General Motors Corporation at Defiance, OH, for 180 days. Supporting shipper(s): Acme Resin Company, a unit of CPC International, Inc., 1401 Circle Avenue, Forest Park, IL 60130. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 134769 (Sub-2TA), filed March 12, 1979. Applicant: BILL BURTON & SONS, INC., East Victory Way, P.O. Box 404, Newberry, MI 49868. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Lumber and lumber products* from points in Alger, Chippewa, Mackinac, Schoolcraft, and Luce Counties in MI, to points in IL, IN, OH and WI. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cliffs Forest Products Company, P.O. Box 520, Iron Mountain, MI 49801. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing, MI 48933.

MC 134769 (Sub-3TA), filed March 13, 1979. Applicant: BILL BURTON & SONS, INC., P.O. Box 404, East Victory Way, Newberry, MI 49868. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Lumber and lumber products* from points in Alger, Chippewa, Mackinac, Schoolcraft and Luce Counties, MI to points in AR, TN, MS, IA, MO, MN, KS, AL, NC, TX, VA, PA, KY, GA, SC, FL, ND, SD, NE, and OK. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cliffs Forest Products Company, P.O. Box 520, Iron Mountain, MI 49801. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Bldg., Lansing, MI 48933.

MC 134838 (Sub-23TA), filed March 7, 1979. Applicant: SOUTHEASTERN TRANSFER & STORAGE CO., INC., P.O. Box 39236, Bolton Station, Atlanta, GA 30318. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Iron and steel articles* from the facilities utilized by Three-D Steel Supply, Inc., at or near Greenville, SC to points in AL, FL, GA, KY, MS, NC and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Three-D Steel Supply, Inc., 5912 New Peachtree Road, Doraville, GA 30340. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 135078 (Sub-46TA), filed March 2, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the ICC, commodities in bulk and those requiring special equipment),* from the commercial zones of Philadelphia and Allentown, PA to the commercial zones of Chicago, IL and Denver, CO and from the commercial zone of Chicago, IL for partial reloading to the commercial zone of Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Al Divito, Cooperative Shipper's Association, Inc., 4252 Rising Sun Avenue, Philadelphia, PA 19140. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 135658 (Sub-6TA), filed February 20, 1979. Applicant: ROCK RIVER CARTAGE, INC., R.R. 2, Box 430, Rock Falls, IL 61071. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. Contract-irregular, *iron and steel articles* from the facilities of Inland Steel Company at East Chicago, IN to points in IL on and West of U.S. Route 51 and on and North of U.S. Route 34, and points in IA on and East of U.S. Route 61, for 180 days. Supporting shipper(s): Inland Steel Company, 30 West Monroe Street, Chicago, IL 60603. Send protests to: Annie Booker, Transporation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 135779 (Sub-8TA), filed March 8, 1979. Applicant: BALDWIN TRUCKING, INC., 192 98th Avenue, Oakland, CA 94577. Representative: Michael C. Leiden, P.O. Box 8594, Emeryville, CA 94662. *Empty tin cans,* in specialized can vans, equipped with attached rollers for gravity loading and unloading of unitized loads of cans and return shipments of empty pallets, fibre and separators used in preparing cans for shipment, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Del Monte Corporation, P.O. Box 3575, San Francisco, CA 94119. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 136318 (Sub-61TA), filed March 9, 1979. Applicant: COYOTE TRUCK LINE, INC., P.O. Box 756, 302 Cedar Lodge Rd., Thomasville, NC 27360. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. *Contract* Carrier—Irregular Routes: *New furniture and furniture parts* from Worcester and Franklin Counties, MA to points in CA, OR, WA, ID, NV, AZ, UT, MT, WY, CO, NM and El Paso, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): New England Furniture Shippers Association, Inc., 838 West Broadway, Gardner, MA 01440. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm CC516, Mart Office Building, Charlotte NC 28205.

MC 136818 (Sub-62TA), filed March 5, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., 335 W. Elwood Rd., Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Rd., Phoenix, AZ. *Meat and meat products,* from Great Bend, Wichita, and Topeka, KS to points in WA, OR, CA, and AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thies Packing Company, Inc., P.O. Box 49, Great Bend, KS 67530. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 136818 (Sub-63TA), filed March 12, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Rd., Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Rd., Phoenix, AZ. *Paper and Paper Products (except in bulk) and commodities produced or distributed by manufacturers and converters of paper and paper products (except in commodities bulk),* from points in Portage and Wood Counties, WI to points in AZ, CA, OR, and WA for 180 days. Supporting shippers: Nekoosa Papers Inc., 100 Wisconsin River Dr., Port Edwards, WI 54469 and Consolidated Papers, Inc., P.O. Box 50, Wisconsin Rapids, WI 54494. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 136818 (Sub-64TA), filed March 30, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., 335 W. Elwood Rd., Phoenix, AZ 85030. Representative: Donald Fernaays, 4040

E. McDowell Rd., Phoenix, AZ. *Charcoal, charcoal briquets, fire place logs, wood chips, lighter fluid and all related products,* from Meta, MO to AZ, CA, CO, FL, GA, KS, MS, NB, NM, OK, OH, SD, TX, UT, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Standard Milling Co., 1009 Central St., Kansas City, MO. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 136818 (Sub-65TA), filed March 30, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., 335 W. Elwood Rd., Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Rd., Phoenix, AZ. *Building materials and materials, equipment and supplies used in the manufacture and distribution of building materials,* from Lubbock and El Paso, TX to points in AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Specialty Forest Products, Inc., 4433 No. 19th Ave., Phoenix, AZ 85015. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 136899 (Sub-34TA), filed March 13, 1979. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 192, Richland Center, WI 53581. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Lawn, garden, and snow removal equipment, and parts, attachments, and accessories for lawn, garden, and snow removal equipment* from Brillion, New Holstein, and Plymouth, WI to points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ariens Co., 655 W. Ryan, Brillion, WI 54110, and Gilson Brothers Co., P.O. Box 152, Plymouth, WI 53073. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 136899 (Sub-35TA), filed March 22, 1979. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 192, Richland Center, WI 53581. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Paper, paper products, cellulose products, and textile softeners* from the facilities of Procter & Gamble Paper Products Co. at Green Bay, Marinette, and Menasha, WI and Cheboygan, MI to points in IA, KS, MO, and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Procter & Gamble Paper Products Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 136899 (Sub-36TA), filed March 23, 1979. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 192, Richland Center, WI 53581. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Such merchandise as is dealt in or sold by retail department stores and catalog stores* (except commodities in bulk) from Hermansville, MI to St. Paul, MN, restricted to traffic originating at or destined to the facilities of Montgomery Ward, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Montgomery Ward, One Montgomery Plaza, Chicago, IL 60671. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 138109 (Sub-7TA), filed March 13, 1979. Applicant: RAY J. FORNEY, INC., P.O. Box 207, Ashton, IL 61006. Representative: Elizabeth A. Purcell, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, D.C. 20001. *Commodities dealt in by wholesale, retail and chain grocery stores and food business houses,* and *materials, ingredients and supplies used in the manufacture, distribution and sale of the commodities named,* between the facilities of Ralston Purina Co. at/near Davenport and Clinton, IA on the one hand, and, on the other, points in IN, OH, KY, MN, MO, MI, IL, NY, PA and WI for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): Ralson Purina Co., Checkerboard Square, St. Louis, MO 63188. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 138198 (Sub-10TA), filed April 5, 1979. Applicant: SPD TRUCK LINE, INC., 401 Cottage Street, Abilene, KS 67410. Representative: William B. Barker, 641 Harrison Street, Topeka, KS 66603. *Contract carrier:* irregular routes: *Household Goods as defined by the Commission,* under continuing contract(s) with Duckwall-Alco Stores, Inc. of Abilene, KS between points in AR, CO, IL, IA, KS, MN, MO, NE, NM, OK, SD, TX and WY, for 180 days. Supporting shipper(s): Duckwall-Alco Stores, Inc., 401 Cottage, Abilene, KS 67410. Send protests to: Thomas P. O'Hara, D/S, ICC, 256 Federal Bldg., 444 S.E. Quincy, Topeka, KS 66683.

MC 138308 (Sub-64TA), filed March 8, 1979. Applicant: KLM, INC., Old Hwy. 49 S., P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Paint rollers and metal stampings* from Roanoke, VA to Torrance, Los Angeles and San Bernardino, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Hansteck Corp., P.O. Box 733, Roanoke, VA 24004. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 138308 (Sub-65TA), filed March 2, 1979. Applicant: KLM, INC., Old Hwy. 49 S, P.O. Box 6098, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Tile, composition, facing or flooring and adhesives* from the facilities of National Floor Products Co., Inc., at or near Florence, AL to points in AZ, CA, CO, ID, LA, NV, NM, OR, TX, UT and WA, for 180 days. Supporting shipper(s): National Floor Products Company, Inc., P.O. Box 354, Florence, AL 35630. Send protests to: Alan Tarrant, D/S, ICC, Rm 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 138388 (Sub-5TA), filed March 13, 1979. Applicant: CHESTER CAINE, JR., d.b.a. CAINE TRANSFER, Box 376, Lowell, WI 53557. Representative: James Spiegel, 6425 Odana Rd, Madison, WI 53719. *Cheese and cheese products and materials, equipment, and supplies used in cheese production* (a) between points in WI and Van Wert, OH, and (b) from Van Wert, OH to Rochester, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s) Borden Foods, 802 S. St., Plymouth, WI 53073. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 138469 (Sub-124TA), filed March 6, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representive: Jack H. Blanshan, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Automobile glass,* from the facilities of Libbey-Owens-Ford Company at Ottawa, IL and points in the Ottawa, IL Commercial Zone, to points in TX, for 180 days. An underlying ETA seeks 90 days authority.

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Supporting shipper(s): Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-125TA), filed March 6, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Fresh meats and packinghouse products,* from the facilities of Wilson Foods Corporation, at Marshall, MO, to points in CA, restricted to traffic originating at the named origin and destined to the named destination, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 North Lincoln Boulevard, Oklahoma City, OK 73105. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-126TA), filed March 8, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Fresh meats and packinghouse products,* from the facilities of Wilson Foods Corporation, at or near Cedar Rapids and Cherokee, IA, to points in CA, restricted to traffic originating at the named origins, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Boulevard, Oklahoma City, OK 73105. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-127TA), filed March 14, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 W. Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Meat, meat products, meat by-products and articles distributed by meat packing houses,* as described in Sections A and C of Appendix 1 to the report in Descriptions of Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Omaha, NE, to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Food Corporation, 54545 North Lincoln Boulevard, Oklahoma City, OK 73105. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-128TA), filed March 15, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: William J. Green, (same address as applicant). *Office and household fixtures and furnishings, and component parts thereof, and materials, equipment and supplies used in the production of office and household fixtures and furnishings,* from the facilities of Triangle Pacific Corporation, at or near Union City, IN, to points in CO, NM and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Triangle Pacific Corporation, 4255 L.B.J. Freeway, Dallas, TX 75234. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-129TA), filed March 15, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Meat, meat products, meat by-products and articles distributed by meat packing houses,* as described in Sections A and C of Appendix 1 to the report in Descriptions of Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Albert Lea, MN, to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Food Corporation, 4545 North Lincoln Boulevard, Oklahoma City, OK 73105. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-130TA), filed March 16, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: William J. Green (same address as applicant). *Meat, meat products, meat by-products, and articles distributed by meat packing houses* as described in sections A & C of Appendix 1 to the report in Description in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and except commodities in bulk), from the facilities of Peppertree Beef Company, at or near Denver, CO, to points in NJ, NY and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peppertree Beef Company, 5300 Franklin Street, Denver, CO 80216. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-131TA), filed March 20, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: William J. Green (same address as applicant). *Automobile glass,* from the facilities of Libbey-Owens-Ford at or near Toledo, OH, to points in TX, restricted to the transportation of traffic originating at the named origin and destined to the named destination point, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43624. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-132TA), filed March 21, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Daniel O. Hands, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Confectionery* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of E. J. Brach & Sons, at or near Chicago, IL, to points in GA, OK, & TX, restricted to the transportation of shipments originating at the named origins and destined to the named destinations, for 180 days. Supporting shipper(s): E. J. Brach & Sons, P.O. Box 802, Chicago, IL 60690. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 139219 (Sub-4TA), filed April 6, 1979. Applicant: LANE TRUCKING, INC., 2230 North Range, Dothan, AL 36301. Representative: W. K. Martin, Post Office Box 2069, Montgomery, AL 36103. *Fertilizer in bulk, in dump vehicles, and fertilizer in bags,* between points in FL, GA, AL and MS, for 180 days. Supporting shipper(s): There are 7 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140159 (Sub-9TA), filed March 12, 1979. Applicant: C. L. FEATHER, INC., P.O. Box 1190, Altoona, PA 16601.

Representative: Thomas M. Mulroy, Esquire, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. *Stone,* from the facilities of Stone Tile, Inc., in Youngstown, OH to Duncansville, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s); Coronado Stone Co., P.O. Box 382, Duncansville, PA 16635. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburg, PA 15222.

MC 140159 (Sub-10TA), filed March 20, 1979. Applicant: C. L. FEATHER, INC., P.O. Box 1190, Altoona, PA 16601. Representative: Thomas M. Mulroy, Esquire, Pillar & Mulroy, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. *Coal,* in bulk, in dump vehicles, from points in Cambria County, PA to Dunkirk, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nace Utility Sales, Inc., 25 South Service Road, Jericho, NY 11753. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburg, PA 15222.

MC 140389 (Sub-48TA), filed March 14, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Highway 77, Gadsden, AL 35902. Representative: Gerald D. Colvin, Jr., 601–09 Frank Nelson Building, Birmingham, AL 35203. *Foodstuffs* (except in bulk) from points in FL to Atlanta, GA and points in IL, IN, IA, KY, MI, MN, MO, OH, TN and WI for 180 days. Supporting shipper(s): There are "6" Supporting Shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 140389 (Sub-49TA), filed March 14, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Carl E. Johnson, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *(1) Liquid cleaning compounds and liquid bleaching compounds (except in bulk),* from the facilities of National Marketing Association, Inc., near New Orleans, LA, to points in AL and GA; and (2) Materials, equipment and supplies used in the manufacture and distribution of commodities described in (1) from points in AL and GA to the facilities of National Marketing Association, Inc., near New Orleans, LA, for 180 days. Supporting shipper(s): National Marketing Association, Inc., 1501 St. Louis, New Orleans, LA 70112. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 140389 (Sub-50TA), filed March 23, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. *Canned foodstuffs,* (except commodities in bulk), from the facilities of Pilgrim Farms, Inc., at Plymouth, IN, and from the facilities of Naas Foods, Inc., at or near Portland and Geneva, IN, to points in AL, FL, GA, MS, NC, and SC. Supporting shipper(s): Pilgrim Farms, Inc., 1430 Western Avenue, Plymouth, IN 46563; Naas Foods, Inc., P.O. Box 1029, Portland, IN 47371. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 140768 (Sub-35TA), filed March 7, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Common carrier, Irregular routes, for 180 days. Heating equipment, stoves, fireplaces and incinerators, from the facilities of Martin Industries, Inc. at or near Sheffield, AL to all points in the United States, except AK and HI. An underlying ETA seeks up to 90 days of authority. Supporting shipper(s): Martin Industries, Inc., P.O. Box 128, Florence, AL 35630. Send protests to: Irwin Rosen, TS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 140829 (Sub-197TA), filed March 5, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Foodstuffs in mechanical refrigerated equipment (except commodities in bulk, in tank vehicles),* from the facilities of Standard Brands, Inc., at or near Chicago, IL, to points in CO, IA, KS, MO, NE, TX, CT, MA, MD, NJ, NY, PA, and Washington, D.C., for 180 days. Supporting shipper(s): Thomas J. Brown, Standard Brands, Inc., 3401 Mount Prospect Road, Franklin Park, IL 60131. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102

MC 140829 (Sub-198TA), filed March 14, 1979. Applicant: CARGO, INC. (Formerly Cargo Contract Carrier Corp.), P.O. Box 206, U. S. Highway 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Avenue, Morristown, NJ 07960. *Plastic or rubber articles, NOI, other than expanded,* from the facilities of Tucker Manufacturing Co., at or near Arlington, TX, to points in the states of IL, MO, and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Richard M. Glover, Tucker Manufacturing Co., 721 111th Street, Arlington, TX 76011. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140829 (Sub-199TA), filed March 15, 1979. Applicant: CARGO, INC. (Formerly Cargo Contract Carrier Corp.), P.O. Box 206, U. S. Highway 20, Sioux City, IA 51102. Representative: William J. Hanlon, ESQ., 55 Madison Ave., Morristown, NJ 07960. *Folding cartons, carton forming machinery and plastic film,* (1) from the facilities of Malnove, Inc., at or near Omaha, NE, to points in the states of CT, IL, IN, ME, MD, MA, MO, NH, NJ, NY, OH, PA, RI, VT, and the District of Columbia: and (2) from Bridgeport, CT and Chicago, IL to the facilities of Malnove, Inc., at or near Omaha, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Charles W. Eliasson, Malnove, Inc., 13434 "F" St., Omaha, NE 68137. Send protest to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140829 (Sub-200TA), filed March 21, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Avenue, Morristown, NJ 07960. *Soap, cleaning compounds and toilet preparations (except in bulk, in tank vehicles),* from Kansas City, KS to points in IL, IN, MN, and WI, for 180 days. Supporting shipper(s): R. Stingo, Colgate-Palmolive Co., 1806 Kansas Avenue, Kansas City, KS 66105. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140829 (Sub-201TA), filed March 22, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Meat, meat products and articles distributed by meat packinghouses,* from the facilities of Wilson Foods Corporation at Omaha, NE to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, AND VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fred Sinkankas, Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests

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to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140629 (Sub-202TA), filed April 6, 1979. Applicant: CARGO, INC., P.O. Box 206, US HWY 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. *Charcoal briquets,* from Branson, MO to points in AR, CO, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center, E. Atlanta, GA 30346. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 141849 (Sub-7TA), filed February 13, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Park Circle, N.E., Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Polyethylene, plastic sheeting on rolls, and bags on rolls (except in bulk), from Senoia, GA to AL, MS, TN, GA, SC, NC, KS, FL, CT and MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Flex-On Packaging, Inc., Senoia, GA 30276. Send protests to: Sara K. Davis, Transportation Assistant, ICC, Room 300, 1252 West Peachtree St. NW., Atlanta, GA 30309.

MC 141958 (Sub-10TA), filed March 7, 1979. Applicant: FEDCO FREIGHTLINES, INC., P.O. Box 422, Effingham, IL 62401. Representative: Routman, Lawley & O'Hara, Ltd., 300 Reisch Building, Springfield, IL 62701. Such commodities as are dealt in by wholesale, retail, and chain grocery and food business houses, for the account of Proctor and Gamble Distributing Co. from Chicago, IL to points in the Lower Peninsula of Michigan, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Proctor & Gamble Distributing Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 141958 (Sub-11TA), filed March 30, 1979. Applicant: FEDCO FREIGHTLINES, INC., P.O. Box 422, Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Grocery items, for the account of Swift & Company, from Bradley, Chicago and Des Plaines, IL to St. Louis, MO, for 180 days. Supporting shipper(s): Swift & Company, 115 W. Jackson Boulevard, Chicago, IL 60604. Send protests to: Charles D. Little, ICC, Room 414, Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL 62701.

MC 142059 (Sub-66TA), filed February 9, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley, 1830 Mound Road, Joliet, IL 60436. *Foodstuffs* (except frozen and in bulk) (1) from DeKalb, Mendota and Rochelle, IL and Arlington, Markesan and Plover, WI to points in IN, KY, MI, MN, MO, ND, OH, PA, WV and WI; and (2) Between the facilities of Del Monte Corporation located in IL, IN, KS, NJ, TN and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Del Monte Corporation, 15th Street, Rochelle, IL 61068. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Everett McKinley Dirksen Building, Chicago, IL 60604.

MC 142059 (Sub-67TA), filed March 5, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley, (address same as applicant). *Sand and sand additives* in packages, from the facilities of Acme Resin Corporation near Oregon, IL to NY and PA, for 180 days. Supporting shipper(s): Acme Resin Corporation, P.O. Box 130, Oregon, IL 61061.

MC 142059 (Sub-68TA), filed March 5, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (address same as applicant). *Aluminum ingots and zinc alloy ingots* (except in bulk) from the facilities of Aluminum Smelting and Refining Company, Inc. and Certified Alloys Company at Maple Heights, OH to points in AL, CT, GA, IA, IL, IN, KY, MI, MN, MO, NC, NJ, NY, PA, SC, TN and WI, for 180 days. Supporting shipper(s): Aluminum Smelting and Refining Company, Inc., Certified Alloys Company, 5463 Dunham Road, Maple Heights, OH 44137. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 142268 (Sub-37TA), filed March 19, 1979. Applicant: GORSKI BULK TRANSPORT, INC., R.R. #4, Harrow, ON, Canada NOR 1GO. Representative: Robert E. McFarland, McFarland & Bullard, 999 W. Big Beaver Rd., Suite 1002, Troy, MI 48084. *Tires, tubes, and materials, articles and supplies used in the manufacture thereof,* between points in IL and KY, on the one hand, and, on the other, points in the Lower Peninsula of MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joseph Vatalaro, Corporate Director of Transportation, The General Tire & Rubber Company, 1 General St., Akron, OH 44329. Send protests to: C. R. Flemming, DS, ICC, 225 Federal Building, Lansing, MI 48933.

MC 142508 (Sub-62TA), filed March 8, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th St., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Plastic bags; wrap articles; stretch wrap holders; aluminum foil; parts, materials and supplies used in the manufacture and distribution of these products,* from the plantsite and warehouse facilities of Presto Products, Inc., at Appleton, Little Chute and Weyauwega, WI to points in NE, CO, and UT, for 180 days. Supporting shipper(s): Christopher Fissel, Presto Products, Inc., 670 No. Perkins St., Appleton, WI 54911. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142508 (Sub-63TA), filed March 12, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 So. 144th St., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Batter and breading (except in bulk),* from Evansville, IN to Gloucester, MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alvin P. Williams, O'Donnell-Usen Fish Corporation, Commercial Street, Gloucester, MA 01930. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142508 (Sub-64TA), filed March 13, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 So. 144th St., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Wheels, wheel rims and related mounting hardware, hubs and clamps,* from Plainfield, IL to points in NE, IA, and KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peterson Manufacturing Company, P.O. Box 8, 700 West 143rd St., Plainfield, IL 60544. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142508 (Sub-65TA), filed March 20, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 So. 144th St., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Fruit and berry products and condiments (except commodities in bulk),* from the facilities of Ocean Spray Cranberries, Inc., at or near Bordentown, NJ; Middleboro, MA; Markham, WA;

Northeast, PA; and Yuba City, CA to points in CO, IL, IA, KS, MO, and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Walter Heppner, Ocean Spray Cranberries, Inc., Water St., Plymouth, MA 02360. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142508 (Sub-66TA), filed March 20, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 So. 144th St., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Confectionery,* (1) from the facilities of E. J. Brach & Sons in the Chicago, IL commercial zone to points in CO and Reno, NV; and (2) from the facilities of E. J. Brach & Sons at or near Reno, NV, to points in AZ, CA, CO, ID, MT, NM, OR, UT, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joseph C. Kelly, E. J. Brach & Sons, 4656 West Kinzie St., Chicago, IL 60644. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

Mc 142508 (Sub-67TA), filed March 20, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 So. 144th St., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *General commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* from points in MA and VT to points in CO, IL, IN, IA, MI, MN, MO, NE, OH, OK, TX, and WI, restricted to the transportation of traffic originating at the facilities of New England Shipping Association Co-operative or at the facilities of its members originating at the named origins and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Seidensticker, New England Shipping Association Co-operative, 1029 Pearl St., Brockton, MA 02403. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

Mc 139928 (Sub-2TA), filed March 8, 1979. Applicant: AMERICAN COACH LINES, INC., 2611 W. Grand Ave., Wisconsin Rapids, WI 54494. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Passengers and their baggage in charter service,* between Green Bay, Wausau, Eau Claire, LaCrosse, Oshkosh and Fond du Lac, WI on the one hand, and Alaska, on the other, for 180 days. Supporting shipper(s): Holiday Travel, Inc., 2842 London Square Mall, Eau Claire, WI 54701. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 18088 (Sub-60TA), filed March 14, 1979. Applicant: Floyd & Beasley Transfer Co., Inc., Post Office Drawer 8, Sycamore, AL 35149. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, N.W., Washington, DC 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Pell City and Hamilton, Alabama: From Pell City over U.S. Highway 78 to Hamilton, Alabama, and return over the same route, serving the off-route points of Birmingham, Alabama, the facilities of Winfield Cotton Mills at or near Winfield, Alabama, and the facilities of Fayette Cotton Mills at or near Fayette, Alabama; between Pell City, Alabama, and junction Alternate U.S. Highway 72 and U.S. Highway 72 at or near Tuscumbia, Alabama: From Pell City over U.S. Highway 231 to junction Alabama Highway 67, thence over Alabama Highway 67 to junction Alternate U.S. Highway 72, and thence over Alternate U.S. Highway 72 to junction U.S. Highway 72 at or near Tuscumbia, Alabama, and return over the same route, serving points in Coosa and Clay Counties, Alabama, as off-route points; between Pell City and Centreville, Alabama: From Pell City over U.S. Highway 231 to harpersville, Alabama, and thence over Alabama Highway 25 to Centreville, Alabama, and return over the same route, serving Vincent, Alabama, as an intermediate point for purpose of joinder only, and the plant site and warehouse facilities of Aliceville Cotton Mills at or near Aliceville, Alabama, as off-route points; between Pell City and Cuba, Alabama: From Pell City over U.S. Highway 231 to Rockford, Alabama, thence over Alabama Highway 22 to Selma, Alabama, and thence over U.S. Highway 80 to Cuba, Alabama, and return over the same route, serving all intermediate points in Alabama. An underlying ETA seeks 90 days authority. Applicant intends to tack the sought authority with existing authority at points in East Central Alabama to provide service between points in Alabama, Georgia, South Carolina and Tennessee. Supporting Shippers: There are 25 shippers. Their statements may be examined at the office listed below. Send protests to: Clifford W. White, District Supervisor, 2121 Building, Suite 1616, 2121 Eighth Avenue, North, Birmingham, Alabama, 35203.

MC 127049 (Sub-17TA), filed October 23, 1978, published in the **Federal Register** December 11, 1978 and republished this issue. Applicant: KRUEPKE TRUCKING, INC., 2881 Highway 45, Jackson, WI 52037. Representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. By order dated April 12, 1979. The Motor Carrier Board granted applicant 180 day temporary authority to operate as a *contract carrier,* by motot vehicle, over irregular routes, transporting: (1) *Fans, heaters, heat recyclers, vacuum cleaners, household compactors, door chimes, range hoods and range splash plates, roof cappings, and parts and accessores* for the foregoing commodities, (a) From Hartford, WI to Clearwater and Tampa, FL, Atlanta, GA, Wilkesboro, NC, Chattanooga and Nashville, TN, Dallas, TX. (b) Between Hartford, WI, and Old forge, PA and (2) *Parts* used in the manufacture of the commodities in (1) except in bulk, in tank trailers, (a) From Jacksonville and Jonesboro, AR, Gainesville, GA, Chicago, IL, Ft. Wayne, IN, Detroit and Owosso, MI, and Columbus and West Lafayette, OH to Hartford, WI and (b) Between Old Forge, PA and Hartford, WI. Under a continuing contract or contracts with Broan Manufacturing Co., Inc., of Hartford, WI. Supporting shipper: Broan Manufacturing Co., Inc., 926 W. State Street, Hartford, WI. Any interested party may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto. Purpose of this republication is to reflect the broader scope of authority granted by the Motor Carrier Board.

MC 145548 (Sub-2TA), filed January 8, 1979, and published in the **Federal Register** issue of February 15, 1979, and republished as corrected this issue. Applicant: COMMUNITY TRANSIT LINES, INC., 315 Howe Avenue, Passaic, NJ 07055. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. On April 9, 1979, the Motor Carrier Board granted authority to applicant to operate as a common carrier, over regular routes, transporting passengers and their baggage between the Livingston Mall at

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or near the intersection of NJ Highway 510, also known as South Orange Avenue, and Walnut St., Livingston, N.J, and New York, NY, serving no intermediate points. Applicant was authorized to tack with its existing authority. The notice published on February 15, 1979, failed to show that applicant intended to tack with its existing authority. Send petitions of reconsideration to: The Secretary, Interstate Commerce Commission, Washington, DC 20423.

By the Commission.

H. G. Homme, Jr.,
Secretary.

(Notice No. 67)
[FR Doc.79-13179 Filed 4-26-79; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Decision-Notice

Decided: April 12, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed by May 29, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. Homme, Jr.,
Secretary.

MC 808 (Sub-58F), filed February 26, 1979. Applicant: ANCHOR MOTOR FREIGHT, INC., 3700 Park East Dr., Cleveland, OH 44122. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *motor vehicles,* in initial movements, in truckaway service, from Willow Run and Lansing, MI, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, under continuing contract(s) with General Motors Corporation, of Detroit, MI. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 2368 (Sub-91F), filed February 27, 1979. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Rd., P.O. Box 495, Richmond, VA 23204. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals,* in bulk, between Roanoke, VA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 13569 (Sub-44F), filed February 23, 1979. Applicant: THE LAKE SHORE MOTOR FREIGHT COMPANY, a corporation, 1200 South State Street, Girard, OH 44420. Representative: John P. Tynan, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *common carrier,* by motor vehicle, in

interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* from the facilities of Republic Steel Corporation, at Canton, Cleveland, Massillon, Niles, Warren, and Youngstown, OH, to points in IN and MI. (Hearing site: Cleveland or Columbus, OH.)

MC 13569 (Sub-49F), filed February 22, 1979. Applicant: THE LAKE SHORE MOTOR FREIGHT COMPANY, a corporation, 1200 S. State St., Girard, OH 44420. Representative: John P. Tynan, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* from the facilities of Wheeling-Pittsburgh Steel Corporation, at Allenport, PA, to points in the Lower Peninsula of MI. (Hearing site: Columbus, OH, or Pittsburgh, PA.)

MC 25869 (Sub-147F), filed February 23, 1979. Applicant: NOLTE BROS. TRUCK LINES, INC., 6217 Gilmore Avenue, Omaha, NE 68107. Representative: Irwin Schwartz, P.O. Box 7184, South Omaha Sta., Omaha, NE 68107. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *adhesives, caulking, cleaning, polishing, and cement compounds, emulsions, latex solutions, mastics, sealing primer, and solvents,* (except commodities in bulk, in tank vehicles) from the facilities of Durabond Products Co., at Chicago, IL, to points in IA, NE, CO, and WY. (Hearing site: Chicago, IL.)

MC 25869 (Sub-148F), filed February 22, 1979. Applicant: NOLTE BROS. TRUCK LINES, INC., 6217 Gilmore Ave., Omaha, NE 68107. Representative: Irwin Schwartz, P.O. Box 7184, South Omaha Sta., Omaha, NE 68107. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* from the facilities of Northwestern Steel & Wire Co., at or near Sterling and Rock Falls, IL, to points in CO, IA, NE, and SD. (Hearing site: Omaha, NE.)

MC 31389 (Sub-273F), filed February 26, 1979. Applicant: McLEAN TRUCKING CO., a corporation, 1920 West First Street, Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in St. Louis and St. Charles Counties, MO, as off-route points in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Washington, DC, or St. Louis, MO.)

MC 52709 (Sub-357F), filed February 23, 1979. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec Street, Denver, CO 80207. Representative: Rick Barker, (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Champion Spark Plug Company, at Burlington, IA, to points in CA, NV, OR, and WA. (Hearing site: Denver, CO.)

MC 56409 (Sub-14F), filed February 21, 1979. Applicant: MAJOR TRANSPORT, INC., Box 204, Highway 135 and Airport Road, Palmyra, WI 53156. Representative: David V. Purcell, 111 East Wisconsin Avenue, Milwaukee, WI 53202. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials, and materials and supplies* used in the installation of building materials, (except commodities in bulk), from the facilities of Bird & Son, Inc., at Chicago, IL, to points in AR, KS, KY, IN, IA, MI, MN, MO, NE, ND, OH, OK, SD, TN, and WI. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 56679 (Sub-114f), filed February 12, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW., Atlanta, GA 30315. Representative: Leonard S. Cassell (same address as applicant). To operate as a *common carier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chain saws, snow-throwers, and garden, lawn, turf, and golf course care equipment,* from the facilities of the Toro Company, at or near (a) Windom, MN, and (b) Tomah, WI, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 78228 (Sub-107F), filed February 15, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Rd., Pittsburgh, PA 15220. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporating *sand,* in bulk, from points in LaSalle County, IL, and Berrien County, MI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. (Hearing site: Pittsburgh, PA, or Washington, DC).

MC 78228 (Sub-108F), filed February 23, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporating *iron and steel articles,* between the facilities of Southwestern Ohio Steel, Inc., at Hamilton and Middletown OH, on the one hand, and, on the other, points in IL and IN. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 78228 (Sub-109F), filed February 26, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittburgh, PA 15219. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, tranportating *iron and steel articles,* between the facilities of Tygart Industries at or near (a) Pittsburgh, PA, and (b) Chicago, IL, on the one hand, and, on the other, points in DE, IL, IN, IA, KY, MD, MI, MN, NJ, NY, OH, PA, VA, WV, AND WI. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 78228 (Sub-110F), filed February 28, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Rd., Pittsburgh, PA 15220. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bauxite ore,* from Baltimore, MD, to Curwensville, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 85718 (Sub-11F), filed February 22, 1979. Applicant: SEWARD MOTOR FREIGHT, INC., 1041 Elm St., P.O. Box 126, Seward, NE 68434. Representative: Michael J. Ogborn, P.O. Box 82082, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar* in bags, from Idaho Falls, ID, and Garland, UT, to points in IA, KS, MO, and NE. (Hearing site: Salt Lake City, UT.)

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MC 107839 (Sub-181F), filed February 6, 1979 Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 2121 East 67th Avenue, P.O. Box 16106, Denver, CO 80216. Representative: Edward L. Gordon (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk, in tank vehicles), from the facilities of Skyland Food Corporation, at or near Delta, CO, to those points in the United States in and west of MN, IA, MO, AR, and LA. (except AK and HI). (Hearing site: Denver, CO.)

MC 108119 (Sub-127F), filed February 22, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *insulation products,* (2) *vermiculite,* in bags, (3) *materials, equipment, and supplies used in the manufacture, distribution, and installation of insulation,* and (4) *such commodities as are dealt in or used by manufacturers or distributors of cellulose materials and products,* (except commodities in bulk), between points in the United States (except AK and HI). (Hearing site: Minneapolis or St. Paul, MN.)

MC 112989 (Sub-86F), filed February 21, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *gypsum products,* from points in Clark County, NV, to points in CA, OR, UT, and WA. (Hearing site: Los Angeles, CA.)

MC 113908 (Sub-469F), filed February 26, 1979. Applicant: ERICKSON TRANSPORT CORP., 2105 E. Dale St., P.O. Box 10068, G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *soybean oil,* in bulk, from Fredonia, KS, to Memphis, TN, and Catoosa and Tulsa, OK; and (2)(a) *animal fats, animal oils, and vegetable oils,* in bulk, and (b) *products and blends of the commodities named in (2)(a),* in bulk, from the facilities of Humko Products, Kraft, Inc., at Champaign, IL, to points in ID and UT. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 113908 (Sub-470F), filed February 26, 1979. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *citrus distillers solubles,* in bulk, from Lake Alfred, FL, to Macon, GA, (2) *alcohol and alcoholic beverages,* in bulk, in tank vehicles, from Paducah, KY, to points in IA, MI, CT, IL (except Chicago), MD, CA, and KS, and (3) *alcoholic liquors and alcohol,* in bulk, from points in PA, to Bardstown, KY. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 113908 (Sub-471F), filed February 27, 1979. Applicant: ERICKSON TRANSPORT CORP., 2105 E. Dale St., P.O Box 10068, G.S., Springfield, MO 65804. Representative: B. B. Whitehead. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals,* in bulk, (1) from Los Angeles, CA, to points in PA, and (2) from Eightyfour, PA, to Bayport, TX. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 115669 (Sub-179), filed February 21, 1979. Applicant: DAHLSTEN TRUCK LINE, INC., 101 W. Edgar St., P.O. Box 95 Clay Center, NE 68933. Representative: Howard N. Dahlsten (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper bags and packaging materials,* from points in the United States (except AK and HI), to the facilities or American Colloid Company, in WY, MT, Butte County, SD, and Bowman County, ND. (Hearing site: Chicago, IL.)

MC 116519 (Sub-60F), filed February 23, 1979. Applicant: FREDERICK TRANSPORT LIMITED, a corporation, R.R. 6, Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, in foreign commerce only, over irregular routes, transporting *such commodities as are dealt in or used by dealers of agricultural equipment, industrial equipment, or lawn and leisure products,* (except commodities in bulk), between the facilities of Deere & Company, in IL, WI, and IA, on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada in MI, NY, VT, NH, and ME. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 116519 (Sub-61F), filed February 16, 1979. Applicant: FREDERICK TRANSPORT LIMITED, a corporation, R.R. 6, Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, in foreign commerce only, over irregular routes, transporting (1) *building materials and cement asbestos pipe,* from the facilities of Johns-Manville Sales Corporation, at or near Waukegan, IL, to ports of entry on the international boundary line between the United States and Canada in MI and NY, (2) *plastic pipe,* from the facilities of Johns-Manville Sales Corporation, at or near Wilton, IA, to ports of entry on the international boundary line between the United States and Canada in MI and NY, (3) *insulating board and mineral wool,* from the facilities of Johns-Manville Sales Corporation, at or near Alexandria, IN, to ports of entry on the international boundary line between the United States and Canada in MI and NY, (4) *insulating board,* from the facilities of Johns-Manville Perlite Corporation, at or near Rockdale, IL, to ports of entry on the international boundary line between the United States and Canada in MI and NY, and (5)(a) *building materials and cement asbestos pipe,* (b) *materials and supplies* used in the manufacture or distribution of the commodities named in (5)(a) above and (c) *insulating materials,* from ports of entry on the international boundary line between the United States and Canada in MI and NY, to points in the United States (except AK, AZ, CA, CO, ID, MT, NV, NM, HI, OR, UT, WA, and WY). (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 117169 (Sub-5F), filed February 26, 1979. Applicant: BEASLEY TRUCKING, INC., P.O. Box 8255, Denver, CO 80201. Representative: Richard S. Mandelson, 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *materials, equipment, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products; (2) *materials, equipment, and supplies* used in, or in connection with

the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up of pipe; (3) *earth drilling machinery, equipment and supplies* (except commodities in bulk), and (4) *materials, equipment, and supplies* used in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in AZ, CO, ID, MT, NE, ND, NM, NV, OR, SD, UT, WA, and WY. (Hearing site: Denver, Co.)

MC 118468 (Sub-52F), filed February 21, 1979. Applicant: UMTHUN TRUCKING CO., a corporation, 910 S. Jackson St., Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *adhesives, building materials, gypsum, and gypsum products,* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture, distribution, or installation of the commodities named in (1) above, (except in commodities in bulk), between the facilities of United States Gypsum Company, at or near Shoals, IN, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX, under continuing contract(s) with United States Gypsum Company, of Chicago, IL. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 118838 (Sub-41F), filed February 26, 1979. Applicant: GABOR TRUCKING, INC., R.R. 4, Box 124B, Detroit Lakes, MN 56501. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *prefabricated agricultural processing facilities,* and (b) *parts and accessories for the commodities named in (1)(a),* from Wahpeton, ND, and Watertown, WI, to points in ID, IL, IN, IA, KS, MN, MO, MT, NE, ND, OH, OR, SD, WA, and WI; and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Minneapolis, MN.)

MC 118838 (Sub-42F), filed February 26, 1979. Applicant: GABOR TRUCKING, INC., R.R. 4, Box 124B, Detroit Lakes, MN 56501. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier,* by motor vehicle, in foreign commerce only, over irregular routes, transporting *building materials* (except lumber, lumber products, iron and steel articles, and commodities in bulk), from ports of entry on the international boundary line between the United States and Canada in WA, ID, MT, and ND, to points in CA, CO, ID, IA, MN, MT, NE, ND, NV, OR, SD, UT, WA, WI, and WY. (Hearing site: Portland, OR, or Washington, DC.)

MC 118838 (Sub-43F), filed February 27, 1979. Applicant: GABOR TRUCKING, INC., R.R. 4, Box 124B, Detroit Lakes, MN 56501. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *grain storage bins,* knocked down, from Mansfield, OH, to points in ND, SD, MN, MT, IA, and WI, restricted to the transportation of traffic originating at the facilities of Martin Steel, at Mansfield, OH; and (2) *wrought steel pipe,* from Minneapolis, MN, to points in ND, SD, MT, and WI, restricted to the transportation of traffic originating at the facilities of Lindsay Bros. Company, at Minneapolis, MN. (Hearing site: St. Paul, MN.)

MC 119988 (Sub-189F), filed February 26, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodites as are dealt in or used automobile supply, household appliance, and general merchandise stores,* between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Western Auto Supply Co. (Hearing site: Kansas City, MO, or Dallas, TX.)

MC 123048 (Sub-426F), filed February 26, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., Racine, WI 53406. Representative: John L. Bruemmer, 121 W. Doty St., Madison, WI 53703. To operate as a *common carrier,* by motor vehicle, in foreign commerce only, over irregular routes, transporting (1) *tractors, agricultural equipment and implements, and snowblowers,* and (2) *parts and accessories for the commodites named in* (1) between ports of entry on the international boundary line between the United States and Canada at (a) Detroit and Port Huron, MI, and (b) Buffalo and Niagara Falls, NY, on the one hand, and, on the other, points in AZ, CA, CO, ID, KS, MT, NV, NM, OR, UT, WA, and WY. (Hearing site: Detroit, MI, or Washington, DC.)

MC 123048 (Sub-427F), filed February 21, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., Racine, WI 53406. Representative: John L. Bruemmer, 121 W. Doty St., Madison, WI 53703. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials and supplies used in the manufacture or distribution of cast iron and cast iron products,* (except commodities in bulk), between Lynchburg, VA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

MC 123048 (Sub-429F), filed February 23, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., Racine, WI 53406. Representative: John L. Bruemmer, 121 W. Doty St., Madison, WI 53703. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *heat exchangers and heat equalizers,* (2) *heating, cooling, conditioning, humidifying, dehumidifying, and gas and liquid moving equipment,* and (3) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities named in (1) and (2), above, (except commodities in bulk), form the facilities of The Trane Company, in Fayette County, KY, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Cincinnati, OH, or Louisville, KY.)

MC 123389 (Sub-50F), filed February 23, 1979. Applicant: CROUSE CARTAGE COMPANY, a corporation, P.O. Box 151, Carroll, IA 51401. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts,* and *articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766

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(except hides and commodities in bulk), from the facilities used by Farmland Foods, Inc., at or near (a) Crete, Lincoln, and Omaha, NE, and (b) Carroll, Denison, Des Moines, Fort Dodge, Sioux City, and Iowa Falls, IA, to points in AZ, CA, ID, MT, NM, NV, OR, UT, WA, and WY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Omaha, NE.)

MC 124328 (Sub-128F), filed February 16, 1979. Applicant: BRINK'S INCORPORATED, Thorndal Circle, P.O. Box 125, Darien, CT 06820. Representative: Richard H. Streeter, 1729 H St., NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *accounting and audit media, commercial papers, documents, written instruments, and business records*, between points in WV, on the one hand, and, on the other, points in OH, under continuing contract(s) with banks, financial institutions, and accounting firms. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 133119 (Sub-156F), filed February 26, 1979. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, 200 Norka Drive, Akron, IA 51001. Representative: A. J. Swanson, 521 South 14th Street, Suite 500, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE, to points in ND and SD, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Kansas City, MO, or Omaha, NE.)

MC 133219 (Sub-27F), filed February 26, 1979. Applicant: NEBRASKA BULK TRANSPORTS, INC., P.O. Box 215, Bennet, NE 68317. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *vegetable oils*, in bulk, in tank vehicles, from Mankato, MN, to points in IA, KS, MO, NE, and OK. (Hearing site: Minneapolis, MN.)

MC 134689 (Sub-3F), filed February 26, 1979. Applicant: LA ROSA DEL MONTE EXPRESS, INC., 1133–1135 Tiffany Street, Bronx, NY 10459. Representative: Larsh B., Mewhinney, 555 Madison Avenue, New York, NY 10022. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *used household goods*, between points in Dade, Broward, and Palm Beach Counties, FL, restricted to the transportation of traffic having a prior or subsequent movement by water or rail. (Hearing site: New York, NY.)

MC 136318 (Sub-60F), filed February 22, 1979. Applicant: COYOTE TRUCK LINE, INC., P.O. Box 756, Thomasville, NC 27360. Representative: James P. Beck, 717 17th St., Suite 2600, Denver, CO 80202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *new furniture*, from points in NC and VA, to the facilities of John Breuner Company, in AZ, CA, and NV, under continuing contract(s) with John Breuner Company, of San Ramon, CA. (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 138328 (Sub-82F), filed February 23, 1979. Applicant: CLARENCE L. WERNER, d. b. a. WERNER ENTERPRISES, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *appliances*, from the facilities of Franklin Manufacturing Co., at or near St. Cloud, MN, and the facilities of Gibson Products Corporation, at or near Greenville, MI, to points in IA and NE. (Hearing site: Omaha, NE, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 138328 (Sub-83F), filed February 26, 1979. Applicant: CLARENCE L. WERNER, d. b. a. WERNER ENTERPRISES, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *iron and steel articles*, from the facilities of United States Steel Corporation, at or near (a) Gary, IN, and (b) Joliet, South Chicago, and Waukegan, IL, to points in IA, NE, KS, and CO, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 138469 (Sub-116F), filed February 26, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Des Moines, IA, to points in AL, GA, NC, and SC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 140379 (Sub-5F), filed February 23, 1979. Applicant: TRANSPORT SERVICE, INC., 216 Amaral Street, East Providence, RI 02914. Representative: Jeffrey A. Vogelman, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting (1) *culverts, guard rails, retaining walls, sound barrier systems, highway signs, highway safety products, rolling mill shapes, and feedlot mats*, and (2) *accessories* for the commodities named in (1) above, from the facilities of Syro Steel Company, at Girard, OH, to points in CT, ME, MA, NH, RI, and VT, under continuing contract(s) with Syro Steel Company, of Girard, OH. (Hearing site: Washington, DC.)

MC 141759 (Sub-9F), filed February 26, 1979. Applicant: OHIO PACIFIC EXPRESS, INC., 2385 S. High St., Columbus, OH 43207. Representative: Thomas F. Kilroy, Suite 406, Executive Bldg., 6901 Old Keene Mill Rd., Springfield, VA 22150. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in by manufacturers of glass and glass products* (except commodities in bulk), from Columbus, OH, to points, in AL, AK, AZ, CA, CO, GA, ID, LA, MS, MT, NV, NM, OK, OR, TX, UT, WA, and WY, under continuing contracts with Federal Glass, Division of Federal Paperboard Company. (Hearing site: Columbus, OH.)

MC 143318 (Sub-2F), filed February 14, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 246, Motley, MN 56466. Representative: Michael T. Hoekstra, 301 Midwest Federal Building, St. Paul, MN 55101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar beet pulp pellets*, between points in ND, SD, NE, MN, IA, MO, WI, and IL. (Hearing site: Minneapolis, MN.)

MC 143698 (Sub-1F), filed January 29, 1979, previously noticed in the FR issue of March 27, 1979. Applicant: CAST NORTH AMERICA, LTD., 4150 Ste-Catharine Street West, Montreal, Quebec, Canada H3Z 2R8. Representative: Richard H. Streeter, 1729 H Street, NW, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *general commodites*, (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), in intermodal containers, between Chicago, IL, on the one hand, and, on the other, points in IL, IN, IA, KY, MO, and WI, restricted to the transportation of traffic having a prior or subsequent movement by water. NOTE: This republication changes the type of authority to *common*, deletes "in trailers," and more specifically describes the "containers" involved. (Hearing site: Chicago, IL, or Washington, DC).

MC 144449 (Sub-3F), filed February 26, 1979. Applicant: A & A MOVING & STORAGE CO., a Corporation, d.b.a., A & A CONTRACT CARRIERS, 414 Blue Smoke Court West, Fort Worth, TX 76101. Representative: Stephen B. Jurbala, 3608 High Bluff, Dallas, TX 75234. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *retail and office store supplies, and office equipment*, and (2) *materials, equipment, and supplies used in the manufacture or distribution of the commodities named in (1)*, above (except commodities in bulk), between Newton, Danbury, and Stamford, CT, and points in NY, GA, SC, NC, and TX, under continuing contract(s) with Pitney Bowes, of Stamford, CT. (Hearing site: Fort Worth or Dallas, TX.)

MC 144578 (Sub-1F), filed February 23, 1979. Applicant: LIME INC., 3969 Wyoming Avenue, Dearborn, MI 48126. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lime products*, in bulk from Carey, Huron, and Maple Grove (Seneca County), OH, to points in MI, IN, IL, PA, and WV. (Hearing site: Detroit, MI, or Washington, DC.)

MC 146448F, filed February 6, 1979. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals, alloys, salt, and materials, equipment and supplies* used in the manufacture of chemicals (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Newton, Westwood, Salem, and Marlboro, MA, to Irvine and Berkeley, CA, and Dallas, TX. (Hearing site: Boston, MA)

MC 146468F, filed February 8, 1979. Applicant: NANKIN AUTO PARTS TRANSPORT, INC., 510 S. Newburgh Rd., Westland, MI 48185. Representative: Armando Provenzano (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wrecked or damaged motor vehicles*, and (2) *parts and assemblies of wrecked or damaged motor vehicles*, between points in the United States (except AK and HI). (Hearing site: Washington, DC, or Chicago, IL

MC 146478F, filed February 27, 1979. Applicant: ULTIMATE DISTRIBUTION, INC., 333 Cantor Ave., Linden , NJ 07036. Representative: George A. Olsen, P.O. Box 357 Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and department stores, and food business houses (except commodities in bulk), between the facilities of Ultimate Distribution, Inc., at Linden, NJ, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, PA, RI, VA, NY (except Nassau, Suffolk, and Westchester Counties, and New York, NY, and DC. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under the provisions of 49 U.S.C. 11343(a), or submit an affidavit indicating why such approval is unnecessary. (Hearing site: New York, NY, or Washington, DC)

Note.—Dual operations may be involved.

[Permanent Authority Decisions Volume No. 37]
[FR Doc. 79-13160 Filed 4-26-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Transfer Proceedings

Dated: April 23, 1979.

Applications filed for temporary authority under Section 11349 in connection with transfer application under Section 10926 and Transfer Rules, 49 CFR Part 1132.

MC–FC 78091. By application filed March 21, 1979, SHAMROCK TOWING, INC., 2216 North 27th Avenue, Phoenix, AZ 85009, seeks temporary authority to transfer the operating rights of ASSOCIATED TOWING, INC., 5715 West Maryland, Glendale, AZ 85301, under section 210a(b). The transfer to SHAMROCK TOWING, INC., of the operating rights of ASSOCIATED TOWING, INC., is presently pending.

MC–FC 78092. By application filed March 29, 1979, BOBBY W. RAGAN, AN INDIVIDUAL, d/b/a TEKAMAH TRANSFER, 1414 J Street, Tekamah, NE 68061, seeks temporary authority to transfer the operating rights of DONALD K. CONKLIN, aka D. K. CONKLIN, AN INDIVIDUAL, d/b/a TEKAMAH TRANSFER, 1521 O Street, Tekamah, NE 68061, under section 210a(b). The transfer to BOBBY W. RAGAN, AN INDIVIDUAL, d/b/a TEKAMAH TRANSFER, of the operating rights of DONALD K. CONKLIN, aka D. K. CONKLIN, AN INDIVIDUAL, d/b/a TEKAMAH TRANSFER, is presently pending.

MC–FC 78094. By application filed April 11, 1979, DANCO INTERSTATE CARRIERS, INC., P.O. Box 297, Huntington Station, NY 11725, seeks temporary authority to transfer the operating rights of CHEYENNE TRUCK LEASING INC., 6500 Jericho Turnpike, Commack, NY 11725, under section 210a(b). The transfer to DANCO INTERSTATE CARRIERS, INC., of the operating rights of CHEYENNE TRUCK LEASING INC., is presently pending.

MC–FC 78098. By application filed April 12, 1979, DUANE McFARLAND, AN INDIVIDUAL, Oakland, MN 56076, seeks temporary authority to transfer the operating rights of GEORGE McFARLAND, SR., AN INDIVIDUAL, d/b/a GEORGE McFARLAND, SR., under section 210a(b). The transfer to DUANE McFARLAND, of the operating rights of GEORGE McFARLAND, SR., AN INDIVIDUAL, d/b/a GEORGE McFARLAND, SR., is presently pending.

By the Commission.

H. G. Homme, Jr.
Secretary

[Notice No. 72]
[FR Doc. 79-13228 Filed 4-26-79; 8:45 am]
BILLING CODE 7035-01-M

Assignment of Hearings

April 24, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains

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prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC–C–10143, O.N.C. Freight Systems, Inc. versus Herbert D. Needel, D.B.A. Tucson Package Delivery, now assigned for continued hearing on April 25, 1979, at Tucson, AR, is canceled and application dismissed.

MC–C–8879, Bowman Transportation, Inc., et al. versus Central Motor Express, Inc., now assigned for hearing on May 14, 1979 (1 week), at Louisville, KY, is postponed to June 19, 1979 (4 days), at Louisville, KY, hearing room will be by subsequent notice.

MC–C–8877, Consolidated Freightways Corporation Of Deleware—Investigation Of And Revocation Of Certificates, now assigned for hearing on May 21, 1979 at Atlanta, GA will be held at Sheraton Biltmore Hotel, 817 West Peachtree Street instead of Riviera Hyatt House, 1630 Peachtree St., N.W.

MC 143743 (Sub-1), Fulton Trucking Company, Inc., now assigned for hearing on May 7, 1979 at Atlanta, GA and will be held in Room 305, 1252 West Peachtree Street, N.W.

MC 124679 (Sub-95F), C.R. England & Sons, now assigned for hearing on May 9, 1979 at Salt Lake City, UT and will be held in Room 479, U.S. Post Office and Courthouse, 350 South Main Street.

MC 143059 (Sub-24F), Mercer Transportation Company, now assigned for hearing on May 14, 1979 at Portland, OR and will be held in Room 103, Pioneer Courthouse, 555 S.W. Yamhill Street.

MC 119988 (Sub-159F), Great Western Trucking Company, Inc., now assigned for hearing on May 14, 1979 at Portland, OR and will be held in Room 103, Pioneer Courthouse, 555 S.W. Yamhill Street.

MC 128527 (Sub-122F), May Trucking Company, now assigned for hearing on May 8, 1979 at Salt Lake City, UT is canceled and transferred to Modified Procedure.

H. G. Homme, Jr.,
Secretary.

[Notice No. 77]

[FR Doc. 79–13227 Filed 4–26–79; 8:45 am]

BILLING CODE 7035–01–M

Rerouting Traffic; Amendment No. 3 to ICC Order No. 15 Under Service Order No. 1344

Service date: April 24, 1979.

To all railroads:

Upon further consideraton of I.C.C. Order No. 15 (Chicago, Milwaukee, St. Paul and Pacific Railroad Company), and good cause appearing therefor:

It is ordered, ICC Order No. 15 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 15, 1979, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., April 15, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the **Federal Register.**

Issued at Washington, D.C., April 11, 1979.

Interstate Commerce Commission.

Robert S. Turkington,
Agent.

[FR Doc. 79–13237 Filed 4–26–79; 8:45 am]

BILLING CODE 7035–01–M

Rerouting Traffic; Amendment No. 3 to ICC Order No. 13 Under Service Order No. 1344

Service date: April 24, 1979.

To all railroads:

Upon further consideration of I.C.C. Order No. 13 and good cause appearing therefor:

It is ordered, ICC Order No. 13 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 5, 1979, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., April 15, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C. April 11, 1979.

Interstate Commerce Commission.

Robert S. Turkington,
Agent.

[FR Doc. 79–13238 Filed 4–26–79; 8:45 am]

BILLING CODE 7035–01–M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 83
Friday, April 27, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

Notice of change of time and item of the April 26, 1979, board meeting, (M–214 Amdt. 1; Apr. 24, 1979.)

TIME AND DATE: 9 a.m., April 26, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1a. Docket 33136: North Central-Southern merger case (instructions to staff, OGC—was item 42).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: Item 42 will be item 1a on the April 26, 1979, meeting agenda.

[S–812–79 Filed 4–25–79; 2:15 pm]

BILLING CODE 6320–01–M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., May 1, 1979.

PLACE: 2033 K Street NW., Washington, D.C., Fifth Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Petition of Futures Industry Association, Inc., for rulemaking amendment to Rule 1.55. Rule 1.31(a)—Inspection of books and records.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–818–79 Filed 4–25–79; 1:30 pm]

BILLING CODE 6351–01–M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., May 1, 1979.

PLACE: 2033 K Street NW., Washington D.C. Fifth Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters; registration, and administrative proceedings.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314

[S–819–79 Filed 4–25–79; 1:30 pm]

BILLING CODE 6351–01–M

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, May 4, 1979.

PLACE: 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–820–79 Filed 4–25–79; 1:30 pm]

BILLING CODE 6351–01–M

5

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, May 1, 1979.

PLACE: Commission Conference Room 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Proposed revision of procedures for processing Federal sector appeals.
2. Proposed regulations establishing time limits for Federal sector appeals.
3. Proposed delegation of authority to Merit System Protection Board to decide certain cases.
4. Report on lawyers' review of "no cause" determinations.
5. Report on Commission operations by the Executive Director.

Closed to the public:

Litigation authorization: General Counsel Recommendations; Matters.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at 202–634–6748.

This notice issued april 24, 1979.

[S–816–79 Filed 4–25–79; 11:35 am]

BILLING CODE 6570–06–M

6

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, April 26, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING:

The following item has been deleted:

Agenda, Item No., and Subject

Renewal—2—Application of Mission Central Co. as supplemented for renewal of license for station KONO, San Antonio, Tex., on remand from the Court of Appeals, *Bilingual Bicultural Coalition of Mass Media* v. *F.C.C.*, et al.

Additional information concerning this item may be obtained from the FCC Public Affairs Office, telephone 202–632–7260.

Issued: April 24, 1979.

[S–822–79 Filed 4–25–79; 3:43 pm]

BILLING CODE 6712–01–M

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, April 23, 1979, the Corporation's Board

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of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), and concurred in by Mr. H. Joe Selby, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition of the following items to the agenda for consideration at the meeting, on less than seven days' notice to the public:

Petition of South Brooklyn Against Investment Discrimination and the Center for Community Change that the application of the Greater New York Savings Bank, New York, New York, for consent to establish a branch be moved from the agenda for the April 23, 1979 closed meeting to the agenda for the open meeting then in session.

Memorandum proposing the adoption of an amendment to the interagency statement of policy with respect to EDP examination, scheduling, and report distribution.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: April 23, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Acting Executive Secretary.

[S-808-79 Filed 4-25-79; 9:15 a.m.]

BILLING CODE 6714-01-M

8

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, April 23, 1979, the Corporation's Board of Directors voted, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), and concurred in by Mr. H. Joe Selby, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), to withdraw the following item from the agenda for consideration at the meeting:

Recommendation regarding the liquidation of assets acquired by the Corporation from Franklin National Bank, New York, New York (Case No. 43,860-L).

The Board also determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: April 23, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Acting Executive Secretary.

[S-809-79 Filed 4-25-79; 9:15 am]

BILLING CODE 6714-01-M

9

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR24244, April 24, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., April 25, 1979.

CHANGE IN MEETING: The following item has been added:

Item No., Docket No., and Company

M-7. Proposed rulemaking to amend §33.14 of the Commission's regulations.

Lois Cashell,

Acting Secretary.

[S-811-79 Filed 4-25-79; 9:15 am]

BILLING CODE 6740-02-M

10

April 25, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 2 p.m., April 26, 1979.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Commissioners' Library.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Subpenas issued in a pending proceeding.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-821-79 Filed 4-25-79; 2:27 pm]

BILLING CODE 6740-02-M

11

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., May 2, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.
2. A proposed revision of General Order 18 to require the filing with the Commission of certain cargo statistics.
3. Public Law 180 of the Dominican Republic—Implementation of the UNCTAD Code.
4. Notice of proposed rulemaking—Petitions for reconsideration and for stay.
5. Docket No. 77-50: North Carolina State Ports Authority, et al. v. Dart Containerline Company, Ltd.—Consideration of request for oral argument and petition to intervene and possible consideration of the record.
6. Docket No. 79-10: Rates of Far Eastern Shipping Company—Consideration of petitions to intervene.
7. Bunker surcharges filed by Matson Navigation.

Portion closed to the public:

1. Docket No. 76-11: In Re Agreement Nos. 150 DR-7 and 3103 DR-7—Discussion of the Record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, 202-523-5725.

[S-806-79 Filed 4-25-79; 9:15 am]

BILLING CODE 6730-01-M

12

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Monday, April 30, 1979.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue N.W., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to Public: (1) Oral Argument in Francis Ford, Inc., Docket No. 9073.

Portions closed to the Public: (2) Executive Session to Discuss Oral Argument in Francis Ford, Inc., Docket 9073.

CONTACT PERSON FOR MORE INFORMATION: Ira J. Furman, Office of Public Information, 202-523-3830, Recorded message, 202-523-3806.

[S-814-79 Filed 4-25-79; 9:48 am]

BILLING CODE 6750-01-M

13

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, May 1, 1979.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: *Closed Special Conference.* A majority of the Commission voted to close this conference because it is likely to relate solely to the internal personnel rules and practices of the agency, within the meaning of 5 U.S.C. 552(c)(2) and 49 CFR 1012.7(d)(2). Commissioners Brown and Clapp voted not to close the meeting.

MATTER TO BE CONSIDERED: Briefing on Implementation of SES Program.

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

[S-810-79 Filed 4-25-79; 9:15 am]

BILLING CODE 7035-01-M

14

LEGAL SERVICES CORPORATION.

In the matter of the meeting of the Advisory Presidential Search Committee Meeting.

TIME AND DATE: 10 a.m., Wednesday, May 2, 1979.

PLACE: Law Offices of Cohen & Uretz, 1775 K Street NW, Washington, D.C., Fourth Floor.

STATUS: Closed Meeting (As authorized by 5 U.S.C. 552b(c)(2), the meeting will relate solely to the discussion of existing and potential candidates for appointment as President.)

MATTERS TO BE CONSIDERED: 1. Discussion of existing and potential candidates for appointment as President.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Young, Office of the President, telephone 202-376-5100.

Issued: April 23, 1979.

Alice Daniel,

Acting President.

[S-813-79 Filed 4-25-79; 9:15 am]

BILLING CODE 6820-35-M

15

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 3 p.m., Wednesday, May 2, 1979.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW., Washington, D. C. 20570.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED: Operation of Performance Review Boards and bonus allocations for SES members—Regional Directors.

CONTACT PERSON FOR MORE INFORMATION: William A. Lubbers, Executive Secretary, Washington, D.C. 20570, telephone 202-254-9430.

Dated, Washington, D.C., April 24, 1979.

By direction of the Board:

George A. Leet,

Associate Executive Secretary, National Labor Relations Board.

[S-807-79 Filed 4-25-79; 9:15 am]

BILLING CODE 7545-01-M

16

OVERSEAS PRIVATE INVESTMENT CORPORATION.

Meeting of the Board of Directors

TIME AND DATE: Meeting of the OPIC Board of Directors, Tuesday, May 1, 1979 at 9 a.m. (closed portion); 10 a.m. (open portion).

PLACE: Offices of the Corporation, Seventh Floor Board Room, 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9 a.m. to 10 a.m. will be closed to the public. The open portion of the meeting will start at 10 a.m.

MATTERS TO BE CONSIDERED: (Closed to the public 9 a.m. to 10 a.m.)

1. Resumption of OPIC in Western Hemisphere Country.
2. Finance project in Latin American Country.
3. Insurance project in East Asia Country.
4. Insurance project in Central american Country.
5. Insurance project in south East Asia country.
6. Claims Report.
7. Information Reports.

FURTHER MATTERS TO BE CONSIDERED: (Open to the public 10 a.m.)

1. Approval of the Minutes of the Previous Board Meeting.
2. Confirmation of scheduled Board meetings.
3. Testimonial.
4. Insurance for Investments in Projects Involving Host Government Ownership or Guaranties.
5. Construction Program; Resumption of Program to OPIC.
6. Policy Change for Insurance of Hydrocarbon Projects.
7. Oman: Eligibility for OPIC Finance Programs.
8. Reimbursable Development Programs.
9. Inter-American Development Bank Proposal for Multilateral Insurance Program for Latin America.
10. International Development Cooperation Administration.
11. Financial Statements.
12. Information Reports.

CONTACT PERSON FOR INFORMATION: Information with regard to this meeting may be obtained from the Secretary of the Corporation at 202-632-1839.

Elizabeth A. Burton,

Corporate Secretary.

April 24, 1979.

[S-817-79 Filed 4-25-79; 12:28 pm]

BILLING CODE 2210-01-M

17

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENTS: [44 FR 23420 April 19, 1979.]

STATUS: Closed meeting ; open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: Tuesday, April 17, 1979.

CHANGES IN THE MEETING: Additional items.

The following additional item will be considered at a closed meeting scheduled for Wednesday, April 25, 1979, at 10 a.m.:

Regulatory matter bearing enforcement implications.

The following additional items will be considered at a closed meeting scheduled for Thursday, April 26, 1979, immediately following the 10 a.m. open meeting.

Other litigation matters.

Amendment of injuctive action.

The following additional items will be considered at an open meeting scheduled for Thursday, April 26, at 10:00 a.m.:

1. Consideration of what response to make to the House Committee on Rules' request for the Commission's comments concerning H.R. 65, the "Legislative Oversight Act of 1979," which is designed to improve Congressional oversight of the federal government by requiring annual reports from agencies that include descriptions and comparisons regarding the objectives, impacts, duplications, and costs of agency programs and activities. For futher information, please contact Alan Rosenblat at (202) 755-1198.
2. Consideration of whether to initiate a proceeding, including public hearings, to consider proposed Rule 19c-3 which would preclude the application of the rules of national securities exchanges prohibiting over-the-counter transactions in securities listed and registered on an exchange to certain securities which were not exchange traded on April 26, 1979, or which were exchange traded on April 26, 1979, but fail to remain continuously exchange traded thereafter. For futher information, please contact André Weiss at (202) 376-7470.
3. Consideration of whether to propose Rule 11Acl-3 under the Securities Exchange Act of 1934 which would provide, with respect to certain securities, protection for all displayed limit orders against executions at inferior prices. For further information, please contact Brandon Becker at (202) 755-8749.

Chairman Williams and Commissioners Loomis, and Evans, determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

April 24, 1979.

[S-815-79 Filed 4-25-79; 10:21 am]

BILLING CODE 8010-01-M

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federal register

Friday
April 27, 1979

Part II

Department of Defense

Department of the Army

Army Discharge Review Board; Standard Operating Procedures

V 4 4 / 8 3

DEPARTMENT OF DEFENSE

Department of the Army

Army Discharge Review Board; Standard Operating Procedures

The ADRB Standard Operating Procedures were designed for internal use by members and support personnel of the review board, but are published with the anticipation that applicants before the board may also find guidance contained in the document helpful in preparing for discharge review.

Dated: April 20, 1979.

William E. Weber,
Colonel, IN,
President

Section I. General
- Mission.
- Purpose.
- Authority.
- Organization and Functions.
- General Concept of Operations.

II. Responsibilities
- President ADRB.
- Presiding Officer (PO).
- Board (Panel) Member.
- Hearing Examiner (HE).
- Secretary/Recorder, Operations Division.
- CPT Section.
- Administrative Support Division.
- Special Board Members/Advisors.

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Any portion of this document which is not published in this printing is incorporated by reference or available for public inspection and copying at the Armed Forces Discharge Review/Corrections Board Reading Room, 2E165, the Concourse, The Pentagon, Washington, D.C.

I. General

A. *Mission:* The mission of the ADRB is:

1. To determine by examination of official military records, documentation provided by applicant and personal testimony (if available) whether or not the discharge received was granted in a proper manner, in accordance with regulatory procedures, and was fair and equitable when viewed from the perspective of the Army at large.

2. It is the essence of discharge review to act as an "equalizing agency" to insure that the application of the discharge process remains a relatively uniform procedure with uniform standards irrespective of the location of the unit or the commander at the time of discharge (see Annex N–2, DOD Directive 1332.28).

B. *Purpose:* This SOP is established for the purpose of governing the operational aspects of the Army Discharge Review Board's mission. As requirements dictate, this SOP will be modified. All personnel for duty with the ADRB are encouraged to recommend changes as appropriate.

C. *Authority:* The ADRB exists as a field operating agency of the Office of the Secretary of the Army in accordance with Title 10, U.S. Code, Section 1553. The ADRB is governed by the provisions of Army Regulation 15–180 (Annex A–1).

D. *Organization and Functions:* The ADRB is structured functionally as depicted by Annex B–1 and is staffed in accordance with the authorizations listed at Annex B–2.

1. The Office of the President of the ADRB is the command and control element of the ADRB. It plans, directs, reports, supervises, and coordinates the activities of the Review Board. The President of the ADRB functions jointly as the Deputy Director of the Army Council of Review Boards (ACRB).

2. The Board Panel Members constitute an officer personnel resource for which five-member panels are designated to hear appeals submitted under the provisions of Title 10, U.S. Code, Section 1553. The panels may convene either in Washington, D.C. or at a designated Traveling Panel site. From this resource, individual Hearing Examiners are deployed to remote locations to video-tape the appeals of applicants who appear in person. In addition, selected Board Members are periodically designated to sit on Ad Hoc Review Boards, Army Physical Disability Appeal Boards (APDAB), and Army Disability Rating Review Boards (ADRRB).

3. The Secretary/Recorder Operations Division provides direct support to the constituted review panels in the hearing of discharge appeals. It processes, schedules, logs, records, and finalizes active discharge appeals, together with providing on-site logistic and administrative support and coordination for panels convened at either Washington, D.C. or deployed Traveling Panel or Hearing Examiner locations.

4. The Administrative Support Division operates at the beginning and end of the thruput system of the discharge review process. It receives, records, analyses, and maintains library control of new cases; it reviews and records data from applicants' service records and other documentation submitted and acts to obtain such data where records are incomplete or missing; it finalizes, records, reproduces, and dispatches completed cases. It inputs copies of completed cases to the public Reading Room located in the concourse of the Pentagon.

E. *General Concept of Operation:* In fulfilling its mission of discharge review, the ADRB orients its daily operations on maximizing case thruput of discharge appeals that have entered the review process. (See Annex C–1 for a detailed narrative of the appeal process.) To this end, a structured weekly work schedule is published to insure that Board Members proportionately share a balanced workload of cases pre-reviewed, heard, post reviewed and to establish an orderly case flow. The system is depicted at Annex C–2. The Administrative Support Division and Secretary/Recorder Operations Division gear their activities to these daily production objectives.

II. Responsibilities

Specific responsibilities and duties of principal individuals and, where applicable, their subordinate operating organizational elements are as follows:

A. *President, ADRB:* The President of the ADRB has overall responsibility for

accomplishment of the operational mission of the Board and its panels. To assist him, he has an Executive Officer and the necessary administrative personnel (secretary and clerk-typist) to support him. (See Annex B–2 for current TDA authorizations.) In the absence of existing written policy, he establishes policy and/or precedents to be followed by the Board. He provides guidance to ensure full and proper understanding of the mission requirements and current standards for interpretation of changing social mores by members of the Board and its panels (see President's Guidance, Annex F–1). He makes all operational decisions necessary to insure proper operation of the Board. He is the Presiding Officer of all Army Discharge Review Board Panels on which he sits. He, along with the Secretary/Recorder, authenticates, by signature, all Case Reports and Directives and all other directive actions concerning cases heard by the Board and its panels.

B. *Presiding Officer (PO):* The PO of a particular panel is the senior line officer, normally in the rank of colonel (06), of the five members constituting the panel. It is his responsibility to ensure that his panel fulfills the mission of the ADRB in reviewing the cases before it. As the senior member of the panel, he provides guidance when necessary, to insure a full and fair hearing for each applicant, and insures that cases are properly heard and properly considered. He rules on the procedural conduct of all aspects of the hearing, conforming to the operational concepts of boards and commissions as outlined in AR 15–6 and AR 15–180. A guide to the ADRB procedural conduct of a hearing appears at Annex G–1. Deviation from this guide should be exercised with caution to preclude prejudicial errors affecting the propriety and equity of the hearing. The PO rules upon the admissibility of evidence presented to the panel by the applicant and/or counsel, exercising the greatest latitude of acceptance of material as evidence. Wide latitude is possible because discharge review is not an adversary proceeding. The PO is also responsible to insure that all members of the panel are informed of any changes in the scheduled date and time of the hearing.

1. The PO will be appraised of all the arrangements for the trip prepared by the ASR in accordance with the check list at Annex G–2. The PO is personally responsible to insure that the appearance and conduct of the other panel members and supporting Secretary/Recorder staff are beyond reproach, both on and off duty, as expected of official representatives of the Army Discharge Review Board and Department of Defense. The PO will submit and after-action report on the trip and an ASR/SRA Evaluation Form concerning the performance of the ASR upon return to duty in Washington, D.C. A sample format of a TP after-action report is at Annex G–3. A sample format of the ASR/SRA Evaluation Form is at Annex G–4.

2. PO's are also responsible to accomplish pre-reviews of cases referred to the ADRB for discharge review. Just as any other panel member, the PO pre-reviews cases according to the cyclic work schedule directed by the President, ADRB (see Annex C–2 for cyclic work schdule). For details of pre-reviewing and forms used, see Annexes H–2 and E–3. The PO also has the unique responsibility of post-reviewing the draft Case Reports and Directives of every case heard by his/her panel. He/she performs a final review of all the above Case Reports and Directives, typed in final, to insure completeness and correctness, and signs as the Presiding Officer before the completed case is authenticated by the ADRB Secretary/Recorder and the President, ADRB, and appropriately dispatched. These post-reviews and final reviews are accomplished as part of the cyclic work schedule. The task of post-reviewing and final reviewing may be delegated to the next senior member of the panel, but only in the prolonged absence of the PO (absence in excess of 2 weeks). When a PO is absent for a shorter period, the cases will be held by the Secretary/Recorder Section and released to the PO upon his/her return to duty.

C. *Board (Panel) Member:* Each Board (Panel) member must have a thorough knowledge of all regulations and procedures which apply to administrative discharges before being able to vote in adjudicating a case before a panel. Further, Board (Panel) members are responsible to protect the interests of the government as well as those of the applicant. In cases where there is any doubt as to whether the applicant's discharge should be upgraded, the vote should be resolved in favor of the applicant. Above all, the members must be objective in all cases that come before the Board (Panel). A Panel member must examine all facts and evidence presented by the applicant without partiality or prejudice so as to insure that the applicant receives a fair and impartial hearing in determining if the applicant was properly and equitably discharged. In short, the member must consider all evidence and apply common sense and mature judgment in weighing all factors, before reaching a conclusion on how to vote each case. Specific duties of each panel member are enumerated at Annex H–1. Each panel member is scheduled to perform pre-reviews of cases referred to ADRB for discharge review, according to the cyclic work schedule directed by the President, ADRB. For details of pre-reviewing and the forms used, see Annexes H–2 and E–3.

D. *Hearing Examiner (HE):* Certain members of the ADRB, normally in the rank of Colonel (06), are scheduled to perform hearing examinations in one or more locations within a designated geographical area. (See Annex I–2 for Procedural Guide for the Conduct of a Hearing Examiner.) A hearing examination involves recording of the applicant's appeal on video tape which is played before an ADRB Panel in Washington, D.C., and adjudicated in the same manner as a live, personal appearance. The HE trip arrangements are finalized by the ASR in accordance with the check list at Annex J–10.

1. The HE team is composed of a minimum of three people, the Hearing Examiner and Alternate Secretary/Recorder, and a Secretary/Recorder Assistant who operates the video camera equipment and provides the administrative support required to type the draft Case Report and Directive for each case. The video equipment required for the hearing examinations can be deployed with the team from ADRB equipment resources or, preferably, provided locally at the hearing site. Many times, the transport of the bulky, sensitive equipment can be avoided by thorough coordination, well in advance of the trip, to take advantage of local resources of video equipment frequently available through Red Cross, technical training institutions, colleges and universities, Veterans Administration, and prisons. In instances where the video equipment can be provided locally, the HE needs only to furnish the video tapes to conduct the hearings. When the video equipment must be deployed with the HE team, the HE must insure that excess baggage is authorized in the travel orders of all three members of the team.

2. The HE is also responsible for submitting an after-action report of the trip within two weeks of return to duty in Washington, D.C. A sample format for an HE after-action report is at Annex I–3.

E. *Secretary/Recorder Division:* The Secretary/Recorder Division consists of the Chief, the Alternate Secretary/Recorder Branch, the Plans and

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Programming Branch, and the Processing Branch. The Secretary/Recorder Division is responsible for the conduct of all hearings before the Army Discharge Review Board, Army Disability Rating Review Board, Army Security Review Board, and the Ad Hoc Review Board. In coordination with the Duputy Director, Army Council of Review Boards, the division will upon receipt of the briefed case from the analyst, establish date, time, and place of hearing, and will designate Board members for each hearing. Until completion of the case, to include the final directive, the Secretary/Recorder Division has operational control over the case. The Secretary/Recorder Division is also responsible for collecting and maintaining statistical data concerning all boards within the Council. Data for the ADRB will indicate how the case was heard, where the case was heard, what happended to the case (i.e., changed from Undesirable to General), etc. The Division also maintains all HE equipment used by the ADRB. The Chief, Secretary/Recorder Division has overall responsibility for the operational mission for the Secretary/Recorder Division. He will assign the duties, tasks, and responsibilities of his subordinate branches and will provide them with overall guidance and supervision.

1. Alternate Secretary/Recorder Branch. This branch is composed of the alternate secretary/recorders (ASR) and the secretary/recorder assistants (SRA). The ASRs and SRAs assist the chief of the division in conducting the operation of the Washington, D.C. ADRB panels (in accordance with the actions and procedures contained in Annex J–1, J–2, and J–3) and the other boards of the Council. The ASRs and SRAs will periodically be required to provide the administrative support necessary to insure the success of traveling panels and hearing examination. The actions and procedures required to support these trips are contained in Annexes J–4 and J–5.

2. Plans and Programming Branch. This branch receives records from the Administrative Support Division, insures that they are pre-reviewed, and then distributes them to the Alternate Secretary/Recorder Branch for boarding. It is also responsible for obtaining and purifying computer listings of all applicants (broken out by type) as well as obtaining the status and/or records from the ADRB Library. In addition the branch recommends potential HE and TP sites. Statistical data is maintained on the status of all records for which the Secretary/Recorder Division has responsibility. Finally, the branch supervises the operations of data processing equipment and systems within the ADRB.

F. *CPT Section:* This section is responsible for the draft typing, final typing and processing (to include typographical accuracy and correction of obivious incongruities) of the OSA Form 172. It is responsible for insuring the completeness of every case to include having the proper forms in the proper sequence. This section is directly under Headquarters ADRB, and consists of an OIC, deputy NCOIC, 4 sub-sections and an operations center.

1. The Operations Center receives transmissions from panels or HEs deployed in the field. A Case Processing Assistant (CPA) is sent into the field with the word processing equipment. Each day the CPA transmits that days completed cases back to the Operations Center. The cases are then corrected and printed and ready for review when the panel returns to Washington, D.C. One case takes approximately 2½ minutes to 3 minutes to transmit at the 1200 Baud Level. Each panel in the field has a scheduled time to transmit.

2. Upon receipt of all other cases from the Secretary/Recorder Division, the cases are logged in by either box number or by name and last 4 of SSN and the name of the Secretary/Recorder. The case is then draft typed and returned to the Secretary/Recorder for draft review. During the draft typing all of the hand written and dictated information is transcribed onto the OSA Form 172. Upon receipt of the case for final typing, it is again logged in. During final typing, all the corrections are made and then printed out on the 7 ply paper. The draft information is stored on a floppy disk until after the case has been finalized and shipped out. During final typing, corrections from the draft are transported to the final. Once the case has been shipped out, the floppy disk is erased and re-used. The CPT Section uses a first-in, first-out method of dealing with cases, in that the first cases received are the first cases that are distributed to be typed.

G. *Administrative Support Division:* The Administrative Officer supervises the operation of this Administrative Support Division. He is responsible for inprocessing and outprocessing all cases, for analyzing all new cases after establishing ADRB jurisdiction, for obtaining missing OMPF documents, for preparing both recurring and special statistical reports, and for receiving, controlling, and replying to correspondence from Veterans Organizations, attorneys, members of Congress, and the general public.

1. Receipt and screening. Cases are recieved by the Mail/Records Distribution Section of the Records Distribution/Supply Branch. Upon receipt, a records clerk logs in each case. The case is passed to the Records Processing Branch which verifies ADRB jurisdicition, and establishes initial control by following the procedures listed in Annex K–1. The clerk then files the case for further processing.

1. Carding. Cases are pulled from control files by clerks of the Records Processing Branch who extract and record specific detailed case data and prepare the cases for the Records and Analysis Section. (See Annex K–2 and K–3 for carding procedures.)

3. Analysis. The Records Analysis Branch, under the supervision of the Chief Analyst, has the responsibility for confirming that ADRB has jurisdiction over a case, for analyzing the entire OMPF of each applicant, and for preparing Part II and the Part III, Section A–K, OSA Form 172. (See Annex E–3 for sample forms. See Annex K–4 for instructions on the preparation of forms.) If an analyst finds there is a question of jurisdiction on a specific case, the case is referred to the Chief Analyst for determination. In the event the Chief Analyst cannot resolve the jurisdictional question, he will forward the matter to the Administrative Officer for decision. No analysis will be initiated until ADRB jurisdiction has been confirmed. It is determined that ADRB lacks jurisdiction, the case is returned to the Records Processing Branch for appropriate disposition. Upon confirming ADRB jurisdiction, case analysis begins with a thorough detailed review of the OMPF. If any documents necessary to the case review are missing, the OMPF is returned to the Records Processing Branch with a demand for the specific missing documents. The analysis is renewed when the case is returned to the Records Analysis Branch with the missing document or an indication that the document is unobtainable. Part II and Part III, Sections A–K, OSA Form 172, are then prepared. When a case analysis is complete, the case is forwarded to the Secretary/Recorder Section.

4. Outprocessing and Dispatch. Completed cases are returned by the Secretary/Recorder Operations Division to the Records Distribution/Supply Branch for appropriate reproduction and distribution of case material in accordance with Annex K–5.

5. Data Storage. Case data is entered into the computer terminal at two points in the discharge review process by the Records Processing Branch: upon completion of carding, and upon return of the completed case to RCPAC. The case data is then taken from the Computer Control Card prepared for each case and becomes a data record for each case heard. Periodic and special computer print-outs are produced for quality control purposes and for developing discharge review statistical data.

6. Records. Records Processing Branch files and maintains computer cards, case records and associated correspondence, makes temporary loan of retain files and records, and retired retain files (Annex K–6).

7. Correspondence. The Records Processing Branch of the Administrative Support Division responds to all correspondence and inquiries received that pertain to cases undergoing discharge appeal.

8. Supply. Normal supply service is provided by the ADRB Supply Section of the Administrative Support Division.

H. *Special Board Members/Advisors:* Officer personnel consist of legal (JAGC) and medical advisors whose responsibility it is to advise the President, ADRB, POs and panel members on the legal and medical sufficiency of administrative discharge processing for any case (see Annex L–1). Although the final determination of legal or medical sufficiency remains with the panels, the recommendations of the special advisors carry the signifiance of technically qualified expertise and should be appropriately weighed by panel members in the deliberation of any case. These officers may sit as members of a panel but may be, by ADRB policy, sit as POs.

Annex A–1

Army Regulation 15–180, incorporated by reference, was published in the **Federal Register** on April 13, 1978, at 43 FR 15572, and modified on September 12, 1978, at 43 FR 40498.

Annexes B–1 and 2

Organizational chart and Table of Distribution and Allowances, which relate solely to internal management and personnel requirements, have not been published.

Annex C–1.—Appeal Process

The applicant will be the former officer or enlisted member, or, if incompetent or deceased, will be the spouse, next-of-kin, or legal representative. The appeal will be made on DD Form 293 (Annex E–3). In preparing the DD Form 293, the applicant will specify the corrective action desired and may state specific contentions which contest the propriety and equity of the discharge issued. The applicant may submit supporting documents to establish the validity of the appeal, and by appropriate entry, the applicant may select the most convenient mode of hearing and may indicate a choice of counsel. Review may also be initiated on the Board's own motion. All requests will be forwarded to: Commanding General, U.S. Army Reserve Components, Personnel and Administrative Center, 9700 Page Boulevard, St. Louis, Missouri 63132.

The U.S. Army Reserve Components Personnel and Administration Center (USARPAC) receives the appeal and checks it for completeness. Personnel records (OMPF) are retrieved and reviewed for completeness and juridictional propriety. If records are incomplete, documents are requested from other agencies or the applicant. The case is then forwarded to the ADRB for consumation of the review.

Upon receipt at the ADRB, the Administrative Support Division logs and checks (Annex K–1), cards (Annexes K–2 and K–3), and analyzes (Annex K–4) the case. The prepared case next passes to the Records Library Section where it is shelved until it is called for by the Secretary/Recorder Operations Division which will schedule the case for pre-review and hearing by a panel.

Where a case is to be heard by a Traveling Panel, the case is assigned for control purposes to the Alternate and Assistant Secretary/Recorders designated to support that deployment. The case(s) for a specific site are pre-reviewed by the officer who will conduct the Hearing Examination. The case is otherwise handled similarly to the Traveling Panel case.

All other cases are handled routinely by the Secretary/Recorder Section, except that Special Discharge Review Programs, either on-going or which may later be initiated, may require special procedures pursuant to the specific provisions contained in the program(s).

After the pre-review is complete, a case is scheduled for hearing by the Plans and Programs Branch, Secretary/Recorder Operations Division. A panel will hear each scheduled case in accordance with Annex G–1.

Where an applicant fails to appear at a scheduled hearing, and has failed to request a rescheduling or continuance, the case will be heard as a "records only" (A) case if it has not been previously heard. If the case is a rehearing contingent on an escalated mode of hearing, the case will be closed without action.

The results of a case heard will be sent to the applicant, after the formal Case Report and Directive is finalized.

Where a change in discharge is directed by the panel which hears the case, the Adjutant General is directed to issue the applicant a new separation document.

Annex C–2

Case flow chart, a diagram of the case flow process described in detail in Section H, has not been published.

Annex D–1.—Current Guidance on Cases Requiring Secretarial Notification

1. The following cases require Secretarial notification:

a. All cases containing a formal minority report (not merely a minority opinion) submitted by one or more members of the panel hearing the case.

b. All officer discharge review cases.

c. All cases containing unusual circumstances which appear to warrant Secretarial interest, as determined by the President, ADRB.

2. Any case in category 1c will be brought to the attention of the President, ADRB, by the Presiding Officer of the panel hearing the case or the pre-reviewing officer, before the case is heard. The President will make the final determination on the disposition of all above type cases.

Annex E–1.—Definitions

1. ABCMR. The Army Board for the Correction of Military Records is an administrative body vested with discretionary authority to grant relief to service members who have been prejudiced by erroneous facts of military record. It is the highest Army administrative appellate level with DoD.

2. ADRB. The Army Discharge Review Board is an administrative body vested with discretionary authority to review discharges and dismissals under the provision of Title 10, U.S.C. 1553 and such other public laws which may be promulgated.

3. ANALYZE. As used in discharge review, analyze refers to the act of extracting data from an applicant's service record and his submissions and recording it on Discharge Review Case Report and Directive.

4. ANTIOCH STIPULATION. An out-of-court agreement consummated in January 1977 by the U.S. Government and the Urban Law Institute which is active in seeking relief for former service members who received less than honorable discharges. The impact of this

stipulation, effected in lieu of a federal court trial, was to require more standardization of discharge review procedures, substantial increases in the nature and volume of documentation prepared to support a case heard by the ADRB; and establishment of a Reading Room for public access to the case reports for all appeals finalized.

5. CASE. The applicant's appeal and supporting documentation, together with the ex-service member's Official Military Personnel File (OMPF), as it enters the ADRB discharge review process.

"A" CASE. A case heard by a discharge review panel board on the evidence in the applicant's military record and his written submissions.

"B" CASE. A case wherein the applicant appears in person before a discharge review panel in Washington, D.C. with or without counsel, to present evidence or testimony in support of an upgrade of the type of discharge received.

"C" CASE. A case wherein a counsel alone appears before a discharge review panel to present evidence, testimony, and argument in support of an upgrade of the type of discharge received.

"D" CASE. A case wherein the applicant personally appears with or without counsel before a traveling panel outside Washington, D.C., and presents evidence or testimony in support of an upgrade of the type of discharge received.

"E" CASE. A case wherein, the applicant personally appears with counsel or representative before a hearing examiner outside Washington, D.C., and presents evidence or testimony in support of an upgrade of the type of discharge received.

6. CASE REPORT AND DIRECTIVE. That document which records all evidential and procedural material considered by a panel in its deliberations of a particular case, and on which are recorded contentions, issues, findings, rationale, case problems, and the decision of the panel.

7. CHALLENGE FOR CAUSE. The perogative of an applicant who appears before a discharge review panel to ask that any panel member hearing the case who in any way was connected with the events leading up to the separation or the actual separation itself be replaced by another Board member.

8. CONTENTION. A contention is a matter raised by an applicant and/or counsel; when it involves a matter of fact, law or discretion that is relevant to the equity and/or propriety of the discharge process it becomes an issue just the same as if raised by a DRB.

9. DE-NOVO. This term refers to a category of cases heard under the Special Discharge Review Program (SDRP) wherein an applicant who was denied relief as a result of an on-the-record hearing of his case, was granted an automatic rehearing contingent upon his/her electing to exercise this option and agreement to appear in person either with or without the free assistance of a Department of Defense provided counsel.

10. FINAL-REVIEW. That function performed by PO's whereby the final types Case Report and Directive for each case was heard by his/her panel is checked for completeness, correctness, and signed before being authenticated by the Sec/Rec and President, ADRB and appropriately dispatched.

11. FINDING. The determination by a panel hearing a case as to what degree a contention or issue raised is relevant to the discharge appeal; whether the contention or issue is supported by evidence; and to what degree the contention or issue may have impacted on the equity or propriety of applicant's discharge.

12. HEARING EXAMINER. A Board member detailed to deploy to various locations throughtout the country with a video tape team consisting of an Alternate Secretary/Recorder and an Assistant Secretary/Recorder Assistant to record live, the discharge appeal presentations of applicants who request to advance their cases by this means. The video taped proceedings are heard by a panel in Washington, D.C. at a subsequent date.

13. ISSUE. An issue is a matter of fact, law or discretion that is relevant to the equity and/or propriety of the discharge process, and is raised by a DRB in keeping with responsibility UP 10 USC Sec. 1553 when and if applicant and/or counsel is silent on the matter.

14. LIBRARY. The facility for storing cases after they have been received and analyzed. The library is a sub-element of the Secretary/Recorder Operations Division.

15. MINORITY REPORT. The minority opinion of a panel usually prepared by the senior dissenting panel member to challenge the majority opinion. Such a report may be prepared and submitted for Secretarial determination where it is perceived that a grievous and substantive flaw of fact or perception is basic to the majority opinion as recorded in its findings or rationale.

16. PL 95–126. A public law enacted on 8 October 1977 by the 95th Congress which suspends the fifteen year period for application for one year to review upon applications every less-than-honorable discharge issued between 1775 and October 1978; requires that each of the 13,046 discharges upgraded under the SDRP be re-reviewed to establish eligiblity for VA benefits under historically consistent standards of discharge review; and precludes awarding of VA benefits to any ex-service member separated UOTHC on the basis of a continuous AWOL of 180 days or more.

17. PP 4313. President Ford's 16 September 1974 Clemency Proclamation, which was directed at Vietnam Era service members who remained in a status of desertion/prolonged absence, together with his 19 January 1977 extension which directed that the discharges of all ex-service members who served in Vietnam and who received discharges under other than honorable conditions be reviewed and that these discharges be characterized as under honorable conditions, providing that certain criteria were met and that there were no compelling reasons to the contrary.

18. POST-REVIEW. Review of the draft Case Report and Directive (CRD) performed by the Presiding Officer (PO) of the panel that heard the case. The post-review is a qualitative step in the discharge review process to insure that the CRD is accurate, intelligible, and concise.

19. PRE-REVIEW. Review of a case by a board member, prior to its being heard, which includes an indepth assessment of the applicant's contentions, submitted documents, OMPF, and the preparation of review documents and a concise commentary on the case.

20. PRESIDING OFFICER. The senior designated member of a panel who is responsible for insuring that a case is properly considered and that a proper Case Report and Directive is prepared.

21. RATIONALE. A written statement prepared at the conclusion of the board's deliberation and found in Part VII, Section C of the Case Report and Directive which indicate the basis for the board's decision to provide or deny relief.

22. READING ROOM. The Armed Forces Discharge Review/Corrections Board Reading Room, located in the Concourse of the Pentagon, is a public repository of CRD's in compliance with the Antioch Stipulation. The cases are indexed to assist those who seek information concerning completed cases.

23. SDRP. The Special Discharge Review Program was the Department of Defense companion action to President Carter's proclamation of a pardon for Vietnam War draft evaders and took effect on 5 Apr 77. This program was an extension of the President's act of compassion and forgiveness and provided for a mandated upgrade of under-other-than honorable discharges, if application was made prior to 4 October 1977, and the applicant met certain criteria and the reason for discharge was not a compelling reason to the contrary. It further provided for a De Novo re-hearing if the appeal was denied. (See 9 above).

24. SPD. Separation Program Designator. A three letter code entered in the Reason and Authority block of the DD 214 and which represented the reason for discharge as listed in AR 635–5–1. SPD's superceded SPN's (commonly referred to as "Spin").

25. TITLE 10, U.S.C. 1553. The public law which directs that an Army Discharge Review Board be established.

26. TRAVELING PANEL. A panel deployed from Washington, D.C. to varying regional locations throughout the United States to hear discharge appeal cases.

Annex E–2

Subject/Category Listing to Index to ADRB Case Report and Directives, incorporated by reference, was published in the **Federal Register** on February 18, 1977, at 42 FR 10028, and modified on October 13, 1978, at FR 47237.

BILLING CODE 3715-06-M

Annex E–3.—Forms

DD Form 293, 1 Mar 77	Application for Review of Discharge or Dismissal from Armed Forces of the U.S.	E–3–1
DD Form 149, 1 Apr 69	Request for ABCMR	E–3–2
OSA Form 172, 1 Feb 78	Part I, II and Section A, Part III	E–3–3
OSA Form 172, 1 Feb 78	Section B–I, Part III	E–3–4
OSA Form 172, 16 Oct 78	Section J & K, Part III	E–3–5
OSA Form 172, 1 Feb 78	Section A–C, Part IV	E–3–6
OSA Form 172, 1 Feb 78	Section A and B, Part V	E–3–7
OSA Form 172, 1 Feb 78	Section A, Part VI	E–3–8
OSA Form 172, 1 Feb 78	Section A–C, Part VII	E–3–9
OSA Form 172, 1 Feb 78	Section D, Part VII and Part VIII	E–3–10
OSA Form 172, 1 Feb 78	Standard Continuation Sheet	E–3–11
OSA Form 172, Apr 78	SDRP Addendum—Parts I—Part VII	E–3–12
OSA Form, May 78	Long Addendum—Parts I, II, III; Item 1 & 2, Section A, Part IV	E–3–13
OSA Form 172, May 75	Long Addendum (second page) Item 3 & 4, Section A, Part IV; Section B and C, Part IV; Section A and B, Part V.	E–3–14

NOTE.—The Case Control Card and the Daily Journal of Cases Completed, forms used solely for internal management, and the Standard Continuation Sheet, essentially a blank sheet, were not submitted for publication.

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V 4 4 / 8 3 A P 2 7 7 9 UMI

APPLICATION FOR REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES	OMB APPROVED 33-R-0014

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: 10 U.S.C. 1553, Executive Order 9397, 22 Nov 43 (SSN)
PRINCIPAL PURPOSES: To apply for upgrading of type of discharge issued.
ROUTINE USES: Placed in applicant's file. Used in applicant's case in determining the relief sought. To compare facts presented with evidence in the record.
DISCLOSURE: Voluntary. If information is not furnished, applicant may not secure benefits from the Board.

SEE INSTRUCTIONS ON REVERSE BEFORE COMPLETING THIS FORM. TYPE OR PRINT

BRANCH OF SERVICE
☐ ARMY ☐ NAVY ☐ MARINE CORPS ☐ COAST GUARD ☐ AIR FORCE

1 LAST NAME, FIRST NAME, MIDDLE INITIAL	2 SERVICE NO./SSN	3 SEPARATION RATE OR GRADE

4 SEPARATION UNIT AND LOCATION	5 NATURE OF DISMISSAL OR TYPE OF DISCHARGE RECEIVED	6 SEPARATION DATE

7 I REQUEST THE FOLLOWING CORRECTIVE ACTION BE TAKEN *(See instructions)*
☐ UPGRADE DISCHARGE TO ☐ HONORABLE ☐ GENERAL ☐ CHANGE REENLISTMENT CODE *(Air Force Only)*
☐ CHANGE DISCHARGE REASON *(Explain)* _____ ☐ OTHER *(Explain)* _____

8 REASON FOR REVIEW OF DISCHARGE *(State in your own words the reasons you feel your discharge should be changed. Use additional sheets if necessary) (See instructions)*

9 SUPPORTING DOCUMENTS *(See instructions)*

10 PERSONAL APPEARANCE ☐ I DESIRE TO APPEAR BEFORE THE BOARD *(No expense to the GOVERNMENT) (See instructions)*
☐ AT WASHINGTON, D.C. ☐ HEARING EXAMINER *(Army Only)* CLOSEST TO _____ *(City and State)*
☐ BEFORE THE TRAVELING/REGIONAL BOARD CLOSEST TO _____ *(City and State)*
☐ I DO NOT DESIRE TO APPEAR BEFORE THE BOARD AND HAVE LEFT THE ABOVE BLANK. I DESIRE TO HAVE MY DISCHARGE REVIEWED BASED ON MY MILITARY RECORDS AND WHATEVER DOCUMENTATION I HAVE SUBMITTED

11 REPRESENTATIVE
☐ I DESIRE TO BE REPRESENTED BY, AND AUTHORIZE RELEASE OF MY RECORDS TO *(No expense to the GOVERNMENT) (See instructions)*

NAME	ADDRESS *(Include ZIP Code)*

☐ I DO NOT DESIRE TO BE REPRESENTED AND HAVE LEFT THE ABOVE BLANK

I make the foregoing statements as a part of my application with full knowledge of the penalties involved for willfully making a false statement. *(U.S. Code, Title 18, Section 1001, formerly Section 80, provides a penalty as follows: A maximum fine of $10,000 or maximum imprisonment of 5 years, or both.)*

STREET OR RFD	CITY, STATE AND ZIP CODE

IF YOU MAKE A CHANGE IN RESIDENCE, NOTIFY THE APPROPRIATE BOARD IMMEDIATELY.

DATE	SIGNATURE OF APPLICANT

NOTE: IF VETERAN IS DECEASED OR INCOMPETENT, the application may be signed by a person other than the one whose name appears in block 1 above, indicate status in box below. Legal proof of death or incompetency and satisfactory evidence of the relationship between the discharged person and the petitioner must accompany application.)

☐ NEXT OF KIN ☐ LEGAL REPRESENTATIVE ☐ SURVIVING SPOUSE

UPON COMPLETION, MAIL THIS APPLICATION AS FOLLOWS

ARMY	NAVY & MARINE CORPS	COAST GUARD	AIR FORCE
CO, USARCPAC 9700 Page Blvd St. Louis, MO 63132	Navy Discharge Review Board 801 No. Randolph St. Arlington, VA 22203	Commandant (CED) U.S. Coast Guard Headquarters Washington, DC 20591	National Personnel Records Center, GSA (Military Personnel Records) 9700 Page Blvd St. Louis, MO 63132

DD FORM 1 MAR 77 293 PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE AND WILL NOT BE ACCEPTED

E-3-1

INSTRUCTIONS

Copy of Military Record. Should you desire to have copies of your records, you must submit a General Services Administration Standard Form 180 (GS SF 180) before you submit this form. Once this DD Form 293 is submitted, you records will be obtained by the Board. Official records and copies of records obtained by the Board will be available to applicants only at the hearing locations.

Item 1 thru 6. - Self Explanatory.

Item 7. Indicate the corrective action you are requesting. You must check at least one block and can check more blocks if desired. Due to certain limitations in the Board's authority, the Board cannot: (a) review discharges issued as a result of General Court-Martial *(Use DD Form 149)*; (b) review discharges issued more than fifteen years prior to the application *(DD Form 293)* submission date; (c) review a Release from Active Duty until a final discharge is issued; (d) change a reenlistment code *(except Air Force)*; (e) change the reason for a discharge from or to physical disability; or (f) determine eligibility for veteran's benefits.

Item 8. State here your reasons why you feel your discharge should be changed. Briefly summarize each of your contention *(reasons)* and/or issues of fact, law, or discretion that you want the Board to address and resolve. Additions or modifications may be made at any time up to the date of review of your case by the Board.

Item 9. Evidence not in your official records should be submitted to the Board before hearing date. Review Boards do not locate witnesses nor do they secure evidence for applicants. Legal briefs or counsel submissions should also be submitted in advance of hearing date. Documents that may be helpful are statements, affidavits, and depositions such as: character references; police clearances; educational achievement; exemplary post-service conduct; medical reports; employment record; verification of alcoholism or drug abuse; award of Department of Labor Exemplary Rehabilitation Certificate; explanation of disciplinary problem or discharge problem; brief of counsel arguing error or injustice. Witnesses may appear in person at no cost to the Government.

Item 10. If you state on your application that you will appear before the Board in person and fail to do so without previous satisfactory arrangements with the Board, such failure will be considered as a waiver of appearance and your case will be reviewed on the evidence contained in your military record.

AIR FORCE, NAVY, AND MARINE CORPS: The Discharge Review Boards meet daily in Washington, D.C., for personal appearance hearings and documentary reviews. If you request a review based on records only or a hearing in Washington, DC, your case will be scheduled there at the earliest date possible. Personal appearance hearings are also scheduled before the Traveling Boards in various cities throughout the 48 contiguous states as the population of requests on hand requires. If you ask for a hearing before the Traveling Board, it will be scheduled after your case is prepared and when the Traveling Board is next in your area. You will ordinarily not have to travel more than 300 miles for your hearing.

ARMY: Panels of the Review Board meet daily in Washington, DC and other locations and on an irregularly scheduled basis at major cities and other smaller metropolitan areas of the U.S. at least once each year. You may appear before the Board in Washington, DC, or in front of a Traveling Panel elsewhere in the U.S. or you may also appear in front of a Hearing Examiner who will video tape testimony for presentation to the Board in Washington, DC. For Hearing Examiners you must be accompanied by counsel or representative. Normally ex-Army members will not have to travel in excess of 200 miles if you are heard by a Traveling Panel or Hearing Examiner. Generally speaking, scheduled cases are heard as follows: (1) Personal Appearance, Washington, DC, within six months; (2) Personal Appearance by Traveling Panel or Hearing Examiner, within twelve months; (3) Representation by counsel or other person/organization only at Washington, DC, within three months; and (4) Without personal appearance or representation, review based on military records and documents submitted by applicant, within 30 days.

Block 11. The services do not provide counsel, representation, or evidence for applicant, nor do they defray cost of such under any circumstances. However, certain agencies recognized by the VA, some state, county, and city organizations, private organizations, and some schools of law do provide assistance in presenting your appeal. If you wish to be assisted, you are responsible for obtaining representation and may:

a. Obtain a lawyer at your own expense.

b. Contact an appropriate state, county, city, private or law school organization.

c. Obtain representation from any other agency or individual who is willing to assist you.

d. Select one of the following organizations which regularly furnish representation at no charge to you. Representatives may or may not be lawyers.

(1) American Red Cross
(2) American Legion
(3) Disabled American Veterans
(4) Jewish War Veterans of the U.S.A.
(5) Veterans of Foreign Wars

An appearance by your representative will not be scheduled in your absence unless your representative requests it. In this event, if a. or c. apply, power of attorney is mandatory.

V 4 4 / 8 3 A P 2 7 7 9 UMI

APPLICATION FOR CORRECTION OF MILITARY OR NAVAL RECORD UNDER THE PROVISIONS OF TITLE 10, U.S. CODE, SEC. 1552

(See instructions on reverse side BEFORE completing application.)

Form Approved - Office of Mgmt & Budget No. 22-R0009

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: Title 10, U.S. Code 1552, Executive Order 9397, 22 Nov 43 (SSN)
PRINCIPAL PURPOSE: To apply for correction of a military or naval record.
ROUTINE USES: To docket a case. Reviewed by board members to determine relief sought. To determine qualification to apply to board. To compare facts present with evidence in the record.
DISCLOSURE: Voluntary. If information is not furnished, applicant may not secure benefits from the Board.

BRANCH OF SERVICE ☐ ARMY ☐ NAVY ☐ AIR FORCE ☐ MARINE CORPS ☐ COAST GUARD

1. NAME *(Last, first, middle initial) (Please print)*	2. PRESENT RATE, GRADE	3. SERVICE NUMBER	4. SOCIAL SECURITY NUMBER

5. TYPE OF DISCHARGE *(If by court-martial, state type of court.)*	6. PRESENT STATUS, IF ANY, WITH RESPECT TO THE ARMED SERVICES *(Active duty, retired, Reserve, etc.)*	7. DATE OF DISCHARGE OR RELEASE FROM ACTIVE DUTY

8. ORGANIZATION AT TIME OF ALLEGED ERROR IN RECORD

9. I DESIRE TO APPEAR BEFORE THE BOARD IN WASHINGTON, D.C. *(No expense to the Government)* ☐ YES ☐ NO

10. NAME AND ADDRESS OF COUNSEL *(If any)*

11. I REQUEST THE FOLLOWING CORRECTION OF ERROR OR INJUSTICE.

12. I BELIEVE THE RECORD TO BE IN ERROR OR UNJUST IN THE FOLLOWING PARTICULARS.

13. IN SUPPORT OF THIS APPLICATION I SUBMIT AS EVIDENCE THE FOLLOWING *(If Veterans Administration records are pertinent to your case, give Regional Office location and Claim Number.)*

14. a. THE DATE OF THE DISCOVERY OF THE ALLEGED ERROR OR INJUSTICE WAS _____. b. IF MORE THAN THREE YEARS SINCE THE ALLEGED ERROR OR INJUSTICE WAS DISCOVERED, STATE WHY THE BOARD SHOULD FIND IT IN THE INTEREST OF JUSTICE TO CONSIDER THIS APPLICATION.

15. APPLICANT MUST SIGN IN THE SPACE PROVIDED. IF THE RECORD IN QUESTION IS THAT OF A PERSON WHO IS DECEASED OR INCOMPETENT, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY APPLICATION. IF APPLICATION IS SIGNED BY SPOUSE, WIDOW OR WIDOWER, NEXT OF KIN OR LEGAL REPRESENTATIVE, INDICATE RELATIONSHIP OR STATUS IN APPROPRIATE BOX. ☐ SPOUSE ☐ WIDOW ☐ WIDOWER ☐ NEXT OF KIN ☐ LEGAL REP ☐ OTHER *(Specify)* _____

16. I MAKE THE FOREGOING STATEMENTS, AS PART OF MY CLAIM, WITH FULL KNOWLEDGE OF THE PENALTIES INVOLVED FOR WILFULLY MAKING A FALSE STATEMENT OR CLAIM. *(U. S. Code, Title 18, Sec. 287, 1001, provides a penalty of not more than $10,000 fine or not more than 5 years imprisonment or both.)*

17. COMPLETE ADDRESS, INCLUDING ZIP CODE *(Applicant should forward notification of all changes of address)*

DOCUMENT NUMBER *(DO NOT WRITE IN THIS SPACE)*

18. DATE

19. SIGNATURE *(Applicant must sign here.)*

DD FORM 1 FEB 78 149 EDITION OF 1 APR 59 IS OBSOLETE AND REPLACES DD FORM 149, PRIVACY ACT STATEMENT, 26 SEP 75, WHICH IS OBSOLETE.

E-3-2

INSTRUCTIONS

1. For detailed information see:
   - Air Force Regulation 31-3
   - Army Regulations 15-185
   - Coast Guard, Code of Federal Regulations Title 33, Part 52
   - Navy, NAVEXOS P-473, as revised
2. Submit original only of this form.
3. Complete all items. If the question is not applicable, mark—"None".
4. If space is insufficient, use "Remarks" or attach additional sheet if necessary.
5. Various veterans and service organizations furnish counsel without charge. These organizations prefer that arrangements for representation be made through local posts or chapters.
6. List all attachments or inclosures.
7. ITEMS 9 and 10. Personal appearance of you and your witnesses or representation by counsel is not required to insure full and impartial consideration of applications. Appearances and representations are permitted, at no expense to the Government when a hearing is authorized.
8. ITEM 11. State the specific correction of record desired.
9. ITEM 12. In order to justify correction of a military or naval record, it is necessary for you to show to the satisfaction of the Board, or it must otherwise satisfactorily appear, that the alleged entry or omission in the record was in error or unjust. Evidence may include affidavits or signed testimony of witnesses, executed under oath, and a brief of arguments supporting application. All evidence not already included in your record must be submitted by you. The responsibility for securing new evidence rests with you.
10. ITEM 14. 10 U.S.C. 1552b provides that no correction may be made unless request is made within three years after the discovery of the error or injustice, but that the Board may excuse failure to file within three years after discovery if it finds it to be in the interest of justice.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW

ARMY	NAVY AND MARINE CORPS	COAST GUARD	AIR FORCE
(For Active Duty Personnel) Army Board for Correction of Military Records Department of the Army Washington, D.C. 20310 *(For Other than Active Duty Personnel)* CO, USAREPAC 9700 Page Blvd. St. Louis, MO. 63132	Board for Correction of Naval Records Department of the Navy Washington, D.C. 20370	U.S. Coast Guard ATTN: Senior Member Board for Correction of Coast Guard Records Washington, D.C. 20591	USAFMPC/DPMDOA1 Randolph AFB, Tex. 78148

REMARKS *(Applicant has exhausted all administrative channels in seeking this correction and has been counseled by a representative of his/her servicing military personnel office. (Applicable only to active duty and reserve personnel.))*

UNITED STATES ARMY
DISCHARGE REVIEW BOARD
CASE REPORT AND DIRECTIVE

Case #:

Case Report and Directive Documenation
☐ Original ☐ PL 95-126 ☐ Preliminary ☐ Final ☐ Addendum
☐ 2d Regular Review ☐ 3d Regular Review

PART I
APPLICATION DATA

Name:	SSN/ASN:	Address:
		Phone:
Counsel/Rep: Orgn: Name:		Address: Phone:
Next-of-kin: Surv Spouse: Legal Rep:		Address: Phone:

Type Disch	Date Disch	Auth	Reason for Discharge:

Type Application
☐ Regular ☐ Review (BD) ☐ Review (SP)
☐ Rehear ☐ Review (VA) ☐ SDRP

Requests
☐ Hon ☐ Gen ☐ Mod ☐ Affirm

PART II
PERSONAL HISTORY DATA

☐ Enl ☐ Renl ☐ Ind Date ____ Period	Date of Last Dischary Rev	Previous Serv ( )Yrs( )Mos Current Serv ( )Yrs( )Mos	Waiver ☐ Med ☐ Min ☐ Mor ☐ Men Time Lost	Highest Grd Current Prd

Date of Birth	Age at Entry First	Age at Entry Last	Civ Education Level Entry	Civ Education Level Discharge	Aptitude Data AFQT	Aptitude Data Mental	Aptitude Data GT	Aptitude Data Cat

PART III
SERVICE HISTORY DATA
SECTION A
UCMJ & DISCIPLINARY DATA

Art 15	DATE	OFFENSE	DATE	OFFENSE
SUMCT				
SPCM				
GCM				

OSA Form 172, 1 Feb 78

E-3-3

CASE #:

SECTION B
TIME LOST DATA

STATUS	TIMES	DAYS	STATUS	TIMES	DAYS	COMMENTS
AWOL			Conf Civ Auth			
DFR			Excess Leave			
Conf Mil Auth			Total			

SECTION C
CONDUCT AND EFFICIENCY

C	E	From	To	C	E	From	To	C	E	From	To

SECTION D
AWARDS AND DECORATIONS

VALOR Type	VALOR Location	MERIT Type	MERIT Location	FOREIGN Type	FOREIGN Location

SECTION E
TRNG, REHAB & ADMIN DATA

	Yes	No	NA		Yes	No	NA		Yes	No	NA
Compl BCT				Asgt Perm Unit				Disch fm DB/RB			
Compl AIT				Asgd in Pmos				Asgd USARB/CTF			
Enl Opt Satis				Disch fm O/S Cmd				Asgd USDB			
Enl Opt Waived				Disch fm Unit				Compl USARB/CTF			
Enl Opt Dis				Disch fm PCF/SPD				Drug/Alcohol Reh			

SECTION F
MEDICAL, LEGAL AND SEPARATION DATA

	Yes	No	NA		Yes	No	NA		Yes	No	NA
NP Ment Sta Evl				Couns for Consult				Order in File			
Entry Physical				Counsel for Repr				Agrees w/oth Dr			
Separation Phy				GCM SJA Review				Decline Sep/Rsn			
Pre-Ent Dat Md				Approve Auth Rev							

SECTION G
BACKGROUND DATA

	Yes	No	NA		Yes	No	NA		Yes	No	NA
Nil ROI				Reenl Bar				Civ Conviction			
FBI Rpt				Witness Statemnts				(basis for dis)			
Civ ROI				Clem Discharge							
ART 32 Invest				Alternate Svc				Other Pert Data			

SECTION H
ASSIGNMENT AND PERFORMANCE DATA

Last duty assignment in (CONUS) (Overseas)
Unit:
Duty MOS:

	Yes	No	NA
Wounded			
Demoted			
Subseq Promotion			
EERs in File			

Overseas Service

Location	From	To

SECTION I
PREVIOUS SERVICE

From	To	Type Dischg

OSA Form 172, 1 Feb 78

E-3-4

V 4 4 / 8 3 A P 2 7 7 9 UMI

CASE #:

Analyst's and Prereview Officer's (PRO) assessment of the military record and of information from the applicant/counsel/representative; and PRO and ADRB Panel evaluation of the assessments with changes as appropriate.

DISCHARGE BASIS: ( )

SECTION J
APPLICABLE CRITERIA/PROPRIETY
Analyst/PRO Enter Appropriate Index No(s)

		ISSUES				
		ANAL	PRO		PANEL	
			Yes	No	Yes	No
(A01.00)	Elements Common All Discharges					
(A02.00)	Elements Common When SM has Right to Board					
(A03.00) to (A34.00)	Specific Elements Pertaining to Rsn for Disc					
(A85.00) to (A89.00)	Policy Changes Specifically Retroactive					

SECTION K
APPLICABLE CRITERIA/EQUITY
PRO only Enter Appropriate Index No(s)

		ISSUES		
		PRO	PANEL	
			Yes	No
(A90.00)	Procedural Changes not made Retroactive			
(A91.00)	Policy Changes not made Retroactive			
(A92.00)	Quality of Service			
(A93.00)	Capability to Serve			
(A94.00)	Other Equitable Consideration			
(A99.00)	Admin Action Indirectly Related to Discharge			

Analyst/PRO Comment(s):

DSA Form 172 (Revised Section J and K), 16 Oct 78

E-3-5

CASE #:

PART IV
PREHEARING REVIEW
SECTION A
HE AND/OR PREREVIEW OFFICER EVALUATION

1. Part III, Section J:

2. Part III, Section K:

3. Overall Assessment:

4. Referred to (Med) (JAG) for:

SECTION B
MEDICAL PREHEARING COMMENTS

SECTION C
LEGAL PREHEARING COMMENTS

DSA Form 172, 1 Feb 78

E-3-6

V 4 4 / 8 3 A P 2 7 7 9 UMI

V 4 4 / 8 3

CASE #:

PART V
SUMMARY OF HEARING

SECTION A
ADMINISTRATIVE DATA

Type of Hearing		Hearing Date	Appearance by	
			Applicant	Counsel
☐ Records	☐ Hearing Ex		☐ Yes	☐ Yes
☐ Personal	☐ Travel Pnl		☐ No	☐ No
☐ Coun/Rep	☐ Other____		☐ NA	☐ NA

SECTION B
SUMMARY OF OPENING REMARKS

OSA Form 172, 1 Feb 78

E-3-7

CASE #:

PART VI
CONTENTIONS AND ISSUES
(FACT, LAW, DISCRETION)

SECTION A
APPLICANT'S CONTENTIONS-BOARD FINDINGS

CONTENTIONS:

FINDINGS:

SECTION B
BOARD ISSUES-BOARD FINDINGS

ISSUES:

FINDINGS:

SECTION C
PRESIDING OFFICER'S COMMENTS

1. CASE PROBLEMS:

2. REJECTION OF PART III, SECTION J AND K, ISSUES:

OSA Form 172, 1 Feb 78

E-3-8

A P 2 7 7 9 UMI

V 4 4 / 8 3 A P 2 7 7 9 UMI

CASE #:

PART VII
BOARD ACTION
SECTION A
REMARKS

☐ Defer (see tab) ☐ Minority Report (see tab)
☐ Congressional (see tab) ☐ Review Panel Report (see tab)
☐ Continuance (see tab) ☐ INFORM:
☐ Ret w/o Action (see tab) ☐ Appl ☐ Rep by denial ltr
☐ Refer to BCMR (see tab) ☐ Coun ☐ Other (see tab)

****

SECTION B
CONCLUSIONS

1. INITIAL DISCHARGE ☐ Proper ☐ Not Proper
☐ Equ'tbl ☐ Not Equ'tbl

2. UPGRADED DISCHARGE ☐ Affirm ☐ Not Affirm
☐ Prelim ☐ Prelim
☐ Final ☐ Final

3. APPEAL ☐ Granted ☐ Denied ☐ Modified
☐ In Full
☐ Partial

4. BASIS
☐ DoD Dir (AR 15-180)
☐ DoD-SDRP 4 Apr 77
☐ PM 19 Jan 77
☐ SoA DIRECTED
☐ SECT D, PART VII, ADDENDUM RATIONALE

5. NONE ☐ See Remarks, Sect A

****

SECTION C
RATIONALE

a. Majority:

b. Minority and if formal Minority Report is not submitted:

c. Full Relief Denied Because (if appropriate):

OSA Form 172, 1 Feb 78

E-3-9

CASE #:

SECTION D—DECISION

1. ISSUE: ☐ DD 214 and Discharge Certificate as follows:
☐ HONORABLE ☐ GENERAL ☐ AR_____ ☐ SPD_____
☐ REMARKS:

2. ISSUE: ☐ DD 215 changing DD 214 as follows:
☐ AUTH: AR _____ ☐ REASON: SPD _____
☐ REMARKS: ☐ Disch reviewed UP PL 95-126 and a determination made that change in characterization of service is warranted by DoD Directive.
☐ Disch reviewed UP PL 95-126 and a determination made that characterization of service was warranted UP ☐ PM 19 Jan 77 ☐ DoD-SDRP 4 Apr 77
☐ Reviewed under standards of DoD Dir and previous Board action affirmed.

SECTION E—VOTE

	APPEAL				REVIEW		SECTION F AUTHENTICATION
	GRANTED					NOT	SECRETARY/RECORDER ASS'T
RANK NAME	HON	UHC	DENIED	MOD'Y	AFFIRM	AFFIRM	
							ALT SECRETARY/RECORDER
							PRESIDING OFFICER
PO							

PART VIII—DIRECTIVE

To: THE ADJUTANT GENERAL DATE:

The Army Discharge Review Board established under the provisions of Section 30, Public Law 346, 78th Congress, approved 22 June 1944 as codified in 10 U.S.C., Section 1553, in the case of the applicant named in Part I finds, concludes, and decides as indicated in Part VII of this document.

As authorized by the Secretary of the Army, it is directed that the actions specified in Part VII be executed and that the applicant, or next-of-kin, legal guardian, or other acting in the name of the applicant and the counsel or representative for the applicant, if appropriate, be so informed.

The Board's action in consideration of the listed contentions and issues are unique to this case.

Signature of Secretary/Recorder	Signature of President of the Board
s/V. C. Gomez LTC Sec/Rec ADRB	s/William E. Weber COL President ADRB

****

EXHIBITS
A - ORDER APPOINTING BOARD
B - APPL FOR REV OF DISCH
C - AFF., DEP.,STMTS BY/FOR APPL
D - INSTRUCTIONAL LETTER APPLICANT
E - SCHEDULE LTR TO APPLICANT
F - OTHER
G - OTHER

INDEX REFERENCE NUMBERS

OSA Form 172, 10 Oct 78

E-3-10

UNITED STATES ARMY
DISCHARGE REVIEW BOARD
CASE REPORT AND DIRECTIVE

Case #

Addendum to OSA Form 172, Discharge Review Board Case Report and Directive, dated

****

PART I
APPLICATION DATA

Name	SSN/ASN	Address:
		Phone:
Counsel/Rep Orgn: Name:		Address: Phone:
Next-of-kin Surv Spouse: Legal Rep:		Address: Phone:
Type Disch / Date Disch / Auth		Reason for Discharge:
Type Application ☐ Regular ☐ Review (BD) ☐ Review (SP) ☐ Rehear ☐ Review (VA) ☐ SDRP		Requests ☐ Hon ☐ Gen ☐ Mod ☐ Affirm

****

PART II
PERSONAL HISTORY DATA (ABBREVIATED) (See Basic 172)

Date of Last Discharge Review:

****

PART III
SERVICE HISTORY DATA (See Basic 172)

****

PART IV
PREHEARING REVIEW (See Basic 172)

****

PART V
SUMMARY OF HEARING (See Basic 172)

Date of Hearing:

****

PART VI
CONTENTIONS AND ISSUES (FACT, LAW, DISCRETION) (See Basic 172)

****

PART VII
BOARD ACTION

SECTION A
REMARKS (See Basic 172)

SECTION B
CONCLUSION (See Basic 172)

2. Upgraded Discharge
☐ Affirm ☐ Final 4. BASIS ☐ DOD DIR (AR 15 - 180)

SECTION C
RATIONALE (See Basic 172)

The Board considered the previous findings, conclusions and rationale and found no reason to deviate therefrom. The Board affirms the discharge awarded under DOD SDRP.

(4 - 78) SDRP ADDENDUM

E-3-12

UNITED STATES ARMY
DISCHARGE REVIEW BOARD
CASE REPORT AND DIRECTIVE

Case #

Case Report and Directive Documenation
☐ Original ☐ PL 95-126 ☐ Preliminary ☐ Final ☐ Addendum
☐ 2d Regular Review ☐ 3d Regular Review

****

PART I
APPLICATION DATA

Name	SSN/ASN	Address:
		Phone:
Counsel/Rep Orgn: Name:		Address: Phone:
Next-of-kin Surv Spouse: Legal Rep:		Address: Phone:
Type Disch / Date Disch / Auth		Reason for Discharge:
Type Application ☐ Regular ☐ Review (BD) ☐ Review (SP) ☐ Rehear ☐ Review (VA) ☐ SDRP		Requests ☐ Hon ☐ Gen ☐ Mod ☐ Affirm

****

PART II
PERSONAL HISTORY DATA

(ABBREVIATED) SEE BASIC OSA 172

Date of Last Discharge Review

****

PART III
SERVICE HISTORY DATA

SEE BASIC OSA 172

****

PART IV
PREHEARING REVIEW

SECTION A
HE AND/OR PREREVIEW OFFICER EVALUATION

1. Part III, Section J

2. Part III, Section K

OSA Form 172, LONG ADDENDUM, 5-78

E-3-13

V44/83 AP 27 79 UMI

V 4 4 / 8 3

CASE #:

PART IV
PREHEARING REVIEW
SECTION A
HE AND/OR PREREVIEW OFFICER EVALUATION

3. Overall Assessment

4. Referred to (Med) (JAG)
for:

****

SECTION B
MEDICAL PREHEARING COMMENTS

****

SECTION C
LEGAL PREHEARING COMMENTS

****

PART V
SUMMARY OF HEARING
SECTION A
ADMINISTRATIVE DATA

Type of Hearing		Hearing Date	Appearance by	
			Applicant	Counsel
☐ Records	☐ Hearing Ex		☐ Yes	☐ Yes
☐ Personal	☐ Travel Pnl		☐ No	☐ No
☐ Coun/Rep	☐ Other		☐ NA	☐ NA

****

SECTION B
SUMMARY OF OPENING REMARKS

DSA FORM 172, LOIS ADDENDUM, 5-73

BILLING CODE 3710-08-C

E-3-14

Annex E-4.—References

ALIENS

Regulation	Dated
AR615-360	20 Jul 44
AR615-300	10 Aug 44
AR615-366	21 Oct 44
AR615-365	15 Dec 44
AR635-205	9 Dec 54
AR635-200	15 Jul 66
AR635-200	1 Feb 78

RESIGNATION OF EM

AR615-367	13 Sep 48
AR615-367	27 Sep 48
AR635-200	and Laird Memo 7 Jul 71, 15 Jul 66
AR635-200	1 Feb 78

RESIGNATION OF OFFICERS

AR605-275	20 Oct 25
AR605-275	30 Oct 26
AR605-275	25 Sep 28
AR605-275	9 Nov 44
AR605-275	27 Jun 49
SR605-290-1	12 Aug 49
SR605-290-1	17 Jun 52
AR635-120	8 Oct 54
AR635-120	25 Nov 55
AR635-120	8 Apr 68

ELIMINATION OF OFFICERS

AR635-105A	2 Jan 57
AR635-105B	2 Jan 58
AR735-173	31 Mar 61
AR635-120	8 Apr 68

DISCHARGE FROM THE RESERVES

SR140-177-1	29 Sep 49
SR140-177-1	24 Nov 52
AR140-158	15 Jan 55
AR140-175	24 Feb 55
AR135-133	8 Jun 56
AR140-178	14 May 57
AR135-178	29 May 66
AR135-178	15 Jul 77
AR635-200	1 Feb 78

UNFIT-FREQ. INCIDENTS, SEXUAL PERVERSION, DRUGS, SHIRKING, FAILURE TO PAY JUST DEBTS, FAILURE TO SUPPORT DEPENDENTS, HOMO ACTS

AR615-360	6 Dec 22
AR615-360	14 Sep 27
AR615-360	4 Apr 35
AR615-360	26 Nov 42
AR615-360	25 May 44
AR615-368	20 Jul 44
AR615-368	7 Mar 45
AR615-368	14 May 47
AR615-368	27 Oct 48
AR635-208	21 May 57
AR635-208	8 Apr 59
AR615-360	1 Mar 66
AR635-212	15 Jul 66
AR635-200	15 Jul 66
AR635-200	1 Feb 78

UNSUIT-INAPTITUDE, PERSONALITY DISORDERS, APATHY, ALCHOHOLISM, HOMOSEXUALITY

AR615-360	6 Dec 22
AR615-368	20 Jul 44
DA MSG 477064	24 Dec 55
DA MSG 560806	25 Feb 55
AR735-209	17 Mar 55
DA CIR 635-11	4 Nov 55
DA CIR 635-2	19 Aug 57
AR635-209	8 Apr 59
AR635-212	15 Jul 66

DISLOYALTY AND SUBVERSION

SR600-200-1	10 Nov 48
AR615-366 (Sec VI-Reserves)	5 Feb 54
SR140-175-1 (Reserves)	9 Mar 54
AR604-10	29 Jul 55
AR604-10	15 May 57
AR635-200	15 Jul 66
AR604-10	15 Nov 69
AR604-10	21 Apr 75

HOMOSEXUALITY

AR615-360	7 Mar 45
AR615-368	12 Jan 50
AR600-443	21 Jan 55
AR635-89	18 Sep 58
AR635-89	15 Jul 66
AR635-212	15 Jul 66
AR635-200	1 Feb 78
AR 635-200	

MARRIAGE AND PREGNANCY

AR615-361	4 Nov 44
SR615-360-10	12 Jan 50
AR615-361	30 Aug 50
AR635-120	25 Nov 55
AR635-173	5 Dec 56
AR635-210	17 Feb 61
AR635-120	21 May 62
AR635-200	15 July 66
AR635-100	16 Apr 71
AR635-200	15 Jul 66
AR635-200	1 Feb 78

MINORITY AND HARDSHIP DISCHARGE

AR615-360	6 Dec 22
AR615-362	18 Oct 44
AR135-173	5 Dec 56
AR635-207	12 Jan 61
AR635-120	21 May 62
AR635-200	15 Jul 66
AR635-200	1 Feb 78

DISHONORABLE AND BAD CONDUCT DISCHARGE

AR615-364	27 Oct 48
AR635-200	15 Jul 66
AR635-200	1 Feb 78

CONVENIENCE OF THE GOVERNMENT

AR615-360	6 Dec 22
AR615-265	25 Oct 44
AR635-205	9 Dec 54
AR635-205	2 Apr 56
AR635-205	11 Jan 60
AR635-200	15 Jul 66
AR635-200	1 Feb 78

MISCONDUCT, CONVICTION BY CIVIL COURT

AR615-360	6 Dec 22
AR615-368	24 May 45
AR615-366	5 Feb 54
AR635-206	16 Jan 56
AR635-206	8 Apr 59
AR635-207	12 Jan 61
AR635-200	15 Jul 66
AR635-200	1 Feb 66

FRAUD ENTRY, AWOL AND DESERTION

AR615-300	6 Dec 22
AR615-366	24 May 45
AR615-366	5 Feb 54
AR635-206	16 Jan 50
AR635-206	8 Apr 58
AR635-207	12 Jan 61
AR635-206	15 Jul 66
AR635-200	1 Feb 78

Annex F-1.—President's Guidance.

1. Introduction. The purpose of these notes is to attempt to convey a broader understanding of the purpose of discharge review and to place into perspective the many facets which influence discharge review. The following paragraphs will attempt to explain both the philosophy and certain techniques that will make the duties of Discharge Review Panels of the Board more understandable and, hopefully, will convey the essence of the manner in which officers should see their roles as panel members performing their duties under Title 10 U.S.C. 1553 and in accordance with the uniform standards and procedures contained in DOD Directive 1332.28, and AR 15-180.

a. The review of discharges encompasses two entirely different time frames, that of the present, which may involve the presence of the applicant, and that of the past, which is represented only by documentation which may or may not be adequate to the needs of the panel. It is the juxtaposition of the two timeframes which makes discharge review a difficult task. Compounding the problem is the period of time that has elapsed and what this means in terms of the changes that have occurred both in the Army, society and in the applicant. On the one hand, the records present a person who demonstrably had difficulty with the military and who may or may not have been equitably separated at the time. You are also confronted with the possibility that the reason for which the individual was separated in the past can not now be justified in light of the changes that have occurred in the means by which the Army administers its personnel. On the other hand, you are confronted with an individual whose present status may or may not typify that of the average, productive, concerned American citizen. In between you will find categories that encompass a multiplicity of variations of these two extremes.

b. The greatest difficulty the panel faces, when adjudicating cases, is to strive for uniformity that is defensible and comprehensible to impartial observers who possess no expertise nor any reliable means of evaluating the way of life of the military. Concurrently, you must also satisfy yourself that the determinations made at the time of discharge are defensible and comprehensible when considered against the broad spectrum of the Army as a whole both at the time the discharge was awarded and on the date of review. In short, you must ask yourself—would the same results have pertained elsewhere in the Army at the time this person was discharged and would they pertain today across the entire spectrum of the Army? This is the most difficult question to resolve. To do

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so, each panel member must be completely impartial in evaluation of a case. Yet, at the same time, each panel member must attempt to project his/her thoughts to the installation and to the commander who made the decision at the time of discharge, and simultaneously to the person who was discharged. While contact between those two may have been absent, their relationship nevertheless existed and each panel member must understand this relationship and evaluate it if he/she is to be able to objectively evaluate the merits of the review.

c. It is important that panel members bear in mind their roles are not to justify the actions of the Army, nor are they to defend the applicant as if he/she is engaged in an adversary proceeding against the Army. Their roles are simply to uncover the truth, to interpret the truth, and then to judge! It is incumbent upon each panel member that he/she be as scrupulous as possible when looking for errors in the discharge proceedings as he/she is in looking for the correctness of the discharge proceedings. The panel member cannot assume that the applicant is sufficiently sophisticated nor learned so as to adequately comprehend what he/she perceives to be injustice in his/her case. In all probability, the applicant is no better prepared at the time of his review hearing to comprehend fully the impact of the proceedings that control his/her destiny then he/she was at the time of his/her discharge. However, there is one critical change in the applicant's attitude from that at the time of his/her discharge. It is most probable that, at the time of his/her discharge, he/she was not only amenable to the action taking place but also desired separation (and as is true in many cases, deserved separation). At the time of his/her review hearing, however, none of those aspects, particularly that in the parenthetical portion above, should be considered as binding. At the hearing, the applicant believes that he/she was wronged or that he/she is no longer deserving of being punished. He/she may perceive that there was equity in the manner in which he/she was discharged, but he/she does not believe that equity has prevailed as to the impact of his/her discharge.

d. It is necessary to take into consideration the trauma associated with the events that led up to an administrative discharge as "undesirable." This taruma is two-fold. On the one hand is the impact that the circumstances have on the individual concerned and his/her ability to reason his/her problem or to even perceive his/her problem. On the other hand, it is a problem faced by the Command (particularly, in those instances where the individual was in the hands of a Personnel Control facility or Special Processing Detachment), which had to process individuals whose records were absent and who, in all probability, were known by no one in the processing system. Even if the individual was processed by his/her own organization, assignment may have been short lived and the officers and NCO's of that organization may have had limited, if any, opportunity to become acquainted with the individual. The foregoing, coupled with institutional trauma suffered by the United States Army as a result of the turbulence created by the requirements of RVN, produced a situation in which the administrative discharge system, when at its best, was operating in an almost impersonal manner, and, when at its worst, was operating almost with assembly line procedures.

e. The foregoing is not intended to infer that regulations were not followed, nor that the rights of the individual were not considered; however, the experience of thousands of cases and the statistical pattern evidenced over the past ten years indicates that some personnel were discharged administratively from the U.S. Army by means which were either improper or inequitable, and while it is almost certain that these inadequacies could not be perceived at the time, in retrospect it is possible to perceive them as such now. In short, very careful consideration must be given by the discharge review panel to "read between the lines" of each case and attempt to determine whether or not the intent and spirit as well as the letter of regulation and the policies of administrative discharge were followed in the timeframe leading up to the discharge and the time of discharge.

f. The panel must endeavor, based on the knowledge and experience gained through years of service, to reconstruct the environment at separation. Impartiality must be the rule for each panel member. A clear, non-jaundiced, unprejudiced evaluation must be made, which favors neither the individual nor the government but which simply tries to fairly consider whether or not the actions that took place can now be justified with the benefit of hindsight. The board must strive for uniformity in its adjudicative deliberations. While circumstances can vary, there are certain parameters within which all types of cases fit and by which these various cases can be considered, so as to apply what might be called a "worldwide standard" for the consideration of discharge review appeals.

g. Presiding Officers must realize that their functions are to insure that cases are properly heard and properly considered. The Presiding Officer's guidance to the panel should not take on the guise of directed verdict nor should his seniority be applied either consciously or unconsciously to attempt to influence other members of the panel. This does not mean that the Presiding Officer may not use logic as a means of subduing emotional argument nor does it means that he/she should permit clearly irrelevant discussion to unnecessarily prolong the adjudicating process. However, it does mean that the Presiding Officer must insure that all panel members have a free and unrestricted opportunity to express their points of view when discussing the merits of a case. All panel members are equal during the adjudication of a case. The Presiding Officer must insure that no junior member of the panel is made to feel inhibited by the actions of the Presiding Officer or any other senior member of the panel. Points of view and expressions of compassionate concern must not be ridiculed nor must the individual expressing them be cut short in his discussion or argument as long as they are relevant to the merits of the case.

h. Each panel member must be given free opportunity to question the applicant, if such is indicated, although all panel members must remember that the proceedings are not adversary in nature, and that the range of cross-examination is clearly limited to those areas that appear in the military records or that have been offered by the applicant in direct examination or written statement. A basic credo is that benefit of doubt is always resolved in favor of the applicant, and the panel members must remember that it is incumbent upon them to recognize areas of doubt.

i. It has been the experience of the ADRB that applicants suffer from the misconception that the panel knows as much about their cases as they do. Consequently, the applicants fail to bring out in their statements those facts which are important to their cases and which may be favorable to their cases. Panel members with adequate background and experience are able through questioning to bring out these facts almost as counsel might do. In this regard, panel members must also appreciate that counsels are rarely, if ever, so thoroughly prepared on a case that they can insure that all facets are covered during direct or redirect examination of the applicant. Since the panel must function without acting as a proponent for the applicant or the government in the area of revealing facts, thorough questioning in each case is essential. Prehearing review by board members should include any briefs submitted by counsel as well as any supporting documentation submitted by the applicant. Even though this documentation may not make any particular reference to time-in-service and principally cover pre- and post-service, it is of value.

2. Discharge Review Standards (see Appendix C of AR 15–180). As established by law and regulation, it is the mission of the ADRB, when considering appeals, to determine whether or not the discharge was equitably and properly given. In accomplishing this mission, the panel must bear in mind that the passage of time, adequacy of records, and the circumstances under which the discharge occurred are such that it may not be possible to have available all facets of the case. It is for this reason that the panel is composed of mature and experienced officers, so that the panel, when necessary, can read between the lines in restructuring the events which led to separation and the actual circumstances of separation. The panel must at all times remain impartial and objective, although subjective reasoning may be necessary to satisfy all considerations that may arise. The panel must function neither as the proponent for the applicant nor the government. Broad guidance concerning propriety and equity is contained in Appendix C, AR 15–180. The examples shown below are meant to elaborate on the discussion contained in the AR and to provide the panel members leads regarding areas for consideration and questioning in their quest to establish propriety and equity for any case. These examples are not policy; procedural rights or guidance—only areas of consideration.

a. Propriety: A discharge shall be deemed to be proper, unless in the course of discharge review it is determined that there was prejudicial error. The following are some specific examples of the type of situations which may be helpful in determining whether the available evidence establishes that impropriety is a possibility in a particular discharge review area.

(1) Prejudicial error may be a possibility when:

(a) Unrebutted, clearly substantiated allegations of command influence are found by the ADRB in the record; or,

(b) The ADRB determines there was an intended violation of a regulation which required transfer, or some form of observation and counseling, prior to the initiation of discharge proceedings; or,

(c) The ADRB determines that the applicant was not specifically advised prior to a waiver of the applicant's rights to a hearing of the particular conduct on which the administrative separation was based, or otherwise adequately notified of such conduct by statements of witnesses or other evidence, or given full opportunity to rebut the adverse evidence against him/her.

(2) Prejudicial error may exist when the characterization of the service was based on a record which contained:

(a) An adverse action (e.g., non-judicial punishment or reprimand) which by service regulation should have been removed from the file; or,

(b) Evidence of pre-service conduct except where that pre-service conduct was a part of the basis for discharge, e.g., fraudulent entry because of undisclosed civil convictions.

(3) Prejudicial error may exist when the ADRB determines that compliance with the appropriate regulation required an entry in the service record of the individual and such entry is not present, if the missing entry was material to the separation process or the characterization of the service of the individual, and is not otherwise known.

(4) Prejudicial error may exist when the ADRB determines that an individual separated with a discharge under other than honorable conditions in lieu of trial by court-martial could not have been sentenced by a court-martial to a punitive discharge.

(5) Prejudicial error does not exist when in-service determinations of the applicant's eligibility for discharge based on conscientious objection hardship/dependency discharge, or medical discharge were resolved unfavorably even though the applicant contends these decisions were unjust. The impact of such determinations on the applicant's quality of service may be considered in determining the equity of the characterization of his/her service, however, if the ADRB considers that the decisions were too harsh or unjust.

(6) Prejudicial error shall not be based on Constitutional issues unless the ADRB determines that the Constitutional issue addresses an intrinsic element of the discharge process itself.

b. Equity: A discharge may be deemed to be equitable unless:

(1) In the course of a discharge review, it is determined that the policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on an Army-wise basis to discharges of the type under consideration, provided that:

(a) current policies or procedures represent a substantial enhancement of the rights afforded a respondent in such proceedings; and

(b) there is a substantial doubt that the applicant would have received the same discharge if relevant current policies and procedures had been available to the applicant at the time of the discharge proceedings under consideration; or,

(2) At the time of issuance, the discharge was inconsistent with standards of discipline in the Army; or,

(3) In the course of a discharge review, it is determined that relief is warranted based upon consideration of the applicant's service record and other evidence presented to the ADRB viewed in conjunction with the factors listed in this subparagraph and the regulations under which the applicant was discharged, even though the discharge was determined to have been otherwise equitable and proper at the time of issuance. Areas of consideration include, but are not limited to:

(a) Quality of Service, as evidenced by factors such as:

1. Service history, including date of enlistment, period of enlistment, highest rank achieved, conduct of efficiency ratings (numerical or narrative).

2. Awards and decorations.

3. Letters of commendation or reprimand.

4. Combat service.

5. Wounds received in action.

6. Level of responsibility at which the applicant served.

7. Other acts of merit that may not have resulted in formal recognition through an award or commendation.

8. Length of service during the service period which is the subject of the discharge review.

9. Prior military service and type of discharge received or outstanding post-service conduct to the extent that such matters provide a basis for a more thorough understanding of the performance of the applicant during the period of service which is the subject of the discharge review.

10. Convictions by court-martial.

11. Record of non-judicial punishment.

12. Convictions by civil authorities while a member of the Army, reflected in the discharge proceedings or otherwise noted in the service records.

13. Record of periods of unauthorized absence.

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14. Records relating to a discharge in lieu of court-martial.

(b) Capability to serve, as evidenced by factors such as:

1. Total capabilities. This includes an evaluation of matters such as age, educational level, and aptitude scores. Consideration may also be given to whether the individual met normal military standards of acceptability for military service and similar indicators of an individual's ability to serve satisfactorily, as well as ability to adjust to the Army.

2. Family/Personal Problems. This includes matters in extenuation or mitigation of the reason for discharge that may have affected the applicant's ability to serve satisfactorily.

3. Arbitrary or Capricious Actions. This includes actions by individuals in authority which constitute a clear abuse of such authority and which contributed to the decision to discharge or to the characterization of service.

4. Discrimination. This includes unauthorized acts as documented by records or other evidence.

c. The following are some specific examples of situations which can be used in determining whether the available evidence establishes that inequity exists in a particular discharge review:

(1) Inequity may exist when it cannot be discerned from the military record and other evidence considered by the ADRB in reviews involving applicants separated for the reasons listed in (a) to (h) below, that the conduct upon which the separation was based had an adverse impact on the quality of the individual's service or on the state of discipline within the organization of which the individual was a member.

(a) Conviction by civil authorities.

(b) Frequent involvement of a discreditable nature with civil authorities.

(c) Sexual perversion.

(d) Drug addiction, habituation or the unauthorized use or possession of drugs (including chemicals) except when that use/possession was the basis for criminal charge for which the individual requested discharge in lieu of trail.

(e) An established pattern showing failure to pay just debts.

(f) An established pattern showing dishonorable failure to contribute adequate support to dependents or failure to comply with orders, decrees, or judgments of civil courts concerning support of dependents.

(g) Unsanitary habits.

(h) Fraudulent enlistment.

(2) Inequity may be found to exist when the ADRB determines that it can be discerned from evidence of record that the command which discharged the individual in lieu of trial by court-martial with a discharge under other than honorable conditions clearly did not intend to dispose of the charges by reference to a court-martial empowered to adjudge a Bad Conduct Discharge had the individual not requested discharge.

3. Specific Areas for Consideration (not restrictive).

a. Post Service Conduct. The panel may take into consideration post-service circumstances of the applicant's life when reviewing appeals. Specific factors of unusual importance can be given consideration, but of greater value is the sum total of the manner in which the applicant has conducted himself since separation. By and of itself, post-service conduct of an outstanding nature is not enough to outweigh in-service conduct which clearly could not be tolerated by a military organization. However, if the panel can establish to its satisfaction that in-service conduct was not major in scope and represented an abnormality to the normal pattern of the individual's life, then outstanding post-service conduct can be given significant weight. It is the overall character of the applicant that is of importance, and it is in that determination of character that the panel may establish what weight it may give to post-service conduct.

b. Vietnam Syndrome. The panel may recognize that during the Vietnam era, young, easily influenced, and immature individuals may have been misled by the dissension in American society over Vietnam involvement. This susceptibility could possibly have been heightened upon their return from service in Vietnam, particularly when their ability to comprehend the purpose for their service in Vietnam was eroded by their inability to find understanding for such service among their peer group in civilian life. The panel may, subject to its own judgment, give consideration to the possibility that this element of confusion may have caused some ex-servicemen to express their uncertainly by infractions of discipline. When personnel of this type then elected to sever their relationship with the Army as opposed to accepting punishment or rehabilitation, the panel may conclude, if otherwise justified, that this might be due to ideological pressures. Care must be taken by the panel to insure that the Vietnam Syndrome is, indeed a factor in the case as opposed to cases wherein the individual was simply dissatisfied with military life and under any other circumstances would be a recalcitrant or noneffective soldier.

c. Institutional Discrimination. The panel must recognize that the application of discipline may not have been uniform throughout the entire spectrum of the Army for similar individuals committing similar types of offenses. The panel must also recognize that the "tolerance level" of commanders, at different installations, in different periods of time, and theaters of operation varied and punishment may not have been equally applied. The panel must attempt to accord uniformity in its review of cases. The panel may give consideration to the possibility that unintentional discrimination could have been a factor in the awarding of a discharge. This institutional discrimination could have resulted because of race, type of unit, mission of the unit, involvement or noninvolvement in combat operations, time and length of relationship between the commander and the members of the unit, and other variables inherent in a military structure. It is incumbent upon the panel to reconstruct the events so as to determine when, how, and if to give consideration to the aspect of institutional discrimination.

d. Application of Changing Social Mores. The panel must appreciate the relationship between society at large and the society of the Army. It is not always true that the change in morels of the nation will at some time be reflected in the code of the Army. Nonetheless, that there is an impact upon the members of the Army in the area of societal change is true. It is also true that this impact may have influenced soldiers to an extent where there was honest conflict in their minds between conformance within the Army and the conformance within their peer group and society at large. The fact that this conflict existed did not give a soldier license to viloate military standards, but it may have produced a situation in which a commander may have failed to understand and compensate for this conflict. No parameters can be drawn for the panel in this regard, but the panel must understand that precipitous action may have occurred in the commander/commanded relationship when, instead, understanding may have been a more appropriate alternative. The extent to which the panel considers this area is again a function of judgement. But of particular importance is the requirement that the panel distinguish between deliberate violation of military standards as opposed to unintentional failure to comply because of honest confusion.

e. Fraudulent Entry. The panel must be extremely cautious in this area so as not to assume that every instance of concealment of otherwise disqualifying factors for enlistment was perpetrated by deliberate intent to defraud the government. The panel must attempt to establish what the motivation of the applicant was at the time of enlistment and must give consideration to his/her conduct subsequent to enlistment. Of equal importance is the time of enlistment and the pressures that were present on the procurement system and what could have been at times a simple human failing of procurement personnel who were motivated to meet quotas. It is incumbent upon the panel to determine whether or not the fraud was concealed for the purpose of innocence or for the purpose of evil. Conduct subsequent to entry must be a major consideration in this area.

f. Drugs.

(1) Laird Policy. The Laird Memorandum is the basis for this area. When drugs are a principal element in the discharge process, it is incumbent upon the panel to attempt to determine whether or not the involvement of drugs was the proximate cause or effect of other disciplinary problems which contributed towards discharge. The panel must also consider the impact of peer pressure in the drug use area and as well the degree of tolerance exhibited by the commander. The nature of the drugs used as well as the differentiation between experimenters, abusers, and addicts must be weighed by the panel.

(2) Post Laird. The basis for this area is the current drug amnesty and rehabilitation policy. Panel members must appreciate that post RVN entrants to the Army have benefited from understanding policy pertaining to drugs. The compassionate consideration elements inherent in pre-Laird reviews may not be proper for recent cases. Individuals who knowingly and deliberately violate policy may properly be expected to bear responsibility for such.

g. Outside Pressures. This is a difficult area to enunciate since regulatory procedures have accommodated outside pressures that made it difficult for a soldier to concentrate exclusively on military duties. Hardship discharge and compassionate reassignment provisions were available to soldiers that had need of such assistance. However, in some cases the pressure of the Vietnam era, as most wartime, was sufficiently traumatic so as to make it administratively difficult for soldiers to avail themselves of these provisions. Also, the junior leadership of the Army may not have been completely aware of the means by which they should have assisted soldiers to avail themselves of these provisions. This, coupled with the perception on the part of many soldiers that the burden of wartime conflict is unequally borne, may have led some to mistakenly assume that the choice between family and service left them no choice at all but that of the family. Again as in other areas, the panel must establish to its own satisfaction whether or not violations were deliberate, without regard to any other methods for solution, or whether they were unintentional because of frustration at being unable to effectively apply any other alternative solution.

h. Character and Behavior versus Habits and Traits. Often the line of demarcation between separation for character and behavior disorders (honorable type discharge) and separation for habits and traits (usually under other than honorable conditions) is not clearly discernible. Many times the decision to board as "unfit" versus "unsuitable" was more influenced by external circumstances than it was by the character and personality of the individual being separated. The panel in considering whether or not the proper method was used in separating the individual from the service must examine the cause/effect relationship, the individual's behavioral capabilities, and his behavioral pattern. In essence, the panel must ascertain whether or not the infractions of discipline were acts of commission or of omission. A key is to decide whether or not the individual was simply incapable of proper performance. Coupled with this, must be a determination as to the nature of the offense and the time/space circumstances under which the offense was committed.

i. Would but Couldn't; Could but Wouldn't. This area of consideration relates very closely to the preceding paragraph. Some individuals are error prone, others clearly were mistakes of the procurement process and should never have been inducted or enlisted into the Army. These individuals could properly be called victimes of the trauma associated with attempting to meet critical personnel requirments during RVN within the political, economic, and social constraints that detracted from efficient operation. It is inevitable that some would have had difficulty with the military system. Key to consideration of their cases is the determination as to whether or not they were sincerely trying to conform versus whether or not there was deliberate intent not to conform. The panel may grant relief if, in its opinion, there was intent but no ability to be a good soldier.

j. Homosexuality. Individuals whose sexual desires are so oriented are clearly unfit for a military environment. They are unfit not so much from the standpoint of not being able to adequately perform their military duties, but because their impact on military society is so traumatic. Many times such individuals are otherwise exemplary soldiers. Nonetheless, the panel in considering appeals from individuals separated by reason of homosexuality must affirm Army regulations in this area. However, the panel must insure that it was compliance with the regulations which produced the character of discharge and not the emotions generated in the command because of the nature of the offense. Of equal importance, the panel must give consideration to the manner in which the behavior of the individual concerned was brought to the attention of the command. As an example, those individuals whose homosexuality becomes known because they have sought help must clearly be separated, but the nature of their separation should not be a punishment.

k. Retroactive Application. As with the alcoholic and the Laird policy regarding drugs, the panel may, when justified, apply the foregoing areas of consideration even though regulations at the time of separation may not have permitted such consideration. However, this retroactive application is limited to those areas in which changes to Army Regulations or standards resulted from an attempt to correct past practices which were clearly prejudicial.

l. Arbitrary and Capricious Administrative or Command Action. It is sometimes very difficult when reviewing the official military records to separate the fair from the unfair. Compliance with both the spirit and intent of the regulation is a necessary prerequisite to a fair and equitable processing of administrative or command action. Too frequently, it is clear from the timing, the presence or absence of comments, and other facts that the administrative processing was simply "by rote" or accomplished in such a way as to be prejudicial to the opportunity for fair consideration. The circumstances rarely lend themselves to clear perception since it is in their nature that they are concealed simply because of the appearance of "normality". It is incumbent upon board members to insure that arbitrary and capricious action has not been the net result of simple "by rote" processing of administrative separation documents. Furthermore, it is incumbent upon board members to insure that arbitrary and

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capricious action has not been the basis of determining that the discharge is to be awarded and, more importantly, determining the character of that discharge. When in the opinion of a board member it is demonstrably clear that arbitrary and capricious determination is in fact a circumstance of the administrative and command action, then relief must be given serious consideration.

m. Multiple Minor Offenses. There are circumstances and cases in which board members will find that a series of insignificant minor offenses have been used to justify initiation of board action more properly suited to the resolution of serious disciplinary problems. This is particularly true when a series of minor offenses suggest that they are precipitated by a personality conflict or in many cases just plain inability to comprehend on the part of the offender. In certain units individuals in commission of such offenses tend to be an irritant to the commander and a "case" is made to justify processing that individual administratively for separation. Since the basis upon which the process is initiated is the commission of disciplinary offenses, it can only be justified as an action of unfitness as opposed to one of unsuitability. Consequently, the action terminates normally in the individual being awarded an undesirable discharge when, in fact, the offenses for which separated would not justify such a characterization. Board members must insure that the listing of a multiplicity of offenses has not been done simply for the purpose of making a "case" but is, in fact, an honest and fair rendition of indicators that clearly establish that the perpetrator is "unfit" for service as opposed to manifestation of a character and behavior disorder which would be a basis for a determination of unsuitability. If any other conclusion can be drawn, then board members should give serious consideration to relief.

n. Stacking of Offenses to Justify BCD SPCM. As in the preceding discussion of multiple minor offenses, at times board members will find that a multiplicity of charges have been prepared based on a single incident. As an example, an individual will be charged with more than 3 but not more than 30 days AWOL, breaking restriction and with failure to repair at the same time. While it is true that all offenses were committed, it is clear that the more serious one of AWOL is the one in which consideration may justify special court-martial action. It is also clear that it is not wrong nor illegal to list the other charges for which the individual could be tried; but it is often clear from other action that the listing of these charges has been done deliberately to make the circumstances appear to be of a greater magnitude than they truly are. Board members must insure that they are not unduly and incorrectly influenced when it is apparent that "stacking" has occurred simply because there is a listing of a multiple of offenses associated with the same time period. It is incumbent upon board members to give consideration to the nature, seriousness, and circumstances under which the offenses occurred before they have a right to deduce that "stacking" may be a factor. Additionally, board members must consider whether the "stacking" was used to justify or support discharge processing or was simply added "window dressing".

o. Juxtaposition of Court-Martial Versus Board Action Processing. In some circumstances, board members will observe that there has been a processing of charge sheets and, simultaneously, requests for administrative board action on an individual soldier and that the same offense is used as a catalyst in both circumstances. By itself this is not in error. In short, it is perfectly permissible for a commander to process charge sheets involving an offense while at the same time using the commission of this offense as being indicative of the culmination of a pattern of bad performance on the part of an individual. However, if a court-martial has occurred and could have, but did not, adjudge a discharge, it is improper to use that offense as a catalyst for a Board Action. Board members must insure that there is a clear separation in the manner in which a single offense is used to justify two separate and distinct actions.

p. Pre-Laird Civilian Drug Bust. Many times cases will be presented to members in which the basis for undesirable discharge has been conviction or confinement by civilian authority for drug violation. If the civilian case for which the offender was convicted or confined is of a nature that had it been a military offense and "Laird" would have applied, then board members may apply Laird policy and grant relief. Care must be taken to thoroughly examine all cases of this type since many times, although the basis for separation is civil conviction or confinement, the nature of the offense committed may not justify an undesirable discharge.

q. Conviction or Confinement by Civil Authority. Board members must be conscious of the fact that action by civil authorities for similar offenses may not be uniform on a nationwide basis. Consideration must be given to idiosyncrasies of legal jurisdictions when they are contiguous to major military areas. If it is not clear that the conviction by itself justifies an undesirable discharge, then board members must be satisfied that the offense, if committed within the military environment, would have justified the UD. In absence of such justification, board members have a clear obligation to give consideration to upgrading.

r. Rehabilitation (other than for drugs). Cases are often seen in which the basis for discharge was failure of rehabilitation. This is frequently seen in administrative separation by the Retraining Brigade, (Correctional Training Facility) at Ft. Riley, Kansas. Whenever the commander has determined that correctional training or other rehabilitation is appropriate, he has clearly indicated that the offender deserves another chance. Having done so, clear evidence is required that the offender did, in fact, fail all proper and reasonable efforts at rehabilitation before an administrative separation with a UD is appropriate. While it is legally correct to use a few very minor infractions, together with all prior offenses, to attempt to justify a UD for failure of rehabilitation, serious questions must be asked as to the equity of such action. Board members must satisfy themselves that the separation was the justified course of action.

s. Legal, Regulatory or Procedural Error. In any case in which there can be clearly established that legal, regulatory, or procedural error exists (and such error is verified by the legal consultant), serious consideration must be given to granting relief. Essential to the evaluation process should be a view of facts that enable members to conclude the legal, regulatory, or procedural error was prejudicial to the applicant in either the separation process or characterization of discharge (see paragraph 2). A conclusion that the legal, regulatory, or procedural error may not have been prejudicial to the foregoing does not justify an absence of upgrading, nor does the mere presence of error demand upgrading unless that error is deemed prejudicial. All other factors must be evaluated in the context of the presumed error. In any event, care must be taken that a decision to upgrade or not to upgrade is suitable, specifically from a legal point of view and generally from a moral point of view.

t. Capability to Comprehend. Members must give consideration to the "person" of the individual involved and determine whether that individual was capable of comprehending the actions leading to separation and the impact of unfavorable separation on his future life. This does not mean that the simple absence of formal education by itself is cause to consider that an individual is not capable of comprehending administrative procedures applied against him or towards him under Army regulations. Even the uneducated and the undereducated can be made to understand, if the approach taken by those who are more sophisticated is that at the individual's level of comprehension. Members cannot always reconstruct the totality of the circumstances under which the applicant was handled, but based on experience we can reconstruct the basics of the environment in which the action occurred. Whether or not absence of understanding became prejudicial from the standpoint of separation action or characterization of discharge is a factor for consideration when looking at the case.

Members must satisfy themselves that personnel responsible for procedurally processing the individual were oriented towards enabling comprehension by the individual. If it can be concluded that the opposite pertained either deliberately or as a by product of environment, then consideration can be given to granting relief.

u. The Whole Man. The function of discharge review is theoretically limited to consideration of events that transpired from the day of entry into the service to the day of separation from the service. Consequently, documentation and data from those timeframes is adequate for determination of regulatory and procedural propriety. However, such are not necessarily adequate when attempting to read the human element into the equation, since it is evident that there is and was both a before, during and after to the period of military service, which involves human concern that may or may not be documented. This can have a distinct bearing on the conduct during service and ability to cope with service. During review it is incumbent upon members to attempt to establish an understanding of the human involved before endeavoring to objectively evaluate the propriety and equity of the separation process. In some respects, this understanding of the human involved can have a major bearing on paragraph i above.

v. Personality Disorder. Individuals who suffer from a personality disorder frequently are incapable and/or unwilling to conform to the standards necessary in a military organization. These individuals are often afflicted with and manifest characterlogical and behavioral traits which make them socially offensive and/or the objects of irritation, ridicule and/or anger. Under those circumstances, it is at time difficult for a clear perception to be gained whether or not the individual concerned is acting in a manner over which he/she has no control and is more a victim of his/her situation than a perpetrator. Individuals who truly have a character and behavior disorder (used interchangeably with personality disorder) should not be unjustly penalized for their affliction although they clearly must be separated.

(1) A determination as to whether or not an individual is properly classified as a character and behavior disorder is a function of two different spheres of expertise. On one hand, the medical sphere offers expert evaluation establishing whether or not the individual concerned has a personality disorder. On the other hand, there is the commander's evaluation which involves an area of expertise that centers around certain intangibles of leadership culminating in a judgment whether or not the individual concerned is capable of complying with soldierly standards. It is the interplay between these two spheres of expertise, each of which must be mutually supporting, that makes a final determination possible.

(2) Individuals who suffer from situational maladjustment or some form of stress and fatigue, such as combat fatigue or other similar situational syndromes, may appear to support the test of personality disorder but may, in fact, not be so afflicted. Care must be taken to insure that such individuals are not improperly categorized. The determination in this regard is heavily dependent upon the specific duty environment and circumstances that existed at the time the problem or problems which led to the soldier's separation manifested themselves.

(3) Certain prerequisites of processing must be evaluated by the panel to insure proper consideration of a C & B case. Under the policy in effect now, a psychiatric evaluation is mandatory. Equally important, though not mandatory, is a clear rendition of the perception of the commander of the problems faced by the individual. Absent these, panels must give serious consideration to the granting of relief. In this regard, relief can be interpreted as granting a fully honorable discharge.

w. Justifying Decision Not to Grant Full Relief. Under the provisions of "Urban Law Institute v. Secretary of Defense, U.S.D.C., C.A. No. 76-0530" as they are interpreted by the Army General Counsel, the Discharge Review Board is responsible for enunciating in sufficient detail a decision as to why full relief is not granted when only partial relief is granted on the discharge appeal. In substance, this means that when a panel determines that there is inherent to an appeal sufficient justification to upgrade from UD to General, but does not justify upgrading to Honorable, the following must be accomplished:

(1) In the Rationale paragraph, and in the findings for both contentions and/or issues, if applicable, a full explanation justifying changing the discharge from UD to General should appear.

(2) In addition, both in Rationale, and as appropriate, PO's notes, the reason why the panel decided not to go fully honorable must appear. This can be expressed in general terms but must be specific enough to enable the applicant to clearly understand why he was not provided full relief.

(3) In responding to this requirement, panels may make use, by reference thereto, of information that is already contained in the Case Report and Directive. For example, if in part III there are specifically enunciated offenses which were punished by Article 15, Special or Summary Courts-Martial, and as well, a specific listing of AWOL time and Conduct and Efficiency ratings, then reference can be made to these in the Rationale as being the basis on which a decision was made not to grant full honorable.

4. Summation.

a. As indicated previously, the areas of consideration in the foregoing are in no way intended to be all-encompassing factors to be considered by the panel in arriving at a decision. The panel, in the final analysis, must exercise common sense in reviewing cases and must not be overly influenced by any one factor. The panel must also consider the whole person in determining what is fair and proper. The panel is neither the proponent for the individual nor the government. But a basic element must always be present in the panel's action. This element can be simply stated as follows: Has the panel determined by the sum total of its consideration of the case that it has left no factors unconsidered which may justify granting complete or partial relief to the applicant? In doing this, the panel must always remember that it is not the intent of the administrative discharge system and the nature of discharge granted to do anything other than categorize the sum total of the individual's conduct during service. An administrative

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discharge is not intended as a form of punishment but is simply a technique by which the Army removes from its rolls those individuals who have demonstrated that they are not capable of serving effectively. Any administrative discharge which does more than intended by the foregoing is not proper and equitable.

b. All members must appreciate that our duty is to correct what may be improper or inequitable. This may at times place us in a position where we perceive an injustice exists, but our authority is limited to correct. These events are inevitable and while we may deplore our non-action we have no right to assume the authority of other agencies to correct that which is beyond the role of our Board. We do all a disservice if we exceed our limits. It is imperative that the credibility of the Board be inviolate—in all perceptions of what we do. Each perspective must reflect that we have done all, but only, what law has authorized!

c. Nothing in the foregoing is intended to make mandatory any specific consideration of any area by members or panels. Members may or may not weigh these areas as they determine they are appropriate. These areas of philosophical dissertation must not be abused so as to constitute a basis for challenge of the board's actions. No board member may cite these as rules for decision.

Annex G–1.—Procedural Guide To Conduct of Hearing

1. Background.

a. Members are appointed under the authority of Title 10, U.S. Code, Section 1553. They are designated by the Secretary of the Army or detailed by competent authority when requested by the President, ADRB. No member may sit on a panel hearing a case in which he/she was a participant in the separation proceedings.

b. Each member must be familiar with the contents of this SOP, specifically, the applicable portions of this Annex and the President's Guidance (See Annex F–1).

c. The panel consists of five officers, seated in order of rank, as indicated in AR 15–6. The senior line member is the PO who conducts the proceedings. It is the PO's responsibility to insure the applicant receives a full and fair hearing and in personal appearance cases, to provide the applicant the greatest latitude in telling his/her story and introducing evidence.

d. For personal appearance cases, each member of the panel will be furnished a copy of Parts I, II, III (including Section J/K) and IV of OSA Form 172 (See Annex E–3). The members of the panel will use these documents as a general brief of the case in preparation for the actual hearing. Also provided will be an ADRB SOP for reference and sufficient note paper to use for recording information essential for rendering a decision. The applicant and his counsel will retain the original official military personnel file throughout the formal hearing, for reference, as deemed necessary. Upon closing of the hearing for panel deliberation, the original file remains in the hearing room for panel reference as necessary.

e. For all other hearings, Part I through IV of the OSA 172 will be read to the panel, displayed using an overhead opaque projector otherwise made available to panel members for review.

f. The Alternate Secretary/Recorder (Alt Sec/Rec) makes any research of the applicant's records required and reads verbatim any pertinent comments, remarks, charges, medical and legal data in response to requests from the PO or other panel members. The daily journal is maintained by the Sec/Rec Assistant who records changes or modifications to the SPN's/SPD's in the "remarks" section of the journal. The Alt Sec/Rec also provides the "Summary of Hearing" for all live cases, records the panel's decision, notates changes in case category, e.g., B to C or A, insures that the PO's dictated Findings, Rationale, and PO's notes are recorded accurately and completely, collects and announces results of secret ballots; and authenticates, by signing, the completed case in Part VII, Section F along with the Sec/Rec Assistant and the PO.

g. When an applicant requests to record, on tape, a verbatim record of his personal appearance hearing before a panel, he will be allowed to do so. The taping will be done by the applicant using his own equipment. The taping will not be permitted to interfere with the panel's operation and all necessary equipment and supplies must be those of the applicant.

Some agencies utilize law students to represent applicants in personal appearance cases with a qualified attorney present to supervise the student's performance. The supervising attorney is the attorney of record for the applicant and has full rights accorded this status. He is free to interject himself as any other attorney would in representing his client. He may permit the law student to present the case in its entirety or he may, at any time during the case presentation, interrupt the law student briefly to clarify or develop a line of questioning or to take over the remaining presentation, at his discretion. Similar consideration is granted to other agencies which have someone in a training status representing an applicant under the supervision of a qualified representative even though that representative is not a lawyer.

i. Applicants have the right to challenge a panel member for cause in ADRB hearings. While the exercise of this right is remote in light of past experiences, there are procedures which are designed to insure proper and uniform handling of challenges for cause, should they occur. If it should appear to a panel member that he/she has had some prior dealing with an applicant which would make impartial participation in the hearing possible, the PO should be so advised. Simple participation in a prior hearing is not a de facto basis for challenge for cause itself. The PO will report the matter to the President, ADRB, who will direct a replacement member to sit. In the Traveling Panel situation, the replacement member will ordinarily be the accompanying Secretary/Recorder. If it appears that a panel member had some prior dealing with an applicant, but he/she feels that he can impartially participate in the hearing, he should so advise the PO. The PO will then rule whether or not the member should continue to sit on the case. A panel member is normally the best judge of his qualification to sit in a particular case. It is not the fact of prior dealing, per se, that is determining, but, with the exception of participation in the initial discharge process itself, the question of whether or not the member is impartial. If there is doubt, resolution should be made in favor of sustaining a challenge for cause. Other possible challenges for cause will be resolved in a similar manner, except that if the PO is challenged, he/she will judge the matter of impartiality. If the PO rules that he/she can be impartial, he will continue to sit unless an applicant or counsel expresses disagreement with the ruling, in which case the PO will advise the President, ADRB, who will decide. Prior to convening the Panel, any member who believes that there could be a question arising concerning his/her qualification to sit should advise the PO. In this regard, Secretary/Recorders, Pre-Reviewing Officer, and others, who review records prior to the hearing, should advise the PO or President, ADRB, of any potential grounds for challenges for cause. In the event that a challenge for cause is raised and a determination reached that the challenged member will participate in the hearing, this facet will be incorporated into the OSA 172 in Part VI, Section C, Para 1, Case Problems. The basis for the challenge and the basis for the ruling will be described in the portion of the Case Report and Directive.

j. Under the provisions of "Urban Law Institute v. Secretary of Defense, U.S.D.C., D.C., C.A. No. 76–0550" as they are interpreted by the Army General Counsel, the Discharge Review Board is responsible for enunciating in sufficient detail a decision as to why full relief is not granted when only partial relief is granted on the discharge appeal. Into an appeal sufficient justification to upgrade from UD to General, but does not justify upgrading to Honorable, the following must be accomplished:

1. In OSA 127, Part VII, Section C, para a. "Majority," and in the findings for both contentions and/or issues, if applicable, the rationale justifying changing the discharge from UD to General should appear.

2. Additionally, in Part VII, Section C, para C, the reason why the panel decided not to go to full honorable must appear. This can be expressed in general terms but must be specific enough to enable an applicant and/or counsel to clearly understand why full relief was not granted. In responding to this requirement, panels may make use, by reference thereto of information that is already contained in the Case Report and Directive. For example, if in Part II there are specifically enunciated offenses which were punished by Article's 15, Special and Summary Court-Martial, etc., and, as well a specific listing of AWOL time and Conduct and Efficiency ratings, then reference can be made to these as being the bases on which a decision was made not to grant fully honorable.

k. The President, ADRB, may authorize official observers to be present during live hearings under the authority vested in him by the Secretary of the Army. Unofficial observers are allowed to attend a hearing only with the permission of the applicant. Applicant objections to the attendence of an official observer will be referred to the President, ADRB, for resolution.

Note.—Mock script for sample case has not been published.

Annexes G–2 and 3

Traveling Panel After Action Report and Alternate Secretary/Recorder Observation Report forms relate solely to internal personnel management and have not been published.

Annex H–1.—Duties of Panel Members

1. Presiding Officer (PO):

a. For the duration of the particular panel, the PO is reponsible for the operations of the panel in all of its aspects. He is the representative of the President of the ADRB and will rule on all matters of policy, procedure or other operational aspects of the panel's activities within the guidelines contained in paragraphs B–3 and B–4, Appendix B, AR 15–180 and this SOP.

b. Assigns specific responsibilities to individual panel members to insure that the work copy of the OSA Form 172 that records the actions taken by the panel on a specific case is prepared accurately, and that the requisite number of copies of the signed report can be produced in a timely manner.

c. Insures that all stated contentions; issues of fact, law, or discretion; documents; testimony; and records are discussed, evaluated, and conclusions drawn therefrom. The Presiding Officer (PO) will then cause the panel to vote and decide whether or not a petitioner was properly and/or equitably discharged, and the action to be taken in regard to the petitioner's request in his/her discharge appeal.

d. After the findings relating to the contentions and issues of fact, law, or discretion have been recorded, the PO enunciates the rationale for the panel's conclusions regarding the propriety and equity of the applicant's separation. Also, as applicable, the PO will record comments to record any case problems, minority opinion, and reason for not granting full relief.

2. Panel Members:

a. Perform such duties relative to preparation of the work copy of the OSA Form 172 as assigned by the PO. Insure that the respective parts of the OSA 172 are completed accurately in accordance with this SOP and that the draft is legible and grammatically correct.

b. Evaluate all testimony, documentary evidence, contentions and issues in the case along with the regulatory guidance covering separations of the type involved in the specific case under consideration.

c. Apply the criteria contained in AR 15–180 in arriving at their individual determinations and votes on the specific case under consideration.

d. Present their views in the discussion phase of each case clearly so that each panel member has the benefit of all views relative to the case before the panel votes on the case. This also assists the PO in enunciating the majority and minority views after the panel has voted.

e. Assists in the post-review function regarding the preparation and authentication of the OSA Form 172 as required.

Annex H–2.—Pre-Review Guide

Board members will be tasked to pre-review cases in accordance with the published weekly work schedule. Cases to be pre-reviewed during a particular day will depend on the status of individual members that day. Individuals assigned as panel members leaving "A" or "C" cases will be required to pre-review their proportional share of cases to be heard on that day. Individuals assigned as panel members hearing "B" or "E" cases will be required to pre-review cases scheduled for future "B", "D", or "E" hearings depending on the amount of time required in the panel room. Cases to be pre-reviewed will be provided by the Secretary/Recorder Operations Division to the individual officers concerned, to the Pits or at a specifically designated point. Additionally, each pit will have a group of "B", "D" or "E" cases for pre-review when personnel have time to work on them.

Cases to be pre-reviewed will have been analyzed before they are delivered. Each case presented for pre-review will consist of an applicant's OMPF together with a separate accompanying file. The separate file will contain a work copy of the OSA 172. The Admin Support Division will have completed Parts I through III (including Section J/K) of the 172 prior to the case being presented for pre-review. Section A, Part VI will also have been completed by the Admin Support Division. Additionally, the Applicant's Enlisted Qualification Record (DA Form 20, DA Form 2–1 and/or DA Form 24 as appropriate) will also be included in the work folder. Work folders are color coded to show the mode of hearing requested by the applicant at the time he submitted his DD Form 293. Color codes are:

Mode and Color
"A"—Red
"B"—Green
"C"—Grey
"D"—Blue
"E"—Yellow

In essence, the pre-review officer's (PRO's) task is to prepare what is, in effect, a case brief, after thoroughly reviewing the evidence of record, the applicant's appeal (including contentions) and any supporting documentation submitted by the applicant. In addition, the PRO potential

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evaluates issues of propriety identified by the analyst in Section J/K of Part III as well as any potential issues of equity identified by the PRO during his/her review of the file. Additionally, the PRO prepares a summary of the contents of all documents including counsel's brief submitted in support of the DD Form 293. Such documents will be identified serially as Exhibits starting with C–1. A description of the document which summarizes its content will be prepared and entered in Part V, Section F (Summary of Exhibits). Additionally, the PRO is responsible for preparation of Part IV, Section A. "A" and "C" cases in which a medical or legal question is raised as either a contention or issue will be routed through the appropriate professional member for comment. The specific basis for referral will be stated by the PRO in paragraph 4, Section A, Part IV. As a matter of procedure, all "B", "D", and "E" cases will be routed through both professional members for a review.

The PRO will also verify that the entries made by the Administrative Support Division in Parts I through III are accurate and complete.

While no rigid sequence of pre-review is required, the following guide will insure an efficient and thorough procedure on which personal techniques may be developed as confidence and experience are acquired:

1. Acquire an overall sense of the case and concurrently confirm the analyst provided data on the applicant's personal history and in-service history appearing Part II and Sections A thru I, Part III, OSA Form 172. See Annex J–1 for samples of Parts II and III, OSA Form 172.

2. Read the applicant's appeal together with any accompanying documentation or submitted supporting evidence. Confirm the applicant's contentions, if any, as recorded in Section A, Part VI, by the analyst. See Annex J–1 for samples of a DD Form 293 and Part VI, OSA Form 172, Section A.

Note: The requirement is that the ADRB address all specific contentions of fact, law, or discretion that are germane to the propriety or equity of the applicant's separation. If the submission does not identify any specific contentions it is not to be treated as a contention. In such cases, the statement or a summary of it will be placed in Section C, Part V (Summary of Applicant's Brief or Statement) or shown as an exhibit in Section F, Part IV with a description of the document. If submitted on the DD 293 or as a brief, Section C, Part IV is the appropriate place. Otherwise Section F, Part IV will be used (See paragraph 8 below).

3. Track the discharge action carefully, using the appropriate checklist for the type separation contained in Annex H–2–1 as a guide. Note that these are general outlines only. In many cases, particularly older cases, it will be necessary to consult the appropriate regulation under which the applicant was separated. The Legal Advisor has copies of most of the pertinent separation regulations. If the case involves an unusual separation basis, the Army Library has a complete set of all Army Regulations.

4. The analyst may indicate specific questions of propriety as potential issues on Section J/K. The PRO will evaluate such issues and place his/her evaluation of it in paragraph 1, Section A, Part IV. The PRO will also indicate in the appropriate column on the J/K whether the issue is or is not an issue for consideration by the Panel which hears the case. This is an opinion of the PRO and is not binding on the Panel. If the PRO believes there is no issue, he should state the issue as a question and enter it in Part VI, Section B.

5. Any other potential issues of propriety or equity noted by the PRO should be treated in the same way (except that possible equity issues should be discussed in Paragraph 2, Section A Part IV). The PRO should enter the appropriate index number including both odd and even suffixes (Example 01.01/02) or the appropriate line in Section J/K. See Annex H–2–2 for discussion of equity.

6. Develop and write a concise and thorough OVERALL ASSESSMENT of the case in Section A, Part IV, focusing on the significant aspects of the case. Do not simply record a chronology of the applicant's service.

The PRO, at this point, is the individual who is most familiar with the contents of the OMPF. The results of his/her review in the form of facts/indications found in the record should be summarized here for the information of the panel. The PRO's role is to call to the Panel's attention all significant information in the file and documents submitted by the applicant. The PRO is not a decision maker and will not include any conclusions in the overall assessment; the panel will draw the conclusions on the interpretation of the facts.

7. If any developed issues or contentions surface a requirement for specific Medical/Legal Advisor opinion, refer the case to the appropriate member of the advisory staff by making specific entries in Section A, Part IV (REFERRED TO (MED) (JAG) FOR:). The entry should frame the specific question that the PRO believes the panel which hears the case would ask if the Medical/Legal Advisor were present in the board room. (If the PRO has a question, he/she should consider that at least one of the Panel members will have the same question so the case with the question should be routed for a professional opinion.

8. Develop and enter a concise summary of any brief that accompanies the application and enter it on a SCS, identifying the heading as Part V, Section C, SUMMARY OF COUNSEL/REP/APPL BRIEF, STATEMENTS AND/OR DIRECT EXAMINATIONS.

9. Develop and enter a concise summary of other documents that accompanies the application and enter it on a SCS, identifying the heading as Part V, Section F, SUMMARY OF EXHIBITS. Identify such exhibits serially starting with Exhibit C–1.

Note: If the brief or other documents raise a potential issue but do not phrase it as a specific contention, the matter will be identified as a potential issue (Para 5 above) and handled in that manner. Specifically identified contentions will be extracted verbatim and entered in Part VI (see para 2 and associated note above).

Annex H–2–1.—Checklist For Reviewing Discharge Propriety

The following is intended to aid PROs and panel members in review of cases to focus on key elements of the regulatory requirements for the various types of discharges commonly encountered. It is emphasized that this is a simple check sheet and obviously not a substitute for detailed understanding and application of the ARs, the SOP, and the supplemental memoranda, especially where applicants make specific contentions relating to the detailed requirements of the discharge process.

The lists are arranged in the order of the chapters of AR 635–200 (Nov. 77 edition) in effect at this time. In some cases additional amplifying notes are provided. A negative response to any criterion indicates a possible issue is present.

1. Chapters 1 & 2—ETS—Applicable Criteria—a. Individual completed normal tour in enlistment, reenlistment, or induction.

b. Individual met one or more following criteria during current period (prior to May 75).

(1) Conduct rating below GOOD.
(2) Efficiency rating below FAIR.
(3) Convicted by GCM.

(4) Convicted by more than one SPCM.

c. Personal decoration during current service.

d. Characterization based on isolated acts.

e. Characterization based on mental status or other medical evaluation.

f. Characterization based solely on service subsequent to restoration to duty (for former prisoner with a suspended discharge only).

g. Characterization determined by commanding officer of applicant's last unit of assignment/attachment (prior to transfer activity).

h. Characterization changed by commanding officer of transfer activity and appropriate entries made in file showing reason.

2. Training Discharge Program—Applicable Criteria—a. Volunteer enlistee who demonstrated nonproductivity after no more than 179 days of active duty.

b. Individual received and acknowledged notification of commander's intent to separate.

c. No rebuttal submitted.

d. Rebuttal submitted and properly considered.

e. Honorable Discharge approved by proper authority.

f. Separation accomplished within a reasonable time of approval action.

3. Concealment of Arrest (not convictions)—Applicable Criteria—a. Arrest concealed was for felony type offense.

b. After 1 Jan 74, counsel for consultation was a qualified JAG Officer.

c. Discharge approved by GCM Authority.

4. Chapter 5—EDP—Applicable Criteria—a. Applicant failed to meet standards between 6th month–36th month of service.

b. Applicant assigned to unit from which separated for more than 60 days.

c. Applicant consented to the discharge.

d. Applicant afforded opportunity to consult with counsel.

e. Type discharge recommended by the initiating commander issued by appropriate approving authority.

f. Applicant separated within a reasonable time after approval, (3 days).

Notes: (1) Did the applicant consent to being discharged? Was he advised he could consult with a JAG officer before deciding?

(2) Does he fit the criteria for EDP, i.e., 6–36 months of service and meet the personality traits of the program?

(3) Was the discharge authority an O5 commander or higher?

5. Failure to Demonstrate Promotion Potential.

(Note: This authority is no longer a separate authority but was incorporated into the EDP in June 1975. It is incorporated since there are a number of such cases applying for review). Old para 5–37 AR 635–200 prior to Jun 75.

Applicable Criteria—a. Promoted to E–2 after 4 months active duty.

b. Promoted to E–3 after attaining time-in-grade/time-in-service requirements.

c. Commander's recommendation appropriate.

d. Applicant acknowledged counseling and understanding impact of recommendation for discharge.

e. Immediate commander recommended: HONORABLE, GENERAL.

f. Appropriate authority approved discharge.

g. Applicant never promoted to E–3/E–4 and reduced to E–2/E–3.

6. Chapter 9, AR 635–200—Alcohol/Drug Abuse—Applicable Criteria—a. Individual protected UP exemption policy.

b. Exempted evidence not used.

c. Personal abuse is sole basis for action.

d. Individual is rehabilitative failure:

(1) Voluntary Program.

(2) Directed Program (30 days minimum).

e. Individual notified of proposed action, commander's recommendations and acknowledged.

f. Individual advised of right to counsel.

g. Discharge authority action appropriate (SPCM jurisdiction).

7. Chapter 10—For The Good of the Service—Applicable Criteria—a. Charge sheet present and correct.

b. Offense charged, punishable by a "punitive discharge." (NOTE: Section B, Table of Maximum Punishments, applies prior to 1 Apr 76).

c. Applicant requested 'good of service' discharge.

d. Advised by qualified counsel (JAG after 1 Jan 74).

e. Request processed in accord with intent of AR.

f. Approved by GCM authority.

Notes: (1) Did he request the discharge?

(2) If on or after 1 Jan 74, did a JAG officer sign the request form?

(3) Could the offense charged be punished by a punitive discharge? (Note: Section B, Table of Maximum Punishments, applies prior to 1 Apr 76.)

(4) Was the request approved by the GCM authority?

8. Chapter 11—Bad Conduct Discharge (BCD) (**Note:** A BCD as a result of a GCM sentence is not a proper matter for review by the ADRB.)

Applicable Criteria—a. BCD affirmed on appellate review.

b. Final supplemental Court-Martial order which orders the BCD, and states that the requirements of Article 71c have been met.

c. Not "Laird Drug" offense.

Note: Is there a final supplemental court-martial order which orders the BCD executed and states that the requirements of Article 71C have been complied with?

9. Chapter 13—Unsuitability.—Applicable Criteria—a. Separation action initiated properly.

b. Counseling and rehabilitative requirements met and/or waived.

c. Mental status evaluation action completed (Note 4 paragraph 9h(4))

d. Psychiatric or psychological report (when required) (Note 3 paragraph 9h(3))

e. Individual: (1) Waive Board and other rights.

(2) Advised by counsel (JAG after 1 Jan 74).

(3) Represented by counsel (if Board held).

f. Board (if convened) properly conducted.

g. Convening authority disapproved Board's recommendation.

h. Proper authority (GCM or commander with JAG for unfitness/CCM or—

(1) In waiver cases, was counsel for consultation on or after 1 Jan 74, a JAG officer?

(2) Is the specific criteria met for the discharge action concerned?

(3) If discharge is for a personality disorder or homosexuality is there a psychiatric report in the file (see annex H–3 for guidance on Personality Disorder Cases.)

(4) In other cases, is there a mental status evaluation in the file which was prepared or reviewed by a military physician? (See para 1–30b, AR 635–200, 21 Nov 77 for requirements regarding Mental Status Evaluations/Psychiatric Evaluations for discharges after 1 February 1978.)

10. Paragraph 14—Misconduct—Fraudulent Entry—a. Fraudulent entry substantiated.

b. Separation action initiated.

c. Mental status evaluation action complete.

d. Individual:

(1) Waive Board and other rights.

(2) Advised by counsel (JAG after 1 Jan 74.)

(3) Represented by counsel (if Board held.)

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e. Board (if convened) properly conducted.
f. Convening authority approved Board's recommendation.
g. Convening authority disapproved Board's recommendation.
h. Discharge approved by GCM authority.

Note: In cases involving alleged recruiter connivance see para 14–5c, AR 635–200, 21 Nov 77.

11. Conviction by Civil Court.—a. Civil conviction and appeal action complete.
b. Conviction meets UCMJ punishment standards.
c. Notified in writing—Board and other rights explained—Acknowledged and/or waived.
d. Qualified counsel provided (if possible).
e. Discharge in accordance with policy for non-US convictions.
f. Mental status evaluation (when under military control.)
g. Proper authority directed discharge (GCM–UD/SPCM–GD or HD). (See Note 7 paragraph 11h–7)
h. AR 635–206—Civil Conviction:—(Amplifying Notes)
(1) In waiver cases, was counsel for consultation on or after 1 Jan 74 a JAG officer?
(2) Was the offense (or offenses) for which convicted punishable by a comparable offense under the UCMJ by confinement of more than 1 year (prior to 2 Dec 76) or confinement of 1 year or more (effective 2 Dec 76), or was the offense for narcotics violation or sexual perversions regardless of the punishment imposed?
(3) Is there an indication in the file that no appeal is intended or that the time for appeal has expired?
(4) Is there a mental status evaluation in the file (only required if under military control)? (See para 1–30e, AR 635–200 for discharges after 1 Feb 78.)
(5) If confined by civil authorities, was he advised by registered mail of his basic rights? Evidence in record?
(6) In formal board actions involving a UD (UOTHC), was counsel for representation a JAG officer or otherwise a lawyer qualified under Article 27(b)(1), UCMJ?
(7) For cases involving discharge after 1 Feb 78, GCM authority is the approving authority regardless of the type discharge involved. See para 1–32, AR 635–200 (w/Chap 1) for detailed discussion of discharge authority.

12. Desertion/AWOL—Applicable Criteria—a. Desertion/AWOL continuous 1 year or more.
b. Individual properly advised of proposed action in writing.
c. Advised by qualified counsel.
d. Mental status evaluation action complete.
e. Action processed in accordance with intent of AR.
f. Approved by GCM authority.
g. Amplifying Note: (1) For individuals separated under the DOD SDRP based on return to military control from absentee status, a Mental Status evaluation was not required by the Letter of Instructions issued implementing the separation phase of the SDRP.

13. Other Misconduct—Applicable Criteria—a. Separation action initiated properly.
b. Counseling and rehabilitative requirements met or waived.
c. Psychiatric report present (when required-Note 1)
d. Mental Status evaluation action completed (Note 2)
e. Specific criteria met for discharge action concerned.
f. Individual:
(1) Waive board and other rights.
(2) Advised by counsel (JAG after 1 Jan 74)
(3) Represented by counsel if a board is held (Note 3).
(4) Board (if convened) properly conducted.
(5) Convening authority approved board recommendation or changed to better type discharge.
(6) Proper authority (Note 3) took action.
g. Amplifying Notes: (1) Homosexual cases under Chap 14 require a psychiatric evaluation.
(2) All other cases require a mental status evaluation by a medical officer or after 1 Feb 78 an individual shown in para 1–30b, AR 635–200.
(3) Counsel for representation a JAG officer or otherwise a lawyer qualified under Article 27(b)(1), UCMJ.
(4) GCM convening authority. See para 1–32 AR 635–200 (w/Ch 1) for detailed discussion of discharge authority.

14. Other Discharges not Covered Under AR 635–200. Applicable Criteria—a. Officer Resignations in Lieu of Trial Chap 5, AR 635–120.
b. Applicant tendered resignation.
c. Charges preferred and required documents included.
d. Request forwarded to DA from GCM authority.
e. Applicant advised that he could consult with and be represented by qualified counsel, either a JAG officer or civilian counsel retained by him.
f. Request approved by appropriate authority.

15. Presidential Proclamation—PP 4313—Applicable Criteria—a. Applicant in AWOL/Desertion status which began between 4 Aug 64 and 28 Mar 73 prior to return to military control.
b. Applicant afforded opportunity to elect discharge or face other action (CM or Board).
c. Counseled by JAG officer.
d. Discharge approved by proper authority.
e. Amplifying Notes:
Notes: Completion of assigned alternate service was not a factor in the discharge process but rather for issuance of a Clemency Discharge.
(2) Presence of documentation indicating issuance of Clemency Discharge does not indicate applicant was discharged under PP 4313. Individuals discharged for violations of Articles 85, 86 or 87, UCMJ between 9 Aug 64 and 28 Mar 73 were eligible for award of a Clemency Discharge based on completion of alternate service awarded by or excused from alternate service by the Presidential Clemency Board.
(3) Presidential Memo of 19 Jan 77 was not a basis for discharge. That memo was a special discharge review program directed by President Ford which covered a defined group of individuals who had applied for clemency under PP 4313.

16. DOD Special Discharge Review Program—Applicable Criteria.
a. Applicable criteria.—(1) Returned to military control between 4 Apr and 3 Oct 77 an unauthorized absence which began between 9 Aug 64 and 28 Mar 73.
(2) See AWOL/Desertion criteria under Ch 14, AR 635–200 with Note 1 for remaining applicable criteria.
b. The property standards for use in prereview and consideration of each case all contained in Appendix A-h AR 15–180.

Annex H–2–2.—Checklist for Reviewing Equity Considerations

1. Consistent with the enunciated philosophy of the ADRB, equity must incorporate all apparent factors of mitigation or extenuation that may have had a material effect on a service-member's ability to perform satisfactory service. Many of these factors must be inferred by the PRO based on evidence of record. Section K, Part III, provides a place for the PRO to indicate his/her perception that a possible issue of equity exists in the discharge under review. As with the case of equity issues, this is an evaluation of the PRO and not a decision binding on the panel which considers the case. The PRO will indicate the area of concern by listing the associated index numbers (example A93.17/18) under the applicable heading in the Section K portion of the J/K sheet, explain the basis for the potential issue in paragraph 2, Section A, Part IV, and frame the proposed issue as a question in Section B, Part VI of the OSA 172 work copy.

2. In reviewing a case, the PRO will apply the equity standards contained in Appendix A–1, AR 15–180 in conducting the prereview. The panel will apply its collective judgment in applying the equity standards as well. Particular attention must be given to the standard concerning changes in discharge standards. This is a two part standard. Review of the regulation under which separated and the current discharge regulations.

From the viewpoint of equity, the type of discharge issued to an ex-service member by intent characterizes the overall service performed. The provisions of Chapter 1, AR 635–200, establish criteria for characterizing the service performed by a service member who completes a contractual service obligation.

3. For those service members who are discharged involuntarily prior to the expiration of their contractual obligation, the characterization of their service is, in effect, a qualitative measure of the service performed, consistent with regulatory standards. At different times, certain separation regulations mandated specific characterization of service when an individual was separated under that regulation. In more recent times, except for discharges resulting from the sentence of a court-martial which are subject to a separate review process under the UCMJ prior to being ordered into execution, the regulations generally have set a standard that normally a certain type of discharge will be awarded. These standards are not absolute because they authorize the discharge approving authority to award a better discharge if the circumstances of the case warrant. In other instances, the separation regulations state a range of discharge characterizations which may be awarded based on the circumstances of the individual case. The current standards for characterization of service also mandate characterization in certain types of separation (Trainee Discharge, Alcohol or Other Drug Abuse, and Personality Disorder) covering that reason for separation will reveal whether there has been a change in the discharge standard. The Panel must then exercise its judgment in determining whether the substantial doubt exists "to satisfy the second part." The PRO function is to provide the information regarding the change in discharge standard to the Panel—not to render an opinion on the substantial doubt.

4. Matters of equity raised by an applicant as a contention will not be considered as issues. If an applicant provides information which indicates there may be a matter of equity (or propriety) present but did not state it as a specific contention, the PRO will identify that as a potential issue in the same manner as if the potential issue were perceived through an evaluation of the evidence in the OMPF.

Annex H–3.—Consideration in Personality Disorder Cases (Formerly Character and Behavior Disorders).

The following criteria will be used in reviewing cases in which the individual was separated based on a Personality Disorder (C & B Disorder formerly).
a. All personality disorder cases require a psychiatric evaluation accomplished by a trained psychiatrist. The evaluation must have been performed in a time frame associated with the discharge action.
b. Medical officers who qualify to conduct a psychiatric evaluation are those who:
(1) Sign as a psychiatrist.
(2) Are assigned full time duties to a Mental Health Consultation Service (MHCS).
(3) Are assigned to an NP Clinic.
c. Absence of a diagnosis from the file in itself does not constitute a prejudicial error if there is a sufficient basis in the file to establish that a diagnosis was made.
d. When it is determined that the required diagnosis was not made or that it was made by an individual not qualified as a psy. iatrist, the discharge is improper. The provisions of the Memorandum from the Assistant Secretary of the Army (M & R A) dated 8 February 1978 ("Nelson Memorandum") are applicable in such cases. The Panel must also determine a proper reason for discharge applicable in the case.
e. Terms which qualify under the overall heading of personality [1] disorders include the following: (1) Antisocial Personality, (2) Asthenic Personality, (3) Cyclothymic Personality, (4) Explosive Personality, (5) Hysterical Personality, (6) Immature Personality, (7) Inadequate Personality, (8) Obsessive Compulsive Personality, (9) Paranoid Personality, (10) Passive-agressive Personality, (11) Passive-dependent Personality, (12) Schizoid Personality.
f. Care must be exercised to distinguish those cases in which older terminology is used. In the past (prior to mid-1960s) the term "Reaction" was used to describe conditions which are now designated as a "Disorder". Under current terminology a "Reaction" is a situational maladjustment and not a deeply ingrained maladaptive pattern of behavior of long duration which interferes with a member's ability to perform duty or makes it impossible for an individual to perform duty. Any case in which the term "Reaction" is a part of the diagnosis should be routed to the Medical Advisor for an opinion as to whether it describes a personality disorder.
g. Care must also be exercised to ensure that the case does not involve a simple clerical error. In many cases an applicant was recommended for separation for unsuitability other than a personality disorder and the approving authority approved the separation without specifying the specific reason for separation or the SPN/SPD to be used. At the Separation Point, a SPN/SPD signifying separation based on a Personality Disorder was entered on the record copy of the DD 214. This does not constitute a separation based on a personality disorder. The basis for separation is that which was approved by the approving authority—not necessarily what was reflected on the DD Form 214. In such cases, the panel should correct the error through a modification as well as determining whether the discharge was proper and equitable based on the criteria applicable to the reason for which the commander approved separation.

Annex I–1.—HE Checklist, a form which relates solely to internal personnel and resources management, has not been published.

Annex I–2.—Procedural Guide For Conduct of HE

1. Background.
a. The HE mode of hearing cases was devised to provide the opportunity for a personal appearance type hearing to applicants outside the Washington, D.C. area for whom it would be inconvenient, too expensive or otherwise prohibitive for them to travel to the Pentagon to present their case in person before a

[1] Presently the American Psychiatric Association has in draft (1979) a 3rd Edition of the *Diagnostic & Statistical Manual of Mental Disorders* (DSM–III). Personality disorders further delineated in the drafted 3rd Edition are as follows: (1) Paranoid Personality; (2) Introverted Personality; (3) Schizotypal Personality; (4) Hystrionic Personality; (5) Narcissistic Personality; (6) Borderline Personality; (7) Anit-social Personality; (8) Avoidance Personality; (9) Dependent Personality; (10) Compulsive Personality; (11) Passive-agressive Personality (12) Other, mixed.

panel of the Army Discharge Review Board. The Hearing Examiner (HE) mode also supplements the Traveling Panel (TP) capabilities of the ADRB which are restricted in number and frequency of trips by personnel resource authorizations and availability of funds.

b. Hearing Examinations are conducted in a single location or in several locations within a geographical area, usually, where the number of cases prepared for hearing would not justify nor be cost effective for sending a full TP. The HE mode is ideally suited to conduct hearings in a location or combination of locations where the total case load is 30 to 40. It is, therefore, the best mode to employ for hearing cases in remote or restricted areas such as prisons and Indian reservations. Because of its effectiveness and efficiency, it may also be employed to augment the more costly TP mode when deemed appropriate by the President, ADRB.

c. Since the HE is acting for the full panel as far as questioning the applicant to insure that all aspects of the record of service, in discipline and any factors in mitigation are revealed, it requires that he does become thoroughly familiar with each case to be heard. Therefore, it is desirable for the HE to perform the pre-review of each case scheduled for hearing and prepare his questions based on the knowledge and insight gained from the pre-reviews. If an applicant fails to show for the scheduled hearing the HE is responsible to complete the pre-review as an "on-the-record" case so that upon his return the case can be scheduled for hearing as an "A" case. (See Annex I–1 HE Check List for trip preparation). In preparing the case for consideration as an "A" case, the HE will be responsible for all actions normally done by a pre-review officer.

Additionally, he/she will prepare an appropriate MFR (See Incl =1), for inclusion in the OMPF showing the date, place of scheduled hearing and the fact that the applicant failed to appear. Also, an appropriate entry will be made in Part VI, Section C, Paragraph 1 (Case Problems) of the OSA Form 172, outlining the failure to appear for the scheduled hearing. This is to ensure that an "audit trail" is established to justify hearing the case in a different mode than that requested by the applicant.

2. Responsibilities.

a. HE.

(1) Pre-review of cases/familiarization with cases prior to hearing date.

(2) Development of stipulation regarding hearing in consultation with applicant/counsel prior to actual filming.

(3) Conduct of the examination.

(4) Conduct of the epilogue.

(5) Preparation of "no show" cases for presentation as A or C cases.

b. Alternate Sec/Rec and Sec/Rec Assistant.

(1) All administrative and logistical preparations for the trip.

(2) Necessary coordination with scheduling section to insure letters to applicants are mailed in a timely manner and that copies of all such letters are filed in applicant's OMPF.

(3) Filming of hearing prologue and epilogue.

(4) Affording applicant and counsel an opportunity to review the entire filmed hearing prior to filming the epilogue.

(5) Preparation of a summary of testimony (Part V, OSA 172).

3. A Hearing Examination sequence is as follows:

a. Alt Sec/Rec meets and greets applicant and counsel and briefs on procedures. (Note: Sec/Rec Asst. may do this as well).

b. Sec/Rec has counsel and applicant prepare contentions in writing. Whenever possible any Sec/Rec may assist if requested to insure contentions are clear and concise as possible. Any documents to be presented in evidence should be assigned exhibit numbers at this time as well. (Contentions and documentary evidence should be made available to HE during discussion of possible stipulations).

c. Sec/Rec Assistant loads video tapes in recorder and advances the tape approximately 100 numbers for the prologue.

d. Applicant and counsel are brought to hearing room and introduced to HE. HE informally discusses case with applicant and counsel, and insures applicant and counsel understand the HE mode.

e. Alt Sec/Rec swears applicant and witnesses in, if there are any.

f. Filming is begun. He introduces applicant and counsel to panel. HE then conducts the hearing. Normal sequence is opening statement, direct and cross-examination and then break for applicant-counsel to review tape.

g. During filming, Alt Sec/Rec prepares summary of hearing. Careful attention should be given to testimony presented in support of contentions and matters covered in cross-examination.

h. Video tape is rewound. Applicant and counsel are given an opportunity to review the entire tape.

i. After playback, HE determines whether there are any points applicant/counsel wish to add testimony on. Camera is then turned on again. Applicant and counsel are asked whether the tape is satisfactory, make any additional or clarifying comments they desire, and counsel makes a closing statement, if any is desired.

j. HE closes the tape after ensuring applicant has nothing further to offer.

k. ASR and SRA prepare hearing room for next case.

l. Repeat sequence.

4. General Guidelines:

a. Matter on tape should be restricted to testimony in support of applicant's case to the extent possible. Administrative matters such as, identifying exhibits, swearing applicant, etc., should be accomplished off camera.

b. If problems develop and discussion with counsel is needed, go off camera. Nothing is gained by the panel watching counsel search for a document in the file.

c. If a second set of equipment is available, having the playback of the tape in another room while another case is being taped is desirable.

d. If the HE cannot understand the path that counsel is following, so inform counsel and go off camera to discuss where the testimony is leading, ex, testimony being elicited does not seem to have any, bearing on the contentions advanced. It is to the applicants advantage that the hearing be concluded in a step-by-step manner so that the panel who will not have an opportunity to question him, can follow the thread of the testimony and understand the objectives of counsel and applicant.

DEPARTMENT OF THE ARMY

Military Review Boards Agency

Washington, D.C. 20310

Date

MEMORANDUM FOR RECORD:

SUBJECT: Discharge Review Application of ———— SSAN/ ASN ————

The above named applicant was advised by letter of a Hearing Examination to be held in ———— on ————. The applicant did not appear for his scheduled hearing nor did he or his counsel contact the Hearing Examiner to request a delay of the scheduled hearing. Based on this failure to appear, the case should now be heard based on the evidence available in the record in accordance with paragraph B–51, Appendix B, AR 15–180.

————

(Signature) HEARING EXAMINER

Annex I–3.—HE After Action Report, a form which relates solely to internal personnel and resources management has not been published.

Annex J–1.—Annex J, guidance to personnel concerning the mechanical/procedural aspects of conducting personal appearance hearings and hearing examinations, has not been published.

Annex K–1.—Information in this annex relates solely to internal administrative procedures for receipt, processing, and control of mail and records and has not been published.

Annex L–1.—Medical and Legal Determinations.

All discharge appeal cases have significant medical and legal aspects associated with both the propriety and equity of those events leading to discharge and the type discharge itself.

The medical and legal standards that must be met from the viewpoint of propriety are spelled out in applicable regulations (Annex E–4). However, occasionally medical and legal problems may arise.

During the pre-review process, where medical/legal opinion is deemed necessary, guidance may be obtained from medical or legal advisors. See Section II H.

In the course of a hearing, counsel may attempt to request a change to medical discharge. These persons need to be told at once by the Presiding Officer (PO) that change to medical discharge is a function of the Army Board for Correction of Military Records (ABCMR) and not that of the Army Discharge Review Board (ADRB). If direct questions are placed to the PO and if he does not know the answer, an answer should be deferred until legal opinion is obtained. Do not let a counsel get you backed into a corner. Recess the hearing or defer the decision until legal opinion is obtained. In those cases, communication should be made with the professional consultants in the Pentagon office of the Discharge Review Board. Contact should not be made with local professionals. Depending on the location of the hearing, contact can be made personally or by telephone.

Annex M–1.—Provisions of the Antioch Stipulation

1. Background. In 1975, the plaintiffs requested copies of certain decisional documents, indices, and voting records associated with discharge review under the Freedom of Information Act. The plaintiffs filed a complaint on 31 March 1976 for non-compliance with the cited Act. The U.S. Department of Justice filed a dismissal/summary factory compromise with the plaintiffs. The compromise was negotiated in the fall of 1976 and culminated in the 21 January 1977 adjudicated settlement, the Antioch Stipulation. Subsequent negotiations have been conducted with the plaintiffs to resolve disputes involving alleged non-compliance with the intent and substance of the stipulation.

2. Impact. The thrust of the Antioch Stipulation is to cause board actions to be so documented as to facilitate reasonable public access and use of those records. The impact of the stipulation on the ADRB is primarily that of multiplying the administrative burden associated with throughout of each case. Involved has been the necessity to develop a family of forms, documents, and detailed regulatory language such that the public record of each board action will contain the substantive factual consideration upon which the board based its decision. Further, a single public Reading Room has been established in the concourse of the Pentagon which constitutes a library of completed board actions appropriately indexed.

3. The following are the major provisions of the Antioch Stipulation:

a. Discharge Review Boards will render their decisions in writing for every application filed for discharge review.

b. On every case requiring review by the service Secretary or his delegated representative, the decision on review will be made in writing.

c. In every case, the decision of the Board and the reviewing authority, if any, will include a statement of findings, conclusions, and reasons.

d. Statements of findings, conclusions, and reasons will include:

(1) The date, character of reason, and authority for discharge being appealed.

(2) Findings on all issues of fact, law or discretion upon which the decision of the Board is based.

(3) Findings on all other issues of fact, law, or discretion (contentions) made by the applicant.

(4) Conclusion (s) as to whether or not any change, correction, or modification should be made in the type of character of discharge being appealed and the exact nature of the change, correction, or modification.

e. Applicants must state their contentions clearly and specifically and there may be a form provided applicants by the Board for this purpose.

f. Advisory opinions or appropriate portions containing factual information relied upon by the Board for its final decision will be appended to the decision if the applicant's appeal is rejected.

g. The final determination and the statement of findings, conclusions, and reasons with any appendices, and minority opinions, if any, will be sent to the applicant and counsel with the notice of decision.

h. The name and final vote of each Board panel member will be recorded for every Board decision and provided to applicants or be available upon request.

i. Statement of findings, conclusions, and reasons together with the Board members' recorded votes will be made available for public inspection and copying in an established Reading Room after notice of final decision is sent to the applicant. If not otherwise included above, a list of contentions and/or issues considered in each case will be made public with each case as well as any minority opinions, if applicable. (The DOD Reading Room has been established in the Concourse of the Pentagon).

j. In accordance with the provisions of the Privacy Act, all identifying details of the applicant and other persons will be deleted from the documents filed in the Reading Room.

k. Any priviledge or classified material deleted from the Reading Room files will require written justification to the applicant and counsel and filed with the applicable case. This written justification will include the specific reason for each item deleted from the file.

l. All documents filed in the Reading Room will be indexed and cross indexed to facilitate their use by those who represent applicants before the Board. The index will include: case number, date, character of, reason for and authority for discharge, decision of the Board and the reviewing authority, if any, and contentions and issues addressed (See Annex E–3).

m. The index will be published quarterly or more frequently and, upon request, distributed by sale or otherwise and available at the Reading Room.

Annex N–1.—Analysis of PL 95–126

1. Principal Features:

a. Amendment to Section 3103 of Title 38, United States Code, to bar the award of VA benefits to an individual separated under other than honorable conditions "on the basis of an absence without authority from active duty for a

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continuous period of at least one hundred and eighty days."

b. Requirement for publication of uniform standards (which are historically consistent with criteria for determining honorable service and do not include any criteria for automatically granting or denying such change or issuance) and procedures for Discharge Review Boards (DRBs) generally applicable to all persons administratively discharged or released from active duty under other than honorable conditions.

c. Prospective disqualification for receipt of VA benefits for those originally qualifying due to upgrade by Presidential Memorandum (P.M.) of 19 January 1977 or the Special Discharge Review Program (SDRP), unless an eligibility determination is made under the published uniform standards and procedures.

d. Reconsideration before 7 October 1978 of all cases on DRB initiative of those upgraded from other than honorable to Honorable or General Discharges under the P.M. of 19 January 1977 or the SDRP.

e. From date of publication of uniform DRB standards and procedures for a period of at least one year, all former servicemembers (and heirs) with other than Honorable Discharges may apply for a discharge review/upgrade based on the new published rules.

2. Discharge Review Board (DRB) Notifications.

a. Written notification is required by the DRB commencing 8 October 1977 to each applicant whose record indicates he/she was discharged for reason that would bar him/her from receipt of benefits under section 3103(a) of Title 38 United States Code, that separate action by the Board for the Correction of Military/Naval Records (BCM/NR) and/or VA is required to establish eligibility for VA benefits.

As regards the 180 days consecutive unauthorized absence:

(1) Such absence must have been included as part of the basis for the applicant's discharge under other than honorable conditions.

(2) Such absence is computed without regard to the applicant's normal or adjusted ETS.

b. Written notification of the right to obtain an expedited relook preliminary determination is required by the DRB concerned to individuals who received an upgrade to an Honorable or General Discharge from a Discharge Under Other Than Honorable Conditions (UOTHC) (formerly Undesirable Discharge) under P.M. of 19 January 1977 or the SDRP. Notification is not required to individuals who received an upgrade to an Honorable Discharge from a General Discharge under the referenced special programs.

c. Written notification is required by the DRB concerned to individuals who upon preliminary determination by the DRB are found not to qualify for upgrade under published uniform standards and procedures (See 3.b. below).

3. Discharge Review Board Determinations.

a. Both a preliminary and final determination under uniform standards are required by 7 October 1978, except in those cases where a personal appearance is requested. Even if the DRB concerned simultaneously considered the case under its historically consistent discharge review criteria at the time of the SDRP determination and the decisional document specifically indicated that the individual was upgraded under those normal criteria, another review is required.

b. The determination process is as follows:

(1) Preliminary on-the-record review under the published uniform standards and procedures in the following order:

(a) Expedited basis upon notification by VA that an individual is receiving or has applied for benefits.

(b) DRB initiative for all other cases where upgrade was based on P.M. of 19 January 1977 or SDRP, to be completed by 7 October 1979.

(c) DRB initiative for cases upgraded after 8 October 1977 prior to publication of uniform standards and procedures.

(2) Favorable preliminary determination:

(a) Enter into service record as a final determination (see 3. b. (4)(a) below).

(b) Notify VA in appropriate cases and individual concerned if that person has inquired.

(3) Unfavorable preliminary determination. Notify individual concerned of adverse preliminary determination and of right to appear before the DRB under 10 USC 1553(c).

(4) Final determination:

(a) A favorable preliminary determination.

(b) An unfavorable preliminary determination when individual does not reply to notification within 45 days.

(c) Action by the DRB after complete review of case in accordance with the published uniform standards and procedures.

(5) Special situations:

(a) Cases where no changes were made under P.M. of 19 January 1977 or the SDRP do not require redetermination.

(b) Determinations made prior to 8 October 1977 by a DRB which included both consideration of historical discharge review criteria and P.M. of 19 January 1977 or SDRP criteria, with a determination that no relief was warranted except under special program criteria, does not satisfy the preliminary determination requirements.

(c) The de novo hearings under the SDRP do not satisfy the requirement for advising an applicant of the right to a DRB hearing after an adverse preliminary determination has been made.

(d) Government counsel is not furnished under the provisions of P.L. 95–126.

4. Records. Upon a final determination by a DRB to affirm under published uniform standards and procedures a discharge earlier upgraded under P.M. of 19 January 1977 or SDRP criteria, an applicant will be issued a DD Form 215, stating as applicable:

Discharge reviewed under P.L. 95–126 and a determination that change in characterization of service was warranted under provisions of P.M. of 19 January 1977 or SDRP, as applicable.

Discharge reviewed under P.L. 95–126 and a determination that change in characterization of service is warranted by DOD Directive

(**Note:** The DOD requirements for written request for a copy of DD Form 215 is suspended in these cases).

5. Additional Requirements: Each DRB will consider written requests for a review of a discharge under other than honorable conditions post-marked before 1 January 1980 from any former servicemember regardless of the date of his/her discharge.

Annex N–2.—DoD Directive 1332.28, incorporated by reference, was published in the Federal Register on March 31, 1978, at 48 FR, 13564.

Annex 0–1.—Memoranda: Numbered

Note.—SFRB Memorandum numbered 1, 2, 5, 6, 8, 10, 13, and 14 published in 1976 and 1977 have been rescinded.

Index to Annex 0–1

SFRB Memorandum Number	Subject
3	Change of Separation Program Numbers.
4	Clarification of Paragraph 1–10e, AR 635–200
7	Power of Attorney.
9	"C" Case (Field Panels).
11	Pre and Post Review Briefing Cases
12	Review of Cases UP Chapter 10, AR 635–200
15	Continued Cases.
16	Mental Status Eval. C&B/H&T Type Cases.
17	Proper Advice and Representation UP AR 635–200 and AR 635–206.
18	Personality Disorder Cases

Index to Annex 0–1—Continued

SFRB Memorandum Number	Subject
19	Addressing Contentions.
20	Analysis of New Army Regulation 600–85, Alcohol and Drug Prevention and Control Program
21	Court Reporter Utilization, D.C. Panels
22	Pre-review Officer and PO and HE Pre-review Hearing Evaluation.
23	Hearing Examiners (Prologue/Epilogue).
24	C&B Disorder Cases (Court of Claims Decision—Bernard Carter Case).
25	Traveling Panel/Hearing Examiner Case Scheduling Guidelines.
26	Use of Separation Program Designator JKG.
27	Notification to Respondents of Contemplated Board Action.
28	Index Reference Numbers.
29	Check Sheet for Regular Discharge Review Cases.
30	Index Reference Numbers.
31	Directed Rehearing Cases (Ailes Memorandum)
32	Challenges for Cause.
33	Justifying Decision Not to Grant Full Relief
34	Work Schedule.
35	No-Show Cases, HE Deployments.
36	Completion of Pre-reviews.
1–78	Training of Newly Assigned ADRB Panel Members and Assistant Secretary/Recorders.
2–78	Precedent.
3–78	Implementation of ASA(M&RA) Memorandum, 8 February 1978, on "Litigation Involving Army's System for Discharging Individual's with Personality Disorders."
4–78	Recording of Combat Badges (CIB or CMB) on Case Report and Directive.
5–78	Challenge Predicated on Past Membership
6–78	DOD Counsel/DE Novo No-Shows.
7–78	Presumption of Regularity.
8–78	Counsel Statements.
9–78	Restraining Order issued by U.S. District Court for District of Columbia.
10–78	Compliance with Court Order, D.C. Federal District Court, 23 August 1978.
11–78	Computation to Determine Numbers of Days Lost Under 10 U.S.C. 972.
1–79	Post Filming Review of HE Tape by Applicant and Counsel.
2–79	Case Consideration Under Regulations Applicable at Time of Discharge and Time of Review
3–79	Criteria for HD at ETS prior to 18 May 75.

SFRB Memo #3
January 21, 1976.

Memorandum For: Alternate Secretary/Recorders

Subject: Change of Separation Program Numbers

SPN's and SPD's initially identifying the case should be changed with discretion. Program designators which cite the reason for the man's exit from the service should not be changed, i.e., SPN 246 should remain SPN 246 and SPN 284 should remain SPN 284. Reasons delineating a modification in such SPN's should be additive, not a replacement.

Extreme caution and discretion must be exercised in utilization of the SPN 21L. Utilization of this SPN should be reserved for those cases for which the man was both improperly and inequitably discharged and for which no other reasonable SPN could have been applied.

Upgrades of cases which were separated for unfitness for which the reason for change was clearly an impropriety should have the SPN changed to reflect propriety, i.e., an unfit 28B changed for reasons of C & B should change the SPN to 264.

Thurman L. Shurtleff,
LTC, MSC, Secretary/Recorder

SFRB, Memo #4
January 26, 1976.

Memorandum for: Alternate Secretary Recorders

Subject: Clarification of Paragraph 1–10e, AR 635–200 (Chapter 10 Discharges)

One of the panels has raised the question concerning the interpretation of paragraph 1–10e, AR 635–200. The panel members concerned were under the impression that this paragraph required the applicant to submit a writing to the effect that he understands that he *WILL* (emphasis added) get a UD, and that the individual was to be given no less than 72 hours to consult with counsel before he could submit his request for a Chapter 10 discharge. The panel was of the opinion that the violation of either provisions was a prejudicial error that required immediate upgrading of the discharge received.

The regulation at paragraph 1–10e states in part: "A member who submits a resignation under the provisions of paragraph 9–7 or requests discharge as prescribed in chapter 10 may be issued an undesirable discharge without board action, provided he has been afforded the opportunity (*not less than 72 hours*) to consult with a consulting counsel (paragraph 1–3c) and provided he certifies in writing that he understands that he *will* receive a discharge under other than honorable conditions and the adverse nature of such a discharge and the possible consequences." The 72 hour waiting period is designated for the protection of the individual to prevent the possibility of undue influence, coercion, or rash decision making from occurring. The individual may waive this period and submit his application in less than the 72 hours given him. He is the only one that can waive it and the choice is his.

As to the requirement for a written statement concerning the UD, the regulation does not require such a statement. The word WILL should read in the context of MAY the same as it reads five lines above in the same sentence. The intent of the regulation when read as a whole is to allow the GCM authority discretion in the area of characterization of an individual's discharge so that the individual's entire military record, among other factors, will determine the type of discharge he receives. To do otherwise would amount to automatic UD's which is certainly not what the regulation prescribes. DCSPER and TJAG have continuously reaffirmed our interpretation of the above, and this is the only interpretation that is proper!

The entire regulation is being rewritten at the present time and the above cited discrepancy will be corrected. Pending receipt of new regulation, no cases will be upgraded by a field panel on the basis of what they perceive to be a procedural error in the 72 hour waiting period or the interpretation of the of word WILL as discussed in this memorandum. If in doubt, please contract for clarification.

Thurman L. Shurtleff,
LTC, MSC, Secretary/Recorder

SFRB, Memo #7
September 17, 1976.

Memorandum for: Alternate Secretary/Recorders (Filed Panels)

Subject: Power of Attorney

"1. I have noticed that some applicants have given their counsels/representatives general power of attorney in order to handle their cases before the ADRB.

2. Of course, this is unnecessary. A special or limited power of attorney will suffice, and applicants should be encouraged to use a limited power of attorney. A simple but adequate format follows:

I, (applicant's name) ———————, desire that (counsel's name) ——————— of (organization) ——————— represent me before the Army Discharge Review Board. I hereby authorize said representative access to my Official Military Personnel File and to take any steps he deems necessary to prepare for and present my case before said Board.

(applicant's signature)———(date)

(witness' signature)———(date)"

William E. Weber,
Colonel, IN, President

SFRB, Memo #9
September 16, 1976.

Memorandum for: Field Panel Secretary/Recorders and Officers, ADRB

Subject: "C" Case (Field Panels)

1. In the past several weeks, the undersigned has been consistently exposed to the request that he permit "C" type cases to be conducted in the Field Panel locations. As has been repeatedly pointed out in the past, it is not the function of Field Panels to conduct other than personal appearance cases. This philosophy still pertains; however, because of the time invested in attempting to schedule "B" cases at Field Panels and the absence of success in this regard, I will permit some "C" case hearings under conditions outlined below:

a. Case must have originated as a "B" case.

b. Counsel must be counsel from other than a DD Form 293 agency or from a State Department of Veterans Affairs and there must be an acceptable power of attorney in force on file with case.

c. Counsel must request to present case because of the unanticipated absence of the applicant and with the previous agreement of the applicant.

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d. Counsel should make a presentation that is other than simply parroting what is already in a written brief, e.g., presentation should not be used in lieu of preparing a written brief.

e. It is not the intent of this practice to have the reporter of the panel function as a pro forma secretary for the counsel.

f. Counsel must agree to be cross-examined in the event he presents any *first person* * evidence. In this regard, Secretary/Recorders and temporary Field Panel members *must understand* that counsel is not in a position to present factual evidence when he is relating hearsay. Consequently, panel members cannot expect to amplify elements of the testimony by questioning counsel and, in fact, must not do so.

g. Similarly, panel members must not assist counsel in presenting the case by adroitly leading counsel since this violates regulatory prohibitions.

h. Counsel is not to be permitted to get on a "soap box," attempt to argue constitutional law, establish himself as an authority in interpretating regulatory procedures, and/or make specific accusations against installation or command procedures in the area of administrative preparation without factual supportive data.

2. In essence, the presentation of "C" cases at a Field Panel will be approached as a not-to-be-desired form of hearing and is to be used principally as a substitute for the appearance of the applicant for some unforeseen reason. Secretary/Recorders are prohibited from attempting to initiate "C" type cases. Impetus for "C" type cases *must come from* applicant or counsel. In this regard, please note revised OSA Form 293 (copy attached) procedures to cover this modification.

3. Secretary/Recorders are cautioned to bear in mind that *under no circumstances* will in excess of 80 panel hours per month be scheduled. Violation of this prohibition will not be tolerated. I wish to emphasize again that the scheduling of cases is the *sole responsibility* of the Secretary/Recorder of the panel concerned as are all other administrative and operational procedures dealing with the Field Panel.

William E. Weber
Colonel, IN, President

SFRB, Memo #11
September 24, 1976.

Memorandum for: All Pit Officers/Medical/Legal Officer
Subject: Pre and Post Review Briefing Cases

I dislike the concept of quotas or even a need to express production by the ACRB in terms of cases per month. However, as spread out as we are and with so many things going on simultaneously, it is evident that our officers will not always be aware of everything that is going on in the shop, nor will they necessarily always be up-to-date on the status of our workload requirements. Therefore, it is appropriate that each become goal-oriented and understand the particular portion of goal accomplishment which is an individual responsibility.

a. **Officers** responsible for pre-reviewing **cases must also** assume responsibility to refer **to the medical** and legal officer any case which requires a more detailed review of their areas of expertise. This can be accomplished by an appropriate notation on the pre-review staffing slip. The Secretary/Recorder Division is then responsible for routing the case to the appropriate individual and for returning the case to normal flow upon completion of their review.

b. When a Pit officer briefs the case, it is *not necessary* that the case then go to a pre-review officer. The briefing officer should in addition to preparing the brief also complete the pre-review staffing slip to include recommendation.

c. Cases referred by me to a review panel must take priority over other Pit action, insofar as the designated Pit officers are concerned. They do not, however, take priority over normal panel operations during the week. To the extent that it is possible, all review panel cases should be completed within 5 working days of the day the case is referred to the review panel.

d. Cases being reviewed by Hearing Examiner and designated Presiding Officer for Hearing Examiner trips should have the review completed at least 5 working days prior to the departure of the Hearing Examiner Team. All officers must bear in mind that the foregoing are stated goals and are enunciated with the future in mind and a presumption that all elements of this rather complex area are all going to come together at the same time. It is also possible that in order to meet your portion of the foregoing goals, you may have to devote some additional time to the desk. It is important that we remember that each aspect of our function is important but that the time we spend in the panel room is in the final analysis the *most important*!! Under no circumstances must we get into the habit of rushing through the hearings in order to get back to the desk to do the preliminary actions necessary to get into the panel room the next time.

William E. Weber,
Colonel, IN, President.

SFRB, Memo #12
October 4, 1976.

Memorandum for: All Officers
Subject: Review of Cases UP Chapter 10, AR 635–200

1. Paragraph 10–1a, AR 635–200, provides that:

"An individual who has committed an offense or offenses, the punishment for which, under the Uniform Code of Military Justice and the Manual for Courts-Martial * * * includes a bad conduct discharge or dishonorable discharge, may submit a request for discharge for the good of the service."

2. In applicable substance, Section B, Table of Maximum Punishments, MCM, provides that if the offenses charged are not punishable by a punitive discharge, a bad conduct discharge may nevertheless be adjudged under either of the following circumstances:

a. The accused is found guilty, and there is proof of two or more previous convictions during the three years next preceding the commission of any current offenses.

b. The accused is found guilty of two or more offenses punishable by total confinement of six months or more.

3. In the review of these cases, the ADRB has accepted the proper application of the Table B rules in deciding the propriety of a Chapter 10 discharge. Please note, however, for future application, that on message change, 11 March 1976, paragraph 10–1a, it is now provided that "the provisions of the Table of Maximum Punishments, Section B * * * are not applicable to requests for discharge pursuant to this chapter."

4. I do not consider this change to require retroactive application. However, Board members may give consideration to such if they can justify a presumption of deliberate "stacking". (Refer to paragraph 14, Section III, SOP.)

William E. Weber,
Colonel, IN, President

SFRB, Memo #15
Memorandum for: Secretary Recorder Section
Subject: Continued Cases
October 7, 1976.

1. In those instances where the field panel determines that it is appropriate to continue a case in order to permit either the government or appellant an opportunity to provide additional documentation or to check other sources of record, the following pertains:

a. Continuances must be in 30-day increments or less.

b. The specific reasons for the continuance must be enunciated by the Presiding Officer and entered into the transcript.

c. Specific agreement to the continuance by counsel and/or appellant must also be entered on the record in the transcript. (In the event the continuance is for the convenience of the government, the appellant may not disagree.)

d. A statement to the effect that at the time the panel reconvenes, appellant, counsel, and the same panel membership will be present, except that:

(1) Appellant and/or counsel may stipulate their desire not to be present.

(2) Panel membership may be reconfigurated but in the event such is done, a statement must appear in the addendum to the transcript, the reason for change in panel membership, and the fact that any new panel member has read the case.

e. An addendum to the transcript must be prepared indicating the action taken during the continuance and at the time of reconvening the panel.

2. In the event the continuance is of such a nature that the case would be shipped to Washington, D.C. for final action, it is still incumbent upon the field Secretary/Recorder to provide an addendum to the transcript when appropriate. In this regard, the transcript *must clearly establish the final closing of the case.*

William E. Weber,
Colonel, IN, President.

SFRB, Memo #16
November 11, 1976.

Memorandum for: All Members, ADRB
Subject: Mental Status Eval, C&B*/H&T Type Cases

1. The following pertains to those cases in which the regulation *requires* a mental status evaluation and/or psychiatric evaluation be conducted prior to the time separation action is consummated. When it is determined that the mental status/psychiatric eval has not been performed or has been performed by nonqualified personnel or in a time frame not related to the separation processing, the following relief *must* be granted:

a. If the applicant was awarded a UD, his discharge must be upgraded to either General or Honorable. (Determination as to whether or not the discharge should be General or Honorable is a function of panel decision, based on type of service rendered and panel's judgment concerning ability of the applicant to perform adequately.)

b. If the applicant was awarded a General discharge, the discharge may remain General or upgraded to Honorable. (Again, as above, the decision as to whether or not to provide additional relief is a determination of the panel's decision and/or judgment concerning character of service.)

2. It is incumbent upon the panel to make certain that there is no other adequate medical data to support the equivalent of a mental status/psychiatric eval. In cases described above, consideration must be given concerning changing the SPD. In this regard, if a panel determines there is a total absence of any medical information to substantiate discharge, then serious consideration must be given to utilization of "convenience of the government" or "apathy, etc."

William E. Weber
Colonel, IN, President.

SFRB, Memo #17
November 22, 1976.

Memorandum for: All Officers, ADRB
Subject: Proper Advice and Representation UP AR 635–200 and AR 635–206

1. Paragraph 1–3c, AR 635–200, provides that "counsel for consultation," that is, the officer who advises an individual being processed for separation (with any type of discharge) under paragraph 5–38 and Chapters 9, 10, 13, and 14 plus under AR 635–206, concerning rights, effect of waiving rights, etc., will be a JAG officer. This provision became effective on *1 January 1974.*

2. Up to now, it has been ADRB policy to require counsel for consultation to be a JAG officer (or one otherwise certified by TJAG under Article 27b, UCMJ) on and after *1 July 1972.*

3. Effective immediately, the ADRB will adhere to the *1 January 1974* date requiring counsel for consultation to be a JAG officer. Article 27b certification of a non-JAG after 1 January 1974 is not recognized by the reference in 1, above.

4. Paragraph 1–3d, AR 635–200, concerns "counsel for representation," that is, the officer who represents the individual before a board of officers under Chapter 13, 14, or AR 635–206. If an *undesirable* discharge could result, counsel for representation must be a JAG officer or a non-JAG lawyer certified under Article 27b, UCMJ.

5. Counsel for representation for an individual being processed for *unsuitability* need only be any commissioned officer in the grade of first lieutenant or higher.

William E. Weber
Colonel, IN, President

SFRB, Memo #18
January 21, 1977.

Memorandum for: All Officers
Subject: Personality Disorder Cases

1. In accordance with instructions from the Assistant Secretary of the Army, the following will govern panel operations pertaining to the review and disposition of appellants in this area:

a. All C&B personality disorder cases require a psychiatric evaluation accomplished by a trained psychiatrist effective 1 December 1976. This policy will be applied retroactive except as discussed in paragraph 5 below.

b. Medical officers who qualify to conduct a psychiatric evaluation are those who:

(1) Sign as a psychiatrist.

(2) Are assigned full time duties to a Mental Health Consultation Service (MHCS).

(3) Are assigned to an NP Clinic.

2. Excluded from coverage under the foregoing are those cases which are clearly established as combat exhaustion cases (i.e., cases of the moment) or situational maladjustment cases. As a means of attempting to enable board members to distinguish more easily between those categories, an individual suffering a personality disorder can be defined as one who possesses a condition which is:

Deeply ingrained, maladaptive pattern of behavior of long duration which interferes with a member's ability to perform duty or makes it impossible for an individual to perform duty.

3. Panel members must bear in mind that no individual can be separated for a C&B disorder is that individual has not been clearly established as meeting medical standards for retention.

4. When it is determined by review of the records that a psychiatric evaluation has not been performed or has been performed by nonqualified personnel or was performed in a timeframe not related to the separation processing, then the panel must grant relief if the separation or action was initiated on or after 1 December 1976.

5. This policy will be applied retroactively; however, the panel may not simply conclude that upgrading is justified in the absence of a psychiatric evaluation if other factors and other mental status evaluations are present which can establish to the satisfaction of the panel that the case being looked at is one of situational maladjustment or a disorder of the moment as opposed to a personality disorder of long standing. In every respect, the application of common sense is a paramount prerequisite. (See paragraph 22, Section III, ADRB SOP (President's Guidance)).

6. Terms which qualify under the overall heading of personality disorder include the following:

Antisocial Personality
Asthenic Personality
Cyclothymic Personality
Explosive Personality
Hysterical Personality
Immature Personality
Inadequate Personality
Obsessive Compulsive Personality
Paranoid Personality
Passive-aggressive Personality
Passive-dependent Personality
Schizoid Personality

William E. Weber,
Colonel, IN, President

SFRB, Memo #19
January 25, 1977.

Memorandum for: All Officers
Subject: Addressing Contentions

1. Compliance with the stipulation pertaining to the Antioch litigation involves two specific factors. These are:

a. The applicant and/or counsel must list specific contentions of fact, law or discretion. Contentions may also be identified as "issues" to conform to the index which will be on file in the Reading Room.

b. The Board must make a specific determination on each contention (issue) which the Board found was valid, germane to the case, and nonfrivolous. In those instances in which the Board finds that the contention was not either valid, germane to the case or nonfrivolous, it must so state and identify why a specific consideration was not given to that contention.

2. It is, of course, almost impossible to insure that applicants and counsels will be disciplined to the extent that they will list in telegraphic language in a point-by-point type approach the contentions they feel are appropriate to the case. However, in the event they do not so do, it is the responsibility of the pre-review officer to make this conversion. Bear in mind that the pre-review officer *does not* develop contentions for the applicant and counsel; he simply rewords the contentions they have listed. In the event applicant and counsel list no contentions or deducible contentions from remarks or other contentions listed, then the Board is not obliged to make any specific determinations but need only address findings in the case in a general sense.

3. With regard to the foregoing, when findings are listed in cases in which there are specific contentions addressed, there must be a separate finding (determination) for *each* contention and if the Board feels appropriate, any other additional findings germane to the case. When there is no requirement for a listing of specific findings in a case, then there must be general findings made by the Board. The Board is not precluded from listing specific findings if they feel such are appropriate.

William E. Weber,
Colonel, IN, President.

SFRB, Memo #20
January 26, 1977.

Memorandum for: All Officers, ADRB
Subject: Analysis of New Army Regulation 600–85, *Alcohol and Drug Abuse Prevention and Control Program*

1. A new regulation, AR 600–85, has been published and its provisions were effective 1 September 1976. Its title is *Alcohol and Drug Abuse Prevention and Control Program*, abbreviated ADAPCP. It supersedes four AR's and a list of DA messages but mainly it

*Obsolete as pertains to C&B cases. See SFRB Memo #3–78.

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supersedes DA Circular 600–85 dated. 30 June 1972.

2. This regulation has 9 Chapters:
1. General
2. Prevention
3. Identification. Referral. and Exemption
4. Detoxification
5. Rehabilitation
6. ADAPCP Client Management
7. DA Civilian Employee Participation in the ADAPCP
8. Program Reports and Evaluation
9. Army National Guard and Army Reserve

3. The AR makes very few changes to the former DA Circular but it does incorporate the DA messages and elaborate and clarify areas of former confusion. There are several points which should be brought to the attention of ADRB members.

a. No retroactive applications are required. The ADAPCP was effective 1 September 1976.

b.The ADAPCP is available to all active duty personnel and dependents, retired military personnel and their dependents, United States Citizen civilian employees of the army authorized military medical services and their dependents who are authorized military medical services.

c. Client information concerning alcohol or other drug abuse records/history are subject to the provisions of the Privacy Act. Release of any information requires client consent in writing except for medical emergencies, research. or as directed by a court order.

d. Exemption Policy (See Table 3–1, page 3–8. AR 600–85)

(1) Purpose is to eliminate barriers to successful communications between abusers and ADAPCP counselors and physicians.

(2) Exemption is:

(a) Immunity from disciplinary action under the UCMJ or administrative separation with less than an honorable discharge, as a result of alcohol abuse or drug possession or use incidental to personal use.

(b) Immunity from use of evidence obtained directly or indirectly from participation in the ADAPCP.

(3) Exemption is automatic and irrevocable from the moment a member:

(a) volunteers for the ADAPCP.

(b) receives emergency medical treatment.

(c) has a confirmed positive urine test.

(d) is diagnosed as an alcohol or drug abuser by a physician at sick call or other routine medical exam.

(e) has initial interview with ADAPCP counselor based on Commander referral (involuntary participant in ADAPCP).

(4) The exemption policy does not apply to offenses of alcohol and drug possession or abuse incidental to personal use that occurred before the service member acquired exemption if the member:

(a) is being investigated for the offense.

(b) has been officially warned that he/she is suspected of the offense.

(c) has been apprehended for the offense.

(d) has been charged under the UCMJ with the offense or has been offered Art 15 punishment for the offense.

(e) receives emergency medical treatment for actual or suspected overdose and such treatment resulted from apprehension by civilian or military officials.

(5) The exemption policy also does not apply to other offenses committed incident to alcohol abuse or illegal drug use or possession even though such offenses may be motivated by alcohol or other drug abuse. Appropriate disciplinary action may be initiated against a service member committing such offenses or he/she may be administratively discharged with an OTH discharge, if appropriate. No use, however, can be made of any evidence obtained directly or indirectly from the member's participation in the ADAPCP.

4. AR 600–85 is quite a long, comprehensive regulation which addresses the topics in paragraph 2 above in some detail. For detailed information, ADRB members should refer to the regulation itself, a copy of which is available in the ADRB administrative office.

William E. Weber.
Colonel, IN, President.

SFRB, Memo #21.
February 18, 1977.

Memorandum for: All Officers
Subject: Court Reporter Utilization, D.C. Panels.

1. The purpose of this memorandum is to establish procedures for utilization of court reporters for D.C. panel operations in all hearing modes, e.g., on-the-record cases, counsel only, personal appearance, video tape.

2. As agreed to by Director, Military Review Boards Agency, the Court Reporter Section of the Military Review Boards Agency is available to the Army Discharge Review Board on a scheduled daily basis to assist in the accomplishment of D.C. cases. This availability is in substitution of the previous use made of court reporters to take and transcribe verbatim testimony on personal appearance cases. The intent behind the utilization is to provide dignified, responsible duties for court reporters in keeping with their skill and training and to insure that an adequate, accurate and timely record is made of all forms of cases conducted by the D.C. panels.

3. Use of court reporters will be essentially as follows:

a. *"A" Cases:*

(1) Court reporters will be present in board room during board review of "A" cases.

(2) Presiding Officers will narrate to court reporters who will copy verbatim narration of that information necessary to fill out a Case Report and Directive.

(3) In addition, either Alternate Secretary/Recorders and/or Presiding Officers will narrate to the court reporters those elements necessary to fill out Parts III, IV and V of OSA Form 62B (Records Only Case).

(4) Court reporters are responsible for transcribing all narration on each case and returning same in completed form to Alternate Secretary/Recorders and/or Presiding Officer of the panel concerned on the next duty day following the day on which narration is taken.

b. *"B" Cases:*

(1) Court reporters on D.C. panel "B" cases will function in a similar configuration to Secretary/Recorder Assistant in a field environment.

(2) Court reporters will remain available in the anterooms of each board room or elsewhere in the ADRB area so as to enter the board room during the closed session and take verbatim narration for Case Report and Directive and Part VII and VIII of OSA Form 62B (Personal Appearance).

(3) The court reporter functioning in this manner on "B" cases will be the one in support of "A" cases on that panel on that day (if appropriate).

(4) The court reporters are also responsible for transcribing Parts III, IV, V and VI of OSA Form 62B (Personal Appearance) as has been dictated on tape by Alternate Secretary/Recorders. (In other words, the same procedure will be followed in D.C. as is followed for Traveling Panels.)

c. *"C" Cases:*

(1) In those cases in which a counsel actually appears to argue a case, that portion of the counsel's argument will be placed on tape by the Secretary/Recorders in Part III, OSA Form 62B (Counsel Only), Parts IV and V.

(2) Court reporters will be responsible for taking verbatim narration of Part VI.

(3) Transcription of all parts is the responsibility of court reporters from tape or steno notes (as applicable).

(4) In the event counsel does not appear, court reporter will function during "C" cases similar to the manner functioning in "A" cases, except that Secretary/Recorders and/or Presiding Officer will summarize counsel submission.

(5) Court reporter is responsible for providing to Secretary/Recorder and/or Presiding Officer, on the next duty day following the day in which transcription is taken, the completed action.

d. *Hearing Examination:*

(1) Court reporters will be present during all non-video tape portions of Hearing Examinations for each case to take Case Report and Directive and Part III, V and VI of OSA Form 62B (Personal Appearance-Hearing Examiner). Court reporter is responsible for taking from tape Part IV of OSA Form 62B (Hearing Examiner) as summarized by Secretary/Recorder Alternate during video tape presentation.

(2) Court reporters are responsible for providing to the Presiding Officer and/or Alternate Secretary/Recorder, on the next duty day following the day of which tape is presented, completed action.

4. In essence, each panel of the Discharge Review Board in operation will have assigned a court reporter. That court reporter is responsible for supporting the activities of that panel during the entire day and providing to that panel on the next duty day following the completed action of all type cases heard that day. Chief of the Secretary/Recorder Section is responsible for coordination with Chief, Court Reporter Section to insure appropriate scheduling of court reporters sufficiently in advance and on an adequately staggered basis so as to provide each court reporter at least one duty day following the day in which support is provided to complete action on the case.

William E. Weber.
Colonel, IN, President.

SFRB, Memo #22.
February 22, 1977.

Memorandum for: All Officers
Subject: Pre-review Officer and PO & HE Pre-review Hearing Evaluation.

1. Effective immediately (but for record purposes for all cases on or after 1 March 1977) pre-review officer actions will no longer include a recommendation. The reason for this change is to:

a. Avoid pre-conditioning attitude of panel members;

b. Avoid confrontation between pre-review officer and other panel members when the pre-review officer is a member of the panel; and

c. Avoid the precedent of an officer of the ADRB functioning as "pseudo" counsel.

2. Pre-review officers should conduct their pre-review in a manner which permits word-for-word copying (if not summarized by the PO) in part III of OSA Form 62B (Records Only Cases). It is the function of the pre-review officer to insure the case is actually ready for presentation to a panel and to highlight those areas which under any circumstances must be brought to the panel's attention. The pre-review officer also serves as a final check on the brief as prepared by the analyst.

3. PO & HE pre-hearing evaluation should clearly orient away from any suggestion of a recommendation. The essence of PO & HE pre-hearing evaluation is to isolate those areas of the case in which there is absence of fact or substantive information that would otherwise be required by a panel in rendering a fully supported decision. It is not the role of the PO & HE pre-hearing evaluation to isolate areas in cross-examination which may be adversary in nature. In short, the evaluation is not designed to prove either innocence or guilt but instead to enunicate only facts.

4. PO's of all panels are responsible to insure that during the formulative stages of utilizing new forms and new techniques that appropriate adjustments in wording are made to avoid future embarrassment to the Army while not denying to the applicant a fair and equitable hearing. In a philosophical sense, the procedures of the ADRB are intended to be exposed to view and must be so set up so as to survive the "light of day". In this regard, no one officer must be placed in an administrative position of having to stand on a decision made on an informal review. When five of us get together, the validity of our reasoning is enhanced by a multiple of five over that any one of us does as an individual. This is the basis on which I want ADRB evaluated—not individual effort!

William E. Weber.
Colonel, IN, President.

SFRB, Memo #23.
February 23, 1977

Memorandum for: All Officers.
Subject: Hearing Examiners (Prologue/Epilogue).

1. Effective immediately all Hearing Examiners will, upon completion of a Hearing Examination, place their impressions on tape. These impressions must, of course, be made after completion of the Hearing Examination but must be inserted as a prologue to the Hearing Examination.

2. To accomplish this and to discipline the amount of time utilized, Hearing Examiners will have Sec/Rec Assistant run the tape blank for approximately 5 minutes at which point of the tape the actual Hearing Examination will start. Upon completion, the Sec/Rec Assistant will rewind tape for playback and will then video record the HE impressions of the hearing. HE will, in effect, duplicate those things that the HE would otherwise normally present to the panel during the hearing of the case. Upon completion of the prologue, the applicant and counsel will be brought back in to review that portion of the tape dealing only with the actual taping of the testimony.

3. Following complete playback of the testimony, the HE will verify that applicant and counsel concur that the tape is satisfactory. If they so agree, the hearing will go back on camera and the HE will formally place on tape (epilogue) the stipulation from counsel and applicant that the tape is satisfactory and adequately presents their views. Camera will record applicant and counsel's acquiescence to complete the epilogue.

4. The purpose of the foregoing is to accomplish the following:

a. By use of the prologue to convert the actual conduct of the Hearing Examination cases at Washington, D.C. to a procedure which will not require the presence of the HE during the playing of the tape. If possible, this will give us a great deal more flexibility. It will, of course, depend upon the adequacy of material placed on the tape by the HE.

b. Place on tape for subsequent summarization on OSA 62b the statement by counsel and applicant that they are satisfied with the hearing.

c. This technique will enable the HE to record comments concerning the case at the point in time the case is most current in the HE's mind and will also permit a more accurate assessment of the actual conditions of the Hearing Examination then would otherwise be possible through later recall.

d. This technique should enable an increase in the total number of Hearing Examinations that can be conducted on any one trip, because of a reduction in the amount of administrative follow-up effort required on the part of the HE.

5. It is also important to remember that during the period of time in which the tape is being played back to counsel and applicant, the Sec/Rec accompanying the HE should be placing the summary of testimony on cassette recorder at that time. Also, the prologue exercise, for which the Sec/Rec is responsible for handling the camera gives the Sec/Rec the benefit of HE thoughts before doing a summarization.

6. In summary, a Hearing Examination is chronologically sequenced as follows:

a. Sec/Rec meets and greets applicant and counsel and briefs on procedures.

b. Sec/Rec brings applicant and counsel to hearing room and HE conducts informal review.

c. HE and Sec/Rec Assistant conduct tape hearing (Sec/Rec Assistant has already run 5 minutes of tape blank).

d. Sec/Rec Assistant rewinds tape upon completion of hearing and readies camera for "prologue" then departs room to "fall out" Sec/Rec and pre briefs next case or starts typing preceding case.

e. Sec/Rec joins HE and films "prologue".

f. Applicant and counsel rejoin and HE/Sec/Rec play back testimony. During playback, Sec/Rec places summary on cassette recorder.

g. At completion of testimony playback, HE verifies with applicant and counsel such is satisfactory and then Sec/Rec places on video tape the "epilogue".

h. Sec/Rec, applicant, and counsel depart room. Sec/Rec Assistant comes back in and readies for next case.

i. Repeat.

William E. Weber.
Colonel, IN, President.

SFRB Memo #24
March 10, 1977

Memorandum for: All officers
Subject: C & B Disorder Cases (Court of Claims Decision—Bernard Carter Case)

1. In the subject case, Bernard Carter was separated from the Army as a C & B on the basis of a psychiatric evaluation which concluded that there was "no psychiatric disease or defect". No further narrative description was given by the psychiatrist which either alluded to or specifically identified a C & B problem.

2. The installation concerned nontheless processed Carter as a C & B and ultimately separated with a SPN of 264 and a characterization of General. Georgetown School of Law submitted a claim to the US Court of Claims in the Carter case requesting that he be paid all his pay due from the date of separation to the date of ETS and that the Secretary be required to recharacterize his discharge as appropriate. In making the argument to the Court of Claims, Plaintiff's counsel used the argument that absent a specific identification as a C & B by an appropriate medical/psychiatric officer, the Army had no right to characterize Carter as such or separate as such. While the case was in litigation, the TJAG of the Army requested that the DRB hear the case on its own motion to determine whether or not the discharge was proper and equitable.

3. In our review of the case, we established that the discharge was not proper but the characterization was equitable and we changed the reason for discharge to Secretarial determination. Our rationale in so doing was similar to that of counsel to the Plaintiff in that the Army did not establish by regulation that Carter was a C & B even though a lay person in reviewing his military performance and conduct could conclude that he was suffering from some C & B disorders.

4. The action of the Court of Claims granting back pay and recognition of service until ETS in effect establishes a premise that no individual may be separated from the

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Army by C & B unless, in accordance with regulation, there is a specific and narrative determination made by an appropriately qualified medical/psychiatric officer of the Medical Corps that the applicant is in fact suffering from a C & B disorder. There must also be specific diagnostic language establishing the C & B disorder.

5. As many of you know, a significant percentage of our C & B cases are those justified on the basis of a "circle jerk" which terminates by concluding that there is an absence of psychiatric problem but does not necessarily include language that there is a presence of a specific C & B disorder. Cases of this type necessarily fall under the same broad category as does the Carter case as described above. At the present time, we do not know whether or not the Secretary (TJAG) will choose to request that Justice appeal the Court of Claims' decision. The prognosis is that they will not.

6. In the interim, I desire that all cases that may be configured similar to that of the "Carter" case be considered on the presumption that the lesson learned as a result of the Carter case will be applied to all future considerations by the ADRB. These cases then will be identified on a separate roster by name, SSN, and case number (such roster to be maintained by the Executive Officer) so that in the event future action need be taken by the Secretary similar to that which the Court of Claims directed be taken in the Carter case we will be prepared to execute without additional work. The Secretary/Recorder Section is responsible for providing a daily log to the XO with a listing of the cases that meet this condition.

7. All PO's and pre-review officers are requested to pay special attention to this problem area so as to insure that cases of this type are surfaced as soon as possible and that none slip through the cracks.

William E. Weber,
Colonel, IN, President.

SFRB Memo #25
March 17, 1977.

Memorandum for: All Personnel
Subject: Traveling Panel/Hearing Examiner Case Scheduling Guidelines

1. Lessons learned on recent visits by both Traveling Panels and Hearing Examiners, coupled with new administrative procedures and forms, require scheduling on a uniform basis. As a result, all future trips will schedule 60 cases for Traveling Panels and 30 cases for Hearing Examiners. When possible, Traveling Panels will be scheduled for 15 day duration, departing on Sunday and returning on Saturday/Sunday. Hearing Examiners will be scheduled for 10 day duration, departing on Sunday and returning on Tuesday.

2. The Secretary/Recorders responsible for each designated trip will schedule cases to be heard on a daily basis as indicated below:

Hearing Examiner

Sunday—Departure Day.
Monday—4 cases.
Tuesday—5 cases.
Wednesday—5 cases.
Thursday—5 cases.
Friday—5 cases.
Saturday—2 cases.
Sunday—Day of Rest.
Monday—4 cases.
Tuesday—Return.

Traveling Panel

Sunday—Departure Day.
Monday—5 cases.
Tuesday—6 cases.
Wednesday—6 cases.
Thursday—6 cases.
Friday—5 cases.
Saturday—2 cases.
Sunday—Day of Rest.
Monday—5 cases.
Tuesday—6 cases.
Wednesday—6 cases.
Thursday—6 cases.
Friday—5 cases.
Saturday—2 cases.
Sunday—Return.

3. Presiding Officers and Hearing Examiners are authorized to adjust scheduled cases on site if there are mitigating circumstances and they feel it is in the best interest of the applicant or TP/HE concerned.

4. The scheduled format assumes that 60 and 30 hard cases respectively will be available for each planned trip. It is demonstrably evident that when fewer cases are available, the Secretary/Recorder responsible will adjust the schedule accordingly, using fewer days for the planned trip. However, in no case will the number of hearings per day exceed six for TP's and five for HE's.

5. Within the next few days, the tentative traveling schedule for the remainder of calendar year 1977 will be made available to each member of the Army Discharge Review Board. The schedule will indicate place and date of visit. Because each of you has certain preferences, please provide to the Executive Officer your first and second choice, to include any mitigating reasons. If you have no preference, please so indicate. In this regard, you should also accept that you may receive a nonpreferred assignment for each of your selections which can be accommodated.

6. You will also note that six Hearing Examiners may be deployed during any given month; the additional two are for my use and will be designated by myself, based on requirements levied on the ADRB.

William E. Weber,
Colonel, IN, President.

SFRB, Memo #26
May 11, 1977

Memorandum for: All officers and sections
Subject: Use of Separation Program Designator JKG

1. RCPAC has presented a problem. The SPD now used for fraudulent enlistments that have been declared void is JKG. In such a case, there is no discharge characterization because of the period of service has been declared viod.

2. In order to avoid confusion and adverse effects to applicants, the ADRB will not use JKG. Whenever a panel determines that an applicant who has been discharged for fraudulent enlistment should have his discharge upgraded, the SPD will be changed to JFF–KFF (Secretarial Authority—old 21L).

William E. Weber,
Colonel, IN, President.

SFRB, Memo #27
May 12, 1977

Memorandum for: All officers
Subject: Notification to Respondents of Contemplated Board Action

1. Recently it has been noted that counsel for applicants have referred to a TJAG opinion that purportedly stands for the proposition that a full and explicit description of the basis for proposed discharge action must be given to a military member before he can validly be discharged. The citation is DAJA–AL 1974/3846, 29 April 1974, published in The Army Lawyer in June 1974.

2. Reliance by counsel on this opinion as indicated above has sometimes been overstated. Various paragraphs of AR 635–200 (1–10a, and 13–22 a and b) do require that a potential respondent be specifically advised of the basis for discharge action and that he be given full opportunity to rebut adverse evidence. However, TJAG also recognizes that the scope of notification may be supplemented by witness statements or other evidence. In other words, substance rather than form is the main point; the question essentially is one of actual realities, that is, whether or not a potential respondent was reasonably appraised of the reason for discharge action taken.

William E. Weber,
Colonel, IN, President.

SFRB, Memo #28
May 27, 1977

Memorandum for: All officers, chief, secretary/recorder section chief, administrative section
Subject: Index Reference Number

1. Effective 1 June 1977, Presiding Officers and Secretary/Recorders are responsible for insuring that both primary and secondary Index Reference Numbers are indicated on *all* cases. These Index Reference Numbers must be reflected on the Case Report and Directive and Summary of Testimony sheets.

2. To insure that there is a unanimity of understanding as to the areas of considerations for which Index Reference Numbers must be selected, the following procedure will be adhered to:

a. For every finding by the panel, both as relating to contentions submitted by the applicant and, as well, deduced areas covered by the panel, an Index Reference Number will be selected.

b. The primary Index Reference Number assigned to the case will be determined from among the foregoing by the Presiding Officer at the completion of the case. This determination will be predicated on the Presiding Officer's assessment of the dominant factor of issues of fact, law, or discretion considered by the board.

c. Index Reference Numbers will be selected for negative findings as well as positive findings.

3. The current Discharge Review Board Index is now probably not complete enough to satisfy this expanded requirement, therefore, and in addition, Presiding Officers and Secretary/Recorders are also responsible for providing the Executive Officer recommended new index reference identifiers for inclusion in the Discharge Review Board Index. These identifiers will presumably be developed by panels in their consideration of cases. In this regard, it is evident that specific identifiers now become extremely important since we must insure that findings remain appropriate only to the case which generated their development so as to avoid the aspect of precedent setting actions by the panels which can be used to attempt to bind future panels on future cases.

4. The foregoing should not be interpreted to suggest that there cannot be similarity in findings between cases. However, it is the combination of findings which make one case distinct from another.

William E. Weber,
Colonel, IN, President.

SFRB, Memo #29
June 14, 1977.

Memorandum for: All officers
Subject: Check Sheet for Regular Discharge Review Cases

The following is intended as an aid to POs and panel members in the review of regular cases in order to focus upon the key elements of regulatory requirements for the various types of discharges most commonly encountered. It is emphasized that this is a simple check sheet and obviously not a substitute for detailed understanding and application of the ARs, the SOP, and the supplemental memoranda, especially where applicants make specific contentions relating to the detailed requirements of the discharge process.

a. *BCD Special Court-Martial:* Is there a final supplemental court-martial order which orders the BCD executed and states that the requirements of Article 71C have been complied with?

b. *Chapter 5 (para 5–37)—EDP:* (1) Did the applicant consent to being discharged? Was he advised he could consult with a JAG officer before deciding?

(2) Does he fit the criteria for EDP, i.e., 6–36 months of service and meet the personality traits of the program?

(3) Was the discharge authority an O5 commander or higher?

c. *Chapter 5 (para 5–38)—Concealment of Arrest:* (1) Was the arrest concealed for a felony type offense?

(2) Was counsel for consultation on or after 1 Jan 74 a JAG officer?

(3) Was the discharge directed by the GCM authority?

d. *Chapter 10:* (1) Did he request the discharge?

(2) If on or after 1 Jan 74, did a JAG officer sign the request form?

(3) Could the offense charged be punished by a punitive discharge? (Note: Section B, Table of Maximum Punishments, applies prior to 1 April 1976.)

(4) Was the request approved by the GCM authority?

e. *Chapter 13:* (1) In waiver cases, was counsel for consultation on or after 1 Jan 74 a JAG officer?

(2) Is the specific criteria met for the discharge action concerned?

(3) If discharge is for a personality disorder, homosexuality or homosexual acts, is there a psychiatric report in the file?

(4) In other cases, is there a mental status evaluation in the file which was prepared or reviewed by a military physician?

(5) In formal board actions involving a UD (UOTHC), was counsel for representation a JAG officer or otherwise a lawyer qualified under Article 27(b)(1), UCMJ?

(6) Was the discharge directed by proper authority, i.e., GCM level commander for UD, SPCM level commander for GD or HD?

f. *Chapter 14:* (1) In waiver cases, was counsel for consultation on or after 1 Jan 74 a JAG officer?

(2) Is the specific criteria met for the discharge action concerned?

(3) Is there a mental status evaluation in the file (only required if under military control)?

(4) In formal board actions involving a UD (UOTHC) was counsel for representation a JAG officer or otherwise a lawyer qualified under Article 27(b)(1), UCMJ?

(5) Was the discharge directed by proper authority, i.e., GCM level commander for UD, SPCM level commander for GD or HD?

g. *AR 635–206—Civil Conviction:* (1) In waiver cases, was counsel for consultation on or after 1 Jan 74 a JAG officer?

(2) Was the offense (or offenses) for which convicted punishable by a comparable offense under the UCMJ by confinement of more than 1 year (prior to 2 Dec 76) or confinement of 1 year or more (effective 2 Dec 76), or was the offense for narcotics violation or sexual perversions regardless of the punishment possible?

(3) Is there an indication in the file that no appeal is intended or that the time for appeal has expired?

(4) Is there a mental status evaluation in the file (only required if under military control)?

(5) If confined by civil authorities, was he advised by registered mail of his basic rights?

(6) In formal board actions involving a UD (UOTHC), was counsel for representation a JAG officer or otherwise a lawyer qualified under Article 27(b)(1), UCMJ?

(7) Was the discharge directed by proper authority, i.e., GCM level commander for UD, SPCM level commander for GD or HD?

William E. Weber,
Colonel, IN, President.

SFRB, Memo #30
June 27, 1977.

Memorandum for: All officers, chief, secretary recorder section chief, administrative section
Subject: Index Reference Numbers

1. This memorandum rescinds paragraphs 1 and 2, PART II SFRB MEMO #D. It also amplifies guidance in SFRB Memo #28.

2. Primary Index Reference Number.

a. The primary index number will be designated by the Presiding Officer at the time of the hearing. No index references will be assigned to cases prior to this time.

b. Favorable decisions. In these cases, the primary index will be the principal reason that the board took favorable action.

(1) Regular Cases. Number selected from ADRB Index.

(2) DoDDRP(S) Cases. Number selected from 67.00 series in ADRB Index.

c. No change decisions. In these cases, the number will be selected based on the reason for discharge and will be the most specific number in the index (example: Applicant discharged for unfitness, frequent involvement, SPN/SPD 28B/JKA. Index Reference Number would be 34.08). This practice will be followed for both regular cases and DoDDRP(S) cases.

3. Secondary Index Reference Numbers. These numbers will also be assigned based on the contentions, findings, and reasons enunciated in the case.

a. DoDDRP(S) Cases. The secondary index numbers will be assigned from the 67.00 series. When the applicant has enunciated additional contentions (other than those covered by DoDDRP[S]) a finding and index number appropriate to the contention will be selected as well.

b. Regular Cases. The secondary index numbers will be selected from the ADRB Index. Index numbers should be as specific as possible. At a minimum, there must be an index number for each finding. Since we always consider the applicant's record of service overall, an appropriate number from the 56.00 series should also be assigned to the case.

William E. Weber,
Colonel, IN, President

SFRB Memo #31
July 12, 1977.

Memorandum For: All Officers.
Subject: Directed Rehearing Cases (Ailes Memorandum).

1. Attached is a copy of the memorandum issued by Stephen Ailes, under Secretary of the Army, effective 20 November 1961, which prescribed directed rehearing for applicants subsequent to 1 December 1961 whose cases were considered on or before 30 November 1961.

2. Within the memorandum is contained a reference to "except as barred by 10 USC 1553c . . ." The reference appears to be confusing under the current codification since 1553c refers to provision of counsel and presentation of witness statements. However, the reference has applicability to an earlier codification, and the earlier codification specifically establishes that applicants under the authority of the Ailes Memorandum are bound by the 15 year statute of limitations.

3. Accordingly, any application dated subsequent to 1 December 1976 is no longer eligible for the directed rehearing provision of the Ailes Memorandum, and cases received by the Army Discharge Review Board will be returned to RCPAC without further action, citing as the authority for return that the case was submitted subsequent to the expiration of the 15 year statute of limitations.

4. Cases on hand or subsequently received for which the *date of application* is on or before 1 December 1976 will continue to be

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heard under the auspices of the Ailes Memorandum.

William E. Weber
Colonel, IN, President

November 20, 1961.

Memorandum Thru: Director, Army Council of Review Boards.
For: President, Army Discharge Review Board.
Subject: Army Discharge Review Procedures.

Purpose of this memorandum is to provide additional policy guidance to the President, Army Discharge Review Board, in processing cases where individuals request reconsideration of the type and nature of discharge. To provide this Board with an opportunity to exercise a more objective and flexible approach in determining the most judicious and equitable resolution of an individual case, authority is granted to consider, in addition to the old criteria upon which an individual was separated, any criteria in current regulations which pertains to the same reason or basis for separation. This additional consideration will in no way affect the traditional approach of deciding each case on its individual merits, and in light of a best evidence presented to and obtainable by the Board.

Unless barred by the provision of 10 USC 1553c, an application for review of discharge received on or after 1 December 1961 from an applicant whose case has been reviewed by the Army Discharge Review Board on or before 30 November 1961, will be treated as an individual application and not as an application for rehearing. This action is taken in view of Department of Defense commitments to Congress that a discharge issued under regulations in existence prior to implementation of DOD Directive 1332.14, 14 January 1959, subject: Administrative Discharges, may be reviewed under the standards outlined in this Directive.

An application for review of discharge received from an applicant whose case has been heard on or after 1 December 1961 will be considered and processed as an application for rehearing.

Stephen Ailes
Under Secretary of the Army

SFRB Memo #32
August 4, 1977.

Memorandum For: All Officers and Secretary/Recorders.
Subject: Challenges for Cause.

1. The applicant in an ADRB hearing has a right to challenge a panel member for cause. While the exercise of this right is remote in the light of past experiences, a few ground rules should be laid down to guide PO's in the proper and uniform handling of challenges for cause.

a. If it should appear to a panel member that he has had some prior dealing with an applicant, and he feels that he *cannot* impartially participate in the hearing, he should so advise the PO. The PO will report the matter to the President, ADRB, for a replacement member. In a Traveling Panel situation, the replacement member will ordinarily be the accompanying Secretary/Recorder.

b. If it should appear to a panel member that he has had some prior dealing with an applicant, and he feels that he *can* impartially participate in the hearing, he should so advise the PO. The PO will then rule whether or not the member should continue to sit on the case.

c. A panel member is normally the best judge of his qualification to sit in a particular case. It is not the fact of prior dealing, per se, (e.g., in a de novo hearing, having sat on a SDRP panel) that is determining but, with the exception of participation in the initial discharge process itself, the question of whether or not the member is impartial. If there is doubt, it should be resolved in favor sustaining a challenge for cause.

d. Other possible challenges for cause will be resolved in a similar manner.

e. If the PO is challenged, he will judge the matter of his qualificaion to sit. Where he feels he may not be impartial, he will advise the President, ADRB, who will decide. Where the PO rules that he is impartial, he will continue to sit unless an applicant or his counsel expresses disagreement with the ruling, in which instance the PO will advise the President, ADRB, who will make the decision.

2. Prior to convening of a panel, any member who believes that there could be a question arising concerning his qualification to sit should advise his PO (or President, ADRB). In this regard, Secretary/Recorders, Pre-Review officers, and others who review records prior to hearings should advise the PO (or President, ADRB) of any ground for challenge for cause that may be detected.

William E. Weber,
Colonel, IN, President.

SFRB Memo #33
September 6, 1977.

Memorandum For: Presiding Officers, Professional Staff, Board Members, Secretary/Recorder, Alternate Secretary/Recorders, and Secretary/Recorder Assistants.
Subject: Justifying Decision Not to Grant Full Relief.

1. Under the provisions of "Urban Law Institute v. Secretary of Defense, U.S.D.C., D.C., C.A. No. 76-0530" as they are interpreted by the Army General Counsel, the Discharge Review Board is responsible for enunciating in sufficient detail a decision as to why full relief is not granted when only partial relief is granted on the discharge appeal. In substance, this means that when a panel determines that there is inherent to an appeal sufficient justification to upgrade from UD to General, but does not justify upgrading to Honorable, the following must be accomplished:

a. In the Reason and Justification paragraph, and in the findings for both contentions and/or issues, if applicable, the rationale justifying changing the discharge from UD to General should appear.

b. In addition, both in Reason and Justification and, as appropriate, PO's notes, the reason why the panel decided not to go to full honorable must appear. This can be expressed in general terms but must be specific enough to avoid being challenged as simply conclusary.

2. In responding to this requirement, panels may make use, by reference thereto, of information that is already contained in the Case Report and Directive. For example, if in Part III there are specifically enunciated offenses which were punished by Article 15, Special or Summary Courts-Martial, etc., and, as well, a specific listing of AWOL time and Conduct and Efficiency ratings, then reference can be made to these in the Reasons and Justification as being the basis on which a decision was made not to grant full honorable. Samples of the kind of language (given the presence of these data elsewhere in the Case Report and Directive) that will be sufficient to meet the requirement follow:

a. "The total circumstances warrant upgrade to General Discharge. This is mandated by the presence of a prior Honorable Discharge. However, an upgrade to Honorable is not warranted because of the frequent disciplinary problems (2 Articles 15 for failure to repair, a summary court-martial conviction for failure to obey an order, an Article 15 for disrespect to an NCO, and 2 Articles 15 for AWOL (10 and 20 days)), in addition to the events resulting in discharge. Further, applicant's age (25), aptitude (AFQT-70), education (two years of college) and prior excellent service during first enlistment indicate an ability to perform in a manner better than that demonstrated by his record."

b. The applicant enlisted in October 1973 for three years; he was discharged in April 1975 in lieu of court-martial for an AWOL from 23 December 1974–10 March 1975; was 23 at time of enlistment; served for 17 months; was AWOL for 57 days in addition to the period that resulted in discharge; conduct and efficiency ratings were as follows: 4 months—excellent; 6 months—good; 8 months—unsatisfactory; highest rank achieved was E3; no awards and decorations; AFQT score—35; completed 10th grade of school; received two Articles 15, one for a 10-day AWOL in August 1974 and the other for a 20-day AWOL in October 1974. Applicant's discharge should be upgraded to General because it was too harsh in light of applicant's overall record of service. An Honorable Discharge is not warranted because of the periods of AWOL and the unsatisfactory conduct and efficiency ratings during the last 8 months, as highlighted in Part III, Sections A thru D, of the Case Report and Directive.

3. Presiding Officers must exercise care and ensure that the choice of language in cases not warranting full relief is adequate to avoid challenge as being too general.

William E. Weber,
Colonel, IN, President

SFRB, Memo #34.
September 21, 1977

Memorandum for: All Personnel.
Subject: Work Schedule (Panel Room and Pit Operation).

1. Examination of work effort since 8 August and recommendations from Pit Bosses suggest a modification in the scheduling of workload in order to provide a more orderly

flow of cases. The changes outlined below are not permanent in nature but are, as has been the case in the past two months, experimentation to find the most effective means of operation.

2. Effective Monay, 26 September, a cyclic schedule of a full-day of panel room operation, followed by a half-day of pre-review on a rotational basis, will be put into operation. Attached at inclosure 1 is a sample of how such scheduling will be programed. The published schedule each week will accommodate special requirements, holidays, etc., but, in general, will conform to inclosure 1.

3. The goal behind this change is intended to increase overall case production and, at the same time, provide board members uninterrupted periods of work effort so as to enhance each element of work effort. In order for this system to work effectively and properly, *it is essential* that (within reason) each period of work effort consummate in total completion of caseload scheduling for that period of time and that each officer complete the portion of work effort allocated. The discipline, concerning work completion, is the personal responsibility of each officer. Essentially, a duty day is not complete until the work effort allocated for that day is complete.

4. In addition to the foregoing, a change in post-review procedures will also be implemented effective with all cases heard on or after 26 September 1977. Draft post-review will be accomplished only by the Presiding Officer whose panel heard the case. The Presiding Officer concerned will be given a standdown day in order to accomplish this draft post-review. Presiding Officers will also be the only officers to accomplish final post-review of cases for which they are responsible, but they will not be given a standdown day for this purpose. It will be included as a part of their normal workload during a half-day review period.

5. Subject to announced changes, workload goal, towards which maximum effort must be made, is assigned as follows:

a. Panel rooms conducting on-the-record (A) or written presentation by counsel only (C) cases—25 per full-day. (Note: it is the responsibility of the Presiding Officer concerned to ensure (within reason) that the 25 cases are completed, even if it involves more than 8-hours of work effort. On those days where panel effort is split, e.g., Afternoon/Morning, it is the responsibility of the Presiding Officer to insure (within reason) completion of sufficient number of cases in the afternoon session so that the morning session terminates at 1200 hours.)

b. HE Hearing Room—6 complete cases per full day.

c. Personal Appearances or Appearances by Counsel (B, TP) Only—10 cases per full-day. (This presumes 40% show rate and remaining 6 cases done as on-the-record cases. Obviously, if rate of show increases, adjustments will be made. In addition, each personal appearance panel room will have 10 on-the-record cases added to the log. These cases must be completed on the scheduled day of the log unless personal appearances extend beyond 1500 hours. In such cases, the residue will be continued on the log for the succeeding day.)

d. Pre-Review by Officers—6 cases for each half-day period for those officers who are scheduled to sit as a panel member for the other half-day period in the same day. Pit officers not assigned to a panel on any given day are responsible for completing 10 cases per day. (*Note:* This excludes Presiding Officers on the day allocated for draft post review and HEs on the 3-days prior to deployment.

6. There can be no question that the secret behind accomplishment of the foregoing mission is a complete and well-prepared pre-review action. Further, to do an improper pre-review can only result in an unnecessary effort being expended in the panel room that otherwise would not be necessary. The documents that have been developed to assist the pre-review officer in accomplishing a well-prepared pre-review have inherent to them some repetitive effort. While I recognize that this results in some additional work, it is also true that it ensures against error of omission and helps to prevent errors of commission in recording substantive data on which a panel bases its decision on a case. In the final analysis, it is a simple proposition: either one officer is involved in the tedium of recording information or five officers must do so when in the panel room. I think the choice is obvious and, more importantly, we must all consider that the combination of the time spent on the case (e.g., that of the pre-review officer as well as that of the panel) is what constitutes a measure of how effectively we provide a fair and impartial review. To scrimp on pre-review can only lead to an increase in judgmental error within the panel room. It is incumbent upon pre-review officers to present information to the panel—not decisions.

7. I recognize the foregoing is a significant workload but experience of the past 60-days establishes that it can be accomplished and it must be accomplished if we are to remain abreast of the incoming workload. During the latter portion of October, it is my hope that there will be some relief in the way of additional assets but, in the interim, the above stated workload must be accomplished with existing resources.

William E. Weber,
Colonel, IN, President.

SFRB, Memo #35.
November 3, 1977.

Memorandum for: Board Members, Secretary/Recorders and Executive Officer.
Subject: No-Show Cases, HE Deployments.

1. For a variety of reasons, not the least of which is the possible impact of PL 95–126, no-show rate on HE deployments has increased. Under present procedures HEs are bringing the cases back for reinsertion into the system, requiring going back into The Pit for pre-review prior to scheduling on-the-record.

2. The foregoing normally results in wasting the unique knowledge of the case as a result of the Hearing Examiner's pre-deployment review. This review, although not encompassing use of the pre-review forms, is nonetheless the equivalent, if not a more detailed "look see," than the normal pre-review.

3. Effective immediately, the following procedures will be employed for all no-show HE cases:

a. Alternate Secretary/Recorder will hold the no-show cases and give them to the HE as soon as the team returns to D.C.

b. HE will complete normal pre-review within one duty day following the first duty day of return to Washington, D.C. (In the event there are more than 10 cases to pre-review, the requirement per duty day is 10 per day.)

c. HE can, if desired, do pre-review while deployed.

d. Upon completion of pre-review, the cases will be given directly to the Alternate Secretary/Recorder responsible for supporting the deployment of that particular HE.

e. The Alternate Secretary/Recorder concerned is then responsible for insuring the immediate scheduling and hearing of these cases in the appropriate board room.

f. Cases will be identified as "HE No-Show (appropriate location)".

4. Presiding Officers of panels hearing such cases and having been identified by the Alternate Secretary/Recorder as "HE No-Show" will add to the PO's notes a statement essentially as follows:

"This case was heard on-the-record as a direct result of the failure of the applicant concerned to be present on time and as scheduled for a Hearing Examination at ———. In accordance with policy, failure to make necessary arrangements in such circumstances causes the individual concerned to forfeit the right for a personal appearance form of hearing and authorizes the board to complete the case as an on-the-record case."

William E. Weber,
Colonel, IN, President

SFRB, Memo #36.
November 9, 1977.

Memorandum for: All Officers.
Subject: Completion of Pre-reviews.

1. Effective immediately, the following clarification of preparation instructions are prescribed for completion of Section L—DoD Special Discharge Review Program, Discharge Data, Part III of the Worksheet for the Case Report and Directive:

a. When submission by the applicant reflects a claim of any criteria of the SDRP, the claimed criteria will be checked affirmatively on the L–15 and worded as one or more contentions under the heading, "Applicant's Contentions," on page 4 of the worksheet. In such cases, a notation, "See Contention(s) No. ———," will be made in the Comments Section of the L–15. Proposed findings to the contentions will be drafted, when possible, in the same manner as for other contentions.

b. When review of the record reveals the possible presence of the primary criteria of the SDRP, as listed in the printed instructions of page 5 of the worksheet, those criteria will be checked affirmatively on the L–15 and raised as one or more issues (if not listed as an applicant contention) under the heading.

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"Board Issues," on page 5 of the worksheet. In such cases a notation, "See Issue(s) No. ———," will be made in the Comments Section of the L–15. Proposed findings to the issues will be drafted, when possible, in the same manner as for other issues.

c. When review of the records reveals the existence of any factors listed under the secondary criteria of the SDRP, these factors will be checked affirmatively on the L–15. If in the opinion of the prereviewing officer, these factors checked are mitigating, they will be raised as issues (if not listed as applicant contention) under the heading "Board Issues" on page 5 of the worksheet and treated in the same manner as for issues pertaining to the primary criteria. If the factors are not considered mitigating, a notation, "Factor(s) not considered as mitigating," will be made in the Comments Section of the L–15. In this case, such factors will not be raised as issues on the worksheet by the pre-reviewing officer.

d. More than one primary criteria may be combined to form a single issue or contention, if appropriate. Primary and secondary criteria should not be combined to form a single contention or issue.

e. Where review of records reveals the possible presence of a compelling reason, it will be checked appropriately on the L–15 and raised as an issue. Proposed finding to the issue will be made in the normal manner and a notation in the Comments Section of the L–15 will be made as follows: "See Issue No. ———".

f. To ensure clarity and ease of understanding, where more than one comment is placed in Comments Section in accordance with some combination of a, b, c, d, and e above being applicable to the case, the appropriate factor/factors applicable to each comment will be annotated with a reference number. That reference number will be used with the appropriate remark in the Comments Section.

2. A summary of the charges under Chapter 10 will be included in the Comments Section of L–1 for all cases when the specific charges can be determined. If specific charges cannot be determined, an explanation should be made in the Comments Section. This information should also appear under "Reason for Discharge" on the sheet used to display by Vugraph the service highlights pertaining to the application.

3. It is the responsibility of the pre-review officer to review the entries by the analysts for conformity with instructions for completion issued by the Executive Officer, ADRB, dated 13 Oct 77, and to complete appropriate parts of the worksheet, Parts II and III, Section Ls and Section M for each case. Presiding Officers will assure that documents are complete for each case which receives a hearing resulting in a decision.

Robert Laychak for William E. Weber.
Colonel, IN, President.

SFRB, Memo #1–78.
January 5, 1978.

Memorandum for: All officers, ADRB.
Subject: Training of Newly Assigned ADRB Panel Members and Assistant Secretary/Recorders.

1. This memorandum establishes content and responsibility for conduct of training of newly assigned officers of the Discharge Review Board.

2. *Conduct of Training:*

a. Training will be conducted in four modes: Conference training, observer training, on-the-job training, and individual critique and coaching.

b. The conference training, observer training, and on-the-job training will be scheduled formally. The individual critique and coaching will be conducted concurrently with the other phases of training.

c. Training will cover approximately four weeks from date of arrival of the newly assigned members of the ADRB.

3. *Responsibilities for Training:*

a. *Individual.* Familiarization with ADRB SOP, AR 635–200, AR 635–106, AR 635–120 and the contents of the "reference package" provided to each newly assigned member of the ADRB will be the responsibility of the individual officer.

b. *Training Coordinator.* An officer will be designated by the President, ADRB, to act as coordinator of training when several newly assigned members are to arrive at the same time. He will be responsible for scheduling training of the newly assigned officers and conduct of the initial orientation of the ADRB. When there is no training coordinator designated, the Pit Boss concerned will be responsible for the scheduling and initial orientation.

c. *Pit Boss.* Conduct of critique and individual coaching of newly assigned members. A member of the particular pit may be designated by the Pit Boss to accomplish this phase. (Note: Where the newly assigned officer is an Assistant Secretary/Recorder, the Secretary/Recorder will be responsible for those actions noted as Pit Boss Responsibilities.

4. *Training Cycle:*

a. *1st Week:*

(1) Administrative Inprocessing.
(2) ADRB Overall Orientation.
(3) ADRB Philosophy.
(4) Admin Support Orientation.
(5) Secretary/Recorder Orientation.
(6) Professional Orientation.
(7) Executive Officer Orientation.

b. *2d Week–4th Week:* Board observer training, OJT training.

5. *Training Content:*

a. *ADRB Overall Orientation.* History of ADRB, overall organization and functions of the ADRB, relationship of ADRB to ACRB and Military Review Boards Agency, role of ABCMR with regard to discharge review, and relationship of RCPAC to the ADRB. Overview of the impact of PP 4313, the extension of PP 4313, the SDRP, and PL 95–126 on ADRB. Discussion of the Ailes Memo, the Laird Memo, and the Brotzman Memo on the ADRB. Methods of hearings, flow of cases through the ADRB, role of the Presiding Officer, role of the Hearing Examiner and role of the professional staff. (Two-hour conference by training coordinator or Pit Boss.)

b. *ADRB Philosophy.* Discussion of the philosophical approach to cases and policy guidance. (Two-hour conference by President of ADRB.)

c. *Admin Support Orientation.* Functions of Admin Support Division and the role of the various elements in the division. Particular emphasis on the role of the analyst. Portion of orientation will be spent observing analysts in their processing of a case. (One 8-hour duty day—Chief, Admin Support responsibility.)

d. *Secretary/Recorder Orientation.* Functions of the Secretary/Recorder Division with specific emphasis on the role of the Secretary/Recorder in processing a case in all its phases (pre-review, hearing, post-review). Portion of orientation will be spent observing Secretary/Recorder functioning in various boardrooms. (One 8-hour duty day—Chief, Secretary/Recorder responsibility.)

e. *Professional Orientation.* Role of Legal and Medical Advisors, including overview of the functioning of other boards which comprise the ACRB. (Two-hour conference—Medical and Legal Advisor responsibility.)

f. *Boardroom Observer Training.* Observes in boardrooms for all modes and types of hearings. Goal is to gain an understanding of the application of ADRB philosophy, policy, and regulatory guidance to cases. During breaks, the PO of the board concerned will answer specific questions or emphasize the reason for board actions on specific cases which were decided during the board session. POs may comment after conclusion of individual cases as well when it is appropriate. (Training Coordinator/Pit Boss responsible for scheduling, PO for conduct.)

g. *OJT Training.* Hands-on pre-review of actual cases. Cases completed, reviewed and critiqued. Explanation of use of ADRB forms, application of policy and regulatory guidance, and explanation of interpretation of SPN/SPD codes, and the SOP for accomplishment of analyst actions will be accomplished before initial pre-reviews are undertaken. Problems or questions arising in individual cases will be covered as they arise. (Pit Boss responsibility or of designated pit member.)

h. *Executive Officer Orientation.* Overview of management procedures, efficiency reports, TDY procedures, leaves, passes, and other related matters. Responsibilities toward enlisted personnel and civilian employees of ADRB. Sign out and Panel Assignment Boards and ADRB Duty Officer responsibilities. (One-hour—Executive Officer responsibility.)

William E. Weber.
Colonel, IN, President.

SFRB, Memo #2–78.
February 10, 1978.

Memorandum for: All officers.
Subject: Precedent.

1. The Antioch Stipulation requires the Discharge Review Boards to address specific contents of applicants. When an applicant contends that the ADRB must grant a recharacterization of his discharge because the facts of his case are similar to those in an earlier case in which a DRB granted such relief, the Stipulation requires a finding. What should the findings contain?

Basic to discharge review concepts is that the Discharge Review Board is an administrative body, not a judicial body, and thus not bound to stringent rules of the judicial process. The judicial process includes a system known as "stare decisis" which means generally that courts are bound to follow certain prior decisions or precedents. The idea is that when a principle of law has been established by judicial decision, this forms a precedent and those affected will know that future cases will be decided according to a more or less set body of rules thus established. The administrative process is more flexible. While administrative bodies cannot be arbitrary and capricious in making their decisions, and should seek some degree of uniformity, there is more room for judgment and discretion in the decision making process.

3. In light of the above, a panel's finding on a particular contention is unique to that particular contention or that particular case. The diversity of the personalities and the circumstances involved are such that no two cases are exactly alike. This does not mean that contentions of precedent can be ignored, nor does it suffice to answer such a contention with a conclusory statement that prior DRB decisions have no bearing in consideration of the case at hand. It does mean that such contentions must be considered. It does mean that applicants may make proper use of prior decisions to help them in persuading the panel to decide similar cases in a similar way. It does mean that there should be a discussion in the finding of distinguishing facts, differing equities, changes of policy and the like which make the case at hand different from the case cited. Given the broad equitable powers at the Discharge Review Board, and the widely varying circumstances of the cases considered, distinguishing factors among cases are normally the rule rather than the exception. This will be particularly true when the cases from other services are cited.

4. When such contentions are made, the panel members must be especially conscious of the nonadversary nature of the hearings. It is not the proper role of a panel to seek out other decisions decided in different ways. It would be proper, however, for the PO to require the applicant to present a complete copy of the decision document in order that the panel be able to make an intelligent evaluation of any case cited where needed.

5. Therefore, Presiding Officers will, when an applicant or counsel introduces previous cases and/or findings as contentions:

a. Request the applicant and/or counsel present a copy of the cited case, if possible.

b. If "a" above is not possible, the PO shall require that applicant and/or counsel specifically state the aspects of the cited case they believe are similar to their case.

c. Inform that the panel will give appropriate consideration to "b" cited statements.

d. Inform that the panel cannot continue to hear a case if the panel's comprehension of testimony and exhibits is dependent upon cited case if applicant/counsel cannot then produce the case or specifically state area to be considered.

e. If necessary, grant deferment or continuance to permit applicant/counsel to obtain cited case. A continuance in such a case must be brief, and never beyond the term of a Traveling Panel or Hearing Examiner in field situations.

f. Under no circumstances, accept as a contention a simple cite of a case number and continue to hear the case without the panel having prior access to the substance of the case.

g. Agree to accept written brief and affidavits and/or depositions to support a prior case cited as a contention.

William E. Weber.
Colonel, IN, President.

SFRB, Memo #3–78.
March 14, 1978.

Memorandum for: All ADRB Officers.
Subject: Implementation of ASA(M&RA) Memorandum, 8 February 1978, on "Litigation Involving Army's System for Discharging Individuals with Personality Disorders."

1. *Purpose:* To meet the requirement of ASA Nelson Memo (attached) it is necessary to dispatch letters to those former service members who were discharged for C&B disorders, and who did not receive full relief when reviewed under the provisions of the Brotzman Memo, dated 14 January 1977, informing them that they may qualify for an upgrade on the basis of regulation changes. Accordingly, it is necessary to obtain the names and addresses of those individuals who were identified previously by the ADRB for personality disorder relook consideration, to dispatch letters to those individuals, to review the discharges of those individuals who apply for relook consideration, and to complete the entire process as expeditiously as possible.

2. *Responsibilities:*

a. Administrative Support Division: Organize and supervise the mailing of notification material based on a computerized address list provided by the Operations Branch, Secretary/Recorder Division; packets will be dispatched at the rate of 100 letters per work day. Mailing to applicants will begin on 27 March! Each applicant will receive a notification letter and DD Form 293. Only the letter will be addressed. It is estimated that approximately 400–500 former Army members will require notification upon receipt of applicant's form (DD Form 293). The Administrative Support Division will establish a color-coded system to identify applicant's records. All record and board review action must be completed within a period of six months from date of receipt at ADRB.

b. Secretary/Recorder Operations Division: Insure that identified cases are processed in accordance with the ADRB SOP. In processing appeals, insure that the Board is advised during proceedings of those cases which come under the provision of the ASA Nelson Memorandum. Monitor the processing of applicants with personality disorders to assure that cases are completed in an expeditious manner.

c. PO's and pre-review officers are requested to give special attention to the accurate and timely processing of these particular cases. All cases will be referred to the Medical Consultant prior to being boarded for authentication of psychiatric signature and findings.

d. Board Members. Presiding Officers are required to insure that members of the Board are familiar with the provisions of the Nelson Memorandum in the processing of individuals who have been discharged with personality disorders. Applicants for relief who were not diagnosed by a medical doctor trained in psychiatry shall be entitled to have their discharges upgraded to honorable. It is the responsibility of the Board to determine that medical documentation is proper and adequate to substantiate discharge for individuals with personality disorders. If the Board determines that the discharge is not properly or adequately supported as a personality disorder, the SPN Designator must be changed to Secretarial Discretion JFF.

e. Special Board Members/Advisors: Assist Board Members, as required, to validate medical finding of personality disorders. Insure that all cases meet correct legal criteria. Upon completion of final Board action, all cases will be returned to the Professional Section for post-review.

William E. Weber.
Colonel, IN, President.

February 8, 1979.

Memorandum for: President, Army Discharge Review Board.
Subject: Litigation Involving the Army's System for Discharging Individuals with Personality Disorders.

In connection with the civil lawsuit entitled *Lipsman* v. *Brown* certain changes were made to Army Regulations 635–200. By memorandum dated January 1977, former Assistant Secretary Brotzman transmitted these changes to you and requested that you apply them retroactively. He also requested that you dispatch letters to certain unsuccessful ADRB applicants for relief informing them of the regulation changes and advising that they may qualify for discharge upgrades upon application. By memorandum of this date the Director of the Army Staff has been directed to make an additional change to paragraph 13–15 of AR 635–200, dated 27 November 1977.

To permit completion of settlement of the lawsuit, it is requested that you undertake the following additional actions. First, send copies of the attached letter to each person to whom you sent a letter pursuant to Mr. Brotzman's instructions (except to those persons whose letters were returned undeliverable). Any recommendations for changes to the letter will be made only with the concurrence of the General Counsel. Second, upon application for relief by persons discharged for unsuitability due to personality disorders, you shall undertake reconsideration of their discharges. Third, in reviewing the applications for relief from persons discharged for unsuitability due to personality disorders, apply the regulation changes retroactively, except the change to paragraph 13–15 of AR 635–200. Applicants for relief who were not diagnosed by a medical doctor trained in psychiatry shall be entitled to have their discharges upgraded to honorable. (This provision is essential

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because there is no way to determine today the extent to which more serious mental disorders might have affected the applicant's behavior while in service.) All applications for relief should be reviewed with compassion and considering the complete record. In reviewing applications for relief, the presence of a personality disorder diagnosis should be considered as a mitigating factor that justifies relief except in cases where there are clear and demonstrable reasons why a fully honorable discharge should not be given. It is requested that letters be dispatched and the review of requests for relief from persons with personality disorders be completed as soon as reasonably possible.

Robert L. Nelson.
Assistant Secretary of the Army (Manpower and Reserve Affairs).

SFRB, Memo #4–78.
Memorandum for: All personnel.
Subject: Recording of Combat Badges (Combat Infantry Badge or Combat Medical Badge) on Case Report and Directive (CRD).

1. Inadvertently, in the instructions on the methodology to be used to record awards and decoration in Part III of the CRD, no provision was made for combat badges. Consequently, a significant diversity exists in the means in which this slippage is being accommodated.

2. Effective immediately, all personnel will institute procedures to record award of any combat badge as the last entry in the right column of Section E, Part III, OSA Form 172 (1 Feb 78). It will not be necessary for any existing draft CRDs to be redone. Appropriate correction should be made at any point at which the entry is perceived as proper. Case Production Branch must insure the final documents are correct.

3. Entry will be as follows:

	Yes	No	N/A
CIB (or CMB)	X		

William E. Weber.
Colonel, IN, President.

SFRB, Memo #5–78.
May 1, 1978.
Memorandum for: PIT members and secretary/recorder division.
Subject: Challenge Predicated on Past Membership.

1. As the final appearances for de novos and nonaffirmed DOD–SDRP cases begin to occur, it is apparent that board members may have been members of the panel which gave a preliminary nonaffirm or an initial DOD denial. The same is true for what is expected to be an exceedingly large number of cases that will reappeal predicated on "waiver of the statute of limitations" contained in PL 95–126.

2. There is a high probability that in personal appearance cases, some counsel and applicants may suggest prior knowledge would have a bearing on the ability of individual board member concerned to impartially adjudicate the case. There can be no question that normally this could be a valid challenge to panel membership, particularly if the individual member concerned had on the previous hearing, voted to deny favorable action on the appeal. In any event, there clearly could be construed to be an "appearance of evil" unless some clear and definitive procedures are followed which would make it difficult, if not impossible, for any sitting panel member to be informed of his or her previous panel membership on the case.

3. We all understand that the absolutely unique and unusual case may be recalled by any board member at any time, but the general run of cases, given the thousands that you will have reviewed, cannot be expected to fall within the categories of cases that you will remember. Thus, challenges generally are without foundation insofar as your being influenced because a prior membership is concerned.

4. To insure that challenges cannot be sustained, providing the board member concerned otherwise indicates non-recall of the case, procedures will be implemented immediately to insure that no prior sitting member may be informed of his or her membership on the case to be considered. Secretary/Recorders will take the necessary action to remover the voting page from the Case Report and Directive when the file is made available to any member of the panel or to the panel at large. Secretary/Recorder Teams will also insure that they avoid indicating any prior membership. The intent of this is to insure that panel members and Secretary/Recorder Team members understand the need to protect the impartiality of the panel.

5. The foregoing does not permit the Secretary/Recorder Team to deny access to this information to applicant and/or counsel/representative. These individuals may and must be aware of previous action in the case. In the event they choose to exercise a challenge of a panel member, predicated on acquisition of this knowledge, the Presiding Officer, once the panel member has been identified, will, on the record, inquire as to whether or not he or she has recall of the case. If the panel member attests to an absence of specific recall, then the challenge will not be sustained. Under no circumstances will counsel or applicant be permitted, when exercising challenge, to indicate while challenging what the challenged panel member's vote was on the preceding hearing.

6. All officers are reminded it is essential in the event administrative errors occur and the vote sheet remains with the Case Report and Directive, that they studiously avoid perusal of such or identification to other panel members.

William E. Weber.
Colonel, IN, President.

SFRB, Memo #6–78.
May 4, 1978.
Memorandum for: 06 board members & secretary/recorders.
Subject: DoD Counsel/De Novo No-Shows.

1. It is not uncommon in a personal appearance case that an applicant who has been duly notified of the time and place of the hearing fails to appear at the appointed time, and has not made a prior, timely request for a continuance or withdrawal of the application. If counsel is present, and based on the applicants power of attorney authorization, wishes to proceed as a "C" case the hearing should proceed accordingly; if counsel is also not present or has no authorization to proceed in the absence of the applicant the panel will conduct its review based upon the evidence of record.

2. The TJAG coordinator for the DoD counsel in de novo cases has taken the position that, as a matter of ethics in the legal profession, the DoD counsel should seek a continuance in all no-show cases even though he has no valid explanation for the absence of the applicant. Where there is no showing that the failure to appear was due to circumstances beyond the control of the applicant the request for a continuance should be only pro forma and can be quickly disposed of. However, I have decided as a matter of policy to accord this defference to the concern for compliance with legal ethics. Of course, the same treatment should be accorded to any other attorney who feels he must record his effort to seek a continuance in a no-show situation.

3. Accordingly, the following procedures will be utilized by all Presiding Officers to accommodate this problem area. Naturally the following describes only intent—it is not necessary to parrot the words.

Presiding Officer: "The Panel will come to order. The Army Discharge Review Board is ready to proceed with the case of (Appl's name) (go through procedures of swearing the Board)."

Presiding Officer: "(name of counsel). I note that the applicant you represent is not present as scheduled and that the panel has received no contact from the applicant with regards to (his/her) absence. Do you have any specific knowledge as to whether or not circumstances beyond the control of the applicant caused this absence and were of such a nature so as to preclude (his/her) notifying the panel in advance?"

Counsel: "(Assume counsel has no excuse and requests a continuance)."

Presiding Officers: "Your request for a continuance is noted. However, in accordance with the policies established by DoD Directive 1332.28 and Ar 15–180 and the correspondence the Army Discharge Review Board has had with you and the applicant: (Name) a request for a continuance is not favorably considered. However, if you are in possession of an appropriate power of attorney and you are willing to proceed I will permit this case to continue as a counsel/representative only, presentation. In the event you are not willing to proceed as a counsel/representative only presentation this hearing will be closed and the Army Discharge Review Board will consider this case as an on the record case providing the applicant's status is such as to authorize such a hearing. (In the case of PL 95–126 preliminary non-affirmed no further hearing would be indicated. The same is true for De Novo cases for which no documentation has been submitted)."

In all circumstances the Presiding Officers will exercise discretion and avoid arbitrary and capricious acts. In off the record dialogue the Presiding Officer may also notify counsel/representative that, in the event subsequent information substantiates an emergency condition beyond the control of the applicant occurring in a manner which made it impossible for the applicant to notify the board in advance, the board will entertain reopening the case.

William E. Weber.
Colonel, IN, President.

SFRB, Memo #7–78.
June 13, 1978.
Memorandum for: All board members; chief, secretary/recorder section and alternate secretary/recorders; chief, administrative support division.
Subject: Presumption of Regularity.

1. Attached for your information is an Office of the General Counsel, Department of Defense, opinion concerning subject area pertaining to Discharge for the Good of the Service (Chapter 10)! The basic reference referred to in the attached is not germane to this memorandum since it deals with a practice of another service, but the opinion rendered and the philosophy expressed is germane and will be given cognizance in Army cases.

2. To the extent that the attached is in conflict with other guidance, elements of the SOP, or memoranda previously issued, the attached will prevail. It is important to note, however, that this opinion is not intended to imply rigidity in the evaluation of records which may be absent certain documents that otherwise were required by the discharge process involved. It is incumbent upon board members or panel to resolve the issue of regularity (if possible) on the basis of other documentation or evidence presented. The panel must accept or reject, by a majority, whether the absence of the document concerned indicates that the document was never prepared or, conversely, that through some bureaucratic or clerical error, it failed to be appropriately filed in the OMPF.

3. It is incumbent upon all board members to adhere to the requirement of "substantial credible evidence" when making the determination to overcome the presumption of regularity. In this regard, "substantial credible evidence" is a broad area which does not have specifically defined parameters and must, instead, be established in each board member's mind, predicated upon those elements of evidence or information that he or she considers essential for arriving at a decision. Simple visceral feeling, which cannot be logically supported, is insufficient in this regard.

William E. Weber.
Colonel, IN, President.

May 18, 1978.
Memorandum for Special Assistant for Legal and Selected Policy Matters, OASD (MRA&L).
Subject: Implementing Regulations for Discharge Review.

In paragraph 5(f) of my memorandum of May 9, 1978, subject as above, I addressed the applicability of a presumption of regularity in cases involving a discharge for the good of the service. In that memorandum, I noted that if the accused was required to admit the facts containd in the charge sheet, or if the discharge authority was required to find that the facts stated therein were true, then the Discharge Review Board could presume the truth of such facts.

Subsequently, I received an inquiry from the services as to whether preferral of charges could provide an alternative basis for the presumption.

Charges may be preferred by any person subject to the Uniform Code of Military Justice. 10 U.S.C. 830 (1976) (Art. 30). The charges must be signed and sworn to before a commissioned officer authorized to administer oaths, and shall state: (1) that the signer has personal knowledge of, or has investigated the matters set forth therein; and (2) that the charges are true in fact to the best of the signer's knowledge and belief. *Id.* If the discharge in lieu of court-martial requires a valid preferral, the Discharge Review Board may presume that the signer either had personal knowledge of, or had investigated the matters set forth therein, and that the charges were true in fact to the best of the signer's knowledge and belief. The weight to be given the presumption in determining whether the facts stated in the charge sheet are true is a matter to be determined by the Discharge Review Board. To the extent that the discharge proceeding reflects: (1) an official determination that the facts stated in the charge sheet are true; (2) that the accused admitted the facts stated in the charge sheet; or (3) that the accused admitted guilt of the offense(s), then the presumption is strengthened.

In accordance with the DoD Directive, the presumption may be rebutted by "substantial credible evidence." 32 C.F.R. 70.5(b)(12)(vi).

Robert L. Gilliat.
Assistant General Counsel (Manpower, Health & Public Affairs).

SFRB, Memo #8–78.
June 20, 1978.
Memorandum for: Chief, secretary/recorder division; chief, administrative support division; senior American Red Cross; Veterans of Foreign Wars; American Legion; Disabled American Veterans; Jewish War Veterans counsels.
Subject: Counsel Statements.

1. DD 293 designated agency counsel statements submitted in behalf of an applicant become a part of the case report provided the Armed Forces Discharge Review Board Reading Room. They must *not* contain data contrary to the dictates of the Privacy Act of 1974.

2. Effective immediately all counsel submissions will not contain the applicant's name, address, and social security number. In addition, the counsel preparing the brief should authenticate the documents only by initials.

3. Counsel are reminded that public access is relatively unlimited to the Reading Room. Cases are available for review as are past counsel briefs.

4. Attached is a copy of the new form to be used by counsel when submitting applicant/counsel contentions. Chief, Secretary/Recorder Division is designated overall responsibility for execution of this memo.

William E. Weber.
Colonel, IN, President.

President,
Army Discharge Review Board,
Rm 1 E487, The Pentagon,
Washington, DC 20310,
Date:_____.

_____
(case control number)

The duly authorized counsel as designated by the below listed agency registered with the VA under the provisions of 10 USC 1553 and selected by the applicant, whose Case Control Number is indicated above, hereby requests that this case be submitted to the Army Discharge Review Board for a hearing.

1. It is requested that the Board consider the following specific contentions and/or issues of fact, law, or discretion. (Please indicate in telegraphic language those points on which you feel the Board should make a specific determination.)

a._____.
b._____.
c._____.

Other

2. List and/or discuss those factors in the case in which you feel support and the contentions above or present other arguments in favor of granting the appeal. (USE REVERSE SIDE, IF NECESSARY.)

_____
Initials of counsel

_____
Service organization

Note.—Under the Privacy Act of 1974, records of personnel actions made available for public surveillance shall be void of identifying data, (i.e. name, SSN, etc.).

SFRB, Memo # 9–78.
August 14, 1978.
Memorandum for: All Officers.
Subject: Restraining order issued by United States District Court for District of Columbia.

The Army Discharge Review Board will immediately comply with Civil Action No. 76–0530 Restraining order issued on 11 August 1978 (Incl 1). Implementing instructions are attached as inclosures 2 and 3.

All board members and administrative personnel assigned to the ADRB will become familiar with the attached instruction.

William E. Weber.
Colonel, IN, President

United States District Court for the District of Columbia

Urban Law Institute of Antioch College, Inc., et al., Plaintiffs, v. Secretary of Defense, et al., Defendants. Civil Action No. 76–0530.

Order

Plaintiffs having applied for a temporary restraining order and preliminary injunction seeking to have the defendants ordered to comply with Paragraphs 5A (1), 5A (5) (a) and 5A (5) (d) of the stipulation of dismissal entered by this Court in this case on January 31, 1977, and this Court having heard

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argument from counsel for both parties and read the motions and memoranda submitted by plaintiffs, it is, this 11th day of august, 1978.

Ordered that plaintiffs' motion for a preliminary injuction will be heard before this Court at 9:30 a.m. on Thursday, August 17, 1978, and at that hearing the Court will, pursuant to Rule 65 (a) (2) of the Federal Rules of Civil Procedure, consolidate the hearing on the preliminary injunction with a hearing on the ultimate merits of this case; and, it is

Further ordered that any applicants and their counsel, if any, who appear before any Discharge Review Boards until this case is finally decided, shall be given a copy of the written notice attached hereto; and it is,

Further ordered that defendants shall not issue any decisional documents with regard to applications for re-characterization of an applicant's less than Honorable Discharge, including decisions made pursuant to Pub. L. 95–126, 91 Stat. 1106 (1977), unless the decision grants the applicant complete or partial relief and contains a statement of findings, conclusions and reasons that complies with Paragraph 5A (1) of the stipulation approved by this Court on January 31, 1977, and it is,

Further ordered that defendants shall forthwith, make each quarterly Discharge Review Board index available for public inspection and copying at all locations outside of the Washington, D.C. metropolitan area at which Discharge Review Board panels are scheduled to hear cases within seven (7) days of the date of this Order, and it is,

Further ordered that this Order and all of its provisions shall expire at 12:01 a.m., Eastern Daylight time on Friday, August 18, 1978.

Honorable Aubrey E. Robinson, Jr.
United States District Judge

Instructions to Presiding Officers and Alternate Secretary/Recorders on Use of "Important Notice to Applicants"

The attached "IMPORTANT NOTICE TO APPLICANTS" is to be discussed with applicant and counsel by the Alternate Secretary/Recorder *prior to* the applicant and counsel being presented to the Panel. Three copies of the document are to be executed—one in to be retained by the applicant; one to be retained by counsel; and one to become the government's exhibit to the Case Report and Directive.

In the event applicant and counsel elect to request a postponement of the hearing, the Presiding Officer of the Panel will cause to be executed the Case Report and Directive and a statement made in the Presiding Officer's notes which essentially iterates that the applicant when offered the opportunity, as indicated on the "IMPORTANT NOTICE TO APPLICANTS" elected to request postponement. The appropriate remark will be made in the Remarks Section of the Case Report and Directive and the case flagged by the Alternate Secretary/Recorder for rescheduling. In the event applicant or counsel indicate they be informed as to when rescheduling will occur, they are to be informed that the case will be rescheduled for the next Traveling Panel and/or Hearing Examiner (as the case may be) in the locality they have agreed to appear at.

In the event the applicant and counsel elect to proceed with the hearing, the Secretary/Recorder will present the executed government's copy or the "IMPORTANT NOTICE TO APPLICANTS" to the Presiding Officer of the Panel. The Presiding Officer of the Panel, after formally, convening the panel, will question applicant and counsel as to their understanding of the "IMPORTANT NOTICE TO APPLICANTS" and whether or not they affirm the election they have made. The Alternate Secretary/Recorder will cause this information to be recorded on tape for recording on the Case Report and Directive, a summation of this dialogue between the Presiding Officer, applicant, and counsel.

In the above cases in the preparation of the Case Report and Directive, the Presiding Officer will include in the Presiding Officer's Notes a remark concerning this particular circumstance. In addition, in the Rationale, and in the event the Panel has not granted full relief, the Presiding Officer will specifically enunciate that, dependig upon the outcome of the law suit referred to in the "IMPORTANT NOTICE TO APPLICANTS" the applicant's right to request a rehearnig and be granted one has been preserved.

Hearing Examiners will in essence conduct the above routine in the same manner except that Hearing Examiners will place their comments (if appropriate) as an integral portion of the Case Report and Directive.

Important Notice to Applicants

Because of a law suit, *Urban Law Institute vs. Secretary of Defense*, pending in the Federal District Court in Washington, D.C., which seeks to change certain procedures of the Discharge Review Board, you have a right to postpone your hearing.

The people bringing this law suit believe that the present system of providing you with information about past Discharge Review Board cases can be improved. The people bringing the law suit also believe that the improvements they seek may help you to be better prepared for your hearing.

A hearing has been set in that law suit for Thursday, August 17, 1978. You now have the following choices:

1. You may proceed with your hearing. If you proceed with your hearing but do not receive the relief you seek, then you may have the right to a new hearing in your case if you request one. Whether you would be given a new hearing will depend upon the outcome of the law suit.

2. You may request that your scheduled hearing be postponed and receive a hearing at a later date.

If you wish to speak to the individuals who are bringing this law suit, you may contact them at (202) 466–2244 or (202) 296–7592 or their local representatives. You may ask the Recorder of the Board how to contact their local representative.

Please circle and initial your choice.

I do ————————.

I do not ————————.

choose to proceed with my hearing today.

————————Alt Sec/Rec

Representative of the Army Discharge Review Board

Date ————————.

Place ————————

————————

Signature of Applicant

————————

Signature of Counsel/Representative

SFRB, Memo #10–78.
August 28, 1978.

Memorandum for: All board members: alternate secretary/recorders.
Subject: Compliance with Court Order, D.C. Federal District Court, 23 August 1978.

1. The following will be instituted immediately by all Presiding Officers, Alternate Secretary/Recorders, and pre-review officers in recording "findings" on contentions which are unsubstantiated by either documentation or testimony, yet which, on the basis of our knowledge of history of administrative discharges, have inherent to them potential for an element of truth.

2. As you are aware, in the past your guidance from me has been to respond to such contentions essentially as follows:

"The Panel can neither refute nor accept this contention in view of the absence of documentation in the Offical Military Personnel File, or as provided by applicant and/or counsel which leads to substantiation or rejection; and, in view of the unsubstantiated testimony which, if accepted at face value, would require a finding in opposition to a presumption of irregularity prevailing in government operations."

The purpose of this type of finding in this type of contention was to permit each individual board member to weigh the value of the contention in light of other information as they determined appropriate. This type of finding also permitted accommodating the differences that might normally exist amongst the five members of the panel as to whether or not there was sufficient doubt to recommend in favor of the applicant, vis-a-vis insufficient doubt so as to resolve in favor of the government. As you are all aware, it was our opinion that this approach met the requirements of the Stipulation of January 1977 and, as well, was most fair to the applicant.

3. This approach was challenged by the plaintiffs in the recent court action and, though a determination was not made by the Judge as to the validity of the challenge received, there is, of course, the inference that contentions (as indicated by the Stipulation) must be resolved by specific findings. Consequently, and effective immediately, the following will pertain in this area:

a. In any circumstances in which the contention submitted by an applicant and/or counsel is of the nature that a specific positive or negative finding cannot be established to the satisfaction of the panel and be supportive by documentation or substantiated testimony, then the panel must find in consonance with the presumption of regularity as it pertains to government operations.

b. The foregoing can only be overcome when the majority of the panel can conclude on the basis of substantial credible evidence that there is basis to substantiate the contention.

c. A sample form of finding to these uncertain contentions (not to be copied verbatim, but to be adjusted as appropriate by Presiding Officers) might be as follows:

"The contention, as stated, can neither be rejected or supported by documentation or substantiated testimony. Based on the presumption of regularity in government operations and on the fact that acceptance of contentions on unsubstantiated testimony would be the equivalent of a finding against presumption of regularity, the panel concludes that the contention cannot be supported."

d. Presiding Officers and Secretary/Recorders are cautioned to ensure that all actions dealing with compliance with the Stipulation and, in particular, those dealing with the preparation of the Case Report and Directive, have both the appearance and the actuality of good faith and compliance with the letter, spirit and intent of the Stipulation. It is incumbent upon all panel members and all members of the Secretary/Recorder Team to call attention to the Presiding Officer any circumstance, any incidence, any use of language, or any panel or Secretary/Recorder Team conduct which could be construed as bad faith compliance or which would produce a Case Report & Directive that could not be supported.

4. None of the foregoing is to be interpreted as changing the basic philosophy under which the Army Discharge Review Board operates, nor as authorizing placing applicant or counsel in a position of having to conduct their aspect of the hearing as if the hearing were of any adversary nature. All members of the ADRB are enjoined to remember that the requirement of 10 U.S.C. Section 1553 places the burden of determining the "propriety" and "equity" on the Board and that even should the applicant remain silent and the entire case is predicated on a presumption of regularity, these must clearly exist sufficient cause to establish that the presumption of regularity is valid in the case being considered. In this regard and to reiterate past guidance, *no distinction* is to be made by any member of this board or its supporting elements between the type of applicant or type of case hearing requested. All applicants whether they have requested "A," "B," "C," "D," or "E" type of hearing are to be given the same information and opportunity concerning right of access to the Index, their files, their right to submit sworn or unsworn statements, letters, arguments, etc. in support of their appeal. Any panel aware during the conduct of the hearing of a case in which these rights have not been afforded will not conclude the case but will instead cause the applicant concerned to be notified and the case to be rescheduled after an appropriate passage of time.

5. It is my considered opinion that everything this board has done since January 1977 has had inherent the attempt and intent to give full, good faith compliance with the Stipulation. It is necessary that this attitude continue. This is not to infer that the possibility of mistakes have not been present, but it is essential that any mistakes we make be errors of "omission" and not "commission".

6. Your continued cooperation is appreciated.

William E. Weber.
Colonel, IN, President.

SFRB, Memo #11–78.
September 27, 1978.

Memorandum for: All board members and chief, analyst section.
Subject: Computation To Determine Number of Days Lost Under 10 USC 972.

1. In some cases noted recently, analysts and/or pre-review officers have counted the number of days spent in a Special Processing Detachment (SPD) or a Personnel Control Facility (PCF) as days lost (10 USC 972) in Section B, Part III, OSA Form 172. This practice is in error.

a. Persons assigned to an SPD or PCF are not in confined status in the meaning of AR 190–3. Days spent in SPD or PCF are duty days, not days of bad time.

b. Pretrial or other confinement may only be served in a facility described as a stockade, correctional facility or confinement facility (terms differ, depending on the timeframe involved), after the responsible commander has executed a DA Form 497 (Confinement Order). Personnel in SPD or PCF are not assigned to these facilities on a confinement order.

c. The same principle applies to correctional custody, served as the result of punishment under Article 15, UCMJ. Only a Court Martial may sentence an individual to confinement. Thus, days served in a correctional custody status as a result of Article 15 are also duty days, and not days lost under 10 USC 972.

2. A similar problem has been noted with computations of days lost for personnel assigned to the U.S. Army Retraining Brigade (formerly, the U.S. Army Correctional Training Facility (USACTF)). The following principles should be applied in such cases:

a. For persons assigned to USARB after 1 Feb 78, look for an order in the file in which the unexecuted portion of the sentence to confinement is suspended, or a FR Form 222 in which the sentence to confinement is deferred. On the effective date of suspension or deferral, the soldier ceases being a prisoner and becomes a trainee, and all subsequent days should be counted as duty days. Absent the order or FR 222, follow the next rule.

b. For all other personnel assigned to USARB or USACTF, days of lost time should equal either the number of days from the approval of the sentence to the minimum release date or the successful completion of the retraining program, whichever is earlier.

(1) Minimum release date can be computed by taking the sentence to confinement and deducting 2½ days per month (allowable good time). Thus a sentence to confinement for six months is actually a sentence to six months less fifteen days, provided the prisoner commits no acts of indiscipline while in confinement.

(2) In the event an individual's minimum release date occurs before graduation from USARB/USACTF, that person's status will be considered as changed from "confined" to "trainee" on that date, and all subsequent days counted as duty days.

(3) If an individual graduates from USARB/USACTF before the minimum release date, the date of graduation will be considered to mark a similar change in status.

3. In general, a good rule to follow in the matter of computing the number of days lost under 10 USC 972 is to lean in the direction of the applicant whenever there is doubt. Instances of doubt, however, should be reduced if the methodology described above is followed closely. Your cooperation in this regard is appreciated.

William E. Weber.
Colonel, IN, President.

SFRB, SOP Memo #1–79.
March 22, 1979.

Memorandum for: Board members: chief, secretary/recorder division.
Subject: Post Filming Review of Hearing Examiner Tape by Applicant and Counsel.

1. Effective immediately, Hearing Examiners are authorized to inquire of applicant and counsel as to their desire to postreview the tape. The Hearing Examiner will cover with applicant and counsel whether or not they wish to postreview the tape. This dialogue must be sufficiently complete to insure that the applicant and counsel completely understand the option available to him.

2. In the event applicant and counsel do not wish to postreview the case, the HE will go back on tape and specifically ask both applicant and counsel as to whether or not they wish to postreview tape and whether or not they understand their rights to postreview.

3. Great care must be taken to ensure that applicant and counsel are neither encouraged nor discouraged in this matter. The choice must be theirs and theirs alone. Time is not a critical factor in this regard insofar as cases remaining to be taped during any given taping day.

William E. Weber.
Colonel, IN, President.

SFRB, SOP Memo #2–79.
March 27, 1979.

Memorandum for: Board members: chief, secretary/recorder division (LTC Gomez); chief, administrative support division (LTC Dortch); chief, word processing section (2LT Tomczak).
Subject: Case Consideration Under Regulations Applicable at Time of Discharge and Time of Review.

1. The following confirms previous guidelines and constitutes instructions for mandatory application during Board deliberations of cases and in the pre- and post-hearing phase of case preparation as applicable. Addresses are responsible to insure distribution of this information, as appropriate, to their applicable division or section.

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2. In accordance with PL 95–126, DOD Directive 1332.28 and AR 15–180, applicants for review of discharges are informed that the material to be used for review by the Board will consist of:

a. Appropriate regulations in effect at the time of discharge.

b. Current regulations for which policy is made expressly retroactive.

c. Current regulations for which policy, if applicable at the time of discharge, would substantially enhance rights of applicant and which may have had a significant impact on the type of discharge received by the applicant.

d. Other documents present in the Official Military Personnel File (OMPF) or other records of the government, as appropriate.

e. Documents provided by applicant and/or counsel prior to or during hearing.

3. In compliance with the foregoing, the Board is responsible that applicants and/or counsel are informed of the specific regulations to be used in considering the case. This responsibility includes making available to applicants and/or counsel, upon request, copies or summaries of all documents except for those included in the OMPFs or documents provided by applicant and/or counsel prior to or during the hearing. In some circumstances prior to hearings other government agencies may provide this information.

4. To ensure that full adherence is given to this requirement, panels must specifically cover, by discussion, the applicable regulations at the time of discharge and, as well, present regulations prior to arriving at a decision on the appeal. Panels of the board will have available to them copies (microfiche) of regulatory procedures in effect at various times from the period 1940 to date.

5. It is a specific responsibility of the Secretary/Recorder of the panel concerned to insure that the appropriate regulatory provisions are made known to the Presiding Officer and members of the panel prior to or during the closed session of the panel deliberation and, if appropriate, upon request to applicant, counsel and/or agency.

6. It is a specific responsibility of the Presiding Officer of the panel concerned to insure that appropriate narrative recognition, in a generalized sense, is included in the rationale that consideration was given to the applicable regulatory procedures in effect at the time of the discharge and time of review when relief is not a result of such consideration. If relief results, specific language is necessary to insure applicability only to the cases considered and not precedent making in scope.

7. Hearing Examiners during the conduct of the filming of the Hearing Examination will insure that specific (on film) identification is made of the fact that applicant, counsel and/or agencies have been informed of the regulatory procedures applicable at the time of discharge and the availability of the review of these regulatory procedures by microfiche reader prior to the filming of the Hearing Examination.

8. Secretary/Recorders of the Traveling Panels and Personal Appearance Panels in the Pentagon will insure that applicant and counsel are made aware of the availability, through microfiche readers, of the regulatory procedures that were in effect at the time of discharge. Preliminary to the opening of the formal hearing, Presiding Officers will verify through dialogue with applicant, counsel and/or third party that such availability has been offered and that sufficient time has been provided to take advantage of the information, if appropriate.

9. These procedures can be expected to increase the time length for review of a case. Analysts and pre-review officers should insure that their assessment of the case has taken into consideration the applicable regulatory procedures in effect at the time of the discharge so as to highlight and call to the attention of the panel any significant areas requiring special review by the panel hearing the case. Microfiche and readers will be made available in each Pit to assist pre-review officers in researching regulations.

10. The foregoing are mandatory for compliance by the Board.

William E. Weber
Colonel, IN, President.

SFRB Memo #3–79
April 4, 1979.

Memorandum For: All Board Members and Chief, Analyst Section
Subject: Criteria for HD at ETS prior to 19 May 75

1. This memorandum confirms previous verbal guidance and instruction concerning the attached memorandum from Army General Counsel which indicates that paragraph 1–9 (d) (2) of AR 635–200, as it read prior to 19 May 75, precluded the exercise of discretion and mandated an Honorable Discharge for any servicemember discharged by reason of ETS who during the period of service characterized had:

a. conduct rating of at least "Good,"

b. efficiency ratings of at least "Fair,"

c. no conviction by a general court-martial and

d. not more than one conviction by special court-martial.

2. Although the above guidance was provided in relation to a specific case, it should be considered and applied when reviewing the general discharge *at ETS* of any enlisted member between 6 Dec 55 and 19 May 75, the period during which the referenced language appears in the enlisted personnel separation regulations. A review of past and present separation regulations indicates that the referenced provisions appeared only in AR 635–200 effective between 6 December 1955 and 19 May 1975.

3. Your attention is directed to footnote 2 of the Memorandum which indicated that characterization of other than ETS discharges is governed by specific guidance contained in the chapter of AR 635–200 which authorized applicant's separation prior to ETS, as well as the more general guidance of chapter one. In short, satisfying the four conditions of paragraph 1–9 (d) (2) did not require award of an honorable discharge for members discharged prior to ETS.

William E. Weber.
Colonel, IN, President

May 8, 1978

Memorandum Thru The Assistant Secretary of The Army (Manpower and Reserve Affairs)
For: President, Army Discharge Review Board
Subject: Floyd E. Maness

A lawsuit filed in the United States District Court for the District of Columbia seeks, pursuant to the Privacy Act, 5 U.S.C. § 552*a* (d)(2), to obtain recharacterization of a former servicemember's service as "Honorable" rather than "Under Honorable Conditions." Mr. Maness, the plaintiff, asserts that paragraph 1–9 (d) (2) of Army Regulation 635–200, as it read prior to May 19, 1975, precluded the exercise of discretion and mandated an Honorable Discharge, as opposed to a General Discharge, for any servicemember who satisfied the four conditions set forth in that paragraph.[1] Because he meets these four conditions, Maness contends that he is entitled to an Honorable Discharge.

We have considered the April 6, 1978 memorandum from DCSPER and that of April 12, 1978 from the Assistant Secretary of the Army (M&RA) concerning the proper interpretation of paragraph 1–9 (d) (2) and have concluded the latter sets forth the more realistic position. Service members who were separated at ETS and who met the criteria set forth in the paragraph should have been awarded Honorable Discharges.[2]

Therefore, as authorized by 10 U.S.C. § 1553, the Department of the Army, through the Army Discharge Review Board, should review, on its own motion, the characterization of Maness' service. A copy of his OMPF has been provided directly to the Board. Because Maness apparently meets the criteria of paragraph 1–9 (d) (2), review based upon the record alone appears appropriate. Given the current litigation, we request that this be done expeditiously and

[1] Prior to May 19, 1975 paragraph 1–9 (d) (2) read:

"A member's service will be characterized as honorable by the commanding officer authorized to take such action or higher authority when a member is eligible for or subject to separation and it has been determined that he merits an honorable discharge under the following standards:

(a) Has conduct ratings of at least 'Good.'

(b) Has efficiency ratings of at least 'Fair.'

(c) Has not been convicted by a general court-martial.

(d) Has not been convicted more than once by a special court-martial."

[2] We also agree with the position taken in both memoranda that the characterization of the service of soldiers discharged prior to ETS was governed by the specific guidance contained in the applicable chapter of AR 635–200, as well as the more general guidance of Chapter one. Accordingly, satisfying the four conditions of paragraph 1–9 (d) (2) did not guarantee an Honorable Discharge for soldiers discharged prior to ETS.

that we be advised of the result not later than May 15, 1978.

Jill Wine-Volner.
General Counsel

Annex 0–2.—Memoranda: Un-numbered

Index to Annex 0–2

Eleven memoranda in this annex are not numbered or lettered but appear in chronological order.

Subjects:

Selection of Counsel by Applicants to the Army Discharge Review Board, dated 16 June 1976.
Board Room Conduct, dated 1 September 1976.
Use of New Forms, dated 18 February 1977.
Department of Defense Discharge Review, Special, dated 29 March 1977.
Contentions and Issues, dated 1 August 1977.
Judge Advocate Officer Support to ADRB Panels.
Basic Upgrade Comparison Philosophy, dated 12 August 1977.
Justifying Relief Not to Grant Full Relief.
Bar to VA Benefits Under Law, dated 22 November 1977.
HE Procedures, dated 23 February 1978.
Prereview, dated 17 April 1978.

June 16, 1976.

Memorandum for: Alternate secretary/recorders.
Subject: Selection of Counsel by Applicants to the Army Discharge Review Board.

1. Recently, the DAV and AMVETS have withdrawn their support by counsel from the San Francisco Panel. Thus that panel is limited to the American Red Cross as far as DD Form 293 agencies are concerned and, in addition, MOPH and Department of Veterans Affairs, State of California.

2. Based on the arrangements negotiated by the Alternate Secretary/Recorder in San Francisco and his recommendation to me, it has been suggested that means be established whereby a private veterans rights organization can be made known to applicants. This suggestion has much merit. Accordingly, a query was addressed to the Office of the General Counsel, DA, to determine whether or not such action would be appropriate on the part of the Army Discharge Review Board. For your information, attached as Inclosure 1 are copies of the correspondence pertaining to this area.

3. Based on the response, the following will now be policy: Alternate Secretary-Recorders may (by appropriate modification) of attached sample counsel selection letter (Inclosure 2) inform applicants of agencies on DD Form 293 or other than those listed on the DD Form 293 who have agreed to provide counseling or counsel assistance. However, this is limited to those agencies who agree to provide such assistance free of charge to the applicant. In this regard, it is *not* incumbent upon the Alternate Secretary/Recorder to engage in investigatory practices to establish that the service in fact is being provided free of charge. However, it *is* incumbent upon the Alternate Secretary/Recorder to establish in writing with the agency concerned that the Army may state to the potential applicant that the service will be provided free of charge. Under *no* circumstances will Alternate Secretary/Recorders or members of their staff function as intermediaries to establish contact between applicants and agencies providing counsel service if such agencies exact a charge from the applicant for such service. Similarly, members of the ADRB will not act as intermediaries between private counsel and the applicant when such private counsel exacts a charge for services or will not agree in writing to provide the Army the right to make a statement that such services are provided free of charge.

4. Please bear in mind that it is important to operate in this area with grave caution. Be judicious! Avoid any appearance of conflict of interest and under no circumstances, get involved in any action in which a fee is collected from the applicant by any agency or individual who is functioning as counsel. If you have reason to believe that you can benefit from an arrangement with an organization in your area similar to that offered by Swords to Plowshares in San Francisco, you may execute after checking with me.

William E. Weber.
Colonel, IN, President.

SFRB
September 1, 1976.

Memorandum to: All alternate secretary/recorder and all officers, ADRB.
Subject: Board Room Conduct.

This memorandum is not intended nor to be interpreted as a criticism of current practices since my observations do not reveal any infractions of past guidance. However, in view of the many new officers joining the Board and the rather aggressive traveling schedule both for Traveling Panels and Hearing Examiners, I thought it desirable to reiterate certain requirements. These requirements address primarily the impression that is gained by the public, the applicant, counsels, and other observers as to the professionalism of the Army Discharge Review Board. It is not only in the interest of the Army and the Board that we present only a totally professional appearance, but is clearly in keeping with our own standards in this regard.

Many times, we are exposed to elements of the public who are not favorably disposed to the Army, and will look for every possible means to criticize. Since our impression must be to win good will for the Army, we, of course, must avoid any situation which impacts unfavorably on the image of the officer corps of the Army. Consequently, officers must always present a proper professional appearance. Needless to say, they must always conduct themselves in this manner, whether in uniform or in civilian attire when they can be recognized as members of the ADRB. In the board room itself, it is necessary that officers remain alert, interested, and friendly but formal.

During the preliminary functions leading to the formal convening of the Board, it is both proper and necessary that the Presiding Officer place the applicant at ease. He should point out to the applicant that the mission of the Board is to assist in bringing out facts which may justify granting of relief, but that, at the same time, establish that the burden of presenting the facts remains that of the applicant. The introduction of officers to the applicant should be limited to that done by the Secretary/Recorder upon entry of the applicant to the room, i.e., when the applicant and counsel are presented to the PO, and subsequently when the Board is introduced to the applicant preparatory to the Board being sworn. It is not necessary for the Board's qualifications to be established either to the applicant or to the counsel, nor is it desirable to exchange pleasantries.

Smoking will not be permitted during the formal portion of the hearing. Applicant and counsel will be informed (should it become necessary) that rudeness, boorishness, profanity, and insulting demeanor will not be tolerated. Similarly, Board members must understand that they must not by their mannerisms or questioning technique infer that the applicant is not being truthful or that they are opposed to applicant's appeal.

The Presiding Officer must be patient with applicant and counsel during the hearing even though they may at times ramble. On the other hand, it is incumbent upon the Presiding Officer to inform counsel and/or applicant when clearly irrelevant information is being presented. If we err in this regard, however, it is more appropriate to err on the side of resigning ourselves to listening with interest.

Under no circumstances must any applicant or counsel ever leave the board room with the impression that they have been unable to adequately present what they felt was vital to the successful presentation of the appeal.

Board members are reminded that the Presiding Officer is the final arbiter and he is due the courtesy (and will be given such courtesy) of being asked for permission to address applicant and counsel, if such has not been previously granted by him.

Always bear uppermost in mind that we wish the applicant, counsel and observers to leave with the impression that they have been given a full, fair and compassionate opportunity to win their case. We must establish and maintain a setting which is appropriate to the level of the action in which we are involved, e.g., exercising statutory authority of the Secretary of the Army.

William E. Weber.
Colonel, IN, President.

SFRB
February 18, 1977.

Memorandum for: All Officers.
Subject: Use of New Forms.

1. There still seems to be some uncertainty as to the intent behind the use of the new forms. This memorandum is designed to attempt to clarify only in a philosophical sense as opposed to a detailed and specific sense. Please bear in mind when complying with the memorandum

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2. With respect to the Case Report and Directive, it is essential that the Presiding Officer and/or Alternate Secretary/Recorder insure that the contentions advanced in the case or, if not advanced, deduced, be telegraphically listed in Part I. These contentions then must be addressed in findings—a separate finding for each contention.

3. Findings must be listed in numerical sequence in brief, telegraphic language that for all practical purposes has the philosophy of a yes/no type response. In addition, findings should be added by the Presiding Officer when such are clearly substantive to the decision of the Board, are discernible in the body of the case, and are necessary to enable third parties when later reviewing the records to be able to make sense out of what has been done. To ease understanding of terminology: For all practical purposes, "findings" are synonomous with "determinations".

4. Panels are cautioned to bear in mind that the determination that a discharge was not proper must be capable of being supported either by an indication of violation of law or regulation or in unusual cases, a violation of moral responsibility. Most individuals for whom continued service is clearly not proper and whose separation process has met the tests of regulatory procedures *and* who have been separated under the appropriate regulation can be considered as having been separated *properly* even though a panel may determine to upgrade the discharge received. It is in the characterization of the discharge, or, in other words, the "equity" of the action that most of the operations of the Army Discharge Review Board occur. Consequently, in the portions of the forms completed by Presiding Officers (Reasons on the Case Report and Directive and Presiding Officer's comments) or in certain cases, the comments by the pre-review officer or PO/HE pre-hearing review, we can expect to find the logic that enables a third person to read and understand the common sense application of what we have done.

5. Reasons, as they appear on a Case Report and Directive, should be specific, to the point, and in keeping with the boiler plate that has been provided. Those portions of the OSA Form 62B referred to above should contain the explanation of the intangibles, the visceral, the emotional and other judgmental areas used by the panel in rendering a decision. Included herein would be such things as initial impression of the case as they might be gained by a pre-review officer or PO/HE pre-hearing review and, as well, the culmination of the impressions gained by the panel as they heard the case. If appropriate, the veracity of the applicant and the arguments of counsel should be included in this area when they are germane to a total understanding of the case. It is not necessary that these portions of the forms reflect any particular brilliance. *It is necessary* that these portions of the form represent telegraphic brevity in words that provide substantive understanding of the concept under which the panel did its thing.

6. Of prime importance is that all officers bear in mind that we are in a test environment which implies that the bulk of the effort should be put forth in attempting to make it work, as opposed to trying to find out that it cannot work. I assume the latter will become undeniably clear to us as time goes on. We have already established that the most critical problem is the actual production of the finished product as opposed to the creative requirements necessary to produce raw material. In that, let me call to your attention that it is the Secretary/Recorder Assistants and court reporters who must convert this creativity into the finished product. If you wish them to keep abreast of you, be brief!!

William E. Weber.
Colonel, IN, President.

SFRB
March 29, 1977.

Memorandum for: All presiding officers, ADRB.
Subject: Department of Defense Discharge Review, Special.

1. Effective immediately, the ADRB will begin applying the criteria of the subject program to all cases being heard.

2. Specifically, under this program, former service members who received UD's or GD's during the period 4 Aug 64–28 Mar 73 are eligible for review. Individuals who received UD's during the RVN era will have their discharges upgraded if they meet any one of the following criteria:

a. Wounded in combat in RVN.

b. Received a military decoration, other than a service medal.

c. Successfully completed an assignment in SE Asia or in the Western Pacific in support of operations in SE Asia.

d. Completed alternate service or was excused from completion of alternate service under the clemency program instituted 16 Sep 74.

e. Received an HD from a previous tour of military service.

3. Individuals may also qualify for upgrading whenever the Board believes such upgrading is appropriate based on all the circumstances of a particular case, and on the quality of civilian record made since discharge. Factors to be considered in this regard include:

a. Age, general aptitude, and length of service at time of discharge.

b. Education level at time of discharge.

c. Whether entered the military service from a deprived background.

d. Possible personal distress which may have contributed to the acts which led to discharge.

e. Whether entered military service upon waiver of normally applicable entrance standards.

f. Whether the actions which led to discharge were alleged at the time to have been motivated by conscience.

g. Whether was discharged for abuse of drugs or alcohol and, if so, any contributing or extenuating circumstances.

h. Record of good citizenship since discharge. Boards will be encouraged to give weight to this factor when a good record is shown.

4. As previously noted, persons who received General Discharges (Under Honorable Conditions) also may qualify for upgrading to an HD by the ADRB, which shall examine their discharges in the spirit of this program.

5. Any cases not upgraded will be assembled separately and returned to the Sec/Rec Section for separate processing IAW the denial provisions of this special review program.

6. This program is being implemented in the spirit of forgiveness and compassion in which the President has sought to bind up the divisions of the Vietnam Era. Any upgrading obtained under the program will be an act of forgiveness, and prospective in its effect.

William E. Weber.
Colonel, IN, President

SFRB
August 1, 1977.

Memorandum for: Board members; Chief, Secretary/Recorder Division; Chief, Administrative Support Division Professionals.
Subject: "Contentions and Issues".

This memorandum confirms previous verbal guidance and instructional periods received by addressees concerning utilization of the new OSA 172 Form and the relationship between contentions and issues advanced by the applicant and/or counsel and the Board.

Contentions are allegations or issues of fact, law or discretion raised by the applicant and/or counsel before or during a hearing, in writing or verbally, which advance those areas the applicant believes are appropriate for consideration in the case and which, if they meet the Urban Law Stipulation, must be answered by the Board.

In the past, Presiding Officers and pre-review officers have been authorized to assist applicant and/or counsel in the rewording of contentions so as to insure their specificity and propriety to the case. The thrust of rewording has been to improve the posture of the applicant and/or the case and not to insure convenience for the Board.

In view of recent correspondence on the Urban Law Stipulation, the foregoing practice will cease immediately and the contentions submitted by the applicant will not in any way be reworded or modified by any board member, pre-review officer or Presiding Officer. The applicant's contentions will be listed verbatim to include misspelling, grammatical errors and obscenities (except that grossly offensive language will be placed in a sealed envelope and referred to in the appropriate portion of the OSA 172). In the event an applicant or counsel asks for assistance in wording or rewording contentions, they will be referred back to the Secretary/Recorder of that particular panel who will provide such assistance within the constraints of the SOP.

Secretary/Recorders are authorized to discuss written contentions with applicant and counsel to point out areas in which the contention can be made more specific or more beneficial to the applicant's case. Secretary/Recorders are also authorized and required to insure that both applicant and counsel in personal appearance or Hea Examiner cases understand that contentions must be phrased orally when presented to the Board at the onset of the presentation of the case. This is to insure that applicant and counsel know exactly that which the Board will consider.

Issues are those essential elements that are raised by the Board as a part of its official responsibility under 10 U.S.C., Section 1553, and AR 15–180 to insure the propriety and equity of a discharge. It is incumbent upon the Board and members of the Board to surface as issues those areas of a case relating to propriety and equity, irrespective of whether or not these areas are beneficial to the government or to the applicant. This is a responsibility which is paramount and to which all members of the Board and Secretary/Recorders must devote maximum effort to insure complete, fair and impartial presentation of the essential elements of information in all cases.

William E. Weber.
Colonel, IN, President.

SFRB
August 4, 1977.

Memorandum for Record.
Subject: Judge Advocate Officer Support to ADRB Panels.

1. Judge Advocate offiers will soon be provided to the ADRB for a minimum TDY period of two months. The purpose of the additional JAG support is to assist PO's in the proper formulation of the Case Report and Directives in order to insure that the language used is in full compliance with the Antioch Stipulation.

2. The JAG officers will be designated Assistant Legal Advisors to the ADRB. As such, they will be prohibited from taking part in presenting cases or cross-examining witnesses. They will be present at open sessions, but only to observe and listen. During closed sessions, they will assist the PO as stated in paragraph 1, above. They will not participate in the panel's basic finding of fact, law, and discretion and conclusion in deciding cases. They will not be sworn.

3. The presence of a JAG officer in the Board room will be explained by the PO in "B" and "C" cases by the following scenario addition immediately prior to calling the panel to order for the formal convening of the panel:

"PRESIDING OFFICER: In the Board room with us is Captain ———, a member of The Judge Advocate General's Corps. Captain ——— will not participate in the hearing. The basic purpose of his presence is to listen to the proceedings in order to assist me in closed session concerning proper language to be used in formulating the written report of the panel's determination in this case. This assistance is provided for in order to insure compliance with requirements of law that adequate and appropriate findings, conclusions, and reasons be made in each case decided by the Army Discharge Review Board."

William E. Weber.
Colonel, IN, President.

SFRB
August 12, 1977.

Informal memorandum for: All officers, secretary/recorders, and secretary/recorder assistants, ADRB.
Subject: Basic Upgrade Comparison Philosophy.

1. The purpose of this memorandum is to provide broad understanding of certain upgrade comparison philosophy that will assist you in resolving the problems you now have between the Regular and "Carter" review. While I recognize that there may be as many different opinions in this area as people who read this memorandum, I do believe it is necessary that we all abide by the concept contained herein or we will have difficulties keeping things in order.

2. Perhaps the first thing to do is to disabuse ourselves of the notion that there is such a thing as a separate review for a "Carter" case. This is not correct. A "Carter" consideration is only the last step of normal review and it becomes mandatory for voting purposes only if relief has not been granted as a result of normal review and *only* in the context of the mandated portions covered by the six primary criteria. However, if this last step is taken, the result of the step becomes the result of the Board, e.g., if the normal review resulted in no change of a UD and the "Carter" primary criteria mandates an upgrade, then the vote of the Board would be "general." It is the *only vote* of the Board.

3. In the event a "Carter" applicant receives a normal upgrade, it is still necessary to fill in the appropriate portions of "Carter" criteria applicable so as to insure the computer program properly records historical data. However, this is simply a by-rate exercise and one that is *not* an essential insofar as justifying the upgrading of a case.

4. Basic philosophy on upgrading is as follows:

a. Any time any case upgraded from UD to Honorable or General to Honorable, it is a case for which upgrading can be justified on the basis of normal review. In short, "Carter" by itself (mandated criteria) cannot justify Honorable.

b. Any case which is upgraded from UD to General because of issues of discretion on "Carter" secondary considerations is a case that receives upgrading because of normal review. In short, no "Carter" case can be recorded as upgraded to General only UP special program on just secondary considerations since these considerations must also have been enunciated as issues for normal review.

c. Any case which is UD-NC in normal review and is granted relief because of the primary criteria of "Carter" must include in the conclusions block a change to the SPD to KCR. These type cases must be checked as follows: properly separated initially; equitably separated initially; relief granted under provisions of Special program; change to General AR ———; change SPD to "KCR." NOTE: A case of this type cannot be checked: "Relief granted under current policy."

d. Any case in which relief is granted by normal review will have either "not properly separated" or "not equitably separated" or both checked and, as well, "relief granted under current policy." It is also mandatory if that case is a "Carter" applicant that the block "full or partial relief granted under Special program also be checked, but *do not change the SPD to KCR.* In unusual cases (such as Laird), the blocks "properly separated initially" and "equitably separated initially" could be checked and, as well, "relief granted under current policy" and "under provisions of Special program."

5. This memo is intended to be used only as a "working paper" it is not a formal memo, and must not be distributed outside the ADRB.

William E. Weber.
Colonel, IN, President.

SFRB
September 23, 1977.

Memorandum for: All colonels.
Subject: Justifying Decision Not to Grant Full Relief.

Please insure that you pay attention to SFRB Memo #33, 6 September 1977.

William E. Weber.
Colonel, IN, President.

SFRB
November 22, 1977.

Memorandum for: All ADRB personnel.
Subject: Bar to VA Benefits Under Law.

1. Under provisions of PL 95–126, any individual whose catalyst for separation was 180 days or more AWOL is not eligible for veterans benefits even if the discharge is upgraded by Discharge Review Board action. Additionally, we are responsible for notifying all such individuals of this fact and that they may apply to BCMR, Veterans Administration, for relief of this bar.

2. All personnel are requested to call to the attention of the Executive Officer any cases currently on hand in ADRB, for whom the record indicates separation may have been as a result of 180 days or more consecutive AWOL. The purpose of notification is to enable us to provide these individuals with an appropriate letter.

William E. Weber.
Colonel, IN, President.

SFRB
February 23, 1978.

Memorandum for: 06 board members.
Subject: HE Procedures.

1. The purpose of this memorandum is: to reaffirm guidance on the procedures to be followed on Hearing Examinations; and, to call again to your attention the need to conform to these procedures to avoid creating precedent conditions which can be used against us in court actions by applicants or counsel who may be dissatisfied with the ultimate results of the Hearing Examination.

2. As you all understand, it is *mandatory* that once the Hearing Examiner taping is completed by the Hearing Examiner that the *entire* tape be replayed to the applicant and counsel so as to set the stage for the epilogue. It is a violation of procedure and a dangerous practice to produce an epilogue which contains statements alluding to satisfaction with the Hearing Examination and the material presented if the applicant and counsel concerned have not seen the entire tape.

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3. You cannot depend upon their memory to ensure that they are satisfied with the presentation. Additionally, we cannot expect that all applicants and counsels are motivated to deal with us on a basis of mutual trust. We must assume, since it is true, that they will tend to be naturally suspicious of that which we do and it is incumbent upon us to insure that we protect our integrity and impartiality, even if it involves additional work!

4. I am not unaware of the tedious aspects of replaying the tape, nor do I fail to understand that at times it represents wasted effort and time. It is, however, a necessity so as to ensure that we do not jeopardize the principle of being able to use Hearing Examinations as a means of conducting hearings. It will take only one failure on our part to cause a loss of credibility as to the integrity of the Hearing Examiner methodology.

5. All officers deployed as Hearing Examiners or HE Secretary/Recorders must insure complete compliance with HE procedures in this regard. Secretary/Recorders are instructed to remind the Hearing Examiner that as Secretary/Recorders they are under orders to insure the administrative propriety and completeness of Hearing Examinations in accordance with Standard Operating Procedures.

William E. Weber,
Colonel, IN, President.

April 17, 1978.

Memorandum for: Pit bosses, secretary/recorder division, admin support division.
Subject: Prereview.

There have been many complaints concerning the cycling of cases for prereview and, more importantly, what some officers believe to be a waste of time. I have had a long discussion with the Pit Bosses concerning the foregoing and I assume that the word has been passed in this regard.

To insure, however, that all personnel at least understand the rudiments of the problem, I would like to enunciate certain facts which are part of the problem of driving the train:

a. I have assumed that budgeting one hour for prereview was fair to the average officer and would give the average officer the time necessary to produce an adequate, well-thought out, neatly written prereview (no matter what type the case) that would be beneficial in the long run to the panel reviewing such. In reviewing the time available during the stand down day, I had calculated that the draft post review would require approximately two hours and thus 7 cases per officer for prereview would accommodate the scheduled duty hour day.

b. The foregoing 7 cases per officer represented a calculated risk concerning production since one case/per hour/per available officer/per stand down day *was not* adequate to support the hearing day throughput of 320 cases per day. Reason: There are an average of only 38 pit officers available for duty each stand down day; ergo. $7 \times 38 = 266$. I allowed this continuing short fall since we had some cases in the "bank."

c. This does not accommodate yet the additional burden of prereviewing regular cases *which must not be ignored throughout this Carter relook cycle. We still must do regular cases.*

Notwithstanding the foregoing, there seems to be "free time" and thus a great deal of discontent about the stand down day duty hours. I can only assume from this that the pits are more efficient in producing cases than I had anticipated, and thus I can schedule prereview to equal need. Therefore, effective immediately, two basic changes will be instituted:

a. To insure that the analysts are able to maintain the burden of their workload (which includes assisting in as a part of the administrative overhead at times), I will allow some cases to be sent to the pit for prereview *that have not been analyzed.* In such circumstances, the prereview officer is responsible for completing the Part II and III analysis!

b. I will increase the number of cases per available officer per day (that are placed in the pit) to allow sufficient to meet required workload throughput for both Carter redo and regular cases. In this regard and as you all know, the cases are placed "en mass" in the pits. Pit Bosses are responsible to insure that in the event the numbers placed in the pit each stand down day are not adequate to insure meaningful utilization of duty hour time, the Sec/Rec shop is requested to provide additional cases. (*There is no shortage of cases to be prereviewed.*)

Candor requires me to include an additional thought to this memorandum. Contrary to what may be believed, there still are a significant number of cases presented to panels for which the prereview is something less than completely adequate. In the past, I have assumed that this was simply the penalty paid for high turnover of personnel and the need to require new board members to become functional more quickly than otherwise would be desirable. However, some older members prereviews also reflect at times certain inadequacies and these, unfortunately, help to account for some of the errors that are being made in the panel room. The Pit Bosses tell me that the quota system may be responsible for this problem. This is what cause me to come off the quota system as far as prereview is concerned and go to the cases by mass in the pit. I hope this will solve the problem of inadequate prereview. *If not,* Presiding Officers are going to be instructed to provide copies of inadequate prereviews so that the Pit Bosses and myself may assist the board members concerned in this regard.

I am not unaware of the unhappiness with the duty hours; however, until such time as the totality of ACRB can be programmed for different duty hours, those announced must continue. There is clearly enough work to justify even longer hours. I recognize that at times other elements of the board are not always capable of meeting their goals redelivery of cases, etc., but since this new system has only been in effect for one week, I think we can all assume things will improve. As I have said before and as I say again now—As soon as assets, capability and production meet requirements, I will examine again the duty hours situation.

William E. Weber,
Colonel, IN, President.

Annex 0–3.—Memoranda: Special.

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SFRB Special Program Memo and Subject

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SFRB, Special Program Memo A
April 18, 1977

Memorandum for: All Officers.
Subject: Discharge Review Program (Special).

1. For your information, attached copy of memorandum establishes that "retrospective" application of subject program is the only application permitted. In essence, this means that the discharge date originally established will be the date of any upgraded discharge under this program. Furthermore, no identification which will establish that the individual concerned was upgraded under the auspices of this program will appear on any documents that the individual concerned may have to display in the public arena.

2. This action signals to us that the totality of the intent of this program is to grant to the individual benefitting therefrom all of the benefits and social acceptance that would otherwise have accrued to them had they originally been discharged with a good discharge.

3. I request all board members to understand that it is not within our prerogative to disagree with the intent of the program or to allow ourselves to be influenced unfavorably because of any disagreement we may have with what the program accomplishes. It is necessary that we devote all our energies to giving full support.

William E. Weber,
Colonel, IN President

April 15, 1977

Memorandum For Secretary of the Navy, and Secretary of the Air Force.
Subject: Discharge Review Program (Special).

Reference: Memorandum for Secretary of the Navy and Secretary of the Air Force, dated 7 April 1977, from Acting ASA(M&RA), subject as above.

In the above reference, you were asked to delay final processing of any discharge upgrades under the special program until a decision could be reached as to whether those upgrades would be prospective or retrospective.

Since one of the main purposes of the special program is to relieve the effects of less than honorable discharges on those holding them, there must be nothing on the copy of the new discharge (DD Form 214) issued to the serviceman or woman indicating that it is in fact an upgrade. In line with this principle, the effective date of all upgraded discharges will be the date of the original discharge.

To assure protecting such veteran's benefits as may be due the serviceman or woman whose undesirable discharges are upgraded, the Veterans Administration has asked that certain notations appear on their copy of the DD Form 214. Those notations, plus some additional information, will be needed on record copies of the DD Form 214 retained by the Service. Department of the Army will publish instructions early next week concerning preparation of DD 214's for the Special Discharge Review Program.

Paul D. Phillips,
Acting Assistant Secretary of the Army (Manpower and Reserve Affairs)

SFRB, Special Program, Memo B
April 20, 1977.

Memorandum for: Board Members, Executive Officer, Chief, Secretary/Recorder Section, Chief, RP&S Section.
Subject: Credit Under Special Criteria (Para 3) and Good Time (Para 9) Pre-Review Check List.

1. The purpose of this memorandum is to clarify for all concerned the awarding of credit in Paragraph 3, Tab A, of the Pre-Review Check List and Part III of the Case Data Sheet as it pertains to an Honorable Discharge and 24-months good service and in paragraph 9, Pre-Review Check List as it pertains to assessing good time.

2. *Part I—Honorable Discharge and 24-Months Service Credit:*

A. Credit for previous Honorable Discharge may be granted when the individual concerned has received that Honorable Discharge after having served at least one-third of the period of service for which originally obligated. This one-third factor is, of course, subject to judgment and the vagaries that are inherent in each case and should be used only as a general rule.

B. To determine whether or not credit should be awarded for 24-months service, in computing the 24-months you *must not* pick up any period of service which is covered by the credit granted for prior Honorable Discharge but *you may* credit such service when the prior Honorable Discharge credit is not given, i.e.:

(1) Individual enlists for 3-years, serves 14-months, takes a short discharge to re-up, receives an Honorable Discharge; 6-months later, individual absents himself in deserter status and subsequently receives a UD. In paragraph 3, Part A (Part III, Case Data Sheet), you *may* credit this individual with an HD but you *may not* credit him for 24-months service.

(2) Individual enlisted for 3-years, served 6-months, takes a short discharge, serves 19-months, then deserts, and subsequently receives a UD. You *may not* credit him with an Honorable Discharge but you *may* count the 6-months plus the 19-months and give credit for 24-months good service.

(3) Individual drafted for 2-years, serves 8-months, takes a short discharge to reenlist, serves 26-months and deserts and subsequently credited with a UD. You *may* credit with a prior Honorable Discharge and you *may* credit with at least 24-months good service.

3. *Part II—Credit for Good Time.*

A. In the Tab D section of the Pre-Review Checklist, information placed therein should be limited only to that period of service for which the appeal is applicable (i.e., the last period of service), except where in Part I above the circumstances make it permissible to include a prior period of service in computing a total of 24-months service. In these circumstances, computing good time in Tab B can include both the present and prior period of service.

B. In many cases, records will fail to reveal a believable pattern of recording the C&E of an individual. Typical in these cases will be a last entry coincidental with an awarding of an Undesirable Discharge which shows C&E as Unsat/Unsat, even though a review of the records clearly suggests a high possibility that the C&E is not correct and that a portion of that period would justify some other form of rating. If there are no other data in the record to clarify what portion of that period could be read as other than Unsat/Unsat, the one-third rule can again be applied as follows:

(1) If the individual concerned has a period of rated service that is Fair/Fair or better, that covers at least one-third of all total service less AWOL time, then an equivalent rating can be assumed for all improperly rated time except that period covered by actual offenses.

4. All board members should understand that the foregoing are intended to be applied as rules for the analyst personnel and guidelines for the pre-review officers and panels. It is not my intent to rigidly preclude crediting when the specific circumstances in a case clearly identify that credit is not only logical but that it would be unfair not to so grant.

William E. Weber,
Colonel, IN, President.

SFRB, Special Program, Memo C
April 20, 1977.

Memorandum for: Board Members, Executive Officer, Chief, Secretary/Recorder Section, Chief, RP&S Section.
Subject: Applicant Insertion of Information Under Mitigating Factors.

1. The purpose of this memorandum is to insure that all personnel have a clear understanding of the procedures to be followed when applicants insert mitigating factor information during the 30-day period following application. Under the provisions of this Special Program, all applicants (whether calling by phone, applying by DD Form 293, or in-house applicants notified of their eligibility) are granted the opportunity to present additional documentation to substantiate claims under mitigating factors. The intent of this proviso is to give each individual a last minute chance to call to the attention of the panel those things that he or she feels may be germane to their case and beneficial to the possibility of partial or full relief.

2. When such information is received, either directly by mail to ADRB or inserted in the record by RCPAC prior to shipping records to ADRB, it is incumbent upon analysts to insure that the document or documents are tabbed and highlighted in the record and on the Pre-Review Sheet. Pre-review officers are *personally responsible* to review, read and judge the submission and credit accordingly. In those cases where the pre-review officer feels specific highlighting is required, he or she should call the panel's attention to such by appropriate remarks on the bottom of the pre-review sheet.

William E. Weber,
Colonel, IN, President.

SFRB, Memo #D
April 21, 1977.

Memorandum for: Board Members, Executive Officer, Chief, Secretary/Recorder Section, Chief, Records Processing and Screening Section, Chief, Mail and Distribution Section, Chief, Administrative Office, Chief, Analyst Section, Chief, Special Actions Section.
Subject: "Start Up".

Part I. All Personnel:

1. For a variety of reasons, not the least of which is the favorable attitude and rate of progress of training, I have decided to execute the actual conduct of hearings one week earlier than initially programmed. This will result in some personnel being required to absorb certain functional responsibilities in an OJT configuration as opposed to a pure training configuration. We will accommodate this by insuring that experienced personnel are available and accessible at every step to provide answers to questions as they arise.

2. To accommodate this earlier "start up", I will schedule on a basis of only 100 cases per panel per day due to the fact that we only have two board rooms available for new process cases at the moment. Some board members will not be directly involved in new case review each day. These members will receive regular case reviewing assignments on an as required basis until full cycle flow of six panel new process cases commences.

3. During the OJT period, we must all understand that not only are new techniques being learned, but that we may be faced with the need to modify or adjust procedures already established to insure a more effective operation in the long run. Thus, at time there will be some confusion since the dispersion of our facility is such that everybody cannot get the word at the same time. I ask that you bear with this problem; and as the old people know, "it will be better by 1 January".

Part II. Board Members:

1. As a part of the pre-review function, all board members are responsible for placing the index reference number on the Case Data Sheet and on the Case Report and Directive. The index reference number used will be one of four principle numbers for most cases. In cases of unusual circumstances, the pre-review officer is responsible for determining

an appropriate index reference number. The four index reference numbers to be used normally (as appropriate) are as follows:

a. For Chapter 10 cases: 23.00.
b. For Unsuitability cases: 66.00.
c. For Unfitness cases: 65.00.
d. For Drug cases: 25.00.

2. In the event any case reaches the board room and an index reference number has not been placed thereon, it is the responsibility of the Presiding Officer to designate an appropriate index reference number. Completion of this requirement is critically important since the Special Actions Section people have not been trained nor instructed in this area and are not capable of selecting the appropriate index reference number.

3. During the "start up" timeframe, there will be cases on which panels vote no change or provide only partial relief. Many of these cases will still be within the 30-day suspense timeframe and they cannot be consummated until the individual has an opportunity to provide additional information in support of the appeal. In those circumstances, the cases will be returned to the original pre-review officer who will asses the information received and determine whether or not such would have influenced the original vote. In cases where the pre-reviewing officer determines possible influence or where there is a question of doubt, the case will be returned to a panel for revoting. Where the pre-reviewing officer determines there is no impact, the case will be returned by the Secretary/Recorder Section to the Special Actions Section for final consummation.

4. In the foregoing, under *no* circumstances must *any case* be mailed back to RCPAC for final action until completion of the 30-day suspense date. All cases mailed back will carry a mailing date on or after the 30 day suspense date.

William E. Weber,
Colonel, IN, President.

SFRB, Special Program Memo E
April 25, 1977.

Memorandum for: All Personnel.
Subject: Establishing Findings for Contentions Other Than "Carter Philosophy"

1. Cases on hand at the inception of the Special Discharge Review Program include cases wherein the applicant and/or counsel may have enunciated specific contentions and/or issues of fact, law, or discretion. Under the Antioch Stipulation, it is incumbent upon the Board to provide specific findings for each of these contentions and/or issues of fact, law or discretion that are non-frivolous in nature.

2. The foregoing remains a requirement even during the Special Discharge Program except for the following modifications:

a. In cases where full relief is granted, it is not necessary to address other contentions or to provide any findings other than those provided for routinely on the DD Form 2067 (Case Report and Directive).

b. In those instances where only partial relief is granted, i.e., UD to General, it will be necessary to address other contentions if they are very specific in nature. If, as is normal, they are general in nature and non-specific, then a statement to this effect in the findings will suffice: "The contentions raised by the applicant in the original DD Form 293 were addressed by the Board in considering this case. These contentions resulted in findings that were favorable. The denial of full relief is predicated on the overall evaluation of the character of service and not a specific incident."

c. In cases where all relief is denied, it is a responsibility of the pre-review officer to address other contentions specifically in the remarks section of the Pre-Review Checklist. Telegraphic language should be used. A specific notation should be made on the Work Sheet-Findings, Conclusions and Reasons to call to the attention of the typist concerned the requirement to include the findings enunciated on the Pre-Review Check List in the appropriate block of the DD Form 2067.

3. Pre-review officers should avoid, to the degree defensible, any additional workload inherent in the foregoing. Generally speaking, most contentions will probably be inclusive in the overall contention inherent in the "Carter philosophy". When it is clear that other contentions are so included, then no specific reasons need to be given to these contentions.

William E. Weber,
Colonel, IN, President.

SFRB, Special Program, Memo F
May 3, 1977.

Memorandum for: All Pre-Review Officers.
Subject: Preparation of Pre-Review Checklist.

1. To affirm previous guidance, clarify to insure uniform understanding, and most importantly to simplify the work effort of the analysts, the following instructions pertain:

a. Analysts will *always* tab every portion of the OMPF which relates to any of the items contained on the Pre-Review Checklist. Except in the area of "compelling reasons to the contrary," the analysts will circle the tabbed item on the Pre-Review Checklist.

b. The analyst will always show both good and bad time on Part D but may at times be incapable of defining C&E time if the records do not clearly reveal such. In such cases, it is incumbent upon the pre-review officer to so do.

2. Thus in accordance with above instructions, pre-review officers may expect to find that such items as age, aptitude, length of service, and education will *always* be circled on the Pre-Review Checklist. This does *not mean* that these items are necessarily germane to the awarding of credit for a mitigating factor. The determination of "yes" or "no" is the sole responsibility of the pre-review officer no matter *what* may be checked or tabbed by the analysts. Please bear in mind that the analysts are attempting to provide you with the best briefed case possible but they are, of course, limited by the adequacy of the records, the time in which they have to complete a case, and (as we all) by their diverse motivation from day to day.

3. Please understand that when there are errors in the Pre-Review Checklist, it is the responsibility of the pre-review officer to catch and correct, since this is one of the purposed for pre-review. The other, of course, is to arrive at recommendations for use by the panel.

Robert Laychak,
for William E. Weber, Colonel, IN, President.

SFRB Special program, Memo G.
May 4, 1977.

Memorandum for: All officers and sections.
Subject: Re-Pre-Review Action.

1. As indicated in the addendum to the SOP, there are times when additional information is received on a case after it has been through pre-review and in front of a panel. This has occurred since it was necessary to have cases to do during the 30-day suspense timeframe and, as well, was also caused because the JLO failed to send suspense letters out for a 10-day period following receipt of calls.

2. Irrespective of the reasons, we now have a number of cases that will be re-circulated for another look to determine whether or not the material received is of sufficient importance to possibly effect the recommendations the pre-review officer made and/or the decision made by the panel. These cases will be handled by being returned (whenever possible) to the original pre-review officer who will conduct a more detailed analysis and make recommendations accordingly.

3. Enclosed is the "Re-Pre-Review List" which is to be used in conjunction with the pre-review check list originally prepared. The "Re-Pre-Review List" is self explanatory.

4. Cases in which the pre-review officer feels that the additional information has no real bearing on the decision of a panel will be returned to the system for administrative consummation. Those cases in which the pre-review officer feels the additional information might have a bearing on the decision of the panel will be rescheduled for an appearance in front of a special panel by the Secretary/Recorder section.

5. Initially, the sequence of events concerning these cases will be as follows:

a. Each Tuesday morning the Secretary-Recorder Section will deliver pre-review cases that are to be heard by a Special Panel on Wednesday to those pre-review officers effected who are present for duty that day. For those officers who may be on VOCO, leave, sick, or TDY, their cases will be given to another pre-review officer to do. These cases will all be in addition to the normal allocation of cases (I do not expect these special Re-Pre-Review cases to amount to more than two or three to each officer).

b. Tuesday evening the cases will be picked up by the Secretary/Recorder Section (in other words, Re-Pre-Review must be completed on the same day as delivery).

c. The cases will be scheduled to be heard at approximately 1400 hours or on call in the "A" Board room on Wednesdays. A Special Panel will be designated for this purpose and will be published in the weekly schedules. I anticipate that we will rarely, if ever, have more than 100 cases weekly for Re-Pre-Review and of these, probably less than 50% will survive to go in front of the Special Panel.

d. It will *not* be necessary for pre-review officers to re-check these cases with the JAG or MC unless they feel the additional information is of such a nature that a re-check is mandatory. In the event a re-check is made, it *is* necessary to hand carry the case both ways!

e. In the Board room there will be no opaque projector utilized. Each board member will be provided a copy of the original Pre-Review Check List and the Re-Pre-Review List. The Board room will be administratively supported by one Secretary/Recorder and two Secretary/Recorder assistants.

6. Under no circumstances must these Re-Pre-Review cases be allowed to mix in with regular Carter cases or other regular cases. Pre-review officers should keep them separate on their desks and when completed, should keep them in a separate pile on their desks. The attached Re-Pre-Review List will be printed in red paper.

William E. Weber,
Colonel, IN, President.

SFRB, Special program, Memo H.
May 16, 1977.

Memorandum for: Board members, executive officer, chief, secretary/recorder section.
Subject: Case Workload for Panels.

1. In order to provide meaningful expenditure of effort for available board room time; effective immediately some panels conducting "Carter case" hearings will from time to time also conduct hearings of regular cases. This will not include, however, personal appearances either by applicant or counsel but will be limited to on-the-record (A) cases and counsel only (C) cases that have a brief or written submission.

2. Procedures to be followed for these cases will be the same as the practice in the regular case board rooms and the cases heard will be recorded on a separate log which will be prepared in advance by the Secretary/Recorder Section.

3. All regular cases are to be heard upon completion of the daily "Carter Case" workload by the panel. Presiding Officers are requested to recess the panel at the completion of the "Carter Cases" for approximately one-half hour to allow the Secretary/Recorder and the Secretary/Recorder assistants to clear the panel room of "Carter Cases" and prepare for regular case hearings.

4. When available, a court reporter will be assigned to the D-ring panel rooms in order to accomplish the summary of testimony requirements. If a court reporter is not available, the Presiding Officer will place the information required on tape, on the tape recorder provided, for subsequent transcription by members of the Secretary/Recorder Section. In any event, the responsibility for adequate accomplishment of the administrative requirements for such cases is jointly shared by the PO and Secretary/Recorder assigned to the panel on that day.

5. To begin with, between 5 and 10 regular cases will be allocated to each "Carter Case" panel room. Future caseload will be established on an "as required" basis.

William E. Weber,
Colonel, IN, President.

SFRB, Special program, Memo I.
May 26, 1977.

Memorandum for: All officers, secretary/recorder section, special actions section, records processing section.
Subject: Pre-Review and Re-Pre-Review.

1. Special instructions are being issued which will change slightly the manner in which the records processing clerks will tab the files. When tabbing elements under special consideration or mitigating factors, the analysts will include a number as well as the letter. The number will correspond to the sequential appearance of that item as it is circled on the pre-review sheet (example—under special consideration, ARCOM with V would be tabbed A–1 if it is the first one circled, A–2 if the second, etc). In addition, analysts will place a tab number 11 on the top page of the document dealing with the last discharge. When this discharge is also qualified under a "compelling reasons to the contrary", a tab C will also appear on it.

2. Pre-review officers are requested to provide more amplification in the reasons portion of the pre-review sheet, particularly for cases for which a no change is recommended. Panels when reviewing such cases (particularly C type cases) are being required to spend an inordinate period of time to justify pre-review recommendation. Pre-review officers are also reminded it is required that the pre-review sheet *must be signed.*

3. Re-pre-review officers are requested to no longer complete items 2 or 6 of the re-pre-review sheet. Experience is shown that re-pre-review officers are misinterpreting the purpose of those two items and, in fact, are attempting to justify the original recommendation. This is not the purpose of re-pre-review. Re-pre-review starts with the basic premise that the decision of the panel was correct and then examines the new evidence in light of the decision to determine whether or not the case should be referred to a panel. Whenever the decision is made to refer the case to a panel, the reason stemming from the additional information added must be adequately explained.

William E. Weber,
Colonel, IN, President.

SFRB
Special program, Memo J.
May 31, 1977.

Memorandum for: All officers, all sections, all chiefs.
Subject: Use of Paragraph 9, Tab D (Pre-Review Check List).

1. The purpose of the subject area on the pre-review check list is to provide pre-review officers and, as well, panels with a discriminator to assist in two adaptations:

a. Enable choice between honorable and general.

b. To substantiate no change on non-mandatory upgraded cases.

2. The use of the portion pertaining to conduct and efficiency ratings below good and fair respectively is intended to correlate with that which assists in determining character of discharge at ETS. However, the relationship is only symbolic in its intent, not mandatory for use.

3. Under no circumstances should pre-review officers or panels assume that meeting the minimum qualifications in this area is sufficient to justify any type of vote. The formula applied at ETS *is not* applicable insofar as mandatory action is concerned for characterization of discharge *short* of ETS. Pre-review officers and panel members are requested to avoid any automatic aspect of use of paragraph 9 (Tab D), and instead insure use only to assist in judgemental determinations based on the other data available.

William E. Weber,
Colonel, IN, President.

SFRB
June 1, 1977.

Special program, Memo K.
Memorandum for: All officers and section chiefs.
Subject: Additions to Present Index.

Action has been taken to include the following additions to the DRB index required by the Antioch stipulation. They will be used by the ADRB effective 1 June 1977.

67.11 tour in Southeast Asia or Western Pacific
67.12 wounded in combat
67.13 decorated for valor/merit
67.14 previous honorable discharge
67.15 satisfactorily served 24 good months prior to discharge
67.16 completed alternate service or was excused in accordance with Presidential Proclamation 4313
67.21 age, aptitude, length of service at time of discharge
67.22 education level
67.23 deprived background
67.24 personal distress
67.25 waiver to enlist
67.26 conscience
67.27 drugs or alcohol
67.28 good citizenship
67.29 other factors
67.31 discharged for act(s) of violence
67.32 discharged for act(s) of dishonor
67.33 discharged for desertion in or from combat theater
67.34 discharged for offense(s) subject to civilian criminal prosecution

Robert Laychak,
LTC, FA, Executive Officer.

SFRB, Special program, Memo L.
June 7, 1977.

Memorandum for: All officers.
Subject: Additional Clarification of "AWOL in and From the Combat Theater" and "Criminal Acts/Civil Standards".

1. Recently the Secretary of the Army, in response to the Chairman of the Senate Veterans Affairs Committee, provided amplified explanation of the subject area. The genesis of this amplification is unknown to me. Presumably it emanates from the office of Defense and/or General Counsel.

2. For our purposes, it is not particularly important as to the point at which the

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definition begins. What is important is that we now apply this philosophy in our case evaluation. Specifically, the modifications are as follows:

a. "AWOL/desertion in and from * * *"—The applicability of this area stems from the definition provided the Congress for the term "successfully completed an assignment in Vietnam." This definition stated that the term "encompasses those who were ordered to Vietnam and were given credit for a completed assignment without having been recommended for discharge for improper conduct while in Vietnam." On the basis of the foregoing, it becomes apparent that an individual whose discharge stems directly from his Vietnam service is one who perhaps cannot be given credit for a tour in Southeast Asia if the reason for discharge is solely for improper conduct while in theater. Thus, an individual with frequent AWOL's who is charged with and is separated in lieu of trial for these charges of AWOL may meet the test of AWOL/desertion in the combat zone. Panels must be exceedingly careful in evaluating these areas.

b. "Criminal Acts/Civil Standards"—In his response to the Chairman at the Senate Arms Service Committee, the Secretary in answering the question as to whether or not "the offense committed would have been punishable under civilian criminal law" answered that "boards will consider the evidence of calculated criminal intent, intent of a grievious bodily harm to an individual, intent of substantial permanent loss of/to an individual of his possessions, offenses against minors and the like." This definition would seem to elevate somewhat higher than have we, the conditions which would justify the "compelling reason to the contrary" for criminal acts under civil standards. As in the previous explanation, panels must exercise due care and justify to their own satisfaction the offense(s) considered truely meet(s) the philosophical test of the foregoing.

William E. Weber,
Colonel, IN, President.

Annex P–1.—DOD Discharge Review Program (Special)

The Special Discharge Review Program (SDRP) was implemented on 5 April 1977 to effect the review, by application, of all undesirable (UOTHC) or general discharges awarded during the period 4 Aug 64 and 28 Mar 73 under criteria more favorable than those of regular review. Although applications had to be received prior to 4 Oct 77, and the initial reviews accomplished within 180 days of receipt, the standards for SDRP review are relevant today because of the compliant procedures resulting from the Antioch Stipulation and a small number of de novo appeals under SDRP that have yet to be finalized.

SDRP Guidance for Pre-Review Officers and Board Members

1. The characterization of discharges considered under this program will be changed to honorable or general (Under Honorable Conditions) as appropriate where:

a. Determination is made that discharge and/or characterization was improper or inequitable under normal existing criteria considered by the Army Discharge Review Board; or

b. The applicant meets one of the following primary criteria and there are no compelling reasons to the contrary:

(1) Received a U.S. decoration other than a service medal.

(2) Was wounded in action.

(3) Satisfactorily completed an assignment in Southeast Asia or in the Western Pacific in support of operations in Southeast Asia.

(4) Completed alternate service or was excused therefrom in accordance with Presidential Proclamation 4313 of 16 September 1974.

(5) Received an honorable discharge from a previous tour of military service.

(6) Had a record of satisfactory active military service for 24 months prior to discharge; or

c. The applicant merits special consideration as a result of the following factors:

(1) Age, general aptitude, and length of service at time of discharge.

(2) Education level at the time of discharge.

(3) Individual entered the service from a deprived background.

(4) Actions which led to the discharge were alleged at the time of discharge to have been motivated by conscience.

(5) Individual entered the service upon a waiver of normally applicable entrance standards.

(6) Possible personal problems may have contributed to the acts which led to discharge.

(7) Record of good citizenship since discharge. Boards are encouraged to give weight to this factor when a good record is documented.

(8) Was discharged for drug or alcohol abuse and, if so, any contributing or extenuating circumstances.

2. Compelling reasons which will be used as a basis for denial of upgrade unless special consideration is given after evaluation of the factors listed in para 1c, above, are:

a. Desertion/AWOL in or from the Combat Zone. Commission of this act requires that an individual have deserted within the combat zone or departed the combat zone on leave, TDY, or other authorized absence and failed to return to his unit in the combat zone. An individual who failed to report to an overseas replacement station or port of embarkation for further assignment to the combat zone.

b. Discharge Based on an Act of Violence or Violent Conduct. It is necessary for the pre-reviewer to distinguish these acts from barracks brawls or bar room fights. Intended here, is the fact that an act of violence or violent conduct was the actual or proximate cause of the discharge.

c. Discharge Based on Cowardice or Misbehavior before the Enemy. This act must have taken place in the combat zone during actual engagement with the enemy.

d. Discharge Based on an Act or Conduct Subject to Civilian Criminal Prosecution. Acts included in this category will generally relate to felonies in the civilian environment. Inherent in this category is the intent to eliminate those offenses which are peculiar only to the military and consider only offenses which relate to civilian society (e.g., murder, rape, larceny, assault, etc.). Common sense and experience must prevail in determining if or how an offense relates to civilian criminal law. Prereviewers may refer to the Table of Maximum Punishments, UCMJ, or ask the advice of the ADRB JAG officer.

3. In considering the type and character of separation to be given under this program, the provisions of Section III, Chapter 1, AR 635–200 are applicable as modified by the following additional guidance:

a. An honorable discharge should be considered for award when:

(1) Provisions of para 1b, above, are satisfactorily met; and

(2) Provisions of para 1–9d(1), AR 635–200 are met. In this regard, weight must be given to the nature of pending changes in the case of a separation under Chapter 10, AR 635–200 and to the offense for which applicant was convicted by civil court in cases of separation UP AR 635–206 by reason of civil court conviction. The most severe weight, other than disqualification, which may be given to such offenses is to equate them to a single conviction by Special Court-Martial, except where a multiplicity of charges and/or specifications clearly warrant a more prejorative categorization.

b. A general discharge (Under Honorable Conditions) should be considered for award to applicants under this program who received an undesirable discharge (enlisted personnel), or were separated under other than honorable conditions (officer personnel), when there are no compelling reasons for disqualification (para 2, above), and the provisions of para 3a, above, are not fully met.

c. Eligible personnel may also be awarded a general discharge (Under Honorable Conditions) or an honorable discharge when none of the special considerations enumerated in para 1b, above, have been met, but mitigating factors listed in para 1c, above, warrant special consideration.

4. Applicants who received a general discharge (Under Honorable Conditions) may be awarded an honorable discharge when the provisions of para 3a, above, are met or evaluation of the factors enumerated in para 1c, above, indicates special consideration is appropriate and is in consonance with the President's desire that discharges be re-examined in a spirit of compassion and forgiveness.

[FR Doc. 79–12723 Filed 4–26–79; 8:45 am]
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federal register

Friday
April 27, 1979

Part III

Department of Defense

Department of the Army

Discharge Review; Memoranda on Recharacterization of Discharges for Drug Use or Possession

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DEPARTMENT OF DEFENSE

Department of the Army Discharge Review; Memoranda on Recharacterization of Discharges for Drug Use or Possession

Memoranda provide service wide guidance to discharge review boards for review of punitive discharges and administrative discharges under other than honorable conditions issued solely for personal use or possession of drugs prior to July 7, 1971. Former service members may find the guidance contained in the memoranda helpful in preparing for discharge review. The Army Discharge Review Board has been requested under the provisions of paragraph D.3, DOD Directive 1332.28, to effect publication for the Department of Defense.

Dated: April 20, 1979.

William E. Weber,
Colonel, IN, President, Army Discharge Review Board.

Memorandum for; The Secretaries of the Military Departments The Chairman, Joint Chiefs of Staff

Subject: Review of Discharges Under Other Than Honorable Conditions Issued to Drug Users

August 13, 1971.

Consistent with Department of Defense Directive 1300.11, October 23, 1970, and my memorandum of July 7, 1971, concerning rehabilitation and treatment of drug users, administrative discharges under other than honorable conditions issued solely on the basis of personal use of drugs or possession of drugs for the purpose of such use will be reviewed for recharacterization.

Accordingly, each Secretary of a Military Department, acting through his Discharge Review Board, will consider applications for such review from former service members. Each Secretary is authorized to issue a discharge under honorable conditions upon establishment of facts consistent with this policy. Former service members will be notified of the results of the review. The Veterans' Administration will also be notified of the names of former service members whose discharges are recharacterized.

The statute of limitations for review of discharges within the scope of this policy will be in accordance with 10 United States Code 1553.

This policy shall apply to those service members whose cases are finalized or in process on or before July 7, 1971.

Melvin R. Laird

Memorandum for; The Director, Army Council of Review Boards

Subject: Review of Discharges Under Other Than Honorable Conditions Issued to Drug Users

September 17, 1971.

The following guidance is provided for the implementation of policy contained in the Secretary of Defense memorandum, above subject, 13 August 1971:

The policy is limited to former members separated, or in the process of being separated, administratively on or before 7 July 1971 solely for drug use or drug possession for personal use, with an Undesirable Discharge (DD Form 258A) or Other Than Honorable Discharge (DD Form 794A).

Drug use pertains to the personal use of those controlled substances as defined by 21 U.S.C. Section 812 and applicable regulations without regard to the number of occasions of such use or the circumstances surrounding such use unless the user sold, transferred, distributed, or intended to sell, transfer, or distribute drugs.

Drug possession for personal use implies the possession of a quantity of one or more of the drugs mentioned above without the intent to sell, introduce, transfer, or distribute such drugs to another person or persons. No specific amount of drugs will be used in making a determination that the possession of drugs was for personal use. The determination is dependent upon the circumstances of each case taken in their totality. Such factors include the number of drugs, the amount of drugs, the frequency with which drugs could be obtained, the likely intake of a user given the particular drug and its potency and the degree of his prior use, the individual's previous history of drug use or association with drugs, the possession, if any, of drug packaging or related equipment, and any other relevant factors which may establish or disprove his intent to possess drugs for his own use.

The term "solely" should not be construed to bar the favorable recharacterization of a discharge where only minor offenses, especially those related to or caused by drug abuse, may have been a contributing factor in the granting of an Undesirable Discharge or Other Than Honorable Discharge.

Thaddeus R. Beal.
Under Secretary of the Army.

Memorandum for: The Deputy Secretary of Defense

Subject: Review of Discharges Under Other Than Honorable Conditions Issued to Drug Users

September 24, 1971.

The policy announced in Mr. Laird's August 13, 1971 memorandum on the above subject requires the military departments to review the applications, subject to certain limitations, of those who received administrative discharges under other than honorable conditions issued solely on the basis of the personal use of drugs or possession of drugs for the purpose of such use. Pursuant to the authority of 10 U.S.C. 1552, absent your instructions to the contrary, the Army Board for the Corrections of Military Records will apply this policy to those individuals separated or in the process of being separated on or before July 7, 1971 with punitive discharges for the offense of wrongful use of drugs or wrongful possession of drugs, but in the latter case only where it can be established that possession was for the individual's own use.

The application of this policy will ensure some degree of equal treatment to Army personnel who have received discharges under other than honorable circumstances because of drug use or the possession for such use. The nature of the military justice system entrusts a significant amount of discretion to the commander and the court-martial convening authority. In some cases, the individual who has used or possessed drugs may not have been charged with an offense under the Uniform Code of Military Justice but, instead, may have been processed for administrative separation. In other cases, the individual may have been charged but then granted the opportunity to request a discharge in lieu of court-martial, generally receiving an undesirable discharge. Not only has there been a variation among commanders and convening authorities in the disposition of drug offenders, but also it appears that the overall attitude of commanders and convening authorities has changed over the past several years, with relatively less reliance on the use of courts-martial for the offenses of drug use or possession. Because of these variations in the disposition of drug offender cases, it is unfair to limit the opportunity for a recharacterized discharge solely to instances where the individual received an administrative discharge rather than a punitive discharge.

For Army personnel now confined at the U.S. Disciplinary Barracks following conviction for drug use or possession for such use, I intend to take similar action through the Clemency and Parole Board.

Kenneth E. Belieu.
Under Secretary of the Army.

Memorandum for: Secretaries of the Military Departments, Chairman, Joint Chiefs of Staff

Subject: Review of Punitive Discharges Issued to Drug Users

April 28, 1972.

Reference is made to Secretary Packard's memorandum of July 7, 1971, concerning rehabilitation and treatment of drug users, and my memorandum of August 13, 971, subject: "Review of Discharges Under Other Than Honorable Conditions Issued to Drug Users."

My August 13, 1971 memorandum established the current Departmental policy that administrative discharges under other than honorable conditions issued solely on the basis of personal use of drugs or possession of drugs for the purpose of such use will be reviewed for recharacterization to under honorable conditions.

It is my desire that this policy be expanded to include punitive discharges and dismissals resulting from approved sentences of courts-martial issued solely for conviction of personal use of drugs or possession of drugs for the purpose of such use.

Review and recharacterization are to be effected, upon the application of former service members, utilizing the procedures and authority set forth in Title 10, United States Code, Sections 874(b), 1552 and 1553.

This policy is applicable only to discharges which have been executed on or before July 7, 1971, or issued as a result of a case in process on or before July 7, 1971.

Former service members requesting a review will be notified of the results of the review. The Veterans' Administration will also be notified of the names of former service members whose discharges are recharacterized.

Melvin R. Laird

[FR Doc. 79-12724 Filed 4-26-79; 8:45 am]

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Friday
April 27, 1979

Part IV

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction

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DEPARTMENT OF LABOR

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Government Contract Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

New General Wage Determination Decisions

Mississippi	MS79–1077
Tennessee	TN79–1078

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California:	
CA78–5006; CA78–5007	Jan. 27, 1978.
CA78–5106; CA78–5107	July 7, 1978.
CA78–5122	Aug. 11, 1978.
CA78–5123	Aug. 18, 1978.
Connecticut:	
CT75–2067	Apr. 25, 1975.
CT79–2010; CT79–2011	Apr. 6, 1979.
Florida:	
FL79–1068	Apr. 13, 1979.
Ohio:	
OH78–2157	Nov. 24, 1978.
Pennsylvania:	
PA78–3054	Aug. 11, 1978.
Rhode Island:	
RI78–3050; RI78–3051; RI78–3052	July 21, 1978.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Pennsylvania:	
PA77–3122(PA79–3008)	Sept. 9, 1977.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 20th day of April 1979.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

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NEW DECISION

STATE: TENNESSEE
COUNTIES: LOUDON, McMIN, MEIGS, MONROE, POLK, & RHEA. DATE: DATE OF PUBLICATION
DECISION NUMBER: TN79-1078
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 5.38				
BRICKLAYERS	7.75				
CARPENTERS	5.53				
CEMENT MASONS	6.00				
DRYWALL FINISHERS	5.84				
DRYWALL HANGERS	6.17				
ELECTRICIANS	5.70				
INSULATION INSTALLERS	4.13				
LABORERS:					
UNSKILLED	3.50				
MASON TENDERS	4.00				
MORTAR MIXERS	5.27				
PAINTERS & PIPEFITTERS	6.22				
ROOFERS	5.00				
TILE SETTERS	5.00				
TRUCK DRIVERS	3.90				
WELDERS - RATE FOR CRAFT.					
POWER EQUIPMENT OPERATORS:					
BACKHOE	5.70				
BOB-CAT	5.70				
BULLDOZER	5.70				
CURB MACHINE	3.75				
FRONT END LOADER	5.70				
HI-LIFT	3.75				
MOTOR GRADER	5.70				
ROLLER	3.75				

NEW DECISION

STATE: Mississippi *COUNTIES: See below
DECISION NO.: MS79-1077 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and garden type apartments up to and including 4 stories.

*Counties: Clarke, Jasper, Kemper, Lauderdale, Neshoba and Newton

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanic	6.25				
Bricklayers	7.50				
Carpenters	6.04				
Cement masons	6.00				
Dry wall finisher	4.92				
Dry wall hangers	5.53	.32	.28	.12	
Electricians	9.45				
Glaziers	4.90				
Ironworkers, reinforcing	4.96				
Laborers:					
Laborers	3.00				
Mason tenders	3.13				
Mortar mixers	3.50				
Painters, brush	5.00				
Plumbers and pipefitters	7.25				
Roofers	5.75				
Sheet metal workers	5.00				
Soft floor layers	6.00				
Tile setters	6.50				
Truck drivers	3.00				
Welders - Rate for craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	3.60				
Bulldozer	3.88				

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MODIFICATIONS P. 1

DECISION NO. CA78-5006 - Mod. #3
(43 FR 3859 - January 27, 1978)
San Diego County, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
Brush; Pant Burners	$12.37	$1.23	$1.38	.75	.07
Paperhanger; Spray (swing Stage)	12.87	1.23	1.38	.75	.07
Brush (swing stage); Spray (swing stage)	12.62	1.23	1.38	.75	.07
Steeplejack	14.02	1.23	1.38	.75	.07
Iron, steel and bridge (ground) work and spray ground work	13.12	1.23	1.38	.75	.07
Iron, steel and bridge (swing stage and spray swing stage)	13.38	1.23	1.38	.75	.07

DECISION NO. CA78-5007 - Mod. #3
(43 FR 3863 - January 27, 1978)
San Diego County, California

Change:					
Brush; Paint Burners	12.37	1.23	1.38	.75	.07
Paperhanger; Spray (swing Stage)	12.87	1.23	1.38	.75	.07
Brush (swing stage); Spray (swing Stage)	12.62	1.23	1.38	.75	.07
Steeplejack	14.02	1.23	1.38	.75	.07
Iron, steel and bridge (ground work and spray ground work)	13.12	1.23	1.38	.75	.07
Iron, steel and bridge (swing stage and spray swing stage)	13.37	1.23	1.38	.75	.07

MODIFICATIONS P. 2

DECISION NO. CA78-5106 - Mod. #2
(43 FR 38273 - August 25, 1978)
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne; Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
Alpine, Amador, Calaveras and San Joaquin Counties					
Brush	$10.56	$1.00	$2.34	$1.11	
Spray; Sheetrock Tapers; Swing Stage; Scaffold; Sandblaster; Structrual Steel	10.96	1.00	2.34	1.11	
Del Norte and Humboldt Cos. Brush	10.03	.85	1.05	.80	
Monterey, San Benito, San Mateo, Santa Clara and Santa Cruz Counties (excluding portions of the Lake Tahoe Area)					
Brush	13.29	1.20	1.75	.40	.06
Spray	13.79	1.20	1.75	.40	.06
Tapers	13.86	1.20	1.75	.40	.06
Sutter, Tehama and Yuba Cos.					
Brush; Pot Tender; Rollers	9.35	.80	.70		
Spray; Sandblasters; Structural Steel; Swing Stage; Tapers	9.60	.80	.70		
Marin, San Francisco and Sonoma Counties					
Brush	$13.06	$1.20	$1.75	.80	.06
Spray	13.56	1.20	1.75	.80	.06
Tapers	13.88	1.20	1.75	.80	.06
Alameda, Contra Costa, El Dorado, Napa, Nevada, Placer, Sacramento, Solano, and Yolo Counties (excluding portions of Counties in the Lake Tahoe Area)					
Brush	13.29	1.20	1.75	.80	.06
Spray	13.79	1.20	1.75	.80	.06
Tapers	14.09	1.20	1.75	.80	.06
Omit:					
Del Norte and Humboldt Cos.					
Spray; Sandblasters; Structural Steel; Swing Stage; Tapers; Paperhangers	7.80	.60	.20	.80	

MODIFICATIONS P. 3

DECISION NO. CA78-5107 - Mod. #5
(43 FR 29444 - July 7, 1978)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Con Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
Alpine, Amador, Calaveras and San Joaquin Counties					
Brush	$10.56	$1.00	$2.34	$1.11	
Spray; Sheetrock Taper; Swing Stage; Scaffold; Sandblaster Structural Steel	10.96	1.00	2.34	1.11	
Fresno, Kings, Madera and Tulare Counties					
Brush; Tapers	12.51	.61	.20		
Spray; Structural Steel	13.01	.61	.20		
Monterey, San Benito, San Mateo, Santa Clara and Santa Cruz Counties (excluding portions of Cos. in the Lake Area)					
Brush	13.29	1.20	1.75	.40	.06
Spray	13.79	1.20	1.75	.40	.06
Tapers	13.86	1.20	1.75	.40	.06
Lake, Marin, Mendocino, San Francisco and Sonoma Cos.					
Brush	13.06	1.20	1.75	.80	.06
Spray	13.56	1.20	1.75	.80	.06
Tapers	13.88	1.20	1.75	.80	.06

MODIFICATIONS P. 4

DECISION NO. CA78-5107 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Butte, Colusa, Glenn, Lassen, (excluding the extreme SE Corner), Modoc, Plumas, Shasta, Siskiyou, Sutter, Tehama, Trinity, and Yuba Counties					
Brush; Pot Tenders; Rollers	$9.35	.85	.70		
Spray; Sandblaster; Structural Steel; Swing Stage; Tapers	9.60	.85	.70		
Alameda, Contra Costa, El Dorado, Napa, Nevada, Placer, and Yolo Counties (excluding portions of Counties in the Lake Tahoe Area)					
Brush	13.29	1.20	1.75	.80	.06
Spray	13.79	1.20	1.75	.80	.06
Tapers	14.09	1.20	1.75	.80	.06
Del Norte and Humboldt Cos.					
Brush	10.03	.85	1.05	.80	
Parking Lot Striping Work and/or Highway Markers:					
Fresno, Kings and Tulare Countims:					
Traffic delineating device applicator	10.12	.85	.45	b	
Wheel stop installer; Traffic surface sandblaster; Striper	9.73	.85	.45	b	
Helper (wheel stop installer, traffic surface sandblaster, striper)	7.43	.85	.45	b	
Slurry Seal Operation:					
Mixer Operator	9.73	.85	.45	b	
Squeegee Man	8.54	.85	.45	b	
Applicator Operator	8.54	.85	.45	b	
Shuttleman	8.54	.85	.45	b	
Top Man	7.00	.85	.45	b	

MODIFICATIONS P. 5

DECISION NO. CA78-5107 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remaining Counties					
Traffic delineating device applicator; Wheel stop installer; Traffic surface sandblaster	$10.12	.85	.45	b	
Helper (traffic delineating device applicator; Wheel stop installer; Traffic surface sandblaster)	8.82	.85	.45	b	
Striper	11.22	.85	.45	b	
Helper (striper)	8.82	.85	.45	b	
Slurry Seal Operation:					
Mixer Operator	10.12	.85	.45	b	
Squeegee Man	8.54	.85	.45	b	
Applicator Operator	8.54	.85	.45	b	
Shuttleman	8.54	.85	.45	b	
Top Man	7.00	.85	.45	b	
Remaining Counties					
Footnote:					
b. Employer contributes $.30 per hour to Holiday Fund plus $.20 per hour to Vacation Fund for the first year of employment; 1 year but less than 5 years $.40 per hour to Vacation Fund; 5 years but less than 10 years $.66 per hour to Vacation Fund; over 10 yrs. $.80 per hour to Vacation Fund.					
Omit:					
Del Norte and Humboldt Cos. Spray; Sandblasters; Structural Steel; Swing Stage; Tapers; Paperhangers	7.80	.60	.20	.80	

MODIFICATIONS P. 6

DECISION NO. CA78-5122 - Mod. #5
(43 FR 35835 - August 11, 1978)
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
PAINTERS:					
Imperial, Orange, Riverside, Los Angeles (Pomona Area), San Bernardino (excluding Western portion):					
Brush; Paint Burners; Spray	$12.37	1.23	1.38	.75	.07
Paperhangers; Spray (swing stage	12.87	1.23	1.38	.75	.07
Brush (swing stage)	12.62	1.23	1.38	.75	.07
Steeplejack	14.02	1.23	1.38	.75	.07
Iron, Steel and Spray (ground work)	13.12	1.23	1.38	.75	.07
Iron, Steel and Spray (swing stage)	13.37	1.23	1.38	.75	.07
Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station and Edwards AFB), Los Angeles (except Pomona Area), San Bernardino (west of a line North of Trono including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area):					
Brush	12.41	.71	.80	.60	.02
Paint burner	12.53	.71	.80	.60	.02
Tapers	13.35	.71	.80	.60	.02
Brush swing stage (13 stories or less); Paperhangers; Sandblasters; Spray Painter	12.66	.71	.80	.60	.02
Spray, Sandblaster swing stage (13 stories or less), Paste Machine; Special coating spray	12.91	.71	.80	.60	.02
Kern County (Remainder of Co.):					
Brush	9.68	.70	.90		.03
Brush or roller, swing stage Paperhangers, Taping joint Sheet Rock	10.28	.70	.90		.03
Spray, sandblasters	10.18	.70	.90		.03
San Luis Obispo, Santa Barbara and Ventura Counties:					
Brush; Pot Tender	$12.35	1.07	1.30		.03
Paperhangers; Paste Machine Operators; Iron and Steel	12.60	1.07	1.30		.03
Spray; Taper; Sandblaster	12.85	1.07	1.30		.03
Sign Painter	13.00	1.07	1.30		.03

MODIFICATIONS P. 7

DECISION NO. CA78-5123 - Mod.#6
(43 FR 36839 - August 18, 1978)
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
PAINTERS:					
Inyo, Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station and Edwards AFB), Los Angeles (except Pomona Area), Mono, San Bernardino (west of a line north of Trono including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area)					
Brush	$12.41	.71	.80	.60	.02
Structural Steel and bridge; Paint burner	12.53	.71	.80	.60	.02
Tapers	13.35	.71	.80	.60	.02
Brush Swing Stage (13 stories or less); Paperhangers; sandblasters; Spray Painter	12.66	.71	.80	.60	.02
Brush Swing Stage (over 13 stories)	12.78	.71	.80	.60	.02
Structural steel and bridge, swing (13 stories or less)	12.81	.71	.80	.60	.02
Structural steel and bridge, swing (excess of 13 stories)	12.93	.71	.80	.60	.02
Spray Painter; Sandblaster, swing stage (excess of 13 stories)	13.03	.71	.80	.60	.02
Spray Painter; sandblaster, swing stage (13 stories or less); Paste machine; special coating spray	12.91	.71	.80	.60	.02
Steeplejack	13.65	.71	.80	.60	.02
Kern County (Remainder of County):					
Brush	9.68	.70	.90		.03
Brush or roller, swing stage; Paperhangers; Taping joint sheet rock	10.28	.70	.90		.03
Spray; sandblasters	10.18	.70	.90		.03
Steeplejack	11.18	.70	.90		.03
San Luis Obispo, Santa Barbara and Ventura Counties:					
Brush; Pot Tender	$12.35	1.07	1.30		.03
Paperhangers; Paste Machine operators; Iron and Steel	12.60	1.07	1.30		.03
Spray; Taper; Sandblasters	12.85	1.07	1.30		.03
Sign Painter	13.00	1.07	1.30		.03
Steeplejack	13.35	1.07	1.30		.03

MODIFICATIONS P. 8

DECISION NO. CT75-2067 - MOD #3
(40 FR 18304 - April 25, 1975)
Hartford County, Connecticut

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
RESIDENTIAL CONSTRUCTION:					
ELECTRICIANS:					
Berlin, Bristol, New Britain Newington, Plainville, Southington	$11.50	1.00	3%+.52		k%

DECISION NO. CT79-2010 - MOD #1
(44 FR 20913 - April 6, 1979)
Fairfield, Litchfield and Windham Counties, Connecticut

CHANGE:					
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN & SOFT FLOOR LAYERS (Building Construction)					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull, Weston, & Westport	$10.70	.90	.65	c	e
Litchfield Co.: Harwinton, Plymouth, Thomaston, & Watertown	10.75	.90	.65		.05
CARPENTERS:					
(Heavy & Highway Construction):					
Windham Co.:	10.50	.90	.65	f	.03
ELECTRICIANS:					
Litchfield Co.: Plymouth Building Construction	11.50	1.00	3%+.52		k%
FOOTNOTES:					
e. $50.00 per year					
OMIT:					
CARPENTERS:					
(Building Construction):					
Fairfield Co.: Greenwich	10.10	.90	.65		.05
CARPENTERS:					
(Heavy & Highway Construction):					
Fairfield Co.: Greenwich	10.55	.85	.65	f	.05

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MODIFICATIONS P. 9

DECISION NO. CT79-2011 - MOD #1
(44 FR 20921 - April 6, 1979)
Hartford, Middlesex, New Haven, New London and Tolland Counties, Connecticut

CHANGE:
CARPENTERS; MILLWRIGHTS; PILE-DRIVERMEN.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Floor Layers (Building Construction) Hartford Co.: New Britain, Newington, Berlin, Southington, Plainville, Burlington, Canton, Bristol, New Haven Co.: Meriden, Wallingford, New Haven, East Haven, Branford, Guilford, Madison, North Branford, North Haven, Hamden, West Haven, Orange (east of Orange Center Road and North of Route 1; also north of Route 1 and east of the Oyster River), Cheshire Waterbury, Wolcott, Middlebury, Southbury, Naugatuck, Prospect, Bethany Beacon Falls, Woodbridge; Middlesex Co.	$10.75	.90	.65		.05
New Haven Co.: Milford, Oxford, Derby, Seymour, Ansonia, Orange (that part south of Route 1 and West of the Oyster River	10.70	.90	.65	e	e
New London Co.: Tolland Co.: Hansfield, Union, Willington, Coventry, Hebron, Columbia, Andover	10.70	.90	.65		.03
CARPENTERS (Heavy & Highway Construction): New Haven Co.: Ansonia, Derby, Milford, Orange (W. of Orange Center Road & S. of Rt #1 & W. of the Oyster River), Oxford & Seymour	10.50	.90	.65	f	e

MODIFICATIONS P. 10

DECISION NO. CT79-2011 - MOD #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: ELECTRICIANS: Hartford Co.: Berlin, Bristol, New Britain, Newington, Plainville & Southington	$11.50	1.00	3%+.52		½%
New Haven Co.: Remainder of Co.; New London Co.: E. Lyme, New London, Fishers Island Sound Old Lyme, Groton, Waterford & Ledyard (Submarine Based Only)	11.50	1.00	3%+.52		½%
Change Footnote e to read e. $50.00 per worker per year					
DECISION #FL79-1068 - Mod. #1 (44 FR 22309 - April 13, 1979) Cape Canaveral, Kennedy Space Flight Center, Patrick Air Force Base, and Melabar Radar Site, Florida					
CHANGES: BRICKLAYERS: Bricklayers	8.70	.50	.40		.03
Blocklayers	8.70	.50	.40		.03
Manhole bricklayers	8.70	.50	.40		.03
Plasterers	8.70	.50	.40		.03
Terrazzo workers	8.70	.50	.40		.03
Tile setters	8.70	.50	.40		.03
Cement masons	8.70	.50	.40		.03
Masonry cutting or grinding machine operator	8.95	.50	.40		.03
DECISION NO. OH78-2157 - MOD #3 (43 FR 55205 - November 24, 1978) Statewide, Ohio					
Omit: Linemen: Franklin County	$13.11	.50	3%		½%
Add: Line Construction: Franklin County Linemen; Cable splicers	10.88	.50	3%		½%
Operators: 0 to ½ year	7.30	.50	3%		½%
½ to 1 year	8.52	.50	3%		½%
1 year or more	9.81	.50	3%		½%

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA78-3054 - Mod. # 3 (43 FR 35868 - August 11, 1978) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania					
Change: Landscaping:					
Landscape Laborer	$8.00	.95	.65	b	
Farm Tractor Driver	8.50	.95	.65	b	
Hydroseeder Nozzleman	8.50	.95	.65	b	
Mulcher Nozzleman	8.50	.95	.65	b	
DECISION NO. RI78-3050 - MOD #4 (43 FR 31551 - July 21, 1978) Bristol, Kent, & Providence Counties, Rhode Island					
OMIT: Power Equipment Operators for Highway & Bridge Incidental To Highway Construction					
ADD: Power Equipment Operators for Water and Sewer line Projects, Highway and Bridge incidental to Highway Construction Projects					
CLASS 1	$10.845	.95	1.15		.10
CLASS 2	9.375	.95	1.15		.10
CLASS 3	8.125	.95	1.15		.10
CLASS 4	9.325	.95	1.15		.10
CLASS 5	9.575	.95	1.15		.10
CLASS 6	9.445	.95	1.15		.10
CLASS 7	9.425	.95	1.15		.10
CLASS 8	9.075	.95	1.15		.10
CLASS 9	8.945	.95	1.15		.10
CLASS 10	8.425	.95	1.15		.10
CLASS 11	8.225	.95	1.15		.10
CLASS 12	8.895	.95	1.15		.10
CLASS 13	8.225	.95	1.15		.10
CLASS 14	9.275	.95	1.15		.10

MODIFICATIONS P. 12

DECISION NO. RI78-3050 Cont'd

CLASS 1 - Digging machines, cranes, pile drivers, lighters, locomotives, derricks, hoists, pavers, front end loaders (3 to 4 yds. +), economobiles, Ross carriers

CLASS 2 - Firemen

CLASS 3 - Oilers

CLASS 4 - Bulldozers, spreaders, rollers, tractors

CLASS 5 - Front end loaders, less than 3 yds.

CLASS 6 - Scrapers, graders, dozer pusher operators

CLASS 7 - Pippin type backhoe operators

CLASS 8 - Maintenance engineers

CLASS 9 - Gas & Electric driven heaters, pumps, concrete mixers, stone crushers, air compressors, light plants, welding machines, concrete pumps

CLASS 10 - Mechanics

CLASS 11 - Bulldozers in pits

CLASS 12 - Shovel operators, front end loaders 3 cu. yds. & over, dragline & crane operators in material yds.

CLASS 13 - Test boring machine operators

CLASS 14 - Well point installation crews

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DECISION NO. RI78-3051 - MOD #5
(43 FR 31555 - July 21, 1978)
Newport County, Rhode Island

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT: Power Equipment Operators for Highway & Bridge Incidental To Highway Construction					
ADD: Power Equipment Operators for Water and Sewer line Projects, Highway and Bridge incidental to Highway Construction Projects					
CLASS 1	$10.845	.95	1.15		.10
CLASS 2	9.375	.95	1.15		.10
CLASS 3	8.125	.95	1.15		.10
CLASS 4	9.325	.95	1.15		.10
CLASS 5	9.575	.95	1.15		.10
CLASS 6	9.445	.95	1.15		.10
CLASS 7	9.425	.95	1.15		.10
CLASS 8	9.075	.95	1.15		.10
CLASS 9	8.945	.95	1.15		.10
CLASS 10	8.425	.95	1.15		.10
CLASS 11	8.225	.95	1.15		.10
CLASS 12	8.895	.95	1.15		.10
CLASS 13	8.225	.95	1.15		.10
CLASS 14	9.275	.95	1.15		.10

DECISION NO. RI78-3051 Cont'd

CLASS 1 - Digging machines, cranes, pile drivers, lighters, locomotives, derricks, hoists, pavers, front end loaders (3 to 4 yds. +), economobiles, Ross carriers

CLASS 2 - Firemen

CLASS 3 - Oilers

CLASS 4 - Bulldozers, spreaders, rollers, tractors

CLASS 5 - Front end loaders, less than 3 yds.

CLASS 6 - Scrapers, graders, dozer pusher operators

CLASS 7 - Pippin type backhoe operators

CLASS 8 - Maintenance engineers

CLASS 9 - Gas & Electric driven heaters, pumps, concrete mixers, stone crushers, air compressors, light plants, welding machines, concrete pumps

CLASS 10 - Mechanics

CLASS 11 - Bulldozers in pits

CLASS 12 - Shovel operators, front end loaders 3 cu. yds. & over, dragline & crane operators in material yds.

CLASS 13 - Test boring machine operators

CLASS 14 - Well point installation crews

DECISION NO. RI78-3052 - MOD # 4
(43 FR 31559 - July 21, 1978)
Washington County, Rhode Island

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT: Power Equipment Operators for Highway & Bridge Incidental To Highway Construction					
ADD: Power Equipment Operators for Water and Sewer line Projects, Highway and Bridge incidental to Highway Construction Projects					
CLASS 1	$10.845	.95	1.15		.10
CLASS 2	9.375	.95	1.15		.10
CLASS 3	8.125	.95	1.15		.10
CLASS 4	9.325	.95	1.15		.10
CLASS 5	9.575	.95	1.15		.10
CLASS 6	9.445	.95	1.15		.10
CLASS 7	9.425	.95	1.15		.10
CLASS 8	9.075	.95	1.15		.10
CLASS 9	8.945	.95	1.15		.10
CLASS 10	8.425	.95	1.15		.10
CLASS 11	8.225	.95	1.15		.10
CLASS 12	8.895	.95	1.15		.10
CLASS 13	8.225	.95	1.15		.10
CLASS 14	9.275	.95	1.15		.10

DECISION NO. RI78-3052 Cont'd

CLASS 1 - Digging machines, cranes, pile drivers, lighters, locomotives, derricks, hoists, pavers, front end loaders (3 to 4 yds. +), economobiles, Ross carriers

CLASS 2 - Firemen

CLASS 3 - Oilers

CLASS 4 - Bulldozers, spreaders, rollers, tractors

CLASS 5 - Front end loaders, less than 3 yds.

CLASS 6 - Scrapers, graders, dozer pusher operators

CLASS 7 - Pippin type backhoe operators

CLASS 8 - Maintenance engineers

CLASS 9 - Gas & Electric driven heaters, pumps, concrete mixers, stone crushers, air compressors, light plants, welding machines, concrete pumps

CLASS 10 - Mechanics

CLASS 11 - Bulldozers in pits

CLASS 12 - Shovel operators, front end loaders 3 cu. yds. & over, dragline & crane operators in material yds.

CLASS 13 - Test boring machine operators

CLASS 14 - Well point installation crews

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SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO.: PA79-3008
COUNTIES: Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot in York County
DATE: Date of Publication

Supersedes Decision No. PA77-3122 dated September 9, 1977 in 42 FR 45614.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation Project, (does not include family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	10.76	.67	.90		.01
Boilermakers	13.775	1.075	1.00		.02
Bricklayers & Block Layers	10.07	.60	.57		.01
Carpenters	10.30	.50	.55		.05
Cement Masons	10.465	.65	.50		
Electricians	10.86	.65	3%+.49		¼ of 1%
Elevator Constructors	10.895	.745	.56	b+c	.015
Elevator Constructors' Helpers	7.63	.745	.56	b+c	.015
Elevator Constructors' Helpers (Prob.)	5.45				
Glaziers	9.79	.40	.50		.01
Ironworkers, Structural	11.48	1.14	1.35		.03
Ironworkers, Ornamental	11.48	1.14	1.35		.03
Ironworkers, Reinforcing	11.48	1.14	1.35		.03
Laborers:					
Air, fuel and electric tool operators and all other pneumatic and mechanical tools including blow-pipe and vacuum cleaners, pipelayers, power-buggy, precast slab placers and signal men	8.05	.35	.40		
Unskilled laborer	7.90	.35	.40		
Plaster and cement mason tenders, machine mixers, plaster pump and scaffold builders (excluding masonry scaffolding) for cassion workers, blasters, wagon air track and diamond point drill operators, burning torches, green cutting machine and steam jenny	8.37	.35	.40		
Mason tenders, machine mixers, motorized stockers, scaffold builders (masonry), mortar pump, conveyors, mechanical cleaners and sandblasting for masonry and masonry equipment	8.47	.35	.40		

DECISION NO. PA79-3008 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers: (Cont'd)					
Nursery workers, window washers floor scrubbers and watchmen	7.55	.35	.40		
Lathers	10.11	.40	.25		.01
Lead Burners	10.75	.40	.25	a	.01
Marble Setters	10.28	.60	.57		
Millwrights	11.45	.50	.55		.05
Line Construction:					
Linemen	11.39	.45	3%		3/8%
Groundmen	6.83	.45	3%		3/8%
Cable Splicers	11.39	.45	3%		3/8%
Winch Truck Operator	7.97	.45	3%		3/8%
Painters:					
Brush	9.15	.32	.30		.02
Structural Steel	9.60	.32	.30		.02
Spray	9.90	.32	.30		.02
Tanks, Bridges, Stacks	10.40	.32	.30		.02
Piledrivermen	11.12	2.33	1.35	f	.12
Plasterers	9.60	.65	.50		.01
Plumbers	11.30	.70	.80		.12
Roofers:					
Composition	10.41	.80	.55		
Sheet Metal Workers	10.47	1.40	1.18		.13
Soft Floor Layers	9.20	.50	.55		.05
Sprinkler Fitters	12.31	.75	1.05		.08
Steam Fitters	11.30	.70	.80		.12
Stone Masons	10.07	.60	.57		
Terrazzo Workers & Tile Setters	9.03	.60	.57		
Truck Drivers:					
Truck Drivers, Building Pick-ups, dump, service trucks, flat trucks, to and including 2 highway license plates	8.39	d	e		
Transit mix, winch trucks, tractors all types euclids, rosa lumber and over 2 plates	8.64	d	e		
Welders - Receive rate prescribed for craft performing operation to which welding is incidental					

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PAID HOLIDAYS: (Where applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Eight paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days prior to the holiday, and is available for work the days preceding and following the holiday.

b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

c. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

d. $71.37 per month for employees who have worked sixty hours or more during the month.

e. $41.95 per month for employees who have workerd sixty hours or more during the month.

f. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veteran's Day and Thanksgiving Day

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr
GROUP 1	$12.44	7%	10.3%	a	1.8%
GROUP 2	12.15	7%	10.3%	a	1.8%
GROUP 3	11.28	7%	10.3%	a	1.8%
GROUP 4	10.51	7%	10.3%	a	1.8%
GROUP 5	10.04	7%	10.3%	a	1.8%
GROUP 6	9.13	7%	10.3%	a	1.8%
GROUP 7	12.69	7%	10.3%	a	1.8%
GROUP 7-A	12.94	7%	10.3%	a	1.8%
GROUP 7-B	13.18	7%	10.3%	a	1.8%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (conorete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, conorete pumps, well drillers, bull-dozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, conorete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

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federal register

Friday
April 27, 1979

Part V

Securities and Exchange Commission

Securities Trading Practices of Registered Investment Companies

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 271

Securities Trading Practices of Registered Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: General Statement of Policy.

SUMMARY: The Securities and Exchange Commission announces a general statement of policy with regard to the economic effects and legal implications under the Investment Company Act of 1940 of reverse repurchase agreements, firm commitment agreements, and standby commitment agreements entered into by registered investment companies. Further, the Commission announces the views of the Division of Investment Management regarding repurchase agreements entered into by registered investment companies with broker/dealers.

EFFECTIVE DATE: April 18, 1979.

FOR FURTHER INFORMATION CONTACT: Joseph D. Carney, Esq. (202) 755–1753, Richard G. Partrich, Esq. (202) 376–8048, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today announced a general statement of policy under the Investment Company Act of 1940 [15 U.S.C. 80a *et seq.*] ("Act") regarding the effect on the capital structure of registered investment companies of certain securities trading practices known as the reverse repurchase agreement, the firm commitment agreement, and the standby commitment agreement. Such practices may involve the issuance by the investment company of a senior security subject to the prohibitions and asset coverage requirements of Section 18 of the Act [15 U.S.C. 80a–18]. The board of directors of each registered investment company should review present securities trading practices to determine if the investment company is involved in any of the practices under discussion, or in similar trading practices with comparable effects on the capital structure of the investment company. Directors of investment companies, in the exercise of their general fiduciary obligations under the Act, should consider whether the investment company has appropriately segregated assets in a manner which would satisfy the legislative purposes of Section 18 of the Act. If an investment company is involved in such securities trading practices, the directors should review the adequacy of the investment company's disclosure of its participation therein, and the risks of loss to the investment company and its shareholders which may result from such securities trading practices. Directors should review also the adequacy of their valuation of, and accounting for, such transactions. Directors should further determine whether such trading practices, because of their inherent risk, are consistent with the policies of the investment company as recited in its registration statement, or cause its name to be deceptive or misleading.

In addition, the Commission is publishing the views of its Division of Investment Management ("Division"), which has reconsidered its prior position that, pursuant to Section 12(d)(3) of the Act [15 U.S.C. 80a–12(d)(3)], an investment company may be prohibited from entering into a repurchase agreement with a broker/dealer. Under certain circumstances, the Division has determined not to recommend to the Commission that action be taken under Section 12(d)(3) of the Act against investment companies which engage in repurchase agreements with broker/dealers.

Although the general statement of policy discusses securities trading practices of open-end investment companies and uses specific types of U.S. government guaranteed securities as examples, it is intended to address the use by all registered investment companies of similar trading practices involving all types of securities.

Background

Section 18(f)(1) of the Act [15 U.S.C. 80a–18(f)(1)] provides, in part, that it shall be unlawful for any registered open-end investment company ("investment company") to issue any class of senior security or to sell any senior security of which it is the issuer, except that the investment company shall be permitted to borrow from any bank, provided that immediately after any such borrowing there shall be an asset coverage of at least 300 per centum for all borrowings of the investment company as computed under Section 18(h) of the Act [15 U.S.C. 80a–18(h)]. Section 18(g) of the Act [15 U.S.C. 80a–18(g)] defines "senior security" to means, in part, "any bond, debenture, note or similar obligation or instrument constituting a security and evidencing indebtedness." Section 2(a)(36) of the Act [15 U.S.C. 80a–2(a)(36)] defines "security" to mean, in part, "any note, stock, treasury stock, debenture, evidence of indebtedness, . . . or, in general, any interest or instrument commonly known as a 'security.'"

In this statement of policy, the Commission is expressing its views only with regard to those securities trading practices under discussion in view of the unique legislative purposes and policies underlying Section 18 of the Act, and not generally with respect to the definition of security or to particular types of securities within that definition. However, if an investment company were to issue a security which affected its capital structure in a manner analogous to the agreements discussed herein, and barring other material differences, the Commission believes it would view that transaction from a similar analytical posture. Nonetheless, this general statement of policy with respect to Section 18 of the Act should not be read as stating any opinion as to whether the securities trading practices under discussion would constitute the issuance of securities for purposes of the Securities Act of 1933 [15 U.S.C. 77a, *et seq.*], the Securities Exchange Act of 1934 [15 U.S.C. 78a, *et seq.*], or the other federal securities laws.

Areas of Concern

The Commission has become aware of certain securities trading practices engaged in by investment companies which raise serious questions as to whether such practices involve the issuance of senior securities by the investment companies and, thus, are either prohibited by, or subject to the asset coverage requirement of, Section 18(f)(1).[1]

The securities trading practices which concern the Commission are generally known as the reverse repurchase agreement, the firm commitment agreement, and the standby commitment agreement. Often, the underlying securities involved in these agreements are guaranteed as to payment of principal and interest by the U.S. government, its agencies, or federally sponsored quasi-public corporations, e.g., modified pass through securities guaranteed by the Government National Mortgage Association ("Ginnie Maes"). In the following discussion of these transactions, reference to "Ginnie Maes" is made only to serve as an example of the underlying security, and such reference should not be construed as delimiting this statement. Rather, this release is intended to illustrate the Commission's concern with the possible economic effects and legal implications of the securities trading practices herein discussed, regardless of whether the underlying securities are U.S. government obligations, government agency obligations, or other types of securities. Furthermore, because such types of securities trading practices are subject to innumerable variations, this release is intended to address generally the possible economic effects and legal implications of all comparable trading practices which may affect the capital structure of investment companies in a manner analogous to the securities trading practices specifically discussed herein.

The Commission recommends that each investment company board of directors review its present securities trading practices to determine if the investment company is involved in the practices under discussion, or in other trading practices with comparable effects on the capital structure of the investment company.

[1] This release suggests an analysis of and some limitations upon certain securities trading practices of open-end investment companies. These practices may have similar effects on closed-end investment companies, which also are subject to restrictions on their capital structures under Section 18. For example, Section 18(a) of the Act [15 U.S.C. 80a–18(a)] makes it unlawful for a closed-end investment company to issue senior securities unless asset coverage and other requirements are met. Therefore, as the circumstances require, the analysis and recommendations contained in this release are addressed also to directors of closed-end investment companies.

Reverse Repurchase Agreements

In a typical investment company reverse repurchase agreement,[2] an investment company is the record owner of a Ginnie Mae. The investment company transfers possession of the Ginnie Mae to another party (often a broker/dealer or a bank) in return for a percentage of the value of the Ginnie Mae, usually 90–97%[3] of its market value ("proceeds"), but retains record ownership and the right to receive interest and principal payments on the Ginnie Mae. At an agreed upon future date, the investment company repurchases the Ginnie Mae so transferred by remitting the proceeds plus interest. In a "continuing contract" agreement, there is no agreed upon repurchase date; during its existence, the agreement is treated as if it were reestablished each day. When the agreement takes such form, interest payments are calculated daily and often are based on the prevailing overnight repurchase rate. The flexible maturities of the agreements, as short as one business day or as long as desired by the parties, make them attractive investment and borrowing tools for both parties to the transaction.

The Commission believes that, in economic reality, the reverse repurchase transaction is a loan to an investment company by the other party, collateralized by the security, because all of the incidents of ownership of the security are retained by the investment company. Furthermore, even if the form of the transaction were altered to reflect more closely an actual sale and repurchase of a Ginnie Mae instead of a transfer of a security in conjunction with a loan, the proceeds of the initial sale would still be considered to be a borrowing by the investment company under Section 2(a)(23) of the Act [15 U.S.C. 80a–2(a)(23)], which defines "lend" to include "a purchase coupled with an agreement by the vendor to repurchase" and defines "borrow" to include "a sale coupled with a similar agreement."

Investment companies may choose to engage in reverse repurchase agreements for two reasons. First, reverse repurchase agreements could be used to finance the purchase of interest bearing securities, allowing the investment company to derive income from the interest rate differential between the cost of borrowing and the return on the security purchase with the proceeds. For example, an investment company would purchase a Ginnie Mae. On settlement date, it would enter into a reverse repurchase agreement with the seller of the Ginnie Mae, and use the proceeds obtained from the reverse repurchase agreement to reduce the amount owed on the purchase. The investment company could thereby complete the purchase of the security by investing cash amounting to only 3–10% (typically) of the value of the security. The investment company's objective would be, then, to realize net income on the differential between the yield it would receive from the Ginnie Mae and the interest it would pay for the use of the proceeds.

Second, an investment company could enter into a reverse repurchase agreement with a Ginnie Mae it already owns. By so doing, it would obtain additional cash to invest in other securities. In such a case, the investment company's objective would be, then, to obtain funds to pursue additional investment opportunities whose yield would exceed the carrying cost of the proceeds of the reverse repurchase agreement.

In each of the above circumstances, the reverse repurchase agreement entered into by the investment company constitutes a borrowing by the investment company and, concurrently, may involve the issuance by it of an evidence of indebtedness. Section 2(a)(36) of the Act defines "security" to include any "evidence of indebtedness". Thus, an investment company which enters into a reverse repurchase agreement may be involved in the issuance of a security which, in turn, may be a senior security as defined in Section 18(g) of the Act. This view is further supported by Section 18(f)(1) which, by implication, treats all borrowings as senior securities. Section 18(f)(1) of the Act prohibits such borrowings unless entered into with banks and only if there is 300% asset coverage on all borrowings of the investment company.

The legislative history of the Act indicates that Congress intended Section 18, *inter alia,* to limit increases in the speculative character of junior securities issued by investment companies.[4] Leveraging[5] of an investment company's portfolio through the issuance of senior securities and through borrowing magnifies the potential for gain or loss on monies invested and, therefore, results in an increase in the speculative character of the investment company's outstanding securities. Leveraging without any significant limitation was identified by the staff of the Investment Trust Study of 1939 and by the investment company industry as one of the major abuses of investment companies prior to the passage of the Act by Congress.[6] Absent

[2] As the terms are used herein, in a reverse repurchase agreement, the investment company borrows money; in a repurchase agreement, the investment company lends money. In the marketplace, various terms are used to describe reverse repurchase and repurchase agreements, including "reverse repo," "repo" and "buy back."

[3] This percentage is subject to negotiation and can exceed 100%. Because, however, the proceeds typically are less than the current market value of the security, the latter overcollateralizes the loan, giving the lender added protection in the event of default.

[4] See memorandum entitled "Provisions of the Proposed Bill Relating to Capital Structure (Sections 18, 19(b) and 21(c))," introduced by L.M.C. Smith (Associate Counsel, Investment Trust Study, Securities and Exchange Commission), *Hearings on S. 3580 before a Subcommittee of the Senate Committee on Banking and Currency,* 76th Congress, 3rd Sess. at 1025 (1940) (herinafter cited as "Senate Hearings").

[5] Leverage exists when an investor achieves the right to a return on a capital base that exceeds the investment which he has personally contributed to the entity or instrument achieving a return. See Senate Hearings at 240. Through a reverse repurchase agreement, an investment company can achieve a return on a very large capital base relative to its cash contribution. Therefore, the reverse repurchase agreement is a highly leveraged transaction.

[6] "The conclusion to be drawn from the operation of the principle of leverage and from these statistics is that the common stock of leverage investment companies is so fraught with danger to the investor and so hazardous a commodity that it is definitely inappropriate as an offering of a public investment

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regulation under Section 18 of the Act, an investment company potentially could pyramid leveragings by entering into reverse repurchase agreements using securities purchased with the proceeds of earlier reverse repurchase agreements.[7] Pyramiding through the reverse repurchase technique can substantially magnify the risk of investing in, or holding shares of, the investment company; while net assets remain the same, total risk to investors increases commensurate with the increase in gross assets.

It appears that, if investment company participation in reverse repurchase agreements is not subject to limitation, one of the important policies underlying Section 18 would be rendered substantially nugatory. Directors of investment companies should consider the Congressional purpose behind Section 18 and, additionally, the Congressional concerns articulated in Sections 1(b)(3), 1(b)(7), and 1(b)(8) of the Act [15 U.S.C. 80a–1(b)(3), 1(b)(7), 1(b)(8)] in considering whether the securities trading practices of the investment company involved, including reverse repurchase agreements, constitute the issuance of senior securities by the investment company.[8] Directors should consider also whether the investment company engages in similar securities trading practices, not specifically the subject of this release, which have comparable leveraging effects on the capital structure of the investment company.

Exclusion for Temporary Borrowing

Section 18(g) of the Act provides an exclusion from the definition of "senior security" for certain privately arranged loans for temporary purposes.[9] The section states that loans repaid within sixty days shall be presumed to have been made for temporary purposes if not extended or renewed. Although neither "extension" nor "renewal" is defined in the Act, the Commission believes that an extension or renewal would include any substantially similar temporary loan entered into within sixty days of the previous temporary loan, whether or not both loans were made with the same lender. Thus, both loans might fall outside that exclusion from the definition of senior security.

Reverse repurchase agreements could be designed to appear to fall within the exclusion from the definition of senior security for temporary loans created for less than sixty days. Such agreements could then be "rolled-over," perhaps indefinitely, with such short-term borrowings being entered into, closed out, and later re-entered. If substantially similar "temporary loans" were being "rolled over" in any manner for a total period of sixty days or more, the later loans would be treated as renewals of the earlier loan and, thus, all would fall outside the exclusion for "temporary loans."

Firm Commitment Agreements

The firm commitment agreement [10] is a buy order for delayed delivery [11] in which an investment company agrees to purchase a Ginnie Mae from a seller (usually a broker/dealer) at a future date, stated price, and fixed yield.[12] The agreement binds the seller as to delivery and binds the investment company as to acceptance. Agreements frequently permit substitution of a different Ginnie Mae with a stated yield different from the contract rate, so long as there is an appropriate adjustment to the purchase price that results in a yield to expected maturity equal to the yield originally committed. In general, no fee is required to be paid at the time of entering into Ginnie Mae firm commitment agreements.

The value of fixed yield Ginnie Maes to be delivered in the future will fluctuate as interest rates vary. Because of the effect that interest rate changes have on such securities in the marketplace, even before delivery of a Ginnie Mae, the firm commitment contract may represent an unrealized gain or loss on the security to be delivered. On or before settlement date, the investment company generally has the option of closing out the purchase obligation, rather than purchasing the security, by assigning the contract. For example, in a falling interest rate market the investment company could sell the firm commitment agreement for immediate profit. Conversely, in a rising interest rate market the investment company could assign the firm commitment, prior to the settlement date, and accept an immediate loss, measured by the amount the investment company would be required to pay to the purchaser to accept the assignment or to the seller to forgo its rights under the contract. If a firm commitment is held until settlement, the investment company, in purchasing the Ginnie Mae, will pay the commitment price regardless of the current market value of the Ginnie Mae.

Whether or not a firm commitment is held until settlement, it creates the potential for profit or loss without any investment because interest rate changes in the marketplace affect the value of the security to be delivered. In economic reality, this can be characterized as unlimited leverage.[13]

Footnotes continued from last page

institution, especially upon consideration of the sales emphasis of investment companies upon the savings and investment character of the securities of such companies." Senate Hearings at 1029.

[7] Leverage through reverse repurchase agreements creates the risk of magnified capital losses which occur when losses affect an asset base, enlarged by borrowing, that exceeds the equity base of the investment company. Pyramiding of reverse repurchase agreements requires the investment company to seek investments which can produce income sufficient to cover fixed interest charges on the proceeds. This situation may result in unusual pressure on investment company management to find investments with sufficient yield without regard to their quality or suitability for the investment company. This same pressure existed where multiple layers of preferred stock were issued by investment companies prior to the passage of the Act. See Senate Hearings at 1038.

[8] Sections 1(b)(3), 1(b)(7), and 1(b)(8) of the Act declare, in part, that the national public interest and the interest of investors are adversely affected: when investment companies fail to protect the preferences and privileges of the holders of their outstanding securities; when investment companies, by excessive borrowing and the issuance of excessive amounts of senior securities, increase unduly the speculative character of their junior securities; and when investment companies operate without adequate assets or reserves.

[9] Section 18(g) provides, in part, that senior security "when used in this section 18 [shall not] include any such promissory note or other evidence of indebtedness in any case where such a loan is for temporary purposes only and in amount not exceeding 5 per centum of the value of the total assets of the issuer at the time when the loan is made. A loan shall be presumed to be for temporary purposes if it is repaid within sixty days and is not extended or renewed; otherwise it shall be presumed not to be for temporary purposes. Any such presumption may be rebutted by evidence."

[10] The firm commitment is known by other names such as a "forward contract," a "when-issued security," a "mandatory," or, if delivery is called for within 30 days, an "immediate."

[11] The Commission recognizes that, for example, in the ordinary purchase of equity securities there is often a delay of a few days between the purchase of the security, and clearance and settlement. This general statement of policy respecting Section 18 of the Act is not intended to address arrangements involving the purchase of equity securities where the delay in delivery involves, for example, only the brief period usually required by the selling party and its agent solely to locate appropriate stock certificates and prepare them for submission for clearance and settlement in the customary way.

[12] Commitments to purchase securities whose yields are determined on the date of delivery with reference to prevailing market interest rates are not intended to be included in this general statement of policy. Such commitments neither create nor shift the risk associated with interest rate changes in the marketplace, and in economic reality have no discernible potential for leverage.

[13] Because most traditional leveraging techniques require some cash investment, an investor's ability to leverage is limited by available cash. Firm commitments require no cash investment, which removes the most significant restriction on the increasing use of leverage. The degree of leverage is often measured by the ratio between the additional cash upon which the investor receives a right to a return and the investor's own cash investment. If the investor puts up nothing, leverage cannot be measured in ratio terms, and therefore can be said to be unlimited or infinite.

Exposure of an investment company's assets to risk of loss is borne proportionately by all the securities issued by the investment company, so that the speculative character of such securities in the hands of investors increases as the investment company enters into increasing numbers of firm commitment agreements.

An investment company's participation in a firm commitment agreement may involve the issuance of a security by the investment company. Section 2(a)(36) of the Act defines the term "security" to mean any evidence of indebtedness. Because a firm commitment is an obligation to pay in the future for consideration presently received, it may involve the issuance of an evidence of indebtedness by the investment company. Thus, if a firm commitment agreement is a security, because it evidences an indebtedness of the investment company, it also may be a senior security as defined in Section 18(g) of the Act, and an investment company entering into such agreements may be in violation of Section 18(f)(1).

Standby Commitment Agreements

The standby commitment agreement is a delayed delivery agreement in which the investment company contractually binds itself to accept delivery of a Ginnie Mae with a stated price and fixed yield upon the exercise of an option held by the other party to the agreement at a stated future date. The investment company receives an individually negotiated, non-refundable commitment fee in consideration for its agreement to "standby" to purchase the Ginnie Mae. The Commission believes that the standby commitment agreement involves, in economic reality, the issuance and sale by the investment company of a "put."

If an investment company is successful in predicting interest rate movements, the standby commitment agreement may be used by an investment company to earn commitment fee revenues without investment or cost. For example, if an investment company entered a standby commitment and interest rates in the marketplace declined, the broker/dealer (who paid the fee) would retain the security stated in the agreement, or sell it to a third party at the current market price. The contract would be allowed to lapse and the investment company would have earned its fee without investment or cost.

The standby commitment agreement creates a risk of loss to the investment company and its shareholers well in excess of the commitment fees the investment company would receive as consideration for entering into the agreement. The market value of a Ginnie Mae, which often has a face value in excess of $1,000,000, will be materially affected when even slight changes occur in the current market interest rate. For example, if interest rates in the marketplace increase after the agreement is made, it is likely that the contract price on the delivery date will exceed the then current market value of the Ginnie Mae. The broker/dealer can be expected to exercise its option and, in effect, pass the decline in the value of the Ginnie Mae to the investment company. That decline in value may significantly exceed the fee received by the investment company for entering into the agreement.

An investment company's participation in a standby commitment agreement may involve the issuance of a security by the investment company. Section 2(a)(36) of the Act defines the term "security" to mean any "evidence of indebtedness" and "any interest or instrument commonly known as a 'security.'" Because a standby commitment agreement is a contingent obligation to pay in the future for consideration presently received, it may involve an issuance of an evidence of indebtedness by the investment company. Furthermore, as noted, the standby commitment is or at least closely resembles a "put" which is generally regarded as a security and is included within the definition of security in Section 2(a)(36). Thus, a standby commitment agreement may be considered a security under either or both of these theories and, further, a contingent evidence of indebtedness of the investment company. Therefore, an investment company involved in standby commitment agreements, if they are senior securities as defined by Section 18(g) of the Act, may be in violation of Section 18(f)(1) of the Act.

The Agreements as Securities

The Commission believes that reverse repurchase agreements, firm commitment agreements, and standby commitment agreements fall within the functional meaning [14] of the term "evidence of indebtedness" for purposes of Section 18 of the Act. Generally, included within it would be all contractual obligations to pay in the future for consideration presently received; the term would not be limited to notes or other acknowledgments of debt. The Commission's views are based not so much on the conclusion that reverse repurchase agreements and firm commitment agreements, considered in isolation, are inherently securities for all purposes, but more upon the proposition that trading practices involving the use by investment companies of such agreements for speculative purposes or to accomplish leveraging fall within the legislative purposes of Section 18.

The Commission has reviewed the legislative history and the Congressional intent underlying the Act. In light of the concerns discussed therein, the Commission believes that its construction of "evidence of indebtedness" in Section 2(a)(36) of the Act, for purposes of Section 18 of the Act, is reasonable because the fundamental economic nature of reverse repurchase, firm commitment, and standby commitment agreements is such that each poses a risk of loss to an investment company analogous to the danger caused by leverage, which is discussed throughout the legislative history of the Act. The Commission believes that the agreements being considered cannot be viewed merely as contracts for the acquisition of the underlying securities; rather, the agreements are securities separate from the underlying Ginnie Maes. The decision to enter into such agreements involves considerations and determinations which are separate and distinct from those involved in the purchase of Ginnie Maes. A Ginnie Mae, because of its government guarantee, is viewed as a low risk investment. Each of the reverse repurchase agreement, firm commitment agreement, and standby commitment agreement may be a substantially higher risk investment because of the additional risk of loss created by the substantial leveraging in each agreement, and in light of the volatility of interest rates in the marketplace. The gains and losses from the transactions can be extremely large relative to invested capital; for this reason, each agreement has speculative aspects. Therefore, it would appear that the independent investment decisions involved in entering into such agreements, which focus on their distinct risk/return characteristics, indicate that, economically as well as legally, the agreements should be treated as securities separate from the underlying Ginnie Maes for purposes of Section 18 of the Act.

Segregated Account

In circumstances involving similar economic effects, such as short sales of securities by investment companies, the

[14] "The starting point in every case involving the construction of a statute is the language itself." *Blue Chip Stamps v. Manor Drug Stores*, 421 U.S. 723, 756 (1976).

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Division of Investment Management has determined that the issue of compliance with Section 18 will not be raised with the Commission by the Division if the investment company "covers" the senior security by establishing and maintaining certain "segregated accounts."[15] The Commission agrees that segregated accounts, if properly created and maintained, would limit the investment company's risk of loss. The board of directors of an investment company which is engaged in reverse repurchase agreements, firm commitment agreements or standby commitment agreements should review the investment company's portfolio and custodial accounts to determine if any segregated accounts with the company's custodian have been, or should be, created.

A segregated account freezes certain assets of the investment company and renders such assets unavailable for sale or other disposition. If an investment company continues to engage in the described securities trading practices and properly segregates assets, the segregated account will function as a practical limit on the amount of leverage which the investment company may undertake and on the potential increase in the speculative character of its outstanding common stock. Additionally, such accounts will assure the availability of adequate funds to meet the obligations arising from such activities.

The Commission believes that only liquid assets, such as cash, U.S. government securities or other appropriate high grade debt obligations, should be placed in such segregated accounts. Segregated assets may be replaced by other appropriate non-segregated assets of equal value. The value of U.S. government securities or other assets in an account should be marked to the market daily, and additional assets should be placed in the segregated account whenever the total value of the account falls below that amount described in the following guidelines. With respect to the segregation of assets, the Commission recommends:

(1) With regard to each reverse repurchase agreement which lacks a specified repurchase price, the investment company should maintain in a segregated account (not with a broker), beginning on the date the investment company enters into the reverse repurchase agreement, liquid assets equal in value to the proceeds received on any sale subject to repurchase plus accrued interest. If the reverse repurchase agreement has a specified repurchase price, the investment company should maintain in the segregated account an amount equal to the repurchase price, which price will already include interest charges.

(2) With regard to each firm commitment agreement the investment company should maintain in a segregated account (not with a broker), beginning on the date the investment company enters into the firm commitment agreement, liquid assets equal in value to the purchase price due on the settlement date under the firm commitment agreement.

(3) With regard to each standby commitment agreement, the investment company should maintain in a segregated account (not with a broker), beginning on the date the investment company enters into the standby commitment agreement, liquid assets equal in value to the purchase price under the standby commitment agreement.

Directors should note that, as asset segregation reaches certain levels, an investment company may impair its ability to meet current obligations, to honor requests for redemption, and to manage properly the investment portfolio in a manner consistent with its stated investment objectives. For example, in an extreme case an investment company which has segregated all its liquid assets might be forced to sell non-segregated portfolio securities to meet its obligations upon shareholder requests for redemption. Such forced sales could cause an investment company to sell securities which it wanted to retain or to realize gains or losses which it did not originally intend. Therefore, directors should consider such potential loss of flexibility when determining the extent to which the investment company should engage in such transactions.

Investment Company Policies

Sections 8(b) (1), (2) and (3) of the Act [15 U.S.C. 80a–8(b)(1), 8(b)(2), 8(b)(3)] provide, in part, that every investment company shall file with the Commission recitals of its policies with respect to certain specified activities including the borrowing of money and the issuance of senior securities, certain investment policies that are changeable only if authorized by shareholder vote, and certain policies which the registrant deems fundamental. Sections 13(a) (2) and (3) [15 U.S.C. 80a–13(a)(2), 13(a)(3)] provide, in part, that no investment company, unless authorized by the vote of a majority of its outstanding voting securities, shall borrow money or issue senior securities except in accordance with the recitals of policy contained in its registration statement or deviate from any fundamental policy or any investment policy which is changeable only if authorized by a shareholder vote.

To ensure compliance with Section 13 of the Act, directors of an investment company should determine whether the securities trading practices of the investment company are consistent with the policies recited pursuant to Section 8(b) of the Act. Directors should consider whether the investment company has designated the preservation of capital or the growth of capital through "conservative" investment strategies as a fundamental policy or a policy changeable only by shareholder vote. If so, it may be inappropriate for the investment company to engage to a material extent in the securities trading practices which have been discussed above.

Valuation and Accounting

The securities trading practices discussed above may also create valuation problems. Changes in the value of a firm commitment agreement, for example, will affect the price at which the shares of an investment company may be sold, redeemed or repurchased. Section 22(c) of the Act [15 U.S.C. 80a–22(c)] and Rule 22c–1 [17 CFR 270.22c–1] thereunder require, in part, that such sales, redemptions and repurchases be effected at current net asset value. Section 2(a)(41) of the Act [15 U.S.C. 80a–2(a)(41)] and Rule 2a–4 [17 CFR 270.2a–4] thereunder require that, in determining net asset value, securities for which market quotations are readily available must be valued at current market value while other securities and assets must be valued at fair value as determined in good faith by the board of directors. Accordingly, directors should review their current valuation procedures, accounting systems, and systems of internal accounting control to determine whether any inadequacies exist with regard to the valuation and accounting treatment of such securities trading practices.

With respect to the proper accounting treatment of such securities trading practices, different treatment may be accorded firm[16] and standby commitments. Because standby commitments and listed put options have similar financial attributes and because it is possible to value the securities underlying the standby commitment by reference to market prices and interest rates for existing Ginnie Mae securities, the board of directors should consider accounting procedures used for listed put options in determining how a standby commitment should be treated in the investment company's accounting records.[17]

Disclosure

As stated above, use of the reverse repurchase agreement, the firm commitment agreement, and the standby commitment agreement creates the potential for substantial losses to an investment company. The directors of an investment company using such securities trading practices should review documents filed with the Commission and provided to investors and shareholders pursuant to the federal securities laws[18] to ensure complete disclosure of all pertinent information regarding the nature and consequences of the investment company's participation in such transactions. Specifically, disclosure materials should focus on, and comments by the Division during the review process will be directed to, the potential risk of loss presented to an investment company and its investors by those transactions; the identification of the securities trading practices as separate and distinct from the underlying securities; the differing investment goals inherent in participating in the securities trading practices as compared to those of investing in the underlying securities; and any other material information relating to such practices and the investment company's participation therein. Based on historical experience, the Commission believes that disclosure including the risk of loss to an investor in an investment company engaging in the practices described is necessary to ensure that the investment company will not be offering for sale or selling securities by means of a false, misleading or deceptive statement of a material fact in a prospectus.[19] Failure to disclose material information to shareholders in such documents would result in violations of the Securities Act of 1933 and the Securities Exchange Act of 1934. In connection with the foregoing, directors of investment companies which engage in the securities trading practices under discussion should also consider whether the investment company's name accurately reflects its portfolio investment policies and securities trading practices.[20]

Division Position Respecting Repurchase Agreements With Broker/Dealers

In recent "no-action" correspondence,[21] the Division of Investment Management stated that it could not assure that it would not recommend action under Section 12(d)(3) of the Act[22] against an investment company if it entered into certain repurchase agreements with a broker/dealer. The Division has reconsidered the position taken therein and, because of the relevancy of that position to the general discussion by the Commission of the applicability of Section 18 of the Act to certain securities trading practices, has requested that the Commission publish the Division's current position, which follows.

A repurchase agreement differs from the reverse repurchase agreement in that the investment company lends rather than borrows money. In a typical investment company repurchase transaction, an investment company purchases securities from a broker/dealer (the purchase price being the "proceeds"), and agrees to resell such securities to the same broker/dealer at a later date. Upon resale, the investment company receives the proceeds plus an amount which represents interest on the proceeds. The transaction is, in effect, a method for the investment company to invest idle cash for negotiated periods at prevailing market rates. In economic reality and under the definition of the term "lend" in Section 2(a)(23) of the

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[15] See Guidelines for the Preparation of Form N–8B–1, Investment Company Act Release No. 7221, pp. 6–8 (June 9, 1972).

[16] In deciding upon the treament a firm commitment should receive in the investment company's accounting records, the board of directors should consider the position of the American Institute of Certified Public Accountants concerning how municipal bond funds should account for certain municipal bonds purchased on a "when issued" basis. In part, this paragraph states:

Footnotes continued on next page

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"The asset and liability relating to a 'when issued' security should be recorded when the priced transaction confirmation is issued, and the investment should be valued thereafter." American Institute of Certified Public Accountants, Statement of Position 79–1: Accounting for Municipal Bond Funds (Proposal to the Financial Accounting Standards Board to Amend AICPA Industry Audit Guide, *Audits of Investment Companies*, January 15, 1979.) Paragraph 20. In a firm commitment, the analogous "priced transaction confirmation" appears to be issued when the commitment is written. The difference between the balance of the asset and liability accounts would be reflected in the company's net asset value. It should be noted that payment for the security, while extinguishing the liability, would not be likely to affect the total value of the company's net assets.

[17] Using this analogy, when a standby commitment is written its only recognition in the accounting records would be an entry to record the premium received as a deferred credit (a liability). The full value of the committed securities would not receive recognition at this time because their acquisition is contingent on interest rate movements during the commitment period. However, in order to compute net asset value properly, any decline in the value of the committed securities should be recognized because it is a measure of an actual liability. Such declines in value should be reflected as increases in the deferred liability account used to record the premium received. Whenever it becomes reasonable to expect that the company will purchase and take into its portfolio the committed securities, it appears appropriate to recongize the value of the committed security as an asset and the full purchase price as a liability with appropriate entries to the deferred liability account in which the premium and unrealized depreciation was recorded. It may also be appropriate to adjust the deferred liability account to the extent of the premium received in response to increases in the market value of the committed securities. Such value increases would be recorded as a decrease in the deferred liability account. Recording increases in the value of committed securities in excess of the premium received appears to be inappropriate because as such value increases the investment company would probably not be asked to perform under the commitment. When the commitment period expires, or at an earlier time if it is reasonably expected that the company will not be expected to perform under the commitment, the amounts relating to the commitment should be removed from the investment company's accounting records and a realized gain or loss recognized, as appropriate. Because all of the accounting consequences will be recognized in terms of gain or loss, commitment premiums should not be recorded as an element of investment income. Financial statements should fully disclose the investment company's potential liability under its commitments.

[18] Such documents would include, but are not limited to, registration statements filed pursuant to Section 8(b) of the Act, reports, filed with the Commission, reports mailed to shareholders pursuant to Section 30 of the Act [15 U.S.C. 80a–29], sales literature distributed to existing and prospective investors under Section 24(b) of the Act [15 U.S.C. 80a–24(b)] and proxy statements filed pursuant to Section 20 of the Act [15 U.S.C. 80a–20].

[19] "The lack of investment quality characterizes the common stock of open-end leverage investment companies as well as that of closed-end leverage investment companies. The contributor to the open-end fund can easily be impressed by the representation that the senior capital is working for him, he can less easily be expected to realize that . . . upon any substantial market oscillation his investment will be virtually impaired or entirely swept away." Senate Hearings at 1044.

[20] Section 35(d) of the Act [15 U.S.C. 80a–34(d)] provides that it is unlawful for an investment company to adopt as part of its name or title any words which the Commission finds, and by order declares, to be deceptive or misleading. Although the types of securities trading practices in question usually involve an underlying security which bears a government guarantee, the agreements and their expected returns do not bear such guarantees. Thus, an investment company which is significantly involved in such securities trading practices, and which uses a name that appears to suggest or allude inappropriately to the existence of a U.S. government guarantee, may be using a deceptive or misleading name within the meaning of Section 35(d) of the Act. In cases where the Division believes a violation may have occurred, the Commission has instructed it to seek appropriate Commission orders and to recommend to the Commission that appropriate action be taken as authorized by Section 35(d) of the Act.

[21] Letter dated March 24, 1978, from the Division of Investment Management to Sidley & Austin re American Medical Association Tax-Exempt Income Fund Inc., [1978 Transfer Binder] FED. SEC. L. REP. (CCH) ¶81,612.

[22] Section 12(d)(3) of the Act, in part, prohibits an investment company from purchasing or otherwise acquiring "any security issued by or any other interest in the business of any person who is a broker, a dealer, [or] is engaged in the business of underwriting."

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Act, the repurchase transaction is a loan by the investment company to the selling party secured by the securities transferred to the investment company. Use of repurchase agreements permits investment companies to invest idle cash at negotiated yields for periods as brief as overnight and may improve the overall performance of investment companies. Investors in the market for repurchase agreements appear to be primarily institutional. To deprive investment companies of access to such opportunities may impair the ability of certain investment companies to seek and to offer investment performance as favorable as that available through other institutional investors not subject to such a limitation. Moreover, the legislative history of Section 12(d)(3) suggests that its purpose principally was to prevent investment companies, except pursuant to certain conditions, from exposing their assets to the entrepreneurial risks of an investment banking business, as would be the case where an investment company took a partnership interest in a broker/dealer. Here, however, the investment company as lender would look to the intrinsic value of the collateral (i.e. the Ginnie Mae or other U.S. government security) rather than the creditworthiness or other risks associated solely with the business operations of the broker/dealer.[23] Accordingly, the Division henceforth will not recommend to the Commission that enforcement action be brought under Section 12(d)(3) against investment companies with respect to such transactions if the repurchase agreement is structured in a manner reasonably designed to collateralize fully the investment company loan, i.e., the value of the transferred security is, and during the entire term of the agreement remains, at least equal to the amount of the loan including the accrued interest earned thereon.

The Division remains concerned, however, about the possibility of abuse in such situations, particularly if investment companies enter into repurchase agreements to promote certain reciprocal practices, such as loans to broker/dealers [24] on terms less favorable than those available with other broker/dealers or banks to encourage share distribution efforts or to obtain research services for the investment adviser. Those kinds of reciprocal practices could result in violations of the investment company's and the investment adviser's fiduciary obligations under the Act to investment company shareholders. Therefore, the Commission has instructed the Division to monitor and review carefully investment company activities in this area.

In connection with the Division's present "no-action" position, directors should review their methods of accounting for repurchase agreements. An investment company should not record as an asset the securities which collateralize a loan pursuant to a repurchase agreement. It is also important to disclose the amount of the loan, and the effective interest rate to be received. Furthermore, directors should review the policies articulated in their investment company's registration statement pursuant to Section 8(b) of the Act, regarding, in particular, the making of loans to other persons, to ensure compliance with Sections 8 and 21 of the Act [15 U.S.C. 80a–21].[25]

Conclusion

The Commission believes that, as part of their general fiduciary duties to shareholders, directors should review the securities trading practices of their investment company to determine whether any of the practices which are the subject of this release (or any different practices with analogous effects on the capital structure of the investment company) exist, or are contemplated. If so, directors should make the determinations, inquiries, and disclosures recommended in this release. If necessary and appropriate, directors should consider the creation and maintenance of segregated accounts to ensure compliance with the policies and provisions of Section 18 of the Act.

The Commission has instructed the Division, through its oversight of the Commission's investment company inspection program, to monitor carefully the compliance of investment companies engaging in the aforementioned and similar securities trading practices with the disclosure and regulatory provisions of the Act, and with the appropriate disclosure requirements of the Securities Act of 1933 and Securities Exchange Act of 1934 applicable to investment companies.

Accordingly, Part 271 of Title 17 of the Code of Federal Regulations is amended by adding this General Statement of Policy regarding Securities Trading Practices Of Registered Investment Companies.

The Commission would, of course, welcome the views of directors and other interested persons on any of the matters discussed herein. All views or comments should be submitted in writing to the Securities and Exchange Commission, Washington, D.C. 20549 and refer to File S7–776. All communications will be available for public inspection.

By the Commission.

George A. Fitzsimmons,
Secretary

April 18, 1979.

[Release No. IC–10666, S7–776]

[FR Doc. 79–13007 Filed 04–26–79; 8:45 am]

BILLING CODE 8010–01–M

[23] See Senate Hearings at 243.

[24] Repurchase agreements with broker-dealers affiliated with the investment company would, of course, raise serious questions under Sections 17(a) and 17(d) of the Act [15 U.S.C. 80a–17(a), 17(d)].

[25] Section 21 of the Act provides, in part, that "It shall be unlawful for any registered management company to lend money or property to any person, directly or indirectly, if the investment policies of such registered company . . . do not permit such a loan . . ."

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federal register

Friday
April 27, 1979

Part VI

Department of Health, Education, and Welfare

Public Health Service

Grants to Nursing Schools for the Support of Their Educational Programs

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 57

Grants for Construction of Teaching Facilities, Educational Improvements, Scholarships and Student Loans; Grants to Schools of Nursing for the Support of Their Educational Programs

AGENCY: Public Health Service, HEW.

ACTION: Final regulations.

SUMMARY: These regulations establish criteria for the nursing capitation grants program under section 810 of the Public Health Service Act, as amended by the Nurse Training Act of 1975, and the Health Services Extension Act of 1977. These grants are made annually to eligible schools of nursing based on enrollment. The Nurse Training Act of 1975 and the Health Services Extension Act of 1977 revised, among other things, the conditions for receiving grants under this program and altered the formula for computing grant amounts.

EFFECTIVE DATE: These regulations are effective on April 27, 1979.

FOR FURTHER INFORMATION CONTACT: Miss Edith Rathbun, Special Assistant to the Director, Division of Nursing, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 3–50, 3700 East-West Highway, Hyattsville, Maryland 20782, phone: 301–436–6684.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 3, 1978 (43 FR 4790), the Assistant Secretary for Health, Department of Health, Education, and Welfare, proposed to delete Subpart K of 42 CFR Part 57, relating to nursing capitation grants under former section 806 of the Public Health Service Act, and to substitute a new Subpart K to implement section 810 of the Act, as amended by the Nurse Training Act of 1975 and by the Health Services Extension Act of 1977.

Interested persons were afforded the opportunity to participate in the rulemaking process through submission of comments on or before March 6, 1978. Only five comments were received and they concerned the assurances required for receipt of a grant and the formula for computing the grant awards. One commenter objected to the requirement for maintaining enrollment, one to the alternative of increasing enrollment. Three commenters noted that the formula for allocating grant funds did not treat the different types of nursing education programs alike and wanted a more equitable distribution of grant funds. One commenter requested that the regulations provide additional activities which may be included in an applicant's plan required as part of the assurance under § 57.1004(c)(3).

The regulations have not been changed in accordance with these comments because the required assurances as well as the formula for computing the grants are prescribed by statute. The Department points out that the differences in the formula take into account the differences in length and cost of the three types of programs, and that the requirements provide the schools with the option of carrying out two of four specified programs as an alternative to increasing enrollment. Several minor changes of an editorial or technical nature have been made in the proposed regulations.

When this authorizing legislation was enacted in 1975, there was a general consensus that (a) more health professionals were needed, and (b) if more professionals were produced, more would select primary care as their field of endeavor and more would work in underserved geographic areas. Accordingly, a number of Federal programs enacted at that time provided incentives for increased student enrollment in an effort to increase overall supply.

Two recent developments affect this earlier consensus. First, there is serious question, on the basis of certain preliminary studies of projected supply and requirements in the health professions, including nursing, with the assumption that the nation faces shortages in aggregate supply. Indeed, there is a basis for believing that there will be a possible oversupply by 1990, depending on which model and which assumptions are employed in projecting requirements. In fact, Congress acknowledged this view for the first time in its statement of findings in Pub. L. 94–484 (enacted October 12, 1976), in connection with aggregate physician supply and the statutory preference to alien physicians wishing to emigrate to the United States.

Second, there is increasing recognition of the fact that even with larger numbers of health personnel, the nation's distributional problems are not necessarily alleviated.

Over the last ten years, there have been significant increases in the supply of health professionals, but the maldistribution of professionals in rural areas and inner cities continues, as does the proportion of health personnel providing primary care as compared with secondary and tertiary services.

The Department recognizes that the legislation authorizing capitation support for schools of nursing provides two options by which a school could qualify for such support: either by a specified enrollment increase of its first year class or by agreeing to undertake at least two of four innovative programs of nursing instruction, as specified in Section 810 of the Act. In view of the above observations, the Public Health Service would prefer to see schools undertake the latter option rather than the enrollment increase option.

Accordingly, Subpart K of 42 CFR Part 57 is deleted and a new Subpart K is substituted to read as set forth below.

Dated: July 5, 1978.

Julius B. Richmond,
Assistant Secretary for Health.

Approved: April 12, 1979.

Hale Champion,
Acting Secretary.

Subpart K—Grants to Schools of Nursing for the Support of Their Educational Programs

Sec.

57.1001 Applicability.
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57.1013 Applicability of 45 CFR Part 74.
57.1014 Additional conditions.

Authority: Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 810, 89 Stat. 356 (42 U.S.C. 296e).

Subpart K—Grants to Schools of Nursing for the Support of Their Educational Programs

§ 57.1001 Applicability.

The regulations of this subpart apply to the award of annual grants under section 810 of the Public Health Service Act (42 U.S.C. 296e) to schools of nursing for the support of their education programs.

§ 57.1002 Definitions.

As used in this subpart:

"Act" means the Public Health Service Act, as amended.

"Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

"State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

"Council" means the National Advisory Council on Nurse Training established by section 851(a) of the Act.

"School" or "school of nursing" means a collegiate, associate degree, or diploma school of nursing which is accredited as provided in section 853(6) of the Act.

"Collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to this type of educational program provided by the school, but only if the program or unit, college, or university is accredited.

"Associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if the program, or unit, college, or university is accredited.

"Diploma school of nursing" means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that the program has been satisfactorily completed, but only if the program, affiliated school, hospital, university, or independent school is accredited.

"New school" means a school which, at the time of filing an application for a grant under this subpart, has not graduated a class because of an insufficient period of operation.

"Full-time student" means a student pursuing a full-time course of study, as determined by the school, in an accredited program in a school of nursing leading to a diploma or degree specified in this section.

"Construction" means (1) the construction of new buildings and the acquisition or expansion of existing buildings (including related costs, such as architects' fees, acquisition of land, off-site improvements, and the initial equipping of such buildings); and (2) the remodeling, alteration, and repair of existing buildings.

"Program for the training of nurse practitioners" means an educational program for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) which meets guidelines prescribed by the Secretary under section 822(a)(2)(B) of the Act and which has as its objective the education of nurses (including pediatric and geriatric nurses) who will, upon completion of their studies in this program, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities, and other health care institutions.

"Nonprofit" as applied to any school means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Fiscal year" means the Federal fiscal year as defined in 31 U.S.C. 1020(a).

§ 57.1003 Eligibility.

(a) To be eligible for a grant under this subpart the applicant shall:

(1) Be a public or nonprofit school of nursing; and

(2) Be located in a State.

(b) A new school of nursing may apply for a grant under this subpart in the fiscal year preceding the fiscal year in which it will admit its first class. For purposes of this section, the first class in a new collegiate school of nursing is (1) the second-year class in a three-year school, or (2) the third-year class in a four-year school.

§ 57.1004 Application.

(a) Each eligible school desiring a grant under this subpart shall submit an application in the form and at the time which the Secretary may prescribe.[1]

(b) The application shall be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(c) In addition to other information and assurances which the Secretary may require, an approvable application shall contain:

(1) A reasonable assurance satisfactory to the Secretary that the first-year enrollment of full-time students in the school year beginning in the fiscal year in which the grant applied for is to be made will not be less than the first-year enrollment in the school in the preceding school year. This assurance shall be in addition to any assurance given under section 802(b)(2)(D) of the Act with respect to a construction grant application, where applicable.

(2) A reasonable assurance that the school will expend in carrying out its function as a school of nursing, during the school year for which the grant is sought, an amount of funds (other than funds for construction) from non-Federal sources which is at least as great as the average amount of funds expended by the school for this purpose (excluding expenditures of a nonrecurring nature) in the three school years immediately preceding the school year for which the grant is sought. The determination of the average amount of non-Federal funds expended by a new school during this three-year period shall be the average for the three preceding school years in which expenditures were actually made in carrying out the functions of the school.

(3) Either (i) A reasonable assurance satisfactory to the Secretary that for the school year beginning in the fiscal year in which the grant is to be made, and for each school year thereafter beginning in a fiscal year in which a grant is made, the first-year enrollment of full-time students in the school will exceed the number of these students enrolled in the school year beginning during the fiscal year ending June 30, 1975, by

(A) 10 per centum of this number if it was not more than 100; or

(B) 5 per centum of this number, or 10 students, whichever is greater, if it was more than 100; or

(ii) A reasonable assurance satisfactory to the Secretary that the school will carry out, in accordance with a plan contained in or accompanying its application and approved by the Secretary, at least two of the following programs in the school year beginning in the fiscal year in which the grant applied for is to be made and in each school year thereafter beginning in a fiscal year in which the grant is made:

(A) In the case of a collegiate school of nursing, a program for the training of nurse practitioners as defined in § 57.1002.

(B) A program under which students enrolled in a school of nursing will

[1] Applications and instructions may be obtained from the Division of Nursing, Bureau of Health Manpower, Health Resources Administration, Department of Health, Education, and Welfare, Center Building, Room 3–50, 3700 East-West Highway, Hyattsville, Md. 20782.

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receive a significant portion of their clinical training in community health centers, long-term care facilities, and ambulatory care facilities geographically remote from the main site of the teaching facilities of the school.

(C) a program for the continuing education of nurses which meets needs identified by appropriate State, regional, or local health or educational entities (including health systems agencies).

(D) A program to identify, recruit, enroll, retain, and graduate individuals from disadvantaged backgrounds (as determined by the school in accordance with criteria prescribed in this paragraph) under which program at least 10 per centum of each year's entering class or 10 students, whichever is greater, is comprised of these individuals. For purposes of this paragraph, the school may only consider an individual to be from a disadvantaged background if the individual:

(*1*) Comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a school of nursing; or

(*2*) Comes from a family with an annual income below a level based on low-income thresholds by family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and multiplied by a factor to be determined by the Secretary for adaptation to this program. The Secretary periodically will publish in the **Federal Register** the income levels as adjusted.

(4) In the case of an application from a new school of nursing which applies for a grant under this subpart in the fiscal year preceding the fiscal year in which it will admit its first class:

(i) Evidence satisfactory to the Secretary that where required by State law or regulation the school has received the approval of the State Board of Nursing for the State in which the school is located to enroll students in the school in the fiscal year after the fiscal year in which the grant is sought.

(ii) An estimate of the number of full-time students to be enrolled in the school in the fiscal year after the fiscal year in which the grant is made and information and assurances supporting this estimate.

§ 57.1005 Determination of number of students.

(a) For purposes of this subpart, the number of full-time students enrolled in a school, the number of full-time first-year students enrolled in a school, or the number of full-time students enrolled in a particular year-class in a school, as the case may be, for any year shall be the number of these students enrolled or to be enrolled, as the case may be, in the school on October 15 of the fiscal year for which the grant is made; however, schools which admit first-year classes in courses of study leading to a diploma or degree specified in § 57.1002 at times other than early fall may request the Secretary's approval of another official counting date for purposes of determining first-year enrollment.

(b) The classification of a full-time student as a first-year student or as a student in a particular year-class in a school shall be in accordance with the policies of the particular school, except that any student who is required to repeat one or more first-year courses after having been enrolled as a full-time student during a previous school year shall not be considered a first-year student for purposes of the enrollement requirement of section 810(c)(1)(A) of the Act and § 57.1004(c)(1) or for purposes of section 810(c)(2)(A) of the Act and § 57.1004(c)(3)(i), where applicable.

(c) For purposes of making a grant under section 810(e) of the Act to a new school of nursing which applies for a grant in the fiscal year preceding the fiscal year in which it will admit its first class, the number of full-time students enrolled in the school or in a particular year-class in the school shall be the number which the Secretary, on the basis of the information and assurances provided by the school under § 57.1004(c)(4)(ii), determines to be the number of full-time students which the school will enroll in the fiscal year after the fiscal year in which the grant is to be made. With respect to a new associate degree school of nursing, the number of full-time students enrolled in the first year of the school shall be the number of full-time students enrolled in the first year of the program of education leading to an associate degree in nursing or to an equivalent degree.

§ 57.1006 Grant award.

(a) The Secretary, after consultation with the Council, shall award a capitation grant to each applicant whose application is found to meet the applicable requirements of section 810 of the Act and the regulations of this subpart.

(b) The amount of each capitation grant shall be an amount computed in accordance with the formula set forth in section 810(a) of the Act. If the amount of funds appropriated for any fiscal year is less than the total of the amounts so computed for each school of nursing with an approved application, the grant awarded to each school shall be reduced proportionately in accordance with section 810(b) of the Act.

§ 57.1007 Grant payments.

The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement.

§ 57.1008 Expenditure of grant funds.

(a) Capitation grant funds may be obligated by the school at any time before the end of a 24-month period specified in the grant award document for any purpose related to the educational program of the school, except as provided in paragraph (b) of this section. Any funds not so obligated shall be refunded to the Federal Government.

(b) Capitation funds may not be expended for the following purposes:

(1) Construction, except that grant funds may be used for alterations and renovations;

(2) Student assistance; and

(3) Sectarian instruction or any religious purpose.

§ 57.1009 Nondiscrimination.

Recipients of grants under this subpart are advised that in addition to complying with the terms and conditions of these regulations, the following laws and regulations are applicable:

(a) Section 855 of the Act (42 U.S.C. 298b–2) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to training programs).

(b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and its imlementing regulation, 45 CFR Part 80 (prohibiting discrimination in Federally assisted programs on the ground of race, color, or national origin).

(c) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in Federally assisted education programs).

(d) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in Federally assisted programs on the basis of handicap).

§ 57.1010 Grantee accountability.

(a) Accounting for grant funds shall be in accordance with institutional accounting practices, based on generally accepted accounting principles, consistently applied regardless of the source of funds. The grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures meeting the requirements of this subpart.

(b) The total sum of: (1) Any amount not accounted for under paragraph (a) of this section, and (2) any other amounts due under Subparts F, M, and O of 45 CFR Part 74 shall be payable to the Federal Government as final settlement with respect to each grant under this subpart. This total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assigns by setoff or other lawful action.

§ 57.1011 Records and reports.

Each grant awarded under this subpart shall be subject to the condition that the grantee shall maintain financial records, identifiable by grant number, and file with the Secretary financial reports relating to the use of grant funds which the Secretary may find necessary to carry out the purposes of section 810 of the Act and the regulations of this subpart.

§ 57.1012 Inspection and audit.

Any application for a grant under this subpart shall constitute the consent of the applicant to inspections of the facilities, equipment, and other resources of the applicant at reasonable times by the Secretary and the Comptroller General of the United States or any of their duly authorized representatives. In addition, the acceptance of any grant award under this subpart shall constitute the consent of the grantee to inspections and fiscal audits by these persons of the supported activity and of progress and fiscal records relating to the use of grant funds.

§ 57.1013 Applicability of 45 CFR Part 74.

The relevant provisions of the following subparts of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants awarded under this subpart:

Subpart

A—General.
B—Cash depositories.
C—Bonding and insurance.
D—Retention and custodial requirements for records.
F—Grant-related income.
K—Grant payment requirements.
M—Grant closeout, suspension, and termination.
O—Property.
Q—Cost principles.

§ 57.1014 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his or her judgment these conditions are necessary to assure or protect advancement of the grant purposes, the interests of the public health, or the conservation of grant funds.

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federal register

Friday
April 27, 1979

Part VII

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Public Housing Homeownership Opportunities Projects; Proposed Rules

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 868]

Public Housing Homeownership Opportunities Projects

AGENCY: Office of Assistant Secretary for Housing, Department of Housing and Urban Development (HUD).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department is proposing to expand the public housing Modernization Program to include homeownership projects assisted under the Low-Income Housing Homeownership Opportunities Program (Turnkey III) and the Mutual Help Homeownership Opportunities Program.

COMMENTS DUE: June 26, 1979.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address and refer to the docket number indicated in the heading and give reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above.

FOR FURTHER INFORMATION CONTACT: Wayne Hunter, Office of Assisted Housing Management, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6460. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The current Rule Part 868 is retitled Subpart A—Modernization of Public Housing Rental Projects, and the text is revised to eliminate reference to the use of modernization funds for the correction of design or construction deficiencies which will be funded from development funds and to clarify that HUD-determined wage rates apply to major repairs and replacements due to normal wear and tear by items of substantially the same kind since these are operational-type expenditures and not developmental in character. A new Subpart B—Modernization of Public Housing Homeownership Opportunities Projects is added which provides for the modernization of homeownership projects under modified provisions adapted to the special character of these programs. The substantive modifications applicable to the modernization of homeownership projects are:

(a) A homebuyer family whose income, equities and assets are at or above the amount at which it is required by applicable HUD regulations to purchase the home is ineligible for the modernization.

(b) A homebuyer family which is in violation of the terms of its Homebuyer Agreement is ineligible for the modernization program until it has achieved substantially full compliance.

(c) Eligible work items include alterations or improvements to the homebuyer family's home to meet applicable HUD standards for family housing need or suitability, including the achievement of a barrier-free dwelling for the handicapped family, or energy conservation including the conversion of, or the addition of alternate, utility systems to achieve energy conservation or economy or to utilize indigenous energy sources. These work items will make the dwelling unit more suitable for its intended use and will ordinarily enhance the value of the property. Modernization funds may not be used to correct design or construction deficiencies. Work items related to replacement of structural elements or equipment, or to maintenance of the property, are not eligible since these are the responsibility of the homebuyer family under the terms of its Homebuyer Agreement and, if necessary, may be funded from its equity accounts.

(d) The homebuyer family is afforded an opportunity (1) to express its views and preferences with respect to the modernization of its home; (2) to know the estimate of the cost attributable to its home; (3) to know that the actual cost attributable to its home will be added to the purchase price and will result in an extension of the amortization period; (4) to know that it will be included in the regular inspection process and at the final inspection to participate in the determination of the quality of workmanship and materials; and (5) to decide whether to participate in the modernization program.

(e) If the homebuyer family decides to participate with respect to any of the proposed work items, it must agree, in writing that: (1) the Homebuyer Agreement will be revised to add the actual cost of modernization of its home to the purchase price to reflect the added capital cost; and (2) the amortization period, during which the homebuyer family is subject to the terms to the Homebuyer Agreement and at the end of which the homebuyer family would receive title to its home, will be proportionately extended but not to exceed any lease term on the land in the case of Mutual Help housing.

(f) Any homebuyer family may decline to participate without risk to its homebuyer status because of that declination.

(g) The current rule on the Modernization Program—PHA-Owned Projects would be retitled and renumbered as Supbart A—Modernization of Public Housing Rental Projects, with minor editorial changes. Subpart B—Modernization of Public Housing Homeownership Opportunities Projects, would be added as a new Subpart.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with Handbook 1390.1. A copy of the Environmental Finding of Inapplicability is available for inspection at the above address.

Accordingly, the Department proposes to amend Part 868 of Chapter VIII of Title 24 of the Code of Federal Regulations by:

Subpart A—Modernization of Public Housing Rental Projects

1. Revising § 868.4 and § 868.8, retitling and renumbering the existing part 868 as Subpart A of Part 868 and making certain editorial changes to reflect that retitling and renumbering, as follows:

§§ 868.1 through 868.13 [Renumbered as §§ 868.101 through 868.113]

(a) Renumber § 868.1 through § 868.13 to § 868.101 through § 868.113, respectively;

(b) Substitute the following for the language in § 868.108, Labor Provisions:

§ 868.108 Labor provisions.

(a) *HUD-determined wage rates.* Under section 12 of the Act, the PHA and its contractors shall pay not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, to all architects, technical engineers, draftsmen, and technicians employed by the PHA itself or by an architect/engineer or other contractor engaged by the PHA for a modernization program, and to all laborers and mechanics employed by the PHA itself or by a contractor engaged by the PHA in carrying out (1) Major Repairs as defined in § 868.102 of this subpart or (2) replacements, due to normal wear and tear, by items of substantially the same kind.

(b) *Davis-Bacon Act.* Under section 12 of the Act, the PHA and its contractors shall pay not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor, under the Davis-Bacon Act (40 U.S.C. 276a et seq.), to all laborers and mechanics employed by the PHA itself or by a contractor engaged by the PHA for modernization work or contracts over $2,000, except Major Repairs as defined in § 868.102 of this subpart or replacements due to normal wear and tear by items of substantially the same kind."

(c) Change the word "Part" to "Subpart", wherever it appears in this Subpart A;

(d) Insert the word "rental" after the phrase "PHA-Owned, low-income" and before the phrase "public housing projects," wherever they appear in this Subpart A; and

§ 868.104 [Amended]

(e) Amend § 868.104(i) to insert a semicolon after "deficiencies" and to strike the remainder of the subparagraph.

(2) Adding a new Subpart B to the existing Part 868, as follows:

Subpart B—Modernization of Public Housing Homeownership Opportunities Projects

Sec.

868.201 Purpose and scope.
868.202 Definitions.
868.203 Eligibility requirements for an allocation of modernization funds.
868.204 Effect on purchase price and amortization period.
868.205 Homebuyer participation.
868.206 Procedures for obtaining approval of a modernization program.
868.207 Contracting requirements.
868.208 Labor provisions.
868.209 Requests for modernization funds.
868.210 Monitoring and evaluation.
868.211 Revisions of the modernization program budget.
868.212 Revisions of the modernization work program.
868.213 Completion of modernization programs.
868.214 Effect on purchase price and purchase price schedule.

Authority: United States Housing Act of 1937, (42 U.S.C. 1437 et seq.) sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Subpart B—Modernization of Public Housing Homeownership Opportunities Projects

§ 868.201 Purpose and scope.

The purpose of this Subpart is to prescribe policies and procedures for modernization by Public Housing Agencies (PHAs) of PHA-owned, low-income, homeownership opportunities projects (Mutual Help and Turnkey III). This subpart does not apply to the PHA-Owned, Low-Income, Rental Public Housing Program, the Section 23 and Section 10(c) Leased Housing Programs, the Section 23 and Section 8 Housing Assistance Payments Programs, or the modernization of low-income public housing projects undertaken with funds derived from the Community Development Block Grant Program under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301–5316).

§ 868.202 Definitions.

As used in this subpart:

"Act"—see § 868.102.

"Annual Contributions Contract" (ACC)—see § 868.102.

"Force Account Labor"—see § 868.102.

"Homebuyer Agreement" means a Mutual Help and Occupancy Agreement or a Turnkey III Homebuyer's Ownership Opportunity Agreement.

"Work Item"—see § 868.102.

§ 868.203 Eligibility requirements for an allocation of modernization funds.

To be eligible for an allocation of modernization funds, the PHA shall:

(a) Present evidence of the actual need for the proposed Work Items;

(b) Propose the most economical way of accomplishing needed Work Items;

(c) Provide accurate cost estimates;

(d) Limit proposed modernization expenditures to eligible Work Items which include alterations or improvements to the homebuyer family's home to meet applicable HUD standards for family housing need or suitability, including the achievement of a barrier-free dwelling for the handicapped family, or energy conservation including the conversion of, or the addition of alternate, utility systems to achieve energy conservation or economy or to utilize indigenous energy sources. Modernization funds may not be used to correct design or construction deficiencies. Work items related to replacement of structural elements or equipment, or to maintenance of the property, are not eligible since these are the responsibility of the homebuyer family under the terms of its Homebuyer Agreement and, if necessary, may be funded from its equity accounts.

(e) Present evidence, satisfactory to HUD, of management capability to complete the proposed modernization program with a two-year period beginning after amendment of the ACC;

(f) Present evidence, satisfactory to HUD, that the homebuyer family of each dwelling unit to be modernized is in substantial compliance with the terms of its Homebuyer Agreement;

(g) Present evidence, satisfactory to HUD, that the current income of the homebuyer family of each dwelling unit to be modernized, together with its equity balances, are less than the amount at which the family is required, under HUD regulation, to purchase the home;

(h) Carry out modernization in accordance with civil rights and equal opportunity requirements:

(1) In the case of Indian Housing Authorities (IHAs), with 24 CFR 805.105 (Applicability of civil rights statutes) and 24 CFR 805.106 (Preferences, opportunities and nondiscrimination in employment and contracting).

(2) In the case of all other PHAs, with 24 CFR 841.104 (Civil rights and equal opportunity).

(i) Propose no modernization program to correct construction and design deficiencies;

(j) Present evidence of compliance with HUD regulations and requirements under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.); and

(k) Obtain HUD clearance under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.), and Executive Order 11593 on Protection and Enhancement of the Cultural Environment (36 FR 8921), where applicable.

§ 868.204 Effect on purchase price and amortization period.

(a) The cost of Work Items in a modernization program shall constitute an addition to the purchase price of the home and shall result in a proportionate extension of the amortization period.

(b) When the modernization program has been completed, a revision to the Homebuyer Agreement shall be executed by each homebuyer, reflecting the increase in the purchase price equal to the portion of the total cost of the modernization program attributable to that home and providing for extension of the amortization period, for an additional time proportionate to the increase in the purchase price.

§ 868.205 Homebuyer participation.

(a) The PHA shall discuss the modernization program with the homebuyer families of the project to be modernized and shall advise them of the effect of such modernization on the terms of their Homebuyer Agreements. The homebuyer families shall be

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afforded a reasonable opportunity to present their views on the proposed program and the PHA shall give full consideration to their recommendations consistent with the PHA's own determination of efficiency, economy and need.

(b) The PHA shall afford each homebuyer family an opportunity (1) to express its views and preferences with respect to the modernization of its home; (2) to know that the actual cost will be added to the purchase price and will result in an extension of the amortization period; (3) to know that it will be included in the regular inspection process and at final inspection to participate in the determination of the quality of workmanship and materials; and (4) to decide whether to participate in the program.

(c) The PHA shall provide each homebuyer family with a copy of the PHA's evaluation of the recommendations, the tentative decisions reached with respect to a modernization program to be submitted to HUD and the estimated cost of the Work Items to be included in the proposed modernization program for its home.

(d) If the homebuyer family decides to participate in the modernization program with respect to any of the proposed Work Items, it must agree in writing that its Homebuyer Agreement will be revised to provide (1) that the actual cost of modernizing its home will be added to the purchase price to reflect the added capital cost; and (2) that the amortization period will be proportionately extended: *Provided*, That, for Mutual Help housing, the extension shall not exceed the lease term on the land.

(e) Any homebuyer family may decline to participate without risk to its homebuyer status because of that declination.

(f) Records of homebuyer family participation and agreements required by this section shall be retained in the PHA's files for inspection by HUD.

(g) In the case of Work Items of an emergency nature, affecting the life, health or safety of certain homebuyer families, the provisions of this section may be modified by the PHA, to the extent necessary, to permit expeditious discussions and agreement with the affected homebuyers.

§ 868.206 Procedures for obtaining approval of a modernization program.

(a) *Informal consultation.* The PHA shall consult with the appropriate HUD office to discuss its modernization needs, to obtain information and advice on HUD policies and procedures, and to explore the availability of modernization funds.

(b) *Preliminary application.* The PHA shall submit to the appropriate HUD Office a preliminary application in letter form which shall contain:

(1) A brief description and justification of each Work Item proposed for each project and the preliminary estimated amount of modernization funds needed to finance each Work Item: and

(2) An estimate of additional modernization funds, if any, needed to complete previously approved modernization programs.

(c) *HUD-PHA joint review.* The PHA shall participate in an on-site review with the appropriate HUD office to develop a mutual agreement on the scope of the proposed modernization program and the details of the final application.

(1) The joint review shall include:

(i) On-site inspection of the proposed Work Items for each project, the time for completion, the method of accomplishment (by contract or Force Account Labor), cost estimates, and the method of PHA inspection of the work;

(ii) An evaluation of the cost-effectiveness of the proposed Work Items for each home in relation to the estimated remaining useful life of the property and the cost of equivalent new construction;

(iii) PHA need for the technical services of a professional architect/engineer in planning, designing, and implementing all or part of the proposed modernization program;

(iv) PHA plan for organizing and staffing the modernization program;

(v) PHA performance in administering previously approved modernization programs, if applicable;

(vi) PHA compliance with civil rights statutes, executive orders, and regulations, as applicable, under § 868.203(h);

(vii) Determination of the applicability of § 868.203(i);

(viii) PHA compliance with homebuyer participation and eligibility requirements under § 868.204 and § 868.205;

(ix) Determination of the applicability of HUD regulations and other published requirements under the National Environmental Policy Act of 1969, the National Historic Preservation Act of 1966, the Archeological and Historic Preservation Act of 1974, and Executive Order 11593.

(x) Compliance by homebuyer families with the terms of their Homebuyer Agreements; and

(xi) Project characteristics, including the general physical condition of the project's systems and structures.

(2) HUD reserves the option to exclude coverage of those items required under paragraph (c)(1) of this section that have been covered by audit or other HUD review process conducted within the preceding six months.

(d) *Final application.* Upon notification from HUD, the PHA shall submit to the appropriate HUD office the final application which shall contain:

(1) A program budget, in a form prescribed by HUD, describing each Work Item, amount of modernization funds requested, method of accomplishment, estimated dates for starting and completing work, and a summary of Work Items by project;

(2) A work program, in a form prescribed by HUD, stating the estimated amount of modernization Funds to be expended and the estimated work to be completed for each Work Item by quarter for eight quarters (a two-year period);

(3) An organization and staffing plan stating the proposed organization, staffing, and inspection of the program;

(4) A management plan, describing any management Work Items and estimated progress by quarter for eight quarters (a two-year period) where management deficiencies have been identified by HUD;

(5) A PHA report on compliance by the local governing body with the terms of the Cooperation Agreement and any additional services or facilities that the PHA plans to request from the local governing body;

(6) Environmental data, in a form prescribed by HUD, under procedures to be developed by HUD, if required; and

(7) A resolution by the PHA Board of Commissioners:

(i) Approving the program budget, the work program, the organization and staffing plan, and the management plan; and

(ii) Certifying that:

(A) The PHA will comply with all policies, procedures, and requirements prescribed by HUD for the modernization program;

(B) The proposed Work Items are eligible for modernization funding;

(C) The amount of modernization funds requested represent the PHA's best estimate of the costs of the modernization program described in the final application;

(D) The PHA will comply with civil rights statutes, executives orders, and

regulations as applicable, under § 868.203(h); and

(E) The PHA has complied with HUD regulations and requirements under the Flood Disaster Protection Act of 1973 or that such regulation and requirements are not applicable.

(e) *ACC amendment.* After HUD approval of the PHA's final application, the PHA shall enter into an ACC amendment or an ACC to obtain modernization funds.

§ 868.207 Contracting requirements.

(a) *Compliance with Tribal, State and local law.* the PHA shall comply with Tribal, State and local laws applicable to bidding and contract award.

(b) *PHA agreement with architect/engineer.* The PHA shall submit the proposed agreement, if any, with an architect/engineer for technical services to the appropriate HUD office for review and approval before executing the agreement.

(c) *Bidding documents.* The PHA shall submit complete plans, drawings, specifications, and other related documents for each proposed modernization contract to the appropriate HUD office for review and approval before inviting bids. If the Director of the HUD office determines that the PHA has the necessary technical and administrative experience and capability, he may notify the PHA, in writing, that bidding documents need not be submitted to HUD for review where the proposed modernization contract is less than $50,000 or is less than such lower limitation as the HUD office may specify.

(d) *Contract award.* The PHA shall submit all documents relating to the proposed award of modernization construction and equipment contracts to the appropriate HUD office for review and approval before making an award where:

(1) The amount of the contract exceeds the amount included in the latest approved modernization program budget;

(ii) The bider attempts to withdraw a bid, alleging a mistage: or

(iii) The PHA:

(A) Receives a single bid;

(B) Proposes to disqualify the low bider;

(C) Proposes to reject all bids received; or

(D) Revises the contract documents for readvertising, as applicable under paragrah (c) of this section.

(2) In all other instances, unless required by HUD in its approval of the bidding documents, the PHA shall make the award without HUD review and approval after the PHA Board of Commissioners or the designated PHA official has certified that:

(i) The bidding was conducted in compliance with Tribal, State and local laws, and Federal regulations;

(ii) The award does not exceed the amount included in the latest approved modernization program budget;

(iii) The low bid has been accepted; and

(iv) The award has been informally cleared with the appropriate HUD office to determine that the contractor is not on the Consolidated List of Debarred, Suspended, and Ineligible Contractors and Grantees.

(e) *Contract changes and time extensions.* Except in an emergency endangering life or property, the PHA shall submit to the appropriate HUD office for review and approval all proposed contract changes that exceed the latest approved budget approved budget amount or change the approved scope of the work by adding new Work Items, deleting approved Work Items, or lowering the work of material quality and all proposed time extensions for causes beyond the contractor's control before issuing changes to the contractor.

(f) *Contract settlement.* Regardless of the amount of the contract, the PHA shall submit all documents for final payment of the contractor to the appropriate HUD office for review and approval before making the payment.

§ 868.208 Labor provisions.

(a) *HUD-determined wage rates.* Under section 12 of the Act, the PHA and its contractors shall pay not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, to all architects, technical engineers, draftsmen, and technicians employed by the PHA itself or by an architect/engineer or other contractor engaged by the PHA for a modernization program, and to all maintenance laborers and mechanics employed by the PHA itself or by a contractor engaged by the PHA in carrying out (1) Major Repairs as defined in § 868.102 of this part or (2) replacements due to normal wear and tear by items of substantially the same kind.

(b) *Davis-Bacon Act.* Under section 12 of the Act, the PHA and its contractors shall pay not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor, under the Davis-Bacon Act (40 U.S.C 276a et seq.), to all laborers and mechanics employed by the PHA itself or by a contractor engaged by the PHA for modernization work or contracts over $2000, except Major Repairs as defined in § 868.102 of this part or replacements due to normal wear and tear by items of substantially the same kind.

§ 868.209 Requests for modernization funds.

To request modernization funds against the approved modernization program, the PHA shall:

(a) Consult informally with the appropriate HUD office as to the amount of modernization funds needed for the time period in question, the immediacy of need, and the method of financing;

(b) Submit a request to the appropriate HUD office for only the amount of modernization funds needed for the time period in question and support the request with a written justification, in a form prescribed by HUD; and

(c) Submit the latest required progress reports under § 868.210(b) and § 868.210(c), unless the first required report is not yet due.

§ 868.210 Monitoring and evaluation.

(a) *On-site physical inspections.* The PHA shall provide, by contract or otherwise, adequate and competent supervisory and inspection personnel during modernization whether the work is performed by contract or Force Account Labor and with or without the services of an architect/engineer, to assure-work quality and progress. The homebuyer shall be included, at his option, in the regular inspection process and the final inspection shall be a joint inspection by the PHA inspector and each homebuyer. After the inspection, the PHA inspector shall give the homebuyer a signed written statement of the condition of the completed modernization Work Items. The homebuyer shall indicate concurrence by signing the statement. If the homebuyer does not concur, the objections shall be noted on the statement and the differences resolved by the PHA.

(b) *Progress reporting.* For each quarter until completion of the modernization program, the PHA shall submit, in a form prescribed by HUD, to the appropriate HUD office:

(1) A modernization quarterly progress report showing the PHA's actual performance in comparison with its planned performance contained in the modernization work program by Work Item for each project, including the planned and actual expenditures during the preceding quarter and

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cumulatively, and the work planned but not accomplished.

(2) An explanation, including the reasons for the deficiency and the corrective actions which the PHA has planned or taken, where the modernization quarterly progress report indicates:

(i) An overrun or underrun of 10% or more in actual cumulative expenditures in comparison with planned cumulative expenditures; or

(ii) Any work planned but not accomplished during any previous quarter.

(3) A narrative report, describing the PHA's actual performance in comparison with its planned performance contained in the modernization management plan, including the current status of each management Work Item and an explanation if no progress has been made.

(c) *Construction reporting.* The PHA shall submit construction progress reports, on forms prescribed by HUD, to the appropriate HUD office.

§ 868.211 Revisions of the modernization program budget.

The PHA shall not incur any modernization cost in excess of the total approved modernization budget. The PHA shall submit a revision of the modernization budget, in a form prescribed by HUD, to the appropriate HUD office for review and approval if the PHA plans (within the total approved modernization budget) to:

(a) Delete or substantially revise approved Work Items;

(b) Add new Work Items; or

(c) Incur modernization costs in excess of the approved budget amount for:

(1) A Work Item; or

(2) Any project.

§ 868.212 Revisions of the modernization work program.

The PHA shall submit a revision of the modernization work program, in a form prescribed by HUD, to the appropriate HUD office for review and approval where there is:

(a) A revision of the modernization program budget; or

(b) A determination by the appropriate HUD office that the PHA is unable to complete the modernization program within the two-year period because of:

(1) Circumstances beyond the control of the PHA; or

(2) Improper PHA administration of the modernization program.

§ 868.213 Completion of modernization programs.

Upon completion of modernization programs, the PHA shall submit the actual modernization cost certificate, in a form prescribed by HUD, to the appropriate HUD office for review, audit vertification, and approval. If the audited modernization cost certificate indicates that excess funds have been provided, the PHA shall dispose of the excess funds as directed by HUD. If the audited modernization cost certificate discloses unauthorized expenditures, the PHA shall take such corrective action as HUD may direct. The PHA shall enter into an ACC amendment to reflect actual modernization costs or corrective action taken, where determined necessary by HUD.

§ 868.214 Effect on purchase price and purchase price schedule.

(a) *For Mutual Help projects converted in accordance with 24 CFR 805.428 or placed under ACC from March 9, 1976 and for Trunkey III projects.* (1) An amount equal to the portion of total modernization cost attributable to the home shall be added to the homebuyer's total purchase price as initially determined (under 24 CFR 804.113(a) or 804.115(b) for Turnkey III projects or under 24 CFR 805.422 (b) or (c) for Mutual Help projects) plus the amount of subsequent modernization costs, if any.

(2) The latest purchase price schedule shall be extended for an additional period proportional to the modernization cost increase in the total purchase price.

(3) As promptly as possible after determining the amount of modernization cost attributable to the home, the PHA shall furnish to the homebuyer a statement of total purchase price of the home, as determined under paragraph (a)(1) of this section, and a new purchase price schedule in place of the original purchase price schedule. The purchase price schedule shall:

(i) show monthly amortization of the total purchase price over a period commencing on the same day as the original purchase price schedule and terminating at the end of the extended period, as determined under paragraph (a)(2) of this section;

(ii) be computed on the basis of the same interest rate as used for the original purchase price schedule; and

(iii) state the monthly debt service amount on which the schedule is based.

(b) *For Mutual Help projects placed under ACC before March 9, 1976 and not converted in accordance with 24 CFR 805.428,* an amount equal to the portion of the total modernization cost attributable to the home shall be added to the balance of the debt attributable to the home on the books of account of the IHA, thus increasing the purchase price and extending the amortization period.

Issued at Washington, D.C., March 21, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[Docket No. R-79-637]

[FR Doc. 79-13063 Filed 4-26-79; 8:45 am]

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Federal Register

Friday
April 27, 1979

Part VIII

Department of Health, Education, and Welfare

Office of Education

Basic Skills and Educational Proficiency Programs; Proposed Rule

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 162]

Basic Skills and Educational Proficiency Programs

AGENCY: Office of Education, HEW.

ACTIONS: Notice of Proposed Rulemaking (NPRM).

SUMMARY: These regulations govern several programs relating to basic skills and educational proficiency.

The overall purpose of these programs—established through the Education Amendments of 1978—is to help public and private agencies coordinate resources and improve their basic skills efforts for children, youth, and adults.

DATES: Comments must be received on or before June 26, 1979.

Public meetings will be held on these proposed regulations on the following dates at the following places:

City, Date, and Time

Region I—Boston, May 9, 1979, 1:00–5:00 p.m., 7:00–9:00 p.m.
Region II—New York, May 10, 1979, 1:00–5:00 p.m., 7:00–9:00 p.m.
Region III—Philadephia, May 7, 1979, 1:00–5:00 p.m., 7:00–9:00 p.m.
Region IV—Atlanta, May 9, 1979, 1:00–5:00 p.m., 7:00–9:00 p.m.
Region V—Chicago, May 8, 1979, 1:00–5:00 p.m., 7:00–9:00 p.m.
Region VI—Dallas, May 7, 1979, 1:00–5:00 p.m., 7:00–9:00 p.m.
Region VII—Kansas City, May 10, 1979, 1:00–5:00 p.m., 7:00–9:00 p.m.
Region VIII—Denver, May 9, 1979, 1:00–5:00 p.m., 7:00–9:00 p.m.
Region IX—San Francisco, May 8, 1979, 1:00–5:00 p.m., 7:00–9:00 p.m.
Region X—Seattle, May 7, 1979, 1:00–5:00 p.m., 7:00–9:00 p.m.

ADDRESSES: Comments should be addressed to Mr. Thomas M. Keyes, U.S. Office of Education, 400 Maryland Avenue, S.W., (Donohoe Building, Room 1150), Washington, D.C. 20202.

Public Meetings will be held in—

Region I—Boston

Administration Building, Boston School Department, Boston Committee Hearing Room, 26 Court Street, Boston, Massachusetts 02203.

Region II—New York

Bank Street College of Education, Auditorium, 610 West 112 Street, New York, New Yor 10025.

Region III—Philadephia

Drexel University, Mandell Theater, 3210 Chestnut Street, Philadelphia, Pennsylvania 19104.

Region IV—Atlanta

Sale Hall, Morehouse College, Atlanta, Georgia 30314.

Region V—Chicago

William Rainey Harper College, Algonguin & Roselle Road, Building A—Board Room, Palatine, Illinois 60067.

Region VI—Dallas

El Centro College, Performance Hall, Main & Lamar Streets, Dallas, Texas 75202 (Use Market Street Entrance).

Region VII—Kansas City

Board of Education, Auditorium, 1211 McGee, Kansas City, Missouri 64106.

Region VIII—Denver

George Washington High School, 6555 South Monaco, Denver, Colorado, 80224.

Region IX—San Francisco

San Francisco Community College, Community College Center, 800 Mission Street & Corner of 4th Street, San Francisco, California 94102.

Region X—Seattle

Pacific Special Education Center, SEA–MAT Center, 1330 North 90th Street, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT.
Mr. Thomas M. Keyes, U.S. Office of Education, Telephone (202) 245–2710.

FOR INFORMATION ON PUBLIC MEETINGS IN THE REGIONAL OFFICE CITIES, CONTACT THE APPROPRIATE REGIONAL COMMISSIONER FOR EDUCATION PROGRAMS:

Region I, Boston, Dr. Thomas J. Burns, 617–223–7205
Region II, New York, Dr. William D. Green, 212–264–4370
Region III, Philadelphia, Dr. Albert C. Crambert, 215–596–1001
Region IV, Atlanta, Dr. William L. Lewis, 404–221–2063
Region V, Chicago, Dr. Juliette Noone Lester, 312–353–5215
Region VI, Dallas, Mr. Edward J. Baca, 214–767–3626
Region VII, Kansas City, Dr. Harold Blackburn, 816–374–2276
Region VIII, Denver, Dr. John Runkel, 303–837–3544
Region IX, San Francisco, Dr. Caroline Gillen, 415–556–4920
Region X, Seattle, Mr. Allen Apodaca, 206–442–0460

SUPPLEMENTARY INFORMATION:

The following section provides information about such matters as: (1) regulations governing general administrative matters; (2) questions likely to be asked by interested parties: and (3) procedures for public participation.

(a) Education Division General Administrative Regulations

These proposed regulations for Basis Skills and Educational Proficiency do not contain certain types of requirements that will be covered in the Education Division General Administrative Regulations (EDGAR). The EDGAR will replace the General Provisions for Office of Education Programs Regulations and soon will be published as a Notice of Proposed Rulemaking.

Anyone wanting to comment on the requirements in EDGAR should do so in response to the EDGAR NPRM, rather than to this NPRM.

The following items applicable to the Basic Skills and Educational Proficiency programs will now be among those covered in part in EDGAR, as well as in these program regulations:

(1) How an applicant applies for a grant.

(2) How a grant is made to an applicant.

(3) How to apply to the State for a subgrant.

(4) How a subgrant is made to an applicant.

(5) Certain conditions that must be met by an applicant.

(6) Administrative responsibilities of a grantee.

(7) Compliance procedures used by the Commissioner.

(b) Questions and Answers

What kinds of projects are covered by these regulations?

The regulations are divided into three components: (1) National Basic Skills Improvement, (2) State Basic Skills Improvement, and (3) Educational Proficiency.

(1) There are three programs in the National Basic Skills Improvement component. The *Basic Skills Improvement in the Schools Program* assists projects that demonstrate improved basis skills instruction in the schools. The *Parent Participation Program* assists projects that enlist parents and volunteers in teaching basic skills to children. The *Out-of-School Basic Skills Improvement Program* assists projects to help children, youth, and adults improve their basic skills outside the normal school program.

(2) The State Basic Skills component consists of two programs. Under the *Formula Grant Program*, the States subgrant most of the funds they receive to support activities that promote the State basic skills plan. The *State Leadership Program* helps the State carry out its own leadership activities in basic skills.

(3) The Educational Proficiency component consists of two programs. The *Proficiency Standards Program* assists projects to help students reach levels of educational proficiency set by the applicant. The *Achievement Testing Program* helps improve the capacity of SEAs and LEAs to measure basic skills achievement.

Why is "basic skills" defined as "mathematics, reading, and oral and written communication"?

Congress defines basic skills this way in the law.

Why are "reading," "mathematics," "oral communication," and "written communication" not defined in these regulations?

The Commissioner believes that a broad definition will encourage applicants to propose creative teaching techniques within the four basic skills areas.

Is all necessary information available in these regulations?

No. These regulations do not repeat the Act. Often they paraphase or cross reference the Act, which is republished here as an appendix to these regulations. An applicant should also read the applicable sections of EDGAR, as well as instructions on the application form and the application notice published in the **Federal Register**. The application notice contains such information as where to obtain an application form, programs for which funds are available, where to send the application, and the amount of money for which an applicant may apply.

Why are some programs under the Act, not included in these regulations?

Some programs are not included here because the Commissioner proposes to implement certain sections of the law by individual contract rather than by grants. Sections 204 (technical assistance), 207 (technology and instruction), 209 (evaluation and dissemination), 231 (inexpensive book distribution), and 232 (special mathematics instruction) will be carried out by contract because the U.S. Office of Education (OE) wishes to obtain very specific products and results. For the grant programs covered by these regulations, OE announces a general goal, and applicants determine the specific expected results under that goal.

What happens if an applicant, at the time of writing the application, has already accomplished an item required in the regulations?

An applicant need not repeat the required activity, but should indicate how and when the required acitvity took place. If the applicant has, for example, recently conducted a basic skills needs assessment in its project schools, it should simply report its findings in the application.

Why is such a great emphasis placed on projects that coordinate with other basic skills activities at the Federal, State, and local levels?

Congress refers frequently in the Act to the need for coordination. Experience shows there are better results if projects engage in mutual sharing and mutual planning. For these reasons—

(1) Coordination of resources will be emphasized in individualized State agreements developed under the State Basis Skills programs;

(2) Points will be awarded to National Basic Skills applicants for their coordination plans; and

(3) State educational agencies will be asked to comment on the consistency of LEA-related applications to the State basic skills plan.

Are preschool projects allowable?

The law does not authorize preschool projects under the Basic Skills Improvement in the Schools Program. However, local school districts may apply to the State to conduct a preschool project as a subgrantee under the State Formula Grant Program.

Does an applicant for a Basic Skills Improvement in the Schools project have to propose instructional activities in all four basic skills subject areas: reading, mathematics, oral communication, and written communication?

No. An applicant must conduct a needs assessment for all four subject areas within the project school(s) to be served. If the data show that emphasis should be placed on one, two, or three (but not all four) of the basic skills subject areas, and if there is an existing instructional program in the remaining areas, the applicant may propose Federal assistance for just the subjects in which there is a special need.

In the Out-of-School Basic Skills Improvement program must the project be conducted outside of a school building?

No. A recipient may implement the project inside a school building or any other appropriate building. A recipient may work with children, youth, or adults who are or who are not currently enrolled in a school instructional program. However, the instruction given to the participants must be outside the normal school instructional program.

If an applicant applies for multi-year funding for programs in the National Basic Skills component will Federal funding remain at the same level year after year?

No. The Commissioner intends to fund projects at a certain level the first year and then at declining levels for each of the following years. The Commissioner believes that a grantee must assume an increasing fiscal responsibility as its project matures. Expected support levels will be announced annually in the closing date notice published in the **Federal Register**.

What is an "individualized" approach to agreements under the State basic skills improvement programs?

Experience shows that States vary considerably in their basic skills activities. Thus, the Commissioner does not propose to require that all States do all of the same activities in the same sequence. Rather, each State shall propose those activities that are needed in that State and in a time sequence set by the State.

Why are funds under the State Leadership Program distributed on the basis of population rather than by competitive grants?

The Commissioner wants to build the leadership capacity of all States in basic skills.

Do the terms "measures of achievement," "assessment," and "tests" in the law and in these regulations refer to a certain type of test such as a norm-referenced test?

No. The Commissioner places great emphasis on grantees using their descretion in measuring achievement in basic skills. The Commissioner encourages grantees to use varied, valid, and reliable measures of achievement.

(c) Invitation To Comment

A public meeting on this Notice of Proposed Rulemaking will be held in each of the ten Federal regions. If you are interested in making oral comments at a public meeting, please call the appropriate Regional Commissioner of Education. He/she will schedule a time for your comments to be given.

Persons who do not notify the Regional Commissioner of their intention to make oral comments will be given an opportunity to speak after those who registered. Those persons making presentations will be called upon according to their prearranged schedule, or if not prearranged, in the order of registration.

Also, interested persons are invited to submit written comments, suggestions, and recommendations to be considered prior to the issuance of the final regulations. Comments suggestions, and recommendations may be sent to the address given at the beginning of this

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document. All comments received on or before the 60th day after publication of this document will be considered.

All written comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 3523, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

The General Education Provisions Act requires that a citation of statutory authority for each section of the proposed regulations be placed in parentheses on the line following the text of each section. References to "Sec" in these citations of authority relate to sections of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978.

Authority: These proposed regulations are issued under the authority of Title II and Part B of Title IX, of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95–561.

Dated: April 16, 1979.

Ernest L. Boyer
U.S. Commissioner of Education.

Approved: April 20, 1979.

Hale Champion,
Acting Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Number Not Yet Assigned)

Part 162 of Title 45 Code of Federal Regulations is revised to read as follows:

PART 162—BASIC SKILLS IMPROVEMENT

General Information

Sec.
162.1 Programs under this part.
162.2 Eligible applicants.
162.3 Regulations that apply to the Basic Skills Improvement Program.
162.4 Definitions.
162.5 Submission of applications.

National Basic Skills Improvement

Type of Projects Assisted

162.110 Basic Skills Improvement in the Schools Program: requirements.
162.111 Parent Participation Program: Allowable activities.
162.112 Out-of-School Basic Skills Improvement Program: allowable activities.
162.113 Out-of-School Basic Skills Improvement Program: Requirements for instructional projects.
162.114 Duration of awards.

Selection of Recipients

162.120 State review of applications affecting an LEA.
162.121 Selection criteria.

Conditions of Awards

162.130 Coordination requirement.
162.131 Participation of non-public school children.
162.132 Other requirements for LEAs and SEAs.

State Basic Skills Improvement

How a State Applies for a Grant

162.210 Formula Grant Program: Individualized agreement.
162.211 State Leadership Program: Individualized agreement.

How a Grant is Made to a State

162.220 Formula Grant Program: Apportionment of funds.
162.221 State Leadership Program: Apportionment of funds.

Subgrants Under the Formula Grant Program

162.230 Eligibility for a subgrant.
162.231 Subgrants to local educational agencies: Allowable activities.
162.232 Subgrants to other eligible agencies: Allowable activities.
162.233 Conditions regarding participation of non-public school children.

Educational Proficiency

Types of Projects Assisted

162.310 Proficiency Standards Program: Requirements.
162.311 Achievement Testing Program: Allowable activities.

Selection of Recipients

162.320 State review of applications affecting LEAs.
162.321 Selection criteria.

Authority: Title II and Part B of Title IX, of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95–561.

General Information

§ 162.1 Programs under this part.

Part 162 contains regulations for a number of programs to improve achievement in the basic skills of reading, mathematics, and oral and written communication. The regulations are divided into three components:

(a) The National Basic Skills Improvement component consists of three programs. They are—

(1) The Basic Skills Improvement in the Schools Program (section 205), which assists projects that demonstrate improved basic skills instruction in the schools;

(2) The Parent Partcipation Program (section 206), which assists activities that enlist parents and volunteers in teaching basic skills to children; and

(3) The Out-of-School Basic Skills Improvement Program (section 208), which assists projects to help children, youth, and adults improve their basic skills outside the normal school program.

(b) The State Basic Skills Improvement component consists of two programs. They are—

(1) The Formula Grant Program (sections 221 through 223), which provides support to help a State plan and implement basic skills improvement programs, primarily through subgrants by the States to eligible subgrantees; and

(2) The State Leadership Program (sections 221, 224), which provides support for a State to—

(i) Carry out leadership and training in the area of basic skills; and

(ii) Develop and implement Statewide programs for improving the basic skills achievement of children, youth, and adults.

(c) The Educational Proficiency component consists of two programs. They are—

(1) The Proficiency Standards Program (section 921), which assists projects to help students reach levels of educational proficiency set by the applicant; and

(2) The Achievement Testing Program (section 922), which provides assistance to improve the capacity of State educational agencies (SEAs) and local educational agencies (LEAs) to measure the basic skills achievement of children.

(d) The Commissioner enters into contracts to carry out the programs authorized by sections 204 (technical assistance), 207 (technology and instruction), 209 (evaluation and dissemination), 231 (inexpensive book distribution), and 232 (special mathematics instruction).

(20 U.S.C. 2885, 2886, 2888, 2901–2904, 3331, 3332)

§ 162.2 Eligible applicants.

(a) The following kinds of agencies are eligible to apply for any of the three programs in the National Basic Skills Improvement component:

(1) An SEA.

(2) An LEA.

(3) A public or private agency, organization, or institution, including an institution of higher education. A for-profit agency, organization or institution is not eligible to compete for a grant but may receive contracts under any procurement that may be issued for these programs.

(b) Any State is eligible to apply for either or both programs in the State Basic Skills Improvement component.

(c) The following kinds of agencies are eligible to apply for the Proficiency Standards Program:

(1) An SEA.

(2) An LEA, if the appropriate SEA has not submitted an application. The LEA is responsible for contacting the SEA to determine if there will be a State application.

(d) The following kinds of agencies are eligible to apply for the Achievement Testing Program:

(1) An SEA.

(2) An LEA.

(3) A public or private agency, organization, or institution, including an institution of higher education. A private agency, organization, or institution is not eligible to receive a grant, but may receive a contract under any procurement that may be issued for these programs.

(20 U.S.C. 2884, 2902–4, 3331, 3332)

§ 162.3 Regulations that apply to the Basic Skills Improvement Program.

(a) *Regulations.* The following regulations apply to the Basic Skills Improvement Program.

(1) The Education Division General Administrative Regulations (EDGAR) in Part 100c (Definitions) and—

(i) For the programs in the National Basic Skills Improvement component and the Educational Proficiency component, Part 100a (Direct Grant Programs).

(ii) For the programs in the State Basic Skills Improvement component, Part 100b (State-Administered Programs).

(2) The regulations in this part.

(b) *Definitions in EDGAR.* The following terms used in this part are defined in Part 100c:

Applicant
Application
Award
Budget
Commissioner
Contract
Grant
Institutions of higher education
Local educational agency
Nonprofit
Non-public
Project
Public
Recipient
Secondary school
State
State educational agency
Subgrant
Subgrantee

(20 U.S.C. 1221e–3(a)(1))

§ 162.4 Definitions.

As used in this part—

"Basic Skills" means reading, mathematics, and oral and written communication; and

"Section" or "Sec.", unless otherwise indicated, means a section of Title II or Part B of Title IX of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 2881–2922, 3331–3332)

§ 162.5 Submission of applications.

(a) For the programs in the National Basic Skills Improvement component and the Educational Proficiency component—

(1) The Commissioner establishes—in a notice published in the **Federal Register**—an annual closing date for receiving applications.

(2) An applicant may seek assistance for each program separately or for more than one program in a consolidated application if the applicant—

(i) Divides the project into identifiable components in the application; and

(ii) Seeks assistance from only one program for each component of the project.

(3) The Commissioner reviews separately each programmatic component of a consolidated application in competition with other applicants seeking assistance under that program.

(b) For the programs in the State Basic Skills Improvement component—

(1) An applicant enters into individualized agreements with the Commissioner under the requirements described in—

(i) Section 162.210 of these regulations for the Formula Grant Program; and

(ii) Section 162.211 of these regulations for the State Leadership Program.

(2) The Commissioner and the State may decide to enter into a consolidated agreement under the Formula Grant Program and the State Leadership Program if the State wishes to participate in both programs.

(20 U.S.C. 2885, 2886, 2888, 2902, 2904)

National Basic Skills Improvement

Types of Projects Assisted

§ 162.110 Basic skills improvement in the schools program: Requirements.

(a) An applicant shall include in its project the six program elements described in the "Instruction in Basic Skills" section of the Act (sec. 205).

(b) An applicant shall propose to conduct its project at the elementary level, the secondary level or both.

(c)(1) Each project must address one or more of the four basic skills areas—reading, mathematics, oral communication, or written communication.

(2) If the proposed instructional activities do not address all four basic skills areas, the applicant shall demonstrate that—

(i) The instructional needs of the target population in all four basic skills areas have been assessed; and

(ii) Those not addressed by the project are being met.

(20 U.S.C. 2885)

§ 162.111 Parent participation program: Allowable activities.

Examples of activities that enlist parents and volunteers in teaching children basic skills are—

(1) Developing and disseminating materials for parents to use with their children in the home; or

(2) Conducting voluntary training activities for parents in areas directly related to the school curriculum.

(20 U.S.C. 2886)

§ 162.112 Out-of-school basic skills improvement program: Allowable activities.

A recipient under this program—described in sec. 208 as "Imvolvement of Educational Agencies and Private Organizations"—may conduct activities such as the following:

(a) Free distribution of books to children or lending or selling books to persons for the purpose of improving basic skills.

(b) Instructional programs and voluntary tutorial programs outside of the school for those in need of basic skills improvement. These activities may be known as academies.

(c) Efforts by community organizations to encourage individuals to improve their basic skills.

(20 U.S.C. 2888)

§ 162.113 Out-of-school basic skills improvement program: Requirements for instructional projects.

Each project must include:

(a) Procedures for—

(1) Identifying and recruiting participants in most need of basic skills improvement; and

(2) Focusing on the individual's ability to function effectively in society;

(b) Provision to conduct instruction at convenient times and locations; and

(c) Procedures for effective coordination with other organizations, such as employment and training agencies, private businesses, vocational and technical institutions, and local schools.

(20 U.S.C. 2889)

§ 162.114 Duration of awards.

(a) Under the conditions described in EDGAR, applicants may apply for multi-year awards of up to 48 months.

(b) Under terms announced annually in a notice of closing date published in the **Federal Register**, the Commissioner—

(1) States the amount, if any, available for multi-year awards; and

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(2) Decreases the amount of funding in each year of a multi-year award.

(20 U.S.C. 2885, 2889, 2921)

Selection of Recipients

§ 162.120 SEA review of applications affecting an LEA.

(a) An applicant shall seek written comments from the SEA in each State in which the proposed activities are to take place if—

(1) The applicant is an LEA; or

(2) The applicant proposes to conduct any activity that—

(i) Takes place in an instructional program operated by an LEA; or

(ii) Involves preservice or in-service training of LEA teachers.

(b) In seeking the SEA's comments, the applicant shall specifically ask the SEA to state whether it considers the proposed activities to be consistent with the State's basic skills plan.

(c) The SEA may comments on the consistency of the proposed activities with the State's basic skills plan only if it has informed potential applicants in a timely manner of the criteria by which it intends to judge consistency.

(d) The applicant shall submit a copy of its application to the SEA 15 days before the closing date for submitting applications to the Commissioner. To ensure consideration of its comments, the SEA shall forward its comments to the Commissioner within 30 days.

(e) The Commissioner considers an application for funding if—

(1) The SEA has indicated that the application is consistent with the State's basic skills plan;

(2) The SEA was given the required opportunity to comment, but did not do so; or

(3) The Commissioner determines that the proposed activities make a special contribution to the purposes of the Act.

(20 U.S.C. 2881, 2882(b), 2890)

§ 162.121 Selection criteria.

(a) In considering an application for funding, the Commissioner uses general selection criteria found in EDGAR. The value assigned to each criterion indicates the relative importance the Commissioner places on that criterion.

(1) Plan of operation. (15 points)

(2) Quality of staff. (10 points)

(3) Budget and cost effectiveness. (5 points)

(4) Evaluation plan. (7 points)

(5) Adequacy of resources. (3 points)

(b) Specific criteria are also used to evaluate applications. The specific criteria comprise 60 possible points.

(1) The extent to which the project objectives are clear and are based on the needs of the target population, and on research and experience regarding basic skills instruction. (15 points)

(2) The extent to which the project provides for effective coordination of Federal, State, and local resources and activities. (15 points)

(3) The extent to which affected schools, organizations, and individuals have been and will be involved in planning and implementing the proposed activities. (10 points)

(4) The extent to which the project's results can be incorporated into regular instructional programs in the school; basic skills improvement activities in non-school settings; or statewide basic skills plan. (10 points)

(5) The quality of a plan to validate the results of the project and to disseminate those results to the general public and interested agencies and institutions. (10 points)

(c) The Commissioner may take into account the geographic distribution of awards among the States in deciding which projects to support.

(20 U.S.C. 2885, 2886, 2888)

Conditions of Awards

§ 162.130 Coordination requirement.

A recipient shall coordinate its activities with other local, State, and federally-supported activities relating to basic skills improvement in the project area.

(20 U.S.C. 2881–2890)

§ 162.131 Participation of nonpublic school children.

An SEA or LEA applicant under each of the three programs shall provide assurance in its application that—

(a) In designing the project, the applicant has consulted with non-public school officials on the needs of children in non-public elementary and secondary schools; and

(b) To the maximum extent possible, and taking into account in the area to be served the number of non-public school children who have the educational needs the project is intended to address, the applicant will provide an opportunity for those non-public school children to participate in the project on a basis comparable to that provided for public school children.

(20 U.S.C. 2882)

§ 162.132 Other requirements for LEA's and SEA's.

An SEA or LEA applicant shall include an assurance in its application that it will have effective procedures to—

(a) Evaluate the effectiveness of the project and report its findings to the Commissioner; and

(b) Incorporate successful practices into the regular instructional program.

(20 U.S.C. 2882)

State Basic Skills Improvement

How a Grant is Made a State

§ 162.210 Formula grant program: individualized agreement.

An SEA wishing to participate in the program shall develop with the Commissioner an individualized agreement that—

(a) Describes a coordinated program to improve basic skills in the State, including recent activities in the State, the proposed goals and activities, evaluation plans, and expected outcomes; and

(b) Meets the requirements for use and distribution of funds, consultation, and evaluation that are listed in the Act's section on "Agreements with State educational agencies" (222(a)).

(20 U.S.C. 2901–2903)

§ 162.211 State leadership program: individualized agreement.

A State wishing to participate in the program shall enter into an individualized agreement with the Commissioner to carry out activities based on needs identified by the State. These activities are described in the "State Leadership Program" section of the Act (sec. 224).

(20 U.S.C. 2904)

How a Grant Is Made to a State

§ 162.220 Formula grant program: Apportionment of funds.

(a) Each year the Commissioner apportions available funds among the States that have entered into an agreement under § 162.210 according to the formula described in section 223 of the Act ("Distribution of Funds"). If any States are not funded, the Commissioner apportions the excess funds among those States that have entered into an agreement with the Commissioner according to their school age population (5 through 17 years).

(b) The State may retain no more than 5 percent of the grant to administer its agreement with the Commissioner.

(c) The State shall subgrant to LEAs to least 70 percent of the State allotment.

(20 U.S.C. 2903)

§ 162.221 State leadership program: Apportionment of funds.

The Commissioner apportions available funds among the States on the same basis described in § 162.220(a).

(20 U.S.C. 2904)

Subgrants Under the Formula Grant Program

§ 162.230 Eligibility for a subgrant.

The following kinds of agencies are eligible to apply to the State for a subgrant—

(a) An LEA.

(b) An institution of higher education.

(c) Any other public or nonprofit private agency or organization.

(20 U.S.C. 2902(b))

§ 162.231 Subgrants to local educational agencies: Allowable activities.

An LEA shall conduct—

(a) An in-school project that meets the conditions described in sec. 222(d); or

(b) A parent involvement project that includes the types of activities described in sec. 222(e).

(20 U.S.C. 2902 (d) and (e))

§ 162.232 Subgrants to other eligible agencies: Allowable activities.

An applicant other than an LEA shall conduct a parent involvement project that includes the types of activities described in sec. 222(e).

(20 U.S.C. 2902(e))

§ 162.233 Conditions regarding participation of nonpublic school children.

(a) A State shall insure that its subgrantees provide for the equitable participation of children attending nonpublic schools.

(b) The expenditures for services and arrangements for those non-public students must be equal to those provided to children in public schools based on the number of children to be served and the special educational needs of those children.

(20 U.S.C. 2902(c))

Educational Proficiency

Types of Projects Assisted

§ 162.310 Proficiency standards program: Requirements

An applicant under the Proficiency Standards Program shall in its application—

(a) Describe the proficiency standards being established in basic skills and in other proposed subjects;

(b) Describe instructional projects designed to assist students in reaching the proficiency standards; and

(c) Assure that additional instructional assistance is provided to students who fail the proficiency standards test.

(20 U.S.C. 3331)

§ 162.311 Achievement testing program: Allowable activities.

A recipient may conduct activities such as the following:

(a) Provide information to SEAs and LEAs about different measures of achievement and uses of those measures.

(b) Provide training for educational leaders and instructional personnel in SEAs and LEAs on different measures of achievement and uses of those measures.

(c) Conduct research on measuring achievement and diagnosing instructional needs.

(20 U.S.C. 3332)

Selection of Recipients

§ 162.320 State review of applications affecting an LEA.

The State coordination procedures in § 162.120 apply to the two programs in this component.

(20 U.S.C. 3331–3332)

§ 162.321 Selection criteria.

(a) In considering an application for funding under the Proficiency Standards Program or the Achievement Testing Program, the Commissioner uses general selection critieria found in EDGAR. The value assigned to each criterion indicates the relative importance the Commissioner places on that criterion.

(1) Plan of operation. (20 points)

(2) Quality of staff. (7 points)

(3) Budget and cost effectiveness. (10 points)

(4) Evaluation plan. (15 points)

(5) Adequacy of resources. (3 points)

(b) Specific cirteria are also used to evaluate applications. The specific criteria comprise 45 possible points.

(1) For the Proficiency Standards Program, the specific criteria are:

(i) The project objectives, including the extent to which the objectives are based on needs of the target population, and on research and experience regarding the setting of proficiency standards. (20 points)

(ii) The extent to which the applicant proposes effective procedures for involving teachers, parents, and experts in developing and adopting the standards. (10 points)

(iii) The extent to which the applicant proposes effective procedures to convert proficiency test results into usable information for improving curriculum and instruction. (15 points)

(2) For the Achievement Testing Program, the specific criteria are:

(i) The project objectives, including the extent to which the objectives are based on the needs of the applicant agency and on research and experience regarding achievement testing. (20 points)

(ii) The extent to which the applicant proposes effective procedures for involving teachers, parents, and experts in developing and implementing the project. (15 points)

(iii) The extent to which the applicant proposes effective procedures to convert achievement test results into usable information for improving curriculum and instruction. (15 points)

(c) The Commissioner may take into account the geographic distribution of awards among the States in deciding which projects to support.

(20 U.S.C. 3331, 3332)

[Editorial note.—The following appendix will not appear in the Code of Federal Regulations]

APPENDIX

PUBLIC LAW 95–561—NOV. 1, 1978

TITLE II—ESTABLISHMENT OF A NEW TITLE II OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Basic Skills

Sec. 201. Title II of the Elementary and Secondary Education Act of 1965 (hereinafter in titles II through IX of this Act referred to as "the Act") is amended to read as follows:

"TITLE II—BASIC SKILLS IMPROVEMENT

"Part A—National Program

"Purpose

"Sec. 201. The purpose of this part is—

"(1) to assists Federal, State, and local educational agencies to coordinate the utilization of all available resources for elementary and secondary education to improve instruction so that all children are able to master the basic skills of reading, mathematics, and effective communication, both written and oral;

"(2) to encourage States to develop comprehensive and systematic plans for improving achievement in the basic skills;

"(3) to provide financial assistance to State and local educational agencies for the development of programs in the basic skills;

"(4) to develop means by which parents working with the schools can contribute to improving the educational achievement of their children;

"(5) to encourage the involvement of the private sector in the delivery to children, youths, and adults of educational services and materials that will improve achievement in the basic skills; and

"(6) to expand the use of television and other technology in the delivery of

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instructional programs aimed at improving achievement in the basic skills.

"Applications

"Sec. 202. (a) The Secretary may make a grant or award a contract under this part only upon the submission of an application by an eligible entity at the time and in the form prescribed by the Secretary. Each such application by a State or local educational agency shall provide assurances that—

"(1) in designing the proposal for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with private school-officials; and, to the maximum extent feasible, and consistent with the number of such children in the area to be served who have the educational needs the proposal is intended to address, those children will be provided an opportunity to participate in the proposed activity on a basis comparable to that provided for public school children;

"(2) procedures have been developed to evaluate the effectiveness of the proposed activity in achieving the purposes of this title; and

"(3) procedures have been developed for incorporating successful practices developed with assistance under this title into the regular instructional program.

"(b) No grant or contract may be awarded to a local educational agency under this part unless the appropriate State educational agency has been provided an opportunity for at least thirty days to comment on the application.

"Acceptance of Gifts

"Sec. 203. Notwithstanding the provisions of section 408(a)(3) of the General Education Provisions Act, the Secretary may accept, on behalf of the United States, conditional or unconditional gifts or donations of services, money, or property, made for any activities authorized to be carried out under this title.

"Grants and Contracts

"Sec. 204. (a) In order to achieve the purposes of this part, the Secretary is authorized, during the period of October 1, 1979, through September 30, 1983, to make grants to, and enter into contracts with, State and local educational agencies, and other public and private agencies, organizations, and institutions to carry out planning, research, development, demonstrations (including training of leadership personnel, evaluation, and dissemination, as described in sections 205 through 209), except that no grant may be made under this part to other than a public or nonprofit private agency, organization, or institution.

"(b) The Secretary may provide to such agencies, organizations, and institutions, either directly or through grants or contracts, technical assistance related to the purposes of this part.

"Instruction in Basic Skills

"Sec. 205. The Secretary shall provide assistance, in accordance with section 204, for activities designed to demonstrate improved delivery of instructional services in the areas of reading, mathematics, and oral and written communication, including—

"(1) assessment of schoolwide needs to identify the instructional needs of children in basic skills;

"(2) establishing learning goals and objectives for each school;

"(3) the development of comprehensive programs to address the needs through the use of resources available under this part and other resources from local, State, and Federal programs;

"(4) the demonstration of techniques for coordinating the efforts of local agencies, organizations, and institutions, to improve achievement in basic skills;

"(5) preservice training programs for teaching personnel including teacher aides and other ancillary educational personnel, and in-service training and development programs, designed to enable such personnel to improve their ability to teach basic skills; and

"(6) active involvement of teachers, teacher aides, administrators, and other educational personnel to improve their ability to utilize available resources to carry out the purposes of this part.

"Parental Participation in Basic Skills Instruction

"Sec. 206. The Secretary, in accordance with section 204, shall support activities designed to enlist the assistance of parents and volunteers working with schools to improve the skills of children in reading, mathematics, and oral and written communication. The activities which may be supported under this section include—

"(1) the development and dissemination of materials that, with appropriate training, parents may use in the home to improve their children's performance in those skills; and

"(2) voluntary training activities for parents to encourage them to assist their children in developing basic skills.

"Use of Technology in Basic Skills Instruction

"Sec. 207. The Secretary, in accordance with section 204, shall support development and demonstration activities related to the improved use of television and other technology to contribute to the instruction of children in reading, mathematics, and written and oral communication. The activities authorized under this section shall be designed to expand the variety and improve the quality of instructional efforts involving the use of technology. The activities which may be supported under this section include—

"(1) the development and acquisition of educational programing, including audio and video materials distributed through broadcast, cable, tape, film, cassettes, or other means that provide instruction in basic skills in an effective manner;

"(2) the development and acquisition of instructional materials that supplement educational programing described in clause (1) of this section in order to improve its effectiveness in the school, the home, and other learning environments;

"(3) the development and acquisition of materials to assist teachers in relating such programing, or similar public or commerical programs of educational value, to instruction in the classroom;

"(4) the training of teachers, administrators, and other instructional personnel in the use of educational technology;

"(5) assistance to teachers, administrators, and other instructional personnel for experimentation with new technological approaches to instruciton; and

"(6) distribution of information about, and promotion of the use of, such programing and technology in the classroom and other learning environments.

"Involvement of Educational Agencies and Private Organizations

"Sec. 208. (a) The Secretary shall provide assistance and information to State and local educational agencies, institutions of higher education, and private agencies, organizations, and institutions (such as labor unions, volunteer organizations, and business associations) to support the efforts of such agencies, organizations, and institutions to stimulate children, youths, and adults to improve their achievement in basic skills. The activities which may be supported under this section include—

"(1) programs to motivate children to improve their reading skills through the distribution to children of books;

"(2) instructional programs and voluntary tutorial programs to provide individual assistance outside of the school to children, youths, and adults with instruction needs;

"(3) community efforts to encourage individuals to improve their performance in basic skills; and

"(4) the establishment of programs for lending or selling books to children, youths, and adults.

"(b) Activities supported under subsection (a)(2) may be known as reading academies.

"Collection and Dissemination of Information Relating to Basic Skills Programs

"Sec. 209. The Secretary is authorized to use funds appropriated under this part to collect and analyze information concerning the results of activities carried out under this title and under part C of title IV, including information on the activities which have been successful in improving the achievement of students in the basic skills. Such funds may also be used to disseminate that information to State and local educational agencies and other interested public and private agencies, organizations, and institutions.

"Coordination

"Sec. 210. The Secretary shall establish effective and efficient procedures for coordination between the programs assisted under this part and other parts of this title, with programs assisted under title I and title IV of this Act, title V of the Economic Opportunity Act of 1964, title V of the Higher Education Act of 1965, and other such Federal programs that support efforts to improve the basic skills of children, youth and adults.

"Part B—State Basic Skills Improvement Program

"Statement of Purpose

"Sec. 221. It is the purpose of this part to provide financial assistance to States to enable them—

"(1) to develop comprehensive and systematic statewide plans for improving achievement in the basic skills, to coordinate available resources for elementary and secondary education, and to provide financial assistance to improve the instruction so that all children are able to master the basic skills of reading, mathematics, and effective communication, both written and oral;

"(2) to provide assistance to local agencies in the development and implementation of comprehensive programs to improve basic skills proficiency and instruction in the elementary and secondary schools;

"(3) to develop means by which parents working with the schools can contribute to improving the educational achievement of their children;

"(4) to provide State leadership in the planning, execution, and evaluation of basic skills instructional programs in elementary and secondary schools; and

"(5) to arrange for and assist in the training of educational staff, including special reading and mathematics personnel and specialists needed in programs assisted under this part.

"Agreements With State Educational Agencies

"Sec. 222. (a) Any State which desires to receive grants under this part shall, through its State educational agency, enter into an agreement with the Secretary, in such detail as the Secretary deems necessary, which—

"(1) designates the State educational agency as the agency for administration of the agreement;

"(2) provides for a process of active and continuing consultation with the State educational agency, by persons broadly representative of the educational resources of the State and of the general public, including persons representative of—

"(A) public and private nonprofit elementary and secondary schoolchildren,

"(B) institutions of higher education,

"(C) parents of elementary and secondary schoolchildren,

"(D) areas of professional competence relating to basic skills instruction in reading and mathematics,

"(E) classroom teachers in the State, and

"(F) local administrators including principals and superintendents,

to advise the State educational agency on the planning, development, implementation, and evaluation of a comprehensive State program for improving basic skill;

"(3) describes the basic skills instructional programs in elementary and secondary schools for which assistance is sought under this part and procedures for giving priority to basic skills programs which are already receiving Federal financial assistance and show reasonable promise of achieving success;

"(4) sets forth criteria for achieving an equitable distribution of that part of the assistance under this part which is made available to local educational agencies pursuant to the second sentence of subsection (b) of this section, which criteria shall—

"(A) take into account the size of the population to be served, beginning with preschool, the relative needs of pupils in different population groups within the State for the program authorized by this part, and the financial ability of the local educational agency serving such pupils, and

"(B) assure that such distribution shall include grants to local educational agencies having high concentrations of children with low reading or mathematics proficiency;

"(5) provides for the coordination and evaluation of programs assisted under this part;

"(6) provides for technical assistance and support services for local educational agencies participating in the program;

"(7) makes provision for the dissemination to the educational community and the general public of information about the objectives of the program and results achieved in the course of its implementation;

"(8) provides for making a report, at least once every three years, and such other reports, in such form and containing such information, as the Secretary may reasonably require to evaluate the effectiveness of the program and to carry out his other functions under this part;

"(9) provides that not more than 5 per centum of the amount allotted to the State under this part for any fiscal year may be retained by the State educational agency for purposes of administering the agreement;

"(10) provides that programs assisted under this part shall be of sufficient size, scope, and quality so as to give reasonable promise of substantial progress toward achieving the purposes of this part; and

"(11) provides that Federal funds expended under the program will supplement the level of State and local funds that would be available for such programs in the absence of Federal assistance, and in no event will supplant such State and local funds.

"(b) Grants for projects to carry out the purposes of this part may be made to local educational agencies (subject to the provision of subsection (c) relating to the participation of private elementary and secondary school pupils), institutions of higher education, and other public and nonprofit agencies and institutions. Not less than 70 per centum of the amount allotted to a State under this part for any fiscal year shall be made available by the State for grants to local educational agencies within that State.

"(c) The provisions of section 130(a)(1) of this Act relating to the participation of children enrolled in private elementary and secondary schools shall apply to programs assisted under this part.

"(d) Each application by a local educational agency within a State for assistance under this part shall be developed in conjunction with teachers and building administrators in such district. The application shall set forth in a systematic strategy for improving basic skills instruction in the local district which provides for the planning and implementation of comprehensive basic skills instructional programs at the school building level. The school level programs shall address the needs of all students and shall utilize, in a coordinated fashion, resources available from all Federal, State, and local sources. Teachers, administrators, and parents shall be involved in the development of the comprehensive school level programs. Such programs shall include—

"(1) diagnostic assessment to identify the needs of all of the children in the school;

"(2) the establishment of learning goals and objectives for the school;

"(3) to the extent practicable, preservice training and inservice training and development programs for teaching and administrative personnel, including teacher-aides and other ancillary educational personnel, designed to enable such personnel to improve their ability to teach students the basic skills;

"(4) activities designed to enlist the support of parents to aid in the instruction of their children at home and school;

"(5) procedures for the evaluation of the effectiveness of the program, including a program of periodic testing of basic skills achievement and the publication of test results on basic skills performance by grade level and by school, without identification of performance of individual children;

"(6) assessment, evaluation, and collection of information on individual children by teachers during each year of a pre-elementary program, to be made available for teachers in the subsequent year, in order that continuity for the individual child not be lost. Such information shall also be available to parents or guardians of the individual children.

"(e) In addition to the grants authorized in subsection (d), the State educational agency may also make grants to support activities designed to enlist the assistance of parents working with schools to improve the skills of their children in reading, mathematics, and oral and written communication. Activities that may be supported under this section include—

"(1) the development and dissemination of materials that parents may use in the home to improve their children's performance in those skills;

"(2) the encouragement of closer contacts between parents and teachers to improve the coordination between learning experiences in the home and those in school;

"(3) planning for, developing and improving centers accessible to parents to provide materials and professional guidance, including volunteers, for parents who desire to assist in the instruction of their children; and

"(4) the demonstration of training programs for parents who desire to develop new skills to complement the instruction their children receive in school.

"(f) The Secretary shall enter into an agreement which complies with the provisions of subsection (a) with any State

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which desires to enter into such an agreement.

"Distribution of Funds

"Sec. 223. The Secretary shall distribute grants under the provisions of this part so as to assure that each State having an agreement under section 222 will receive not less than the amount which bears the same ratio to the total amount available for this part for a fiscal year as the number of school age children (aged five through seventeen inclusive) in that State bears to the number of such children in all States, except that any State having an agreement shall not receive less than $50,000 in any such fiscal year.

"State Leadership Program

"Sec. 224. The Secretary is authorized to enter into agreement with State educational agencies for the carrying out by such agencies of leadership and training activities designed to prepare personnel throughout the State to implement programs which have been demonstrated in that State or other States to be effective in overcoming deficiencies in the basic skills, and to develop and implement statewide plans for improving the skills of children, youth, and adults in reading, mathematics, and oral and written communication. The activities authorized by this section shall be limited to—

"(1) the development of a comprehensive statewide program providing for the coordination of all Federal and State programs that provide instruction in basic skills;

"(2) planning activities that involve local administrators, teachers, and parents in the development of strategies to improve instruction in basic skills;

"(3) statewide assessments of need relating to basic skills, including the needs of both students and instructional personnel;

"(4) in-service training programs for local administrators, instructional personnel, and other staff members involved in instruction in basic skills; and

"(5) the provision of technical assistance and the dissemination of information relating to basic skills instruction to local educational agencies and other organizations and institutions involved in programs of instruction in basic skills.

"Part C—Special Programs for Improving Basic Skills

"Inexpensive Book Distribution Program for Reading Motivation

"Sec. 231. (a) The Commissioner is authorized (1) to enter into a contract with a private nonprofit group or public agency (hereinafter in this section referred to as the 'contractor'), which has as its primary purpose the motivation of children to learn to read, to support and promote the establishment of reading motivational programs which include the distribution of inexpensive books to students and (2) to pay the Federal share of the cost of such programs.

"(b) The contract shall provide that—

"(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as 'subcontractors') under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift or loan, to pre-elementary, elementary or secondary schoolchildren;

"(2) funds made available by the Commissioner to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1); and

"(3) the contractor will meet such other conditions and standards as the Commissioner determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide technical assistance in furtherance of the purposes of this section.

"(c) The Commissioner shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless he determines that the contractor or the subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(d) For purposes of this section—

"(1) the term 'nonprofit', when used in connection with any organization, means an organization no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(2) the term 'Federal share' means, with respect to the cost of books purchased by a local private nonprofit group, organization, or public agency for a program in a locality for distributing such books to schoolchildren in that locality, 75 per centum of the cost of that agency or group or organization for such books for such program; except when such nonprofit group, organization or public agency has within the two years preceding its application for assistance, received Federal funds under a program to benefit migrant and seasonal farmworkers in which the Federal share was 100 per centum. In that case the term 'Federal share', under this section, shall mean 100 per centum of the cost of that agency or group or organization for such books that are distributed to the children of migrant and seasonal farmworkers; and

"(3) the term 'pre-elementary school' means a day or residential school which provides pre-elementary education, as determined under State law, except that such term does not include education for children who have not attained three years of age.

"(e) There are authorized to be appropriated to carry out the provisions of this section $9,000,000 for fiscal year 1979, $10,000,000 for fiscal year 1980, $11,000,000 for fiscal year 1981, and $12,000,000 for each of the two succeeding fiscal years. Under such conditions as the Commissioner determines to be appropriate, not to exceed 10 per centum of the amounts appropriated for each fiscal year shall be available for a contract from the Commissioner to the contractor designated under subsection (a) of this section for technical assistance under subsection (b)(3) of this section to carry out the provisions of such section.

"Special Mathematics Program

"Sec. 232. (a) The Commissioner is authorized to make grants to, and enter into contracts with, one or more private nonprofit agencies, institutions, or organizations, for the conduct, in cooperation with one or more local educational agencies, of special programs for the teaching of standard mathematics to children eligible for services under titles I and VI of this Act through instruction in advanced mathematics by qualified instructors with bachelor's degrees in mathematics, or the mathematical sciences from colleges or other institutions of higher education, or equivalent experience.

"(b) There are authorized to be appropriated such sums as may be necessary for fiscal year 1980 and for each of the three succeeding fiscal years, to carry out the provisions of this section.

"Part D—General Provisions

"Authorization of Appropriations

"Sec. 241. There are authorized to be appropriated such sums for the fiscal year 1980 and for each succeeding fiscal year ending prior to October 1, 1983, as may be necessary to carry out the provisions of parts A and B of this title.

"Apportionment of Appropriations

"Sec. 242. (a) From the first $20,000,000 appropriated pursuant to section 241 of any fiscal year the Secretary shall carry out the provision of part A of this title.

"(b) From the amounts in excess of $20,000,000 in any fiscal year the Secretary shall carry out the provisions of part B of this title.".

"TITLE IX—ADDITIONAL PROGRAMS

"Part B—Educational Proficiency Standards

"Grants To Implement Educational Proficiency Standards

"Sec. 921. (a) The Commissioner is authorized to make grants to any State educational agency (or to any local educational agency located in a State in which the State educational agency has not submitted an application for a grant under this section) to carry out any plan approved by the Commissioner in accordance with this section to assist students in achieving levels of educational proficiency compatible with basic standards established by such educational agency.

"(b)(1) Each applicant which desires to receive a grant under this section may submit an application to the Commissioner. Any such application shall be submitted in such form, and in accordance with such procedures, as the Commssioner shall require and shall contain an educational proficiency plan, as described in paragraph (2) of this subsection.

"(2) The educational proficiency plan referred to in paragraph (1) of this subsection—

"(A) shall contain a description of the educational proficiency standards established by the applicant for reading, writing, mathematics, and any other subject for which the State may require such standards;

"(B) shall contain a description of the programs designed to assist students in achieving levels of educational proficiency compatible with the standards described in subparagraph (A) of this paragraph;

"(C) may provide for the administration of examinations to students, at specified intervals or grade levels, to measure their reading, writing, or mathematical proficiency, or their proficiency in other subjects which the applicant considers appropriate for testing; and

"(D) shall contain the assurances of the applicant that any student who fails any examination provided for under subparagraph (C) of this paragraph shall be offered supplementary instruction in the subject matter covered by such examination.

"(c) The Commissioner shall award a grant to any applicant, in such amounts as the Commissioner considers appropriate, only if (1) the Commissioner approves the educational proficiency plan submitted by the applicant pursuant to subsection (b) of this section, and (2) the application submitted pursuant to such subsection satisfies all other requirements established by the Commissioner. Grants awarded under this section may be used by applicants either to continue to implement their ongoing educational proficiency plans, or to implement new plans, including the provision of supplementary instruction to be provided to students who fail the examinations.

"(d) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years.

"(e) For purposes of this section, the term 'applicant' means any State or local educational agency which submits an application under this section.

"(f) Nothing in this section shall authorize the Commissioner to impose tests on State educational agencies or local educational agencies, and no such agency shall be compelled in any way to apply for funds under this section.

"Achievement Testing Assistance

"Sec. 922. (a) The Commissioner is authorized, either directly or through grants or contracts awarded to State and local educational agencies and other public agencies, organizations, and institutions, and through contracts with private agencies, organizations, and institutions, to assist State and local educational agencies to develop their capacity to conduct programs of testing the achievement in the basic skills of children in elementary and secondary schools. The activities which may be supported under this section include—

"(1) disseminating information to State and local educational agencies on the availability and uses of achievement tests;

"(2) training of and assistance to administrators, teachers, and other instructional personnel in the use of tests and test results; and

"(3) research and evaluation designed to determine improved means of assessing more accurately the achievement of children in basic skills and of diagnosing instructional needs.

"(b) Nothing in this section shall authorize the Commissioner to require specific tests or test questions. Any State or local educational agency may refuse to use any test or test question developed under this section.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section for fiscal year 1980, and for each of the three succeeding fiscal years.

[FR Doc. 79-13064 Filed 4-26-79; 8:45 am]

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Friday
April 27, 1979

Part IX

Department of Energy

Production Incentives for Marginal Properties; Correction

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DEPARTMENT OF ENERGY

10 CFR Part 212

Mandatory Petroleum Price Regulations; Production Incentives for Marginal Properties; Correction

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Correction.

SUMMARY: On April 5, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) adopted amendments to the Mandatory Petroleum Price Regulations designed to provide additional incentives for increased production of domestic crude oil. (44 FR 22010, April 12, 1979.) The April 5, 1979 Notice contained certain inadvertent errors and omissions, which do not affect the substance of those amendments, but which have been corrected in the appended Notice.

FOR FURTHER INFORMATION CONTACT:

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Eugene Glass (Office of Fuels Regulations), Department of Energy, 2000 M Street, NW., Room 6128E, Washington, D.C. 20461, (202) 254–7183.

Lynette Charboneau (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue, NW., Room 1147, Washington, D.C. 20461, (202) 633–8965.

Issued in Washington, D.C., April 22, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final Rule. Further Notice of Proposed Rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is adopting amendments to the Mandatory Petroleum Price Regulations designed to provide additional incentives for increased production of domestic crude oil.

One of these amendments will apply to crude oil produced and sold from "marginal properties" and, as of the effective date of the amendment, most of the crude oil produced and sold from these properties will be eligible for upper tier ceiling prices with the remainder of such crude oil to be released to upper tier prices effective January 1, 1980.

Under another of these amendments, producers will be given an opportunity, for each domestic property on a one-time basis to elect to (1) eliminate any existing current cumulative deficiencies, and (2) update the base production control levels (BPCL's), as of the effective date of this amendment. Thereafter, the amendments provide for adjustments to these BPCL's so as to provide each month for a more realistic opportunity to release a portion of the properties' lower tier crude oil production to the upper tier. These amendments will apply to all properties except those qualifying as "marginal," for which special procedures are provided.

Finally, the ERA is continuing this rulemaking proceeding to consider whether to adopt any of the other proposals currently under consideration in this proceeding, including (but not limited to), elimination of the current 21 cent per barrel entitlement penalty on uncontrolled crude oil.

DATES: Effective date of amendments adopted, June 1, 1979; Further comments by June 15, 1979, 4:30 p.m.

ADDRESSES: All comments to: Public Hearing Management, Docket No. ERA–R–78–18, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

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I. Background

A. Third Stage of EPCA Implementing Regulations

On May 4, 1976, the Federal Energy Administration (FEA) issued a Notice of Proposed Rulemaking and Public Hearing (41 FR 18873, May 7, 1976) to consider whether additional incentives, beyond the lower tier and upper tier ceiling price levels (including adjustments for inflation and to provide a production incentive) that had been adopted pursuant to the pricing policy of the Energy Policy and Conservation Act (EPCA, Pub. L. 94–163), would be needed to maintain or increase production volumes in any classifications of domestic crude oil. At that time any amendment to provide such incentives by increasing the composite price would have been required to be submitted to Congress pursuant to the review procedures established by Section 551 of the EPCA for composite price adjustments in excess of the adjustments for inflation and as a production incentive, which were then permitted without such review.

The FEA at that time proposed additional incentives with respect to each of the three categories specified in the Emergency Petroleum Allocation Act, as amended (EPAA, Pub. L. 93–159), *i.e.*, the discovery and development of high cost and high risk properties, the application of enhanced recovery techniques, and sustaining production from marginal wells.

Final action on any of the proposals in that proceeding was ultimately deferred because of the increased composite price flexibility afforded by the Energy Conservation and Production Act (ECPA, Pub. L. 94–385), which was enacted on August 14, 1976, during the pendency of the proceeding. The ECPA eliminated the 3 percent limitation on production incentive adjustments, and identified express priorities for treatment under that increased pricing flexibility.

B. The Energy Conservation and Production Act

The ECPA amended the EPAA in several significant respects regarding crude oil prices. Specifically, the ECPA removed the 3 percent limitation on adjustments to the composite price to provide a production incentive, so that only the overall limitation of 10 percent on the combined effect of adjustments to reflect inflation and as a production incentive was retained. The EPCA had limited the annual rate of adjustment to the rate of inflation (as measured by the first revision of the GNP deflator) plus not more than 3 percent as a production incentive, with the total rate of adjustment not to exceed 10 percent per year. In contrast, the ECPA permitted increased pricing flexibility of up to a full 10 percent per year, with the result that composite price increases as a production incentive could exceed 3 percent if the rate of inflation were below 7 percent.

This increased pricing flexibility provided a means to encourage domestic production, and the ECPA included as express priorities in this regard the application of *bona fide* tertiary recovery techniques and adjustments to certain gravity price differentials that were associated at that time with heavy crude oil. (Action has since been taken to accomplish adjustments to gravity price differentials and to provide additional price incentives for *bona fide* tertiary enhanced recovery techniques.)

The ECPA provided that, effective September 1, 1976, crude oil produced and sold from stripper well properties is exempt from first sale price controls. The statutory exemption for crude oil produced and sold from stripper well properties (first in the EPAA and later in the ECPA) was intended by Congress to provide an incentive to maintain domestic crude oil production from marginal producing well properties. Under the current ECPA exemption for stripper well properties, Congress set the qualifying limits for the exemption at production of crude oil at levels of 10 barrels or less per well per day during any preceding consecutive 12-month period beginning after December 31, 1972. Although such crude oil is statutorily exempt from first sale price controls, actual volumes of stripper well crude oil have been reported to the DOE, given an imputed price (as determined under Section 121 of the ECPA), and included in the calculations to determine compliance with the actual weighted average first sale price restrictions contained in the EPAA. Effective June 1, 1979, the domestic crude oil first sale price restrictions contained in Section 8 of the EPAA terminate under current law.

II. General Principles Underlying Consideration of the Proposals

We have determined that the examination, begun by the FEA, of additional production incentives for domestic crude oil, should be continued, particularly with respect to domestic crude oil volumes the production of which may be marginally economic at currently controlled price levels. Accordingly, on November 2, 1978, we proposed several amendments (and variations thereof) to the price regulations to provide such production incentives for domestic crude oil. Public hearings on these proposals were held in Austin, Texas on January 9, 1979, and in Los Angeles, California on January 11, 1979. After consideration of all the comments received in connection with this proceeding, and on the basis of data now available to us, we have decided to adopt certain amendments to the price regulations. We will continue our examination of whether additional price incentives should be proposed with respect to first sales of domestic crude oil.

An important element of DOE policy is the promotion of domestic crude oil production, and thus of national energy self-sufficiency, in a manner compatible with the specific policies of the EPAA and overall national policies generally. In this connection, we have considered whether crude oil price levels calculated in accordance with DOE regulations, particularly lower tier crude oil price levels, may be resulting in the premature abandonment of domestic crude oil producing properties that would be self-sustaining in the absence of controls or at higher price levels. Also, we are aware that the present crude oil price control system may be operating to discourage producers from undertaking actions that would increase crude oil production. Allowing production to decline to levels which would qualify for stripper well property treatment might result in more favorable regulatory treatment than if production efforts were maintained or increased.

In order to prevent the crude oil price regulations from operating in a fashion that frustrates the goal of maximizing domestic crude oil production and to address the potential problems discussed above, we have adopted the amendments described below. These amendments will permit an increase in the price of some volumes of crude oil produced and sold from certain properties, to upper tier ceiling price levels.

Our consideration of the proposals set forth in the November 2 Notice has been guided by several factors. We have endeavored to determine whether and to what extent their adoption would be likely to result in increased levels of production above those that would otherwise occur in the absence of their adoption. In addition, we have determined that these amendments result in prices and classifications that are both administratively feasible and consistent with our goal of moving domestic crude oil production toward replacement cost, tempered by concerns for inflationary impacts on the national economy.

III. Alternative Amendments Proposed

A. Alternative Proposal No. 1: Market Prices for Certain Production From "Marginal" Properties

This proposal was designed to maintain marginal domestic crude oil production with price incentives that more closely correspond to costs of production at different well depths. It was our intention to determine whether production costs associated with domestic crude oil significantly increase in proportion to the depth of that production. Accordingly, this alternative proposed to establish a new classification of domestic crude oil produced from "marginal" properties, called "market tier" crude oil, which would immediately be eligible to be sold without regard to the current ceiling prices applicable to first sales of lower tier and upper tier crude oil.

Under this proposal, a "marginal property" would be assigned a "Marginal Base Production Control Level," and any volumes of current production and sale in excess of the Marginal BPCL could be sold at market clearing prices. (All other volumes of current production and sale equal to or less than the Marginal BPCL would be classified as either lower tier or upper

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tier crude oil, as more fully explained in the November 2 Notice.) Additionally, an imputed decline rate would operate continuously to decrease the property's Marginal BPCL so as to provide an additional incentive to maintain or increase production levels.

We have decided that effective June 1, 1979, the BPCL for a marginal property will be equal to 20 percent of the average monthly production and sale of old crude oil from the property concerned during calendar year 1978. Effective January 1, 1980, the BPCL for any marginal property will be reduced to zero. Other than the complete elimination of the BPCL effective January 1, 1980, there will be no BPCL adjustments for marginal properties.

B. Alternative Proposal No. 2: Updating of BPCL for All Properties

Under this alternative we proposed to provide producers with an option, in addition to the existing BPCL options to establish a BPCL for a particular property based on the average monthly volumes of old crude oil produced and sold from the property in 1977. For each property the producer would be permitted to eliminate any current cumulative deficiency existing in the month prior to the month in which this proposal was adopted as a final rule. If the producer selected the 1977 calendar year to establish the property's BPCL, the BPCL could be adjusted in accordance with the formula of 10 CFR 212.76, based upon the property's actual decline in production experienced between 1974 and 1977.

This proposal would permit producers of lower tier crude oil to establish and thereafter adjust a BPCL that is more current than is permitted under the present provisions of the crude oil pricing regulations. We have considered a similar proposal which would have permitted an adjusted BPCL and decline rate for the property in the manner provided under Alternative Proposal No. 1 for the Marginal BPCL, rather than under § 212.76. We have decided not to adopt this variation.

We have decided instead to (1) eliminate all existing cumulative deficiencies on a one-time basis, and (2) provide producers with the option either to continue the property's existing BPCL and existing adjustments (if any), or adopt as the BPCL the property's average monthly production and sale of old crude oil during the six-month period ending March 31, 1979, and to reduce the updated BPCL each month by a factor of 1½ percent during calendar year 1979. Effective January 1, 1980 (the mid-point of the updated BPCL period), the updated BPCL will be reduced by a factor of 3 percent each month. Where the producer elects to use as a property's BPCL the average monthly production and sale of old crude oil from the property during the six-month period ending March 31, 1979, the first BPCL adjustment will be made effective June 1, 1979, and will effect a BPCL reduction of 9 percent to reflect 1½ percent reductions for each of the months of January through May 1979. These BPCL adjustments do not apply to marginal properties.

C. Alternative Proposal No. 3: Release of Some Crude Oil Production From All Wells to Market Prices

Under this proposal, a certain volume of the daily crude oil production from each well on a property would be eligible for sale at market prices. We specifically solicited comments on the question of how many barrels of crude oil per day per well should be released under this proposal in order to provide an adequate incentive for maintaining domestic production.

We also considered releasing a certain volume of current crude oil production to market prices for those properties that have secondary or tertiary recovery projects to encourage the use of enhanced recovery methods. In that regard, commenters discussed whether it would be necessary and administratively feasible for us to require evidence that the property for which the incentive is sought is subject to a *bona fide* secondary or tertiary recovery project.

D. Alternative Proposal No. 4: Increase in Lower Tier Ceiling Price

This proposal would have increased ceiling prices of lower tier crude oil by an amount to be determined in light of data received in response to the November 2 Notice.

We have decided to continue this proceeding for the purpose of soliciting comments addressed to whether we should escalate lower tier and upper tier ceiling prices at faster than the rate of inflation as measured by the GNP deflator, or otherwise adjust lower tier and upper tier ceiling prices. Although we have not closed the rulemaking on this alternative, we have determined not to take any action on this proposal at this time.

E. Additional Proposal To Eliminate 21 Cent Per Barrel Entitlement Penalty for Uncontrolled Crude Oil

Under the entitlements program, there is currently a 21 cent per barrel fixed advantage for refiners' receipts of lower tier and upper tier domestic crude oils as compared with receipts of imported crude oil. In the November 2 Notice, we proposed that this 21 cent fixed advantage be eliminated based on our tentative conclusion that there are sufficient incentives to refine domestic crude oil, and that the 21 cent penalty may be imposing an inappropriate burden on those refiners that are dependent on imported crude oil. Commenters were divided over this proposal. Generally, refiners favored this proposal and producers opposed it. We are deferring consideration of this proposal and will continue to receive comments in this proceeding as to whether we should adopt this proposal.

IV. Discussion of Comments

We received oral or written comments from more than sixty parties including major integrated refiners, large and small independent refiners, retailers, trade associations, air carriers, and governmental representatives.

Most of the comments strongly agreed that additional incentives are appropriate at this time in order to optimize the production of domestic crude oil, especially with respect to crude oil that is produced from the nation's older, declining properties, but urged that the elimination of all first sale price controls over domestic crude oil would be a better way to optimize domestic production. The following summary addresses the significant aspects of the written and oral comments with respect to each of the major proposals.

A. Alternative Proposal No. 1

Our proposal to create specific price incentives for crude oil produced and sold from marginal properties received general acceptance from commenters and was generally favored over other proposals. It was thought to be a positive step to correct what has been regarded as inadequate incentives to encourage the maintenance or development of marginal properties under our current regulations. Commenters generally agreed that production costs for domestic crude oil significantly increase in proportion to the depth of that production, and that in defining a marginal property we should use qualifying thresholds which relate average daily production levels to average completion depths. (Our proposal was based in part on the presumption that operating cost differentials as a result of high water cut were built into the "economic limit" data on depth brackets.)

The comments addressed to this proposal, however, suggested that we should consider simplifying the concept by adopting more workable regulations that would facilitate both industry compliance and DOE enforcement and provide greater incentives than those offered in the proposal. The most frequent suggestion was to eliminate the "marginal" BPCL entirely (or to establish it at zero) for all marginal properties. In effect, marginal properties would be analogous to stripper well properties and once a property qualified as marginal, all crude oil produced and sold from the property would qualify in first sales for market prices. The major advantage of such a rule would, of course, be simplicity. No "market tier" would be created, and no declining marginal BPCL computations would be required.

B. Alternative Proposal No. 2

Most commenters perceived our proposal to eliminate existing cumulative deficiencies and to update BPCL's generally as a possible vehicle for the ultimate decontrol of first sales of all domestic crude oil. Comments generally suggested that the elimination of current cumulative deficiencies and updating of BPCL's would provide little incentive for increased production if implemented on a one-time-only basis. However, when implemented in conjunction with a declining BPCL, an updated BPCL based on crude oil produced and sold from properties in 1978 rather than in 1977 was viewed as a positive step. Further, comments suggested that monthly downward adjustments of the BPCL would provide the greatest opportunity at the present time for an overall increase in domestic crude oil production levels.

C. Alternative Proposal No. 3

The majority of comments stressed that a one-time release to market prices of a certain amount of current production would do little to provide incentives for increasing domestic crude oil production levels. Our proposal was to release to market prices the same volume of current production—10 barrels per well per day—for each property. The major objection that we received was that such a mechanism would not focus the incentive on marginal properties. Moreover, 10 barrels per well per day was believed to be too little to do much in the way of increasing domestic production.

D. Alternative Proposal No. 4

While the comments generally favored increasing ceiling prices of lower tier crude oil by some fixed increment, they did not indicate that our adoption of this proposal would result in a significant increase in overall domestic production. In fact, comments suggested that an increase of two to four dollars per barrel would be necessary to substantially increase production. The real effect of this proposal, it was suggested, would be to narrow the differential between ceiling prices for lower tier and upper tier crude oil, thus easing the way for all domestic crude oil to be released to market prices.

The comments further noted that the GNP deflator was not an appropriate index by which to measure adjustments to lower tier ceiling prices. Although estimates varied, the cost of materials and operations was generally estimated to be increasing at a yearly rate of almost twice the GNP deflator.

Finally, the comments emphasized that in order to be effective as an incentive for increased domestic crude oil production any increase in lower tier ceiling prices for crude oil should be implemented generally for all properties. They argued that the time and expense of case-by-case determination by the DOE Office of Hearings and Appeals would discourage producers from applying for price relief.

E. Additional Proposal to Eliminate 21 Cent Per Barrel Entitlement Penalty for Uncontrolled Crude Oil

We received over 30 comments on our proposal to eliminate the 21 cent per barrel entitlement penalty for imported crude oil. Generally, refiners favored the proposal while producers opposed it.

Comments in favor of eliminating the penalty expessed the view that the penalty was unnecessary to create an incentive for refiners to purchase and refine domestic crude oil. Many refiners argued, however, that domestic crude oil does not need the 21 cent advantage because of its lower price and more dependable supply. Small and independent refiners which lacked adequate domestic supplies argued that they are especially disadvantaged by the 21 cent penalty. Producers and some refiners with significant domestic production were opposed to eliminating the 21 cent penalty, believing that its elimination would raise the entitlement cost for lower tier and upper tier crude oil and, hence, blunt the impact of any incentives that we might adopt for marginal properties.

F. Request for Additional Comments

In addition to comments on the specific proposals, we requested comments on any additional mechanisms that might be used to optimize domestic crude oil production in general and production from marginal properties in particular. Of the 40 comments that offered alternatives to our specific proposals, almost all urged total decontrol of domestic crude oil as the best incentive to increase production.

Many of the comments expressly suggested that we decontrol all domestic crude oil by October 1, 1981. Under the scenario most frequently outlined in these comments, both lower tier and upper tier ceiling prices would be increased by June 1, 1979, to the maximum levels currently permitted under the first sale composite price restrictions of Section 8 of the EPAA. On June 1, 1979, all upper tier crude oil would be permitted to receive market prices and, through a system of phased decontrol by which monthly volumes would be released to market prices, all lower tier crude oil would be exempt from control by October 1, 1981.

V. Amendments Adopted

A. Upper Tier Ceiling Prices for Crude Oil Produced and Sold From "Marginal" Properties

Comments submitted in response to our request in the November 2 Notice confirm our earlier tentative conclusion that production costs for domestic crude oil increase significantly in proportion to the depth of that production. For example, our data indicate that direct operating costs at a depth of 8,000 feet average approximately 41 percent above those experienced by domestic producers at a depth of 4,000 feet. Moreover, we believe that based on the comments we received, we can provide an incentive to domestic producers that is more adequately tailored to the various production situations by permitting properties to qualify as "marginal" based upon varying production levels at different depths, and to allow a large percentage of the crude oil produced and sold from such properties to be sold at upper tier ceiling prices on June 1 of this year and the remainder at the start of next year. In this way we believe that we can improve our regulations to provide better incentives for maintaining and increasing overall domestic production from this category of properties, such incentives being more nearly commensurate with the differing levels of operating costs likely to be experienced with respect to individual properties.

To illustrate: the stripper well property exemption provides market

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prices in first sales of crude oil from any property where production of crude oil, excluding condensate recovered in non-associated production, has averaged 10 barrels or less per well per day during any preceding 12-month period beginning after December 31, 1972. This congressionally mandated exemption is designed, through the incentive of exempt prices based on the statutory presumption of threshold economic marginality at 10 barrels of crude oil per well per day for a consective 12-month period, to promote the continued operation of economically marginal properties, the production from which might otherwise by lost.

We are aware, however, that some incentive is also appropriate for other properties that do not fall within the definition of a stripper well property, but which are nevertheless economically marginal, or are approaching that limit because of higher operating costs. The marginal property amendment which we are adopting in this proceeding is addressed to those properties. Moreover, we are aware that with respect to properties that are approaching the 10 barrel per well per day limit some producers have foregone, and would continue to forego, efforts to maintain or to increase production from those properties because such efforts are more economically withheld and subsequently undertaken once the property has qualified as a stripper well property. We believe that this amendment will also avoid this unintended consequence of the stripper well property exemption and should result in a significant increase in domestic crude oil production.

Accordingly, we are adopting the following amendments to the crude oil price regulations, applicable to marginal properties effective June 1, 1979.

1. Qualifications as a "Marginal Property"

Inasmuch as our concept of a marginal property is analogous to a stripper well property, and because the calculations to be used in determining a property's qualification as a marginal property are similar to those used in determining a property's qualification under the stripper well property exemption, *Rulings 1974–28, 1974–29, 1974–30, 1975–12, 1975–15, 1977–6,* and relevant portions of *Rulings 1977–1* and *1977–2*[1] will apply with respect to marginal properties as well as to stripper well properties.

a. *Qualifying Period.*—In the November 2 Notice, we proposed a qualifying period beginning on July 1, 1977, and ending on June 30, 1978. Comments addressed to this qualifying period were favorable. A later qualifying period was viewed as being more acceptable, however, and we have decided to adopt a later period (calendar year 1978) which is more consistent with the period selected for updating BPCL's generally. Once a property has qualified as marginal, it will retain that status for the duration of price controls—even if production levels subsequently increase above the qualifying limits—in order to provide the additional incentive to increase production levels. We proposed to use a historical qualifying period—rather than the statutory "rolling" qualifying period as is used for the stripper well property exemption—so as to eliminate any incentive to curtail production in order to qualify a particular property as marginal. Comments addressed to this issue confirmed our belief that in most cases one year appears to be the optimum period to establish marginal status while providing the incentive of higher prices. A one-year period is generally long enough to compensate for short-term production anomalies and establish representative production levels, and it is not an inordinately long period of time for a property to be operated near its economic limit.

b. *Determination of "Average Completion Depth."*—In order to determine whether a particular property qualifies as a marginal property, the producer must first calculate the property's "average completion depth" of all wells that produced crude oil on the property during the qualifying period. This calculation involves dividing the sum of the completion depths for all such wells by the number of those wells. Injection wells and other wells that did not produce crude oil during the qualifying period may not be counted for purposes of these calculations.

"Completion depth" is defined as the depth from which crude oil was produced, as reported to the applicable state regulatory authority. For properties located in states where no such reports are required to be made, or where no such regulatory body exists, the producer may use the depth to the base of perforations from which the well produced crude oil. For open hole completions, the producer may use the lesser of the plugged-back depth or the base of the producing reservoir. In either case, the producer must be able to document such depths with affidavits executed by a registered petroleum engineer.

Where a well produced crude oil during the qualifying period from two or more completion depths at the same time, the well may be counted as two or more wells—and the various completion depths averaged—only where the well would qualify as a multiple completion well for purposes of the stripper well property exemption, as interpreted in *Ruling 1975–12, i.e.,* where

(a) The well consists of two (or more) separate tubing strings run inside the casing, each of which carries crude oil from a separate and distinct producing formation, *and*

(b) the production capabilities of each formation are unaffected by any change in the production level of any other formation producing through the same well.

In all other cases, for example, where a single well produces crude oil from two or more different completion depths but does not otherwise meet the criteria in *Ruling 1975–12,* the producer must count the well as one well and may use the deepest completion depth. Where a well produced crude oil during the qualifying period from two or more separate and distinct producing reservoirs, and the producer had properly elected to treat the separate reservoirs as separate properties during the qualifying period, one or more of the separate and distinct reservoirs might qualify as marginal properties depending upon average daily production during the qualifying period. In cases such as this, *i.e.,* where there was discontinuity of property treatment during the qualifying period, the producer may determine marginal property treatment on a reservoir-by-reservoir basis, provided that he is able to provide evidence of actual production volumes from each reservoir during the entire qualifying period. Otherwise, marginal property status must be determined on the basis of the property as it existed at the beginning of the qualifying period.

c. *Determination of "Average Daily Production."*—A property's average daily production during the qualifying period must be determined in the same way as is done for stripper well properties, and the provisions of the relevant stripper well property rulings will be applicable with respect to such computations. Accordingly, in calculating a property's average daily production, for example, a producer may not count injection wells, or other wells that did not produce crude oil during the qualifying period. Moreover, adjustments to average daily production must be made to account for any well which was not operated at the maximum feasible rate of production in accordance with recognized conservation practices, or was significantly curtailed by reason of mechanical failure or other disruption in production.

d. *Qualifying Thresholds.*—Once the property's average completion depth and average daily production have been determined, the producer will compare those figures with the qualifying limits set forth below.

Average Completion Depth in Feet	Average daily production
2,000 or more but less than 4,000	20 barrels or less.
4,000 or more but less than 6,000	25 barrels or less.
6,000 or more but less than 8,000	30 barrels or less.
8,000 or more	35 barrels or less.

For example, assume that a property consisted of four producing wells completed at depths of 3,300 feet, 4,700 feet, 4,500 feet, and 6,600 feet, and that during the qualifying period all four wells were operated at the maximum feasible rate of production in accordance with recognized conservation practices, with no production disruptions or other curtailments. Assume also that during this period 29,500 barrels of crude oil, excluding condensate recovered in non-associated production, were produced from the property. The property's average completion depth would be computed as follows:

$$ACD = \frac{3,300 + 4,700 + 4,500 + 6,600}{4}$$

$$= 4,775 \text{ feet}$$

The property's average daily production would be computed as follows:

$$ADP = \frac{29,500 \text{ barrels}}{(365 \text{ days})\ (4 \text{ wells})}$$

$$= 20.21 \text{ barrels per well per day}$$

Accordingly, the property as described in the example would qualify as a marginal property because, with an average completion depth of 4,775 feet (more than 4,000 but less than 6,000 feet), it produced less than 25 barrels of crude oil per well per day during the qualifying period. Therefore, as of June 1, 1979, the effective date of this rule, the producer may certify the property as a marginal property.

e. *Recordkeeping.*—Once a property qualifies as a marginal property, a producer will be required, with respect to the property during the qualifying period, to maintain at its principal place of business, and make available to the DOE upon request, (1) records specifying the number of wells on a property, (2) adequate records, or a certification by a registered petroleum engineer, providing the completion depth of each well, (3) records providing the volumes of crude oil produced at each depth, and (4) records of production, including records of each time production was significantly curtailed by reason of mechanical failure or other disruption in production. Where records of actual measured production volumes are unavailable, we will permit estimates verified by a registered petroleum engineer to be maintained.

B. *Updating of BPCL and Elimination of Existing Current Cumulative Deficiencies for All Properties.*

Effective February 1, 1976, in connection with the amendments adopted to implement the crude oil pricing policy of the Energy Policy and Conservation Act (41 FR 4931, February 3, 1976), the FEA revised the definition of base production control level (BPCL) to provide producers with the option to continue to use the then-existing BPCL or the average monthly production and sale of old crude oil during calendar year 1975 for the property. At that time the FEA found that:

> The production incentives afforded by the prior regulations [adopted initially by the Cost of Living Council in August 1973], which permitted new and released crude oil to be sold without respect to the ceiling price rule, were of decreasing impact or effectiveness because, due to natural rates of decline, production levels [were by February 1976] generally well below 1972 levels for most properties, and [were continuing] to decline. (41 FR at 4932.)

Because many properties with declining production levels were therefore unaffected by the incentives previously afforded under the price regulations, the FEA found it necessary to offer the option of using a more recent BPCL as a production incentive. In order to maximize the effectiveness of this new production incentive, the FEA eliminated all existing current deficiencies that had accumulated for properties under existing regulations.

In April 1976 the FEA amended the price regulations in order to provide an additional production incentive, with respect to those properties for which production levels were nevertheless still below the BPCL and for which production levels continued to decline so as to make the incentive of upper tier ceiling prices unrealistic. That amendment provided for BPCL adjustments based upon the annual rate of decline for the particular property concerned during the period January 1, 1972, through December 31, 1975.

Accordingly, under current regulations producers began to adjust BPCL's downward for certain properties. This adjustment has been made every six months (in January and July of each year) subject to the following qualifications. For properties from which no new crude oil was produced and sold from February 1, 1976, through June 30, 1976, the BPCL adjustments began July 1, 1976, and were permitted to be made each six months thereafter. For properties from which new crude oil was produced and sold during that five-month period, the BPCL adjustments began with the first month immediately following any six-month semi-annual period ending after June 30, 1976, during which the total production and sale of crude oil from the property was less than the sum of the property's BPCL's for that six-month period.

Once a property has qualified for the adjustment provisions contained in 10 CFR 212.76, the property's BPCL is adjusted generally as follows: During the first six-month period of adjustments, the BPCL is reduced by 75 percent of the property's annual rate of decline during the January 1972 through December 1975 period; during subsequent six-month periods, the BPCL is reduced by 50 percent of that annual rate of decline.

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We have determined that the effectiveness of the production incentives offered in February and April of 1976 have significantly decreased to the point that the current price regulations no longer afford many domestic producers a realistic promise of upper tier prices with respect to most lower tier production. More than three years have elapsed since BPCL's were updated for all properties and existing current cumulative deficiencies were eliminated. By the effective date of this amendment three years will have passed since the FEA's adoption of the BPCL-adjusting regulations. Many lower tier properties are now operating at levels that are considerably below BPCL and, because of decline rates in excess of 1972 through 1975 levels, are afforded no incentive under the BPCL adjustments. Other producers have managed to increase production levels but are faced with large cumulative deficiencies that must be overcome before any crude oil may be sold at upper tier prices.

Accordingly, we have decided to eliminate all existing current cumulative deficiencies, to provide an optional updated BPCL for all properties, and to revise 10 CFR 212.76 to provide a simpler mechanism for adjusting the updated BPCL's if selected. The purpose of this amendment is to provide incentives to maintain or increase crude oil production by allowing producers to receive upper tier prices for production in excess of the property's more recent decline rate, without requiring the producer to "pay back" from such increased production the amount by which prior production had been less than the property's prior BPCL. The one-time elimination of the current cumulative deficiency should ensure that there are no disincentives to increased production solely by reason of the fact that such increased production would otherwise be required to be sold at lower tier prices.

Under the amendments, which will become effective June 1, 1979, the BPCL for any property will be equal to the average monthly production and sale of old crude oil from the property concerned during the six-month period ending March 31, 1979. For most properties from which only lower tier crude oil is currently being produced and sold, this action should provide a greater production incentive.

Significantly affected properties will fall generally into two categories: (1) those for which production levels have fallen below BPCL, either with or without cumulative deficiencies, resulting in all current production begin classified as lower tier crude oil under existing regulations; and (2) those for which production levels are above BPCL but for which cumulative deficiencies exist. Properties in the former category will benefit from a more current lower BPCL and elimination of cumulative deficiencies; those in the second category will benefit from elimination of existing cumulative deficiencies, but would not necessarily benefit from a more recent BPCL because the new BPCL might be greater than the existing BPCL. In order to assure maximum incentives, producers will be given a one-time election to use either the existing BPCL for the property or the updated BPCL.

We have decided upon the six-month period ending March 31, 1979, rather than the calendar year that was proposed, in order to provide a more current reference point for BPCL calculations. This should more accurately take into account the production declines experienced by most domestic properties during a very recent period, and still provide a sufficiently long period of time over which to measure the BPCL so as to average out any production anomalies experienced during that period.

A producer of a unitized property will also be given the option of selecting a unit BPCL based on production and sale from the unitized property during the six-month period ending March 31, 1979. However, the producer's selection of an updated unit BPCL does not constitute "the establishment of a unit BPCL" for any other purpose under the DOE regulations. For example, an updated unit BPCL may allow certain lower tier crude oil to be released to upper tier ceiling prices, but will not affect previously determined volumes of imputed stripper well crude oil, or imputed new crude oil.

Elections must be made not later than August 1, 1979, by the producer for each property by written certification pursuant to the provisions of § 212.131. Regardless of which BPCL is elected, any existing cumulative deficiency will be eliminated effective June 1, 1979.

The provisions of the cumulative deficiency rule will be modified and retained, however, so that once new crude oil is produced and sold from a property after June 1, 1979, and production and sale volumes subsequently fall below BPCL in any month, a deficiency will begin to accrue and must thereafter be overcome before any additional volumes of new crude oil may be sold. This will serve to ensure the fulfillment of the dual policy objectives that have always been contained in the rule: (1) To provide an additional incentive to continued increased production, and (2) to act as a safeguard against possible abuses of the upper tier crude oil price incentive by periodically withholding volumes of current production for sale in later months as new crude oil. *See D.C. Latimer,* Interpretation 1976–16, 42 FR 7937 (February 8, 1977).

Several commenters pointed out, however, that the current cumulative deficiency rule may actually serve to discourage production increases by acting as an impediment to upper tier prices where the provisions of the rule are triggered by anomalous events over which the producer has no control. Such a case might arise, for example, where a sudden surge in production from a single well results in the property exceeding the BPCL by a small amount before such time as production levels are increased from the property as a whole, or where the purchaser makes an extra purchase of crude oil from the property during one month. In such cases, the producer would begin to accumulate a deficiency during a time in which efforts might otherwise be made to increase production levels generally; and when increased production levels were ultimately achieved, the cumulative deficiency would have to be "paid back" before upper tier prices could be realized.

We believe that this aspect of the rule may actually discourage the achievement of the general policies sought to be served under our regulations, and even the dual policy objectives of the rule itself. Accordingly, we are amending the rule in a way that we believe will avoid these unintended results and give the producer an opportunity to avoid the operation of the rule in most cases of production anomalies. The amended rule will provide that a deficiency is not triggered unless the sum of the volumes of crude oil produced and sold in any consecutive two-month period exceeds the sum of the BPCL's for those two months, provided however that crude oil produced and sold in excess of the BPCL in either of those two months is not sold as new crude oil. For example, assume that the BPCL for a property is 500 barrels in July and August, and that in July 525 barrels of crude oil are produced and sold from the property. If the producer certifies 25 barrels as new crude oil, the provisions of the cumulative deficiency rule would be triggered, and for any subsequent month in which production and sale was less than the BPCL, a deficiency would accrue. However, the producer could avoid the operation of the rule by certifying the entire 525 barrels produced and sold in July as old crude oil provided the total production and sale of crude oil during the months of July and August did not exceed 1,000 barrels.

A generally-applicable BPCL reduction factor will provide a more realistic incentive for producers to maintain increased production levels from domestic properties. With respect to properties for which the producer elects to continue using the existing BPCL, that BPCL may be adjusted only in accordance with the current provisions of § 212.76. With respect to properties for which the producer elects to use as the BPCL the average monthly production and sale of crude oil during the six-month period ending March 31, 1979, the property's BPCL may be reduced by a factor of 1½ percent per month during calendar year 1979, with the first adjustment (effective June 1, 1979) calculated as if the adjustments had begun effective January 1, 1979. Accordingly, for such properties, the BPCL will be reduced effective June 1, 1979, by 9 percent, reflecting a 1½ percent reduction for each of the months from January 1979 through June 1979. Effective January 1, 1980, the factor by which a property's BPCL may be reduced is increased from 1½ percent to 3 percent per month.

We have concluded that reducing the BPCL by a lower amount in 1979 and a greater amount thereafter is advisable in order to reduce the initial inflationary impact of this proposal and also to reflect the time lag between the effective date of the amendment and the resulting additional production.

However, with respect to properties for which the producer would not exercise the option effective June 1, 1979, because of more favorable treatment under the existing provisions of § 212.76, we have concluded that the producer should not be foreclosed from using the 3 percent reduction factor effective January 1, 1980. Accordingly, for such properties, the producer may elect to use the 3 percent BPCL adjustment factor effective January 1, 1980, regardless of whether the updated BPCL and 1½ percent adjustment factor was elected effective June 1, 1979.

C. Increase in Lower Tier Ceiling Price

On March 1, 1979, we issued Crude Oil Price Schedule No. 14 permitting increases in lower tier and upper tier ceiling prices to reflect a rate of inflation of 8.1 percent as measured by the GNP deflator published in February 1979. Pursuant to schedule No. 14, lower tier prices for the months of March, April, and May 1979 are projected to average $5.78, $5.82, and $5.86 per barrel nationally, respectively.

Crude Oil Price Schedule No. 14 represents the final in a series of price increases permitted by the FEA and the DOE to implement part of the crude oil pricing policy as proposed in the National Energy Plan (NEP) issued by the President on April 20, 1977. That policy, which was subsequently reiterated by the FEA and the DOE on several other occasions, was to permit lower tier and upper tier prices to increase at no more than the rate of inflation through May 1979, at which time the President's mandatory authority under the EPAA to control first sale prices of domestic crude oil prices becomes discretionary.

We have not decided at this time to depart from the policy to permit lower tier and upper tier prices to increase at the rate of inflation, as measured by the GNP deflator.

VI. Other Matters

In adopting this rule, we have considered, in accordance with DOE Order 2030, the economic impact of our action and have prepared a regulatory analysis. Copies of the regulatory analysis, as well as the EIS, may be obtained from the ERA, Office of Public Information, 2000 M Street, NW., Room B–110, Washington, D.C. 20461, (202) 634–2170.

In accordance with Section 404 of the DOE Act, the Federal Energy Regulatory Commission received a copy of the proposed rulemaking and has notified the ERA that it has not determined that the proposed regulations would significantly affect any function within its jurisdiction under Sections 406 (a)(1), (b), and (c)(1) of the DOE Act.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95–91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective June 1, 1979.

Issued in Washington, D.C., April 5, 1979.

David J. Bardin,
Administrator, Economic Regulatory Administration.

1. Section 212.72 is amended to add the definitions of "Average completion depth," "Average daily production," and "Completion depth," and to revise the definitions of "Base production control level," "Current cumulative deficiency," and "New crude oil," to read as follows:

§ 212.72 Definitions.

"Average completion depth" means for each particular marginal property the sum of all completion depths for all wells that produced crude oil from the property concerned during calendar year 1978, divided by the number of such wells during that 12-month period.

"Average daily production" means for each particular marginal property the qualified maximum total production of crude oil (excluding condensate recovered in non-associated production) produced from a property, divided by 365 times the number of wells that produced crude oil (excluding condensate recovered in non-associated production) from that property during calendar year 1978. To qualify as maximum total production, each well on the property must have been maintained at the maximum feasible rate of production throughout that 12-month period and in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production.

"Base production control level" means: (a) with respect to months ending prior to February 1, 1976:

(1) If crude oil was produced and sold from the property concerned in every month of 1972, the total number of barrels of domestic crude oil produced and sold from that property in the same month of 1972;

(2) If crude oil was not produced and sold from the property concerned in every month of 1972, the total number of barrels of crude oil produced and sold from that property in 1972, divided by 12;

(b) With respect to months commencing after January 31, 1976, except as provided in § 212.76(a), either:

(1) The total number of barrels of old crude oil produced and sold from the property concerned during calendar year 1975, divided by 365, multiplied by the number of days during the month in 1975 which corresponds to the month concerned; or

(2) If the producer elects to certify crude oil sales for 1972 in accordance with § 212.131(a)(2), the total number of barrels of crude oil produced and sold from the property concerned during calendar year 1972, divided by 366, multiplied by the number of days during the month in 1972 which corresponds to the month concerned;

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(c) With respect to months commencing after May 31, 1979, except as provided in § 212.76, for properties other than marginal properties, either:

(1) The total number of barrels of old crude oil produced and sold from the property concerned during the six-month period ending March 31, 1979, divided by 182, multiplied by the number of days during the month in 1978 which corresponds to the month concerned; or

(2) If the producer elects to certify crude oil sales for 1975 in accordance with § 212.131(a)(2), the total number of barrels of old crude oil produced and sold from the property concerned during calendar year 1975, divided by 365, multiplied by the number of days during the month in 1975 which corresponds to the month concerned; or

(3) If the producer elects to certify crude oil sales for 1972 in accordance with § 212.131(a)(2), the total number of barrels of crude oil produced and sold from the property concerned during calendar year 1972, divided by 366, multiplied by the number of days during the month in 1972 which corresponds to the month concerned;

(d) With respect to marginal properties, the base production control level equals (1) with respect to months commencing after May 31, 1979, 20 percent of the total number of barrels of old crude oil produced and sold from the property concerned during calendar year 1978, divided by 365, multiplied by the number of days during the month in 1978 which corresponds to the month concerned; (2) for the months commencing after December 31, 1979, zero.

"Completion depth" means the depth from which crude oil was produced, as reported to the applicable state regulatory authority. Where such reports are not required to be made, completion depth means the depth in feet measured from ground level, or from the top of the surface casing, along the bore hole to the base of perforations from which a well produces crude oil; with respect to a well which has been completed "open hole," completion depth means the lesser of (a) the depth to the base of the reservoir, or (b) the "plugged-back" depth. Provided that where no official state regulatory depth report has been made, completion depth must be documented with an affidavit executed by a registered petroleum engineer.

"Current cumulative deficiency" means: (a) For months prior to February 1, 1976, the total number of barrels by which production and sale of crude oil was less than the base production control level, for all months in which production and sale of crude oil was less than the base production control level subsequent to the first month in which new crude oil was produced and sold, minus the total number of barrels of domestic crude oil produced and sold in each prior month which was in excess of the base production control level for that month, but which was not classified as new crude oil because of this requirement to reduce the amount of new crude oil in each month by the amount of the current cumulative deficiency;

(b) For months commencing after January 31, 1976, the total number of barrels by which production and sale of crude oil has been less than the base production control level subsequent to the first month (after February 1, 1976) in which new crude oil was produced and sold, minus the total number of barrels of domestic crude oil produced and sold in each month after February 1, 1976, which was in excess of the base production control level for that month, but which was not classified as new crude oil because of this requirement to reduce the amount of new crude oil in each month by the amount of the current cumulative deficiency;

(c) For months commencing after May 31, 1979, at the option of the producer either (1) the total number of barrels by which production and sale of crude oil has been less than the base production control level subsequent to the first month (after June 1, 1979) in which new crude oil was produced and sold, minus the total number of barrels of domestic crude oil produced and sold in each prior month after June 1, 1979, which was in excess of the base production control level for that month, but which was not classified as new crude oil because of this requirement to reduce the amount of new crude oil in each month by the amount of the current cumulative deficiency; or

(2) The total number of barrels by which production and sale of crude oil has been less than the base production control level subsequent to any two-month period in which the total production and sale of crude oil from the property concerned exceeds the sum of the property's base production control levels for that two-month period, minus the total number of barrels of domestic crude oil produced and sold in each prior month after June 1, 1979, which was in excess of the base production control level for that month, but which was not classified as new crude oil because of this requirement to reduce the amount of new crude oil in each month by the amount of the current cumulative deficiency. A producer may not elect this option (2) for any property from which new crude oil was produced and sold as new crude oil in any month which begins after May 31, 1979.

* * * * *

"Marginal property" means a property whose average daily production of crude oil (excluding condensate recovered in non-associated production) per well during calendar year 1978 did not exceed the number of barrels shown in the following table for the corresponding average completion depth:

Table

Average completion depth in feet	Barrels per day
2,000 or more but less than 4,000	20 or less.
4,000 or more but less than 6,000	25 or less.
6,000 or more but less than 8,000	30 or less.
8,000 or more	35 or less.

* * * * *

"New crude oil" means, with respect to a specific property: (a) For months prior to February 1, 1976, the total number of barrels of domestic crude oil produced and sold in a specific month, less (1) the base production control level for that month, and less (2) the current cumulative deficiency;

(b) For months commencing after January 31, 1976, the total number of barrels of domestic crude oil produced and sold in a specific month, less (1) the property's base production control level for that month and less (2) the current cumulative deficiency since February 1, 1976;

(c) For months commencing after May 31, 1979, the total number of barrels of domestic crude oil produced and sold in a specific month, less (1) the base production control level for that month, and less (2) the current cumulative deficiency since June 1, 1979; and

(d) Shall not in any period include any number of barrels not certified as new crude oil pursuant to the provisions of § 212.131(a)(1) within the consecutive two-month period immediately succeeding the month in which the crude oil is produced and sold, except where such recertification is explicitly required or permitted by DOE order, interpretation or ruling.

* * * * *

2. Section 212.75 is amended in paragraph (b) and (g), and to add a new paragraph (h), to read as follows:

§ 212.75 Crude oil produced and sold from unitized properties.

* * * * *

(b) *Definitions.* For purposes of this section—"Current unit cumulative deficiency" means (a) For months prior to June 1, 1979, the total number of barrels by which production and sale of crude oil from the unitized property was less than the unit base production control level subsequent to the first month (following the establishment of a unit base production control level for that unitized property) in which any crude oil produced and sold from that unit was eligible to be classified as actual new crude oil (without regard to whether the amount of actual new crude oil was exceeded by the amount of imputed new crude oil), minus the total number of barrels of domestic crude oil produced and sold in each prior month from that unitized property (following the establishment of a unit base production control level for that unitized property) which was in excess of the unit base production control level for that month, but which was not eligible to be classified as actual new crude oil because of this requirement to reduce the amount of actual new crude oil in each month by the amount of the current unit cumulative deficiency;

(b) For months commencing after May 31, 1979, at the option of the producer either (1) the total number of barrels by which production and sale of crude oil from the unitized property has been less than the unit base production control level subsequent to the first month (after June 1, 1979) in which new crude oil was produced and sold, minus the total number of barrels of domestic crude oil produced and sold from the unitized property in each prior month after June 1, 1979, which was in excess of the unit base production control level for that month, but which was not classified as new crude oil because of this requirement to reduce the amount of new crude oil in each month by the amount of the current unit cumulative deficiency; or

(2) The total number of barrels by which production and sale of crude oil from the unitized property has been less than the unit base production control level subsequent to any two-month period in which the total production and sale of crude oil from the unitized property concerned exceeds the sum of the property's unit base production control levels for that two-month period, minus the total number of barrels of domestic crude oil produced and sold in each prior month after June 1, 1979, which was in excess of the unit base production control level for that month, but which was not classified as new crude oil because of this requirement to reduce the amount of new crude oil in each month by the amount of the current unit cumulative deficiency. A producer may not elect this option (2) for any unitized property from which new crude oil was produced and sold as new crude oil in any month which begins after May 31, 1979.

* * * * *

(g) Notwithstanding the provisions of the definition of "Unit base production control level" in paragraph (b) of this section, with respect to any unitized property for which a unit base production control level was established prior to June 1, 1979, a producer may, effective June 1, 1979, select as the unit base production control level, the total number of barrels of old crude oil produced and sold during the six-month period ending March 31, 1979, from all properties that constitute the unitized property, divided by 182, times the number of days during the month in 1978 which corresponds to the month concerned. The selection of a unit base production control level pursuant to this paragraph (g) does not constitute the "establishment of a unit base production control level" for any purpose under this Part.

(h) The provisions of this section shall apply to each first sale of crude oil from a unitized property.

3. Section 212.76(a) is revised to read as follows:

§ 212.76 Adjustments to base production control levels.

(a) *Eligibility.*—(1) With respect to each property for which a base production control level is not determined pursuant to the provisions of paragraph (c)(1) of the definition of "base production control level" in § 212.72, and from which no new crude oil is produced in any month in the five-month period ending June 30, 1976, after June 30, 1976, a producer may adjust the base production control level for the property concerned for each month during that six-month period in accordance with paragraph (b) of this section.

(2) With respect to each property for which a base production control level is not determined pursuant to the provisions of paragraph (c)(1) of the definition of "base production control level" in § 212.72, and from which new crude oil is produced in any month in the five-month period ending June 30, 1976, a producer may adjust the base production control levels applicable thereto in accordance with paragraph (b) of this section, commencing with the six-month semiannual period immediately following a six-month semi-annual period ending subsequent to June 30, 1976, in which the total amount of crude oil produced and sold from the property concerned was less than the sum of the base production control levels for that period.

(3)(i) Effective June 1, 1979, with respect to any property for which the base production control level is determined pursuant to the provisions of paragraph (c)(1) of the definition of "base production control level" in § 212.72, and with respect to any unitized property for which the unit base production control level is selected pursuant to the provisions of paragraph (g) in § 212.75, a producer may adjust the base production control level for the property concerned in each month only in accordance with the following formula—

$$ABPCL = [1 - (N)(.015)]\ (BPCL)$$

Where:

ABPCL = The adjusted base production control level or the adjusted unit base production control level for the month concerned.

BPCL = The base production control level or the unit base production control level for the month concerned.

N = The number of months, including the month concerned, since December 31, 1978.

(ii) Effective January 1, 1980, with respect to any property a producer may adjust the base production control level or unit base production control level in accordance with the following formula—

$$ABPCL = [(.82) - (N)(.03)]\ (BPCL)$$

Where:

ABPCL = The adjusted base production control level or the adjusted unit base production control level for the month concerned.

BPCL = The base production control level or the unit base production control level for the month concerned.

N = The number of months, including the month concerned, since December 31, 1979.

3. Section 212.128 is amended to add a new paragraph (c) to read as follows:

§ 212.128 Recordkeeping.

* * * * *

(c) *Marginal properties.* Each producer of crude oil from a marginal property shall, with respect to the qualifying period, maintain at its principal place of business, (1) records specifying the number of wells on the property, (2) adequate records or a certification by a registered petroleum engineer, providing the completion depths of each well, and (3) records providing the volumes of crude oil produced at each depth. Where actual volumes are unavailable, estimates verified by a registered petroleum engineer will be required to be maintained. Access to such records, with adequate opportunity for duplication by DOE, will immediately be

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provided to the DOE upon request of DOE audit personnel.

4. Section 212.131 is amended by revising paragraphs (a)(2)(iii) and (a)(3)(iii) to read as follows:

§ 212.131 Certification of domestic crude oil sales.

* * * * *

(a)(2) *Non-stripper well properties.*

* * * * *

(iii) The certification required under this paragraph (a)(2) of this section shall be made within the consecutive two-month period immediately following the month of September 1976, or, with respect to any property from which crude oil has not been produced and sold prior to September 30, 1976, the certification required under this paragraph (a)(2) of this section shall be made within the two-month period immediately following the first month in which crude oil is produced and sold. With respect to any property for which a base production control level is determined pursuant to the provisions of paragraph (3)(1) of the definition of "base production control level," the certification required under this paragraph (a)(2) of this section shall be made within the two-month period immediately following the month of June 1979.

* * * * *

(a)(3) *Unitized properties.*

* * * * *

(iii) The certification required under this paragraph (a)(3) of this section shall be made within the consecutive two-month period immediately following the month of September 1976, or, with respect to any unitized property for which a unit base production control level has not been established prior to September 30, 1976, the certification required under this paragraph (a)(3) of this section shall be made within the consecutive two-month period immediately following the first month in which such unit base production control level is established. With respect to any unitized property for which a unit base production control level is established pursuant to the provisions of § 212.75(g), the certification required under this paragraph (a)(3) of this section shall be made within the two-month period immediately following the month of June 1979.

[Docket No. ERA-R-78-18]
[FR Doc. 79-13086 Filed 4-24-79; 4:16 pm]
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federal register

Friday
April 27, 1979

Part X

Department of Agriculture

Animal and Plant Health Inspection Service

Horse Protection; Final Rule

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 11

Prohibition Concerning Exhibitors of Horses, Tranportation, Inspection and Detention of Certain Horses, Responsibilities, Liabilities, and Requirements of Management, Horse Industry Organizations and Associations, and Certain Other Persons, and Amendment to Clarify Final Rulemaking Regarding Designated Qualified Persons

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document establishes new and revised regulations under the Horse Protection Act to prevent the showing, exhibiting, selling or auctioning of sore horses and certain transportation of sore horses in connection therewith at horse shows, horse exhibitions, horse sales and horse auctions as required or authorized by the Horse Protection Act amendments of 1976, enacted on July 13, 1976 and certain other purposes.

DATE: Effective date: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, Phone: (301) 436-8271.

SUPPLEMENTARY INFORMATION: On April 28, 1978, this Department published a notice of proposed rulemaking containing changes and additions to Part 11 of Subchapter A, Chapter I, Title 9 of the Code of Federal Regulations (43 FR 18514–18531). The proposed rulemaking included, among other things, provisions that: (1) Certain prohibitions be established concerning the sale of horses at horse sales or auctions in addition to current prohibitions concerning the showing and exhibiting of horses; (2) procedures be established for the detention and inspection of horses; (3) procedures and requirements be established for Designated Qualified Persons (DQP's) to inspect horses for compliance with the Act; (4) procedures be established for the certification of horse industry DQP programs; and (5) requirements be established regarding space and facilities for inspection of horses to be provided by management of horse shows or exhibitions, or horse sales or auctions. Proposals for new and revised definitions and other pertinent revisions relative to recordkeeping and other requirements also appeared in the notice of proposed rulemaking.

A total of 47 comments was received within the comment period in response to the proposed ruelmaking. Although this is a relatively small number, many of the comments were from horse industry organizations and associations which represent a great number of individual members and constituent organizations such as the American Horse Council, the United Professional Horseman's Association, Inc., the American Quarter Horse Association, the American Paint Horse Association, the American Horse Shows Association, Inc., the Appaloosa Horse Club, Inc., the American Saddle Horse Breeders Association, the Tri-State Horsemen's Association, Inc., the Tennessee Walking Horse National Celebration, the Tennessee Walking Horse Breeders and Exhibitors Association, the Walking Horse Owners of America Association, and the Walking Horse Trainers Association, Inc.

Comments were also received from private citizens, Department employees, and from humane agencies, such as the Humane Society of the United States, the Society for Animal Protective Legislation, and the American Horse Protection Association, Inc.

Many of the comments raised questions or made suggestions which, because of their validity, warranted some changes of the proposed rulemaking. Certain editorial changes were also made for purposes of clarification. Because of the lengthy amount of time required to incorporate suggested changes and comments regarding the proposed regulations, the Department decided to publish Sections 11.1 and 11.7 "Definitions" and "Certification and Licensing of Designated Qualified Persons" (DQP's), as final rulemaking at an earlier date. These regulations were published in the **Federal Register** on January 5, 1979. The remaining parts of the proposed regulations are being published as final rulemaking in this document. The decision to publish Sections 11.1 and 11.7 as final rulemaking at an earlier date was made so that the horse industry organizations and associations concerned would have sufficient time to study the requirements and to establish their DQP programs.

This document amends the regulations promulgated pursuant to the Act of 1970 in the following respects: (1) § 11.2 of the regulations (9 CFR 11.2) is amended with respect to the equipment, devices, paraphernalia, and substances, which are allowed to be present on horses; the section also sets out certain prohibitions and restrictions and describes required information relating to horses at horse shows, horse exhibitions, or horse sales or auctions; (2) a new § 11.3 of the regulations (9 CFR 11.3) identifies the criteria to be applied in enforcing the "Scar Rule" with respect to horses shown, exhibited, sold or auctioned at any horse show, horse exhibition, or horse sale or auction; (3) § 11.4 of the regulations (9 CFR 11.4) is amended to identify the requirements for the inspection and detention of horses; (4) § 11.5 of the regulations (9 CFR 11.5) is amended to require show management, sponsoring organizations, and exhibitors to allow Veterinary Services representatives, and Designated Qualified Persons access to the horse show, horse exhibition, or horse sale, or auction premises and records; (5) a new § 11.6 of the regulations (9 CFR 11.6) requires the management of horse shows, horse exhibitions, or horse sales or auctions to provide Veterinary Services with adequate space and facilities for the inspection of horses; (6) § 11.20 of the regulations (9 CFR 11.20) is amended to clarify the responsibilities and liabilities of management of any horse show, horse exhibition, or horse sale or auction; (7) the recordkeeping requirements in § 11.21 of the regulations (9 CFR 11.21) are amended in light of the expanded coverage of the 1976 amendments to the Act; (8) § 11.22 of the regulations (9 CFR 11.22) is amended to require the management of any horse show, horse exhibition, or horse sale or auction, and horse industry organizations and associations to provide the Department with access to certain records and information; (9) § 11.24 of the regulations (9 CFR 11.24) is amended to require the management of horse shows, horse exhibitions, horse sales or auctions to report all horses excused or disqualified from being shown, sold, auctioned or exhibited and the reasons for such actions; (10) § 11.40 of the regulations (9 CFR 11.40) is amended to require the shipper, transporter or receiver of any horse transported to any horse show, exhibition, sale or auction to allow inspection of the horse at any such horse show, horse exhibition, or horse sale or auction, and to furnish certain information concerning such horse when there is reason to believe that the horse may be shown, exhibited, sold, or auctioned; and (11) § 11.41 of the regulations (9 CFR 11.41), which

presently deals with enforcement, is amended to require horse industry organizations and associations to report certain information to the Department.

Prior amendments containing the "Definitions" section of the regulations (9 CFR 11.1) and a new section entitled "Certification and Licensing of Designated Qualified Persons" (DQP's) (9 CFR 11.7) were published in the **Federal Register** on January 5, 1979 (44 FR 1558–1566). This amendment contains the remainder of the regulations which were proposed in the **Federal Register** dated April 28, 1978 (43 FR 18514–18531), as final rulemaking. It also contains minor changes to the Designated Qualified Persons provisions (§ 11.7) for purposes of clarification.

The Act provides that the management of any horse show, horse exhibition, or horse sale or auction shall disqualify or prohibit the showing, sale, auction, or exhibition of any horse which is sore if the management has been notified by a DQP or by the Secretary (Department representatives) that such horse is sore. Section 11.7(d)(1)(ix), (d)(3)(ii)(B), (d)(4), and (d)(7)(iv) of the final regulations published on January 5, 1979, regarding designated qualified persons contains language which reflects that horses found to be sore by DQP's would be or could be, disqualified or excused at horse shows, exhibitions, sales or auctions, by such DQP's. Although this could be the case if management decides to delegate to the DQP the authority to disqualify or excuse horses, this is still primarily the function of management according to the Act. Therefore, in order to prevent misunderstanding and for the purpose of clarification, these sections are amended herein.

The opening paragraph of § 11.7(d)(1) which speaks of the disqualification or excusing of horses is also amended for clarification and to avoid any confusion by the addition of, "from being shown, sold, auctioned, or exhibited," after the words "or horse auction," at the end of the paragraph.

Section 11.7(d)(1)(ix) is amended by deleting the words "was or," in the fourth line, after the words "such horse" and before the words "should be excused." This paragraph would then read: "The name or names of the show manager or other management representative notified by the DQP that such horse should be excused or disqualified and whether or not such manager or management representative excused or disqualified such horse."

Section 11.7(d)(3)(ii)(B) is amended by deleting the words "by the DQP." at the end of the sentence. This paragraph would then read: "The name and address of the owner, trainer, exhibitor, or other person having custody of or responsibility for the care of each such horse disqualified or excused."

Section 11.7(d)(4) is amended by deleting the words "by one of said organization or association DQP's at any horse show, horse exhibition, horse sale, or horse auction" after the words "any reason" in the ninth line of the sentence. This paragraph would then read: "Each horse industry organization or association having a Department certified DQP program shall provide, by certified mail if personal service is not possible, to the trainer and owner of each horse allegedly found in violation of the Act or its regulations or otherwise disqualified or excused for any reason, the following information:".

Section 11.7(d)(7)(iv) is amended to read, "The DQP shall immediately inform management of each case regarding any horse which, in his opinion, is in violation of the Act or regulations."

Discussion of Comments

Prohibitions Concerning Exhibitors

All 47 of the comments received regarding the proposed regulations referred to one or more paragraphs of § 11.2, "Prohibitions concerning exhibitors." Five of the comments indicated that the Department should either allow fewer devices or should ban all devices except protective boots. It is recognized that such prohibition would make enforcement of the Act much easier, but the Department feels that such drastic action is unwarranted at this time. However, if the horse industry makes no effort to establish a workable self-regulatory program for the elimination of sore horses, or if such a program is established but does not succeed in eliminating the sore horse problem within a reasonable length of time, the Department will give serious consideration to the prohibition of all action devices and pads.

The majority of the comments referring to proposed § 11.2 were concerned with paragraph (b), "Specific prohibitions." For that reason, the items listed under § 11.2(b) will be addressed separately by number. Items (1) and (2) concern the weights of various devices, such as beads, rollers, and chains, which are used as action devices. Three comments received indicated that all weights should be standardized and should apply to all types of devices. It is recognized that such standardization would result in more uniformity and ease of enforcement. However, this would not allow for the great diversity in the types and construction of action devices. One device may inflict little or no pain or trauma to a horse, while another device of equal weight may have the opposite effect. The Department must, therefore, reject the concept of standardized weights for all the devices listed in § 11.2(b) (1) and (2). Weight limitations will continue to be based upon the horse's reaction to devices of different weights. Another comment indicated that large horses should be allowed to carry action devices in excess of 14 ounces, since a large horse can carry more weight than a small horse. The Department agrees that a large horse can probably carry a heavier weight load than a small horse; however, this proposition overlooks the fact that larger animals are not more immune to pain than smaller ones. Each is sensitive to punishment directed to the coronary area of the foot, and a large horse may well be more sensitive to pain than a small horse, or vice versa.

Item 3 received no comments and will remain as proposed. Four comments indicated that the prohibition of chains with drop links in item 4 would prohibit the use of kicking and pawing chains when the horse was in its stable or trailer. This has been changed to indicate that chains with drop links are prohibited on any horse that is being ridden, worked on a lead, or otherwise worked out or moved about. Such clarification will not prohibit the use of pawing and kicking chains while the house is stabled or tied in a trailer.

Several comments indicated that the restriction prohibiting more than one action device on each limb of a horse in item 5 would hamper horses such as hunters and jumpers which normally wear combinations of bell boots and fixed protective devices. The Department will retain the limitation of one action device on each limb of a horse, since by virtue of the definition of "action device," *fixed* protective devices which are worn with action devices would not ordinarily be prohibited.

Items 6 and 7 received no comments and will remain as proposed.

Three comments were concerned with items 8 and 9 which would limit the weight used on yearling horses' feet and the height of pads to elevate or change the angle of the hoof. One comment suggested that all types of devices should be prohibited on yearling horses, including weights, and pads, as well as devices that change the angle of the hoof. The Department has no reason to take such action at this time; however, if the practice of soring continues, the

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Department will seriously consider the removal of devices and pads from horses. Another comment indicated that the weight of shoes should be determined by measuring the size of the shoes rather than by weighing. This proposal would allow for quicker and easier determinations for compliance; however, it would not allow for the great variation in construction materials. Metals, such an aluminum, iron, stainless steel, and various alloys all have different weights. The Department will therefore retain item 9 as proposed. The third comment stated that the use of pads, weights, and other devices, as discussed in items 8 and 9, did not result in intentional soring and should be left up to industry rules.

The Department would point out that the definition of the term "sore" does not differentiate between intentional and unintentional soring. Nor does the diagnosis or detection of a sore horse depend on whether or not the soring is intentional. A sore horse, whether made sore intentionally or unintentionally, is still a sore horse. The severity of the penalty under the Act, however, may well depend upon whether the soring was intentional or unintentional. The Department would further point out that, to date, the horse industry has done little to limit the amount of buildup or the amount of weight that is attached to the feet of a horse. The Department will therefore retain the prohibitions set forth in items 8 and 9 as proposed.

Item 10 concerns the heel-toe ratio on the built-up feet of horses. The present regulations require the length of the toe to exceed the height of the heel by at least 1 inch when measured from the ground to the hair line. The proposed regulations reduced the heel-toe ratio to ½ inch. A total of six comments were received concerning the heel-toe ratio. Four of the comments stated that the heel-toe ratio should be kept at the 1 inch differential, and a fifth comment stated that the height of buildup by pads should be limited. The sixth comment suggested that the term "unless for therapeutic reasons" should be added to all prohibitions proposed in items 10 through 15. The Department can see no beneficial effect from adding the term "unless for therapeutic reasons" to any of the indicated prohibitions in items 10 through 15, since the Act makes provision for the therapeutic treatment of horses in the definition section. Also, the Department does not intend to place a limitation upon the height of the buildup on a horse's feet at this time. However, such action may be considered in the future.

The Department has recently initiated a study of soring methods and techniques at a major university. The effects of building up a horse's feet with pads, and of changing the angulations of the foot, fetlock, and pastern areas, will be included in the study. The Department has therefore decided to wait for the results of the study before making any change in the heel-toe ratio. Therefore, the Department will retain the present 1-inch heel-toe differential unless and until studies indicate that a change should be made.

Item 11 would prohibit the artificial extension of the toe length unless such extension assumes the normal angle of the hoof wall and pastern and is therapeutically necessary to repair a broken hoof. A total of five comments were received concerning this prohibition. Three of these comments indicated that the proposal was too restrictive and should allow for extension of the toe without a broken hoof. Another comment suggested changing "and is therapeutically necessary" to "or is therapeutically necessary," and the fifth comment suggested deleting the whole phrase regarding the repair of a broken hoof.

The Department purposely worded this prohibition so as to prevent the artificial extension of a horse's toe unless it was necessary to repair a broken hoof. Other purposes for such toe extensions are limited to cosmetic reasons or training and soring aids. The Department therefore finds no reason to allow such toe extension except as required for the therapeutic repair of a broken hoof.

Item 12 would prohibit the use of rocker-bars on the bottom surface of horse shoes if such bars are located more than 1½ inches back from the point of the toe. Two comments were received regarding this proposal, and both suggested that allowances should be made for the use of Memphis bars, cross-firing bars, and similar devices, the purpose of which is to correct or otherwise change a horse's gait. The proposal, as stated, was not intended to interfere with shoeing practices to correct such conditions as cross-firing (striking the front feet with the hind feet). The intent of the prohibition of placing rocker-bars more than 1½ inches back from the toe is to prevent the unsteadiness of stance and the tendon irritation that occurs when weight and balance focus upon a small fulcrum point. The intention was to prohibit the single rocker-bar or double rocker-bars that are placed close together so as to act as a single bearing surface. This part has been reworded so as to clarify this intent.

Item 13 would require that metal hoof bands used to anchor or strengthen pads and shoes be placed at least ½ inch below the coronet band. One comment was received regarding this proposal indicating that such metal bands should be at least 1 inch below the coronet band. The Department sees no justification, at this time, for such a requirement and will therefore retain the 1/2 inch distance as proposed.

Item 14 would prohibit the use of metal hoof bands that can be easily and quickly loosened or tightened by hand. Thirteen comments were received regarding this proposal. Eight of these comments stated that the hoof bands must be able to be loosened or they will injure the horse. Three other comments questioned as to how such bands would be changed or loosened to allow for normal growth. Another comment asked how to set the proper tension, and the last comment stated that the tension on such hoof bands must not be so tight as to cause pain or distress to the horse. The Department would point out that the proposal does not require "permanently fixed" bands, nor does it prohibit the adjustment, changing, or replacement of such bands. It does prohibit metal hoof bands that can be *easily and quickly loosened or tightened by hand.* Such a prohibition would include such things as wing nuts. Bands which can be adjusted, but cannot be readily and easily tightened or loosened by hand in a few seconds, would not be prohibited. The tension placed on such bands should be sufficient to firmly hold the pads or shoes in place but should not cause undue pressure on the foot which could result in pain to the horse. The Department feels that such fastening devices can be utilized without excessive problems or difficulty, and will, therefore, retain this part as proposed.

Item 15 would prohibit any action device, or any other device that strikes the coronet band of the foot of a horse. Two comments were received which indicated that jumping horses and other horses wear bell boots as protective devices and that such wording would prohibit the use of bell boots, as they "strike" the coronet band. The Department recognizes the validity of this comment and has added the phrase, "* * * except for soft rubber or soft leather bell boots that are used as protective devices."

Item 16 pertains to shoeing and hoof trimming practices that could be expected to cause pain or distress to a horse. No comments were received concerning this proposal. It will therefore be retained as proposed.

Item 17 would prohibit the attachment of lead or other weights to the outside of the hoof wall, pad, or on the outside surface of the horse shoe. Three comments were received concerning this proposal. Two of the comments indicated that the phrase, "exposed surface other than the bottom of the pad or on the outside surface of the horse shoe" should be inserted after the term "* * * hoof wall, * * *." The Department can see no beneficial effect or improvement from the addition of such a phrase to the proposal. The word "the" has been added between the terms hoof wall and pad for the purpose of clarification. Attaching excess weight to the feet of a horse will cause inflammation, pain, and soreness in the shoulder, upper legs, and tendons. It is the intention of the Department to restrict such practices. The third comment stated that there should be maximum weight limits set for yearling horses, 2-year-old horses, 3-year-old horses, and 4-year-old or older horses. With the exception of yearling horses, the proposed regulations did not place any restrictions as to weight limitations by age group of horses. However, the Department will keep the comment under consideration with the possibility of incorporating such requirements into the regulations at a later date if circumstances indicate such a need.

Paragraph (c) of § 11.2 would prohibit the use of all substances on the extremities above the hoof of any horse, except glycerine, petrolatum, mineral oil, or mixtures thereof, with certain limitations. A total of eight comments were received concerning this paragraph. Three of the comments insisted that all substances used on horses be prohibited. The Department feels that such action would be overly restrictive at this time. However, these comments will be given serious consideration in the future if sore horses continue to be a problem.

Other comments indicated that the proposed restriction places an unnecessary burden on most horse shows and exhibitions by prohibiting the use of fly sprays, grooming aids, etc., on the vast majority of horses. It was further pointed out that since soring is only prevalent in one or two breeds of horses, placing such restrictions upon all horses was unwise and unfair. The Department agrees that this comment and objection has some validity. It has been the Department's experience over the past 7 or 8 years that the types of horses usually subjected to soring practices have been Tennessee Walking Horses and, to a lesser extent, racking horses. The Department has therefore changed paragraph (c), "Substances", to read: "All substances are prohibited on the extremities above the hoof, of any Tennessee Walking Horse or racking horse, while being shown, * * *" and is thus limiting the prohibition concerning the use of substances to Tennessee Walking Horses and racking horses.

Others commented that this proposal is too restrictive and should allow the use of more substances. The prohibition of substances such as sprays, dyes, and greases has received considerable attention. It is recognized that dyes could aid in changing the identity of a horse and could act as a camouflage to signs or soring. Colored substances, sprays, greases, and clear substances can act as vehicles to soring chemicals and serve as an adhesive to foreign material which could be abrasive in nature. These substances could then cause soring by direct or indirect means. For these reasons the Department will continue to prohibit all substances on the legs of Tennessee Walking Horses and racking horses, except as allowed under § 11.2(c).

Another comment referred to prohibiting substances "adminstered" to a horse. Although this is a good suggestion, the Department is of the opinion that at this time the general prohibitions found in proposed § 11.2 adequately cover any practice which could cause a horse to be sore which is not specifically prohibited by regulation. In the event that it becomes necessary to specifically refer to the administration of substances to a horse in the regulations to properly enforce the law, the Department will do so in future rulemaking.

Section 11.2(d) pertains to competition restrictions placed upon 2-year-old horses so as to alleviate the excessive stress and fatigue to which such young horses are subjected. The proposed regulation would limit the amount of time that a 2-year-old horse could be worked, at any one time, to a total of 10 minutes. After a rest period of not less than 5 minutes, the horse would be allowed a second performance or workout period not to exceed 10 minutes in length. Only two such 10-minute workouts would be allowed per class or performance. A total of 18 comments were received regarding this proposal. One comment indicated that the 10-minute restriction should be retained; however, five other comments indicated that such a restriction was unrealistic, unenforceable, and unworkable in large classes. The Department is advised that horse show or horse sale management, or the judge, usually have complete authority to limit or extend the period of performances or workouts. Additionally, they have the responsibility of complying with the Horse Protection Act and regulations. Thus, such a restriction would be enforceable. The Department also suggests that if 2-year-old classes contain so many horses that they cannot be judged within a single 10-minute period, or possibly within two 10-minute periods with a 5-minute rest period between the 10-minute workouts, then the class size should be reduced by splitting the class. The Department finds that the objections submitted are not persuasive and believes that the proposed restrictions can be workable and enforceable.

Another comment requested the Department to clarify whether the 10-minute time limit meant the time after the initial performance and lineup or the entire time. A second person asked, "Do two workouts mean a complete workout?" The 10-minute time limitation refers to the total time that a horse is worked. If the horses can be judged both ways in the ring within a single 10-minute period, they could then be lined up and a second 10-minute workout could be given after a 5-minute rest period, if necessary. However, if the horses were only judged going one way in the ring during the 10-minute workout, it would then be necessary to allow a 5-minute rest period before judging the horses going in the reverse direction in the ring. In this case, no further workout would be allowed as the maximum of two 10-minute workouts per performance, or class, would have been reached. Nine of the comments received stated that such time limitations were not necessary for most breeds of horses, in most shows, and should apply only to Tennessee Walking Horses, and not to other breeds of horses. The Department recognizes the validity of such comments, since most other breeds of horses (such as Quarter Horses, Arabians, Morgans, Hackneys, Saddlebreds, Thoroughbreds, etc.) are not subjected to gaits or performances that are as physically punishing and fatiguing as are the "big lick" or the rack. The Department will, therefore, limit § 11.2(d), "Competition restrictions—2-year-old horses", to Tennessee Walking Horses and racking horses.

No comments were received pertaining to part (e), "Information requirements—horse related", of § 11.2 and it will be retained as proposed.

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Scar Rule

Several comments were received concerning the proposed scar rule. One comment indicated that such scars were not found on the pasterns of normal horses and, therefore, should not be allowed at all. While the Department recognizes the truth in this statement, such action would essentially eliminate most of the Tennessee Walking Horses from the show or sale ring and therefore cannot be considered as practical.

One comment indicated that the scar rule should not be applied to sales or to brood stock. The Department would point out that the Act itself covers horses which are shown, exhibited, sold or auctioned, and therefore, regulations which pertain to one type of activity must pertain to all types. Additionally, there is no method to guarantee that any horse that is sold will be used only for breeding and not be shown or exhibited. Also, the scar rule would not interfere with the selling of older breeding stock, but would pertain only to younger horses of particular age groups. The age of horses covered by the scar rule would therefore increase each year.

Another comment asked, "At what age does the scar rule apply?" As set forth in the proposed regulations, all horses up to and including 5-year-old horses in the 1977 horse show season would be subject to the scar rule. The Department has recently reviewed horse industry's enforcement of its own scar rules and has found it to be lax or nonexistent. Many 2-year-old, 3-year-old, and 4-year-old horses are being found to have scars on their pasterns when inspected by Department veterinarians. Horses of these age groups were foaled after the Horse Protection Act of 1970 was enacted, and some were foaled after the Horse Protection Act Amendments of 1976 were enacted, and should, therefore, carry no scars on their pasterns. Due to lack of enforcement of its scar rules by the horse industry, the Department has determined to add a scar rule to the regulations and will initiate a policy of strict enforcement of the rule.

In order not to cause a severe hardship upon the horse industry by the elimination of large numbers of 4- and 5-year-old horses from competition, due to the scar rule, the Department has decided to make the scar rule applicable to all 3-year-old horses in the 1979 horse show season, rather than 7 years old as proposed. Therefore, 3-year-old horses in 1979; 4-year-old horses in 1980; 5-year-old horses in 1981, etc., will be subject to the scar rule. Three-year-old horses would be eleigible to compete in 3-year-old classes 4-year-old horses would be eligible to compete in 4-year-old classes, etc. The horse industry is cautioned, however, that the Department intends to vigorously enforce the rule.

Still another comment indicated that the concept of "once sore—always sore," which is associated with the scar rule, should be eliminated. The Department would point out to the horse industry that the scar rule applies only to horses that were foaled and trained well after the passage of the Horse Protection Act of 1970, and after the passage of the 1976 Horse Protection Act amendments. Such horses should therefore bear no scars whatsoever if the law were being complied with. Additionally, it is conceivable that such a scarred horse could be restored to a satisfactory condition with proper care, rest, and time. The Department therefore finds no justification to change the proposed scar rule or its intent.

Inspection and Detention of Horses

Proposed § 11.4 concerns the "Inspection and detention of horses." A total of 13 comments referred to the proposals set forth in this section. Four of the comments were concerned with the general idea of detention of horses and expressed concern that such authority could be abused or could cause problems such as detention of a horse on the last day of the show, which could cause management to violate possible contracts or agreements concerned with vacating the premises by a specified time, or with hauling or shipping arrangements. An additional concern was that horses might be detained deliberately in order to keep them from showing. The Department agrees that the possibility of abuse does exist; however, the possibility of abuse exists within any regulatory agency or law enforcement body. While such possibility must be acknowledged, the Department feels that the likelihood of actual abuse is very remote and is certainly not supported by the past actions of Department inspectors in carrying out their duties and responsibilities. There will be times when horses may be detained on the last day of a show. However, any problems which this could cause will have to be worked out prior to the show between the parties involved.

It is true that a horse may be held in detention and thus miss a class in which it had been entered during the detention period. Such instances should be remote, however, and certainly would not be caused deliberately. Department inspectors will detain horses in a detention area provided by management without fee for various reasons, such as to confirm or discount a diagnosis of soreness or to check out some abnormality that was observed when examining the horse. Such decisions will be made carefully by the Veterinary Services Show Veterinarian and will be based upon the evidence available at the time. The Department will not state that detained horses may not miss a class now and then, but it does not believe that the detention of horses will be deliberately abused to prevent any particular horse from showing. The same reasoning applies to contract carriers or agreements by management to vacate the show grounds by a specified time. While the Department must admit that there will be instances when horses are detained on the last day of an event, every effort will be made by Department inspection personnel to expedite any inspection when such problems arise. Department personnel are just as anxious to leave the show grounds and return to their homes and family as are the exhibitors, and it is very unlikely that they would purposely delay such departure any longer than necessary.

Another comment requested clarification of the purpose for detention of horses and expressed the fear that either double violations would result concerning a single horse, or that charges would not be withdrawn if the horse proved not to be sore upon examination during the detention period. As stated before, horses may be detained for various reasons and for varying periods of time. It may be necessary for Department inspectors to detain a horse for further examination of some abnormal condition noted during examination, or for additional evidence to either justify or refute a possible soring violation. If further examination during the detention period confirms the diagnosis of soreness, then one alleged violation will be documented for each particular instance the horse was transported, entered, shown, sold, etc., in a sored condition. The detention in itself will not trigger a separate violation, since the purpose of the detention would be to confirm or disprove a prior diagnosis. If the horse is detained again, after performing in another class, a second violation could be documented. Should further examination of the horse during the detention period indicate that the diagnosis of soreness cannot be sustained or justified, than an alleged violation would not be prepared. The custodian of the horse would be so advised by Department personnel.

One comment indicated that a Veterinary Services representative should be in the proximity of the dention area at all times when any horse is being held in detention. Such a requirement was the intent of the Department and has been set forth in guidelines for Department personnel; however, proposed § 11.4(d) has also been changed so as to clarify this intent.

Several other comments were concerned with the care of horses while under detention and stated that hand walking of the horses should be allowed under supervision. The Department would point out that proposed § 11.4(e) clearly allows feeding, watering, and other normal custodial and maintenance care of detained horses. Such normal care and maintenance would include hand walking. However, in order to clarify the intent of this section, the term "such as walking, grooming, etc.," has been added.

The remainder of the comments regarding proposed § 11.4 addressed paragraph (h) regarding the right of the owner, trainer, exhibitor, or custodian of the horse to request reexamination and testing of their horse. One comment indicated that the Department should not allow requests for reexamination. Another comment indicated that the entire section should be eliminated. The remainder of the comments stated that examination should work both ways and that reexamination should be granted upon request and should not be contingent upon the availability of Veterinary Services personnel or a determination that sufficient cause exists for reexamination.

The Department is of the opinion that not to allow requests for reexamination of horses would be unfair to the horse industry in view of the serious consequences which could result from being charged with a violation. However, to allow such requests for reexamination without limitation, or a means of selection, would lead to chaos and total collapse of the system. It is highly probable that unscrupulous owners, trainers, or custodians of horses would request, or demand, the detention of every horse that was examined by Department inspectors or that was found to be in possible violation. The numbers of such requests would be impossible to handle and would overburden Department inspection personnel to the point that inspections and enforcement of the Act could no longer be properly carried out. Such action would vitiate the entire purpose of the Act. Additionally, once Department veterinarians have made the determination that a horse is sore and in violation of the Act or regulations, there is no need to further examine such horse unless the Veterinary Services Show Veterinarian and the examining veterinarians feel that additional information is required or that additional information could change their opinion concerning the status of the horse. The Department will therefore retain the provision that the Veterinary Services Show Veterinarian must determine that sufficient cause for reexamination and testing exists before granting any such request for reexamination.

Access to Premises and Records

One comment was received in regard to proposed § 11.5, "Access to premises and records." This comment stated that paragraph (b)(1) should be expanded to include trainers and grooms, and to allow for the seizure of equipment and devices in the groom's bucket or equipment tray. Paragraph (b)(1) as proposed, states in part, "Each horse owner, exhibitor, or other persons having custody of or responsibility for any horse * * *." Thus, the trainer and groom are already included under the wording, "* * * other persons having custody or responsibility for any horse * * *." The Department would also point out that section 6(e)(2) of the Act, contains authority for the seizure of any equipment, device, paraphernalia, or other substance which was used in violation of any provision of the Act or any regulation issued under the Act or which contributed to the soring of any horse at or prior to any horse show, horse exhibition, or horse sale or auction. There is therefore, no need to repeat such authority within the regulations. The Department finds no justification to change § 11.5, and it is therefore published as proposed.

Inspection Space and Facility Requirements

Six of the comments received stated their concern with the regulations proposed in § 11.6, "Inspection space and facility requirements." Several of the comments indicated that the regulations, as proposed, were too broad in scope and should not require every horse show or 4–H demonstration to routinely set aside inspection space since it would create economic burdens and hardships. Other comments stated that such requirement for all horse shows was unreasonable and costly when based on the limited number of horse shows inspected by the Department in the past. It was also suggested that such requirements be limited to certain types of horse shows. The Department is of the opinion that these concerns of burden and hardship to the horse industry, due to the wide scope of the proposed regulations and the limited number of shows inspected, are valid. The Department will therefore modify the proposed requirement that inspection space shall be routinely provided, whether or not management is notified of the Department's intention to inspect. This requirement is changed herein to apply only to horse shows, exhibitions, sales, or auctions containing Tennessee Walking Horses or racking horses. However, shows, exhibitions, sales, or auctions containing other types of horses will still be required to provide inspection space and facilities if requested by Veterinary Services.

It was further stated that such space and facilities could not be provided by small shows without a severe financial burden. The Department would point out that space which would be adequate for inspection (or detention) is usually available at most horse shows, large or small, and could therefore be made available to Department inspectors without undue cost. Requirements for inspection space and waiting space for horses, in a convenient location, would require prior planning by management so that appropriate space were available should USDA inspectors attend the show; it would not, however, require significant additional cost. The Department will therefore retain the requirement that sufficient space in a convenient location be supplied for the inspection of horses and for horses waiting for inspection. Such space shall be provided by management, without fee, and shall include a place where horses can be detained.

Protection from the elements and a means of crowd control will not be required to be supplied by every horse show, horse exhibition, or horse sale or auction, but should be planned for by management and made available upon the request of the Veterinary Services Show Veterinarian. A 110-volt power source is not an absloute requirement, since many small shows are held in areas that have no electrical source readily available. However, if electrical service is present, it must be made available to USDA inspectors upon request of the Veterinary Services Show Veterinarian.

One comment stated that inspection and detention facilities should not be routinely required of any horse show, but that the Department should give management a 12-hour notice of intent to inspect the show, with penalties for leaking word of such inspection. Management could then supply the

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required facilities. The Department has inspected horse shows for the past 7 years, and in most instances, it was necessary to advise management that a USDA inspection team would be present so that proper facilities would be available. Without exception, word of USDA inspection has rapidly spread, and certain horses, owners, and trainers have either left the grounds or have not attended the show. Surprise attendance at horse shows and sales will be the basis of future inspections, and therefore, the Department must reject any suggestion of prior notification of management.

Additionally, one comment stated that minimum requirements should be specifically stated. The Department finds that to specify by regulation, specific requirements, which would apply to all types of horse shows, exhibitions, sales or auctions, in all parts of the country, and under all types of conditions, would be unworkable and unrealistic. The space and facility requirements are therefore written so as to allow some flexibility according to circumstances.

Responsibilities and Liabilities of Management

Twelve of the comments received were concerned with the proposed regulations under § 11.20, "Responsibilities and Liabilities of Management." Without exception, all of these comments indicated that to require the DQP to observe all horses in the warmup area and show ring, to inspect all horses prior to showing, exhibition or sale, and to inspect all first-place horses in all animated gait classes, in addition to carrying out the required recordkeeping duties, was physically impossible and unreasonable. Additionally, it was indicated that such a requirement would not only delay and interfere with the operation of large shows, but was an unnecessary and costly requirement for most shows and most breeds and would place an impossible burden on both management and the DQP. Several of these comments indicated that such requirements should be limited to those shows, exhibitions, sales and auctions involving those horses which are most commonly sored.

The Department finds these comments to be valid and reasonable, and will therefore limit the duties and responsibilities of DQP's, as set forth in § 11.20 concerning the physical examination of horses, to those horse shows, horse exhibitions, horse sales and horse auctions that contain Tennessee Walking Horses or racking horses. Events featuring Tennessee Walking Horses and racking horses must follow all the requirements of the regulations; other shows or sales at which a DQP is present need not strictly adhere to the requirements other than reporting sore horses.

Other comments indicated that the delegation of authority to a DQP, by management, to disqualify or excuse horses, should be required and should be absolute rather than optional. According to the Act, it is management's responsibility to disqualify or to prohibit the sale or auction of any horse which is sore if the management has been notified of the fact by a DQP or by the Secretary, or if it otherwise has knowledge that such horse is sore. Although management can delegate its functions to whomever it pleases, the Department does not feel that it is appropriate to require such delegation by regulation.

One comment stated that it is illegal to prevent or remove a horse from showing. The Department would point out that, in the past, horse show management has exercised its authority to prevent or remove any horse from showing if it so desired. Management now has the legal responsibility, under the Horse Protection Act, to prevent or remove horses that are in violation of the Act or regulations from being shown, exhibited, sold or auctioned. Such action is required under the Act with severe penalties for failure to do so.

Records Required and Disposition Thereof

Two of the comments received indicated that the proposed recordkeeping requirements, as set forth in § 11.21, were impossible to comply with, would be an economic burden (especially for small shows), and that the required information was not usually available to show management. It was further stated that there was no basis for expanding the recordkeeping requirements and suggested that they be restricted to those shows which contain horses that are subjected to soring practices.

The Department would point out that the information which would be required to be maintained under § 11.21 is information that is normally required by horse industry associations or organizations and is therefore available to management without excessive cost or effort. Additionally, this information is necessary for the effective enforcement of the Horse Protection Act. The Department agrees, however, that to require such recordkeeping procedures of all horse shows would be an unnecessary burden upon the horse industry. Therefore, the Department will not change the information that is required to be kept, but will limit such recordkeeping requirements to those horse shows, exhibitions, sales or auctions which feature Tennessee Walking Horses or racking horses.

Inspection of Records

No comments were received concerning proposed § 11.22, "Inspection of records." However, certain editorial changes were made to clarify the intent that all horse shows, whether or not they contain Tennessee Walking Horses or racking horses, must allow the inspection of any and all records pertaining to horses by a Veterinary Services representative and must provide facilities for the proper examination of such records.

Reporting by Management

Two comments were received concerning proposed § 11.24, "Reporting by management." One comment stated that such a requirement violated privacy rights of management and individuals. The Horse Protection Act of 1970 and the Amendments of 1976 give the Secretary the authority to issue such rules and regulations as he deems necessary to carry out the provisions of the Act. Section 4(d) of the Act (15 U.S.C. 1823(d)) requires the management of a horse show, horse exhibition, or horse sale or auction to establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to implement and determine compliance with the Act. The Department therefore finds this comment to be invalid. The second comment stated that such a reporting requirement would place an unnecessary burden upon horse shows, exhibitions, sales and auctions that did not contain horses which were ordinarily subjected to soring practices and should be limited to those shows that feature horses which might be expected to be sore. The comment further stated that the 72-hour time limit for reporting appeared to be unreasonable, as show management had many duties and responsibilities to fulfill within a short period of time. A time limit of 5 days was suggested instead of 72 hours for management to report excused or disqualified horses.

The Department agrees that the proposed 72-hour reporting requirement may be too short. Therefore, the time period for reporting excused or disqualified horses is changed herein to 5 days. Also, the reporting requirement is modified herein to require the reporting of information described in

§ 11.21(a)(1) through § 11.21(a)(6) only by management of events featuring Tennessee Walking Horses and racking horses. Management of events not featuring walking horses or racking horses shall still be required to report any incident wherein a horse is excused or disqualified because of soring.

Prohibitions and Requirements Concerning Persons Involved in Transportation of Certain Horses

No comments were received concerning proposed § 11.40. The words "affecting commerce" have been deleted from the heading of this section as they have been determined to be unnecessary. Section 3 of the Act states that all horses subject to the Act are either in interstate or foreign commerce or substantially affect such commerce; therefore, there is no need to include the phrase "affecting commerce" in the regulations.

Reporting Required of Horse Industry Organizations or Associations

Four of the comments received addressed the proposed reporting requirements of horse industry organizations or associations as set forth in § 11.41. All of these comments indicated that the requirement to supply rulebooks and information relating to disciplinary procedures to all exhibitors, trainers, and owners of horses at such shows, exhibitions, sales, or auctions was not only impossible but was an unnecessary economic burden and expense to such organizations or associations.

These comments further indicated that the requirement to disclose all disciplinary proceedings taken by an organization or association was not necessary and that such disclosures should be limited to violations of the Horse Protection Act or regulations.

The Department agrees with these comments and has therefore changed proposed § 11.41 to indicate that the reporting of information regarding disciplinary procedures will be limited to violations of the Horse Protection Act or regulations and that such information and rulebooks should be readily available to all exhibitors, trainers, owners, and other persons.

Accordingly, Part 11 of Subchapter A, Chapter I, Title 9 of the Code of Federal Regulations, is amended in the following respects:

1. Section 11.2 (9 CFR 11.2) is revised to read as follows:

§ 11.2 Prohibitions concerning exhibitors.

(a) *General prohibitions.* Notwithstanding the provisions of paragraph (b) of this section, no chain, boot, roller, collar, action device, nor any other device, method, practice, or substance shall be used with respect to any horse at any horse show, horse exhibition, or horse sale or auction if such use causes or can reasonably be expected to cause such horse to be sore.

(b) *Specific prohibitions.* The use of any of the following devices, equipment, or practices on any horse at any horse show, horse exhibition, or horse sale or auction is prohibited:

(1) All beads, bangles, rollers, and similar devices, with the exception of rollers made of lignum vitae (hardwood), aluminum, or stainless steel, with individual rollers being of uniform size, weight and configuration, provided each such device may not weigh more than 14 ounces, including the weight of the fastener.

(2) Chains weighing in excess of 8 ounces each including the weight of the fastener on 2-year-old horses and chains weighing in excess of 10 ounces each including the weight of the fastener on horses 3 years old or older.

(3) Chains with links that are not of uniform size, weight and configuration; and, chains that have twisted links or double links.

(4) Chains that have drop links on any horse that is being ridden, worked on a lead, or otherwise worked out or moved about.

(5) More than one action device on any one limb of a horse.

(6) Chains or lignum vitae, stainless steel, or aluminum rollers which are not smooth and free of protrusions, projections, rust, corrosion, or rough or sharp edges.

(7) Boots, collars, or any other device, with protrusions or swellings, or rigid, rough, or sharp edges, seams or any other abrasive or abusive surface that may contact a horse's leg.

(8) Pads or any other devices on yearling horses (horses up to 2 years old) that elevate or change the angle of such horses' hooves in excess of 1 inch at the heel.

(9) Any weight on yearling horses, except a keg or other similar, conventional type horseshoe, and any horseshoe on yearling horses that weighs in excess of 16 ounces.

(10) Toe length that does not exceed the height of the heel by 1 inch or more. The length of the toe shall be measured from the coronet band, at the center of the front pastern along the front of the hoof wall, to the ground. The heel shall be measured from the coronet band, at the most lateral portion of the rear pastern, at a 90 degree angle to the ground, not including normal caulks at the rear of a horseshoe that do not exceed ¾ inch in length. That portion of caulk at the rear of a horseshoe in excess of ¾ of an inch shall be added to the height of the heel in determining the heel-toe ratio.

(11) Artificial extension of the toe length, whether accomplished with horseshoes, pads, acrylics or any other material or combinations thereof, unless such extension assumes the normal angle of the hoof wall and pastern and is therapeutically necessary to repair a broken hoof.

(12) Single or double rocker-bars on the bottom surface of horseshoes which extend more than 1½ inches back from the point of the toe, or which would cause, or could reasonably be expected to cause, an unsteadiness of stance in the horse with resulting muscle and tendon strain due to the horse's weight and balance being focused upon a small fulcrum point.[4]

(13) Metal hoof bands, such as used to anchor or strengthen pads and shoes, placed less than ½ inch below the coronet band.

(14) Metal hoof bands that can be easily and quickly loosened or tightened by hand, by means such as, but not limited to, a wing-nut or similar fastener.

(15) Any action device or any other device that strikes the coronet band of the foot of a horse except for soft rubber or soft leather bell boots that are used as protective devices.

(16) Shoeing a horse, or trimming a horse's hoof in a manner that will cause such horse to suffer, or can reasonably be expected to cause such horse to suffer pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving.

(17) Lead or other weights attached to the outside of the hoof wall, the pad, or on the outside surface of the horseshoe.

(c) *Substances.* All substances are prohibited on the extremities above the hoof of any Tennessee Walking Horse or racking horse while being shown, exhibited, or offered for sale at any horse show, horse exhibition, or horse sale or auction, except lubricants such as glycerine, petrolatum, and mineral oil, or mixtures thereof: *Provided,* That:

(1) The horse show, horse exhibition, or horse sale or auction management agrees to furnish all such lubricants and to maintain control over them when

[4] This prohibition is not intended to disallow corrective devices, such as Memphis bars which consist of a metal bar(s) crossing from the ground surface of one side of the horseshoe to the ground surface of the other side of the horseshoe, and the purpose of which is to correct a lameness or pathological condition of the foot: *Provided,* That such metal bar(s) do not act as a single fulcrum point so as to affect the balance of the horse.

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used at the horse show, horse exhibition, or horse sale or auction.

(2) Any such lubricants shall be applied only after the horse has been inspected by management or by a DQP and shall only be applied under the supervision of the horse show, horse exhibition, or horse sale, or auction mangaement.

(3) Horse show, horse exhibition, or horse sale or auction management makes such lubricants available to Department personnel for inspection and sampling as they deem necessary.

(d) *Competition restrictions—2 Year-Old Horses.* Horse show or horse exhibition workouts or performances of 2-year-old Tennessee Walking Horses and racking horses and working exhibitions of 2-year-old Tennessee Walking Horses and racking horses (horses eligible to be shown or exhibited in 2-year-old classes) at horse sales or horse auctions that exceed a total of 10 minutes continuous workout or performance without a minimum 5-minute rest period between the first such 10-minute period and the second such 10-minute period, and, more than two such 10-minute periods per performance, class, or workout are prohibited.

(e) *Information requirements—horse related.* Failing to provide information or providing any false or misleading information required by the Act or regulations or requested by Department representatives, by any person that owns, trains, shows, exhibits, or sells or has custody of, or direction or control over any horse shown, exhibited, sold, or auctioned or entered for the purpose of being shown, exhibited, sold, or auctioned at any horse show, horse exhibition, or horse sale or auction is prohibited. Such information shall include, but is not limited to: Information concerning the registered name, markings, sex, age, and legal ownership of the horse; the name and address of the horse's training and/or stabling facilities; the name and address of the owner, trainer, rider, any other exhibitor, or other legal entity bearing responsibility for the horse; the class in which the horse is entered or shown; the exhibitor identification number; and, any other information reasonably related to the identification, ownership, control, direction, or supervision of any such horse.

2. Section 11.3 (9 CFR 11.3) is added to read as follows:

§ 11.3 Scar rule.

Starting with the 1979 show season,[5] the scar rule shall apply to all 3-year-old horses [6] during the 1979 season; 4-year-old horses during the 1980 season; 5-year-old horses during the 1981 season, etc. Any horse which is older than a 3-year-old during the 1979 show season shall be unaffected by this rule. Horses subject to this rule which do not meet the following scar rule criteria shall be considered to be "sore" and are subject to all prohibitions of § 5 of the Act. The scar rule criteria are as follows:

(a) The anterior and anterior-lateral surfaces of the fore pasterns (extensor surface) must be free of bilateral granulomas,[7] other bilateral pathological evidence of inflammation, and, other bilateral evidence of abuse indicative of soring including, but not limited to, excessive loss of hair.

(b) The posterior surfaces of the pasterns (flexor surface), including the sulcus or "pocket" may show bilateral areas of uniformly thickened epithelial tissue if such areas are free of proliferating granuloma tissue, irritation, moisture, edema, or other evidence of inflammation.

3. Section 11.4 (9 CFR 11.4) is revised to read as follows:

§ 11.4 Inspection and detention of horses.

For the purpose of effective enforcement of the Act:

(a) Each horse owner, exhibitor, trainer, or other person having custody of, or responsibility for, any horse at any horse show, horse exhibition, or horse sale or auction, shall allow any Veterinary Services representative to reasonably inspect such horse at all reasonable times and places the Veterinary Services representative may designate. Such inspections may be required of any horse which is stabled, loaded on a trailer, being prepared for show, exhibition, or sale or auction, being exercised or otherwise on the grounds of, or present at, any horse show, horse exhibition, or horse sale or auction, whether or not such horse has or has not been shown, exhibited, or sold or auctioned, or has or has not been entered for the purpose of being shown or exhibited or offered for sale or auction at any such horse show, horse exhibition, or horse sale or auction.

[5] Since horse shows throughout the country occur during most months of the year, the show season shall entail the complete calendar year.

[6] Horses which are eligible to compete in 3-year-old classes. Four-year-old horses would be eligible to compete in 4-year-old classes, etc.

[7] Granuloma is defined as any one of a rather large group of fairly distinctive focal lesions that are formed as a result of inflammatory reactions caused by biological, chemical, or physical agents.

Veterinary Services representatives will not generally or routinely delay or interrupt actual individual classes or performances at horse shows, horse exhibitions, or horse sales or auctions for the purpose of examining horses, but they may do so in extraordinary situations, such as but not limited to, lack of proper facilities for inspection, refusal of management to cooperate with Department inspection efforts, reason to believe that failure to immediately perform inspection may result in the loss, removal, or masking of any evidence of a violation of the Act or the regulations, or a request by management that such inspections be performed by a Veterinary Services representative.

(b) When any Veterinary Services representative notifies the owner, exhibitor, trainer, or other person having custody of or responsibility for a horse at any horse show, horse exhibition, or horse sale or auction that Veterinary Services desires to inspect such horse, it shall not be moved from the horse show, horse exhibition, or horse sale or auction until such inspection has been completed and the horse has been released by a Veterinary Services representative.

(c) For the purpose of examination, testing, or taking of evidence, Veterinary Services representatives may detain for a period not to exceed 24 hours any horse, at any horse show, horse exhibition, or horse sale or auction, which is sore or which a Veterinary Services veterinarian has probable cause to believe is sore. Such detained horse may be marked for identification and any such identifying markings shall not be removed by any person other than a Veterinary Services representative.

(d) Detained horses shall be kept under the supervision of a Veterinary Services representative or secured under an official USDA seal or seals in a horse stall, horse trailer, or other facility to which access shall be limited. It shall be the policy of Veterinary Services to have at least one representative present in the immediate detention area when a horse is being held in detention. The official USDA seal or seals may not be broken or removed by any person other than a Veterinary Services representative, unless:

(1) The life or well-being of the detained horse is immediately endangered by fire, flood, windstorm, or other dire circumstances that are beyond human control.

(2) The detained horse is in need of such immediate veterinary attention that its life may be in peril before a Veterinary Services representative can be located.

(3) The horse has been detained for a maximum 24-hour detention period, and a Veterinary Services representative is not available to release the horse.

(e) The owner, exhibitor, trainer, or other person having custody of or responsibility for any horse detained by Veterinary Services for further examination, testing, or the taking of evidence shall be allowed to feed, water, and provide other normal custodial and maintenance care, such as walking, grooming, etc., for such detained horse: *Provided,* That:

(1) Such feeding, watering, and other normal custodial and maintenance care of the detained horse is rendered under the direct supervision of a Veterinary Services representative.

(2) Any non-emergency veterinary care of the detained horse requiring the use, application, or injection of any drugs or other medication for therapeutic or other purposes is rendered by a Doctor of Veterinary Medicine in the presence of a Veterinary Services representative and, the indentity and dosage of the drug or other medication used, applied, or injected and its purpose is furnished in writing to the Veterinary Services representative prior to such use, application, or injection by the Doctor of Veterinary Medicine attending the horse. The use, application, or injection of such drug or other medication must be approved by the Veterinary Services Show Veterinarian or his appointed representative.

(f) It shall be the policy of Veterinary Services to inform the owner, trainer, exhibitor, or other person having immediate custody of or responsibility for any horse allegedly found to be in violation of the Act or the regulations of such alleged violation or violations before the horse is released by a Veterinary Services representative.

(g) The owner, trainer, exhibitor, or other person having immediate custody of or responsibility for any horse or horses that a Veterinary Services representative determines shall be detained for examination, testing, or taking of evidence pursuant to paragraph (e) of this section shall be informed after such determination is made and shall allow said horse to be immediately put under the supervisory custody of Veterinary Services or secured under official USDA seal as provided in paragraph (d) of this section until the completion of such examination, testing, or gathering of evidence, or until the 24-hour detention period expires.

(h) The owner, trainer, exhibitor, or other person having custody of or responsibility for any horse allegedly found to be in violation of the Act or regulations, and who has been notified of such alleged violation by a Veterinary Services representative as stated in paragraph (f) of this section, may request reexamination and testing of said horse within a 24-hour period: *Provided,* That:

(1) Such request is made to the Veterinary Services Show Veterinarian immediately after the horse has been examined by Veterinary Services representatives and before such horse has been removed from the Veterinary Services inspection facilities; and

(2) The Veterinary Services Show Veterinarian determines that sufficient cause for reexamination and testing exists; and

(3) The horse is maintained under Veterinary Services supervisory custody as prescribed in paragraph (d) of this section until such reexamination and testing has been completed.

(i) The owner, exhibitor, trainer, or other person having custody of, or responsibility for any horse being inspected shall render such assistance as the Veterinary Services representative may request for purposes of such inspection.

4. Section 11.5 (9 CFR 11.5) is revised to read as follows:

§ 11.5 Access to premises and records.

Requirements regarding access to premises for inspection of horses and records are as follows:

(a) *Management.* (1) The management of any horse show, horse exhibition, or horse sale or auction shall, without fee, charge, assessment, or other compensation, provide Veterinary Services representatives with unlimited access to the grandstands, sale ring, barns, stables, grounds, offices, and all other areas of any horse show, horse exhibition, or horse sale or auction, including any adjacent areas under their direction, control, or supervision for the purpose of inspecting any horses, or any records required to be kept by regulation or otherwise maintained.

(2) The management of any horse show, horse exhibition, or horse sale or auction shall, without fee, charge, assessment, or other compensation, provide Veterinary Services representatives with an adequate, safe, and accessible area for the visual inspection and observation of horses while such horses are competitively or otherwise performing at any horse show or horse exhibition, or while such horses are being sold or auctioned or offered for sale or auction at any horse sale or horse auction.

(b) *Exhibitors.* (1) Each horse owner, exhibitor, or other person having custody of or responsibility for any horse at any horse show, horse exhibition, or horse sale or auction shall, without fee, charge, assessment, or other compensation, admit any Veterinary Services representative or Designated Qualified Person appointed by management, to all areas of barns, compounds, horse vans, horse trailers, stables, stalls, paddocks, or other show, exhibition, or sale or auction grounds or related areas at any horse show, horse exhibition, or horse sale or auction, for the purpose of inspecting any such horse at any and all reasonable times.

(2) Each owner, trainer, exhibitor, or other person having custody of or responsibility for, any horse at any horse show, horse exhibition, or horse sale or auction shall promptly present his horse for inspection upon notification, orally or in writing, by any Veterinary Services representative or Designated Qualified Person appointed by management, that said horse has been selected for examination for the purpose of determining whether such horse is in compliance with the Act and regulations.

5. Section 11.6 (9 CFR 11.6) is added to read as follows:

§ 11.6 Inspection space and facility requirements.

The management of every horse show, horse exhibition, or horse sale or auction, containing Tennessee Walking Horses or racking horses, shall provide, without fee, sufficient space and facilities for Veterinary Services representatives to carry out their duties under the Act and regulations at every horse show, horse exhibition, or horse sale or auction, containing Tennessee Walking Horses or racking horses, whether or not management has received prior notification or otherwise knows that such show may be inspected by Veterinary Services. The management of every horse show, horse exhibition, horse sale or auction which does not contain Tennessee Walking Horses or racking horses shall provide, without fee, such sufficient space and facilities when requested to do so by Veterinary Services representatives. With respect to such space and facilities, it shall be the responsibility of management to provide at least the following:

(a) Sufficient space in a convenient location to the horse show, horse exhibition, or horse sale or auction arena, acceptable to the Veterinary

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Services Show Veterinarian, in which horses may be physically, thermographically, or otherwise inspected.

(b) Protection from the elements of nature, such as rain, snow, sleet, hail, windstorm, etc., if required by the Veterinary Services Show Veterinarian.

(c) A means to control crowds or onlookers in order that Veterinary Services personnel may carry out their duties without interference and with a reasonable measure of safety, if requested by the Veterinary Services Show Veterinarian.

(d) An accessible, reliable, and convenient 110-volt electrical power source, if electrical service is available at the show, exhibition, or sale or auction site and is requested by the Veterinary Services Show Veterinarian.

(e) An appropriate area adjacent to the inspection area for designated horses to wait for inspection, and an area to be used for detention of horses.

§ 11.7 [Amended]

6. Sections 11.7(d)(1), 11.7(d)(1)(ix), 11.7(d)(3)(ii)(B), 11.7(d)(4), and 11.7(d)(7)(iv) are amended to read as follows:

(d) * * *(1) Any licensed DQP appointed by the management of any horse show, horse exhibition, horse sale or auction to inspect horses for the purpose of detecting and determining or diagnosing horses which are sore and to otherwise inspect horses for the purpose of enforcing the Act and regulations, shall keep and maintain the following information and records concerning any horse which said DQP recommends be disqualified or excused for any reason at such horse show, horse exhibition, horse sale or auction, from being shown, exhibited, sold or auctioned, in a uniform format required by the horse industry organization or association that has licensed said DQP:

* * * * *

(ix) The name or names of the show manager or other management representative notified by the DQP that such horse should be excused or disqualified and whether or not such manager or management representative excused or disqualified such horse.

* * * * *

(3) * * *

(ii) * * *

(B) The name and address of the owner, trainer, exhibitor, or other person having custody of or responsibility for the care of each such horse disqualified or excused.

* * * * *

(4) Each horse industry organization or association having a Department certified DQP program shall provide, by certified mail if personal service is not possible, to the trainer and owner of each horse allegedly found in violation of the Act or its regulations or otherwise disqualified or excused for any reason, the following information;

* * * * *

(7) * * *

(iv) The DQP shall immediately inform management of each case regarding any horse which, in his opinion, is in violation of the Act or regulations.

* * * * *

7. Section 11.20 (9 CFR 11.20) is revised to read as follows:

§ 11.20 Responsibilities and liabilities of management.

(a) The management of any horse show, horse exhibition, or horse sale or auction which does not appoint and retain a DQP shall be responsible for identifying all horses that are sore or otherwise in violation of the Act or regulations, and shall disqualify or disallow any horses which are sore or otherwise in violation of the Act or regulations from participating or competing in any horse show, horse exhibition, horse sale, or horse auction. Horses entered for sale or auction at a horse sale or horse auction must be identified as sore or otherwise in violation of the Act or regulations prior to the sale or auction and prohibited from entering the sale or auction ring. Sore horses or horses otherwise in violation of the Act or regulations that have been entered in a horse show or horse exhibition for the purpose of show or exhibition must be identified and excused prior to the show or exhibition. Any horses found to be sore or otherwise in violation of the Act or regulations during actual participation in the show or exhibition, must be removed from further participation prior to the tyeing of the class or the completion of the exhibition. All horses tyed first in each Tennessee Walking Horse or racking horse class or event at any horse show or horse exhibition shall be inspected after being shown or exhibited to determine if such horses are sore or otherwise in violation of the Act or regulations.

(b)(1) The management of any horse show, horse exhibition, horse sale or auction which designates and appoints a Designated Qualified Person (or persons) to inspect horses shall accord said DQP access to all records and areas of the grounds of such show, exhibition, sale, or auction and the same right to inspect horses and records as is accorded to any Veterinary Services representative. Further, management shall not take any action which would interfere with or influence said DQP in carrying out his duties or making decisions concerning whether or not any horse is sore or otherwise in violation of the Act or regulations. In the event management is dissatisfied with the performance of a particular DQP, including disagreement with decisions concerning violations, management shall not dismiss or otherwise interfere with said DQP during the DQP's appointed tour of duty.[8] However, management should immediately notify, in writing, the Department [2] and the organization or association that licensed the DQP, as to why the performance of said DQP was inadequate or otherwise unsatisfactory. Management which designates and appoints a DQP shall immediately disqualify or disallow from being shown, exhibited, sold, or auctioned any horse identified by the DQP to be sore or otherwise in violation of the Act or regulations or any horse otherwise known by management to be sore or in violation of the Act or regulations. Should management fail to disqualify or disallow from being shown, exhibited, sold or auctioned any such horse, said management shall assume full responsibility for and liabilities arising from the showing, exhibition, sale, or auction of said horses.

(2) The DQP shall physically inspect: (i) All Tennessee Walking Horses and racking horses entered for sale or auction, (ii) all Tennessee Walking Horses and racking horses entered in any animated gait class (whether under saddle, horse to cart, or otherwise), (iii) all Tennessee Walking Horses and racking horses entered for exhibition before they are admitted to be shown, exhibited, sold, or auctioned, and (iv) all Tennessee Walking Horses and racking horses tyed first in their class or event at any horse show, horse exhibition, horse sale, or horse auction. Such inspection shall be for the purpose of determining whether any such horses are in violation of the Act or regulations. Such physical examination may be conducted in any manner deemed necessary by the DQP in order to determine whether any such horses are sore. The DQP shall observe horses in the warmup ring and during actual performances whenever possible, and shall inspect any Tennessee Walking Horse or racking horse at any time he deems necessary to determine whether any such horse shown, exhibited, sold,

[8] The duration of the show, exhibition, or sale or auction.

[2] Same as previous footnote 2.

or auctioned is in violation of the Act or regulations. If present at other shows, he shall examine any horse which he determines should be examined for compliance with the Act and regulations.

(3) The DQP shall immediately report, to the management of any horse show, horse exhibition, or horse sale or auction, any horse which, in his opinion, is sore or otherwise in violation of the Act or regulations. Such report shall be made, whenever possible, before the show class or exhibitioin involving said horse has begun or before said horse is offered for sale or auction.

8. Section 11.21 (9 CFR 11.21) is revised to read as follows:

§ 11.21 Records required and disposition thereof.

(a) The management of any horse show, horse exhibition, or horse sale or auction, that contains Tennessee Walking Horses or racking horses, shall maintain for a period of at least 90 days following the closing date of said show, exhibition, or sale or auction, all pertinent records containing:

(1) The dates and place of the horse show, horse exhibition, horse sale, or horse auction.

(2) The name and address (including street address or post office box number and ZIP code) of the sponsoring organization.

(3) The name and address of the horse show, exhibition, horse sale or horse auction management.

(4) The name and address (including street address or post office box number and ZIP code) of the DQP, if any, employed to conduct inspections under § 11.20; and, the name of the horse industry organization or association certifying the DQP.

(5) The name and address (including street address or post office box number, and ZIP code) of each show judge.

(6) A copy of each class or sale sheet containing the names of horses, the names and addresses (including street address, post office box and ZIP code) of horse owners, the exhibitor number and class number, or sale number assigned to each horse, the show class or sale lot number, and the name and address (including street address, post office box, and ZIP code) of the person paying the entry fee and entering the horse in a horse show, horse exhibition, or horse sale or auction.

(7) A copy of the official horse show, horse exhibition, horse sale, or horse auction program, if any such program has been prepared.

(8) The identification of each horse, including the name of the horse, the name and address (including street address, post office box, and ZIP code) of the owner, the trainer, the rider or other exhibitor, and the location (including street address, post office box, and ZIP code) of the home barn or other facility where the horse is stabled.

(b) The management of any horse show, horse exhibition, or horse sale or auction containing Tennessee Walking Horses or racking horses shall designate a person to maintain the records required in this section.

(c) The management of any horse show, horse exhibition, or horse sale or auction containing Tennessee Walking Horses or racking horses shall furnish to any Veterinary Services representative, upon request, the name and address (including street address, or post office box, and ZIP code) of the person designated by the sponsoring organization or manager to maintain the records required by this section.

(d) The Deputy Administrator may, in specific cases, require that a horse show, horse exhibition, or horse sale or auction records be maintained by management for a period in excess of 90 days.

9. Section 11.22 (9 CFR 11.22) is revised to read as follows:

§ 11.22 Inspection of records.

(a) The management of any horse show, horse exhibition, or horse sale or auction shall permit any Veterinary Services representative, upon request, to examine and make copies of any and all records pertaining to any horse, either required in any part of the regulations, or otherwise maintained, during ordinary business hours or such other times as may be mutually agreed upon. A room, table, or other facilities necessary for proper examination of such records shall be made available to the Veterinary Services representative.

(b) Horse industry organizations or associations who train, maintain, and license DQP's under a certified DQP program shall permit any Veterinary Services representative, upon request, to examine and copy any and all records relating to the DQP program which are required by any part of the regulations. Such requests shall be made during ordinary business hours or such other times as mutually agreed upon. A room, table or other facilities necessary for proper examination shall be made available upon the request of the Veterinary Services representative.

10. Section 11.24 (9 CFR 11.24) is revised to read as follows:

§ 11.24 Reporting by management.

(a) Within 5 days following the conclusion of any horse show, horse exhibition, or horse sale or auction, containing Tennessee Walking Horses or racking horses, the managements of such show, exhibition, sale or auction shall submit to the Area Veterinarian in Charge[1] for the State in which the show, exhibition, sale or auction was held, the information required by § 11.21(a)(1) through § 11.21(a)(6) for each horse excused or disqualified by management or its representatives from being shown, exhibited, sold or auctioned, and the reasons for such action. If no horses are excused or disqualified, the management shall submit a report so stating.

(b) Within 5 days following the conclusion of any horse show, horse exhibition, or horse sale or auction which does not contain Tennessee Walking Horses or racking horses, the management of such show, exhibition, sale or auction shall inform the Area Veterinarian in Charge for the State in which the show, exhibition, sale or auction was held, of any case where a horse was excused or disqualified by management or its representatives from being shown, exhibited, sold or auctioned because it was found to be sore.

11. Section 11.40 (9 CFR 11.40) is amended in paragraph (a) to read as follows:

§ 11.40 Prohibitions and requirements concerning persons involved in transportation of certain horses.

(a) Each person who ships, transports, or otherwise moves, or delivers or receives for movement, any horse with reason to believe such horse may be shown, exhibited, sold or auctioned at any horse show, horse exhibition, or horse sale or auction, shall allow and assist in the inspection of such horse at any such show, exhibition, sale, or auction to determine compliance with the Act as provided in § 11.4 of the regulations and shall furnish to any Veterinary Services representatives upon his request the following information:

(1) Name and address (including street address, post office box, and ZIP code) of the horse owner and of the shipper, if different from the owner or trainer.

(2) Name and address (including street address, post office box, and ZIP code) of the horse trainer.

(3) Name and address (including street address, post office box, and ZIP code) of the carrier transporting the

[1] Same as previous footnote 1.

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horse, and of the driver of the means of conveyance used.

(4) Origin of the shipment and date thereof, and,

(5) Destination of shipment.

12. Section 11.41 (9 CFR 11.41) is revised to read as follows:

§ 11.41 Reporting required of horse industry organizations or associations.

Each horse industry organization or association which sponsors, or which sanctions any horse show, horse exhibition, or horse sale or auction, shall furnish the Department[2] by March 1 of each year with all such organization or association rulebooks, and disciplinary procedures for the previous year pertaining to violations of the Horse Protection Act or regulations, applicable to such horse show, horse exhibition, or horse sale or auction. Rulebooks and information relating to disciplinary procedures for violations of the Horse Protection Act or regulations should be readily available to all exhibitors, trainers, and owners of horses at such show, exhibition, sale, or auction. Each horse industry organization or association shall furnish the Department[2] with a quarterly report of all disciplinary actions taken against the management or any horse show, horse exhibition, horse sale, or horse auction, any exhibitor, or any licensed DQP, for violation of the Horse Protection Act or regulations, and the results thereof.

(Secs. 4, 6, and 9; 84 Stat. 1404; 90 Stat. 916 and 918; (15 U.S.C. 1823, 1825, and 1828); 29 FR 16210, 36 FR 20707.)

It is to the benefit of the public and the regulated industries that these amendments to the regulations be made effective at the earliest practicable date. This year's horse show season has already begun and horse industry representatives have requested that these regulations go into effect as soon as possible. In view of the foregoing, it is hereby found and determined that good cause exists for making these regulations effective 20 days from the date of publication in the **Federal Register** and that it would be contrary to the public interest to delay the effective date of these amendments for a longer period of time. (Section 553(d), Administrative Procedures Act, U.S.C. 551–559.)

Done at Washington, D.C., this 20th day of April, 1979.

Note.—This rule has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations," and has been designated "significant." An approved Final Impact Analysis Statement has been prepared and is available from the Animal Care Staff, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md 20782, Area Code (301) 436–8271.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-13230 Filed 4-26-79; 8:45 am]

BILLING CODE 3410-34-M

[2] Same as previous footnote 2.

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federal register

Friday
April 27, 1979

Part XI

Department of Health, Education, and Welfare

Health Care Financing Administration

Medicare Program; Validation of Accreditation Surveys of Hospitals

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 405]

Medicare Program; Validation of Accreditation Surveys of Hospitals

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposal would modify current Medicare regulations dealing with validation surveys of hospitals accredited by the Joint Commission on Accreditation of Hospitals (JCAH) or the American Osteopathic Association (AOA). The proposal would provide for consultation with JCAH and AOA before the Secretary could (under section 1861(e)(9) of the Social Security Act) promulgate standards that are higher or more precise than those used by JCAH or AOA. It would specify that the JCAH institutional planning standard for hospitals is equivalent to the Federal institutional planning requirement.

The intent of the amendments is to expand and clarify the regulatory provisions concerning the effect of JCAH and AOA hospital accreditation.

This proposal would also amend current regulations to reflect certification procedures under which State agencies survey end-stage renal disease treatment facilities, rural health clinics, physical therapists in independent practice, and chiropractors and recommend to the Secretary whether they meet the respective conditions for coverage of their services.

DATES: Consideration will be given to written comments or suggestions received by June 26, 1979.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2382, Washington, D.C. 20013.

In commenting, please refer to file code HSQ–15–P. Agencies and organizations are requested to send comments in duplicate. Comments will be available for public inspection beginning approximately 2 weeks from today, in Room 5231 of Department's offices at 330 C Street, S.W., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–0950).

FOR FURTHER INFORMATION CONTACT: Janet M. Harryman, Health Standards and Quality Bureau, Health Care Financing Administration, Room 301 East High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235. Telephone (301) 594–9712.

SUPPLEMENTARY INFORMATION:

Background

Hospitals wishing to participate in the Medicare program must meet certain health and safety requirements specified in section 1861(c) of the Social Security Act, as well as any additional requirements the Secretary may require under section 1861(c)(9). Section 1865 of the Act provides that a hospital which is accredited by JCAH is deemed to meet, by virtue of that accreditation, most of the requirements of section 1861(e). This eliminates the need for the hospital to be routinely reviewed by the State survey agency to determine whether it is in compliance with the requirements of section 1861(e). The exceptions not covered by JCAH accreditation include the requirements for institutional planning and for a hospital utilization review plan and any requirement promulgated by the Secretary under section 1861(e)(9) of the Act that is higher than the requirements prescribed for accreditation by JCAH. Section 1865 also requires as a precondition for being deemed to meet the Medicare requirements that the hospital must, at the Secretary's request, authorize JCAH to release to the Secretary, on a confidential basis, a copy of the most current JCAH accreditation survey of that hospital.

If the Secretary finds that accreditation of a hospital by AOA or any other national accreditation body provided reasonable assurance that some or all of the health and safety requirements of section 1861(e) are met, he is also authorized under section 1866 to treat that accreditation as meeting the requirements of section 1861(e). The Secretary has previously provided that hospitals accredited by AOA would be deemed to meet all of the requirements of section 1861(e) except for institutional planning, utilization review and any requirements the Secretary might impose under section 1861(e)(9) which are higher than AOA requirements (see 42 CFR 1901(b)).

Section 1864(c) of the Social Security Act authorizes the Secretary to enter into agreements with State survey agencies to determine by means of a validation survey whether hospitals participating in the Medicare program by virtue of JCAH accreditation are in fact meeting the conditions of participation for hospitals that they are deemed to meet. The regulation would implement that authority.

A Notice of Proposed Rulemaking (NPRM) concerning validation of accreditation surveys was published in the **Federal Register** on September 4, 1975 (40 FR 40850). Comments received from 31 sources, including State governments and industry and consumer representatives were considered in developing the new proposal. Because of the time elapsed since initial publication and because of several substantive changes which have been made since the previous publication, we are again providing opportunity for comment.

Minor technical changes to §§ 405.1901–405.1902 and 405.1904–405.1995 are also proposed. These update the certification procedures regulations to include reference to end-stage renal disease treatment facilities, rural health clinics, physical therapists in independent practice, and chiropractors.

The regulations provides that State survey agencies survey such suppliers of services and certify to the Secretary whether they meet the applicable requirements for coverage of their services.

Major Provisions

1. *Validation Survey.*—Section 1864(c) of the Social Security Act, added by Section 224 of the Social Security Amendments of 1972 (Pub L. 92–603), authorizes the Secretary to enter into agreements with certain State survey agencies to perform surveys to determine whether accreditation by JCAH provides reasonable assurance that the Medicare conditions of participation are met. These surveys are called validation surveys. The provisions of the Act authorizing the Secretary to treat hospitals accredited by AOA as being deemed to met the Medicare conditions of participation also permit the use of validation surveys to provide assurance that those hospitals continue to meet the Medicare conditions of participation.

The proposed regulations would provide that the surveys may be conducted on a selective-sample basis or in response to substantial allegations or evidence of a significant deficiency or deficiencies that may adversely affect the health and safety of patients. In conducting validation surveys, the State survey agencies would apply the Medicare health and safety requirements, rather than those used by JCAH and AOA. There is substantial dissimilarity in the wording of many Medicare and JCAH or AOA requirements. Therefore, unless the validation surveys are conducted under the Medicae survey procedures, it would be extremely difficult to determine if the hospitals had significant deficiencies with respect to the Medicare conditions of participation (see §§ 405.1011–405.1040).

The proposed regulations would provide that a hospital that fails to authorize the release of its most current accreditation survey (on a confidential basis for JCAH accredited hospitals), or refuses to allow a validation survey, or, after the validation survey, is found to be out of compliance with one or more of the conditions of participation, would no longer be deemed to meet those conditions and would be subject to the same Medicare survey and certification requirements as nonaccredited hospitals.

Once the State survey agency determines that the hospital meets all conditions of participation, the hospital may once again be deemed to meet the conditions of participation by virtue of its accreditation by JCAH or AOA. The previous NPRM placed the hospital under the full review of the State survey agency for a minimum of 2 years. Upon considering the comments received, it was decided to provide incentives for correcting Medicare deficiencies as quickly as possible. As soon as a hospital meets all the Medicare conditions of participation, it will be restored to the position of being deemed to meet conditions of participation by virtue of its accreditation.

The findings of a validation survey that an accredited hospital was out of compliance with one or more of the Medicare conditions of participation would be treated as if the finding followed a State agency survey. It would not be necessary to perform an additional State agency survey before requiring a plan of correction or initiating other appropriate action under Subpart S. The finding of the validation survey would not be considered an "initial determination" subject to the formal appeal rights provided in §§ 405.1510–405.1595 because the hospital remains in the Medicare program and may continue to receive reimbursement. However, it would be subject to the informal review process described in the Bureau of Health Insurance Identical Memo 76–100 (Validation Surveys of JCAH), which is available at any Social Security district office. The hospital must request the review within 15 days. It may then submit additional written evidence. If the Secretary determines that there are no significant deficiencies, the hospital is again deemed to meet the conditions of participation. If the review determines that significant deficiencies do exist, the hospital is subject to the same Medicare survey and certification requirements as nonaccredited hospitals until the hospital meets all conditions of participation.

2. *Promulgation of Higher Standards.*—As stated above, section 1861(e) authorize the Secretary to promulgate standards to protect the health and safety of individuals who are furnished services in hospitals participating in the Medicare program. If such standards are higher than those prescribed by either JCAH or AOA, section 1865 provides that hospitals accredited by JCAH or AOA are not deemed to meet those standards. The proposed regulation would provide that prior to the promulgation of such higher standards, the Secretary would consult with JCAH and AOA. This consulation is intended to provide JCAH and AOA with the opportunity to adopt equivalent or higher standards as part of their accreditation process so that hospitals accredited by those bodies may be deemed to meet the proposed Medicare standards. As evidenced in its report accompanying the 1972 Amendments, the Congress expected that if the Secretary is proposing more effective standards, JCAH and AOA would, in all probability, adopt the standards and that therefore, it would not be necessary to conduct State agency surveys for isolated requirements (See page 291 of the Report of the Committee on Finance of the United States Senate accompanying P.L. 92–603, S. Rep. No. 92–1230, 92d Cong., 2d Sess. 1972).

3. *Institutional Planning Standard.*—JCAH and AOA accredited hospitals are not currently deemed to meet the Medicare institutional planning requirement. The Act provides, however, that if the Secretary finds that JCAH or AOA does have an equivalent or higher standard, hospitals accredited by those bodies may be deemed to meet the Medicare standard. JCAH's standard contains identical requirements to medicare's annual operating budget and long-term capital expenditure plan. It also requires "conformance with the requirements of authorized planning, regulatory and inspecting agencies" and review and prompt action by JCAH accredited hospitals on reports of such agencies. On this basis, the Secretary has determined that JCAH's institutional planning standard is equivalent to Medicare's standard. Therefore, hospitals accredited by JCAH will also be deemed to meet the Medicare institutional planning standards and will not be subject to State agency review for compliance of this standard. AOA accredited hospitals are still subject to State agency review for compliance of this standard because the AOA does not have an institutional planning requirement equivalent to Medicare's standard.

4. *Technical and Editorial Changes.*—In this NPRM, section 405.1902(b) would be redesignated section 405.1902(c) for editorial reasons. Clarifying technical changes are also being proposed for sections 405.1904 and 405.1905.

42 CFR Part 405 is amended as set forth below:

1. Section 405.1505 is amended by adding a new paragraph (m) to read as follows:

§ 405.1505 Administrative actions which are not initial determinations.

Adminstrative actions which shall not be considered initial determinations under any provisions of the regulations in this Subpart O include, but are not limited to, the following:

* * * * *

(m) The finding that an institution that is deemed to meet the statutory definition of a hospital under section 1861(e) of the Act by virtue of accreditation by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Association is subject to full review by the State survey agency. (An informal appeals process in accordance with the Bureau of Health Insurance Identical Memo 76–100 (Validation Surveys of JCAH) is available in this situation. The memo is readily available at any Social Security district office.) (See § 405.1901 for rules on survey of accredited hospitals.)

2. Section 405.1901 is revised to read as follows:

§ 405.1901 The certification process.

(a) *Definitions.* As used in this subpart:

"Accredited hospital" means a hospital accredited by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Association.

"Act" means the Social Security Act.

"AOA" stands for the Americn Osteopathic Association.

"Full review" means a review of all conditions of participation for hospital in the medicare program.

"JCAH" stands for the Joint Commission on Accreditation of Hospitals.

"State survey agency" means the State health agency or other appropriate State or local agency used by the Secretary to perform survey and review functions for Medicare.

(b) *Basic conditions for certification.* In order to be approved for participation in the Medicare program, a prospective provider or supplier of services must:

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(1) Meet the applicable statutory definition of section 1861 or 1881 of the Act; and

(2) Be in compliance with the applicable conditions prescribed in Subparts J, K, L, M, N, Q, or U of this part, or the conditions for certification of rural health clinics (Subpart A of Part 481 of this chapter).

(c) *Promulgation and approval of, and conformance with, higher health and safety requirements.* (1) The Secretary, after consultation with the JCAH or AOA, may promulgate health and safety standards higher or more precise than those of either of these accrediting bodies.

(2) The Secretary may, at a State's request, approve health and safety requirements for that State that are higher than those specified in section 1861(e) of the Social Security Act.

(3) If a State or political subdivision imposes higher requirements as a condition for the purchase of health services under a State plan for Old Age Assistance (title I of the Act), Aid to Aged, Blind or Disabled (title XVI of the Act), or Medicaid (title XIX of the Act), the Secretary will impose the same requirements as a condition for reimbursement under Medicare.

(d) *Effect of JCAH or AOA accreditation.* (1) Institutions accredited as hospitals by the JCAH are deemed to meet all of the Medicare conditions of participation for hospitals, except:

(i) The requirements for utilization review as specified in section 1861(e)(6) of the Act;

(ii) The additional special staffing and medical records requirements that are considered necessary for the provision of intensive care in psychiatric and tuberculosis hospitals (sections 1861(f) and (g) of the Act); and

(iii) Any standard under section 1861(e) of the Act which, after consultation with JCAH or AOA, is identified and promulgated by the Secretary as higher or more precise than the requirements for accreditation (section 1965(a)(4) of the Act).

(2) Institutions accredited as hospitals by the AOA are assumed to meet all of the Medicare conditions of participation for hospitals except those specified in paragraph (d)(1) of this section and the institutional planning requirements specified in section 1861(e)(8) of the Act.

(e) *Validation survey.* (1) *Basis for survey.*

The secretary may require a survey of an accredited hospital to validate the JCAH or AOA accreditation processes. Those surveys will be conducted on a selective-sample basis, or in response to substantial allegations or evidence of a condition adverse to the health and safety of patients.

(2) *Effect of selection for survey.*

A hospital selected for a validation survey must:

(i) Authorize its accrediting body to release (on a confidential basis for JCAH hospitals) to the Secretary or the State agency designated by him, a copy of the hospital's current accreditation survey. (For the rules on confidentiality, see 20 CFR 422.426(b)(2) and (c).); and

(ii) Authorize the carrying out of the validation survey.

(3) *Refusal to cooperate with survey.* If a hospital selected for a validation survey fails to authorize its accrediting body to release a copy of its current accreditation survey, or fails to authorize the performance of the validation survey, it will no longer be deemed to meet the Medicare conditions of participation; will be subject to State survey agency review in accordance with § 405.1902; and may be subject to termination under § 405.614.

(f) *Consequences of finding of noncompliance.* (1) If a validation survey results in a finding that the hospital is out of compliance with one or more of the Medicare conditions of participation, the hospital will be subject to:

(i) The requirements applied to unaccredited hospitals that are found out of compliance following a State agency survey (see § 405.1907); and

(ii) State agency survey review (see § 405.1902).

(2) A hospital found out of compliance may obtain an informal administrative review (See § 405.1505(m)).

(g) *Reinstating effect of accreditation.* An accredited hospital will once again be deemed to meet the Medicare conditions participation in accordance with paragraph (d) of this section if:

(1) It withdraws any prior refusal to authorize its accrediting body to release a copy of the hospital's current accreditation survey;

(2) It withdraws any prior refusal to allow a validation survey; and

(3) The Secretary finds that the hospital meets all the Medicare conditions of participation.

(h) *Civil rights requirements.* Attention is invited the requirements of:

(1) Title VI of the Civil Rights Act of 1974, as implemented by 45 CFR Part 80, which provides that no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity receiving Federal financial assistance (section 601); and

(2) Section 504 of the Rehabilitation Act of 1973, as implemented by 45 CFR Part 84, which provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance.

3. Section 405.1902 is revised to read as follows:

§ 405.1902 State survey agency review.

(a) *Statutory provisions.* (1) Section 1864(a) of the Act requires the Secretary to enter into agreements with any State that is able and willing to do so, under which appropriate State or local survey agencies will determine:

(i) Whether providers or prospective providers meet the Medicare conditions of participation;

(ii) Whether supplies meet the conditions of coverage; and

(iii) Whether rural health clinics meet the conditions of certification.

(2) Section 1864(c) of the Act authorizes the Secretary to enter into agreements with appropriate State or local survey agencies for the purpose of conducting validation surveys (see § 405.1901(e)).

(b) *Effect of State agency determination.* (1) The determinations by the State survey agency represent recommendations to the Secretary.

(2) On the basis of these recommendations, the Secretary will determine:

(i) Whether a provider or supplier is eligible to participate in the Medicare program; or

(ii) Whether an accredited hospital shall be deemed to meet the Medicare conditions of participation or be subject to full review by the State survey agency.

(3) Notice of the Secretary's determination will be sent to the provider or supplier.

(c) In the case of a skilled nursing facility completing the second of two successive agreements under title XIX provisions in effect prior to July 1, 1973, and having the same deficiency(ies) which occasioned the two agreements, the State survey agency will review the performance of such facility (which may be limited to a review of the documentation of record) in providing safe and adequate patient care and in progressing toward correction of such deficiency(ies). On the basis of its evaluation, the State survey agency will recommend to the Secretary that:

(1) No provider agreement may be executed with such facility; or

(2) A new provider agreement may be executed for a period related to the time required to correct such deficiency(ies) but not to exceed 6 months; or

(3) A new provider agreement may be executed for a period of 12 months but subject to a provision for automatic cancellation 60 days following the scheduled date for correction unless the State survey agency finds and notifies the Secretary that all required corrections have been satisfactorily completed.

4. Section 405.1904 is amended by revising paragraph (a) to read as follows:

§ 405.1904 Periodic review of compliance and approval.

(a) Determinations by the State agency to the effect that a provider or supplier is in compliance with all the conditions of participation or the conditions for coverage will be for a period of 12 months, except for physcial therapists in independent practice and chiropractors. Determinations for physcial therapists in independent practice and chiropractors will be conducted as often as the Secretary deems necessary and may be for more or less than a 12-month period.

(See paragraph (b) of this section for periods of certification applicable to skilled nursing facilities.) State agencies may visit or resurvey providers or suppliers more frequently where necessary to evaluate correction of deficiencies, ascertain continued compliance, or accommodate to periodic or cycilical survey programs. In addition, the State agency shall review information received through medical review conducted in skilled nursing facilities (see § 405.1121(d)). The State agency shall also review statements obtained from each facility setting forth (from payment records) the average numbers and types of personnel (in fulltime equivalents) on each tour of duty during at least 1 week of each quarter, such week to be selected by the survey agency and to occur irregularly in each quarter of the year. The State agency shall evaluate such reports as may pertain to the health and safety requirements and, as necessary, take appropriate action to achieve compliance or certify to the Secretary that compliance has not been achieved. A State finding and recommendation to the Secretary that a provider or supplier is no longer in compliance will supersede the State's previous certification.

* * * * *

5. Section 405.1905 is amended by revising paragraph (b) to read as follows:

§ 405.1905 Certification of noncompliance.

* * * * *

(b) If the Secretary determines that an institution or agency is not in compliance with the conditions of participation or conditions for coverage, the institution or agency has the right to request that the determination be reviewed. (See §§ 405.614(a)(2) and 405.2404(6) and Subpart 0 of the this Part.)

(Sec. 1102, 1861, 1864, 1865, 1971, and 1881 of the Social Security Act (42 U.S.C. 1302, 1396(e), 1895aa, 1395bb, 1395hh and 1395rr).) (Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare-Hospital Insurance.)

Dated: March 5, 1979.

Leonard D. Schaeffer,
Administrator, Health Care Financing Administration.

Approved: April 11, 1979.

Joseph A. Califano, Jr.,
Secretary.

[FR Doc. 79-13233 Filed 4-26-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

18491 3–28–79 / Air quality implementation plans; California
18490 3–28–79 / Air quality implementation plans; Louisiana
18490 3–28–79 / Air quality implementation plans; Oklahoma

NATIONAL ARCHIVES AND RECORDS SERVICE

Office of the Federal Register—
18630 3–28–79 / Incorporation by reference, publication procedures

Rules Going Into Effect Saturday, April 28, 1979

DEPARTMENT OF TRANSPORTATION

Coast Guard—
20424 4–5–79 / New London, Conn.; establishment of security zone

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing Apr. 24, 1979

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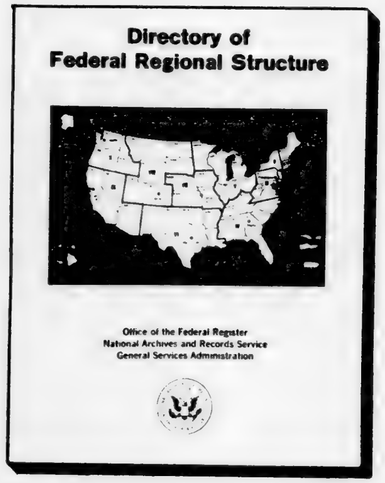
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Federal Register

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Highlights

Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or hearing impaired persons who need information about documents published in the **Federal Register**. See the Reader Aids section for the telephone listing.

25194 **Banks** FDIC adopts rules on requirements applicable to insured State nonmember institutions for establishing and operating foreign branches and for acquiring and holding ownership interests in foreign entities; effective 5–30–79

25193 FDIC amends certain regulations to conform them with Financial Institutions Regulatory and Interest Rate Control Act and new regulation regarding foreign activities of insured State nonmember banks; effective on 4–30 and 5–30–79

25216 **Excise Taxes on Buses** Treasury/IRS issues temporary regulations relating to floor stocks refunds and credits

25284 **Treasury Notes** Treasury/Secy announces interest rate of 9¾ percent on notes designated Series S–1981

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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Area Code 202–523–5240

25366 **Federal Energy Management and Planning Program** DOE proposes methodology and procedures for life cycle cost analysis of Federal buildings; comments by 6–29–79; hearings on 5–17, 6–4, and 6–19–79 (Part IV of this issue)

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Rules and Regulations

Federal Register
Vol. 44, No. 84
Monday, April 30, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 918

Fresh Peaches Grown in Georgia; Grade and Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes minimum grade and size requirements for fresh peaches grown in Georgia for the 1979 season. These requirements are designed to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on information submitted by the Industry Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act. The regulation has not been determined significant under USDA criteria for implementing Executive Order 12044.

The committee met on April 18, 1979, to consider supply and market conditions and other factors affecting the need for regulation. It recommended minimum grade and size requirements for shipments of fresh peaches grown in Georgia, except for those shipped in bulk to adjacent markets, which it deemed advisable for the 1979 season. The exception of peaches shipped in bulk to adjacent markets from grade, size, and inspection requirements follows the practice of prior years. It is designed to permit shipment of peaches which are of a quality and size acceptable in the adjacent markets but are not suitable for distribution in more distant markets in competition with peaches from other areas.

The committee reports that it expects 1,800 carlots of inspected peaches to be shipped this season, compared with 1,590 carlots in 1978. It also reports that the developing crop is of good quality, and the fruit is sizing well. Shipment of this season's Georgia peach crop is expected to begin about May 1, and ample supplies of peaches meeting the following requirements are expected to be available to satisfy the demand. Peaches failing to meet these requirements may be marketed in Georgia, shipped to adjacent markets, or utilized in processing.

The following regulations reflect the Department's appraisal of the need for regulation based on the current and prospective crop and market conditions.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 918.321 Peach Regulation 1.

(a) No handler shall ship, except peaches in bulk to destinations in the adjacent markets, any peaches which:

(1) During the period May 1 through August 31, 1979, do not grade at least 85 percent U.S. No. 1 quality: *Provided,* That peaches with well-healed hail marks or split pits not scored as serious damage, or peaches with not more than 1 percent decay, may be shipped if they otherwise meet the requirements of this subparagraph.

(2) During the period May 1 through August 31, 1979, are smaller than 1⅝ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count of such peaches in any container in such lot, may be smaller than 1⅝ inches in diameter.

(b) The inspection requirement contained in § 918.64 of this part shall not be applicable to any shipment of peaches in bulk to destinations in the adjacent markets, except for peaches in closed containers, during the period May 1 through August 31, 1979.

(c) The maturity regulations contained in § 918.400 of this part are hereby suspended with respect to shipments of peaches to all destinations other than those in the adjacent markets during the period May 1 through August 31, 1979.

(d) As used in this section, "handler", "adjacent markets", "peaches", "peaches in bulk", and "ship" mean the same as defined in this marketing order, and "U.S. No. 1" and "diameter" mean the same as defined in the United States Standards for Peaches (7 CFR 2851.1210–2851.1233).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: April 25, 1979.

D. S. Kuryloski,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[Peach Reg. 1]
[FR Doc. 79-13362 Filed 4-27-79; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 991

Handling of Hops of Domestic Production; Salable Quantity and Allotment Percentage for the 1979–80 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes the quantity of hops that may be freely marketed from the 1979 crop. This action is taken under the marketing order for domestic hops to promote orderly marketing conditions.

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EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Charles R. Brader, (202) 447–4722.

SUPPLEMENTARY INFORMATION: Notice was published in the March 28, 1979, issue of the **Federal Register** (44 FR 18513) of a proposal to establish, for the 1979–80 marketing year, beginning August 1, 1979, a salable quantity of 63,233,500 pounds, and an allotment percentage of 105 percent. This action is based on the recommendation of the Hop Administrative Committee in accordance with provisions of Marketing Order No. 991, as amended (7 CFR 991), regulating the handling of hops of domestic production. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The Committee's recommendation is based on the following estimates for the marketing year beginning August 1, 1979.

(1) Total domestic consumption of 39,000,000 pounds of hops;

(2) Minus imports of 12,000,000 pounds of hops to result in domestic consumption of U.S. hops of 27,000,000 pounds;

(3) Plus total U.S. exports of 27,000,000 pounds of hops to equal 54,000,000 pounds total usage of U.S. hops;

(4) Plus 3,000,000 pounds to adjust for weight loss for hops processed into pellets and extract;

(5) Plus and adjustment of 6,233,500 pounds to provide for adequate supplies should some producer allotments not be fully produced.

Therefore, the salable quantity during the 1979–80 marketing year will be 63,233,500 pounds.

The salable percentage of 105 percent is computed by substracting from this salable quantity 1,000,000 pounds referable to the additional allotment bases for hops of the Fuggle variety pursuant to §§ 991.38(b) and 991.138, and dividing the remainder by 59,270,000 pounds, the total of all allotment bases less the additional allotment bases for Fuggle variety hops.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Committee, and other available information, it is found that to establish a salable quantity and allotment percentage as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, the salable quantity and allotment percentage to be applicable to the 1979–80 marketing year (August 1, 1979—July 31, 1980) are established as follows:

§ 991.217 Allotment percentage and salable quantity for hops during the marketing year beginning August 1, 1979.

The allotment percentage during the marketing year beginning August 1, 1979, shall be 105 percent, and the salable quantity shall be 63,233,500 pounds.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044.

Dated: April 25, 1979.

D. S. Kuryloski,
Acting Deputy Director Fruit and Vegetable Division.

[FR Doc. 79-13361 Filed 4-27-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Red Carpet Airlines, Inc., to Listing

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final Rule.

SUMMARY: This is an amendment of the regulations of the Immigration and Naturalization Service to add a carrier to the list of transportation lines which have entered into agreements with the Commissioner of Immigration and Naturalization to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93–502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendment contained in this order adds a transportation line to the listing and is editorial in nature.

On April 6, 1979, the Commissioner of Immigration and Naturalization concluded an agreement with Red Carpet Airlines, Inc., to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries pursuant to section 238(d) of the Immigration and Nationality Act and 8 CFR 238. Accordingly, 8 CFR 238.3(b) will be amended by adding "Red Carpet Airlines, Inc." to the listing in alphabetical sequence.

In the light of the foregoing, the following amendment is hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations.

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 *Aliens in immediate and continuous transit*, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, "Red Carpet Airlines, Inc."

(Sec. 103 and 238(d), 8 U.S.C. 1103 and 1228(d)).

Effective date: The amendment contained in this order becomes effective on April 6, 1979.

Dated: April 25, 1979.

Leonel J. Castillo,
Commissioner of Immigration and Naturalization.

[CO 845-P]

[FR Doc. 79-13314 Filed 4-27-79; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 515

Office of Management and Budget Clearance for Data Collection

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Office of Management and Budget Clearance of Regulations in Part 515 for Data Collection.

SUMMARY: On March 15, 1979, the Economic Regulatory Administration (ERA) issued Revised Interim Rules to Permit Classification of Certain Powerplants and Installations as Existing Facilities (44 FR 17464, March 21, 1979). The Office of Management and Budget has reviewed these regulations and has notified ERA that Part 515 has been cleared for data collection purposes until October 31, 1979.

EFFECTIVE DATE: April 30, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Gurney, Regulations and Emergency Planning, Economic Regulatory Administration, Department of Energy, Room 2130, 2000 M Street, NW., Washington, D. C. 20461, (202–254–9766.

Issued in Washington, D. C., April 20, 1979.

Richard B. Herzog,
Deputy Administrator for Policy, Economic Regulatory Administration.

[Docket No. ERA–R–78–21]

[FR Doc. 79-13342 Filed 04-26-79; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL ELECTION COMMISSION

11 CFR Chapter IX

Presidential Election Campaign Fund; Presidential Primary Matching Fund

AGENCY: Federal Election Commission.

ACTION: Transmittal of Regulations: Correction.

SUMMARY: On Friday, April 13, 1979, the Commission published a correction (44 FR 22407) of a Transmittal of Regulations to Congress. The correction contained the text of 11 CFR § 9034.2 but omitted the final subparagraph (c)(4) of that subpart.

EFFECTIVE DATE: Further action including the announcement of an effective date will be taken by the Commission after the regulations have been before the Congress 30 legislative days in accordance with 26 U.S.C. § 9039(c).

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel, Regulations and Legislation, 1325 K Street, NW., Washington, D.C. 20463, (202) 523–4143.

SUPPLEMENTARY INFORMATION: The text of 11 CFR § 9034.2(c)(4) is set forth below and should be added to the correction appearing at 44 FR 22407.

§ 9034.2 Matchable campaign contributions.

* * * * *

(c) * * *

(4) Contributions in the form of checks written on partnership accounts or accounts of unincorporated associations or businesses are matchable contributions, so long as:

(i) The checks are accompanied by documentation which specifies that the contribution is made by a specific individual or individuals;

(ii) Such documentation is signed by the individual or individuals; and

(iii) The aggregate amount of the contributions drawn on a partnership or unincorporated association or business does not exceed $1,000 to any one Presidential candidate seeking nomination.

Dated: April 24, 1979.

Joan D. Aikens,
Chairman, Federal Election Commission.

[FR Doc. 79-13272 Filed 4-27-79; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 304, 332

Applications, Requests, Submittals, Forms, Instructions, Reports, and Powers Inconsistent With Purposes of Federal Deposit Insurance Law

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rules.

SUMMARY: The Federal Deposit Insurance Corporation is amending §§ 303.2, 303.9, 303.11(a), 303.14(b), 303.14(d), 304.3(g) and 332.1 of its regulations to: (1) conform them with the provisions of Section 301 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRIRCA) and the newly adopted FDIC regulation pertaining to the foreign activities of insured State nonmember banks (Part 347), and (2) to correct typographical errors in a recently published amendment to its regulations relating to remote service facility procedures.

EFFECTIVE DATE: Section 303.14(d) becomes effective on April 30, 1979; the remainder becomes effective on May 30, 1979.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, Legal Division (202–389–4237) or Hugh W. Conway, Review Examiner (202–389–4349), 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: The amendments are summarized below.

1. In § 303.2, the definition of the term "branch" has been changed to include foreign branches as defined in Section 301 of FIRIRCA.

2. In § 303.9, a paragraph has been added to outline the application procedures that are referred to in § 347.4 regarding the acquisition and holding of ownership interest in foreign entities by insured State nonmember banks.

3. In § 303.11(a), a new paragraph has been added that delegates to the Director of FDIC's Division of Bank Supervision the authority to approve insured State nonmember bank acquisitions of interests in foreign entities that result in less than 25 percent ownership.

4. In § 303.14(b)(1)(ii)(A) has been amended to allow notice of an application to establish a foreign branch to be published only in the community in which the main office is located.

5. In the § 303.14(d) amendment published in the **Federal Register** on March 26, 1979 (44 FR 17995), sentences which were published out of sequence have been deleted from one location and added in another.

6. In § 304.3(g), a new paragraph has been added to identify the application form to be used for establishing foreign branches.

7. In § 332.1, a phrase has been added to allow foreign branches of insured State nonmember banks the authority to guarantee debts of its customers or otherwise agree for the customers' benefit to make payments as provided in § 347.3(c)(1).

Since the changes are procedural in nature or necessitated by statutory amendments, the Board of Directors of the Federal Deposit Insurance Corporation has determined, under § 302.6 of its rules and regulations (12 CFR § 302.6), that notice of, and public participation in, this rulemaking is unnecessary.

Accordingly, 12 CFR §§ 303.2, 303.9, 303.11, 303.14, 304.3 and 332.1 are amended as follows:

PART 303—APPLICATIONS, REQUEST AND SUBMITTALS

§ 303.2 [Amended]

1. Footnote 2 in 12 CFR § 303.2 is amended to read:

The term "branch" includes any "domestic branch" or "foreign branch" as the terms are defined in Section 3(o) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813(o)).

2. 12 CFR § 303.9 is amended by designating the existing paragraph as paragraph (b) and adding a paragraph (a) to read as follows:

§ 303.9 Other applications.

(a) Applications under Section 347.4 of this title for consent of the Corporation to acquire or hold stock or other evidence of ownership in a foreign bank or other financial entity shall be submitted to the Regional Director in letter form and, unless otherwise directed by the Corporation, shall contain full information concerning the foreign bank or other financial entity

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including (unless previously furnished): (1) The cost, number, class of shares to be acquired, and the proposed carrying value of such shares on the books of the insured State nonmember banks; (2) Recent balance sheet and income statement of the foreign bank or other financial entity; (3) Brief description of the foreign bank's or other financial entity's business (including full information concerning any direct or indirect business transacted in the United States); (4) Lists of directors and principal officers (with address and principal business affiliation of each) and of all shareholders known to the issuing bank holding 10 percent or more of any class of the foreign bank's or other financial entity's stock or other evidences of ownership, and the amount held by each; and (5) Information concerning the rights and privileges of the various classes of shares outstanding.

* * * * *

3. 12 CFR 303.11 is amended by adding a new paragraph (a)(11) to read:

§ 303.11 Delegation of authority to act on certain applications.

(a) * * *

(11) Applications for the acquisition and holding of stock or other evidences of ownership in a foreign bank or other financial entity that result in less than 25 percent ownership interest in such bank or entity.

4. 12 CFR § 303.14(b)(1)(ii)(A) is amended to read:

§ 303.14 Application procedures.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) Applications to establish a branch—

Domestic Branch: In the communities in which the home office and the domestic branch to be established are located;

Foreign Branch: In the community in which the home office is located.

§ 303.14 [Amended]

5. 12 CFR § 303.14(d)(2) as it appeared in the **Federal Register** on March 26, 1979 (44 FR 17995) is corrected by:

(a) Adding at the end of the text of the first notice the following sentence: "A copy of this notice has been sent to the applicant.";

(b) Inserting as the first paragraph following the first notice the following sentence: "Where notice has been sent pursuant to this paragraph, the Regional Director shall send a copy to the applicant.";

(c) Deleting the first sentence in the paragraph formerly following the first notice and inserting the balance of the paragraph as the second paragraph; and

(d) Deleting the paragraph following the second notice.

PART 304—FORMS, INSTRUCTIONS AND REPORTS

§ 304.3 [Amended]

6. 12 CFR § 304.3(g) is amended by:

(a) Adding "Form 6210/10," at the beginning of the subject heading.

(b) Adding the word "domestic" before the word "branch" in the first sentence of subparagraph (1).

(c) Adding a new subparagraph (4) to read: (4) Form 6210/10 is an application to establish a foreign branch under Section 347.3.

PART 332—POWERS INCONSISTENT WITH PURPOSES OF FEDERAL DEPOSIT INSURANCE LAW

§ 332.1 [Amended]

7. 12 CFR § 332.1 is amended by adding the words, "except as provided in § 347.3(c)(1)." after the word "others" at the end of the paragraph.

By Order of the Board of Directors, April 23, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Acting Executive Secretary.

[FR Doc. 79-13338 Filed 4-27-79; 8:45 am]

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12 CFR Part 347

Requirements for Establishing and Operating Foreign Branches and for Acquiring and Holding Ownership Interests in Foreign Entities

AGENCY: Federal Deposit Insurance Corporation

ACTION: Final rule

SUMMARY: FDIC adopts a new regulation that implements Section 301 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, Public Law 95-630 ("FIRIRCA"). The regulation gives FDIC control over the establishment and operation of foreign branches and the acquisition of the shares of foreign entities by insured State-chartered banks that are not members of the Federal Reserve System (nonmember banks). The requirements are similar to those exercised by the Federal Reserve Board with respect to foreign branches and foreign acquisitions by banks which are members of the Federal Reserve System (member banks).

EFFECTIVE DATE: May 30, 1979

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, Legal Division (202-389-4237) or Hugh W. Conway, Review Examiner (202-389-4349), Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

On January 31, 1979 FDIC published for public comment a proposed regulation pertaining to the foreign activities of insured State nonmember banks (44 FR 6130). The regulation was proposed to implement Section 301 of FIRIRCA which requires insured State nonmember banks to obtain FDIC approval before establishing and operating a foreign branch or acquiring and holding ownership interest in foreign entities.

Three matters were raised in the sole letter of comment received in response to the invitation for comment. First, it was suggested that the 30-day comment period be extended to permit additional time for thought on the FDIC proposal and the proposed changes to Part 213 of the Federal Reserve Board regulations (12 CFR Part 213—Regulation M) after which the FDIC proposal was patterned. FDIC confined the comment period for its proposed regulation to the 30-day statutory requirement so that it could promptly implement the requirements of Section 301 of FIRIRCA which became effective on March 10, 1979. Although the formal comment period has ended and the new regulation has been adopted, FDIC still welcomes comments regarding the regulation as it does with respect to any of its other regulations.

Regarding the proposed amendments to Regulation M of the Federal Reserve Board regulations, the FDIC staff has reviewed the proposal and does not contemplate that the FDIC regulation will change in any significant manner, if at all, as a result of any provisions which may be adopted by the Federal Reserve Board from its proposal.

Accordingly, FDIC has concluded that there is no necessity for it to delay issuing its regulations until after the Federal Reserve Board has finalized amendments to Regulation M.

The comment letter also requests that FDIC clarify the provisions of § 347.3(c) of the FDIC proposal entitled "Further powers of foreign branches." It notes that the section's heading is misleading because it suggests that additional powers are being granted when in fact the provisions, like those of Regulation M, restrict bank activity more than the State banking laws under which the banks are chartered. Further, it contends

that such a restriction was not intended by Congress.

FDIC acknowledges that § 347.3(c) establishes limitations on foreign banking activities which could be more restrictive than those under State banking laws and has modified the section's heading in the final regulation to read: "Powers of foreign branches." However, FDIC does not agree that the restrictive nature of the section conflicts with congressional intent. The legislative history of Section 301 of FIRIRCA clearly indicates that Congress desired to bring the foreign banking activities of insured banks which are not members of the Federal Reserve System under Federal controls that were similar, but not necessarily identical, to those in Regulation M which govern the foreign banking activities of banks belonging to the Federal Reserve System. The provisions of Section 347(c) of the FDIC proposal and final regulation are substantially the same as those found in Regulation M.

Finally, the comment letter recommends that FDIC eliminate the burden of the application requirements in §§ 347.3(b) and 347.4(c) for existing foreign branches and ownership interests in foreign banks or other financial entities. In response, FDIC has changed the final regulation to grant its general consent for a bank to retain without application for specific approval, its existing foreign branches and ownership interests in foreign banks or other financial entities provided the entities are not engaged in any activity prohibited by the new part and certain information is submitted.

In addition to the changes noted above, the following significant changes were made in the final regulation:

1. In § 347.2(d), the definition of the term "other financial entities" was changed: (a) to indicate, as provided in FIRIRCA, that the entities must not be engaged in any significant activity in the United States and (b) to permit FDIC the latitude to include within the definition an entity that is engaged in an activity not specifically cited in the definition if the activity is consistent with the purpose of the regulation.

2. In § 347.3(a), the notice requirement for establishing additional foreign branches in a country and for moving foreign branches has been included. Further, a provision has been included that requires an insured State nonmember to advise FDIC when it closes a foreign branch.

3. In § 347.3(c), the introductory paragraph has been changed to clearly indicate that a foreign branch cannot engage in any activity prohibited under State law. Also, subparagraph (1) has been changed to require that a foreign branch's guarantees of customer debts or agreements to make payments for customer benefit be subject to specific State or Federal limitations on the liabilities or, in the absence of such law, be aggregated with standby letters of credit and loans for the purpose of any legal loan limitations. Further, subparagraph (6) that contained a limitation on loans to executive officers for construction of quarters has been eliminated because of appropriate limitations imposed under Title I of FIRIRCA. In addition, a new paragraph was added at the end of the section to allow a bank to apply for permission for its foreign branch to engage in activities not specifically listed.

4. In § 347.4(a), a sentence was added to expressly state that insured State nonmember banks may not acquire or hold ownership interest in a foreign entity except as provided in the section.

5. In § 347.6, paragraph (b) was changed to require an annual report of condition for each foreign branch.

In consideration of the foregoing, the regulation is adopted as set forth below, effective May 30, 1979.

PART 347—FOREIGN ACTIVITIES OF INSURED STATE NONMEMBER BANKS

Sec.
347.1 Authority and scope.
347.2 Definitions.
347.3 Foreign branches.
347.4 Acquisition and holding of stock in foreign banks or other financial entities.
347.5 Loans or extensions of credit to foreign banks or other financial entities.
347.6 Conditions.

Authority: Secs. 3(o), 18(d) and 18(*l*) of the Federal Deposit Insurance Act, as amended by Sec. 301, Pub. L. No. 95-630, 92 Stat. 3641 (12 U.S.C. §§ 1813(o), 1828(d), 1828(*l*)).

§ 347.1 Authority and scope.

Under sections 3(o), 18(d) and 18(*l*) of the Federal Deposit Insurance Act, as amended by section 301, Pub. L. No. 95-630, 92 Stat. 3641 (12 U.S.C. 1813(o), 1828(d), 1828(*l*)), the Federal Deposit Insurance Corporation (the "Corporation") prescribes the following regulation relating to (a) foreign branches of insured State nonmember banks, (b) the acquisition and holding of stock in foreign banks and other financial entities, and (c) loans or extensions of credit to or for the account of such foreign banks or other financial entities.

§ 347.2 Definitions.

For the purposes of this part—

(a) "Foreign branch" means any office or place of business of an insured State nonmember bank located outside the United States, its territories, Puerto Rico, Guam, American Samoa, or the Virgin Islands, at which banking operations (excluding representative offices solely concerned with new business development or public relations) are conducted.

(b) "Foreign country" means any foreign nation or colony, dependency, or possession thereof.

(c) "Foreign bank" means a bank organized under the law of a foreign country or any dependency or insular possession of the United States which is principally engaged in a commercial banking business and not engaged, directly or indirectly, in any activity in the United States except as in the judgment of the Federal Deposit Insurance Corporation, shall be incidental to the international or foreign business of such foreign bank.

(d) "Other financial entity" means a foreign institution other than a foreign bank which is: (1) Organized under the law of a foreign country or any dependency or insular possession of the United States, (2) not engaged, directly or indirectly, in any activity in the United States except as is incidental to its foreign business, and (3) engaged solely in the business of holding the shares of foreign banks, performing nominee, fiduciary, or other banking services incidental to the activities of a foreign branch or banking affiliate of an insured State nonmember bank, or performing other financial activities approved by the Corporation as being consistent with this Part.

§ 347.3 Foreign branches.

(a) *Establishing, moving, or closing foreign branches.* A foreign branch may not be established or operated by an insured State nonmember bank without the prior written consent of the Corporation. This consent may be obtained through the branch application procedures set forth under Part 303. If an insured State nonmember bank has established an authorized foreign branch, it may, unless otherwise advised by the Corporation, establish other branches and move authorized existing branches in that country after *thirty days'* notice to the Corporation concerning each such branch. The notice shall be submitted by letter to the Regional Director of the region in which the main office exists and contain the following information:

(1) Establishing a branch—proposed name and location of the branch, proposed fixed asset investment, lease terms, security arrangements, estimated deposit volume, projected time required

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to operate profitably, date branch is to be established and status of required governmental approvals.

(2) Moving a branch—location to which the branch is to be moved; reason for the relocation; any substantial change in fixed assets, anticipated deposit volume, or branch earnings; the expected date for relocation; and status of required governmental approvals.

At the time of the closing of a foreign branch, the insured State nonmember bank shall by letter advise the Regional Director of the name, the location, and the date of the closing of the branch.

(b) *Existing foreign branches.* The Corporation hereby grants its general consent for any insured State nonmember bank with a foreign branch that was established prior to March 10, 1979 to continue operating such branch without application for specific approval, provided the activity does not conflict with the provisions of this Part and the following information regarding the branch is submitted (unless already submitted) within 90 days from April 30, 1979: name and location; statement of condition; earnings statement, with year-to-date and last two full years' data; estimated time when branch will be profitable if it is not; description of policies and management procedures designed to ensure safe and sound operation; and description of services offered.

(c) *Powers of foreign branches.* In addition to its general banking powers and to the extent consistent with its charter, the banking practices in the country where it does business, and the provisions of this Part, a Branch may:

(1) Guarantee customer's debts or otherwise agree for their benefit to make payments on the occurrence of readily ascertainable events [1] if the guarantee or agreement specifies its maximum monetary liability thereunder. The guarantee or agreement shall be combined with all standby letters of credit and loans for purposes of applying any legal limitation on loans of the bank: *Provided,* That if the guarantee or agreement is subject to separate limitation under State or Federal law, the separate limitation shall apply in lieu of the loan limitation.

(2) Accept drafts or bills of exchange drawn upon it.

(3) Acquire and hold securities [including certificates or other evidences of ownership or participation) of the central bank, clearinghouses, governmental entities, and development banks of the country in which it is located, but the total investment in such securities (exclusive of securities held as required by the law of that country or as authorized for national banks under 12 U.S.C. 24) shall not exceed 1 percent of its total deposits on the preceding year-end call report date (or on the date of such acquisition in the case of a newly approved branch which has never reported);

(4) Underwrite, distribute, buy, and sell obligations of the national government of the country in which it is located;[2] but no bank may hold, or be under commitment with respect to, obligations of such a government as a result of underwriting, dealing in, or purchasing for its own account, in an aggregate amount exceeding 10 percent of its capital and surplus;

(5) Take liens or other encumbrances on foreign real estate in connection with its extensions of credit, whether or not of first priority and whether or not such real estate is improved or has been appraised;

(6) Pay to any officer or employee of the branch a greater rate of interest on deposits than that paid to other depositors on similar deposits with the branch;

(7) Act as insurance agent or broker. An insured State nonmember bank that is of the opinion that other activities are usual in connection with the transaction of the business of banking in the places where its branches transact business, may apply to the Corporation for permission to engage in such activities.

(d) *Limitations.* Nothing in paragraph (c) of this section shall authorize a foreign branch to engage in the general business of producing, distributing, buying, or selling goods, wares, or merchandise, or, except as permitted by paragraph (c)(4) of this section, to engage or participate, directly, or indirectly, in the business of underwriting, selling, or distributing securities.

(e) *Suspending operations during disturbed conditions.* The officer in charge of a foreign branch may suspend its operations during disturbed conditions which make conduct of operations impracticable; but every effort shall be made before and during such suspension to serve its customers. Full information concerning any suspension shall be promptly reported to the branch's main office, which shall immediately send a copy thereof to the Regional Director of the region in which the main office exists.

[1] Including, but not limited to, events such as nonpayment of taxes, rentals, customs duties, or costs of transport and loss or nonconformance of shipping documents.

[2] Including obligations issued by an agency or instrumentality, and supported by the full faith and credit, of such government.

§ 347.4 Acquisition and holding of stock in foreign banks or other financial entities.

(a) *General.* No insured State nonmember bank may acquire or hold, directly or indirectly, ownership interest in a foreign bank or other entity except as provided in this section. When authorized by State law, an insured State nonmember bank may, with the prior written consent of the Corporation and subject to the provisions of this Part, acquire and hold, directly or indirectly, the stock or other evidences of ownership in one or more foreign banks or other financial entities without regard to the provisions of 12 U.S.C. 1828(j): Provided, that the aggregate amount invested directly or indirectly (other than through a corporation organized under section 25(a) of the Federal Reserve Act) in the stock or other evidences of ownership of all foreign banks and other financial entities, taken together with investments by the bank in the shares of corporations organized under section 25(a) of the Federal Reserve Act, shall not exceed 25 percent of the bank's capital and surplus.

(b) *Acquisitions to prevent loss.* Nothing contained in this Part shall prevent the acquisition and holding of stock or other evidences of ownership in a foreign bank or other financial entity where such acquisition is necessary to prevent a loss upon a debt previously contracted in good faith; but such stock or other evidences of ownership shall be disposed of within 12 months from the date of acquisition unless the time is extended by the Corporation.

(c) *Limitations.* Stock or other evidences of ownership in a foreign bank or other financial entity shall be disposed of as promptly as practicable if (1) such bank or other financial entity should engage in the business of underwriting, selling, or distributing securities in the United States or (2) the insured State nonmember bank is advised by the Corporation that its holding is inappropriate under this Part. The terms "stock", "shares", and "evidences of ownership" in this section include any right to acquire stock, shares, or evidences of ownership, except that prior Corporation consent is not required for the acquisition and exercise of stock rights in lieu of dividends which are declared on shares already held by an insured State nonmember bank and which do not result in an increase in percentage ownership of the foreign bank or other financial entity.

(d) *Required information.* An insured State nonmember bank may apply for the consent of the Corporation to acquire and hold, directly or indirectly, the stock or other evidences of ownership in a foreign bank or other financial entity by filing the information specified in § 303.9. The Corporation hereby grants its general consent for any insured State nonmember bank having stock or other evidence of ownership in a foreign bank or other financial entity that was acquired prior to March 10, 1979 to continue holding such stock or evidence without application for specific approval provided it does not conflict with the provisions of this Part and the following information is submitted (unless already submitted) within 90 days from April 30, 1979: name and location of bank or other financial entity; number, type and par value of shares held, percentage of total voting shares outstanding, and, if different, percentage of total equity, historical cost, current carrying value and any premium paid that has not been amortized; description of the company activities, principal locations, subsidiaries and affiliates (including company locations, subsidiaries and affiliates in the United States), and any activity that is not of a banking or financial nature; recent balance sheets and income statements; and amount of any credit extended to the subsidiary or affiliate and description of any contracts with company (including management or service contracts).

(e) *Reports.* An insured State nonmember bank shall immediately inform the Corporation, through the Regional Director of the region in which the bank is located, of any acquisition or disposition of stock in a foreign bank or other financial entity, including the cost and number of shares acquired pursuant to this section.

§ 347.5 Loans or extensions of credit to foreign banks or other financial entities.

An insured State nonmember bank which holds directly or indirectly [3] stock or other evidences of ownership in a foreign bank or other financial entity may make loans or extensions of credit to or for the account of such foreign bank or other financial entity without regard to the provisions of 12 U.S.C. 1828(j).

§ 347.6 Conditions.

(a) *Records, controls and reports.* An insured State nonmember bank exercising any powers under this Part shall maintain a system of records, controls and reports that, at minimum, provide for the following:

[3] Whether through a corporation organized under section 25(a) of the Federal Reserve Act, or otherwise.

(1) *Risk assets.* To permit assessment of exposure to loss, information furnished or available to the main office should be sufficient to permit periodic and systematic appraisals of the quality of loans and other extensions of credit. Coverage should extend to a substantial proportion of the risk assets in the branch or subsidiary, and include the status of all large credit lines and of credits to customers also borrowing from other offices of the bank. Information on credit extensions should include (i) a recent financial statement of the borrower and current information on the borrower's financial condition; (ii) credit terms, conditions, and collateral; (iii) data on any guarantors; (iv) payment history; and (v) status of corrective measures employed.

(2) *Liquidity.* To enable assessment of local management's ability to meet its obligations from available resources, reports should identify the general sources and character of the deposits, borrowing, etc., employed in the branch or subsidiary with special reference to their terms and volatility. Information should be available on sources of liquidity—cash, balances with banks, marketable securities, and repayment flows—such as will reveal their accessibility in time and any risk elements involved.

(3) *Contingencies.* Data on the volume and nature of contingent items such as loan commitments and guaranties or their equivalents that permit analysis of potential risk exposure and liquidity requirements.

(4) *Controls.* Reports on the internal and external audits of the branch or subsidiary in sufficient detail to permit determination of conformance to auditing guidelines. Such reports should cover (i) verification and identification of entries on financial statements; (ii) income and expense accounts, including descriptions of significant chargeoffs and recoveries; (iii) operations and dual-control procedures and other internal controls; (iv) conformance to head office guidelines on loans, deposits, foreign exchange activities, proper accounting procedures, and discretionary authority of local management; (v) compliance with local laws and regulations; and (vi) compliance with applicable U.S. laws and regulations.

(b) The bank shall submit an annual report of condition for each foreign branch pursuant to instructions provided by the Corporation.

(c) The Corporation may from time to time require an insured State nonmember bank to make and submit such reports and information as may be necessary to implement and enforce the provisions of this Part.

By order of the Board of Directors, April 23, 1979.

Federal Deposit Insurance Corporation,

Hoyle L. Robinson,

Acting Executive Secretary

[FR Doc. 79-13397 Filed 4-27-79; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

Airworthiness Directives; Bell Model 206A Series and 206B Series Helicopters With Pop-Out Float Landing Gear and Alaskan Sky-Craft External Load Carrying Device Installed

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires either removal of the Alaskan Sky-Craft external load carrying devices or replacement of the pop-out float landing gear with the Bell high skid landing gear on certain Bell Model 206A series and 206B series helicopters which have both the Bell pop-out float landing gear and an external landing device installed. Related requirements concerning the Flight Manual Supplement and installation of the external load carrying device for further use are also included. The AD is needed to prevent deflation of the pop-out floats by puncturing from rough or sharp edges on the external load carrying device which could in turn result in the helicopter capsizing or sinking.

DATES: Effective: May 14, 1979. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from: Alaskan Sky-Craft Company, Inc., Box 6206, International Airport, Anchorage, Alaska 99502. A copy of the service bulletin is contained in the rules docket for this Amendment in Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Dayton O. Curtis, Chief, Engineering and Manufacturing Field Office, Federal Aviation Administration, 4610 International Airport Road, Anchorage, Alaska 99502, Telephone: 907-243-1260.

SUPPLEMENTARY INFORMATION: There have been reports that interference exists between the activated pop-out float landing gear on certain Bell Models 206A series and 206B series helicopters and the undersides and outboard edges

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of the Alaskan Sky-Craft (ASC) external load carrying device installed in accordance with Supplemental Type Certificates (STCs) SH515AL, SH474AL, or SH309AL. Thus, in the event of a forced landing in water, the pop-out floats may bear against the undersides and outboard edges of the external load carrying devices. Any rough or sharp edges on the external load carrying devices could puncture one or more cells of the pop-out floats resulting in deflation of the float. Prolonged wave action would increase the possibility of puncture and could result in the helicopter capsizing or sinking. Since this condition is likely to exist or develop on other helicopters of the same type design, an AD is being issued to require either removal of the external load carrying device or replacement of the pop-out float landing gear with a high skid landing gear on Bell Model 206A series and 206B series helicopters which have the pop-out float landing gear and an external load carrying device installed. Related requirements concerning removal or replacement of the Flight Manual Supplement are also provided. Contined use of the external load carrying device also requires installation of that device in accordance with the amended STCs which include revised drawings.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Bell. Applies to Models 206A series and 206B series helicopters certificated in all categories, with an Alaskan Sky-Craft external load carrying device and Bell pop-out float landing gear installed in accordance with Supplemental Type Certificate (STC) SH515AL, SH474AL, or SH3090AL.

Compliance is required as indicated, unless already accomplished.

To prevent possible puncturing of the Bell pop-out floats, (P/N 206-706-010), by Alaskan Sky-Craft (ASC) external load carrying devices, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, either—

(1) Remove the ASC external load carrying device and the ASC Flight Manual Supplement from the Rotorcraft Flight Manual; or

(2) Remove the Bell pop-out floats (P/N 206-706-010), install the Bell high skid landing gear (P/N 206-706-031), and replace the applicable ASC Rotorcraft Flight Manual Supplement with the appropriate supplement, all in accordance with ASC Service Bulletin No. 2 dated November 28, 1978 (hereinafter referred to as the Service Bulletin), or an FAA-approved equivalent.

(b) After compliance with paragraph (a)(2) of this AD, before further flight with an ASC external load carrying device installed, ensure that the external load carrying device is installed in accordance with STC SH515AL, as amended May 2, 1978, STC SH309AL, as amended May 8, 1978, or STC SH474AL, as amended May 8, 1978, as appropriate.

Note.—The appropriate revised ASC drawing which is part of the amended STC is referenced in paragraph A.(3), B.(3), or C.(3) of the Service Bulletin.

This amendment becomes effective May 14, 1979.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on April 20, 1979.

J. A. Ferrarese,
Acting Director, Flight Standards Service.

[Docket No. 18980; Amdt. 39-3456]
[FR Doc. 79-13033 Filed 4-27-79; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 39

Boeing Model 747 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) to require that the thrust lever actuated switch which operates the takeoff warning system be inspected and, as necessary, rigged to the correct setting. This AD is necessary because at temperatures up to +50 degrees Fahrenheit the takeoff aural warning system will not be activated to indicate an unsafe takeoff condition.

DATES: Effective date May 10, 1979. Compliance required within 500 hours time-in-service after the effective date of this AD unless already accomplished.

ADDRESS: The Boeing service bulletin specified in this directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Weston B. Slifer, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2500.

SUPPLEMENTARY INFORMATION: Two operators have reported three instances in which the takeoff aural warning switch was found misrigged to a throttle position of about 35 degrees from idle stop. Subsequent inspection of in-service airplanes has resulted in seven additional misrigged switch reports. If the aural warning switch is misrigged, takeoff thrust could be achieved at temperatures up to +50 degrees Fahrenheit with the aural warning system not activated to indicate an unsafe takeoff condition. Since this condition is likely to exist or develop in other Boeing Model 747 airplanes, action is taken herein to require a one-time check of the aural warning system and if necessary, corrective action.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing: Applies to all Model 747 series airplanes certificated in all catergories. Compliance required within 500 hours time-in-service after the effective date of this AD unless already accomplished.

To prevent takeoff with a takeoff aural warning system that would not indicate an unsafe takeoff condition, accomplish the following:

Perform a one-time check of the aural warning system and, as necessary, adjust and re-check the aural warning activation switch, the auto-brake deactivation and auto-speedbrake retraction switches in accordance with Boeing Alert Service Bulletin 747-31A2056, Rev. 1, dated April 6, 1979, or later FAA approved revisions, or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective May 10, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89).)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on April 19, 1979.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

C. B. Walk, Jr.,
Director, Northwest Region.

[Docket No. 79-NW-9-AD; Amdt. 39-3454]
[FR Doc. 79-13036 Filed 4-27-79; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 39

Airworthiness Directive; Cessna Model 441 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Cessna Model 441 airplanes. The AD requires additional drain holes to be incorporated in the ailerons in accordance with the instructions provided by Cessna Propjet Service Information Letter PJ 79-3. This action will assure adequate drainage of water that may enter the aileron and prevent possible flutter with ensuing engine and/or wing separation that could result from aileron unbalance caused by trapped water.

EFFECTIVE DATE: May 7, 1979.
Compliance: Within the next 100 hours time-in-service after the effective date of this AD.

ADDRESSES: Cessna Propjet Service Information Letter PJ 79-3, dated March 5, 1979, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685-9111. A copy of this service information letter is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 east 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Earsa L. Tankesley, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-3446.

SUPPLEMENTARY INFORMATION: A recent incident occurred where a Cessna Model 441 airplane encountered in-flight aileron vibration or flutter. Following this incident the airplane was landed safely. During a post-flight inspection, the left aileron drained approximately ½ cup of water when the trailing edge was deflected upward. Investigation of this incident showed that prior to the flight, the airplane was washed in a heated hangar and then immediately taken outside into 11°F temperature. It was concluded that water entered the aileron during the airplane washing, became trapped between the rib bays and froze when the airplane was rolled into the below-freezing temperature. The in-flight vibration or flutter was caused by aileron unbalance that resulted from the trapped water or ice.

To correct this condition Cessna issued Propjet Service Information Letter PJ 79-3 which provides instructions needed to drill drainage holes in the ribs of the ailerons and elevators installed on this model. This letter recommended incorporation of these additional drain holes within the next 100 hours of operation.

The FAA has determined that trapped water or ice in the aileron will result in it becoming unbalanced, thereby changing its flutter speed with possible disastrous results, such as an engine and/or wing separation. FAA has also determined that the elevators have adequate drainage and therefore water or ice will not be trapped in these control surfaces.

Accordingly, since an unsafe condition is likely to develop in the ailerons installed on other airplanes of the same type design, an AD is being issued applicable to Cessna Model 441 airplanes making compliance with the aileron provisions of the Cessna Propjet Service Information Letter mandatory.

The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the Federal Register.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR Section 39.13) is amended by adding the following new AD.

Cessna: Applies to Model 441 (Serial Numbers 441-0001 through 441-0090) airplanes.

Compliance: Required as indicated, unless already accomplished.

To assure proper drainage of the aileron control surfaces, within the next 100 hours time-in-service after the effective date of this AD, accomplish the following:

(A) Incorporate additional drainage of the ailerons by drilling new drain holes in accordance with the instructions provided in Cessna Propjet Service Information Letter PJ 79-3, dated March 5, 1979.

(B) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Note.—The FAA has determined that there is insufficient justification to require mandatory compliance with the elevator portion of Cessna Service Information Letter PJ 79-3. Therefore, this AD is not applicable to elevator drainage improvements provided by that letter.

This amendment becomes effective May 7, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and § 11.89 of the Federal Aviation Regulations (14 CFR 11.89).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing Earsa L. Tankesley, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-3446.

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Issued in Kansas City, Missouri on April 18, 1979.

C. R. Melugin, Jr.,
Director, Central Region.

[Docket No. 79-CE-3-AD; Amdt. 39-3454]
[FR Doc. 79-13038 Filed 4-26-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

Airworthiness Directives; Beech Model 76 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts a new Airworthiness Directive (AD), applicable to certain Beech Model 76 airplanes. The AD requires the Pilot's Operating Handbook and FAA Approved Airplane Flight Manual (Beech P/N 105-590000-5) provided with the airplane as required equipment to be revised by inserting Beech revision P/N 105-590000-5A1, dated March 1979. This action provides procedures needed to detect a failed engine starter relay which may result in a complete loss of electrical power. It also provides a means for restoring partial electrical power should an in-flight electrical failure occur. This action is necessary to prevent hazards to operation of the airplane that may result from a loss of electrical power.

EFFECTIVE DATE: May 7, 1979.
Compliance: Within 25 hours time-in-service after the effective date of this AD.

ADDRESSES: Beechcraft Service Instructions Number 1050, referenced in this AD, may be obtained from local Beechcraft Aviation and Aero Centers or Beech Aircraft Corporation, Commercial Service Department, 9709 East Central, Wichita, Kansas 67201. A copy of the service instructions cited above is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Earsa L. Tankesley, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-3446.

SUPPLEMENTARY INFORMATION: There have been four incidents involving Beech Model 76 airplanes where a starter relay failure has caused the starter motor to be continously energized and thereby resulted in a complete loss of airplane electrical power. Investigation of these failures has shown that this condition could have been averted had the pilot been aware of the relay failure. Therefore, the manufacturer has developed a revision to the Pilot's Operating Handbook and FAA Approved Airplane Flight Manual which provides a means of detecting a failed starter relay prior to takeoff. In addition, this revision also provides an emergency procedure for restoring partial electrical power, should a complete loss of electrical power occur in flight.

Accordingly, since an unsafe condition is likely to exist in other aircraft of the same type design, an AD is being issued applicable to certain serial numbers of Beech Model 76 airplanes, making insertion of Revision A1 (P/N 105-590000-5A1), dated March 1979, in the airplane Pilot's Operating Handbook and FAA Approved Airplane Flight Manual mandatory.

The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the **Federal Register.**

Adoption of the Amendment

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Beech: Applies to Model 76 (Serial Numbers ME-1 through ME-182) airplanes.

Compliance: Required as indicated unless previously accomplished.

To preclude undetected failures of the engine starter relay and probable loss of electrical power, within the next 25 hours time-in-service after the effective date of this AD, accomplish the following:

(A) Insert into the Pilot's Operating Handbook and FAA Approved Airplane Flight Manual, P/N 105-590000-5 (which was supplied with the airplane as required equipment) revision P/N 105-590000-5A1 dated March 1979, a copy of which is enclosed herewith and operate the airplance in accordance with these revised instructions.

(B) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Beechcraft Service Instructions Number 1050 covers the subject matter of this AD.

The Interim Addendums previously supplied by Beechcraft Executive Airplane Safety Communique 76-49 do not meet the requirements of this AD.

This Amendment becomes effective May 7, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Earsa L. Tankesley, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-3446.

Issued in Kansas City, Missouri on April 19, 1979.

C. R. Melugin, Jr.,
Director, Central Region.

[Docket No. 78-CE-6-AD; Amendment 39-3455]
[FR Doc. 79-13037 Filed 4-27-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

Airworthiness Directives; Short Brothers Limited—SD3-30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires removal of the propellor blade angle pitch mechanism support bracket on certain SD3-30 airplanes to inspect for cracks, replacement of bracket if cracks are found, and repetitive inspections until installation of a modified bracket. This AD is necessary to prevent failure of the bracket which could cause inflight shutdown of the engine because propeller blade angles higher than required for flight can result in engine overtemperature damage.

DATES: Effective May 14, 1979.
Compliance required as indicated.

ADDRESSES: The applicable service bulletins may be obtained from: Product Support Department, Short Brothers Limited, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland.

A copy of each service bulletin is contained in the rules docket for this amendment in Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513,38.30, or C. Christie, Chief, Technical Standards Branch, AFS-110, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: 202-426-8374.

SUPPLEMENTARY INFORMATION: There have been reports of failure of the low blade angle pitch mechanism support bracket, P/N SD3-49-0784 or P/N SD3-49-0784xB, on certain Short Brothers Limited SD3-30 airplanes. Failure of the bracket results in an undetermined increase of the propeller blade angle beyond that required for normal flight and an inability to control the blade angle within the limits established for proper engine operation, thereby requiring inflight shutdown of the engine to prevent damage due to exhaust gas overtemperature. Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is being issued which requires inspection of the low blade angle pitch mechanism support brackets, P/N SD3-49-0784 or P/N SD3-49-0784xB, for cracks, replacement of the bracket if cracks are found, and repetitive inspection of the bracket until modified bracket is installed.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Short Brothers Limited.

Applies to Model SD3-30 airplanes, S/N SH3002 through SH3019, certificated in all categories, which have low blade angle pitch mechanism support bracket, P/N SD3-49-0784 or P/N SD3-49-0784xB installed.

Compliance is required as indicated, unless already accomplished.

To prevent propeller blade angle from increasing beyond the flight setting, accomplish the following:

(a) Within the next 30 hours time in service after the effective date of this AD, remove each low blade angle pitch mechanism support bracket, P/N SD3-49-0784 or P/N SD3-49-07834xB, and inspect it for cracks using the dye penetrant procedure or an equivalent FAA-approved procedure, in accordance with paragraph 2.A., "Accomplishment Instructions", of Short Brothers Service Bulletin No. SD3-61-A05, dated August 2, 1978, or an FAA-approved equivalent.

(b) Within the next 300 hours time in service after bracket reinstallation in accordance with paragraph (c)(1) of this AD or bracket replacement in accordance with paragraph (d)(1) of this AD, and thereafter at intervals not to exceed 300 hours from the last inspection, visually inspect support bracket, P/N SD3-49-0784 or P/N SD3-49-0784xB, for cracks in accordance with paragraph 2.A.10 of the Short Brothers Service Bulletin No. SD3-61-A05 dated August 2, 1978, or an FAA-approved equivalent.

(c) If, during any inspection required by paragraph (a) of this AD, no cracks are found—

(1) Reinstall support bracket, P/N SD3-49-0784 or P/N SD3-49-0784xB in accordance with Short Brothers Service Bulletin No. SD3-61-A05 dated August 2, 1978, or an FAA-approved equivalent and accomplish the repetitive inspections required by paragraph (b) of this AD; or

(2) Install a modified support bracket, P/N SD3-49-0902 or P/N SD3-49-0902xA in accordance with Short Brothers Service Bulletin No. SD3-61-05 dated September 27, 1978, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa and Middle East Region.

(d) If, during any inspection required by this AD, any cracks are found, remove the cracked bracket from service and—

(1) Replace the cracked support bracket with a crack-free, new or used support bracket of the same part number, and accomplish the repetitive inspections required by paragraph (b) of this AD. (Before installation of a used support bracket, inspect it in accordance with the method specified in paragraph (a) of this AD to ensure that it is crack-free); or

(2) Replace the cracked bracket with a modified support bracket, P/N SD3-49-0902 or P/N SD3-49-0902xA, in accordance with Short Brothers Service Bulletin No. SD3-61-05 dated September 27, 1978, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa and Middle East Region.

(e) Upon installation of a modified support bracket, P/N SD3-49-0902 or P/N SD3-49-0902xA, in accordance with Short Brothers Service Bulletin No. SD3-61-05 dated September 27, 1978, or an equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, inspections required by paragraph (b) of this AD may be discounted.

(f) Upon request of an operator, the Chief, Aircraft Certification Staff, FAA, Europe, Africa and Middle East Region, c/o American Embassy, Brussels, Belgium, may adjust the repetitive inspection interval specified in paragraph (b) of this AD or approve modifications equivalent to that specified in paragraphs (c), (d), and (e) of this AD provided that such requests are made through an FAA maintenance inspector and the request contains substantiating data to justify the request for that operator.

This amendment becomes effective May 14, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); (14 CFR 11.89).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on April 20, 1979.

J. A. Ferrarese,
Acting Director, Flight Standards Service.

[Docket No. 18961, Amdt. 39-3457]
[FR Doc. 79-13289 Filed 4-27-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 121

Crewmember Training and Pilot Certificates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends the training requirements for crewmembers. The FAA has determined that to require crewmembers to jump into emergency evacuation slides during alternate recurrent training can lead to injuries and is not in the public interest. This rule also corrects an inadvertent omission regarding pilot certificates.

DATE: Effective date is April 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. D. A. Schroeder, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-755-8715.

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SUPPLEMENTARY INFORMATION:

Amendment to § 121.417

Amendment No. 121–148 (43 FR 46230; October 5, 1978) amended the crewmember emergency training provisions of § 121.417 by clarifying that the emergency drill requirements prescribed for crewmembers apply to both initial and recurrent training and that each crewmember is required to participate in one emergency evacuation using a slide during initial training and each 24 calendar months during recurrent training.

By letters dated November 6, 1978, and March 16, 1979, the Air Transport Association (ATA), on behalf of its members, petitioned the Administrator for a reconsideration of this requirement for each crewmember to use an emergency evacuation slide during recurrent training. ATA's petition is based on the questionable benefit of such recurrent training considering past injuries to persons using evacuation slides during training. To support their contention, ATA cites that 26 injuries occurred to crewmembers during slide jumps in 1976 and 1977. From January 1978 to the present, of the 23 airlines reporting, 23 serious injuries have occurred as well as considerable minor injuries (burns, abrasions, etc.) which required no hospitalization.

Of the air carriers that have commenced jumping into slides for recurrent training, the most serious injuries that have occurred consist of a fractured coccyx, a broken leg, a broken ankle and one flight attendant received injuries that have left that flight attendant permanently paralyzed from the waist down.

Although the possibility of injuries is present, the air carriers recognize the need for this risk in the initial training of crewmembers and concur with jumping into an evacuation slide on a one-time basis.

However, the air carriers do not believe that the value of recurrent jumps exceeds the loss suffered due to injuries.

Accordingly, § 121.417(c) is amended to delete the requirement for each crewmember to use a slide in an emergency evacuation during recurrent training.

Based on the extent of the injuries incurred during the slide jumps and to prevent additional injuries anticipated when each air carrier begins the recurrent phase of its training program, the FAA has concluded good cause exists for this amendment and that notice and public procedure are unnecessary and contrary to the public interest and that this amendment may be made effective without notice.

Amendment to § 121.437

Amendment No. 121–148 (43 FR 46230; October 5, 1978) amended § 121.437(b) effective December 4, 1978, to require a pilot, other than a pilot in command, to hold a commercial pilot certificate with appropriate category and class ratings and an instrument rating after July 1, 1980. The amendment did not provide for a second in command to hold at least the certificate requirements of § 121.437(b) in effect prior to December 4, 1978. This provision was inadvertently omitted in the rulemaking process and therefore § 121.437 is hereby amended by reinstating the requirement for a second in command to hold a commercial pilot certificate with an instrument rating until July 1, 1980. Since this change corrects and clarifies the current requirements and does not impose a burden on the public, notice and public procedure are unnecessary. This change is adopted as noted.

Adoption of the Amendments

Accordingly, Part 121 of the Federal Aviation Regulations (14 CFR Part 121) is amended as follows, effective April 23, 1979.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG AND SUPPLEMENTAL AIR CARRIERS AND COMMERICAL OPERATORS OF LARGE AIRCRAFT

§ 121.417 [Amended]

1. By amending § 121.417(c) by deleting the phrase "* * * and each 24 calendar months during recurrent training." at the end on the second sentence and ending the second sentence after the words "initial training."

§ 121.437 [Amended]

2. By amending § 121.437 by redesignating paragraph (b) as paragraph (c) and by adding a new paragraph (b) to read as follows:

* * * * *

(b) Each pilot who acts as a pilot in a capacity other than those specified in paragraph (a) of this section must hold at least a commercial pilot certificate and an instrument rating.

* * * * *

(Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430) and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044, and set forth in the "Department of Transportation Regulatory Policies and Procedures" published in the **Federal Register** February 26, 1979 (44 FR 11034).

Issued in Washington, D.C., on April 23, 1979.

Langhorne Bond,
Administrator.

[Docket No. 18863; Amdt. No. 121–151]
[FR Doc. 79–13292 Filed 4–27–79; 8:45 am]
BILLING CODE 4910–14–M

CIVIL AERONAUTICS BOARD

14 CFR Part 234

Flight Schedules of Certificated Air Carriers; Realistic Scheduling Required

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., April 24, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Editorial Amendment.

SUMMARY: This rule clarifies the applicability of the Board's regulations for on-time arrival to make it clear that they apply to carriers certificated under the new dormant authority and automatic entry provisions of the Act.

DATES: Effective: May 20, 1979. Adopted: April 24, 1979.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673–5442.

SUPPLEMENTARY INFORMATION: The Airline Deregulation Act of 1978 (Pub. L. 95–504) amended section 401 of the Act by providing for certificate applications to provide air transportation where the present certificated carrier has not provided minimum service and the route authority is thereby dormant (401(d)(5)). The newly certificated carrier must then provide the minimum scheduled service. It also provided for certification under an automatic entry program (401(d)(7)).

Since these dormant authority and automatic entry carriers will be providing essentially the same service under sections 401(d)(5) and 401(d)(7) of the Act, respectively, as those certificated under sections 401(d)(1) or 401(d)(2) of the Act, the Board's on-time arrival regulations under Part 234 (14 CFR Part 234) should apply to them.

These carriers must thus meet the same elapsed-time standards and file the same on-time arrival reports as do other certificated route carriers to which Part 234 applies.

In order to conform these regulations to the deregulation amendments, the applicability section (§ 234.2) under part 234 is amended to include those carriers certificated under sections 401(d)(5) and 401(d)(7) of the Act.

Section 234.2 also includes a reference to supplemental air carriers, stating that the requirements of this part do not apply to them. The term "supplemental air carrier" has been changed to "charter air carrier" by the Airline Deregulation Act, and these carriers are being considered for scheduled service. Since the intent of the reference in § 234.2 is to exempt charter flights from coverage of the part, the last sentence of the section is being changed to clarify this intent.

This amendment, which is editorial and conforming in nature, is issued pursuant to the delegation of authority from the Board to the General Counsel in § 385.19 of the Organization Regulations. Procedures for review of this amendment are set forth in Subpart C of Part 385 (14 CFR §§ 385.50 through 385.54).

The Board amends § 234.2 of Part 234 (14 CFR 234.2) to read as follows:

§ 234.2 Applicability.

This part applies to any route air carrier certificated under paragraphs (d)(1), (d)(2), (d)(5), or (d)(7) of section 401 of the Federal Aviation Act insofar as it is engaged in air transportation, other than helicopter service, or intra-Alaska service conducted with aircraft whose maximum certificated takeoff weight is 12,500 pounds or less, within or among any of the States of the United States and the District of Columbia with respect to all flights, other than all-cargo flights, scheduled and performed in such transportation. This part does not apply to charter flights.

(Secs. 204(a), 401, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754 (as amended); (49 U.S.C. 1324, 1371). Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; (49 U.S.C. 1324 (note)) Pub. L. 95–504.)

By the Civil Aeronautics Board.

Phillip J. Bakes, Jr.
General Counsel.

[Reg. ER–1116; Amdt. 9]
[FR Doc. 79–13357 Filed 4–27–79; 8:45 am]
BILLING CODE 6320–01–M

14 CFR Part 289

Exemption of Air Carriers from Agreement Filing Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., April 24, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Editorial Amendment.

SUMMARY: This rule clarifies the applicability of the Board's exemption from certain agreement filing requirements under section 412 of the Act to make it clear that it applies to carriers certificated under the dormant authority and automatic entry provisions of the Act.

DATES: Effective: May 20, 1979. Adopted: April 24, 1979.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673–5442.

SUPPLEMENTARY INFORMATION: The Airline Deregulation Act of 1978 (P.L. 95–504) amended section 401 of the Act by providing for certificate applications to provide air transportation where the present certificated carrier has not provided minimum service and the route authority is thereby dormant. The newly certificated carrier must then provide a minimum level of scheduled service. It also provides for certification under an automatic entry program.

Since these dormant authority and automatic entry carriers will be providing essentially the same service under sections 401(d)(5) and 401(d)(7) of the Act, respectively, as those certificated under sections 401(d)(1) or 401(d)(2) of the Act, the Board's exemption under Part 289 (14 CFR Part 289) should also be given to them. This means that certain types of agreements, such as those for ground services and facilities, free or reduced-rate transportation, and pick-up and delivery, need not be filed with the Board under section 412(a), unless they fall into a few limited categories.

In order to conform these exemption regulations, the definition of "certificated route air carrier" is being amended to include those carriers certificated under sections 401(d)(5) and 401(d)(7) of the Act.

This amendment, which is editorial and conforming in nature, is issued pursuant to the delegation of authority from the Board to the General Counsel in § 385.19 of the Organization Regulations. Procedures for review of this amendment are set forth in Subpart C of Part 385 (14 CFR § 385.50 through 385.54).

The Board amends the definition of "certificated route carrier" in § 289.1 of Part 289 (14 CFR 289.1) to read as follows:

§ 289.1 Definition.

For the purpose of this part:

(a) "Certificated route air carrier" means any air carrier which holds a certificate of public convenience and necessity issued under paragraphs (d)(1), (d)(2), (d)(5), or (d)(7) of section 401 of the Federal Aviation Act of 1958 authorizing unlimited regularly scheduled route service between specified points or, in case of foreign air transportation, along a general route or routes, designated in the certificate.

* * * * *

(Secs. 204(a) and 401, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, (as amended); (49 U.S.C. 1324, 1371). Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; (49 U.S.C. 1324 (note).) Pub. L. 95–504.)

By the Civil Aeronautics Board.

Phillip J. Bakes, Jr.,
General Counsel.

[Reg. ER–1117; Amdt. 3]
[FR Doc. 79–13356 Filed 4–27–79; 8:45 am]
BILLING CODE 6320–01–M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 200

Employee Responsibilities and Conduct; Revisions in Conflict of Interest Requirements

Correction

In FR Doc. 79–12521 appearing at page 23823 in the issue for Monday, April 23, 1979, the effective date, now given as "May 23, 1979", should have been "April 23, 1979".

BILLING CODE 1505–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 235

Mortgage Insurance and Assistance Payments for Home Ownership and Project Rehabilitation; Correction

AGENCY: Department of Housing and Urban Development.

ACTION: Correction of final rule.

SUMMARY: On December 26, 1978, at 43 FR 60155, the Secretary adopted miscellaneous amendments to 24 CFR Part 235. Item 11, Supplementary Information, advised that "Section 235.2(e) is being deleted in order to allow for continuation of assistance payments to eligible assumptors of mortgages insured on or after January 5, 1976." This change was inadvertently

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omitted from the rule submitted to the **Federal Register** for publication.

EFFECTIVE DATE: December 26, 1978.

FOR FURTHER INFORMATION CONTACT:
Julius Williams, Director, Single Family Loan Servicing Division, Room 6142, Office of Single Family Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755–5752. (This is not a toll free number.)

Accordingly, 24 CFR Part 235 is amended as follows, effective as of December 26, 1978, the date the final rule was published:

§ 235.2 Basic program outline.

* * * * *

(e) [Deleted]

(12 U.S.C. 1715b; 12 U.S.C. 1715z)

Issued at Washington, D.C., April 19, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing-Federal Housing Commissioner.

[Docket No. R–78–358]

[FR Doc. 79–13304 Filed 4–27–79; 8:45 am]

BILLING CODE 4210–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1914

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.[1]

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at:

P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6220.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or toll-free-line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

[1] The functions of the Federal Insurance Administration, U.S. Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979)

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of Eligible Communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Colorado	Delta	Unincorporated areas	080041–A	Apr. 4, 1979, emergency	May 10, 1977.
Michigan	Saginaw	St. Charles, village of	260593–B	Apr. 16, 1979, emergency.	Oct. 8, 1976 and Nov. 19, 1976.
Minnesota	Mower	Rose Creek, city of	270598–A	do	June 10, 1977.
Mississippi	Lamar	Unincorporated areas	280304	do	Dec. 2, 1977.
Missouri	Cass	Lake Winnebago, city of	290877—New	Apr. 16, 1979, emergency.	
New Mexico	Valencia	Unincorporated areas	350086–A	Apr. 13, 1979, emergency.	May 30, 1978.
Texas	Victoria	do	480637–A	Apr. 16, 1979, emergency.	May 2, 1978.
Do	Denton	Shady Shores, town of	481135–A	do	Mar. 18, 1977.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 17, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI 5377]

[FR Doc. 79–12972 Filed 4–27–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

24 CFR Part 1917

Final Flood Elevation Determinations for The City of Huntsville, Madison County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in The City of Huntsville, Madison County, Alabama. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Huntsville, Alabama.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Huntsville, are available for review at City Planning Commission, City Hall, Huntsville, Alabama.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Huntsville, Alabama.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Unnamed Tributary to the Tennessee River.	Redstone Road	575
Aldridge Creek	Green Cove Road	575
	Green Mountain Road—50 feet*.	595
	Lily Flagg Road—100 feet*	615
	Four Mile Post Road—25 feet*.	627
Huntsville Spring Branch.	Louisville & Nashville Railroad (downstream crossing)—100 feet*.	579
	Drake Avenue—100 feet*	597
	Sears Avenue—25 feet*	609
Pinhook Creek	West Clinton Avenue—25 feet*.	612
	Pratt Avenue—25 feet*	627
	North Memorial Parkway—100 feet*.	648
East Fork Pinhook Creek.	Medaris Road—50 feet*	687
	Winchester Road—25 feet*	702
Blue Spring Creek	Timbercrest Drive—100 feet*	668
	Spring Road—25 feet*	680
	Springfield Road—25 feet*	694
Dallas Branch	Washington Street	629
	Southern Railway—50 feet*	641
	Windham Street—50 feet*	657
Unnamed Tributary to Pinhook Creek (Dallas Branch Bypass).	Church Street—100 feet*	622
	Dallas Street—25 feet*	634
Fagan Creek	Pollard Street	610
	California Street—50 feet*	626
Broglan Branch	Governors Drive—100 feet*	606
	University Drive—100 feet*	648
	Broadmor Road—25 feet*	679
Dry Creek	Brandon Town Road—100 feet*.	672
	Oakwood Road—100 feet*	689
McDonald Creek	Centour Boulevard—100 feet*.	583
	Bob Wallace Avenue—25 feet*.	630
	Technology Drive—25 feet*	648
	Bradford Boulevard—50 feet*.	662
	Holmes Avenue-Athens Pike—25 feet*.	674
Unnamed Tributary to McDonald Creek.	Bob Wallace Avenue	625
	Southern Railway—25 feet*	643
Sherwood Branch	Southern Railway—25 feet*	639
	Rideout Road (downstream crossing)—100 feet*.	663
	Rideout Road (upstream crossing)—25 feet*.	680
Indian Creek	Madison Pike—100 feet*	626
	Farrow Road—25 feet*	642
Bradford Creek	Walltriana Highway—100 feet*.	596
	Southern Railway—25 feet*	614
Betts Spring Branch	Lady Ann Dam	578
Tennessee River	Hobbs Island Road—1000 feet east of Heart of Dixie Highway (Memorial Parkway).	575
	Green Grove Road—8000 feet west of Heart of Dixie Highway (Memorial Parkway).	575

* Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4293]

[FR Doc. 79–13114 Filed 4–27–79; 8:45 am]

BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determination for the City of Moulton, Lawrence County, Alabama

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Moulton, Lawrence County, Alabama. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Moulton, Lawrence County, Alabama.

ADDRESS: Maps and other information showing the detailed outlines of the

flood-prone areas and the final elevations for the City of Moulton, Lawrence County, Alabama, are available for review at the City Clerk's office, City Hall, 202 West Street, Moulton, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Moulton, Lawrence County, Alabama.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Almon Branch	Just upstream of Court Street (Alabama Hwy. 24).	626
	Just upstream of Byler Road.	630
Crow Branch	Benson Street (Extended)	620
	Just upstream of Court Street	627
	Just upstream of College Street.	628
Lateral No. 8–14	Just upstream of Main Street.	625
	Just upstream of East Street.	634
	Just upstream of Court Street (Alabama Hwy. 24).	640
Lateral No. 12	Approximately 530 feet upstream of confluence with Lateral No. 8–14.	629
	Just upstream of Betty Street	644
Lateral No. 11	Just upstream of Main Street.	627

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4936]
[FR Doc. 79–13115 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determinations for the City of Calistoga, Napa, County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Calistoga, Napa County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Calistoga, California.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Calistoga, are available for review at Planning Department, City Hall, 1232 Washington Street, Calistoga, California.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Calistoga, California.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Napa River	Dumweal Lane—40 feet*	323
	Lincoln Avenue—20 feet**	349
	Third Street—100 feet*	353
	Confluence with Cyrus Creek.	359
	Confluence with Garnett Creek.	367
	Confluence with Blossom Creek—70 feet*	371

*Downstream of centerline
**Upstream of centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4044]
[FR Doc. 79–13116 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determinations for the City of Laguna Beach, Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Laguna Beach, Orange County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Laguna Beach, California.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Laguna Beach, are available for review at City Hall, 505 Forest Avenue, Laguna Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Laguna Beach, California.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
aguna Canyon	Forest Street—50 feet*	33
	Loma Terrace—20 feet*	37
	Laguna Canyon Road—30 feet*.	52
	Woodland Drive—50 feet*	70
	Milligan Drive—50 feet*	75
	Canyon Acres Drive—30 feet*.	78
	El Toro Road—30 feet*	234
	Laguna Frontage Road—50 feet*	238
Bluebird Canyon	Glenneyre Street—20 feet*	56
	Catalina Street—40 feet*	59
	Carmelita Street—30 feet*	66
	Santa Cruz Street—40 feet**	80
	Santa Cruz Street—40 feet*	108
	Bluebird Canyon Street—30 feet*	122
Laguna Canyon	Area along Laguna Canyon Road approximately 4300 feet upstream of the intersection of Laguna Canyon Road and El Toro Road.	2

*Upstream from centerline.
**Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4743]
[FR Doc. 79–13117 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determinations for the Town of Superior, Boulder County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Superior, Boulder County, Colorado. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Superior, Colorado.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Superior, are available for review at Town Hall, 211 South 4th Avenue, Louisville, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Superior, Colorado.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Coal Creek	First Avenue (Downstream Corporate Limits).	5466
	Most Upstream Corporate Limits.	5500

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4402]
[FR Doc. 79–13118 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01

24 CFR Part 1917

Final Flood Elevation Determination for the Town of East Hampton, Middlesex County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Superior, Colorado.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

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SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of East Hampton, Misslesex County, Connecticut. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of East Hampton, Middlesex County, Connecticut.

ADDRESS: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Town of East Hampton are available for review at the Town Hall, 20 East High Street, East Hampton, Connecticut.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of East Hampton, Middlesex County, Connecticut.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Connecticut River	Southern Corporate Limits	15
	Northern Corporate Limits	20
Salmon River	Southern Corporate Limits	30
	0.7 mile Upstream of Southern Corporate Limits.	31
Pocotopang Creek	Just Upstream of Old Chestnut Hill Road.	288
	0.25 mile Downstream of Skinner Street.	295
	Just Upstream of Skinner Street.	301
	Just Upstream of Middletown Avenue.	305
	Just Downstream of the Dam located 0.35 mile Upstream of Middletown Avenue.	341
	Just Upstream of the Dam, located 0.35 mile Upstream of Middletown Avenue.	353
	0.15 mile Upstream of the Dam located 0.35 mile Upstream of Middletown Avenue.	354

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978; P. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4789]
[FR Doc. 79–13119 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determination for the Town of Newington, Hartford County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Newington, Hartford County, Connecticut. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Newington, Hartford County, Connecticut.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Newington are available for review at the town engineer's office, Newington, Connecticut.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Newington, Hartford County, Connecticut.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Webster Brook	Downstream corporate limits	45
	Just upstream of Kelsey Street.	50
	Approximately 1,000 feet below New Britain Avenue.	62
	Just downstream of New Britain Avenue.	63
Rockhole Brook	Mouth at Webster Brook	50
	Just downstream of Stonehedge Drive.	54
	Just upstream of Stonehedge Drive.	56
	740 feet upstream of Stonehedge Drive at upstream side of footbridge.	64
	Approximately 1,740 feet above Stonehedge Drive.	72
	Approximately 200 feet below Church Street.	80
	Just upstream of Church Street.	84
	Upstream limit of study below Willard Avenue.	85
Mill Brook	Mouth of Piper Creek	53
	Just upstream of Hartford Avenue.	54
	Just upstream of Main Street.	54
	Just downstream of Dowd Street.	55
	Just downstream of Cedar Street.	60
	Just upstream of Cedar Street.	63
	Just upstream of Mill Pond Dam.	75
	Just upstream of Wilson Avenue.	77
	Just downstream of Robbins Avenue.	79
	Just upstream of Robbins Avenue.	81
Piper Brook	Downstream corporate limit	53
	Just upstream of Main Street.	55
	Just upstream of Willard Avenue.	58
	Approximately 2,600 feet above Willard Avenue.	60
	Just upstream of the Conrail Railroad Bridge.	66
	Just downstream of Cedar Street.	71
	Upstream corporate limits	80

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4790]
[FR Doc. 79–13120 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determinations for the City of Macon-Bibb County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Macon-Bibb County, Georgia.These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Macon-Bibb County, Geogia.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Macon-Bibb County, are available for review at Southern Trust Building, 10th Floor, 682 Cherry Street, Macon, Georgia.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Macon-Bibb County, Georgia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Beaverdam Creek	Arkwright*	320
	Wesleyan Drive*	321
	Bass Road*	334
	Interstate 75*	360
Beaverdam Creek Tributary 1.	Forsyth road*	351
Boggy Branch	Interstate 16*	295
	Southern Railway (25 feet downstream)	304
	Southern Railway (centerline of tracks).	324
	Masseyville Road*	327
Ocmulgee River Tributary 2.	Arkwright Road*	318
	Sheraton Drive*	321
	Forest Hill Road (100 feet upstream).	359
Rocky Creek	Interstate 75—25 feet**	288
	Rocky Creek Road*	292
	Williamson road* #	308
	Columbus Road—50 feet**	328
	Log Cabin Drive*	334
	Tucker Road—200 feet**	370
	Lamar Road—200 feet**	403
Rocky Creek Tributary 1.	Edna Place—200 feet**	354
	Burton Avenue*	368
Rocky Creek Tributary 2.	Rocky Creek Road (100 feet downstream of centerline).	290
	Rocky Creek Road—200 feet**.	297
	Ell Street (50 feet upstream).	373
	Dempsey Avenue*	412
Colaparchee Creek	Greentree Parkway*	400
	Colaparchee Road-150 feet**.	432
Wolf Creek	Mumford Road—150 feet**	341
	Tucker Road (50 feet upstream).	374
	Zebulon Road*	406
	Forsyth Road—25 feet**	414
	Bass Road*	441
Savage Creek	Northside Drive (25 feet downstream of centerline).	315
	Northside Drive-100 feet**	320
	Matthews Drive-100 feet**	329
	Forest Hill Road-50 feet**	339
	Guerry Drive-50 feet**	385
	Wesleyan Drive-150 feet**	396
Savage Creek Tributary 1.	50 feet downstream of Dam located 1950 feet above the mouth.	327
	50 feet upstream of Dam located 1950 feet above the mouth.	335
	50 feet upstream of Dam located 2700 feet above the mouth.	336
	Northside Drive*	347
Savage Creek Tributary 2.	Old Lundy Road—200 feet**.	341
	Forest Hill Road (100 feet downstream of centerline).	347
	Forest Hill Road—100 feet**.	364
Savage Creek Tributary 3.	Forest Lake Drive South (100 feet downstream of centerline).	349
	Forest Lake Drive South 125 feet**.	358
	125 feet downstream of Dam located 1350 feet above the mouth.	361
	150 feet upstream of Dam located 1350 feet above the mouth.	372
	Forest Lake Drive North (25 feet downstream of centerline).	374
	Forest lake Drive North 200 feet**.	382
	Beechwood Drive*	383
Savage Creek Tributary 4.	Greenview Terrace—25 feet**.	360
	Timberlane and Marlowe Drives—50 feet**.	374
	Sprucewood Drive*	389
Savage Creek Tributary 5.	Timberlane Drive (50 feet downstream of centerline).	402
	Timberlane Drive—200 feet**.	406
	50 feet downstream of Dam located 3900 feet above the mouth.	418
	200 feet upstream of Dam located 3900 feet above the mouth.	426
Stone Creek	Interstate 16—100 feet**	294
	Seaboard Coastline Railroad—100 feet**.	340
	Davis Road—50 feet**	378
Donnan Branch	Davis Road—approximately 50 feet**.	387
	Donnan Road*	420
Hall Branch	Seaborad Coastline Railroad (50 feet upstream of center of tracks).	326
	Jeffersonville Road*	375
Swift Creek	Seaboard Coastline Railroad (center of tracks).	290
	100 feet upstream of Dam located 5400 feet above the mouth.	305
	Riggins Mill Road—50 feet**.	314
	Irwington Road—approximately 20 feet**.	354
Tobesofkee Creek	Interstate 75*	302
	Eisenhower Parkway*	324

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Tobesofkee Dam (200 feet downstream).	336
	Tobesofkee Dam (100 feet upstream).	365
	Thomaston Road—50 feet**.	377
Tobesofkee Creek Tributary 1.	Interstate 475 (100 feet downstream of centerline).	318
	Interstate 475—100 feet**	326
	Chambers Road—50 feet**	335
Walnut Creek	Interstate 16—100 feet**	294
	Emery Highway—200 feet**	304
	Shuriing Drive—approxmately 20 feet**.	311
	Gray Highway (State Highways 11, 22 and U.S. Highway 129)—25 feet**.	321
	Old Clinton Road-100 feet**	322
Dry Bone Creek	800 feet above mouth	318
	4900 feet above mouth	331
Echeconnee Creek	Hawkinsville Road—200 feet** (Georgia Highway 247).	266
	Houston Road (Georgia Highway 41)—25 feet**.	286
	Interstate 75—25 feet**	296

* Centerline.
** Upstream of Centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 30, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4304]
[FR Doc. 79–13121 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determinations for the City of Lincoln, Logan County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Lincoln, Logan County, Illinois.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Lincoln, Logan County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Lincoln are available for review at the Logan County Regional Planning Commission, 529 South McClain Street, Lincoln, Illinois.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Lincoln, Logan County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Brainard Branch	Just upstream of State Route 121.	564
	Just upstream of Jefferson Street.	564
	Just upstream of State Street	566
	Just downstream of Palmer Avenue.	568
	Just upstream of Oglesby Avenue.	569
	Just downstream of Union Street.	570
	Just upstream of Illinois Central Gulf Railroad.	574
	Northern corporate limit	575

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator (43 FR 7719)).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4659]
[FR Doc. 79–13122 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determination for the Town of Brownsburg, Hendricks County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Brownsburg, Hendricks County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Brownsburg, Hendricks County, Indiana.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Brownsburg, Hendricks County, Indiana, are available for review at the Brownsburg Town Hall, East Main Street, Brownsburg, Indiana.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Brownsburg, Hendricks County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
White Lick Creek	Confluence with West Fork	847
	County Road—(500 North)	852
	U.S.—136	859
	Conrail	864
	Stonebrook Drive	866

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4080]
[FR Doc. 79–13123 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determinations for the City of Lake Charles, Calcasieu Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in City of Lake Charles, Calcasieu Parish, Louisiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Lake Charles, Louisiana.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Lake Charles, are available for review at City Hall, Lake Charles, Louisiana.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Lake Charles, Louisiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Calcasieu River	Interstate 10	8
	Southern Pacific Railroad	10
English Bayou	Highway 171	11
Bayou Contraband	Prien Lake Road	8
	Ryan Street (Upstream Side)	12
	Kirkman Street	14
East Branch Bayou Contraband.	East McNeese Street	14
	Common Street	15
South Branch Bayou Contraband.	West McNeese Street	12
	University Drive	14
Pithon Coulee	Lakeshore Drive	8
	West 6th Street	10
Little Bayou	Lake Street	8
	West 18th Street	10
Kayouche Coulee	Interstate 10	11
	Fruge Street	12
	Interstate 210	13
West Branch Kayouche Coulee.	Southern Pacific Railroad	11
	King Street	12
	4th Avenue	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–3690]
[FR Doc. 79–13124 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determination for the Town of Lonaconing, Allegany County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Lonaconing, Allegany County, Maryland. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Lonaconing, Allegany County, Maryland.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Town of Lonaconing, Allegany County, Maryland, are available for review at the Town Hall, Lonaconing, Maryland.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410,

202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Lonaconing, Allegany County, Maryland.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Georges Creek	Downstream Corporate Limits	1,473
	Union Street	1,490
	Confluence of Koontz Run	1,503
	"A" Street	1,517
	East Main Street	1,536
	Upstream Corporate Limits	1,550
Jackson Run	Island Avenue	1,481
	Union Street	1,492
	Alley # 4	1,500
	Hanekemp Street	1,520
	Robin Street	1,534
	Jackson Street	1,615
	Upstream Corporate Limits	1,647
Koontz Run	East Main Street	1,511
	Scotch Hill Road	1,567
	Beechwood Road	1,582

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4866]
[FR Doc. 79–13125 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determination for the Town of Thurmont, Frederick County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Thurmont, Frederick County, Md. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Thurmont, Frederick County, Md.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Thurmont, Frederick County, Md., are available for review at the Town Office, Thurmont, Md.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Thurmont, Frederick County, Md.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rouzer Creek	Water Street	465
	Approximately 540 feet upstream from Water Street.	470
	Approximately 690 feet downstream from Park Lane.	475
	Approximately 310 feet downstream from Park Lane.	480
	Approximately 130 feet downstream from Park Lane	485
	Park Lane	492
	East Main Street	496
	Approximately 180 feet upstream from East Main Street.	500
	Approximately 415 feet upstream from East Main Street.	505
	Approximately 330 feet downstream from Woodside Avenue.	510
	Woodside Avenue	517
	Approximately 160 feet upstream from Woodside Avenue.	520
	Approximately 270 feet upstream from Woodside Avenue.	525
	Sabillasville Road—State Route 81.	531
	Emmitsburg Road	590
Hunting Creek	Downstream Corporate Limits.	434
	Moser Street	436
	Hagerstown & Frederick Railroad.	444
	Approximately 420 feet downstream from confluence of Rouzer Creek.	453
	Confluence of Rouzer Creek	457
	Approximately 270 feet upstream from confluence of Rouzer Creek.	465
	At unnamed road approximately 720 feet upstream from confluence of Rouzer Creek.	476
	Approximately 720 feet downstream from Frederick Road.	481
	Approximately 210 feet downstream from Frederick Road.	490
	Frederick Road	492
	Approximately 530 feet upstream from Frederick Road.	500
	Approximately 860 feet upstream from Frederick Road.	505
	Approximately 880 feet downstream from U.S. Route 15.	510
	Approximately 600 feet downstream from U.S. Route 15.	517
	U.S. Route 15	526
	Approximately 660 feet upstream from U.S. Route 15.	538
	Approximately 460 feet downstream from Foxville Road.	545
	Foxville Road	557
	Upstream Corporate Limits	586

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4887]
[FR Doc. 79–13126 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determinations for the Township of Cedarville, Menominee County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Cedarville, Menominee County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Cedarville, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Cedarville, Menominee County, Michigan, are available for review at Cedarville Township Hall, Cedar River, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Cedarville, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Green Bay	Confluence with Deer Creek	584
	Confluence with Olsen Creek	584
Cedar River (Backwater from Green Bay).	200 feet west from the junction of State Highway 35 and River Road.	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

Note.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4344]
[FR Doc. 79–13127 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determinations for the Township of Ingallston, Menominee County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Ingallston, Menominee County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Ingallston, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Ingallston, are available for review at Township Hall, 2511 10th Street, Menominee, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Ingallston, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Green Bay	State Highway M–35, 250 feet northeast from intersection with Johnson Lane.	584
	Birch Creek Road (extended) 125 feet east of intersection with State Highway 35.	584

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

Note.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 30, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4521]
[FR Doc. 79–13128 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determinations for the City of Southfield, Oakland County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Southfield, Oakland County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Southfield, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Southfield, are available for review at City Hall, 26000 Evergreen Road, Southfield, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Southfield, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Main River Rouge	Eight Mile Road (Westbound)—50 feet*.	628
	Beech Road Bridge (First Crossing)—50 feet*.	630
	Nine Mile Bridge—20 feet*	632
	Beech Road Bridge (Second Crossing)—50 feet*.	638
	Ten Mile Road Bridge—50 feet*.	642
	Telegraph Road Bridge—20 feet*.	643
	Franklin Road—50 feet*	646
	Southeast Bound Northwestern Highway Bridge—40 feet*.	649
	Northwest Bound Northwestern Highway—40 feet*.	653
	Twelve Mile Road Bridge—30 feet*.	659
Evan Ditch	Dam Plum Hollow Golf Club—80 feet*.	632
	Nine Mile Road Bridge—50 feet*.	633
	Lasher Road Bridge—20 feet*.	645
	Ten Mile Road Bridge—60 feet*.	668
Tamarack Drain	Tamarack Trail—90 feet*	648
	Michigan Division State Highways-Retention Pond Outlet—70 feet*.	662
Carpenter Branch	Nine Mile Road Bridge—80 feet*.	892
	Lake Ravnese Street—40 feet*.	845
	Carpenter Lake Dam—40 feet*.	851
Farmington Branch	Nine Mile Road Bridge—50 feet*.	892
Pebble Creek	Ten Mile Road Bridge—50 feet*.	643
	Eleven Mile Road—80 feet*	667
	South Bound Interstate 696—30 feet*.	667
Franklin Branch	Twelve Mile Road Bridge—50 feet*.	661

* Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 30, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4702]
[FR Doc. 79–13129 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determinations for the City of Waltham, Mower County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Waltham, Mower County, Minnesota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Waltham, Mower County, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Waltham are available for review at the City Hall, Waltham, Minnesota.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Waltham, Mower County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Waltham Creek	At West Corporate Limits	1,311
	Just downstream of Atlantic Street.	1,316
	Just downstream of First Street.	1,319
	Just upstream of First Street.	1,323
	Eastern Corporate Limits	1,326

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4056]
[FR Doc. 79–13130 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determinations for Butte-Silver Bow, Mont.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Butte-Silver Bow, Montana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Butte-Silver Bow, Montana.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Butte-Silver Bow, are available for review at Butte-Silver Bow Courthouse, Butte-Silver Bow, Montana.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Butte-Silver Bow, Montana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Silver Bow Creek	Fairmont Road*	5068
	Fairmont Road**	5090
	Depot Road	5375
	Civic Center Road	5473
Gregson Creek	Butte, Anaconda and Pacific Railroad.	5115
	County Road to Fairmont Hot Springs*.	5127
	County Road to Fairmont Hot Springs**.	5130
	Golf Cart Bridge (furthest upstream crossing).	5202
Blacktail Creek	Lexington Avenue	5447
	Elizabeth Warren Avenue	5478
	U.S. Highway 10	5610
Grove Gulch Creek	I–90	5442
	Montana Avenue**	5473
	Farm Access Road	6700
Sand Creek	Evans Avenue	5456
	Lowell Avenue*	5493
	Lowell Avenue**	5497
	Chicago, Milwaukee, St. Paul and Pacific Railroad Bridge*.	5539
	Chicago, Milwaukee, St. Paul and Pacific Railroad Bridge**.	5546
Basin Creek	I–90 and 15	5460
	Elizabeth Warren Avenue*	5476
	Elizabeth Warren Avenue**	5478
	U.S. 10*	5529
	U.S. 10**	5531
	Chicago, Milwaukee, St. Paul and Pacific Railroad.	5623
Reese Canyon	Sheridan	5467
	Continental Drive	5519
	Interstate 15	5602
Tramway Gulch	Burlington Northern Railroad	5510
Brookside Canyon	Burlington Street	5514
	I–90	5591
	Frontage Road	5599
Mode-S Canyon	County Road	5602
	Continental Drive	5536
	I–90	5557
Big Hole River	County Road*	5166
	County Road**	5167

*Downstream side.
**Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 30, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–3986]
[FR Doc. 79–13131 Filed 4–27–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

Final Flood Elevation Determinations for the City of Franklin, Merrimack County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Franklin, Merrimack County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the city of Franklin, Merrimack County, New Hampshire.

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ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Franklin, Merrimack County, New Hampshire, are available for review at the Franklin Planning Office, Franklin City Hall, Franklin, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Franklin, Merrimack County, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River	Confluence of Pemigewasset and Winnipesaukee Rivers.	272
	Confluence of Shaw Brook	270
	Corporate Limits (Downstream).	268
Pemigewasset River	Franklin Falls Dam (Downstream).	309
	Eastman Falls Dam (Upstream).	309
	Eastman Falls Dam (Downstream).	279
	Confluence w/Merrimack River.	272
Winnepesaukee River	Upstream Corporate Limits	407
	Cross Mill Road Bridge	406
	Corporate Limits 1,795 feet downstream from Cross Mill Road Bridge.	386
	Abandoned Railroad Trestle 1,320 feet upstream from Breached Dam.	359
	Breached Dam (Upstream)	345
	Breached Dam (Downstream)	337
	Central Street (Upstream)	324
	J. P. Stevenson Company Dam (Upstream).	323
	J. P. Stevenson Company Dam (Downstream).	302
	Public Service Company Dam (Upstream).	301
	Public Service Company Dam (Downstream).	291
	Sulloway Mills Dam (Upstream).	286
	Sulloway Mills Dam (Downstream).	273
Chance Pond Brook	Carr Street (Upstream)	400
	Webster Lake Dam (Upstream).	400
	Webster Lake Dam (Downstream).	395
	Kimball Street Bridge (Upstream).	369
	Boston and Maine Railroad	364
	Unnamed Dam 164 feet upstream from North Main Street (Upstream).	309
	Unnamed Dam 164 feet upstream from North Main Street (Downstream).	297
[illegible]	[illegible]	[illegible]
	Pemigewasset River	276
Webster Lake	The entire perimeter of Webster Lake's water-surface elevation is at an elevation of 405 feet.	

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI–4798]

[FR Doc. 79–13132 Filed 4–27–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 138

Temporary Excise Taxes; Floor Stocks Refunds and Credits and Consumer Refunds and Credits with Respect to Buses.

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to floor stocks refunds and consumer refunds with respect to the excise tax on buses. Changes in the applicable tax law were made by the Energy Tax Act of 1978. These regulations affect all manufacturers, dealers, and consumers of buses and provide them with the guidance needed to comply with the law.

DATE: The regulations relating to floor stocks refunds and credits apply to buses sold to a dealer on or before November 9, 1978, and held by the dealer on November 10, 1978. The regulations relating to consumer refunds and credits apply to buses sold to a consumer after April 19, 1977, and before November 10, 1978.

FOR FURTHER INFORMATION CONTACT: Robert H. Waltuch of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. Attention: CC:LR:T 202–566–3328 not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to floor stocks refunds and credits and consumer refunds and credits under section 231 of the energy Tax Act of 1978 Pub. L. 95–618 (92 Stat. 3187) ("Act") with respect to the excise tax on buses. The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

Statutory Provisions

Section 4061 of the Internal Revenue Code of 1954 imposes a tax on the sale of automobile bus bodies and automobile bus chassis by a manufacturer, producer, or importer. Prior to the Act, section 4063 exempted the sale of local transit buses from the tax imposed by section 4061. Section 231 of the Act amends that section to exempt the sale of all automobile bus chassis and automobile bus bodies from the tax imposed by section 4061.

Floor Stocks Refunds

Section 138.1–1 provides rules relating to floor stocks refunds and credits with respect to the excise tax on buses under section 231(b) of the Energy Tax Act of 1978.

Consumer Refunds

Section 138.1–2 provides rules relating to consumer refunds and credits with respect to the excise tax on buses under section 231(c) of the Energy Tax Act of 1978.

Determining Amount of Tax Paid on Each Article

Section 138.1–3 provides the rule for determining the amount of tax paid with respect to an article for purposes of claiming floor stocks and consumer refunds and credits.

Demonstrator Vehicles

Section 138.1–4 provides rules relating to the treatment of "demonstrator vehicles" as new vehicles held by a dealer for purposes of the floor stocks provisions or as new vehicles sold to consumers for purposes of the consumer refund provisions.

Manufacturer Treated as Consumer

Section 138.1–5 provides rules relating to the treatment of a manufacturer as the consumer of an article which is subject to tax under section 4061(a) by reason of section 4218(a).

Waiver of Procedural Requirements of Treasury Directive

There is need for expeditious adoption of the provisions contained in this document because of the need for immediate guidance to manufacturers, producers and importers of bus bodies and chassis in obtaining floor stock refunds and credits and consumer refunds and credits. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Department directive implementing Executive Order 12044 must be waived.

Drafting Information

The principal author of this regulation is Robert H. Waltuch of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, a new part 138, Temporary Excise Tax Regulations under the Energy Tax Act of 1978, is added to Title 26 of the Code of Federal Regulations, and the following temporary regulations are adopted:

PART 138—TEMPORARY EXCISE TAX REGULATIONS UNDER THE ENERGY TAX ACT OF 1978

Sec.

138.0 Scope of regulations.
138.1–1 Credit or refund in respect of floor stocks; buses.
138.1–2 Credit or refund in respect of certain consumer purchases.
138.1–3 Determining amount of tax paid on each article.
138.1–4 Demonstrator vehicles.
138.1–5 Certain uses by manufacturer.
138.1–6 Date of sale.

Authority: Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805), and by sections 231 (b) and (c) of the Energy Tax Act of 1978 (Pub. L. 95–618; 92 Stat. 3174).

§ 138.0 Scope of regulations.

The regulations in this part (Part 138, Subchapter D, Chapter 1, Title 26 (1954), (Code of Federal Regulations) are designated "Temporary Excise Tax Regulations under the Energy Tax Act of 1978". The regulations in this part, with respect to the subject matter within the scope thereof, apply notwithstanding the provisions of any other regulations which are inconsistent herewith.

§ 138.1–1 Credit or refund in respect of floor stocks; buses.

(a) *In general*—(1) *Credit or refund.* A manufacturer, producer, or importer ("manufacturer") who has paid a tax imposed under section 4061(a) with respect to a tax-repealed article which is held by a dealer as floor stocks is entitled to a credit or refund of that tax to the extent and subject to the conditions provided by section 231(b) of the Energy Tax Act of 1978 ("Act") and by this § 138.1–1. See paragraph (b) § 138.1–1 for definitions.

(2) *Computation of the amount of floor stocks credit or refund.* The amount of floor stocks credit or refund which may be claimed by the manufacturer under section 231(b) of the Act may not exceed the tax paid by the manufacturer on its sale of the article. No interest is allowable with respect to any amount of tax credited or refunded under section 231(b) of the Act. In applying the floor stocks credit or refund provisions, the time the manufacturer paid the tax with respect to the article held as floor stocks is not relevant. Thus, the period of limitations provided in section 6511 of the Internal Revenue Code does not apply.

(3) *Limitation.* No credit or refund is allowable under section 231(b) of the Act for an amount paid as tax which may be credited or refunded under any provision of law other than section 231(b) of the Act.

(4) *Relationship between credits or refunds for floor stocks and credits or refunds for price readjustments.* The amount which may be credited or refunded for floor stocks and for price readjustments on an article may not in the aggregate exceed the tax paid in respect of such article. The manufacturer shall keep readily available for inspection sufficient records to enable examining internal revenue officers to ascertain the correctness of any claim for credit or refund for a price readjustment of an article on which a floor stocks refund was claimed.

(5) *Other provisions applicable.* All provisions of law, including penalties, applicable with respect to the tax imposed by section 4061(a) shall, insofar as applicable and not inconsistent with section 231(b) of the Act, apply in respect of the credits and refunds provided for in section 231(b) of the Act to the same extent as if the credits and refunds are overpayments of the tax. For provisions relating to the imposition of the taxes, see Part 48 (Manufacturers and Retailers Excise Taxes). For provisions under which timely mailing is treated as timely filing, and for provisions applicable to the time for performance of acts when the last day falls on Saturday, Sunday, or a legal holiday, see §§ 301.7502–1 and 301.7503–1 of the regulations on Procedure and Administration respectively.

(b) *Definitions.* For purposes of this section—

(1) *Floor stocks.* The term "floor stocks" means a tax-repealed article which has been sold by the manufacturer and is held by a dealer on the first moment of November 10, 1978, and which is intended for sale and has not been sold prior to November 10, 1978, and except as provided in § 138.1–4, has not been used.

(2) *Tax-repealed article.* The term "tax-repealed article" means an automobile bus chassis or an automobile bus body for which a tax is imposed by section 4061(a) on the sale before November 10, 1978.

(3) *Tax paid.* A tax is considered paid if it was paid or was an offset by an allowable credit on the return on which it was reported.

(4) *Dealer.* The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(5) *Held by a dealer.* An article is considered as "held by a dealer" if title thereto has passed to the dealer (whether or not delivery to him has been made) and if, for purposes of consumption, title to such article, or possession, or right to possession thereof has not at any time been transferred to any person other than a dealer. The determination as to the time title passes or possession is obtained for purposes of consumption shall be made under applicable local law.

(c) *Participation of dealers.* Before June 1, 1979, a dealer may submit to a manufacturer a request with respect to a credit or refund allowable under section 231(b) of the Act for tax paid by such manufacturer with respect to articles held by such dealer as floor stocks. The

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request may be submitted either directly to the manufacturer or through another dealer in the chain of distribution, provided the request is received by the manufacturer or its authorized agent before June 1, 1979. No amount of credit or refund under section 231(b) of the Act may be claimed by a manufacturer ("claimant") with respect to articles held by a dealer as floor stocks unless—

(1) The amount claimed is based on a request submitted by the dealer and received by the claimant before June 1, 1979;

(2) The amount claimed is paid by the claimant to the dealer or the dealer's written consent to allowance of the credit or refund has been received by the claimant prior to September 5, 1979; and

(3) The request by the dealer is supported by an inventory statement signed by the dealer or by the dealer's authorized representative. The statement shall declare it is made under penalties of perjury and shall set forth the following information:

(i) The name and address of the dealer and of the claimant;

(ii) The identification number of the articles, such as the serial or stock number;

(iii) A brief description and model number, if any, of the article;

(iv) The gross vehicle weight rating of the vehicle, unless such rating is indicated in the serial number of the article as shown on the inventory statement; and

(v) The quantity of articles held by the dealer as floor stocks.

Payment may be made directly to the dealer or to the dealer's authorized agent or representative by the claimant or by the claimant's authorized agent or representative. Where a claimant pays a dealer through the claimant's agent or representative, the evidence must show that the dealer actually received the payment. Where a dealer authorizes the claimant to pay him through the dealer's agent or representative, evidence showing receipt of the payment by that agent or representative will be accepted as proof of actual payment to the dealer. Payment may be made in cash, by check or by credit to the dealer's account as maintained by the claimant. The amount of the payment which may be made by crediting such account may not exceed the undisputed debit balance due at the time payment is made. However, payment may be made, at the dealer's option with the concurrence of the claimant, in merchandise. The date on which any act described in this paragraph is performed by an agent or representative on behalf of a claimant or dealer is to be deemed the date on which the act is performed by the principal. For provisions relating to the record of dealers' inventories to be kept by the claimant, see § 138.1–1(e)(2). For provisions permitting a dealer to include a vehicle, with respect to which the dealer is eligible for reimbursement as a consumer, in its floor stocks inventory, see § 138.1–2(d).

(d) *Procedure for claiming credit or refund*—(1) *In general.* Each claim for credit or refund under section 231(b) of the Act shall be filed before September 1, 1979 in the manner and subject to the conditions stated in the Act, § 138.1–1, and in § 301.6402–2 of the regulations. Either credit or refund, or a combination thereof, may be claimed, but the amount which may be claimed as credit on a return (Form 720) filed on or after June 1, 1979, shall not exceed the total tax liability shown on that return, reduced by the amount of the deposits of excise taxes shown on the return and by any amount of credit claimed on the return under any provision of law other than section 231(b) of the Act. If credit is claimed, the amount shall be entered as a credit on a return filed before September 1, 1979. If the total amount which may be claimed exceeds the amount which may be claimed as credit on a return, the excess amount may be claimed either as a credit on a subsequent return or as a refund on a claim (Form 843) filed before September 1, 1979.

(2) *Supporting evidence to be submitted by the manufacturer.* No credit or refund shall be allowed unless a statement, signed by the claimant, is submitted in support of the claim for credit or refund. The statement shall describe in general terms the articles covered by the claim, shall set forth the method of computation of the amount claimed (including a description of the procedure used), and shall state that—

(i) The claimant paid the tax for which the credit or refund is claimed;

(ii) The total amount claimed represents payments requested by dealers before June 1, 1979;

(iii) The total amount claimed either was paid by the claimant to the dealers or the claimant received the written consent of the dealers to the allowance of the amount claimed;

(iv) The claimant has in his possession, and available for inspection by internal revenue officers, the evidence with respect to inventories required by § 138.1–1(e) and any written consents referred to in (iii) of this subparagraph; and

(v) No other claim for credit or refund under section 231(b) of the act has been or will be made by the claimant with respect to any amount covered by the claim.

Where the claim for refund is filed before the dealer has been reimbursed or the consent is obtained under (iii) then no refund will be made to the claimant unless the dealer is reimbursed or the dealer's consent is received before September 5, 1979, and a statement to that effect is submitted to support the claim before September 5, 1979. No credit may be claimed on Form 720 if the dealer has not been reimbursed or the dealer's consent has not been obtained before Form 720 is filed. Since the credit must be claimed before September 1, 1979, the credit may not be taken on Form 720 if it is filed after August 31, 1979. In addition, the statement shall show the amount and date of filing of each previous or concurrent claim for credit or refund under section 231(b) of the Act and whether or not any future claims are expected to be filed.

(e) *Supporting evidence to be retained in the manufacturer's record*—(1) *In general.* Every person filing a claim for credit or refund under section 231(b) of the Act must keep the evidence required by this paragraph as part of his records.

(2) *Inventories.* Every person filing a claim for credit or refund under section 231(b) of the Act must retain the dealer's inventory statements required by § 138.1–1(c)(3) to the extent that the articles in the inventory statement are covered by the claim. In addition, the claimant must retain records of such articles held by each dealer showing (i) the name and address of the dealer, (ii) the quantities of each article held by the dealer as floor stocks, (iii) the amount of tax considered as paid with respect to each article held by the dealer, (iv) the total amount of reimbursement due the dealer, (v) the date on which the claimant received a request (described in § 138.1–1(c)) from the dealer, unless payment is made to the dealer before June 1, 1979, and (vi) the date and amount of each payment to a dealer or the date of the receipt of written consent by the claimant from a dealer. In addition the claimant must retain any such written consent as part of his records.

(3) *Sample written consent.* No particular form is prescribed or required for the written consent of the dealer. However, the following is an example of an acceptable consent statement by a dealer:

Consent Statement of Dealer

(For use by dealer in requesting manufacturer, producer, or importer to obtain credit or refund with respect to floor stocks under section 231(b) of the Energy Tax Act of 1978.)

I hereby consent to the allowance to the manufacturer, producer, or importer of the floor stocks credit or refund of the excise tax imposed by the Internal Revenue Code of 1954 with respect to the buses in my inventory on November 10, 1978, that are eligible for such credit or refund.

(Name)

By (Signature of Officer)

(Title)

(Date)

(f) *Special rules where the presumed manufacturer is the agent of the actual manufacturer.* For purposes of this section, if a manufacturer sells articles tax-paid to a second manufacturer for resale by the second manufacturer under its own brand name, the second manufacturer may perform any acts and keep any records which are a prerequisite to the first manufacturer filing a claim for floor stocks credit or refund with respect to such articles. If this procedure is followed, the claim filed by the first manufacturer shall include a statement indicating the name and address of the second manufacturer and the amount of the claim which relates to articles sold to the second manufacturer.

§ 138.1–2 Credit or refund in respect of certain consumer purchases.

(a) *Credit or refund*—(1) *In general.* A manufacturer, producer, or importer ("manufacturer") who has paid a tax imposed under section 4061(a) with respect to a tax-repealed article which is sold as a new article to an ultimate purchaser after April 19, 1977, and before November 10, 1978, is entitled to a credit or refund for the tax paid to the extent and subject to the conditions provided by section 231(c) of the Energy Tax Act of 1978 ("Act") and by this section.

(2) *Computation of the amount of consumer purchase credit or refund.* The amount of credit or refund which may be claimed by the manufacturer under section 231(c) of the Act may not exceed the tax paid by the manufacturer on its sale of the article. No interest is allowable with respect to any amount of tax credited or refunded under section 231(c) of the Act. In applying the consumer purchase credit or refund provisions, the time the manufacturer paid the tax with respect to the sale of the article is not relevant. Thus, the period of limitations provided in section 6511 of the Code does not apply.

(3) *Limitation.* No credit or refund is allowable under section 231(c) of the Act for an amount paid as tax which may be credited or refunded under any provision of law other than section 231(c) of the Act.

(4) *Relationship between credit or refund for consumer purchases and credit or refund for price readjustments.* The amount which may be credited or refunded with respect to a consumer purchase and for price readjustments on an article may not in the aggregate exceed the tax paid in respect of such article. The manufacturer shall keep readily available for inspection sufficient records to enable examining internal revenue officers to ascertain the correctness of any claim for credit or refund for a price readjustment of an article on which a credit or refund with respect to a consumer purchase was claimed.

(5) *Other provisions applicable.* All provisions of law, including penalties, applicable with respect to the tax imposed by section 4061 (a) shall, insofar as applicable and not inconsistent with section 231(c) of the Act, apply in respect of the credits and refunds provided for in section 231(c) of the Act to the same extent as if the credits and refunds are overpayments of the tax. For provisions relating to the imposition of the taxes, see Part 48 (Manufacturers and Retailers Excise Taxes) of this chapter. For provisions under which timely mailing is treated as timely filing, and for provisions applicable to the time for performance of acts when the last day falls on Saturday, Sunday, or legal holiday, see §§ 301.7502–1 and 301.7503–1 (Regulations on Procedure and Administration), respectively, of this chapter.

(b) *Definitions.* For purposes of this section—(1) *Sale.* A sale of a tax-repealed article to an ultimate purchaser takes place when either possession or the right to possession passes to the purchaser, as determined under applicable local law.

(2) *Ultimate purchaser.* The term "ultimate purchaser" means a consumer of a new tax-repealed article. The term includes a dealer with respect to a demonstrator (unless sold or held for sale, as a new article) or any other bus owned by the dealer and used in the dealer's business and a lessor with respect to a leased bus, with the exception of a lease by a manufacturer which is covered under leases in § 138.1–6.

(3) *Tax-repealed article.* The term "tax-repealed article" has the same meaning as is provided for that term by § 138.1–1(b)(2)

(4) *Tax paid.* A tax is considered paid if it was paid or was offset by an allowable credit on the return on which it was reported.

(c) *Procedure for claiming credit or refund*—(1) *In general.* Each claim for credit or refund under section 231(c) of the Act shall be filed before September 1, 1979 in the manner and subject to the conditions stated in the Act, in this section, and in § 301.6402–2 of this chapter (Regulations on Procedure and Administration). Either credit or refund, or a combination thereof, may be claimed, but the amount which may be claimed as credit on a return (Form 720) shall not exceed the total tax liability shown on the return, reduced by the amount of the deposits of excise taxes shown on the return and by any amount of credit claimed on the return under the provision of law other than section 231(c) of the Act. If the total amount which may be claimed exceeds the amount which may be claimed as credit on a return, the excess amount may be claimed either as a credit on a subsequent return or as a refund on a claim (Form 843) filed before September 1, 1979.

(2) *Conditions.* No amount of credit or refund under section 231(c) of the Act may be claimed by a manufacturer unless—

(i) The claim is filed by the manufacturer ("claimant") before September 1, 1979;

(ii) The claim is based upon information submitted to the claimant before June 1, 1979, by the persons who sold the articles covered by the claim to the ultimate purchasers of the articles;

(iii) The ultimate purchasers of the articles are reimbursed for the tax paid prior to September 5, 1979;

(iv) The requirements of paragraphs (3) and (4) of this section are satisfied. Reimbursement for the tax paid may be made either in cash or by check, provided it is made as a separate payment. A reduction or discount in the price for which the article is sold or a credit to the ultimate purchaser's account will not qualify as reimbursement. Nothing in this section precludes a payment to an ultimate purchaser in an amount larger than the excise tax reduction to effect a greater price reduction, although any credit or refund to the manufacturer will be limited to the amount of the tax reduction.

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(3) *Supporting evidence to be submitted by the manufacturer.* No credit or refund shall be allowed under section 231 (c) of the Act unless a statement, signed by the manufacturer ("claimant"), is submitted in support of the claim for credit or refund. The statement shall describe in general terms the articles covered by the claim, shall set forth the method of computation of the amount claimed (including a description of the procedure used), and shall state that—

(i) The claimant paid the tax for which the credit or refund is claimed;

(ii) The claim is based upon information submitted to the claimant before June 1, 1979, by the persons who sold the articles covered by the claim to the ultimate purchasers;

(iii) The ultimate purchasers of the articles have been reimbursed for the total amount claimed;

(iv) The claimant has in his possession and available for inspection by internal revenue officers the evidence required by paragraph (c) (4) of this section; and

(v) No other claim for credit or refund under section 231 (c) of the Act has been or will be made by the claimant with respect to any amount coverd by the claim.

(vi) Where the claim for refund is filed before the ultimate purchaser has been reimbursed under (iii) then no refund will be made to the claimant unless the ultimate purchaser is reimbursed before September 5, 1979 and a statement to that effect is submitted to support the claim before September 5, 1979. No credit may be claimed on (Form 720) if the ultimate purchaser has not been reimbursed before the claim is filed. In addition, since the credit must be claimed before September 1, 1979, the credit may not be taken on Form 720 if it is filed after August 31, 1979.

In addition, the statement shall show the amount and date of filing of each previous or concurrent claim for credit or refund under section 231(c) of the Act and whether or not any future claims are expected to be filed.

(4) *Supporting evidence to be retained in the manufacturer's record.* Every manufacturer filing a claim for credit or refund under section 231(c) of the Act must retain a record of each article covered by the claim showing (i) the name and address of the ultimate purchaser of the article, (ii) the name and address of the dealer or other person from whom the ultimate purchaser purchased the article, (iii) the date of sale to the ultimate purchaser, (iv) the number of the invoice or sales slip on which the sale to the ultimate purchaser was recorded, except in the case of a reimbursement to the ultimate purchaser made directly by the manufacturer or in the case of a dealer who does not use numbered invoices in the ordinary course of his business, (v) the serial or identification number of the bus, and (vi) the date and amount of the reimbursement. If reimbursement to the ultimate purchaser is made in cash directly by the manufacturer, or if reimbursement is made either in cash or by check by a person other than the manufacturer, the manufacturer must retain in his records a receipt or statement or a copy thereof signed by the ultimate purchaser setting forth the date and amount of reimbursement. If reimbursement to the ultimate purchaser is made by check directly from the manufacturer, the manufacturer must retain the cancelled check in his records. In addition to the evidence which must be retained in the records of the manufacturer, if reimbursement is made in cash to the ultimate purchaser by a person other than the manufacturer, that person must also retain in his records a receipt or statement or a copy thereof signed by the ultimate purchaser setting forth the date and amount of reimbursement. If reimbursement is made by the check of a person other than the manufacturer, that person should retain the cancelled check in his records.

(d) *Treatment as floor stocks if a dealer is the consumer.* If a dealer is eligible for reimbursement as the ultimate purchaser of a tax-repealed article, the dealer may, with the consent of the manufacturer, choose to include the article in the dealer's floor stocks inventory rather than request separate reimbursement under the provisions of this section. If the article is included in the floor stocks inventory of the dealer, the provisions of § 138.1–1 shall apply with respect to that article except that the records required to be retained by the manufacturer under § 138.1–1(e)(2) shall also indicate the date on which the article was sold to the dealer.

§ 138.1–3 Determining amount of tax paid on each article.

For purposes of computing the credits and refunds described in §§ 138.1–1 and 2, the tax paid on each article must be computed separately and after the credit for the tax imposed under section 4071 on tires and tubes.

§ 138.1–4 Demonstrator vehicles.

(a) *In general.* The floor stocks and consumer purchase refunds and credits provided under §§ 138.1–1 and 138.1–2 are available only in the case of "new" vehicles which are held by a dealer for sale on November 10, 1978, or are sold to an ultimate purchaser during the applicable period prescribed in §138.1–2. Under this section, certain "demonstrator" vehicles may be considered to be new vehicles. For purposes of this section, a demonstrator vehicle is a bus used by a dealer or his employees for a period of time and then sold. For purposes of §§ 138.1–1 and 138.1–2, a demonstrator vehicle will be considered to be a new vehicle if, on November 10, 1978, (in the case of floor stocks) or on the date sold to the ultimate purchaser (if that date is earlier), it was covered by the manufacturer's warranty and more than 50 percent of the time and mileage under the warranty was then unexpired.

(b) *Definitions.* For purposes of this section—

(1) The terms "floor stocks", "tax-repealed article", and "held by a dealer", have the same meaning as is provided for such terms by § 138.1–1(b).

(2) The term "ultimate purchaser" has the same meaning as is provided for that term by § 138.1–2(b)(2).

(c) *Extension of manufacturer's warranty.* For purposes of determining if more than 50 percent of the time and mileage under a warranty is unexpired under paragraph (a) the total time and mileage provided under the manufacturer's warranty shall only include the original time and mileage warranty.

(d) *Resale of vehicle.* In no case will the resale of a vehicle to an ultimate purchaser be considered to be a sale of a new vehicle. A vehicle held for resale by a dealer on November 10, 1978 will not be considered a new vehicle for purposes of the floor stock refund provisions. For example, a retail sale of a vehicle, made after an earlier sale to an ultimate purchaser, is not considered to be a sale of a new article, even though more than 50 percent of the time and mileage provided under the manufacturer's warranty may be unexpired on the date the vehicle is sold. For purposes of this paragraph, the term "resale" does not include the first sale at retail of an article unless the manufacturer has previously used the article in a manner whereby such use is considered a sale under section 4218. See § 138.1–5 for rules relating to certain uses by a manufacturer.

(e) *Treatment of dealer as ultimate purchaser of a vehicle.* If a demonstrator vehicle does not qualify for treatment as a new vehicle under the provisions of § 138.1–4(a) on November 10, 1978, in the case of floor stocks, or, if earlier, on the date sold to an ultimate purchaser, the dealer is considered to be the consumer of such vehicle and is eligible for reimbursement of the excise tax as a consumer, provided the dealer purchased the vehicle during the applicable period prescribed in § 138.1–2(a)(1).

§ 138.1–5 Certain uses by manufacturer.

Where, under the provisions of section 4218(a), a manufacturer, producer, or importer paid a tax under section 4061(a) (as in effect on November 9, 1978) on account of his use of a tax-repealed article (as defined by § 138.1–1(b)(2)), the manufacturer, producer, or importer is considered to be the consumer of such article. The manufacturer, producer, or importer is entitled to refund or credit of the tax paid with respect to any such article first used by such person during the applicable period prescribed under § 138.1–2(a)(1). Claim for credit or refund of any tax deemed to be an overpayment of tax under section 231(d) of the Energy Tax Act of 1978 and § 138.1–5 must be made in accordance with the provisions of section 301.6402–2 of the regulations.

§ 138.1–6 Date of sale.

(a) *In general.* For purposes of this section, an article shall be considered to be sold before April 20, 1977, only if possession or the right to possession passes to the purchaser before that date.

(b) *Leases and installment or conditional sales entered into before November 10, 1978*—(1) *In general.* If a tax-repealed article (as defined by § 138.1–1(b)(2)) is leased or sold by a manufacturer in a taxable transaction entered into before November 10, 1978, under—

(i) A contract for the sale of an article where it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments;

(ii) A conditional sale; or

(iii) A chattel mortgage arrangement wherein it is provided that the sale price shall be paid in installments,

payments made on or after November 10, 1978, with respect to the article leased or sold shall be treated as payments made with respect to an article purchased on or after that date, if the lessor or vendor establishes that the amount of the remaining payments made or payable on or after that date, with respect to such article, has been reduced by an amount equal to the aggregate amount of the tax applicable with respect to the remaining payments. If the lessor or vendor does not establish that the payments have been so reduced, they will be treated as payments made in respect of an article sold before November 10, 1978.

(2) *Methods of reimbursement and records to be retained.* The requirement that the payment made on or after November 10, 1978, must be reduced by the amount of the tax reduction will be met if the manufacturer reimburses its purchaser or lessee in cash by the amounts of the tax, makes a reduction for the tax in the amounts due as remaining payments, or reduces one or more of the remaining payments, by the aggregate amount of the tax. A manufacturer shall retain in its records for inspection by internal revenue examining officers sufficient evidence of the reimbursement or the reimbursement obligation. Until such time as the reimbursement is made or is a binding obligation of the manufacturer under applicable local law and is made known to its purchaser or lessee, the manufacturer shall continue to report the payments and pay the tax (which except for the amendment made by section 231 (a) of the Energy Tax Act of 1978, would be due) with respect to the payments made on and after November 10, 1978.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805), and by sections 231 (b) and (c) of the Energy Tax Act of 1978 (Pub. L. 95–618; 92 Stat. 3174).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: April 19, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[T.D. 7615]

[FR Doc. 79-13355 Filed 4-27-79; 8:45 am]
BILLING CODE 4830-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1610

Availability of Records; Address Corrections

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: Effective January 29, 1979, the Commission adopted a reorganization of its field offices. The addresses of the Commission's district offices have appeard in the Commission's Availability of records regulation, 29 CFR 1610.4, and have been referenced in the Commission's Procedural regulations, 29 CFR 1601.8. In order to reflect its field reorganization, the Commission is hereby amending its regulations to provide the current addresses of its district offices.

EFFECTIVE DATE: April 30, 1979.

FOR FURTHER INFORMATION CONTACT: Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of General Counsel, 2401 E Street, NW., Washington, D.C. 20506, (202) 634–6595.

These regulations have been reviewed in accordance with Executive Order 12044. These regulations are not "substantial regulations" under section 2(e) of that Order nor do they require regulatory analysis under section 3 of that Order.

By virture of the authority vested in the Commission under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, the Equal Employment Opportunity Commission hereby publishes the following amendments to its regulations, to be effective April 30, 1979.

Signed at Washington, D.C., this 24th day of April, 1979.

For the Commission.

Eleanor Holmes Norton,
Chair.

§ 1610.4 [Amended]

29 CFR 1610.4(c) is revised to read as follows:

* * * * *

(c) The Commission's District Offices are:

Atlana District Office, Citizens Trust Building, 10th Floor, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303.
Baltimore District Office, Rotunda Building, Suite 210, 711 West 40th Street, Baltimore, Maryland 21211.
Birmingham District Office, 2121 Eighth Avenue, North, Birmingham, Alabama 35203.
Charlotte District Office, 403 N. Tryon Street, 2nd Floor, Charlotte, North Carolina 28202.
Chicago District Office, Federal Building, Room 234, 536 S. Clark Street, Chicago, Illinois 60605.
Cleveland District Office, Engineers' Building, Room 402, 1365 Ontario Street, Cleveland, Ohio 44114.
Dallas District Office, Corrigan Tower, 6th Floor, 212 N. St. Paul, Dallas, Texas 75201.
Denver District Office, 1531 Stout Street, 6th Floor, Denver, Colorado 80202.

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Detroit District Office, Federal Building & Old Courthouse, 231 W. Lafayette Street, Room 461, Detroit, Michigan 48226.
Houston District Office, Federal Building, Room 1101, 2320 LaBranch, Houston, Texas 77004.
Indianapolis District Office, Federal Building, U.S. Courthouse, 46 E. Ohio Street, Room 456, Indianapolis, Indiana 46204.
Los Angeles District Office, 3255 Wilshire Blvd., 9th Floor, Los Angeles, California 90010.
Memphis District Office, 1407 Union Avenue, Suite 502, Memphis, Tennessee 38104.
Miami District Office, DuPont Plaza Center, Suite 414, 300 Biscayne Blvd. Way, Miami, Florida 33131.
Milwaukee District Office, 342 N. Water Street, Room 612, Milwaukee, Wisconsin 53202.
New Orleans District Office, F. Edward Hebert Federal Building, 600 South Street, New Orleans, Louisiana 70130.
New York District Office, 90 Church Street, Room 1301, New York, New York 10007.
Philadelphia District Office, 127 N. 4th Street, Suite 200, Philadelphia, Pennsylvania 19106.
Phoenix District Office, 201 N. Central Avenue, Suite 1450, Phoenix, Arizona 85073.
San Francisco District Office, 1390 Market Street, Suite 325, San Francisco, California 94102.
Seattle District Office, Dexter Horton Building, 710 Second Avenue, Seattle, Washington 98104.
St. Louis District Office, 1601 Olive Street, St. Louis, Missouri 63103.

[FR Doc. 79-13289 Filed 4-27-79; 8:45 am]

BILLING CODE 6570-06-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Implementation Plans; Approval of Revision of the District of Columbia Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This notice announces the Administrator's approval of amendments to the District of Columbia's air pollution control regulations as a revision of the District of Columbia Implementation Plan (SIP). The amendments consist of changing the regulations governing control of particulate emissions from fuel burning equipment (which are currently expressed in the form of a chart), adding a definition for "distillate oil", and exempting new gas-fired and distillate oil-fired fuel burning equipment which as a capacity of 5 mmbtu/hr. or less heat input from the permit process requirements.

EFFECTIVE DATE: May 30, 1979.

ADDRESSES: Copies of the SIP revision and accompanying support documentation are available for public inspection during normal business hours at the following offices: U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania, Attention: Mr. Harold A. Frankford (3AH12); District of Columbia Department of Environmental Services, Bureau of Air and Water Quality, 5010 Overlook Avenue SW., Washington, D.C. 20032 Attention: Mr. John V. Brink; Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AH12) Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106; telephone: (215) 597-8392.

SUPPLEMENTARY INFORMATION:

I. Background

On May 25, 1978, the District of Columbia submitted to the Regional Administrator, EPA Region III, amendments to its Air Quality Control Regulations and requested that they be reviewed and processed as a revision of the District's Implementation Plan (SIP). The amendments consist of the following changes:

(1) Amendments to Section 8:2–708. This section, which governs control of particulate emissions from fuel-burning equipment, provides for emission limitations determined by the following formula:

$E = 0.17455H^{-0.23823}$, where
E = Allowable emissions in pounds per million BTU heat input, and
H = Heat input to the fuel-burning equipment in millions of BTU's per hour.

These amendments also establish an upper limit (0.13 lb/mmbtu of heat input) and a lower limit (0.02 lb/mmbtu of heat input) for allowable particulate emissions from fuel burning equipment. In conjunction with these changes, a chart in the current SIP designated as Appendix 1 is voided.

(2) An amendment to Section 8–2:702 (Definitions). The amendment consists of a definition for the term "distillate oil."

(3) An amendment to Section 8–2:720 (*Permits to Construct or Modify, Permits to Operate*). The amendment exempts from the pemit process any gas-fired or distillate oil-fired fuel-burning equipment which has a capacity of 5 million or less BTU's per hour heat input.

The District of Columbia provided proof that public hearings with regard to these amendments were held on September 10, 1976, in accordance with the requirements of 40 CFR Section 51.4.

On December 15, 1978 (43 FR 58593) the Regional Administrator acknowledged receipt of the amendments submitted by the District of Columbia, proposed them as a revision of the District's Implementation Plan, and provided for a 30-day public comment period, ending January 15, 1979. During the public comment period, no comments were received.

II. Approvability of Proposed Revision

The primary purpose for the amendment to Section 8–2:708 is to correct an error in this section that had been submitted by the District to EPA as a SIP revision on July 7, 1972. The error appeared in a graph (designated Appendix 1) describing the relationship between allowable emissions (the vertical axis) and the boiler capacity expressed in terms of heat input (the horizontal axis). The vertical axis of the graph was incorrectly marked. Therefore, the graph shows a standard that is difficult to interpret and enforce. The District of Columbia subsequently submitted a correction to EPA on January 29, 1973 and EPA approved the change on October 23, 1973 (38 FR 29296). However, a subsequent review of the 1973 correction revealed that it was not submitted by the properly designated official and therefore did not meet the requirements of 40 CFR Part 51 [Section 51.5(a)], Requirements for Preparation, Adoption, and Submittal of Implementation Plans. The amendments to Section 8–2:708 discussed in this notice serve to correct the past technical and administrative deficiencies associated with this regulation.

The amendment to Section 8–2:720(j) exempts new gas-fired and distillate (nos. 1 and 2) oil-fired fuel burning equipment with a heat input of 5 mmbtu/hr. or less from the District's permit process. Although the District of Columbia did not submit quantitative support documentation demonstrating the effects of these exemptions on national ambient air quality standards, calculations performed by EPA indicate that a boiler of the above-mentioned size and burning No. 2 oil for 24 hours/day, 7 days/week, 365 days/year would not exceed either the 100 tons per year of potential emissions or the 50 tons per year of actual emissions of particulates, sulfur dioxide, carbon monoxide,

hydrocarbons or oxides of nitrogen. Therefore, such source would be exempt from EPA's Offset and Prevention of Significant Deterioration (PSD) requirements. The District did submit qualitative information indicating that exempted sources would consist of small apartment and office buildings.

The amendment to Section 8–2:702 (addition of definition for "distillate oil") specifies that the term "distillate oil" refers to any oil that meets the specifications of the American Society for Testing and materials (ASTM) for No. 1 and No. 2 grades of fuel oil. This definition is added to avoid confusion with the term "middle distillate fuel" which refers to No. 4 grade fuel. The exemptions listed in Section 8–2:720(j) for distillate oil-fired fuel burning equipment refer to those sources which burn No. 1 or No. 2 grade fuel.

All of the amendments discussed in this notice of final rulemaking meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans. Therefore, the Administrator approves the amendments to Section 8–2:702, 8–2:708, and 8–2:720(j) of the District of Columbia's Air Quality Control Regulations as a revision of the District's State Implementaton Plan, effective (30 days after publication date of this notice). Concurrently, the Administrator amends 40 CFR Section 52.470 (Identification of Plan) of Subpart J (District of Columbia) to incorporate this plan revision into the District's SIP.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Authority: 42 U.S.C. 7401.

Dated: April 24, 1979.

Douglas M. Costle,
Administrator.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart J—District of Columbia

In Section 52.470, Subsection (c) is revised by adding paragraph (c)(12) to read as follows:

§ 52.470 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified

* * *

(12) Amendments to Sections 8–2:702 (Definitions), 8–2:708 (Fuel Burning Particulate Emission) and 8–2:720 (Permits to Construct or Modify, Permits to Operate); an amendment deleting Appendix 1 from the District of Columbia Air Quality Control Regulations submitted by the Major on May 25, 1978.

[FRL 1066-3]

[FR Doc. 79-13373 Filed 4-27-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 120

Water Quality Standards, Navigable Waters of the State of Mississippi

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: EPA is promulgating a final rule establishing a dissolved oxygen criterion for all water uses recognized by the State of Mississippi. This criterion is less stringent than originally proposed by EPA because testimony and data submitted at the public hearings and otherwise available to EPA indicated that a balanced aquatic organism population can be maintained in Mississippi waters meeting the criterion promulgated herein.

DATES: This rule becomes effective May 30, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McGhee, Water Quality Standards Coordinator, EPA, Region IV, 345 Courtland Avenue, N.E., Atlanta, GA. 30308 (404/881-3012).

SUPPLEMENTARY INFORMATION:

Background

On June 9, 1977, the Regional Administrator, Region IV, notified the Executive Director, Mississippi Air and Water Pollution Control Commission, that the dissolved oxygen criterion found in sections III(1)(a), III(2)(a), III(3)(a), and III(4)(a) of the Mississippi water quality standards submitted to EPA on April 22, 1977 was not sufficient to insure the protection of a balanced population of fish in Mississippi. The Regional Administrator advised the Commission that establishment of a less stringent criterion than that recommended in *Quality Criteria for Water* (QCW)* should be accompanied by an adequate technical justification as provided by chapter 5 of the Guidelines for State and Areawide Water Quality Management.** He requested that additional data supporting such a deviation be submitted as soon as possible.

On July 21, 1977, EPA received from the Commission the requested documentation entitled "A Justification Report for the State of Mississippi's Dissolved Oxygen Criteria." Because of the short amount of time which remained available under the time table for EPA review of the revised State water quality standards established in section 303(c) of the Clean Water Act, the Regional Administrator was unable to completely review the justification prior to his action on the total State submission. The Regional Administrator disapproved the dissolved oxygen criteria in the Mississippi standards on July 25, 1977. He added that his disapproval was conditional pending further evaluation of the justification report.

On August 24, 1977, the Regional Administrator notified the Commission that the July 25, 1977, disapproval would remain in effect since the justification report did not adequately demonstrate that Mississippi waters should be exempt from achieving the EPA recommended criterion for dissolved oxygen. He further advised the Commission that in the event the Commission did not adopt within 90 days a dissolved oxygen criterion necessary to support a balanced fish population in Mississippi, EPA would be required to promulgate an appropriate criterion.

On July 13, 1978, EPA proposed a dissolved oxygen criterion for the water uses established by the State for Mississippi waters (43 FR 30076). The Agency proposed a criterion of not less than 5 mg/l dissolved oxygen to support the State's four recognized uses (i.e., public water supply, shellfish harvesting, recreation, and fish and wildlife), to replace the dissolved oxygen criterion adopted by the State.

As part of the rulemaking process, EPA held two public hearings to receive public comment on the proposed rule. These hearings were held on September 6, 1978, in Jackson, Mississippi and on September 7, 1978, in Biloxi, Mississippi. Thirty statements were received by EPA at the two hearings although this count includes five duplicate presentations made at both hearings. Fourteen other comments were received by EPA either prior to or after the hearings. EPA's

*A Notice of Availability of *Quality Criteria for Water* was published at 41 FR 32947 on August 6, 1976.

**A Notice of Availability of the Guidelines for State and Areawide Water Quality Management Program Development was published in 41 FR 46777 on November 5, 1976.

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response to the major issues raised in these comments follows the statement of Basis and Purpose.

Section 303(c) of the Clean Water Act (33 USC 1313(c)) establishes the requirements for State water quality standard review and revision. This section requires States to review and revise water quality standards as appropriate at least every three years. Results of this review must be submitted to the Administrator of EPA for his determination of consistency with the requirements of the Act. If the Administrator determines that a standard is not consistent with these requirements and the State after notification does not adopt a standard consistent with the Act, the Administrator is required to promulgate an appropriate standard. The action taken today completes the rulemaking process of disapproval, State notification, and proposal noted above. The statutory basis for this action is that the new standard is necessary to meet the requirements of the Clean Water Act.

Basis and Purpose

In order to place this action in perspective, a general understanding of the components of a water quality standard is helpful. A water quality standard consists of two parts: a designated "use" for which the water body is to be protected (such as "agriculture", "recreation", or "fish and wildlife") and a numerical concentration or qualitative description (or "criterion") for water constituents, which will provide a water quality to support that use (see EPA's recent policy statement, 43 FR 29588, July 10, 1978).

The designated use component of a water quality standard involves a judgment as to what use is appropriate, given the water body's use and value for various purposes, and *attainable*, in light of economic, social, and other considerations. The Act and EPA's regulations state that water quality standards shall be established taking into consideration the water's "use and value" for various purposes such as public water supply, propagation of fish and wildlife, recreation, industry, agriculture, and navigation (section 303(c)(2); 40 CFR 130.17(b)(2)). In determining whether a standard is attainable, States consider environmental, technological, social, economic, and institutional factors (40 CFR 130.17(c)(1)). The criterion portion of a water quality standard involves a determination of the water constituents and the concentration of each that must not be violated in order to support a particular use. Thus, the criterion is founded on scientific, technical considerations.

If the criterion for a water constituent to support a water use cannot be attained because of economic, environmental or other factors, the particular water could be designated for a less restrictive use. In contrast, if a criterion generally necessary to support a given use need not be attained to support a designated use in a particular waterbody, then a less stringent criterion may be allowed. Such a situation may exist because of natural background or other ecological conditions.

EPA's action today constitutes a determination of this second sort. After determining that the State adopted criterion was inadequate to support the intended uses, EPA has been required to assume the task of determining what concentration will be adequate.

In proposing a 5 mg/l minimum dissolved oxygen criterion, EPA followed the policy set forth recently in the **Federal Register** that the criteria recommended in EPA's *Quality Criteria for Water* be achieved unless there is justification to the contrary (43 F.R. 29588, July 10, 1978). As a result of testimony and data presented at the public hearings and otherwise made available to EPA indicating that balanced aquatic populations can be maintained in Mississippi waters having a daily average dissolved oxygen concentration of not less than 5 mg/l with a minimum limit of not less than 4 mg/l, EPA is promulgating a less restrictive criterion for Mississippi waters than that proposed.

EPA has rejected the criterion adopted by the State because it believes that evidence in the record demonstrates that the State-adopted criterion, as construed by the State, is not adequate to support the uses for which it is intended.

Deficiencies of the Adopted Mississippi Dissolved Oxygen Criterion

The adopted Mississippi dissolved oxygen criterion appears by its explicit terms to provide for a criterion for freshwater streams of almost equal stringency with the federal rule promulgated today by EPA.*

The criterior appears to establish a minimum dissolved oxygen concentration of 5.0 mg/l at all flows greater than the 7-day, once in ten year low flow (7Q10) with an allowance of a minimum of 4.0 mg/l at the 7Q10 flow.*

However, EPA must also judge the adequacy of the State's criterion based on how the State construes the criterion. Following EPA disapproval of the criterion, Mississippi submitted a statement entitled, "A Justification Report for the State of Mississippi's Dissolved Oxygen Criteria." The first sentence states that, "This report provides justification for a statewide *minimum daily average* dissolved oxygen concentration of 4.0 mg/l at the 7-day, once in ten year low flow" (emphasis added). The interpretation of the criterion as a *minimum daily average* of 4.0 mg/l does not agree with the wording of the criterion calling for a *daily minimum* of not less than 4.0 mg/l.

The State's interpretation of its criterion as a daily average of 4.0 mg/l allows dissolved oxygen excursions to less than 4.0 mg/l. Because the criterion in effect has no instantaneous minimum dissolved oxygen concentration requirement, meeting the average of 4.0 mg/l could in fact allow oxygen depletion to levels detrimental or even lethal to aquatic life.

The statement by Dr. Brungs at the hearing and the Agency's criterion for dissolved oxygen in QCW have shown that some detrimental effects to aquatic life can occur when dissolved oxygen concentrations are less than 5.0 mg/l. Furthermore, the statements in the record made in opposition to EPA's proposed criterion do not support a criterion of an average of 4 mg/l dissolved oxygen without any effective minimum concentration. These statements, as interpreted by EPA, seem supportive of an average dissolved oxygen concentration of 5 mg/l if minimums were not less than 4.0 mg/l.

While the Agency agrees that data are available showing that adult fish may survive dissolved oxygen concentrations depleted to 2 mg/l for short periods, such data have not been interpreted by investigators to support the proposition

*Mississippi's dissolved oxygen criterion: *Dissolved Oxygen*: For diversified warmwater biota, including game fish, daily dissolved oxygen concentration shall be maintained at a minimum of not less than 4.0 mg/l during the low 7-day, once-in-ten-years flow. However, at all greater flows dissolved oxygen shall be maintained at not less than 5 mg/l, assuming there are normal seasonal and daily variations above this level; except that under extreme conditions, with the same stipulations as to seasonal and daily variations, the dissolved oxygen level may range between 5.0 mg/l and 4.0 mg/l for short periods of time, provided that the water quality is maintained in favorable conditions in all other respects.

* The Mississippi standard contains a "step function" that requires a dissolved oxygen concentration of 4.0 mg/l at the 7Q10 and 5.0 mg/l "at all greater flows". Therefore a discharger would apparently be required to meet a minimum of 4 mg/l dissolved oxygen at the 7Q10 and a 5 mg/l at *all* higher flows. This presumably would require a stringent wasteload allocation to meet the 5 minimum at flows only slightly in excess at the 7Q10.

that well balanced, diversified populations of aquatic life will be supported by such concentrations. EPA believes that the record does not lend scientific support for the Mississippi dissolved oxygen criterion as construed by the State.

EPA has identified another deficiency of the Mississippi dissolved oxygen criterion which the rule promulgated today corrects. The Mississippi criterion apparently applies only to streams. By its explicit terms the standard applies only during the 7 consecutive day once in ten year flow. Such a hydrological determination is meaningful only for streams and not for lakes, impoundments, embayments, estuaries and the tidally-affected portions of streams. The criterion promulgated herein provides a dissolved oxygen concentration applicable to these other types of waters.

Basis for EPA's Rule

Although EPA proposed a rule requiring that minimum dissolved oxygen concentrations be not less than 5 mg/l, the Agency has concluded that the record resulting from public hearings is more supportive of a dissolved oxygen criterion in the State of Mississippi which requires that daily average dissolved oxygen concentrations be not less than 5 mg/l with instantaneous minimum concentrations of not less than 4 mg/l (hereinafter referred to as a 5/4 criterion). Statements in the record by biologists familiar with Mississippi's aquatic ecology indicate that balanced aquatic populations exist in Mississippi waters where concentrations of dissolved oxygen consistent with the 5/4 criterion occur during periods of low flow and high temperature in the late summer-early fall period. These statements suggest that the 5/4 criterion is typical of many Mississippi waters during this period. The record also suggests that thriving, viable aquatic populations exist under these conditions because, during this period, only adult aquatic forms are present. Adult forms generally are more tolerant of lower dissolved oxygen concentrations than are juvenile forms. These same waters generally are characterized during the spring spawning season by higher flow rates and consequently, substantial dissolved oxygen concentrations. Because spawning seasons are extended in southern waters, low flows in the spring of the year may only delay spawning and not prevent its occurrence. Suitable environmental conditions may be re-established and spawning still could occur. Thus the loss of a total year's crop of fish would be avoided.

Promulgation of the 5/4 criterion for Mississippi waters brings Mississippi's dissolved oxygen criterion in line with those of surrounding States. No justifications have been presented to EPA to distinguish the aquatic ecology of Mississippi from those of proximate States.

In arriving at its decision, the Agency recognizes that some factors argue for a more stringent standard. There is evidence in the record that depressed dissolved oxygen concentrations impair growth rates and increase the stress on aquatic life. During periods of low dissolved oxygen, fish may become crowded and thereby more susceptible to disease and to the impacts of any toxicants present. Higher concentrations of dissolved oxygen lessen such stresses and provide for a more productive ecosystem. Although the argument was made that such impacts are minimal because low flow, high temperature and consequent low dissolved oxygen concentrations occur at infrequent intervals of brief duration, EPA's analysis indicates a more substantial occurrence and duration of low flow leading to these adverse biological conditions. Therefore, there may be more stress and impairment of fish growth than was indicated at the public hearing (See EPA's response to comments).

However, the Agency believes that the record of this proceeding justifies the Agency's modification of its proposed rule and the final promulgation of a 5/4 criterion.

Final Rule

The Agency's proposed rule would have required all surface waters of the State of Mississippi to achieve a minimum dissolved oxygen concentration of 5.0 mg/l. The rule promulgated today amends that proposed rule by replacing wherever it occurs in the proposed language, the phrase, "at a minimum of 5.0 mg/l" with the phrase, "at a daily average of not less than 5.0 mg/l with a daily instantaneous minimum of not less than 4.0 mg/l." The criterion should be applied under the conditions contained in Section I of the State's standards.

Wasteload allocations must be performed to achieve the dissolved oxygen criterion promulgated today. This dissolved oxygen criterion must be achieved at the 7Q10 flow specified in paragraph 5 of section I of the Mississippi standards for streams and continuously for other waters under the conditions specified in the criterion.

Economic Impact

Water quality criteria are used by the States in conjunction with stream use designations in setting water quality standards for specific stream segments. Because the water quality criterion for dissolved oxygen being promulgated herein may be more stringent than that adopted by Mississippi, the implementation of water quality standards using this more stringent criterion may result in increased pollution control costs to both industry and municipalities. These costs would result from decreases in allowable waste loadings prescribed in revised waste load allocations. However, as pointed out above, the Mississippi criterion contains a "step function" which would seem to require achieving a 5.0 mg/l minimum dissolved oxygen concentration at all flows greater than the 7Q10 and consequently wasteload allocations at least as stringent as those required by the 5/4 criterion promulgated today.

In any case, the Agency has concluded that any additional costs do not approach any of the minimum impact levels which would trigger the necessity for a full regulatory impact analysis.

This conclusion is in part based on an economic analysis submitted by the State in which costs were estimated for affected industrial and municipal dischargers to comply with the Agency's proposed dissolved oxygen criterion.

Mississippi identified 33 industrial and 38 municipal dischargers that might be affected by the Agency's proposed criterion. Investment cost was estimated to be $39.7 million: $25 million for the industrial dischargers and $14.7 million for municipal dischargers. Annual operating and maintenance costs were estimated to be $5.5 million: $3.8 million for dischargers and $1.7 million for municipal dischargers. Using these figures the annualized cost (using 6 percent interest and a 20-year amortization period) would be $9 million: $5.9 million for the industrial dischargers and $3.1 million for the municipal dischargers.

EPA believes the actual costs should be considerably lower if Mississippi had performed revised waste load allocations which take into account the "step function" discussed above.

Digest of Public Comments and EPA's Response

EPA received 36 comments on the proposed rule. A list of the individuals or organizations submitting these statements is attached as Appendix A.

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The principal concerns in these statements and the Agency's responses follow.

Several commenters identified potential economic impacts of EPA's proposed dissolved oxygen criterion. Commenters alleged that the standards would be harmful to the economic development of the State, that the construction costs of treatment facilities would be inflationary, or that the substantial additional costs would occur without compensating environmental benefit.

As noted in the section entitled Basis and Purpose, the purpose of this rulemaking is to establish on a scientific basis, the dissolved oxygen criterion that is necessary to support a balanced population of fish and aquatic life in Mississippi waters. Accordingly, the Agency has examined the relevant biological, hydrological and other related factors to reach its decision of an appropriate dissolved oxygen criterion. Consideration of economic factors occurs in a separate step in the water quality standards setting process. EPA's regulations at 40 CFR 130.17(c) provide for consideration of the environmental, technological, social, economic, and institutional factors in designating a particular use for individual waters. Therefore, economic considerations are not relevant in this rulemaking. However, as discussed above, the Agency has examined the economic impact of this rulemaking and has concluded that a significant impact is not likely to occur.

Several commenters noted that climatic and geomorphological characteristics caused Mississippi waters naturally to have low dissolved oxygen concentrations especially in the late summer-early fall season. However, it was alleged that aquatic life was not severely impacted because the dissolved oxygen-sensitive process of reproduction occurred during the normally higher flow spring season. It was asserted that minimum dissolved oxygen concentrations of 3–4 mg/l can be tolerated by adult aquatic life for short periods of time. EPA took these factors into consideration in reducing the stringency of the proposed criterion in the final promulgation.

Two commenters noted that dissolved oxygen concentrations less than 5.0 mg/l often only occur for a very limited distance downstream from a point source.* EPA believes that since numerous stream miles are affected by discharges, the requirement for a daily average of 5.0 mg/l dissolved oxygen is reasonable, particularly since stresses on aquatic life are often greatest during periods of low flow and high temperatures. The additional oxygen demand imposed by the discharge of oxygen demanding organic material exacerbates already low dissolved oxygen concentrations, prolongs the time necessary for recovery, and may extend low dissolved oxygen conditions over longer distances.

One commenter indicated that fish life are sufficiently mobile to avoid areas of low dissolved oxygen. The Agency agrees that fish will attempt to migrate away from chronically oxygen depleted areas if more oxygenated areas are in the proximity. The comment assumes that waters containing ample dissolved oxygen are available and that fish and other aquatic life are able to reach these waters. This may not always be the case. Changes in dissolved oxygen concentrations are generally gradual along the stream and vary vertically and horizontally over a stream cross section. Fish may become disoriented and unable to escape from oxygen depleted zones. Otherwise, the occasional large fish kills attributed to dissolved oxygen depletion would not occur.

One commenter noted that Mississippi's dissolved oxygen criterion is lower than any of the surrounding States. EPA agrees that Mississippi's dissolved oxygen criterion appears to be lower than any other State's criterion for supporting a water use of protecting fish and aquatic life. The action completed by EPA today reflects its judgment that the characteristics of Mississippi waters are not sufficiently different from neighboring States to justify the dissolved oxygen criterion adopted by Mississippi.

One commenter urged EPA to give more consideration to the percent of oxygen saturation in receiving waters rather than absolute dissolved oxygen concentrations. EPA has rejected this approach because aquatic life requirements are relatively insensitive to relative oxygen concentrations (expressed as a percent of oxygen saturation) but generally require substantial, absolute concentrations of dissolved oxygen.

Two comments addressed special conditions causing low dissolved oxygen concentrations. One of these concerned the fall overturn in thermally stratified lakes and the other, the impact of salinity intrusion in estuarine waters. The State can address such unique, naturally induced low dissolved oxygen problems by individual variance provisions. The fact that an area possesses a low waste assimilative capacity does not change the environmental requirements of aquatic life.

Several commenters claim that because the flow rate defined as the seven consecutive day low flow with a recurrence frequency of once in ten years (7Q10) occurs so infrequently, a dissolved oxygen concentration only protective of adult aquatic life forms is justifiable.

These commenters mischaracterize the 7Q10 flow by implying either that such a flow rate only occurs once every 10 years or that such a flow rate is a rare occurrence. Flow rates of equal or comparable magnitude occur for various periods virtually every year. Low flow is an annual phenomenon.

Hydrologically the 7Q10 is determined by calculating the minimum seven consecutive day low flow for each year of the available record. These data are then analyzed statistically. From this analysis a flow rate is determined which has a recurrence frequency of once every ten years. However, that particular flow rate (and lower flow rates) may occur for one or several consecutive days each year. Based on a preliminary analysis of data from selected U.S.G.S. gaging stations located on Mississippi streams, EPA has confirmed that low flows occur for significant periods.

Several comments addressed EPA's authority to disapprove the Mississippi dissolved oxygen criterion and to promulgate a federal one. The Mississippi Air and Water Pollution Control Commission (MAWPCC) objected that EPA was "not authorized by the Federal act to substitute its judgment for that of the Commission". EPA does not agree. Sections 303(c) (1) and (2) of the Clean Water Act (the Act) require States to conduct a triennial review of water quality standards and to submit any revisions to those standards to the Administrator. Under section 303(c)(3) the Administrator is charged with reviewing such revisions. "If the Administrator . . . determines" that a revised standard is consistent with the requirements of the Act then "such standard shall be the water quality standard for the applicable water of that State." If the Administrator determines that a revised standard is not consistent with those requirements, however, and the State does not act to modify the standard, then the Administrator is required to promulgate an appropriate standard. Thus the Act requires the administrator

* This is due to the configuration of the oxygen sag curve which represents the observed dissolved oxygen concentration resulting from two opposing phenomena: the deoxygenation of water by the use of dissolved oxygen for the decomposition of organic material, and the resupply of oxygen to those waters, principally by atmospheric reaeration.

of the EPA to determine whether State water quality standards meet the requirements of the Act and to promulgate federal standards whenever, *in his determination*, a State standard does not. The mandate to promulgate a federal standard after disapproval of a State standard necessarily requires the Agency to "substitute its judgment" as to what is an adequate standard. This authority is further supported by the provision in section 303(c)(4)(B) that the Administrator shall promulgate a water quality standard "in any case where the Administrator determines that a revised or new standard is necessary to meet the requirements" of the Act.

This reasoning also responds to the MAWPCC argument that a standard satisfying State requirements that are "for practical purposes, . . . identical" to federal requirements, should automatically satisfy the federal Act. The sections cited above clearly vest the Administrator, not the State, with the final authority to determine what satisfies the requirements of the federal Act.

EPA does not believe that this authority constitutes, as one commenter suggested, a violation of State's rights. As the Supreme Court observed regarding the similar 1965 legislation:

> (I)t is federal policy to recognize, preserve and protect the primary responsibilities and rights of the States in preventing and controlling water pollution. But the Act makes clear that it is federal not State law that in the end controls the pollution of interstate or navigable waters. *Illinois v. City of Milwaukee*, 406 U.S. 101, 105 (1972).

Testimony on behalf of the State also questioned EPA's authority to disapprove the State dissolved oxygen criterion since EPA had in 1973 approved an identical standard. Information is continually being developed which may influence decisions about what water quality criteria are necessary to support a given use. The mandate that the agency publish "and from time to time . . . revise" water quality criteria clearly contemplates that "the latest scientific knowledge" concerning the fate and effects of pollutants may change. Section 304(a)(1). The Act provides a means for incorporating such new information in standards by requiring regular state standards review, and by authorizing EPA to promulgate standards where State standards are inadequate or "in any case" where a new or revised standard is needed. Since its approval of the Mississippi dissolved oxygen criterion in 1973, EPA has gathered considerable information which indicates that the criterion previously approved was inadequate. This information, summarized in QCW, constituted much of the basis for the Agency's 1977 disapproval.

Finally, the MAWPCC objected that EPA's disapproval and subsequent proposal failed to consider any of the factors in section 303(c)(2) other than the protection and propagation of aquatic life. As noted elsewhere in this preamble, the State has the opportunity to consider these factors (the "use and value" of a water body for public water supply, recreation, agricultural, industrial, navigational, and other purposes) when it evaluates a stream segment to determine the use or uses for which it will be designated. 40 CFR 130.17(c)(2); 43 FR 29588. They are not at issue in determining the pollutant concentrations which will support any given use. Since the concentration or "criterion" corresponding to a use is purely a scientific, technical question EPA properly considered only scientific and technical factors.

Availability of Record

The transcript of the hearings referred to in this preamble as well as written comments and additional technical support for today's action are hereby made a part of the record of this rulemaking. The entire administrative record is available for public inspection and copying at the Environmental Protection Agency Region IV Office at the address noted above. The hearing transcript and other written comments are available for inspection and copying at the EPA library, 401 M Street, S.W. Washington, D.C. 20460 during the Agency's normal business hours of 8:00 am to 4:30 pm.

(Sec. 303(c), Clean Water Act, as amended (33 U.S.C. 1313(c))).

Dated: April 24, 1979.

Douglas M. Costle,
Administrator.

Section 120.34 of Part 120 of chapter I, Title 40 of the Code of Federal Regulations is hereby added and reads as follows:

§ 120.34 Mississippi.

The water quality standards applicable to intrastate, interstate, and coastal waters of Mississippi, adopted by the Mississippi Air and Water Pollution Control Commission on April 12, 1977, are amended as follows:

Section III. Specific Water Quality Criteria.

1. Public water supply—a. Dissolved oxygen. Dissolved oxygen concentrations shall be maintained at a daily average of not less than 5.0 mg/1 with an instantaneous minimum of not less than 4.0 mg/1 in streams; shall be maintained at a daily average of not less than 5.0 mg/1 with an instantaneous minimum of not less than 4.0 mg/1 in estuaries and in the tidally affected portions of streams; and shall be maintained at a daily average of not less than 5.0 mg/1 with an instantaneous minimum of not less than 4.0 mg/1 in the epilimnion (i.e., the surface layer of lakes and impoundments that are thermally stratified, or 5 feet from the water's surface (mid-depth if the lake or impoundment is less than 10 feet deep at the point of sampling) for lakes and impoundments that are not stratified.

Epilimnion samples may be collected at the approximate mid-point of that zone (i.e., the mid point of the distance or if the epilimnion is more than 5 feet in depth, then at 5 feet from the water's surface.

2. Shellfish-harvesting areas.—a. Dissolved oxygen. Dissolved oxygen concentrations shall be maintained at a daily average of not less than 5.0 mg/1 with an instantaneous minimum of not less than 4.0 mg/1 in streams; shall be maintained at a daily average of not less than 5.0 mg/1 with an instantaneous minimum of not less than 4.0 mg/1 in estuaries and in the tidally-affected portions of streams; and shall be maintained at a daily average of not less than 5.0 mg/1 with an instantaneous minimum of not less than 4.0 mg/1 in the epilimnion (i.e., the surface layer of lakes and impoundments that are thermally stratified, or 5 feet from the water's surface (mid-depth if the lake or impoundment is less than 10 feet deep at the point of sampling) for lakes and impoundments that are not stratified.

Epilimnion samples may be collected at the approximate mid-point of that zone (i.e., the mid point of the distance or if the epilimnion is more than 5 feet in depth, then at 5 feet from the water's surface.

3. Recreation.—a. Dissolved oxygen. Dissolved oxygen concentrations shall be maintained at a daily average of not less than 5.0 mg/1 with an instantaneous minimum of not less than 4.0 mg/1 in streams; shall be maintained at a daily average of not less than 5.0 mg/1 with an instantaneous minimum of not less than 4.0 mg/1 in estuaries and in the tidally-affected portions of streams; and shall be maintained at a daily average of not less than 5.0 mg/1 with an instantaneous minimum of not less than 4.0 mg/1 in the epilimnion (i.e., the surface layer of lakes and impoundments that are thermally stratified, or 5 feet from the water's surface (mid-depth if the lake or impoundment is less than 10 feet deep at the point of sampling) for lakes and impoundments that are not stratified.

Epilimnion samples may be collected at the approximate mid-point of that zone (i.e., the mid point of the distance or if the epilimnion is more than 5 feet in depth, then at 5 feet from the water's surface.

4. Fish and wildlife.—a. Dissolved oxygen. Dissolved oxygen concentrations shall be maintained at a daily average of not less than 5.0 mg/1 with an instantaneous minimum of not less than 4.0 mg/1 in streams; shall be maintained at a daily average of not less than 5.0 mg/1 with an instantaneous minimum of not less than 4.0 mg/1 in estuaries and in the tidally affected portions of streams; and shall be maintained at a daily average of not less

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than 5.0 mg/1 with an instantaneous minimum of not less than 4.0 mg/1 in the epilimnion (i.e., the surface layer of lakes and impoundments that are thermally stratified, or 5 feet from the water's surface (mid-depth if the lake or impoundment is less than 10 feet deep at the point of sampling) for lakes and impoundments that are not stratified.

Epilimnion samples may be collected at the approximate mid-point of that zone (i.e., the mid point of the distance or if the epilimnion is more than 5 feet in depth, then at 5 feet from the water's surface.

Appendix A

American Electric Platers Society
Bryan Packing Company
Chevron Oil
Continental Oil, Conoco Chemical Division
E. I. Dupont de Nemours & Company
Green Acre Farms, Inc.
International Paper Company
Kerr-McGee Chemical Corporation
Masonite Corporation
Mississippi Air and Water Pollution Control Commission
Mississippi Chemical Corporation
Mississippi Economic Council
Mississippi Farm Bureau Federation
Mississippi Game and Fish Commission
Mississippi Manufacturers Association
Mississippi Petroleum Council
Mississippi Power and Light Company
Mississippi Research and Development Corporation
Mississippi State Cooperative Extension Service
Pearl River Purification Committee
St. Regis Paper Company
Sanderson Farms
Sierra Club, Gulf Coast Chapter
Sierra Club, Mississippi Chapter
U.S. Geological Survey
U.S. Fish & Wildlife Service
Private citizens:
Dieter Busch
Donald O. Hill
Fred Lemon
Senators:
Honorable James O. Eastland
Honorable John C. Stennis
Congressmen:
Honorable David Bowen
Honorable Thad Cochran
Honorable Kent Lott
Honorable G. V. Montgomery
Honorable James Whitten

[FRL 1060-5]
[FR Doc. 79-13374 Filed 4-27-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

FM Broadcast Stations in Burlington and Newport, Vt.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This action reassigns FM Channel 300 from Newport, Vermont, to Burlington, Vermont, and reserves it for noncommercial educational use in order to bring noncommercial educational service to northern Vermont, reaching more than half the State with a first noncommercial service. This action had been proposed in a petition filed by Vermont Public Radio, Inc. The Commission decided against the other possible use of the channel at Newport, Vermont, because it is small and its population is declining.

EFFECTIVE DATE: June 4, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: April 18, 1979.

Released: April 26, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations, (Burlington and Newport, Vermont), BC Docket No. 78-98, RM-2889.

1. The Commission has under consideration the Notice of Proposed Rule Making, 43 FR 12346, issued in response to a proposal to reassign Channel 300 from Newport, Vermont, to Burlington, Vermont, and to reserve the channel for noncommercial educational use there. Comments have been received from the petitioner, Vermont Public Radio, Inc. ("VPR"); Newport Broadcasting Corporation ("Newport Broadcasting"); Radio Corporation of Vermont ("RCV"); Memphremagog Broadcasting Co., Inc. ("Memphremagog"), licensee of Station WIKE(AM), Newport, Vermont, and from the Federal Aviation Administration. Reply comments were received from VPR and Newport Broadcasting. A letter was received from VPR in response to an inquiry by the Commission.

2. The Notice proposed either (1) reassigning Channel 300 from Newport to Burlington for noncommercial educational use, or (2) retaining Channel 300 at Newport where an application for its use, submitted by Newport Broadcasting, is pending.[1] In order to determine which location had the greater need for the channel the parties were requested to provide showings of the degree to which each would provide service to unserved or underserved areas. For the commercial applicant at Newport, this meant an Anamosa showing of first or second aural service—see Anamosa, Iowa, 46 F.C.C. 2d 520 (1974). For the Burlington proposal this meant a showing of areas which it would bring a first or second noncommercial educational service.

3. Burlington (population 38,633) (1970 Census) is located in Chittenden County (population 99,131) and is served by five commercial radio stations (3 AM stations, and 2 FM) and by one noncommercial FM station.

4. Newport (population 4,664) is located in Orleans County (population 20,153) and has one station, WIKE(AM) which operates daytime only.

5. In its comments, VPR asserts that its proposed use of Channel 300 with a transmitter site on Mt. Mansfield approximately 32 kilometers (20 miles) east-northeast of Burlington, is the only means of providing a statewide noncommercial educational FM service to Vermont. This statewide service proposal contemplates the combination of Station WVPR-FM, Windsor, Vermont (licensed to VPR with transmitter location at Mt. Ascutney) and the proposed Burlington station sited at Mt. Mansfield. VPR contends that the reassignment and reservation of Channel 300 at Burlington would provide for greater service benefits than that offered by a Channel 300 Newport assignment. Comparing the facilities proposed at Newport and those it contemplates at Burlington, VPR concludes that each would provide a similar amount of first or second aural service but that in addition the Burlington station would bring a first noncommercial educational service to 285,866 persons in a 20,212 square kilometer (7,774 sq. mi.) area, and a second noncommercial educational service to 96,679 persons in a 803 square kilometer (308 sq. mi.) area.[2] On the basis of this comparison, VPR maintains that the need for noncommercial educational FM service far surpasses the need for commercial FM service in northern Vermont.[3] VPR has included in its filing numerous letters from community groups, organizations and individuals which support its proposal. It also notes that statewide coverage is a prerequisite to its inauguration of service to the print handicapped and blind in Vermont.

[1] The Commission also sought comments on any other approaches that might be used to provide service to either or both of these communities.

[2] The showing of areas unserved and underserved by noncommercial educational stations takes into account only present facilities of existing stations. However, Canadian and domestic restrictions would severely limit the ability of other stations to supply such educational service. In the showing for commercial service, unoccupied channels and existing stations with reasonable facilities are assumed.

[3] Since no interest has been expressed in operating Channel 300 on a noncommercial basis at Newport, we are urged by VPR to overlook such a purely theoretical possibility.

4. Newport (population 4,664) is located in Orleans County (population 20,153) and has one station, WIKE(AM) which operates daytime only.

5. In its comments, VPR asserts that its proposed use of Channel 300 with a transmitter site on Mt. Mansfield approximately 32 kilometers (20 miles) east-northeast of Burlington, is the only means of providing a statewide noncommercial educational FM service to Vermont. This statewide service proposal contemplates the combination of Station WVPR-FM, Windsor, Vermont (licensed to VPR with transmitter location at Mt. Ascutney) and the proposed Burlington station sited at Mt. Mansfield. VPR contends that the reassignment and reservation of Channel 300 at Burlington would provide for greater service benefits than that offered by a Channel 300 Newport assignment. Comparing the facilities proposed at Newport and those it contemplates at Burlington, VPR concludes that each would provide a similar amount of first or second aural service but that in addition the Burlington station would bring a first noncommercial educational service to 285,866 persons in a 20,212 square kilometer (7,774 sq. mi.) area, and a second noncommercial educational service to 96,679 persons in a 803 square kilometer (309 sq. mi.) area.[2] On the basis of this comparison, VPR maintains that the need for noncommercial educational FM service far surpasses the need for commercial FM service in northern Vermont.[3] VPR has included in its filing numerous letters from community groups, organizations and individuals which support its proposal. It also notes that statewide coverage is a prerequisite to its inauguration of service to the print handicapped and blind in Vermont.

6. As an alternative to the assignment of Channel 300 to Newport, VPR notes the possibility of making commercial use of Channel 212 which Section 73.501 of the Commission's Rules reserves for noncommercial educational use. In this regard, VPR points out that Newport was assigned a Class A channel in the original FM Table of Assignments in 1962, but after negotiations with Canada, Channel 300 was the only remaining channel available for assignment to Newport. Since then, VPR relates that it has taken 14 years for an application to be filed for the channel. Finally, VPR mentions that the 1960-1970 U.S. Census population figures for Newport show a 7.1 percent decline[4] and 8.7 percent increase for Burlington.

7. In its comments, Newport Broadcasting asserts that the Commission originally assigned Channel 300 to Newport in recognition of the need for wide area commercial service. Moreover, it believes that reassigning the channel to Burlington would be both inequitable and inefficient since it is already served by its six full time stations while Newport and Orleans County have no local FM service. Before a reassignment could occur, it contends that a comparative hearing between these conflicting proposals is required.[5]

8. Newport Broadcasting also contends that contrary to VPR's showing of first or second FM services that its own proposed station would offer a first FM and fulltime aural service to 8 square kilometers (5 square miles) (population not provided) and a second aural service to 440 square kilometers (275 square miles) (population not provided).[6] Newport Broadcasting further contends that it would be unprecedented to reserve a commercial channel for noncommerical education use where no TV interference considerations are present. Further, the state of Vermont is said to have more than its proportionate share of noncommercial educational stations (a view it derives from the fact that 50 percent of the 26 FM stations operating in the state are educational even though only 20 percent of the channels are set aside for such use. As for VPR's suggestion that Newport Broadcasting could utilize Channel 212 for a commercial operation, the latter responds that such a station would have to operate with substandard facilities in order to avoid interference and be limited to 200 watts ERP at 300 feet HAAT. Further, according to Newport Broadcasting, such use would mean precluding the operation of a local noncommercial educational station at Newport since no other reserved frequencies are available for that purpose.

9. In opposition to VPR's allegation that Channel 300 is the last opportunity for noncommercial educational radio in Northern Vermont, Newport Broadcasting asserts that Channel 218 is available for use at Burlington, but with admittedly less coverage potential. In addition, it suggests that by combining a Channel 218 Burlington operation with several other available channels throughout northern Vermont, VPR could develop a network of seven noncommercial stations to cover northern Vermont. It complains that the Commission's action in proposing to delete a channel that has been applied for is unprecedented and, it believes, in violation of *Ashbacker* requirements that call for holding a hearing first.

10. Newport Broadcasting and the FAA also raise another concern, that the proposed VPR station could be a hazard to air navigation communications by interfering with the Montpelier V.O.R. and the instrument landing system for the Barre-Montpelier airport 32 kilometers (20 miles) away. However, the FAA believes that a change in the frequencies used by these facilities could be easily accomplished and if reimbursed, it indicates that it would not object to the VPR proposal.

11. RCV[7] has incorporated its previous comments in this proceeding which state essentially that it supports retention of Channel 300 at Newport, since it believes it would be unfair and unprecedented to reassign a commercial channel on which an application already has been filed.

12. In reply, VPR maintains that its purpose is to provide a wide area coverage service to northern Vermont as well as an additional local service to Burlington. It asserts that its proposal is consistent with the requirements of Section 307(b) of the Communications Act of 1934, that an equitable distribution of available frequencies result. In this regard, it notes that Burlington was chosen as the community of assignment because, as the largest city, it is the cultural, educational and economic center of the State. It also points to the large area and population that would receive a first

[4] According to a 1975 population estimate made by the Vermont Department of Health indicates that Newport's population continues to decline.

[5] Citing *Ashbacker Radio Corp v. F.C.C.*, 326 U.S. 327 (1945).

[6] This showing did not provide enough details to permit verification whereas VPR's showing could be verified by our staff. Therefore, we have relied on the VPR showing for this matter.

[7] RCV's application for the use of the Newport Channel 300 assignment at Orleans, Vermont, under the "15-mile" rule (§ 73.203(b) of the Commission's Rules) was previously dismissed as late filed. A petition for reconsideration of that dismissal is still pending.

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noncommercial educational service. Regarding the seven-station noncommercial network proposal of Newport Broadcasting, VPR asserts that the seven stations, each using low power facilities, would reach considerably fewer persons than would the proposed Channel 300 station. Moreover, VPR notes that the difference in equipment costs (estimated to be approximately $940,000) makes the suggestion infeasible, especially since VPR's proposed station is said to cost only about 20 percent as much. VPR notes that contrary to Newport Broadcasting's contention, Section 73.513 of the Commission's Rules contemplates noncommercial educational use of commercial channels and over 40 such channels are put to noncommercial educational use elsewhere in the country. If the Commission believes it necessary in order to permit the use of Channel 300 at Burlington, VPR urges the Commission to waive its rules and permit the use of Channel 212 in order to provide local commercial service to Newport. VPR does not see a problem in restricting such a station to lesser facilities and does not agree with Newport Broadcasting that the Newport Class C channel was assigned in recognition of a need for a wide area coverage service. VPR also disagrees that under *Ashbacker* a hearing would be required before a reassignment of Channel 300 could be accomplished. Rather, it argues that the rule making process itself is designed to resolve conflicting assignment proposals. Finally, in regard to the possibility of interference to air navigation communications, VPR indicates that it is willing to cooperate and coordinate with the FAA in the establishment of a test program to find a new frequency.

13. Newport Broadcasting, in its reply, argues that favorable action on VPR's proposal which would involve deletion of a commercial channel on which an application is pending would be unprecedented and should be denied. It asserts that reasonable alternatives exist which offer the opportunity for such additional noncommercial educational FM service as is needed. It contends that if these additional facilities were activated, it would significantly decrease VPR's showing of first and second noncommercial educational FM service. Newport Broadcasting rejects the suggested commercial use of Channel 212 as an unacceptable alternative which it says should not be considered an adequate replacement for Channel 300.

14. Before making a choice between these proposals we explored possible alternative approaches to satisfying needed FM service at both communities. The suggested seven station noncommercial network service is not only impractical given the large amount of initial expenses but also we have found that due to the preclusive impact of Canadian assignments, Channel 218 is not available for use at Burlington. As for using noncommercial Channel 212 at Newport on a commercial basis at less than standard Class A facilities (450 watts and approximately 92 meters (300 feet) HAAT), a waiver of our rules would be necessary to assign the channel to Newport. We believe that the showing in support of a waiver is insufficient. No first or second aural or FM service would be provided (assuming Channel 300 was used at Burlington) and local service already is provided to Newport during the day. The Commission has never before allocated a noncommercial frequency for commercial use, and the basis for doing so here has not been established. In any event, Newport Broadcasting has indicated that the use of Channel 212 for a Newport commercial station is unacceptable to it and it is unwilling to apply for the channel. As for other possibilities, it was previously established that there are no other FM channels which currently could be made available for assignment to either community.[8] We have also determined by our own studies that primarily due to the preclusive impact of Canadian assignments, no other allocation possibilities exist to provide noncommercial service to the large unserved area proposed by VPR. Therefore, it is necessary to choose between the proposed uses for Channel 300.

15. As previously indicated, the *Notice* solicited comments concerning the need for the proposed noncommercial educational service versus the proposed commercial service. If this were the conventional case involving a comparison of commercial FM proposals, we would make a comparison on the basis of a community's size, growth, local service and related considerations. While these factors are still of considerable importance in a proceeding of this sort, an added dimension must be included to reflect the differences in comparing a commercial and a noncommercial proposal. With this in mind, we note that Burlington has one Class A noncommercial educational station and is the largest city in Vermont. Even if this might be thought adequate for Burlington's needs, it does little for the area beyond. On the other hand, the proposed station on Channel 300 can be expected to provide a first noncommercial educational service to 285,866 persons in 7,774 square miles or approximately half the population and area of the entire state of Vermont. Newport Broadcasting can point to first and second FM and nighttime aural service it would provide, but these are about the same under the Burlington and Newport proposals and therefore not decisionally significant. The only important benefit to be offered by the proposed Newport station is a first local service at night. Although local service is an important priority, it is impossible to provide an FM channel to every community that may desire to have one. See *Zanesville, Ohio*, 42 Fed. Reg. 36259 (adopted June 29, 1977), Docket 20615.[9] In addition, it has been demonstrated that Newport's population has declined since the 1970 U.S. Census. On the other hand, this proposal represents the last opportunity for noncommercial service to this area in Vermont. We recognize, as Newport Broadcasting has accurately indicated, that previous instances in which commercial channels were reserved for noncommercial educational use involved interference to TV reception. Nevertheless, we also believe good reason for reserving a commercial channel in this case has been presented and that the use of Channel 300 for noncommercial educational purposes better serves the public interest than its proposed commercial use at Newport. Finally, we should point out that the *Ashbacker* case does not require us to hold a hearing in order to dispose of conflicting assignment proposals. The rule making process has been found to be the appropriate procedure for resolving the type of issues involved in assigning FM and TV channels to communities, and the approach has been accepted by the Courts. See *e.g., Logansport Broadcasting Corp. v. U.S.*, 210 F. 2d 24 (D.C. Cir. 1954).

[8] The Commission presently has before it a petition which suggests amendment of our rules to permit the operation of Class A stations on Class B/C channels (RM's–2587 and 3226). It may be that there are Class C channels which could be used with Class A facilities at Newport as a result of this proposal, but this will have to await developments in that connection.

[9] In the *Zanesville, Ohio* proceeding, a first local service was denied to Nelsonville, Ohio, in favor of a third local radio service at Zanesville. It was noted that Nelsonville received service from several other stations from larger communities nearby. Here, Newport has its own local AM station which provides a stronger reason for denying Newport another local service under the precedent of the *Zanesville* case.

16. In view of the agreement of VPR to work with the FAA, it does not appear necessary for us to take action on this issue. The FAA has indicated that by changing the frequencies used by its facility, interference can be avoided. Reimbursement for the changeover is requested, and VPR had indicated by letter that it is willing to cooperate in tests to find a new frequency for the aircraft and to reimburse for necessary changes. It does wish however, to further discuss this point with the FAA. On this basis, we believe that it would be appropriate to permit these parties to resolve the matter.

17. Canadian concurrence in this assignment has been obtained.[10]

18. Accordingly, it is ordered, That effective June 4, 1979, the FM Table of Assignments (§ 73.202(b) of the Commission's rules) is amended for the following communities:

City	Channel No.
Burlington, Vermont	225, 255, *300
Newport, Vermont	

19. It is further ordered, That this proceeding is terminated.

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

[BC Docket No. 78–86; RM–2869]

[FR Doc. 79–13311 Filed 4–27–79 8:45 am]

BILLING CODE 6712–01–M

[10] The Canadian Government has agreed to a change in assignment at Cornwall, Ontario, from 299A to 270A in order to accommodate this Burlington assignment.

2-A30040 0041(02)(27-APR-79-01:41:03)

47 CFR Part 73

FM Broadcast Stations in Gouverneur and Ogdensburg, N.Y.; Changes Made in Table of Assignments; Corrected Report and Order

AGENCY: Federal Communications Commission.

ACTION: Corrected Report and Order.

SUMMARY: This action corrects an omission in the Report and Order in this proceeding. The original Report and Order failed to indicate the existence of a second FM channel assignment (Channel 244A) at Ogdensburg, New York. The Commission did not intend to delete this assignment.

EFFECTIVE DATE: May 21, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: April 5, 1979.

Released: April 27, 1979.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Gouverneur and Ogdensburg, New York), BC Docket No. 78–363, RM–3158.

1. The Commission has under consideration its *Notice of Proposed Rule Making and Order to Show Cause*, adopted October 27, 1978, 43 FR 51655. The subject proposal was filed by Wireless Works, Inc. ("petitioner"), licensee of full-time AM Station WSLB, Ogdensburg, New York. It involves the assignment of FM Channel 224A to Ogdensburg, New York, and the substitution of Channel 237A for Channel 224A at Gouverneur, New York. DeHart Broadcasting Corporation is the licensee of FM Station WLUF which operates on Channel 224A at Gouverneur. Petitioner filed the only comments.

2. Ogdensburg (pop. 14,554), [1] in St. Lawrence County (pop. 112,309), is located in northeastern New York along the Canadian border, approximately 193 kilometers (120 miles) north of Syracuse, New York. It has one full-time AM station (WSLB), licensed to petitioner.[2] The assignment of Channel 224A to Ogdensburg and the substitution of Channel 237A for Channel 224A at Gouverneur comply with the domestic minimum distance separation requirements.[3]

3. Petitioner has submitted sufficient demographic and economic data which demonstrates the need for the porposed assignment to Ogdensburg. It notes that the proposed channel would also provide service to the communities and rural areas around Ogdensburg whose residents are oriented to Ogdensburg for shopping, culture and other activities. In supporting comments, petitioner reaffirms its intention to apply for a construction permit to operate on the proposed channel, if assigned. It also expresses its intent to reimburse DeHart Broadcasting Corporation, licensee of FM Station WLUF now operating on Channel 224A in Gouverneur, New York, for reasonable expenses incurred in changing over from its present channel to Channel 237A.

4. After careful consideration of the proposals, we conclude that it would be in the public interest to substitute Channel 237A for Channel 224A at Gouverneur, New York, and to assign Channel 224A to Ogdensburg, New York. In reaching our decision, consideration was given to the fact that this proposal would provide for a first local FM station at Ogdensburg, New York. DeHart Broadcasting Corporation has failed to request a hearing on or to object to the proposed modification of its license to specify Channel 237A. When, as here, the channel of an operating station must be changed in order to make possible another assignment in the Table, it is our policy to require the party benefitting from the assignment to reimburse the operating station for reasonable expenses in connection with the change. Assisted by the guidelines furnished in other cases, such as *Circleville, Ohio*, 8 F.C.C. 2d 159 (1967), the appropriate costs making up the "reasonable" reimbursement figures are generally left to the good faith judgment of the parties eventually involved, subject to Commission approval in the event of disagreement.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's rules, it is ordered, that effective May 21, 1979, the FM Table of Assignments (§ 73.202(b) of the rules) is amended with respect to the communities listed below:

City	Channel No.
Gouverneur, New York	237A
Ogdensburg, New York	224A, 244A

6. It is further ordered, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by DeHart Broadcasting Corporation for Station WLUF(FM), Gouverneur, New York, IS MODIFIED, effective May 21, 1979, to specify operation on Channel 237A instead of Channel 224A. The licensee shall inform the Commission in writing no later than May 21, 1979, of its acceptance of this modification. Station WLUF(FM) may continue to operate on Channel 224A for one year from the effective date of this action or until it is ready to operate on Channel 237A, or the Commission sooner directs, subject to the following conditions:

[1] Population figures are taken from the 1970 U.S. Census.

[2] Ogdensburg also has Channel 244A assigned. That channel is used at Canton, New York, pursuant to the now-replaced 25-mile provision of § 73.203(b) of the Commission's rules.

[3] The substitution of Channel 237A for Channel 224A at Gouverneur would be short-spaced to an existing Canadian assignment of Channel 238C1 at Belleville, Ontario. However, no interference would occur within the protected contour of either station, and the Canadian Government has given its concurrence to the Gouverneur substitution.

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(a) At least 30 days before commencing operation on Channel 237A the licensee of Station WLUF(FM) shall submit to the Commission the technical information normally requested of an applicant for channel 237A.

(b) At least 10 days prior to commencing operation on Channel 237A the licensee of Station WLUF(FM) shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of Station WLUF(FM) shall not commence operation on Channel 237A without prior Commission authorization.

7. For further information on this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

8. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

[BC Docket No. 78–363; RM–3158]

[FR Doc. 79–13312 Filed 4–27–79; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

FM Broadcast Station in Broken Bow, Okla.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class A FM channel to Broken Bow, Oklahoma, as that community's first FM assignment, in response to a request by Chris Daniel. A station on this channel could provide a first local aural broadcast service to the community.

EFFECTIVE DATE: June 4, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: April 19, 1979.

Released: April 26, 1979.

In the matter of amendment of § 73.202(b), FM Broadcast Stations. (Broken Bow, Oklahoma), BC Docket No. 78–380, RM–3179.

1. On December 12, 1978, the Commission adopted a *Notice of Proposed Rule Making*, 43 FR 60969, proposing the assignment of Channel 292A, as a first FM assignment to Broken Bow, Oklahoma, at the request of Chris Daniel ("petitioner"). Supporting comments were filed by Harold E. Cochran and petitioner in which each stated a readiness to apply for the channel, is assigned. No oppositions to the proposal were received.

2. Broken Bow (pop. 2,980), in McCurtain County (pop. 28,642),[1] is located in southeastern Oklahoma, approximately 84 kilometers (53 miles) northwest of Texarkana, Texas. There is no local aural broadcast service in Broken Bow.

3. Petitioner asserts that Broken Bow is located in a rich timber and agricultural area which provides employment for the majority of its residents. Petitioner has submitted letters from local businessmen stating their interest and support for the proposed FM assignment.

4. Since it has been shown that there is a need and demand for an FM assignment in Broken Bow, Oklahoma, and that the proposed station would provide a first full-time local aural broadcast service to the community, we conclude that the public interest would be served by making this assignment.

5. Accordingly, it is ordered, that effective June 4, 1979, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with regard to the community listed below:

City	Channel No.
Broken Bow, Oklahoma	292A

6. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

8. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307).)

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

[BC Docket No. 78–380; RM–3179]

[FR Doc. 79–13354 Filed 4–27–79; 8:45 am]

BILLING CODE 6712–01–M

[1] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

FM Broadcast Stations in Fairbanks and North Pole, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Second Report and Order.

SUMMARY: This action reassigns FM Channel 262 from Fairbanks, Alaska, to North Pole, Alaska, to reflect its actual use there. This action was taken on the Commission's own motion.

EFFECTIVE DATE: June 4, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Second Report and Order—Proceeding Terminated

Adopted: April 19, 1979.

Released: April 26, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Fairbanks and North Pole, Alaska), BC Docket No. 78–140, RM–3019.

1. On January 17, 1979, the Commission assigned Channel 273 to Fairbanks, Alaska, as its fourth FM channel assignment.[1] In that document, the Commission indicated that one of the four channels, Channel 262, assigned at Fairbanks, was actually in use at North Pole, Alaska, under the 15-mile rule.[2] We stated that we intended to reassign the channel to North Pole to reflect its use there but that such action must await Canadian concurrence. The necessary Canadian concurrence has been obtained.

2. Therefore, we shall now reassign Channel 262 from Fairbanks to North Pole, Alaska, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules. Accordingly, it is ordered, that effective June 4, 1979, the FM Table of Assignments (§ 73.202(b) of the rules) is amended with respect to the following cities:

[1] See *Fairbanks and North Pole, Alaska*, 44 FR 5136 (1979).

[2] See § 73.203(b) of the Commission's rules which provides that assigned channels may be used at other communities not listed in the FM Table of Assignments if within 10 miles (for Class A channels) or 15 miles (for Class B or C channels) of the communities to which the requested channel is assigned.

City	Channel No.
Fairbanks, Alaska	266, 273, 284
North Pole, Alaska	262

3. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

[BC Docket No. 78–140; RM–3019]

[FR Doc. 79–13346 Filed 4–27–79; 8:45 am]

BILLING CODE 6712–01–M

47 CFR PART 73

FM Broadcast Station in Vinita, Okla.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class A FM channel to Vinita, Oklahoma, as that community's first FM assignment. Action was taken in response to a petition filed by David Leon Boyd and William E. Davis. The assigned channel could provide the community with its first local aural broadcast service.

EFFECTIVE DATE: June 4, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: April 18, 1979.

Released: April 26, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Vinita, Oklahoma), BC Docket No. 78–386. RM–3176.

1. The Commission herein considers the Notice of Proposed Rule Making, adopted December 14, 1978, 43 FR 60308, in the above entitled proceeding, instituted in response to a petition filed by David Leon Boyd and William E. Davis ("petitioners"). The petition urged the assignment of Channel 240A to Vinita, Oklahoma, as that community's first FM assignment. Supporting comments were filed by petitioners in which they reaffirmed their intention to file for the channel, if assigned. Petitioner also submitted letters from citizens in the area expressing their interest and support of the proposed channel.

2. Vinita (pop. 5,847), seat of Craig County (pop. 14,722),[1] is located approximately 100 kilometers (62 miles) north of Muskogee, Oklahoma. The community has no local aural broadcast service.

3. In support of their proposal, petitioners have submitted sufficient information with respect to Vinita to demonstrate its need for a first FM channel assignment.

4. Upon careful consideration of the proposal herein, the Commission believes it would be in the public interest to assign Channel 240A to Vinita, Oklahoma. The channel would provide for a first local aural broadcast service to the community. The assignment can be made in conformity with the minimum distance separation requirements, provided the transmitter site is located approximately 12.3 kilometers (7.7 miles) northeast of Vinita. From this location it should be able to provide the required city-grade signal to Vinita.

5. Accordingly, it is ordered, that effective June 4, 1979, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with respect to the community listed below as follows:

City	Channel No.
Vinita, Oklahoma	240A

6. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

8. It is further ordered, That this proceeding is terminated.

Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307)).

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

[BC Docket No. 78–386; RM–3176]

[FR Doc. 79–13348 Filed 4–27–79; 8:45 am]

BILLING CODE 6712–01–M

[1] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

FM Broadcast Station in Ripley, W.Va.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a first FM Class A channel to Ripley, West Virginia, in response to a petition filed by Calvin E. Dailey. The assigned channel would provide for a first local aural broadcast service to the community.

EFFECTIVE DATE: June 4, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: April 18, 1979.

Released: April 26, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Ripley, West Virginia), BC Docket No. 78–249, RM–3120.

1. On August 4, 1978, at the request of Calvin E. Dailey, Jr. ("petitioner"), the Commission adopted a *Notice of Proposed Rule Making*, 43 FR 37722, proposing the assignment of FM Channel 252A to Ripley, West Virginia. Comments were filed by petitioner reaffirming his intention to file for the channel, if assigned. Comments were also filed by Logan Broadcasting Company ("Logan"), licensee of Station WLGN-FM, Logan, Ohio. Opposing comments were filed by Station WMOV, Ravenswood, West Virginia.

2. Ripley (pop. 3,244), seat of Jackson County (pop. 20,903) [1], is located in the west central part of West Virginia, approximately 48 kilometers (30 miles) south of Parkersburg, West Virginia. These is no local aural broadcast service in Ripley.

3. Petitioner states that manufacturing is the predominant industry in the Ripley area, employing half the working force in Jackson County. He asserts that the most recent figures compiled by the Ripley Chamber of Commerce indicate that Ripley's population has increased 8% since 1970, and that this trend can be expected to continue. In support of his petition, petitioner submitted

[1] All population figures are taken from the 1970 U.S. Census, unless otherwise indicated.

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information with respect to Ripley which is persuasive as to its need for a first FM channel assignment.

4. In its comments, Logan states that its station (WLGN-FM) operates on Channel 252A in Logan and, under the minimum spacing requirements (Section 73.507), a co-channel transmitter site must be located at least 105 kilometers (65 miles) from Logan, Ohio. Logan asserts that it does not oppose the proposed assignment to Ripley, but does request that the Commission make clear, if the assignment is made, that any application for a station operating on Channel 252A must meet the spacing requirements.

5. WMOV opposes the assignment on the basis of what it says are errors contained in the petition. It states that petitioner claimed that there is no aural broadcast service in Jackson County when in fact there is. It also questions the validity of statements made by petitioner regarding a July event which takes place south of Ripley each year.

6. In the *Notice* the Commission recognized the short-spacing of the community reference point to co-channel Station WLGN-FM in Logan, and stated that a transmitter site for a station operating on Channel 252A in Ripley must be located 6.4 kilometers (4 miles) southeast of the community. Petitioner has indicated that there is ample space available for the selection of such a site. Also, WMOV is correct in stating there is aural broadcast service already in Jackson County. Even so, and even if the other statements by petitioner were in error, there still is ample reason for making the assignment to Ripley to provide a first local aural broadcast service to the community. Accordingly, we find that it would be in the public interest to assign FM Channel 252A to Ripley, West Virginia.

7. The Canadian Government has given its concurrence to the proposed assignment of Channel 252A to Ripley, West Virginia.

8. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective June 4, 1979, the FM Table of Assignments (§ 73.202(b) of the rules) is amended with respect to the community listed below:

City	Channel No.
Ripley, West Virginia	252A

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

10. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

[BC Docket No. 78-249; RM-3120]

[FR Doc. 79-13349 Filed 4-27-79; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

FM Broadcast Station in Savannah, Tenn.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a second Class A FM channel to Savannah, Tennessee, in response to a petition filed by The Tennessee River Broadcasting, Inc. The proposed station could provide for a second full-time aural service to the community.

EFFECTIVE DATE: June 4, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: April 19, 1979.
Released: April 26, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Savannah, Tennessee), BC Docket No. 78-385, RM-3123.

1. The Commission has before it the *Notice of Proposed Rule Making,* 43 FR 60309, released December 21, 1978, proposing the assignment of FM Channel 228A to Savannah, Tennessee, as a second assignment. Petitioner, The Tennessee River Broadcasting, Inc., has filed supporting comments reaffirming its intention to apply for the channel, if assigned. No oppositions to the proposal have been received.

2. Savannah (pop. 5,576), seat of Hardin County (pop. 18,212) [1], is located in southwestern Tennessee, approximately 160 kilometers (100 miles) east of Memphis, Tennessee, and 173 kilometers (108 miles) southwest of Nashville, Tennessee. Savannah presently receives local service from daytime-only AM Station WORM and Station WORM-FM (Channel 269A). Channel 228A could be assigned to Savannah provided the transmitter site is located 10 kilometers (6.3 miles) northeast of the community.

3. Petitioner states that Savannah has experienced a 29 percent population increase between 1960-1970. It notes that Savannah is the transportation and economic center for its portion of southern Tennessee. Petitioner asserts that five major employers in the area employ a combined work force of 1,570 people. It claims that the public interest would be served by the proposed assignment, increasing available broadcast service to a growing region.

4. Preclusion is not an impediment since it would be caused only on the co-channel, and the precluded area contains no communities of greater than 1,000 population.

5. Upon careful consideration of the proposal herein the Commission believes it would be in the public interest to assign Channel 228A to Savannah, Tennessee. The proposed assignment would provide for an FM station which could render a second local nighttime service and provide the first competitive outlet in the community.

6. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. In view of the foregoing, it is ordered, that effective June 4, 1979, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with respect to the community listed below:

City	Channel No.
Savannah, Tennessee	228A, 269A

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

9. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

[BC Docket No. 78-385; RM-3123]

[FR Doc. 79-13350 Filed 4-27-79; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 U.S. Census.

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47 CFR Part 73

FM Broadcast Station in Stamps, Ark.; Changes Made in Table of Assignments

Preamble

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a first Class A FM channel to Stamps, Arkansas. Petitioners, POJO Enterprises and Joseph P. Robillard, state the assignment would provide for a station which could render a first full-time local aural broadcast service to the community.

EFFECTIVE DATE: June 4, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: April 19, 1979.

Released: April 26, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Stamps, Arkansas), BC Docket No. 78-375, RM-3163, RM-3164.

1. The Commission herein considers the *Notice of Proposed Rule Making,* adopted December 1, 1978, 43 FR 58099, in the above-captioned proceeding instituted in response to two separate petitions. One was filed by POJO Enterprises requesting the deletion of Channel 221A from Benton, Louisiana, and its assignment to Stamps-Lewisville, Arkansas, on a hyphenated basis; the other petition was filed by Joseph P. Robillard requesting the assignment of Channel 261A to Stamps, Arkansas. Since an application was already pending on the Channel 221A assignment in Benton, the *Notice* proposed to assign Channel 261A to Stamps. It is the larger community and no basis for a hyphenated assignment was shown. Supporting comments were filed by both petitioners reaffirming their intention to file for the channel in Stamps, if assigned. No oppositions to the proposal were received.

2. Stamps (pop. 2,427), in Lafayette County (pop. 64,519), [1] is located approximately 48 kilometers (30 miles) east of Texarkana and 40 kilometers (25 miles) north of the Louisiana border. There is no local aural broadcast service in Stamps or elsewhere in Lafayette County.

3. Petitioners assert that a radio facility in Stamps would provide a much needed source of local news and public service programs about community events. They note that Lafayette County is served by one weekly newspaper which is its only source of local news coverage. Petitioners have submitted information with respect to Stamps which is persuasive as to its need for a first FM channel assignment.

4. Upon careful consideration of the proposal herein, the Commission believes it would be in the public interest to assign Channel 261A to Stamps, Arkansas. The channel would provide for a first local outlet for the community and a first full-time aural broadcast service to Lafayette County. The assignment can be made in conformity with the minimum distance separation requirements provided the transmitter site is located approximately 7 kilometers (4.5 miles) northeast of Stamps.

5. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

6. Accordingly it is ordered, That effective June 4, 1979, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended, as it pertains to the community listed below:

City	Channel No.
Stamps, Arkansas	261A

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

8. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307).)

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

[BC Docket No. 78-375; RM-3163; RM-3164]

[FR Doc. 79-13351 Filed 4-27-79; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 U.S. Census.

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47 CFR Part 73

Television Broadcast Stations in Lexington and Florence, Ky. and Portsmouth, Ohio; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: In response to a request from the licensee of television Station WTVQ, Lexington, Kentucky, the Commission assigned Channel 36 as a substitute for Channel 62 at Lexington and modified WTVQ's license to specify the new channel. To make Channel 36 available it was necessary to delete Channel 36 from Portsmouth, Ohio. The Commission also made Channel 58 available for use at Florence, Kentucky.

EFFECTIVE DATE: June 4, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jonathan David, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Lexington and Florence, Kentucky,[1] and Portsmouth, Ohio.), Docket No. 21392, RM-2816, RM-2991. See 42 FR 59768, November 21, 1977.

Report and Order—Proceeding Terminated

Adopted: April 18, 1979.

Released: April 26, 1979.

1. This case involves the *Notice of Proposed Rule Making* issued in response to a petition filed by Starr WTVQ, Inc. ("Starr"). Starr sought the assignment of UHF television Channel 36 to Lexington, Kentucky, to replace Channel 62 on which its station now operates. In order to make Channel 36 available for assignment at Lexington, the vacant Channel 36 assignment at Portsmouth, Ohio, would need to be deleted.

2. In response to the *Notice,* Starr filed comments in support of the proposal. Comments in support of the *Notice* were also filed by Tri-State Family Television, Inc. Waymon L. Rodgers and Associates ("Rodgers") filed an opposition to the Lexington proposal, and Maranatha Broadcasting Corporation ("MBC") filed a counterproposal seeking to have Channel 36 assigned to Florence, Kentucky, instead of Lexington. Starr and MBC filed a series of other pleadings in furtherance of their respective positions.[2] Finally, the

[1] Florence, Kentucky, has been added to the caption.

[2] This included Starr's motion to strike MBC's reply comments. Starr objected to the portion of these reply comments which contained material responsive to Starr's reply comments. Starr argued that this was beyond the proper scope of such a filing, a view which MBC opposed. As pointed out by MBC, this situation only arose because Starr filed its reply early enough so that MBC could reply to it as well. Even if this raises a technical problem, it is a matter of no moment, and the motion will be denied.

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Association of Maximum Service Telecasters, Inc., filed pleadings [3] expressing no view on the merits of the conflicting assignment proposals except to ask that, whatever was done, the Commission should act to insure that the channels are used at full spacing and not in derogation of the Commission's separation standards.

3. At first, the proceeding involved only the possible assignment of a channel to Lexington and the necessary deletion of a vacant Channel 36 assignment at Portsmouth, Ohio. With the filing of the Florence counterproposal it became necessary to choose between these proposals unless another channel were available for either. Starr has found another channel (58) which it says could be used in Florence and thereby obviate the need to choose between these proposals. MBC continues to urge assignment of the original channel proposed but does not entirely reject use of Channel 58 in Florence if that channel were made available there. Before proceeding to resolve this aspect of the conflict, there are issues directed to each of these proposals which require consideration.

4. There are three commercial UHF television stations operating in Lexington, Kentucky, an all-UHF market. Starr, as the licensee operating on Channel 62, argues that it is at a disadvantage because of the gap between its channel and the other stations which operate on Channels 18 and 27. Starr believes that if its channel were closer to those used by the other Lexington stations, it would be able to avoid the problems it now faces because many viewers are not tuning far enough to reach it. This wide gap between its operation on Channel 62 and the others in the market is given the principal emphasis, but Starr also argues that the channel itself is less desirable than Channel 36. It points to studies which suggest a negative correlation between the highness of a UHF channel and audience size.

5. MBC, on the other hand, points to various cases which it contends indicate that the Commission has been unwilling to accept the proposition that lower channels are preferable or that they should be substituted when requested. Starr's response was to point to cases where the Commission has made a substitution because of the wide gap between channels in a locality. Starr indicates that this issue, the separation on the dial is central, rather than the number of the channel itself. Starr also provided some discussion of the history of Lexington assignments in an effort to show that the Commission previously accepted the view that a channel closer to Channels 18 and 27 was justified. Starr believes this is not undercut by the subsequent removal of the assignment since it was done for quite separate reasons. MBC replies by again disputing the existence of any inferiority in higher UHF channels and citing cases where it says the Commission has so held.

6. If the question were simply one of choosing between conflicting proposals for use of Channel 36, we would need a strong showing indeed from Starr to justify the assignment of a substitute channel there in preference to a needed assignment elsewhere. It would not be enough to point to the preferability of a substitute channel, justified essentially in terms of permitting operation on a different (in this case lower) channel. However, there are serious questions concerning an assignment to Florence, including whether there is a need for an assignment there and whether there is another channel which is available for assignment to that community. As will be made clear, we believe that there are reasons to change the Lexington assignment, and although we do have some reservations about a Florence assignment, we believe that these reservations can be overcome if the alternative channel were assigned. On that basis we are persuaded that both proposals can be accommodated.

7. Turning first to the Lexington proposal, even if Starr's position in Lexington is not untenable, it does face some real difficulties. To begin with, Channels 18 and 27 on the one hand and 62 on the other are widely separated. Since the vast majority of tuners are not capable of random channel access, the viewer has to tune from one channel to the other which in the case of Channel 62 involves much more tuning effort than that between Channels 18 and 27. As we observed years ago in connection with the Lexington assignment situation, having the channels clustered is a sensible response to this situation, and this point remains true whether the clustering is in the low, middle or upper portions of the band. Contrary to MBC's belief, acting favorably on such a request does not conflict with past Commission action. It does not rest on any assertion of inferiority of upper UHF channels, the essential point rejected in the cases MBC cited. In cases that involved factual situations similar to this one,[4] the Commission has from time to time made assignments in such a fashion as to permit grouping of assignments. We see no reason not to do so here [5] unless there is another preferred use for the channel.

8. Even though the Florence proponents prefers the assignment of Channel 36, it expressed a willingness [6] to utilize Channel 58 if it were assigned. Examination of the spacing situation for Channel 58 shows that it can be assigned to Florence in conformity with all spacing requirements, that it can provide the requisite city coverage to Florence, and that it can serve the northern Kentucky area effectively. More importantly, its location further south, away from Cincinnati, serves to offer an answer to what otherwise would have been a serious question about creating in effect an additional Cincinnati metropolitan station. Starr has questioned the need for an assignment to Florence, but it has suggested Channel 58 if the Commission were disposed to make the assignment. MBC asserts and Starr disputes whether the northern Kentucky area needs a station or whether its needs are adequately served by existing stations. They also disagree about growth in the area and its bearing on the need for a channel. Apparently, there are some portions of this area which have grown somewhat, but others clearly have not. Overall, the showing of need is not an overwhelming one; in fact it is marginal at best. However, especially further south, away from Cincinnati and its bedroom communities, there seems to be some need for service. While it is true that population density is higher to the north (toward Cincinnati) and Channel 36 might reach more people, assigning Channel 36 raises its own problems. This area to the north is truly part of Metropolitan Cincinnati, northern Kentucky being just across the river from Cincinnati. Were we forced to decide on Channel 36 alone, we would have to decide against it. No doubt MBC would prefer Channel 36, but it has not shown that it is needed because of any serious limitation on the use of Channel 58. That being the case, Channel 58 will be assigned.[7]

9. This leaves one point to resolve, that of the alleged impact a Channel 36 assignment at Lexington would have in restricting the area in which a site for a Channel 21 station at Louisville could be located. Starr disputes Rodgers' concern, and our own study supports the view that no significant effect on the site availability for Channel 21 would result. Not only does there appear to be ample room in which to find a site, but the pattern of existing operations is such that a Louisville station would receive the greatest advantage in coverage by joining the other stations in an area away from Starr's station, and where it would have no impact on the choice of a site. In the past we have not been persuaded to refuse to make an assignment because it limited the choice of site so long as it did not preclude being able to obtain a proper site meeting the spacing and from which the station could provide the requisite city coverage. There is no cause for concern in this case, and the pattern of sites used by other Louisville stations make it likely that the Channel 36 assignment at Lexington would not have a bearing much less impose an undue restriction on the use of Channel 21 at Louisville. Consequently, we can delete Channel 36 from Portsmouth, Ohio, and assign it to Lexington. Also, since there has been no other expression of interest in the channel there, we can modify Starr's license to specify the new channel.

10. Concurrence has been obtained from Canada for the assignment of Channel 58 to Florence, Kentucky.

11. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective June 4, 1979, the Television Table of Assignments (§ 73.606(b) of the rules) is amended with respect to the communities listed below:

City	Channel No.
Florence, Kentucky	58–
Lexington, Kentucky	18+, 27–, 36, *46
Portsmouth, Ohio	30, *42–

12. It is further ordered, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Starr WTVQ, Inc. for Station WTVQ–TV, Legington, Kentucky, is modified effective June 4, 1979, to specify operation on Channel 36 instead of Channel 62. The licensee shall inform the Commission in writing no later than June 4, 1979, of its acceptance of this modification. Station WTVQ–TV may continue to operate on Channel 62 for one year from the effective date of this action or until it is ready to operate on Channel 36, or the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 36 the licensee of Station WTVQ–TV shall submit to the Commission the technical information normally required of an applicant for Channel 36.

(b) At least 10 days prior to commencing operation on Channel 36 the licensee of Station WTVQ–TV shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of Station WTVQ–TV shall not commence operation on Channel 36 without prior Commission authorization.

13. It is further ordered, that the Motion to Strike MBC's reply comments filed by Starr WTVQ, Inc., is denied.

14. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

[Docket No. 21392; RM–2810; RM–2991]

[FR Doc. 79-13352 Filed 4-27-79; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 83

Assignment of Call Signs

AGENCY: Federal Communicatins Commission.

ACTION: Final rule.

SUMMARY: Amendment of the rules to clarify that ship radio stations operating under temporary authority on vessels previously documented by the United States Coast Guard and licensed by the Commission, will retain the same call sign as long as the same documentation number is assigned the vessel.

EFFECTIVE DATE: May 3, 1979.

ADDRESSES: Federal Communications Commission, Washington, D. C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

Order

Adopted: April 18, 1979.

Released: April 23, 1979.

In the matter of Editorial Amendment of Part 83 of the Commission's rules.

1. Section 83.38 of the Commission rules contains provisions regarding assignment of call signs to ship stations. A recent Order adopted by the Commission implemented a system for temporary authorization for ship stations and temporary call signs. This new system conflicted with a long-standing policy that call signs remain associated with a documentation number as long as the vessel is documented.

2. Accordingly, Section 83.38 of the Commission's rules is amended to make provisions for previously documented vessels to retain the call sign associated with the documentation number. Authority for this amendment is contained in Sections 4(i), 303(o) and 303(r) of the Communications Act of 1934, as amended and § 0.231(d) of the Commission's rules. Since the amendment is editorial and continues an existing standard operating procedure, the prior notice and effective date provisions of 5 U.S.C. 553 do not apply.

3. Accordingly, it is ordered, That the rule amendment set forth in the attached Appendix is adopted effective May 3, 1979.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

Federal Communications Commission.

R. D. Lichtwardt,

Executive Director.

Appendix

Part 83 of Chapter I of Title 47 of the code of Federal Regulations is amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

In § 83.38, a new paragraph (c) is added and existing paragraph (c) is amended and redesignated (d).

§ 83.38 Assignment of call signs.

Ship stations in the maritime mobile service are assigned call signs in

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[3] One of the pleadings related to a proposal to assign Channel 51 to Beattyville, Kentucky. Although short-spaced to Lexington, that proposal was filed too late to be treated as a Lexington counterproposal. Consequently, another channel has been proposed for use at Beattyville, mooting the issue here.

[4] In the case which directly involved Lexington, the Commission specifically agreed that clustering of Lexington channels "would enable a third local station to compete on a more comparable basis * * *" We also indicated that there may be "inconvenience to the public arising from not being in the same general position on the tuning dial of receivers." *Lexington and Winchester*, 41 FCC 1018 at 1020 (1961).

[5] Although random access tuning may eventually lessen or remove our concern about a tuning separation, the vast majority of tuners are continuous, many of them not even having click stops (detents). Without such click stops, tuning is even more difficult.

[6] This was expressed in terms of being willing to operate so long as it could do so in such a fashion as to serve the northern Kentucky area it wished to reach. That seems to be possible, and we can therefore treat this as the necessary commitment to proceed. One point should be made clear, namely that it is our expectation that a site meeting applicable spacing requirements would be utilized. We do not understand MBC to be expressing a desire to obtain a short-spacing but only to be clarifying the nature of its commitment.

[7] The above discussion relates to the site which would have to be used to meet the spacing to the reference point for the Channel 43 assignment at Richmond, Indiana. Subsequently, an application was submitted proposing a site about 25 miles south-southeast of Richmond. In view of the action taken here assigning Channel 58 to Florence, that applicant will need to amend its application to select a site that does not preclude use of the Florence assignment. Any site at Richmond or north of there would serve this purpose.

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accordance with § 2.3092 of this chapter, as follows:

* * * * *

(c) Ship stations operating under temporary authority on vessels which were previously documented by the United States Coast Guard and licensed by the Commission, will retain the same call sign as long as the same documentation number is assigned the vessel.

(d) Ship stations, except those in paragraph (c) of this section, operating under temporary authority shall have call signs consisting of the letters "WD" followed by the first four numerals [1] of the vessel's documented number or the letter "W" followed by the first two letters and the first four numbers [1] of the vessel's Federal or State registration number.

* * * * *

[FR Doc. 79-13347 Filed 4-27-79; 8:45 am]

BILLING CODE 6712A-01-M

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

49 CFR Parts 172 and 175

Air Transportation of Limited Quantities of Low-Level Radioactive Materials; Exemption Renewal

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The Materials Transportation Bureau is renewing the limited exemptions for air transport of small quantities of materials exhibiting very low levels of radiation. These materials do not present a significant hazard to passengers or crewmembers aboard an aircraft. Renewal of these exemptions will permit the continued transportation by aircraft of these materials.

EFFECTIVE DATE: May 3, 1979.

ADDRESS: All written comments received in this rulemaking action are available for examination during regular business hours in the Dockets Branch, Room 6500, TransPoint Building, 2100 Second Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John C. Allen, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590; telephone (202-755-4962).

SUPPLEMENTARY INFORMATION: The Materials Transportation Bureau (MTB) published a Notice of Proposed Exemption Renewal on March 15, 1979. (44 FR 15748) seeking public input on the proposed renewal of exemptions found at 49 CFR 172.204(c)(4), 175.10(a)(6), and 175.700(d). The period for submitting comments ended on April 16, 1979. The Materials Transportation Bureau (MTB) received only twelve comments concerning the proposals, all of which were favorable to the exemption renewals.

The exemptions apply to limited quantities of radioactive materials (§ 173.391(a)) and to instruments or manufactured articles (§ 173.391(b) and (c)) such as smoke detectors, electronic tubes, and wristwatches which contain very small amounts of radioactive material. Without the exemptions, these items would be prohibited from carriage aboard passenger-carrying aircraft unless intended for use in, or incident to, research or medical diagnosis or treatment.

Pursuant to Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806) governing exemptions, the exemptions in §§ 172.204(c)(4), 175.10(a)(6) and 175.700(d) are subject to a two-year life and will expire on May 3, 1979. MTB is renewing these exemptions on the finding that renewal is consistent with the public interest and safety.

Primary drafters of this document are John C. Allen, Office of Hazardous Materials Regulation, Materials Transportation Bureau, and Evan C. Braude, Office of the Chief Counsel, Research and Special Programs Administration.

PART 172—HAZARDS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

In consideration of the foregoing, 49 CFR Part 172 is amended as follows:

In § 172.204, paragraph (c)(4) is amended to read as follows:

§ 172.204 Shipping certification.

* * * * *

(c) * * *

(4) *Radioactive material.* Each person who offers any radioactive material for transportation aboard a passenger-carrying aircraft shall sign (mechanically or manually) a printed certificate stating that the shipment contains radioactive material intended for use in, or incident to, research, medical diagnosis or treatment. Prior to May 3, 1981, this provision does not apply to materials meeting the requirements of § 173.391 (a), (b), or (c) of this subchapter in effect on May 3, 1979.

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

In consideration of the foregoing, 49 CFR Part 175 is amended as follows:

1. In § 175.10, paragraph (a)(6) is amended to read as follows:

§ 175.10 Exceptions.

(a)* * *

(6) Prior to May 3, 1981, radioactive materials which meet the requirements of § 173.391(a), (b), or (c) of this subchapter in effect on May 3, 1979.

* * * * *

2. In § 175.700, paragraph (d) is amended to reads as follows:

§ 175.700 Special requirements for radioactive materials.

* * * * *

(d) Except as provided in this paragraph, no person may carry aboard a passenger-carrying aircraft any radioactive material other than a radioactive material intended for use in, or incident to, research or medical diagnosis or treatment. Prior to May 3, 1981, this prohibition does not apply to materials which meet the requirements of § 173.391(a), (b), or (c) of this subchapter in effect on May 3, 1979.

(49 U.S.C. 1803, 1804, 1808: 49 CFR 1.53 and Appendix A to Part 1).

Note—The Materials Transportation Bureau has determined that this proposed regulation will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9583). A regulatory evaluation is available for review in the Docket.

Issued in Washington, D.C. on April 20, 1979.

L. D. Santman,

Director, Materials Transportation Bureau.

[Docket HM-149B; Amdt. Nos. 172-53, 175-9]

[FR Doc. 79-13240 Filed 4-27-79; 8:45 am]

BILLING CODE 4910-60-M

[1] In order that the temporary call sign conforms with Article 19 of the Radio Regulations, if the first numberal of the documentation or registration number is 0 or 1, the call sign will consist of the number 9 followed by the first three numbers of the documentation or registration number (e.g., a vessel with the documentation number 123456 would have the call sign WD9123).

Proposed Rules

Federal Register
Vol. 44, No. 84
Monday, April 30, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 925]

Handling of Fresh Prunes Grown in Designated Counties in Idaho and in Malheur County, Oreg.; Termination of Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This notice proposes to terminate Marketing Order No. 925, which has authority to regulate the handling of fresh prunes grown in designated counties in Idaho and Malheur County, Oregon. The program has been inactive for a number of years. This notice also proposes disposition of program assets if the program is terminated. The program's administrative committee recommended this action, and this notice invites public comment on these proposed actions.

DATES: Comments must be received by July 15, 1979.

ADDRESSES: Send comments to: Hearing Clerk, United States Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250. Two copies of all written comments should be submitted, and will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the draft impact analysis contact Charles R. Brader, (202) 447-4722.

SUPPLEMENTARY INFORMATION: The proposed termination of the Marketing Agreement and Order No. 925 (7 CFR Part 925) and disposition of program assets, as hereinafter specified, is being considered under § 925.64 of that order, and § 8c(16)(A) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) under which the agreement and order are effective.

This regulatory program became effective July 21, 1960. It authorizes the regulation of grade, size, quality, maturity, and of packs and containers of fresh prune shipments. The purpose of such regulation, consistent with the objectives of the Act, is to improve grower returns through establishment and maintenance of orderly marketing conditions for fresh prunes. However, the program has been inactive since 1974. In 1974, a winter freeze caused extensive tree damage. Since then, there have been substantial prune-tree removals. Production of prunes in the area covered by this program has been declining and this trend is expected to continue. Indications are that this program is no longer needed. Recently, a mail ballot was conducted among members of the Idaho-Malheur County, Oregon, fresh Prune Marketing committee to ascertain whether or not they favor termination of the program. This is the agency, established under the program, to administer the program locally. The vote was unanimously in favor of termination.

The committee has about $1,080 from assessments and interest in an authorized financial reserve fund. The committee recommends transferring such funds to the University of Idaho to conduct prune research. Section 925.42 of the order permits disposition of funds remaining in such manner as the Secretary may determine to be appropriate if return to those from whom the funds were collected is deemed impractical. The expense involved in returning such funds to handlers would make such refund uneconomical, thus, the proposed disposition appears reasonable. The committee owns a few fixed assets, e.g., office equipment, with little resale value. The committee recommends transferring these assets to local industry groups, e.g., the Idaho-Oregon Fruit and Vegetable Association, Inc., Parma, Idaho.

It is contemplated that with the termination of the order, and the disposition of committee assets, the then functioning committee members and alternates will be discharged from further responsibility under the order.

Dated: April 24, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-13286 Filed 4-27-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

Proposed Alteration of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Marquette, Michigan to accommodate various revised instrument approach procedures into the Marquette County Airport, Marquette, Michigan established on the basis of a relocation of the Marquette Very High Frequency Omnidirectional Range facility (VOR) to a new site approximately 2000 feet southwest of the previous site. The intended effect of this action is to insure segregation of the aircraft using these approach procedures in instrument weather conditions and other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before June 8, 1979.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 79-GL-14, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The control zone airspace will be altered by extending the zone approximately ½ mile southwest so as to accommodate

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for the relocated VOR. In addition, the revised instrument approach procedures will require the width of the control zone extensions to the southwest and the northeast be increased from 2 miles either side of approach radials to 3½ miles either side. This will insure that all operations of aircraft in instrument weather conditions below 1000 feet above ground will be contained within the control zone airspace. The 700 foot transition area airspace which extends beyond the control zone does not require alteration to accommodate the revised instrument approach procedures. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL–7, Great Lakes Region, Rules Docket No. 79–GL–14, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 8, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone airspace near Marquette, Michigan. Subpart F of Part 71 was published in the **Federal Register** on January 2, 1979 (44 FR 353).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.171 of Part 71 of the Federal Aviation Regulations as follows:

§ 71.171 [AMENDED]

In Section 71.171 (44 FR 353) the following control zone is amended to read:

Marquette, Michigan

Within a 5 statute mile radius of the Marquette County Airport, (latitude 046°32'02.8" N, longitude 087°33'34.6" W estimated) and within 3½ statute miles each side of the 075° magnetic bearing from the geographical center of the airport extending from the 5 statute mile radius zone to 7 statute miles northeast of the airport; and within 3½ statute miles each side of the 250° magnetic bearing from the geographical center of the airport extending from the 5 statute mile radius zone to 9½ statute miles southwest of the airport.

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL–7), Docket No. 79–GL–14, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on April 13, 1979.

Joan B. Barriage,
Acting Director, Great Lakes Region.

[Airspace Docket No. 79–GL–14]
[FR Doc. 79–13035 Filed 4–27–79; 8:45 am]
BILLING CODE 4910–13–M

[14 CFR Part 71]

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Coldwater, Michigan to accommodate a new Runway 3 instrument approach procedure into the Branch County Memorial Airport, Coldwater, Michigan, established on the basis of a request from the Branch County Airport officials to provide that airport with an additional instrument approach procedure. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before June 8, 1979.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL–7, Attention: Rules Docket Clerk, Docket No. 79–GL–12, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694–4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace will be lowered from 1200 feet above the surface to 700 feet for a distance of approximately one mile beyond that now depicted. The development of the proposed procedure necessitates the FAA to alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL–7, Great Lakes Region, Rules Docket No. 79–GL–12, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 8, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Coldwater, Michigan. Subpart G of Part 71 was published in the **Federal Register** on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

§ 71.181 [Amended]

In Section 71.181 (44 FR 442) the following transition area is amended to read:

Coldwater, Michigan

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Branch County Memorial Airport (latitude 41°56'05"N., longitude 85°02'55"W.), within 2 miles each side of the Litchfield, Michigan VORTAC 239° radial extending from the 5-mile radius area to 8 miles northeast of the airport, and within 2 miles each side of the 209° bearing from the Branch County Memorial Airport extending from the 5-mile radius area to 8 miles southwest of the airport, and within 2.5 miles each side of the Litchfield, Michigan VORTAC 239° radial extending from the 5-mile radius area to 8 miles southwest of the airport.

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL–7), Docket No. 79–GL–12, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on April 13, 1979.

Joan B. Barriage,
Acting Director, Great Lakes Region.

[Airspace Docket No. 79–GL–12]
[FR Doc. 79–13034 Filed 4–27–79; 8:45 am]
BILLING CODE 4910–13–M

[14 CFR Part 71]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice of proposed rulemaking (NPRM) proposes to alter the 1,200-foot transition area at Wolf Point, Montana to provide controlled airspace for the new NDB–A standard instrument approach procedure to Wolf Point International Airport and for holding aircraft and additional controlled airspace for air traffic control purposes. There will be no change to the 700-foot transition area.

DATES: Comments must be received on or before June 4, 1979.

ADDRESSES: Send comments on the proposal to:

Chief, Air Traffic Division, Attn: ARM–500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

FOR FURTHER INFORMATION CONTACT: David M. Laschinger, Airspace and Procedures Specialist, Operations, Procedures and Airspace Branch (ARM–539), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837–3937.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The Federal Aviation Administration is considering an amendment to subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 1,200-foot transition area at Wolf Point, Montana. This proposal is necessary to provide controlled airspace for the new NDB–A standard instrument approach procedure to Wolf Point International Airport and for holding aircraft and additional controlled airspace for air traffic control purposes. Accordingly, the Federal Aviation Administration proposes to amend subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.181 [Amended]

By amending 71.181 by designating the following transition areas:

Wolf Point, Montana

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Wolf Point, Montana, NDB (latitude 48°06'16" N., longitude 105°36'05" W.); and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at 47°50'00" N., 105°00'00" W., to 47°50'00" N., 106°00'00" W., to 48°20'00" N., 106°00'00" W., to 48°20'00" N., 105°00'00" W., to the point of beginning.

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Drafting Information

The principal authors of this document are David M. Laschinger, Air Traffic Division, and Daniel J. Peterson, Office of the Regional Counsel, Rocky Mountain Region.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Note: The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation, and a comment period of less than 45 days is appropriate.

Issued in Aurora, Colorado on April 18, 1979.

M. M. Martin,

Director, Rocky Mountain Region.

[Airspace Docket No. 79-RM-14]

[FR Doc. 79-13032 Filed 4-27-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 219]

Operating Assistance for Troubled Multifamily Housing Projects—Flexible Subsidy Program

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Interim Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information a rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the rulemaking document described below:

24 CFR PART 219—OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS—FLEXIBLE SUBSIDY PROGRAM

This interim rule would amend 24 CFR to add a new Part 219, which would establish policies and procedures for implementing the Flexible Subsidy Program for troubled multifamily projects pursuant to Section 201 of the Housing and Community Development Amendments of 1978. The purposes of this program are to provide assistance to stabilize certain subsidized multifamily projects, improve management, and preserve their low- and moderate-income character. The amount of assistance will be based upon an analysis of the project's total needs and will provide payments for correction of deferred maintenance items that have accumulated because of the project's past inability to raise rents due to the low-income levels of the tenants.

(Sec. 7(o), Department of HUD Act, 42 U.S.C. 3535(o), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., April 24, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[Docket No. R-79-658]

[FR Doc. 79-13305 Filed 4-27-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 155]

Qualifications of the Person in Charge of Oil Transfer Operations

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of Proposed Rule.

SUMMARY: This document withdraws a proposed rule regarding qualifications of persons in charge of oil transfer operations. The proposal is being withdrawn because of major changes needed in the proposed rule as a result of: (1) A large volume of substantive comments received from concerned parties; (2) new requirements imposed by the Port and Tanker Safety Act of 1978 (Pub. L. 95-474); and (3) requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978.

FOR FURTHER INFORMATION CONTACT: Commander Richard T. Hess, Office of Merchant Marine Safety (G-MVP/82), Room 8212, Department of Transportation, Nassif Building, 400 Seventh St., S.W., Washinton, D.C. 20590, 202-426-2251.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this documnt are: CDR Richard T. Hess, Project Manager, Office of Merchant Marine Safety, and Ms. Mary Ann McCabe, Project Attorney, Office of Chief Counsel.

Discussion

In the April 25, 1977 issue of the **Federal Register** (42 FR 21190) the Coast Guard published a proposed rule (Docket No. 74-44) regarding qualifications of the person in charge of oil transfer operations. Interested persons were given until July 7, 1977 to comment by mail. Also, public hearings were held in Washington, D.C. on June 21 and 22, 1977.

Many of the comments received by letter and in public hearings addressed substantive issues in the proposed rule. After review of these comments, several parts of the proposed rules were identified as requiring significant alteration.

Portions of the Port and Tanker Safety Act of 1978 (Pub. L. 95-474) have direct impact on the rule as proposed. As a consequence, several parts of the proposed rule are being changed to conform to the Act.

The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, will impose certain requirements on Tankerman, which are not consistent with the proposed rule. In order for the United States, as a signatory, to be in conformity with requirements of the convention, certain parts of the proposed rule will require modification.

In light of the foregoing, the Coast Guard has decided to withdraw the proposed rule. Upon completion of the modifications appropriate to the issues discussed above, a new proposed rule concerning revised qualifications of the person in charge of oil transfer operations will be reissued.

Accordingly the proposal published in the **Federal Register** (42 FR 21190) on April 25, 1977, entitled "Qualification of the Person in Charge of Oil Transfer Operations" is hereby withdrawn.

(46 U.S.C. 391a; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(n)(4).)

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

April 23, 1979.

[CGD 74-44A]

[FR Doc. 79-13365 Filed 4-27-79; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

State Implementation Plans; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment States

Correction

In FR Doc. 79-10227, appearing at page 20372 in the issue of Wednesday, April 4, 1979, the seventh line of the second complete paragraph in column 3, page 20374, should read, "nonattainment areas, there is to be no".

[FRL 1090-1]

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3400]

Federal Coal Management Program; Final Environmental Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability—Final Environmental Statement.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on a Federal coal management program. This programmatic statement is based on information developed by the Bureau of Land Management and the Department of the Interior. Information and data were supplied by and in coordination and consultation with Federal, State and local governmental departments and agencies, and non-governmental organizations such as conservation and environmental groups, industrial organizations, mining companies, libraries, and others. During the 60 day review period 5,000 copies of the ES were distributed to the above named groups.

On December 15, 1978, Secretary Cecil D. Andrus released the draft version of this statement (DES) and urged the widest possible public participation in the review of the document. During January and February of 1979, the Department conducted special public informational meetings in 12 separate cities, followed by 10 formal public hearings to receive comments on the DES. During the extended 60-day review period (a 45-day period is mandatory) the Department received and evaluated over 1,400 separate comments on the DES.

The purpose of the statement is to address various alternatives for a Federal coal management program, including a preferred program alternative, and to assess the possible impacts from the various alternatives. The statement is programmatic in scope and discusses the national and interregional impacts associated with the Federal coal management program. Impacts assessment includes coverage of 12 coal supply regions, 3 production levels (low, medium and high), 7 alternative management strategies, 2 projection periods (1985 and 1990), 5 phases of the coal production and use cycle, and 27 impact categories. The statement also includes a set of proposed regulations which could be used to implement most of the alternative management programs. Availability of those regulations was announced in the March 19, 1979, edition of the **Federal Register**. (44 FR 16800).

This statement will assist the Secretary in carrying out President Carter's directive to manage Federal coal lands in an environmentally acceptable manner.

Copies of the final statement and the abstract will be available upon request at the following locations (see attached).

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

Approved:

Larry E. Meierotto,

Assistant Secretary of the Interior.

April 25, 1979.

Office of Coal Management, Bureau of Land Management, Room 3615, 18th & C Streets NW., Washington, D.C. 20240

Office of Public Affairs, Bureau of Land Management, Room 5627, 18th & C Streets NW., Washington, D.C. 20240

Director, Office of Coal Leasing, Planning and Coordination, U.S. Department of the Interior, Room 3423, 18th & C Streets NW., Washington, D.C. 20240

Office of Public Affairs, U.S. Department of the Interior, Room 7214, 18th & C Streets NW., Washington, D.C. 20240

Office of Coal Leasing, Planning and Coordination, U.S. Department of the Interior, 101 World Savings Building, 1221 West Alameda Parkway, Lakewood, Colorado 80228

Director, Denver Service Center, Bureau of Land Management, Building 50, Denver Federal Center, Denver, Colorado 80225

State Director, Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501

State Director, Bureau of Land Management, California State Office, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825

State Director, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Bldg., 1600 Broadway, Denver, Colorado 80202

Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910

State Director, Bureau of Land Management, Idaho State Office, Room 398, Federal Building, 550 West Fort Street, Boise, Idaho 83724

State Director, Bureau of Land Management, Montana State Office, Granite Towers, 222 N. 32nd Street, Billings, Montana 59107

State Director, Bureau of Land Management, Nevada State Office, Room 3008, Federal Building, 300 Booth Street, Reno, Nevada 89509

State Director, Bureau of Land Management, New Mexico State Office, U.S. Post Office & Federal Building, So. Federal Place, Santa Fe, New Mexico 87501

State Director, Bureau of Land Management, Oregon State Office, 729 N.E. Oregon Street, Portland, Oregon 97208

State Director, Bureau of Land Management, Utah State Office, 136 E. South Temple, Salt Lake City, Utah 84111

State Director, Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001

[INT FES 79-10]

[FR Doc. 79-13308 Filed 4-27-79; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 10, 12, 30, 31, 35, 70, 90, 98, 105, 151, and 157]

Tankerman Requirements

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of Proposed Rule.

SUMMARY: This document withdraws a proposed rule regarding Tankerman requirements. The proposal is being withdrawn because of major changes needed in the proposed rule as a result of: (1) A large volume of substantive comments received from concerned parties; (2) new requirements imposed by the Port and Tanker Safety Act of 1978 (Pub. L. 95-474); and (3) requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978.

FOR FURTHER INFORMATION CONTACT: Commander Richard T. Hess, Office of Merchant Marine Safety (C-MVP/82), Room 8212, Department of Transportation, Nassif Building, 400

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Seventh St., SW., Washington, D.C. 20590, 202–426–2251.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are: CDR Richard T. Hess, Project Manager, Office of Merchant Marine Safety, and Ms. Mary Ann McCabe, Project Attorney, Office of Chief Counsel.

Discussion

In April 25, 1977 issue of the **Federal Register** (42 FR 21190) the Coast Guard published a proposed rule (Docket No. 74–44) regarding Tankerman requirements. Interested persons were given until July 7, 1977 to comment by mail. Also, public hearings were held in Washington, D.C. on June 21 and 22, 1977.

Many of the comments received by letter and in public hearings addressed substantive issues in the proposed rule. After review of these comments, several parts of the proposed rules were identified as requiring significant alteration.

Portions of the Port and Tanker Safety Act of 1978 (Pub. L. 95–474) have direct impact on the rule as proposed. As a consequence, several parts of the proposed rule are being changed to conform to the Act.

The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, will impose certain requirements on Tankerman, which are not consistent with the proposed rule. In order for the United States, as a signatory, to be in conformity with requirements of the convention, certain parts of the proposed rule will require modification.

In light of the foregoing, the Coast Guard has decided to withdraw the proposed rule. Upon completion of the modifications appropriate to the issues discussed above, a new proposed rule concerning revised Tankerman requirements will be reissued.

Accordingly the proposal published in the **Federal Register** (42 FR 21190) on April 25, 1977, entitled "Tankerman Requirements" is hereby withdrawn.

(46 U.S.C. 391a; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(n)(4).)

J. B. Hayes

Admiral, U.S. Coast Guard Commandant.

April 23, 1979.

[FR Doc. 79–13366 Filed 4–27–79; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

Television Broadcast Station in Dayton, Ohio; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes to reserve the existing television Channel 16 assignment in Dayton, Ohio, for noncommercial educational use. It also proposes to delete the reservation on the Channel 45 assignment there since no interest was shown for a second reserved channel in Dayton. Action was taken in response to a petition filed by the Ohio Educational Television Commission Network.

DATES: Comments must be filed on or before June 18, 1979, and reply comments must be filed on or before July 9, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 18, 1979.

Released: April 26, 1979.

In the matter of amendment of § 73.606(b), Television Broadcast Stations (Dayton, Ohio), BC Docket No. 79–91, RM–3172.

1. The Commission has under consideration a petition for rule making [1] filed by the Ohio Educational Television Network Commission ("OETNC"), seeking the amendment of the Television Table of Assignments by reserving television Channel 16 for noncommercial educational use at Dayton, Ohio.

2. Dayton (pop. 242,917), seat of Montgomery County (pop. 608,413),[2] is located in southwest Ohio, approximately 70 kilometers (45 miles) north of Cincinnati. Dayton is currently assigned Channel 2 (WDTN), Channel 7 (WHIO–TV), Channel 16 (WPTD, city of license is Kettering, Ohio, operating as a noncommercial educational station), Channel 22 (WKEF), and Channel *45 (unoccupied and unapplied for).

3. In its petition OETNC points out that it is an independent agency of the government of Ohio created by an Act of the General Assembly of the State of Ohio. It states that it is authorized to own and operate or contract to provide transmission facilities and interconnect facilities for a statewide educational television network and to provide educational programs for distribution throughout the network. OETNC asserts that each of the noncommercial educational television stations in the rest of Ohio operates on a reserved channel so this proposal would place State WPTD on a par with operations throughout the rest of the State. OETNC asserts that the needs of Kettering would continue to be served, as well as other portions of the Dayton area, recognizing that Dayton is the largest city in the area and the source of most of the material which contributes to the station's local programming.

4. OETNC notes that in 1971 it became possible to acquire the license and transmitting facilities of Station WKTR (now WPTD) which had operated on Channel 16 on a commercial basis. After acquiring the Channel 16 facility, OETNC operated the station on a non-commercial educational basis for a few years. OETNC then requested, and the Commission subsequently approved, the assignment of license of the Channel 16 facilities to University Regional Broadcasting ("URB"), a consortium principally composed of three universities in the Dayton area. Under URB, the station operates in furtherance of the goals of OETNC to provide educational service to Ohio residents. OETNC advised that URB supports the proposal herein requested.

5. Inasmuch as the proposed reservation of Channel 16 in Dayton, Ohio, would reflect the actual use of this facility for non-commercial educational use, the Commission is persuaded that a rule making proceeding should be initiated. Also, since there appears to be no interest in a second reserved channel, we propose to delete the reservation on Channel 45.

6. In view of the foregoing, we propose the following revision in the Television Table of Assignments (Section 73.606(b) of the Rules) with respect to the city listed below:

City	Channel No.	
	Present	Proposed
Dayton, Ohio	2, 7+, 16+, 22+, *45.	2, 7+, *16+, 22+, 45.

7. As Dayton is within 250 miles of the U.S.-Canada border, Canadian concurrence in the proposal to amend the Television Table of Assignments will be necessary.

[1] Public Notice of the petition was given on August 2, 1978, Report No. 1135.

[2] Population figures are taken from the 1970 U.S. Census.

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before the proposed changes are adopted.

9. Interested parties may file comments on or before June 18, 1979, and reply comments on or before July 9, 1979.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties msut be made in written comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings. briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

[BC Docket No. 79–91; RM–3172]

[FR Doc. 79–13313 Filed 4–27–79; 8:45 am]

BILLING CODE 6712–01–M

[47 CFR Part 76]

Applications for Certificates of Compliance and Federal-State/Local Regulatory Relationships

AGENCY: Federal Communications Commission.

ACTION: Further Notice of Proposed Rule Making—Memorandum Opinion and Order (Reconsideration).

SUMMARY: In the *Report and Order in Docket 21002*, FCC 77–530, 66 FCC 2d 380, 42 FR 52404 (1977), the Commission adopted certain changes to its rules affecting the procedures by which cable television systems are certified by the Commission, and its rules governing the granting of franchises to cable systems by local governments. In this decision, the commission generally denies the petitions requesting reconsideration of the original order, but also asks for further comment on certain issues relevant to the remaining federal franchise standard on the fees that may be assessed by local franchising authorities on cable systems.

DATES: Comments must be received on or before June 18, 1979 and Reply Comments must be received on or before July 9, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William H. Johnson, Policy Review and Development Division, Cable Television Bureau, (202–632–6468).

Memorandum Opinion and Order and Further Notice of Proposed Rule Making

Adopted: April 12, 1979.

Released: April 27, 1979.

By the Commission: Commissioner Washburn absent; Commissioner Fogarty concurring in part and issuing a statement; Commissioner Jones not participating.

In the matter of amendment of Subparts B and C of Part 76 of the Commission's rules pertaining to applications for certificates of compliance and Federal-State/Local Regulatory Relationships, Docket No. 21002, RM–2695, RM–2723. See also 42 FR 58332. October 25, 1979.

1. On July 22, 1977, the Commission adopted its *Report and Order in Docket 21002*, FCC 77–530, 66 FCC 2d 380 (1977) [hereinafter "Report and Order"], which modified its requirements for the filing of applications for certificates of compliance by cable television operators, and significantly altered its former rules relating to the franchising of cable operations by local government authorities. The Commission now has before it numerous petitions for reconsideration and clarification of particular aspects of that decision. In general we do not find in the Reconsideration petitions new information or arguments that persuade us that the action taken was not correct. However, as discussed in greater detail below, we do believe there is a need for further consideration of those rules which limit the franchise fee that a local municipality or state may accept as part of the franchise negotiation process or otherwise require a cable system to pay. To facilitate this review, further comments are requested in response to this *Further Notice of Proposed Rule Making*.

2. Our actions in this rule making proceeding stemmed from our desire to eliminate those provisions of the rules which experience had shown to be unwarranted, and thereby ease the regulatory burden on both cable operators and local franchising authorities. These actions were also consistent with our long-held belief that our cable regulatory program should be flexible and evolutionary, rather than fixed in stone. *See, e.g.*, para. 189, *Cable*

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Television Report and Order, FCC 72–108, 36 FCC 2d 143, 210 (1972). With these broad principles in mind, we focused our attention on two aspects of our rules: the proper role of the Commission in the area of local franchising of cable systems, and the procedures utilized in the federal certification of cable operations.

3. With respect to the franchising issue, we have sought to identify those areas which demonstrate a clear nexus to federal interests in cable development. This process began in the 1972 *Cable Television Report and Order, supra*, in which we adopted rules mandating franchise provisions guaranteeing public proceedings for review of franchise applications, predetermined construction schedules, local subscriber rate regulation, franchise periods of reasonable duration, local complaint procedures, future compliance with modifications of the Commission's Rules, and imposition of reasonable franchise fees. The rules were further modified in 1974 to add provisions dealing with construction line extension policies and additional subscriber complaint procedures.[1] The franchise fee question was revisited in the *Clarification of Rules and Notice of Proposed Rule Making*, FCC 74–384, 46 FCC 2d 175 (1974) [hereinafter "Clarification"] and *Report and Order in Docket No. 20578*, FCC 76–448, 59 FCC 2d 378 (1976). In 1976, the Commission deleted Section 76.31(a)(4) from the Rules, thereby permitting local authorities to decide for themselves whether they wish to undertake regulation of subscriber rates. *Report and Order in Docket No. 20681*, FCC 760747, 60 FCC 2d 672 (1976).

4. The instant proceeding was the most recent attempt to define the federal interest in the franchising area. Although we considered each of the existing provisions on its merits, we found that, in general, federal rules were most appropriate where federal goals and local needs were not necessarily aligned. Having found this to be most true in the case of franchise fees, we decided to retain (albeit in altered form) our franchise fee limitation, while simultaneously turning our other previously mandatory requirements into voluntary guidelines. *See, e.g.*, para. 57, *Report and Order, supra* at 398. The Commission further determined that the limitation would not apply to a system community unit which was franchised or commenced operation prior to March 31, 1972 until 15 years from the date of initial grant of the underlying pre-1972 franchise, or the natural expiration of that franchise, whichever occurs first.

5. The Commission had also requested comments on whether the base on which the fee limitation is calculated should be modified. Previously, fees could only be based on revenues derived from the supplying of regular subscriber service.[2] After consideraton of the comments received, we concluded that the fee base should be expanded to allow inclusion of all revenues from cable services (including pay cable and other "auxiliary" services).

6. The following discussion is divided into two substantive areas: questions raised in the petitions for reconsideration[3] and a discussion of some new questions which we are raising on our own that relate to the franchise fee limitation rule.

Petitions for Reconsideration

7. The decision to delete certain of our former franchise standards was difficult. In our judgment, the goals that these franchise standards sought to further were—and still are—reasonable, fair, and laudatory. In establishing these mandatory requirements in 1972, we were primarily motivated by two concerns: The importance of cable television in the overall national communications scheme and local governments' lack of experience and expertise in this area. While our recognition of cable's potential significance has not altered, we now have had over six years in observing the franchising process and local governments have had the additional time in which they have become more spohisticated in cable regulatory matters. This is no doubt related to the increasing number of governments that now seek advice from organizations and individuals with special expertise in these matters as an important adjunct to informed local decision-making—resources that were much less available to cities prior to 1972. We now seek to allow these local authorities maximum flexibility to franchise cable operators in a manner that will best serve the interests of their citizens, at least as long as the actions taken at the local level will not undermine important and overriding federal interests. Our deletion of these mandatory standards therefore should not be viewed as a retreat on the issues of fair procedures, protection of the cable consumer, and the like, but as a decision ot leave responsibility in these areas where it appears to belong—in the hands of the local authorities who will have the ultimate responsibility for enforcing these provisions.

8. One petitioner, Robert E. Jacobson, claims that the Commission did not act in the public interest in abrogating these mandatory standards, nor was any rationale supplied for the action except the convenience of the new certification procedures for the Commission staff. We must disagree. The decisions made in this docket were based on our attempt to delineate a rational approach to complex inter-governmental relationships which immediately affect a constantly changing cable industry and ultimately—and more importantly—affect consumers of cable services. The comments of approximately one hundred separate parties, including local governments, members of the cable industry, public interest organizations, and individual citizens were instructive in this regard, and we believe that a fair reading of the resultant *Report and Order* shows a rational basis for the decision.[4]

Public Proceeding Requirement (Former § 76.31(a)(1))

9. Several parties have asked the Commission to reconsider its initial decision and reinstate former § 76.31(a)(1), which provided that in order to obtain a certificate of compliance, a cable system must have a franchise containing recitations that the franchisee's legal, character, financial, technical, and other qualifications, and the adequacy and feasibility of its construction arrangements, have been approved by the franchising authority as part of a full public proceeding affording due process. Many of these parties do not believe that local law is a satisfactory substitute for a federal requirement in this area. The National Citizens Committee for Broadcasting and the National Citizens Communications Lobby believe that this rule, which provides a minimum standard applicable to all communities, is necessary and essential to assure the public's right of participation in franchise proceedings. PCCC and its counsel, the Citizens Communication Center, which have observed and directly participated in the franchising process on the local level for many years, claim that local governments have few guidelines and little experience in this fields. Although a public proceeding is perhaps the most critical aspect of the franchise process, they claim that in many cases, local jurisdictions have adopted procedures to accommodate the public only after the FCC's standards were asserted. The New Jersey Coalition for Fair Broadcasting offers several arguments for retention of a federal standard: local officials often change, and therefore different standards may be applied for renewel of a franchise than those applied at the time of initial grant; direct business relationships between operators and local officials may result in decisions not affording the maximum benefit to the public; and, finally, citizens need the federal guarantee of their right to participate. This federal requirement, therefore, does not weaken local control but only strengthens local participation.

10. Several representatives of the cable industry joined the public interest organizations in supporting reinstatement of the public proceeding requirement. The National Cable Television Association ("NCTA") believes that this standard is an important public interest safeguard. In their view, even if enforcement of the provision has been mimimal, the requirement itself has had a beneficial and prophylactic effect. They, as well as seven cable companies filing jointly ("Becker Communications Associates, *et al.*") and Sammons Communications, Inc., believe that rather than deleting the standard, it should be expanded to require that the operator of an existing system point out that the need for "legitimate renewal expectancies" is even greater here than in the broadcasting context because of the capital intensive nature of the cable business.

11. After due consideration of these petitions, we now reaffirm our initial decision to delete the public proceeding standard from the rules. Section 76.31(a)(1) was based on our perception in 1972 that federal supervision of the franchising process was essential to the fulfillment of our "obligation to insure efficient communications service with adequate facilities at reasonable charges." *Cable Television Report and Order*, 36 FCC 2d 143, 207 (1972). Having reviewed the comments received in these proceedings, and having re-examined the premises underlying the rules, our view has changed. *See Report and Order in Docket 21002*, 66 FCC 2d 380, 391–92 (1977). At the outset, it is important to remember that we should not adopt or retain rules that respond to non-existent problems. *Home Box Office v. F.C.C.*, 567 F.2d 9, 36 (D.C. Cir.), *cert. denied*, 98 S.Ct. 111 (1977). Even when the standards were operative we received relatively few complaints concerning compliance with due process procedures. This fact, plus the growing sophistication of the public, the industry, and state and local authorities with respect to cable regulation, indicate that local governments and local law are now just as capable as the Commission of ensuring due process in franchise proceedings and that the federal paternalism implicit in the rule cannot be justified. We are not insensitive, however, to the potential for abuse described by some commentators such as the New Jersey Coalition; but administering or remedying the process of granting local cable television franchises is better undertaken in a local forum, given the unique factual circumstances and applicable local law involved in each case. To the extent that local authorities lack guidelines in this field, as claimed by PCCC, our voluntary guidelines should fulfill this role with less undesirable intrusion into local prerogatives. Finally, we note that the arguments of NCTA, Sammons, and Becker Communications Associates, *et al.* relating to an existing system's presumptive right to renewel of its franchise properly will be addressed in the context of the outstanding rulemaking dealing with these issues (Docket 20022)

Construction Schedule—Line Extensions (Former § 76.31(a)(2))

12. Only one party, PCCC, requested reconsideration of the Commission's decision to delete former § 76.31(a)(2), which previously mandated that franchises contain a provision requiring the cable operator to accomplish significant construction of a proposed cable system within one year after receiving Commission certification, and reasonably extend service each year thereafter to a substantial percentage of its franchise area. The Section also provided that where a franchise called for something less than complete wiring of the service area, that policy had to be adopted only after a full public proceeding which included specific notice of consideration of that policy.

13. PCCC's claim is that there has been sufficient bad experience to justify retention of this rule. It states that "it is the Commission, not the local authority, which is invested with the responsibility of seeing that the nation is provided with the fullest cable coverage possible." It believes that "variations on [local] enforcement are all too great and the danger of patchwork regulation too compelling for the Commission to adbicate this all important responsibility." It therefore concludes that the benefits of retention of the rule outweigh the benefits of its deletion.

14. PCCC's arguments basically reiterate those we considered in our original decision and there found to be unpersuasive. *See, e.g.*, para. 24, *report and Order, supra* at 388–89. In disposing of these arguments, we stated:

> We recognize that a federal requirement that local franchises contain construction schedules does not guarantee that those schedules will be enforced. Enforcement at the federal level is unrealistic and was never contemplated by our rule, since local officials are in a better positon to gauge individual community needs and be aware of applicable local law. Even when a construction schedule is part of a franchise, circumstances may develop which require adjustment to the schedule. This can only be resolved at the local level. In the end, whether inclusion of a construction schedule in the franchise is mandatory or optional, provision of the best and most extensive cable coverage to subscribers will depend on the dedication of local officials. The Commission's most appropriate role is to inform the local authorities of their responsibilities and to recommend helpful provisions. Mandatory federal standards no longer appear warranted. Therefore, we shall delete from the Rules Section 76.31(a)(2), while adding a "Note" offering guidelines for the inclusion in franchises of construction schedules and specific notice to the public of line extension policies.

Id. at 393.

15. One further point should be clarified. PCCC's statement that the Commission has the "responsibility of seeing that the nation is provided with the fullest cable coverage possible" appears to be an overly broad interpretation of Section 1 of the Communications Act (47 U.S.C. 151), which states that the FCC was created "For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the

[1] *Report and Order in Docket 20020*, FCC 74–1384, 50 FCC 2d 61 (1974); *Report and Order in Docket 20024*, FCC 74–1381, 50 FCC 2d 43 (1974).

[2] Para. 95, *Clarification, supra* at 202.

[3] The Commission also modified its requirements for applications for certificates of compliance in this proceeding. However, in a later proceeding, the Commission eliminated the certification process, replacing it with a greatly simplified registration procedure. *Report and Order in CT Docket 78–206*, FCC 78–890, 69 FCC 2d 697 (adopted September 27, 1978). At footnote 5 of that decison, we dismissed the petition for reconsideration of Docket 21002, filed by the Legislative Committee of the Philadelphia Community Cable Coalition, *et al.* [hereinafter "PCCC"], to the extent it addressed the certification process changes, and consequently the only matters we will discuss herein are those pertaining to the franchise standards.

[4] Mr. Jacobson also suggests that the Commission "consider the possibility of ex parte contacts having been made by its staff with cable operators," since "there is evidence that the new standards * * * were known to cable operators and other parties of interest prior to their issuance by the Commission." He has not, however, provided any evidence to substantiate his allegation. We do note that many of the actions taken were presaged by the *Notice of Proposed Rule Making in Docket 21002*, FCC 76–1070, 63 FCC 2d 3 (1976). Further, the Commission's decisions were reached in a meeting that was open to all interested persons, and thus many were aware of the final outcome before release of the text of the *Report and Order*. In any event, there is no evidence of any impropriety in the procedures culminating in the adoption of the *Report and Order*.

people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges * * *" Although the Supreme Court has referred to this provision as a proper source of objectives for the Commission's regulation of cable television,[5] mere reference to these goals does not help to resolve the question of what means are best employed to further them.[6] Given our decision to leave franchising matters in the hands of local governments, we believe we are adequately meeting our responsibilities in this area by offering advice to franchising authorities in the form of voluntary guidelines.

Franchise Duration (Former § 76.31(a)(3)

16. PCCC was again the sole party requesting reconsideration of the Commission's decision to delete former § 76.31(a)(3). This Section provided that an initial franchise period must not exceed fifteen years, and that any renewal of the franchise must similarly be of reasonable duration. PCCC argues that in light of the dynamic nature of the cable industry, franchise terms should be limited to a maximum of ten years. It believes this period is a proper compromise between the desirability of periodic review of operations by the franchising authority, and the need of the cable entrepreneur for some stability to provide assurance that it will be able to recoup its investment. Local authorities should retain the ability to establish a franchise period of something less than ten years if they so desire.

17. We agree that an overly lengthy franchise term may become an invitaton to obsolescence, while too brief a term may not assure a cable operator that it will be able to receive a sufficient return on its investment to justify the large capital expenditures necessary to bring a cable system on line. But, in our view, the proper forum for raising these considerations is in the proceedings conducted by the franchising authorities. A federal limitation, even one subject to waiver, has the effect of preventing negotiation of this franchise provision, when the results of these negotiations could be trade-offs that benefit cable consumers and more adequately reflect justifiable variations based on local conditions. In sum, we believe that our recommendation, in the form of a voluntary guideline on franchise length, should apprise local authorities of the importance of this issue in their deliberations, and thus adequately and more properly discharge our responsibilities in this area.

Complaint Procedures (Former § 76.31(a)(5))

18. PCCC again stands alone in requesting reconsideration of our decision to delete § 76.31(a)(5). This rule previously required that the franchise must specify that procedures for the investigation and resolution of all subscriber complaints have been adopted by the franchisee and franchisor; that the franchisee will maintain a local business office or agent for these purposes; that a local official responsible for continuing administration of the franchise and implementation of complaint procedures has been designated; and that notice of the procedures for reporting and resolving complaints will be given to each new subscriber. Although it believes that local authorities should have the right to substitute their alternative complaint procedures for the Commission's it feels that the former rule is of great importance in that it provides a good model for local authorities. In the absence of the rule, it questions how citizens' complaints can be protected in jurisdictions which have not adopted adequate procedures.

19. As we stated at paragraph 41 of the *Report and Order*, we consider procedures for resolution of subscriber complaints to be an important aspect of cable television service, and we expect that good business practices alone would normally dictate their establishment. We also agree with PCCC that the former rule can serve as an excellent model for local authorities, and it is for this reason we chose to include the essence of the rule in our recommended guidelines. However, we fail to see the necessity or desirability of any greater federal intervention into an area that is so clearly one of local concern and responsibility.

Modifications Statement (Former § 76.31(a)(6))

20. Finally, PCCC also requests that the Commission reconsider its decision and reinstate former § 76.31(a)(6). This rule provided that the franchise must contain a provision which states that any modifications to the provisions of § 76.31 resulting from amendment by the Commission shall be incorporated into the franchise within one (1) year of adoption of the modification, or at the time of franchise renewal, whichever occurs first. It suggests that the provision "is important in that it insures a degree of notice and due process to local communities where Commission rules impose modifications on cable systems." It concludes that this process is not overly burdensome and consequently demands very little from either the franchising authority or the cable operator.

21. Given our present regulatory framework, we fail to see any great benefit in retaining this rule. As we stated in the *Report and Order*, deletion of this rule would not limit our ability to induce compliance with any future modifications of our rules, nor do we perceive how this subsection provides any additional "due process" guarantees to local authorities. To the contrary, the rule appears entirely superfluous and we therefore reaffirm our decision to delete it.

Franchise Fee Limitation—§ 76.31

22. The other major issue treated in this proceeding was a review of the Commission's rule limiting the franchise fee that local authorities may assess on cable operations. In our initial decision, we continued the limitation while expanding the revenue base upon which the fee is levied from just "basic" subscriber revenues to include revenues from all cable services (including pay cable and other "auxiliary" services). Additionally, we determined that the fee limitation would not apply to system community units which were franchised or commented operation prior to March 31, 1972, until 15 years from the date of initial grant of the underlying franchise, or the end of that franchise's current term, whichever occurs first.

23. Several members of the cable industry, as well as NCTA, have requested reconsideration of both these actions. The comments generally raise the following arguments:

(a) *Expansion of Revenue Base*—There is no support in the record for this change in policy, and therefore the rule change is arbitrary and capricious. The record does not support the Commission's contention that local authorities' regulatory involvement with pay cable is so extensive as to require additional payment to them, particularly since the FCC has preempted local regulation of this service.[7] Further, the action ignores the Commission's responsibility to promote the expansion of communications facilities at reasonable charges, and is inconsistent with the Commission's previous statement that it would reexamine its preemptive policy only when monies from auxiliary services constitute the bulk of cable revenues. *Clarification, supra* at 202. The industry argues that the Commission ignored the fact that the growth in the number of pay cable subscribers has occurred in large part due to the freedom from local regulatory constraints, including unjustified local taxation.

(b) *Grandfathered Fees*—The Commission's stated rationale does not justify its decision to grandfather excessive fees until fifteen years from initial grant of the franchise or the natural expiration of the franchise, whichever occurs first. Although the Commission expressed concern that the imposition of an immediate preemption would not allow franchising authorities the opportunity to justify that portion of an existing fee that is in excess of 3% of gross revenues, this matter could be handled by setting a fixed date by which all such justifications would be filed. The Commission's other conern, that an immediate preemption might have an adverse effect on the planned budgets of the communities involved, should not be given much weight since these governments had been on notice for five years that the fee was to drop.

24. *Discussion.* Several factors underlie our decision that the arguments for reconsideration presented by the petitioners are generally without merit. To a large extent these arguments are based on a misreading of our prior actions, as well as our order in the instant proceeding. NCTA, for example, claims that the Commission had previously stated that it would "reexamine its preemptive policy only when the monies derived from auxiliary services 'constitute the bulk of cable systems' receipts.' "[8] The Commission's determination that pay revenues constitute 20.8% of the total revenues of the systems that provide a pay cable option would therefore appear inadequate to meet what is presented as a threshold test of when review would be undertaken.[9] However, a more complete recitation to our previous language shows that a quite different effect was intended. At paragraph 96 of the *Clarification, supra* at 202, the Commission stated,

> We recognize that the income derived from auxiliary cable services may at some future time constitute the bulk of a cable system's receipts. We have no intention of depriving the franchising authority of a reasonable percentage of those receipts at that time.

Thus, rather than limiting our discretion as to what would be the earliest point (in terms of the percentage of total cable revenues attributable to "auxiliary" services) at which we would reexamine our preemption policy, we merely indicated that this review would take place at least by the time revenues from "auxiliary" services constituted the bulk of cable receipts. Unquestionably, the growth of these services was an important—but clearly not the only—factor considered by the Commission in deciding to allow the inclusion of pay cable revenues in the base upon which the franchise fee is calculated. In other words, the quoted language was merely an attempt to assure local governments of our sensitivity to this matter, and certainly cannot be read so as to limit our ability to deal with future changes in circumstances in an appropriate manner.

25. We do recognize the merits of one point raised in the reconsideration petitions, namely that the role of local authorities in regulating the provision of pay cable and other auxiliary services is not likely to be of such magnitude as by itself to justify inclusion of the revenues from these services within the base. It does seem likely, however, that the provision of these services will in some measure add to the local regulatory burdens. Moreover, it is important to note that much of the regulatory effort relating to traditional cable services—initial franchising, construction scheduling, line extension policies, supervision of construction safety and street usage, etc.—has as much relevance to the auxiliary as to basic service so that it is appropriate that revenues from these services also be available to support the cost of regulation. The more important consideration, however, is that expressed in paragraph 70 of the *Report and Order*. The robust growth of the services whose revenues would now be subject to the fee persuaded us that our basic objectives in having such a limitation could be accomplished with a rule that permitted local regulatory authorities some additional flexibility.

26. The cable interests also misconstrue the reasoning which led to the resolution of the grandfathering problem we adopted. The petitioners' suggestion that we set a date certain in the near future by which all local authorities would have to justify the imposition of a fee beyond 3% of revenues fails to take into consideration the impact such a scheme would have on our administrative resources if a large number of such requests were filed simultaneously. Further, it is untrue that local governments were on notice for five years that, under the previous scheme, excessive franchise fees would be cut back. In reality, once the Commission issued the *Notice of Proposed Rule Making* in this proceeding, local governments could no longer have been certain what limitation, if any, would be placed on franchise fees. But most importantly, the petitioners have failed to recognize that underlying our treatment of this grandfathering issue was the desire to intrude on the terms of pre-existing agreements only to the extent necessary to achieve federal objectives.[10] Since the purpose of the limitation was not only to prevent a burdensome, revenue-raising approach to franchise fees, but also to induce local authorities, when initially engaged in the franchising process, to focus their attention on the important questions of "how and by whom the best service can be provided to the community," [11] our treatment of systems operating under pre-existing franchises was necessarily and properly different from our treatment of systems operating under franchises drafted after the adoption of the Commission's rules.[12]

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[5] *United States* v. *Midwest Video Corp.*, 406 US 649, 669 n. 28 (1972)(plurality opinion); *United States* v. *Southwestern Cable Co.*, 392 US 157, 167 (1968).

[6] *Cf. National Association of Regulatory Utility Commissioners* v. *FCC*, 533 F.2d 601, 613–14 n. 77 (1976).

[7] *See Brookhaven Cable TV, Inc.* v. *Kelly*, 428 F. Supp. 1216 (N.D.N.Y. 1977), *aff'd*, 573 F. 2d 765 (2d Cir. 1978), *petition for cert. filed*, 47 U.S. L.W. 3005 (U.S. July 11, 1978)(No. 77–1845).

[8] NCTA Petition at p. 8.

[9] Noting that the Paul Kagan Associates "Pay TV Newsletter" cited as the source of this data was published between the date of initial adoption of the *Report and Order* and the date of its release to the public, NCTA attempts to characterize this as "quite obviously an attempt at *post hoc* justification for an otherwise indefensible position." NCTA Petition at 8. The truth of the matter is more mundane. The Commission staff had available to it a previous edition of the Newsletter dated February 16, 1977, which provided industry revenue figures through December 31, 1976. At its meeting on July 22, 1977, the Commission adopted the instant *Report and Order*, although it directed that the staff make certain editorial changes in the text of the document. It was while these editorial amendments were being drafted that the cited Newsletter, dated August 23, 1977, became available. The updated data was included in the editorial changes that were subsequently approved by the Commission. In any case, analysis of the earlier data yields the same results for the percentage of total revenues that are attributable to pay cable operations for systems offering that option—20.8%.

[10] *See, e.g.*, para. 7, *New York State Commission on Cable Television*, FCC 77–96, 62 FCC 2d 975, 977–78 (1977), *granting partial recons. of* FCC 76–599, 59 FCC 2d 1344 (1976), *aff'd sub nom. New York State Commission on Cable Television* v. *FCC*, 571 F. 2d 95 (2d Cir. 1978), *cert. denied*, 47 U.S.L.W. 3221 (U.S. October 3, 1978) (No. 77–1528).

[11] Para. 102, *Clarification, supra* at 204.

[12] In its petition for reconsideration, Northeast Georgia Broadcasting Company, Inc., d/b/a Gainesville Cablevision argues that this decision, by allowing local authorities in effect to use older systems as a source of general revenues but not newer systems, violates the principle that similarly situated parties cannot be treated differently unless the Commission can point to factual differences which are relevant to the purposes of the Communications Act, citing *Melody Music* v. *FCC*, 120 U.S.App.D.C. 241, 345 F. 2d 730 (1965). However, even assuming the *Melody Music* doctrine is applicable here [*compare Turner Broadcasting Corp.*, FCC 78–344, 59 FCC 2d 133, 134, (1976) *with Public Media Center* v. *FCC*, Case No. 76–1848, slip op. at n. 40 (D.C. Cir. October 24, 1978)], it is clear

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27. Two additional matters relating to the grandfathering question also warrant some discussion and clarification. Astro Cablevision Corp., operator of a cable system serving four communities in Pennsylvania under franchises issued before 1972, states that its original franchises were granted for an initial ten year period, subject to an additional renewal period of five years at the company's option. The franchises provided for a franchise fee of 3% of gross revenues during the first five years, 5% during the second five years, and 7% during the third five years if the compay exercises its renewal options. Astro seeks a ruling that the post-renewal 7% fee is preempted by application of Section 76.31, under the theory that the exercise of the renewal option ends the grandfathering period. However, it has consistently been the Commission's policy to treat renewal options as merely extending the original franchise term, unless a review of the operator's performance is undertaken by the franchising authority.[13] Consistent with this policy, Astro's exercise of these automatic renewal options would not cause the immediate application of the fee limitation.

28. It has also been the Commission's stated policy that if a pre-'72 franchise is subjected to substantial amendment, any grandfathering rights under the franchise would normally terminate.[14] A pleading filed jointly by the City of Wichita, Kansas and Air Capital Cablevision, Inc., holder of the cable franchise for Wichita, however, requests that the Commission clarify that the facts presented in their case warrant different treatment. The petitioners state that Air Capital was originally franchised in 1969, but because of protracted legal battles in the local courts, at the Commission, and in the federal courts, it has not been in a position to construct the cable system.[15] Air Capital's ability to obtain adequate financing has been hampered by the fact that it now has only three years left under its current franchise. The operator therefore wants the City to extend the term of the franchise to grant Air Capital a franchise of longer duration. The City on the other hand, is willing to consider such changes, but is reluctant to do so if this action would mean that it would lose its right to collect the franchise fee of 7½% of gross revenues it would otherwise be entitled to under the existing franchise until 1982. Given the unusual circumstances presented here, we see no reason to disturb the agreement reached by Air Capital and the City in this matter. While in general we believe that the undertaking of negotiations leading to the refranchising of cable operations also should be used to bring the local franchise into conformance with federal standards, we recognize that there may arise situations in which literal application of our rules may create a disincentive to the adoption of franchise amendments which would otherwise be in the public interest. It was never our intent that the rules be applied in such a fashion. See, for example, paras. 19–21, *Report and Order in Docket 20021*, FCC 75–68, 50 FCC 2d 761, 766 (1975). In light of the unusual circumstances of this case, we do not see any reason to disturb the affected parties' desired resolution of this matter.

Additional Consideration of Franchise Fee Rule

29. The earlier discussion in this document has related to specific requests for reconsideration of our *Report and Order* in this proceeding. Although there is no request before us seeking more fundamental changes in the franchise fee limitation of Section 76.31, we believe some further attention to the question of whether there should be any such limitation at all is also warranted. Notwithstanding our initial decision in this proceeding to retain the limitation, it is appropirate that we undertake this additional review both because we are in the process of undertaking a fundamental re-evaluation of all of our cable television rules [16] and because of the relationship of this limitation to the channel capacity and access channel rules addressed by the Supreme Court in *F.C.C.* v. *Midwest Video Corp.*, decided April 2, 1979. The Court found that the access rules for cable television systems were not within the Commission's jurisdication.[17]

30. The Commission's initial decision to enforce a limitation on franchise fees rested on the Commission's responsibility under Section 1 of the Communications Act, 47 U.S.C. 151, to provide for the exansion of interstate communications facilities at reasonable charges and on the belief that "high local franchise fees may burden cable television to the extent that it will be unable to carry out its part in our national communications policy." [18] Like the more generalized constitutional restraints on the imposition of state or local burdens on interstate commerce, the limitation was thought necessary to prevent localities from acting in a manner that would frustrate the achievement of overriding national objectives. The Supreme Court's decision that we do not have the authority to adopt rules requiring cable systems to provide access channels for the public at less than profit-maximizing rates appears to undercut one justification for the franchise fee limitation, since one of the purposes of the limitation was to insure that adequate resources would be available for cable systems to meet the "substantial obligations [imposed by the] new rules." [19] To the extent that we

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from the above discussion that these "parties" are not similarly situated since the older systems operate under franchises freely entered into before our assertion of jurisdiction in this area. In any case, this "factual difference" is obviously related to the purposes for which the fee limitation was adopted since one of those purposes—our desire to redirect the focus of local franchising decisions away from "revenue raising" and toward a "best service" approach—is not applicable to systems operating under pre-existing franchises.

[13] *Compare Leacom, Inc.* (Buena Vista, Colorado), FCC 73–292, 40 FCC 2d 129 (1973) with *Vilas Cable, Inc.* (Eagle River, Wisconsin), FCC 73–379, 40 FCC 2d 637 (1973).

[14] Paras. 75–76, *Clarification, supra* at 196–97. A substantial amendment would be one that effects a change in the termination date, franchise fees, or service obligations imposed on the cable operator. Not included are amendments dealing with changes in subscriber rates, indemnity or bonding requirements, specific construction or safety alterations, reporting and enforcement procedures and the like. *Id.*

[15] *Air Capital Cablevision, Inc.* (Wichita, Kansas), FCC 75–792, 54 FCC 2d 173 (1975), *aff'd sub nom. KAKE–TV and Radio, Inc. v. United States*, 537 F 2d 1121 (10th Cir. 1976), *cert. denied*, 429, U.S. 1072 (1977).

[16] For example, we are reassessing our rules limiting the importation of distant signals and requiring the deletion of syndicated programming in certain circumstances. *Notice of Inquiry in Docket 21284*, FCC 77–407, 65 FCC 2d 9 (1977) and *Notice of Inquiry in Docket 20988*, FCC 76–1025, 61 FCC 2d 746 (1976).

[17] 47 U.S.L.W. 4335 (1979), *aff'g* 571 F. 2d 1025 (8th Cir. 1978).

[18] Para. 185, *Cable Television Report and Order*, supra, at 209. A similar approach was taken in the *Clarification, supra* at 201: The use of the franchise fee mechanism as a revenue raising device frustrates our efforts at developing a nationwide broadband communications grid. (Para. 92)

[19] Para. 185, *Cable Television Report and Order, supra* at 209. *See also* para. 114, *Clarification, supra* at 208:

Our purpose, in part, in imposing a franchise fee or payment-in-kind limitation was to prevent the siphoning of the limited available capital for cable development for other uses, thereby threatening the success of our overall national goals.

[20] *See, e.g., Second Report and Order in Dockets 14895, 15233, and 15971*, FCC 66–220, 2 FCC 2d 725, 781 (1966).

[21] On the other hand, an affect of the fee limitation may be to limit the ability of local authorities to experiment with different methods of awarding franchises. For example, Professor Posner has suggested that three-year franchises could be granted to the applicant offering the largest initial lump sum payment to the local government, with provision for sale of the facilities at the end of the franchise term to a new operator at their depreciated original cost. This method would in theory prevent the operator from receiving any momopoly rents while obviating the necessity for continuing subscriber rate regulation that might otherwise be necessary under a typical long term franchising scheme. Posner, "Cable Television: The Problem of Local Monopoly," RAND Memorandum RM–6309–FF, May 1970. Professor Williamson, on the other hand, argues fairly persuasively, that the difficulties that would arise in the administration of such a system outweigh the apparent advantages. Williamson, *Franchise Bidding for Natural Monopolies—In General and With Respect to CATV*, of Bell Journal of Economics 73 (1976), Posner's work draws upon the concept of bidding for natural monopolies developed in Demsetz, *Why Regulate Utilities?*, 11 J. Law and Econ. 55 (1968). Beyond the specifics of Professor Posner's proposal, however, the question upon which we solicit comment, does our franchise fee ceiling inhibit franchise authorities from deriving the maximum possible value for their constituents from competing applicants of cable franchises?

[22] The result may also be that some systems which would have been built (or expanded) will not be in the presence of fees—even at the level which we currently permit.

are not able to impose the obligations to provide these arguably less than fully compensatory or noncompensatory services, it could be argued that there is little need to assure that revenues are not drained away by high local fees. Accordingly, we propose to consider, and we request comment on, the question of whether an elimination of the Commission's regulatory responsibilities or requirements in the areas of access and channel capacity should carry with it the elimination of the franchise fee limitation. We also seek comment, in light of this recent decision in *Midwest Video*, on the limits of our jurisdiction in this area.

31. We have long believed that cable television can make a significant contribution to the provision of diversified television service to a substantial number of citizens.[20] Additionally, to the extent that high franchise fees inhibit the expansion of cable plant and services, we are aware that there is a welfare loss to present consumers as well as to those persons who, except for the higher prices or the unavailability of cable service, would otherwise have been inclined to subscribe. However, there may be an imperfect connection between the federal goal of assuring consumers the maximum ability to receive the benefits of cable service and the maintenance of this goal by limiting the power of local governments to levy "excessive" franchise fees.

32. Some commenters have pointed out that franchise fees may well be nothing more than a means by which a locality may recapture excessive profits that would otherwise accrue to the franchisee. Most localities currently capture some of the profits of cable operators by assessing fees on systems' gross receipts. These fees are administratively simple but they tned to raise the price of cable service, thereby excluding some potential subscribers.[21] Franchise authorities are therefore faced with a trade-off in choosing the appropriate level of such a tax, i.e., the higher the rate, the greater is the proportion of the cable operator's revenues and profits which the community can capture, but the number of potential subscribers excluded from service by the resulting higher price is also greater.[22] The appropriate rate depends principally upon the level of profits earned by the cable operator, the effectiveness of rate regulation,23 the marginal costs attributable to additional subscribers to the cable system,[24] and the elasticity of demand for cable services. It appears likely that these factors will vary with location.[25] Hence, a federal fee limitation will, at best, be too low in some areas and too high in others.

33. Although this is only a brief outline of some of the economic implications of the fee limitation, it does indicate that our previous statement that "the ultimate effect of any revenue-raising fee is to levy an indirect and regressive tax on cable subscribers," may have been overly simplified.[26] As a result, we are now interested in receiving comments which would aid us in understanding the process by which localities decide upon their respective level of fees.

34. The preceding discussion should make clear that although we are satisfied that our previous decision to expand the base upon which franchise fees are calculated to include revenues derived from paycable and other auxiliary services is justified, there remain serious questions about both the desirability of a federal limitation on franchise fees as well as our jusrisdiction to impose such a limitation. In summary, we seek comments which will assist us (a) in gauging the limits of our jurisdiction; (b) in assessing whether further federal intervention in the franchise fee area can be expected to redound to the benefit of consumers; and (c) assuming further federal involvement is warranted, in configuring a regulatory approach which as efficiently and as unobtrusively as possible accomplishes its purposes.[27] In light of these questions, we believe it appropriate to maintain for the time being the rule as amended in our previous *Report and Order* in this proceeding, while requesting that interested parties file further comment on the matters discussed herein. Pursuant to applicable procedures set out in §§ 1.4, 1.415, and 1.419 of the Commission's rules, interested parties may file comments on or before June 18, 1979, and reply comments on or before July 9, 1979.

35. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 5 copies of all comments, replies, or other documents filed in this proceeding shall be furnished to the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in the rule making proceeding

[23] Where regulation constrains subscriber rates below the level which is preferred by the cable operator, it would appear that franchise fees would be a redundant method of limiting supranormal profits since rate regulation is presumably employed for that purpose.

[24] Where the costs arrributable to serving additional subscribers are low (and where rate regulation is either absent or ineffective), the imposition of a high gross receipts tax may cause only a small increase in the cable operator's preferred subscriber rate. In this case, it is possible for local franchisers to siphon off the supranormal profits of cable operators, while causing only a small loss to consumers from higher prices.

[25] In those localities, for instance, with limited over-the-air reception of television signals and with few other entertainment options, the demand for cable would presumably be less elastic than in areas where there are more and/or better substitutes for cable.

[26] Para. 185, *Cable Television Report and Order, supra* at 209.

[27] In addition, if a federal limitation on franchise fees is found to be undesirable, there may be questions concerning the desirability of pre-empting rate regulation of pay-cable. For instance, if we were to permit supranormal profits from pay-cable to be extracted by local franchising authorities through the imposition of franchise fees, it may be argued that it would be inconsistent to disallow the prevention of supranormal profits through rate regulation of these services. This suggests a further set of questions: Is there in fact an inconsistency in removing limits on franchise fees associated with pay cable while continuing to prohibit rate regulation of pay cable? If so, need that inconsistency be resolved? And, finally, how should it be resolved, taking appropriate account of the considerations which led us to pre-empt state and local regulation of the rates, terms, and conditions of video auxiliary services and to expand the base upon which franchise fees could be assessed?

[28] See attached Statement of Commissioner Fogarty.

[27] In addition, if a federal limitation on franchise fees is found to be undesirable, there may be questions concerning the desirability of pre-empting rate regulation of pay-cable. For instance, if we were to permit supranormal profits from pay-cable to be extracted by local franchising authorities through the imposition of franchise fees, it may be argued that it would be inconsistent to disallow the prevention of supranormal profits through rate regulation of these services. This suggests a further set of questions: Is there in fact an inconsistency in removing limits on franchise fees associated with pay cable while continuing to prohibit rate regulation of pay cable? If so, need that inconsistency be resolved? And, finally, how should it be resolved, taking appropriate account of the considerations which led us to pre-empt state and local regulation of the rates, terms, and conditions of video auxiliary services and to expand the base upon which franchise fees could be assessed?

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may do so by submitting one copy of the comments, without regard to form, provided only that the Docket Number is specified in the heading. Responses will be available for public inspection during regular business hours in the Commission's Dockets Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, NW.). In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order*.

36. Authority for the rule making proposed herein is contained in Sections 2, 3, 4 (i) and (j), 301, 307, 308, and 309 of the Communications Act of 1934, as amended.

Accordingly, it is Ordered, That the petitions for reconsideration of the *Report and Order in Docket 21002*, FCC 77–530, 66 FCC 2d 380 (1977) are granted to the extent indicated herein, and otherwise are denied.

It is further ordered, That this proceeding is retained open for the further consideration of the issues discussed in paragraphs 29–33 above.

Federal Communications Commission.[28]

William J. Tricarico,
Secretary.

Statement of Commissioner Joseph R. Fogarty

Concurring in Part

In Re: Petitions for reconsideration of Report and Order in Docket No. 21002, Cable Television Franchise Standards.

I dissented to the Commission's retention of the franchise fee limitations of § 76.31(b) of the rules because the Commission has never justified that limitation as a valid and proper exercise of its limited regulatory authority over cable television.[1] I therefore concur in the Commission's decision to re-examine the policy and jurisdictional questions involved in the issue of whether the franchise fee limitation should be retained or deleted.

While not directly on point of the franchise limitation jurisdictional question, the recent decision of the Supreme Court in *FCC* v. *Midwest Video Corp.*[2] does stand squarely for the principle that the Commission's "reasonably ancillary to broadcasting" authority over cable is not the equivalent of plenary jurisdiction. As detailed in my prior dissent, when the verbiage is stripped from the rationale for the franchise fee limitation, the Commission's jurisdictional statement appears to be nothing more than this: Because the Commission has a policy of "fostering" broadcasting, it has the authority to pursue a like objective of fostering cable service. This bare rationale is tantamount to the assertion of plenary "public interest" jurisdiction over cable, an assertion of jurisdiction which is now contradicted by emphatic judicial precedent.

[Docket No. 21002; RM–2695; RM–2723; FCC 79–228]
[FR Doc. 79–13353 Filed 4–27–79; 8:45 am]
BILLING CODE 6712–01–M

[28] See attached Statement of Commissioner Fogarty.

[1] *Report and Order in Docket No. 21002*, 66 FCC 2d 380; Statement of Commissioner Joseph R. Fogarty, Concurring in Part, Dissenting in Part, *id.* at 413.

[2] 47 U.S.L.W. 4335 (decided April 2, 1979), *aff'g.* 571 F.2d 1025 (8th Cir. 1978).

[47 CFR Part 73]

Television Broadcast Station in Ogden, Utah; Denying Petition for Rulemaking and Terminating Proceeding

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein denies petition for rule making filed by Golden Spike Television Corporation. Petitioner seeks amendment of § 73.606(b) of the Commission's Rules by removal of the educational reservation now attached to Channel *9 at Ogden, Utah.

EFFECTIVE DATE: Non-Applicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stanley P. Wiggins, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Ogden, Utah); Report and order (Proceeding Terminated) (See also 43 FR 1970, 1–13–79).

Adopted: April 18, 1979.

Released: April 27, 1979.

By the Chief, Broadcast Bureau:

1. Before the Commission is a petition for rule making filed by Ashley L. Robison, d/b/a Golden Spike Television Corporation ("Golden Spike"), which seeks amendment of § 73.606(b) of the Commission's Rules by the removal of the educational reservation now attached to Channel *9 at Ogden, Utah.[1] Golden Spike contemplates activating a commercial service licensed to Ogden on this channel if the Television Table of Assignments is amended as requested, and proposes as part of that operation that two hours per day be made available for educational programming. Golden Spike contended that the failure of both Ogden noncommercial stations indicates that educational broadcasting in Ogden is not likely to be feasible. Moreover, pointing to the fact that the only operating stations in Salt Lake City or elsewhere in Utah are VHF and the fact that commercial operation of a non-network (especially UHF) station is generally financially unsuccessful when it faces strong competition from VHF network affiliated stations, petitioner asserts that a commercial television operation on either available UHF channel at Ogden is not a commercially viable undertaking. The Commission issued a *Notice of Proposed Rule Making*, 42 FR 41302 (1977), soliciting comments from petitioner and others on several questions requiring further exploration prior to a determination of the merits of the Golden Spike proposal.[2]

2. Parties filing comments included the petitioner; KUTV, Inc., licensee of KUTV–TV, and Bonneville International Corporation, licensee of KSL–TV, both in Salt Lake City; Springfield Television Corporation, which operates UHF Channel 20 in Salt Lake City [3] the Public Broadcasting Service; the National Translator Association; and Arthur B. Ralph.[4] For a variety of reasons, all parties filing formal comments (except petitioner) were opposed to dereservation of Channel *9. After detailed consideration of the pleadings, we have concluded that the reservation of Channel *9 for noncommercial educational purposes should be continued.

Background

3. Channel *9 was first reserved for educational use after such operation had commenced in 1962 under the auspices of the Ogden Board of Education. Subsequently, in 1970, a proposal was made to convert the station into a joint educational and commercial facility which would provide stipulated educational operations from eight a.m. to three p.m. The Commission refused to dereserve Channel *9 in light of its conclusions that such action could have an adverse impact on increased educational television use and perhaps even on the continuation of the then-current ETV use as well as on UHF development in Utah, and that it would cause substantial disruption of existing translator services. Additionally, the Commission wished to preserve the possibility that increased ETV use might develop on Channel *9. *TV Table of Assignments, Ogden, Utah*, 26 F.C.C. 2d 142 (1970), *recon. den.*, 28 F.C.C. 2d 705 (1971). Finally, upon denying reconsideration, the Commission stated that the intervening decision of the Ogden Board of Education to let the facility go dark in the absence of commercial support from a joint operation did not affect its ultimate conclusion that such channels "not only should be kept available for an educational applicant but kept free from reverting * * * to commercial operation, even though the original licensee may not use the facility * * *." *Supra*, 28 F.C.C. 2d at 707.

4. The comments in the present proceeding reflect many of the same concerns addressed in 1971. Of direct import is the recent development of the proposed community of license as indicative of its ability to support a facility, either commercial or noncommercial. Ogden has remained essentially stable in population while surrounding Weber County has grown by 22% since 1960. Residential and industrial expansion as well as substantially increased payrolls and sales receipts over the 1967–1974 period indicate the likelihood of continued economic growth in this region. Petitioner asserts this economic growth will support commercial UHF development notwithstanding grant and implementation of his proposal, but his detractors suggest the prosperity of the region argues against any need for special VHF as opposed to UHF authorization in order to compete with established stations.

5. Three network-affiliated VHF stations in Salt Lake City currently serve Ogden with Grade A signals. A fourth, non-affiliated commercial service has recently become operational on UHF Channel 20. There remain six VHF channels available for application in Utah (including Ogden's Channel *9) and fourteen available UHF channels. The primary service is restrict to the Salt Lake City-Ogden area with less densly populated rural areas served by translators and cable television. Golden Spike would seek to serve the same Salt Lake City-Ogden area; thus while covering Ogden with a principal city signal, its transmitter would be located on the Salt Lake City antenna farm a few miles from that city but some 40 miles from Ogden.

Comments

6. *Preclusion of a noncommercial Ogden station.* Golden Spike states that termination of prior limited operations on Channel *9 and other cutbacks in educational television, combined with the existing coverage of Ogden by two noncommercial stations, indicate that resumption of educational service on channel *9 is highly unlikely. Petitioner also notes that UHF Channel 18 in Ogden remains reserved and unoccupied after termination of its operations under license to Weber County School District in January 1975, and concludes it is "not conceivable that commercial operation on Channel 9 would impact in any way" on possible future operations on Channel 18 unless the two hours daily of educational programming proposed by Golden Spike fulfills the local educational needs of Ogden.

7. The Public Broadcasting System ("PBS") asserts in its comments that the reservation of a frequency for educational noncommercial purposes is expressly intended to provide the time necessary for fund-raising and assurance of unique programming, citing the *Sixth Report and order on Television Allocations*, 41 F.C.C. 148, 159–164 (1952). PBS further states that the considerations which determined the Commission's 1970 denial of dereservation are still operant, stressing that the shared-time proposal put forth by Spike would subordinate ETV programming in Ogden to the commercial commitments on TV 9. PBS also contends that noncommercial service to the northern part of the State, diminshed since KUSU–TV in Ogden was reduced to translator status, [5] will not be recouped by the Golden Spike proposal for Channel 9 operation, because the higher power proposed by petitioner would be undercut by the relocation of the transmitter to the south. PBS further stats the failure of prior noncommercial stations is not actually predictive of the future potential for such operations because (i) stations in Ogden and Logan both ceased their operations before public (as opposed to instructional) TV programming began to attract attention and audience; (ii) the two noncommercial stations neither offered such non-instructional programming nor sought membership contributions for support; and (iii) options in terms of funding assistance and available noncommercial programming are much broader now than when the predecessor stations failed. These opportunities will expand further, PBS asserts, when it begins distributing programming via satellite, thus encouraging "the development of multiple public television stations serving the same area, each with its own distinctive program service." In this regard, PBS notes that neither of the two noncommercial stations providing reception service to Ogden is licensed to that community, and in fact both are licensed to universities. Thus, PBS asserts that the existing reservation makes possible a first community-based station which would provide uniquely local services above and beyond instructional programming. Finally, PBS contends that the asserted necessity of using a VHF channel to provide an independent commercial television service militates strongly against adding a UHF handicap to the evential public station's difficulties.

8. KUTV, Inc., notes in comments that the present proposal involves a transmitter site more remote and a shared-time commitment less generous than the 1970 petition for dereservation which the Commission denied. Moreover, KUTV argues that the substantial economic growth expected in the Weber County area and the state generally presents the prospect that a local, noncommercial television facility might become economically feasible "in the foreseeable future" and supports PBS' contention that much current growth in noncommercial broadcasting involves applicants who are not formal educational institutions, More specifically, KUTV asserts that letters from state educational officials which were originally submitted with the petition for rule making (dating from August 6, 1975, to January 30, 1976) address only the short-term prospects for institutional noncommercial broadcasting, and do not consider the need for such facilities under noninstructional auspices or the Commission's broad longer-run perspective. More recent letters, appended to KUTV's comments, are

[1] Dereservation of a television channel in the manner proposed here has never before been granted by the Commission, and indeed, was specifically refused in 1970 when another party requested dereservation of Ogden's Channel *9 assignment.

[2] Although certain of these questions are of potential importance to such a request, and relevant comments are summarized *infra*, we have not found it necessary to consider all questions raised by the *Notice* on their merits.

[3] Channel 20 commenced operation in October of 198.

[4] Several State educational officials have responded by letter and otherwise to requests for information from parties to this proceeding, and those comments have been given full consideration.

[5] The Commission approved this change in status August 5, 1970. *TV Table of Assignments (Ogden, Utah)*, 26 F.C.C. 2d 142, 145 (1970).

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said to indicate sincere if belated concern over the effects of permanent dereservation.

9. In reply comments, Golden Spike asserts that the state-sponsored ETV is marginally financed with no present plans for activation of a third station. Petitioner states the ETV facility has been forced to meet current maintenance expenses from its operating budget, because the establishment of a state-wide color ETV system has lowered Utah's priority level as an applicant for outside grants from the Corporation for Public Broadcasting.[6] This, Golden Spike contends, undercuts the somewhat uncertain support for continued reservation of Channel *9 on the part of state officials.

10. PBS states in its reply comments that more recent letters from educators indicate possible support for a community-based station which might develop as Ogden and the surrounding area prosper, and that by contrast the present Golden Spike proposal offers no prospect for better ETV coverage of the Ogden area. Specifically, with regard to the shared-time arrangement, PBS contends it cannot be permanently binding (or even temporarily enforceable if another applicant should prevail over Golden Spike and hence it is an inappropriate consideration at the rule making stage. PBS further complains that the agreement fails to commit the petitioner to financial support of ETV program production, and to specify the hours during the broadcast day during which such programming will be broadcast. Finally, PBS asserts that over half of the nation's public television stations operate in the UHF band,[7] and predicts that to the extent the needs of commercial UHF broadcasters are ignored by dereserving a VHF channel, public television will also suffer from the diminution in the overall viability of UHF which can be expected to result.

11. KUTV, Inc., also criticizes Golden Spike's shared-time proposal as an uncertain and ambiguous undertaking which cannot be enforced, and which is silent on the question whether the two hours daily of ETV programming will be broadcast or the six hours weekly of production time utilized. KUTV's reply comments characterize Spike's proposal as "miserly" when compared to the joint arrangement rejected in 1970 and suggests that if the Commission should decide to approve some shared use of the channel, that commercial broadcasting be limited to half the broadcast day and the eventual availability of the channel for fulltime ETV use be guaranteed. Finally, KUTV notes that neither the Board of Higher Education nor the Board of Regents has ever expressed an official opinion favoring dereservation, and supports PBS' point that a shared-time arrangement at this juncture does not take into account the possibility of another applicant's initial success in seeking the channel if dereserved.

12. *Effect of Dereservation on UHF Development in Ogden and Salt Lake City.* Petitioner states that the improved situation facing UHF entrepreneurs is evidenced by the substantial number of UHF applications pending at the Commission and the 87% UHF penetration of the Salt Lake City ADI.[8] Noting that other mixed UHF/VHF markets with five or more stations have reported overall profitability, Spike asserts the "vast amount of excellent, independent television programming now available," combined with the local advertising separability of Ogden and Salt Lake City to assure that "the Channel 9 operation should have no significant impact on UHF development in Salt Lake City even though both are part of the same Arbitron market." As to prospects for UHF development in Ogden itself, that issue is regarded by Golden Spike as totally "speculative" and should only be considered after Ogden's "compelling need" for a first local television service is met. For its part, KUTV characterizes the issue as whether the Commission should rely on the economic growth cited by petitioner to develop conditions favorable for UHF services or to give up entirely on that prospect, and states that a study of Commission financial data for the last five years clearly indicates the trend toward increasing profitability of independent UHF stations.

13. Springfield Television, the licensee of UHF Channel 20 in Salt Lake City, asserts that it has demonstrated its own commitment to UHF development by its representation that it would construct a UHF facility in Salt Lake City.[9] Springfield concedes it would feel compelled to reassess its commitment in the event a new VHF channel encompassing its prospective community of license were allocated, but states that its own willingness to enter the UHF field in Utah demonstrates that dereservation is unnecessary to provide additional commercial service. Springfield notes that its 294 kW facility will provide a signal to Salt Lake City and Ogden comparable to any existing VHF station, and that the same opportunity is open to Golden Spike to serve Ogden with a quality UHF signal. Springfield concludes that grant of the requested dereservation would sustain those who have continued to doubt the viability of UHF television and the Commission's commitment to it, and asserts that the presence of an independent VHF channel in Salt Lake City would undermine UHF revenues and the ability to program effectively and competitively.

14. KUTV, in its reply comments, generally endorses Springfield's view as a realistic assessment of probable effect of the proposed action on UHF development in Salt Lake City. KUTV rejects petitioner's assertion as to viability of separate Ogden and Salt Lake City television markets as unfounded, and notes that "Golden Spike has obviously not relied on local Ogden advertising revenues in its choice of a Salt Lake City transmitter site." KUTV also asserts that Spike's examples of profitable intermixed five-station markets are inapposite because of differences in the nature and extent of intermixture and total television revenues. In sum, KUTV queries whether Spike would describe UHF economic incentives in such glowing terms if Springfield were the licensee of a dereserved Channel 9. Finally, PBS in its reply comments points out the obvious advantages to the area of two additional UHF independent and a VHF noncommercial station, as against the alternative of a single VHF independent which would constitute a disincentive to any further UHF development.

15. *Effect of proposal on translator operations and switchover costs.* Initially, KUTV voices its concern that any impact on existing translator services will have a disproportionate effect on it because of the number of its translator operations, and asserts this prospect must be evaluated by the Commission as analogous to its consideration of the economic impact of VHF channel drop-ins. KUTV notes that an earlier proceeding established the unusually heavy utilization of

[6] KUED–TV serves some 98% of Utah via translators, though KBYU–TV has none. The broad color coverage obtained by KUED–TV results in a low PBS priority for further equipment grants as against other stations which apply for such assistance.

[7] As of June 30, 1978, the Commission's records indicated that of 260 educational television licensees operating, 158 were on UHF frequencies and 102 on VHF.

[8] The Area of Dominant Influence (ADI) is a standard television market definition developed by the American Research Bureau (ARB). Each ADI comprises all counties in which the home market stations receive a preponderance of viewing. Every county in the continental United States is assigned exclusively to one ADI.

[9] As noted before, Channel 20 commenced operation on October 24, 1978.

translators in Utah, and attaches engineering estimates that 62 translators would be subjected to direct interference if Golden Spike initiates transmissions as proposed, and that another two dozen or so would suffer indirect or secondary interference.

16. Concerning the general question of the proposal's impact on translator services, petitioner asserts that any such effect would not be due to the commercial nature of the proposed facility but to the activation of an existing assignment. In any event, Golden Spike observes that the primary station has priority over translator services under the rules, § 73.702(c)(3), and hence such an operation takes precedence over translators forced to change channel by the authorization of a new primary facility.[10] Golden Spike also contends there are only 16 existing or proposed translators which would be obligated to modify their facilities if faced with the proposed transmitting facility on Channel 9 and another seven translators which "may" wish to change channels.

17. In reply comments, KUTV reiterates that some 62 translators will be affected by the proposed transmitter, and asserts that while Golden Spike's lower estimate is based on predicted service contours, its own calculations are founded on specific calculations of signal strength and interference ratios, which more accurately reflect the potential for interference beyond a station's service area. Estimating conversion costs based on its analysis, KUTV asserts the somewhat greater cost of UHF translators would come to some $14,000 per translator without regard to any building which might be required. Assuming three-fourths of the displaced (62) translators shifted to UHF and one-fourth were able to find an available VHF channel, KUTV concludes the overall conversion cost would be some $670,000. KUTV notes these costs would necessarily be borne by local governments and non-profit associations.

18. *Proposal designed to serve Ogden or Salt Lake City.* Petitioner proposes to meet all Commission requirements for an Ogden-licensed station, including the maintenance of a local Ogden studio. Petitioner has pointed to existing antenna orientation patterns and its projected coverage of Ogden with a city-grade signal as indicating both its technical compliance with our rules and a desirable maximization of spectrum use, and also asserts that a recent Commission decision authorizing the relocation of an Ogden FM station's transmitter to Farnsworth Peak resolves many of the issues raised by its own proposal for a similar transmitter location.[11] Petitioner concludes in its reply comments that an Ogden station not delivering a Salt Lake City audience as well "is economic suicide, an endeavor in which Golden Spike is not interested."

19. *Effect of Docket 20418 (VHF Drop-In).* Finally, KUTV in its comments states that the *Notice* in this proceeding recognized the pendency of the VHF drop-in proceeding proposing Channel 13 for Salt Lake City. As KUTV notes, the four markets selected in Docket 20418 for detailed drop-in evaluation were determined by standards which would have eliminated Salt Lake City from consideration had Channel *9 already been available for commercial use. KUTV contends the Golden Spike proposal is therefore inconsistent with the proceedings in Docket 20418 and should be denied on that basis, or at least consolidated so that conflicting proposals might be considered in the same proceeding (as requested by Ralph).

Discussion

20. *Preclusion of Noncommercial Television Service to Ogden.* The absence of noncommercial television service in Ogden, despite the availability of the reserved VHF channel there, has been due to financial problems faced by the traditional institutional licensees of such operations and the apparent lack of community-financed alternative licensees. However, the past operaton of stations in the Ogden area by the city school board and the Weber County school system indicate potential interest where funds are available, and KUED-TV cannot indefinitely provide sufficient broadcast time to handle the diversity of programming which a noncommercial broadcasting operation could provide. Thus, our inquiry on this issue must consider the prospects for resumption of institutional service or for new groups stepping forward to activate the reserved channel. In our view, the prospects for resumption are sufficient to warrant denial of the instant request.

21. In evaluating past noncommercial operation of Channel *9 and the likelihood of resumption of broadcasting on that channel, the sequence of recent developments in public (as opposed to "instructional") broadcasting must be kept in mind. It was not until 1970—when the Commission considered the previous dereservation request—that the Public Broadcasting Service was formed by the Corporation for Public Broadcasting to manage a national interconnection service and distribute programs to noncommercial stations throughout the country. In 1975, the Financing Act of Public Broadcasting was enacted, including the first multiple-year appropriation to CPB. In June 1977, the second Carnegie Commission was formed to conduct a comprehensive study of public broadcasting and propose its future development. Over the same period the degree of non-institutional support for noncommercial television has increased substantially. Public broadcasting income increased by 20.7 percent between FY 1973 and FY 1976 when adjusted for inflation. Over the same period, although federal assistance to noncommercial broadcasting increased 60.1 percent, the non-federal non-tax based income (or local funding) category increased 34.9 percent—over one and half times faster than the growth of total income from all sources. During the same period, non-federal tax-based income sources declined by 2.8 percent, so that the present relative disinterest of Utah eductional officials in resuming operations on Channel 9 apparently reflects a broad national diminution in local tax funds available for such operations. Within the growing non-tax based revenue sector, however, subscribers and business donations led all other categories with 10.6 and 7.8 percent of total public television revenues in FY 1976.[12] Thus, while "community organization" licensees represented approximately the same portion of the overall PTV totals in March 1977 as in FY 1974 (27.4% as against 27.2%), their absolute numbers had increased from 65 stations to 74 over that period, and the rapid growth of non-tax based income suggests continued and increased support for such stations is likely.

[10] In support of the latter contention, Golden Spike refers to the rules, Section 74.703(b), and *Whitesburg Television Translator Inc.*, 7 R.R. 2d 323, 326 (1966).

[11] The concern regarding which community Golden Spike intends to serve was raised by the *Notice* because the proposed transmitter is much closer to the community of Salt Lake City, and various commenting parties have expressed concern that after operating authority is granted under such circumstances a series of license modifications such as dual-city identification and/or licensing, waiver of the requirement that a studio be located in the community of license, and the like will follow and lead to neglect of Ogden in order to serve Salt Lake City and the major national advertisers who allocated their budgets on a market-by-market basis.

[12] The FY 1976 figures are preliminary. The funding information is from Lee, Winston and Pedone, "Status Report of Public Broadcasting 1977," a joint report of the Department of Health, Education and Welfare and the Corporation for Public Broadcasting. See also Lee, Dunn, and Pedone, "Public Television Licensees: Fiscal Year 1974," also a joint report of the two institutions.

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22. At a minimum, this recent history hardly suggests that the uncertain statements of a few Utah educational officials, entirely without support in the form of official action by their respective state bodies, are adequate grounds on which to assume there is no realistic prospect that Channel *9 will be activated to provide either instructional broadcasting or the more broadly educational programming referred to in our 1970 *Order*. This is particularly the case in light of the substantial economic growth expected to continue in the Ogden/Weber County area, which may provide both institutional and broader-based community support for an additional noncommercial television station.

23. Eight years ago, in an economic climate much less encouraging to both UHF broadcasting and to noncommercial television generally, the Commission denied a proposal for dereservation of Channel *9 which comprised a substantially greater commitment to instructional programming than is here proposed by Golden Spike. In that decision, we reiterated at some length the broad range of noncommercial programming originally envisioned for reserved channels and the preclusive effect of even limited commercial operation on a reserved channel. Since that time the Commission's commitment to noncommercial broadcasting has remained intact, and there is a heavy burden of persuasion on petitioners who seek to remove such frequencies from the reserved list, one which Golden Spike has not met. Entirely apart from favorable trends affecting both UHF television and public broadcasting, we are faced here with a less attractive dereservation proposal involving a greater subordination of the channel's original purpose, as well as a substantial diminution in direct service potential to northern portions of the state. In addition to its program and coverage attributes, Golden Spike's proposal would permanently preclude Channel *9's noncommercial use. The differences between the commercial and noncommercial services suggest that noncommercial reactivation of a channel is significantly more likely if the VHF channel remains reserved, and we are given no substantial basis for concluding that UHF frequencies are inadequate for petitioner's own commercial purposes—either to serve Ogden and the SMSA in which it is located or to attract national advertisers by the delivery of a Salt Lake City audience. In point of fact, since Ogden and Salt Lake City are in the same market, the pioneer UHF broadcaster which recently commenced operation in Salt Lake City provides the best evidence on this point.

24. Because of the factors outlined above, we believe dereservation of Channel *9 is not in the public interest. The availability of UHF channels for commercial operations in the area, and clear evidence of entrepreneurial willingness to utilize that avenue, combine with the absence of any special circumstances favoring dereservation to compel such a conclusion. Thus, while we have recited in summary form other arguments raised against dereservation—its potential effect on the existing translator stations, and whether Golden Spike's proposed operation could realistically be expected to serve as an Ogden station—we need not resolve these issues on their merits. We have included these arguments in the interest of a full record but the strength of broader, more fundamental considerations is the basis for our decision. We imply nothing as to the possible weight these other arguments might have had in a different factual setting.

25. Accordingly, for the reason stated above, the petition filed by Golden Spike Television Corporation seeking dereservation of Channel *9 in Ogden, Utah, is denied.

26. For further information on this matter, contact Stanley P. Wiggins, Broadcast Bureau, (202) 632-7792.

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

[Docket No. 21358; RM-2661]

[FR Doc. 79-13363 Filed 4-27-79; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1201]

Rebuilding Rule for Railroad Property Units[1]

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Interstate Commerce Commission proposes to revise its accounting regulations for identifying railroad rebuilding expenditures. (Commonly referred to as the Rebuilding Rule, Instruction 2-11(b) of 49 CFR, Part 1201, Subpart A). The objective in revising the Rebuilding Rule is to provide more realistic guidelines for distinguishing railroad rebuilding expenditures from normal maintenance and repairs.

DATES: Comments are due on or before June 12, 1979.

ADDRESSES: Send comments to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., Phone: (202) 275-7448.

SUPPLEMENTARY INFORMATION: The present Rebuilding Rule was adopted to present quantitative criteria for use in distinguishing rebuilding expenditures for road and equipment property from ordinary repair and maintenance expenditures. Under this rule, a unit of road or equipment property is accounted for as rebuilt if the project costs exceed more than 50 percent of the current price of a comparable new unit of property.

We propose to revise the Rebuilding Rule to adopt the criteria required under generally accepted accounting principles (GAAP). GAAP differentiates between a repair and capital expenditure by analyzing the benefits of the expenditure. Restoration expenditures should be capitalized if they appreciably extend the service life of the asset or expand its utility; otherwise, the expenditures are considered as merely maintaining or restoring the asset to normal operating condition and should be expensed.

The public is invited to comment on this proposed change. We specifically solicit comments and suggestions on the following items:

(1) The requirement that delayed capital improvements not be considered in determining materiality.

(2) The use of general guidelines instead of specific percentage materiality guidelines for capitalizing rebuilding expenditures which increase productivity or capacity.

(3) Accounting safeguards to insure that only rebuilding expenditures are capitalized.

We recommend that AAR review guidelines for determining value and age of rebuilt, rehabilitated and secondhand cars, provided in Circular OT-37-B for conflicts with the proposed revised Rebuilding Rule and revise the circular, if necessary, subject to Commission review. We solicit public comments on whether Circular OT-37-B should be revised.

This proposed rule will not significantly affect the quality of the human environment.

We propose to amend Part 1201, Subpart A, of the Code of Federal Regulations as follows:

The text of instruction 2-11 "Units of Property rebuilt or converted" is revised as follows:

2-11 *Units of Property rebuilt or converted.*

(a) *Rebuilding expenditures.* Carriers shall be governed by the following provisions when determining and accounting for depreciable road and equipment property rebuilding expenditures:

(1) Rebuilding expenditures are those costs actually incurred which substantially extend the service life or substantially increase the utility of depreciable road and equipment property. The rebuilding expenditures shall be material in nature relative to the current replacement cost of a similar new unit of road or equipment property. Expenses resulting from delayed maintenance and repairs shall not be considered in determining materiality.

(2) The phrase "extend the service life" means to extend the life of a property unit past its estimated service life.

(3) The term "increased utility" means that the road or equipment property has become more useful, more efficient, more durable, or has greater capacity.

(4) Rebuilt or converted equipment or road property shall be accounted for as an addition to the appropriate accounts, with the old units accounted for as retired from service. The charge to the appropriate accounts shall be composed of (i) the cost (estimated if necessary) less a fair allowance for depreciation, or salvage value, whichever is lower, of the parts reused, (ii) the cost of labor expended in rebuilding or in the conversion process, (iii) the cost of additional materials applied, and (iv) any other expenses incurred directly with the rebuilding or conversion. In no case shall the total amount charged to the property accounts for these units exceed the current replacement costs of similar new units that would be used for the same purpose. When a unit of road property or equipment is transferred from one class of service to another, with or without physical conversion, the unit shall be accounted for as retired from its original account and be recorded in a primary investment account appropriate to its new class of service.

(5) If it is necessary to repair the secondhand parts remaining in a rebuilt unit, the repair cost may be added to the salvage value assigned parts in determining the related cost to be capitalized. Associated dismantling costs shall be included in operating expenses.

(b) *Repair expenses.* Expenses pertaining to equipment and road property which represent normal or delayed repairs and maintenance, shall be expensed in the year incurred.

(c) *Required accounting safeguards.*

(1) *File and Storage.* Carriers shall keep records of each rebuilding program readily available. These records shall be provided to representatives of the Commission when requested. The retention period shall be as required by 49 CFR Part 1220, Preservation of Records.

(2) *Project Summary Document.* Carriers shall also keep a summary document of each rebuilding project which should include the following items:

(i) Attestation to the capital expenditures and soundness of the various valuation methods by carrier's Chief Mechanical Officer or other responsible official;

(ii) Estimated completion date;

(iii) Estimated total project costs;

(iv) Current replacement cost of units similar to the rebuilt unit(s);

(v) Methods of valuing bulk rebuilt components and spare parts, and

(vi) Other significant special features of the project.

These rules are proposed under the authority of 49 U.S.C. § 12 and 20.

Decided April 9, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian.

H. G. Homme, Jr.,

Secretary

[No. 32153 (Sub-No. 7)]

[FR Doc. 79-13341 Filed 4-27-79; 8:45 am]

BILLING CODE 7035-01-M

[1] This proceeding also embraces part of Docket No. 33145, *Railroad Freight Car Per Diem Charges.*

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 581]

Bumper Standard; Opportunity for Comment on Bumper Test Results

AGENCY: National Highway Traffic Safety Administration.

ACTION: Opportunity for Public Comment.

SUMMARY: This notice provides an opportunity for public comment on the National Highway Traffic Safety Administration's (NHTSA) bumper effectiveness test program relating to the agency's re-evaluation of the Part 581 Bumper Standard. This action is intended to assist the agency in completion of its re-evaluation and preparation of a final report to Congress on the Bumper Standard.

DATE: Comments and questions in writing should be submitted by May 15, 1979.

ADDRESSES: Comments should be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Questions in writing should be submitted to Mr. Michael Brownlee, Director, Office of Automotive Ratings, Room 5319, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Brownlee, Director, Office of Automotive Ratings, Room 5319, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-1740.

SUPPLEMENTARY INFORMATION: The NHTSA is engaged in re-evaluation of its Part 581 Bumper Standard (see 44 FR 11569; March 1, 1979) and intends to provide a final report to appropriate Committees of Congress in about one month. Public comment on the re-evaluation was solicited by April 30th in order to permit time to analyze all data submitted and otherwise available and to complete the final report.

The agency is currently expanding its technical data on alternative bumper designs by conducting car-to-car low-speed impacts under contract with Dynamic Science, Inc. (DOT-HS-8-01942) (statement of work at Docket 73-19; Notice 25—entry 038). Some or all of the results of this testing may be available in the public docket on the April 30th comment closing date and may be relied on by the agency in preparing its final report. In view of these circumstances, this notice is issued to announce the probable availability of relevant test data in Docket 73-19, Notice 25 on or shortly after the comment closing date, and to solicit comment on these data as soon as possible. To the degree that comments are received prior to May 15, 1979, the agency will attempt to take them into consideration in preparation of the final report.

Some interested parties to the bumper re-evaluation have raised questions about the Dynamic Science testing. To assist commenters in the informed preparation of comments, the agency will respond to written questions filed from May 1st to May 15th on the test protocol and results as soon as possible after their submission. Questions should be submitted to Mr. Michael Brownlee, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

Persons wishing to obtain copies of the test reports should contact the Docket Section, National Highway Traffic Safety Administration, Room 5108, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-2768.

(Sec. 102, Pub. L. 92-513, 86 Stat. 947 (15 U.S.C. 1912); delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: April 27, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[Docket 73-19, Notice 28]

[FR Doc. 79-13551 Filed 4-27-79; 10:26 am]

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Notices

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Notices

Federal Register
Vol. 44, No. 84
Monday, April 30, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Assignment of Geographic Area for the D. L. Boltenhouse Grain Inspection, Bellevue, Ohio

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces the assignment of geographic area to the D. L. Boltenhouse Grain Inspection, Bellevue, Ohio, for the performance of official grain inspection functions. This agency was designated as an official agency on September 25, 1978, under the United States Grain Standards Act, as amended.

EFFECTIVE DATE: April 30, 1979.

FOR ADDITIONAL INFORMATION CONTACT: J. T. Abshier, Federal Grain Inspection Service, Compliance Division, 1400 Independence Avenue, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447–8262.

SUPPLEMENTARY INFORMATION: The D. L. Boltenhouse Grain Inspection, Bellevue, Ohio, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act") for the performance of official inspection functions on September 25, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this agency would operate. Geographic areas are assigned to each official agency pursuant to Sections 7(f)(2) and (3) of the Act (7 U.S.C. 79(f)(2) and (3)).

Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operating at one time within an assigned geographic area.

Section 7(f)(3) of the Act provides that except as authorized by the Administrator, no official agency shall officially inspect, under the Act, any official or other sample drawn from a lot of grain unless the lot of grain is physically located within the geographic area assigned to the agency at the time the sample is drawn.

The geographic area assigned on an interim basis to the D. L. Boltenhouse Grain Inspection on September 25, 1978, was:

Bounded on the north by: The Ottawa-Sandusky line from State Route 590 east of Lake Erie; the Lake Erie shoreline east to the Ohio-Pennsylvania State Line;

Bounded on the east by: The Ohio-Pennsylvania State Line south to State Route 154;

Bounded on the south by: State Route 154 west to Lisbon, Ohio; U.S. Route 30 west to Bucyrus, Ohio;

Bounded on the west by: State Route 19 north to Seneca County; west on the Seneca-Crawford County and Seneca-Wyandot County lines to State Route 53; State Route 53 north to Sandusky County; the southern Sandusky County line west to State Route 590; State Route 590 north to Ottawa County.

The specified service point of the D. L. Boltenhouse Grain Inspection is Central Soya, Goodrich Road, Bellevue, Ohio 44811. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspector is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's assigned geographic area.

As announced in the December 8, 1978, **Federal Register** (43 FR 57629) interested persons were given until January 8, 1979, to comment on the proposed assignment of geographic area to the D. L. Boltenhouse Grain Inspection. No comments were received regarding the notice published in the **Federal Register.**

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the geographic area assigned to this agency will remain as originally proposed.

Interested persons may obtain a map of the assigned geographic area by contacting the Compliance Division, Delegation and Designation Branch, Federal Grain Inspection Service, 1400 Independence Avenue, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447–8525.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94–582, 90 Stat. 2875 (7 U.S.C. 79a))

Done in Washington, D.C. on April 25, 1979.

L. E. Malone,
Acting Administrator.

[FR Doc. 79-13358 Filed 4-27-79; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Land Management Plan, Hector Land Use Area; Green Mountain National Forest, Seneca and Schuyler Counties, N.Y.; Intent To Prepare on Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an environmental impact statement for development of a land management plan for the Hector Land Use Area.

The land management plan will provide guidance and direction for management of the unit which is administered by the Green Mountain National Forest. Development of the plan will be responsive to the draft regulations promulgated pursuant to Section 6 of the National Forest Management Act of 1976 (P.L. 94–588). The land management plan will be in effect until it is reviewed and, if necessary revised in accordance with direction presented in the final regulations.

The process of scoping issues, concerns and management opportunities has evolved through a concerted public involvement effort. Within the past year, interested citizens, local and state government agencies, planning commissions, conservation groups, and several universities have been asked to identify issues and concerns regarding present and future management of the Hector Land Use area. This request was accomplished through media notices, public meetings and the use of informational material mailings with enclosed response form (two occasions).

Comments received from the public have indicated several management concerns which must be resolved through development of the land management plan. Management of the timber and wildlife resources should be itensified and closely coordinated. It is also agreed that the number of acres allocated to grazing should not be increased despite the apparent increased demand for red meat production. Public sentiment has expressed a desire to see the Hector Unit provide recreational opportunities which emphasize the natural environment and dispersed uses. At the same time, the recreation program should not compete with New York State Parks and private developments.

The Forest Service proposes to secure authority to purchase private lands in and adjacent to existing federal lands. Some local residents have expressed opposition to this issue; however, the majority have indicated that the Forest Service should have the authority to purchase private lands on a willing buyer-willing seller basis.

Steve Yurich, Regional Forester of the Forest Service Eastern Region is the responsible official. Sherman Radtke, Planning Staff Officer of the Green Mountain National Forest, is the team leader for the environmental impact statement.

The draft environmental impact statement is scheduled for completion by August 1979, with a 90 day review period. The final environmental impact statement is scheduled for transmittal to EPA in November 1979.

Comments on the Notice of Intent or on development of the land management plan should be sent to John P. McArdle, Forest Supervisor, Green Mountain National Forest, Rutland, Vermont 05701.

L. K. Kelley,
Acting Director, Planning, Programming, and Budgeting.

April 23, 1979.

[FR Doc. 79-13287 Filed 4-27-79; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Pepper Creek Land Drainage and Flood Prevention RC&D Measure; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Pepper Creek Land Drainage and Flood Prevention RC&D Measure, Sussex County, Delaware.

The environmental assessment of this Federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Otis D. Fincher, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The measure concerns a plan for land drainage and flood prevention on agricultural lands. The planned works of improvement include modification of about 30 miles of 43 in the Pepper Creek watershed to provide adequate agricultural drainage and flood prevention on about 3,100 acres of cropland. The project will be installed in accordance with Title 7, Chapter 41, of the Delaware Laws, under which the Pepper Creek Tax Ditch will be formed as a legal entity of State government.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Otis D. Fincher, State Conservationist, Soil Conservation Service, 204 Treadway Towers, 9 East Loockerman Street, Dover, Delaware 19901, telephone 302–678–0750.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Public Law 87–703, 16 U.S.C. 590a-f, q.)

Dated April 20, 1979.

Joseph W. Haas,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-13249 Filed 4-27-79; 8:45 am]

BILLING CODE 3410-16-M

Roberson Creek Watershed, Miss.; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Roberson Creek Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for deauthorization of Federal funding of the Roberson Creek Watershed, Benton County, Mississippi.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The project plan provided for accelerated technical assistance for application of land treatment measures, installation of eight floodwater retarding structures, eight grade stabilization/sediment control structures, and 23.54 miles of channel improvement.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency.

The basic data developed during the environmental assessment is on file and may be reviewed by interested parties by contacting Mr. Chester F. Bellard, State Conservationist, P.O. Box 610, Jackson, Mississippi 39205, 601–969–4335.

An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests at the above address.

No administrative action on the proposal will be taken until 60 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83–566, 16 U.S.C. 1001–1008.)

Dated: April 19, 1979.

J. W. Haas,
Assistant Administrator for Water Resources, Conservation Service.

[FR Doc. 79-13250 Filed 4-27-79; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Illinois Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 am and will end at 3:00 pm, on May 23, 1979, at the MWRO Conference Room, 230

time permits members of the public may

Tuesday, May 15, 1979, at 9:00 a.m. in

be submitted at any time before or after

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South Dearborn Street, Room 3280, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to make committee assignments and define program activities.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., April 25, 1979.

John I. Binkley,

Advisory Committee Management Officer

[FR Doc. 79-13335 Filed 4-27-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, May 15, 1979, at 1:30 p.m. in Room 3817, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975. On October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The Subcommittee meeting agenda has four parts:

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Review of 1979 Leipzig Fair picture book.

(4) Discussion of new topics for Subcommittee consideration.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Margaret Cornejo, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: April 21, 1979.

Lawrence J. Brady,

Acting Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-13244 Filed 4-27-79; 8:45 am]

BILLING CODE 3510-25-M

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, May 16, 1979, at 9:00 a.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the Charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) Maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee meeting agenda has five parts:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public
3. Discussion of outstanding problems affecting the licensing of computer commodities and specification of work tasks and objectives.
4. General discussion of user microprogramability.

Executive Session

5. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public; a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at anytime before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b (c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any Subcommittees thereof, was published in the **Federal Register** on September 14, 1978 (43 FR 41073).

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: April 25, 1979.

Lawrence J. Brady,

Acting Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 79-13345 Filed 4-27-79; 8:45 am]

BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, May 15, 1979, at 9:00 a.m. in Room 3817, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was initially established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The Subcommittee meeting agenda has six parts:

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Review of status of pending recommendations.

(4) Discussion of procedures for licensing by precedent.

(5) Discussion of standard format for license applications.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Margaret Cornejo, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: April 24, 1979.

Lawrence J. Brady,

Acting Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-13245 Filed 4-27-79; 8:45 am]

BILLING CODE 3510-25-M

Memory and Media Subcommittee of the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Memory and Media Subcommttee of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Wednesday, May 16, 1979, at 1:30 p.m. in Conference Room A, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Memory and Media Subcommittee of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was established on December 21, 1978, with the approval of the Assistant Secretary for Industry and Trade, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data or other

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information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Memory and Media Subcommittee was formed to study random and sequential access computer related peripheral memory devices and to provide the Committee with information to include in reports to the Department related to the Committee's charter.

The Subcommittee meeting agenda has five parts:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the Public.
3. Subcommittee reports on:
   a. Media.
   b. Memory.
   (1) Disc products,
   (2) Tape equipment products,
   (3) Core memory,
   (4) Bubble/CCD/Semiconductor memory.
   c. Government Activity.
4. Discussion of Subcommttee activity.

Executive Session

5. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the **Federal Register** on September 14, 1978 (43 FR 41071).

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202–377–2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: April 25, 1979.

Lawrence J. Brady,

Acting Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 79–13344 Filed 4–27–79; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Coastal Zone Management Advisory Committee; Notice of Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., notice is hereby given of the meeting of the Coastal Zone Management Advisory Committee (the "Committee") on Wednesday, Thursday, and Friday, May 16–18, 1979. The meeting will commence at 2:00 P.M. on May 16, 8:30 A.M. on May 17, and 7:00 A.M. on May 18. Agenda activities the afternoon of May 17 and May 18 after 8:00 A.M. are on sight facility inspections. Very limited travel space is available. The meetings will be held at the LePavillon Hotel, Poydras and Baronne Streets, New Orleans, Louisiana.

The meeting will be open to public observation and approximately 25 seats will be available. Interested persons are invited to attend and participate in the meeting, subject to the procedures which follow. From approximately 5:45 P.M. until 6:15 P.M. on May 16, persons will be permitted to make oral statements to the Committee which are relevant to topics on the agenda. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Persons wishing to make oral statements should notify the Committee Control Officer in advance of the meeting. A written version of an oral statement or a written statement may be submitted to the Committee Control Officer before or after the meeting, or may be mailed within five days to: Coastal Zone Management Advisory Committee, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (Attn: Michael E. Shapiro, Committee Control Officer, CZM Advisory Committee). All statements received in typewritten form will be distrubuted to the Committee for consideration with the minutes of the meeting. Inquiries may be directed to the Committee Staff at (202) 634–4255.

The items for Committee discussion at the meeting will include the following:

May 16

2:00 P.M.—Call to Order.
2:15 P.M.—"Probation and Reinstatement of State CZM Programs: The Texas Experiment."
3:00 P.M.—"Proposed Amendments to the CZM Act."
4:30 P.M.—Status Reports: Federal Reorganization, Special Area Management, Ocean Management, Sea Grant Program.
5:45 P.M.—Public Statements (if any).
6:15 P.M.—Adjourn.

May 17

8:30 A.M.—Interim Report, Evaluation Task Force.
9:00 A.M.—The Louisiana Coastal Zone Management and the Importance of the Coastal Energy Impact Program.
9:45 A.M.—"Proposed Wetlands Guidelines."
10:45 A.M.—"Ports and Coastal Zone Management."
11:30 A.M.—Future Committee Activities.
11:45 A.M.—Lunch.
1:00 P.M.—Depart for St. Bernard's Parish:
- Visit Violet Canal, a fresh water diversion project financed by CEIP.
- Travel by boat to visit wetlands/Corps projects/small oil rigs.
- Parish Coastal Zone Advisory Committee Meeting.

9:00 P.M.—Return to New Orleans.

May 18

7:00 A.M.—Breakfast Briefing.
8:00 A.M.—Depart Hotel by Bus.
8:30 A.M.—Depart Lakefront Airport by Helicopter.
10:15 A.M.—Safety Briefing.
10:30 A.M.—Tour Facility.
12:00 Noon—Lunch.
12:35 P.M.—Depart.
1:45 P.M.—Arrive Clean Gulf Associates Oil Spill Facility.
2:55 P.M.—Depart Grand Isle for Lakefront Airport Overfly Pardis Gas Plant and Peters Road Industrial Canal Area en Route.
4:15 P.M.—Arrive Lakefront Airport.
4:45 P.M.—Arrive Hotel by Bus.

Dated: April 24, 1979.

R. L. Carnahan,

Acting Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

[FR Doc. 79–13048 Filed 4–27–79; 8:45 am]

BILLING CODE 3501–08–M

Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), has established a Scientific and Statistical Committee (SSC) which will meet to discuss: management plans; Council research needs; and other business.

DATES: The SSC will meet on Monday, June 4, 1979, Monday, July 2, 1979, and Monday, July 30, 1979, convening at 10 a.m. and adjourning at approximately 3 p.m., respectively. The meetings are open to the public.

ADDRESS: The meetings will take place at the Best Westen Airport Motel, Philadelphia International Airport, Route #291, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: 302–674–2331.

Dated: April 25, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79–13247 Filed 4–27–79; 8:45 am]

BILLING CODE 3510–22–M

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), will meet to discuss: Groundfish Fishery Management Plan (FMP); Herring and Scallop FMP's; Personnel Policy; and other business.

DATES: the meeting will convene on Wednesday, May 16, 1979, at approximately 10 a.m. and will adjourn on Thursday, May 17, 1979, at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Holiday Inn, Downtown, 88 Spring Street, Portland, Maine.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960, Telephone: (617) 535–5450.

Dated: April 25, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79–13246 Filed 4–27–79; 8:45 am]

BILLING CODE 3510–22–M

Office of the Secretary

Subcommittee on Export Administration of the President's Export Council; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App (1976)) and the Office of Management and Budget Circular A–63 (as revised), the delegate of the Secretary of Commerce has determined that it is in the public interest to renew the Subcommittee on Export Administration of the President's Export Council in order to fulfill the performance of duties imposed on the Department of Commerce by law.

The Subcommittee was originally established on June 1, 1976, as a subordinate committee of the President's Export Council. It was renewed in January of 1977 for a period of one year. The Subcommittee advises the Department on matters pertinent to those portions of the Export Administration Act of 1969 (as amended), that deal with United States policy of encouraging trade with all countries with which the United States has diplomatic or trading relations and the policy of controlling trade for national security and foreign policy reasons. In 1978, the Subcommittee held three meetings, portions of which were closed to the public. Since its formation in 1976, the committee has performed a useful service in advising the Department on export administration matters, including industry insight into the impact of foreign policy controls aimed at achieving human rights objectives. The Subcommittee has also advised the Government on the need to adjust export controls to permit more rapid servicing of U.S. equipment sold abroad. It has also explored the Government's policy regarding controls on exports of products for demonstration abroad. The Subcommittee allows a structured, close, and constant dialog between that part of the business community which is subject to the export administration regulatory process and the Department, which is in charge of administering the export control program. Our advisory agencies also benefit from the Subcommittee's advice.

The Subcommittee will be comosed of not more than 20 members. They shall be representatives of business and industry who are exporters of those goods and technical data presently under control for national security and foreign policy reasons, or proposed for such control. Representatives shall be balanced among large and small firms, and to the extent possible, shall be from all parts of the country. They shall be appointed by the Secretary of Commerce and will serve at her discretion.

The Committee will continue to function solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with the appropriate committees of the Congress, and a copy will be forwarded to the Library of Congress.

Inquiries or comments may be addressed to Mr. Lawrence J. Brady, Deputy Director, Office of Export Administration, Bureau of Trade Regulation, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–4188.

Dated: April 24, 1979.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 79–13255 Filed 4–27–79; 8:45 am]

BILLING CODE 3510–17–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Parasitic Diseases; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting.

Name of committee: United States Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Parasitic Diseases

Date of meeting: May 25, 1979

Time and Place: 0900, Room 3092, Walter Reed Army Institute of Research, Washington, DC

Proposed Agenda: This meeting will be open to the public on May 25, 1979, from 0900 to 1000 and from 1600 until adjournment to discuss the scientific research program of the Parasitic Diseases Branch, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space avaliable.

V 4 4 / 8 4 A P 3 0 7 9 UMI

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on May 25, 1979 from 1000 until 1600 for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director, Walter Reed Army Institute of Research, Building 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20012 (202/576–3061) will furnish summary minutes, roster of Committe members, and substantive program information.

For the Commander.

John N. Albertson, Jr.,
Colonel, MSC, Chief of Staff.

[FR Doc. 79-13298 Filed 4-27-79; 8:45 am]

BILLING CODE 3710-08-M

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that closed meetings of the DIA Advisory Committee will be held on Wednesday and Thursday, May 30–31, 1979, CINCPAC, Hawaii.

The entire meetings commencing at 0900 hours are devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

N. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

April 25, 1979.

[FR Doc. 79-13334 Filed 4-27-79; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Task Force on EMP Hardening of Aircraft; Meeting

The Defense Science Board Task Force on EMP Hardening of Aircraft will meet in closed session May 22–23, 1979 at the Air Force Electronics Systems Command, Hanscom Field, Bedford, Mass.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will review hardening of U.S. aircraft against EMP and related sujects and will provide recommendations for appropriate actions.

In accordance with 5 U.S.C. App. I § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

April 25, 1979.

[FR Doc. 79-13333 Filed 4-27-79; 8:45 am]

BILLING CODE 3810-70-M

ENVIRONMENTAL PROTECTION AGENCY

Region II; Groundwater System of the Buried Valley Aquifer System of Western Essex and Eastern Morris Counties, N.J.

On March 29, 1979, a notice was published stating that a petition has been submitted by the City of East Orange, New Jersey and the Passaic River Coalition, pursuant to Section 1424(e) of the Safe Drinking Water Act, Pub. L. 93–523, requesting the Administrator of the Environmental Protection Agency to make a determination that the aquifer underlying western Essex and eastern Morris Counties, New Jersey is the sole or principal drinking water source for the central basin of the Passaic River Watershed which, if contaminated, would create a significant hazard to public health.

The date and time of the Public Hearing (May 23, 1979, 7 p.m.) will remain as published. The location of the Public Hearing, however, has been changed to the Essex County Parks Commission's Center for Environmental Sciences, 621 Eaglerock Avenue, Roseland, N.J. Further information can be obtained by contacting Mr. John S. Malleck, Water Supply Branch, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10007, (212) 264–1347

Dated: April 13, 1979.

Eckardt C. Beck,
Regional Administrator.

[FRL 1212-5]

[FR Doc 79-13368 Filed 4-27-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on UHF-TV Receiver Noise Figure Measurement Standards; Meeting

The advisory committee on UHF-TV Receiver Noise Figure Measurement Standards will meet at the FCC Laboratory, Guilford, Maryland on Monday, May 21, 1979. Subgroup A (Subcommittee To Study Development of the Measurement Procedure) will convene at 9:00 A.M. and Subgroup B (Subcommittee To Study the Optimum Accuracy and Tolerance of Measurement Procedure) will convene at 1:00 P.M.

The agenda will include reading and approval of the minutes for the April 18, 1979 meeting. Both subcommittees will continue their work on preparing recommendations for suitable measuring techniques and necessary accuracy and tolerance of the measuring procedures.

Both sessions will be held at the FCC Laboratory, Guilford, Maryland, and will be open to members of the public. Members of the public may participate by presenting written statements to the committee before or after the meeting. Individuals wishing to present oral statements at the meeting should consult with the FCC designated Federal employees, Lawrence C. Middlekamp or Hector Davis, telephone (301) 725–1585, before the meeting.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 13275 Filed 4-27-79; 8:45 am]

BILLING CODE 6712-01-M

Establishment of the Public Maritime Coast Stations Task Force and Extension of Deadline for Comments on the Radio Technical Commission for Marine Services (RTCM)

The Federal Communications Commission has established a Public Maritime Coast Stations Task Force in the Office of Plans and Policy. The Task Force will undertake a study to review existing Commission Rules and Regulations pertaining to the public coast station service; review assignment of licenses and radio frequencies; and evaluate alternatives to promote a modern, efficient and effective service. The Task Force was established pursuant to the Congressional mandate in the International Maritime Satellite Telecommunications Act (PL 95–564).

The Task Force is also conducting a study of the Radio Technical Commission for Marine Services (RTCM). As announced by public notice issued on March 29, 1979 (44 FR 19245), the FCC has directed its Office of Plans and Policy to conduct a thorough analysis of the RTCM to determine the value to the FCC of further sponsorship of this advisory committee. The March 29 notice asked for comments from the public on the RTCM, and established a deadline of May 1 for such comments. The deadline for submitting these comments has now been extended. Public notice is hereby given that all comments concerning the RTCM should be submitted no later than May 31, 1979.

Any information inquiries with regard to the Task Force should be directed to: FCC Office of Plans and Policy, Public Coast Stations Task Force, James Johnson, 2025 M Street, N.W., Room 6328, Washington, D.C. 20554, Phone: 202–653–7586.

Federal Communications Commission.

William J. Tricarico,
Secretary.

Petitions for Reconsideration of Actions in Rule Making Proceedings Filed

April 23, 1979.

Docket or RM No.	Rule No.	Subject	Date received
RM–2908	Part 89, Subpart S	Request amendment of Subpart S, Part 89 to provide for participation of Industry Advisory Committees in the selection of frequency Assignments in the 800 MHz Band. Filed by David E. Weisman, Attorney for National Association of Business and Educational Radio, Inc.	Apr. 16, 1979.
BC 79–43	73.202(b)	Amendment of Section 73.202(b), Table of Assignments, Television Broadcast Stations. (Glenwood Springs, Colorado, and Price and Vernal, Utah). Filed by Richard Hildreth, Attorney for Pikes Peak Broadcasting Co., Inc. (KRDO–TV)....	Apr. 13, 1979.

NOTE.—Oppositions to petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

[FR Doc. 79-13278 Filed 4-27-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

Technology and Productivity Subcommittee of the National Council on Health Planning and Development; Change in Meeting Place and Time

In the FR Doc. #79–12780, appeared at page 24243 in the issue for Tuesday, April 24, 1979, the meeting of the Technology and Productivity Subcommittee of the National Council on Health Planning and Development was announced for May 10. The location and time for this meeting has been changed from the Lexington Room in the Hyat Regency Hotel, Washington, D.C., at 7:00 p.m.–9:00 p.m., to Conference Rooms #403A–405A, Hubert H. Humphrey Building, Washington, D.C., at 3:00 p.m.–5:00 p.m. All other information is correct as appears.

Dated: April 24, 1979.

James A. Walsh,
Associate Administrator for Operations and Management.

[FR Doc. 79-13285 Filed 4-27-79; 8:45 am]

BILLING CODE 4110-83-M

National Institutes of Health

Aplastic Anemia: A Stem Cell Disease; Meeting

Notice is hereby given of the conference on "Aplastic Anemia: a Stem Cell Disease" sponsored jointly by the National Heart, Lung, and Blood Institute, the National Institute of Arthritis, Metabolism, and Digestive Disease, and the Hematology Study Section, June 17–19, 1979, at the Jack Tar Hotel in San Francisco, California.

This meeting will be open to the public on June 17–19, 1979 to discuss such topics as clinical aspects of aplastic anemia, including natural history of the disease and its treatment by marrow transplantation; theories of stem cell damage; hematopoiesis; cellular and humoral influences on marrow function; and mechanisms of stem cell dysfunction. Attendance by the public will be limited to space available.

For additional information please write: Workshop on Aplastic Anemia, P.O. Box 34520, West Bethesda, Maryland 20034; or contact Dr. Alan S. Levine, Division of Blood Diseases and Resources, NHLBI, Federal Building, Room 5C06, Bethesda, MD 20205; telephone (301) 496–5911.

Dated: April 23, 1979.

Suzanne L. Fremeau,
Committee Management Officer, NIH.

[FR Doc. 79-13301 Filed 4-27-79; 8:45 am]

BILLING CODE 4110-08-M

Renewal; Developmental Therapeutics Committee

The Director, National Institutes of Health, announces the renewal on April 13, 1979, of the Developmental Therapeutics Committee, under the authority of Section 410(a)(3) of the Public Health Service Act (42 U.S.C. 286d). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act, as amended (Public Law 92–463) setting forth standards governing the establishment and use of advisory committees.

This committee provides advice concerning the scientific merit of contract proposals that will contribute to the development of therapeutically useful anti-cancer agents through research in radiobiology, molecular biology, biochemistry and pharmacology. The committee will terminate April 13, 1981, unless renewed by appropriate action as authorized by law.

Dated: April 23, 1979.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 79-13300 Filed 4-27-79; 8:45 am]

BILLING CODE 4110-08-M

High Blood Pressure Working Group; Meeting

Notice is hereby given of the meeting of the High Blood Pressure Working Group sponsored by the American College of Cardiology "Heart House", June 8, 1979, 9111 Old Georgetown Road, Bethesda, Maryland 20014.

This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. The Working Group is meeting to define the priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Program. Attendance by the public will be limited to space available.

Mr. Graham W. Ward, Acting Chief, Health Education Branch, National High Blood Pressure Education Program, National Heart, Lung, and Blood Institute, NIH, Building 31, Room 5A10, 9000 Rockville Pike, Bethesda, Maryland 20205 (301/496-1051) will provide additional information.

For the list of participants and meeting summary contact: Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, NIH, Building 31, Room 5A10, 9000 Rockville Pike, Bethesda, Maryland 20205.

Dated: April 16, 1979.

Suzanne L. Freeness,

Committee Management Officer, NIH.

[FR Doc. 79-13302 Filed 4-27-79; 8:45 am]

BILLING CODE 4110-08-M

Workshop on the Biological Effects of Mineral Fibers and Particulates

A workshop sponsored by the HEW Committee to Coordinate Toxicology and Related Programs' Subcommittee to Coordinate Asbestos/"Asbestiform" Research within the Public Health Service will be held to summarize some of the presently available information on the biomedical effects of mineral fibers and particulates with special emphasis being placed upon asbestos, the identification of gaps in our knowledge as to the effects of these agents on biological systems, and the elucidation of the means by which such gaps may be overcome. Reports on the current research activities and interests of a wide variety of scientists will be highlighted at this meeting. The Workshop will be published in Environmental Health Perspectives.

This open meeting will be held on Thursday, June 7, from 8:30 a.m. to 5 p.m., and will continue Friday, June 8, from 8:30 a.m. to 3 p.m. in Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland. Attendance by the public will be limited to space available. Individuals wishing to attend should give advance notice to: Ms. Ronda Rice, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709. Telephone: (919) 541-3506 or FTS 629-3506. A copy of the agenda, when available, and any additional information regarding the meeting will be provided by Ms. Rice on request.

Dated: April 24, 1979.

Suzanne L. Freeness,

Committee Management Officer, NIH.

[FR Doc. 79-13303 Filed 4-27-79; 8:45 am]

BILLING CODE 4110-08-M

Office of the Assistant Secretary for Health

Annual Reports of Federal Advisory Committees

Notie is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the United States National Committee on Vital and Health Statistics has been filed with the Library of Congress.

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, on weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independence Avenue S.W., Washington, D.C. 20201, Telephone (202) 245-6791. Copies may be obtained from Mr. James A. Smith, National Center for Health Statistics, 3700 East-West Highway, Room 2-12, Hyattsville, Maryland 20782, Telephone (301) 436-7122.

Dated: April 23, 1979.

Wayne Richey, Jr.,

Acting Associate Director for Program Support, Office of Health Research, Statistics, and Technology

[FR Doc. 79-13309 Filed 4-27-79; 8:45 am]

BILLING CODE 4110-85-M

Health Maintenance Organizations

AGENCY: Public Health Service, HEW.

ACTION: Notice, February list of qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and date of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition, changes are reported on several previously qualified HMOs: service areas have been changed and a name has been changed.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Regulations issued under Title XIII of the Public Health Service Act, as amended (42 CFR 110.605(b)) require that a list and description of all newly qualified HMOs be published on a monthly basis in the **Federal Register.** The following entities have been determined to be qualified HMOs under Section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)):

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Name, Address, Service Area, and Date of Qualification

(Operational Qualified Health Maintenance Organizations: 42 CFR § 110.603(a))

1. Health Maintenance Network of Southern California, d/b/a Health Net (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), P.O. Box 9103, **Van Nuys, California 91409.** Service area: Zip codes included are as follows:

Orange County

90620	90621	90623	90630	90631	90680	90720	90740
92621	92625	92626	92627	92631	92632	92633	92635
92640	92641	92643	92644	92645	92646	92647	92648
92649	92655	92660	92661	92662	92665	92666	92667
92668	92669	92670	92676	92680	92683	92686	92701
92703	92704	92705	92706	92707	92708	92709	92710
92714	92715	92801	92802	92804	92805	92806	92807

Los Angeles County

90001	90002	90003	90004	90006	90007	90008	90010
90011	90012	90013	90014	90015	90016	90017	90018
90019	90020	90021	90022	90023	90024	90025	90026
90027	90028	90029	90031	90032	90033	90034	90035
90036	90037	90039	90040	90041	90042	90043	90044
90045	90046	90047	90048	90049	90056	90057	90058
90059	90061	90062	90063	90064	90065	90066	90067
90068	90069	90071	90201	90210	90211	90212	90220
90221	90222	90230	90240	90241	90242	90245	90247
90248	90250	90254	90255	90260	90262	90265	90266
90270	90272	90274	90277	90278	90280	90290	90291

Los Angeles County—Continued

90301	90302	90303	90304	90305	90401	90402	90403
90404	90405	90501	90502	90503	90504	90505	90506
90601	90602	90603	90604	90605	90606	90638	90640
90650	90660	90670	90701	90705	90710	90712	90713
90715	90716	90717	90723	90731	90732	90744	90745
90746	90747	90802	90803	90804	90805	90806	90807
90808	90810	90813	90814	90815	90840	91001	91006
91010	91011	91016	91020	91024	91030	91040	91042
91046	91101	91103	91105	91106	91107	91108	91201
91202	91203	91204	91205	91206	91207	91208	91214
91302	91303	91304	91306	91307	91311	91316	91324
91325	91326	91331	91335	91340	91342	91343	91344
91345	91352	91356	91364	91367	91401	91402	91403
91405	91406	91411	91423	91436	91501	91502	91504
91505	91506	91601	91602	91604	91605	91606	91607
91608	91702	91706	91711	91722	91723	91724	91731
91732	91733	91740	91744	91745	91746	91748	91750
91754	91765	91766	91767	91768	91770	91773	91775
91776	91780	91789	91790	91791	91792	91801	91803

San Diego County

92001	92002	92007	92008	92010	92011	92014	92020
92021	92024	92032	92035	92037	92040	92041	92045
92050	92064	92071	92073	92075	92077	92101	92102
92103	92104	92105	92106	92107	92108	92109	92110
92111	92113	92114	92115	92116	92117	92118	92119
92120	92121	92122	92123	92124	92125	92126	92127
92128	92129	92130	92131	92132	92133	92134	92135
92137	92139	92140	92145	92154	92155	92162	

Riverside County

91720	91752	91760	92330	92370	92501	92503	92054
92505	92506	92507	92508	92509			

San Bernardino County

91701	91710	91730	91743	91761	91762	91763	91764
91786							

Riverside County (Palm Springs Area)

92201	92220	92230	92234	92240	92260	92262	92270
92276	92282	92349	92361				

Date of qualification: February 1, 1979 (Achieved preoperational qualification on January 26, 1979.)

2. Health Central of Lincoln, Nebraska (Staff Model, see Section 1310(b)(1) of the Public Health Service Act), 17th & N Street, Lincoln, Nebraska 68508. Service area: Lancaster County, Nebraska. Date of qualification: February 1, 1979. (Achieved preoperational January 29, 1979.)

3. MetroCare of Arlington, Texas (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 1201 North Watson Road, Arlington, Texas 76011. Service area: City of Grand Prairie in Dallas County and Tarrant County, Texas. Date of qualification: February 14, 1979. (Achieved preoperational qualification on January 30, 1979.)

(Preoperational Qualified Health Maintenance Organizations: 42 CFR § 110.603(c))

1. Eastern Pennsylvania HMO, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 1503 North Cedar Crest Boulevard, Allentown, Pennsylvania 18104. Service Area: Northampton and Lehigh Counties, Pennsylvania. Date of qualification: February 9, 1979.

2. Lifeguard, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 2444 Moorpark, Suite 101, San Jose, California 95128. Service Area: Santa Clara County, California. Date of qualification: February 12, 1979.

3. Family Health Plan Cooperative (Staff Model, see Section 1310(b)(1) of the Public Health Service Act), 5413 South 76th Street, Greendale, Wisconsin 53129. Service Area: That portion of Milwaukee County, Wisconsin which is bounded on the north by Wisconsin Avenue, on the east by Lake Michigan, on the west by 124th Street, and on the south by County Line Road. Date of qualification: February 22, 1979.

Revised Service Areas

The service areas of previously qualified HMOs listed in the annual cumulative list of qualified HMOs published on April 7, 1978, in the FEDERAL REGISTER (43 FR 14908-13) are changed as follows:

1. Intergroup Prepaid Health Services, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act) CNA Plaza, Chicago, Illinois 60685. Service area:

Change from: Illinois—Counties of: Champaign, Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry, Peoria, Tazewell, Will, and Woodford. Indiana—Counties of: Lake and Porter.

Change to: Illinois—Counties of: Champaign, Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry, Peoria, Tazewell, Will, and Woodford. Indiana—Counties of: Adams*, Allen*, Blackford*, DeKalb*, Delaware*, Huntington*, Jay*, Lake, Madison*, Miami*, Noble*, Porter, Randolph*, Wabash*, Wells*, and Whitley*.

*Added Counties—revised service area effective February 5, 1979.

Date of qualification: Transitionally qualified—April 18, 1977.)

2. *Family Health Program, Inc.* (Staff Model, see Section 1310(b)(1) of the Public Health Service Act), 2925 No. Palo Verde Avenue, Long Beach, Calif. 90815. Service area:

Change from: Orange County, Calif. and that portion of Los Angeles County, Calif. South of Firestone Boulevard (Manchester Boulevard). Salt Lake County and Davis County, Utah, and those portions of Utah, Tooele and Summit Counties, Utah within a thirty (30) mile radius of the Family Health Program's Utah Medical Centers. The island of Guam.

Zip codes in the service area are as follows:

Los Angeles County

90059	90061	90220	90221	90222	90240	90241	90242
90245	90247	90248	90249	90262	90280	90501	90502
90503	90504	90505	90506	90602	90603	90604	90605
90631	90638	90650	90670	90701	90706	90710	90712
90713	90715	90716	90717	90723	90731	90732	90744
90745	90746	90747	90748	90749	90801	90802	90803
90804	90805	90806	90807	90808	90810	90812	90813
90814	90815	91320	91360				

Orange County

90620	90621	90622	90623	90630	90631	90680	90720
90740	90742	90743	92621	92625	92626	92627	92630
92631	92632	92633	92635	92638	92640	92641	92643
92644	92645	92646	92647	92648	92649	92650	92651
92653	92655	92660	92661	92662	92663	92664	92665
92666	92667	92668	92669	92670	92675	92677	92680
92683	92686	92701	92703	92704	92705	92706	92707
92708	92709	92713	92714	92715	92717	92801	92802
92803	92804	92805	92806	92807			

Salt Lake, Davis, Utah, Tooele, and Summit Counties Utah[1]

84003	84006	84010	84014	84020	84025	84032	84043
84044	84047	84054	84057	84060	84062	84070	84084
84087	84101	84102	84103	84104	84105	84106	84107
84108	84109	84111	84112	84113	84114	84115	84116
84117	84118	84119	84120	84121			

Change to:

Los Angeles County

90001*	90002*	90003*	90007*	90008*	90011*	90012*
90013*	90014*	90015*	90018*	90021*	90022*	90023*
90031*	90032*	90033*	90037*	90040*	90043*	90044*
90045*	90047*	90056*	90058*	90059	90061	90062*
90063*	90201*	90220	90221	90222	90240	90241
90242*	90245*	90246	90247	90248	90249	90250*
90254*	90255*	90260*	90261*	90262	90266*	90270*
90724*	90277*	90278*	90280	90301*	90302*	90303*
90304*	90305*	90501	90502	90503	90504	90505
90506	90601*	90602	90603	90604	90605	90606*
90631	90638	90640*	90650	90660*	90670	90701
90706	90710	90712	90713	90715	90716	90717
90723	90731	90732	90744	90745	90746	90747
90748	90749	90801	90802	90803	90804	90805
90806	90807	90808	90810	90812	90813	90814
90815	90840	91320	91360	91731*	91732*	91733*
91744*	91745*	91746*	91748*	91754*	91765*	91770*
91789*	91792*	91803*				

Orange County

90602	90621	90622	90623	90630	90631	90680
90720	90740	90742	90743	92621	92624	92625
92626	92627	92629*	92630	92631	92632	92633
92634*	92635	92636*	92637*	92638	92640	92641
92642*	92643	92644	92645	92646	92647	92648
92649	92650	92651	92652*	92653	92655	92660
92661	92662	92663	93664	92665	92666	92667
92668	92669	92670	92672*	92675	92676*	92677
92678*	92680	92683	92686	92701	92702*	92703
92704	92705	92706	92707	92708	92709	92710
92711	92713	92714	92715	92716*	92717	92801
92802	92803	92804	92805	92806	92807	

Salt Lake, Davis, Utah, Tooele, and Summit Counties Utah[1]

84003	84006	84010	84014	84020	84025	84032
84043	84044	84047	84054	84057	84060	84062
84070	84084	84087	84101	84102	84103	84104
84105	84106	84107	84108	84109	84111	84112
84113	84114	84115	84116	84117	84118	84119
84120	84121					

*Added zip codes—revised service area effective February 6, 1979

Date of qualification: Transitionally qualified—July 29, 1977

3. *Family Health Services, Inc.*, d/b/a/ General Medical Centers Health Plan, 300 South Park, Pomona, California 91766. Service area

Change from: (The service area of the following HMO was last revises on October 25, 1978 (43 FR 49854–6)). Eastern Los Angeles County known as the San Gabriel and Pomona Valley area and the western part of San Bernardino County. All of this area lies within a 7-mile radius of General Medical Centers Health Plan medical office. The zip codes encompassed by the service area are as follows

Los Angeles County

90022	90023	90031	90032	90033	90040	90058
90063	90201	90221	90240	90241	90242	90255
90262	90270	90280	90601	90602	90603	90604
90605	90606	90638	90640	90650	90660	90670
90701	90706	90712	90713	90715	90716	90723
90803	90804	90805	90806	90807	90808	90814
90815	90840	91001	91006	91010	91016	91024
91030	91101	91104	91105	91106	91107	91108
91702	91706	91711	91722	91723	91724	91731
91732	91733	91740	91744	91745	91746	91748
91750	91754	91765	91767	91766	91768	91770
91773	91775	91776	91780	91789	91790	91791
91792	91801	91803				

San Bernadino County

91701	91710	91730	91739	91843	91761	91762
91763	91764	91786	92335			

Riverside County

91720	91752	91760	92370	92501	92503	92504
92505	92506	92509				

Orange County

90620	90621	90623	90630	90631	90680	90720
90740	90742	90743	92621	92626	92627	92631
92632	92633	92635	92640	92641	92643	92644
92645	92646	92647	92648	92649	92655	92660
92665	92666	92667	92668	92669	92670	92676
92680	92683	92686	92701	92703	92704	92705
92706	92707	92708	92709	92710	92714	92715
92801	92802	92804	92805	92806	92807	

Change to:

Los Angeles County

90022	90023	90031	90032	90033	90040	90058
90063	90201	90221	90240	90241	90242	90255
90262	90270	90280	90601	90602	90603	90604
90605	90606	90638	90640	90650	90660	90670
90701	90706	90712	90713	90715	90716	90723
90803	90804	90805	90806	90807	90808	90814
90815	90840	91001	91006	91010	91016	91024
91030	91101	91104	91105	91106	91107	91108
91702	91706	91711	91722	91723	91724	91731
91732	91733	91740	91744	91745	91746	91748
91750	91754	91765	91766	91767	91768	91770
91773	91775	91776	91780	91789	91790	91791
91792	91801	91803				

San Bernardino County

91701	91710	91730	91739	91743	91761	91762
91763	91764	91786	92335			

Riverside County

91720	91752	91760	92370	92501	92503	92504
92505	92506	92509				

Orange County

90620	90621	90623	90630	90631	90680	90720
90740	90742	90743	92621	92626	92627	92631
92632	92633	92635	92640	92641	92643	92644
92645	92646	92647	92648	92649	92655	92660
92665	92666	92667	92668	92669	92670	92676
92680	92683	92686	92701	92703	92704	92705
92706	92707	92708	92709	92710	92714	92715
92801	92802	92804	92805	92806	92807	

*San Diego County**

92001	92002	92003	92007	92008	92010	92011
92014	92017	92020	92021	92024	92025	92026
92027	92028	92032	92035	92037	92040	92041
92045	92050	92054	92055	92059	92061	92064
92065	92967	92068	92069	92071	92073	92075
92077	92078	92082	92083	92101	92102	92103
92104	92105	92106	92107	92108	92109	92110
92111	92113	92114	92115	92116	92117	92118
92119	92120	92121	92122	92123	92124	92125
92126	92127	92128	92129	92131	92133	92135
92137	92139	92140	92145	92154	92155	92162

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*Added zip codes in San Diego County—revised service area effective February 22, 1979.

Date of qualification: Transitionally qualified—December 14, 1976

Name change—

Change from: South Los Angeles Community Health Plan/CompreCare (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 1731 West Barbara Avenue, Los Angeles, California 90062.

Change to: CompreCare, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 1731 West Barbara Avenue, Los Angeles, California 90062

Date of qualification: Operationally qualified—February 10, 1978 (43 FR 15013).

[1] Several zip code areas may straddle the 30 mile radius from Family Health Plan medical centers. Individuals in the areas immediately outside the limit may enroll but must use the Family Health Plan physicians and the facilities of the medical centers.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Park Building, 3rd Floor, Rockville, Maryland 20857.

Questions about the review process or requests for information about qualified HMOs should be sent to the same office.

Dated: April 19, 1979.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 79-13077 Filed 4-26-79; 8:45 am]

BILLING CODE 4110-85-M

Office of Education

Advisory Committee on Accreditation and Institutional Eligibility; Meeting

AGENCY: Department of Health, Education, and Welfare, Office of Education.

ACTION: Notice of Public Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the next public meeting of the Advisory Committee on accreditation and Institutional Eligibility. It also describes the functions of the Committee. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of its opportunity to attend and participate.

DATES: June 20, 1979, 9:00 a.m. to 5:15 p.m., local time; June 21, 9:00 a.m. to 5:15 p.m.; and June 22, 9:00 a.m. to 2:00 p.m. Requests for oral presentations before the Committee must be received on or before June 1, 1979. All written material which a party wishes to file may be submitted at any time and will be considered by the Advisory Committee.

ADDRESS: Old Town Holiday Inn, 480 King Street, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT:

John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue, S.W., Washington, D.C. 20202 (202/245-9873).

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee advises the Commissioner of Education regarding his responsibilities to publish lists of nationally recognized accrediting agencies and associations; State agencies recognized for the approval of public postsecondary vocational education; and accrediting and State agencies recognized for the approval of nurse education. The Committee also advises the Commissioner regarding requests by Federal agencies and institutions seeking Congressional authority to grant degrees, and regarding policy affecting accreditation and institutional eligibility for participation in Federal funding programs.

The meeting on June 20, 21 and 22 will be open to the public. This meeting will be held at the Old Town Holiday Inn, Alexandria, Virginia. The Committee will review petitions and reports by accrediting and State approval agencies relative to initial or continued recognition by the U.S Commissioner of Education. The Committee also will hear presentations by representatives of the petitioning agencies and interested third parties. Agencies having petitions and reports pending before the Committee are:

Accrediting Commission on Education for Health Services Administration (interim report)
American Academy of Microbiology, Committee on Postdoctoral Educational Programs (initial recognition)
American Medical Association, Committee on Allied Health Education and Accreditation (as a coordinating agency for allied health education accreditation) (interim report)
American Naturopathic medical Certification and Accreditation Board, Inc. (initial recognition)
American Psychological Association, Committee on Accreditation (renewal of recognition)
American Veterinary Medical Association, Council on Education (renewal of recognition)
Council on Naturopathic Medical Education (initial recognition)
Engineers' Council for professional Development (renewal of recognition for accreditation of graduate programs leading to advanced entry into the engineering profession; interim report on accreditation of first professional degreee programs in engineering and associate and baccalaureate degree programs in engineering technology)
Missouri State Board of Education (renewal of recognition)
National Council for Accreditation of Teacher Eeucation (renewal of recognition)
National Home Study Council, Accrediting Commission (request for deferral of review)
National League for Nursing, Inc., Board of Review for Associate Degree Programs, Board of Review for Baccalaureate and Higher Degree Programs, Board of Review for Diploma Programs, Board of Review for Practical Nursing programs (renewal of recognition)
North Central Association of Colleges and Schools, Commission on Schools (interim report)
Oklahoma State Regents for Higher Education (interim report)
Southern Association of Colleges and Schools, Commission on Colleges (renewal of recognition)

The advisory Committee also will review policy matters affecting accreditation and institutional eligibility. In addition, the Committee will review the following matters:

A request by the Defense Intelligence School for a recommendation concerning authority to award the degree of Master of Science in Strategic Intelligence.

A joint report from the Division of Eligibility and Agency Evaluation and the National Association of Schools of Music.

A report from the Educational Testing Service on its project on Evaluation of the Office of Educations's Criteria for Recognition of National Accrediting Bodies and State Agencies.

Requests for oral presentations before the Committee should be submitted in writing to the Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue, S.W. Washington, D.C. 20202. Requests should include the names of all persons seeking an appearance, the party or parties which they represent (if applicable), and the purpose for which the presentation is requested. Requests must be received by the division of Eligibility and Agency Evaluation on or before June 1, 1979. Time constraints may limit oral presentation. However, all additional written material that a party wishes to file will be considered by the Advisory Committee.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Division of eligibility and Agency Evaluation.

Signed at Washington, D.C. on April 23, 1979.

John R. Proffitt,

Director, Division of Eligibility and Agency Evaluation, Office of Education.

[FR Doc. 79-13251 Filed 4-26-79 8:45 p.m.]

BILLING CODE 4110-02-M

Office of Human Development Services

White House Conference on Handicapped Individuals Implementation Advisory Committee; Establishment

AGENCY: Office of Human Development Services, DHEW.

ACTION: Notice of Advisory Committee Establishment.

PURPOSE: The White House Conference on Handicapped Individuals Implementation Advisory Committee shall give advice and make recommendations to the Secretary, Health, Education and Welfare and the Commissioner of the Rehabilitation Service Administration regarding the implementation of the recommendations made by the White House Conference on Handicapped Individuals.

DATES: The charter for this Committee was signed by the Secretary of Health, Education and Welfare on April 20, 1979. It will terminate on December 31, 1979 or upon the chartering of the National Council on the Handicapped, whichever occurs first.

FOR FURTHER INFORMATION CONTACT:

Mr. Peter Rosenstein, White House Conference Action Unit, Room 3520, 330 C Street, SW., Washington, D.C. 20201, 202-245-3186.

SUPPLEMENTAL INFORMATION: This Council is being formed to assist and advise in Implementation of the recommendations developed by the White House Conference held in May 1977, pursuant to Title III of Pub. L. 93-516. An Implementation Plan was developed by the National Planning and Advisory Council of the White House Conference and submitted by the Secretary of DHEW pursuant to statute, to the President and Congress on June 20, 1978.

Arnold Sampson,

HDS Committee Management Officer.

[FR Doc. 79-13274 Filed 4-27-79; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Alaska Native Claims Selection

By Executive Order of January 7, 1903, St. Lawrence Island was reserved and set apart for a reindeer station. This Executive Order was modified by several Public Land Orders (PLO) and the Act of August 5, 1954.

Public Land Order 1233 (signed October 4, 1955) withdrew for use of the Bureau of Indian Affairs for school purposes certain lands in the vicinity of Gambell. The withdrawal was made under the provision the Act of May 31, 1938 (52 Stat. 593, 48 U.S.C. 353a). The PLO revoked the Executive Order of January 7, 1903, as to the lands described at Gambell.

Public Land Order 1177 (signed June 28, 1955) withdrew and reserved under the jurisdiction of the Bureau of Indian Affairs for school purposes certain lands in the vicinity of Savoonga. This withdrawal was made under the provisions of the Act of May 31, 1938 (52 Stat. 593, 48 U.S.C. 353a). The PLO revoked the Executive Order of January 7, 1903, as to the lands described at Savoonga. Public Land Order 4016 (signed May 20, 1966) was subsequently issued to accommodate survey of the lands withdrawn; it revoked PLO 1177.

The Act of August 5, 1954, as amended (68 Stat. 674; 42 U.S.C. 2001), provides for the transfer of maintenance and operation of hospital facilities for Indians to the Public Health Service. Pursuant to this Act, on August 2, 1955, the Bureau of Indian Affairs transferred to the U.S. Public Health Service the Nurses Quarters building and 0.5 acre at Savoonga, and the Nurses Quarters and clinic building and 0.10 acre at Gambell. The building and lands at Savoonga were subsequently transferred back to the Bureau of Indian Affairs in 1972.

Section 19(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 710; 43 U.S.C. 1601, 1618 (Supp. V, 1975)), revoked, subject to any valid existing rights of non-Natives, the various reserves set aside for Native use or administration of Native Affairs. Public Land Order 5156, signed February 4, 1972, withdrew, subject to valid existing rights, the lands set aside for Native use or for administration of Native affairs in furtherance of the right of any Native village corporation or corporations to acquire title to the surface and subsurface estates in the reservations pursuant to Sec. 19(b) of the Alaska Native Claims Settlement Act.

On November 20, 1973, the Boards of Directors for Gambell Native Corporation and Savoonga Native Corporation certified that their stockholders had elected to acquire title to the surface and subsurface estates in the reserve as provided by Sec. 19(b) of the Alaska Native Claims Settlement Act (ANCSA). Under 43 CFR 2654.2(a), submission of such certifications constituted applications to acquire reserve lands.

I. Lands Not Available for Conveyance

On May 12, 1964, patent No. 1236926 for airport purposes was issued to the State of Alaska conveying certain interests of the United States in U.S. Survey No. 3728 (in the vicinity of Gambell). These lands are no longer owned by the United States and thus cannot and will not be conveyed to Gambell and Savoonga Native Corporations. The retained mineral interests excepted and reserved to the United States in the patent are approved for conveyance in paragraph III of this decision.

II. Alaska Native Claims Settlement Act Section 3(e) Applications Rejected

Section 3(e) of ANCSA defines "public lands" as:

* * * all Federal lands and interests therein located in Alaska except: (1) the smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installation * * *

On March 3, 1978, the Secretary of the Interior, in his final decision document for the ANCSA Implementation Review, decided that:

The Secretary's authority to determine the smallest practicable tract involved with a Federal installation under section 3(e)(1) of the ANCSA applies only to the Statutory withdrawals made by sections 11 and 16(a) and, subsequently to those lands selected by Village and Regional corporations from such withdrawal areas pursuant to sections 12 and 16(b).

The Secretary's authority to make such determinations does not extend to the various reserves revoked pursuant to Sec. 19(a) of ANCSA and made available for acquisition by village corporations pursuant to Sec. 19(b). Therefore, the following ANCSA 3(e) applications are rejected in their entirety:

a. *In the vicinity of Gambell, T. 20 S., R. 67 W., Kateel River Meridian, Alaska:*

Alaska Native Claims Settlement Act section 3(e) applications F-25937, containing approximately 0.36 acres, and F-25936, containing approximately 2.07 acres, used by the Department of the Navy in connection

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with the Bureau of Indian Affairs permit to AC Electronics, Division of General Motors Corporation, Defense Research of Goleta in the State of California, effective April 15, 1969;

Alaska Native Claims Settlement Act section 3(e) application F–35222, containing approximately 0.10 acres, used by the Department of Health, Education and Welfare, Public Health Service, in connection with the August 2, 1955, transfer from the Bureau of Indian Affairs pursuant to the Act of August 5, 1954, as amended (68 Stat. 674; 42 U.S.C. 2001).

T. 24 S., R. 67 W., Kateel River Meridian, Alaska

Alaska Native Claims Settlement Act section 3(e) application F–28838, containing approximately 0.23 acres, used by the Department of the Navy in connection with Bureau of Indian Affairs permit to AC Electronics, Division of General Motors Corporation, Defense Research of Goleta in the State of California, effective April 15, 1969.

b. *In the vicinity of Savoonga, T. 21 S., R. 61 W., Kateel River Meridian, Alaska:*

Alaska Native Claims Settlement Act section 3(e) application F–35223, containing approximately 0.23 acres, used by the Department of Health, Education and Welfare under Bureau of Indian Affairs Use Permit No. 9–300–311, to U.S. Public Health Service, effective May 26, 1969.

When this decision becomes final, these applications will be closed of record.

III. Reserve Lands Proper for Village Acquisition Approved for Interim Conveyance

Public Land Order 790 (dated January 16, 1952) withdrew approximately 21,013 acres in the vicinity of Northeast Cape for use of the Department of the Air Force for military purposes. On March 14, 1958, PLO 790 was partially revoked by PLO 1602, which released approximately 16,213 acres; the lands released remained embraced in the Executive Order of January 7, 1903. Approximately 4,800 acres remain withdrawn pursuant to PLO 790, which provides in part:

> This order shall take precedence over but not otherwise affect the Executive Order of January 7, 1903, reserving and setting apart St. Lawrence Island as a reindeer station.

Section 19 of the Alaska Native Claims Settlement Act provides that if the stockholders of the concerned village corporations elect to take former reserve lands:

> * * * the Secretary [of the Interior] shall convey the land to the Village Corporation or Corporations, subject to valid existing rights as provided in subsection 14(g) * * *

The lands withdrawn pursuant to PLO 790 are thus hereby approved for conveyance to Gambell Native Corporation and Savoonga Native Corporation, and the conveyance will be subject to the provisions of PLO 790 except that the PLO provisions for the return to the administration of the Department of the Interior of those lands no longer needed for the purpose reserved shall not apply.

The lands described below do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, aggregating approximately 1,135.843 acres, are considered proper for acquisition by Gambell Native Corporation and Savoonga Native Corporation and are hereby approved for conveyance pursuant to Sec. 19(b) of the Alaska Native Claims Settlement Act:

U.S. Survey No. 4235, Alaska, embracing lots 1 through 3, situated at the village of Gambell on St. Lawrence Island.
Containing 3.27 acres.
U.S. Survey No. 4237, Alaska, situated at the village of Savoonga on St. Lawrence Island.
Containing 5.74 acres.
Aggregating 9.01 acres.
All of St. Lawrence Island and all islands, islets and rocks adjacent thereto, within the lagoons, bays, and between points along the coastline, around St. Lawrence Island, all above mean high tide, according to the Geological Survey map "St. Lawrence," scale 1:250,000, 1948, excluding:
a. In the vicinity of Gambell:
U.S. Survey 4235, U.S. Survey 3728, U.S. Survey 4369;
b. In the vicinity of Savoonga:
U.S. Survey 4340, U.S. Survey 4327;
c. Punuk Islands.
Aggregating approximately 1,135.843 acres.

Also hereby approved for conveyance pursuant to Sec. 19(b) of the Alaska Native Claims Settlement Act are all minerals in the lands, together with the right, as provided in patent No. 1236926, to enter upon the lands and prospect for, mine, and remove such minerals reserved to the United States in the following described lands:

United States Survey Number 3728, Alaska, situated approximately one-half mile south of the Town of Gambell on the northwest tip of St. Lawrence Island in the Bering Sea, Latitude 63°46½′ N. Longitude 171°44′ W. containing 97.78 acres.

The grant of lands herein shall be to Gambell Native Corporation and Savoonga Native Corporation as tenants in common in the following proportions:

Gambell Native Corporation 427/842 interest.
Savoonga Native Corporation 415/842 interest.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–20520–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

50 Foot Trail—The uses allowed on a 50 foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 33 B) An easement sixty (60) feet in width for an existing road from the withdrawal boundry of PLO 790 in Sec. 22, T. 25 S., R. 54 W., Kateel River Meridian, easterly through Secs. 23 and 24 then westerly through Secs. 25, 26, and 27 to the PLO boundary in Sec. 27, T. 25 S., R. 54 W., Kateel River Meridian, for access to a Naval Research site located within PLO 790 withdrawal. The uses allowed are those listed above for a sixty (60) foot wide road easement. The use of this easement is limited to the U.S. Navy, its agents or assigns for access between installations operated and maintained by that agency within PLO 790.

b. (EIN 34 B) An easement twenty (20) feet in width for an existing communications cable from the mean high tide line at Kittilngook Bay in T. 20 S., R. 67 W., Kateel River Meridian, southerly, across the west end of St. Lawrence Island to the mean high tide line near Bunnell Cape in T. 24 S., R. 68 W., Kateel River Meridian. This easement also covers a portion of the cable from Kittilngook Bay southeasterly to Dovelawik Bay in T. 20 S., R. 67 W., Kateel River Meridian. The uses allowed are for those activities associated with the construction, operation, and maintenance of the existing communications facility. The use of this easement is limited to the U.S. Navy, its agents or assigns.

c. (EIN 35 B). A site easement near the section line of Secs. 3 and 10, T. 20 S., R. 67 W., Kateel River Meridian. The site is 100 feet x 100 feet in size. The uses allowed are for those activities associated with the construction, operation, and maintenance of the existing U.S. Navy Field Station. The use of this easement will be limited to the U.S. Navy, its agents or assigns.

d. (EIN 36 B) A site easement in Sec. 11, T. 20 S., R. 67 W., Kateel River Meridian, on Sevuokuk Mountain. The site is 125 feet x 125 feet in size. The uses allowed are for those activities associated with the construction, operation, and maintenance of the existing land cable junction point and antenna site. The use of this easement will be limited to the U.S. Navy, its agents or assigns.

e. (EIN 37 B) A site easement in approximately Sec. 26, T. 24 S., R. 68 W., Kateel River Meridian, on Ivekan Mountain. The site is 100 feet x 100 feet in size. The uses allowed are for those activities associated with the construction, operation, and maintenance of the existing antenna site and electronic and telemetry equipment storage area. The use of this easement will be limited to the U.S. Navy, its agents or assigns.

f. (EIN 38 B) An easement for an existing access trail fifty (50) feet in width from Gambell Airstrip in Sec. 10, T. 20 S., R. 67 W., Kateel River Meridian, easterly to the Naval field site EIN 35 B. The uses allowed are those listed above for a fifty (50) foot wide trail easement. The use of this trail is limited to the U.S. Navy, its agents or assigns.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under sec. 6(g) of the Alaska Statehood Act of July 7, 1958, (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way or easement, and the rightof the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. The provisions of Public Land Order 790, dated January 16, 1952, as amended by Public Land Order 1602, dated March 14, 1958, which withdrew public land in the vicinity of the Northeast Cape, T. 25 S., R. 54 W., Kateel River Meridian, for use of the Air Force for military purposes, and which is to take precedence over but not otherwise affect the Executive Order of January 7, 1903, reserving and setting apart St. Lawrence Island as a reindeer station except that the PLO provision for the return to the administration of the Department of the Interior of those lands no longer needed for the purpose reserved shall not apply; and

4. The following third-party interests, if valid, created and identified by the Bureau of Indian Affairs as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971.
(85 Stat. 688, 704; 43 U.S.C. 1601, 1613(g) (Supp. V, 1975)):

a. In the vicinity of Gambell, T. 20 S., R. 67 W., Kateel River Meridian:

(1.) Permit, to Alaska Village Electric Cooperative, Inc., for use and occupancy of approximately 18,200 square feet of lands in S½S½ of Sec. 3.

(2.) Permit, to University of Alaska, Institute of Arctic Biology, for use and occupancy of approximately 0.15 acre of lands in S½S½ of Sec. 3.

(3.) Permit, to AC Electronics, Division of General Motors Corporation, Defense Research of Goleta in the State of California, for use and occupancy of approximately 800 square feet of lands in NE¼ of Sec. 10.

b. In the vicinity of Savoonga, T. 21 S., R. 61 W., Kateel River Meridian:

(1.) Permit, to Alaska Village Electric Cooperative, Inc., for use and occupancy of approximately 18,637 square feet of lands in SE¼ of Sec. 5.

(2.) Permit, to University of Alaska, Institute of Arctic Environmental Engineering, for use and occupancy of approximately 1 acre of lands in SW¼ of Sec. 5.

(3.) Use permit No. 9–300–311, to U.S. Public Health Service, for use and occupancy of approximately 0.23 acre of land in SE¼ of Sec. 5.

Special Land Use Permits F–19314, for construction of 20 housing units at Gambell and F–19315, for construction of 25 housing units at Savoonga, granted to Alaska Federation of Natives Housing Authority under the provisions of 43 CFR 2920, will be cancelled when title to the lands herein is passed to the above-named village corporations.

The lands conveyed will include Gambell Sites, identified on Bureau of Land Management plats as serial number F–13789, which are in the National Register of Historic Places and which have been designated National Historic Landmarks by the Secretary of the Interior.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks in the NOME NUGGET Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until May 30, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is to be taken, the adverse parties to be served with a copy of the notice of appeal are:

Gambell Native Corporation, Gambell, Alaska 99742.

Savoonga Native Corporation, Savoonga, Alaska 99769.

Real Estate Division, Naval Facilities Engineering Command, U.S. Department of the Navy, Box 727, San Bruno, California 94066.

Public Health Service, U.S. Department of Health, Education and Welfare, Box 7–741, Anchorage, Alaska 99510.

Area Director, Bureau of Indian Affairs, Box 3–8000, Juneau, Alaska 99801.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau

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of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Sue A. Wolf,

Chief, Branch of Adjudication.

[F-20520]

[FR Doc. 79-13268 Filed 4-27-79; 8:45 am]

BILLING CODE 4310-84-M

Bering Sea-Norton Sound Outer Continental Shelf; Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Purpose of the Call

Section 102 of the Outer Continental Shelf Lands Act Amendments of 1978 describes the purposes of that Act. One of the purposes is to establish policies and procedures intended to expedite exploration and development of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade. Equally important purposes include balancing energy resources development with the protection of the human, marine and coastal environments as well as assuring States and local governments the opportunity to review and comment on decisions relating to OCS activities. To assist the Secretary of the Interior in carrying out these purposes, and pursuant to 43 CFR 3301.3, nominations are hereby requested for areas on the Bering Sea-Norton Sound Outer Continental Shelf for possible oil and gas leasing under the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343) as amended. Pursuant to 43 CFR 3301.4, the Secretary also is requesting comments on the possible environmental impact and potential use conflicts in specified areas.

Description of the Area

The area of the Call for nominations and Comments is located in the northeast segment of the Bering Sea and encompasses the Outer Continental Shelf underlying the Norton Sound off the western coast of Alaska. Significant geographic features bounding the Call area include Cape Prince of Wales on the north, St. Lawrence Island on the south and the Yukon River delta to the southeast.

Nominations will be considered for any or all of that part of the following blocks located in the OCS mapped areas listed below:

1. NQ 2–6: Blocks 495–505, 539–550, 582–594, 625–638, 668–682, 711–726, 754–770, 797–814, 840–858, 883–902, 926–946, and 969–989.
2. NQ 3–5: Blocks 486–488, 529–532, 573–578, 617–625, 661–672, 705–715, 749–759, 793–803, 837–846, 881–891, 925–936, and 969–981.
3. NQ 2–7, 2–8: All blocks.
4. NQ 3–7: All blocks.
5. NQ 3–8: All blocks.
6. NQ 4–7: All blocks.
7. NP 1–2: All blocks.
8. NP 2–1: All blocks.
9. NP 2–2: All blocks.
10. NP 3–1: All blocks.
11. NP 3–2: All blocks.
12. NP 4–1: All blocks.

These blocks may be found on the following Outer Continental Shelf Official Protraction Diagrams, which may be purchased for $2.00 each from the Manager, Alaska OCS Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510. The Street address is 800 A Street, Anchorage, Alaska.

OCS Official Protraction Diagrams

1. NQ 2–6: Little Diomede Island.
2. NQ 3–5: Teller.
3. NQ 2–7, 2–8: Ukivok.
4. NQ 3–7: Nome.
5. NQ 3–8: Solomon.
6. NQ 4–7: Cape Denbigh.
7. NP 1–2:
8. NP 2–1: Gambell.
9. NP 2–2: St. Lawrence.
10. NP 3–1: Norton Sound.
11. NP 3–2: St. Michael.
12. NP 4–1: Unalakleet.

Instruction on Call

Nominations must be described in accordance with the Outer Continental Shelf Leasing Maps or Official Protraction Diagrams prepared by the Bureau of Land Management (BLM), Department of the Interior and referred to above. Only whole blocks or properly described subdivisions thereof, not less than one quarter of a block, may be nominated. Although individual company nominations are considered to be privileged and confidential information, the names of persons or entities submitting nominations or comments will be of public record.

Those nominating twelve blocks or more, are requested to arrange their nominations into three groups according to the priority of their interest.

Comments should be as specific as possible in identifying specific blocks or areas which should receive special concern and analysis in any leasing decision. In addition to nominations, we are seeking comments about particular geological, environmental, biological, archeological, socioeconomic conditions or problems, or other information which might bear upon potential leasing and development of particular blocks where available.

Nominations and/or comments must be submitted not later than November 1, 1979, in envelopes labeled "Nominations of Tracts for Leasing in the Outer Continental Shelf—Bering Sea-Norton Sound" or "Comment on Leasing in the Outer Continental Shelf—Bering Sea-Norton Sound," as appropriate. They must be submitted to the Director, Attention 720, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240. Copies must be sent to the Assistant Conservation Manager, U.S. Geological Survey, P.O. Box 259, Anchorage, Alaska 99510, and to the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, at his address cited above.

Use of Information From Call

Nominations will be evaluated and used along the other geologic and geophysical information to determine what, if any, tracts should be tentatively selected for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and the OCS Lands Act, as amended. Generally, because of limits on the geographical scope of areas which can be successfully planned for a single sale, only a portion of the tracts nominated are selected for further environmental analysis and possible leasing.

Comments will be considered along with other relevant information available to the Secretary to determine what tracts should be designated for further environmental analysis and study. As a general rule, tracts which are believed to have potential for the production of hydrocarbons are not excluded from further environmental study unless the Secretary has sufficient information to conclude that it is not possible for those tracts to be developed in an environmentally safe manner.

In any event, selection of tracts for further environmental analyses does not insure that the tracts will be subsequently offered for lease or that they will be deleted for environmental or use conflicts. It simply insures that more information will be available when that decision is made. In performing additional environmental analyses leading to a sale decision, the Department will take into account comments received as it determines particular areas and issues for attention.

Final selection of tracts for competitive bidding will be made only at a later date after compliance with established Departmental procedures and all requirements of the National Environmental Policy Act of 1969.

Notice of any tracts finally selected for competitive bidding will be published in the **Federal Register** stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

Approved: April 25, 1979.

Roman H. Koenings,

Acting Associate Director, Bureau of Land Management.

Heather L. Ross

Deputy Assistant Secretary of the Interior

[Tentative Sale No. 57]

[FR Doc 79-13296 Filed 4-26-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Allen Camp Unit, Central Valley Project, Calif.; Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an Environmental Statement on the Allen Camp Unit, Central Valley Project, California. The proposed statement will address the impacts of construction and operation of the Allen Camp Unit.

The purposes of the proposed project are to supply irrigation water, control floods, conserve and develop fish and wildlife resources and enhance outdoor recreation opportunities.

The Allen Camp Unit will consist of the 100,000 acre-foot capacity (approximate) Allen Camp Dam and Reservoir, an 11,000 acre wildlife refuge, conveyance and distribution systems, a closed drainage system, flood control levees, and recreation facilities at Allen Camp Reservoir.

Alternatives to the proposed actions include channelization of the Pit River, construction of setback levees or bypass channels, varying amounts of reservoir flood control canals, varying sizes and configurations of the wildlife refuge, and an open drainage system.

There will be a meeting to solicit information from all interested public entities and persons to assist in determining the scope of the Environmental Statement and to identify the significant issues related to the proposed action. The time and place of this meeting will be June 5, 7:30 p.m. in the Veterans Memorial Building, Bieber, California.

The contact person for this environmental statement will be: Dee Harper, Office of Environmental Quality, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA, 95825, Telephone: (916) 484–4797.

Dated: April 23, 1979.

Orrin Ferris,

Acting Commissioner of Reclamation.

[W.O. Code 580, 150]

[FR Doc. 79-13277 Filed 4-27-79; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Threatened Species Permit; Receipt of Applications

The applicants listed below wish to apply for Captive Self-Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those indicated species listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

These applications and supporting documents are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, USFWS, WPO, Washington, D.C. 20240. Interested persons may comment on these applications on or before May 30, 1979, by submitting written data, views, or arguments to the Director at the above address.

Applicant: David R. Meeks, M & M Pet Farm and Zoo, Rt. 1, Box 351, Wellford, South Carolina; PRT 2–3955, Species: all T(C/P) mammals.

Applicant: Herman J. Correia, 120 Mill St., Tiverton, Rhode Island; PRT 2–4117, Species: all T(C/P) pheasants.

Please refer to the individual applicant and the appropriately assigned PRT 2–number when submitting comments.

Dated: April 19, 1979.

Fred L. Bolwahnn,

Acting Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 79-13282 Filed 4-27-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: San Antonio Zoological Gardens, 3903 N. St. Mary's St., San Antonio, Texas 78212.

The applicant requests a permit to export one female captive-bred snow leopard (*Panthera uncia*) to the Burgers Zoo Arnhem, Arnhem, Holland, for zoological exhibition and enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2–4137. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before May 30, 1979. Please refer to the file number when submitting comments.

Dated: April 24, 1979.

Donald C. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 79-13281 Filed 4-27-79; 8:45 am]

BILLING CODE 4310-55-M

Threatened Species Permit; Receipt of Application

Applicant: L & J Game Bird Ranch, 4850 Alcorn Rd., Fallon, Nevada 89406.

The permit holder wishes to renew his Captive-Self Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, all species of pheasants listed in 50 CFR Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this request are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This permit file has been assigned file number PRT 2–353. Interested persons may comment on this request by submitting written data, views, or arguments to the Director at the above address on or before May 30, 1979. Please refer to the file number when submitting comments.

Dated: April 19, 1979.

Fred L. Bolwahnn,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 79-13283 Filed 4-27-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Denver Zoological Gardens, Denver, Colorado; PRT 2–4106.

The applicant requests a permit to purchase in interstate commerce one male and one female white-collared mangabey *(Cercocebus torquatus)* from

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the Los Angeles Zoo, Los Angeles, California, and the Jackson Zoological Park, Jackson, Mississippi, respectively.

Applicant: Woodland Park Zoological Gardens, Seattle, Washington; PRT 2-4116.

The applicant requests a permit to purchase in interstate commerce one male cotton-topped tamarin *(Saguinus oedipus)* from the Marmoset Breeding Farm, Rochester, New York, and one male and one female cotton-topped tamarin from the Gladys Porter Zoo, Brownsville, Texas, for exhibition and enhancement of propagation.

Applicant: Museum of Comparative Zoology, Harvard University, Cambridge, Massachusetts; PRT 2-4120.

The applicant requests a permit to export and re-import museum specimens of Endangered and Threatened Species that have already been accessioned into the museum's collection to and from foreign institutions for scienific research over a two-year period.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications on or before May 30, 1979 by submitting written data, views, or arguments to the Director at the above address.

Dated: April 19, 1979

Fred L. Bolwahnn,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 79-13280 Filed 4-27-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Dr. C. John Ralph, Institute of Pacific Islands Forestry, 1151 Punchbowl St., Honolulu, Hawaii 96813.

The applicant requests a permit to capture the following species for banding and release for scientific purposes:

Hawaiian Hawk *(Buto solitarius)*
Hawaiian Crow *(Corvus tropicus)*
Kauai Thrush *(Phaeornis obscurus myadestina)*
Small Kauai Thrush *(P. palmeri)*
Kauai Oo *(Moho braccatus)*
Oahu Creeper *(Loxops m. maculata)*
Hawaii Creeper *(L. m. mana)*
Hawaii Akepa *(L. c. coccinea)*
Kauai Akialao *(Hemignathus procerus)*
Kauai Nukupuka *(H. lucidus hanapepe)*
Akiapolaau *(H. wilsoni)*
Ou *(Psittirostra psittacea)*
Palila *(P. bailleui)*

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4112. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before May 30, 1979. Please refer to the file number when submitting comments.

Dated: April 19, 1979.

Fred L. Bolwahnn,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-13279 Filed 4-27-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Dr. Kristine Tollestrup, Dept. of Biology, University of Chicago, 1103 E. 57th St., Chicago, Illinois 60637.

The applicant requests a permit to take 50 male and 50 female blunt-nosed leopard lizards (*Crotaphytus silus*) for scientific purposes.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-597. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before May 30, 1979. Please refer to the file number when submitting comments.

Dated: April 19, 1979.

Fred L. Bolwahnn,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 79-13278 Filed 4-27-79; 8:45 am]

BILLING CODE 4310-55-M

Lands Withdrawals in Alaska by the Secretary of the Interior Under Section 204(c) of the Federal Land Policy and Management Act; Hearings

AGENCY: Department of the Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior will conduct a second series of public hearings to collect written and oral testimony on the desirability and need to withdraw lands pursuant to the provisions of Section 204(c) of the Federal Land Policy and Management Act, primarily as additions to the National Wildlife Refuge System.

DATES: Simultaneous public hearings will be held in Anchorage, Fairbanks and Tanana, Alaska on May 24, 1979. The hearings will begin at 10:00 a.m. and will continue until 8:00 p.m. if necessary. In addition, at a later date, hearings will be held in Denver, Colorado; San Francisco, California; and Washington, D.C. Information concerning these later hearings will be subject of a subsequent notice in the Federal Register.

ADDRESSES: Public hearings will be held at the following locations:

Anchorage, Alaska, Alaska Pacific University, Student Center, E. Wesley Drive off Providence Drive.

Fairbanks, Alaska, University of Alaska, Fine Arts Theater

Tanana, Alaska, Village Community Building.

Written requests to testify must be mailed in advance to the Alaska Area Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99507, (telephone 907-276-3800).

FOR FURTHER INFORMATION CONTACT: Burkett S. Neely, Jr., Alaska Native Claims Staff, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (telephone 202-343-7533).

SUPPLEMENTARY INFORMATION: The primary author of this document is Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, (telephone 202-343-4305).

On November 16, 1978, Public Land Order 5653, as amended by Public Land Order 5654, was issued under the emergency withdrawal authority provided to the Secretary by Section 204(e) of the Federal Land Policy and Management Act of 1976 (FLPMA). The Secretary of the Interior determined that an emergency situation existed and that extraordinary measures had to be taken to protect values of the approximately 110 million acres that were withdrawn.

On December 1, 1978 President Carter used his authority under the Antiquities Act of 1906 to designate 17 new national monuments in Alaska, totaling approximately 56 million acres. President Carter's proclamations covered thirteen units to be administered by the National Park Service, two units to be managed by the U.S. Fish and Wildlife Service and two National Forest units which will continue to be managed by the Forest Service. Most of these lands are included within the 110 million acres in Alaska which were withdrawn by the Secretary on November 16, 1978 under Section 204(e) of FLPMA.

Discussion

On March 29, 1979 (44 FR 18746) the Department published a notice concerning public hearings in six Alaska villages. This notice announces additional public hearings in Anchorage, Fairbanks and Tanana, Alaska to hear comment on proposals for final withdrawal under Section 204(c) of the FLPMA. The approximately 57 million acres of lands under consideration are generally the remainder of those lands which were withdrawn by the Secretary but not designated as National Monuments by the President. Mostly, these lands are not protected by the emergency withdrawal issued by the Secretary on November 16, 1978, after Congress failed to pass legislation placing these critical federal lands in conservation system units—national parks, national wildlife refuges, wild and scenic rivers.

When the National Monuments were established by Presidential Proclamation, the Secretary was directed to "proceed with necessary steps" for final withdrawals for the remaining areas. These steps involve holding public hearings first and then providing Congress with documentation similar to that submitted in connection with the emergency withdrawals. Appropriate documents pertaining to the areas and withdrawal actions being proposed are available for review at U.S. Fish and Wildlife Service offices in Anchorage, Fairbanks, Nome, Bethel, Juneau, Kenai, and Kodiak, Alaska, and other locations as appropriate. After May 1, documents will be available at all U.S. Fish and Wildlife Service Regional Offices. These documents will also be available during the hearings.

All interested parties including Federal, State, Borough and municipal agencies, local interests, and individual citizens and groups are invited to write to the Alaska Area Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, requesting to be scheduled to testify at one of the hearings listed above. Written statements may be either mailed to the Alaska Area Director at the above address in advance of the hearing, or handed to the hearing officer at the hearing. Those persons scheduled will be afforded a maximum of 10 minutes to express their views concerning the proposed withdrawals. Oral statements will be heard, but for accuracy of the record, all testimony should be submitted in writing. Translators will be provided for oral testimony as necessary. The record of the hearing will be forwarded to the Secretary for final consideration.

The Department of the Interior encourages written expression relative to the proposal at any time. However, in order to be incorporated in the official record, all communications should be mailed to the Alaska Area Director at the above address within 30 days following each hearing.

Dated: April 25, 1979.

James A. Joseph,

Under Secretary of the Interior.

[FR Doc. 79-13343 Filed 4-27-79; 8:45 am]

BILLING CODE 4310-10-M

Office of Surface Mining Reclamation and Enforcement

Advisory Committee on Mining and Mineral Resources Research; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I) and the Office of Management and Budget's Circular No. A63, Revised.

The Advisory Committee on Mining and Mineral Resources Research will meet from 9:00 a.m. to 5:00 p.m. (or completion of business) on May 15, 1979, in room 1042, Columbia Plaza, 2401 E. Street, N.W., Washington, D.C.

The meeting will deal with the following principal subjects:

1. Review of minutes of previous meeting—Assistant Director David R. Maneval.
2. Review of quarterly progress of mineral institutes.
3. Discussion of pre-proposals for research grants.
4. Review of site visits to designated Mining and Mineral Resources Research Institutes.
5. Policies and future activities of the Advisory Committee.

The meeting of this committee is open to the public. Approximately 40 visitors can be accommodated on a first come, first serve basis. Written statements concerning the subjects are welcome.

Visitors who expect to attend should make this known no later than May 8, 1979, to Dr. David R. Maneval, Assistant Director, Technical Services and Research, Office of Surface Mining, Room 114, South Interior Building, 19th and Constitution Avenue, N.W., Washington, D.C. 20240, phone (202) 343-4264.

Walter N. Heine,

Director.

April 24, 1979.

[FR Doc. 79-13284 Filed 4-27-79; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL COMMUNICATION AGENCY

Culturally Significant Objects From Union of Soviet Socialist Republics; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects (described in the list [1] filed as a part of this determination) imported from the Soviet Union for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to an exchange agreement between The Armand Hammer Foundation and the Ministry of Culture of the Union of Soviet Socialist Republics. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C., beginning on or about May 13, 1979, to on or about June 27, 1979; the Los Angeles County Museum of Art, Los Angeles, Cal., beginning on or about June 30, 1979 to on or about August 12, 1979; and the M. Knoedler & Company, Inc., New York, N.Y., beginning on or about August 21, 1979 to on or about September 30, 1979, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

John E. Reinhardt,

Director, International Communication Agency.

April 26, 1979.

[FR Doc. 79-13509 Filed 4-27-79; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

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DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Request for Comments on the Final LEAA Guideline Revision of Guide for Discretionary Grant Program; Replication of Project New Pride

Corrections

In FR Doc. 79-12805 appearing at page 24348 in the issue of Wednesday, April 25, 1979, make the following changes:

1. On page 24348, third column, fifteenth and sixteenth lines of the second paragraph, delete "within thirty (30) days after publication." and insert the following in its place: "on or before May 25, 1979."; and in the fourth line from the bottom of the second paragraph, the telephone number now reading "376-2613" should read "376-3613".

2. On page 24353, first column, in the FR Doc. line, the document number should have read "79-12805".

BILLING CODE 1505-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley F. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Donald W. Barrowman—447-6202

Revisions

Agricultural Marketing Service
*Regulations (Other Than Rules of Practice) and Related 7 CFR Part 46-FV 211, 211A, and 231
Annually
Comm. merchants, dealers, brokers cond. bus. subj. to PACA; 20,000 responses; 1,525 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderote—697-1195

New Forms

Defense Civil Preparedness Agency
Three Mile Island Incident Survey
Single time
Sample hshlds (mostly in a 40-mi. radius to 3-mi. Isl.): 1,400 responses; 1,200 hours
David P. Caywood, 395-6140

Extensions

Departmental and other policies and procedures for alteration of FBM weapon system equipment (SPALTS)
SSPINST P 4720.1C,
on occasion.
FBM Contractors, 50 responses; 5,000 hours
David P. Caywood, 395-6140

DEPARTMENT OF ENERGY

Agency Clearance Officer—Albert H. Linden—566-9021

Extensions

Natural Gas Pipeline Company Monthly Statement
FPC-11
Monthly
Major Interstate Natural Gas Companies; 408 responses 9,833 hours
Jefferson B. Hill, 395-5867
Monthly Statement of Electric Operating Revenue and income
FPC-5
Monthly
Public Utility and Public Electric Utility Hydro (Electric class A & B) 2,880 responses; 11,808 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245-7488

New Forms

Center for Disease Control
Health Effects of DDT in Triana, Ala.
Single time
Residents of Triana, Ala. 1,000 responses; 250 hours
Richard Eisinger, 395-3214
Health Care Financing Administration (Departmental)
National Survey To Collect Data on Hospital Capital Expenditures
HCFA-124T, 124T
Singe time
Community hospitals; 9,750 responses; 6,562 hours
Richard Eisinger, 395-3214
Health Care Financing Administration (medicare)

Demonstration Project for Calculating Adjusted Average Per Capita Costs for HMC's
HCFA -123-T, 123—L
Singe time
Nursing rest and convalescent homes and long term hospital (23 CO.—6 St.)
350 responses; 117 hours
Richard Eisinger, 395-3214
Health Resources Administration A Study of the Supply and Demand for Shared-Schedule
Residency Training
Single time
Residential Training Program—Director, Residential and Medical students; 4,142 responses; 456 hours
Richard Eisinger, 395-3214
National Institutes of Health
Special Study of Lung Cancer in Communities with Nonferrous Smelters
Single time
Next-of-kin of deceased individuals; 896 responses; 672 hours
Office of Federal Statistical Policy and Standard, 673-7974
Public Health Service
United States-Mexico Border Family Planning/Maternal-child
Health survey
Single time
Randomly selected females, 15-44 years of age; 3,600 responses; 1,500 hours
Richard Eisinger, 395-3214

Revisions

Office of the Secretary
Income Survey Development Program 1979 Research Panel
OS-12-79
Quarterly
Households members in national probability sample; 78,959 responses; 27,636 hours
Office of Federal Statistical Policy and Standard, 673-7974

Extensions

Office of the Secretary
*Analysis of Government-Owned/Contractor Held Property
OS 18 74
Annually
Contractors doing business with HEW; 3,000 responses; 750 hours
Richard Eisinger, 395-3214
Office of the Secretary
*Report of Capitalized Nonexpendable Equipment Acquired With Contract Funds-
OS 17 74
On occasion
Contractors doing business with HEW; 18,000 responses; 9,000 hours
Richard Eisinger, 395-3214

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341

New Forms

Employment and Training Administration
An Analysis of the Structure and Effectiveness of WIN Separate Administrative Units Services Delivery
ETA-19
Single time
State WIN Director; 5,302 responses; 707 hours
Arnold Strasser, 395-5080

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John Reidy—653-6081

Revisions

Equal Employment Opportunity Compliance Report
SBA 707
Annually
Small business; 15,000 responses; 30,000 hours
Richard Sheppard, 395-3211

Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.
[FR Doc. 79-13339 Filed 4-27-79; 8:45 am]
BILLING CODE 3110-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Acquiring of Commercial or Industrial Products and Services Needed by the Government; Policy Revision

Correction

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

SUMMARY: The following paragraph was inadvertently omitted from Revised OMB Circular A-76, "Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government," which was published in the **Federal Register** on April 5, 1979, Part III, Vol. 44, No. 67. This paragraph should have appeared on page 20561, left-hand column, as paragraph 10.c.(6).

"(6) When a proposed expansion, modernization, or upgrade exceeds the threshold for capital investment or operating costs, it will be reviewed as though it were a scheduled review of an existing activity. At least 60 days notice will be given to all affected parties."

James D. Curris,
Acting Administrator.
[FR Doc. 79-13254 Filed 4-27-79; 8:45 am]
BILLING CODE 3110-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Safety Reporting Program; Amendment to Memorandum of Agreement Between National Aeronautics and Space Administration and Department of Transportation, Federal Aviation Administration

Note.—This document originally appeared in the **Federal Register** for Friday, April 27, 1979. It is reprinted in this issue to meet requirements for publication on the Monday-Thursday schedule assigned to the Federal Aviation Administration (See OFR notice 41 FR 32914, August 6, 1976.)

On March 21, 1979, the Federal Aviation Administration (FAA) modified the Aviation Safety Reporting Program (44 FR 18128, March 26, 1979). The modification provides that when a violation of the Federal Aviation Regulations comes to the attention of the FAA from a source other than a report filed with the National Aeronautics and Space Administration (NASA) under the Aviation Safety Reporting Program, appropriate action will be taken. Reports filed with NASA by persons involved in incidents will not be made available to the FAA, however, and these reports cannot be used as the basis for enforcement or disciplinary action against the reporter or other persons named in the report.

The Memorandum of Agreement entered into by NASA and the FAA under which NASA operates the Aviation Safety Reporting System (ASRS) has been amended to eliminate references to the immunity program. The amendment also provides an interim period during which an advisory circular and new reporting forms will be provided and distributed to implement the modification to the ASRS. The original immunity shall contine to apply to reports that are timely filed concerning incidents that occur before July 1, 1979. The new reporting forms and an advisory circular describing the modified program will be available by that date.

The Amended Memorandum of Agreement is published below.

Issued in Washington, D.C. on April 24, 1979.

Langhorne Bond,
Administrator.

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Amended Memorandum of Agreement Between National Aeronautics and Space Administration and Department of Transportation, Federal Aviation Administration, Aviation Safety Reporting System

I. Background

A. The Administrator of the Federal Aviation Administration (FAA), Department of Transportation is empowered and directed to encourage and foster the safety in air commerce. Pursuant to this authority, the Administrator adopted a voluntary Aviation Safety Reporting Program (ASRP) (40 FR 17775, April 22, 1975) designed to acquire previously unobtainable information concerning potential deficiencies and discrepancies in the national aviation system.

B. The National Aeronautics and Space Administration (NASA) has a continuing responsibility to engage in aviation research and development programs and is authorized in carrying out this responsibility to enter into appropriate agreements with other government agencies.

C. The Aviation Safety Reporting System (ASRS) was agreed to be established in the original Memorandum of Agreement signed August 15, 1975. The Agreement and a description of the ASRS were published in the **Federal Register** on April 15, 1976 (41 FR 15903, 15914). The ASRS was designed and established by NASA and became operational April 15, 1976. (Section I.C. added April 24, 1979.)

D. The Administrator of the FAA has determined that the immunity feature described in Section IV.D. of the original agreement shall be eliminated (44 FR 18128, March 26, 1979). Accordingly, it is necessary to amend the original agreement to eliminate references in Sections IV.C., IV.D., and V.D. to the immunity provisions. NASA and the FAA agree that sufficient time is required to print and distribute an advisory circular and new reporting forms to implement this modification to the ASRS program. Therefore the original immunity feature shall continue to apply to reports that are timely filed concerning incidents that occur before July 1, 1979, the date by which the new reporting forms and an advisory circular describing the modified program will be available. (Section I.D. added April 24, 1979.)

II. Purpose

The FAA has determined that the effectiveness of the ASRP would be greatly enhanced if the receipt, processing, and analysis of the raw information received were to be accomplished by NASA rather than the FAA. This would further ensure the anonymity of the reporter and consequently increase the flow of information so necessary for the effective evaluation of the safety and efficiency of the aviation system. NASA has determined that undertaking this task would be consistent with its aviation research and development responsibilities and would significantly increase its ability to fulfill those responsibilities.

III. Authority

This agreement is entered into under the authority of Section 302(k) and 313 of the Federal Aviation Act of 1958, as amended, Section 601 of the Economy Act, as amended, and the National Aeronautics and Space Act of 1958, as amended.

IV. Aviation Safety Reporting System

A. *General.* NASA will design and implement an Aviation Safety Reporting System (ASRS). This system will be designed primarily to provide information to the FAA and the aviation community to assist the FAA in reaching its goal of eliminating unsafe conditions and preventing avoidable accidents. In addition, the system will be designed in a manner that will permit its operation by another party at the expiration of this agreement.

B. *Description.* The ASRS will be designed to perform four primary functions. They are (1) receipt, de-identification and initial processing; (2) analysis and interpretation; (3) dissemination of reports and other data; and (4) system evaluation and review.

1. NASA will develop procedures for receiving, de-identifying, and processing ASRS reports including those covered by the FAA's ASRP. This procedure will assure that reports are initially screened by NASA officials for—

(a) Time critical information which will be promptly referred to the FAA and other interested parties for appropriate action;

(b) Information concerning criminal offenses which will be promptly referred to the Department of Justice and the FAA; and

(c) Information concerning accidents which will be promptly referred to the National Transportation Safety Board and the FAA. Except for reports covered by paragraphs (b) and (c), reports will be de-identified by deleting all information that would reveal identities of persons filing reports and persons named in those reports. De-identification will be accomplished as soon as possible after determining that no additional data is needed, normally within 24–48 hours. The person submitting the report will be mailed a receipt and the anonymous data placed in the NASA data base. The data base will be made available for public inspection except as authorized or required by Federal law to be withheld.

2. NASA will establish procedures to provide for the analysis and interpretation of safety reports.

3. NASA will prepare periodic reports, statistical summaries, and other data necessary to depict the results of the analysis and interpretation of the safety reports. This material will be transmitted to the FAA and other users of the system to facilitate their evaluation and action to eliminate unsafe conditions or practices.

4. NASA will provide for the continuing review and evaluation of the system to ensure that it is operating as efficiently and effectively as practicable.

C.

(Section VI.C. deleted April 24, 1979.)

D. *Confidentiality.* Experience gained by the FAA under its near mid-air collision program and the ASRP has indicated that the willingness of persons to submit a report depends to a large degree on preserving the anonymity of persons filing reports and persons named in those reports. Accordingly, FAA will not seek and NASA will not release to the FAA any information that might reveal the identity of such persons. (Section IV.D. revised April 24, 1979.)

E. *Staffing and Management.* The ASRS functions will be performed by NASA with assistance of such others as may be necessary. All forms used in the ASRS will be NASA forms. All records will be the records of NASA.

F. *Advisory Committee.* NASA will form an ASRS Advisory Committee within the framework of the NASA Research and Technology Advisory Council. The purpose of the Committee will be to advise NASA of the design and conduct of the ASRS program and to provide an additional means of communication with the aviation community concerning the ASRS. The Committee will also be responsible for advising NASA with respect to the maintenance of the anonymity of persons submitting reports or named therein. The membership of the Committee will be appointed by NASA from all elements involved in the operational aspects of the national aviation system including FAA and DOD.

G. *Schedule.* The ASRS will become operational by April 15, 1976, on which data NASA will begin receiving safety reports. The first report summarizing ASRS operations will be published three months thereafter. A full evaluation of ASRS operations and procedures will be made in June 1977 by the ASRS Advisory Committee and necessary system and procedural changes designed and implemented. The utility and effectiveness of the ASRS will be re-evaluated by the Committee in June 1979. At that time, the Committee will make recommendations to the Administrators of NASA and the FAA concerning the future utilization and continuance of the system.

V. Responsibilities

A. NASA will provide the personnel, services, materials, and facilities necessary for the design and implementation of the ASRS until termination of this Agreement or June 1980, whichever first occurs.

B. NASA will formally establish the ASRS and provide for the publication of a description of the system and such other information concerning that system as is necessary to ensure its maximum utilization by the aviation community and other interested persons.

C. FAA will provide the following:

1. The services to NASA of a senior ATC specialist for one month for advice and instruction on the FAA's air traffic control system. The specialist will also be made available for consultation at NASA's request for approximately 20 percent of the following year.

2. Assist NASA in obtaining necessary information about other areas of the national aviation system, including operational incidents and problems relevant to the research studies to be conducted under the ASRS.

3. Make FAA personnel available to assist NASA in the design of the ASRS.

4. Distribute the NASA ASRS forms, designed by NASA and bearing the NASA logo.

D. The FAA will not use any report submitted under the ASRS (or information derived therefrom) in any disciplinary action except information concerning criminal violations or accidents. In addition, the FAA will delete aspects of its ASRP program, such as reporting, which would duplicate NASA's efforts under this agreement. (Section V.D. revised April 24, 1979.)

E. Prior to the time that the ASRS becomes operational, the FAA and NASA will agree on criteria to be used by NASA to determine whether a report contains time critical information within the meaning of Section IV B.1.(a).

F. The FAA and NASA will jointly develop a continuing information program designed to fully acquaint the aviation community and the public with all aspects of the ASRP, ASRS, and their interrelationship. All press releases and other public announcements will be subject to prior consultation between the parties.

G. FAA and NASA will each designate an official for the purpose of ensuring continuing liaison concerning the administration of the ASRS. These officials will meet as required to exchange information and ensure that the system is meeting its objectives.

VI. Funding

A. The FAA will reimburse NASA for amounts paid by NASA to any contractor assisting NASA in the performance of its ASRS functions up to a maximum of $560,000 for FY–1976, which maximum amount may be increased or decreased by mutual agreement of the parties. Appropriate maximum levels of obligation on the part of the FAA for subsequent fiscal years shall be periodically mutually agreed to by the parties.

B. NASA will provide all necessary funding for the salary and administrative service costs associated with the design and implementation of the ASRS, costs associated with the operation of the Advisory Committee, and any other costs relating to the ASRS not otherwise specifically provided for herein.

VII. Other Provisions

A. NASA will publish quarterly reports providing routine statistical ASRS findings. These reports will each contain an appendix identifying time critical reports processed during the reporting period. NASA will also publish from time to time special reports describing the findings of special analyses conducted as a result of requests by the Advisory Committee or by others.

B. NASA will provide the FAA with quarterly reports summarizing project highlights, accomplishments, and resource utilization and annual reports summarizing ASRS findings and results of special studies.

VIII. Effective Date

This Agreement shall enter into force and effect when signed by both parties and shall remain in force and effect until June 1980 unless and until sooner terminated. Such termination may be by mutual agreement of the parties or by notice in writing forwarded by one party to the other not less than twelve months in advance of such termination.

Signed in Washington, D.C., on August 15, 1975.

National Aeronautics and Space Administration.

George M. Low,

Deputy Administrator

Department of Transportation Federal Aviation Administration.

James E. Dow,

Acting Administrator

Modifications to the original Memorandum of Agreement concurred in by both parties to the Agreement.

Signed in Washington, D.C., on April 24, 1979.

National Aeronautics and Space Administration.

A. M. Lovelace,

Deputy Administrator

Department of Transportation Federal Aviation Administration

Langhorne Bond,

Administrator.

[FR Doc. 79-13256 Filed 4-27-79; 8:45 am]

BILLING CODE 4910-13-M

Proposed Ft. Lauderdale, Fla., Terminal Control Area; Informal Airspace Meeting

June 13, 1979.

The purpose of this meeting is to discuss a proposed Terminal Control Area configuration for Ft. Lauderdale. Comments on the potential economic and environmental effects are also invited. A separate meeting will be held on June 12, 1979, in the Miami/Dade Community College, South Campus, Room 2110, in Miami, Florida, to discuss the proposed expansion of the Miami Group I TCA.

Ft. Lauderdale is one of the 44 new Group II TCA proposals being developed as announced in the Notice of Proposed Rulemaking 78–19, titled Proposed "Controlled Visual Flight" Rules, which closed for comments on April 4, 1979. NPRM 78–19 will not be a topic of discussion.

The meeting will convene at 7 p.m., Wednesday, June 13, 1979, in the Florida Department of Transportation Auditorium, 780 S.W. 24th St., Ft. Lauderdale, Florida (on State Route 84, east of I–95). Attendance is open to the interested public, but is limited to the space available.

With the approval of the chairman, members of the public may present statements at the meeting. Individual speakers will be limited to five minutes, with ten minutes for a group spokesman.

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There will be no relinquishing of time by one speaker to another. The time limit may be waived at the discretion of the chairman. Written statements in addition to, or in lieu of, oral presentations will be accepted. These should be submitted to the chairman or as directed at the meeting.

Issued in Atlanta, Georgia on April 18, 1979.

Lonnie D. Parrish,

Chief, Air Traffic Division, Southern Region.

[FR Doc. 79-13290 Filed 4-27-79; 8:45 am]

BILLING CODE 4910-14-M

Proposed Miami, Fla., Terminal Control Area; Informal Airspace Meeting

June 12, 1979.

The purpose of this meeting is to discuss a proposed expansion to the Miami, Florida, Group I Terminal Control Area. Comments on the potential economic and environmental effects are also invited. A separate meeting will be held on June 13, 1979, in the Florida Department of Transportation Auditorium in Ft. Lauderdale to discuss the proposed Ft. Lauderdale Group II TCA.

Miami is one of twenty-one existing TCA expansion proposals being developed as announced in the Notice of Proposed Rulemaking 78-19, titled Proposed "Controlled Visual Flight" Rules, which closed for comments on April 4, 1979. NPRM 78-19 will not be a topic of discussion.

The meeting will convene at 7 p.m., Tuesday, June 12, 1979, in the Miami/Dade Community College, South Campus, Room 2110, 11011 S.W. 104th Street, Miami, Florida. Attendance is open to the interested public, but is limited to the space available.

With the approval of the chairman, members of the public may present statements at the meeting. Individual speakers will be limited to five minutes, with ten minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. The time limit may be waived at the discretion of the chairman. Written statements in addition to, or in lieu of, oral presentations will be accepted. These should be submitted to the chairman or as directed at the meeting.

Issued in Atlanta, Georgia on April 18, 1979.

Lonnie D. Parrish,

Chief, Air Traffic Division, Southern Region.

[FR Doc. 79-13291 Filed 4-27-79; 8:45 am]

BILLING CODE 4910-14-M

Proposed Terminal Control Area for Sacramento, Calif.; Meeting

Informal Airspace Meeting No. 53, Wednesday, June 20, 1979, and Saturday, June 23, 1979.

Time: Wednesday—7:30 p.m.; Saturday—10:) a.m.

Place: Pacific Telephone Company Area Headquarters, 2700 Watt Avenue, Sacramento, California 95821.

Status: Open to the public.

Matters to be considered: Proposed Terminal Control Area (TCA) for Sacramento, California.

Comments: No verbatim minutes or transcripts will be taken. However, participants may submit written comments to be made a matter of record if they so desire. This action will not prevent participants from submitting comments later in response to a Notice of Proposed Rule Making (NPRM) in the event the item is formally proposed. Public comments are invited at this meeting on development of the proposed TCA configuration.

For further information contact: Dallas McClemmons, Programs Officer, Sacramento Radar Approach Control Center, 5639 22nd Street, Rio Linda, California, 95673, (913) 922-9511.

Lawrence C. Fortier, Jr.

Chief, Airspace and Procedures Branch, AWE-530, Western Region.

[FR Doc. 13031 Filed 4-27-79; 8:45 am]

BILLING CODE 4910-13-M

Proposed Terminal Control Area for Tucson, Ariz.; Meeting

Informal airspace meeting No. 54, May 23 and 24, 1979.

Time: 7:00 p.m.

Place: Sunnyside High School, 1725 East Bilby Road, Tucson, Arizona.

Status: Open to the Public.

Matters to be considered: Proposed Terminal Control Area (TCA) for Tucson International Airport, Tucson, Arizona.

Comments: No verbatim minutes or transcripts will be taken. However, participants may submit written comments to be made a matter of record if they so desire. This action will not prevent participants from submitting comments later in response to a Notice of Proposed Rule Making (NPRM) in the event the item is formally proposed. Public comments are invited at this meeting on development of the proposed TCA configuration.

For Further Information Contact: Clay Boring, Programs Officer, Tucson Radar Approach Control, Building 4816, Davis-Monthan AFB, Arizona; telephone (602) 792-6457.

Lawrence C. Fortier, Jr.

Chief, Airspace and Procedures Branch, AWE-530, Western Region, Federal Aviation Administration.

[FR Doc. 79-13030 Filed 4-27-79; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Biomechanics Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), notice is hereby given of a meeting of the Biomechanics Advisory Committee to be held on May 15 and 16, 1979, in room 6200 of the DOT Headquarters Building, 400 Seventh Street, S.W., Washington, D.C.

The Committee will meet starting at 9:00 a.m. on both days to review minutes of the January Biomechanics Advisory Committee meeting; the changes to NHTSA Order 700-4, "Ethical Use of Cadavers in NHTSA-Sponsored Experiments"; DHEW regulations on the protection of human subjects; and NHTSA Order 700-1, "Protection of the Rights and Welfare of Human Subjects Involved in NHTSA-Sponsored Experiments.

The members will also hear a presentation on select projects reviewed by the "Human Use Review Committee". This is an NHTSA review committee that makes recommendations on NHTSA procedures and proposed projects requiring the protection of human subjects.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C. on: April 23, 1979.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 79-13214 Filed 4-27-79; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

Extension of the Countervailing Duty Waiver Authority

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Termination of suspension of liquidation.

SUMMARY: This notice is to advise the public that the authority conferred upon the Secretary of the Treasury by the Trade Act of 1974 to waive the imposition of countervailing duties has been extended. The liquidation of merchandise subject to countervailing duty waivers entered on or after January 3, 1979, will now be resumed.

EFFECTIVE DATE: April 30, 1979.

FOR FURTHER INFORMATION CONTACT: James Lyons, Office of the Chief Counsel, U.S. Customs Service, Washington, D.C. 20229 (202-566-5476).

SUPPLEMENTARY INFORMATION: Section 303(d) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (Pub. L. 93-618, January 3, 1975), authorized the Secretary of the Treasury to waive the imposition of countervailing duties on any article or merchandise during the four year-period which began on the date of enactment of the Trade Act of 1974 if he determined that:

"(A) Adequate steps [had] been taken to reduce substantially or eliminate during such period the adverse effect of a bounty or grant which he [had] determined [was] being paid or bestowed with respect to any article or merchandise;

(B) There [was] a reasonable prospect that, under section 102 of the Trade Act of 1974 successful trade agreements would be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to other distortions of international trade; and

(C) The imposition of the additional duty under this section with respect to such article or merchandise would be likely to seriously jeopardize the satisfactory completion of such negotiations" as amended (19 U.S.C. 1303(d)(2)).

When the Secretary's authority to grant such waivers expired on January 3, 1979, all merchandise then subject to waivers, entered or withdrawn from warehouse for consumption became subject to the assessment of countervailing duties. However, the possibility that waiver extension legislation would be enacted during the current session of Congress retroactive to January 3, 1979, made it uncertain that liability would ultimately attach for countervailing duties on merchandise for which waivers were in effect. It was, therefore deemed appropriate to suspend the final liquidations of such entries, see 44 FR 141. In lieu of requiring the deposit of estimated countervailing duties, the posting of bonds or irrevocable letters of credit in an amount sufficient to cover potential liability for countervailing duties was considered sufficient to meet the obligations of the Secretary for protecting the revenue.

On March 27, 1979, the Senate passed and on April 3, 1979 the President signed into law the countervailing duty waiver extension bill, H.R. 1147, which extends the effective date of any waiver still in effect on January 2, 1979 (Pub. L. 96-6). This extension continues until whichever of the following dates first occurs:

(A) The date on which either House of Congress defeats on a vote of final passage, in accordance with the provisions of section 151 of the Trade Act of 1974, implementing legislation with respect to a multilateral trade agreement or agreements governing the use of subsidies.

(B) The date of enactment of such implementing legislation.

(C) The date such determination is revoked under section 1303(d)(3) of the Tariff Act of 1930, as amended.

(D) The date of adoption of a resolution of disapproval of such determination pursuant to section 1303(e)(2) of the Tariff Act of 1930, as amended.

(E) September 30, 1979.

The extension of the waiver authority eliminates the need to continue the suspension of liquidations on merchandise which had been subject to the waiver of countervailing duties on January 2, 1979. Accordingly, effective April 30, 1979, liquidations will resume with respect to the above-described mechandise entered, or withdrawn from warehouse, for consumption on or after January 3, 1979. No countervailing duties will be collected on those products for which the Secretary had authorized a waiver, where such waiver was in effect on January 2, 1979, and continues in effect. Where a deposit of estimated duties had been made because of the expiration of the waiver authority, refunds of the appropriate amounts will be made.

Leonard Lehman,

Acting Commissioner of Customs.

Approved: April 18, 1979.

Robert H. Mundheim,

The General Counsel of the Treasury.

[FR Doc. 79-13316 Filed 4-27-79; 8:45 am]

BILLING CODE 4810-22-M

Tuna Fish—Tariff-Rate Quota for Calendar Year 1979

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity for tuna for calendar year 1979.

SUMMARY: Each year the tariff-rate quota for tuna fish described in item 112.30, Tariff Schedules of the United States (TSUS), is based on the U.S. pack of canned tuna during the preceding calendar year.

EFFECTIVE DATES: The 1979 tariff-rate quota is applicable to tuna fish described in item 112.30, TSUS, entered, or withdrawn from warehouse, for consumption during the period January 1 through December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Helen C. Rohrbaugh, Head, Quota Section, Duty Assessment Division, Office of Operations, U.S. Customs Service, Washington, D.C. 20229 (202-566-8592).

It has now been determined that 125,813,220 pounds of tuna may be entered for consumption or withdrawn from warehouse for consumption during the calendar year 1979 at the rate of 6 per centum ad valorem under item 112.30, TSUS. Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 per centum ad valorem under item 112.34 of the tariff schedules.

Pursuant to the provisions of item 112.30, TSUS, the above quota is based on the United States pack of canned tuna during the calendar year 1978.

(QUO-2-0:D:S:Q GH)

Dated: April 20, 1979.

Robert E. Chasen,

Commissioner of Customs.

[T.D. 79-124]

[FR Doc. 79-13315 Filed 4-27-79; 8:45 am]

BILLING CODE 4810-22-M

Office of the Secretary

Certain Fresh Winter Vegetables From Mexico; Antidumping; Extension of Investigatory Period

AGENCY: U.S. Treasury Department.

ACTION: Extension of Antidumping Investigatory Period.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has determined that a tentative determination as to whether sales of certain fresh winter vegetables from Mexico have occurred at less than fair value cannot reasonably be made in 6 months. The tentative determination will be made no longer than 9 months from the date of the initiation of the investigation.

Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market at prices at or above the cost of production.

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EFFECTIVE DATE: April 30, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5492).

SUPPLEMENTARY INFORMATION: On September 12, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26 and 153.27) from counsel acting on behalf of sevral groups of American growers of winter vegetables alleging that certain fresh winter vegetables from Mexico are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (hereinafter referred to as "the Act"). On the basis of this information, an "Antidumping Proceeding Notice" was published in the **Federal Register** on October 19, 1978 (43 FR 48755).

For purposes of this notice, the term "certain fresh winter vegetables" means cucumbers, eggplant, peppers, squash and tomatoes (except cherry tomatoes), all of the foregoing fresh, the product of Mexico, provided for in items 135.90 through 135.92, 136.20 through 136.22, 137.10, 137.50, and 137.60 through 137.63, respectively, of the Tariff Schedules of the United States, and meeting the United States Department of Agriculture minimum standards for grades as set out in 7 CFR sections 51.2220 through 51.2239, 51.2190 through 51.2207, 51.3270 through 51.3286, 51.4030 through 51.4062, and 51.1855 through 51.1877, respectively. It is noted that this investigation concerns fresh vegetables shipped during the winter vegetable season and for this reason is limited to shipments of the subject merchandise made during the period from November 1 in any year to the last day of the following April inclusive.

Pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)), notice is hereby given that the Secretary concludes that the determination provided for in section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)) cannot reasonably be made within 6 months. The determination under section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)) will, therefore, be made within no more than 9 months.

This determination is based upon the need to further analyze data on pricing in more than 40,000 transactions involving more than 60 respondents, cost of production data from 39 respondents, and numberous complex legal and technical issues of first impression arising in connection with that information.

This notice is published pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)).

Robert H. Mundheim,
General Counsel of the Treasury.

April 23, 1979.

[FR Doc. 79-13307 Filed 4-27-79; 8:45 am]

BILLING CODE 4810-22-M

Interest Rate on Notes of Series S–1981

The Secretary announced on April 24, 1979, that the interest rate on the notes designated Series S–1981, described in Department Circular—Public Debt Series—No. 8–79, dated April 19, 1979, will be 9¾ percent. Interest on the notes will be payable at the rate of 9¾ percent per annum.

Paul H. Taylor,
Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[Supplement to Department Circular Public Dept Series—No. 8–79]

[FR Doc. 79-13295 Filed 4-27-79; 8:45 am]

BILLING CODE 4810-40-M

Sugars and Syrups From Canada; Antidumping Proceeding

AGENCY: United States Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether sugars and syrups from Canada are being sold, or are likely to be sold, at less than fair value within the meaning of the Antidumping Act of 1921, as amended. There is substantial doubt that imports of the subject merchandise are causing, or are likely to cause, injury to an industry in the United States. Therefore, the case is being referred to the U.S. International Trade Commission for a determination on the injury question.

EFFECTIVE DATE: April 30, 1979.

FOR FURTHER INFORMATION CONTACT: Vincent Kane, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, telephone (202–566–5492).

SUPPLEMENTARY INFORMATION: On March 19, 1979, a petition in proper form was received pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from the Amstar Corporation, a domestic producer of sugar, alleging that sugars and syrups from Canada are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*), (hereinafter referred to as "the Act").

For purposes of this notice the term "sugars and syrups" means sugars and syrups as provided for in item numbers 155.20 and 155.30, Tariff Schedules of the United States Annotated (TSUSA).

Based upon information set forth in the petition, the alleged margins of dumping, based on comparisons between home market prices of refined sugar and prices for export to the United States, range from approximately 11 to 45 percent.

Petitioner has presented evidence concerning alleged injury or likelihood of injury from the less than fair value imports from Canada. That evidence included increased imports from Canada over the last three years, decreased profitability, price suppression and reduced employment. Petitioner has also alleged that the injury caused by the less than fair value imports from Canada has been concentrated in the Northeast and Northcentral U.S. regions. Imports of sugar from Canada increased from 42,000 net tons in 1975 to 138,000 net tons in 1977 before declining to approximately 99,600 net tons in 1978. However, these imports represented only 1.2 percent of the U.S. domestic market in 1977 and 0.9 percent in 1978. Even in the Northeast and Northcentral regions, Canadian imports only represented 2.3 percent of the market in 1977 and 1.7 percent in 1978. Information is also available in studies prepared by the U.S. Department of Agriculture indicating a general decline in the per capita consumption of sugar in the United States over the last five years as well as increased competition from non-caloric and lower priced corn based sweeteners. Given the small and declining amounts of Canadian refined sugar exported to the United States and declining share of the U.S. national and regional markets held by those imports, as well as the evidence regarding other trends in the U.S. sweetener industry, it has been concluded that there is a substantial doubt of injury or likelihood of injury to an industry in the United States by reason of imports of such merchandise from Canada. Accordingly, the U.S. International Trade Commission is being advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29), and having determined as a result thereof that there are grounds for so doing, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. Should the International Trade Commission, within 30 days of receipt of the advice cited in the preceding paragraph, advise the Secretary that there is no reasonable indication that an industry in the United States is being, or is likely to be, injured by reason of the the importation of such merchandise into the United States, the Department will publish promptly in the **Federal Register** a notice terminating the investigation. Otherwise the investigation will continue to conclusion.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

Robert H. Mundheim,
General Counsel of the Treasury.

April 23, 1979.

[FR Doc. 79-13308 Filed 4-27-79; 8:45 am]

BILLING CODE 4810-22-M

Treasury Notes of May 15, 1989, Series A–1989

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,250,000,000 of United States securities, designated Treasury Notes of May 15, 1989, Series A–1989 (CUSIP No. 912827 JQ 6). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents of foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated May 15, 1979, and will bear interest from that date, payable on a semiannual basis on November 15, 1979, and each subsequent 6 months on May 15 and November 15, until the principal becomes payable. They will mature May 15, 1989, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving Time, Tuesday, May 1, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, April 30, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States hold membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which

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tenders are accepted, a coupon rate will

(a) Thursday, May 10, 1979, if the

certificates. These certificates shall be

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tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Tuesday, May 15, 1979, at the Federal Reserve Bank or Branch or at the Bureau of Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons attached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, May 10, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, May 9, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representatives, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,
Fiscal Assistant Secretary.

[Public Debt Series No. 9-79]
[FR Doc. 79-13490 Filed 4-26-79; 3:21 pm]
BILLING CODE 4810-40-M

Treasury Bonds of 2004-2009

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,000,000,000 of United States securities, designated Treasury Bonds of 2004-2009 (CUSIP No. 912810 CG 1). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be

issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated May 15, 1979, and will bear interest from that date, payable on a semiannual basis on November 15, 1979, and each subsequent 6 months on May 15 and November 15, until the principal becomes payable. They will mature on May 15, 2009, but may be redeemed at the option of the United States on and after May 15, 2004, in whole or in part, at par and accrued interest on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other exicse taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving Time, Wednesday, May 2, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 1, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of 1 percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 92.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of

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applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Tuesday, May 15, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, May 10, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, May 9, 1979, if the check is drawn on a bank in another Federal Reserve District. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,
Fiscal Assistant Secretary.

[Public Debt Series No. 10-79]
[FR Doc. 79-13491 Filed 4-26-79; 3:21 am]
BILLING CODE 4810-40-M

UNITED STATES RAILWAY ASSOCIATION

Consolidated Rail Corporation; Application for a Loan

Subsection (h) of Section 211 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. § 721) (the Act), authorizes the United States Railway Association (Association) to enter into loan agreements with the Consolidated Rail Corporation (Conrail), the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to Section 303(b)(1) of the Act under conditions and for purposes set forth in this Subsection. Subsection (b) of Section 211 requires that the Association publish notice of the receipt of any application thereunder in the Federal Register and afford interested parties an opportunity to comment thereon.

On September 28, 1977, the Board of Directors of the Association approved $13,570,298 in response to the request of Conrail for section 211(h) loans for vacation pay claims of the Erie Lackawanna, The Lehigh Valley Railroad Company and the Reading Company estates. Conrail borrowed $11,801,740. On April 4, 1979, the Board of Directors of the Association approved the request of Conrail to reallocate $406,890.68 of the balance.

On April 19, 1979, Conrail submitted a new Borrowing Application (Borrowing Application) requesting (1) the balance ($1,361,667.32) of the funds approved on September 28, 1977 and (2) uncommitted section 211(h) funds of $179,895.00. Conrail states that it will use these funds to pay vacation pay obligations of $1,361,667.32 of The Central Railroad of New Jersey, and vacation pay obligations of $179,895.00 of The Ann Arbor Railroad Company.

The Borrowing Application includes the certification and exhibits required by the Loan Procedures.

Interested parties are invited to submit written comments relevant to this application. Any such submissions must identify, by its Docket No., the application to which it relates, and must be filed with the Office of General Counsel, United States Railway Association, 955 L'Enfant Plaza North, S.W., Washington, D.C. 20595, on or before May 9, 1979, to enable timely consideration by USRA. The docket containing the original application shall be available for public inspection at that address Monday through Friday (holidays excepted) between 8:30 a.m. and 5:00 p.m.

Dated at Washington, D.C. this 25th day of April, 1979.

Peter J. Gallagher,
Assistant Secretary, United States Railway Association.

[Docket 211-20]
[FR Doc. 79-13332 Filed 4-27-79; 8:45 am]
BILLING CODE 8240-01-M

INTERSTATE COMMERCE COMMISSION

Assignment of Hearings

April 25,1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 145399F, Shay Distributing Co., Inc., MC 145339 (Sub-1F), Shay Distributing Co., Inc., MC 145399 (Sub-2F), Shay Distributing Co., Inc., now assigned for hearing on May 16, 1979, at Los Angeles, CA, is postponed indefinitely.

MC 66746 (Sub-21F), Shippers Express, Inc., now assigned for hearing on May 16, 1979 at Los Angeles, CA, is postponed indefinitely.

H. G. Homme, Jr.,
Secretary

[FR Doc. 79-13328 Filed 4-27-79; 8:45 am]
BILLING CODE 7035-01-M

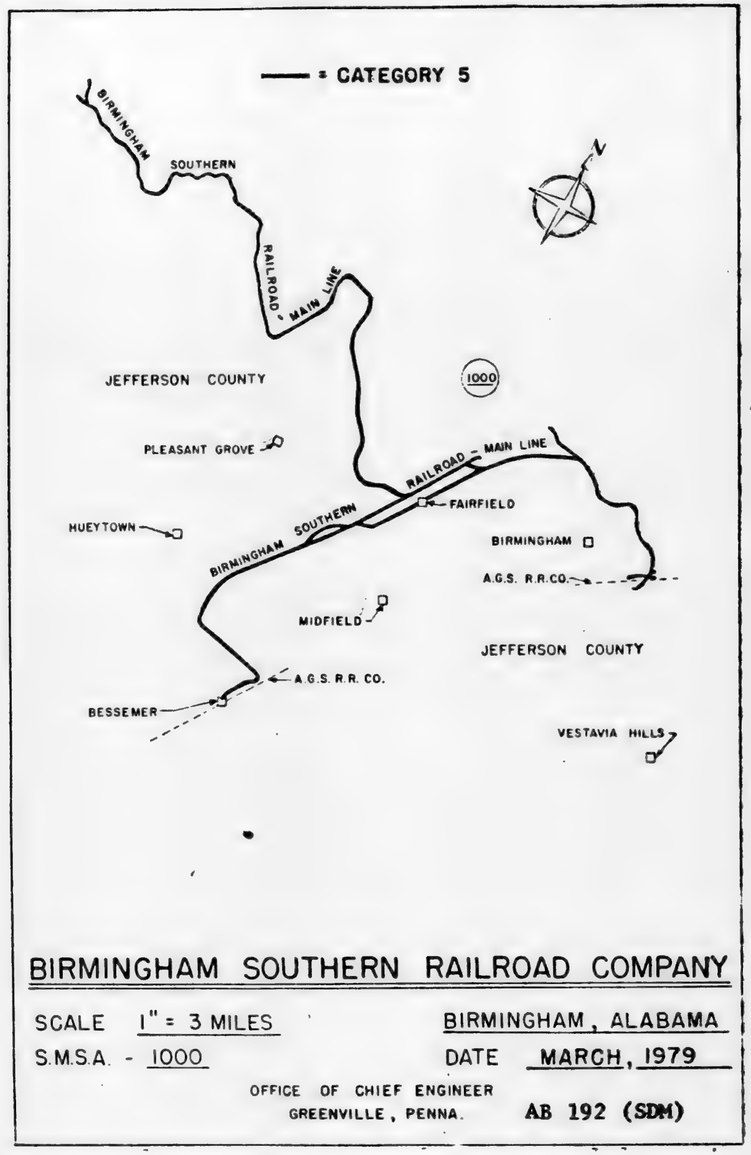
Birmingham Southern Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Birmingham Southern Railroad Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 192 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on April 5, 1979, received a certificate of publication as required by said regulations which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets by requesting docket No. AB 192 (SDM).

H. G. Homme, Jr.,
Secretary.

[AB 192 (SDM)]
[FR Doc. 79-13331 Filed 4-27-79; 8:45 am]
BILLING CODE 7035-01-M



BILLING CODE 7035-01-C

Chicago & North Western Transportation Co. Abandonment Near James Valley Junction and Redfield in Beadle and Spinks Counties, SD; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. § 10903 (formerly Section 1a of the Interstate Commerce Act) that by a Certificate and Decision decided April 9, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB–36 (Sub-No. 2), *Oregon Short Line R. Co.–Abandonment Goshen*———I.C.C.——decided February 9, 1979, and further that North Western shall keep intact all of the right-of-way underlying the track, including all of the bridges and culverts for a period of 120 days from the effective date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of its line of railroad extending from milepost 201.5 near Humboldt to milepost 187.8 near LuVerne, a distance of 13.7 miles, all in Humboldt County, IA. A certificate of public convenience and necessity permitting abandonment was issued to the Chicago and North Western Transportation Company. After the investigation, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

H. G. Homme, Jr.,
Secretary.

[Docket No. AB–1 (Sub-No. 80F)]
[FR Doc. 79-13328 Filed 4-27-79; 8:45 am]
BILLING CODE 7035-01-M

Meridian & Bigbee Railroad Co.; Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

Because of flooding conditions, Meridian & Bigbee Railroad Company, is unable to relocate empty cars to the industries for loading in accordance with Car Service Rules 1 and 2. Consequently, Meridian & Bigbee Railroad Company is unable to furnish cars of suitable ownership to shippers in order that the cars can be loaded in accordance with Car Service Rules 1 and 2.

It is ordered, That pursuant to the authority vested in me by Car Servce Rule 19:

Meridian & Bigbee Railroad Company, is authorized to accept from shippers general service plain boxcars bearing mechanical designation "XM" as listed in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, regardless of the provisions of Car Service Rules 1 and 2.

It is further ordered,

This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owners.

Effective 10:00 a.m., April 17, 1979.
Expires 11:59 p.m., May 4, 1979.

Issued at Washington, D.C., April 17, 1979.

Interstate Commerce Commission.

Joel E. Burns,
Agent.

[Exemption 163]
[FR Doc. 79-13324 Filed 4-27-79; 8:45 am]
BILLING CODE 7035-01-M

Chicago, Rock Island & Pacific Railroad Co., Burlington Northern, Inc.; Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

Upon further consideration of Revised Exemption No. 161 issued March 23, 1979.

It is ordered, That, under authority vested in me by Car Service Rule 19, Revised Exemption No. 161 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire April 30, 1979.

This amendment shall become effective 1:59 p.m., April 15, 1979.

Issued at Washington, D.C., April 12, 1979.

Interstate Commerce Commission.

Robert S. Turkington,
Agent.

[Rev. Exemption 161: Amdt. 1]
[FR Doc. 79-13322 Filed 4-27-79; 8:45 am]
BILLING CODE 7035-01-M

Duluth, Missabe & Iron Range Railway Co.; Amended System Diagram Map

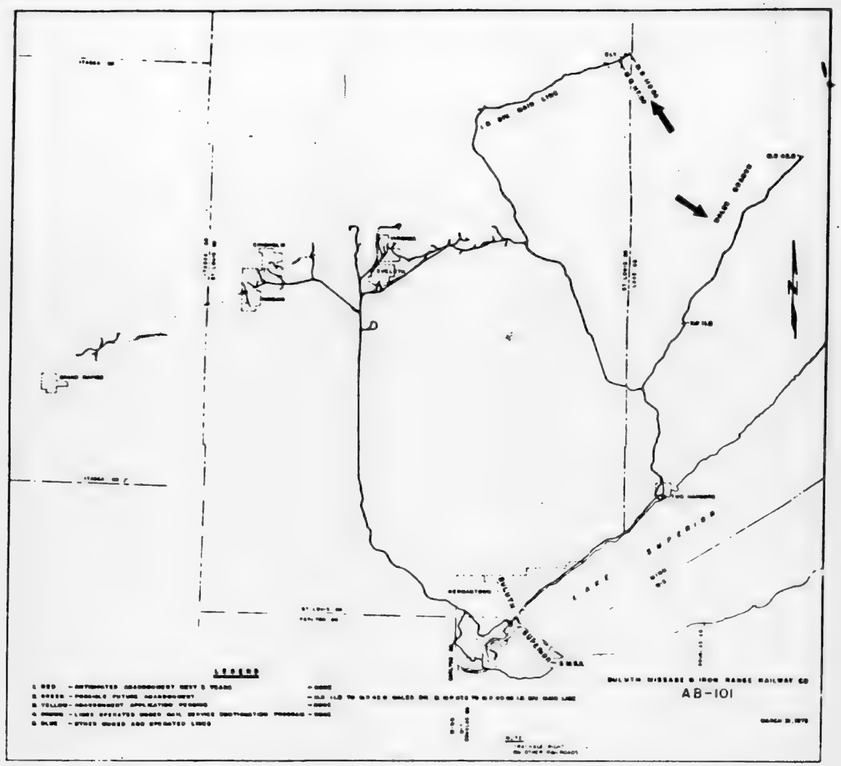
Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Duluth, Missabe and Iron Range Railway Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 101 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on April 5, 1979, received a certificate of publication as required by said regulations which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets by requesting docket No. AB 101 (SDM).

H. G. Homme, Jr.,
Secretary.

BILLING CODE 7035-01-M

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BILLING CODE 7035-01-C

Description of Lines

Category 1—"All lines or portions of lines which the carrier anticipates will be the subject of an abandonment or discontinuance application to be filed within the three-year period following the date upon which the diagram, or any amended diagram, is filed with the Commission."

DM&IR has no such lines to report.

Category 2—"All lines or portions of lines potentially subject to abandonment which the carrier has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues."

State: Minnesota

"(a) Carrier's designation for each line." Wales Branch between Jordan and Sawbill Junction.

"(b) State or states in which each line is located." Minnesota.

"(c) County or counties in which each line is located." Lake County.

"(d) Mileposts delineating each line or portion of line." MP 11.8 to MP 42.

"(e) Agency or terminal stations located on each line or portion of line with milepost designations." None.

Category 3—"All lines or portions of line for which an abandonment or discontinuance application is pending before the Commission on the date upon which the diagram, or any amended diagram, is filed with the Commission."

DM&IR has no such lines to report.

Description of Lines

Category 1—"All lines or portions of lines which the carrier anticipates will be the subject of an abandonment or discontinuance application to be filed within the three-year period following the date upon which the diagram, or any amended diagram, is filed with the commission."

DM&IR has no such lines to report.

Category 2—"All lines or portions of lines potentially subject to abandonment which the carrier has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues."

State: Minnesota

"(a) Carrier's designation for each line." Iron Range Division Main Line between Ely and Winton

"(b) State or states in which each line is located." Minnesota

"(c) County or counties in which each line is located." St. Louis County

"(d) Mileposts delineating each line or portion of line." MP 117.5 to MP 119.66

"(e) Agency or terminal stations located on each line or portion of line with milepost designations." None

Catetory 3—"All lines or portions of lines for which an abandonment or discontinuance application is pending before the Commission on the date upon which the diagram, or any amended diagram, is filed with the Commission."

DM&IR has no such lines to report.

[AB 101 (SDM)]

[FR Doc. 79-13329 Filed 4-27-79; 8:45 am]

BILLING CODE 7035-01-M

Illinois Central Gulf Railroad Co.; Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in ex Parte No. 241

Because of flood conditions, there is an immediate need for shipments of company riprap and ballast to stations in the State of Mississippi for roadbed rehabilitation on the Illinois Central Gulf Railroad Company. Sufficient gondolas of suitable ownership are not available on the Illinois Central Gulf Railroad Company to protect these emergency shipments. Compliance with Car Service Rules 1 and 2 would prevent the Illinois Central Gulf Railroad Company from supplying sufficient cars to meet these emergency requirements.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Illinois Central Gulf Railroad Company is authorized to load "GB" type gondola cars, less than 61-ft. in length, with company riprap and company ballast at Jessup, Kentucky, and Ullin, Illinois, destined to stations in the State of Mississippi, for emergency track repairs without regard to the provisions of Car Service Rules 1 and 2.

It is further ordered, This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owners.

Effective 4:00 p.m., April 17, 1979.
Expires 11:59 p.m., May 18, 1979.

Issued at Washington, D.C., April 17, 1979.

21Interstate Commerce Commission.

Joel E. Burns,
Agent

[Exemption 164]

[FR Doc. 79-13325 Filed 4-27-79; 8:45 am]

BILLING CODE 7035-01-M

Meridian & Bigbee Railroad Co.; Rerouting Traffic

In the opinion of Joel E. Burns, Agent, the Meridian & Bigbee Railroad Company is unable to transport promptly all traffic offered for movement between Meridian, Mississippi, and Myrtlewood, Alabama, because of flooding.

It is ordered, (a) *Rerouting traffic.* The Meridian & Bigbee Railroad Company being unable to transport promptly all traffic offered for movement between Meridian, Mississippi, and Myrtlewood, Alabama, became of flooding, that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

(b) *Acceptance of traffic in interchange.* In the event the Meridian & Bigbee Railroad Company cannot accept traffic in interchange from a connecting carrier, the delivering carrier, after establishing such condition, may reroute or divert the traffic via any available route.

(c) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(d) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(e) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(f) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) *Effective date.* This order shall become effective at 10:00 a.m., April 17, 1979.

(h) *Expiration date.* This order shall expire at 11:59 p.m., May 4, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all

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railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 17, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[ICC Order 35; S.O. 1344]

[FR Doc. 79-13323 Filed 4-27-79; 8:45 am]

BILLING CODE 7035-01-M

Missouri-Kansas-Texas Railroad Co.—Trackage Rights—Over St. Louis San Francisco Railway Co. Between Columbus and Oswego in Labette and Cherokee Counties, KS

Missouri-Kansas-Texas Railroad Company (MKT), Katy Building, 701 Commerce Street, Dallas County, Dallas, TX 75202, represented by William A. Thie, General Counsel, Missouri-Kansas-Texas Railroad Company, Katy Building, 701 Commerce Street, Dallas, TX 75202, hereby give notice that on the 12th day of April, 1979, it filed with the Interstate Commerce Commission at Washington, DC, an application under 49 U.S.C. § 11343 (formerly Section 5(2) of the Interstate Commerce Act) for a decision approving and authorizing the acquisition of trackage rights over the main track of the St. Louis San Francisco Railway Company between Columbus and Oswego, KS, a distance of 17.84 miles, all in Labette and Cherokee Counties, KS. MKT is presently operating over the above described line pursuant to Service Order No. 1336.

In the opinion of the Applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29018F and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20424, not later than June 14, 1979. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

H. G. Homme, Jr.,

Secretary.

[Finance Docket 29018F]

[FR Doc. 79-13327 Filed 4-27-79; 8:45 am]

BILLING CODE 7035-01-M

Newburgh & South Shore Railway Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Newburgh & South Shore Railway Company, has filed with the Commission its amended color-coded system diagram map in docket No. AB 184 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on April 5, 1979, receive a certificate of publication as required by said regulations which is considered the effective date on which the amended system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets by requesting docket No. AB 184 (SDM).

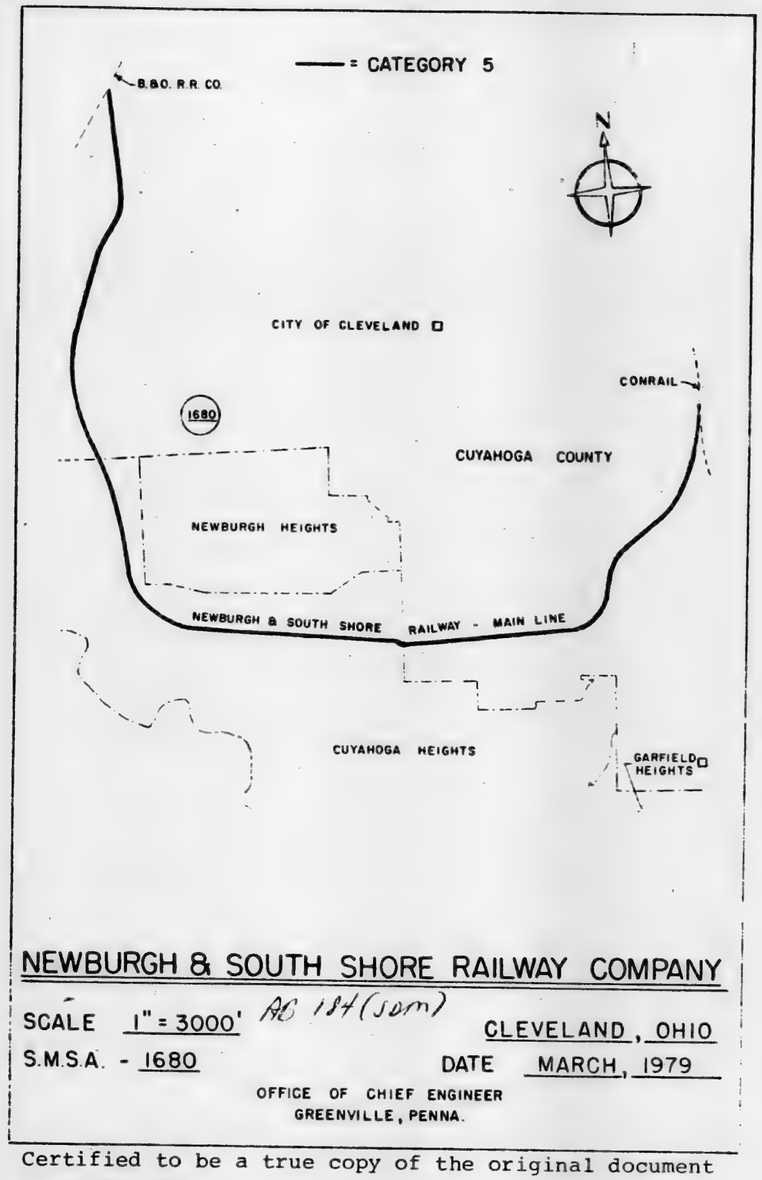
H. G. Homme, Jr.,

Secretary.

[AB 184(SDM)]

[FR Doc. 79-13330 Filed 4-27-79; 8:45 am]

BILLING CODE 7035-01-M



Certified to be a true copy of the original document

M. T. Reilly

M. T. Reilly, Attorney

BILLING CODE 7035-01-C

Box 2550, Lubbock, TX 79408.

A and B explosives, household goods as ... commodities (except those of unusual

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Decision-Notice

Decided: April 12, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commision's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied. By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. (Board Member Jones not participating).

H. G. Homme, Jr.,
Secretary.

MC 200 (Sub-328F), filed January 25, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *plastic containers*, from the facilities of Monsanto Company, at Sharonville, OH, to Iowa City and Ft. Madison, IA. (Hearing site: Kansas City, MO.)

MC 200 (Sub-329F), filed January 25, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Geo. A. Hormel & Company, at Ft. Dodge, IA, to points in TX. (Hearing site: Kansas City, MO.)

MC 28060 (Sub-48F), filed January 26, 1979. Applicant: WILLERS, INC., d.b.a. WILLERS TRUCK SERVICE, 1400 North Cliff Ave., Sioux Falls, SD 57101. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers S, 3390 Peachtree Road NE., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Winner, SD, to points in CO, IA, MN, MO, NE, and ND. (Hearing site: Sioux Falls, SD, or Sioux City, IA.)

MC 35320 (Sub-191F), filed January 29, 1979. Applicant: TIME–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of The Lily Division of Owens-Illinois, Inc., at or near Bardstown, KY, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Louisville, KY, or Washington, DC.)

MC 35320 (Sub-192F), filed January 29, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Western Grocers Corporation, at or near Albuquerque, NM, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Albuquerque, NM, or Washington, DC.)

MC 35320 (Sub-193F), filed January 29, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Blazon-Flexible Flyer, Inc., at or near West Point, MS, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC.)

MC 35320 (Sub-194F), filed January 29, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, ammunition and parts of ammunition), serving the facilities of Hancock Textile Co., Inc., at or near Tupelo, MS, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC.)

MC 35320 (Sub-195F), filed January 29, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of Sportswear Associates, at or near Lafayette, TN, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Nashville, TN, or Washington, DC.)

MC 38481 (Sub-11F), filed January 25, 1979. Applicant: FARRUGGIO'S BRISTOL AND PHILADELPHIA AUTO EXPRESS, INC., 1419 Radcliffe Street, Bristol, PA 19007. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *slag, slag products, sand, and gravel*, from points in Bucks and Montgomery Counties, PA, to points in NJ and NY, and (2) *sand*, from points in NJ to points in PA. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 59150 (Sub-147F), filed January 11, 1979. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, from points in GA to points in LA. (Hearing site: Jacksonville, FL.)

MC 61440 (Sub-167F), filed January 26, 1979. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 NW 63rd St., Oklahoma City, OK 73157. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of The Goodyear Tire and Rubber Company, at or near Silsbee, TX, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Oklahoma City, OK, or Washington, DC.)

MC 66100 (Sub-24F), filed January 25, 1979. Applicant: D. P. BONHAM TRANSFER, INC., 318 South Adeline, P.O. Drawer G, Bartlesville, OK 74003. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber products, wood products, and millwork*, from points in McKinley County, NM, to points in AR, IL, KS, LA, MS, MO, OK, and TX. (Hearing site: Albuquerque, NM).

MC 75320 (Sub-208F), filed January 2, 1979. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: Phineas Stevens, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567 Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between St. Louis, MO, and Dubuque, IA, over U.S. Hwy 61, (2) between Des Moines, IA and junction U.S. Hwy 61 and U.S. Hwy 218 near Keokuk, IA, from junction U.S. Hwy 61 and U.S. Hwy 218, over U.S. Hwy 218 to Mount Pleasant, IA, then over U.S. Hwy 34 to Ottumwa, IA, then over U.S. Hwy 63 to Oskaloosa, then over U.S. Hwy 163 to Des Moines, and return over the same route, (3) between Omaha, NE, and Rock Island, IL, over U.S. Hwy 6, (4) between Fort Madison and Donnellson, IA, over IA Hwy 2, (5) between Burlington and Mount Pleasant, IA, over U.S. Hwy 34, (6) between Washington, IA, and junction IA Hwy 92 and U.S. Hwy 61 near Grandview, IA, over IA Hwy 92,

(7) between Mount Pleasant and Cedar Rapids, IA, over U.S. Hwy 218, (8) between Cedar Rapids and Clinton, IA, over U.S. Hwy 30, (9) between Cedar Rapids and Dubuque, IA, over U.S. Hwy 151, (10) between Council Bluffs and Sioux City, IA, over U.S. Hwy 75, (11)

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between Sioux City and Dubuque, IA, over U.S. Hwy 20, (12) between Preston, MO, and Blairsburg, IA; from Preston, MO, over U.S. Hwy 65 to Des Moines, IA, then over U.S. Hwy 69 to Blairsburg, and return over the same route, and (13) between Oskaloosa and Waterloo, IA, over U.S. Hwy 63, serving all intermediate and off-route points in IA in (1) through (13). (Hearing site: St. Louis, MO.)

MC 93840 (Sub-43F), filed January 28, 1979. Applicant: GLESS BROS., INC., P.O. Box 219, Blue Grass, IA 52726. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt*, from the facilities of Morton Salt Company, (1) at Clinton, Dubuque, and Keokuk, IA, to points in IL, MO, and WI, and (2) at Rock Island, IL, to points in MO and WI. (Hearing site: Chicago, IL.)

MC 94350 (Sub-422F), filed January 26, 1979. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, SC 29602. Representative: Mitchell King, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *trailers* designed to be drawn by passenger automobiles, in initial movements, from Salt Lake City, UT, to those points in the United States on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada (except AK and HI). (Hearing site: Salt Lake City, UT.)

MC 109891 (Sub-36F), filed January 26, 1979. Applicant: INFINGER TRANSPORTATION COMPANY, INC., 2811 Carner Avenue, P.O. Box 7398, Charleston Heights, SC 29405. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bauxite ore*, in bulk, in tank vehicles, from Charleston, SC, to East Point, GA. (Hearing Site: Washington, DC, or Columbia, SC.)

MC 110420 (Sub-796F), filed January 26, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals, petroleum oil, and inedible animal oil*, in bulk, in tank vehicles, from Bristol, PA, to ports of entry on the international boundary line between the United States and Canada, at points in NY, and to points in IL, IN, MI, and OH. (Hearing Site: Philadelphia, PA, or Washington, DC.)

MC 110420 (Sub-801F), filed January 29, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from Clairton and West Elizabeth, PA, to points in IL, IN, MI, OH, and WI. (Hearing Site: Pittsburgh, PA, or Washington, DC.)

MC 112520 (Sub-361F), filed January 29, 1979. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Thomas F. Panebianco (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *propellant explosive* (Class B), in water, in bulk, in tank vehicles, between points in Wakulla County, FL, and Baraboo, WI. (Hearing site: Atlanta, GA, or Washington, DC)

Note.—The certificate will expire 5 years from the date of issue.

MC 114211 (Sub-398F), filed January 25, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel buildings and parts of steel buildings*, from the facilities of Kirby Building Systems, Inc., at Spanish Fork, UT, to points in CA, OR, WA, ND, SD, AZ, NM, KS, NE, ID, WY, MT, CO, and NV. (Hearing site: Provo or Salt Lake City, UT.)

MC 115311 (Sub-336F), filed January 29, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), between those points in the United States in and east of ND, SD, NE, CO, and NM, restricted to the transportation of traffic originating at or destined to the facilities of United States Gypsum Company. (Hearing site: Chicago, IL.)

MC 115841 (Sub-665F), filed January 23, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by discount and variety stores (except foodstuffs furniture, and commodities in bulk), and (2) *foodstuffs* (except in bulk) and *furniture*, when moving in mixed loads with the commodities named in (1) above, from Charlotte, NC, to points in IL, KS, MI, MO, OH, TN, and TX. (Hearing site: Detroit, MI, or Washington, DC.)

MC 115841 (Sub-673F), filed January 29, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *appliances, air conditioners, and heating equipment*, and (2) *parts and accessories* for the commodities named in (1) above, from Chattanooga, TN, Albion, MI, Searcy, AR, Ripon, WI, and Madisonville, KY, to points in AL, FL, GA, MS, NC, SC, and TN, and those in the United States in and west of LA, AR, MO, IA, and MN (except AK and HI). (Hearing site: Chicago, IL.)

MC 117730 (Sub-36F), filed December 20, 1978. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (I)(a) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (b) *foodstuffs* (except the commodities named in (I)(a) above),

when moving in mixed loads with the commodities named in (I)(a) above, in vehicles equipped with mechanical refrigeration, (1) between the facilities of Oscar Mayer & Co., Inc., at Davenport, IA.

Jefferson, WI, and points in Cook, Du Page, Will, Kane, McHenry, and Lake Counties, IL, and (2) from the facilities of Oscar Mayer & Co., Inc., at (a) Davenport, IA, and (b) Beardstown, IL, to Madison, WI, and points in IN, OH, and the Lower Peninsula of MI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations; and (II)(a) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (b) *dairy products*, and *such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers*, as described in sections B and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, when moving in mixed loads with the commodities named in (II)(a) above, in vehicles equipped with mechanical refrigeration, from the facilities of Oscar Mayer & Co., Inc., at Davenport IA, to St. Louis, MO, and points in St. Louis County, MO, and Madison and St. Clair Counties, IL. (Hearing site: Chicago, IL.)

MC 117820 (Sub-26F), filed January 25, 1979. Applicant: AURELIA TRUCKING CO. (a Corporation), 2121 Petit Street, Port Huron, MI 48060. Representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *confectionery, confectionery products, and dessert preparations* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, and (2) *gumball machines and stands*, from the facilities of Leaf Confectionery, Inc., at Chicago, IL, to points in DE, CT, MA, MD, MI, NJ, NY, OH, PA, RI, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 119531 (Sub-166F), filed January 25, 1979. Applicant: SUN EXPRESS, INC., Box 1031, Warren, OH 44482. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by manufacturers of glass, chinaware, plastic, and metal products (except commodities in bulk), between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Anchor Hocking Corporation. (Hearing Site: Columbus, OH, or Washington, DC.)

MC 119741 (Sub-143F), filed January 29, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D.L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk, in tank vehicles), from Chicago, IL, to points in CO, IA, KS, MN, MO, NE, ND, OK, SD, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. Hearing Site: Chicago, IL.)

MC 124141 (Sub-11F), filed January 23, 1979. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Highway 25 West, Batesville, AR 72501. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by retail stores, discount stores, department stores, or variety stores (except commodities in bulk), from points in AL, CT, GA, IL, MA, NC, NJ, NY, OH, PA, SC, and TN, to the facilities of Wal-Mart Stores, Inc., at or near Bentonville and Searcy, AR. (Hearing site: Little Rock, AR, or Washington, DC.)

Note.—Dual operations may be involved.

MC 129410 (Sub-11F), filed January 28, 1979. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Road, Crystal Lake, IL 60014. Representative: Carl L. Steiner, 39 S. La Salle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid corn syrup*, in bulk, from the facilities of American Maize Products Co., at Hammond, IN, to points in IL, KY, LA, MD, MI, MO, NY, OH, PA, and TN, under continuing contract(s) with American Maize Products Co., of Hammond, IN. (Hearing site: Chicago, IL.)

MC 135410 (Sub-40F), filed January 28, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Stouffer Corporation, at Cleveland and Solon, OH, to points in IL, IN, KS, KY, MI, MO, MN, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 134501 (Sub-42F), filed January 29, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from Owensville, MO, to points in AR, CT, DE, IL, IN, KY, MA, MD, ME, MI, MN, ND, NH, NJ, NY, OH, PA, RI, SD, VA, VT, WI, WV, and DC. (Hearing site: St. Louis, MO, or Dallas, TX.)

MC 139261 (Sub-14F), filed January 23, 1979. Applicant: BUCKEYE EXPRESS, INC., P.O. Box 368, Perrysburg, OH 43551. Representative: Michael M. Briley, 300 Madison Ave., 12th Floor, Toledo, OH 43603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bakery products*, in vehicles equipped with mechanical refrigeration, and (2) *materials and supplies* used in the preparation of bakery products (except commodities in bulk), between Livonia, MI, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Awrey Bakeries, Incorporated, of Livonia, MI.

MC 141450 (Sub-9F), filed January 29, 1979. Applicant: OLIN WOOTEN TRANSPORT, INC., P.O. Box 731, Hazlehurst, GA 31539. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *newsprint* from points in Laurens County, GA, to points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MD, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, and WV, and (2) *waste newspapers, cores, and materials, equipment, and supplies*

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used in the manufacture and distribution of newsprint (except commodities in bulk), in the reverse direction, under continuing contract(s) with Southeast Paper Manufacturing Co., of Dublin, GA. (Hearing site: Jacksonville, FL, or Atlanta, GA.)

MC 141750 (Sub-4F), filed January 25, 1979. Applicant: COLUMBIA HAULERS, INC., 102 Alexander Road, West Columbia, SC 29169. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alcoholic liquors, alcohol distillers by-products, and wines*, from the facilities of (a) Heublein, Inc., at or near Paducah, KY, and (b) Heaven Hill Distillers, Inc., at or near Bardstown, KY, to points in Richland County, SC, under continuing contract(s) with Ben Arnold Co., Inc., and Columbia Distributing Corporation, both of Columbia, SC. (Hearing Site: Charlotte, NC, or Columbia, SC.)

MC 144041 (Sub-28F), filed January 25, 1979. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle, N.E., Atlanta, GA 30345. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *light fixtures, light fixture lamps, and light fixture parts*, from the facilities of Lithonia Lighting Division of National Service Industries, Inc., at Conyers and Cochran, GA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. NOTE: Dual operations may be involved. (Hearing Site: Atlanta, GA.)

MC 145020 (Sub-1F), filed January 23, 1979. Applicant: EARL G. LETANG, 550 West Highway 34, Loveland, CO 80537. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *gypsum wall board*, from the facilities of Western Gypsum Company, at or near Rosario, NM, to points in CO and WY, under continuing contract(s) with Dry Wall Supply, Inc., of Denver, CO. (Hearing site: Denver, CO.)

MC 145181 (Sub-1F), filed January 23, 1979. Applicant: JESS GINGERY, 533 7th St., Berthoud, CO 80513. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials, wood products, and trusses* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities named in (1) above (except commodities in bulk), from the facilities of Rigid Component Systems, at or near Longmont, CO, to points in WY and Fall River County, SD, under continuing contract(s) with Rigid Component Systems, of Longmont, CO. (Hearing site: Denver, CO)

MC 145411 (Sub-2F), filed January 29, 1979. Applicant: WILLIAM V. THOMAS, P.O. Box 554, Ojo Caliente, NM 87549. Representative: Roger V. Eaton, P.O. Box 965, Albuquerque, NM 87103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *gypsum and gypsum products*, (1) between Rosario, NM, and Colorado Springs, Loveland, Denver, and Grand Junction, CO, and (2) from Hutchinson, KS, Pryor, OK, and Lebanon, Or, to Rosario, NM, under continuing contract(s) with Western Gypsum Company, of Sante Fe, NM. (Hearing site: Albuquerque, NM, or Denver, CO.)

MC 145590 (Sub-2F), filed January 28, 1979. Applicant: J & M ENTERPRISES, INC., 64 Oakland St., East Hartford, CT 06108. Representative: Hugh M. Joseloff, 80 State St., Hartford, CT 06103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by bakeries, between Springfield, MA, on the one hand, and, on the other, points in CT, MA, ME, NH, NJ, NY, PA, RI, and VT, under continuing contract(s) with Springfields Bakery, Inc., of Springfield, MA. (Hearing site: Hartford, CT, or Washington, DC.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343(a) formerly Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 146180 (Sub-1F), filed January 29, 1979. Applicant: QUALITY EXCHANGE, INC., Route 4, Box 459 A, Kings Mountain, NC 28086. Representative: Eric Meierhoefer, Suite 423, 1511 K St. NW., Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *welding rods, wires, and liquid galvanizing*, and (2) materials and supplies used in the manufacture of the commodities named in (1) above, between the facilities of Thermacote-Welco Co., at of near Kings Mountain, NC, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Thermacote-Welco Co., of Kings Mountain, NC. (Hearing site: Charlotte, NC.)

MC 146251F, filed January 26, 1979. Applicant: CLAXTON TRANSPORT, INC., Route 3, Box 135, Wrightsville, GA 31096. Representative: Ronald K. Kolins, 1055 Thomas Jefferson St., NW., Washington, DC 20007. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *malt beverages*, from the facilities of Pabst Brewing Co., at Pabst, GA, to points in AL, AR, GA, IA, IL, IN, KY, LA, MI, MS, OH, PA, TN, TX, and WI, and (b) *materials and supplies* used in the manufacture and distribution of malt beverages, in the reverse direction, and (2) *malt beverages, and materials and supplies* used in the manufacture and distribution of malt beverages, between the facilities of Pabst Brewing Co., at (a) Pabst, GA, (b) Newark, NJ, (c) Peoria, IL, and (d) Milwaukee, WI. (Hearing site: Atlanta, GA.)

[Permanent Authority Divisions Volume No. 35]
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INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

April 20, 1979

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later that the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of

equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 111 (Sub-15TA), filed March 14, 1979. Applicant: VIGEANT MOTOR FREIGHT, INC., 6 Claflin Street, Boston, MA 02127. Representative: Joseph R. Siegelbaum, Esq., Kalb, Friedman and Siegelbaum, 17 Academy Street, Newark, NJ 07102. Common carrier, irregular routes. *Foodstuffs* between the plant site and facilities of Ragu Foods, Inc. at or near Rochester, New York, on the one hand, and on the other hand, all points in MA, CT, RI, NH, VT, & ME. Supporting shipper(s): Ragu Foods, Inc., 33 Benedict Place, Greenwich, CT 06830. Send protests to: Glenn A. Eady, Transportation Specialist, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 200 (Sub-340TA), filed March 23, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: Ivan E. Moody, same as applicant. *Native Lumber*, from St. Joseph, MO to points in IN and TX for 180 days. Supporting shipper(s): Walnut Products, 2801 South 2nd, St. Joseph, MO 64503; Missouri Valley Walnut & Veneer, C & D Sales, 2801 South 2nd, St. Joseph, MO 64503. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 340 (Sub-54TA), filed March 21, 1979. Applicant: QUERNER TRUCK LINES, INC., 1131-33 Austin Street, San Antonio, TX 78208. Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102. Common carrier application, over irregular routes, in the transportation of *Meats, Meat Products*, and *Meat By-Products* and *articles distributed by meat packing houses*: as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Monmouth, Illinois and Logansport, Indiana to points in TX and OK. Supporting Shipper(s): Wilson Foods Corporation, 4545 North Lincoln Boulevard, Oklahoma City, OK 73105. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B400 Federal Building, 727 E. Durango St., San Antonio, TX 78206.

MC 531 (Sub-385TA), filed March 15, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, TX 77021. Representative: Wray E. Hughes, 4904 Griggs Road, Houston, TX 77021. Common carrier over irregular routes. *Adhesives, adhesive products and adhesive plasticizers*, in bulk, in tank vehicles from Hayward, CA to Sealright Co., Inc., Kansas City, KS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Adhesive Consultants Corp., 25817 Clawiter Rd., Hayward, CA 94545. Send protests to: John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 531 (Sub-386TA), filed March 23, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., Houston, TX 77021. Representative: Wray E. Hughes, 4904 Griggs Rd., Houston, TX 77021. Common carrier over irregular routes. *Liquid chemicals and petroleum products*, in bulk, in tank vehicles from Robinson, IL to Magnolia, AR, Princeton, LA and Houston, TX for 180 days. Supporting shipper(s): Ethyl Corporation, 451 Florida Blvd., Baton Rouge, LA 70801. Send protests to: John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 531 (Sub-387TA), filed March 23, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., Houston, TX 77021. Representative: Wray E. Hughes, 4904 Griggs Rd., Houston, TX 77021. Common carrier over irregular routes. *Liquid chemicals* in bulk, in tank vehicles from Pearl River, LA to points in the U.S. (except AK and HI) for 180 days. Supporting shipper(s): Pearl River Chemical Co., P.O. Box 1202, Slidell, LA 70459. Send protests to: John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 531 (Sub-388TA), filed March 13, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., Houston, TX 77021. Representative: Wray E. Hughes, 4904 Griggs Rd., Houston, TX 77021. Common carrier over irregular routes. *Liquid & dry sugar, corn syrups and blends* thereof, in bulk, in tank vehicles from pts. in LA to pts. in AL, AR, FL, GA, IL, IN, MI, MS, MO, NC, OH, OK, SC, TN & TX for 180 days. Supporting shipper(s): Southdown Sugars, Inc., P.O. Box 52, Tidewater Place, New Orleans, LA 70112. Send protests to: John F. Mensing, District Supervisor, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 2900 (Sub-367TA), filed March 15, 1979. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr., (same as applicant). *General commodities* (except Classes A and B explosives, commodities in bulk, those requiring special equipment, those of unusual value, and household goods as defined by the Commission), serving the plantsite of Acme Tube, Inc. at Mansfield, LA as an off-route point in connection with authorized regular routes, for 180 days. Applicant seeks to tack this authority with that issued in MC-2900 and to interline. An underlying ETA seeks 90 days authority. Supporting shipper(s): Acme Tube, Inc., P.O. Box 1309, Mansfield, LA 71052. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 5470 (Sub-181TA), filed March 12, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Richard W. Sanguigni (same as applicant). *Crude sicilon carbide* from Hennepin, IL to points in IL, IA, MO, WI, MI, OH, PA, IN, NY, VA, WV, NC, SC, GA, TN, KY, OK, AR, LA and MS for 180 days. No ETA has been filed. Supporting shipper(s): ESK Corporation, P.O. Box 412, Hennepin, IL 61327. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 5470 (Sub-182TA), filed March 26, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Mary Chutz Eshenbaugh (same as above). *Bauxite ore in dump vehicles* from Baltimore, MD to Gary, IN, Warren, OH and Sproul, PA for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): General Refractories Company, 50 Monument Road, Bala Cynwyd, PA 19004. Send protests to: John J. England, District Supervisor, Interstate Commerce

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Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 8771 (Sub-46TA), filed April 2, 1979. Applicant: SAW MILL SUPPLY, INC., 1018 Saw Mill River Road, Yonkers, NY 10710. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425, 13th Street NW., Washington, DC 20004. *(a) Tractors, agricultural implements, farm machinery, industrial and construction machinery and equipment, and (b) parts and attachments for (a) above,* from Coldwater, OH, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, VT, VA, WV, IN, IL, KY and MI. An underlying ETA seeks 90 days authority. Supporting shipper(s): Avco New Idea Farm Equipment, Div. of Paul Revere Corp., First and Sycamore Sts., Coldwater, OH 45828. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 14251 (Sub-6TA), filed March 12, 1979. Applicant: COLUMBUS RETAIL MERCHANTS DELIVERY, INC., 3275 Alum Creek Drive, Columbus, Ohio 43207. Representative: Michael R. Solomon, 3275 Alum Creek Drive, Columbus, OH 43207. *Articles distributed or dealt in by food distributors, wholesale grocers, retail grocers* (except frozen foods and commodities in bulk), drug chains, retail stores and hospitals from the facilities of Retail Merchants Consoliation and Distribution Center, Inc., at or near Columbus, OH to Detroit and Grand Rapids, MI and their commercial zones. Supporting shipper(s): Retail Merchants Consoliation & Distribution Center, 3275 Alum Creek Drive, Columbus, Ohio 43207. Send protest to: ICC, Wm. J. Green Jr. Federal Bldg., 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 19201 (Sub-131TA), filed March 9, 1979. Applicant: PENNSYLVANIA TRUCK LINES, INC., 49th St. & Parkside Ave., Phila., PA 19131. Representative: S. Berne Smith, P.O.B. 1166, 100 Pine St., Harrisburg, PA 17108. *General commodities,* with the usual exceptions, between Harrisburg, PA and Allentown PA, serving no intermediate points: From Harrisburg over Interstate Hwy 81 to junction Interstate Hwy 78 and U.S. Hwy 22 to the Seventh St. exit near Allentown, then over Seventh St. to Allentown, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Restriction: The motor service to be performed by carrier shall be limited to service which is auxiliary to, or supplimental of, the rail service of CONRAIL. Supporting shipper(s): Consolidated Rail Corp., 6 Penn Center Plaza, Phila., PA 19103. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Phila., PA 19103.

MC 19311 (Sub-60TA), filed March 9, 1979. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Rd., Sterling Hts., MI 48077. Representative: Walter N. Bieneman, 100 W. Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013. Authority sought to operate as a common carrier, over regular routes, in the transportation of *general commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment, serving the facility of Fisher Body Division-General Motors Corporation at Marion, IN, as an off route point in connection with otherwise authorized regular route operations, restricted to traffic moving from or to authorized points in MI, for 180 days. Proposed authority will be tacked to perform through service on traffic moving from and to authorized points in MI. Supporting shipper(s): J. R. Murphy, Director of Traffic, Fisher Body Division-General Motors Corporation, 30001 Van Dyke, Warren, MI 48090. Send protest to: Tim Quinn, DS, ICC, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 22301 (Sub-28TA), filed March 23, 1979. Applicant: SIOUX TRANSPORTATION CO., INC., P.O. Box 3088, Sioux City, IA 51102. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. *Common carrier:* regular route: *General commodities (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* (1) between Chicago, IL, and Des Moines, IA, serving all intermediate points in Iowa between Iowa City, IA, and Des Moines, IA, including Iowa City and Des Moines, and the off-route points of Avon, Ankeny and Bondurant, IA: (a) from Chicago over Interstate Hwy 55 to junction Interstate Hwy 80, then over Interstate Highway 80 to Des Moines, and return over the same route, (b) from Chicago over Interstate Highway 55 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction U.S. Hwy 6 at or near Iowa City, IA, then over U.S. Hwy 6 to Des Moines, and return over the same route; (2) between Iowa City, IA and Cedar Rapids, IA, serving all intermediate points: (a) from Iowa City over U.S. Hwy 218 to Cedar Rapids, and return over the same route, (b) from Iowa City over Interstate Hwy 380 to Cedar Rapids, and return over the same route, for 180 days. Service is also sought to be performed at all points in the commercial zones of the points authorized herein. An underlying ETA seeks 90 days authority. Applicant also request authority to tack this authority with authority it presently holds in MC 22301 and Subs thereunder and to interline with other carriers at Des Moines, Cedar Rapids and Iowa City, IA. Supporting shipper(s): There are 115 statements in support attached to this application which may be examined at the ICC in Washington, D.C., or at the field office named below. Send protest to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 29790 (Sub-10TA), filed March 14, 1979. Applicant: HILL BROTHERS TRUCKING CO., INC., State Street and River Road, Camden, NJ 08105. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. *Composition board,* from the facilities of MacMillan Bloedel Building Materials, Division of MacMillan Bloedel, Inc., at Ashtabula, OH to points in NJ and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): MacMillan Bloedel Building Materials, Division of MacMillan Bloedel, Inc., 6540 Powers Ferry Road, Suite 200, Atlanta, GA 30339. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 29910 (Sub-210TA), filed March 14, 1979. Applicant: ARKANSAS–BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber, same as applicant. General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Continental Warehouse, Inc. at New Madrid, and Lilbourn, MO, as intermediate and off-route points in connection with carrier's authorized regular route between St. Louis, MO and Memphis, TN, for 180 days as a common carrier over regular routes. (ABF's authority to serve between Memphis, TN and St. Louis, MO can be found on Page 18, Sub 69, Line 35, of its operating authority attached hereto.) Supporting shipper(s): Continental Warehouse of Mo., Inc., P.O. Box 236, New Madrid, MO. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 29990 (Sub-16TA), filed March 21, 1979. Applicant: BADGER LINES, INC., 3109 W. Lisbon Ave., Milwaukee, WI 53208. Representative: Richard Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Glass containers, materials and supplies used in the packaging and distribution of glass containers,* (except in bulk) from the facilities of Thatcher Glass Co., Div. of Dart Industries at Streator, IL to St. Louis, MO and points in WI, for 180 days. Supporting shipper(s): Thatcher Glass Mfg. Co., Div. of Dart Industries, Inc., P.O. Box 285, Elmira, NY 14902. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 41240 (Sub-18TA), filed March 20, 1979. Applicant: Nelson Trucking Service, Inc., Mediapolis, IA 52637. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Gypsum and gypsum products, except commodities in bulk,* from the facilities of United States Gypsum Company at Mediapolis, IA to points in IL, IN, MN, MO and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 41240 (Sub-19TA), filed March 12, 1979. Applicant: NELSON TRUCKING SERVICE, INC., Mediapolis, IA 52637. Representative; Kenneth F. Dudley, 611 Church Street, Ottumwa, IA 52501. *Wrought iron pipe* from Chicago, IL to Fort Madison, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Unarco-Levitt, Division of Unarco Industries, 1717 W. 115th Street, Chicago, IL 60643. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 42121 (Sub-2TA), filed March 9, 1979. Applicant: B&B Motor Freight, Inc., 527 Pennsylvania Avenue, Linden, NJ 07036. Representative: Walter L. Weart, 548 Anita Street, Des Plaines, IL 60016. Common carrier, irregular routes. Paper and plastic articles, materials, equipment and supplies used in the manufacture and distribution of paper and plastic articles except commodities in bulk in tank vehicles. From or to Millville, (Cumberland County), NJ and points in the New York, NY commercial zone as authorized in certificate MC-42121. Restricted to traffic originating at or destined to the facilities of the Continental Group, Inc., Bondware Division, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Continental Group, Inc., 800 E. Northwest Highway, Palatine, IL 60067. Send protests to: Robert E. Johnston, DS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 46421 (Sub-14TA), filed March 27, 1979. Applicant: ESCRO TRANSPORT LTD., 275 Mayville Avenue, Buffalo, NY 14217. Representative: Robert D. Gunderman, Esq., 710 Statler Building, Buffalo, NY 14202. *Meats, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A & C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), in vehicles equipped with mechanical temperature control devices,* from Baldwinsville (Onondaga County), NY to points in Broome, Cayuga, Chemung, Chenango, Cortland, Franklin, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Oneida, Onondaga, Ontario, Oswego, Otsego, St. Lawrence, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne and Yates Counties, NY, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPERS: The Rath Packing Company, Sycamore & Elm Street, Waterloo, IA 50704. Kahn's and Company, 3241 Spring Grove Avenue, Cincinnati, OH. Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. SEND PROTESTS TO: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 48411 (Sub-41TA), filed February 27, 1979. Applicant: R.M.E., INC., P.O. Box 418, Streator, IL 61364. Representative: Elizabeth A. Purcell, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. *Paper articles and plastic articles* from the facilities of Continental Diversified Industries, Bondware division at Shelbyville, IL to MI and WI, for 180 days. Supporting shipper(s): Continental Diversified Industries, Bondware Division, 800 East Northwest Highway, Palatine, IL 60067. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinleyDirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Illinois 60604.

MC 48441 (Sub-40TA), filed February 15, 1979. Applicant: R.M.E., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D. C. 20001. *Containers,* from LaPorte, IN to St. Louis, MO. Supporting Shipper(s): National Can Company, 8108 West Higgins Road, Chicago, IL 60631. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 52460 (Sub-240TA), filed March 27, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Anhydrous ammonia and liquid fertilizer,* from Hoag, NE, to points in CO, KS, IA, MN, MO, OK, SC, & WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Phillips Petroleum Company, 154 Phillips Building Annex, Bartlesville, OK 74004. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 52460 (Sub-241TA), filed March 15, 1979. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 West 35th Street, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 74107. *Canned and preserved foodstuffs,* from the facilities of Heinz USA, at or near Iowa City and Muscatine, IA, to points in AR, KA, LA, MO, OK, and TX, restricted to traffic originating at the named facilities and destined to the named states, for 180 days. Supporting Shipper(s): Heinz USA, Division of, H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 52861 (Sub-58TA), filed March 19, 1979. Applicant: WILLS TRUCKING, INC., 4500 Rockside Road, Cleveland, OH 44131. Representative: John Wilson, 3185 Columbia Rd., Richfield, OH 44286. *Scrap Metal,* in dump vehicles, from Erie, PA, to Buffalo, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Penn Iron and Metal Company, Inc., P.O. Box 177, Erie, PA 16512. Send protests to: Mary A. Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 52861 (Sub-59TA), filed March 20, 1979. Applicant: WILLS TRUCKING, INC., 4500 Rockside Road, Cleveland, OH 44131. Representative: John Wilson, 3185 Columbia Rd., Richfield, OH 44286. *Dead burned magnesite,* in dump vehicles, from Ludington, MI, to Gary,

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IN, and Columbiana and Windham, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Dresser Industries, Inc., Harbison Walker Refractories Division, #2 Gateway Center, Pittsburgh, PA 15222. Send protests to: Mary A. Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 52861 (Sub-60TA), filed March 28, 1979. Applicant: WILLS TRUCKING, INC., 4500 Rockside Road, Cleveland, OH 44131. Representative: John Wilson, 3185 Columbia Road, Richfield, OH 44286. *Iron and steel articles,* from the plant site of Jones & Laughlin Steel Corporation in Aliquippa and Pittsburgh, PA, to points in the lower peninsula of MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Johns & Laughlin Steel Corporation, 1600 W. Carson Street, Pittsburgh, PA 15263. Send protests to: Mary A. Wehner, District Supervisor, Interstate Commerce Commission, 1240 E. Ninth Street, Cleveland, OH 44199.

MC 57591 (Sub-23TA), filed April 5, 1979. Applicant: EVANS DELIVERY COMPANY, INC., P.O. Box 268, Pottsville, PA 17901. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. (1) *Drugs and toilet preparations,* from Hillside, NJ, to York, Scranton and Wilkes-Barre, PA; (2) *Toilet preparations and cosmetic products,* from Clark, NJ, to Scranton, York and Williamsport, PA; (3) *Household products, insecticides and repellants,* from Cranford, NJ, to Scranton, York and Williamsport, PA; (4) *Drugs, medicines and toilet preparations,* from Jersey City, NJ, to Scranton, York, and Williamsport, PA; and (5) *Household cleaning products, toilet preparations and floor waxes,* from Hillsborough Township, NJ, to Scranton, York, and Williamsport, PA, for 150 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Boyle Midway Div. of American Home Products Corp., South Ave. & Hale St., Cranford, NJ 07016 Lehn & Fink Products Co., Div. of Sterline Drug, Inc., 225 Smith Ave., Montville, NJ 07645 Cosmair, Inc., 222 Terminal Ave., Clark, NJ 07066 Block Drug Company, Inc., 257 Cornelison Ave., Jersey City, NJ 07302 Bristol Myers Products, 255 Long Ave., Hillside, NJ 07207. Send protests to: ICC, Wm. J. Green, Jr. Federal Bldg., 600 Arch St., Philadelphia, PA 19106.

MC 59640 (Sub-70TA), filed March 14, 1979. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07106. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Contract carrier, irregular routes for 180 days. (1) Health care products and (2) materials used in the manufacture of health care products between Conyers and Covington, GA on the one hand, and, on the other, Eaton, OH, Milwaukee and Jackson, WI, Orangeburg, NY, Cerritos and Los Angeles, CA, Broadview, Chicago, Des Plaines, Wheaton, Westmont, Mundelein and Hebron, IL, Pennsauken, Riverdale and Garwood, NJ, and Charlotte, Fayetteville, Raleigh and Winston-Salem, NC, under a continuing contract with C. R. Bard, Inc. Supporting Shipper(s): C. R. Bard, 731 Central Avenue, Murray Hill, NJ 07971. Send protests to: Robert E. Johnston, DS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 59680 (Sub-224TA), filed March 20, 1979. Applicant: STRICKLAND TRANSPORTATION CO., INC., 11353 Reed Hartman Highway, Cincinnati, OH 45241. Representative: Milton H. Bortz (same as applicant). *Common carrier:* regular routes: General commodities, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Amarillo, TX, and the site of the terminal facilities of Wilson Freight Company located at or near Oklahoma City, OK, serving no intermediate points, from Amarillo, TX, over Interstate Hwy 40 to the site of the terminal facilities of Wilson Freight Company located at or near Oklahoma City, OK, and return over the same route, for 180 days. RESTRICTION: The above authority is restricted against the handling of traffic originating at or destined to points in Oklahoma. Applicant intends to interline at Oklahoma City, OK, and Amarillo, TX, and intends to tack the authority sought herein with other authority held by applicant. An underlying ETA seeks 90 days authority. The purpose of the application is to add an Oklahoma City, OK, interline point with Wilson Freight Company which controls applicant under Temporary Authority granted in MC–F–13516. Applicant is authorized to operate as a common carrier in AR, CT, DE, IL, IN, KY, LA, MD, MA, MI, MS, NJ, NY, OH, OK, PA, RI, TN, TX, VA, WI and DC. Supporting Shipper(s): Wilson Freight Company, James F. Silar, Vice President—Traffic, 11353 Reed Hartman Hwy., Cincinnati, OH 45241. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 63238, Philadelphia, PA 19106.

MC 59680 (Sub-227TA), filed March 22, 1979. Applicant: STRICKLAND TRANSPORTATION CO., INC., 11353 Reed Hartman Highway, Cincinnati, OH 45241. Representative: Milton H. Bortz (same as applicant). *Common carrier:* Regular routes: *General commodities (except those of unusual value, household goods as defined by the Commission commodities in bulk, and those requiring special equipment),* between San Antonio, TX, and Round Rock, TX, as an alternate route for operating convenience only, serving no intermediate points and serving Round Rock for purposes of joinder only, from San Antonio, TX, over Interstate Hwy 35 to Round Rock, TX, and return over the same route, for 180 days. Applicant intends to interline as San Antonio, TX, and intends to tack the authority sought herein with other authority held by applicant. An underlying ETA seeks 90 days authority. The purpose of the application is to provide an alternate route to connect the Round Rock, TX, terminus with an existing alternate route. Applicant is authorized to operate as a common carrier in AR, CT, DE, IL, IN, KY, LA, MD, MA, MI, MS, NJ, NY, OH, OK, PA, RI, TN, TX, VA, WI and DC. Supporting Shipper(s): Wilson Freight Company, James F. Silar, Vice President—Traffic, 11353 Reed Hartman Highway, Cincinnati, OH 45241. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 63238, Philadelphia, PA 19106.

MC 61440 (Sub-169TA), filed March 29, 1979. Applicant: LEE WAY MOTOR FREIGHT, INC., P.O. Box 12750, Oklahoma City, OK 73157. Representative: R. H. Champlin (same address as applicant). *Common carrier,* regular routes: *General commodities* (except Classes A&B explosives, those of unusual value, commodities in bulk, those requiring special equipment and household goods as defined by the Commission), serving the facilities of Liquid Paper Corporation at or near Greenville, TX, as an off route point in connection with carrier's otherwise authorized regular route operations in Sub 96. Note: Applicant proposes to tack the authority sought here with its existing operating authority. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Liquid Paper Corporation, 11587 Hillguard, Dallas, TX 75243. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 65491 (Sub-9TA), filed March 28, 1979. Applicant: GEORGE W. BROWN, INC., 1475 East 222nd St., New York, NY 10469. Representative: William Biederman, Esq., 371 Seventh Avenue, New York, NY 10001. *Synthetic fibres, 15 lbs. or greater per cubic foot,* from the plant site of Polymers, Inc., Middlebury, VT, to the plant sites of Marathon Carey-McFall, in Montgomery and Montoursville, PA. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Marathon Carey-McFall, 209 South Loyalsock, Montoursville, PA 17754. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 82841 (Sub-249TA), filed March 23, 1979. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" St., Omaha, NE 68127. Representative: William E. Christensen (same address as above). *Fabricated metal products,* from the facilities of United States Gypsum Company at Warren, OH to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Russell S. Hancock, United States Gypsum Company, 101 South Wacker Dr., Chicago, IL 60606. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th ST., Omaha, NE 68102.

MC 93840 (Sub-44TA), filed March 23, 1979. Applicant: GLESS BROS., INC., P.O. Box 219, Blue Grass, IA 52726. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Crude soybean oils,* from points in IA to the facilities of Hunt-Wesson Foods, Inc. at or near Chicago, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hunt-Wesson Foods, Inc., 1645 W. Valencia Dr., Fullerton, CA 92634. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 93980 (Sub-80TA), filed March 19, 1979. Applicant: VANCE TRUCKING COMPANY, INC., P.O. Box 1119, Henderson, NC 27536. Representative: Jim Wyatt (same address as applicant). *Galvanized roofing or sheathing, asbestos & asphalt coated* from Ambridge, PA to Albany, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): H. H. Robertson Company, 14th Street, Ambridge, PA 15003. Send protests to: Mr. Archie W. Andrews, D/S ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 94350 (Sub-428TA), filed March 21, 1979. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, SC 29602. Representative: Mitchell King, Jr. (same as applicant). *Tranilers, designed to be drawn by passenger automobiles, in initial movements, and buildings, in sections mounted on wheeled undercarriages,* from Grand Island, NE to points in CO, IA, KS, MN, MO MT, NE, NM, ND, OK, SD, UT and Wy, for 180 days. Supporting Shipper(s): Redman Homes, Inc., 1515 E. 4th Street, Grand Island, NE 68801. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens Street, Columbia, SC 29201.

MC 95540 (Sub-1095TA), filed March 12, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). *Frozen foods,* from Plover, WI to points in AL, AR, FL, GA, LA, MS, NC, SC, TN and TX for 180 days. Supporting Shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission—BOp, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 95991 (Sub-7TA), filed April 5, 1979. Applicant: C. HARRELL, INC., Garrison Road, Box 430, Elmer, NJ 08318. Representative: William P. Jackson, Jr., 3426 N Washington Blvd., Post Office Box 1240, Arlington, VA 22210, *Contract carrier;* irregular routes: *Ingredients used in the manufacture of animal and poultry feed,* from the facilities of Paterson Tallow, Inc., at or near Jersey City, NJ to Camp Hill and Mount Joy, PA, restricted to the transportation of shipments under a continuing contract or contracts with Paterson Tallow, Inc., for 180 days. An underlying ETA seeks 90 days authority Supporting Shipper(s): Paterson Tallow, Inc., P.O. Box 287, Jersey City, NJ 07303. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 97310 (Sub-31TA), filed March 12, 1979. Applicant: SHARRON MOTOR LINES, INC., 1600 "B" St., P.O. Box 5636, Meridian, MS 39301. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., Atlanta, GA 30326. *Common carrier:* regular route: General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, (1) Between Vicksburg, MS, and Woodville, MS: From Vicksburg over US Hwy 61 to Woodville and return; (2) Between Jackson, MS and Osyka, MS: From Jackson over US Hwy 51 to Osyka and return; (3) Between Meridian, MS and Gulfport, MS: From Meridian over US Hwy 11 to junction Hwy 49, thence over US Hwy to Gulfport and return; (4) Between Montgomery, AL and Gulfport, MS: From Montgomery over I–65 or US Hwy 31 to junction I–10, thence over I–10, to Gulfport and return; and (5) Between Natchez, MS and junction US Hwy 98 and US Hwy 49: From Natchez over Hwy 98 to junction US Hwy 49 and return, for 180 days. Service is authorized at all intermediate points on the above specified routes in the State of MS and serving all points in MS south of US Hwy 80 as off-route points in connection with the above operation. NOTE: Applicant proposes to tack and interline at Vicksburg, Jackson, Meridian and Gulfport, MS, and Montgomery, AL. Supporting Shipper(s): There are 128 statements in support attached to this application which may be examined at the I.C.C. in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 103191 (Sub-52TA), filed March 12, 1979. Applicant: THE GEO. A. RHEMAN CO., INC., P.O. Box 2095, Charleston, SC 29403. Representative: Dan Horton (same as applicant). *Empty trailers,* between Charleston, SC, on the one hand, and, on the other, points and places in AL and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Airco, Inc., P.O. Box 1527, Augusta, Ga 30903. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens Street, Columbia, SC 29201.

MC 104430 (Sub-55TA), filed March 22, 1979.Applicant: CAPITAL TRANSPORT COMPANY, INC., P.O. Box 408, Hwy. 24 W. McComb, MS 39648. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Petroleum products, vehicle body sealers, sound deadener compounds and accoustical control items,* in bulk, in tank vehicles, from Warren County, MS to points in AL, AR, FL, GA, IN, KY, LA, MO, OH, NC, SC, and TN, for 180 days. NOTE: Restricted to shipments originating at the facilities of Quaker State Oil Refining Corp. located in Warren County, MS. Supporting Shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: Alan C. Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 107541 (Sub-58TA), filed March 16, 1979. Applicant: WASHINGTON-OREGON LUMBER FREIGHTERS, INC., 12925 N. E. Rockwell Drive, Vancouver, WA 98665. Representative: Edward A.

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Francom, 12925 N. E. Rockwell Drive, Vancouver, WA 98665. *Agricultural chemical, including fertilizer compounds, insecticides or fungicides and herbicides* from Richmond and San Leandro, CA to Milwaukee, OR and Yakima, WA, restricted to shipments moving from the facilities of Chevron Chemical Company for 180 days. Supporting Shipper(s): Chevron Chemical Company, 575 Market Street, San Francisco, CA 94105. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 107541 (Sub-59TA), filed March 28, 1979. Applicant: WASHINGTON-OREGON LUMBER FREIGHTERS, INC. 12925 N. E. Rockwell Drive, Vancouver, WA 98665. Representative: Edward A. Francom, 12925 N. E. Rockwell Drive, Vancouver, WA 98665. *Caustic Sodium, in packages or drums, barrels or kegs* from Tacoma, WA and Portland, OR to the facilities of Custom Chemical Formulators, Inc. at Cudahy, CA for 180 days. A corresponding ETA was filed this date and a Permanent will be filed within 60 days. Supporting Shipper(s): Custom Chemical Formulators, Inc., 4630 Cecelia Street, Cudahy, CA 90201. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 107541 (Sub-60TA), filed March 12, 1979. Applicant: WASHINGTON-OREGON LUMBER FREIGHTERS, INC., 12925 N. E. Rockwell Drive, Vancouver, WA 98665. Representative: Edward A. Francom, 12925 N. E. Rockwell Drive, Vancouver, WA 98665. *Flat glass, in crates* from the facilities of Guardian Industries Corp. at Kingsburg, CA to points in the boundary line between the U.S. and Canada in the State of WA. for 180 days. Supporting Shipper(s): Guardian Industries Corp., 11535 E. Mountain View, Kingsburg, CA 93631. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 110420 (Sub-807TA), filed March 27, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. *Petroleum and petroleum products, in bulk, in tank vehicles,* from the facilities of Mobil Oil Corp. in Beaumont, TX to points in IL, KS, MN, MO, NE, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Mobil Oil Corp., 8350 N. Central Expressway, Suite 522, Dallas, TX 75206. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 110420 (Sub-808TA), filed march 29, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *Industrial Petroleum Oils, in bulk, in tank vehicles,* from Sewaren and Bayonpe, NJ; Chicago and Wood River, IL; St. Louis, MO; Houston and Baytown, TX; Milwaukee, WI and Martinez, CA to points in US (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): RTE-ASEA Corp., 400 Prairie Ave., Waukesha, WI 53186. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 519, Milwaukee, Wisconsin 53202.

MC 111170 (Sub-253TA), filed March 16, 1979. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, AR 71730. Representative: H. A. Kennedy, P.O. Box 1718, El Dorado, AR 71730. *Gasoline, Diesel Fuel and Kerosene,* from El Dorado, AR to Natchitoches Parish, LA, for 180 days as a common carrier over irregular routes. Supporting Shipper(s): Amoco Oil Company, 200 East Randolph Drive, Chicago, IL 60601. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 111170 (Sub-254TA), filed March 28, 1979. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, AR 71730. Representative: H. A. Kennedy, P.O. Box 1718, El Dorado, AR 71730. Gasoline from El Dorado, AR to Red River Arsenal at Bowie County, TX for 180 days as a common carrier over irregular routes. Applicant has filed similar ETA seeking up to 90 days authority. Supporting Shipper(s): Amoco Oil Company, 200 East Randolph Drive, Chicago, IL 60601. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 111231 (Sub-261TA), filed March 27, 1979. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 N. Greenwood, Fort Smith, AR 72902. *Roofing and roofing materials* (except in bulk), from Pulaski County, AR, to points in AL, AR, AZ, FL, GA, IL, IN, IA, KS, KY, LA, MO, MS, NC, NM, OH, OK, SC, TN and TX, for 180 days as a common carrier over irregular routes. Supporting Shipper(s): TARCO, Inc., Arkansas Highway 130, P.O. Box 3330, North Little Rock, AR 72117. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 111310 (Sub-39TA), filed March 14, 1979. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, WI 54615. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Malt beverages and malt beverage dispensing equipment* when shipped therewith from Chippewa Falls, WI and New Ulm and St. Paul, MN to Wichita, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Weston Sampson, d/b/a Sampson Beverage Co., 2914 S. Spruce, Wichita, KS 67216. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 519, Milwaukee, Wisconsin 53202.

MC 111401 (Sub-552TA), filed March 29, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Liquid chemicals,* in bulk, in tank vehicles, from the facilities of Monsanto Co., at or near Anniston, AL and St. Louis, MO, to Brownsville and Laredo, TX, in foreign commerce only, for 180 days. Supporting Shipper(s): Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 111401 (Sub-553TA), filed March 27, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Petroleum lubricating oil,* in bulk, in tank vehicles, from Good Hope, LA, to Price, UT, for 180 days. Supporting Shipper(s): Chevron U.S.A. Inc., Room 2510, 575 Market St., San Francisco, CA 94120. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 111401 (Sub-554TA), filed March 23, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Chemicals,* in bulk, in tank vehicles, from Charlotte, NC to Brownsville, TX, in foreign commerce only, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): American Cyanamid Company, Berdan Avenue, Wayne, NJ 07470. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 112520 (Sub-362TA), filed March 19, 1979. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Pulpmill liquids,* in bulk, in tank vehicles, from the facilities of International Paper Company at or near Natchez, MS to the facilities of International Paper Company at or near Mobile, AL. For 180 days. Supporting Shipper(s): International Paper Company, P.O. Box 160707, Mobile, AL 36616. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay St., Jacksonville, FL 32202.

MC 114890 (Sub-92TA), filed March 23, 1979. Applicant: COMMERCIAL CARTAGE CO., 343 Axminster Drive, Fenton, MO 63026. Representative: David A. Cherry, P.O. Box 1540, Edmond, Oklahoma 73034. *Chemicals,* in bulk, from Mexico, MO to points in AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, OH, OK, TN, TX and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Griffin Corp., P.O. Box 1847, Valdosta, GA 31601. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115180 (Sub-100TA), filed March 15, 1979. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 265 West 14th Street, New York, N.Y. 10011. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Canned goods,* from the facilities of the Campbell Soup Company, at Chicago, IL, to points in the states of ND, MN, SD, IA, NE, La Crosse, Eau Claire and Superior, WI. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Campbell Soup Company, 2550 W. 35th St., Chicago, IL. 60632. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 115311 (Sub-349TA), filed March 15, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Ralph B. Matthews, P.O. Box 872, Atlanta, GA 30301. *Fabricated metal products* from the plantsite of United States Gypsum Company at Franklin Park, IL to points in the states of IN, KY and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): United States Gypsum Company, 101 S. Wacker Dr., Chicago, IL 60606. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 115311 (Sub-496TA), filed March 21, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 11040 Manchester Rd., St. Louis, MO 63122. *Multiwall paper bags* from the facilities of Weyerhaeuser Company at or near Pine Bluff, AR to points in IA, IL, IN, KY, MI, MO, OH, PA, TN and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Weyerhaeuser Company, 100 S. Wacher Dr., Chicago, IL 60606. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115331 (Sub-497TA), filed March 23, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63122. Representative: J. R. Ferris, 11040 Manchester Rd., St. Louis, MO 63131. *Liquid chemicals,* in bulk, in tank vehicles, from the plantsite of E. I. DuPont de Nemours, Inc., at Ft. Madison, IA, to points in the U.S. (except AK and HI), for 180 days. Supporting Shipper(s): E. I. Du Pont De Nemours & Company, 1007 Market St., Wilmington, DE 19898. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115331 (Sub-498TA), filed March 19, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, Clayton, MO 63131. Representative: Steve Vogt, 11040 Manchester Rd., St. Louis, MO 63122. *Shipping Containers, corrugated boxes and sheets* from Cedar Rapids, IA to Herrin, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Weyerhaeuser Company, 100 S. Wacker Dr., Chicago, IL 60606. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115331 (Sub-499TA), filed March 29, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: Steve Vogt, 11040 Manchester Rd., St. Louis, MO 63122. *Empty containers,* from Terre Haute, IN, to Kansas City, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hercules Co., 814 Commerce Dr., Oak Brook, IL 60521. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115730 (Sub-72TA), filed March 21, 1979. Applicant: The Mickow Corp., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. (1) *Iron and steel articles* from the facilities of North Star Steel Company at Newport, MN to points in CO, IA, MO, KS, OK, TX, NE; and (2) *materials, equipment and supplies used in the manufacture and processing of iron and steel articles (except in bulk),* from points in CO, IA, MO, KS, OK, TX, NE to the facilities of North Star Steel Company at Newport, MN for 180 days. Supporting Shipper(s): North Star Steel Company, P.O. Box 43189, St. Paul, MN 55164. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 115841 (Sub-692TA), filed March 16, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Pickles* from the facilities of Pilgrims Farms, located at or near Plymouth, IN to Greensboro and Charlotte, NC, and Anderson and Charleston, SC, for 180 days. Supporting Shipper(s): Pilgrim Farms, Inc., 1430 Western Avenue, Plymouth, IN 46563. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-693TA), filed March 12, 1979. Applicant: COLONIAL FAST FREIGHT LINES, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Pipe, valves, fittings and fire hydrants* between Birmingham, AL and points in LA (west of the Mississippi River) and points in TX, for 180 days. Supporting Shipper(s): Consolidated Pipe & Foundry, P.O. Box 2472, Birmingham, AL 35203. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-694TA), filed March 12, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same

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address as applicant). *Foodstuffs (except in bulk)* from Chicago, IL and its commercial zone to points in AL, AR, AZ, CA, FL, GA, LA, MS, NC, NM, OK, OR, SC, TN, and TX, for 180 days. Supporting shipper(s): There are 7 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-695TA), filed March 20, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Frozen foods* from Montgomery and Ft. Payne, AL to points in FL, LA, TX, and CO, for 180 days. Supporting shipper(s): Saluto Foods Corp., 330 W. Main St., Benton Harbor, MI 49022. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-696TA), filed March 20, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Charcoal and charcoal products* from Ocala and Romeo, FL to points in TN, MS, AL, GA, NC, SC, LA, and KY, for 180 days. Supporting shipper(s): Husky Industries, 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-697TA), filed March 21, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Paint, varnish, solvents, paint brushes, rollers, pans, and advertising material related to the above,* from Chicago and Wheeling, IL to North Wilkesboro, NC; Atlanta, Forest Park, Gainsville and Columbus, GA; Miami, Tampa and Jacksonville, FL; Nashville and Kingsport, TN; Birmingham, AL and Hernando, MS, for 180 days. Supporting shipper(s): The Enterprise Paint Co., 1191 South Wheeling Road, Wheeling, IL 60090. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-698TA), filed April 5, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Foodstuffs (except in bulk)* from Davidson County, TN to points in WV, VA, NC, TX, OK, KS, MO, AR, NE, IA, and MN, for 180 days. Supporting shipper(s): Wholesale Pizza, Nashville, TN; Tennessee Dressed Beef, 50 Van Buren Street, Nashville, TN. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 116710 (Sub- 37TA), Filed April 5, 1979. Applicant: MISSISSIPPI CHEMICAL EXPRESS, INC., P.O. Box 6176, Bosier City, LA 71010. Representative: Kenneth R. Hoffman, 801 Vaughn Bldg., 807 Brazos Street, Austin, TX 78701. Applicant is seeking authority to operate as a contract carrier by motor vehicle to transport *Liquid molten polypropylene (amorphous polypropylene)* from the facilities of N. L. Kimes Associates, Inc. at or near Cedar Bayou and Arlington, TX to points in the United States except Alaska and Hawaii, for 180 days, under continuing contract or contracts with N. L. Kimes Associates, Inc. Applicant has filed a similar ETA seeking up to 90 days authority. Supporting shipper(s): N. L. Kimes Associates, Inc., 5206 F.M. 1960 West, Houston, TX 77069. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 117370 (Sub- 36TA), Filed March 26, 1979. Applicant: STAFFORD TRUCKING, INC., 2155 Hollyhick Lane, Elm Grove, WI 53122. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Bentonite Clay,* in bulk, from Colony, WY to Belvidere, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Minerals & Chemical Corp., 421 E. Hawley St., Mundelein, IL 60060. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue Room 619, Milwaukee, Wisconsin 53202.

MC 117940 (Sub- 323TA), Filed March 9, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. *General commodities (except foodstuffs and commodities in bulk)* from points in OH to the facilities of Gamble Skogmo, Inc. in IL, MI and WI, restricted to traffic originating at named origins and destined to named destinations, for 180 days. Supporting shipper(s): Gamble Skogmo, Inc., 5100 Gamble Drive, Minneapolis, MN 55481. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 119531 (Sub- 169TA), Filed March 20, 1979. Applicant: SUN EXPRESS, INC., P.O. Box 808, Warren, OH 44482. Representative: Andrew Jay Burkholder, Esq., 275 East State Street, Columbus, OH 43215. *Plastic pails,* from Middlefield, OH, to Trenton, NJ; Buffalo and Syracuse, NY; Chicago and Compton, IL; Detroit, MI; Pittsburgh, PA; St. Louis, MO; and Elkhorn, WI, for 180 days. An ETA seeks 90 days authority. Supporting shipper(s): Sajar Plastics, 15285 South State, Middlefield, OH 44062. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 119670 (Sub- 42TA), Filed March 13, 1979. Applicant: THE VICTOR TRANSIT CORPORATION, 5250 Este Avenue, Cincinnati, OH 45232. Representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, KY 40601. *Glass containers and related materials and supplies, and fibreboard boxes,* from Gas City, IN, to Cincinnati, OH, and points in KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens-Illinois, Inc., Edwin P. Young, Supervisor, Divisional Transportation, P.O. Box 1035, Toledo OH 43666; Glass Containers Corporation, Joe Cook, Regional Traffic Manager, 1301 S. Keystone Ave., Indianapolis, IN 46203. Send protests to: Bureau of Operations, I.C.C., Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Rm. 63238, Philadelphia, PA 19106.

MC 119670 (Sub- 43TA), Filed March 27, 1979. Applicant: THE VICTOR TRANSIT CORPORATION, 5250 Este Avenue, Cincinnati, OH 45232. Representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, KY 40601. *Glass containers,* between Marion, IN, on the one hand, and, on the other, OH and KY, for 180 days. Restricted to traffic originating from or destined to facilities of National Can Corporation. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Can Corporation, John R. Moosbrugger, Manager Traffic, Central Region, 6101 W. Higgins Rd., Chicago, IL 60631. Send protests to: Bureau of Operations, I.C.C., Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Rm. 63238, Philadelphia, PA 19106.

MC 119741 (Sub-159TA), filed March 1, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). Mixed mill works from the facilities of Caradco Window & Door, Div. of Scobill Mfg. Co., at Rantoul, Ill, to points in the United States (except AK and HI), restricted to traffic originating at the named origin and destined to the named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Caradco Window & Door, Div. of Scobill Mfg. Co., 201 Evans Drive, Rantoul, IL 61866. Send protests to: Herbert W. Allen, DS, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-160TA), filed March 22, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses,* as described in Sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), between the facilities of Mid-Country Meats, Inc. at Fort Dodge, IA, on the one hand, and on the other, points in the United States (except AK and HI). Restricted to traffic originating at and/or destined to the above named points for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mid-Country Meats, Inc., P.O. Box 1218, Fort Dodge, IA 50501. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-161TA), filed March 27, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Bakery goods (except frozen),* from the facilities of Interbake Foods, Inc. at (1) Richmond, VA to points in AR, CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI: and (2) from North Sioux City, SD to points in AR, CT, DE, IL, IN, IA, KY, MD, MA, MO, NJ, NY, OH, PA, RI, VA, WV, and DC. Restricted to traffic originating at the named origins and destined to the named destinations for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Interbake Foods, Inc., P.O. Box 27487, Richmond, VA 23261. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-162TA), filed March 28, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Scrap metal* from the facilities of Webster City Iron and Metal Co., Inc., at Webster City, IA to Chicago, IL and St. Louis, MO and their respective commercial zones. Restricted to traffic originating at the named origin and destined to the named destinations for 180 days. Supporting shipper(s): Webster City Iron and Metal Co., Inc., 505 Seneca St., Webster City, IA 50595. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 123061 (Sub-116TA), filed March 26, 1979. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283 E. South Temple #501, Salt Lake City, UT 84102. *Soda ash, bagged and bulk,* from Sweetwater County, WY to Portland and St. Helens, OR, Spokane, WA, Boise, ID and Sacramento, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): North Pacific Trading Co., P.O. Box 3915, Portland, OR 97208. Send protest to: L. D. Helfer, DS, ICC, 5309 Federal Bldg., Salt Lake City, UT 84138.

MC 123091 (Sub-32TA), filed March 9, 1979. Applicant: NICK STRIMBU, INC., 3500 Parkway Road, Brookfield, OH 44403. Representative: James Duvall, 220 West Bridge Street, Dublin, OH 43017. (1) *Iron and steel articles,* from the Sharon, PA, commercial zone to points in AL, GA, IL, IN, IA, KY, MD, MI, MN, MO, NC, VA, WV, and WI and (2) *materials, equipment, and supplies* used in or in connection with the manufacture of iron and steel articles in the reverse direction, for 180 days. Supporting shipper(s): There are 12 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, Ohio 44199.

MC 123841 (Sub-6TA), filed March 26, 1979. Applicant: DAVID TESONE TRUCKING, INC., 5374 William Flynn Highway, Gibsonia, PA 15044. Representative: Kent S. Pope, Esquire, Pope and Pope, 10 Grant Street, Clarion, PA 16214. *Mill scale in bulk in dump vehicles* from the plant site of Jones & Laughlin Steel Corp. at Cleveland, OH to the plant site of Jones & Laughlin Steel Corp. at Aliquippa, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corporation, 1600 W. Carson Street, Pittsburgh, PA 15263. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 123841 (Sub-7TA), filed March 26, 1979. Applicant: DAVID TESONE TRUCKING, INC., 5374 William Flynn Highway, Gibsonia, PA 15044. Representative: Kent S. Pope, Esquire, Pope and Pope, 10 Grant Street, Clarion, PA 16214. *Salt,* in bulk, from Fairport Harbor, OH to Millerstown, Allegheny County, PA for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Morton Salt Division of Morton Norwich Products, Inc., 110 North Wacker Drive, Chicago, IL 60606. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 124141 (Sub-14TA), filed March 20, 1979. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Batesville, AR 72501. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Candy and Confectionery and Cough Drops* from the facilities of Luden's, Inc., at or near Reading, PA to the following points: AL, AZ, AR, CA, KY, LA, MS, NM, OK, TN, TX, OR, WA, ID, NV, UT, CO, NE, KS, IA, and MO, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Luden's, Inc., 200 North 8th Street, Reading, PA. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 124141 (Sub-15TA), filed March 22, 1979. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Highway 25 S., Batesville, AR 72501. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. (1) *Glues, adhesives, caulks and specialty chemicals* in containers in vehicles equipped with temperature control from the facilities of Franklin Chemical Industries, Inc., at or near Columbus, OH to points in Phoenix, AZ; Anaheim and Hayward, CA; Denver, CO; Kansas City, KS; Las Vegas, NV; Albuquerque, NM; Salem and Portland, OR; Memphis, TN; Fort Worth and Dallas, TX; Salt Lake City, UT; and Seattle, WA, and (2) *empty plastic containers* in reshippers and bulk packs from the facilities of Franklin Chemical Industries, Inc., at or near Columbus, OH, to points in Walnut, CA and St. Louis, MO, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Franklin Chemical Industries, Inc., 2020 Bruck Street, Columbus, OH 43207. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

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MC 124170 (Sub-116TA), filed March 16, 1979. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Dr., Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Dr., Suite 222, Oak Brook, IL. *Frozen foods and commodities exempt from economic regulation under Section 10526 of the Interstate Commerce Act,* when transported in mixed loads with frozen foods, from the facilities of Empire Freezers of Syracuse, Inc., at or near Syracuse, NY to points in PA, on and west of U.S. Hwy 15, points on OH, and the Lower Peninsula of MI, for 180 days. Supporting shipper(s): Charles Cleveland, Director of Sales & Customer Service, Empire Freezers of Syracuse, Inc., Farrell Rd., P.O. Box 4892, Syracuse, NY 13221. Send protest to: C. R. Flemming, DS, ICC 225 Federal Building, Lansing, MI 48933.

MC 124170 (Sub-118TA), filed March 9, 1979. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Dr., Detroit, MI 48207, Representative: William J. Boyd, P.C., 600 Enterprise Dr., Suite 222, Oak Brook, IL. *Laboratory reagents and culture media,* from Irving, TX to all points in the Continential United States, for 180 days. Supporting shipper(s): Paul A. Wichrowski, Traffic and Shipping Manager, BBL Microbiology Systems, P.O. Box 243, Cockysville, MD 21030. Send protest to: Tim Quinn, DS, ICC, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 125470 (Sub-47TA), filed March 9, 1979. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, NE 68701. Representative: Paul D. Kratz, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. *Canned and preserved foodstuffs,* from the facilities of Heinz U.S.A. at or near Muscatine and Iowa City, IA to points in KS and OK, restricted to traffic originating at the named facilities and destined to the named states, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joseph H. Jeneda, Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protest to: Carrol Russel, ICC, Suite 620, 110 No. 14th St.,

MC 125951 (Sub-40TA). filed April 6, 1979. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Rd., Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino, same address as applicant. *(1) Television sets, radios, phonographs, stereo systems, recorders and players, speaker systems, and audio equipment; and (2) Accessories, components and parts for the commodities set forth in (1) above,* from the facilities of RCA Corporation at Bloomington and Indianapolis, IN, to Minneapolis, MN; Eldridge and Des Moines, IA; St. Louis and Sprinfield, MO; Sioux Falls, SD; Fargo, ND; Little Rock and Fort Smith, AR; and Kansas City, KS, for 180 days. Supporting shipper(s): Jack Dick, RCA Corporation, Cherry Hill, NJ 08034. Send protest to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 127651 (Sub-43TA), filed March 27, 1979. Applicant: EVERETT G. ROEHL, INC., East 29 St., Box 7, Marshfield, WI 54449. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Iron and steel articles* from the facilities of Union Steel Co., Div. of Azcon Corp. in Chicago, IL to points in MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Steel Co., Div. of Azcon Corp. 11011 S. Cottage Grove Ave., Chicago, IL 60628. Send protest to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 519, Milwaukee, Wisconsin 532020.

MC 127651 (Sub-44TA), filed March 21, 1979. Applicant: EVERETT G. ROEHL, INC., East 29 St., Box 7, Marshfield, WI 54449. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Galvanized steel* from Chicago, IL to the facilities of General Metalware Co., Minneapolis, MN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Metalware Co., 1401 Central Ave., NE, Minneapolis, MN 55413. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 128021 (Sub-39TA), filed March 20, 1979. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Avenue, Opelika, AL 36801. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: **(1)** *Plastic bags, plastic can liners, plastic containers, plastic articles, plastic film, plastic sheeting, plastic drop cloths, and plastic tarpaulins,* from Lawrence County, TN to AL, AR, CO, FL, GA, IL, IN, KS, KY, LA, MI, MS, MO, NC, OH, OK, SC, TX, VA, and WV; and **(2)** *Equipment, materials, and supplies* used in the manufacture and/or distribution of commodities named in (1) above (except commodities in bulk, in tank vehicles), from AL, AR, CO, FL, GA, IL, IN, KS, KY, LA, MI, MS, MO, NC, OH, OK, SC, TX, VA, and WV to Lawrence County, TN, under a continuing contract or contracts executed and in force with the Webster Industries, Inc., of Peabody, MA, for 180 days. Supporting shipper: Webster Industries, Inc.; 58 Pulaski Street; Peabody, MA 01960. Send protests to: Mable Holston, Transportation Assistant; 1616–2121 Building, 2121 Eighth Avenue North, Birmingham, AL 35203.

Note.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under Docket MC–141870.

MC 129191 (Sub-10TA), filed March 9, 1979. Applicant: Richard T. Plattner, d.b.a. Jans Motor Service, 12600 South Laramie Avenue, Alsip, IL 60658. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. *Iron and steel articles,* from the facilities of United States Steel Corp. located in or near South Chicago, IL to all points in IN, for 180 days. Supporting shipper(s): United States Steel Corporation, 1000 East 80th Place, Merrillville, IN 46410. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129291 (Sub-11TA), filed March 20, 1979. Applicant: McDANIEL MOTOR EXPRESS, INC., 1115 Winchester Road, Lexington, KY 40505. Representative: George M. Catlett, 708 McClure Bldg., Frankfort, KY 40601. Authority sought to operate as a *common carrier* over *regular routes* transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Frankfort, KY and Lexington, KY; from Frankfort, KY over U.S. Hwy. 60 to Lexington, KY, and return over the same route, serving all intermediate points. (2) between Lexington, KY, and Delaplain, KY: From Lexington, Ky, over U.S. Hwy 25 to junction of Kentucky Hwy. 620, thence over Kentucky Hwy. 620 to Delaplain, KY, and return over the same route, serving all intermediate points. (3) between the junction of U.S. Hwy. 25 and U.S. Hwy. 62 and Cynthiana, KY: From the junction of U.S. Hwy 25 and U.S. Highway 62 over U.S. Hwy. 62 to Cynthiana, KY, and return over the same route, serving no intermediate points. (4) between Lexington, KY and Danville, KY: from Lexington, KY, over U.S. Hwy 60 to junction of Blue Grass Parkway, thence over Blue Grass Parkway to junction of U.S. Hwy. 127, thence over U.S. Hwy. 127 to Danville, KY, and return over the same route, serving no intermediate points, and serving Danville, KY, for purpose of interchange and interline only. Service in routes 1 through 4 above is restricted to the handling of traffic interchanged or interlined at Danville, KY. Applicant will tack with authority it holds in MC 129291 and interline at Aberdeen, OH, Lexington and Danville, KY. Applicant also seeks to serve the commercial zones of all points sought to be served in routes 1 through 4 above. Fifty five (55) shippers support the application. Send protest to: Mrs. Linda H. Sypher, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, KY 40202. An underlying ETA seeks 90 days authority.

MC 133420 (Sub-2TA), filed March 29, 1979. Applicant: TRI–STATE TRANSPORT, INC., P.O. Box 2168, Long Beach, CA 90408. Representative: William J. Lippman, 50 S. Steele, Suite 330, Denver, CO 80209. *Common:* Irregular: *Aluminum valves, pipe fittings, thermostats, thermostatic controls, brass forgings and machinery.* Between El Paso, TX, on the one hand, and Chicago, IL, and Long Beach, CA, on the other, restricted to the facilities of Robertshaw Controls Co., for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Robertshaw Controls Company, 100 West Victoria Street, Long Beach, CA 90805. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 133591 (Sub-64TA), filed March 9, 1979. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: Harry Ross, 58 S. Main St., Winchester, KY 40391. *Candy, and confectionaries,* from Robinson, IL to points in LA, TX and points in Kansas City, MO commercial zone for 180 days. An underlying ETA seeks 90 days. Supporting Shipper(s): L. S. Heath & Sons, Inc., Robinson, IL 62454. Send protests to: DS John V. Barry, Rm. 600, 911 Walnut, Kansas City, MO 64106.

MC 133591 (Sub-65TA), filed March 26, 1979. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: Charles A. Daniel, P.O. Box 303, Mt. Vernon, MO 65712. (1) *Such merchandise as is dealt in by wholesale, retail, chain grocery, and feed business houses,* and (2) materials, ingredients, and supplies used in the manufacture, distribution, and sale of products in (1) above, (1) between the facilities of Ralston Purina Co. at or near Sparks, NV, on the one hand, and on the other, points in CA, OR and WA, (2) between the facilities of Ralston Purina Co. at or near San Diego, CA and Flagstaff, AR on the one hand, and on the other points in AR, CO, KS, LA, MN, MO, NB, ND, OK, SD, TX and Memphis, TN, for 180 days. Supporting Shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 134300 (Sub-16TA), filed March 28, 1979. Applicant: TRIPLE R EXPRESS, INC., 498 First Street, Northwest, New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A, C and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* between the plantsite and storage facilities of Lauridsen Foods, Inc. located at or near Britt, IA, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and DC, restricted to the transportation of shipments originating at the above named origin and destined to the indicated destinations, for 180 days. Supporting Shipper(s): Armour and Company, Manager of Transportation, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134790 (Sub-5TA), filed March 14, 1979. Applicant: Daniel C. Haffner, d.b.a. Haffner Trucking Service, R.R. #1 Farmington, IA 52626. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Railway car and locomotive wheels, iron or steel, loose or mounted on axles, with or without bearings, from Keokuk, IA, to points in IL, MO, NE, ND, SD, MN, AR, OK, and IN for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Griffin Wheel Company, 200 W. Monroe, Chicago, IL 60606. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 135070 (Sub-37TA), filed March 26, 1979. Applicant: JAY LINES, INC., 720 N. Grand, Amarillo, TX 79120. Representative: Gailyn Larsen, 137 NW 17th, Lincoln, NE 68501. *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* (except in bulk and hides), from the facilities of Illini Beef Packers, Inc., at or near Joslin, IL and Davenport, IA to points in AZ and CA, for 180 days. An underlying ETA seeking up to 90 days authority was granted. Supporting Shipper: Illini Beef Packers, Inc., P.O. Box 245, Geneseo, IL 61254. Send protests to: District Supervisor Haskell E. Ballard, Box F–13206 Federal Building, Amarillo, TX 79101. Supporting Shipper(s): Illini Beef Packers, Inc., P.O. Box 245, Geneseo, IL 61254. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission—Bureau of Operations, Box F–13206 Federal Building, Amarillo, TX 79101.

MC 135070 (Sub-38TA), filed April 4, 1979. Applicant: JAY LINES, INC., 720 N. Grand, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE 68501. *Frozen foods* (except in bulk) from the facilities of Rich Products Corporation at or near Appleton, WI to points in CA, for 180 days. An underlying ETA was filed. Supporting shipper(s): Rich Products Corporation, Box 245, Buffalo, NY 14240. Send protests to: District Supervisor Haskell E. Ballard, Box F–13206 Federal Building, Amarillo, TX 79101.

MC 135170 (Sub-35TA), filed March 20, 1979. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Contract Carrier:* irregular routes: (1) *Containers, paper and paper articles, and plastic articles,* from Hartsville, SC to points in DE, MD, OH, PA, NY, NJ, NC and DC; and (2) *scrap paper,* from points in DE, MD, OH, PA, NY, NJ, NC and DC to Hartsville, SC, under a continuing contract with Sonoco Products Company, for 180 days. Supporting shipper(s): Arthur L. Moon, Sonoco Products Company, Hartsville, SC 29550. Send protests to: W. L. HUGHES, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 135861 (Sub-42TA), filed March 19, 1979. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. *Contract carrier:* irregular routes: *Photographic and reproductive equipment and parts and accessories* for the foregoing commodities, in vehicles equipped with mechanical refrigeration from Binghamton, Vestal and Johnson City, NY; Linden, NJ; and Calvert City, KY; to points in CA, CO, GA, and TX, under continuing contract(s) with GAF

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Corporation, Wayne, NJ, for 180 days. Supporting shipper(s): GAF Corporation, 1361 Alps Rd., Wayne, NJ 07470. Send protests to: ROD James H. Berry, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135861 (Sub-43TA), filed March 16, 1979. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. *Contract carrier:* irregular routes: *Carpeting and floor covering* from Los Angeles and Orange Counties, CA to Irving, TX, for the account of Merit Carpet Corporation, for 180 days. Supporting shipper(s): Merit Carpet Corporation, 3410 Century Circle, Irving, TX 75062. Send protests to: Martha A. Powell, TA, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135861 (Sub-44TA), filed March 22, 1979. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. *Contract carrier:* irregular routes: *Drugs, medicines, toilet preparations, personal care products, confectionery and chewing gum* from the plantsites, distribution centers and storage facilities used by Warner-Lambert Company, at or near, Chelsea and Boston, MA; Milford and Orange, CT; Long Island City and New York, NY; South Brunswick, NJ; Philadelphia and Lititz, PA; Elk Grove Village, Chicago, and Rockford, IL; Anaheim, CA; and Morrow and Atlanta, GA; to distribution centers and storage facilities used by Warner-Lambert Company, at Grand Prairie and Dallas, TX, under contract with Warner-Lambert Company, Morris Plains, NJ, for 180 days. Supporting shipper(s): Warner-Lambert Company, 201 Tabor Road, Morris Plains, NJ 07950. Send protests to: ROD Berry, ICC, Rm. 9A27 Federal Bldg., 819 Taylor, Fort Worth, TX 76102.

MC 136220 (Sub-72TA), filed March 12, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. *Aluminum dross, aluminum scrap and smelting residue* (in bulk, in dump vehicles), from points in TX, to Sapulpa and Checotah, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Metal Exchange Corp., 111 West Port Plaza, St. Louis, MO 63141. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Building, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136511 (Sub-37TA), filed March 8, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, Virginia 24502. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. *Bananas* from Norfolk, VA to points in MI, IN, OH, IL, WI, MN, MO, IA, KY, OK and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Best Banana Company, 3616 E. Virginia Beach Blvd., Norfolk, VA 23502. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 136511 (Sub-38TA), filed March 14, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, Virginia 24502. Representative: Elizabeth A. Purcell, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. *Candy, confectionery and cough drops,* from the facilities of Luden's, Inc. at Reading, PA, to points in TX, CO, NM, AZ, UT, ID, NV, OR, WA, CA, NC, GA, OK, LA, TN, AL and MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Luden's Inc., 200 North 8th Street, Reading, PA. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 136511 (Sub-39TA), filed March 14, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24502. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. *Apple sauce, apple juice, apple butter, apple vinegar, and apple slices,* from Winchester, VA, Timberlake, VA, Martinsburg, WV and Lincolnton, NC, to points to FL, TX, NC, SC, AL, GA and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Fruit Product Co., Inc., P.O. Box 2040, Winchester, VA 22601. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 136511 (Sub-40TA), filed March 15, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24502. Representative: David C. Venable, Attorney At Law, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. *New furniture,* from Martinsville, VA, to points in ID; MT; WY; CO; NM; TX and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hooker Furniture Corp., P.O. Box 4708, Martinsville, VA 24112. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 136511 (Sub-41TA), filed March 28, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24502. Representative: Lester R. Gutman, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. *Candy and confectionery* from the facilities of M & M/Mars, Division of Mars, Inc. at or near Hackettstown and Elizabeth, New Jersey and Elizabethtown, Pennsylvania to points in AZ, CA, GA, IL, IN, LA, MI, MN, NC, OH, OR, SC, TN, TX, VA and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): M & M/Mars, Division of Mars, Incorporated, High Street, Hackettstown, NJ 07840. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 136511 (Sub-42TA), filed March 29, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24502. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. *Processed fruits and fruit products,* from Kent City, MI, to Delta, CO and points in IL, MO, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): National Fruit Product Co., Inc., P.O. Box 2040, Winchester, VA 22601. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 136720 (Sub-5TA), filed March 21, 1979. Applicant: APEX BULK COMMODITIES, P.O. Box 872, Whittier, CA 90608. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Soda ash, in bulk,* from points in WY to the facilities of Thatcher Glass Manufacturing Company, Division of Dart Industries, at Saugus, CA, for 180 days. Supporting shipper(s): Thatcher Glass Manufacturing Company, Division of Dart Industries, P.O. Box 165, Elmira, NY 14902. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 138701 (Sub-2TA), filed March 19, 1979. Applicant: G.D. & K., INC., 500 West Main Street Wyckoff, NJ 07481. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Contract carrier, irregular routes for 180 days. Disposable monitoring devices, electro-surgical grounding pads, and such materials, equipment, and supplies used in their manufacture, sales, and distribution, between Dayton, OH, on the one hand, and, on the other, points in the US east of the Mississippi River, and points in LA & TX. An underlying ETA seeks 90 days authority. Supporting shipper(s): NDM Corporation, 3040 East River Road, Box 1408, Dayton, OH 45401. Send protest to: Joel Morrows, DS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 138861 (Sub-13TA), filed March 16, 1979. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. *Lard, edible tallow, shortening, margarine* and *cooking* and *vegetable oils,* from Bradley, IL, to CT, ME, MA, NH, NJ, NY, PA, RI, and VT, for 180 days. Supporting shipper(s): Swift & Co., 115 W. Jackson Boulevard, Chicago, IL 60604. Send protest to: Gerald H. Curry, District Supervisor, 24 Weybosset Street, Room 102, Providence, RI 02903.

MC 139171 (Sub-3TA), filed March 30, 1979. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, City of Industry, CA 91749. Representative: Patricia M. Schnegg, Knapp, Grossman & Marsh, 707 Wilshire Blvd., Los Angeles, CA 90017. *Contract:* irregular: *General commodities (except commodities of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment),* between points in CA, UT and TX, on the one hand, and, on the other, points in the United States, except AK and HI, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Wasatch Shippers Association, Inc., 235 West Third Street, Salt Lake City, UT 18101. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 139391 (Sub-10TA), filed March 28, 1979. Applicant: G & H TRANSPORTATION CO., INC., P.O. Box 157, Widener, AR 72394. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. Printed matter from the facilities of R. R. Donnelley & Sons Company, at Glasgow, KY, to Phoenix, AZ; Los Angeles, Fresno, San Diego, San Francisco and Oakland, CA; Denver, CO; Oklahoma City, OK; Portland, OR; Dallas and Houston, TX; and Seattle, WA and their commercial zones, for 180 days as a contract carrier over irregular routes. Supporting shipper(s): R. R. Donnelley & Sons Company, Donnelley Drive, Glasgow, KY 42141. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 139850 (Sub-19TA), filed March 20, 1979. Applicant: FOUR STAR TRANSPORTATION, INC., Box 77, Underwood, IA 51576. Representative: Vance A. Trively (same address as applicant). *Meat,* from Solon and Cleveland, OH to Des Moines, IA; Woodbridge, NJ; Portland, OR; and Richmond, CA, for 180 days. Applicant intends to tack this authority to authority held by it in MC–139850. Supporting shipper(s): John E. Oster, Monroe Company (Parent Company) Revere Chemical Co., 30875 Carter St., Solon, OH 44139. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 139850 (Sub-20TA), filed March 20, 1979. Applicant: FOUR STAR TRANSPORTATION, INC., Box 77, Underwood, IA 51576. Representative: Vance A. Trively (same address as applicant). *Meat,* from points in IL, IN, IA, MN, NE, SD, and WI, to Oakland, CA, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority to authority held by it in MC–139850. Supporting shipper(s): Mrs. R. Swenson, East Bay Packing Company, 208 Jackson St., Oakland, CA. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 139850 (Sub-21TA), filed March 23, 1979. Applicant: FOUR STAR TRANSPORTATION, INC., Box 77, Underwood, IA 51576. Representative: Vance A. Trively, (same address as applicant). *Carpet and floor coverings,* from points in GA to Council Bluffs, IA, for 180 days. Supporting shipper(s): Michael Hughes, Michael's Carpet, 3211 Nebraska Ave., Council Bluffs, IA. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 139850 (Sub-22TA), filed March 9, 1979. Applicant: FOUR STAR TRANSPORTATION, INC., Box 77, Underwood, IA 51576. Representative: Vance A. Trively, Box 77, Underwood, IA 51576. *Meat,* from the facilities of Farmland Foods, Inc., located at or near Denison, Iowa Falls and Carroll, IA to points in AZ, CA, ID, MT, NV, OR, UT, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dean Wilson, Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140241 (Sub-48TA), filed March 19, 1979. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Jim D. Dalke, Box 7, Moundridge, KS 67107. *Iron and steel articles* from plantsite and storage facilities of UNARCO–LEAVITT at Blue Island, Evanston and Chicago, IL to points in MN & TN; common, irregular, 180 days; supporting shipper: Unarco-Leavitt, Div. of Unarco Industries, 1717 West 115th Street, Chicago, IL 60643; send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 140300 (Sub-3TA), filed March 29, 1979. Applicant: Plastic Express, 2999 La Jolla Street, Anaheim, CA 92806. Representative: Richard C. Celio, 1415 W. Garvey Avenue, Suite 102, West Covina, CA 91790. *Contract:* Irregular: *Lubricating oils in bulk,* from the plantsite and warehouse facilities of The Pennzoil Company located at or near Vernon, California, to points in Arizona, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): The Pennzoil Company, 1730 West Olympic Blvd., Suite 102, Los Angeles, CA 90015. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 140421 (Sub-19TA), filed March 26, 1979. Applicant: ACTION MOTOR EXPRESS, INC., P.O. Box 29102, New Orleans, LA 70189. Representative: Sandra H. Roberson (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, transporting: (1) Paper, paper products, containers, container ends, from the facilities of American Can Company, Inc. in AL, AR, LA, MS, TN, TX, IL, IN, and MO to points in the above named states. (2) Components, materials, and supplies used in the manufacture of the commodities named in (1) above from the facilities of American Can Company, Inc. in AL, AR, LA, MS, TN, TX, IL, IN, and MO to points in the above named states, for 180 days. Restricted to traffic moving in connection with American Can Company, Inc. Applicant has filed an underlying ETA for 90 days. Supporting shipper(s): American Can Company, 915 Harper Road, Oak Brook, IL 60521. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg.,

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701 Loyola Ave., New Orleans, LA 70113.

MC 140460 (Sub-6TA), filed March 22, 1979. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, NC 28445. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. *Bananas* from the Hampton Roads deep port facilities at Hampton, Portsmouth, and Norfolk, VA to points in IL, IN, IA, KY, MI, NE, NY, OH, PA, WV, and WI for 180 days. An underlying ETA has been filed requesting 90 days authority. Supporting shipper(s): The Best Banana Company, Inc., c/o Norfolk Banana Distributors, 3616 East Virginia Beach Boulevard, Norfolk, VA 23502. Send protests to: Mr. Archie W. Andrews, D/S ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 141131 (Sub-1TA), filed March 29, 1979. Applicant: THE BIRGE COMPANY, INC., 421 E. 16th St., Paterson, NJ 07514. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Common, irregular. *Printing paper,* other than newsprint, and *materials, equipment, and supplies* used in the manufacturing thereof, except in bulk, on return, from Glens Falls, NY to points in the US east of the Mississippi River, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Finch, Pruyn and Co., 1 Glen Street, Glens Falls, NY 12801. Send protests to: Joel Morrows, D/S, ICC, 9 Clinton St., Newark, NJ 07102.

MC 141320 (Sub-13TA), filed March 29, 1979. Applicant: UNITED STATES PRIORITY TRANSPORT CORPORATION, 900 Walt Whitman Road—Suite 303, Huntington Station, NY 11746. Representative: Eugene M. Malkin, Suite 6193—5 World Trade Center, New York, NY 10048. *Contract carrier,* irregular routes: Radiopharmaceuticals, medical isotopes, medical test kits, and related apparatus, from South Plainfield, NJ, to Washington, DC, and points in the commercial zone thereof, and those in Fairfax County, VA, under a continuing contract(a) with Medi-Physics, Inc., of South Plainfield, NJ. An underlying ETA seeks 90 days authority. Supporting shipper(s): Medi-Physics, Inc., 900 Durham Ave., South Plainfield, NJ. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY.

MC 141921 (Sub-49TA), filed February 21, 1979. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03301. Representative: John A. Sykas, same address as applicant. Malt beverages and materials and supplies used in the manufacture and distribution of malt beverages, from the facilities of Anheuser-Busch, Inc. at or near St. Louis, MO, to ME, NH, VT, MA, RI, CT, NY, PA, NJ, OH, DE, MD, VA, WV, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Anheuser-Busch, Inc., 721 Pestalozzi Street, St. Louis, MO 63118. Send protests to: Ross J. Seymour, DS, Interstate Commerce Commission, Rm 3, 6 Loudon Rd., Concord, NH 03301.

MC 141921 (Sub-50TA), filed February 21, 1979. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03108. Representative: John A. Sykas, (same address as applicant). Meats and packinghouse products, from the facilities of Wilson Foods, Inc., at or near Albert Lea, MN and Cedar Rapids, IA to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Wilson Foods, Inc., 4545 No. Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Ross J. Seymour, DC, Interstate Commerce Commission, Rm 3, 6 Loudon Rd., Concord, NH 03301.

MC 142041 (Sub-1TA), filed March 27, 1979. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison, Topeka KS 66603, (1) *Agricultural Machinery, Implements and Equipment;* (2) *Industrial and Construction Machinery and Equipment;* (3) *Irrigation Equipment;* (4) *Drainage Systems;* (5) *Stump Cutters, Log Splitters and Log Choppers;* (6) *Tree Spades;* and (7) *Parts, Attachments and Accessories for (1) through (6) above,* from facilities of Vermeer Manufacturing Co., at or near Pella, IA to points in AR, KS, LA, MS, MO, NE, NM, OK & TX, and (8) *Materials and supplies used in the manufacture and productin of (1) through (7) above,* from points in AR, IN, IL, KS, LA, MS, MO, NE, NM, OK & TX to the facilities of Vermeer Manufacturing Company, at or near Pella, IA.; 90-day ETA granted 3–20–79; permanent application pending; Supporting shipper: Vermeer Manufacturing Co., P.O. Box 200, Pella, IA.; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 142181 (Sub-3TA), filed March 9, 1979. Applicant: LIBERTY CONTRACT CARRIER, INC., P.O. Box 1104, 214 Hermitage Avenue, Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Building, Nashville, TN 37219. *Contract carrier:* irregular routes: *(1) Such merchandise as is dealt in by department stores and (2) newspaper supplements when moving in mixed loads with (1) above,* between points in AL, AR, GA, KY, MS, MO, SC and TN, for 180 days. Restricted to the transportation of shipments originating at or destined to the facilities of Kuhn's Big K Stores Corp. Supporting shipper(s): Kuhn's Big K Stores Corp, 245 Great Circle Road, P.O. Box 5867, Nashville, TN 37228. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 142310 (Sub-14TA), filed March 9, 1979. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Frozen foods* from Greenville, MI to points in WI, restricted to traffic originating at the facility of Ore-Ida Foods, Inc. at or near Greenville, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 83202.

MC 142610 (Sub-7TA), filed March 8, 1979. Applicant: ACTION MOTOR EXPRESS, INC., P.O. Box 29102, New Orleans, LA 70189. Representative: Sandra H. Roberson (same address as applicant). *Paper, paper products and materials, equipment, and supplies used in their manufacture* between New Orleans, LA on the one hand, and, on the other, points in AL, AR, MS, TN, TX, SC, NC, GA, VA, IL, OH, and WI, for 180 days. Applicant has filed an underlying ETA for 90 days. Supporting shipper(s): Lengsfield Brothers, Inc., 1101 Tchoupitoulas Street, New Orleans, LA 70130. Send protests to: Connie A. Guillory, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 142831 (Sub-15TA), filed March 13, 1979. Applicant: HAMRIC TRANSPORTATION, INC., 3318 E. Jefferson, Grand Prairie, TX 75051. Representative: Lawrence A. Winkle, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. *Standard steel tubing banded in bundles,* from Chicago, IL, to points in Oklahoma and Texas for 180 days. Underlying ETA seeks up to 90 days authority. Supporting shipper(S): Russell Steel, P.O. Box 1247, Arlington, TX 76010. Send protests to: Opal Jones, Transportation Assistant, ICC, 1100 Commerce Street, Rm 13C12, Dallas, TX 75242.

MC 142891 (Sub-5TA), filed March 16, 1979. Applicant: A & H INC., P.O. Box 346, Footville, WI 53537. Representative: Thomas Beener, One World Trade Center, Suite 4959, New York, NY 10048. *Cheese and cheese products* from the facilities of Heidi's Cheese Products at or near Juda, Monroe and Linden, WI to points in NH, VT, CT, MI, OH, MA, RI, DE, MD, DC, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heidi's Cheese Products, P.O. Box 851, Libertyville, IL 60048. Send protest to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue Room 619, Milwaukee, Wisconsin 53202.

MC 143331 (Sub-7TA), filed March 12, 1979. Applicant: FREIGHT TRAIN TRUCKING, INC., 4906 E. Compton Blvd., P.O. Box 617, Paramount, CA 90723. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract:* irregular: *insulating materials,* from Fruita, CO, to points in AZ and CA, under a continuing contract or contracts with Pabco Insulation, Division of Louisiana Pacific Corp., for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Pabco Insulation, Division of Louisiana Pacific Corp., 1110 16 Road, Fruita, CO 81521. Send protest to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 143471 (Sub-13TA), filed March 3, 1979. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 301 Mt. Rushmore Road, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. *Contract carrier:* irregular routes: *Lumber* from points on the International Boundary Line between the U.S. and Canada located in WA and ID to points in IA, MN, ND, and SD for the account of Weyerhaeuser Co for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weyerhaeuser Co., Tacoma, WA 98401. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 143540 (Sub-13TA), filed March 13, 1979. Applicant: MARINE TRANSPORT COMPANY, P.O. Box 2142, Wilmington, NC 28402. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. Contract—irregular, *fibrous glass products and material; mineral wool, mineral wool products and materials; insulated air ducts, insulating products and materials; glass fibre rovings, yarn and strands; glass fibre mats and mattings; and flexible air ducts (except in bulk),* from the facilities of CertainTeed Corporation located at or near Williamstown Junction, NJ to points in AL, FL, GA, KY, NC, SC, TN, and VA, for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): CertainTeed Corporation, P.O. Box 860, Valley Forge, PA 19482. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 143540 (Sub-14TA), filed April 5, 1979. Applicant: MARINE TRANSPORT COMPANY, P.O. Box 2142, Wilmington, NC 28402. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Paper and paper products,* (1) from the facilities of Scott Paper Company in DE, NJ, NY, and PA to all points in AL, GA, IL, NC, SC, VA, and WI; (2) from the facilities of Scott Paper Company in IL and WI to points in AL, GA, NJ, NY, and PA; and (3) from the facilities of Scott Paper Company in AL and GA to points in IL, IN, NJ, NY, OH, PA, and WI, for 180 days. An underlying ETA has been filed seeking 90 days authority. Supporting shipper(s): Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 143621 (Sub-10TA), filed March 9, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave. North, Nashville, TN 37219. Representative: Sidney T. Stanley (same address as applicant). *Iron and steel articles* from Chicago, IL and its commercial zone to Nashville, TN and its commercial zone; Murfreesboro, TN and its commercial zone; Decatur, AL and its commercial zone; and Owensboro, Ky and its commercial zone, for 180 days. Supporting shipper(s): There are 8 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Glenda Kuss, TA, ICC, Suite A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143621 (Sub-11TA), filed March 29, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave. North, Nashville, TN 37219. Representative: Sidney T. Stanley, 901 5th Ave. North, Nashville, TN 37219. *Iron and steel articles* from Chicago, IL and its commercial zone to all points in TN, for 180 days. Supporting shipper(s): There are 13 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Glenda Kuss, TA, ICC, Suite A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143621 (Sub-12TA), filed March 30, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave., North, Nashville, TN 37219. Representative: Sidney T. Stanley (same address as applicant). *Electric motors and generators* from Lexington, TN and its commercial zone to Peoria, IL and its commercial zone, for 180 days. Supporting shipper(s): Gould Inc., Electric Motor Div., 669 Natchez Trace Drive, Lexington, TN 38351. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143621 (Sub-13TA), filed March 27, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave., North, Nashville, TN 37219. Representative: Sidney T. Stanley (same address as applicant). *Iron and steel articles* from Harriman, TN and its commercial zone to Chicago, IL and its commercial zone, for 180 days. Supporting shipper(s): Metron Steel Corp., 12900 S. Metron Dr., Chicago, IL 60633. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143621 (Sub-14TA), filed March 27, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave. North, Nashville, TN 37219. Representative: Sidney T. Stanley (same address as applicant). *Iron and steel articles* from Warren, OH and its commercial zone to Lexington, TN and its commercial zone, for 180 days. Supporting shipper(s): Gould, Inc., 669 Natchez Trace, Lexington, TN 38351. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143671 (Sub-1TA), filed March 21, 1979. Applicant: BILL BLANN, d.b.a. BLANN TRACTOR COMPANY, P.O. Box 557, Hampton, AR 71744. Representative: James M. Duckett, 927 Pyramid Life Building, Little Rock, Arkansas 72201. *Clothing, materials, supplies, and equipment* incidental to or used in the manufacture of clothing, between the facilities of M.J. Industries, Inc., at St. Louis, MO and East Camden, AR, under contract or continuing contracts with M.J. Industries, Inc., for 180 days as a contract carrier over irregular routes. Supporting shipper(s): M. J. Industries, Inc., 1000 Washington Avenue, St. Louis, MO. Send protests to: William H. Land, Jr., District Supervisor,

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3108 Federal office Building, 700 West Capitol, Little Rock, AR 72201.

MC 143771 (Sub-3TA), filed March 13, 1979. Applicant: NORTHERN MICHIGAN TRANSIT, INC., 1068 O'Rourke Boulevard, P.O. Box 151, Gaylord, MI 49735. Representative: James R. Davis, 1018 Michigan National Tower, Lansing, MI 48933. *Landscape timbers* from the facilities of Lake Woods Forest Products, Inc. at or near Grayling, MI to points in OH, IN and IL. An underlying ETA seeks 90 day authority. Supporting shipper(s): Lake Woods Forest Products, Inc., P.O. Box 629, Grayling, MI 49738. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 143891 (Sub-5TA), filed March 21, 1979. Applicant: FLYING L TRUCKING COMPANY, P.O. Box 4942, Thousand Oaks, CA 91359. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Such commodities as are dealt in by a manufacturer or convertor of paper and paper products*, from points in CA, OR and WA to points in ID, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Container Corporation of America, 2800 De La Cruz Blvd., Santa Clara, CA 95050. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CALIFORNIA 90012.

MC 144041 (Sub-31TA), filed March 9, 1979. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle, NE, Atlanta, GA 30345. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree Street, NE, Atlanta, GA 30303. *Glass containers* from Knox, Marienville, Clarion and Parker, PA to Rick Hill and Chester, SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glass Containers Corp., Knox, PA 16232. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 144201 (Sub-5TA), filed March 22, 1979. Applicant: V.M.P. ENTERPRISES, INC., 3006 S. 40th St., Milwaukee, WI 53215. Representative: Wm. C. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Buses, in initial movements, in driveaway service*, from Roswell, NM to points in the US, including AK, but excluding HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Transportation Mfg. Corp., P.O. Box 5670, Roswell, NM 88201. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 144351 (Sub-3TA), filed March 23, 1979. Applicant: DON HAUSAUER, d.b.a. DON HAUSAUER TRUCKING, Route #5, Carufel Addition, Bismarck, ND 58501. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Non-alcoholic beverages* from the facilities of Midwest Pop Lakehead, Inc., at or near Duluth, MN to points in ND, SD and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midwest Pop Lakehead, Inc., 326 East Central Entrance, Duluth, MN 55811. Send protests to: DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 144431 (Sub-1TA), filed March 19, 1979. Applicant: HOFFMAN TRANSIT CO., INC., Highway A–1 Mile West, Gresham, WI 54128. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Woodchips*, in bulk, from Amasa, MI to Green Bay, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Can Co., 271 River St., Menasha, WI 54952. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 144630 (Sub-14TA), filed March 14, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, Suite 945—9000 Keystone Crossing, Indianapolis, IN 46240. (1) *Batteries, battery parts and components*, (2) *lead, pigs, billets and slabs*, from (1) Niagara Falls, NY to Vincennes, IN; (2) from Toledo, OH; Attica and Vincennes, IN to points in GA; (3) from Herculaneum, MO to Visalia, CA, for 180 days. Supporting Shipper: Eltra Corporation, 511 Hamilton, Toledo, OH 43694. Send Protests To: Beverly J. Williams, Transportation Assistant, I.C.C. 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 144710TA, filed January 29, 1979. Applicant: MONROE CONTRACTORS EQUIPMENT, INC., 1640 Penfield Road, Rochester, NY 14625. Representative: S. Michael Richards/Raymond A. Richards, P.O. Box 225—44 North Ave., Webster, NY 14580. *Snow Removal Equipment* between Genesee, Monroe, Ontario, Orleans and Wayne Counties, NY on the one hand, and, on the other, Chicago, IL and its commercial zone. Supporting shipper(s): Central Roadways, Inc., 135 Silverdale Dr., Rochester, NY 14609. Wayne Terminal and Dock Co., Inc., 3496 So. Main St., Walworth, NY 14568. Spezio Construction Co. Div., 35 Deep Rock Rd., Rochester, NY 14624. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St.—Rm. 1259., Syracuse, New York 13260.

MC 144740 (Sub-8TA), filed March 20, 1979. Applicant: L. G. DE WITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street, NW, Suite 300, Washington, DC 20006. *Contract* Carrier-Irregular routes: *Frozen foods* from the facilities of Pet, Incorporated, Frozen Foods Division, at or near Chambersburg, PA, to points in AZ and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pet Incorporated, Frozen Foods Division, P.O. Box 392, St. Louis, MO 63166. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd.—Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 144740 (Sub-9TA), filed March 9, 1979. Applicant: L. G. DE WITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street, NW, Suite 300, Washington, DC 20006. *Contract* Carrier-Irregular routes: *Candy and confectionery* from the facilities of M&M/Mars, division of Mars, Inc. at or near Hackettstown and Elizabeth, NJ, and Elizabethtown, PA, to points in AZ, CA, CO, OR, TX, UT and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M&M/Mars, Division of Mars, Inc., High St., Hackettstown, NJ 07840. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd.—Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 144971 (Sub-1TA), filed February 28, 1979. Applicant: DONALD EDWARD McKENZIE, d.b.a. C & D Contracting, 13491—112th Avenue, Surrey, B.C. V3R 2E7. Representative: Donald Edward McKenzie, 13491—112th Avenue, Surrey, B.C. V3R 2E7. *Contract carrier:* irregular routes: *Scrap steel, tin, iron*, from the U.S./Canada border to Tacoma, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joseph Simon & Sons, Inc., 2202 E. River St., Tacoma, WA 98421. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 145070 (Sub-2TA), filed March 30, 1979. Applicant: PROGRESSIVE PRODUCE COMPANY, d.b.a., PATHFINDER TRUCKING, 1206 E. 6th

Street, Los Angeles, CA 90021. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. *Bananas and agricultural commodities exempt from regulation under Section 10526(a)(6) of the Interstate Commerce Act when transported in mixed loads with bananas*, from the facilities of Del Monte Banana Company at Port Hueneme, CA to points in AZ, ID, OR, UT, and WA, restricted to the transportation of traffic having a prior movement by water, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Del Monte Banana Company, 1201 Brickell Avenue, Miami, FL 33101. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 145371 (Sub-2TA), filed March 9, 1979. Applicant: MFCH, INC., Route 1, Kings, IL 61045. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. (1) *Foodstuffs* (except frozen food stuffs, bananas and commodities in bulk), (a) between the facilities of Del Monte Corp., located at/near Tampa, FL; DeKalb, Mendota and Rochelle, IL; Frankfort, IN; Topeka, KS; Sleepy Eye and Wells, MN; Swedesboro, NJ; Memphis, TN; Crystal City, TX and Arlington, Markesan and Plover, WI and points in their commercial zones, and (b) from the facilities of Del Monte Corp., located at/near DeKalb, Mendota and Rochelle, IL; Sleepy Eye and Wells, MN and Arlington, Markesan and Plover, WI to points in the states of IL, IN, KS, KY, MI, MN, MO, NJ, ND, OH, PA, TN, WV and WI; and (2) cans, can ends and packaged cut tin plate between the facilities of Del Monte Corp. located at/near Tampa, FL; DeKalb, Mendota and Rochelle, IL; Sleepy Eye and Wells, MN; Swedesboro, NJ; Crystal City, TX and Arlington, Markesan and Plover, WI and points in their commercial zones, for 180 days. Supporting shipper(s): Del Monte Corporation, Division Shipping—Traffic, Midwest Division, P.O. Box 89, Rochelle, IL 61068. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145300 (Sub-1TA), filed March 20, 1979. Applicant: MINUTE MAN TRANSIT, INC., 24 Williams Street, Dedham, MA 02026 Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Data processing materials*, (1) from Hopkinton, MA to Hartford, Waterbury, and New London, CT; Augusta, ME; Nashua and Lebanon, NH; Providence and Woonsocket, RI; and Brattleboro and Burlington, VT, and (2) from Brookline, MA to Greenwich, Hartford, and Stafford Springs, CT; Greenfield, NH; and New York (and points in its commercial zone), New Rochelle, New Hyde Park, Manhassett and Carmel, NY, for 180 days. Supporting shipper(s): Datamann, Inc., P.O. Box 482, Hanover, NH 03755; and SDK Medical Computer Services Corporation, 850 Boylston Street, Brookline, MA 02167. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 145441 (Sub-24TA), filed March 16, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same as applicant). *Frozen foods* from Stanwood, Ellensburg, Prosser, Arlington and Kennewick, WA; and Lewiston, ID, to points in MD, PA, NY, VA, KS and MO, for 180 days, as a common carrier over irregular routes. Supporting shipper(s): Twin City Foods, Inc., P.O. Box 699, Stanwood, WA 98292. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145441 (Sub-26TA), filed March 15, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same as applicant). *Alcoholic beverages* (except in bulk), from points in CA in and north of San Luis Obispo, Kern, and San Bernadino Counties, to Denver, CO for 180 days, as a common carrier over irregular routes. Supporting shipper(s): Ledo-Dionysus, 5757 East 42 Avenue, Denver, CO 80216. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145481 (Sub-6TA), filed March 29, 1979. Applicant: COYOTE TRUCK LINE, INC., P.O. Box 756, Thomasville, NC 27360. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. *Drugs, medicines, cosmetics, plastic boxes, plastic articles, weed killing compounds, and animal and poultry feed supplements; and materials and supplies used in the manufacture, production and distribution of the commodities named above;* between the facilities utilized by Eli Lilly and Company located at or near Indianapolis, Lafayette and Clinton, IN, on the one hand, and, on the other, Memphis, TN; Raleigh, NC; Atlanta, GA; and Norfolk, VA; for 180 days. RESTRICTION: Restricted against the transportation of commodities in bulk. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eli Lilly and Company, 1555 South Kentucky Ave., Indianapolis, IN 46206. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 145601 (Sub-3TA), filed March 9, 1979. Applicant: MORGAN COUNTY TRUCKING, INC., 1010 East Nutter Street, Martinsville, IN 46151. Representative: Warren C. Moberly, 320 North Meridian Street, Indianapolis, IN 46204. *Malt beverages*, from Peoria, IL; and Newport and Louisville, KY; St. Paul, MN; Detroit, MI; St. Louis, MO; Cleveland and Columbus, OH; and Milwaukee, WI; to points in Warren, Tippecanoe, Clinton, Hamilton, Madison, Henry, Rush, Hancock, Marion, Boone, Hendricks, Montgomery, Fountain, Putnam, Parke, Vermillian, Vigo, Clay, Owen, Morgan, Johnson, Shelby, Decatur, Bartholomew, Brown, Monroe, Green, Sullivan, Knox, Daviess, Martin, Lawrence, Jackson, Jennings, Scott, Washington, Orange, Dubois, Pike, Gibson, Posey, Vanderburg, Warrick, Spencer, Crawford, Perry, Harrison, Floyd and Clark Counties, IN, and the empties on return to points of origin with no compensation, for 180 days. There are eleven supporting shippers. Send protests to: Beverly J. Williams, Transportation Assistant, I.C.C., 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 145720 (Sub-2TA), filed January 29, 1979. Applicant: Store Wide Delivery Co., Inc., 311–17th Street, Jersey City, NJ 07302. Representative: Richard Rueda, 133 N. 4th Street, Philadelphia, PA 19106. Contract carrier over irregular routes for 180 days. (1) Clothing and wearing apparel, cosmetics, jewelry and (2) store supplies used in the sale of commodities in (1) above, on hangers and in cartons, except in bulk, under continuing contract or contracts with Commonwealth Trading, Inc. Between the facilities of or utilized by Commonwealth Trading, Inc., at or near Stoughton, MA and Jersey City, NJ and their respective commercial zones, and the facilities of or utilized by Commonwealth Trading, Inc., in the states of ME, NH, MA, CT, RI, NY, NJ, PA, MD, DE, DC, VA, KY, GA, OH, IN, IL and MI. Supporting shipper(s): Commonwealth Trading, inc., 100 Campanelli Parkway, Stoughton, MA

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MC 145781 (Sub-1TA), filed January 16, 1979, and published in the **Federal Register** issue of February 23, 1979, and republished as corrected this issue. Applicant: L AND L TRANSPORTATION, INC., 1700 Swanson Drive, Space 80, Rock Springs, WY 82901. Representative: Lynn S. Simonson (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products; and (2) *machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, restricted against the transportation of complete oil drilling rigs, between points in Wyoming, Utah, Colorado, Montana, Idaho, Nevada, South Dakota and North Dakota, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are eight shippers, their statements may be examined at the ICC, Washington, DC. Send Protests To: Paul A. Naughton, District Supervisor, ICC, Rm 105, Federal Bldg. & Crt. House, 111 South Wolcott, Casper, WY 82601. This correction issued to specify the origins and destination.

MC 145861 (Sub-1TA), filed March 28, 1979. Applicant: VANTRANS, INC., 11375 Greenwich Road, Homerville, OH 44235. Representative: James M. Burtch, 100 E. Broad Street, Columbus, OH 43215. *Contract carrier:* irregular routes: *Building materials and ice control compounds* (except commodities in bulk), from the facilities of Revere Chemical Corporation, in Cuyahoga County, OH, to Des Moines, IA, and Woodbridge, NJ, for 180 days. An underlying ETA seeking 90 days authority. Supporting shipper(s): Revere Chemical Corporation, 30875 Carter Street, Solon, OH 44139. Send protests to: Mary A. Wehner, District Supervisor, Interstate Commerce Commission, 1240 E. Ninth Street, Cleveland, OH 44199.

MC 145870 (Sub-9TA), filed March 14, 1979. Applicant: L-J-R HAULING, INCORPORATED, P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh Street, N.W., Washington, D.C. 20001. (1) *Mining machinery and equipment, and* (2) *parts for the commodities named in (1)* Between the facilities of Wilson & Company at or near Princeton, WV; Beckley, WV; Morristown, TN and Tazewell, VA; on the one hand, and on the other, points in AL, IL, IN, KY, OH, PA, TN, VA and WV for 180 days. An underlying ETA seeking 90 days authority. Supporting shipper(s): Wilson & Company, P.O. Box DD, Daniels, West VA 25832. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 146071 (Sub-2TA), filed March 26, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* as described in Sections A & C of Appendix I to the report in Description in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and skins and commodities in bulk), from the facilities of John Morrell & Co., at or near Sioux Falls, SD, Estherville and Sioux City, IA and Worthington, MN to points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 146090 (Sub-1TA), filed February 1, 1979. Applicant: WESTERN MOTOR EXPRESS d.b.a., WESTERN TRANSPORT, 7843 Chatfield St., Whittier, CA, 90606. Representative: Robert Fuller, 6119 Southwind Dr., Whittier, CA 90601. *Fabricated wrought steel piping requiring specialized equipment due to size and weight,* From Sante Fe Springs, CA. to Palo Verde Nuclear Generating Station 3 miles south of Wintersburg, AZ. and to Coronado Generating Station 9 miles northeast on Highway 666 near St. Johns, AZ. and serving with stops in transit for pipe coating a facilities in Los Angeles, San Bernardino, and Riverside Counties, CA. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jerry Eagle, Production Manager, Pipe Fabricating & Supply Co., 9703 South Norwalk Boulevard, Santa Fe Springs, CA 90670. Send protests to: Walter W. Strakosch, TS, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 146140 (Sub-1TA), filed March 19, 1979. Applicant: CONCORD TRUCKING, LTD., General Delivery, New Dayton, AB, Canada T0K 1P0. Representative: Jerry H. Beaton (same address as applicant). *Irrigation equipment* from points in AR, CA, CO, GA, IA, ID, KS, MN, MO, NE, OR, OK, TX, UT and WA to ports of entry on the U.S.-Canada International Boundary line restricted to shipments in foreign commerce for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Westcan Irrigation, Ltd., 510–36th St. North, Lethbridge, AB, Canada; Sego Irrigation Systems, Ltd., 7056 Farrell Rd SE, Calgary, AB, Canada; New-Way Irrigation, Ltd., Box 1889, Taber, AB, Canada; Inland Irrigation & Equipment, Ltd., Box 1078, Coaldale, AB, Canada. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Bilings, MT 59101.

MC 146140 (Sub-2TA), filed March 13, 1979. Applicant: MELVIN SALES COMPANY, 901 North Vervillion, Streator, IL 61364. Representative: Paul J. Maton, 10 South LaSalle Street, Suite 1620, Chicago, IL 60603. *Silica Sand in bulk,* from LaSalle County, IL to Lawrenceburg, IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thatcher Glass Manufacturing Co., Division of Dart Industries, Inc., P.O. Box 265, Elmira, NY 14902. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146230 (Sub-1TA), filed March 23, 1979. Applicant: J & V TRUCKING COMPANY, INC., 617 River Rouge Drive, Nashville, TN 37209. Representative: George M. Catlett, 708 McClure Bldg., Frankfort, KY 40601. *Contract carrier:* irregular routes: *Rubber articles and materials, equipment and supplies used in the manufacture, sale and distribution of rubber articles* between Franklin, KY, and Hot Springs, AR, on the one hand, and, on the other, points and places in the U.S. on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada, and (2) between Franklin, KY, on the one hand, and, on the other, Hot Springs, AR, under a continuing contract with Alliance Rubber Company, Inc. for 180 days. Supporting shipper(s): Alliance Rubber Company, Inc., P.O., Box 730, Hot Springs, AR 71901. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 146271 (Sub-1F), filed March 16, 1979. Applicant: A-Z DISPATCH, 811 Teson, Hazelwood, MO 63042. Representative: Robert L. Kleeschulte (same as above). *Contract carrier:* irregular routes: *Medical supplies and equipment* from St. Louis, MO to points in IA, IL, IN and KY, for Abbott Laboratories, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Abbott Laboratories, 14th and Sheridan Rd., N. Chicago, IL 60064. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 146300 (Sub-1TA), filed March 2, 1979. Applicant: Jerry L. Gudgel and V. Larry Gudgel, d.b.a. J-LOR TRUCKING, 15232 SE 272nd, Kent, WA 98031. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Contract carrier:* irregular routes: *Wine and malt beverages* (except in bulk in tank vehicles, (1) Between points in CA, on the one hand, and on the other, Grants Pass, Salem and Portland, OR and Seattle, WA; (2) From Seattle, WA to Grants Pass, Salem and Portland, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Henny Hinsdale Wine Imports, 1585 Industrial Drive N.E., Salem, OR. P & S Wine Company, 924 Popular Place S. Seattle, WA 98144. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 146360 (Sub-1TA), filed March 15, 1979. Applicant: FLOYD SMITH, JR. TRUCKING, INC., 5303 Valle Grande, Meridian, ID 83642. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Water softening apparatus and materials and supplies used in the sale and distribution of water softeners,* from points in Franklin and Butler Counties, OH to points in CA, ID, OR and WA, in common carriage, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Water Refining Co., 1243 Hansen Ave., Burley, ID 83318. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 146390 (Sub-1TA), filed March 20, 1979. Applicant: Ronald E. Parrish, d.b.a. J & R TRUCKING CO., Rt. 3, Box 145, Denton, NC 27239. Representative: Ronald E. Parrish (same as above). *Lumber, wood residuals, cotton seedmeal and soybean meal, and fertilizer* between Lee, Harnett, Moore, Montgomery, Wake, Randolph, Davidson, Chatham, Guilford and Johnston Counties, NC and points in SC and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hinkle Milling Co., Inc., 110 Randolph St., Thomasville, NC. Hopkins Co., Rt. 3, Denton, NC. Jim's Lumber Sales, Inc., Rt. 3, Box 338, Sanford, NC 27330. H. E. Wall Lumber Co., Rt. 2, Asheboro, NC. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd—Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 146411 (Sub-1TA), filed February 28, 1979. Applicant: KMD, INC., P.O. Box 88832, Seattle, WA 98188. Representative: Michael B. Crutcher, 2000 IBM Bldg., Seattle, WA 98101. *Contract* carrier: irregular routes: *Wearing apparel and supplies used in the sale thereof,* from the facilities of K-Mart Apparel at Carson, CA to points in WA, OR, CA, ID, MT, NV, UT, AZ, NM, CO, WY and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): K-Mart Apparel Corp., 7373 West Side Ave., North Bergen, NJ. Send protests to: Shirley M. Holmes, T/A, ICC 858 Federal Bldg., Seattle, WA 98174.

MC 146501 (Sub-1TA), filed April 2, 1979. Applicant: SPEEDWAY CARRIERS, INC., 923 North Roosevelt, Aberdeen SD 57401. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. *Cabinets* from Ports of Entry on the International Boundary Line between Canada and the U.S. to Chicago IL and its commercial zone, in foreign commerce only or 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): H.T. H. Cabinets, LTD, 7803 35th St. SE, Calgary, Alberta, Canada. Send protest to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 146521 (Sub-1TA), filed March 12, 1979. Applicant: John Lilley d.b.a., Lilley Trucking, Box 264, Princeton, IL 61356. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Iron and steel articles,* from the plantsite of Jones & Laughlin Steel Corp., East Chicago, IN to points in IL, St. Louis, MO, and Davenport-Bettendorf, IA, for 180 days. (Restricted to movements originating at the above-named plantsite.) Supporting shipper(s): Jones & Laughlin Steel Corp., 3001 Dickey Road, East Chicago, IN 46312. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146531 (Sub-1TA), filed March 20, 1979. Applicant: LARRY WILSON, Rural Route #2, Eudora, KS 66025. *Fertilizer and Fertilizer Materials, in bulk, or in bags,* from the facilities of Farmland Industries, Inc. at or near Lawrence, KS, to points in the states of OK, AR, MO, NE, IA, TX and CO for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Farmland Industries, Inc., 3315 North Oak Trafficway, Kansas City, MO. 64116. Send protests to: Thomas P. O'Hara, DS ICC, 256 Fed. Bldg., 444 S.E. Quincy, Topeka, KS 66683. Supporting shipper(s): Farmland Industries, Inc., 3315 North Oak Trafficway, Kansas City, MO. Send protest to: Thomas P. O'Hara, DS, ICC, 256 Federal Bldg., 444 S.E. Quincy, Topeka, KS 66683.

MC 146541 (Sub-1TA), filed March 19, 1979. Applicant: DAVIS BROTHERS, INC., P.O. Box 499, Savannah, TN 38372. Representative: Ronald M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Limestone,* in bulk, in dump vehicles from Savannah, TN and its commercial zone to Alcorn and Tishomingo counties, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vulcan Materials Company, 646 Old Hickory Blvd., Jackson, TN 38301. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 146571 (Sub-1TA), filed March 22, 1979. Applicant: Donald A. Benson d.b.a. BENSON TRUCKING, R. D. No. 1, Box 44, Mansfield, PA 16933. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. *Malt beverages,* from Rochester, NY, to points in PA. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are twelve (12) supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: ICC, Wm. J. Green, Jr. Federal Bldg., 600 Arch Street, Phialdelphia, PA 19106.

MC 146591 (Sub-1TA), filed March 26, 1979. Applicant: JOE GILBERT GONZALES, P.O. Box 93, Dixon, NM 82527. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Contract carrier:* irregular routes: *Gypsum wall board,* from the facilities of Western Gypsum Co., at or near Rosario, NM to points in CO, restricted to traffic moving under a continuing contract or contracts with Western

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Gypsum Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Gypsum Co., P.O. Box 2636, Santa Fe, NM 87501. Send protests to: DS, ICC, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 146591 (Sub-2TA), filed March 26, 1979. Applicant: JOE GILBERT GONZALES, P.O. Box 93, Dixon, NM 82527. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Contract carrier:* irregular routes: *Feed and feed ingredients, except in bulk, in tank vehicles,* from the facilities of Feed Products, Inc., at or near Denver, CO to points in NM, OK, and TX, restricted to transportation services performed under a continuing contract or contracts with Feed Products, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Feed Products, Inc., 100 West 47th Avenue, Denver, CO 80211. Send protests to: DS, ICC, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 146600 (Sub-1TA), filed April 3, 1979. Applicant: K & J TRUCKING, INC. 2808 W. 6th Street, Sioux Falls, SD 57104. Representative: Mark Menard, P.O. Box 480, Sioux Falls, SD 57101. *Meats, meat products, meat by-products, and articles distributed by meat packing houses* as described in Sections A, B and C of Appendix I to the report in Descriptions in Motor carrier Certificates, 61 MCC 209 and 766 (except hides and skins and commodities in bulk), from the facilities utilized by John Morrell & Co. at or near Sioux Falls, SD to points in AZ, CA, NM, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 146601 (Sub-1TA), filed March 9, 1979. Applicant: POTEAT MOTOR LINES, INC., 522 12th Avenue, SW., Hickory, NC 28601. Representative: Robert D. Hoagland, 2304 Cameron Brown Bldg., 301 S. McDowell St., Charlotte, NC 28204. Authority sought to operate as a common carrier transporting: (1) Textiles and textile products, from Burke, Caldwell, Catawba, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, McDowell, Mecklenburg, Rowan and Rutherford Counties, NC, Cherokee, Greenville, Spartanburg, Union and York Counties, SC, to points in Union and Snyder Counties, PA, and points in that part of PA on and east of US Hwy 11, beginning at the MD–PA line and extending northerly to the junction of US Hwy 15, then northerly along US Hwy 15 to the NY State line, including points on the highways specified, and points in the counties of Albany, Bronx, Columbia, Dutchess, Fulton, Greene, Herkimer, Kings, Montgomery, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Rockland, Richmond, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Ulster, Warren and Westchester, NY, and points in NJ, CT, RI, and MA, and the Town of Manchester, NH. (2) Fabrics or cloth, from points in CT, RI, MA, NJ, and points in Union and Snyder Counties, PA, and points in that part of PA, on and east of US Hwy 11, beginning at the MD–PA state line and extending northerly to the junction of US Hwy 15, then northerly along US Hwy 15 to the NY state line, including points on the highways specified, and points in the counties of Albany, Bronx, Columbia, Dutchess, Fulton, Greene, Herkimer, Kings, Montgomery, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Rockland, Richmond, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Ulster, Warren and Westchester, NY, and the Town of Manchester, NH, to points in Catawba County, NC. (3) Chemicals used in the processing and manufacture of textiles and textile products from Philadelphia, PA, to points in NC on and west of US Hwy 1. (4) Iron and steel articles, from Baltimore, MD, and Philadelphia, PA, to points in Catawba and Yancey, NC. (5) Pulpboard and fibreboard, from Baltimore, MD to points in NC on and west of US Hwy. 1. An underlying ETA seeks up to 90 days authority. Supporting Shipper: There are 22 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: District Supervisor Terrell Price, 800 Briar Creed Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 146611 (Sub-2TA), filed March 16, 1979. Applicant: INSULATION SPECIALISTS, 7215 N. 62nd Ave., Glendale, AZ 85031. Representative: Donald E. Fernaays, 4040 E. McDowell Rd., Suite 320, Phoenix, AZ 85008. Insulation and materials, equipment and supplies used in the installation and manufacturing of insulation, from the facilities of Superior Products Corporation of AZ at Chandler, AZ to points in CA and NV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Superior Products Corporation of AZ, 390 E. Ray Rd., Chandler, AZ 85224. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 146630 (Sub-1TA), filed March 22, 1979. Applicant: Francis L. Goth, d.b.a. SAWDUST SIERRA, Rt. 9, 2996 Timber Lane, Verona, WI 53593. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Building brick* from the facilities of Streator Brick System, Inc. at or near Streator, IL to Madison and Janesville, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): STREATOR BRICK SYSTEMS, INC., West End of 9th St., Streator, IL 61364. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 146710 (Sub-2TA), filed March 20, 1979. Applicant: Charles Woods, d.b.a. WOODS WRECKER SERVICE, P.O. Box 342, Dandridge, TN 37725. Representative: A. Benjamin Strand, Jr., P.O. Drawer H, Dandridge, TN 37725. *Wrecked and disabled motor vehicles and motor vehicles to be utilized for replacement of such wrecked, damaged and disabled vehicles, using wrecker equipment only and repossessed, stolen and abandoned vehicles when unable to move on their own power,* between points in TN on the one hand, and on the other, points in the U.S. (except AK and HI), for 180 days. Supporting shipper(s): Roadway Express, Inc., Rt. 1, Box 355, White Pine, TN 37890. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

Passengers

MC 142211 (Sub-3TA), filed March 19, 1979. Applicant: EASTERN PANHANDLE TRANSIT AUTHORITY—PANTRAN, Route 5, Box 629H, Martinsburg, WV 25401. Representative: Edward N. Button, 1329 Pennsylvania Avenue, Hagerstown, MD 21740. *Passengers and their baggage in the same vehicle in charter operations,* between Berkeley Springs and Harpers Ferry, WV and their respective commercial zones on the one hand, and, on the other, Baltimore, MD and Washington, DC and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cliffside Motor Lodge, Harpers Ferry, WV 25425. Send protests to: Carol Rosen, TA, ICC, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 143140 (Sub-2TA), filed March 26, 1979. Applicant: SEYMOUR BUS LINES, INC., Route 3, Maynardville, TN 37807. Representative: Lewis S. Witherspoon, 88 East Broad Street, Suite 1940, Columbus, OH 43215. *Passengers and their baggage in special operations, in roundtrip sight-seeing and pleasure tours* beginning and ending at points in Anderson, Blount, Campbell, Claiborne, Jefferson, Knox, and Union Counties, TN, and extending to points in the US including AK, but excluding HI, for 180 days. Supporting shipper(s): There are 6 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 146460 (Sub-1TA), filed March 9, 1979. Applicant: CONSOLIDATED TRANSPORTATION SERVICES, P.O. Box 3254, Incline Village, NV 89450. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Passengers* and their luggage and ski and camping equipment in the same vehicle with passengers, in special and charter operations, between points in El Dorado, Alpine, Placer, Mono and Nevada Counties, CA on the one hand, and points in Washoe, Carson City, Storey and Douglas Counties, NV on the other hand. Supporting shipper(s): Hotel Tour and Travel, Ltd., P.O. Box 11557, Reno, NV 89595 Safaris & Tours, P.O. Box 5469, Incline Village, NV 89450 Hyatt Lake Tahoe, P.O. Box 3239, Incline Village, NV 89450 Cal-Neva Lodge, P.O. Box 368, Crystal Bay, NV 89402 Lake Tahoe Resort & Racquet Club, P.O. Box 3566, Incline Village, NV 89540. Send protests to: W. J. Huetig, DS, ICC, 203 Federal Building, Carson City, NV 89701.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 79]
[FR Doc. 79-13182 Filed 4-27-79; 8:45 am]
BILLING CODE 7035-01-M

Decision-Notice

Decided: April 6, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority, sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board No. 3, Members Parker, Fortier and Hill.

H. G. Homme, Jr.,
Secretary.

MC 730 (Sub-427F), filed January 17, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, P.O. Box 8004, Walnut Creek, CA 94596. Representative: R. N. Cooledge (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals,* in bulk, in

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tank vehicles, (1) from Monticello, AR, Compton, CA, Minneapolis, MN, and Dallas and Houston, TX, to points in the United States (except AK and HI), and (2) from Doe Run, KY, Gallipolis Ferry and Natrium, WV, Geismar, LA, Greensboro, NC, Wilmington, DE, Neville Island, PA, Azusa, CA, St. Louis, MO, Charleston, SC, and points in TX to Monticello, AR. (Hearing Site: Los Angeles, CA.)

MC 730 (Sub-428F), filed December 15, 1978. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Nevada corporation, 25 N. Via Monte, Walnut Creek, CA 94598. Representative: A. G. Krebs (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between San Bernardino, CA, and Fort Worth, TX, from San Bernardino over Interstate Hwy 10 to junction US Hwy 80, then over US Hwy 80 to junction US Hwy 60, then over US Hwy 60 to junction US Hwy 70, then over US Hwy 70 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction combined US Hwys 70 and 82, then over combined US Hwys 70 and 82 to junction US Hwy 82, then over US Hwy 82 to junction US Hwy 287, then over US Hwy 287 to Fort Worth, and return over the same route, serving all intermediate points in NM and TX, the intermediate point of Phoenix, AZ, and serving junction Interstate Hwy 10 and CA Hwy 86 for purposes of joinder only, (2) between San Diego, CA, and Houston, TX, from San Diego over Interstate Hwy 8 to junction US Hwy 10, then over Interstate Hwy 10 to junction Interstate Hwy 20, then over Interstate Hwy 20 to Dallas, then over Interstate Hwy 45 to Houston (also, from junction Interstate Hwys 10 and 20, over Interstate Hwy 10 to junction US Hwy 290, then over US Hwy 290 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Houston), and return over the same route, serving all intermediate points in TX, the intermediate points of Tuscon, AZ, and Lordsburg and Las Cruces, NM, serving the off-route points of Nogales and Douglas, AZ, serving the mine sites in Gila, Pima, and Pinal Counties, AZ, and serving junction Interstate Hwy 8 and CA Hwy 86 for purposes of joinder only, (3) between junction Interstate Hwy 10 and CA Hwy 86 and junction Interstate Hwy 8 and CA Hwy 86, over CA Hwy 86, serving no intermediate points, and seving the termini for purposes of joinder only, as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, (4) between Flagstaff, AZ, and Kansas City, KS, from Flagstaff over Interstate Hwy 40 to junction Interstate Hwy 44, then over Interstate Hwy 44 to junction US Hwy 169, then over US Hwy 169 to junction Interstate Hwy 35, then over Interstate Hwy 35 to Kansas City, and return over the same route, serving all intermediate points in NM, TX, and OK, and the off-route point of Santa Fe, NM, (5) between Lamar, CO, and Wichita Falls, TX, over US Hwy 287, serving the intermediate points of Boise City, OK, and Dalhart and Amarillo, TX, (6) between Provo, UT, and Gallup, NM, from Provo over US Hwy 89 to junction US Hwy 6, then over US Hwy 6 to junction US Hwy 50, then over US Hwy 50 to junction US Hwy 163, then over US Hwy 163 to to junction US Hwy 666, then over US Hwy 666 to Gallup, and return over the same route, serving no intermediate points, (7) between Pueblo, CO, and Las Cruces, NM, over Interstate Hwy 25, serving the intermediate points of Santa Fe and Albuquerque, NM, (8) between Dallas, TX, and San Antonio, TX, from Dallas over Interstate Hwy 35E to junction Interstate Hwy 35, then over Interstate Hwy 35 to San Antonio, and return over the same route, serving all intermediate points, and the off-route point of Killeen, TX, (9) between Wichita, KS, and Dallas, TX, from Wichita over Interstate Hwy 35 to Denton, TX, then over Interstate Hwy 35E to Dallas, and return over the same route, serving the intermediate points of Oklahoma City, OK, and Denton, TX, and the off-route points of Ada, OK, and Sherman, TX, (10) between Dallas, TX, and Jackson, MS, over Interstate Hwy 20, serving all intermediate points, and the off-route point of Tyler, TX, (11) between Oklahoma City, OK, and Memphis, TN, over Interstate Hwy 40, serving all intermediate points, and the off-route point of Fayetteville, AR, (12) between Tulsa, OK, and St. Louis, MO, over Interstate Hwy 44, serving the intermediate points of Miami, OK, and Joplin and Springfield, MO, (13) between St. Louis, MO, and Little Rock, AR, over US Hwy 67, serving the intermediate points of Poplar Bluff, MO, and Jacksonville, AR, and the off-route points of Paragould, Jonesboro, and Searcy, AR, (14) between Houston, TX, and New Orleans, LA, over Interstate Hwy 10, serving all intermediate points, and the off-route points of Galveston and Port Arthur, TX, and Lumberton, MS, (15) between San Antonio, TX, and Brownsville, TX, from San Antonio over US Hwy 81 to Laredo, then over US Hwy 83 to junction US Hwy 77, then over US Hwy 77 to Brownsville (also, from San Antonio over US Hwy 281 to junction TX Hwy 9, then over TX Hwy 9 to junction Interstate Hwy 37, then over Interstate Hwy 37 to junction US Hwy 77, then over US Hwy 77 to Brownsville), and return over the same route, serving the intermediate points of Laredo, McAllen, Harlingen, and Kingsville, TX, the off-route point of Corpus Christi, TX, and seving junction US Hwy 59 and TX Hwy 9 for purposes of joinder only, (16) between Van Horn, TX, and Laredo, TX, from Van Horn over US Hwy 90 to junction US Hwy 277, then over US Hwy 277 to junction US Hwy 83, then over US Hwy 83 to junction Interstate Hwy 35, then over Interstate Hwy 35 to Laredo, and return over the same route, serving no intermediate points, (17) between Dallas, TX, and Little Rock, AR, over Interstate Hwy 30, serving the intermediate points of Texarkana and Benton, AR, and the off-route points of Malvern, Hot Springs, and Pine Bluff, AR, (18) between St. Louis, MO, and New Orleans, LA, from St. Louis over Interstate Hwy 55 to junction US Hwy 51, at or near Hammond, LA, then over US Hwy 51 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, and return over the same route, serving the intermediate points of Blytheville, AR, Memphis, TN, and Jackson, MS, and the off-route points of Osceola, AR, and Lumberton, MS, (19) between Shreveport, LA, and junction US Hwy 59 and TX Hwy 9, from Shreveport over Interstate Hwy 20 to junction US Hwy 79, then over US Hwy 79 to junction US Hwy 59, then over US Hwy 59 to junction US Hwy 84, then over US Hwy 84 to junction US Hwy 59, then over US Hwy 59 to junction TX Hwy 9, and return over the same route, serving the intermediate point of Houston, TX, (20) between Albuquerque, NM, and Ft. Stockton, TX, from Albuquerque over Interstate Hwy 40 to junction US Hwy 285, then over US Hwy 285 to Ft. Stockton, and return over the same route, serving the intermediate points of Artesia, NM, and Pecos, TX, and serving Roswell and Carlsbad, NM, for purposes of joinder only, (21) between Kansas City, MO, and Baton Rouge, LA, from Kansas City over US Hwy 71 to junction US Hwy 64, then over US Hwy 64 to junction US Hwy 71, then over US Hwy 71 to junction US Hwy 190, then over US Hwy 190 to Baton Rouge, and return over the same route, serving the intermediate points of

Joplin MO, Rogers, Springdale, Fayetteville, Ft. Smith, and Texarkana, AR, and Shreveport, LA, and (22) between Oklahoma City, OK, and Abilene, TX from Oklahoma City over US Hwy 62 to junction US Hwy 277, then over US Hwy 277 to Abilene, and return over the same route, serving the intermediate points of Lawton, OK, and Wichita Falls, TX. (Hearing site: Dallas, TX, or Los Angeles, CA.)

Note.—Applicant intends to tack this authority with others.

MC 2900 (Sub-353F), filed January 11, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: R. E. Allish (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Mercury Marine Division Brunswick Corp., at or near Stillwater, OK, on the one hand, and, on the other, points in AR, FL, GA, IA, IL, IN, KS, KY, MI, MN, MO, NC, NE, NY, OH, PA, SC, TN, TX, and WI. (Hearing site: Oklahoma City or Tulsa, OK).

MC 2900 (Sub-355F), filed January 11, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Helena, AR, and Minden, LA: From Helena, AR, over U.S. Hwy 49 to junction U.S. Hwy 79, then over U.S. Hwy 79 to Minden, LA, and return over the same route, serving all intermediate points, (2) between Little Rock, AR, and Vicksburg, MS, over U.S. Hwy 65, serving all intermediate points, (3) between Little Rock, AR, and Ruston, LA, over U.S. Hwy 167, serving all intermediate points, (4) between Little Rock, AR, and junction U.S. Hwys 67 and 290, near Ft. Stockton, TX: From Little Rock, AR, over U.S. Hwy 67 to junction U.S. Hwy 290, and return over the same route, serving all intermediate points, (5) between Little Rock, AR, and DeQueen, AR, over U.S. Hwy 70, serving all intermediate points, (6) between junction U.S. Hwys 65 and 165, and Monroe, LA: From junction U.S. Hwys 65 and 165 over U.S. Hwy 165 to Monroe, LA, and return over the same route, serving all intermediate points, (7) between junction U.S. Hwys 70 and 71, and Alexandria, LA: From junction U.S. Hwys 70 and 71 over U.S. Hwy 71 to Alexandria, LA, and return over the same route, serving all intermediate points, (8) between Shreveport, LA, and Alexandria, LA, over LA Hwy 1, serving all intermediate points, (9) between Lake Village, AR, and Lubbock, TX, over U.S. Hwy 82, serving all intermediate points, (10) between Shreveport, LA, and Lake Charles, LA, over U.S. Hwy 171, serving all intermediate points, (11) between Texarkana, AR, and Houston, TX, over U.S. Hwy 59, serving all intermediate points, (12) between junction U.S. Hwy 84, and LA Hwy 1, and Lubbock, TX: From junction U.S. Hwy 84 and LA Hy 1 over U.S. Hwy 84 to Lubbock, TX, and return over the same route, serving all intermediate points, (13) between Idabel, OK, and junction U.S. Hwys 59 and 259 near Nacogdoches, TX: From Idabel, OK over U.S. Hwy 259 to junction U.S. Hwy 59, and return over the same route, serving all intermediate points, (14) between Shreveport, LA, and Round Rock, TX, over U.S. Hwy 79, serving all intermediate points, (15) between Shreveport, LA, and El Paso, TX: From Shreveport, LA over U.S. Hwy 80 (also over Interstate Hwy 20) to El Paso, and return over the same route, serving all intermediate points, (16) between Hugo, OK, and Tyler, TX, over U.S. Hwy 271, serving all intermediate points, (17) between Denison, TX, and Beaumont, TX, over U.S. Hwy 69, serving all intermediate points, (18) between Tyler, TX, and Corsicana, TX, over TX Hwy 31, serving all intermediate points, (19) between Dallas, TX, and Houston, TX over U.S. Hwy 75, serving all intermediate points, (20) between Kinder, LA, and Brady, TX, over U.S. Hwy 190, serving all intermediate points, (21) between Kinder, LA, and Iowa, LA, over U.S. Hwy 165, serving all intermediate points, (22) between Waco, TX, and Hempstead, TX, over TX Hwy 6, serving all intermediate points, (23) between Perry, OK, and Giddings, TX, over U.S. Hwy 77, serving all intermediate points, (24) between Ponca City, OK, and Bartlesville, OK, over U.S. Hwy 60, serving all intermediate points, (25) between Ponca City, OK, and Warwick, OK, over U.S. Hwy 177, serving all intermediate points, (26) between Tulsa, OK, and Amarillo, TX, from Tulsa, OK over U.S. Hwy 64 to Enid, OK, then over U.S. Hwy 60 to Amarillo, TX, and return over the same route, serving all intermediate points, (27) between Enid, OK, and San Antonio, TX, over U.S. Hwy 81, serving all intermediate points, (28) between Seiling, OK, and Austin, TX, over U.S. Hwy 183, serving all intermediate points, (29) between Oklahoma City, OK, and Amarillo, TX, over U.S. Hwy 66, serving all intermediate points, (30) between Arnett, OK, and Brady, TX, over U.S. Hwy 283, serving all intermediate points, (31) between junction U.S. Hwys 60 and 83 south of Canadian, TX, and junction, TX: From junction U.S. Hwys 60 and 83 over U.S. Hwy 83 to junction, TX, and return over the same route, serving all intermediate points, (32) between Oklahoma City, OK, and San Antonio, TX: From Oklahoma City, OK over H.E. Bailey Turnpike to Lawton, OK, (also from Oklahoma City, OK over U.S. Hwy 277 to Lawton, OK), then over U.S. Hwy 281 to San Antonio, TX, and return over the same route, serving all intermediate points, (33) between Amarillo, TX, and Ft. Worth, TX, over U.S. Hwy 287, serving all intermediate points, (34) between Dumas, TX, and San Antonio, TX, over U.S. Hwy 87, serving all intermediate points, (35) between Dumas, TX, and Pampa, TX, over TX Hwy 152, serving all intermediate points, (36) between Amarillo, TX, and Borger, TX, over TX Hwy 136, serving all intermediate points, (37) between Lubbock, TX, and McCamey, TX: From Lubbock, TX over U.S. Hwy 82 to junction U.S. Hwy 385, then over U.S. Hwy 385 to McCamey, TX, and return over the same route, serving all intermediate points, (38) between Greenville, TX, and Brownfield, TX, over U.S. Hwy 380, serving all intermediate points, (39) between Wichita Falls, TX, and Sonora, TX, over U.S. Hwy 277, serving all intermediate points, (40) between Durant, OK, and Davidson, OK, over U.S. Hwy 70, serving all intermediate points, (41) between Denton, TX, and Stephenville, TX, over U.S. Hwy 377, serving all intermediate points, (42) between Brownwood, TX, and Brady, TX, over U.S. Hwy 377, serving all intermediate points, (43) between San Antonio, TX, and El Paso, TX: From San Antonio, TX over interstate Hwy 10 to junction U.S. Hwy 290, then over Interstate Hwy 10 (also portions of U.S. Hwy 290) to El Paso, TX, and return over the same route, serving all intermediate points, (44) between Houston, TX, and junction U.S. Hwy 290 and Interstate Hwy 10: From Houston, TX over U.S. Hwy 290 to junction Interstate Hwy 10, and return over the same route, serving all intermediate points, and (45) between

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Houston, TX, and San Antonio, TX, over U.S. Hwy 90, serving all intermediate points, service on routes (1) through (45) above is authorized to off-route points in Jefferson and Miller Counties, AR, Canadian, Cleveland, Comanche, Grady, and Oklahoma Counties, OK, Brown, Comanche, Coryell, Ector, El Paso, Gray, Hale, Howard, Jones, Lubbock, Midland, Runnels, Taylor, and Tom Green Counties, TX, Sheerin and Sunray, TX, and all off-route points in TX within an area bounded by U.S. Hwy 90 on the south and U.S. Hwy 281 on the west. (Hearing site: Dallas or Houston, TX)

MC 2960 (Sub-25F), filed January 19, 1979. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, 2301 McKinney Street, Houston, TX 77023. Representative: E. Larry Wells, Suite 1125, Frito Lay Tower, Exchange Park, Post Office Box 45538, Dallas, TX 75247. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Shreveport, LA, and Dallas, TX, over Interstate Hwy 20, serving no intermediate points. (Hearing site: Shreveport, LA.)

MC 5470 (Sub-172F), filed January 15, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th Street, N.W., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *potash muriate, potash sulphate*, and *potassium nitrate*, in bulk, in dump vehicles, from Baltimore, MD, to points in DE, NJ, NY, OH, PA, VA, and WV. (Hearing site: Washington, DC, or New York, NY.)

MC 19311 (Sub-57F), filed January 22, 1979. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Rd., Sterling Heights, MI 48077. Representative: Elmer J. Maue (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from Detroit and Port Huron, MI, and Buffalo, NY, to those points in PA west of U.S. Hwy 219 and those points in NY west of U.S. Hwy 219 and NY Hwy 78, and points in IL, IN, IA, KY, MI, MN, MO, OH, and WI. (Hearing site: Detroit, MI, or Washington, DC.)

MC 28060 (Sub-47F), filed January 12, 1979. Applicant: WILLERS, INC., d.b.a. WILLERS TRUCK SERVICE, 1400 North Cliff Ave., Sioux Falls, SD 57101. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods and canned goods*, from Kansas City, MO, to the facilities of Hogg Restaurant Service at or near Aberdeen, SD. (Hearing site: Sioux Falls, SD.)

MC 35320 (Sub-172F), filed January 15, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Hoover Universal, at or near Erwin, TN, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing site: Knoxville, TN, or Washington, DC.)

MC 35320 (Sub-175F), filed January 11, 1979. Applicant: T.I.M.E.–DC, Inc., a Delaware Corporation, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and component parts of ammunition), serving the facilities of Knight Metalcraft Corp., at or near Portland, TN, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Nashville, TN, or Washington, DC.)

MC 35320 (Sub-176F), filed January 15, 1979. Applicant: T.I.M.E.–DC, Inc., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except articles of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Macgregor Division Brunswick Co., at or near Eminence, KY, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing site: Louisville, KY, or Washington, DC.)

MC 35320 (Sub-177F), filed January 15, 1979. Applicant: T.I.M.E.–DC, Inc., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Cullman Products Div. Dutch Boy, Inc., at or near Cullman, AL, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 35320 (Sub-178F), filed January 15, 1979. Applicant: T.I.M.E.–DC, Inc., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Carrollton Div., Daytong Walther Corp., at or near Carrollton, KY, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing site: Cincinnati, OH, or Washington, DC.)

MC 35320 (Sub-179F), filed January 15, 1979. Applicant: T.I.M.E.–DC, Inc., a Delaware Corporation, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except articles of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Hussey Metals/Copper Range Co., at or near Eminence, KY, as an off-route point in connection with carrier's

otherwise authorized regular route operations. (Hearing site: Louisville, KY, or Washington, DC.)

MC 35320 (Sub-180F), filed January 15, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Norris Industries, at or near Duffield, VA, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing Site: Knoxville, TN, or Washington, DC.)

MC 35320 (Sub-181F), filed January 15, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Ripley Industries, Inc., at or near Adamsville, TN, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing Site: Memphis, TN, or Washington, DC.)

MC 35320 (Sub-183F), filed January 23, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Oster Corp., at or near Dayton, TN, and the Oster Corp., at or near McMinnville, TN, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing Site: Chattanooga, TN, or Washington, DC.)

MC 35320 (Sub-184F), filed January 23, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Lux Time Div., at or near Carthage, TN, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing Site: Nashville, TN, or Washington, DC.)

MC 35320 (Sub-185F), filed January 23, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Nicholson File Co., at or near Cullman, AL, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing Site: Birmingham, AL, or Washington, DC.)

MC 35980 (Sub-5F), filed January 22, 1979. Applicant: M–B TRANSPORT, INC., 1941 Land Road, Jamison, PA 18929. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *slag, sand, and gravel*, from the facilities of the Warner Company, at Falls Township, PA, to Points in DE, MD, NJ, and NY; (2) *stone and stone products*, from the facilities of The John T. Dyer Quarry Co. (a subsidiary of Warner Company), at or near Birdsboro, PA, to points in DE, MD, and NJ; and (3) *sand and gravel*, from the facilities of New Jersey Silica Sand Company (subsidiary of Warner Company), at or near Millville, NJ, to points in MD, DE, and PA. (Hearing Site: Washington, DC.)

MC 47171 (Sub-120F), filed January 22, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *boots, shoes, shoe findings, and materials* used in the manufacture of shoes, shoe laces, shoe boxes, and cartons, betwen Jasper, GA, on the one hand, and, on the other, points in MA. (Hearing site: Washington, DC.)

MC 52460 (Sub-232F), filed January 22, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 614-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by wholesale and retail grocery houses (except commodities in bulk), from St. Louis, MO, to points in AR, KS, LA, NM, OK, and TX. (Hearing Site: Dallas, TX.)

MC 56270 (Sub-19F), filed January 11, 1979. Applicant: LEICHT TRANSFER & STORAGE CO., a corporation, 1401–55 State St., P.O. Box 2385, Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *welders and welder parts*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of welders and welder parts, (except commodities in bulk), between Appleton, WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Madison, WI, or Chicago, IL.)

MC 56270 (Sub-20F), filed January 11, 1979. Applicant: LEICHT TRANSFER & STORAGE CO., a corporation, 1401–55 State Street, P.O. Box 2385, Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are manufactured, distributed, and used by a manufacturer of particle board, (except commodities in bulk), between Marinette, WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing Site: Madison, WI, or Chicago, IL.)

MC 57591 (Sub-22F), filed January 5, 1979. Applicant: EVANS DELIVERY COMPANY, INC., P.O. Box 268, Pottsville, PA 17901. Representative: Albert L. Evans, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes

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transporting (1) *carpets, carpet padding, adhesives, solvents, and chemicals;* and (2) *materials and supplies* used in the manufacture of carpets and carpet padding, between the facilities of General Felt Industries, at or near Camden and Trenton, NJ, and Eddystone and Philadelphia, PA, on the one hand, and, on the other, points in CT, DE, ME, MD, NJ, NY, PA, RI, VA, and DC. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 61440 (Sub-168F), filed January 5, 1979. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd St., Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Knoxville, TN, and Nashville, TN: From Knoxville, TN over Interstate Hwy 40 to Nashville, TN, and return over the same route, serving no intermediate points serving Knoxville and Nashville, TN as points of joinder only, and (2) Between Nashville, TN, and Memphis, TN: From Nashville, TN over Interstate Hwy 40 to Memphis, TN, and return over the same route, serving no intermediate points and serving Nashville and Memphis, TN as points of joinder only. (Hearing site: Oklahoma City, OK, or Washington, DC.)

MC 75320 (Sub-209F), filed January 5, 1979. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: Phineas Stevens, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving junction OK Hwy 18 and U.S. Hwy 66, at or near Chandler, OK, for purposes of joinder only. (Hearing Site: Jackson, MS.)

MC 78400 (Sub-68F), filed January 2, 1979. Applicant: BEAUFORT TRANSFER COMPANY, a corporation, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel tubing*, from Union, MO, to points in AL, AR, GA, IA, IL, IN, KS, KY, MS, NC, OH, OK, PA, SC, TN, VA, WI, and WV, and (2) *materials and supplies* used in the manufacture of steel tubing, (except commodities in bulk), in the reverse direction. (Hearing Site: St. Louis or Jefferson City, MO.)

MC 85970 (Sub-18F), filed January 10, 1979. Applicant: SARTAIN TRUCK LINE, INC., 1354 N. Second Street, Memphis, TN 38107. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis TN 38137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printed matter, materials, equipment, and supplies* used in the manufacture of printed matter between the facilities of W.F. Hall Printing Company, at or near Dresden, TN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Memphis, TN.)

MC 105280 (Sub-5F), filed January 12, 1979. Applicant: CHANDLER TRANSPORT SERVICE, INC. P.O. Box 502, Fleming, CO 80728. Representative: Richard J. Bara, Steele Park, Suite 330, 50 South Steele St. Denver, CO 80209. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, in containers, (a) from Kansas City, KS and Kansas City, MO, to points in CO, and (b) from El Dorado, KS, to points in CO. (Hearing site: Denver, CO.)

MC 108340 (Sub-35F), filed January 17, 1979. Applicant: HANEY TRUCK LINE, a corporation, P.O. Box 485, Cornelius, OR 97113. Representative: Lawrence V. Smart, Jr., 419 NW. 23rd Ave., Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials and supplies* used in the construction and maintenance of electric power lines, from Washougal, WA, to points in OR. (Hearing site: Portland, OR.)

MC 115651 (Sub-56F), filed January 22, 1979. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: Robert D. Higgins, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid fertilizer*, in bulk, in tank vehicles, from Watseka and Bourbon, IL, to points in IN. (Hearing site: Chicago, IL.)

MC 116300 (Sub-43F), filed January 15, 1979. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages, and materials and supplies* as are used by malt beverage distributors, from Memphis, TN, to points in Lafayette, Lee, and Pike Counties, MS, and East Baton Rouge Parish, LA. (Hearing site: Memphis, TN.)

MC 117940 (Sub-307F), filed December 27, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *adhesives, liquid latex, and petroleum resins*, (except commodities in bulk), from the facilities of Morton Chemical Company, at Elk Grove Village and Ringwood, IL, to Atlanta, GA, Dallas, TX, and New York, NY, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 117940 (Sub-308F), filed January 18, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from points in WI, to points in the United States (except AK, HI, and WI), restricted to the transportation of traffic originating at the facilities of The Larsen Company and destined to the named destinations. (Hearing site: Green Bay, WI.)

MC 118130 (Sub-96F), filed January 19, 1979. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, TX 76115. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *margarine, shortening, salad oil, bacon bits, powdered milk, and butter*, from Fort Worth, TX, to points in AL, AR, FL, GA, LA, MS, and TN; and (2) *materials, equipment, and supplies* used in the manufacture and

distribution of the commodities named in (1) above, from points in AL, AR, FL, GA, LA, MS, and TN, to Fort Worth, TX. (Hearing site: Dallas, TX.)

MC 118130 (Sub-99F), filed January 15, 1979. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, TX 76115. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, from the facilities of Union Camp Corporation, at or near Tifton and Savannah, GA, to those points in the United States in and east of MT, WY, CO, and NM; and (2) *materials, supplies, and equipment* used in the manufacture and distribution of the commodities named in (1) above, from those points in the United States in and east of MT, WY, CO, and NM, to the facilities of Union Camp Corporation, at or near Tifton and Savannah, GA. (Hearing site: Dallas, TX, or Atlanta, GA.)

MC 118130 (Sub-100F), filed January 15, 1979. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, TX 76115. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs*, from Laramie, WY, to points in AL, AZ, FL, GA, LA, MS, NM, and TX. (Hearing site: Dallas, TX, or Laramie, WY.)

MC 118831 (Sub-173F), filed January 17, 1979. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, NC 27264. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *dry commodities*, in bulk, from points in NC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, (except to points in VA, SC, and GA), and (b) dry chemicals, in bulk, from points in NC, to points in TN and KY, and (2) *dry commodities*, in bulk, from points in SC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, (except dry chemicals, to points in TN and KY). (Hearing site: Charlotte, NC, or Columbia, SC.)

MC 119800 (Sub-2F), filed January 18, 1979. Applicant: McELROY TRANSPORT CO., INC., P.O. Box 742, Wynnewood, OK 73098. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fuel oil*, in bulk, in tank vehicles, from Fort Worth, TX, to the facilities of Pennsylvania Glass Sand Corporation, at or near Mill Creek, OK. (Hearing site: Oklahoma City, OK, or Fort Worth, TX.)

MC 124170 (Sub-111F), filed January 12, 1979. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat bypoducts and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from points in Wayne, McComb, and Oakland Counties, MI, to points in AR, LA, MO, NM, and OK. (Hearing site: Detroit, MI, or Washington, DC.)

MC 127840 (Sub-88F), filed January 2, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *petroleum products, vehicle body sealers, sound deadening compounds*, and *accoustical control compounds*, in bulk, in tank vehicles, from Warren County, MS, to points in AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, MN, MO, MS, NC, ND, NE, OH, OK, RI, SD, and TX, restricted to the transportation of traffic originating at the facilities of Quaker State Oil Refining Corp., in Warren County, MS. (Hearing site: Oil City, PA.)

MC 127840 (Sub-89F), filed January 11, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *vegetable oils*, in bulk, between Opelousas, LA, on the one hand, and on the other, points in the United States (except AK and HI). (Hearing Site: Opelousas, LA.)

MC 128860 (Sub-16F), filed January 22, 1979. Applicant: LARRY'S EXPRESS, INC., 720 Lake Street, Tomah, WI 54660. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, (1) between points in IL, IA, IN, KS, KY, MI, MN, MO, ND, NE, OH, SD, TN, and WI, on the one hand, and on the other, ports of entry on the international boundary line between the United States and Canada, located at points in ME, VT, NY, MI, WI, MN, and ND, and (2) between points in IL, IA, IN, KS, KY, MI, MN, MO, ND, NE, OH, SD, TN, and WI, on the one hand, and on the other, Chicago, East St. Louis, and Peoria, IL, Cleveland and Toledo, OH, Detriot, MI, Duluth, Minneapolis, and St. Paul, MN, Superior and Milwaukee, WI, Evansville and Indianapolis, IN, and St. Louis and Kansas City, MO, under continuing contract(s) with Van Munching & Co., Inc., of New York, NY. (Hearing Site: New York, NY.)

Note:—Dual Operations may be involved.

MC 133660 (Sub-1F), filed January 17, 1979. Applicant: PAUL JONES, INC., 941 Fairmount Avenue, Elizabeth, NJ 07201. Representative: Richard B. Austin, Suite 214, Palm Coast II Bldg., 5255 N.W. 87th Avenue, Miami, FL 33178. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are sold or used by operators of restaurant chains, (except commodities in bulk), between points in the United States (except AK and HI), under continuing contract(s) with Burger King Corp., of Miami, FL. (Hearing Site: Miami, FL.)

MC 134501 (Sub-37F), filed January 22, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *kitchen furniture, fixtures, equipment*, and *supplies*, (except foodstuffs), from Des Moines, IA, and St. Louis, MO, to points in the United States (except AK and HI). (Hearing Site: Des Moines, IA, or Dallas, TX.)

MC 135070 (Sub-26F), filed January 23, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery*, in vehicles equipped with mechanical refrigeration, from the facilities of M&M/MARS, at or near Elizabeth and Hackettstown, NJ, and Elizabethtown, PA, to points in LA, AR, OK, TX, CO, KS, MO, IA, TN, NE, UT, NM, AZ, NV, CA, and OR, restricted to the transportation of traffic originating

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at the named origins and destined to the named destinations. (Hearing site: New York, NY, or Amarillo, TX.)

Note.—Dual operations may be involved.

MC 135410 (Sub-39F), filed January 15, 1979. Applicant: Courtney J. Munson, d.b.a., MUNSON TRUCKING, North 6th Street road, P.O. Box 266, Monmouth, IL 61462. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from points in WI, to points in the United States (except AK, HI, and WI), restricted to the transportation of traffic originating at the facilities of The Larsen Company. (Hearing site: Green Bay, WI, or Chicago, IL.)

MC 136220 (Sub-70F), filed January 19, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, Suite 200, Timbergate Office Gardens, 6161 North May Avenue, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *barite*, in bulk, in dump vehicles, from points in Cooper, Pettis, Saline, and Howard Counties, MO, to Coffeyville, KS; (2) *iron bearing stone*, in bulk, in dump vehicles, from points in Cherokee and Henderson Counties, TX, to points in AL, AR, KS, LA, MS, and OK; and (3) *iron ore pellets*, in bulk, in dump vehicles, from points in Crawford, Franklin, and Washington Counties, MO, to points in TX. (Hearing site: Oklahoma City, OK, or Kansas City, MO.)

MC 136540 (Sub-3F), filed January 19, 1979. Applicant: REFINERS TRANSPORT SERVICES, INC., 4850 Bloomfield Street, New Orleans, LA 70121. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fiberboard boxes, pulpboard, and flat sheets*, in bundles, from the facilities of Owens-Illinois, at or near Minden, LA, to points in MS; and (2) *materials and supplies* used in the manufacture of fiberboard boxes, pulpboard, and flat sheet, (except commodites in bulk), from points in MS, to the facilities of Owens-Illinois, at or near Minden, LA, under continuing contract(s) with Owens-Illinois, Inc., of Toledo, OH. (Hearing site: New Orleans, LA.)

MC 138000 (Sub-43F), filed January 22, 1979. Applicant: ARTHUR H. FULTON, INC., Post Office Box 86, Stephens City, VA 22655. Representative: Edward N. Button, 1329 Pennsylvania Avenue, Post Office Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic fabrics*, from Edinburg, VA, to Bridgeton, NJ. (Hearing site: Woodstock, VA.)

Note.—Dual operations may be involved.

MC 138100 (Sub-2F), filed January 18, 1979. Applicant: MELLOW TRUCK EXPRESS, INC., 9801 N. Vancouver Way, Portland, OR 97217. Representative: Nick I. Goyak, 555 Benjamin Franklin Plaza, One Southwest Columbia, Portland, OR 97258. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber mill products*, (except commodities in bulk, in tank or hopper-type vehicles), (1) between points in OR, WA, and CA, and (2) from points in Columbia, Clackamas, Tillamook, and Douglas Counties, OR, and Bonner and Latah Counties, ID, to points in King and Pierce Counties, WA. (Hearing site: Portland, OR.)

MC 139210 (Sub-5F), filed October 26, 1978, and previously noticed in the FR issue of February 15, 1979. Applicant: ALASKA YUKON MOTORCOACHES, INC., Suite 555, Fourth & Battery Bldg., Seattle, WA 98121. Representative: A. T. Wendells, 910 Bank of California Center, Seattle, WA 98164. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *passengers and their baggage*, (A) over regular routes, (1) between Skagway, AK, and the international boundary line between the United States and Canada at British Columbia, Canada, over unnumbered AK Hwy, serving all intermediate points, (2) between Tok, AK, and Delta Junction, AK, over AK Hwy 2, serving no intermediate points, (3) between Fairbanks, AK, and junction AK Hwys 1 and 3, over AK Hwy 3, serving all intermediate points and the off-route points of Petersville and Talkeetna, AK, and (4) between Anchorage, AK, and Valdez, AK, over AK Hwy 1, serving the intermediate points of Portage and Whittier, AK, and the off-route points of Gerdwood, Alyeska, and Portage Glacier, AK, and (B) over irregular routes, in charter operations, beginning and ending at points in AK and extending to points in the United States (except HI). (Hearing site: Seattle, WA.)

Note.—(1) Application intends to tack this authority with others. (2) This republication adds the immediately preceding NOTE.

MC 140310 (Sub-3F), filed January 12, 1979. Applicant: WALTER J. GRIFFIN, JR., P.O. Box 327, 519 Morgan Mill Road, Monroe, NC 28110. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *textiles, textile products, and household accessories*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk, and those which because of size or weight require the use of special equipment), (a) between Los Angeles, CA, and Monroe, NC, on the one hand, and, on the other, points in AL, GA, IL, KS, MD, MA, MI, MN, NJ, NY, PA, SC, TN, TX, VA, and DC, and (b) between Los Angeles, CA, and points in NC, under continuing contract(s) with Barth and Dreyfuss of California, of Los Angeles, CA. (Hearing site: Los Angeles, CA.)

MC 142080 (Sub-4F), filed January 22, 1979. Applicant: LITE TRANSPORT, INC., One Monseigneur O'Brien Highway, Cambridge, MA 02138. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960. To operate as a *contact carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities*, as are dealt in by grocery and food business houses and restaurants (except commodities in bulk, in tank vehicles), between those points in the United States in and east of MN, IA, MO, TN, and MS, under continuing contract(s) with Sands, Taylor & Wood Company, of Brighton, MA. (Hearing site: Boston MA.)

MC 142600 (Sub-11F), filed January 18, 1979. Applicant: DIXIE-WEST EXPRESS, INC., Post Office Drawer L, Petal, MS 39465. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from the facilities of Scott Paper Company, at or near Mobile, AL, to points in NM, under continuing contract(s), with Scott Paper Company, of Philadelphia, PA. (Hearing site: Washington, DC.)

MC 142631 (Sub-2F), filed January 23, 1979. Applicant: L. PEABODY TRUCKING, 9161 Batavia, Orange, CA

92665. Representative: Ralph B. Matthews, 1200 Gas Light Tower, 235 Peachtree Street, NE., Atlanta, GA 30303. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *abrasives, insulating materials*, and *firebrick*, from Niagara Falls, NY, to Salt Lake City, UT, and points in OR and WA, under continuing contract(s) with The Carborundum Company, of Niagara Falls, NY. (Hearing site: Niagara Falls, NY, or Los Angeles, CA.)

MC 142941 (Sub-25F), filed January 17, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 North 25th Ave., Phoenix, AZ 85009. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printed matter*, from the facilities of QuadGraphics, Inc., at or near Pewaukee, WI, to points in the United States (except AK, HI, and WI), retricted to the transportation of traffic originating at the named facilities. (Hearing site: Chicago, IL.)

MC 142941 (Sub-27F), filed January 17, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 North 25th Ave., Phoenix, AZ 85009. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from points in WI to points in the United States (except AK, HI, and WI), retricted to the transportation of traffic originating at the facilities of The Larsen Company. (Hearing site: Chicago, IL.)

MC 142941 (Sub-28F), filed January 17, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 North 25th Ave., Phoenix, AZ 85009. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *welding equipment, welding materials, and welding supplies*, from the facilities of Miller Electric Manufacturing Company, at or near Appleton, WI, to those points in the United States in and west of MN, IA, MO, AR, and LA, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 142941 (Sub-29F), filed January 17, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 North 25th Ave., Phoenix, AZ 85009. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *outboard powered motors, inboard and outboard stern drives, internal combustion engines, light industrial and recreational vehicles, powered lawn mowers, powered snow throwers, and powered turf care equipment*, and (b) *parts, materials, and accessories* for the commodities named in (1)(a) above; from Manawa, Milwaukee, and Beloit, WI, Waukegan, Galesburg, and Peoria, IL, and Lincoln, NE, to points in the United States (except AK ad HI), and (2) *materials, equipment, and supplies* used in the manufacture of the comodities named in (1)(a) above, from points in DE, MD, NJ, NY, PA, and VA, to Manawa, Milwaukee, and Beloit, WI, Waukegan, Galesburg, and Peoria, IL, and Lincoln, NE, restricted in (1)(a) and (1)(b) above to the transportation of traffice originating at the named origins and destined to the named destinations, and restricted in (2) above to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: Chicago, IL)

MC 143790 (Sub-9F), filed January 15, 1979. Applicant: FEDERAL FREIGHT SYSTEM, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plumbing materials and supplies and materials* used in the manufacture and distribution of plumbing materials (except commodities in bulk), between Mansfield and Shelby, OH, on the one hand, and, on the other, points in MN, IA, MO, AR, LA, TX, OK, KS, NE, and CO. (Hearing Site: Columbus, OH)

MC 144090 (Sub-3F), filed January 24, 1979. Applicant: RED LETTER TRUCKING CO., a corporation, 250 Mt. Lebanon Blvd., Pittsburgh, PA 15234. Representative: Stanley E. Levine, 2310 Grant Bldg., Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *animal and poultry feed, feed ingredients, cottonseed meal, and fertilizer*, between points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, TN, VA, VT, WV, and DC, under continuing contract(s) with Jesse C. Stewart Company, of Pittsburgh, PA. (Hearing site: Pittsburgh, PA, or Washington, DC)

MC 144630 (Sub-10F), filed January 11, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *mineral wool, fiber glass products, insulation materials, and insulated air ducts*, from the facilities of Knauf Fiber Glass GmbH, at Shelbyville, IN, to points in the United States (except AK and HI), and (2) *materials* used in the manufacture of the commodities named in (1) above, in the reverse direction. (Hearing site: Washington, DC)

Note.—Dual operations may be involved.

MC 145620 (Sub-2F), filed December 29, 1979. Applicant: INDUSTRIAL HEAVY TRANSPORT, 12151 West 44th Avenue, Denver, CO 80033. Representative: William W. Selman, 18500 John F. Kennedy Blvd., Houston, TX 77205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber mill products and wood products*, from points in Montgomery County, TX, to points in AL, AR, CO, CT, FL, GA, CA, IL, KS, LA, MD, MA, MI, MN, MO, NH, NJ, NY, SC, OH, OK, PA, TN, TX, NV, AZ, IA, and NE. (Hearing Site: Denver, CO, or Omaha, NE)

MC 145850 (Sub-2F), filed January 12, 1979. Applicant: MALCOLM HUMPHREYS, d.b.a. HUMPHREYS TRUCKING, Route 5, Box 685, Prattville, AL 36067. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as dealt in or used by a manufacturer of clothing (except commodities in bulk), from Lanett and Opelika, AL, and Anderson, SC, to the facilities of Ditto Apparel of California, Inc., at or near (a) San Fernando, CA, and (b) Colfax and Leesville, LA, under continuing contract(s) with Ditto Apparel of California, Inc., of San Fernando, CA. (Hearing site: Los Angeles, CA, or Washington, DC.)

MC 145940 (Sub-3F), filed January 15, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76710. Representative: E. Stephen Heisley, 805 McLachlen Bank

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Building, 666 Eleventh Street, NW, Washington, DC 20001.To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes transporting (1) *rubber articles, plastic articles, and rubber products, and plastic products* (except commodities in bulk), from the facilities of Entek Corp. of America, at or near Irving, TX, to points in the United States (except AK and HI); and (2) *materials and equipment* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk) in the reverse direction. (Hearing site: Dallas, TX.)

Note.—Dual operations may be involved.

MC 145970 (Sub-2F), filed January 22, 1979. Applicant: GAROLD L. SKILLETT, d.b.a., SKILLETT AND SONS TRUCKING, Rush Center, KS 67675. Representative: Erle W. Francis, Suite 719, 700 Kansas Avenue, Topeka, KS 66603. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper,* from Hutchinson, KS, Pryor, OK, and Denver, CO, to the facilities of Western Gypsum Co., at Rosario, NM; (2) *starch,* from Dodge City, KS, and Plainview, TX, to the facilities of Western Gypsum Co., at Rosario, NM; and (3) *wallboard* from the facilities of Western Gypsum Co., at Rosario, NM, to points in CO, KS, NE, ND, OK, SD, TX, and WY, under continuing contract(s) with Western Gypsum Co., of Santa Fe, NM. (Hearing site: Wichita, KS, or Santa Fe, NM.)

MC 146120F, filed January 18, 1979. Applicant: DONALD RAYE DAVIS, Route 4, Box 102, Richmond, TX 77469. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, Houston, TX 77002.To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *expanded plastic and cellular victerous insulation,* between Houston, TX, and Kansas City, MO. (Hearing site: Houston or Dallas, TX.)

MC 146130F filed January 10, 1979. Applicant: OAK HILL PARTS, INC., 310 Morgan Street, P.O. Box 217, Oak Hill, OH 45656. Representative: Rudy Yessin, 314 Wilkinson Street, Frankfort, KY 40601. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *explosives and blasting supplies,* between points in Johnson and Pike Counties, KY, on the one hand, and, on the other, those points in WV and VA on and west of a line beginning at the NC-VA State line and extending along U.S. Hwy 220 to junction Interstate Hwy 64, then over Interstate Hwy 64 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction Interstate Hwy 64, then over Interstate Hwy 64 to the WV-KY State line. (Hearing site: Louisville, KY.)

Note.—The certificate will expire in 5 years from the date of issue.

MC 146170F, filed December 6, 1978. Applicant: OVERDRIVE TRIPS, INC., a Washington Corporation, 406 68 Water St., Vancouver, British Columbia, Canada V6B 1A4. Representative: Martin F. Muench, 104 Sixth St., Lynden, WA 98264. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *equipment and materials* used by bands, between points in the United States (except AK and HI), under continuing contract(s) with (1) Trooper Productions and Synchromesh Productions Ltd., both of Vancouver, British Columbia, Canada, and (2) Heart Trours, of Seattle, WA. (Hearing site: Seattle, WA.)

MC 146220F, filed January 22, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 So. 49th West Ave., Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), and *equipment, materials, and supplies* used in the conduct of such business, in vehicles equipped with mechanical refrigeration, (except commodities in bulk), from Los Angeles and Ontario, CA, to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY, from or to the facilities of Kraft, Inc., under continuing contract(s) with Kraft, Inc., of Chicago, IL. NOTE: Dual operations may be involved. (Hearing site: Los Angeles, CA, or Phoenix, AZ.)

MC 146240F, filed January 23, 1979. Applicant: TOPCO TRANSPORT, INC., North-South Road, Scranton, PA 18594. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between the facilities of Top Mark Distribution Center, Inc., at Scranton, PA, on the one hand, and, on the other, points in NY, NJ, DE, MD, MA, RI, CT, OH, NH, ME, and DC, restricted to the transportation of traffic originaing at one named point or the named facilities and destined to another named point or the named facilities. (Hearing site: Washington, DC.)

[Permanent Authority Decision, Volume No. 31]
[FR Doc. 79-13183 Filed 4-27-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

April 18, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 28060 (Sub-52TA), filed March 5, 1979. Applicant: WILLERS, INC., d.b.a. WILLERS TRUCK SERVICE, 1400 North Cliff Avenue, Sioux Falls, SD 57101. Representative: Richard M. Tettelbaum, Serby & Mitchell, P.C., Fifth Floor, Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. *Meats, meat products, and meat by-products (except in bulk),* in vehicles equipped with mechanical refrigation from points in IA, MO and NE to the facilities of Multi-Sales, Inc. at or near Minneapolis, MN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Multi-Sales, Inc., 1 Appletree Square, Bloomington, MN 55420. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 29910 (Sub-208TA), filed March 8, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh, Fort Smith, AR 72901. Representative: Joseph K. Reber (same as applicant). *Aluminum ingots* from Jones Mills and Gum Springs, AR to Listerhill, AL, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Reynolds Metals Company, P.O. Box 128, Malvern, AR 72104. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 35320 (Sub-255TA), filed March 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same as above). *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Dallas, Fort Worth, Odessa, and El Paso, TX and their commercial zones to Houston, TX and its commercial zone, with tacking and interlining (see attachment), for 180 days. An underlying ETA seeks 90 days authority. Send protests to: District Supervisor Haskell E. Ballard, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 43421 (Sub-57TA), filed March 5, 1979. Applicant: DOHRN TRANSFER COMPANY, 4016 9th Street, P.O. Box 1237, Rock Island, IL 61201. Representative: Walter J. Leahy (Address same as applicant). *Bogie or Idler, NOI, Army tank, unfinished; and Pallets, Platform, Racks, shipping, NOI, KD,* between the facilities of Electric Wheel Company at Quincy, IL and the facilities of Firestone Industrial Products Company at Noblesville, IN, for 180 days. Supporting shipper(s): Electric Wheel Company, Division of the Firestone Tire and Rubber Company, 1120 North 28th Street, Quincy, IL 62301, and Firestone Industrial Products Co., 1700 Firestone Boulevard, Noblesvill, IN 46060. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 52460 (Sub-238TA), filed March 1, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Tallow,* in bulk, in tank vehicles, from the facilities of Iowa Beef Processors, Inc., at Emporia, KS, to points in AR, CO, IL, IA, MO, NE, OK, TN, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 52460 (Sub-239TA), filed March 7, 1979. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Paper and paper products* (except commodities in bulk), from the facilities of Champion International Corporation, at or near Courtland, AL, to points in AR, KS, LA, MO, NM, OK & TX, restricted to traffic originating at the named origin, for 180 days. Supporting shipper(s): Champion International Corporation, Knightsbridge Drive, Hamilton, OH 45020. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 53841 (Sub-22TA), filed March 5, 1979. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State Street, Knox, PA 16232. Representative: John A. Pillar, Esquire, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. (1) Petroleum and petroleum products (except in bulk) from the facilities of Witco Chemical Corporation at or near Petrolia, Bradford and New Kensington, PA to points in NY, NJ, DE and MD. (2) Commodities used or useful in the manufacture and sale of commodities named in (1) above (except in bulk) from points in NY, NJ, DE and MD to the facilities of Witco Chemical Corporation at Petrolia, PA for 180 days. Supporting shipper(s): Witco Chemical Corporation, 77 North Kendall Avenue, Bradford, PA 16701. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 53841 (Sub-23TA), filed March 5, 1979. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State Street, Knox, PA 16232. Representative: John A. Pillar, Attorney at Law, Pillar & Mulroy, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Plastic containers from the facilities of Beverage Bottle Division, Hoover Universal, Inc., at New Castle, DE to Altoona, Johnstown and Mt. Carmel, PA and empty pallets on return, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Beverage Bottle Division—Hoover Universal, Inc., Route 2, Triport Road, Georgetown, KY 40324. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 52861 (Sub-56TA), filed March 8, 1979. Applicant: WILLS TRUCKING, INC., 4500 Rockside Road, Cleveland, OH 44131. Representative: John A. Wilson, 3185 Columbia Road, Richfield, OH 44286. *Silica sand,* in dump vehicles, from Wedron, IL, to Cincinnati, Sidney, Columbus, Dayton, and Yellow Springs, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keener Sand & Clay Company, 21 East State Street, Columbus, OH 43215. Send protests to: Mary Wehner, D/S, ICC,.731 Federal Office Building, Cleveland, OH 44199.

MC 52861 (Sub-57TA), filed March 8, 1979. Applicant: WILLS TRUCKING, INC., 4500 Rockside Road, Cleveland, OH 44131. Representative: John Wilson, 3185 Columbia Road, Richfield, OH 44286. *Scrap metal,* in dump vehicles, from Kalamazoo, MI, to Lemont, IL, and points within the Chicago commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Luria Steel & Trading Corp., Erman Howell Div., 125 S. Wacker Dr., Chicago, IL 60606. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 56270 (Sub-24TA), filed March 8, 1979. Applicant: LEICHT TRANSFER & STORAGE CO., 1401-55 State St., Green Bay, WI 54306. Representative: Dennis L. Sedlacek, same address as applicant. *Disposable sanitary paper products,* from Green Bay, WI to points in IA, IL, IN, MI, MN & OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diana Mfg. Co., 1522 S. Broadway St., Green Bay, WI 54305. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of

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Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 67450 (Sub-82TA), filed March 1, 1979. Applicant: PETERLIN CARTAGE COMPANY, 9651 South Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Defatted Wheat Germ*, in bulk, from the facilities of Vitamins, Inc. at Michigan City, IN to Cedar Rapids, IA and Omaha, NE, for 180 days. Supporting Shipper(s): Vitamins, Inc., 200 East Randolph Drive, Chicago, IL 60601. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley, Dirksen Building, 219 South Dearborn Street, Room, 1386, Chicago, Illinois 60604.

MC 95920 (Sub-55TA), filed March 8, 1979. Applicant: SANTRY TRUCKING CO., 10505 N. E. 2nd Avenue, Portland, OR 97211. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Contract carrier*, irregular routes, *chemicals* in bags from Richmond, B. C., Canada to Seattle, WA and Portland, OR, for 180 days. Supporting shipper(s): Van Waters & Rogers, Ltd., Richmond, B. C. Canada V6X 1W5. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 106401 (Sub-63TA), filed March 20, 1979. Applicant: JOHNSON MOTOR LINES, INC., 2426 North Graham St., Charlotte, NC 28231. Representative: Roger W. Rash, P.O. Box 31577, Charloette, NC 28231. (1) *Frozen Foods* from the facilities owned or utilized by Southern Frozen Foods, Division of Seabrook Farms, Inc., at or near Montezuma, GA to points in AL, DE, KY, LA, MD, MI, MS, NC, OH, SC, TN, TX, VA, WV, and DC, (2) *Materials, supplies and equipment (except commodities in bulk)* used in the manufacture and distribution of Frozen Foods from points in AL, DE, KY, LA, MD, MI, MS, NC, OH, SC, TN, TX, VA, WV and DC to the facilities owned or utilized by Southern Frozed Foods, Division of Seabrook Farms at or near Montezuma, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southern Frozen Foods, Division of Seabrook Farms Inc., P.O. Box 306, Montezuma, GA 31063. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd, Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 109891 (Sub-38TA), filed March 6, 1979. Applicant: INFINGER TRANSPORTATION CO., INC., P.O. Box 7398, Charleston Heights, SC 29405. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. *Petroleum and petroleum products, in bulk, in tank vehicles*, from Wilmington, NC to points and places in SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): EXXON Company USA, 1500 Woodlawn Road, Charlotte, NC 28209. Send protests to: E. E. Strotheid, D/S ICC, Rm. 302, 1400 Bldg., Pickens Street, Columbia, SC 29201.

MC 109891 (Sub-40TA), filed March 8, 1979. Applicant: INFINGER TRANSPORTATION COMPANY, INC., P.O. Box 7398, Charleston Heights, SC 29405. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. *Paper and paper products and materials, equipment and supplies used in the manufacture thereof*, between the facilities of Union Camp Corporation, near Savannah, GA, on the one hand, and, on the other, points in the State of FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: E. E. Strotheid, District Supervisor, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 111401 (Sub-550TA), filed March 5, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (Same address as applicant). *Flour*, in bulk, in tank vehicles, from Enid, OK, to Terre Haute, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Pillsbury Company, 515 E. Spruce, Enid, OK 73701. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 111401 (Sub-551TA), filed March 5, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Chlorosulfonic acid*, in bulk, in tank vehicles, from Sauget, IL, to Brownsville, TX, in foreign commerce only, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63017. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 113271 (Sub-52TA), filed March 2, 1979. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, MT 59403. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. *Agricultural chemicals* from the facilities of Falls Chemicals, Inc. located at or near Great Falls, MT to points in AZ, CA, CO, ID, IL, IA, KS, MN, MO, NE, NV, NM, ND, OR, SD, UT, WA and WY; and from points in CA, IL, MN, OR and WA to the facilities of Falls Chemicals, Inc. located at or near Great Falls, MT. Supporting shipper(s): Falls Chemcials, Inc., P.O. Box 6323, Great Falls, MT 59406. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 113271 (Sub-53TA), filed March 5, 1979. Applicant: CHEMICAL TRANPORT, P.O. Box 2644, Great Falls, MT 59403. Representative: Patrick W. Rice (same address as applicant). *Zinc dross* from the facilities of American Chemet at or near East Helena, MT to the U.S.-Canada International Boundary line, restricted to foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Chemet Corp., P.O. Box D, East Helena, MT 59635. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 113651 (Sub-300TA), filed March 8, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (address same as applicant). *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, except commodities in bulk, in tank vehicles, and hides, from Omaha, NE, to points in CT, NY, NJ, PA, MA, ME, NH, DE, MD, DC, VA and VT, for 180 days. Supporting shipper: Palamera Beef Corp., 25 and 2 Street, Omaha, NE. Send protests to: Beverly J. Williams, Transportation Assistant, I.C.C. 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 115001 (Sub-9TA), filed March 6, 1979. Applicant: WESTERN OIL TRANSPORTATION COMPANY, INC., 2000 South Post Oak, Houston, TX 77001. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. Common carrier over irregular routes. *Crude oil*, in bulk, in tank vehicles from points in OK to points in TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Derby Refining Company, P.O. Box 1030, Wichita, KS 67201; Vickers Petroleum Corp., P.O. Box 2240, Wichita, KS 67201. Send protests to: John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk Avenue, Houston, TX 77002.

MC 115311 (Sub-348TA), filed March 2, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. (1) *Adhesives, adhesive cement, carpet tacking strip, fabricated and shaped metal articles, building materials, polyurethane, plastic and fiberglass articles (except commodities in bulk, and (2) Materials, equipment, and supplies used in the manufacture, distribution, production and installation of the commodities named in (1) above (except commodities in bulk and commodities which, because of size or weight, require the use of special equipment)* between Atlanta, GA and Kewanee, IL on the one hand, and, on the other, points in the states of AL, AR, FL, GA, IN, KY, LA, MD, MS, NO, NC, OH, OK, PA, SC, TN, TX, VA and WV. Restricted to traffic originating at or destined to the facilities of Kinkead Industries, Inc. at or near Atlanta, GA and Kewanee, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kinkead Industries, Inc., 2801 Finley Road, Downers Grove, IL 60515. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 115331 (Sub-494TA), filed March 5, 1979. Applicant: TRUCK TRANSPORT, INC., 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: Steve Vogt, 11040 Manchester Rd., St. Louis, MO 63122. *(1) Silica sand, in bulk, and (2) soda ash, in bulk*, (1) from points in LaSalle County, IL to Winchester, IN and (2) from Green River, WY to Gurnee, IL, Winchester, IN and Lancaster, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anchor Hocking Corporation, 109 N. Broad St., Lancaster, OH 43130. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115331 (Sub-495TA), filed March 5, 1979. Applicant: TRUCK TRANSPORT, INC., 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: Steve Vogt, 11040 Manchester Rd., St. Louis, MO 63122. *(1) Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses, and (2) materials, ingredients, equipment and supplies used in the manufacture, distribution and sale of products in (1) above*, between the facilities of Ralston Purina Co. at or near Clinton and Davenport, IA; Battle Creek, MI; Louisville, KY, and Sharonville and Lancaster, OH, on the one hand, and points in IN, MI, OH, MO, and WI on the other, for 180 days. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: P. E. Binder, OC, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115730 (Sub-71TA), filed March 7, 1979. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50309. *Fire hydrants, valves, castings, pipe, fittings, and accessories, materials and supplies used in the installation thereof*, from the facilities of The Clow Corporation at or near Oskaloosa, IA to points in AL, AR, CO, FL, IL, KS, LA, MN, MO, NE, NJ, NY, NC, OK, TN, TX, VA, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clow Corporation, 1211 West 22nd Street, Oak Brook, IL 60521. Send protests to: Herbert W. Allen, District Supervisor, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 115841 (Sub-690TA), filed March 2, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Foodstuffs (except in bulk, in tank vehicles) in vehicles equipped with mechanical refrigeration*, from the facilities of Kraft, Inc., at Greenville, TN to Springfield, MO, for 180 days. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: Glenda Kuss, TA, Bureau of Operations, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-691TA), filed March 2, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Malt beverages (except commodities in bulk)*, from Eden, NC to points in IL, IN, OH, KY, MI, and WI, for 180 days. Supporting shipper(s): Miller Brewing Co., 3939 W. Highland Blvd., Milwaukee, WI 53208. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 116770 (Sub-5TA), filed March 7, 1979. Applicant: ACTIVE CARTAGE LIMITED, 1065 Martin Grove Road, Rexdale, Ontario, Canada M9W 4W6. Representative: Robert D. Gunderman, Esq., Suite 710 Statler Building, Buffalo, NY 14202. *Bridge Girders, the transportation of which because of size or weight require the use of special equipment, and related parts and assemblies. FROM* ports of entry on the International Boundary line between the US and Canada in NY to all points in NY, for 180 days. Supporting shipper: Canron Limited (Eastern Structural Division), 100 Disco Road, Rexdale, Ontario, Canada. Send protests to: Richard H. Cattadoris, DS, 111 West Huron Street, Buffalo, NY 14202.

MC 116877 (Sub-6TA), filed March 8, 1979. Applicant: A & B TRANSPORTATION SERVICES, INC., 2645 Nevin Avenue, Los Angeles, California 90011. Representative: Daniel W. Baker, Handler, Baker & Greene, P.C., 100 Pine Street, Suite 2550, San Francisco, CA 94111. Common: *regular:* Hanging or cartoned garments, clothing and wearing apparel and component parts used in the manufacture thereof, as defined in 61 MCC 288 and 289 (except natural furs and natural fur-trimmed garments), handbags and costume jewelry, (1) Between San Jose, CA, and Salinas, CA, serving all intermediate points, and Hollister and San Juan Bautista, as off-route points: From San Jose over U.S. Hwy 101 to Salinas, and return over the same route. (2) Between San Jose, CA, and Santa Cruz, CA, serving all intermediate points, and Felton, as an off-route point: From San Jose over State Hwy 17 to Santa Cruz, and return over the same route. (3) Between Santa Cruz, CA, and Carmel, CA, serving all intermediate points, and Watsonville, as an off-route point: From Santa Cruz over State Hwy 1 to Carmel, and return over the same route. (4) Between Salinas, CA, and Monterey, CA, serving all intermediate points: From Salinas over State Hwy 68 to Monterey, and return over the same route, for 180 days. Note: Applicant seeks authority to tack with its authority held under Docket No. MC–116877 Sub No. 5 An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): The Emporium, 835 Market Street, San Francisco, CA 94103; WTC Air Freight, 140 Belle Air Road, So. San Francisco, CA 94080; Footwear Sector—Genesco, Inc., Genesco Park, E–101, Nashville, TN 37202. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 117730 (Sub-48TA), filed March 7, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Hospital supplies and*

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drugs, in vehicles equipped with mechanical refrigeration from the facilities of Abbott Laboratories at North Chicago, IL to Cincinnati, OH and points in its commercial zone, for 180 days. Supporting shipper(s): Abbott Laboratories, 1400 Sheridan Road, North Chicago, IL 60064. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 117940 (Sub-320TA), filed March 1, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. *Foodstuffs, except commodities in bulk,* from the facilities of American Home Foods, Division of American Home Products Corporation at or near LaPorte, IN to points in MO, NE, IA, KS, M and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(S): American Home Foods Division, American Home Products Corporation, 685 Third Avenue, New York, NY 10017. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 117940 (Sub-321TA), filed March 6, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. *Foodstuffs, (except commodities in bulk)* from Easton, Portland and Washburn, ME to joints in AR, DE, IL, IN, KS, KY, MD, MI, MO, NJ, NY, OH, PA, TN, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McCain Foods, Inc., 5 Wade Road, Washburn, ME 04786. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 117940 (Sub-322TA), filed March 8, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. *Such commodities as are dealt in by wholesale, retail and chain grocery stores (except commodities in bulk)* from the Chicago, IL Commercial Zone to points in MN and WI, restricted to traffic originating at the facilities of the Courzens Distribution System and destined to named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Couzens Distribution System 6600 South River Road, Hodgkins, IL 60525. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 118130 (Sub-108TA), filed March 6, 1979. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, TX. 76115. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. *Bakery goods (except frozen),* from Valdosta, GA, to points in LA, for 180 days. Supporting shipper(s): Crakin' Good Bakers, Inc., P.O. Box 370, Valdosta, GA 31601. Send protests to: Martha A. Powell, T/A, I.C.C. Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 118130 (Sub-111TA), filed March 16, 1979. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, TX 76115. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. (1) *Carpeting;* and (2) *materials, equipment and supplies* used in the manufacture and distribution of carpeting, (1) from Marlin, TX to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY; and (2) from points in AL, GA, NC, and SC to Marlin, TX, for 180 days. Supporting shipper(s): Marlin Mills, Inc., P.O. Box 510, Marlin, TX 76661. Send protests to: Martha A. Powell, TA, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119641 (Sub-159TA), filed March 5, 1979. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, IN 47944. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *Plywood, paneling, gypsum board, composition board, molding and particleboard,* from the facilities of Pan American Gyro-tex Co. at or near Jasper, Fl, to points in and east of ND, SD, NE, KS, OK and TX, for 180 days. Supporting shipper(s): Pan American Gyro-Tex Co., 520 Cedar Bay Rd., Jacksonville, FL 32218. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 East Ohio Street, Indianapolis, IN 46204.

MC 119670 (Sub-41TA), filed March 5, 1979. Applicant: THE VICTOR TRANSIT CORPORATION, 5250 Este Ave., Cincinnati, OH 45232. Representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, KY 40601. *Paper and paper products (other than building and roofing paper and building products),* from Miaimisburg, OH, to points in IL, IN, the lower Peninsula of MI, that part of NY located on and west of U.S. Hwy 15, that part of PA located on and west of a line extending along U.S. Hwy 15 from the New York-Pennsylvania State line south to junction U.S. Hwy 15–11, and thence along U.S. Hwy 15–11 south to the Pennsylvania-Maryland State line, Harrisburg, PA, that part of WI located south and east of a line extending west along U.S. Hwy 18 from Lake Michigan to Madison, WI, thence along U.S. Hwy 14 to Junction U.S. Hwy 51, and thence along U.S. Hwy 51 to the Wisconsin-Illinois State line, including points on the indicated portions of the highways specified, and those in Jefferson, Kenton, Campbell, Mason and Boyd Counties, KY, Cabel, Kanawha, Wood, Ohio, Brooke and Hancock Counties, WV, and St. Louis, MO; and rejected shipments of the immediately above-specified commodities, and machinery, equipment, materials and supplies used in the manufacture of paper and paper products, from the destination points named immediately above to Miamisburg, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Interstate Folding Box, Robert Lansdell, Traffic Manager, 300 S. Verity Parkway, P.O. Box 390, Middletown, OH 45042. Send protests to: Paul J. Lowry, DS, ICC, 5514–B Federal Bldg., 550 Main St., Cincinnati, OH 45202.

MC 119741 (Sub-157TA), filed March 2, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Meats, meat products, meat by-products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Omaha, NE to points in CO, IL, IN, IA, KS, MI, MN, MO, ND, OH, SD and WI, restricted to traffic originating at the named origin and destined to the named destinations for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Packing Co. of Omaha, 4501 South 36th Street, Omaha, NE 68107. Send protests to: Herbert W. Allen, District Supervisor, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-158TA), filed March 7, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Canned and preserved foodstuffs* from the facilities of Heinz USA at or near Iowa City and Muscatine, IA, to points in the state of Kansas, restricted to traffic originating at the named facilities and destined to the name states for 180 days. An underlying ETA seeking 90 days

authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Herbert W. Allen, District Supervisor, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 120181 (Sub-15TA), filed March 1, 1979. Applicant: MAIN LINE HAULING CO., INC., P.O. Box C, St. Clair, MO 63077. Representative: Ralph Howard (same address as above). *Foodstuff* (except in bulk) and *empty containers, materials, supplies and equipment* used in the manufacture of the commodities, between Owensboro and Henderson, KY and Alton, IL and AR, IL IN, IA, KS, KY, LA, MS, MO, NE, OK, TN and TX, for 180 days. An underlying ETA seeking 90 days authority. Supporting shipper(s): Ragu's Foods, Inc., 33 Benedict Pl., Greenwich, CT 06830; Chattanooga Glass Co., 400 W. 45th St., Chattanooga, TN 37410; Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Peter E. Binder, OC, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 123091 (Sub-31TA), filed March 2, 1979. Applicant: NICK STRIMBU, INC., 3500 Parkway Road, Brookfield, OH 44403. Representative: James Duvall, Esq., 220 West Bridge Street, Dublin, OH 43017. *Iron and steel articles* between Sharon, PA, on the one hand, and on the other, South Boston, VA, for 180 days. Supporting shipper(s): Westinghouse Electric Corp., 469 Sharpsville Avenue, Sharon, PA 16146. Send protests to: Mary Wehner, District Supervisor, Interstate Commerce Commission, 1240 E. Ninth Street, Cleveland, OH 44199.

MC 124251 (Sub-60TA), filed March 7, 1979. Applicant: JACK JORDAN, INC., 3681 South Dixie Road (P.O. Box 689), Dalton, GA 30720. Representative: Archie B. Clubreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Synthetic plastic, liquid, in bulk in tank vehicles* from Seneca, IL to points in GA, for 180 days. An underlying ETA seeking 90 days authority. Supporting shipper(s): Industrial Adhesives, Inc., 359 DeKalb Industrial Way, Decatur, GA 30030. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 124711 (Sub-82TA), filed March 2, 1979. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: Norman A. Cooper, P.O. Box 1050 El Dorado, KS 67042. *Liquid feed and liquid feed supplements, in bulk,* in tank vehicles; from Creten, NE to points in CA, NV, UT, OR, WA, ID, AR, TN, NC, VA, KY, IL, SD, IA, MN, KS, OK, TX, AZ, AL, MT, MO, CO, NM, WY, FL, GA, SC, MS, LA, ND & WI; 180 days.

MC 126930 (Sub-20TA), filed March 8, 1979. Applicant: BRAZOS TRANSPORT CO., 339 East 34th Street, Lubbock, TX 79404. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Waste paper or scrap paper* between points in MO, KS, IL, AR, LA, TX, MS, TN, IA, CO, OK, NE, and MN, for 180 days. An underlying ETA seeking 90 days authority was granted. Supporting shipper(s): Packaging Corporation of America, 1603 Orrington Avenue, Evanston, IL 60204. Send protests to: Haskell E. Ballard, District Supervisor, Box F-13206 Federal Building, Interstate Commerce Commission—Bureau of Operations, Washington, DC 20423.

MC 127651 (Sub-41TA), filed March 20, 1979. Applicant: EVERETT G. ROEHL, INC., East 29 St., P.O. Box 7, Marshfield, WI 54449. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Iron and steel articles* from Elk Grove Village, IL to points in MI and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Materials Corp., 2525 Arthur Ave., Elk Grove Village, IL 60007. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 127840 (Sub-93TA), filed March 1, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Corn Syrup* from Keokuk, IA to points in the United States (Except IA, AK and HI), for 180 days. Supporting shipper(s): Hubinger Company, 601 Main Street, Keokuk, IA 52632. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 135691 (Sub-28TA), filed March 8, 1979. Applicant: DALLAS CARRIERS CORP., 3610 Garden Brook Drive, Box 340080, Dallas, TX 75234. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. Contract carrier, irregular routes. *(1) Coiled sheet steel.* (a) from Burns Harbor, Indiana Harbor, Gary and Portage, IN to Birmingham, AL; Seward and Cozad, NE; common, irregular. Supporting shipper(s): Feed Service Corporation, P.O. Box 348, Crete, NE 68333. Send protests to: M.E. Taylor, Dist. Supv., Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

Paragould, AR; Hartwell, GA; (b) from Chicago, IL to Paragould, AR; Hartwell, GA; and Seward and Cozad, NE; (c) from Lackawanna, NY to Chicago, IL; (2) Coiled sheet steel, rods and bars, from Burns Harbor, Indiana Harbor, Gary and Portage, IN to Paragould, AR; Cozad, NE; and Hartwell, GA under a continuing contract(s) with Tenneco Automotive, a Division of Tenneco, Inc. for 180 days. *a* Supporting shipper(s): Tenneco Automotive a Division of Tenneco, Inc., 108 Wilmot Road, Deerfield, IL 60015. Send protests to: Opal M. Jones, Trans. Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 136291 (Sub-14TA), filed March 2, 1979. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Francis W. McInery, Esq., 1000 Sixteenth St., N.W., Washington, D.C. 20036. *Contract carrier*—Irregular route: Liquid argon, liquid nitrogen and liquid oxygen in specially designed cryogenic vehicles provided by the shipper from Theodore, AL to points in AR, GA, FL, KY, LA, MS, NC, SC, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Carbide Corporation, 270 Park Avenue, New York, NY 10017. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission-BOp, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 136511 (Sub-36TA), filed March 1, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, Virginia 24502. Representative: Lester R. Gutman, 805 McLachlen Bank Building, 666 Eleventh Street N.W., Washington, D.C. 20001. *New Furniture,* from Galax, VA to points in CA; WA; OR; AZ; NV; NM; UT; CO; WY; ID; MT; TX; and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vaughan Furniture Company, P.O. Box 330, Galax, Virginia 24333. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th St., Richmond, VA 23240.

MC 136540 (Sub-5TA), filed March 2, 1979. Applicant: REFINERS TRANSPORT SERVICES, INC., 4850 Bloomfield Street, New Orleans, LA 70121. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. *Fibreboard, boxes, corregated and other than corregated, pulpboard, flat sheets in bundles* from the Owens-Illinois

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plant site at or near Minden, LA to all points in MS, under a continuing contract with Owens-Illinois, Inc., for 180 days. Applicant has filed an ETA for 90 days. Supporting shipper(s): Owens-Illinois, Inc., 405 Madison Ave., Toledo, OH 43666. Send protests to: Connie A. Guillory, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 139391 (Sub-9TA), filed March 5, 1979. Applicant: G & H TRANSPORTATION CO., INC., P.O. Box 157, Widener, AR 72394. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. *Such commodities as are manufactured, processed or dealt in by manufacturers of glass, plastic, chinaware and metal products* (except commodities in bulk), between the facilities of Anchor Hocking Corporation and its subsidiaries in the states of IN, OH, PA, and WV, on the one hand, and on the other, points in the states of AZ, AR, CA, CO, ID, KS, MT, NV, NM, OK, OR, TX, UT, WA, and WY, for 180 days as a contract carrier over irregular routes. Supporting shipper(s): Anchor Hocking Corporation, 109 North Broad Street, Lancaster, OH 43130. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 141921 (Sub-52TA), filed March 5, 1979. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, NH 03108. Representative: John A. Sykes (same address as above). (1) *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses, and (2) materials, ingredients and supplies* used in the manufacture, distribution and sale of (1) above, between the facilities of Ralston Purina Co., at or near Clinton and Davenport, IA, on the one hand and, on the other, points in IN, MI, OH, PA, and NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Ross J. Seymour, DS ICC, Rm. 3, 6 Loudon Road, Concord, NH 03301.

MC 143021 (Sub-2TA), filed March 6, 1979. Applicant: R. E. BAIRD & SONS LTD., Perth-Andover, New Brunswick, Canada EOJ 1V0. Representative: Graeme S. Shaw, Main St., Perth-Andover, New Brunswick, Canada EOJ 1V0. *Contract carrier:* irregular routes: *Woodchips, sawdust and shavings* in bulk, from ports of entry on the International Boundary between the U.S. and Canada at or near Houlton and Fort Fairfield, ME, to Houlton, Lincoln and Oldtown, ME. Supporting shipper(s): Ralph F. Sadler Limited, Box 190, Perth-Andover, New Brunswick, Canada. Send protests to: ICC, 76 Pearl St., Rm. 303, Portland, ME 04111.

MC 143570 (Sub-10TA), filed March 5, 1979. Applicant: D & G TRUCKING, INC., 4420 E. Overland Road, Meridian, Idaho 83642. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Chemicals*, except liquid commodities in bulk in tank-type vehicles and salt, (1) from points in CA and UT to points in the States of OR, WA and points in ID on or south of the southern boundary of Idaho County; (2) from points in the WA Counties of Benton, Franklin and Walla Walla and Multnomah County, OR to points in ID on or south of the southern boundary of Idaho County; and (3) from Nampa, ID to points in the NV Counties of Humboldt and Pershing, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Hunter Farm Supply & Grain Co., Inc., P.O. Box 10, Terreton, ID 83450; H J. Stoll and Sons, Inc., 2320 S.E. Grand, Portland, OR 97214; Union Seed Co., P.O. Box 339, Nampa, ID 83651; Chemical Distributors, Inc., P.O. Box 10763, Portland, OR 97210; Smith-Ardussi Inc., 1200 W. Amity, Boise, ID 83705. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 144041 (Sub-30TA), filed March 6, 1979. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle, N.E., Atlanta, GA 30345. Representative: Paul M. Daniell, 1200 Gas Light Tower, 235 Peachtree Street, N.E., Atlanta, GA 30303. *Plastic articles (except in bulk)* from the facilities of Polysar Packaging Division of Polysar Plastics, Inc. at Middletown, NY to points in the U.S. on and east of U.S. Hwy. 85, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Polysar Packaging, Div. of Polysar Plastics, 5 Main Street, So. Glens Falls, NY 12801. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 144701 (Sub-2TA), filed March 15, 1979. Applicant: BLACKSHEAR REFRIGERATED TRANSPORT, inc., 1178 Wright Avenue, Camden, NJ 08102. Representative: James H. Sweeney, P.O. Box 684, Woodbury, NJ 08096. *Frozen foods*, from Salisbury, MD, to points in NJ, NY, DE, MD, OH, MI, KY, VA, ME, NH, VT, CT, RI, and MA, for 180 days. An underlying ETA in part seeks 90 days authority. Supporting shipper(s): The Cambell Soup Company, P.O. Box 1618, Salisbury, MD 21801. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 145441 (Sub-23TA), filed March 6, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same as applicant). *Furniture parts and panels, flakeboard, finished lumber, and plywood*, from Memphis, TN to Denver, CO; Los Angeles, CA; Dallas, TX; Oklahoma City, OK; Huntingburg, IN; and Adrian, MI, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Speltz Plywood Corporation, P.O. Box 9206, Memphis, TN 38109. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145441 (Sub-25TA), filed March 8, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey, (same as applicant). *Confectionery* between Salinas, CA on the one hand, and on the other, Naugatuck, CT; Hazelton and York, PA; and Frankfort, IN, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Peter Paul, Inc., New Haven Road, Naugatuck, CT 06770. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145560 (Sub-8TA), filed March 7, 1979. Applicant: NORTH ALABAMA TRANSPORTATION, INC., Post Office Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Arlington, VA 22210. Contract, irregular: *Candy*, from the facilities of American Candy Manufacturing Company, Inc., near Selma, AL, to points in AZ, CA, CO, ID, OR, UT and WA, restricted to shipments transported under a continuing contract or contracts with American Candy Manufacturing Company, Inc., for 180 days. Supporting shipper(s): American Candy Manufacturing Company, Inc., P.O. Box 879, Selma, AL 36701. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 145950 (Sub-8TA), filed March 5, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76706. Representative: Arthur Grimes, 2611 University Parks Drive, Waco, TX 76706. *Foodstuffs (except commodities in bulk)* from the facilities of M&M Mars, Snack Master Division at or near Albany, GA, to Elizabeth, NJ; Detroit, MI; Chicago, IL; Arlington and Waco, TX; Salt Lake City, UT; Foxboro, MA; Milpitas, CA; Vernon, CA; and Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M&M Mars, Snack Master Division, P.O. Box 3289, Albany, GA 31706. Send protests to: Martha A. Powell, T/A, ICC, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 145950 (Sub-9TA), filed March 5, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76706. Representative: Arthur Grimes, 2611 University Parks Drive, Waco, TX 76706. *Foodstuffs (except commodities in bulk)*, from the facilities of M&M Mars, East Coast Division, at or near Elizabeth, NJ, to Denver, CO; Arlington and Waco, TX; Salt Lake City, UT; Vernon and Milpitas, CA; Chicago, IL; Detroit, MI; Foxboro, MA; and Morrow and Albany, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M&M Mars, Snack Master Division, P.O. Box 3289, Albany, GA 31706. Send protests to: Martha A. Powell, T/A, ICC, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 146041 (Sub-1TA), filed March 1, 1979. Applicant: CAL-TEX, INC., P.O. Box 1678, Costa Mesa, CA 92626. Representative: Greg P. Stefflre, 700 S. Flower Street, Suite 1724, Los Angeles, CA 90017. *(1) Chemicals, esters (fatty acid of animal oils), esters (fatty acid of vegetable oils), fatty alcohol, inedible fatty alcohol, coconut oil, softeners textile, cleaning and washing compounds (liquid), lubricating oils (other than petroleum), lubricating oils (petroleum), wax and fireproofing compounds (except in bulk); and (2) materials and supplies used in the manufacture and sale of the commodities in (1) above, except in bulk*, between Greenville, SC; Lock Haven, PA; Linden, NJ; and Santa Fe Springs, CA, and points in their commerical zones, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s) Emery Industries, Inc., Box 628, Mauldin, SC 29662. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012

MC 146091 (Sub-3TA), filed March 5, 1979. Applicant: JOHN E. HOTH and BOBBIE J. HOTH, d.b.a. W. I. EXPRESS, P.O. Box 43, Garnavillo, IA 52049. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. Fresh meats and packinghouse products from the facilities of Wilson Food Corporation located at Cedar Rapids, IA to points in AL, AR, GA, KY, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Wilson Foods Corporation, 4545 Lincoln Boulevard, Oklahoma City, OK 73105. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 146290 (Sub-2TA), filed March 8, 1979. Applicant: DON THREDE d.b.a. DON THREDE TRUCKING CO., 1777 Arnold Industrial Highway, Concord, CA 94520. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108, (415) 986-8696. *Contract carrier:* irregular routes: *Flat glass*, from facilities of Guardian Industries Corp. at Kingsburg, CA to points in AZ and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Guardian Industries Corp., 11535 E. Mountainview, Kingsburg, CA 93631. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 146380 (Sub-1TA), filed February 27, 1979. Applicant: PIERCE TRUCKING, 205 First Street, Ludington, MI 49431. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Chemicals and goods and packaging* used in the manufacture thereof between Ludington, MI, on the one hand, and various points in WI, IO, MO, IL, IN, OH, WV, KY, PA and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dow Chemical USA, South Madison Street, Ludington, MI 49431. Send protests to: C. R. Flemming, DS, ICC, 225 Federal Building, Lansing, MI 48933.

MC 146381 (Sub-2TA), filed March 2, 1979. Applicant: CONVERTERS II, INC., 300 Bostwick Avenue, Bridgeport, CT. Representative: Piken & Piken, Esqs., One Lefrak City Plaza, Flushing, NY 11368. *Contract carrier:* irregular routes: *Piece goods*, between the facilities of Hull Dye & Print Works, Inc. at or near Shelton and Derby, CT, on the one hand, and, on the other, New York, NY, points in Dutchess, Orange, Rockland, Westchester, Nassau and Suffolk Counties, NY, Hudson, Passaic, Union, Middlesex, Bergen, Essex, Morris, Somerset Counties, NJ, and Lehigh County, PA. *Materials and supplies, equipment and machinery*, (except commodities in bulk), used in the dyeing and finishing of piece goods from the above named points in NY, NJ and PA, to the facilities of Hull Dye & Print Works, Inc., at or near Derby and Shelton, CT, for 180 days. Supporting shipper: Hull Dye & Print Works, Inc., Roosevelt Drive, Derby, CT 06418. Send protests to: J. D. Perry, Jr., DS, ICC, 135 High Street, Hartford, CT 06103.

MC 146400 (Sub-2TA), filed March 1, 1979. Applicant: GOLDEN STATE AGRICULTURAL CARRIERS, INC., 1422 South Garey Avenue, Pomona, CA 91769. Representative: Miles L. Kavaller, Mandel & Kavaller, 315 South Beverly Drive, suite 315, Beverly Hills, CA 90212. *Contract:* irregular: *Iron or steel articles*, from the facilities of Jersey Shore Steel in Avis and Williamsport, PA to Los Angeles County, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Jersey Shore Steel, P.O. Box 5055, Jersey Shore, PA 17740. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Buiding, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 146560 (Sub-1TA), filed March 19, 1979. Applicant: FATHER & SON AGENCY, INC., 5000 Wyoming Avenue, Dearborn, MI 48026. Representative: Edwin M. Snyder, Sullivan & Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Tractors*, except truck tractors, from the plant site of Ford Motor Company at Romeo, MI to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MN, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC, for 180 days. The operations authorized herein are restricted to the transportation of traffic (a) originating at the above named origin point, and (b) destined to points in the named destination states, except that restriction (b) above shall not apply to traffic moving in foreign commerce. Supporting shipper: J. O. Darnell, Supervisor, Forward Planning & Analysis, Ford Motor Co.—Ford Tractor Operations, 2500 E. Maple Rd., Troy, MI 48084. Send protests to: C. R. Flemming, DS, ICC, 255 Federal Building, Lansing, MI 48933.

MC 146631 (Sub-1TA), filed March 12, 1979. Applicant: WILLIAM W. BLAUVELT, d.b.a. BILLY B TRUCKING CO., 44 Forest Street, Wilmington, MA 01887. Representative: Michael Varda, 121 South Pinckney Street, Madison, WI 53703. Contract carrier: irregular routes: *Paper and paper articles* from Oshkosh, WI to points in AZ, CA, NV, OR, and WA for 180 days. Supporting shipper(s): Hoffmaster Co., Inc., 2920 N. Main St., Oshkosh, WI 54903. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East

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Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 68]
[FR Doc. 79-13187 Filed 4-27-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 79-11405, appearing at page 21934 in the issue of Thursday, April 12, 1979, the first line of the second entry for MC 119988, in the third column of page 21936, should read "MC 119988 (Sub-188TA), filed".

[Notice No. 48]
BILLING CODE 1505-01-M

Drivers Truk-Train of America, Inc.—Operation—Between Sanford, FL, and Alexandria, VA, and between Sanford, FL, and Louisville, KY; Filing of Application; Correction

In FR Doc. 79-12357 appearing at page 23651 in the issue for Friday, April 20, 1979, insert the following docket number immediately above the **Federal Register** file line "[Finance Docket No. 29007F]".
BILLING CODE 7035-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Arkansas Louisiana Gas Co., et al.; Further Extension of Time

April 23, 1979.

On April 11, 1979, an extension of time was granted for compliance with the filing requirement of Ordering Paragraph (N) of the Commission's order of March 30, 1979.

Notice is hereby given that a further extension of time is granted to and including May 21, 1979, for compliance with Ordering Paragraph (N) by all pipelines to which the Paragraph applies.

Lois D. Cashell,
Acting Secretary.

[Docket Nos. RP79-53 and RP79-54, *et al.*]
[FR Doc. 79-13256 Filed 4-27-79; 8:45 am]
BILLING CODE 6450-01-M

Columbia Gulf Transmission Co. and Columbia Gulf Transmission Corp.; Certification of Settlement

April 24, 1979.

Take notice that on April 2, 1979, Presiding Administrative Law Judge Samuel Z. Gordon certified to the Commission a proposed Stipulation and Agreement together with transcript Volumes 1 through 7 and Exhibits 2, 3, and 4. If approved, the Agreement will resolve most of the issues in the proceeding.

Any person desiring to be heard or to protest said settlement agreement should file comments and/or reply comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should serve the same on all parties to this proceeding. Initial comments shall be filed on or before May 14, 1979; reply comments are due on June 1, 1979. All comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket Nos. RP78-19 and RP78-20]
[FR Doc. 79-13257 Filed 4-27-79; 8:45 am]
BILLING CODE 6450-01-M

El Paso Natural Gas Co.; Notice of Application

April 20, 1979.

Take notice that on April 2, 1979, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP79-251 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 2,500 Mcf of natural gas per day for the account of Western Gas Interstate Company (WGI), on a best efforts basis, to Southern Union Company (Southern) at certain existing points of delivery located on El Paso's interstate transmission pipeline system situated in New Mexico and Texas, all as more fully set forth in the application which is on file with the commission and open to public inspection.

El Paso states that WGI has acquired natural gas supplies situated in the San Juan Basin area of New Mexico which are in proximity to El Paso's existing field gathering and other related facilities. WGI seeks to cause such quantities of gas to be tendered to El Paso at an initial point of receipt located in San Juan County, New Mexico, for transportation and delivery by El Paso to certain points on Southern's distribution system located in Curry County, New Mexico and Hutchinson County, Texas, it is stated. In order to assist WGI in making such quantities of gas available to Southern, WGI and El Paso have entered into a gas transportation agreement dated January 31, 1979, whereby gas supplies acquired by WGI can be made available for sale by WGI to Southern, so that Southern may continue to serve its high priority end-use requirement customers, it is asserted.

El Paso states that it has agreed to accept at an existing point of receipt, and such other points of receipt as may hereinafter be agreed to, and to transport for WGI's account, up to 2,500 Mcf per day of natural gas acquired by WGI and to redeliver equivalent volumes of gas, less shrinkage if any, to Southern for the account of WGI at delivery points in Curry County, New Mexico and Hutchinson County, Texas. It is indicated that El Paso shall have the right to purchase as excess gas, that volume of gas in excess of the gross transportation volume designated by WGI pursuant to the gas transportation agreement between WGI and EL Paso.

El Paso also requests authorization to transport gas from additional points of receipt when additional volumes of gas become available to WGI, so long as the quantities of gas transported do not exceed the aggregate total of 2,500 Mcf per day. El Paso requests authorization as well, for the deletion by mutual consent, of points of receipt and delivery as conditions require.

El Paso states that any facilities constructed in furtherance of the agreement would be the responsibility of WGI, unless such facilities constitute an integral part of El Paso's existing interstate transmission pipeline system.

It is stated that pursuant to the agreement, WGI would compensate El Paso through the payment of an administrative fee consisting of one cent for each Mcf of gas delivered at the points of delivery. It is stated further that additional compensation would take the form of the rates in effect as set forth on Sheet No. 1-D.2 of El Paso's FERC Gas Tariff, Third Revised Volume No. 2, or superseding tariff.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity, if a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP79-251]
[FR Doc. 79-13258 Filed 4-27-79; 8:45 am]
BILLING CODE 6450-01-M

Guadalupe-Blanco River Authority; Petition for Declaratory Order

April 19, 1979.

Take notice that on November 22, 1978, the Guadalupe-Blanco River Authority (hereinafter GBRA or Petitioner) filed a petition under the Federal Power Act (Act), 16 U.S.C. §§ 791a–825r, for an order declaring that six hydroelectric projects and appurtenant facilities owned and operated by the GBRA on the Guadalupe River in Guadalupe and Gonzales Counties, Texas, are not subject to the Commission's licensing jurisdiction. Correspondence with the GBRA on this matter should be addressed to: Larry R. Veselka, Vinson & Elkins, 1101 Connecticut Avenue, N.W., Washington, D.C. 20036, and John H. Specht, General Manager, Guadalupe-Blanco River Authority, P.O. Box 271, Seguin, Texas 78155.

The GBRA states that each of the six projects (the dams are named Dunlap, McQueeny, Seguin, Nolte, No. H-4, and No. H-5) was constructed prior to 1935, that the Guadalupe River is non-navigable above River Mile 175.9 and that all six projects are located above this point, and that there has been no construction since 1935 that would require the filing of a declaration of intent pursuant to Section 23(b) of the Act (16 U.S.C. § 817).

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any protest or petition to intervene must be filed on or before June 4, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,
Acting Secretary.

[Docket No. EL79-4]
[FR Doc. 79-13264 Filed 4-27-79; 8:45 am]
BILLING CODE 6450-01-M

Michigan Wisconsin Pipe Line Co.; Petition to Amend

April 20, 1979.

Take notice that on April 17, 1979, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP70-22 a petition to amend further the order issued April 30, 1970, as amended, in said docket pursuant to Section 3 of the Natural Gas Act so as to authorize Petitioner to continue to import natural gas from Canada to the United States at the increased border price of $2.30 (U.S.) per million Btu's equivalent established by the National Energy Board of Canada (NEB), effective May 1, 1979, all as more fully set forth in the petition to amend further which is on file with the Commission and open to public inspection.

It is indicated that the subject gas is purchased from TransCanada Pipelines Limited (TransCanada) at the current border price of $2.16 (U.S.) per million Btu's and is imported at a point on the international boundary near Emerson, Manitoba. It is further indicated that TransCanada exports the gas pursuant to export license GL-38. Petitioner states that natural gas imported from Canada forms a vital portion of its gas supply and that unless Petitioner's existing import authorization is amended prior to May 1, 1979, to provide for payment of the increased rate, Petitioner would be faced with the termination of its gas supply from Trans-Canada.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP70-22]
[FR Doc. 79-13259 Filed 4-27-79; 8:46 am]
BILLING CODE 6450-01-M

Montana Power Co.; Petition To Amend

April 20, 1979.

Take notice that on April 13, 1979,[1] The Montana Power Company (Montana Power), 40 East Broadway, Butte, Montana 59701, filed in Docket No. CP74-187 a petition to amend further the order issued March 21, 1975, as amended, in said docket pursuant to Section 3 of the Natural Gas Act by authorizing Petitioner to import natural gas from Canada at an increased border price of $2.30 per million Btu's equivalent of natural gas, effective May 1, 1979, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it currently is authorized in the subject docket to import from Canada natural gas purchased from Canadian-Montana Pipe Line Company at a price of $2.16 per million Btu's and that on March 28, 1979,

[1] The application was initially tendered for filing on April 13, 1979; however, the fee required by Section 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until April 18, 1979; thus, filing was not completed until the latter date.

the Canadian government increased the border price to $2.30 per million Btu's, effective May 1, 1979. Petitioner asserts that it imports from Canada more than 65 percent of the natural gas supply necessary to serve its market and that the ability of Petitioner to meet its customers' requirements and avoid curtailment of service directly depends on continued importation of gas under the authorization granted in the subject docket. Accordingly, Petitioner requests that the order of March 21, 1975, as amended, be further amended to permit Petitioner to import gas purchased at the increased price.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP74-187]
[FR Doc. 79-13260 Filed 4-27-79; 8:45 am]
BILLING CODE 6450-01-M

Northern Natural Gas Co.; Application

April 20, 1979.

Take notice that on March 29, 1979, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79-246 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain small volume sales measuring stations, and the sale and delivery of additional volumes of natural gas in the states of Montana, South Dakota, Minnesto, Iowa, Nebraska, Kansas, Oklahoma, and Texas to 53 right-of-way grantors, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has received numerous requests for service from right-of-way grantors whose easements provide for the contractual right to gas service as partial consideration for the easement to construct and operate pipeline facilities across their property. Applicant requests authorization to construct and operate 46 small volume sales measuring stations in Minnesota, South Dakota, Iowa, Nebraska, Kansas, and Texas in order to sell natural gas to rights-of-way grantors through its Peoples Division. The firm volumes to be delivered would be provided from Peoples Division's presently authorized contract demand.

Applicant indicates that granting of the proposed service to the 5 right-of-way grantors in Oklahoma would result in an increase in annual sales to Southern Union Gas Company (So Union), under Rate Schedule X-46, of 8,234 Mcf, requiring an increase in the authorized annual sales from 746,469 Mcf to 754,703 Mcf. Applicant further indicates that the granting of the proposed service to 1 of its pipeline right-of-way grantors in Texas with annual heating requirements of 188 Mcf would result in a total annual authorized sales of 2,294,2407 Mcf to West Texas Gas, Incorporated (WTN) which resells the gas to Applicant's right-of-way grantors. Applicant states that it has received a request from one individual in rural Hill County, Montana, who, being right-of-way grantor desires natural gas service from Applicant's pipeline. Such service would be rendered pursuant to a farm tap service contract between Applicant and the new customer, it is stated.

The Applicant states that the small volume industrial, commercial and residential service would provide necessary natural gas volumes for individual rural dwellings for space heating, cooking, water heating and clothes drying appliances; seasonal use by farms as irrigation engine fuel; seasonal use by farms in direct firing of agricultural crop drying equipment and for space heating farm buildings.

The total cost of the facilities proposed to be constructed is $62,030, which cost Applicant proposes to finance from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedng. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP79-246]
[FR Doc. 79-13201 Filed 4-27-79; 8:45 am]
BILLING CODE 6450-01-M

Northwest Alaskan Pipeline Co. et al.; Order Consolidating Proceedings, Establishing Procedures, Granting Interventions, and Initiating Hearings

April 20, 1979.

In the matter of Northwest Alaskan Pipeline Co., Docket Nos. CP78-123, *et al.*; Northwest Pipeline Corp., Docket No. CP79-56; El Paso Natural Gas Co., Docket No. CP79-57; Pacific Interstate Transmission Co., Docket No. CP79-58; Northwest Alaskan Pipeline Co., Docket No. CP79-59; Pacific Gas Transmission Co., Docket No. CP79-60; Northwest Alaskan Pipeline Co., Docket No. CP79-170; Northern Border Pipeline Co., Docket No. CP78-124.

On April 5, 1978, Northwest Alaskan Pipeline Company (Northwest Alaskan) filed in Docket Nos. CP78-123, *et al.*, two applications, pursuant to Section 3 of the Natural Gas Act and Sections 5 and 9 of the Alaska Natural Gas Transportation Act (ANGTA), requesting the Commission to grant conditional authorization for the importation of natural gas from Canada. In these applications, Northwest Alaskan requested authorization to import, on an average daily basis, up to 240,000 Mcf of gas at an existing import point on the U.S.-Canada Boundary near Kingsgate, British Columbia and up to 800,000 Mcf of gas per day at a proposed import point on the U.S.-Canadian Boundary in the vicinity of Monchy, Saskatchewan. Northwest Alaskan proposes to purchase such gas from Pan-Alberta Gas, Ltd. (Pan-Alberta) [1] pursuant to the terms of contracts dated March 9, 1978. It asserts that this purchase will facilitate the pre-building of the southern portions of the Alaskan Natural Gas Transportation System (ANGTS). In one application, Northwest Alaskan requested import authorization for a sale to Pacific Interstate Transmission Company (Pac-Interstate) for ultimate delivery to markets served by Southern California Gas Company (So-Cal). In the second application, Northwest Alaskan requested the import authorization for a sale to United Gas Pipe Line Company (United), Northern Natural Gas Company (Northern), and Panhandle Eastern Pipe Line Company (Panhandle).

On June 7, 1978, the Commission granted conditional approval of the requested import authorizations. On July 24, and August 4, 1978, the Commission issued orders denying petitions for rehearing and reconsideration of the June 7, 1978 order.

The Commission's June 7, July 24 and August 4, 1978 orders granting conditional import authorizations were affirmed by the United States Court of Appeals for the District of Columbia Circuit in *Midwestern Gas Transmission Company* v. *FERC*, 589 F.2d 603 (1978).

Subsequent to the issuance of the conditional import authorization and judicial review thereof, other related applications have been filed as follows:

Western Leg

On November 6, 1978, as amended on February 15, 1979, Northwest Alaskan filed an application in Docket No. CP79-59, pursuant to the provisions of Section 7(c) of the Natural Gas Act and ANGTA, for a certificate of public convenience and necessity authorizing the sale of a daily average volume of 240,000 Mcf of natural gas to Pac-Interstate for use in market areas served by So-Cal. The volumes to be sold by Northwest Alaskan to Pac-Interstate are those volumes Northwest Alaskan proposes to import pursuant to the prior Commission orders in Docket Nos. CP78-123, *et al.* In order to effectuate delivery of the Canadian gas to So-Cal, Pacific Gas Transmission Company (PGT), Northwest Pipeline Corporation (Northwest), El Paso Natural Gas Company (El Paso), and Pac-Interstate have entered into various arrangements whereby the gas to be imported and sold to Pac-Interstate for delivery to So-Cal would be transported utilizing existing and/or expanded facilities of PGT, Northwest and El Paso.

In its application Northwest Alaskan states that the volumes of natural gas would be delivered into the facilities of Pacific Gas Transmission Company by Alberta Natural Gas Company, Ltd. (ANG) for the accounts of Northwest Alaskan and Pan-Alberta. The sale by Northwest Alaskan to Pac-Interstate would be concurrent with the delivery by ANG to PGT at the Kingsgate, British Columbia delivery point.

On November 6, 1978, PGT filed an application in Docket No. CP79-60, pursuant to Section 7(c) of the Natural Gas Act and Section 9 of ANGTA, for a certificate of public convenience and necessity authorizing PGT to construct and operate 160.5 miles of 36-inch pipeline loops to be installed in six sections on PGT's pipeline between the U.S.-Canada Boundary and Stanfield, Oregon and further authorizing the transportation of up to 240,000 Mcf of natural gas per day for Pac-Interstate. In its application, PGT states that the proposed facilities would be a "pre-built" portion of the Western leg of the Alaska Highway Pipeline Project approved by the President and Congress under ANGTA. PGT further states that it would receive the gas at the International Boundary and would transport the gas to Northwest's facilities near Stanfield, Oregon for the account of Pac-Interstate.

On November 6, 1978, Northwest filed an application in Docket No. CP79-56, pursuant to Section 7(c) of the Natural Gas Act and Section 9 of ANGTA, for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the transportation of 240,000 Mcf per day of natural gas for Pac-Interstate. More specifically, Northwest requests authorization to transport 240,000 Mcf of gas per day from a point of interconnection with the facilities of PGT in the vicinity of Stanfield, Oregon to a point in interconnection with the facilities of El Paso in the vicinity of Ignacio, Colorado.

On November 6, 1978, El Paso filed an application in Docket No. CP79-57, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities on its existing transmission system and the transportation and delivery of up to 240,000 Mcf of natural gas per day for the account of Pac-Interstate. In its application, El Paso states that it would transport the gas received from Northwest through utilization of its interstate transmission system, exanded as proposed in this application, and deliver said gas to So-Cal at an existing delivery point on the Arizona-California Boundary for Pac-Interstate's account.

On November 6, 1978, Pac-Interstate filed its applicatin in Docket No. CP79-58, pursuant to Section 7(c) of the Natural Gas Act and the Alaska Natural Gas Transportation Act, for a certificate of public convenience and necessity authorizing the sale of natural gas to So-Cal. The Pac-Interstate application requests approval for the sale of up to 240,000 Mcf of natural gas per day to So-Cal.

The above applications for the transportation and sale of the volumes of gas to be imported by Northwest Alaskan were noticed by this Commission on December 4, 1978.

Eastern Leg

On February 1, 1979, as amended on February 15, 1979, Northwest Alaskan filed an application in Docket No. CP79-170, pursuant to Section 7(c) of the Natural Gas Act and the provisions of ANGTA, for a certificate of public convenience and necessity authorizing the sale of a daily average quantity of 800,000 Mcf of natural gas to Northern, Panhandle, and United for use in their respective market areas. The volumes to be sold by Northwest Alaskan to Northern, United and Panhandle are those volumes Northwest Alaskan proposes to import pursuant to the prior Commission orders in Docket Nos. CP78-123, *et al.*

Of the 800,000 Mcf, 200,000 Mcf per day would be initially allocated for sale to Northern, 150,000 Mcf per day would be allocated for sale to Panhandle, and 450,000 Mcf per day would be initially allocated for sale to United. Northwest Alaskan states that with the beginning of the third contract year and each year thereafter, Northern may elect to increase its average daily quantity to 250,000 Mcf and, if Northern so elects, the deliveries to United would be decreased by an equal amount.

Northwest Alaskan proposes to purchase such gas from Pan-Alberta and states that said gas would be delivered into the facilities of Northern Border Pipeline Company (Northern Border) by Foothills Pipeline Saskatchewan, Ltd. (Foothills Saskatchewan) for the accounts of Northwest Alaskan and Pan-Alberta and that this sale would be

[1] Pan-Alberta is an affiliate of Alberta Gas Trunkline Company, Ltd., one of the sponsoring companies for the Canadian segment of the Alaskan Natural Gas Transportation System.

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concurrent with the delivery by Foothills Saskatchewan to Northern Border at the Monchy, Saskatchewan delivery point.

On January 26, 1979, Northern Border filed a supplemental application in Docket No. CP78–124, pursuant to Section 7 of the Natural Gas Act and the provisions of ANGTA, for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the transportation and delivery of those volumes of gas purchased by Northern, United, and Panhandle from Northwest Alaskan. More specifically, Northern Border proposes to prebuild 809 miles of the 42-inch pipeline extending from a point near Port of Morgan, Montana on the International Border to a point near Ventura, Iowa, which was approved and authorized [2] by the President's Decision and Report on the *Alaskan Natural Gas Transportation System*, issued September 22, 1977. Northern Border states that prebuilding this segment of the approved facilities will permit delivery of Canadian gas directly or by exchange arrangements to the systems of the proposed purchasers (United, Panhandle and Northern).

On February 7 and March 1, 1979, the Commission issued notices of Northwest Alaskan's application in Docket No. CP79–170. On February 7 and 12, 1979, the Commission issued notices of Northern Border's supplemental application.

In accordance with the Commission's Administrative Order No. 3, issued on February 21, 1979, the Director of the Alaska Gas Project Office presided over preliminary, on the record, conferences on March 16, 19, and 20, 1979. The purpose of these preliminary conferences was to encourage the participants to enter into stipulations or other formal or informal agreements that would serve to narrow and define the issues for adjudication. In accordance with Administrative Order No. 3, the Director has reported to the Commission summarizing the results of these on the record discussions and has made certain recommendations for expediting the Commission's consideration of these applications under the mandate of ANGTA. Under Section 9 of ANGTA, these related applications must be expedited and they take precedence over any similar applications before the Commission. We adopt the phasing procedures and expedited procedural dates recommended by the Director, including the consolidation of these related applications for the purposes of hearing.

Discussion

1. *Consolidation for hearing.* As noted, the Commission previously has granted conditional import authorization to Northwest Alaskan. This import authorization was conditioned, *inter alia*, upon the related filings for the construction and operation of all necessary facilities, applications for the sale and transportation of the gas in question, final certification of these related arrangements, and final approval of the imports applied for. A majority of the requisite applications have now been filed.[3] Based on the stated interrelationship between these filings and the ANGTS, the Commission conditionally finds that the sales applications of Northwest Alaskan and all related transportation and downstream sales applications may be "necessary or related to the construction and initial operation of the [ANGTS]" within the meaning of ANGTA. Because Section 9 of ANGTA requires this Commission to expedite consideration of and rulings upon applications related to ANGTS, we shall provide for expedited consideration of the instant applications.[4]

For purposes of hearing, the import applications and all related Section 7 applications for both the Eastern and Western legs are consolidated, and the consolidated proceeding shall be subject to the expedited procedures as hereinafter detailed. The downstream Eastern leg applications will be consolidated when filed. The Commission reserves the right to issue separate decisions on the Eastern and Western legs if it subsequently develops after hearing that the applications with respect to one segment are ripe for decision prior to a decision on the applications for the other segment.

2. *Phasing of hearing.* Pursuant to our statutory duty to expedite as mandated by ANGTA, the Commission establishes the following hearing procedures.

(1) There appears to be a concensus among the parties that phasing these proceedings will expedite final determination by the Commission.[5] The Commission will, therefore, phase the hearing in the manner hereinafter provided. In order to assure that the Presiding Law Judge is afforded the necessary flexibility to develop a full record in these proceedings, we shall permit him to deviate from the phasing and time schedule provided for in this order under certain limited circumstances. If the Presiding Law Judge is of the view that the state of the record requires augmentation or clarification in order to eliminate some deficiency or misunderstanding, he is free to deviate from the procedures set forth herein in order to cure such a defect. If at the time of Commission decision on the applications the requisite counterpart authorizations have not been issued by Canadian regulatory authorities, the Commission may condition any order approving any aspect of these imports to the issuance of satisfactory Canadian export authorizations.

(2) Phase I will be confined to examination of the relationship between the prebuild project and implementation of the ANGTS as approved by the President and the Congress in the *Decision*. The objective of this phase will be development of specific terms and conditions defining the relationship between the prebuild project and the ANGTS as a whole, which conditions are to be attached to any Commission certificates for the prebuild project if subsequently approved by the Commission. In order to facilitate timely development of these conditions, the Presiding Administrative Law Judge is requested to close the record on this Phase and certify it to the Commission no later than July 13, 1979. Briefs to the Commission shall be filed by July 31, 1979, with reply briefs filed by August 13, 1979. To the extent consistent with this time schedule, Phase I should address such matters as: the relationship between the depreciation schedules for the facilities and the allocation of project risks of the pre-built facilities as well as the total ANGTS; the relationship of these imports and related applications to the overall construction and operation of the ANGTS; any specific benefits of the imports to the ANGTS including possible expedition; and the role of the prebuild project in obtaining financing for the project as a whole.

(3) Phase II will be a general examination of the merits of the prebuild project. Phase II will consider whether the proposed imports meet the standards of Section 3 of the Natural Gas Act and should, therefore, be approved in all respects. Phase II will also include issues relating to the Pan-Alberta—Northwest Alaskan gas purchase contracts; the desirability of these imports from a policy standpoint; the need for the gas to be imported; the Northern Border Partnership Agreement; all issues related to facilities utilized for importation, transportation and sale; gas supplies; the environment; right-of-way; all downstream transportation and exchange arrangements; all issues relating to the resale of the imported gas, including marketability; all costs estimates and financing plans; and any tariff-related issues which are not decided by the Commission in Docket No. RM78–12.[6] Phase II shall also include any issue in Phase I whose consideration could not be completed by the date upon which the record in Phase I was certified to the Commission, but shall not reconsider any issue (in particular, the certificate conditions) that was already fully considered in Phase I.

(4) Phase III shall deal with the various proposals that certain parties contend are competitive with the instant proposal and the needs of these parties for continued or additional supplies of Canadian gas.

The Commission will make provision herein for the Presiding Administrative Law Judge designated to preside over these proceedings to convene a prehearing conference after this order issues for the purpose of fixing appropriate procedural dates for the final two phases of the hearing. The Presiding Judge will submit a report to the Commission on or before June 1, 1979, on the procedural schedule he has established.

Michigan Wisconsin Pipeline Company (Michigan Wisconsin) filed certain comments which, while posing no basic objection to the proposed phasing, did request some clarification of the phasing procedures, particularly those relating to the issues set forth above in Phase I as proposed by the project sponsors.[7] Michigan Wisconsin contends that the issue relative to the desirability of these imports and the relationship and benefits of these imports and related applications and facilities to the ANGTS should not be wholly restricted to their Phase I. Michigan Wisconsin asserts that the facts necessary to quantify and basically general testimony called for in Phase I will be presented in subsequent phases and that Phase III is especially relevant to the general desirability issue that the sponsors would have incorporated into Phase I of this hearing.

The basic reason for phasing the testimony in these proceedings is to fulfill our statutory duty, as mandated by ANGTA, to expedite the proceedings relating to the construction of ANGTS. The phasing of the testimony does not in any way preclude the utilization of detailed testimony introduced in one of the later phases to either support or contest positions taken by parties on any general issues. We do recognize that there may be an essential relationship between the testimony introduced in the various phases provided for in this order. It would be difficult to perceive any objection to a party indicating on the record that portions of the testimony it had presented in a subsequent phase was in support or opposition to a particular presentation made in Phase I. However, no party should be permitted to reiterate any general testimony in any of the subsequent phases. The Presiding Judge has the authority to rule with respect to any disputes between the parties dealing with the scope of the evidence that may be introduced in the various phases.

Midwestern and those parties who contend that they are in a competitive posture with the applicants herein for prospective supplies of Canadian gas request advice relating to the phase in which this issue should be addressed. Phase III is the appropriate place in which to introduce matters relating to their specific needs for Canadian gas and other Canadian import proposals that may be in conflict or competition with the proposal of the applicants. The reservation of the competitive issues for the final phase should facilitate an expeditious and uninterrupted presentation by the applicants and provide those parties that may be in a competitive posture with this proposal with the opportunity of making a full response during the course of their own presentation.

In addition it is possible that the Canadian National Energy Board (N.E.B.) may, before the final phase of these proceedings is concluded, render a determination on one or more of the proposals that certain parties contend are competitive in nature with the proposals of the applicants in the instant proceedings. Such a determination by the N.E.B. could moot or otherwise help clarify the scope of proposals that may be considered as being competitive with the instant proposal to import additional Canadian gas supplies.

Michigan Wisconsin also requests that we clarify whether the "need for the gas to be imported", which is to be addressed by the parties in Phase I, relates to the national need for Canadian gas, or to the needs of the specific importers, or both. In view of the existing energy shortage confronting the nation it would seem that the importation of additional Canadian supplies would tend to ease both the over-all national needs as well as the needs of the specific importers to these consolidated proceedings. It is our opinion that testimony relating both to the national and individual implications of this importation will prove helpful in the developments of a full record in these proceedings. However, it would be more consistent with the prescribed procedures to reserve for the final phase of the hearing the needs of those parties alleging that they are involved in proposals that are by nature competitive with those of the applicants.

On April 6, 1979, the Commission issued its Notice of Proposed Rulemaking in Docket No. RM78–12.[8] At this juncture it is not possible to guage the impact that the final rule promulgated in Docket No. RM78–12 will have with respect to the need for adjudication of the issues that we have included in Phase II. There will of course be no need to adjudicate in these proceedings those tariff-related issues and other Phase II issues pertaining to the pre-delivery of Canadian gas involved herein to the extent that they are decided by the Commission in the rulemaking proceeding. As previously indicated, the Presiding Judge will establish procedural dates for adjuciation of the issues set forth in Phase II and reschedule these dates if that becomes necessary due to the final rule that is ultimately issued in Docket No. RM78–12.

The Commission notes that the applicants have the burden of demonstrating that their applications, as

[2] The approved system for the Eastern Leg is 1,117 miles of 42-inch pipeline, extending from the named point on the Canada-U.S. border to Dwight, Illinois (near Chicago). The size of the authorized pipeline is subject only to certification by the Secretary of Energy to the Commission: "* * * whether there has been any material change in the facts regarding future potential gas supplies for the East or West since the date of this Decision that would warrant certification of such facilities at a different rated capacity than authorized herein." (*Decision*, pp. 39-40). Western Leg facilities which are part of ANGTS are subject to the same requirement

[3] Additional filings relating to downstream delivery arrangements for gas moving through the Eastern Leg remain to be filed. When filed, the issues raised in such applications shall be heard in Phase II of the hearing process as more fully described hereinafter.

[4] The Court of Appeals for the District of Columbia Circuit in *Midwestern Gas Transmission Company* v. *FERC*, 589 F.2d 603 (1978), has upheld the Commission's determination that the approved import authority is necessary or related to the construction and initial operation of the ANGTS within the ANGTA, and is therefore entitled to expedited consideration under Section 9 of that Act

[5] Only a few parties filed comments that related to the proposed phasing of these proceedings. These comments did not express general opposition to phasing of the proceedings as provided for in this order

[6] See Notice of Proposed Rulemaking to Set Values for Incentive Rate of Return, Approve Filed Tariffs and Establish Change of Scope and Inflation Adjustment Procedures in Docket No. RM78–12 issued on April 6, 1979.

[7] See Comments filed with the Director of the Alaska Gas Project Office by Michigan Wisconsin in a letter dated March 28, 1979, which comments were adopted by Midwestern Gas Transmission Company (Midwestern) by letter to the Director of the same date.

[8] See footnote 6, *supra*.

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filed, meet the requirements of the Natural Gas Act and the Alaska Natural Gas Transportation Act. As a corollary, any party in opposition to the applications, as filed, has the burden of filing evidence to the contrary if such opposition depends upon facts to be established of record. Provision may be made herein by the Presiding Judge for the filing of answering testimony and the parties opposing the applications filed in these proceedings may file such testimony setting forth the basis of their opposition to these applications.

3. *Other procedural matters.* The project sponsors suggest that the Commission is mandated under the requirements of ANGTA to waive the intermediate decision procedure pursuant to § 1.30(c) of its rules and regulations. Conversely the Commission Staff and several of the other parties contend that an initial decision from the Presiding Judge would be most helpful to the Commission and that the waiver requested by the project sponsors should not be granted. Motions for waiver of the intermediate decision procedure are normally made at the conclusion of a hearing before the Presiding Judge fixes a briefing schedule. There is usually no need for the Commission to determine, prior to the commencement of the formal hearing, whether the intermediate decision procedure should be waived. However, due to the importance that Phase I may have to the implementation of the over-all project, we find it appropriate to waive the intermediate decision procedure with respect to that phase at this time. The parties will be free to make such a motion with respect to the remaining two phases at the conclusion of the hearing and we will entertain such a request at that time. If at the conclusion of the hearing a request for such a waiver is made and granted, the Commission will also, at that time, fix a suitable briefing schedule.

One further procedural issue should be resolved at this time. While numerous parties have petitioned to intervene in these dockets, many parties have not requested a hearing nor indicated their intent to participate in any hearing. Accordingly, the Commission hereby directs the Presiding Administrative Law Judge to establish procedures for a limited service list for all future filings. While any party who has been granted intervention by our order issued today may be placed on the restricted service list, the Commission notes that in prior cases such as this, a large service list has constituted a burden on the Commission, its Staff and all filing parties. Therefore, the Commission requests that only those parties who find it necessary to receive all future pleadings, filings and evidence request to be placed on the restricted service list. Of course, all parties to the proceeding will receive all notices and orders of the Commission.

Prior to this order, the Commission granted intervention to a large number of persons in the start-up phase of these proceedings relating to the application filed by Northwest Alaskan in Docket Nos. CP78–123, *et al.*[9] In our June 7, 1978, order we recognized that additional applications will be filed in the overall proceedings in Docket Nos. CP78–123, *et al.* to cover all its various phases and segments. We noted in that order that while we will entertain petitions to intervene with respect to these subsequent applications at the appropriate time, we will also extend the party status of a person permitted to intervene in a particular overall proceedings. We will continue the practice of extending party status in applications subsequently filed to any person previously permitted to intervene in the proceedings. Therefore, those persons already permitted to intervene herein are not obliged to make a further filing in order to attain party status in any subsequent applications filed in these proceedings.

The Commission publicly noticed the import applications in Docket Nos. CP78–123, *et al.* on April 12, 1978, and provided in that notice for the filing of petitions to intervene and protests on or before April 21, 1978. A large number of petitions to intervene filed in these proceedings, both timely and untimely, have been granted by the Commission. (See footnote 9, *supra.*). A number of additional untimely petitions and notices of intervention in Docket Nos. CP78–123, *et al.* have since been received by the Commission.[10] All of these petitions will be hereinafter granted.

In our June 7, 1978, order issued in Docket Nos. CP78–123, *et al.*, we made the observation that a number of applications remain to be filed in connection with Northwest Alaskan's application. In that order we granted untimely petitions to intervene, absent the required showing of good cause, because certain of the filings necessary to complete the consolidation were still outstanding. As we have previously indicated in this order, there are still a number of applications outstanding that must be filed before these proceedings can be concluded. Due to the unique problems associated with this complex matter, we will continue, as noted, our policy of authorizing a person permitted to intervene in one docket the right to participate in all other dockets that are now or will be consolidated therewith. Moreover, in the unique circumstances of this case, good cause exists to permit all requests for intervention notwithstanding that some may have been filed out of time with no showing of cause having been made.

A number of petitions have also been received requesting permission to intervene in the more recently filed applications that relate to specific segments of the overall project. Some of these petitioners seeking to intervene in specific applications of these consolidated proceedings have not been afforded a party status in any other phase of the overall proceedings in Docket Nos. CP78–123, *et al.* Therefore, we will grant all of the latter petitioners permission to intervene in the instant consolidated proceedings.[11]

We have attached for reference a copy of the memorandum submitted to the Commission by the Director of the Commission's Alaska Gas Project Office. The view's expressed therein do not necessarily reflect the views of the Commission.

The Commission finds: (1) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act and the Alaska Natural Gas Transportation Act that the Commission enter upon a hearing concerning the applications of Northwest Alaskan Pipeline Company, Northern Border Pipeline Company, Pacific Gas Transmission Company, Pacific Interstate Transmission

[9] See Commission orders issued in these proceedings on June 7, 1978, and August 4, 1978, granting numerous petitions to intervene in the instant proceedings.

[10] Untimely applications to intervene in Docket Nos. CP78–123, *et al.* were filed by the following petitions: North Central Public Service Company, Division of Donovan Companies, Inc., Central Illinois Public Service Company, Wisconsin Natural Gas Company, *supra*, Firstmiss, Inc., Pacific Gas and Electric Company, Great Lakes Gas Transmission Company, the Upper Tanana Development Corporation, General Service Customer Group, The Brooklyn Union Gas Company, Northern States Power Company (Wisconsin and Minnesota), United Mid-Continent Pipeline Company, Minnesota Gas Company, Metropolitan Utilities District of Omaha (2), and Iowa Public Service Company. The Wisconsin Public Service Commission and the Iowa State Commerce Commission have filed notices of intervention in these proceedings.

[11] Timely petitions by petitioners, not previously granted intervention in any of the applications consolidated in the instant proceedings, were filed in specific applications, consolidated for hearing purposes in this order, by the following persons: Entex Inc., Iowa Electric Light and Power Company, General Motors Corporation, Washington Natural Gas Company and Southern Union Company.

Company, Northwest Pipeline Corporation, El Paso Natural Gas Company and the applications to be filed by Panhandle Eastern Pipe Line Company, Northern Natural Gas Company, and United Gas Pipe Line Company for downstream delivery of the gas subject to these applications.

(2) Participation by the petitioners to intervene listed above may be in the public interest.

(3) Good cause exists to permit those petitioners filing untimely petitions the right to intervene in these proceedings.

(4) The applications filed in Docket Nos. CP78–123, CP78–124, CP79–170, CP79–56, CP79–57, CP79–58, CP79–59 and CP79–60 and the applications to be filed by Panhandle Eastern Pipe Line Company, Northern Natural Gas Company and United Gas Pipe Line Company for downstream delivery of the gas subject to these applications, are conditionally found to be necessary or related to the construction and initial operation of the Alaskan Natural Gas transportation System subject to a final determination that these applications are not inconsistent with the public interest under Section 3 of the Natural Gas Act and that such applications are required by the public convenience and necessity under Section 7 of the Natural Gas Act, where such standard is applicable.

(5) Due to common issues of fact and law consolidation of the foregoing applications is necessary.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7 and 9 thereof, the Alaska Natural Gas Transportation Act, and the Commission's rules and regulations, a public hearing shall be held on the above referenced applications, in the manner provided for in the instant order.

(B) The petitioners named or referenced herein are hereby permitted to intervene as requested subject to the rules of the Commission; provided that the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the petitions to intervene, and that the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order issued by the Commission in these proceedings.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene and preside at a prehearing conference in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, for the purpose of determining an appropriate procedural schedule for the two final phases of the hearing as more fully described in this order. The date to be fixed for the convening of such a prehearing conference should be sufficiently early so that the Presiding Judge can file a report to the Commission, on or before June 1, 1979, with respect to the procedural schedule he has established.

(D) The Presiding Administrative Law Judge designated by the Chief Administrative Law Judge for the purposes set forth in ordering paragraph (C) above shall preside over the hearing provided for in this order, and shall consistent therewith assure its timely commencement, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further rules and any other procedural dates as provided for in this order and in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall cause prompt publication of this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,
Acting Secretary.

Federal Energy Regulatory Commission,
Washington, D.C., April 19, 1979.

Memorandum for the Commission.
From: John B. Adger, Jr., Director Alaska Gas Project Office.
Subject: Hearing Schedule for "Pre-Build" Applications.

The Commission has now received and noticed almost all of the required filings for the ANGTS sponsors' proposals to construct, in advance of when they would be required for Alaska gas service, certain of the facilities authorized by the President and the Congress under the provisions of the Alaska Natural Gas Transportation Act (ANGTA).[1] The President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System* [2] mentioned the possibility of a "pre-build project" (see, e.g., pp. 92–93), but left for the Commission any consideration of specific proposals which might be developed.

I held three on-the-record conferences regarding these filings (March 16, 19 and 20, 1979), with a fourth on tariff issues (March 27, 1979), some of which also impact the Eastern Leg proposal. The conferences were useful in getting the parties to substantially agree on what the issues are in this proceeding, and to agree that Commission consideration of the issues can and should be phased.

There are two important timing matters which the Commission should try to accommodate in its consideration of the proposals. First, I understand that the ANGTS sponsors will be seeking financial commitments for the project as a whole later on this year. They have asserted that the pre-build project could facilitate obtaining financing for the project. Thus, the role of the pre-build project in the financing of the entire project should be defined in time to be part of presentations to the financial community if it is to have any beneficial effect.

Secondly, the Government of Canada is expected to begin in early summer consideration of specific projects to export natural gas found surplus to Canada's requirements in the recent report of the National Energy Board.[3] Decisions are expected later this year. Representatives of the Canadian Government have publicly stated [4] that Canada would not approve the Canadian portions of the pre-build project without adequate assurances that the entire project would be completed. Accordingly the Commission at the earliest opportunity should speak to the relationship of the pre-build project to completion of the ANGTS.

In addition to the two timing matters, certain specific aspects of the pre-build project as proposed also require Commission evaluation on a threshold issue basis. In particular, tying the depreciation schedules for the pre-build segments to the length of the Canadian gas supply contracts involves some redistribution of risk from that which was inherent in Northwest's proposal filed with the Federal Power Commission in March of 1977. The short depreciation schedules also raise a question with regard to whether transportation charges based on such schedules would constitute "* * * a fee, surcharge, or other payment in relation to the [ANGTS] * * *.", which payments are prohibited prior to completion of the system by finance condition 3 in the *Decision* (pp. 37–38).

Because of matters such as these, I recommend early Commission action in conditioning any approvals which might be granted to the pre-build project with respect to its role in implementation of the rest of the project. I believe the product of Commission consideration of these matters should be a list of specific conditions under which the Commission is prepared to further consider the pre-build applications. I would specifically encourage the Presiding Judge and all parties to explore such conditions fully and completely, but I believe a Commission decision would be best developed directly from the record, and

[1] The filings also cover certain facilities which are in addition to those authorized under ANGTA.

[2] Executive Office of the President, Energy Policy and Planning: *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (referred to as "the *Decision*"), September 1977.

[3] National Energy Board, *Canadian Natural Gas Supply and Requirements*, February 1979.

[4] See, e.g., the testimony of the Honorable Mitchell Sharp, Commissioner of the Canadian Northern Pipeline Agency, before the Standing Committee in the House of Commons on February 13, 1979, and that of Mr. C. G. Edge, Vice-Chairman of the National Energy Board, before the same Committee on February 15, 1979.

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would recommend waiving the initial decision.

[Docket Nos. CP 78-123, *et al.*; CP 79-56—60 and CP 78-124]
[FR Doc 79-13283 Filed 4-27-79; 8:45 am]
BILLING CODE 6450-01-M

Pactex Pipeline Co.; Pipeline Rates: Order on Petition for Declaratory Order

Issued April 19, 1979.

By petition filed August 14, 1978, supplemented August 17, 1978, and modified on October 25, 1978,[1] Pactex Pipeline Company (Pactex) requests that this Commission issue an order that "will allow Pactex or its successors in interests in [a proposed] project, to recover [certain expenditures] through the inclusion of [the expenditures in its proposed] project rate base and the earning of a return thereon on the same basis as other carrier property and that the Commission will allow the expense of operating and maintaining [the project] as operating and maintenance expense for ratemaking purposes."[2]

Pactex is a wholly-owned subsidiary of The Standard Oil Company of Ohio (Sohio) and was organized for the purpose of constructing and operating a crude oil pipeline running approximately 1,033 miles from Long Beach, California to the vicinity of Midland, Texas. Pactex states that the majority of the pipeline to be used in the system is already in place and will be converted from natural gas to crude oil service.[3]

Principal access to the pipeline will be through a new two-berth marine terminal to be constructed in Long Beach, California. The proposed marine oil terminal and tankage at Long Beach will result in air pollution through the emission of hydrocarbon vapors, sulfur oxides, nitrogen oxides and particulate matter to the atmosphere. Pactex states that under applicable federal and state laws and regulations governing air quality in the South Coast Air Basin of California, the requirements for construction and operation of the marine terminal include the amelioration by Pactex of existing sources of air pollution within such Air Basin. In particular, under Section 110 of The Clean Air Act, 42 U.S.C. § 7410, each state is required to adopt a State Implementation Plan which will cause air quality in that state to comply with primary national ambient air quality standards (as defined in Section 109 of the Act) as expeditiously as practicable. As part of its implementation plan, each state is required to provide for a preconstruction review of new or modified air pollution sources and to disapprove the construction of any sources which would interfere with the attainment or maintenance of the primary standards. 40 C.F.R. § 51.18. For areas of the country in which air quality does not meet the primary standards (called non-attainment areas), construction of major new industrial facilities was thus effectively precluded by The Clean Air Act as originally enacted.

In order to allow growth in non-attainment areas while still providing for progress toward the primary standards, the United States Environmental Protection Agency (EPA) developed the concept of emission offsets which was incorporated by Congress into Section 129 of The Clean Air Act Amendments of 1977, P.L. 95-95. Under this concept, a new source can be built in a non-attainment area if (1) its emissions are controlled to the maximum practicable extent and (2) reductions are achieved in existing emissions from other sources in the area such that the net effect of the new source together with its external emission reductions, or offsets, represents a decrease in pollutant emissions. The emission reductions required by The Clean Air Act are slightly greater than one-for-one, although each state is free to adopt more stringent requirements in its State Implementation Plan.

Southern California has one of the most severe air quality problems in the country. The South Coast Air Quality Management District has adopted a new source review rule (Rule 213) implementing The Clean Air Act pursuant to which anyone wishing to construct facilities representing a new source of pollution in the South Coast Air Basin must demonstrate that the effect of the source will be a net benefit to basin air quality. For a business which has no operations in the South Coast Air Basin, the rule requires that compensating emission controls be placed on third-party emission sources. Such controls must eliminate more pollutants than are expected to be emitted by the proposed new facilities.

Pactex states that since it currently has no operations in the South Coast Air Basin, it proposes to provide the required emission offsets by installing pollution control equipment on another party's facilities, namely Southern California Edison Company's[4] Alamitos electric generating station. Specifically, Pactex proposes to construct and install a scrubber system and an oxides of nitrogen emission control system adjacent to the boiler stack at Edison's generating unit No. 6 for the purpose of treating flue gas emitted from such boiler. Pursuant to an arrangement between Pactex and Edison, Pactex will be responsible for all costs associated with acquisition, construction, operation and maintenance of such facilities. All of such facilities shall be the property of Pactex and title shall remain in Pactex. Edison will grant a license to Pactex for a period commensurate with the duration of the agreement to construct and install such facilities on real property owned by Edison.

Edison will operate the facilities and maintain them in such condition as may be required by governmental authorities. Pactex shall be liable for all costs and expenses of construction and operation and maintenance during the term of the agreement, subject to a maximum aggregate amount of $78 million. The proposed agreement between Pactex and Edison will terminate on whichever of the following events occurs first: the passage of approximately fifteen years; the permanent shutdown of Edison's electrical generating Unit No. 6 or the pollution control facilities; or certain other events as set forth in Section 9 of the Construction and Operating Agreement.[5]

Pactex states that since the construction, operation, and maintenance of the pollution control facilities will be very costly, the "manner in which those costs will be treated by the Commission for ratemaking purposes will have a significant impact on the economics of the entire pipeline project." At the time it filed the instant petition, Pactex noted that "a substantial number of governmental permits, authorizations and approvals necessary to commence construction of the pipeline project have been issued, and [it believed] that there is a reasonable chance that the balance will be forthcoming [before the end of 1978]." Pactex then requested that the Commission issue an order making five specific findings so that Pactex "would be able, at that time, to evaluate the economics of the project prior to committing substantial amounts of money and resources." The Commission notes that it does not appear that all the necessary authorizations have yet been received.[6] However, because Pactex may receive all the necessary authorizations in the near future, we believe it to be in the public interest to rule on Pactex's petition now so that when it receives those necessary authorizations, it may then proceed to perform the evaluation of the economics of the project.

Requested Findings and Discussion

As noted previously, Pactex requests five specific findings as follows:

1. The Commission has jurisdiction over the rates to be charged for the use of the pipeline and the related marine terminal;

2. The costs of acquisition, construction and installation of the aforesaid pollution control facilities will be includable in the rate base of the project owner company on which a rate of return may be earned on the same basis as other carrier property;

3. The appropriate property account in which this property should be included for F.E.R.C. accounting purposes and for purposes of calculating valuation is Carrier Property Account 166—Other Property;[7]

4. The appropriate Element Code and Guide Service Life for this property under the ICC Bureau of Accounts' Schedule of Element Codes and Titles, and Guide Service Lives for Oil Pipeline Property (June, 1968) for purposes of calculating valuation is Element Code 102—Miscellaneous and Guide Service Life—15 years (being approximately the longest period during which the aforesaid agreement between Pactex and Edison will be in effect); and

5. Expenditures for operation and maintenance of the pollution control equipment will be treated as expenses for ratemaking purposes and are includable in Accounts 320—Outside Services and 420—Outside Services, respectively, of the ICC Uniform System of Accounts for accounting purposes.

We shall grant the requested finding 1, which relates to our jurisdiction. The Commission was vested with jurisdiction over oil pipelines pursuant to section 402 of the Department of Energy Organization Act, 42 U.S.C. § 7172(b). That provision transferred from the Interstate Commerce Commission to this Commission jurisdiction over rates or charges for the transportation of oil by pipeline. The Commission finds that this jurisdiction extends to and includes the rates to be charged for the use of the pipeline and the related marine terminal.

Insofar as requested findings 2 and 5 relate to rate treatment, we grant these requested findings to the following extent: There would be no doubt that, if the applicable federal and state law required Pactex to install pollution control facilities on carrier property owned by Pactex we would allow a return on the prudent investment in those facilities and all prudently incurred operating and maintenance costs associated therewith. Given the facts underlying this application for a declaratory order and in consideration of the stated national interest to be served by this pipeline,[8] we see no reason to disallow these costs for ratemaking purposes merely because the pollution control facilities are on property owned by others. As stated previously, Pactex has no other facilities in the area of its proposed marine oil terminal. In order for the Pactex project to be built, the relevant environmental standards must be met. The capital and operating costs of these facilities are associated with the Pactex project and, under the unique circumstances of this case, it is appropriate that shippers who use the Pactex line be charged these costs.[9] Accordingly, we grant the requested findings insofar as they seek to include the capital expenditures for the Edison pollution control facilities in Pactex's rate base, and to recover operation and maintenance expenses, subject to the normal showing regarding the prudence of all expenditures. These findings are limited to the facilities detailed in the petition (i.e. a flue gas scrubber and an ammonia injection unit). In addition, these findings do not authorize inclusion in Pactex's rates of any amounts spent by Pactex in excess of its contractual ceiling obligation of $78 million.[10]

In response to that portion of requested finding 2 which would have the Commission determine that the rate base treatment for the pollution control facilities discussed in Pactex's application would be the same as for other carrier property, the Commission finds that these facilities should be generically classed as "property" and should receive whatever rate base treatment the Commission determines to accord to property of the same type. However, Pactex has not filed its initial rates. When Pactex files its initial rates, the Commission will be able to determine the proper rate base treatment for the various categories of carrier property involved in this project, including the precise rate base treatment of the property described in the present application. Accordingly, the Commission will defer ruling on the portion of requesting finding 2 discussed in this paragraph until Pactex files its initial rates with this Commission.

Consistent with the finding in the preceding paragraph, the Commission also finds that a determination as to the proper accounting treatment for these facilities, as set forth in requested findings 3 and 4, is premature. Therefore, the Commission will also defer ruling on requests 3 and 4 until Pactex files its initial rates with this Commission.

As noted previously, Pactex shall be permitted to reflect prudently incurred operation and maintenance expenses for the facilities described in its application in its rates in accordance with accepted ratemaking principles. The Commission also approves the accounting treatment proposed in requested finding 5. The level of expenses which will be permitted for rate treatment shall be determined at such time as Pactex's initial rates are filed.

The Commission orders:

Requested findings 1 and 5 in Pactex's petition are granted as set forth in the body of the order. Requested finding 2 is granted in part and deferred in part, as set forth in the body of the order. A ruling on requested findings 3 and 4 is deferred as set forth in the body of the order.

By the Commission.

Lois D. Cashell,
Acting Secretary.

[Docket No. OR78-10]
[FR Doc. 79-13262 Filed 4-27-79; 8:45 am]
BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42

[1] Additional information was submitted April 4 1979.

[2] Petition at 9.

[3] See Opinion Nos. 4 and 4-A, Docket No. CP75-362, approving abandonment by El Paso Natural Gas Company (El Paso) of a section of pipeline which will be used in the Pactex project.

[4] Southern California Edison Company ("Edison"), a California corporation, is an investor-owned utility engaged in the generation and transmission of electrical energy in central and southern California. It services residential, commercial, industrial and wholesale customers in an area which includes the cities of Long Beach, San Bernardino, Santa Monica and Santa Barbara.

[5] A conformed copy of the Construction and Operating Agreement between Pactex and Edison was included in the April 4, 1979, filing made by Pactex.

[6] *See*, Washington Post, March 21, 1978, at A14.

[7] The original petition sought inclusion in Account 162—Delivery Facilities. By letter dated October 25, 1978, the petition was modified as shown above.

[8] See Affidavit of Douglas C. Robinson, Assistant Administrator for Regulations and Emergency Planning, Economic Regulatory Administration, Exhibit "A" in this Docket.

[9] It is not clear that all of the air pollution to be offset by the Edison pollution control facilities will be caused by Pactex's operations. Some portion of the pollution may result from movement of tankers into Long Beach Harbor. However, to the extent that the oil carried by these tankers is to be transported through the Pactex line, we have no objection, in the circumstances of this project, to permitting recovery of the cost of the pollution control facilities in Pactex's tariff.

[10] See Petition, Appendix C at 2.

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U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States and the Government of Sweden and the Agreement for Cooperation Between the Government of the United States and the European Atomic Energy Community.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following transfer from Sweden to the United Kingdom (Windscale) for the purpose of reprocessing:

Name of Reactor and Owner	No. of Elements	Kgs of U	U-235%	Kgs of Pu
Oskarshamn 1 and 2, Oskarshamnverkets Kraft grupp Aktiebolage	182 (BWR)	13,850	.80	254

The Department of Energy has received a letter of assurance from the Swedish Government that the recovered uranium and plutonium will not be transferred from the Windscale site without prior consent of the United States Government.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: April 26, 1979.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-13418 Filed 4-28-79; 1:10 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Governments of the United States and Japan and the Agreement for Cooperation Between the Government of the United States and the European Atomic Energy Community.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following transfers from Japan to the United Kingdom (Windscale) and France (La Hague), for the purpose of reprocessing:

Names of reactor and owner	Number of elements	Kgs of U	U-325%	Kgs of Pu
Tsuruga-1, Japan Atomic Power Co.	28 to Windscale	5,300	1.06	42
Fukushima No. 1, Tokyo Electric Power Co.	244 to Windscale	41,116	.75	266
Takahama No. 2, Kansai Electric Power Co.	30 to La Hague	13,500	99	82

The Department of Energy has received letters of assurance from the Japanese Government that the recovered uranium and plutonium will not be transferred from the Windscale and La Hague sites without prior consent of the United States Government.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: April 26, 1979.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-13423 Filed 4-27-79; 1:10 am]

BILLING CODE 6450-01-M

Public Meetings on DOE 60-Day Coal Study

AGENCY: Department of Energy.

ACTION: Notice of Public Participation on DOE 60-Day Coal Study on Increasing Coal Use.

The President in his Energy Message of April 5, 1979, requested that the Secretaries of the Department of Energy and the Department of Interior and the Administrator of the Environmental Protection Agency report to him on June 5, 1979 on "How Coal Production, Development and Use Can Be Increased." Pursuant to that request, DQE plans to hold a series of meetings with interested parties to solicit their views on the subject. The meetings whose schedule is shown below will be informal and open to the public. They will be held on May 10 and 11.

Under normal conditions DOE policy is to give at least 30 days notice before any public meeting. Because of the limited time available to complete this study DOE has decided to proceed with these meetings despite the limited notice. Invited participants will be asked for oral comments. The presiding officer will permit questions/comments from the audience as time limitations permit. Any person who wishes to submit written statements may do so. Written statements should be submitted to:

Liz Overstreet (202-252-5877), Office of Consumer Affairs, Department of Energy, Mail Stop 8C-031, Washington, D.C. 20585.

no later than May 17, 1979. A document describing the status of the report and issues DOE plans to examine will be available at the meetings. For further information contact: Liz Overstreet as above.

Schedule

Interest groups	Meeting time
Industry/Suppliers—Major Users	May 10, 8-10 a.m.
State and Local Agencies and Organizations	May 10, 10:30-12:30 p.m
Environmental Organizations	May 10, 2-4 p.m.
Consumer Groups	May 11, 8-10 a.m.
Labor Groups	May 11, 10:30-12:30 p.m

Location of meeting: Room 8E-069, Forrestal Building, 1000 Independence Ave. S.W., Washington, D.C.

Transcripts of the hearings will be made and the entire record of the meetings, including the transcript, will be retained by DOE and made available for inspection at the Freedom of Information Office, Room GA-152 Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C.

between the hours of 8:00 a.m. and 4:40 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

SUPPLEMENTARY INFORMATION:

Comments should be directed towards the following three general issues:

- What are the major barriers or impediments to increased coal production, development and use in 1980-1990 time frame?
- What kinds of measures should be implemented in this time frame in order to minimize the impediments to increased coal production, development and use.
- What are the costs and benefits associated with the above measures? Which solutions would be the most effective in stimulating coal use and the most acceptable to your interests?

Issued in Washington, D.C. on April 27, 1979.

Alvin L. Alm,

Assistant Secretary, Policy and Evaluation, Department of Energy

[FR Doc. 79-13569 Filed 4-27-79; 11:29 am]

BILLING CODE 6450-01-M

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Sunshine Act Meetings

Federal Register
Vol. 44, No. 84
Monday, April 30, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
Federal Communications Commission	1, 2, 3
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1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, May 3, 1979.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Private Radio—1—Frequency assignment policies for 800-MHz trunked mobile radio systems.
Private Radio—2—Shortage of capacity for "Conventional" private land mobile radio systems in the 800 MHz bands.
Private Radio—3—Inquiry concerning the multiple licensing of land mobile radio systems (community repeaters) in bands 806–821 and 851–866 MHz.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: April 25, 1979.

[S-632-79 Filed 4-26-79; 2:55 pm]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 2:30 p.m., Thursday, April 26, 1979.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Open and closed Commission meetings.

CHANGES IN THE MEETINGS: With the exception of the subjects listed below, the open and closed meetings scheduled for Thursday, April 26, 1979, will now be held at 9:30 a.m., Wednesday, May 2, 1979. The following items will be considered beginning at 2:30 p.m., Thursday, April 26, 1979:

Agenda, Item Number, and Subject

Open Meeting

Renewal—1—Petition to deny filed by the Community Coalition for Better Broadcasting against the applications of the Mississippi Authority for Educational Television and for a new UHF translator station at Columbia, Miss.
Renewal—3—Petitions to deny and informal objections filed by the New Jersey Coalition for Fair Broadcasting; Brendan Byrne, Governor of New Jersey; New Jersey Legislative; and Department of the Public Advocate for the State of New Jersey, et al.
Television—1—Motion for expedited consideration for the applications for Seaford, Del.
Common Carrier—1—Complaint of Western Union v. Graphic Scanning, file No. TS 45–74.
Common Carrier—2—Implementation of requirements of the International Maritime Satellite Telecommunications Act (CC Docket No. 79–35).
Common Carrier—3—Graphnet Systems, Inc., consideration of authorizations to provide overseas services as required by court remand in ITT World Communications v. FCC, No. 77–4028 (2d cir, March 22, 1979).
Common Carrier—4—Proposed amendment of accounting rules for telephone companies to provide for expensing station connection costs and to provide accounting requirements for terminal equipment offerings.
Common Carrier—5—In the Matter of Satellite Business Systems, applications for authority to construct domestic communication satellite tracking, telemetary and command earth stations at Castle Rock, Colo. and Clarksburg, Md.

Closed Meeting

Broadcast—1—Planning underway for a Region 2, Administrative Radio Conference for AM broadcasting.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: April 26, 1979.

[S-631-79 Filed 4-26-79; 2:56 pm]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, April 26, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Additional item to be considered at closed Commission meeting following the open meeting.

MATTER TO BE CONSIDERED:

Agenda, Item Number, and Subject

Broadcast—1—Planning underway for a Region 2 Administrative Radio Conference for AM broadcasting.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: April 25, 1979.

[S-630-79 Filed 4-26-79; 2:55 pm]

BILLING CODE 6712-01-M

4

FEDERAL ELECTION COMMISSION.

DATE AND TIME: 10 a.m., Thursday, May 3, 1979.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

Setting of dates for future meetings.
Correction and approval of minutes.
Draft AO 1979–9, John C. Pouland, Treasurer, Texas Democratic Voter Project.
Draft AO 1979–2, continued from April 26, 1979.
Senior Executive Service: 1980 elections and related matters—
Prospective Presidential candidates with political action committees.
Guidelines for submission in good order (matching funds).
Presidential data entry procedures.
Appropriations and budget.
Pending legislation.
Progress report on S. 623.
Classification actions.
Routine administrative matters.

Portions Closed to the Public (following open session)

Compliance, litigation, personnel, labor/management relations.
Audits continued from the meetings of April 11, 19, 25, and 26.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-634-79 Filed 4-26-79; 3:30 pm]

BILLING CODE 6715-01-M

5

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10:00 a.m., May 2, 1979.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426, hearing room A.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 275–4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information.

Power Agenda—290th Meeting, May 2, 1979. Regular Meeting (10 a.m.)

CAP–1. Docket No. ER79–211, Duke Power Co.
CAP–2. Docket No. ER79–139, Appalachian Power Co.
CAP–3. Docket No. ER79–253, Florida Power & Light Co.
CAP–4. Docket No. ER79–213, Public Service Co. of Indiana.
CAP–5. Docket No. ER79–210, Electric Energy, Inc.
CAP–6. Docket No. ER79–131, Georgia Power Co.
CAP–7. Project No. 2809, Maine Hydroelectric Development Corp.
CAP–8. Project No. 2372, Pennsylvania Electric Co.

Miscellaneous Agenda—290th Meeting, May 2, 1979, Regular Meeting

CAM–1. Connecticut Yankee Atomic Power Co.
CAM–2. Hartford Electric Light Co.

Gas Agenda—290th Meeting, May 2, 1979, Regular Meeting

CAG–1. Docket No. RP79–62, Southern Natural Gas Co.
CAG–2. Docket No. CP76–104, Pacific Interstate Transmission Co.
CAG–3. Docket Nos. RP73–130, et al., Texas Eastern Transmission Corp.
CAG–4. Docket No. G–14475, Union Oil Co. of California; Docket No. CI75–749, Marathon Oil Co.; Docket No. CI78–33, Amoco Production Co.; Docket No. CI78–93, Gulf Oil Corp.; Docket No. CI77–370, Union Oil Co.; Docket No. CI76–375, Exxon Corp.; Docket No. CI78–1199, Amoco Production Co.; Docket No. CI78–972, Northwestern Mutual Life Insurance Co.; Docket No. CI78–462, CIG Exploration, Inc.; Docket No. CI77–119, Cities Service Co.; Docket No. CI78–672, Cities Service Co.; Docket No. CI78–882, Ocean Production Co.; Docket No. CI79–311, Freeport Oil Co.; Docket No. CI77–350 (G–5985), Ashland Exploration, Inc.; Docket No. CI75–633, MBT Exploration Co.; Docket No. CI78–889, Pogo Producing Co.; Docket No. CI78–934, Pogo Producing Co.; Docket No. CI78–935, Pogo Producing Co.; Docket No. CI78–936, Pogo Producing Co.; Docket No. CI78–937, Pogo Producing Co.; Docket No. CI78–938, Pogo Producing Co.; Docket No. CI78–939, Pogo Producing Co.; Docket No. CI78–1103, et al., Getty Oil Co.; Docket No. CI78–1104, Getty Oil Co.; Docket No. CI78–864, Shell Oil Co.; Docket No. CI78–463, Tenneco Oil Co.; Docket No. CI78–464, Tenneco Oil Co.; Docket No. CI79–38, Florida Gas Exploration Co.; Docket No. CS72–978, Brooks Hall Oil Corp.; Docket No. CS75–536, Nancy P. Tonkin; Docket No. CS75–379, Benson-Montin-Greer Drilling Corp.; Docket No. CS78–529, N. P. Energy Corp., Alltah Corp.; Docket No. CI76–629, et al., Continental Oil Co.; Docket No. CI76–766, Getty Oil Co.; Docket No. CI78–625, Shell Oil Co.; and Docket No. CI78–818, Transco Exploration Co.
CAG–5. Docket No. CI78–372, R. J. A. Desoife, Trustee, and Gibbs L. Barer.
CAG–6. Docket No. CI72–692, et al., Pennzoil Oil & Gas, Inc.
CAG–7. Docket No. CP79–95, Michigan Wisconsin Pipe Line Co.
CAG–8. Docket No. CP79–167, Colorado Interstate Gas Co.
CAG–9. Docket No. CP79–161, Transcontinental Gas Pipe Line Corp. and Docket No. CI79–339, Mesa Petroleum Co., et al.
CAG–10. Docket No. CP79–87, Mountain Fuel Supply Co.
CAG–11. Docket No. CP79–103, United Gas Pipe Line Co. and Michigan Wisconsin Pipe Line Co.
CAG–12. Docket No. CP79–158, Kansas-Nebraska Natural Gas Co., Inc.
CAG–13. Docket No. CP79–156, Cities Service Gas Co.

Power Agenda—290th Meeting, May 2, 1979. Regular Meeting

I. Licensed Project Matters

P–1. Project No. 199, South Carolina Public Service Authority.
P–2. Project No. 2548, Georgia Pacific Corp.

II. Electric Rate Matters

ER–1. Docket No. ER77–485, Carolina Power & Light Co.
ER–2. Docket Nos. ER79–242, ER79–245, ER79–247, ER79–250, ER79–254, and ER79–269, AEP Affiliate Cos.
ER–3. Docket No. E–9555, The Metropolitan Water District of Southern California.
ER–4. Docket No. ER76–90 and ER76–445, Boston Edison Co.

Gas Agenda—290th Meeting, May 2, 1979, Regular Meeting

I. Pipeline Certificate Matters

CP–1. Docket No. CP77–267, Mid-Louisiana Gas Co. and Transcontinental Gas Pipe Line Corp.

Kenneth F. Plumb,
Secretary.

[S-625-79 Filed 4-26-79; 10:57 am]

BILLING CODE 6740-02-M

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published April 24, 1979; 44 FR 24244.

PREVIOUSLY ANNOUNCED TIME AND DATE OR MEETING: 10:00 a.m., April 25, 1979.

CHANGE IN THE MEETING: The following items have been added:

Item Number, Docket Number, and Company

M–S(B) Natural Gas Pipeline Co. of America, Inland Gas Co., Inc.
M–5(C) TC79–94, et al., Curtailment Impact 1979–80 winter season.

Kenneth F. Plumb,
Secretary.

[S-624-79 Filed 4-26-79; 10:57 am]

BILLING CODE 6740-02-M

7

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., May 3, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling (202–377–6677).

MATTERS TO BE CONSIDERED:

Consideration of association request for waiver of liquidity deficiency penalties—First Federal Savings & Loan Association of Walworth County, Delavan, Wisc.
Consideration of claims against the Federal Home Loan Bank Board under the Federal Tort Claims Act.
Concurrent consideration of applications for Permission to Organize—(1) Jack Sutherlin, et al., Covington, La.; and (2) Harold J. Hanson, et al., Covington, La.
Satellite application—Milford Federal Savings & Loan Association, Milford, Mass.
Application for bank membership—Concord Cooperative Bank, Concord, Mass.
Applications for bank membership and insurance of accounts—Grand Prairie Savings & Loan Association, Stuttgart, Ark.
Consideration of proposed amendments regarding mobile home loans.

No. 236, April 26, 1979.

[S-633-79 Filed 4-26-79; 3:04 pm]

BILLING CODE 6720-01-M

8

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 2:30 p.m., April 26, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling (202–377–6677).

MATTERS TO BE CONSIDERED: Consideration of report to the bank board on internal review office activities.

ANNOUNCEMENT IS BEING MADE AT THE EARLIEST PRACTICABLE TIME.

No. 230, April 26, 1979.

[S-826-79 Filed 4-26-79; 12:15 pm]

BILLING CODE 6720-01-M

9

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1548-78 filed July 26, 1978; 11:44 a.m.

The National Council on Educational Research hereby gives notice that its May 11, 1979, meeting is **canceled.** The next meeting is scheduled for July 12-13, 1979. Agenda and location of the July meeting will be published in the **Federal Register** at a later date.

PERSON TO CONTACT FOR MORE INFORMATION: Ella L. Jones, Administrative Coordinator, 202/254-7900.

Peter B. Gerber,

Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S-823-79 Filed 4-26-79; 9:28 am]

BILLING CODE 4110-39-M

10

NATIONAL MEDIATION BOARD

TIME AND DATE: 2 p.m., Wednesday, May 9, 1979.

PLACE: Board hearing room, eighth floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Ratification of board actions taken by notation voting during the month of April, 1979.

(2) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's Office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, (202) 523-5920.

Date of notice: April 26, 1979.

[S-829-79 Filed 4-26-79; 1:56 pm]

BILLING CODE 7550-01-M

11

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 24692, April 26, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m. [NM-79-15], Thursday, May 3, 1979.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Rocky Mountain Airways, Inc., DeHavilland DHC-6 Twin Otter, N25RM, near Steamboat Springs, Colo., December 4, 1978.

2. *Highway Accident Report*—Ross Ambulance Service, ambulance high-speed overturn, State Route 116, Littleton, N.H., August 22, 1978.

3. *Pipeline Accident Report*—Mid-America Pipeline System, ruptured 8-inch liquefied petroleum gas pipeline, Donnellson, Iowa, August 4, 1978.

4. *Special Investigation Report on the Safe Transportation of Hazardous Materials*—Hazardous Materials Accident Mapping Standards.

5. *Discussion* of policy concerning oral arguments.

6. *Letters* to attorneys for pilot of *Santa Cruz II* and Empress Lineas Maritimas re *Cuyahoga/Santa Cruz II* marine accident report.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

April 26, 1979.

[S-835-79 Filed 4-26-79; 3:38 pm]

BILLING CODE 4910-58-M

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, April 26, 1979.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Thursday, April 26.

9:30 a.m.

1. Continuation of staff briefing on emergency planning (approximately 1 hour—public meeting).

2. Affirmation session (approximately 10 minutes—public meeting), items as announced.

1:30 p.m.

1. Staff briefing on five-plant shutdown (seismic design) (approximately 1½ hours—public meeting).

2. Continuation of discussion of principal factors related to current status of operating plants (including B&W) (approximately 1½ hours—public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

ADDITIONAL INFORMATION: The previously announced meetings, "Legislative Proposals" and "Bailly" are **Postponed.**

Walter Magee,

Office of the Secretary

[S-827-79 Filed 4-26-79; 1:29 pm]

BILLING CODE 7590-01-M

13

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, May 2, 1979.

PLACE: Commissioner conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Wednesday, May 2

9:30 a.m.: 1. Briefing on steam generator denting and replacement (approximately 1 hour—public meeting).

1:30 p.m.: 1. Discussion of upgrade rule and supporting guidance (approximately 2 hours—closed, exemption 1) (Continued from four 18).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, 202-634-1410.

Walter Magee,

Office of the Secretary.

[S-828-79 Filed 4-26-79; 1:29 pm]

BILLING CODE 7590-01-M

14

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES.

TIME AND DATE: 9 a.m. to 5 p.m. (daily), May 8-9, 1979.

PLACE: Reception Suite, National Museum of History and Technology, Smithsonian Institution, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: White House Conference Status Report:

Special reports:

(1) Richard Neustadt, Assistant Director, White House Domestic Policy Staff.

(2) White House Visit.

(3) Literacy Conference.

(4) Information Community Advisory Committee.

Subcommittee workshops.

Subcommittee reports.

Computer conferencing demonstration

Committee members comments.

Other business.

CONTACT PERSON FOR MORE INFORMATION: Marilyn K. Gell, Director, (202) 653-6252.

Marilyn K. Gell,

Director.

April 23, 1979.

[S-886-79 Filed 4-26-79; 9:45 pm]

BILLING CODE 7527-01-M

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federal register

Monday
April 30, 1979

Part II

Department of Commerce

Office of the Secretary
Semiannual Agenda of Regulations; Addendum Containing Regulations of the National Marine Fisheries Service

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DEPARTMENT OF COMMERCE

Office of the Secretary

[50 CFR Ch. II]

Semiannual Agenda of Regulations

AGENCY: U.S. Department of Commerce.

ACTION: Amendment to Semiannual Agenda of Regulations.

SUMMARY: In compliance with Executive Order 12044, the Department of Commerce (DOC) published its first agenda of significant regulatory actions under consideration by its various departmental units in the **Federal Register** on March 7, 1979 (44 FR 12562). Included in the agenda was a list of existing rules and regulations which have been selected for review.

The Department's agenda advised that additional regulatory actions being considered by the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), would be published as an addendum. The NMFS/NOAA regulatory review process has been completed and the DOC agenda is hereby amended.

FOR FURTHER INFORMATION CONTACT: For additional information regarding any particular regulatory action contained in this addendum, contact the individual identified as the contact person. Comments or inquiries of a general nature about the addendum should be directed to the following individual: Mr. Robert R. Miki, Director, Office of Regulatory Economics and Policy, Room 7614, U.S. Department of Commerce, Main Commerce Building, Washington, D.C. 20230, Telephone Number: (202) 377–2482.

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service, NOAA, as an operating unit of the Department of Commerce, complies with the descriptions, purposes, objectives, timetables, etc., outlined in the March 7, 1979, Department of Commerce Agenda.

The National Marine Fisheries Service, NOAA, has attempted to list all significant regulations under consideration (Schedule A), and to also list those existing regulations that have been scheduled for review during the forthcoming year (Schedule B). The latter list (Schedule B) is not limited to significant regulations; but includes *all* regulations that will be reviewed.

Explanation of Information Contained in This Addendum

The Fishery Conservation and Management Act of 1976 (FCMA), 16 USC 1801 *et seq.*, requires that a preliminary fishery management plan (PMP) be prepared for all fisheries engaged in by foreign fishing nations within the fishery conservation zone (FCZ). The FCZ contains those waters from the outer edge of the United States territorial sea to a distance of 200 miles (i.e., generally from 3 to 200 miles offshore). In addition, for fisheries in the FCZ in which there is domestic fishing, fishery management plans (FMP's) shall be prepared if it is determined that those fisheries require conservation and management measures. Although PMP's apply only to foreign fishing, the FMP's regulate both foreign and domestic fishing. The FMP's, when promulgated, supersede the PMP's regulating the corresponding foreign fisheries. Under the FCMA, eight Regional Fishery Management Councils have been established for the purpose of preparing FMP's for fisheries within their respective areas.

The FCMA requires that certain standards be met in regulating fisheries. Among other factors, the optimum yield (OY) of the fisheries must be specified. This entails the development of appropriate regimes to ensure sound management of involved stocks while taking into account relevant biological, social, and economic factors. Domestic fishermen are given a preferred status by the FCMA. However, for those fisheries in which there exists a surplus over domestic harvest, foreign nations are permitted to fish, provided certain conditions are met. For each fishery, the total allowable level of foreign fishing (TALFF) is determined. Governing International Fishery Agreements (GIFA's) must be executed between the United States and those nations desiring to fish. The TALFF is allocated among foreign nations by the Secretary of State. Allocations are based upon certain standards, such as historic fishing rights and reciprocal fishing privileges. Vessels of foreign nations must apply for and receive permits to fish in the FCZ.

Classes of domestic fishermen regulated under FMP's, if certain standards are met. Such allocations may not be discriminatory and must relate to the conservation and management of the concerned fishery. There may be allocations between the commercial and recreational sectors of the fishery.

In allocating fish stocks, not only those fish caught as the result of directed effort (target catch), but also those fish caught incidentally (incidental catch) are taken into account. Various management tools may be used to effectively regulate fisheries. These may include the limitation of certain types of gear (e.g., bottom trawls, longlines), seasons, and the necessity of opening or closing areas to fishing based upon gear conflicts, conditions of the stocks, or other factors.

The initiation of preparation of FMP's is the responsibility of the eight Regional Fishery Management Councils. In the course of the development of such plans (and regulations) the Councils are required by law to conduct public hearings on the draft plans during which, among other things, alternative means of regulating the fishery are considered. However, at the time the semi-annual regulatory agenda is published, the National Marine Fisheries Service, in the case of many plans, is unable to determine either the specific plan objectives or the alternatives for management since the Councils have not as yet approved such plans nor submitted them to the Secretary of Commerce for review and possible adoption and implementation. Hence, the information about some plans must, of necessity, be quite limited.

Foreign fishing regulations and foreign fee schedules are published yearly (and/or as necessary) in the **Federal Register** to provide foreign nations with the necessary information ("1979 Fee Schedule for Foreign Fishing"—43 FR 57148; "Foreign Fishing, Foreign Fee Surcharge"—43 FR 59607; "Foreign Fishing Regulations—Activities Within the U.S. Fishery Conservation Zone"—43 FR 59292). Guidelines for the development of the FMP's are also published in the **Federal Register** to serve the needs of the Regional Fishery Management Councils.

Juanita M. Kreps,
Secretary of Commerce.

Schedule A.—*Significant Regulations Under Consideration by the Department of Commerce*

Department unit	Title	Contact person
NOAA/NMFS	Determination of Critical Habitat for Kemp's Ridley and Loggerhead Sea Turtles (50 CFR Part 226).	Mr. Richard B. Roe, Acting Deputy Director, Office of Marine Mammals and Endangered Species (202) 634–7287.
NOAA/NMFS	Designation of Critical Habitat for the Hawaiian Monk Seal (50 Cfr Part 222).	Dr. R. V. Miller, Research Program Manager, Office of Marine Mammals and Endangered Species (202) 634–7461.
NOAA/NMFS	Regulation Declaring Port Canaveral Navigation Channel A Restricted Fishing Area (50 CFR Parts 222 and 227).	Mr. Richard B. Roe, Acting Deputy Director, Office of Marine Mammals and Endangered Species (202) 634–7287.
NOAA/NMFS	*Section 7 of the Endangered Species Act: Interagency Cooperation (50 CFR Part 402).	Dr. William Aron, Director, Office of Marine Mammals and Endangered Species (202) 634–7454.
NOAA/NMFS	Fish and Wildlife Coordination Act Regulations.	Mr. Kenneth R. Roberts, Acting Director, Office of Habitat Protection (202) 634–7490.
NOAA/NMFS	*Atlantic Mackerel Fishery Management Plan (FMP).	Mr. Robert W. Hanks, Acting Director, Northeast Region (617) 281–3600.
NOAA/NMFS	*Atlantic Squid Fishery Management Plan (FMP).	Mr. Robert W. Hanks, Acting Director, Northeast Region (617) 281–3600.
NOAA/NMFS	*Butterfish Fishery Management Plan (FMP).	Mr. Robert W. Hanks, Acting Director, Northeast Region (617) 281–3600.
NOAA/NMFS	*Extension of Commercial/Recreational Salmon Off California, Oregon, and Washington Fishery Management Plan (FMP) (50 CFR Part 661).	Mr. Donald R. Johnson, Director, Northwest Region (206) 442–7575.
NOAA/NMFS	Fraser River Sockeye and Pink Salmon Fishery.	Mr. Donald R. Johnson, Director, Northwest Region (206) 442–7575
NOAA/NMFS	*Gulf of Alaska Groundfish Fishery Management Plan Regulations.	Mr. Harry L. Rietze, Director, Alaska Region (907) 586–7221.
NOAA/NMFS	*High Seas Salmon Fishery Management Plan (FMP).	Mr. Harry L. Rietze, Director, Alaska Region (907) 586–7221.
NOAA/NMFS	*Pacific Billfish Preliminary Fishery Management Plan (PMP).	Mr. Gerald V. Howard, Director, Southwest Region (213) 548–2575
NOAA/NMFS	Pacific Halibut Fisheries Regulations	Mr. Donald R. Johnson, Director, Northwest Region (206) 442–7575
NOAA/NMFS	*Stone Crab Fishery Management Plan (FMP).	Mr. William H. Stevenson, Director, Southeast Region (813) 993–3141.
NOAA/NMFS	*Trawl Fisheries of Washington, Oregon, and California Preliminary Fishery Management Plan (PMP).	Mr. Donald R. Johnson, Director, Northwest Region (206) 442–7575
NOAA/NMFS	*Trawl and Herring Gillnet Fishing in the Eastern Bering Sea Preliminary Fishery Management Plan (PMP).	Mr. Harry L. Rietze, Director, Alaska Region (907) 586–7221.

* Indicates that regulatory action under consideration will likely require Regulatory Analysis because of the anticipated consequences associated with the proposal.

National Marine Fisheries Service, NOAA

Determination of Critical Habitat for Kemp's Ridley and Loggerhead Sea Turtles (50 CFR Part 226)

(a) Description and Need for Regulation:

On October 4, 1978, the National Marine Fisheries Service (NMFS) published proposed determination of Critical Habitat for Kemp's ridley and loggerhead sea turtles in the Port Canaveral navigation channel, Cape Canaveral, Florida. The action was taken to provide protection to endangered and threatened sea turtles hibernating in the channel.

(b) Legal Authority:

Endangered Species Act of 1973 (P.L. 93–205) (87 Stat. 884) (16 U.S.C. 1531–1543)

(c) Importance of Regulation:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)

(ii) Is the regulation major? (yes ☐, no ☐, unknown x)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) Proposal in proposed form appeared on (October 4, 1978)

(ii) In final form (October 1979)

(e) Tentative Plan for Obtaining Public Comments:

Proposed regulations were published in the **Federal Register** on October 4, 1978. The proposal solicited public comments and hearing requests. On November 27, 1978, a supplemental notice was published which extended the comment period; announced the holding of a public meeting and hearing; and requested comments on economic impacts of the designation. Notice of the proposed regulation and meeting/hearing was published in two local newspapers and offered for publication in three scientific journals. The proposed regulation and environmental assessment were sent to state and local government officials, Federal agencies, Congressional offices, conservation organizations, and selected individuals.

(f) Major Issues Surrounding Proposed Regulation Action:

The environmental assessment determined that the proposed Federal action is not a major action having significant impact on the quality of the human environment. The major effect of designating this area as Critical Habitat will be to require any Federal agency that authorizes funds or carries out activities that might result in the destruction or adverse modification of the area to comply with section 7 of the Act.

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes ☐, no ☐, unknown x)

(i) Anticipated date of draft analysis (not determined)

(ii) Anticipated date of final analysis (not determined)

(2) Other Documents Available: Environmental Impact Assessments: Proposed Determination of Critical Habitat for the Kemp's Ridley and Loggerhead Sea Turtles in the Port Canaveral Navigation Channel. September 1978.

(h) Agency Contact:

Mr. Richard B. Roe, Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, Phone: (202) 634–7287.

Designation of Critical Habitat for the Hawaiian Monk Seal (50 CFR Part 222)

(a) Description and Need for Regulation:

Designation of Critical Habitat for the Hawaiian Monk Seal is pursuant to the Endangered Species Act of 1973, as amended. The Act requires that critical habitat be designated for endangered and threatened species now listed in accordance with the Act. Critical habitat means the specific areas within (or outside) the geographical range of the species on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection.

(b) Legal Authority:

Endangered Species Act of 1973 (Pub. L. 93–205) (87 Stat. 884) (16 U.S.C. 1531–1543)

(c) Importance of Regulations:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)

(ii) Is the regulation major? (yes ☐, no ☐, unknown x)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed from (*June 1, 1979*)

(ii) In final form (*Fall 1979*)

(e) Tentative Plan for Obtaining Public Comments:

Public comment and consultation with state and local governments will be

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solicited at all stages of the process of designation, including those opportunities available through the National Environmental Policy Act process. Public comments will also be solicited when the proposed area(s) designated are published in the **Federal Register.**

(f) Major Issues Surrounding Proposed Regulatory Action:

Impact of the designation on state and Federal activities within, and adjacent to, the critical habitat; economic impact of the proposed area designation on the private sector; effectiveness of the area designation on increasing the likelihood of the survival of endangered species; ecological impact of the area designation on the associated flora and fauna within, and adjacent to, the critical habitat.

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes ☐, no ☐, unknown x)

(i) Anticipated date of draft analysis (*not determined*)

(ii) Anticipated date of final analysis (*not determined*)

(2) Other Documents Available: None

(h) Agency Contact:

Dr. R.V. Miller, Research Program Manager, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, Phone: (202) 634–7461.

Regulation Declaring Port Canaveral Navigation Channel A Restricted Fishing Area (50 CFR Parts 222 and 227).

(a) Description and Need for Regulation:

On November 22, 1978, the National Marine Fisheries Service (NMFS) published in the **Federal Register** emergency regulations, effective for a period of 120 days, declaring the Port Canaveral navigation channel, Cape Canaveral, Florida, a restricted fishing area (43 FR 54639). The use of any commercial trawl gear in this area during the emergency period is prohibited. This action was taken to protect endangered and threatened species of sea turtles hibernating in this area from shrimp trawling operations. Regulations will be proposed to modify or extend these regulations beyond the emergency period.

(b) Legal Authority:

Endangered Species Act of 1973 (Pub. L. 93–205) (87 Stat. 884) (16 U.S.C. 1531–1543)

(c) Importance of Regulation:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)

(ii) Is the regulation major? (yes ☐, no ☐, unknown x)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (*April 1979*)

(ii) In final form (*September 1979*)

(e) Tentative Plan for Obtaining Public Comments:

Emergency regulations were published in the **Federal Register** on November 22, 1978. This publication solicited public comments on the disirability of extending or modifying these regulations and announced the time, date, and place of a public hearing on this matter.

(f) Major Issues Surrounding Proposed Regulatory Action:

The environmental assessment determined that the proposed Federal action is not a major action having significant impact on the quality of the human environment. It was concluded that area closure to commercial trawling would have an insignificant impact on the overall fishing activities in the Canaveral area.

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes ☐, no ☐, unknown x)

(i) Anticipated date of draft analysis (*not determined*)

(ii) Anticipated date of final analysis (*not determined*)

(2) Other Documents Available: Environmental Assessment on Emergency Regulations Declaring the Port Canaveral Navigation Channel a Restricted Fishing Area. November 15, 1978

(h) Agency Contact:

Mr. Richard B. Roe, Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235. Phone (202) 634–7287.

Section 7 of Endangered Species Act: Interagency Cooperation (50 CFR Part 402)

(a) Description and Need for Regulation:

In January 1978, the National Marine Fisheries Service (NMFS) and the Fish and Wildlife Service (FWS) published final regulations describing how consultation with federal agencies under Section 7 of the Endangered Species Act of 1973 was to be carried out. In November 1978, the President signed the Endangered Species Act Amendments of 1978. This regulation will amend the January 1978 regulation to conform to the new statutory requirements. The Interior Department will be responsible for compliance with E.O. 12044.

(b) Legal Authority:

Endangered Species Act of 1973 as Amended (16 U.S.C. 1531–1543)

(c) Importance of Regulation:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)

(ii) Is the regulation major? (yes x, no ☐, unknown ☐)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (*not determined*)

(ii) In final form (*not determined*)

(e) Tentative Plan for Obtaining Public Comments:

Under discussion with the Fish and Wildlife Service; exact dates of action unknown.

(f) Major Issues Surrounding Proposed Regulatory Action:

When is it necessary to prepare a biological assessment What should be contained in it? What procedures should be followed during consultations?

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes x, no ☐, unknown ☐)

(i) Anticipated date of draft analysis (*not determined*)

(ii) Anticipated date of final analysis (*not determined*)

(2) Other Documents Available: None

(h) Agency Contact:

Dr. William Aron, Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, Phone: (202) 634–7454.

Fish and Wildlife Coordination Act Regulations

(a) Description and Need for Regulation:

Defines requirements and procedures that must be met for fully complying with the Fish and Wildlife Coordination Act (FWCA).

(b) Legal Authority:

President's Water Policy Memorandum issued July 12, 1978, Fish and Wildlife Coordination Act (16 U.S.C. 661), Fish and Wildlife Act of 1956 (16 U.S.C. 742–(a–k)).

(c) Importance of Regulations:

(i) Is the regulation significant? (yes x, no ☐ unknown ☐)

(ii) Is the regulations major? (yes ☐, no x, unknown ☐)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (*April 1, 1979*)

(ii) In final form (*July 1, 1979*)

(e) Tentative Plan for Obtaining Public Comments:

Joint NOAA/Interior Notice of Intent to proposed rules was published in **Federal Register** on September 29, 1978; Proposed (draft) regulations to be published in **Federal Register** in April 1979, and distributed widely to those state governments, Federal agencies, and public groups known to be interested (60-day public review); Public hearings to held in Washington, D.C.; Sacramento, California; Denver, Colorado (tentatively scheduled for April 1979).

(f) Major Issues Surrounding Proposed Regulatory Action:

(1) Applicability of FWCA to a variety of Federal activities including outer Continental Shelf oil and gas leases, permits, licenses, grants, financial or technical assistance, or other projects affecting waters of the U.S. and oceanic waters; (2) assessment methods to be used to evaluate wildlife resource values and project effects on those values; (3) establish a definition of "equal consideration of wildlife" in planning projects and "justifiable measures" for wildlife conservation; (4) degree of involvement by National Marine Fisheries Service (NMFS) field biologists in the planning process of Federal construction and regulatory agencies; (5) geographic or functional jurisdiction of NMFS and of U.S. Fish and Wildlife Service (FWS) in estuarine and marine waters and waters supporting anadromous or commercial species of fish; (6) funding of NMFS Regional Offices by Federal construction agencies for FWCA studies of various types of projects—primarily Federal projects.

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes ☐, no x unknown ☐)

(i) Anticipated date of draft analysis (*not applicable*)

(ii) Anticipated date of final analysis (*not applicable*)

(2) Other Documents Available: None

(h) Agency Contact:

Mr. Kenneth R. Roberts, Acting Director, Office of Habitat Protection, National Marine Fisheries Service, Washington, D.C. 20235, Phone: (202) 634–7490.

Atlantic Mackerel Fishery Management Plan (FMP)

(a) Description and Need for Regulation:

Implementation of Atlantic Mackerel FMP. Regulates foreign and domestic fishermen in Fishery Conservation Zone (FCZ) of Atlantic Ocean.

(b) Legal Authority:

16 U.S.C. 1801 *et seq.*

(c) Importance of Regulation:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)

(ii) Is the regulation major? (yes x, no ☐, unknown ☐)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (*March 1979*)

(ii) In final form (*May 1979*)

(e) Tentative Plan for Obtaining Public Comments:

Publish proposal in **Federal Register.**

(f) Major Issues Surrounding Propsed Regulatory Action:

Optimum Yield of Atlantic Mackerel. Allocation between commercial and recreational domestic users.

(g) Documents Available to interested Parties:

(1) Regulatory Analysis Required? (yes x, no ☐, unknown ☐)

(i) Date of draft analysis (*February 1979*)

(ii) Anticipated date of final analysis (*May 1979*)

(2) Other Documents Available: Atlantic Mackerel Fishery Management Plan

(h) Agency Contact:

Mr. Robert W. Hanks, Acting Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, Phone: (617) 281–3600.

Atlantic Squid Fishery Management Plan (FMP)

(a) Description and Need for Regulation:

Implementation of Squid Fishery Management Plan (FMP). Regulates domestic and foreign harvest of squid in the Fishery Conservation Zone (FCZ) of the Atlantic Ocean.

(b) Legal Authority:

16 U.S.C. 1801 *et seq.*

(c) Importance of Regulations:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)

(ii) Is the regulation major? (yes x, no ☐, unknown ☐)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (*March 1979*)

(ii) In final form (*May 1979*)

(e) Tentative Plan for Obtaining Public Comments:

Will be published in the **Federal Register.**

(f) Major Issues Surrounding Proposed Regulatory Action:

Optimum yield of Atlantic Squid. Appropriate allocation among domestic and foreign user.

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes x, no ☐, unknown ☐)

(i) Date of draft analysis (*February 1979*)

(ii) Anticipated date of final analysis (*May 1979*)

(2) Other Documents Available: Atlantic Squid Fishery Management Plan.

(h) Agency Contact:

Mr. Robert W. Hanks, Acting Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, Phone: (617) 281–3600.

Butterfish Fishery Management Plan (FMP)

(a) Description and Need for Regulation:

Implementation of Butterfish Fishery Management Plan Regulation of domestic and foreign fishing for butterfish in the Fishery Conservation Zone (FCZ) of the Atlantic Ocean.

(b) Legal Authority:

16 U.S.C. 1801 *et seq.*

(c) Importance of Regulations:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)

(ii) Is the regulation major? (yes x, no ☐, unknown ☐)

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(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (*April 1979*)
(ii) In final form (*June 1979*)

(e) Tentative Plan for Obtaining Public Comments:

Will be published in the **Federal Register.**

(f) Major Issues Surrounding Proposed Regulatory Action:

Optimum yield of butterfish. Allocation among foreign and domestic users.

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes x, no ☐, unknown ☐)
(i) Date of draft analysis (*February 1979*)
(ii) Anticipated date of final analysis (*May 1979*)
(2) Other Documents Available: Butterfish Fishery Management Plan.

(h) Agency Contact:

Mr. Robert W. Hanks, Acting Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, Phone: (617) 281–3600.

Extension of Commercial/Recreational Salmon off California, Oregon, and Washington Fishery Management Plan (FMP) (50 CFR Part 661)

(a) Description and Need for Regulation:

Regulates the domestic troll fishery for salmon in the Fishery Conservation Zone (FCZ) off California, Oregon, and Washington.

(b) Legal Authority:

16 U.S.C. 1801 *et seq.*

(c) Importance of Regulation:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)
(ii) Is the regulation major? (yes x, no ☐, unknown ☐)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (March 1979)
(ii) In final form (June 1979)

(e) Tentative Plan for Obtaining Public Comments:

Will be published in the **Federal Register.**

(f) Major Issues Surrounding Proposed Regulatory Action:

Length of fishing season. Allocation among domestic user groups.

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes x, no ☐, unknown ☐)
(i) Anticipated date of draft analysis (not determined)
(ii) Anticipated date of final analysis (not determined)
(2) Other Documents Available: Commercial and Recreational Salmon FMP Amendment; Commercial and Recreational Salmon Fisheries off the coasts of Washington, Oregon, and California FMP amendment.

(h) Agency Contact:

Mr. Donald R. Johnson, Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109. Phone: (206) 442–7575.

Fraser River Sockeye and Pink Salmon Fishery

(a) Description and Need for Regulation:

Regulates all fishing for sockeye or pink salmon conducted in United States convention waters during the time of the International Pacific Salmon fisheries Commission exercises jurisdiction over the sockeye salmon and pink salmon fishery. The regulation will ensure an orderly and rational fishery so that equitable catches will be made by fisherman of both the United States and Canada. The regulation will also ensure that adequate escapement will occur to guarantee production of future stocks.

(b) Legal Authority:

16 U.S.C. 776–776F

(c) Importance of Regulation:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)
(ii) Is the regulation major? (yes ☐, no ☐, unknown x)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (not determined)
(ii) In final form (not determined)

(e) Tentative Plan for Obtaining Public Comments:

Will be published as proposed regulations in the **Federal Register.**

(f) Major Issues Surrounding Proposed Regulatory Action:

Protection, preservation, and extension of the sockeye and pink salmon fisheries of the Fraser River System.

(g) Documents Available to Interested Parties:

(l) Regulatory Analysis Required: (yes ☐, no ☐, unknown x)
(i) Anticipated date of draft analysis (not determined)
(ii) anticipated date of final analysis (not determined)
(2) Other Documents Available: Sockeye or Pink Salmon Fishery Act of 1947; amendment to the protocol to the Convention between the United States and Canada for the protection, preservation and extension of the sockeye salmon fishery of the Fraser River System (December 28, 1956).

(h) Agency Contact:

Mr. Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Washington 98109, Phone: (206) 442–7575.

Gulf of Alaska Groundfish Fishery Management Plan Regulations

(a) Description and Need for Regulation:

Regulates foreign and domestic trawling and longlining for groundfish in the Fishery Conservation Zone (FCZ) of the Gulf of Alaska.

(b) Legal Authority:

16 U.S.C. 1801 *et seq.*

(c) Importance of Regulation:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)
(ii) Is the regulation major? (yes x, no ☐, unknown ☐)

(d) Timetable) Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (*March 1979*)
In final form (*May 1979*)

(e) Tentative Plan for Obtaining Public Comments:

Will be published in **Federal Register** as proposed regulations.

(f) Major Issues Surrounding Proposed Regulatory Action:

Optimum yield of stocks; incidental catches; area allocations.

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes x, no ☐, unknown ☐)
(i) Anticipated date of draft analysis (*not determined*)
(ii) Anticipated date of final analysis (*not determined*)

(2) Other Documents Available: Gulf of Alaska Groundfish Fishery Management Plan (FMP) and amendments.

(h) Agency Contact:

Mr. Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, Post Office Box 1668, Juneau, Alaska 99802, Phone: (907) 586–7221.

High Seas Salmon Fishery Management Plan (FMP)

(a) Description and Need for Regulation:

Regulates domestic troll salmon fishery in Fishery Conservation Zone (FCZ) off Alaska.

(b) Legal Authority:

16 U.S.C. 1801 *et seq.*

(c) Importance of Regulation:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)
(ii) Is the regulation major? (yes x, no ☐, unknown ☐)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (*March 1979*)
(ii) In final form (*June 1979*)

(e) tentative Plan for Obtaining Public Comments:

Will be published in **Federal Register.**

(f) Major Issues Surrounding Proposed Regulatory Action:

Controlling fishing effort on stocks.

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes x, no ☐, unknown ☐)
(i) Anticipated date of draft analysis (*not determined*)
(ii) Anticipated date of final analysis (*not determined*)
(2) Other Documents Available: High Seas Salmon Fishery Management Plan.

(h) Agency Contact:

Mr. Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Phone: (907) 586–7221.

Pacific Billfish Preliminary Fishery Management Plan (PMP)

(a) Description and Need for Regulation:

Implementation of Pacific Billfish Preliminary Fishery Management Plan. Regulates foreign longline fishing in Fishery Conservation Zone (FCZ) off Hawaii, Guam, and American Samoa.

(b) Legal Authority:

16 U.S.C. 1801 *et seq.*

(c) Importance of Regulations:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)
(ii) Is the regulation major? (yes x, no ☐, unknown ☐)

(d) Timetable: Anticipated dates Proposal will appear in **Federal Register:**

(i) In proposed form (*March 1979*)
(ii) In final form (*June 1979*)

(e) Tentative Plan for Obtaining Public Comments:

Will be published in **Federal Register.**

(f) Major Issues Surrounding Proposed Regulatory Action:

Controlling incidental catch of billfish by foreign longliners.

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes x, no ☐, unknown ☐)
(i) Anticipated date of draft analysis (*not determined*)
(ii) Anticipated date of final analysis (*not determined*)
(2) Other Documents Available: Pacific Billfish Fishery Management

(h) Agency Contact:

Mr. Gerald V. Howard, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California, Phone: (213) 548–2575.

Pacific Halibut Fisheries Regulations

(a) Description and Need for Regulation:

Regulates fishing for halibut in areas under jurisdiction of the International Pacific halibut Commission in the territorial waters and high seas off the western coast of Canada and the U.S. Regulations will provide for orderly fishery that will harvest the maximum amount of fish; but not reduce the basic productivity of the stocks.

(b) Legal Authority.

Art. III, 5 U.S.T.5; TIAS 2900

(c) Importance of Regulation:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)
(ii) Is the regulation major? (yes ☐, no ☐, unknown x)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (*not determined*)
(ii) In final form (*not determined*)

(e) Tentative Plan for Obtaining Public Comments:

Proposed regulations will be published in **Federal Register.**

(f) Major Issues Surrounding Proposed Regulatory Action:

Maximum sustainable yield of Pacific halibut, fishing seasons, size limits, and quotas. The International Convention is scheduled to expire in the near future.

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes ☐, no ☐, unknown x)
(i) Anticipated date of draft analysis (*not determined*)
(ii) Anticipated date of final analysis (*not determined*)
(2) Other Documents Available: Convention between Canada and the United States of America for the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea (March 2, 1953).

(h) Agency Contract:

Mr. Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Washington 98109, Phone: (206) 442–7575.

Stone Crab Fishery Management Plan (FMP)

(a) Description and Need for Regulation:

Implementation of Stone Crab Fishery Management Plan Controls domestic harvest of stone crabs in Fishery Conservation Zone (FCZ) off the southwest coast of Florida.

(b) Legal Authority:

16 U.S.C. 1801 *et seq.*

(c) Importance of Regulations:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)
(ii) Is the regulation major? (yes x, no ☐, unknown ☐)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (April 1979)
(ii) In final form (June 1979)

(e) Tentative Plan for Obtaining Public Comments:

Publication in the **Federal Register.**

(f) Major Issues Surrounding Proposed Regulatory Action:

Establishment of management measures which will control harvest of stone crabs and which will minimize

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gear conflicts between shrimp fishermen and stone crab fishermen.

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes x, no ☐, unknown ☐)
(i) Date of draft analysis (January 1979)
(ii) Date of final analysis (April 1979)
(2) Other Documents Available: Stone Crab Fishery Management Plan.

(h) Agency Contact:

Mr. William H. Stevenson, Director, Southwest Region, National Marine Fisheries Services, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702, Phone: (813) 993–3141.

Trawl Fisheries of Washington, Oregon, and California Preliminary Fishery Management Plan (PMP)

(a) Description and Need for Regulation:

Implements Trawl Fishery of Washington, Oregon and California PMP. Regulates foreign trawl fishery in Fishery Conservation Zone (FCZ) off of Washington, Oregon and California.

(b) Legal Authority:

16 U.S.C. 1801 *et seq.*

(c) Importance of Regulations:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)
(ii) Is the regulation major? (yes x, no ☐, unknown ☐)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (March 1979)
(ii) In final form (May 1979)

(e) Tentative Plan for Obtaining Public Comments:

Will be published in the **Federal Register.**

(f) Major Issues Surrounding Proposed Regulatory Action:

Regulating allowable levels of incidental catch.

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes x, no ☐, unknown ☐)
(i) Anticipated date of draft analysis (not determined)
(ii) Anticipated date of final analysis (not determined)
(2) Other Documents Available: Trawl Fisheries of Washington, Oregon, and California Preliminary Fishery Management Plan.

(h) Agency Contact:

Mr. Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Washington 98109, Phone: (206) 442–7575.

Trawl and Herring Gillnet Fishing in the Eastern Bering Sea Preliminary Fishery Management Plan (PMP)

(a) Description and Need for Regulation:

Regulates foreign trawl and herring gillnet fishery in the Eastern Bering Sea.

(b) Legal Authority:

16 U.S.C. 1801 *et seq.*

(c) Importance of Regulations:

(i) Is the regulation significant? (yes x, no ☐, unknown ☐)
(ii) Is the regulation major? (yes x, no ☐, unknown ☐)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (March 1979)
(ii) In final form (May 1979)

(e) Tentative Plan for Obtaining Public Comments:

Will be published as proposed regulations in **Federal Register.**

(f) Major Issues Surrounding Proposed Regulatory Action:

Optimum yield of stocks; allocation among domestic users.

(g) Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes x, no ☐, unknown ☐)
(i) Anticipated date of draft analysis (not determined)
(ii) Anticipated date of final analysis (not determined)
(2) Other Documents Available: Trawl and Herring Gillnet Fishery of the Bering Sea and Aleutian Islands PMP.

(h) Agency Contact:

Mr. Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Phone: (907) 586–7221.

Schedule B.—Regulations Selected for Review by DOC Departmental Units

[Calendar Year 1979]

Title of regulation	Responsible operating unit	Legal authority	Proposed date for start of review	Target date for completion of review	Contact person and address
*Administration of Pribilof Islands (Marine Mammals) (50 CFR Part 215, Subpart B).	NOAA/NMFS	16 U.S.C. 1151–1187	Not determined	Not determined	Mr. Walter Kirkness, Director Pribilof Islands Program (206) 442–7776
*Regulated Commercial Fisheries (50 CFR Part 240).	NOAA/NMFS	16 U.S.C. 981–991	April 1979	Fall 1979	Mr. Carmen Blondin, Deputy Director, Office of International Fisheries (202) 634–7267.
*Salmon Fisheries (50 CFR Part 241)	NOAA/NMFS	16 U.S.C. 966	April 1979	Fall 1979	Mr. Carmen Blondin, Deputy Director, Office of International Fisheries (202) 634–7267.
*Continental Shelf Fisheries Resource (50 CFR Part 295)	NOAA/NMFS	16 U.S.C. 1064, 1065	April 1979	Fall 1979	Mr. William P. Allen, Fishery Management Officer, Permits and Regulations Division (202) 634–7265
**Field Organization of the National Marine Fisheries Service (50 CFR 210)	NOAA/NMFS	5 U.S.C. 301	March 1979	Fall 1979	Mr. Winfred H. Meibohm, Executive Director (202) 634–7292.
**Offshore Shrimp Fisheries Act (50 CFR Part 245).	NOAA/NMFS	16 U.S.C. 1100(b) and 1100(b) note	June 1979	Not determined	Mr. Keith Brouillard, Staff Assistant (202) 634–7267.
**Uniform Standards for Organization, Practices and Procedures—Regional Fishery Management Councils (50 CFR Part 601, Subpart C)	NOAA/NMFS	16 U.S.C. 1852, 1854 and 1855	March 1979	Fall 1979	Mr. Winfred H. Meibohm, Executive Director (202) 634–7292.
**U.S. Standards for Grades of Frozen Fried Scallops (50 CFR Part 266, Subpart B).	NOAA/NMFS	7 U.S.C. 1621–1630	Not determined	Not determined	Mr. James R. Brooker, Staff Specialist (202) 634–7456.
**U.S. Standards for Grades of Raw Headless Shrimp (50 CFR Part 265, Subpart A).	NOAA/NMFS	7 U.S.C. 1621–1630	Not determined	Not determined	Mr. James R. Brooker, Staff Specialist (202) 634–7458

*Addendum.
**Included in March 7, 1979, Department of Commerce Agenda.

[FR Doc. 79-12974 Filed 4-27-79; 8:45 am]

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federal register

Monday
April 30, 1979

Part III

Environmental Protection Agency

Noise Emission Standards for Transportation Equipment; Interstate Rail Carriers

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 201]

Noise Emission Standards for Transportation Equipment; Interstate Rail Carriers

AGENCY: Environmental Protection Agency.

ACTION: Correction to Notice of Proposed Rulemaking.

SUMMARY: This is a notice of corrections to the **Federal Register** published April 17, 1979 at pages 22960 to 22972, titled "Environmental Protection Agency [40 CFR Part 201] Noise Emission Standards for Transportation Equipment; Interstate Rail Carriers."

FOR FURTHER INFORMATION CONTACT: Dr. William E. Roper, Office of Noise abatement and Control, (703) 557–7747.

Corrections

Errors were made to: Line 67, column 3 on page 22963. Line 2, column 2 on page 22966. Table 4.1 on page 22964. Table 4.3 on page 22965–22966. Table 4.4 on page 22966. Paragraph 201.26(d)(1) on page 22971. Figures 2 and 3 were deleted.

Corrected line 67, column 3 on page 22963 is as follows: "we reviewed several types of descriptors"

Corrected line 2, column 2 on page 22966 is as follows: "and rely on assumptions regarding"

Corrected Tables 4.1, 4.3, and 4.4 and corrected paragraph 201.26(d)(1) are as follows:

Table 4.1.—Noise abatement techniques To Limit Flat and Hump yard Noise to L_{dn} = 70

Technique	Flat yard	Hump yard
Refrigerator car Treatment	x	x
Switch Engine Treatment	x	x
Relocate or Enclose Load Cell Test Site	x	x
Relocate or Shut Down Idling Locomotive	x	x
Retarder Noise Barriers		x

Table 4.3.—*Cost Estimates for Noise Abatement of U.S. Railroads to Reach L_{dn} 70*

Noise sources		Control techniques			
Type		Type	Unit cost	Capital costs ($000)	Annualized costs ($000)
Hump Yards: 124					
Master Retarders		Barrier Sets	$32,500	$2,790	$594
Group Retarders		Barrier Sets	16,000	11,160	2,374
Switch Engines		Mufflers and Fan Treatment	1,200	372	170
Load Test Site		Relocate or Enclose	90,000	2,790	575
Measurement		Instrumentation	10,000	1,240	582
Subtotal—Hump yard costs				18,352	4,295
Flat Classification Yards: 1113					
Switch Engines		Mufflers and Fan Treatment	1,200	3,340	1,527
Load Test Site		Relocate or Enclose	90,000	16,650	3,430
Measurement					1,013
Subtotal—Flat classification yard costs				19,990	5,970
Industrial Yards: 1361					
Switch Engines		Mufflers and Fan Treatment	1,200	4,142	1,894
Measurement		Instrumentation	10,000	4,630	4,311
Subtotal—Industrial yards				8,772	6,205
Refrigerator Cars		Mufflers and Fan Treatment	110	2,640	328
Grand Total				49,754	16,798

Table 4.4.—*Additional Costs for Hump Yard Facilities To Go From L_{dn} 70 to 65*

Hump Yards: 124					
Master and Group Retarders		Ductile Iron Shoes	$112,000		$13,861
Inert Retarders		Releasable Retarders	10,000	39,960	10,496
Total—Hump yard costs				39,960	24,357

(d) *Alternative Microphone Locations.* (1) If the criteria of Sec. 201.26 do not permit measurements at the distances defined above, the measurement location may be adjusted within the distance limits listed in Table 3 below. When such an alternate location is selected, the measured maximum sound level shall be adjusted by addition of the amount listed in Table 3 for the appropriate distance.

The deleted Figures 2 and 3 are attached.

Dated: April 19, 1979.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise and Radiation (ANR–443)

[Docket No. ONAC 79–01; FRL 1059–8]

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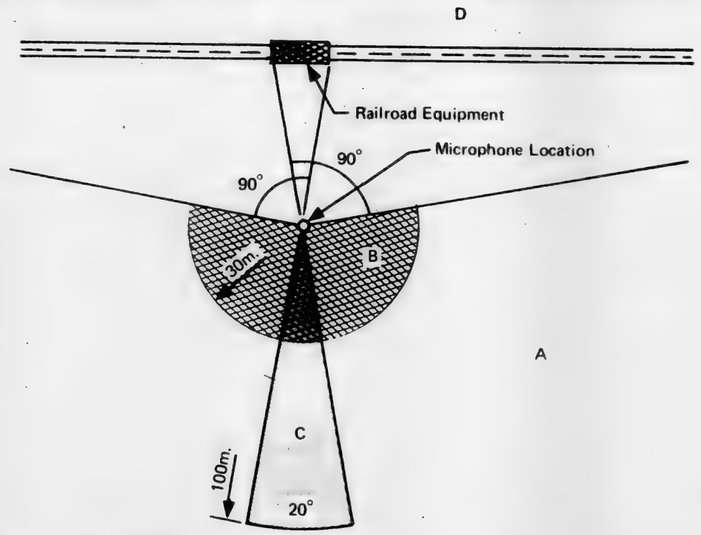


Figure 2. Microphone Location and Areas of Consideration for Retarder, Car Coupling and Refrigerator Car Tests

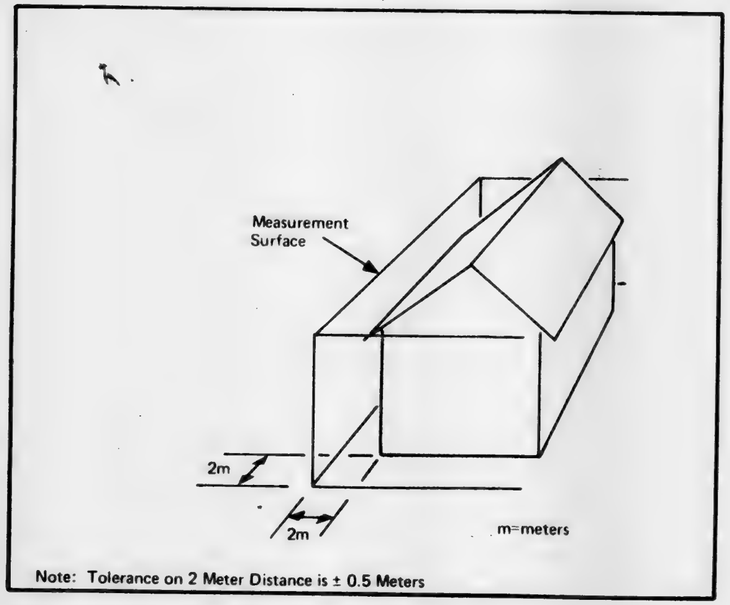


Figure 3. Example of Residential Dwelling Measurement Surface

[FR Doc. 79–13051 Filed 04–27–79; 8:45 am]

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federal register

Monday,
April 30, 1979

Part IV

Department of Energy

Federal Energy Management and Planning Programs; Proposed Methodology and Procedures for Life Cycle Cost Analysis of Federal Buildings

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DEPARTMENT OF ENERGY

[10 CFR Part 436]

Federal Energy Management and Planning Programs; Proposed Methodology and Procedures for Life Cycle Cost Analysis of Federal Buildings

AGENCY: Department of Energy.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Department of Energy proposes a methodology and procedures to conduct life cycle cost analyses involving estimation and comparison of the cost effects of replacing building systems with energy-saving alternative building systems in existing Federal buildings or of selecting among alternative building designs containing different energy using building systems for a new Federal building. The methodology will be subpart A of the new Part 436 of Title 10 of the Code of Federal Regulations and will be used in accordance with the guidelines for Federal building plans to reduce consumption of scarce fossil fuels for building energy use and with the rule for solar demonstration project proposals which will be subparts C and D of part 436, respectively.

DATES: Comments must be received by June 29, 1979, 4:30 d.s.t., in order to ensure their consideration. Hearings will be held at the places and on the dates indicated below.

ADDRESSES: Comments to: Margaret W. Sibley, Office of Conservation and Solar Applications, Department of Energy, 20 Massachusetts Ave., N.W., Washington, D.C. 20585.

HEARINGS: Public Hearings will be held in three cities, beginning at 9:00 a.m. local time on the dates and locations specified below:

City	Hearing date	Request to testify by 4:30 p.m.	Submit requests to testify to—	Hearing locations
San Francisco	May 17	May 7	Robert Laffel, DOE, 1111 Pine Street, San Francisco, CA 94111.	Holiday Inn, Golden Gate Way, 1500 Van Ness Ave., San Francisco, CA.
Kansas City	June 4	May 24	Suzanne Mathews, 324 East 11th Street, Kansas City, MO 64106.	Conference Rm. 140, 601 E. 12th St., Kansas City, MO.
Washington, D.C.	June 19	June 7	Margaret Sibley, DOE, 20 Mass. Avenue, N.W., Wash., D.C. 20461.	Room 2105, 2000 M Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Jack Vitullo, Office of Conservation and Solar Applications, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20585, (202) 376–4017.

Margaret W. Sibley, Office of Conservation and Solar Applications, DOE, 20 Massachusetts Avenue NW., Washington, D.C. 20585, (202) 376–1651.

Neal J. Strauss, Office of the General Counsel, DOE, 20 Massachusetts Avenue NW., Washington, D.C. 20585, (202) 376–9472.

Mark Friedrichs, Office of Policy and Evaluation, Department of Energy, 12th & Pennsylvania Ave. NW., room 5316, Washington, D.C. 20461, (202) 633–8595.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. The Proposed Life Cycle Cost Methodology.
III. Developing Cost Data and Methodological Assumptions:
A. Non-Fuel Use Categories.
B. Energy Cost Data.
C. Discount Rate and Constant Dollars.
D. Study Period.
E. Possible Special Solar Incentives.
IV. Applying the Proposed Life Cycle Cost Methodology:
A. Formatting Cost Data.
B. "Modes of Analysis—Combining Cost Data and Measuring Cost Effectiveness".
V. Retrofit Interdependencies.
VI. Sensitivity Analysis.
VII. Leased Federal Buildings.
VIII. When to Assume Cost Effectiveness Results.
IX. Environmental Review:
A. NEPA.
B. EPA Review.
X. Determinations Under Executive Order 12044.
XI. Public File.
XII. Effective Date.
XIII. Comment and Hearing Procedures:
A. Written Comments.
B. Request Procedures.
C. Conduct of Hearing.

I. Introduction

The Department of Energy (DOE) hereby proposes to add a Subpart A to Part 436 of Chapter II, Title 10 of the Code of Federal Regulations (10 CFR Part 436). Part 436 will eventually comprise the rules for energy conservation and renewable energy (e.g., solar) programs applicable to Federal buildings. Today's proposal involves a methodology and procedures for the conduct of life cycle cost analyses to evaluate and compare the estimated cost effects of energy-saving investments in existing and new Federal buildings for the purpose of reducing consumption of scarce fossil fuels. The DOE proposes this life cycle costing methodology and procedures pursuant to section 381(a)(2) of the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6361(a)(2), section 10 of Executive Order 11912, as amended, (Executive Order) and Title V of the National Energy Conservation Policy Act (NECPA), 92 Stat. 3275.

The DOE has already proposed a Subpart D for Part 436 which is intended to provide the rules for the Solar in Federal Buildings Demonstration Program under Title V, Part 2 of the NECPA. The DOE expects to add to Part 436 a Subpart B for preliminary energy audit procedures and a Subpart C for guidelines for Federal agency plans to reduce building energy use under the Executive Order and Title V, Part 3, of the NECPA. Subsequent to the proposal of Subparts B and C, the DOE intends to propose a Subpart E for Part 436 which will provide rules for monitoring and assessing the performance of photovoltaic solar electric systems to be installed at Federal facilities under Title V, Part 4 of the NECPA.

The life cycle costing methodology and procedures of Subpart A will be used to evaluate and compare the estimated cost effects of energy-saving investments during the formulation and execution of Buildings Plans under Subpart C. Subpart A will also be used to evaluate and compare the estimated cost effects of solar demonstration project under Subpart D. It should be emphasized, however, that the result of a life cycle cost analysis will be treated differently under Subparts C and D as required by law. The result will be determinative under the planning guidelines of subpart C, while, under Subpart D, it will merely be a factor to be considered in evaluating a proposed solar demonstration project.

Both the Executive Order and Title V of the NECPA set requirements for the methodology and procedures proposed today. Read together, they require that the methodology and procedures be practical, effective, and suitable for estimating—

- Whether retrofitting an alternative building system to an existing Federal building is cost effective and tends to minimize the life cycle cost of that building;
- Relative ranking, based on cost-effectiveness, of retrofit investments in Building Plans;
- Whether an alternative building design for a new Federal Building will minimize the life cycle cost of that building;
- Payback time for solar demonstration projects; and
- Present value of net benefits or excess costs of a solar demonstration project in comparision to a substitute conventional, non-solar alternative building system in an existing Federal building or in the design of a new Federal building.

In compliance with the Executive Order and the NECPA, proposed § 436.11 defines the term "life cycle cost" to mean "the total costs of owning, operating, and maintaining a building over its useful life, including its fuel and energy costs, determined on the basis of a systematic evaluation and comparison of *alternative building systems* * * * [Emphasis added.]. Today's proposed rule defines the term "alternative building system" as "an energy conservation measure as defined by § 436.41, including a renewable energy system, for an existing Federal building, or a primary energy-saving building system, including a renewable energy system, for consideration as part of the design for a new Federal building." The DOE considered defining the term "alternative building system," to include only those systems which can attribute at least 50 percent of their projected overall cost savings to energy cost savings, but chose instead to leave the fixing of a precise cutoff point to agency discretion.

Today's proposal was developed in consultation with the Office of Management and Budget (OMB), the National Bureau of Standards (NBS), the General Services Administration (GSA), the Department of Defense (DOD), the Veterans Administration (VA), and other Federal agencies who, among other things, provided information on existing analytical techniques used to estimate life cycle cost. The Director of OMB has concurred in the proposal.

Substantial technical assistance was provided by the experts of the NBS who are conversant with the technical aspects of life cycle cost analysis and are established consultants in the field. NBS was instrumental in the development of a manual for Federal agencies to use in applying the rule. The manual is entitled "Life Cycle Cost Manual for Federal Energy Management and Planning Programs." A draft of that manual is available for inspection in the public file.

Today's proposed rule, when finalized, will promote standardization in life cycle cost analytical techniques already in use by Federal agencies. The final rule is likely to promote energy conserving investment decisions which are more consistent and rational. It may also influence private sector decisionmakers to balance the importance of initial investment costs with the implications of compensating cost savings over the life cycle of an investment in energy-saving building systems and building designs.

II. The Proposed Life Cycle Cost Methodology

A life cycle cost "methodology" is a set of systematic procedures which makes apparent the tradeoffs between additional dollars invested today and reduced costs tomorrow. The methodology permits an analyst to assess a give investment decision or choose among alternative investment decisions on the basis of the estimated economic consequences (measurable in dollars) over a given period of time. It involves analyzing the net effect of all significant cash flows associated with an investment over a period of time, using an adjustment "technique" to reflect the fact that the future dollar consequences of a present dollar investment can be accurately assessed only by taking account of the influence of time on the value of money. Dollars invested can earn a return over time, and it is this earing potential which determines the time value of money.

The DOE considered two closely related "techniques" for accounting for the time value of money: discounting future dollars to present values, and alternatively, converting present and future dollars to uniform annual values. Under certain circumstances, the uniform annual value technique is advantageous due to simplicity in computation. However, that advantage appears to be lost if one systematically escalates energy cost figures to take account of the prospect for long term increases in the price of most fossil fuel energy sources at a rate faster than the rate of increase in the general level of prices. Moreover, proposing a methodology with this technique would result in additional computation for the solar demonstration program authorized by Part 2 of Title V of the NECPA which requires an evaluation of the present value of benefits and costs. The additional computation would be the arithmetic conversion from annual value to present value. Inasmuch as the DOE considers adjustments to reflect rising energy prices to be essential and in light of the desirability to minimize the required calculation generally and for the NECPA solar demonstration program specifically, the DOE decided to propose use of present values.

The methodology proposed today employs the technique of discounting future costs to present values over a period of time referred to as a "study period". It involves different combinations of present value cost data to measure the cost effectiveness of energy-saving investments. The combinations of cost data are referred to as "modes of analysis," and are described as "total life cycle costs," "net savings," and the "savings-to-investment ratio."

In addition to these measures of cost effectiveness, the DOE proposes a procedure for calculating estimated simple payback time. Simple payback is a rough approximate indicator of cost effectiveness. It is not, however, a true measure of life cycle cost effectiveness because the calculation ignores cost savings and costs after the point in the life cycle at which cumulative cost savings equals investment costs. Moreover, although simple payback has the advantage of computational simplicity, it does not take into account the time value of money or anticipated increases in energy prices. The DOE is including it in the proposed rule because calculation of payback time is required for the solar demonstration program and may be useful as a rough indicator of cost effectiveness.

III. Developing Cost Data and Methodological Assumptions

A. Non-Fuel Use Cost Categories

Proposed § 436.16 identifies four categories of non-energy costs to be analyzed. These categories are: (1) investment costs; (2) non-fuel operation and maintenance costs; (3) replacement costs, and (4) salvage values. These categories cover the range of non-fuel use costs covered by the definition of the term "life cycle cost" in both the Executive Order and the NECPA.

The term "investment costs" is defined by proposed § 436.11 to include the initial costs of design, engineering, purchase and installation (exclusive of "sunk costs," that is to say, costs incurred prior to the life cycle cost analysis). Proposed § 436.14 provides for the assumption that the investment costs represent a lump sum occurring in

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the base year which is the year is which the life cycle cost analysis takes place. This assumption is proposed for ease of computation.

The term "non-fuel operation and maintenance costs" is defined to include labor and non-fuel materials required for routine upkeep costs. Operating energy costs are excluded here, but included elsewhere, because the proposed rule provides for adjustments in future energy costs to reflect anticipated real price increases, but provides for no such adjustments of the non-energy costs. That feature of today's proposal made it desirable to separate energy from non-energy categories.

"Replacement costs" are defined by proposed § 436.11 as future costs to replace a building system or a component thereof which wears out during the study period.

"Salvage value" is defined by proposed § 436.11 as value of any building system removed or replaced during the study period, remaining at the end of the study period, or captured in resale if the building is to be sold before the end of the study period.

Proposed § 436.14 provides for Federal agencies to establish cost data for the foregoing categories by referring to standard estimating sources.

It is intended that Federal agencies only consider those costs of investment, non-fuel operation and maintenance, and replacement, and salvage values directly incurred by the Federal government. This is an important point to bear in mind with respect to leased Federal buildings when the lease does not provide for the United States or a Federal agency to pay for these costs.

B. Energy Cost Data

Proposed § 436.14(c) provides for Federal agencies to use the estimated base year energy prices indicated in Table 1, Appendix C, by appropriate region, sector, and fuel type, or, alternatively, their own base year energy prices if they exceed the DOE regional estimates.

Proposed § 436.17 provides for estimating energy costs, in accordance with § 436.14(c), on the basis of the energy delivered to the Federal building. For example, if a Federal agency is billed directly for electricity delivered to a particular building, the price of electricity to be used in calculating the life cycle costs of an alternative building system for that building is the base-year price indicated for electricity in Table 1, Appendix C, for the appropriate region and sector, unless the price actually charged by the utility is higher. However, if the Federal agency buys coal which is then used to generate electricity, the price of the electricity used in calculating the life cycle costs of an alternative building system should reflect the cost of the coal, plus the costs incurred by the agency in generating and distributing the electricity. If the total cost to the agency (including the cost of the primary fuel) of generating and distributing the electricity is higher than the the appropriate DOE regional price indicated in Appendix C, a unit price based on actual agency costs should be used. It is intended that Federal agencies only consider energy cost savings when the agencies are directly charged for the energy used in a building. This is a point to bear in mind when, with respect to leased Federal buildings, the lease does not privide for the United States or a Federal agency to pay for the costs of utilities.

The base year energy prices for 1980 were derived from actual prices obtained from DOE's Energy Information Administration (EIA) for the year 1977. These prices were then escalated and inflated to approximate actual 1980 prices by region, sector, and fuel type.

In the development of today's proposal, DOE considered a requirement that Federal agencies use base year energy prices and projected energy price escalation rates which reflect the replacement or marginal costs of producing and delivering additional supplies of energy rather than average retail prices. Such prices should reflect the cost savings to the Nation as a whole of energy conserving actions, rather than simply the cost savings to the Federal Government. It has been estimated that replacement costs prices, at the retail level, for electricity, natural gas, and petroleum products are currently 10–30 percent higher than actual retail prices. Because reliable projections of such replacement cost prices are not yet available, and DOE wants to solicit comments before proceeding, the proposed rule uses projections of average retail prices. DOE would welcome comment now on the desirability of using replacement cost prices. DOE is particularly interested in comments about (1) the accuracy of estimates of replacement cost prices (for electricity, natural gas, and petroleum products) that are 10–30 percent higher than actual costs, (2) how much the difference will narrow between average real prices and replacement costs as a result of the Natural Gas Policy Act of 1978 and oil decontrol, and (3) whether replacement costs reflect accurately the cost savings to the Nation of energy conserving actions. Prior to incorporating any replacement cost prices in future rulemakings, however, DOE will provide public notices of their availability for comment.

The projected energy prices and escalation rates used in today's proposal were developed from preliminary March 1979, results of the Mid-Term Energy Forecasting System (MEFS), developed by EIA. MEFS is an integrated computer model of the domestic energy system with explicit representation at the regional level of the supplies and costs of petroleum products, natural gas and coal; costs of petroleum refining, electricity generation, and transportation; and price sensitivity of energy demands. In forecasting future energy supply, demand and prices, MEFS simulates the effects of a number of different variables, such as economic growth, world oil prices and the discovery of additional domestic energy resources. In order to reflect the uncertainty of such forecasts, EIA develops a range of forecasts based on different assumptions about key variables.

The MEFS is the latest version of a model which was called Project Independence Evaluation System (PIES). PIES was fully documented in a 15 volume set of reports published in September, 1976. This documentation is available from the National Technical Information Service (NTIS), Springfield, Virginia 22161, under the number of the initial volume FEA/N–76/411. It is now being updated to document the Mid-Term Energy Market Model which is the basis of MEFS. Additional information about the model will be released in April by the EIA Administrator and will be available in the public file.

The projected energy price escalation rates used in these proposed rules represent the preliminary results of a forecast based on a series of "pessimistic" assumptions regarding long term world and domestic energy supplies. These "pessimistic" assumptions result in energy price projections on the high end of the range of forecasts being developed by EIA. For example, this high-price case assumes that the price in 1990 of crude oil on the world market (in constant 1978 dollars) will be $23.50. This is contrasted by a medium-price case which assumes the 1990 world oil price to be $18.50 and a low-price scenario which assumes the price will be $15.00.

As can be seen from recent movement in World Oil prices, the "high" case more closely reflects actual price trends than does the medium or low price cases. Therefore, DOE has selected the high price case as the most suitable at this time for use in developing estimates and making energy conserving investments in Federal Buildings. DOE specifically invites comments on the choice of this high-price ease. The price forecasts used in the final rule, to be issued later this year, will be adjusted to reflect the final results of EIA's most recent forecasts of energy prices, under the high-price case, subject to public comment. DOE plans annually to update these forecasts of energy prices, as well as the base year energy prices indicated in Table 1, Appendix C.

Specific assumptions upon which the high-price case is based, include:

1. Real (inflation adjusted) annual growth rate for the Gross National Product (GNP) will average 3.9 percent a year from 1980 to 1985 and about 3.3 percent per year thereafter.

2. Real price of oil imports, in 1978 dollars, will increase to $21.50 by 1985, to $23.50 by 1990 and to $31.50 by 1995.

3. The provisions of the National Energy Act are fully implemented.

4. Domestic oil prices are decontrolled by September 30, 1981.

5. There is no oil pipeline from the West Coast to eastern portions of the U.S.

6. A gas pipeline from Alaska would be in place by 1985.

7. The United States Geologic Survey low domestic resource base exists.

8. As gas prices rise, various non-traditional supplemental sources of natural gas become available.

A more detailed description of the assumptions, underlying the price forecasts in today's proposed rule will be contained in an Energy Information Administration memorandum of case assumptions which will be available in the public file. This document sets forth the assumptions for cases in addition to the high-price case used today. The basis for the different sets of assumptions for the range of forecasts by EIA will also be fully discussed in the annual report of the Administrator of EIA.

Data on the price growth are derived from the price projections. These include a rate for the period from 1979–1985 derived from the historical 1977 prices and the projected 1985 prices, a rate for the period 1985–1990 derived from the forecasts for 1985 and 1990 and a rate for years beyond 1990 derived from the 1990 and 1995 price forecasts. The energy price projections from which these escalation rates were derived are represented in constant 1978 dollars and, thus, disregard those price increases expected to result from general inflation alone. The use of these "real" energy price escalation rates is in conformance with the requirements of OMB Circular A–94 and accepted life cycle costing techniques. This approach, however, does result in escalation rates which are lower than the rates (including inflation) of energy price growth perceived by Federal agencies and other energy users. The following Tables show examples of escalated prices and inflated prices for each 5 years through 1995.

Escalated Prices (1980 Dollars)

Year	Elec.	Residential		Commercial Residual	Industrial Coal
		Nat. Gas	Distillate		
1980	14.17	3.24	4.38	3.20	1.15
1985	15.47	4.25	5.49	4.44	2.16
1990	15.96	4.91	6.02	4.93	2.28
1995	17.82	5.64	7.70	6.41	3.06

Inflated Prices (Current Dollars)

1980	14.17	3.24	4.38	3.20	1.15
1985	21.06	5.79	7.48	6.06	2.93
1990	27.37	8.40	10.31	8.47	3.90
1995	38.27	12.09	16.52	13.79	6.55

Fuel prices per million Btu's. Assumed inflation rates 6.4 percent to 1985; 4.7 percent from 1985 to 1990, and 4.6 percent from 1990 to 1995.

C. Discount Rate and Constant Dollars

The annual discount rate proposed today for evaluating both energy-saving retrofit investments and new building designs under today's rule is 10 percent. This is the prescribed rate under OMB Circular A–94, and represents an estimate of the average rate of return on private investment before taxes. It is the standard rate for evaluating Federal programs and projects. The Executive Order requires that the life cycle methodology be consistent with OMB Circular A–94.

Consistent with OMB Circular A–94, the DOE is proposing that both costs and savings be expressed in constant dollars, that is, exclusive of the inflationary trends in the general level of prices in the economy.

Appendices A and B to this Part contain tables of present worth factors based on a 10 percent discount rate for adjusting future energy and other costs to present values. Tables 1 and 2, Appendix A, are used for adjusting future nonenergy costs to present values. Tables 1 through 11, Appendix B, which contain present worth factors adjusted for energy price escalation (as discussed below), are used for adjusting energy cost data to present values. This combined table simplifies the computation of life cycle cost data.

D. Study Period

The "study period" for owned existing and new Federal buildings, as well as leased Federal buildings is set forth as proposed § 436.14.

The proposed rule provides for the following study periods—

- The lesser of 30 years of project life or building life for evaluating or ranking alternative building systems for an owned existing Federal building;
- A common study period for comparing the total life cycle costs or net savings of mutually exclusive alternatives for a given building system, such as alternative sizes of a solar energy system, or alternative thicknesses of insulation;
- The lesser of 30 years or the period of intended use for evaluating alternative building designs for an owned new Federal building; and
- The effective remaining term of a lease, taking renewal options into account, as appropriate, for leased Federal buildings.

With respect to ranking retrofits, project life (where it is less than 30 years) instead of building life was selected as the study period for several reasons. First, use of project life makes calculation simpler due to elimination of multiple replacements of the entire project from consideration. Second, use of project life appears to focus more closely on the specific investment decision at hand rather than on future decisions to replace the project. In any event, it should be noted that the savings-to-investment ratio used to rank retrofits appears to be relatively insensitive to the choice of a study period between project life and building life. A common study period for all projects need not be used in calculating the savings to investment ratio.

The proposed rule provides that common study periods be employed in comparing the total life cycle costs or net savings of alternative building systems that are substitutable for the same building system, such as double-glazed and triple-glazed windows. The possibilities identified in proposed § 436.14(d)(2) are estimated useful life of one of the alternatives, a common multiple of the estimated useful lives of the alternatives, or the lesser of 30 years or the useful life of the Federal building. It is important to use a common study period for such mutually exclusive alternative building systems because the values for total life cycle cost and net savings will vary depending on the length of the study period. Comment on these alternatives and suggestions for improving this aspect of the methodology would be welcome.

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E. Possible Special Solar Incentives

This rulemaking uses the same methodology to determine the life cycle cost of energy conservation and solar investments. This methodology is consistent with that used to determine the cost-effectiveness of many other non-energy investments made by the Federal Government. At this time, DOE wants to solicit comments about whether this approach is appropriate.

Consistent with this approach, DOE could consider external costs and benefits realized by the Nation, such as a reduction in environmental pollution. DOE is particularly interested in any comments about whether such external costs and benefits can be identified and quantified.

An alternative to this methodology that has been suggested, but not incorporated in the current rulemaking, is an approach that would provide a special adjustment for solar and other renewable energy systems being considered for new buildings. For example, the initial investment cost of a renewable energy system might be reducted to reflect the Federal renewable energy tax incentives made available to businesses and individuals.

Specifically, the Energy Tax Act of 1978 (Pub. L. 95–618) allows a 10 percent tax credit for business investments in a wide rage of renewable energy systems, and the Act provides a tax credit for up to 30 percent of the cost of renewable energy systems intalled in residences. Comparable adjustments could be made for renewable systems considered, respectively, for Federal non-residential and residential buildings. Some have argued that such adjustments should be made since the external benefits to the Nation cannot be quantified and the incentives in the Energy Tax Act can be used as a proxy for these benefits. DOE would welcome comment on the extent to which this argument has merit.

More generally, DOE would welcome comment about the desirability of using the above-mentioned alternative methodology for energy conservation measures and comment about any other special incentives that can be considered for energy conservation and/or renewable resource measures.

IV. Applying the Proposed Life Cycle Cost Methodology

A. Formatting Cost Data

A format for performing a life cycle cost analysis is commonly used to facilitate computations in developing cost data and presenting combinations of cost data to measure cost-effectiveness. The proposed rule encourages but does not require use of a format contained in the "Life Cycle Cost Manual for Federal Energy Management and Planning Programs." The Manual illustrates how to perform a life cost analysis with necessary calculations in compliance with the rule. As noted above, this manual is available in draft for inspection in the public file for this rulemaking.

Two alternative approaches to estimating life cycle energy costs are possible and were considered for today's proposal. One approach is a detailed, step-by-step calculation and summation of year-by-year energy costs, and the other is a simplified approach which computes life cycle energy costs in two calculation steps.

The year-by-year procedure adjusts for energy price escalation and the time value of money in two separate steps by first multplying the yearly physical quantity of energy saved by the constant dollar price per unit of energy for each year, and then multiplying each product by the appropriate single present worth discounting factors for that year. The total of life-cycle energy savings is then found by summing yearly present value energy savings over all years of the study period.

The alternative procedure uses uniform present worth factors preadjusted to reflect energy price escalation. By this two-step procedure, total life-cycle energy savings are found by multiplying the physical quantity of energy saved by the price per unit of energy in the base year and then multiplying the product by the adjusted uniform present worth factor for the appropriate study period.

The year-by-year procedure requires the projection of yearly energy prices over the study period, while the second requires the projection of rates of change in prices over the study period.

The year-by-year procedure offers the advantage of greater flexibility in evaluating projects that are expected to be significantly deferred in time. A futher possible advantage is the flexibility to pair the price tables and the discounting tables in the appropriate combinations as time passes. This means that the table remain usuable for successive years provided the energy price forecasts do not change. The disadvantage of this technique is the greater number of calculations required.

The two-step procedure offers the advantage of greafer ease and simplicity in computation. Its disadvantage is that in relying on adjustment factor tables that combine energy price escalation and discounting, it is less flexible than the first procedure. Unless the energy price escalation rates on which it is based are smoothed over relatively wide intervals of time, annual updating of the adjustment factor tables may be required even if the energy price projections do not change.

Because of the expectation that most projects will be evaluated on the basis that they will be completed in the base year, flexibility in treating time-delayed projects is not considered of primary importance. Furthermore, because it is likely that annual revisions will be required to the energy prices and escalation rates regardless of the procedure adopted for calculating energy savings, the difference between the two procedures in their requirements for revisions to factor table does not appear substantial.

For these reasons, it was decided to suggest the two-step procedure as the method of calculating present value energy savings for the proposed rule.

B. "Modes of Analysis"—Combining Cost Data and Measuring Cost Effectiveness

The proposed rule provides for four "modes of analysis" which represent four different ways of combining and presenting some or all of the cost data over the appropriate study period. Each "mode of analysis" describes a measure of cost effectiveness and is useful for a specific part of the planning guideline program of Subpart C and of the solar demonstration program under Subpart D of Part 436, but no one of them is suitable for all parts. The uses of each "mode of analysis" are described in proposed § 436.18. The four modes of analysis for combining and presenting cost data are: "Total Life Cycle Costs" "Net Savings," "Savings-to-Investment Ratio," and "Estimated Payback Time." These four modes of analysis are described by proposed § 436.19–436.22, respectively, and they are standard descriptions.

The proposed rule does not attempt to set forth a rigorous set of computations for each "mode of analysis." As stated earlier, the "Life Cycle Cost Manual for Federal Energy Management and Planning Programs" provides samples and advice on determining results for all of them. The proposed rule would permit each Federal agency to compute results in conformance with the description of each "mode of analysis" and with the methodological assumptions discussed above.

One critical point about proposed § 436.18 should be underscored. It identifies the savings-to-investment ratio as the ranking criterion for establishing priorities among retrofits of alternative building systems. Some have suggested that Btu savings per dollars invested, rather than dollar energy savings, should be emphasized in ranking retrofits. The planning guidelines of Subpart B will provide for using such a ratio as a means of ranking projects which are equally cost effective as indicated by the savings to investment ratios, but DOE has otherwise rejected this suggestion because the Executive Order provides for ranking strictly on the basis of life cycle cost and the NECPA ultimately requires minimization of life cycle cost for all Federal buildings. The intent is to make investment decisions on the basis of all cost effects and not just changes in the physical quantity of energy.

V. Retrofit Interdependencies

For existing Federal buildings, an objective of the economic analysis is to try to optimize, to the extent possible, both the energy conservation retrofit investments for a given building and the retrofit investments for all buildings across the government within the confines of the overall budget. Achieving these objectives requires accurate assessments of the energy savings that will result from particular energy conservation measures. When two or more conservation measures are likely to be budgeted for a particular building, such assessments should take into account the interdependencies of the measures. Some projects are so closely interdependent that a simultaneous solution of the design and sizing of the projects is necessary for maximum cost-effectiveness of the investments. For example, installing insulation in a particular building may reduce the fuel oil required for heating by 1,000 gallons per year. Replacing the furnace of that same building may also reduce fuel oil requirements by 1,000 gallons per year. However, adopting both measures would reduce fuel oil use by significantly less than 2,000 gallons per year because the two measures are interdependent. For another example, the optimal sizing of a solar energy system to provide energy and the optimal level of energy conservation investments to reduce energy requirements are decisions that need to be considered jointly in order to determine the economically efficient tradeoffs between the two. Decisionmaking would be improved by procedures for establishing cost-effectiveness which takes into account such interdependencies, but such procedures may add to the complexity of the analyses. Comments are invited on the manner in which interdependencies can best be reflected in agency project evaluations.

VI. Sensitivity Analysis

Because life cycle cost analysis deals with estimates, questions of uncertainty can arise with respect to the reliability of some of the cost data. The proposed rule provides for testing the "sensitivity" of a life cycle cost analysis to variations in cost estimates by assessing the relative impact of variations on the result. For example, if one were uncertain about the reliability of estimated replacement costs of an alternative building system for retrofit to an existing building, one could compute several savings-to-investment ratios for that system varying only the assumptions as to estimated replacement costs. The proposed rule would not require the conduct of a sensitivity analysis. Neither would it mandate the use of probability analysis although such an analysis might be indicated in the case of variable factors showing a high degree of variability for which probability estimates would be established.

VII. Leased Federal Buildings

The proposed rule is applicable to leased as well as owned Federal buildings. In performing a life cycle cost analysis under the rule, costs which are *not* paid by a Federal agency are excluded. Thus analysis of cost effectiveness for Federal buildings which have the same energy consumption characteristics may differ markedly depending on whether the Federal agency is the owner of the building or the lessee.

VIII. When To Assume Cost Effectiveness Results

The proposed rule permits assumptions as to results in certain narrowly defined circumstances without performing a life cycle cost analysis. Energy-saving investments are deemed not to be cost-effective for buildings under lease where the Federal agency does not pay the cost of utilities, and for buildings scheduled to be demolished or retired by fiscal year 1985. At the same time, an investment can be assumed to be cost-effective when the cost is insignificant and savings are relatively certain.

IX. Environmental review

A. *NEPA.* It has been determined that the promulgation of this rule *per se* does not constitute a major Federal action significantly affecting the quality of the human environment pursuant to the National Environmental Policy Act of 1969, as amended (NEPA) 42 U.S.C. 4321 *et seq.* As stated previously, when finalized, this rule will become subpart A of 10 CFR Part 436. Actions taken under Part 436 to implement this rule must be evaluated to determine the need for further environmental review so as to ensure full compliance with NEPA.

B. EPA Review

The DOE provided a draft of today's proposed rule to the Administrator of the Environmental Protection Agency for written comments concerning impacts on the quality of the environment, pursuant to section 7(a) of the Federal Energy Administration Act, as amended, 15 U.S.C. 766(a). The Administrator had no comments.

X. Determinations Under Executive Order 12044

Today's proposed rule has been reviewed under Executive Order 12044, 43 FR 12661, and is deemed to be "significant" because of the widespread impact on the Executive Branch. The proposed rule is not considered to be a major rulemaking because the rule is not expected to have the kinds of gross effects which call for a regulatory analysis. Accordingly, a comment period of 60 days is provided.

XI. Public File

A public file for this rulemaking is open to public inspection at the DOE in Room 8–G–152 of the DOE Freedom of Information Office, which is located at the Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. This file contains a copy of OMB Circular A–994, the draft "Manual for Life Cycle Cost Analysis," and a copy of "Life Cycle Cost Analyses—A Guide for Architects" (a useful introductory document prepared by a task force under the auspices of the American Institute of Architects). Additional materials of significance may be added to this file.

XII. Effective Date

The DOE proposes making the rule effective upon final publication because the methodology is to be used in conjunction with the planning guidelines of subpart C in order to constitute a set of rules governing the drafting of building plans to conserve building energy use. An expedited effective date is necessary in order to affect agency actions on a timely basis during the cycle for developing the Federal budget for fiscal year 1981 which will be ongoing throughout most of calendar 1979.

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XIII. Comment and Hearing Procedures

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed procedures, standards, and criteria. Comments should be submitted to the address indicated in the addresses section of this preamble and should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Life Cycle Costs—Proposed Rule (Docket No. CAS–RM–79–107)." Fifteen copies should be submitted. All comments received by June 29, 1979, and all other relevant information will be considered by DOE before final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and treat it according to its determination.

B. Request Procedures

The times and places of these public hearings are indicated in the dates and addresses section of this preamble. DOE invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest in today's proposed rulemaking, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated in the addresses section of this preamble and must be received before 4:30 p.m. d.s.t.

May 7 for San Francisco hearing
May 24 for Kansas City hearing
June 7 for Washington, D.C. hearing

Such requests may be hand delivered to such address, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Life Cycle Cost—Proposed Rule (Docket No. CAS–PM–79–104)." The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted through the day before the hearing. DOE will notify each person selected to appear at the hearing, before 4:30 p.m. d.s.t.

May 10 for San Francisco hearing
May 30 for Kansas City hearing
June 11 for Washington, D.C. hearing

Each person selected to be heard must bring 15 copies of her or his statement to the hearing at the address given in the addresses section of this preamble.

C. Conduct of Hearings

DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of the persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearing will be based on all information available to DOE. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to have a question asked of a speaker at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it be to presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 8G152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the trasncript from the reporter.

In consideration of the foregoing, the DOE hereby proposes to amend chapter II of title 10, Code of Federal Regulations, by establishing Subpart A of Part 436 as set forth below.

Issued in Washington, D.C., April 20, 1979.

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Subpart A—Methodology for Life Cycle Cost Analysis for Federal Buildings

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Authority: Energy Policy and Conservation Act, as amended, 42 U.S.C. 6361, Executive Order 11912, as amended, 42 FR 37523 (July 20, 1977); National Energy Conservation Policy Act, Title V, Part 3, 92 Stat. 3275; Department of Energy Organization Act, 42 U.S.C. 7254.

Subpart A—Methodology and Procedures for Life Cycle Cost Analysis of Federal Buildings

§ 436.10 Purpose.

This subpart establishes a methodology for estimating and comparing the life cycle costs of Federal buildings and for making determinations of life-cycle cost effectiveness. The methodology is to be used for evaluation of the economic consequences of investments in alternative building systems for existing Federal buildings and alternative building designs for new Federal buildings under subpart C of this Part, and in solar heating or solar heating and cooling projects for Federal buildings under subpart D of this Part.

§ 436.11 Definitions.

As used in this subpart—

"Alternative building system" means an energy conservation measure, as defined by § 436.41, including a renewable energy system, for an existing Federal building, or a primarily energy saving building system, including a renewable energy system, for consideration as part of the design for a new Federal building.

"Base Year" means the year in which a life cycle cost analysis is conducted.

"Building" means any structure with a roof and walls designed for storage or human use.

"Building system" means any portion of the structure of the building or of any energy using system in the building.

"Existing Federal building" means a Federal building the construction of which was complete by November 9, 1978, or the design of which cannot feasibly be modified after the effective date of subpart C of this Part.

"Federal agency" means an Executive agency under 5 U.S.C. 105(1970), the United States Postal Service, and each entity specified in 5 U.S.C. 5721(1)(B)–(H) (1970).

"Federal building" means any building, structure, or facility, as defined in § 436.41, which is constructed, renovated or leased or purchased in whole or in part for use by the United States, and which includes a heating system, or cooling system, or both.

"Investment costs" means the initial costs of design, engineering, purchase, and installation exclusive of sunk costs.

"Life Cycle Cost" means the total costs of owning, operating, and maintaining a building over its useful life, including its fuel and energy costs, determined on the basis of a systematic evaluation and comparison of alternative building systems; except that in the case of leased buildings, the life cycle cost shall be calculated over the effective remaining term of the lease.

"New Federal building" means a Federal building for which construction was not completed prior to November 9, 1978, and the design of which can be feasibly modified on the effective date of subpart C of this Part.

Non-recurring costs" means costs that are not uniformly incurred annually over the study period.

"Non-fuel operation and maintenance costs" means material and labor costs for routine upkeep and operation exclusive of energy costs.

"Recurring costs" means costs that are incurred uniformly and annually over the study period.

"Replacement costs" means future costs to replace a building system or any component thereof which wears out.

"Retrofit" means to install an alternative building system in an existing Federal building.

"Salvage value" means the value of any building system removed or replaced during the study period or remaining at the end of the study period, or recovered through resale at the end of the study period.

"Study period" means the time period covered by a life cycle cost analysis.

"Sunk costs" means costs incurred prior to the year in which the life cycle cost analysis occurs.

§ 436.12 Life cycle cost methodology.

The life cycle cost methodology for this Part is a systematic analysis of relevant costs, excluding sunk costs, over a study period, relating initial costs to future costs by the technique of discounting future costs to present values.

§ 436.13 Presuming cost-effectiveness results.

(a) If the investment and other costs for an alternative building system considered for retrofit to an existing Federal building are insignificant, a Federal agency may presume that such a system is life cycle cost effective without further analysis.

(b) A Federal agency may presume that an investment in an alternative building system for retrofit to an existing Federal building is *not* life cycle cost effective if the Federal building is—

(1) occupied under a short-term lease without a renewal option or with a renewal option which is not likely to be exercised;

(2) occupied under a lease which excludes the cost of utilities from rent; or

(3) scheduled to be demolished or retired from service by last day of FY 1985.

§ 436.14 Methodological assumptions.

Except in determining estimated simple payback time, each Federal agency shall assume:

(a) that the annual discount rate is 10 percent, and shall adjust cost data accordingly by applying the appropriate present worth factors from the tables in Appendix A;

(b) that energy prices will rise at rates faster than the rate of increase in the general price level, and shall adjust energy cost data accordingly by applying the appropriate modified present worth factors based on the 10 percent discount rate and adjusted for energy price escalation for the applicable region, sector, fuel type, and study period from tables 1 through 11 of Appendix B;

(c) that the price of energy in the base year is the price for the appropriate region, sector, and fuel type given in Table 1 in Appendix C, or, if higher, the actual price to the Federal agency of energy delivered to the Federal building;

(d) that the appropriate study period—

(1) for evaluating or ranking alternative building system retrofits for an owned existing Federal building, is the lesser of 30 years or the estimated life of the alternative building system or the estimated life of the building;

(2) for determining the Total Life Cycle Costs or Net Savings of mutually exclusive alternatives for a given building system is an equivalent study period which may be:

(i) the estimate useful life of one of the alternatives;

(ii) a common multiple of the useful lives of both alternatives; or

(iii) the lesser of 30 years or the useful life of the building;

(3) for evaluating alternative designs for an owned new Federal building, is the lesser of 30 years or the period of intended use for that building; and

(4) for a leased Federal building, is the effective remaining term of the lease which may include renewal options likely to be exercised.

(e) that the useful life of any building system is the period of service without major renewal or overhaul estimated by the manufacturer or any other reliable source;

(f) that the investment costs are a lump sum occurring in the base year;

(g) that energy costs and non-fuel operation and maintenance begin accruing in the year following the base year; and

(h) that costs in any year occur in a lump sum at the end of the year in which they are incurred.

§ 436.15 Formatting cost data.

In establishing cost data under §§ 436.16 and 436.17 and measuring cost effectiveness by the modes of analysis described by §§ 436.19–436.22, a format for accomplishing the analysis shall be used. Federal agencies are encouraged to use formats such as those set forth in the "Life Cycle Cost Manual for Federal Energy Management and Planning Programs."

§ 436.16 Establishing non-fuel cost data.

(a) The relevant non-fuel cost categories are—

(1) investment costs;

(2) non-fuel operation and maintenance costs;

(3) replacement costs; and

(4) salvage value.

(b) The investment costs are assumed to be a present value under § 436.14(f).

(c) The present value of recurring costs is the sum of the product of the base year value of recurring costs as multiplied by the appropriate uniform present worth factor for the applicable study period from table 2 in Appendix A.

(d) The present value of non-recurring costs under § 436.16(a)(2)–(a)(4) is the sum of the products of the non-recurring costs as mulitplied by appropriate single present worth factors from table 1 of Appendix A for the respective years in which the costs are expected to be incurred.

§ 436.17 Establishng energy cost data.

(a) Each Federal agency shall establish energy costs in the base year by multiplying the total units of energy used in the base year as measured at the boundary of the building by the price per unit of energy in the base year as determined in accordance with § 436.14(c).

(b) The present value of energy costs over the study period shall be calculated by multiplying the energy costs in the base year as established under § 436.17(a) by the appropriate modified uniform present worth factor adjusted for energy price escalation for the applicable region, sector, fuel type, and study period from tables 1 through 11 of Appendix B.

§ 436.18 Measuring cost effectiveness.

(a) In accordance with this section, each Federal agency shall measure cost effectiveness by combining cost data established under §§ 436.16 and 436.17 in the appropriate mode of analysis as described in §§ 436.19–436.22.

(b) Replacement of a building system with an alternative building system by retrofit to an existing Federal building or substitution in the design for a new Federal building shall be deemed cost effective if—

(1) total life cycle costs, as described by § 436.19, are estimated to be lower; or

(2) net savings, as described by § 436.20, are estimated to be positive; or

(3) the savings-to-investment ratio, as described by § 436.21, is estimated to be greater than one.

(c) As a rough, approximate measure, each Federal agency may determine estimated simple payback time under § 436.22 which indicates whether a retrofit is likely to be cost effective under § 436.18(b). An alternative system is likely to be cost-effective if estimated payback time is significantly less than the useful life of that system and of the Federal building in which it is installed.

(d) Mutually exclusive alternatives for a given building system considered in determining such matters as the optimal size of a solar energy system, the optimal thickness of insulation, or the best choice of double- or triple-glazing for windows, shall be compared evaluated on the basis of total life cycle costs or net savings over equivalent study periods. The alternative which is estimated to result in the lowest total life cycle costs or the highest net savings of the alternative considered, shall be deemed the most cost effective because it tends to minimize the life cycle cost of the Federal building.

(e) Cost effective alternative building systems shall be ranked in descending order of their savings-to-investment ratios.

(f) Alternative building designs for new Federal buildings shall be evaluated on the basis of total life cycle costs. The alternative design which results in the lowest total life cycle costs for a given new building shall be deemed the most cost effective.

§ 436.19 Total life cycle costs.

Total life-cycle costs are the sum of the present values of—

(a) Investment costs less salvage values at the end of the study period;

(b) Non-fuel operation and maintenance costs;

(c) Replacement costs less salvage costs of replaced building systems; and

(d) Energy costs.

§ 436.20 Net savings.

Net savings is the difference in the present values of savings and costs of an alternative building system.

§ 436.21 Savings-to-investment ratio.

The savings-to-investment ratio is the ratio of present value saving to present value costs over the study period for an alternative building system as compared to an existing building system. The numerator of the ratio is the net difference in present value energy and non-fuel operation and maintenance costs between the alternative and the existing building system. The denominator of the ratio is the net difference between the alternative and existing building system in present value investment and replacement costs less salvage value.

§ 436.22 Estimated simple payback time.

The estimated simple payback time is the number of years required for the cumulative value of energy cost savings less future non-fuel costs to equal the investment costs of the building system, without consideration of future fuel price increases or discount rates.

§ 436.23 Sensitivity analysis.

If there is uncertainty regarding particular items of cost data, a sensitivity analysis may be performed by varying the analysis under § 436.19–§ 436.21 for those items to determine whether the variation has a significant impact on the result of an analysis.

Appendix A to Subpart A of Part 436

Table A–1. *Single present worth factors for discounting future non-recurring cost to present value (based upon a 10 percent discount rate)*

Study period	Factor
1	0.9091
2	0.8264
3	0.7513
4	0.6830
5	0.6209
6	0.5645
7	0.5132
8	0.4665
9	0.4241
10	0.3855
11	0.3505
12	0.3187
13	0.2897
14	0.2633
15	0.2394
16	0.2176
17	0.1979
18	0.1798
19	0.1635
20	0.1486
21	0.1351
22	0.1229
23	0.1117
24	0.1015
25	0.0923
26	0.0839
27	0.0763
28	0.0693
29	0.0630
30	0.0573

Table A–2. *Uniform present worth factors for discounting future non-fuel recurring cost to present value (based on 10 percent discount rate)*

Study period	Factor
1	0.9091
2	1.7355
3	2.4868
4	3.1698
5	3.7907
6	4.3552
7	4.8684
8	5.3349
9	5.7590
10	6.1445
11	6.4930
12	6.8137
13	7.1034
14	7.3667
15	7.6061
16	7.8238
17	8.0216
18	8.2014
19	8.3649
20	8.5135
21	8.6486
22	8.7715
23	8.8832
24	8.9847
25	9.0770
26	9.1610
27	9.2370
28	9.3070
29	9.3700
30	9.4270

Appendix B to Subpart A of Part 436

Table B–1—Uniform Present Worth Factor for DOE Region I, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island

Study period	Residential sector				Commerical sector				Industrial sector					
	Electricity	Natural Gas	Distillate	Liquid Gas	Electricity	Natural Gas	Distillate	Residual	Electricity	Natural Gas	Distillate	Residual	Liquid Gas	Coal
1	0.922	0.933	0.945	0.946	0.921	0.935	0.949	0.965	0.929	0.950	0.937	0.956	0.947	0.968
2	1.772	1.804	1.839	1.840	1.770	1.809	1.849	1.895	1.791	1.853	1.816	1.869	1.845	1.963
3	2.555	2.616	2.684	2.685	2.551	2.625	2.704	2.792	2.592	2.710	2.640	2.742	2.695	2.926
4	3.277	3.374	3.483	3.485	3.272	3.388	3.515	3.658	3.336	3.524	3.412	3.576	3.501	3.877
5	3.943	4.082	4.238	4.241	3.935	4.101	4.284	4.493	4.026	4.298	4.135	4.374	4.264	4.816
6	4.547	4.736	4.937	4.940	4.537	4.763	4.997	5.268	4.653	5.016	4.806	5.114	4.970	5.685
7	5.096	5.342	5.584	5.586	5.084	5.377	5.658	5.987	5.223	5.683	5.428	5.801	5.623	6.486
8	5.595	5.903	6.184	6.183	5.581	5.947	6.271	6.655	5.740	6.302	6.004	6.438	6.226	7.231
9	6.047	6.423	6.739	6.735	6.032	6.476	6.839	7.275	6.209	6.876	6.538	7.030	6.785	7.918
10	6.459	6.903	7.253	7.245	6.442	6.967	7.365	7.851	6.635	7.409	7.033	7.579	7.302	8.554
11	6.840	7.348	7.744	7.737	6.822	7.422	7.868	8.403	7.033	7.920	7.507	8.105	7.801	9.162
12	7.194	7.760	8.212	8.211	7.175	7.845	8.350	8.933	7.404	8.411	7.960	8.609	8.284	9.745
13	7.522	8.142	8.659	8.668	7.502	8.238	8.811	9.440	7.749	8.881	8.393	9.093	8.750	10.303
14	7.827	8.495	9.086	9.109	7.806	8.602	9.252	9.927	8.072	9.332	8.806	9.556	9.200	10.837
15	8.109	8.823	9.493	9.534	8.088	8.941	9.673	10.394	8.373	9.765	9.205	10.000	9.635	11.348
16	8.371	9.126	9.882	9.944	8.350	9.255	10.076	10.842	8.654	10.180	9.584	10.425	10.056	11.836
17	8.614	9.406	10.253	10.339	8.593	9.546	10.462	11.272	8.915	10.577	9.947	10.833	10.462	12.307
18	8.839	9.666	10.607	10.720	8.818	9.817	10.831	11.684	9.160	10.959	10.294	11.224	10.854	12.756
19	9.048	9.907	10.945	11.087	9.027	10.068	11.184	12.078	9.387	11.325	10.626	11.598	11.233	13.186
20	9.242	10.130	11.267	11.442	9.222	10.301	11.521	12.457	9.600	11.676	10.943	11.957	11.600	13.598
21	9.422	10.336	11.575	11.783	9.402	10.518	11.844	12.821	9.798	12.013	11.247	12.301	11.954	13.992
22	9.588	10.527	11.869	12.112	9.569	10.719	12.153	13.169	9.983	12.336	11.537	12.630	12.296	14.370
23	9.743	10.704	12.150	12.430	9.724	10.905	12.449	13.503	10.155	12.646	11.815	12.946	12.626	14.731
24	9.886	10.868	12.417	12.736	9.869	11.078	12.731	13.823	10.316	12.943	12.081	13.249	12.945	15.078
25	10.020	11.019	12.673	13.031	10.002	11.239	13.002	14.131	10.466	13.228	12.335	13.539	13.254	15.409
26	10.143	11.160	12.917	13.316	10.126	11.388	13.260	14.425	10.606	13.501	12.579	13.817	13.552	15.727
27	10.258	11.290	13.149	13.590	10.242	11.527	13.507	14.708	10.736	13.763	12.811	14.084	13.840	16.030
28	10.364	11.410	13.371	13.854	10.348	11.655	13.744	14.979	10.858	14.014	13.034	14.339	14.118	16.322
29	10.462	11.522	13.584	14.109	10.448	11.775	13.970	15.239	10.971	14.255	13.247	14.584	14.387	16.600
30	10.554	11.625	13.786	14.355	10.540	11.886	14.187	15.488	11.077	14.496	13.450	14.818	14.646	16.867

These uniform present worth factors are based on a 10 percent discount rate adjusted for energy price escalation. See Appendix C for price projections used in developing the factors

Table B–2—Uniform Present Worth Factor for DOE Region II, New York, New Jersey, Puerto Rico, Virgin Islands

Study period	Residential sector				Commercial sector				Industrial sector					
	Electricity	Natural Gas	Distillate	Liquid Gas	Electricity	Natural Gas	Distillate	Residual	Electricity	Natural Gas	Distillate	Residual	Liquid Gas	Coal
1	0.908	0.835	0.950	0.950	0.910	0.932	0.952	0.973	0.922	0.964	0.940	0.964	0.956	1.017
2	1.731	1.810	1.852	1.853	1.738	1.801	1.857	1.921	1.773	1.952	1.823	1.893	1.858	2.032
3	2.479	2.629	2.708	2.710	2.494	2.610	2.719	2.844	2.587	2.905	2.654	2.788	2.710	3.105
4	3.159	3.394	3.522	3.524	3.181	3.365	3.508	3.741	3.280	3.843	3.434	3.651	3.524	4.176
5	3.774	4.110	4.296	4.296	3.807	4.068	4.318	4.616	3.947	4.765	4.168	4.483	4.298	5.265
6	4.334	4.785	5.010	5.013	4.378	4.734	5.041	5.427	4.554	5.682	4.847	5.254	5.014	6.274
7	4.844	5.421	5.672	5.674	4.894	5.365	5.711	6.179	5.106	6.417	5.477	5.970	5.678	7.207
8	5.308	6.020	6.295	6.284	5.365	5.963	6.332	6.878	5.609	7.166	6.066	6.633	6.288	8.072
9	5.730	6.584	6.852	6.848	5.798	6.530	6.907	7.526	6.067	7.842	6.600	7.248	6.854	8.872
10	6.113	7.117	7.378	7.369	6.183	7.067	7.440	8.127	6.483	8.479	7.100	7.819	7.377	9.619
11	6.468	7.614	7.879	7.872	6.543	7.570	7.950	8.703	6.871	9.091	7.579	8.365	7.883	10.325
12	6.795	8.078	8.358	8.356	6.875	8.042	8.437	9.255	7.233	9.677	8.037	8.888	8.371	11.008
13	7.098	8.511	8.814	8.822	7.182	8.484	8.904	9.784	7.570	10.240	8.476	9.388	8.843	11.664
14	7.377	8.916	9.250	9.271	7.466	8.898	9.350	10.290	7.884	10.780	8.895	9.867	9.299	12.294
15	7.635	9.294	9.666	9.704	7.728	9.286	9.777	10.775	8.177	11.296	9.296	10.325	9.739	12.899
16	7.873	9.648	10.064	10.122	7.970	9.650	10.185	11.240	8.450	11.796	9.680	10.764	10.164	13.479
17	8.093	9.978	10.443	10.524	8.193	9.991	10.576	11.686	8.705	12.273	10.047	11.183	10.574	14.037
18	8.297	10.286	10.804	10.911	8.400	10.310	10.949	12.112	8.942	12.731	10.398	11.585	10.971	14.572
19	8.485	10.574	11.150	11.285	8.590	10.609	11.306	12.521	9.163	13.170	10.734	11.969	11.354	15.086
20	8.658	10.842	11.479	11.645	8.766	10.890	11.648	12.912	9.369	13.592	11.056	12.337	11.724	15.580
21	8.818	11.093	11.794	11.991	8.929	11.153	11.975	13.286	9.561	13.996	11.363	12.689	12.082	16.054
22	8.966	11.328	12.094	12.325	9.079	11.400	12.286	13.647	9.741	14.384	11.658	13.026	12.427	16.509
23	9.103	11.547	12.381	12.647	9.217	11.631	12.587	13.991	9.907	14.757	11.939	13.348	12.760	16.946
24	9.229	11.752	12.654	12.958	9.345	11.847	12.873	14.321	10.063	15.114	12.209	13.656	13.083	17.365
25	9.346	11.943	12.915	13.257	9.464	12.050	13.147	14.637	10.208	15.457	12.468	13.952	13.394	17.768
26	9.453	12.121	13.164	13.545	9.573	12.240	13.409	14.939	10.343	15.786	12.713	14.234	13.694	18.155
27	9.553	12.288	13.402	13.823	9.674	12.418	13.659	15.229	10.469	16.102	12.949	14.504	13.984	18.526
28	9.645	12.443	13.629	14.090	9.767	12.585	13.899	15.507	10.587	16.405	13.174	14.763	14.265	18.883
29	9.729	12.589	13.846	14.348	9.853	12.742	14.128	15.773	10.696	16.695	13.390	15.011	14.536	19.225
30	9.808	12.725	14.053	14.596	9.932	12.888	14.347	16.028	10.798	16.974	13.597	15.248	14.797	19.554

These uniform present worth factors are based on a 10 percent discount rate adjusted for energy price escalation. See Appendix C for price projections used in developing the factors

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Table B-3—Uniform Present Worth Factor for DOE Region III, Pennsylvania, Maryland, West Virginia, Virginia, District of Columbia, Delaware

Study period	Residential sector				Commercial sector				Industrial sector					
	Electricity	Natural gas	Distillate	Liquid gas	Electricity	Natural gas	Distillate	Residual	Electricity	Natural gas	Distillate	Residual	Liquid gas	Coal
1	0.920	0.946	0.955	0.960	0.915	0.937	0.953	0.983	0.933	0.965	0.944	0.969	0.955	1.036
2	1.765	1.841	1.867	1.881	1.754	1.816	1.862	1.948	1.802	1.896	1.836	1.909	1.868	2.109
3	2.543	2.688	2.739	2.765	2.521	2.640	2.728	2.896	2.613	2.794	2.678	2.820	2.740	3.220
4	3.258	3.488	3.571	3.614	3.223	3.412	3.553	3.828	3.369	3.661	3.474	3.703	3.572	4.371
5	3.915	4.246	4.365	4.429	3.866	4.135	4.340	4.744	4.075	4.498	4.225	4.559	4.368	5.564
6	4.517	4.955	5.100	5.181	4.455	4.815	5.069	5.593	4.722	5.310	4.920	5.353	5.103	6.669
7	5.067	5.619	5.780	5.875	4.994	5.454	5.744	6.380	5.315	6.099	5.565	6.089	5.782	7.693
8	5.571	6.239	6.409	6.516	5.487	6.054	6.368	7.109	5.859	6.865	6.162	6.771	6.410	8.643
9	6.033	6.820	6.990	7.108	5.939	6.617	6.947	7.786	6.359	7.609	6.714	7.404	6.991	9.523
10	6.455	7.364	7.528	7.655	6.352	7.146	7.483	8.412	6.817	8.332	7.226	7.991	7.527	10.339
11	6.847	7.871	8.040	8.180	6.738	7.641	7.996	9.011	7.246	9.025	7.715	8.552	8.044	11.124
12	7.213	8.342	8.529	8.684	7.097	8.102	8.486	9.583	7.648	9.691	8.183	9.089	8.542	11.881
13	7.553	8.781	8.995	9.169	7.431	8.533	8.955	10.129	8.026	10.329	8.630	9.601	9.023	12.609
14	7.870	9.190	9.439	9.635	7.743	8.936	9.404	10.650	8.379	10.942	9.056	10.091	9.486	13.311
15	8.165	9.571	9.862	10.083	8.033	9.312	9.833	11.148	8.711	11.530	9.464	10.559	9.932	13.986
16	8.439	9.926	10.266	10.513	8.303	9.663	10.243	11.624	9.022	12.094	9.854	11.006	10.362	14.636
17	8.694	10.256	10.651	10.927	8.555	9.990	10.635	12.078	9.313	12.635	10.227	11.434	10.777	15.262
18	8.931	10.564	11.018	11.324	8.790	10.296	11.011	12.512	9.586	13.154	10.583	11.843	11.176	15.865
19	9.152	10.850	11.368	11.706	9.009	10.582	11.370	12.926	9.843	13.653	10.923	12.233	11.562	16.446
20	9.358	11.117	11.701	12.072	9.213	10.849	11.713	13.321	10.083	14.131	11.248	12.607	11.933	17.005
21	9.550	11.366	12.019	12.425	9.402	11.098	12.042	13.699	10.308	14.590	11.559	12.963	12.291	17.543
22	9.728	11.597	12.322	12.763	9.579	11.331	12.356	14.060	10.519	15.030	11.856	13.304	12.636	18.062
23	9.893	11.813	12.611	13.089	9.744	11.548	12.656	14.404	10.716	15.452	12.140	13.630	12.968	18.561
24	10.048	12.013	12.887	13.402	9.897	11.751	12.944	14.733	10.902	15.858	12.411	13.942	13.289	19.042
25	10.191	12.200	13.149	13.702	10.040	11.941	13.219	15.047	11.076	16.247	12.670	14.239	13.598	19.504
26	10.325	12.374	13.400	13.991	10.174	12.118	13.481	15.348	11.239	16.620	12.918	14.524	13.896	19.950
27	10.449	12.536	13.639	14.268	10.298	12.283	13.733	15.634	11.391	16.978	13.155	14.796	14.183	20.379
28	10.565	12.687	13.866	14.535	10.413	12.437	13.973	15.908	11.535	17.322	13.381	15.055	14.460	20.792
29	10.673	12.828	14.083	14.791	10.521	12.581	14.203	16.169	11.669	17.651	13.597	15.304	14.727	21.190
30	10.773	12.959	14.290	15.037	10.621	12.716	14.423	16.419	11.795	17.968	13.803	15.541	14.984	21.573

These uniform present worth factors are based on a 10 percent discount rate adjusted for energy price escalation. See Appendix C for price projections used in developing the factors

Table B-4—Uniform Present Worth Factor for DOE Region IV, Kentucky, Tennessee, North Carolina, South Carolina, Mississippi, Alabama, Georgia, Florida, Canal Zone

Study period	Residential sector				Commercial sector				Industrial sector					
	Electricity	Natural Gas	Distillate	Liquid Gas	Electricity	Natural Gas	Distillate	Residual	Electricity	Natural Gas	Distillate	Residual	Liquid Gas	Coal
1	0.925	0.954	0.961	0.969	0.926	0.949	0.958	0.983	0.944	0.993	0.948	0.986	0.968	1.033
2	1.781	1.863	1.883	1.908	1.784	1.850	1.875	1.951	1.836	1.979	1.845	1.900	1.906	2.100
3	2.573	2.731	2.770	2.818	2.579	2.705	2.754	2.902	2.678	2.959	2.696	2.802	2.813	3.203
4	3.305	3.558	3.626	3.700	3.315	3.517	3.596	3.837	3.473	3.931	3.502	3.673	3.692	4.342
5	3.982	4.347	4.440	4.555	3.997	4.287	4.402	4.757	4.224	4.897	4.266	4.515	4.542	5.519
6	4.605	5.078	5.196	5.344	4.623	5.004	5.149	5.612	4.915	5.847	4.974	5.297	5.329	6.601
7	5.176	5.756	5.896	6.073	5.198	5.669	5.841	6.407	5.552	6.779	5.629	6.024	6.055	7.596
8	5.700	6.383	6.549	6.745	5.725	6.288	6.482	7.145	6.139	7.696	6.236	6.699	6.726	8.512
9	6.182	6.964	7.142	7.366	6.210	6.863	7.075	7.831	6.680	8.597	6.798	7.326	7.347	9.353
10	6.624	7.503	7.696	7.939	6.655	7.398	7.626	8.468	7.179	9.482	7.318	7.909	7.920	10.127
11	7.036	8.009	8.223	8.490	7.069	7.903	8.152	9.080	7.647	10.338	7.816	8.468	8.472	10.872
12	7.421	8.484	8.726	9.019	7.456	8.379	8.655	9.666	8.086	11.165	8.291	9.005	9.005	11.589
13	7.780	8.930	9.204	9.527	7.816	8.829	9.136	10.229	8.499	11.965	8.746	9.520	9.517	12.279
14	8.115	9.349	9.660	10.016	8.151	9.253	9.595	10.769	8.888	12.738	9.180	10.015	10.012	12.944
15	8.427	9.743	10.094	10.485	8.464	9.654	10.035	11.286	9.252	13.485	9.595	10.489	10.488	13.583
16	8.718	10.113	10.507	10.936	8.756	10.032	10.455	11.783	9.595	14.207	9.992	10.945	10.947	14.198
17	8.990	10.460	10.901	11.369	9.028	10.389	10.857	12.259	9.916	14.906	10.371	11.383	11.389	14.790
18	9.244	10.787	11.276	11.785	9.281	10.726	11.241	12.716	10.219	15.581	10.733	11.803	11.814	15.360
19	9.480	11.093	11.633	12.185	9.517	11.044	11.609	13.154	10.503	16.233	11.080	12.206	12.225	15.909
20	9.701	11.381	11.973	12.570	9.738	11.344	11.960	13.574	10.769	16.863	11.411	12.593	12.620	16.437
21	9.906	11.651	12.297	12.939	9.943	11.628	12.295	13.977	11.020	17.473	11.727	12.964	13.001	16.945
22	10.098	11.905	12.606	13.294	10.134	11.895	12.616	14.364	11.256	18.062	12.029	13.321	13.368	17.434
23	10.277	12.144	12.900	13.636	10.312	12.147	12.923	14.735	11.477	18.632	12.318	13.663	13.722	17.904
24	10.444	12.368	13.180	13.962	10.478	12.386	13.217	15.090	11.685	19.182	12.595	13.992	14.063	18.357
25	10.600	12.578	13.446	14.277	10.633	12.611	13.497	15.431	11.880	19.714	12.858	14.307	14.392	18.793
26	10.745	12.776	13.700	14.579	10.778	12.823	13.766	15.759	12.063	20.229	13.111	14.610	14.708	19.213
27	10.881	12.962	13.942	14.870	10.912	13.023	14.022	16.073	12.236	20.726	13.352	14.900	15.013	19.617
28	11.007	13.136	14.173	15.149	11.038	13.213	14.267	16.374	12.397	21.207	13.582	15.179	15.307	20.006
29	11.125	13.300	14.392	15.417	11.155	13.391	14.502	16.663	12.550	21.671	13.802	15.447	15.590	20.380
30	11.235	13.454	14.601	15.675	11.263	13.560	14.726	16.940	12.692	22.121	14.013	15.704	15.863	20.740

These uniform present worth factors are based on a 10 percent discount rate adjusted for energy price escalation See Appendix C for price projections used in developing the factors

Table B-5—Uniform Present Worth Factor for DOE Region V, Minnesota, Wisconsin, Michigan, Illinois, Indiana, Ohio

Study period	Residential sector				Commercial sector				Industrial sector					
	Electricity	Natural gas	Distillate	Liquid gas	Electricity	Natural gas	Distillate	Residual	Electricity	Natural gas	Distillate	Residual	Liquid gas	Coal
1	0.928	0.958	0.949	0.960	0.925	0.958	0.951	0.957	0.940	0.983	0.929	0.946	0.961	1.025
2	1.775	1.877	1.848	1.880	1.780	1.876	1.854	1.872	1.824	1.950	1.820	1.840	1.886	2.088
3	2.562	2.757	2.702	2.764	2.572	2.755	2.713	2.747	2.655	2.900	2.648	2.686	2.773	3.178
4	3.288	3.600	3.511	3.611	3.303	3.598	3.530	3.585	3.436	3.835	3.424	3.486	3.626	4.299
5	3.958	4.408	4.279	4.425	3.980	4.405	4.307	4.386	4.170	4.753	4.154	4.242	4.446	5.454
6	4.573	5.162	4.992	5.178	4.601	5.161	5.027	5.152	4.845	5.637	4.831	4.946	5.206	6.515
7	5.136	5.866	5.653	5.877	5.170	5.868	5.697	5.826	5.467	6.488	5.460	5.602	5.911	7.486
8	5.653	6.529	6.266	6.523	5.692	6.530	6.319	6.472	6.038	7.307	6.044	6.211	6.564	8.379
9	6.127	7.137	6.836	7.122	6.171	7.150	6.896	7.074	6.564	8.095	6.586	6.778	7.169	9.189
10	6.562	7.710	7.364	7.677	6.609	7.730	7.432	7.634	7.047	8.853	7.090	7.306	7.731	9.952
11	6.967	8.248	7.869	8.212	7.019	8.277	7.946	8.171	7.502	9.582	7.573	7.813	8.273	10.680
12	7.346	8.753	8.353	8.728	7.402	8.792	8.439	8.686	7.931	10.282	8.036	8.298	8.797	11.383
13	7.700	9.229	8.816	9.226	7.760	9.278	8.912	9.180	8.335	10.954	8.479	8.764	9.303	12.063
14	8.030	9.675	9.260	9.706	8.093	9.736	9.365	9.653	8.716	11.599	8.904	9.210	9.792	12.720
15	8.338	10.094	9.684	10.168	8.405	10.168	9.800	10.106	9.074	12.219	9.312	9.639	10.264	13.355
16	8.626	10.489	10.090	10.614	8.696	10.575	10.216	10.541	9.412	12.815	9.703	10.050	10.721	13.969
17	8.895	10.859	10.478	11.044	8.968	10.959	10.616	10.958	9.730	13.387	10.077	10.444	11.162	14.562
18	9.146	11.207	10.850	11.459	9.222	11.321	10.999	11.358	10.029	13.937	10.436	10.822	11.588	15.135
19	9.380	11.534	11.206	11.859	9.460	11.662	11.366	11.742	10.312	14.464	10.780	11.184	11.999	15.690
20	9.599	11.841	11.547	12.245	9.681	11.983	11.718	12.109	10.577	14.971	11.110	11.532	12.397	16.225
21	9.803	12.130	11.873	12.617	9.888	12.287	12.055	12.461	10.828	15.459	11.426	11.865	12.781	16.743
22	9.993	12.401	12.185	12.975	10.081	12.572	12.379	12.799	11.063	15.926	11.729	12.185	13.152	17.244
23	10.171	12.656	12.484	13.321	10.262	12.842	12.690	13.123	11.285	16.376	12.020	12.492	13.510	17.727
24	10.338	12.896	12.770	13.655	10.430	13.096	12.987	13.433	11.495	16.807	12.298	12.786	13.857	18.195
25	10.493	13.121	13.043	13.976	10.587	13.335	13.272	13.731	11.692	17.222	12.565	13.068	14.191	18.647
26	10.638	13.332	13.305	14.286	10.734	13.561	13.546	14.016	11.877	17.620	12.821	13.338	14.514	19.083
27	10.773	13.531	13.556	14.585	10.872	13.774	13.808	14.290	12.052	18.003	13.066	13.598	14.827	19.506
28	10.899	13.718	13.796	14.874	11.000	13.974	14.060	14.552	12.217	18.370	13.301	13.847	15.128	19.914
29	11.017	13.893	14.025	15.152	11.120	14.164	14.301	14.804	12.372	18.723	13.526	14.085	15.420	20.308
30	11.127	14.058	14.245	15.420	11.231	14.342	14.532	15.045	12.518	19.062	13.742	14.314	15.701	20.689

These uniform present worth worth factors are based on a 10 percent discount rate adjusted for energy price escalation. See Appendix C for price projections used in developing the factors.

Table B-6—Uniform Present Worth Factor for DOE Region VI, Texas, New Mexico, Oklahoma, Arkansas, Louisiana

Study period	Residential sector				Commercial sector				Industrial sector					
	Electricity	Natural Gas	Distillate	Liquid Gas	Electricity	Natural Gas	Distillate	Residual	Electricity	Natural Gas	Distillate	Residual	Liquid Gas	Coal
1	0.952	0.967	0.963	0.968	0.956	0.984	0.964	0.988	0.981	1.019	0.951	0.977	0.967	1.002
2	1.858	1.903	1.891	1.904	1.870	1.953	1.982	1.965	1.942	2.057	1.855	1.932	1.903	2.006
3	2.720	2.808	2.786	2.809	2.745	2.906	2.787	2.931	2.885	3.114	2.715	2.866	2.808	3.012
4	3.540	3.684	3.647	3.686	3.581	3.843	3.649	3.886	3.809	4.191	3.533	3.778	3.684	4.020
5	4.321	4.531	4.477	4.534	4.380	4.766	4.480	4.829	4.716	5.288	4.311	4.669	4.531	5.030
6	5.040	5.329	5.245	5.319	5.117	5.640	5.250	5.706	5.554	6.331	5.032	5.497	5.317	5.955
7	5.703	6.080	5.956	6.047	5.797	6.467	5.964	6.520	6.330	7.322	5.701	6.266	6.044	6.802
8	6.314	6.787	6.615	6.721	6.424	7.251	6.626	7.276	7.048	8.264	6.320	6.981	6.719	7.579
9	6.877	7.453	7.225	7.345	7.003	7.992	7.239	7.978	7.711	9.160	6.895	7.644	7.345	8.289
10	7.395	8.080	7.790	7.923	7.536	8.694	7.808	8.630	8.326	10.011	7.427	8.260	7.925	8.940
11	7.876	8.668	8.330	8.480	8.032	9.356	8.352	9.255	8.899	10.815	7.937	8.851	8.485	9.570
12	8.323	9.220	8.845	9.018	8.493	9.979	8.873	9.855	9.434	11.576	8.425	9.419	9.026	10.178
13	8.738	9.739	9.337	9.536	8.922	10.568	9.372	10.431	9.933	12.295	8.892	9.963	9.548	10.765
14	9.123	10.226	9.807	10.036	9.320	11.122	9.849	10.983	10.399	12.975	9.340	10.485	10.053	11.333
15	9.480	10.683	10.256	10.517	9.690	11.645	10.306	11.513	10.834	13.618	9.768	10.986	10.541	11.882
16	9.812	11.112	10.684	10.982	10.033	12.137	10.743	12.021	11.240	14.226	10.178	11.467	11.012	12.413
17	10.120	11.515	11.094	11.430	10.353	12.602	11.161	12.509	11.619	14.801	10.570	11.928	11.467	12.925
18	10.406	11.894	11.485	11.862	10.650	13.040	11.562	12.977	11.973	15.344	10.946	12.371	11.906	13.421
19	10.671	12.249	11.858	12.278	10.926	13.453	11.945	13.425	12.303	15.858	11.306	12.795	12.330	13.900
20	10.917	12.582	12.214	12.680	11.182	13.842	12.312	13.856	12.611	16.343	11.650	13.202	12.740	14.363
21	11.146	12.895	12.555	13.067	11.421	14.209	12.664	14.269	12.899	16.802	11 980	13.593	13 136	14 810
22	11.358	13.189	12.880	13.440	11.642	14.555	13.000	14.665	13 167	17.237	12 296	13.968	13.519	15 242
23	11.555	13 465	13 190	13.800	11.848	14.881	13.322	15.046	13.418	17 647	12 598	14 328	13 888	15 660
24	11.738	13.724	13 487	14.147	12 039	15.188	13.630	15.410	13.652	18 035	12 887	14 673	14 245	16 064
25	11.908	13.967	13.770	14.481	12.217	15.478	13.925	15.760	13.870	18.402	13 164	15 005	14 590	16.454
26	12.065	14.195	14 041	14.804	12.383	15.751	14.207	16 096	14 074	18 749	13 429	15 322	14 923	16 831
27	12.212	14.410	14.299	15.115	12.536	16.009	14.477	16.418	14.264	19 077	13 683	15 627	15.244	17 196
28	12.347	14.611	14.545	15.415	12.679	16.252	14.736	16.727	14.441	19 387	13 926	15 920	15 555	17 548
29	12 474	14 800	14 781	15.704	12.812	16.480	14.984	17.023	14.607	19 680	14 159	16 200	15 855	17 888
30	12.591	14.977	15.006	15.982	12.935	16.696	15.220	17.308	14.762	19.957	14.382	16 470	16 145	18 217

These uniform present worth factors are based on a 10 percent discount rate adjusted for energy price escalation. See Appendix C for price projections used in developing the factors

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Table B-7—Uniform Present Worth Factor for DOE Region VII, Kansas, Missouri, Iowa, Nebraska

Study period	Residential sector				Commercial sector				Industrial sector					
	Electricity	Natural gas	Distillate	Liquid gas	Electricity	Natural gas	Distillate	Residual	Electricity	Natural gas	Distillate	Residual	Liquid gas	Coal
1	0.920	0.963	0.949	0.959	0.925	−0.973	0.951	0.980	0.934	1.012	0.939	0.964	0.961	1.013
2	1.765	1.892	1.850	1.879	1.780	1.920	1.856	1.941	1.805	2.036	1.821	1.893	1.884	2.041
3	2.543	2.786	2.705	2.762	2.570	2.841	2.717	2.882	2.619	3.073	2.649	2.789	2.771	3.081
4	3.258	3.648	3.517	3.608	3.301	3.737	3.535	3.805	3.379	4.121	3.426	3.653	3.623	4.136
5	3.915	4.478	4.287	4.420	3.977	4.609	4.314	4.709	4.088	5.183	4.156	4.485	4.442	5.205
6	4.512	5.265	5.002	5.173	4.590	5.441	5.036	5.549	4.732	6.233	4.833	5.258	5.202	6.185
7	5.053	6.012	5.664	5.871	5.146	6.234	5.706	6.330	5.315	7.272	5.462	5.976	5.907	7.083
8	5.545	6.721	6.277	6.518	5.651	6.989	6.328	7.055	5.845	8.301	6.045	6.643	6.560	7.907
9	5.991	7.393	6.846	7.118	6.109	7.710	6.905	7.728	6.325	9.318	6.585	7.263	7.167	8.661
10	6.395	8.031	7.374	7.674	6.525	8.397	7.440	8.354	6.760	10.325	7.087	7.838	7.730	9.353
11	6.770	8.634	7.879	8.212	6.910	9.050	7.953	8.954	7.166	11.292	7.568	8.390	8.275	10.024
12	7.117	9.205	8.362	8.732	7.267	9.670	8.445	9.529	7.544	12.222	8.030	8.920	8.802	10.675
13	7.438	9.745	8.825	9.235	7.597	10.259	8.917	10.081	7.895	13.116	8.473	9.428	9.313	11.306
14	7.736	10.255	9.268	9.721	7.904	10.819	9.369	10.610	8.223	13.975	8.898	9.916	9.808	11.919
15	8.011	10.738	9.692	10.192	8.188	11.350	9.803	11.117	8.529	14.800	9.306	10.384	10.287	12.514
16	8.266	11.195	10.098	10.646	8.451	11.855	10.220	11.603	8.813	15.593	9.697	10.833	10.751	13.091
17	8.502	11.627	10.487	11.086	8.695	12.335	10.619	12.069	9.078	16.356	10.072	11.264	11.201	13.650
18	8.720	12.036	10.859	11.511	8.922	12.790	11.002	12.516	9.325	17.089	10.432	11.678	11.636	14.194
19	8.923	12.423	11.215	11.922	9.131	13.223	11.369	12.945	9.554	17.793	10.777	12.075	12.057	14.721
20	9.110	12.788	11.557	12.319	9.326	13.634	11.721	13.356	9.768	18.470	11.109	12.456	12.465	15.232
21	9.283	13.134	11.883	12.703	9.506	14.024	12.058	13.750	9.968	19.120	11.427	12.821	12.860	15.728
22	9.444	13.461	12.196	13.075	9.673	14.395	12.382	14.128	10.154	19.746	11.732	13.172	13.243	16.210
23	9.592	13.771	12.495	13.434	9.827	14.747	12.693	14.490	10.327	20.347	12.024	13.509	13.613	16.677
24	9.730	14.064	12.782	13.781	9.971	15.082	12.990	14.837	10.488	20.924	12.305	13.832	13.972	17.130
25	9.857	14.341	13.056	14.117	10.104	15.400	13.276	15.170	10.638	21.479	12.574	14.142	14.320	17.570
26	9.975	14.603	13.319	14.442	10.227	15.702	13.550	15.490	10.778	22.013	12.832	14.440	14.656	17.996
27	10.085	14.851	13.570	14.756	10.341	15.989	13.812	15.796	10.908	22.525	13.080	14.725	14.982	18.410
28	10.186	15.085	13.811	15.060	10.447	16.261	14.064	16.089	11.029	23.018	13.318	14.999	15.297	18.812
29	10.279	15.307	14.041	15.353	10.545	16.520	14.306	16.371	11.142	23.492	13.546	15.262	15.603	19.202
30	10.366	15.516	14.262	15.637	10.636	16.766	14.538	16.641	11.247	23.947	13.765	15.514	15.899	19.580

These uniform present worth factors are based on a 10 percent discount rate adjusted for energy price escalation. See Appendix C for price projections used in developing the factors

Table B-8—Uniform Present Worth Factor for DOE Region VIII, Montana, North Dakota, South Dakota, Wyoming, Utah, Colorado

Study period	Residential sector				Commercial sector				Industrial sector					
	Electricity	Natural Gas	Distillate	Liquid Gas	Electricity	Natural Gas	Distillate	Residual	Electricity	Natural Gas	Distillate	Residual	Liquid Gas	Coal
1	0.932	0.996	0.952	0.956	0.939	1.006	0.954	0.970	0.961	1.022	0.944	0.960	0.958	1.018
2	1.801	1.989	1.857	1.869	1.821	2.018	1.865	1.910	1.885	2.065	1.835	1.883	1.876	2.054
3	2.611	2.978	2.719	2.742	2.649	3.036	2.735	2.821	2.773	3.132	2.676	2.769	2.755	3.108
4	3.366	3.963	3.538	3.576	3.427	4.059	3.565	3.705	3.627	4.221	3.470	3.620	3.598	4.181
5	4.070	4.944	4.318	4.373	4.157	5.089	4.357	4.561	4.447	5.334	4.220	4.437	4.405	5.274
6	4.704	5.861	5.042	5.111	4.814	6.053	5.093	5.360	5.181	6.379	4.916	5.199	5.153	6.272
7	5.275	6.718	5.713	5.794	5.404	6.954	5.776	6.104	5.838	7.360	5.563	5.909	5.847	7.183
8	5.788	7.519	6.335	6.427	5.935	7.798	6.410	6.797	6.426	8.282	6.163	6.571	6.489	8.016
9	6.251	8.267	6.912	7.013	6.412	8.587	7.000	7.443	6.952	9.147	6.720	7.188	7.084	8.777
10	6.667	8.966	7.447	7.556	6.841	9.325	7.547	8.044	7.422	9.960	7.237	7.763	7.636	9.472
11	7.054	9.628	7.959	8.078	7.241	10.025	8.071	8.622	7.865	10.735	7.733	8.315	8.168	10.161
12	7.413	10.254	8.448	8.582	7.613	10.690	8.574	9.176	8.282	11.474	8.208	8.845	8.682	10.843
13	7.747	10.846	8.916	9.067	7.960	11.320	9.055	9.708	8.673	12.180	8.662	9.354	9.178	11.520
14	8.057	11.407	9.364	9.534	8.283	11.919	9.516	10.218	9.042	12.853	9.098	9.842	9.657	12.191
15	8.345	11.937	9.792	9.983	8.583	12.487	9.958	10.708	9.388	13.495	9.515	10.311	10.119	12.855
16	8.612	12.439	10.201	10.417	8.863	13.025	10.381	11.177	9.714	14.107	9.914	10.762	10.565	13.514
17	8.860	12.915	10.593	10.834	9.124	13.537	10.787	11.628	10.021	14.691	10.296	11.194	10.996	14.167
18	9.091	13.364	10.967	11.236	9.366	14.022	11.175	12.061	10.309	15.249	10.663	11.609	11.412	14.814
19	9.305	13.790	11.325	11.623	9.593	14.482	11.548	12.476	10.581	15.781	11.013	12.008	11.813	15.455
20	9.503	14.193	11.668	11.996	9.803	14.919	11.904	12.874	10.836	16.288	11.349	12.390	12.200	16.090
21	9.688	14.574	11.995	12.355	9.999	15.334	12.246	13.256	11.076	16.772	11.671	12.758	12.574	16.720
22	9.860	14.935	12.308	12.701	10.182	15.727	12.573	13.623	11.302	17.234	11.979	13.111	12.935	17.345
23	10.019	15.276	12.608	13.034	10.352	16.100	12.887	13.975	11.514	17.674	12.274	13.449	13.283	17.963
24	10.167	15.599	12.894	13.355	10.510	16.455	13.188	14.312	11.714	18.094	12.557	13.774	13.620	18.576
25	10.304	15.905	13.168	13.664	10.658	16.791	13.476	14.636	11.902	18.495	12.828	14.086	13.944	19.184
26	10.432	16.194	13.431	13.962	10.795	17.110	13.752	14.947	12.079	18.878	13.087	14.386	14.258	19.787
27	10.550	16.468	13.681	14.249	10.923	17.412	14.016	15.245	12.245	19.243	13.335	14.674	14.560	20.383
28	10.660	16.727	13.921	14.525	11.042	17.700	14.269	15.532	12.402	19.591	13.573	14.950	14.852	20.975
29	10.763	16.972	14.150	14.791	11.153	17.972	14.512	15.806	12.549	19.923	13.801	15.215	15.134	21.561
30	10.857	17.204	14.369	15.048	11.256	18.231	14.744	16.070	12.687	20.240	14.019	15.470	15.406	22.143

These uniform present worth factors are based on a 10 percent discount rate adjusted for energy price escalation. See Appendix C for price projections used in developing the factors

Table B-9—Uniform Present Worth Factor for DOE Region IX, California, Nevada, Arizona, Hawaii, Trust Territory of the Pacific Islands, American Samoa, Guam

Study period	Residential sector				Commercial sector				Industrial sector					
	Electricity	Natural Gas	Distillate	Liquid Gas	Electricity	Natural Gas	Distillate	Residual	Electricity	Natural Gas	Distillate	Residual	Liquid Gas	Coal
1	0.932	0.993	0.949	0.946	0.935	0.979	0.953	0.960	0.935	0.993	0.941	0.960	0.953	1.089
2	1.801	1.979	1.850	1.840	1.781	1.912	1.861	1.882	1.808	1.980	1.828	1.857	1.861	2.117
3	2.611	2.956	2.704	2.685	2.578	2.825	2.726	2.768	2.626	2.960	2.662	2.719	2.727	3.237
4	3.366	3.930	3.515	3.484	3.306	3.711	3.561	3.618	3.390	3.934	3.447	3.508	3.552	4.401
5	4.070	4.895	4.285	4.240	3.984	4.571	4.036	4.435	4.104	4.901	4.186	4.320	4.339	5.609
6	4.710	5.793	4.990	4.940	4.600	5.375	5.056	5.184	4.754	5.798	4.864	5.035	5.068	6.731
7	5.292	6.631	5.637	5.588	5.160	6.126	5.716	5.871	5.344	6.630	5.484	5.691	5.744	7.772
8	5.821	7.410	6.229	6.189	5.669	6.828	6.321	6.501	5.881	7.401	6.053	6.293	6.371	8.740
9	6.301	8.136	6.771	6.745	6.132	7.483	6.875	7.079	6.368	8.115	6.575	6.844	6.952	9.683
10	6.738	8.813	7.268	7.260	6.553	8.096	7.383	7.609	6.812	8.778	7.052	7.350	7.490	10.472
11	7.142	9.428	7.744	7.760	6.942	8.654	7.870	8.119	7.223	9.417	7.510	7.836	8.014	11.270
12	7.515	9.989	8.199	8.244	7.303	9.162	8.337	8.608	7.605	10.033	7.950	8.303	8.523	12.033
13	7.859	10.499	8.634	8.714	7.636	9.624	8.785	9.078	7.958	10.626	8.372	8.752	9.019	12.764
14	8.176	10.963	9.050	9.170	7.944	10.046	9.215	9.530	8.287	11.198	8.776	9.184	9.500	13.464
15	8.470	11.386	9.448	9.612	8.228	10.426	9.627	9.965	8.591	11.749	9.164	9.599	9.969	14.133
16	8.741	11.771	9.829	10.040	8.492	10.777	10.023	10.382	8.873	12.281	9.536	9.997	10.424	14.774
17	8.991	12.121	10.193	10.456	8.736	11.095	10.402	10.783	9.135	12.793	9.893	10.381	10.867	15.387
18	9.222	12.440	10.541	10.859	8.961	11.384	10.766	11.168	9.378	13.286	10.236	10.749	11.296	15.974
19	9.435	12.730	10.875	11.250	9.170	11.648	11.115	11.538	9.603	13.762	10.564	11.104	11.717	16.535
20	9.632	12.994	11.194	11.629	9.362	11.888	11.450	11.893	9.812	14.220	10.880	11.444	12.124	17.073
21	9.814	13.234	11.499	11.997	9.541	12.106	11.772	12.235	10.005	14.662	11.182	11.772	12.520	17.587
22	9.982	13.453	11.790	12.353	9.706	12.305	12.080	12.563	10.185	15.088	11.472	12.086	12.906	18.079
23	10.137	13.652	12.069	12.699	9.858	12.486	12.376	12.878	10.352	15.499	11.750	12.388	13.280	18.550
24	10.280	13.834	12.336	13.035	9.999	12.650	12.659	13.181	10.506	15.894	12.017	12.680	13.645	19.001
25	10.412	13.999	12.591	13.360	10.130	12.800	12.931	13.473	10.650	16.276	12.273	12.959	13.999	19.432
26	10.534	14.149	12.836	13.675	10.251	12.937	13.192	13.752	10.782	16.643	12.519	13.228	14.343	19.845
27	10.647	14.286	13.069	13.981	10.362	13.061	13.443	14.021	10.906	16.997	12.754	13.486	14.678	20.240
28	10.751	14.411	13.293	14.278	10.465	13.175	13.683	14.279	11.020	17.339	12.980	13.735	15.004	20.618
29	10.847	14.524	13.506	14.566	10.561	13.278	13.913	14.527	11.126	17.668	13.197	13.973	15.321	20.980
30	10.936	14.627	13.711	14.845	10.649	13.372	14.134	14.766	11.224	17.985	13.405	14.203	15.629	21.326

These uniform present worth factors are based on a 10 percent discount rate adjusted for energy price escalation. See Appendix C for price projections used in developing the factors

Table B-10—Uniform Present Worth Factor for DOE Region X, Washington, Oregon, Idaho, Alaska

Study period	Residential sector				Commercial sector				Industrial sector					
	Electricity	Natural gas	Distillate	Liquid gas	Electricity	Natural gas	Distillate	Residual	Electricity	Natural gas	Distillate	Residual	Liquid gas	Coal
1	0.918	0.966	0.950	0.944	0.922	0.967	0.955	0.962	0.966	1.000	0.943	0.954	0.957	1.062
2	1.760	1.899	1.853	1.835	1.771	1.903	1.868	1.886	1.899	2.001	1.833	1.865	1.872	2.189
3	2.533	2.800	2.710	2.675	2.554	2.807	2.740	2.775	2.800	3.003	2.672	2.733	2.747	3.386
4	3.242	3.670	3.525	3.469	3.276	3.682	3.572	3.630	3.671	4.005	3.463	3.562	3.585	4.658
5	3.893	4.510	4.299	4.218	3.941	4.529	4.368	4.452	4.511	5.007	4.210	4.353	4.386	6.007
6	4.497	5.289	5.009	4.911	4.558	5.316	5.097	5.206	5.301	5.927	4.894	5.079	5.129	7.238
7	5.056	6.012	5.659	5.554	5.129	6.048	5.765	5.897	6.044	6.771	5.520	5.744	5.817	8.361
8	5.574	6.682	6.254	6.149	5.657	6.728	6.377	6.530	6.742	7.545	6.095	6.354	6.456	9.384
9	6.054	7.304	6.800	6.700	6.147	7.361	6.938	7.111	7.397	8.256	6.621	6.914	7.048	10.318
10	6.500	7.880	7.300	7.210	6.601	7.950	7.452	7.644	8.013	8.908	7.103	7.427	7.596	11.169
11	6.913	8.419	7.778	7.705	7.022	8.502	7.945	8.156	8.593	9.536	7.566	7.921	8.130	11.989
12	7.297	8.923	8.236	8.185	7.413	9.020	8.418	8.650	9.139	10.142	8.010	8.394	8.649	12.780
13	7.654	9.395	8.673	8.651	7.776	9.506	8.872	9.124	9.652	10.726	8.436	8.850	9.153	13.542
14	7.986	9.836	9.092	9.103	8.113	9.962	9.307	9.581	10.137	11.289	8.844	9.287	9.644	14.277
15	8.294	10.248	9.492	9.541	8.426	10.390	9.724	10.020	10.593	11.831	9.236	9.707	10.121	14.985
16	8.581	10.634	9.875	9.965	8.717	10.791	10.125	10.443	11.022	12.354	9.612	10.110	10.585	15.668
17	8.847	10.994	10.241	10.377	8.987	11.168	10.509	10.849	11.425	12.858	9.972	10.498	11.037	16.326
18	9.094	11.331	10.592	10.776	9.238	11.522	10.878	11.241	11.805	13.343	10.318	10.870	11.475	16.960
19	9.324	11.647	10.927	11.164	9.471	11.853	11.231	11.617	12.163	13.811	10.650	11.228	11.902	17.572
20	9.537	11.942	11.248	11.540	9.687	12.165	11.570	11.980	12.500	14.263	10.968	11.571	12.317	18.161
21	9.735	12.217	11.554	11.904	9.888	12.457	11.896	12.328	12.817	14.697	11.273	11.901	12.721	18.729
22	9.919	12.475	11.848	12.257	10.074	12.730	12.208	12.664	13.115	15.116	11.566	12.218	13.113	19.277
23	10.090	12.717	12.128	12.600	10.247	12.988	12.507	12.986	13.396	15.520	11.847	12.523	13.495	19.804
24	10.249	12.942	12.397	12.932	10.408	13.229	12.794	13.297	13.660	15.910	12.116	12.816	13.866	20.313
25	10.397	13.153	12.654	13.255	10.557	13.455	13.070	13.596	13.909	16.285	12.375	13.097	14.227	20.804
26	10.534	13.350	12.899	13.567	10.695	13.667	13.334	13.883	14.144	16.646	12.623	13.367	14.578	21.276
27	10.662	13.535	13.134	13.870	10.824	13.867	13.588	14.160	14.364	16.995	12.861	13.626	14.919	21.732
28	10.780	13.707	13.359	14.164	10.943	14.059	13.831	14.426	14.572	17.331	13.089	13.875	15.251	22.171
29	10.890	13.869	13.574	14.449	11.054	14.239	14.064	14.682	14.767	17.655	13.306	14.115	15.574	22.595
30	10.993	14.020	13.779	14.726	11.157	14.393	14.288	14.928	14.951	17.967	13.518	14.344	15.888	23.003

These uniform present worth factors are based on a 10 percent discount rate adjusted for energy price escalation. See Appendix C for price projections used in developing the factors

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Table B-11—Uniform Present Worth Factor for the United States, U.S. Average

Study period	Residential sector			Commercial sector					Industrial sector					
	Electricity	Natural gas	Distillate	Liquid gas	Electricity	Natural gas	Distillate	Residual	Electricity	Natural gas	Distillate	Residual	Liquid gas	Coal
1	0.925	0.959	0.951	0.961	0.926	0.961	0.953	0.971	0.945	1.002	0.944	0.962	0.962	1.030
2	1.781	1.880	1.855	1.884	1.785	1.886	1.862	1.913	1.837	2.005	1.836	1.887	1.886	2.092
3	2.573	2.763	2.715	2.771	2.580	2.774	2.728	2.828	2.681	3.010	2.678	2.777	2.775	3.186
4	3.305	3.611	3.533	3.623	3.317	3.628	3.553	3.716	3.478	4.017	3.473	3.633	3.630	4.314
5	3.982	4.424	4.311	4.442	3.994	4.449	4.340	4.578	4.231	5.026	4.224	4.457	4.452	5.476
6	4.602	5.184	5.032	5.200	4.624	5.220	5.069	5.378	4.923	5.986	4.919	5.221	5.213	6.544
7	5.169	5.896	5.698	5.901	5.195	5.943	5.745	6.121	5.559	6.900	5.563	5.929	5.918	7.526
8	5.688	6.561	6.316	6.551	5.719	6.621	6.370	6.811	6.144	7.770	6.159	6.587	6.572	8.429
9	6.163	7.184	6.888	7.152	6.197	7.258	6.950	7.451	6.682	8.598	6.711	7.197	7.177	9.260
10	6.597	7.766	7.417	7.708	6.636	7.855	7.488	8.046	7.176	9.387	7.223	7.762	7.737	10.023
11	7.000	8.311	7.922	8.244	7.043	8.414	8.002	8.616	7.639	10.134	7.712	8.305	8.279	10.759
12	7.375	8.820	8.405	8.761	7.422	8.939	8.494	9.162	8.074	10.843	8.180	8.825	8.802	11.469
13	7.723	9.296	8.867	9.259	7.774	9.430	8.966	9.685	8.481	11.515	8.628	9.323	9.308	12.153
14	8.047	9.740	9.307	9.739	8.102	9.891	9.417	10.186	8.863	12.152	9.056	9.801	9.797	12.813
15	8.348	10.156	9.728	10.202	8.407	10.323	9.849	10.665	9.221	12.756	9.466	10.260	10.269	13.449
16	8.628	10.545	10.130	10.649	8.690	10.727	10.263	11.126	9.557	13.328	9.858	10.699	10.726	14.063
17	8.888	10.908	10.513	11.079	8.954	11.107	10.659	11.567	9.871	13.871	10.234	11.121	11.167	14.654
18	9.130	11.248	10.880	11.494	9.199	11.462	11.038	11.989	10.166	14.386	10.593	11.525	11.593	15.225
19	9.354	11.565	11.230	11.893	9.426	11.795	11.401	12.393	10.443	14.874	10.936	11.912	12.005	15.774
20	9.563	11.862	11.564	12.279	9.638	12.107	11.749	12.781	10.702	15.336	11.265	12.284	12.403	16.305
21	9.757	12.140	11.884	12.650	9.835	12.400	12.082	13.152	10.946	15.775	11.579	12.640	12.788	16.816
22	9.937	12.399	12.189	13.009	10.018	12.674	12.400	13.508	11.174	16.191	11.880	12.981	13.159	17.308
23	10.104	12.642	12.480	13.354	10.189	12.931	12.705	13.849	11.387	16.585	12.167	13.309	13.519	17.784
24	10.260	12.868	12.758	13.687	10.347	13.171	12.997	14.175	11.588	16.959	12.441	13.623	13.866	18.242
25	10.405	13.080	13.024	14.008	10.495	13.397	13.276	14.488	11.776	17.313	12.706	13.924	14.201	18.684
26	10.539	13.278	13.278	14.317	10.632	13.609	13.544	14.788	11.952	17.649	12.958	14.212	14.525	19.110
27	10.664	13.463	13.520	14.615	10.759	13.807	13.800	15.075	12.117	17.968	13.199	14.489	14.839	19.520
28	10.780	13.637	13.751	14.903	10.877	13.993	14.045	15.350	12.272	18.270	13.430	14.754	15.141	19.916
29	10.888	13.798	13.973	15.180	10.988	14.167	14.280	15.614	12.417	18.556	13.650	15.009	15.434	20.298
30	10.989	13.950	14.184	15.447	11.090	14.330	14.505	15.867	12.553	18.827	13.862	15.253	15.717	20.666

These uniform present worth factors are based on a 10 percent discount rate adjusted for energy price escalation. See Appendix C for price projections used in developing the factors.

Appendix C to Subpart A of Part 436

Table C-1—Base Year Energy Prices (1980 Prices Per Million Btu in 1980 Dollars)

Fuel type	DOE 1	DOE 2	DOE 3	DOE 4	DOE 5	DOE 6	DOE 7	DOE 8	DOE 9	DOE 10	Average
Residential Sector											
Electricity	17.95	20.75	15.67	12.53	14.58	14.02	13.76	12.23	15.46	6.49	14.17
Natural gas	5.14	4.25	3.55	3.00	3.05	3.07	2.74	2.61	2.98	4.04	3.24
Distillate	4.49	4.46	4.51	4.44	4.21	4.09	4.15	4.19	4.36	4.33	4.38
Liquid gas	5.12	5.09	5.12	4.89	4.69	4.53	4.58	4.91	4.55	4.58	4.73
Commercial Sector											
Electricity	17.66	20.52	15.17	12.85	14.24	12.81	12.73	10.52	14.42	6.56	14.14
Natural gas	4.41	3.71	3.26	2.60	2.75	2.40	2.28	2.33	2.92	3.50	2.84
Distillate	4.17	4.19	4.18	4.09	4.00	3.86	3.94	3.90	4.02	3.97	4.07
Residual	3.24	3.17	3.26	2.94	3.39	2.88	3.03	3.03	3.24	3.16	3.20
Industrial Sector											
Electricity	13.40	11.94	10.74	8.54	9.61	9.21	9.51	6.61	11.74	2.82	9.38
Natural gas	3.78	3.16	2.79	2.18	2.61	1.83	1.95	1.86	2.77	2.81	2.21
Distillate	4.44	4.43	4.47	4.39	4.25	4.11	4.20	4.15	4.26	4.22	4.30
Residual	3.44	3.42	3.42	3.18	3.58	3.03	3.27	3.14	3.40	3.39	3.33
Liquid gas	4.85	4.84	4.90	4.61	4.50	4.35	4.40	4.66	4.14	4.07	4.51
Coal	1.69	1.36	1.17	1.23	1.10	1.29	1.11	0.79	1.21	1.02	1.15

Table C-2—Base Year Energy Prices (1980 Prices Per Unit of Energy Purchased in 1980 Dollars)

Fuel type and unit purchased	DOE 1	DOE 2	DOE 3	DOE 4	DOE 5	DOE 6	DOE 7	DOE 8	DOE 9	DOE 10	U.S. average
Residential Sector											
Electricity (Kwh)	0.061	0.071	0.053	0.043	0.050	0.048	0.047	0.042	0.053	0.022	0.048
Natural gas (cubic foot)	0.005	0.004	0.004	0.003	0.003	0.003	0.003	0.003	0.003	0.004	0.003
Distillate (gallon)	0.622	0.618	0.626	0.615	0.584	0.568	0.576	0.581	0.604	0.600	0.608
Liquid gas (gallon)	0.489	0.486	0.489	0.467	0.448	0.433	0.437	0.469	0.434	0.437	0.452
Commercial Sector											
Electricity (Kwh)	0.060	0.070	0.052	0.044	0.049	0.044	0.043	0.036	0.049	0.022	0.048
Natural gas (cubic foot)	0.005	0.004	0.003	0.003	0.003	0.002	0.002	0.002	0.003	0.004	0.003
Distillate (gallon)	0.579	0.581	0.580	0.568	0.555	0.535	0.546	0.541	0.557	0.550	0.564
Residual (gallon)	0.485	0.474	0.488	0.440	0.508	0.431	0.454	0.454	0.485	0.473	0.479
Industrial Sector											
Electricity (Kwh)	0.046	0.041	0.037	0.029	0.033	0.031	0.032	0.023	0.040	0.010	0.032
Natural gas (cubic foot)	0.004	0.003	0.003	0.002	0.003	0.002	0.002	0.002	0.003	0.003	0.002
Distillate (gallon)	0.616	0.615	0.620	0.609	0.590	0.570	0.582	0.576	0.591	0.582	0.597
Residual (gallon)	0.515	0.512	0.512	0.476	0.536	0.454	0.489	0.470	0.508	0.507	0.498
Liquid gas (gallon)	0.464	0.462	0.468	0.441	0.490	0.415	0.421	0.445	0.395	0.368	0.431
Coal (ton)	41.456	33.299	28.630	30.202	27.010	31.493	27.155	19.255	29.587	24.985	28.188

Table C-3—1985 Projected Energy Prices

Fuel	DOE 1	DOE 2	DOE 3	DOE 4	DOE 5	DOE 6	DOE 7	DOE 8	DOE 9	DOE 10	U.S.
Residential Sector											
Electricity	19.25	20.59	16.60	13.67	15.74	17.63	14.57	13.86	17.53	6.80	15.45
Natural gas	5.85	4.90	4.03	3.82	3.97	4.18	3.67	4.13	4.64	5.47	4.25
Distillate	5.46	5.55	5.77	5.85	5.22	5.47	5.15	5.25	5.40	5.40	5.49
Liquid gas	6.24	6.34	6.71	6.73	6.14	6.19	5.98	6.31	6.53	5.99	6.25
Commercial Sector											
Electricity	18.86	20.68	16.71	14.11	15.51	16.49	13.85	12.37	15.74	7.03	15.53
Natural gas	5.07	4.20	3.79	3.22	3.58	3.57	3.20	3.86	4.04	4.78	3.75
Distillate	5.17	5.25	5.51	5.61	5.00	5.17	4.94	4.96	5.08	5.08	5.16
Residual	4.35	4.46	4.80	4.95	4.38	4.37	4.41	4.18	4.26	4.18	4.44
Industrial Sector											
Electricity	14.89	12.83	12.90	10.39	11.36	13.44	10.87	8.74	18.49	3.82	11.37
Natural gas	4.71	4.69	3.75	3.39	3.86	3.22	3.32	3.32	4.81	4.54	3.59
Distillate	5.17	5.24	5.41	5.40	5.00	5.15	4.93	5.02	5.08	5.08	5.20
Residual	4.41	4.67	4.71	4.91	4.36	4.36	4.38	4.13	4.26	4.52	4.41
Liquid gas	5.96	6.03	6.27	6.32	5.94	5.94	5.80	6.05	5.24	5.24	5.96
Coal	2.56	2.40	2.26	2.59	2.04	2.19	1.91	1.39	2.56	2.20	2.15

Fuel prices per million Btu in 1980 dollars.
Prices based on DOE Mid Range Energy Forecasting System (MEFS) Projection Series "B" (High Case).

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Table C-4—Projected 1990 Energy Prices

Fuel	DOE 1	DOE 2	DOE 3	DOE 4	DOE 5	DOE 6	DOE 7	DOE 8	DOE 9	DOE 10	U S
Residential Sector											
Electricity	19.16	20.66	17.16	14.37	16.44	18.86	14.45	13.21	17.53	7.49	15.98
Natural gas	6.40	5.86	5.01	4.20	4.53	4.99	4.54	4.73	5.24	6.04	4.91
Distillate	5.98	6.08	6.28	6.37	5.78	6.00	5.67	5.80	5.62	5.62	6.02
Liquid gas	6.78	6.88	7.25	7.27	6.75	6.80	6.60	6.91	6.06	6.06	6.83
Commercial Sector											
Electricity	18.76	20.75	16.27	14.82	16.20	17.72	13.71	11.71	15.74	7.72	16.06
Natural gas	5.62	5.16	4.47	3.60	4.14	4.37	4.06	4.06	4.46	5.35	4.39
Distillate	5.70	5.78	5.82	5.84	5.56	5.70	5.47	5.54	5.29	5.29	5.67
Residual	4.83	4.94	5.30	4.85	4.93	4.86	4.92	4.73	4.46	4.37	4.93
Industrial Sector											
Electricity	14.86	12.90	12.76	11.04	12.05	14.66	10.74	8.07	13.49	4.51	12.09
Natural gas	5.23	5.22	5.22	5.01	5.14	4.02	5.08	3.91	4.76	4.76	4.52
Distillate	5.70	5.76	5.94	5.93	5.56	5.67	5.46	5.58	5.29	5.29	5.71
Residual	4.90	5.06	5.20	4.80	4.90	4.85	4.87	4.68	4.45	4.52	4.88
Liquid gas	6.50	6.57	6.81	6.86	6.55	6.55	6.42	6.66	5.78	5.78	6.55
Coal	2.79	2.63	2.48	2.46	2.14	2.18	1.99	1.42	2.68	2.26	2.28

Fuel prices per million Btu in 1980 dollars.
Prices based on DOE Mid Range Energy Forecasting System (MEFS) projection series "B" (High Case).

Table C-5—1995 Energy Prices

Fuel	DOE 1	DOE 2	DOE 3	DOE 4	DOE 5	DOE 6	DOE 7	DOE 8	DOE 9	DOE 10	U S
Residential Sector											
Electricity	21.19	23.37	19.29	16.34	18.78	20.93	15.82	14.70	18.95	6.35	17.82
Natural gas	7.02	6.71	5.65	4.94	5.34	5.86	5.54	5.79	5.27	6.96	5.64
Distillate	7.64	7.75	7.97	8.05	7.47	7.67	7.35	7.47	7.25	7.25	7.70
Liquid gas	9.09	9.21	9.56	9.58	9.07	9.13	8.99	9.23	8.38	8.38	9.16
Commercial Sector											
Electricity	20.86	22.46	18.39	16.80	18.54	19.79	15.10	13.21	17.16	8.58	17.99
Natural gas	6.24	6.01	5.11	4.35	4.96	5.24	5.06	5.53	4.67	6.27	5.11
Distillate	7.35	7.45	7.51	7.51	7.26	7.37	7.14	7.20	6.91	6.91	7.35
Residual	6.31	6.42	6.78	6.34	6.43	6.36	6.42	6.20	5.88	5.80	6.41
Industrial Sector											
Electricity	16.83	14.62	14.88	13.01	14.39	16.73	12.13	9.57	14.92	5.37	14.03
Natural gas	6.83	6.83	6.83	6.81	6.78	4.90	6.71	4.98	6.37	6.37	5.57
Distillate	7.35	7.43	7.62	7.61	7.25	7.35	7.14	7.25	6.91	6.91	7.37
Residual	6.37	6.53	6.66	6.31	6.40	6.35	6.39	6.14	5.88	5.95	6.37
Liquid gas	8.92	8.90	9.13	9.17	8.87	8.86	8.80	8.99	8.09	8.09	8.89
Coal	3.61	3.45	3.30	3.28	2.91	2.96	2.76	2.19	3.36	3.03	3.06

Fuel prices per million Btu in 1980 dollars.
Prices based on DOE Mid Range Energy Forecasting System (MEFS) projection series "B" (High Case).

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federal register

Monday
April 30, 1979

Part V

Endangered Species Scientific Authority

American Alligator, Bobcat, Lynx, River Otter, Alaskan Wolf, Alaskan Brown Bear and American Ginseng; 1979–1980 Export Finding Procedures

V 4 4 / 8 4 A P 3 0 7 9 UMI

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

[50 CFR part 810]

Export of American Alligator, Bobcat, Lynx, River Otter, Alaskan Wolf, Alaskan Brown Bear and American Ginseng; Procedures for Making 1979–1980 Export Findings

AGENCY: Endangered Species Scientific Authority.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This notice states in general terms what types of information the Endangered Species Scientific Authority (ESSA) will need in order to make findings in favor of export of legally obtained specimens of the following Appendix II species: American alligators taken in 1979; bobcat, lynx, river otter, Alaskan brown bear, and Alaskan gray wolf taken in 1979–1980; and American ginseng harvested in 1979. This notice also establishes certain interim policies concerning the findings, and states procedures to be followed in 1979–1980 to help ensure public participation in the development of ESSA's findings for these species.

DATE: The ESSA requests any interested individuals, organizations or agencies with information relevant to the ESSA's export findings for these seven species to supply this information to the ESSA as soon as possible, but no later than 60 days after the forthcoming proposed rulemaking addressing these species.

ADDRESS: Comments should be addressed to the Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets, N.W., Washington, D.C. 20240. Comments received will be available for public inspection at 1717 H Street, N.W., Washington, D.C., Room 536, 7:45 a.m. to 5:30 p.m., Mondays through Fridays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William Y. Brown, Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets, N.W., Washington, D.C. 20240 (202/653–5948).

SUPPLEMENTARY INFORMATION: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and its implementing regulations, 50 CFR Part 23, control international trade in animal and plant species, subspecies or geographically separate populations included in any of three Appendices, listed in 50 CFR 23.23. Currently 51 nations are party to the CITES. The CITES is implemented in each Party by one or more scientific authorities and one or more management authorities. The CITES Appendices are distinct from the list of species issued under the Endangered Species Act of 1973, 16 U.S.C. 1531 et seq.

Findings by Scientific Authorities

Findings and the purpose of listing

All seven species discussed in this notice are, or, in the case of the American alligator, will soon be included in Appendix II. According to Article II, paragraph 2 of the CITES, Appendix II is to include:

(a) All species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and

(b) Other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.

Although the CITES provides for the inclusion of species in Appendix II for two distinct purposes, Parties proposing additions in the past usually have not clearly identified the purpose of listing in their original proposals or in other supporting documents.

At the second meeting of the Conference of the Parties (held in San Jose, Costa Rica in March 1979), the Parties recommended "that proposals for additions to Appendix II should make it clear whenever possible whether the proposal is made under Article II 2(a) or Article II 2(b) . . ." (Com. 2.13, see also Com. 2.12). This recommendation is intended to clarify the responsibility of the Parties' scientific authorities in making findings on applications to export or to import specimens of species protected by the CITES.

Before a Party's management authority may grant an export permit for a specimen of an Appendix II species, the Party's scientific authority must find that the export "will not be detrimental to the survival of that species" (Article IV 2(a)). For specimens of species included in Appendix II under Article II 2(a), scientific authorities should address the potential effect of exports on the listed species itself; for species included in Appendix II under Article II 2(b), scientific authorities should address how such exports may affect the status of the species intended to be protected; those associated species included in Appendix II under Article II 2(a), or included in Appendix I. The ESSA will propose procedural regulations in the near future concerning this and other interpretations and procedures for making findings and for the present will follow the interpretations above concerning the differing effect of inclusion in Appendix II under Article II 2(a) versus II 2(b)

At the second meeting of the Conference of the Parties, the Parties agreed that the Alaskan and Canadian populations of brown bear, *Ursus arctos*, and wolf, *Canis lupus*, were to be treated as being included in Appendix II under Article II 2(b). After these agreements become effective on June 28, the ESSA will limit its review of export applications for Alaska brown bear and gray wolf to the preparation of findings made with respect to Article II 2(b). When reviewing proposals to export these Alaskan specimens, the ESSA will only consider and will only make a finding on the probable impact that export of specimens from Alaska will have on the status of other populations of the same species.

In certain cases it may be necessary to include a species in Appendix II both because it may become threatened with extinction and because its trade must be regulated to effectively control trade in other species included because of biological jeopardy. In such cases a scientific authority should make two findings on detriment, one with respect to Article II 2(a) and the other with respect to Article II 2(b).

The U.S. proposed to transfer the American alligator (*Alligator mississippiensis*) from Appendix I to Appendix II under Aritcle II 2(a) and Article II 2(b) (February 14, 1979. **Federal Register**, 44 FR 9689). Transfer to Appendix II was agreed to at the second meeting of the Conference of the Parties and will become effective June 28, 1979. The ESSA intends to propose separate findings on detriment with respect to Article II 2(a) and Article II 2(b) for exports of the 1979 harvest of this species.

When a single species has been included in Appendix II without reference to the purpose for listing, unlike the species discussed above, the ESSA for the present will treat the species as included under Article II 2 (a) alone. This interim policy will be addressed in the ESSA's procedural regulations. American ginseng (*Panax quinquefolius*) is one species to which this policy applies. Therefore, for proposals to export American ginseng, the ESSA only will examine the

potential effect of export on the species itself.

When a species was included in Appendix II as part of a higher taxon and the purpose for listing is not clear, the ESSA for the present will treat the species as included in Appendix II under both Article II 2(a) and Article II 2(b). This interim policy also will be addressed in the ESSA's procedural regulations.

This interpretation is consistent with the purpose for listing higher taxa. For example, the Berne Criteria for addition (Conf. 1.1, 5.11, 1976) state: "Genera should be listed if some of their species are threatened and identification of individual species within the genus is difficult. The same should apply to listing any smaller taxa within larger ones."

The bobcat (*Lynx rufus*) and lynx (*Lynx canadensis*) were added to Appendix II on February 4, 1977 as part of the Felidae. The porposal to include the Felidae in Appendix II was prepared by the United Kingdom of Great Britain and Northern Ireland. In this case the proposal stated that "all species must be considered as vulnerable" and that all "wild species not in Appendix I should be on Appendix II, so that the scale of their occurrence in trade can be monitored." The river otter was included in Appendix II on February 4, 1977 as part of the Lutrinae. This proposal was prepared by Switzerland and stated, in part: "All otters are heavily exploited for their skins to the extent that they could become endangered. The skins of different species are difficult to distinguish from one another." No additional clarification was given as to why individual species of cats and otters were included in Appendix II. These statements suggest that scientific authority findings on any species of these taxa should address potential threat to their own survival as well as the need to control trade in other species in the taxa.

Consequently, the ESSA intends to make separate findings on detriment with respect to Article II 2(a) and Article II 2(b) for export of specimens of bobcat, lynx, and river otter harvested in 1979–80. This approach differs from the past two seasons, when findings were limited to those conforming to listing under Article II 2(a).

Guidelines for ESSA Findings Based on Listing Under Article II 2(a).

In the July 11, 1977, **Federal Register** (42 FR 35799), the ESSA proposed general criteria for determining whether an export will not be detrimental to the survival of the species. Guidelines for ESSA findings in favor of export, a discussion of the biological review, and a request for specific information on state populations of bobcat, lynx, river otter, and American ginseng were published in the April 10, 1978, **Federal Register** (43 FR 15097). Although directed at the 1978–1979 harvest, this notice is equally applicable to findings for the 1979–1980 harvest of these species as well as for the findings under Article II 2(a) for the 1979 harvest of the American alligator. The ESSA will continue to follow these guidelines for findings made for the upcoming season, pending adoption of any revised interpretation in procedural regulations.

Guidelines for ESSA Findings Under Article II 2(b).

The ESSA has not developed criteria for determining whether exports of American alligator, bobcat, lynx, river otter, Alaskan brown bear and Alaskan gray wolf will not be detrimental to the survival of other species of crocodilians, felids, otters and other populations of brown bear and gray wolf. Such criteria will be proposed concurrently with the proposed findings for these species. This notice, however, does provide a discussion of our current views on two major aspects of such findings as well as a discussion of certain criteria that could be established and that, when satisfied, may be considered sufficient support for a finding of no detriment.

In making a finding on detriment with respect to Article II 2(b) the ESSA should first determine whether the specimens proposed for export are distinguishable from specimens of the other associated species that are or may be threatened with extinction. To the degree that the latter species may be confused with the former, trade in the former may potentially impact the latter. Second, the ESSA should determine to what extent trade in any species included in Appendix II under Article II 2(b) may create a demand, or otherwise promote exploitation of these other species.

In regard to the identification problem, the ESSA may prescribe certain specific conditions that, if satisfied, would support a finding of no detriment. Conditions would necessarily differ from species to species because of the type of specimens in trade and the degree of difficulty encountered in distinguishing between specimens of related species. For example, an intact raw hide of an American alligator may be easily distinguished by trained personnel from raw hides of other crocodilians, whereas even an expert may not be able to distinguish raw hides of river otters from certain other otter pelts. Also, distinguishing between different species of crecodilians may considerably more difficult once hides are made into finished products. The degree of difficulty in identifying specimens will help determine what conditions on trade may be warranted to ensure that trade in those specimens does not adversely impact other protected species.

For the bobcat, lynx, and river otter, the U.S. Fish and Wildlife Service currently requires tagging of pelts to be exported and requires that the tags:

1. Are made of some sort of metal or permanent material;
2. Are permanently attached to each skin, preferably by State personnel;
3. Accompany finished fur products to the port where the tags will be collected by USFWS officers;
4. Are applied within a specified time of taking that is set by the State;
5. State the State of origin;
6. State the year of taking;
7. State the species name; and
8. Are serially unique.

Evidence of compliance with these conditions may be sufficient to ensure generally that pelts of the bobcat and lynx are distinguishable from the pelts of other cats, particularly the morphologically distinct species included Appendix I. These conditions provide less assurance of adequate controls in the case of otters and protected populations of bobcat and lynx. In such cases additional conditions may need to be imposed to support more strongly a finding of no detriment. For example, such conditions may include requiring that all pelts harvested be tagged or that export only be allowed for tanned pelts imprinted with an indelible identifying mark over the entire inside of the pelt. Tagging and other conditions similar to those for the furbearers should be applied to exports of American alligator hides to help ensure that the hides are identifiable. Further steps may be required to ensure that small pieces of hides and products can be identified.

Assessing whether trade in one species may promote exploitation of other species is more complex than the problem of identification. Analysis of such relationships can only be initiated once trade data are accumulated.

However, certain conditions on trade may help ensure that trade in one species will not adversely impact the status of other species that may be threatened with extinction. Examples of such conditions would be restriction of exports to nations party to the CITES, and a requirement that the Management

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Authority verify that exports to party nations are actually imported by those nations. Additional potential conditions may become apparent as more trade information is obtained.

Procedures for Public Participation

The ESSA plans to follow the schedule below, with dates approximate, in establishing export findings on detriment concerning the harvest of these species in the upcoming seasons.

May 31

The ESSA will publish proposed findings for the 1979 harvest of American ginseng and American alligator, with a sixty day comment period.

July 2

The ESSA will publish proposed findings for the 1979–1980 harvest of bobcat, lynx, river otter, Alaskan wolf, and Alaskan brown bear, with a sixty day comment period.

August 10

The ESSA will publish final findings for the 1979 harvest of American ginseng and American alligator.

September 14

The ESSA will publish final findings for the 1979–1980 harvest of bobcat, lynx, river otter, Alaskan wolf, and Alaskan brown bear.

Publication of this notice has been approved by the Endangered Species Scientific Authority.

Dated: April 24, 1979.

William Y. Brown,

Executive Secretary, Endangered Species Scientific Authority.

[FR Doc. 79-13246 Filed 4-27-79; 8:45 am]

BILLING CODE 4310-55-M

federal register

Monday
April 30, 1979

Part VI

Department of Transportation

Federal Highway Administration

Highway Beautification Program; Reassessment and Public Hearings

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Parts 750 and 751]

Highway Beautification Program; Reassessment and Public Hearings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking and public hearings.

SUMMARY: There are now pending before the Federal Highway Administration (FHWA) several matters related to the Highway Beautification Act of 1965, as amended, 23 U.S.C. 131, 136, and 319, and particularly relating to the outdoor advertising and junkyard control programs, sections 131 and 136. A discussion of these matters is contained in the Supplementary Information Section. As a result of these matters, the FHWA is considering a reassessment of the Highway Beautification Program, particularly 23 U.S.C. 131 and 136. As part of this reassessment, the FHWA will hold public hearings for the purpose of soliciting comments from all interested parties who may wish to express their ideas about the future direction of the program. While any of the areas mentioned in the Supplementary Information Section of this Notice are open for comment, the main purpose of the hearings will be to formulate a basis for an overall approach to the program in the future, both as to its administration and possible recommendations for legislative change.

DATES: The public hearings announced in this Notice will be held in all ten Federal regions. Hearings are tentatively scheduled to be held on June 5 (and 6, if necessary), 1979, in Boston, Massachusetts, Chicago, Illinois, and Portland, Oregon; on June 12 (and 13, if necessary) in Baltimore, Maryland, Kansas City, Missouri, and San Francisco, California; on June 19 (and 20, if necessary) in Atlanta, Georgia, Dallas, Texas, and Denver, Colorado and on June 26 (and 27, if necessary) in New York City, New York. An additional hearing will be held in Washington, D.C., on July 10 (and 11, if necessary). More specific details of the site, time, and procedures for the hearings will be announced in the **Federal Register** at a later date. Written comments are due by July 15, 1979.

ADDRESS: Submit written comments, if possible in triplicate, to FHWA Docket No. 79–10, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Moeller, Chief, Junkyard and Outdoor Advertising Branch, telephone number (202) 245–0021, or Mr. Edward Kussy, Deputy Assistant Chief Counsel for Right-of-Way and Environmental Law, (202) 426–0791. Office hours are 7:45 a.m. to 4:15 p.m., e.s.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: Sections 131 and 136, title 23, U.S.C. (the Highway Beautification Act of 1965), require the States to effectively control outdoor advertising devices and junkyards adjacent to Interstate and Federal-aid primary highways. Failure to provide control in either program requires the Secretary of Transportation to withhold 10 percent of a State's Federal-aid highway apportionment until such time as control is achieved. Effective control of outdoor advertising limits the erection of new outdoor advertising devices, hereinafter called signs, and requires the removal with compensation of certain nonconforming signs. New signs, other than those specifically exempted by the 1965 Act, may be erected only in zoned commercial or industrial areas or in areas which are unzoned but developed as commercial or industrial land uses as defined by an agreement between the various States and the U.S. Secretary of Transportation. Such signs must also comply with requirements for size, lighting, and spacing as specified in the same agreement. Effective control of junkyards requires that junkyards which are subject to control be either screened so as not to be visible or be removed from sight if located outside of industrial areas.

A final section of the Highway Beautification Act of 1965, as amended, now codified at 23 U.S.C. 319, deals with landscaping and scenic enhancement adjacent to Federal-aid highways and will be further discussed in paragraph IC4 of the *Comments Requested* section.

Since their inception, the programs established by the Highway Beautification Act have had some success. As of September 30, 1978, the States have acquired 98,215 nonconforming signs. Over 88,000 of these have been removed. An estimated 197,791 nonconforming signs remain to be acquired. In addition, the States have removed 380,464 illegal signs. The total number of nonconforming junkyards which have been either screened or removed is 2,345 and the total number of illegal junkyards removed is 1,055. An estimated 10,608 nonconforming junkyards remain to be screened or removed.

It is generally accepted that the greatest accomplishment of the beautification program to date has been its control aspect. Controls resulting from the program have prohibited the placement of substantial numbers of outdoor advertising signs and junkyards adjacent to our primary and Interstate highways with resultant esthetic and safety benefits.

At various times, the States, the outdoor advertising and junkyard/automotive recycling/scrap processing industries, environmental groups, the academic community, advertisers, and Federal, State, and local legislators and officials have expressed concerns. This has resulted in many amendments to the law and, in turn, to administrative changes. All of the matters referred to in this Supplementary Information Section have resulted from the concerns with the Highway Beautification Program as expressed by these various sectors of society.

Impact of 1978 Amendments

The first matter pertains to the implementation of the existing program as revised by amendments contained in the Surface Transportation Assistance Act of 1978, Pub. L. 95–599, November 6, 1978 (the 1978 Act). The outdoor advertising control provision of the law was also amended by the Congress in 1968, 1974, and 1976. The junkyard control provision of the law was amended in 1974. All these amendments have met with varying reactions by those affected by or interested in these programs. All amendments prior to 1978 have been implemented by the Federal Highway Administration through the promulgation of regulations. The 1978 amendments on outdoor advertising will again necessitate major revisions to Federal regulations and State law and regulations. A synopsis of the amendments contained in the 1978 Act follows:

1. Section 121 of the 1978 Act added a new category of permitted signs to section 131(c) which allows the placement of signs off the highway right-of-way denoting the availability of free coffee distributed by nonprofit organizations at locations accessible to travelers on the Interstate and primary systems. The term "free coffee" includes coffee for which a donation may be made but is not required. Such signs are presently permitted on the highway right-of-way under Section 2F–36 of the 1978 Manual on Uniform Traffic Control Devices (MUTCD).

2. The most significant change in the 1978 Act was provided in sections 122(a) and (b) which amended section 131(g), the just compensation provision, and section 131(k), the provision allowing stricter sign standards and limitations by States. The States are required to ensure that just compensation is paid for any sign lawfully erected along the Interstate and primary systems and required to be controlled, even though the removal is made pursuant to a State or local law unrelated to the Highway Beautification Act. The amendment has been interpreted to apply to and guarantee the payment of just compensation for all signs lawfully erected under State law and in existence on or after November 6, 1978. The FHWA will not require the payment of just compensation for signs that were not in existence on November 6, 1978, except for such signs that were the subject of pending litigation on that date. Failure to provide compensation for such signs will subject the State to a reduction of its Federal-aid apportionment, 23 U.S.C. 131(b).

3. Sections 122(c) and 122(d) of the new law amended section 131(c)(3), the exemption for on-premise signs, and section 131(j), concerning bonus payment provisions which, in effect: *Provided,* That the States which had entered into an agreement to control outdoor advertising in accordance with the 1958 Bonus Act and the National Standards (23 CFR Part 750, Subpart A) may now allow the erection and maintenance of electronic or changeable message signs as on-premise signs without violation of the terms of the bonus agreement. Such on-premise signs had been prohibited only adjacent to the controlled portions of the Interstate System for the 23 bonus States. Thus, this amendment does not affect the nonbonus States nor the primary system controls in the bonus States.

4. In addition to the aforementioned provisions contained in the 1978 Act, the Conference Report (H.R. Rep. No. 95–1797), which was issued with the Act, included advisory language as follow:

"The conferees agreed not to amend subsection (o) of Section 131 in the absence of experience that can be gained through its adequate implementation. When enacting subsection (o) in 1976, the Congress intended that it be administered by the Secretary in a meaningful way and that he approves the requests of States for the retention of signs, displays, and devices whenever the requests meet the requirements set forth in the subsection. The conferees emphasize that we expect the Secretary to expedite the implementation of subsection (o) to carry out this Congressional intent and to assist those States which desire to utilize its provisions in doing so." [1]

Subsection (o) of 23 U.S.C. 131 provides that certain nonconforming signs may be eligible for retention in specific areas if the signs provide directional information about goods and services in the interest of the traveling public and that removal of same would work a substantial economic hardship in the defined area.

In response to the advisory language contained in the Conference Report, the FHWA has announced that it will hold a Workshop/Open Meeting in Washington, D.C., on May 15, 1979, for the purpose of explaining and discussing the section 131(o) exemption provisions.[2]

GAO Report

The second of the matters involves a Report to the Congress by the Comptroller General of the United States on March 27, 1978, entitled "Obstacles to Billboard Removal," CED–78–38. That report indicates that the outdoor advertising control program fostered by the Act has been effective in curbing the number of new signs erected and removing illegal signs along the Nation's Interstate and primary highway systems. However, the report also indicates that the removal of signs made nonconforming by the Act has been slow, that many signs will remain due to exemptions granted by the law, and that, as a result, motorists in many States will not see a tangible difference when the sign removal program is completed. The report concludes that in light of the problems and limited progress by most States in removing nonconforming signs, it appears that the objectives of the Highway Beautification Act will not be accomplished in the near future. It recommends that the Congress reassess the program and that, if it wants to strengthen the removal program, it amend the Act to encourage the States to remove all signs except on-premise or landmark signs or, alternatively, remove all signs, except on-premise signs, landmark signs, and signs in areas of actual commercial or industrial use.

Revision of FHWA Regulations

The third matter concerns the proposed revision of current FHWA regulations relating to the control and acquisition of outdoor advertising signs, displays, and devices, and junkyard control. The proposed revision would be in furtherance of the policies set forth in Executive Order 12044, "Improving Government Regulations," dated March 23, 1978, and the general thrust toward deregulation of private industry.

The proposed revision of existing rules would combine existing regulations, 23 CFR Part 750, Subparts D and G, and existing interim regulations 23 CFR Part 750, Subpart E. It would also result in the simplification of 23 CFR Part 751. Subpart D of Part 750 concerns the acquisition of rights of sign and sign site owners; Subpart E concerns signs which are exempt from removal in defined areas; and Subpart G concerns the control of signs. Part 751 concerns the control of junkyards. The FHWA has delayed issuance of the proposed rules pending the outcome of legislative changes to the program and this reassessment. Upon the conclusion of this reassessment, the FHWA will publish proposed rules.

Restudy of National Standards

The fourth matter concerns the restudy of existing standards for two types of directional signs; the first authorized by 23 U.S.C. 131(c)(1) and the latter by 23 U.S.C. 131(f). The first category includes signs located off the right-of-way and is regulated by the "National Standards for Directional and Official Signs," which are codified at 23 CFR Part 750, Subpart B. The second category includes signs located on the right-of-way and is regulated on the Interstate and primary systems by the "National Standards for Specific Information Signs," which are codified at 23 CFR Part 655, Subpart C.

The aforementioned restudy was mandated by the addition of a new Subsection 131(q)(1), to 23 U.S.C. 131, by Section 122(b) of the Federal-Aid Highway Act of 1976, 90 Stat. 425, Pub. L. 94–280, May 5, 1976. The FHWA established a multidisciplinary task force to conduct this restudy and has used the mandate of section 131(q)(1) to examine the entire spectrum of motorist information systems. Two research projects were authorized by the task force and both have been completed. Several alternative revisions to both the directional and the informational sign standards are now being considered, as well as the development of information systems that will assure the availability of information of interest to the traveling public.

Although the draft final report has not yet been completed, the task force has

[1] H.R. Rep. No. 95–1797, 95th Cong., 2d Sess. 91 (October 14, 1978).

[2] For further information on this Workshop/Open Meeting contact: Mr. Richard W. Moeller, Chief, Junkyard and Outdoor Advertising Branch, telephone number (202) 245–0021, Federal Highway Administration, Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.s.t., Monday through Friday.

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explored numerous options to improve the motorist information system. The task force report will be submitted to the Federal Highway Administrator prior to the completion of the rulemaking process referred to in prior paragraphs. Comments received in response to the questions listed in paragraph 4 of *Comments Requested*, see below, will be considered by the FHWA prior to any final decision on this restudy.

Comments Requested

The FHWA, in seeking comments on the future direction of the Highway Beautification Program, would appreciate comments on the following questions, which are divided into three basic groups:

1. Part I—*Current Program.*—This part sets forth issues relating to the implementation of current requirements, especially the implementation of the 1978 amendments, the economic hardship exemption, and other areas which have resulted in controversy in the past.

2. Part II—*Alternative Program Approaches.*—This part explores revisions to the existing law and regulations. Considerable controversy has been generated by the existing program and comments are requested on alternative approaches to the program. One such approach would require stricter Federal controls, while another would reduce present Federal controls.

3. Part III—*Alternative Motorists Information Systems.*—This part seeks comment on alternative means of providing directional information to the traveling public.

Persons submitting comment need not address all of the following questions, nor are their comments limited to the matters addressed in these questions.

I. *Current Program.*—The FHWA desires comments relative to the implementation of the existing program including the following:

A. *Implementation of the 1978 Amendments.*—The 1978 Act made several significant changes in the program.

1. *Just Compensation.*—Revised just compensation requirements will have significant impacts in several areas. The matter of State compliance could involve amendments to State outdoor advertising control laws, zoning enabling statutes, and possibly some State constitutions, as well as the revision of many local ordinances.

(a) What FHWA actions and policies will facilitate an expeditious and orderly transition to the new requirements created by this legislation?

(b) How can the FHWA best serve the States, local governments, industry, and other interested parties to ensure compliance by State and local governments in the administration of the new just compensation provisions?

(c) The 1978 amendments dealing with just compensation no longer allow the States or local governments to remove signs without compensation following the expiration of an amortization period. In the future, any sign removed along Federal-aid Interstate and primary systems must be compensated for, if the sign was legally erected and in existence on or after November 6, 1978, or, if removed, in litigation on that date, unless the sign is maintained in a manner which violates reasonable maintenance requirements. Compliance with such maintenance requirements must be possible in the course of normal business operation by the sign or site owner and such requirements may not be confiscatory in nature.

(1) What are the impacts of this provision (which precludes the use of amortization) in dealing with nonconforming signs along the Interstate and primary systems?

(2) Will this legislation have an effect on the control of other nonconforming land uses by local governments?

(3) How will this legislation affect general business regulatory requirements that a State or community may want to administer such as sign permit or business licensing systems?

(4) What are the legal and constitutional implications of this legislation?

2. *"Free Coffee" Signs.*—What restrictions, if any, should be placed on the erection of off right-of-way "free coffee" signs in terms of duration of display, message, size, number, collection of donations, who can erect, and what should be the relationship to such "free coffee" signs allowed on the highway right-of-way?

3. *Electronic Signs.*—What restrictions, if any, should be placed on electronic signs now authorized in on-premise Interstate locations in bonus States, generally and in terms of the frequency of message change? Should further research be conducted in the area of the motorist safety and esthetic characteristics of such electronic variable message or flashing signs?

B. *Economic Hardship Exemptions.*—Pursuant to Section 131(o), the FHWA requires an economic analysis demonstrating a substantial hardship throughout a defined area before an approval can be given exempting from acquisition certain nonconforming signs which provide directional information about goods and services in the interest of the traveling public. Should the FHWA:

1. Continue to require an economic analysis for the purpose of demonstrating hardship throughout a defined area?

2. Retain its present policy and allow exemptions only where economically justified?

C. *Other Significant Program Areas.*—1. *Nonconforming Uses.*—Nonconforming land use controls have been required by Federal regulation in both the outdoor advertising and junkyard control programs. A number of problems have been experienced from the standpoint of their acceptance by the outdoor advertising and junkyard/automotive recycling/scrap processing industries and the administration and enforcement problems on the part of the government entities having the responsibility for controlling signs and junkyards. Should the FHWA:

(a) Strengthen existing regulations concerning land use controls which regulate customary maintenance, abandonment, destruction, discontinuance, etc., as they pertain to the outdoor advertising and junkyard control programs?

(b) Eliminate or modify the land use controls in the Highway Beautification Program? If the controls are eliminated or modified, how can an effective control program be maintained otherwise?

(c) Allow each State to decide what it must do concerning land use control requirements applicable to nonconforming land uses in that State?

2. *Zoning.*—The Highway Beautification Program is a land use control program and, by statute, relies on zoning and land use planning decisions made by State and local governments. On some occasions, zoning decisions have been made designating land areas as commercial or industrial solely to permit the erection of outdoor advertising signs. Such practices are not consistent with accepted land use planning or comprehensive zoning principles and cannot, under present law, be recognized for outdoor advertising control purposes. These practices circumvent the intent of the Federal and State laws which have as their purpose the limitation of commercial advertising to true commercial or industrial zones. Similar abuses can occur in the junkyard control program in industrial zoning decisions. Comments are requested on the following alternatives or on any other ways of dealing with this problem.

(a) Should actual commercial or industrial land use be required in areas zoned commercial and industrial before it is eligible for the erection of outdoor advertising signs, as suggested by GAO and required by several States?

(b) Should local zoning actions be recognized even if they are intended to circumvent Federal law by allowing the erection of outdoor advertising signs?

3. *Vegetation Clearance.*—Inherent in the existing Highway Beautification Program is the problem of the illegal destruction of landscaping on highway rights-of-way to ensure visibility of outdoor advertising signs. Parallel to this is the issue of the authorized or legal clearance of vegetation to ensure visibility of outdoor advertising signs which may be permitted in accordance with the FHWA highway maintenance policy. This policy gives States the discretion to contract, as appropriate, for the removal of vegetation in front of billboards. Comments would be appreciated on both of these issues.

(a) What can be done to stop the illegal destruction of highway landscaping to achieve billboard visibility?

(b) Should the FHWA maintain or revise its current policy on authorized vegetation clearance by States?

4. *Landscaping.*—There are conflicting purposes between highway landscaping and outdoor advertising signs when both occur on the same section of the highway. Landscaping is for the purpose of enhancement or beautification of the highway. It serves to contain or direct the views of and from the highway. Signs are for the purpose of informing the highway user and are dependent upon visibility or lack of visual obstructions such as vegetation on the highway right-of-way. The two are most often at cross purposes in metropolitan areas and approaches to interchange ramps where both landscaping and advertising are advantageous. There are no Federal laws or regulations guaranteeing the visibility of outdoor advertising signs.

(a) Should a State be permitted to landscape a section of highway where authorized outdoor advertising signs occur?

(b) Should Federal-aid highway funds be authorized for landscaping sections of highway where signs are permitted?

(c) Should the Federal government be involved in determining the compatibility of highway landscaping and outdoor advertising signs on a particular section of highway?

5. *Anticompetitive Impact.*—A substantial number of signs have been removed as a result of the acquisition portion of the program. At the same time, the erection of new signs has been prohibited in protected areas.

(a) Have these conditions contributed to the elimination or crippling of smaller outdoor advertising companies due to their inability to compete with larger companies for the limited sites available for new signs?

(b) Should there be any effort to protect the small companies and individual sign owners from such a situation? If so, how and by whom?

II. *Alternative Program Approaches.*—Frequent amendment of the Highway Beautification Act and its implementing regulations, along with limited funding, has raised the possibility that the program will never achieve its original goal as it is presently structured. This concern could be met by two basic alternative legislative and regulatory approaches. The first would be to substantially expand the scope of the present mandatory requirements. This would require increased Federal involvement and would call for stricter controls. The second would be to turn over more responsibility for the Highway Beautification Program to the States by eliminating or limiting Federal requirements. Thus, those States wishing to strictly control outdoor advertising would be free to do so, while those wishing not to control outdoor advertising would be able to do so with fewer or no Federal constraints.

A. *Stricter Controls.*—Should the FHWA recommend amendments to the Highway Beautification Act to increase esthetic controls along the Nation's highways? Towards this end, should any of the following be considered:

1. *First GAO Alternative.*—Removal of all signs except on-premise and landmark signs as suggested by the GAO report, which would, in effect, eliminate all off-premise outdoor advertising signs? or

2. *Second GAO Alternative.*—Removal of all signs except on-premise signs, landmark signs, and signs in areas of actual commercial and industrial use as suggested by the GAO report? This would restrict off-premise signs to areas zoned commercial and industrial which are actually developed for that use. This would also eliminate directional and official signs (Section 131(c)(1)), and "free coffee" signs (Section 131(c)(5)), that are presently permitted.

3. *Other Options—Outdoor Advertising.*—Should the FHWA also consider:

(a) Eliminating or providing further limitations on the unzoned commercial and industrial area definition which is applied in areas which are not comprehensively zoned?

(b) Controlling the size, height, lighting, and quantity of on-premise signs?

(c) Mandating sign acquisition and removal priorities in such a way that a visually apparent accomplishment can be realized, i.e., clean up designated scenic routes first, then Interstate, etc.?

(d) Revising all agreements with the States to establish uniform national standards relative to:

(1) The designation of areas eligible for erection of outdoor advertising signs, and

(2) The delineation of size, lighting, and spacing criteria to achieve effective minimum esthetic controls?

(e) Attempting to ensure adequate Federal funding levels to complete the acquisition portion of the program within a set period of time?

(f) Seeking more effective control on Federal Indian lands?

(g) Establishing and enforcing minimum national standards for the maintenance of nonconforming signs? (e.g., abandonment, destruction, discontinuance, etc.)

4. *Stricter Junkyard Regulation.*—In the area of junkyard/automotive recycler/scrap processor controls, should the FHWA consider any of the following:

(a) Requiring that junkyards/automotive recyclers/scrap processors be given similar benefits or rights as those given to sign and site owners in the area of just compensation?

(b) Specifying junkyard abatement priorities in such a manner that accomplishment can be realized, i.e., scenic routes, Interstate routes, etc.?

(c) Attempting to ensure adequate Federal funding levels and establish a definite timetable to complete the junkyard program?

(d) Establishing and enforcing national maintenance standards for nonconforming junkyards?

(e) Establishing and enforcing national criteria for junkyard screening?

(f) Establishing a Federal incentive grant program to encourage recycling programs?

(g) Eliminating State screening and abatement programs for nonconforming junkyards/automotive recyclers/scrap processors which are at the "expense of the owner"?

B. *Reduced Controls.*—Should the FHWA consider requesting either partial or total repeal of the outdoor advertising and junkyard control programs? Comment on the following alternatives would be appreciated:

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1. *Repeal.*—Total and immediate repeal of mandatory Section 131 (outdoor advertising control), 136 (junkyard control), or both.

2. *Voluntary State Programs.*—Allow the existing program or a revised federally funded program to continue on a voluntary basis in those States that desire to participate. A bill, S. 344, embracing this concept for only the outdoor advertising program was introduced in the U.S. Senate on February 6, 1979, by Senator Robert T. Stafford of Vermont. The section-by-section analysis of S. 344, as submitted for the record by Senator Stafford and published in the Daily Congressional Record, S. 1125, February 6, 1979, is as follows:

Sec. 1. Title of the Act.

Sec. 2. Creates a new Section 131 of Title 23, United States Code, as follows:

Sec. 131. (a) Declares it a national policy for the Federal Government to assist the States in controlling outdoor advertising.

(b) Permits States to establish a statewide program of billboard control and provides that where the State program meets the requirements of subsection (c), Federal funds will make up 80 percent of the cost of the State's purchase of signs along the Interstate or primary systems. A State is not required to pay compensation but where it elects to do so, Federal funds will be made available.

(c) To be eligible for Federal assistance, a State must limit signs within 660 feeet of the road in urban areas or visible from the road outside urban areas, to (1) specified directional and official signs and notices, (2) signs for the sale or lease of property on which the signs are located, (3) on-premise signs, (4) landmark signs, and (5) signs in commercial and industrial areas.

(d) Requires the Secretary to provide within the Interstate right-of-way for signs giving information of use to travelers and permits the Secretary to provide for such signs along the primary system.

(e) Permits States to provide travelers information and advertising at safety rest areas and provides for Federal assistance in establishing information centers or systems.

(f) Retains payments to States which entered into agreements with the Secretary to control signs along the Interstate System under the Bonus Act.

3. *Selective Regulation of Systems.*—Revise the law to regulate only the Interstate System and scenic sections of the primary system on a mandatory or voluntary basis.

4. *Partial Program Modification.*—Retain the present program's mandatory controls on the erection of new signs, but eliminate the acquisition and compensation requirements of the law, with respect to existing nonconforming signs.

5. *Eliminate Federal Oversight.*—Eliminate Federal oversight of all or part of the program.

6. *Reduce Junkyard Screening Standards.*—With reference to existing junkyard screening requirements, modify or eliminate the provision that junkyards be screened "so as not to be visible" from controlled highways.

III. *Alternative Motorist Information Systems.*—As to such system options, should the FHWA:

A. Mandate or encourage a basic system?

1. Provide for the addition of motorist information elements (to be applied incrementally) to a basic motorist information system depending on needs and justification?

2. Provide the opportunity and encourage private industry to operate the various elements of the system such as logo signs, information centers, conforming outdoor advertising signs, etc., for profit?

B. Retain present policy of totally voluntary participation in motorist information systems in combination with billboard advertising?

C. Place greater reliance on billboard advertising to provide motorist information by seeking repeal of mandatory outdoor advertising controls?

This advance notice of proposed rulemaking is issued under the authority of 23 U.S.C. 131, 136, and 315 and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b).

Note.— The Federal Highway Administration has determined that this document contains a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044. An evaluation of this proposal will be placed in the docket for public inspection.

Issued on: April 25, 1979.

John S. Hassell, Jr.,
Deputy Administrator.

[FHWA Docket No. 79-10.]

[FR Doc. 79-13294 Filed 4-27-79; 8:45 am]

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Federal Register

Vol. 44, No. 84

Monday, April 30, 1979

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This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

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***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

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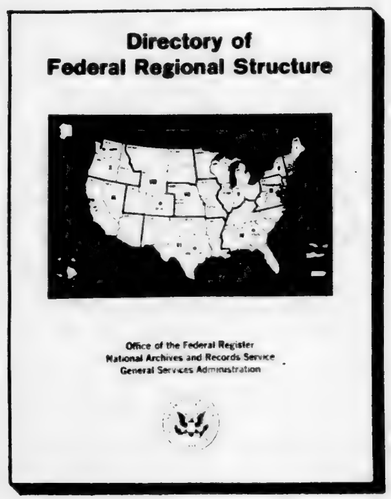
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This publication was prepared under the editorial direction of Martha B. Girard, assisted by Ruth Pontius, with Nan Shaver Whalen and Roy Nanovic as Chief Editors.

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SUGGESTIONS concerning this and other publications of the Office will be welcomed by Ernest J. Gaidi, Acting Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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This publication was prepared under the editorial direction of Martha B. Girard assisted by Ruth C. Pontius, with Loren Myers as Chief Editor. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office will be welcomed by Fred J. Emery, Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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706.72 Heading and (a) revised 17917
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706.73 (a) amended; (b) removed; (c) redesignated as (b) 23779
706.74 (a) revised 23779
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2.5 Revised 16357
2.13—2.29 (Subpart C) Heading revised 16357
2.17 Heading and (a)(1) revised; (a)(2) removed; (d) added 16357
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(a)(3) (xxxi) revised; (a)(3) (xxxii) added 27067
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2.19 (d)(3), (4), (5), (9), (11) and (19) revised; (d)(20) removed 2566
2.21 (d)(28) authority citation correctly added 10699
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2.49—2.53 (Subpart F) Heading revised 16358
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2.50 (a) introductory text, (1), (7), and (b) revised; (a)(2) removed 16358
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2.52 Added 16358
2.53 (a) and (b) amended 16358
2.60 (a)(3), (4), (5), (9), (11), and (18) and (b) introductory text and (9) revised; (a)(19) removed; (a)(20) redesignated as (a)(19) and republished 2566
2.63—2.68 (Subpart H) Heading revised 16358
2.63 Revised 16358
2.64 (a) amended 16358
2.65 (a) and (b) introductory texts and (a)(30) amended 16358
(a)(33) revised 27067
2.66 (a) introductory text amended; (a)(12) removed 16359
2.67 (a) and (b) introductory texts amended 16359
2.68 (a)(16) authority citation correctly added 10699
(a) introductory text and (7) amended 16359
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2.70 (a)(8) revised; (a)(28) added 26057
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6.16 Revised 22037
6.15—6.33 (Subpart) Appendix 1 amended 22037
7 Revised 5374
15.51 Authority citation correctly added 1362
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17.8 (f) added 26847
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25.7 (a) amended 12156
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25a.38 (a) amended 12156

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26.353 (d)(4) correctly designated 6083
180.5 (a)(4) authority citation correctly added 4651

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210.4 (b) amended 1363
210.4a (b)(3) added 5381
210.6 (a) and (b) revised; (a–1) added; (c) through (j) amended 10049
210.10 (a)(4) authority citation added 10700
210.19b Authority citation added 10699
215.1 Authority citation added 10700
215.2 (e–2), (k), (k–1), and (x) authority citation added 10700
215.7 (d)(1) and (2) authority citation added 10700
215.8 (b) and (c) authority citation added 10700
215.9 (b) authority citation added 10700
215.10 (a), (c) and (f) authority citation added 10700
215.11 (c)(1) and (3) authority citation added 10700
215.13a (a) through (e) authority citation added 10700
215.16 (b) and (g) authority citation added 10700
225 Revised 11
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225.12 (c) corrected 3955
226 Appendix revised 21252
227 Revised 28282
227.5 Authority citation correctly added 3955
227.30 Authority citation correctly added 3955
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227.36 Authority citation correctly added 3955
227.37 Authority citation correctly added 3955
227.41 Authority citation correctly added 3955
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227.44 Authority citation correctly added 3955
227 Appendix revised 20627
230 Appendix added 28287
235.1 Authority citation added 10700
235.2 (b), (l), and (p–1) authority citation added 10700
235.3 (a) authority citation added 10700
235.4 Authority citation added 10700
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235.7 (a) authority citation added 10700
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270.2 Authority citation correctly added 8240
271.2 Authority citation correctly added 8240
271.11 Authority citation correctly added 8240
272.1 (g)(2) added 17984
(g)(1)(iii) amended 19174
273.7 (c) added 17984
273.9 (d)(1), (3), and (4) amended; appendixes A, B, and C revised 27642
273.10 Appendix A revised 27643
273.12 (e)(4) amended 19175
277.10 (g) and (h) added 8548
282.11 Authority citation correctly added 8240
295.3 Amended 25396
295.4 Amended 25396
295.5 Amended 25396
295.6 Amended 25396
295.7 Introductory text amended; (d) and (e) redesignated as (e) and (f); (a), (b), and (c) revised; new (d) added 25396
295.8 (g) and (h) revised 25396
295.9 (a) through (d) revised; (e) added 25397

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318.13-2 (b) amended 10701
331.7 (Subpart) Added 24037
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401.101 Appendix added 749
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401.107 Revised 16359
401.131 Removed 25397
401.134 Revised 5057
401.146 Removed 25397
401.147 Removed 25397
401.150 Amended 29
402.1 Appendix added 1964
403.40 Appendix added 1964
404.20 Appendix revised 1964
406.1 Appendix added 1965
408.1 Appendix revised 1966
409.30 Appendix added 1966
410.1 Appendix revised 1967
411.1 Appendix revised 1968
412 Revised 1365
413.20 Appendix added 1968
414.1 Appendix added 1969
416 Added 25397
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718.1 Revised 26848
718.2 (b)(3) revised; (b)(15) through (18) redesignated as (b)(16) through (19); new (b)(15) added 26848
718.5 (b) and (d) revised 26848
Nomenclature change 28294
718.6 (c) revised; (h) added 26848
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719 Revised 5382
722.558—722.564 (Subpart) Heading revised 2567

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724.2—724.7 Undesignated center heading revised 7111
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724.4 Revised 7111
724.12—724.17 Undesignated center heading revised 7111
724.12 Revised 7111
724.13 Revised 7112
724.14 Revised 7112
724.15 Revised 7112
724.16 Revised 7113
724.17 Revised 7113
724.23 Revised 24850
724.24 Revised 24850
725.72 (c)(1) and (4) revised; (c)(2) amended; (c)(3)(vi) and (vii) added 15990
725.98 (f) amended 15990
725.102 (b) introductory text revised 15990
725.103 (a) amended 15991
725.104 (a) amended 15991
726.11—726.21 Undesignated center heading revised 7115
726.11 Revised 7115
726.68 (n) revised 15992
726.92 (e) amended 15992
726.95 (b) amended 15992
726.105 (a) amended 15992
726.106 (a) amended 15992
729.3 (ee) and (ii) revised 25404
729.46—729.52 Undesignated center heading added 25404
729.46 Added 25404
729.47 Added 25404
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729.51 Added 25405
729.52 Added 25405
729.58—729.59 Undesignated center heading added 25405
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Introductory text and (b) corrected 28294
729.60—729.65 Undesignated center heading added 25406
729.60 Added 25406
729.61 Added 25406
729.62 Added 25406
729.63 Added 25406
729.64 Added 25406
729.65 Added 25406
729.66—729.72 Undesignated center heading added 25407

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729.66 Added 25407
729.67 Added 25407
729.68 Added 25408
729.69 Added 25408
729.70 Added 25408
729.71 Added 25409
729.72 Added 25409
730.1—730.34 (Subpart) Revised 18930
730.1502—730.1504 (Subpart) Revised 10050
781 Added 7116
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795 Authority citation corrected 2567
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798 Revised 10353

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

905.302 (a) table I and (b) table II amended 6350, 9589, 12605, 21759, 24851
907 Limitation of handling 1077, 2353, 3669, 5059, 6351, 7941, 9733, 10717, 11746, 12606, 14533, 15641, 17475, 18640, 20395, 21620, 21760, 23237, 24558, 25833
907.216 Added 10499
908 Limitation of handling 20396, 21761, 23237, 24559, 25834, 27405, 28775, 30071, 31161
908.218 Added 27404
910 Limitation of handling 30, 1366, 2568, 3956, 5641, 6706, 8240, 10051, 10717, 11746, 12953, 15993, 17712, 20628, 21761, 22037, 23514, 24263, 24853, 26058, 27644, 29034, 30314
910.463 (a) revised 29867
911.150 Removed 20629
911.160 Added 9370
911.341 Added 24561
913.6 Revised 8863
913.7 Revised 8863
913.8 Redesignated as 913.9; new 913.8 added 8863
913.9 Redesignated as 913.10; new 913.9 redesignated from 913.8 8863
913.10 Redesignated as 913.11; new 913.10 redesignated from 913.9 8863
913.11 Redesignated as 913.12; new 913.11 redesignated from 913.10 8863

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913.12 Redesignated from 913.11 Amended 8863, 8864
913.13 Added 8864
913.14 Added 8864
913.15 Redesignated from 913.20 and revised 8864
913.16 Added 8864
913.17 Added 8864
913.18 Added 8864
913.19 Added 8865
913.20 Redesignated as 913.15 and revised 8864
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913.21 Revised 8865
913.31 Revised 8865
913.41 Revised 8865
913.42 Revised 8865
913.43 Revised 8865
913.45 Amended 8866
913.120 Added 25409
915.150 (d) removed 20629
915.160 Added 9370
915.321 Added 30072
916 Determinations 12156
916.353 Added 29641
917 Determinations 12156
917.449 Added 28776
917.450 Added 28777
918.130 Revised 25403
918.217 Added 28778
918.321 Added 25191
928 Limitation of handling 12607, 22433
928.207 (a) revised 23811
928.309 Added 31
(b) redesignated as (c); new (b) added (temporary) 3670
(c) redesignated as (d); new (c) added (temporary) 6706
929.153 Added 12018
929.160 Added 16884
932 Determinations 27405
944.19 Added 30074
944.206 Added 24562
946.231 (a) revised 24559
953.216 Added 24560
953.319 Added 29642
959.218 Revised 6895
959.319 Added 11747
971.319 Amended (temporary) 2165, 7942
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979 Added 22038
979.100 Added 28780
979.106 Added 28780
979.110 Added 28781
979.122 Added 28781

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979.126 Added	28781
979.132 Added	28781
979.152 Added	28781
979.155 Added	28781
979.180 Added	28781
979.301 Added	28779
979.201 Added	26731
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981.401 Added	30075
981.442 (a)(3), (4), and (5) revised	30075
(a)(4) corrected	31161
981.455 (c) added	30076
981.472 Revised	30076
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1002.149 Removed	21004
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1002.180 (c)(6) added	21004
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1062.61 Revised	4934
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1062.75 (b) amended	4935
1062.76 (a)(4) amended	4935
1062.85 Introductory text amended	4935
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1062.121 (b) introductory text, (2) and (3) revised; (e) and (f) added	4935
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1065.75 (c) revised	7655
1065.76 (a)(4) amended	7655
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1073.116 (d) revised	18941
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1079.71 (a)(2)(i) revised	29430
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1138.121 (a), (b) introductory text, (2) and (3), and (c) revised; (e) and (f) added	18952

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1207.507 (a) amended	25621
1260.2 (a) revised	11056
1260.19 Revised	11056
1270 Appendix I effective date 12–18–78	4651

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

1421.1—1421.28 (Subpart) Revised	2354
Effective date corrected	3451
1421.3 (f) corrected	6351
1421.6 (b) corrected	6351

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1421.9 (c) corrected 6351
1421.17 (a)(1) and (2), (c), and (f)(i) corrected 6351
1421.21 (b)(2) corrected 6351
1421.22 (f)(2) corrected 6351
1421.50—1421.58 (Subpart) Revised 3454
1421.72—1421.76 (Subpart) Revised 3670
1421.76 (a) table corrected 17477
1421.90—1421.98 (Subpart) Revised 3463
1421.111—1421.114 (Subpart) Revised 3686
1421.150—1421.158 (Subpart) Revised 10354
1421.175—1421.177 (Subpart) Revised 10356
1421.210—1421.218 (Subpart) Revised 3459
1421.235—1421.238 (Subpart) Revised 3693
1421.245—1421.253 (Subpart) Revised 3465
1421.270—1421.274 (Subpart) Revised 3681
1421.274 (a) table corrected 17476
1421.280—1421.292 (Subpart) Revised 19182
1421.291—1421.294 (Subpart) Revised 17476
1421.303 (c)(4) revised 19371
1421.335—1421.343 (Subpart) Revised 3457
1421.350—1421.354 (Subpart) Revised 3691, 18467
1421.365—1421.373 (Subpart) Revised 3462
1421.390—1421.393 (Subpart) Revised 3697
1421.393 (a) table corrected 11201
1421.460—1421.469 (Subpart) Revised 3451
1421.485—1421.489 (Subpart) Revised 3673
1421.489 (a) revised 15465
1421.534 (b) corrected 10357
1421.540 (d) corrected 10357
1421.543 (b) (1) and (2) correctly designated 9371
(b)(2) correctly designated 10357
1427.17 Revised 3467
1427.1901 Revised 5642
1427.1902 Introductory text and (b) revised 5642
1427.1903 (d) removed; (g)(1) revised 5642

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1427.1904 (l) removed 5642
1427.1905 Revised 5642
1430.282 (a)(1) and (b) revised 26733
1434.3 (f) revised 17477
1434.24 (a), (g), and (h) revised 17477
1434.26 (a) revised 17478
1434.28 (a) revised 17478
1434.40—1434.44 (Subpart) Revised 31005
1435.22 (a)(1) amended 9734
1435.41 (a) amended 9734
1446.31—1446.36 (Subpart) Revised 11058
1464.2 (e)(3)(ii) amended 15994
1464.7 (a)(2) revised 15994
1472.1505 (c) added 21622
1472.1521 (c) added 21622
1472.1546 Existing text designated as (a); (b) added 21622
1496 Added 27407

Chapter XVII—Rural Electrification Administration, Department of Agriculture

1701 Appendix A amended 1367, 10051, 18957, 20629, 25410

Chapter XVIII—Farmers Home Administration, Department of Agriculture

1800 Removed 18162
1800.41—1800.42 (Subpart) D) Redesignated as 1900.101—1900.103 (Subpart C) and revised 10979
1801 Removed 4431
1801.11 (Subpart B) Redesignated as 1910.51—1910.64 (Subpart B) and revised 4431
1803.11 (c) amended 6352
1804.3 (f)(1)(ii)(c) amended 1701
1804.4 (b) amended 1701
1809.1 (b) amended 1701
1822.1—1822.18 (Subpart A) Exhibit E amended 4437
1822.63 (a) amended 1701
1822.83 (c) through (f) and (g) through (z) redesignated as (d) through (g) and (i) through (bb); new (c) and (h) added; (b) and new (f), (g), (i), (k), and (r) revised 27645
1822.84 (a)(2)(iv), and (a)(5)(iii) added; (a) (1), (2) and (8) revised 27646

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1822.85 (b)(1), (2), and (3) revised; (b)(4), (5), and (6) added 20630
(e)(3), (4) and (i) revised 27646
(p) added 28655
1822.86 (b)(4) through (6) and (7) through (12) redesignated as (b)(5) through (7) and (9) through (14); new (b)(4) and (8) added; new (b)(7) revised 27647
(b)(1) revised 28655
1822.88 (a)(3) amended; (a)(5) removed; (a)(6) through (8) redesignated as (a)(5) (7) 20630
(q) revised 20631
(b) through (t) redesignated as (c) through (u); (a)(1)(iv), (2)(i), (ii) and (iii), new (b), (i)(3), (4) and (5) added; (a)(2), (4), (6), and introductory texts of (1) and (3), and (h) and (i)(1) revised 27647
1822.90 (e) revised 27648
1822.93 (a), (b)(2)(ii), (3) (i), and (iii) amended; (b)(2)(i) revised 4434
1822.81—1822.98 (Subpart D) Exhibits S and S–1 added 20396
Exhibit I amended 21762
Exhibit R amended 24044
1822.203 (a) amended 1702
1822.213 Amended 1702
1822.267 (h) amended 1702
1822.271 (f), (g) (2), (3), (4), and (5) amended 4435
1822.272 Revised 4435
1822 Exhibits F–8A, F–8B, and F–8C added 27645
Exhibits A, B, F–6, F–7, G and J amended 27648
1823.65 Amended 6353
1823.266 (b) amended 6353
1823.271 (b) and (c)(3)(i) amended 6353
1823.276 Introductory text amended 6353
1823.450—1823.460 (Subpart O) Heading revised; interim 6353
1823.471—1823.477 (Subpart P) Removed 27409
1861.1 (b)(2) amended 4437
1861.2 (b) amended 1702
1861.8 (a) amended 4437
1861.46 (i)(2) amended 4435
1861.84 (d)(1) amended 4435

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1864.2 (d) and (k) amended 4437
1864.17 (a)(1) amended 4437
1866.1 (a)(1) amended 4437
1872.4 (f) amended 1702
1872.11 (b) amended 4437
1872.14 Amended 4437
1872.15 (c) amended 4437
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1888.13 Introductory text and (e) amended 6353
Introductory text, (d), and (e) amended 27409
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1890f Removed 30665
1890w Removed 6083
1900—1980 (Subchapter H) Heading revised 11055
1900.1—1900.5 (Subpart A) Added 18162
1900.51 Revised 15642
1900.52 (d)(1) through (5) revised 15642
1900.53 (d)(7)(i) revised 15642
1900.101—1900.103 (Subpart C) Redesignated from 1800.41—1800.42 (Subpart D) and revised 10979
1901.205 (b)(2), (3)(i)(C), (iii), (iv), (e)(3), and (g)(1) revised; (g)(4) removed 24852
1901.201—1901.205 (Subpart E) Exhibit E added 24852
1901.702 Amended 27409
1901.707 (a) amended 27409
1901.700 (a) amended 27409
1901.711 (d)(2) and (5) amended 6353
1901.719 (a) amended 27409
1901.701—1901.719 (Subpart O) Exhibit B amended 27409
1904—1927 (Subchapter I) Heading transferred to Parts 2003–2045 and revised 11055
1904.101—1904.180 (Subpart C) Removed 1701
1910.51—1910.64 (Subpart B) Redesignated from 1801.11 (Subpart B) and revised 4431
1930 Removed 4437
1933 (Subchapter J) Heading removed 11055
1933.1—1933.20 (Subpart A) Redesignated as 1942.1—1942.19 (Subpart A) and revised; interim 6353

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1933.416 (d) revised	4436
1941—1948 (Subchapter L) Heading removed	11055
1941.12 (b)(6)(i) and (ii) amended	5390
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1942.1—1942.19 (Subpart A) Redesignated from 1933.1—1933.20 (Subpart A) and revised; interim	6354
1942.17 (n)(1)(iii) revised	31162
1942.351—1942.372 (Subpart H) Added	27409
1942.409 (a) through (f) and (g)(2) amended	6353
1942.411 (b) amended	6353
1942.412 (a)(2)(i), (3), (b)(3), and (d) amended	6353
1942.414 (d) amended	6353
1942.415 Amended	6353
1942.417 (a) introductory text and (4) and (b)(2) amended	6353
1942.419 (a) introductory text and (6) and (b) amended	6353
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1942.424 (a) amended	6353
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1943.142 Amended	4437
1945.51—1945.92 (Subpart B) Added	1702
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1980.1—1980.83 (Subpart A) Appendix B amended	22434
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1980.115 Amended	22435
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2024 Part transferred from Subchapter R to Subchapter W	1721
2024.1—2024.21 (Subpart A) Text and Exhibit A revised	1721
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2880.13 (c)(3) revised	9371
(c)(3) amended	16883
2880.25—2880.45 (Subpart) Added	3254
2880.29 Revised	10052
2880.37 (c)(3) existing text designated as introductory text and amended; (c)(3)(i) and (ii) added	10052
2880.50—2880.70 (Subpart) Added	12955

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2900 Added	11526
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250.302 Added 12970
261b.4 Revised 11750
261b.8 (f) added 11750
262.2 Policy statement 3957
265.2 (f) introductory text revised 1725
(f)(38) added 7121
(b)(8), (d)(6) through (8), and (f)(39) through (50) added; (e) removed; (d)(1), (2), and (5), and (f)(25) and (34) revised 23816
(a)(18) revised 28301

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303 Heading revised 7123
303.2 Footnote 2 revised 25193
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303.11 (a) introductory text, (b), and (c) revised; (a)(12) added 7123
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303.12 (c) introductory text revised 17996
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303.14 (a)(2), (b)(1)(ii), (1–a), (2), and (3), (d)(1) and (2), and footnote 13 revised; (l) added 17996
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303.15 Added 7123

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(g) heading and (1) amended; (g)(4) added 25194
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329.6 (b)(5) amended 15477
329.7 (b)(7) revised 15477
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336.735–32 Revised 6084
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545.6–7 (b) amended 30315
545.6–27 Added 30315
545.8 (a)(1)(v) amended 30315
545.9 (h) added 3470
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561.15 (b) revised 30315
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563.9–6 Added 15648
563.9–7 (b) revised 30316
563.17–3 Added 29870
563.18–1 (a)(1) and (d)(1)(iii) (b) amended; (b)(1)(iii), (c), and (e) through (h) removed; (d) and (i) redesignated as (c) and (d); heading and new (d)(1) revised 10502
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563.18–3 Added 10503
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614.4510 (c) revised 30316

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701.37 Added 4938
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332.8 (a) (2) and (3) revised ..... △3372
332 Tables added ..... △3373

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Chapter V—Office of Foreign Assets Control, Department of the Treasury

500.205 Added ..... △11766
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500.565 Revised 51763
500.611 Added ..... △11767
515.205 Added ..... △11770
515.322 Revised 51762
515.554 Revised ..... △11771
515.563 Heading and (a) revised.. 51763
515.611 Added ..... △11771
520.05 Added ..... △11773
520.611 Added ..... △11774

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1–39 (Subchapter A) Amendments to 1976 ASPR CFR volumes 51391
42 Revised 39988
43a Revised ..... △31014
44 Removed 36245
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45 Added ..... △3973
47 Added ..... △11223
49 Removed 36245
51 Added 58083
56 Removed 36245
57 Removed 36245
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72 Removed 36245
83 Removed 36245
84 Removed 36245
86 Removed 36245
89 Revised ..... △24548
93 Removed 36245
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96 Removed 36245
120 Removed 36245
123 Removed 36245
125 Removed 36245
136 Removed 36245
139 Removed 36245
142 Removed 36245
158 Removed 36245
159 Revised ..... △12669
Technical correction ..... △16013
166.11 Revised ..... △3049
173 Removed 36245
177 Revised ..... △5883
178 Removed 36245
195 Revised ..... △31178
197 Added ..... △21786
199.7 (n)(4) revised ..... △18662
199.10 (e)(2) and (g)(8) revised; (e)(12)(v) added ..... △18662
207 Added 57874
210 Removed 36245
212 Added 58084
213 Removed 36245
217 Revised ..... △30336
235 Removed 36245
240 Removed 36245
241 Removed 36245
242b.7 (a)(7)(iii) and (b)(3) revised; (a)(7)(iv) and (b)(4) added 46531
246 Revised ..... △11774
250 Removed 36245
252 Revised ..... △27095
254 Removed 36245
265 Removed 36245
266 Removed 36245
267 Removed 36245
280 Removed 36245
292a Revised 31130
294 Removed 36245
351 Revised ..... △4946
357 Added 32755
358 Added 32757
359 Added 32759
360 Added 56895
361 Added 52228
362 Added 52231
363 Added 57875
364 Added ..... △4470
365 Added ..... △4670
366 Added ..... △4470
367 Added ..... △11227

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505.9 Amended 38823
Amended ..... △5651
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552.25 Added 46972
552.50–552.74 Sections and undesignated center heading removed 59060
553 Technical correction 35922
553.15a Added 35043
553.22 (b) amended; (h) added.. 56661
564.37 Revised ..... △16385
564.38 Revised ..... △16385
564.39 Added ..... △16385
564.40 Added ..... △16386
564.41 Revised ..... △18489
571 Revised ..... △9745
574 Revised ..... △10981
575 Revised ..... △11781
581.2 (d)(2)(ii), (l)(1)(ii), (5), (6), and Appendixes B, C, and D amended 40498
621 Revised ..... △5651
631 Subchapter and Part removed ..... △27391
641.2 Amended ..... △16910
641.4 (a) revised 41974
641.62 (a)(1) amended; (a)(9) redesignated as (a)(10); new (a)(9) added ..... △16910
641.63 (c) revised 41974
641.64 (b) rmended ..... △16910
641.85 Revised ..... △16910
641.104 (c)(5) revised 41975
(c)(4) amended ..... △16911
641.109 (a)(2) revised ..... △16911
641.196 (c) amended ..... △16911
641.252 (a) revised 41975
(b) revised ..... △16911
641.293 Existing text designated as (a); (b) added ..... △16911
643 Added 29748
644 Added ..... △3168
644.111—644.121 Undesignated center heading added ..... △8184
644.111 Added ..... △8184
644.112 Added ..... △8184
644.113 Added ..... △8185
644.114 Added ..... △8185
644.115 Added ..... △8188
644.116 Added ..... △8188
644.117 Added ..... △8189
644.118 Added ..... △8190
644.119 Added ..... △8191
644.120 Added ..... △8191
644.121 Added ..... △8191
644.131—644.142 Undesignated center heading added ..... △31116
644.131 Added ..... △31116
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644.135 Added ..... △31117
644.136 Added ..... △31118
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644.139 Added ..... △31122
644.140 Added ..... △31122
644.141 Added ..... △31123
644.142 Added ..... △31124
644.155—644.157 Undesignated center heading added ..... △31125
644.155 Added ..... △31125
644.156 Added ..... △31125
644.157 Added ..... △31125
644.165—644.168 Undesignated center heading added ..... △31125
644.165 Added ..... △31125
644.166 Added ..... △31125
644.167 Added ..... △31125
644.168 Added ..... △31125

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705.2 Revised ..... △6389
705.4 (b) revised ..... △6390
705.8 (c) revised ..... △6390
705.14 (d)(2) and (4) revised.. △6390
705.16 (b)(3)(i) amended; (b)(4) removed; (c) added ..... △6390
705.17 (q) amended; (s), (t), and (u) revised; (v) and (w) added ..... △6390
705.20 (a)(20), (b)(4), and (c) amended ..... △6391
705.22 (e) amended ..... △6391
705.23 (e) amended ..... △6391
705.24 (c)(1) introductory text and (4) revised; (c)(2)(ii) amended ..... △6391
705.25 (b) removed ..... △6391
705.26 (b) amended ..... △6391
705.29 (b)(3) introductory text and (c) revised; (d)(1) amended ..... △6391
705.34 (a) and (e) revised ..... △6391
705.36 (c)(1) revised; (c)(4)(i) and (9)(ii) removed; (c)(4)(ii) and (iii) and (9)(iii) redesignated as (c)(4)(i) and (ii) and (9)(ii) ..... △6391
705.37 (d)(2) removed; (d)(3) and (4) redesignated as (d)(2) and (3) ..... △6391
706.2 Tables amended 29942, 33709, 36070, 49536, 49537
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706.3 Table amended 33710, 49536
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707.5 Amended ---------- △27991
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716.2 (a)(4)(ii) removed; (a)(4) amended ---------- △25647
716.5 (b) amended ---------- △25647
716.7 (b) heading revised; (b)(1) amended ---------- △25647
716.8 (b) amended ---------- △25647
716.9 Amended ---------- △25647
716.10 (a)(2), (b)(1), (c)(1) and (2) amended ---------- △25647
716.11 (b)(2) and (c) removed; (b) amended ---------- △25648
718.3 (a) amended; (d)(3) revised ---------- △22456
718.4 Amended ---------- △22456
729 Removed ---------- △24060
744.2 Removed ---------- △30686
744.3 Removed ---------- △30686
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751.3 (b)(2) and (i) correctly designated ---------- 33241
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806b.16 Corrected ---------- △26739
811 Revised ---------- 33241
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819 Revised ---------- △28801
822 Added ---------- 37687
825a Revised ---------- △20681
832.1—832.9 (Subpart A) Revised ---------- 51764
832.3 (c) introductory text corrected ---------- 59486
832.40—832.46 (Subpart D) Added ---------- 51765
837 Revised ---------- 35478
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862 Added ---------- 54625
875 Revised ---------- 36924
885 Revised ---------- 35687
887 Revised ---------- 38386
888 Revised ---------- 36071
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902 Revised ---------- 39089
920 Revised ---------- △26871
931 Revised ---------- 39101
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Chapter XII—Defense Logistics Agency

1201.104–51 Revised ---------- △27096
1201.105–50 Revised ---------- △27096
1201.107 (b) revised ---------- △27096
1201.307–50 Introductory text revised ---------- △27096
1201.312 Added ---------- △27096
1201.314 (f) revised ---------- △27097
1201.332–6 Added ---------- △27097
1201.452–2 (a)(5) revised ---------- △27097
1201.452–3 Amended ---------- △27097
1201.452–9 (b)(5) and (6) redesignated as (c) and (d) and revised ---------- △27097
1201.452–10 (c)(8) added ---------- △27097
1201.452–12 Amended ---------- △27097
1201.705–5 (c)(1)(iii)(B)(7) added ---------- △27097
1201.707–4 Added ---------- △27097
1201.805—1201.805–4 (Subpart H) Added ---------- △27097
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1203.604–52 Added ---------- △27097
1203.807–2 (b)(5) added ---------- △27098
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1203.1300–3 Added ---------- △27099
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1214.101–5 (Subpart A) Added ---------- △27099
1214.305–1 Added ---------- △27099
1214.305–2 (b)(5) added ---------- △27099
1214.306 (c) introductory text and (1) revised; (c)(2) amended ---------- △27099
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1250.705–1 (a) amended ---------- △27100
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Chapter XVIII—Defense Civil Preparedness Agency, Department of Defense

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Chapter XX—Interagency Classification Review Committee

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1901—1903 (Subchapter B) Heading added; regulations transferred from Chapter XIX ---------- △27991

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1.07–1—1.07–95 Revised ---------- 54186
1.07–15 (b)(2) revised ---------- 43298
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3.05–15 Heading and (b) amended ---------- △10983
3.05–20 Heading and (b) amended ---------- △10983
3.10–55 Heading and (b) amended ---------- △10983
3.10–60 Heading and (b) amended ---------- △10983
3.10–65 Heading and (b) amended ---------- △10983
3.10–70 Heading and (b) amended ---------- △10983

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3.25–10 Heading and (b) amended	△10983
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3.60–50 Heading amended	△10982
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82.145 (a) and (b) revised	△22458
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90.28 (a) revised	△11053
95.02 Heading revised; (b) added	△22457
95.57 Revised	△11054
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95.58 (a) revised	△11054
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110.46 Added	△21792
110.71 Added	△18663
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110.84b Correctly added	35480, 56040
110.145 (a)(6) and (7) removed	△21792
110.224 (a)(6) and (10) revised	60458
117.20 Revised	△23218
117.75 (h)(5) and (n) added; (k) revised	△15702
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117.130 (a)(5) revised	57250
117.190 (f)(2) revised	△7951
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117.225 (f)(9) added	41032
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117.245 (h)(25–a) added	44511
(g)(1–a) added	△18663
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117.350 Revised	41390
117.365 Heading revised	30054
117.370 Heading revised	30054
117.404 Added	39778
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117.429 Added	△27392
117.432 Heading revised	30054
(a)(1) revised	△12031
117.433 Heading revised	30054
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117.446f Heading revised	30054
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117.448 (a) revised	△5659
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117.462 Heading revised	30054
117.464 Removed	54929
117.466 Heading revised	30054
117.554 Added	52236
(e) revised	△2386
117.605 (a) table and (b) amended	△7951
117.643 (a) revised	32412
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117.652 (a) and (b) revised	△7951
117.700 (h)(2) revised	41390
121 Removed	53427
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126 Authority citation revised	△4642
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126.11 Revised; authority citation removed	△4643
126.13 (b) revised	△4643
126.15 (g), (o)(2)(i) and (vii) revised; authority citation removed	△4643
126.25 Revised	△4643
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127.359 Added (temporary)	29558
127.360 Added (temporary)	37689
127.361 Added (temporary)	42748
127.362 Added (temporary)	57877
127.363 Added	57877
127.364 Added (temporary)	△10983
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128.901 Added	△5118
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135 Added	△16868
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165.101 Added (temporary) ---- △15703
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165.203 Added ---- △5660
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165.204 Added ---- △20426
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183.110 Revised; compliance 8–1–79 ---- 56858
183.112 Added; compliance 8–1–79 ---- 56859
183.114 Added; compliance 8–1–79 ---- 56859
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183.335 Table 5 added; compliance 8–1–79 ---- 56859
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207.188 Revised ---- 30054
208.11 Revised ---- 47184
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35.706–2 Added ---- 43426
35.710 (c) redesignated as (c)(1); (c)(1); (c)(2) added ---- 43426
35.714 Revised ---- 43426
35.722 (a)(3) revised; (b) (11) through (13) added ---- 43426
35.726 Revised ---- 43426
35.730–2 Removed ---- 43427
35.738–2 Revised ---- 43427
35.738–4 Added ---- 43427
35.738–5 Added ---- 43427
35.738–6 Added ---- 43427
35.900—35.970 (Subpart E) Revised ---- 44049
35.903 (o) revised ---- △10302
35.910–9 Added ---- 56200
35.910–10 Added ---- 56201
35.917–1 (g) revised ---- △10302
35.917–5 Revised ---- △10302
35.920–3 (a)(1) revised; (b)(10) and (c)(5) added ---- △10304
35.928–1 (h) revised ---- △10304
35.929–2 (e) revised ---- △10304
35.940–1 (t) added ---- △10304
35.1000—35.1050 (Subpart F) Revised ---- 42253

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35.1500—35.1550 (Subpart G) Added	△30025
50.9 Revised	△8220
50.12 Added	46258
50 Appendix G added	46258
Appendix D heading revised; Appendix H added	△8220
Appendix D revised	△8224
51 Nomenclature change	△8237
51.1 (k) revised; (n)(11) added	46269
51.3 (c) amended	△27569
51.6 (e) revised	△27569
51.7 Removed	△27569
51.12 (e)(3) added	46269
51.13 (g) amended	△27569
51.14 (c)(4) removed; (c) (7), (8), and (9) added	△8237
51.15 (a)(2) removed	△27569
51.16 (b)(3) and (e)(1) revised; (g) amended; (h) added	△16912
(a) amended	△27569
51.17 Heading revised; (d) added	46269
Removed	△27569
51.17a Removed	△27569
51.17b Added	46269
51.18 Footnote 1 amended	△3282
51.24 Petitions for review	31232
(h)(1) and (2) and (n)(2) corrected	40010
(n)(3) added	△27569
51.59 Removed	△27569
51.80—51.88 (Subpart E) Added	46270
51.190 (Subpart J) Added	△27569
51.285 (Subpart O) Added	△27569
51.320—51.328 (Subpart Q) Added	△27569
51 Appendix S added	△3282
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52 State implementation plan documents availability	△4948
52.01 Petitions for review	31232
52.21 Petitions for review	31232
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(n)(3) added	△27571
52.50 (c)(18) added	△12421
(c)(17) added	△20080
52.60 Petitions for review	31232
52.93 (b) and (c) amended	△27571
52.96 Petitions for review	31232
52.120 (c) (6) through (12), (13), (14), and (15) redesignated as (c) (7) through (13), (15), (17), and (21); (c) (6), (14), (16), (19), and (20) added	33246
(c)(26) added	34132
(c)(20) revised; (c)(24) added	34470
(c)(18) added	53034
52.125 (f) added; (h) redesignated as (g)	33247
(e)(3) added	53034
52.126 (c) added	53035
52.130 (e) added	34132
52.132 Removed	34471
52.133 (b) and (c) added	33247
(a) revised; (d) added	53035
52.140 (b) and (c) amended	△27571
52.144 Petitions for review	31232
52.170 (c)(6) added	△21645
52.181 Petitions for review	31232
52.220 (c)(35)(xiv)(C) and (D) added	33915
(c)(21)(viii)(B), (x)(B), and (xvii), (24)(iv)(B), (25)(i)(B) and (ii)(B), and (26)(xiii)(C) added	33917
(c)(37)(iv)(B) and (C) added	34464
(c)(35)(xii) revised; (c)(37)(iii) added	34466
(c)(41) and (42)(iii) added	34468
(c)(42)(ii) added	34470
(c)(42) added	35695
(c)(39)(vii) added	36247
(c)(35)(xvi)(B) added	36249
(c)(42)(iv) added	36625
(c)(35)(xvii)(C) added	36627
(c)(41)(ii) added	38826
(c)(41)(iii) added	38827
(c)(21)(xviii), (28)(xi), (39)(ii)(C) and (D), (iii)(C) and (D), and (39)(vi) added; introductory texts of (c)(39)(ii), (iii), and (iv) revised	40014
(c)(41)(iv) added	41033
(c)(35)(xiii)(B), (c)(41)(v), and (c)(42)(v) and (vi) added	41304
(c)(39)(viii) added	41036
(c)(42)(viii) added	41037
(c)(39)(ix) added	41038
(c)(39)(x) added	41040
(c)(41)(vii) added	47727
(c)(42)(x) added	51634
(c)(42)xv) added	51767
(c)(44)(i) added	51768
(c)(35)(xv)(C) and (D) added	51770
(c)(25)(ii)(C) and (42)(xii) added	51772
(c)(41)(ix) added	51773
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(c)(41)(viii) added	51775

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(c)(35)(xii)(D), (41)(vi), and (42)(vii) added	51777
(c)(26)(xiii)(D) and (41)(xiii) added	51778
(c)(25)(i)(C) and (42)(xi) added; (c)(26)(vii)(A) revised	51780
(c)(26)(xi)(B) and (41)(xi) added	51781
(c)(31)(vi)(C), (32)(iv)(C), (36), (39)(ii)(B), (iii)(B), and (iv)(B) added	52238
(c)(41)(xii) added	52703
(c)(41)(x) added	53037
(c)(42)(xvii) added	59064
(c)(37)(i)(C), (39)(vi)(B), (41)(xiv), (42)(xvi), and (xviii) added	59065
(c)(42)(xix) added	59488
(c)(41)(xv) and (42)(xxi) added	59489
(c)(42)(xiii) and (xiv) added	59490
(c)(42)(xvi)(B) and (C) added	59491
(c)(42)(xx) added	59492
(c)(44)(iv) added	△5663
(c)(45) added	△7712
(c)(44)(ii) and (iii) added	△16913
(c)(44)(v) and (45)(ii) added	△18492
52.224 (a)(2)(iii)(B) added	33915
(c) added	34464
(a)(2)(v) added	34466
(a)(2)(i)(B) added	34468
(a)(2)(iv) added	35695
(a)(2)(vi) added	36249
(a)(2)(iii)(C) added	36627
(a)(2)(ii)(B) added	41036
(a)(2)(ii)(C) added	41038
(a)(2)(ii)(D) added	41040
(a)(2)(ii)(E) added	51634
(a)(2)(iii)(D) added	51770
(a)(2)(ii)(F) added	53037
(a)(1)(i), (ii), and (iii) and (2)(i) through (vi) revised; (a)(2)(vii) through (xxx) added	△7714
52.226 (b)(1)(ii) added	34468
52.228 (b) added	35695
(b)(1)(ii) through iv) added	40014
52.229 (b)(2) added	40014
52.231 (b) added	34464
(a) revised	34466
52.233 (d)(2), (8)(i) through (iii), (g)(1)(ii), and (ix)(a) through (c) removed	52238
52.234 (a)(1)(iv) added	33915
(e)(2)(ii) added	34468
(a)(5) and (e) added	35695
(e)(2) added	36247
(e)(2)(iii) added	36625
(a)(1)(v) added	36627
(e)(1)(v) and (4) added	38826
(e)(5) added	38827
(e)(1)(ii) through (iv) added	40014
(e)(6) added	41033
(e)(2)(iv) added	41034
(e)(3) added	41036
(e)(3)(ii) added	41038
(e)(3)(iii) added	41040
(e)(8) added	47727
(e)(3)(iv) added	51634
(e)(9) added	51767
(e)(2)(viii) added	51772
(e)(2)(vi) added	51773
(e)(2)(v) added	51776
(e)(7) added	51777
(e)(2)(vii) added	51781
(a)(3)(v) and (e)(3)(v) added	53037
(e)(9)(ii) added	59064
(e)(6)(iii) and (7)(ii) added	59065
(e)(6)(ii) added	59066
(e)(9)(iii) added	59488
(e)(5)(ii) added	59489
(e)(9)(iv) added	59492
(a)(6) added	△7712
52.236 (d) added	34464
(b) introductory text and (1) added	34467
(b)(2)(iv) added	34470
(b)(3) added	36247
(b)(2)(v) added	41037
(f) added	51634
(e) added	51770
(b)(3)(v) added	51778
(b)(3)(iii) added	51780
(b)(3)(iv) added	51781
(e)(2) and (3) added	52703
(e)(4) added	59490
52.254 (a)(3)(iii) added	52703
(a)(4) added	△7712
52.266 (d) amended	△27571
52.269 (b)(2) added	34470
(d) added	35695
(b)(1)(iii) added	36625
(b)(3) added	40014
(b)(1)(iv) added	41034
(b)(4)(i)(B) added	51768
(b)(1)(viii) added	51772
(b)(4) added	51774
(b)(1)(vii) added	51778
(b)(1)(v) added	51780
(b)(1)(vi) added	51781
(b)(3)(ii)(B) added	59490

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52.270	Petitions for review	31232
52.271	(a)(1)(i)(B), (ii)(B), (iv)(B) and (v)(B), (2)(iii)(B), (iv)(B), (v), (vi), (vii), (viii) and (ix), (3)(i)(B), (4)(i)(B), (ii)(B), (v)(B), (vii)(B), (x), (xi), (xii), (6)(i)(B), (7)(ii)(B) and (iii), and (8)(i)(B) added	33917
	(a)(4)(iv)(B) added	34468
	(a)(4)(vi)(B) added	36247
	(a)(2)(viii)(B) added	41036
	(a)(2)(ii)(B) added	41039
	(a)(4)(x)(B) added	51773
	(a)(5)(i)(B) added	51774
	(a)(4)(ii)(C) added	51780
	(a)(2)(vii)(B) added	53037
52.272	(a)(4) added	40014
	(a)(1)(ii) added	51634
	(a)(5) added	51774
	(a)(1)(iii) added	53037
52.273	(a)(4)(ii) and (b)(3)(ii) added	33915
	(b)(3)(v) added	34465
	(a)(6)(i) added	34467
	(b)(2)(ii) added	34468
	(a)(1)(i)(A) revised; (a)(1)(i)(B) added	34470
	(b)(5) added	35695
	(a)(3)(vi) added	36247
	(a)(8) and (b)(7) added	36249
	(a)(4)(iii) and (b)(3)(iii) added	36627
	(b)(5)(iii) and (6) added	38826
	(b)(5)(ii) added	40014
	(a)(1)(v) added	41036
	(a)(1)(iii)(B) added	41039
	(a)(1)(ii)(B) added	41040
	(a)(1)(vi) added	51634
	(a)(4)(iv) and (b)(3)(iv) added	51771
	(a)(3)(i)(B) and (C) added	51772
	(a)(3)(vii) added	51773
	(a)(3)(iv)(B) added	51776
	(b)(1)(ii) added	51777
	(a)(3)(ix) and (b)(2)(iv) added	51778
	(a)(3)(viii) and (b)(2)(iii) added	51780
	(a)(3)(ii)(B) and (C) added	51781
	(a)(1)(viii), (9)(i), (b)(4)(ii), and (9)(i) added	52703
	(a)(1)(vii) added	53037
	(b)(5)(iv) added	59490
52.275	(b)(3)(ii) added	33915
	(a)(2) added	34465
	(a) introductory text and (1) added	34467
	(b)(1)(ii) added	36247
	(b)(5) added	36249
	(b)(3)(iii) added	36627
	(b)(2)(iii) added	41036
	(b)(2)(iv) added	41039
	(b)(3)(i)(B) added	51768
	(b)(3)(iv) added	51771
	(b)(1)(iii) added	51774
	(b)(1)(i)(B) and (C) added	51776
	(b)(2)(v) added	53037
	(b)(3)(ii)(B) added	59064
	(b)(3)(iv)(B) added	59488
	(b)(5)(i)(B) added	59489
	(b)(3)(iii)(B) added	59492
52.276	(b) added	35695
52.278	Added	34467
52.280	(b) added	35696
	(a)(1)(ii) added	51774
	(a)(3) added	59490
	(a)(2)(i)(A) revised	△5664
52.320	(c)(10) added	44841
52.343	Petitions for review	31232
52.370	(c)(8) added	44841
	(c)(9) added	△5429
52.382	Petitions for review	31232
52.420	(c)(11) revised	△12423
52.432	Petitions for review	31232
52.470	(c)(11) added	29559
	(c)(11) revised	56663
	(c)(12) revised	△25223
52.476	(b)(2)(vii), (3)(iv) and (v), and (5)(iii) revised	29559
52.479	(c)(2) and (3) amended	△27571
52.499	Petitions for review	31232
52.530	Petitions for review	31232
52.581	Petitions for review	31232
52.620	(c)(10) added	△23828
52.632	Petitions for review	31232
52.683	Petitions for review	31232
52.720	(c)(12) revised; (c)(13) added	△11233
52.734	(b) and (c) amended	△27571
52.738	Petitions for review	31232
52.779	Removed	△27571
52.793	Petitions for review	31232
52.833	Petitions for review	31232
52.884	Petitions for review	31232
52.931	Petitions for review	31232
52.970	(c)(9) added	36628
	(c)(10) added	△5661
	(c)(11) added	△13479
	(c)(8) added	△15705
	(c)(12 correctly added	△18491, 26741
52.976	Revised	△18491
52.982	Removed	△18491
52.985	Removed	36628
52.986	Petitions for review	31232
52.987	Added	△15705
52.988	Added	△18491
52.1020	(c)(8) added	△17675
52.1029	Petitions for review	31232
52.1070	(c)(19), (20), and (21) revised	59495
	(c)(19) and (20) revised	△14557
	(c)(22) added	△19193
	(c)(22) revised	△25842
52.1073	(f) added	59495
	(f) revised	△14557
52.1075	Removed	△14557
52.1077	(c)(2) and (3) amended	△ 27571
52.1082	(b) revised	△14557
52.1088	(b) revised	△14557
52.1107	(b) revised	△14557
52.1116	Petitions for review	31232
52.1120	(c)(12) amended	40010
	(c)(16) revised	44842
	(c)(6) amended	56041
	(c)(17) added	△7713
	(c)(13) revised	△12422
	(c)(18) added	△15704
	(c)(19) added	△27992
	(c)(20) through (23) added	△29454
52.1126	(g) removed	△12422
	(b) and (d) revised	△29454
	(e) and (f) revised	△29455
52.1155	(f) amended	△27571
52.1160	(l) amended	△27571
52.1165	Petitions for review	31232
52.1175	(e) table amended	△25840
	(a) revised	△27571
52.1180	Petitions for review	31232
52.1234	Petitions for review	31232
52.1270	(c)(10) added	△7713
52.1280	Petitions for review	31232
52.1339	Petitions for review	31232
52.1382	Petitions for review	31232
52.1436	Petitions for review	31232
52.1470	(c)(12) added	36933
52.1471	Table amended	36933
52.1479	(b) added	36933
52.1485	Petitions for review	31232
52.1529	Petitions for review	31232
52.1570	(c)(17) added	34131
	(c)(18) added	58567
	(c)(19) added	58569
	(c)(20) added	△5427
52.1582	(c) added	△16387
52.1593	(d) amended	△27571
52.1595	Revised	△16387
52.1597	Removed	△16388
52.1598	Removed	△16388
52.1603	Petitions for review	31232
52.1604	Added	58569
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52.1620	(c) revised	△21020
52.1634	Petitions for review	31232
52.1670	(c)(39) added	36931
52.1689	Petitions for review	31232
52.1778	Petitions for review	31232
52.1829	Petitions for review	31232
	Introductory text removed	40010
52.1884	Petitions for review	31232
52.1920	(c)(12) added	52029
	(c)(13) added	△18490
52.1926	Added	52030
52.1929	Petitions for review	31232
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52.1976	Added	36931
52.1987	Petitions for review	31232
52.2020	(c)(15) revised	△13480
	(c)(16) added	△23829
52.2029	Removed	△27571
52.2053	(b) and (c) amended	△27571
52.2058	Petitions for review	31232
52.2083	Petitions for review	31232
52.2120	(c)(9) added	59496
52.2131	Petitions for review	31232
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52.2233	Petitions for review	31232
52.2270	(c) revised	△5662
	(c)(16) added	△21644
52.2275	(b) and (c) added	△5662
52.2283	Removed	△5662
52.2289	Removed	△5662
52.2298	(c) amended	△27571
52.2303	Petitions for review	31232
52.2343	(b) and (c) amended	△27571
52.2346	Petitions for review	31232
52.2370	(c)(7) added	33918
	(c)(8) added	59497
52.2380	Petitions for review	31232
52.2420	(c)(15) added	34130
	(c)(20) through (23) added	38703
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52.2424	(b) removed	38703
52.2427	(d)(2) and (3) amended	△27571
52.2430	(c) removed	38703
52.2431	(d) added	39367
52.2438	(d)(4) added	39367
52.2451	Petitions for review	31232
52.2477	(c)(2) and (3) amended	△27571
52.2482	Removed	△27571
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52.2520 (c)(9) added 52240
(c)(9) effective date corrected 54247
52.2522 (b) added 52240
(b) effective date corrected 54247
52.2525 Added 52240
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52.2528 Petitions for review 31232
52.2578 (d) table corrected 53440
52.2581 Petitions for review 31232
52.2620 (c)(10) added 48638
(c)(10) corrected 51393
52.2630 Petitions for review 31232
52.2670 (c)(1) amended 48639, 59067
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52.2682 (a) added 59067
52.2684 Added 59067
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52.2729 Petitions for review 31232
52.2779 Petitions for review 31232
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53.16 (e)(1) and (2) (iv) amended △27571
55.190 (Subpart I) Added 38704
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60.2 (v) revised 34347
60.4 (b)(OO) added 47692
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60.14 (e)(2) amended 34347
60.42 Determination △3491
60.101 (d) and (g) revised △13481
60.283 (a)(1)(v) added 34785
60.300—60.304 (Subpart DD) Added 34347
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61.04 (b)(OO) added 47692
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62 Added 51393
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65 Added 44523
65.51 Table amended △23833, 23835, 26742
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65.200 Table amended 60161
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65.201 Table amended 51782, 51784, 52242, 52243
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65.210 Table amended 56226
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65.211 Table amended △15709
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65.222 Table amended △27661
65.231 Table amended △12423
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65.251 Table amended △13019, 13482, 30338
65.281 Heading and introductory text revised; table amended △15714
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65.300 Table amended △6912
65.301 Table amended △15710
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65.350 Table amended 54627
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65.511 Table amended △13483, 13484

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65.560 Table amended △8264
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81.303 Amended △16392, 21263
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81.306 Amended 40422
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81.309 Revised 40507
81.310 Amended 40423
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81.311 Amended 40424
81.314 Amended 46004
81.315 Amended 46007
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81.319 Amended 40425
81.321 Revised 40510
81.322 Amended 40426
81.323 Amended 46008
81.324 Amended 46010
81.327 Amended 40427
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86.078–35 (a)(1)(iii) (D) and (F) revised 43302
86.078–36 Revised 52920
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86.079–1 (c) added 43302
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86.079–8 Added 43302
86.079–82 (a)(1)(ii) revised 57253
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86.079–26 (b)(11)(ii) revised 52917
86.079–30 (a)(1) revised; (a)(1)(i) added; (a)(4) and (6) removed; (a)(5) amended 43303
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86.115–78 (b) revised 52920
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51b.101—51b.111 (Subpart A) Added 52707
51b.201—51b.217 (Subpart B) Redesignated from part 51b 52707
51b.501—51b.507 (Subpart E) Added 52709
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57.201—57.218 (Subpart C) Revised 52488
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57.1001—57.1014 (Subpart K) Revised ..... △25136
57.1101—57.1114 (Subpart L) Added 54931
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57.1301—57.1314 (Subpart N) Added ..... △4473
57.1601—57.1614 (Subpart Q) Added 47694
57.3301—57.3303 (Subpart HH) Added ..... △4479
57.3401—57.3413 (Subpart II) Added ..... △4476
57.3801—57.3811 (Subpart MM) Added 55244
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123.404 (a)(5) added; interim ..... △24430
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405.232 Introductory text and (b)(1) revised 49722
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405.1502 (e) revised ..... △31142
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405.1542 (b) redesignated as (c) and revised; new (b) redesignated in part from (a)(4); (a) introductory text and (4) revised ..... △31142
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405.1801 (a)(1) revised 59382
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405.2001 (a)(3) revised ..... △29061
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23.20 (d)(2) revised 52245
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68.3 (l)(1) revised △7957
68.104 (c) added △7957
68.200 (h) added △7957
68.215 (c)(4) and (d)(5) note added; (d) (1), (2), and (3), (e) introductory text, (2), (3), and (7) revised △7958
68.304 Note (a) revised; note (e) added △7958
68.306 (a) revised △7959
68.502 (b)(6), (e) (7), and (8) removed △7959
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73.6 Revised 45844
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73.46 Heading revised; note added 53735
73.47 (a) introductory text revised 53735
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73.67 (c)(6) removed; (d) added 53736
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73.142 (j) added 53736
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73.204 Revised 45845
73.220 Added 45845
73.250 Revised 53736
73.253 (a)(2) revised 53736
73.254 Heading revised; (a) removed; (b) and (c) redesignated as (a) and (b); new (a) introductory text revised 53736
73.255 Revised 53736
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73.261 Revised 45845
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73.265 (c) and introductory texts of (d) and (e) revised △1736
73.271 Revised 45845
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73.295 Heading, (a), and (f) introductory text revised	53737
73.297 (a) revised	53738
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73.316 (i) revised; (k) and (l) removed	53738
73.321 Removed	53738
73.330 Removed	53738
73.342 (j) added	53738
73.504 Heading revised	45845
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73.680 Revised	△6727
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76.10—76.29 (Subpart B) Heading revised	49008
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76.29 (a) amended; (b)(7) revised	49008
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81.303 (b) amended	△16402
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81.360 (a)(1)(v) revised	△8872
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83.38 (c) redesignated as (d) and revised; new (c) added	△25238
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83.106 (a) revised	△8872
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83.132 (a) table amended	△8873
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83.134 (f) revised; footnote 5 added	△29078
83.139 (c) introductory text and (3) revised; (c)(4) added; eff. 1-1-80	△18506
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83.156 (b) revised; eff. 1-1-80	△18506
83.186 Introductory text revised	△3295
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83.233 Table amended 56236
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83.242 (b) revised △8873
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83.301 Removed △3295
83.351 (a) table amended; (b) (64) added 45365
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83.352 Heading revised 56236
83.359 Table amended 45365
(a) introductory text revised; (a) table amended; (b)(6) added △29075
83.364 (c) revised △3295
83.365 (a)(4) revised △8873
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83.405 (b) removed △17182
83.441—83.480 (Subpart R) Heading revised; eff. 1–1–80 △18507
83.442 Revised; eff. 1–1–80 △18507
83.443 Heading, (a), and (b) introductory text revised; (c) added; eff. 1–1–80 △18507
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83.519 (a) revised △8874
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83.542 (c)(3) corrected △21022
83.554 (a)(1)(i)(*a*) and (*b*) revised 52492
83.555 (c)(2)(ii) removed △17182
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87.31 (f)(2) revised 52246
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87.181 Amended △4491
87.183 (j)(3) introductory text revised; footnote 1 added △29076
87.195 (f) amended; (g) added △4491
87.201 (c) and (d) amended △4492
87.251 (a) revised; (b) through (e) redesignated as (d) through (g); new (b) and (c) added 56899
87.253 (a)(3) and (b) revised 56899
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87.501 (h)(1) revised; footnote 1 added △18026
87.506 Added △18026
87.513 (h) and (i) revised △4489
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90 Added 54791
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90.119 (a) and (b) revised △29070
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90.129 (l) effective date postponed △4492
90.135 (a)(6), (b)(3) and (4) revised; (b)(5), (6) and (7) added 59071
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90.207 (h) revised △17183
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(a) introductory text and (1) revised △29070
90.433 (a) and (b) revised; (c) added △17183
91 Removed and consolidated in new Part 90 54791
91.114 (f)(3) revised 55769
91.554 (a) table amended; (b)(32) and (41) revised; (b)(55) and (56) added 51019
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97.3 (aa) added △22466
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97.61 (b)(2) table amended; (b)(4) revised △12680

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107.3 Amended 48642
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172.204 (c)(4) revised ..... △25238
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173.26 Heading and (a) revised .. 56044
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173.33 (d)(5) removed; (d)(1), introductory texts of (12) and (15), (15)(i), and (k) amended 48643
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173.53 (f) and (h)(1) Note 4 amended 48643
173.69 (a) Note 1 amended 48643
173.86 (a)(2) amended 48643
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173.123 (a)(5) amended 48643
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173.153 (b)(1) revised 48643
173.168 (a)(1) amended 48644
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173.183 (a)(2) amended ..... △20433
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173.214 (e) amended 48644
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173.222 (a)(2) revised ..... △14196
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173.224 Heading and (a)(4) revised 57893
173.232 (c)(1), (3), (4) and (5) amended 48644
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173.245 (a)(22) amended 48644
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(a)(32) revised ..... △21796
173.247 (a)(3) revised ..... △14196
173.248 (a)(1) ..... △14196
173.249 (a)(10) amended 48644
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173.252 (a)(4) revised 57893
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federal register

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Highlights

Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or hearing impaired persons who need information about documents published in the **Federal Register**. See the Reader Aids section for the telephone listing.

25490 **Emergency Weekend Gasoline Sales Restrictions** DOE/ERA gives notice of amendment to plan transmitted to Congress by the President

25510, 25513 **Anticancer Drug Development** HEW/FDA and NIH execute cooperative working arrangement; effective 5–5–79

25394 **Federal Employees** OPM authorizes temporary assignment between Federal agencies and State, local, and Indian tribal governments, institutions of higher education and other eligible organizations; effective 5–1–79

25554 **Tuna and Tuna Products** Treasury/Customs prohibits importation from Peru; effective 5–1–79

25434 **Bridges** DOT/FHWA issues inspection standards and procedures; effective 5–1–79, comments by 7–30–79

25455 **Motor Vehicles** DOT/FWHA publishes front tire marking requirements; effective 5–1–79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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25455 **Motor Vehicles** DOT/FHWA amends certain standards for parts and accessories, effective 1–1–81

25476 **Special Censuses** Commerce/Census prints explanation of program and summary results

25397 **Peas** USDA/FCIC promulgates crop insurance procedures; effective 5–1–79

25511 **Regional Adoption Resource Centers** HEW/HDS accepts applications for demonstration program grants; closing date 7–16–79

25476 **Grants to States** HEW/PHS proposes to develop Health Incentive Grants for Comprehensive Public Health Services

25476 **Grants to States** HEW/PHS proposes to develop Preventive Health Service Program grants

25476 **Motor Carriers** ICC proposes to establish free zone for interchange of traffic at International Boundary Lines, comments by 6–15–79

25614 **Feeder Cattle** USDA/AMS proposes revision in grade standards, comments by 7–1–79

25555 **Antidumping** Treasury gives notice of investigation of imports of melamine crystal from Austria, Italy and Netherlands; effective 5–1–79

25480 **Endangered Species Convention** Interior/FWS proposes to amend list of protected species

25411 **Liquid Biological Products** USDA/APHIS revises viricidal activity test; effective 5–31–79

25582 **Sunshine Act Meetings**

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25588 **Part II, Interior/FWS**
25592 **Part III, DOE/ERO**
25606 **Part IV, USDA**
25610 **Part V, OMB**
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

1 CFR Chapter I

CFR Checklist; 1978/1979 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1978/1979. New units issued during the month are announced on the back cover of the daily Federal Register as they become available.

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CFR Unit (Rev. as of Jan. 1, 1979):

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Entire Executive Civil Service; Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Schedule A authority for appointment of temporary summer aids who meet economic and educational need standards prescribed by the Office is amended to: (1) Delete maximum age restrictions, in conformance with the Age Discrimination in Employment Act; and (2) delete obsolete pay-setting provisions.

EFFECTIVE DATE(S): April 18, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3120(v) is amended as follows:

§ 213.3102 Entire executive civil service.

* * * * * *

(v) Temporary Summer Aid positions whose duties involve work of a routine nature not regularly covered under the General Schedule and requiring no specific knowledge or skills, when filled by youths appointed for summer employment under such economic or educational needs standards as the Office may prescribe. A person may not be appointed unless he/she has reached his/her 16th birthday, or be employed for more than 700 hours under this paragraph. This paragraph shall apply only to the positions whose pay is fixed at the equivalent of the highest minimum wage rate established by the Fair Labor Standards Act of 1938, as amended.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

Beverly M. Jones,
Issuance System Manager.

[FR Doc. 79-13621 Filed 4-30-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

National Endowment for the Humanities; Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: One position of Humanist Administrator, Humanities Planning and Assessment Studies Program, Office of Planning and Policy Assessment, National Endowment for the Humanities, is excepted under Schedule B because it is impracticable to hold a competitive examination for it.

EFFECTIVE DATE: April 5, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3282(b)(27) is added as follows:

§ 213.3282 National Foundation for the Arts and the Humanities.

* * * * *

(b) *National Endowment for the Humanities.* * * *

(27) Until September 30, 1980, one Humanist Administrator, Humanities Planning and Assessment Studies, Office of Planning and Policy Assessment.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-13430 Filed 4-30-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Smithsonian Institution; Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Final Rule.

SUMMARY: Positions at grades GS–4 through 11 filled in conjunction with projects conducted under the Smithsonian Institution's Research Awards Program are excepted under Schedule B because it is impracticable to hold a competitive examination for them.

EFFECTIVE DATE(S): April 11, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3274 (c)(1) is added as follows:

§ 213.3274 Smithsonian Institution.

* * * * *

(c) *Office of Fellowship and Grants.*

(1) Positions at grades GS–4 through 11 filled in conjunction with projects conducted under the Research Awards Program.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-13433 Filed 4-30-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Temporary Boards and Commissions; Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This authority excepts from the competitive service all positions at grades GS–15 and below on the staff of the President's Commission on the Accident at Three Mile Island with the provision that no one may serve under this authority after April 30, 1980. This exception is granted because it is impracticable to examine for these positions.

EFFECTIVE DATE(S): April 18, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3199 [a] [1] is added as set out below:

§ 213.3199 Temporary Boards and Commissions.

* * * * *

[a] *President's Commission on the Accident at Three Mile Island* * * *

[1] All positions on the staff of the President's Commission on the Accident at Three Mile Island. No one may serve under this authority after April 30, 1980.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-13432 Filed 4-30-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 334

Temporary Assignment of Employees Between Federal Agencies and State, Local, and Indian Tribal Governments, Institutions of Higher Education, and Other Eligible Organizations

AGENCY: Office of Personnel Management.

ACTION: Final Rulemaking.

SUMMARY: These regulations amend the requirements of Part 334, limiting participation to career-type appointees; extending coverage to additional Federal agencies, the Trust Territory of the Pacific Islands, and certain other organizations; requiring compensatory service from Federal assignees; and clarifying return rights for Federal employees. The amendments are required because of the Civil Service Reform Act (CSRA) of 1978.

DATES: Effective date: May 1, 1979.

ADDRESS: Send written comments to the Office of Personnel Management, Intergovernmental Personnel Programs, Room 2306, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Jo Anner Wilson, Faculty Fellows and Personnel Mobility Division, Office of Intergovernmental Personnel Programs, Room 2306, 1900 E Street, NW., Washington, D.C. 20415, telephone 202–632–5373.

SUPPLEMENTARY INFORMATION: The public comment period on our earlier proposed revisions to Part 334 has been completed. All additional changes in the regulations are merely conforming amendments which reflect CSRA changes which have been in effect since January 11, 1979. Therefore, the Director of the Office of Personnel Management has determined that these are not significant regulations for the purpose of E.O. 12044, "Improving Government Regulations," and that OPM has good cause for issuing these as final regulations under exception (d)(3) of 5 U.S.C. 553.

Accordingly, Part 334 is revised to read as follows:

PART 334—TEMPORARY ASSIGNMENT OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS, INSTITUTIONS OF HIGHER EDUCATION, AND OTHER ELIGIBLE ORGANIZATIONS

Sec.

334.101 Purpose.
334.102 Definitions.
334.103 Length of assignment.
334.104 Obligated service requirement.
334.105 Requirement for written agreement.
334.106 Termination of agreement.
334.107 Reports required.

Authority: 5 U.S.C. 3376; E.O. 11589, 3 CFR 557 (1971–1975).

§ 334.101 Purpose.

The purpose of this part is to carry into effect the objectives of Title IV of the Intergovernmental Personnel Act of 1970 and Title VI of the Civil Service Reform Act which authorize the temporary assignment of employees

between Federal agencies and State, local, and Indian tribal governments, institutions of higher education and other eligible organizations.

§ 334.102 Definitions.

In this part: "Assignment" means a period of service under chapter 33, subchapter VI of Title 5, United States Code;

"Employee" means an individual serving in a Federal agency under a career or career-conditional appointment including career appointees in the Senior Executive Service, individuals under appointments of equivalent tenure in excepted service positions, and presidential management interns; or an individual employed for at least 90 days in a career position with a State, local, or Indian tribal government, institution of higher education, or other eligible organization;

"Federal agency" means an Executive agency, military department, a court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the Postal Rate Commission, the Office of the Architect of the Capitol, the Office of Technology Assessment, and such other similar agencies of the legislative and judicial branches as determined appropriate by the Office of Personnel Management;

"Institution of higher education" means a domestic, accredited public or private 4-year college or university, or a technical or junior college;

"Indian tribal government" refers to any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village as defined in the Alaska Native Claims Settlement Act (85 Stat. 668) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and includes any tribal organization as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638, S. 105);

"Local government" means any political subdivision, instrumentality, or authority of a State or States; and any general or special purpose agency of such a political subdivision, instrumentality, or authority;

"Other organization" means a national, regional, Statewide, areawide, or metropolitan organization representing member State or local governments; an association of State or local public officials; or a nonprofit organization which has as one of its principal functions the offering of professional advisory, research, education, or development services, or related services to governments or universities concerned with public management; and

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and a territory or possession of the United States; and an instrumentality or authority of a State or States; and a Federal-State authority or instrumentality.

§ 334.103 Length of assignment.

(a) An assignment may be made for up to 2 years and may be extended by the head of a Federal agency for up to 2 more years, given the concurrence of the other parties to the agreement.

(b) A Federal agency may not send or receive on assignment an employee who has served under the mobility authority for 4 continuous years without at least a 12-month return to duty with the level of government or the organization from which originally assigned.

(c) Successive assignments without a break of at least 60 calendar days will be regarded as continuous service under the mobility authority.

(d) A Federal agency may not send on assignment an employee who has served on mobility assignments for more than a total of 6 years during his or her Federal career. The Office of Personnel Management may waive this provision upon the written request of the agency head.

§ 334.104 Obligated service requirement.

A Federal employee assigned under this subchapter must agree as a condition of accepting an assignment to serve with the Federal Government upon the completion of the assignment for a period equal to the length of the assignment.

§ 334.105 Requirement for written agreement.

(a) Before an assignment is made the Federal agency and the State, local or Indian tribal government, institution of higher education, or other eligible organization and the assigned employee shall enter into a written agreement which records the obligations and responsibilities of the parties as specified in 5 U.S. Code 3373–3375 and in Federal Personnel Manual chapter 334.

(b) Where the Federal agency pays more than 50 percent of costs of the mobility assignment involving a Federal employee and the period of assignment exceeds 6 months, the agency must document the rationale for the cost-sharing arrangements in the mobility agreement.

(c) Two copies of the original agreement, as well as any modification must be sent to the Office of Personnel Management within 15 days of the date that the assignment or modification becomes effective.

§ 334.106 Termination of agreement.

(a) An assignment may be terminated at any time at the request of the Federal agency or the State, local, or Indian tribal government, institution of higher education, or other participating organization. Where possible, the party terminating the assignment prior to the agreed upon date should provide 30-days advance notice along with a statement of reasons to the other parties to the agreement.

(b) Federal assignees continue to encumber the positions they occupied prior to assignment, and the position is subject to any personnel actions that might normally occur. At the end of the assignment, the employee must be allowed to resume the duties of his/her position or must be reassigned to another position of like pay and grade.

(c) An assignment is terminated, automatically, when the employer/employee relationship ceases to exist between the assignee and his or her original employer.

§ 334.107 Reports required.

A Federal agency which assigns an employee to or receives an employee from a State, local, or Indian tribal government, institution of higher education or other eligible organization in accordance with this part shall submit to the Office of Personnel Management such reports as the Office of Personnel Management may request.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-13365 Filed 4-30-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 890

Federal Employees Health Benefits Program: Effective Dates; Birth or Addition of a Child

AGENCY: Office of Personnel Management.

ACTION: Final Rulemaking.

SUMMARY: The Office of Personnel Management is amending the Federal Employees Health Benefits (FEHB)

regulations to permit individuals who change to a family enrollment due to the birth or addition of a child as a new family member to provide coverage for the child from birth or from the date the child becomes a family member.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT:
Edward G. Borchers, Office of Personnel Management, Compensation, Retirement and Insurance, OPD&TS, Room 4334, Washington, D.C. 20415. (202–632–4684)

SUPPLEMENTARY INFORMATION: On December 29, 1978, there was published in the **Federal Register** (43 FR 60932) proposed rulemaking to amend the FEHB regulations to permit a change to family coverage made in conjunction with the birth of a child, or the addition of a child as a new family member in some other manner, to become effective the first day of the pay period in which the child is born or acquired, or, if not in pay status at that time, the first day of the pay period in which the enrollee returns to pay status. Interested parties were given 60 days to submit comments on the proposed change.

Of the 24 comments received, twenty-one supported the proposal. One of the remaining respondents felt that the proposal, if effected, would result in increased premium costs for an enrollment in the Program. However, few changes to self and family upon birth or addition of a child occur since, in the majority of cases, the enrollee already has a self and family enrollment to cover his or her other family members. Also, since enrollees who change to self and family will be required to be in pay status during the pay period in which the change becomes effective, benefits paid or provided will be offset, in whole or in part, by the increased cost of the self and family enrollment. (In cases where the change is effective retroactive, a retroactive adjustment in withholdings and Government contributions for the self and family enrollment will be required.) The remaining two respondents did not oppose the intent of the proposal, but suggested other methods of providing coverage to newborn or newly acquired children from birth or date they become family members. These methods were considered, but were not adopted.

Accordingly, 5 CFR 890.306 is amended by redesignating the present paragraph (d) as paragraph (e), and adding a new paragraph (d) as set out below:

§ 890.306 Effective dates.

* * * * *

(d) *Birth or Addition of a Child.* The effective date of a change in enrollment under § 890.301(e) made in conjunction with the birth of a child, or the addition of a child as a new family member in some other manner, is the first day of the pay period in which the child is born or becomes an eligible family member. However, if the enrollee is not in a pay or annuity status during that pay period, the enrollment shall not become effective until the first day of the first pay period in which the enrollee returns to pay or annuity status.

(e) *Generally* * * *

* * * * *

(5 U.S.C. 8913)

Office of Personnel Management.

Beverly M. Jones,

Issuance Systems Manager.

[FR Doc. 79-13565 Filed 4-30-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 295

Availability of Information and Records to the Public; Changes in Addresses

AGENCY: Food and Nutrition Service.

ACTION: Final rule.

SUMMARY: The purpose of this amendment to the regulations governing the availability of information to the public is to reflect changes of street addresses and office locations in Regional and Washington, D.C., offices.

EFFECTIVE DATE: April 20, 1979.

FOR FURTHER INFORMATION CONTACT:
Joseph M. Scordato, Administrative Services Division, Food and Nutrition Service, USDA, Washington, D.C. 20250, (202–447–8278).

SUPPLEMENTARY INFORMATION: It is impractical and unnecessary to follow the proposed rule making and public participation procedure because this is a technical amendment that is nonsubstantive in nature. Accordingly, Part 295 is amended as follows:

* * * * *

1. In § 295.3 the last sentence is revised to read as follows:

§ 295.3 Informational and educational publications.

* * * * *

For more information concerning FNS publications and how to obtain them, write the Director, Office of Legislative Affairs and Public Information, Food and Nutrition Service, USDA, Room 764, Washington, D.C. 20250.

2. In § 295.4 the last sentence is revised as follows:

§ 295.4 Nutrition education and training status reports.

* * * * *

Write the Director, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, 500 12th Street, S.W., Room 556, Washington, D.C. 20250.

3. In § 295.5 the last sentence is revised as follows:

§ 295.5 Program evaluation status reports.

* * * * *

While supplies last, a copy of the current status report on completed studies may be obtained by writing the Director, Office of Policy, Planning, and Evaluation, Food and Nutrition Service, USDA, 500 12th Street, S.W., Room 724, Washington, D.C. 20250.

4. In § 295.6 the last sentence is revised to read as follows:

§ 295.6 Program statistical reports.

* * * * *

Write the Director, Budget Division, Food and Nutrition Service, USDA, 500 12th Street, S.W., Room 594, Washington, D.C. 20250.

5. In § 295.7 the second sentence and subparagraphs (a), (b), and (c) are revised to read as follows:

§ 295.7 Public inspection and copying.

* * * * *

Such materials maintained by FNS may be inspected and copied during regular office hours (currently 8:30 a.m. to 5:00 p.m.). Inquire at the following FNS Washington Offices:

(a) Child Care and Summer Programs materials—Room 644, 500 12th Street, S.W., Washington, D.C.

(b) School Programs materials—Room 4122, Auditors Building, Washington, D.C.

(c) Food Distribution Program materials—Room 610, 500 12th Street, S.W., Washington, D.C.

(d) Food Stamp Program materials—Room 658, 500 12th Street, S.W., Washington, D.C.

6. In § 295.8 subparagraphs (g) and (h) are revised to read as follows:

§ 295.8 Indexes.

* * * * *

(g) Director of Administrative Management, Food and Nutrition Service, USDA, 33 North Ave., Burlington, MA 01803.

(h) Director of Administrative Management, Food and Nutrition Service, USDA, 2420 W. 26th Ave., Room 430 D, Denver, CO 80211.

7. In § 295.9 subparagraphs (a), (b), (c) and (d) are revised to read as follows:

§ 295.9 Requests.

* * * * *

(a) Child Care and Summer Program records—Director, Child Care and Summer Programs, Room 644, Food and Nutrition Service, USDA, Washington, D.C. 20250.

(b) School Program records—Director, School Programs, Room 4122, Auditors Building, Washington, D.C. 20250.

(c) Food Distribution Program records—Director, Food Distribution Program, Room 610, Food and Nutrition Service, USDA, Washington, D.C. 20250.

(d) Food Stamp Program records—Director, Program Development Division, Room 658, Food and Nutrition Service, USDA, Washington, D.C. 20250.

(e) Supplemental Food Program records—Director, Supplemental Food Programs Division, Room 4405, Auditors Building, Food and Nutrition Service, USDA, Washington, D.C. 20250.

* * * * *

(5 U.S.C. 301, 552; 7 CFR 1.1–1.16)

Barbara Coleman,

Associate Administrator.

April 20, 1979.

[FR Doc. 79-13287 Filed 4-30-79; 8:45 am]

BILLING CODE 3410-30-M

Federal Crop Insurance Corporation

7 CFR Part 416

Pea Crop Insurance; Regulations for the 1979 and Succeeding Crop Years

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for insuring pea crops effective for the 1979 and succeeding crop years. The rule combines provisions from three previous endorsements for insuring both dry and canning and freezing peas and is issued as a new part in 7 CFR under the authority contained in the Federal Crop Insurance Act, as amended. The rule is intended to make the administration of all pea crop insurance more effective.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT:
Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202–447–3325.

SUPPLEMENTARY INFORMATION: On November 14, 1978, there was published in the **Federal Register**, a notice of proposed rulemaking setting forth the provisions for insuring dry and canning and freezing peas for the 1979 and succeeding crop years (43 FR 52723).

In the notice, it was proposed that there will be issued a new Part 416 of Chapter IV in Title 7 of the Code of Federal regulations to be known as 7 CFR Part 416 Pea Crop Insurance. The notice also stated that the proposed 7 CFR Part 416 would combine the standard provisions from 7 CFR 401.101–401.111 and three previous endorsements as found in 7 CFR 401.131, The Dry Pea Endorsement (33 FR 8262, June 4, 1968), 7 CFR 401.146, The Canning and Freezing Pea Endorsement (Applicable only in Minnesota and Wisconsin) (39 FR 41167, November 25, 1974), and 7 CFR 401.147, The Canning and Freezing Pea Endorsement (Applicable in all States except Minnesota and Wisconsin) (37 FR 25497, December 1, 1972). This has been determined by the Corporation to be more effective administratively. In combining all previous regulations for insuring dry and canning and freezing peas into a new Part 416 (7 CFR Part 416), the Corporation has made two functional changes from the provisions in the endorsements. These are (1) the actuarial guarantee in Section 6 of the policy has been placed on a harvested basis with a 20 percent reduction for any unharvested acreage instead of using a complicated formula dealing solely with unharvested acreage, and (2) pea crop insurance in Minnesota and Wisconsin will be offered on a price per pound election instead of a contract price per pound, thus affording the grower a price election for the purposes of computing indemnities that more nearly reflects the cost of production.

In the notice of proposed rulemaking, the public was given 20 days in which to submit written comments, data, and views in connection with the proposed regulations, but none were received. No substantive changes have been made from the proposed version of Pea Crop Insurance regulations to the final rule.

Final Rule

Accordingly, §§ 401.131, 401.146, and 401.147 of Chapter IV of Title 7 of the Code of Regulations are deleted and reserved but the provisions contained therein shall remain in effect for FCIC insurance policies issued in prior crop years. Chapter IV of Title 7 of the Code of Federal Regulations is amended by adding a new Part 416—Pea Crop Insurance, to read as follows:

PART 416—PEA CROP INSURANCE

Subpart—Regulations for the 1979 and Succeeding Crop Years

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation hereby issues the provisions of this subpart which shall apply, until amended or superseded, to all pea crop insurance effective with the 1979 and succeeding crop years.

Sec.

416.1 Availability of Pea Insurance.
416.2 Premium rates and amounts of insurance.
416.3 Application for insurance.
416.4 Public notice of indemnities paid.
416.5 Creditors.
416.6 Good faith reliance on misrepresentation.
416.7 The contract.
416.8 The policy.

(Secs. 508, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

§ 416.1 Availability of Pea Insurance.

Insurance shall be offered under the provisions of this subpart on peas in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation, from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this section the name of the county and the crops on which insurance will be offered.

§ 416.2 Premium rates and amounts of insurance.

The Manager shall establish premium rates and amounts of insurance for the peas. Such premium rates and amounts of insurance shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

§ 416.3 Application for insurance.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the pea crop as landlord, owner-operator, tenant, or sharecropper. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date set forth below preceding the first crop year for which insurance is to be in effect:

Closing Dates

April 15 in Minnesota and Wisconsin, March 15 in Oregon, and April 1 in all other states.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for acceptance of applications in any county by publishing a notice in the Federal Register upon his determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) Applications for initial insurance shall be made on the following form:

United States Department of Agriculture
Federal Crop Insurance Corporation
Application for Federal Crop Insurance
for 19— and Succeeding Crop Years

Name and Address ———
Zip Code ———
Contract Number ———
County ———
State ———
Identification Number ———

A. The undersigned applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called the "Corporation"), hereby applies to the Corporation for insurance on his share (for cotton, peanut and tobacco insurance, on his sharecropper or share tenant shares as specified in paragraph B below) in the crops stated below that are insurable crops planted on insurable acreage as shown on the applicable county actuarial table of the Corporation for the above-stated county. The applicant elects each plan of insurance, amount of insurance, or price at which indemnities shall be computed, shown below which in each case shall be an electable plan, amount, or price, as provided on the applicable county actuarial table on file in the Corporation's office for the above county. The premium rates and production guarantees shall be those shown on the applicable county actuarial table for each crop year.

Crops———.
Elections———.
(A)———.
(P)———.

B. Applicable only to cotton, peanut and tobacco:

If the applicant intends to insure only the shares of his sharecroppers or share tenants who have no insurance on the crop with the Corporation, "(SC-Int.)" shall be entered following the name of the crop. If the applicant intends to insure both his individual share and the shares of his sharecroppers or share tenants, "(Comb. Int.)" shall be entered following the name of the crop. Insurance for sharecroppers and share tenants shall be provided in accordance with the regulations of the Corporation (7 CFR–401, 103(b)).

C. Upon acceptance of this application by the Corporation, the contracts shall be in effect for the first crop year specified above, except on any crop on which the time for the filing of applications has passed at the time this application is filed, and shall continue for each succeeding crop year until cancelled or terminated as provided in the contract. This application, the insurance policy, and the county actuarial tables shall constitute the contract. Any changes in the contract shall be on file in the Corporation's office for the county at least 15 days prior to the applicable cancellation date.

D. This application, when executed by a person as an individual, shall not cover his share in a crop produced by a partnership or other legal entity.

The applicant is a (Type of Entity)———.

All natural persons in whose behalf this application is made are over 18 years of (Yes or No)———.

E. PREMIUM NOTE: In consideration hereof, the insured promises to pay to the order of the Corporation each crop year of the contract the annual premiums. It is agreed that any amount due the Corporation by the insured may be deducted from any indemnity payable to the insured and when not prohibited by law, from any loan or payment otherwise due the insured under any program administered by the United States Department of Agriculture.

———
(Witness to Signature)

———
(Signature of Applicant)

———(Date), 19——.

Code———.
Address of office for county:
———.
Phone:
———.
Location of farm(s) or headquarters:
———.
Phone:
———.

§ 416.4 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at the county courthouse a listing of the indemnities paid in the county.

§ 416.5 Creditors.

An interest of a person other than the insured in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or any involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in sections 14 and 15 of the policy set forth in § 416.8.

§ 416.6 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the pea insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 416.7 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the pea production which is provided in and covered by the policy when insurance is accepted on peas by the Corporation pursuant to a duly submitted application. The contract shall consist of the policy, the actuarial table as defined in the policy, and the application. Any changes made in the contract shall not affect the continuity from year to year.

§ 416.8 The policy.

The provisions of the Pea Insurance Policy for the 1979 and succeeding crop years are as follows: U.S. Department of Agriculture, Pea Insurance Policy, Federal Crop Insurance Corporation.

Subject to the regulations of the Federal Crop Insurance Corporation (herein called "Corporation") and in accordance with the terms and conditions set forth in this policy, the Corporation upon acceptance of a person's application does insure such person's pea crop against unavoidable loss of production due to causes of loss insured against that are specified in this policy. No term or condition of the contract shall be waived or changed on behalf of the Corporation except in writing by a duly authorized representative of the Corporation.

Terms and Conditions

1. *Meaning of terms.* For the purposes of insurance on peas the terms:

(a) "Acturial table" means the forms and related material approved by the Corporation which are on file for public inspection in the office for the county, and which show the applicable amounts of insurance, premium rates, insurable acreage, and related information regarding pea insurance in the county.

(b) "Contract" means the accepted application, this policy, and the actuarial table.

(c) "County" means the county shown on the application and any additional insurable land located in a local producing area bordering on the county, as shown on the actuarial table.

(d) "Crop year" means the period within which peas are normally grown and shall be designated by the calendar year in which the peas are normally harvested.

(e) "Harvest" as to any *green-pea* acreage means the vining or combining and acceptance by the processor of the peas from such acreage. "Vining" or "combining" means separating the peas from the pods. "Harvest" as to any *dry-pea* acreage means combining peas which are or could be marketed as *dry* peas.

(f) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the actuarial table.

(g) "Loss ratio" means the ratio of indemnity(ies) paid to premium(s) earned.

(h) "Office for the county" means the Corporation's office servicing the county shown on the application for insurance or such office as may be designated by the Corporation.

(i) "Peas" means either (1) canning and freezing peas (herein called *green peas*) grown under a contract executed with a processor by the time the acreage to be insured is reported or (2) all spring-planted smooth green and yellow, and wrinkled varieties of dry peas and lentils (herein called *dry peas*).

(j) "Person" or "Insured" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(k) "Share" means the share of the insured as landlord, owner-operator, or tenant in the insured peas at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(l) "Tenant" means a person who rents land from another person for a share of the pea crop or proceeds therefrom. (m) "Unit" means all insurable acreage of any one of the types of *green peas* or varietal groups of *dry peas* as shown on the actuarial table in the county on the date of planting for the crop year (1) in which the insured has a 100 percent share, (2) which is owned by one person and operated by the insured, or (3) which is owned by the insured and rented to one tenant. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Causes of loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from drought, earthquake, excessive rain, fire, flood, freeze, frost, hail, hurricane, insect infestation, lightning, plant disease, snow, tornado, wildlife, wind, winterkill, and any other unavoidable cause of loss due to adverse weather conditions occurring within the insurance period, subject, however, to any exceptions, exclusions, or limitations with respect to such causes of loss that are set forth on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production due to (1) *green-pea* acreage not being timely harvested unless the Corporation determines that because of unusual weather conditions, a substantial percentage of such acreage in an area was ready for harvest at the same time (the uninsured loss of production resulting from failure to timely harvest will be appraised and counted as production with no adjustment for quality by the Corporation as pounds of peas which were available for timely harvesting), (2) the neglect or malfeasance of the insured, any member of his household, his tenants or employees, (3) failure to follow recognized good farming practices, (4) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (5) any cause not specified as an insured cause in this policy as limited by the applicable actuarial table.

3. *Crop and acreage insured.* (a) Upon acceptance of an application for insurance, the pea crop insured shall be *green* or *dry peas* of a type or variety for which the actuarial table shows a guarantee and premium rate per acre.

(b) The acreage insured for each crop year shall be that acreage in the county planted to peas on insurable acreage, as shown on the actuarial table, and as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That insurance shall not attach or be considered to have attached as determined by the Corporation to any acreage (1) of *green peas* not shown under a processor contract or excluded from such contract for the crop year pursuant to the terms thereof, (2) which was planted to peas the previous two crop years, (3) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (4) not reported for insurance as provided in section 4 if

such acreage is irrigated and an irrigated practice is not provided for such acreage, (5) which is destroyed and after such destruction, it was practical to replant to peas of the same type of green peas or the same varietal group of dry peas as shown on the actuarial table and such acreage was not replanted, (6) initially planted after the date established by the Corporation and placed on file in the office for the county as being too late to initially plant and expect a normal crop to be produced, (7) of volunteer peas, or (8) planted to a type or variety not established as adapted to the area or shown as noninsurable on the actuarial table.

(c) An instrument in the form of a "lease" under which the insured grower retains control of the acreage on which the insured peas are grown and which provides for delivery of the peas under certain conditions and at a stipulated price(s) shall, for the purpose of this contract, be treated as a processor contract under which the insured has the share in the peas.

4. *Responsibility of insured to report acreage and share.* (a) The insured shall submit to the Corporation at the office for the county, on a form prescribed by the Corporation, a report showing all acreage of peas planted in the county (including a designation of any acreage of peas to which insurance does not attach) in which the insured has a share and the insured's share therein at the time of planting. Such report shall be submitted each year not later than a date established by the Corporation and on file in the office for the county. If the insured does not have a share in any insured acreage in the county for any year, he shall submit a report so indicating. Any acreage report submitted by the insured shall be binding upon the insured and shall not be subject to change by the insured.

(b) If the insured does not submit an acreage report by the date established by the Corporation, the Corporation may elect to determine by insurance units the insured acreage and the share or declare the insured acreage on any insurance unit(s) to be "zero."

5. *Irrigated acreage.* (a) Where the actuarial table provides for insurance on acreage on which an irrigated practice is carried out, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

(c) Insurance shall not attach to peas seeded on any irrigated acreage the first year after a major leveling operation has been carried out, as determined by the Corporation.

6. *Production guarantees and prices for competing indemnities.* (a) For each crop year of the contract, the production guarantees and prices at which indemnities shall be computed are those shown on the actuarial table.

(b) The applicable production guarantee per acre shall be reduced 20 percent for any unharvested acreage.

(c) In counties where the actuarial table shows a guarantee for both *green* and *dry peas* the applicable guarantee for any acreage shall be determined by the type of *green peas* or varietal group of *dry peas* shown on the acreage report, except that if any acreage shown on the acreage report as *green peas* is harvested as *dry peas*, the guarantee for such acreage shall be reduced 40 percent.

ADJUSTMENTS FOR FAVORABLE CONTINUOUS EXPERIENCE:

No. Years Continuous Experience Thru Previous Crop Year	0	1	2	3	4	5	6	7	8 or more
Loss Ratio Thru Previous Crop Year	PERCENTAGE ADJUSTMENT FACTOR FOR CURRENT CROP YEAR								
0 - .49	100	100	95	90	85	80	75	70	
.50 - .89	100	100	100	100	95	90	85	80	75
.90 - 1.09	100	100	100	100	100	100	100	100	100

ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE:

No. of Years Indemnified Thru Previous Crop Year	1	2	3	4	5	6	7	8	9	10 or more
Loss Ratio Thru Previous Crop Year	PERCENTAGE ADJUSTMENT FACTOR FOR CURRENT CROP YEAR									
1.10 - 1.19	100	100	100	103	104	106	108	110	112	115
1.20 - 1.39	100	100	103	106	109	112	116	120	125	130
1.40 - 1.69	100	102	105	109	113	118	124	130	137	145
1.70 - 1.99	100	103	107	112	118	124	132	140	150	160
2.00 - 2.49	100	104	109	115	122	130	140	150	162	175
2.50 - 3.24	100	105	111	118	127	136	148	160	175	192
3.25 - 3.99	100	106	113	121	131	142	156	170	187	205
4.00 - 4.99	100	107	115	124	136	148	164	180	200	220
5.00 - 5.99	100	108	117	127	140	154	172	190	212	235
6.00 up	100	110	120	130	145	160	180	200	225	250

(d) At the time application for insurance is made, the applicant shall elect a price from among those shown on the actuarial table at which indemnities shall be computed. If the insured has not elected a price or the price elected is not shown on the actuarial table for the crop year, the applicable price under the contract, and which the insured shall be deemed to have elected, shall be the price provided on the actuarial table for such purposes. The insured may, with the consent of the Corporation, change the price election for any crop year by the closing date for submitting applications for that year.

7. *Annual premium.* (a) The annual premium is earned and payable at the time of planting and shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of planting, and applying the premium adjustment herein provided.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

(d) If there is no break in the continuity of participation, any premium adjustment applicable under subsection (c) of this section shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured in operating only the same farm or farms, if such person had previously actively participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(e) If there is a break in the continuity of participation, any reduction in the premium earned under subsection (c) of this section shall not thereafter apply; however, any increase in premium shall apply following a break in continuity.

(f) Any unpaid amount of premium due the Corporation by the insured may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

8. *Insurance period.* Insurance on insured acreage shall attach at the time the peas are planted and shall cease in the same calendar year as follows: The earliest of (1) final adjustment of a loss, (2) harvest, or (3) September 15: *Provided, however,* That if any acreage of *green peas* is not timely harvested, insurance shall be deemed to have ceased when the acreage should have been harvested, as determined by the Corporation.

9. *Notice of damage or loss.* Any notice of damage or loss shall be given in writing by the insured to the Corporation at the office for the county.

(a) Notice shall be given promptly if, during the period before harvest, the peas on any unit are damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late to replant to peas of the same type or varietal group. Notice shall also be given when such acreage has been put to another use.

(b) Notice shall be given not later than 30 days after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire pea crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of the insured prevent compliance with this provision.

(c) In addition to the notices required in paragraphs (a) and (b) of this section, if an indemnity is to be claimed on any unit of *green peas*, notice shall be given (1) no later than 48 hours after harvesting of the peas has been discontinued on a unit, before all the acreage is harvested, or (2) before harvest would normally start if any acreage on a unit is not to be harvested. If such notice is not given, the Corporation shall appraise the pounds of unharvested production with no adjustment for quality and, if there is insufficient evidence upon which to base an appraisal, the appraisal on such acreage shall be the applicable guarantee.

(d) Any insured acreage which is not to be harvested shall be left intact until the Corporation makes an inspection.

(e) There shall be no abandonment to the Corporation of any insured peas.

(f) The Corporation shall reject any claim for indemnity if any of the requirements of this section are not met.

10. *Claim for indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of peas on the unit and that any loss of production has been directly caused by one or more of the causes insured against during the insurance period of the crop year for which the indemnity is claimed and (2) furnish any other information regarding the amount of production as may be required by the Corporation.

(c) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by subtracting the dollar amount of production from the dollar amount of insurance and multiplying the remainder by the insured's share. The dollar amount of production is obtained by multiplying the total production to be counted by the price per pound elected. The dollar amount of insurance is obtained by multiplying the pound guarantee per acre times the insured acres times the price per pound elected: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of loss shall be computed on the insured acreage and share and then reduced proportionately.

(d) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production. (1) All harvested *green peas* which are accepted by the processor and *dry peas* which are or could be marketed shall be counted as production. (2) Appraised production shall not be adjusted for quality and shall include (i) the greater of the appraised production or 40 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is planted in the current crop year to any other crop insurable on such acreage *(excluding small grains normally maturing for harvest in the following calendar year)* before the peas are harvested, or normally would be harvested and (ii) any appraisals made by the Corporation for unharvested or potential production, poor farming practices, uninsured causes of loss, or acreage abandoned or put to another use without the consent of the Corporation. Appraisals shall not be less than the applicable guarantee for any acreage which is abandoned, put to another use without prior written consent of the Corporation, or damaged solely by an uninsured cause. (3) If the Corporation determines that any acreage of green peas was not timely harvested, and the insured received payment from the processor for such acreage, the pounds of production to count will be determined by dividing the processor payment by the processor price per pound for the applicable tenderometer reading or sieve size shown on the actuarial table.

(e) The pounds of the production to be counted for any harvested peas shall be determined as follows: (1) For *green peas*, the dollar value received from the processor shall be divided by the processor contract price per pound for the tenderometer reading or sieve size shown on the actuarial table. (2) For *dry peas*, any production which does not grade No. 3 or better or lentils which do not grade No. 2 or better (determined in accordance with United States Standards for dry peas and lentils) because of poor quality due to insurable causes occurring within the insurance period shall be reduced by (i) dividing the value per pound of the damaged peas, as determined by the Corporation, by the price per pound for the same variety of peas grading No. 3 (No. 2 for lentils) and (ii) multiplying the result thus obtained by the pounds of such peas. The applicable price of No. 3 peas (No. 2 lentils) shall be the market price for such peas on the earlier of the day

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the loss is adjusted or the day the damaged peas were sold.

(f) If consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of peas becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

(g) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

11. *Payment of indemnity.* (a) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(b) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved after the peas are planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

12. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

13. *Other insurance against fire.* (a) If the insured has other insurance against damage by fire during the insurance period, the Corporation shall be liable for loss due to fire only for the smaller of (1) the amount of indemnity determined pursuant to this contract without regard to any other insurance or (2) the amount as determined by the Corporation by which the loss from fire exceeds the indemnity paid or payable under such other insurance.

(b) For purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit involved before and after the fire, as determined by the Corporation from appraisals made by the Corporation of the production and fair market value.

14. *Collateral assignment.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

15. *Transfer of insured share.* If the insured transfers all or any part of the insured share during the crop year, upon approval by the Corporation, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the transferor for the current crop year. Any transfer shall be made on a form prescribed by the Corporation.

16. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment here under is made and shall execute all papers required and take appropriate action to secure such rights.

17. *Records and access to farm.* The insured shall keep or cause to be kept, for two years after the time of loss, records of the harvesting, storage, shipments, sale, or other disposition of all peas in the county in which the insured has a share, including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

18. *Forms.* Copies of forms referred to in the contract are available at the office for the county.

19. *Contract changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the applicable cancellation date, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 20.

20. *Life of contract: Cancellation and termination.* (a) The contract shall be in effect for the crop year specified on the application, and may not be canceled for such crop year. Thereafter, either party may cancel insurance for any crop year by giving written notice to the other by the cancellation date shown in subsection (b) of this section.

(b) For each year of the contract, the cancellation date shall be December 31 and the termination dates for indebtedness shall be April 15 in Minnesota and Wisconsin, March 15 in Oregon and April 1 in all other states. These dates are those immediately preceding the beginning of the crop year for which the cancellation or the termination is to become effective.

(c) If the premium for any crop year is not paid by the termination date for indebtedness shown in subsection (b) of this section, the contract shall terminate: *Provided,* That the date of payment for premium (1) deducted from an indemnity claim shall be the date the insured signs such claim or (2) deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(d) The contract shall terminate if no premium is earned for three consecutive years.

(e) If the insured is an individual who dies, or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and termiate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

(f) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (b), (c), (d), and (e) of this section, the contract shall continue in force for each succeeding crop year.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Approved by the Board of Directors on December 20, 1978.

Effective: May 1, 1979.

Dated: December 13, 1978.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: April 24, 1979.

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Approved by:
Bob Bergland,
Secretary.

[FR Doc. 79-13425 Filed 4-30-79; 8:45 am]
BILLING CODE 3410-02-M

Agricultural Marketing Service

7 CFR Part 918

Fresh Peaches Grown in Georgia; Industry Committee Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This action (1) requires that peaches shipped to adjacent markets in "closed" containers be inspected and in containers appropriately marked, and (2) revokes requirements that handlers file information relating to shipments of peaches to adjacent markets.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This final rule is issued under the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Industry Committee, and upon other available information. This final rule has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met February 27, 1979, and recommended amendment of § 918.130, the rule which pertains to reports and safeguards for peaches shipped to adjacent markets, to require that such peaches not meeting the requirements for nonadjacent markets shipped in "closed" containers be inspected, and that they be in containers marked with handler's name and address, and the words "For Sale in Adjacent Markets Only". Currently, this rule applies to peaches in "new" containers. It reported that this action was necessary to deter the shipment of such peaches destined for adjacent markets from being diverted to nonadjacent markets. Reportedly, last season some peaches were shipped to adjacent markets in a wide assortment of containers, including a few in used "closed" containers, some of which were improperly marked. It further reported that these inspection and marking requirements would make it easier to not only detect these peaches if shipped to nonadjacent markets, but also to identify the handler of such peaches, and to determine the grade and size of the fruit. Notice of proposed rulemaking with respect to these proposals was published April 5, 1979, in the **Federal Register** (44 FR 20444). No comments on the proposal were received during the 18 days provided.

The committee met again on April 18, 1979, and unanimously recommended further amendment of § 918.130, to revoke the provisions which require that handlers file information with the committee relating to shipments of peaches to adjacent markets. It reported that the information obtained under these filing requirements is no longer needed, as the inspection and marking requirements for shipments of peaches to adjacent markets in "closed" containers will provide adequate safeguards. It recommends that this action be taken prior to the 1979 shipping season, so that handlers will not have to file reports that are no longer needed. Therefore, these provisions should be revoked, effective May 1, 1979.

After consideration of all relevant matter presented, including the proposal in the notice, the recommendations of the committee, and other available information, it is hereby found that this amendment of the rules and regulations is in accordance with this marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking, with respect to the revocation of the reporting requirements in § 918.130, and postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given the opportunity to submit information and views on the provisions in this rule at open committee meetings. It is necessary to effectuate the declared purposes of the act to make this amendment effective as specified, as shipments of peaches grown in Georgia are expected to begin about the first of May, and this amendment should be in effect by that time. This amendment relieves handlers of reporting requirements, and no purpose would be served by delaying its effective date beyond May 1, 1979.

Accordingly, in Supart—Industry Committee Regulations (7 CFR § 918.100–§ 918.131), § 918.130 is amended by revoking paragraph (a), and by revising paragraph (b). As amended, § 918.130 reads as follows:

§ 918.130 Peaches shipped to adjacent markets.

Each handler who ships, in closed containers, adjacent market peaches which do not meet the current regulations for nonadjacent markets issued pursuant to § 918.60(b) shall stamp or print on the ends or sides of such containers in letters not less than one-half inch in height "For Sale In Adjacent Markets Only", along with the handler's name and address; and have such fruit so shipped inspected as provided in § 918.64.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Dated: April 27, 1979, to become effective May 1, 1979.

D. S. Kuryloski,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-13701 Filed 4-30-79; 11:25 am]
BILLING CODE 3410-02-M

Agricultural Stabilization and Conservation Service

7 CFR Part 729

Acreage Allotments, Marketing Quotas, and Poundage Quotas for 1978 and Subsequent Crops of Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This regulation sets forth the rules for assessment of marketing quota penalties, identification of marketings, processing violations, registration of peanut handlers and their responsibilities to maintain records and reports. This regulation further excludes from the definition of peanuts any peanuts which are not dug and clarifies the definition of quota peanuts. The most significant provisions of this regulation are the marketing quota penalties and the identification of producer marketings. This regulation is necessary in order to announce the penalty rate to be assessed against producers marketing in excess of their peanut allotments and farm poundage quotas as provided by section 359(a) of the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Paul P. Kume, Production Adjustment Division, Agricultural Stabilization and Conservation Service, (202) 447–4695, USDA, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION:

Inasmuch as the marketing of the 1978-crop peanuts is now substantially completed and the fact that it is urgent to publish the penalty rates for the 1978 crop, I have determined that compliance with the notice of proposed rulemaking and public participation procedure of 5 U.S.C. 553 and the requirements of Executive Order 12044 are impracticable and contrary to public interest. Therefore, this regulation is issued without compliance with such procedures and requirements.

Final Rule

Accordingly 7 CFR Part 729 is revised as follows:

(1) Paragraphs (ee) and (ii) of § 729.3 are revised to read as follows:

§ 729.3 Definitions.

* * * * *

(ee) *Peanuts.* All peanuts produced, excluding any peanuts which were not dug or were not picked or threshed before or after marketing from the farm, as established by the producer or otherwise in accordance with this subpart, and excluding any peanuts marketed by the producer before drying or removal of moisture from such peanuts by natural or artificial means for consumption exclusively as boiled peanuts (referred to as "green peanuts"). If a lot of farmers stock peanuts has been inspected by the Federal State Inspection Service at the time of marketing, the quantity in the lot shall be the gross weight thereof less foreign material and excess moisture (moisture in excess of 7 percent in the Southeastern and Southwestern areas and 8 percent in the Virginia-Carolina area). If the lot of peanuts is not inspected by the Federal-State Inspection Service the quantity in the lot shall be the gross weight thereof. If shelled peanuts are marketed by a producer, the quantity in the lot (farmers stock basis) shall be determined by multiplying the poundage of shelled peanuts by 1.5.

* * * * *

(ii) *Quota peanuts.* Peanuts (except green peanuts) which are marketed or considered marketed from a farm for domestic edible use. This includes all peanuts (except green peanuts) which are dug on a farm except peanuts (1) which are placed under loan at the additional support rate as provided in Part 1446 of this title and not redeemed by the producer; or (2) which are marketed under contract between a handler and a producer as provided in Part 1446 of this title for export and/or crushing.

* * * * *

(2) Sections 729.46–729.72 are revised to read as follows:

Marketing Quota Penalties

Sec.
729.46 Penalty rate.
729.47 Peanuts on which penalty is due.
729.48 Peanuts grown for experimental purposes.
729.49 Persons to pay penalty.
729.50 Payment of penalty.
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Authority: Secs. 301, 358, 358a, 359, 361–368, 372, 373, 375, 377, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 61 Stat. 658, 55 Stat. 90, as amended, 52 Stat. 62, as amended, 63, as amended, 64, 65, as amended, 66, as amended, 70 Stat. 206, as amended (7 U.S.C. 1301, 1358, 1358a, 1359, 1361–1368, 1372, 1373, 1375, 1377) and Secs. 801, 802, 803, 804, 805, 806, 91 Stat. 944 (7 U.S.C. 1358, 1358a, 1359, 1373, 1377).

Marketing Quota Penalties

§ 729.46 Penalty rate.

(a) *Basic penalty rate.* The basic penalty rate is 120 percent of the basic support price for quota peanuts for the marketing year, as provided in section 359(a) of the Agricultural Adjustment Act of 1938, as amended, (7 U.S.C. 1359(a)).

(b) *1978–79 Marketing year.* The basic support price for quota peanuts for the 1978–79 marketing year is $420 per ton. Therefore, the basic penalty rate for the 1978 crop of peanuts is $504 per ton or 25.2 cents per pound.

§ 729.47 Peanuts on which penalty is due.

(a) Penalty is due at the basic penalty rate on:

(1) The quantity of peanuts which are marketed or considered marketed from a farm for domestic edible use in excess of the farm poundage quota for that farm;

(2) All peanuts produced on excess acreage: *Provided,* That such penalty shall be paid on each lot of peanuts marketed from the farm based on the converted basic penalty rate. The converted basic penalty rate shall be determined by:

(i) Dividing the excess acreage by the final acreage to determine the percent of excess; and

(ii) Multiplying the percent of excess by the basic penalty rate per pound.

(3) All peanuts produced on a farm for which the producer:

(i) Failed to timely file a report of peanut acreage as provided in Part 718 of this chapter, or

(ii) Refused to permit entry on the farm for purpose of determining the acreage of peanuts on the farm.

(4) The quantity of peanuts marketed without identification by a valid marketing card.

(5) The quantity of peanuts marketed in excess of the farm marketing quota (falsely identified peanuts) as determined by the county committee with State committee concurrence, even though the farm has no excess acreage: *Provided,* That this provision shall be applicable only when the farm on which the falsely identified peanuts were produced cannot be ascertained.

(6) All peanuts, the disposition of which the producer has failed to account for to the satisfaction of the county committee. The quantity of peanuts subject to penalty under this provision shall be:

(i) The amount of peanuts determined by the county committee to have been marketed or considered marketed from the farm for domestic edible use in excess of the effective farm poundage quota for that farm; plus

(ii) The amount of the farm yield times the excess acreage, if the farm has excess acreage.

§ 729.48 Peanuts grown for experimental purposes.

No penalty shall be collected on the marketings of any peanuts which are grown only for experimental purposes on land owned or leased by a publicly-owned agricultural experimental station and produced at public expense by employees of the experiment station, or peanuts produced by farmers for experimental purposes pursuant to an agreement with a publicly-owned experiment station: *Provided,* That the director of the publicly-owned agricultural experiment station furnishes the State Executive Director a list by counties showing the following information for farms in the State on which peanuts are grown for experimental purposes only:

(1) Name and address of the publicly-owned experiment station,

(2) Name of the owner, and name of the operator if different from the owner, of each farm in the State on which peanuts are grown for experimental purposes only,

(3) The acreage of peanuts grown on each farm for experimental purposes only, and

(4) A signed statement that such acreage of peanuts was grown on each farm for experimental purposes only, was necessary for carrying out experimentation, and the peanuts were produced under the direction of representatives of the publicly-owned experiment station.

§ 729.49 Persons to pay penalty.

(a) *Marketings to handlers.* The handler is liable for the penalty due on peanuts which the handler buys or otherwise acquires from a producer. The handler may deduct the penalty from the price paid to the producer. If a handler fails to collect the penalty due on any marketing of peanuts from a farm, the handler and each of the producers on the farm shall be held jointly and severally liable for the amount of the penalty. If the peanuts on which penalty is due were inspected by the Federal State Inspection Service, the handler's liability for penalty is limited to the value of the lot of peanuts.

(b) *Other marketings.* The producer is liable for the penalty due on any peanuts marketed to persons who are not peanut handlers.

(c) *Penalty for error on marketing card.* The producer and the handler are jointly and severally liable for penalty which results ultimately from an error or omission in recording the balance of quota or contract on the marketing card after a marketing of peanuts. If the peanuts on which the penalty was due were inspected by the Federal State Inspection Service, the handler's liability for penalty is limited to the value of the lot of peanuts unless the error increased the balance of quota or contract pounds recorded on the marketing card.

§ 729.50 Payment of penalty.

A draft, money order, or check drawn payable to the "Agricultural Stabilization and Conservation Service, USDA", may be used to pay any penalty, other indebtedness, or interest thereon. A draft or check shall be received subject to collection and payment at par. The penalty becomes due on the date of marketing, or in the case of false indentification or failure to account for the disposition of peanuts, the date of the false identification or failure to account, as applicable.

The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of 8 percent per annum. Interest accrues from the date penalty was due if the penalty is not remitted by Monday of the third calendar week following the week in which the peanuts were marketed. If a farm is found to have excess peanuts after peanuts are marketed, and for cases of false identification or failure to account if the penalty is not paid within 15 days after written notice to the producer, interest shall accrue from the date of the written notice to the producer.

§ 729.51 Lien for penalty.

A lien on the crop of peanuts on which penalty is incurred, and on any subsequent crops of peanuts subject to marketing quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States until the penalty is paid. The lien on a subsequent crop takes precedence as of the time the debt secured is entered on a county claim record in the county ASCS office, for the county in which the subsequent crop is grown. Each county ASCS office shall maintain a list of peanut marketing penalty liens on subsequent crops which have been entered on the county claim record. The list shall be available for examination upon written request by an interested person.

§ 729.52 Refund of penalties.

After the marketing of peanuts from a farm has been completed and the disposition of all peanuts produced on the farm can be shown, the producer or any other person who bore the burden of the payment of any penalty may request the return of the amount of such penalty which is in excess of the amount required under this subpart. Such request shall be filed with the county ASCS office within 2 years after the payment of the penalty.

Producer Identification and Designation of Peanuts Marketed

§ 729.58 Identification of producer marketings.

The producer must identify each lot of peanuts offered for marketing through a handler by furnishing to the handler the farm operator identification card (MQ–76P) and the peanut marketing card (MQ–76) which was issued for the farm on which the peanuts were produced.

§ 729.59 Designation of peanuts.

Peanuts which are not inspected by the Federal-State Inspection Service prior to marketing must be marketed as quota peanuts. If a lot of peanuts is inspected by the Federal-State Inspection Service, the producer shall

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designate to the handler whether the lot of peanuts is to be marketed as quota, loan additional, or contract additional. The designation must be made within the time allowed by the handler but not later than the close of inspection on the first workday (excluding Saturday, Sunday, or legal holiday) after the peanuts are inspected. In the absence of a designation, any segregational peanuts shall be marketed in the following order of priority:

(a) As quota peanuts to extent of the unused poundage quota on the peanut marketing card which is used to identify the peanuts for marketing.

(b) As contract additional to the extent of the unused contract poundage balanced on the peanut marketing card which is used to identify the peanuts for marketing if the peanuts are being marketed through the contracting handler, or

(c) As loan additional peanuts.

Producer Records and Reports

§ 729.60 Report of marketing green peanuts.

(a) The operator of each farm from which green peanuts are marketed shall report the marketing of green peanuts. The operator shall make the report by filing Form MQ–98–1 at the county ASCS office of the county in which the farm is administratively located. The report shall show for the farm:

(1) The number of acres on the farm planted to peanuts;

(2) The acreage on the farm from which peanuts were marketed as green peanuts;

(3) The name and address of the buyer to or through whom each lot of green peanuts was marketed, the type and quantity in each lot marketed and the date marketed: *Provided,* That where green peanuts are marketed by the producer in small lots direct to consumers, such as in the case of local street sales, the report may be made as either a daily or weekly summary of the quantity so marketed and the name and address of each buyer need not be shown but in lieu thereof the place of marketing shall be shown.

(b) Failure to file any report of the marketing of green peanuts as required by this section, or the filing of a report which the county committee finds to be incomplete or inaccurate shall constitute failure to account for the disposition of the peanuts produced on the farm.

§ 729.61 Report of acquisition of seed peanut.

If peanuts are planted on a farm in the current year and the seed peanuts were acquired by purchase or gift, the farm operator shall file a report with the county ASCS office of the acquisitions of the seed peanuts. The report must be filed by the farm operator at the time a report of planted acreage of peanuts is made, Part 718 of this title. The report shall include:

(a) The name and address of the handler or person from whom peanuts were purchased or obtained as a gift for the purpose of planting the peanut acreage on the farm in the current year.

(b) The pounds of peanuts acquired for seed.

(c) The basis (farmer's stock or shelled) of determining the quantity acquired.

(d) The type of peanuts acquired.

(e) The date of acquisition.

§ 729.62 Peanuts marketed to persons who are not registered handlers.

(a) If peanuts are marketed to persons other than registered peanut handlers, the operator of the farm on which the peanuts were produced shall file a report of the marketings by executing Form MQ–98–1, Report of Acreage and Marketing of Peanuts to Nonestablished Buyers. The MQ–98–1 must be mailed or delivered to the county executive director of the county in which the farm is administratively located within 15 days after the marketing of peanuts from the farm has been completed. If peanuts are marketed by the producer in small lots directly to consumers, such as in the case of local street sales, a daily or weekly summary of the quantity marketed and the place of marketing may be reported in lieu of the name and address of each buyer.

(b) Failure to file an MQ–98–1 as required or the filing of a report which the county committee finds to be incomplete or inaccurate shall constitute failure to account for the disposition of the peanuts on the farm and may result in:

(1) A reduction of the peanut allotment and farm poundage quota for the farm, and

(2) Assessment of marketing penalties, as provided in this Part 729.

(c) All peanuts marketed to persons other than registered handlers shall be considered marketed as quota peanuts.

§ 729.63 Report on marketing card.

The farm operator shall return each peanut marketing card to the issuing county ASCS office as soon as marketings from the farm are completed or at such earlier time as the county executive director may request. At the time of returning the last marketing card for a farm, the farm operator shall execute the certification on the marketing card as to the pounds of peanuts retained for seed or other uses. Failure to return a marketing card or failure to execute the certification of the quantity of peanuts retained for seed or other uses shall constitute failure to account for disposition of peanuts marketed from the farm unless a satisfactory report of disposition is furnished to the county committee.

§ 729.64 Report of production and disposition.

(a) In addition to any other reports which may be required under this subpart, the farm operator or any producer on the farm (even though the farm has no excess acreage), upon written request by certified mail from the State Executive Director, shall furnish a report of production and disposition to the State committee. The report must be filed on MQ–98, Report of Production and Disposition within 15 days after the request is mailed. The report shall show:

(1) The final acreage of peanuts on the farm;

(2) The total production of peanuts on the farm; and

(3) The name and address of the buyer to or through whom each lot of peanuts was marketed, the number of pounds in each lot, and the date marketed: *Provided,* That where peanuts are marketed in small lots to persons who are not established buyers the report may be made as either a daily or weekly summary of the number of pounds marketed and the name and address of the buyer(s) need not be shown but in lieu thereof the place of marketing shall be shown; and

(4) The quantity and disposition of peanuts not marketed.

(b) Failure to file the MQ–98 as requested or the filing of an MQ–98 which is found by the State committee to be incomplete or incorrect, shall constitute failure of the producer to account for production and disposition of peanuts produced on the farm.

§ 729.65 Reduction of farm allotment and poundage quota for violation.

(a) *False identification.* If peanuts are falsely identified the acreage allotments and poundage quotas next established for each farm involved in the false identification shall be reduced as provided in this section, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (1) no person on such farm intentionally participated in such marketing or could have reasonably been expected to have prevented such marketing, or (2) no person connected with such farm for the current year caused, aided, or acquiesced in such marketing.

(b) *Failure to account for production and disposition.* If complete and accurate proof of the production and disposition of all peanuts produced on the farm is not furnished in the manner and within the time prescribed under this Part 729, the acreage allotment and poundage quota next established for the farm shall be reduced as provided in this section except that the reduction for a farm shall not be made if it is established to the satisfaction of the county and State committees that (1) the failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition or (2) no person connected with such farm for the current year caused, aided, or acquiesced in the failure to furnish such proof.

(c) *Quantity of peanuts involved in the violation.* The quantity of peanuts determined by the county committee to have been falsely identified or for which satisfactory proof of production and disposition has not been furnished shall be considered the quantity of peanuts involved in the violation. If the actual production of peanuts on the farm is not known, the county committee shall estimate the actual production, taking into consideration the condition of the peanut crop during the growing and harvesting season, if known, and the actual yield per acre of peanuts on other farms in the locality on which the soil and other physical factors affecting the production of peanuts are similar. The estimated actual production shall be considered as the actual production for purposes of determining the quantity of peanuts involved in the violation. The quantity of peanuts involved in the violation shall be the actual production of peanuts on the farm less the amount of peanuts for which satisfactory proof of production and disposition has been shown.

(d) *Amount of reduction.* The amount of reduction shall be that percentage which the quantity of peanuts involved in the violation is of the respective farm marketing quota for the farm for the marketing year in which the violation occurred. Where the quantity of peanuts involved in the violation equals or exceeds the farm marketing quota, the amount of reduction shall be 100 percent.

(e) *County administrative hearing.* The farm operator involved shall be notified in writing by the county executive director of the time and place for any hearing with the county committee concerning a violation and the nature of the violation. The farm operator shall be requested to bring any relevant supporting documents to the hearing. The hearing shall be held before the allotment and poundage quota is reduced for the farm except in the case of failure to return the marketing card.

(f) *Time for making reduction for a violation in a prior year.* A reduction in the farm acreage allotment and farm poundage quota for a farm for a violation in a prior year shall be made in the current year, provided it can be made on or before the applicable date as follows:

February 25—Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Missouri, New Mexico, South Carolina, Tennessee, and the following counties in Texas:
Atascosa, Austin, Bee, Bexar, Colorado, DeWitt, Demmit, Duval, Fort Bend, Frio, Gonzales, Guadalupe, Harris, Jim Wells, Karnes, La Salle, Lavaca, Live Oak, Medina, Victoria, Waller, Webb, Wilson, and Zavala.

March 31—North Carolina, Oklahoma, Texas (except counties listed for February 25), and Virginia.

If the reduction cannot be made in the current crop year by the applicable date above, the reduction shall be made in a subsequent crop year.

(g) *Allotment reductions for combined farms.* If the farm involved in the violation is combined with another farm prior to the reduction, the reduction shall be computed on the portion of the allotment derived from the farm involved in the violation.

(h) *Allotment reduction for divided farms.* If the farm involved in the violation has been divided prior to the reduction, the percentage of reduction for the allotments for the divided farms shall be the same as though no division had been made.

(i) *Quota reduction.* If an acreage allotment reduction is made under this section, the farm poundage quota shall be reduced to reflect such reduction.

(j) *Effect of reduction on subsequent crops.* Any reduction in the allotment and farm poundage quota for a farm made under this section shall not operate to reduce the allotment and farm poundage quota for such farm for any subsequent year.

Handler's Registration, Responsibilities and Records

§ 729.66 Registration of handlers.

Each person who plans to acquire peanuts for processing or resale shall register as a handler according to the provision of this section and prior to acquiring peanuts.

(a) *Persons acquiring noninspected peanuts.* A person who has not registered under the provisions of paragraph (b) of this section and who plans to buy or otherwise acquire peanuts for processing or resale prior to the peanuts being inspected by a duly authorized inspector of the Federal-State Inspection Service must register with the State ASCS office of the State in which the person will operate as a handler, or if operating in more than one State, the State of residence or principal business location. One may register by completing an MQ–96, Application for Peanut Handler Card, and submitting it to the State ASCS office serving the State in which the handler is registered.

(b) *Persons acquiring inspected peanuts.* A person who plans to acquire peanuts that have been inspected by a duly authorized inspector of the Federal-State Inspection Service must register as a handler by completing an MQ–96, Application for Peanut Handler Card and submitting it to the Virginia, Georgia or Texas State ASCS Office in the area in which the handler is located.

(c) *Peanut buyer card and buying point card.* The office through which a handler registers will obtain and issue an embossed peanut buyer card on which will be entered the handler's registration number, name and address. The buyer card will be used by the handler for identification when the handler buys or sells peanuts. A buying point card(s) will be obtained and issued to a handler who operates a buying point at which peanuts are inspected. The buying point card will be embossed with a number and used to identify the physical location of the buying point at which the peanuts are inspected.

§ 729.67 Records and reports required of handlers.

Each handler shall keep records and make reports as required by this section.

(a) *Marketing records.* The handler shall maintain the following records with respect to each lot of farmer's stock peanuts which the handler acquires for his own account.

(1) Farm number (including State and county code) of the farm on which peanuts were produced (obtained from producer's identification card or marketing card) or if purchased from a handler, the handler's number.

(2) Name of seller.

(3) Date of marketing.

(4) Pounds marketed as:

(i) Quota.

(ii) Additional loan.

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(iii) Contract additional.

(5) Type of peanuts.

(6) Amount of penalty due and amount collected from the producer.

(b) *Resales.* Each handler who resells farmer's stock peanuts shall keep records of:

(1) The name and address of the buyer.

(2) The handler number of the buyer, if the peanuts are sold to a handler.

(3) The date of the sale.

(4) The type of peanuts sold, and

(5) The pounds (net weight) of peanuts sold.

(c) *Inspected peanuts.* If a lot of peanuts was inspected by the Federal-State Inspection Service, the handler shall complete MQ–94, Inspection Certificate and Sales Memorandum to include the:

(1) Name and address of the farm operator and the State and county code and farm number of the farm on which the peanuts were produced if the peanuts are marketed by the producer, or the handler number if the peanuts are marketed by a handler.

(2) Buying point number assigned to identify the physical location of the buying point at which the peanuts were marketed.

(3) Name, address, and handler number of the handler, or the association number, name, and address if the peanuts are accepted for loan through the association.

(4) Net weight of the peanuts.

(5) Quantity of peanuts marketed as either loan quota, loan additional, commercial quota, or contract additional.

(6) Date of purchase.

(7) Amount of penalty collected.

(d) *Noninspected peanuts.* A handler who purchases farmer's stock peanuts which have not been inspected by the Federal-State Inspection Service shall complete MQ–95, Report of Purchase of Noninspected Peanuts, for each lot of farmer's stock peanuts purchased. The handler shall complete the MQ–95 to show:

(1) The name and address of the seller.

(2) The State and county code, and farm number if the peanuts are purchased from the producer of the peanuts or if the peanuts are purchased from a handler, the MQ–95 shall show the handler's name, address, and registration number,

(3) The type of peanuts purchased,

(4) The date of purchase,

(5) Quantity purchased, and

(6) Method of determining the weight.

After the required information has been recorded, the seller shall sign and date the MQ–95. The handler shall use MQ–95P, Handler's Report of Purchases of Noninspected Peanuts, to transmit the MQ–95's to the State ASC committee in the State in which the handler's business is located. The MQ–95's shall be transmitted weekly.

(e) *Marketing Card Entries.* Immediately after each lot of peanuts is marketed, the handler shall record from the MQ–94 or MQ–95 to the marketing card the following entries:

(1) The MQ–94 serial number which identifies the lot of peanuts or the date of marketing, if the peanuts were not inspected,

(2) The net pounds marketed,

(3) The unused poundage quota balance remaining after the marketing,

(4) The unused contract poundage balance remaining after the marketing,

(5) The handler's number or, for loan peanuts, the association number,

(6) For inspected peanuts, the buying point number,

(7) Type of peanuts marketed, and

(8) Any penalties or claims collected.

(f) *Transmittal of penalties.* Form MQ–80 Peanuts, "Buyer's Transmittal of Claims and/or Marketing Penalty", shall be used by a handler to transmit a collection of a penalty or a claim. Each collection shall be sent to the county ASCS office which issued the marketing card. The transmittal shall be made within two weeks after the end of the week in which the collection is made.

(g) *Peanuts shelled for a producer.* The handler shall maintain records of peanuts shelled for a producer as follows:

(1) Date of shelling.

(2) Name and address of the producer for whom the peanuts were shelled.

(3) State and county code and farm number of the farm on which the peanuts were produced.

(4) Quantity of peanuts (farmer's stock basis) shelled.

(5) Quantity of shelled peanuts retained by the sheller.

(6) Quantity returned to the producer.

(h) *Peanuts dried for a producer.* The handler shall maintain records of peanuts dried for a producer as follows:

(1) State and county code and farm number of the farm on which the peanuts were produced.

(2) Name and address of the producer for whom peanuts were dried.

(3) Quantity dried (weight after drying, farmer's stock basis) and date drying is completed.

§ 729.68 Persons engaged in more than one business.

Any person who is required under this subpart to keep any record or make any report as a buyer, processor, or other person engaged in the business of shelling or crushing peanuts, and who is engaged in more than one such business shall keep such records for each business.

§ 729.69 Penalty for failure to keep records and make reports.

Any person, who dries farmer's stock peanuts by artificial means for a producer, any buyer, warehouseman, processor, or common carrier of peanuts, any broker or dealer in peanuts, any agency marketing peanuts for a buyer or dealer, any peanut growers cooperative association, any person engaged in the business of cleaning, shelling, crushing, or salting peanuts, or manufacturing peanut products, or any person owning or operating a peanut picking or peanut threshing machine, any farmer engaged in the production of peanuts, who fails to make any report or keep any record as required under this subpart or who makes any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500 as provided by section 373(a) of the Act.

§ 729.70 Examination of records and reports.

The Deputy Administrator, the Director, Production Adjustment Division, the State Executive Director, or any person authorized by any one of such persons, and any auditor or agent of the Office of Investigation is authorized to examine any records pertinent to the peanut allotment and marketing quota program. Upon request from any such person any person who dries farmer's stock peanuts by artificial means for a producer, any buyer, warehouseman, processor, or common carrier of peanuts, any broker or dealer in peanuts, any agent marketing peanuts for a producer or acquiring peanuts for a buyer or association, any person engaged in the business of cleaning, shelling, crushing, or salting peanuts or manufacturing peanut products, or any person owning or operating a peanut-picking or peanut-threshing machine shall make available for examination such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as are under his control which any person hereby authorized to examine records has reason to believe are relevant to any matter under investigation in connection with enforcement of the Act and this subpart.

§ 729.71 Length of time records and reports are to be kept.

Records required to be kept and copies of the reports required to be made by any person under this subpart shall be on a marketing year basis and shall be retained for 3 years after the end of the marketing year. Records shall be kept for such longer periods of time as may be requested in writing by the State Executive Director, or the Director, Production Adjustment Division. The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance withe the Federal Reports Act of 1942.

§ 729.72 Information confidential.

All data reported to or acquired by the Secretary pursuant to the provisions of this subpart shall be kept confidential by all officers and employees of the U.S. Department of Agriculture, and by all members of county and community committees, and all county office employees and only such data so reported or acquired, as the Deputy Administrator deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under Title III of the Act.

(Secs. 301, 358, 358a, 359, 361–368, 372, 373, 375, 377, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 81 Stat. 658, 55 Stat. 90, as amended, 52 Stat. 62, as amended, 63, as amended, 64, 65, as amended, 66, as amended, 70 Stat. 206, as amended (7 U.S.C. 1301, 1358, 1358a, 1359, 1361–1368, 1372, 1373, 1375, 1377) and secs. 801, 802, 803, 804, 805, 806, 91 Stat. 944 (7 U.S.C. 1358, 1358a, 1359, 1373, 1377).

Note.—This regulation has been determined not significant under the USDA criteria implementing Executive Order 12044. The final Impact Analysis is available from Thomas VonGarlem (ASCS) 202–447–7954.

Signed at Washington, D.C. on April 24, 1979.

Ray Fitzgerald,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-13393 Filed 4-30-79; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 913

Grapefruit Grown in the Interior District in Florida

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This action provides a uniform rule governing the conduct of nomination meetings for committee members and alternates, as mandated by this marketing order.

EFFECTIVE DATE: May 10, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This final rule is issued under the marketing agreement, as amended, and Order No. 913, as amended (7 CFR Part 913; 44 FR 5663), regulating the handling of grapefruit grown in the Interior District in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Interior Grapefruit Marketing Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act. A recent amendment of this marketing order provides for the selection of a separate committee for this order, and it mandates the issuance of a uniform rule governing the conduct of nomination meetings held to elect committee members and alternates, as provided in § 913.17 *Nominations.* This final rule has not been determined significant under the USDA criteria for implementing Executive Order 12044.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this final rule is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given the opportunity to submit information and views on the provisions in this rule at an open meeting. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified, as the committee plans to conduct a nomination meeting on May 10, 1979, and these provisions need be in effect by that date.

Accordingly, Subpart—Rules and Regulations (§§ 913.100–199) of 7 CFR Part 913; 44 FR 5663, is amended by adding a new § 913.120, reading as follows:

§ 913.120 Nomination procedure.

Meetings shall be called by the committee in accordance with the provisions of § 913.17, for the purpose of making nominations for members and alternate members of the Interior Grapefruit Marketing Committee. The manner of nominating members and alternate members of said committee shall be as follows:

(a) At each such meeting the committee's representative shall announce the requirements as to eligibility for voting for nominees and the procedure for voting, and shall explain the duties of the committee.

(b) A Chairman and a Secretary of each meeting shall be selected.

(c) At each meeting there shall be presented for nomination and there shall be nominated not less than the number of nominees required under the provisions of § 913.15, all of whom shall have the qualifications as specified in § 913.17.

(d) At the meetings of handlers, any person authorized to represent a handler may cast a ballot for such handler.

(e) At each meeting each eligible person may cast one vote for each of the persons to be nominated to represent the district or group, as the case may be.

(f) Voting may be by written ballot. If written ballots are used all ballots shall be delivered by the Chairman or the Secretary of the meeting to the agent of the Secretary. If ballots are not used, the committee's representative shall deliver to the Secretary's agent a listing of each person nominated and a count of the number of votes cast for each nominee for grower member and alternate. Said representative shall also provide the agent the register of eligible voters present at each meeting, a listing of each person nominated, the number of votes cast, and the weight by volume of shipments voted for each nominee for shipper member and alternate.

(Secs. 1–18, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated, April 26, 1979, to become effective May 10, 1979.

D. S. Kuryloski,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-13389 Filed 4-30-79; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR PART 1701

REA Bulletins; Telephone Cables

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Rural Electrification Administration hereby amends

Appendix A—REA Bulletins to provide for the issuance of addenda to REA Bulletins 345–13, REA Specification for Aerial and Underground Telephone Cable (PE–22), REA Bulletin 345–14, REA Specification for Direct Burial Telephone Cable—Air Core (PE–23) and REA Bulletin 345–67, REA Sepcification for Filled Telephone Cables (PE–39). The crosstalk requirement in paragraphs 18.4 in PE–22 and PE–23, and paragraph 19.4 in PE–39 has been changed to cover only cable sizes 12–pair or greater.

REA does not recommend the installation of Pulse Code Modulated (PCM) carrier on unit sizes less than 12-pair. To eliminate any misunderstanding on this point, the crosstalk requirement in the three specifications has been changed to cover only sizes 12-pair or greater. Since this revision was only a clarification of an existing rule to insure accurate interpretation of the requirement, notice and public procedure thereon was determined to be impracticable and unnecessary.

EFFECTIVE DATE: April 25, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Harry M. Hutson, chief, Outside Plant branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1340, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–3827.

SUPPLEMENTARY INFORMATION: In accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments, suggestions, data, or arguments to the Administrator, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, Attention: Telephone Operations and Standards Division. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Until such time as further changes are made, the addenda to REA Bulletins 345–13, 345–14 and 345–67 shall remain in effect, thus permitting the public business to proceed more expeditiously.

An impact analysis for this revision has been prepared and is available for public inspection.

Dated: April 25, 1979.

John H. Arnesen,
Acting Assistant Administrator—Telephone
[FR Doc.79-13466 Filed 4-30-79; 8:45 am]
BILLING CODE 3410-15-M

Animal and Plant Health Inspection Service

9 CFR Part 73

Scabies in Cattle; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule

SUMMARY: The purpose of this amendment is to release a portion of Custer County in Idaho from the areas quarantined because of cattle scabies. Surveillance activity indicates that cattle scabies no longer exists in the area quarantined. No areas remain under quarantine in the State of Idaho.

EFFECTIVE DATE: April 24, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 302–436–8322.

SUPPLEMENTARY INFORMATION: This amendment releases a portion of Custer County in Idaho from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the released area, but the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 will apply to the released area.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended in the following respect:

§ 73.1 [Amended]

In § 73.1a, paragraph (e) relating to the State of Idaho is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies from certain areas which have been determined to be free of cattle scabies. This amendment should be made effective immediately in order to permit affected persons to move cattle interstate from such area without unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 73. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 24th day of April 1979.

Norvan L. Moyer,
Acting Deputy Administrator, Veterinary Services.
[FR Doc. 79-13389 Filed 4-30-79; 8:45 am]
BILLING CODE 3410-34-M

9 CFR Part 82

Exotic Newcastle Disease and Psittacosis or Ornithosis in Poultry; Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of San Bernardino County in California, and a portion of Harrison County in Texas, because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in San Bernardino County on April 16, 1979, and in Harrison County on April 13, 1979. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine a portion of San Bernardino County in California, and a portion of Harrison County in Texas.

EFFECTIVE DATE: April 24, 1979

FOR FURTHER INFORMATION CONTACT: Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, Maryland 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This amendment quarantines a portion of San Bernardino County in California, and a portion of Harrison County in Texas, because of the existence of exotic Newcastle disease in such areas. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 82.3 [Amended].

1. In § 82.3(a)(1), relating to the State of California, a new paragraph (iii) relating to San Bernardino County is added to read:

1. *California.*

* * * * *

(iii) The premises of Robert W. Peterson, 9063 Elm Street, Fontana, San Bernardino County.

* * * * *

2. In § 82.3, the introductory portion of paragraph (a) is amended by adding thereto the name of the State of Texas and a new paragraph (a)(8) relating to the State of Texas is added to read:

(a)* * *

(8) *Texas.* The premises of T. O. Bullock Aviary, consisting of a twenty-acre tract near Longview, Texas, in Harrison County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–112, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, and, therefore, must be made effective immediately to accomplish its purpose in the public interest.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 24th day of April 1979.

Norvan L. Moyer,
Acting Deputy Administrator, Veterinary Services.
[FR Doc.79-13388 Filed 4-30-79; 8:45 am]
BILLING CODE 3410-34-M

9 CFR Part 113

Viruses, Serums, Toxins, and Analogous Products; Organisms and Vectors; Standard Requirements; Revision of Viricidal Activity Test

AGENCY: Animal and Plant Health Inspection Service (USDA).

ACTION: Final rule.

SUMMARY: This amendment revises the standard test procedure that is used to assure that certain liquid biological products that are used as diluents for dessicated live virus vaccines are free of viricidal activity. It also simplifies that test procedure by reducing the number of virus titrations required and allows for greater flexibility by providing for the general use of single-fraction vaccines and for alternate methods of titration in the test without affecting the validity of the results.

EFFECTIVE DATE: This amendment becomes effective May 31, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, Biologics Licensing and Standards Staff, USDA, APHIS, VS, Room 827, Federal Building, Hyattsville, MD 20782, 301–436–8245.

SUPPLEMENTARY INFORMATION: The present standard test procedure for the detection of viricidal activity found in § 113.35 of the standards requires that titration of vaccine rehydrated with the liquid product being tested and vaccine rehydrated with sterile purified water (which is used for comparison purposes as a control) be conducted at 0 hour and 2 hours after rehydration. Experience with this test since it became effective (5 years) indicates that titrations conducted at 0 hour are not necessary for interpretation of results. This amendment simplifies the test by deleting these titrations, thus reducing the total number by 30 percent.

Presently § 113.35 provides that in testing vaccines containing more than one desiccated fraction, each such fraction must be tested (the other fraction or fractions being neutralized or diluted).

However, licensees are presently permitted to use representative single-fraction vaccines in this test provided they are licensed to produce such vaccines. This amendment provides greater flexibility in this regard by also permitting the preparation of unlicensed single-fraction vaccines for use in the test if authorized by the Deputy Administrator.

The present test procedure specifies that titrations shall be conducted using 1.0 $\log_{10}$ dilutions and a minimum of 10 substrate units per dilution. This amendment deletes that requirement and permits the use of titration methods described in a filed Outline of Production or in an applicable standard requirement. This adds flexibility to the testing procedures by permitting the use of other satisfactory methods of titration.

On October 24, 1978, a notice of the proposed amendment to Part 113 was published in the Federal Register at 43 FR 49542.

Comments on this proposal were solicited and nine responses were received. One response was favorable to the proposal as written. One response objected to the proposal and requested that the present test procedure be retained.

This response objected to the deletion of the 0-hour titrations in the test on the premise that they provide the controls necessary to determine if the differences in titers that are seen are due to viricidal activity or to other factors. Although supported in theory, this suggestion was rejected, since experience with the present test over a 5-year period has shown that factors other than viricidal activity have not had an effect upon test results and that such controls are, therefore, not necessary or justified.

Seven responses supported the proposal but included a suggestion for change that was considered appropriate and constructive. This suggestion has been incorporated in this final rule and is explained in the discussion of changes below.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 [21 U.S.C. 151–158], the amendment of Part 113, Subchapter E, Chapter 1, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice, is

hereby adopted with the following exceptions:

The criteria used to judge the results of the test have been modified in § 113.35(d) by changing "0.7 $\log_{10}$ or more" to "more than 0.7 $\log_{10}$." This change will permit the results of the test to be judged "satisfactory" rather than "unsatisfactory" if the difference in the titer of the vaccine rehydrated with product and the vaccine rehydrated with sterile purified water is 0.7 $\log_{10}$. This change makes the results easier to interpret and provides a slight increase in the difference in titer that is permitted for a satisfactory test result. This increase is justified to provide some additional compensation for the vial-to-vial variation in titer that can exist in a serial of vaccine.

Section 113.35 is revised to read as follows:

§ 113.35 Detection of viricidal activity.

The test for detection of viricidal activity provided in this section shall be conducted when such a test is prescribed in an applicable standard requirement or in the filed Outline of Production for each inactivated liquid biological product used as diluent for a dessicated live virus vaccine in a combination package.

(a) Bulk or final container samples of completed product from each serial shall be tested.

(b) The product shall be tested with each virus fraction for which it is to be used as a diluent. If the vaccine to be rehydrated contains more than one virus fraction, the test shall be conducted with each fraction after neutralization of the other fraction(s), and/or dilution of the vaccine beyond the titer range of the other fraction(s), or the test shall be conducted using representative single-fraction dessicated vaccines which are prepared by the licensee and which are licensed.

Provided, that the Deputy Administrator may authorize licensees to prepare and use unlicensed single-fraction vaccines for this purpose.

(c) Test procedure: (1) Rehydrate at least two vials of the vaccine with the liquid product under test according to label recommendations and pool the contents.

(2) Rehydrate at least two vials of the vaccine with the same volume of sterile purified water and pool the contents.

(3) Neutralize to remove other fractions, if necessary.

(4) Hold the two pools of vaccine at room temperature (20° to 25° C) for 2 hours. The holding period shall begin when rehydration is completed.

(5) Titrate the virus(es) in each pool of vaccine as provided in the filed Outline of Production or an applicable standard requirement.

(6) Compare respective titers.

(d) If the titer of the vaccine virus(es) rehydrated with the product under test is more than 0.7 $\log_{10}$ below the titer of the vaccine virus(es) rehydrated with sterile purified water, the product is unsatisfactory for use as diluent.

(e) If the product is unsatisfactory in the first test, one retest to rule out faulty techniques may be conducted using four vials of the vaccine for each pool and the acceptability of the product judged by the results of the second test.

(f) Liquid products found to be unsatisfactory for use as diluent by this test are not prohibited from release as separate licensed products if labeled as prescribed in § 112.7(h).

(21 U.S.C. 151 and 154; 37 FR 28477, 28646; 38 FR 19141.)

Done at Washington, D.C., this 23rd day of April 1979.

This rule has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." Under those criteria, this action has been designated for Agency oversight. A Final Impact Analysis Statement has been prepared and is available from USDA, APHIS, VS, Room 827, Federal Building, Hyattsville, MD 20782.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-13216 Filed 4-30-79; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 205 and 210

Administrative Procedures and Sanctions, Subpoenas, Special Report Orders and Investigations

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Corrections to Notice of Final Rule.

SUMMARY: The Economic Regulatory Administration hereby makes technical corrections in the Notice of Final Rule concerning subpoenas, special report orders and investigations issued on April 13, 1979 (FR Doc. 79-12238, 44 FR 23199, April 19, 1979).

DATES: Effective Date, April 19, 1979.

FOR FURTHER INFORMATION CONTACT: Alan Hechtkopf, Attorney Advisor, Special Investigations Division, Office of General Counsel, 2000 M Street, N.W., Washington, D.C. 20461, Telephone (202) 632-5072.

CORRECTIONS: On page 23201, in column 1, the last paragraph, containing the words of issuance, is corrected to read as follows:

In consideration of the foregoing, Part 205 and Part 210 of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below, effective April 19, 1979.

Issued in Washington, D.C., April 25, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

[Docket No. ERA-R-79-2]

[FR Doc. 79-13528 Filed 4-30-79; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 308

Rules of Practice and Procedures

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The new rule revises the Federal Deposit Insurance Corporation's regulations governing procedures used by the FDIC in proceedings brought under section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818, and under certain other statutes. The FDIC has had to revise 12 CFR Part 308 because recent congressional enactments (the Financial Institutions Regulatory and Interest Rate Control Act of 1978, the International Banking Act of 1978, and the Securities Acts Amendments of 1975) changed the FDIC's enforcement powers. The new rule enables the FDIC to enforce the provisions of new and preexisting law against those persons and companies whom Congress recently brought within the FDIC's enforcement authority. The new rule also implements the FDIC's new power to collect fines for some violations of law, to disapprove changes in control of banks under the supervisory authority of the FDIC, and to impose sanctions upon municipal securities dealers and transfer agents under its authority. In addition, the new rule reorganizes Part 308 in certain respects and corrects minor and technical errors.

EFFECTIVE DATE: May 31, 1979.

FOR FURTHER INFORMATION CONTACT: Werner Goldman, Acting Assistant General Counsel, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429. (202) 389-4616.

SUPPLEMENTARY INFORMATION: On February 27, 1979, the FDIC published in the **Federal Register** (44 FR 11073) a notice of proposed rulemaking which would revise the FDIC's rules of practice and procedures in order to adjust them to changes made by recent Acts of Congress to the FDIC's enforcement powers. Interested persons were given the opportunity to submit, not later than March 29, 1979, data, views, or arguments regarding the proposed revision. The FDIC received one set of comments on the proposed revision.

The commentator suggested three changes to Subpart G, which deals with the procedures and standards to be followed in connection with suspension, prohibition, and removal of directors and officers who are charged with or convicted of certain types of criminal violations. The chief suggestions of the commentator were: (1) That the contents of a notice of suspension, prohibition, or removal issued under proposed § 308.57 be required to include a statement of reasons why the Board of Directors has determined that continued service to or participation in the conduct of the affairs of the bank by the official may pose a threat to the interest of the bank's depositors or threaten to impair public confidence in the bank; (2) that the burden of proof be placed on the FDIC staff in hearings held after suspensions, prohibitions, and removal orders; and (3) that a suspended or removed official be permitted periodically to demand a hearing for a fresh determination by the Board of Directors as to whether grounds for the suspension or removal still exist.

1. The commentator's first recommendation suggests that unfairness to the suspended or removed official may result, if the notice of his suspension or removal does not contain a list of reasons why the Board of Directors has determined that a threat exists from the fact of his having been accused of a crime. This view misconceives the rationale behind section 8(g). Congress has authorized suspension and removal pursuant to its realization that the pendency of criminal proceedings against a bank officer or director, let alone the criminal conviction of such an official, may lead by itself to a loss of public confidence in the bank and resulting harm to the depositors and the community the bank serves. The reasons why accusation of a bank official may lead to a loss of community confidence in the bank are self-evident. No useful purpose would be served by requiring every notice of suspension, prohibition, or removal to expound upon what Congress had in mind when it enacted section 8(g). The Board of Directors has determined that a suspended or prohibited person will not be left uninformed of the reason for the suspension, prohibition, or removal if the connection between the accusation and the threat to the bank is not explained in the notice.

2. The commentator has recommended that proposed Subpart G be changed to place the burden of proof upon the FDIC staff in a hearing pursuant to section 8(g) of the Federal Deposit Insurance Act. The commentator also suggests that the burden be to establish a threat to the bank's depositors or to public confidence in the bank by clear and convincing evidence. The Board of Directors, however, believes that Congress has set the burden of proof differently. Section 8(g)(3) grants the suspended or removed official an opportunity to appear and show that his continued service or participation in bank affairs does not and is not likely to pose a threat to the depositors or to public confidence in the bank. The showing that his service to the bank will not jeopardize the bank or its depositors must thus be made by the official. Proper effectuation of the purposes of Congress in enacting section 8(g) requires that the burden of proof in a section 8(g) hearing be on the official.

3. Section 308.64 as proposed allows the Board of Directors the discretion to deny an official's application for a hearing to reconsider a suspension or removal order. The commentator recommends that proposed § 308.64 be revised so as to afford an official a mandatory hearing, upon request, after twelve months have passed since the last Board of Directors' determination on the suspension or removal. The Board has decided to adopt § 308.64 as proposed. The official is not entitled to reconsideration as a matter of right, and the Board believes that the reconsideration provisions of § 308.64 are both adequate and reasonable. The suggested change would permit unmerited and even frivolous petitions for reconsideration to be filed on a regular basis, resulting in the need for regular hearings and unnecessary administrative burdens. In adopting § 308.64 as proposed, however, the Board of Directors in no way implies that its policy is to deny petitions for reconsideration in those instances where it believes reconsideration may be merited.

After careful review of the comments offered, the Board of Directors has decided to adopt Subpart G as originally proposed, with certain minor changes for purposes of clarity.

Since publishing its notice of proposed rulemaking, the FDIC has modified some of the sections of proposed Part 308 Subpart F, which deals with procedures to be followed in connection with examinations and investigations.

Section 308.47 has been reorganized to include a definitional subsection as well as a scope subsection. The definitional subsection defines the term "bank" for purposes of Subpart F to mean those institutions that are subject to FDIC examination or investigative authority: insured banks, their affiliates, institutions applying to become insured banks, and branches of foreign banks. The definitional subsection also defines the term "proceedings pursuant to section 10(c)." The new definition is similar to the definition in the scope section of proposed Subpart F. The new definition also clarifies the point that the exercise of the powers specified in section 8(n) of the Federal Deposit Insurance Act constitutes "proceedings pursuant to section 10(c)" and is within the scope of Subpart F. The Scope subsection of § 308.47 in its final form, by using the terms defined in the definitional subsection, is more readable and easier to understand than before.

Sections 308.49, 308.50, 308.52, and 308.53 have been simplified through the use of previously defined terms ("bank" and "Corporation").

Another change has moved the subsection defining "Corporation" from § 308.2 ("Rule of construction") to § 308.1 ("Definitions"). This has been done because the subsection is technically a definition.

Accordingly, 12 CFR Part 308 is amended as set forth below.

By order of the Board of Directors April 23, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Acting Executive Secretary.

PART 308—RULES OF PRACTICE AND PROCEDURES

Subpart A—Definitions and Rule of Construction

Sec.
308.1 Definitions.
308.2 Rule of construction.

Subpart B—Rules of Practice Applicable to All Hearings

308.3 Scope.
308.4 Appearance and practice before the Corporation.
308.5 Notice of hearing.
308.6 Answer or exceptions.
308.7 Conduct of hearings.
308.8 Subpenas.

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308.9 Rules of evidence.
308.10 Motions.
308.11 Proposed findings and conclusions and recommended decision.
308.12 Exceptions.
308.13 Briefs.
308.14 Oral argument before the Board of Directors.
308.15 Notice of submission to the Board of Directors.
308.16 Decision of Board of Directors.
308.17 Filing papers.
308.18 Service.
308.19 Copies.
308.20 Computing time.
308.21 Documents in proceedings confidential.
308.22 Formal requirements as to papers filed.

Subpart C—Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

308.23 Scope.
308.24 Grounds for termination of insurance.
308.25 Extraterritorial acts of foreign banks or their directors or trustees.
308.26 Failure of a foreign bank to secure removal of personnel.
308.27 Notice of intention to terminate insured status.
308.28 Order terminating insured status.
308.29 Consent to termination of insured status.
308.30 Notice of termination of insured status.
308.31 Termination of insured status of banking institution not engaged in the business of receiving deposits other than trust funds.

Subpart D—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Orders

308.32 Scope.
308.33 Grounds for cease-and-desist orders.
308.34 Extraterritorial acts of foreign banks or their officials.
308.35 Notice of charges and hearing.
308.36 Issuance of order.
308.37 Effective date.
308.38 Temporary cease-and-desist orders.
308.39 Effective date of temporary order.

Subpart E—Rules and Procedures Applicable to Proceedings Relating to Removal and Suspension Orders

Sec.
308.40 Scope.
308.41 Grounds for removal order.
308.42 Grounds for suspension order.
308.43 Effective date of suspension order.
308.44 Extraterritorial acts of officials of foreign banks.
308.45 Notice of intention to remove and hearing.
308.46 Issuance of removal order and effective date.

Subpart F—Procedures Applicable to Proceedings Pursuant to Section 10(c) of the Federal Deposit Insurance Act

308.47 Scope.
308.48 Confidential proceedings.
308.49 Orders to conduct proceedings.
308.50 Rights of witnesses.
308.51 Transcripts.
308.52 Service of subpena.
308.53 Witness fees and mileage.
308.54 Special examinations and examinations of closed banks.

Subpart G—Procedures and Standards Applicable to Suspensions and Prohibitions Where Felony Charged

308.55 Scope.
308.56 Rules of practice.
308.57 Notice of suspension or prohibition.
308.58 Removal or permanent prohibition.
308.59 Effectiveness of suspension or removal until completion of hearing.
308.60 Notice of opportunity for hearing.
308.61 Hearing.
308.62 Waiver of hearing.
308.63 Decision of Board of Directors.
308.64 Reconsideration by the Board of Directors.
308.65 Relevant considerations.

Subpart H—Rules and Procedures Applicable to Proceedings Relating to Assessment and Collection of Civil Penalties for the Violation of Cease-and-Desist Orders or Certain Federal Statutes

308.66 Scope.
308.67 Violation of order as ground for assessment.
308.68 Violation of laws limiting insider and affiliate dealings as ground for assessment.
308.69 Violation of laws governing correspondent accounts as ground for assessment.
308.70 Rule of construction.
308.71 Relevant considerations.
308.72 Notice of assessment of civil penalty.
308.73 Period within which civil penalty is payable.
308.74 Notice of opportunity for hearing.
308.75 Request for hearing.
308.76 Hearing and order.

Subpart I—Rules and Procedures Applicable to Proceedings Relating to Disapproval of Acquisition of Control

308.77 Scope.
308.78 Notice of disapproval.
308.79 Notice of opportunity for hearing.
308.80 Request for hearing.
308.81 Hearing and order.
308.82 Grounds for disapproval.

Subpart J—Rules and Procedures Applicable to Proceedings Relating to Assessment of Civil Penalties for Willful Violation of the Change in Bank Control Act

Sec.
308.83 Scope.
308.84 Rules of practice.
308.85 Notice of intention to assess civil penalty.
308.86 Notice of opportunity for hearing.
308.87 Request for hearing.
308.88 Hearing.
308.89 Waiver of hearing.
308.90 Assessment.
308.91 Collection.

Subpart K—Rules and Procedures Applicable to Sanctions Imposed Upon Municipal Securities Dealers or Persons Associated With Them, and Upon Transfer Agents

308.92 Scope.
308.93 Notice of intention to impose sanctions.
308.94 Contents of notice.
308.95 Hearing.
308.96 Issuance of order and effective date.
308.97 Notice and consultation with the Securities and Exchange Commission.

Subpart L—Rules and Procedures Relating to Exemption Proceedings Under Sections 12 (h) and (i) of the Securities Exchange Act of 1934

308.98 Scope.
308.99 Application for exemption.
308.100 Newspaper notice.
308.101 Notice of hearing.
308.102 Hearing.
308.103 Decision.

Authority: Sec. 2(9), Pub. L. No. 797, 64 Stat. 881 (12 U.S.C. 1819); sec. 18, Pub. L. No. 94-29, 89 Stat. 155 (15 U.S.C. 78w); sec. 801, Pub. L. No. 95-630, 92 Stat. 3641 (12 U.S.C. 1972).

Subpart A—Definitions and Rule of Construction

§ 308.1 Definitions.

(a) For purposes of this part, except where explicitly stated to the contrary,

(1) The term "insured nonmember bank" means any bank, whose deposits are insured by the Federal Deposit Insurance Corporation, and which is neither a national bank, a District bank, nor a member of the Federal Reserve System. The term "insured nonmember bank" includes a foreign bank having an insured branch;

(2) The term "offical" means any director, officer, employee or agent of a bank to which reference is being made, or any other person participating in the conduct of the affairs of such a bank;

(3) The term "foreign bank" means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, engaging in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company. "Foreign bank" includes, without limitations, foreign commercial banks, foreign merchant banks and other institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating;

(4) The term "insured branch" means a branch of a foreign bank any deposits in which are insured by the Corporation; and

(5) The term "Corporation" means the Federal Deposit Insurance Corporation.

(b) For the purposes of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term "officer" as used in Subpart E means an employee or officer with management functions, and the term "director" includes an advisory or honorary director, a trustee of a bank under the control of trustees, or any person who has a representative or nominee serving in any such capacity. For other purposes, the terms "officer" and "director" as used in this part are defined according to common usage in the banking industry.

(c) For purposes of Subpart J (except § 308.88 thereof), the term "person" means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, or any other form of entity.

§ 308.2 Rule of construction.

As used in this part, and unless the context otherwise requires, words in the singular number include the plural, and in the plural include the singular.

Subpart B—Rules of Practice Applicable to All Hearings

§ 308.3 Scope.

(a) This subpart prescribes rules of practice and procedure followed by the Federal Deposit Insurance Corporation in hearings held pursuant to the provisions of the Federal Deposit Insurance Act pertaining to:

(1) Involuntary termination of the insured status of any bank or any insured branch of a foreign bank;

(2) The issuance of cease-and-desist orders against any insured nonmember bank or any official of such a bank;

(3) The assessment of civil penalties against (a) an insured nonmember bank or an official of such a bank, for the violation of a cease-and-desist order which has become final, or (b) an insured State nonmember bank (other than a District bank) or an official of such a bank, for the violation of (i) the provisions of section 22(h) or 23A of the Federal Reserve Act, as made applicable by section 18(j) of the Federal Deposit Insurance Act, or (ii) the provisions of section 106(b)(2) of the Bank Holding Company Act Amendments of 1970, as amended;

(4) The issuance of orders removing or suspending from office or prohibiting from further participation in the conduct of the affairs of the bank, any director or officer of an insured non-member bank or any other person participating in the conduct of the affairs of such a bank, except where the removal suspension, or prohibition of such person is within the scope of Subpart G as set forth in § 308.55;

(5) The disapproval of a proposed acquisition of control of an insured State nonmember bank; and

(6) The imposition of sanctions upon any municipal securities dealer for which the Corporation is the appropriate regulatory agency, or upon any person associated or seeking to become associated with such a municipal securities dealer, or upon any transfer agent for which the Corporation is the appropriate regulatory agency (except for hearings on postponement of registration by such transfer agents, pending registration denial proceedings, and for hearings on suspension of registration by such transfer agents, pending registration revocation proceedings).

(b) In connection with any proceeding under Subpart D or E of this part, the Corporation will provide the appropriate State supervisory authority with timely notice of its intent to institute such a proceeding and the grounds therefor. Unless within such time as the Corporation deems appropriate in the light of the circumstances of the case (which time will be specified in the notice) satisfactory corrective action is effectuated by action of the State supervisory authority, the Corporation will proceed as provided in Subparts D and E of this part.

§ 308.4 Appearance and practice before the Corporation.

(a) *Power of attorney and notice of appearance.* Any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia, may represent others before the Corporation upon filing with the Executive Secretary a written declaration of current qualification to practice as provided by this paragraph, and is authorized to represent the particular party on whose behalf such person acts. Any other person desiring to appear before, or transact business with, the Corporation in a representative capacity may be required to file with the Executive Secretary of the Corporation a power of attorney showing authority to act in such capacity, and may be required to demonstrate to the satisfaction of the Board of Directors possession of the requisite qualifications. Attorneys and representatives of parties to proceedings shall file a written notice of appearance with the Executive Secretary or with the administrative law judge.

(b) *Summary suspension.* Contemptuous conduct at an argument before the Board of Directors or at a hearing before an administrative law judge shall be ground for exclusion therefrom and suspension for the duration of the argument or hearing.

§ 308.5 Notice of hearing.

(a) Whenever a hearing within the scope of this subpart is ordered by the Board of Directors, a notice of hearing shall be given by the Executive Secretary of the Corporation or other designated officer acting for the Board of Directors to the party afforded the hearing and to any appropriate supervisory authority. Such notice shall state the time, place, and nature of the hearing, the administrative law judge, and the legal authority and jurisdiction under which the hearing is to be held, and shall contain a statement of the matters of fact or law constituting the grounds for the hearing, and shall be delivered by personal service, by registered or certified mail to the last known address, or by other appropriate means, sufficiently in advance of the date set for hearing to comply with the provisions of the Federal Deposit Insurance Act.

(b) For purposes of this and succeeding sections of this subpart, and unless the context otherwise suggests, the term "party" means a person or agency named or admitted as a party, or any person or agency who has filed a written request and is entitled as of right to be admitted as a party; but a person or agency may be admitted for a limited purpose.

§ 308.6 Answer or exceptions.

(a) *When required.* In any notice of hearing issued by the Board of Directors under this part, the Board of Directors may direct the party afforded the hearing to file an answer to such allegations as are contained in the notice, or, if the Board has issued a notice of hearing pertaining to the disapproval of a proposed acquisition of control of an insured bank, the Board may direct the party who had requested the hearing to file exceptions to the statement of the basis for disapproval; and any party to any proceeding may file an answer or exceptions or a party who elects to file an answer or exceptions, as the case may be. Except where a different period of not less than 10 days after service of a notice of hearing is specified by the Board of Directors, a party directed to file an answer or exceptions, shall file the same with the Executive Secretary of the Corporation within 20 days after service upon the party of the notice of hearing.

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(b) *Requirements of answer; effect of failure to deny.* An answer filed under this section shall specifically admit, deny, or state that the party does not have sufficient information to admit or deny each allegation in the notice of hearing. A statement of lack of information shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a party intends to deny only a part or a qualification of an allegation, so much of it as is true shall be specified and the remainder only shall be denied.

(c) *Admitted allegations.* If a party filing an answer under this section elects not to contest any of the allegations of fact set forth in the notice of hearing, such answer shall consist of a statement that all of the allegations are admitted to be true. Such an answer shall constitute a waiver of hearing as to the facts alleged in the notice, and together with the notice will provide a record basis on which the administrative law judge shall file with the Executive Secretary of the Corporation a recommended decision containing findings of fact, conclusions of law and proposed order. Any such party may, however, upon service of the recommended decision, findings, conclusions and proposed order of the administrative law judge, file exceptions thereto within the time provided in § 308.12(a).

(d) *Effect of failure to answer.* Failure of a party to file an answer required by this section within the time provided shall be deemed to constitute a waiver of the right to appear and contest the allegations of the notice of hearing and to authorize the administrative law judge, without further notice to the party, to find the facts to be as alleged in the notice and to file with the Executive Secretary of the Corporation a recommended decision containing such findings and appropriate conclusions. The Board of Directors or the administrative law judge may, for cause shown, permit the filing of a delayed answer after the time for filing the answer has expired.

(e) *Requirements of exceptions.* Exceptions to a statement of the basis for disapproval, filed under this section, shall specifically designate which portions of the statement the party intends to challenge. Portions not so designated will not be challengeable by that party at the hearing.

(f) *Effect of failure to except.* Failure of a party to file exceptions required under this section within the time provided shall be deemed to constitute a waiver of the party's right to appear and contest the disapproval of the proposed acquisition of control, and to authorize the administrative law judge to proceed with the hearing without further notice to that party. If every party has waived its right of appearance, the administrative law judge is authorized to recommend to the Board that it dispense with further proceedings. The Board of Directors or the administrative law judge may, for cause shown, permit the filing of delayed exceptions after the time for the filing of exceptions has expired.

(g) *Opportunity for informal settlement.* Any interested party may at any time submit to the Executive Secretary of the Corporation, for consideration by the Board of Directors, written offers or proposals for settlement of a proceeding, without prejudice to the rights of the parties. No such offer or proposal, or counter-offer or proposal, shall be admissible in evidence over the objection of any party in any hearing in connection with such proceeding. The foregoing provisions of this section shall not preclude settlement of any proceeding through the regular adjudicatory process by the filing of an answer or exceptions as provided in this section, or by submission of the case to the administrative law judge on a stipulation of facts and an agreed order.

§ 308.7 Conduct of hearings.

(a) *Selection of administrative law judge.* Any hearing within the scope of this subpart shall be held before an administrative law judge selected by the Office of Personnel Management and, unless otherwise provided in the notice of hearing, shall be conducted as hereinafter provided.

(b) *Authority of administrative law judge.* All hearings governed by this subpart shall be conducted in accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 554–557). The administrative law judge selected by the Office of Personnel Management to preside at any such hearing shall have complete charge of the hearing, and shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings. The administrative law judge shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations;

(2) To issue subpenas ad subpenas duces tecum, as authorized by law, and to revoke, quash, or modify any such subpena;

(3) To receive relevant evidence and to rule upon the admission of evidence and offers of proof;

(4) To take depositions or cause depositions to be taken;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel;

(6) To hold conferences for the settlement or simplification of issues or for any other proper purpose; and

(7) To consider and, as justice may require, rule upon all procedural and other motions appropriate in an adversary proceeding, except that an administrative law judge shall not have power to decide any motion to dismiss the proceedings or other motion which results in final determination of the merits of the proceedings.

Without limitation on the foregoing provisions of this paragraph, the administrative law judge shall, subject to the provisions of this part, have all the authority provided in section 556(c) of title 5 of the United States Code.

(c) *Ex parte communications prohibited.* (1) For purposes of this subsection, "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but does not include requests for status reports. The following prohibitions against ex parte communications apply from the time a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions apply from the time of acquisition of such knowledge.

(2) No interested person outside the Corporation shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to anyone who is or may reasonably be expected to be involved in the decisional process.

(3) No person who is or may reasonably be expected to be involved in the decisional process shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to any interested person outside the Corporation.

(4) If an ex parte communication is made, or is knowingly caused to be made, the following will be placed on the public record—

(i) All such written communications;

(ii) Memoranda stating the substance of all such oral communications; and

(iii) All written responses and memoranda stating the substance of all oral responses to the materials

described in paragraphs (c)(4) (i) and (ii) of this section.

(5) Upon receipt of a communication knowingly made or caused to be made in violation of paragraph (c)(2) of this section the responsible party may be required to show cause why such party's claim or interest should not be dismissed, denied, or otherwise adversely affected. To the extent consistent with the interests of justice and the policy of the Federal Deposit Insurance Act, a knowing violation of paragraph (c)(2) of this section may be grounds for a decision adverse to the responsible party.

(6) Except as authorized by law, the administrative law judge shall not consult any person or party within the Corporation on any fact in issue unless upon notice and opportunity for all parties to participate, and the administrative law judge shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions. Except as authorized by law, no officer, employee or agent engaged in the performance of investigative or prosecuting functions in any case shall, in that case or a factually related case, participate or advise in the decision of the administrative law judge except as a witness or counsel in the proceedings.

(d) *Prehearing conference.* (1) Upon the inititative of the administrative law judge, or at the request of any party, counsel for all parties may be directed to meet at a specified time and place prior to the hearing, or to submit suggestions in writing, for the purpose of considering any or all of the following:

(i) Simplification and clarification of the issues;

(ii) Stipulations, admissions of fact and of contents and authenticity of documents;

(iii) Matters of which official notice will be taken; and

(iv) Other matters which may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

(2) The conference shall, at the request of any party, be recorded and, at its conclusion, the administrative law judge shall enter in the record an order which recites the results of the conference. This order shall include the administrative law judge's rulings upon matters considered at the conference, together with appropriate directions to the parties, if any. The order shall control the subsequent course of the proceedings, unless modified to prevent manifest injustice.

(e) *Attendance at hearings.* A hearing shall ordinarily be private and shall be attended only by the parties, their representatives or counsel, witnesses while testifying, and other persons having an official interest in the proceedings: *Provided, however,* That on written request by a party or representative of the Board of Directors, or on the Board's own motion, the Board, in its discretion and to the extent permitted by law, may permit other persons to attend or may order the hearing to be public.

(f) *Transcript of testimony.* Hearings shall be recorded and transcripts shall be made available to any party upon payment of the cost thereof and, in the event the hearing is public, shall be furnished on similar payment to other interested persons. A copy of the transcript of the testimony taken at any hearing, duly certified by the reporter, together with all exhibits, all papers and requests filed in the proceeding, shall be filed with the Executive Secretary of the Corporation, who shall transmit the same to the administrative law judge. The Executive Secretary shall promptly serve notice upon each of the parties of such filing and transmittal. The administrative law judge shall have authority to rule upon motions to correct the record.

(g) *Order of procedure.* The counsel for the Corporation shall open and close.

(h) *Continuances and changes or extensions of time and changes of place of hearing.* Except as otherwise expressly provided by law, the Board of Directors may by notice of hearing or subsequent order provide time limits different from those specified in this subpart, and the Board of Directors may, on its own initiative or for good cause shown, change or extend any time limit prescribed by these rules or the notice of hearing, or change the time and place for beginning any hearing hereunder. The administrative law judge may continue or adjourn a hearing from time to time and, as permitted by law or agreed to by the parties, from place to place. Extensions of time for making any filing or performing any act required or allowed to be done within a specified time in the course of a proceeding may be granted by the administrative law judge for good cause shown.

(i) *Call for further evidence, oral argument, briefs, reopening of hearing.* The administrative law judge may call for the production of further evidence upon any issue, may permit oral argument and submission of briefs at the hearing and, upon appropriate notice, may reopen any hearing at any time prior to the certification by the administrative law judge of a recommended decision to the Executive Secretary of the Corporation. The Board of Directors shall render its decision within 90 days after the Executive Secretary of the Corporation has notified the parties, pursuant to § 308.15, that the case has been submitted to the Board of Directors for final decision, unless within such 90-day period the Board of Directors shall order that such notice be set aside and the case reopened for further proceedings.

§ 308.8 Subpenas.

(a) *Issuance.* The administrative law judge, or the Board of Directors in the event the administrative law judge is unavailable, shall issue subpenas at the request of any party, requiring the attendance of witnesses or the production of documentary evidence at any designated place of hearing; except that where it appears to the administrative law judge or the Board of Directors that the subpena may be unreasonable, oppressive, excessive in scope, or unduly burdensome, the party seeking the subpena may be required, as a condition precedent to the issuance of the subpena, to show the general relevance and reasonable scope of the testimony or other evidence sought. In the event the administrative law judge or the Board of Directors, after consideration of all the circumstances, determines that the subpena or any of the terms are unreasonable, oppressive, excessive in scope, or unduly burdensome, there may be a determination to refuse to issue the subpena, or to issue it only upon such conditions as fairness requires.

(b) *Motion to quash.* Any person to whom a subpena is directed may, prior to the time specified therein for compliance but in no event more than five days after the date of service of such subpena, with notice to the party requesting the subpena, apply to the administrative law judge, or to the Board of Directors if the administrative law judge is unavailable, to revoke, quash, or modify such subpena, accompanying such application with a statement of the reasons therefor.

(c) *Service of subpena.* Service of a subpena upon a person named therein shall be made by delivering a copy of the subpena to such person and by tendering the fees for 1 day's attendance and the mileage as specified in paragraph (d) of this section, except that when a subpena is issued at the instance of the Board of Directors fees

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and mileage need not be tendered at the time of service of the subpena. If service is made by a U.S. marshal, or a deputy U.S. marshal, or an employee of the Corporation, such service shall be evidenced by the required return thereupon. If made by any other person, such person shall make affidavit thereto, describing the manner in which service is made, and return such affidavit on or with the original subpena. In case of failure to make service, reasons for the failure shall be stated on the original subpena. The original subpena, bearing or accompanied by the required return, affidavit or statement, shall be returned without delay to the administrative law judge.

(d) *Attendance of witnesses.* The attendance of witnesses and the production of documents pursuant to a subpena, issued in connection with a hearing provided for in Subpart C, D, E, H, I, or K of this part, may be required from any place in any State or in any territory at any designated place where the hearing is being conducted. Witnesses subpenaed in any proceeding within the scope of this subpart shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

(e) *Depositions.* The Board of Directors or administrative law judge by subpena or subpena duces tecum, may order evidence to be taken by deposition in any proceeding at any stage thereof. Such depositions may be taken by the administrative law judge or before any person designated by the Board of Directors or the administrative law judge and having power to administer oaths. Unless notice is waived, no deposition shall be taken except after at least 5 days' notice to the parties to the proceeding.

(f) *Application and order to take oral deposition.* Any party desiring to take the oral deposition of a witness, in connection with any hearing within the scope of this subpart, shall make application in writing to the administrative law judge, or to the Board of Directors in the event the administrative law judge is unavailable, setting forth the reasons why such deposition should be taken, the name and post office address of the witness, the matters concerning which the witness is expected to testify, the relevancy of these matters, the time and place for taking the deposition, and the name and post office address of the person before whom it is desired the deposition be taken. A copy of such application shall be served upon every other party to the proceeding by the party making such application. Upon a showing that (1) the proposed witness will be unable to attend or may be prevented from attending the hearing because of age, sickness or infirmity, or will otherwise be unavailable at the hearing, and (2) the testimony will be material, and (3) the taking of the deposition will not result in any undue burden to any other party or in undue delay of the proceeding, then the administrative law judge or the Board of Directors, in its discretion, by subpena duces tecum, may order the oral deposition be taken. Such subpena will name the witness whose deposition is to be taken and specify the time and place for taking the deposition, and the person before whom the witness is to testify, but such time and place, and the person before whom the deposition is ordered to be taken, may or may not be the same as those named in the application. Notice of the issuance of such subpena shall be served upon each of the parties a reasonable time, and in no event less than five days, in advance of the time fixed for the taking of the deposition.

(g) *Procedure on deposition; objections.* Each witness testifying upon oral deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. Objections to questions or evidence shall be in short form, stating the grounds of objection relied upon; but the person taking the deposition shall not have power to rule upon questions of competency or materiality or relevance of evidence. Failure to object to questions or evidence shall not be deemed a waiver except where the ground of the objection is one which might have been obviated or removed if presented at that time. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate) shall be recorded by the person taking the deposition, or under such person's direction. The deposition shall be subscribed by the witness, unless the parties by stipulation waived the signing, or the witness is ill or cannot be found or has refused to sign, and shall be certified as a true and complete transcript thereof by the person taking the deposition. If the deposition is not subscribed to by the witness, such person shall state on the record this fact and the reason therefor. Such person shall promptly send the original and two copies of such deposition, together with the original and two copies of all exhibits, by registered mail to the Executive Secretary of the Corporation unless otherwise directed in the order authorizing the taking of the deposition. Interested parties shall make their own arrangements with the person taking the deposition for copies of the testimony and the exhibits.

(h) *Introduction as evidence.* Subject to appropriate rulings on such objections to questions of evidence as were noted at the time the deposition was taken or as would be valid were the witness personally present and testifying (except objections waived under the third sentence of paragraph (g) of this section), the deposition or any part thereof may be read in evidence by any party to the proceeding. Only such part or the whole of a deposition as is received in evidence at a hearing shall constitute a part of the record in such proceeding upon which a decision may be based.

(i) *Payment of fees.* Witnesses whose oral depositions are taken shall be entitled to the same fees as are paid for like services in the courts of the United States. Fees of persons taking such depositions and the fees of the reporter shall be paid by the person upon whose application the deposition was taken.

§ 308.9 Rules of evidence.

(a) *Evidence.* All parties shall have the right to present their case or defense by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(b) *Objections.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds of objections relied upon, and the transcript shall not include argument thereon except as ordered, allowed, or requested by the administrative law judge. Rulings on such objections and on any other matters shall be a part of the transcript. Failure to object to admission or exclusion of evidence or to any ruling shall be considered a waiver of such objection.

(c) *Official notice.* All matters officially noticed by the administrative law judge shall appear on the record.

§ 308.10 Motions.

(a) *In writing.* An application or request for an order or ruling not otherwise specifically provided for in this subpart shall be made by motion. After an administrative law judge has been designated to preside at a hearing and before the filing with the Executive Secretary of the Corporation of the administrative law judge's recommended decision, pursuant to § 308.11, such applications or requests shall be addressed to and filed with the administrative law judge. At all other times motions shall be addressed to the Board of Directors and filed with the Executive Secretary of the Corporation. Motions shall be in writing, except that a motion made at a session of a hearing may be made orally upon the record unless the administrative law judge directs that it be reduced to writing. All written motions shall state with particularity the order or relief sought and the grounds therefor.

(b) *Objections.* Within 5 days after service of any written motion, or within such other period of time as may be fixed by the administrative law judge or the Board of Directors, any party may file a written answer or objection to such motion. The moving party shall have no right to reply, except as permitted by the administrative law judge or the Board of Directors. As a matter of discretion, the administrative law judge or the Board of Directors may waive the requirements of this section as to motions for extensions of time, and may rule upon such motions ex parte.

(c) *Oral argument.* No oral argument will be heard on motions except as otherwise directed by the administrative law judge or the Board of Directors. Written memoranda or briefs may be filed with motions or answers or objections thereto, stating the points and authorities relied upon in support of the position taken.

(d) *Rulings on motions.* Except as otherwise provided in this part, the administrative law judge shall rule upon all motions properly submitted and upon such other motions as the Board of Directors may direct, except that if the administrative law judge finds that a prompt decision by the Board of Directors on a motion is essential to the proper conduct of the proceeding, then such motion may be referred to the Board of Directors for decision. The Board of Directors shall rule upon all motions properly submitted to it for decision.

(e) *Appeal from rulings on motions.* All motions and answers or objections thereto and rulings thereon shall become part of the record. Rulings of an administrative law judge on any motion may not be appealed to the Board of Directors prior to its consideration of the administrative law judge's recommended decision, findings and conclusions except by special permission of the Board of Directors; but they shall be considered by the Board of Directors in reviewing the record. Requests to the Board of Directors for special permission to appeal from such rulings of the administrative law judge shall be filed promptly, in writing, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on every other party to the proceeding.

(f) *Continuation of hearing.* Unless otherwise ordered by the administrative law judge or the Board of Directors, the hearing shall continue pending the determination of any motion by the Board of Directors.

§ 308.11 Proposed findings and conclusions and recommended decision.

(a) *Proposed findings and conclusions by parties.* Each party to a hearing shall have a period of 15 days after service of notice by the Executive Secretary of the Corporation that the record has been filed and transmitted, as provided in paragraph (f) of § 308.7, or such further time as the administrative law judge for good cause shall determine, to file with the administrative law judge proposed findings of fact, conclusions of law and order, which may be accompanied by a brief or memorandum in support thereof. Such proposals shall be supported by citation of such statutes, decisions and other authorities, and by page references to such portions of the record, as may be relevant. All such proposals, briefs and memoranda shall become a part of the record.

(b) *Recommended decision and filing of record.* The administrative law judge shall, within 30 days after the expiration of the time allowed for the filing of proposed findings, conclusions, and order, or within such further time as the Board of Directors for good cause shall determine, file with the Executive Secretary of the Corporation and certify to the Board of Directors for decision the entire record of the hearing, which shall include a recommended decision, findings of fact, conclusions of law, and proposed order, the transcript, exhibits (including on request of any of the parties exhibits excluded from evidence or tenders of proof), exceptions, rulings, and all briefs and memoranda filed in connection with the hearing. Promptly upon such filing, the Executive Secretary of the Corporation shall serve upon each party to the proceeding a copy of the administrative law judge's recommended decision, findings, conclusions, and proposed order. The provisions of this paragraph and § 308.12 shall not apply, however, in any case where the hearing was held before the Board of Directors.

§ 308.12 Exceptions.

(a) *Filing.* Within 15 days after service of the recommended decision, findings, conclusions, and proposed order of the administrative law judge, or such further time as the Board of Directors for good cause shall determine, any party (other than a party who has not filed an answer or exceptions in accordance with paragraphs (a) and (d) or (f) of § 308.6, unless no such filing was required of such party by the Board of Directors) may file with the Executive Secretary of the Corporation exceptions thereto or to any part thereof, or to the failure of the administrative law judge to make any recommendation, finding, or conclusion, or to the admission or exclusion of evidence, or other ruling of the administrative law judge, supported by such brief as may appear advisable.

(b) *Waiver.* Failure of a party to file exceptions to the recommended decision, findings, conclusions, and proposed order of the administrative law judge or any portion thereof, or to the administrative law judge's failure to adopt a proposed finding or conclusion, or to the admission or exclusion of evidence or other ruling of the administrative law judge, within the time prescribed in paragraph (a) of this section, shall be deemed to be a waiver of objection thereto.

§ 308.13 Briefs.

(a) *Contents.* All briefs shall be confined to the particular matters in issue. Each exception or proposed finding or conclusion which is briefed shall be supported by a concise argument or by citation of such statutes, decisions or other authorities and by page reference to such portions of the record or recommended decision of the administrative law judge as may be relevant. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript.

(b) *Reply briefs.* Reply briefs may be filed with the Executive Secretary of the Corporation within 10 days after service of briefs and shall be confined to matters in original briefs of opposing parties. Additional briefs may be filed only with the permission of the Board of Directors.

(c) *Delays.* Briefs not filed on or before the time fixed in this subpart will be received only upon special permission of the Board of Directors.

§ 308.14 Oral argument before the Board of Directors.

Upon its own initiative, or upon the written request of any party (made within the time prescribed for the filing of exceptions, a brief in support thereof, or a reply brief, if any) for oral argument on the findings, conclusions, and

recommended decision of the administrative law judge, the Board of Directors, if it considers justice will best be served thereby may order the matter be set down for oral argument before the Board of Directors or one or more members thereof. Oral arguments before the Board of Directors shall be recorded unless otherwise ordered by the Board of Directors.

§ 308.15 Notice of submission to the Board of Directors.

Upon the filing of the record with the Executive Secretary of the Corporation, and upon the expiration of the time for the filing of exceptions and all briefs, including reply briefs or any additional briefs permitted by the Board of Directors and upon the hearing of oral argument by the Board of Directors, the Executive Secretary shall notify the parties that the case has been submitted to the Board of Directors for final decision.

§ 308.16 Decision of Board of Directors.

Appropriate members of the staff, who are not participating in the performance of investigative or prosecutorial functions in the case, or in a factually related case, may advise and assist the Board of Directors in the consideration of the case and in the preparation of appropriate documents for its disposition. Copies of the decision and order of the Board of Directors shall be furnished by the Executive Secretary of the Corporation to the parties to the proceedings, to the bank involved and, in the case of a State bank or a State branch of a foreign bank, to the appropriate State supervisory authority. Where the proceedings involve the involuntary termination of the insured status of a bank or of a branch of a foreign bank, copies of the decision and order shall also be furnished to the Board of Governors of the Federal Reserve System in the case of a State member bank, or to the Comptroller of the Currency in the case of a national bank, a District bank, or a Federal branch of a foreign bank.

§ 308.17 Filing papers.

Recommended decisions, exceptions, briefs and other papers required to be filed with the Board of Directors or the Executive Secretary in any proceedings shall be filed with the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429. Any such papers may be sent to the Executive Secretary by mail or express, but must be received in the office of the Corporation in Washington, D.C., or postmarked, within the time limit for such filing.

§ 308.18 Service.

(a) *By the Board of Directors.* All documents or papers required to be served by the Board of Directors upon any party afforded a hearing shall be served by the Executive Secretary of the Corporation unless some other person shall be designated for such purpose by the Board of Directors. Such service, except for service on counsel for the Board of Directors, shall be made by personal service or by registered or certified mail, addressed to the last known address as shown on the records of the Board of Directors, on the attorney or representative of record of such party, provided that if there is no attorney or representative of record, such service shall be made upon such party at the last known address as shown on the records of the Board of Directors. Such service may also be made in such other manner reasonably calculated to give actual notice as the Board of Directors may by regulation or otherwise provide.

(b) *By the parties.* Except as otherwise expressly provided in this part, all documents or papers filed in a proceeding under this subpart shall be served by the party filing the same upon the attorneys or representatives of record of all other parties to the proceeding, or, if any party is not so represented, then upon such party. Such service may be made by personal service or by registered, certified, or regular first class mail addressed to the last known address of such parties, or their attorneys or representatives of record. All such documents or papers shall, when tendered to the Board of Directors or the administrative law judge for filing, show that such service has been made.

§ 308.19 Copies.

Unless otherwise specifically provided in the notice of hearing, an original and seven copies of all documents and papers required or permitted to be filed or served upon the Executive Secretary of the Corporation under this subpart, except the transcript of testimony and exhibits, shall be furnished to the Executive Secretary of the Corporation.

§ 308.20 Computing time.

(a) *General rule.* In computing any period of time prescribed or allowed by this part, the date of the act, event or default from which the designated period of time begins to run is not to be included. The last day so computed shall be included, unless it is a Saturday, Sunday, or legal holiday in the District of Columbia, in which event the period shall run until the end of the next day that is neither a Saturday, Sunday, nor such legal holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation, unless the time within which the act is to be performed is 10 days or less in which event Saturdays, Sundays, and legal holidays shall not be included.

(b) *Service by mail.* Whenever any party has the right or is required to do some act, within a period of time prescribed in this part, after the service upon such person of any document or other paper of any kind, and such service is made by mail, 3 days shall be added to the prescribed period from the date when the matter served is deposited in the United States mail.

§ 308.21 Documents in proceedings confidential.

Unless otherwise ordered by the Board of Directors, the notice of hearing, the transcript, the recommended decision of the administrative law judge, exceptions thereto, proposed findings or conclusions, the findings and conclusions of the Board of Directors and other papers which are filed in connection with any hearing shall not be made public, and shall be for the confidential use only of the Board of Directors, the administrative law judge, or other person conducting the hearing, and appropriate supervising authorities.

§ 308.22 Formal requirements as to papers filed.

(a) *Form.* All papers filed under this subpart shall be printed, typewritten or otherwise reproduced. All copies shall be clear and legible.

(b) *Signature.* The original of all papers filed by a bank shall be signed by an officer thereof, and if filed by another party shall be signed by said party, or by the duly authorized agent or attorney of the bank of other party, and in all such cases shall contain the signer's address. Counsel for the Corporation shall sign the original of all papers filed on behalf of the Corporation.

(c) *Caption.* All papers filed must include at the head thereof, or on a title page, the name of the Corporation, the name of the party, and the subject of the particular papers.

Subpart C—Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

§ 308.23 Scope.

Under the authority of section 8 of the Federal Deposit Insurance Act, the Board of Directors of the Corporation may terminate the insured status of an insured bank or an insured branch of a foreign bank upon the grounds set forth therein and enumerated in § 308.24, § 308.26, and § 308.31. The procedure for terminating the insured status of a bank or a branch as therein prescribed will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart B of this part.

§ 308.24 Grounds for termination of insurance.

Whenever the Board of Directors finds that an insured bank (including a foreign bank having an insured branch) or its directors or trustees have engaged or are engaging in unsafe or unsound practices in conducting the business of such bank, or that such bank is in an unsafe or unsound condition to continue operations as an insured bank, or that such bank or its directors or trustees have violated an applicable law, rule, regulation or order, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the bank, or any written agreement entered into with the Corporation, the Board of Directors will first give to the Comptroller of the Currency in the case of a national bank, a District bank, or an insured Federal branch of a foreign bank, to the authority having supervision of the bank in the case of a State bank or an insured State branch of a foreign bank, and to the Board of Governors of the Federal Reserve System in the case of a State member bank, a statement with respect to such practices or violations for the purpose of securing the correction thereof and will forward a copy thereof to the bank.

§ 308.25 Extraterritorial acts of foreign banks or their directors or trustees.

Except as provided in the following section, an act or practice committed outside of the United States by a foreign bank or its directors or trustees, which act or practice would otherwise be a ground for termination of the insured status of a branch of the foreign bank under this subpart, shall be a ground for such termination only if the Board of Directors finds either (a) that the act or practice has been, is, or is likely to be a cause of or carried on in connection with or in furtherance of an act or practice committed within any State of the United States or the District of Columbia which act or practice in and of itself would be an appropriate basis for action by the Corporation, or (b) that the act or practice committed outside of the United States is one which, if proven, would adversely affect the insurance risk assumed by the Corporation.

§ 308.26 Failure of a foreign bank to secure removal of personnel.

If any person associated with a foreign bank fails to appear promptly as a party to a proceeding brought under § 308.41 or § 308.42 for his removal or suspension and to comply with any effective order or judgment issued in such a proceeding, any failure by the foreign bank to secure his removal from office and from any further participation in the bank's affairs shall, in and of itself, be grounds for termination of the insurance of the deposits in any branch of the bank.

§ 308.27 Notice of intention to terminate insured status.

Unless correction of the practices, condition or violations set forth in the statement prescribed in § 308.24 is made within 120 days, or such shorter period not less than 20 days fixed by the Corporation in any case where the Board of Directors in its discretion has determined that the insurance risk of the Corporation is unduly jeopardized, or fixed by the Comptroller of the Currency in the case of a national bank, a District bank, or an insured Federal branch of a foreign bank, or the State authority in the case of a State bank or an insured State branch of a foreign bank, or the Board of Governors of the Federal Reserve System in the case of a State member bank, as the case may be, the Board of Directors, if it determines to proceed further, will give to the bank not less than 30 days' written notice of its intention to terminate the status of the bank as an insured bank, or of the branch as an insured branch, and will fix a time and place for a hearing before an administrative law judge selected by the Office of Personnel Management, at which hearing evidence may be produced; and upon such evidence the Board of Directors will make written findings which shall be conclusive.

§ 308.28 Order terminating insured status.

If the Board of Directors finds that any unsafe or unsound practice or condition of violation specified in such statement has been established and has not been corrected within the time prescribed under § 308.27, in which to make such corrections, the Board of Directors may order that the insured status of the bank or the branch be terminated on a date subsequent to such finding and to the expiration of the time specified in the notice of intention issued under § 308.27.

§ 308.29 Consent to termination of insured status.

Unless the bank appears at the hearing designated in the notice of hearing by a duly authorized representative; it shall be deemed to have consented to the termination of its status as an insured bank or the status of the branch as an insured branch. In the event the bank fails to appear at such hearing, the administrative law judge shall forthwith report the matter to the Board of Directors and the Board may thereupon issue an order terminating the insured status of the bank or the branch.

§ 308.30 Notice of termination of insured status.

Prior to the effective date of the termination of the insured status of a bank or a branch under section 8(a) of the Federal Deposit Insurance Act and at such time as the Board of Directors shall specify, the bank shall mail to each depositor at his last address of record on the books of the bank or branch and publish in not less than two issues of a local newspaper of general circulation and shall furnish the Corporation with proof of publication of notice of such termination of insured status. The notice shall be as follows:

Notice

(Date)————.

1. The status of the ————, as an (insured bank) (insured branch) under the provisions of the Federal Deposit Insurance Act, will terminate as of the close of business on the — day of ————, 19—;

2. Any deposits made by you after that date, either new deposits or additions to existing deposits, will not be insured by the Federal Deposit Insurance Corporation;

3. Insured deposits in the (bank) (branch) on the — day of ————, 19— will continue to be insured, as provided by the Federal Deposit Insurance Act, for 2 years after the close of business on the — day of ————, 19—: *Provided, however,* That any withdrawals after the close of business on the — day of ————, 19—, will reduce the insurance coverage by the amount of such withdrawals.

————————————

(Name of banking institution)

————————————

(Address)

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There may be included in such notice any additional information or advice the banking institution may deem desirable.

§ 308.31 Termination of insured status of banking institution not engaged in the business of receiving deposits other than trust funds.

Whenever the Board of Directors shall have evidence indicating that an insured banking institution is not engaged in the business of receiving deposits, other than trust funds, it will give notice in writing to the banking institution of such fact, and will direct the banking institution to show cause why the insured status of the banking institution should not be terminated under the provisions of section 8(p) of the Federal Deposit Insurance Act. The banking institution shall have 30 days, or such greater period of time as the Board of Directors shall prescribe, after receipt of such notice to submit affidavits or other written proof that it is engaged in the business of receiving deposits, other than trust funds. The Board of Directors may, in its discretion, upon written request of the banking institution, authorize a hearing before an administrative law judge selected by the Office of Personnel Management. If, upon consideration of the evidence, the Board of Directors finds that the banking institution is not engaged in the business of receiving deposits, other than trust funds, such finding shall be conclusive and the Corporation will notify the banking institution that its insured status will terminate at the expiration of the first full semi-annual assessment period following such notice. Prior to the date of the termination of the insured status of a banking institution under section 8(p) of the Federal Deposit Insurance Act, and within the time specified by the Board of Directors, the banking institution shall mail to each depositor at the last address of record on its books and shall publish in not less than two issues of a local newspaper of general circulation, a notice of such termination in form substantially as follows:

Notice

(Date)————.

The status of the ———— (Name of banking institution), ———— (City or town), ———— (State), as an (insured bank) (insured branch) under the Federal Deposit Insurance Act, will terminate on the — day of ————, 19—, and its deposits will thereupon cease to be insured.

————————————

(Name of banking institution)

————————————

(Address)

There may be included in such notice any additional information or advice the banking institution may deem desirable.

Subpart D—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Orders

§ 308.32 Scope.

(a) The rules and procedures set forth in this subpart are applicable to proceedings by the Board of Directors with a view to ordering an insured nonmember bank or an official of such a bank to cease and desist from practices and violations described in section 8 of the Federal Deposit Insurance Act and enumerated in § 308.33. The procedures for issuing such orders prescribed in section 8 of said Act will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart B of this part.

(b) The rules and procedures of this subpart also apply to proceedings by the Board of Directors with a view to ordering a municipal securities dealer, or a person associated with a municipal securities dealer, to cease and desist from any violation of law specified in section 15B(c)(5) of the Securities Exchange Act of 1934, as amended, where the municipal securities dealer is an insured State nonmember bank (other than a District bank) or a subsidiary or department or division thereof. For purposes of such a proceeding, the terms "insured nonmember bank" and "bank" as used in this subpart and in § 308.3(a)(2) shall include any municipal securities dealer for which the Corporation is the appropriate regulatory agency, any limitation in § 308.1 notwithstanding; and the term "depositors" as used in § 308.38 shall include the customers of any municipal securities dealer in connection with which the proceeding is being conducted.

(c) The rules and procedures of this subpart also apply to proceedings by the Board of Directors with a view to ordering a clearing agency or transfer agent to cease and desist from failure to comply with the applicable provisions of sections 17, 17A, and 19 of the Securities Exchange Act of 1934, as amended, and the applicable rules and regulations thereunder, where the clearing agency or transfer agent is an insured State nonmember bank (other than a District bank) or a subsidiary thereof. For purposes of such a proceeding, the terms "insured nonmember bank" and "bank" as used in this subpart and in § 308.3(a)(2) shall include any clearing agency or transfer agent for which the Corporation is the appropriate regulatory agency, any limitation in § 308.1 notwithstanding; and the term "depositors" as used in § 308.38 shall include the participants in any such clearing agency and the persons doing business with any such transfer agent.

§ 308.33 Grounds for cease-and-desist orders.

If, in the opinion of the Board of Directors, any insured nonmember bank or official of such a bank is engaging or has engaged, or the Board of Directors has reasonable cause to believe that the bank or the official is about to engage, in an unsafe or unsound practice or has violated, or the Board of Directors has reasonable cause to believe that the bank or the official is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Board of Directors in connection with the granting of an application or other request by the bank, or any written agreement entered into with the Corporation, the Board of Directors may issue and serve upon the bank or the official a notice of charges in respect thereof.

§ 308.34 Extraterritorial acts of foreign banks or their officials.

An act or practice committed outside of the United States by a foreign bank or an official of a foreign bank, which act or practice would otherwise be a ground for issuing a cease-and-desist order under § 308.36, or a temporary cease-and-desist order under § 308.38, shall be a ground for such an order only if the Board of Directors finds either (a) that the act or practice has been, is, or is likely to be a cause of, or carried on in connection with or in furtherance of an act or practice committed within any State of the United States or the District of Columbia which act or practice in and of itself would be an appropriate basis for action by the Corporation, or (b) that the act or practice is one which, if proven, would adversely affect the insurance risk assumed by the Corporation.

§ 308.35 Notice of charges and hearing.

The notice referred to in § 308.33 will contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practices, and fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the bank or the official. The hearing will be fixed for a date not earlier than 30 days nor later than 60 days after service of such notice, unless

an earlier or later date is set by the Board of Directors at the request of any party so served. Unless the party so served appears at the hearing personally or by a duly authorized representative, such party will be deemed to have consented to the issuance of the cease-and-desist order.

§ 308.36 Issuance of order.

In the event of such consent as referred to in § 308.35, or if upon the record made at any such hearing as referred to in § 308.35, the Board of Directors finds that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board of Directors may issue and serve upon the bank or its officials, an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the bank or its officials to cease and desist from the same and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

§ 308.37 Effective date.

A cease-and-desist order will become effective at the expiration of 30 days after the service of such order upon the bank or its official (except in the case of a cease-and-desist order issued upon consent, which will become effective at the time specified therein), and will remain effective and enforceable as provided therein, except to the extent that it is stayed, modified, terminated, or set aside by action of the Board of Directors or a reviewing court.

§ 308.38 Temporary cease-and-desist orders.

Whenever the Board of Directors determines that the violation or threatened violation or the unsafe or unsound practice, specified in the notice of charges referred to in § 308.33, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely seriously to weaken the condition of the bank or otherwise seriously to prejudice the interests of its depositors prior to the completion of the proceedings conducted pursuant to section 8(b)(1) of the Federal Deposit Insurance Act and § 308.33, the Board of Directors may issue a temporary order requiring the bank or its officials to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings.

§ 308.39 Effective date of temporary order.

A temporary order issued under § 308.38 will become effective upon service upon the bank or its officials and, unless set aside, limited or suspended by a court in proceedings authorized under the Federal Deposit Insurance Act, will remain effective and enforceable pending the completion of the administrative proceedings held pursuant to the notice of charges and until such time as the Board of Directors dismisses the charges specified in such notice, or if a cease-and-desist order is issued against the bank or its officials pursuant to § 308.33, until the effective date of any such order.

Subpart E—Rules and Procedures Applicable to Proceedings Relating to Removal and Suspension Orders

§ 308.40 Scope.

The rules and procedures set forth in this subpart and Subpart B are applicable to proceedings by the Board of Directors to remove or suspend directors or officers of an insured nonmember bank or any other person participating in the conduct of the affairs of such a bank, or to prohibit such director, officer or other person from fruther participation in the conduct of the affairs of such a bank, upon the grounds set forth in section 8(e) of the Federal Deposit Insurance Act and enumerated in this subpart. The rules and procedures set forth in this subpart and Subpart B are not applicable to suspension, removal, or prohibition proceedings brought upon the grounds set forth in section 8(g) of the Federal Deposit Insurance Act and enumerated in Subpart G.

§ 308.41 Grounds for removal order.

(a) Whenever, in the opinion of the Board of Directors, any director or officer of an insured nonmember bank has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of fiduciary duty as a director or officer, and the Board of Directors determines that the bank has suffered or will probably suffer substantial financial loss or other damage, or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful or continuing disregard for the safety or soundness of the bank, the Board of Directors may serve upon such director or officer a written notice of its intention to remove such individual from office.

(b) Whenever, in the opinion of the Board of Directors, any director or officer of an insured nonmember bank, by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidence unfitness to continue as a director or officer and, whenever, in the opinion of the Board of Directors, any other person participating in the conduct of the affairs of an insured nonmember bank, by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for the safety and soundness of such insured bank and, in addition, has evidenced unfitness to participate in the conduct of the affairs of such insured bank, the Board of Directors may serve upon such director, officer, or other person a written notice of its intention to remove such individual from office or to prohibit such individual's further participation in any manner in the conduct of the affairs of the bank.

§ 308.42 Grounds for suspension order.

In respect to any director or officer of an insured nonmember bank or any other person referred to in § 308.41(a) or (b) the Board of Directors may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to that effect served upon such director, officer, or other person, suspend such individual from office or prohibit such individual's further participation in any manner in the conduct of the affairs of the bank.

§ 308.43 Effective date of suspension order.

Any suspension or prohibition which is pursuant to the notice prescribed in § 308.42, shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by the Federal Deposit Insurance Act, shall

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remain in effect pending the completion of the administrative proceedings held pursuant to the notice served under § 308.41(a) or (b) and until such time as the Board of Directors shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against a director or officer or other person, until the effective date of any such order. Copies of any such notice will also be served upon the bank of which such individual is a director or officer or in the conduct of whose affairs such individual has participated.

§ 308.44 Extraterritorial acts of officials of foreign banks.

An act or practice committed outside of the United States by a director or officer of a foreign bank, or by any other person participating in the conduct of the affairs of a foreign bank, which act or practice would otherwise be a ground for suspension, removal, or prohibition proceedings under this subpart, shall be a ground for such proceedings only if the Board of Directors finds either (a) that the act or practice has been, is, or is likely to be a cause of or carried on in connection with or in furtherance of an act or practice within any State of the United States or the District of Columbia which act or practice in and of itself would be an appropriate basis for action by the Corporation, or (b) that the act or practice is one which, if proven, would adversely affect the insurance risk assumed by the Corporation.

§ 308.45 Notice of intention to remove and hearing.

A notice of intention to remove a director, officer, or other person from office or to prohibit such individual's participation in the conduct of the affairs of an insured nonmember bank, will contain a statement of the facts constituting grounds therefor and will fix a time and place at which a hearing will be held thereon. Such hearing will be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Board of Directors at the request of (a) such director or officer or other person, and for good cause shown, or (b) the Attorney General of the United States. Unless such director, officer, or other person appears at the hearing in person or by a duly authorized representative, such individual shall be deemed to have consented to the issuance of an order of such removal or prohibition.

§ 308.46 Issuance of removal order and effective date.

In the event of such consent as referred to in § 308.45, or if upon the record made at any such hearing as referred to in § 308.45, the Board of Directors finds that any of the grounds specified in the notice have been established, the Board of Directors may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. Any such order shall become effective at the expiration of 30 days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to the extent that it is stayed, modified, terminated, or set aside by action of the Board of Directors or a reviewing court.

Subpart F—Procedures Applicable to Proceedings Pursuant to Section 10(c) of the Federal Deposit Insurance Act

§ 308.47 Definitions and scope.

(a) *Definitions.* For purposes of this subpart,

(1) The term "bank" (except where used in § 308.54) means an insured bank, an affiliate thereof, an institution making application to become an insured bank, or a branch of a foreign bank; and

(2) The term "proceedings pursuant to section 10(c)" means the exercise of any power specified in section 10(c) or 8(n) of the Federal Deposit Insurance Act, or any proceedings conducted pursuant to the exercise of such powers.

(b) *Scope.* The procedures in this subpart shall be followed in connection with proceedings pursuant to section 10(c). Proceedings pursuant to section 10(c) may be conducted by the Corporation or its designated representative in connection with examinations or investigations of banks. Proceedings pursuant to section 10(c) include the power to administer oaths and affirmations and to take and preserve testimony under oath as to any bank, and to issue subpenas and subpenas duces tecum, and, for their enforcement, to apply to the United States district court for the judicial district or the United States court in any territory in which the main office of the bank is located, or in which the witness resides or carries on business.

§ 308.48 Confidential proceedings.

Unless otherwise provided by § 308.50(c) of this part, all proceedings pursuant to section 10(c) shall be confidential. Information or documents obtained by the Corporation in the course of such proceedings shall be disclosed only in accordance with the provisions for disclosure of such information established by Part 309.

§ 308.49 Orders to conduct proceedings.

A proceeding pursuant to section 10(c) shall be conducted only after the issuance of an order authorizing such proceeding. The order shall designate the persons duly authorized to conduct the proceeding. Such persons are authorized, among other things, to issue subpenas and subpenas duces tecum, and to administer oaths and receive affirmations as to any matter under examination or investigation by the Corporation. Such order may be issued by the Board of Directors, the General Counsel or a designee thereof, the Director of the Division of Bank Supervision or a designee thereof, or each Regional Director, provided that powers relating to the issuance of subpenas and subpenas duces tecum and the enforcement thereof shall not be exercised by Regional Directors without prior approval of the Director of the Division of Bank Supervision and the concurrence of the General Counsel. Upon application and for good cause shown, the Board of Directors, or the person issuing such order, may limit, quash, modify, or withdraw such order.

§ 308.50 Rights of witnesses.

(a) Any person who is compelled or requested to furnish testimony, documentary evidence, or other information with respect to any matter under examination or investigation in a proceeding pursuant to section 10(c) shall upon request be shown the order initiating such a proceeding.

(b) Any person who, in a proceeding pursuant to section 10(c), is compelled to appear and testify or who appears and testifies by request or permission of the Corporation may be accompanied, represented, and advised by counsel. The right to be accompanied, represented, and advised by counsel shall mean the right of a person testifying to have an attorney present at all times while testifying and to have said attorney (1) advise such person before, during and after the conclusion of testimony given by such person, (2) question such person briefly at the conclusion of this testimony to clarify any of the answers such person has given, and (3) make summary notes during such testimony solely for the use of such person.

(c) All persons giving testimony in a proceeding pursuant to section 10(c) shall be sequestered. Unless permitted, within the discretion of the designated representative conducting the proceeding, a person or the counsel accompanying a person shall not be present at the testimony of any other person.

(d) If the record developed by the Corporation in the course of such proceeding contains allegations of wrongdoing by any person with respect to the affairs of, or ownership of, any bank, such person shall be advised of the nature of the alleged wrongdoing and shall be afforded a reasonable opportunity, consistent with administrative efficiency and with the avoidance of undue delay, to produce evidence in rebuttal. Such evidence may be in documentary form, including depositions and statements under oath, or it may consist of testimony given before the designated representative conducting such a proceeding. All such evidence shall be made on the record developed in the course of the proceeding pursuant to section 10(c).

(e) The designated representative conducting the proceeding pursuant to section 10(c) shall report to the Board of Directors of the Corporation any instances where any person has been guilty of dilatory, obstructionist, or contumacious conduct during the course of the proceeding, or any other instance involving a violation of these rules. The Board of Directors will thereupon take such further action as the circumstances may warrant, including exclusion of the offending individual from further participation in the particular proceedings.

§ 308.51 Transcripts.

Transcripts of testimony, if any, shall be recorded solely by the official reporter, or by any other person or means chosen by the person conducting the proceeding pursuant to section 10(c). A person submitting documentary evidence or testimony shall be entitled to obtain a copy of such documentary evidence or a copy of the transcript, if any, of such testimony.

§ 308.52 Service of subpena.

Service of a subpena upon the person named therein shall be made by delivering a copy of the subpena to such person and by tendering the fees for one day's attendance and for mileage as specified by § 308.53 of this subpart. When the subpena is issued at the instance of a duly designated representative of the Corporation, fees and mileage need not be tendered at the time of service. Delivery of a copy of a subpena and tender of the fees to a natural person may be made by handing them to the person; or by leaving them at such person's office with someone in charge thereof or, if there is no one in charge, by leaving them in a conspicuous place therein; or by leaving them at such person's dwelling place or usual place of abode with someone of suitable age or discretion and who resides therein; or by mailing them by registered or certified mail to the last known address of such person; or by any method whereby actual notice is given to such person and the fees are made available prior to the return date. When the person to be served is not a natural person, delivery of a copy of the subpena and tender of the fees may be effected by handing them to a registered agent for service or to an officer, director, or agent in charge of any office of such person, or by mailing them by registered or certified mail to such representative at such person's last known address; or by any method whereby actual notice is given to such representative and the fees are made available prior to the return date.

§ 308.53 Witness fees and mileage.

Witnesses summoned before the Corporation shall be paid the same fees and mileage paid to witnesses in the courts of the United States. Witness fees and mileage shall be paid by the party at whose request the witness appears.

§ 308.54 Special examinations and examinations of closed banks.

When proceedings pursuant to section 10(c) are instituted in connection with the special examination of any State member bank, any national or District bank, or any insured Federal branch of a foreign bank, or the examination of any closed insured bank or branch, or in connection with the examination of an affiliate of any of the foregoing, procedures in this subpart shall be followed.

Subpart G—Procedures and Standards Applicable to Suspensions and Prohibitions Where Felony Charged

§ 308.55 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board of Directors (a) to suspend any director or officer of an insured nonmember bank or any other person participating in the conduct of the affairs of such a bank, or to prohibit such director, officer or other person from further participation in the conduct of the affairs of such a bank, where such person is charged in any State, Federal or territorial information or indictment, or charged in any complaint authorized by a United States attorney, with the commission of, or participation in, a crime involving dishonesty or breach of trust which crime is punishable by imprisonment for a term exceeding one year under State or Federal law; and (b) to remove from office any such director, officer, or other person, or to prohibit such director, officer, or other person from further participation in any manner in the conduct of the affairs of the bank except with the consent of the Board of Directors, where a judgment of conviction has been entered against such person for the commission of, or participation in, a crime involving dishonesty or breach of trust which crime is punishable by imprisonment for a term exceeding one year under State or Federal law, and where such judgment of conviction is not subject to further appellate review.

§ 308.56 Rules of practice.

Except as otherwise specifically provided in this subpart, the provisions of § 308.4 ("Appearance and practice before the Corporation"), § 308.5(a) ("Notice of hearing"), § 308.20(a) ("Computing time: General rule"), and § 308.21 ("Documents in proceedings confidential") of Subpart B shall apply to proceedings conducted under this subpart.

§ 308.57 Notice of suspension or prohibition.

Whenever a director or officer of an insured nonmember bank or any other person participating in the conduct of the affairs of such bank, is charged in any State, Federal or territorial information or indictment, or charged in any complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which crime is punishable by imprisonment for a term exceeding one year under State or Federal law, the Board of Directors, upon preliminary determinations that the offense alleged in the information, indictment or complaint involved dishonesty or breach of trust, and that continued service or participation by the director, officer, or other person may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, may, by written notice served upon such director, officer, or other person, suspend such individual from office, or prohibit such individual from further participation in any manner in the affairs of the bank, or both. A copy of the notice of suspension or prohibition shall also be served upon the bank. Such suspension or prohibition shall remain in effect until such information,

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indictment, or complaint is finally disposed of, or until such suspension or prohibition is terminated by the Board of Directors.

§ 308.58 Removal or permanent prohibition.

In the event that a judgment of conviction with respect to a crime referred to in § 308.57 is entered against a director or officer of an insured nonmember bank or any other person participating in the conduct of the affairs of such bank, and at such time as such judgment is not subject to further appellate review, the Board of Directors may, if continued service or participation by the director, officer, or other person may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, issue and serve upon such individual an order removing such individual from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the bank except with the consent of the Board of Directors. A copy of such order will also be served upon such bank, whereupon such director or officer shall cease to be a director or officer of such bank. A finding of not guilty or other disposition of the charge will not preclude the Board of Directors from thereafter instituting proceedings to remove such director, officer or other person from office or to prohibit further participation in bank affairs, pursuant to the provisions of Section 8(e) of the Federal Deposit Insurance Act and Subpart E.

§ 308.59 Effectiveness of suspension or removal until completion of hearing.

Any notice of suspension issued under § 308.57, and any order of removal issued under § 308.58, will remain effective and outstanding until the completion of any hearing or appeal authorized under Section 8(g) of the Federal Deposit Insurance Act and this subpart, unless such notice of suspension or order of removal is terminated by the Board of Directors.

§ 308.60 Notice of opportunity for hearing.

(a) Any notice of suspension or prohibition issued pursuant to § 308.57, and any order of removal or prohibition issued pursuant to § 308.58, shall be accompanied by a further notice to the individual that the individual may request in writing a hearing to present evidence and argument that continued service to the bank or participation in the conduct of the affairs of the bank does not, and is not likely to, pose a threat to the interests of the bank's depositors or threaten to impair public confidence in the bank. Any notice of the opportunity for a hearing shall be accompanied by a description of the hearing procedure and the criteria to be considered.

(b) A request for a hearing filed pursuant to paragraph (a) above shall state with particularity the relief desired and the grounds therefor, and shall include, when available, supporting evidence. Such petition and supporting evidence shall be filed in writing with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429.

§ 308.61 Hearing.

(a) After the receipt of a request for a hearing complying with § 308.60, the Executive Secretary will order a hearing to commence within the next succeeding 30 days in Washington, D.C., or at such other place as is designated by the Executive Secretary, before a person designated by the Board of Directors of the Corporation to conduct such hearings. At the request of the director, officer, or other person, the Board of Directors may order the hearing to commence at a time more than thirty days after the receipt of the request for such hearing.

(b) The director, officer, or other person may appear at the hearing personally, through counsel, or personally with counsel. The director, officer, or other person shall have the right to introduce relevant and material written materials (or, at the discretion of the agency, to introduce oral testimony) and to present an oral argument before the presiding officer. A member of the staff of the Office of the General Counsel of the Corporation may attend the hearing and may participate as a party. Neither the formal rules of evidence nor the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. §§ 554–557) shall apply to the hearing. The proceedings shall be recorded and a transcript shall be furnished to the director, officer, or other person upon request and after the payment of the cost thereof. The Board of Directors shall have the discretion to permit the presentation of witnesses, within specified time limits, so long as a list of such witnesses is furnished to the presiding officer prior to the hearing. Witnesses shall not be sworn, unless specifically requested by a party or the presiding officer. The presiding officer may ask questions of any witness and each party shall have the opportunity to cross-examine any witness presented by an opposing party. Upon the request of either the director, officer, or other person or the representative of the Office of the General Counsel, the record shall remain open for a period of 5 business days following the hearing, during which time the parties may make any additional submissions to the record. Thereafter, the record shall be closed.

(c) In the course of or in connection with any proceeding under this subpart, the Board of Directors or the presiding officer will have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke; quash, or modify subpenas and subpenas duces tecum. The Board of Directors or, if the Board of Directors has decided to permit the presentation of witnesses, the presiding officer, may require the attendance of witnesses from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Witnesses subpenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States. The Board of Directors or the presiding officer may require the production of documents from any place in any such State, territory, or other place.

(d) The presiding officer will make his recommendations to the Board of Directors, where possible, within 10 days following the close of the record.

§ 308.62 Waiver of hearing.

A director, officer, or other person may, in writing, waive an oral hearing and instead elect to have the matter determined by the Board of Directors solely on the basis of written submissions.

§ 308.63 Decision of Board of Directors.

Within 60 days following the hearing, or receipt of the director's, officer's, or other person's written submissions where hearing has been waived pursuant to § 308.62, the Board of Directors shall notify the director, officer, or other person whether the suspension or prohibition will be continued, terminated, or otherwise modified, or whether the order of removal or prohibition will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the decision of the Board of Directors, if that decision is adverse to the director, officer, or other person. In the case of a decision favorable to such individual, the Board of Directors shall take prompt action to rescind or otherwise modify the order of removal or prohibition.

§ 308.64 Reconsideration by the Board of Directors.

(a) The director, officer, or other person shall have 10 days following receipt of the decision of the Board of Directors in which to petition the Board for initial reconsideration.

(b) The director, officer, or other person shall also be entitled to petition the Board of Directors for reconsideration of its decision any time after the expiration of a twelve-month period from the date of the Board of Directors' decision, but no petition for reconsideration may be made within 12 months of a previous petition.

(c) Any petition shall state with particularity the basis for reconsideration, the relief sought, and any exceptions the person has to the Board's findings. A petition may be accompanied by a memorandum of points and authorities in support of it and by any supporting documentation the director, officer, or other person may wish to have considered.

(d) No hearing need be granted on such petition for reconsideration. Promptly following receipt of the petition, the Board of Directors shall render its decision whether to grant a hearing.

§ 308.65 Relevant considerations.

(a) In deciding the question of suspension, prohibition, or removal under this subpart the Board of Directors will consider the following:

(1) Whether the alleged offense is a crime: (i) which is punishable by imprisonment for a term exceeding one year under State or Federal law, and (ii) which involves dishonesty or breach of trust;

(2) Whether the continued presence of the director, officer, or other person in a position with an insured bank may pose a threat to the interests of the bank's depositors because of: (i) the nature and extent of the individual's participation in the affairs of the insured bank or (ii) the nature of the offense with which the individual has been charged, or (iii) both paragraphs (a)(2)(i) and (ii) of this section;

(3) Whether there is cause to believe that there may be an erosion of public confidence in the integrity, safety, or soundness of a particular bank or the banking system (either in the general locality or in the particular locality in which the bank is situated) if the director, officer, or other person is permitted to remain with the insured bank; and

(4) Whether the director, officer or other person is covered by the bank's fidelity bond and, if so, whether the bonding company is likely to revoke the bond, or whether coverage under the bond will be affected adversely as a result of the information, indictment, complaint, or judgment of conviction.

(b) The Board of Directors may consider any other factors which, in the specific case, appear relevant to its decision to continue in effect, rescind, terminate, or modify a suspension, prohibition, or removal order, except that it shall not consider the ultimate question of the guilt or innocence of the director, officer or other person, with regard to the crime with which such individual has been charged.

Subpart H—Rules and Procedures Applicable to Proceedings Relating to Assessment and Collection of Civil Penalties for the Violation of Cease-and-Desist Orders or Certain Federal Statutes

§ 308.66 Scope.

The rules and procedures set forth in this subpart and Subpart B are applicable to proceedings by the Board of Directors to assess and collect civil penalties from (a) any insured nonmember bank or official of such bank where such bank or official has violated the terms of any cease-and-desist order which has become final, or (b) any insured State nonmember bank (other than a District bank) or any official of such a bank where such bank or official has violated the provisions of section 22(h) or 23A of the Federal Reserve Act, as made applicable by section 18(j) of the Federal Deposit Insurance Act, or the provisions of section 106(b)(2) of the Bank Holding Company Act Amendments of 1970, as amended.

§ 308.67 Violation of order as ground for assessment.

If, in the opinion of the Board of Directors, any insured nonmember bank or any official of such bank has violated the terms of any order which has become final and which has been issued pursuant to section 8(b) or 8(c) of the Federal Deposit Insurance Act and Subpart D, the Board of Directors may assess upon such bank or official a civil penalty of not more than $1,000 per day for each day during which such violation has continued or continues.

§ 308.68 Violation of laws limiting insider and affiliate dealings as ground for assessment.

If, in the opinion of the Board of Directors, any insured State nonmember bank or any official of such a bank has violated any provision of sections 22(h) or 23A of the Federal Reserve Act, as amended, as applicable to such bank or official by reason of section 18(j) of the Federal Deposit Insurance Act, or has violated any lawful regulation issued pursuant to these sections, the Board of Directors may assess upon such bank or official a civil penalty of not more than $1,000 per day for each day during which the violation continues.

§ 308.69 Violation of laws governing correspondent accounts as ground for assessment.

If, in the opinion of the Board of Directors, any insured State nonmember bank or any official of such bank has violated any provision of section 106(b)(2) of the Bank Holding Company Act Amendments of 1970, as amended, the Board of Directors may assess upon such bank or such official a civil penalty of not more than $1,000 per day for each day during which such violation continues.

§ 308.70 Rule of construction.

As used in § 308.67, § 308.68, and § 308.69, the term "has violated" includes, but is not limited to, any action (alone or with another) for or towards causing, bringing about, participating in, counseling, or aiding or abetting a violation.

§ 308.71 Relevant considerations.

In determining the amount of the penalty assessed pursuant to § 308.67, § 308.68, or § 308.69, the Board of Directors will take into account the appropriateness of the penalty with respect to the financial resources and good faith of the insured nonmember bank or official, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

§ 308.72 Notice of assessment of civil penalty.

Civil penalties assessed by the Board of Directors pursuant to § 308.67, § 308.68, or § 308.69 will be by written notice served upon the party assessed. Such notice will state the legal authority under which the civil penalty is assessed, and will contain a statement of the matters of fact or law constituting the grounds for the civil penalty. Such notice will be delivered by personal service, by registered or certified mail to the last known address of the party being assessed, or by other appropriate means.

§ 308.73 Period within which civil penalty is payable.

The notice of assessment of civil penalty, made pursuant to § 308.72, will state the amount of the civil penalty,

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and will provide that such amount is payable, and is to be collected, within 90 days of such notice. If the Board of Directors finds that in a specific case, the purposes of the penalty will be better served if the period is shortened or eliminated, the Board may shorten the period or make the civil penalty payable immediately upon a party's receipt of notice thereof, as the case may be. In such case, the notice of assessment will indicate when the civil penalty will be payable.
Notwithstanding any other provision of this or any other section of this subpart, if a party has requested a hearing pursuant to § 308.75 to challenge a penalty or a finding antecedent to such a penalty, the party will not be required to make actual payment of the penalty until the Board of Directors issues a final order following such hearing.

§ 308.74 Notice of opportunity for hearing.

The notice of assessment of civil penalty, made pursuant to § 308.72, will be accompanied by a further notice to the party to the effect that if, within ten days after issuance of the notice of assessment, the party in writing requests a hearing, such hearing will be afforded. This notice of opportunity for hearing will be accompanied by a description of the hearing procedure.

§ 308.75 Request for hearing.

A request for a hearing shall be filed in writing with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429. If a party does not request a hearing in writing within ten days after issuance of the notice of assessment of civil penalty, the party will be deemed to have waived the opportunity of hearing, and the notice of assessment will constitute a final and unappealable order.

§ 308.76 Hearing and order.

After the receipt of a request for a hearing pursuant to § 308.75, the Executive Secretary will order a hearing to commence within the next 30 days. The procedures of the Administrative Procedure Act (5 U.S.C. 554–557) and Subpart B will apply to the hearing. If, on the record made at such hearing, the Board of Directors finds that the grounds for having assessed the civil penalty have been established, the Board will issue and cause to be served upon the party, its final order. Such final order will require the civil penalty to be paid as specified in the notice of assessment. In issuing its order the Board may, in its discretion, reduce the amount of the penalty specified in the notice.

Subpart I—Rules and Procedures Applicable to Proceedings Relating to Disapproval of Acquisition of Control

§ 308.77 Scope.

The rules and procedures set forth in this subpart and Subpart B are applicable to proceedings by the Board of Directors in connection with the disapproval by the Board of Directors of a proposed acquisition of control of an insured State nonmember bank (other than a District bank).

§ 308.78 Notice of disapproval.

Within three days of its decision to disapprove a proposed acquisition of control of an insured State nonmember bank (other than a District bank), the Board of Directors will serve written notice of its disapproval upon the party seeking to acquire control of the bank. Such notice will state the legal authority under which the disapproval is made, and will contain a statement of the basis for the disapproval, including a copy of any views and recommendations submitted by the appropriate State bank supervisory agency. Such notice will be delivered by personal service, by registered or certified mail to the last known address of the party being afforded the notice, or by other appropriate means.

§ 308.79 Notice of opportunity for hearing.

The notice of disapproval made pursuant to § 308.78 will be accompanied by a further notice to the party to the effect that if, within 10 days of receiving the notice of disapproval, the party in writing requests a hearing, such hearing will be afforded. This notice of opportunity for hearing will be accompanied by a description of the hearing procedure.

§ 308.80 Request for hearing.

A request in writing for a hearing shall be filed with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429. If a party does not, within 10 days of its receipt of the notice of disapproval, request in writing a hearing, the party will be deemed to have waived the opportunity of hearing, and the notice of disapproval will constitute a final and unappealable order.

§ 308.81 Hearing and order.

After the receipt of a request for a hearing pursuant to § 308.80, the Executive Secretary will order a hearing to commence within the next 60 days, or within such longer time as shall be necessary to provide each party with sufficient time to prepare for the hearing. If the appropriate State bank supervisory agency has submitted views and recommendations as to the proposed acquisition, it shall be entitled to appear as a party as of right. The procedures of the Administrative Procedure Act (5 U.S.C. 554–557) and Subpart B will apply to the hearing. If, on the record made at such hearing, and after giving due consideration to any views or recommendations previously submitted by an appropriate State bank supervisory agency, the Board of Directors finds that there are adequate grounds for disapproving the acquisition, the Board shall issue and cause to be served its final order disapproving the acquisition upon the party seeking control of the bank. If the Board finds there are not adequate grounds for disapproval, it shall by order approve the proposed acquisition.

§ 308.82 Grounds for disapproval.

The following are grounds for disapproval under § 308.81:

(a) The proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States;

(b) The effect of the proposed acquisition of control in any part of the United States would be to substantially lessen competition or tend to create a monopoly, or the proposed acquisition of control would in any other manner be in restraint of trade, and the anticompetitive effects of the proposed acquisiton of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

(c) The financial condition of any acquiring person is such as might jeopardize the financial stability of the bank or prejudice the interests of the depositors of the bank;

(d) The competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the bank, or in the interest of the public to permit such person to control the bank; or

(e) Any acquiring person neglects, fails, or refuses to furnish to the appropriate Federal banking agency all the information required by such agency.

Subpart J—Rules and Procedures Applicable to Proceedings Relating to Assessment of Civil Penalties for Willful Violation of the Change in Bank Control Act

§ 308.83 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board of Directors to assess civil penalties against any person for the willful violation of any provision of the Change in Bank Control Act of 1978, 12 U.S.C. § 1817(j), or any regulation or order issued pursuant thereto, where the violation is in connection with the affairs of an insured nonmember bank.

§ 308.84 Rules of practice.

Except as otherwise specifically provided in this subpart, the provisions of § 308.4 ("Appearance and practice before the Corporation"), § 308.5(a) ("Notice of hearing"), § 308.20(a) ("Computing time: General rule"), and § 308.21 ("Documents in proceedings confidential") of Subpart B shall apply to proceedings conducted under this subpart.

§ 308.85 Notice of intention to assess civil penalty.

If, in the opinion of the Board of Directors, any person has willfully violated any of the provisions of the Change in Bank Control Act of 1978, 12 U.S.C. 1817(j), or any regulation or order issued pursuant thereto, in connection with the affairs of an insured nonmember bank, the Board may cause notice to be served upon such person of its intention to assess a civil penalty of not more than $10,000 per day for each day the violation has continued or continues. Such notice will state the legal authority under which the civil penalty is to be assessed and the amount of the intended penalty and will contain a statement of the grounds for assessing the penalty. Such notice will be delivered by personal service, by registered or certified mail to the last known address of the party being afforded the notice, or by other appropriate means.

§ 308.86 Notice of opportunity for hearing.

The notice of intention to assess a civil penalty, made pursuant to § 308.84, will be accompanied by a further notice to the party to the effect that if, within 10 days after issuance of the notice of intention, the party in writing requests a hearing, such hearing will be afforded. At such hearing, the party may present evidence and argument as to why no civil penalty should be assessed, or why the penalty should be reduced from the amount stated in the notice. This notice of opportunity for a hearing will be accompanied by a description of the hearing procedure.

§ 308.87 Request for hearing.

A request for a hearing shall be filed in writing with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429. The request for a hearing shall state with particularity the relief desired and the grounds therefor. If a party does not, within 10 days after issuance of the notice of intention, in writing request a hearing, the party will be deemed to have waived the opportunity of hearing. The Board of Directors may, for good cause shown, extend the period for the filing of a request for a hearing.

§ 308.88 Hearing.

After the receipt of a request for a hearing pursuant to § 308.87, the Executive Secretary will order a hearing to commence within 30 days in Washington, D.C., or at such other place as is designated by the Executive Secretary, before a person designated by the Board of Directors to conduct such hearings. The provisions of § 308.61(b) will apply to the hearing.

§ 308.89 Waiver of hearing.

The party may, in writing, waive a hearing and instead have the propriety of the penalty determined by the Board of Directors solely on the basis of written submissions.

§ 308.90 Assessment.

If, after considering the data, views, and arguments presented at the hearing conducted pursuant to § 308.88, any written submissions made pursuant to § 308.89, and the gravity of the violation and the financial resources and good faith of the party, the Board of Directors concludes that a civil penalty is warranted, it shall assess against the party a penalty of not more than $10,000 per day for each day during which the violation has continued or continues and cause to be served upon the party a final order of assessment. Based upon the same considerations, the Board may, in its discretion, reduce the amount of the penalty from the amount stated in the notice of intention.

§ 308.91 Collection.

The Corporation may collect the civil penalty assessed pursuant to § 308.90 by agreement with the party, or the Corporation may bring an action against the party to recover the amount of the penalty in the appropriate United States district court.

Subpart K—Rules and Procedures Applicable to Sanctions Imposed Upon Municipal Securities Dealers or Persons Associated With Them, and Upon Transfer Agents

§ 308.92 Scope.

The rules and procedures set forth in this subpart and Subpart B are applicable to proceedings by the Board of Directors (a) to censure, limit the activities of, suspend, or revoke the registration of, any municipal securities dealer for which the Corporation is the appropriate regulatory agency; (b) to censure, or to suspend or bar from being associated with such a municipal securities dealer, any person associated with such a municipal securities dealer; and (c) to deny registration to, censure, limit the activities of, suspend, or revoke the registration of, any transfer agent for which the Corporation is the appropriate regulatory agency. Neither this subpart nor Subpart B shall apply to proceedings to postpone or suspend registration of a transfer agent pending final determination of denial or revocation of such registration.

§ 308.93 Notice of intention to impose sanctions.

(a) Whenever, in the opinion of the Board of Directors, any municipal securities dealer for which the Corporation is the appropriate regulatory agency has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of section 15(b)(4) of the Securities Exchange Act of 1934, as amended, or has been convicted of any offense specified in section 15(b)(4)(B) of that Act within 10 years of the commencement of the proceedings under this section, or is enjoined from any action, conduct, or practice specified in section 15(b)(4)(C) of that Act, and the Board of Directors determines that it is in the public interest to censure, place limitations on the activities or functions or operations of, suspend, or revoke the registration of, the municipal securities dealer, the Board of Directors may serve upon the municipal securities dealer a written notice of its intention to impose such a censure, limitation, suspension, or revocation.

(b) Whenever, in the opinion of the Board of Directors, any person associated or seeking to become associated with a municipal securities dealer for which the Corporation is the appropriate regulatory agency, has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of section 15(b)(4) of the

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Securities Exchange Act of 1934, as amended, or has been convicted of any offense specified in section 15(b)(4)(B) of that Act within 10 years of the commencement of the proceedings under this section, or is enjoined from any action, conduct, or practice specified in section 15(b)(4)(C) of that Act, and the Board of Directors determines that it is in the public interest to censure the person or to suspend or bar the person from being associated with a municipal securities dealer, the Board of Directors may serve upon such person a written notice of its intention to impose such a censure, suspension, or bar.

(c) Whenever, in the opinion of the Board of Directors, any transfer agent for which the Corporation is the appropriate regulatory agency has willfully violated, or is unable to comply with, any applicable provision of section 17 or 17A of the Securities Exchange Act of 1934, as amended, or any applicable rule or regulation issued under section 17 or 17A of that Act, and the Board of Directors determines that it is in the public interest to deny registration to, censure, place limitations on the activities or functions or operations of, suspend, or revoke the registration of, the transfer agent, the Board of Directors may serve upon the transfer agent a written notice of its intention to impose such a denial, censure, limitation, suspension, or revocation.

§ 308.94 Contents of notice.

A notice served pursuant to § 308.93 shall contain a statement of the sanction proposed and of the facts constituting grounds for imposition of the sanction, and shall fix a time and place for a hearing to be held thereon.

§ 308.95 Hearing.

The hearing will be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of the notice, unless an earlier or a later date is set by the Board of Directors at the request of the person and for good cause shown. The procedures of Subpart B will apply to the hearing. Unless the person appears at the hearing either in person or by a duly authorized representative, the person shall be deemed to have consented to the issuance of the order by the Board of Directors.

§ 308.96 Issuance of order and effective date.

In the event of consent to the issuance of an order, or if upon the record made at the hearing conducted under this subpart the Board of Directors finds that the grounds specified in the notice have been established, the Board may issue an order containing such sanctions as have been specified in the notice. Such order shall become effective upon the expiration of 30 days after service has been made upon the person (except in the case of an order of censure or of denial or revocation of registration, which shall be effective upon service, and except in the case of an order issued upon consent, which shall become effective at the time specified therein). The order will remain effective and enforceable except to the extent that it is stayed, modified, terminated, or set aside by action of the Board of Directors or a reviewing court, except that no order of suspension may continue in effect for a period exceeding twelve months.

§ 308.97 Notice and consultation with the Securities and Exchange Commission.

Before initiating any proceedings under § 308.93(a) or (b), the Board of Directors shall (a) give notice to the Securities and Exchange Commission of the identity of the municipal securities dealer or associated person against whom proceedings are to be initiated, and the nature of and basis for the proposed action, and (b) consult with the Securities and Exchange Commission concerning the effect of the proposed action on the protection of investors and the feasibility and desirability of coordinating the action with any proceeding or proposed proceeding by the Commission against the municipal securities dealer or associated person.

Subpart L—Rules and Procedures Relating to Exemption Proceedings Under Sections 12 (h) and (i) of the Securities Exchange Act of 1934

§ 308.98 Scope.

The rules and procedures of this subpart are applicable to proceedings by the Board of Directors to exempt, in whole or in part, an issuer of securities from the provisions of section 12(g), 13, 14(a), 14(c), 14(d), or 14(f) of the Securities Exchange Act of 1934, as amended, or to exempt an officer, director, or beneficial owner of securities of such an issuer from the provisions of section 16 of that Act.

§ 308.99 Application for exemption.

Any interested person may apply for an exemption under this subpart by filing with the Executive Secretary an application for an exemption. The application shall be in writing and shall be addressed to the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429. The application shall specify the type of exemption sought and the reasons therefor, and shall include an explanation of why granting the exemption would not be inconsistent with the public interest or with the protection of investors.

§ 308.100 Newspaper notice.

If the Board of Directors decides to consider the application further, it shall serve upon the applicant instructions to publish one notice in a newspaper of general circulation in the community where the main office of the issuer is located. The notice shall state (a) the name and address of the issuer and the name and title of the applicant, (b) the type of exemption sought, (c) the fact that a hearing will be held, and (d) a statement that interested persons may, within 30 days of publication of the newspaper notice, submit to the Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429, written comments concerning the application for exemption and a written request for an opportunity to be heard. The applicant shall submit a copy of the newspaper notice to the Executive Secretary.

§ 308.101 Notice of hearing.

Within 10 days after the period for receipt of comments has expired, the Executive Secretary shall serve upon the applicant, and upon any person who has requested an opportunity to be heard, a notice that a hearing will be held. The notice shall indicate the place and time of the hearing, which shall be no more than 30 days after service of the notice of hearing, and the name and address of the presiding officer, and shall contain a statement of the matters to be considered at the hearing.

§ 308.102 Hearing.

Parties to the hearing may appear personally, or through counsel, or personally with counsel. Parties shall have the right to introduce relevant and material written documents and to make an oral statement. Neither the formal rules of evidence, nor the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. §§ 554–557), nor Subpart B shall apply to the hearing. The Board of Directors or the presiding officer shall have the discretion to permit the presentation of witnesses, within specified time limits, so long as a list of such witnesses is furnished to the presiding officer prior to the hearing. Witnesses shall not be sworn. The presiding officer may ask questions of any witness and each party shall have the opportunity to cross-examine any witness presented by an opposing party.

§ 308.103 Decision.

If, following the submission of the transcript of the hearing to the Board of Directors, the Board finds that, by reason of the number of public investors, the amount of trading interest in the securities, the nature and extent of the activities of the issuer, the income or assets of the issuer, or otherwise, such exemption is not inconsistent with the public interest or with the protection of investors, the Board may grant the exemption. Any exemption so granted shall be by order, which shall specify the type of exemption granted, the person granted the exemption, the terms and exceptions of the exemption and the period for which the exemption is granted. A copy of the order shall be served upon each party to the proceeding.

[FR Doc. 79-13288 Filed 4-30-79; 8:45 am]
BILLING CODE 8714-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 17

Reports by Futures Commission Merchants and Foreign Brokers; Carrying and Reporting the Total Open Long and Short Positions in Omnibus Accounts

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commission is adding §§ 1.37(b), 17.00(c) and 17.04 to its regulations with regard to recordkeeping and reporting requirements for futures commission merchants (FCM's) and foreign brokers in order to improve the accuracy, as well as the timeliness, of market surveillance data available to the Commission concerning omnibus accounts. The new regulations will also provide the Commission with a useful check on compliance with existing reporting requirements. Section 1.37(b) will require FCM's who carry accounts on an omnibus basis to maintain a daily record of the total open long positions and the total open short positions in each future of a commodity for each omnibus account. The Commission is also adding §§ 17.00(c) and 17.04 to Part 17 of the regulations. These new sections generally will require the FCM carrying an omnibus account to report both the total open long and the total open short contracts to the Commission when these open contracts represent reportable positions and also will require foreign brokers and FCM's who originate omnibus accounts to report on a daily basis to the FCM who carries the omnibus account, the total open long positions and total open short positions in each future in the omnibus account maintained by the carrying FCM.

DATE: Effective on August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, telephone 202–254–7448.

SUPPLEMENTARY INFORMATION: On December 9, 1977, the Commission published in the **Federal Register** proposed changes to Parts 1 and 17 of its regulations concerning the recordkeeping and reporting requirements related to omnibus accounts.[1] In essence, the proposed rules would have required each FCM who carries an omnibus account to carry and report both the aggregate gross long and gross short open futures positions of all individual accounts traded through the omnibus account. In proposing these new rules, the Commission sought to insure the availability of accurate open interest data on a timely and expeditious basis for market surveillance purposes. It became apparent, however, that certain persons commenting on the proposal had misinterpreted the Commission's proposal to mean that an FCM would be required to carry omnibus accounts on a fully disclosed basis. Subsequently, the Commission clarified the proposal and published it in the May 24, 1978 **Federal Register** for further public comment.[2] After reviewing the comments received, the Commission is adopting the proposed rules with certain modifications and additions which the Commission has determined are appropriate and responsive to certain of the comments received from the public.

The Commission's Reporting System and Omnibus Accounts

Under § 17.00 of the Commission's regulations, FCM's and certain foreign brokers are required to submit to the Commission a report for each business day in which the FCM or foreign broker carriers a Special Account. A Special Account is an account in which positions equal or exceed a specified level of open contracts in a particular commodity futures contract, referred to as reportable positions.[3] These reports provide the Commission, on a daily basis, with essential market surveillance information concerning the level and concentration of open contracts in a particular commodity futures contract. The Commission's regulations, in essence, define the term "open contracts" as any futures contract which has not been fulfilled by delivery or offset by a transaction in the same commodity for the same delivery month.[4] The reports received by the Commission under § 17.00 therefore evidence the number of traders with significant open positions who may potentially make or take delivery of the commodity underlying the futures contract. Accordingly, if the Commission is to safeguard futures markets from manipulations, congestions or other market disorders, the Commission must receive accurate reports under § 17.00 as expeditiously as possible.

The Commission has experienced some difficulty in obtaining reports quickly from FCM's and foreign brokers under § 17.00 when the FCM's or foreign brokers are not located in the same city in which the Commission maintains an office. Moreover, even those reports which are received on a timely basis in positions on omnibus accounts generally do not contain a complete statement of the total open contracts, both long and short, in any future in the account. The Commission is adding §§ 1.37(b), 17.00(c) and 17.04 to its regulations in order to ensure that the Commission receives expeditiously more accurate position data regarding omnibus accounts.

In general, an omnibus account is carried by an FCM ("the carrying FCM"), who is a clearing member of a contract market, for and in the name of another FCM, exchange member, or foreign broker ("the originating FCM"). This account consists of trading positions of two or more customers of the originating FCM, and may also include so-called house positions of the originating FCM. Since the account is maintained on the records of the carrying FCM in the name of the originating FCM, the carrying FCM typically is unaware of the positions or

[1] 42 FR 62147 (December 9, 1977).

[2] 43 FR 22220 (May 24, 1978).

[3] The Commission's regulations define "Special Account" to be "any commodity futures account in which there is a reportable position." 17 CFR 15.00(c) (1978). The term "reportable position" is defined in § 15.00(b) of the Commission's regulations, 17 CFR 15.00(b) (1978). Generally, reportable positions are any open contract positions in any future which at the close of the trading day equals or exceeds the quantity fixed in § 15.03(a) of the Commission's regulations, 17 CFR 15.03(a) (1978).

[4] Section 1.3(t) of the Commission's regulations, 17 CFR 1.3(t) (1978).

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the identity of the traders in the omnibus account.[6] Of course, the originating FCM maintains this information.[6] Since the carrying FCM does not know the identity or positions of the individual traders in the omnibus account, the carrying FCM is generally unaware when those traders establish reportable positions. The originating FCM is therefore the person who provides the Commission with reports for traders participating in an omnibus account.

When the FCM originating an omnibus account is not located in a city in which the Commission maintains an office, compliance with the reporting requirements will not normally provide the Commission with this important surveillance data in sufficient time to permit the Commission to adjust its surveillance efforts to a fluid and fast-changing market situation. Under § 17.02 of the Commission's regulations, the reports to be filed by FCM's pursuant to § 17.00 must be filed with the Commission at the Commission office in the city where the contract market involved in the reported transactions is located.[7] Section 17.02(a)(2) of the Commission's regulations specifies that these reports must be filed with the Commission on the business day following the day when the reportable positions were established and not later than 30 minutes before the official opening of the contract market involved in the reported transactions.[8] Section 17.02(a)(2) exempts from this requirement reports to be filed by FCM's who do not maintain an office in the city in which the appropriate Commission office is located.[9] These FCM's may mail their reports to the Commission if the report is postmarked no later than midnight of the day covered by the report.[10] Foreign brokers are also exempt from the requirement of § 17.00(a)(2); they are required to prepare these reports for each business day and must transmit them to the appropriate Commission office at least once a week.[11]

[6] In recognition of this situation, § 1.33(b) of the Commission's regulations, 44 FR 1918 (January 8, 1979), exempts FCM's carrying omnibus accounts for another FCM, from the requirement contained in that Section that FCM's furnish to their customers, on a monthly basis, a statement concerning the open positions held by the customer.

[6] 17 CFR 1.37 (1978).

[7] 17 CFR 17.02(a)(1) (1978).

[8] 17 CFR 17.02(a)(2) (1978).

[9] *Id.*

[10] *Id.*

[11] 17 CFR 17.02(b) (1978).

Under the present reporting structure the Commission first learns of the extent of open interest in a particular future or the identity of traders having reportable positions carried in the omnibus accounts when the Commission receives the reports mailed to it by the originating FCM's or foreign brokers. Depending upon the speed of the postal service, this information is generally received by the Commission three to four days after the trading day for which the reports are to be filed.

Since FCM's who carry omnibus accounts are normally exchange clearing members and maintain an office in the city where the appropriate Commission office is located, the Commission could expeditiously receive reports from these FCM's on total positions in an omnibus account. Currently, however, the reports filed by carrying FCM's are, as a practical matter, incomplete insofar as they purport to state the open contracts in the omnibus account. This situation occurs because in many instances the carrying FCM carries the open contracts in the omnibus account on a net basis.

For example, if the omnibus account contains 1000 open long positions in the May Wheat futures contract and 1000 open short positions in the same contract, the carrying FCM nets out the open positions and records that there are no open positions in the account. The long positions in the account may be those of one trader, while the short positions may have been established by another trader, both of whom trade through an omnibus account carried in the name of the originating FCM. Thus, the carrying FCM's records for the omnibus account will not reflect the actual and substantial open interest in the particular future. Of course, the records of the originating FCM should contain an accurate statement of this open interest. But, as explained above, the reports to the Commission from originating FCM's generally are not received until three or four days after the trading day in which the reportable open positions were established or maintained.

Thus, for a period of days the Commission is often unaware of the extent of open interest in a particular contract carried in omnibus accounts. And, the Commission has experienced situations where high levels of open interest were held by persons with positions in omnibus accounts without the Commission's being aware of this situation for a considerable period of time.

Most contract markets are similarly unaware of the extent of open interest in contracts traded on the contract market insofar as positions in those contracts are carried in omnibus accounts.[12] In a market situation where prices appear to be fluctuating abnormally or the deliverable supply of a commodity is somewhat scarce, it is essential both for the Commission and the contract markets to have accurate information concerning the open interest in a contract in order for each to be able to take prompt, effective remedial action. The significance of this data is heightened during the final days of trading in a contract when the Commission and contract markets are particularly alert to the possibility of manipulative practices, defaults or other market disturbances.

To remedy this situation, the Commission has determined to adopt §§ 1.37(b) and 17.00(c) of its regulations requiring all FCM's who effect transactions on an omnibus basis for another FCM or foreign broker to record and report (when the account is reportable) both the total open long and the total open short positions in the omnibus account.

The Commission also notes that adoption of these rules will provide those exchanges clearing on a net basis with information not previously available concerning positions held by FCM's and foreign brokers who are not members of the exchange.[13] This should result in the publication of more accurate, total open interest figures on each futures contract by such exchanges. In addition, the information required to be maintained by the proposed rules should aid exchanges in determining the adequacy of their margining policies and in carrying out their delivery procedures with respect to non-member firms trading on their markets. Finally, adoption of these rules will provide the Commission with a useful check on compliance by FCM's, foreign brokers and foreign traders with Commission regulations requiring the reporting of large open positions under Parts 17 and 18.

Public Comments on the Proposed Requirement

Two commodity exchanges and three FCM's submitted written comments on

[12] At the present time, only the New York Mercantile Exchange (NYME) and the Chicago Mercantile Exchange (CME) require an FCM carrying an omnibus account to maintain records of the total long and short open interest in each future in the omnibus account.

[13] Specifically, the information will be available to the exchange from records of the exchange's clearing members who are generally the carrying FCM's.

the May 24 proposal. The commentators raised three principal concerns. First, the proposed rules imposed the responsibility on the carrying FCM rather than the originating FCM for obtaining accurate and timely information concerning open positions in the omnibus account. Secondly, the proposal would not provide the type of specific information which would be useful for Commission or exchange market surveillance. Finally, the rules would unnecessarily increase the cost to FCM's of carrying omnibus accounts. The commentators suggested certain modifications to the proposal and recommended that the Commission give further consideration to whether the increased costs to the FCM's could be justified by the surveillance information which would be provided under the proposed rules.

One commentator objected to the Commission's proposal since the carrying FCM could only assure that its reports were fully accurate by contacting each day the originating FCM of the omnibus account to determine which positions in the account were closed out or off-set and consequently should not be reflected in the total open positions in the account. This commentator also pointed out that inaccuracies in the data would also occur if the originating FCM did not inform the carrying FCM of the correct total of long and short open positions in the omnibus account. Similarly, another commentator expressed concern that the carrying FCM would be held responsible for errors or misstatements made by the originating FCM in communicating the total open interest information to the carrying FCM.

The Commission recognizes the merit of these comments and has revised the proposed rules by adopting § 17.04 which imposes an obligation on the originating FCM to report the required information to the carrying FCM on a daily basis. The originating FCM or foreign broker must transmit the information to the carrying FCM at a time no later than is necessary for the carrying FCM to include the information in the reports required by the Commission or the exchanges. This should permit the carrying FCM to comply fully with the recordkeeping and reporting requirements of §§ 1.37(b) and 17.00(c), as adopted. The Commission is not specifying a mechanism by which the originating FCM must communicate the required information to the carrying FCM. Instead, both parties will be free to adopt the best possible method of insuring their ability to comply with their obligations under the Commission's regulations. The Commission suggests, however, that the originating and carrying FCM's establish a mechanism whereby a record will be maintained of this daily communication in order to avoid any possible question as to what was reported in a particular circumstance.

Some commentators also questioned the utility of the information which the carrying FCMs would be required to maintain and report under the new rules because of the incomplete nature of the data as well as its marginal value for determining positions held by large traders. One commentator explained that since the positions in an omnibus account may reflect a trader's hedge positions and since these hedge positions may be carried in the account as open on both the long and short side of the market, the information the originating FCM will provide the carrying FCM concerning the total open positions in the omnibus account may be inaccurate in certain circumstances. For example, one individual account within the omnibus account may contain the positions of a trader which is a firm with two subsidiaries. The trader may establish a hedge position for Subsidiary A which is long 1,000 contracts of May Wheat and a hedge position for Subsidiary B which is short 1,000 contracts of May Wheat. The Commission understands that certain commodity exchanges do not consider hedge positions of the same trader which are long and short the same future of a commodity as open even though they are not offset on the records of the originating FCM. Other exchanges, specifically the Chicago Mercantile Exchange and the New York Mercantile Exchange, would require FCM's to report open positions to the contract market on a gross basis thus reflecting the total open long and short interest in any future in the omnibus account.[14]

The Commission has modified its proposed rules in response to this comment. In order to ensure reliable and consistent information which will be of benefit to the Commission and contract markets in assessing trading activity, the Commission is requiring the originating FCM to maintain hedge positions in omnibus accounts in accordance with the applicable contract market's requirements. If the originating FCM caused futures contracts to be made, for example, on the Chicago Mercantile Exchange or the New York Mercantile Exchange on behalf of a trader through an omnibus account, the originating FCM would maintain these hedge positions on a gross basis—without subtracting the open long and short positions of an individual trader within the omnibus account—and report them to the carrying FCM on a gross basis. On the other hand, with respect to transactions effected on contract markets which do not require gross basis reporting, the originating FCM would maintain, for purposes of determining open long and open short positions in the omnibus account, the hedge positions of a trader on a net basis. The Commission points out that under either reporting method, the originating FCM is required to disclose only the open position data for the omnibus account as a whole and is not required to disclose to the carrying FCM the identity of persons trading through the account.

For example, assume an originating FCM has three customers A, B and C. These customers have established the following positions in the same future of a commodity. Trader B is a hedger. The originating FCM has also established an omnibus account for effecting transactions for these customers through another FCM.

Customers	Customer positions (in contracts)	
	Long	Short
A	400	
B	200	600
C		80

Under § 17.04, as adopted, if these positions are on an exchange which requires net basis reporting, the originating FCM would net the hedge positions of Trader B and then add all long contracts and short contracts held by the customers in the omnibus account. Thus, he would report 400 open long contracts and 400 open short contracts in the omnibus account to the carrying FCM. We also note that prior to the adoption of § 1.37(b), the records of the carrying FCM would not have reflected any open positions in this omnibus account. Accordingly, under Part 17 of the Commission's regulations the carrying FCM would not have been required to report in connection with this account and the Commission would

[14] Rule 536E of the Chicago Mercantile Exchange specifically requires that "a person responsible for an omnibus account shall at all times disclose to the clearing member or subbroker carrying that account the gross long and short positions held by that omnibus account in each commodity."

Rule 561 of the Chicago Mercantile Exchange and Rule 41.47 of the New York Mercantile Exchange require each clearing member of the exchange to submit position change sheets after the close of the market each day which show, among other things, the number of trades offset in each future of each commodity.

not have known the true open interest in this futures contract for a number of days.

If the positions in the example were established on an exchange which requires gross basis reporting, under § 17.04, as adopted, the originating FCM would report 650 open long contracts and 650 open short contracts to the carrying FCM. Because the exchange required gross basis reporting, the same information would have been reflected in the records of the carrying FCM prior to adoption of the new rules by the Commission.

The Commission has also modified its proposed rule to ensure that it will receive reliable and consistent information in cases where FCM's and foreign brokers who originate omnibus accounts also carry omnibus accounts for other FCM's or foreign brokers.

All commentators expressed concern that the proposed rules would be costly to implement, particularly since carrying FCM's would be required to modify existing accounting methods for omnibus accounts. The Commission specifically asked the public, in the May 24, 1978 **Federal Register** notice, for estimates of the cost of compliance with the regulations.[15] No estimates were received. Accordingly, the Commission will adopt the rules as modified and will, of course, entertain and consider any detailed cost estimates in the future with respect to the adopted rules.

In adopting these rules, the Commission has taken into consideration the public interest to be protected by the antitrust laws and has endeavored to take the least anticompetitive means of achieving the regulatory objectives of the Commodity Exchange Act.[16] The Commission is unaware of any evidence that these rules will impose any undue burden affecting competition among FCM's. The Commission emphasizes that these new regulations are needed to permit the Commission to perform effectively a primary function—protecting the futures market from manipulative or other unlawful practices.

In consideration of the foregoing and pursuant to the authority in Sections 4g, 4i and 8a(5) of the Commodity Exchange Act, as amended, (1976) 7 U.S.C.,§ 6g, 6i and 12a(5), the Commission hereby amends 17 CFR, Parts 1 and 17 as follows:

[15] 43 FR 22220 (May 24, 1978).

[16] Section 15 of the Act, 7 U.S.C. 19 (1976).

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.37 is amended by making the current § 1.37 the new § 1.37(a) and adding a new § 1.37(b) as follows:

§ 1.37 Customer's name, address, and occupation recorded; record of guarantor or controller of account; record of positions in omnibus accounts.

* * * * *

(b) Each futures commission merchant who carries an account for another futures commission merchant, foreign broker, member of a contract market or other person on an omnibus basis shall maintain a daily record of the total open long contracts and the total open short contracts in each future carried at the close of the market each day in each omnibus account maintained on the books of such futures commission merchant.

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS AND FOREIGN BROKERS

2. A new § 17.00(c) is added as follows:

§ 17.00 Reporting positions in omnibus accounts to the Commission.

* * * * *

If the total open long positions or the total open short positions for any future of a commodity carried in an omnibus account is a reportable position, the omnibus account is in Special Account status and shall be reported by the futures commission merchant or foreign broker carrying the account in accordance with paragraph (a) of this section.

3. A new § 17.04 is added as follows:

§ 17.04 Reporting omnibus accounts to the carrying futures commission merchant or foreign broker.

(a) Any futures commission merchant or foreign broker who establishes an omnibus account with another futures commission merchant or foreign brokers shall report to that futures commission merchant or foreign broker the total open long positions and the total open short positions in each future of a commodity in the account at the close of trading each day in the applicable futures contract. The information required by this section shall be reported in sufficient time to enable the futures commission merchant or foreign broker with whom the omnibus account is established to comply with Part 17 of these regulations and reporting requirements established by the contract markets.

(b) In determining open long and open short positions in an omnibus account for purposes of complying with this section, § 17.00(c) and § 1.37(b) of this chapter, a futures commission merchant or foreign brokers shall total the open long positions of all traders and the open short positions of all traders in each future of a commodity carried in accounts which are traded through the omnibus account. In making this computation, the futures commission merchant or foreign broker shall, if both long and short positions are carried for the account or accounts of the same trader,

(1) Include both the total open long and the total open short positions of the trader if

(i) The positions represent transactions on a contract market which requires long and short positions in the same future held in accounts for the same trader to be recorded and reported on a gross basis; or

(ii) The account is an omnibus account of another futures commission merchant or foreign broker; or

(2) Include only the net long or net short positions of the trader if the positions represent transactions on a contract market which does not require long and short positions in the same future held in accounts for the same trader to be recorded and reported on a gross basis.

Issued by the Commission on April 26, 1979.

Gary L. Seevers,

Acting Chairman, Commodity Futures Trading Commission.

[FR Doc. 79-13485 Filed 4-30-79; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

National Bridge Inspection Standards; Amendment

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this document in order to provide guidance and establish procedures concerning the national bridge inspection standards in accordance with section 124 of the Surface Transportation Assistance Act of 1978.

DATES: Effective May 1, 1979. Comments must be received on or before July 30, 1979.

ADDRESS: Anyone wishing to submit written comments may do so, preferably in triplicate, to FHWA Docket No. 79-2, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Gordon, Bridge Division (202/472-7897), or Mrs. Kathleen S. Markman Office of the Chief Counsel, (202/426-0346), Federal Highway Administration, United States Department of Transportation, Washington, D.C. 20590. Office hours from 7:45 a.m. to 4:15 p.m. ET, Monday-Friday.

SUPPLEMENTARY INFORMATION: On November 6, 1978, the President signed into law the Surface Transportation Assistance Act of 1978, Pub. L. 95-599, 92 Stat. 2689. Section 124 of the Act amended 23 U.S.C. 144 which necessitates an amendment of the regulations regarding the national bridge inspection standards. The amendment provides that all bridges located on all public roads must be inventoried. Formerly, the standards applied only to bridges on the Federal-aid system. Technical revisions regarding the publication of the Bridge Inspector's Training Manual are also included in this document.

In consideration of the foregoing, the Federal Highway Administration hereby amends Subpart C of Part 650, Chapter I of Title 23, Code of Federal Regulations as set forth below.

1. Section 650.301 is amended to read as follows:

§ 650.301 Application of standards.

The National Bridge Inspection Standards in this part apply to all structures defined as bridges located on all public roads. In acordance with the AASHTO (American Association of State Highway and Transportation Officials) Highway Definitions Manual, a "bridge" is defined as a structure including supports erected over a depression or an obstruction, such as water, highway, or railway, and having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes; it may also include multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening.

§ 650.303 [Amended]

2. Paragraph (a) of § 650.303 is amended to read as follows:

(a) Each highway department shall include a bridge inspection organization capable of performing inspections, preparing reports, and determining ratings in accordance with the provisions of the AASHTO Manual [1] and the Standards contained herein.

* * * * *

3. Paragraph (c) of § 650.303 is amended to read as follows:

* * * * *

(c) Each structure required to be inspected under the Standards shall be rated as to its safe load carrying capacity in accordance with section 4 of the AASHTO Manual. If it is determined under this rating procedure that the maximum legal load under State law exceeds the load permitted under the Operating Rating, the bridge must be posted in conformity with the AASHTO Manual or in accordance with State law.

§ 650.307 [Amended]

4. Paragraph (a)(3) of § 650.307 is amended to read as follows:

(a) * * *

(3) Have a minimum of 10 years experience in bridge inspection assignments in a responsible capacity and have completed a comprehensive training course based on the "Bridge Inspector's Training Manual," [2] which has been developed by a joint Federal-State task force.

* * * * *

5. Paragraph (b)(2) of § 650.307 is amended to read as follows:

* * * * *

(b) * * *

(2) Have a minimum of 5 years experience in bridge inspection assignments in a responsible capacity and have completed a comprehensive training course based on the "Bridge Inspector's Training Manual," which has been developed by a joint Federal-State task force.

6. Section 650.311 is amended to read as follows:

§ 650.311 Inventory.

(a) Each State shall prepare and maintain an inventory of all bridge structures subject to the Standards. Under these Standards, certain structure inventory and appraisal data must be collected and retained within the various departments of the State organization for collection by the Federal Highway Administration as needed. A tabulation of this data is contained in the structure inventory and appraisal sheet distributed by the Federal Highway Administration as part of the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges (Coding Guide) in January of 1979. Reporting procedures have been developed by the Federal Highway Administration.

(b) All bridges subject to these Standards shall be inventoried by December 31, 1980, as required by section 124(a), and (c) of the Surface Transportation Assistance Act of 1978. Newly completed structures or any modification of existing structures which would alter previously recorded data on the inventory forms shall be entered in the State's records within 90 days.

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

(23 U.S.C. 144, 116(d), 315; 49 U.S.C. 1655; 23 CFR 1.48(b)).

Issued on: April 17, 1979.

John S. Hassell, Jr.,

Deputy Administrator.

[FHWA Docket No. 79-2]

[FR Doc. 79-13435 Filed 4-30-79; 8:45 am]

BILLING CODE 4910-22-M

[1] The "AASHTO Manual" referred to in this part is the "Manual for Maintenance Inspection of Bridges 1976" published by the American Association of State Highway and Transportation Officials. A copy of the Manual may be examined during normal business hours at the office of each Division Administrator of the Federal Highway Administration, at the office of each Regional Federal Highway Administrator, and at the Washington Headquarters of the Federal Highway Administration. The addresses of those document inspection facilities are set forth in Appendix D to Part 7 of the regulations of the Office of the Secretary (49 CFR Part 7). In addition, a copy of the Manual may be secured upon payment in advance by writing to the American Association of State Highway and Transportation Officials, 444 N. Capitol Street, NW., Suite 225, Washington, D.C. 20001.

[2] The "Bridge Inspector's Training Manual" may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for Town of Milford, Hillsborough County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Milford, Hillsborough County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the town of Milford, Hillsborough County, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Milford, Hillsborough County, New Hampshire, are available for review at the Milford Town Office, Milford, New Hampshire.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Milford, Hillsborough County, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Souhegan River	State Route 101 (Upstream)	222
	Old Public Service Dam (Downstream).	233
	Old Public Service Dam (Upstream).	237
	Goldman Dam (Downstream).	239
	Goldman Dam (Upstream)	242
	Confluence of Great Brook	243
	Confluence of Tucker Brook	249
	Confluence of Hartshorn Brook.	251
	Confluence of Purgatory Brook.	253
	Jones Crossing (Upstream)	279
	Wilton Road (Upstream)	298
	Boston & Maine Railroad (Upstream).	301
	Upstream Corporate Limits	316
Great Brook	Confluence with Souhegan River.	243
	Railroad Pond Dam (Downstream).	249
	Railroad Pond Dam (Upstream).	256
	Boston and Maine Railroad	256
	Lincoln Street	258
	Boston and Maine Railroad	259
	Milford Waterworks	261
	Confluence of Tributary E	263
	Union Street (Downstream)	264
	Union Street (Upstream)	267
	Confluence of Ox Brook	268
	Osgood Road (Downstream)	269
	Osgood Pond Dam (Downstream).	270
	Osgood Pond Dam (Upstream).	274
	Mason Road (Upstream)	279
Tucker Brook	Confluence with Souhegan River.	249
	State Route 101 (Upstream)	254
	Boston and Maine Railroad (Upstream).	259
	Service Road "A" (Upstream).	267
	New State Route 101 (Upstream).	275
Purgatory Brook	Confluence with Souhegan River	253
	North River Road (Upstream)	260
	North Purgatory Road (Upstream).	263
Hartshorn Brook	Confluence with Souhegan River	251
	North River Road (Upstream)	254
	Jennison Road (Upstream)	258
Ox Brook	Confluence with Great Brook	268
	Armory Road (Upstream)	269

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4798]
[FR Doc. 79–13133 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for Town of Belleville, Essex County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Belleville, Essex County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program. (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the town of Belleville, Essex County, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Belleville, Essex County, New Jersey, are available for review at the Belleville City Hall, 152 Washington Avenue, Belleville, New Jersey.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Belleville, Essex County, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Passaic River	Confluence of Second River	10
	Belleville Turnpike	11
Second River	Confluence w/Passaic River	10
	McCarter Highway	11
	Conrail	18
	Summer Avenue	34
	Union Street	42
	Park Drive	53
	Franklin Avenue	77
	Upstream Corporate Limits	100
Third River	Downstream Corporate Limits	75
	Joralemon Street	81
	Upstream Corporate Limits	82

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator (43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4800]
[FR Doc. 79–13134 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeal From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for City of Passaic, Passaic County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Passaic, Passaic County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Passaic, Passaic County, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Passaic, Passaic County, New Jersey, are available for review at the City Hall, Passaic, New Jersey.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Passaic, Passaic County, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.49(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Passaic River	Downstream Corporate Limit	15
	Union Avenue Downstream	15
	Gregory Avenue Downstream	16
	Market Street Upstream and Downstream.	17
	Monroe Street Upstream	20
	Upstream Corporate Limit	21
MacDonald Brook	Main Avenue Upstream	46
	High Street Downstream	50
	Pennington Avenue Upstream.	58
	Passaic Avenue Downstream	65
	Dam Downstream	71
	Dam Upstream	74
	Road Upstream	78
	Mineral Spring Avenue Downstream.	85
Weasel Brook	Confluence with Passaic River.	17
	Monroe Street Upstream	18
	Sherman Street Downstream	24
	Parker Avenue Downstream	26

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4868]
[FR Doc. 79–13135 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for Town of Plattsburgh, Clinton County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Plattsburgh, Clinton County, New York.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the Town of Plattsburgh, Clinton County, New York.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Plattsburgh, Clinton County, New York, are available for review at the Office of the Supervisor, R. D. 1, Banker Road, Plattsburgh, New York.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202–755–5581 or toll free line 800–424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Plattsburgh, Clinton County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saranac River	Upstream Corporate Limits	735
	Cadyville Dam Upstream	735
	Cadyville Dam Downstream	664
	Delaware and Hudson Railroad Bridge Upstream.	
	Mill "C" Dam Upstream	658
	Mill "C" Dam Downstream	606
	Kents Falls Road Bridge Upstream.	591
	Kents Falls Dam Upstream	591
	Kents Falls Dam Downstream.	532
	State Route 22B Bridge Upstream.	360
	Treadwells Mill Dam Upstream.	269
	Treadwells Mill Dam Downstream.	266
	Fredenburgh Dam Upstream	251
	Fredenburgh Dam Downstream.	223
	Indian Rapids Dam Upstream	201
	Indian Rapids Dam Downstream.	190
	Downstream Corporate Limits.	102
Cumberland Bay	Gunboat Rock—entire reach	102
	Grand Isle Ferry	102
	Gravelly Point—entire reach	102
	Martin Point—entire reach	102
Scomotion Creek	Adirondack Northway Upstream.	102
Lake Champlain	Cliff Haven—entire reach	102
	Bluff Point—entire reach	102

(National Flood Insurance Act of 1968 (Title XIII if Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4847]
[FR Doc. 79–13136 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Town of Rye, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Rye, Westchester County, New York.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Rye, Westchester County, New York.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Rye, Westchester County, New York, are available for review at the Town Hall, 10 Pearl Street, Port Chester, New York.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Rye, Westchester County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mean sea level
Blind Brook	Downstream Corporate Limits.	35
	Westchester Expressway	36
	Confluence with East Branch Blind Creek.	37
	Downstream Rye City Dam	57
	Upstream Rye City Dam	61
	Downstream Bowman Avenue Bridge.	62
	Upstream Bowman Avenue Bridge.	65
	Westchester Avenue Bridge	77
	Private Bridge	89
	Westerleigh Road Bridge	118
	Brookside Way Bridge	126
	Hutchinson River Parkway Bridge No. 3.	142
	Hutchinson River Parkway Bridge No. 2.	154
	Hutchinson River Parkway Bridge No. 1.	162
	Downstream New Blind Brook Country Club Dam.	199
	Upstream New Blind Brook Country Club Dam.	217
	Downstream Old Blind Brook Country Club Dam.	233
	Upstream Old Blind Brook Country Club Dam.	239
	Upstream Anderson Hill Road.	348
	College Road	342
	Lincoln Avenue Footbridge No. 1.	350
East Branch Blind Brook.	Confluence with Blind Brook	37
	Downstream Bowman Avenue.	37
	Upstream Bowman Avenue	39
	School Footbridge No. 2	41
	School Footbridge No. 1	42
	Downstream Westchester Avenue.	43
	Upstream Westchester Avenue.	69
	Downstream Private Dam	78
	Upstream Private Dam	88
	Downstream Private Driveway Bridge.	110
	Upstream Private Driveway Bridge.	111
	Argyle Road	131
	Betsey Brown Road	162
	Asher Drive	182

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4152]
[FR Doc. 79–13137 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determinations for the City of Bottineau, Bottineau County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Bottineau, Bottineau County, North Dakota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Bottineau, North Dakota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Bottineau, are available for review at City Hall, 115 West Sixth, Bottineau, North Dakota.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Bottineau, North Dakota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Oak Creek	Downstream Extraterritorial Limits.	1,588
	Thirteenth Street *	1,610
	Tenth Street *	1,620
	Fifth Street *	1,634
	Lake Road–80 feet **	1,653
	Upstream Extraterritorial Limits.	1,676

* At centerline.
** Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4781]
[FR Doc. 79–13138 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determinations for City of Carpio, Ward County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Carpio, Ward County, North Dakota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Carpio, North Dakota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone area and the final elevations for the City of Carpio, are available for review at City Hall, Main Street, Carpio, North Dakota.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Carpio, North Dakota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administration, 43 FR 7719. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dee Lacs River	At the Dam downstream of Washington Avenue.	1,692
	At First Street—20 feet upstream of centerline.	1,693
	At State Route 28—1200 feet north of the Soo Line Railroad.	1,695

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administration, 43 FR 7719).

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In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4256]
[FR Doc. 79–13139 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determinations for the City of Donnybrook, Ward County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Donnybrook, North Dakota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Donnybrook, North Dakota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Donnybrook, Ward County, North Dakota, are available for review at City Hall, Donnybrook, North Dakota.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Donnybrook, North Dakota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Des Lacs River	500 feet upstream of Main Street.	1753
	100 feet upstream of the Soo Line Railroad.	1755

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: September 19, 1978.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4257]
[FR Doc. 79–13140 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determinations for The City of Sawyer, Ward County, N.Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Sawyer, North Dakota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Sawyer, North Dakota.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Sawyer, Ward County, North Dakota, are available for review at City Hall, Sawyer, North Dakota.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Sawyer, North Dakota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Souris River	State Route 923	1527
	Along Soo Line Railroad 1200 feet west of Dakota Avenue.	1528

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: September 19, 1978.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4258]
[FR Doc. 79–13141 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determinations for the City of Willow City, Bottineau County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Willow City, Bottineau County, North Dakota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Willow City, North Dakota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Willow City, are available for review at City Hall, Willow City, North Dakota.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Willow City, North Dakota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Willow Creek	Downstream Extraterritorial Limits.	1,464
	State Highway 60—at centerline.	1,465
	Upstream Extraterritorial Limits.	1,467

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 30, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4762]
[FR Doc. 79–13142 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for Township of Armstrong, Lycoming County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Armstrong, Lycoming County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Armstrong, Lycoming County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Armstrong, Lycoming County, Pennsylvania, are available for review at the Township Building, Armstrong, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410 (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Armstrong, Lycoming County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Downstream Corporate Limits.	517
	Upstream Corporate Limits	537
Mosquito Creek	Edgewood Avenue	570
	Dam	579
	Legislative Route 41016	583
	Dam	602
	Legislative Route 41117	606
	Dam Downstream	623
	Dam Upstream	626
	Private Bridge Downstream	629
	Private Bridge Upstream	636
	Township Route 434	642
	Dam	678
	Private Bridge Downstream	657
	Private Bridge Upstream	662

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4848]
[FR Doc. 79–13143 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for The Borough of Baden, Beaver County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Baden, Beaver County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program. (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Baden, Beaver County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Baden, Beaver County, Pennsylvania, are available for review at the Borough Building, 369 State Street, Baden, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Baden, Beaver County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Downstream Corporate Limits.	707
	Upstream Corporate Limits	708

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4849]
[FR Doc. 79–13144 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Township of Clinton, Lycoming County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Clinton, Lycoming County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Clinton, Lycoming County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Clinton, Lycoming County, Pennsylvania, are available for review at the Township Building, Montgomery, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or toll-free -line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Clinton, Lycoming County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch	Corporate Limits (Downstream).	489
Susquehanna River	Conrail (near border of Lycoming and Northumberland Counties).	491
	Conrail (near State Correctional Institution).	502
	Pennsylvania Route 405	504
	Corporate Limits (Upstream)	516
Black Hole Creek	Corporate Limits (Downstream).	492
	Legislative Route 41005	500
	Township Route 801	507
	Township Route 522	536
	Township Route 520	577
	U.S. Route 15	599

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4850]
[FR Doc. 79–13145 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Borough of Dunmore, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Dunmore, Lackawanna County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Dunmore, Lackawanna County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Dunmore, Lackawanna County, Pennsylvania, are available for review at the Manager's Office, Borough Building, Dunmore, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410,

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Dunmore, Lackawanna County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Roaring Brook	Downstream Corporate Limits.	922
	Interstate Route 81	982
	Upstream of Pipe Crossing	1,005
	Dam-Reservoir No. 7	1,082
	Upstream of Interstate Routes 380 and 84.	1,146
	Upstream Corporate Limits	1,248
Little Roaring Brook	Confluence with Roaring Brook.	1,029
	Hannigan Street	1,099
	East Dibbler Street	1,133
	1,300 feet upstream of East Dibbler Street.	1,162
Meadow Brook	Culvert Headwall at Electric Street.	926
	Jefferson Avenue	957
	1,200 feet upstream of Jefferson Avenue.	973

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4851]
[FR Doc. 79–13146 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Township of East Hempfield, Lancaster County, Pennsylvania.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of East Hempfield, Lancaster County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of East Hempfield, Lancaster County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of East Hempfield, Lancaster County, Pennsylvania, are available for review at the East Hempfield Township Building, Lancaster, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of

East Hempfield, Lancaster County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary 1	Stevens Street	362
	State Road (Upstream)	345
	Leabbrook Road	326
	Route 230 (Upstream)	316
Millers Run	2,200 feet above mouth	326
	Old Harrisburg Pike (Upstream).	315
Swarr Run	Nissley Road	356
	Colebrook Road (Upstream)	322
	Rohrerstown Road	311
	Shriener Road (Upstream)	308
Brubaker Run	Rohrerstown Road (Upstream).	330
	Confluence with Little Conestoga Creek.	292
Little Conestoga Creek	Quarry Road (Upstream)	343
	Buch Road (Upstream)	324
	Flory Mill Road (Upstream)	316
	Conrail (Upstream)	313
	Harrisburg Pike (Upstream)	300
	Marietta Avenue	294
	Columbia Avenue (Upstream) (Route 340).	292
West Branch Little Conestoga Creek	Donnerville Road (Upstream).	396
	Columbia Avenue (Upstream)	387
Cheques Creek	Ensman Road (Upstream)	355
	Route 230 (Upstream)	348
	Cheques Road (Upstream)	344

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4863]
[FR Doc. 79–13147 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Township of Gregg, Union County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Gregg, Union County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Gregg, Union County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Gregg, Union County, Pennsylvania, are available for review at the Gregg Township Fire Hall, Gregg, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Gregg, Union County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Downstream Corporate Limits.	480
	Pennsylvania Route 44	483
	Upstream Corporate Limits	488
White Deer Hole Creek.	Conrail	481
	Legislative Route 627	481
	Legislative Route 59039	481
	Township Route 526	489

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4863]
[FR Doc. 79–13148 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the City of Lancaster, Lancaster County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Lancaster, Lancaster County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Lancaster, Lancaster County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Lancaster, Lancaster County, Pennsylvania, are available for review at the Bureau of Engineering, City Hall, 120 North Duke Street, Lancaster, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Lancaster, Lancaster County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary No. 1 to Little Conestoga Creek.	Harrisburg Pike Bridge	307
Conestoga River	Conrail Bridge	319
	East Strawberry Street	256
	Rockford Road	258
	Service Road	262
	Conrail Bridge	271
	Water Plant Bridge	272
Tributary No. 2 to Conestoga River.	Service Road to Water Treatment Plant.	271

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4864]
[FR Doc. 79–13149 Filed 4–30–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Borough of Lincoln, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the borough of Lincoln, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the borough of Lincoln, Allegheny County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the borough of Lincoln, Allegheny County, Pennsylvania, are available for review at the residence of Ms. Lianne Booth, Secretary of Lincoln, R.D. 4, Elizabeth, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or Toll Free Line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the borough of Lincoln, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the national Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongahela River	Downstream Corporate Limits.	747
	Upstream Corporate Limits; confluence with Wylie Run.	748
Wylie Run	Confluence with Monongahela River.	748
	Corporate Limits 410' upstream from confluence with Monongahela River.	748
	Upstream side of Glassport Road, Corporate Limits.	748
	Approximately 1,110' upstream of Glassport Road.	748
	Approximately 770' downstream from confluence with Happy Hollow Run.	755
	Confluence with Happy Hollow Run.	764
	Approximately 630' upstream of confluence with Happy Hollow Run.	772
	Lovedale Road/Corporate Limits approximately 1,300' upstream of confluence with Happy Hollow Run; downstream side of bridge.	783
	Lovedale Road/Corporate Limits approximately 580' upstream from Mill Hill Road; upstream side of bridge.	845
	Lovedale Road/Corporate Limits approximately 1,390' upstream from Mill Hill Road; downstream side of bridge.	860
Youghiogheny River	Downstream Corporate Limits.	747
	Upstream Corporate Limits	748

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule

has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-4899]
[FR Doc. 79-13160 Filed 4-30-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Part 1917

National Flood Insurance Program; Appeals From Proposed Flood Elevation Determinations; Final Flood Elevation Determination for the Township of Lower Saucon, Northampton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the township of Lower Saucon, Northampton County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the township of Lower Saucon, Northampton County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Lower Saucon, Northampton County, Pennsylvania, are available for review at the Township Administrative Office, Bethlehem, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the township of Lower Saucon, Northampton County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lehigh River	At downstream Corporate Limits	209
	At upstream Corporate Limits	223
Saucon Creek	Friedensville Road (Upstream)	277
	Skibo Road (Upstream)	284
	Conrail (Downstream)	291
	Conrail (Upstream)	296
	Meadows Road (Upstream)	301
	Old Mill Road (Upstream)	307
	Conrail (Upstream)	311
	Binden Road (Upstream)	326
	At upstream Corporate Limits	333
Black River	Friedensville Road (Upstream)	303
	Mildred Lane (Upstream)	310
	Dam (Downstream)	317
	Dam (Upstream)	323
	Bingen Road (Upstream)	334
	Sandbrook Drive (Upstream)	375
	Black River Road (Upstream)	396
	State Route 378 (Downstream)	401
	State Route 378 (Upstream)	406
	Old Philadelphia Pike (Upstream)	413
	Black River Road (Downstream)	486
	Black River Road (Upstream)	502
	At upstream Corporate Limits	513

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-13151 Filed 4-30-79; 8:45 am]
BILLING CODE 4210-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

Delayed Compliance Orders; Delayed Compliance Order for Austin Powder Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Austin Powder Company (Austin Powder). The Order requires the Company to bring air emissions from its boilers at McArthur, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Austin Powder's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On February 16, 1979 the Acting Regional Administrator of the U.S. EPA's Region V Office published in the **Federal Register** (44 FR 10087) a notice setting out the provisions of a proposed State Delayed Compliance Order for Austin Powder. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Austin Powder by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Austin Powder on a schedule to bring its boilers at McArthur, Ohio, into compliance as expeditiously as practicable with Regulation OAC–3745–17–10, a part of the federally approved Ohio State Implementation Plan. Austin Powder is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Austin Powder to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by Austin Powder will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Austin Powder is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Austin Powder on a schedule for compliance with the Ohio State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601)

Dated: April 4, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.401:

§ 65.401 U.S. EPA Approval of State Delayed Compliance Orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Order number	Date FR proposal	SIP regulation involved	Final compliance date
Austin Powder Company	McArthur, Ohio	None	2-16-79	OAC-3745-17-10	7-1-79

2. The text of the Order reads as follows:

Before the Ohio Environmental Protection Agency

In the Matter of: Austin Powder Company, Applicant: Case No 75–AV–396, Brudzynski, H. E.

Stipulation

The Applicant, Austin Powder Company, and the Respondent, Ohio Environmental Protection Agency, hereby stipulate and agree as follows:

1. Austin Powder Company owns and operates two industiral coal-fired boilers at its Red Diamond Plant on State Route 677, McArthur, Ohio, referenced by the company as boilers Nos. 4 and 5.

2. On June 25, 1975, Austin Powder Company submitted to Ohio EPA applications for extension of previously issued variances to operate boilers Nos. 4 and 5 (variance application Nos. 0882000000B001 and 0882000000B002, respectively).

3. On September 12, 1975, the Director of the Ohio Environmental Protection Agency issued proposed variances to operate boilers Nos. 4 and 5. Said proposed variances contained compliance schedules mandating achievement of final compliance with all applicable State and Federal statutes and regulations by August 15, 1976.

4. On October 15, 1975, the Hearing Clerk of the Ohio Environmental Protection Agency received from Austin Powder Company a request for an adjudication hearing on the proposed variances.

5. The attached Order represents a resolution of the issues of fact and law in this proceeding

6. The attached Order is based upon sufficient reliable, probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Order, and their relation to benefits to the people of the State to be derived from such compliance, and is in accordance with law.

7. The Director may issue such Order by signing it and entering it upon his Journal.

8. Pursuant to Section113(d)(2) of the Clean Air Act, as amended, the attached Order shall not take effect until it is approved by the Administrator of the United States Environmental Protection Agency.

9. Upon the effective date of the Order (the date of approval by the Administrator of U.S. EPA), Applicant's hearing request on the proposed variances to operate the subject boilers shall be deemed withdrawn, and this proceeding shall be dismissed. The Director agrees that he will then withdraw the proposed variances which are the subject of this proceeding.

10. Applicant, Austin Powder Company by signing this Stipulation, hereby consents to the making and entry of the attached Order. Applicant knowingly and voluntarily waives any right to challenge this Order pursuant to Section 307 of the Clean Air Act, to seek judicial review of this Order, or to seek judicial review of any subsequent U.S. EPA approval of the Order. This includes the waiver of any right to a hearing before the Ohio EPA and the right to contest the reasonableness or lawfulness fo this Order before the Environmental Board of Review of any court of competent jurisdiction.

It is so stipulated:

Date: September 8, 1978

For Austin Powder Company.

Van Carson, Squire, Sanders & Dempsey, 1800 Union Commerce Building, Cleveland, Ohio 44115, (216) 696–9200.

For the Ohio Environmental Protection Agency.

William J. Brown, Attorney General of Ohio.

Date: October 2, 1978.

By: Edward P. Walker, Assistant Attorney General, Environmental Law Section, 30 East Broad Street, 17th Floor, Columbus, Ohio 43215, (614) 466–2766.

Before the Ohio Environmental Protection Agency

In the Matter of: Austin Powder Company, Applicant. Case No. 75–AV–396; Order

The Director of Environmental Protection (hereinafter "Director") hereby makes the following Findings of Fact and, pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, issues the following Orders, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Findings of Fact

1. Austin Powder Company (hereinafter "Austin Powder") is an Ohio corporation engaged in the business of manufacturing explosives at its Red Diamond Plant on State Route 677, McArthur, Ohio.

2. Austin Powder owns and operates two industrial coal-fired boilers at its Red Diamond Plant referenced by the company as boilers Nos. 4 and 5.

3. Boiler No. 4 is an Erie City Iron Works coal-fired boiler, Model No. 95140, with a maximum heat input capacity of 22.645 MBtu/hour. Boiler No. 5 is an E. Keeler coal-fired boiler, Model No. 15014, with a maximum heat input capacity of 55.85 MBtu/hour.

4. Potential emissions of air pollutants from each of boilers Nos. 4 and 5 are equal to or greater than one hundred tons per year, and therefore these sources constitute major stationary sources as defined in section 302(j) of the Clean Air Act, as amended.

5. Boilers Nos. 4 and 5 are each presently equipped with a Breslov mechanical collector for the control of particulate emissions. However, the operation of the boilers as presently controlled results in the discharge of particulate matter in excess of the allowable emission limitation set forth in OAC 3745–17–10. At the present time Austin Powder is unable to operate the boilers in compliance with this allowable emission limitation; additional pollution control equipment is needed for these boilers to achieve such compliance.

6. In order to abate the particulate emissions from the subject boilers, Austin Powder has proposed to install a baghouse.

7. Austin Powder's implementation of the interim control measures contained in the Order below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

8. The compliance schedule set forth in the Orders below requires compliance with applicable emission regulations as expeditiously as practicable.

9. Continuous opacity monitoring has been determined to be technically unreasonable and unnecessary for this source since: (a) The proposed baghouse installation constitutes the best available technology for control of particulate emissions and is designed to control particulate emissions to a rate of .05 pounds per million Btu heat input, well below the allowable rate of .22 pounds per million Btu heat input, (b) the facility is located in an attainment area for particulates; and (c) the boilers, with Breslov mechanical collectors, have had no history of opacity violations, and since the Breslov mechanical collectors will be left intact, even if a baghouse malfunction should occur the boilers would remain in compliance with applicable opacity regulations.

10. The Director's determination to issue the Orders set forth below is based upon his consideration of sufficient reliable, probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

Orders

WHEREUPON, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to section 3704.03(S) and (I) and Section 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Austin Powder shall achieve compliance with OAC 3745–17–10 by installing a baghouse to control emissions of particulate matter from boiler No. 4 to a maximum allowable rate of .22 pounds per million Btu heat input and boiler No. 5 to a maximum allowable rate of .22 pounds per million Btu heat input (The existing Breslov mechanical collectors shall be left intact for the preliminary control of emissions prior to discharge into the baghouse). These emission restrictions are based upon the maximum heat input capacities of the boilers as set forth in finding of Fact No. 3, above.

2. Austin Powder shall bring the subject boilers into compliance with OEPA Regulation OAC 3745–17–10 no later than July 1, 1979, in accordance with the following schedule:

a. Award contracts for the design and installation of particulate control equipment (baghouse) by August 31, 1978.

b. Submit final detail plans to Ohio EPA for approval by August 31, 1978. (The Ohio EPA shall notify Austin Powder of its approval or disapproval of final detail plans at the earliest possible date, but in no event later than September 15, 1978).

c. Initiate on-site work, related to site preparation, by September 18, 1978, or the date of Ohio EPA approval of final detail plans.

d. Complete on-site work related to site preparation and initiate on-site work related to installation of particulate control equipment (baghouse) by April 1, 1979.

e. Complete on-site work related to installation of particulate control equipment (baghouse) by June 1, 1979.

f. Complete emission compliance testing by June 29, 1979.

g. Achieve final compliance with all applicable State and Federal statutes and regulations by July 1, 1979.

3. The subject boilers shall be equipped with oxygen analyzers, which shall be operated so as to control excess air. Such instrumentation shall be continuously operated beginning on or before July 1, 1979.

4. During the period of effectiveness of this Order, Austin Powder shall use the best practicable methods of emission reduction in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim measures shall include, at a minimum, utilization of the existing Breslov mechanical collectors and operation and maintenance of the boilers in accordance with good engineering practice so as to minimize emission of particulate matter and ensure compliance with applicable emission regulations insofar as possible.

5. Austin Powder shall comply with the following monitoring and reporting requirements:

a. A progress report shall be forwarded by first class mail to the Southeast District Office of Ohio EPA within ten (10) days of the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order No. 2 above.

Such progress report shall indicate when the applicable increment of progress was achieved and shall contain a detailed explanation of the reasons for any failure to so achieve any increment of progress.

b. Quarterly reports shall be submitted to the Southeast District Office concerning the interim maintenance and operation of the boilers as well as the progress being made toward achievement of compliance as set forth in Order No. 2 above.

6. Austin Powder shall conduct stack tests upon boilers Nos. 4 and 5 to demonstrate compliance with the emission limitation set forth in OAC 3745–17–10. Such tests shall be performed in accordance with Ohio EPA approved methods on a date no later than June 29, 1979 (see Order No. 2(f) above). Written notification of intent to test shall be provided to the Southeast District Office of Ohio EPA thirty (30) days prior to the testing date, so that a person from that office can be present at the tests. Test results shall be submitted to and received by that office no later than July 31, 1979.

7. Austin Powder Company is hereby notified that it may be required to pay a noncompliance penalty under Section 120 of the Clean Air Act, 42 U.S.C. 7420 (depending on the applicability of Section 120), in the event that it fails to achieve final compliance with applicable laws and regulations by July 1, 1979.

8. Nothing in this Order shall be construed as relieving Austin Powder from its obligation to obtain, in accordance with applicable statutes and OEPA regulations, Permits to Operate the subject boilers. Nothing in this Order shall be construed as waiving or compromising in any way the applicability and enforcement of any statute or regulation applicable to said boilers, except as specified herein and as provided for in Section 113(d) (10) and (11) of the Federal Clean Air Act, as amended.

These Orders will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Dated: December 29, 1978.

Ned E. Williams, P.E.,
Director of Ohio Environmental Protection Agency.

[FRL 1092–6]
[FR Doc. 79–13369 Filed 4–30–79; 8:45 am]
BILLING CODE 6560–01–M

40 CFR Part 65

Delayed Compliance Orders; Delayed Compliance Order for Buckeye Steel Castings

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Buckeye Steel Castings. The Order requires the Company to bring air emissions from its electric arc furnace at Columbus, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Buckeye Steel Castings' compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule becomes effective May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On February 16, 1979 the Acting Regional Administrator of the U.S. EPA's Region V Office published in the Federal Register (44 FR 10085) a notice setting out the provisions of a proposed State Delayed Compliance Order for Buckeye Steel Castings. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Buckeye Steel Castings by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Buckeye Steel Castings on a schedule to bring its electric arc furnace at Columbus, Ohio, into compliance as expeditiously as practicable with Regulations OAC–3745–17–07 and OAC–3745–17–11, a part of the federally approved Ohio State Implementation Plan. Buckeye Steel Castings is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Buckeye Steel Castings to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by Buckeye Steel Castings will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Buckeye Steel Castings is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Buckeye Steel Castings on a schedule for compliance with the Ohio State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601)

Dated: April 4, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.401:

§ 65.401 U.S. EPA approval of State Delayed Compliance Orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Order number	Date FR proposal	SIP regulation involved	Final compliance date
•	•	•	•	•	•
Buckeye Steel Casting	Columbus, Ohio	None	2–16–79	OAC–3745–17–07 OAC–3745–17–11	7–1–79
•	•	•	•	•	•

2. The text of the Order reads as follows:

113(d) Order—Major Sources Before the Ohio Environmental Protection Agency

In the Matter of: Buckeye Steel Castings, 2211 Parsons Avenue, Columbus, Ohio 43207; Order.

The Director of Environmental Protection, (hereinafter "Director"), hereby makes the following Findings of Fact and, pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., issues the following Orders which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Finding of Fact

1. Buckeye Steel Castings, (hereinafter "Buckeye"), operates an electric arc furnace which serves its facility located at 2211 Parsons, Columbus, Ohio, 43207.

2. In the course of operation of said arc furnace, air contaminants are emitted in violation of OAC Rules 3745–17–11 and 3745–17–07.

3. Buckeye is unable to immediately comply with OAC Rules 3745–17–11 and 3745–17–07.

4. Potential emissions of particulates from the arc furnace are approximately 1,110 tons per year; therefore Buckeye constitutes a major source under Section 302(j) of the Clean Air Act, as amended.

5. The compliance schedule set forth in the Orders below requires compliance with OAC Rules 3745–17–11 and 3745–17–07 as expeditiously as practicable.

6. Implementation by Buckeye of the interim requirements contained in the Orders below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

7. It is technically and economically unreasonable to require Buckeye to install and operate a continuous opacity monitoring system on the arc furnace prior to achieving compliance with the Orders specified below, since Buckeye is currently unable to comply with the requirements of OAC 3745–17–07 pertaining to visible emissions, no data would be produced which is not already known, and, therefore, no purpose would be served.

8. The Director's determination to issue the Orders set forth below is based upon his consideration of reliable, probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

Order

Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Buckeye shall bring its arc furnace located at 2211 Parsons Avenue into final compliance with OAC Rules 3745–17–11 and

3745-17-07 by installing a baghouse no later than July 1, 1979.

2. Compliance with Order (1) above shall be achieved by Buckeye in accordance with the following schedule on or before the dates specified:

Submit final control plans—Complete.
Award contract(s)—Complete.
Begin construction—Complete.
Complete construction—June 1, 1979.
Testing of equipment—June 15, 1979.
Achievement of final compliance with OAC Rules 3745-17-11 and 3745-17-07—July 1, 1979.

3. Pending achievement of compliance with Order (1) above, Buckeye shall comply with the following interim requirements which are determined to be reasonable and to be the best practicable system(s) of emission reduction, and which are necessary to ensure compliance with OAC Rules 3745-17-11 and 3745-17-07 insofar as Buckeye is able to comply with them during the period this Order is in effect in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim requirements shall include:

a. Buckeye shall immediately institute a regular maintenance program to minimize emissions from the arc furnace.

b. Buckeye shall continue to properly maintain and use the United McGill baghouse to minimize emissions from the arc furnace.

4. Within five (5) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (2) above, Buckeye shall submit a written progress report to the Central District Office. The person submitting these reports shall certify whether each increment of progress has been achieved and the date it was achieved. The reports shall include the facility's status of compliance with the interim control requirements in Order (3) above.

5. Buckeye shall conduct emission tests on the arc furnace to verify compliance with Order (1) above. Such tests shall be conducted no later than the date specified in the compliance schedule in Order (2) above in accordance with procedures approved by the Director. Written notification of intent to test shall be provided to the Central District Office thirty (30) days prior to the testing date.

6. Buckeye is hereby notified that unless it is exempted under Section 120(a)(2) (B) or (C) of the Clean Air Act, as amended, failure to achieve final compliance with Order (1) above by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120 of the Clean Air Act, as amended.

These orders will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Dated: December 29, 1978.

Ned E. Williams, P.E.,
Director of Environmental Protection.

Waiver

Buckeye Steel Castings agrees that the attached Findings and Orders are lawful and reasonable and agrees to comply with the attached Orders. Buckeye Steel Castings hereby waives the right to appeal the issuance or terms of the attached Findings and Orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said Findings and Orders either in law or equity. Buckeye Steel Castings also waives any and all rights it might have to seek judicial review of any approval by U.S. EPA of the attached Findings and Orders or to seek a stay of enforcement of said Findings and Orders in connection with any judicial review of Ohio's air implementation plan or portion thereof.

Dated: September 22, 1978.

John T. Hughes,
President, Authorized Representative of Buckeye Steel Castings.

[FRL 1092-3]
[FR Doc. 79-13370 Filed 4-30-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 65

Delayed Compliance Orders; Delayed Compliance Order for Ohio Match Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Ohio Match Company. The Order requires the Company to bring air emissions from its coal-fired boilers at Wadsworth, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Ohio Match Company's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule becomes effective May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On February 9, 1979 the Regional Administrator of the U.S. EPA's Region V Office published in the **Federal Register** (44 FR 7785) a notice setting out the provisions of a proposed State Delayed Compliance Order for Ohio Match Company. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Ohio Match Company by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Ohio Match Company on a schedule to bring its coal-fired boilers at Wadsworth, Ohio, into compliance as expeditiously as practicable with Regulations OAC-3745-17-07(A) and OAC-3745-17-10(B), a part of the federally approved Ohio State Implementation Plan. Ohio Match Company is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Ohio Match Company to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by Ohio Match Company will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Ohio Match Company is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Ohio Match Company on a schedule for compliance with the Ohio State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601)

Dated: April 4, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.401:

Source	Location	Order number	Date FR proposal	SIP regulation involved	Final compliance date
•	•	•	•	•	•
Ohio Match Company	Wadsworth, Ohio	None		OAC-3745-17-07(A) OAC-3745-17-10(B)	7-1-79
•	•	•	•	•	•

2. The text of the order reads as follows:

Before the Ohio Environmental Protection Agency

In the Matter of: Ohio Match Company, 254 Main Street, Wadsworth, OH 44281; Order.

The Director of Environmental Protection, (hereinafter "Director"), hereby makes the following Findings of Fact and, pursuant to Section 3704.03 (S) and (I) of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, issues the following Orders which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Findings of Fact

1. Ohio Match Company, (hereinafter "Ohio Match") operates a Riley coal-fired boiler, Model YOS #21+WW, rated at 68 million BTU per hour, designated by the facility as Boiler #9, and known to the Ohio Environmental Protection Agency as Source No. 1652100009B001. This source serves the facility located at 254 Main Street, Wadsworth, Ohio 44281.

2. In the course of operation of said source B001, air contaminants are emitted in violation of OAC 3745-17-07 (A) and OAC 3745-17-10 (B).

3. Ohio Match is unable to immediately comply with OAC 3745-17-07 (A) and OAC 3745-17-10 (B).

4. Potential emissions of particulate matter from source B001 are approximately 455 tons per year; therefore, Ohio Match constitutes a major source under Section 302(j) of the Clean Air Act, as amended.

5. The compliance schedule set forth in the Order below requires compliance with OAC 3745-17-07 (A) and OAC 3745-17-10 (B), as expeditiously as practicable.

6. Implementation by Ohio Match of the interim requirements contained in the Orders below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

7. The Director's determination to issue the Orders set forth below is based upon his consideration of reliable, probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

Orders

Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Section 3704.03 (S) and (I) of the Ohio Revised Code in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C., 7401, *et seq.*, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Ohio Match shall bring source B001, located at 254 Main Street, Wadsworth, Ohio 44281, into final compliance with OAC 3745-17-07(A) and OAC 3745-17-10(B) by replacing B001 with two new gas and/or fuel oil-fired, 150 horsepower boilers no later than December 31, 1979.

2. Compliance with Order 1 above shall be achieved by Ohio Match in accordance with the following schedule on, or before, the dates specified:

Submit final control plans—Completed.
Complete engineering studies—Completed.
Place equipment order—December 1, 1978.
Begin installation—May 1, 1979.
Complete installation—November 1, 1979.
Achievement of final compliance with State and Federal statutes and regulations—December 31, 1979.

3. Pending achievement of compliance with Order 1 above, Ohio Match shall comply with the following interim requirements which are determined to be reasonable and to be the best practicable system of emission reduction, and which are necessary to ensure compliance with OAC 3745-17-07(A) and OAC 3745-17-10(B) insofar as Ohio Match is able to comply with them during the period this Order is in effect in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim requirements shall include:

a. Ohio Match shall immediately use coal with an analysis of: less than or equal to 8.5 percent ash, less than or equal to 4.0 percent sulfur, greater than or equal to 12,000 BTU per pound, in order to minimize emissions from B001.

b. Ohio Match shall immediately institute a regular maintenance program to minimize emissions from B001.

4. Within five (5) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order 2 above, Ohio Match shall submit a progress report to the Akron Regional Air Pollution Control Agency. The person submitting these reports shall certify whether each increment of progress has been achieved and the date it was achieved. Each report shall include a summary of Ohio Match's compliance with the interim requirements in Order 3 above.

5. Ohio Match shall not be required to install and operate continuous opacity monitors on the new gas and/or oil-fired boilers. Due to their small size (150 horsepower or about 5 million BTU per hour, each) continuous monitoring would be economically unreasonable and serve no useful purpose.

6. Ohio Match shall not be required to install and operate a continuous opacity monitor on the existing coal-fired boiler (Source No. 1652100009B001) as an interim control measure. Since this boiler will be permanently removed from service upon installation of the new boilers, and because this boiler is not capable of complying with the opacity requirements of the Ohio Administrative Code (OAC 3745-17-07(A)) and would, therefore, be in continuous violation, installation of a continuous opacity monitor would serve no useful purpose and would be economically unreasonable.

7. Ohio Match shall apply for and obtain a permit to install the new gas and/or oil-fired boilers prior to beginning installation in accordance with Chapter 3745-31 of the Ohio Administrative Code.

8. Ohio Match is hereby notified that unless it is exempted under Section 120(a)(2) (B) or (C) of the Clean Air Act, as amended, failure to achieve final compliance with Order 1 above by July 1, 1979, will result in a requirement to pay a non-compliance penalty under Section 120 of the Clean Air Act, as amended.

These Orders will not take effect until the Administrator of the United States Environmental Protection Agency has

approved their issuance under the Clean Air Act.

Dated: December 21, 1978.

Mad E. Williams, P.E.,

Director.

Waiver

The Ohio Match Company agrees that the attached Findings and Orders are lawful and reasonable and agrees to comply with the attached Orders. The Ohio Match Company hereby waives the right to appeal the issuance or terms of the attached Findings and Orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said Findings and Orders either in law or equity. The Ohio Match Company also waives any and all rights it might have to seek judicial reivew of any approval by U.S. EPA of the attached Findings and Orders or to seek a stay of enfoecement of said Findings and Orders in connection with any judicial review of Ohio's air implementation plan or portion thereof.

Dated: November 16, 1978.

James R. Knight,

Authorized Representative of Ohio Match Company.

[FRL 1092-6]

[FR Doc. 79-13373 Filed 4-30-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Diflubenzuron

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide diflubenzuron in or on cottonseed at 0.2 part per million (ppm) and eggs; milk; and the fat, meat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm. The regulation was requested by Thompson-Hayward Chemical Co. This rule establishes maximum permissible levels for residues of the subject insecticide in or on cottonseed; eggs; milk; and the fat, meat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

EFFECTIVE DATE: April 9, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Franklin D.R. Gee, Product Manager (17), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W. Washington, D.C. 20460 (202/426–9425).

SUPPLEMENTARY INFORMATION: On February 4, 1977, notice was given (42 FR 6683) that Thompson-Hayward Chemical Co., P.O. Box 2383, Kansas City, KS 66110, had filed a pesticide petition (PP 7F1858) with the EPA.

This petition proposed that 40 CFR 180 be amended to establish tolerances for residues of the insecticide diflubenzuron (*N*-[[(4-chlorophenyl)amino]carbonyl]-2,6-difluorobenzamide) in or on the raw agricultural commodities cottonseed at 0.2 ppm and eggs; milk; and the fat, meat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data submitted in consideration of the proposed tolerances included: a rat and mouse acute oral toxicity study with a lethal dose (LD_{50}) greater than 4.6 grams (g)/kilogram (kg) of body weight (bw) and subacute oral toxicity and teratology studies in rats. In addition, mutagenicity studies included Ames in vitro, yeast, a mouse micronucleus test, unscheduled DNA synthesis in mammalian cells, and a dominant lethal test. A reproduction study and oncogenic studies were also considered.

On October 14, 1977, the registrations actions for diflubenzuron were referred to the Office of Special Pesticide Review for intensive review to determine if the compound was a candidate for rebuttable presumption against registration (RPAR) because the compound was suspected of causing tumors and chronic blood effects in humans (methemoglobinemia and sulfhemoglobinemia), testosterone depression in domestic animals, reproductive effects in birds (diminished egg production and reduced hatching), and the effects to nontarget organisms (acute toxicity to crustaceans from direct application to water and acute and chronic toxicity to crustaceans from runoff from treated fields).

The review for use on cotton, including a risk-benefit analysis is complete. The concerns of testosterone depression in maturing domestic animals (chickens) were confirmed by the Agency in a rat study showing testosterone depletion in maturing animals (rats). Thus far the data on hormonal effects which have been reviewed do not raise significant concerns about the adverse effects on exposed humans.

The concerns of a possible increase in tumor incidence in mice were not resolved because of certain data deficiencies. These deficiencies included: (1) The maximum tolerated dose level was not used in the rat or mouse oncogenicity study, (2) only seven (7) tissues were examined from each animal, (3) there was no chemical analysis to determine the administered dose, and (4) the experiment was of suboptimal length (68 weeks).

Although there is considerable uncertainty as to whether diflubenzuron is an oncogen, a "worst case" risk assessment of the oncogenicity of diflubenzuron was made based on the available data. This assessment showed that the risks of a lifetime dietary exposure to the compound would be slight. The product will be conditionally registered for four years so the data necessary to resolve the uncertainties can be generated.

There is also uncertainty concerning the risks of methemoglobinemia and sulfhemoglobinemia. Although a no-observed-effect-level (NOEL) for this effect has not been established for some of the species of laboratory animals tested, the NOEL's available and the lowest daily doses causing observed effects in the species studied were considerably greater than the anticipated exposure to humans. Agency scientists have not been able to complete a full risk analysis on this effect due to the limited information currently available. Of particular concern to the Agency are possible effects on infants since infants up to the age of three months have reduced levels of the enzymes responsible for reduction of methemoglobin. There are continuing questions concerning the relative sensitivity of man and experimental animals to methemoglobinemia and sulfhemoglobinemia- inducers. Additionally, consideration must be given to the fact that phenylhydroxylamines produce methemoglobinemia by a "cyclic reaction;" it has been reported that 50 to 300 equivalents of methemoglobin could be produced by one equivalent of the *N*-hydroxy compound.

On the other hand, there are a number of factors that indicate that the risk of these conditions actually occurring from the proposed use of diflubenzuron are low. These considerations are as follows:

1. *Residues in Milk:* The principal route for residues of diflubenzuron to enter milk is in cattle feed items. Residue data show that the primary feed items of concern (cottonseed hulls, meal, and soapstock) would contain less than 0.05 ppm.

A cow feeding study shows that when the cow is fed C^{14} diflubenzuron at 0.05 ppm and 0.5 ppm, no detectable (<0.05 ppm) radioactivity is found in milk. In addition, a conventional cow feeding study shows that when diflubenzuron is fed at 25 ppm and 250 ppm, no detectable (<0.05 ppm) residues of diflubenzuron per se are found in milk.

The primary feed items, cottonseed hulls and meal, may be fed to cattle up to 15 percent (⅙) of the diet. This means that the diflubenzuron residues, if any, in the cattle diet is diluted by at least six (6) fold. Thus, the "no detectable residues" (<0.05 ppm) in the feed items become (<0.008 ppm) or ⅙ of <0.05 ppm in the total diet of cattle. Therefore, it is concluded that diflubenzuron residues, if any, in milk would be quantitively trivial.

2. *Milk in the infant Diet:* According to dietitians at several leading children's hospitals, it is unusual for a pediatrician to prescribe whole milk for babies under six (6) months of age. The large majority of pediatricians recommend or prescribe breast feeding or special formulas that may contain nonfat milk or non-dairy substitutes such as soybean milk.

3. *Acreages to be Treated:* It is anticipated that diflubenzuron will be applied to not less than 100,000 acres or not more than 140,000 acres of cotton in 1979. This amounts to a small percentage of the approximately 12,000,000 acres of cotton grown in the United States each year.

4. *Impact of drugs and chemicals:* It is the hydroxylamines which are believed to be responsible for the induction of methemoglobinemia. Parachlorphenylhydroxylamine is a possible metabolite of diflubenzuron. However, there are a number of drugs and chemicals with chemical structures similar to this metabolite. Some of these similar drugs and chemicals which have been implicated as capable of causing methemoglobinemia are: acetanilid, acetophenetidin (phenacetin), aminophenol, aniline, benzocaine, benzoquinone, chloranilines, dinitrobenzenes, hydroquinone, hydroxlamine, naphthylamines, nitroamilines, nitrobenzene, nitroglycerin, nitrosobenzene, phenylenediamines, phenylhydroxylamine, pyridine, sulfonamides, toluenediamine, toluhydroxylamine, trinitrotoluene.

Many of these substances have been introduced into the environment for years with no reported large epidemics of methemoglobinemia or sulfhemoglobinemia.

Thus, the Agency concluded that the available studies on methemoglobinemia and sulfhemoglobinemia do not raise significant concerns about the potential for adverse effects to humans exposed to diflubenzuron given the limited exposure and conditions to be placed on the use.

However, further study of these effects is necessary before the risks to humans (especially children) can be fully evaluated. The company will be required to conduct further studies to confirm these preliminary conclusions.

The benefit analysis showed that diflubenzuron would replace other pesticides used to control boll weevils, such as organophophates and toxaphene, which appear to pose substantially greater risks to man. Organophosphates are much more acutely toxic to man. The national Cancer Institute and the Agency's Cancer Assessment Group have determined that toxaphene is a carcinogen.

Furthermore, the risks as stated above are compounded by the fact that the application rates of the alternates are much higher than the diflubenzuron application rate. It is anticipated that the overall risks would be reduced by the fact that diflubenzuron's use for boll weevil control will leave the populations of the beneficial insects intact, thereby reducing the amount of organophosphate pesticides required to control the boll worm-budworm complex.

Although use of diflubenzuron on cotton would pose some risks, treatment with this compound would reduce the overall risks posed currently registered pesticides used on cotton.

The position document giving the above risk-benefit analysis is available to the public. The company has agreed to repeat the oncogenic studies, determine the NOEL for methemoglobinemia and sulfhemoglobinemia in appropriate species, monitor diflubenzuron runoff, conduct field studies on the benefits of diflubenzuron, determine the effect on microbes, and develop the technology necessary to repackage the pesticide to reduce exposure to applicators.

The metabolism of the subject insecticide is adequately understood, and an adequate analytical method (gas chromatography with electron capture detection) is available for enforcement purposes.

Although studies and research are still in progress, the proposed tolerances are supported by the risk estimations discussed above. The tolerances established by amending 40 CFR 180 will be adequate to cover residues that would result in eggs; milk; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep as delineated in 40 CFR 180.(a)(2).

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances of 0.2 ppm in or on cottonseed and 0.05 ppm in eggs; milk; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep established by amending 40 CFR 180 do not pose a significant hazard and will protect the public health. It is concluded, therefore that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before May 31, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M3708 (A–110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on April 9, 1979, Part 180 is amended as set forth below.

Dated: April 9, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Statutory Authority: Section 408(d)(2) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(d)(2)].

Part 180, Subpart C, is amended by adding the new § 180.377 to read as follows:

§ 180.377 Diflubenzuron; tolerances for residues.

Tolerances are established for residues of the insecticide diflubenzuron (*N*–[[(4-chlorophenyl)amino]carbonyl]–2,6-difluorobenzamide) in or on the following raw agricultural commodities:

Commodity:	Parts per million
Cattle, fat	0.05
Cattle, mbyp	0.05
Cattle, meat	0.05
Cottonseed	0.2
Eggs	0.05
Goats, fat	0.05
Goats, mbyp	0.05
Goats, meat	0.05
Hogs, fat	0.05

	Parts per million
Hogs, mbyp	0.05
Hogs, meat	0.05
Horses, fat	0.05
Horses, mbyp	0.05
Horses, meat	0.05
Milk	0.05
Poultry, fat	0.05
Poultry, mbyp	0.05
Poultry, meat	0.05
Sheep, fat	0.05
Sheep, mbyp	0.05
Sheep, meat	0.05

[FRL 1214-1; PP 7F1928/R286]

[FR Doc. 79-13538 Filed 4-30-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

41 CFR Chapter 3

Miscellaneous Amendments

AGENCY: Department of Health, Education, and Welfare.

ACTION: FINAL RULE.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare is amending the Departmental procurement regulations to incorporate miscellaneous revisions concerning procurement authorities and delegations.

A recent review of the Departmental procurement regulations revealed that, in many instances, the regulations cite delegations and authorities in two places—Part 3–75, Delegations of Authority, and other portions where the subject matter is specifically addressed. In conjunction with the Department's overall efforts to simplify the procurement regulations and make them more comprehensive, it was determined to eliminate Part 3–75 and incorporate the delegations and authorities cited in Part 3–75, which are not presently or adequately covered elsewhere in the regulations, by appropriate subject matter in the areas where they are specifically addressed. The following amendments reflect this action.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT: E. S. Lanham, Division of Procurement Policy and Regulations Development, Office of Grants and Procurement, OASMB-OS, HEW, Washington, D.C. 20201 (202–245–6347).

SUPPLEMENTARY INFORMATION: It is the general policy of the Department to allow time for interested parties to participate in the rulemaking process. However, since the amendments concern the rearrangement of regulations to simplify them, the public rulemaking process was deemed unnecessary in this instance. The provisions of these amendments are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

Therefore, 41 CFR Chapter 3 is amended as set forth below.

Dated: April 24, 1979.

E. T. Rhodes,
Deputy Assistant Secretary for Grants and Procurement.

Part 3–75, Delegations of Authority, is cancelled in its entirety, and the following amendments are added to 41 CFR Chapter 3:

PART 3–1—GENERAL

1. Under Subpart 3–1.1, Regulation System, § 3–1.103, Authority, is deleted and the following substituted:

* * * * *

§ 3–1.103 Authority.

The HEWPR are prescribed by the Assistant Secretary for Management and Budget under authority 5 U.S.C. 301 and Section 205(c) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary. The Assistant Secretary for Management and Budget has redelegated the authority to establish Departmental procurement policy and publish procurement regulations to the Deputy Assistant Secretary for Grants and Procurement. This authority is not redelegable.

* * * * *

2. Under Subpart 3–1.2, Definition of Terms, § 3–1.206, Head of the procuring activity (HPA), is added. In addition, the table of contents for Part 3–1 is amended to add the following:

Subpart 3–1.2—Definition of Terms

Sec.
3–1.206 Head of the procuring activity (HPA).
3–1.206–1 Designation.
3–1.206–2 Redelegation.
* * * * *

Subpart 3–1.2—Definition of Terms

§ 3–1.206 Head of the procuring activity (HPA).

§ 3–1.206–1 Designation.

The heads of the principal operating components have been designated "heads of procuring activities" along with the following officials:

(a) Deputy Assistant Secretary for Grants and Procurement, OS;

(b) Director, Office of Facilities Engineering, OS;

(c) Director, Office of Management Services, OS; and

(d) Principal Regional Officials.

§ 3–1.206–2 Redelegation.

(a) The heads of procuring activities may redelegate their HPA authorities to the extent that redelegation is not prohibited by the terms of their respective delegations of authority, by law, by the Federal Procurement Regulations, by the HEW Procurement Regulations, or by other regulations. To ensure proper control of redelegated procurement authorities, HPA's shall maintain a file containing successive delegations of HPA authority through and including the contracting officer level.

(b) Personnel delegated responsibility for procurement functions must possess a level of experience, training, and ability commensurate with the complexity and magnitude of the procurement actions involved.

* * * * *

3. Under Subpart 3–1.4, Procurement Responsibility and Authority, § 3–1.453, Establishment of cost rates, is added, and the table of contents for Part 3–1 is amended to add the following:

Subpart 3–1.4—Procurement Responsibility and Authority

Sec.
* * * * *
3–1.453 Establishment of cost rates.
* * * * *

§ 3–1.453 Establishment of cost rates.

The Director, Division of Cost Allocation of the Regional Administrative Support Center within each HEW regional office has been delegated the authority to establish indirect cost rates, research patient care rates, and, as necessary, fringe benefit, computer, and other special costing rates for use in contracts and grants awarded to State and local governments, colleges and universities, hospitals, and other non-profit organizations.

PART 3–3—PROCUREMENT BY NEGOTIATION

§ 3–3.302 [Amended]

4. Under Subpart 3–3.3, Determinations, Findings, and Authorities, paragraphs (i) and (j) of § 3–3.302 are amended by deleting everything after the phrase "pursuant to" and adding "42 U.S.C. 241(g)."

5. Section 3–3.303 is amended by redesignating paragraphs (c) and (d) as (d) and (e), respectively, and adding the following as paragraph (c):

§ 3–3.303 Determinations and findings by the head of the agency.

(c) The determinations required by § 1–3.213 of this title.

* * * * *

§ 3–3.303–50 [Amended]

6. Section 3–3.303–50 is amended by deleting paragraphs (a) and (b) and substituting the following: "The determinations and findings required for application of 42 U.S.C. 241(g) are to be made by the Assistant Secretary for Health.

§ 3–3.303–51 [Amended]

7. Section 3–3.303–51 is amended by deleting the present listings for SSA, HCFA, OHDS, and OMS–OS and substituting the following:

* * * * *

SSA—Associate Commissioner, Office of Management, Budget, and Personnel.
HCFA—Director, Office of Management and Budget.
OHDS—Director, Office of Administration and Management.
* * * * *
OMS–OS—Director, Office of Management Services.
* * * * *

§ 3–3.405–5 [Added]

8. Under Subpart 3–3.4, Types of Contracts, § 3–3.405–5 is added and the table of contents for Part 3–3 is amended as follows:

Subpart 3–3.4—Types of Contracts

Sec.
* * * * *
3–3.405–5 Cost-plus-a-fixed-fee contract.
* * * * *

§ 3–3.405–5 Cost-plus-a-fixed-fee contract.

(a) and (b) [Reserved]

(c) *Limitations.* (1) [Reserved]

(2) Proposed fixed fees under cost-plus-a-fixed-fee contracts which exceed the following limitations shall be approved by the principal official responsible for procurement (not delegable):

(i) Ten percent of the estimated cost, exclusive of fee, for any cost-plus-a-fixed-fee contract for experimental, developmental, or research work.

(ii) Seven percent of the estimated cost, exclusive of fee, of any other cost-plus-a-fixed-fee contract.

PART 3–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

§ 3–4.5101 [Amended]

9. Under Subpart 3–4.51, Procurement of Paid Advertising, § 3–4.5101 is amended by adding the following as the first sentence in paragraph (a):

(a) The principal official responsible for procurement is authorized to publish advertisements, notices, and contract proposals in newspapers and periodicals in accordance with the requirements and conditions referenced in § 3–4.5100.

The remaining sentences in paragraph (a) remain unchanged.

[FR Doc. 79-13468 Filed 4-30-79; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 393

Front Tire Marking Requirements

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This document amends the Federal Motor Carrier Safety Regulations to allow tires that are not marked as required by Federal Motor Vehicle Safety Standard (FMVSS) No. 119 to be used on front axles under certain conditions. Also, it allows tires to be loaded beyond their rated capacity when the vehicle is being operated under a special permit issued by one of the several States if it is driven at reduced speed.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Donnell W. Morrison, Chief, Vehicle Requirements Branch, Bureau of Motor Carrier Safety, 202–426–1700; or Mrs. Kathleen S. Markman, Office of Chief Counsel, Motor Carrier and Highway Safety Law Division, 202–426–0346, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: This amendment follows a Notice of Proposed Rulemaking (NPRM) published on October 10, 1978, (43 FR 46556). That Notice was issued in response to a petition filed by the American Trucking Associations, Inc., (ATA) pertaining to marking of front tires and not handled when 49 CFR 393.75 was amended November 24, 1976.

The Notice also proposed to allow tires to be loaded beyond rated capacity when operating under a special permit issued by one of the several States and at reduced speed. The latter proposal was based on a request by the Department of Housing and Urban Development because of their mobile home standards and test data submitted by that Agency.

The only formal respondent to the notice was the ATA. The ATA agreed with the apparent intent of the rule regarding front tire marking requirements. The ATA had no problem with the way in which single-unit-property-carrying vehicles were exempted from the front tire marking requirements. However, ATA stated that the proposed amendment did not take into consideration all property-carrying vehicles used in a commercial zone.

The intent of the NPRM was that front tires on (1) all single-unit-property-carrying vehicles and (2) all property-carrying vehicles used wholly in commercial zones would be exempt from the FMVSS No. 119 marking requirements. The wording of the proposal did not accomplish the latter objective since it referred to the definition for exempt intracity operations as contained in 49 CFR 390.16. That definition, however, does not include property-carrying vehicles that may be carrying hazardous materials. As a result, vehicles operating under 49 CFR 390.16 were not exempted from the front tire marking requirement. The ATA pointed this fact out and recommended that the final rule be amended to include all property-carrying vehicles operating in a commercial zone. That recommendation is consistent with the original intent of the notice and will be incorporated in the final rule.

In consideration of the foregoing, Title 49, Code of Federal Regulations, Chapter III, Part 393 is amended as follows:

Paragraphs (f)(1) and (2)(i) of § 393.75 are amended to read as follows:

§ 393.75 Tires.

* * * * *

(f) *Tire load rating.* (1) *Front wheels. General rule.* No motor vehicle shall be operated with tires on the front wheels which carry a greater weight than that specified for the tires in any of the publications of the standardizing bodies listed in FMVSS No. 119 (49 CFR 571.119) and marked on the sidewall of the tire. Exceptions: *Provided,* That the load does not exceed rated capacity, tires not marked in accordance with FMVSS No. 119 may be used on the front axles of:

(i) Single-unit-property-carrying vehicles, and

(ii) All property-carrying vehicles operated wholly within a municipality or the commercial zone thereof as

defined by the Interstate Commerce Commission in 49 CFR 1048.100.

(2) * * *

(i) The vehicle is being operated under the terms of a special permit issued by the State; and

* * * * * *

Since this amendment is considered to be a relaxation of the present requirements contained in § 393.75(f)(1) and (2)(i), no economic or other burden is expected to be placed upon the private sector, consumers, Federal, State, and local governments. In brief, this proposal is neither costly nor controversial in nature and should encourage savings by reducing on undertermined and unnecessary expense upon the part of carriers engaged in exempt intracity and special State permit operations. There is likely to be no cost to the public-at-large in terms of highway safety since the operations expected to be affected typically are negligible contributors to the overall safety problem. In fact, the impact from this rulemaking action is expected to be so minimal as not to warrant a full Evaluation; thus, no separate document is being placed in the public docket.

Note.—The Fedral Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044.

(Sec. 204, 49 Stat. 546 as amended (49 U.S.C. 304); sec. 6, Pub. L. 89-670, 80 Stat. 937 (49 U.S.C. 1655); 49 CFR 1.48 and 49 CFR 301.60.)

Issued on: April 13, 1979.

Robert A. Kaye,
Director, Bureau of Motor Carrier Safety.

[BMCS Docket MC-56-1; Amdt. 78-5]
[FR Doc. 79-13434 Filed 4-30-79; 8:45 am]
BILLING CODE 4910-22-M

49 CFR Part 393

Parts and Accessories Necessary for Safe Operation To Resolve Inconsistencies Between the FMCSR and the FMVSS

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This document amends the Federal Motor Carrier Safety Regulations (FMCSR) in four areas: As of January 1, 1981, (1) Brake tubing; and (2) hose connection replacements will be required to conform to the applicable subsections of Federal Motor Vehicle Safety Standards (FMVSS); and (3) glazing used in windshields, windows, doors, or any other opening into a bus, truck, or truck tractor, will be required to conform to the new requirements contained in the "American Standard Safety Code For Safety Glazing Materials For Glazing Motor Vehicles Operating on Land Highways" of the American National Standards Institute, Inc.; and (4) rear-vision mirrors and their replacements will be required to meet, as a minimum, the standards in force at the time of manufacture under FMVSS 111.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. D. W. Morrison, Chief, Vehicle Requirements Branch, Bureau of Motor Carrier Safety, 202-426-1700; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, Motor Carrier and Highway Safety Law Division, 202-426-0346 Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: This amendment follows a Notice of Proposed Rulemaking (NPRM) published on March 6, 1978, (43 FR 9166). The principal reasons for issuance of this NPRM were to coordinate the FMCSR and the FMVSS and to resolve inconsistencies in the requirements where they may exist.

The seven respondents who commented on the NPRM represented the following interests:

1. Hose Manufacturer—1.
2. Brake manufacturer—1.
3. Truck manufacturer and associations—2.
4. Trucking associations—2.
5. Citizen interest—1.

All seven of the respondents favored the proposal. Two of the respondents suggested additional modifications in other areas which were beyond the scope of said NPRM and were not considered in this rulemaking action, although such may be considered at a later date.

One of the trucking associations urged that the FMVSS not be adopted in the FMCSR without modification. This association said that the FMVSS apply to new equipment manufacturers and can be viewed as a ceiling, establishing how good equipment must be when it is new before it is placed in service, whereas the FMCSR can be considered a floor, establishing when the user should remove the vehicle from service for repair. It further stated that wear is a fact of life which must be provided for in out-of-service criteria used in roadside vehicle/driver inspections conducted by the Bureau of Motor Carrier Safety (BMCS) under 49 CFR 396.5. Since this rule change does not deal with establishing out-of-service criteria, but rather equipment and replacement standards, and since a change in the present out-of-service criteria is not contemplated as a result of this action, no weight can be given to this argument for modifying the incorporated National Highway Traffic Safety Administration's standards in this particular situation. Also, Section 103(g) of the National Traffic and Motor Vehicle Safety Act prohibits BMCS from adopting or continuing in effect any safety regulation which differed from a motor vehicle safety standard unless a higher standard of performance was imposed subsequent to the date of manufacture of the vehicle.

The hose manufacturer commented that SAE Standard J1402b, Air Brake Hose—Automotive had been replaced by a SAE Recommended Practice (RP), Automotive Air Brake Hose and Hose Assembly, J1402c in July 1976. The new RP identifies air brake hose by dimensional identification and whether permanently attached or reusable fittings are used.

The manufacturer of hose who responded to the docket stated they could not mark their product to certify it complied with a nonexistent standard. The mere fact that a SAE Standard was replaced by a SAE Recommended Practice does not preclude the use of the Standard by a regulatory agency, or even a manufacturer. The reason this can be done is the fact that SAE Standards do not have to be followed by any manufacturer, unless required to do so by a regulatory body, either State or Federal.

Our review of both SAE J1402b and J1402c indicates there have been many changes made. Comparison of the various requirements in the cited papers reveals that performance requirements of the RP J1402c will result in a level of safety equivalent to that from SAE Standard J1402b. Therefore, § 393.45(b)(ii) will be revised to incorporate SAE Recommended Practice, Automotive Air Brake Hose and Hose Assembly J1402c, July 1976. Our review of the SAE Handbook, 1977 Edition revealed that SAE Standard, J1403 Vacuum Brake Hose was revised March 1973 and redesignated J1403a. The comparison of the two versions indicated only editorial changes were made. For that reason we are amending § 393.45(b)(iii) to reference the March 1973 edition of SAE J1403a.

The brake manufacturer pointed out that retention of § 393.45(b) and (c) without change seems in conflict with

the revision to § 393.45(a)(6) since pre-FMVSS 106 hose and tubing may not always be in conformance with § 393.45(b) and (c) and FMVSS 106 also. Since there is probably a large inventory of pre-FMVSS 106 hose, hose assemblies, and fittings in stock at many fleets and distributors, some modification in this original proposal is deemed necessary. Consequently, this additional requirement to conform to FMVSS 106 is reworded so as to be applicable as of January 1, 1981, for both brake tubing and hose connection replacement equipment. A similar point was also made with respect to large inventories of current replacement mirrors not being in compliance with the proposed § 393.80 rule change, which requires conformance with FMVSS 111. Consequently, the rule change affecting replacement mirrors has been reworded and will be effective on January 1, 1981.

In consideration of the foregoing, Title 49 Code of Federal Regulations, Chapter III, §§ 393.45, 393.60, and 393.80 are amended to read as follows:

1. Paragraph (a)(6) and (b)(1)(ii) of § 393.45 are amended to read as follows:

§ 393.45 Brake tubing and hose adequacy.

(a) * * *

(6) Conform to the applicable requirements of paragraph (b) or (c) of this section. In addition, all hose installed on and after January 1, 1981, must conform to those applicable subsections of FMVSS 106 (49 CFR 571.106).

(b) * * *

(1) * * *

(ii) Automotive Air Brake Hose and Hose Assemblies: SAE Recommended Practice J1402c, July 1976.

(iii) Vacuum Brake Hose: SAE Standard J1403a March 1973.

* * * * * *

2. A new paragraph (e) is added to § 393.46 as follows:

§ 393.46 Brake tubing and hose connections.

* * * * * *

(e) If installed on a vehicle on or after January 1, 1981, meet requirements under applicable subsections of FMVSS 106 (49 CFR 571.106).

3. Paragraph (a) of § 393.60 is revised to read as follows:

§ 393.60 Glazing in specified openings.

(a) *Kind of glass.* (1) Glazing utilized or installed in the windshield, window, door, or any other opening into a bus, truck, or truck tractor, except vehicles engaged in armored car service, shall conform to the requirements contained in the "American Standard Safety Code for Safety Glazing Materials for Motor Vehicles Operating on Land Highways," with the effective dates shown in subparagraph (2) of this paragraph.

(2) Table of Glazing Requirements and Effective Dates:

	Must comply with		
	Z 26.1-1966 as supplemented by Z 26.1a-1968	Z 26.1-1950 as supplemented by Z 26.1a-1964	Z 26.1-1950
Vehicles manufactured:			
Before January 1, 1966	X		
From January 1, 1966 to December 31, 1980		X	
On and after January 1, 1981			X

NOTE.—Copies of the "American Standard Safety Code For Safety Glazing Materials For Glazing Motor Vehicles Operating on Land Highways," may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

* * * * * *

4. Section 393.80 is revised to read as follows:

§ 393.80 Rear-vision mirrors.

Every bus, truck, and truck tractor shall be equipped with two rear-vision mirrors, one at each side firmly attached to the outside of the motor vehicle, and so located as to reflect to the driver a view of the highway to the rear, along both sides of the vehicle. *Provided, however,* That only one outside mirror shall be required, which shall be on the driver's side, on trucks which are so constructed that the driver has a view to the rear by means of an interior mirror; and *Provided further,* that in driveaway-towaway operations, the driven vehicle shall have at least one mirror furnishing a clear view to the rear. As of January 1, 1981, all such regulated rear-vision mirrors and their replacements shall meet, as a minimum, the standards in force at the time of manufacture under FMVSS 111 (49 CFR 571.111); mirrors installed on a vehicle manufactured prior to January 1, 1981, may be continued in service, provided that if they are replaced after December 31, 1980, the replacements shall conform to FMVSS 111 (49 CFR 571.111).

The rulemaking action is intended to resolve certain inconsistencies between the FMCSR and the FMVSS; no more restrictive requirements are being established than presently exists. Thus, the impact that would result from the final rule upon the public or private sector is expected to be of minimal economic consequence. In fact, an undeterminéd amount of paperwork and cost burden could be saved by the establishment of clearly consistent regulations or standards relating to brake tubing, hose connections, window glazing, and rear vision mirrors. As a result, no separate evaluation document is being placed in the public docket.

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044.

(49 U.S.C. 304, 1655; 49 CFR 1.48(6))

Issued on: April 13, 1979.

Robert A. Kaye,
Director, Bureau of Motor Carrier Safety.

[BMCS Docket No. MC-82; Amdt. 78-4]
[FR Doc. 79-13439 Filed 4-30-79; 8:45 am]
BILLING CODE 4910-22-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1245 and 1246

Revisions to Preliminary Report of Number of Employees of Class I Railroads, and the Monthly Report of Employees, Service and Compensation, Forms A&B

AGENCY: Interstate Commerce Commission.

ACTION: Suspension of effective date of final rule, reopening of proceeding, and notice of informal conference.

SUMMARY: The Commission has determined that it is necessary to reopen this proceeding in order to obtain more information. Therefore, it is suspending the effective date for the rule already adopted, reopening the proceeding, and scheduling an informal informal conference to discuss the changes contained in the rule.

DATES: Informal conference will take place at 9:30 a.m., May 15, 1979. Written

comments should be filed by May 31, 1979.

ADDRESSES: Informal Conference will be held at the Interstate Commerce Commission, 12th Street and Constitution Avenue, N.W., Washington, D.C. Written comments should be sent to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., (202) 275–7448.

SUPPLEMENTARY INFORMATION: In recent months, the Commission has adopted a number of final rules dealing with the reporting forms which must be filed by the carriers it regulates. Most of these rules have lessened the reporting burden on the carriers, and most of them have been adopted without a formal rulemaking proceeding pursuant to section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

Whenever one of these rules has been published, the Commission has noted that it would accept comments for a period of forty-five days after the date of publication and would modify the rule if the comments indicated it was necessary. The advantage of this procedure is that it allows the rule to become effective at the earliest possible time, which is clearly desirable in the case of lessening burdensome reporting requirements. At the same time this procedure gives the public an opportunity to raise objections to the rule.

In the present proceeding, the Commission published a final rule which revises two reports concerning railroad employees, the Report of Employees, Service, and Compensation (Forms A&B) and the Preliminary Report of Number of Employees of Class I Railroads (see 44 FR 11551, March 1, 1979). The revised forms are to be used for the reporting period beginning July 1, 1979. The National Railway Executives' Association has raised objections to this rule which have caused us to conclude that we do not have sufficient information about the effects of the rule change to permit it to take effect at this time. As a result, we are suspending the effective date of this rule until further notice and reopening the proceeding to obtain further information. To assist in this goal, the Commission's Bureau of Accounts will hold an informal conference at the Commission's offices in Washington, D.C. at 9:30, May 15, 1979. The conference will be open to anyone who wishes to attend.

Anyone not wishing to participate in the conference but desiring to express their views, may file written comments with the Commission. After the informal conference has been held and any comments have been reviewed, the Commission will make a final determination as to what action to take in this proceeding. A further notice will be published in the **Federal Register** at that time.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian.

H. G. Homme, Jr.,
Secretary.

[No. 37025]

[FR Doc. 79-13528 Filed 4-30-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Opening of Certain National Wildlife Refuges to Sport Fishing: Massachusetts, Maine, and Vermont

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in Massachusetts, Maine, and Vermont is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1979 through December 31, 1979.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617–965–5100 Ext. 200).

SUPPLEMENTARY INFORMATION: Sport fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 33 and the following Special Regulations. Portions of refuges which are open to sport fishing are designated by signs and/or shown on maps available from the addresses indicated below and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Sport fishing shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the following areas: Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, Massachusetts 01742. Contact David Beall, Refuge Manager, at 617–369–5518. Special conditions: Sport fishing and foot entry for this purpose is permitted in designated areas during daylight hours.

Monomoy National Wildlife Refuge, Chatham, Massachusetts, under administration of Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, Massachusetts 01742. Contact David Beall, Refuge Manager, at 617–369–5518. Special conditions: Sport fishing in tidal and fresh waters is permitted 24 hours per day from refuge lands. Boats may be beached on the refuge and wilderness areas.

Parker River National Wildlife Refuge, Northern Boulevard, Newburyport, Massachusetts 01950. Contact George Gavutis, Refuge Manager, at 617–465–5753. Special conditions: Saltwater sport fishing is permitted only on the ocean beach as follows:

Walk-in Fishermen:

Entire year: Day only, no permit required.

May 1 through October 18: Day and night. Night permit required.

Over-the-sand surf fishing vehicles:

May 1 through October 31 only, permit required.

May 1 through May 24, day and night.

May 25 through September 3, night (6:00 PM to 8:00 AM) only.

No vehicle shall be operated on the beach between the hours of 8:00 AM to 6:00 PM. During these hours all permit vehicles shall remain in the designated over-the-sand fishing vehicle parking area in the unvegetated area between the dunes at the east end of Beach Access Trail #2 or exit from the beach area. This same designated daytime parking area must, however, be vacated by 8:00 PM each evening not to be reoccupied before 6:00 AM the next morning.

September 4 through October 31, day and night.

No fishing is permitted on the northern one-quarter mile of beach east of Lot 1 from 8:00 AM to 6:00 PM.

Permit requirements are as follows:

Night permittees may enter the refuge only until dusk except they may enter until 10:00 PM from May 25 through September 3. Night permittees may remain on the refuge, or may exit through a one-way gate at any time. Vehicles with the special permit may be on the ocean beach only when the occupants over 12 years old are actively engaged in surf fishing and each have at least one fishing rod. Permission to inspect vehicle, sanitary facilities, and all fishing equipment must be granted to refuge agents upon request. All vehicle permits must be affixed to the vehicles as instructed at the time of issuance. Motorcycles, or any vehicle deemed improper by refuge agents, may not receive the permit. "Light Truck" type traction treads designed primarily for use in snow and mud are not permitted. Over-the-sand surf fishing vehicles must be equipped with spare tire, shovel, jack, tow rope, or chain, board or similar support for jack, and low-pressure tire gauge. Vehicles, under the terms of an over-the-sand surf fishing permit, may drive only on designated beach access routes and on the unvegetated beach east of the line formed by the eastern base of the dunes. The maximum speed limit in these areas is 15 miles per hour. No vehicle is permitted on the northern one-quarter mile of beach east of Lot 1 at any time. Ruts or holes resulting from freeing a stuck vehicle shall be promptly filled in by the operator. Tires must be properly deflated to permit sufficient flotation while vehicle is operated over sand. Riding on fenders, tailgates, roof, or any other position outside of the vehicle is prohibited. Failure to comply with any regulation shall be grounds for immediate cancellation of all permits.

Moosehorn National Wildlife Refuge, Box X, Calais, Maine 04619. Contact Douglas Mullen, Refuge Manager, at 207–454–3521. Special conditions: Sport fishing is permitted during daylight hours on areas designated by signs as open. The use of boats without motors is permitted on Bearce, Conic and Cranberry Lakes.

Missisquoi National Wildlife Refuge, Swanton, Vermont 05488. Contact Thomas Mountain, Refuge Manager, at 802–868–4781. Special conditions: Sport fishing is permitted in Lake Champlain, and the Missisquoi River from refuge lands. The use of firearms to take fish is prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

April 24, 1979.

Howard N. Larsen,
Regional Director, Fish and Wildlife Service.

[FR Doc. 79-13480 Filed 4-30-79; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 44, No. 85
Tuesday, May 1, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 915 and 944]

Avocados Grown in South Florida and Imported Avocados; Proposed Grade and Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This notice invites written comments on a proposal which would establish minimum grade and maturity requirements for shipments of avocados grown in South Florida, and for avocados imported into the United States, for the 1979–80 marketing season. The proposed requirements are designed to assure the shipment of ample supplies of mature avocados of acceptable quality in the interest of producers and consumers.

DATES: Comments must be received on or before May 17, 1979. Proposed effective period: May 28, 1979, through April 30, 1980.

ADDRESSES: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* The proposed Florida avocado regulation would be issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915; 43 FR 39321), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposed avocado import regulation would be issued under § 8e (7 U.S.C. 608e–1) of this act. The proposed grade and maturity requirements applicable to Florida avocado shipments were recommended by the Avocado Administrative Committee, which locally administers this marketing order program. These proposed regulations have not been determined significant under the USDA criteria for implementing Executive Order 12044.

The proposed regulations would establish U.S. No. 3 as the minimum grade, and prescribe minimum weights or diameters by specified dates as the maturity requirements for the various varieties of avocados. Minimum weights or diameters and picking dates are used as indicators during harvest to determine which avocados are sufficiently mature to complete the ripening process. Skin color would also be authorized as a method of determining maturity, for those varieties which turn red or purple when mature. These proposed requirements are designed to assure that the various varieties of avocados will be of suitable quality and maturity so they provide consumer satisfaction, which is essential for the successful marketing of the crop.

These recommendations reflect the Avocado Administrative Committee's appraisal of the avocado crop and current and prospective market conditions. It estimates that the 1979–80 Florida avocado crop will amount to a record 1,250,000 bushels compared with nearly 900,000 produced during the 1978–79 season. Shipment of this crop is expected to begin in late May. California is currently producing what is expected to be a record large crop of avocados. The committee considers these proposed grade and maturity requirements appropriate for the various varieties of avocados, and they are designed to provide the trade and consumers with an adequate supply of mature avocados of acceptable quality, in the interest of producers and consumers pursuant to the declared policy of the act.

The proposed grade and maturity requirements for imported avocados are consistent with § 8e of the act. This section requires that when specified commodities, including avocados, are regulated under a federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

The proposed regulations read as follows:

§ 915.321 Avocado Regulation 21.

(a) During the period May 28, 1979, through April 30, 1980, no handler shall handle:

(1) Any avocados unless they grade at least U.S. No. 3: *Provided,* That avocados not meeting this grade requirement may be handled within the production area, if they meet the other requirements of this section and are handled in containers other than those authorized in § 915.305 for handling avocados between the production area and any point outside thereof.

(2) Any avocados of the varieties listed in column 1 of Table I of this section, prior to the date listed for each variety in column 2 of the table.

(3) Any avocados unless the individual fruit weighs at least the ounces specified, or it is of at least the diameter specified for each variety listed: (i) in column 3 of Table I, from the date listed in column 2 of the table to the date listed in column 4 of the table for each variety; (ii) in column 5 of Table I, from the date listed in column 4 of the table to the date listed in column 6 of the table for each variety; and (iii) in column 7 of Table I, from the date listed in column 6 of the table to the date listed in column 8 of the table for each variety.

(4) Avocados of the West Indian Seedling type not listed in Table I, except as provided in paragraphs (b) and (c), unless the following conditions are met:

(i) Avocados of this type shall not be handled prior to July 2, 1979.

(ii) From July 2, 1979, through July 29, 1979, the individual fruit weighs at least 18 ounces.

(iii) From July 30, 1979, through September 2, 1979, the individual fruit weighs at least 16 ounces.

(iv) From September 3, 1979, through October 1, 1979, the individual fruit weighs at least 14 ounces.

(5) Any avocados of those varieties not listed in Table I, or in subparagraph (4) of this section, including those of the Guatemalan type, hybrid seedlings, and unidentified Guatemalan and hybrid varieties, except as provided in paragraphs (b) and (c), unless the following conditions are met:

(i) Such avocados shall not be handled prior to September 17, 1979.

(ii) From September 17, 1979, through October 14, 1979, the individual fruit weighs at least 15 ounces.

(iii) From October 15, 1979, through December 16, 1979, the individual fruit weighs at least 13 ounces.

(b) With respect to the provisions of this section regarding the minimum weight or diameter for individual avocados, up to 10 percent, by count, of the individual fruit in each lot may weigh less than the minimum specified and be less than the specified diameter: *Provided,* That such avocados weigh not more than two ounces less than the weight specified for the particular variety: *Provided further,* That up to double such tolerances shall be permitted for fruit in an individual container in a lot.

(c) Any avocados, except for the Linda variety, may be handled without regard to the handling date or weight requirements specified in this section if the variety of avocados normally changes color to any shade of red or purple when mature, and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(d) Terms used in this section shall mean the same as in the marketing order. The term "diameter" shall mean the greatest dimension measured at a right angle to a line from the stem to the blossom end of the fruit, and the term "U.S. No. 3" shall mean the same as in the U.S. Standards for Florida Avocados (7 CFR 2851.3050–3089).

Table I

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Koeel	5–28–79	16 oz.	6–11–79	13 oz.	6–25–79		
Arue	5–28–79	16 oz.	6–11–79	14 oz. 3⅛ in.	7–16–79		
Roland 2–2	6–11–79	22 oz.	6–25–79	20 oz.	7–16–79		
J. M. Poropel	6–18–79	20 oz.	6–25–79	18 oz.	7–16–79	16 oz.	7–30–79
Fuchs	6–18–79	14 oz. 3⅛ in.	7–2–79	12 oz. 3⅛ in.	7–16–79		
Dr. DuPuis No. 2	6–18–79	16 oz. 3⅛ in.	7–2–79	14 oz. 3⅛ in.	7–16–79	12 oz. 3⅛ in.	7–30–79
K–5	6–25–79	18 oz. 3⅛ in.	7–9–79	14 oz. 3⅛ in.	7–23–79		
Hardee	7–2–79	16 oz. 3⅛ in.	7–9–79	14 oz. 2⅝ in.	7–30–79		
Pollock	7–2–79	18 oz. 3⅛ in.	7–16–79	16 oz. 3⅛ in.	7–30–79	14 oz. 3⅛ in.	8–13–79
Simmonds	7–2–79	16 oz. 3⅛ in.	7–16–79	14 oz. 3⅛ in.	7–30–79	12 oz. 3⅛ in.	8–13–79
Nadir	7–2–79	14 oz. 3⅛ in.	7–9–79	12 oz. 3⅛ in.	7–16–79	10 oz. 2⅛ in.	7–30–79
Katherine	7–2–79	16 oz.	7–16–79	14 oz.	7–30–79		
Haile	7–2–79	20 oz.	7–16–79	16 oz.	7–23–79	14 oz.	8–13–79
Donnie	7–9–79	16 oz. 3⅛ in.	7–23–79	14 oz. 3⅛ in.	8–20–79		
Ruehle	7–16–79	18 oz. 3⅛ in.	7–23–79	16 oz. 3⅛ in.	7–30–79	14 oz. 3⅛ in.	
Ruehle (continued)					8–13–79	12 oz. 3⅛ in.	8–27–79
Dawn	7–16–79	12 oz. 3⅛ in.	7–30–79	10 oz. 3⅛ in.	8–13–79		
Webb–2	7–16–79	18 oz.	7–30–79	16 oz.	8–13–79		
Cash	7–16–79	16 oz.	10–1–79				
Alpha	7–23–79	16 oz. 3⅛ in.	8–13–79				
Biondo	7–23–79	13 oz.	8–27–79				
Peterson	7–23–79	14 oz. 3⅛ in.	8–6–79	10 oz. 3⅛ in.	8–20–79		
232	7–30–79	14 oz.	8–13–79	12 oz.	8–27–79		
Gretchen	7–30–79	14 oz.	8–13–79	12 oz.	8–27–79		
Trapp	7–30–79	14 oz. 3⅛ in.	8–13–79	12 oz. 3⅛ in.	8–27–79		
B. & B.	7–30–79	16 oz. 3⅛ in.	9–3–79				
Waldin	8–13–79	16 oz. 3⅛ in.	8–27–79	14 oz. 3⅛ in.	9–10–79	12 oz. 3⅛ in.	9–24–79
Pinelli	7–30–79	18 oz. 3⅛ in.	8–13–79	16 oz. 3⅛ in.	8–27–79		
Miguel	7–30–79	22 oz. 3⅛ in.	8–13–79	20 oz. 3⅛ in.	8–27–79	16 oz. 3⅛ in.	9–10–79
Nesbitt	7–30–79	22 oz. 3⅛ in.	8–13–79	16 oz. 3⅛ in.	8–20–79	15 oz. 3⅛ in.	9–3–79
Chapple	7–30–79	16 oz.	8–27–79				
Millie–D	8–13–79	18 oz.	9–10–79				
Shula	8–13–79	22 oz.	9–3–79				
Tonnage	8–13–79	16 oz. 3⅛ in.	8–27–79	14 oz. 3⅛ in.	9–3–79	12 oz. 3⅛ in.	9–10–79
Beta	8–13–79	18 oz. 3⅛ in.	8–20–79	16 oz. 3⅛ in.	9–10–79		
K–9	8–13–79	16 oz.	9–3–79				
Gorham	8–13–79	29 oz. 4⅜ in.	8–27–79	27 oz. 4⅜ in.	9–10–79		

Table I—Continued

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Tower-2	8-13-79	14 oz. 3⁹⁄₁₆ in.	8-27-79	12 oz. 3⁹⁄₁₆ in.	9-17-79		
The Frannee	8-20-79	23 oz.	9-17-79				
Lisa	8-20-79	12 oz. 3⁹⁄₁₆ in.	8-27-79	11 oz. 3⁹⁄₁₆ in.	9-3-79		
Fairchild	8-27-79	16 oz. 3¹⁹⁄₁₆ in.	9-10-79	14 oz. 3¹⁄₁₆ in.	9-24-79	12 oz. 3¹⁹⁄₁₆ in.	10-1-79
Nirody	8-27-79	18 oz. 3¹⁹⁄₁₆ in.	9-10-79	16 oz. 3¹⁹⁄₁₆ in.	9-24-79		
Loretta	8-27-79	28 oz. 4¹⁄₁₆ in.	10-8-79				
Booth 8	9-10-79	16 oz. 3⁹⁄₁₆ in.	10-1-79	14 oz. 3⁹⁄₁₆ in.	10-15-79	10 oz. 3¹⁄₁₆ in.	10-29-79
Black Prince	9-10-79	23 oz. 3¹⁹⁄₁₆ in.	9-24-79	16 oz. 3⁹⁄₁₆ in.	10-5-79		
Catalina	8-27-79	24 oz.	9-10-79	22 oz.	10-1-79		
Ceonka	9-17-79	22 oz.	10-15-79				
Blair	9-10-79	16 oz. 3⁹⁄₁₆ in.	9-24-79	14 oz. 3¹⁄₁₆ in.	10-15-79		
Collinson	9-24-79	16 oz. 3¹⁹⁄₁₆ in.	10-22-79				
Chica	9-24-79	12 oz. 3⁷⁄₁₆ in.	10-8-79	10 oz. 3⁹⁄₁₆ in.	10-22-79		
Rue	9-24-79	30 oz. 4⁵⁄₁₆ in.	10-1-79	24 oz. 3¹⁹⁄₁₆ in.	10-15-79	18 oz. 3⁹⁄₁₆ in.	10-29-79
Brooks 1978	10-8-79	10 oz.	10-15-79	8 oz.	11-12-79		
Booth 5	9-17-79	14 oz. 3⁹⁄₁₆ in.	10-1-79	12 oz. 3⁹⁄₁₆ in.	10-15-79		
Hickson	9-24-79	12 oz. 3¹⁄₁₆ in.	10-8-79	10 oz. 3⁹⁄₁₆ in.	10-22-79		
Simpson	10-1-79	16 oz. 3⁹⁄₁₆ in.	10-22-79				
Vaca	10-1-79	16 oz. 3⁹⁄₁₆ in.	10-22-79				
Sherman	10-1-79	16 oz.	10-15-79	14 oz.	10-29-79	10 oz.	11-19-79
Marcus	9-17-79	32 oz. 4¹⁹⁄₁₆ in.	10-1-79	24 oz. 4⁵⁄₁₆ in.	11-12-79		
Booth 10	10-8-79	16 oz. 3¹⁹⁄₁₆ in.	11-5-79				
Booth 7	9-10-79	18 oz. 3¹⁹⁄₁₆ in.	9-24-79	16 oz. 3¹⁹⁄₁₆ in.	10-8-79	14 oz. 3⁹⁄₁₆ in.	10-22-79
Avon	10-8-79	15 oz. 3¹¹⁄₁₆ in.	10-29-79				
Booth 11	10-8-79	16 oz. 3¹⁹⁄₁₆ in.	10-29-79				
Leona	10-8-79	18 oz. 3¹⁹⁄₁₆ in.	10-22-79				
Winslowson	10-8-79	18 oz. 3¹⁹⁄₁₆ in.	10-29-79				
Nelson	10-8-79	14 oz. 3⁹⁄₁₆ in.	10-22-79	12 oz. 3⁹⁄₁₆ in.	11-5-79	10 oz. 3¹⁄₁₆ in.	11-26-79
Hall	10-8-79	26 oz. 3¹⁹⁄₁₆ in.	10-22-79	20 oz. 3⁹⁄₁₆ in.	11-5-79	18 oz. 3⁹⁄₁₆ in.	11-19-79
Lula	10-15-79	18 oz. 3¹⁹⁄₁₆ in.	10-29-79	14 oz. 3⁹⁄₁₆ in.	11-12-79	12 oz. 3⁹⁄₁₆ in.	11-26-79
Choquette	10-1-79	24 oz. 4¹⁄₁₆ in.	10-15-79	20 oz. 3¹⁹⁄₁₆ in.	10-29-79	16 oz. 3⁹⁄₁₆ in.	11-12-79
Monroe	11-12-79	24 oz. 4¹⁄₁₆ in.	11-26-79	20 oz. 3¹⁹⁄₁₆ in.	12-10-79	16 oz. 3⁹⁄₁₆ in.	12-24-79
Herman	10-15-79	16 oz. 3⁹⁄₁₆ in.	10-29-79	14 oz. 3⁹⁄₁₆ in.	11-12-79		
Murphy	10-15-79	16 oz.	10-29-79	14 oz.	11-12-79	11 oz.	12-3-79
Ajax (B-7)	10-22-79	18 oz. 3¹⁹⁄₁₆ in.	11-12-79				
Booth 1	11-19-79	16 oz. 3¹⁹⁄₁₆ in.	12-3-79	12 oz. 3⁹⁄₁₆ in.	12-17-79		
Booth 3	10-22-79	16 oz. 3⁹⁄₁₆ in.	10-29-79	14 oz. 3⁹⁄₁₆ in.	11-12-79		
Taylor	10-22-79	14 oz. 3⁹⁄₁₆ in.	11-5-79	12 oz. 3⁹⁄₁₆ in.	11-19-79		
Dunedin	11-5-79	16 oz. 3¹⁹⁄₁₆ in.	11-19-79	14 oz. 3⁹⁄₁₆ in.	12-3-79	10 oz. 3¹⁄₁₆ in.	12-24-79
Byars	11-12-79	16 oz. 3¹⁹⁄₁₆ in.	12-3-79				
Linda	11-12-79	18 oz. 3¹⁹⁄₁₆ in.	12-3-79				

Table I—Continued

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Nabel	11-12-79	14 oz. 3⁹⁄₁₆ in.	12-3-79				
Zio	11-26-79	12 oz. 3¹⁄₁₆ in.	12-10-79	10 oz. 2¹⁵⁄₁₆ in.	12-24-79		
Wagner	12-3-79	12 oz. 3⁹⁄₁₆ in.	12-17-79	10 oz. 3⁹⁄₁₆ in.	12-31-79		
Maya	12-24-79	13 oz. 3⁹⁄₁₆ in.	1-7-80	11 oz. 3⁹⁄₁₆ in.	1-21-80		
Brookdale	12-31-79	14 oz. 3⁹⁄₁₆ in.	1-21-80	12 oz. 3¹⁹⁄₁₆ in.	2-4-80	10 oz.	2-18-80
Schmidt	12-3-79	16 oz.	12-31-79				
Ramms	2-11-80	12 oz.	2-18-80				

§ 944.19 Avocado Regulation 27.

(a) *Applicability to imports.* Pursuant to § 8e of the act and Part 944—Fruits; Import Regulations, the importation into the United States of any avocados is prohibited during the period May 28, 1979, through April 30, 1980, unless such avocados meet the minimum grade and maturity requirements specified in § 915.321 Avocado regulation 21: *Provided,* That avocados of the Pollock, Catalina, and Trapp varieties shall meet the applicable maturity requirements specified in subparagraphs (2) and (3) and related Table I; all other varieties of avocados of the West Indian type shall meet the maturity requirements specified in subparagraph (4); and all other varieties of avocados of the Guatemalan type, including hybrid seedlings, and unidentified Guatemalan and hybrid varieties shall meet the requirements specified in subparagraph (5), consistent with the weight and diameter tolerances specified in paragraph (b), and the alternative method of determining maturity specified in paragraph (c).

(b) It is hereby found that it is not practicable to impose the same requirements for imported avocados as those for domestically grown avocados, except as provided in paragraph (a) of this section; and that the requirements specified in paragraph (a) of this section for imported avocados are comparable to those in Avocado Regulation 21, for Florida avocados.

(c) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products [7 CFR Part 2851] and in accordance with the Procedure for Requesting Inspection and Certification [7 CFR Part 944; 43 FR 19340].

(d) The term "importation" means release from custody of the United States Customs Service.

(e) Any person may recondition any shipment of avocados prior to importation, to make it eligible for importation.

(f) *Minimum quantity exemption:* Any person may import up to 55 pounds of avocados exempt from the requirements specified in this section.

Dated: April 26, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-13531 Filed 4-30-79; 8:45 am]

BILLING CODE 3410-02-M

[7 CFR Part 991]

Hops of the Fuggle Variety; Additional Allotment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would authorize additional allotment bases for hops of the Fuggle variety and extend the time the Committee may grant additional bases previously authorized through the marketing year ending July 31, 1988.

DATE: Comments due May 21, 1979.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials should be submitted, and they shall be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William J. Higgins, (202) 447-5057.

SUPPLEMENTAL INFORMATION: The proposal is to amend § 991.138 of Subpart—Administrative Rules and Regulations (7 CFR 991.130-991.601). It was recommended by the Hop Administrative Committee in accordance with the provisions of Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Section 991.138 currently specifies the rules under which the Committee annually may grant additional allotment bases to producers to satisfy the demand for hops of the Fuggle variety. Additional allotment bases granted under this section apply only to Fuggle variety hops planted in 1970 prior to June 15, 1970. The total quantity of additional allotment bases granted each year result in annual allotments totalling one million pounds. The amount of the additional allotment base granted to a qualified grower of Fuggle hops is the lesser of: (1) His total sales of such hops during the marketing year from the acreage planted in 1970 prior to June 15, 1970, divided by the allotment percentage for that year; or (2) the quantity per acre which when multiplied by the allotment pecentage equals 1,300 pounds per acre.

Currently, there are 2,000 acres of Fuggle hops. In 1978, this acreage produced 2 million pounds of hops at an average yield of 1,000 pounds per acre. With more normal yields of 1,300 pounds per acre, it is estimated that the potential production in the early 1980's would be about 2.5 million pounds. It is also estimated that the demand for Fuggle hops in the early 1980's would be 4.5 million pounds, and more for later years.

In order to encourage growers to expand their acreage of Fuggle hops to

meet these needs, it is proposed that the authorization for the 1 million pound special Fuggle allotment be extended through the marketing year ending July 1, 1986. Currently, it would expire in the marketing year ending July 31, 1983. It is also proposed that an additional 2.5 million pounds of special Fuggle allotment be granted for Fuggles planted in 1979 and 1980 prior to June 15, 1980. This, too, would extend through the marketing year ending July 31, 1986.

It is therefore proposed that § 991.138 of Subpart—Administrative Rules and Regulations (7 CFR 991.130–991.601) be revised to read as follows:

§ 991.138 Additional allotment bases for hops of the Fuggle variety.

(a) Pursuant to § 991.38(b), the Committee may grant additional allotment bases for hops of the Fuggle variety through the marketing year ending July 31, 1986.

(b) Additional allotment bases granted under this section shall be for Fuggles planted in 1970 prior to June 15, 1970, or for Fuggles planted in 1979, or 1980 prior to June 15, 1980. In the case of Fuggles planted in 1970 prior to June 15, 1970, these plantings may be replaced with new plantings of Fuggle hops on a one-for-one acreage replacement basis, or with Fuggle-type varieties designated as USDA 21040, USDA 21041, and USDA 21091 on a replacement basis of two acres of these Fuggle-type varieties for every three acres of Fuggle hops. In the case of Fuggles planted in 1979 or 1980 prior to June 15, 1980, these plantings may be replaced with new plantings of Fuggles on a one-for-one acreage replacement basis.

(c) Any additional allotment may be granted to the person, or that person's successor in interest, who filed in good faith, a written application with the Committee for such base. For Fuggles planted in 1970 prior to June 15, 1970, the application shall have been filed for receipt by the Committee by May 1, 1970, and for Fuggles planted in 1979, or in 1980 prior to June 15, 1980, shall be filed for receipt by the Committee by July 15, 1979. If the total quantity of any marketing year's additional allotment bases (computed on the basis of 1,300 pounds per acre divided by the allotment percentage for such marketing year) applied for pursuant to this section would result in annual allotments therefor totalling more than one million pounds in the case of Fuggles planted in 1970, or 2½ million pounds in the case of Fuggles planted in 1979 or 1980, the Committee shall reduce proportionately the respective amounts of additional allotment bases applied for so as to result in total annual allotments equal to such totals referable to the additional allotment bases.

(d) The written application filed pursuant to paragraph (c) of this section shall contain at least the following information:

(1) The location and number of acres of the Fuggle varieties which the applicant planted in 1970 prior to June 15, 1970, or planted or will plant in 1979 or 1980 prior to June 15, 1980;

(2) A statement that the additional allotment base that may be granted to the applicant pursuant to this section will be applicable only to Fuggle varieties covered by the application;

(3) A statement that the applicant will make a bona fide effort to produce the annual allotment referable to such additional allotment base; and

(4) If the applicant is currently a producer of Fuggles or Fuggle-type varieties, a statement that the applicant will continue to make a bona fide effort to produce those varieties on existing acreage to the extent of the annual allotment referable to the applicable allotment base.

(e) Each marketing year through the marketing year ending July 31, 1986, the Committee shall grant an additional allotment base to each producer who filed a written application pursuant to paragraph (c) of this section, or to the successor in interest, if it concludes from all available information that the producer will make a bona fide effort during the marketing year to produce the annual allotment referable to such base. If the Committee finds that any producer granted an additional allotment base pursuant to this section, who is an existing producer of hops of the Fuggle variety, fails to make a bona fide effort during the applicable marketing year to produce the annual allotment of Fuggle hops referable to his existing Fuggle acreage, the Committee shall reduce his additional allotment base by an amount equivalent to such unproduced proportion. The amount of additional allotment base granted to any producer for a marketing year shall be the lesser of: (1) The producer's total sales of Fuggle or Fuggle-type varieties during the marketing year from the acreage planted in 1970 prior to June 15, 1970, or planted in 1979 and 1980 prior to June 15, 1980, or as replaced by acreage as provided in paragraph (b) of this section, divided by the allotment percentage for that year; or (2) the quantity per acre which when multiplied by that allotment percentage equals 1,300 pounds per acre of Fuggles or Fuggle-type varieties. The total of all additional allotment bases granted each marketing year, however, shall not exceed the amount resulting by dividing one million pounds in the case of Fuggles planted in 1970 prior to June 15, 1970, or 2.5 million pounds in the case of Fuggles planted in 1979, or 1980 prior to June 15, 1980, by the allotment percentage for that marketing year.

This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044.

Dated: April 26, 1979.

D. S. Kuryloski,
Acting Deputy Director
Fruit and Vegetable Division.

[FR Doc. 79-13424 Filed 4-30-79; 8:45 am]

BILLING CODE 3410-02-M

[7 CFR Part 1260]

Beef Research and Information Order; Hearing on Proposed Order

Correction

In FR Doc. 79–12465 appearing at page 23858, in the issue for Monday, April 23, 1979, make the following corrections:

(1) On page 23859, in the first column, in the paragraph **"Dates"**, the phrase "listed under 'Supplementary Information' ", should read "listed under 'Addresses' ".

(2) On page 23859, in the third column, in the table of sections for Part 1260, between the entries for §§ 1260.126 and 1260.136 insert the heading **"Beef Board"**.

(3) On page 23860, in the middle column, in § 1260.116, in the second line, the second "of" should read "or".

(4) On page 23860, in the third column, in § 1260.126, in the last line, the first "of" should read "or".

(5) On page 23861, in the first column, in § 1260.138(b), in the fourth line, the word "sumbitted" should read "submitted".

(6) On page 23861, in the first column, in § 1260.138(c), in the third line, the word "propose" should read "purpose".

(7) On page 23861, in the first column, in § 1260.138(e), in the sixth line, "Gorrgia" should read "Georgia".

(8) Also in page 23861, in the middle column, in § 1260.138(e), in the ninth line from the top of the column, after "Delaware" insert: "–New Jersey–District of Columbia 1, Maine–Vermont".

(9) On page 23862, in the first column, in § 1260.146(e) make the following corrections:

(a) In the third line, the word "contacting" should read "contracting".

(b) In the sixth line, after the word "projects" insert "and programs".

(c) In the 24th line, between the words "contract" and "agreement" insert the word "or".

(10) On page 23862, in the third column, in § 1260.151(c), in the seventh line, "Unitd" should be spelled "United".

(11) On page 23863, in the first column, in § 1260.161(a), in the sixth line, the word "performs" should read "perform".

(12) On page 23863, in the first column, in § 1260.161(c), in the third line, the word "from" should read "for".

(13) On page 23863, in the middle column, in § 1260.162(a)(7), in the third line, the word "slaughter" should read "slaughterer".

(14) On page 23863, in the third column, in § 1260.172, in the first line, the word "slaughter" should read "slaughterer".

[Docket No. BRIA–2]

BILLING CODE 1505-01-M

Rural Electrification Administration

[7 CFR Part 1701]

Rural Telephone Program; Proposed New REA Specification PE–80 for Gas Tube Surge Arresters

AGENCY: Rural Electrification Administration.

ACTION: Proposed Rule.

SUMMARY: REA proposes to issue REA Bulletin 345–83 to announce the issuance of a new REA Specification PE–80 for Gas Tube Surge Arresters. This specification has been developed to cover all gas tube surge arresters and therefore, replaces PE–55, REA Specification for Two-Electrode Gas Tube Protectors and PE–56, REA Specification for Three-Electrode Gas Tube Protectors. The effect of this specification, which has been developed through the combined efforts of other telephone industry participants, is to provide uniform characteristics, performance requirements and uniform qualification testing criteria for gas tube surge arresters used by the telephone industry. On issuance of REA Bulletin 345–83, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than July 2, 1979.

ADDRESS: Persons interested in the new specification may submit written data, views, or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Harry M. Hutson, Chief, Outside Plant Branch, Telephone Operations and Standards Division, Room 1340, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–3827.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 USC. 901 et seq.), REA proposes to issue REA Bulletin 345–83. A copy of the proposed new REA Bulletin 345–83 and the proposed new REA Specification PE–80 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

Dated: April 25, 1979.

John M. Arnesen,
Acting Assistant Administrator—Telephone.

[FR Doc. 79-13428 Filed 4-30-79; 8:45 am]

BILLING CODE 3410-15-M

FEDERAL RESERVE SYSTEM

(12 CFR Part 204)

Reserve Requirements on Federal Funds and Repurchase Agreement Time Deposits of Member Banks

Correction

In FR Doc. 79–12517 appearing on page 23868 in the issue for Monday, April 23, 1979, the docket number given at the end of the document, below the signature, now reading "Docket No. R–0128" should have read "Docket No. R–0218".

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

American Dental Association, et al.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, provides that on entry of a final adjudicated order in the *American Medical Association (AMA)* case, four dental associations (ADA) will be bound to a similar order which will be issued against them by the Commission. During the period preceding final resolution of the *AMA* case, the dental associations would be prohibited from restricting or declaring unethical any form of their members' advertising or solicitation of business which is not false or misleading. Additionally, the dental associations would be required to print a statement in their code of ethics which advises members that advertising or solicitation of patients and business shall not be considered unethical or improper.

DATE: Comments must be received on or before July 2, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/CS–8, Walter T. Winslow, Washington, D.C. 20580. (202) 724–1341.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

Agreement Containing Consent Order to Cease and Desist

In the matter of American Dental Association, a corporation; Indiana Dental Association, a corporation; Indianapolis District Dental Society, a corporation; Virginia Dental Association, a corporation; and Northern Virginia Dental Society, a corporation; Agreement containing consent order to cease and desist.

The agreement herein by and between the above named respondents, by their duly authorized officers and attorneys, and counsel for the Federal Trade Commission is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent American Dental Association ("ADA") is an Illinois corporation, with its principal place of

business at 211 East Chicago Avenue, Chicago, Illinois.

Respondent Indiana Dental Association ("IDA") is an Indiana corporation, with its principal place of business at 402 Jefferson Building, 1 Virginia Avenue, Indianapolis, Indiana. IDA is a constituent society of ADA.

Respondent Indianapolis District Dental Society ("IDDS") is an Indiana corporation, with its principal place of business at 211 North Delaware Street, Indianapolis, Indiana. IDDS is a component society of IDA and ADA.

Respondent Virginia Dental Association ("VDA") is a Virginia corporation, with its principal place of business at Suite 423, 2015 Staples Mill Road, Richmond, Virginia. VDA is a constituent society of ADA.

Respondent Northern Virginia Dental Society ("NVDS") is a Virginia corporation with its principal place of business at 1008 North Randolph, Arlington, Virginia. NVDS is a component society of VDA and ADA.

2. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission on January 4, 1977, charging them with violation of Section 5 of the Federal Trade Commission Act. They have filed answers to said complaint denying said charges.

3. Only for the purpose of this proceeding and for compliance and enforcement proceedings under the following Order, ADA, IDA, IDDS, VDA, and NVDS individually and severally admit all of the jurisdictional allegations set forth in the Commission complaint in this proceeding.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement.

5. This agreement shall not become a part of the public record of this proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the said copy of the complaint issued by the Commission. In addition, it shall in no way affect the positions taken by the Commission or Commission complaint counsel in FTC Docket No. 9064 or any other matter.

7. This agreement contemplates that, if it is accepted by the Commission and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondents, (1) issue its decision containing the following Order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to Order to respondents' addresses as stated in this agreement shall constitute service. Respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or in the agreement may be used to vary or to contradict the terms of the Order.

8. Respondents have read the complaint and the Order contemplated hereby. They understand that once the Order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Order. Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

Definitions

For purposes of this Order, the following definitions shall apply:

"FTC Docket No. 9064" means Federal Trade Commission Docket No. 9064 and that matter as it may otherwise be denominated by a reviewing court.

"Final adjudicated order" means an adjudicated order or opinion of the Federal Trade Commission or of a reviewing court which either dismisses the complaint on the merits or for lack of jurisdiction as to, or grants relief against, the American Medical Association in FTC Docket No. 9064 and which has become final in accordance with Section 5(g)–(k) of the Federal Trade Commission Act, 15 U.S.C. § 45(g)–(k).

"Respondents" means the American Dental Association ("ADA"), the Indiana Dental Association ("IDA"), the Indianapolis District Dental Society ("IDDS"), the Virginia Dental Association ("VDA"), and the Northern Virginia Dental Society ("NVDS"), individually or jointly, and their respective councils, departments, committees, divisions, subdivisions, trustees, officers, delegates, representatives, agents, employees, successors, and assigns.

"Constituent societies" means those dental societies or dental associations defined as constituent societies in the January 1, 1978, edition of the American Dental Association's *Constitution and Bylaws* and, in the event that the American Dental Association's *Constitution and Bylaws* is amended to denominate constituent societies differently or to describe a new category of dental societies which replace or are roughly equivalent to constituent societies, "constituent societies" means those dental societies as well.

"Component societies" means those dental societies or dental associations defined as component societies in the January 1, 1978, edition of the American Dental Association's *Constitution and Bylaws* and, in the event that the American Dental Association's *Constitution and Bylaws* is amended to denominate component societies differently or to describe a new category of dental societies which replace or are roughly equivalent to component societies, "component societies" means those dental societies as well.

I

It is ordered, That:

(A) On entry of a final adjudicated order in FTC Docket No. 9064, the Commission will issue an order ("*ADA* order") against respondents in this proceeding which will consist of the provisions of the FTC Docket No. 9064 final adjudicated order, conformed to make such provisions fully applicable to respondents herein, consistent with Section I(C) of this Order. Such conforming modifications will include, for purposes of illustration, but not be limited to, substituting the names of respondents and their ethical codes and publications for the names of the FTC Docket No. 9064 respondents and their ethical codes and publications,

respectively, and substituting the words "dental" for "medical", "dentists" for "physicians", and "dentists' services" for "physicians' services". Respondents shall be bound by such *ADA* order and shall have no right to seek judicial review or otherwise challenge the validity of it unless it fails to conform substantially to the final adjudicated order in FTC Docket No. 9064, consistent with Section I(C) of this Order, provided however:

(D) In the event that the Commission issues a decision and order based on a consent agreement against the American Medical Association in FTC Docket No. 9064, the instant case shall immediately be reopened and returned to adjudicative status.

(C) No provisions in the final adjudicated order in FTC Docket No. 9064 which relate directly to physicians' contractual arrangements for the sale or distribution of their professional services or to the growth, development or operations of any prepaid health care delivery plan or of any other organization which offers physicians' services to the public shall be applicable to respondents, except to the extent that such provisions relate to advertising or solicitation of patients or business.

(D) In the event that the final adjudicated order in FTC Docket No. 9064 dismisses the complaint on the merits or for lack of jurisdiction, the Commission shall dismiss the complaint in this proceeding.

(E) For the purpose of clarifying Section I(A) of this Order, respondents shall not be bound by any order entered pursuant to Section I(A) of this Order based on an order of the Commission or a reviewing court which may be entered in FTC Docket No. 9064 unless and until such Docket No. 9064 order becomes a final adjudicated order.

II

It is further ordered, That pending entry of a final adjudicated order, or Commission issuance of a decision and order based on a consent agreement against the American Medical Association in FTC Docket No. 9064, respondents in this proceeding shall not restrict, regulate, impede, declare unethical or improper, interfere with, or advise against any form of advertising or solicitation of patients or business by dentists or dental care delivery organizations which is not false or misleading in any material respect. Within sixty (60) days after entry of this Order, respondents shall:

(A) State in a prominent place and manner in the ADA Principles of Ethics, ADA Official Advisory Opinions, NVDS Code of Ethics, and all other codes, guidelines, and other standards of dentist conduct issued by respondents that: "Advertising, solicitation of patients or business, or other promotional activities by dentists or dental care delivery organizations shall not be considered unethical or improper, except for those promotional activities which are false or misleading in any material respect. Notwithstanding any ADA Principles of Ethics or other standards of dentist conduct which may be differently worded, this shall be the sole standard for determining the ethical propriety of such promotional activities. Any provision of an ADA constituent or component society's code of ethics or other standard of dentist conduct relating to dentists' or dental care delivery organizations' advertising, solicitation, or other promotional activities which is worded differently from the above standard shall be deemed to be in conflict with the ADA Principles of Ethics."

(B) Add footnotes referring readers to the quoted statement in Section II(A) of this Order after each provision of respondents' respective ethical codes, advisory opinions, interpretations, and guidelines which relates in any way to dentists' or dental care delivery organizations' advertising, solicitation, or promotional activities. These include the third paragraph of the preamble of the ADA Principles of Ethics and Sections 2, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 thereof. No version of respondents' respective ethical codes, advisory opinions, interpretations, or guidelines which lacks such footnote references shall be distributed.

(C) Delete from all copies of ethical codes and other publications which are distributed by respondents all references to the following ADA Official Advisory Opinions [of the ADA Principles of Ethics] (March 1977 rev.):

Advisory Opinion 2 of Section 2.
Advisory Opinions 1 through 13 of Section 12.
Advisory Opinions 1 through 8 of Section 13.
Advisory Opinions 1 through 3 of Section 14.
Advisory Opinion 1 of Section 16.
Advisory Opinions 1 and 8 of Section 17.
Advisory Opinions 1 through 9 of Section 18.
Advisory Opinions 1 through 4 of Section 20.

(D) Not thereafter amend, elaborate on, or add any ADA Principles of Ethics, ADA Official Advisory Opinions, or other standards of dentist conduct relating to dentists' or dental care delivery organizations' advertising, solicitation, or other promotional activities, except to conform such standards to the standard set forth in Section II(A) of this Order.

(E) Not refer to or apply any standard of dentist conduct other than the standard set forth in Section II(A) of this Order in responding to requests for advice, inquiries, and complaints from dental societies, dentists, or others relating to dentists' or dental care delivery organizations' advertising, solicitation, or other promotional activities. In all such responses, respondents shall enclose a copy of this Order and a copy of the ADA Principles of Ethics and Official Advisory Opinions made consistent with Section II(A)–(D) of this Order.

III

It is further ordered, That at no time after entry of the final adjudicated order, or Commission issuance of a decision and order based on a consent agreement against the American Medical Association in FTC Docket No. 9064, shall respondents apply, in any formal or informal disciplinary proceeding, any standard of dentist conduct different from the standard set forth in Section II(A) of this Order to those promotional activities which occur prior to entry of such final adjudicated order or consent order.

IV

It is further ordered, That nothing in this Order shall be construed to limit the Commission's authority to investigate, proceed administratively against, or seek court action against any constituent or component society of ADA which may be acting contrary to this Order or in violation of any of the laws which the Federal Trade Commission is charged with enforcing.

V

It is further ordered, That if the instant proceeding is returned to adjudicative status pursuant to Section I(B) of this Order, no provision of this Order other than Section III shall be given effect thereafter.

VI

It is further ordered, That:

(A) Within sixty (60) days after this Order becomes final, ADA shall publish its full text in a prominent place and manner in the *Journal of the American Dental Association* and *ADA News*. Within ninety (90) days after this Order becomes final, the other respondents shall publish its full text in a prominent place and manner in their respective publications: IDA in the *IDA Journal*; IDDS in the *IDDS Newsletter*; VDA in the *VDA Journal*; and NVDS in *NOVA News*.

(B) Within sixty (60) days after this Order becomes final, ADA shall send a letter in the form shown in Appendix A to this Order to each of its members.

During the period prior to entry of a final adjudicated order, or Commission issuance of a decision and order based on a consent agreement against American Medical Association in FTC Docket No. 9064, ADA shall send the same form letter, together with a copy of this Order, to each dentist who joins ADA, immediately upon his or her joining.

(C) Within sixty (60) days after this Order becomes final, ADA shall send, by first class mail, a letter in the form shown in Appendix B to this Order to the presidents, staff directors, and ethics committee chairpersons of each of its constituent and component societies, enclosing a copy of this Order and a copy of the ADA Principles of Ethics and Official Advisory Opinions made consistent with Section II(A)–(D) of this Order.

VII

It is further ordered, That within ninety (90) days after service of this Order and annually on the anniversary date of the original report, for each of the succeeding years prior to entry of a final adjudicated order or Commission issuance of a decision and order based on a consent agreement order against the American Medical Association in FTC Docket No. 9064, each respondent shall individually file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this Order. All such compliance reports shall include such other information and documentation as the Commission may require to show compliance with this Order.

VIII

It is further ordered, That nothing in this Order shall be construed to exempt any respondent from compliance with the antitrust laws or the Federal Trade Commission Act, and the fact that any activity is not prohibited by this Order shall not bar a challenge to it under such laws and statute.

IX

It is further ordered, That each respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or association, or any othe change in the corporation or association which may affect compliance obligations arising out of this Order.

Appendix A

[ADA Regular Letterhead]

Dear Doctor:

As you are probably aware, in January of 1977, the Federal Trade Commision issued a complaint against the ADA, the Indiana Dental Association , the Indianapolis District Dental Society, the Virginia Dental Association, and the Northern Virginia Dental Society. The administrative complaint alleged that certain portions of ADA's Principles of Ethics and advisory opinions regarding advertising and solicitation by dentists were in violation of the Federal Trade Commission Act.

We have entered into a consent order with the FTC, without admitting any violation of the law, which will provide an interim resolution of the matter pending the ultimate decision in a similar FTC case (Docket No. 9064) involving professional advertising and solicitation. The ADA and the FTC have agreed to be bound by the final outcome of the other case principally as it relates to FTC jurisdiction, ethical restrictions on advertising and solicitation, and relief. That case, which may ultimately be decided by a United States Court of Appeals or the United States Supreme Court, deals with a number of questions, but those which relate to the *ADA* case are principally whether the FTC has jurisdiction over the professional associations in that case and whether those professional associations may have violated the Federal Trade Commission Act through adoption and enforcement of ethical restrictions on advertising and solicitation.

Pending the final decision in that case, advertising, solicitation of patients or business, or other promotional activities by dentist or dental care delivery organizations shall not be considered unethical or improper, except for those promotional activities which are false or misleading in any material respect. Regardless of any standards of dentist conduct which may be worded differently, this shall be the sole standard for determining the ethical propriety of such promotional activities. The ADA Principles of Ethics and Official Advisory Opinions have been made consistent with the above stated standard through the addition of footnotes. Any provision of an ADA constituent or component society's code of ethics or other standard of dentist conduct relating to dentists' or dental care delivery organizations' advertising, solicitation, or other promotional activities which is worded differently from the above stated standard shall be deemed to be in conflict with the ADA Principles of Ethics.

We urge all of our members and constituent and component organizations to abide by the letter and spirit of this consent order, a copy of which is printed in the ———— issue of the *ADA News* and which may be obtained from ADA headquarters or from your state or local dental society. A copy of the ADA Principles of Ethics and Official Advisory Opinions, as made consistent with the above stated standard, also may be obtained from these sources.

As part of the consent order, the FTC reserves the right to investigate, proceed administratively against, or seek court action against any constituent or component society of the ADA which may be acting contrary to the consent order or in violation of any of the laws which the FTC is charged with enforcing.

We will keep you advised on further developments as this matter proceeds toward its ultimate resolution.

Thank you for your cooperation.

Sincerely,

Joseph P. Cappuccio, D.D.S.,

President.

Appendix B

[ADA Regular Letterhead]

Dear————————:

As you are probably aware, in January of 1977, the Federal Trade Commission issued a complaint against the ADA, the Indiana Dental Association, the Indianapolis District Dental Society, the Virginia Dental Association, and the Northern Virginia Dental Society. The administrative complaint alleged that certain portions of ADA's Principles of Ethics and advisory opinions regarding advertising and solicitation by dentists were in violation of the Federal Trade Commission Act.

We have entered into a consent order with the FTC, without admitting any violation of the law, which will provide an interim resolution of the matter pending the ultimate decision in a similar FTC case (Docket No. 9064) involving professional advertising and solicitation. The ADA and the FTC have agreed to be bound by the final outcome of the other case principally as it relates to FTC jurisdiction, ethical restrictions on advertising and solicitation, and relief. That case, which may ultimately be decided by a United States Court of Appeals or the United States Supreme Court, deals with a number of questions, but those which relate to the *ADA* case are principally whether the FTC has

jurisdiction over the professional associations in that case and whether those professional associations may have violated the Federal Trade Commission Act through adoption and enforcement of ethical restrictions on advertising and solicitation.

Pending the final decision in that case, advertising, solicitation of patients or business, or other promotional activities by dentists or dental care delivery organizations shall not be considered unethical or improper, except for those promotional activities which are false or misleading in any material respect. Regardless of any standards of dentist conduct which may be worded differently, this shall be the sole standard for determining the ethical propriety of such promotional activities. The ADA Principles of Ethics and Official Advisory Opinions have been made consistent with the above stated standard through the addition of footnotes (a copy is enclosed). Any provision of an ADA constituent or component society's code of ethics or other standard of dentist conduct relating to dentists' or dental care delivery organizations' advertising, solicitation, or other promotional activities which is worded differently from the above stated standard shall be deemed to be in conflict with the ADA Principles of Ethics.

We urge all of our members and constituent and component organizations to abide by the letter and spirit of the consent order, copies of which are enclosed.

All older editions of ADA's Principles of Ethics, Official Advisory Opinions, and constituent and component society ethical codes and interpretations which are worded differently from the above stated standard should no longer be distributed or enforced. Neither should any informal interpretations be given which do not accord with this standard.

As part of the consent order, the FTC reserves the right to investigate, proceed administratively against, or seek court action against any constituent or component society of the ADA which may be acting contrary to the consent order or in violation of any of the laws which the FTC is charged with enforcing.

We will keep you advised on further developments as this matter proceeds toward its ultimate resolution.

Thank you for your cooperation.

Sincerely,

Joseph P. Cappuccio, D.D.S.,

President.

Analysis of Proposed Consent

ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement containing a proposed consent order against the American Dental Association ("ADA"), the Indiana Dental Association, the Indianapolis District Dental Society, the Virginia Dental Association, and the Northern Virginia Dental Society in the Commission adjudicative proceeding captioned *American Dental Association*, Docket No. 9093 ("*ADA* case").

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or issue the order contained in the agreement.

The Complaint. On January 4, 1977, the Commission issued a complaint against ADA, the Indiana Dental Association, the Indianapolis District Dental Society, the Virginia Dental Association, and the Northern Virginia Dental Society. According to the complaint, ADA is a corporation whose approximately 134,000 member dentists are located throughout the country. In 1975, approximately 95 percent of all active dentists in the United States were members of ADA and its constituent state dental associations (including respondents Indiana Dental Association and Virginia Dental Association) and component local dental societies (including respondents Indianapolis District Dental Society and Northern Virginia Dental Society). The complaint also asserts that the members of ADA and the other respondent dental associations are engaged in the business of providing dentists services for a fee and that they are in competition among themselves and with other dentists. The complaint states that in 1975 total expenditures for dentist services in the United States were approximately $7.5 billion.

The complaint alleges that ADA, the four other respondent dental societies, and others have engaged in concerted action to restrain competition among dentists by preventing and hindering dentists from:

(A) Soliciting business by advertisting or otherwise;

(B) Engaging in price competition; and

(C) Otherwise engaging in competitive practices.

The complaint also alleges that, as part of such conduct, respondents and others have adopted, abided by, and enforced restrictive codes of ethics. The complaint further alleges that as a result of the alleged concerted activities:

(A) Prices of dentist services have been stabilized, fixed or otherwise interferred with;

(B) Competition among dentists in the provision of dentist services has been hindered, restrained, foreclosed and frustrated;

(C) Consumers of dentist services have been deprived of information pertinent to the selection of a dentist and of the benefits of competition;

(D) Dentists have been restrained in their ability to compete and to make dentist services readily and fully available to consumers; and

(E) Development of innovative systems for the delivery of dentist services has been hindered or restrained.

The complaint charges that respondents' activities constitute unfair methods of competition and unfair acts or practices in violation of Section 5 of the Federal Trade Commission Act.

As a matter of background, approximately one year before the start of the *ADA* case, the Commission issued a similar complaint (Docket No. 9064) against the American Medical Association ("AMA"), the Connecticut State Medical Society, and the New Haven County Medical Association, Inc. The *AMA* Complaint is similar to the *ADA* complaint in that it challenges, among other things, ethical rules allegedly restricting physician advertising and solicitation. On November 13, 1978, an initial decision was issued in the *AMA* case holding that respondents had violated Section 5 of the FTC Act, as alleged in the complaint. Appeals by all respondents are now before the full Commission.

The Consent Order. ADA and the other respondents have agreed to a proposed consent order under which the *ADA* case would be decided by the final adjudicated order (after all judicial review is completed) in the *American Medical Association* case. Specifically, Section I of the consent order provides that on entry of a final adjudicated order in the *AMA* case, the Commission would issue an order against the *ADA* respondents consisting of the relevant provisions of the *AMA* order conformed to make them fully applicable to the *ADA* respondents. If the *AMA* case is dismissed on the merits or for lack of jurisdiction, the *ADA* complaint would

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also be dismissed. Section I further provides that respondents would be bound by the new *ADA* order.

The proposed consent order also would grant interim relief, during the period prior to final resolution of the *AMA* case, regarding the dental associations' ethical restrictions on dentists' advertising and solicitation. In particular, Section II of the consent order, which would be effective until the *AMA* case is decided, would prohibit ADA and the other respondent dental societies from restricting or declaring unethical any form of advertising or solicitation of business by dentists which is not false or misleading in any material respect. Section II would implement this prohibition by requiring respondents to print the following statement prominently in their codes of ethics (and to insert footnotes referring readers to the statement after each advertising provision in such codes):

Advertising, solicitation of patients or business, or other promotional activities by dentists or dental care delivery organizations shall not be considered unethical or improper, except for those promotional activities which are false or misleading in any material respect. Notwithstanding any ADA Principles of Ethics or other standards of dentist conduct which may be differently worded, this shall be the sole standard for determining the ethical propriety of such promotional activities. Any provision of an ADA constituent or component society's code of ethics or other standard of dentist conduct relating to dentists' or dental care delivery organizations' advertising, solicitation, or other promotional activities which is worded differently from the above standard shall be deemed to be in conflict with the ADA Principles of Ethics.

Section II(C) of the proposed order would require respondents to strike from their codes of ethics a number of "official advisory opinions" restrictive of dentists' advertising and solicitation. Sections II(D) and II(E) would bar respondents from engaging in any ethics activity that might undermine the approach to advertising and solicitation mandated by the order.

Another provision of the order would caution all constituent and component societies of ADA that if they act contrary to the order, they may be subject to a Commission investigation, adjudicative proceeding, or court action.

The order would also require respondents to publish its full text in their respective publications. It would further require ADA to send designated form letters to all of ADA's members and to officials of all of ADA's constituent and component dental societies describing the order and urging compliance with its letter and spirit.

The remaining provisions of the proposed order deal with compliance. ADA and the other respondents would be required to submit periodic compliance reports to the Commission and to notify the Commission of any significant changes in their organizations.

The purpose of this analysis is to facilitate public comment on the proposed order, not to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way.

Carol M. Thomas,
Secretary.

[File No. 9093]
[FR Doc. 79-13600 Filed 4-30-79; 8:45 am]
BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

Suspension of Duty To File Reports Upon Termination of Registration

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission invites comment on a proposed rule suspending an issuer's duty to file reports as to a class of securities pursuant to section 15(d) of the Exchange Act for the balance of the issuer's fiscal year if the registration of such class is terminated under Section 12(g)(4) of the Exchange Act. It is the Commission staff's judgment that any benefit of requiring corporations to either file reports beyond the termination of their registration under section 12(g) or apply for exemption under section 12(h) is generally outweighed both by the burden of compliance imposed upon such corporations and by the burden placed upon the staff in processing routine section 12(h) applications.

DATE: Comments must be received on or before May 30, 1979.

ADDRESS: Comments should refer to File No. S7-777 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Ann M. Glickman, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549 (202) 376-2939.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is publishing for comment proposed Rule 12h-4 (17 CFR 240.12h-4) under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)). Such rule will suspend an issuer's duty to file reports as to a class of securities pursuant to section 15(d) of the Exchange Act for the balance of the issuer's fiscal year if the registration of such class is terminated under section 12(g)(4) of the Exchange Act. The duty to file under section 15(d) as to such class of securities shall remain automatically suspended as to each subsequent fiscal year if at the beginning of such fiscal year the securities of such class are held of record by less than 300 persons.

In Securities Exchange Act Release No. 14417 (January 26, 1978) (43 FR 4254), the Division of Corporation Finance was delegated the authority to grant routine applications under section 12(h), thus relieving the Commission of the need to consider such matters. In that Release, the Commission noted that inasmuch as many applications filed under section 12(h) are routine in nature, and do not involve policy considerations or novel questions, it is not necessary for the Commission to consider each application on an individual basis. The processing of such section 12(h) applications, however, still requires considerable staff time. Recent acquisition activity has given rise to many section 12(h) applications in situations where a corporation is the sole holder of a class of an acquired company's securities subject to a section 15(d) duty to file reports. It is the staff's judgment that any benefit of requiring corporations to either file reports beyond the termination of their registration under section 12(g) or apply for exemption under section 12(h) is generally outweighed both by the burden of compliance imposed upon such corporations and by the burden placed upon the staff in processing routine section 12(h) applications.

The following examples illustrate the operation of the proposed rule. Issuers A and B each have one class of common stock which is registered under section 12(g) of the Act and which is their only class of securities subject to a reporting obligation under Section 15(d). Their fiscal years end on December 31.

Example 1. Issuer A, with 750 shareholders, is acquired by X Corporation and becomes a wholly-owned subsidiary of X Corporation on November 1, 1979. Issuer A files a certification with the Commission on Form 12g-4, requesting that the termination of registration under section 12(g) be accelerated. The registration of the common stock of Issuer A under section 12(g) is terminated on December 1, 1979. Although Issuer A would have been required to file its Form 10-K annual report for the year ending December 31, 1979 under section 15(d), it is relieved of this obligation under the proposed rule.

Example 2. Issuer A, with 750 shareholders, is acquired by X Corporation and becomes a wholly-owned subsidiary of X Corporation on February 1, 1980. Issuer A files a certification with the Commission on Form 12g-4, requesting that the termination of registration under section 12(g) be accelerated. The registration of the common stock of Issuer A under section 12(g) is terminated on March 1, 1980. Although Issuer A is required to file its Form 10-K annual report for the year ending December 31, 1979, it is relieved under the proposed rule of the obligation to file the reports on Form 10-Q for all 1980 quarters and the annual report on Form 10-K for the year ending December 31, 1980.

Example 3. Issuer has 305 record shareholders as of January 1, 1980. However, by May 31, 1980, its number of record shareholders has fallen to 280. Issuer B files a certification with the Commission on Form 12g-4, requesting that the termination of registration under section 12(g) be accelerated. The registration of the common stock of Issuer B under section 12(g) is terminated on June 30, 1980. under the proposed rule, Issuer B is not required to file its 1980 second quarter and third quarter reports on Form 10-Q or its annual report on Form 10-K for the year ending December 31, 1980. However, as of January 1, 1981, the number of Issuer B's record shareholders has risen to 325. Issuer B is once again subject to the reporting obligaions of section 15(d) and must file all reports due for periods in 1981 and for periods in all subsequent years in which at the beginning of each subsequent year the number of Issuer B's record shareholders is 300 or more.

Proposed Amendments

It is proposed to amend 17 CFR Chapter II as follows: Part 240, Subpart A, is proposed to be amended by adding § 240.12h-4 as follows:

§ 240.12h-4 Exemption from section 15(d) upon termination of registration under section 12(g).

If the registration of a class of securities is terminated under section 12(g)(4) during a fiscal year, the duty to file reports as to such class of securities pursuant to section 15(d) shall be suspended for the balance of that fiscal year and for any subsequent fiscal year at the beginning of which securities of such class are held of record by less than 300 persons.

(Secs. 12(h), 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; sec. 203(a), 49 Stat. 704; secs. 3, 8, 49 Stat. 1377, 1379; secs. 3, 4, 6, 78 Stat. 565-568, 569, 570-574; sec. 2, 82 Stat. 454; secs. 1, 2, 84 Stat. 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; (15 U.S.C. 781(h), 78m, 78o(d), 78w(a))

Statutory Authority

Rule 12h-4 is proposed pursuant to Sections 13(h), 13, 15(d) and 23(a) of the Securities Exchange Act of 1934.

In light of section 23(a)(2) of the Exchange Act, the Commission specifically invites comments as to any competitive impact of any changes in the disclosure requirements.

By the Commission.

George A. Fitzsimmons,
Secretary.

April 23, 1979.

[Release No. 34-15757]
[FR Doc. 79-13438 Filed 4-30-79; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 145]

Table Olives; Intent To Establish Standard

Correction

In FR Doc. 79-5478, appearing at page 10724, in the issue of Friday, February 23, 1979, in the heading, the docket number should be corrected to read "Docket No. 78N-0355".

[Docket No. 78N-0355]
BILLING CODE 1505-01-M

[21 CFR Part 882]

Medical Devices; Classification of Dowel Cutting Instruments

Correction

In FR Doc. 78-32906, appearing at page 55680 in the issue of Tuesday, November 28, 1978, the section cited in the last line of the paragraph headed "Proposed Classification", page 55681, column one, should be § 882.4275.

[Docket No. 78N-1048]
BILLING CODE 1505-01-M

[21 CFR Part 882]

Medical Devices; Classification of Burr Hole Covers

Correction

In FR Doc 78-32939, appearing at page 55706 in the issue of Tuesday, November 28, 1978, the telephone number in the last line of the paragraph headed "For Further Information Contact" should read "301-427-7226".

[Docket No. 78N-1083]
BILLING CODE 1505-01-M

[21 CFR Part 882]

Medical Devices; Classification of Aneurysm Clips

Correction

In FR Doc. 78-32936, appearing at page 55703 in the issue of Tuesday, November 28, 1978, the following changes should be made:

1. In the paragraph numbered 4., second column, page 55703, the third from last line should read, "Testing and Materials (ASTM), discussed the".

2. In the second paragraph under the heading "Proposed Classification", column two, page 55703, the nineteenth line should read, "correction of intracranial aneurysms".

[Docket No. 78N-1080]
[FR Doc. 79-32931 Filed 4-30-79; 8:45 am]
BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

Proposed Revision of the Implementation Plan for the State of Virginia

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: On October 10, 1978, the Environmental Protection Agency proposed a revision to the Virginia State Implementation Plan (SIP) regarding the Hampton Roads Energy Company (HREC), Portsmouth, Virginia and the related nonmethane hydrocarbon (NMHC) offsets. At that time, only emissions from the refinery were quantified and included in the offset calculations. In response to comments received, the Agency has decided to re-evaluate the separation of the refinery from the terminal operations and now proposes to include NMHC emissions from the terminal and distribution

operations as well as the refinery when calculating emissions to be offset by the reduction of NMHC emissions through a program of substitution of emulsion-base asphalt for cutback asphalt (or nonmethane hydrocarbon based asphalt). Furthermore, also in response to public comments, EPA obtained additional asphalt usage data compiled on a quarterly basis to determine the actual NMHC reductions achieved on a seasonal basis. Approval of the proposed amendment would satisfy the requirements of Section 129(a)(1) of the 1977 Clean Air Act Amendments and the EPA December 21, 1976 Interpretative Ruling for the proposed Hampton Roads Energy Company oil refinery and terminal in Portsmouth, Virginia.

DATES: Comments must be received on or before May 31, 1979. A 30-day public comment period is deemed sufficient for this Notice because there was an earlier comment period during which EPA received extensive comments regarding the HREC project. Because the scope of this Notice relates only to two issues, namely seasonal offsets and terminal operations, a longer comment period is not considered necessary.

ADDRESSES: Copies of the proposed revision of the Virginia SIP and accompanying support documentation are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Ms. Eileen M. Glen.

Virginia State Air Pollution Control Board, Region VI, Pembroke Four, Suite 409, Pembroke Office Park, Virginia Beach, Virginia 23462, ATTN: Mr. Lucien B. McDonald.

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

All comments should be submitted to:

Mr. Howard Heim (3AH10), Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Sts., Philadelphia, Pennsylvania 19106, ATTN: AH015VA.

FOR FURTHER INFORMATION CONTACT: Ms. Eileen M. Glen, Air and Hazardous Materials Division, Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building 6th & Walnut Streets, Philadelphia, Pennsylvania 19106.

SUPPLEMENTARY INFORMATION: The purpose of this proposed revision to the Virginia SIP, pursuant to Section 129(a)(1) of the 1977 Clean Air Act Amendments and the EPA December 21, 1976 Interpretative Ruling (I.R.) (41 FR 55524), is to offset nonmethane hydrocarbon emissions resulting from the operation of the proposed HREC refinery and terminal in Portsmouth, Virginia. On October 10, 1978, the EPA published a Notice of Proposed Rulemaking (43 FR 46554) regarding the proposed offset and requested public comment. As a result of the comments received, EPA obtained additional information and now requests public comments on the following two points:

Seasonal offsets: In response to public comments received as a result of the October 10, 1978 Notice, EPA requested additional information from the Virginia State Air Pollution Control Board (VSAPCB). This material was submitted on February 6, 1979 and is available for review. The material has been evaluated and calculations show that NMHC reductions achieved through the asphalt substitution program will exceed NMHC emissions from the refinery, terminal, and distribution operations on a seasonal as well as yearly basis. This "seasonal" offset occurs when using either 1975 or 1977 as the base year.

Terminal Operations: In response to comments received, EPA has determined that NMHC emissions from the terminal and distribution operations should be considered as part of the total NMHC emissions to be offset by the reductions achieved through the asphalt substitution program. The VSAPCB and HREC have estimated the terminal's emissions to be approximately 176.5 tons per year (TPY) while EPA's analysis of the "worst-case" situation shows that NMHC emissions from the terminal and distribution operations will not exceed 200 TPY. Furthermore, the VSAPCB has required, in its Permit to HREC, the installation of a 90% efficient vapor recovery system at the terminal to help control emissions to the aforementioned values. These NMHC emission estimates include secondary emissions associated with the terminal operations.

The proposed revision to the Virginia SIP will result in a decrease of one thousand, nine hundred and thirty-one (1,931) tons per year of nonmethane hydrocarbons in the three-highway paving district areas surrounding the proposed site of the oil refinery. At no time will nonmethane hydrocarbon emissions from oil refinery storage facilities, process combustion, and fugitive sources exceed one thousand, two hundred and ninety-three (1,293) tons per year. In addition, NMHC emissions from the terminal and distribution operations are not expected to exceed 176.5 TPY. The level of control limiting NMHC emissions from the operation of the oil refinery to 1293 TPY and the 90% efficient vapor recovery system at the terminal are currently existing permit conditions.

The public is invited to submit comments on these two issues only. All comments submitted as a result of the October 10, 1978 notice have already been reviewed and will be considered prior to final rulemaking.

The Administrator's decision to approve or disapprove this proposed SIP revision will be based on whether the amendment submitted by the Commonwealth of Virginia meets the requirements of Section 129(a)(1) of the 1977 Clean Air Act Amendments and the EPA December 21, 1976 Interpretative ruling and 40 CFR Part 51, "Requirements for Preparation, Adoption, and Submittal of Implementation Plans."

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determine that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401 et. seq.)

Dated: April 19, 1979.

Jack J. Schramm,
Regional Administrator.

[FR. 1212-6]
[FR Doc. 79-12888 Filed 4-30-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 52]

Implementation Plan Revisions for Nonattainment Areas in the State of Arizona; Receipt/Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of Receipt and Availability.

SUMMARY: The purpose of this notice is to announce receipt of revisions to the Arizona State Implementation Plan (SIP) and to invite public comment. These revisions were submitted to EPA in accordance with the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas," and are available for public inspection at the addresses listed below. Notices of proposed rulemaking discussing these revisions will be published in future Federal Register actions. The period for submittal of public comments will extend for 30 days after the publication of each notice of proposed rulemaking.

ADDRESSES: Copies of the SIP revisions are available for inspection during normal business hours at the following locations:

Library, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Public Information Reference Unit, Environmental Protection Agency, 401 "M" Street SW., Room 2822, Washington, D.C. 20460.

Arizona Department of Health Services, State Health Building, 1740 West Adams Street, Phoenix, AZ 85007.

Maricopa Association of Governments, 1820 West Washington, Phoenix, AZ 85007.

Pima Association of Governments, 405 Transamerica Building, Tucson, AZ 85701.

FOR FURTHER INFORMATION CONTACT: Inquiries and comments should be addressed to: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105, (415)556-2938.

SUPPLEMENTARY INFORMATION: New provisions of the Clean Air Act, enacted in August 1977, Pub. L. No. 95-95, require states to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each state to submit to the Administrator a list of the NAAQS attainment status for all areas within the state. The Administrator promulgated these lists, with certain modifications, on March 3, 1978 (43 FR 8962) and March 19, 1979 (44 FR 16388). State and local governments were required to develop, adopt, and submit to EPA revisions to their SIP which provide for attainment of the NAAQS as expeditiously as practicable. The Metropolitan Pima County and Maricopa County Nonattainment Areas have been designated nonattainment for carbon monoxide, photochemical oxidants (ozone), and total suspended particles.

The Governor's designee submitted the following nonattainment area plans (NAP's) to EPA on the dates indicated:

Maricopa County Urban Planning Area NAP for Carbon Monoxide and Photochemical Oxidants, February 23, 1979.

Metropolitan Pima County NAP for Carbon Monoxide and Photochemical Oxidants, March 20, 1979.

Metropolitan Pima County NAP for Total Suspended Particulates, March 27, 1979.

The State also submitted regulations relating to these NAP's on January 4 and 23, 1979 as SIP revisions. These regulations include particulate matter and volatile organic compound controls on new and existing sources, emission testing methods, and a statement of State and local jurisdiction. In addition, amendments to the Arizona State Inspection/Maintenance Program were submitted as SIP revisions on March 21, 1979.

EPA is reviewing these revisions for conformance with the requirements of Part D of the Clean Air Act, as amended. Following EPA's review of the revisions, notices of proposed rulemaking will be published in the Federal Register that will provide a description of the proposed SIP revisions, summarize the Part D requirements, compare the revisions to the Part D requirements, identify the major issues in the proposed revisions, and suggest corrections. An additional 30 days will be provided for public comments at that time.

The intended effect of this notice is to notify the public that these revisions have been formally submitted to EPA for approval, that they are available for public inspection, and to encourage interested persons to submit written comments.

(Secs. 110, 128, 171 to 178, and 301(a) of the Clean Air Act, as amended (42 U.S.C. § 7410, 7429, 7501 to 7508, and 7601(a)).

Dated: April 20, 1979.

Frank M. Covington,
Regional Administrator.

[FRL 1213-4]
[FR Doc. 79-13885 Filed 4-30-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 65]

Proposed Approval of an Administrative Order Issued by Ohio Environmental Protection Agency to General Housewares Corp., Wagner Manufacturing Division

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order issued by the Ohio Environmental Protection Agency to General Housewares Corporation, Wagner Manufacturing Division. The Order requires the Company to bring air emissions from its grey iron cupolas in Sidney, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP) by July 1, 1979. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order.

The purpose of this notice is to invite public comment on U.S. EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before May 31, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied for appropriate charges at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, Enforcement Division, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353-2082.

SUPPLEMENTARY INFORMATION: General Housewares Corporation, Wagner Manufacturing Division operates two grey iron cupolas at Sidney, Ohio. The Order under consideration addresses emissions for the grey iron cupolas, which are subject to OAC 3745-17-07 and OAC 3745-17-11. The regulations limit the emissions of particulate matter and visible emissions, and are part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulation by July 1, 1979 through the installation of a wet scrubber or other appropriate control equipment downstream of the cupolas, sufficient to control emissions of particulate matter from each of these cupolas to a rate of no greater than 11.4 lbs./hr.

Because this Order has been issued to a major source of particulate matter emissions and visible emissions and permits a delay in compliance with the applicable regulations, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action

under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Ohio SIP.

All interested persons are invited to submit Written comments on the proposed Order. written comments received by the date specified above will be considered in determining whether U.S. EPA may approve the Order. After the public comment period, the Administrator of U.S. EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: April 16, 1979.

John McGuire,

Regional Administrator, Region V.

Before The Ohio Environmental Protection Agency

General Housewares Corporation, Wagner Manufacturing Division

Order

The Director of Environmental Protection (hereinafter "Director") hereby makes the following Findings of Fact and, pursuant to Sections 3704.03(S) and (I) of the Ohio Revised Code and in accordance with Sections 113(a), 113(d), and 114 of The Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, issues the following Orders, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Findings of Fact

1. General Housewares Corporation, Wagner Manufacturing Division (hereinafter "Wagner"), located at 440 Fair Road, Sidney, Ohio 45365, owns and operates two grey iron cupolas.

2. Said cupolas are identified as follows: Grey Iron Cupola No. 1, Modern Equipment Company; Grey Iron Cupola No. 2, Modern Equipment Company.

3. In the course of operation of Cupolas Nos. 1 and 2 air contaminants are emitted in violation of OAC 3745–17–07 and OAC 3745–17–11.

4. The applicable emission limitation for these Cupolas set forth in QAC 3745–17–11 is 11.4 lbs./hr.

5. Wagner is unable to immediately comply with OAC 3745–17–07 and OAC 3745–17–11.

6. Implementation by Wagner of interim control measures contained in the Orders below will fulfill the requirements of Section 113(d)(7) of The Clean Air Act, as amended.

7. The compliance schedule set forth in the Orders below requires compliance with applicable emission regulations as expeditiously as practicable.

8. The Director's determination to issue the Orders set forth below is based on his consideration of reliable, probative, and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

Orders

Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Sections 3745.03(S) and (I) of the Ohio Revised Code and in accordance with Sections 113(a), 113(d), and 114 of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Wagner shall bring Cupolas Nos. 1 and 2 into final compliance with the applicable emission limitations in OAC 3745–17–11 and OAC 3745–17–07 not later than July 1, 1979.

2. Wagner shall install a wet scrubber or other appropriate control equipment downstream from Cupolas Nos. 1 and 2, sufficient to control emissions of particulate matter from each of these cupolas to a rate of not greater than 11.4 lbs./hr. as provided in OAC 3745–17–11.

3. Compliance with Order (1) above, shall be achieved in accordance with the following schedule:

Submit final control plans—Completed.

Award contracts—Completed.

Initiation of on-site construction and installation—March 30, 1979.

Achieve final compliance with applicable state and federal statutes and regulations—July 1, 1979.

4. Wagner shall give prior notification to Ohio EPA and U.S. EPA of resumption of operations subsequent to completion of installation of controls and shall conduct a compliance stack test within thirty days of resumption of operations. Wagner shall, within ninety days after July 1, 1979, submit data resulting from compliance testing demonstrating compliance with applicable state and federal statutes and regulations.

5. Pending achievement of compliance with Order (1) above Wagner shall use the best practicable systems of emission reduction for the period during which this Order is in effect in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim measures shall include:

a. Continued use of an operation and maintenance procedure which will result in the minimization of particulate matter emissions from the Cupolas on a day to day basis which shall include the use of clean scrap and regular maintenance of the Cupolas.

b. Continued operation of existing control equipment on Cupolas Nos. 1 and 2.

c. Compliance with OAC 3745–17–07 to as great an extent as possible.

6. Wagner shall install instrumentation to continuously measure and record the pressure drop across the wet scrubber or other control equipment. Wagner shall maintain said instrumentation in good working condition.

7. Wagner shall comply with the following monitoring and reporting requirements:

a. A progress report shall be submitted to the Southwest District Office of Ohio EPA within ten (10) days of the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (3) above. The person submitting these reports shall certify whether each increment of progress has been achieved. If it has not been achieved, the report shall contain a detailed explanation of the reasons for the failure to achieve that increment of progress. Submission of such explanation does not excuse the failure to achieve the increment of progress.

b. Quarterly reports shall be submitted to the Southwest District Office of Ohio EPA concerning the interim maintenance and operation of the Cupolas as well as the progress being made toward achievement of compliance as set forth in Order (3) above.

c. As of July 1, 1979, the pressure drop across the scrubber shall be monitored and recorded while said Cupolas are in operation. Any excursions below the pressure drop required to meet the 11.4 lbs./hr. emission rate shall be reported on a quarterly basis, to the Southwest District Office of Ohio EPA, together with detail explanations of the reasons for such excursions and the corrective measures taken. All pressure drop monitoring data shall be retained for a minimum of three (3) years and shall be available for inspection and copying by the Director or his representative.

8. Wagner shall apply for and obtain permits to operate Cupolas Nos. 1 and 2 in accordance with OAC 3745–35–02. Said permit to operate will include special terms and conditions which incorporate the provisions of Orders (6) and (7)(c), above.

9. These orders shall terminate upon Wagner's obtaining permits to operate Cupolas Nos. 1 and 2.

10. Wagner is hereby notified that unless it is exempted under Section 120(a)(2)(B) or (C) of the Clean Air Act, as amended, failure to achieve final compliance with Order (1) above by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120 of the Clean Air Act, as amended.

James F. McAvoy,

Director of Environmental Protection.

Upon issuance of the Order, General Housewares Corporation will be deemed to have waived its right to contest the reasonableness and lawfulness of the Order before the Environmental Board of Review or any court of competent jurisdiction, either in law or equity.

D.R. Ryan, Jr.,

Authorized Representative of General Housewares Corporation.

[FRL 1213–2]

[FR Doc. 79–13537 Filed 4–30–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Parts 6, 122, 123, 124, 125]

National Pollutant Discharge Elimination System; Issuance Date for Promulgation

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to issue final regulations.

SUMMARY: EPA intends in the near future to publish final regulations governing the National Pollutant Discharge Elimination System (NPDES). In response to inquiries from several persons, EPA is announcing that such regulations will be considered issued, for purposes of judicial review, at 1:00 p.m. eastern time one week after **Federal Register** publication of such regulations.

DATES: None.

ADDRESSES: None.

FOR FURTHER INFORMATION CONTACT: Alan W. Eckert (A–131), Office of General Counsel, EPA, 401 M Street, SW., Washington, D.C. 20460, 202–755–0753

SUPPLEMENTARY INFORMATION: EPA proposed comprehensive revisions to its basic NPDES regulations under the Clean Water Act on August 21, 1978 (43 FR 37078). EPA plans to publish final NPDES regulations in the near future.

Several interested parties have recently requested that EPA announce, in advance of publication of the final NPDES regulations, precisely when the published regulations will be considered issued for purposes of judicial review. In EPA's view, the final NPDES regulations will not be ripe for judicial review immediately upon issuance. In the event EPA's view does not prevail, however, EPA agrees that the time of issuance for purposes of judicial review should be fixed and announced in advance.

Accordingly, EPA hereby announces that the final NPDES regulations will be considered issued for purposes of judicial review at 1:00 p.m. eastern time on the day which is seven days after their date of publication in the **Federal Register**. If, however, such latter date is a federal holiday, the regulations will be considered issued at 1:00 p.m. eastern time on the next day after the seventh day which is not a federal holiday. EPA will specify the exact issuance date in the **Federal Register** preamble accompanying the final NPDES regulations. EPA will also explain its position on ripeness in that preamble.

It should be noted that EPA plans within the next month to propose general "race to the courthouse" regulations under the Clean Water Act. That notice will describe in general the problems of forum shopping and racing, and will describe EPA's reasons for favoring a definitely ascertainable time after **Federal Register** publication to serve as the trigger for judicial review.

Dated: April 26, 1979.

Joan Z. Bernstein,

General Counsel.

[FRL 1214–7]

[FR Doc. 79–13534 Filed 4–30–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 162]

Regulations for the Enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act; Notification of the Secretary of Agriculture of a Proposed Regulation

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notification to the Secretary of Agriculture of a proposed Regulation.

SUMMARY: Notice is given as required by Section 25(a)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Pub. L. 92–516, 86 Stat. 973; Pub. L. 94–140, 89 Stat. 753; 7 U.S.C. 136 *et seq.*, hereinafter referred to as FIFRA) that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a proposed regulation classifying certain uses of certain pesticide active ingredients for restricted use.

FOR FURTHER INFORMATION CONTACT: Walter Waldrop, Office of Pesticide Programs (TS–770), EPA, Room 507, East Tower, 401 M Street, SW., Washington, D.C. 20460. (202) 755–7014.

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the regulation within 30 days after receiving it, the Administrator shall publish in the **Federal Register** (with the proposed regulation) the comments of the Secretary and the response of the Administrator. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign the regulation for publication in the **Federal Register** anytime after the 30-day period.

Pursuant to FIFRA Section 25(a)(3), a copy of this proposed regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. This proposed regulation was also submitted to the FIFRA Scientific Advisory Panel as required by Section 25(d).

(Sec. 25, Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Pub. L. 92–516; 86 Stat. 973; Pub. L. 94–140; 89 Stat. 753; (7 U.S.C. 136 *et seq.).)*

Dated: April 25, 1979.

James M. Conlon

Acting Deputy Assistant Administrator for Pesticide Programs.

[OPP–250017; FRL 1213–8]

[FR Doc. 79–13535 Filed 4–30–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 162]

Classification of Certain Pesticide Active Ingredients for Restricted Use

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notification to the Secretary of Agriculture of a Pending Final Regulation.

SUMMARY: Notice is given as required by Section 25(a)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Pub. L. 92–516, 86 Stat. 973; Pub. L. 94–140, 89 Stat. 753; 7 U.S.C. 136 et seq., hereinafter referred to as FIFRA) that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a final regulation classifying uses of certain pesticide active ingredients for restricted use.

FOR FURTHER INFORMATION CONTACT: Walter Waldrop, Office of Pesticide Programs (TS–770), EPA, Room 507, East Tower, 401 M Street, S.W., Washington, D.C. 20460. (202) 755–7014.

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any final regulation at least 30 days prior to signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the regulations within 15 days after receiving it, the Administrator shall publish in the **Federal Register** (with the final regulation) the comments of the Secretary, if requested by the Secretary, and the response of the Administrator. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign the regulations for publication in the **Federal Register** anytime after the 15-day period.

Pursuant to FIFRA Section 25(a)(3), a copy of this regulation has been

forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. This regulation was also submitted to the FIFRA Scientific Advisory Panel as required by Section 25(d).

(Section 25 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (Pub. L. 92-516, 86 Stat. 973, Pub. L. 94-140, 89 Stat. 753; 7 U.S.C 136 *et seq.*).)

Dated: April 25, 1979.

[FRL 1213-5; OPP-250018]
[FR Doc. 79-13584 Filed 4-30-79; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Ch. I]

Formula Grants to States for Preventive Health Service Programs

AGENCY: Center for Disease Control (CDC), PHS, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: Section 203 of Public Law 95-626 established a new Section 315 under Title III of the Public Health Service Act. The provisions of this legislation authorize grants to States beginning in the fiscal year which ends September 30, 1980.

The Act provides for grants to assist States in planning for and developing preventive health service programs, and specifies a formula which assures at least a minimum planning grant award to all States with approved applications. Regulations are required to cover grant applications and awards for this purpose during the first year of the program.

The Act further provides for grants to assist States in delivering such services, specifies that application for such grants shall provide a detailed plan (including measurable objectives and a separate health communications component), and specifies a formula for determining the minimum and maximum amounts of each State's grant award. Additional regulations will be issued to cover applications for such grants during the fiscal years which end September 30, 1981, and September 30, 1982, for which appropriations are authorized. This regulation is policy significant.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis D. Tolsma, Office of the Center Director, Center for Disease Control, PHS, HEW, Atlanta, Georgia 30333, telephone (404) 329-3243 or FTS: 236-3243.

Dated: April 2, 1979.

Julius B. Richmond,
Assistant Secretary for Health.
[FR Doc. 79-13479 Filed 4-30-79; 8:45 am]
BILLING CODE 4110-86-M

Center for Disease Control

[42 CFR Part 51]

Health Incentive Grants for Comprehensive Public Health Services

AGENCY: Center for Disease Control, PHS, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: Pub. L. 95-626 amended Section 314(d) of the Public Health Service Act, and the provisions of the new legislation become effective October 1, 1979. A new regulation will be issued to implement changes made by this new legislation which will apply to grants awarded to State health departments to assist them and local health departments in providing appropriate conprehensive public health services. The recipient State authorities are to develop methods satisfactory to the Secretary to assure an equitable distribution of grant funds to local public health entities. This regulation is policy significant.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis D. Tolsma, Office of the Center Director, Center for Disease Control, PHS, HEW, Atlanta, Georgia 30333, telephone (404) 329-3243 or FTS: 236-3243.

Dated: April 5, 1979.

Julius B. Richmond,
Assistant Secretary for Health.
[FR Doc. 79-13477 Filed 4-30-79; 8:45 am]
BILLING CODE 4110-86-M

Health Care Financing Administration

[42 CFR Part 405]

Apportionment of Malpractice Costs to Medicare; Extension of Comment Period

AGENCY: Health Care Financing Administration, Health, Education, and Welfare Department.

ACTION: Notice of extension of comment period.

SUMMARY: A notice of proposed rulemaking was published on March 15, 1979 (44 FR 15744) with opportunity for public comment, through April 30, 1979.

In response to requests from provider organizations, we are extending the comment period through May 15, 1979.

DATE: Comments are due on May 15, 1979.

ADDRESS: Send comments to Administrator, Health Care Financing Administration, DHEW, P.O. Box 2372, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Mr. Hugh McConville, (301) 594-9430.

Dated: April 25, 1979.

Leonard Schaeffer,
Administrator, Health Care Financing Administration.

Approved: April 26, 1979.

Hale Champion,
Acting Secretary.
[FR Doc. 79-13587 Filed 4-30-79; 8:45 am]
BILLING CODE 4110-35-M

INTERSTATE COMMERCE COMMISSION

[49 CFR Chap. X]

Interchange Policies at International Boundary Lines

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Interstate Commerce Commission is proposing to establish a free zone for interchange of traffic at or near the International Boundary Lines to eliminate applications for authority to transport traffic for short distances solely for the purpose of interchange. A qualifying carrier would be authorized to perform this service by filing an application for a special certificate of public convenience and necessity and by demonstrating its fitness. This Commission has become increasingly aware of the ever expanding international movement of goods between the United States, Canada, and Mexico, and in particular, the difficulties attendant to such movements across the International Boundary Lines. This proceeding is being instituted with a view to determining whether the present and future public convenience and necessity, considered on a national basis, require that all common carriers of property by motor vehicle, regardless of their country of origin, be authorized by appropriate procedures, to conduct for-hire operations between ports of entry on the United States-Canadian and the United States-Mexican International Boundary Lines, on the one hand, and, on the other, the nearest practical point in the United States at which such carrier's equipment or traffic may be interchanged or interlined with carriers holding authority to serve points on the International Boundary line. The authority would be limited to shipments moving on a through bill of lading. Determination of the nearest practical point or the extent of the free zone will be key issues in this proceeding. Consideration will be given to a population formula, a mileage formula, or other formulae, as well as to individual definitions under certain circumstances. The proposed rules may be expanded or modified to define more precisely the "nearest practical interchange point within the United States."

DATES: Written comments should be filed with the Commission on or before June 15, 1979.

ADDRESS: Send comments to: Interstate Commerce Commission, Washington, D.C. 20423. All written submissions will be available for public inspection during regular business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Telephone: 202-275-7292.

SUPPLEMENTARY INFORMATION: When Canadian or Mexican domiciled, for-hire motor carriers desire to bring into the United States motor vehicles containing shipments of non-exempt commodities which they have transported from the interior of Canada or Mexico, for the purpose of transfer to United States carriers, or where they desire to receive such vehicles or traffic from connecting carriers at United States border points for movement in the reverse direction, the foreign domiciled carrier must first obtain appropriate operating authority from this Commission and comply with all applicable rate, insurance, and other general requirements imposed by statute. See *Consolidated T. Lines* v. *Fess and Wittmeyer Trucking Co.*, 83 M.C.C. 673 (1960) and *Rio Grande Bridge System—Petition for Exemption*, 103 M.C.C. 174 (1966).

In Ex Parte No. MC-73, *Traf. at or near U.S.-Can. Boundary Lines*, 110 M.C.C. 730 (1969), the Commission, in a rulemaking proceeding instituted on its own motion, considered whether the public convenience and necessity, considered on a national basis, required authorization of all motor common carriers of property to conduct for-hire operations between border points, on the one hand, and, on the other, nearby interchange points. The Commission, after noting a general lack of public interest in having such a rule (the general authorization) adopted, found (1) that it did not appear that any substantial adverse effect is, or will be, suffered by the motor carrier industy or by any other interested party under the present scheme of regulation, and (2) that it shall continue to require the filing of individual applications from those carriers seeking permission to operate within this country in foreign commerce. This decision is now 10-years old. In *Glengarry Transport Ltd.—Declaratory Order*, 128 M.C.C. 342 (1977), a majority of the Commission concluded that the evidence of record, in that proceeding, did not warrant a departure from the Commission's position in *Traf. at or near U.S.-Can. Boundary Lines, supra*, but we believe that circumstances have changed in the 10 years since the prior rulemaking proceeding.

Prior to 1955, and on two subsequent occasions (dissenting opinions in the *Fess* and *Glengarry* cases), a significant minority of the Commission has been of the opinion that the limited operations between border points, on the one hand, and, on the other, nearby interchange points did not warrant economic regulation by this Commission. Although the actual distance to be traversed may be small, the amount of traffic moving in foreign commerce across the international boundary, and the number of carriers filing applications for appropriate authority, is quite large. We believe that the interchange policy at the international borders is in need of careful evaluation.

The approach described generally in the summary of the notice of proposed rulemaking appears to represent the best means of facilitating the transfer of motor vehicle equipment and traffic moving in foreign commerce and promoting the international movement of goods between Canada, Mexico, and the United States. In the first place, all motor common carriers of property by motor vehicle, notwithstanding their country of origin, would be in a position to provide the public with a more economic, responsive, and expeditious motor carrier service with respect to the international movement of goods between these countries.

Carriers holding authority from this government, by virtue of their being authorized to serve municipalities in the United States situated along the respective International Boundary Lines, possess the implied right under American law to interchange equipment or traffic at opposite points within Canada or Mexico. Thus, if the foreign jurisdiction permits those operations, insofar as this country's law is concerned, the United States carriers do not require any additional certification from this Commission to perform them.

Those carriers authorized to operate solely within Canada or Mexico by those governments, however, may interchange equipment or traffic within the United States with a carrier holding authority from this Commission only after the foreign carriers have also obtained appropriate authority from this Commission. We do not believe that cumbersome institutional barriers to the free flow of international commerce, in the absence of a valid regulatory objective, are in the public interest. Accordingly we propose to accord the Canadian and Mexican carriers the right to conduct operations between ports of entry on the United States-Canadian and the United States-Mexican International Boundary Lines, on the one hand, and, on the other, the nearest practical point, at which the foreign carriers' equipment or traffic may be interchanged or interlined with motor carriers authorized by this Commission to serve points on the International Boundary Line.

As matters now stand, interchange between carriers authorized to operate only in their respective countries can occur only "on the border." The manner by which this method of interchange may be accomplished has never been explained by the Commission. In many instances (e.g., on the international bridges), there is no common point of access at which transfer of equipment or lading could be effected. In other instances, interchange "on" the border is cumbersome. The removal of any artificial and unduly burdensome barriers that may be found to exist in the international movement of property by motor vehicle between Canada or Mexico, and the United States, will serve to expedite greatly and increase substantially the international flow of commerce between these countries and foster greater cooperation between their governments.

This proceeding is being instituted with a view toward determining whether the present and future public convenience and necessity, considered on a national basis, require that all common carriers of property by motor vehicle, regardless of their country of origin, be authorized, by appropriate procedures, to conduct for-hire operations between ports of entry on the United States-Canadian and the United States-Mexican International Boundary Lines, on the one hand, and, on the other, the nearest practical point in the United States at which such carrier's equipment or traffic may be interchanged or interlined with carriers

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subject to this Commission's jurisdiction.

We propose to authorize the transportation of general commodities having a prior or subsequent interline movement between points on the international boundary, on the one hand, and, on the other, nearby points in the United States. We caution potential applicants that any service authorized must, in some way, be incident to authorized line-haul operations. *Joint Northeastern Motor Carrier Assn., Inc., v. Creger*, 91 M.C.C. 494 (1962). Consequently, an appropriate restriction must be imposed to ensure that the operations authorized are solely for the purpose of interchanging equipment or interlining traffic with connecting carriers and are restricted to the transportation of shipments moving on through bills of lading in foreign commerce.

We anticipate that there will be many issues raised in this proceeding, including, but not limited to: (1) whether the "freezone" should be defined in terms of mileage, established political boundaries or other factors; (2) the proper framing of the commodity description to be authorized and any restrictions which may need to be imposed; (3) the qualifications an applicant must possess to demonstrate a need for the service; and (4) the effects which the adoption of the proposed rule would have on (a) operating rights application activity, (b) competitive relations among carriers, (c) quality of existing transportation services, (d) revenues of existing carriers, and (e) the environment. Parties will be expected to address these issues and to present economic data supporting their contentions to the extent feasible.

A carrier wishing to conduct operations in foreign commerce between the International Boundary Line, on the one hand, and, on the other, the nearest practical interchange point within the United States, would be required to submit an application which would be subject to a simplified procedure as described in the proposed rules. This proposal is similar in nature to the proceedings in *Transportation of "Waste" Products for Reuse*, 124 M.C.C. 583 (1976), *Used Household Goods—Pack-and-Crate Operations*, 131 M.C.C. 20 (1978), and Ex Parte No. MC–105, *Ex-Water Traffic*, (not printed) decided January 22, 1979. The proposed abbreviated entry controls and special certificate approach are designed to eliminate unnecessary regulatory barriers to motor carriers seeking to engage in this type of transportation activity. Applicants would be required to make only one filing with no requirement of individual shipper support.

Because we propose to make a general finding of public need for these foreign commerce operations, opposition would be limited to the issues of (1) applicant's fitness, including its safety program and its financial ability to perform the operations, (2) whether it is qualified to make use of the special procedures provided by these rules, and (3) dual operations.

Special Application Procedures

In Ex Parte No. 55 (Sub-No. 25), *Revision of Application Procedures*, (not printed) decided December 1, 1977, and published in the **Federal Register** on December 13, 1977, the Commission revised the OP–OR–9 application forms for permanent motor common carrier authority and 49 CFR § 1100.247(f)(2) which pertains to unopposed application proceedings. The rules proposed here will entail only minor modifications in the way operating rights applications are processed and reviewed under these expedited procedures.

Applicants will use the OP–OR–9 application form, submitting the information noted in special regulations at the end of this notice. At the top of the form, applicants shall label the application "FOREIGN COMMERCE INTERCHANGE TRAFFIC", which will indicate to our staff that special handling is necessary.

Opposition (petitions for leave to intervene) on the issues of qualification under the rules, dual operations, or fitness will be due within 30 days of the **Federal Register** publication of an applicant's proposal. Pleadings must be in the form of verified statements and must contain specific facts. Those characterized by unsupported allegations or generalized statements may be rejected. A copy must be served upon the applicant or applicant's representative.

The proposed special certificate will expressly approve any dual operations which may result from a carrier's previously holding a permit and the holding of common carrier authority under the terms of the special certificate. Since the special certificate is only for the purpose of the interchange and would not itself materially broaden any existing authority to render service, we perceive no realistic opportunities for rate abuses resulting from the handling of this traffic. Parties which seek to oppose a grant of a special certificate on the grounds of objectionable dual operations, will be expected to comply with the provisions of Ex Parte No. 55 (Sub-No. 27), *Dual Operations* (not printed), decided March 24, 1978, 49 CFR § 1004.3, "*Applications Involving Dual Operations.*" Opposition on this basis will be allowed only insofar as the new authority is concerned and may not bring into issue any existing authority. We will include the traditional reservation of power to impose such terms, conditions, or limitations in the future to ensure that operations do conform to the dual operations provisions of 49 U.S.C. §10930 [formerly section 210 of the Interstate Commerce Act].

Applicants will be allowed to file a verified reply statement. This statement must be filed within 20 days from the last due date for the filing of statements in opposition.

If opposition is filed and the application is not assigned for oral hearing, the case will be immediately submitted to a review board for consideration on the record as made. If an application is unopposed and is not assigned for oral hearing, it will be processed in accordance with the expedited procedures used in unopposed cases.

If the application is granted, the applicant, upon compliance with 49 CFR §§ 1043 and 1044 (insurance and process serving agents) will receive a special certificate of public convenience and necessity. Since the certificate is limited to traffic moving on through bills of lading, compliance with 49 CFR § 1310 (tariffs) is unnecessary and inappropriate.

Persons interested in commenting on the proposed regulations are invited to file written statements with the Commission. No oral hearing is contemplated at this time.

This notice of proposed rulemaking is issued under the authority of 5 U.S.C. §§ 552, 553, and 559 [The Administrative Procedure Act] and 49 U.S.C. §§ 10321, 10921, and 10922 [formerly the Interstate Commerce Act].

Dated: April 3, 1979.

By the Commission: Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Commissioner Gresham dissenting. Commissioner Christian concurring.[1]

Commissioner Gresham, Dissenting:

This proposal offers a perfect example of how good intentions can be frustrated by hypertechnical legalisms and the bureaucratic maze.

Since the notice is less than specific about the facts giving rise to the proposal, it should be kept in mind that what we are talking about here are movements usually of a few hundred yards from the international border to the nearest parking lot. For most reasonable persons, it may well seem incredible that this agency has required full blown licensing proceedings for the handling of such traffic. That, however, is the unfortunate state of affairs.

In my opinion, it is ridiculous to contend that Congress ever intended this agency to oversee marketplace entry in instances such as this. See Commissioner Webb's dissent in *Fess*, 93 M.C.C. at 661–62, and the joint minority dissent in *Glengarry*, 126 M.C.C. at 350–52. That viewpoint has not prevailed, however, when the issue has come before this agency.

In the absence of any specific statutory exemption, a majority of this Commission has not been able to embrace any legal theory supporting the removal of this administrative burden from the public. There are, however, at least two quite acceptable ways to look at these movements which remove them from our licensing procedures. First, there is Commissioner Webb's approach: these movements are so insignificant that they should not be considered "transportation" within the meaning of the licensing portions of the act. Second, since at least one of the interlining carriers is certificated to move the traffic between the border and the interchange point, the movement should be construed as taking place under the authorized carrier's certificate. This agency theory recognizes the corporative nature of interline operations and the fact that the movement benefits the American authorized carrier as much as anyone. Despite their intellectual respectability, neither theory has yet met with the acceptance of a majority of this Commission, that also despite the fact that half of the present Commission endorsed the "no transportation" approach in *Glengarry*.

This proposal continues to assume that Commission authority is necessary for the convenience movement between border and interchange point. The Master Certificate approach is thus offered as a means to lighten the entry burden without removing it entirely. I have no doubt that this proposal offers an improvement on the present situation. It clearly does. However, I cannot abide our exercising regulatory powers where they are so transparently unnecessary and where I can find no statutory intention that we regulate. Moreover, the regulations which will remain after completion of this proceeding appears to be without any real purpose.

If there is some conceivable reason here for the solicitation of evidence on financial fitness and dual operations, it is not set forth in this proposal. If authorization of the foreign carrier will result in dual operations, it is likely by virtue of its foreign issued authority. That, it appears to me, is none of our business; and, in any event, it remains to be explained how a convenience movement of a few hundred yards will offer some terrible opportunity for Section 210 type discrimination. Further, the solicitation of financial fitness evidence suggests there is some possibility that the carrier will be found financially unfit to transit a few hundred yards of our soil. If that possibility does not exist, and I certainly hope that is the case, there exists no reason to go through the empty motions of requiring the filing of the data.

Lastly, it should be remembered that Ex Parte No. MC–78 was derailed for lack of public support. I would expect similar support in this instance. Foreign carriers stand to be the primary beneficiaries of this proposal, and the Federal Register is not exactly on the best seller list in Nuevo Laredo and Sault Ste Marie. In unique situations such as this, more imaginative ways found to inform those most affected by our decision making.

Commissioner Christian, Concurring

For the reasons set forth in my dissent in *Glengarry Transport Ltd.—Declaratory Order*, 128 M.C.C. 342 (1977), I do not believe that this proceeding is necessary. However, since my views on this issue have not prevailed, and since some Commission action is clearly called for, I concur in the decision of the majority to institute this rulemaking.

Accordingly, it is proposed that the following rules be adopted at 49 CFR ——.

PART ——. SPECIAL REGULATIONS GOVERNING APPLICATIONS OF FOR-HIRE CARRIERS TO TRANSPORT PROPERTY, IN FOREIGN COMMERCE, BETWEEN PORTS OF ENTRY ON THE INTERNATIONAL BOUNDARY LINES OF THE UNITED STATES, ON THE ONE HAND, AND, ON THE OTHER, THE NEAREST PRACTICAL POINTS IN THE UNITED STATES FOR PURPOSES OF INTERCHANGE

§ .1 Scope.

These special rules govern the filing and handling of applications in which an applicant is seeking a special certificate of public convenience and necessity authorizing it to transport general commodities between ports of entry on the International Boundary Lines of the United States, on the one hand, and, on the other, the nearest practical interchange point within the United States, for the purpose of interchanging equipment or interlining traffic with authorized American connecting carriers.

§ .2 Application.

Except as otherwise provided in these special rules, applicants shall file applications which are in the format of, and contain in the information called for, in the form of application and in instructions prescribed by the Commission for applications for certificates of motor common carrier authority. Incomplete applications will be rejected and returned to the applicant's representative, with a designation as to the reason for the rejection. Applicant may refile a complete application at any time.

§ .3 Shipper support.

An applicant is not required to file a certification of support (the Appendix to the application).

§ .4 Special instructions.

Applicants shall comply with the following special instructions in filling out their applications: (a) Authority must be sought as a common carrier. (b) The commodity authorization sought must be for general commodities. (c) The points to be served shall be described in this manner: "Between ports of entry on the International Boundary Lines of the United States, on the one hand, and, on the other, the nearest practical interchange point within the United States, for the purpose of interchanging equipment or interlining traffic with authorized American connecting carriers, restricted to the transportation of shipments having a prior or subsequent interline movement in foreign commerce on a through bill of lading." (d) The top of the first page of each application form shall be labeled "FOREIGN COMMERCE INTERCHANGE TRAFFIC" by applicant. (e) It is not necessary to fill out paragraphs IV and VII(a) of the application. and (f) The answer to VII(b) in the application must be "no," since only interchange operations are contemplated under these special rules.

§ .5 Caption summary and notice.

Applicants shall submit a caption summary of the authority sought. Every caption summary will be published by this Commission in the **Federal Register** to give notice of applications filed under these special rules.

§ .6 Petitions for leave to intervene.

(a) Petitions for leave to intervene may be filed only upon the issues of objectionable dual operations, applicant's fitness to perform the proposed operations, and applicant's ability to qualify to make use of the special procedures provided by these rules. All petitions for leave to intervene pursuant to this section shall be in the form of verified statements containing all of the information offered by the petitioner. Those containing only unsupported or generalized allegations may be rejected. Petitions must be filed within 30 days after the date of notice of the filing of the application is published in the **Federal Register**. Every petition must contain a certification that it has been served upon the applicant or

[1] Dissenting and concurring opinions filed as part of the original documents.

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applicant's representative. (b) Any request for an oral hearing shall be supported by a specific explanation why the evidence to be presented cannot reasonably be submitted in the form of affidavits.

§ .7 Replies.

Applicant may reply to opposing statements. Replies are due within 20 days from the last date upon which opposing statements may be filed with the Commission. The reply shall certify that it has been served upon the protestant or protestant's representative.

§ .8 Processing.

(a) After all statements are received in a protested case which is not assigned for oral hearing, the file will be referred to a review board for processing on the record as made.

(b) In an unprotested case which is not assigned for oral hearing, the application will be determined based upon the information submitted with the application form and in accordance with the provisions of Rule 247(f)(2) of the Rules of Practice which pertain to unopposed application proceedings.

§ .9 Special certificate.

The special certificate of public convenience and necessity to be issued under these provisions reads as follows:

Interstate Commerce Commission Special Certificate of Public Convenience and Necessity as Provided in Ex Parte No. MC–73 (Sub-No. 1)

No. MC–
CARRIER'S NAME
(domicile)

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington DC, on the

The above carrier has complied with all applicable provisions of the Interstate Commerce Act, and the Commission's regulations, and, having complied with the requirements established by the Commission in its decision in Ex Parte No. MC-73 (Sub-No. 1), entered ———, is entitled to receive authority from this Commission to the extent specified below.

This Special Certificate of Public Convenience and necessity is evidence of the above carrier's authority to engage in transportation, in foreign commerce only, to the extent specified below, as a common carrier by motor vehicle.

This authority is subject to any terms, conditions, and limitations as are now, or will be, attached to this privilege.

The above carrier agrees, as an underlying condition of this authority, to provide reasonably continuous and adequate service to the public. Failure to do so will constitute sufficient grounds for the suspension, change, or revocation of this authority.

The transportation service to be performed is as follows:

General commodities, between ports of entry on the International Boundary Lines of the United States, on the one hand, and, on the other, the nearest practical interchange point within the United States, for the purpose of interchanging equipment or interlining traffic with carriers authorized by this Commission to serve points on the International Boundary Line.

RESTRICTION: Such service is restricted to the transportation of shipments having a prior or subsequent interline movement in foreign commerce on a through bill of lading.

TERMS, CONDITIONS, AND LIMITATIONS: If the authority granted duplicates any present authority of this carrier, then to the extent of the duplication, this authority shall not be construed as conferring more than one operating right.

Any dual operations resulting from the holding of authority granted under the terms of this special certificate and of presently authorized permits will be consistent with the public interest and the national transportation policy. However, we expressly reserve the right to impose any terms, conditions, or limitations in the future as may be necessary to ensure that this carrier's operations conform to the provisions of 49 U.S.C. § 10930.

The authority granted shall not be transferrable by sale or otherwise.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Ex Parte No. MC–73 (Sub–No. 1)]
[FR Doc. 79–13527 Filed 4–30–79; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 23]

Endangered Species Convention; Amendments to the Appendices

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Notice of decisions by Party nations on proposals to amend the list of protected species.

SUMMARY: Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (T.I.A.S. 8249) are lists of species for which the Party nations agree to control international trade. At the Second Conference of the Parties, held on March 19–30, 1979, in Costa Rica, the Parties considered 251 proposals to amend these appendices. The proposals that were adopted will enter into force after 90 days (i.e. on June 28, 1979). The purpose of the present notice is to announce the proposals adopted by the Conference of the Parties and to indicate the Service's position with regard to any specific reservations on these amendments that might be entered by the United States.

DATES: The amendments will enter into force on June 28, 1979, as provided by Article XV of the Convention, except for any Party nation that enters a specific reservation. The Service will consider all requests for reservations received by May 11, 1979.

ADDRESS: Please send correspondence to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240. Documents concerning this notice are available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 616, 1000 N. Glebe Road, Arlington, Va.

FOR FURTHER INFORMATION CONTACT:
Dr. Richard L. Jachowski, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703/235–2418.

SUPPLEMENTARY INFORMATION: The background for the present amendments to the appendices was discussed in a series of **Federal Register** notices prior to the Second Meeting of the Conference of the Parties. Final negotiating positions of the Service at this meeting with respect to amendments to the appendices were published in the **Federal Register** on February 14, 1979 (for United States proposals) and on March 26, 1979 (for foreign proposals).

At their meeting, the Parties considered 251 proposed amendments, some of which concerned taxa above the species level. Of these proposals, 134 resulted from a review of species previously included in the appendices and 117 concerned species not previously included. May of these proposals were withdrawn before or during the meeting and others were rejected by the assembled Parties. The proposals that were adopted by at least a two-thirds majority of the Parties present and voting are listed in Table I.

Criteria

The Parties adopted criteria for adding, transferring or deleting species at their first meeting in 1976 in Bern, Switzerland. These criteria provide stricter standards for deleting species than for adding them. The United States proposed at the second meeting in San Jose, Costa Rica, that the deletion criteria be suspended for four years to enable the Parties to consider, in terms of the criteria for addition, those species listed prior to effective application of any criteria. Species not meeting the addition criteria would then be eligible for deletion. Despite the earlier inclusion of many species on the basis of little or no biological or trade evidence, the

Parties rejected the United States proposal. However, they did acknowledge that some species were listed without data sufficient to meet the addition criteria. The Parties also recognized the need to review such species and acknowledged that the initial lack of data for listing could be taken into account when determining if the deletion criteria have been met.

The Parties agreed at their second meeting that "extremely rare" species should be included in Appendix I even if international trade is unlikely because any trade in such species could be detrimental to their survival. They also agreed that individual subspecies should not be listed unless they are (a) generally recognized as valid taxa, and (b) readily distinguisable from other subspecies as whole specimens or as commonly traded parts and derivatives. If a subspecies needing trade controls does not meet these conditions, the Parties agreed to list the entire species and to indicate for the record which subspecies are actually or potentially threatened and which are included to effectively control trade in other species (primarily as look-alikes). In addition, the Parties agreed that when a taxon above the species level is listed, the proposal should state which of the member species are included because of threat and which are included to effectively control trade. The United States obtained agreement from the Parties that official recognition of the basis for listings was important. It serves as guidance to Scientific Authorities in making their findings on whether or not trade is detrimental to the survival of the species. If a species is listed for purposes of control, such findings would be made in terms of the effect that trade in the control species would have on other species included because of threat.

Reservations

Article XV of the Convention provides that during the 90-day period before amendments enter into force, any Party may make a reservation with respect to an amendment. Until such a reservation is withdrawn, the Party shall be treated as a nation not a Party to the Convention with respect to trade in the species concerned.

The Service invites comments, through this notice, on the need to enter any reservations on species listed in Table I. The Service does not intend to seek any reservations on the present amendments unless compelling reasons for doing so are presented. There are two reasons for the Service's position. First, the entering of reservations interferes with effective control of world trade in wildlife and plants under the Convention by creating a loophole where a nation is treated as a non-Party. Second, the present amendments are the result of negotiations involving the United States, and in many instances the entering of a reservation would contradict the position taken or supported by this nation at the meeting. Any such contradiction might harm the cooperative relationship between the United States and other Parties in other aspects of implementing the Convention.

If the Service should nevertheless determine that a reservation is appropriate, it will announce its intention in the **Federal Register** and invite public comment before officially submitting the reservation to the Depositary Government.

Implementation

The trade restrictions of the Convention applicable to species listed on its appendices are implemented in the United States by the Endangered Species Act, 16 U.S.C. § 1538, and by regulations found at 50 CFR Part 23.

The list of species in Appendices I, II and III is included in the Code of Federal Regulations "for the convenience of the public" (50 CFR § 23.23). The regulations in § 23.23 state that "The Service will make every effort to promptly amend the list as species are added, deleted or changed by the parties in accordance with the Convention."

The present notice and previous notices in this series are intended to inform the public about forthcoming amendments and to provide for public participation in the Service's decisions on them.

Unless the Service publishes any notices to the contrary concerning reservations or corrections, the amendments to Appendices I and II given in Table I will enter into force on June 28, 1979 and the list of species in § 23.23 will be revised to include such amendments. The Service intends to republish the entire list in the **Federal Register** in the near future so that § 23.23 will accurately reflect all appendix listings including the present amendments.

Relationship to Act

Many of the wildlife species included in the Convention appendices are also included in the list of species determined to be Endangered or Threatened under the U.S. Endangered Species Act of 1973, as amended. Changes in the status of such species in the appendices, as announced in this notice, will not automatically result in a change in their status under the Act. The criteria and procedures for listing species under these two authorities are different. However, the Service will take the present Convention amendments into account in considering if changes are appropriate under the Act.

Table I.—Amendments to the Appendices. I=Appendix I, II=Appendix II, O=Not Listed in Either Appendix, pe=Possibly Extinct, c=Listed for Purposes of Controlling Trade in Other Species, Subspecies or Geographically Distinct Populations

Species	Common name	Current status	Status effective June 28, 1979
MAMMALIA			
MARSUPIALIA			
Macropodidae:			
Bettongia spp	Rat kangaroo	O	I c.
Caloprymnus campestris	Desert rat kangaroo	I	I pe.
Dendrolagus spp	Tree kangaroo	O	II (II c for New Guinea spp.).
Macropus parma	Parma wallaby	I	I pe.
Phalangeridae:			
Phalanger maculatus	Spotted cuscus	O	II.
Phalanger orientalis	Grey cuscus	O	II.
Wyulda squamicaudata	Scaly-tailed possum	II	O.
Peramelidae:			
Chaeropus ecaudatus	Pig-footed bandicoot	I	I pe.
Dasyuridae:			
Antechinomys laniger	Kultarr	II	O.
Myrmecobius fasciatus rufus	Numbat	I	O.
Planigale tenuirostris	Narrow-nosed planigale	II	O.
PRIMATES			
Callitrichidae:			
Cebuella pygmaea	Pygmy marmoset	I	II.
RODENTIA			
Castoridae:			
Castor fiber birulai	Mongolian beaver	I	O.
Muridae:			
Notomys spp	Australian hopping mice	I	II.
Notomys aquilo	Australian hopping mouse	I	II.
Pseudomys fieldi	Alice Springs mouse	I	O.
Pseudomys novaehollandiae	New Holland mouse	I	O.
Pseudomys occidentalis	Western mouse	I	O.
Pseudomys shortridgei	Shortridge's native mouse	I	II.

Table I.—*Amendments to the Appendices. I=Appendix I, II=Appendix II, O=Not Listed in Either Appendix, pe=Possibly Extinct, c=Listed for Purposes of Controlling Trade in Other Species, Subspecies or Geographically Distinct Populations*—Continued

Species	Common name	Current status	Status effective June 28, 1979
CETACEA	Whales, porpoises and dolphins	O	Entire order in II, except those spp. in App. I.*
Platanistidae:			
Lipotes vellixifer	White flag dolphin	O	I.
Platanista minor	Indus River dolphin	O	I.
Delphinidae:			
Sotalia spp	Humpbacked dolphins	O	I.
Sousa spp	Humpbacked dolphins	O	I.
Phocaenidae:			
Neophocaena phocaenoides	Finless porpoise	O	I.
Phocoena sinus	Cochito	O	I.
CARNIVORA			
Canidae:			
Dusicyon culpaeus	Colepo fox	O	II.
Dusicyon fulvipes	Chiloe fox	O	II.
Dusicyon griseus	Argentine gray fox	O	II.
Canis lupus (Alaska and Canada pops.)	Gray wolf	II	II c.
Canis lupus (India, Pakistan, Bhutan and Nepal pops.).	Gray wolf	II	I.
Ursidae:			
Helarctos malayanus	Sun bear	II	I.
Selenarctos thibetanus	Himalayan black bear	O	I.
Ursus arctos isabellinus	Brown bear	O	I.
Ursus arctos (Alaska and Canada pops.)	Grizzly and brown bears	II	II c.
Mustelidae:			
Conepatus humboldti	Hognose skunk	O	II.
Felidae:			
Felis caracal (Asian pop.)	Caracal	II	I.
Felis concolor (U.S. and Canada pops.)	Mountain lion	II	II c.
Felis lynx (Southwest Asian pops.)	Indian lynx	II	I.
Felis rubiginosa	Rusty spotted cat	II	I.
Phocidae:			
Mirounga angustirostris	Northern elephant seal	I	II.
Otariidae:			
Arctocephalus townsendi	Guadalupe fur seal	II	I.
ARTIODACTYLA			
Camelidae:			
Camelus bactrianus	Bactrian camel	I	O.
Bovidae:			
Kobus leche	Lechwe	I	II.
Ovis canadensis (U.S. and Canada pops.)	Bighorn sheep	II	II c.
Pantholops hodgsoni	Tibetan antelope	II	I.
Saiga tatarica mongolica	Mongolian saiga antelope	I	O.
PERISSODACTYLA			
Equidae:			
Equus grevyi	Grevy's zebra	O	I.
Equus zebra hartmani	Hartman's zebra	O	II.
AVES			
CICONIIFORMES			
Threskiornithidae:			
Geronticus eremita	Hermit ibis	O	I.
Phoenicopteridae:			
Phoenicopterus ruber ruber	Caribbean flamingo	O	II.
ANSERIFORMES			
Anatidae:			
Nettapus coromandelianus albipennis	White pygmy goose	O	II.
Anas diazi	Mexican duck	I	O.
FALCONIFORMES:			
All spp. except Cathartidae and those spp. in App. I.	Hawks, kites and eagles	O	II and II c.*
Accipitridae:			
Circus cyaneus (U.S. pop.)	Harrier	II	II c.
Haliaeetus leucocephalus (Alaska pop.)	Bald eagle	I	I c.
Pandion haliaetus (U.S. pop.)	Osprey	II	II c.
Falconidae:			
Falco rusticolus	Gyrfalcon	II	I.
Falco sparverius (U.S. pop.)	Kestrel	II	II c.
Falco peregrinus	Peale's peregrine falcon	I	I c.
GALLIFORMES			
Tetraonidae:			
Tympanuchus cupido pinnatus	Greater prairie chicken	II	O.
Phasianidae:			
Catreus wallichii	Cheer Pheasant	II	I.
Cyrtonyx montezumae mearnsi (U.S. pop.).	Mearns's quail	II	O.
Cyrtonyx montezumae merriami	Merriam's Montezuma quail	I	O.

Table I.—*Amendments to the Appendices. I=Appendix I, II=Appendix II, O=Not Listed in Either Appendix, pe=Possibly Extinct, c=Listed for Purposes of Controlling Trade in Other Species, Subspecies or Geographically Distinct Populations*—Continued

Species	Common name	Current status	Status effective June 28, 1979
GRUIFORMES			
Otididae:			
Chlamydotis undulata	Houbara bustard	II	I.
Choriotis nigriceps	Great Indian bustard	II	I.
Turnicidae:			
Turnix melanogaster	Black-breasted button quail	O	II.
Pedionomidae:			
Pedionomus torquatus	Collared hemipode	O	II.
COLUMBIFORMES			
Columbidae:			
Caloenas nicobarica	Nicobar pigeon	O	I.
STRIGIFORMES:			
All species except those in App. I	Owls	O	II and II c.
Strigidae:			
Athene blewitti	Forest spotted owlet	O	I.
PSITTACIFORMES			
Psittacidae:			
Cyanoliseus patagonus byroni	Patagonian conure	O	II.
CORACIIFORMES			
Bucerotidae:			
Buceros bicornis homrai	Great pied hornbill	II	I.
PASSERIFORMES			
Estrildae:			
Emblema oculata	Red-eared firetail	O	II.
Muscicapidae:			
Amytornis goyederi	Grass wren	I	O.
Dasyornis broadbenti littoralis	Rufous bristlebird	I	I pe.
Psophodes nigrogularis	Western whipbird	I	II.
REPTILIA			
TESTUDINATA			
Testudinidae:			
Gopherus flavor marginatus	Bolson tortoise	II	I.
CROCODYLIA			
Alligatoridae:			
Alligator mississippiensis	American alligator	I	II and II c.
Crocodylidae:			
Crocodylus acutus (U.S. pop.)	American crocodile	II	I.
Crocodylus porosus (except Papua New Guinea pop.).	Saltwater crocodile	II	I.
OSTEICHTHYES			
Acipenseriformes:			
Acipenser oxyrhynchus	Atlantic Sturgeon	I	II.
MOLLUSCA			
Lamellibranchiata:			
Mytilus chorus	Chilean mussel	O	II.
FLORA			
ARAUCARIACEAE:			
Araucaria araucana (Chile pop.)	Monkey puzzle tree	II	I.
ASCLEPIADACEAE:			
Ceropegia spp	Ceropegias spp	O	II.
Frerea indica	None?	O	II.
BYBLIDACEAE:			
Byblis spp	Byblis	O	II.
CEPHALOTACEAE:			
Cephalotus follicularis	Albany pitcher plant	O	II.
CHLOANTHACEAE:			
All spp	Lambstails	O	II.
HAEMODORACEAE:			
Anigozanthos spp	Kangaroo paws	O	II.
Macropedia fuliginosa	Black kangaroo paw	O	II.
MYRTACEAE:			
Berticordia spp	Featherflowers	O	II.
ORCHIDACEAE:			
Renanthera imschoetiana	None?	II	I.
Vanda coerulea	Blue vanda	II	I.
PROTEACEAE:			
Banksia spp	Banksias	O	II.
Conospermum spp	Smoke bushes	O	II.
Dryandra formosa	Showy dryandra	O	II.
Dryandra polycephala	None?	O	II.
Xylomelum spp	Woody pears	O	II.
RUTACEAE:			
Boronia spp	Boronias	O	II.
Crowea spp	Crowes	O	II.
Geleznowia verrucosa	None?	O	II.
THYMELAEACEAE:			
Pimelea physodes	Qualup bell	O	II.

* Listing of entire Order means that all species in the Order except those included in Appendix I are now included in Appendix II, either because they are potentially threatened by trade or because they must be regulated to effectively control trade in other species.

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Results of U.S. Proposals

All adopted amendments to the appendices, including those proposed by the United States, are summarized in Table I. Because the U.S. proposals are of particular interest to this country, the final results on all of them are shown in Table II.

Table II.—*Final Action of the Conference of the Parties on United States Proposals To Amend the Appendices*

Species	U.S. proposal	Final action
Mexican duck	Delete from App. I	Accept proposal.
Marsh hawk	Delete U.S. pop. from App. II	Retain in App. II for control purposes.*
Trumpeter swan	Delete from App. II	Proposal withdrawn.
Mearn's quail	Delete from App. II	Accept proposal.
Sparrow hawk	Delete U.S. pop. from App. II	Retain in App. II for control purposes.*
Bobcat	Delete from App. II	Proposal withdrawn.
Osprey	Delete U.S. pop. from App. II	Retain in App. II for control purposes.*
Greater prairie chicken	Delete from App. II	Accept proposal.
Atlantic sturgeon	Transfer from App. I to App. II	Accept proposal.
American alligator	Transfer from App. I to App. II	Accept proposal.
Southern sea otter	Transfer from App. I to App. II	Proposal withdrawn.
Peale's peregrine falcon	Transfer from App. I to App. II	Retain in App. I for control purposes.
Bald eagle	Transfer Alaska pop. from App. I to App. II	Retain in App. I for control purposes.
Northern elephant seal	Transfer from App. I to App. II	Accept proposal.
Golden eagle	Transfer eastern U.S. pop. from App. II to App. I.	Proposal withdrawn.
Guadalupe fur seal	Transfer from App. II to App. I	Accept proposal.
American crocodile	Transfer U.s. pop. from App. II to App. I	Accept proposal.
Boison tortoise	Transfer from App. II to App. I	Accept proposal.
Goshawk	List U.S. pop. in App. II for control purposes.	Proposal withdrawn.
Golden eagle	List western U.S. pop. in App. II for control purposes.	Proposal withdrawn.
Gray wolf	List Alaska pop. in App. II for control purposes.	Accept proposal with* addition of Canada pop.
Puma	List U.S. and Canada pops. in App. II for control purposes.	Accept proposal.*
Bighorn sheep	List U.S. and Canada pops. in App. II for control purposes.	Accept proposal.*
Grizzly and brown bears	List Alaska and Canada pops. in App. II for control purposes.	Accept proposal.*

*Inclusion in Appendix II for control purposes was agreed by the Parties, but it will not result in formal amendment of the appendices.

This notice is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884, as amended), and was prepared by Dr. Richard L. Jachowski, Federal Wildlife Permit Office.

Note.—The Department of the Interior has determined that because this notice does not constitute a rulemaking and because it concerns a matter which relates to a foreign affairs function of the United States, Executive Order 12044 concerning improving government regulations does not apply to it.

Dated: April 20, 1979.

Robert S. Cook,
Director, Fish and Wildlife Service.
[FR Doc. 79-13364 Filed 4-30-79; 8:45 am]
BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 651]

New England Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Public Hearings on amendments to the Fishery Management Plan for Atlantic Groundfish (Cod, Haddock, and Yellowtail Flounder).

SUMMARY: The New England Fishery Management Council announces a series of public hearings for consideration of amendments to the Fishery Management Plan for Atlantic Groundfish.

DATES: The hearings will be held on the following dates and at the following places:

May 16, 1979 at the Holiday Inn, Downtown, 88 Spring Street, Portland, ME.
May 21, 1979 at the Gloucester City Hall Auditorium, Gloucester, MA.
May 23, 1979 at the Dutch Inn, Great Island Road, Galilee, RI.
May 29, 1979 at the Holiday Inn, Route 25, Riverhead, Long Island, NY.
May 30, 1979 at the Holiday Inn, Hathaway Road, New Bedford, MA.

All of the above public hearings will start at 7:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. G. Paul Draheim, Deputy Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, MA 01960, (617) 535–5450.

SUPPLEMENTAL INFORMATION: The New England Fishery Management Council proposes to amend the Fishery Management Plan for Atlantic Groundfish as follows:

1. Extend the plan, which terminates on September 30, 1979, from October 1, 1979 to September 30, 1980, or until such time as a new plan for cod, haddock, yellowtail flounder and other designated species is implemented.

2. Establish revised optimum yields for the period October 1, 1979 to September 30, 1980 as follows:

A. Cod for the Gulf of Maine—12,000 metric tons (mt), an increase of 3,500 mt over the current amount.

B. Cod for Georges Bank and South—35,000 mt, an increase of 9,000 mt over the current amount.

C. Haddock—32,500 mt, an increase of 12,500 mt over the current amount. The optimum yield for haddock would be allocated thirty percent to the Gulf of Maine and seventy percent to Georges Bank and South.

D. Yellowtail Flounder—10,000 mt, an increase of 1,900 mt over the current amount. The optimum yield for yellowtail flounder would be allocated fifty percent to the area east of 69° W. longitude and fifty percent to the area west of 69° W. longitude.

3. Vessels in the directed groundfish fishery would be required to use a trawl net with a cod end with a mesh no smaller than 5½ inches, stretched measure wet after use, when that vessel is operating under its groundfish permit except that vessels operating in Georges Bank and South (Areas 5Zw or 6) would use cod ends with a mesh no smaller than 5½ inches stretched measure wet after use, and nets of smaller mesh size may be carried on board. Gill nets would have a mesh size no smaller than 5½ inches, stretched measure.

4. The minimum legal length of cod and haddock in possession by harvestors and processors would be 18 inches total length, except that 10 percent of these species in possession by harvestors and processors may be less than 18 inches; and, in the recreational fishery, two fish of these species per fishermen on board may be less than 18 inches.

5. It would be strongly recommended that appropriate regulations be established in state territorial waters.

The Council has proposed to amend the plan for the current fishing year (October 1, 1978 to September 30, 1979) as announced on March 28, 1979 (44 FR 18539).

Dated: April 25, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.
[FR Doc. 79-13381 Filed 4-30-79; 8:45 am]
BILLING CODE 3510-22-M

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Notices

Federal Register
Vol. 44, No. 85
Tuesday, May 1, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

North Cuero Watershed, Texas; Intent to Not Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for North Cuero watershed, DeWitt County, Texas.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for stabilizing a critical sediment source area. The planned work includes grade stabilization structures, streambank stabilization measures, shaping, vegetation and fertilization needed to stabilize about 23 acres.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties by contacting Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, Temple, Texas 76501, 817–774–1255. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 31, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83–566, 16 U.S.C. 1001–1008.)

Dated: April 12, 1979.

Joseph W. Haas,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 79-13451 Filed 4-30-79; 8:45 am]

BILLING CODE 3410-16-M

Authorization for Watershed Planning

A concerned State Conversationist of the Soil Conservation Service has been authorized to provide planning assistance to local organizations for the indicated watershed. The State Conservationist may proceed with investigations and surveys as necessary to develop watershed plans under authority of the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and in accordance with requirements of the National Environmental Policy Act of 1969, Pub. L. 91–190.

Persons interested in this project may contact the State Conservationist listed below:

Brundage Watershed, Adams County, Idaho State Conservationist—Amos I. Garrison, Jr., Soil Conservation Service, Room 345, 304 North 8th Street, Boise, Idaho 83702.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program.)

Dated: April 27, 1979.

Norman A. Berg,
Associate Administrator, Soil Conservation Service.

[FR Doc. 79-13440 Filed 04-30-79; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Special Census

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. However, because of the need to avoid conflicts with activities involving the conduct of the 1980 census, no additional special censuses will be conducted during the period from August 1, 1979, to January 1, 1981. The Bureau will resume accepting requests for cost estimates in the fall of 1980.

The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the *Current Population Reports*—Series P–28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since June 30, 1978, for which tabulations were completed between March 1, 1979, and March 31, 1979.

Dated: April 25, 1979.

Robert L. Hagan,
Acting Director, Bureau of the Census.

State/place, special area	County	Date of census	Population
Arkansas:			
Haskell City	Saline	Dec. 6	1,129
Florida:			
Lee County (excluding Cape Coral)		Sept. 25	161,011
Illinois:			
Bement Village	Piatt	Oct. 25	1,806
West Chicago City	Du Page	Nov. 6	12,111
Indiana:			
Darmstadt Town	Vanderburgh	Nov. 29	1,254
Yorktown Town	Delaware	Nov. 28	4,152
New Jersey:			
Medford Township	Burlington	Nov. 28	16,434
Tennessee:			
Rutherford County		Oct. 16	77,264
Tullahoma City	Coffee and Franklin	Oct. 19	15,029
Williamson County		Oct. 6	58,994

[FR Doc. 79-13439 Filed 4-30-79; 8:45 am]

BILLING CODE 3510-07-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Joint Meeting of Computer Systems Technical Advisory Committee and Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee and the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Thursday, May 17, 1979, at 9:00 a.m. in Room 3617, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee and the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee were initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committees, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committees, where they have expertise in such matters, advise the Office of Export Administration, Bureau of Trade Regulation, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The joint Committee meeting agenda has five parts:

General Session

1. Opening remarks by the Chairmen.
2. Presentation of papers or comments by the public.
3. Discussion of technical factors in computer systems and computer peripherals as related to export controls.
4. Report on the current work program of the Committees:
   (a) Computer Systems Technical Advisory Committee:
   (1) Licensing Procedures Subcommittee.
   (2) Foreign Availability Subcommittee.
   (3) Hardware Subcommittee.
   (4) Technology Transfer Subcommittee.
   (b) Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee:
   (1) Memory and Media Subcommittee.
   (2) Foreign Availability Subcommittee.
   (3) Display and Terminals Subcommittee
   (4) Export Regulations Subcommittee.

Executive Session

5. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committees. Written statements may be presented at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, has formally determined, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed by each of the aforementioned Technical Advisory Committees in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy. All materials to be reviewed and discussed by the Committees during the Executive Session of the joint meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202–377–2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Following are the dates of approval of the Notices of Determination to close portions of the series of meetings of the Technical Advisory Committees involved in this joint meeting, and of any subcommittees thereof, the dates the full texts of the Notices of Determination were published in the Federal Register, and the Federal Register *citations:*

	Date approved	Date published
Computer Systems Technical Advisory Committee	Sept. 8, 1978	Sept. 14, 1978 (43 FR 41078).
Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee.	Sept. 6, 1978	Sept. 14, 1978 (43 FR 41079).

Dated: April 26, 1979.

Lawrence J. Brady,
Acting Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-13438 Filed 4-30-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Territorial Affairs

Watches and Watch Movements; Allocation of Duty-Free Quotas for Calendar Year 1979 Among Producers Located in the Virgin Islands

Correction

In FR Doc. 79-12097 appearing on page 23272 in the issue for Thursday, April 19, 1979, make the following corrections:

(1) In the middle column, in the table of duty-free watch quota allocations for calendar year 1979, in entry no. 1, the annual allocation for Antilles Ind. Inc. Should be corrected to read "350,000".

(2) In the third column, in the second full paragraph, in the 10th line, "territorial" should be corrected to read "territories".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers

Draft Environmental Impact Statement; Intent

To prepare a Draft Environmental Impact Statement on the Central and Southern Florida Flood Control Project, Upper St. Johns River Basin, Florida.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. A study is underway to complete the remaining portion of the Central and Southern Florida Project within the Upper St. Johns River Basin located in Brevard, Indian River, St. Lucie, Okeechobee, Osceola, Orange, Volusia, and Seminole Counties, Florida. Investigations are taking place to determine the effects of alternatives on flood control, water supply, water quality, and for the prevention or mitigation of foreseeable environmental problems and loss of environmental amenities.

2. Conceived alternatives range from making no changes from existing conditions to any one or a combination or variation of the following alternatives:

a. Close the gaps presently remaining in upland Levee 73 which forms the eastern boundary of Jane Green Detention Area. The gaps are located in the levee in the vicinity of Structures S-163, 221, and 161.

b. Remove the existing plugs in the Levee 73 borrow canal located in the conveyance canals near S-221 and S-162 site.

c. Perform selective clearing in the Taylor, Cox, Pennywash, and Jane Green portion of the Jane Green Detention complex.

d. Construct spillway Structure 53 and its associated tieback levees and its downstream flow distribution system near the mouth of Lake Washington to replace the existing weir.

e. Construction of the Fort Drum Conservation Area with its associated levees and structures.

f. Construction of Structure 96A (S—96A) and Canal 53N (C-53N) west of Sebastian Canal (C—54).

g. Construction of a pump station at S-96 on C-54 and a spillway on the Fellsmere Canal.

h. Construction of Canal 52 to remove water from the upper portion of the basin to Lake Wilmington (Blue Cypress Lake).

3. a. The process for determining the problems and needs to be addressed and for identifying the significant issues related to altenative measures ("scoping") is underway by close coordination with the St. Johns River Water Management District. Additional public meetings and coordination with other agencies will be held as issues and alternatives are more clearly defined. Affected Federal, State, and local agencies, affected Indian tribes and other interested organizations and parties will continue to be encouraged to participate in the identification of issues, problems, and needs and the formulation of alternative courses of action by communicating with the addressee listed below.

b. Significant issues to be analyzed in depth in the DEIS include flood damage control needs, fish and wildlife habitat requisites, effect of periodic innundation on vegetation, and water quality in the Upper St. Johns River and its major tributaries, lakes, and headwaters relative to land and water use patterns.

c. Consultation with the State Historic Officer and the U.S. Heritage Conservation and Recreation Service will be initiated in accordance with the National Historic Preservation Act of 1966 and Executive Order 11593. Planning will be coordinated with the U.S. Fish and Wildlife Service on an informal and formal basis, including the procedures required by the Fish and Wildlife Coordination Act of 1958 and the Endangered Species Act Amendments of 1978.

4. A scoping meeting will be held. The date and location will be identified through Public Notice procedures.

5. The DEIS is scheduled to be completed and available for review in March 1980.

ADDRESS: Questions about the proposed action and DEIS can be answered by Mr. Moray Harrell, Chief of Environmental Quality Section U.S. Army Engineer District, P.O. Box 4970, Jacksonville, Florida 32201, telephone (904) 791-3614.

Dated: April 20, 1979.

James W. R. Adams,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-13363 Filed 4-30-79; 8:45 am]

BILLING CODE 3710-AJ-M

DEPARTMENT OF ENERGY

Conduct of Employees; Waiver of Post-Employment Prohibitions

Section 605(a)(3) of the Department of Energy Organization Act (Pub. L. 95-91, hereinafter the "Act") authorizes the Secretary of Energy to waive the post-employment prohibitions of section 605(a)(1) of the Act for a former supervisory employee with outstanding scientific or technological qualifications in connection with a particular matter in a scientific or technological field, where the Secretary has determined that such a waiver would serve the national interest.

It has been established to my satisfaction that Gregory J. Cavanagh, formerly Director, Division of Real Estate and Facilities Management, Department of Energy, has an outstanding and unique combination of technological skills, and that it will serve the national interest for him to be able to carry out fully the responsibilities of Project Manager for the Solar Energy Research Institute (SERI) permanent facilities, on behalf of the Midwest Research Institute, the Department's prime contractor for SERI. I have therefore waived the post-employment prohibitions of section 605(a)(1) of the Act with respect to appearances before and communications with Department officials in connection with the SERI permanent facilities by Mr. Cavanagh as Project Manager.

Dated: April 20, 1979.

John F. O'Leary,
Acting Secretary.

[FR Doc. 79-13458 Filed 4-30-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Petroleum Corp. of Texas; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order.

DATES: Effective date: April 2, 1979. Comments by: May 31, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas TX 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, TX 75235 [phone] (214) 749-7628.

SUPPLEMENTARY INFORMATION: On April 2, 1979, the Office of Enforcement of the ERA executed a Consent Order with Petroleum Corporation of Texas of Breckenridge, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, becomes effective upon its execution only if the DOE expressly finds it to be in the public interest to do so.

Because of the complex settlement negotiations in this case and the necessity to conclude this matter simultaneously with other proceedings associated with this Consent Order, as well as the concern to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Petroleum Corporation of Texas effective as of the date of its execution by the DOE and Petroleum Corporation of Texas.

I. The Consent Order

Petroleum Corporation of Texas, with its home office located in Breckenridge, TX, is a firm engaged in the production and sale of natural gas liquids (NGL) and natural gas liquid products, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of sales of NGL's and NGL products, the Office of Enforcement, ERA, and Petroleum Corporation of Texas entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1973 through April 1976 and it included all sales of natural gas liquid products consisting of propane, butane, natural gasoline and a butane/natural gasoline mix, all of which were sold to Koch Oil Company (Koch) and Warren Petroleum Company (Warren).

2. Petroleum Corporation of Texas improperly applied the provisions of 6 CFR, Part 150, Subpart L, and 10 CFR, Part 212, Subparts E and K, when determining the prices to be charged for its natural gas liquid products, and as a consequence the above firms were overcharged on some of their purchases.

3. As a result of the DOE audit, Petroleum Corporation of Texas agrees that it overcharged Koch Oil Company $442,810.89, and Warren Petroleum Company $306,516.46, in its sales of natural gas liquid products, during the period from September 1, 1973, through April 30, 1976.

4. Petroleum Corporation of Texas agrees to refund to Koch and Warren the above amounts plus interest within 30 days of the effective date of the Consent Order, April 2, 1979. The interest rates are those officially set by DOE and will be computed from the month of overcharge through the date of the refund.

5. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Petroleum Corporation of Texas agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $749,327.35 on or before May 2, 1979. Refunds of overcharges will be made directly to Koch Oil Company in the amount of $442,810.89, and to Warren Petroleum Company in the amount of $306,516.46.

III. Submission of Written Comments

The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, TX. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 749-7628.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation, "Comments on Petroleum Corporation of Texas Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on May 31, 1979.

You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C., on the 24th day of April, 1979.

Barton Isenberg,
Assistant Administrator for Enforcement, Economic Regulatory Administration.

[FR Doc. 79-13510 Filed 4-30-79; 8:45 am]

BILLING CODE 6450-01-M

Red Triangle Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to the Red Triangle Oil Company, 2809 South Chestnut Street, Fresno, California 93745.

This Proposed Remedial Order charges Red Triangle with pricing violations in the amount of $91,298.88, connected with the resale of motor gasoline during the time period November 1, 1973, through April 30, 1974, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone 415/556-7200. On or before May 16, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR § 205.193 of the DOE Regulations.

Issued in Washington, D.C., on the 26th day of April 1979.

Jack L. Wood,
District Manager of Enforcement, Western District, Economic Regulatory Administration.

[FR Doc. 79-13517 Filed 4-30-79; 8:45 am]

BILLING CODE 6450-01-M

Stiers Chevron Station; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to the

Stiers Chevron Station, 6300 Monterey Hiway, San Jose, California 95111.

This Proposed Remedial Order charges Stiers Chevron with pricing violations in the amount of $57,615.03, connected with the resale of motor gasoline during the time period November 1, 1973, through December 31, 1975, in San Jose, California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone 415/556-7200. On or before May 16, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street NW., Washington, D.C. 20461, in accordance with 10 CFR § 205.193 of the DOE Regulations.

Issued in Washington, D.C., on the 26th day of April 1979.

Jack L. Wood,

District Manager of Enforcement, Western District, Economic Regulatory Administration.

[FR Doc. 79-13516 Filed 4-30-79; 8:45 am]

BILLING CODE 6450-01-M

Transmittal of Conservation Plan No. 4, Amending Standby Conservation Plan No. 1

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Transmittal of Contingency Plan No. 4 (An Amendment to Standby Conservation Plan No. 1).

SUMMARY: The Economic Regulatory Administration of the Department of Energy gives notice that pursuant to sections 201(d)(1) and 522 of the Energy Policy and Conservation Act of 1975, Pub. L. 94-163 (EPCA), the President transmitted to the Congress on April 5, 1979, an amendment to Standby Conservation Plan No. 1, "Emergency Weekend Gasoline Sales Restrictions" (44 FR 12906, March 8, 1979).

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170.

Gregory Friedman, (Division of Emergency Planning), Economic Regulatory Administration, 2000 M Street, NW., Washington, D.C. 20461, (202) 632-6500.

Paul T. Burke, Economic Regulatory Administration, 2000 M Street, NW., Room 2104, Washington, D.C. 20461, (202) 632-5140.

Peter J. Schaumberg (Office of General Counsel), Department of Energy, 1726 M Street, NW., Washington, D.C. 20461, (202) 634-5545.

SUPPLEMENTAL INFORMATION: On March 1, 1979, pursuant to EPCA sections 201, 202 and 552, the President transmitted to the Congress for its approval Standby Conservation Plan No. 1, "Emergency Weekend Gasoline Sales Restrictions." (44 FR 12906, March 8, 1979). This plan, if approved by the Congress in accordance with the procedures in EPCA section 552, and put into effect in accordance with EPCA section 201(b), would authorize the Secretary of Energy to prohibit certain sales of motor fuels during the weekend. Section 6 of the that plan implements EPCA section 202(b) and authorizes the President or his delegate to grant exemptions from the Federal plan to states or political subdivisions thereof if the state or locality has in effect a program comparable to the Federal plan.

The Economic Regulatory Administration of the Department of Energy hereby gives notice that an amendment to the Emergency Weekend Gasoline Sales Restricitons Plan was transmitted by the President to the Congress on April 5, 1979, in accordance with EPCA sections 201(d)(1) and 552. This amendment, styled as Conservation Plan No. 4, would amend section 6(e) of Standby Conservation Plan No. 1 and provide states and localities with additional flexibility to develop programs achieving fuel savings comparable to the Federal weekend gasoline station closing plan. The amendment expands the definition of comparable state programs in two ways. First, it eliminates the requirement in the original section 6(e) that any alternative state plan be a mandatory one. Second, the language in the plan requiring that state alternatives deal with "the same subject matter" as the Federal plan is eliminated and a requirement that savings be of the same fuel is substituted.

The full text of the amendment and the letter of the President transmitting it to the Congress is reproduced as an appendix to this notice.

The amendment only may become effective if it is approved within sixty days of submission by both Houses of Congress as provided in section 552 of the EPCA.

Issued in Washington, D.C., April 23, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

To the Congress of the United States:

Pursuant to Sections 201(d)(1) and 552 of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6261(d)(1) and 6422, I am hereby transmitting to the Congress for its approval an amendment to Emergency Weekend Gasoline Sales Restrictions (Standby Conservation Plan No. 1) which I transmitted on March 1, 1979.

The purpose of the amendment is to expand the scope of "comparable programs" which a state may develop in order to qualify for an exemption from the Federal plan. The amendment will further encourage states, or political subdivisions thereof, to develop conservation programs which will qualify them for an exemption from the operation of Federal energy conservation contingency plans should those plans ever be put into effect. Such exemptions for "comparable programs" are authorized under Section 202(b) of the EPCA.

The amendment reflects my belief that states should be given the flexibility to meet their share of any energy shortfall prior to the adoption of nationwide measures. The amendment would expand the size of allowable comparable state programs in two ways. First, it would eliminate the requirement that any alternative state plan be a mandatory one. If a state is able to achieve comparable energy savings through a voluntary plan, this should be permissible. Second, the language in the plan requiring that state alternatives deal with "the same subject matter" as the Federal plan would be eliminated and a requirement that savings be of the same fuel would be substituted. This would allow states to propose any alternative approach so long as it achieved comparable savings of the same fuel.

The procedures for approval by Congress of an amendment to a contingency plan are detailed in Section 552 of the EPCA, and require among other things that a resolution of approval be passed by each House of Congress within 60 days of submittal of the amendment. Inasmuch as the subject of this amendment has been considered thoroughly by the Congress in its deliberations on the conservation contingency plans, I urge the Congress to give this amendment expedited consideration so that it may be approved together with the Emergency Weekend Sales Restrictions plan.

The EPCA does not specify in Section 552 the form which the resolution of approval is to take. As I noted in my submission of the conservation contingency plans on March 1, 1979, it is my view and that of the Attorney General that actions of the Congress purporting to have binding legal effect must be presented to the President for his approval under Article I, Section 7 of the Constitution. Therefore, I strongly recommend that Congressional approval of the amendment be in the form of a joint resolution. If this procedure is followed, the amendment itself, agreed to by the Congress and the President, will not later be subject to possible judicial invalidation on the ground that the President did not approve the resolution.

I urge the prompt and favorable consideration by the Congress of this amendment.

The White House, April 5, 1979.

Contingency Plan No. 4

(An Amendment To Standby Conservation Plan No. 1)

Pursuant to Section 201(d)(1) of the Energy Policy and Conservation Act, 42 U.S.C. 6261(d)(1), section 6(e) of Standby Conservation Plan No. 1, Emergency Weekend Gasoline Sales Restrictions, is amended to read as follows:

"(e) For purposes of this section, 'comparable program' means a program which conserves at least as much of the same fuel in the State or political subdivision thereof as this Plan would be expected to conserve in such State or political subdivision."

[FR Doc. 79-13457 Filed 4-30-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Cities Service Gas Co.; Application To Withdraw Rate Increase Filing and Notice of Withdrawal of Motion To Make Rates Effective

April 24, 1979.

Take notice that on April 20, 1979, Cities Service Gas Company (Cities Service) filed an application to withdraw its rate increase filing of October 22, 1978, as revised on March 23, 1979, in Docket No. RP79-4.

Cities Service states that significant changes have occurred since its original filing in this proceeding, including reduction in transportation costs resulting from delays in the expected transportation of gas by others from Wyoming, increases in volumes available for sale under the Natural Gas Policy Act, and a reduction in the federal income tax rate. Cities Service further states that it presently intends to file a new general wholesale rate increase on or before June 23, 1979, to reflect the volumes and substantial cost increases related to the new Rawlins-Hesston pipeline project certificated by the Commission in Docket No. CP78-500, as well as the transportation costs and additional Wyoming volumes which have been delayed and are no longer appropriate to reflect in Docket No. RP79-4. Cities Service states that such new filing would limit to eight months the effective period of the rates in Docket No. RP79-4.

Cities Service states that in view of the foregoing, the rate increase in Docket No. RP79-4 is no longer required and its prosecution is no longer in the public interest, and that it has therefore applied for withdrawal of the rate increase in Docket No. RP79-4 and given notice of the withdrawal of its motion to make the suspended rates effective.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 10, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that persons who have previously intervened in Docket No. RP79-4 need not file a further petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket No. RP79-4]

[FR Doc. 79-13394 Filed 4-30-79; 8:45 am]

BILLING CODE 6450-01-M

Duke Power Co.; Supplement to Electric Power Contract

April 24, 1979.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on April 20, 1979 a supplement to the Company's Electric Power Contract with Surry-Yadkin Electric Membership Corporation. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 140.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in designated demand:

Delivery Point No. 1 from 12,000 KW to 17,000 KW,
Delivery Point No. 2 from 2,300 KW to 2,800 KW,
Delivery Point No. 3 from 12,000 KW to 14,000 KW,
Delivery Point No. 4 from 5,000 KW to 6,000 KW, and
Delivery Point No. 5 from 2,500 KW to 3,000 KW.

Duke Power indicates that this supplement also incindes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of June 18, 1979.

According to Duke Power copies of this filing were mailed to Surry-Yadkin Electric Membership Corporation and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket No. ER79-319]

[FR Doc. 79-13395 Filed 4-30-79; 8:45 am]

BILLING CODE 6450-01-M

Duke Power Co.; Supplement to Electric Power Contract

April 24, 1979.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on April 20, 1979 a supplement to the Company's Electric Power Contract with the City of Gastonia. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 227.

Duke Power further states that the Company's contract supplement, made at the request of the customer with agreement obtained from the customer, provides for the following changes in contract demand: Delivery Point No. 1 from 13,000 KW to 9,000 KW, Delivery Point No. 3 from 6,700 KW to 5,000 KW, Delivery Point No. 4 from 6,500 KW to 5,000 KW, Delivery Point No. 6 from 20,000 KW to 18,000 KW, Delivery Point

No. 8 is to be cancelled, Delivery Point No. 9 from 16,000 KW to 20,000 KW, Delivery Point No. 10 from 13,000 KW to 16,000 KW, and Delivery Point No. 11 is a new delivery of 16,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of June 19, 1979.

According to Duke Power, copies of this filing were mailed to the City of Gastonia and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-320]
[FR Doc. 79-13396 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

Little America Refining Co.; Filing of Petition for Review

April 23, 1979.

Take notice that Little America Refining Company on February 16, 1979, filed a petition for Review under 42 U.S.C. 719(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before May 14, 1979 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Lois D. Cashell,
Acting Secretary.

[Docket No. RA79-15]
[FR Doc. 79-13397 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

Moon Lake Electric Association, Inc.; Application for New Minor License

April 24, 1979.

The public should take notice that an application for a new minor license was filed on June 30, 1977, under the Federal Power Act (16 U.S.C. 791a–825r), by Moon Lake Electric Association, Inc. (Applicant) for the Uintah Hydro Plant, FERC Project No. 190. The project is located on Pole Creek and the Uintah River in Duchesne County, Utah. The project affects lands of the United States within the Ashley National Forest and the Ute Indian Reservation. Correspondence regarding the application should be sent to: Merrill H. Millett, General Manager, Moon Lake Association, Inc., P.O. Box 278, Roosevelt, Utah 84066.

The Uintah Hydro Plant consists of: (1) a dam on Pole Creek; (2) a 6,170-foot-long canal extending from the dam to (3) a forebay; (4) Uintah River diversion dam and headgate structure located on the Uintah River; (5) a 25,614-foot-long canal from Uintah River diversion dam to the forebay noted above; (6) a 1,780-foot-long conduit from Big Spring discharge channel to the headgate structure of the Uintah River diversion dam; (7) two 4,180-foot-long pressure pipes leading to (8) a 32-inch-diameter steel penstock about 1,080 feet long; (9) a powerhouse containing two 600 kW generators; (10) a tailrace canal to the Uintah River; and (11) appuretenant facilities.

The energy produced by the project would be incorporated into Applicant's transmission distribution network for use within the Utah service area.

Anyone desiring to be heard or to make any protest about this application should file a protest or a petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure ("Rules"), 18 CFR 1.10 or 1.8 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before July 7, 1979. The Commission's address is: 825 N. Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission is available for public inspection.

Kenneth F. Plumb,
Secretary.

[Project No. 190]
[FR Doc. 79-13398 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

Pacific Power & Light Co.; Rate Schedule Filing

April 24, 1979.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on April 20, 1979, tendered for filing, in accordance with Section 35.12 of the Commission's Regulations, a new rate schedule for power sales to San Diego Gas & Electric Company; Pasadena Water & Power Department; Public Service Department, City of Burbank; and City of Glendale (Purchasers). Under this schedule Pacific supplies excess firm thermal energy to the Purchasers.

Pacific requests waiver of the Commission's notice requirements to permit these rate schedules to become effective on March 8, 1979 for San Diego Gas & Electric Company, and March 13, 1979 for Pasadena Water & Power Department; Public Service Department, City of Burbank; and City of Glendale.

Copies of the filing were supplied to the Purchasers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 15, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-321]
[FR Doc. 79-13399 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

Panhandle Eastern Pipe Line Co.; Certification of Proposed Settlement and Record

April 24, 1979.

Take notice that on March 7, 1979, the Presiding Administrative Law Judge certified to the Commission a proposed Stipulation and Agreement submitted by Panhandle Eastern Pipe Line Company in the referenced proceeding. The proposed agreement, if approved by the Commission, would resolve certain issues in this proceeding and would reserve certain other issues for hearing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 14, 1979. Reply comments shall be due on or before May 24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP78-62]
[FR Doc. 79-13400 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

South San Joaquin Irrigation District; Application for Preliminary Permit

April 24, 1979.

Take notice that on September 25, 1978, the South San Joaquin Irrigation District (District) filed an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for a proposed water-power project, to be known as the Woodward Project, FERC Project No. 2870, located in Stanislaus County, California on the District's South San Joaquin Main Canal which conveys water diverted from the Stanislaus River at the District's Goodwin Diversion Dam. Correspondence with the Applicant should be directed to: Mr. Noel A. Negley, Jr., Secretary-Manager, South San Joaquin Irrigation District, 11011 E. Highway 120, Manteca, California, 95336 and Mr. Edward Cordoza, Chairman, South San Joaquin Irrigation District, 11011 E. Highway 120, Manteca, California, 95336.

Description of Project—The proposed project would consist of: (1) the District's existing Woodward Dam, an earth dam with a height of approximately 45 feet; (2) Woodward Reservoir, with a normal pool elevation of 210 feet msl; (3) a proposed steel penstock, 8 feet in diameter, located inside the existing concrete outlet structure of Woodward Dam; and (4) a powerhouse at the base of Woodward Dam containing one or two generating unit with a total installed capacity of 2,000 kW. Energy would be generated utilizing water released from the Woodward Reservoir for irrigation purposes. The estimated annual output of the project would be 6 million kWh.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 3-year permit to prepare a definitive project report, including preliminary designs, geological explorations, and collection of environmental data. The cost of the foregoing activities, together with preparation of an environmental impact report or environmental assessment, obtaining agreements with various Federal, State, and local agencies, preparing a license application, and final geologic exploration and field surveys, is estimated by Applicant to be about $150,000.

Proposed Use Of Project Power—Project energy would be sold to an electric utility in Northern California for distribution.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests, Petitions To Intervene, and Agency Comments—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission in accordance with the requirements of the Commission's Rules of Practice and Procedure 18 CFR 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before June 25, 1979. The Commission's address is: 825 N. Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[Project No. 2870]
[FR Doc. 79-13401 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Petition To Amend

April 24, 1979.

Take notice that on April 23, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79–188 a petition to amend the order of March 28, 1979, issued in the instant docket pursuant to Section 3 of the Natural Gas Act by authorizing the importation of the total of 5,000,000 Mcf of natural gas for thirty days beyond the sixty days originally specified and at a border price of $2.30 (U.S.) per million Btu [1] effective May 1, 1979, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Tennessee states that on March 19, 1979, the National Energy Board of Canada (NEB), in Order No. EO–2–79, acted upon the application by TransCanada Pipe Lines Limited (TransCanada) to sell natural gas to Tennessee and authorized the exportation of 5,000,000 Mcf of natural gas at the Canadian dollar equivalent of

[1] Equivalent to $2.14367 (U.S.) per pipefoot.

$2.01318 in U.S. currency per gigajoule of gross heating value ($2.16 U.S. per million Btu's). Tennessee states it has acted diligently upon the approvals received to secure the authorized amount within the time specified by the Economic Regulatory Administration (ERA), sixty days from March 17, 1979, at the authorized price of $2.16 per million Btu's. Not desiring to act imprudently, Tennessee awaited an affirmative response from the Commission to its application to import after the issuance of the ERA order on March 17, 1979, it is said. Although Tennessee is receiving approximately 60,000 Mcf per day of natural gas at the Niagara Falls interconnection with TransCanada, it is imperative that an extra allotment of time be granted to ensure that the total amount can be received, it is further said. Tennessee requests the extension of thirty days beyond the May 16, 1979, date for receipt of the total amount of natural gas authorized for importation, it is asserted.

Tennessee further asserts that one term of the proposal on which the original application was based has been changed by order [2] of the NEB to reflect the action of the Governor in Council which established the price of the Canadian dollar equivalent of $2.14367 in U.S. currency per gigajoule of gross heating value, below which price gas exported shall not be sold and delivered on and after May 1, 1979.[3] By May 1, 1979, Tennessee anticipates it will have received approximately three-fifths of the amount of natural gas authorized for importation and believes it imperative that the total amount authorized by ERA and the Commission be received, it is asserted.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-188]
[FR Doc. 79-13402 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

[2] Order No. AO-1-EO-2-29 issued on April 5, 1979.

[3] The change corresponds to a price per million Btu's of $2.30 (U.S.).

Terry Richard and Celia Lynn Savage; Application for Short Form License (Minor)

April 24, 1979.

Take notice that on January 22, 1979, Terry Richard and Celia Lynn Savage filed an application for license for a minor project [pursuant to the Federal Power Act, 16 U.S.C. Section 791(a)–825(r)] for a proposed water power project to be known as the Dry Creek Project, FERC No. 2907, located on the Dry Creek, near Superior in Mineral County, Montana. Lands of the United States in the Lolo National Forest would be affected. Correspondence with the applicant should be directed to Terry Richard and Celia Lynn Savage, P.O. Box 28, Lolo, Montana, 59847.

Purpose of Project—Project energy would be used to supply the energy requirements of a 2044-sq.-ft. home presently under construction. Any additional power produced will be used for agricultural purposes, i.e. greenhouse, barn, etc.

Estimated Cost—The cost of the project is estimate, by the applicant, at $14,050. This project has received full funding from the Montana Department of Natural Resources and Conservation.

Project Description—The principal project works would consist of an existing log and rock dam; an intake structure; approximately 2070 feet of underground water pipeline (in place); approximately 100 feet of above ground pipeline directing the water to a powerhouse containing a 12-kw turbine-generator. The project would also include approximately 2100 feet of underground power line of which 450 feet would be located on Lolo National Forest land.

The applicant has received permission to use the underground water pipeline which is under permit to Warnken's Inc.

The water pipeline develops 50 feet of head and carries approximately 1,600 gallons of water per minute.

Agency comments—Federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before July 2, 1979. The Commission's address is: 825 N. Capitol Street, N.W. Washington, D.C. 20426.

The application is on file with the Commission and is avaialble for public inspection.

Kenneth F. Plumb,
Secretary.

[Project No. 2907]
[FR Doc. 79-13403 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

April 24, 1979.

Take notice that Transwestern Pipeline Company (Transwestern) on April 17, 1979, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets:

Substitute Twelfth Revised Sheet No. 5
Substitute Twelfth Revised Sheet No. 6

These sheets are issued as in compliance with the Commission's April 2, 1979 order accepting Transwestern's PGA rate increase to be effective April 1, 1979 subject to the elimination of costs from supplier which those suppliers are not authorized to charge on April 1, 1979.

The proposed effective date of the above tariff sheets is April 1, 1979.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP 74-82 (PGA No. 79-1)]
[FR Doc. 79-13404 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

Upper Peninsula Power Co.; Proposed Settlement Agreement

April 24, 1979.

Take notice that on April 9, 1979, Upper Peninsula Power Company (Upper Peninsula) tendered for filing a proposed settlement agreement with Wisconsin Electric Power Company (Wisconsin Electric). Upper Peninsula states that although its other wholesale customers [1] have not intervened in this proceeding, that each of them has been advised of the terms of the proposed settlement, and none of these customers oppose the agreement.

Upper Peninsula states that the terms of the proposed settlement agreement will be made effective for service on and after July 13, 1979, or such earlier effective date as may be established by the Commission. Upper Peninsula states that should the Commission accept the proposed agreement, Upper Peninsula will refund each of the affected customers, within 15 days after such date of acceptance, the difference between the amounts collected subject to refund, if any, and the amount due under the proposed settlement rates with interest at 9% per annum.

Any person desiring to be heard or to protest said settlement proposal should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 9, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the proposal are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER 79-107]
[FR Doc. 79-13405 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

[1] The proposed settlement agreement will apply to the Alger-Delta Cooperative Electric Association, the Ontonagon County Rural Electrification Association, Village of Baraga, City of Gladstone, Village of L'Anse, City of Negaunee, and to the Wisconsin Electric Power Company.

Western Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 24, 1979.

Take notice that on April 17, 1979 Western Transmission Corporation (Western) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1: Revised Sheet No. 3–A. Alternate Revised Sheet No. 3–A.

The proposed effective date of the tariff sheets is May 1, 1979.

Western's filing states that these alternative tariff sheets were inadvertently omitted from the company's March 27, 1979 filing in the instant docket. The revised sheet No. 3–A, in conjunction with Fifth Revised Sheet No. 4 continued in the March 27 filing will result in additional revenues of $180,548, all as more fully set out in the March 27 filing as supplemented by the current revised sheet No. 3–A. The alternative sheet No. 3–A, in conjunction with alternate Fifth Revised Sheet No. 4 will provide additional revenue of $151,645 on the presently effective rates, all as more fully set forth in the March 27 filing and instant filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-85]
[FR Doc. 79-13406 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

Exxon Corporation; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 24, 1979.

On April 5, 1979, the Federal Energy Regulatory Commission received notice from the State of Florida, Dept. of Natural Resources of a determination pursuant to 18 CFR 274.104 and Section 107 of the Natural Gas Policy Act of 1978 applicable to:

FERC Control Number: JD79–2929
API Well Number: 0903320030
Operator: Exxon Corporation
Well Name: McDavid Lands No. 1–2
Field: Jay/LEC
County: Escambia
Purchaser: Florida Gas Transmission Co.
Volume: 2300 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E. Washington D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 16, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-13481 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

Tricentrol United States, Inc.; Determination by a Jurisdictional Agency Under the Natural Gas policy Act of 1978

April 25, 1979.

On April 9, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Montana Board of Oil and Gas Conservation

FERC Control Number: 5064.
API Well Number: 25-041-21003.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Olson 15-11-31-17.
Field: Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 20.4 MMcf.

FERC Control Number: 5065.
API Well Number: 25-041-21824.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Waritz 15-11-31-15.
Field: Bullhook Unit Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 10.5 MMcf.

FERC Control Number: 5066.
API Well Number: 25-005-21411.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Olson 30-13-31-18.
Field: Tiger Ridge.
County: Blaine.
Purchaser: Northern Natural Gas Company.
Volume: 7.2 MMcf.

FERC Control Number: 5067.
API Well Number: 25-005-21412.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Dehlbom 33-9-31-18.
Field: Tiger Ridge.
County: Blaine.
Purchaser: Northern Natural Gas Company.
Volume: 13.2 MMcf.

FERC Control Number: 5068.
API Well Number: 25-041-21104.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Armstrong 19-10-31-16.
Field: Bullhook Unit Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 1.7 MMcf.

FERC Control Number: 5069.
API Well Number: 25-071-21430.
Section of NGPA: 102.
Operator: Midlands Gas Corporation.
Well Name: 2970 No. 1 Federal.
Field: Bowdoin.
County: Phillips.
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 24 MMcf.

FERC Control Number: 5070.
API Well Number: 25-041-21800
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: H & G 3-230-15.
Field: Bullhook Unit Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 2.4 MMcf.

FERC Control Number: 5071.
API Well Number: 25-071-21537.
Section of NGPA: 102.
Operator: Midlands Gas Corporation.
Well Name: 2360 No. 1-23 Laroche-Harrison.
Field: Bowdoin.
County: Phillips.
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 28 MMcf.

FERC Control Number: 5072.
API Well Number: 25-005-21074.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Hofeldt 11-6-30-18.
Field: Tiger Ridge.
County: Blaine.
Purchaser: Northern Natural Gas Company.
Volume: 2 MMcf.

FERC Control Number: 5073.
API Well Number: 25-041-21284.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: O'Neil 4-15-31-17.
Field: Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 18 MMcf.

FERC Control Number: 5074.
API Well Number: 25-005-21054.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: State 16-7-30-18.
Field: Tiger Ridge.
County: Blaine.
Purchaser: Northern Natural Gas Company.
Volume: 1.5 MMcf.

FERC Control Number: 5075.
API Well Number: 25-005-21147.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Dehlbom 31-7-31-18.
Field: Tiger Ridge.
County: Blaine.
Purchaser: Northern Natural Gas Company.
Volume: 19.2 MMcf.

FERC Control Number: 5076.
API Well Number: 25-041-21509.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: State 16-11-31-17.
Field: Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 12 MMcf.

FERC Control Number: 5077.
API Well Number: 25-005-21002.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Davies Ranch 17-10-30-18.
Field: Tiger Ridge.
County: Blaine.
Purchaser: Northern Natural Gas Company.
Volume: 1.0 MMcf.

FERC Control Number: 5078.
API Well Number: 25-005-21065.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Ramberg 29-10-31-18.
Field: Tiger Ridge.
County: Blaine.
Purchaser: Northern Natural Gas Company.
Volume: 12 MMcf.

FERC Control Number: 5079.
API Well Number: 25-041-21601.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Herron 33-13-31-15.
Field: Bullhook Unit Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 18.4 MMcf.

FERC Control Number: 5080.
API Well Number: 25-041-21051.
Section of NGPA: 108.
Operator: Tricentrol United States, Inc.
Well Name: Gregoire 29-6-31-18.
Field: Bullhook Unit Tiger Ridge.
County: Hill.
Purchaser: Northern Natural Gas Company.
Volume: 7.8 MMcf.

FERC Control Number: 5081.
API Well Number: 25-071-21536.
Section of NGPA: 102.
Operator: Midlands Gas Corporation.
Well Name: 1380 No. 13 Soennicheen.
Field: Bowdoin.
County: Phillips.
Purchaser: Kansas Nebraska Natural Gas Co., Inc.
Volume: 30 MMcf.

FERC Control Number: 5082.
API Well Number: 25-083-21225.
Section of NGPA: 103.
Operator: Helmerich & Payne, Inc.
Well Name: Anderson No. 1-30.
Field: Four Mile Creek West.
County: Richland.
Purchaser: True Oil Company.
Volume: 46 MMcf.

[FR Doc. 79-13482 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

Colorado Interstate Gas Co.; Application

April 25, 1979.

Take notice that on April 2, 1979, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP79-250 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of facilities necessary to convert two existing wells from observation to withdrawal use at the Boehm storage field in Morton County, Kansas, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that the Boehm Field was developed as a gas storage reservoir to aid Applicant in meeting its peak day and heating season gas requirements, and that full scale injection commenced in March 1974 and that since that time the injection of natural gas has constantly increased the pressure in the field. The application further states that Well Nos. 5 and 8 in the Boehm Field were originally producing oil wells but were nearing depletion in the early development of the Boehm Field as a storage reservoir. The histories of these wells show that the bottom-hole pressure in Well No. 5 has increased from approximately 625 p.s.i.a. in October 1974 to approximately 1,320 p.s.i.a. in September 1978, and the bottom-hole pressure in Well No. 8 has increased from about 309 p.s.i.a. to 1,165 p.s.i.a. during the same period, it is stated. Applicant states that the pressure in these wells should be reduced and controlled to ensure efficient operation of the reservoir. Applicant further states that it believes that the prudent operation of its Boehm storage field requires that Well Nos. 5 and 8 be converted from observation to withdrawal use as soon as possible in order to control pressures and impede reservoir expansion. It is stated that the total estimated cost of facilities to convert the two wells is $74,600, which cost Applicant would finance from current funds on hand, funds from operations, short-term borrowings, or long-term financing.

It is indicated that the facilities and operations proposed herein would better monitor and control the field development and operation and to prevent the possible loss of storage gas through its migrating to a spill point.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1979, file with the Federal Energy Regulatory Commision, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-250]
[FR Doc. 79-13483 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

El Paso Natural Gas Co.; Petition to Amend

April 23, 1979.

Take notice that on March 23, 1979, El Paso Natural Gas Company (Petitioner), P. O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP78-37 a petition to amend the order of December 3, 1975,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the delivery of natural gas to Southwest Gas Corporation (Southwest) at an additional delivery point, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of December 3, 1975, Petitioner was authorized to transport up to 50,000 Mcf of natural gas per day and the delviery of such quantity of natural gas, less shrinkage, to Southwest, on a best efforts basis, at various existing delivery points within the state of Arizona and at the Arizona-Nevada Boundary pursuant to the terms of a transportation agreement dated May 9, 1975, between petitioner and Southwest. The transportation agreement is on file with the Commission as special Rate Schedule T-4 to Petitioner's FERC Gas Tariff, Third Revised Volume No. 2, it is stated.

The petition states that Southwest and Tucson Gas & Electric Company (TG&E) have entered into a letter agreement dated June 14, 1978, providing for the sale by TG&E and purchase by Southwest of all of the franchises, pipelines, meter stations and other appurtenances and generally, without limitation, all of the gas utility assets owned and utilized by TG&E, including all of its gas supply contracts. The petition further states that pursuant to the Commission order of February 23, 1979, in Docket No. CP78-60, Petitioner was authorized to deliver and sell, in interstate commerce, natural gas to Southwest, in lieu of TG&E, for resale and general distribution in and about the City of Tucson, Arizona, and its environs.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

It is indicated that Southwest has advised petitioner that certain quantities of gas imported from Canada by Northwest would be available to Southwest for use in meeting requirements in its service areas, including Tucson, and that in view of the acquisition by Southwest of TG&E's gas utility assets, Southwest is desirous of including as a part of the transportation agreement the existing points of delivery acquired by Southwest from TG&E in and about the City of Tucson, Arizona, and its environs. The availability of such gas for use in the Tucson area would reduce the consumption of fuel oil in electric generating plants in the area on and after April 1, 1979.

Consequently, Petitioner requests authorization to deliver gas to Southwest at an existing point of delivery in the Tucson area. Such authorization would provide Southwest with the capability to utilize more fully the supplies of Canadian gas available to Southwest in serving the City of Tucson, and its environs, as well as a means to continue natural gas service to TG&E for use in its electric power generating plants, thereby alleviating the need for TG&E to burn fuel oil at such generating plants instead of available natural gas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D. C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP78-37]
[FR Doc. 79-13485 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

El Paso Natural Gas Co.; Amendment

April 25, 1979.

Take notice that on April 6, 1979, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP79-238 an

amendment to its pending petition to amend the Commission's order issued January 15, 1979, in said docket pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) so as to permit El Paso to include as a part of its authorized budget-type activities, both onshore and offshore, during the calendar year 1979, the interconnection of facilities to an intrastate pipeline for the purpose of delivering gas for El Paso's account and, to permit the operation of existing interconnections for other than emergency uses where natural gas may become available for delivery to an intrastate transporter or supplier, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

El Paso states that it filed a petition to amend the Commission's order issued January 15, 1979, in Docket No. CP78–520 inasmuch as El Paso's application at said docket was filed prior to the enactment of the Natural Gas Policy Act of 1978 and without benefit of the knowledge of the effect the Interim Regulations would have upon activities conducted or anticipated to be conducted by El Paso. As a result, the budget-type authorization requested and received by El Paso in this proceeding did not expressly permit El Paso to attach its system to the system of an intrastate pipeline, it is said. Grant of the amended budget-type gas purchase authorization requested by El Paso would enable it to act with dispatch in constructing and/or operating new facilities or commencing the operation of existing facilities necessary to enable among other things, El Paso to receive gas transported by intrastate pipelines under Part 284 of the Interim Regulations, it is asserted.

El Paso states that upon further review and analysis of Part 284 of the Interim Regulations, it foresees circumstances wherein it may be desirable for El Paso to construct and operate certain facilities, falling under the definition of budget-type gas purchase facilities, necessary to attach to the system of an intrastate pipeline for the purpose of delivering gas to an intrastate pipeline for transportation for El Paso's account under Part 284. Accordingly, El Paso hereby amends its petition to amend so as to permit it to include as a part of its authorized budget-type gas purchase activities, both on-shore and offshore, during the calendar year 1979, the construction and operation of facilities necessary to attach to the system of an intrastate pipeline for the purpose of delivering gas to an intrastate pipeline for transportation for El Paso's account, it is said. El Paso states that it also requests that it be permitted to utilize its budget-type authorization to operate existing interconnections for the same purposes.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[Docket No. CP78–520]
[FR Doc. 79–13464 Filed 4–30–79; 8:45 am]
BILLING CODE 6450–01–M

Inter-City Minnesota Pipelines Ltd., Inc.; Petition To Amend

April 19, 1979.

Take notice that on April 17, 1979, Inter-City Minnesota Pipelines Ltd., Inc. (Petitioner), 1700–444 St. Mary Avenue, Winnipeg, Canada R3C 3T7, Filed in Docket No. CP70–289 a petition to amend further the order issued August 10, 1979, as amended, in said docket pursuant to Section 3 of the Natural Gas Act so as to authorize Petitioner to continue to import natural gas from Canada to the United States at the increased border price of $2.30 per million Btu's equivalent established by the Nation Energy Board of Canada (NEB), effective May 1, 1979, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is indicated that the subject gas imported to the United States is purchased from ICG Transmission Limited and is exported from Canada under License GL28 issued by the NEB. Petitioner states that the lack of an alternative source of natural gas or other fuels available to Petitioner's customers should the subject petition not be granted render this request clearly consistent with the public interest and that failure to grant the requested authorization would impair Petitioner's ability to render natural gas service to its customers. Accordingly, Petitioner requests that the order of August 10, 1970, as amended, be further amended to permit the importation of natural gas at the increased price established by the NEB for gas exported under License GL28, effective May 1, 1979.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 25, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intevene in accordance with the Commission's Rules.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP70–289]
[FR Doc. 79–13465 Filed 4–30–79; 8:45 am]
BILLING CODE 6450–01–M

J & J Enterprises, Inc.; Petition for Declaratory Order

April 25, 1979.

Take notice that on February 6, 1979, J & J Enterprises, Inc., P.O. Box 697, Indiana, Pennsylvania 15701, filed a petition for a declaratory order pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure in Docket No. CI79–248. Petitioner requests the Commission disclaim jurisdiction under Section 1(b) of the Natural Gas Act over certain described gathering services.

In support of its petition, Petitioner states that the described services which Petitioner now provides to Consolidated Gas Supply Corporation and the identical services Petitioner proposes to provide to AGT Supply Corp. fit within the definition of "gathering" as set out in *Barnes Transportation Co.*, 18 FPC 369 (1957) and as such Petitioner is exempt from Commission jurisdiction over its rates and services. Petitioner also cites *Carnegie Natural Gas Co.*, Docket No. CP77–535 (Order Disclaiming Jurisdiction issued September 25, 1978).

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[Docket No. CI79–248]
[FR Doc. 79–13466 Filed 4–30–79; 8:45 am]
BILLING CODE 6450–01–M

National Fuel Gas Supply Corp.; Application

April 25, 1979.

Take notice that on April 16, 1979, National Fuel Gas Supply Corporation (National Fuel), 308 Seneca Street, Oil City, Pennsylvania 16301, filed in Docket No. CP79–274 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to sell to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), natural gas to be purchased by National Fuel from HNG Fossil Fuels Company (Fossil Fuels) from reserves underlying High Island Area, Blocks A–330 and A–349 and West Cameron Area, Blocks 612 and 613, offshore Texas and Louisiana, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

National Fuel states that the subject gas would be sold to National Fuel by Fossil Fuels pursuant to a gas purchase contract dated July 17, 1978, as amended.

National Fuel further states that to the extent produced from High Island Block A–349, the subject gas would be transported to High Island Block A–330 through 1.88 miles of 16-inch pipeline in which National Fuel has obtained, at a cost, to date, of approximately $68,211.60, an undivided interest, equivalent to its proportionate share of the production to be delivered thereby.

By order issued December 28, 1978 in Docket No. CP77–320, National Fuel was authorized to share in the costs of construction and maintenance of 1.47 miles of 20-inch pipeline and related facilities extending from the producers' platform in High Island Block A–330 to an interconnection with High Island offshore system in Block A–330, it is said. The cost of National Fuel, to date, of its pro rata share of these facilities amounts to approximately $81,667.21, it is said. The said order provided in part that "National Fuel's *pro rata* share of the facility shall not be included in its rate base until all requisite authorization necessary to implement the movement of National Fuel's gas into its system is granted," it is asserted. National Fuel states that it requests that the said Commission order waive the "into its system" portion of the said order; or, in the alternative, that the Commission's order herein provide that the authorization herein requested be deemed in substantial compliance with the quoted provision of the Commission's said order.

National Fuel has entered into transportation agreement with High Island Offshore System and U–T Offshore System (UTOS), dated June 15, 1978, which said agreements constitute, respectively, Rate Schedules T–14 and T–10 filed in their respective FERC Gas Tariffs, Volume 2, it is said. Under said transportation agreements, the subject gas would be transported, for the account of National Fuel, from High Island Block A–330 to the tailgate of the UTOS separation plant at Johnson's Bayou, Cameron Parish, Louisiana, it is said.

Pursuant to a transportation agreement dated January 31, 1979, Transcontinental Gas Pipe Line Corporation (Transco) would transport the subject gas for the account of National Fuel from the tailgate of the UTOS separation plant at Johnson's Bayou, Cameron Parish, Louisiana, to existing interconnections between Transco's system and that of Tennessee at Kinder, Allen Parish, and/or Crowley, Acadia Parish, and/or Starks, Calcasieu Parish, Louisiana, it is said.

National Fuel further states that a compression service, proposed to be rendered by United Gas Pipe Line Company (United) is requisite to delivery of the subject gas by Transco to Tennessee, for the account of National Fuel, at the proposed Starks, Louisiana delivery point. National Fuel and United have negotiated an agreement pursuant to which United would render this compression service, it is said. National Fuel requests that the authorization sought by United for compression service be conditioned, insofar as deliveries to Tennessee at the proposed Starks, Louisiana delivery point are concerned, upon certification of the requisite United compression service at said point, so as to permit the service herein proposed to proceed, at the earliest possible time, it is said.

To date National Fuel has received approximately 11,000,000 Mcf of incremental CD–5 natural gas service from Tennessee pursuant to the agreement of settlement, approved by the order of December 12, 1975, in Docket Nos. G–19618, *et al.*, and CP63–247, *et al.*, and Fossil Fuel has advised National Fuel that it estimates the reserves attributable to its 3.2 percent interest in High Island Blocks A–330 and A–349, and West Cameron Blocks 612 and 613, offshore Texas and Louisiana, at approximately 8,600,000 Mcf, it is said.

National Fuel states that in light of the circumstances which give rise to the service herein proposed, the gas purchase and sales agreement pursuant to which such service is proposed to be rendered, provides that such service shall terminate, without further Commission authorization, upon the permanent cessation of deliveries to National Fuel under its gas purchase contract with Fossil Fuel or National Fuel's prior delivery to Tennessee of volumes equal to the aggregate incremental CD–5 service provided to National Fuel by Tennessee pursuant to the agreement of settlement. Accordingly, National Fuel requests that the authorization of the service herein proposed terminate upon the first to occur of said conditions, it is said.

National Fuel asserts that direct and indirect costs, addressed in paragraph 8(j)(2) of the agreement of settlement,[1] be separated from the balance of National Fuel's cost of service and that it is equally appropriate that increments in the respective direct and indirect transportation costs associated with this arrangement be tracked currently through the mechanism of the cost of service approach contemplated in its proposed Rate Schedule V–1 thus obviating the lag time, cost and inefficiency inherent in the otherwise requisite multiplicity of relatively small rate filings by National Fuel.

No additional or new facilities not currently certificated are requisite to rendition of the service herein proposed, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the

[1] Approved by order issued December 2, 1975 in Docket Nos. G–19618 and CP63–247.

appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for National Fuel to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP78-274]
[FR Doc. 79-13467 Filed 4-30-79; 8:45 am]
BILLING CODE 6456-01-M

Northern Natural Gas Co.; Amendment

April 19, 1979.

Take notice that on April 6, 1979, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP78-237 an amendment to its application filed in said docket pursuant to Sections 3 and 7 of the Natural Gas Act to reflect a restructuring of the gas service agreement, dated December 21, 1977, between Applicant and Union Gas Limited of Chatham, Ontario, Canada (Union), pursuant to an amendment to said agreement, dated March 28, 1979, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

By the application in this proceeding, Applicant requests authorization to import from Canada synthetic natural gas (SNG) by displacement to be purchased from Union and to transport such imported volumes in Applicant's transmission system. It is stated that Union has proposed a substantially lower price and that Applicant and Union have restructured the gas service agreement to adopt such different and substantially lower contract price, a price which, it is asserted, is demonstrably equitable to United States customers.

Applicant states that essentially, the restructured gas service agreement provides that for the four-year term of the agreement the price to be paid by Applicant to Union for gas purchased thereunder shall be the U.S.-Canadian border export price plus 56.0 cents per million Btu's equivalent of natural gas. It is indicated that the 56.0 cents is a storage charge which would remain constant throughout the four-year term, and that the border export price component is the lowest possible price at which gas can or would be obtained from any Canadian source of supply.

It is said the 56.0-cent component is a negotiated charge for storage service to be performed by Union for Northern. Applicant asserts that the gas service agreement provides that Applicant is to receive the gas into its system only during the peak requirement months of November through March of each of the four remaining heating seasons covered by the agreement and that this necessarily involves storage by Union of volumes of SNG obtained by it during the months of April through October, together with such storage by Union as may be required for delivery of volumes to Applicant during the months of November through March.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 14, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas act (1.8 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing must file a petitition to intervene in accorance with the Commission's Rules. All persons who have heretofore filed need not file again.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP78-237]
[FR Doc. 79-13468 Filed 4-30-79; 8:45 am]
[BILLING CODE 6456-01-M

Northern Natural Gas Co.; Application

April 25, 1979.

Take notice that on April 11, 1979, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79-284 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 42.5 miles of 24-inch pipeline and appurtenant facilities to be constructed in the Matagorda Island Area, offshore Texas from Block 686 extending to a point onshore with Channel Industries Gas Company's 30-inch pipeline located in Refugio County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that the proposed facilities would provide a capacity of 150,000 Mcf of natural gas per day and such pipeline facilities would be owned and operated by Northern.

Northern further states that the estimated cost of the proposed facilities is $30,447,000, and would finance the proposed facilities from funds generated through operation, or, if necessary, short-term bank loans.

The proposed pipeline would allow Norther to attach significant new reserves which would be available for the 1980-81 heating season to assure more reliable and adequate service to its high-priority market, it is said. The proposed pipeline capacity would be available for the transportation of Northern's reserves and the reserves of others which would be developed in the near future, and in fact such a pipeline could expedite the development of badly needed reserves in the area, it is further said.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this aplication if no petition to intervene is filed withing the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-284]
[FR Doc. 79-13469 Filed 4-30-79; 8:45 am]
BILLING CODE 6456-01-M

Southern Natural Gas Co., et al.; Joint Application

April 23, 1979.

Take notice that on April 4, 1979, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Michigan Wisconsin Pipe Line Company (Mich Wisc), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79-254 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes to transport and Southern, Columbia Gulf, and Mich Wisc propose to exchange volumes of natural gas purchased by Southern from East Cameron Block 231, off-shore Louisiana, and gas purchased by Columbia Gas Transmission Corporation (Columbia Transmission) from South Marsh Island Block 267, offshore Louisiana. Southern and Columbia Transmission have entered into a transportation agreement dated August 10, 1977, wherein Southern has agreed to transport South Marsh Island 267 gas to a point onshore near Bayou Sale, Louisiana where Southern proposes to construct and maintain transmission facilities under authority requested by Southern in Docket No. CP75-163, now pending before the Commission.

It is stated that Southern has arranged to transport Columbia Transmission's South Marsh Island 267 gas through capacity rights it has obtained from Trunkline Gas Company (Trunkline) in Trunkline's system. It is further stated that Southern has agreed to accept up to 5,000 Mcf per day of South Marsh Island 267 gas for Columbia Transmission's account at the inlet of Trunkline's dehydration facilities on the South Marsh Island Block 268 "A" Platform and to accept an equivalent volume of gas at a proposed point of interconnection between Trunkline's and Southern's facilities in the north half of the southwest quarter of Section 28, Township 15 South, Range 10 East, St. Mary Parish, Louisiana. Southern's transportation of South Marsh Island gas for Columbia Transmission's account would be subject to the limitations and restrictions on Southern's capacity rights in Trunkline's system and pursuant to an agreement for the transportation of gas between Southern and Trunkline dated September 11, 1974, it is stated.

Applicants and Columbia Transmission indicate that they have entered into an exchange agreement dated March 12, 1979, wherein Columbia Gulf would receive for Columbia Transmission's account, daily volumes of Southern's East Cameron 231 gas delivered for Southern's account by Sea Robin Pipeline Company (Sea Robin) at the outlet side of Columbia Gulf's measuring station near Sea Robin's pipeline facilities near Erath, Vermilion Parish, onshore Louisiana. Southern would have approximately 7,000 Mcf per day of gas available at Erath, sold to Southern by The Offshore Company. Southern and Columbia Gulf propose to exchange on a daily basis Southern's East Cameron 231 gas for Columbia Transmission's South Marsh Island 267 gas. It is stated that any imbalances in deliveries would be corrected at a point of interchange between Southern and Columbia Gulf at the outlet of the Venice Plant at a location in Section 25, Township 21 South, Range 30 East, Plaquemines Parish, Louisiana. It is also stated that if a balance can not be achieved at the Venice interchange, or should Columbia Transmission's South Marsh Island 267 gas be unavailable for delivery, Mich Wisc would assist Southern and Columbia Gulf by exchanging volumes of gas with Southern at the interconnection between Southern and Mich Wisc located near the Shadyside Compressor Station in St. Mary Parish, Louisiana and with Columbia Gulf at the point of interconnection between Columbia Gulf's and Mich Wisc's facilities at the outlet of Shell Oil Company's Calumet Gas Processing Plant in St. Mary Parish, Louisiana. Applicants state that all deliveries by Southern to Columbia Gulf and by Columbia Gulf to Southern would be on a thermally equivalent basis, and deliveries by Mich Wisc to Southern and Columbia Gulf would be on a volumetric basis.

Southern would charge Columbia Transmission a monthly rate based on the monthly rate Southern is obligated to pay Trunkline. The rate would be based proportionately on the amount of capacity in Trunkline's facilities which would be utilized by Southern to transport the South Marsh Island 267 gas for Columbia Transmission's account, it is stated. Mich Wisc states it would assist Southern and Columbia Gulf in balancing the gas to be exchanged at no charge.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 24026, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein involved provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP79-254]
[FR Doc. 79-13470 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

April 23, 1979.

Take notice that on April 10, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-260 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Consolidated Edison Company of New York, Inc. (Con Ed), one of Applicant's existing customers, to be purchased from National Fuel Gas Distribution Corporation (National Distribution) for the purpose of supplanting imported fuel oil used in the generating stations which are exempt from the provisions of the Powerplant and Industrial Fuel Act of 1978, all as more fully set forth in the application which is on file with the Commission and open to public inspection.[1]

It is indicated that the volumes to be purchased by Con Ed and transported by Applicant would be made available to Applicant by National Distribution through its affiliate, National Fuel Gas Supply Corporation (National Supply) in Potter County, New York, or, when required by operating conditions, at other existing interconnections between Applicant and National Supply as they may agree upon. Applicant would deliver equivalent volumes to Con Ed, or for its account, to Transcontinental Gas Pipe Line Corporation (Transco) at an existing interconnection in Bergen County, New Jersey, or, when required by operating conditions, at other existing interconnections between Applicant and Transco as they may agree to and/or to Con Ed at an existing delivery point in Westchester County, New York.

Applicant proposes to transport up to a total of 15,000,000 Mcf of gas per year, during each April 1 through October 31 period, with peak day and average day volumes being approximately 75,000 Mcf and 65,000 Mcf, respectively. Applicant proposes an initial term of one year with the expectation of a request for renewal for an additional year's authorization.

It is indicated that Applicant will charge 9.60 cents per Mcf of gas delivered to Transco for Con Ed's account and 10.18 cents per Mcf for gas delivered directly to Con Ed.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP79-260]
[FR Doc. 79-13471 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

[1] The application was initially tendered for filing on April 10, 1979; however, the fee required by Section 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until April 18, 1979; thus, filing was not completed until the latter date.

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

April 25, 1979.

Take notice that on April 12, 1979, Tennessee Gas Pipeline Company, a Divison of Tenneco Inc. (Tennessee), Tenneco Building, Houston, Texas 77002, filed in Docket No. CP79-266 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a transportation service for Southern Natural Gas Company (Southern Natural), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Tennessee states that pursuant to a gas transportation agreement, it has agreed to receive and transport for Southern Natural up to 1,800 Mcf of natural gas per day through Tennessee's existing facilities.

The volumes would be transported from "B" production platform in South Marsh Island, Block 243, offshore Louisiana to a point of delivery in St. Mary Parish, onshore Louisiana and/or as mutually agreed from time to time, at other existing points of exchange where natural gas can be delivered to or for the account of Southern Natural, it is said.

Tennessee may exercise its option to transport additional volumes if such are tendered by Southern Natural and accepted by Tennessee, it is said.

Southern Natural would pay Tennessee each month for the proposed transportation services a volume charge equal to 7.03 cents per Mcf, with provision for a minimum monthly bill based on transportation quantity, it is further said. Southern Natural would provide to Tennessee daily volumes received for transportation each day, for Tennessee's fuel and use requirements, it is asserted.

Tennessee states that it anticipates having sufficient capacity available in the area to perform the proposed transportation service; additionally, the transportation service proposed herein would be rendered only when, in Tennessee's sole opinion its operating conditions permit, it is said.

Sothern Natural is presently experiencing a curtailment of deliveries to its customers, and the proposed transportation service is an expedient method of transporting volumes of natural gas to Southern Natural, it is said. No new facilities are needed to implement the proposed transportation service, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 10426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commisison on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-266]
[FR Doc. 79-13472 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

Transcontinental Gas Pipe Line Corp.; Application

April 23, 1979.

Take notice that on April 18, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-275 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on an interruptible basis for two years for Consolidated Edison Company of New York, Inc. (Con Ed), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that Con Ed has arranged to purchase said gas from National Fuel Gas Distribution Corporation which would make available, through facilities of its affiliate National Fuel Gas Supply Corporation (National Supply), quantities of natural gas of up to 75,000 dekatherms (dt) equivalent per day to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), at existing interconnections between Tennessee and National Supply in Pennsylvania. It is said that Tennessee would transport and deliver such gas to Applicant at the existing Rivervale interconnection in Bergen County, New Jersey. Applicant states that it would deliver equivalent quantities to Con Ed at existing delivery points to Con Ed in the New York City metropolitan area.

The application indicates that for all quantities transported and delivered Con Ed would pay to Applicant a rate of 7.0 cents per dt to Applicant and of the quantities received by Applicant for Con Ed's account, 2% of one percent would initially be retained for compressor fuel and line loss makeup, subject to change by Applicant if such change is warranted by operating conditions.

It is stated that the subject gas would be used solely by Con Ed in the generation of electric and/or steam energy at existing Con Ed generating stations which are or have been exempted from the provisions of the Powerplant and Industrial Fuel Use Act of 1978.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP79-275]
[FR Doc. 79-13473 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

United Gas Pipe Line Co. and Mississippi River Transmission Corp.; Application

April 23, 1979.

Take notice that on March 30, 1979, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, and Mississippi River Transmission Corporation (MRT), P.O. Box 14521, St. Louis, Missouri 63178, filed in Docket No. CP78-248 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas between themselves, the construction and operation of various pipeline and appurtenant facilities, and the installation and operation of leased compressor facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

United States that it is presently entitled to purchase, from various producers, natural gas produced in the Monroe Field area in Ouachita and Morehouse Parishes, Louisiana. It is estimated that the volume of gas available from such sources would exceed existing capacity by approximately 8,000 Mcf per day in the near future, and that the additional gas which would be made available to United would be produced from approximately 159 individual wells at very low pressure, typically 5 to 10 psi, it is stated. In order to obtain this gas into its existing system, United proposes to deliver the subject gas to MRT at a mutually agreeable point on MRT's 22-inch pipeline facility, and in exchange, MRT proposes to deliver a thermally equivalent volume of gas to United by means of an appropriate reduction in the volumes delivered by United to MRT at an existing delivery point at Perryville, Ouachita Parish, Louisiana.

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In order to transmit this gas United proposes the following:

(1) To lease, install and operate 2,000 horsepower compressor facilities in Morehouse Parish, Louisiana;

(2) To construct and operate approximately 2.9 miles of 6⅝-inch pipeline extending from the aforementioned compression facility to a proposed tap on MRT's 22-inch pipeline in Morehouse; and

(3) To construct (by MRT at United's expense) a 6-inch tap to interconnect the existing 22-inch pipeline of MRT with the proposed 6⅝-inch pipeline of United at a point in Morehouse Parish.

The estimated cost of the proposed facilities is $371,754, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP79–268]
[FR Doc. 79-13674 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

United Gas Pipe Line Co.; Application

April 25, 1979.

Take notice that on April 12, 1979, United Gas Pipe Line Company (United), P.O. Box 1478, Houston Texas 77001, filed in Docket No. CP79–267 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 21.5 miles of 30-inch pipeline and appurtenant facilities in Vermilion Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

United states that it would construct the said facilities from a point of interconnection with United's existing 36-inch Erath-Arnaudville Line downstream of Sea Robin Pipeline Company's Erath Compressor Station to a point of interconnection with United's existing 30-inch North-South Line at Weeks Island Junction. United asserts that the proposed facilities are estimated to cost approximately $12,700,000 and would be financed from funds on hand.

United further asserts that the construction and operation of the proposed facilities are required to help United transport up to an additional 250,000 Mcf per day of natural gas into the eastern portion of its existing pipeline system and would give United more operating flexibility in the event one or more of the existing compressor units would be out of service.

In the past the natural gas supply attached to the eastern portion of United's system has been sufficient to meet the requirements of the customers served therefrom, it is said. However, in recent years, declines in the available gas supply in this area have created a supply-demand imbalance on the eastern portion of United's system, which has been alleviated by the transfer of increasingly greater volumes of gas from the western part to the eastern part of United's system, it is said. United projects that this supply-demand imbalance would soon reach 250,000 Mcf per day during peak demand periods, a level which cannot presently be offset by such west-east transfers, due to the limited capacity of United's existing facilities, it is further said.

United states that currently, it has only two lines linking the western portion of its pipeline system with the eastern portion. One is a low pressure 18-inch line extending from Monroe, Louisiana to Jackson, Mississippi and due to size and pressure limitations this line cannot accommodate significant additional gas volumes, it is said.

United asserts that the other existing line is a 30-inch pipeline extending from United's Arnaudville Compressor Station to Bayou Sale Junction. Presently, gas flows north through United's 36-inch line to the Arnaudville Compressor Station and then south through the aforementioned 30-inch pipeline to Bayou Sale Junction and these lines are presently operating at their maximum capabilities during peak demand periods, United asserts.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or wish to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for United to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79–257]
[FR Doc. 79-13673 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

Western Transmission Corp.; Application

April 23, 1979.

Take notice that on March 27, 1979, Western Transmission Corporation (Applicant), Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP79–245 an application pursuant to Section 7(c) of the National Gas Act for a certificate of public convenience and necessity authorizing the transportation and sale of natural gas to Colorado Interstate Gas Company (CIG), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to transport and sell to CIG natural gas that it has purchased from the Texas Oil & Gas Company Corp. Federal "Q"–1 Well in Sweetwater County, Wyoming, and that it purchases from additional wells subsequently completed within the area of interest pursuant to the terms of a gas purchase agreement dated February 19, 1963, as amended January 16, 1978, between Applicant and CIG. The application states that Applicant has no facilities in the area of interest and that it renders no service at present in said area. Applicant states that the natural gas would be delivered to Panhandle Eastern Pipe Line Company (Panhandle) for the account of CIG at a point on Panhandle's existing pipeline facilities in Sweetwater County, and that the gas would be returned to CIG under an existing agreement between Applicant and CIG.

Applicant indicates that it would construct approximately 2 miles of pipeline under its existing budget-type authorization in order to effectuate the delivery of the natural gas. Applicant states that it would charge CIG 15.79 cents per Mcf for the proposed transportation service.

It is indicated that by amendatory agreement dated January 16, 1979, the gas purchase agreement of February 19, 1963 between Applicant and CIG was amended to provide for an additional delivery point to CIG for service authorized in Docket No. CP63–329 and for an additional area of interest as shown on Exhibit A–1 attached to said amendatory agreement. Applicant requests that the authorization granted in Docket No. CP63–329 be amended to add the January 16, 1979, amendatory agreement with its Exhibit A–1

Any person desiring to be heard or to make any protest with reference to said application should on or before May 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take futher notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP79–245]
[FR Doc. 79-13675 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Amendment to Experimental Use Permit

On Thursday, December 28, 1978 (43 FR 60686), information appeared pertaining to the issuance of an experimental use permit, No. 11273–EUP–13, to Sandoz, Inc. At the request of the company, that permit has been amended to allow the use of norflurazon on cherry trees, in addition to the other agricultural commodities. A permanent tolerance for residues of the active ingredient in or on cherries has been established (40 CFR 180.356). (PM–23, Room: E–351, Telephone: 202/755–1397)

Statutory Authority: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: April 24, 1979.

Douglas D. Campt,
Acting Director, Registration Division.

[OPP–30000A; FRL 1314–3]
[FR Doc. 79-13638 Filed 4-30-79; 8:45 am]
BILLING CODE 6560-01-M

Notice Approval of Alternate Water Pollutant Testing Procedure; Nitrite/Nitrogen

In accordance with § 136.5, 40 CFR Part 136, "Guidelines for Test Procedures for the Analysis of Pollutants" (Federal Register, Vol. 41, No. 232, Wednesday, December 1, 1976, pp. 52780–52786), the Hach Chemical Company applied for approval of a new test procedure for the measurement of nitrite/nitrogen. The new Hach procedure is a diazotization method using NitriVer III nitrite reagent.

After a thorough review and evaluation by the Environmental Protection Agency (EPA) of the results of a comparability testing study and other information submitted by the applicant, in accordance with § 136.5, the EPA has designated the Hach procedure as an approved alternate procedure for nationwise use. All information submitted by the applicant is on file and available for public inspection, to the extent consistent with 40 CFR Part 2 (EPA's regulation implementing the Freedom of Information Act), at the Environmental Monitoring and Support Laboratory, 26 West St. Clair Street, Cincinnati, Ohio 45268.

As an approved alternate test procedure, the Hach procedure is acceptable for use by any person required to use approved procedures under § 304(h) of the Clean Water Act Amendments of 1977. For such use, the procedure must be used in strict accordance with the method descriptions. The approved method descriptions and prepackaged reagents are available from the Hach Chemical Company, Post Office Box 389, Loveland, Colorado 80537.

Dated: April 24, 1979.

Stephen J. Gage,
Assistant Administrator for Research and Development.

[FRL 1314–6]
[FR Doc. 79-13681 Filed 4-30-79; 8:45 am]
BILLING CODE 6560-01-M

Intent To Release Confidential Data to Contractors

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of intent to release confidential data to contractors.

SUMMARY: The Environmental Protection Agency (EPA) intends to release confidential data collected under Section 308 of the Clean Water Act to two EPA contractors for the purpose of developing hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

DATES: Comments on the proposed disclosure are due by [15 days after date of publication].

FOR FURTHER INFORMATION CONTACT: Joanne M. Slaboch, Office of Solid Waste (WH–564), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202–755–9120.

SUPPLEMENTARY INFORMATION: On December 18, 1978, EPA published proposed standards for generators of hazardous waste under Section 3002 of RCRA (40 CFR Part 250, Subpart B (43 FR 58969)). As proposed, those standards would not apply to generators of small volumes of hazardous waste (persons who produce and dispose of less than 100 kilograms (approximately 220 pounds) of hazardous waste in any one month) if their waste is sent to a permitted hazardous waste treatment/storage/disposal facility or a permitted sanitary landfill (40 CFR § 250.29(a)).

Both prior to and during the public comment period on the proposed regulations, other regulatory strategies for dealing with small generators of hazardous waste—including phasing them into the hazardous waste management system by volume and degree of hazard, eliminating the exemption, and raising or lowering the waste production cut-off—were suggested. To evaluate these alternative regulatory approaches, EPA has initiated a study to find out more about the actual number of small hazardous waste generators, the types and quantities of wastes they are producing, and how those wastes are currently being disposed of. EPA will be assisted in this effort by two contractors, TRW, Inc. (Contract No. 68–02–2613) and Temple, Barker and Sloane (Contract No. 68–01–4778).

One of the sources of information which EPA will be using in its small generator study is the data which it has received in response to questionnaires sent to various industries under Section 308 of the Clean Water Act for the purpose of developing effluent guidelines, new source performance standards and pretreatment standards under Sections 301, 304, 306 and 307 of the Act. Many of the responses to these questionnaires contain information about plant size and location, wastewater composition, wastewater treatment systems, wastewater volume, production processes, and solid waste disposal practices which can be used to identify and gather information on small volume hazardous waste generators.

By using Section 308 survey data in its small generator study, EPA hopes to avoid having to make a similar survey of the same facilities under Section 3007 of RCRA (or at least to be able to substantially limit the scope of any Section 3007 request for information), and thus reduce reporting burdens for these facilities. This will, in EPA's opinion, carry out Congress' intent under Section 1008(b) of RCRA that EPA integrate its implementation of RCRA with its administration of the Clean Water Act and Congress' directive under Section 3501 of the Federal Reports Act that Federal agencies eliminate where practicable duplicative information gathering activities.

An earlier **Federal Register** notice (44 FR 19244, April 2, 1979) listed some SIC codes and industry categories which EPA will be examining in its study. This **Federal Register** notice announces the remaining industry categories which EPA will be examining for this study. These are:

SIC code	Industry	Date survey disseminated
22	Textiles	1976–1978
2491	Wood preserving	1976–1978
26	Pulp and paper	1976–1978
2841	Soaps and detergents	1976–1978
2861	Gum and wood products	1976–1978
2891	Adhesives	1976–1978
2950	Paving and roofing	1976–1978
3111	Leather	1976–1978
35	Mechanical products	1976–1978
36	Electronics	1976–1978
3861	Photographic supplies	1976–1978
7221, 7333, 7395, 7819	Photographic processing	1976–1978

Several of these responses contain information which has been designated as confidential by the responding company. EPA has determined that is necessary to release this information to TRW, Inc., and Temple, Barker and Sloane in order that they may carry out the work required by their contracts. These contracts contain all confidentiality provisions required by EPA confidentiality regulations (40 CFR § 2.302(h)(2)(ii)). In accordance with those regulations, respondents who have submitted confidential information in response to the questionnaires identified above have fifteen days from the date of publication of this notice within which to comment on EPA's contemplated release of this information to these two contractors for the purposes outlined above (40 CFR § 2.302(h)(2)(iii)).

Dated: April 23, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

[FRL 1214–5]

[FR Doc. 79–13522 Filed 4–30–79; 8:45 am]

BILLING CODE 6560–01–M

Pesticide Programs; Establishment of Temporary Exemptions From the Requirement of a Tolerance

Two pesticide petitions were submitted to the Environmental Protection Agency (EPA) requesting the establishment of temporary exemptions from the requirement of a tolerance for pesticide residues in or on raw agricultural commodities. The temporary exemptions have been established and their expiration dates are as follows:

PP 9G2182. Hercon Products Group, Herculite Products, Inc., 1107 Broadway, New York, NY 10010. Temporary exemption from the requirement of a tolerance for residues of the insecticide *(Z)*-9-tetradecen-1-ol formate in or on the raw agricultural commodity cottonseed when used as a pheromone to disrupt mating in the tobacco budworm and tobacco bollworm. April 3, 1980.

PP 9G2183. Hercon Products Group. Temporary exemption from the requirement of a tolerance for residues of the insecticide *(Z)*-11-hexadecenal with *(Z)*-9-tetradecenal in or on the raw agricultural commodity cottonseed when used as a pheromone to disrupt mating in the tobacco budworm and tobacco bollworm. April 3, 1980.

Establishment of these temporary exemptions will permit the marketing of the above raw agricultural commodity when treated in accordance with experimental use permits 8730–EUP–8 and 8730–EUP–9 that have been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the requested temporary exemptions were adequate to cover residues resulting from the proposed experimental uses, and it was determined that the temporary exemptions would protect the public health. The temporary exemptions were established for the pesticides with the following provisions:

1. The total amount of each pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Hercon Products Group must immediately notify the EPA of any findings from the experimental uses that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

Residues remaining in or on cottonseed will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permits and the temporary exemptions. These temporary exemptions may be revoked if the experimental use permits are revoked or if any scientific data or experience with these pesticides indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Franklin D. R. Gee, Product Manager 17, (TS–767), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460 (202/426–9425).

Statutory Authority: Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].

Dated: April 24, 1979.

Douglas D. Campt,

Acting Director, Registration Division.

[PP 9G2182; 9G2183/T201]

[FRL 1213–7]

[FR Doc. 79–13523 Filed 4–30–79; 8:45 am]

BILLING CODE 6560–01–M

Pesticide Programs; Receipt of Applications To Register Pesticide Products Entailing a Changed Use Pattern

Applications to register pesticide products entailing a changed use pattern have been made to the Environmental Protection Agency (EPA) pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136), and the regulations thereunder (40 CFR 162). Notice of receipt of these applications does not indicate a decision by the Agency on the applications.

Interested persons are invited to submit written comments on any applications referred to in this notice to the Federal Register Section, Program Support Division (TS–757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M St., SW, Washington, DC 20460. The comments must be received on or before May 31, 1979, and should bear a notation indicating the EPA file symbol number of the application to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning these applications and the data submitted should be directed to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, at the above address or appropriate telephone number cited. The labels furnished by each applicant, as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Notice of approval or denial of the applications to register pesticide products will be announced in the **Federal Register**. Except for such material protected by Section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the **Federal Register** if an application is approved.

Dated: April 24, 1979.

Douglas D. Campt,

Acting Director, Registration Division.

Applications Received

EPA file Symbol 239–EUAU. Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804. Orthene 2.5 Professional Spray. Active Ingredient: Acephate (*O,S*-dimethyl acetylphosphoramidothioate) 23.7%. Applicant proposes that the use pattern of this pesticide be changed to include indoor control of cockroaches. Proposed classification: general. PM16. (202/755–9315)

EPA File Symbol 239–EUAR. Chevron Chemical Co. Orthene Professional SP Concentrate. Active Ingredient: Acephate, 85%. Applicant proposes that the use pattern of this pesticide be changed to include indoor control of cockroaches. Proposed classification: general. PM16.

EPA File Symbol 36396–O. Sumitomo Chemical America, Inc., c/o Dr. Eugene J. Gerberg, 1330 Dillon Heights Ave., Baltimore, MD 21228. SUMITHION 40% WDP. Active Ingredient: *O,O*-dimethyl-*O*-(4-nitro-m-tolyl) phosphorothioate 40% (w/w). Applicant proposes that the use pattern of this pesticide be changed to include indoor use for control of mosquitoes. Proposed classification: general. PM16.

[OPP–30257; FRL 1213–8]

[FR Doc. 79–13523 Filed 4–30–79; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

Canadian Broadcast Stations; Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

March 8, 1979.

Agenda

May 24, 1979:

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Meeting of Ship Station Working Group and Coast Station Working Group.

May 25, 1979.

1. Administrative Matters.

testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-

Summary: Agreement No. 10050–3 is a proposal by the member lines of the U.S.-Flag Far East Discussion Agreement to extend the duration of the basic discussion agreement with no expiry date, broaden the scope of discussion under the agreement, and expand upon the means by which communication may take place under the agreement.

Agreement No. 10369.

FEDERAL COMMUNICATIONS COMMISSION

Canadian Broadcast Stations; Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

March 8, 1979.

Canadian List No. 382

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna Height (feet)	Ground system Number of radials	Ground system Length (feet)	Proposed date of commencement of operation
				540 kHz					
CKPR	Thunder Bay, Ontario, N. 48°24'31", W. 89°16'50" (Correction to geographical co-ordinates from N. 48°24'40", W. 89°15'37"	5D/1N	ND–178	U	III	300	120	500Ave.	
				790 kHz					
CKSO	Sudbury, Ontario, N. 46°25'24", W. 80°56'13" (In operation with increased power)	50	DA–2	U	III				
				850 kHz					
(New)	Spaniard's Bay/Harbour, Grace, Newfoundland, N. 47°39'21", W. 53°15'30" (P.N. 10kw; DA–N)	5	DA–1	U	II				3–8–80
				930 kHz					
CFBC	St. John, New Brunswick, N. 45°13'55", W. 66°06'15" (In operation with increased power)	50	DA–2	U	III				
				1150 kHz					
CKOC	Hamilton, Ontario, N. 43°03'04", W. 79°48'42" (decrease in antenna tower heights and in RMS of directional radiation patterns, minor changes in day-time directional radiation pattern) (P.O. 10kw, N. 43°10'40", W. 79°47'00")	50	DA–2	U	III				3–8–80
				1260 kHz					
CIHI	Fredericton, New Brunswick, N. 45°59'52", W. 66°41'39" (In operation)	10	DA–N, ND–D–190	U	III				
				1290 kHz					
CJBK	London, Ontario, N. 42°52'08", W. 81°13'58" (In operation with change of day-time pattern)	10	DA–2	U	III				
				1290 kHz					
CHRM	Matane, Quebec, N. 48°49'27", W. 67°34'28" (In operation)	10	DA–2	U	III				
				1470 kHz					
CHOW	Welland, Ontario, N. 42°56'52", W. 79°16'19" (P.O. 1D/0.5N P.N. 5D/10N)	10	DA–2	U	III				3–8–80
				1490 kHz					
CHOO–1	Oliver, British Columbia, N. 49°13'16", W. 119°32'21" (P.N. N. 49°10'17", W. 119°35'30", ND–200, 200 120 264(Ave.))	1D/0.25N	ND–187	U	IV	150	120	264(Ave.)	3–8–80

Wallace E. Johnson,
Chief, Broadcast Bureau, Federal Communications Commission.
[FR Doc. 79-13478 Filed 4-30-79; 8:45 am]
BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Special Committee Meetings

Special Committee No. 70: Minumum Performance Standards (MPS)—Marine Loran–C Receiving Equipment

Notice of 16th Meeting, Friday, May 18, 1979

Conference Room 7202, Nassif (DOT) Building, 400 Seventh Street, S.W., (at D Street), Washington, D.C.

Agenda

1. Call to Order.
2. Old Business.
3. New Business.
4. Administrative Matters.

Captain Alfred E. Fiore, Chairman, SC–70, U.S. Merchant Marine Academy, Kings Point, New York 11024, Phone: (516) 482–8200.

Special Committee No. 71: VHF Automated Radiotelephone Systems

Notice of 17th Meeting, Wednesday, May 23, 1979—10:00 a.m. (Full-day meeting)

Conference Room A–110, F.C.C. Annex, 1229 20th Street, N.W., Washington, D.C.

Agenda

1. Call to Order.
2. Administrative Matters.
3. Review of draft paper on Digital Selcall Functions and Formats.

John J. Renner, Chairman SC–71, Advanced Technology Systems, Inc., 3426 N. Washington Blvd., Arlington, VA 22201, Phone: (703) 525–2864.

Special Committee No. 74: Digital Selective Calling

Notice of 4th Meeting, Thursday, May 24, and Friday, May 25, 1979—9:30 a.m. (Full-day meetings)

Conference Room 7200, Nassif (DOT) Building, 400 Seventh Street, S.W. (at D Street), Washington, D.C.

Agenda

May 24, 1979:
1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Meeting of Ship Station Working Group and Coast Station Working Group.

May 25, 1979.
1. Administrative Matters.
2. Working Group Reports.

Captain B. F. Hollingsworth, Chairman, SC–74, U.S. Coast Guard Headquarters, Washington, D.C., Phone: (202) 426–1145.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632–6490).

Federal Communications Commission
William J. Tricarico,
Secretary.
[FR Doc. 79-13481 Filed 4-30-79; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Louis Dreyfus Corp. et al.; Filing of Complaint

Notice is given that a complaint filed by Louis Dreyfus Corporation, The Early & Daniel Company, Inc., Dixie Carriers, Inc., Le Beouf Bros. Towing Co., Inc., The Valley Line Company, Federal Barge Lines, Inc., and Hollywood Marine, Inc., against Plaquemines Port, Harbor and Terminal District was served April 24, 1979. The complaint alleges that the combined effect of Items 135, 136(D) and 137 of respondent's terminal tariff results in application of a "Harbor Fee" in a manner violative of section 16 First of the Shipping Act, 1916, and that application of Item 145 of the same tariff regarding a "Supplemental Harbor Fee" results in violation of sections 15, 16 First and 17 of the Act.

Hearing in this matter, if any is held, shall commence on or before October 24, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,
Secretary.
[FR Doc. 79-13380 Filed 4-30-79; 8:45 am]
BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423 or may inspect the agreements at the Field Offices located at New York, N.Y.: New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by May 21, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 10050–3.
Filing party: Robert A. Peavy, Esquire, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, D.C. 20036.

Summary: Agreement No. 10050–3 is a proposal by the member lines of the U.S.-Flag Far East Discussion Agreement to extend the duration of the basic discussion agreement with no expiry date, broaden the scope of discussion under the agreement, and expand upon the means by which communication may take place under the agreement.

Agreement No. 10369.
Filing party: F. W. Krueger, Eckert Overseas Agency, Inc., 86 Pine Street, New York, New York 10005
Summary: Agreement No. 10369 is an equipment interchange and lease agreement between Orient Overseas Container Line, Ltd., and Korea Shipping Corporation, both common carriers by water in the foreign commerce of the United States. The parties agree to lease cargo containers and/or related equipment to each other subject to mutually acceptable terms, conditions, practices, and charges.

By order of the Federal Maritime Commission.

Dated: April 25, 1979.

Francis C. Hurney,
Secretary.
[FR Doc. 79-13388 Filed 4-30-79; 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

Arthritis Advisory Committee Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The meeting of the Slow-Acting Antirheumatic Drugs Subcommittee of the Arthritis Advisory Committee announced by notice in the Federal Register of April 17, 1979 (44 FR 22814), for May 9, 1979, will begin at 12 noon instead of 9 a.m.

FOR FURTHER INFORMATION CONTACT: Timothy A. Ulatowski, Bureau of Drugs (HFD–150), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–5197.

Dated: April 25, 1979.

William Randolph,
Acting Associate Commissioner for Regulatory Affairs.
[FR Doc. 79-13487 Filed 4-30-79; 8:45 am]
BILLING CODE 4110-03-M

Anticancer Drug Development; Memorandum of Understanding With the National Institutes of Health

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding (MOU) with the National Institutes of Health (NIH) concerning the development of anticancer drugs. The MOU sets forth the following specific agreements between the National Cancer Institute and the Food and Drug Administration are made to achieve these objectives:

Commitment of the National Cancer Institute

1. The National Cancer Institute designates the Director, Division of Cancer Treatment, National Cancer Institute, as the official responsible for liaison with the Food and Drug Administration concerning new anticancer drugs.

2. The National Cancer Institute agrees to maintain the Master File in a manner which keeps it current, to add information as it believes necessary, or as requested by the Bureau of Drugs, to delete items which are no longer pertinent or active, and to submit to the Bureau of Drugs on or about January 1 of each year a complete updated Master File. Updated information will be sent with reasonable promptness. The Division of Cancer Treatment agrees to maintain the Master File in a manner which keeps it current, to add information as it believes necessary, or as requested by the Bureau of Drugs, to delete items which are no longer pertinent or active, and to submit to the Bureau of Drugs on or about January 1 of

its IND's may be adversely affected and subject to administrative action.

Commitment of Both the National Cancer Institute and the Food and Drug Administration

If the Director, Division of Cancer Treatment, National Cancer Institute

accepted for Regional Adoption Resource Center grants for Fiscal Year 1979. This program is authorized under Pub. L. 95–266, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (Title II, Adoption Opportunities, 42 U.S.C. 5113).

DATES: Closing date for receipt of

- Establish the necessary linkages between foster care and adoption services.
- Provide support and financial assistance to parent groups in the planning, improving, developing and carrying out of programs and activities related to adoption. (Applicants will be

Anticancer Drug Development; Memorandum of Understanding With the National Institutes of Health

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the National Institutes of Health (NIH). The purpose of the memorandum is to set forth cooperative working arrangements regarding anticancer drugs developed by NIH and regulated by FDA.

DATES: The agreement became effective February 5, 1979.

FOR FURTHER INFORMATION CONTACT: Gary Dykstra, Compliance Coordination and Policy Staff (HFC–13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3470.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the Federal Register of October 3, 1974 (39 FR 35697) stating that future memorandums of understanding and agreement between FDA and others would be published in the Federal Register, the agency is issuing the following memorandum of understanding:

Memorandum of Understanding Relative To Anticancer Drug Development

The Division of Cancer Treatment, National Cancer Institute, as a result of its mission, has a substantial and continuing effort of anticancer drug development, the regulation of which comes under the purview of the Food and Drug Administration, primarily but not exclusively within the Bureau of Drugs. A substantial amount of the information available to the Division of Cancer Treatment and to the Bureau of Drugs, acquired by each in the pursuit of their missions, is of common interest to these organizations. In the past, both have been keenly aware of this community of interest and have had extensive informal and effective interchanges of views and of information on a wide variety of problems. Such informal interchanges should and will continue and both organizations encourage the members of their staff to provide the utmost assistance and cooperation in all appropriate areas. In addition, in order to aid in the maintenance of a harmonious, direct working relationship between these two sister organizations, both charged with responsibilities relating to public health, it is believed that a formal Memorandum of Understanding is desirable. The following specific agreements between the National Cancer Institute and the Food and Drug Administration are made to achieve these objectives:

Commitment of the National Cancer Institute

1. The National Cancer Institute designates the Director, Division of Cancer Treatment as the primary contact on matters of policy relative to anticancer drug development. Members of his/her staff responsible for specific aspects of the Drug Development Program will carry on day-to-day contact with their counterparts at the Food and Drug Administration as appropriate.

2. As sponsor of investigational drugs for clinical trial, the Division of Cancer Treatment agrees to comply with all applicable laws, regulations, and any other legal requirements pertaining to such sponsorship.

3. The Division of Cancer Treatment will transmit to the Bureau of Drugs pertinent information generated by the activities of the Division of Cancer Treatment. This will include *Cancer Treatment Reports* and copies of the minutes of pertinent meetings, e.g., the New Drug Liaison Meetings and the Phase I Working Group Meetings. These minutes are not to be considered a substitute for the annual progress reports required for each IND.

4. The Division of Cancer Treatment will designate a member of its staff as a liaison to FDA's Oncology Advisory Committee and will send members of its staff to other Food and Drug Administration meetings, as appropriate, in order to aid communication between the two organizations.

5. The Division of Cancer Treatment will maintain with the Bureau of Drugs a Master File, which will include a detailed description of its overall plan of anticancer drug development, its system of clinical monitoring, its system of drug distribution and data reporting, pertinent information on Division of Cancer Treatment staff, and other background information normally included in individual Notices of Claimed Investigational Exemption for a New Drug (also know as Investigational New Drug Applications).

When any portion of the Master File is proposed to be revised in a significant manner, the Division of Cancer Treatment will, prior to such revision, provide a draft copy of the proposed alteration for the Bureau of Drugs' comment. Less substantive revisions will be provided to the Bureau of Drugs in finalized form and such revisions will be sent with reasonable promptness. The Division of Cancer Treatment agrees to maintain the Master File in a manner which keeps it current, to add information as it believes necessary, or as requested by the Bureau of Drugs, to delete items which are no longer pertinent or active, and to submit to the Bureau of Drugs on or about January 1 of each year a list of the documents it considers to be in the Master File and a certification of their currency and accuracy.

Commitment of the Food and Drug Administration

1. The Food and Drug Administration designates the Associate Director for New Drug Evaluation, Bureau of Drugs, as its primary contact for matters of policy regarding anticancer drugs. Members of his/her staff will interact with appropriate Division of Cancer Treatment staff for day-to-day matters.

2. The Bureau of Drugs will designate appropriate members of its staff as liaison to the Decision Network, the Phase I Working Group, and the New Drug Liaison Meetings and other pertinent meetings of the Division of Cancer Treatment, to aid communication between the Bureau of Drugs and Division of Cancer Treatment.

3. In recognition of the position occupied by the Division of Cancer Treatment in antitumor drug development, and in view of the serious nature of the disease, the Bureau of Drugs agrees to cooperate with and assist the Division of Cancer Treatment in the furtherance of its objectives, to the degree permitted by regulation and law.

4. The Bureau of Drugs agrees to accept the Master File submission of the Division of Cancer Treatment as applicable to all anticancer investigational drugs sponsored by the Division of Cancer Treatment. Information in the Master File will thus be incorporated by reference into all Notices of Claimed Investigational Exemptions (IND's) for anticancer drugs sponsored by the Division of Cancer Treatment.

5. The Bureau of Drugs agrees to bring any deficiencies or problems with the Master File to the attention of the Division of Cancer Treatment as part of its review and approval of that Master File rather than as comments on specific IND's. If, after a reasonable period needed for correction of the Master File, such correction is not forthcoming, the Bureau of Drugs shall inform the Division of Cancer Treatment which of its IND's may be adversely affected and subject to administrative action.

Commitment of Both the National Cancer Institute and the Food and Drug Administration

If the Director, Division of Cancer Treatment, National Cancer Institute and the Associate Director for New Drug Evaluation, Bureau of Drugs, cannot agree on the appropriate contents of the Master File, or the approvability of the Master File or of any application sponsored by the National Cancer Institute, or on any other matters related to the regulation by the Food and Drug Administration of drugs sponsored by the National Cancer Institute, the matter shall be brought to the attention of the Director of the National Cancer Institute and the Director of the Bureau of Drugs. These persons are then responsible for jointly resolving the matter, either directly or by consultation with, or referral to, the Director of the National Institutes of Health and the Commissioner of Food and Drugs. Absent such resolution, final resolution of the matter rests with the Commissioner of Food and Drugs.

Dated: January 19, 1979.

For the Food and Drug Administration.

Donald Kennedy,

Commissioner, Food and Drug Administration.

Dated: February 5, 1979.

For the National Institutes of Health.

Donald S. Fredrickson,

Director, National Institutes of Health.

Effective date. This Memorandum of Understanding became effective February 5, 1979.

Dated: April 25, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FDA–225–79–3091]

[FR 79–13409 Filed 4–30–79; 8:45 am]

BILLING CODE 4110–03–M

Office of Human Development Services

Regional Adoption Resource Centers Demonstration Program—Program Announcement No. 13652–791; Availability of Grant Funds

AGENCY: Administration for Children, Youth and Families, Office of Human Development Services, DHEW.

SUBJECT: Announcement of availability of grant funds for the Regional Adoption Resource Centers demonstration program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for Regional Adoption Resource Center grants for Fiscal Year 1979. This program is authorized under Pub. L. 95–266, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (Title II, Adoption Opportunities, 42 U.S.C. 5113).

DATES: Closing date for receipt of applications is July 16, 1979.

Scope of this Announcement

This program announcement is one of two which will be issued under Title II of Pub. L. 95–266 for Fiscal Year 1979. The second is Demonstration Grants for National Adoptive Parent Organizations to Expedite Adoption of Children with Special Needs which will be announced separately in the Federal Register.

Program Purpose

The purpose of the Regional Adoption Resource Centers Demonstration Program is to develop a coherent, coordinated and comprehensive adoption resource information exchange system throughout the United States.

Program Goals and Objectives

The goal of the demonstration program is to establish a Regional Adoption Resource Center in each of the ten (10) HEW Regions. The network of Regional Adoption Resource Centers is intended to be a major component of HEW's activities directed toward carrying out the provisions of Title II of Pub. L. 95–266.

Applications for projects should indicate that the proposed project will achieve or is capable of achieving all of the following program objectives:

- Identify and assess the adoption resources and practices within the geographical boundaries of the HEW Region in which it operates.
- Establish a Regional adoption information clearinghouse in each of the HEW Regions.
- Provide a regional resource to assist and facilitate the growth and development of a national adoption information exchange system.
- Facilitate inter-State and intra-State communication and coordination of program innovations and adoption planning processes.
- Establish and/or improve adoption and adoption related training programs in the States and other agencies and organizations in the Region with direct and indirect involvement in adoption services.
- Assist States and local agencies and organizations within each Region to address Region-specific objectives for improving and expanding adoption services.
- Establish the necessary linkages between foster care and adoption services.
- Provide support and financial assistance to parent groups in the planning, improving, developing and carrying out of programs and activities related to adoption. (Applicants will be responsible for conducting a competitive grant award process and awarding sub-grants to parent groups.)

Performance Standards

Within six-months after the grant award for the Resource Centers, the Children's Bureau will develop performance standards based on the goals and objectives contained in this priority statement and in the approved applications. The Children's Bureau will also develop the necessary forms and procedures for reporting. The purpose of these standards and the reporting system is to provide program accountability to the government and the Congress for the $2.766 million which has been allocated to these grants.

The performance will seek to measure the efficiency of program planning, the type and quantity of services provided, the recipient feedback on the utility of services provided. The performance standards will be self-administered. The Steering Committee for each Regional Center will be responsible for the quality and timeliness of the assessment. The designated Government Project Officer and the assigned Regional Office staff person will be responsible for validating assessment findings.

Eligible Applicants

Public and private nonprofit organizations, including institutions of higher learning may apply for a grant under this announcement. The applicant must provide a written assurance that it has been physically located in this geographic region it proposes to serve for a minimum of one year prior to the time the application is submitted. Applications received without this assurance will be considered nonconforming and will not be reviewed. Applications for grants to serve in a HEW Region(s) other than the one from which the application is submitted will be considered ineligible.

Required Capabilities

The applicant must demonstrate its interest and capability as an organization to continue to maintain and improve child welfare services. This grant will serve to enrich and augment the applicant's child welfare services

currently in process. This must be demonstrated in the following ways:

(1) The applicant must demonstrate its current or previous experience in working with the social service agencies in the State from which it applies or in nearby States;

availability of funds. The assessment of satisfactory performance will be performed by ACYF on at least an annual basis and will be a major factor in consideration of all funding requests subsequent to the initial grant award.

Grantee Share of the Project

Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the

(20 points)

2. The applicant demonstrates the adequacy of its facilities, resources and proposed organizational structure and documents the capability of the proposed staff and insures that the proposed project personnel are or will be well qualified in the field of child

Department of Health, Education and Welfare mailroom in Washington, D.C.

In establishing the date of receipt, consideration will be given to the time date stamps of the mailroom or other documentary evidence of receipt maintained by the Department of Health, Education and Welfare. A hand-

July 14, 1977, as amended). These changes are made to add the Division of System Applications to the Office of Finance.

Add to Chapter AM-20G Functions

Additionally, is responsible for the development, coordination, and

currently in process. This must be demonstrated in the following ways:

(1) The applicant must demonstrate its current or previous experience in working with the social service agencies in the State from which it applies or in nearby States;

(2) The applicant must describe its prior or current child welfare involvement in the respective region and anticipated involvement when the grant funds end; and

(3) The applicant must demonstrate its capacity to serve all parts of the Region including Indian reservations and military installations.

Available Funds

The funds allocated to support the Fiscal Year 1979 Regional Adoption Resource Centers is $2.766 million. One grant will be awarded in each of the ten HEW Regions. The funds available for each Regional Adoption Resource Center are based on a formula that includes a consideration of the child population (under 18 years of age) and geographical requirements for purposes of travel. The anticipated Regional allocations for Fiscal Year 1979 is as follows:

Region I: $348,971
Connecticut, New Hampshire, Maine, Vermont, Massachusetts and Rhode Island
Region II: $285,896
New Jersey, New York, U.S. Virgin Islands and Puerto Rico
Region III: $275,296
Maryland, Delaware, Pennsylvania, Virginia, West Virginia and District of Columbia
Region IV: $320,932
North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Mississippi and Kentucky
Region V: $334,582
Ohio, Indiana, Illinois, Wisconsin, Michigan and Minnesota
Region VI: $288,235
Louisiana, Arkansas, Oklahoma, Texas and New Mexico
Region VII: $243,896
Kansas, Missouri, Iowa and Nebraska
Region VIII: $266,743
Colorado, Utah, Montana, Wyoming, North Dakota and South Dakota
Region IX: $284,802
Arizona, Nevada, California, Hawaii, Guam and Pacific Trust Territories
Region X: $231,847
Alaska, Idaho, Oregon and Washington

All awards will be for new grants. A new grant is the initial award made to support a project. Projects will be supported for a period not to exceed five (5) years and the initial grant will sustain the budget for the first 12 months of the project. Continuation funding will depend upon the satisfactory performance of the project and the availability of funds. The assessment of satisfactory performance will be performed by ACYF on at least an annual basis and will be a major factor in consideration of all funding requests subsequent to the initial grant award.

Grantee Share of the Project

There is no cost sharing or matching requirement for grants under this program.

The Application Process

Availability of Forms

Applications for a grant under the Regional Adoption Resource Centers Demonstration Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions and program information, including the Priority Statement for Fiscal Year 1979 may be obtained in writing from: Patricia Campiglia, Children's Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013, Attention: 13652-791, Telephone: (202) 755-7730.

Application Submission

One original and seven copies of the grant application, including all attachments, must be submitted to: Grants Management Branch, Office of Human Development Services, 341-F4, Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The applicant must clearly identify the program announcement number for which the application is to compete. The application must be signed by an individual authorized to act for the applicant institution and to assume for the institution the obligations imposed by the terms and conditions of the grant award.

A-95 Notification Process

The Regional Adoption Resource Centers Demonstration Program is included in the provisions of OMB Circular A-95. Applicants for grants must, prior to the submission of an application, notify both the state and areawide A-95 Clearinghouse of their intent to apply for federal assistance for this program. Applicants should contact the appropriate State Clearinghouse (listed in 42 FR 2210, January 20, 1977) for information on how they can meet the A-95 requirement.

Application Consideration

The Commissioner for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program.

Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Commissioner for the Administration for Children, Youth and Families in considering competing applications. The Commissioner's consideration also takes into account the comments of the HEW Regional Offices and the Headquarters ACYF staff.

If the Commissioner has reached a decision to disapprove a meeting grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, and the total period for which project support is contemplated.

Criteria For Review and Evaluation of Applications

Competing grant applications will be reviewed and evaluated by a panel of reviewers against the following criteria:

(40 points)

1. The applicant demonstrates that the project objectives are capable of achieving the specific grant program objectives defined in this announement including:

- A description of the methods, strategies and techniques to accomplish each of the eight stated objectives and proposed sub-objectives and a detailed workplan for the first two years of grant activity and a projected workplan for the remaining three years.
- A presentation of the methods for assisting state agencies in coordinating and/or improving their adoptive services and practices and in improving the regional adoption exchange techniques.
- A discussion of the project's expected impact in the Region.
- A discussion of the applicant's demonstrated ability to complete the project within the proposed time schedules.
- A presentation of the methods to establish a Steering Committee to provide leadership and consultation to the Resource Center.
- The applicant's written assurance that the Regional Resource Center will cooperate with the tasks and activities of the contractor responsible for developing the national adoption information exchange system.

(20 points)

2. The applicant demonstrates the adequacy of its facilities, resources and proposed organizational structure and documents the capability of the proposed staff and insures that the proposed project personnel are or will be well qualified in the field of child welfare services.

(20 points)

3. The applicant adequately describes the organization's capability to achieve the program objectives of this grant announcement including:

- A discussion of the applicant's demonstrated capacity to accomplish the eight objectives and proposed sub-objectives of this program.
- A discussion of the applicant's past role and experience in the field of child welfare.
- A discussion of the applicant's current or previous experience in working with the social service agencies in the state from which it applies or in nearby states.
- A discussion of the qualities, capabilities or unique features which make the applicant qualified to become a regional resource center.

(15 points)

4. The applicant adequately describes the current available adoption services and resources in the States of the Region to be served and demonstrates an understanding of the major issues of adoption reform and of the need to improve adoption services and practices.

(5 points)

5. The estimated cost to the Government is reasonable considering the anticipated results and the applicant's written assurance of adequate fiscal management, accountability and record keeping procedures. The budget shall provide sufficient funds for staff attendance at all required regional and national meetings.

Closing Date for Receipt of Applications

The closing date for receipt of applications under this program announcement is July 16, 1979. An application will be considered received on time if:

(a) The application was sent by registered or certified mail not later than July 16, 1979 as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service; or

(b) the application is received on or before 5:30 p.m. July 16, 1979 in the Department of Health, Education and Welfare mailroom in Washington, D.C.

In establishing the date of receipt, consideration will be given to the time date stamps of the mailroom or other documentary evidence of receipt maintained by the Department of Health, Education and Welfare. A hand-delivered application must be delivered to OHDS, Room 341-F4, Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, on or before July 16, 1979 at 5:30 p.m. Hand delivered applications will be accepted daily between the hours of 9:00 a.m. and 5:30 p.m., except Saturday, Sunday and Federal holidays. Applications received after the deadlines or incorrectly sent to any Regional Office of the Department of Health, Education and Welfare will not be accepted and will be returned to the applicant.

(Catalog of Federal Domestic Assistance Program Number 13652 Regional Adoption Resource Centers Demonstration Program)

Dated: April 26, 1979.

Blandina Ramirez,
Commissioner for Children, Youth and Families.

Approved: April 25, 1979.

Arabella Martinez,
Assistant Secretary for Human Development Services.

[FR Doc. 79-13439 Filed 4-30-79; 8:45 am]

BILLING CODE 4110-92-M

National Institutes of Health

Anticancer Drug Development; Memorandum of Understanding With the Food and Drug Administration

Cross Reference: For a document giving notice of a Memorandum of Understanding between the National Institutes of Health and the Food and Drug Administration regarding certain related objectives in carrying out their responsibilities for the development and regulation of anticancer drugs, see FR Doc. 79-13409 in the notices section of this issue under Food and Drug Administration.

BILLING CODE 4110-03-M

Office of the Secretary

HEW Management and Budget Office; Statement of Mission, Organizations, and Functions

Part A, Chapter AM (HEW Management and Budget Office) of the Statement of Mission, Organizations, and Functions for the Department of Health, Education, and Welfare is amended to revise Section AMN.20 and related subsections Office of Finance (42 FR 36306, July 14, 1977, and 42 FR 36315, July 14, 1977, as amended). These changes are made to add the Division of System Applications to the Office of Finance.

Add to Chapter AM.20G Functions

Additionally, is responsible for the development, coordination, and issuance of ADP policy related to the Standard Accounting System of the HEW Management Accounting Network.

Add to Chapter AMN.20 Functions

K. Develops, coordinates, and issues ADP policy related to the Standard Accounting System of the HEW Management Accounting Network.

Dated: April 27, 1979.

Frederick M. Bohen,
Assistant Secretary for Management and Budget.

[FR Doc. 79-13429 Filed 4-30-79; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

R/W Applications for Pipeline Northwest Pipeline Corp.

April 23, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corporation, 315 East 200 South, Salt Lake City, Utah 84111, has applied for rights-of-way for 4½" o.d. natural gas pipelines for the East Douglas Creek and Trail Canyon Gathering Systems approximately .215 miles long across the following Public Lands:

Sixth Principal Meridian, Rio Blanco County, Colo.

T. 2 S., R. 101 W.,
Sec. 36: S½SW¼.
T. 4 S., R. 101 W.,
Sec. 28: E½SW¼SW¼.

The above-named gathering systems will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of the environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions, (2) to give all interested parties the opportunity to comment on the applications, (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the

V 4 4 / 8 5

proposed natural gas gathering system to file its claims or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Nothwest Pipeline Corporation.*

Any comments, claims or objections must be filed with the Chief, Branch of adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,
Leader, Craig Team Branch of Adjudication.

[Colorado 24402 t and 22771 n]
[FR Doc. 79-13384 Filed 4-30-79; 8:45 am]
BILLING CODE 4310-84-M

R/W Applications for Pipelines Northwest Pipeline Corp.

April 23, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, 315 East 200 South, Salt Lake City, Utah 84111, has applied for rights-of-way for 4½" o.d. natural gas pipelines for the Philadelphia Creek Gathering System approximately 2.817 miles long, across the following Public Lands:

Sixth Principal Meridian, Rio Blanco County, Colo.

T. 1 S., R. 101 W.,
Sec. 36: SE¼SW¼.
T. 2 S., R. 101 W.,
Sec. 1: Lots 5, 6, 7, S½NE¼, SE¼NW¼.
Sec. 13: W½NE¼, SE¼NE¼, NE¼NW¼, N½SW¼, SW¼SW¼, N½SE¼, SE¼SE¼.

The above-named gathering system will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of the environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions, (2) to give all interested parties the opportunity to comment on the applications, (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claims or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation.*

Any comments, claims, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,
Leader, Craig Team Branch of Adjudication.

[Colorado 24128 r, s]
[FR Doc. 79-13385 Filed 4-30-79; 8:45 am]
BILLING CODE 4310-84-M

R/W Applications for Pipelines, Northwest Pipeline Corp.

April 23, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, 315 East 200 South, Salt Lake City, Utah 84111, has applied for rights-of-way for 4½" o.d. natural gas pipelines for the Rocky Mountain Natural Gas and the Foundation Creek Gathering Systems approximately .518 miles long, across the following Public Lands:

Sixth Principal Meridian, Rio Blanco and Garfield Counties, Colo.

T. 3 S., R. 102 W.,
Sec. 36: SW¼SW¼.
T. 8 S., R. 104 W.,
Sec. 3: Lot 1, SW¼NE¼, NW¼SE¼.

The above-named gathering systems will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of the environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) To give all interested parties the opportunity to comment on the applications. (3) To allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claims or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation.*

Any comments, claims, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,
Leader, Craig Team Branch of Adjudication.

[Colorado 25178 k and 25122 n]
[FR Doc. 79-13386 Filed 4-30-79; 8:45 am]
BILLING CODE 4310-84-M

Nevada BLM Announces Initial Wilderness Inventory

The Nevada State Office of the Bureau of Land Management announces that it has completed its initial inventory of the public lands under its jurisdiction for wilderness characteristics and is submitting its recommendations to the public for comment until July 31.

A fact sheet explaining the wilderness review process and advising people how to participate is available to the public along with a statewide map showing the inventory units and a summary of the Bureau's wilderness study findings for each of 1,633 study units on almost 49 million acres of public lands within the state. Copies of these materials can be obtained from the BLM, 300 Booth Street, Room 3008, Reno, Nevada 89509.

The Bureau is recommending that 22.3 million acres of public lands be released from further wilderness consideration because they obviously and clearly lack wilderness characteristics. About 21 million acres are recommended to undergo an intensive inventory to find out if wilderness characteristics do or do not exist. An additional 5.5 million acres have already been surveyed through special project inventories. Of that amount, 1.2 million acres were found to meet the wilderness study area criteria and the remaining 4.3 million acres were found to be lacking wilderness characteristics. These areas have already been open to public comment.

The Bureau is planning to hold a series of open houses and workshops to acquaint the public with its recommendations and to solicit public comments. The times and dates of these sessions will be announced in the **Federal Register** at a later date.

Dated: April 13, 1979.

E. I. Rowland,
State Director, Nevada.

[FR Doc. 79-12383 Filed 4-30-79; 8:45 am]
BILLING CODE 4310-84-M

Western Gulf of Alaska Outer Continental Shelf Oil and Gas; Intent to Prepare an Environmental Impact Statement for OCS Sale No. 46

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management's Alaska Outer Continental Shelf Office intends to prepare an environmental impact statement (EIS) on the offshore oil and gas leasing proposal known as OCS Sale No. 46. This proposed sale is tentatively scheduled for December 1980. A list of 564 lease blocks (1,266,791 hectares; 3,129,629 acres) in the Western Gulf of Alaska has been tentatively selected for leasing consideration and further environmental study.

Alternatives to be considered in the environmental statement will include options to delay, modify, or withdraw the proposed lease offering.

A series of meetings has been scheduled to promote public participation in defining the significant issues that relate to the proposed leasing action. These meetings will generally adhere to the following agenda:

1. Introduction—
Purpose of meeting;
Brief history of OCS oil and gas leasing and the EIS process;
Information products the Alaska OCS Office makes available to the public to facilitate the leasing process;
Previously defined issues to be considered in the EIS.

2. Presentation of public comment and recommendations on other issues of major concern.

3. Alternatives to the sale, as presently condidered in the EIS process.

Interested persons are encouraged to attend and present their views at the following locations:

Date and Location

May 9, 1979, 7:00 p.m.—Borough Assembly Chambers, Kodiak, Alaska.
May 23, 1979, 7:00 p.m.—Fine Arts Museum, 121 West 7th Avenue, Anchorage, Alaska.

Supplemental information or additional comments not presented at the meetings should be sent to the Alaska OCS Office, P.O. Box 1159, 800 A Street, Anchorage, Alaska 99510, no later than May 25, 1979.

A scoping meeting for affected Federal agencies will be held May 4, 1979, at 1:00 p.m. at the Alaska OCS Office, 800 A Street, Anchorage, Alaska. A second scoping meeting for the State of Alaska agencies will be held on May 18, 1979, at 9:00 a.m. in the Governor's Conference Room, Capitol Building, Juneau, Alaska.

For further information regarding the public meetings or the Sale No. 46 leasing proposal, contact Judy Gottlieb, Sale No. 46 EIS coordinator, Environmental Assessment Division, Alaska OCS Office, P.O. Box 1159, 800 A Street, Anchorage, Alaska 99510, telephone (907) 276-2858.

Approved: April 26, 1979.

Arnold E. Petty,
Acting Associate Director, Bureau of Land Management.
Gary J. Wicks,
Acting Assistant Secretary of the Interior.
[FR Doc. 79-13497 Filed 4-30-79; 8:45 am]
BILLING CODE 4310-84-M

New Mexico; Application

April 20, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), ARCO Oil & Gas Company (Division of Atlantic Richfield Company) has applied for one 3½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico
T. 18 S., R. 27 E.,
Sec. 3, S½NE¼ and NW¼SE¼.

This pipeline will convey natural gas across 0.453 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,
Chief, Branch of Lands and Minerals Operations.

[NM 36544]
[FR Doc. 79-13454 Filed 4-30-79; 8:45 am]
BILLING CODE 4310-84-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Additions, Deletions, and Corrections

By notice in the Federal Register of February 7, 1978, Part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 19 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

William J. Murtagh,
Keeper of the National Register.

ALABAMA

Montgomery County

Montgomery, *Lower Commerce Street Historic District*, roughly bounded by RR tracks, Commerce, N. Court and 1000 Sts. (3-29-79).

ALASKA

Valdez-Chitina-Whittier Division

Chitina vicinity, *Ballaine's Village Site* (4-9-79).

CALIFORNIA

Marin County

San Rafael, *Chinese Camp*, 250 N. San Pedro Dr. (4-3-79).

Mariposa County

El Portal, *Bagley Station House, Water Tanks and Turntable*, CA 140 (4-13-79) NARS.
Yosemite National Park, *Jorgensen, Chris, Studio*, Pioneer Yosemite History Center (4-13-79).

San Diego County

San Diego, *Watts Building*, 520 E St. (4-9-79).

Sonoma County

Santa Rosa, *Park Apartments*, 300 Santa Rosa Ave. (4-9-79).
Windsor vicinity, *Laughlin, James H. and Frances E., House*, SR 46 Windsor on Lone Redwood Rd. (4-9-79).

Tulare County

Visalia, *Hyde House*, 500 S. Court St. (4-9-79).

COLORADO

Denver County

Denver, *Dunwoody, William F., House*, 2037 W. 28th Ave. (4-11-79).

CONNECTICUT

Fairfield County

Bridgeport, *Black Rock Historic District*, roughly bounded by Black Rock Harbor, Grovers Ave., Beacon and Pequonnock Sts. (3-15-79).
Monroe, *Hawley, Thomas, House*, 534 Purdy Hill Rd. (4-11-79).

Hartford County

Hartford, *Frog Hollow*, roughly bounded by Park River, Capitol Ave., Oak, Washington, and Madison Sts. and Park Ter. (4-17-79).

Manchester, *Pitkin Glassworks Ruin*, Parker St. (4–9–79).

Litchfield County

Kent, *Flanders Historic District*, U.S. 7, Cobble Rd. and Cobble Lane (4–13–79).

New Haven County

Guilford, *Pitkin, Elisha, House*, 173 High Woods Dr. (4–6–79) HABS.
Waterburg, *Hibbard, Enoch, House and Granniss, George, House*, 41 Church St. and 33 Church St. (4–9–79).

New London County

New London, *Downtown New London Historic District*, roughly bounded by Captain's Walk, Bank, Tilley and Washington Sts. (4–13–79).
Stonington, *Whitehall Mansion*, off CT 27 (4–12–79).

FLORIDA

Palm Beach County

Boynton Beach, *Boynton Woman's Club*, 1010 S. Federal Hwy. (4–11–79).

GEORGIA

Glynn County

Brunswick, *Brunswick Old Town Historic District*, roughly bounded by 1st, Bay, New Bay, H and Cochran Sts (4–3–79).

Oconee County

Watkinsville, *South Main Street Historic District*, S. Main St. and Harden Hill Rd. (3–30–79).

GUAM

Santa Rita vicinity, *West Bona Site*, SE of Santa Rita (3–26–79).
Yona vicinity, *South Pulantat Site*, 2 mi. W of Yona (3–26–79).

ILLINOIS

Adams County

Quincy, *State Savings Loan and Trust Company*, 428 Maine St. (3–23–79).

Cook County

Arlington Heights, *Muller House*, 500 N. Vail Ave. (3–23–79).

DeWitt County

Clinton, *Moore, C. H., House*, 219 E. Woodlawn St. (3–23–79).

Jackson County

Grand Tower, *Grand Tower Mining, Manufacturing and Transportation Company Site*, Devil's Backbone Park (4–13–79).

Kane County

Batavia vicinity, *Campana Factory*, N of Batavia on N. Batavia Ave. (4–6–79).

Menard County

Athens vicinity, *North Sangamon United Presbyterian Church*, N of Athens on SR 2 (3–23–79).

IOWA

Clayton County

Guttenberg, *Albertus Building*, 222 Park River Dr. (4–3–79).

Dallas County

DeSoto vicinity, *Wilson, John, House*, SW of DeSoto (3–30–79).

Johnson County

Iowa City, *Woodlawn Historic District*, irregular pattern along Woodlawn Ave. (3–20–79).

Muscatine County

Muscatine, *Warde, J.C.B., House*, 205 Cherry St. (4–3–79).

Plymouth County

Le Mars, *Le Mars Public Library*, 200 Central Ave. SE. (3–30–79).

Polk County

Des Moines, *St. Ambrose Cathedral and Rectory*, 607 High St. (3–20–79).

Poweshiek County

Grinnell, *Goodnow Hall*, Grinnell College campus (4–2–79).
Grinnell, *Mears Hall*, Grinnell College campus (4–2–79).

Scott County

Houses of Mississippi River Men Thematic Resources. Reference—see individual listings for Le Claire, *Dawley House, Horton-Suiter House, Kattenbracher House, McCaffrey House, Old Mill House, Rambo House, Sant, Samuel Van, House, Smith, John, House, Suiter, Jacob, House, Suiter, John H., House, Suiter, William, House, Tromley, George, Jr., House,* and *Tromley, George, Sr., House.*
Davenport, *Burtis-Kimball House Hotel*, 210 E. 4th St. (4–2–79).
Le Claire, *Dawley House (Houses of Mississippi River Men Thematic Resources)* 127 S. 2nd St. (4–13–79).
Le Claire, *Gamble, James, House*, 527 Wisconsin Ave. (3–30–79).
Le Claire, *Horton-Suiter House (Houses of Mississippi River Men Thematic Resources)* 102 N. 2nd St. (4–13–79).
Le Claire, *Kattenbracher House (Houses of Mississippi River Men Thematic Resources)* 1125 N. 2nd St. (4–13–79).
Le Claire, *McCaffrey House (Houses of Mississippi River Men Thematic Resources)* 208 N. Cody Rd. (4–13–79).
Le Claire, *Old Mill House (Houses of Mississippi River Men Thematic Resources)* 419 N. Cody Rd. (4–13–79).
Le Claire, *Rambo House (Houses of Mississippi River Men Thematic Resources)* 430 N. Cody Rd. (4–13–79).
Le Claire, *Sant, Samuel Van, House (Houses of Mississippi River Men Thematic Resources)* 322 N. Cody Rd. (4–13–79).
Le Claire, *Smith, John, House (Houses of Mississippi River Men Thematic Resources)* 426 Dodge (4–13–79).
Le Claire, *Suiter, Jacob, House (Houses of Mississippi River Men Thematic Resources)* 214 S. 2nd St. (4–13–79).
Le Claire, *Suiter, John H., House (Houses of Mississippi River Men Thematic Resources)* 1220 W. 2nd St. (4–13–79).
Le Claire, *Suiter, William, House (Houses of Mississippi River Men Thematic Resources)* 227 Wisconsin (4–13–79).
Le Claire, *Tromley, George, Jr., House (Houses of Mississippi River Men Thematic Resources)* 127 Jones St. (4–13–79).
Le Claire, *Tromley, George, Sr., House (Houses of Mississippi River Men Thematic Resources)* 806 N. Cody Rd. (4–13–79).

Tama County

Toledo, *Wieting Theater*, 101 S. Church St. (4–9–79).

Wayne County

Corydon, *Tedford, W. H., House (Poston House)* 312 S. West St. (3–30–79).

KANSAS

Ford County

Dodge City, *Dodge City Public Library*, 2nd and Spruce Aves. (3–26–79).

Shawnee County

Wakarusa, *Wakarusa Hotel*, Main St. (4–4–79).

KENTUCKY

Boone County

Burlington vicinity, *Dinsmore House*, W. of Burlington on KY 18 (3–28–79).

Christian County

Hopkinsville, *Crockett, Judge Joseph, House (Lone Oak)* 317 E. 16th St.(4–3–79).

Magoffin County

Salyersville, *Gardner, Judge D. W., House (Greencrest) KY 7 (3–28–79).*

LOUISIANA

Concordia Parish

Vidalia, *Campbell, Sheriff Eugene P., House*, 2 Concordia Ave. (4–13–79).

East Feliciana Parish

Norwood vicinity, *Richland Plantation, SW of Norwood on LA 442 (3–28–79).*

Natchitoches Parish

Natchez vicinity, *Oaklawn Plantation*, E of Natchez on LA 494 (3–28–79).

Tensas Parish

St. Joseph, *Tensas Parish Courthouse*, Courthouse Sq. (3–20–79).

West Feliciana Parish

St. Francisville, *Grace Episcopal Church*, 510 Ferdinand St. (3–28–79).

Winn Parish

St. Maurice, *St. Maurice Plantation*, off LA 477 (4–3–79).

MARYLAND

Dorchester County

Cambridge vicinity, *Dale's Right*, S of Cambridge (4–3–79).

Washington County

Keedysville vicinity, *Hitt's Mill and Houses*, W of Keedysville off MD 34 (4–12–79).

MASSACHUSETTS

Barnstable County

Chatham, *Brick Block*, Main St. and Chatham Bars Rd. (4–13–79).

Essex County

Peabody, *Peabody Central Fire Station*, 41 Lowell St. (4–11–79).

Middlesex County

Waltham, *Castle, The (Middlesex Medical School)* 415 Suth St. (4–9–79).

MINNESOTA

Stearns County

Collegeville, *St. John's Abbey and University*, off U.S. 52 (3–23–79).

MISSISSIPPI

Adams County

Natchez, *Koontz House*, 303 S. Rankin St. (3–29–79) HABS.
Natchez, *Lisle-Shields Town House*, 701 N. Union St. (3–29–79).
Natchez, *Pleasant Hill*, 310 Pearl St. (3–28–79).
Natchez, *Shadyside*, 107 Shadyside St. (3–29–79).
Natchez vicinity, *Edgewood*, N of Natchez on MS 554 (3–30–79).
Natchez vicinity, *Magnolia Hill*, SE of Natchez (3–30–79).

Jefferson County

Church Hill, *Cedar Grove Place*, MS 553 (3–28–79).

Leflore County

Greenwood vicinity, *Fort Leflore*, N of Greenwood off MS 7 (4–4–79).

Lowndes County

Columbus, *Cedars, The*, 1311 Military Rd. (3–29–79) HABS.
Columbus, *Symons House*, 304 4th Ave. South (3–28–79).

Madison County

Canton, *Madison County Jail*, 234 E. Fulton St. (3–28–79).

Warren County

Vicksburg, *Beck House*, 1101 South St. (3–29–79).

MISSOURI

Clay County

Kansas City, *Antioch Christian Church*, 4805 NE. Antioch Rd. (4–2–79).

Pettis County

Sedalia, *Missouri, Kansas and Texas Railroad Depot*, 600 E. 3rd St. (3–28–79).

Platte County

Parkville, *Mackay Building*, Park College campus (4–6–79).

St. Louis County

Grantwood, *White Haven*, 9060 Whitehaven Dr. (4–4–79) HABS.
Manchester, *Lyceum, The*, 920 Manchester Rd. (4–3–79).

Stone County

Reeds Spring vicinity, *Morrill, Levi, Post Office and Homestead*, SE of Reeds Spring off MO 148 (4–3–79).

NEBRASKA

Douglas County

Omaha, *Old Market Historic District*, bounded by 13th, Farnam, 10th and Jackson Sts. (3–23–79).

Gage County

Beatrice, *Beatrice Chautauqua Pavilion and Gatehouse*, 6th and Grable Sts. (4–9–79).

Webster County

Bladen vicinity, *Pavelka Farmstead*, SE of Bladen (4–13–79).

NEVADA

Clark County

Las Vegas, *Las Vegas Crammar School, Branch No. 1*, Washington and D Sts. (4–2–79).

NEW HAMPSHIRE

Sullivan County

Claremont, *Claremont Warehouse No. 34* (Part of Downtown Claremont and Lower Village Multiple Resource Area) 43 River St. (2–28–79).

NEW JERSEY

Middlesex County

East Brunswick, *Kearney, Edward S., House*, NJ 18 (4–6–79).
Perth Amboy, *Simpson United Methodist Church*, High and Jefferson Sts. (4–6–79).

NEW MEXICO

Sierra County

Arrey vicinity, *Percha Diversion Dam*, 2 mi. (3.2 km) NE of Arrey (4–6–79).
Elephant Butte vicinity, *Elephant Butte Dam and Reservoir*, NW of Elephant Butte off NM 51 (4–9–79).

NEW YORK

Erie County

West Seneca, *Eaton Site* (4–3–79) *New York County.*
New York, *Dunbar Apartments*, bounded by 7th and 8th Aves. and W. 149th and 150th Sts. (3–29–79).

Ontario County

Clifton Springs, *Clifton Springs Sanitarium and Foster Cottage*, 11 E. Main St. (Sanitarium) and 9 E. Main St. (Foster Cottage) (4–6–79).

Oswego County

Pulaski vicinity, *Selkirk Lighthouse*, W of Pulaski on Lake Rd. (3–30–79).

NORTH CAROLINA

Perquimans County

Bethel vicinity, *White, Isaac, House*, NE of Bethel on SR 1339 (3–23–79) HABS.

OHIO

Crawford County

Leesville, *Leesville Village Multiple Resource Area.* This area includes: *Crawford, Col. William, Capture Site*, SR 229, *J and M Trading Post*, 6867 Leesville Rd., *J and M Trading Post Annex*, Leesville Rd. and Leesville Town Hall, OH 598 and SR 229. (4–3–79).

Erie County

Sandusky, *Melville-Milne, William Gordon, House*, 319 Lawrence St. (3–28–79).

Franklin County

Washington Township, *Washington Township Multiple Resource Area.* Properties in Amblin, Amblin vicinity, Dublin, Dublin vicinity, Sandy Corners, and Sandy Corners vicinity. Included are: Dublin, *Dublin High Street District*, 6–126 S. High St.; Amblin, *Bowman, Thomas, House*, 665 Shier-Rings Rd.; *Davis, Anson, House*, 4700 Hayden Run Rd.; *Harvey, James, House*, 7590 Rings Rd.; *Shier, Carl H., House*, 7026 Sheir-Rings Rd.; *Township Voting Hall*, Rings Rd.; *Wuertz, Ernest, Farm*, 7495 Rings Rd.; Amblin vicinity, *Hamilton, J. L., House*, 6273 Cosgray Rd.; *Marshall, David, House*, 7455 Cosgray Rd.; *Whitmer, Frieda, House*, 5530 Houchard Rd.; Dublin *Anderson House*, 162 S. High St.; *Cashell House*, 109 S. Riverview St.; *Coles House*, 46 S. High St.; *Colony Fabrics*, 119 S. High St.; *Davis, Alexander, Cabin*, 5436 Dublin Rd.; *Davis, James, Farm*, 5707 Dublin Rd.; *Davis, Samuel Henry, House*, 5083 Rings Rd.; *Drummer Boy Antiques*, 32 S. High St.; *Dublin Cemetery Vaults*, OH 161; *Dublin Coiffures*, 87 S. High St.; *Dublin Community Church*, 81 W. Bridge St.; *Dublin Floral Design*, 105–109 S. High St.; *Dublin Pottery Shop*, 54 S. High St.; *Dublin Tack Shop*, 16 N. High St.; *Dublin Veterinary Clinic*, 32 W. Bridge St.; *Eberly House*, 63 S. Riverview St.; *Eger, George, House*, 35 S. High St.; *Frantz Place*, 6152 Frantz Rd.; *Hahm, David, House*, 63 S. Riverview St.; *Herron Place*, 5051 Brand Rd.; *Human Touch Florist Shop*, 82 S. High St.; *Indian Run Cemetery Stone Walls*, N. High St.; *Jones House*, 19 S. Riverview St.; *Karper Barn*, 6199 Dublin Rd.; *Karper House*, 167 S. High St.; *Kuhn, Dr. Roger, Office*, 22 N. High St.; *Leppert, C. Farm*, 5280 Pinney Rd.; *Little White Hen Antique Shop*, 91 S. High St.; *McDowell, Austin, House*, 6189 Dublin Rd.; *Moffett Realty*, 53 N. High St.; *Perdue House*, 75 S. High St.; *Quillin, George, House*, 6992 Dublin-Bellpoint; *Royce, Richard, Office*, 29 S. High St.; *Richards House*, 63 S. High St.; *Seese-Morlan House*, 129 Riverview St.; *Sells, Benjamin, House*, 4586 Hayden Run Rd.; *Seventeenth Colony House*, 18 S. High St.; *Skinner, E. M., House* 126 S. High St.; *Smith-Headlee Office Building*, 63 S. High St.; *Snyder's Antiques*, 56 N. High St.;

Thomas House, 6 S. High St.; *Tippie House*, 37 S. Riverview St.; *Trabue, J. L., Inc.*; 76–78 S. High St.; *Weber House*, 30 S. High St.; *Willows, The*, 6028 Dublin Rd.; **Dublin vicinity**, *Boles E., Cottage*, 5350 Hayden Run Rd.; *Bower, Frank, Farm*, 5381 Brand Rd.; *Coffman House*, 6659 Coffman Rd.; *Datz, Walta, House*, 5040 Tuttle Rd.; *Dunblane*, 8055 Dublin-Bellpoint Rd.; *Graham, Bruce D., House*, 4915 Brand Rd.; **Sandy Corners**, *St. John's Lutheran Church*, 6135 Rings Rd. and **Sandy Corners vicinity**, *Myer House*, 58–5927 Rings Rd. (4–11–79).

Lorain County

Elyria, *Starr, Horace C., House and Carriage Barns*, 276 Washington Ave. (4–3–79).

Muskingum County

Zanesville, *St. Paul's A.M.E. Church* and Pasonage, 331 South St. (3–23–79).

Seneca County

Bellevue vicinity, *Heter Farm*, NW of Bellevue on SR 29 (3–29–79).

Wood County

Bowling Green, *U.S. Post Office*, 305 N. Main St. (3–28–79).

OREGON

Clackamas County

Canby vicinity, *Anthony, Herman, Farm*, NE of Canby at 10205 S. New Era Rd. (3–26–79).

Douglas County

Oakland, *Oakland Historic District*, roughly bounded by Chestnut, 1st, Cedar and 8th Sts. (3–30–79).

Jackson County

Ashland, *Beach, Baldwin, House*, 348 Hargadine St. (3–28–79).
Ashland, *First Baptist Church*, 241 Hargadine St. (3–28–79).

Josephine County

Grants Pass, *Croxton, Thomas, House*, 1002 NW. Washington Blvd. (3–29–79).

Marion County

Woodburn, *Old Woodburn City Hall*, 550 N. 1st St. (3–30–79).

Multnomah County

Portland, *Piggott, Charles, House*, 2591 SW. Buckingham Ter. (3–38–79).

Yamhill County

Yamhill, *Laughlin, Lee, House*, 100 Laurel St. (3–26–79).

PENNSYLVANIA

Allegheny County

Pittsburgh, *Carnegie Institute and Library*, 4400 Forbes Ave. (3–30–79).

Dauphin County

Hummelstown, *Zion Lutheran Church and Graveyard*, Rosanna St. (3–29–79).

Franklin County

Chambersburg vicinity, *brotherton Farm*, SW of Chambersburg on Falling Spring Rd. (3–30–79).

Huntingdon County

Marklesburg vicinity, *Brumbaugh Homestead*, NE of Marklesburg off PA 26 (3–28–79).

Indiana County

Indiana, *Breezedale (Sutton-Elkin House)* Indiana University of Pennsylvania campus (3–29–79).

Lancaster County

Columbia, *Bachman and Forry Tobacco Warehouse*, 125 Bank Alley (3–29–79).

Montgomery County

Norristown vicinity, *Old Norriton Presbyterian Church*, NW of Norristown on U.S. 422 (4–3–79).

Somerset County

Addison, *Petersburg Tollhouse*, off U.S. 40 (3–20–79).

RHODE ISLAND

Providence County

Central Falls, *Central Falls Multiple Resource Area*. This area includes: *Central Falls Mill Historic District*, between Roosevelt Ave. and Blackstone River; *Central Falls Congregational Church*, 376 High St.; *Central Street School*, 379 Central St.; *Conant, Samuel B., House*, 104 Clay St.; *Fales, David G., House*, 476 High St.; *Greene, Benjamin F., House*, 85 Cross St.; *Holy Trinity Church*, 134 Fuller Ave.; *Jenks Park and Cogswell Tower*, Broad St.; *St. Matthews Church*, Dexter and W. Hunt Sts.; and *Valley Falls Mill*, 1363 Broad St. (4–6–79).

SOUTH CAROLINA

Pickens County

Pickens, *Old Pickens Jail*, Johnson and Pendleton Sts. (4–11–79).

Richland County

Columbia, *Confederate Printing Plant*, 501 Gervais St. (3–28–79).

TENNESSEE

Chester County

Henderson, *Chester County Courthouse*, Court Sq. (3–26–79).

Davidson County

Nashville, *Gilbert Mansion*, 1905 W. End Ave. (3–28–79).

Franklin County

Winchester, *Estill-Fite House, 114 Sharp Springs Rd. (3–23–79).*

Hamilton County

Chattanooga, *Fountain Square*, 600–622 Georgia Ave. and 317 Oak St. (3–28–79).
Chattanooga, *Mikado Locomotive No. 4501*, 2202 N. Chamberlain Ave. (3–28–79).

Shelby County

Capleville, *Capleville Methodist Church*, 5053 Shelby Dr. (4–3–79).
Memphis, *Love, George Collins, House*, 619 N. 7th St. (4–2–79).
Memphis, *Lowenstein House*, 756 Jefferson Ave. (3–23–79).
Memphis, *Shrine Building*, 66 Monroe Ave. (3–29–79).
Memphis, *Steele Hall*, LeMoyne-Owen College campus (3–23–79).

TEXAS

Bexar County

San Antonio vicinity, *Maverick-Altgelt Ranch and Fenstermaker-Fromme Farm*, NW of San Antonio (4–12–79).

Colorado County

Columbus vicinity, *Zimmerscheidt-Leyendecker House*; S of Columbus on FR 109 (3–30–79).

Galveston County

Galveston, *Galvez Hotel*, 2024 Seawall Blvd. (4–4–79).
Galveston, *Kempner, Daniel Webster, House*, 2504 Avenue O (3–30–79).

Harris County

Houston, *Paul Building (Republic Building) 1018 Preston Ave. (4–6–79).*

Jack County

Jacksboro, *Knox, James W., House*, 215 Knox St. (4–9–79).

Jefferson County

Beaumont, *Beaumont Y.M.C.A.*, 934 Calder St. (3–30–79).

Kaufman County

Terrell, *Cartwright, Matthew, House*, 505 Griffith Ave. (4–4–79).

UTAH

Utah County

Provo, *Provo Third Ward Chapel and Amusement Hall*, 105 N. 500 West (4–2–79).

VERMONT

Windham County

Dummerston, *Naulakha*, off U.S. 5 (4–11–79).

VIRGINIA

Montgomery County

Christiansburg, *Old Christiansburg Industrial Institute*, 570 High St. (4–6–79).

Rockingham County

Broadway vicinity, *Sites House*, NW of Broadway off VA 617 (4–3–79).

WEST VIRGINIA

Monongalia County

Morgantown, *Old Morgantown Post Office*, 107 High St. (3–28–79).

WISCONSIN

Ashland County

Ashland, *Union Depot*, 417 Chapple Ave. (3–23–79).

Dane County

Paoli, *Paoli Mills*, 6890 Sun Valley Pkwy. (3–30–79).

Jefferson County

Watertown, *Chicago and Northwest Railroad Passenger Station*, 725 W. Main St. (3–28–79).

* * * * *

The following properties were omitted from the listing in the Federal Register, Part II, February 6, 1979.

DISTRICT OF COLUMBIA

Washington

Baker, Newton D., House, 3017 N St., NW., (12–8–76) NHL.

GEORGIA

Murray County

Chatsworth vicinity, *Fort Mountain*, U.S. 76 (11–23–77)

Putnam County

Eatonton vicinity, *Tompkins Inn*, N of Eatonton on U.S. 441 (10–5–78)

GUAM

Piti vicinity, *SMS Cormoran (cruiser)* Arpa Harbor (4–4–75)

KANSAS

Crawford County

Girard, *Wayland, Julius A., House*, 721 N. Summit (11–21–76)

Saline County

Salina vicinity, *Whiteford (Price) Site*, 3 mi. E of Salina (10–15–66) NHL.

MARYLAND

Baltimore (independent city)

Remsen, Ira, House, 24 Monument St. (5–15–75) NHL

Prince Georges County

Accokeek vicinity, *Accokeek Creek Site*, opposite Mount Vernon on the Potomac River (7–19–64) NHL.

MONTANA

Fergus County

Lewiston, *St. Joseph's Hospital*, U.S. 87 (9–13–78).

Gallatin County

Three Forks vicinity, *Three Forks of the Missouri*, NE of Three Forks on the Missouri River, Missouri Headwaters State Monument (10–15–66) NHL.

Meagher County

White Sulphur Springs, *Sherman, Byron R., House*, 310 2nd Ave., (9–15–77).

NEW YORK

New York County

New York, *Pupin Physics Laboratories, Columbia University*, Broadway and 120th St. (10–15–66) NHL.

UTAH

Carbon County

Desolation Canyon, on Green River (11–24–68) NHL. (also in Emery, Grand and Uintah Counties)

Salt Lake County

Salt Lake City, *Old City Hall* (5–15–75) NHL.

VERMONT

Bennington County

Dorset vicinity, *Kent Neighborhood Historic District*, S of Dorset at Dorset West Rd., Nichols Hill Rd., and Kent Lane (7–14–78).

* * * * *

The following is a list of corrections to properties listed in the Federal Register, Part II, February 6, 1979. Additional corrections may appear in subsequent updates.

KANSAS

Bourbon County

Fort Scott, *Moody Building*, 15 E. 2nd St. (11–9–77) (previously listed as Boubon County)

NEW YORK

Albany County

Albany, *St. Peter's Church*, 107 State St. (3–16–72) (previously listed at 108 State St.)
Menands vicinity, *Schuyler Flatts*, N of Menands on W side of Hudson River on NY 2 (1–21–74) (previously listed in Watervliet)

Dutchess County

Poughkeepsie, *Collingwood Opera House and Office Building*, 31–37 Market St. (10–20–77) (previously listed as Collingswood Opera House and Office Building)

New York County

New York, *Plaza Hotel and Grand Army Plaza*, 5th Ave. and 59th St. (11–29–78) (previously listed as Plaza Hotel and Grand Army Hotel)

Onondaga County

Plainville vicinity, *Whig Hall and Dependencies*, E of Plainville at jct. of W. Genesee and Gates Rds. (5–12–75) (previously listed in Baldwinsville)

* * * * *

The following properties have been demolished and/or removed from the National Register of Historic Places. This action does not modify the applicability, if any, of provisions of section 2124 of the Tax Reform Act.

KANSAS

Dickinson County

Solomon, *Union Pacific Railroad Depot (Solomon Depot)* 3rd St. between Walnut and Pine Sts. (4–28–72) (demolished).

NEW YORK

Cayuga County

Auburn, *Flatiron Building*, 1–3 Genessee St. (demolished).

* * * * *

Determinations of eligibility are made in accordance with the provisions of 36 CFR 63, procedures for requestion determinations of eligibility, under the authorities in section 2(b) and 1(3) of Executive Order 11593 and section 106 of the National Historic Preservation Act of 1966, as amended, as implemented by the Advisory Council on Historic Preservation's procedures, 36 CFR Part 800. Properties determined to be eligible under § 63.3 of the procedures for requestion determinations of eligibility are designated by (63.3).

Properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before any agency of the Federal Government may undertake any project which may have an effect on an eligible property, the Advisory Council on Historic Preservation, shall be given an opportunity to comment on the proposal.

The following list of additions, deletions, and corrections to the list of properties determined eligible for inclusion in the National Register is intended to supplement the cumulative version of that list published in February of each year.

ARIZONA

Gila County

Tonto National Forest, *Archeological Sites, AZ:U 3, 18, 19, 20, 21, 22, 36, 37; AZ:U 4, 6, 19, 22; and AZ:U 8, 80, 83, 84* (63.3).

Maricopa County

Archeological Sites, AZ T:8:53, AZ U:5:67, 68 and 69, Granite Reef Aqueduct Area (63.3) Tempe.
Ciudad de Los Hornos (AZ U:9:41) Hardy and Baseline Rds. (63.3).

CALIFORNIA

Alameda County

Oakland, *Henshaw, Frederick, House*, 1443 6th Ave.

Los Angeles County

Los Angeles, *Barker Brothers*, 800 W. 7th St.
Los Angeles, *Biltmore Hotel, 515 S. Olive.*
Los Angeles, *Brownstein, Louis, and Company*, 751 S. Figueroa.
Los Angeles, *California Club*, 538 S. Flower.
Los Angeles, *Edison Building*, 601 W. 5th St.
Los Angeles, *Federal Title*, 448 S. Hill St.
Los Angeles, *Fifth Street Retaining Wall*, 5th St.
Los Angeles, *Fire Station No. 3*, 219 S. Hill St.
Los Angeles, *Fire Station No. 28*, 644 S. Figueroa.
Los Angeles, *Friday Morning Club*, 940 S. Figueroa.
Los Angeles, *Grand Central Market*, 315 S. Broadway.
Los Angeles, *Home Telephone Building*, 246 S. Hill St.
Los Angeles, *Los Angeles City Hall*, 200 N. Spring St.
Los Angeles, *Los Angeles Times Building*, 201 W. 1st St.
Los Angeles, *Los Angeles Union Station*, 800 N. Alameda St.
Los Angeles, *Myrick and Markham Hotels*, 324½–326½ S. Hill St.
Los Angeles, *Pershing Square Building*, 427 S. Hill St.

Los Angeles, *St. Paul's Cathedral*, 615 S. Figueroa.
Los Angeles, *Subway Terminal Building*, 417 S. Hill St.
Los Angeles, *Title Guarantee Building*, 401 W. 5th St.

San Joaquin County

Stockton, *Sikh Temple*, 1930 S. Grant (63.3).

COLORADO

Denver County

Denver, *Larimer Street Historic District* (63.3).

CONNECTICUT

Hartford County

Simsbury, *Drake Hill Road Bridge*, spans Farmington River (63.3).
Simsbury, *Route 315 Bridge*, spans Farmington River (63.3).

Middlesex County

Middletown, *Broad Street Historic District* (63.3).

FLORIDA

Hillsborough County

Tampa Bay vicinity, *Archeological District*, E of Tampa on I 75 (63.3).

GEORGIA

Cobb County

Smyrna, *Carmichael, J. H., House*, 501 Log Cabin Rd. (63.3).

DeKalb County

Decatur, *U.S. Honor Farm Complex*, 3074 Panthersville Rd. (63.3).

IDAHO

Kootenai County

Coeur d'Alene vicinity, *Mullan Trail* (63.3).

Twin Falls County

Murtaugh vicinity, *Murtaugh Bridge*, N of Murtaugh (63.3).

INDIANA

Vanderburgh County

Evansville, *Garvin Park*, bounded by Morgan, and Heidelbach Aves., Herndon Dr., and Pigeon Creek (63.3).

KANSAS

Franklin County

Peoria, *Columbia Bridge*, spans Marais des Cygnes River (63.3).

MARYLAND

Charles County

Blossom Point, *Ballast House*.

MISSISSIPPI

Hinds County

Jackson, *Greystone Hotel*, 937 Lamar St. (63.3).

Leflore County

Greenwood vicinity, *Archeological Sites 22–Lf–516 and 22–Lf–649* (63.3).

MONTANA

Big Horn County

Decker vicinity, *Spring Creek Archeological District*, 5 mi. N of Decker (63.3).

NEBRASKA

Lancaster County

Lincoln, *South Salt Creek Neighborhood*.

Richardson County

Humboldt, *Ruel Nims Store*.

NEW HAMPSHIRE

Sullivan County

Newport, *Newport Historic District* (63.3).

NEW JERSEY

Passaic County

Paterson, *Ferguson, John W., House*, 421 12th Ave.

NEW MEXICO

Sandoval County

Corrales vicinity, *Archeological Site OCA:SCS:3* (63.3).

NEW YORK

Albany County

Albany, *3 and 5 Clinton Street*.

Monroe County

Rochester, *50 West Main Street* (63.3).

Suffolk County

Babylon, *Old Babylon Town Hall*, 47 W. Main St. (63.3).
North Amityville, *Old Bethel A.M.E. Church*, Albany Ave. (63.3).

OHIO

Belmont County

Bellaire, *Fulton, Edwin, House*, 3678 Belmont St. (63.3).
Bellaire, *Sons of Italy Building*, 3141 Union St. (63.3).

Hamilton County

Cincinnati, *17 Properties in Walnut Hills, Lincoln-Gilbert UDAG Area*, 2935 Gilbert Ave.; 835, 849, 857 Beecher St.; 3014, 3010. Melrose Ave; and 836, 838, 840, 842, 844, 846, 848, 850, 852, 854, 856 Lincoln Ave.

OREGON

Harney County

Archeological Site 35 HA 403, Malheur National Wildlife Refuge (63.3).

PENNSYLVANIA

Mercer County

Greenville, *Penn Middle School*, Penn Ave.

TEXAS

Hays County

Archeological Site 41HY92, Upper San Marcos River Watershed.

WASHINGTON

Pierce County

Tacoma, *First Industrial Center of Tacoma*, bounded by Jefferson and Pacific Aves., 17th and 21st Sts.

Whatcom County

Sumas, *U.S. Border Station*, Cherry St. and Boundary Rd.

WISCONSIN

Outoagamie County

Shiocton vicinity, *Shioc River Bridge*, N of Shiocton (63.3).

* * * * *

The following properties were omitted from the listing in the Federal Register, Part II, February 6, 1979.

NORTH DAKOTA

Burleigh County

Bismarck, *Fort Lincoln Site*.

* * * * *

[FR Doc. 79-13272 Filed 4-30-79; 8:45 am]
BILLING CODE 4310-03-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before April 20, 1979. Purusant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by May 11, 1979.

Charles A. Herrington,
Acting Keeper of the National Register.

ALASKA

Fairbanks Division

Nabesna, *Nabesna Gold Mine Historic District*, base of White Mountain

ARKANSAS

Faulkner County

Conway, *Harton House*, 1821 Robinson Ave.

COLORADO

Denver County

Denver, *Denver City Cable Railway Building*, 1801 Lawrence St.

CONNECTICUT

New Haven County

New Haven, *New Haven Jewish Home for the Aged*, 109 Davenport Ave.

ILLINOIS

Kane County

Batavia vicinity, *Dutch Mill*, N of Batavia off IL 25

Kankakee County

Kankakee, *Mill, Lemuel, Barn*, 198 N. Indiana Ave.

McHenry County

Marengo vicinity, *Ragara, Green, House*, E of Marengo at 10821 E. Grant St.

Winnebago County

Rockford, *Graham-Ginestra House*, 1115 S. Main St.

INDIANA

Clinton County

Frankfort, *Old Frankfort Stone High School*, 301 E. Clinton St.

IOWA

Montgomery County

Red Oak vicinity, *Runnels, B. F., House*, SW of Red Oak

KENTUCKY

Woodford County

Versailles vicinity, *Arnold Wooldridge House (Prospect Hill)* S of Versailles off McCowans Ferry Rd.

MARYLAND

Dorchester County

Taylor's Island, *Bethlehem Methodist Episcopal Church*, Hoopers Neck Rd.

Frederick County

Buckeystown, *Buckeystown Historic District*, MD 85

MASSACHUSETTS

Hampden County

Springfield, *Wason-Springfield Steam Power Blocks*, 27–43 Lyman St. and 25–56 Taylor St.

Middlesex County

Concord vicinity, *Parkman Tavern*, S of Concord at 20 Powder Mill Rd.
Winchester, *Winchester Savings Bank*, 26 Mt. Vernon St.

Norfolk County

Norfolk, *Ware, Josiah, Tavern*, Main St. and Rockwood Rd.

MINNESOTA

Brown County

Brown County Multiple Resource Area, various locations in Brown County

MISSISSIPPI

Adams County

Natchez, *Dixon Building*, 514 Main St.

Forrest County

Hattiesburg, *Saenger Theatre*, Forrest and Front Sts.

NORTH CAROLINA

Cleveland County

Shelby, *McBrayer, Dr. Victor, House*, 307 N. Morgan St.

Gaston County

Mountain Island, *St. Joseph's Catholic Church*, off MD 273

Guilford County

Greensboro, *Wafco Mills*, 801 McGee St.

OREGON

Multnomah County

Portland, *Central Building, Public Library*, 801 SW. 10th Ave.
Portland, *Multnomah County Courthouse*, 1021 SW. 4th Ave.

PENNSYLVANIA

Montgomery County

Jenkintown, *Jenkins' Town Lyceum Building*, Old York and Vista Rds.

TEXAS

Harris County

Houston, *Christ Church*, 1117 Texas Ave.

Karnes County

Karnes City vicinity, *Ruckman, John, House*, 6 mi. N of Karnes City off TX 80

Franklin County

Pasco, *Moore, James, House*, off U.S. 12

Spokane County

Spokane, *Marycliff/Cliff Park Historic District*, roughly bounded by Lincoln St., 7th, 12th and 14th Aves.

[FR Doc. 79-13283 Filed 4-30-79; 8:45 am]
BILLING CODE 4310-03-M

National Park Service

Mining Plan of Operations at Gates of the Arctic National Monument; Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Wallace E. Gordon, Jr. has filed a plan of operations in support of proposed mining activities on lands embracing his Mining Claim Group within the Gates of the Arctic National Monument. This plan is available for public inspection during the normal business hours at the Alaska Area Office, National park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: April 23, 1979.

Douglas C. Warnick,
Acting Area Director, Alaska Area Office.

[FR Doc. 79-13287 Filed 4-30-79; 8:45 am]
BILLING CODE 4310-70-M

Intent To Implement Transportation Program, Lowell National Historical Park, Lowell, Mass.

Notice is hereby given that the National Park Service plans to implement a bus-barge transportation system at Lowell National Historical Park, Lowell, Massachusetts. This system will consist of a public transit circuit commencing at the Lowell B & M train station (the commuter line connecting Lowell to Boston) and linking the Merrimack Gatehouse, the Lowell Museum, the Northern Canal Gatehouse, the Francis Gate Complex, and ending at the B & M train station. The linkage will be by bus except the portion between the Northern Canal Gatehouse and the Francis Gate Complex which will be by canal barge. The system will be in operation from June 2, 1979, through September 2, 1979. The purpose of the program is to efficiently convey visitors to various sites on Lowell's historic canals.

Comments on the proposed action should be addressed to: Superintendent, Lowell National Historical Park, 171 Merrimack Street, Lowell, Massachusetts 01852.

Dated: April 18, 1979.

Gilbert W. Calhoun,
Acting Regional Director, North Atlantic Region.

[FR Doc. 79-13285 Filed 4-30-79; 8:45 am]
BILLING CODE 4310-70-M

Office of the Secretary

Drewsey Grazing Management in Harney County, Oreg.; Availability of Draft Environmental Statement and Notice of Public Hearings

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the Drewsey Planning Area. The proposal involves implementing an improved livestock grazing program on public lands within a portion of the Burns District in central Oregon.

The Department of the Interior invites written comments on the draft statement to be submitted by June 15, 1979, to the State Director, Bureau of Land Management, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208.

A limited number of copies are available upon request to the State

Director at the above address or the Burns District Office.

Public reading copies will be available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, 18th and C Streets, NW., Washington, D.C.
Bureau of Land Management, Office of Public Affairs, 729 NE Oregon Street, Portland, Oregon.
Bureau of Land Management, Burns District Office, 74 South Alvord Street, Burns, Oregon.
Library, Central Oregon Community College, Bend, Oregon.
Library, Portland State University, Portland, Oregon.
Library, Oregon State University, Corvallis, Oregon.
Harney County Library, Burns, Oregon.

Notice is also given that oral and/or written comments will be received at formal public hearings held at the following locations:

Bureau of Land Management, Oregon State Office, Room 17, 729 Oregon Street, Portland, Oregon—June 5, 1979, at 1:00 p.m.
Harney County Museum Clubroom, N. Alvord and D Streets, Burns, Oregon—June 7, 1979, at 1:00 and 7:00 p.m.

Witnesses presenting oral comments should limit their testimony to ten (10) minutes. Requests to testify at the Burns hearing should be submitted to the District Manager (address above, telephone 573–2071) prior to close of business June 1, 1979. Requests to testify at the Portland hearing should be submitted to the State Director, 911.1 (address above, telephone 231–6951) prior to close of business June 4, 1979.

Dated: April 27, 1979.

Larry E. Meierotto,
Assistant Secretary.

[INT DES 79-22]

[FR Doc. 79-13533 Filed 4-30-79; 8:45 am]

BILLING CODE 4310-84-M

Office of Surface Mining Reclamation and Enforcement

Availability of Proposed Decision To Approve, With Stipulations, Major Modification of Coal Mining and Reclamation Plan for Public Review; Northern Coal Co.—Rienau No. 2 Mine

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Availability, for Public Review, of Proposed Decision to Approve, with Stipulations, a Coal Mining and Reclamation Plan.

SUMMARY: Pursuant to § 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining has performed a technical review of a mining and reclamation plan and has recommended approval of the proposed plan contingent on the applicant's acceptance of stipulations. The proposed coal mining operation is described below.

Applicant	Mine name	Location of lands to be affected by modification		
		State	County	Township, range, section
Northern Coal Company	Rienau No. 2	Colorado	Rio Blanco and Moffat	T. 2 N., R. 93 W.; 29, 32; T. 6 N., R. 90 W.; 1.

Office of Surface Mining Reference No.: CO-0008.

The mine is located approximate 40 miles south of Craig, Colorado and about eight miles north of Meeker. The proposed operation involves underground mining and subsequent reclamation on about 123 acres of the total lease area of 480 acres. The mine is presently under OSM enforcement orders to obtain approval of the mine plan. The operation includes a coal load-out facility located immediately south of Craig, Colorado. The proposal addresses single seam room and pillar mining on the advance (designed to protect overlying coal seams), surface operations, and surface drainage control at both the mine and at the coal load-out facility.

The purpose of this notice is to inform the public that the Regional Director, Region V, Office of Surface Mining, has recommended, based on staff reviews and the reviews of the Colorado Department of Natural Resources, Mined Land Reclamation Division, the Bureau of Land Management, and the Geological Survey, approval of the coal mining and reclamation plan, subject to stipulations which must be accepted by the applicant in order for the approval to take effect. Any persons having an interest which is or may be adversely affected by recommended approval, may, in writing, request a public meeting to discuss their views regarding the plan. The availability of the mining and reclamation plan for the Rienau No. 2 Mine was announced in the Federal Register on March 6, 1979.

DATES: All requests for a public meeting must be made within 20 calendar days from the date of publication of this notice in the Federal Register. No decision on the plan will be made by the Assistant Secretary, Energy and Minerals, prior to the expiration of the 20-day period.

The mining and reclamation plan, the OSM staff analysis and proposed stipulations are available for review in the Region V Office of Surface Mining. Requests for a public meeting must be submitted in writing to the Regional Director, Region V, Office of Surface Mining, Room 219, 1823 Stout Street, Denver, Colorado, 80202. Requests must include the name and address of the requestor.

FOR FURTHER INFORMATION CONTACT: Dan Kimball, Office of Surface Mining, Region V, Room 270, 1823 Stout Street, Denver, Colorado, 80202.

Paul L. Reeves,
Deputy Director.

[Federal Coal Leases No. D-044240, C-076713]

[FR Doc. 79-13460 Filed 4-30-79; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

Certain Precision Resistor Chips; Investigation

Notice is hereby given that a complaint was filed with the United States International Trade Commission on March 30, 1979, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Societe Francaise de L'Electro-Resistance, 115 Boulevard de la Madeleine, 06 Nice, France, and its wholly owned subsidiary in the United States, Resistor Reserach Corporation, 400 North Washington Street, Falls Church, Virginia 22046. The complaint alleges that unfair methods of competition and unfair acts exist in the importation of certain precision resistors, precision resistor chips, and products utilizing such precision resistor chips into the United States, or in their sale by the owner, importer, consignee, or agent of either, by reason of alleged monopolization and attempts to monopolize the precision resistor industry in the United States, including, but not limiting to, the following acts in furtherance thereof: (a) utilizing section 377 proceedings to maintain a monopoly position, (b) knowingly asserting patents beyond their proper valid scope, (c) anticompetitive territorial restrictive provisions in licensing agreements, (d) unreasonably procuring and maintaining a proprietary position, and (e) deceit and obtaining information by improper means, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States.

Complainant requests a permanent exclusion of said imports from entry into the United States. Complainant further requests a cease and desist order.

Having considered the complaint, the United States International Trade Commission on April 17, 1979, *Ordered That*—

(1) Pursuant to subsection (b) section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine under subsection (c) whether certain acts alleged by complainant constitute a violation of subsection (a), and, if so, whether that violation has occurred in the importation of certain precision resistors, precision resistor chips, and products utilizing such precision resistor chips into the United States, or in their sale by the owner, importer, consignee, or agent of either, by reason of alleged monopolization and attempts to monopolize the precision resistor industry in the United States, including, but not limiting to, the following acts in furtherance thereof: (a) utilizing section 377 proceedings to maintain a monopoly position, (b) knowingly asserting patents beyond their proper valid scope, (c) anticompetitive territorial restrictive provisions in licensing agreements, (d) unreasonably procuring and maintaining a proprietary position, and (e) deceit and obtaining information by improper means, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States.

(2) For the purpose of this investigation so instituted, the following are hereby named parties:

(a) The complainants are—

Societe Francaise de L'Electro-Resistance, 115 Boulevard de la Madeleine, 06 Nice, France.

Resistor Research Corporation, 400 North Washington Street, Falls Church, Virginia 22046.

(b) Respondents are the following companies alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, and are the parties upon which the complaint and this notice are to be served:

Vishay Intertechnology, Incorporated, 63 Lincoln Highway, Malvern, Pennsylvania 19355.

Vishay-Israel, Ltd. 2 Haofan Street, Holon, Israel.

(c) The Director, Office of Legal Services, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby directed to name a Commission investigative attorney to be a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge, Donal K. Duvall, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

(4) The presiding officer is authorized to consolidate investigations No. 337–TA–68 and any or all aspects of this investigation as necessary to promote the expeditious conduct of both investigations.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure, as amended (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the United States International Trade Commission if received no later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and will authorize the presiding officer and the United States International Trade Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and in this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint is available for inspection by interested persons at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York City Office, 6 World Trade Center, New York, New York 10048.

By order of the Commission.

Issued: April 25, 1979.

Kenneth R. Mason,
Secretary.

[Investigation No. 337–TA–68]

[FR Doc. 79-13520 Filed 4-30-79; 8:45 am]

BILLING CODE 7020-02-M

Integrated Circuits and Their Use in Computers; Hearing

Investigation instituted. In response to a request by the Subcommittee on International Trade of the Committee on Finance and the Subcommittee on International Finance of the Committee on Banking, Housing and Urban Affairs, United States Senate, received on November 13, 1978, the U.S. International Trade Commission instituted investigation No. 332–102 on December 7, 1978 (43 F.R. 59447, Dec. 20, 1978)

Public hearing ordered. A public hearing in connection with this investigation will commence on May 30, 1979, at 10:00 a.m., P.d.t., in the California Room, Jack Tar Hotel, Van Ness at Geary Streets, San Francisco, Calif. Requests for appearances at the hearing should be received in writing by the Secretary to the Commission at his office in Washington, D.C., not later than noon on May 23, 1979.

Written submissions. Interested persons may submit written statements in addition to or in lieu of oral testimony. Any commercial or financial information for which confidential treatment is requested must be submitted in conformance with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but not later than June 16, 1979. All such submissions should be addressed to the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

By order of the Commission.

Dated: April 15 1979.

Kenneth E. Mason,
Secretary.

[332-103]

[FR Doc. 79-13519 Filed 04-30-79; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Consent Judgment in United States v. Fabricators Supply Co., Inc., et al. and Competitive Impact Statement Therein

Notice is hereby given pursuant to the antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Eastern District of New York in *United States* v. *Fabricators Supply Co., Inc.*, Civil No. 78 Civ. 595.

The Complaint alleges that beginning at least as early as 1968 the defendants and unnamed co-conspirators conspired to raise, fix, and stabilize the wholesale prices at which Formica brand plastic laminates and Formica brand adhesives were sold in the metropolitan New York area.

The proposed judgment would enjoin each of the defendants for a period of 10 years from entering into any agreement with any other wholesale distributor to raise, fix, stabilize, or maintain the prices at which Formica brand plastic laminates and adhesives are offered for sale, acting either unilaterally or in concert with any other person to induce, coerce, or attempt to influence any other wholesale distributor to adhere to any suggested list price in the sale of Formica brand plastic laminates or adhesives, or communicating to any wholesale distributor information concerning the actual or proposed changes in the wholesale price for plastic laminates or adhesives or the proposed dates for any changes in the wholesale price for plastic laminates or adhesives.

The defendants will be permitted, however, to communicate unilaterally to any customer (other than another wholesale distributor) the existing prices or the announced prices or other *bona fide* information pertaining to its prices including such price list or other such price information not yet effective. Also the consent decree does not apply to communications between a defendant and its subsidiary, an affiliated company or its parent.

Public comment is invited within the statutory 60-day comment period. Such comment and response thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Ralph T. Giordano, Antitrust Division, 26 Federal Plaza, Room 3630, New York, New York 10007.

Dated: April 20, 1979.

Charles F. B. McAleer,
Special Assistant for Judgment Negotiations.

U.S. District Court, Eastern District of New York

United States of America, Plaintiff, v. *Fabricators Supply Co., Inc.; Mechanics Building Materials Co., Inc.; National Plywood Co., Inc.; and Sturtevant Millwork Corp.*, Defendants.

78 Civ. 595.

Stipulation

Filed: April 20, 1979.

It is stipulated by and between the undersigned parties by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to Plaintiff and Defendants in this or any other proceeding.

Dated: April 20, 1979.

For Plaintiff: John H. Shenefield, *Assistant Attorney General;* William E. Swope, Charles McAleer, Ralph T. Giordano, Robert A. McNew, Charles V. Reilly, Edwin Weiss, Stuart Grabois, *Attorneys, Department of Justice, Antitrust Division.*

For Defendant Fabricators Supply Co., Inc.: by Lawrence S. Feld, Kostelanetz & Ritholz.

For Defendant Mechanics Building Materials Co., Inc.: by Arthur R. Schmauder, Shanley & Fisher.

For Defendant National Plywood Co., Inc.: by Thomas Fitzpatrick, Martin, Obermaier & Morville.

For Defendant Sturtevant Millwork Corp.: by Robert Coles Edmonds, Miller Montgomery Sogi Brady & Taft.

U.S. District Court, Eastern District of New York

United States of America, Plaintiff, v. *Fabricators Supply Co., Inc.; Mechanics Building Materials Co., Inc.; National Plywood Co., Inc.; and Sturtevant Millwork Corp.*, Defendants.

78 Civ. 595

Final Judgment

Filed: April 20, 1979
Entered:

Plaintiff, United States of America, having filed its complaint herein on March 30, 1978, and the Plaintiff and the Defendants Fabricators Supply Co., Inc., Mechanics Building Materials Co., Inc., National Plywood Co., Inc., and Sturtevant Millwork Corp., by their respective attorneys having each consented to the entry of this final Judgment, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue of fact or law herein;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law in connection herewith, and upon consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter herein and over the parties consenting hereto. The complaint states a claim upon which relief may be granted against the Defendants under Section 1 of the Sherman Act (15 U.S.C. 1).

II

As used in this Final Judgment:

(A) "Wholesale Distributor" shall mean any person which purchases plastic laminates or adhesives from the Formica Corporation, and is engaged in the sale of such laminates or adhesives to lumberyards, retail home centers, construction contractors or fabricators of furniture, kitchen or bathroom countertops or other items.

(B) "Person" shall mean any individual, association, cooperative, partnership, corporation or other business or legal entity.

III

The provisions of this Final Judgment are appplicable to the Defendants herein and shall also apply to each of said Defendants' officers, directors, agents, employees, subsidiaries, successors and assigns, and in addition, to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise, provided, however, that nothing contained herein shall apply to any transaction or communication solely between or among a defendant and its subsidiaries, affiliated companies, or parent company.

IV

(A) Each of the Defendants is enjoined and restrained from adhering to, maintaining, furthering, enforcing or entering into directly or indirectly any agreement, understanding, plan or program with any other Wholesale Distributor to raise, fix, stabilize or maintain the prices at which plastic laminates or adhesives are offered for sale or from adopting or following any practice, plan, program, or device having a similar purpose or effect.

(B) Each of the defendants is enjoined and restrained from acting, either unilaterally or in concert with any other person, directly or indirectly to induce, coerce or attempt to influence any other Wholesale Distributor to adhere to any suggested list price in the sale of plastic laminates or adhesives.

(C) Each defendant is enjoined and restrained from communicating directly or indirectly to any wholesale distributor information concerning:

(1) The actual or proposed changes in any wholesale distributor's price for plastic laminates or adhesives; and

(2) The actual or proposed dates for any changes in any wholesale distributors's price for plastic laminates or adhesives;

Provided, however, that nothing contained herein shall apply to the unilateral dissemination by a defendant to its customers (other than another wholesale distributor) of a defendant's own existing prices or announced prices or other *bona fide* information pertaining to its prices, including such price list or other such price information not yet effective.

V

Each Defendant is ordered and directed:

(A) To establish a program for dissemination of, education as to, and compliance with this Final Judgment involving each corporate officer, director, employee and agent having responsibilities in connection with or authority over the establishment of the wholesale prices at which plastic laminates or adhesives are sold, advising them of its and their obligations under this Final Judgment. This program shall include, but is not necessarily limited to, the inclusion, in an appropriate company manual or internal memorandum, of this Final Judgment in whole or in part or an explanation thereof, and a statement of corporate compliance policy thereunder; and

(B) To furnish to Plaintiff within one hudred and twenty (120) days of the entry of this Final Judgment, and therafter upon request by Plaintiff, on or about the anniversary date of this Final Judgment for a period of five (5) consecutive years from the date of its entry, an account of all steps the Defendant has taken during the preceding year to discharge its obligations under subparagraph (A) of this Section V and to include with said account copies of all written directives issued during the prior year with respect to compliance with the terms of this Final Judgment.

VI

For the purpose of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any Defendant made to its principal office, be permitted:

(1) Access during office hours of such Defendant, which may have counsel present, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such Defendant relating to any of the matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such Defendant, and without restraint or interference from it, to interview officers, directors, employees and agents of such Defendant, each of whom may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to any Defendant's principal office, such Defendant shall submit such written reports, with respect to any of the matters contained in the Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at the time information or documents are furnished by any Defendant to Plaintiff, and such Defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said Defendant marks each pertinent page of such material, "Subject to claim of protection under the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by Plaintiff to such Defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that Defendant is not a party.

VII

Jurisdiction if retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the amendment or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for punishment of violations thereof.

VIII

This Final Judgment will expire on the Tenth Anniversary from the date of its entry and with respect to any particular provision on any earlier date specified.

IX

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

U.S. District Court, Eastern District of New York

United States of America, Plaintiff, v. Fabricators Supply Co., Inc.; Mechanics Building Materials Co., Inc.; National Plywood Co., Inc.; and Sturtevant Millwork Corp., Defendants—Civil Action No. 78 Civ. 595

Competitive Impact Statement

Filed: April 20, 1979

The United States of America, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)), hereby submits this Competitive Impact Statement relating to the proposed Consent Judgment submitted for entry in this civil antitrust proceeding.

I

Nature of the Proceedings

The United States, on March 30, 1978, filed a civil antitrust action under Section 4 of the Sherman Act (15 U.S.C. § 4) alleging that the above-named defendants and unnamed co-conspirators from at least as early as 1968 had combined and conspired in violation of Section 1 of the Sherman Act (15 U.S.C. § 1) to raise, fix, and stabilize the wholesale prices at which Formica brand plastic laminates and Formica brand adhesives were sold in the Metropolitan New York Area.

Entry by the Court of the proposed Consent Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for possible further proceedings, within the ten years next ensuing, which may be needed to interpret, modify or enforce the judgment or to punish violations of any of the provisions of the judgment.

II

Description of the Practices Involved in the Alleged Violations

The defendants are wholesale distributors of Formica brand plastic laminates and Formica brand adhesives in the Metropolitan New York Area.

During the years 1974 through 1978, the defendants had combined sales of Formica brand plastic laminates and Formica brand adhesives in the New York Metropolitan Area of over $15 million. The plastic laminates and adhesives are made by or for the Formica Corporation in states other than New York, New Jersey and Connecticut. They are shipped regularly and continuously in interstate commerce from the states of manufacture into the states of New York and New Jersey to the defendants for resale.

For the purpose of forming and effectuating the combination and conspiracy, the defendants and co-conspirators communicated to one another at meetings, in telephone conversations and on other occasions, their intention to raise the wholesale prices at which Formica brand plastic laminates and Formica brand adhesives were sold in the Metropolitan New York Area and jointly established in some cases the specific selling price and in others the specific amount by which such prices were to be increased. The evidence to be produced at trial would show that as a result of the conspiracy, the wholesale prices of Formica brand plastic laminates and Formica brand adhesives in the Metropolitan New York Area have been fixed, raised, and maintained at artificial and non-competitive

levels: purchasers of Formica brand plastic laminates and Formica brand adhesives in the Metropolitan New York Area have been deprived of free and open competition; and competition in the sale of Formica brand plastic laminates and Formica brand adhesives has been restrained.

III

Explanation of the Proposed Consent Judgment

The United States and the defendants have stipulated that the proposed Consent Judgment, in the form negotiated by and among the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation among the parties provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2[e] of the Antitrust Procedures and Penalties Act, entry of the proposed Judgment is conditioned upon a determination by the Court that the proposed Judgment is in the public interest.

A. *Prohibited Conduct*

The proposed Judgment will prohibit each of the defendants from adhering to, maintaining, furthering, enforcing or entering into, directly or indirectly, any agreement, understanding, plan, or program with any other wholesale distributor to raise, fix, stabilize, or maintain the prices at which plastic laminates or adhesives are offered for sale or from adopting or following any practice, plan, program, or device having a similar purpose or effect. The defendants will be enjoined from acting either unilaterally or in concert with any other person, directly or indirectly, to induce, coerce, or attempt to influence any other wholesale distributor to adhere to any suggested list price in the sale of plastic laminates or adhesives. The defendants will also be enjoined from communicating, directly or indirectly, to any wholesale distributor information concerning the actual or proposed changes in the wholesale price for plastic laminates or adhesives and the actual or proposed dates for any changes in the wholesale price for plastic laminates or adhesives.

The defendants will be permitted, however, to communicate such information as is necessary to their own subsidiaries, affiliates, or parent. Further, they may unilaterally disseminate to their customers (except another wholesale distributor) their own existing prices or announced prices or other information pertaining to their prices. Each defendant is required by the Consent Judgment to establish a program for dissemination of information as to the Judgment and compliance with the Judgment involving each corporate officer, director, employee, and agent having responsibilities in connection with or authority over the establishment of the wholesale prices at which plastic laminates or adhesives are sold, advising them of its and their obligations under the Final Judgment. Each defendant is required to furnish to plaintiff within one hundred and twenty (120) days of the entry of the Final Judgment, and thereafter upon request by plaintiff, on or about the anniversary date of the Final Judgment for a period of five (5) consecutive years from the date of its entry, an account of all steps such defendant has taken the preceding year to discharge obligations to comply with the Judgment and to include with the account copies of all written directives issued during the prior year with respect to compliance with the terms of the Final Judgment.

B. *Scope of the Proposed Judgment*

The proposed Judgment applies to each defendant, its officers, directors, agents, employees, subsidiaries, successors, and assigns, and to those persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

The defendants are bound by the prohibitions and obligations of the proposed Judgment for a period of ten (10) years from the date of its entry and thereafter the Judgment shall terminate and cease to be effective.

The Judgment applies to each defendant's activities wherever they may occur.

C. *Effect of the Proposed Judgment on Competition*

The relief encompassed in the proposed Consent Judgment is designed to prevent any recurrence of the conduct alleged in the Complaint. The prohibitive language of the Judgment should ensure that no future agreements or combinations between or among the defendants to fix, raise, maintain, or stabilize the wholesale price of plastic laminates or adhesives will be arranged.

The Judgment provides methods for determining defendants' compliance with the terms of the Judgment. The Department of Justice, through duly authorized representatives, may interview officers, employees, and agents of each defendant regarding its compliance with the Judgment. Representatives of the Department are also given access, upon reasonable notice, to examine each defendant's records for possible violations of the Judgment and to request defendants to submit reports to the Department of Justice on matters contained in the Judgment.

It is the opinion of the Department of Justice that the proposed Consent Judgment provides fully adequate provisions to prevent continuance or recurrence of violations of the antitrust laws charged in the Complaint. In the Department's view, disposition of the lawsuit without further litigation is appropriate in that the proposed Judgment provides all the relief which the Department sought in its Complaint, and the additional cost of litigation necessarily involved if the issues were litigated would not result in any additional relief. Accordingly, the public interest is best benefited by the proposed consensual disposition of the action.

IV

Alternative Remedies Considered by the Antitrust Division

The defendants initially proposed a Consent Judgment which the Antitrust Division concluded would not ensure that the conspiracy charged in the Complaint would not continue or recur. The Division responded to the defendants proposed Judgment with a counter-proposal from which the Final Consent Judgment was negotiated.

The primary point of difference that was ultimately compromised between the parties related to an injunctive provision which would prohibit the defendants from issuing price lists to their dealers. The defendants drafted a proviso to Section IV(C) which authorized the unilateral dissemination by a defendant to its customers [other than another wholesale distributor] of a defendant's own existing prices, or announced prices, or other *bona fide* information pertaining to its prices, including prices or other price information not yet effective. This enabled the defendants to publish price lists to the trade while still prohibiting the furnishing of such lists to another wholesale distributor. The Antitrust Division was agreeable to such a modification since the conduct contemplated is lawful and does not increase the risk of recurrence of the acts alleged in the Complaint. Additionally, a proviso was inserted in Section III which allowed parents, subsidiaries, or affiliates to communicate with a defendant without violating the judgment. The Division concluded that each defendant should properly be able to communicate directly with its parent or subsidiary in carrying out the day-to-day business of the company. Such communications will not increase the risk of recurrence of the conduct alleged in the Complaint.

The defendants desired to place a geographical limitation in the proposed Judgment similar to that contained in the Complaint. They were informed that since the corporate defendant's activities subject to the Complaint were a result of the officers acts and those same officers would be responsible for corporate activities wherever they occurred the Antitrust Division would insist on the broad geographic relief. Accordingly, defendants withdrew their objection.

At one point during the consent negotiations the Antitrust Division considered requiring that the judgment continue in existence for 25 years. However, the Division eventually concluded that a ten year expiration date would provide sufficient injunctive protection.

V

Remedies Available to Potential Private Litigant

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered as well as costs and reasonable attorney fees. Entry of the proposed Consent Judgment in this proceeding will neither impair nor assist the bringing of any such private actions. Under the provision of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), this Consent Judgment has no *prima facie* effect in any lawsuits which may be pending or hereafter brought against the defendants.

VI

Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Judgment should be modified may submit written comments to Ralph T. Giordano, Antitrust Division, U.S. Department of Justice, Room 3630, 26 Federal Plaza, New York 10007, within the sixty (60) day period provided by the Act. These comments and the Department's response to them, will be filed with the Court and published in the Federal Register. All comments received will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to its entry if it should determine that some modification of it is necessary. The proposed Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for such order as may be necessary or appropriate for its modification, interpretation or enforcement.

VII

Alternatives to the Proposed Consent Judgment

The alternative to the proposed Judgment was a full trial of the issue on the merits and on relief. The Antitrust Division considers the substantive language of the Final Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the Judgment provides appropriate relief against the violations charged in the Complaint.

VIII

Other Materials

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16) were considered in formulating this proposed Judgment. Consequently, none are submitted pursuant to such Section 2(b).

Dated: April 20, 1979.

Robert A. McNew
Charles V. Reilly
Edwin Wales
Stuart T. Grebois

Attorneys, Department of Justice, Antitrust Division, 26 Federal Plaza, Room 3630, New York, New York 10007.

[FR Doc. 79-13387 Filed 4-30-79; 8:45 am]

BILLING CODE 4410-01-M

Law Enforcement Assistance Administration

MAC Crime Prevention & Education Program, Inc.; Hearing

Notice is hereby given that the Administrative Appeal of MAC Crime Prevention and Education Program, Inc. will be heard on May 14 and 15, 1979, at 9:30 a.m. The location of the Compliance Hearing will be the Federal Building, Room 398, 517 East Wisconsin Avenue, Milwaukee, Wisconsin. The Hearing will be presided over by Walter V. Lawson, Director of the Office of Equal Employment Opportunity, Law Enforcement Assistance Administration. The Hearing will be open to the public.

For further information call William P. Joyce, Office of General Counsel, LEAA at (202) 376-3696.

Charles A. Lauer,
Deputy General Counsel.

[FR Doc. 79-13455 Filed 4-30-79; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Job Corps Center at the Holding Institute and the Combined Campus of Laredo Junior College and Laredo State University, Laredo, Tex.; Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice-Finding of Negative Environmental Impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at the Holding Institute and the combined campus of Laredo Junior College and Laredo State University does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION: Contact Raymond E. Young, Director, Office of Job Corps, Room 6100, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, Telephone: (202) 376-6995.

SUPPLEMENTARY INFORMATION: Title IV, Part B of the Comprehensive Employment and Training Act (CETA), as amended, 29 U.S.C. 923 *et seq.*, directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 14 through 21. Regulations pertaining to the Job Corps program are published in 29 CFR Part 97a. Pursuant to his authority, the Secretary is planning to establish a Job Corps center at the Holding Institute and the combined campus of Laredo Junior College and Laredo State University locations provided an agreement can be reached on acquisition of the facilities.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR § 1500.6(c). The proposed Job Corps center will be a training center with residential and educational facilities for approximately 160 disadvantaged youth, men and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 53 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for residential living and education.

Holding Institute consists of approximately 67 acres of land located at the northern end of Laredo. The combined campus of Laredo Junior College and Laredo State University is located at the southwest edge of Laredo. The site consists of 22 buildings on 195 acres of land.

Moderate rehabilitation will be required in all buildings to conform to OSHA and other fire safety codes.

Water is supplied by the city of Laredo. The site is connected to the city of Laredo Municipal sewer system. Natural gas is supplied by the Enigtex Company of Houston. Electrical service is provided by Central Power and Light Company. The proposed Job Corps center will be operated in compliance with Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local Goverament, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752.

My determination is that the establishment and operation of the Center will have no adverse impact upon traffic, transportation systems, pedestrian or vehicular congestion, police protection services, fire protection services, public safety, legal

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services, or upon the aesthetics or residential quality of the nearby area. I further determine that the establishment and operation of the Center will have no adverse effects upon ecological systems, population distribution, air or water pollution, municipal services, or health or life support systems. Accordingly, I hereby determine that the establishment of such Job Corps Center will not have a significant adverse impact upon the quality of the human environment of the nearby area, or the greater Laredo community.

The Job Corps Center will be operated with the pass-leave procedures required by Job Corps Regulations and operational procedures. I find that in light of the enrollment level and utilization of the pass-leave procedures, that congestion in the area will not increase.

There will be no material impact upon transportation or traffic within the area.

It is further determined that the establishment and operation of the Center is not likely to have a significant adverse impact upon use of police services. Adequate provisions are planned to carefully screen prospective enrollees so as to minimize the possibility of disciplinary problems, or problems with possible Center related public safety.

Adequate staffing personnel and protection will be provided at the Laredo Job Corps Center in accordance with Job Corps' operating procedures and regulations.

I further find that fire protection services in the area will not be adversely affected and that systems in the facilities will be upgraded to further reduce risk of fire from the present risk level.

Additionally, local health services will not be adversely affected because basic dental, medical and other health related services will be provided on site with Job Corps' own facilities and personnel.

In conclusion, it is my determination, after careful review and consideration of the nature of Job Corps' proposed action, in light of Job Corps' purposes, objectives and operational procedures, that the impact upon the surrounding community, of the establishment of the Center at the site will not be significant. It is my careful determination that the environmental assessment conducted by the Department of Labor, pursuant to 40 CFR Part 1500, clearly indicates that preparation of an environmental impact statement is not required since the establishment of the Job Corps Center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR Section 1500.6(c).

Signed at Washington, D.C. this 30th day of March, 1979.

Raymond E. Young,
Director, Office of Job Corps and Young Adult Conservation Corps.

[FR Doc. 79-13813 Filed 4-30-79; 8:45 am]

BILLING CODE 4510-30-M

Proposed Job Corps Center at Knoxville College, Knoxville, Tenn., Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration.

ACTION: Notice-Finding of Negative Environmental Impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps Center at the Knoxville College site does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION: Contact Raymond E. Young, Director, Office of Job Corps and Young Adult Conservation Corps, Room 6100, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, Telephone: (202) 376-6995.

SUPPLEMENTARY INFORMATION: Title IV, Part B of the Comprehensive Employment and Training Act (CETA), as amended, 29 U.S.C. 923 *et. seq.*, directs the Secretary of Labor to establish Job Corps Centers to provide occupational training to disadvantaged youths ages 14 through 21. Regulations pertaining to the Jobs Corps program are published at 29 CFR Part 97a. Pursuant to his authority, the Secretary is planning to establish a Job Corps Center at the Knoxville College location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps Center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR § 1500.6(c). The proposed Knoxville Job Corps Center will be a training center with residential, nonresidential and educational facilities for approximately 500 disadvantaged youth, men and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 200, will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is to provide residential living and education.

The center will be a self-contained facility located in Knoxville, Tennessee. The site surveyed for use by Job Corps consists of three buildings comprising 196,825 gross square feet located on the Knoxville College campus.

Water, sewer services and natural gas are provided by the Knoxville utility board. With regard to fire protection, there are fire hydrants on the site.

The proposed Job Corps Center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR § 97a.116, and with applicable Federal, State and local regulations concerning environmental health.

New construction will be required to roof over the open court between two buildings to prevent water leaking through the roof slab.

The proposed Job Corps Center will comply with the water quality, and related standards of the State and local government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251, *et seq.*, with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The Center installation will be designed, operated, and maintained so as to conform to Federal air quality control standards, including those found in Executive Order 11752.

My determination is that the establishment and operation of the Center will have no adverse impact upon traffic transportation systems, pedestrian or vehicular congestion, police protection services, fire protection services, public safety, legal services, or upon the aesthetics or residential quality of the nearby area. I further determine that the establishment and operation of the Center will have no adverse effects upon ecological systems, population distribution, air or water pollution, municipal services, or health or life support systems. Accordingly, I hereby determine that the establishment of such Job Corps Center will not have a significant adverse impact upon the quality of the human environment of the nearby area, or the greater Knoxville community.

The Job Corps Center will be operated with the pass-leave procedures required by Job Corps Regulations and operational procedures. I find that in light of the enrollment level and utilization of the pass-leave procedures, that congestion in the area will not increase.

There will be no material impact upon transportation or traffic within the area.

It is further determined that the establishment and operation of the Center is not likely to have a significant adverse impact upon use of police services. Adequate provisions are planned to carefully screen prospective enrollees so as to minimize the possibility of disciplinary problems with possible Center related public safety.

Adequate staffing personnel and protection will be provided at the Knoxville Job Corps Center in accordance with Job Corps' operating procedures and regulations.

I further find that fire protection services in the area will not be adversely affected and that systems in the facilities will be upgraded to further reduce risk of fire from the present risk level.

Additionally, local health services will not be adversely affected because basic dental, medical and other health related services will be provided on site with Job Corps' own facilities and personnel.

In conclusion, it is my determination, after careful review and consideration of the nature of Job Corps' proposed action, in light of Job Corps' purposes, objectives and operational procedures, that the impact upon the surrounding community, of the establishment of the Center at the site will not be significant. It is my careful determination that the environmental assessment conducted by the Department of Labor, pursuant to 40 CFR Part 1500, clearly indicates that preparation of an environmental impact statement is not required since the establishment of the Job Corps Center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR Section 1500.6(c).

Signed at Washington, D.C., this 2nd day of April 1979.

Raymond E. Young,
Director, Office of Job Corps and Young Adult Conservation Corps.

[FR Doc. 79-13514 Filed 4-30-79; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pa. 15241 has filed a petition to modify the application of 30 CFR 75.1303 (permissible explosives), to its McElroy Mine, located in Marshall County, Pa. This petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The standard requires that only permissible explosives be used in the underground areas of a coal mine. The petitioner has referenced this standard to 30 CFR 15.19(b), an approval schedule for explosives, which states in part that an explosive certified as permissible remains permissible only as long as it is used within 48 hours after being taken underground.

2. The petitioner believes that the application of the 48-hour requirement will result in a diminution of the safety to its miners for the following reasons:

(a) Explosives are extremely dangerous by their nature.

(b) Even though the petitioner transports all its explosives and detonators in compliance with the appropriate safety standards, the transportation of explosives still involves risks which increase proportionately to the frequency with which explosives are hauled in and out of the mine.

(c) Because of the difficulty in estimating the amount of explosives to be used during a 48-hour period, additional trips must be made at times to replenish insufficient supplies or to remove excess supplies.

3. The petitioner contends that it would be safer to leave unused explosives properly stored underground because the transportation of such explosives merely enhances conditions for accidental explosions.

4. For these reasons, the petitioner requests relief from the application of 48-hour requirement to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before May 31, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 23, 1979.

Ezekiel Mussaty,
Acting, Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-37-C]

[FR Doc. 79-13510 Filed 04-30-79; 8:45 am]

BILLING CODE 4510-43-M

Doris Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Doris Coal Company, Box 235, Grundy, Virginia 24614, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 7 Mine located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the installation of lighting on the petitioner's mining equipment or on stationary fixtures.

2. The petitioner is mining coal seams averaging 29 to 30 inches in height.

3. The height of the petitioner's mining equipment ranges from 23½ to 26 inches.

4. The petitioner's tractors are equipped with front and rear lights; however, the rear lights are seldom used because they blind the loading machine operator.

5. Miners in the mine wear the standard safety hat with light at all times.

6. Due to the low ceiling clearance, it is neither feasible nor practical to mount additional lighting either on top of the mining equipment or from the roof of the mine.

7. The petitioner feels that such additional lighting in the already cramped quarters of its mine would result in a reduction of the safety to its miners.

Request for Comments

Persons interested in this petition may furnish written comments on or before May 31, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 18, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-128-C]

[FR Doc. 79-13511 Filed 4-30-79; 8:45 am]

BILLING CODE 4510-43-M

FMC Corp.; Petition for Modification of Application of Mandatory Safety Standard

FMC Corporation, Box 872, Green River, Wyoming 82935 has filed petition to modify the application of 30 CFR 57.12-14 (trailing cables) to its Green River Mine located in Green River, Wyoming. The petition is filed under

section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The petitioner uses shielded (SHD—GC) trailing cables at its mine.

2. If the outer jacket of one of these cables is nicked, the shield and not the conductor is exposed, making it virtually impossible for cable handlers to receive an electrical shock.

3. In addition, the petitioner's shielded cables have suitable resistance grounding and circuit protection which assure that even tiny flaws resulting from a pinched or damaged cable result in a power shutdown before shock hazards or cable fires develop.

4. For these reasons, the petitioner feels that shielded trailing cable of the type used at its mine provides equal or better protection to its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before May 31, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 18, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[Docket No. M–79–9–M]
[FR Doc. 79–13512 Filed 4–30–79; 8:45 am]
BILLING CODE 4510–43–M

Office of the Secretary

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Bata Shoe Co., Inc., Salem, Ind. [TA–W–4825]

The investigation was initiated on February 22, 1979 in response to worker petitions received on February 15, 1979 which were filed by the Retail Clerks Union and the Bata Shoe Company, Incorporated on behalf of workers and former workers producing rubber canvas footwear at the Salem, Indiana plant of the Bata Shoe Company, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of rubber canvas footwear increased absolutely in 1978 over 1977. The import to domestic production ratio increased from 100.0 percent in 1976 to 119.0 percent in 1977 and to 207.1 percent in 1978.

A Departmental survey was conducted with retail customers of the Salem, Indiana plant of the Bata Shoe Company, Incorporated. The survey revealed that a major portion of the customers decreased their purchases from the Salem, Indiana plant of Bata and increased their purchases of imported rubber canvas footwear from 1977 to 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with rubber canvas footwear produced at the Salem, Indiana plant of the Bata Shoe Company, Incorporated, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Salem, Indiana plant of the Bata Shoe Company, Incorporated, who became totally or partially separated from employment on or after February 22, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of April 1979.

Cavalier Clothes Inc., No Risaco No Rosica, Inc., Jamaica, N.Y. [TA–W–4913, 4913A]

The investigation was initiated on March 12, 1979 in response to a worker petition received on March 5, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's and women's tailored clothing at Cavalier Clothes Incorporated, Jamacia, New York. The investigation revealed that the plant primarily produces men's vests and outer coats. The investigation also revealed that Cavalier Clothes owns and operates another company at the same location, No Risaco No Rosica, Incorporated, for the purpose of training new workers. The investigation was expanded to include workers of No Risaco No Rosica. It is concluded that all of the requirements have been met.

U.S. imports of men's and boy's tailored suit vests increased absolutely and relative to domestic production in each year from 1974 through 1977. Imports of vests in 1978 were greater than the average level of imports for the years 1973–1977. U.S. imports of vests increased in the first two months of 1979 compared to the first two months of 1978.

U.S. imports of men's and boy's tailored dress coats and sport coats increased in 1978 compared to 1977.

The Office of Trade Adjustment Assistance has conducted TRA investigations for workers employed by three clothing manufacturers that provided a subtantial portion of Cavalier's work in 1977 and 1978. These customers reduced the amount of work they supplied to Cavalier in the last quarter of 1978 and the first quarter of 1979. In all three investigations the Office of Trade Adjustment Assistance found that customers of these manufacturers had deceased their purchases of men's tailed clothing from the respective domestic manufacturer and increased their purchases of imports.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's vests and outer coats produced at Cavalier Clothes, Incorporated and No Risaco No Rosica, Incorporate, Jamaica, New York contribute importantly to the decline in sales and to the total or partial separation of workers of the firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Cavalier Clothes, Incorporated and No Risaco No Rosica, Jamaica, New York engaged in employment related to the production of men's vests and outer coats who became totally or partially separated from employment on or after December 15, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of April 1979.

Rosita Shoe Corp., Lisbon, N. H. [TA–W–4835]

The investigation was initiated on February 22, 1979 in response to a worker petition received on February 12, 1979 which was filed on behalf of workers and former workers producing ladies' shoes and boots at the Rosita Shoe Corporation, Lisbon, New Hampshire. It is concluded that all of the requirements have been met.

U.S. imports of women's nonrubber footwear increased relative to domestic production from 1978 to 1977 and increased absolutely and relative to domestic production from 1977 to 1978.

All customers of the Rosita Shoe Corporation will be supplied by the Canadian affiliate of the Rosita Shoe Corporation after April 1, 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's shoes and boots produced at Rosita Shoe Corporation, Lisbon, New Hampshire contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Rosita Shoe Corporation, Lisbon, New Hampshire who became totally or partially separated from employment on or after April 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of April 1979.

U.S. Stove Co., Chattanooga, Tenn.; Bridgeport, Ala.; South Pittsburg, Tenn. [TA–W–4822] [TA–W–4823] [TA–W–4824]

The investigation was initiated on February 15, 1979 in response to a worker petition received on February 6, 1979 which was filed by the Stove, Furnace and Allied Appliance Workers Union on behalf of workers and former workers at the Bridgeport Division, Bridgeport, Alabama (TA–W–4823) and the South Pittsburg Division, South Pittsburg, Tennessee (TA–W–4824) of the U.S. Stove Company. The investigation was expanded to include the Chattanooga, Tennessee plant of the U.S. Stove Company (TA–W–4822). It is concluded that all of the criteria have been met.

Imports of cast-iron household stoves increased from 1976 to 1977 and from 1977 to 1978. Imports of gas, oil, wood and coal burning heaters increased from 1976 to 1977 and from 1977 to 1978.

Customers who purchased wood and coal burning stoves from the U.S. Stove Company were surveyed. All of the customers purchased significant amounts of imported stoves. Several customers reported a decrease in purchases of stoves from the U.S. Stove Company and an increase in purchases of imported stoves.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with wood and coal stoves produced at the U.S. Stove Company, Bridgeport Division, Bridgeport, Alabama plant (TA–W–4823), South Pittsburg Division, South Pittsburg, Tennessee plant (TA–W–4824) and the Chattanooga, Tennessee plant (TA–W–4822) contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Bridgeport Division, Bridgeport, Alabama plant (TA–W–4823) of the U.S. Stove Company who became totally or partially separated from employment on or after February 2, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; all workers at the the Chattanooga, Tennessee plant (TA–W–4822) and the South Pittsburg Division, South Pittsburg, Tennessee plant (TA–W–4824) of the U.S. Stove Company who became totally or partially seperated from employment on or after August 1, 1978 are eligible to apply for adjustment assistance under the Trade Act.

Signed at Washington, D.C. this 24th day of April 1979.

James F. Taylor,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79–13539 Filed 4–30–79; 8:45 am]
BILLING CODE 4510–28–M

Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. In the following determinations, at least one of the criteria has not been met.

Allied Chemical Corp., Shannon Branch Mine and Preparation Plant, Capels, W. Va. [TA–W–4582, 4583]

The investigation was initiated on January 8, 1979 in response to a worker petition received on January 2, 1979 which was filed by the United Mine Workers of America, District 29, on behalf of workers and former workers producing metallurgical coal at the Shannon Branch mine (TA–W–4583) and the Shannon Branch preparation plant (TA–W–4582) of Allied Chemical Corporation, Semet Solvay Division, Capels, West Virginia. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Significant separations of workers at the Shannon Branch mine and preparation plant of Allied Chemical occurred during the third quarter of 1978 and in February of 1979. Separations that occurred in the third quarter of 1978 were attributable to a strike by employees of the Norfolk and Western Railroad which hauls all of the coal produced at the Shannon Branch facilities.

The separations that occurred in February 1979 were caused by a sharp reduction in purchases of metallurgical coal by Allied Chemical's customers. None of these customers purchase any imported coal or coke. The largest customer increased purchases of metallurgical coal from other domestic sources in the first quarter of 1979.

Conclusion

After careful review, I determine that all workers of the Shannon Branch mine and preparation plant of Allied Chemical Corporation, Semet Solvay Division, Capels, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of April 1979.

Harry J. Gilman,
Supervisory International Economist, Office of Foreign Economic Research.

Malcolm Clothing Corp., Passaic, N. J. [TA–W–4839]

The investigation was initiated on March 26, 1979 in response to a worker petition received on March 23, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's sportswear at Malcolm Clothing Corporation, Passaic, New Jersey. The investigation revealed that the plant produces only women's jackets. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

4 4 1 8 5

Production of women's jackets at Malcolm Clothing Corporation increased in 1978 compared to 1977, and increased in the first quarter of 1979 compared to the like quarter of 1978.

Malcolm Clothing Corporation is a contractor and has no sales of its own.

Conclusion

After careful review, I determine that all workers of Malcolm Clothing Corporation, Passaic, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of April 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

A. Morganstern & Co., Fredricksburg, Va. [TA-W-4857]

Morganstern Pants Co., Fredricksburg, Va. [TA-W-4869]

The investigation was initiated on February 28, 1979 in response to a worker petition received on February 26, 1979 which was filed on behalf of workers and former workers cutting men's pants at A. Morganstern and Company, Fredricksburg, Virginia and sewing men's pants at the Morganstern Pants Company, Fredricksburg, Virginia.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers at A. Morganstern & Company increased in 1978 compared to 1977, and remained unchanged in the first two months of 1979 compared to the first two months of 1978. Average quarterly employment of production workers either increased or remained unchanged in every quarter when compared to the same quarter the previous year from the first quarter of 1977 through the fourth quarter of 1978. The average number of production man-hours at A. Morganstern & Company increased in 1978 compared to 1977.

The average number of production workers at the Morganstern Pants Company increased in 1978 compared to 1977, and in the first two months of 1979 compared to the first two months of 1978. Average quarterly employment of production workers increased in every quarter when compared to the same quarter the previous year from the first quarter of 1977 through the fourth quarter of 1978. The average number of production man-hours at the Morganstern Pants Company increased in 1978 compared to 1977.

Conclusion

After careful review, I determine that all workers of A. Morganstern & Company, Fredricksburg, Virginia and the Morganstern Pants Company, Fredricksburg, Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of April 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-13540 Filed 4-30-79; 8:45 am]

BILLING CODE 4510-28-M

Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. In the following determinations, at least one of the criteria has not been met.

Westboro Shoe Co., Inc., Dexter, Mo. [TA-W-4338]

The investigation was initiated on February 22, 1979 in response to a worker petition received on February 9, 1979 which was filed on behalf of workers and former workers producing men's golf and bowling shoes at Westboro Shoe Company, Incorporated in Dexter, Missouri. The investigation revealed that the plant does not produce men's golf shoes but does produce men's leather dress shoes, women's bowling and golf shoes, women's and children's jogging shoes and children's dress and play shoes. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation indicated that the jogging shoes produced at Westboro Shoe Company, Incorporated were produced for a period of six months as a trial product. Employment declines since the last half of 1978 are attributable to discontinuing the production of jogging shoes.

Westboro Shoe Company, Incorporated is a plant owned by Inland Shoe Manufacturing Company, Incorporated, which began production in June 1977. Orders are obtained by Inland and distributed among three plants which include Westboro. Total production of Inland which includes all three plants increased in quantity in 1978 compared to 1977. Production is equivalent to sales at Inland Shoe Manufacturing Company, Incorporated.

Conclusion

After careful review, I determine that all workers of Westboro Shoe Company, Incorporated in Dexter, Missouri are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Signed at Washington, D.C. this 20th day of April 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-13567 Filed 4-30-79; 8:45 am]

BILLING CODE 4510-28-M

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

Fibreboard Corp., Standard, Calif., Box Factory [TA-W-4914]

The investigation was initiated on March 12, 1979 in response to a worker petition received on March 5, 1979 which was filed by the Lumber and Sawmill Workers Union on behalf of workers and former workers producing box shook (components of unassembled wood boxes) at the Standard, California Box Factory of Fibreboard Corporation, a subsidiary of Louisiana-Pacific Corporation. Without regard to whether any of the other criteria have been met, the following criterior has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that during the 1974–1978 period U.S. imports of wooden boxes (nailed, wirebound, and box shook) comprised less than two percent of domestic production. A customer survey conducted by the Department revealed that the major customer of the Box Factory did not purchase imported box shook or imported corrugated boxes. This customer purchased all its box shook and corruguated boxes from domestic sources.

Conclusion

After careful review, I determine that all workers of the Standard, California Box Factory of the Fibreboard Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of April 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

Lewis Roth & Co., Los Angeles, Calif. [TA-W-4831]

The investigation wa initiated on February 22, 1979 in response to a worker petition received on February 12, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's tailored suits, sportcoats and slacks at Lewis Roth and Company, Los Angeles, California. Without regard to whether any of the other criteia have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of customers of Lewis Roth and Company. The survey indicated that customers did not purchase imported men's better quality suits and sportcoats.

Conclusion

After careful review, I determine that all workers of Lewis Roth and Company, Los Angeles, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of April 1979

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-13568 Filed 04-30-79; 8:45 am]

BILLING CODE 4510-28-M

Office of Federal Contract Compliance Programs

Stay of Debarment; Loffland Brothers Co.

On April 17, 1979, a notice was published in the **Federal Register** which debarred Loffland Brothers Company, its officers, divisions and subsidiaries, and any and all purchasers, successors, assignees, and/or transferees, from the award of all Federal contracts and subcontracts, including agreements with Federal mineral leaseholders to perform work on Federal leaseholds, subcontracts which in whole or in part are necessary for prime contractors, such as oil companies, to fulfill their fuel requisitions with the Government and from extensions or other modifications of any existing Federal contracts or subcontracts.

On April 17, 1979, Loffland Brothers Company filed suit in the Federal district court at Tulsa, Oklahoma against the U.S. Department of Labor seeking to enjoin the debarment. On the same day, the debarment of Loffland Brothers Company, its officers, divisions and subsidiaries, and any and all purchasers, successors, assignees, and/or transferees was stayed by order of the court pending a resolution of that lawsuit in the district court. Accordingly, the debarment is stayed until further notice, and Executive Order 11246, as amended, constitutes no impediment to the Company etc., receiving Federal contracts and subcontracts during the interim.

Dated: April 26, 1979.

Weldon J. Rougeau,

Director, Office of Federal Contract Compliance Programs.

[FR Doc. 79-13618 Filed 4-30-79; 8:45 am]

BILLING CODE 4510-27-M

Pension and Welfare Benefit Programs

Class Exemption Involving Closed-End Investment Company In-House Plans (Prohibited Transaction Exemption 79-13)

AGENCY: Department of Labor.

ACTION: Grant of Class Exemption.

SUMMARY: This class exemption permits, under certain conditions, the acquisition and sale of shares of certain registered closed-end investment companies by employee benefit plans which cover employees of either the company, its investment adviser, or an affiliate thereof.

FOR FURTHER INFORMATION CONTACT: William J. Flanagan of the Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, (202) 523-7931. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 6, 1979, notice was published in the **Federal Register** (44 FR 7242) of the pendency before the Department of Labor (the Department) of a proposal for a class exemption from the restrictions of sections 406 and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) of the Code for transactions described in an application filed by the Association of Publicly Traded Investment Funds (APTIF). The notice set forth a summary of facts and representations contained in the application, and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C.

The proposed class exemption contained in the notice of pendency permitted, under certain conditions, the acquisition, ownership or sale of shares of a closed-end investment company by an employee benefit plan covering only employees of such investment company, employees of the company's investment adviser, or employees of an affiliated person of such investment company or investment adviser. The proposed exemption applied only to in-house plans of closed-end investment companies which are registered under the Investment Company Act of 1940 and which are not small business investment companies as defined in the Small Business Investment Company Act of 1958. It was proposed to make the class exemption apply with respect to all transactions occurring after December 31, 1974.

The notice invited interested persons to submit written comments or requests for a hearing on the proposed exemption to the Department. No public comments and no requests for a hearing were received by the Department. The Department has determined to adopt the class exemption as proposed.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued, and the exemption is being granted, solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 [43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plans solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The exemption will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 [40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plans.

Therefore, the exemption proposed in the notice of February 6, 1979 (44 FR 7242) as set forth below is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Effective for transactions occurring after December 31, 1974, the restrictions of sections 406 and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1) of the Code, shall not apply to the acquisition, ownership or sale of shares of a closed-end investment company which is registered under the Investment Company Act of 1940 and is not a small business investment company as defined by section 103 of the Small Business Investment Company Act of 1958, by an employee benefit plan covering only employees of such investment company, employees of the investment adviser of such investment company, or employees of any affiliated person (as defined in section 2(a)(3) of the Investment Company Act of 1940) of such investment company or investment adviser, provided that the following conditions are met (whether or not such investment company, investment adviser, or any affiliated person thereof is a fiduciary with respect to the plan):

(a) The plan does not pay any investment management, investment advisory, or similar fee to such investment adviser or affiliated person. This condition does not preclude the payment of investment advisory fees by the investment company under the terms of its investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940;

(b) The plan does not pay a sales commission in connection with such acquisition or sale to any such investment company, investment adviser, or affiliated person; and

(c) All other dealings between the plan and such investment company, the investment adviser, or affiliated person are on a basis no less favorable to the plan than such dealings are with other shareholders of the investment company.

Signed at Washington, D.C., this 24th day of April, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-13605 Filed 4-30-79; 8:45 am]

BILLING CODE 4510-29-M

LEGAL SERVICES CORPORATION

Grants and Contracts

April 26, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Susquehanna Legal Services in Williamsport, Pennsylvania to serve Lycoming County.

2. Southern Alleghenys Legal Aid in Johnstown, Pennsylvania to serve Somerset County.

3. Keystone Legal Services in State College, Pennsylvania to serve Juniata and Mifflin Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Philadelphia Regional Office, 101 North 33rd Street, Suite 404, Philadelphia, Pennsylvania 19104.

Alice Daniel,

Acting President.

[FR Doc. 79-13488 Filed 4-30-79; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

April 26, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Evergreen Legal Services in Seattle, Washington to serve Okanogan County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Seattle Regional Office, 506 Second Avenue, Seattle, Washington.

Alice Daniel,

Acting President.

[FR Doc. 79-13484 Filed 4-30-79; 8:45 am]

[BILLING CODE 6820-35-M]

MINIMUM WAGE STUDY COMMISSION

April 24, 1979.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following Commission meeting:

Name: Minimum Wage Study Commission.

Date: May 8, 1979.

Time: 10 a.m.

Place: 1430 K St. NW., Suite 500, Washington, D.C. 20005.

Open admittance to the extent seating is available.

Proposed Agenda:

1. Pending business.

2. Status of: inflation, youth, and noncompliance.

3. Analysis of methodology for current activities and charting of time-frame for overall studies.

4. Possible Executive Session (budget).

Next meeting of the Commission will be held Tuesday, June 12, 1979.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, Executive Director, 1430 K St. NW., Suite 500, Washington, D.C. 20005, (202)376-2450.

Louis E. McConnell,

Executive Director.

[FR Doc. 79-13380 Filed 04-30-79; 8:45 am]

BILL CODE 4510-23-M

NATIONAL COMMISSION ON AIR QUALITY

Meeting

The National Commission on Air Quality hereby gives notice of a meeting scheduled for May 7. It will be held in Room 311 of the Cannon House Office Building, located at First Street, S.E. and Independence Avenue, and will begin at 10:00 a.m.

The agenda will include the following items:

1. Approval of minutes of the April 9, 1979, meeting.

2. Consideration of the draft of the Commission Plan of Study.

Any questions about the meeting should be directed to Morris Ward at (202) 634-7138.

National Commission on Air Quality.

William H. Lewis, Jr.,

Director.

April 25, 1979.

[FR Doc. 79-13411 Filed 4-30-79; 8:45 am]

BILLING CODE 6820-68-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Combination of Dynamic Loads; Changed Meeting

The first paragraph of the notice published April 24, 1979 (44 FR 24174) regarding the meeting on May 9, 1979 of the ACRS Subcommittee on Combination of Dynamic Loads has been changed to read: " * * * to review with representative of the NRC Staff, *and industry, the basis for shutting down five nuclear power plants due to seismic structural inadequacies and other related topics.*"

The second paragraph of the agenda has also been changed to add "and industry" after "NRC Staff".

All othr items pertaining to this meeting remain the same as published in the cited Federal Register notice.

Further information can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Elpidio G. Igne, (202/634-3314) between 8:15 a.m. and 5:00 p.m., EST.

Dated: April 26, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-13441 Filed 4-30-79; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.40, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated this day April 24, 1979, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Gerald G. Ophinger,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms: Total element	Material in kilograms: Total isotope	End-use	Country of destination
1. Transnuclear, Inc., 04/10/79, 04/10/79, XSNM01404	93.3% Enriched Uranium	35.066	32.737	R-2 Reactor	Sweden.
2. Transnuclear, Inc., 04/11/79, 04/11/79, XSNM01405	93.3% Enriched Uranium	20.050	18.707	Fuel for Petten Reactor	Netherlands.
3. Edlow Internat'l Co., 04/10/79, 04/12/79, XSNM01406	90.4% Enriched Uranium	12.030	10.875	Fuel for RA-3 Reactor	Argentina.
4. Aerojet Ordnance Co., 04/09/79, 04/10/79, XU08414	Depleted Uranium	Add'l 55,344		Metallic Uranium scrap for recycling into useable depleted uranium and return to U.S.	Canada.
Edlow Internat'l Co., 04/16/79, 04/19/79, XU08450	Natural Uranium	48,000		Uranium ore concentrate for Gov't. programs to replace exported ores.	Brazil.

[FR Doc. 79-13480 Filed 4-30-79; 8:45 am]

BILLING CODE 7590-01-M

Carolina Power and Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Facility Operating License No. DPR–23, to the Carolina Power and Light Company, (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant Unit No. 2 (the facility) located in Darlington County, Hartsville, South Carolina. The amendment is effective as of the date of its issuance.

The amendment authorizes the removal of all part-length control rods from the reactor.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittal dated March 6, 1979, (2) Amendment No. 36 to License No. DPR–23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of April 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch #1, Division of Operating Reactors.

[Docket No. 50-261]

[FR Doc. 79-13442 Filed 4-30-79; 8:45 am]

BILLING CODE 7590-01-M

Commonwealth Edison Co.; Order for Evidentiary Hearing

In the Matter of Commonwealth Edison Co., (Zion Station, Units 1 and 2), Docket Nos. 50–295, 50–304, Order for Evidentiary Hearing.

Take notice that the evidentiary hearing in this proceeding will begin on Monday, June 11, 1979, at 9:00 a.m., at the Holiday Inn Beach Resort, the Lincoln Ballroom, Sheridan and Wadsworth Roads, Lake Front, Zion, Illinois. This session of the hearing will continue through Friday, June 15, 1979; if necessary, the hearing will resume on Wednesday, June 20 and will continue through June 23.

Limited appearances will be received on the first day of the evidentiary hearing, Monday, June 11, 1979.

So ordered.

The Atomic Safety and Licensing Board

Dated at Bethesda, Maryland this 23rd day of April 1979.

Edward Luton,

Chairman.

[Docket Nos. 50-295 and 50-304]

[FR Doc. 79-13443 Filed 04-30-79; 8:45 am]

BILLING CODE 7590-01-M

Commonwealth Edison Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 46 and 45 to Facility Operating License Nos. DPR–39 and DPR–48 issued to Commonwealth Edison Company (the licensee) which revised Technical Specifications for operation of the Zion Station, Unit Nos. 1 and 2, located in Zion, Illinois. The amendments are effective as of the date of issuance.

These amendments authorize a limited extension of the completion dates for certain plant modifications which we have required to improve the level of fire protection at the Zion facility.

The applications for these amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 14, as supplemented April 4 and April 12, 1979, (2) Amendment Nos. 46 and 45 to License Nos. DPR–39 and DPR–48, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 13th day of April 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[Docket Nos. 50-295 and 50-304]

[FR Doc. 79-13444 Filed 4-30-79; 8:45 am]

BILLING CODE 7590-01-M

Florida Power and Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 46 and 39 to Facility Operating License Nos. DPR–31 and DPR–41, respectively, issued to Florida Power and Light Company which revised Technical Specifications for operation of the Turkey Point Nuclear Generating Units Nos. 3 and 4, located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments change the control rod group insertion limits and correct an administrative error in amendments 43 and 35 issued February 15, 1979.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments. For further details with respect to this action, see (1) the application for amendments dated December 22, 1978, (2) Amendments Nos. 46 and 39 to Licenses Nos. DPR–31 and DPR–41 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Environmental & Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of April, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[Docket Nos. 50-250 and 50-251]

[FR Doc. 79-13445 Filed 4-30-79; 8:45 am]

BILLING CODE 7590-01-M

Northern States Power Co.; Issuance of amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 35 and 29 to Facility Operating License Nos. DPR–42 and DPR–60, issued to the Northern States Power Company (the licensee), which revised Technical Specifications for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of their date of issuance.

These amendments change the common station Technical Specifications for the Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2 and incorporate changes to the Appendix A Technical Specifications to support operation in Cycles 5 through 8 with reload fuel by the Exxon Nuclear Company.

The requirements of the NRC Order for Modification of License of Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2 dated May 18, 1978 have been satisfied by the submittal dated February 21, 1979 and supplemented on March 30, 1979.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Notice of Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the Federal Register on November 22, 1978 (43 FR 54706). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the submittal dated September 8, 1978 and the application for amendments dated December 29, 1978 and supplemented on January 23 and March 30, 1979, (2) Amendment Nos. 35 and 29 to License Nos. DPR–42 and DPR–60, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 20th day of April, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[Docket Nos. 50-282 and 50-306]

[FR Doc. 79-13446 Filed 4-30-79; 8:45 am]

BILLING CODE 7590-01-M

Northern States Power Co.; Issuance of Director's Decision Under 10 CFR 2.206

On January 24, 1979, the Commission published a notice in the Federal Register (44 FR 5029) that it had received a letter from the Minnesota Pollution Control Agency (MPCA) requesting that the Commission issue an immediately effective order to prohibit installation of modified spent fuel storage racks at the Monticello Nuclear Generating Station, Unit No. 1, pending a hearing to determine whether a license amendment should be issued authorizing modification of the racks. The MPCA's letter was treated as a request for action under 10 CFR 2.206 of the Commission's regulations.

The Director of Nuclear Reactor Regulation has considered the MPCA's request and determined that the modification is a change in a facility that does not require a license amendment under 10 CFR 50.59(a). Accordingly, the MPCA's request is denied.

A copy of the Director's decision will be placed in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and in the local public document room for the Monticello Nuclear Generating Station, located at the Environmental Conservation Library, 300 Nicolet Mall, Minneapolis, Minnesota. A copy of the decision will also be filed with the Secretary of the Commission for review in accordance with 10 CFR 2.206(c) of the Commission's regulations.

In accordance with 10 CFR 2.206(c) of the commission's regulations, this decision will constitute the final action of the Commission twenty (20) days after the date of issuance, unless the Commission on its own motion institutes review of the decision within that time.

Dated at Bethesda, Maryland, this 24th day of April, 1979.

Roger S. Boyd,

Acting Director, Office of Nuclear Reactor Regulation.

[Docket No. 50-263]

[FR Doc. 79-13447 Filed 4-30-79; 8:45 am]

BILLING CODE 7590-01-M

Public Service Company of Colorado; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Facility Operating License No. DPR–34, issued to Public Service Company of Colorado, which revised Technical Specifications for operation of the Fort St. Vrain Nuclear Generating Station, located in Weld County, Colorado. The amendment is effective as of its date of issuance.

The amendment revises the Technical specifications to : (1) Install eight test fuel elements into the reactor core at the

first refueling, and (2) install PGX graphite surveillance specimens into five bottom transition reflector elements of the reactor core.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropirate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an enviromnental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action see: (1) The applications for amendment dated January 9, 1978 and January 26, 1979; (2) Amendment No. 20 to License No. DPR–34, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., 20555, and at the Greeley Public Library, City Complex Building, Greeley, Colorado 80631.

A copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Project Management, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 20th day of April, 1979.

For the Nuclear Regulatory Commission.

Themis P. Speis,

Chief, Advanced Reactors Branch, Division of Project Management.

[Docket No. 50–287]

[FR Doc. 79–13448 Filed 4–30–79; 8:45 am]

BILLING CODE 7590–01–M

Rochester Gas and Electric Corp.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Provisional Operating License No. DPR–18, issued to Rochester Gas and Electric Corporation (the licensee), which revised the Specificaions for operation of the R. E. Ginna Plant (the facility located in Wayne County, New York. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to include requirements for the Reactor Coolant System overpressurization protection modification.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 11, 1978 (which was transmitted by letter dated October 18, 1978), (2) the analysis submitted by the licensee's letter dated July 29, 1977, (3) Amendment No. 26 to License No. DPR–18, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of April, 1979.

For the Nuclear Regulatory Commission,

Dennis L. Ziemann,

Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[Docket No. 50–244]

[FR Doc. 79–13449 Filed 04–30–79; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Chicago Board Options Exchange, Inc. and Midwest Stock Exchange, Inc., Order Approving Proposed Rule Changes and Relocation of Midwest Stock Exchange Options Trading Floor

In the matter of Chicago Board Options Exchange, Incorporated, LaSalle at Jackson, Chicago, Illinois 60604 (SR–CBOE–78–34), and Midwest Stock Exchange, Incorporated, 120 South LaSalle Street, Chicago, Illinois 60303 (SR–MSE–78–30).

I. Introduction

On December 20, 1978, and December 21, 1978, respectively, the Chicago Board Options Exchange, Inc. (the "CBOE") and the Midwest Stock Exchange, Inc. (the "MSE") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(s)(b)(1), and Rule 19b–4 thereunder, copies of proposed rule changes (i) to effect the combination of the options markets of the CBOE and the MSE (the "Combination"), (ii) to relocate the MSE options market, pending consummation of the Combination, so that it will be physically adjacent to the CBOE trading floor (the "Relocation"), and (iii) to amend the governing documents of both exchanges to reflect the Combination.

Notice of the CBOE filing (SR–CBOE–78–34), together with its terms of substance, was given by publication of a Commission release (Securities Exchange Act Release No. 15495, January 12, 1979), and publication in the **Federal Register** (44 FR 4073, January 19, 1979); notice of the MSE filing (SR–MSE–78–30), together with its terms of substance, was given by publication of a Commission release (Securities Exchange Act Release No. 15494, January 12, 1979) and by publication in the **Federal Register** (44 FR 4080, January 19, 1979). All written statements with respect to the proposed rule changes which were filed with the Commission and all written communications relating to the proposed rule changes between the Commission and any person were considered and were made available to the public at the Commission's Public Reference Room.

II. Terms of the Proposed Combination

The purpose of the proposed rule changes, as stated in the agreement entered into by the two exchanges,[1] is to effect a combination of all of the activities in the MSE Options Market with those of the CBOE Options Market such that upon the effectiveness of the combination MSE would no longer provide a market for trading in standardized options and CBOE would provide a market for trading in the classes of standardized options then traded in the MSE Options Market.[2]

The rule change filings contemplate the possibility that the Combination may occur in two stages, in part due to the continuing moratorium on expansion of existing options programs.[3] The first stage, the Relocation, would involve the physical movement of the MSE options market so as to be adjacent to the CBOE trading floor; the second stage, the Combination, which would take place when the Options Moratorium is lifted, would involve the actual combination of the MSE options market with the CBOE options market.

A. Relocation Stage

During the Relocation stage, trading in MSE options would be conducted solely by MSE members, under MSE supervision, and in accordance with MSE rules. The CBOE's computerized surveillance system would generate reports for the use of MSE in its surveillance of MSE options trading, and the CBOE would provide daily transaction files enabling the MSE to bill transaction fees and book executions. The CBOE also will collect and transmit last sale reports and quotations for MSE options to SIAC, the exclusive information processor for the Options Price Reporting Authority, and provide certain trade match services to the MSE. Finally, CBOE will provide trading post and book processing facilities, systems, and services, as well as booth space for MSE broker-dealers.[4]

MSE members will remain MSE members, with no change in rights or obligations, and MSE order book officials ("OBOs") will remain MSE employees and operate the MSE trading stations on the MSE floor.[5] During this period CBOE and MSE members may trade only on their respective exchange floors and trade only the options classes of their respective exchanges, unless they are dual members. The CBOE will make reasonable efforts to employ current MSE options personnel other than OBOs during the Relocation stage.

B. Consummation of the Combination

Upon consummation of the Combination, the MSE will cease to operate a market for trading standardized options, at which time MSE's regulatory responsibility for that options market under the Act will terminate.[6] The CBOE will seek to list those option classes formerly listed on the MSE, and upon listing, the CBOE will assume full responsibility for floor operations, surveillance, and enforcement regarding trading in those options classes pursuant to CBOE rules.[7] The MSE's OBOs will be offered employment by the CBOE.

All MSE options members will become "special members" of the CBOE and have the right to trade in those former MSE options that become listed on the CBOE, but only in those options. The "special" CBOE memberships, with attendant trading and other rights, will last for ten years commencing from the effective date of the Combination and will be transferable during that period, after which they will expire. During that ten-year period, special members in addition to trading privileges will have certain other rights, privileges, and restrictions relating to election to the CBOE's board of directors, service on CBOE committees, voting, and participation in distribution of CBOE's assets.[8]

The CBOE has agreed to pay the MSE $310,800 in three annual installments, reduced by: (1) $10,300 for each calendar month that the effective date of the Combination postdates September 30, 1978; (2) $20,000 for each year or part thereof that the effective date post-dates November 30, 1978; and (3) the unexpended portion of the sums retained by MSE for contingency expenses during the Relocation stage.

III. Reasons Stated by CBOE and MSE for the Combination.

The MSE states it has been unable to create an options trading environment that could attract sufficient capital, acquire threshold market share, or generate adequate industry recognition to compete effectively against the other options exchanges. As a result, the MSE options market generated significant losses in 1977 and only approached the the break even level during the active trading period in 1978. In the MSE's judgment, it could operate a successful options program only if: (1) it could list additional high volume classes with no increase in multiple trading; (2) it could list additional classes of put options; and (3) overall options volume were to remain generally high. The MSE has concluded as a business matter, however, that, even if all these assumptions proved correct, the MSE should nevertheless abandon its options program in view of its small size relative to the other options markets and the delay in expanding that program resulting from the Options Moratorim. Accordingly, the MSE decided to terminate its options business provided that could be done in a manner that afforded its options members and employees an opportunity to continue their options activities with minimal disruption and without additional adverse financial consequences for the MSE's remaining securities activities.

[1] The CBOE and the MSE entered into an agreement relating to the Combination on August 15, 1978 (the "Combination agreement"), which was

Footnotes continued on next page

Footnotes continued from last page

subsequently approved by the Board of Directors, and ratified by the membership, of each exchange. *See* SR–CBOE–78–34, Exhibit 2.

[2] Combination agreement, at 1.

[3] Since July 1977, the options exchanges have voluntarily refrained from filing expansionary proposals and from filing authorized but unfilled options classes (the "Options Moratorium"). *See* Securitite Exchange Act Release No. 13780 (July 18, 1977), 42 FR 36035 (July 26, 1977); Securities Exchange Act Release No. 14678 (June 22, 1978), 15 SEC Docket 98 (July 5, 1978); Securities Exchange Act Release No. 15028 (August 8, 1978), 15 SEC Docket 404 (August 15, 1978); and Release No. 15485 (January 10, 1979), 16 SEC Docket 696 (January 23, 1979). In February 1979, the Commission announced its program for implementing certain recommendations made by the Special Study of the Options Markets (the "Options Study"), published on February 15, 1978, and for terminating the Options Moratorium. *See* Securities Exchange Act Release No. 15575 (February 22, 1979), 16 SEC Docket 1163 (March 6, 1979). While the Combination agreement contemplates the eventual listing of additional options classes by the CBOE, thereby expanding options trading on the CBOE at such time as the Combination is consummated, the Commission has determined to consider the proposed rule changes at this time, as more fully discussed infra, to eliminate the existing uncertainty as to future trading in options classes now traded on the MSE, due in part to the publicity attendant to the execution of the Combination agreement, and to facilitate the lifting of the Options Moratorium for all of the remaining options exchanges.

[4] During the Relocation stage, the MSE will pay over to the CBOE all MSE option fees and OPRA revenues less certain expenses. See n. *infra*. The MSE will assign to CBOE its rights in designated leases and agreements, and the CBOE will assume the MSE's obligations thereunder.

[5] An OBO is a salaried employee of the exchange, who is given exclusive agency authority to maintain the limit order book in specified option classes and who is assigned to the particular trading station where his options are traded. The OBO stands at the focal point of each trading crowd and is responsible for controlling the trading crowd at his station.

[6] The shifting of financial responsibility for that market would begin during the Relocation under the Combination agreement, when all of MSE's options revenues, less specified amounts to be retained by MSE for the operation and regulation of its market, will be paid to CBOE. Upon the effective date of the Combination, CBOE will assume MSE's remaining obligations with respect to its options program, subject to certain indemnification provisions in the Combination agreement, relating to past operations, and MSE will cease to have any responsibility for that program.

[7] Commission approval of the proposed rule changes is based upon a determination by the Commission that, under these circumstances, it is consistent with the Act for the CBOE to expand the number of options classes it currently lists and trades, by filing three additional classes with options formerly listed and traded on the MSE upon fulfillment of certain conditions discussed *infra*.

[8] These rights, privileges and restrictions are set forth in the Combination agreement.

The MSE believes the Combination would accomplish these purposes and would be in the best interests of the MSE, its options members and employees, the securities industry and the investing public. The MSE has advanced a number of reasons, including: (1) The MSE options members will be able to continue to trade options without having to make an additional capital investment or moving to another city; (2) the MSE options employees will have employment opportunities in the Chicago area; (3) the MSE may discontinue its options business without disruption of trading or loss of continunity of surveillance in MSE options; and (4) the MSE may eliminate a potentially serious drain on its resources by its options program.

The CBOE states that the Combination presents the CBOE with the opportunity to acquire a trained and experienced options staff. Moreover, the CBOE states that since its current operational capacity is not fully utilized, the additional volume generated by the MSE options would permit more efficient use of the CBOE's trading floor, its data processing equipment and operational and regulatory personnel. Finally, the CBOE already performs trade comparison services for the MSE using independent computer systems and the Combination would permit a more efficient single system.

IV. Discussion

. The Commission finds that the Combination will result in certain benefits for the public: (1) continuity of trading will be maintained in the options currently listed on the MSE; (2) the talent and resources of the MSE options professionals will be preserved; (3) uncertainty as to the future of the MSE options program will be eliminated; and (4) trading in MSE options will become subject to the CBOE's more sophisticated surveillance programs.[9]

The Commission believes that no public benefit would be conferred by denying the MSE the opportunity to eliminate any further financial drain on its resources caused by the operation of its options program or by requiring the MSE to expend those additional resources necessary to fully implement the recommendations of the Commission's Options Study. In addition, the Commission believes that the public interest and the goal of fair and orderly markets will be advanced by the continuity of trading in MSE options provided for in the Combination. The Commission also believes that the public will benefit from the more sophisticated surveillance systems of the CBOE that will be used, immediately upon completion of the Relocation, to monitor trading in MSE options. For these reasons and others set forth above, the Commission has determined to approve the proposed Combination at this time.

The Commission does not believe, however, that the CBOE should be permitted to expand its options trading program by listing former MSE options classes until it has implemented those recommendations of the Options Study which the Commission has requested all options exchanges to implement as a condition to further expansion; to permit the CBOE to expand its options trading program at a time when the other option exchanges are not permitted to do so would place an unfair competitive burden on these other exchanges. Accordingly, the Commission has determined that the CBOE may not list the current MSE options classes until the CBOE has implemented those Options Study recommendations and the Commission determines that the restrictions of the Options Moratorium no longer apply to the CBOE. The Commission has determined, however, for the reasons set forth below, to permit the MSE to relocate its options trading floor to be contiguous with that of the CBOE in the interim period.

The Commission believes that the Relocation does not represent an expansion of the CBOE 's options program within the meaning of the Options Moratorium because (1) trading in MSE options will continue to be conducted by a separate national securities exchange, *i.e.*, the MSE; (2) regulatory responsibility for trading in MSE options will remain with the MSE; (3) all trading activity in MSE options will be conducted pursuant to MSE rules and subject to MSE enforcement; (4) MSE option members will remain MSE members with no change in their rights or obligations; (5) the MSE's OBOs will remain MSE employees; and (6) transferrability of MSE options memberships will remain unrestricted. Moreover, the Commission believes that certain benefits will accrue to the public if the Relocation is permitted to occur at this time, particularly increased operational efficiency and surveillance capabilities with respect to the MSE options.[10]

IV. Competitive impact of the combination

The Commission has determined that the Combination will impose no burden on competition that is not necessary or appropriate in the public interest or in furtherance of the purposes of the Act.

If the consummation of the Combination occurs in an environment in which multiple trading is not restricted, the competitive impact of the listing of MSE's classes by CBOE would be minimal because (1) the CBOE and the MSE, with a single exception,[11] do not trade the same options; (2) the MSE has concluded that it would be unable to compete in a multiple trading environment and, thus, would likely discontinue its options program even if the Combination were not consummated; and (3) past experience indicates that the fact that an exchange may be the first to list an option does not assure that exchange continuing primacy in trading that class.

Even if multiple trading remains restricted to some extent at the time of the consummation of the Combination and remains so for a significant period of time, the Commission does not believe that the Combination would result in any competitive burden that is not necessary or appropriate in the public interest. Based on historical trading volume, the addition of MSE's option classes will not significantly increase CBOE's options volume or substantially alter the market share balance of the remaining options exchanges.[12]

V. Comments on Proposed Rules Changes

By letter dated February 20, 1979, the American Stock Exchange Inc. ("Amex") submitted its comments on the proposed rule changes. The Amex states that the proposed combination is clearly an expansion of CBOE's options market and should not be considered by the Commission at this time, or permitted unless the other options exchange are given similar opportunities to expand their options programs. The Amex stated further that to permit the relocation of MSE's options at this time would give the CBOE an unfair competitive advantage since "from the day that the MSE options began trading on the CBOE floor they will be perceived by the industry to be CBOE options." Finally, the Amex stated its belief that the MSE's "financial needs . . . are not so pressing as to require immediate Commission actions."

As set forth above, the Commission has determined that it is in the public interest to consider the proposed combination at this time to eliminate the uncertainty as to the future of trading in options classes now listed and traded on the MSE. The Commission recognizes that the consummation of the Combination will result in a modest expansion of the CBOE's options market and, accordingly, consistent with the Commission's program for lifting the Options Moratorium,[13] the Commission will not permit the CBOE to list and trade any MSE options classes until the CBOE has implemented those Options Study recommendations which the Commission has requested all options exchange to implement prior to expansion

The Commission, however, does not believe that the relocation of MSE's options trading floor is an expansion of CBOE's options program within the meaning of the Options Moratorium, for the reasons set forth above.[14] In addition, as noted above, the Commission believes that certain benefits will accrue to the public if the Relocation is permitted at this time, and that it will eliminate any risk of further drain on MSE's financial and regulatory resources. Finally, for the reasons set forth above, the proposed Commission does not believe that approval of the proposed rule changes imposes any burden or competition not necessary or appropriate in the public interest or otherwise in furtherance of the purposes of the Act.

VI. Conclusion

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder. The Commission, however, has determined that until the CBOE has implemented those Options Sudy recommendations which the Commission has requested all options exchanges to implement prior to further expansion, the CBOE may not expand the number of authorized call and put classes traded on the CBOE to accommodate those classes currently traded on the MSE.[15] The Commission further has determined, however, that it is in the public interest to permit the MSE to relocate its options trading floor to that of the CBOE at this time, as set forth above.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above referenced rule changes be, and hereby are, approved.

By the Commission.

George A. Fitzsimmons,
Secretary.

[Securities Exchange Act of 1934; Release No. 15787]
[FR Doc. 79-13375 Filed 4-30-79; 8:45 am]
BILLING CODE 8010-01-M

Donaldson, Lufkin & Jenrette Securities Corp. and Tax Exempt Income, Trust, Series 1 and Subsequent Series; Filing of Application Pursuant to Section 6(c) of the Act for Exemptions From the Provisions of Sections 14(a) and 22(d) of the Act and Rule 19b-1 Thereunder and Pursuant to Section 11 of the Act to Permit Certain Offers of Exchange

April 24, 1979.

In the Matter of Donaldson, Lufkin, & Jenrette Securities Corp. and Tax Exempt Income Trust, Series 1 and Subsequent Series c/o Donaldson, Lufkin & Jenrette Securities Corp., 140 Broadway, New York, New York 10005

Notice is hereby given that Tax Exempt Income Trust, Series 1 (and subsequent Series) (hereinafter referred to collectively as the "Trust" and each series separately as a "Trust"), a unit investment trust, and its sponsor, Donaldson, Lufkin & Jenrette Securities Corporation ("Sponsor") (collectively, "Applicants"), filed an application on February 21, 1979, and amendments thereto on April 11, 1979, and April 16, 1979, for an order of the Commission (a) pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants from the provisions of Sections 14(a) and 22(d) of the Act, and Rule 19b-1 thereunder, and (b) pursuant to Section 11 of the Act permitting certain offers of exchange described herein. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Trust will be created by the Sponsor under the laws of the Commonwealth of Massachusetts pursuant to a Trust Agreement and Indenture (the "Trust Agreement") among the Sponsor, State Street Bank and Trust Company as trustee ("Trustee"), and Standard & Poor's Corporation as evaluator ("Evaluator"). Applicants state that Trusts created subsequent to the first series of the Trust ("Trust, Series 1") may have one or more additional entitites acting as Sponsor, Trustee and Evaluator, respectively. Applicants represent that the investment objectives of Trust, Series 1 will be the maintenance of a high level of tax exempt current income and the preservation of capital through investment in a diversified fixed portfolio of long-term state, municipal and public authority debt obligations. Applicants state that Trusts created subsequent to Trust, Series 1 may consist primarily of other types of state, municipal and public authority debt obligations (portfolio instruments of the Trust, including Trust, Series 1, are hereinafter referred to as "Trust Securities"). Any Trust created subsequent to Trust, Series 1, consisting primarily of short-term obligations will hereinafter be referred to as a "Short-term Trust."

Applicants state that once the Sponsor decides to offer a Trust to the public, the Sponsor will prepare and file with the Commission under the Securities Act of 1933 and the Act the documents necessary to create the Trust's structure. There follows a period of accumulation of underlying Trust Securities. When the portfolio is completed, a closing will be held at which the Trust Securities will be deposited with the Trustee and, simultaneously, the Trustee will deliver to the Sponsor a certificate representing units (the "Units") of fractional undivided interests in the Trust (at the rate of approximately one Unit for each $1,000 principal amount or par or

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[9] In addition, the financial community will obtain certain efficiencies with regard to MSE options as a result of operational improvements now being implemented by the CBOE, including computerized billing and order support systems.

[10] In addition, the Relocation will provide (1) reduced risk of a further drain on MSE's financial resources; (2) opportunity for the MSE to devote greater resources and effort to its stock market and other activities; (3) opportunity for the CBOE to begin assuming its new responsibilities in contemplation of the Combination; and (4) cost savings to member firms through concentration of facilities and personnel in a single location.

[11] The single exception is the American Express Company call options class in which the MSE attracts minimal volume.

[12] Trading in MSE options during 1978 (and for the first quarter of 1979) represented less than 4% of contract volume of all options exchanges. Further, as a result of the announced merger of Carrier Corporation into United Technologies Corporation, MSE trading in Carrier options is expected to decline to *de minimus* levels later this year. Carrier options in 1978 accounted for more than 20% of MSE's options volume.

[13] Securities Exchange Act Release No. 15575 (February 22, 1979), 16 SEC Docket 1169 (March 6, 1979).

[14] In this regard, the options exchanges have agreed, pursuant to the terms of the Options Moratorium set forth in Securities Exchange Act Release Nos. 15036 (August 3, 1978), 15 SEC Docket 404 (August 15, 1978), and 14878 (June 22, 1978), 15 SEC Docket 98 (July 5, 1978), to abide by the Commission's determination as to whether particular proposals should be deemed expansionary for purposes of the Options Moratorium.

[15] Prior to consummation of the Combination the CBOE must file with the Commission, pursuant to Rule 19b-4, a proposed rule change to increase the number of authorized put and call classes on the CBOE to accommodate the listing of the current MSE classes, and make the proper filing with the Options Clearing Corporation to list those classes. In the event that the expansion of puts trading is limited to some extent upon the termination of the Options Moratorium, the addition of the former MSE puts classes may be considered in connection with any such limitation applicable to the CBOE.

liquidation value of the Trust Securities deposited). Such Units will represent the entire ownership of the Trust. At the present time the Sponsor intends to deposit with the Trustee approximately $10,000,000 principal amount of Trust Securities to be included in the portfolio of the Trust, Series 1 but this figure may be increased or decreased in the case of the Trust, Series 1 or any other Trust depending on market conditions. Contemporaneously with the deposit, an amendment which forms the basis for the final prospectus relating to the Trust will be filed with the Commission.

Applicants represent that in the case of Trust, Series 1, interest and principal received by the Trust will be distributed, less applicable expenses, on the fifteenth day of each month on a pro rata basis to Unitholders of record on the first day of the month. The timing of such distibution may vary for future Trusts. In the case of a Short-term Trust, interest and principal may be distributed only once, at the maturity date of the portfolio instruments.

Applicants further state that while the Sponsor is not obligated to do so, it intends to maintain a market for the Units by offering to purchase such Units at prices based upon the aggregate offering-side evaluation of the Trust Securities, during the initial public offering period, and in the secondary market at prices based upon the aggregate bid-side evaluation of the Trust Securities, plus in each case, sales charges that will be specified in the applicable prospectuses. Units purchased by the Sponsor during the initial public offering period will be reoffered for sale during such period at prices determined on the basis of the offering side evaluation of the Trust Securities. Units purchased by the Sponsor in the secondary market will be reoffered for sale at prices determined on the basis of the bid-side evaluation of the Trust Securities.

Applicants state that in addition to the Trust, the Sponsor expects to offer units in other unit investment trusts in the future, and that such additional trusts may include trusts to be known as "Corporate Income Trust" and "Government Income Trust." Such trusts may include long-term, intermediate-term and short-term series and such other series as may be offered by the Sponsor from time to time. Applicants state that any series of such trusts not consisting primarily of short-term securities will be referred to as a "Conversion Trust".

Section 14(a)

Section 14(a) of the Act provides, in substance, that no registered investment company and no principal underwriter for such company shall make a public offering of securities of which such company is the issuer unless (1) such company has a net worth of at least $100,000; (2) at the time of a previous public offering it had a net worth of $100,000; or (3) provision is made in connection with the registration of such securities that a net worth of $100,000 will be obtained from not more than 25 responsible persons within ninety days after the registration statement becomes effective, or the entire proceeds received, including the sales charge, will be refunded.

Applicants seek an exemption from Section 14(a) in order that a public offering of Units of each Trust, as described above, may be made. They assert that the purpose of Section 14(a) is to prevent the formation of undercapitalized investment companies. Applicants represent that each Trust, at the date of deposit and before any Unit is offered to the public, will have a net worth far in excess of $100,000. Therefore, Applicants maintain that the danger of creating an undercapitalized investment company would not be present in the case of the public offering of Units of the Trust.

As a condition to the requested exemption from Section 14(a), the Sponsor has agreed that the Sponsor and any other underwriters or dealers participating in the distribution of Units, will refund, on demand and without deduction, all sales charges paid by purchasers of Units in an initial public offering, and liquidate the Trust Securities and distribute the proceeds thereof, if within ninety days from the time that a registration statement for such Trust becomes effective, either (i) the net worth of the Trust shall have been reduced to less than $100,000 or (ii) the Trust shall have been terminated. The Sponsor has further agreed to instruct the Trustee on the date Trust Securities are deposited in each Trust, to terminate such Trust in the manner provided in the Trust Agreement and distribute the assets of the Trust to the Unitholders in the event redemption by the Sponsor of unsold Units results in such Trust having a net worth of less than 40% of the principal amount of the initial portfolio. The Sponsor further agrees that should any such termination occur, the Sponsor will refund, on demand and without reduction, all sales charges to purchasers of Units of such Trust from the Sponsor or from any underwriter or dealer participating in the distribution.

Rule 19b-1

Rule 19b-1 provides, in susbtance, that no registered investment company which is a "regulated investment company" as defined in Section 851 of the Internal Revenue Code shall distribute more than one capital gain dividend in any one taxable year. Paragraph (b) of the Rule contains a similar prohibition for a company not a "regulated investment company," such as the Trust, but permits a unit investment trust to distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt.

Applicants wish to be able to distribute principal, including any capital gains, and interest to Unitholders on a regular basis. They state that distributions of principal constituting capital gains to Unitholders could be expected to be made in the following circumstances: (1) if an issuer calls or redeems an issue held in the Trust portfolio, and (2) if Trust Securities are liquidated to provide funds necessary to meet redemptions of Units. Applicants assert that it is unlikely that capital gains would be realized from sales of Trust Securities by the Trustee at the request of the Sponsor after default in payment of principal or interest or the occurrence of other market or credit factors which, in the opinion of the Sponsor would make retention of such Trust Securities in the Trusts detrimental to the interests of the Unitholders.

Applicants contend that the dangers against which Rule 19b-1 is designed to protect will not exist in connection with the Trust since neither the Trust nor the Sponsor will have control over the events that could trigger capital gains. Applicants represent that in making distributions which include both principal (including capital gains) and interest on a regular basis, the capital gains ncome included in the distribution will be clearly distinguished from interest distributions in the accompanying report by the Trustee to the Unitholder. Applicants further assert that it would be to the detriment of Unitholders for the Trust to be required to withhold monies constituting capital gains from such Unitholders until the end of the taxable year.

Lastly, Applicants point out that Rule 19b-1 specifically provides that a unit investment trust may distribute capital gains dividends received from a regulated investment company within a reasonable time after receipt.

Applicants contend that the purpose of this provision is to avoid requiring such unit trusts to accumulate valid distributions received throughout the year until the year-end, and that the operations of the Trust would fall squarely within such purpose.

Section 22(d)

Applicants state that the Sponsor proposes to offer Unitholders of the various Trusts, except the Short-term Trusts, the privilege of converting their Units into Conversion Trust units at reduced sales charges (an interest in a Conversion Trust is hereinafter referred to as a "Conversion Trust Unit"), and to permit Conversion Trust Unitholders likewise to exchange their Units for Trust Units at reduced sales charges. pursuant to this conversion privilege, the Unitholder could purchase a Conversion Trust Unit either in the secondary market or in the initial public offering period for the Conversion Trust, and a Conversion Trust Unitholder could purchase Units of any Trust, except any Short-term Trust, in either the initial public offering or the secondary market for such Trust.

Applicants state that the proposed conversion privilege would provide Unitholders and Conversion Trust Unitholders a convenient means of transferring their interests as their investment requirements change in a less costly manner than selling their interests to the Sponsor in the secondary market. Under the proposal, when a Unitholder notifies the Sponsor of his desire to exercise his conversion privilege, the Sponsor would deliver to such Unitholder a current prospectus for the series of a Conversion Trust selected by the Unitholder, if such series is available for sale. A similar procedure would apply in the case of a Conversion Trust Unitholder wishing to convert his interest to Trust Units.

Applicants propose to allow a reduced sales charge for all transactions effected pursuant to the conversion privilege. Applicants state that ordinarily, the Sponsor would resell Units of any Trust or any Conversion Trust (i) during the initial public offering period, at a public offering price based upon the offering-side evaluation of such trust's portfolio securities plus a sales charge not exceeding, for the Trust, Series 1, 4.712% of such evaluation, and (ii) in the secondary market, at a public offering price based upon the bid-side evaluation of the portfolio securities plus a sales charge not exceeding, for the Trust, Series 1, 5.263% of such evaluation. Pursuant to the conversion privilege, the Sponsor would sell Converson Trust Units, at a price (i) during the initial public offering period equal to the offering-side evaluation of the portfolio securities divided by the number of Conversion Trust Units outstanding, and (ii) in the secondary market, at a price equal to the bid-side evaluation of the portfolio securities divided by the number of Conversion Trust Units outstanding, plus, in both cases, a fixed sales charge of $15 per Conversion Trust Unit (i.e., about 1½% of the offering price at current market values). Similarly, Conversion Trust Unitholders could exchange their Units for Trust Units at net asset value, based on the offering-side evaluation of the Trust Securities during the initial offering period and upon the bid-side evaluation in the secondary market, plus in either case, a $15 charge per Trust Unit. Applicants stat that a Unitholder would be permitted to acquire pursuant to the conversion privilege whole Conversion Trust Units only, and any excess amount representing the sales price of Units submitted for conversion would be remitted to the Unitholder. The same restriction would apply to Conversion Trust Unitholders who exchange their units for Trust Units.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. Since the sales charges for effecting purchases of Conversion Trust Units in their initial distribution or during secondary market trading would be greater than the $15 charge which would apply to purchases made pursuant to the conversion privilege, the exercise of the proposed conversion privilege would be prohibited by Section 22(d) of the Act. Similarly, Section 22(d) would prohibit the purchase of a Trust Unit at a charge of $15 pursuant to the conversion of a Conversion Trust Unit because such charge would be different from the one normally imposed upon sales of the Units in either initial public offering sales or secondary market trading.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally, exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that an investor may wish to exercise the proposed conversion privilege for a number of reasons—such as changes in investment goals or requirements. Because of such factors, Applicants contend, there will likely be a continuing need to assess an investor's individual financial and tax position, and in all probability the account executives of the Sponsor and its correspondent dealers will actively participate in financially counselling the investor as to the proper course of action to follow. Because, however, the investor is an existing customer whose essential investment needs have been identified, the real cost of a conversion transaction should be below an initial purchase. For instance, since all the Trusts and Conversion Trusts are similar investment vehicles, an investor interested in converting his units may require less advice than if he were acquiring an interest in an entirely different kind of investment vehicle. Applicants believe that a charge of $15 is a reasonable and justificable expense to be charged for the professional assistance and operational expense of a conversion transaction and that such a sales charge is warranted because it should cover the reasonable costs related to the exercise of the conversion privilege and yet give converting unitholders an opportunity to share in expected cost savings.

Thus, Applicants assert that the sales charge of $15.00 applicable to the conversion privilege achieves an important goal of passing cost savings on to investors and yet fairly compensates dealers for their investment advice, financial planning and operational expenses.

Section 11

Section 11(a) of the Act makes it unlawful for any registered open-end company or principal underwriter therefor to make an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of Section 11(a) shall be applicable to any type of offer of exchange of the securities of a registered unit investment trust for the securities of any other company.

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Applicants are requesting an order pursuant to Section 11 approving the exchange of Trust Units for Conversion Trust Units (or Conversion Trust Units for Trust Units) pursuant to the conversion privilege. Applicants point out that such exchange would be made at net asset value, and the only charge would be the $15 fee. Because this charge would accurately reflect the real cost of effectuating such exchanges, Applicants assert that exchanges made pursuant to the conversion privilege would be consistent with Section 11.

Notice is further given that any interested person may, not later than May 15, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Investment Company Act of 1940; Release No. 10471; 812-4452]
[FR Doc. 79-13378 Filed 04-30-79; 8:45 am]
BILLING CODE 8010-01-M

Fox-Stanley Photo Products, Inc.; Application To Withdraw From Listing and Registration

April 25, 1979.

In the matter of Fox-Stanley Photo Products, Inc. Common Stock, Par Value $1.00.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the AMERICAN STOCK EXCHANGE, INC. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Fox-Stanley Photo Products, Inc. (the "Company") has been listed for trading on the Amex since April 10, 1972. On December 15, 1978, the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith, such stock was suspended from trading on the Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for such stock.

The application relates soley to the withdrawal from listing and registration on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before May 25, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[File No. 1-6878]
[FR Doc. 79-13375 Filed 4-30-79; 8:45 am]
BILLING CODE 8010-01-M

General Public Utilities Corp; Proposed Increases in Holding Company's Capital Contributions to Subsidiaries

April 25, 1979.

In the matter of General Public Utilities Corporation; 260 Cherry Hill Road, Parsippany, N.J. 07054.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, has filed with this Commission a post-effective amendment to its declaration previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transactions.

By order dated December 29, 1978 (HCAR No. 20856), GPU was authorized to make cash capital contributions in amounts aggregating up to $90,000,000 through December 31, 1979, to two of its three major electric utility subsidiaries, Jersey Central Power & Light Comany ("Jersey Central") and Pennsylvania Electric Company ("Penelec"), such contributions not to exceed $65,000,000 to Jersey Central and $35,000,000 to Penelec. No authorization was then sought for cash capital contributions to GPU's other major electric utility subsidiary, Metropolitan Edison Company ("Met-Ed") during the year.

By post-effective amendment GPU requests that its authorization to make cash capital contributions to its subsidiaries for the period ending December 31, 1979, be increased from $90,000,000 to $235,000,000. GPU also requests that it be permitted to allocate the respective amounts of the proposed contributions among its subsidiaries so as to best match the needs of each as such needs develop during 1979, provided that within the requested $235,000,000 aggregate limit the capital contributions to Jersey Central, Met-Ed and Penelec would not exceed $180,000,000 ($29,500,000 of which has already been made in 1979), $125,000,000 and $35,000,000, respectively. Those needs will be affected by the earnings and internal cash generation, rate and timing of construction expenditures and indentures and charter restrictions on issuance of funded debt, short-term debt and preferred stock with respect to each subsidiary.

It is stated that the cash capital contributions will be credited by each subsidiary to its respective capital accounts and the funds used for the purpose of financing their respective businesses, including the payment of construction expenditures and the repair and clean-up activities at the Three Mile Island nuclear generating station. The 1979 construction expenditures are currently estimated at $210,000,000 for Jersey Central, $60,000,000 for Met-Ed and $65,000,000 for Penelec.

The fees and expenses to be incurred in connection with proposed

transactions will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 21, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and issues of fact or law raised by said declaration, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended by said post-effective amendment or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Public Utility Holding Company Act of 1935; Rel. No. 21018]
[FR Doc. 79-13379 Filed 4-30-79; 8:45 am]
BILLING CODE 8010-01-M

Securities Information Processor; Application for Exemption From Registration

Notice is hereby given that Control Data Corporatin ("CDC"), by letter dated March 23, 1979, has applied to the Commission, pursuant to Section 11A(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78k–1(b)(1) and Rule 11Ab2–1 [17 CFR 240.11Ab2–1] thereunder for a determination that it is not an exclusive processor as defined in Section 3(a)(22)(B) of the Act or, alternatively, for an exemption from registration as a securities information processor. Section 11A(b)(1) of the Act requires registration of (or the application and grant of an exemption from registration to) any securities information processor which is an exclusive processor within the definition of Section 3(a)(22)(B) of the Act.

CDC's application was prompted by its February 13, 1979 purchase, through its Service Bureau Company ("SBC") division, of the hardware and software owned by Weeden Holding Corporation and used to operate the Cincinnati Stock Exchange's (the "CSE's") Multiple Dealer Trading System. On the same date, the SBC division contracted with the CSE to provide various data processing and equipment maintenance services necessary to operate the Multiple Dealer Trading System.

In its letter, CDC describes the equipment, personnel and facilities employed by it in furnishing data processing services to the CSE, the operation of the Multiple Dealer Trading System facilities by users, and the functions performed by CDC in the reporting of transactions and quotations. CDC first contends that, because it performs its described functions for only 40 of the approximately 385 issues listed on the CSE and performs none of the functions set forth in Section 3(a)(22) of the Act with regard to the other 345 issues, it is not an exclusive processor within the definition of Section 3(a)(22) of the Act.

If the commission decides that CDC is an exclusive processor, however, CDC requests an exemption from registration. CDC cites as reasons for requesting an exemption that: 1) its activities as a securities information processor are *de minimis* in relation to the overall volume of such activities occurring on a daily basis, 2) the revenues derived by CDC from such activities are *de minimis* in relation to CDC's total revenues, 3) CDC employees are not directly involved in activities described within the definition of a securities information processor, 4) CDC cannot unilaterally make conceptual changes to the Multiple Dealer Trading System, 5) CDC does not furnish transaction data directly to the Consolidated Tape Association, but rather furnishes such data solely to the CSE, 6) reports which CDC files on Form 10K currently provide the Commission with information which it would receive on Form SIP if CDC were registered as a securities information processor, and 7) CDC has continued to store and provide to the Commission system information which the Weeden Holding Corporation had been storing and providing.

CDC also undertakes, if the Commission grants an exemption, to comply with the notice requirements of Section 11A(b)(5) under the Act, to file such reports as may be required by the Commission of registered securities information processors under Section 17(a)(1) of the Act, and to permit inspection of its records which relate to its operation of the Multiple Dealer Trading System.

While Section 11A(b)(3) of the Act requires the Commission, only upon filing of an application for registration, to publish notice of the filing, the Commission believes it desirable to publish notice of any application for exemption from registration so that interested persons may have an opportunity to submit written data, views and arguments concerning such an application. Accordingly, copies of the CDC application for exemption from registration and all subsequent correspondence relating thereto, other than material which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

Persons wishing to submit written data, views and arguments concerning the CDC application should submit them in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 not later than June 1, 1979. Comments should address whether the grant of an exemption from registration would be consistent with the public interest, the protection of investors, and the purposes of Section 11A of the Act, including the maintenance of fair and orderly markets in securities and the removal of impediments to and perfection of the mechanism of a national market system. Comments should also address whether the grant, or failure to grant, such an exemption would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. All communications should refer to File No. S7–775 and will be available for public inspection in the Commission's Public Reference Room.

By the Commission.

George A. Fitzsimmons,
Secretary.

[Release No. 34-15799; File No. S7-775]
[FR 79-13382 Filed 4-30-79; 8:45 am]
BILLING CODE 8010-01-M

United Financial Corporation of California and National Steel Corp.; Notice of Application and Opportunity for a Hearing

April 25, 1979.

In the Matter of United Financial Corporation of California, 700 Market Street, San Francisco, California 94102 and National Steel Corporation, 2800 Grant Building, Pittsburgh, Pennsylvania 15219 (812–4463).

Notice of application pursuant to section 17(b) for an order exempting a proposed transaction from section 17(a) and pursuant to section 17(d) and rule 17d–1 thereunder for an order permitting participation in such transaction.

Notice is hereby given that United Financial Corporation of California ("United") and National Steel Corporation ("National") (collectively "Applicants"), both Delaware corporations, filed an application on April 12, 1979, and an amendment thereto on April 17, 1979, for an order pursuant to Section 17(b) of the Investment Company Act of 1940 ("Act"), exempting from the provisions of Section 17(a) of the Act a proposed merger of NSC Corporation ("NSC"), an indirect wholly-owned subsidiary of National, with and into United and certain transactions contemplated thereby, and pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder permitting Keystone Custodian Funds, Inc., as Trustee for Keystone Custodian Fund, Series S–4, and Polaris Fund, Inc., to participate in those proposed transactions. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that United is a savings and loan holding company registered under the Savings and Loan Holding Company Amendments of 1967, and, through its principal subsidiary, Citizens Savings and Loan Association, engages in the savings and loan business in California. Applicants state that National is engaged, together with its subsidiaries, in the manufacture and sale of steel and aluminum products. Applicants represent that National owns approximately 5.2% of the outstanding common stock of United. Applicants also represent that Keystone Custodian Fund, Series S–4 ("Keystone"), owns 456,125 shares or approximately 6.26% of the outstanding United common stock and that Polaris Fund, Inc. ("Polaris") (collectively the "Funds"), an affiliate of Keystone, owns 8,750 shares or approximately .12% of the outstanding United common stock. The Funds are both open-end, diversified management investment companies registered under the Act.

The application states that United, NSC and National entered into a merger agreement ("Merger Agreement") dated March 16, 1979, providing that NSC will be merged with and into United, and United will become an indirect wholly-owned subsidiary of National. Applicants represent that under the Merger Agreement, holders of outstanding shares of United common stock, other than National and those who exercise dissenter's rights, will be entitled to receive $33.60 per share in cash. The application states that on the effective date of the merger, the outstanding shares of NSC capital stock will be converted into one share of United common stock and will represent the only capital stock of United outstanding after the merger. The application also states that following the effective date of the merger, shares of United common stock, other than the one share indirectly owned by National, will represent only the right to receive $33.60 in cash and will no longer represent any interest in United.

Applicants state that consummation of the merger is subject to a number of conditions, including the approval of the Merger Agreement by United stockholders, the approval of the acquisition of control by National of United by the California Department of Savings and Loan ("Department") and the approval of the Federal Savings and Loan Insurance Corporation. The application states that one factor to be taken into consideration by the Department in its decision whether to approve the transaction is the fairness of the merger to stockholders of United.

Applicants represent that all United stockholders will be treated identically in the merger, in that each stockholder (other than National) will be entitled to receive $33.60 per share in cash, unless he or she effectively exercises his or her right to dissent from the merger and demands appraisal for his or her shares. Applicants state that the price per share of $33.60 is substantially greater than the market price of shares of United common stock prior to the public announcement of the proposed merger and is also substantially greater than United's book value per share.

Applicants state that the Merger Agreement was entered into only after extensive arm's length negotiations between United and National. The application states that the United board of directors independently considered the reasonableness and fairness of the transaction and concluded that the price of $33.60 per share is fair and equitable and that the merger is in the best interest of United and its stockholders.

Section 17(a) of the Act provides, in pertinent part, that it shall be unlawful for an affiliated person of a registered investment company, or any affiliated person of such person, knowingly to sell to or purchase from such registered investment company any security or other property. Section 2(a)(3) provides, in part, that an affiliated person of another person means any person directly or indirectly owning 5 per centum or more of the outstanding voting securities of such other person and any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned by such other person. Applicants state that as a result of their collective ownership of over 5% of United common stock, the Funds can be considered affiliated with United within the meaning of the Act. The Applicants also state that National is an affiliate of United since it owns greater than 5 per centum of United common stock, and thus National may be considered an affiliate of an affiliate of the Funds.

The application states that because National is an affiliate of an affiliate of the Funds, the merger, involving the payment by National of $33.60 in cancellation of each share of United common stock, can be construed to constitute the purchase by an affiliate of an affiliate of one or more registered investment companies of securities of such company or companies within the meaning of Section 17(a)(2) of the Act. Section 17(b) of the Act provides, in pertinent part, that the Commission, upon application, shall exempt a proposed transaction from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. Applicants have requested an order pursuant to Section 17(b) of the Act exempting the proposed transaction from the provisions of Section 17(a) of the Act.

Applicants submit that the terms of the proposed merger and transactions contemplated thereby are reasonable and fair and do not involve overreaching because the Merger Agreement was entered into by National and United after extensive arm's length negotiations and before national became the owner of 5% of the outstanding United common stock. The Applicants also submit that the Funds will be treated identically with all other United stockholders in the merger, becoming entitled to receive the same $33.60 in cash and enjoying the same dissenter's rights. The application states that other than in their respective ownership of United common stock, neither National nor any of its directors, officers or affiliates has any relationship, business or otherwise, with the Funds, or any of their respective directors, officers or affiliates. Similarly, neither the Funds, nor any officer, director or affiliate of the Funds, has any relationship, business or otherwise, with United or National or any of their respective officers, directors, or affiliates, other than the Funds' share ownership.

The Applicants submit that the United Board of Directors, none of whose members has any affiliation with National, the Funds or any of their respective affiliates, has independently considered the reasonableness and fairness of the merger and has concluded that it is in the best interests of United and its stockholders. Applicants also represent that as a condition to the merger First Boston Corporation, an independent investment banker, shall deliver an opinion that the financial terms of the merger are fair to the United stockholders, before the stockholders may vote to approve the merger. The application states that the merger and the fairness of the transactions contemplated thereby are subject to the scrutiny of disinterested third parties in the Department and the Federal Savings and Loan Insurance Corporation, thereby eliminating the possibility of overreaching. Applicants represent that the merger and the transactions contemplated thereby, including the conversion of United common stock into the right to receive $33.60 per share in cash, are consistent with the policies of the Funds as recited in their respective registration statements filed under the Act, and with the general purposes of the Act.

Section 17(d) of the Act and Rule 17d–1 thereunder, in pertinent part, prohibit any affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from effecting any transaction in which such registered company is a joint participant, unless an application has been filed with the Commission and has been granted by order prior to its submission to security holders for approval. In passing upon such applications, the Commission will consider whether participation by such registered company in such arrangement, on the basis proposed, is consistent with the provisions, policies and purposes of the Act, and the extent to which participation is on a basis different from, or less advantageous than, that of other participants.

The application states that since National and the Funds can both be expected to vote their shares in favor of the adoption of the Merger Agreement and since the merger will involve the payment by National for shares of United common stock owned by the Funds, the Funds and National, as an affiliate of an affiliate of one or both of the Funds, might be argued to be engaging as joint participants in a transaction within the meaning of Section 17(d) of the Act. Alternatively, it might be argued that United, as an affiliate of one or both of the Funds and by virtue of its participation in the merger, is engaging in a transaction in which United and the Funds are joint participants within the meaning of Section 17(d) of the Act. Accordingly, Applicants have requested an order under Section 17(d) of the Act and Rule 17d–1 thereunder permitting the merger and the transactions contemplated thereby.

Applicants submit that none of the stockholders of United will participate in the merger on a basis different from or less advantageous than that of other stockholders and that there is nothing in the terms, conditions or circumstances of the merger which would make participation of the Funds or of the Applicants inconsistent in any way with the provisions, policies and purposes of the Act.

Notice is Further Given that any interested person may, not later than may 17, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service [by affidavit, or in case of an attorney-at-law, by certificate] shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-13277 Filed 4-30-79; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Proposed Rule Change By Chicago Board Options Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on April 16, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Chicago Board Options Exchange's Statement of the Terms of Substance, of the Proposed Rule Change

[Brackets indicate words to be deleted and italics indicate words to be added]

Obligations of Market-Makers

Rule 8.7(a) (no change)

(b) Principal Appointment. With respect to each class[es] of option contracts for which he holds a Principal Appointment under Rule 8.3, a Market-Maker has a continuous obligation to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class. Without limiting the foregoing, a Market-Maker is expected to perform the following activities in the course of maintaining a fair and orderly market:

(i) Bidding and/or offering so as to create differences of no more than ¼ of $1 between the bid and the offer for each option contract for which the [last preceding transaction price was] *bid is* $.50 or less, no more than ½ of $1 where the [last preceding transaction price was] *bid is* more than $.50 but [did] *does* not exceed $10, nor more than ¾ of $1

where the [last preceding transaction price was] *bid is* more than $10 but [less than] *does not exceed* $20, and no more than $1 where the [last preceding transaction price was] *bid is more than* $20 [or more], provided that the Floor Procedure Committee may establish differences other than the above for one or more series or classes of options. *The bid-ask differentials stated above apply to all but the longest term option series open for trading in each option class. For these series, the bid-ask differential shall be twice the stated amount.*

. . .Interpretations and Policies:

.01 (no change)

[.02 Pursuant to Rule 8.7(b)(i), the Floor Procedure Committee has adopted the following bid-ask differential guidelines: Market-makers shall make bids and/or offers so as to create a differential between the highest bid and the lowest offer in each series of no more than:

½ When the last sale of the option is $10 or less.

¾ When the last sale of the option is greater than $10 and less than $20.

1 When the last sale of the option is $20 or more.

The bid-ask differentials as stated above shall apply to all but the longest term option series open for trading in each option class. For these series, the bid-ask differential shall be twice that stated above.]

[.03] *.02* (no change)

[.04] *.03* (no change)

[.05] *.04* (no change)

Chicago Board Options Exchange's Statement of Basis and Purpose Under the Act for Proposed Rule Change

The proposed rule change would amend Rule 8.7(b)(i) respecting Market-Maker obligations to establish maximum bid/ask differentials based on the last preceding bid for an option contract. The present rule establishes the maximum permissible differential between the bid and the ask for a given option contract based on the last preceding transaction price in that contract. Under the current rule, a problem arises when there is a move in the price of the underlying security but no recent transaction in the option contract. In such a case, the maximum bid/ask differential may be determined by an out-dated option transaction price. By making the maximum bid/ask differential dependent on the current bid for an option contract, the maximum bid/ask differential can be freely established based on a current assessment of the value of an option without regard to the price at which that option last traded.

Interpretation .02 is being deleted as redundant and confusing in light of the bid/ask differentials established in Rule 8.7(b)(i).

The basis under the Act for the proposed change is Section 6(b)(5) which requires that the rules of the exchange be designed to perfect the mechanism of a free and open market and, in general, protect investors and the public interest.

No comments were solicited or received on the proposed rules change.

The Exchange does not believe that the proposed rules change will impose any burden on competition.

By June 5, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by May 22, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

April 23, 1979.

[Release No. 34-15754; File No. CBOE-1979-3]

[FR 79-13861 Filed 4-30-79; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on March 29, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Text of Proposed Rules Changes

(New language italicized, deleted language in brackets [].)

Article X

Dues and Fines, Charge on Net Commissions, Other Charges, Penalty for Nonpayment

Dues—Amount fixed by Board of Directors

Sec. 1. (a) The dues payable by a member described in Section 1(a) or Section 2 of Article IX exclusive of fines and of such other charges as may be imposed pursuant to the Constitution and of contributions under Article XVI, shall be fixed by the Board of Directors from time to time and shall not exceed One Thousand Five Hundred Dollars in any calendar year. Such dues shall be payable in advance on [January 1, April 1, July 1, and October 1] *the first of each month.*

* * * * *

Dues on Transfer of Membership

Sec. 4. When a membership is transferred, the transferee shall pay to the transferor on the date of transfer the unexpired portion of the dues for the [current quarter] *period for which dues are then payable.*

Article XVI

The Gratuity Fund—Initial Contribution

Sec. 1. Every person who shall become a member of the Exchange shall pay to the Trustees of the Gratuity Fund the sum of fifteen dollars before he *or she* shall be admitted to the privilege of membership. For the purpose of this Article the term member shall mean any one of the members described in Section 1(a) of Article IX, but shall not include the lessee of any such membership.

Contribution on Death of Member

Sec. 2. Each member of the Exchange, by signing the Constitution pledges himself *or herself* to make, upon the death of a member of the Exchange, a voluntary gift to the family of such deceased member in the sum of fifteen dollars, [which] *such sums* shall be paid by the member [at quarterly] *monthly* [periods on the dates on which dues] to the Exchange [are to be paid.] The Treasurer of the Exchange shall pay over [quarterly] *monthly* to the Treasurer of the Gratuity Fund all amounts collected from members under this Article *during the preceding month.*

Distribution to Beneficiaries—[Widow] *Surviving Spouse*

Sec. 4. Should the member die leaving a [widow] *surviving spouse* and no child or children and no issue of a deceased child or children, then the whole sum shall be paid to such [widow] *surviving spouse* for *his or* her own use.

[Widow and issue] *Surviving spouse and issue*

Should the member die leaving a [widow] *surviving spouse* and a child or children or the issue of a deceased child or children, then one-half shall be paid to the [widow] *surviving spouse* for *his or* her separate use. The remaining one-half shall be paid to and divided among the child or children and the issue of any deceased child or children, such issue to take per stirpes and not per capita. If any such child or issue shall be a minor, his or her share be paid to his or her duly appointed guardian of the property.

Issue

Should the member die leaving a child or children or the issue of a deceased child or children and no [widow,], *surviving spouse,* then the whole sum shall be paid to the children and such issue as directed in the preceding paragraph to be done with the moiety.

Collateral beneficiaries

Should the member die leaving neither [widow,] *surviving spouse,* child nor issue of a child, then the whole sum shall be paid to the same persons who would, under the laws of the State of New York, take the same by reason of relationship to the deceased member had he *or she* owned the same at the time of his *or her* death; and if there be no such person, then the amount applicable under Section 3 of this Article in such case shall be held by the Trustees of the Gratuity Fund for the general purposes of that Fund.

Reduction in Amounts To Be Paid by Members

[Sec. 7. As of the close of each quarter in each year, the Trustees of the Gratuity Fund shall, provided the net worth of the Gratuity Fund has been determined (as hereinafter provided) to be in excess of the sum of five hundred thousand dollars, pay to the Treasurer of the Exchange out of the Gratuity Fund (either capital or accumulated income) a sum equal to the entire amount of such excess, or (2) such part of such excess as shall equal the aggregate of all amounts paid or payable by members under this Article in respect of deaths of members of the Exchange occurring during such quarter. As and when such sums are received by the Treasurer of the Exchange they shall be credited proportionately against such amounts so paid or payable.]

Sec. 7. As of the close of each quarter in each year, the Trustees of the Gratuity Fund shall, provided the net worth of the Gratuity Fund has been determined (as hereinafter provided) to be in excess of the sum of five hundred thousand dollars, pay to the Treasurer of the Exchange out of the Gratuity Fund (either capital or accumulated income) a sum equal in amount to such portion, if any, of such excess as shall be the highest whole number multiple of $20,475; if there shall be no whole number multiple of $20,475 in such excess, no such sum shall be paid by the Trustee of the Gratuity Fund to the Treasurer of the Exchange with respect to such quarter. As and when such sums are received by the Treasurer of the Exchange they shall be credited proportionately against the first amounts then or thereafter payable by members pursuant to Section 2 of this Article XVI.

Benefits to Members Only

Sec. 8. The provisions of Sections 2, 3, 4, 5 and 6 of this Article XVI shall not extend to the family of any deceased former member whose connection with the Exchange shall have been severed prior to his *or her* death by the transfer of his *or her* membership whether such transfer shall have been made by the member or his *or her* legal representatives or by the Board of Directors pursuant to the Constitution, or who has been expelled, but shall extend to the family of a deceased member who was suspended at the time of his *or her* death.

The first and last paragraphs of Section .27 of Exchange Rule 301 is hereby amended to read as follows: .27 Payments to be made on day of approval of transfer or lease and payments to be made prior to admission to membership. On the day on which the application for a membership described in Section 1(a) of Article IX of the Constitution is scheduled to be considered; the proposed member (hereinafter referred to as a "new member.") must deposit with the Exchange the balance of the purchase price of his membership, and pay to the Exchange an initial contribution to the Gratuity Fund of $15 (Art. XVI, Sec. 1 [¶1751]), the unexpired portion of the transferor's dues for the [current quarter] *period for which dues are then payable* (Art. X, Sec. 4 [¶1454]), and an initiation fee for the transfer of such membership which shall be determined as follows, notwithstanding the provisions of Section 6 of Article IX:

On the day on which an application for a membership described in Section 2 of Article IX of the Constitution is scheduled to be considered, the proposed member shall pay to the Exchange an initiation fee for the leasing of a membership described in Section 1(a) of Article IX which *initiation fee* shall be the greater of $1,000 or five percent of the purchase price at which the most recent contracted sale of a membership occurred through the auction facility prior to the date on which notice of such new member is posted, up to a maximum amount of $5,000, and *pay to the lessor* the unexpired portion of the lessor's dues for the [then current quarter] *period for which dues are then payable,* provided, however, that no initiation fee shall be required upon the renewal of a lease agreement between the lessor and the lessee. Upon the termination of the lease agreement, the lessor shall pay the lessee the unexpired portion of the dues for the [then current quarter] *period for which dues are then payable.*

Purpose of Proposed Rule Change

The purposes of the proposed rules changes were (i) to provide that Dues (Article X) payable by members are to be paid monthly in advance rather than quarterly in advance, (ii) to provide that Gratuity Fund (Article XVI) charges are to be billed monthly rather than quarterly (iii) to add to the Gratuity Fund Provisions such gender references as are appropriate to recognize the preexisting fact that a member may be either a male or a female person and (iv) to clarify that female members of the Exchange are eligible for all benefits conferred by the Gratuity Fund.

Basis Under The Act For Proposed Change

a(i) through (iii) and (v) through (viii) not applicable. a(iv) The proposed rules changes modify the time of payment of Dues and Gratuity Fund contributions payable by Exchange members and change gender references so as to give explicit recognition to the preexisting fact that a member may be either a male or a female person.

Comments Received From Members Participants or Others on Proposed Rule Change

The Exchange has not solicited comments regarding the proposed change, nor has the Exchange received any comments from members or others.

Burden On Competition

None.

Basis For Rule Change Being Put Into Effect Pursuant To Section 19(b) (3).

In accordance with Section 19(b)(3)(A) (ii) and (iii) the proposed rules changes take effect immediately, upon the close of business on March 31, 1979, as they change the time of payment of certain fees and are concerned solely with the administration of the self-regulatory organization.

The Exchange now bills its members monthly rather than quarterly for services and fees. In order to bill Dues and Gratuity Fund charges monthly, changes to the rules are required.

At any time within sixty days of the date of filing of these proposed rules changes, the Commission summarily may abrogate the change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments covering the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal offices of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption below and should be submitted on or before May 31, 1979.

George A. Fitzsimmons,
Secretary.

April 24, 1979.

[Release No. 34-15761; File No. SR-NYSE-79-13]
[FR Doc. 79-13380 Filed 4-30-79; 8:45 am]
BILLING CODE 8010-01-M

Second Greyhound Leasing Co.; Filing of Application Pursuant to Section 6(c) of the Act for Amendment of an Order Exempting Applicant From All Provisions of the Act

April 25, 1979.

Notice is hereby given that Second Greyhound Leasing Company ("Applicant") c/o Greyhound Leasing & Financial Corporation, 1500 Greyhound Tower, Phoenix, Arizona 85077, filed an application on March 12, 1979, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an amendment of an order of the Commission ("Order") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Pursuant to the Order issued on November 28, 1977 (Investment Company Act Release No. 10030), Applicant was exempted pursuant to Section 6(c) from all provisions of the Act, subject to certain conditions, one of which restricted to 10% the ratio which Applicant's assets and net income could bear to the consolidated total assets and net income of Greyhound Leasing & Financial Corporation ("Leasing"), Applicant's parent and a wholly-owned subsidiary of The Greyhound Corporation ("Greyhound"). This limitation was used to determine when Applicant was a "significant subsidiary" of Leasing.

Applicant represents that Greyhound, the ultimate parent of Applicant, is not an investment company within the meaning of the Act. Applicant further represents that Leasing is not an investment company within the meaning of the Act and, except for loan agreement limitations, could undertake the credit agreement and Term Loan Agreement, as discussed below, and conduct directly the business of Applicant.

Applicant submits that subsequent to the issuance of the Order, Applicant and certain banking institutions entered into a credit agreement for the purpose of refunding certain demand notes relating to, and providing additional funds to Applicant for the purchase of, sinking fund preferred stocks. Applicant states that such credit agreement provided for both revolving and term loans, with the term loan provisions being operative upon termination of the revolving loan commitments. Such credit agreement also has been supplemented and amended from time to time (i) to reflect extension and enlargement of the credit as originally contemplated, (ii) to make technical changes, and (iii) to permit the revolving and term portions of the credit agreement to operate concurrently. Applicant also states that to facilitate the concurrent operation of the revolving and term portions of the credit agreement and to assist Applicant in more closely correlating its fixed rate assets and fixed rate debt, Applicant and certain banks participating in the credit agreement entered into a "Term Loan Agreement."

Applicant represents that it does not and will not engage in any activity or business other than the ownership, acquisition or holding of certain unregistered preferred stock, the incurrence of indebtedness to effect such acquisitions, and the payment of dividends and management fees and business expenses to Leasing. According to the application, Applicant's business is and will be conducted utilizing the personnel of Leasing since Applicant has and will have no employees. Applicant states that it does not and will not offer any of its debt or equity securities to the general public. Applicant represents that the banks which have advanced funds to Applicant under the credit agreement and Term Loan Agreement have received and will continue to receive all information necessary for knowledge of the financial and business status of Applicant and Leasing, and do not need the protection of the Act.

Applicant submits that as of December 31, 1978, it had total assets of $53,822,202, consisting entirely of investment securities, dividends receivable and an inter-company receivable for tax benefits; it had total liabilities of $47,841,548, consisting of loans payable under the credit agreement and Term Loan Agreement and related accrued interest payable, short-term advances and deferred federal income taxes; and it had $5,980,654 in equity and retained income.

As of December 31, 1978, the assets of Applicant constituted approximately 7.5% of the consolidated total assets of Leasing, and the net income of Applicant constituted total assets of Leasing, and the net income of Applicant constituted approximately 4.2% of the consolidated net income of Leasing. Applicant represents that while it does not constitute a significant subsidiary of Leasing, purchases of preferred stock by Applicant during 1978 constituted a material part, i.e. 23.9%, of

Leasing's consolidated new business bookings.

Applicant anticipates that attractive preferred stock investment opportunities will continue to become available, and it asserts that its volume of business should not be limited, or new business opportunities dismissed, solely on the basis of whether or not Applicant's total assets or net income equal or exceed 10% of Leasing's total assets or net income. Applicant states that if Leasing were not restricted by its debt agreements from conducting directly the business of Applicant, then Leasing would be free to own investment securities amounting to just under 40% of the value of Leasing's total assets (exclusive of Government securities and cash items) on an unconsolidated basis without being considered an "investment company" within the meaning of the Act.

Applicant submits that the application has been filed because the exemption granted to Applicant by the Order is conditioned upon, and Applicant is subject to, a limitation which, unless amended, operates in practice to restrict Applicant's business below the 10% limits applicable to its determination as a significant subsidiary of Leasing and operates generally to restrict the business of Applicant to an extent not imposed by the Act upon Applicant's parents, Leasing and Greyhound.

Section 6(c) of the Act provides, in part, that the Commission by order upon application may conditionally or unconditionally exempt any person from any provision or provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order amending the Order, entered pursuant to Section 6(c) of the Act, to effect an increase to 15% from 10% in the ratio of total assets or net income of Applicant to the consolidated total assets or consolidated net income of Leasing which would require Applicant to notify the Commission of this change in Applicant's relationship to Leasing. Except as proposed to be amended by the order hereby requested, the conditions set forth in the Order will remain in full force and effect.

Notice is further given that any interested person may, not later than May 21, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 10073; (812-4179)]
[FR Doc. 79-13487 Filed 4-30-79; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Agency for International Development

Housing Guaranty Program for Lebanon; Information for Lenders

The Agency for International Development (A.I.D) has authorized a guaranty of a loan in an amount not to exceed $15,000,000 to finance a project for the repair or reconstruction of dwelling units for low-income families in Lebanon. Eligible investors as defined below are invited to make proposals to the Council for Development and Reconstruction. The full repayment of the loan will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the Act).

This project is referred to as Project No. 268-HG-001.

Lenders (Investors) eligible to receive an A.I.D. guaranty are those specified in Section 238(C) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

Selection of an eligible investor and the terms of the loan are subject to approval by A.I.D. The investor and A.I.D. shall enter into a Contract of Guaranty, covering the loan. Disbursements under the loan will be subject to certain conditions required of the borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the borrower.

To be eligible for guaranty, the loan must be repayable in full no later than the thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate established from time to time by A.I.D. The Borrower projects a schedule of disbursements covering approximately a twelve-month period from the date of the Loan Agreement including an initial disbursement at signing of approximately four million dollars ($4,000,000) with two additional disbursements of approximately five million dollars ($5,000,000) and six million dollars ($6,000,000) respectively at four to six month intervals.

The borrower desires to receive proposals from eligible investors as defined above. The proposals should be based on the indicated disbursement schedules shown above. Since investor selection will be made on the basis of the proposals, the proposals should contain the best terms to be offered by investors. The proposals should state:

A. The fixed interest rate per annum for a period not to exceed thirty (30) years from the first disbursement.

B. The grace period for repayment of principal, such period not to exceed ten (10) years.

C. The minimum time during which prepayment of principal will not be accepted.

D. The investor's commitment or service fee, if any, and schedule of payment of such fee.

E. The period during which the proposal may be accepted which shall be at least seventy-two (72) hours after the closing date specified below.

The proposal may state other terms and conditions which the investor desires to specify. After investor selection by the borrower and approval by A.I.D., the borrower and investor shall negotiate all other terms and conditions of the Loan Agreement.

In the event the investor will engage in the reselling of the loan to other persons, the investor must provide for the servicing of his loan, i.e., recordation

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and disposition of loan payments received from the borrower.

The closing date by which prospective investors are requested to submit proposals to the borrower is the close of business (1700 hours, Beirut time) on Tuesday, May 22, 1979. Negotiation of the Loan Agreement and Contract of Guaranty is expected to take place in June 1979 in Washington, D.C. or Beirut, in the event the investor maintains an office in Beirut.

Eligible investors are invited to consult promptly with the borrower. Those investors interested in extending a loan to the borrower should communicate with the borrower at the following address: Dr. Mohamed Atallah, President, Council for Development and Reconstruction, Presidential Palance, Ba'Abda, Lebanon, Telex No. 21000.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523, Telephone: (202) 632–9637

To facilitate A.I.D. approval, copies of proposals made to the borrower may, at the investor's option, be sent to A.I.D. at the above address on or after the closing date noted above.

This notice is not an offer by A.I.D. or by the borrower. The borrower and not A.I.D. will select an investor and negotiate the terms of the proposed loan.

Dated: April 20, 1979.

David McVey,

Assistant Director for Operations, Office of Housing.

[FR Doc. 79-13433 Filed 04-30-79; 8:45 am]

BILLING CODE 4710-02-M

Office of the Secretary

National Gallery of Art; Delegation of Functions Under the Joint Resolution

By virtue of the authority vested in me by the Joint Resolution providing for the construction and maintenance of a National Gallery of Art of March 24, 1937, as amended (50 Stat. 51, 20 U.S.C. 71 et seq.), Section 205 of the Foreign Relations Authorization Act, Fiscal Year 1979 of October 7, 1978 (92 Stat. 975) and Section 4 of the Act of May 26, 1949, as amended (63 Stat. 111, 22 U.S.C. 2658), it is ordered as follows:

Sec. 1. While reserving to the Secretary of State the title of Trustee ex officio, and the right at any time to exercise the functions conferred on the Secretary of State by the Joint Resolution, such functions are hereby delegated to the Deputy Secretary of State.

Sec. 2. In the event of inability of the Deputy Secretary of State by reason of sickness, absence, other duties, or otherwise to perform the functions, the Director of the International Communication Agency, who has consented to this delegation, is authorized to perform such functions.

Sec. 3. This Delegation of Authority shall be effective April 26, 1979, and shall supersede Delegation of Authority No. 133 of December 10, 1975.

Dated: April 24, 1979.

Cyrus R. Vance,

Secretary of State.

[Public Notice 661; Delegation of Authority No. 133–1]

[FR Doc. 79-13485 Filed 4-30-79; 8:45 am]

BILLING CODE 4710-01-M

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will conduct an open meeting at 9:30 on May 17, 1979 in Room 8236/38 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

The purpose of this meeting will be to review the Twentieth and prepare for the Twenty-first Session of the Ship Design and Equipment Subcommittee of the Intergovernmental Maritime Consultative Organization (IMCO) which is scheduled for October 15–19, 1979 in London. The agenda includes consideration of the Subcommittee report for the Twentieth Session and discussion of the following for the Twenty-first Session: steering standards for tankers contained in the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974; revision of IMCO Resolution A.325; special purpose ships offshore supply vessels; noise level on board ships; maneuverability of ships; diving systems, and nuclear merchant ships.

Request for further information should be directed to Captain R. L. Brown, United States Coast Guard, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone (202) 426–2167.

The Chairman will entertain comments from the public as time permits.

John Lloyd III,

Acting Director, Office of Maritime Affairs.

April 20, 1979.

[Public Notice CM–8/188]

[FR Doc. 79-13452 Filed 4-30-79; 8:45 am]

BILLING CODE 4710-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Bi-Modal Corp.; Report and Order

The Federal Railroad Administration (FRA) is considering a waiver request filed by Bi-Modal Corporation (Bi-Modal). That waiver request seeks authority from FRA to operate a vehicle that Bi-Modal designates as a "RoadRailer" without compliance with the provisions of 49 CFR Part 215 (Freight Car Safety Standards), 49 CFR Part 231 (Safety Appliance Standards) and 49 CFR Part 232 (Power Brake Rules).

The Railroad Safety Board (Board) of the FRA, which has been delegated responsibility for determining whether to grant such waiver requests, responded to the Bi-Modal waiver petition by issuing a public notice describing the vehicle and the nature of the waiver request. That notice was published in the Federal Register on January 26, 1979 (44 FR 5545). The Board requested written comments or views on the proposed waiver from all interested parties. Additionally, the Board held a public hearing on February 28, 1979 to permit oral comment in this proceeding.

The Board has received a considerable response to that notice. Those responding, both in writing and during the public hearing, generally supported the granting of a waiver on a temporary basis.

In reviewing those comments, the Board noted that several parties expressed concern over the legal authority of FRA to grant the requested waiver. Of particular concern to these parties was the act that some of the regulatory provisions involved in this request were based on the very specific statutory language contained in the Safety Appliance Acts (27 Stat. 531, 45 U.S.C. 1–16) apparently requiring that all railroad freight cars must be equipped with certain safety devices such as sill steps, handholds and hand brakes.

The Board has concluded that the FRA has the general legal authority to grant the requested waiver. That authority is contained in the Federal Railroad Safety Act of 1970 (FRSA) (Pub. L. 91–458, 84 Stat. 971, 45 U.S.C. 421). The FRSA authorizes FRA to prescribe, as necessary, safety regulations and standards for all areas of railroad safety and further empowers FRA to conduct any research, development or testing, that is deemed necessary or appropriate for all areas of railroad safety. This broad grant of authority clearly reflects a legislative intent to significantly broaden the regulatory authority of the FRA. Consequently, the Board has concluded that the FRSA permits FRA to use its testing authority even in those instances where a waiver request involves regulations adopted under the authority of Federal safety statutes other than the FRSA. In point of fact, FRA has previously used this authority in similar situations on at least two prior occasions.

Having concluded that it has the general legal authority to issue such waivers and after reviewing the legislative history of the Safety Appliance Acts and the legal decisions construing these provisions, the Board has also concluded that these statutory provisions do not preclude the granting of the waiver request sought by Bi-Modal. These provisions basically indicate that all railroad freight cars must be equipped with certain devices, such as sill steps, handholds and hand brakes. However, the provisions delegate to the Interstate Commerce Commission (ICC), the regulatory authority to determine how to accomplish the congressional intent.

The provisions of the Safety Applicance Acts were basically adopted at the turn of the century and were intended to remedy a tragic history of injuries and fatalities associated with the types of freight cars and locomotives then in service. One aspect of that problem involved the lack of uniformity in the safety features of that equipment and the statutes spoke directly to that issue. In recognition, however, of the many variables involved in railroad equipment Congress provided the ICC with authority to issue regulations that would accomplish its intent.

This regulatory authority was exercised by the ICC until the creation of the Department of Transportation when that authority was transferred to the FRA. The current regulations implementing that authority are basically contained in the Safety Appliance Standards (49 CFR Part 231).

The statute and the current regulations have, as an unstated premise, the concept that railroad freight cars will be utilized and operated in a very traditional manner. That traditional pattern involves considerable switching movement of the quipment and frequent bi-directional operation. In such a traditional pattern, the need for the prescribed devices is manifest and the current regulatory provisions are essential for employee safety.

The Board finds that proposed test operation for the "RoadRailer" vehicle will not fit within the traditional operational pattern for existing railroad freight cars. Additionally, these vehicles can be expected to operate over the existing highway network where the traditional freight cars cannot operate.

Based on these operational differences, the Board has concluded that the proposed testing of these vehicles without installation of the enumerated devices would not be inconsistent with the Safety Applicance Acts as long as the terms of that operational testing would be in the public interest and consistent with railroad safety.

All of the commenters indicated their belief that the proposed waiver would be in the public interest in order to gain some operational experience with these vehicles. A prime factor for these commenters is the anticipated goals of significant fuel savings and reduced transportation costs that could be accomplished by the use of these vehicles. The Board believes that accomplishing such goals are clearly in the public interest and that granting the requested waiver to determine whether they can be achieved by these vehicles is likewise in the public interest.

The issue of whether granting the requested waiver is consistent with railroad safety is to some degree complicated by the facts involved in this proceeding.

The vehicle involved, the "RoadRailer", exists only in the form of two prototype units. These two units have been subjected to some operational testing in a controlled environment. Based on those test efforts, some data about the safe operational characteristics of the vehicle are available and have been provided to the Board. However, since only two units are available, many operational characteristics have not been tested and many safety questions will remain unanswerable until larger numbers of these units have been built and operated.

One approach to this lack of data problem would be to require that Bi-Modal submit further details based on extensive operational testing of multiple units of these vehicles. If such testing were accomplished in a controlled environment such as the Test Center at Pueblo, Colorado, the risk of exposure for all parties would be significantly curtailed. Although this approach has great appeal from a safety perspective, the information available to the Board indicates that such an approach would effectively terminate further efforts to develop the "RoadRailer" concept since Bi-Modal has inferred that it lacks the necessary capital to shoulder the burden of such testing and that the costs are of such magnitude that it believes the private sector of the economy would be unwilling to provide the necessary capital for such a research effort. It is this economic problem that serves as the primary basis for Bi-Modal's request that it be allowed to conduct further testing of these units while they are in revenue service on parts of the general railroad system of transportation.

Permitting data acquisition through test operations on parts of the general system of transportation clearly increases the magnitude of risk exposure for all involved parties as well as the general public. Consequently, the Board is faced with examining the magnitude of risk involved in this approach if it is to avoid effective curtailment of the development of this concept.

In attempting to assess this risk issue, the Board noted that the concept of the "RoadRailer" is not without precedent. Similar units were operated in this country by the Chesapeake and Ohio Railway Company for a number of years. Additionally, such units were operated in England for a period of time. The Board has not learned of any safety problems that were associated with these units during these operations. Consequently, the Board believes that magnitude of risk involved in the operation of the present units is acceptable under certain conditions. In reaching this conclusion, the Board is mindful of the differences between the "RoadRailer" as proposed by Bi-Modal and the similar units that were operated several years ago.

Based on this analysis, the Board has granted Bi-Modal a temporary waiver of compliance with the provisions of 49 CFR Part 215 (Freight Car Safety Standards), 49 CFR Part 231 (Safety Appliance Standards) and 49 CFR Part 232 (Power Brake Rules). This temporary waiver is subject to several conditions.

The initial condition imposed by the Board is that Bi-Modal conduct a bench test of the air brake system that will be used on these vehicles. This bench testing must be accomplished and the results furnished to FRA prior to initiation of any operational testing of the vehicles. The Board believes that the

proposed electro-pneumatic brake system for these vehicles has not previously been used in railroad service in this country and that it is necessary to have test data indicating the control capabilities of this system prior to its use under operational conditions. Therefore the Board has required that Bi-Modal construct a complete mock up of the air brake system. The mock up shall be constructed so as to duplicate the brake equipment located on the locomotive, adapter car and proposed for installation on each single "RoadRailer" unit. The simulator must reflect the equipment and configuration that will be used for the longest train that Bi-Modal proposes to operate.

Subsequent to submission of the data obtained from this simulator, the Board authorizes Bi-Modal to test its units on any railroad that is part of the general system of transportation provided that such testing is conducted at specific locations under carefully controlled conditions. In order for FRA to effectively monitor adherence to this provision the Board has required that sixty days prior to the proposed initiation of any operational test program, Bi-Modal and the railroad involved shall jointly submit to FRA for approval details about the proposed test location and the proposed test methodology.

During the initial test operations, Bi-Modal and any involved railroad are limited to operating trains composed of no more than fifteen "RoadRailer" units. After operational experience has been obtained with trains of up to fifteen units, the Board will permit the use of additional units. The use of such additional units will be permitted for increments of up to five more vehicles upon the submission of appropriate data to FRA.

All operational testing of these vehicles must be conducted in compliance with provisions of 49 CFR Part 221 (Rear End Marking Devices) and all other FRA Railroad Safety Regulations contained in 49 CFR Chapter II. Additionally, the vehicles may not be used to transport commodities subject to the hazardous materials regulations which require placards under Subpart C of Part 174. (49 CFR Part 174.) In conducting these operational tests, Bi-Modal and the railroad involved shall use an adapter car and shall not commingle the "RoadRailer" vehicles with traditional freight or passenger cars.

The Board has supplemented the conditions imposed in this report and order with several recommendations to Bi-Modal concerning the proposed test operations. These recommendations and some minor technical conditions are contained in written communications to Bi-Modal. These communications have been placed in the Public Docket for this proceeding, and may be obtained from FRA upon request.

Based on these conditions, the Board has concluded that it is appropriate to grant Bi-Modal the requested waiver for a period of operational testing not to exceed five years. That five years shall commence as of the date that the Board approves the first joint submission from Bi-Modal and any railroad to initiate operation. In the event that such approval does not occur within two years from the date of this report and order, the waiver shall terminate without further action by the Board.

(Sec. 202 and 208, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431, 437); Sec. 1.49(n), Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)).)

Issued in Washington, D.C. on April 25, 1979.

J. W. Walsh,
Chairman, Railroad Safety Board.

[FRA General Docket H-78-2]
[FR Doc. 79-13463 Filed 4-30-79; 8:45 am]
BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Customs Service

Importation of Tuna and Tuna Products From Peru Prohibited

AGENCY: U.S. Customs Service, Department of the Treasury

ACTION: General Notice.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 ("the Act"), the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has certified to the Secretary of the Treasury that a United States fishing vessel, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, was seized by Peru as a consequence of a claim of jurisdiction which is not recognized by the United States. Pursuant to section 205(b) of the Act, the Secretary of the Treasury has determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Peru is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail.

EFFECTIVE DATE: This prohibition is effective as to tuna and tuna products from Peru imported on or after May 1, 1979. Such importations shall not be entered for consumption or withdrawn from warehouse for consumption on or after that date.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry, Examination, and Liquidation Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8651).

SUPPLEMENTARY INFORMATION:

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the United States. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 138 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving the certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition under section 205 no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On February 27, 1979, the DON JUAN, a fishing vessel of the United States, was seized by authorities of the government of Peru approximately 40 miles off the shore of Peru for fishing tuna without Peruvian authorization. Peru claims jurisdiction over tuna within 200 miles of its coast. The United States does not recognize this jurisdiction.

Pursuant to section 205(a) of the Act, on April 2, 1979, the Assistant Secretary of State certified the seizure of the DON JUAN while fishing in waters beyond the jurisdiction of Peru.

Determination

Under the authority of sections 205(b) and (c) of the Fishery Conservation and Management Act of 1976, on April 28, 1979, the Secretary of the Treasury determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Peru (the "country of origin") is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail.

Drafting Information

The principal author of this document was Laurie Stressberg Amster, Regulations and Legal Publications Division, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Treasury Department participated in its development.

Dated: April 20, 1979.

Richard J. Davis,
Assistant Secretary of the Treasury.

[FR Doc. 79-13410 Filed 4-30-79; 8:45 am]
BILLING CODE 4810-25-M

Reimbursable Services—Excess Cost of Preclearance Operations

April 25, 1979.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning May 6, 1979.

Installation	Biweekly excess cost
Montreal, Canada	$13,207.00
Toronto, Canada	24,694.00
Kindley Field, Bermuda	8,178.00
Freeport, Bahama Islands	10,882.00
Nassau, Bahama Islands	14,768.00
Vancouver, Canada	6,051.00
Calgary, Canada	5,287.00
Winnipeg, Canada	1,878.00

Jack T. Lacy,
Assistant Commissioner of Customs (Administration).

[T.D. No. 79-127; FIS-6-08-A-R-C]
[FR Doc. 79-13466 Filed 4-30-79; 8:45 am]
BILLING CODE 4810-22-M

Office of the Secretary

Melamine in Crystal Form From Austria, Italy and the Netherlands; Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigations.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and antidumping investigations are being initiated for the purpose of determining whether imports of melamine in crystal form from Austria, Italy and the Netherlands are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Holly A Kuga, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue N.W., Washington, D.C. 20229, telephone (202-566-5492).

SUPPLEMENTARY INFORMATION: On March 23, 1979, a petition in proper form was received pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel on behalf of Melamine Chemicals, Inc. ("MCI"), Donaldsonville, Louisiana, alleging that imports of melamine in crystal form from Austria, Italy, and the Netherlands are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*).

The merchandise under consideration is described as "melamine in crystal form" provided for in item 425.10 of the Tariff Schedules of the United States Annotated (TSUSA).

Price information in the petition based on home market and export sales to the United States during the latter part of 1978 indicate margins of approximately 52 percent with respect to Austria, 38 percent with respect to Italy and 30 percent with respect to the Netherlands.

There is evidence on record concerning injury to, or the likelihood of injury to, an industry in the United States. For purposes of determining whether to make a preliminary referral to the International Trade Commission (ITC) on the question of injury, Treasury has aggregated the imports from the three countries named in the petition in assessing the injury caused by the alleged sales at less than fair value. The product in this case appears to be fungible. Therefore, Treasury has not differentiated the alleged injury caused by imports from one country in relation to the injury caused by imports from another.

The evidence of injury presented indicates that imports of the subject merchandise from the three countries under consideration have increased sharply since 1976, both in absolute terms and in terms of market share. Available information further indicates that production, sales, capacity utilization and capital investment in the domestic industry have all declined in recent years. Moreover, one domestic producer recently terminated production of this product. Petitioner has presented evidence of lost sales and suppressed prices which have resulted in an inability to maintain profits in the face of increasing costs over the last few years. The alleged underselling appears to be entirely accounted for by the alleged sales at less than fair value. Consequently, it appears that the current conditions within the domestic industry may be related to the alleged sales of melamine at less than fair value from Austria, Italy and the Netherlands.

Based upon the above, Treasury has determined that this case should not be referred to the ITC for a preliminary injury determination pursuant to section 201(c)(2) of the Act.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

Robert H. Mundheim,
General Counsel of the Treasury.

April 26, 1979.

[FR Doc. 79-13465 Filed 4-30-79; 8:45 am]
BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

Assignment of Hearings

April 26, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices

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of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 133095 (Sub-206F), Texas Continental Express, Inc., now assigned for hearing on May 16, 1979 at New Orleans, La., is canceled and application dismissed.

MC-C-10166, North American Van Lines, Inc. Molloy Bros. Trucking, Inc. Aero Mayflower Transit Company, Inc. Paramount Moving & Storage Co., Inc., And Red Ball Van Lines, Inc.—Investigation and Revocation Of Certificates, now assigned for prehearing conference on May 4, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 103926 (Sub-No. 75F), W. T. Mayfield Sons Trucking Co., now assigned for hearing on June 19, 1979, (9 days), at Tampa, Fla., is canceled and reassigned to the Marriott Hotel, 6700 Sand Lake Road, Orlando, Fla.

MC 29643 (Sub-No. 13F), Walsh Trucking Service, Inc., now assigned for hearing on June 11, 1979 (1 week), at Syracuse, N.Y.

H. G. Homme, Jr.,
Secretary.

[Notice No. 79]
[FR Doc. 79-13503 Filed 4-30-79; 8:45 am]
BILLING CODE 7035-01-M

Assignment of Hearings; Correction

April 26, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

*Correction:

MC 116159 (Sub-No. 294), National Refrigerated Transport, Inc., is assigned for Prehearing Conference on May 30, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C., instead of a hearing.

H. G. Homme, Jr.,
Secretary.

*This notice corrects Federal Register publication of April 14, 1979.

[Notice No. 80]
[FR Doc. 79-13504 Filed 4-30-79; 8:45 am]
BILLING CODE 7035-01-M

Expedited Procedures for Recovery of Fuel Costs

Decided: April 13, 1979

The report and order in this proceeding, 350 I.C.C. 563 (1975), established an expedited procedure, Special Permission No. 76-350, for the recovery of fuel cost increases. This procedure is not self implementing. It requires a further order of the Commission before Special Permission No. 76-350 becomes effective.

By petitions filed March 19 and March 20, 1979, respectively, Waterways Freight Bureau and Bulk Carrier Conference, Inc., have requested the entry of an order making Special Permission No. 76-350 effective.[1] As justification, petitioners submit that present and prospective acceleration in fuel cost increases require that the special procedures be implemented. The barge lines state that since June, 1978, the price per gallon of fuel has risen from 37.42 cents to 42.70 cents through February 1979, an increase of 14.1 percent over 9 months. It is stated that three-fourths of this increase occurred from November through February. In addition, it is stated that fuel prices on March 13, 1979 are 30 percent higher than those on February 1, 1979.

Bulk Carrier submits evidence which indicates that during the last two to three months they are experiencing increases anywhere from 2 to 10 percent per month.

Neither petition is asking for a rate increase, but rather implementation of the Ex Parte No. 311 expedited procedures. The purpose of these procedures is to provide a mechanism whereby regulated carriers can attempt to reflect rapidly increasing fuel costs in the rate structure as quickly as possible. We are presently entering an economic period where increasing fuel costs may occur rapidly, both in the short and long run. The Commission believes the Ex Parte No. 311 procedures should be implemented and available for immediate use.

In addition, the Commission is requesting comments from all interested parties as to possible modifications of the Ex Parte No. 311 procedures. If necessary, the Commission will reopen the proceeding or take other action which might be warranted to insure expedited relief for fuel cost increases.

A third petition was filed by the Teamsters on March 14, 1979, seeking the establishment of a fuel cost-based surcharge for the benefit of owner-operators.[2] Petitioner states that diesel fuel costs have increased over 4.5 cents per gallon since the first of the year. It is estimated that for owner-operators who are responsible for fuel costs under their lease arrangements, these increases would translate into a $900 per year out-of-pocket expense which they allegedly cannot absorb. It is stated that additional increases of as much as 20 cents a gallon are projected before the end of the year.

A fuel-based surcharge was authorized in Special Permission No. 74-2525 in February, 1974, at the height of the nation's last major fuel crisis. This action had the effect of immediately ending a nationwide truck strike. In Ex Parte No. MC-92, *Investigation of Impact of Rising Fuel Costs*, 346 I.C.C. 712 (1974), the Commission concluded that during the period of the surcharge a pass-through to owner-operators was justified. In terminating the surcharge the Commission concluded that for the future "no owner-operator shall receive less compensation for fuel than he formerly received from the certificated carrier under the authority of Special Permission No. 74-2525" 346 I.C.C. at p. 726. In *Refrigerated Transport Co., Inc.* v. *United States*, 390 F. Supp. 845 (N. D. Ga. 1975), the Court remanded the proceeding to the Commission for failure to give adequate notice, and failure to give reasons supporting a greater pass-through than the amount collected by the certificated carrier. On April 2, 1975, the Commission entered an order vacating the pass-through requirement for the surcharge. No further pass-through provision was provided for the benefit of owner-operators in the X-311 procedures. However, the X-311 decision indicates that if a carrier's proposed increase does not accrue to the benefit of the person responsible for payment of the fuel charges, the Commission will not approve the proposal. Ex Parte No. 311, *supra*, at pp. 571-572.

In MC-92, the Commission found that the revenue from the 6-percent emergency fuel charge was being used to cover non-labor expenses other than fuel. The surcharge was ordered cancelled for this and other reasons. In the X-311 decision, the Commission concluded that for the future "the surcharge method of computing freight charges is not appropriate, and will not be sanctioned for publication of increases based on fuel costs." 350 I.C.C. at p. 572.

[1] In the last 30 days numerous other petitions have been filed requesting that Special Permission No. 76-350 be made effective.

[2] Additional petitions have also been filed for and on behalf of owner-operators, including the Office of the Special Counsel, seeking relief similar to that requested by the Teamsters.

The present economic circumstances may warrant Commission reconsideration of its policy regarding fuel-based surcharges, especially with regard to the owner-operator situation. However, the fact that additional action may be warranted is no reason to delay implementation of existing procedures and we shall order activation of special permission 76-350 forthwith. In addition, because of our concern with the owner-operator situation, we will request public comments and suggestions on this matter. Specifically, we request comments on whether a fuel-based surcharge is warranted, and whether existing procedures should be changed to require a prescribed 100 percent pass-through to those actually incurring increased fuel charges. We further request comments on whether other changes in our procedures may be necessary. For example, does the present 10 working day notice provide adequate relief and should special justification be required for proposed rate increases of less than 1%. The Teamsters petition (and similar requests or requests for a mileage surcharge filed by such parties as National Independent Truckers Unity Council, Morgan's Drive-Away, Inc., Sea-Wheels, Inc., and Universal Transport, Inc.) will be accorded expedited handling as soon as comments are received. To the extent expedited rate relief is requested these petitions are being granted as hereinafter discussed.

In addition to comments requested above, the Commission would also like responses to the possible use of a "Fuel Increase Schedule." (See Appendix A). The chart provides a means of measuring the amount of a rate increase needed to cover the rapidly rising fuel cost increases. The top line lists various percentage increases in fuel prices. The left-hand column lists the relationship on a percentage basis of fuel expense to total operating revenue. The point where the vertical and horizontal columns intersect represents the percentage increase required by an individual carrier (or group of carriers) to recover increased fuel costs. The advantage of this chart or alternative formulas are their simplicity. It eases the burden on the carriers by reducing the amount of data to be filed, and provides a mechanism for efficient handling by the Commission. Although the chart shows percentage rate increases of less than one percent, it should be stressed that the chart is a proposal only. By implementing the X-311 procedures today, the minumum one-percent provision remains in effect.[3] Possible modification of this feature and other provisions of the X-311 procedures as well as other alternatives will be considered after comments are received.

While the Commission is concerned with the effect rapidly rising fuel costs will have on the carriers, we are equally concerned with the effect increased rates will have on shippers, passengers and the ultimate consumer. Accordingly, we formally invite the Council of Wage & Price Stability to submit comments on the possible inflationary effects increased rates based on fuel escalations will have on the national economy. We also suggest that carriers and their representatives discuss their proposals for fuel cost increases with the Council prior to filing the tariff schedules with the Commission. At a minimum we request that a copy of a proposed tariff schedule filed under Special Permission No. 76-350 be filed with the Council. It is the Commission's intention to consider inflationary effects when determining the lawfulness of tariffs filed under Special Permission No. 76-350. Comments from the parties are requested.

The probable consequences of implementation of Special Permission No. 76-350 on energy conservation or energy efficiency are uncertain. However, it is reasonable to anticipate that under these procedures the rate increases of less energy intensive carriers or modes of carriage will be proportionately smaller than the rate increases of more energy intensive carriers and modes. Intramodal and intermodal rate structure disparities could reach the point at which shippers would be encouraged to use less energy intensive modes or carriers, thereby contributing to energy conservation. We ask comments on this matter.

It is ordered:

Interested parties may file comments no later than 20 days from the date of service of this decision as to possible modification of the X-311 procedures and Commission resolution of the problem caused owner-operators by the increased fuel costs, as outlined above. The petitions to have the Ex Parte No. 311 procedures implemented and to activate Special Permission No. 76-350 are granted, effective forthwith as of the date of service of this decision.

As noted previously, no pass-through provision was provided for the benefit of owner-operators in the X-311 procedures. However, the Commission noted at the time of the decision that if a carrier's proposed fuel-based increase did not accrue to the benefit of the person responsible for payment of the fuel charges, we would not approve the proposal. It is our intention when evaluating increase proposals filed under Special Permission No. 76-350 to follow this policy, and carriers are advised that the Commission will, if deemed necessary, so condition increases authorized in individual proceedings.

The Commission's decisions in Ex Parte No. 311 at 350 I.C.C. 563 (1975), and the subsequent updated order of February 24, 1976, are reopened to make the following technical revisions which update the base period, and refer to new schedule numbers:

1. Referencing the appendix to the Commission's updated order of February 24, 1976, item A, Changes in Appendix A, Numeral I should read: BASE PERIOD DATA: JANUARY 1979.

2. Line 9 of the "Explanatory" at 350 I.C.C. 579 should be revised to read as follows:

"Line 9—Total operating revenues should include those revenues found in Schedule 210, line 6, of the annual report for motor carriers, and in Schedule 210, line 13, for railroads. Other modes use comparable revenues. The annual report sources indicated above are for the year 1978; for the year 1979 use comparable sources and data."

The petition of the Teamsters requesting the imposition of a fuel-based surcharge for the benefit of owner-operators and other petitions seeking the imposition of a similar surcharge are held in abeyance pending comments as requested above.

Notice for these comments will be given by serving a copy of this decision on all parties in Ex Parte No. 311, all recent petitioners, and to the general public by delivering a copy of this decision to the Director, Office of the Federal Register, for publication.

By the Commission: Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian.

H. G. Homme, Jr.,
Secretary.

[Ex Parte No. 311]
BILLING CODE 7035-01-M

[3] Absent special justification.

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APPENDIX A

FUEL INCREASE SCHEDULE (PERCENT)

Percent Fuel of Total Operating Revenue \ Percent Increase in Fuel	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
1.0	.10	.11	.12	.13	.14	.15	.16	.17	.18	.19	.20	.21	.22	.23	.24	.25	.26	.27	.28	.29	.30
1.5	.15	.17	.18	.20	.21	.23	.24	.26	.27	.29	.30	.32	.33	.35	.36	.38	.39	.41	.42	.44	.45
2.0	.20	.22	.24	.26	.28	.30	.32	.34	.36	.38	.40	.42	.44	.46	.48	.50	.52	.54	.56	.58	.60
2.5	.25	.28	.30	.33	.35	.38	.40	.43	.45	.48	.50	.53	.55	.58	.60	.63	.65	.68	.70	.73	.75
3.0	.30	.33	.36	.39	.42	.45	.48	.51	.54	.57	.60	.63	.66	.69	.72	.75	.78	.81	.84	.87	.90
3.5	.35	.39	.42	.46	.49	.53	.56	.60	.63	.67	.70	.74	.77	.81	.84	.88	.91	.95	.98	1.02	1.05
4.0	.40	.44	.48	.52	.56	.60	.64	.68	.72	.76	.80	.84	.86	.92	.96	1.00	1.04	1.08	1.12	1.16	1.20
4.5	.45	.50	.54	.59	.63	.68	.72	.77	.81	.86	.90	.95	.99	1.04	1.08	1.13	1.17	1.22	1.26	1.31	1.35
5.0	.50	.55	.60	.65	.70	.75	.80	.85	.90	.95	1.00	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50
5.5	.55	.61	.66	.72	.77	.83	.88	.94	.99	1.05	1.10	1.16	1.21	1.27	1.32	1.38	1.43	1.49	1.54	1.60	1.65
6.0	.60	.66	.72	.79	.84	.90	.96	1.02	1.08	1.14	1.20	1.26	1.32	1.38	1.44	1.50	1.56	1.62	1.68	1.74	1.80
6.5	.65	.72	.78	.85	.91	.98	1.04	1.11	1.17	1.24	1.30	1.37	1.43	1.50	1.56	1.63	1.69	1.76	1.82	1.89	1.95
7.0	.70	.77	.84	.91	.98	1.05	1.12	1.19	1.26	1.33	1.40	1.47	1.54	1.61	1.68	1.75	1.82	1.89	1.96	2.03	2.10
7.5	.75	.83	.90	.98	1.05	1.13	1.20	1.28	1.35	1.43	1.50	1.58	1.65	1.73	1.80	1.88	1.95	2.03	2.10	2.18	2.25
8.0	.80	.88	.96	1.04	1.12	1.21	1.28	1.36	1.44	1.52	1.60	1.68	1.76	1.84	1.92	2.00	2.08	2.16	2.24	2.32	2.40
8.5	.85	.94	1.02	1.11	1.19	1.28	1.36	1.45	1.53	1.62	1.70	1.79	1.87	1.96	2.04	2.13	2.21	2.30	2.38	2.47	2.55
9.0	.90	.99	1.08	1.17	1.26	1.35	1.44	1.53	1.62	1.71	1.80	1.89	1.98	2.07	2.16	2.25	2.34	2.43	2.52	2.61	2.70
9.5	.95	1.05	1.14	1.24	1.33	1.43	1.52	1.62	1.71	1.81	1.90	2.00	2.09	2.19	2.28	2.38	2.47	2.57	2.66	2.76	2.85
10.0	1.00	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90	2.00	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.80	2.90	3.00

[FR Doc. 79-13306 Filed 4-30-79; 8:45 am]

BILLING CODE 7035-01-C

Fourth Section Applications for Relief

April 26, 1979.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before May 16, 1979.

FSA No. 43689, South and East Africa/U.S.A. Conference No. 1, intermodal rates on general commodities in containers, from ports in South and East Africa to rail carriers' terminals at U.S. Pacific Coast ports via U.S. Atlantic and Gulf ports of interchange in its Tariff ICC SUS 300, to become effective May 20, 1979. Grounds for relief—water competition.

FSA No. 43690, United States/South and East Africa Conference No. 1, intermodal rates on general commodities in containers, from rail carriers terminals on the United States Pacific Coast to ports in South and East Africa via U.S. Atlantic and Gulf Ports of interchange, in its Tariff ICC USE 300, to become effective May 20, 1979. Grounds for relief—water competition.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-13302 Filed 4-30-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Applications; Decision—Notice

Decided: April 24, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service porposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Liberman, Eaton and Boyle.

H. G. Homme, Jr.,
Secretary.

MC 3252 (Sub-109F), filed February 12, 1979. Applicant: MERRILL TRANSPORT CO., a corporation, 1037 Forest Avenue, Portland, ME 04104. Representative: Francis E. Barrett, jr., Esq., 10 Industrial Park Road, Hingham, MA 02043. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products*, in bulk, in tank vehicles, from Albany, NY, to those points in MA on and west of U.S. Hwy 5. (Hearing site: Portland, ME or Boston, MA.)

MC 5623 (Sub-44F), filed January 31, 1979. Applicant: ARROW TRUCKING CO., a corporation, P.O. Box 7280, Tulsa, OK 74105. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting (1) *machinery equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, (2) *machinery materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, (3) *earth drilling machinery and equipment*, and (4) *machinery, equipment, materials, and supplies*, incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in AZ, CA, CO, ID, MT, NE, NV, NM, ND, OR, SD, UT, WA, and WY. (Hearing site: Denver, CO and Houston, TX.)

MC 16903 (Sub-63F), filed February 12, 1979. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47401. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *pipe, pipe fittings, valves, and hydrants*, and (b) *accessories* for the commodities in (1)(a) above, from the facilities of Clow Corporation, at or near (a) Buckhannon, WV, and (b) Columbia, MO, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) (a) *fire brick*, and (b) *materials and supplies* used in the installation of fire brick, from the facilities of Clow Corporation, at or near Parral, OH, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC.)

MC 16903 (Sub-64F), filed February 12, 1979. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47401. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, in interstate or foreign commerce, over irregular routes, transporting (1) *sewage treatment systems, sewage treatment plants, lift stations, aerators, and clarifiers*, and (2) *parts and accessories*, used in the installation of the commodities in (1) above, from the facilities of Clow Corporation at or near Richwood, KY, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC.)

MC 52793 (Sub-28F), filed February 14, 1979. Applicant: BEKINS VAN LINES CO., 333 S. Center Street, Hillside, IL 60525. Representative: Russell S. Bernhard, 1625 K Street, NW., Washington, DC 2006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from points in MD, to points in AL, FL, GA, KY, LA, MS, NC, SC, TN, VA and WV. (Hearing site: Washington, DC).

MC 59753 (Sub-1F), filed December 22, 1978. Applicant: JOPLIN TRANSFER & STORAGE COMPANY, a Corporation, 507 East 5th Street, Joplin, MO 64801. Representative: Karl W. Blanchard, 502 Pearl Street, Joplin, MO 64801. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household goods*, between points in Jasper, Newton, McDonald, Barry, Lawrence, Barton, Vernon, Greene, and Dade Counties, MO, Benton County, AR, Ottawa, Craig, Delaware, and Mayes Counties, OK, and Cherokee, Crawford, Bourbon, Labette, Neosho, Allen, Montgomery, and Wilson Counties, KS, on the one hand, and, on the other, points in AR, IL, IA, KS, KY, MO, NE, OK, TN, and TX. (Hearing site: Joplin or Kansas City, MO).

MC 67403 (Sub-10F), filed February 7, 1979. Applicant: BROES TRUCKING CO., INC., Interstate Hwy. 295 and Dominick Lane, Paulsboro, NJ 08066. Representative: Ira G. Megdal, 499 Cooper Landing Road, Cherry Hill, NJ 08002. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, (1) from the facilities of Instco Limited, at (a) Philadelphia, PA and (b) Camden and Gloucester City, NJ, to Pottsville, Middletown, Bala-Cynwyd, Reading, Williamsport, and Devault, PA, New York and Albany, NY, Baltimore, MD, and points in Suffolk County, NY, and (2) from New York, NY, to the facilities of Instco Limited, at (a) Philadelphia, PA, and (b) Camden and Gloucester City, NJ. (Hearing site: Philadelphia, PA, or Camden, NJ).

MC 87103 (Sub-32F), filed February 12, 1979. Applicant: MILLER TRANSFER AND RIGGING CO., a Corporation, P.O. Box 6077, Akron, OH 44312. Representative: Edward P. Bocko (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *commodities* which, because of size or weight, require the use of special handling or special equipment, (2) *self-propelled articles*, each weighing 15,000 pounds or more, (3) *commodities* which, because of size or weight do not require special handling or special equipment, when moving in mixed loads with the commodities in (1) and (2) above, (4) *machinery*, and (5) *machine parts*, between points in IN and IL, on the one hand, and, on the other, those points in and east of MN, IA, MO, OK, and TX. (Hearing site: Chicago, IL, or Washington, DC).

MC 103993 (Sub-950F), filed February 7, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *self-propelled motor vehicles* (except motor homes, campers, and camp coaches, in truckaway service), between points in the United States (including AK, but excluding HI). (Hearing site: Elkhart, IN, or Los Angeles, CA).

MC 104523 (Sub-73F), filed February 13, 1979. Applicant: HUSTON TRUCK LINE, INC., P.O. Box 427, Seward, NE 68434. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bentonite clay*, in bulk, from the facilities of American Colloid Company in (1) Butte County, SD, (2) Weston, Crook, and Big Horn Counties, WY, and (3) Phillips County, MT, to points in IA. (Hearing site: Chicago, IL).

MC 107403 (Sub-1172F), filed February 14, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products, vehicle body sealers, sound deadening compounds, and acoustical control items*, in bulk, in tank vehicles, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Washington, DC).

MC 110683 (Sub-136F), filed January 30, 1979. Applicant: SMITH'S TRANSFER CORPORATION, Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Esquire, 1000 16th St., N.W., Suite 502, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), (A) Between the facilities of Smith's Transfer Corporation, at or near Jefferson, GA, and Athens, GA: From the facilities of Smith's Transfer Corporation at or near Jefferson, over Interstate Hwy 85 to junction U.S. Hwy 129, then over U.S. Hwy 129 to Athens, and return over the same route, serving no intermediate points; (B) Between the facilities of Smith's Transfer Corporation at or near Jefferson, GA, and Gainesville, GA: From the facilities of Smith's Transfer Corporation at or near Jefferson, over Interstate Hwy 85 to junction U.S. Hwy 129, then over U.S. Hwy 129 to Gainesville, and return over the same route, serving no intermediate points; and (C) Between the facilities of Smith's Transfer Corporation (Hearing site: at or near Jefferson, GA, and Winder, GA: from the facilities of Smith's Transfer Corporation at or near Jefferson, over Interstate Hwy 85 to junction U.S. Hwy 129, then over U.S. Hwy 129 to Jefferson, then over GA Hwy 11 to Winder, and return over the same route, serving no intermediate points. (Hearing site: Washington, DC).

MC 110683 (Sub-138F), filed December 6, 1978. Applicant: SMITH'S TRANSFER CORPORATION, Box 1000, Stauton, VA 24401. Representative: Francis W. McInerny, 1000 16th Street, NW, Suite 502, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment: (1) Between Cincinnati, OH, and the OH–MI State line, over U.S. Hwy 127, serving all intermediate points and points in Hamilton, Butler, Preble, Darke, Mercer, Van Wert, Paulding, Defiance, Wiliams, Fulton, Henry, Putnam, Allen, Auglaize, Shelby, Miami, Montgomery, Warren, and Clermont Counties, OH, as off-route points; (2) Between Cincinnati and Toledo, OH, over Interstate Hwy 75, serving all intermediate points and points in Hamilton, Clermont, Butler, Warren, Clinton, Preble, Montgomery, Greene, Darke, Miami, Clark, Champaign, Shelby, Logan, Auglaize, Mercer, Hardin, Allen, Van Wert, Hancock, Putnam, Wyandot, Henry, Wood, Seneca, Fulton, Ottawa, Lucas, and Sandusky Counties, OH, as off-route points; (3) Between Maysville, KY, and Findlay, OH, over U.S. Hwy 68, serving all intermediate points and points in Brown, Adams, Clermont, Highland, Clinton, Fayette, Warren, Greene, Montgomery, Madison, Clark, Miami, Champaign, Union, Logan, Shelby, Auglaize, Hardin, Marion, Allen, Wyandot, Putnam, and Hancock Counties, OH, as off-route points; (4) Between Columbus and Sandusky, OH: from Columbus over U.S. Hwy 23 to junction OH Hwy 4, near Marion, OH, then over OH Hwy 4 to Sandusky, and return over the same route, serving all intermediate points and points in Franklin, Licking, Union, Delaware, Knox, Morrow, Marion, Richland, Crawford, Wyandot, Huron, Seneca, Sandusky, Ottawa, Erie, and Lorain Counties, OH, as off-route points; (5) Between Parkersburg, WV, and Cleveland, OH: from Parkersburg over WV Hwy 2 to junction Interstate Hwy 77, then over Interstate Hwy 77 to junction OH Hwy 21, then over OH Hwy 21 to Cleveland, and return over the same route, serving all intermediate points and points in Washington, Morgan, Noble, Monroe, Muskingum, Guernsey, Belmont, Coshocton, Tuscarawas, Harrison, Jefferson, Holmes, Carroll, Wayne, Stark, Columbiana, Medina, Summit, Portage, Lorain, Cuyahoga, and Geauga Counties, OH, as off-route points; (6) Between Parkersburg, WV, and New Paris, OH: from Parkersburg over U.S. Hwy 50 to Chillicothe, OH, then over U.S. Hwy 35 to junction OH Hwy 121, then over OH Hwy 121 to New Paris, and return over the same route, serving all intermediate points and points in Washington, Athens, Meigs, Hocking, Vinton, Jackson, Pickaway, Ross, Pike, Highland, Fayette, Madison, Clinton, Greene, Clark, Warren, Montgomery, Miami, Preble, and Darke Counties, OH, as off-route points; (7) Between Columbus, OH, and Wheeling, WV, over Interstate Hwy 70, serving all intermediate points and points in Belmont, Jefferson, Harrison, Monroe, Noble, Guernsey, Tuscarawas, Morgan, Muskingum, Coshocton, Perry, Licking, Knox, Farifield, Pickaway, Franklin, and Delaware Counties, OH, as off-route points; (8) Between Mason, WV, and Willshire, OH, over U.S. Hwy 33, serving all intermediate points and points in Meigs, Gallia, Athens, Washington, Vinton, Morgan, Perry, Hocking, Fairfield, Pickaway, Licking, Franklin, Madison, Delaware, Union, Champaign, Marion, Logan, Hardin, Shelby, Allen, Auglaize, Mercer, and Van Wert Counties, OH, as off-route points; (9) Between Chester, WV, and the OH–IN State line: from Chester over U.S. Hwy 30 to junction OH Hwy 49, then over OH Hwy 49 to junction OH Hwy 18, then over OH Hwy 18 to the OH–IN State line, and return over the same route, serving all intermediate points and points in Columbiana, Mahoning, Jefferson, Carroll, Stark, Tuscarawas, Summit, Holmes, Wayne, Medina, Knox, Richland, Ashland, Huron, Morrow, Crawford, Seneca, Marion, Wyandot, Hardin, Hancock, Auglaize, Allen, Putnam, Van Wert, Paulding, and Defiance Counties, OH, as off-route points; (10) Between Weirton, WV, and Union City, OH: from Weirton over U.S. Hwy 22 to junction U.S. Hwy 250, then over U.S. Hwy 250 to junction U.S. Hwy 36, then over U.S. Hwy 36 to junction OH Hwy 571, then over OH Hwy 571 to Union City, and return over the same route, serving all intermediate points and points in Jefferson, Belmont, Columbiana, Carroll, Harrison, Guernsey, Tuscarawas, Holmes, Coshocton, Muskingum, Lickin, Knox, Richland, Morrow, Delaware, Franklin, Marion, Madison, Union, Logan, Champaign, Clark, Shelby, Miami, Mercer, Darke, and Preble Counties, OH, as off-route points; (11) Between Williamstown, WV, and Vermilion, OH: from Williamstown over U.S. Hwy 21 to junction OH Hwy 60, then over OH Hwy 60 to Vermilion, and return over the same route, serving all intermediate points and points in Washington, Morgan, Noble, Perry, Muskingum, Guernsey, Licking, Coshocton, Knox, Tuscarawas, Holmes, Richland, Ashland, Wayne, Huron, Erie, Lorain, and Medina Counties, OH, as off-route points; (12) Between Cleveland, OH, and Butler, IN: from Cleveland, over U.S. Hwy 20 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Butler, and return over the same route, serving Butler for purposes of joinder only, and serving all intermediate points and points in Cuyohoga, Medina, Lorain, Huron, Erie, Seneca, Sandusky, Ottawa, Hancock, Wood, Lucas, Henry, Fulton, Defiance, and Williams Counties, OH, as off-route points; (13) Between Point Pleasant, WV, and Cincinnati, OH: from Point Pleasant over WV Hwy 2 to junction WV Hwy 62 then over WV Hwy 62 to junction U.S. Hwy 35, then over U.S. Hwy 35 to junction OH Hwy 124, then

over OH Hwy 124 to junction OH Hwy 32, then over OH Hwy 32 to Cincinnati, and return over the same route, serving all intermediate points and points in Gallia, Lawrence, Meigs, Vinton, Jackson, Scioto, Pike, Ross, Adams, Highland, Clinton, Brown, Clermont, Warren, Hamilton, and Butler Counties, OH, as off-route points, and (14) Between Portsmouth and Columbus, OH, over U.S. Hwy 23, serving all intermediate points and points in Scioto, Lawrence, Adams, Jackson, Pike, Highland, Vinton, Ross, Clinton, Fayette, Hocking, Pickaway, Farifield, Madison, Clark, Franklin, Licking, Union, and Delaware Counties, OH, as off-route points, Conditions: (1) Issuance of a certificate is subject to the prior submission by applicant of a verified statement stating further specific details of applicant's existing authority for each route (including specific sub-numbers) and how applicant can presently perform the above operations. (2) The regular-route authority granted here shall not be severable, by sale or othewise, from applicant's retained pertinent irregular-route authority. (3) Applicant must request, in writing, the imposition of restrictions on its underlying irregular-route authority precluding service between any two points authorized to be served here pursuant to regular-route authority. (Hearing site: Washington, DC).

Note.—Applicant states that the above authority may presently be performed over a combination of existing regular and irregular routes. Applicant further states that the purpose of this application is to structure applicant's existing authorities in OH, KY, WV, and IN, through conversion of certain irregular-route authority and to eliminate the gateways of WV, and Cincinnati, OH.

MC 111812 (Sub-612F), filed February 13, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., 1600 East Benson Road, P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Pet, Inc., at Chambersburg and Allentown, PA, to points in NC, SC, GA, and FL, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 112893 (Sub-53F), filed February 12, 1979. Applicant: BULK TRANSPORT COMPANY, a corporation, P.O. Box 188, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425—13th Street, NW Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *asphalt and asphalt products*, in bulk, in tank vehicles, from Davenport and Linwood, IA, to points in IL and WI. (Hearing site: Chicago, IL.)

MC 112893 (Sub-54F), filed February 12, 1979. Applicant: BULK TRANSPORT COMPANY, a corporation, P.O. Box 188, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425—13th Street, NW Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *asphalt and asphalt products, lubricating oils, industrial oils, and residual fuel oils*, from Whiting, IN, to points in IL. (Hearing site: Chicago, IL.)

MC 112893 (Sub-55F), filed February 14, 1979. Applicant: BULK TRANSPORT COMPANY, a corporation, P.O. Box 188, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425–13th St., N.W., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer*, in bulk, in tank vehicles, (a) from points in IL, to points in IA and WI, and (b) from points in IA, to points in IL and WI. (Hearing site: Chicago, IL)

MC 112963 (Sub-82F), filed February 7, 1979. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Representative: William P. Sullivan, Suite 500, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commodities* in bulk in tank vehicles, (1) between points in CT, MA, ME, NH, RI, and VT, and (2) between points in the States named in (1) above, on the one hand and on the other, points in NY, NJ, and PA. (Hearing site: Boston or Springfield, MA.)

MC 114273 (Sub-422F), filed July 24, 1978, and previously published in the **Federal Register** on September 14, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehichle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *iron and steel articles*, and (b) *wheels, rims, spindles, hub caps, and grease caps* (except iron and steel articles), between Romulus, MI, and Davenport, IA, and (2) *iron and steel articles*, from Cleveland, OH, to points in IL, IN, IA, and NE. NOTE: The purpose of this republication is to add the State of IA to the destination territory in part (2). (Hearing site: Chicago, IL or Washington, DC.)

MC 114273 (Sub-539F), filed January 31, 1979. Applicant: CRST, INC., 3930 16 Avenue, S.W., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fibreboard boxes*, from Philadelphia, PA, to Orrville, OH, and (2) *fibreboard cans*, from St. Paris, and Orrville, OH, to Des Moines, IA, Chicago, IL, Kansas City, KS, Minneapolis, MN, Dallas, Ennis, and Houston, TX, and Gretna, LA. (Hearing site: Chicago, IL or Washington, DC.)

MC 114273 (Sub-543F), filed February 7, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron, steel, zinc, and lead articles and alloys*, and *construction materials*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (A) between the facilities of Penn Dixie Steel, at (i) Denver, CO, (ii) Centerville, IA, (iii) Blue Island and Joliet, IL, (iv) Cicero, Elkhart, and Kokomo, IN, (v) Grand Rapids and Lansing, MI, and (vi) Columbus and Toledo, OH, and (B) between the facilities named in (A) above, on the one hand, and, on the other, points in AR, CO, DE, GA, IL, IA, IN, KS, KY, MD, MI, MN, MO, NC, ND, NE, NJ, NY, OH, OK, PA, SD, TN, TX, VA, WV, WI, and DC. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-544F), filed February 7, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *furnace pipe and ductwork*, from Indianapolis, IN, to points in IA, KS, MN, and NE. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-546F), filed February 8, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *telephone equipment*, and (2) *materials and supplies* used in the manufacture and installation of telephone equipment, between Chicago, IL, and the facilities of Western Electric Material Management Center, at or near Tobiers, WV. (Hearing site: Chicago, IL, or Washington, DC.)

MC 116763 (Sub-457F), filed November 20, 1978, and previously published in the **Federal Register** on January 30, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same address as above). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by discount and variety stores (except foodstuffs funiture, and commodities in bulk), and (2) *foodstuffs*, (except commodities in bulk), and *furniture*, in mixed loads with the commodities in (1) above, from the facilities of K-Mart Corporation, at or near Charlotte, NC, to points in IA, IL, IN, MI, MN, MO, OH, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destinations.

NOTE: The purpose of this republication is to delete the commodity "furniture" from part (1). (Hearing site: Detroit, MI.)

MC 116763 (Sub-473F), filed February 5, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *floor coverings* and (2) *materials, equipment, and supplies* used in the manufacture, installation, and sale of the commodities named in (1) above (except commodities in bulk, in tank vehicles), between the facilities of GAF Corporation, (a) at Vails Gate, NY, and (b) in Lehigh County, PA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: New York, NY.)

MC 116763 (Sub-475F), filed February 9, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by wholesalers, retailers, manufacturers, and distributors of textile products and wearing apparel, (except commodities in bulk, in tank vehicles), from those points in the United States in and east of MN, IA, MO, OK, and TX (except WI), to points in WI, restricted to the transportation of traffic destined to the indicated destinations. (Hearing site: Milwaukee, WI.)

MC 116763 (Sub-485F), filed February 15, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except frozen, and commodities in bulk, in tank vehicles), from the facilities of B. F. Trappey's Sons, Inc., at Lafayette and New Iberia, LA, to points in MD, VA, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: New Orleans, LA.)

MC 117672 (Sub-4F), filed February 15, 1979. Applicant: FRANK L. CRENSHAW, INC., 1833 Meadow Creek Drive, Louisville, KY 40218. Representative: Rudy Yessin, 314 Wilkinson Street, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bananas*, and (2) *agricultural commodities*, the transportation of which are otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) (formerly Section 203(b)(6) of the Interstate Commerce Act), in mixed shipments with the commodities in (1) above, from Gulfport, MS, to Louisville, KY. (Hearing site: Louisville, KY.)

MC 117993 (Sub-11F), filed February 7, 1979. Applicant: FRUITBELT TRUCKING INC., 12 Smith Street, St. Catharines, ON, Canada. Representative: Robert D. Gunderman, Suite 710 Statler Bldg., Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting (1) *foodstuffs*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, from points in IL, IN, IA, ME, MA, MI, NE, OH, TN, and WI, to ports of entry on the international boundary line between the United States and Canada. (Hearing site: Buffalo, NY.)

MC 117993 (Sub-13F), filed February 7, 1979. Applicant: FRUITBELT TRUCKING INC., 12 Smith Street, St. Catharines, ON, Canada. Representative: Robert D. Gunderman, Suite 710 Statler Bldg., Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *meats, meat products and meat byproducts*, as described in section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the facilities of Sioux-Preme Packing Company, in IA, to ports of entry on the international boundary line between the United States and Canada, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Buffalo, NY.)

MC 117993 (Sub-14F), filed February 7, 1979. Applicant: FRUITBELT TRUCKING INC., 12 Smith Street, St. Catharines, ON, Canada. Representative: Robert D. Gunderman, Suite 710 Statler Bldg., Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *meats, meat products and meat byproducts*, as described in section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the facilities of Patrick Cudahy, Incorporated, at or near Cudahy, WI, to ports of entry on the international boundary line between the United States and Canada, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Buffalo, NY.)

MC 117993 (Sub-15F), filed February 7, 1979. Applicant: FRUITBELT TRUCKING INC., 12 Smith Street, St. Catharines, ON, Canada. Representative: Robert D. Gunderman, Suite 710 Statler Bldg., Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *meats, meat products and meat byproducts*, as described in section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except commodities in bulk, in tank vehicles), from points in IL, IN, IA, MN, NE, ND, OH, SD, VA, and WI, to ports of entry on the international boundary line between the United States and Canada. (Hearing site: Buffalo, NY.)

MC 118263 (Sub-80F), filed February 9, 1979. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Representative: William P. Whitney, Jr., 708 McClure Bldg., Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting (1) *prepared foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Lloyd J. Harriss Pie Company, at Saugatuck and Holland, MI, to those points in the United States in and east of MN, IA, MO, AR, and LA; and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, from points in FL, IL, IN, KY, ME, MN, NJ, NY, OH, PA, and WI, to the facilities of Lloyd J. Harriss Pie Company, at Saugatuck and Holland, MI, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Louisville or Lexington, KY.)

MC 119302 (Sub-24F), filed February 8, 1979. Applicant: MILLER TRANSFER & RIGGING COMPANY, A Corporation, P.O. Box 6077, Akron, OH 44312. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers of power tools, (except commodities in bulk), between Hampstead and Easton, MD, Tarboro and Fayetteville, NC, Lancaster, PA, and ports of entry on the international boundary line between the United States and Canada located in MI and NY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 125433 (Sub-211F), filed February 12, 1979. Applicant: F-B TRUCK LINE COMPANY, A corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, tranporting *foundry materials and supplies*, (except commodities in bulk), from points in IL, IN, IA, KS, MI, MO, OH, PA, SD, WV, WI, and WY, to points in AZ, CO, KS, NM, OK, TX, and UT. (Hearing site: Denver, CO or Salt Lake City, UT.)

MC 125433 (Sub-213F), filed February 15, 1979. Applicant: F-B TRUCK LINE COMPANY, A corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, tranporting (1) *lead and lead alloys*, from the facilities of ASARCO Incorporated, at or near (a) Glover, MO, and (b) Omaha, NE, to points in the United States (except AK and HI); and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL.)

MC 125813 (Sub-21F), filed February 14, 1979. Applicant: CRESSLER TRUCKING, INC., 153 West Orange Street, Shippensburg, PA 17257. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. and 13th Street, NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rock crushers and rock crusher parts*, (2) *accessories, tools, and wooden patterns* for the commodities named in (1) above, from Carlisle, PA, to points in MI, WI, and MN, and (3) *scrap steel, wooden patterns, rock crusher parts*, and *used, damaged, or defective rock crushers*, in the reverse direction. (Hearing site: Carlisle, PA, or Washington, DC).

MC 128273 (Sub-338F), filed February 13, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities as are dealt in buy manufacturers and converters of paper and paper products*, from Memphis, TN to points in AZ, CA, ID, MO, MT, NV, ND, OR, SD, UT, WA, and WY, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, and those which because of size or weight require the use of special equipment), in the reverse direction, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Kimberly-Clark Corporation, at Memphis, TN. (Hearing site: Memphis, TN, or Washington, DC)

MC 128473 (Sub-21F), filed February 13, 1979. Applicant: MONTANA EXPRESS, INC., P.O. Box 3346, Butte, MT 59701. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Los Angeles, CA, to points in AZ, ID, MT, NV, OR, WA, and WY, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc., under continuing contract(s) with Kraft, Inc., of Chicago, IL. (Hearing site: Los Angeles, CA, or Phoenix, AZ)

MC 136343 (Sub-157F), filed February 13, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *green fibre mulch*, in bags, from Hampton, VA, to those points in the United States in and east of MN, WI, IL, KY, TN, and MS. (Hearing site; New York, NY or Washington, DC)

MC 136773 (Sub-4F), filed February 8, 1979. Applicant: S.T.S. MOTOR FREIGHT, INC., 107 Evergreen Road, Stratford, NJ 08084. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *industrial oils and greases, cleaning compounds, heat transfer salts, hydraulic system fluids, metal cutting compounds, and petroleum products* (except commodities in bulk), from the facilities of E. F. Houghton & Co., in Lehigh County, PA, to Philadelphia, PA, and points in NJ. (Hearing site: Washington, DC, or Philadelphia, PA)

MC 139083 (Sub-6F), filed February 12, 1979. Applicant: BUILDING SYSTEMS TRANSPORTATION, INC., P.O. Box 142, Washington Court House, OH 43160. Representative: Paul F. Beery, 275 E. State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *buildings, conduit, ducts, and raceways*, (2) *parts and accessories* for the commodities in (1) above, and (3) *equipment, materials, and supplies*, used in the manufacture of the commodities in (1) and (2) above, (except commodities in bulk), between Parkersburg, WV, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH or Washington, DC)

MC 139973 (Sub-61F), filed February 14, 1979. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts and articles distributed by meat-packing houses*, as defined in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Geneseo and Joslin, IL, to points in CT, DE, ME, MD, MA, NJ, NY, PA, RI, and DC. (Hearing site: St. Louis, MO)

MC 139973 (Sub-62F), filed February 13, 1979. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Marshall, MO, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO)

MC 140033 (Sub-81F), filed January 14, 1979. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. To transport as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers and container ends*, from Oil City, PA, to Weatherford, TX, and (2) *liquid anti-freezing compounds*, from the facilities of Power Service Products, Inc., at Weatherford, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX)

MC 141353 (Sub-1F), filed February 15, 1979. Applicant: S & S TRANSPORT, INC., P.O. Box 2552, Eugene, OR 97402. Representative: David C. White, 2400 SW Fourth Avenue, Portland, OR 97201. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wooden shakes and shingles*, from those points in OR and WA on and West of U.S. Hwy 97, to points in AZ, CA, and NV; and (2) *roofing paper*, from Portland, OR, to points in AZ, CA, and NV, under continuing contract(s) in (1) and (2) above with Wesco Cedar, Inc., of Eugene, OR. CONDITION: Issuance of a certificate is subject to the coincidental cancellation of the outstanding permit in MC-141353, issued February 24, 1976, already requested by applicant. (Hearing site: Portland, OR)

MC 141773 (Sub-9F), filed November 13, 1978. Applicant: THERMO TRANSPORT, INC., 150 East Market Street, Indianapolis, IN 46204. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials* used in the manufacture and distribution of (a) chain saws, (b) chain saw parts, and (c) accessories for chain saws, from points in the United States (except AK and HI), to the facilities of Omark Industries, Inc., at Portland, OR, under continuing contract(s) with Omark Industries, Inc., or Portland, OR. (Hearing site: Indianapolis, IN.)

Note.—Dual operations may be involved.

MC 141952 (Sub-2F), filed December 8, 1978. Applicant: WALTER A. JUNGE, INC., 3818 S.W. 84th Street, Tacoma, WA 98491. Representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), from Los Angeles, Sacramento, Oxnard, and Modesto, CA, to points in OR and WA. (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 141963 (Sub-2F), filed February 9, 1979. Applicant: AIR CARGO TRANSIT, INC., 1311 South 27th Street, Phoenix, AZ 85034. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, commodities in bulk, and those requiring special equipment), between Phoenix, AZ, on the one hand, and, on the other, Los Angeles, CA, and Tucson, Bisbee, and Nogales, AZ, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Phoenix, AZ, or Los Angeles, CA.)

MC 143512 (Sub-3F), filed February 14, 1979. Applicant: ALL CORPS, a corporation 838 Hutchinson Street, Vista, CA 92083. Representative: Milton W. Flack, 4311 Wilshire Bl. No. 300, Los Angeles, CA 90010. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery goods*, from the facilities of Pogens Family Bakery, Inc., at Compton, CA, to points in the United States (except AK, CA, and HI), under continuing contract(s) with Pogens Family Bakery, Inc., of Compton, CA. (Hearing site: Los Angeles, CA.)

MC 143963 (Sub-4F), filed December 14, 1978. Applicant: P. J. LOMBARDI TRUCKING, INC., 1308 71st Street, Brooklyn, NY 11228. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *batteries, foil, valves, fittings, hoses, couplings, automotive parts, electric motors, and electrical products and equipment*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (a) between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (b) between the points named in (1) above, on the one hand, and, on the other, Los Angeles, CA, and Portland, OR, under continuing contract(s) with Gould, Inc., of Rolling Meadows, IL. (Hearing site: New York, NY.)

MC 144023 (Sub-5F), filed December 15, 1978. Applicant: TAYLOR TRANSPORT, INC., Route 1, Fort Mill, SC 29715. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by a manufacturer of (a) copper and brass and (b) copper and brass products, and (2) *scrap materials*, between the facilities of Mueller Brass Company, at or near Covington, TN, on the one hand, and, on the other, points in United States (except AK, HI, and OH, and Memphis, TN, Louisville, KY, Melrose Park, IL, and points in their respective commercial zones), under continuing contract(s) with Mueller Brass Co., of Covington, TN. (Hearing site: Washington, DC.)

MC 144303 (Sub-2F), filed January 10, 1979, and previously published in the Federal Register on March 27, 1979. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, NW., Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle,

in interstate or foreign commerce, over irregular routes, transporting *aluminum and zinc ingots*, from Maple Heights, OH, to points in AL, GA, KY, NC, SC, and TN, under continuing contract(s) with Aluminum Smelting and Refining Co., and Certified Alloys, Inc., both of Maple Heights, OH. (Hearing site: Washington, DC.)

Notes.—(1) Dual operations may be involved. (2) The purpose of this republication to add TN as a destination State.

MC 144913 (Sub-2F), filed February 13, 1979. Applicant: COMPTON TRUCKING, INC., 5300 Kennedy Road, Forest Park, GA 30050. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by retail discount department stores (except garments on hangers and commodities in bulk), between the facilities of Zayre Corp., in FL, GA, NC, SC, and TN, on the one hand, and, on the other, points in FL, GA, NC, SC, and TN, under continuing contract(s) with Zayre Corp. (Hearing site: Atlanta, GA.)

MC 145152 (Sub-44F), filed February 15, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen inedible meats and meat byproducts*, from Ft. Dodge and Sioux City, IA, Wichita, KS, and Amarillo, TX, to Gloucester, MA. (Hearing site: Los Angeles, CA, or Tulsa, OK.)

MC 145252 (Sub-10F), filed February 12, 1979. Applicant: CASE HEAVY HAULING, INC., P.O. Box 267, Warren, OH 44482. Representative: Paul F. Berry, 275 E. State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel bars and steel rods*, from Kankakee, IL, to Nitro, WV. (Hearing site: Columbus, OH.)

MC 145513 (Sub-3F), filed February 8, 1979. Applicant: SERVICE TRANSPORTATION, INC., 125 North 6th Street, Payette, ID 83661. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dairy products*, and *equipment, materials, and supplies* used in the manufacture and distribution of dairy products, (a) between the facilities of Gossner Cheese Co., at or near Logan, UT, on the one hand, and, on the other, points in ID, OR, WA, and CA, under continuing contract(s) in (1)(a) with Gossner Cheese Company, of Logan, UT, and (b) between the facilities of Swiss Village Cheese, at or near Nampa, ID, on the one hand, and, on the other points in CA, OR, UT, and WA, under continuing contracts(s) in (1)(b) with Swiss Village Cheese, of Nampa, ID; and (2) *apple juice, apple cider, and vinegar*, (a) from Fruitland, ID, to points in CA, and (b) from Payson, UT, to Fruitland, ID, under continuing contract(s) in (2) with Payette Cider and Vinegar, of Fruitland, ID. (Hearing site: Boise, ID).

MC 145583 (Sub-1F), filed February 7, 1979. Applicant: XPRESS TRUCK LINES, INC., 4325 Bath Street, Philadelphia, PA 19137. Representative: Anthony A. Cerone, 4325 Bath Street, Philadelphia, PA 19137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between points in PA, DE, CT, NY, NJ, MD, VA, and DC, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Philadelphia, PA, or Washington, DC).

MC 145673 (Sub-4F), filed February 7, 1979. Applicant: ROAD RAIL SERVICES, INC., 660 Skokie Highway, Lake Bluff, IL 60044. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *hospital supplies and drugs*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between North Chicago, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL).

Passenger Authority

MC 144523 (Sub-2F), filed Janaury 26, 1979. Applicant: INTERNATIONAL LIMOUSINE SERVICE, INC., 2660 Woodley Road NW., Washington, DC 20008. Representative: Charles L. Aulette, 1725 K Street NW., Suite 802, Washington, DC 20008. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, limited to the transportation of not more than 12 passengers in any one vehicle, not including the driver thereof, between Washington, DC, and Baltimore, MD, under continuing contract(s) with the health Care Financing Administration of the U.S. Department of Health, Education and Welfare. (Hearing Site: Washington, DC)

Passenger Authority

MC 144882 (Sub-1F), filed February 5, 1979. Applicant: CELEBRITY AND VIP LIMOUSINE SERVICE, (A Division of Bernich Enterprises, Inc.), 520 Popps Ferry Road, Biloxi, MS 39532. Representative: Kirby A. Bernich (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, *passengers and their baggage*, in the same vehicle as passengers, in special and charter operations, limited to the transportation of not more than 7 passengers in any one vehicle, not including the driver thereof, between Jackson, Biloxi, Gulfport, Bay St. Louis, Pass Christian, Long Beach, Ocean Springs, and Pascagoula, MS, New Orleans and Baton Rouge, LA, and Mobile, AL.

[Permanent Authority decisions vol. No. 44]
[FR Doc. 79-13601 Filed 4-30-79; 8:45 am]
BILLING CODE 7035-01-M

Petition for Declaratory Order-Cooked and Breaded Shellfish Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of petition for declaratory order.

SUMMARY: By petition filed April 4, 1979, National Fisheries Institute and National Shrimp Breaders and Processors Association seek a ruling that the transportation of cooked shellfish and of breaded shrimp remain exempt under 49 U.S.C. § 10526(a)(6)(D) to the same extent as formerly provided under section 203(b)(6) of the Interstate Commerce Act.

DATES: COMMENTS MUST BE RECEIVED ON OR BEFORE MAY 31, 1979.

ADDRESS: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

Petitioners' Representatives: Charles H. White, Jr., Steven A. Lauer, Suite 800, 1019 19th Street NW., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., 202-275-7292.

SUPPLEMENTARY INFORMATION: Petitioners are seafood industry trade associations. Many of their members deal in cooked shellfish and breaded shrimp. petitioners seek a declaratory order that the transportation these products by for-hire motor carriers remains exempt under the provisions of Act of October 17, 1978, Pub. L. No. 95-473, 49 U.S.C. Subtitle IV, to the same extent as formerly provided by the Interstate Commerce Act.

Section 203(b)(6) of the Interstate Commerce Act formerly exempted from economic regulation "* * * motor vehicles used in carrying property consisting of * * * fish (including shellfish) * * *: *Provided further*, * * * That * * * the words 'property consisting of * * * fish (including shellfish)' * * * shall be deemed to include cooked or uncooked (including breaded) fish or shellfish when frozen or fresh * * *". The exemption for the transportation of fish and shellfish is now embraced in 49 U.S.C. § 10526(a)(6)(d), which exempts from the Commission's regulatory jurisdiction "* * * a motor vehicle carrying, for compensation, only property and that property consists of * * * cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish * * *".

Petitioners contend that a literal reading of the new statute creates the impression that the prior law regarding the transportation of cooked shellfish and breaded shrimp has been affected. Petitioners assert that Congress intended no substantive change in the law regarding the transportation of these commodities and request that Commission issue a declaratory order to that effect. Petitioners assert that a grant of the relief sought will not constitute a major Federal action significantly affecting the quality of the human environment.

No oral hearing is contemplated. Any person (including petitioners) desiring to participate in this proceeding shall file an original and fifteen (15) copies (wherever possible) of written representations, views, or arguments. A copy of each representation shall be filed on petitioners' representatives.

Written material or suggestions submitted will be available for public inspection at the Office of the Interstate Commerce Commission, 12th St. and Constitution Ave., Washington, D.C., during regular business hours.

Notice to the general public of these matters will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy with the Director, Office of the Federal Register.

H. G. Homme, Jr.,
Secretary.

[No. MC-C-10225]
[FR Doc. 79-13607 Filed 4-30-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Rigister publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D. C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 2052 (Sub-18TA), filed March 27, 1979. Applicant: BLAIR TRANSFER, INC., 203 South Ninth, Blair, NE 68008. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. *Agricultural implements, machinery, equipment, attachments and parts, and bags*, from Blair, NE to points in the US (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): David Rasmussen, Ag-Bag Corporation, 1555 Washingon St., Blair, NE 68008. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 2052 (Sub-19TA), filed March 27, 1979. Applicant: BLAIR TRANSFER, INC., 203 South Ninth, Blair, NE 68008. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. *Plastic articles and accessories used in the floral industry*, from Kent, OH to points in AR, CO, IL, IA, KS, LA, MN, MO, NE, OK, TX, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Robert D. Hickey, Smithers Company, P.O. Box 118, Kent, OH 44240. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 13253 (Sub-2TA), filed March 2, 1979. Applicant: STEUBENVILLE TRANSFER CO., Box 2248, Wintersville, OH 43952. Representative: Andrew Jay Burkholder, 275 E. State St., Columbus, OH 43215. *Rock dust, in bags*, from Benwood, WV to Harrison County, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Y and O Coal Company, 1st and Locust Sts., Martins Ferry, OH 43935. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 16903 (Sub-67TA), filed March 6, 1979. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, 120 W. Grimes Lane, Bloomington, IN 47401. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Fabricated metal products*, from the plant site of United States Gypsum Co., at Franklin Park, IL to MI, OH, IN, and KY, for 180 days., Supporting Shipper: United States Gypsum Company, 101 S. Wacker Dr., Chicago, IL 60606. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 East Ohio Street, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 27063 (Sub-23TA), filed March 16, 1979. Applicant: LIBERTY TRANSFER COMPANY, 1601 Cuba St., Baltimore, MD 21230. Representative: S. Harrison Kahn, Suite 733 Investment Bldg., Washington, DC 20005. *Contract carrier:* irregular routes: *Hangers*, from Baltimore, MD to points and places in New Jersey on and north of NJ Highway 33 and in New York, NY, and its commercial zone as defined by the Commission, under contract with Cleaners Hanger Company, Baltimore, MD, for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cleaners Hanger Company,

8601 Wise Ave., Baltimore, MD 21222. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 40852 (Sub-6TA), filed March 26, 1979. Applicant: SEDALIA-MARSHALL-BOONVILLE STAGE LINE, INCORPORATED 5805 Fleur Dr., Des Moines, IA 50321. Representative: Steven C. Schoenebaum, 1200 Register and Tribune Bldg., Des Moines, IA 50309. *General commodities* (except commodities in bulk, Classes A and B explosives, and motor vehicles requiring the use of special equipment) between Miami International Airport, located at or near Miami, FL, and Houston Intercontinental Airport, located at or near Houston, TX. Restricted to the transportation of traffic in aircraft containers and pallets and trailers equipped with roller bed floors, and further restricted to traffic having a prior or subsequent movement by air for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Continental Airlines, Inc., P.O. Box 60153, Houston, TX 77205, Shipco, P.O. Box 60454, AMF, Houston, TX 77205 and Carib West Airways, LTD, P.O. Box 60270, AMF, Houston, TX 77205. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 89723 (Sub-71TA), filed March 23, 1979. Applicant: MISSOURI PACIFIC TRUCK LINES, INC., 210 N. 13th St., St. Louis, MO 63103. Representative: Robert S. Davis, (same as above). Common carrier: *regular route: General Commodities* (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those which require the use of special equipment), from the facilities of Remington Arms Co. at or near Lonoke, AR, over AR Hwy. 15 to its junction with Interstate Hwy. 40, then over Interstate Hwy. 40 to N. Little Rock, AR, and return over the same route, for 180 days. Supporting shipper(s): Remington Arms Company, Inc., 939 Barnum Ave., Bridgeport, CN 06602. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 99853 (Sub-14TA), filed March 28, 1979. Applicant: VICTORY FREIGHT LINES, INC., P.O. Box 2254, 700 39th St., North, Birmingham, AL 35201. Representative: Ronald L. Stichweh, 727 Frank Nelson Building, Birmingham, AL 35203. (1) *Air and water pollution control equipment and manufactured iron and steel articles,* from the facilities of Technical Fabricators, Inc., Mobile, AL to all points in the United States; and (2) *Equipment, materials and supplies used in the manufacture of the commodities named in (1) above,* in the reverse direction. RESTRICTED against transportation of commodities in bulk, in tank vehicles. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Technical Fabricators, Inc., P.O. Box 892, Mobile, AL 36601. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 106373 (Sub-41TA), filed February 26, 1979. Applicant: THE SERVICE TRANSPORT COMPANY, 114½ East Main Street, Ravenna, OH 44266. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Iron and steel articles,* from facilities of Babcock and Wilcox Company at Alliance, OH, to points in IN and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Babcock and Wilcox Company, P.O. Box 401, Beaver Falls, PA 15010. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 107002 (Sub-545TA), filed March 5, 1979. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 West, Jackson, MS 39205. Representative: John J. Borth (same as applicant). *Vegetable oil,* in bulk, in tank vehicles, from Kennett and Sikeston, MO to Memphis, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hunt Wesson Foods, Inc., P.O. Box 1759, 1351 Williams, Memphis, TN 38101. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 East Amite Bldg., Jackson, MS 39201.

MC 108393 (Sub-141TA), filed February 26, 1979. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, IL 60521. Representative: Thomas B. Hill, (address same as applicant). Contract-irregular, *electrical and gas appliances, parts of electrical and gas appliances, and equipment, materials and supplies used in the manufacture, distribution and repair of electrical and gas appliances,* (1) between Evansville, IN on the one hand, and on the other CT, MA, MS, and NY; (2) between Ft. Smith, AR on the one hand, and on the other Elizabethtown, KY; and (3) between St. Paul, MN on the one hand, and on the other Louisville, KY, Mt. Gilead, OH, Milwaukee and Sparta, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Whirlpool Corporation, Administrative Center, Benton Harbor, MI 49011. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 109533 (Sub-109TA), filed March 22, 1979. Applicant: OVERNITE TRANSPORTATION COMPANY, 1000 Semmes Avenue, Richmond, VA 23224. Representative: E. T. Liipfert, 1660 L Street, N.W., Washington, D.C. 20036. Common—Regular *General Commodities (except those of unusual value, classes A & B explosives, household goods as described by the Commission, commodities in bulk and those requiring special equipment).* For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 343 supporting shippers to this application. Their statements may be examined at the office listed below and at Headquarters. Send protests to : Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

SEE ATTACHED SCHEDULE FOR SCOPE.

MC 109692 (Sub-78TA), filed March 23, 1979. Applicant: GRAIN BELT TRANSPORTATION COMPANY, Route 13, Kansas City, Missouri 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. (1) *PLASTIC, PLASTIC ARTICLES, PLASTIC PIPE, TUBING, FITTINGS AND CONNECTIONS:* and (2) *materials, equipment and supplies used in the manufacture, installation and distribution of the commodities named in (1) above.* (a) Between the facilities of Robintech, Inc., located at or near Danville, IL, on the one hand, and on the other, points in AR, CO, IA, KS, KY, MI, MN, NE, OH, OK, TX, WI and that part of TN located on and west of U.S. Highway 231; and (b) between the facilities of Robintech, Inc., located at or near Rolla, MO, on the one hand, and, on the other, points in IL, IN, IA, KS, MI, NE, OH, OK and WI. Restricted against the transportation of commodities in bulk for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Robintech, Inc., P.O. Box 2342, Fort Worth, TX 76101. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri.

MC 117972 (Sub-5TA), filed March 19, 1979. Applicant: GROWERS COLD STORAGE CO., INC., Route 279, Waterport, NY 14571. Representative: William J. Hirsch, 45 Court Street, Suite 1125, Buffalo, NY 14202. *Frozen foods,* from Mt. Morris, NY to points in western PA and Eastern OH. Returned, refused and rejected shipments in the reverse direction, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Lamb-Weston, 6600 S.W. Hampton Street, Box 23517, Portland, OR 97223. Send protests to: R. H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron Street, Buffalo, NY 14202.

MC 118202 (Sub-106TA), filed March 14, 1979. Applicant: SCHULTZ TRANSIT, INC., 323 Bridge Street, P.O. Box 408, Winona, MN 55987. Representative: Thomas J. Beener, 1 World Trade Center, Suite 4958, New York City, NY 10048. *Frozen foods (except in bulk),* from the facilities of Stouffer Foods at or near Cleveland and Solon, OH to points in IL, IN, MN, WI, CT, MA, NJ, NY and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stouffer Foods, Traffic Manager, 5750 Harper Road, Solon, OH 44139. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U. S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 118202 (Sub-107TA), filed March 22, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 408, 323 Bridge St., Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Foodstuffs (except commodities in bulk)* from Owatonna, MN to Teterboro, NJ and Foxboro, MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Company, Supervisor, Motor Carrier Services, P.O. Box 800, Austin, MN 55912. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U. S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 118202 (Sub-108TA), filed March 2, 1979. Applicant: Schultz Transit, Inc., P.O. Box 408, 323 Bridge St., Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, MN 55402. *Capacitors and parts, components, equipment and supplies used in the manufacture of capacitors,* (1) between Ogallala and McCook, NE on the one hand, and, on the other, Laredo, TX; and (2) from Denver, CO to McCook, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): TRW, Inc., 301 West "O" Street, Ogallala, NE 69153. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 Street, Minneapolis, MN 55401.

MC 118203 (Sub-81 TA), filed February 27, 1979. Applicant: COLDWAY CARRIERS, INC., Post Office Box 2038, Clarksville, IN 47130. Representative: William P. Whitney, Jr., 708 McClure Bldg., Frankfort, KY 40601. *Frozen pies and cakes* (except commodities in bulk) in vehicles equipped with mechanical refrigeration, from the facilities of Lloyd J. Harriss Pie Company at Saugatuck and Holland, MI, to all points in the U.S. in and east of LA, AR, MO, IA and MN, for 180 days. Supporting Shipper: Omni Way Service Companies, 2000 S. 9th St., Louisville, KY 40208. Send protests to: Beverly J. Williams, Transportation Assistant, I.C.C. 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 118883 (Sub-7TA), filed March 21, 1979. Applicant: VAN B. HAMLETT, P.O. Box 8009, Osage Street, Nashville, TN 37208. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. (1) *Fertilizer and fertilizer materials, in bulk, in dump and hopper equipment and pesticides in containers when moving in mixed loads with the above:* (a) from facilities utilized by W. R. Grace & Co. at or near Nashville and Woodstock, TN, on the one hand, and, on the other, points in KY on and west of Interstate Hwy 75, and (b) from facilities utilized by W. R. Grace & Co. at or near New Albany, IN to points in TN, and points in KY and west of Interstate Hwy 75; and (2) *Fertilizer and fertilizer materials, in bags, and pesticides in containers when moving in mixed loads with the above* from the facilities of W. R. Grace & Company at or near Woodstock, TN to points in KY on and west of Interstate Hwy 75, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): W. R. Grace & Co., P.O. Box 472, New Albany, IN 47150. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 119632 (Sub-87TA), filed March 2, 1979. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Wayne C. Pence, same address as applicant. *(1) Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses, and (2) materials, ingredients and supplies used in the manufacture, distribution and sale of the products in (1) above,* between the facilities of Ralston Purina Company at or near Minneapolis, MN; Clinton and Davenport, IA; Battle Creek, MI; Lancaster and Sharonville, OH; Dunkirk, NY; Mechanicsburg, PA; Jersey City, NJ and Union City, GA, on the one hand, and, points in and east of MN, IA, MO, AR, and LA on the other, for 180 days. An underlying ETA seeks 90 days authority. Common carrier—irregular routes. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 119632 (Sub-88TA), filed February 28, 1979. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Wayne C. Pence, same address as applicant. *Glass Containers,* from Streator, IL to points in the State of NY, for 180 days. Common carrier—irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens-Illinois, Inc., P.O Box 1035, Toledo, OH 43666. Send protests to: P. J. Crawford, Transportation Consumer Specialist, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit St., Toledo, OH 43604.

MC 119642 (Sub-7TA), filed February 28, 1979. Applicant: JANESVILLE AUTO TRANSPORT CO., 1800 S. Jackson, P.O. Box 959, Janesville, WI 53545. Representative: Eugene C. Ewald, 100 W. Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013. Contract carrier; irregular routes: *Motor vehicles, in initial movements, in truckaway service,* from the facilities of General Motors Corp. at Tarrytown, NY and Linden, NJ to IL, IN, IA, KY, MI, MN, MO, OH & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): General Motors Corp., 30007 Van Dyke Ave., Warren, MI 48090. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 123872 (Sub-100TA), filed February 28, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman, P.O. Box 3467, Hickory, NC 28601. *Meat, meat products and meat by-products and articles distributed by meat packing houses, as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 & 766 (except hides and commodities in bulk in tank vehicles)* from Rockville and Springfield, MO and Miami, OK to points in GA, NC, SC, TN and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Company, P.O. Box 800, Austin, MN 55912. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

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MC 123872 (Sub-101TA), filed March 14, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman, P.O. Box 3467, Hickory, NC 28601. *Carpets and rugs and materials and supplies as used in the installation thereof* (except commodities in bulk) from the points in Bartow, Catoosa, Chattoga, Floyd, Gilmer, Gordon, Murray, Rabun, Troup, Walker, and Whitfield Counties, GA to points in Alexander, Burke, Cladwell, Catawba, Iredell, Lincoln, McDowell and Wilkes Counties, NC, for 180 days. Supporting shipper(s): Bost Carpet, Inc., 2806 N. Center St., Hickory, NC 28601. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 125023 (Sub-69TA), filed March 21, 1979. Applicant: SIGMA-4 EXPRESS, INC., 3825 Beech Avenue, P.O. Box 9117, Erie, PA 16504. Representative: Richard G. McCurdy (same as applicant). *Malt beverages, in containers,* from South Volney, NY and Milwaukee, WS to Weirton, WV for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Steel City Distributors, Inc., 202 Greenlawn Blvd., Weirton, WV. Send protests to: John J. England, District Supervisor, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 125533 (Sub-38TA), filed February 26, 1979. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, P.O. Box 6064, Ellet Station, Akron, OH 44312. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. *Plastic articles and polystyrene products,* from facilities of U. C. Industries, Tallmadge, OH, to points in and east of the states of ND, SD, NE, KS, OK and TX, for 180 days. Supporting shipper(s): U. C. Industries, 170 South Avenue, Tallmadge, OH 44278. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 127303 (Sub-26TA), filed February 7, 1979. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW, Washington, D.C. 20001. *Feed and feed ingredients* (except commodities in bulk), from Cedar Rapids, IA to Litchfield, MN, Kaukauna, WI and Mexico, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vigortone Products Co., 5264 Council Street, N.E., Cedar Rapids, IA 52406. Send protests to: Annie Booker, T/A, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 127602 (Sub-No. 21TA) filed March 19, 1979. Applicant: DENVER-MIDWEST MOTOR FREIGHT, INC., P.O. Box 996, Denver, CO 80201. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. *General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Kansas City, KS and its commercial zone and Denver, CO and its commercial zone: from Kansas City, KS over Interstate Highway 70 to Denver, CO serving no intermediate points and return over the same route; (2) between Chicago, IL and its commercial zone and Kansas City, KS and its commercial zone: from Chicago, IL over Interstate Highway 55 to junction U.S. Highway 36 at Springfield, MO, then east over U.S. Highway 36 to junction Interstate Highway 35 at Cameron, MO, then south on Interstate Highway 35 to Kansas City, KS, serving no intermediate points and return over the same route; (3) between St. Paul, MN and its commercial zone and Kansas City, KS and its commercial zone: from St. Paul, MN over Interstate Highway 35 to Kansas City, KS, serving no intermediate points and return over the same route; and (4) between Chicago, IL and its commercial zone and St. Paul, MN and its commercial zone: from Chicago, IL over Interstate Highway 90 to junction Interstate Highway 94 at Rockford, IL, then over Interstate Highway 94 to St. Paul, MN, serving no intermediate points and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Denver-Midweat Motor Freight, Inc., P.O. Box 996, Denver, CO 80201. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 129282 (Sub-42TA), filed March 5, 1979. Applicant: BERRY TRANSPORTATION, INC., P.O. Box 2147, Longview, TX 75601. Representative: Fred S. Berry, address same as above. *Malt beverages, non-alcoholic beverages, materials and supplies used in the manufacture and distribution thereof (except commodities in bulk),* between Houston, TX on the one hand, and points in LA (except Covington, LA) on the other for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southwest Beverage Company, Inc., 1225 Hodges Street, Lake Charles, LA; Shreveport Budweiser Dist., Inc., 900 W. 62nd Street, Shreveport, LA. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 133993 (Sub-2TA), filed March 27, 1979. Applicant: SAND MOUNTAIN AUTO AUCTION, INC., P.O. Box 638, Boaz, AL 35957. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *Motor vehicles,* between points in the U.S. (except AK and HI) restricted to shipments moving on freight forwarder bills of lading. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tn'T, Inc., 2818 Southeastern Avenue, Los Angeles, CA 90040. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 134182 (Sub-37TA), filed March 6, 1979. Applicant: ALLIED TRANSPORTATION SERVICES, INC., P.O. Box 7424, Shawnee Mission, KS 66207. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO. *Meat, meat products, and meat by-products, and articles distributed by meat packinghouses as described in Section A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 & 766 (except hides & commodities in bulk),* from the facilities of Dubuque Packing Co. located at or near Mankato, KS to points in OH, IN, LA, MI, and IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dubuque Packing Company, Mankato, KS. Send protests to DS John V. Barry, 600 Fed Bldg, 911 Walnut, Kansas City, MO 64106.

MC 134262 (Sub-18TA), filed March 27, 1979. Applicant: FARMERS FEED AND SUPPLY TRANSPORTATION, INC., Boyden, IA 51234. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Contract carrier:* irregular routes: *Oxides, coloring compounds, pre-colored products, and foundry compounds (except commodities in bulk),* from the facilities of DCS Color & Supply Co., Inc. at or near Milwaukee, WI to points in KS, OK, TX, MN, IA, MO, AR, LA, IL, IN, MI, OH, KY, TN, MS, AL, and GA, under a continuing contract(s) with DCS Color & Supply Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): DCS Color & Supply Co., Inc., 1050 E. Bay Street, Milwaukee, WI 53207. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 135003 (Sub-2TA), filed March 23, 1979. Applicant: C.R.X. CORPORATION, 5016 7th Place, Winona, MN 55987. Representative: Gary Huntbatch, same address as applicant. *Frozen potatoes and potato products* from the plantsites and storage facilities of Northern Star Co., Minneapolis, MN to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Northern Star Co., Traffic Manager, 3171 Southeast 5th Street, Minneapolis, MN. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 135982 (Sub-25TA), filed March 21, 1979. Applicant: S. L. HARRIS, d./b./a. PBI, P.O. Box 7130, Longview, TX 75602. Representative: Lawrence A. Winkle, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. *Cans, Metals, NOI* from the facilities of the Continental Can Company USA in Longview, TX to Tulsa, OK and Little Rock, AR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Can Company U.S.A., 4615 Post Oak Place Drive, Suite 140, Houston, TX 77001. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 136553 (Sub-70TA), filed March, 21, 1979. Applicant: ART PAPE TRANSFER, INC., 1080 E. 12th Street, Dubuque, IA 52001. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Tires, tire tubes and parts and accessories for tires and tire tubes,* between Dubuque, IA on the one hand, and, on the other, points in IL, KS, MN, MO, NE, ND, and OK for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): B. F. Goodrich Company 500 South Main, Akron, OH 44318. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136782 (Sub-11TA), filed March, 27, 1979. Applicant: R.A.N. TRUCKING COMPANY, P.O. Box 128, Eau Claire, PA 16030. Representative: Warren W. Wallin, Sullivan & Associates, Ltd., 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. *Plastic Containers and plastic container lids,* from the plantsite of Polysar Packaging Division of Polysar Plastics, Inc. located at Wellsburg, WV to points in CT, DE, IL, IN, MA, MD, MI, NJ, NY, OH, PA, RI, DC, VA and WI for 180 days. An underlying ETA seeks 90 operating authority. Supporting shipper(s): Polysar Packaging, Division of Polysar Plastics, Inc, 5 Main Street, So. Glens Falls, NY 12801. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 138782 (Sub-21TA), filed March, 29, 1979. Applicant: OSTERKAMP TRUCKING, INC., 764 North Cypress Street, P.O. Box 5546, Orange, CA 92667. Representative: Michael R. Eggleton, 2500 Old Crow Canyon Road, Suite 325, San Ramon, CA 94583. *Common:* Irregular: *Expanded Polystyrene.* From the facilities of Western Insulfoam Corporation at Dixon, California, to points in Carson City, Churchill, Douglas, Lyon, Mineral, Storey, and Washoe Counties, Nevada, for 180 days. An underlying ETA seeks up to 90 days operating Authority. Supporting shipper(s): Western Insulfoam Corporation, 1155 Industrial Place, Dixon, CA 95620. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angles Street, Los Angeles, CA 90012.

MC 138732 (Sub-22TA), filed February 26, 1979. Applicant: OSTERKAMP TRUCKING, INC., 764 North Cypress Street, P.O. Box 5546, Orange, California 92667. Representative: Michael Eggleton, 2500 Old Crow Canyon Road, Suite 325, San Ramon, California 94583. *Bentonite clay and lignite coal,* from the facilities of American Colloid Company, at or near Belle Fourche, SD; Upton, WY; and Gascoyne, ND, to points in CA, and King County, WA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): American Colloid Company, 5100 Suffield Court, Skokie, Illinois 60077. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 140033 (Sub-83TA), filed March 21, 1979. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: Lawrence A. Winkle, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. *Bagged sugar,* from New Orleans, LA to Marietta, OK for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Little Brownie Bakers, P.O. Box 249, Marietta, OK 73448. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, TX 75242.

MC 140243 (Sub-5TA), filed March 23, 1979. Applicant: Apple House, Inc., 3728 Birney Ave., Scranton, PA 18505. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. (1) *Floor tile,* and *materials and supplies* used in the installation thereof, from Vailsgate, NY, to FL, LA, GA, MS, NC, SC and TN; (2) *Floor covering,* and *materials and supplies* used in the installation thereof, from Fullerton, PA, to FL, LA, GA, MS, NC, SC and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: GAF Corporation, 1631 Alps Road, Wayne, NJ 07470. Send protests to: ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Phildelphia, PA 19106.

MC 140243 (Sub-6TA), filed March 23, 1979. Applicant: APPLE HOUSE, INC., 3728 Birney Ave., Scranton, PA 18505. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. (1) *Photographic and reproductive equipment,* and *parts and accessories* for the foregoing commodity, in vehicles equipped with mechancial refrigeration, from Binghamtom, Vestal and Johnson City, NY, to GA, TN, NC, SC and FL; (2) Rejected and returned shipments, and *equipment, materials and supplies* used in the manufacture and sale of the above commodity (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from GA, TN, NC, SC and FL to Binghamton, Vestal and Johnson City, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: GAF Corporation, 1631 Alps Road, Wayne, NJ 07470. Send protests to: ICC, Wm. J. Green, Jr. Federal Bldg., 600 Arch St., Philadelphia, PA 19106.

MC 140273 (Sub-14TA), filed March 23, 1979. Applicant: BUESING BROS. TRUCKING, INC., 2285 Daniels Street, Long Lake, MN 55356. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Haydite aggregate* from the plantsite of the Carter-Waters Corp. at or near New Market, MO, to the plantsite of Wells Concrete, Inc. at or near Wells, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Carter-Waters Corp., Manager of Haydite Sales, P.O. Box 19676, Kansas City MO 64141. Send protests to: Delores A. Poe, TA, ICC 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 140643 (Sub-2TA), filed March 8, 1979. Applicant: Howard N. Child, d.b.a. EIGHT BALL LINE TRUCKING, 2717 Goodrick Avenue, Richmond, CA 94804. Representative: H. Ronald Child (same address as above). *Contract carrier:*

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irregular routes: *Mineral wool*, from Chowchilla, CA to points in AZ, ID, MT, NM, OR, UT, WA, WY, NV and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Certain Teed Corporation, P.O. 860, Valley Forge, PA 19482. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 141382 (Sub-3TA), filed March 28, 1979. Applicant: DON'S MOVING & DELIVERY SYSTEM, INC., 2117 Beloit Ave., Janesville, WI 53545. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Polyethylene pellets*, in bulk, from Chicago, IL to the facilities of Triangle Pipe & Conduit at or near Footville, WI, restricted to traffic having prior movement by rail, for 180 days. Supporting shipper(s): H. Heller & Co., 925 Westchester Ave., White Plains, NY 10604. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 141652 (Sub-33TA), filed February 22, 1979. Applicant: ZIP TRUCKING, INC., P.O. Box 6126, Jackson, MS 39208. Representative: Paul M. Daniell, Suite 1200, 235 Peachtree St., Atlanta, GA 30303. *Fabrics and piece goods* from points in CT, MD, MA, NJ, NY, PA and RI to Tupelo, MS, for 180 days. Supporting shipper(s): Hancock Fabrics, Inc., P.O. Drawer 1627, Tupelo, MS 38801. Send protests to: Alan Tarrant, D/S, ICC, RM. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 141932 (Sub-11TA), filed March 6, 1979. Applicant: POLAR TRANSPORT INC., 176 King Street, P.O. Box 44, Hanover, MA 02339. Representative: A. C. Gardner (same address as applicant). *Plastic film, sheeting and articles, and corrugated boxes (except in bulk); and materials, equipment and supplies used in the manufacture and distribution of the above commodities (except commodities in bulk)*, between the facilities of Borden Chemical Co., Division of Borden, Inc., at or near Charlotte, NC; Cleveland, OH; Cockeysville, MD; Dallas, TX; Elizabeth, NJ; Elk Grove Village, IL; Gloucester City, NJ; Griffin, GA; Illiopolis, IL; Memphis, TN; Minneapolis, MN; North Andover, MA; Tampa, FL and Yonkers, NY on the one hand, and on the other, points in the United States in or east of ND, SD, NE, KS, OK and TX for 180 days. Restricted to the transportation of traffic originating at or destined to the named origin facilities. Supporting shipper(s): Borden Chemical Co., Division of Borden, Inc., Resinite Dept., North Andover, MA 01845. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 142803 (Sub-6TA), filed March 22, 1979. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: S. Michael Richards/Raymond A. Richards, P.O. Box 225, Webster, New York 14580. Contract carrier, irregular routes: *Such commodities as are dealt in by retail department stores and materials and supplies used in the operation of such stores*, from all points in the U.S. (except AK and HI, and MI) to the facilities of Meijer, Inc. in MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Meijer, Inc., 2727 Walker Road, NW, Grand Rapids, MI 49504. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 143163 (Sub-12TA), filed March 5, 1979. Applicant: RICHARDSON TRUCKING, INC., d.b.a. TRIARC TRANSPORT, 903 37th Avenue Court, Greeley, CO 80631. Representative: Wm. Fred Cantonwine, as above. *Contract carrier: irregular routes: Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk) from Scottsbluff, NE to Chicago, IL and all points in CA for 180 days. Restricted to: Traffic for George A. Hormel. Underlying ETA filed seeking 90 days authority. Supporting Shipper: George A. Hormel & Company, P.O. Box 800, Austin, MN 55912. Send protests to: D/S Roger L. Buchanan, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 144173 (Sub-4TA), filed March 5, 1979. Applicant: PETERSEN TRANSPORTATION, INC., Box 96, Ruskin, NE 68974. Representative: Lavern R. Holdeman, Peterson, Bowman, Swanson & Johanns, P.O. Box 81849, Lincoln, NE 68501. *Contract carrier:* Irregular routes: *Liquid fertilizer and anhydrous ammonia*, from the facilities of Boettcher Enterprises, Inc., at or near Concordia, KS; the facilities of Farmland Industries, Inc., at or near Lawrence, KS; the facilities of Maczuk Industries, Inc., at or near Atchison, KS; and the facilities of Mapco, Inc., at or near Conway, KS; to points in NE, under contract with W. W. Agri-Sales, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arlan D. Woltemath, W. W. Agri Sales, Inc., 4800 Main Street, Kansas City, MO 64112. Send protests to: Max Johnston, ICC, 285 Federal Bldg., 100 Centennial Mall North, Lincoln, NE 68508.

MC 144452 (Sub-9TA), filed March 21, 1979. Applicant: ARLEN LINDQUIST, d/b/a Arlen E. Lindquist Trucking, 3242 Old Highway 8, Minneapolis, MN 55413. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. *Tires and tubes* from Memphis, TN to points in NE, and from Little Rock, AR to points in CO, KS, NE and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fleetwood Tire West, Inc., Coordinator, Box 6556, Colorado Springs, CO 80934. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 144603 (Sub-TA), filed March 22, 1979. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Dr., P.O. Box 1597, Maryland Heights, MO 64043. Representative: R. C. Mitchell, 2564 Harley Dr., Maryland Heights, MO 64043. *Paper and paper products*, from points in AL, LA, ME, MN, MI, NY, NC, TX and WI, to points in AR, IL, IN, IA, KY and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shaughnessy-Kniep-Hawe Paper Co., 4316 Duncan Ave., St. Louis, MO 63110. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 144682 (Sub-8TA), filed March 21, 1979. Applicant: R. R. STANLEY, P.O. Box 95, Mesquite, TX 75149. Representative: E. Larry Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. *Bakery goods, NOI; prepared dough, not frozen; cakes, cookies, rolls, frozen; icing paste, in vehicles equipped with mechanical refrigeration*, between the plantsite of The Pillsbury Company at Denison, TX and the plantsite of The Pillsbury Company at Los Angeles, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Pillsbury Company, 608 Second Avenue South, Minneapolis, MN 55402. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 144913 (Sub-3TA), filed February 26, 1979. Applicant: COMPTON TRUCKING, INC., 5300 Kennedy Road, Forest Park, GA 30050. Representative:

Bruce E. Mitchell, 3390 Peachtree Road, Atlanta, GA 30326. *Contract carrier:* Irregular routes: Such commodities as are dealt in or used by retail discount department stores (except commodities in bulk, and except hanging garments) from the facilities of Zayre Corp. at or near Forest Park, GA to points in TN, NC, FL, under a contract or contracts with the Zayre Corp. of Framingham, MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zayre Corp., 5300 Kennedy Rd., Forest Park, GA. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 145042 (Sub-3TA), filed March 9, 1978. Applicant: ZEELAND FARM SERVICES, INC., 2468 84th Street, Zeeland, MI 49464. Representative: James R. Neal, 1200 Bank of Lansing Bldg., Lansing, MI 48933. *Soybean meal, in bulk*, from the facilities of Ralston Purina Company at or near Bloomington, IL to the facilities of Ralston Purina Company at or near Lansing, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, P.O. Box 517, Bloomington, IL 61701. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 145213 (Sub-2TA), filed March 2, 1979. Applicant: DEEP SOUTH TRUCKING, INC., Hwy. 11 N, P.O. Box 304, Purvis, MS 39475. Representative: Kent F. Hudson, 202 Main St., Purvis, MS 39475. *Contract carrier:* irregular routes: *Lumber, sawdust and wood chips* from the plant sites of Purvis Hardwood Lumber Co., Inc., and Purvis Plywood & Lumber Co., Inc., Purvis, MS, to Purvis Hardwood Lumber Co., Inc., and Purvis Plywood & Lumber Co., Inc., Slidell, LA; and to points in MS, AR, CA, and NM, for account of Purvis Hardwood Lumber Co., Inc. and Purvis Plywood & Lumber Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): Purvis Hardwood Lumber Co., Inc., Purvis Plywood & Lumber Co., Inc., P.O. Box 266, Purvis, MS 39475. Send protests to: Alan C. Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 145612 (Sub-1TA), filed March 21, 1979. Applicant: CLAYTON NUNN, P.O. Box 234, Tazewell, TN 37879. Representative: Richard L. Hollow, P.O Box 550, 2021 United American Plaza, Knoxville, TN 37901. *Animal feed and feed ingredients* from Blissfield, MI to points in GA and FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Consolidated Mills, Inc., 6761 Silberhorn Road, Box 6, Blissfield, MI. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 145673 (Sub-5TA), filed February 22, 1979. Applicant: ROAD RAIL SERVICES, INC., 860 Skokie Highway, Lake Bluff, IL 60044. Representative: James R. Madler, 120 West Madison Street, Chicago, IL 60602. *General commodities*, (except liquid commodities in bulk, and Classes A and B explosives), between the Chicago, IL commercial zone on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MO, OH, and WI. Restricted to shipments in containers or trailers having a prior or subsequent movement by rail or water, or moving in steamship containers, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): 5—Supporting shippers. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145743 (Sub-6TA), filed March 5, 1979. Applicant: T.F.S., INC., Box 128, R.R. 2, Grand Island, NE 68801. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *Animal feed and animal feed ingredients* (except in bulk), (1) from the facilities of Kal Kan Foods, Inc., at or near Los Angeles, CA, and points in its commercial zone to points in the states of FL, GA, MD, MA, NJ, and TN; and (2) from the facilities of Kal Kan Foods, Inc. at or near Terre Haute and Indianapolis, IN; and Columbus, OH, and points in their commercial zones respectively, to points in the states of FL, GA, LA, MD, MA, NJ, OH, TN, and TX (except OH from Columbus, OH), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kemper B. Campbell, Traffic Manager, Kal Kan Foods, Inc., 3386 East 44th Street, Vernon, CA 90058. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 145942 (Sub-2TA), filed March 5, 1979. Applicant: WILLIAM E. HILL, d.b.a., BILL HILL TRUCKING, Route No 18, East, Hamler, OH 43524. Representative: Michael Spurlock, Beery & Spurlock Co., L.P.A., 275 East State Street, Columbus, OH 43215. *Blood meal, bone meal, meat meal*, (1) between Columbus, Wauseon and Massillon, OH, on the one hand, and, on the other, points in Lansing, Battle Creek, and Chelsea, MI, and Fort Wayne, IN; (2) between Mishawaka, IN, on the one hand, and, on the other, points in Lansing, Battle Creek, and Chelsea, MI, Delta and Gilboa, OH; (3) between Coldwater and Detroit, MI, on the one hand, and, on the other, points in Delta and Gilboa, OH, and Fort Wayne, IN, for 180 days. Common carrier-irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Pillsbury Company, 608 Second Avenue, South Minneapolis, MN 55402. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Room 3238, Phila., PA 19106.

MC 146023 (Sub-1TA), filed March 20, 1979. Applicant: BRIAN MISHOU, P.O. Box 1, Unity, ME 04988. Representative: Same. Contract carrier: irregular routes: *Wooden fence and lumber* from Houlton and Unity, ME to Blue Anchor, NJ; Canton, CT; Latham, NY; Burlington and Brattleboro, VT; New London, CT; South Yarmouth, Foxboro and Weymouth, MA; Derry and Hooksett, NH and Cranston, RI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Milmac, Inc., Unity, ME 04988. Send protests to: ICC, 76 Pearl St., Rm. 303, Portland, ME 04111.

MC 146313 (Sub-2TA), filed February 20, 1979. Applicant: WILLIAM E. MULLENAX, d.b.a., MULLENAX REFRIGERATED TRANSPORT, Route 220 South, Petersburg, WV 26847. Representative: Paul F. Beery, Beery & Spurlock Co., 275 E. State St., Columbus, OH 43215. Contract carrier-irregular routes, (1) *Merchandise*, as is dealt in by wholesale, retail and chain grocery and food business houses, from Cincinnati, OH to Roanoke, VA and Charleston, WV; (2) *bakery products*, from Columbus, OH to Roanoke, VA and Charleston, WV; and (3) *glass bottles*, from Huntington, WV to Cincinnati, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kroger Co., 1014 Vine St., Cincinnati, OH 45201. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Bldg., Wheeling, WV 26003.

MC 146383 (Sub-1TA), filed February 16, 1979. Applicant: DONALD W. SUMMER, d.b.a., DON'S MOBILE HOME MOVER, 8107 Lindley Avenue, Reseda, California 91335. Representative: Same as above. *Mobile and modular homes*, between points in CA, AZ, NV and NM, for 180 days. Supporting shipper(s): Golden West Homes, 5740 Schaffer, Chino, CA 91710. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321

Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 146413 (Sub-1TA), filed, March 6, 1979. Applicant: BUDDY BOARDMAN TRUCKING, 17001 Arch St. Pike, Little Rock, AR 72206. Representative: Clifton Peter Rose, 1101 Connecticut Ave., N.W., Washington, D.C. 20036. *Potash fertilizer* in bulk in hoppers, from potash mines in and around Carlsbad, NM to points in Jefferson, Lincoln, Woodruff, White and Pulaski Counties, AR, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mitchell Bonds Trust, P.O. Box 500, Moscow, AR 71659. Fairfield Chemicals, Inc., Rt. 5. P.O. Box 480, Pine Bluff, AR 71601. Bruce Oakley, Inc., 3700 Lincoln Avenue, North Little Rock, AR 72012. Yorktown Gin Company, P.O. Box 308, Yorktown, AR 71678. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146412 (Sub-1TA), filed February 28, 1979. Applicant: KENTS TRANSPORT LTD., Box 369, Clearwater, B. C. VOE 1NO. Representative: Kent Messenger, Box 369, Clearwater, B. C. VOE 1NO. *Contract carrier:* irregular routes: *Lumber,* from Ports of Entry on the U.S.–Canada International Boundary line located at or near Blaine or Sumas, WA to Arlington, WA, and points in the Seattle, WA Commerical Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Laycar Lumber Ltd., 201–3540 W. 41st Ave., Vancouver, B.C. V6N 3E6. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 146462 (Sub-1TA), filed March 12, 1979. Applicant: JIM PECORILLA TRUCKING, INC., 3600 Shawnee Drive, Carson City, NV 89701. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. (1) *Paving materials, sand, rock, gravel, cinders, base material, hot mix, and cold mix,* between points in Washoe, Storey, Lyon, Carson City and Douglas Counties, NV on the one hand, and Modoc, Lassen, Plumas, Nevada, Sierra, Placer, El Dorado, Alpine, Tuolome, Stanislaus, Sacramento, San Francisco, Marin, Alameda, Contra Costa, San Mateo, Santa Clara and San Joaquin Counties, CA, on the other hand. (2) *Decorative rock,* from Sonoma, El Dorado, Amador, Santa Cruz, Placer, Santa Clara, Lake and Solano Counties, CA to Washoe County, NV. *Restrictions:* Service restricted to transportation in bulk, in dump trucks; service restricted against the transportation of petroleum products, in bulk, in tank vehicles, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are eleven shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: W. J. Huetig, DS, ICC, 203 Federal Bldg., Carson City, NV 89701.

MC 146482 (Sub-1TA), filed March 12, 1979. Applicant: Robert Morgan & Sons, 309 North West Street, LeRoy, IL 61752. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, Illinois 62701. Prefabricated buildings, for the account of Omni-Tech Systems, Inc. d.b.a., Permabilt of Illinois from LeRoy, IL to points in IN, IA, KY, MI, MO, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Omni-Tech Systems, Inc. d.b.a., Permabilt of Illinois, 410 North Hemlock, LeRoy, IL 61752. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, Illinois 62701.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 53]
[FR Doc. 79-13320 Filed 4-30-79; 8:45 am]
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Motor Carrier Temoporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in Federal Rigister publication no later than the 15th calendar day after the date the notice of the filing ot the application is published in the **Federal Figister.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D. C., and also in the ICC field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 77972 (Sub-32TA), filed March 12, 1979. Applicant: MERCHANTS TRUCK LINE, INC., P.O. Box 908, New Albany, MS 38652. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22828. (1) *Screw conveyor and elevator parts, idlers and pulleys and miscellaneous parts,* from the facilities of FMC Corporation at or near Tupelo, MS to points in IL, IN, IA and WI, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk) in the reverse direction, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): FMC Corporation, U.S. Highway 45 North, Tupelo, MS 38801. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 82492 (Sub-229TA), filed March 21, 1979. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Dewey R. Marselle, 2109 Olmstead Rd., P.O. Box 2853, Kalamazoo, MI 49003. *Foodstuffs* (except commodities in bulk) from Franksville, WI, to Kansas City, MO; Kansas City and Wichita, KS; Omaha and Lincoln, NE. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Frank Pure Food Co., P.O. Box 125, Franksville, WI 53126. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 99853 (Sub-13TA), filed March 20, 1979. Applicant: VICTORY FREIGHT LINES, INC., P.O. Box 2254, 700 39th St., North, Birmingham, AL 35201. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. *Cast iron pipe, valves, couplings, gaskets and fittings;* from the facilities of United States Pipe & Foundry Co. in Jefferson County, AL, to points in GA and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Pipe & Foundry Company, 3300 First Avenue North, Birmingham, AL 35202. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 103993 (Sub-951TA), filed February 9, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda and/or Paul D. Borghesani, (same address as applicant). *Trucks, in secondary movements, in truckaway service,* from the facilities of Sheller Globe Corporation at or near Kosciusko, MS to all points in the United States (except AK and HI), for 180 days. Supporting shipper: Ford Motor Company, 5401 Baumhart Road, Lorain, OH 44053. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 East Ohio Street, Room 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 103993 (Sub-952TA), filed February 16, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46514. Representative: James B. Buda and/or Paul D. Borghesani, (same address as applicant). *Plastic pipe, tubing, fittings and connections, and materials, supplies and accessories,* used in the manufacture and installation thereof, (except commodities in bulk, in tank vehicles), from the facilities of R & G Sloan Manufacturing Co., at or near Cleveland, OH, to points in the U.S. (except AK and HI), for 180 days. Supporting shipper: R & G Sloan Mfg. Co., 7606 N. Clayburn, Sun Valley, CA 91352. Send protests to: Beverly J. Williams, Transportation Assistant, I.C.C. 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 106373 (Sub-40TA), filed March 13, 1979. Applicant: THE SERVICE TRANSPORT COMPANY, 114½ East Main Street, P.O. Box 958, Ravenna, OH 44266. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Arlington, Virginia 22210. *Iron and steel articles,* from the facilities of Babcock and Wilcox Company at or near Beaver Falls and Ambridge, PA, to points in IL and IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Babcock and Wilcox Company, P.O. Box 401, Beaver Falls, PA 15010. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 107103 (Sub-11TA), filed March 15, 1979. Applicant: ROBINSON CARTAGE CO., 2712 Chicago Drive, S.W., Grand Rapids, MI 49509. Also: Roosevelt Square, Box 12. Representative: Ronald J. Mastej, 900 Guardian Building, Detroit, MI 48226. *Iron and Steel, Iron and steel articles and materials, equipment and supplies* used or useful in the manufacture and distribution of the aforenamed commodities, between the international boundary line between the United States and Canada at or near Sault Ste. Marie, MI and points in the United States (except AK, HI and MI), for 180 days. Supporting shipper(s): The Algoma Steel Corporation, Limited, Sault Ste. Marie, Ontario P6A 5P2. Send protests to: C. R. Flemming, D/S, I.C.C., Lansingm, MI 48933.

MC 107103 (Sub-12TA), filed March 19, 1979. Applicant: ROBINSON CARTAGE CO., 2712 Chicago Drive, S.W., Grand Rapids, MI 49509. Also: Roosevelt Square, Box 12. Representative: Ronald J. Mastej, 900 Guardian Building, Detroit, MI 48226. *Pipe casing, pipe and tubing* between the facilities of or utilized by Algoma Tube Cororation at or near Dafter, MI on the one hand, and, on the other, points in the United States. For 180 days. Supporting shipper(s): Algoma Tube Corporation Saulte Ste. Marie, Ontario, CA P6A 5P2. Send protest to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 107323 (Sub-54TA), filed March 26, 1979. Applicant: GILLILAND TRANSFER COMPANY, P.O. Box 146, 7180 West 48th Street, Fremont, MI 49412. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. *Glass containers and closures thereof,* from Mundelein, IL, to points in MI. For 180 days. Supporting shipper(s): Ball Corporation, 315 South High Street, Muncie, IN 47302. Send protests to: C. R. Fleming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 107403 (Sub-117TA), filed February 21, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same as applicant). *Chemicals,* in bulk, in tank vehicles, between Ludington, MI, on the one hand, and, on the other, points in the US (except AK & HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dow Chemical U.S.A., South Madison St., Ludington, MI 49431. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 107403 (Sub-118TA), filed February 23, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same as applicant). *Petroleum and petroleum products,* in bulk, in tank vehicles, from Princeton, LA to all points in the US (except AK & HI), for 180 days. Supporting shipper(s): Calumet Refining Co., Star Rt. Box 128, Princeton, LA 71067. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Phila., PA 19106.

MC 108382 (Sub-35TA), filed March 13, 1979. Applicant: SHORT FREIGHT LINES, INC., 459 South River Road, Bay City, MI 48706, P.O. Box 357. Representative: Rex Eames, 900 Guardian Building, Detroit, MI 48226. *Iron and steel, iron and steel articles and materials, equipment and supplies* used or useful in the manufacture and distribution of the aforenamed commodities between the international boundary line between the United States and Canada at or near Sault Ste. Marie, MI and points in MI, OH, PA, IN, IL and WI. Supporting shipper(s): The Algoma Steel Corporation, Limited, Sault Ste. Marie, Ontario, Canada, P6A 5P2. Send protests to: C. R. Flemming, D/S, I. C. C., 225 Federal Building, MI 48933.

MC 111302 (Sub-149TA), filed March 28, 1979. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 90408, 934 44th Ave. North, Knoxville, TN 37909. Representative: David A. Petersen (same address as applicant). *Liquid chemicals, in bulk, in tank vehicles,* from the facilities of Velsicol Chemical Company, in Chattanooga, TN to Beaumont, TX, Chicago, IL, Dallas, TX, St. Louis, MO, Terre Haute, IN and Cincinnati, OH, for 180 days. Supporting shipper(s): Velsicol Chemical Co., 341 East Ohio St., Chicago, IL 60611. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 112223 (Sub-119TA), filed March 20, 1979. Applicant: QUICKIE TRANSPORT COMPANY, 1700 New Brighton Boulevard N.E., Minneapolis, MN 55413. Representative: Earl Hacking (same address as applicant). *Bentonite clay, in bulk,* from Butte County, SD and Natrona, Big Horn, Crook, Weston, Washakie, Hot Springs Counties, WY to points in MN and the Upper Peninsula of MI, for 180 days. Suppporting shipper(s): American Colloid Co., Transportation Specialist, P.O. Box 228, Skokie, IL 60077. Oglebay Norton Company, Traffic

Manager, 1200 Hanna Building, Cleveland, OH 44115. Cleveland-Cliffs Iron Company, Manager, Traffic Department, 1460 Union Commerce Building, Cleveland, OH 44115. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 112713 (Sub-254TA), filed March 30, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records (same address as applicant). *Frozen Foods,* serving Las Vegas, NV as an off-route points in connection with carrier's otherwise authorized operations, for 180 days. Supporting shipper(s): Fred's Frozen Foods Inc., 803 E. Broadway, Anaheim, CA 92803. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 112713 (Sub-255TA), filed March 26, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, P.O. Box 7270, Shawnee Mission, KS 66207. Representative: Robert E. DeLand (same as applicant). *General Commodities,* except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities of unusual value and those requiring special equipment, serving the facilities of Ashland Chemical Co. (Norrick Plant) at or near Shamrock, TX as an off-route point in connection with carrier's otherwise authorized operations, for 100 days. Supporting shipper(s): Carbon Black Division, Ashland Chemical Company, P.O. Box 2219, Columbus, OH 43216. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 112713 (Sub-256TA), filed March 5, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Ave., Shawnee Mission, KS 66207. Representative: Robert E. DeLand (same as above). Common regular, *General commodities,* except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities of unusual value and those requiring special equipment; serving the facilities of J. M. Huber Corporation near Borger, TX as an off-route point in connection with carrier's otherwise authorized operations, for 180 days. Supporting shipper(s): J. M. Huber Corp., Edison, NJ. Send protests to: DS John V. Barry, 600 Fed. Bldg., 911 Walnut, Kansas City, MO 64106.

MC 113362 (Sub-347TA), filed March 27, 1979. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 E. Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O Box 429, Austin, MN 55912. *Household and commercial laundry and kitchen appliances and related repair parts,* from the facilities of Maytag Corp. located at or near Newton, IA to points in TX, AR, LA, MS, AL, OK, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Maytag Company, 403 West Fourth Street, N., Newton, IA 50208. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 116073 (Sub-374TA), filed March, 1, 1979. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1625 Main Avenue, P.O. Box 919, Moorhead, MN 56560. Representative: John C. Barrett (same address as applicant). Self-propelled motor vehicles, in secondary movements, in truckaway service, from the plantsites of Alpha Vehicles, Inc., located in Elkhart and LaPorte Counties, IN, to points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alpha Vehicles, Inc., 59140 C.R. 3 South, Elkhart, IN 46514. Send protests to: DS, ICC, Room 268 Fed. Bldg. and U. S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 115703 (Sub-14TA), filed March, 5, 1979. Applicant: KREITZ MOTOR EXPRESS, INC., P.O. Box 375, 220 Park Road North, Wyomissing, PA 19610. Representative: Robert D. Gunderman, 710 Statler Bldg., Buffalo, NY 14202. *General commodities, in International Standard Organization Containers requiring container chassis type equipment,* (1) between the piers and wharves in Baltimore, MD; Phila., PA; New York, NY; Norfolk, VA; and Savannah, GA, on the one hand, and, on the other, Cincinnati and Dayton, OH; Indianapolis, IN; and Louisville and Wilder, KY; and (2) between Cincinnati and Dayton, OH; Indianapolis, IN; and Louisville and Wilder, KY, on the one hand, and, on the other, pts in IN, KY and OH; restricted in paragraphs (1) and (2) above, to the transportation of traffic (1) having a prior or subsequent movement by water, and (2) originating at or destined to the facilities of The H.J. Hosea & Sons Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The H.J. Hosea and Sons Company, I–275 and Licking Pike, Rt. 9, Wilder, KY. Send protests to: Carol Rosen, TA, ICC, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 116132 (Sub-5TA), filed March, 22, 1979. Applicant: NATIONAL TANK DELIVERY, INC., 85 East Gay Street, Columbus, Ohio 43215. Representative: Earl N. Merwin, 85 East Gay Street, Columbus, Ohio 43215. Contract-irregular. *Such commodities as are dealt in, or used by, agricultural equipment, industrial equipment and motor vehicle manufacturers of dealers* (except commodities in bulk) between the facilities of, or used by, International Harvester Company in the States of IN and OH, on the one hand, and on the other, points in IN, KY, MI, and OH, for 180 days. Supporting shipper(s): International Harvester Company, 401 N. Michigan Avenue, Chicago, IL 60611. Send protests to: ICC, WM J. Green Jr. Federal Bldg., 600 Arch Street, Rm 3238, Philadelphia, PA 19106.

MC 119632 (Sub-86TA), filed March 13, 1979. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Wayne C. Pence, same address as Applicant. *Glass containers, closures, and fibreboard boxes,* from Gas City, IN to points in IL, KY, MI, OH, St. Louis County and St. Louis, MO, for 180 days. Common carrier-irregular routes. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Room 3238, Phila., PA 19106

MC 127042 (Sub-254TA), filed March 26, 1979. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98-Leeds Station, 3232 Highway 75 No., Sioux City, IA 51108. Representative: Robert G. Tessar, same address as applicant. *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses (except frozen commodities and commodities in bulk),* from the facilities of The Clorox Company located at Kansas City, MO, to points in Adams and Arapahoe Counties, CO and Denver, CO and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G. W. Junginger, The Clorox Company, 1221 Broadway, Oakland, CA 94612. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102

MC 125433 (Sub-223TA), filed February 16, 1979. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, 1945 South Redwood Road, Salt Lake City, UT 84104. *Charcoal, charcoal briquets, hickory chips charcoal lighter fluid, fireplace logs, compressed sawdust, and related barbeque supplies* from the facilities of Husky Industries, at or near Dickinson, ND to points in CA, WA, CO, ID, OR, MT, NE, NM and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Industries, Inc., 82 Perimeter Center East, Atlanta, GA 30346. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Building, Salt Lake City, UT 84138.

MC 125433 (Sub-224TA), filed February 16, 1979. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, 1945 South Redwood Road, Salt Lake City, UT 84104. *Foundry materials and supplies* (except commodities in bulk or dump vehicles) from points in OH, PA, WV, IN, MI, IL, WI, IA, MO, KS, WY and SD to points in KS, OK, TX, NM, AZ, UT and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Waterton Sand & Clay, Inc., 2810 South Raritan, Englewood, CO 80110. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 127283 (Sub-18TA), filed March 1, 1979. Applicant: SILICA SAND TRANSPORT, INC., BOX 208, Routes 47 & 71, Yorkville, IL 60560. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. Contract-irregular, *Sand* in bulk from LaSalle County, IL and Berrien County, MI to AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV and WI, for 180 days. Supporting shipper(s): Manley Brothers, P.O. Box 538, Chesterton, IN 46304. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129032 (Sub-80TA), filed March 30, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 So. 49th West Avenue, P.O. Box 9667, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). *Cheese and cheese foods* (except commodities in bulk, in tank vehicles), from the facilities of Borden's Inc., at or near Van Wert, OH, to CA, restricted to traffic originating at the above named origin, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Borden Foods, Division of Borden, Inc., 180 E. Broad Street, Columbus, OH 43215. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 134472 (Sub-12TA), filed March 13, 1979. Applicant: KICHARD KUSTERMANN d.b.a. KUSTERMANN TRUCK SERVICE, RR #2, Highland, IL 62249. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Fruit drink concentrates, ice cream flavors and fruits, sherbert fruit concentrates, yogurt fruits, chocolate products and other drink and flavor concentrates* for the account of Consolidated Flavor Corporation from Bridgeton, MO, to points in IA, KS, NB, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Consolidated Flavor Corporation, 284 Boulder Industrial Drive, Bridgeton, MO 63044. Send protests to: Charles D. Little, DS, ICC, 414 Leland Office Bldg., 527 East Capitol Ave., Springfield, IL 62701.

MC 135283 (Sub-47TA), filed March 14, 1979. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, 432 S. Stuhr Rd., Grand Island, NE 68801. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk), from the facilities utilized by John Morrell & Co. at or near Estherville, IA, to points in IL and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dwight L. Helm, Manager of Company Trucking, John Morrell & Co., 208 South La Salle Street, Chicago, IL 60604. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 138882 (Sub-233TA), filed March 7, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36801. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *(1) Bleach assistance compound in aluminum tote bins; (2) Empty aluminum tote bins.* (1) From South Charleston, WV and Luling, LA to Garland, TX (2) From Garland, TX to South Charleston, WV and Luling, LA, for 180 days. Supporting shipper(s): Economics Laboratory, Inc., Osborn Building, St. Paul, MN 55102. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 139482 (Sub-113TA), filed March 6, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Paper and paper products* from Neenah, WI to points in IL, IN, IA, MI, MN, MO and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kimberly-Clark Corporation, 1414 West Larsen Road, Neenah, WI 54956. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 139482 (Sub-114TA), filed March 27, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Paper and paper products* from the facilities of Union Camp Corporation at or near Tifton and Savannah, GA to points in IA, MO, MN, WI, IL, IN, MI, OH, KS, NE, ND and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Camp Corporation, Manager, Distribution Systems, 1600 Valley Road, Wayne, NJ 07470. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 140553 (Sub-6TA), filed March 12, 1979. Applicant: ROGERS TRUCK LINE, INC., 801 Erie Street, Logansport, IN 46957. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Meat, and packinghouse products,* except hides and commodities in bulk, from the facilities of Wilson Foods Corp. at Logansport, IN, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT and VA, for 180 days. Supporting shipper(s): Wilson Foods Corp., 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Beverly J. Williams, Transportation Assistant, I.C.C. 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 141443 (Sub-10TA), filed March 27, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton Street, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Glass containers and closures therefor,* from Okmulgee, OK, to points in AZ, CA, CO, KS, OR and WA, for 180 days. Supporting shipper(s): Ball Corporation, 345 South High Street, Muncie, IN 47302. Send protests to: Connie Stanley, Transportation

Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 142672 (Sub-56TA), filed March 7, 1979. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. (1) *Paint, varnish and paint removers,* and, (2) *Materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above (except in bulk), from the facilities of Red Devil Paints and Chemicals Company, at or near Mt. Vernon, NY, to points in AR, CA, CO, IA, ID, IL, IN, KS, KY, LA, MI, MN, MT, ND, NE, NM, OH, OK, OR, SD, TX, UT, WA, WI and WY, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Red Devil Paints & Chemicals, 30 Northwest Street, Mt. Veronon, NY 10550. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142672 (Sub-57TA), filed March 7, 1979. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. (1) *Meats, meat products, meat by-products and articles* distributed by meat packinghouses as described in sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) and, (2) *foodstuffs* when moving in mixed loads with the commodities in (1) above, from the facilities used by Oscar Mayer & Company in the state of IA and Beardstown, IL, to points in OH, KY, TN and all points on and south of U.S. Highway 2 in the state of Michigan, for 180 days, as a common carrier over irregular routes. Supporting shipper(s): Oscar Mayer & Co., Inc., P.O. Box 7188, Madison, WI 53707. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142672 (Sub-58TA), filed March 6, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. DRAWER F, Mulberry, Ar 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. Malt beverages and beer, from Fort Worth, TX to Fort Smith, AR, restricted to the transportation of traffic destined to the facilities of Burford Distributing Company, Inc. at or near Fort Smith, AR, for 180 days, as a common carrier over irregular routes. Supporting shipper(s): Burford Distributing, Inc., 711 South 10th Street, Fort Smith, AR 72902. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142672 (Sub-59TA), filed March 8, 1979. Applicant: DAVID DENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, Ar 72756. (1) *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61, M.C.C. 209 and 766 (except hides and commodities in bulk) and, (2) *foodstuffs* when moving in mixed loads with commodities named in (1) above, from the facilities used by Oscar Mayer & Company, in the state of IA and Beardstown, IL, to the facilities used by Oscar Mayer & Company in the state of TX, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Oscar Mayer & Co., Inc., P.O. Box 7188, Madison, WI 53707. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142672 (Sub-60TA), filed March 27, 1979. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. (1) *Such merchandise* as is dealt in by wholesale, retail, chain grocery and food business houses, and (2) *materials, ingredients* and *supplies* used in the manufacture and distribution and sale of the commodities named in (1) above, (1) between the facilities of Ralston Purina Company at or near San Diego, CA and Flagstaff, AZ on the one hand, and on the other, points in and west of PA, OH, KY, TN, GA and FL, (2) between the facilities of Ralston Purina Company at or near Sparks, NV on the one hand, and on the other, points in CA, OR and WA, (3) between the facilities of Ralston Purina Company at or near Oklahoma City, OK on the one hand, and on the other, points in IA, MI, NY, OH, and PA, (4) between the facilities of Ralston Purina Company at or near Clinton and Davenport, IA on the one hand, and on the other, points in IL, IN, MI and OH, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201

MC 143032 (Sub-12TA), filed March 26, 1979. Applicant: THOMAS J. WALCZYNSKI, d.b.a. WALCO TRANSPORT, 3112 Truck Center Drive, Duluth, MN 55806. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. *Crushed stone (roofing granules), in bulk,* from the facilities of GAF Corporation at or near Pembine, WI to Chicago, IL and its Commercial Zone, Joliet, IL Franklin, OH and Minneapolis, MN and its Commerical Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): GAF Corporation, Supervisor of Traffic Services, 1361 Alps Road, Wayne, NJ 07470. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401

MC 143343 (Sub-1TA), filed March 20, 1979. Applicant: BALLENTINE TRANSPORT, INC., P.O. Box 463, Scottsbluff, NE 69361. Representative: Erma Ballentine, 2740 No. 10th St., Scottsbluff, NE 69341. *Contract carrier:* irregular routes: *Meat, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the Report in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk),* from Brush, CO, to Oakland, San Francisco, Stockton, Lodi, Fresno, Bakersfield and Los Angeles, CA; and Seattle and Tacoma, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Don King, Sigman Meat Company, P.O. Box 364, Brush, CO 80723. Send protests to: Max Johnston, ICC, 285 Federal Bldg., 100 Centennial Mall North, Lincoln, NE 68508

MC 143903 (Sub-2TA), filed March 13, 1979. Applicant: O'NEILL BROS. TRANSFER & STORAGE CO., 706 S.W. Commercial St., Peoria, IL 61602. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. *Rough iron castings* from Peoria, IL to Burlington, Davenport, and Bettendorf, IA; Rock Island and Milan, IL (restricted to traffic having a prior movement by rail), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hitachi Metal America Ltd, 1 Red Oak Lane, White Plains, NY 10604. Send protests to: Charles D. Little, DS, ICC, 414 Leland Office Bldg., 527 East Capitol Ave., Springfield, IL 62701.

MC 144122 (Sub-41TA), filed March 8, 1979. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. *Petroleum products,* (except in bulk) from the facilities of Texaco, Inc. in Jefferson County, TX to points in IL, IN, WI, OH, MI, and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Texaco, Inc., 1111 Rusk, Houston, TX 77052. Send protests to: Joel Morrows, D/S, ICC, 9 Clinton St., Room 618, Newark, NJ 07102.

MC 144122 (Sub-42TA), filed March 28, 1979. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. Common, irregular. Printed materials, books, magazines, periodicals, records, advertising media, and educational film strips, (1) between Pleasanton, CA., Jefferson City and St. Louis, MO and New York, NY and points in their respective commercial zones, and (2) from Chicago, IL, Versailles, KY, Cambridge, MD, Boston, Lowell and Plympton, MA, St. Cloud, MN, Jefferson City and St. Louis, MO, Concord, NH, Buffalo, NY, Canton and Dayton, OH, Dresden, TN, Brattleboro, VT, North Haven, New Haven, Hartford and Trumble, CT and points in their respective commercial zones, points in NJ, and those in Nassau and Suffolk Counties, NY to Pleasanton, CA, Jefferson City and St. Louis, MO and New York, NY and points in their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Scholastic Magazines, Inc., 50 West 44th St., New York, NY. Send protests to: Joel Morrows, D/S, ICC, 9 Clinton, St., Newark, NJ 07102.

MC 144122 (Sub-43TA), filed March 27, 1979. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Common carrier, irregular routes for 180 days. Such commodities as are dealt in or used by automotive supply and household appliance stores (1) from St. Louis, MO, Belleville, Herrin, and Olney, IL, and the facilities of Western Auto Supply Company, Inc., at Kansas City, KS, to the facilities of Western Auto Supply Company, Inc., at Owings Mills, MD, and (2) from the facilities of Western Auto Supply Company, Inc., at Kansas City, KS, to the facilities of Western Auto Supply Company, Inc., at O'Fallon, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Auto Supply Company, Inc., 2107 Grand Avenue, Kansas City, MO 64108. Send protests to Joel Morrows, DS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 144822 (Sub-50TA), filed March 27, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip G. Glenn (same as applicant); Theodore Polydoroff, 1307 Dolley Madison Blvd., Suite 301, McLean, VA 22101. *Floor tile and related articles* between Chicago, IL, on the one hand, and on the other, South Plainfield and Brooklyn, NY, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kentile Floors, Inc., 58 Second Ave., Brooklyn, NY 11215. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144822 (Sub-51TA), filed March 27, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip G. Glenn (same as applicant); Theodore Polydoroff, 1307 Dolley Madison Blvd., McLean, Va 22101. *Candy and confectioneries* in vehicles equipped with mechanical refrigeration (except in bulk), from the warehouses and plantsite of E. J. Brach and Sons in the Chicago Commercial zone to Reno, NV, and from E. J. Brach and Sons facilities in Reno, NV to points in the states of CA, AZ, OR and WA, restricted to traffic orginating at the above named origins, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. J. Brach & Sons, 4656 W. Kinzie St., Chicago, IL 60644. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144822 (Sub-52TA), filed March 27, 1979, Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., Suite 301, McLean, VA 22101; Phillip G. Glenn (same as applicant). Such commodities as are dealt in or used by wholesale or retail discount stores (except commodities in bulk), from Ohio to points in AR, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144822 (Sub-53TA), filed March 28, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip G. Glenn (same as applicant), Theodore Polydoroff, 1307 Dolley Madison Blvd., McLean, VA 22101. *Frozen baked meat* from points in Iowa to New Orleans, LA for 180 days as a common carrier over irregular routes. An under lying ETA seeks 90 days authority. Supporting shipper(s): Boston Sausage & Provision, Inc., 6 Foodmart Road, Boston, MA 02118. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144822 (Sub-54TA), filed March 28, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip G. Glenn (same as applicant), Theodore Polydoroff, 1307 Dolley Madison Blvd., McLean, VA 22101. *Frozen and fresh baked meat* from NE, IA, MO, MN, WI, IL and KS to FL, GA, LA and SC, for 180 days as a common carrier over irregular routes. An underlying ETA seeks authority. Supporting shipper(s): AJC International, Inc., 6065 Roswell Rd., Atlanta, GA 30328. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-59TA), filed February 28, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Inedible meats, meat products and meat by-products,* from the facilities of Consolidated Pet Foods, Inc. at or near Amarillo, TX, to the facilities of Kal-Kan Foods, Inc., at or near Vernon, CA, for 180 days, as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kal-Kan Foods, Inc., 3386 E. 44th Street, Vernon, CA 90058. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145332 (Sub-2TA), filed March 26, 1979. Applicant: STEPHEN HROBUCHAK, d.b.a., Trans-Continental Refrigerated Lines, P.O. Box 1456, Scranton, PA 18501. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Chemicals, acids and solvents,* in containers, and *materials, supplies and equipment* used in the manufacture and distribution thereof, between Phillipsburg, Pennsauken and Delair, NJ, and Belfast, PA, on the one hand, and, on the other, CA and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. T. Baker Chemical Co., Phillipsburg, NJ 08865. Send protests to: ICC, Wm J.

Green, Jr. Federal Bldg., 600 Arch St., Philadelphia, PA 19106.

MC 145513 (Sub-4TA), filed March 26, 1979 Applicant: SERVICE TRANSPORTATION, INC., 125 North 6th Street, Payette, ID 83701. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701 *Cider and vinegar, in bulk,* from Fruitland, ID to Denver, CO and points in WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keller-Lorenz, d.b.a. Payette Vinegar and Cider Co., P.O. Box 528, Fruitland, ID 83619. Send protests to: Barney L. Hardin, D/S, ICC, Suite 10, 1471 Shoreline Dr. Boise, ID 84706

MC 145593 (Sub-2TA), filed February 28, 1979. Applicant: HAROLD SHULL TRUCKING, INC., P.O. Box 1533, Hickory, NC 28601. Representative Charles Ephraim, Suite 600, 1250 Connecticut Ave., NW., Washington, DC 20036. *Furniture and furniture parts* form points in McDowell, Guilford and Davie Counties, NC to points in MI and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Drexel Heritage Furnishings, Inc., Drexel, NC 28619. Send protests to: Terrel Price, District Supervisor, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 145863 (Sub-1TA), filed February 8, 1979. Applicant: Louis D. Weiland and Ronald K. Towns, d.b.a. T & W Trucking, 1815 Twelfth Avenue North, Escanaba, MI 49829. Representative: James Robert Evans, 145 West Wisconsin Avenue, Neenah, WI 54956. Contract carrier: irregular routes: *Frozen foods and foodstuffs,* from Cornell, MI to Chicago, IL and its commerical zone for the account of Superior Frozen Carrots and Vegetables, Cornell, MI and (2) *Frozen foods and foodstuffs and equipment and supplies* used in the manufacture and distribution of frozen foods and foodstuffs, from points in WI to Marquette, MI for the account of Jilbert Dairy, Inc., Marquette, MI. Supporting shipper(s): Superior Frozen Carrots and Vegetables, Box 162 A, Cornell, MI. Jilbert Dairy, Inc., 1920 Enterprise Street, Marquette, MI. Send protests to: Clarence Flemming, District Supervisor, Interstate Commerce Commission, 225 Federal Building, 325 West Allegan Street, Lansing, MI 48933.

MC 146332 (Sub-1TA), filed February 21, 1979. Applicant: R. YAMADA ENTERPRISES, LTD., 6838 135th St., Surrey, B. C. V3W 4W6. Representative: Ms. M. E. Gillespie, 6838 135th St., Surrey, B. C. Canada V3W 4W6. *Contract carrier:* irregular routes: Insulation, ceiling and roofing materials, door casings, and wallboard, from Ports of Entry on the U.S.-Canada International Boundary line located at or near Blaine or Sumas, WA to points in WA, OR and CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): F. Drexel Co. Ltd., 4084 McConnell Court, Burnaby, B. C. V5A 3L8. B. C. Laminates Ltd., 19580 Telegraph Trail, Route No. 4, Surrey, B. C., Canada V3T 4W2. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 146352 (Sub-1TA), filed February 26, 1979. Applicant: AVERY TRUCKING CO., INC. P.O. Box 426, 206 Moores Drive, Dahlonega, GA 30533. Representative: Thomas D. Rainey (same as applicant). (1) Molded pulp finished products and materials and supplies (except in bulk) used in the manufacture, packaging and distribution of molded pulp products between the plantsites of Packaging Corporation of America located at or near Macon, GA and Griffith, IN and points in the US, except AK and HI and (2) Molded pulp paper products, plastic bags, styrofoam egg cartons, meat trays, corrugated boxes, gummed tape, poultry equipment, supplies and chemicals and peat moss pots between all points in the US, except AK and HI, restricted to traffic transported for the account of Dahlonega Equipment and Supply Co., Inc., Murrayville, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Dahlonega Equipment and Supply Co., Inc., Highway 115, Murrayville, GA 30564. Packaging Corporation of America, 7670 Airport Dr., Macon, GA 31201. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 146422 (Sub-1TA), filed March 15, 1979. Applicant: DELBERT F. JOHNSTON, An individual, 2601 Gore Road, Pueblo, CO 81006. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Contract—irregular route, *Building material,* from points in MT, ID, WA, OR, Acme, TX, and Wichita, KS, to facilities of Contractor Building Supply, Inc., Pueblo, CO. RESTRICTED to transportation to be performed under continuing contract or contracts with Contractor Building Supply, Inc., for 180 days. an underlying ETA seeks 90 days authority. Supporting shipper(s): Contractor Building Supply, Inc., 451 Santa Fe Drive, Pueblo, CO 81006. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 146503 (Sub-1TA), filed March 7, 1979. Applicant: FOUR POINT RECOVERY CORPORATION, 10100 S. W. Walnut, Tigard, OR 97223. Representative: Philip G. Skofstad, 1300 N.E. Linden, Gresham, OR 97030. (1) *Green veneer* from Brookings and Roseburg, OR to Arcata, CA; (2) *Dry veneer* from Arcata, CA to Roseburg, Grants Pass, Brookings, and Gold Beach, OR; (3) *Plywood* from Arcata, CA to Reno, NV; Denver, CO; and Albuquerque, NM; and from Brookings and Gold Beach, OR to Arcata, CA for 180 days. an underlying ETA seeks 90 days authority. Supporting shipper(s): Four Point Recovery Corporation, 10100 S.W. Walnut, Tigard, OR 97223. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 146522 (Sub-1TA), filed March 14, 1979. Applicant: Adrian Carriers, Inc., P.O. Box 3532, Davenport, IA 52808. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50319. Contract authority, *Such commodities as are dealt in or used by agricultural equipment, industrial equipment, and lawn and leisure product manufacturers and dealers (except commodities in bulk),* between the facilities of the Parts Distribution Warehouse of Deere & Company at Milan, IL on the one hand, and on the other, Memphis, TN; Stockton, CA; Syracuse, NY; points in AR, MD, MN, NJ, ND, PA, SD, VA, WV and points in MO on and south of I–44 under continuing contract with Deere & Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Deere Parts Distribution Warehouse, A Division of Deere & Company, Milan, IL 61264. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146523 (Sub-1 TA), filed March 27, 1979. Applicant: R. A. HOWARD BUS SERVICE LIMITED, Box 268, Athens, Ontario, Canada KOE 1B0. Representative: Robert D. Gunderman, 710 Statler Bldg., Buffalo, N.Y. 14202. *Passengers and their baggage, in special and charter operations, in sightseeing and pleasure tours,* from Gananoque, Ontario, Canada, at ports of entry on the international boundary line between the United States and Canada at Thousand Islands, NY (Ivy Lea Bridge), to Daytona FL and Washington, D.C. and return, for 180 days. Underlying ETA for 30+2 granted under R with effective date of March 16, 1979. Supporting Shipper(s): Leeda Travel, Evelyn Rousseau, Owner, 43 King Street E, Gananoque, Ontario, Canada. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 South Clinton St., Rm. 1259, Syracuse, NY 13260.

MC 146593 (Sub-1 TA), filed March 5, 1979. Applicant: SOUTHWEST SALES, INC., P.O. Box 1686, Lawton, OK 73501. Representative: Rufus H. Lawson, 106 Bixler Building, 2400 N.W. 23rd Street, Oklahoma City, OK 73107. *Contract carrier—irregular routes: Coors beer and malt beverages,* from facilities of Golden Distributing Co., Wichita Falls, TX to Fort Sill Beverage Store, located on Fort Sill Military Reservation in Comanche County, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Golden Distributing Co., 5353 Kell, Wichita Falls, TX. Send protests to: Martha A. Powell, TA, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 146632 (Sub-1 TA), filed March 15, 1979. Applicant: BETS TRUCK LEASING, INC., P.O. Box 1050, Bennington, VT 05201. Representative: Robert George Erb (same address as applicant). *Contract carrier—irregular routes: Wrapping paper, bows, ribbons, tags, cards and decorative boxes, and materials used in the production thereof,* between Bennington, VT and Rotterdam, NY, on the one hand, and on the other, points in the United States east of LA, AR, MO, IA and MN, under a continuing contract, or contracts, with Ben-Mont Corporation, for 180 days. Supporting Shipper(s): Ben-Mont Corporation, Ben Mont Avenue, Bennington, VT 05201. Send protests to: ICC, PO Box 548, 87 State Street, Montpelier, VT 05602.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 53]
[FR Doc. 79–13320 Filed 4–30–79; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Applications

Correction

In FR Doc. 79–3884 appearing on page 7286 in the issue of Tuesday, February 6, 1979, in the first column of page 7287, change "MC 1687 (Sub-19F)" to read "MC 16872 (Sub-19F)".

[Permanent authority Decisions Volume No. 6]
BILLING CODE 1505-01-M

Permanent Authority Applications; Decision—Notice

Correction

In FR Doc. 79–2972 appearing on page 5973 in the issue of Tuesday, January 30, 1979, on page 5977, under MC 107012 (Sub-289F), change "Edison, NH" to read "Edison, NJ".

[Permanent Authority Decisions Volume No. 2]
BILLING CODE 1505-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 85
Tuesday, May 1, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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[M-215, Apr. 26, 1979]

CIVIL AERONAUTICS BOARD.

Closure and short notice of board meeting.

TIME AND DATE: 3:30 p.m., April 25, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. International Pricing Strategy.
2. Exchange of open Blind Sector Rights with France (memo 8723, BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: Matters that arose on March 25, 1979 in negotiations must be dealt with before Friday so a Board Meeting is required. Accordingly, the following Members have voted that agency business requires that the Board meet on these items on less than seven days' notice and that no earlier announcement of this meeting was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Public disclosure, particularly to foreign governments of opinions evaluations, and strategies in the recommended action plan could seriously compromise the ability to achieve the regulatory and negotiating objectives sought. Accordingly, the staff believes that public observation of this meeting woud involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9) and 14 CFR section 310.5(9)(B) and that the meeting should be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

PERSONS EXPECTED TO ATTEND:

Board Members: Chairman, Marvin S. Cohen, Member, Richard J. O'Melia, Member, Elizabeth E. Bailey, and Member, Gloria Schaffer.

Assistant to Board Members: Mr. David M. Kirstein, Mr. Richard Klem, and Mr. Stephen H. Lachter.

Acting Managing Director: Mr. Sanford Rederer.

Bureau of International Affairs: Mr. Donald A. Farmer, Mr. Donald L. Litton, Mr. Anthony M. Largay, and Mr. David A. Levitt.

Bureau of Pricing and Domestic Aviation: Mr. Michael E. Levine, Mr. John Kiser, Mr. Douglas Leister, and Ms. Barbara A. Clark.

Bureau of Consumer Protection: Mr. Reuben Robertson.

Office of Economic Analysis: Mr. Robert H. Frank.

Office of the Secretary: Mrs. Phyllis T. Kaylor, Ms. Linda Senese, and Ms. Louise Patrick.

Office of the General Counsel: Mr. Philip J. Bakes, Jr. and Mr. Peter B. Schwarzkopf.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting may be closed to public observation.

Philip Bakes,
General Counsel.
[S-847-79 Filed 4-27-79; 3:40 pm]
BILLING CODE 6320-01-M

2

[M-214, Amdt. 2; Apr. 25, 1979]

CIVIL AERONAUTICS BOARD.

Addition of items to the April 26, 1979, meeting agenda.

TIME AND DATE: 9 a.m., April 26, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1b. Dockets 33112 and 33283, Motions of Air Florida and Pan American World Airways (Memo 8114–N, OGC)
8a. Docket 31570–Southeast Alaska Service Investigation, Opinion and Order (OGC)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202)673–5068.

SUPPLEMENTARY INFORMATION: Item 1b concerns the applications of Texas International Airlines and Pan American Airways for control of National Air Lines. They require answers as far in advance of the briefing date of that proceeding as is possible. Briefs to the Board are due on May 4. Both the motion of Pan American Airways and the petition of Air Florida were not received until April 16, and no sooner action was possible. In order to meet the target date, Item 8a is being added to the April 26, 1979 agenda. Accordingly, the following Members have voted that agency business requires that Items 1b and 8a be added to the April 26, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-848-79 Filed 4-27-79; 3:40 pm]
BILLING CODE 6320-01-M

3

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[M-214, Amdt. 3; Apr. 26, 1979]

CIVIL AERONAUTICS BOARD.

Addition, short notice and closure of meeting to the April 26, agenda

TIME AND DATE: 12:45 p.m., April 26, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Transatlantic Fuel Surcharge proposed by Pam Am, TWA, and IATA (BPDA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: There have been numerous questions raised on the Board's policy and the position that will be taken on this matter so therefore a Board Meeting is required. Accordingly, the following Members have voted that agency business requires that the Board meet on less than seven days notice and that no earlier announcement of this meeting was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Public disclosure, particularly to foreign governments, of opinions, evaluations, and strategies discussed could seriously compromise the ability of the U.S. Government to achieve understandings in future rate negotiations which would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B);

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

PERSONS EXPECTED TO ATTEND:

Board Members: Chairman, Marvin S. Cohen Member, Richard J. O'Melia Member, Elizabeth E. Bailey, and Member, Gloria Schaffer

Assistant to Board Members: Mr. David M. Kirstein, Mr. James Deegan, Mr. Stephen H. Lachter, and Mr. Richard Klem.

Acting Managing Director: Mr. Sanford Rederer.

Bureau of International Affairs: Mr. Donald A. Farmer, Mr. David A. Levitt, and Mr. Anthony M. Largay.

Bureau of Pricing and Domestic Aviation: Mr. Michael E. Levine, Ms. Barbara A. Clark, Mr. Douglas Leister, Mr. Willard L. Demory, Mr. John H. Kiser, and Mr. Herbert Aswall.

Bureau of Consumer Protection: Mr. Reuben Robertson.

Office of the General Counsel: Mr. Philip J. Bakes, Jr., Mr. Peter B. Schwarzkopf, Mr. Michael Schopf, and Mr. Mark Kahan.

Office of Economic Analysis: Mr. Robert H. Frank and Mr. Larry Manheim.

Office of the Secretary: Mrs. Phyllis T. Kaylor, Ms. Linda Senese, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5 (9)(B) and that the meeting may be closed to public observation.

Philip Bakes,
General Counsel.
[S-849-79 4-27-79; 3:40 pm]
BILLING CODE 6320-01-M

4

[M–216; Apr. 26, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., May 3, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Dockets 34875 and 35010; Applications of TIA and World for exemptions to perform U.S.-Ireland scheduled service. (BIA, OGC, BPDA, BLJ)
3. Docket 35083, Application of Deutsche Lufthansa Aktiengesellschaft for 402 exemption. (BIA, OGC, BPDA, BLJ)
4. H.R. 2465—Omnibus Right to Privacy Act of 1979. (Memo 8576–A, OGC)
5. S. 333—Omnibus Antiterrorism Act of 1979. (Memo 8747, OGC)
6. H.R. 2364—Regulatory Reform Act of 1979. (OGC)
7. Docket 34679, Amendment of Part 302 to allow for additional notice to be sent to the Alaskan field office. (Memo 8745, OGC)
8. Docket 34492, Amendment of Part 385 *Delegation and Review of Action Under Delegation; Nonhearing Matter.* (OGC, OEA)
9. Amendment of Part 252 of the Board's Economic Regulations concerning filing of no-smoking manuals. (Memo 8589–C, OGC, BCP)
10. Amendment of Part 385 of the Board's Organization Regulations, *Delegation and Review of Action Under Delegation; Nonhearing Matters,* to expand the authority delegated to the administrative law judges. (Memo 8746, OGC, BLJ)
11. Docket 33886, Part 223 of the Board's Economic Regulation—Proposed rule amending Part 223 to allow unrestricted free or reduced-rate transportation for travel agents. (Memo 8737, OGC, BPDA, OEA)
12. Docket 30170, *West Coast-Alaska Investigation*—Draft order which: (1) advances the effective date of the amended certificates issued by the Board's final decision in Order 79–4–36, (2) disposes of minor technical issues, and (3) denies alternative motions for exemptions to institute early service. (Memo 8567–E, OGC)
13. Docket 29789, *Houston/New Orleans-Yucatan Route Proceeding.* (Memo 6382–F, OGC)
14. Docket 30699, *Oakland Service Case* (Fitness Phase). (OGC)
15. Docket 32162, *Dallas/Fort Worth-Tucson Investigation*—Opinion and Order. (OGC)
16. Docket 34650, Proposed rules establishing guidelines and procedures for essential air service determinations under the Small Community Air Service Program. (OGC)
17. Docket 34833, Airwest's notice of intent to suspend service at North Bend-Coos Bay, Oregon. (BPDA, OCCR)
18. Docket 35194, Frontier's notice of intent to suspend all services at Glasgow, Glendive, Havre, Lewistown, Miles City, Sidney and Wolf Point, Montana, and Williston, North Dakota. (BPDA, OCCR)
19. Docket 34438, Application of Air Borealis, an uncertificated nonoperating carrier, for an exemption from section 401 of the Act to provide nonstop scheduled service in the Anchorage-Chicago-New York and Anchorage-Hilo markets. (Memo 8738, BPDA)
20. Dockets 33513, 33619, and 33663; Applications for nonstop New York-Miami/West Palm Beach authority; Air Florida; American; Allegheny. (BPDA, OGC, BLJ)
21. Dockets 33705, 33743, 34015, 33954, 33983, 34114, 34285, 34898, 34899, 34901, 34906, 34917, and 35067; American's application to amend its certificate to add Las Vegas-Chicago O'Hare, Las Vegas-Chicago Midway, Las Vegas-New York Kennedy, Las Vegas-New York La Guardia, and Las Vegas-Newark authority; Allegheny's, Braniff's, Ozark's, Continental's, Western's, Northwest's, TIA's, Delta's, Southern's Trans Carib's and North Central's applications, respectively, requesting authority similar to American's in whole or in part. (BPDA)
22. Dockets 32871, 34227, 32885, 32727, and 33208; Applications of TWA and TXi to provide nonstop service in the Albuquerque-San Diego market. American's application to add Albuquerque as an intermediate point on its Route 4 providing Albuquerque single-carrier service on the rest of American's east-west system; American's application for show-cause order and exemption authority in the Albuquerque-LA, CH, St. Louis market. (8741, BPDA)
23. Docket 34942, Texas International's application for Dallas/Ft. Worth-St. Louis authority. (Memo 8736, BPDA)
24. Dockets 33094, 32484, and 33867; Texas International Airlines' petitions to have its subsidy reinstated. (Memo 7916–F, BPDA)
25. Docket 25476, Disapproval of a provision in the organizational documents of the Airline Tariff Publishing Company, Inc. (ATPCO) which allows carriers to notify their competitors of proposed tariff revisions in advance of filing. (Memo 8508–A, BPDA, BCP, OGC)
26. Dockets 24617 and 30998; Agreements among the members of the Air Traffic Conference of America (ATC) relating to travel agency bonding requirements, CAB 16874–A67 and CAB 16874–A34. (Memo 8744, BPDA, OGC, BCP)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

[S-850-79 Filed 4-27-79; 3:40 pm]
BILLING CODE 6320-01-M

5

April 27, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: April 27, 1979, 9:30 a.m.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426, Commissioners' Library.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Continued meeting on subpoenas issued in a pending proceeding from April 26, 1979. Conduct of an investigation.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Acting Secretary, Telephone (202) 275–4165.

[S-843-79 Filed 4-27-79; 1:20 p.m.]
BILLING CODE 6740-02-M

6

April 27, 1979.

FEDERAL ENERGY REGULATION COMMISSION.

TIME AND DATE: May 4, 1979, 10 a.m.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426, Commissioners' Library.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Continued meeting from March 28, 1979, on matters relating to an investigation.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 275-4166.

Kenneth F. Plumb,
Secretary.
[S-851-79 Filed 4-27-79; 3:42 pm]
BILLING CODE 6740-02-M

7

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published April 30, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:30 p.m., April 26, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin D. Bolling (202-377-6677).

CHANGES IN THE MEETING: The following item has been withdrawn from the agenda for the open meeting: EFTS-RSU Application—Standard Federal Savings and Loan Association of Cincinnati, Cincinnati, Ohio, No. 234, April 26, 1979.

[S-837-79 Filed 4-27-79; 9:20 am]
BILLING CODE 6720-01-M

8

April 27, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., May 4, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The Commission will consider and act upon the following agenda items.

Secretary of Labor, MSHA v. Sunshine Mining Co., DENV 78-568-PM(A). (Petition for Discretionary Review)

Secretary of Labor, MSHA v. Shamrock Coal Co., BARB 78-82-P, etc.

CONTACT PERSON FOR MORE INFORMATION: Joanne Kelley, 202-653-5632.

[S-846-79 Filed 4-27-79; 2:48 pm]
BILLING CODE 6735-01-M

9

FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 23652, April 20, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, April 25, 1979.

CHANGES IN THE MEETING: Addition of the following open item to the meeting:

Proposed response to a Congressional request regarding an amendment to H.R. 3404 which would place a $15 billion limitation on the aggregate amount authorized to be borrowed from the Federal Reserve by the Treasury.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board. (202) 452-3204.

Dated: April 25, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board
[S-838-79 Filed 4-27-79; 9:20 am]
BILLING CODE 6210-01-M

10

FEDERAL RESERVE SYSTEM

TIME AND DATE: 9:30 a.m., Friday, May 4, 1979.

PLACE: 20th Street and Consititution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees
2. any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3024.

Dated: April 26, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.
[S-839-79 Filed 4-27-79; 9:20 am]
BILLING CODE 6210-01-M

11

[USITC SE-79-15]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, May 8, 1979.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

Matters to be considered: Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. Steel plate from Poland (Docket No. 571).
5. Sugar from Belgium, France, and West Germany (Inv. AA1921-198, -199, and -200)—briefing and vote.
6. Carbon steel plate from Taiwan (Inv. AA1921-197)—briefing and vote.
7. Any items left over from previous agenda.

Portions closed to the public:

8. Status report on Investigation 332-101 (MTN Study), if necessary [in closed session].

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-845-79 Filed 4-27-79; 2:44 pm]
BILLING CODE 7020-02-M

12

NATIONAL SCIENCE BOARD.

DATE AND TIME: May 17, 1979, 1 p.m., Open Session; May 18, 1979, 9 a.m., Closed Session.

PLACE: Room 540, 1800 G Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

Matters to be considered at the open session:

1. Program Review—Physiology, Cellular, and Molecular Biology
2. Minutes—Open Session—205th Meeting
3. Chairman's Report
4. Director's Report—
a. Report on Grant—Contact Activity—3/15-5/16/79
b. Organizational and Staff Changes
c. Congressional and Legislative Matters
d. NSF Budget for Fiscal Year 1980
e. Other Items
5. Board Committees—Reports on Meetings—
a. Executive Committee
b. Planning and Policy Committee
c. Programs Committee
d. Committee on Audit and Oversight
e. Committee on Minorities and Women in Science
f. Committee on Role of NSF in Basic Research
g. Committee on Twelfth NSB Report
h. Ad Hoc Committee on Big and Little Science
i. Ad Hoc Committee on Deep Sea and Ocean Margin Drilling Programs
6. NSF Advisory Groups
7. Annual Reviews of NSF Centers at NSF
8. Annual Business
9. Grants, Contracts, and Programs

10. Recommendations of House Committee on Science and Technology
11. Other Business
12. Next Meetings—
a. National Science Board—June 21-22, 1979 (Association of Universities for Research in Astronomy and Kitt Peak National Observatory)
b. NSE Committee

Matters to be considered at the closed session:

A. Minutes—Closed Session—205th Meeting
B. Annual Business—Annual Election
C. NSB and NSF Assistant Director Nominees
D. Grants, Contracts, and Programs
E. NSB Annual Reports
F. NSF Budgets for Fiscal Year 1981 and Subsequent Years

CONTACT PERSON FOR MORE INFORMATION: Miss Vernice Anderson, Executive Secretary, (202) 632-5840.

[S-841-79 Filed 4-27-79; 12:15 pm]
BILLING CODE 7555-01-M

13

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of April 30, 1979 (Revised).

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDRED:

Monday, April 30; 2 p.m.

1. Affirmation Session (approximately 30 minutes, public meeting, postponed from April 26).
a. OGC Memo on S-3, dated 3/29
b. Appt of Part-Time Member of ASLBP
c. Kewaunee Show Cause Order
d. Appt of H. Grossman to ASLBP
e. Motion in Shearon Harris Proceeding
f. Kranish FOIA Appeal 78-A-20

Tuesday, May 1; 3 p.m.

1. Briefing on Resident Inspector Program (approximately 1 hour, postponed from April 26, public meeting).

Wednesday, May 2; 9:30 a.m.

1. Briefing on Steam Generator Denting and Replacement (approximately 1 hour, public meeting).

Wednesday, May 2; 1:30 p.m.

1. Discussion of Upgrade Rule and Supporting Guidance (Continued from April 18, approximately 2 hours, closed-exemption 1).

Thursday, May 3; 9:30 a.m.

1. Discussion of Format for Executive Branch Export Analysis (approximately 1 hour, public meeting-portion closed-exemption 1).
2. Briefing on Offsite Radiation Levels at Three Mile Island and Interagency Radiological Assistance Program (approximately 1 hour, public meeting).

Thursday, May 3; 1:30 p.m.

1. Briefing by Executive Branch on International Safeguards Matters (approximately 1 hour, closed-exemption 1).
2. Discussion of Personnel Matter—if required—approximately 2 hours, closed-ememption 6).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

Walter Magee,
Office of the Secretary.
April 26, 1979.
[S-843-79 Filed 4-27-79; 2:33 am]
BILLING CODE 7590-01-M

14

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Friday April 27, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Friday, April 27; 11:30 a.m.

1. Continuation of Discussion of Principal Factors Related to Current Status of Operating Plants approximately 1½ hours, public meeting.

Postponed from April 26, 1979.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

Dated: April 26, 1979.

Walter Magee,
Office of the Secretary.
[S-844-79 Filed 4-27-79; 2:33 pm]
BILLING CODE 7590-01-M

15

UNITED STATES PAROLE COMMISSION—NATIONAL COMMISSIONERS. (The Commissioners presently maintaining offices at Washington, D.C. Headquarters.)

TIME AND DATE: Thursday, April 12, 1979 at 9:30 a.m.

PLACE: Room 828, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at beginning of the meeting.

CHANGES IN THE MEETING: On April 26, 1979, due to illness, the Commission determined that the date and time for the above meeting previously changed to April 25, 1979, be changed to Friday, April 27, 1979, at 9:30 a.m.; and that the above change be announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: A. Ronald Peterson, Analyst, (202) 724-3094.

[S-840-79 Filed 4-27-79; 10:37 am]
BILLING CODE 4410-01-M

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federal register

Tuesday
May 1, 1979

Part II

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Review of the Status of Seven Mollusc Species

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Review of the Status of Seven Mollusc Species

AGENCY: Fish and Wildlife Service, Interior

ACTION: Notice of status review.

SUMMARY: The Service will review the status of (1) *Epioblasma (=Dysnomia) florentina florentina,* yellow-blossom pearly mussel; (2) *Plethobasis cooperianus,* orange-footed pearly mussel; (3) *Toxolasma (=Carunculina) cylindrella* pale illiput pearly mussel; (4) *Epioblasma (=Dysnomia) turgidula,* turgid blossom pearly mussel; (5) *Conradilla caelata* birdwing pearly mussel; (6) *Epioblasma walkeri,* tan riffle shell, and (7) *Quadrula intermedia,* Cumberland monkeyface pearly mussel, to determine if they should remain classified as Endangered, be reclassified to Threatened, or be removed from the List of U.S. Endangered and Threatened Wildlife and Plants.

DATE: Information concerning the status of these species should be submitted on or before June 29, 1979.

ADDRESSES: Comments on this notice of review should be submitted to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Harold J. O'Connor, Acting Associate Director —Federal Assistance, Fish and Wildlife Service, Washington, D.C. 20240, phone: 202/343–4646.

SUPPLEMENTARY INFORMATION:

Background

On May 22, 1975, the Fund for Animals petitioned the U.S. Fish and Wildlife Service to list as Endangered species 216 taxa of plants and animals which appear on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) which were not already on the U.S. List of Endangered and Threatened Wildlife and Plants. The Convention was drafted at an international conference held in Washington, D.C., from February 12 to March 3, 1973. The United States had ratified the Convention and deposited its instruments of ratification with the Depositary Government by the fall of 1973. By July 1975, the Convention had been ratified by enough nations to enter into force.

The Convention established a system of regulation to prevent the overexploitation of the world's natural biota. Species of concern are listed on three appendices; differing levels of protection are provided for species on each appendix. Appendix I, which contains the most critical listings, includes all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species is subject to particularly strict regulation to guard against further jeopardizing their survival.

In response to the Fund for Animals' petition, the Service published a proposed rulemaking in the September 26, 1975 **Federal Register** (40 FR 44329–33). This rulemaking proposed adding 216 Appendix I species to the U.S. List of Endangered and Threatened Wildlife and Plants.

In the June 14, 1976, **Federal Register** (41 FR 24062–67) the Service published a final rulemaking which determined 159 Appendix I species to be Endangered species. These species included *Epioblasma (=Dysnomia) florentina florentina, Plethobasis cooperianus, Epioblasma* (=Dysnomia) turgidula, Conradilla caelata, Toxolasma (=Carcunculina) cylindrella, and *Quadrula intermedia. Epioblasma walkeri* was included in the proposed rulemaking but was not included in the final rulemaking, since the Governor of the affected state was inadvertently not notified of the proposed action as required. This species was added to the U.S. List of Endangered and Threatened Wildlife and Fauna by a separate final rulemaking published in the August 23, 1977, **Federal Register** (42 FR 42351–53).

Section 4(a) of the Endangered Species Act of 1973 states that the Secretary may determine a species to be an Endangered species or a Threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence.

With regard to these species, the Service determined that there had been a decline in numbers due to factors 1, 2, or 4, or to a combination of all three. The fact that the U.S. Government has recognized the endangered status of these species when it ratified the Convention also provided persuasive evidence supporting their listing under the Act. The decision to add these species to the U.S. List was based on the "best scientific and commercial data available".

These species are identified as occurring in various rivers in Alabama, Kentucky, Tennessee, and Virginia: Clinch, Duck, Elk, Middle Fork Holston, Paint Rock, Powell, Red, and Tennessee Rivers. Question has been raised as to the continued existence of some of the species in these river systems. As a result of information brought to light in the suit of *Pacific Legal Foundation, et al. v. Cecil D. Andrus, et al.,* Civil No. 77–1054–C–CV, U.S.D.C. M.D. Tenn. (1978), Representative Robin Beard has petitioned the Service pursuant to Section 4(c)(2) of the Endangered Species Act to review the status of these six species. The Service has determined that this petition presents substantial evidence and is therefore undertaking this status review. *Quadrula intermedia* was included in a separate request from Representative Beard.

The Service is seeking the views of the Governors of Alabama, Kentucky, Tennessee, Virginia, and is soliciting from them information on the status of these species within their jurisidications. Other interested parties are invited to submit any factual information, especially publications and written reports, which is germaine to this status review. The information received in response to this notice of review will be used to determine if these species should retain their Endangered status, or if the Service should propose that any of these species be reclassified to Threatened status or be removed from the list of Endangered and Threatened Wildlife and Plants.

This notice of review was prepared by Mrs. Lorraine K. Williams, Office of Endangered Species (703/235–1975).

Dated: April 25, 1979.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

[FR Doc. 79-13408 Filed 4-30-79; 8:45 am]
BILLING CODE 4310-55-M

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federal register

Tuesday
May 1, 1979

Part III

Department of Energy

Office of Energy Research

University Coal Research Laboratory Program; Final Rule

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DEPARTMENT OF ENERGY

Office of Energy Research

10 CFR Part 320

University Coal Research Laboratory Program

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) has established policies and procedures to be followed in the selection and designation of thirteen university coal research laboratories as authorized by Title VIII of Pub. L. 95–87, the Surface Mining Control and Reclamation Act of 1977, as amended by Section 604 of Pub. L. 95–617, the Public Utilities Regulatory Policies Act of 1978. The university coal research laboratories are established for the purpose of carrying out advanced research and training related to one or more problems of coal energy resources and conversion. At least one of the coal laboratories so designated must be located within each of the major coal provinces of the United States, including Alaska, but no more than one per State. Ten of the thirteen laboratories authorized must be located in States with abundant coal reserves and all the laboratories must be administered by institutions of higher education with experience and expertise in coal research and currently or potentially outstanding coal research programs with the capacity to establish and operate the coal laboratory.

The final rule includes definitions and interpretations of terms included in the authorizing legislation, a summary of eligibility, selection, and evaluation criteria, and funding and administrative information necessary for the preparation and submission of applications to DOE for grants for the establishment of university coal research laboratories.

EFFECTIVE DATE: May 11, 1979.

FOR FURTHER INFORMATION CONTACT: Richard E. Stephens, Director, Division of Institutional Programs, Office of Field Operations Management, Office of Energy Research, Department of Energy, 400 First Street, N.W., Washington, D.C. 20585, Rm. 501, Telephone Number (202) 376–9188. Leonard Rawicz, Assistant General Counsel for Energy Research, Technology and Application, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Rm. 6P–055, Telephone Number (202) 252–6967.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comments on the Proposed Rule
III. Additional Information
IV. Text of the Authorizing Legislation

I. Background

This regulation adds a new Part 320 to Subchapter B, Chapter II of Title 10 of the Code of Federal Regulations.

Title VIII of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87, as amended by Section 604 of the Public Utilities Regulatory Policies Act of 1978, Pub. L. 95–617, (hereinafter referred to as the Act) authorizes the Administrator of the Energy Research and Development Administration (ERDA) to designate thirteen institutions of higher education at which university coal research laboratories will be established and operated. Section 301 of the Department of Energy Organization Act, Pub. L. 95–91 transferred to the Secretary of Energy all functions of the Administrator of ERDA with respect to the University Coal Research Laboratories Program.

The Administration and the Congress recognize that the increased utilization of coal as an alternative energy source to petroleum and natural gas is of critical importance in assuring adequate future energy supplies. Increased coal utilization is dependent in part on increased scientific and technical understanding of various problems associated with the mining, processing and conversion of coal for energy purposes. There is also a related need to assure that an adequate supply of highly trained professional manpower exists for future energy-related programs in the public and private sectors. These objectives can be met in part through the increased participation and involvement of institutions of higher education in coal-related research and manpower development.

The University Coal Research Laboratories Program (UCL), as authorized in the Act, is designed to expand opportunities for coal research at institutions of higher education and through participation in such research, to develop new professional manpower for future energy-related programs.

In order to carry out these purposes, thirteen institutions of higher education are to be designated by the Department of Energy (DOE) as locations for the establishment and operation of university coal research laboratories. These laboratories are to conduct advanced research on selected problems in the extraction and utilization of coal resources. This research may involve the combined efforts of specialists from different academic disciplines and be directed at one or more specific coal problems. Each designated laboratory is responsible for developing close and productive relationships with the private sector, other academic institutions, State and local government, and public groups to insure the exchange of information on the results of their research. Research facilities for the characterization of coal are also to be established at each laboratory to work in close cooperation with private industry. In addition, each laboratory is to develop programs for the training of students engaged in advanced study in disciplines related to coal as a source of energy.

DOE published a Proposed Rule on the University Coal Research Laboratories Program in the Federal Register on January 22, 1979, (44 FR 4632–4639). The Proposed Rule described the purpose and scope of the program, eligibility requirements, evaluation and selection criteria, the contents of and review procedures for grant applications, and plans for continuing operation and administration of the program.

Nineteen written comments were received in response to the Proposed Rule and an additional thirteen presentations were made at a public hearing held on February 23, 1979, in Washington, D.C. Many of the comments sought clarification of various parts of the Proposed Rule; some suggested specific changes or revisions. All of the written comments and presentations, as well as other information available to DOE, were considered in arriving at the final rules adopted herein.

II. Comments on the Proposed Rule

Written comments and presentations were received from scientists and administrators at institutions of higher education and from representatives of state agencies and independent testing laboratories. The remainder of this section consists of summaries of substantive comments received and responses to these comments, further clarifications of DOE's rationale in developing the Proposed Rule, and changes made in the Proposed Rule as the result of public comment.

A. Definitions—Sec. 320.2

1. Abundant Coal Reserves, Sec. 320.2(a)

Comments: There were two comments relating to the determination of states with abundant coal resources.

Responses: The Energy Information Administration, DOE, U.S. Bureau of Mines and U.S. Geological Survey were consulted to determine the most recent and authoritative source of data on U.S. coal reserves by state; all concurred on the August 1977 USBM publication, "Demonstrated Coal Reserve Base of the United States on January 1, 1976." This publication is used by DOE in determining the coal reserves of the various states for purposes of this Act. The Proposed Rule used a 1.5 billion ton minimum limit as the definition of "abundant coal reserves." While some states may claim more abundant coal reserves or coal resources, in order to provide for uniform determination of coal reserves on a national basis, DOE will continue to use the above-referenced USBM report in determining those states with abundant coal reserves. It should be noted that in implementing the Act as amended, no eligible institution of higher education is excluded from submitting an application to the UCL Program due to the amount of coal reserves of the state in which it is situated.

2. Coal Research, Sec. 320.2(c)

Comments: There were eight comments relative to the definition of coal research. Two comments related to the acceptability of research on coal as an industrial raw material and byproducts of coal production, such as underclays. Two comments related to the omission of specific reference to "mine safety" and "reclamation." Several comments requested that DOE identify types of coal research or ranks and grades of coal which were considered of higher priority.

Response: The definition of § 320.2(c) refers to research that will advance efforts to expand the use of coal as an energy source and is considered to be consistent with the purposes of the Act. While research on coal as an industrial raw material or on coal production and utilization byproducts is not specifically excluded from the definition, such research carries a lower priority in the UCL program because of the emphasis in the Act on coal as a direct energy source.

Both "mine safety" and "reclamation" are acceptable areas of research under the broad definition. In recognition of its critical role in the expanded use of coal, "mine safety" is now cited in the definition. Reclamation is considered adequately covered by the broader term "environmental effects." Research in these areas, however, should complement or focus on different aspects of, and not duplicate, research currently supported by other agencies and organizations. A broad definition of coal research permissible under the UCL Program has been developed to allow applicants the opportunity to propose responsive research programs that focus on national and/or regional problems, including research on coals of different rank and grade.

3. Institutions of Higher Education, Sec. 320.2(f)

Comments: Twelve comments were received relative to the definition of institution of higher education. Two comments related to "accredited masters and/or doctoral degree programs in disciplines related to coal research." Ten comments focused on membership, organization, management and the role of the lead institution in consortia or partnerships. One of the ten comments proposed the substitution of "agent" for lead institution on the premise that this would make the partner institutions more equal. One of the comments asked whether a state organization can act as the administrative body for a consortium rather than using a "lead institution."

Response: To clarify the definition of "accredited," the following addition has been inserted into the definition . . . "must be accredited by the appropriate general regional accrediting agency or, where appropriate, by a recognized professional accrediting body . . ." The Act is clear that only institutions of higher education may qualify as an applicant for designation as a UCL. In the Proposed Rule, DOE broadened the definition of institution of higher education to permit applications from consortia or partnerships of such institutions. Public or private organizations or agencies which are not institutions of higher education would not qualify for membership in a UCL consortium or partnership. However, this restriction does not preclude limited participation of public or private organizations or agencies (which do not by themselves qualify for membership in a UCL consortium or partnership) from collaborating in research and training efforts conducted by a UCL.

DOE does not specify the organizational form or structure of a consortium or partnership. However, it is required that a party designated by the consortium or partnership be capable of receiving the award and have both significant capabilities and experience in the management of interdisciplinary or interinstitutional programs and administrative experience in Federal grant and contract management. This "party" is expected to be legally responsible on behalf of the consortium or partnership for proposal submissions, award negotiations, technical reports, financial reports and fiscal accountability. The party selected to provide these services on behalf of a consortium or partnership will, therefore, be presumed to have a leadership role. The party may be one of the institutions of the consortium or a nonprofit organization authorized to represent the consortium. In the case of multistate consortia or partnerships, a "lead" institution must be designated and the location of the "lead" institution shall be considered the "home state" for the purpose of meeting the limitation of the Act in stipulating that no more than one UCL shall be located in any single state. In these situations, a significant portion of the UCL program must be conducted in the lead institution's "home state." Changes have been made in the final regulations to incorporate these clarifications.

4. Major Coal Provinces, Sec. 320.2(g)

Comment: Three comments were received relative to the definition and interpretation of major coal provinces. All comments related to those states which fall in more than one coal province and the method of designating a UCL within each province.

Response: The Act stipulates that at least one UCL shall be established within each major coal province, but that no more than one laboratory shall be located in a single state. Coal provinces have been defined by the U.S.

Geological Survey (note the U.S. Bureau of Mines as cited in the Act). The definitive reference is USGS Prof. Paper 978, *PACER, Data Entry, Retrieval and Update for the National Coal Resource Data System, 1978.* Some states fall in two or more coal provinces, although their major coal reserves may lie primarily in one coal province. DOE will evaluate UCL proposals on the basis of quality and merit of UCL programs proposed and will select thirteen of the best qualified applicants for designation as UCL's while meeting the Act's requirements that ten UCL's be in states with abundant coal reserves and at least one be located in each of the seven coal provinces. The UCL's selected through this process are expected to provide a balance of research between problems of a general (National) nature and problems relevant to the various regions and coal provinces. This definition will, therefore, remain as proposed except for the following changes in the designation of provinces: Eastern Province, add "Delaware"; and Gulf Province, add "*Alabama.*" These were inadvertently omitted in the proposed rule.

5. Operating Expenses, 320.2(h)

Comment: Three comments were directed at the limitation of $500 on research equipment purchases contained in the definition of "operating expenses." Comments were also made at the public hearing on whether operating expenses included "start up" costs.

Response: DOE concurs with these comments and is substituting a $1000 limitation in the Final Rule.

This section has been further revised to exclude "new program startup expenses" as a cost category under the definition of "operating expenses." The program Solicitation (see § 320.8, Content of Proposals, et seq.) will provide further information on the definition and allowability of new program startup expense.

B. Establishment of Program, Sec. 320.3

Comment: Four comments were received relating to this Section. One comment requested clarification of "education" and "training" as used in the Act and the proposed rule. One comment questioned whether the use of the National Academy of Engineering in its advisory capacity to DOE inferred an engineering emphasis in the UCL Program. Two comments requested clarification of the relationship of research to be conducted under the UCL Program to other coal research currently supported at universities by DOE.

Response: DOE has interpreted education as referred to in the Act to be focused principally on the training of advanced students through participation in coal research with related, but limited, course development and improvement and information dissemination activities. A specific definition of education and training has been added in § 320.2(g).

The Act directed DOE to consult with the National Academy of Engineering in the process of designating the UCL Institutions. The Academy organized a committee of scientists and engineers to provide assistance to DOE in the initial development of the UCL Program. The NAE committee favors multidisciplinary research on a broad range of coal problems which extend beyond the field of engineering.

The UCL Program is intended to complement and extend, but not to duplicate or supplant, research on coal currently being conducted in universities. It is anticipated that UCL research will be directed at broader and more fundamental questions and/or may relate to specific problems and issues of a regional or coal province nature. Underlying all UCL research will be the emphasis on training through research participation. The final regulations have been revised to reflect this position.

The last sentence in the second paragraph of § 320.3 has been modified for consistency with the Act and subsequent Sections of the Rule by indicating that the UCL program will build upon and strengthen existing "or potential" coal-related research capabilities at the selected universities.

C. Program Objectives, Sec. 320.4

Comment: Sixteen comments were directed to §320.4, dealing with the establishment of test laboratories for coal characterization. Six comments were concerned with the role and functions of these laboratories. Ten comments dealt with possible unfair competition with commercial testing laboratories which might result from the Federal funding of these laboratories.

Response: Comments on the role and functions of coal characterization in the UCL Program were particularly helpful. The proposed rule adopted the language of the Act in referring to the establishment of "test laboratories for coal characterization." The words "test laboratory" infer a routine coal testing function, which if permitted might result in direct competition with established independent, commercial laboratories. On the other hand, research to advance the knowledge and understanding of the fundamental characteristics of coals is considered essential to many areas of coal research. Based on comments received, a new § 320.2(c) has been inserted defining "Coal Characterization Research." Also, references to coal characterization in §§ 320.4, 320.5, 320.8, and 320.11 have been modified to delete the words "test laboratory" and to stress the research nature of coal characterization. These changes clarify the role of coal characterization in the UCL Program to significantly reduce the potential for unfair competition with independent testing laboratories. An applicant for participation in the UCL program is required to set forth a program for coal characterization research which complements and assists other coal research proposed in the application. This coal characterization program must clearly show that it will not duplicate or supplant the services normally provided by commercial testing laboratories. (Sec. 320.5, Functions of University Coal Research Laboratories, has been revised to incorporate this determination.) A proposed coal characterization research program may utilized new or existing facilities or be conducted wholly by or jointly with other private or public organizations.

D. Functions of a University Coal Research Laboratory, Sec. 320.5

Comment: Eight comments were directed to various aspects of the role and functions of a UCL. These dealt with the scope of UCL research, collaborative research with industry, the involvement of external advisors and the transfer of research results.

Response: DOE has defined coal research broadly and outlined the functions of a UCL with the intent of providing each applicant with the maximum flexibility in proposing a program which identifies and responds to coal research needs and opportunities as perceived by the applicant. The research may focus on general, fundamental problems of coal research, or problems of particular significance to a state, region or coal province, or a balance between the two. Applicants are encouraged to focus the major part of their research efforts in one or more programmatic areas comprised of individual (or groups of) coherent research projects. Each UCL is encouraged and expected to establish collaborative efforts over time with other organizations which might include other academic institutions, industry, private laboratories, state or Federal agencies and laboratories. Each UCL should seek external inputs in the planning and evaluation of its research and training efforts and is also expected to communicate information on its research accomplishments through various means. DOE does not seek to dictate the scope and nature of such arrangements since needs and opportunities for obtaining inputs and dissemination of results will vary. Exchange of scientific and technical ideas and information among the members of the UCL network will be particularly encouraged by DOE. Sec. 320.19, Reporting Dissemination of Information, provides additional guidance on the question of UCL information exchange and reporting responsibilities.

Section 320.5 has been revised (as noted in the comments on § 320.4) to reflect the change in the definition of the test laboratory for coal characterization and in the relationship of such coal characterization research to the services provided by commercial testing laboratories.

E. Eligibility Requirements, Sec. 320.7

Comment: There were two comments relative to this Section. One comment proposed a revision of the rule to restrict eligibility to those institutions with doctoral degree programs in disciplines related to ongoing and proposed areas of coal research. One comment proposed the addition of an eligibility requirement which would prohibit any institution which engaged in the selling of routine sampling and testing services from being considered as an applicant to the UCL Program.

Response: A change in the eligibility requirement to restrict applicants to those institutions which have doctoral programs in disciplines relating to coal research is considered by DOE to be unduly restrictive. In some institutions, doctoral programs may not be offered in certain disciplines which otherwise have the potential for making significant contributions to UCL research. Therefore, this suggested change is not accepted. While DOE intends to prohibit the use of UCL Program funds for the development and offering of testing services in competition with commercial laboratories, an eligibility requirement which would disqualify any institution from applying because that institution currently provides such test services to the public is considered inappropriate. Some state institutions are required by state statute to provide certain types of testing services. No modification of the proposed rule is being made in response to the comment suggesting this change.

Section 320.7(c) relative to cost-sharing is deleted from this Section and a modification of cost-sharing is discussed under § 320.8(b)(7).

F. Content of Proposals (Application), Sec. 320.8

Comments: Four comments were received relative to this Section, all of which dealt specifically with § 320.8(b)(7) on the certification of cost-sharing. One comment raised the question as to whether it was reasonable to require that an applicant certify a long-term commitment as to the source and availability of cost-sharing funds. Three comments addressed the problems of timing and long-term commitments which applicants might experience in seeking cost-sharing assistance through state legislative action.

Response: Section 320.8(a) has been modified to indicate that the Program Solicitation shall specify the number of copies of the proposal required and the DOE installation to which they should be sent.

The comments on certification of cost-sharing have been accepted and have resulted in the modification of § 320.8(b)(7) to read as follows:

"A cost-sharing plan which describes in general terms how the applicant plans to meet the cost-sharing requirements of the UCL Program (see § 320.16, Cost Sharing) proposed for the authorized duration of the UCL Program (see § 320.21, UCL Program Termination) and a certification of the source, availability, and commitment of non-Federal funds to meet cost sharing requirements on UCL Program activities proposed for the first year."

Section 320.9, Application Procedures, has been combined with § 320.8.

G. Evaluation and Selection Procedures, Sec. 320.10

Comments: There were five comments that dealt with evaluation and selection procedures. One referred to the desirability of site visits in the review and evaluation of UCL proposals. Four dealt with the designation of UCL's with respect to states with abundant coal reserves and to coal provinces. The following questions were raised. Could all thirteen UCL's be designated in states with abundant coal reserves? Will the three UCL's provided for in the Amendment to the Act be designated in states not having abundant coal resources? What criteria will be used to determine in which coal province a given state may be placed? One comment stated that DOE should assure that each regional coal laboratory truly represents the coal province for which it is designated.

Response: DOE is giving consideration to the use of site visits and other forms of interpersonal communication in the proposal review and evaluation process, but does not propose to formalize a specific procedure in the Final Rule. In the UCL selection process, where one state may include and have reserves in two or more coal provinces, DOE does not intend to assign this state to a single coal province for selection purposes. The UCL proposals will be principally evaluated on scientific and technical merit and institutional capability and potential. A DOE Selection Panel, applying the selection criteria set forth in § 320.12, then will make a final ranking of proposals, taking into consideration the distribution of UCL's as stipulated in the Act as amended. Ten UCL's will be designated in states with abundant coal reserves. Of these ten at least one will be located in each of the seven major coal provinces.

Since abundance of coal reserves is not a limiting factor in the selection of the three UCL's authorized under the Amendment to the Act, these UCL's may be located in any state. There is no express prohibition against these three UCL's being located in states with abundant coal reserves. DOE, however, will take into consideration the congressional intent implicit in the Amendment to the Act authorizing the additional three laboratories.

Sec. 320.10(a)(3) has been revised to indicate that technical reviewers will be appointed by the DOE Selection Official.

Sec. 320.10(a)(6) of the Proposed Rule has been deleted as DOE now plans to designate all the thirteen authorized UCL's at the same time.

H. Evaluation Criteria, Sec. 320.11

Comments: There were four comments directed to evaluation criteria. Two raised questions concerning relationships between the UCL's and the Mining and Mineral Resources Research Institutes referred to in § 320.11(4)(v). One comment proposed a selection criterion that would require a review of an applicant institution's history with respect to sale of routine testing services in competition with commercial laboratories and the rejection of proposals from applicants which have provided such services. One comment proposed specific reference to the desirability of interaction of UCL's with commercial laboratories so as to complement their programs with the capabilities of these laboratories rather than to establish duplicate capabilities.

Response: Recognizing that some applicants may be participating in the Mining and Mineral Resources Research

Institute Program authorized under Title III of the same Act (Pub. L. 95–87) as the UCL Program (Title VIII), DOE will require that these applicants describe provisions for coordination of MMRRI and UCL program activities, particularly with respect to the avoidance of duplication. Participation in the MMRRI Program does not preclude designation of an applicant for participation in the UCL Program. DOE does not propose to dictate the manner in which the two programs at any UCL institution must complement each other.

DOE recognizes that some applicant institutions may be required by state statute to provide certain coal-testing services. For this reason, it is not reasonable to specifically exclude applicant institutions from consideration in the UCL Program. On the other hand, the use of UCL funds to develop capabilities and services to be offered in competition with commercial laboratories is prohibited (§ 320.5). The desirability of collaborative efforts with other organizations (which could include commercial laboratories) is cited in § 320.5, dealing with UCL functions. DOE intends to give the applicant maximum flexibility in determining the level, scope and nature of collaborative research efforts proposed for a UCL.

Sec. 320.11(a)(4), Program Management Plans, has been revised to add a new subpart (i) to indicate the importance accorded demonstrated capability and experience in the administration of complex interdisciplinary and/or interinstitutional research programs comparable to a UCL.

Sec. 320.11(a)(5)(iii) on cost sharing as an element of fiscal management evaluation has been revised to reflect the changes made by DOE in § 320.8(b)(7), Content of Proposals. The proposal must certify that the required cost sharing will be available for the first program year.

I. Selection Criteria, Sec. 320.12

Comment: There were two comments on this section. One requested clarification of the basis for determining the relative need for research on coals of different types and qualities distributed within the various coal provinces. § 320.12(b). One asked clarification as to the source of data and indices of measurement of coal utilization as a programmatic factor, § 320.12(c).

Response: The title of § 320.12 is changed from "Programmatic Factors" to "Selection Criteria." There are no precise indices for determining the relative need for research on various coals in different coal provinces. It is anticipated that such determinations will be derived from justifications contained in the UCL proposals, reviewer comments and the collective judgment of the DOE Selection Panel. Importance of coal utilization as a programmatic selection factor will vary substantially from one state to another and from one coal province to another. Published data on coal utilization, by state and by coal province, along with forecasts of potential coal utilization over the current duration of the UCL program will be referred to by the Selection Panel as additional background information of relevance to the UCL selections.

J. UCL Program Implementation, Sec. 320.13

Comments: There were five comments relating to this selection. Four raised questions about DOE plans for awards in FY 1980 and beyond, assuming a $5M appropriation in FY 1980. One comment urged emphasis on support of "currently outstanding" research capabilities in universities.

Response: DOE has not completed specific plans for UCL program funding in FY 1980. It is probable that all thirteen designated UCL's will receive some level of award. A substantial range in capabilities for research and merit of proposed research may be expected in the proposals of the thirteen designated UCL's. It is probable that several of the more advanced proposals (presently contemplated to be up to five of the 13 designated laboratories) will be selected for funding at a substantial level (at an average of $500,000 in the initial year). The remaining designated UCL's would receive lesser amounts in the initial year (ranging from $150,000 to $300,000) for promising programmatic research efforts and for planning purposes. The contemplated level of funds will, of course, be contingent on the quality of the proposals received. In future years, each UCL may receive greater support commensurate with program development and performance and the availability of UCL program appropriations.

Additional guidance on UCL funding may be included in the UCL Program Solicitation.

K. Limitations on the Use of Funds, Sec. 320.14

Comment: Four comments were received relative to this section. One was directed at the apparent reordering of Congressional priorities in the allocation of funds. One urged flexibility in requirements to permit adaptation to state requirements. One proposed a prohibition on the UCL funds for research and training projects conducted by non-educational institutions. One asked for information on the projected time table for UCL's in requesting funds under the limits established by the Act and set forth in § 320.14(a).

Response: DOE decided to request a modest initial budget for the UCL Program with the expectation of expanding support based on demonstrated performance. This decision required deferment of substantial support for facilities and equipment. This decision does not represent a reordering of Congressional intent regarding facilities and equipment, nor should it be interpreted as a lack of sensitivity by DOE to the importance of facilities and equipment to the success of the UCL Program. Proposers will be required to submit a plan for FY 1980, and subsequent years, which will include estimates of resources required for research operations, facilities and equipment. The Program Solicitation will include additional details on the requirements for plans regarding facilities and equipment.

While the intent of the UCL Program is to support research in institutions of higher education, limited collaborative research with other public and private sector organizations is encouraged and a prohibition against the use of UCL funds in such efforts is not appropriate.

No changes have been made to this section.

L. Program Continuation, Sec. 320.15

Comments: Two comments were received that relate to this section. One asked for clarification of the intent of DOE with respect to continuing support for facilites and equipment. One comment raised the issue of the ownership of facilities and equipment in the event support for a UCL is terminated.

Response: Assuming availability of adequate UCL Program funds, DOE would expect to provide limited support for facilities and equipment on a selected basis to the designated laboratories during the initial years of the program. Disposition of facilities and equipment purchased with DOE support will be handled in accordance with provisions in the DOE Assistance Regulations 10 CFR 616 (44 FR 12920, March 8, 1979, § 600.116).

M. Cost-Sharing, Sec. 320.16

Comment: Nine comments were received relating to this Section. One comment questioned whether an applicant proposing cost-sharing on operating expenses in excess of 50 percent would receive preferential consideration in the selection process. Two comments asked for clarification of cost-sharing requirements on facilities, equipment and start-up costs. Four comments raised questions as to the kinds of costs that could be credited to cost participation on annual UCL operating costs.

Response: While the plan for meeting cost-sharing requirements is an element of the management plan which must be submitted by each applicant, DOE does not intend to make the level of cost-sharing in excess of the requirements of the Act a criterion in the selection process. The intent of the Act is further interpreted by DOE to require in addition to the 50 percent cost share for operating expenses some cost-sharing on facilities, equipment and startup costs. As stated in the Proposed Rule, cost-sharing will be permitted at the aggregate level of the UCL program rather than on a project-by-project basis. With reference to questions regarding the allowability of education-related expenses as a cost-share, in accordance with the definition by DOE of education and training, as related to the UCL Program, (§ 320.2(g)), only those costs associated with education activities proposed as one of the direct functions of the UCL Program would be considered allowable as a proposed cost-share applicable to UCL program operating expenses. This might include costs associated with the conduct of seminars on UCL research or research conducted through the UCL by advanced students. Specific items proposed as cost-shares by UCL's shall be discussed during negotiations prior to award.

N. Reporting and Dissemination of Information, Sec. 320.19

Comment: Three comments were received relating to this section. One comment questioned the need for semiannual performance reports. One comment suggested the need for a mechanism for interaction among coal researchers in the network of UCL's to exchange information and reduce overlapping research. One comment requested clarification as to the scope and level of information dissemination efforts stipulated under § 320.19(b).

Response: DOE expects to require a brief technical progress report midway in each annual grant period and an annual (or final) report at the end of the grant period which reports in more detail on program activities, technical progress and accomplishments. Section 320.19(a) has been modified to clarify this requirement. This level of reporting is considered essential to monitor performance of the UCL Program and to provide for its continuity. Although not specifically described in the proposed rule, DOE envisions regular meeting of the directors of the thirteen UCL's and periodic technical meetings of UCL and other researchers for purposes of information exchange. The manner in which research results are disseminated may vary with the nature of the research and its potential users. For example, research on regional problems may require different methods of information dissemination than would a program in fundamental coal science. Therefore, beyond encouraging prompt dissemination of research results, DOE does not specify requirements for information dissemination. Based on these comments and the requirements of the Assistance Regulations, a new Subsection (b) has been added to cover financial and budget reporting requirements.

III. Additional Information

In addition to the changes made in the Proposed Rule as cited above, other changes and improvements have been made for administrative clarification and editorial improvement. Subsequent to the publication of the proposed rule on the University Coal Research Laboratories Program, DOE issued the Final Rule on the Department's Assistance Regulations 10 CFR Part 600 (44 FR 12920–12934, March 8, 1979). These regulations contain regulatory and nonregulatory material concerning administrative and other Federal requirements applicable to recipients of grants and cooperative agreements. The effect of these regulations will be to simplify the application for and the award and administration of DOE assistance funds. It is contemplated that grants will be used as the award instruments to support the designated laboratories. The award and subsequent administration of UCL grants will be conducted in accordance with the provisions of the DOE Assistance Regulations.

In accordance with DOE's obligations under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., it has been determined that this action does not constitute on a programmatic level a major Federal action significantly affecting the quality of the human environment within the meaning of Sec. 102(2)(c) of NEPA. Consequently, no environmental impact statement is required. However, DOE has an obligation to review specific programs proposed for funding under this regulation and determine whether a site-specific environmental review is required.

In accordance with its plans for implementing Executive Order 12044, Improving Government Regulations (43 FR 18634, May 1, 1978) DOE has determined that this final regulation is significant because Congress and the DOE regard expanded utilization of coal to be of widespread concern and that the proposed University Coal Research Laboratories can make important contributions to this national objective. DOE has also determined that this regulation will have no major economic impacts, as defined in DOE Order 2030.1, December 12, 1978, and that a regulatory analysis of this program is not required.

This regulation is effective on May 11, 1979. As noted, extensive public comments were received on the Proposed Rule. In addition, five public meetings were held at locations across the country in FY 1978 and suggestions and recommendations made at these and other occasions have been of significant assistance to DOE in preparing and publishing this regulation.

IV. Text of the Authorizing Legislation

For convenience, the texts of the provisions of Title VIII of the Surface Mining Control and Reclamation Act and the amending legislation authorizing the University Coal Research Laboratories Program are reprinted below.

SURFACE MINING ACT—TITLE VIII—UNIVERSITY COAL RESEARCH LABORATORIES—

Establishment of University Coal Research Laboratories

Section 801(a). The Administrator, Energy Research and Development Administration (hereafter referred to as "Administrator" in this title), after consultation with the National Academy of Engineering, is authorized and directed to designate ten institutions of higher education at which university coal research laboratories will be established and operated.

(b) In making designations under this section, the Administrator shall consider the following criteria:

(1) The institution of higher education shall be located in a State with abundant coal reserves.

(2) The institution of higher education shall have experience in coal research, expertise in several areas of coal research, and potential or currently

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active, outstanding programs in coal research.

(3) The institution of higher education has the capacity to establish and operate the coal laboratories to be assisted under this title.

(c) Not more than one coal laboratory established pursuant to this title shall be located in a single State and at least one coal laboratory shall be established within each of the major coal provinces recognized by the Bureau of Mines, including Alaska.

(d) The Administrator shall establish a period, not in excess of ninety days after the date of enactment of this Act, for the submission of applications for designation under this section. Any institution of higher education desiring to be designated under this title shall submit an application to the Administrator in such form, at such time, and containing or accompanied by such information as the Administrator may reasonably require. Each application shall—

(1) describe the facilities to be established for coal energy resources and conversion research and research on related environmental problems including facilities for interdisciplinary academic research projects by the combined efforts of specialists such as mining engineers, mineral engineers, geochemists, mineralologists, mineral economists, fuel scientists, combustion engineers, mineral preparation engineers, coal petrographers, geologists, chemical engineers, civil engineers, mechanical engineers, and ecologists;

(2) set forth a program for the establishment of a test laboratory for coal characterization which, in addition, may be used as a site for the exchange of coal research activities by representatives of private industry engaged in coal research and characterization;

(3) set forth a program for providing research and development activities for students engaged in advanced study in any discipline which is related to the development of adequate energy supplies in the United States. The research laboratory shall be associated with an ongoing educational and research program on extraction and utilization of coal.

(e) The administrator shall designate the ten institutions of higher education under this section not later than ninety days after the date on which such applications are to be submitted.

Financial Assistance

Sec. 802(a) The Administrator is authorized to make grants to any institution of higher education designated under section 801 to pay the Federal share of the cost of establishing (including the construction of such facilities as may be necessary) and maintaining a coal laboratory.

(b) Each institution of higher education designated pursuant to section 801 shall submit an application to the Administrator. Each such applicant shall—

(1) Set forth the program to be conducted at the coal laboratory which includes the purposes set forth in section 801(d);

(2) Provide assurances that the university will pay from non-Federal sources the remaining costs of carrying out the program set forth;

(3) Provide such fiscal control and funds accounting procedures as may be necessary to assure the proper disbursement of an accounting for Federal funds received under this title;

(4) Provide for making an annual report which shall include a description of the activities conducted at the coal laboratory and an evaluation of the success of such activities, and such other necessary reports in such form and containing such information as the Administrator may require, and for keeping such records and affording such access thereto as may be necessary to assure the correctness and verification of such reports; and

(5) Set forth such policies and procedures as will insure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available for the purposes of the activities described in subsections 801(d) (1), (2), and (3), and in no case supplant such funds.

Limitation of Payments

Sec. 803(a) No institutions of higher education may receive more than $4,000,000 for the construction of its coal research laboratory, including initially installed fixed equipment, nor may it receive more than $1,500,000 for initially installed movable equipment, nor may it receive more than $500,000 for new program startup expenses.

(b) No institution of higher education may receive more than $1,500,000 per year from the Federal Government for operating expenses.

Payments

Sec. 804(a) From the amounts appropriated pursuant to section 806, the Administrators shall pay to each institution of higher education having an application approved under this title an amount equal to the Federal share of the cost of carrying out that application. Such payments may be installments, by way of reimbursement, or by way of advance with necessary adjustments on account of underpayments or overpayments.

(b) The Federal share of operating expenses for any fiscal year shall not exceed 50 per centum of the cost of the operation of a coal research laboratory.

Advisory Council on Coal Research

Sec. 805(a) There is established an Advisory Council on Coal Research which shall be composed of

(1) The Administrator, ERDA who shall be Chairman;

(2) The Director of the Bureau of Mines of the Department of the Interior;

(3) The President of the National Academy of Sciences

(4) The President of the National Academy of Engineering;

(5) The Director of the United States Geological Survey; and

(6) Six members appointed by the Administrator from among individuals who, by virtue of experience or training, are knowledgeable in the field of coal research and mining, and who are representatives of institutions of higher education, industrial users of coal and coal-derived fuels, the coal industry, mine workers, non-industrial consumer groups, and institutions concerned with the preservation of the environment.

(b) The Advisory Council shall advise the Administrator with respect to the general administration of this title, and furnish such additional advice as he may request.

(c) The Advisory Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this title) to the President not later than December 31 of each calendar year. The President shall transmit each such report to the Congress.

(d)(1) Members of the Council who are not regular officers or employees of the United States Government shall, while serving on business of the Council, be entitled to receive compensation at rates fixed by the Administrator but not exceeding the daily rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, United States Code, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) Members of the Council who are officers or employees of the Government shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties on the Council.

(e) Whenever a member of the Council appointed under clauses (1) through (5) is unable to attend a meeting, that member shall appoint an appropriate alternate to represent him for that meeting.

Authorization of Appropriations

Sec. 806. There are authorized to be appropriated not to exceed $30,000,000 for the fiscal year ending September 30, 1979 (including the cost of construction, equipment, and startup expenses), and $7,500,000 beginning with the fiscal year 1980 each fiscal year thereafter through the fiscal year ending June 30, 1983, to carry out the provisions of this title.

Public Utility Regulatory Policies Act

Sec. 604. Coal Research Laboratories.

(a) Designation—So much of section 801 of the Surface Mining Control and Reclamation Act of 1977 as precedes subsection (b) of paragraph (2) thereof is amended to read as follows:

"Establishment of University Coal Research Laboratories."

"Sec. 801(a) The Secretary of Energy, after consultation with the National Academy of Engineering, shall designate thirteen institutions of higher education at which university coal research laboratories will be established and operated. Ten such designations shall be made as provided in subsection (e) and the remaining three shall be made in fiscal year 1980.

"(b) In making designations under this section, the Administrator shall consider the following criteria:

"(1) Those ten institutions of higher education designated as provided in subsection (e) shall be located in a State with abundant coal reserves."

(b) Authorization of Appropriations—Section 806 of such Act is amended to read as follows:

Authorization of Appropriations

Sec. 806(a) For the ten institutions referred to in the last sentence of section 801(a), there are authorized to be appropriated not to exceed $30,000,000 for the fiscal year ending September 30, 1979 (including the cost of construction, equipment, and startup expenses), and not to exceed $7,500,000 for the fiscal year 1980 and for each fiscal year thereafter through the fiscal year ending before October 1, 1984, to carry out the provisions of this title.

(b) For the three remaining institutions referred to in the last sentence of section 801(a), there are authorized to be appropriated not to exceed $6,500,000 for the fiscal year 1980 (including the cost of construction, equipment, and startup expenses), and not to exceed $2,000,000 for each fiscal year after fiscal year 1980 ending before October 1, 1984, to carry out the provisions of this title.

(c) Conforming Amendment—Title VIII of such Act is amended by striking out the terms "Administrator" and "Administrator, ERDA" in each place they appear and substituting "Secretary of Energy" in each such place.

In consideration of the foregoing, Chapter II of Title 10 of the Code of Federal Regulations is amended by establishing Part 320 as set forth below.

Issued in Washington, D.C., April 23, 1979.

John M. Deutch,
Director of Energy Research.

Subchapter B, Chapter II of Title 10 is amended by establishing Part 320 as follows:

Part 320—University Coal Research Laboratories Program

Sec.

320.1 Purpose and scope.
320.2 Definitions.
320.3 Establishment of the program.
320.4 Program objectives.
320.5 Functions of university coal research laboratories.
320.6 Management.
320.7 Eligibility requirements.
320.8 Content of proposals.
320.9 Evaluation and selection procedures.
320.10 Evaluation criteria.
320.11 Selection criteria.
320.12 Program implementation.
320.13 Limitations on the use of funds.
320.14 Program continuation.
320.15 Cost sharing.
320.16 General requirements.
320.17 Patents, data, and copy rights.
320.18 Reporting and dissemination of information.
320.19 Proposal information.
320.20 UCL Program termination.

Authority: Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87, Title VIII, as amended by the Public Utilities Regulatory Policies Act of 1978, Pub. L. 95–617, Title VI, sec. 604; Department of Energy Organization Act, Pub. L. 95–91. Sec. 644, et seq.

§ 320.1 Purpose and scope.

This part contains the requirements for the conduct of a University Coal Research Laboratories Program, the selection of thirteen institutions of higher education at which the laboratories are to be located and grant awards to establish the laboratories as authorized by Title VIII, Section 801 of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87), as amended.

§ 320.2 Definitions.

As used in this chapter, the term—

(a) "Abundant Coal Reserves" means a state with a *demonstrated coal reserve base* in excess of 1.5 billion tons.

(b) "Act" means Title VIII of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87, as amended by the Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, Title VI, Sec. 604.

(c) "Coal Characterization Research" means a program of research to advance knowledge and understanding of the physical and chemical characteristics of different types of coal and the correlation of these characteristics to the behavior of coal in various production, handling and utilization processes. The research program also may be concerned with the development of new techniques and procedures for the characterization of coals.

(d) "Coal Research" means research that will advance efforts to expand the use of coal as a source of energy. The research may include, but not necessarily be restricted to, investigations relating to resource development, mining, beneficiation, direct utilization, conversion, mine safety, environmental and health effects, transportation, and institutional impacts. The research may relate to coal of any rank and grade.

(e) "DOE" means the Department of Energy.

(f) "DOE Selection Official" means the Secretary of Energy, or his designee, vested with the final authority and responsibility to select and designate the University Coal Research Laboratories.

(g) "Education and Training," for purposes of the UCL Program, includes the training of advanced students through participation in coal research and coal research seminars. Education and Training also includes limited activities relating to the dissemination of UCL research information through continuing education or related programs and the improvement or upgrading of academic courses on coal-related subjects as a direct result of UCL research activities.

(h) "Institution of Higher Education" means a four-year university or college with established programs in several areas of coal research and related educational activities and masters and/

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or doctoral degree programs which must be accredited by the appropriate general regional accrediting agency or where appropriate, by recognized professional accrediting bodies in disciplines related to coal research. An institution of higher education for purposes of eligibility includes single institutions meeting the above qualifications, or a consortium or partnership of institutions which are collectively qualified. A consortium or partnership of institutions must clearly designate a "party" to serve as its agent for proposal submissions, award negotiations, technical reporting, fiscal reporting and audit requirements. In addition, multi-state consortia or partnerships, must name a "lead" institution and the location of the "lead" institution shall be considered the "home state" for purposes of meeting limitations of the Act with the further provision that a significant part of the UCL program shall be conducted within the "home state."

(i) "Major Coal Provinces" means the division of the coal fields of the United States into coal provinces as determined by the U.S. Geological Survey (USGS). The USGS has determined the following coal provinces: Alaska, Eastern, Gulf, Interior, Northern Great Plains, Pacific, and Rocky Mountains. The following table further defines the "Major Coal Provinces" by listing all of the states which fall within each province regardless of the abundance of coal reserves. States meeting the abundant coal reserve criteria (in excess of 1.5 billion tons) are italicized:

(1) Alaska Province: *Alaska.*

(2) Eastern Province: *Alabama,* Connecticut, Delaware, Florida, Georgia, *Kentucky,* Maine, Maryland, Massachusetts, Mississippi, New Jersey, New Hampshire, New York, North Carolina, *Ohio, Pennsylvania,* Rhode Island, South Carolina, Tennessee, Vermont, *Virginia, West Virginia.*

(3) Gulf Province: *Alabama,* Arkansas, Georgia, Florida, *Kentucky,* Louisiana, Mississippi, *Missouri,* Tennessee, *Texas.*

(4) Interior Province: Arkansas, *Illinois, Indiana, Iowa,* Kansas, *Kentucky,* Michigan, Minnesota, *Missouri,* Nebraska, *New Mexico, North Dakota, Ohio, Oklahoma,* South Dakota, *Texas,* Wisconsin.

(5) Northern Great Plains Province: *Colorado,* Kansas, *Montana,* Nebraska, *North Dakota,* South Dakota, *Wyoming.*

(6) Pacific Province: Arizona, California, Idaho, Nevada, Oregon, *Washington.*

(7) Rocky Mountains Province: Arizona, *Colorado,* Idaho, *Montana,* Nevada, *New Mexico,* Oregon, *Texas, Utah, Washington, Wyoming.*

(j) "Operating expenses" includes such costs associated with the development and operation of an ongoing research and related education program as salaries and wages, fringe benefits, travel, publication, computer supplies, research equipment up to $1,000 in value and other direct and indirect costs associated with the operation of a coal research laboratory.

This item does not include costs associated with the construction of laboratory facilities and buildings, the acquisition and installation of major equipment or for new program startup expenses.

(k) "State" means the States of the United States.

§ 320.3 Establishment of program.

There is established a University Coal Research Laboratories Program under the direction of the Office of Energy Research of DOE for the purposes of expanding research on coal and the training of advanced students and others through participation in such research. This program shall consist of thirteen coal research laboratories located at institutions of higher education which have the potential for and are capable of establishing and operating such a facility. At least ten of the network of thirteen authorized coal research laboratories will be located in States with abundant coal reserves. There will be at least one University Coal Research Laboratory designated in each of the seven coal provinces but not more than one in any State. The University Coal Research Laboratories Program will build upon and strengthen existing or potential coal-related research capabilities at the selected universities and will complement, but not duplicate or supplant, research on coal currently being conducted at universities.

§ 320.4 Program objectives.

The broad objectives of the University Coal Research Laboratories Program (hereafter referred to as the UCL Program) are as follows:

(a) The establishment of a network of coal research laboratories at institutions of higher education which are committed to conducting coal research;

(b) The stimulation of coal research in institutions of higher education;

(c) The training of advanced students and others through participation in coal-related research;

(d) The establishment of research programs for the characterization of coal in support of UCL research efforts; and

(e) The promotion of exchange of coal research information.

§ 320.5 Functions of university coal research laboratories.

Within the scope of the UCL Program objectives, each UCL shall conduct a research program which addresses significant coal-related research problems and which provides coal research experience to advanced students and others. The coal research program shall build on existing or potential institutional capabilities and resources and focus a majority of the research effort in one or more programmatic research areas reflecting these institutional strengths. Each UCL coal research program shall represent a balance between research and training and, within institutional capabilities, shall address coal research problems of general and/or regional nature. To bring the broadest range of capabilities to bear on its research problems, each UCL is encouraged to establish collaborative research, where appropriate, through cooperative arrangements with other academic institutions, laboratories, industry or other organizations. Each UCL shall propose a program for coal characterization research to be conducted in support of its research activities. This research program may serve as a focal point for the exchange of information on coal characterization research needs and results with representatives of private industry engaged in coal research and characterization but shall not provide services in competition with commercial laboratories capable of offering these services, nor supplant or duplicate such services as are normally provided by commercial laboratories. Each UCL shall establish and maintain regular communication, as appropriate, with the public and private sectors, including State and local governments, the coal producing industry, coal users, the general public and other institutions and organizations concerned with the problems and issues of research on coal as a source of energy. Through such interactions, each UCL shall disseminate information on its research accomplishments and seek inputs concerning research needs and problems.

§ 320.6 Management.

(a) The UCL Program shall be managed by a Program Director, University Coal Research Laboratories Program, located within the Office of Energy Research, DOE.

(b) Each UCL shall be managed by a director selected by the institution.

§ 320.7 Eligibility requirements.

(a) To be eligible to submit an application and be designated for participation in the UCL Program, the applicant must be an institution of higher education and have accredited masters and/or doctoral degree programs in disciplines related to ongoing and proposed areas of coal research and education. The institution must have experience in coal research, and expertise in several areas of coal research and the potential for, or currently active, outstanding programs in coal research. The institution must have the demonstrated capacity to establish and operate a coal research laboratory.

(b) To be eligible, an institution shall have or propose to establish such policies and procedures as will insure that the Federal share of funds made available under the UCL Program will be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available for the purposes of the activities proposed for the UCL and in no case supplant such funds.

(c) Only one proposal will be accepted from a single institution. An institution which is part of a consortium or partnership shall be subject to this restriction if that institution has been designated lead institution in a consortium or partnership proposal.

§ 320.8 Content of proposals.

(a) Institutions of higher education meeting the eligibility requirements as set forth in § 320.7, may submit a proposal in accordance with this regulation and the UCL Program Solicitation to compete for designation as a UCL and Federal financial assistance for approved UCL Programs. The Program Solicitation will specify the number of copies of each proposal and the address of the DOE office where they should be sent.

(b) The proposal shall contain, but not necessarily be limited to the following information:

(1) A summary statement of institutional eligibility for the UCL Program.

(2) A summary of scope, quality and history of established coal research and education activities including ongoing coal research and education programs, faculty involvement, student participation, publications, facilities and equipment.

(3) A statement of goals and objectives of the proposed UCL.

(4) A description of the organizational structure and management proposed for the UCL.

(5) A summary of the general plan for research and education activities proposed for the UCL through FY 1984, including a summary of technical projects to be undertaken, investigators and facilities to be committed, involvement of advanced students, a program for coal characterization research, facility and equipment needs, levels and man-years of effort and projected budget requirements.

(6) Concise project proposals for each individual program activity proposed in the summary plan to permit separate scientific and technical peer review and evaluation of these projects.

(7) A cost-sharing plan which describes in general terms how the proposal plans to meet the cost-sharing requirements of the UCL program (See § 320.16, Cost Sharing) for the authorized duration of the UCL Program (See § 320.21, UCL Program Termination) and a certification of the source, availability and commitment of non-Federal funds to meet cost-sharing requirements for UCL program activities proposed for the first year.

(c) The contents of the proposal described under paragraph (b) of this section, shall be sixty pages or less in length, exclusive of appendices which shall include specific project proposals (paragraph (b)(6) of this section), supportive information concerning ongoing coal-related research and education activities and other relevant information.

(d) Additional information on the format and content for proposals will be specified in a University Coal Research Laboratories Program Solicitation, notice of which shall be published in the Federal Register, and the *Commerce Business Daily.* The Program Solicitation will further specify the closing date for the submission of proposals. No more than 90 days will be provided for the preparation and submission of proposals.

(e) UCL proposals will be prepared in accordance with the requirements of the DOE Assistance Regulations, 10 CFR Part 600, (44 FR 12920, Mar 8, 1979).

§ 320.9 Evaluation and selection procedures.

(a) UCL Program proposals shall be subject to the following review and evaluation procedures:

(1) An initial review shall be conducted by the DOE Selection Panel, appointed by the DOE Source Selection Official, to determine if the proposing institution meets the eligibility requirements contained in § 320.7 and to determine if the proposal is complete as required by this regulation and the Program Solicitation.

(2) Proposals from institutions that do not meet the eligibility requirements or the requirements of the Program Solicitation shall be rejected.

(3) Proposals from institutions meeting the conditions of eligibility and the other application requirements shall be reviewed, evaluated, and ranked in accordance with the evaluation criteria (§ 320.11) by Technical Reviewers appointed by the DOE Selection Official from among qualified technical experts in areas related to coal research.

(4) Subsequent to the review and ranking of proposals, an analysis employing the selection criteria (§ 320.12) will be performed by the DOE Selection Panel.

(5) The DOE Selection Official, assisted by the DOE Selection Panel and based on the selection criteria, will designate thirteen institutions which individually and collectively are considered to have the greatest potentiality for meeting the objectives of a balanced national UCL Program of coal research and research-related training.

(6) After designation of the UCL's, DOE will enter into negotiations with each UCL to select and establish the support levels for those project activities to be included in the UCL grant award.

(b) The DOE Selection Official shall announce the designated institutions at which University Coal Research Laboratories will be established and operated within 90 days of the closing date for the submission of proposals.

§ 320.10 Evaluation criteria.

(a) Proposals from institutions which meet the requirements of eligibility (§ 320.7) will be evaluated and ranked by DOE using criteria which may include, but not necessarily be limited to the following:

(1) Understanding of Objectives of UCL Program and Functions of the UCL.

(i) Perceptions of coal related needs, problems and issues to be met through research and training.

(ii) Awareness of the state-of-the-art in the principal areas of coal research proposed for the UCL.

(iii) The relationship of the proposed research to and the differences from current work in the same field(s).

(iv) Institutional rationale for participation in the UCL Program including relevance to the various programs and missions of the institution.

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(v) Relationship of proposed plan to the functions of a UCL as set forth in § 320.5.

(2) Qualifications of Eligible Institution

(i) Scope, quality, and history of established coal research and education programs such as ongoing research and education programs, faculty involvement, student participation, publications, facilities and equipment.

(ii) Potential for attracting qualified advanced students.

(iii) Qualifications of the investigators committed to the UCL Program.

(iv) Role and qualifications of UCL Director.

(v) Existing facilities and equipment to be committed to UCL programs.

(3) Scientific and Technical Merit of the Proposed Program

(i) The qualify of the proposed research.

(ii) The role of proposed research in the training of advanced students.

(iii) The degree to which the proposed research will advance scientific and technical understanding of the coal-related problem(s) under study.

(iv) The role of the coal characterization research program in support of proposed UCL research and education activities.

(v) Provisions for communicating research results and for interaction with various segments of the public and private sectors concerning UCL activities.

(4) Program Management Plans

(i) Demonstrated capability and experience in the administration of complex interdisciplinary and/or interinstitutional research programs comparable to a UCL.

(ii) Program management plan proposed for UCL.

(iii) Plans for managing research and training activities carried on in collaboration with other organizations and institutions.

(iii) Reasonableness and appropriateness of the proposed cost plan specifically for UCL program administration.

(iv) Nature of institutional commitment to the UCL Program including provisions for institutional support, cost-sharing, program continuity and the relationship of the UCL to the overall academic mission of the institution.

(v) Provisions for coordination between the UCL and, if present, a Mining and Mineral Resources Research Institute established and funded under provisions of Title III, Pub. L. 95–87, including program planning, organization, management, and avoidance of program duplication.

(5) Fiscal Management

(i) The reasonableness and appropriateness of the total costs proposed for the UCL program including research, program operations, facilities, and equipment.

(ii) The justification presented for the major cost categories proposed (operating expenses, facilities, major equipment, etc.) with reference to § 320.14, Limitations on the Use of Funds.

(iii) Certification of cost-sharing to meet the specific requirements on laboratory operating expenses and cost-sharing proposed on facilities and equipment requests in the first program year.

(b) All eligible UCL proposals will be reviewed and evaluated with respect to the above-listed evaluation criteria.

§ 320.11 Selection criteria.

(a) In making the final selection of the institutions to be designated as the site of a UCL, the following criteria will be considered by the DOE Selection Panel:

(1) The actual ranking of the proposals with respect to the evaluation criteria.

(2) The relative need for research on coals of different types and qualities distributed within the various coal provinces.

(3) Geographic distribution of the applicants with respect to coal provinces, coal reserves, and the utilization of coal on a state and regional basis.

(4) The best overall mix of research specialities, educational potential, and geographic distribution as determined by DOE of coal research programs among those proposed by the designated UCL institutions.

(b) Criteria 320.12(a)(2) through (4), above, are DOE programmatic criteria which DOE will use in the selection of proposals for award and do not reflect on any individual proposal. These criteria will be used by DOE to insure the appropriate mix of awards which meet the overall UCL Program objectives.

§ 320.12 Program implementation.

Subsequent to the designation of the UCL institutions and subject to the availability of UCL Program funds, the UCL Program Office shall initiate the grant award process. Funding of designated UCL's will depend on the funding requested and the nature of the proposed program by each UCL, the best mix of research and educational activities among the UCL's and the availability of appropriated funds to the UCL Program with the amount of the grant being determined through negotiation as cited above in § 320.10. In developing specific funding levels for the initial program year, consideration will also be given to the current capabilities and future potential of each individual UCL. All awards will be subject to the availability of appropriated funds.

§ 320.13 Limitations on the use of funds.

(a) No UCL may receive more than the following total amount of Federal funds:

	Limit
Construction and fixed equipment	$4.0 million.
Movable equipment	$1.5 million.
Start-up expenses	$0.5 million.
Program operations (annual)	$1.5 million [1]

[1] Federal share shall not exceed 50 percent of the total operating costs for any fiscal year.

(b) The Director of the UCL Program will determine the amount of funds to be advanced to each designated UCL for the initial grant year based on estimates of amounts required to conduct all or parts of the proposed program as agreed to through negotiation with the UCL. Depending on levels of appropriation, the following priorities may apply in the allocation of UCL funds: (1) Research program operating expenses; (2) acquisition of movable equipment; and (3) construction of facilities, acquisition of related fixed equipment and start-up costs.

§ 320.14 Program continuation.

(a) The budget levels for subsequent year funding of a UCL beyond the initial year will be agreed to for planning purposes during the negotiation of the initial UCL grant. Specific funding levels for subsequent years will be contingent upon (1) technical performance, (2) proposed continuation program plans and (3) availability of appropriations to the UCL Program. A renewal proposal will be required of each UCL at a time and in a format mutually agreed to between DOE and the UCL.

(b) Technical performance and technical program plans of each UCL will be reviewed by qualified review panels at intervals to be specified by the UCL Program Office.

(c) The UCL Program Office will determine the scope and level of continued support to each UCL based on program reviews and the allocation of available UCL Program funds.

(d) Subsequent-year support to a UCL may be refused at the discretion of the DOE UCL Program Office based, for example, on past performance; failure to agree on a mutually acceptable continuation program plan; or the level of available UCL Program funds. In such instances, terminal funding at a reduced level for one (1) year may be authorized by the UCL Program Office.

§ 320.15 Cost sharing.

(a) DOE is authorized to make grants to pay a Federal share of the costs of establishing and maintaining a UCL, including construction of such facilities as may be necessary, to those institutions of higher education designated in the UCL Program.

(b) The Federal share of UCL operating expenses for any fiscal year shall not exceed 50 per centum of the cost of operation of a UCL.

(c) Cost-sharing stipulated by the Act will be governed in accordance with prevailing OMB regulation, FMC 73–3, "Cost-Sharing on Federal Research" and Circular A–110 "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations." Cost participation may be accomplished by a contribution to any of the cost elements of research projects supported under specific UCL awards, either direct or indirect costs, provided that such costs would otherwise be allowable in accordance with the cost principles authorized in OMB Circular A–21 (dated February 26, 1979), and that the costs are not charged to the Federal government under any other grant or contract. Cost-sharing may vary in amount from project to project within a UCL but the aggregate of cost-sharing for the operating expenses portion of the UCL program must be of equivalent value and match or exceed expenditures of DOE funds in any given grant period. The grantee contributions to the costs of operating the UCL may be in any form, including cash or in-kind contributions (the value of which is determined by DOE), from the institution or third parties, and for any category costs, direct or indirect: *Provided,* They are non-Federal and are not otherwise counted as cost-sharing on other Federal projects. Education and training activities must be directly included as one of the operating expense functions of the UCL in order that such activities may be considered as part of the proposer's cost-share. Institutions or organizations participating in collaborative projects of the UCL under a subgrant may make cost-sharing contributions which meet the cost-sharing requirement. Grantees must maintain adequate cost-sharing records as well as records of all expenditures.

§ 320.16 General requirements.

(a) Policies for and administrative requirements of the UCL research awards will be in accordance with FMC 73–7 (dated December 19, 1973); OMB Circular A–110 (dated July 30, 1976), and the DOE Assistance Regulations Subpart A and B (dated March 8, 1979).

(b) Each grant under this part shall require that a recipient of support under the UCL program submit a final written report of activities supported in whole or in part by Federal funds made available under the program.

§ 320.17 Patents, data, and copyrights.

Each grant under the program shall be governed by the provisions of Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974, 42 U.S.C. 5908, with regard to patent and any agreements by DOE to waive title to inventions that may be made under the program shall be pursuant to 41 CFR Part 9–9. The rights-in-data provisions included in the grant shall be as required by 10 U.S.C. 600.82(c).

§ 320.18 Reporting and dissemination of information.

(a) Each designated UCL shall submit semiannually brief technical progress reports and annual program performance reports to the DOE UCL Program Office. The annual report shall be submitted concurrent with the renewal proposal and shall include a description of the activities conducted at the UCL and an evaluation of the success of such activities and such other information as may be required by DOE.

(b) UCL financial and budget reports will be prepared in accordance with OMB Circular A–110, Attachment G, Financial Reporting Requirements.

(c) The UCL institutions and DOE shall disseminate to the public in an appropriate manner information on coal research findings resulting from program activities of the UCL program. Prompt dissemination of UCL research results to the scientific and technical community shall be encouraged.

§ 320.19 Proposal information.

Information contained in proposals submitted in response to the subsequent UCL Program Solicitation shall be treated in accordance with ERDA–PR 9–3.150.

§ 320.20 UCL program termination.

The UCL Program is authorized to continue until the end of fiscal year 1984. Continuation of the program will depend on the extension of the authorizing legislation and the availability of appropriated funds.

[FR Doc. 79-13427 Filed 4-30-79; 8:45 am]
BILLING CODE 6450-01-M

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federal register

Tuesday
May 1, 1979

Part IV

Department of Agriculture

National Environmental Policy Act; Proposed Policies and Procedures

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Part 3100]

National Environmental Policy Act; Proposed Policies and Procedures

AGENCY: United States Department of Agriculture (USDA).

ACTION: Proposed Rule.

SUMMARY: This action proposes Departmental policies and procedures for compliance with the National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4321 *et seq.*; and the Council on Environmental Quality's (CEQ) National Environmental Policy Act Regulations (40 C.F.R. Parts 1500–1508). This rule creates Chapter XXXI, Part 3100 of Subtitle B, 7 C.F.R. Subpart B—National Environmental Policy Act, is set forth in this proposed rule. Subpart A—Office of Environmental Quality Activities is reserved for later action. USDA adopts the CEQ regulations and sets forth in this rule general directives for USDA agencies in fulfilling their requirements under this rule and those of CEQ.

DATE: Comments due: June 15, 1979.

ADDRESS: Comments to: Barry R. Flamm, Coordinator, Office of Environmental Quality Activities, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Dr. Rado J. Kinzhuber, Chairman, Ad Hoc Working Group, Office of the Secretary, USDA, Washington, D.C. 20250, Phone (202) 447–5685.

SUPPLEMENTARY INFORMATION: On October 25, 1974, Secretary of Agriculture Memorandum No. 1695, Supplement 4, Revised, was issued to establish guidelines for the preparation of environmental impact statements and compliance with other procedural requirements of Section 102(2) of the National Environmental Policy Act (NEPA). Executive Order 11991 and the recently promulgated regulations of the Council on Environmental Quality (CEQ) necessitate rules to replace this memorandum. These rules address policy as well as procedure in order to assure compliance with the spirit and substantive intent of NEPA. Accordingly, in this proposed rule USDA reaffirms and codifies its continuing policy for achieving the goals encompassed by Section 101 of NEPA through implementation of adequate procedures for the planning, development and implementation of agency programs and activities.

It is the intent of this rule to set forth general policy and procedural directives to assist the individual agencies of USDA in complying with the mandates of NEPA and the CEQ regulations. Each USDA Agency is responsible for preparing more specific procedures, in light of these broad directives, the provisions of NEPA and CEQ's regulations, which are tailored to the specific programs and activities of that agency. Those agencies whose programs and activities are of such a nature as to not come within the types of actions covered by Section 102(2) of NEPA should consult with OEQA regarding the need for developing specific implementation procedures.

In addition to the above, this rule sets forth the role of the Office of Environmental Quality Activities (OEQA) with regard to the NEPA process and procedures. Further, it explains the coordination between the NEPA and the Regulatory Impact Analysis review processes.

This action has been determined to be significant for purposes of Secretary's Memorandum No. 1955.

An approved Environmental Assessment and Draft Impact Analysis Statement is available from Dr. Rado J. Kinzhuber, at the address provided above.

This rule supersedes Secretary of Agriculture Memorandum No. 1695, Supplement No. 4, Revised (October 25, 1974).

Comments on this proposed rule are invited. To be considered in the preparation of a final rule, comments must be received by June 15, 1979.

Dated: April 26, 1979.

Jim Williams,
Acting Secretary.

Authority: National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4321 et seq.; Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977); 5 U.S.C. 301; 40 C.F.R. 1507.3.

Title 7 of the Code of Federal Regulations is amended by adding new Chapter XXXI, consisting of Part 3100 to read as set forth below:

CHAPTER XXXI—CULTURAL AND ENVIRONMENTAL QUALITY

PART 3100—ENVIRONMENTAL MATTERS

Subpart A—Reserved

Subpart B—National Environmental Policy Act

Sec.
3100.20 Purpose.
3100.21 Policy.
3100.22 Categorical Exclusions.
3100.23 Lead Agency Disputes.
3100.24 Public Involvement.
3100.25 Interagency and Interdepartmental Cooperation.
3100.26 Time and Page Limits.
3100.27 Extra-Agency Expertise.
3100.28 Supplements.
3100.29 Distribution.
3100.30 Distribution to OEQA.
3100.31 When to Prepare an EIS.
3100.32 Impact Analysis.
3100.33 Tiering.
3100.34 Problems in Response to Comments.
3100.35 Implementation of Agency Determination.
3100.36 Emergencies.

Authority: National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4321, et seq.

Subpart A—Reserved

Subpart B—National Environmental Policy Act

§ 3100.20. Purpose.

(a) This subpart supplements the regulations for implementing the procedural provisions of NEPA, which regulations were published by the Council of Environmental Quality (CEQ) in 40 CFR Parts 1500–1508. This subpart incorporates and adopts these regulations.

(b) Words used in the provisions of this subpart shall have the same meaning as they have in the regulations of CEQ at 40 CFR Part 1508.

(c) References are made in these regulations to appropriate sections of 40 CFR 1500–1508. This has been done to direct the attention of USDA agencies to specific provisions for guidance in the development of agency procedures or to provisions of the CEQ regulations which are the basis for the pertinent section. The Office of Environmental Quality Activities (OEQA), in cooperation with Environmental Quality Committee, will develop a NEPA process to be used by the Office of the Secretary in reviewing, implementing and planning its activities, determinations and policies.

§ 3100.21. Policy.

(a) All policies and programs of the various USDA agencies shall be planned, developed and implemented so as to achieve the policies declared by NEPA in order to assure responsible stewardship of the environment for present and future generations.

(b) Each USDA agency is responsible for compliance with the provisions of this subpart, the regulations of CEQ and the provisions of NEPA. Compliance will include the preparation and implementation of specific procedures and processes relating to the programs and activities of the individual agency, as necessary. (§§ 1501.2, 1501.3, 1507).

(c) The Coordinator, OEQA, shall review agencies implementing procedures to show consistency with CEQ's NEPA regulations and will coordinate environmental assessment activities for the Office of the Secretary which come under the purview of NEPA.

(d) Each agency shall develop appropriate procedures and processes in a style which will promote understanding at the field staff level.

§ 3100.22. Categorical Exclusions.

(a) In general, every agency recommendation or report on a proposal for legislation or other major agency action which significantly affects the quality of the human environment entails certain NEPA review procedures. However, the following are categories of agency activities which have been determined not to have a significant individual or cumulative adverse effect on the human environment and are excluded from the NEPA review process, unless individual agency procedures prescribe otherwise (§ 1508.4):

(1) Policy development, planning and implementation which relates to routine activities such as personnel, organizational changes or similar administrative functions;

(2) Activities which deal solely with the funding of programs, such as program budget proposals disbursement, transfer, or reprogramming of funds;

(3) Inventories, research activities and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity (§ 1508.27);

(4) Educational and informational programs and activities;

(5) Civil and criminal law enforcement activities;

(6) Activities which are advisory and consultative to other agencies, public and private entities such as legal counselling and representation;

(7) Activities related to trade representation, and market development activities overseas.

(b) Agencies will identify in their own procedures the activities which normally would not require an environmental assessment or environmental impact statement. (§ 1506.4)

(c) Any activity which would normally fall within one of the categories listed in paragraph (a) of this section, or in a category identified in agency procedures, but which is determined to have a potential for significant impact on the human environment shall not be eligible for exclusion from the NEPA process. Agencies shall adopt procedures to assure continuous scrutiny of activities to determine continued eligibility for categorical exclusion.

§ 3100.23. Lead Agency Disputes.

The OEQA will coordinate, upon request, the resolution of lead agency disputes. (§ 1501.5(e))

§ 3100.24. Public Involvement.

All NEPA processes developed and followed by USDA agencies shall provide for public involvement. The OEQA will consult with the Office of Policy Analysis and Public Participation to coordinate between agencies in carrying out this section. (§§ 1501.4(e)(2), 1506.06, 1508.10)

§ 3100.25. Interagency and Interdepartmental Cooperation.

(a) The USDA and its agencies shall, to the fullest extent possible, cooperate with other agencies, departments, bureaus, as well as state and local units of government to fulfill their responsibility under NEPA, utilizing memorandum of understanding or other instruments of agreement where possible.

(b) If a USDA agency is unable to cooperate to the extent formally requested by a lead agency, that agency shall reply to the lead agency that other program commitments preclude full involvemnet. Any such reply shall be referred to the Coordinator, OEQA, within 10 working days of receipt of the request for submission to the lead agency and CEQ. §§ 1501.6(c))

§ 3100.26. Time and Page Limits.

The individual USDA agencies will establish, through their scoping processes, appropriate page limits and time limits with due regard to the guidance provided by the CEQ regulations. (§§ 1500.5(e), 1501.1(e), 1501.7(7)(b), 1501.8)

§ 3100.27. Extra-Agency Expertise

The OEQA will work with USDA agencies to identify sources of technical and editorial expertise necessary to supply interdisciplinary needs which have been identified in the scoping process and for which expertise is not available within that particular agency.

§ 3100.28. Supplements.

A decision to prepare a supplement to an environmental document will be made by the affected agency. New findings and information relating to the decision-making process, including advice from the OEQA shall be considered in such a decision. (§ 1502.9(c))

§ 3100.29. Distribution.

All USDA agencies shall develop and maintain a distribution list for dissemination of decision documents and notices. Agencies may make distributions in addition to those prescribed in the CEQ regulations. To guide agencies in this regard, Appendix II of 40 CFR Part 1500, published in Federal Register, Vol. 38, No. 147, pages 20557–20562, on August 1, 1973, or other such list as promulgated by CEQ, will serve as reference.

§ 3100.30. Distribution to OEQA.

A monthly summary of agency activity in the NEPA process shall be forwarded to the OEQA. A negative report is not required.

§ 3100.31. When to Prepare an EIS

(a) In addition to those agency activities identified in § 3100.22(b), USDA agencies shall identify those classes of their activities which normally require an EIS. (§ 1507.3(b))

(b) Agency activities not covered by paragraph (a) of this section shall require an environmental assessment, to support an agency determination of the need for an EIS. (§§ 1501.3, 1501.4)

§ 3100.32. Impact Analysis.

(a) All environmental assessments and impact statements prepared by an agency regarding legislative proposals or program regulations shall incorporate applicable components of Impact Analysis (see Secretary's Memorandum No. 1955; Executive Order No. 12044; 40 CFR § 1508.8).

(b) Incorporation of Impact Analysis procedures into agency NEPA processes is to be coordinated between the OEQA, the Department's Policy Analysis and Public Participation staff and the implementing agency (see Secretary's policy guidance to USDA agencies: Guidelines for Impact Analysis and Environmental Impact Statements, September 25, 1978).

§ 3100.33 Tiering.

Tiering, as set forth in 40 C.F.R. 1502.20, shall be incorporated by agencies in their NEPA procedures. The OEQA will assist agencies regarding specific questions concerning tiering.

§ 3100.34 Problems in Responses to Comments.

Problems concerning the appropriate response to comments on environmental impact statements shall be resolved, if possible, at the agency staff level. Problems between USDA agencies not

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resolved by the final EIS shall be submitted to the heads of respective agencies for resolution with mediation, if necessary, by OEQA. OEQA will also be informed of agency problems with agencies outside USDA and will be available to help resolve disputes as necessary. (§§ 1503.2, 1503.3, 1503.4)

§ 3100.35 Implementation of Agency Determination.

Each agency shall develop NEPA implementing procedures and other appropriate internal procedures to provide for mitigation, monitoring or any other actions or conditions necessary to properly carry out the determinations established during their NEPA process. (§ 1505.3)

§ 3100.36 Emergencies.

The procedures developed by each agency shall include those NEPA review actions necessary in relation to agency responses to emergency situations. (§ 1506.11)

[FR Doc. 79-13529 Filed 5-01-79; 8:45 am]
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federal register

Tuesday
May 1, 1979

Part V

Office of Management and Budget

Budget Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three new deferrals of budget authority totalling $164.1 million and a revision to a previously transmitted deferral increasing the amount deferred by $1.0 million. The items involve the fossil energy construction and Strategic Petroleum Reserve programs in the Department of Energy and the payment of Vietnam prisoner of war claims in the Foreign Claims Settlement Commission.

The details of the deferrals are contained in the attached reports.

Jimmy Carter

The White House,
April 26, 1979.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral No.	Item	Budget Authority
	Department of Energy:	
	Energy Programs	
D79-55	Fossil energy construction	50,000
D79-56	Fossil energy construction	570
D79-57	Strategic Petroleum Reserve	113,528
	Other Independent Agencies:	
	Foreign Claims Settlement Commission	
D79-29A	Payment of Vietnam prisoner of war claims	1,894
	Total, deferrals	165,992

SUMMARY OF SPECIAL MESSAGES
FOR FY 1979

(in thousands of dollars)

	Rescissions	Deferrals
Ninth special message:		
New items	—	164,098
Change to amount previously submitted	—	1,000
Effect of ninth special message	—	165,098
Previous special messages	908,692	4,208,712
Total amount proposed in special messages	908,692	4,373,810 1/
	(in 11 rescission proposals)	(in 57 deferrals)

1/ This amount represents budget authority except for $15,809,478 in two Treasury Department deferrals of outlays only (D79-40A and D79-25B).

Deferral No: D79-55

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 95-465): $ 99,709,000 1/
Bureau: Energy Programs	Other budgetary resources: 143,682,898
Appropriation title & symbol: Fossil Energy Construction 89X0214	Total budgetary resources: 243,391,898
	Amount to be deferred: Part of year: $ ____ 2/
	Entire year: 50,000,000
OMB identification code: 89-0214-0-1-271	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: These funds were appropriated in FY 1979 and prior years for the construction of a low/medium BTU coal gasification demonstration plant. Present scheduling calls for reaching a decision to proceed with construction of the plant in December 1979, pending completion of two conceptual designs which will provide necessary environmental and economic assessments. These funds are deferred pending the results of this decision.

This deferral action is consistent with the recommendations contained in both House and Senate report language accompanying H.R. 2439, the Budget Rescission Bill, 1979, which was signed into law on April 9, 1979 (P.L. 96-7).

Estimated Effects: Deferral of these funds will have no impact on the construction schedule since the conceptual design phase of the project is not expected to be completed until December 1979, and a selection of one of the two designs could not be made until the second quarter of FY 1980.

Outlay Effects: There is no effect on outlays of this deferral since the funds would not be used if made available.

1/ This amount represents unobligated balances carried forward from FY 1978 for the fossil energy portion of the Energy appropriation account (89X0203).
2 These funds were proposed for rescission on January 31, 1979 (R79-2). This proposal was not approved by the Congress.

Deferral No: D79-56

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 95-465): $ 99,709,000
Bureau: Energy Programs	Other budgetary resources: 143,682,898 1/
Appropriation title & symbol: Fossil Energy Construction 89X0214	Total budgetary resources: 243,391,898
	Amount to be deferred: Part of year: $ ____
	Entire year: 570,000
OMB identification code: 89-0214-0-1-271	Legal authority (in addition to sec. 1013): [ ] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: The Department of the Interior and Related Agencies Appropriation Act, 1979, provided $570,000 for a "mining and energy related technologies education center/coal utilization facility". These funds were intended for costs relating to the preconstruction phase of the educational facility, such as curricula development and architectural and engineering studies.

Currently, there are at least three separate efforts underway within the Federal government to establish coal miner training needs involving the Department of Energy, the Interior Department's Bureau of Mines, and the President's Commission on Coal. These funds are deferred pending the completion of these studies so that the Department of Energy will have a sufficient basis to determine the type of coal miner training that will be needed and the breadth of training that should be undertaken at the new facility.

Estimated Effect: The effect of this deferral is to preserve these funds for use after the studies mentioned above are completed. It is expected that the study results will be available in time to permit initiation of this project in FY 1980.

Outlay Effect: The net effect on outlays will be to shift $570,000 in outlays from 1979 into 1980.

1/ This amount represents unobligated balances carried forward from FY 1978 for the Fossil energy portion of the Energy appropriation account (89X0203).

Deferral No: D79-57

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Energy	New budget authority (P.L. 95-465): $3,006,854,000
Bureau: Energy Programs	Other budgetary resources: 64,658,180
Appropriation title & symbol: Strategic Petroleum Reserve 899/10218	Total budgetary resources: 3,071,512,180
	Amount to be deferred: Part of year: $ 30,000,000
	Entire year: 83,528,000
OMB identification code: 89-0218-0-1-274	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual [X] Multiple-year December 31, 1980 (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: These funds are appropriated for the development of Strategic Petroleum Reserves including oil acquisition and transportation, facilities development, planning and administration.

In March, 1979, the House and Senate subcommittees on Interior appropriations approved reprogramming $529,214,000 originally intended for oil acquisition and transportation for use in facilities development. Within this amount funds totalling $83,528,000 are programmed for use in FY 1980, and are deferred for the remainder of FY 1979. From the remaining $445,686,000 reprogrammed for use in FY 1979, $30,000,000 represents contingency amounts which have not yet been committed to specific facility development requirements. This $30,000,000 is deferred pending requirements for its use. The Department of Energy and the Office of Management and Budget will periodically review the status of facility funding requirements to determine when the reserved funds should be made available. This action is taken under the provisions of the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

Estimated Effects: This deferral action will have no programmatic effects. Sufficient funds are available to permit execution of the present program plan for FY 1979.

Outlay Effects: There is no outlay effect from this deferral.

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D79-29A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D79-29 transmitted to the Congress on October 2, 1978 and printed as House Document No. 95-392.

This revision of a deferral for the payment of Vietnam prisoner of war claims increases the amount currently reported as deferred from $894,000 to $1,894,000. This increase of $1,000,000 is consistent with congressional intent to transfer these funds to the salaries and expenses account of the Foreign Claims Settlement Commission as stated in Senate Report 96-33, which accompanied H.R. 2439, the Budget Rescission Bill, 1979 (P.L. 96-7).

Deferral No: D79-29A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Foreign Claims Settlement Commission Bureau:	New budget authority (P.L. ___ ___ ___) $ ___ Other budgetary resources 2,044,000*
Appropriation title & symbol Payment of Vietnam Prisoner of War Claims 1/ 79X0104	Total budgetary resources 2/ 2,044,000* Amount to be deferred: Part of year $1,894,000* Entire year ___
OMB identification code: 79-0104-0-1-153 Grant program: ☐ Yes ☒ No	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ___
Type of account or fund: ☐ Annual ☐ Multiple-year ___ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ___

Justification*: Public Law 91-289, approved June 24, 1970, authorizes the Foreign Claims Settlement Commission to adjudicate and certify for payment the claims of American military and civilian prisoners of war held during the Vietnam conflict, or their survivors. Before claims can be certified for payment by the Commission, the appropriate military service must determine the individual's POW status and, in the case of claims by the survivors of missing persons where evidence of captivity exists, it must also determine the date of death. Such determinations have been delayed pending the results of intense efforts to account for missing United States servicemen.

Appropriations were enacted in 1971, 1972, and 1973 totalling $16,565,000 for the payment of Vietnam POW claims to remain available until expended. Of the $2,044,000 remaining available, $150,000 has been apportioned for 1979 to pay prisoner of war claims resulting from new determinations in 1979 and $894,000 is deferred to pay any additional claims and cover any awards that may be made during the three years a claimant has to contest an adjudicated claim. The remaining $1,000,000 was originally included in a rescission proposal (D-79-29) transmitted to the Congress on January 31, 1979. Senate Report 96-33, which accompanied H.R. 2439, the Budget Rescission Bill, 1979 (P.L. 96-7) recommended transfer of this $1,000,000 to provide for FY 1980 administrative expenses of the Commission. Accordingly, these funds are deferred pending congressional action on this transfer.

[illegible] or certified for payment by the Commission until final status determinations are made by the military services.

Outlay Effect: No effect on outlays results from this deferral action.

* Revised from previous report.
1/ This account was the subject of a similar deferral during FY 1978.
2/ [illegible] enacted into law on April 9, 1979, rescinding $8,000,000 from this account (P.L. 96-7).

[FR Doc. 79-13568 Filed 4-30-79; 8:45 am]
BILLING CODE 3110-01-C

federal register

Tuesday
May 1, 1979

Part VI

Department of Agriculture

Agricultural Marketing Service

Livestock; Grades and Standards for Feeder Cattle

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DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

[7 CFR Part 53]

Livestock (Grades and Standards for Feeder Cattle)

AGENCY: Agricultural Marketing Service.

ACTION: Proposed Rule.

SUMMARY: This document proposes revisions in the Department's feeder cattle grade standards. Changes in the kinds of cattle being produced in the United States since the present standards were adopted in 1964, linked with changes made in the slaughter cattle and beef carcass standards in 1976, make the concept of the present standards no longer valid. A system of grades is proposed for thrifty feeder cattle which involves separate identifications for variations in frame size and muscle thickness. The frame size portion of the grade—the most important consideration—will effectively identify feeders for the weight at which they are expected to produce carcasses of a given grade—U.S. Choice, for example. The portion of the grade related to thickness will identify feeders for the effect that differences in muscle thickness will have on the ultimate USDA yield grade of their carcass.

DATE: Comments must be received on or before July 1, 1979.

ADDRESS: Written comments, in duplicate, to Hearing Clerk, Room 1077 South, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the draft impact analysis contact W. Edmund Tyler, Chief, Livestock Standardization Branch, Livestock, Poultry, Grain, and Seed Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-5679.

SUPPLEMENTARY INFORMATION: The present U.S. Standards for Grades of Feeder Cattle were promulgated September 25, 1964. Since 1964, these official standards have been used by the Department as the basis for market reporting of feeder cattle prices and the basis for certifying the grade of feeder cattle delivered on futures contracts. They also are used by States which conduct official feeder cattle grading programs.

The present standards were useful when first adopted because the feeder cattle population then consisted primarily of the three British breeds, which had similar growth curves and were of similar body type. However, more than forty breeds are now being used to produce beef in the United States and they are much more variable in both size and body type.

Recognizing the changes in the cattle population, the Department appointed a special task force in 1973 to review the adequacy of the 1964 standards and to recommend any changes that might be needed. That task force was composed of USDA Livestock Division specialists and State department of agriculture specialists directly responsible for conducting livestock grading programs in their respective States.

The task force report concluded (1) that the present standards were not widely accepted as a tool for use in trading on feeder cattle, (2) that the feeder cattle type had changed dramatically since 1964, and (3) that new standards which better reflect the needs of the feeder cattle industry should be developed.

That task force also concluded that frame size and muscle thickness were two of the most important factors affecting merit (value) in feeder cattle. The task force recommended that these two factors be used as the basis for revised standards and that a grading system be developed in which the grade of a feeder animal would include separate identifications for each of these factors. Separate identification for these two important variables was considered essential since frame size and muscle thickness are not necessarily related, and a single system combining these factors would result in individual grades containing cattle of varying frame sizes and muscle thicknesses.

The Department has concluded that the frame size and muscle thickness concept is valid because: (1) frame size is an inherent characteristic in cattle that is not affected by normal management practices. Frame size at a given age is highly correlated with an animal's mature size. Consequently, frame size is also highly correlated with the weight at which, under normal feeding and management practices, an animal will produce a carcass of a given grade. An evaluation of frame size is a useful tool for segregating animals into groups that are relatively homogeneous with respect to the weight at which they would have the same USDA quality grade. Therefore, to reflect differences in frame size, this proposal includes three frame size categories—Large Frame, Medium Frame, and Small Frame. In each of the frame size specifications, guidelines are given relative to the live weights at which steers and heifers would each be expected to produce U.S. Choice carcasses.

(2) Variations in muscling are also inherent characteristics which affect carcass yields of lean and differences in USDA carcass yield grades. Such differences can result in a thinly muscled animal having a Choice, Yield Grade 3 carcass, whereas the carcass of a thickly muscled animal may be a Choice, Yield Grade 2. Such a difference in yield grade is of considerable economic significance and thus is a valid reason for including a measure of muscle thickness as a factor in the standards for grades of feeder cattle. And, since variations in this factor are associated with differences in yield grade—not quality grade—the terms "No. 1," "No. 2," and "No. 3" have been selected to identify the three categories of thickness due to variations in muscling referenced in this proposal A constant degree of fatness (slightly thin) is used in appraising the development of muscle thickness.

Thriftiness is an important value determining characteristic of feeder cattle because it relates to the animal's ability to grow and fatten normally.

The Department considered the possible inclusion of fatness as a third grade factor for feeder cattle. However, this would greatly increase the number of grade combinations—from 9 to 27—which would likely render the application of the grades impractical. Using fatness in lieu of degree of muscle thickness was also considered, but this would result in cattle in a particular grade being so dissimilar in appearance that their marketability would be seriously impaired. For example, a pen of cattle of a given frame size and degree of fatness could range all the way from thick beef animals to animals of non-beef breeding which are narrow throughout. Adopting fatness as a grade factor would, at times, necessitate placing a different feeder grade on the same animal in different stages of its development. Also, cattle from the same herd may be graded differently from year to year depending on their plane of nutrition and management.

Variations in fatness have different effects on feeder cattle value, dependent on the relative price of slaughter cattle and cost of feedlot gain. Depending on the feeding regime to be followed, the age of the cattle, and the "feeding economics," cattle may bring either a premium or be discounted because they are fat or because they are thin. Therefore, the Department believes that when degree of fatness is a significant factor affecting value, it should be used in market reports in addition to grade in order to be more descriptive of market conditions.

Comments.—All persons who desire to submit written data, views, or arguments in connection with this proposal are invited to file such material, in duplicate with the Hearing Clerk, Room 1077 South, U.S. Department of Agriculture, Washington, D.C. 20250 on or before July 1, 1979. Comments must be signed and include the address of the sender and should bear a reference to the date and page number of this issue of the Federal Register. Also, since the comments will be considered in the adoption or denial of this proposal, they should include definitive information which explain and support the sender's views. All written submissions will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Background.—The Department has always recognized the need for a more factual basis for all of its livestock grade standards and has continually encouraged and supported research designed to identify and evaluate the factors that would accurately predict feeder cattle merit. Late in 1976, a draft proposal of feeder cattle standards was developed and submitted to interested persons for discussion purposes. The draft proposal was based on an evaluation of the research data available at the time from various research institutions. Informal comments on the draft were solicited from university animal scientists, State departments of agriculture, livestock, breed, and farm organizations, and other industry interests. A vast majority commented favorably on the draft proposal. Almost concurrently, preliminary results from a feeder cattle study which raised questions concerning the use of muscling as a grade factor were presented at several meetings of cattle producers and feeders. Consequently, a proposal for new feeder grades was delayed until more research could be conducted, particularly with respect to muscling. In this effort, the Department cooperated with Texas A&M University, Colorado State University, and Monfort of Colorado in conducting a feeder cattle study (Monfort study) which began in September 1977 and was completed in March 1978. Nine hundred forty-four feeder steers were selected to represent broad variations in frame size and degree of muscling and they were fed to weights that correspond to their frame size as defined in the 1976 proposed revision. Numerous subjective and objective evaluations were made on these cattle and their resultant carcasses. These data were then analyzed with respect to the effect of muscling and frame size and the results indicated: (a) the larger the frame size the higher the rate of gain, the longer the period required to fatten, and the greater the live weight necessary to attain a given slaughter quality grade, (b) the greater the muscle thickness the higher the yield grade of the resulting carcasses, the greater the ribeye size, and the higher the muscle-bone ratio. In addition to the Monfort study, feeder and carcass data were collected on two hundred twenty-two steers in a cooperative study with the American Farm Bureau Federation. Results from these studies were comparable.

It was intended for the levels of muscling referenced in the 1976 draft proposal—No. 1, No. 2, and No. 3—to correspond with the muscling descriptions for Prime, Choice, and less than Choice grades, described in the current (1964) grade standards. However, concern by some members of the industry that very thick muscling may cause production problems caused the Department to modify and deemphasize muscling requirements from that originally described in the draft proposal. This new proposal combines the levels of muscling described in the current Prime and Choice grades into "No. 1", the levels of muscling described in the current Good and Standard grades into "No. 2", and Utility and Inferior into "No. 3".

It is proposed that the standards for grades of feeder cattle appearing in 7 CFR Part 53 be amended as shown below.

1. Section 53.208 is revised as follows:

§ 53.208 Feeder cattle grades.

Grade Factors. (1) These standards apply only to cattle that have not reached the age of 36 months, except these grades may be used to describe stock cows for market reporting purposes.

(2) The grade of feeder cattle is determined by evaluating three general value-determining characteristics—frame size, thickness, and thriftiness.

(3) Frame size refers to the animal's skeletal size—its height and body length—in relation to its age. Thus, frame size evaluations are directly related to differences in mature size. At the same age, large frame cattle will be taller at the withers and the hips and longer bodied than small frame cattle.

(4) Thickness in feeder cattle refers to the development of the muscle system in relation to skeletal size. In feeder cattle of the same age and frame size variations in thickness are due to differences in bone structure, muscling, and fat thickness. For purposes of these standards, thickness is evaluated, assuming a constant fat thickness—slightly thin. Thicker feeder cattle will have a higher ratio of muscle to bone when fed to the same degree of fatness and will have a higher yield grade.

(5) Thriftiness refers to the apparent health of an animal and to its ability to grow and fatten normally. In these standards unthrifty animals are those which are not expected to perform normally in their present state. This may be due to such factors as disease, parasitism, severe emaciation, or any condition that must be corrected before they could be expected to perform normally. Unthrifty feeder cattle may have any combination of muscle thickness and frame size.

(b) *Grades.* (1) The grades of feeder cattle that have been determined to be thrifty include three separate groupings for different frame sizes—Large Frame, Medium Frame, and Small Frame and three separate groups for muscle thickness—No. 1, No. 2, and No. 3. The nine resultant grades are as follows: Large Frame, No. 1; Large Frame, No. 2; Large Frame, No. 3; Medium Frame, No. 1; Medium Frame, No. 2; Medium Frame, No. 3; Small Frame, No. 1; Small Frame, No. 2; Small Frame, No. 3.

(2) The U.S. Inferior grade shall apply to all feeder cattle that have been determined to be unthrifty. Additionally, "double-muscled" (muscular hypertrophy) cattle are graded Inferior because they cannot be expected to deposit intramuscular fat (marbling) normally.

2. Section 53.209 is revised as follows:

§ 53.209 Application of standards for grades of feeder cattle.

(a) *General Principles.* (1) For the grades of feeder cattle, separate evaluations are made for thriftiness, frame size, and thickness. Each of these factors are very important to feeder cattle buyers and individually affect how cattle will perform in the feedlot. Additionally, variations in frame size and thickness have separate effects on the ultimate carcasses that are produced.

(2) Variations in frame size among feeder cattle primarily affect the composition of their gain in weight. The gain in weight of a large framed feeder animal of a given degree of thickness normally will consist of more muscle and bone—but less fat—than a smaller framed animal. Indirectly, therefore, at a given weight and thickness, large framed animals will have a lesser

degree of fatness than smaller framed animals and will also have carcasses with higher yield grades—but lower. This means that if animals are fed to produce the same quality grades—Choice, for example—large framed cattle of a given thickness must be fed to heavier weights than cattle of the same thickness but which are smaller framed. In each of the frame size specifications, guidelines are given relative to the live weights at which steers and heifers may each be expected to produce carcasses with the degree of finish normally associated with the Choice grade (approximately 0.50 inch).

(3) Variations in thickness are reflected in differences in ribeye area and, therefore, relate primarily to the ultimate yield grade of the carcass that a feeder animal will produce. When marketed at a given weight, a thick animal of a given frame size will normally produce a higher yield grading carcass than an animal of the same frame size that is narrow throughout. This results from the fact that the thick animal, at a given weight, will have both a larger ribeye and a lesser degree of fatness. If cattle are fed to produce carcasses of the same quality grade—Choice, for example—thick feeders of a given frame size must normally be fed to slightly heavier weights than cattle of the same frame size which are not as thick.

(4) The frame size portion of the grade is determined by an evaluation of an animal's skeletal size in relation to its age. Since age is such an important factor in determining frame size, careful consideration must be given to its evaluation. For example, two feeder cattle from the same environment with the same height and body length but which differed substantially in age would obviously not be the same frame size. By the same token, a a given age, a taller, longer bodied feeder animal will be larger framed than a short bodied animal that is not as tall. As feeder cattle mature, their heads appear to increase in relation to the size of their body; their ears decrease in size in relation to the size of their heads; the muzzle becomes proportionately wider; the head becomes longer in relation to its width; the feet become larger in relation to the size of the bone; and the tail increases in length and exhibits a more prominent switch. In evaluating feeder cattle for frame size, it must be remembered that breeds differ in the general range of their frame size and that since these standards apply to all breeds, this variation in frame among breeds must be taken into account. For example, in these standards, the largest framed cattle in a breed of small mature size—and the smallest framed cattle in a breed of large mature size—might both be considered as Medium in frame size.

(5) The thickness portion of the grade is determined by appraising the development of the muscular system in relation to the development of the skeletal system. Two of the three thickness grades include detailed descriptions of the thickness and fullness of the feeder cattle in the various parts due to differences in bone structure and muscling. However, since the appearance of these parts may be influenced to a considerable extent by variations in fatness, the descriptions are based on animals that have a slightly thin covering of fat. When evaluating the thickness of animals which have either a greater or lesser degree of fatness than that on which the standards are based, proper allowances must be made for the effect of these differences on the appearance of the various parts. In making such allowances, it must be remembered that cattle deposit fat at a relatively faster rate over the loin and back and in the flank, cod or udder, twist, and brisket than they do through the rear quarter, forearm, and gaskin. Therefore, as cattle increase in fatness, these former parts appear progressively fuller, thicker, and more distended in relation to the thickness through the rear quarter and to the fullness of the forearm and gaskin. Since relatively little fat is deposited over these latter parts, their appearance is affected relatively little by variations in fatness. In evaluating the thickness of feeder cattle, it is important to properly evaluate the thickness in all parts of the animal. However, since variations in fatness make it especially difficult to precisely evaluate the thickness and fullness of muscling in the loin and back, major emphasis should be placed on the development of muscling in the rear quarter, forearm, and gaskin as a indicator of overall thickness. Unless proper allowance is made for variations in fatness, animals carrying considerable finish may appear to have greater thickness throughout than actually is the case, whereas those which are in very thin condition may be inherently thicker than their appearance might indicate.

3. Sections 53.210, 53.211, and 53.212 are being added as follows:

§ 53.210 Specifications for official United States standards for grades of thrifty feeder cattle (frame size).

(a) *Large Frame (L).* Feeder cattle which possess typical minimum qualifications for this grade are thrifty, have large frames, and are tall and long bodied for their age. Steers and heifers would not be expected to produce U.S. Choice carcasses (about 0.50 inch fat at twelfth rib) until their live weighs exceed 1200 pounds and 1000 pounds, respectively.





(b) *Medium Frame (M).* Feeder cattle which possess typical minimum qualifications for this grade are thrifty, have slightly large frames, and are slightly tall and slightly long bodied for their age. Steers and heifers would be expected to produce U.S. Choice carcasses (about 0.50 inch fat at twelfth rib) at live weights of 1000 to 1200 pounds and 850 to 1000 pounds, respectively.





(c) *Small Frame (S).* Feeder cattle included in this grade are thrifty, have small frames, and are shorter bodied and not as tall as specified as the minimum for the Medium Frame grade. Steers and heifers would be expected to produce U.S. Choice carcasses (about 0.50 inch fat at twelfth rib) at live weights of less than 1000 pounds and 850 pounds, respectively.





§ 53.211 Specifications for Official United States standards for grades of thrifty feeder cattle (thickness)

(a) *No. 1.* Feeder cattle which possess minimum qualifications for this grade usually show a high proportion of beef breeding. They must be thrifty and slightly thick throughout. They are slightly thick and full in the forearm and gaskin, showing a rounded appearance through the back and loin with moderate width between the legs, both front and rear. Cattle show this thickness with a slightly thin covering of fat; however, cattle eligible for this grade may carry varying degrees of fat.



(b) *No. 2.* Feeder cattle which possess minimum qualifications for this grade are thrifty and are narrow through the forequarter and the middle part of the rounds. The forearm and gaskin are thin and the back and loin have a sunken appearance. The legs are set close together, both front and rear. Cattle show this narrowness with a slightly thin covering of fat; however, cattle eligible for this grade may carry varying degrees of fat.



(c) *No. 3.* Feeder cattle included in this grade are thrifty animals which have less thickness than the minimum requirements specified for the No. 2 grade.



§ 53.212 Specifications for official United States standards for the grade of unthrifty feeder cattle.

(a) *Inferior.* This grade includes those feeder cattle which are not expected to perform normally in their present state and those that are "double-muscled." Cattle in this grade may have any combination of thickness and frame size.

Dated: April 26, 1979.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-13532 Filed 4-30-79; 8:45 am]
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Reader Aids

Federal Register
Vol. 44, No. 85
Tuesday, May 1, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

FEDERAL REGISTER PAGES AND DATES, MAY

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

21003 4-9-79 / Milk in the New York–New Jersey Marketing Area; tentative amendments to classification and accounting rules and regulations

CIVIL AERONAUTICS BOARD

21767 4-12-79 / Foreign civil aircraft; navigation within U.S.; editorial amendments

ENERGY DEPARTMENT

14534 3-13-79 / Forms FEO-96, P-110, and EIA-14; resubmission and refiling

Federal Energy Regulatory Commission—

21008 4-9-79 / New, onshore production wells; amendment to filing requirements

FEDERAL COMMUNICATIONS COMMISSION

4485 1-22-79 / Organization; change in name of "Office of Chief Engineer" to "Office of Science and Technology"

FEDERAL HOME LOAN BANK BOARD

16880 3-29-79 / Conversion from mutual to stock form

NUCLEAR REGULATORY COMMISSION

20632 4-6-79 / Production and utilization facilities; financial protection requirements and indemnity agreements

SECURITIES AND EXCHANGE COMMISSION

7864 2-7-79 / Disclosure of brokerage placement practices by certain registered investment companies and certain other issuers

TRANSPORTATION DEPARTMENT

Coast Guard—

22457 4-16-79 / COLREGS demarcation lines, Massachusetts and Alaska

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing Apr. 24, 1979

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/ Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archieves and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)

TABLE OF EFFECTIVE DATES AND TIME PERIODS—MAY 1979

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
May 1	May 16	May 31	June 15	July 2	July 30
May 2	May 17	June 1	June 18	July 2	July 31
May 3	May 18	June 4	June 18	July 2	August 1
May 4	May 21	June 4	June 18	July 3	August 2
May 7	May 22	June 6	June 21	July 6	August 6
May 8	May 23	June 7	June 22	July 9	August 6
May 9	May 24	June 8	June 25	July 9	August 7
May 10	May 25	June 11	June 25	July 9	August 8
May 11	May 29	June 11	June 25	July 10	August 9
May 14	May 29	June 13	June 28	July 13	August 13
May 15	May 30	June 14	June 29	July 16	August 13
May 16	May 31	June 15	July 2	July 16	August 14
May 17	June 1	June 18	July 2	July 16	August 15
May 18	June 4	June 18	July 2	July 17	August 16
May 21	June 5	June 20	July 5	July 20	August 20
May 22	June 6	June 21	July 6	July 23	August 20
May 23	June 7	June 22	July 9	July 23	August 21
May 24	June 8	June 25	July 9	July 23	August 22
May 25	June 11	June 25	July 9	July 24	August 23
May 29	June 13	June 28	July 13	July 30	August 27
May 30	June 14	June 29	July 16	July 30	August 28
May 31	June 15	July 2	July 16	July 30	August 29

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AGENCY ABBREVIATIONS

Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department

AMS Agricultural Marketing Service
ASCS Agricultural Stabilization and Conservation Service
APHIS Animal and Plant Health Inspection Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
ESCS Economics, Statistics, and Cooperatives Service
EOA Energy Office, Department of Agriculture
FmHA Farmers Home Administration
FCIC Federal Crop Insurance Corporation
FAS Foreign Agricultural Service
FNS Food and Nutrition Service
FSQS Food Safety and Quality Service
FS Forest Service
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SEA Science and Education Administration
SCS Soil Conservation Service
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department

Census Census Bureau
BEA Bureau of Economic Analysis
EDA Economic Development Administration
FTZB Foreign-Trade Zones Board
ITA Industry and Trade Administration
MA Maritime Administration
MBEO Minority Business Enterprise Office
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USFA United States Fire Administration
USTS United States Travel Service

DOD Defense Department

AF Air Force Department
Army Army Department
DCPA Defense Civil Preparedness Agency
DCAA Defense Contract Audit Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

DOE Energy Department

BPA Bonneville Power Administration
ERA Economic Regulatory Administration
EIA Energy Information Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHADOE Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HEW Health, Education, and Welfare Department

ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Center for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
MSI Museum Services Institute
NIH National Institutes of Health
OE Office of Education
PHS Public Health Service
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department

CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
FDAA Federal Disaster Assistance Administration
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA Federal Insurance Administration
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department

BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
MINES Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
RB Reclamation Bureau
SMRE Surface Mining Reclamation and Enforcement Office

JUSTICE Justice Department

DEA Drug Enforcement Administration
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections

LABOR Labor Department

BLS Bureau of Labor Statistics
ERB Benefits Review Board
ESA Employment Standards Administration
ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department

AID Agency for International Development
FSGB Foreign Service Grievance Board

DOT Transportation Department

CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLS Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department

ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies

AC Aging Federal Council
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EXIMBANK Export-Import Bank of the U.S.
EPA Environmental Protection Agency
ESSA Endangered Species Scientific Authority
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPA Federal Preparedness Agency
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
ITC International Trade Commission
LSC Legal Services Corporation
MB Metric Board
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PRC Postal Rate Commission
PS Postal Service
RB Renegotiation Board
RRB Railroad Retirement Board
ROAP Reorganization Office of Assistant to President
SBA Small Business Administration
SEC Securities and Exchange Commission
TVA Tennessee Valley Authority
USIA United States Information Agency
VA Veterans Administration
WRC Water Resources Council

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federal register

Wednesday
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25619 **Father's Day** Presidential proclamation

25828 **Mandatory Petroleum Price Regulations** DOE/ERA amends rules to provide additional price incentives for crude oil production; effective 6-1-79, (Part VIII of this issue)

25820 **Citizen Education For Cultural Understanding** HEW/OE amends rules and criteria governing awards of grants and contracts; applications by 6-18-79, (2 documents) (Part VI of this issue)

25821 **Domestic Crude Oil Allocation Program** DOE/ERA adopts amendments to the small refiner bias under "entitlements" program to reduce the level of benefits; effective for refiners' crude oil runs to stills beginning 6-1-79

25786 **Environmental Protection** USDA/SCS issues proposal that prescribes the general procedures for compliance with the National Environmental Policy Act; comments by 6-18-79 (Part II of this issue)

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Presidential Documents

Title 3—
The President

Proclamation 4659 of April 30, 1979

Father's Day, 1979

By the President of the United States of America

A Proclamation

We live in a time of transition for the American family, but the strength and stability of a healthy, loving family life continues to remain the bedrock on which our society is organized.

The evolving roles of men and women in our society have posed new challenges and opened new opportunities, for fathers as well as mothers. To the degree that mothers are assuming a more active role in the nation's workforce, fathers are being asked to play an even greater role in the upbringing of their children. At the same time, they continue to carry out their traditional duties of helping to support their families financially, emotionally and spiritually.

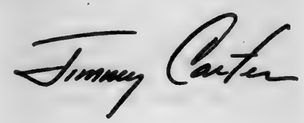
Traditionally, our nation each year sets aside Father's Day as a special time to honor America's fathers.

The character of each of us has been molded and shaped in part by our own fathers. Father's Day is a time for all of us to reflect on the sacrifices our fathers have made on our behalf. It also is a time for fathers to receive that most precious gift, the love and gratitude of those they have nurtured and protected for so many years.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby request that Sunday, June 17, 1979, be observed as Father's Day. I direct Government officials to display the flag of the United States on all Government buildings on this day and I urge all citizens to display the flag at their homes and other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord, nineteen hundred and seventy-nine, and of the Independence of the United States of America the two hundred and third.

[FR Doc. 79-13740
Filed 4-30-79; 2:30 pm]
Billing code 3195-01-M



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Rules and Regulations

Federal Register
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Wednesday, May 2, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1207

Potato Research and Promotion Plan; Amendment Regarding Administrative Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment adds an additional Vice-President to the Administrative Committee, making a total of four Vice-Presidents, and an additional officer for the Northwest District, which accounts for about 50 percent of the U.S. yearly potato production; therefore the Potato Board determined that the Northwest District needed greater representation on the Advisory Committee.

EFFECTIVE DATE: May 3, 1979.

FOR FURTHER INFORMATION CONTACT: Donald S. Kuryloski, Acting Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Phone: (202) 447-6393.

SUPPLEMENTARY INFORMATION: The Potato Board is the administrative agency established by the Potato Research and Promotion Plan (7 CFR Part 1207). The Plan is effective under the Potato Research and Promotion Act (7 U.S.C. 2611-2627).

The Potato Board voted at its annual meeting on April 2-3, 1979, to add a fourth Vice-President to its officers. This provides an additional officer for the Northwest District. This district accounts for about 50 percent of the U.S. yearly potato production and the Potato Board determined that the Northwest District needed greater representation on the Administrative Committee.

Findings. On the basis of all considerations it is believed that this amendment will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to provide 60 days for comments, engage in public rulemaking procedure and that good cause exists for not postponing the effective date of this section until 30 days after publication in the Federal Register (5 U.S.C. 553) in that, (1) this amendment was recommended by the Board at an open public meeting where interested persons were given opportunity to comment, (2) this amendment does not impose any added restrictions on handlers or producers, and (3) prompt issuance of this amendment will be beneficial to the Potato Board in administering the Potato Research and Promotion Act and Plan.

This regulation has not been determined significant under USDA criteria for implementing Executive Order 12044.

The amendment is as follows:

§ 1207.507 [Amended]

In § 1207.507 revise paragraph (a) by changing the word preceding "Vice-Presidents" from "three" to "four."

§ 1207.507 Administrative Committee.

(a) * * * four Vice-Presidents * * *

* * * * *

(Title III of P.L. 91-670; 84 Stat. 2041; 7 U.S.C. 2611-2627.)

Dated April 28, 1979 to become effective May 3, 1979.

D. S. Kuryloski,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[Amdt. 6]
[FR Doc. 79-13697 Filed 5-1-79; 8:45 am]
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DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

Amendments to Domestic Crude Oil Allocation Entitlements Program To Reduce the Level of Benefits Received Under the Small Refiner Bias

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") is adopting amendments to the small refiner bias under the domestic crude oil allocation ("entitlements") program to reduce the level of benefits available to small refiners under the bias. The amendments adopted reduce the per barrel value of the bias initially to $.96 per barrel at the 10,000 barrels per day (B/D) crude run level, $.53 per barrel at the 30,000 B/D level, $.28 per barrel at the 50,000 B/D level, and $.09 per barrel at the 100,000 B/D level. The bias will be calculated on an individual plant basis. Because the statutory authority for price controls and the entitlements program expires on September 30, 1981, and because the President has announced his intention to decontrol all domestic crude oil production by that date, we are adopting amendments that will act to automatically phase out the small refiner bias as the entitlements program itself is gradually eliminated.

DATES: Effective for refiners' crude oil runs to stills beginning on June 1, 1979.

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SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Comments
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I. Background

On November 14, 1978, we issued a notice of proposed rulemaking and public hearing in which we proposed amendments to the entitlements program to reduce the level of benefits received by small refiners under the small refiner bias provisions (10 CFR 211.67(e)) of the entitlements program

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(43 FR 54652, November 22, 1978).* The amendments were proposed following the publication of an independent study we had commissioned ("the report"), and following public hearings that were held and comments received on the report's findings.

II. Discussion of Comments

Comments on the proposed amendments to the small refiner bias were invited through February 5, 1979, the original January 22, 1979 deadline for submitting comments having been extended by notice in the **Federal Register** on January 24, 1979 (43 FR 5899, January 30, 1979). Public hearings on the proposed amendments were held in Washington, D.C. on January 16, 17, 18, and 19, 1979 and in San Francisco, California on January 9, 1979. Eighty-nine (89) persons presented oral statements at the two hearings. A total of 297 written comments were received, including 27 late comments. The oral statements and written comments presented the views of major integrated refiners, large independent refiners, small refiners, trade associations, independent marketers, two United States Senators, a United States Congresswoman, and several local, State, and Federal government agencies.

Responses from the refining industry constituted a major portion of the comments and testimony received, and included 108 refining companies and three associations representing small refiners. In general, the positions of refiners reflected the degree and type of impact the proposed changes in bias benefit levels would have on their companies. Refiners with capacities under 50,000 B/D would experience a reduction in benefits under the proposal, and these refiners overwhelmingly opposed the proposal. Refiners with capacities over 50,000 B/D, which bear the cost of the bias and would therefore experience a reduction in that cost, supported the proposal almost unanimously.

Refiners in the 0–30,000 B/D Range

Comments were received from 70 refiners in the 0–30,000 B/D category. The vast majority of those commenting in that category were strongly opposed to any reduction in the small refiner bias. Their opposition focused on two basic points: (1) The timing of the proposal, and (2) DOE's justification for the proposed reduction. Several refiners in this group objected to implementation of any amendments to the bias until a national refinery policy has been formulated and the Petroleum Marketing Practices Act study of subsidization has been completed.

These refiners also stressed that DOE had based the proposed benefit levels on a study of the impacts of economies of scale on refinery operations. Small refiners contend this only one area in which they are disadvantaged with respect to the major integrated refiners, and that the proposed benefit levels would not alleviate the disadvantages attributed to captive crude oil supplies, downstream subsidization and ownership of supply and distribution systems by the major refiners. The small refiners maintained that the bias should not be modified without simultaneous enactment of regulatory programs geared toward equalizing crude oil costs and increasing supply opportunities for small refiners. Many in this group stated that benefits are being used to upgrade facilities and expand capacity and contended that these benefits should not be reduced without simultaneous establishment of an incentive program for refinery improvements.

Most of the refiners in this category supported the "grandfather" clause in the proposal as a deterrent to future start-up of "teakettle" refiners. Several also recommended case-by-case eligibility for those refiners which did not meet the "grandfather" criterion. Those who objected to the "grandfather" clause did so on the grounds that it was anti-competitive and was superfluous if benefits were reduced, as this action in itself would be prohibitive to the start-up of "teakettle" refineries.

Comments were received regardng the provision for issuance of bias entitlements on the basis of individual plant capacity. Most of those commenting regarded individual plants as operationally independent and believed this approach would better compensate for diseconomies of scale as well as discourage "spin-off" refineries.

The majority of those commenting on the provision to set the number of entitlements issuable to small refiners in fixed dollar amounts were in favor of such a modification. These refiners did, however, also recommend that the bias levels be indexed to inflation.

Refiners in the 30,000–50,000 B/D Range

Six refiners in the 30,000–50,000 B/D category submitted comments. Four of these refiners opposed the proposed reduction and two supported it with some modifications. Those opposing the reduction believed the present bias accurately reflected the competitive disadvantage under which this group of small refiners was operating. These refiners argued that a reduction in the bias would jeopardize the viability of some small refiners and would hamper the competitiveness of several small refiners which are only marginally profitable. Those refiners supporting the proposed reduction stated that it would remove the current disincentive to expand and modernize over 30,000 B/D.

Five refiners in this category commented on adopting the "grandfather" clause. Three favored such an amendment while two were in opposition. Those supporting the clause agreed that the bias had encouraged reactivation of old plants and the establishment of small topping plants which would be inefficient and uneconomic in normal market conditions. Those opposing this provision believed it would create more inequities than it was intended to prevent. They further stated that new refiners should be allowed to compete on an equal footing with those currently in existence.

All respondents in this category favored extending exception relief to net sellers of entitlements.

The provision to condition the receipt of bias benefits on approved reinvestment was unacceptable to this group of refiners. They did not view this as a viable approach, claiming that most small refiners needed the full amount of the bias just to maintain operations at a minimum profit level.

Refiners in the 50,000–100,000 B/D Range

There were nine respondents in the 50,000–100,000 B/D category. Six of these refiners supported the proposal, one supported the proposal with modifications and two opposed the proposed amendments. Supporters of the amendments expressed the view that the present level of bias benefits resulted in a strong disincentive for refinery expansion and resulted in the proliferation of inefficient topping plants. Those refiners in favor of the proposal stated that adoption of the proposed amendments would encourage expansion by small refiners and would discourage the establishment of inefficient refineries.

Those refiners in opposition to the proposed amendments felt that a reduction in benefits without a simultaneous compensation for crude oil cost disadvantages would inflict a greater financial burden on the larger independent refiners, asserting that these refiners operate efficiently, but lack the financial benefits resulting from

*For a complete discussion of the history of the small refiner bias, see the November 14 notice.

interests in large domestic and foreign crude oil reserves.

Regarding the "grandfather" clause, three refiners favored this approach arguing that the bias encourages the construction of inefficient refineries. The one refiner opposing this provision felt that all existing as well as proposed small refiners should be assessed according to their contribution to national energy objectives. All refiners agreed that case-by-case eligibility criteria should be extremely stringent and all new entrants should have facilities which foster the national energy objectives.

All but one refiner in this category supported the provision to issue entitlements on the basis of individual plant capacity. Respondents commented that this approach recognized that unit costs were a function of the size of an individual plant and not of aggregate refiner capacity and would, therefore, provide a more equitable distribution of bias benefits within market areas. Commenters noted that this provision would also remove the incentive for "spin-off" refineries and the disincentive for small refiners to construct additional refineries.

Two refiners supported the proposal to extend exception relief to net sellers of entitlements. They considered this to be an equitable approach to the exceptions process.

Five refiners in this category opposed the Open Market Credit (OMC) proposal. They contended it would be disruptive of a free market system and would be too complex to administer in an effective manner. The other refiners in this group did not comment on the proposal.

Refiners in the 100,000–175,000 B/D Range

Five refiners in the 100,000–175,000 B/D category submitted comments regarding the small refiner bias program. All five refiners agreed that the refiners in the lower refining capacity categories were recipients of excessive benefits and they therefore favored a reduced small refiner bias program. Two refiners strongly recommended that the entire program be eventually eliminated.

The proposal to base bias benefits on a refinery-by-refinery bias was supported by two refiners, and opposed by one refiner.

The proposal to adopt a fixed dollar benefit value was opposed by two refiners. They felt that the establishment of such a plan presumes that the small refiner bias program will continue indefinitely with no "planned end." They also felt that if crude oil prices are decontrolled those refiners receiving fixed dollar benefits will be insulated from the new price increases.

The Open Market Credit was considered to be undesirable by the two refiners who addressed this proposal. They indicated that such a system would be almost impossible to manage and one feared it would become an "administrative nightmare."

Large Independent Refiners

Comments were received from seven large independent refiners. Six refiners stated that they support the proposed reduction in benefit levels.

The proposal to base benefits on a refinery-by-refinery basis was supported by four refiners and opposed by one refiner. Those refiners in favor of the proposal felt that a refinery-by-refinery basis would be consistent with an approach which provides compensation for the diseconomies of small scale operation.

The Major Refiners

Thirteen major refiners responded to the proposed reduction in the small refiner bias. All supported the proposal as an interim measure prior to complete elimination of the bias. The major refiners argued that the bias was excessive, induced wasteful investment, discouraged capacity expansion, shielded inefficient and uneconomic refiners from competitive pressures, and provided a windfall to those small refiners profitable prior to its implementation.

Six of the seven refiners responding to the "grandfather" clause were in favor of the proposal. All objected to granting benefits on a case-by-case basis, claiming that this would be counter-productive to the objective of curtailing investment in inefficient and uneconomic refineries.

Five comments were received regarding the proposal to set the number of bias entitlements issuable in fixed dollar amounts. The three refiners supporting this approach stated it would lend stability to the program. Those opposing the approach maintained that the present method would be more appropriate during the phase-out period of the bias.

The major refiners generally objected to implementation of the Open Market Credit, claiming that it would discourage integrated refiners from investing in domestic exploration and production, and that it would disrupt the crude oil market by penalizing a refiner for refining its own production, and thereby ultimately result in higher costs.

Trade Associations

In addition to comments from individual refining companies, submissions were received from three trade associations representing small refiners and two trade associations representing California crude oil producers. These submissions unanimously opposed the reductions in the bias. The comments of these groups focused on the necessity for equalizing small refiners' crude oil costs with those of the major refiners, the problems created by the major refiners' alleged subsidization of their refining operations and other alleged anti-competitive practices. Two associations presented alternative programs aimed at crude oil cost equalization. In connection with this issue, there was no support for the Open Market Credit proposal, and one association took issue with the presumption in the OMC proposal that elimination of crude oil exchanges is desirable.

Independent Marketers

Over 100 comments were received from individuals and groups representing independent branded marketers. These commenters unanimously opposed the small refiner bias, arguing that the bias caused them severe financial disadvantages. Although these firms supported the complete elimination of the program, some supported the proposed amendments as preferrable to the present level of subsidies.

Government, Congressional, and Other Comments

Federal government agencies commenting were the Department of Justice (DOJ), the Bureau of Competition of the Federal Trade Commission (FTC) and the Council on Wage and Price Stability (COWPS). All three agencies opposed the concept of the small refiner bias and supported the proposed reduction in the scope of the program as directionally correct.

The FTC submission set forth extensive comments favoring the replacement of the bias with the Open Market Credit, a proposal developed by the FTC. The DOJ submitted an extensive rebuttal of the OMC concept. This rebuttal questioned the validity of the presumption in the OMC proposal regarding the economic impact on small and independent refiners of proprietary crude oil ownership. The DOJ rebuttal questioned whether the major refiners subsidize their refining operations with crude oil production profits, citing a lack

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of evidence and economic reasons that undermine this contention.

Two Senators, one Governor and two city officials responded in opposition to the proposal, based on its adverse impacts on small refiners located in their States. One Congresswoman responded on behalf of independent marketers in support of a reduction in benefits. Comments were also received from several environmental groups in Florida opposing benefits to small refiners on the grounds that environmental damage would result from refinery construction in their area.

Summary of Comments

A summary of the public testimony and comments on the proposed amendments is complicated by the extensive scope of the comments requested in the notice of proposed rulemaking as well as the detailed nature of comments received on certain aspects of the proposed amendments. In general, however, there was strenuous opposition to the proposed reductions in benefits from refiners under 50,000 B/D. These reductions were generally (although not unanimously) supported by all other segments of the refining industry, by independent marketers and by government agencies. The proposal to calculate benefits on an individual plant basis was generally supported by most respondents, as was the grandfather provision. The concept of a refinery incentive program received substantial support among small and independent refiners.

The fixed dollar benefit proposal did not receive extensive comment and was specifically supported by 23 small refiners and opposed by 10 refiners, including both large and small refiners. Only three small refiners and the FTC commented favorably on the Open Market Credit proposal. Twenty-seven refiners, including both large and small refiners, and two refiner associations opposed the concept. Two other alternatives, conditioning receipt of benefits on reinvestment and the establishment of a refinery incentive program, also received relatively little overall support, although the smaller refiners, particularly those in California, contended that present benefit levels are required to continue capital investment in refinery improvements.

III. The Amendments Adopted

We have determined to adopt amendments that are similar to the proposed amendments. This action is based on our conclusion, expressed in the November 14 notice, that the current bias overcompensates small refiners, particularly those refineries below the 50,000 B/D crude run level. The amendments which we are adopting reduce the per barrel gross benefit received under the bias from $1.05 per barrel at the 10,000 B/D crude run level or less to an initial level of $.96 per barrel. For larger refineries, the per barrel amounts are gradually reduced. For example, at the 30,000 B/D level, the bias is reduced from $.84 per barrel to an initial $.53 per barrel; at the 50,000 B/D level the bias is reduced from $.34 per barrel to an initial $.28 per barrel; and at the 100,000 B/D level, the bias is reduced from $.19 per barrel to an initial $.09 per barrel. The following table illustrates the new level of small refiner bias benefits:

Maximum Value of Small Refiner Bias Benefits Adopted at Representative Crude Run Levels

Crude runs	Maximum daily value of bias	Maximum per barrel value of bias	Maximum incremental per barrel value of bias*
10,000	$9,600	$0.96	$0.315
30,000	15,600	.53	−.095
50,000	14,000	.28	−.10
100,000	9,000	.09	−.12

*The incremental per barrel value of the bias is the value or cost of the bias for each additional barrel that a small refiner increases its crude runs beyond the level shown in the first column.

We affirm our tentative conclusion, expressed in the November 14 notice and the Draft Regulatory Analysis on this issue, that the present level of benefits to small refiners is excessively high and has created artificial distortions in the refining industry by providing incentives for the proliferation of very small facilities. As we have previously documented, these plants generally are not capable of the most efficient processing of available crude oil and usually cannot produce those products, such as unleaded gasoline or low sulphur products from high sulphur crude oils, for which the nation has substantially increased demand. In determining a more appropriate level of bias benefits we have considered a number of factors, including those presented to us in the public comments.

Many comments urged that the bias levels should reflect other factors in addition to representative operating margin differentials, particularly the alleged cross subsidization by the major integrated refiners of their refining activities and the alleged higher crude oil acquisition costs of small refiners. Despite numerous comments received on the cross-subsidization issue, there is no substantive data presented in the record to support these allegations. Based on the information available to date, we are unable to conclude that cross-subsidization occurs and should therefore be reflected in the bias values. With respect to the alleged higher crude oil acquisition costs borne by small refiners, we likewise affirm the report's finding that available data does not support the conclusion that there is necessarily a relationship between crude oil acquisition costs and refiner size. However, the current tightness in world crude oil markets due to the curtailment in exports of Iranian crude oil has created difficulties for many small refiners in obtaining access to reasonably priced crude oil. We believe that the crude oil Buy/Sell program is the appropriate regulatory mechanism to address the supply problems that small refiners are experiencing. In this regard, the ERA has assigned allocations of crude oil to many small refiners in recent months to permit them to continue operating at or near historical levels. We do not believe it is appropriate that the small refiner bias be adjusted to reflect the current, presumably temporary abnormalities in world crude oil markets.

In light of these considerations we have selected maximum benefit values which are numerically equal to those reflected in the report's analysis of refinery economics, on the basis that any benefits greater than these would be excessive and would continue the over-compensation in the present program. We note, however, that the report did not include a number of considerations which bear on the appropriate longer term treatment of the small refining segment of the industry. Many issues remain to be resolved, including the appropriateness and desirability of any compensation for diseconomies of scale as a matter of national policy. This matter is one which should ultimately be determined within the context of an overall policy toward the domestic refining industry. As we noted in the November 14 notice, we have undertaken such a study of the domestic refining industry. Following publication of the DOE refinery policy study, we may issue such further proposals as we deem appropriate.

In the November 14 notice we proposed to adopt a "grandfather" clause which would have generally limited eligibility for bias benefits (subject to certain exceptions) to those refineries which were in operation or under construction at the time of publication of the proposed rules. The stated purpose for proposing a "grandfather" clause was to discourage the proliferation of small refineries that

are otherwise uneconomic in the absence of bias benefits. However, the level of benefits adopted today will provide small refiners with a level of benefits that will offset only their operating cost disadvantage. In addition, under the recently-announced schedule for crude oil decontrol, price controls for crude oil, and therefore the need for the entitlements program, will expire on September 30, 1981. Therefore, the program has a limited life of 28 months. Further, as noted in more detail below, the value of small refiner bias benefits will be gradually diminished as the value of the credit for crude oil runs to stills diminishes over time. With this combination of factors, we do not think that the small refiner bias will continue to encourage the proliferation of uneconomic small refineries. Accordingly, we have determined not to adopt a "grandfather" clause.

As proposed, bias entitlements will be issued on a plant-by-plant basis, rather than on a company aggregate basis. This approach should remove the incentives for refinery "spinoffs" whereby a refiner sells one of its refineries for the purpose of increasing the total number of bias entitlements issuable. Moreover, a bias based on individual plant size should more accurately reflect diseconomies of scale. Several major and large independent refiners favored eligibility for bias entitlements with respect to all plants below the 175,000 B/D crude run level, regardless of whether such plant is owned by a major or large independent refiner. Some major refiners and large independent refiners own small refineries. This ownership gives these small refineries several advantages. The major integrated refiners and large independent refiners generally have superior capital resources, large marketing operations and the ability to secure large volumes of crude oil. In general, we believe the advantages accruing from these conditions tend to counteract disadvantages arising from small plants' diseconomies of scale, so that granting bias benefits to these classes of refiners would not be warranted.

The November 14 notice proposed that the small refiner bias would not be computed on the basis of a plant's actual daily average volume of crude oil runs to stills, but would be based on a percentage attributable to that plant of that refiner's total daily average volume of crude oil runs to stills, in accordance with a formula set forth in the proposal. Under the proposed formula, the daily average volume of crude oil runs to stills attributable to a particular plant would be equal to the same percentage of that small refiner's total daily average volume of crude oil runs to stills which a given plant bears to the total refining capacity of the small refiner. We have determined to adopt this approach, so that a small refiner will not have an incentive resulting from the bias to utilize its smaller (and generally more inefficient) refineries at a higher rate in order to maximize the incentives it receives under the small refiner bias. To give an example of this formula, if a refiner had two plants, one with a certified capacity of 10,000 B/D (plant A), and another with a certified capacity of 30,000 B/D (plant B), and that small refiner had a daily average volume of crude oil runs to stills for a given month totalling 28,000 B/D, the crude runs attributable to each plant would be computed as follows:

10,000 B/D (Plant A) + 30,000 B/D (Plant B) = 40,000 B/D total refining capacity

For Plant A:

$$\frac{28{,}000\ \text{B/D} \times 10{,}000\ \text{B/D} = 7{,}000\ \text{B/D}}{40{,}000\ \text{B/D}}$$

attributable to Plant A

For Plant B:

$$\frac{28{,}000\ \text{B/D} \times 30{,}000\ \text{B/D} = 21{,}000\ \text{B/D}}{40{,}000\ \text{B/D}}$$

attributable to Plant B

In the November 14 notice, we proposed to express the bias values in fixed dollar amounts, in order to provide small refiners with a level of certainty with respect to bias benefits. However, we also noted:

[I]f the entitlements program is phased out, as planned, either through the imposition of a crude oil equalization tax (COET) or some other action which has the effect of raising refiners' acquisition costs for domestic crude oil to the world market price, we believe that under such circumstances it would be inappropriate for small refiners to receive a fixed dollar amount of entitlement benefits while the total benefits available under the program are phased out. We solicit particular comments as to the appropriate manner in which the small refiner bias should be phased out if the entitlements program were to be eliminated. 43 FR 54857.

In the interval since we published the November 14 notice, the President has announced a program to gradually decontrol all domestic crude oil production by September 30, 1981, the date that the statutory authority for price controls expire. The effect of the President's decontrol plan will be to increase gradually the weighted average price of domestic, price-controlled crude oil until it reaches the expected world oil price by the end of the control period. This will have the effect of also causing the value of an entitlements "runs credit"* to decline gradually. As the runs credit diminishes, with a fixed dollar bias benefit the proportion of small refiner bias benefits to the total entitlements pool will increase to the point where the former will be equal to the latter. Such a result would obviously be contrary to the purpose of the entitlements program.

We therefore affirm our tentative conclusion, expressed in the November 14 notice, that it would be inappropriate for small refiners to receive a fixed dollar amount of entitlement benefits while the total benefits available under the program are phased out. Accordingly, we are adopting amendments that will vary the value of the bias benefits in relation to the value of the runs credit.

Under the current bias provisions, small refiners receive the bias in the form of a number of additional entitlements issued over and above the number of entitlements issued to all refiners generally. We are instead adopting amendments so that the number of additional entitlements issuable to a given small refiner will be calculated so as to result in additional entitlements worth, in the first month it is effective, $.96 per barrel at the 10,000 B/D level, $.53 per barrel at the 30,000 B/D level, $.28 per barrel at the 50,000 B/D level, and $.09 per barrel at the 100,000 B/D level. Thereafter, the bias value will remain constant at these levels if the runs credit is equal to or greater than the value of the runs credit in the first month these amendments are in effect (June 1979). In any month in which the runs credit is less than the value of the runs credit in June 1979, the bias values in each category will be reduced proportionately. For example, if for a given month the per barrel runs credit declines by 10% in relation to the per barrel runs credit in June 1979, the per barrel bias benefits for, say, a refiner of less than 10,000 B/D capacity would be $.96 less 10 percent of $.96, or $.864.

We believe it is appropriate that the small refiner bias vary in direct relation to the national domestic crude oil supply ratio (DOSR). The DOSR essentially is the ratio of the supply of domestic price-controlled crude oil to the total volume of crude oil that is refined in a given month. The entitlements program acts to

*Generally, a refiner receives entitlement issuances for every barrel of crude oil that it refines. Each barrel of crude oil that is included in a refiner's crude oil runs to stills receives a fraction of an entitlement equal to the national domestic crude oil supply ratio DOSR for the month. The value of the entitlement for each barrel that is refined, the "runs credit", is equal to the price of an entitlement for that month multiplied by the DOSR for that month.

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give all domestic refiners a proportionate share of the existing supply of price-controlled domestic crude oil. If the amount of price-controlled domestic crude declines in proportion to the total volume of crude oil that is refined, the benefits of the entitlements program accordingly decline to refiners and their customers. We reiterate our belief that it would be inappropriate for small refiners to receive a fixed dollar amount of entitlement benefits under circumstances in which the total benefits available under the entitlements program are phased out. Thus, we are adopting amendments to the entitlements program that will act to automatically phase out the small refiner bias in conjunction with, and in direct proportion to the phasing out of the entitlements program.

To illustrate the effect of these amendments, § 211.67(e)(1) provides that a small refiner with a 10,000 B/D refinery shall receive a number of additional entitlements for each day of that month equal to such refinery's daily average volume of crude oil runs to stills multiplied by a fraction, the numerator of which is $.96, and the denominator of which is the entitlement price for that month. Thus, in a given month the value of the bias benefit for that small refiner would be equal to $.96 for each barrel of its crude oil runs to stills. However, § 211.67(e)(4) further provides that these additional entitlements shall be multiplied by a fraction, the numerator of which is the runs credit for a given month and the denominator of which is the runs credit for June 1979 (the runs credit is expressed as the product of multiplying the national domestic crude oil supply ratio by the entitlement price). In the event that this fraction is greater than 1.0, *i.e.*, the runs credit for a given month is greater than the runs credit for June 1979, the bias benefits will be limited to the stated maximum values (*e.g.*, $.96 at the 10,000 B/D level, $.53 at the 30,000 B/D level, $.28 at the 50,000 B/D level, and $.09 at the 100,000 B/D level).

VI. Other Matters

In adopting this rule, we have reviewed the findings of the draft regulatory analysis issued in November 1978 which evaluated the economic impact of our proposed action in accordance with DOE Order 2030. We have revised that regulatory analysis slightly to reflect the effect of the changes made in the final rule. Copies of the final regulatory analysis may be obtained from the ERA, Office of Public Information, 2000 M Street, NW., Room B-110, Washington, D.C., 20461, (202) 634-2170.

On March 30, 1979, we announced the availability of an Environmental Assessment (EA) on our proposed amendments to the small refiner bias (44 FR 20261, April 4, 1979). As noted in the March 30 notice, we concluded in the EA that the proposed amendments to the bias did not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act (NEPA), and therefore an environmental impact statement (EIS) was not required with respect to this action. In response to our request for comments on this negative determination, we received 28 written comments, including 12 late comments. We have analyzed and considered the comments received, and have determined to reaffirm the negative determination expressed in the Environmental Assessment. We have prepared a memorandum for the record which evaluates the major issues commented upon in response to the EA, and which sets forth our conclusions on the issues raised in the comments. Copies of this memorandum are available from the Economic Regulatory Administration, Office of Public Information, 2000 "M" Street, NW., Room 110-B, Washington, D.C. 20461, telephone (202) 634-2170. Copies are also available for review in the DOE Reading Room, GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

In accordance with Section 404 of the DOE Act, the Federal Energy Regulatory Commission received a copy of the proposed rulemaking and has notified ERA that it has not determined that the proposed regulations would significantly affect any function within its jurisdiction under section 402(a)(1), (b), and (c)(1) of the DOE Act.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-386, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C., April 27, 1979.

David J. Bardin,
Administrator, Economic Regulatory Administration.

Section 211.67(e) is amended by revising subparagraph (1), by adding new subparagraphs (4) and (5), to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(e) *Small refiner bias.* (1) In addition to the number of entitlements issuable under paragraph (a) of this section, subject to the limitations set forth in subparagraphs (2), (3), and (4) of this paragraph, effective for refiners' volumes of crude oil runs to stills for June 1979, each small refiner shall be issued the following number of additional entitlements for each day of a particular month:

(i) For each small refiner with respect to its refineries with a daily average volume of crude oil runs to stills of 0 to 10,000 barrels in that month, each such refinery shall receive a number of entitlements equal to the number of barrels of such refinery's daily average volume of crude oil runs to stills for that month multiplied by a fraction, the numerator of which is $.96, and the denominator of which is the entitlement price for that month;

(ii) For each small refiner with respect to its refineries with a daily average volume of crude oil runs to stills of 10,000 to 30,000 barrels in that month, each such refinery shall receive a number of entitlements equal to a fraction, the numerator of which is $9,600 plus $.315 for each barrel by which such refinery's daily average volume of crude oil runs to stills exceeds 10,000 barrels for that month, and the denominator of which is the entitlement price for that month;

(iii) For each small refiner with respect to its refineries with a daily average volume of crude oil runs to stills of 30,000 to 50,000 barrels in that month, each such refinery shall receive a number of entitlements equal to a fraction, the numerator of which is $15,900 minus $.095 for each barrel by which such refinery's daily average volume of crude oil runs to stills exceeds 30,000 barrels for that month, and the denominator of which is the entitlement price for that month;

(iv) For each small refiner with respect to its refineries with a daily average volume of crude oil runs to stills of 50,000 to 100,000 barrels in that month, each such refinery shall receive a number of entitlements equal to a fraction, the numerator of which is $14,000 minus $.10 for each barrel by which such refinery's daily average volume of crude oil runs to stills exceeds 50,000 barrels for that month, and the denominator of which is the entitlement price for that month;

(v) For each small refiner with respect to its refineries with a daily average volume of crude oil runs to stills of 100,000 to 175,000 barrels in that month, each such refinery shall receive a number of entitlements equal to a fraction, the numerator of which is $9,000 minus $.12 for each barrel by which such refinery's daily average volume of crude oil runs to stills exceeds 100,000 barrels for that month, and the denominator of which is the entitlement price for that month.

* * * * *

(4) For a given month, the number of additional entitlements to be issued pursuant to paragraph (e)(1) of this section shall be multiplied by the lesser of 1.0 or a fraction, the numerator of which is the product of multiplying the national domestic crude oil supply ratio for that month by the entitlement price for the same month, and the denominator of which is the product of multiplying the national domestic crude oil supply ratio for June 1979 by the entitlement price for June 1979.

(5) For purposes of the calculations in paragraph (e)(1) of this section, the daily average volume of a particular small refinery's crude oil runs to stills shall be computed as follows: The daily average volume of a small refiner's crude oil runs to stills (with respect to all of its refineries) shall be multiplied by a fraction, the numerator of which is the capacity of that particular small refinery as certified pursuant to paragraph (a)(2) of this section, and the denominator of which is the capacity of that small refiner (with respect to all of its refineries) as certified pursuant to paragraph (a)(2) of this section.

* * * * *

[Docket No. ERA-R-78-3]
[FR Doc. 79-13882 Filed 4-30-79; 11:02 am]
BILLING CODE 6450-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

Construction, Publication, Filing, and Posting of Tariffs of Air Carriers and Foreign Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. April 26, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Board provides for waivers of the requirement that each air carrier insure that travel agents comply with the baggage liability notice requirements. This change is made to treat travel agent notices the same as those posted by the Airlines themselves.

DATES: Effective: June 1, 1979; adopted: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: 14 CFR 221.176(a) and (b) require an air carrier to show on tickets and ticket counter signs its limitations on baggage liability. Paragraph (c) of that section requires air carriers to insure that authorized travel agents comply with these ticket notice and sign requirements. Under paragraph (e) the Board may, upon application, waive the requirements as to time and method of delivery of the notices. The waiver authority is delegated to the Assistant Director, Bureau of Pricing and Domestic Aviation, Legal Analysis Division. The requirement of paragraph (c) has not, however, up to now been included in the waiver provision. The Board is amending § 221.176(e) to provide for waiver of the requirement regarding travel agents, in unusual circumstances, upon application by an air carrier.

Accordingly, the Civil Aeronautics Board amends § 221.176 of 14 CFR Part 221, *Construction, Publication, Filing and Posting of Tariffs of Air Carriers and Foreign Air Carriers* by revising paragraphs (e) and (f) to read as follows:

§ 221.176 Notice of limited liability for baggage; alternative consolidated notice of liability limitations.

* * * * *

(e) The requirements as to time and method of delivery of the notice (including the size of type) specified in paragraphs (a) and (b) of this section and the requirement with respect to travel agents specified in paragraph (c) may be waived by the Board upon application and showing by the carrier that special and unusual circumstances render the enforcement of the regulations impractical and unduly burdensome and that adequate alternative means of giving notice are employed.

(f) Applications for relief under paragraphs (d) and (e) of this section shall be filed with the Board (Attention: Assistant Director, Bureau of Pricing and Domestic Aviation, Legal Analysis Division) not later than 15 days before the date on which such relief is requested to become effective.

* * * * *

(Secs. 204(a), 403 and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758 and 771, as amended; 49 U.S.C. 1324, 1373 and 1386)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[Regulation ER-1218, Amdt. No. 69]
[FR Doc. 79-13883 Filed 4-30-79; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 311

Classification and Declassification of National Security Information and Material

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., April 26, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Reissuance of Part.

SUMMARY: This rule implements the provisions of Executive Order 12065, which requires the CAB to issue rules on classifying national security information and to establish a review committee chaired by a senior agency official.

DATES: Effective: May 2, 1979; adopted: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: James T. McCombs, Office of Administrative Support Operations, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5246.

SUPPLEMENTARY INFORMATION: Executive Order 12065 (43 FR 28949, June 28, 1978) and its implementing directive, Information Security Oversight Directive No. 1 (43 FR 46280, October 5, 1978), establish new procedures and criteria for protecting national security information from unauthorized disclosure. These orders, effective December 1, 1978, require revision of Part 311 of our Procedural Regulations (14 CFR Part 311).

The new Part 311 applies only to documents still in the Board's possession. It does not apply to Board documents that constitute permanently valuable records of the government under 44 U.S.C. 2103 in possession of the Archivist of the United States, or to documents in the possession of the Administrator of General Services under 44 U.S.C. 2103. Permanently valuable records of the government will be governed by guidelines to be issued separately after consultation with the

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Archivist, and review by the Information Security Oversight Office.

We are designating the Director, Office of Administrative Support Operations (OASO) as the senior agency official to oversee compliance with these rules and the Executive Order, and to head the Oversight Committee. This committee will monitor the policies and procedures of the Executive Order, and will act on all suggestions and complaints concerning these procedures. It is also charged with establishing the security education program and the controls for preventing unauthorized access that are required by the order.

The most significant change made by Executive order 12065 is the removal of original classification authority from the Board. This means that we can no longer classify information that we originate. If Board members or staff believe such information should be classified it must be sent to an agency that does have original classification authority over the subject matter, or to the Information Security Oversight Office.

Although the Board now lacks original classification authoirty, we still have authority to derivatively classify documents that we author. If the Board uses information from a classified source document to create a new document that new document may be classified by the Board. Our exercise of this derivative classification authority is subject to review by the Director of the Information Security Oversight Office, and if found to be improper, the Board can be required to declassify it. Any such decision could be appealed to the National Security Council.

As revised, Part 311 requires that the derivative document be marked, at the time it is classified, with the same date or event for declassification as is marked on the source document. The rule provides, however, for source documents that were not assigned a declassification date or were assigned one further in the future than now permitted under Executive Order 12065. In such cases, the derivative document is to be marked with a declassification date 20 years from the date on which the source document was originally classified. If the derivative document contains "foreign government information," (information obtained from a foreign government in confidence), the declassification date should be 30 years from the classification date of the source document.

Although now lacking original classification authority, we still must determine whether documents that we originally classified when we had such authority should now be declassified. To govern the declassification of these documents, we will be issuing declassification guides.

The rule sets out the factors that the Board should consider in exercising its declassification authority. The presumption in all such decisions is in favor of declassification, to ensure that the same emphasis is accorded to declassifying information as would be given to its classification. Documents will be declassified as early as national security considerations permit. Information tends to lose its sensitivity with the passage of time or with the occurrence of key events such as the end of a war.

No Board official, however, has the power to declassify a derivatively classified document. Only the agency that authored the source document has the power to do that. Also, Board documents in the control of the Archivist will be systematically reviewed for declassification in accordance with separate guidelines issued after consultation with the Archivist.

Any persons, including Board employees, may gain access to a classified document in the Board's possession, by filing either a Freedom of Information Act (FOIA) request or a request for mandatory review for declassification. FOIA requests are processed in accordance with the provisons of that Act and Part 310 of our Procedural Regulations. This revision of Part 311 will govern declassification requests.

Part 311 provides that declassification requests be in writing and reasonably describe the information sought. If the description of the document is not sufficient, the requester will be notified that no further action will be taken until additional information is provided or the scope of the request is narrowed. If the request is sufficient, but describes a document that is either no longer in the Board's possession or was derivatively classified by the Board or originally classified by another agency, the request will be forwarded to the appropriate agency. The requester will be notified of such referrals.

The rule also allows Board employees to submit declassification requests. Indeed, they are encouraged to do so as a means of challenging classification decisions when there is reasonable cause to believe that the information is classified unnecessarily, improperly, or for an inappropriate period of time. To ensure that this goal is not undermined, an agency employee who submits a declassification request shall be allowed to request anonymity. When requested, anonymity must be preserved.

Upon receipt by the Board, declassification requests requiring Board action shall be sent to the Board office having custody of the document. That office will make a recommendation to the Managing Director, who will decide whether the document should be declassified. When foreign government information is involved, the Director may consult with the foreign originator through diplomatic channels before final action on the request. If the document or any part of it cannot be released, the rule requires that a brief statement be sent to the requester containing the reasons for withholding and of the right to appeal within 60 days.

Section 311.10 of the rule sets the time and place for filing and describes the required contents of the appeal. The Board will decide the appeal and no further administrative appeals will be permitted.

Finally, we are retaining, with only slight modification, the provisons in the former Part 311 for access to classified information by historical researchers and former Board members. The rule allows researchers access to classified information if such access would be consistent with the national security and the researcher agrees to protect that information and prevent its unauthorized disclosure. Former Board Members are allowed access under this section only to those classified documents that they originated, reviewed, signed, or received while in public office.

Executive Order 12065 has been in effect since December 1, 1978. Therefore, because this rule relates solely to agency internal management and procedure and imposes no significant burden on any member of the public, we find that notice and further public procedures are unnecessary, and that an immediate effective date is in the public interest.

Accordingly, the Civil Aeronautics Board reissues Part 311, *Classification and Declassification of National Security Information and Material*, (14 CFR Part 311), to read as follows:

PART 311—CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION AND MATERIAL

Sec.

311.1 Purpose.
311.2 Applicability.
311.3 Definitions.
311.4 Senior agency official.
311.5 Oversight Committee.
311.6 Original classification.
311.7 Derivative classification.
311.8 Declassification dates on derivative documents.
311.9 Declassification policy.
311.10 Requests for declassification.
311.11 Board action on declassification requests.
311.12 Appeals of denials of declassification requests.
311.13 Access by historical researchers.
311.14 Access by former Presidential appointees.

Authority: Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324. Executive Order 12065, 43 FR 28949, June 28, 1978.

§ 311.1 Purpose.

This part sets forth the standards and criteria for classification and declassification of Board documents, in implementation of Executive Order 12065, June 28, 1978 (43 FR 28949), and Information Security Oversight Directive No. 1, October 5, 1978 (43 FR 46280).

§ 311.2 Applicability.

This part applies to the handling of, and public access to, national security information and classified documents in the Board's possession. Such documents no longer in the Board's possession will be handled by the agency having possession, or in accordance with guidelines developed in consultation with the Archivist.

§ 311.3 Definitions.

As used in this part:

"Foreign government information" means either (i) information provided to the United States by a foreign government or international organization in the expectation, express or implied, that the information would be kept in confidence, or (ii) information requiring confidentiality, produced by the United States under a written joint arrangement with a foreign government or international organization.

§ 311.4 Senior agency official.

The Director, Office of Administrative Support Operations, in his capacity as the Physical Security Officer for the Board, is designated the senior agency official responsible for conducting an oversight program to ensure effective implementation of Executive Order 12065.

§ 311.5 Oversight Committee.

An Oversight Committee is established, under the chairmanship of the Director, Office of Administrative Support Operations, with the following responsibilities:

(a) Establish a security education program to familiarize Board and other personnel who have access to classified information with the provisions of Executive Order 12065, and encourage Board personnel to challenge those classification decisions they believe to be improper.

(b) Establish controls to insure that classified information is used, processed, stored, reproduced, and transmitted only under conditions that will provide adequate protection and prevent access by unauthorized persons.

(c) Act on all suggestions and complaints concerning Board administration of its information security program.

(d) Establish and monitor policies and procedures within the Board to insure the orderly and effective declassification of Board documents.

(e) Recommend to the Managing Director appropriate administrative action to correct abuse or violation of any provision of Executive Order 12065.

(f) Consider and decide other questions concerning classification and declassification that may be brought before it.

§ 311.6 Original classification.

(a) No Board Member or employee has the authority to classify any Board-originated information.

(b) If a Board employee develops information that appears to require classification, the employee shall immediately notify the Physical Security Officer and protect the information accordingly.

(c) If the Physical Security Officer believes the information warrants classification, it shall be sent to an agency with original classification authority over the subject matter, or to the Information Security Oversight Office, for review.

§ 311.7 Derivative classification.

Any document that includes paraphrases, restatements, or summaries of, or incorporates in new form, information that is already classified, shall be assigned the same level of classification as the source, unless the basic information has been so changed that no classification, or a lower classification than originally assigned, should be used.

§ 311.8 Declassification dates on derivative documents.

(a) A document that derives its classification from information classified on or after December 1, 1978, shall be marked with the date or event assigned to that source information for its automatic declassification or for review of its continued need for classification.

(b) A document that derives its classification from information classified before December 1, 1978, shall be marked as follows:

(1) If the source has a declassification date or event 20 years or less from the date of its original classification, that date or event shall also be assigned to the derivative document.

(2) If the source has no declassification date or event, or has a date 20 years or more from the date of original classification, the derivative document shall be assigned a declassification date 20 years from the date of original classification of the source information.

(3) If the source contains foreign government information having no date or event for declassification, or has a date 30 years or more from the date of original classification, the derivative document shall be assigned a declassification date 30 years from the date of original classification of the source information.

(c) A derivative document that derives its classification from the approved use of the classification guide of another agency shall bear the declassification date required by the provisions of that classification guide.

§ 311.9 Declassification policy.

Upon the date for review for declassification, or upon a request under § 311.10 of this part, a document originally classified by the Board before December 1, 1978, shall be declassified unless:

(a) The information in the document continues to meet one of the classification requirements of Executive Order 12065;

(b) Disclosure reasonably could be expected to cause significant damage to national security; and

(c) The damage to national security that might reasonably be expected from disclosure outweighs the public interest in disclosure.

§ 311.10 Requests for declassification.

(a) Requests for review of a Board document for declassification may be made by any person, including Board employees. The request shall be in writing, and shall be sent to the Office of Administrative Support Operations (B–21), Attn: Mandatory Review Request, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

(b) The request shall describe the material sufficiently to enable the Board to locate it. Requests with insufficient

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description of the material will be returned to the requester for further information.

(c) Board employees who request declassification of a Board document may request that their identity not be disclosed.

(d) If the request requires the provision of services by the Board, fair and equitable fees may be charged under Title 5 of the Independent Offices Appropriation Act, 65 Stat. 290, 31 U.S.C. 483a.

§ 311.11 Board action on declassification requests.

(a) Within 30 days of receiving a request for declassification from a Board employee, and within 60 days of receiving such a request from any other person or a referral from the Archivist, its receipt shall be acknowledged.

(1) If the document was originally classified by the Board, the Managing Director shall decide whether the document should be declassified, on the basis of the criteria of § 311.9 and on the recommendation of the Board office having custody of it.

(2) If the document was derivatively classified by the Board or originally classified by another agency, the request and the document shall be forwarded to the agency with original classification authority. The requester shall be notified of the referral.

(3) If the document or any part of it is not released, the Managing Director shall send a brief statement to the requester containing the reasons for the denial and of the right to appeal that decision to the Board within 60 days.

(b) Board employees shall not reveal the name of a Board employee who requests anonymity under § 311.10(c) of this part.

§ 311.12 Appeals of denials of declassification requests.

(a) Within 60 days after the receipt of denial of a request for declassification, the requester may submit an appeal in writing to the Office of Administrative Support Operations (B–21), Attn: Appeals of Mandatory Review Request, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. The appeal shall—

(1) Identify the document in the same manner in which it was identified in the original request;

(2) Indicate the dates of the request and denial, and the expressed basis for the denial; and

(3) State briefly why the document should be declassified.

(b) The Board shall rule on the appeal within 30 days of receiving it.

(c) A determination by the Board under paragraph (b) of this section is final and no further administrative appeal will be permitted.

§ 311.13 Access by historical researchers.

(a) Persons outside the executive branch performing historical research may have access to classified information in the Board's possession for the period requested (but not longer than 2 years unless renewed for an additional period of less than 2 years) if the Physical Security Officer determines in writing that access to the information will be consistent with the interests of national security.

(b) The person seeking access to classified information must agree in writing:

(1) To be subject to a national agency check;

(2) To protect the classified information in accordance with the provisions of Executive Order 12065;

(3) Not to publish or otherwise reveal to unauthorized persons any classified information.

§ 311.14 Access by former Presidential appointees.

(a) Former Board Members may have access to classified information or documents that they originated, reviewed, signed, or received while in public office.

(b) Upon the request of any former Member such information shall be reviewed by the Physical Security Officer for declassification.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[Regulation PR–203]
[FR Doc. 79–13654 Filed 5–1–79; 8:45 am]
BILLING CODE 6320–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 16

Ford Motor Company, et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Dearborn, Mich. manufacturer of motor vehicles, and the Ford Motor Credit Company to incorporate into specified documents a system for determining and accounting for all surpluses realized on repossessed vehicles resold by its dealers and to institute training programs designed to familiarize employees and dealers with their obligations in handling repossessions. Following such training, Ford is required to conduct a series of field audits to verify that dealers are calculating and paying surpluses correctly, and to submit timely compliance reports to the Commission. The companies are additionally required to inform dealers of their obligations to pay surpluses on past and future repossessions, and to advise customers of their surplus and/or redemption rights, in the manner set forth in the order.

DATES: Complaint issued February 10, 1976. Final order issued March 29, 1979.[1]

FOR FURTHER INFORMATION CONTACT: Thomas Armitage, Director, 10R, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174 (206) 442–4655.

SUPPLEMENTARY INFORMATION: On Friday, November 24, 1978, there was published in the **Federal Register**, 43 FR 54944, a proposed consent agreement with analysis In the Matter of Ford Motor Company, Ford Motor Credit Company, and Francis Ford, Inc., corporations, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered this issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,
Secretary.

[Docket 9073]
[FR Doc. 79–13611 Filed 5–1–79; 8:45 am]
BILLING CODE 6750–01–M

[1] Copies of the Complaint and Decision and Order filed with the original document.

16 CFR Part 13

Prohibited Trade Practices and Affirmative Corrective Actions; Crane Co., et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a New York City manufacturer and seller of various products to cause the Medusa Corporation to divest itself completely of its Dixon, Ill. cement plant together with whatever assets associated with the plant that may be necessary to maintain the facility as an effective competitor in the production and sale of portland cement. The order further prohibits the firm from acquiring the whole or part of the assets of any firm engaged in the production or sale of portland cement without prior Commission approval.

DATES: Complaint and order issued April 5, 1979.*

FOR FURTHER INFORMATION CONTACT: FTC/CS–7, David I. Wilson, Washington, D.C. 20580, (202) 376–2069.

SUPPLEMENTARY INFORMATION: On Wednesday, January 10, 1979, there was published in the **Federal Register**, 44 FR 2182, a proposed consent agreement with analysis In the Matter of Crane Co., a corporation, and Thomas Mellon Evans, an individual, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5–10 F.T.C. Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Carol M. Thomas,
Secretary.

[Docket C–2988]
[FR Doc. 79–12608 Filed 5–1–79; 8:45 am]
BILLING CODE 6750–01–M

*Copies of the Complaint and Decision and Order filed with the original document.

DEPARTMENT OF STATE

22 CFR Parts 22 and 51

Schedule of Fees for Consular Services; Change in Fee for Execution of Passport Application

Passports

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule increases the fee for the execution of passport applications from $3 to $4. The Department has determined that the fee increase of $1 is fair and necessary to enable the Department and the passport application acceptance facilities to recover the current full cost of providing the service.

EFFECTIVE DATE: May 1, 1979.

ADDRESS: Director, Office of Citizenship, Nationality and Legal Assistance, Passport Services, Bureau of Consular Affairs, Department of State, Room 5813, Washington, D.C. 20520.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking to amend Part 22 was published in the **Federal Register** on March 6, 1979 (44 FR 12209). A correction to that notice was published on March 23, 1979 (44 FR 17720), adding a change to Part 51.

Interested persons were invited to submit comments concerning the amendments by April 23, 1979. No unfavorable comments were received; therefore, the proposed amendments are adopted, without change, as set forth below.

Dated: April 26, 1979.

For the Secretary of State,
Michael Cassin,
Acting Under Secretary for Management.

§ 22.1 Schedule of fees.

Passport and Citizenship Services—Fee.

Item No.

1. Execution of application for passports (22 U.S.C. 214)—$4.00

2. Examination of passport application executed before a foreign official—$4.00

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§ 22.8 Effective date.

The charges hereby established will become effective on May 1, 1979 with respect to all services rendered pursuant to requests received in the Department of State and the Foreign Service on or after the effective date.

Authority: Secs. 3, 4, 63 Stat. 111, as amended, Sec. 3, 34 Stat. 100, as amended; 22 U.S.C. 811a, 1201, 2658; E.O. 10718, 22 FR 4632; 3 CFR, 1954–58 comp., p. 382.

§ 51.61 Statutory fees.

Except as provided in § 51.63, (a) the fee for a U.S. passport is $10; (b) the execution fee for a U.S. passport is $4, which shall be remitted to the U.S. Treasury where an application is executed before a Federal official but which may be collected and retained by any State official before whom an application is executed; (c) the passport fee of $10 shall be paid by all applicants for a passport. The execution fee of $4 shall be paid only when an application is executed under oath or affirmation before an official designated by the Secretary for such purpose.

Authority: Sec. 1, 41 Stat. 750, as amended, Sec. 1, 44 Stat. 887, Sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 214, 211a, 2658; E.O. 11295, 36 FR 10603; 3 CFR 1966–70 comp. p. 507.

[Dept. Reg. 108.775]
[FR Doc. 79–12992 Filed 5–1–79; 8:45 am]
BILLING CODE 4710–06–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1914

National Flood Insurance Program; List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.[1]

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes

[1] The functions of the Federal Insurance Administration, U.S. Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–8620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, commmunities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Colorado	Donejos	Unincorporated areas	080037	Apr. 17, 1979, emergency.	
Illinois	Jackson	Dowell, village of	170975	Apr. 20, 1979, emergency.	Apr. 16, 1975.
Do	Greene	Unincorporated areas	170801	Apr. 17, 1979, emergency.	Apr. 7, 1978.
Do	Scott	do	170805–A	Apr. 16, 1979, emergency.	Jan. 23, 1975.
Kentucky	Larue	do	210268	Apr. 20, 1979, emergency.	
Maine	Penobscot	Veazie, town of	230403–B	Apr. 18, 1979, emergency, Apr. 19, 1979, regular.	Jan. 3, 1975 and July 30, 1976.
Minnesota	Dakota	Mendota, city of	270109–A	Apr. 20, 1979, emergency.	Feb. 8, 1974.
Ohio	Pickaway	Williamsport, village of	390668	do	Oct. 20, 1978.
Pennsylvania	Susquehanna	Friendsville, borough of	422579–A	do	June 17, 1977.
Illinois	Jo Daviess	Unincorporated areas	170902	Apr. 18, 1979, emergency.	June 2, 1978.
Do	Schuyler	do	170805–A	do	June 2, 1978.
Missouri	Cass	Peculiar, city of	290675–New	do	Jan. 3, 1975 and July 2, 1976.
Alaska		Cordova, city of	020037–B	Apr. 18, 1979, suspension withdrawn.	May 24, 1977.
California	Riverside	Perris, city of	060256–B	do	Sept. 6, 1974 and July 9, 1976.
Colorado	Weld	Fort Lupton, city of	080163–B	do	May 31, 1974 and June 11, 1976.
Florida	Lee	Fort Myers, city of	125106–A	do	Oct. 30, 1970.
Do	do	Sanibel, city of	120402–A	do	July 23, 1976.
Indiana	Elkhart	Bristol, town of	180060–B	do	Nov. 16, 1976.
Massachusetts	Middlesex	Lowell, city of	250201–A	do	May 31, 1974.
Minnesota	Washington	Bayport, city of	275228–A	do	May 19, 1972.
Do	do	Cottage Grove, city of	270502–A	do	Apr. 12, 1974.
Do	Yellow Medicine	Unincorporated areas	270544–B	do	Aug. 19, 1977.
New Hampshire	Hillsborough	Bedford, town of	330083–B	do	Mar. 29, 1974 and Nov. 19, 1976.
Do	Merrimack	Bow, town of	330197–B	do	May 30, 1974 and Sept. 24, 1976.
Do	Carroll	Conway, town of	330011–B	do	Sept. 13, 1974 and Aug. 27, 1976.
Do	Hillsborough	Hollis, town of	330091–B	do	Mar. 1, 1974 and Feb. 4, 1977.
New York	Erie	Aurora, town of	360227–B	do	Apr. 12, 1974 and Mar. 26, 1976.
Do	Cayuga	Brutus, town of	360104–B	do	Sept. 6, 1974.
Do	Monroe	Ogden, town of	360424–B	do	Dec. 28, 1973 and Apr. 16, 1976.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
New Jersey	Morris	East Hanover, township of	340341–A	do	Aug. 31, 1973.
Do	Essex	West Caldwell, borough of	340198–B	do	June 15, 1973 and Aug. 20, 1976.
Pennsylvania	Erie	Millcreek, township of	420452–B	do	Sept. 20, 1974 and June 23, 1976.
South Carolina	Aiken	Aiken, city of	450009–B	do	June 28, 1974 and July 16, 1976.
Tennessee	Coffee and Franklin	Tullahoma, city of	470036–A	do	May 24, 1974.
Wisconsin	Pierce	Unincorporated areas	555571–A	do	July 19, 1972.
Do	Wood	Port Edwards, village of	365572–A	do	Apr. 13, 1973.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 23, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5361]

[FR Doc. 79–13172 Filed 5–1–79; 8:45 am]

BILLING CODE 4210–01–M

24 CFR Part 1915

National Flood Insurance Program; List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.[1]

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The date listed in the eighth column of the table or 30 days after the date of this Federal Register publication, whichever is later.

[1] The functions of the Federal Insurance Administration, U.S. Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by federally regulated, insured, supervised, or approved lending institutions (1) to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Secretary, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed $5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Secretary, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the Federal Register or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the Federal Register or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 1915 or Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table:

4 4 1 8 6

§ 1915.3 List of communities with special hazard areas (FHBMs in effect).

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
California, unincorporated area, Placer County, 0001B-0035B.	060239B	N-11, 12	I	F	July 12, 1977	Apr. 3, 1979	Mr. Thomas McMahon, Planning Director, Administrative Center, 175 Fulweiler Avenue, Auburn, CA 95603 (916) 823-4011.
Idaho, Owyhee, city of Grand View, 0001A	160241A	N-5	I	F	Apr. 3, 1979	Apr. 3, 1979	Honorable Ben Johnson, Mayor, City Hall, Box 48, Grand View, ID 83624 (208) 834-2290.
Louisiana, Bossier Parish, town of Haughton, 01B-02B.	220034B	E-8, 11, 12	I	F	June 28, 1974, Apr. 28, 1978.	Apr. 3, 1979	Honorable Elizabeth O. Shamlin, Mayor, Town Hall, P.O. Box 505, Haughton, LA 71037 (318) 949-0800.
Louisiana, Union Parish, village of Lillie, 0001A.	220360A	N-5	I	F	Apr. 3, 1979	Apr. 3, 1979	Honorable Joe W. Washam, Mayor, Village of Lillie, P.O. Box 35, Lillie, LA 71256 (318) 295-5517.
Louisiana, LaSalle Parish, town of Urania, 0001A.	220397A	N-5	I	F	Apr. 3, 1979	Apr. 3, 1979	Honorable Damon G. Bradford, Mayor, Town of Urania, Office of the Mayor, Urania, LA 71480 (318) 466-3462.
Texas, Fayette, city of Carmine, 0001A	481505A	N-5	I	F	Apr. 3, 1979	Apr. 3, 1979	Honorable Jerry Dale Jacob, Mayor, Office of Mayor, P.O. Box 76, Carmine, TX 78932 (713) 278-3273.
Wyoming, Weston, city of Newcastle, 0001B	560057B	E-8, 11, 12	I	F	Aug. 30, 1974, Oct. 10, 1975.	Apr. 3, 1979	Honorable Ralph Updike, Mayor, P.O. Box 467, Newcastle, WY 82701 (307) 746-2100.
Ohio, Williams, village of Montpelier, 01	390981B	N-8, 11, 12, 14	I	F	May 31, 1974, May 21, 1976.	Apr. 9, 1979	David Anderson, Mayor, 211 North Jonesville St., Montpelier, OH 43543, Phone: (419) 485-3828.
Wisconsin, Columbia, village of Cambria, 01	550057B	E-8, 11, 12, 14	I	F	Apr. 12, 1974, June 11, 1976.	Apr. 6, 1979	Alex Swenson, Mayor, Box 238, Cambria, WI 53923, Phone: (414) 348-5443.
Idaho, unincorporated area, Clark County, 0001A; 0003A-0022A.	160210A	E-5	I	F	Apr. 10, 1979	Apr. 10, 1979	Mr. J. Albert Laird, Chairman, Clark County, Board of County Commissioners, Dubois, ID 83423 (208) 374-5304.
Iowa, Clay, town of Gillett Grove, 0001A	190924A	N-5	I	F	Apr. 10, 1979	Apr. 10, 1979	Honorable Robert Mingus, Mayor, Office of Mayor, Gillett Grove, IA 51341 (712) 836-5055.
Iowa, Appanoose, town of Unionville, 0001A	190823A	E-5	I	F	Apr. 10, 1979	Apr. 10, 1979	Honorable Richard A. Hopkins, Mayor, Office of Mayor, Unionville, IA 52594 (515) 452-9542.
Louisiana, Red River Parish, town of Coushatta, 0001B.	220153B	E-8, 11, 12	I	F	Apr. 12, 1974, Feb. 7, 1975.	Apr. 10, 1979	Honorable H. Truman Crawford, Mayor, Town of Coushatta, Office of the Mayor, Coushatta, LA 71019 (318) 932-4920.
Nebraska, Thayer, village of Hubbell, 0001A	310220A	E-5	I	F	Apr. 10, 1979	Apr. 10, 1979	Mr. Aaron Porter, Chairman, Village of Hubbell, Office of Chairman of the Board, Hubbell, NB 68375 (402) 436-2221.
Texas, Hunt, town of Campbell, 0001A	481504A	N-5	I	F	Apr. 10, 1979	Apr. 10, 1979	Honorable Barron Adams, Mayor, Office of Mayor, P.O. Box 1116, Campbell, TX 75422 (214) 862-3446.
Alabama, Barbour, city of Eufaula	010011C	E-9	I	F	Dec. 17, 1973, Dec. 19, 1975, and Oct. 27, 1978.	Apr. 13, 1979	Town Office, City of Eufaula, Eufaula, Alabama 36027.
Virginia, Essex, town of Tappahannock, 0001B.	510046	E-8, 11, 12, 14	I	F	Dec. 20, 1974, Oct. 20, 1978.	Apr. 13, 1979	James F. Moore, Town Mgr., P.O. Box 266, Tappahannock, VA 22560, Phone: (804) 445-3356.
Wisconsin, Clark, city of Owen, 01	550054B	E-11, 12, 14	I	F	Jan. 16, 1974, Apr. 9, 1976.	Apr. 13, 1979	John Sacco, Mayor, City Hall, Owen, WI 54460, Phone: (715) 229-8404.
California, unincorporated area, Tulare County, 0004A; 0009A-0012A; 0014A; 0016A-0019A; 0021A-0026A; 0028A-0033A; 0035A-0036A; 0038A-0041A; 0043A-0044A; 0046A-0052A.	065066A	E-8, 10, 11, 12, 15.	I	F	Feb. 14, 1978	Apr. 17, 1979	Mr. Jack Carlson, Flood Control Engineer, County of Tulare, Flood Control District, Room #16, County Civic Center, Visalia, CA 93277 (209) 733-6272.
Iowa Franklin and Hardin, city of Ackley, 01A	190386A	N-11, 12	I	F	July 16, 1976	Apr. 17, 1979	Honorable Elmer L. Younker, Mayor, City Hall, Ackley, IA 50610 (515) 847-3204.

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Louisiana, Evangeline Parish, town of Mamou, 01B.	220067B	E-8, 11, 12	I	F	May 9, 1974, Oct. 24, 1975.	Apr. 17, 1979	Honorable B. J. Manuel, Mayor, City Hall, 501 Main Street, Mamou, LA 70554 (318) 468-5271.
Nebraska, unincorporated area, Buffalo County, 0001A-0016A.	310419A	N-5, 9	I	F	Apr. 17, 1979	Apr. 17, 1979	Mr. Bob P. Wright, Chairman, Board of County Commissioners, County Courthouse, Kearney, NB 68847 (308) 237-5981.
Texas, Hill, city of Covington, 0001A	481511A	N-5	I	F	Apr. 17, 1979	Apr. 17, 1979	Honorable Johnny William, Mayor, Office of Mayor, P.O. Box 132, Covington, TX 76636 (817) 854-2316.
Texas, Bosque, city of Cranfills Gap, 0001A	481512A	N-5	I	F	Apr. 17, 1979	Apr. 17, 1979	Honorable Chris Paulson, Mayor, Office of Mayor, Route 2, Box 84, Cranfills Gap, TX 76637 (817) 597-2888.
Indiana, Jay, town of Pennville, 01	180467A	N-5, 15	I	F	Apr. 20, 1979	Apr. 20, 1979	Fred Givens, Town Bd. Pres., 325 E. Main St., Pennville, IN 47369, Phone: (219) 731-2597.
Minnesota, Chippewa, Chippewa County,[1] 0001A-0007A.	270066	E-5	I	F	Apr. 20, 1979	Apr. 20, 1979	Alexis Pust, Ch. Co. Bd., 723 S. 12th Street, Montevideo, MN 56265, Phone: (612) 269-7407.
Minnesota, Wabasha, city of Mazeppa, 01	270467B	N-11, 12, 14	I	F	July 19, 1974, June 25, 1976.	Apr. 23, 1979	Jeanette Weber, Cit., P.O. Box 316, Mazeppa, MN 55956, Phone: (507) 843-4332.
Minnesota, Redwood, city of Revere, 01	270565A	N-11, 12, 14	I	F	Apr. 11, 1975	Apr. 23, 1979	Raymond Sarress, Mayor, City Hall, Revere, MN 56182, Phone: (507) 752-7722.
Arkansas, Yell, village of Corinth, 0001A	050566A	N-5	I	F	Apr. 24, 1979	Apr. 24, 1979	Mr. Grace Stewart, Mayor, Office of Mayor, Corinth, AR 72884 (501) 495-2446.
California, unincorporated area, Monterey County, 0006B.	060195B	E-12	C	F	Feb. 21, 1978	Apr. 24, 1979	Mr. Owen B. Stewart, Civil Engineering Assistant, Monterey County Flood Control and Water Conservation District, P.O. Box 930, Salinas, CA 93902 (408) 424-7661.
South Dakota, unincorporated area, Yankton County, 0001B-0006B.	460066B	E-11, 12	I	F	Aug. 16, 1977	Apr. 24, 1979	Mr. Martin Stamp, Director of Assessment, P.O. Box 426, Yankton, SD 57078 (605) 665-4462.
Texas Liberty, city of Devers, 0001A	481514A	N-5	I	F	Apr. 24, 1979	Apr. 24, 1979	Honorable Luther L. White, Mayor, Office of Mayor, P.O. Box 576, Devers, TX 77538, (713) 549-3831.
Texas, Liberty, Town of Kenefick, 0001A	481523A	N-5	I	F	Apr. 24, 1979	Apr. 24, 1979	Honorable J. W. Adams, Mayor, Town of Kenefick, Office of Mayor, Route 1, Box 359, Dayton, TX 77535 (713) 258-5261.
Illinois, McHenry, Village of McHenry Shores, 01.	170830A	N-5	I	F	Apr. 27, 1979	Apr. 27, 1979	Rose Lillegard, Vil. Pres., 6216 W. Beach Dr., McHenry Shores, IL 60050, Phone: (815) 385-3520.

[1] Unincorporated areas.

Final Last Codes

1. Conversion to Regular Program with FIRM (elevations determined).
2. Conversion to Regular Program with FIRM (no elevations determined).
3. Conversion to Regular Program with no Special Flood Hazard Areas—no FIRM.
4. Conversion to Regular Program with no Special Flood Hazard Areas—no FIRM; rescission of FHBM effective on same date as conversion.
5. Initial FHBM.
6. Revision—Change of elevation; revised FIRM.
7. Revision—Change of zone designation; revised FIRM.
8. Revision—Corporate limit changes.
9. Revision—Drafting corrections; Printing errors.
10. Revision—Curvilinear.
11. Revision—Add Flood Hazard Area.
12. Revision—Reduce Flood Hazard Area.
13. Revision—Federal Register omission.
14. Revision—Refunds possible.
15. Attention! A previous map (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.

R—Regular program; E—Emergency program; N—Not in program.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended. 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 23, 1979.

Gloria M. [redacted],

Federal Insurance Administrator.

[Docket No. FI-6380]

[FR Doc. 79-13171 Filed 5-1-79; 8:45 am]

BILLING CODE 4210-01-M

M Y 2 7 9 UMI

24 CFR Part 1915

National Flood Insurance Program; List of Withdrawal of Flood Insurance Maps

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency. [1]

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Federal Insurance Administration, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance program is suspended.

EFFECTIVE DATES: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Office of Flood Insurance, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) for acquisition and construction of buildings, and

(2) for buildings located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction of buildings in these areas unless the community has entered the program. The denial of such financial assistance has no application outside of the identified special flood hazard areas of such flood-prone communities.

Prior to July 1, 1975, the statutory requirement for the purchase of flood insurance did not apply until and unless the community entered the program and the special flood hazard areas were identified by the issuance of a flood insurance map. However, after July 1, 1975, or one year after identification, whichever is later, the requirement applies to all communities in the United States that are identified as having special flood hazard areas within their community boundaries, so that, no such financial assistance can legally be provided for buildings in these areas unless the community has entered the program.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Insurance Administration's (FIA's) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number and a FIRM by the letter "R" following the community number. If the FIA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 24 CFR Part 1909 et seq.).

As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication. Accordingly, Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended as follows:

1. Present § 1915.6 is revised to read as follows:

§ 1915.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).* The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 5149	41 FR 17726
40 FR 17015	42 FR 6895
40 FR 20798	42 FR 29433
40 FR 46102	42 FR 45228
40 FR 53579	42 FR 64076
40 FR 56672	43 FR 24019
41 FR 1478	44 FR 815
41 FR 50990	44 FR 6363
41 FR 13352	44 FR 18465

(b) *Flood Insurance Rate Maps (FIRM's).* The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 17015	42 FR 64076
41 FR 1478	43 FR 24019
42 FR 49611	

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made pursuant to § 1915.6:

[1] The functions of the Federal Insurance Administration, U.S. Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

State	Community name and number	County	Hazard ID date	Rescission date	Reason
California	Los Alamitos, 060228–C	Orange	Jan. 16, 1976	Mar. 15, 1979	9A
Do	Stanton, 060234–C	Orange	do	do	9A
Kansas	City of Bluff, city, 200126	Harper	Dec. 27, 1974	do	1
Do	City of Fairview, 200028	Brown	Nov. 8, 1974	do	1
Do	Hartford, city, 200422	Lyon	Sept. 26, 1975	do	1
Do	Harveyville, city, 200352	Wabaunsee	Nov. 8, 1974	do	1
Do	Holyrood, city, 200508	Ellsworth	Aug. 8, 1975	do	1
Do	Hope, city, 200424	Dickinson	Sept. 19, 1975	do	1
Do	Lebanon, city, 200343	Smith	Dec. 20, 1974	do	1
Do	Lidlerthal, city, 200339	Rush	Jan. 3, 1975	do	1
Do	Meriden, city, 200149	Jefferson	Nov. 5, 1976	do	1
Do	Osage, city, 200252	Osage	Feb. 28, 1975	do	1
Do	Severance, city, 200083	Doniphan	Dec. 28, 1976	do	1
Do	Westmoreland, city, 200277	Pottawatomie	Mar. 8, 1974	do	1
Do	Whiting, city, 200146	Jackson	Nov. 29, 1974	do	1
Washington	Medina, city, 530315–C	King	Mar. 19, 1977	do	1A

Key to symbols:

E—The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.
C—The community is participating in the Emergency Program. It will be converted to the Regular Program without an FIA map.
R—The community is participating in the Regular Program.
1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
1A. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
2. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.
3. The Community lacked land-use authority over the special flood hazard area.
4. A more accurate FIA map is the effective map for the community.
5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.) A new FHBM will be prepared and distributed.
6. The Flood Insurance Rate Map was rescinded because of inaccurate flood elevations contained on the map.
7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.
8. The TLE or HSE Map was rescinded.
9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 23, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. 5362]

[FR Doc. 79-13170 Filed 5-1-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determination for the Township of North Annville, Lebanon County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of North Annville, Lebanon County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of North Annville, Lebanon County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of North Annville, Lebanon County, Pennsylvania, are available for review at the residence of Mr. Edgar Wagner, 1929 Thompson Avenue, Jonestown, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of North Annville, Lebanon County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Swatara Creek	Gravel Hill Road (Upstream)	363
	7,200' Upstream of Gravel Hill Road.	357
	2,500' Downstream of Legislative Route 38004.	395
	Legislative Route 38004 (Upstream).	397
	3,000' Upstream of Legislative Route 38004.	398
Unnamed Stream F	Confluence with Swatara Creek.	396
	Private Drive 825' Downstream of Harrison Road.	398
	Harrison Road (Upstream)	405

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

4 4 1 8 6

Issued: March 23, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-4869]
[FR Doc. 79-13152 Filed 5-1-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determination for the Township of North Londonderry, Lebanon County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of North Londonderry, Lebanon County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of North Londonderry, Lebanon County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of North Londonderry, Lebanon County, Pennsylvania, are available for review at the North Londonderry Township Building, Ridge Road, North Londonderry, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or toll-free line (800) 424–8872. Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of North Londonderry, Lebanon County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910. The final base (100-year) flood elevations for the selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Unnamed Stream "C"	Legislative Route 38001 (Upstream).	463
	Private Road 430 feet downstream from Legislative Route 38001 (Upstream).	456
	Unnamed Dam 1,300 feet downstream from Legislative Route 38001 (Upstream).	444
	Unnamed Dam 1,300 feet downstream from Legislative Route 38001 (Downstream).	437
	Private Road 2,320 feet downstream from Legislative Route 38001 (Upstream).	420
	Unnamed Dam 3,530 feet downstream from Legislative Route 38001 (Upstream).	401
	Unnamed Dam 3,530 feet downstream from Legislative Route 38001 (Downstream).	394
	Private Road 4,490 feet downstream from Legislative Route 38001 (Upstream).	384
	300 feet upstream from confluence with Quittapahilla Creek.	379

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-4869]
[FR Doc. 79-13153 Filed 5-1-79 8:45 am]
BILLING CODE 4210-01-M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determination for the Borough of Olyphant, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Olyphant, Lackawanna County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Olyphant, Lackawanna County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Olyphant, Lackawanna County, Pennsylvania, are available for review at the Borough Building, Olyphant, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Olyphant, Lackawanna County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lackawanna River	Downstream Corporate Limits.	760
	Upstream Colliery Bridge	758
	Upstream Delaware & Hudson Railroad Bridge.	762
	Upstream West Lackawanna Avenue Bridge.	788
	Upstream Corporate Limits	792
Sterry Creek	Downstream Corporate Limits.	816
	About 2,100 feet upstream of downstream Corporate Limits.	837
	Upstream Limit of Detailed Study.	914

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-4882]
[FR Doc. 79-13184 Filed 5-1-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determination for the Borough of Port Vue, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Port Vue, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Port Vue, Allegheny County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Port Vue, Allegheny County, Pennsylvania, are available for review at the Borough Building, Port Vue, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Port Vue, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Youghiogheny River	Downstream Corporate Limits.	744
	River Mile One Post	744
	15th Street Bridge	745
	Upstream Corporate Limits	745

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P. L. 95–557, 92 Stat. 2080, this rule has been granted waiver or Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-4882]
[FR Doc. 79-13185 Filed 5-1-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determination for the Township of Roaring Brook, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Roaring Brook, Lackawanna County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Roaring Brook, Lackawanna County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Roaring Brook, Lackawanna County, Pennsylvania, are available for review at the residence of the Township Secretary, R. D. 2, Moscow, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Roaring Brook, Lackawanna County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR

1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Roaring Brook	At Upstream Corporate Limits with the Borough of Dunmore.	1,154
	Conrail Bridge Upstream	1,213
	Upstream of Dam located about 2,100 feet upstream of Conrail Bridge.	1,229
	Upstream of Private Lane crossing.	1,270
	Upstream of Interstate 84	1,342

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4891]
[FR Doc. 79–13156 Filed 5–1–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determination for the Township of Susquehanna, Lycoming County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Susquehanna, Lycoming County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Susquehanna, Lycoming County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Susquehanna, Lycoming County, Pennsylvania, are available for review at the residence of the Borough Secretary, R.D. 4, Williamsport, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5561 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Susquehanna, Lycoming County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Downstream Corporate Limits.	537
	Conrail Bridge Upstream	538
	Upstream Corporate Limits	543
Bender Run	Legislative Route 41016 (Upstream).	538
	Ponds (Upstream)	542
	Private Dam (Upstream)	557
	Private Bridge at confluence of Left Branch Bender Run (Upstream).	602
	Private Bridge approximately 4,250 feet above West Branch Susquehanna River.	624
	Private Bridge approximately 4,950 feet above West Branch Susquehanna River.	647
	Private Bridge approximately 6,200 feet above West Branch Susquehanna River.	660
	Valley Road (Upstream)	730
Left Branch Bender Run.	Legislative Route 41016	539
	Valley Road (Upstream)	566
	Confluence with Bender Run.	600

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4853]
[FR Doc. 79–13157 Filed 5–1–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determination for the Borough of Throop, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Throop, Lackawanna County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Throop, Lackawanna County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Throop, Lackawanna County, Pennsylvania, are

available for review at the Municipal Building, Throop, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5561 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Throop, Lackawanna County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lackawanna River	Downstream Corporate Limit	733
	Boulevard Avenue Upstream	736
	Upstream Corporate Limit	750

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4854]
[FR Doc. 79–13158 Filed 5–1–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determination for the Borough of Trafford, Allegheny and Westmoreland Counties, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Trafford, Allegheny and Westmoreland Counties, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Borough of Trafford, Allegheny and Westmoreland Counties, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Trafford, Allegheny and Westmoreland Counties, Pennsylvania, are available for review at the Borough Hall, Trafford, Pennsylvania

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5561 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Trafford, Allegheny and Westmoreland Counties, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Turtle Creek	Downstream Corporate Limits.	777
	Westenhouse Dam Upstream.	780
	Forbes Road Upstream	791
	About 2,000 feet upstream of Forbes Road Bridge.	799
Brush Creek	Conrail Bridge Upstream	777
	Wallace Avenue Upstream	782
	Upstream Corporate Limits	795

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4855]
[FR Doc. 79–13159 Filed 5–1–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determination for the Township of White Deer, Union County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of White Deer, Union County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of White Deer, Union County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of White Deer, Union County, Pennsylvania, are available for review at the White Deer Township Building.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of White Deer, Union County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Interstate Route 80	473
	Legislative Route 240 Spur	477
	Corporate Limits Upstream	480
Dog Run	River Road	471
	U.S. Route 15	485
	Private Bridge	487
	Legislative Route 59084	507
	Yankin Road (Upstream)	529
	Private Bridge	533
	Legislative Route 59024 (700 feet upstream of Private Bridge).	540
White Deer Creek	Conrail	477
	Buck Road Covered Bridge	528
	Interstate Route 80	563
	Legislative Route 59045	601

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4696]
[FR Doc. 79-12880 Filed 5-1-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determination for the Township of Woodward, Lycoming County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Woodward, Lycoming County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Woodward, Lycoming County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Woodward, Lycoming County, Pennsylvania, are available for review at the Woodward Township Building.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Woodward, Lycoming County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Downstream Corporate Limits.	537
	Conrail	538
	Upstream Corporate Limits	541
Quenshukeny Run	Conrail	539
	U.S. Route 220	539
	Township Route 387	542
	Township Route 388	557
	Legislative Route 41088	570
	Township Route 375	630
	Upstream Corporate Limits	635
Pine Run	Township Route 372	541
	Conrail	543
	Legislative Route 41089	543
	Township Route 848	546
	U.S. Route 220 East	554
	U.S. Route 220 West	556

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4694]
[FR Doc. 79-12101 Filed 5-1-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determinations for the Town of Windsor, Windsor County, Vt.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Windsor, Windsor County, Vermont.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Windsor, Vermont.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Windsor, are available for review at Town Office, 147 Main Street, Windsor, Vermont.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Windsor, Vermont.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Broken Dam 340 feet upstream of Main Street—	
	30 feet**	330
	20 feet*	341
	1st crossing Union Street—20 feet*.	345
	2nd crossing Union Street—20 feet*.	349
	Mill Pond Dam—50 feet**	351
	Mill Pond Dam—20 feet*	357

*Upstream of centerline.
**Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 21, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4672]
[FR Doc. 79-13162 Filed 5-1-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determination for the Town of Connell, Franklin County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Connell, Franklin County, Washington.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Connell, Franklin County, Washington.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Connell, Franklin County, Washington, are available for review at the Town Hall, Connell, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Connell, Franklin County, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	Central Vermont Railroad—100 feet*.	324
	Cornish Covered Bridge—100 feet*.	326
Mill Brook	Central Vermont Railroad Bridge—20 feet*.	324

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Esquatzel Coulee	Lower Corporate Limits	836
	Adam Street	841
	Clark Street	842
	Burlington Northern Railway	846

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. 4645]
[FR Doc. 79-13163 Filed 5-1-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determination for the Town of Mesa, Franklin County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Mesa, Franklin County, Washington.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Mesa, Franklin County, Washington.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Mesa, Franklin County, Washington, are available for review at the Town Hall, Mesa, Washington.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Mesa, Franklin County, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Esquatzel Coulee	South Corporate Limit	676
	Columbia Street	677
	Judson Street (extended)	678
	North Corporate Limit	680

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. 4675]
[FR Doc. 79-13184 Filed 5-1-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determinations for the Village of Ashwaubenon, Brown County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Ashwaubenon, Brown County, Wisconsin.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Village of Ashwaubenon, Wisconsin.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Ashwaubenon, Brown County, Wisconsin, are available for review at Village Office, 580 Cormier Road, Green Bay, Wisconsin.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Office of Flood Insurance, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Ashwaubenon, Brown County, Wisconsin.

This final rule is issued in accordance with seciton 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dutchman Creek	County Highway "H"	589
	State Highway 32 and U.S. Highway 41.	591
	Oneida Street	595
Ashwaubenon Creek	State Highway 32 and U.S. Highway 41.	586
	Glory Road	590
	County Highway "G"	594

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-4684]
[FR Doc. 79-13185 Filed 5-1-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determination for the City of Weirton, Brooke and Hancock Counties, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Weirton, Brooke and Hancock Counties, West Virginia.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Weirton, Brooke and Hancock Counties, West Virginia.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Weirton, Brooke and Hancock Counties, West Virginia, are available for review at the Weirton Department of Inspections, Weirton, West Virginia.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Weirton, Brooke and Hancock Counties, West Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Downstream Corporate Limits.	671
	Conrail	672
	Steubenville-Weirton Highway.	672
	National Steel Corporation Bridge.	674
	Upstream Corporate Limits	675
Harmon Creek	Confluence with Ohio River	672
	Private Drive (Downstream)	672
	Private Drive (Upstream)	680
	Conrail	680
	State Route 2	681
Kings Creek	Confluence with Ohio River	675
	Conrail	676
	Kings Creek Road (1.82 miles above Mouth) (Downstream).	687
	Kings Creek Road (1.82 miles above Mouth) (Upstream).	695
	Private Road (2.25 miles above Mouth).	705
	Kings Creek Road (3.53 miles above Mouth) (Upstream).	737
	North 12th Street (Upstream)	754
	Park Road (4.05 miles above Mouth).	771
	Park Road (4.12 miles above Mouth).	772
	Sondra Drive (Upstream)	777
	Cutler Road (Upstream)	801

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 28, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-4656]
[FR Doc. 79-13186 Filed 5-1-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determination for the Town of Barton, Allegany County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Barton, Allegany County, Maryland.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Barton, Allegany County, Maryland.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Barton, Allegany County, Maryland are available for review at the Town Hall, Barton, Maryland.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–5581 or toll-free line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Barton, Allegany County, Maryland.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Georges Creek	Georges Creek Boulevard	1,248
	Temperance Run Road	1,264
	Confluence of Butcher Run	1,295
Butcher Run	Footbridge (culvert)	1,264
	Georges Creek Boulevard	1,296

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Upstream Corporate Limits	1,332

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95–557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 23, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4865]
[FR Doc. 79–13167 Filed 5–1–79; 8:45 am]
BILLING CODE 4210–01–M

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determinations for the City of Ridgeland, Madison County, Mississippi

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Ridgeland, Madison County, Mississippi.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Ridgeland, Mississippi.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Ridgeland, are available for review at City Hall, Ridgeland, Mississippi.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755–5581 of Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Ridgeland, Mississippi.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Purple Creek	County Line Road	309
	U.S. Highway 51	323
	Illinois Central Gulf Railroad	324
Tributary to Purple Creek.	Ridgewood Road	318
	U.S. Highway 51	326
	Illinois Central Gulf Railroad	329
	Holmes Street	330
	Grave Street	334
Tributary 3 to Purple Creek.	South Wheatley Street	321
Tributary 4 to Purple Creek.	Wolcott Circle (west crossing)	323
	Wolcott Circle (east crossing)	324
	South Wheatley Street	335
Tributary 5 to Purple Creek.	Lakeland Drive	324
	Ford Avenue	326
School Creek	Pear Orchard Road	327
	Unnamed Road	328
	School Street	343
Brashear Creek	Ridgeland Avenue	322

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95–557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–3648]
[FR Doc. 79–13168 Filed 5–1–79; 8:45 am]
BILLING CODE 4210–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1917

National Flood Insurance Program; Final Flood Elevation Determinations for the City of Woodland, Yolo County, California

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Woodland, Yolo County, California.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Woodland, California.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Woodland, Yolo County, California, are available for review at City Engineer's Office, City Hall, Woodland, California.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Woodland, California.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cache Creek Overflow.	Borrow Pit at Northwest Corner of North East Street and Interstate 5.	54
Cache Creek Overflow and Woodland Drainage.	Woodland Avenue and Palm Avenue *.	58
	Grafton Street and Fifth Street *.	58

* At centerline.

Source of flooding	Location	Depth, Feet above ground
Cache Creek Overflow.	Harter Avenue and East Kentucky Avenue.	1
	North East Street and Commerce Avenue.	1
	North East Street and East Beamer Street.	1
	East Beamer Street and Harter Avenue.	1
	East Beamer Street and County Highway 101.	1

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–4080]
[FR Doc. 79–13169 Filed 5–1–79; 8:45 am]
BILLING CODE 4210–01–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 716

Death Gratuity; Miscellaneous Amendments

AGENCY: Department of the Navy, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending 32 CFR, Part 716, relating to provisions under which a death gratuity is paid to eligible survivors of a deceased member of the naval service. These amendments reflect changes in procedures to be followed in Navy cases by Casualty Assistance Calls Programs (CACP) officers in effecting immediate payment and changes in the designation of forms from which beneficiary information is obtained. Additionally, this amendment reflects name changes of certain organizations authorized to take administrative action under authority delegated by the Secretary of the Navy. Certain provisions addressing procedures for processing payment of the death gratuity in Marine Corps cases where pay and personnel records are held at different locations, and in cases where there is doubt as to the legal recipient of the gratuity, are deleted since they address internal procedures and are not applicable to the public generally. The intended effect of these amendments is to apprise the public of current agency rules regarding payment of the death gratuity to eligible survivors of deceased members of the naval service and to improve the clarity of 32 CFR Part 716.

EFFECTIVE DATE: May 2, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Gerald J. Kirkpatrick, JAGC, U.S. Navy, Regulations Branch Attorney (Code 133.1), Office of the Judge Advocate General, Department of the Navy, Washington, D.C. 20370, telephone number (202) 694–5267.

SUPPLEMENTARY INFORMATION: Pursuant to the authority conferred in 5 U.S.C. section 301, the Department of the Navy amends 32 CFR Part 716. These amendments reflect changes in certain names dealing with organizations taking administrative action pursuant to authority delegated by the Secretary of the Navy. In addition, these amendments reflect improved procedures for effecting immediate payment of the death gratuity in certain cases and a change in the designation of forms from which beneficiary information is obtained. Section 716.7 is clarified as having applicability to Navy cases only and, finally, a portion of § 716.11 dealing with internal procedures for handling certain death gratuity cases in the Marine Corps is deleted because it reflects internal procedures having no applicability to the general public. The source directive for the deleted portion of § 716.11, however, remains in effect. These amendments relate to internal naval management and agency procedures. It has been determined that invitation for public comment on these amendments prior to adoption would be impractical, unnecessary, and contrary to the public interest and is thus not required under the rule-making provisions in Parts 296 and 701 of 32 CFR.

Accordingly, 32 CFR Part 716 is amended as follows:

§ 716.2 [AMENDED]

1. In paragraph (a)(4), the word "has" is inserted at the end of the fifth line; in the sixth line, "(i) Has" is deleted.

2. In the seventh line the word "or" is deleted and a period is inserted after the word "duty" in place of the semicolon which is deleted.

3. Paragraph (a)(4)(ii) is deleted.

§ 716.5 [Amended]

4. In the fifth line of paragraph (b) of § 716.5, "(Code DN)" is changed to "(Code MSPA–1)."

§ 716.7 [Amended]

5. In the first line of paragraph (b) of § 716.7, "*Active duty deaths.*" is changed to "*Active duty deaths (Navy).*"

6. In the eighth and ninth lines of paragraph (b)(1) of § 716.7, "The Record of Emergency Data, DD Form 93–1" is changed to "The Dependency Application/Record of Emergency Data (NAVPERS 1070/602) or Record of Emergency Data (DD Form 93)."

§ 716.8 [Amended]

7. In paragraph (b) of § 716.8, the words "of any felonious intent" are added to the fourth line after "survivor."

§ 716.9 [Amended]

8. In the seventh line of § 716.9, "(Pers-G23)" is changed to "(Pers-732);" in the ninth line, "(Code DN)" is changed to "(Code MSPA–1)."

§ 716.10 [Amended]

9. In the sixth line of paragraph (a)(2) of § 716.10, "(Pers-G23)" is changed to "(Pers-732)."

10. Paragraph (b)(1) of § 716.10 is revised as follows: (1) widow(er). The CACP officer, on his or her initial visit to a widow(er), determines, propriety permitting, whether there is an urgent need for financial assistance. If there is an urgent need for financial assistance, the CACP officer should obtain DD Form 397 from any military disbursing office and, on his or her second visit to the widow(er), have him or her sign it and obtain the signatures of two witnesses on the form. It should be noted that the following procedure is confined to cases in which the decedent's eligible survivor for the death gratuity is a widow, and efforts to effect immediate payment in accordance with the intent of the governing statute are appropriate. In such cases, the CACP officer, upon learning that a widow, not residing with her husband at or near his duty station, is in urgent need of financial assistance, shall advise the Chief of Naval Personnel (Pers-732) of the need by

message. The CACP officer shall send a copy of this message to the decedent's duty station, if known. Upon receipt, the disbursing officer will furnish the Navy Finance Center, Cleveland, Ohio 44199. with the decedent's basic monthly pay [plus any special (see § 716.1), incentive, and proficiency pay] in the event the pay account has not been forwarded previously to that center sufficiently early to have reached there. The CACP officer shall also send a copy of his message to the Navy Finance Center with the request that payment of the death gratuity be made upon receipt of the certification of beneficiary entitlement from the Chief of Naval Personnel (Pers-732).

11. In the seventh and twelfth lines of paragraph (c)(1) of § 716.10, "(Pers-G23)" is changed to "(Pers-732)."

12. In the twenty-eighth line of paragraph (c)(2) of § 716.10, "Pers-G23)" is changed to "(Pers-732);" in the thirtieth line, the words "14, Ohio" are changed to "Ohio 44199;" and finally, beginning in the thirtieth line, the words "upon issuance of the certificate of settlement by the General Accounting Office" are deleted.

§ 716.11 [Amended]

13. In the fifth line of subsection (b) of § 716.11, "(Code DN)" is changed to "(Code MSPA–1)."

14. The remaining lines of § 716.11, beginning with the sixth line of subsection (b), are deleted.

Dated: April 25, 1979.

P. B. Walker,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-13809 Filed 5-1-79; 8:45 am]

BILLING CODE 3810-71-M

VETERANS ADMINISTRATION

38 CFR Parts 2, 21

Delegations of Authority and Vocational Rehabilitation and Education; Determinations Concerning School Closing

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Administrator of Veterans' Affairs is delegating to the Directors of VA field stations the authority to determine whether or not a school closing is based upon an Executive order of the President or due to an emergency situation. He is delegating the authority to review these decisions to the Director, Education and Rehabilitation Service. Minor changes are made in the wording of some regulations to make them conform to the wording of the law. The regulations allow for more prompt decisions by delegating the authority to make them.

EFFECTIVE DATE: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: On page 54104 of the **Federal Register** of November 20, 1978, there was published a notice of proposed regulatory development relating to determinations concerning school closing.

Interested persons were given 30 days in which to submit comments, suggestions or objections regarding the proposed regulations. No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

Approved: April 26, 1979.

By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

1. In part 2, a new § 2.98 is added to read as follows:

§ 2.98 Delegation of authority to Directors of VA field stations to determine whether or not a school closing is based on Executive order of the President or due to an emergency situation and to the Director, Education and Rehabilitation Service, to review these decisions.

This delegation of authority is identical to §§ 21.130, 21.4203, and 21.4205 of this chapter.

2. In part 21, § 21.130(a)(1)(i) is revised to read as follows:

§ 21.130 Subsistence allowance.

(a) *Payments.* Each veteran under chapter 31 will be paid a subsistence allowance at the rates specified in § 21.133. Final payment may be withheld until proof of continued enrollment is received and the account adjusted. Allowance will be paid while the veteran is in training status, including any period during which he or she is on authorized leave.

(1) A veteran is in training status during:

(i) Periods when he or she is in attendance; this includes weekends and legal holidays (or customary vacation periods connected therewith) and, as determined by the Director of the VA field station of jurisdiction, periods when the schools are closed temporarily under an established policy based upon an Executive order of the President or due to an emergency situation.

(a) If the emergency school closing is due to a strike by the faculty or staff of the school, and the closing lasts more than 30 days, the Director, Education and Rehabilitation Service will decide if veterans enrolled in the school may still be considered to be in training status. His or her decision will be based on a full assessment of the strike situation. A veteran will not be considered to be in training status if in his or her judgment the school closing will not be temporary. (38 U.S.C. 1780(a).)

(b) A school, which disagrees with a decision made under this paragraph by a Director of a VA field station, has 1 year from the date of the letter notifying the school of the decision to request that the decision be reviewed. The request must be submitted in writing to the Director of the VA field station where the decision was made. The Director, Education and Rehabilitation Service shall review the evidence of record and any other pertinent evidence the school may wish to submit. The Director, Education and Rehabilitation Service has the authority either to affirm or reverse a decision of the Director of a VA field station. (38 U.S.C. 1780(a).)

* * * * *

3. In § 21.4203, paragraph (b)(1) is revised to read as follows:

§ 21.4203 Reports by schools; requirements.

* * * * *

(b) *Entrance or reentrance.* * * *

(1) Schools organized on a term, quarter, or semester basis shall generally report enrollment for the term, quarter, semester, ordinary school year or ordinary school year plus summer term. If a certification covers two or more terms, the school will report the dates for the break between terms if a term ends and the following term does not begin in the same or the next calendar month. No allowances are payable for these intervals. The school will report the period between each term, quarter, or semester, if the eligible veteran or student elects not to be paid for the intervals between terms. Where the student is a veteran or eligible person pursuing a program on a less than half-time basis or is a serviceman or servicewoman, a separate enrollment certification will be required for each term, quarter, or semester.

(i) The Director of the VA field station of jurisdiction may authorize payment to be made for breaks, including intervals between terms, within a certified period of enrollment during which the school is closed under an established policy based upon an order of the President or due to an emergency situation.

(a) If the Director has authorized payment due to an emergency school closing, resulting from a strike by the faculty or staff of the school, and the closing lasts more than 30 days, the Director, Education and Rehabilitation Service, will decide if payments may continue. His or her decision will be based on a full assessment of the strike situation. Further payments will not be authorized if in his or her judgment the school closing will not be temporary. (38 U.S.C. 1780(a).)

(b) A school, which disagrees with a decision made under this paragraph by a Director of a VA field station, has 1 year from the date of the letter notifying the school of the decision to request that the decision be reviewed. The request must be submitted in writing to the Director of the VA field station where the decision was made. The Director, Education and Rehabilitation Service shall review the evidence of record and any other pertinent evidence the school may wish to submit. The Director, Education and Rehabilitation Service has the authority either to affirm or reverse a decision of the Director of a VA field station. (38 U.S.C. 1780(a).)

(ii) Where a veteran or an eligible person, who is pursuing a course leading to a standard college degree, transfers between consecutive school terms from one approved institution to another approved institution, for the purpose of enrolling in, and pursuing, a similar course at the second institution, the veteran or eligible person shall, for the purpose of entitlement to the payment of educational assistance allowance be considered to be enrolled at the first institution during the interval, if the interval does not exceed 30 days, following the termination date of the school term of the first institution. (38 U.S.C. 1780.)

* * * * *

4. In § 21.4205, paragraph (c) (1) and (5) is revised to read as follows:

§ 21.4205 Absences.

* * * * *

(c) *Reporting.* (1) Veterans and eligible persons must report each full day of absence from scheduled attendance as well as days when the school was closed for local and school holidays and, if reported enrollment was on an ordinary school year basis, intervals between terms, quarters, or semesters. When the school is closed for the weekend those days will not be reported nor will legal holidays established by Federal or State law or customary vacation periods connected with them be reported if the school is closed. These customary vacation periods will be reasonable periods identified as a holiday vacation on the school approval literature. Generally a reasonable period will be interpreted to mean not more than 1 calendar week at Christmas and New Years and shorter periods of time in connection with other legal holidays. However, if classes are normally scheduled for Saturday and Sunday, absences must be reported. At the discretion of the Director of the VA field station of jurisdiction, days of absence will not be reported for days of nonattendance within a certified period of enrollment during which the school is closed under an established policy based upon an Executive order of the President or due to an emergency situation. (38 U.S.C. 1780(a).)

(i) If the Director has authorized the nonreporting of days of absence as the result of an emergency school closing resulting from a strike by the faculty or staff of the school, and the closing lasts more than 30 days, the Director, Education and Rehabilitation Service will decide if absences will continue not to be reported. His or her decision will be based on a full assessment of the strike situation. Payment of educational assistance will be terminated if in his or her judgment the school closing will not be temporary. (38 U.S.C. 1780(a).)

(ii) A school, which disagrees with a decision made under this paragraph by a Director of a VA field station, has 1 year from the date of the letter notifying the school of the decision to request that the decision be reviewed. The request must be submitted in writing to the Director of the VA field station where the decision was made. The Director, Education and Rehabilitation Service shall review the evidence of record and any other pertinent evidence the school may wish to submit. The Director, Education and Rehabilitation Service has the authority either to affirm or reverse a decision of the Director of a VA field station. (38 U.S.C. 1780(a).)

* * * * *

(5) Where a veteran or eligible person, who is pursuing a course not leading to a standard college degree, transfers between consecutive school terms within a school year from one approved institution to another institution, for the purpose of enrolling in, and pursuing, a similar course at the second institution, the veteran or eligible person shall, for the purpose of entitlement to the payment of the educational assistance allowance, be considered to be enrolled at the first institution during the interval if the interval does not exceed 30 days following the termination date of the school term of the first institution, but such periods shall be counted as absences for the purposes of this section. (38 U.S.C. 1780(a).)

[FR Doc. 79-13867 Filed 5-1-79; 8:45 am]

BILLING CODE 3220-81-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

Delayed Compliance Order for Great Lakes Carbon Corp.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Great Lakes Carbon Corporation (Great Lakes Carbon). The Order requires the Company to bring air emissions from its product cyclone and mill cyclone at Marion, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Great Lakes Carbon's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATE: May 2, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On February 16, 1979 the Acting Regional Administrator of the U.S. EPA's Region V Office published in the **Federal Register** (44 FR 10088) a notice setting out the provisions of a proposed State Delayed Compliance Order for Great Lakes Carbon. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Great Lakes Carbon by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Great Lakes Carbon on a schedule to bring its product cyclone

and mill cyclones at Marion, Ohio, into compliance as expeditiously as practicable with Regulations OAC-3745-17-07 and OAC-3745-17-11, a part of the federally approved Ohio State Implementation Plan. Great Lakes Carbon is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Great Lakes Carbon to delay compliance with the SIP regulations covered by the Order until November 1, 1979.

Compliance with the Order by Great Lakes Carbon will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Great Lakes Carbon is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Great Lakes Carbon on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: April 4, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.401:

§ 65.401 U.S. EPA approval of State delayed compliance orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Order number	Date FR Proposal	SIP regulation involved	Final compliance date
•	•	•	•	•	•
Great Lakes Carbon Corporation.	Marion, Ohio	None	2-16-79	OAC-3745-17-07 OAC-3745-17-11	11-1-79
•	•	•	•	•	•

2. The text of the order reads as follows:

Before the Ohio Environmental Protection Agency

In the matter of: Great Lakes Carbon Corporation, Route 95 West, Marion, OH 43302.

Order.—The Director of Environmental Protection, (hereinafter "Director"), hereby makes the following Findings of Fact and, pursuant to Sections 3704.03(S) and (I) and 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, issues the following Orders which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act:

Findings of Fact

1. Great Lakes Carbon Corporation (hereinafter Great Lakes Carbon), operates a product cyclone (P003) and a mill cyclone (P004), which serve its facility located at Route 95 West, Marion, Ohio.

2. In the course of operation of said product cyclone (P003) and mill cyclone (P004), air contaminants are emitted in violation of OAC-3745-17-07 and OAC-3745-17-11.

3. Great Lakes Carbon is unable to immediately comply with OAC-3745-17-07 and OAC-3745-17-11.

4. Potential emissions of particulates from the product cyclone (P003) and mill cyclone (P004) are approximately 2103 tons per year; therefore, Great Lakes Carbon constitutes a major stationary source or facility under Section 302(j) of the Clean Air Act, as amended.

5. The compliance schedule set forth in the Orders below requires compliance with OAC-3745-17-07 and OAC-3745-17-11 as expeditiously as practicable.

6. Implementation by Great Lakes Carbon of the interim requirements contained in the Orders below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

7. The Director's determination to issue the Orders set forth below is based upon his consideration of reliable, probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

Whereupon, after due consideration of the above findings of fact, the Director hereby issues the following Orders pursuant to Sections 3704.03 (S) and (T) and 3704.031 of the Ohio Revised Code in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C., 7401 *et seq.*, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Great Lakes Carbon shall bring its product cyclone (P003) and mill cyclone (P004) located at Route 95 West, Marion, Ohio into final compliance with OAC-3745-17-07 and OAC-3745-17-11 by (A) installing a dry bed filter on the product cyclone (P003), or installing a gas evaporative cooler and fabric filter on the combustion chamber, or installing a venturi scrubber on the combustion chamber, and (B) installing a fabric filter on the mill cyclone (P004), by no later than November 1, 1979.

2. Compliance with Order (1) above shall be achieved by Great Lakes Carbon in accordance with the following schedule on or before the dates specified.

Submit final control plans, December 1, 1978.
Award contract(s), January 1, 1979.
Begin construction, June 1, 1979.
Complete construction, October 1, 1979.
Testing of equipment, October 15, 1979.
Achievement of final compliance with OAC-3745-17-07 and OAC-3745-17-11, November 1, 1979.

3. Pending achievement of compliance with Order (1) above, Great Lakes Carbon shall comply with the following interim requirements which are determined to be reasonable and to be the best practicable systems of emission reduction, and which are necessary to ensure compliance with OAC-3745-17-07 and OAC-3745-17-11 insofar as Great Lakes Carbon is able to comply with them during the period this Order is in effect in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim requirements shall include:

a. Great Lakes Carbon shall immediately institute a regular maintenance program to minimize emissions from the product cyclone (P003) and mill cyclone (P004).

b. Great Lakes Carbon shall continue to use the combustion chamber to minimize emissions from the product cyclone (P003) and mill cyclone (P004).

c. Great Lakes Carbon shall continue to operate and maintain the continuous recording opacity monitor for the emissions from the product cyclone (P003) and mill cyclone (P004).

4. Within five (5) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (2) above, Great Lakes Carbon shall submit a written progress report to the Northwest District Office. The person submitting these reports shall certify whether each increment of progress has been achieved and the date it was achieved.

On a monthly basis Great Lakes Carbon shall submit a written report to the Northwest District Office concerning any excursions above the 20 percent opacity limitation in OAC-3745-17-07, and the maintenance and operation of the product cyclone (P003) and mill cyclone (P004).

5. Great Lakes Carbon shall conduct emission tests on the product cyclone (P003) and mill cyclone (P004) to verify compliance with Order (1) above. Such tests shall be conducted no later than the date specified in the compliance scheduled in Order (2) above in accordance with procedures approved by the Director. Written notification of intent to test shall be provided to the Northwest District Office, thirty (30) days prior to the testing date.

6. Great Lakes Carbon is hereby notified that unless it is exempted under Section 120(a)(2) (B) or (C) of the Clean Air Act, as amended, failure to achieve final compliance with Order (1) above by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120 of the Clean Air Act, as amended.

These orders will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Dated: December 29, 1978.

Ned E. Williams, P.E.,
Director of Environmental Protection.

Waiver

The Great Lakes Carbon Corporation agrees that the attached Findings and Orders are lawful and reasonable and agrees to comply with the attached Orders. The Great Lakes Carbon Corporation hereby waives the right to appeal the issuance or terms of the attached Findings and Ordered to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said Findings and Orders either in law or equity. The Great Lakes Carbon Corporation also waives any and all rights it might have to seek judicial review of any approval by U.S. EPA of the attached Findings and Orders or to seek a stay of enforcement of said Findings and Orders in connection with any judicial review of Ohio's air implementation plan or portion thereof.

E. D. Burton,
Group Vice President, Authorized Representative of Great Lakes Carbon Corporation.

[FRL 1082-4]

[FR Doc. 79-13371 Filed 5-1-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 531 and 536

Filing of Freight and Passenger Rates, and Filing of Tariffs by Common Carriers

AGENCY: Federal Maritime Commission.

ACTION: Reconsideration of final rule.

SUMMARY: Upon reconsideration, the Commission has amended two newly created tariff filing provisions by requiring all ocean carriers to: (1) publish in their tariffs that shippers may file overcharge claims within two years of the date *the cause of action accrues;* and (2) respond only to *written* overcharge claims, by advising claimants of the tariff provisions *actually applied* by the carriers (changes italicized).

DATES: Effective as to both new and existing tariffs July 15, 1979.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Rm. 11101, Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: This proceeding was instituted by Notice of Proposed Rulemaking published September 5, 1978 in the **Federal Register** (43 FR 39399) to amend the Commission's tariff filing regulations. By order served January 31, 1979, the Commission adopted rules which required ocean carriers to: (1) Indicate in their tariffs that shippers may file overcharge claims with the Commission up to two years of the date the vessel sails or the date the disputed charges are paid, whichever is later; and (2) acknowledge overcharge claims within twenty days by written notice to the shipper of the governing tariff provisions and its rights under the Shipping Act, 1916 (46 U.S.C. 801, *et seq.*).[1] Several parties [2] have petitioned for reconsideration of certain portions of the final rules pursuant to Rule 261 of the Commission's Rules of Practice and Procedure (46 C.F.R. 502.261). All Petitioners but Sea-Land also requested a stay of the effective date of the rule pending reconsideration.[3] By order dated March 23, 1979, the Commission stayed the effective date of the rules until further order.

Petitioner's objections [4] to the first rule focus on the time period in which shippers may file complaints. Petitioners argue that by allowing the two years to run from the date the shippers make payment on the disputed charges, the rule encourages shippers to delay paying their bills and rewards delinquent shippers with additional time in which they may file overcharge claims. Petitioners also allege that the Commission's action in defining the statute of limitations was not properly noticed in the Notice of Proposed Rulemaking; was not the purpose of this rulemaking proceeding; and is not within the Commission's jurisdiction.

Because the Commission does not wish to encourage late shipper payments, this rule shall be amended so that the statute of limitations is stated in terms of the statute, *i.e.*, "within two years of the date the cause of action accrues." [5] It is unnecessary, therefore, to address the arguments that our previous action in this regard was improperly noticed and was outside the purpose of the rulemaking and the Commission's jurisdiction.[6]

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receipt by written notice to the claimant of all governing tariff provisions and claimant's rights under the Shipping Act.

[2] Latin American/Pacific Coast Steamship Conference; Pacific Coast European Conference; Pacific Coast River Plate Brazil Conference; Associated Latin American Freight Conferences and its Member Conferences: American West African Freight Conferences; Australia-Eastern U.S.A. Shipping Conference; Marseilles North Atlantic U.S.A. Freight Conference; Med-Gulf Conference; North Atlantic Mediterranean Freight Conference; U.S. Atlantic and Gulf/Australia-New Zealand Conference; U.S. North Atlantic Spain Rate Agreement; U.S. South Atlantic/Spanish Portuguese, Moroccan and Mediterranean Rate Agreement; and Sea-Land Service, Inc. (Petitioners).

[3] North European conferences filed a reply supporting the Petition for Reconsideration and Stay of Australia-Eastern U.S.A. Shipping Conference, *et al.*

[4] The arguments advance by Petitioners occasionally differed, but they will be discussed collectively for the purpose of this summary. All Petitioners' arguments have been considered and, except as specifically noted, granted to the extent they are consistent with the rule and denied in all other respects.

[5] This tracks the language of section 22 of the Shipping Act, 1916 (46 U.S.C. 821).

[6] We note, however, that the Notice of Proposed Rulemaking stated that a purpose of the rulemaking was "clarifying the statute of limitations."

[1] The rules required that the tariffs contain at minimum the following provisions:

(A) Claims seeking the refund of freight overcharges may be filed in the form of a complaint with the Federal Maritime Commission, Washington, D.C. 20573, pursuant to section 22, Shipping Act, 1916 (46 U.S.C. 821). Such claims must be filed within two years of the date the vessel sails or the date the disputed charges are paid, whichever is later.

(B) Claims for freight rate adjustments shall be acknowledged by the carrier within 20 days of the

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Objections to the twenty-day notification period are that it is too brief; that it is unclear when the twenty days begins to run; and that it is unclear which "claimant's rights" are referred to in that rule. Petitioners are especially critical of the requirement that the carrier must cite to the complaining shipper all governing tariff provisions, and that the carrier is bound in future litigation to the provisions it cites. The "binding" requirement, argue Petitioners, is unfair and extremely burdensome to the carriers, does not serve a stated purpose of the rulemaking, and was not properly noticed in the Notice of Proposed Rulemaking. It is also alleged that, by binding a carrier to an erroneously cited tariff provision rather than simply applying the correct tariff regardless of what was cited by the carrier, the rule violates section 18(b) of the Shipping Act, 1916 (46 U.S.C. 817).

Upon reconsideration, the rule will be amended to permit the carriers to notify claimant-shippers of "tariff provisions actually applied," rather than of "all governing tariff provisions." Notification by the carrier of the provisions it actually relied upon should serve to initiate productive communications between shipper and carrier which may avoid adjudicatory proceedings, while not proving burdensome to the carrier. While we are not mandating that carriers be bound by their notification, we expect that once the carrier has stated which tariff provisions it applied in assessing the disputed charge, it will generally not alter that explanation in future litigation.

The rule will also be amended to make it clear that carriers need acknowledge only claims for freight rate adjustments filed in writing.[7]

The twenty-day time period was fully considered previously when it was enlarged from the original ten-day proposal. We note that the period is particularly undemanding in light of the instant amendments to the rule made herein. The time period shall remain at twenty days.[8]

THEREFORE, IT IS ORDERED, That pursuant to section 4 of the Administrative Procedure Act (46 U.S.C. 553) and sections 14 Fourth, 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 813, 821, 841(a), §§ 531.5(b)(8)(xvi), (b)(9), 536.5(d)(20), and 536.5(e) of 46 C.F.R. are amended as follows:

(1) Section 531.5 is amended by revising paragraphs (b)(8)(xvi) and (b)(9).

§ 531.5 Contents of tariff publications.

* * * * *

(b) * * *

(8) * * *

(xvi) *Overcharge Claims.* Tariffs shall contain a rule which states that shippers or consignees may file claims for the refund of freight overcharges resulting from errors in weight, measurement, cargo description of tariff application. This rule shall clearly indicate where and by what method such claims are to be filed with the carrier and shall further advise that such claims may also be filed with the Federal Maritime Commission. At a minimum, tariffs shall contain the following provisions:

(A) Claims seeking the refund of freight overcharges may be filed in the form of a complaint with the Federal Maritime Commission, Washington, D.C. 20573, pursuant to section 22 of the Shipping Act, 1916 (46 U.S.C. 821). Such claims must be filed within two years of the date the cause of action accrues.

(B) Claims for freight rate adjustments filed in writing shall be acknowledged by the carrier within twenty days of receipt by written notice to the claimant of the tariff provisions actually applied and claimant's rights under the Shipping Act, 1916.

(9) Additional rules which affect the application of the tariff shall follow immediately the rules specified above and shall be numbered consecutively, commencing with number 17.

(2) Section 536.5 is amended by revising paragraph (d)(20), and (e).

§ 536.5 Statement of rates.

* * * * *

(d) * * *

(20) *Overcharge Claims.* Tariffs shall contain a rule which states that shippers or consignees may file claims for the refund of freight overcharges resulting from errors in weight, measurement, cargo description, or tariff application. This rule shall clearly indicate where and by what method such claims are to be filed with the carrier and shall further advise that such claims may also be filed with the Federal Maritime Commission. At a minimum, tariffs shall contain the following provisions:

(i) Claims seeking the refund of freight overcharges may be filed in the form of a complaint with the Federal Maritime Commission, Washington, D.C. 20573, pursuant to section 22 of the Shipping Act, 1916 (46 U.S.C. 821). Such claims must be filed within two years of the date the cause of action accrues.

(ii) Claims for freight rate adjustments filed in writing will be acknowledged by the carrier within twenty days of receipt by written notice to the claimant of the tariff provisions actually applied and claimant's rights under the Shipping Act, 1916.

(e) Additional rules which affect the application of the tariff shall follow immediately the rules specified above and shall be numbered consecutively, commencing with number 21.

IT IS FURTHER ORDERED, That §§ 531.5(b)(8)(xvi) and 531.5(b)(9), and 536.5(d)(20) and 536.5(e) shall take effect on July 15, 1979. Ocean carrier tariffs which do not contain a rule in conformity with these sections on that date shall be subject to cancellation or rejection.

By order of the Commission.

Francis C. Hurney,
Secretary.

[General Order Nos. 13 and 38; Docket No. 78-301]
[FR Doc. 79-13855 Filed 5-1-79; 8:45 am]
BILLING CODE 6730-01-M

[7] The twenty-day period will begin to run upon receipt of the written claim.

[8] We have also clarified that the "claimant's rights" refers again to the shipper's right to file an overcharge claim with the Commission as explained in the first rule.

M Y 2 7 9 UMI

Proposed Rules

Federal Register
Vol. 44, No. 86
Wednesday, May 2, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

Universal Training Service, Inc., et al.; Consent Agreement With Analysis To Aid Public Comment

Correction

In FR Doc. 79-12369, published at page 24080, on Tuesday, April 24, 1979, on page 24085 make the following corrections:

1. In the middle column, in paragraph 20, in the fourth line, " 'list of ineligible' class members.", should be corrected to read " 'list of eligible' and the list of tentatively ineligible class members shall be referred to as the 'list of ineligible class members.";

2. In the third column, in paragraph "a.(c)", the third line, "The remainder" should be corrected to read "The remainder".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3400]

Federal Coal Management Program; Extension of Comment Period on Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Extension of comment period on amendment to proposed rulemaking.

SUMMARY: The comment period on the amendment to the proposed 43 CFR 3400 Coal Management rulemaking published at 44 FR 23508 Thursday, April 19, 1979, is hereby extended to May 21, 1979. All other information published at 44 FR 23508 Thursday, April 19, 1979, remains the same.

DATE: Comments by May 21, 1979. Only those comments received by the above date will be considered. The public is asked, if possible, to make comments on this amendment a part of the overall comments on the proposed rulemaking.

FOR FURTHER INFORMATION CONTACT:
Robert C. Bruce (202) 343-8735.

Arnold E. Petty,
Acting Associate Director, Bureau of Land Management.

April 26, 1979.

[FR Doc. 79-13686 Filed 5-1-79; 8:45 am]
BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

Entry Control of Brokers

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing public comments in this proceeding.

SUMMARY: This proceeding was reinstituted by notice of proposed rulemaking published in the Federal Register on March 27, 1979, at 44 FR 18459. Comments from interested persons were due within 30 days of this publication, or by April 26, 1979.

The National Tour Brokers Association has requested an extension of time for filing comments to May 4, 1979. This will aid it in the organized presentation of its members views. To enable a full presentation, the time for filing comments for all parties will be extended.

DATES: Comments regarding the notice of proposed rulemaking are due on or before May 4, 1979.

FOR FURTHER INFORMATION CONTACT:
Donald J. Shaw, Jr., 202/275-7292; or Peter Metrinko, 202/275-7885.

By the Commission, George M. Chandler, Acting Director, Office of Proceedings, April 24, 1979.

H.G. Homme, Jr.,
Secretary.

[Ex Parte No. MC-96]
[FR Doc. 79-13873 Filed 5-1-79; 8:45 am]
BILLING CODE 7035-01-M

[49 CFR Part 1100]

Summary Grant Procedures (Finance)

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing to modify its regulations at 49 CFR 1100.240 (Rules governing applications by motor carriers of property or passengers under 49 U.S.C. 11343 and 11344) to provide that upon the filing of a complete and proper application by motor carriers seeking authority to purchase, control, lease, or merge their operating rights or properties, that application will be reviewed initially to ensure that a prima facie case has been demonstrated. The application will then be published in the Federal Register as a decision-notice granting the authority requested if the application is unopposed. This revision would expedite Commission authorization to operate and to consummate the transaction.

DATES: Written comments should be filed with the Commission on or before June 1, 1979.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:
Michael Erenberg, 202-275-7245.

SUPPLEMENTARY INFORMATION: In Ex Parte No. 55 (Sub-No. 25), *Revision of Application Procedures*, 42 Fed. Reg. 62486-62489 (1977), we issued new rules to expedite the handling of unopposed applications for motor carrier operating authority. Under the rules, an application is submitted and reviewed. If the application is complete, and makes out a prima facie case, it is published in the Federal Register in the form of a decision. The decision becomes effective if no valid protest is filed.

In the proposed policy statement in Ex Parte No. MC-121, *Policy Statement on Motor Carrier Regulation*, served November 30, 1978, we noted our concern with spending an inordinate amount of time and resources considering motor finance proceedings which do not have significant public interest consequences. This proposal is an outgrowth of that concern. We intend to apply the same procedures to motor carrier finance transactions that we have previously applied to applications for operating authority. Since the present finance applications forms require submitting the type of information which we need to decide a case, no change will be made in forms OP-F-44, OP-F-45 or OP-F-200.

At this time we are limiting the proposed revisions to unopposed motor purchase, lease, control, and merger applications including related gateway elimination, securities, or other applications such as conversions which depend on the decision in the finance application. Opposed proceedings will temporarily continue to be designated for handling under modified procedure or set for oral hearing. However, we are setting in motion a process which should result in the adoption of guidelines which will dramatically simplify the handling of all cases, opposed and unopposed. As indicated in the recent **Federal Register** notice, Notice Regarding Antitrust and Competition Factors in Motor Carrier Finance Cases, published in the **Federal Register** on April 12, 1979 at 44 FR 21953, a preliminary conference will be held at the Commission on May 8, 1979, to begin work on this project. The purpose of the guidelines will be to identify motor carrier financial transactions which are worthy of detailed regulatory attention. Once guidelines have been adopted, only those transactions with compelling public interest and comptetitive consequences will be subjected to complete agency review. It is contemplated that virtually all unopposed applications and the bulk of the opposed applications will be able to move forward quickly without the necessity for agency hearings.

Proposed Revisions

These proposed revisions are intended to expedite the handling of the unopposed transactions. Under these procedures, authorization of the proposed transaction, if unopposed, would be accomplished, in a two-step process, as follows:

(1) After an application is filed at the Commission, qualified personnel would review it for completeness, accuracy, and legal sufficiency, and refer it through an appropriate decisionmaker to the **Federal Register** as a short-form decision-notice. This decision-notice would include: (a) a general preliminary finding that, except for applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or divisions of operating rights), which impediments will be duly noted in the **Federal Register** publication,[1] applicant has demonstrated, in accordance with the applicable provisions of the Act, that the proposed transaction should be authorized, and a statement that in the absence of opposition at the end of the protest period or, if thereafter (until either a subsequent decision under the modified procedure is rendered in a proceeding which is opposed or 30 days after referral to oral hearing [2] the application becomes unopposed, the transaction will be authorized upon such terms and conditions as the Commission may impose.

(2) A notice of the effectiveness of the decision-notice, embracing a directive to comply with the requirements of the applicable provisions of the Act prior to and after consummation of the transaction, upon such terms and conditions as the Commission may impose, will be issued and served upon the parties of record in each application proceeding which, at the expiration of the protest period is, or thereafter becomes, unopposed.

All application proceedings in which protests have been filed and not withdrawn at the expiration of the protest period would either be designated for handling under the modified procedure or assigned for oral hearing. Protests, therefore, will serve to stay the effectiveness of the **Federal Register** decision-notice until either (1) such protests are withdrawn, or (2) an appropriate decisionmaker renders a decision based upon the complete record in the opposed application proceeding.

The decision-notices will take the following form:

Interstate Commerce Commission Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344 (formerly Section 5(2) of the Interstate Commerce Act).

The applications are governed by Special Rule 240 of the Commission's *Rules of Practice* (49 CFR § 1100.240). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the gounds upon which it is made, and specify with particularly the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall also be served with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 204(c)(4) of the special rules and shall include the certification required.

Section 240(3) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dimissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving problems (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343 and 11349, with the applicable provisions of 49 U.S. 10922 and 10923 and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that duel operations are or may be involved we find, preliminary and in the absence of the issue being raised by a protestant, that the proposed dueal operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests filed within 30 days of this publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated:

By the Commission, Review Board Number 5, Members

Benefits

This new procedure will result in a threshold finding at a considerably earlier stage of the proceeding than at present. It should result in savings of time for applicants and the Commission and should free staff and decisionmaking bodies to concentrate their efforts on more Important matters.

Public Invited to Comment

In Ex Parte No. 55 (Sub-No. 25), *supra*, certain parties to that proceeding suggestd that the proposed revisions be extended to finance proceedings. The proceeding is intended to examine the feasibility of doing that. Interested persons are invited to submit written comments concerning the proposed revisions. Particularly, comments are requested on the issue of whether the proposed revisions can be uniformly applied to individual motor applications to purchase, control, merge, or lease motor operations or property and whether the procedures can be uniformly applied to these applications coupled with directly related applications (e.g., TA applications, securities applications, gateway elimination, or conversion applications).

This notice of proposed rulemaking is issued under the authority contained at 49 U.S.C. 10321 and 5 U.S.C. 553.

Dated: April 20, 1979.

[1] Unopposed application proceedings involving statutory or regulatory impediments to authorization of a proposed transaction will be referred to a decisionmaker for a determination on the existing record or for a determination that the existing record be supplemented to permit an informed decision with respect to these issues.

[2] These procedures will apply to cases assigned to oral hearing if they become unopposed after the service date of a notice that the case has been assigned for oral hearing.

By the Commission: Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Commissioner Stafford concurring in part and dissenting in part.

H. G. Homme, Jr.,
Secretary.

Accordingly, it is proposed to revise 49 CFR 1100.240(e) by adding subparagraph (4) to read as follows:

§ 1100.240 Rules governing applications by motor carriers of property or passengers under sections 5(2) and 210a(b) of the Interstate Commerce Act. (Rule 240).

* * * * *

(e) * * *

(4) Applications, notice of which are published in the **Federal Register** as decision-notices, in which no protests are filed within 30 days after publication of notice in the **Federal Register**, and which are not assigned for oral hearing, will be determined on the basis of the information submitted by applicants.

* * * * *

Commissioner Stafford, concurring in part, dissenting in part:

I approve the proposed rules, except that dual operations should be included in the category of potential impediments to the granting of the application.

[Ex Parte 55 (Sub-No. 35)]
[FR Doc. 79-13874 Filed 5-1-79; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 44, No. 86
Wednesday, May 2, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

The NEPA Decision Process: Extension of Comment Period

In **Federal Register** Vol. 44, No. 79, appearing at page 23891 in the issue of April 23, 1979, first column, 2nd paragraph, second line, the date for receipt of comments has been extended from May 20 to May 31, 1979.

John R. McGuire,
Chief.

April 26, 1979.

[FR Doc. 79-13583 Filed 5-1-79; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

American Airlines, Inc.; Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled matter originally scheduled to be held on May 22 and 23, 1979 (44 FR 24118, April 24, 1979),[1] will now be held on June 12 through June 14, 1979, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, 1875 Connecticut Avenue N.W., Washington, D.C. 20428 before the undersigned judge.

Dated at Washington, D.C., April 23, 1979.

John J. Mathias,
Administrative Law Judge.

[Docket No. 31620, *et al.*]

[FR Doc. 79-13840 Filed 5-1-79; 8:45 am]

BILLING CODE 6320-01-M

[1] Dockets 31620, 31830, 32016, 32057, 32071, 32072, 30494, 30499, and 30696.

Disclosure of Oversales Rules by Foreign Air Carriers; Denial of Petition for Stay

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of April, 1979.

On January 17, 1979, British Airways filed a petition for stay pending judicial review of ER-1090 (44 FR 2165, January 10, 1979).[1] ER-1090 amended the Board's oversales rules (14 CFR Part 250) to make them not applicable on a mandatory basis to foreign air carriers operating flights from a foreign country to the United States. If the foreign carrier decides not to use the U.S. rules for these flights, it must add the following notice to the overbooking disclosure notice already required on its ticket counters and flight coupons:

[Name of carrier] does not offer these consumer protections on inbound flights to the United States.

British Airways also suggested, as did British Caledonian Airways in its Motion for Summary Reversal filed with the court in which review was pending, alternative language for this notice.

After careful consideration, the Board has decided to deny the petition for stay.

The Board adopted a comprehensive amendment (ER-1050, 43 FR 24277, June 5, 1978) to its oversales rules applicable to all certificated and foreign carriers, effective September 3, 1978 (subsequently stayed for all inbound flights until October 3, 1978). In ER-1078, effective November 11, 1978 (43 FR 50164, October 27, 1978), the Board adopted a rule requiring any air carrier not complying with the Board's oversales rules (Part 250, as amended by ER-1050) to notify the public of that fact in its advertisements and ticket coupons. That rule was stayed by the Board until January 18, 1978, at the request of several foreign carriers. After reconsideration, the Board adopted ER-1090, effective February 5, replacing ER-1078. Therefore, from October 3, 1978, until February 5, 1979 ER-1050 was in effect and applicable to all U.S. certificated and foreign air carriers for flights covered by the rule.

[1] The Joint Foreign Carriers (Air Canada, Canadian Pacific Air Lines, Lufthansa, SABENA, Swissair) filed an answer in support of the petition. Petitions for Review have been filed in the U.S. Circuit Court of Appeals for the District of Columbia, *Air Canada, et. al. v. C.A.B.*, CADC Case Nos. 79-1037, 79-1047.

British Airways and the others argued, among other things, that a stay of ER-1090 is now needed. They argued that ER-1090 was adopted without adequate notice under the Administrative Procedure Act (5 U.S.C. 553), that compliance with a notice naming a carrier would be administratively burdensome, and that the wording of the notice itself is misleading and would place these foreign carriers at a competitive disadvantage. Similar arguments, plus the claim that the Board lacks jurisdiction to apply its rules to flights originating in a foreign country, have been made to the court in the petitions for judicial review, and have been answered by the Board in that forum.

The Board's responses to these arguments to the court are: a) that there was adequate notice given the public to comment on these rules throughout the docket; b) that the claimed burden and misleading that could result from the form of the notice is correctable under § 250.11(d), which allows the carriers to use alternative language approved by the Board; and c) that there is no question that the Board has jurisdiction in this area. These arguments have been discussed in ER-1090 and in our filings with the court, and need no further treatment here.

The most immediate concerns of British Airways and the Joint Foreign Carriers are whether the effectiveness of ER-1090 should be delayed, and what the wording of the notice should be. A mechanism exists to alter the wording of the overbooking disclosure notice, including the wording added by ER-1090, to handle those situations that differ from the norm. The remedy of a stay of ER-1090 is thus not needed, and British Airways' petition is denied.

British Airways complained that this notice, requiring the carriers' name, would be an undue burden on travel agents operating under the rule, and would result in negative selling pressure because handling of the notice is cumbersome. While it may be true that an individualized notice may at times be inconvenient, we find, for the reasons we presented to the court, that there is a need to warn U.S. ticket-buyers that they are not covered by the oversales rules followed by most airlines selling tickets and confirming reservations in this country.

In considering the form of this special notice and the request of British Airways, as well as others who may ask for wording changes in the future, the notice, as we explained in ER-1090, must be designed to counteract consumer expectation that the Board's full oversales rules apply, or are followed by these carriers.

While we are willing, as the rule states, to consider suggestions by carriers for alternative language, the wording must alert passengers to the full situation. The purpose of the general overbooking disclosure notice is to inform the passenger of what protections are available. The addition to that notice points out that these protections are not available on a specific carrier.

We have recently issued an order waiving the text of the notice provisions of ER-1090 and § 250.11 (Order 79-3-123, dated March 21, 1979) to meet both the problems of the carriers and the goals stated above.

Accordingly, the petition of British Airways for a stay is denied.

This order will be published in the **Federal Register.**

By the Civil Aeronautics Board.[2]

Phyllis T. Kaylor,
Secretary.

[Order 79-4-113; Docket 33348]

[FR Doc. 79-13839 Filed 5-1-79; 8:45 am]

BILLING CODE 6320-01-M

Dallas/Ft. Worth-New Orleans Nonstop Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Final Order and Order to Show Cause (79-4-165).

SUMMARY: The Board is making final the tentative findings in Order 79-1-34, dated January 4, 1979, and awarding Dallas/Ft. Worth-New Orleans nonstop authority to nine carriers:

Carrier	Form of authority
American Airlines	New segment.
Continental Air Lines	Restriction removal.
Frontier Airlines	New segment.
National Airlines	New segment.
Northwest Airlines	New segment.
Ozark Air Lines	New segment.
Southern Airways	New segment.
Texas International Airlines	Restriction removal.
Western Air Lines	New segment.

Nonstop service over the segment is to be provided at Dallas-Ft. Worth through the DFW Regional Airport. Texas International's certificate will also be amended to permit nonstop operations between New Orleans and Albuquerque.

In addition, the Board is proposing to award nonstop authority between New Orleans and Albuquerque to Continental, National, Northwest, Western, and any other fit, willing and able applicant the fitness of which can be established by officially noticeable material.

The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by May 30, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

ADDRESSES: Objections to the issuance of a final order should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C., 20428, in Docket 35410.

In addition, copies of such filings should be served on Texas International Airlines; Ozark Air Lines; Southern Airways; Frontier Airlines; American Airlines; Western Air Lines; Continental Air Lines; Northwest Airlines; National Airlines; the Texas Aeronautics Commission; the Dallas/Ft. Worth Parties; Delta Air Lines; Southwest Airlines; State Representative Lane A. Carson; and the International Association of Machinists and Aerospace Workers.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., 20428, (202) 673-5354.

SUPPLEMENTARY INFORMATION: The complete text of Order 79-4-165 is available from the Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-4-165 to that address.

By the Civil Aeronautics Board: April 26, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-13841 Filed 5-1-79; 8:45 am]

BILLING CODE 6320-01-M

[2] All members concurred.

COMMISSION ON CIVIL RIGHTS

New Mexico Advisory Committee; Open meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Mexico Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 4:00 p.m., on June 7, 1979, at the Airport Marina, Second Floor, 2910 Yale Blvd., S.E., Albuquerque, New Mexico 87119.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Heritage Plaza, 418 South Main, San Antonio, Texas 78204.

The purpose of this meeting is to discuss civil rights issues in New Mexico.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. April 26, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-13850 Filed 5-1-79; 8:45 am]

BILLING CODE 6335-01-M

North Carolina Advisory Committee; Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the North Carolina Advisory Committee (SAC) of the Commission will convene at 7:30 pm and will end at 9:30 pm, on May 18, 1979, at the Velvet Cloak, 1505 Hillsborough Street, Queen Elizabeth Room, Raleigh, North Carolina 27605.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303.

The purpose of this meeting is to orientate new members, follow-up to migrant study and go over plans for press conference.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 26, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-13852 Filed 5-1-79; 8:45 am]

BILLING CODE 6335-01-M

Utah Advisory Committee; Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Utah Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 10 p.m., on May 24, 1979,

at the University of Utah Faculty Conference Room, Salt Lake City, Utah.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to orientate new members; and discussion of future projects, arrangement of priorities, and development of subcommittees.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 26, 1979.

John I. Blakley,
Advisory Committee Management Officer.

[FR Doc. 79-13681 Filed 5-1-79; 8:45 am]

BILLING CODE 6335-01-M

THE COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will meet in open session on Tuesday, May 22, 1979 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, N.W., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C., 24 April 1979.

Charles H. Atherton,
Secretary.

[FR Doc. 79-13593 Filed 5-1-79; 8:45 am]

BILLING CODE 6330-01-M

COMMODITY FUTURES TRADING COMMISSION

Commodity Pool Operators and Commodity Trading Advisors; Interpretation of Rules

On January 2, 1979, the Commission adopted rules for the regulation of commodity pool operators ("CPOs") and commodity trading advisors ("CTAs"). *See* 44 FR 1918 *et seq.* (January 8, 1979) ("CPO–CTA rules"). These rules became effective April 1, 1979. The purpose of this announcement is to clarify the meaning of certain provisions of the rules and, particularly, the meaning of certain terms contained in the formula for calculating the "annual rate of return" of a commodity account.

FOR FURTHER INFORMATION CONTACT:

Lawrence Eisner, Attorney, Office of the Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581, telephone: (202) 254–8955.

A. *Annual Rate of Return.* Various provisions of the CPO–CTA rules provide for the disclosure of the performance of commodity interest accounts controlled by a CPO, CTA or its principals. Rules 4.21(a)(4), 4.21(a)(5), 4.22(c)(1) and 4.31(a)(3). As explained in rule 4.21(a)(4), the annual rate of return of a commodity account—whether a commodity pool account or an individual customer account—is calculated by first computing the account's "monthly internal rate of return" and then converting the monthly rate into an annual rate.[1] The rule prescribes the following formula for calculating the monthly rate of return (i):

$$\text{INV} = \frac{cf}{(1+i)} + \frac{cf}{(1+i)^2} + \frac{cf}{(1+i)^n} + \frac{\text{NAV}}{(1+i)^n} = 0$$

The rule states that "INV" is the amount of the initial investment in the account "for one pool participation unit"; "cf" is the sum of the "distributions" and "assessments" made per unit during each monthly time period; "NAV" is the net asset value (less redemption costs, if any) of one pool participation unit at the end of the performance period; and "n" is the number of monthly time periods.

The Commission believes that three clarifications are in order judging from inquiries that have been received concerning the formula.

1. *INV, NAV.* Where the formula is used to compute the rate of return of an individual customer acount—as distinguished from a commodity pool—it is advisable to convert the initial investment ("INV") into hypothetical units and treat the account as a commodity pool. For example, an individual customer account that was opened with a $5,000 deposit could be treated (solely for purposes of calculating the annual rate of return) as a pool initiated with five units of $1,000 per unit. Thus, in the formula, the "INV" for the account would be $1,000 (less any initial expenses, such as a fee for opening the account). If the net asset value of the account rose to $10,000 by the end of the performance period being measured, the "NAV" for the account (the net asset value per unit at the end of the performance period) would be $2,000 ($10,000 divided by the five units).

2. *cf.* As stated above, the "cf" symbol in the formula stands for the sum of the "distributions" and "assessments" per unit. It is *essential* to understand that, with respect to individual customer accounts, (a) funds that the customer voluntarily withdraws from the account are not "distributions" and (b) funds that the customer voluntarily adds to the account are not "assessments." Observance of these principles is necessary to make the annual rate of return figure accurately reflect the efforts of the account manager and to prevent the figure from being affected by the customer's decisions. In an individual customer account, a "distribution" (as that term is used in the definition of the "cf" symbol) will occur only where the account manager requires funds in the account to be paid out to the customer and an "assessment" (as used in the "cf" definition) will occur only where the manager requires the customer to contribute additional funds to the account—for example, where there is a margin call. In the typical customer account, there will be no "distributions" and the only "assessments" will be margin payments. In commodity pools, however, distributions of trading profits made at the direction of the pool operator would be "distributions" for purposes of the "cf" definition.

3. *Treatment of funds voluntarily withdrawn from or added to individual customer accounts.* Funds that are voluntarily withdrawn from or contributed to an individual customer account by the customer should, for purposes of the formula, be treated as follows: (a) Withdrawals should be treated as the redemption of participation units, the redemption "price" of a unit being its value at the time of the withdrawal, and (b) contributions should be treated as the purchase of additional participation units, the purchase "price" being the value of a unit at the time of the contribution.

Example: Suppose that an individual customer account was opened on January 1, 1978 with a $5,000 deposit; that on July 1, 1978, when the account equity had increased to $10,000, the customer voluntarily contributed another $5,000 to the account; and that on December 31, 1978, the account equity was $20,000. The method of computing the annual rate of return of the account for the year would be as follows: At the opening of the account, the account should be converted into hypothetical units. Thus, the $5,000 account could be viewed as five units of $1,000 per unit. Accordingly, in the formula, "INV" will be $1,000 (the amount of the initial investment per unit) less any costs. The contribution of $5,000 on July 1, 1978 should be viewed as the purchase of $5,000 worth of units; because the account had an equity of $10,000 when the contribution of $5,000 was made, a unit on July 1, 1978 was worth $2,000 ($10,000 divided by five units). Thus, the July 1 contribution of $5,000 would, at $2,000 a unit, be treated as the purchase of 2.5 units. The total number of units then would be 7.5. Since the year end equity of the account was $20,000, "NAV" (the net asset value of one unit at the end of the performance period) would be $2,667 ($20,000 divided by 7.5 units).

If the customer had voluntarily withdrawn $5,000 from the account on July 1, 1978 instead of contributing it, this should be treated as the redemption of $5,000 worth of units. Since a unit was worth $2,000 on July 1, 1978, the withdrawal would be treated as the redemption of 2.5 units, leaving 2.5 units in the account. On December 31, 1978 the "NAV" would thus be the account equity on that date ($20,000) divided by 2.5 units, or $8,000.

B. *Currentness of account performance information.* As indicated above, rule 4.21 requires CPOs to furnish a Disclosure Document to prospective pool participants disclosing, among other things, the performance "for the preceding three years" of certain types of commodity pools and accounts. Rule 4.21(a)(4). How current must this performance information be? Generally speaking, information that covers a performance period ending six months or less before the date the Document is disseminated would, in the Commission's view, be sufficiently current. This information, of course, must not be misleading or fraudulent. For example, if the commodity pool or account in question suffered a material drop in performance shortly before the date of dissemination, this would have to be disclosed.

C. *"Compositizing" of account performance information.* In disclosing the performance of individual customer accounts pursuant to the prescribed format (rules 4.21(a)(5) and 4.31(a)(3)), CPOs and CTAs may disclose the performance of accounts individually or present a single composite or aggregate of the performance of all accounts. Under general antifraud principles, any disclosure of composite performance must be constructed so as to reflect accurately the performance of the accounts comprising the composite. And, in its Disclosure Document a CPO or CTA would be required to describe how the composite was developed and to disclose material information concerning the accounts from which the composite was drawn. For example, a CPO or CTA would be required to disclose the number of accounts involved in the composite and the number of accounts with net profits and the number with net losses. Other material information might include (depending upon the circumstances of each composite) the largest profit and loss among the accounts, both on a percentage and dollar amount basis, and the average of percentage net gains among the accounts as well as the average of percentage net losses.

D. *Transfer of participation unit in a commodity pool.* The operator of a commodity pool is not required to provide a Disclosure Document (rule 4.21) to a person who purchases a unit of participation or interest in the pool from a pool participant if the pool operator did not solicit the purchase.

E. *Certification of Annual Report.* Rule 4.22 provides that pool participants must be furnished an Annual Report containing, among other things, the three-year performance history of the pool, and rule 4.22(d) requires the Report to be certified by an independent public accountant if the pool is above a prescribed size. Questions have been raised whether the full, three-year history of the pool must be certified or whether the certification need only be of the performance occurring after April 1, 1979—the effective date of the rules. Rule 4.22(d) was intended to require certification only of the post-April 1 performance.

F. *Reports to pool participants.* Under rule 4.22(a), CPOs are required to distribute periodically (either monthly or quarterly depending upon the size of the pool) to participants an Account Statement. Rules 4.22(a)(3) and 4.22(a)(4) require that certain information in the Account Statement be expressed "both as a dollar amount and as a percentage of the pool's average net asset value for the period." Average net asset value for the period is determined by averaging the net asset value of the pool (required to be reported under rule 4.22(a)(1)) for the current period with that of the preceding period.

[1] The CPO–CTA rules require performance disclosure only for commodity pool accounts; the performance of individual customer accounts is not required to be disclosed. The rules provide, however, that if the CPO or CTA chooses to disclose the performance of an individual customer account, the rate of return format must be used. Rules 4.21(a)(4) and 4.31(a)(3). In disclosing the performance of pool or customer accounts, CPOs and CTAs need not identify the pool or customer.

(Secs. 2(a)(1), 4b, 4c, 4l, 4m, 4n, 4o, 8a, and 19 of the Commodity Exchange Act, (7 U.S.C. 2 et seq.), as amended by Pub. L. 95-405 (September 30, 1978), 92 Stat. 865 et seq.)

Issued in Washington, D.C., on April 26, 1979 by the Commission.

Gary L. Seevers,
Acting Chairman, Commodity Futures Trading Commission.

[FR Doc. 79-13561 Filed 05-01-79; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

April 24, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on Scientific and Engineering Manpower will meet on May 30 and 31, 1979 in the Pentagon. The purpose of the meeting is to review the current status and programs of meeting projected personnel needs for scientists and engineers. The Committee will meet at 8:30 a.m. and adjourn at 4:30 p.m. on May 30; on May 31 the Committee will meet at 8:30 a.m. and adjourn at 3:00 p.m. The meetings will be closed to the public in accordance with Section 552b(c), Title 5, United States Code, specifically subparagraph (2).

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Carol M. Rose,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-13542 Filed 05-01-79; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Intent To Prepare a Draft Supplement to the Environmental Impact Statement for the Virginia Beach Streams, Canal No. 2 Flood Control Project

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notices of Intent to Prepare a draft supplement to an Environmental Impact Statement.

SUMMARY: 1. The proposed plan for flood protection includes enlargement of the existing canal for a distance of approximately 2.3 miles (3.7 kilometers) and maintenance of the existing canal of a distance of 3.5 miles (5.6 kilometers). Local interests may choose an alternative which involves an alternate channel if they reimburse the Federal Government for this alternative's additional cost.

4 4 1 8 6

2. Reasonable alternatives to the project include several different channel alignments, the reconstruction of bridges and culverts as well as nonstructural alternatives. The nonstructural alternatives include flood plain zoning and subdivision regulations, building codes to reduce flood damages, storm forecasting, open space development, flood insurance, and evacuation of the flood plain.

3a. The scoping process for this supplement is based on the comments of Federal, State, and local agencies as well as the interested public on the Final Environmental Impact Statement for this project. The statement was filed with the Council on Environmental Quality on September 30, 1976. The public notice announcing the initiation of the Advanced Engineering and Design (Phase I) was released on March 5, 1979. This notice invited public and agency comment at the beginning of Phase I planning. Two public meetings concerning this project are scheduled. The first in June 1979 is designed to present to the public the possible alternatives for reducing flood damages in the Canal No. 2 flood plain and to find the most acceptable solution. Second public meeting is scheduled after the public release of the project's Phase I report and draft supplemant to the Environmental Impact Statement. Small meetings and workshops will also be used as needed. Input from Federal, State, and local agencies as well as the interested public for the scoping of the Draft Environmental Impact Statement is requested before June 30, 1979.

b. The supplement will address issues raised during the coordination of the Environmental Impact Statement in 1976. These issues include the effects of the project on water quality of the Eastern Branch of the Lynnhaven River, the mitigation of marsh destruction reulting from the project, the effect of the project on oyster beds in the Lynnhaven River, and the effect of channel modification on bridges in the area. Concerns have also been expressed with regard to the effect of the project on development in the area as well as the effect of this development on flood stages in the canal. During the Phase I studies, the cumulative effect of this project and other planned dredging and major construction projects in the drainage area will also be addressed. A cultural survey of the project area will be conducted.

c. Work items for input into the supplement have been assigned. The U.S. Fish and Wildlife Service has received funds under the authority of the Fish and Wildlife Coordination Act to provide informal consultation concerning endangered species in the project area, address the impact salinity and water flow changes will have on the area's ecosystem due to project construction, predict the impact of polluted runoff and incremental tubidity and suspended sediments on the Lynnhaven-London Bridge Creek system flora and fauna, determine the effects on the fish and wildlife resources from the destruction of marsh and terrestrial habitat. Personnel at Old Dominion University have been hired to investigate the occurrence of several rare and endangered species in the project area. The Virginia Institute of Marine Science has been hired to model the water quality effects of the canal on the Lynnhaven River.

d. Consultation with the Virginia Council on the Environmental (A–95 Clearinghouse) and interested Federal agencies was initiated by letter on December 6, 1978.

A meeting to duscuss the concerns of these agencies concerning the project was held on March 29, 1979 in Richmond, Virginia.

4. A formal scoping meeting will not be held; however, the June 1979 public meeting will be held to consider any suggestions as to the content of the supplement.

5. The draft supplement to the Final Environmental Impact Statement is expected to be made public during June 1980. If you would like a copy of the supplement and are not on the Norfolk District mailing list, contact Mr. Haluska at the following address.

ADDRESS: Mr. James Haluska, ATTN: NAOEN-RE, U.S. Army Corps of Engineers, 803 Front Street, Norfolk, Virginia 23510. Phone (804) 446–3767, FTS: 827–3767.

Dated: April 24, 1979.

Douglas L. Haller,
Colonel, Corps of Engineers, District Engineer.
[FR Doc. 79–13543 Filed 5–1–79; 8:45 am]
BILLING CODE 3710–EN

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Advisory Committee on Revision of Rules of Practice and Procedure; Subcommittee on Review of Commission Decisional Process; Meeting

April 27, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given that the Subcommittee on Review of the Commission Decisional Process of the Advisory Committee on Revision of Rules of Practice and Procedure will meet Friday, May 11, 1979 from 10 a.m. to 1 p.m., at the Federal energy Regulatory Commission, North Building, 825 North Capitol Street, NE., Room 3200, Washington, D.C.

The purpose of the meeting is to organize the subcommittee, distribute assignments, and set target dates for progress reports.

The meeting is open to the public. A transcript of the meeting will be available for public review and copying at FERC's Office of Public Information, Room 1000, 825 North Capitol Street, NE., between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday except Federal holidays. In addition, any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on April 27, 1979.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–13612 Filed 5–1–79; 8:45 am]
BILLING CODE 6450–01–M

A. Johnson & Co. Inc.; Order Designating Presiding Officer and Appointing Commission Designee

Issued: April 24, 1979.

On January 31, 1979, the Department of Energy (DOE) issued a final decision and order, denying A. Johnson & Co. Inc.'s application for an exception from the Mandatory Petroleum Allocation Regulations.[1]

On March 2, 1979, A. Johnson & Co. Inc. filed a petition for review with this Commission. Section 1.40(d)(3) of the Commission's Rules of Practice and Procedure provides that upon receiving a petition for review, the Commission or its designee shall designate a presiding officer for the proceedings. The Commission, therefore, designates as a presiding officer in this proceeding Daniel Goldstein.

The Commission further appoints the Director or the Deputy Director of the Office of Opinions and Review as the Commission's designees for the purpose of designating, if necessary, another person to act as the presiding officer in this proceeding.

By the Commission.

Lois D. Cashell,
Acting Secretary.
[Docket No. RA79–21]
[FR Doc. 79–13581 Filed 5–1–79; 8:45 am]
BILLING CODE 6450–01–M

[1] 10 CFR 211.67 (1977).

Arizona Fuels Corp.; Order Designating Presiding Officer and Appointing Commission Designee

Issued: April 24, 1979.

On February 12, 1979, the Department of Energy (DOE) issued a final decision and order, denying Arizona Fuels Corporations' application for an exception from the Mandatory Petroleum Allocation Regulations.[1]

On March 14, 1978, Arizona Fuels Corp. filed a petition for review with this Commission. Section 1.40(d)(3) of the Commission's Rules of Practice and Procedure provides that upon receiving a petition for review, the Commission or its designee shall designate a presiding officer for the proceedings. The Commission, therefore, designates as a presiding officer in this proceeding Robert Koch.

The Commission further appoints the Director or the Deputy Director of the Office of Opinions and Review as the Commission's designees for the purpose of designating, if necessary, another person to act as the presiding officer in this proceeding.

By the Commission.

Lois D. Cashell,
Acting Secretary.
[Docket No. RA79–22]
[FR Doc. 79–13582 Filed 5–1–79; 8:45 am]
BILLING CODE 6450–01–M

Arkansas Louisiana Gas Co., et al.; Further Extension of Time

April 23, 1979.

On April 11, 1979, an extension of time was granted for compliance with the filing requirement of Ordering Paragraph (N) of the Commission's order of March 30, 1979.

Notice is hereby given that a further extension of time is granted to and including May 21, 1979, for compliance with Ordering Paragraph (N) by all pipelines to which the Paragraph applies.

Lois D. Cashell,
Acting Secretary.
[Docket Nos. RP79–53 and RP79–54, *et al.*]
[FR Doc. 79–13583 Filed 5–1–79; 8:45am]
BILLING CODE 6450–01–M

Columbia Gulf Transmission Co.; Application

April 24, 1979.

Take notice that on April 5, 1979, Columbia Gulf Transmission Company (Applicant), 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP79–256 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange and transportation of gas with Gulf Oil Corporation (Gulf), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Gulf has advised Applicant that it has volumes of gas available for sale to Texas Eastern Transmission Corporation (Texas) from the Eugene Island Block 238 Field, offshore Louisiana but does not have facilities by which to connect such gas reserves to Texas' pipeline system. Gulf has arranged with Sea Robin Pipeline Company (Sea Robin) to transport Gulf's gas onshore to a point of interconnection with pipeline facilities of Applicant near Erath, Louisiana. Applicant states that pursuant to an exchange agreement between it and Gulf dated March 22, 1979, Applicant would deliver to Gulf at the Venice delivery point; all gas received by Applicant at the Grand Isle Processing Plant of Exxon Company, U.S.A. in Jefferson Parish, Louisiana; and all gas transported through the Project 37 pipeline of Applicant and others and delivered into Applicant's 24-inch Venice Pipeline in Lafourche Parish, Louisiana. Gulf would cause Sea Robin to deliver to Applicant at Erath, volumes of gas produced from the Eugene Island Block 238 Field on a thermally equivalent basis, to the total volumes delivered by Applicant to Gulf at Venice, Louisiana. It is stated that if Gulf cannot deliver sufficient gas volumes at Erath, Gulf would use its best efforts to have the deficiency in volumes delivered to Applicant at a mutually agreeable point on Applicant's system at no cost to Applicant. It is further stated that should Gulf be unable to achieve a balance of Erath volumes with Venice volumes, then Applicant would discontinue delivery of Project 37 gas to Gulf.

Applicant states it would charge 2.32¢ per Mcf for all Project 37 gas transported through Applicant's Venice pipeline to the delivery point to Gulf at Venice. It is stated that Gulf would bear the cost of minor adjustment to Applicant's existing measuring station at Venice to permit delivery of the gas to Gulf. The modification is estimated to cost $2,200, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.
[Docket No. CP79–256]
[FR Doc. 79–13584 Filed 5–1–79; 8:45 am]
BILLING CODE 6450–01–M

[1] 10 CFR 211.67 (1977).

High Island Offshore System; Order Establishing Hearing Procedures

Issued April 24, 1979.

I. Introduction

These cases are pipeline certificate proceedings involving the High Island Offshore System (HIOS), an offshore pipeline located in the Gulf of Mexico. The issue which this order addresses arises from rate conditions which the Commission imposed at the time it issued HIOS a certificate of public convenience and necessity. These rate conditions require the Commission to rule upon the appropriateness of the rate of return components approved in the certificate orders. The Commission permitted HIOS to collect two part rates on January 1, 1979, based on a return on equity of 15 percent and an overall rate of return of 12 percent, subject to refund.

II. Prior Proceedings

A discussion of the procedural background and rate conditions will be helpful in understanding our action today. On June 4, 1976, the Federal Power Commission issued an order in the above-captioned proceedings granting HIOS a certificate of public convenience and necessity authorizing construction and operation of a natural gas pipeline designed to transport volumes from various offshore blocks located in the High Island Area in the Gulf of Mexico to a common gathering point, also located in the Gulf.[1] HIOS' application sought authorization to transport gas for five interstate pipeline companies, namely Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), Texas Gas Transmission Company (Texas Gas), Transcontinental Gas Pipe Line Company (Transco), United Gas Pipe Line Company (United), and Natural Gas Pipe Line Company of America (Natural). HIOS is in fact a partnership, all of whose partners are affiliates of the above-named pipeline companies.

In its certificate application, HIOS sought permission to charge a monthly demand rate of $7.94 per Mcf, based on a contract demand of 988,000 Mcf per day (Mcfd).[2] The proposed rate was also predicated upon a depreciation rate of 8.33 percent (HIOS estimated reserve life at twelve years), and a 12.0 percent overall rate of return. In computing the proposed return, HIOS utilized a capitalization ratio of 75 percent debt, 25 percent equity, a debt cost of 11 percent and a return on equity of 15 percent.[3]

The FPC rejected HIOS' proposed demand rate, reasoning that if actual volumes were less than HIOS' estimates, use of a straight demand rate would result in the consumers bearing higher costs than the FPC thought necessary. Instead, the FPC found that the rate should be a commodity charge determined on a unit of production basis. In that way, consumers would pay only for those volumes actually transported. The Commission required HIOS to determine the annual cost of service to be recovered through volumes estimated to be transported each year. The cost of service was to be based on total recoverable reserves of 5 Tcf, using HIOS' design capacity figure of 988,000 Mcfd.

Most importantly for purposes of this order, the FPC also stated that it would, on a preliminary basis, permit HIOS to compute its return by using its proposed 12 percent overall rate of return. However, the Commission stated that it would require HIOS to adjust that rate of return prior to actual commencement of service and after HIOS' financing was arranged, to reflect actual capital structure and debt cost. The Commission also stated that HIOS must adjust its rate for AFUDC to reflect actual capitalization and debt cost. Furthermore, the Commission stated:

> HIOS has proposed a 15 percent return on common equity. We are unable to determine the appropriateness of this rate based upon the record before us. Therefore, we will permit the utilization of the 15 percent return on equity and the 12 percent overall return on rate base until such time as financing has been arranged and information has been supplied for purposes of supporting the proposed rate of return. In the event a determination has not been made as to the appropriate return prior to the commencement of service, that portion of the rate collected will be subject to adjustment and refund.[5]

In Ordering Paragraphs (C) and (D) of the June 4, 1976 order, the FPC imposed the following conditions upon the granting of the certificate and acceptance of the proposed initial rate, stating in pertinent part:

> (C) The charge to each shipper shall be the product of volumes transported multiplied by a commodity charge expressed on a unit of production basis. HIOS shall determine annual costs of service and allocations thereof which will earn a 12.0 percent overall return on average rate base, and recover the associated taxes over volumes estimated to be transported during each year from total recoverable reserves of 5.0 Tcf * * * At such time as the 5.0 Tcf of reserves are produced and transported, HIOS will be required to file a commodity charge which will enable it to recover the costs associated with the transportation of the remaining reserves.
>
> (D) . . . Moreover, HIOS shall file detailed support for the 15. 0 percent return on equity and the 12 percent overall return on rate base, giving particular attention to the situation in the money market at the time of financing and the arrangements under which equity funds were made available. In the event the Commission does not rule upon the appropriateness of the 15 percent return on equity and the 12.0 percent overall return on rate base prior to the commencement of service, that portion of the commodity charge shall be collected subject to refund and the proposed initial rate shall be accepted subject to the foregoing.[6]

No such determination as to the appropriateness of the return has been made, although HIOS has commenced service. Accordingly, we establish procedures in this order to determine the propriety of HIOS' return components. HIOS will, of course, continue to collect the currently effective rates subject to the previously-imposed refund conditions until this proceeding has terminated.

On June 30, 1976, the FPC issued an order granting rehearing in the HIOS proceeding. In its petition for rehearing, HIOS alleged, *inter alia,* that the project could not be financed if the rates were to be determined on a strict commodity charge basis. It argued that financing required an assured stream of revenue not tied to volumes transported. In response, the Commission amended the June 4 order and permitted HIOS to file a two-part rate. HIOS would charge each shipper a demand charge designed to recover debt and operating expenses, and a commodity charge. The commodity rate would be computed using the full design capacity of 988,000 Mcfd, but the charge would be applied only to actual volumes transported. The Commission did not, however, alter its previously-issued rate of return conditions. That is, HIOS continued to collect the rates subject to refund, pending a determination that its return components, 12% overall and 15% return on equity, were appropriate.

On December 6, 1977, the Commission revised its approach to the initial rates once again. In an order amending HIOS' certificate, we permitted HIOS to charge an interim rate (a volumetric rate of 36.52 cents per Mcf) for the period beginning with commencement of service and ending December 31, 1978. This interim rate includes an allowance for return on equity of 9.5 percent. We stated, however, that commencing January 1, 1979, HIOS' rates would be determined as provided in the rehearing order of July 30, 1976. This includes the refund condition referred to above. This Commission accepted HIOS tariff sheets for filing on February 11, 1979,[7] and permitted the rates to be effective January 1, 1979. In its filing, HIOS proposes a rate of return on equity of 17.75 percent, a 9 percent cost of debt, and an overall rate of return of 11.90 percent. Thus, the hearing in this proceeding will determine both whether the rates proposed by HIOS and those which it is presently collecting according to the order of July 30, 1976 are appropriate.

III. Hearing Procedures

The Commission granted these certificates and imposed the refund conditions prior to the time of construction and operation of the two pipelines. This action was predicated upon a finding that the underlying reserves were necessary to alleviate a critical gas supply shortage.[8] The rate of return was tentatively approved prior to the establishment of an actual capital structure for HIOS, and before HIOS could secure financing.

HIOS has now commenced operation, and actual data concerning capital structure and financing are now available. Furthermore, in compliance with Commission orders, HIOS has submitted documents purporting to support its proposed rates of return.[9]

Accordingly, we believe that it is now appropriate to commence proceedings to determine the appropriateness of the return components for HIOS. We will order that a public hearing be held to serve that purpose. Finally, we note that all parties who have been granted intervention in these dockets will be permitted to participate in this hearing, subject to any conditions which have been imposed uon their intervention.

The Commission finds.—It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the overall rate of return and return on equity proposed by HIOS, as well as the return components contained in HIOS' presently effective rates.

The Commission orders.—(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the appropriateness of the rate of return proposed by HIOS, and that which is contained in HIOS' presently effective rates.

(B) Pending hearing and decision in this proceeding concerning the appropriateness of the rate of return, HIOS shall continue to collect its presently effective rates subject to refund.

(C) The Commission Staff shall prepare and serve top sheets on all parties within twenty days of issuance of this order.

(D) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(E) The Secretary shall cause prompt publication of this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 79-13565 Filed 5-1-79; 8:45 am]

BILLING CODE 6450-01-M

[1] For detailed discussion of the various proposals which preceded HIOS' application, and a discussion of the various points of receipt, delivery and interconnection, refer to the FPC's June 4, 1976 order, note 1, *supra,* mimeo at 1–6.

[2] This figure represented initial design capacity of the project.

[3] *See,* the order of June 4, 1976, note 1, *supra* at 9.

[5] *Id.* at 10.

[6] *Id.,* at 17, 18.

[7] The Director of the Commission's Office of Pipeline and Producer Regulation, through exercise of powers delegated by the Commission, issued a letter order to that effect on February 11, 1979.

[8] Order of June 4, 1976, note 1, *supra,* at 15.

[9] HIOS filed, on September 28, 1978, a statement in support of its proposed rate of return, along with supporting exhibits.

Wyoming Interstate Natural Gas System, et al.; Order Providing for Formal Hearing, Granting and Denying Interventions, and Consolidation

Issued April 23, 1979.

On November 23, 1977, Wyoming Interstate Natural Gas System (WINGS) filed in Docket No. CP78–99, as supplemented on July 11, 1978, an application for a certificate of public convenience and necessity authorizing the construction and operation of a pipeline and related facilities and authorizing transportation service for Michigan-Wisconsin Pipeline Company (Mich-Wis) and Northwest Pipeline Corporation (Northwest).[1] On December 15, 1977, Northwest filed in Docket No. CP78–122 an application for a certificate of public convenience and necessity authorizing the construction and operation of a 20-inch pipeline tap to interconnect its main transmission system in Lincoln County, Wyoming, with the proposed WINGS pipeline facilities for the receipt of gas from WINGS. On January 31, 1978, Natural Gas Pipeline Company of America (Natural)[2] filed in Docket No. CP78–178 an application for a certificate of public convenience and necessity authorizing the transportation of up to 200,000 Mcf per day of Mich-Wis' WINGS project gas from the interconnection with El Paso Natural Gas Company (El Paso)[3] in Lea County, New Mexico, to either of the two existing interconnections with Mich-Wis' interstate transmission system, one located in Hansford County, Texas, and the other in Wheeler County, Texas. El Paso, on February 27, 1978, filed in Docket No. CP78–206 an application for a certificate of public convenience and necessity authorizing the transportation of up to 200,000 Mcf per day of Mich-Wis' WINGS project gas from the Ignacio compressor station delivery point of Northwest (located in La Plata County, Colorado) to one or more other delivery points.

The application in Docket No. CP78–99 states that WINGS is a general partnership formed under the laws of the State of Delaware by American Natural Rocky Mountain Company (Mountain) and Trans-Intermountain Gas and Energy Resources Company (TIGER). It is stated that Mountain is a subsidiary of Mich-Wis and TIGER is a subsidiary of Northwest. Both corporations (TIGER and Mountain) were organized and exist under the laws of the State of Delaware. The application states that, pursuant to the provisions of the partnership agreement between Mountain and TIGER creating WINGS, the operations of WINGS will be managed by a committee (the Management Committee) comprised of the President and a Vice-President of Mountain and TIGER, respectively, or, in their absence, their designated alternates.

It is stated that the Wind River Basin located in central Wyoming is a broad structural depression wherein significant gas reserves are being discovered in reservoirs located in the Fort Union, Lance, Mesaverde, and Cody formations. It is further stated that the Madden Field, which is located within the basin and which demonstrates the potential for subsequent gas discoveries, had cumulative gas production as of January 1, 1977, of approximately 59 million Mcf, and that as the Madden Field becomes further developed and additional transportation capacity is provided to carry the increased development, gas

[1] Northwest Pipeline Corporation is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found in the order issued by the Commission on September 21, 1973, in Docket No. CP73–331 (50 FPC 825).

[2] Natural Gas Pipeline Company of America is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found in the order issued by the Commission on October 13, 1942, in Docket No. G–235 (3 FPC 830).

[3] El Paso Natural Gas Company is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found in the order issued by the Commission on January 11, 1944, in Docket No. G–286 (4 FPC 488).

production from the Madden Field can be expected to increase dramatically.

WINGS indicates in its application that Mich-Wis has acquired the preferential rights to future gas production from approximately 152,000 net gas call acres within the Wind River Basin, and that these gas call acres are concentrated in several distinct areas, one of which is located in Fremont County and has been designated as the Lysite Prospect. It is indicated that the Lysite Prospect is located immediately adjacent to, and geologically is a westward extension of, the aforementioned Madden Field, and that, to date, exploratory activity has been concentrated in the Lysite Prospect where Mich-Wis has over 20,000 net call acres and where the Long Butte No. 1 Well has been drilled to a depth of 16,646 feet and completed in the Mesaverde formation. The completion of the Long Butte No. 1 Well indicated an open flow potential of 39,000 Mcf per day, which can be expected to deliver in excess of 10,000 Mcf of natural gas per day when put into production. It is indicated that three additional development wells are being drilled, and that by the use of the four rigs and in view of the depth to be drilled for the proposed wells, further development is contemplated at an approximate rate of six wells per year—with the total estimated proven and potential natural gas reserves underlying the Lysite Prospect projected to be approximately 1.1 Tcf.

The application indicates that another area of potential major development, which is also located in Fremont County, has been designated as the Boysen Prospect, and that within the Boysen Prospect the Tribal No. 1–19 Well has been drilled to a depth of 13,500 feet; flow rates from the Fort Union and Lance formations within the Boysen Prospect have tested in the range of 6,000 to 8,000 Mcf per day. Two confirmation wells have been drilled and a full development program is anticipated this year.

It is also stated that south of the Wind River Basin, but adjacent to the pipeline route proposed herein, Mich-Wis has acquired over 55,000 net gas call acres in the Lost Creek and Red Desert areas of the Green River Basin, and an initial well has been drilled. It is further stated that favorable log characteristics indicate that the Mesaverde and sand members of the Lewis shale sections of this well are potentially gas productive.

It is stated that Northwest does not currently have proven gas reserves in the Wind River Basin, but does hold approximately 11,000 net acres of potentially productive land. Developmental drilling on the acreage began in 1978, and Northwest's efforts are expected to continue throughout the area.

WINGS states that to receive the new gas reserves which would be developed in the Wind River Basin, Mich-Wis and Northwest have concluded that the most economic and efficient means of taking delivery of such reserves can be accomplished by constructing a jointly owned pipeline system connecting the Wind River Basin and Northwest's existing transmission facilities located in Lincoln County, Wyoming. Consequently, Mich-Wis and Northwest formed WINGS to carry out the construction and subsequent operation of the jointly owned pipeline system, and each has entered into agreements with WINGS providing for the receipt and transportation of their gas supplies from the Wind River Basin and other areas proximate to the route of the pipeline facilities proposed herein to be constructed. The agreements also provide for ultimate redelivery of such gas to Northwest's existing transmission system. It is further indicated that, pursuant to a transportation agreement dated September 23, 1977, between Mich-Wis and Northwest, Northwest would transport for Mich-Wis' account from the point of interconnection between Northwest's transmission system in Lincoln County, Wyoming, and the proposed pipeline system of WINGS to its Ignacio plant located in La Plata County, Colorado. It is stated that at the Ignacio plant, Northwest would make redeliveries of equivalent volumes to El Paso for Mich-Wis' account, and that pursuant to a gas exchange Agreement dated October 6, 1977, between Mich-Wis and El Paso, El Paso would exchange the gas supplies delivered by Northwest for Mich-Wis' account for equivalent volumes which El Paso has available from the High Island area of Offshore Texas, and in Roger Mills County, Oklahoma. It is further stated that El Paso would make deliveries of exchange gas to Natural for Mich-Wis' account at a point of interconnection to be established between the pipeline systems of El Paso and Natural in Lea County, New Mexico. WINGS also states that to effectuate redelivery of the gas delivered by El Paso to Natural for Mich-Wis' account, Mich-Wis and Natural entered into a transportation agreement dated October 5, 1977, which provides for the transportation of Mich-Wis' gas supplies from the Lea County delivery point by El Paso to various existing points of inter-connection between the pipeline systems of Mich-Wis and Natural in Wheeler County and Hansford County, Texas. Deliveries made by Northwest and El Paso for Mich-Wis' account would be accomplished by displacement which would reduce the actual volumes normally transported by Northwest's and El Paso's existing tranmission systems.

WINGS also proposes to construct a pipeline system owned jointly by Mich-Wis and Northwest which would be comprised of 215 miles of 20-inch OD pipeline extending in a generally southwesterly direction from the Lysite area in Fremont County, Wyoming, to the propoosed point of interconnection with Northwest's existing transmission system in Lincoln County, Wyoming. WINGS states that associated with the pipeline would be a pair of metering stations located at opposite ends of the pipeline, which would be utilized to measure the gas supplies delivered, and redelivered to WINGS. WINGS indicates further that its facilities would have an initial daily capacity of 118,200 Mcf.

Pursuant to the partnership agreement, WINGS would make available to Mich-Wis and Northwest on a 75 percent and 25 percent basis, respectively, the capacity of WINGS' pipeline system. In implementation of this provision WINGS has entered into agreements with Mich-Wis and Northwest (the transportation agreements), pursuant to which WINGS would receive and transport through its proposed facilities gas tendered for such transportation up to the contract demand level, which is initially 88,650 Mcf per day for Mich-Wis and 29,550 Mcf per day for Northwest. It is indicated that the total estimated cost of the proposed facilities would be $57,417,210, which cost would be financed initially with $17,000,000 in equity contributed in equal shares by Mountain and TIGER, and the remainder with short-term bank loans.

WINGS indicates that pursuant to the transportation agreements with Mich-Wis and Northwest, it would charge a rate which would consist of (a) a monthly demand charge of $5.34 per Mcf for contract demand and (b) a commodity charge of 18.77 cents for each Mcf transported.

The application in Docket No. CP78–122 proposes the construction and operation of a 20-inch pipeline tap to interconnect Northwest's main transmission system in Lincoln County, Wyoming, with the proposed WINGS pipeline facilities for the receipt of gas from WINGS. Northwest also proposes to transport for Mich-Wis by displacement for a period of 20 years up to 90,000 Mcf per day of the WINGS gas from the proposed interconnection to the discharge point of the Ignacio compressor station in La Plata County, Colorado, for delivery to El Paso for further transportation. For the transportation service proposed by Northwest, Mich/Wis would pay one cent per Mcf. In the event Northwest is unable to transport the gas by displacement and must actually move the gas through its pipeline system, Mich-Wis would be required to pay Northwest's then effective rolled-in transmission cost of service of other rate established by the Commission.

The application in docket No. CP78–178 requests certificate authorization by Natural to transport up to 200,000 Mcf per day of Mich-Wis' WINGS project gas from the Lea County interconnection with El Paso to either of two existing interconnections with Mich-Wis' interstate transmission system, one located in Hansford County and the other in Wheeler County, Texas. natural proposes to transport the gas for an initial period of 20 years, pursuant to the terms of the transportation agreement, dated October 6, 1977. Natural would transport the gas on an average of 350 miles, for which it proposes to charge Mich-Wis 12 cents per Mcf (3.37 cents per 100 miles). This rate is conditioned on Natural's average jurisdictional onshore transmission cost of service data as presented in its rate case in Docket No. RP78–78, which is pending final determination of the reasonableness of such a rate.

The application in Docket No. CP78–206 requests certificate authorization by El Paso to transport up to 200,000 Mcf per day of Mich-Wis' WINGS project gas from the Ignacio compressor station delivery point of Northwest to one or several of the following delivery points:

(1) Mich-Wis' existing Grand Chenier measuring station in Cameron Parish, Louisiana, where Mich-Wis would receive gas onshore from El Paso's dedicated reserves in High Island Block A–309, Offshore Texas;

(2) an existing interconnection between El Paso's and Mich-Wis' gathering systems in Roger Mills County, Oklahoma; and

(3) a proposed interconnection on El Paso's 16-inch Jal plant to Pecos River line and Natual's 30-inch Delaware main line in Lea County, New Mexico. El Paso would balance out its delivery of gas to the three points by deducting from the quantities it delivers to Mich-Wis at the Grand Chenier point the quantities of gas Northwest delivers to El Paso at Ignacio for the account of Mich-Wis, and the remaining balance would be delivered to El Paso at the Roger Mills or Lea County points. The proposed transportation by displacement and exchange would serve both Mich-Wis and El Paso by enabling them to receive into their respective interstate systems dedicated gas reserves that are remote from their transmission pipelines without constructing duplicative facilities. El Paso proposes to render the transportation service for an initial period of 20 years, pursuant to an exchange agreement between El Paso and Mich-Wis dated October 6, 1977. For this service, Mich-Wis would pay one cent per Mcf.

Based on a detailed environmental analysis prepared by Staff, the Commission concludes that approval of the proposed WINGS project and related facilities would not constitute a major federal action significantly affecting the quality of the human environment.

After due notice of the application in Docket No. CP78–99 by publication in the **Federal Register** on December 15, 1977 (42 FR 63,215), timely petitions to intervene have been filed by: Northwest Pipeline Corporation, Wisconsin Fuel & Light Company, Wisconsin Southern Gas Company, Inc., Wisconsin Gas Company, City Gas Company, Wisconsin Power & Light Company, Wisconsin Public Service Corporation, Northwest Natural Gas Company, Michigan Gas Utilities Company, Intermountain Gas Company, Associated Natural Gas Company, Mountain Fuel Supply Company, Cities Service Gas Company, Washington Natural Gas Company, CIG, West Ohio Gas Company, Cascade Natural Gas Corporation, Michigan Power Company, Panhandle Eastern Pipeline Company, Paris Henry County Public Utility District, and United Gas Pipeline Company. Petitions to intervene filed out of time were submitted by: Iowa Electric Light & Power Company, Madison Gas & Electric Company, Illinois Power Company, North Central Public Service Company, Iowa Southern Utilities' Company, Northern Indiana Fuel & Light Company, Inc., Wisconsin Power & Light Company, The West Tennessee Public Utility District of Weakley, Carroll, and Benton Counties, Tennessee, Wisconsin Natural Gas Company, Michigan Consolidated Gas Company, Northern Indiana Public Service Company, Natural, Pacific Gas & Electric Company, Southwest Gas Corporation, Columbia Gas Transmission Corporation, Peoples Natural Gas Division of Northern Natural Gas Company, and the Shoshone and Arapahoe Tribes of the Wind River Reservation, Wyoming. The People of the State of California, *et al.*, Public Service Commission of Wisconsin, State of Michigan and Michigan Public Service Commission filed late notices of intervention. The petitions to intervene by CIG and Southwest Gas Corporation (Southwest) oppose the application and seek a public hearing. The petition to intervene filed by Southwest Gas Corporation also contained a request to consolidate this proceeding with that in Docket No. CP78–122.

After due notice of the filing of the application of Northwest in Docket No. CP78–122 by publication in the **Federal Register** on January 11, 1978 (43 FR 16,046), timely petitions to intervene have been filed by: Northwest Natural Gas Company, Natural, Associated Natural Gas Company, Intermountain Gas Company, Mountain Fuel Gas Supply Company, Michigan Gas Utilities Company, CIG, West Washington Natural Gas Company, Public Service Commission of Colorado, Western Slope Gas Company and Cheyenne Light, Fuel & Power Company, Mich-Wis, Southwest, and Cascade Natural Gas Corporation. Late petitions to intervene were filed by: Pacific Gas & Electric Company, and the Shoshone and Arapahoe Tribes of the Wind River Reservation, Wyoming. A late notice of intervention was filed by the People of the State of California. The petitions to intervene by CIG and Southwest were in opposition and sought a public hearing. The petition to intervene by Southwest contained a request for consolidation of this docket with CP78–99.

After due notice of the application of Natural in Docket No. CP78–178 by publication in the **Federal Register** on February 21, 1978 (43 FR 7252), timely petitions to intervene have been filed by: Northwest Pipeline Corporation, Intermountain Gas Company, Michigan Gas Utilities Company, CIG, United Gas Pipeline Company, and Mich-Wis. An out-of-time petition to intervene was filed by Iowa Power & Light Company. The petition to intervene filed by CIG opposed the application and seeks a public hearing.

After due notice of the application by El Paso in Docket No. CP78–206 by publication in the **Federal Register** on April 20, 1978 (43 FR 11,594), timely petitions to intervene have been filed by: Colorado Interstate Gas Company and Michigan Utilities Company. The People of the State of California and the Public Utilities Commission of the State of California filed a notice of

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intervention. A petition to intervene was filed out of time by Pacific Gas & Electric Company. The petition to intervene by CIG opposed the application and seeks a public hearing.

The pleadings herein raise, *inter alia*, the issue of the possible alternatives to the construction of the proposed pipeline, including the capacity of existing nearby interstate piplines and potential loss of revenue to any such pipeline with excess capacity assuming construction of the WINGS project. In this regard, CIG, Kansas-Nebraska Nattural Gas Company, Inc., (Kansas-Nebraska), Mountain Fuel Supply Company (Mountain Fuel), Cities Service Gas Company (Cities Service) and Panhandle Eastern Pipeline Company (Panhandle (collectively the respondents), will be joined in this proceeding and allowed to demonstrate in a formal hearing any counterproposal they might which to make to the proposal of the applicants. Any such counterpropsal shall detail the respective pipeline capacities, propinquity to the proposed project, and the facilities necessary for intervention.

It is the Commission's intention that the hearing in this matter explore whether the public interest under these circumstances requires that grant of the several applications as an exception, as was our decision in *Cities Service Gas Company*, Docket No. CP76–500 (order issued September 1, 1978), to the general policy of requiring the existence of producer contracts prior to certification.

The petition to intervene and request for consolidation filed by Southwest in several of the instant dockets raises the allegation that the transportation rate proposed by Northwest would constitute discrimination with respect to transportation charges and priorities of capacity dedications on its system. These allegations should be tested in the hearing. Further, the five respondents should present evidence as to the current flow capacity condition on the portion of their lines which may be affected by their possible transportation of WINGS' gas. Testimony should be submitted on the current gas supply projections and the facilities necessary to receive, transport, and redeliver the WINGS gas so as to effectuate an alternative means of transportation to that which is proposed in the instant applications. Finally, the pleadings of CIG suggest that the transportation of the WING gas may be effectuated by alternative pipelines at a much lower cost of service than if the WINGS project is built. To that end, evidence from the respondents, as well as from the applicants should be filed as to the cost of service entailed on each of their respective pipelines as it may be affected by the transportation of WINGS gas, either by their acting individually or in concert with one another and by means of direct flow or displacement of gas.

The Commission finds.—(1) It may be in the public interest to consolidate, pursuant to Section 1 of the Commission's Rules of Practice and Procedure, for all purposes the proceedings in Docket Nos. CP78–99, CP78–122, CP78–176, and CP78–206 in that they contain common questions of fact and issued of law.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the application in the aforementioned dockets be set for formal hearing in accordance with the procedures hereinafter detailed.

(3) The participation of the would-be interveners who timely filed will not delay the disposition of the instant proceeding and may be in the public interest. In the circumstances of this proceeding, good cause exists to grant all untimely petitions to intervene.

(4) CIG, Mountain Fuel, Panhandle Cities Service, and Kansas-Nebraska are necessary parties to this proceeding, and the public interest and proper administration of the Natural Gas Act require the participation of such pipelines respondents herein.

The Commission orders.—(A) CIG, Mountain Fuel, Panhandle Cities Service, and Kansan-Nebraska are joined as parties to this proceeding.

(B) Pursuant to the authority of the National Gas Act, particularly Sections 7 and 15 thereof, the Commission's Rules of Practice and Procedure (18 CFR, Part I), and the Regulations under the Natural Gas Act (18 CFR, Chapter I, Subchapter (e)), a prehearing conference shall be held on July 12, 1979, commencing at 10 a.m. in a Hearing Room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, to discuss procedures and the clarification of issues concerning the applications set forth in this Order.

(C) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR, Section 3.5(d)), shall preside at the Prehearing Conference and subsequent hearing in this proceeding, with authority to establish and change app procedural dates and to rule on all motions (with the exception of the motions to consolidate or sever and motions to dismiss), as provided by the Rules of Practice and Procedure.

(D) All petitioners to intervene are permitted to intervene in the instant consolidated proceeding, subject to the rules and regulations of the Commission' *Provided, however,* that participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further,* that the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any Order of the Commission entered in this proceeding.

(E) The applications contained in Docket Nos. CP78–99, CP78–122, CP78–178, and CP78–206 are consolidated.

(F) The direct case of the applicants, including testimony on the issues raised by this Order, as well as any testimony proffered by the respondents or any intervener in favor of the applications, shall be filed and served contemporaneously on all parties, the Presiding Administrative Law Judge and Commission Staff on or before May 25, 1979. Testimony proposed by the Commission Staff and respondents, as well as any party who may be opposed to the grant of the instant applications, shall be similarly filed and served contemporaneously on all parties and the Presiding Administrative Law Judge on or before June 22, 1979.

(G) The Secretary shall cause prompt publication of this Order to be made in the **Federal Register.**

By the Commission.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 79-13566 Filed 5-01-79; 8:45 am]

BILLING CODE 6450-01-M

Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 24, 1979.

On March 28, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Railroad Commission of Texas Oil and Gas Division

FERC Control Number: JD79–2967
API Well Number:
Section of NGPA: 103
Operator: Miramar Petroleum, Inc.
Well Name: El Paso Natural Gas Co. #1
Field: Chapa (Hostetter)
County: Live Oak
Purchaser: Being negotiated
Volume: 500 MMcf.

FERC Control Number: JD79–2968
API Well Number:
Section of NGPA: 103
Operator: Rial Oil Company
Well Name: Sealy & Smith "7–A" #1
Field: Arenoso (Strawn Detritus)
County: Winkler
Purchaser: El Paso NG
Volume: 18,000 MMcf.

FERC Control Number: JD79–2969
API Well Number: 42–495–30681
Section of NGPA: 103
Operator: Rial Oil Company
Well Name: Sealy & Smith "7–B" #1
Field: Arenoso (Strawn Detritus)
County: Winkler
Purchaser: Phillips Petroleum Company
Volume: 18,840 MMcf.

FERC Control Number: JD79–2970
API Well Number:
Section of NGPA: 108
Operator: Bill J. Graham
Well Name: Willey "A" #1 52647
Field: TIC Grayburg
County: Pecos
Purchaser: PGP Gas Products, Inc.
Volume: 18 MMcf.

FERC Control Number: JD79–2971
API Well Number: 42–227–31602
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Douthit Unit #123
Field: Howard-Glasscock
County: Howard
Purchaser: Phillips Petroleum Company
Volume: 1.5 MMcf.

FERC Control Number: JD79–2972
API Well Number: 42–003–31709
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J. E. Parker A/C–9 #88
Field: Three Bar (Yates)
County: Andrews
Purchaser: Northern Natural Gas Co.
Volume: 19 MMcf.

FERC Control Number: JS79–2973
API Well Number: 42–227–31604
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Douthit Unit #124
Field: Howard-Glasscock
County: Howard
Purchaser: Phillips Petroleum Company
Volume: 0.1 MMcf.

FERC Control Number: JD79–2974
API Well Number: 42–003–31548
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J. E. Parker A/C–4 #85
Field: Three Bar (Yates)
County: Andrews
Purchaser: Northern Natural Gas Co.
Volume: 72 MMcf.

FERC Control Number: JD79–2975
API Well Number: 42–103–31734
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Jax M. Cowden "B" Well #84
Field: W.E.R. (Clearfork, Upper)
County: Crane
Purchaser: Phillips Petroleum Co.
Volume: 0.4 MMcf.

FERC Control Number: JD79–2976
API Well Number: 42–227–31199
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Douthit Unit #129
Field: Howard-Glasscock
County: Howard
Purchaser: Phillips Petroleum Company
Volume: 0.2 MMcf.

FERC Control Number: JD79–2977
API Well Number: 42–495–30523
Section of NGPA: 108
Operator: Exxon Corporation
Well Name: Haley Unit #1702
Field: Evetts (Pennsylvania)
County: Winkler
Purchaser: Natural Gas Pipeline Company of America
Volume: 130 MMcf.

FERC Control Number: JD79–2978
API Well Number: 42–227–31541
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Douthit Unit #122
Field: Howard-Glasscock
County: Howard
Purchaser: Phillips Petroleum Company
Volume: 0.3 MMcf.

FERC Control Number: JD79–2979
API Well Number: 42–103–31808
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J. B. Tubb A/C–1, Well #1441
Field: Sand Hills (Tubb)
County: Crane
Purchaser: El Paso Natural Gas Company
Volume.

FERC Control Number: JD79–2980
API Well Number: 42–165–31236
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson (Clfk) Unit, Well No. 9402
Field: Robertson, N. (Clearford 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 1MMcf.

FERC Control Number: JD79–2981
API Well Number: 42–165–31305
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson (Clfk) Unit No. 6002
Field: Robertson, N. (Clearford 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 12MMcf.

FERC Control Number: JD79–2982
API Well Number: 42–165–31341
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson (Clfk) Unit, Well No. 3902
Field: Robertson, N. (Clearford 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 3 MMcf.

FERC Control Number: JD79–2983
API Well Number: 42–165–31439
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson (Clfk) Unit, Well No. 4202
Field: Robertson, N. (Clearford 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 62 MMcf.

FERC Control Number: JD79–2984
API Well Number: 42–227–31678
Section of NGPA: 108
Operator: Exxon Corporation
Well Name: Douthit Unit 127
Field: Howard-Glasscock
County: Howard
Purchaser: Phillips Petroleum Co.
Volume: 0.3 MMcf.

FERC Control Number: JD79–2985
API Well Number: 42–227–31661
Section of NGPA: 108
Operator: Exxon Corporation
Well Name: Douthit Unit 129
Field: Howard-Glasscock
County: Howard
Purchaser: Phillips Petroleum Co.
Volume: 0.1 MMcf.

FERC Control Number: JD79–2986
API Well Number: 42–165–30673
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson (Clfk) Unit, Well No. 7902
Field: Robertson, N. (Clearford 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 13 MMcf.

FERC Control Number: JD79–2987
API Well Number: 42–165–31313
Section of NGPA: 108
Operator: Exxon Corporation
Well Name: Robertson (Clfk) Unit No. 5402
Field: Robertson, N. (Clearford 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 7MMcf.

FERC Control Number: JD79–2988
API Well Number: 42–165–30641
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson (Clfk) Unit Well No. 8202
Field: Robertson, N. (Clearford 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 12 MMcf

FERC Control Number: JD79–2989
API Well Number: 42–165–31288
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Exxon Shell Fee No. 6
Field: Robertson, North (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Company
Volume: 5 MMcf.

FERC Control Number: JD79–2990
API Well Number: 42–165–31287
Section of NGPA: 103
Operator: Exxon Corporation
Well name: Exxon Fee #8
Field: North Robertson (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 1 MMcf.

FERC Control Number: JD79–2991
API Well Number: 42–165–31340
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson (Clfk) Unit No. 5202
Field: Robertson, N. (Clearford 7100)
County: Gaines

Purchaser: Phillips Petroleum Co.
Volume: 4 MMcf.

FERC Control Number: JD79–2992
API Well Number: 42–165–31286
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Exxon Fee No. 9
Field: North Robertson (San Andres)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 2MMcf.

FERC Control Number: JD79–2993
API Well Number: 42–227–31540
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Douthit Unit No. 121
Field: Howard-Glasscock
County: Howard
Purchaser: Phillips Petroleum Co.
Volume: 0.8 MMcf.

FERC Control Number: JD79–2994
API Well Number: 42–165–30679
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson (Clfk) Unit Well No. 7902
Field: Robertson, N. (Clearford 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 3 MMcf.

FERC Control Number: JD79–2995
API Well Number: 42–165–30677
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson (Clearford) Unit, Well #6603
Field: Robertson, North (Clearfork 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 3 MMcf.

FERC Control Number: JD79–2996
API Well Number: 42–165–30680
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson (Clfrk) Unit #6502
Field: Robertson, N. (Clearford 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 3 MMcf.

FERC Control Number: JD79–2997
API Well Number: 42–165–31437
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Robertson (Clfrk) Unit #5502
Field: Robertson, N. (Clearford 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 34 MMcf.

FERC Control Number: JD79–2998
API Well Number: 42–003–31536
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Means SA Unit #954
Field: Means
County: Andrews
Purchaser: Phillips Petroleum Co.
Volume: 1 MMcf.

FERC Control Number: JD79–2999
API Well Number: 42–003–31692
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Means SA Unit #866
Field: Means
County: Andrews
Purchaser: Phillips Petroleum Co.
Volume: 2 MMcf.

FERC Control Number: JD79–3000
API Well Number: 42–003–31539
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Means SA Unit #1266
Field: Means
County: Andrews
Purchaser: Phillips Petroleum Co.
Volume: 1 MMcf.

FERC Control Number: JD79–3001
API Well Number: 42–003–31182
Section of NGPA: 103
Operator: Exxon corporatin
Well Name: Means SA Unit #1272
Field: Means
County: Andrews
Purchaser: Phillips Petroleum Co.
Volume: 1 MMcf.

FERC Control Number: JD79–3002
API Well Number: 42–103–31803
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J. B. Tubb A/C–1, Well #144U
Field: San Hills (Judkins)
County: Crane
Purchaser: El Paso Natural Gas Co.
Volume: 48 MMcf.

FERC Control Number: JD79–3003
API Well Number: 42–165–30643
Section of NGPA: 103
Operator: Exxon Corporatin
Well Name: Robertson (Clfk) Unit, Well #7002
Field: Robertson, N. (Clearford 7100)
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 13 MMcf.

FERC Control Number: JD79–3004
API Well Number: 42–165–31294
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Exxon Fee—Eubanks "BA" #5
Field: Robertson
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 6 MMcf.

FERC Control Number: JD79–3005
API Well Number: 42–483–30169
Section of NGPA: 103
Operator: CIG Exploration, Inc.
Well Name: Lott No. 1
Field: Lott Ranch (Morrow Upper)
County: Wheeler
Purchaser: Colorado interstate Gas Company
Volume: 300 MMcf.

FERC Control Number: JD79–3006
API Well Number: 42–165–31293
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Exxon Fee Eubanks "BA" #6
Field: Robertson
County: Gaines
Purchaser: Phillips Petroleum Co.
Volume: 3 MMcf.

FERC Control Number: JD79–3007
API Well Number: 42–495–30953
Section of NGPA: 103
Operator: Rial Oil Company
Well Name: Sealy & Smith "9" #1 25232
Field: Arenoso (Strawn Detritus)
County: Winkler
Purchaser: El Paso NG
Volume: 127,500 MMcf.

FERC Control Number: JD79–3008
API Well Number:
Section of NGPA: 108
Operator: W. L. Pennington, Inc.
Well Name: Emmert 1019 ID #71788
Field: Panhandle, East
County: Collingsworth
Purchaser: El Paso Natural Gas Co.
Volume: 13 MMcf.

FERC Control Number: JD79–3009
API Well Number:
Section of NGPA: 108
Operator: W. L. Pennington, Inc.
Well Name: McFarland 201 ID #85556
Field: Panhandle, East
County: Collingworth
Purchaser: El Paso Natural Gas Co.
Volume: 11 MMcf.

FERC Control Number: JD79–3010
API Well Number: 42–185–30045
Section of NGPA: 102
Operator: Wesley West
Well Name: Sam B. Harrison No. 1
Field: Bedias, West (Chalk 8600')
County: Grimes.
Purchaser:
Volume.

FERC Control Number: JD79–3011
API Well Number: 42–495–30924
Section of NGPA: 103
Operator: Rial Oil Company
Well Name: Sealy & Smith "33–A" #1 25014
Field: Monahans, E. (Penn, Lower)
County: Winkler
Purchaser: El Paso NG
Volume: 194,550 MMcf.

FERC Control Number: JD79–3012
API Well Number: 42–495–30890
Section of NGPA: 103
Operator: Rial Oil Company
Well Name: Sealy & Smith "28–2" #1 24867
Field: Monahans, E. (Penn, Lower)
County: Winkler
Purchaser: El Paso NG
Volume: 94,790 MMcf.

FERC Control Number: JD79–3013
API Well Number: 42–495–30888
Section of NGPA: 103
Operator: Rial Oil Company
Well Name: Sealy & Smith "28" #1
Field: Monahans, E. (Penn, Lower)
County: Winkler
Purchaser: El Paso NG
Volume: 94,790 MMcf.

FERC Control Number: JD79–3014
API Well Number:
Section of NGPA: 103
Operator: Rial Oil Company
Well Name: Sealy & Smith "27–WW" #1
Field: Monahans, E. (Penn, Lower)
County: Winkler
Purchaser: El Paso NG
Volume: 4,300 MMcf.

FERC Control Number: JD79–3015
API Well Number: 42–239–31169
Section of NGPA: 103
Operator: R. H. Engelke
Well Name: United Methodist Gas Unit No. 1–L
Field: LaSalle (6700') (Proposed)
County: Jackson
Purchaser: Tennessee Gas Pipeline
Volume: 182.5 MMcf.

FERC Control Number: JD79–3016
API Well Number: 42–239–31169
Section of NGPA: 103
Operator: R. H. Engelke
Well Name: United Methodist Gas Unit No. 1–U
Field: LaSalle (6300')
County: Jackson
Purchaser: Tennessee Gas Pipeline Co.
Volume: 182.5 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission by May 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–13555 Filed 5–1–79; 8:45 am]

BILLING CODE 6450–01–M

Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978.

April 24, 1979.

On March 27, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Nebraska

FERC Control Number: JD79–2934
API Well Number: 42–219–32503
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: W. A. Coons, Well #43
Field: Slaughter
County: Hockley
Purchaser: Amoco Producing Company
Volume: 15 MMcf.

FERC Control Number: JD79–2935
API Well Number: 42–219–32419
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: W. A. Coons, Well #37
Field: Kingdom (Abo Reef)
County: Hockley
Purchaser: Amoco Production Company
Volume: 9 MMcf.

FERC Control Number: JD79–2936
API Well Number: 42–219–31958
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: W. A. Coons Wells No. 23
Field: Kingdom (Abo Reef)
County: Hockley
Purchaser: Amoco Production Company
Volume: 2 MMcf.

FERC Control Number: JD79–2937
API Well Number: 42–219–32321
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: W. A. Coons, Well No. 27
Field: Kingdom (Abo Reef)
County: Hockley
Purchaser: Amoco Production Co.
Volume: 2 MMcf.

FERC Control Number: JD79–2938
API Well Number: 42–103–31511
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J. B. Tubb A/C–1, Well–129L
Field: Sand Hills (Tubb)
County: Crane
Purchaser: El Paso Natural Gas Co.
Volume: 188.

FERC Control Number: JD79–2939
API Well Number: 42–103–31511
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J. B. Tubb A/C–1, Well–129U
Field: Sand Hills (Mcknight)
County: Crane
Purchaser: El Paso Natural Gas Co.
Volume: 120 MMcf.

FERC Control Number: JD79–2940
API Well Number: 42–103–31536
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J. B. Tubb A/C–1, Well/131
Field: Sand Hills (Mcknight)
County: Crane
Purchaser: El Paso Natural Gas Co.
Volume: 413 MMcf.

FERC Control Number: JD79–2941
API Well Number: 42–103–31464
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J. B. Tubb F–14U
Field: Sand Hills (Mcknight)
County: Crane
Purchaser: El Paso Natural Gas Co.
Volume: 10 MMcf.

FERC Control Number: JD79–2942
API Well Number: 42–103–31465
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J. B. Tubb F–15U
Field: Sand Hills (Mcknight)
County: Crane
Purchaser: El Paso Natural Gas Co.
Volume: 27 MMcf.

FERC Control Number: JD79–2943
API Well Number: 42–103–31757
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J. B. Tubb A/C–2, Well #136L
Field: Sand Hills (Tubb)
County: Crane
Purchaser: El Paso Natural Gas Co.
Volume: 24 MMcf.

FERC Control Number: JD79–2944
API Well Number: 42–103–31900
Section of NGPA: 108
Operator: Exxon Corporation
Well Name: J. B. Tubb A/C 1 Well 164U
Field: Sand Hills (Judkins)
County: Crane
Purchaser: El Paso Natural Gas Co.
Volume: 38 MMcf.

FERC Control Number: JD79–2945
API Well Number: N/A
Section of NGPA: 103
Operator: Mitchell Energy Corporation
Well Name: N. R. Roberts "A" #1
Field: Greenwood (Atoka)
County: Wise
Purchaser: Nat. Gas Pipeline Co. of America
Volume: 65.1 MMcf.

FERC Control Number: JD79–2946
API Well Number: 42–103–31903
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J. B. Tubb A/C 1 Well 160L
Field: Sand Hills (Tubb)
County: Crane
Purchaser: El Paso Natural Gas Co.
Volume: 5 MMcf.

FERC Control Number: JD79–2947
API Well Number: N/A
Section of NGPA: 103
Operator: Michell Energy Corporation
Well Name: J.V. Booth #8–L
Field: Tidwell
County: Wise
Purchaser: Natural Gas Pipeline Co. Of America
Volume: 4.3 MMcf.

FERC Control Number: JD79–2948
API Well Number: 42 497 30499
Section of NGPA: 103
Operator: Michell Energy Corporation
Well Name: CSEU #8–7
Field: Caughlin (Strawn) East
County: Wise
Purchaser: Natural Gas Pipeline Co. of America
Volume: .6MMcf.

FERC Control Number: JD79–2949
API Well Number: 42 497 31193
Section of NGPA: 103
Operator: Michell Energy Corporation
Well Name: CSWW #10–6
Field: Caughlin (Strawn)
County: Wise
Purchaser: Natural Gas Pipeline Co. of America
Volume: 2 MMcf.

FERC Control Number: JD79–2950
API Well Number: N/A
Section of NGPA: 103
Operator: Michell Energy Corporation
Well Name: Lida George #2
Field: Chico West (Conglomerate 5700')
County: Wise
Purchaser: Natural Gas Pipeline Co. of America
Volume: 3.5 MMcf.

FERC Control Number: JD79–2951
API Well Number: 42 103 31750
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J.B. Tubb A/C–1, Well #134L
Field: Sand Hills (Tubb)
County: Crane
Purchaser: El Paso Natural Gas Co.
Volume: 24 MMcf.

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FERC Control Number: JD79–2952
API Well Number: 42–211–30962
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Wiggins Gas Unit No. 1, Well 2
Field: Mendota NW (Granite Wash)
County: Hemphill
Purchaser: Transwestern Pipeline Co.
Volume: 329 MMcf.

FERC Control Number: JD79–2953
API Well Number: 42 081 30653
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Lou E. Johnson Est. A/C, Well #24
Field: Jameson (Strawn)
County: Coke
Purchaser: ElPaso Natural Gas Co.
Volume: 75 MMcf.

FERC Control Number: JD79–2954
API Well Number: 42 219 32328
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: W.A. Coons, Well No. 28
Field: Slaughter
County: Hockley
Purchaser: Amoco Production Co.
Volume: 90MMcf.

FERC Control Number: JD79–2955
API Well Number: 42 1032 31820
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: J.B. Tubb A/C 1 Well 150
Field: Sand Hills (Mcknight)
County: Crane
Purchaser: El Paso Natural Gas Co.
Volume: 40 MMcf.

FERC Control Number: JD79–2956
API Well Number: 42 003 31648
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Fullerton Clearfork Unit #2823
Field: Fullerton
County: Andrews
Purchaser: Phillips Petroleum Company
Volume: 5 MMcf.

FERC Control Number: JD79–2957
API Well Number: 42 003 31647
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Fullerton Clearfork Unit #1921
Field: Fullerton
County: Andrews
Purchaser: Phillips Petroleum Company
Volume: 1 MMcf.

FERC Control Number: JD79–2958
API Well Number: 42 211 30866
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Myrtle Flowers #2
Field: Mendota, N.W. (Granite Wash)
County: Hemphill
Purchaser: Transwestern Pipeline Co.
Volume: 894 MMcf.

FERC Control Number: JD79–2959
API Well Number: 42 393 30617
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Flowers Trust "B" #2
Field: Mendota, NW (Granite Wash)
County: Roberts
Purchaser: Transwestern Pipeline Company
Volume: 1400.

FERC Control Number: JD79–2960
API Well Number: 42 431 30665
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Lou E. Johnson Est. A/C 1, Well #23
Field: Jamesom (Strawn)
County: Sterling
Purchaser: El Paso Natural Gas Co.
Volume: 20 MMcf.

FERC Control Number: JD79–2961
API Well Number: 42 003 31649
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Phillips Petroleum Company
Field: Fullerton
County: Andrews
Purchaser: Phillips Petroleum Company
Volume: 5 MMcf.

FERC Control Number: JD79–2962
API Well Number: 42–003–31642
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Fullerton Clearfork Unit #2621
Field: Fullerton
County: Andrews
Purchaser: Phillips Petroleum Company
Volume: 27 MMcf.

FERC Control Number: JD79–2963
API Well Number: 42–003–31142
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Fullerton Clearfork Unit #833
Field: Fullerton
County: Andrews
Purchaser: Phillips Petroleum Company
Volume: 8 MMcf.

FERC Control Number: JD79–2964
API Well Number: 42–003–31645
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Fullerton Clearfork Unit #1639
Field: Fullerton
County: Andrews
Purchaser: Phillips Petroleum Company
Volume: 18 MMcf.

FERC Control Number: JD79–2965
API Well Number: 42–003–31139
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Fullerton Clearfork Unit #429
Field: Fullerton
County: Andrews
Purchaser: Phillips Petroleum Company
Volume: 4 MMcf.

FERC Control Number: JD79–2966
API Well Number: 42–003–31715
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: Fullerton Clearfork Unit #4826
Field: Fullerton
County: Andrews
Purchaser: Phillips Petroleum Company
Volume: 6 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission May 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–13556 Filed 5–1–79; 8:45 am]
BILLING CODE 6456–01–M

Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 5, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Wyoming Oil and Gas Conservation Commission

FERC Control Number: 5063
API Well Number: 49–037–21059
Section of NCPA: 108
Operator: Kenneth Luff, Inc.
Well Name: #3–23 Amoco Champlin
Field: Antelope
County: Sweetwater
Purchaser: Colorado Interstate Gas
Volume: 30 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission May 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–13557 Filed 5–1–79; 8:45 am]
BILLING CODE 6456–01–M

Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 24, 1979.

On March 30, 1979 the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

U.S. Geological Survey Conservation Division

FERC Control Number: JD79–3017
API Well Number: 30039071460000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 119 N 11
Field: Tapacito-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 5.5 MMcf.

FERC Control Number: JD79–3018
API Well Number: 30039060630000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 123 C 12
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 11.7 MMcf.

FERC Control Number: JD79–3019
API Well Number: 30039067250000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 119 N 12
Field: Tapacito-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 14.6 MMcf.

FERC Control Number: JD79–3020
API Well Number: 30039061080000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 123 C 1
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 9.0 MMcf.

FERC Control Number: JD79–3021
API Well Number: 30039067110000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 119 N 9
Field: Tapacito-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 4.0 MMcf.

FERC Control Number: JD79–3022
API Well Number: 30039066710000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 119 N 3
Field: Tapacito-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 5.8 MMcf.

FERC Control Number: JD79–3023
API Well Number: 3039062910000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 120 C 4
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 10.0 MMcf.

FERC Control Number: JD79–3024
API Well Number: 30039060800000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 123 C 3
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 10.2 MMcf.

FERC Control Number: JD79–3025
API Well Number: 30039062510000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 120 C 10
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 7.0 MMcf.

FERC Control Number: JD79–3026
API Well Number: 30039061280000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 123 C 6
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 8.0 MMcf.

FERC Control Number: JD79–3027
API Well Number: 30039030610000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 123 C 5
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 8.0 MMcf.

FERC Control Number: JD79–3028
API Well Number: 30039062200000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 120 C 13
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 6.0 MMcf.

FERC Control Number: JD79–3029
API Well Number: 30039062370000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 120 C 11
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 9.9 MMcf.

FERC Control Number: JD79–3030
API Well Number: 30039056230000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 126 S 1
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 12.0 MMcf.

FERC Control Number: JD79–3031
API Well Number: 30039058640000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 126 S 5
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 1.0 MMcf.

FERC Control Number: JD79–3032
API Well Number: 30039056580000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 127 S 7
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 2.0 MMcf.

FERC Control Number: JD79–3033
API Well Number: 30039055720000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 126 S 11
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 10.0 MMcf.

FERC Control Number: JD79–3034
API Well Number: 30039056880000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 126 S 2
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 19.0 MMcf.

FERC Control Number: JD79–3036
API Well Number: 30039211630000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 123 C 17
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser:
Volume: 8.0 MMcf.

FERC Control Number: JD79–3035
API Well Number: 30039211950000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 123 C 18
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 13.1 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission by May 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–13558 Filed 5–1–79; 8:45 am]
BILLING CODE 6456–01–M

Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 12, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

U.S. Geological Survey

FERC Control Number: JD79–5113
API Well Number: 3003906913000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28–7 Unit 14
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 13.9 MMcf.

FERC Control Number: JD79–5114
API Well Number: 30045211110000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Dryden 7
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 19.3 MMcf.

FERC Control Number: JD79–5115
API Well Number: 30045600620000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Cundiff A 2
Field: Blanco-Mesaverde Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 2.9 MMcf.

FERC Control Number: JD79–5116
API Well Number: 30–045–22424
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Riddle D 3A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 178 MMcf.

FERC Control Number: JD79–5117
API Well Number: 30–045–22486
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Barrett 2A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 241 MMcf.

FERC Control Number: JD79–5118
API Well Number: 30–045–22396
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Fields 1A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 344 MMcf.

FERC Control Number: JD79–5119
API Well Number: 30–045–22358
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Day A #3–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 215 MMcf.

FERC Control Number: JD79–5120
API Well Number: 30–045–22359
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Day A #4–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 269 MMcf.

FERC Control Number: JD79–5121
API Well Number: 30045072480000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Storey C 1
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 11.7 MMcf.

FERC Control Number: JD79–5122
API Well Number: 30045063130000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Florance D 7
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79–5123
API Well Number: 30039203110000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit 161 NP
Field: Otero-Chacra Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 4.4 MMcf.

FERC Control Number: JD79–5124
API Well Number: 30045132450000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Bolack C 4
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 5.0 MMcf.

FERC Control Number: JD79–5125
API Well Number: 30045070970000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Storey C 2
Field: Aztec-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 14.2 MMcf.

FERC Control Number: JD79–5126
API Well Number: 30045067510000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Sunray F 2
Field: Blanco-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79–5127
API Well Number: 30045210410000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Grambling A 6
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 15.3 MMcf.

FERC Control Number: JD79–5128
API Well Number: 30–045–22747
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Jones A No. 1–A (Pictured Cliffs)
Field: South Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 44 MMcf.

FERC Control Number: JD79–5129
API Well Number: 30–045–22368
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Atlantic 6A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 322 MMcf.

FERC Control Number: JD79–5130
API Well Number: 30–045–22368
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Atlantic 6A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 304 MMcf.

FERC Control Number: JD79–5131
API Well Number: 30–045–22815
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Sunray G 1A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 220 MMcf.

FERC Control Number: JD79–5132
API Well Number: 30045210660000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Hardie 11
Field: Blanco-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 17.9 MMcf.

FERC Control Number: JD79–5133
API Well Number: 30045210500000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Turner 6
Field: Blanco-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 16.8 MMcf.

FERC Control Number: JD79–5135
API Well Number: 30045069530000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Storey C 3
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 15.7 MMcf.

FERC Control Number: JD79–5136
API Well Number: 30045211390000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Hughes A 8
Field: Blanco-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 20.0 MMcf.

FERC Control Number: JD79–5137
API Well Number: 30045065230000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Florance D 6
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 16.8 MMcf.

FERC Control Number: JD79–5138
API Well Number: 30045064510000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Florance D 5
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 13.9 MMcf.

FERC Control Number: JD79–5139
API Well Number: 30039082340000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Klein 6
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79–5140
API Well Number: 30045070590000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Michener A5
Field: Blanco-Mesaverde Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 8.0 MMcf.

FERC Control Number: JD79–5141
API Well Number: 30039059500000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit 53
Field: Ballard-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 18.6 MMcf.

FERC Control Number: JD79–5142
API Well Number: 30045064210000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfanito Unit 93
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 5.5 MMcf.

FERC Control Number: JD79–5143
API Well Number: 30039068790000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28–7 Unit 15
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 12.4 MMcf.

FERC Control Number: JD79–5144
API Well Number: 30039080580000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit 51
Field: Ballard-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 5.8 MMcf.

FERC Control Number: JD79–5145
API Well Number: 30039059700000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit 52
Field: Ballard-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 20.1 MMcf.

FERC Control Number: JD79–5146
API Well Number: 30039074080000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28–5 Unit 2
Field: Blanco-Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 6.6 MMcf.

FERC Control Number: JD79–5147
API Well Number: 30039070350000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit 27
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 5.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204 file a protest with the Commission by May 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–13559 Filed 5–01–79; 8:45 am]

BILLING CODE 6450–01–M

Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 24, 1979.

On March 30, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

U.S. Department of the Interior Geological Survey

FERC Control Number: JD79–2715
API Well Number: 30039063110000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 120 C 8
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 12.8 MMcf.

FERC Control Number: JD79–2736
API Well Number: 30–039–21380
Section of NGPA: 103
Operator: Consolidated Oil & Gas, Inc.
Well Name: Champlin 7–A–25
Field: Blanco Mesaverde
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 67.525 MMcf.

FERC Control Number: JD79–2737
API Well Number: 3003921610
Section of NGPA: 103
Operator: Consolidated Oil & Gas, Inc.
Well Name: Jicarilla "B" No. 1–A
Field: Blanco Mesaverde
County: Rio Arriba
Purchaser: Gas Company of New Mexico
Volume: 63.875 MMcf.

FERC Control Number: JD79–2738
API Well Number: 3003921500
Section of NGPA: 103
Operator: Consolidated Oil & Gas, Inc.
Well Name: Huron No. 3–A
Field: Blanco Mesaverde
County: Rio Arriba
Purchaser: Gas Company of New Mexico
Volume: 30.0 MMcf.

FERC Control Number: JD79–2739
API Well Number: 30–005–60464
Section of NGPA: 103
Operator: DEPCO, Inc.
Well Name: Midwest Federal No. 2
Field: Sand Ranch-Atoka
County: Chaves
Purchaser: El Paso Natural Gas Company
Volume: 365 MMcf.

FERC Control Number: JD79–2740
API Well Number: 30039056460000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 126 S 3
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 20.4 MMcf.

FERC Control Number: JD79–2741
API Well Number: 30039054790000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 129 S 14
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 8.0 MMcf.

FERC Control Number: JD79–2742
API Well Number: 056705615000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Bondad 34–10 32 #1
Field: Ignacio Blanco (Mesaverde)
County: La Plata
Purchaser: Northwest Pipeline Corporation
Volume: 7.7 MMcf.

FERC Control Number: JD79–2743
API Well Number: 056705565300000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Bondad 33–9 36 #21

Field: Ignacio Blanco (Mesaverde)
County: La Plata
Purchaser: Northwest Pipeline Corporation
Volume: 16.0 MMcf.

FERC Control Number: JD79–2744
API Well Number: 05067055980000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Bondad 33–10 9 #13
Field: Ignacio Blanco (Mesaverde)
County: La Plata
Purchaser: Northwest Pipeline Corporation
Volume: 15.0 MMcf.

FERC Control Number: JD79–2745
API Well Number: 05067055700000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Bondad 33–10 8 #15
Field: Ignacio Blanco (Mesaverde)
County: La Plata
Purchaser: Northwest Pipeline Corporation
Volume: 13.0 MMcf.

FERC Control Number: JD79–2882
API Well Number: 30039062750000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 120 C 14
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 8.4 MMcf.

FERC Control Number: JD79–2934
API Well Number: 30–045–23023
Section of NGPA: 103
Operator: Consolidated Oil & Gas, Inc.
Well Name: Freemen No. 1–A
Field: Blanco Mesaverde
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 136.875 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission by May 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–13560 Filed 5–1–79; 8:45 am]
BILLING CODE 6450–01–M

Appalachian Exploration & Development, et al.; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 16, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines, Oil and Gas Division

FERC Control Number: 5209
API Well Number: 47–0812–0449–0000
Section of NGPA: 102
Operator: Appalachian Exploration & Devel., Inc.
Well Name: T. H. Woolwine #2
Field: Town
County: Raleigh
Purchaser: Cabot Corporation
Volume: 18.3 MMcf.

FERC Control Number: 5210
API Well Number: 47–0812–0450–0000
Section of NGPA: 102
Operator: Appalachian Exploration & Devel., Inc.
Well Name: F. F. Banks #4
Field: Town
County: Raleigh
Purchaser: Cabot Corporation
Volume: 41.9 MMcf.

FERC Control Number: 5211
API Well Number: 47–0152–1201–0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Carper Dorsey #1
Field: Pleasant
County: Clay
Purchaser: Cabot Corporation
Volume: 72.4 MMcf.

FERC Control Number: 5212
API Well Number: 47–0152–1229–0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Pauline Folgesong A–1
Field: Pleasant
County: Clay
Purchaser: Cabot Corporation
Volume: 132.8 MMcf.

FERC Control Number: 5213
API Well Number: 47–0152–1230–0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Pauline Folgesong #1
Field: Pleasant
County: Clay
Purchaser: Cabot Corporation
Volume: 31.7 MMcf.

FERC Control Number: 5214
API Well Number: 47–0812–0448–0000
Section of NGPA: 102
Operator: Appalachian Exploration & Devel., Inc.
Well Name: T. H. Woolwine #1
Field: Town
County: Raleigh
Purchaser: Cabot Corporation
Volume: 42.1 MMcf.

FERC Control Number: 5215
API Well Number: 47–0872–0433–0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: C & H Corporation B–17
Field: Jefferson
County: Nicholas
Purchaser: Cabot Corporation
Volume: 10.9 MMcf.

FERC Control Number: 5216
API Well Number: 47–0872–0434–0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: C & H Corporation B–18
Field: Jefferson
County: Nicholas
Purchaser: Cabot Corporation
Volume: 70.3 MMcf.

FERC Control Number: 5217
API Well Number: 47–047–0751
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. #C–18
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 26.0 MMcf.

FERC Control Number: 5218
API Well Number: 47–047–0747
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. #A–42
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 26.0 MMcf.

FERC Control Number: 5219
API Well Number: 47–047–0746
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp.#A–41
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 26.0 MMcf.

FERC Control Number: 5220
API Well Number: 47–047–0745
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. #A–23
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 30. MMcf.

FERC Control Number: 5221
API Well Number: 47–047–0743
Section of NGPA: 103
Operator; Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. #A–47
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 49.8 MMcf.

FERC Control Number: 5222
API Well Number: 47–047–0742
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. #C–20
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 26.0 MMcf.

FERC Control Number: 5223
API Well Number: 47–055–0063
Section of NGPA: 108
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. #D–10
Field: Rock
County: Mercer
Purchaser: Consolidated Gas Supply Corp.
Volume: 25.0 MMcf.

FERC Control Number: 5224
API Well Number: 47–047–0741
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. #A–40
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 26.0 MMcf.

FERC Control Number: 5225
API Well Number: 47–047–0738
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. #A–21
Field: Elkhorn
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 60.0 MMcf.

FERC Control Number: 5226
API Well Number: 47–047–0756
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. #A–31
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 40.0 MMcf.

FERC Control Number: 5227
API Well Number: 47–047–0752
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. #A–53
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–13561 Filed 5–1–79; 8:45 am]
BILLING CODE 6450–01–M

Benson Montin Greer Drilling Corp., et al.; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979

On April 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

U.S. Department of the Interior Geological Survey

FERC Control Number: JD79–2716
API Well Number: 0506706974
Section of NGPA: 108
Operator: Benson Montin Greer Drilling Corp.
Well Name: Cinder Buttes D–15
Field: Cinder Buttes Dakota
County: La Plata
Purchaser: Northwest Pipeline Corporation
Volume: 10 MMcf.

FERC Control Number: JD79–2717
API Well Number: 05670607?
Section of NGPA: 108
Operator: Benson Montin Greer Drilling Corp.
Well Name: Cinder Buttes P–2
Field: Cinder Buttes Dakota
County: La Plata
Purchaser: Northwest Pipeline Corp.
Volume: 8 MMcf.

FERC Control Number: JD79–2718
API Well Number: 30039062960000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 120 C 9
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 8.0 MMcf.

FERC Control Number: JD79–2719
API Well Number: 30039055390000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 126 S 13
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 2.2 MMcf.

FERC Control Number: JD79–2720
API Well Number: 30039061980000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 117 E 1
Field: Tapacito Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 3.6 MMcf.

FERC Control Number: JD79–2721
API Well Number: 30039066860000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 119 N 1
Field: Tapacito Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 6.6 MMcf.

FERC Control Number: JD79–2722
API Well Number: 30045066860000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Blanco 30–12 A 3
Field: Flora Vista—Fruitland Gas
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 1.0 MMcf.

FERC Control Number: JD79–2723
API Well Number: 30045066870000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Blanco 30–12 1 PT
Field: Flora Vista Fruitland Gas
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 5.1 MMcf.

FERC Control Number: JD79–2724
API Well Number: 30045067230000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Blanco 30–12 B 4
Field: Flora Vista-Fruitland
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 3.9 MMcf.

FERC Control Number: JD79–2725
API Well Number: 30045067870000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: San Juan 27–6 C 6
Field: Blanco, South Pictured Cliffs Gas
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 10.0 MMcf.

FERC Control Number: JD79–2726
API Well Number: 30045066760000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: San Juan 27–6 B 3
Field: Blanco, South Pictured Cliffs Gas
County: San Juan
Purchaser: Northwest Pipeline Corporation
Volume: 10.0 MMcf.

FERC Control Number: JD79–2727
API Well Number: 30039055870000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 126 S 12
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 11.0 MMcf.

FERC Control Number: JD79–2728
API Well Number: 30039056520000
Section of NGPA: 108
Operator: Northwest Production Corporation
Well Name: Jicarilla 126 S 4
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 7.0 MMcf.

FERC Control Number: JD79–2729
API Well Number: 30039072?0000

Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28–6 Unit
Field: Blanco Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 8.0 MMcf.

FERC Control Number: JD79–2730
API Well Number: 30039068680000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit 8
Field: Blanco Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 2.2 MMcf.

FERC Control Number: JD79–2731
API Well Number: 30039070480000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28–6
Field: Blanco Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 9.0 MMcf.

FERC Control Number: JD79–2732
API Well Number: 30039074430000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28–4 Unit 1
Field: Blanco Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 2.6 MMcf.

FERC Control Number: JD79–2733
API Well Number: 30039074190000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28–4 Unit 2
Field: Blanco Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 2.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–13632 Filed 5–1–79; 8:45 am]
BILLING CODE 6450–01–M

Cleveland Electric Illuminating Co., et al.; Notice of Supplements to Interconnection Agreement

April 26, 1979.

The Cleveland Electric Illuminating Company; Duquesne Light Company; Ohio Edison Company; Pennsylvania Power Company; The Toledo Edison Company (CAPCO Group.)

The filing Company submits the following:

Take notice that on April 23, 1979, the CAPCO Group filed Appendices 5 and 6 as supplements to Schedule E of the CAPCO Basic Operating Agreement dated as of January 1, 1975 which is filed with the Commission under the following Rate Schedule designations:

Company	Rate schedule
The Cleveland Electric Illuminating Company	FPC No. 13
Duquesne Light Company	FPC No. 14
Ohio Edison Company	FPC No. 120
Pennsylvania Power Company	FPC No. 29
The Toledo Edison Company	FPC No. 26

Appendix 5 and Appendix 6 to Schedule E of the CAPCO Basic Operating Agreement provide the basis for the determination of charges applicable to Unit Capacity and Energy transactions by the CAPCO member companies from Bruce Mansfield Unit No. 2 and Davis-Besse Unit No. 1, respectively. The services and compensation for Unit Capacity and Energy transactions from base load CAPCO Units are set forth generally in Schedule E, with specific charges from particular CAPCO Units being set forth in Appendices to Schedule E as the particular Unit comes into commercial operation. It is requested that Appendix 5 become effective on October 1, 1977 and Appendix 6 become effective on November 21, 1977.

Any person desiring to be heard or to make any protest with reference to the subject matter of this Notice should, on or before May 16, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C.—20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents referred to herein are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket ER79–328]
[FR Doc. 79–13614 Filed 5–1–79; 8:45 am]
BILLING CODE 6450–01–M

Earl D. Krapf; Notice of Application

April 26, 1979.

Take notice that on April 10, 1979, Earl D. Krapf (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Delmarva Power & Light Company, Public Utility.
Vice President, Delmarva Power & Light Company of Maryland, Public Utility.
Vice President, Delmarva Power & Light Company of Virginia, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–13615 Filed 5–1–79; 8:45 am]
BILLING CODE 6450–01–M

El Paso Natural Gas Co., et al.; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 17, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

U.S. Department of the Interior Geological Survey

FERC Control Number: JD79–5228
API Well Number: 3004508274000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Bolack C 3
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 7.0 MMcf.

FERC Control Number: JD79–5229
API Well Number: 30045210780000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Mudge 34 PC
Field: Blanco-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 12.4 MMcf.

FERC Control Number: JD79–5230
API Well Number: 30045210310000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Roelofs #5
Field: Blanco-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 17.2 MMcf.

FERC Control Number: JD79–5231
API Well Number: 3004521112000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Storey 9
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 12.0 MMcf.

FERC Control Number: JD79–5232
API Well Number: 30045208260000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Howell 10
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 15.0 MMcf.

FERC Control Number: JD79–5233
API Well Number: 30045211510000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Hardie 10
Field: Blanco-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 18.6 MMcf.

FERC Control Number: JD79–5234
API Well Number: 30045210910000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Storey 10
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 11.3 MMcf.

FERC Control Number: JD79–5235
API Well Number: 30045092880000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Sunray D 3
Field: Azteo-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 5.0 MMcf

FERC Control Number: JD79–5236
API Well Number: 30–045–22418
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Gartner 4–A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 287 MMcf.

FERC Control Number: JD79–5237
API Well Number: 30–045–22418
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Gartner 4–A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 289 MMcf.

FERC Control Number: JD79–5238
API Well Number: 30–045–22362
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Vandewart A #2–A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 413 MMcf.

FERC Control Number: JD79–5239
API Well Number: 30–045–22362
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Vandeward A #2A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 186 MMcf.

FERC Control Number: JD79–5240
API Well Number: 30–045–22718
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Hughes 3–A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 330 MMcf.

FERC Control Number: JD79–5241
API Well Number: 30–045–22718
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Hughes 3–A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 100 MMcf.

FERC Control Number: JD79–5242
API Well Number: 30–045–22462
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Fields 4A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 494 MMcf.

FERC Control Number: JD79–5243
API Well Number: 30–045–22462
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Fields #4A (Fruitland)
Field: Undesignated
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 103 MMcf.

FERC Control Number: JD79–5244
API Well Number: 30–045–22524
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Sunray A 2–A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 438 MMcf.

FERC Control Number: JD79–5245
API Well Number: 30–045–22498
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: San Juan #11A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 351 MMcf.

FERC Control Number: JD79–5246
API Well Number: 30–045–22525
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Grambling C 4A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 440 MMcf.

FERC Control Number: JD79–5247
API Well Number: 30–045–22730
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Atlantic A 7A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 307 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–13633 Filed 5–1–79; 8:45 am]
BILLING CODE 6450–01–M

Gulf Oil Corp., et al.; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 17, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

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North Dakota State Industrial Commission Oil and Gas Division

FERC Control Number: JD79-5282
API Well Number: 33-007-00203
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: E. E. Miller 1-10-3A
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 69 MMcf.

FERC Control Number: JD79-5283
API Well Number: 33-007-00253
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: J. Kukla 1-4-2A
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 157 MMcf.

FERC Control Number: JD79-5284
API Well Number: 33-007-00211
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Coe 1-26-2C
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 46 MMcf.

FERC Control Number: JD79-5285
API Well Number: 33-007-00251
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: J. Hurinenko 1-2-2A
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 313 MMcf.

FERC Control Number: JD79-5286
API Well Number: 033-025-00123
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: P. Marinenko 2-32-2A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 96 MMcf.

FERC Control Number: JD79-5287
API Well Number: 33-053-00709
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Kostelnak State 1-36-2B
Field: Little Knife
County: McKenzie
Purchaser: Montana Dakota Utilities
Volume: 74 MMcf.

FERC Control Number: JD79-5288
API Well Number: 33-025-00063
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: E. Marinenko 2-30-4D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 131 MMcf.

FERC Control Number: JD79-5289
API Well Number: 33-025-00086
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: L. Kostelnak 1-30-2D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 109 MMcf.

FERC Control Number: JD79-5290
API Well Number: 33-025-00096
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: State 2-16-2D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 90 MMcf.

FERC Control Number: JD79-5291
API Well Number: 33-053-00702
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Lind 1-13-3C
Field: Little Knife
County: McKenzie
Purchaser: Montana Dakota Utilities
Volume: 120 MMcf.

FERC Control Number: JD79-5292
API Well Number: 33-007-00294
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Hurinenko State 1-2-3A
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 70 MMcf.

FERC Control Number: JD79-5293
API Well Number: 33-007-00266
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Radloff 3-21-2B
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 57 MMcf.

FERC Control Number: JD79-5294
API Well Number: 33-053-00715
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: State Zabolotny 1-36-3C
Field: Little Knife
County: McKenzie
Purchaser: Montana Dakota Utilities
Volume: 154 MMcf.

FERC Control Number: JD79-5295
API Well Number: 33-007-00218
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Zabolotny 2-3-3A
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 112 MMcf.

FERC Control Number: JD79-5296
API Well Number: 33-025-00092
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Sabrosky 2-31-3C
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 152 MMcf.

FERC Control Number: JD79-5297
API Well Number: 33-007-00246
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: State 2-16-4B
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 36 MMcf.

FERC Control Number: JD79-5298
API Well Number: 33-007-00283
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: J & G Hurinenko 1-1-4A
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 90 MMcf.

FERC Control Number: JD79-5299
API Well Number: 33-007-00222
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: J. Tachenko 1-9-3B
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 219 MMcf.

FERC Control Number: JD79-5300
API Well Number: 33-025-00076
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Dale Dolezal 1-17-1A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 6 MMcf.

FERC Control Number: JD79-5301
API Well Number: 33-025-00108
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Rose Glovatsky 1-20-1A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 149 MMcf.

FERC Control Number: JD79-5302
API Well Number: 33-025-00077
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: E. Marinenko 1-31-2C
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 114 MMcf.

FERC Control Number: JD79-5303
API Well Number: 33-053-00691
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: P. Glovatsky USA 1-24-2A
Field: Little Knife
County: McKenzie
Purchaser: Montana Dakota Utilities
Volume: 89 MMcf.

FERC Control Number: JD79-5304
API Well Number: 33-053-00711
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Lind 2-13-2D
Field: Little Knife
County: McKenzie
Purchaser: Montana Dakota Utilities
Volume: 96 MMcf.

FERC Control Number: JD79-5305
API Well Number: 33-025-00109
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Kostenko State 1-20-4A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 52 MMcf.

FERC Control Number: JD79-5306

API Well Number: 33-025-00074
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Martin Weber 2-18-4D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 91 MMcf.

FERC Control Number: JD79-5307
API Well Number: 33-007-00217
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Hurinenko 1-10-2A
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 128 MMcf.

FERC Control Number: JD79-5308
API Well Number: 33-007-00220
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Zabolotny 4-13-1A
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 54 MMcf.

FERC Control Number: JD79-5309
API Well Number: 33-007-00240
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: G. Hurinenko 1-2-1A
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 161 MMcf.

FERC Control Number: JD79-5310.
API Well Number: 33-007-00255.
Section of NGPA: 102.
Operator: Gulf Oil Corporation.
Well Name: Coe 2-28-3C.
Field: Little Knife.
County: Billings.
Purchaser: Montana Dakota Utilities.
Volume: 21 MMcf.

FERC Control Number: JD79-5311.
API Well Number: 33-007-00219.
Section of NGPA: 102.
Operator: Gulf Oil Corporation.
Well Name: Zabolotny 3-3-2B.
Field: Little Knife.
County: Billings.
Purchaser: Montana Dakota Utilities.
Volume: 243 MMcf.

FERC Control Number: JD79-5312.
API Well Number: 33-007-00208
Section of NGPA: 102.
Operator: Gulf Oil Corporation.
Well Name: Miller 3-10-4B.
Field: Little Knife.
County: Billings.
Purchaser: Montana Dakota Utilities.
Volume: 126 MMcf.

FERC Control Number: JD79-5313.
API Well Number: 33-007-00241
Section of NGPA: 102.
Operator: Gulf Oil Corporation.
Well Name: G. Hurinenko 2-2-4A.
Field: Little Knife.
County: Billings.
Purchaser: Montana Dakota Utilities.
Volume: 216 MMcf.

FERC Control Number: JD79-5314.
API Well Number: 33-025-00094.
Section of NGPA: 102.
Operator: Gulf Oil Corporation.
Well Name: Sabrosky 3-32-4B.
Field: Little Knife.
County: Dunn.
Purchaser: Montana Dakota Utilities.
Volume: 232 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-13627 Filed 5-1-79; 8:45 am]

BILLING CODE 6450-01-M

Gulf Oil Corp., et al.; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 17, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

North Dakota State Industrial Commission, Oil and Gas Division

FERC Control Number: 5315
API Well Number: 33-007-00214
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Hurinenko 2-10-1A
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 243 MMcf.

FERC Control Number: 5316
API Well Number: 33-025-00091
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Sabrosky 4-31-4C
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 68 MMcf.

FERC Control Number: 5317
API Well Number: 33-007-00270
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: L. Burian 1-22-4A
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 30 MMcf.

FERC Control Number: 5318
API Well Number: 33-007-00215
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Tachenko 1-15-1B
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 164 MMcf.

FERC Control Number: 5319
API Well Number: 33-007-00238
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Tedrow 1-11-1A
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 47 MMcf.

FERC Control Number: 5320
API Well Number: 33-025-00085
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: F. Kostelnak 2-30-3D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 77 MMcf.

FERC Control Number: 5321
API Well Number: 33-025-00080
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: F. Kostelnak 1-29-4D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 138 MMcf.

FERC Control Number: 5322
API Well Number: 33-025-00107
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: L. Glovatsky 1-19-1A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 276 MMcf.

FERC Control Number: 5323
API Well Number: 33-025-00068
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: L. Kostelnak 2-29-1D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 21 MMcf.

FERC Control Number: 5324
API Well Number: 33-025-00093
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Sabrosky 1-31-1C
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 161 MMcf.

FERC Control Number: 5325
API Well Number: 33-025-00118
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: F. Kostelnak 3-29-3A
Field: Little Knife

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County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 87 MMcf.

FERC Control Number: 5328
API Well Number: 33-025-0082
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Klatt 3-19-4B
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 114 MMcf.

FERC Control Number: 5327
API Well Number: 33-025-00084
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: E. Marinenko 3-30-1D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 112 MMcf.

FERC Control Number: 5328
API Well Number: 33-025-00123
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: P. Marinenko 2-32-2A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 95 MMcf.

FERC Control Number: 5329
API Well Number: 33-025-00109
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Kostenko State 1-20-4A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 52 MMcf.

FERC Control Number: 5330
API Well Number: 33-025-00074
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Martin Weber 2-18-4D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 91 MMcf.

FERC Control Number: 5331
API Well Number: 33-025-0084
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Elsie Marinenko 3-30-1D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 112 MMcf.

FERC Control Number: 5332
API Well Number: 33-025-00071
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Klatt 1-19-2A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 110 MMcf.

FERC Control Number: 5333
API Well Number: 33-025-00082
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Klatt 3-19-4B
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 114 MMcf.

FERC Control Number: 5334
API Well Number: 33-025-00116
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Florence Kostelnak 3-29-3A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 87 MMcf.

FERC Control Number: 5335
API Well Number: 33-025-00107
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Lillian Glovatsky 1-19-1A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 276 MMcf.

FERC Control Number: 5336
API Well Number: 33-025-00093
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Sabrosky 1-31-1C
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 161 MMcf.

FERC Control Number: 5337
API Well Number: 33-053-00709
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Kostelnak State 1-36-2B
Field: Little Knife
County: McKenzie
Purchaser: Montana Dakota Utilities
Volume: 74 MMcf.

FERC Control Number: 5338
API Well Number: 33-025-00083
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Elsie Marinenko 2-30-4D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 131 MMcf.

FERC Control Number: 5339
API Well Number: 33-025-00086
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Leonard Kostelnak 1-30-2D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 69 MMcf.

FERC Control Number: 5340
API Well Number: 33-025-00096
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: State 2-18-2D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 90 MMcf.

FERC Control Number: 5341
API Well Number: 33-053-00702
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Lind 1-13-3C
Field: Little Knife
County: McKenzie
Purchaser: Montana Dakota Utilities
Volume: 120 MMcf.

FERC Control Number: 5342
API Well Number: 33-025-00076
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Dale Dolezal 1-17-1A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 6 MMcf.

FERC Control Number: JD5343
API Well Number: 33-025-00108
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: Rose Glovatsky 1-20-1A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 149 MMcf.

FERC Control Number: JD5344
API Well Number: 33-025-00075
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Dolezal State 1-7-3A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 217 MMcf.

FERC Control Number: JD5345
API Well Number: 33-053-00711
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Lind 2-13-2D
Field: Little Knife
County: McKenzie
Purchaser: Montana Dakota Utilities
Volume: 96 MMcf.

FERC Control Number: JD5346
API Well Number: 33-025-00066
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Leonard Kostelnak 2-29-1D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume:

FERC Control Number: JD5347
API Well Number: 33-025-00080
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Florence Kostelnak 1-29-4D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 138 MMcf.

FERC Control Number: JD5348
API Well Number: 33-025-00085
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Florence Kostelnak 2-30-3D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume:

FERC Control Number: JD5349
API Well Number: 33-053-00691
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Pete Glovatsky USA 1-24-2A
Field: Little Knife
County: McKenzie
Purchaser: Montana Dakota Utilities
Volume:

FERC Control Number: 5350
API Well Number: 33-025-00077
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Elsie Marinenko 1-31-2C
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 114 MMcf.

FERC Control Number: JD5351
API Well Number: 33-025-00081
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Klatt 2-19-3D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 85 MMcf.

FERC Control Number: JD5352
API Well Number: 33-025-00097
Section of NGPA: 103
Operator: Gulf Oil Corporation
Well Name: Dolezal State 2-7-4D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 217 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-13628 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

Investigation of Practices Under Automatic Adjustment Clauses; Order Instituting Investigation of Practices Under Automatic Adjustment Clauses

Issued: April 26, 1979.

Section 205(f)(2) of the Federal Power Act [1] requires that at least every two years the Commission review, with respect to each public utility, practices under any automatic adjustment clause of each utility "to insure the efficient use of resources (including economical purchase and use of fuel and electric energy) under such clauses". PURPA defines an automatic adjustment clause as a "provision of a rate schedule which provides for increases or decreases (or both) without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility". [2]

Pursuant to this requirement, the Commission intends to institute such a review of practices under automatic adjustment clauses employed by each public utility. This initial review will be conducted in addition to the ongoing field audits of the Commission, which will continue to examine all aspects of utility operations, including fuel programs, purchasing practices, management systems and other matters. The review will utilize the results of audits and other data filed with the Commission, in addition to the materials developed specifically by the review.

The Commission has determined that in order expeditiously to accomplish the review required under Section 208 of PURPA, it is appropriate to institute an investigation pursuant to Section 307(a) of the Federal Power Act.

The Commission has determined that in order to carry out the expeditious review required under section 209(f)(2), it is appropriate to appoint a designated officer of the Commission who, pursuant to section 307(b) of the Federal Power Act will be empowered to administer oaths, subpoena witnesses, take evidence, require production of relevant documents and utilize all other powers enumerated in Section 307(b) of the Federal Power Act.

The designated officer is directed to invite state public utility commissions to cooperate in the review. Upon conclusion of his inquiry, the designated officer shall report his findings and recommendations to the Commission. Based on the foregoing,

The Commission finds.—(1) It is necessary and appropriate for purposes of the Federal Power Act to institute an investigation pursuant to section 307(a) of the Federal Power Act into public utility practices under automatic adjustment clauses.

(2) It is necessary and appropriate to appoint a member of the Commission Staff as a designated officer of the Commission for the purposes of conducting this investigation.

The Commission orders.—(A) Pursuant to the Federal Power Act, and the Commission's Rules and Regulations thereunder, an investigation of public utility practices under automatic adjustment clauses is hereby instituted.

(B) It is ordered that for the purposes of this investigation, William W. Lindsay is hereby designated an officer of this Commission and is empowered to administer oaths, and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant to the inquiry and to perform all other duties in connection therewith as prescribed by law, and to designate other staff members of the Commission as officers of the Commission with all powers herein enumerated.

(C) The designated officer shall report his findings and recommendations to the Commission.

(D) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

Lois D. Cashell,
Acting Secretary.
[FR Doc. 79-13629 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

[1] Section 208 of the Public Utility Regulatory Policies Act of 1978 (PURPA) amended the Federal Power Act, adding, *inter alia*, Section 205(f)(2).

[2] Section 205(f)(4), Federal Power Act, as amended.

Lo Vaca Gathering Co., et al.; Notice of Change in Docket Numbers

April 26, 1979.

Take notice that the docket numbers of the following proceedings before the Commission have been changed, as follows:

Name of proceeding	Former docket No.	New docket No.
1. Lo Vaca Gathering Co.	RM79-3	GP79-3
2. Kansas Power & Light Co. et. al., Mesa Petroleum	RM79-90	GP79-4

Take further notice that the above changes have been made pursuant to the establishment, by Notice dated April 17, 1979, of new docket prefixes for certain matters which pertain to the Natural Gas Policy Act.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-13630 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

Midwestern Gas Transmission Co.; Notice of Certification of Settlement

April 26, 1979.

Take notice that on April 19, 1979, Presiding Administrative Law Judge Curtis L. Wagner, Jr. certified to the Commission a proposed Stipulation and Agreement which, if approved, will resolve all of the issues in this proceeding.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal

Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should serve the same on all parties to this proceeding. Comments are due on May 11, 1979. All comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket RP78-23]
[FR Doc. 79-13617 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

Mississippi Power Co.; Notice of Filing of Agreement

April 26, 1979.

The filing Company submits the following:

Take notice that Mississippi Power Company (MPC) on April 23, 1979, tendered for filing Supplement Agreement with Coast Electric Power Association (CEPA) under its FERC Electric Tariff Original Volume No. 1. This agreement provides for an increase in the contracted capacity at the New Crossroads delivery point of CEPA. To effect this change, MPC and CEPA have entered into a supplemental agreement under the Company's FERC Electric Tariff Original Volume No. 1 (Second Revised Sheet No. 14).

MPC agrees to deliver up to a maximum of 3,500 kilowatts at 46,000 volts at the entrance to the Customer's 46 KV switch installed in Customer's 46/12 KV substation said station being located in the NW¼ of the NW¼ of Section 18, Township 3 South, Range 17 West, Pearl River County, Mississippi, and at the connections to the 46 KV extension to Collins Pipeline Pumping Station.

MPC states that this supplement will become effective on or about May 31, 1979, when the required additional facilities will be energized. MPC has requested the sixty day notice requirement be waived in order to avoid a delay in rendering service.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket ER79-325]
[FR Doc. 79-13618 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

Montana Power Co.; Notice of Filing

April 26, 1979

The Filing Company submits the following:

Take notice that on April 23, 1979, the Montana Power Company tendered for filing in compliance with the Federal Power Commission's Order of May 6, 1977, in Docket No. ER 76-848, a summary of sales made under the Company's FPC Electric Tariff M-1 during March, 1979, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket ER 79-327]
[FR Doc. 79-13619 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

Natural Gas Policy Act of 1978; Notice of Receipt of Report of Determination Process

April 26, 1979.

Pursuant to section 18 CFR 274.105 of the Federal Energy Regulatory Commission's Regulations, a jurisdictional agency may file a report with the Commission describing the method by which such agency will make certain determinations in accordance with sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Reports in conformance with 18 CFR 274.105 have been received by the Commission from the following jurisdictional agencies:

Agency	Date
Alabama State Oil and Gas Board	November 30, 1978.
State of Alaska Oil and Gas Conservation Commission.	December 11, 1978.
State of Arizona Oil and Gas Conservation Commission.	December 14, 1978.
Arkansas Oil and Gas Commission	February 12, 1979.
State of California Department of Conservation Division of Oil and Gas.	December 4, 1978.
State of Colorado Department of Natural Resources.	December 5, 1978.
(Supplemental Report)	April 4, 1979.
(Revised Supplemental Report)	April 18, 1979.
State of Florida Department of Natural Resources.	January 3, 1979.
State of Illinois, Department of Mines & Minerals, Oil and Gas Division.	January 5, 1979.
State of Indiana Department of Natural Resources.	December 26, 1978.
(Supplemental Report)	March 26, 1979.
Kansas State Corporation Commission Conservation Division.	November 30, 1978.
Commonwealth of Kentucky Department of Mines and Minerals, Division of Oil and Gas Conservation.	February 5, 1979.
State of Louisiana Department of Conservation.	November 29, 1978.
State of Michigan, Department of Natural Resources, Geological Survey Division.	December 1, 1978.
State Oil and Gas Board of Mississippi.	November 30, 1978.
State of Montana Department of Natural Resources and Conservation.	January 29, 1979.
State of Nebraska Oil and Gas Conservation Commission.	December 15, 1978.
State of New Mexico Energy and Minerals Department, Oil Conservation Division.	November 29, 1978.
New York State Department of Environmental Conservation.	February 23, 1979.
State of North Dakota Geological Survey.	January 4, 1979.
State of Ohio Department of Natural Resources Division of Oil and Gas.	December 6, 1978.
State of Oklahoma Corporation Commission.	March 29, 1979.
Osage Agency, Osage County, Oklahoma Bureau of Indian Affairs.	April 2, 1979.
State of Pennsylvania Department of Environmental Resources, Division of Oil and Gas.	December 26, 1978.
State of South Dakota Department of Natural Resource Development.	March 14, 1979.
State of Tennessee Oil and Gas Board.	December 19, 1978.
Railroad Commission of Texas	November 30, 1978.
United States Department of Interior, Geological Survey.	January 19, 1979.
State of Utah, Department of Natural Resources, Division of Oil, Gas, and Mining.	January 30, 1979.
Commonwealth of Virginia Department of Labor and Industry, Division of Mines and Quarries.	December 4, 1978.
West Virginia Departmentof Mines, Oil and Gas Division.	November 30, 1978.
State of Wyoming Office of Oil and Gas Conservation Commission.	December 4, 1978.

Copies of these reports are available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[Docket RM79-9]
[FR Doc. 79-13625 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

Nevada Power Co.; Notice of Compliance Filing

April 26, 1979.

Take notice that Nevada Power Company on April 19, 1979 tendered for filing in compliance with the Commission's Orders Approving Settlement issued July 21, 1977 (E-9104) and July 1, 1977 (ER76-40), and in response to deficiency letters dated January 19, 1979 (E-9104) and January 23, 1979 (ER76-40) revised rate schedules and revised statements pertaining to cost of service.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 10, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket Nos. E-9104 and ER76-40]
[FR Doc. 79-13620 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 10, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources Division of Oil and Gas

FERC Control Number: JD79-2796
API Well Number: 3412724191**14
Section of NGPA: 103
Operator: Petro-Lewis Corporation
Well Name: Thalman #1, W.
Field: N/A
County: Perry
Purchaser: Not yet determined
Volume: 10.95 MMcf.

FERC Control Number: JD79-2797
API Well Number: 3411924381**14
Section of NGPA: 103
Operator: Irvin Producing Company
Well Name: Fred Dietz #1
Field: N/A
County: Muskingum
Purchaser: National Gas & Oil Corporation
Volume: 8 MMcf.

FERC Control Number: JD79-2798
API Well Number: 34-075-2-1530**-14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Fanny Miller Unit #11184
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission
Volume: 11.5 MMcf.

FERC Control Number: JD79-2799
API Well Number: 3407521462**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Roy Miller Unit #1-35
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission
Volume: 2 MMcf.

FERC Control Number: JD79-2800
API Well Number: 3403122248**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Irwin D. Frye Unit #1
Field: West Lafayette
County: Coshocton
Purchaser: Columbia Gas Transmission
Volume: .05 MMcf.

FERC Control Number: JD79-2801
API Well Number: 3403122729
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Robert G. Mohler #2
Field: Warsaw
County: Coshocton
Purchaser: Columbia Gas Transmission
Volume: 1 MMcf.

FERC Control Number: JD79-2802
API Well Number: 3403122802**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Oaklief-Sharrock Unit #20193
Field: Newcomerstown
County: Coshocton
Purchaser: Columbia Gas Transmission
Volume: 8 MMcf.

FERC Control Number: JD79-2803
API Well Number: 3410321858**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: H. B. Owen #1
Field: Homerville
County: Medina
Purchaser: Columbia Gas Transmission
Volume: 1 MMcf.

FERC Control Number: JD79-2804
API Well Number: 3407521421**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Paint Mast #1
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission
Volume: .5 MMcf.

FERC Control Number: JD79-2805
API Well Number: 3408321434**14
Section of NGPA: 108
Operator: James W. Mueller
Well Name: Pauline Freeman #1
Field: N/A
County: Knox
Purchaser: Columbia Gas Transmission Corp.
Volume: 2.732 MMcf.

FERC Control Number: JD79-2806
API Well Number: 3415722733**14
Section of NGPA: 108
Operator: Industrial Gas Associates
Well Name: Robert H. Colvin No. 1
Field: N/A
County: Tuscarawas
Purchaser: The East Ohio Gas Company
Volume: 7 MMcf.

FERC Control Number: JD79-2807
API Well Number: 3415722735**14
Section of NGPA: 108
Operator: Industrial Gas Associates
Well Name: J.F. Ladrach No. 1
Field: N/A
County: Tuscarawas
Purchaser: The East Ohio Gas Company
Volume: 15. MMcf.

FERC Control Number: JD79-2808
API Well Number: 3407521448**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Levi Miller Unit #1-22
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission
Volume: 2 MMcf.

FERC Control Number: JD79-2809
API Well Number: 3403122241**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Ralph E. Pollock #1

Northern Natural Gas Co.; Notice of Further Extension of Time

April 23, 1979.

On April 2, 1979, Northern Natural Gas Company filed a motion for further extension of time for the filing of its case-in-chief. The motion states that the Commission's order of March 14, 1979, greatly expands the scope of the evidentiary hearing so that Northern requires additional time to prepare its case-in-chief adequately. The motion states that Staff Counsel and intervenors have no objection to the request.

Upon consideration, notice is hereby given that an extension of time is granted to and including June 12, 1979, for Northern to file and serve its case-in-chief. Staff shall prepare and serve its statement of position on or before August 10, 1979.

Lois D. Cashell,
Acting Secretary.

[Docket No. RP71-107 (Phase II) (PGA79-1, R&D 79-1)]
[FR Doc. 79-13621 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

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Field: West Lafayette
County: Coshocton
Purchaser: Columbia Gas Transmission
Volume: 1 MMcf.

FERC Control Number: JD79–2810
API Well Number: 3416921620**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: R. Miller #2
Field: Mt. Eaton
County: Wayne
Purchaser: Columbia Gas Transmission
Volume: 3.8 MMcf.

FERC Control Number: JD79–2811
API Well Number: 3415122389**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Alice N. Grove Unit # 11376
Field: Wilmot
County: Stark
Purchaser: Columbia Gas Transmission
Volume: 3.2 MMcf.

FERC Control Number: JD79–2812
API Well Number: 3407521489**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: E. Raber Unit #1–10
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission
Volume: 3.9 MMcf.

FERC Control Number: JD79–2813
API Well Number: 3407521680**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: M.B. Raber & L.N. Yoder #11399
Field: Walnut Creek
County: Holmes
Purchaser: Columbia Gas Transmission
Volume: 5.9 MMcf.

FERC Control Number: JD79–2814
API Well Number: 3407521681**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: M. E. Miller & L. N. Yoder #11397
Field: Walnut Creek
County: Holmes
Purchaser: Columbia Gas Transmission
Volume: .3 MMcf.

FERC Control Number: JD79–2815
API Well Number: 3403122858**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Klines Kaser #1
Field: Warsaw
County: Coshocton
Purchaser: Columbia Gas Transmission
Volume: 1.3 MMcf.

FERC Control Number: JD79–2816
API Well Number: 3407521598**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Joseph E. Miller #11283
Field: Benton
County: Holmes
Purchaser: Columbia Gas Transmission
Volume: 1.1 MMcf.

FERC Control Number: JD79–2817
API Well Number: 3407522091**14
Section of NGPA: 108
Operator: Roscoe Baker
Well Name: Robert P. & S. Darline Baker #5–B
Field: N/A
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: .46 MMcf.

FERC Control Number: JD79–2818
API Well Number: 3407520797**14
Section of NGPA: 108
Operator: Roscoe Baker
Well Name: Robert P. & S. Darline Baker #1–C
Field: N/A
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.85 MMcf.

FERC Control Number: JD79–2819
API Well Number: 3407521665**14
Section of NGPA: 108
Operator: Roscoe Baker
Well Name: Robert P. & S. Darline Baker #1–B
Field: N/A
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: .46 MMcf.

FERC Control Number: JD79–2820
API Well Number: 3407521679**14
Section of NGPA: 108
Operator: Roscoe Baker
Well Name: Robert P. & S. Darline Baker #2–B
Field: N/A
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: .46 MMcf.

FERC Control Number: JD79–2821
API Well Number: 3407521698**14
Section of NGPA: 108
Operator: Roscoe Baker
Well Name: Robert P. & S. Darline Baker #3–B
Field: N/A
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: .46 MMcf.

FERC Control Number: JD79–2822
API Well Number: 3407521890**14
Section of NGPA: 108
Operator: Morgan-Pennington, Inc.
Well Name: Davenport No. 1
Field: N/A
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: N/A

FERC Control Number: JD79–2823
API Well Number: 3405320198**14
Section of NGPA: 108
Operator: Neill C. Flemister, Jr.
Well Name: Marjorie Thompson #1
Field: N/A
County: Gallia
Purchaser: Columbia
Volume: 13 MMcf.

FERC Control Number: JD79–2824
API Well Number: 34–11923121**14
Section of NGPA: 108
Operator: Dal–Ken Corporation
Well Name: Gene C. Swingly #1
Field: N/A
County: Muskingum
Purchaser: National Gas & Oil Corp.
Volume: 14.148 MMcf.

FERC Control Number: JD79–2825
API Well Number: 34–03123151**14
Section of NGPA: 108
Operator: Jadeoil, Inc.
Well Name: Henry E. & Shirley C. Gehrke #1
Field: N/A
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 10 MMcf.

FERC Control Number: JD79–2826
API Well Number: 34–15320586**14
Section of NGPA: 103
Operator: The Goodyear Tire & Rubber Company
Well Name: Goodyear — Stow #2
Field: N/A
County: Summit
Purchaser: East Ohio Gas Co.
Volume: 130 MMcf.

FERC Control Number: JD79–2827
API Well Number: 34–3415320585**14
Section of NGPA: 103
Operator: The Goodyear Tire & Rubber Company
Well Name: Goodyear—Stow #1
Field: N/A
County: Summit
Purchaser: East Ohio Gas Co.
Volume: 45 MMcf.

FERC Control Number: JD79–2828
API Well Number: 34–15520730**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: D. & M. Bultar #3
Field: N/A
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 32.4 MMcf.

FERC Control Number: JD79–2829
API Well Number: 34–15521013**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: J. & M. DeNiro Unit #1
Field: N/A
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 21.6 MMcf.

FERC Control Number: JD79–2830
API Well Number: 34–08322359**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Edgar Dougeon #1
Field: N/A
County: Knox
Purchaser: Columbia Gas Transmission Corp.
Volume: 5 MMcf.

FERC Control Number: JD79–2831
API Well Number: 34–08322417**14
Section of NGPA: 103
Operator: Reliance Management Co
Well Name: Charles Elliott #2
Field: N/A
County: Knox
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 MMcf.

FERC Control Number: JD79–2832
API Well Number: 34–08322542**14
Section of NGPA: 103
Operator: Reliance Management Co
Well Name: Charles Elliott #3
Field: N/A
County: Knox
Purchaser: Columbia Gas Transmission Corp.
Volume: 10 MMcf.

FERC Control Number: JD79–2833

API Well Number: 34–3406322544**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Charles Elliott #4
Field: N/A
County: Knox
Purchaser: Columbia Gas Transmission Corp
Volume: 15 MMcf.

FERC Control Number: JD79–2834
API Well Number: 34–15520641**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: I.D. Creed #1
Field: N/A
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 32.4 MMcf.

FERC Control Number: JD79–2835
API Well Number: 34–15521025**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: Gifford—Creed Unit #4
Field: N/A
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 39.6 MMcf.

FERC Control Number: JD79–2837
API Well Number: 34–15520628**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: T. & C. James #1
Field: N/A
County: Trumball
Purchaser: East Ohio Gas Co.
Volume: 18 MMcf.

FERC Control Number: JD79–2836
API Well Number: 3415520629**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: Gifford Creed Unit #3
Field: N/A
County: Trumbull
Purchaser: East Ohio Co..
Volume: 39.6 MMcf.

FERC Control Number: JD79–2838
API Well Number: 34–15520630**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: Giffort Creed Unit #2
Field: N/A
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 39.6 MMcf.

FERC Control Number: JD79–2939
API Well Number: 34–15520632**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: Gifford Creed Unit #1
Field: N/A
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 39.6 MMcf.

FERC Control Number: JD79–2840
API Well Number: 34–15520972**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: E. & J. Foltz #1
Field: N/A
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 10.8 MMcf.

FERC Control Number: JD79–2841
API Well Number: 34–11924434**14
Section of NGPA: 103
Operator: Partners Oil Company
Well Name: No. 1 Carpenter
Field: N/A
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 890 MMcf.

FERC Control Number: JD79–2842
API Well Number: 34–01921214**14
Section of NGPA: 103
Operator: L & M Exploration, Inc.
Well Name: #1 D. Micheal Smith
Field: N/A
County: Carroll
Purchaser: Bonanza Gas Line.
Volume: 5000 MMcf.

FERC Control Number: JD79–2843
API Well Number: 34–01921215**14
Section of NGPA: 103
Operator: L & M Exploration
Well Name: McFarland #1
Field: N/A
County: Carroll
Purchaser: Bonanza Gas Line.
Volume: 6000 MMcf.

FERC Control Number: JD79–2844
API Well Number: 3401921008**14
Section of NGPA: 103
Operator: L & M Exploration
Well Name: Huff #1
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 7300 MMcf.

FERC Control Number: JD79–2845
API Well Number: 3401921216**14
Section of NGPA: 103
Operator: L & M Exploration
Well Name: McFarland #2
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 6000 MMcf.

FERC Control Number: JD79–2846
API Well Number: 3401921181**14
Section of NGPA: 103
Operator: L & M Exploration
Well Name: Merrick #1
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 900 MMcf.

FERC Control Number: JD79–2847
API Well Number: 3401921128**14
Section of NGPA: 103
Operator: L & M Exploration
Well Name: McIntosh #1
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 8000 MMcf.

FERC Control Number: JD79–2848
API Well Number: 3401921175**14
Section of NGPA: 103
Operator: L & M Exploration
Well Name: McIntosh #3
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 6000 MMcf.

FERC Control Number: JD79–2849
API Well Number: 3405520278**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Lewin #1 #0278
Field: NA
County: Gauga Co
Purchaser: No Contract
Volume: 0.784. MMcf.

FERC Control Number: JD79–2850
API Well Number: 3401921144**14
Section of NGPA: 103
Operator: L & M Exploration Inc.
Well Name: Otte 7–B
Field: NA
County: Carroll
Purchaser: Bonanza Gas Line
Volume: 2000 MMcf.

FERC Control Number: JD79–2851
API Well Number: 3407322000**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Sunday Creek Coal #23R
Field: NA
County: Hocking
Purchaser: Columbia Gas Transmission Corp.
Volume: 10 MMcf.

FERC Control Number: JD79–2852
API Well Number: 3415520689**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: D. & P. Bruno #1
Field: NA
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 14.4 MMcf.

FERC Control Number: JD79–2853
API Well Number: 3415520731**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: D. M. Butler #1
Field: NA
County: Trumbull
Purchaser: East Ohio Co.
Volume: 21.6 MMcf.

FERC Control Number: JD79–2854
API Well Number: 3415530729**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: D. & M. Butler #2
Field: NA
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 32.4 MMcf.

FERC Control Number: JD79–2855
API Well Number: 340732201**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Sunday Creek Coal Co. #24 R
Field: NA
County: Hocking
Purchaser: Columbia Gas Transmission Corp.
Volume: 5 MMcf.

FERC Control Number: JD79–2856
API Well Number: 34075220388**14
Section of NGPA: 103
Operator: Buckeye Oil Producing Co.
Well Name: Wogamot 38#1
Field: NA
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 4 MMcf.

FERC Control Number: JD79–2857
API Well Number: 3407322041**14
Section of NGPA: 103
Operator: Reliance Management Co.

Well Name: Sunday Creek Coal Co. #32 R
Field: NA
County: Hocking
Purchaser: Columbia Gas Transmission Corp.
Volume: 10 MMcf.

FERC Control Number: JD79–2858
API Well Number: 3407321966**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Sunday Creek Coal #22 R
Field: NA
County: Hocking
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 MMcf.

FERC Control Number: JD79–2859
API Well Number: 3407322060**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Sunday Creek Coal Co. #34 R
Field: NA
County: Hocking
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 MMcf.

FERC Control Number: JD79–2860
API Well Number: 3407322076**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Sunday Creek Coal Co. #36 R
Field: NA
County: Hocking
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 MMcf.

FERC Control Number: JD79–2861
API Well Number: 3407322090**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Sunday Creek Coal Co. #38R
Field: NA
County: Hocking
Purchaser: Columbia Gas Transmission Corp.
Volume: 7 MMcf.

FERC Control Number: JD79–2862
API Well Number: 3411924048**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Martha Roll #2
Field: NA
County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 3 MMcf.

FERC Control Number: JD79–2863
API Well Number: 3408322382**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Gerard Eisma #3
Field: NA
County: Knox
Purchaser: Columbia Gas Transmission Corp.
Volume: 3 MMcf.

FERC Control Number: JD79–2864
API Well Number: 3403123060**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Ethel Reese #3
Field: NA
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 3 MMcf.

FERC Control Number: JD79–2865
API Well Number: 3408322548**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Charles Elliott #5
Field: NA
County: Knox
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79–2866
API Well Number: 3408322466**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Forrest Davidson #2
Field: NA
County: Knox
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79–2867
API Well Number: 3407322017**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Sunday Creek Coal Co. #25R
Field: NA
County: Hocking
Purchaser: Columbia Gas Transmission Corp.
Volume: 15 MMcf.

FERC Control Number: JD79–2868
API Well Number: 3407322021**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Sunday Creek Coal Co. #27R
Field: NA
County: Hocking
Purchaser: Columbia Gas Transmission Corp.
Volume: 10 MMcf.

FERC Control Number: JD79–2869
API Well Number: 3407322028**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Sunday Creek Coal Co. #28R
Field: NA
County: Hocking
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 MMcf.

FERC Control Number: JD79–2870
API Well Number: 3415521116**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: A. Abrutz & J. Damato Unit #1
Field: NA
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 25.2 MMcf.

FERC Control Number: JD79–2871
API Well Number: 3404520566**14
Section of NGPA: 103
Operator: Reliance Management Co.
Well Name: Galon Rodabaugh #1
Field: NA
County: Fairfield
Purchaser: Columbia Gas Transmission Corp.
Volume: 12 MMcf.

FERC Control Number: JD79–2872
API Well Number: 3413321170**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: A. & W. Rothermal #1
Field: NA
County: Portage
Purchaser: East Ohio Gas Co.
Volume: 39.6 MMcf.

FERC Control Number: JD79–2873
API Well Number: 3415520623**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: Price Unit #1
Field: NA
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 54 MMcf.

FERC Control Number: JD79–2874
API Well Number: 3415521034**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: William Powell Unit #1
Field: NA
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 23.4 MMcf.

FERC Control Number: JD79–2875
API Well Number: 3415520766**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: H. Schlact et al #2
Field: NA
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 5.2 MMcf.

FERC Control Number: JD79–2876
API Well Number: 3415520736**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: H. Schlact et al #1
Field: NA
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 5.1 MMcf.

FERC Control Number: JD79–2877
API Well Number: 3415521036**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: William Powell #1
Field: NA
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 7.2 MMcf.

FERC Control Number: JD79–2878
API Well Number: 3415521095**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: Margret Ann Mealy #1
Field: NA
County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 21.6 MMcf.

FERC Control Number: JD79–2879
API Well Number: 3413321172**14
Section of NGPA: 103
Operator: Berea Oil and Gas Corporation
Well Name: W. & H. Mangold #1
Field: NA
County: Portage
Purchaser: East Ohio Gas Co.
Volume: 7.5 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-13827 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

Public Service Co. of Indiana, Inc.; Notice of Compliance Filing

April 26, 1979.

Take notice that on March 29, 1979, Public Service Company of Indiana, Inc. (PSCI) tendered for filing revised FERC Electric Tariff Second Revised Exhibit I (Rate Schedule FERC No. 222). PSCI indicates that this filing is made in compliance with Ordering Paragraph (D) of the Commission's Order dated November 9, 1978.

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket Nos. ER79-349 and E-8237]
[FR Doc. 79-13822 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

Public Service Co. of Indiana, Inc.; Notice of Tariff Change

April 26, 1979.

The filing Company submits the following:

Take notice that Public Service Company of Indiana, Inc. on April 23, 1979 tendered for filing a Notice of Cancellation of Service Schedule F—Fuel Conservation Power And Energy contained in Modification No. 2 of the Interconnection Agreement between Indiana & Michigan Electric Company and Public Service Company of Indiana, Inc.

Service Schedule F, by its own terms, was cancelled on December 31, 1974. Public Service Company of Indiana, Inc. has requested waiver of the notice requirements under Section 35.11 of the Commission's Regulations in order that the effective date of such Cancellation be December 31, 1974.

Copies of the filing were served upon Indiana & Michigan Electric Company and the Public Service Company of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulation Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Energy Regulatory Commission.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-334]
[FR Doc. 79-13823 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 12, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Montana Board of Oil and Gas Conservation

FERC Control Number: JD79–5140
API Well Number: 25–041–21007
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Anderson 30–11–31–18
Field: Bullhook Unit—Tiger Ridge
County: Hill
Purchaser: Northern Natural Gas Company.
Volume: 11.4 MMcf.

FERC Control Number: JD79–5141
API Well Number: 25–041–21890
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Beck 4–6–31–15
Field: Bullhook Unit—Tiger Ridge
County: Hill
Purchaser: Northern Natural Gas Company
Volume: 18 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-13820 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 16, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Montana Department of Natural Resources and Conservation Board of Oil and Gas Conservation

FERC Control Number: JD79–5194
API Well Number: 25–005–21143
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Shankle 21–11–31–18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 18 MMcf.

FERC Control Number: JD79–5195
API Well Number: 25–005–21516
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Loney 1–4–31–18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 3.6 MMcf.

FERC Control Number: JD79–5196
API Well Number: 25–083–21185
Section of NGPA: 103
Operator: The Brikeroff Company
Well Name: Bond #1
Field: South Branson Red River
County: Richland
Purchaser: Montana-Dakota Utilities Co.
Volume: 3285 MMcf.

FERC Control Number: JD79–5197
API Well Number: 25–005–21829
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: S-B Ranch 21–13–31–18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 13.2 MMcf.

FERC Control Number: JD79–5198

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API Well Number: 25-005-21777
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Finch 2-10-31-18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 1.2 MMcf.

FERC Control Number: JD79-5199
API Well Number: 25-041-22041
Section of NGPA: 103
Operator: Tricentrol United States, Inc.
Well Name: Nystrom 2-8X-30-15
Field: Bullhook Unit-Tiger Ridge
County: Hill
Purchaser: Northern Natural Gas Company
Volume: 365 MMcf.

FERC Control Number: JD79-5200
API Well Number: 25-005-21413
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Vercruyssen 19-2-31-18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 17.5 MMcf.

FERC Control Number: JD79-5201
API Well Number: 25-005-21187
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: State 16-11-31-18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 10.5 MMcf.

FERC Control Number: JD79 5202
API Well Number: 25-015-21419
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Campbell 8-32-28-17
Field: Sherard
County: Chouteau
Purchaser: Northern Natural Gas Company
Volume: 1.9 MMcf.

FERC Control Number: JD79 5203
API Well Number: 25-005-21403
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Hofeldt 10-2-30-18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 12 MMcf.

FERC Control Number: JD79 5204
API Well Number: 25-005-21638
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Risely 11-6-31-18
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 3 MMcf.

FERC Control Number: JD79 5205
API Well Number: 25-005-21144
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Olson 23-7-31-17
Field: Tiger Ridge
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 4.8 MMcf.

FERC Control Number: JD79 5206
API Well Number: 25-005-21256
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Robinson 11C-34-28-19
Field: Sherard Unit
County: Blaine
Purchaser: Northern Natural Gas Company
Volume: 17 MMcf.

FERC Control Number: JD79 5207
API Well Number: 25-041-21811
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: Falk 3-1-31-14
Field: Tiger Ridge BHNU
County: Hill
Purchaser: Northern Natural Gas Company
Volume: 2.0 MMcf.

FERC Control Number: JD79 5208
API Well Number: 25-041-21842
Section of NGPA: 108
Operator: Tricentrol United States, Inc.
Well Name: State 29-1-32-15
Field: Bullhook Unit—Tiger Ridge
County: Hill
Purchaser: Northern Natural Gas Company
Volume: 19.8 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 17, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-13630 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

Tucson Gas & Electric Co.; Notice of Cancellation

April 26, 1979.

Take notice that Tucson Gas & Electric Company on April 18, 1979 tendered for filing a notice of cancellation, proposed to be effective April 30, 1979, of Supplement No. 1 to Supplement No. 4 to Rate Schedule FPC No. 10, effective date July 1, 1976, involving Arizona Power Cooperative.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-323]
[FR Doc. 79-13624 Filed 5-1-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Environmental Criteria and Assessment Office

Health Assessment Document for Tetrachloroethylene (Perchloroethylene); Availability of External Review Draft

The U.S. Environmental Protection Agency will make available on May 18, 1979, an external review draft of a Health Assessment Document for Tetrachloroethylene (Perchloroethylene). Address all written requests for copies to the Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711 (Attn: Ms. Diane Chappell). Telephone 919/541-3748, and a prerecorded message will provide instructions for placing a telephone request.

The Agency welcomes all comments pertaining to this document. The deadline for receipt of comments is July 18, 1979. Direct comments to Mark M. Greenberg of the address given above.

Dated: April 26, 1979.

Stephen J. Gage,
Assistant Administrator for Research and Development.

[Docket No. ECAO-HA-78-3; FRL 1215-1]
[FR Doc. 79-13672 Filed 5-01-79; 8:45 am]
BILLING CODE 6560-01-M

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 3125-EUP-146. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experimental use permit allows the use of 3,000 pounds of the insecticide 1-methylethyl 2-[[ethoxy[(1-methylethyl)amino]phosphinothioyl]oxy] benzoate on field corn to evaluate control of corn rootworm. A total of 2,500 acres is involved. The experimental use permit is effective from March 28, 1979 to March 25, 1980.

No. 3125-EUP-147. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experimental use permit allows the use of 750 pounds of the insecticide 1-methylethyl 2-[[ethoxy[(1-methylethyl)amino]phosphinothioyl]oxy] benzoate on field corn to evaluate control of corn rootworm. A total of 750 acres is involved. The experimental use permit is also effective from March 28, 1979 to March 28, 1980.

No. 3125-EUP-148. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experimental use permit allows the use of 5,000 pounds of the insecticide 1-methylethyl 2-[[ethoxy[(1-methylethyl)amino]phosphinothioyl]oxy] benzoate on field corn to evaluate control of corn rootworm. A total of 5,000 acres is involved; this program and the two above are authorized only in the States of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Pennsylvania, South Dakota, Texas, Virginia, and Wisconsin. This experimental use permit is also effective from March 28, 1979 to March 28, 1980. The permits will use the same active ingredient, but different formulations. A temporary tolerance for residues of the active ingredient in or on corn grain (except popcorn) has been established. (PM-16, Room: E-229, Telephone: 202/755-8915)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Statutory Authority.—Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: April 24, 1979.

Douglas D. Campt,
Acting Director, Registration Division.

[FRL 1215-2; OPP-30422]
[FR Doc. 79-13671 Filed 5-01-79; 8:45 am]
BILLING CODE 6560-01-M

methylethyl 2-[[ethoxy[(1-methylethyl)amino]phosphinothioyl]oxy] benzoate on field corn to evaluate control of corn rootworm. A total of 2,500 acres is involved. The experimental use permit is effective from March 28, 1979 to March 25, 1980.

No. 3125-EUP-147. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experimental use permit allows the use of 750 pounds of the insecticide 1-methylethyl 2-[[ethoxy[(1-methylethyl)amino]phosphinothioyl]oxy] benzoate on field corn to evaluate control of corn rootworm. A total of 750 acres is involved. The experimental use permit is also effective from March 28, 1979 to March 28, 1980.

No. 3125-EUP-148. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experimental use permit allows the use of 5,000 pounds of the insecticide 1-methylethyl 2-[[ethoxy[(1-methylethyl)amino]phosphinothioyl]oxy] benzoate on field corn to evaluate control of corn rootworm. A total of 5,000 acres is involved; this program and the two above are authorized only in the States of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Pennsylvania, South Dakota, Texas, Virginia, and Wisconsin. This experimental use permit is also effective from March 28, 1979 to March 28, 1980. The permits will use the same active ingredient, but different formulations. A temporary tolerance for residues of the active ingredient in or on corn grain (except popcorn) has been established. (PM-16, Room: E-229, Telephone: 202/755-8915)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Statutory Authority.—Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: April 24, 1979.

Douglas D. Campt,
Acting Director, Registration Division.

[FRL 1215-2; OPP-30422]
[FR Doc. 79-13671 Filed 5-01-79; 8:45 am]
BILLING CODE 6560-01-M

Pesticide Programs; Receipt of Application to Register Pesticide Product Entailing a Changed Use Pattern

Elanco Products Co., PO Box 1750, Indianapolis, IN 46206, has submitted to the Environmental Protection Agency (EPA) an application to amend the registration of the product GRASLAN 20P (EPA Reg. No. 1471-109) containing 20 % of the active ingredient tebuthiuron (*N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N'*-dimethylurea). The application received from Elanco Products Co. proposes that the use of pattern of this pesticide be changed to include use on rangeland. The application also proposes that the product be classified for general use.

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW., Washington DC 20460. The comments must be received by June 1, 1979 and should bear a notation indicating the EPA Reg. No. "1471-109". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application and the data submitted should be directed to Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, at the above address or by telephone at 202/755-2196. The label furnished by Elanco Products Co., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Notice of approval or denial of this application to register GRASLAN 20P will be announced in the Federal Register. Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the Federal Register if an application is approved.

Dated April 27, 1979.

Douglas D. Campt,
Director, Registration Division.

[FRL 1215-7; OPP-30423]
[FR Doc. 79-13670 Filed 5-1-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL RESERVE SYSTEM

American National Creighton Co.; Formation of Bank Holding Company

April 24, 1979.

American National Creighton Company, Creighton, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 95 per cent or more of the voting shares of The American National Bank of Creighton, Creighton, Nebraska. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than May 23, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 23, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-13672 Filed 5-1-79; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than May 23, 1979.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

Manufacturers Hanover Corporation, New York, New York (finance and insurance activities; Indiana): to engage, through its subsidiary, The Financial Source, Inc., of Indiana, in arranging, making or acquiring loans and other extensions of credit such as would be made by a consumer finance company; making or acquiring loans and other extensions of credit such as would be made by a sales finance company, including purchasing installment sales finance contracts; servicing any such loans and other extensions of credit; and acting as agent or broker for the sale of life and accident and health insurance directly related to its extensions of credit and for the sale of property damage and liability insurance insuring collateral securing loans and other extensions of credit made directly by the subsidiary or securing sales finance contracts entered into by the subsidiary directly. These activities would be conducted from an office in Corydon, Indiana, serving Harrison and Crawford Counties, Indiana.

B. *Federal Reserve Bank of Kansas City*, 925 Grand Avenue, Kansas City, Missouri 64198:

Commerce Bancshares, Inc., Kansas City, Missouri (insurance activities; Arkansas, Illinois, Iowa, Kansas, Missouri, Nebraska, Oklahoma): to act, through its subsidiary, CBI Insurance Agency, Inc., as agent or broker for the sale of certain property and casualty insurance directly related to extensions of credit by its bank and nonbank subsidiaries. These activities would be conducted from an office in Kansas City, Missouri, and from the offices of the applicant's bank and nonbank subsidiaries in Cassville, Bolivar, Bonne Terre, Brunswick, Columbia, Conway, Desloge, Excelsior Springs, Fenton, Festus, Florissant, Grandview, Hannibal, Harrisonville, Independence, Joplin, Kahoka, Kansas City, Kirksville, Kirkwood, Lebanon, Lexington, Martin City, Mendon, Mexico, Moberly, Poplar Bluff, St. Charles, St. Joseph, St. Louis, Springfield, Tipton, University City, and Willard, Missouri, and the geographic areas to be served are Missouri, 19 counties in Kansas; ten each in Arkansas and Illinois, eight in Iowa, four in Oklahoma, and two in Nebraska.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, April 25, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-13573 Filed 5-1-79; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, unless otherwise noted, received by the appropriate Federal Reserve Bank not later than May 23, 1979.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

Manufacturers Hanover Corporation, New York, New York (finance activities; Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee): to engage, through a subsidiary, manufacturers Hanover Commercial Corporation (Del.), in making or acquiring loans and other extensions of credit such as would be made by a commercial finance company; and arranging or servicing such loans and other extensions of credit for any person. These activities would be conducted from an office in Atlanta, Georgia, serving the seven states listed in the caption to this notice.

B. *Federal Reserve Bank of Kansas City*, 925 Grand Avenue, Kansas City Missouri 64198:

First National Bancshares of Dodge City, Inc., Dodge City, Kansas (insurnace activities; Kansas): to engage *de novo* as agent or broker for the sale of life, accident and health, and property and casualty insurance directly related to extensions of credit by its subsidiary banks; and in the sale of any insurance for its subsidiary banks. These activities would be conducted from the premises of the applicant's subsidiary bank, First National Bank and Trust Company in Dodge City, and the geographic areas to be served are Ford, Gray, Hodgeman, Meade, Clark, Edwards, and Kiowa Counties, Kansas. Comments on this application must be received by the Federal Reserve Bank of Kansas City not later than May 17, 1979.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, April 23, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-13574 Filed 5-1-79; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than May 24, 1979.

A. *Federal Reserve Bank of Minneapolis*, 250 Marquette Avenue, Minneapolis, Minnesota 55480:

First Bank System, Inc., Minneapolis, Minnesota (mortgage banking activities, Oklahoma): to engage, through its subsidiaries, FBS Homes, Inc., and FBS Financial, Inc., in mortgage banking, including the origination, purchase, sale, and servicing of real estate mortgage loans. These activities would be conducted from an office in Tulsa, Oklahoma, serving the northeast quarter of Oklahoma.

B. *Federal Reserve Bank of Kansas City*, 925 Grand Avenue, Kansas City, Missouri 64198:

Tipton Bancorporation, Inc., Tipton, Oklahoma (insurance activities; Oklahoma): to provide, through its subsidiaries, First Tipton Insurance Agency, Inc., and First Tipton Business Trust, life and accident and health insurance directly related to extensions of credit by the applicant's subsidiary bank, First National Bank of Tipton. These activities would be conducted from the bank's premises in Tipton, Oklahoma, and the geographic area to be served is the northwest part of Tillman County, Oklahoma.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, April 24, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.
[FR Doc. 79-13575 Filed 5-1-79; 8:45 am]
BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of March 20, 1979

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on March 20, 1979.[1]

The information reviewed at this meeting suggests that in the current quarter growth in real output of goods and services has moderated from the rapid rate in the last quarter of 1978, while the rise in prices has accelerated. In January and February the dollar value of total retail sales rose slightly further. Nonfarm payroll employment continued to expand over the two-month period, but in part because of severe weather, industrial production increased little. The unemployment rate in February, at 5.7 percent, was virtually unchanged from its level in January and in late 1978. Over recent months, on balance, the index of average hourly earnings has continued to rise rapidly.

The trade-weighted value of the dollar against major foreign currencies has shown no net change since early February. The U.S. trade deficit in January was larger than the monthly average in the fourth quarter of 1978, to some extent because of a bulge in imports of oil.

M–1 declined in both January and February, in part because of the continuing effects of the growth of the automatic transfer service. With market interest rates continuing high, inflows of the interest-bearing deposits included in M–2 and M–3 remained at reduced levels, despite substantial flows into money market certificates at both commercial banks and nonbank thrift institutions. Over the two months, consequently, M–2 changed little and M–3 grew at a relatively slow rate. The behavior of all three monetary aggregates was affected by shifts of funds from deposits to money market mutual funds and other liquid assests. Most market interest rates have risen in recent weeks, after having declined in January.

Taking account of past and prospective developments in employment, unemployment, production, investment, real income, productivity, international trade and payments, and prices, it is the policy of the Federal Open Market Committee to foster monetary and financial conditions that will resist inflationary pressures while encouraging moderate economic expansion and contributing to a sustainable pattern of international transactions. The Committee agreed that these objectives would be furthered by growth of M–1, M–2, and M–3 from the fourth quarter of 1978 to the fourth quarter of 1979 within ranges of 1½ to 4½ percent, 5 to 8 percent, and 6 to 9 percent, respectively. The associated range for bank credit is 7½ to 10½ percent. These ranges will be reconsidered in July or at any time as conditions warrant.

In the short run, the Committee seeks to achieve bank reserve and money market conditions that are broadly consistent with the longer-run ranges for monetary aggregates cited above, while giving due regard to the program for supporting the foreign exchange value of the dollar and to developing conditions in domestic financial markets. Early in the period before the next regular meeting, System open market operations are to be directed at maintaining the weekly average federal funds rate at about the current level. Subsequently, operations shall be directed at maintaining the weekly average federal funds rate within the range of 9¾ to 10½ percent. In deciding on the specific objective for the federal funds rate the Manager shall be guided mainly by the relationship between the latest estimates of annual rates of growth in the March-April period of M–1 and M–2 and the following ranges of tolerance: 4 to 8 percent for M–1 and 3½ to 7½ percent for M–2. If, with approximately equal weight given to M–1 and M–2, their rates of growth appear to be significantly above or below the midpoints of the indicated ranges, the objective for the funds rate is to be raised or lowered in an orderly fashion within its range.

If the rates of growth in the aggregates appear to be above the upper limit or below the lower limit of the indicated ranges at a time when the objective for the funds rate has already been moved to the corresponding limit of its range, the Manager will promptly notify the Chairman, who will then decide whether the situation calls for supplementary instructions from the Committee.

By order of the Federal Open Market Committee, April 20, 1979.

Murray Altmann,
Secretary.
[FR Doc. 79-13562 Filed 5-1-79; 8:45 am]
BILLING CODE 6210-01-M

[1] The Record of Policy Actions of the Committee for the meeting of March 20, 1979 is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

First Newman Grove Bankshares Corp.; Formation of Bank Holding Company

First Newman Grove Bankshares Corp., Newman Grove, Nebraska, has applied for the Board's approval under

section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of The First National Bank of Newman Grove, Newman Grove, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 25, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 25, 1979.

Edward T. Mulvania,
Assistant Secretary of the Board.

[FR Doc. 79-13570 Filed 5-1-79; 8:45 am]

BILLING CODE 6210-01-M

Independent Bankshares Corp.; Acquisition of Bank

Independent Bankshares Corporation, San Rafael, California, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(3)) to acquire 100 percent of the voting shares of Gold Country Bank, Grass Valley, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that area in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 24, 1979.

Edward T. Mulvania,
Assistant Secretary of the Board.

[FR Doc. 79-13577 Filed 5-1-79; 8:45 am]

BILLING CODE 6210-01-M

Southeast Bancorporation; Formation of Bank Holding Company

Southeast Bancorporation, Minneapolis, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of First American State Bank of Grand Meadow, Grand Meadow, Minnesota. The factors that are considered in acting in the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than May 23, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 23, 1979.

Edward T. Mulvania,
Assistant Secretary of the Board.

[FR Doc. 79-13578 Filed 5-1-79; 8:46 am]

BILLING CODE 6210-01-M

The Charles Stewart Mott Foundation; Nonbanking Activities

The Charles Stewart Mott Foundation, Flint, Michigan, has applied, pursuant to section 4(d) of the Bank Holding Company Act (12 U.S.C. 1843(d)), for an exemption from the provisions of the Act limiting the nonbanking activities of a bank holding company. Applicant controls The Wayne Oakland Bank, Royal Oak, Michigan.

Under section 4(d), the exemption may be granted "(1) to avoid disrupting business relationships that have existed over a long period of years without adversely affecting the banks or communities involved, or (2) to avoid forced sales of small locally owned banks to purchasers not similarly representative of community interests, or (3) to allow retention of banks that are so small in relation to holding company's total interests and so small in relation to the banking market to be served as to minimize the likihood that the bank's power to grant or deny credit may be influenced by a desire to further the holding company's other interests."

Interested persons may express their views on this matter. The application may be inspected at the offices of the Board of Governors or at the the Federal Reserve Bank of Chicago. Any request for a hearing on this matter should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for a hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 25, 1979.

Board of Governors of the Federal Reserve System, April 25, 1979.

Edward T. Mulvania,
Assistant Secretary of the Board.

[FR. Doc. 79-13569 Filed 5-1-79; 8:45 am]

BILLING CODE 6210-01-M

Third Bancshares Corp.; Formation of Bank Holding Company

Third Bancshares Corporation, Sedalia, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 50 per cent or more of the voting shares of Third National Bank, Sedalia, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 21, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 23, 1979.

Edward T. Mulvania,
Assistant Secretary of the Board.

[FR Doc. 79-13579 Filed 5-1-79; 8:45 am]

BILLING CODE 6210-01-M

Wells Fargo & Co.

Wells Fargo & Company, San Francisco, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage, through a subsidiary known as Central Western Insurance Company, in underwriting (pursuant to a reinsurance agreement) credit life insurance which is directly related to extensions of credit in Arizona by the Arizona offices of Applicant and its subsidiaries. These activities would be conducted from offices in the following cities: Scottsdale, Arizona; Marina del Rey, California; and San Francisco, California, and the geographic area to be served is Arizona. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 23, 1979.

Board of Governors of the Federal Reserve System, April 25, 1979.

Edward T. Mulvania,
Assistant Secretary of the Board.

[FR Doc. 79-13581 Filed 5-1-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

Portion, Boron Air Force Station, Boron, Calif., D-Cali-1099; Transfer of Property

Pursuant to section 2 of Pub. L. 357, Eightieth Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the United States of America dated July 6, 1978, and recorded January 10, 1979, the property comprising approximately 640 acres of unimproved land identified as a portion, Boron Air Force Station, Boron, California, has been conveyed to the State of California.

2. The above-described property was conveyed for wildlife conservation purposes in accordance with the provisions of Section 1 of said Pub. L. 80-537 (16 U.S.C. 667b), as amended by Pub. L. 92-432.

Dated: April 24, 1979.

Ray Mathis,
Commissioner, Federal Property Resources Service.

[Wildlife Order 236]

[FR Doc. 79-13585 Filed 5-1-79; 8:45 am]

BILLING CODE 6820-96-M

Proposed Intervention in Utility Rate Proceeding, Massachusetts Department of Public Utilities, Boston Edison Co.

The Acting Administrator of General Services seeks to intervene in a proceeding before the Massachusetts Department of Public Utilities involving an application of the Boston Edison Company for an increase in rates charged for retail electric service. The Administrator of General Services represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW., Washington, D.C. 20405, telephone (202) 566-0726, on or before June 1, 1979, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, (40 U.S.C. 481(a)(4))

Dated: April 20, 1979.

Paul E. Goulding,
Acting Administrator of General Services.

[Intervention Notice 68; Docket No. DPU 19881]

[FR Doc. 79-13584 Filed 5-1-79; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary of Health

Health Maintenance Organizations; January List

Correction

In F.R. Doc. 79-12860 appearing at page 24239 in the issue of Tuesday, April 24, 1979, the zip code tables should be corrected as follows:

1. Page 24240:

Orange County: column 7, line 5 should read 92686 instead of 92668.

Orange County: column 8, line 4 should read 92667 instead of 92677.

2. Page 24241, The second large table of zip codes, beginning with "Change to": the second column, line 19 should read 90640 instead of 90740.

BILLING CODE 4110-85-M

Health Care Technology Study Section et al.; Notice of Renewals

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463 (5 U.S.C. Apendix I), the Office of the Assistant Secretary for Health announces the renewal by the Secretary, HEW, with Concurrence by the General Services Administration, of the following advisory committees:

Designation: Health Care Technology Study Section.

Purpose: The Study Section shall advise the secretary and make recommendations to the Director, National Center for Health Services Research, on research grant and contract applications in the information sciences (computer science, communications technology) and decision sciences (operations research, industrial engineering, health-care administration) bioengineering and related fields as applied to community health sevices, hospital medicine, and patient care. The members of this Study Section shall survey, as scientific

leaders, the status of research in their field.

* * * * *

Designation: Health Services Research Study Section.

Purpose: The Study Section shall advise the Secretary and make recommendations to the Director, National Center for Health Services Research, on research grant or contract applications relating to the delivery and acceptance of health services.

* * * * *

Designation: Health Services Developmental Grants Study Section.

Purpose: The Study Section shall advise the Secretary and make recommendations to the Director, National Center for Health Services Research, concerning scientific and technical merit of health services developmental grant and contract applications reviewed.

Authority for these Committees will expire on August 8, 1979, unless the Secretary, HEW, with the concurrence of the General Services Administration, formally determines that continuance is in the public interest.

Dated: April 27, 1979.

Wayne Richey, Jr.,

Acting Associate Director for Program Support, Office of Health Research, Statistics, and Technology.

[FR Doc. 79-13646 Filed 5-1-79; 8:45 am]

BILLING CODE 4110-85-M

Office of Human Development Services, Administration for Children, Youth and Families

Child Welfare Research and Demonstration Grant Program, Demonstration Projects To Assess State's Foster Family Services Systems

AGENCY: Administration for Children, Youth and Families, Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the Child Welfare Research and Demonstration Grant Program for Demonstration Projects to Assess State's Foster Family Services Systems.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for Child Welfare Research and Demonstration Grants for Demonstration Projects to Assess State's Foster Family Services Systems for Fiscal Years 1979/1980. This Program is authorized under the Social Security Act (Section 426, Part B, Title IV, 42 U.S.C. 626(a)(1)(A) and (B)).

DATES: Closing date for receipt of applications for FY 1979 grant funds is July 2, 1979; and for FY 1980 grant funds is January 30, 1980.

Scope of the Program Announcement

This Program Announcement is one of a series of Program Announcements for the Child Welfare Research and Demonstration Grants Program relating to the purpose and objectives of the Program. Competition for grant awards in other ACYF special emphasis areas in the Child Welfare Research and Demonstration Program will be announced separately in the Federal Register.

Program Purpose

The purpose of the Child Welfare Research and Demonstration Grant Program is to support major research and demonstration efforts in selected areas of high impact and national concern where the utilization of findings is expected to make a substantial contribution to the development and welfare of children and their families.

Program Goals and Objectives

The Children's Bureau is planning the second phase of a three-year series of twelve month demonstration grants (five to seven one year grants for each of three years). These grants will enable a total of fifteen to twenty-one states to staff and carry out (1) a review and assessment of their foster family services systems, developing recommendations for changes in policies, procedures, program and licensing standards, or legislation and regulations, (2) a revision of the state's regulations, or (3) a revision of foster family services manual.

These grants will provide funds for the staff resources which are necessary to coordinate the review, and for the organization of a Task Force which will study the state's foster family services system, utilizing the Standards for Foster Family Services System published by the American Public Welfare Association through a grant from the Children's Bureau.

The original APWA Standards have been revised and consolidated into a single set of guidelines, incorporating current foster care philosophy into statements opf good professional practice. In fiscal year 1978, seven states were awarded grants to carry out assessments of programs, revise foster family care regulations, or revise family services manuals and program guidelines. These states were: Delaware, Kansas, Massachusetts, New Mexico, South Dakota, Texas and West Virginia.

The primary purposes of the grants to states are to *carry out the program assessment* and to *make the changes* which will bring their foster family services systems into accord with the Standards. The Standards address the quality and quantity of services needed to prevent placement, to make prompt decisions about alternatives for permanency for children in care, to establish and protect the rights of all parties involved and to provide high quality, temporary foster homes while the children are in care.

The projects must also work toward achieving the followintg additional benefits from the process and results of their effort:

A. *Citizen Participation.*—Citizen input into public programs including minority involvement is rapidly gaining recognition as a necessary and beneficial part of agency operation. Title XX's emphasis upon public participation in needs assessment and planning, various other legal mandates for accountability and the "right to know" give indication of the concerns Americans have about the way these programs affect their lives.

B. *Education of the Public.*—Participation in the process of assessment of programs or in revision of program rules, regulations and practice by persons outside the public agency produces a better understanding of the obstacles and constraints to good service. Understanding can result in support for the agency where none may have existed before.

C. *Advocacy for Children and Families.*—Awareness and understanding of problems can develop a strong advocate constituency (including minorities) for children and their families. Participants in a citizen-Agency Task Force can become knowledgeable members of action committees, local or national.

D. *Legislative Support.*—Citizen participants with influence in their communities or who have associations with decision makers can become strong spokespersons in Legislatures or in motivating Legislators towards the causes of foster children and their families.

E. *Involvement of Foster Parents.*—In many states, foster parents have had little opportunity for input into the development of program or assessing existing conditions. Their insights about foster children and experiential knowledge about how the system operates can bring an unique contribution to the process of program assessment. In addition, positive changes can result in the relationship between Departments of Social Services and Foster Parents, with benefits to the permanency planning for foster children.

F. *Impact Upon Public Agencies.*—The insights provided in the Task Force method to agency patterns of administration can result in a fresh approach to program management and a healthy awareness of the rights of all citizens—foster children, their parents, staff, foster parents; and others affected by state policies—to fair treatment and quality services.

Eligible Applicants

The single state agency or its organizational unit responsible for social services to families and children which includes foster family care may apply. The seven states receiving these project grants in fiscal year 1978 may not apply.

Available Funds

Of the $15.7 million appropriated by Congress for the Child Welfare Research and Demonstration Grant Program in Fiscal Year 1979, the Administration for Children, Youth and Families expects to award approximately $200,000 for new grants for demonstration projects to assess State's Foster Family Services Systems. All awards will be for new grants. A new grant is the initial award made to support a project.

It is anticipated that between 10 to 14 states (five to seven during each Fiscal Year of 1979 and 1980) will be funded for twelve months each, with grants ranging from $25,000 to $50,000 depending upon the salary schedule, geographical size, and travel and per diem costs of the particular state. For example, those states with large geographical areas will incur expenses for Task Force members' travel different from smaller states. Salary levels for staff will also vary, depending upon factors pertinent to particular states.

Grantee Share of the Project

Program regulations require that all grantees share in the costs of projects. It is generally expected that grantees will provide at least five percent (5%) of total project costs. Grantee contributions must be project-related and may be in any or all of the budget categories as allowable under the Department's applicable cost principles in 45 CFR Part 74 Subpart Q.

The Application Process

Availability of Forms.—Application for a grant under the Child Welfare Research and Demonstration Grants Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions and program information, including the Priority Statement for Fiscal Year 1979 must be obtained in writing from:

Susan Weber, Children's Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013. Announcement Number 13608-791. Telephone (202) 755-7820.

Application Submission.—One original and two copies of the grant application, including all attachments are required, and must be submitted to:

Grants Management Branch, Office of Human Development Services, Room 341-F4 Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

The applicant must clearly identify the program announcement number for which the application is to compete. The application must be signed by an individual authorized to act for the applicant institution and to assume for the institution the obligations imposed by the terms and conditions of the grant award.

A-95 Notification Process.—This program does not require the A-95 notification process.

Application Consideration.—The Administration for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program. Applications which are compete and conform to the requirements of this program announcement are subject to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families. Applications which are received before the first closing date will be considered for fiscal year 1979 funds.

The results of the review assist the Commissioner for the Administration for Children, Youth and Families in considering applications. The Commissioner's consideration also takes into account the comments of the HEW Regional Offices and the Headquarters ACYF staff. If the Commissioner has reached a decision to disapprove a competing grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grants, the budget period for which support is given, and the total period for which project support is contemplated.

Criteria for Review and Evaluation of Grant Applications

Competing grant applications will be reviewed and evaluated against the following criteria:

1. That the estimated cost to the Government of the Project is reasonable considering the anticipated results;

2. That project personnel are or will be well qualified and the applicant organization has or will have adequate facilities and resources to conduct the project—and that assurance is given that a director or coordinator will be hired within a reasonable time who has sufficient background and experience in child welfare programs as well as skills in leadership and project management to carry out the activities and objectives of the project;

3. That insofar as practicable, the proposed procedures or work program, if well executed, is capable of attaining project objectives—and that this is demonstrated through submission of (1) a work plan with a timetable of task force operation—planning, organizational, information gathering, and reporting activities during the one year period and (2) a proposed schedule for implementation, appropriate training, monitoring and evaluation during the following year;

4. That the project objectives are identical with or are capable of achieving the specific program objectives defined in the program announcement;

5. That the Task Force membership is planned to include, in addition to agency staff-foster parents, private agency child welfare professionals, adoptive parents, legislators, related public agency staff, e.g., attorney general's office, health department, courts, and other appropriate citizen advocates;

6. That the proposal describes the applicant's understanding of the issues and problems, with a description of the state's foster family services system, its positive aspects as well as problems and constraints which are seen as obstacles to a high quality services program;

7. That a statement of commitment by the Commissioner of the Department is submitted, related to the purposes of the assessment or program revision, to the concept of citizen participation, and to the achievement of the recommendations of the Task Force, to the reasonable limits of his/her authority—and that this is accompanied by a general outline of the Department's forward plan for improvement of services to children and families at risk of separation.

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Closing Date for Receipt of Applications

The closing date for receipt of applications under this Program Announcement for fiscal year 1979 grant funds is July 2, 1979, and for fiscal year 1980 grant funds is January 30, 1980. An application will be considered received on time if:

• The application was sent by registered or certified mail not later than July 2, 1979 or January 30, 1980 as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service; or

• The application is received on or before close of business, July 2, 1979 or January 30, 1980 in the Department of Health, Education, and Welfare mailroom in Washington, D.C. In establishing the date of receipt, consideration will be given to the time date stamps of the mailroom or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare. A hand-delivered application must be delivered to Office of Human Development Services, Room 341–F4, Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. Hand-delivered applications will be accepted daily between the hours of 9 a.m. and close of business (Eastern Time), except Saturdays, Sundays and federal holidays. Applicants may wish to call the receiving office (245–2900) to confirm the exact time for close of business. *Applications received after the deadline or incorrectly sent to any Regional Office of the Department of Health, Education, and Welfare will not be accepted and will be returned to the applicant.*

(Catalog of Federal Domestic Assistance Program Number 13.608, Child Welfare Research and Demonstration Grant Program.)

Dated: April 23, 1979.

Blandina Ramirez,

Commissioner for Children, Youth and Families.

Approved: April 27, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

[Announcement No. 13608–792]

[FR Doc. 79–13644 Filed 5–1–79; 8:45 am]

BILLING CODE 4110–92–M

Child Welfare Research and Demonstration Grant Program; Projects To Demonstrate the Planning and Initiation of a Comprehensive Emergency Services Program

AGENCY: Administration for Children, Youth and Families Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the Child Welfare Research and Demonstration Grant Program for Projects To Demonstrate the Planning and Initiation of A Comprehensive Emergency Services Program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for Child Welfare Research and Demonstration Grants for Projects To Demonstrate the Planning and Initiation of a Comprehensive Emergency Service Program for Fiscal Years 1979/1980. This Program is authorized under the Social Security Act (Section 426, Part B, Title IV, 42 U.S.C. 626(a)(1)(A) and (B)).

DATES: Closing date for receipt of applications for fiscal year 1979 grant funds is July 2, 1979 and for fiscal year 1980 grant funds is January 30, 1980.

Scope of this Announcement.—This Program Announcement is one of a series of Program Announcements for the Child Welfare Research and Demonstration Grants Program relating to the purpose and objectives of the Program. Competition for grant awards in other ACYF special emphasis areas in the Child Welfare Research and Demonstration Program will be announced separately in the **Federal Register.**

Program Purpose

The purpose of the Child Welfare Research and Demonstration Grant Program is to support major research and demonstration efforts in selected areas of high impact and national concern where the utilization of findings is expected to make a substantial contribution to the development and welfare of children and their families.

Program Goals and Objectives

The purpose of the grants is to demonstrate the planning and initiation of a comprehensive system of emergency services which will assist children and their families during crises or emergency periods of time by achieving the following objectives:

1. Increase and improve outreach activities by strengthening the capabilities within a given community to identify, assist, and refer children and their family for services.

2. Provide *immediate* services to help families cope with or solve the problems causing the crisis or emergency.

3. Provide an assessment of what will be needed to keep a family together during or after a crisis or emergency period.

4. Where separation is necessary, provide time to make orderly foster care placements that most approximately meet individual needs of children.

The following component resources and services are those required to provide a comprehensive emergency services with a wide number of possible options:

24 Hour Emergency Intake—a service designed to utilize an answering service at night, on weekends, and holidays, and to screen calls and refer emergencies to the caseworker on call.

Emergency Caretakers—adults carefully selected and trained to go into homes to provide responsible care and supervision for children at a time when supervision is lacking because parents are either temporarily absent or incapacitated.

Emergency Homemakers—adults available for twenty-four hour assignments to maintain children in their own homes until the parent is able to resume their care or until it is decided that an alternate plan must be made for the children.

Emergency Foster Family Homes—homes which provide temporary care for children who cannot remain in their own homes.

Emergency Shelter for Families—a facility that provides temporary shelter for the entire family, rather than separating the children from their parents.

Emergency Shelter for Adolescents—for older children whose problems and needs cannot be dealt with in a foster family home.

Emergency Casework Services and Follow-up—ongoing casework services available in a formalized way to families in their efforts to cope with problems.

The network of resources and services described above must be developed and maintained in an ongoing system through a coordinating committee or council or *centrally* devised coordinating mechanism which assures that:

• Those providing emergency services work together to set common objectives for the program and to achieve common standards of quality and continuity of services;

• All families with minor children who are in need can be served;

• Services are available 24-hours a day, seven days a week;

• Those participating provide training to staff;

• Periodically evaluations are conducted as to whether or not the purpose and objectives of the program are being achieved; and

• Bilingual personnel are available to serve children and families in areas where significant segments of the population speak a language other than English.

This grant program will provide funds for a state to demonstrate the planning of a statewide Comprehensive Emergency Services Program and the initiation of this statewide system beginning with one or more specified communities in the state. A specified community may be a municipality, a state agency's District or Region, or a logical grouping of several cooperating rural counties.

These funds are to be used to employ a project coordinator, other staff and provide support resources needed to plan and develop a comprehensive emergency services program over an 18-month period of time, coordinating, expanding or clarifying services which are already available in the area served. It is not intended that grant funds be used to pay for services except in those cases where a small amount of grant funds may be needed to demonstrate the effectiveness of a particular service which is not yet available.

The elements of this process should include the following:

• Establish a State Coordinating Committee;

• Review the existing resources and provisions available and identify needed resources;

• Arrange for the various elements of the Comprehensive Emergency Services system to be in place in the specified community;

• Develop a procedures manual and plan orientation and training for the persons involved in comprehensive emergency services;

• Initiate in the specified community or communities; and

• Make provisions for funding of the comprehensive emergency services system statewide after completion of the project.

Eligible Applicants

Any state public social service agency may apply. States which already have a statewide comprehensive emergency services program established or which are currently developing such a statewide program with funds from other sources are not eligible to apply. States must provide a written statement that they are not receiving funds from any other source for the purpose of this grant.

Available Funds

Of the $15.7 million appropriated by Congress for the Child Welfare Research and Demonstration Grant Program in Fiscal Year 1979, the Administration for Children, Youth and Families expects to award approximately $500,000 for new grants to demonstrate the planning and initiation of a compehensive emergency system of emergency services. All awards will be for new grants. A new grant is the initial award made to support a project. It is anticipated that 10 to 12 grants will be awarded for each fiscal year of 1979 and 1980, making a total of 20 to 24 grants for the two-year period. The project period and budget period for each grant will be for 18 months each, with grants ranging between $35,000 and $45,000 depending on geographical size and population of area being served, salary schedule, and travel and per diem costs of the particular grantee.

Grantee Share of the Project

Program regulations require that all grantees share in the costs of projects. It is generally expected that grantees will provide at least five percent (5%) of total project costs. Grantee contributions must be project-related and may be in any or all of the budget categories as allowable under the Department's applicable cost principles in 45 CFR Part 74 Subpart Q.

The Application Process

Availability of Forms.—Application for a grant under the Child Welfare Research and Demonstration Grant Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions and program information, including the Priority Statement for Fiscal Year 1979 must be obtained in writing from:

Susan Weber, Children's Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013, Announcement Number 13608–792, Telephone (202) 755–7820.

Application Submission.—One signed original and two copies of the grant application, including all attachments are required, and must be submitted to:

Grants Management Branch, Office of Human Development Services, Room 341–F4 Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The applicant must clearly identify the program announcement number for which the application is to compete. The application must be signed by an individual authorized to act for the applicant institution and to assume for the institution the obligations designed by the terms and conditions of the grant award.

A–95 Notification Process.—This program does not require the A–95 notification process.

Application Consideration.—The Administration for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement are subject to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families. Applications which are received before the first closing date will be considered for fiscal year 1979 funds.

The results of the review assist the Commissioner for the Administration for Children, Youth and Families in considering applications. The Commissioner's consideration also takes into account the comments of the HEW Regional Offices and the Headquarter's ACYF staff. If the Commissioner has reached a decision to disapprove a competing grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, and the total period for which project support is contemplated.

Criteria for Review and Evaluation of Grant Applications

Competing grant applications will be reviewed and evaluated against the following:

That the project objectives are identical with or are capable of achieving the specific program purpose and objectives defined in this priority statement.

That the proposal describes the current status of various component emergency services available and new services which must be developed.

That the proposal provides a detailed statement of project objectives, methodology, work plan and timetable that demonstrates the required results will be achieved within the 18-month period of the grant.

That the proposal documents that project personnel are or will be well qualified in the field of child welfare generally, and in protective and preventive services specifically.

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That the estimated cost to the government is reasonable considering the anticipated results.

That letters are submitted from all key participating agencies and organizations documenting that they have read the proposal and that they will support the project and participate as described in the application.

That a plan is provided to develop the resources needed to continue the project after federal funding ceases, and to provide the four quarterly performance reports.

Closing Date for Receipt of Applications

The closing date for receipt of applications under this Program Announcement for fiscal year 1979 grant funds is July 2, 1979; and for fiscal year 1980 funds is January 30, 1980. An application will be considered received on time if:

- The application was sent by registered or certified mail not later than July 2, 1979 or January 30, 1980 as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Services; or
- The application is received on or before close of business, July 2, 1979 or January 30, 1980 in the Department of Health, Education, and Welfare mailroom in Washington, D.C.
- In establishing the date of receipt, consideration will be given to the time date stamps of the mailroom or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare. A hand-delivered application must be delivered to OHDS Room 341–F4, Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. Hand-delivered applications will be accepted daily between the hours of 9 a.m. and close of business (Eastern Time), except Saturdays, Sundays and federal holidays. Applicants may wish to call the receiving office (245–2900) to confirm the exact time for close of business. *Applications received after the deadline or incorrectly sent to any other Office of the Department of Health, Education, and Welfare will not be accepted and will be returned to the applicant.*

(Catalog of Federal Domestic Assistance Program Number 13.608, Child Welfare Research and Demonstration Grant Program)

Dated: April 23, 1979.

Blandina Ramirez,
Commissioner for Children, Youth and Families.

Approved: April 27, 1979.

Arabella Martinez,
Assistant Secretary for Human Development Services.

[Announcement No. 13608-793]
[FR Doc. 79-13685 Filed 5-1-79; 8:45 am]
BILLING CODE 4110-92-M

National Adoptive Parent Organizations To Expedite Adoption of American Children With Special Needs

AGENCY: Administration for Children, Youth and Families Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the National Adoptive Parent Organizations To Expedite Adoption of American Children With Special Needs.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for the Demonstration Grants for National Adoptive Parent Organizations To Expedite Adoption of American Children With Special Needs for Fiscal Year 1979. This program is authorized under Pub. L. 95–266, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (Title II, Adoption Opportunities, 42 U.S.C. 5113).

DATES: Closing date for receipt of applications is July 2, 1979.

Scope of this Announcement.—This program announcement is one of two which will be issued under Title II, Pub. L. 95–266 for Fiscal Year 1979. The second program announcement is for Regional Adoption Resource Projects Demonstration grants. Competition for grant awards in other ACYF special emphasis areas will be announced separately in the Federal Register.

Program Purpose

The purpose of this program is to facilitate the elimination of barriers to adoption and to provide permanent home environments for children who would benefit by adoption, particularly children with special needs.

Program Goals and Objectives

The objectives of this grant program are to develop and demonstrate materials and processes by which adoptive parent organizations can work together with public and voluntary agencies to identify and recruit potential adoptive families for children with special needs, to assist selected adoptive families in the immediate post placement period and to provide general public awareness about adoption and specific long range support to adoptive families.

Projects will be considered which address at least one of the following areas:

1. Develop, test, and disseminate materials for use by local adoptive parent groups to help them:
   —organize new groups
   —strengthen and/or refocus existing groups
   —gain access to appropriate agencies
   —advocate for needs of waiting children
   —recruit potential adoptive families, particularly minorities (Black, Hispanic, Native American), single parents, and families who have special qualifications for parenting special needs children
   —assist in the support of adoptive families during the period proceeding and following adoption
   —develop public awareness of the problems and special needs of children who are in need of adoptive homes.
2. Develop and disseminate publications on waiting children with various types of special needs and on particular aspects of adoption which could be used by adoptive parent organizations and agencies in recruiting and sustaining adoptive families.

Eligible Applicants

Any national adoptive parent organization which can document that it meets the following criteria may apply for a grant under this announcement:

1. The organization is national in membership (e.g., covers at least 8–10 states which are not necessarily contiguous);
2. The organization has as its ongoing primary objective, focus and/or concern needs of waiting American children, particularly those with special needs; and
3. The membership, either of individuals or organization is predominantly prospective adoptive parents and adoptive parents.

Available Funds

The funds allocated to support the Fiscal Year 1979 demonstration grants for National Adoptive Parent Organizations to Expedite Adoption of American Children with Special Needs is $200,000. It is anticipated that three (3) grants will be awarded, ranging from $30,000 to $75,000 each year for up to three years, depending on the size of the national group and the scope of the work plan.

All awards will be for new grants. A new grant is the initial award made to support a project. The budget period is of one year duration. Projects will be supported for a period not to exceed three (3) years. Continuation funding will depend upon the satisfactory performance of the project, the availability of funds and at the option of the Federal Government. The assessment of satisfactory performance will be performed by the responsible DHEW program office on at least an annual basis and will be a major factor in consideration of all funding requests subsequent to the initial grant award.

Grantee Share of the Project

There is no cost sharing or matching requirements for grants under this program.

The Application Process

Availability of Forms.—Applications for a grant under the Demonstration Grants for National Adoptive Parent Organizations to Expedite Adoption of American Children With Special Needs must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions and program information, including the Priority Statement for Fiscal Year 1979 may be obtained in writing from:

Susan Weber, Children's Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013. Attention: 13652–791. Telephone (202) 755–7820.

Application Submission.— One original and six copies of the grant application, including all attachments, must be submitted to:

Grants Management Branch, Office of Human Development Services, Room 341–F4 Hubert Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.

The applicant must clearly identify the program announcement number for which the application is to compete. The application must be signed by an individual authorized to act for the applicant institution and to assume for the institution the obligations imposed by the terms and conditions of the grant award.

A–95 Notification Process.—This program does not require the A–95 notification process.

Application Consideration.—The Administration for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement are subject to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Commissioner for the Administration for Children, Youth and Families in considering competing applications. The Commissioner's consideration also takes into account the comments of the Headquarters Administration for Children, Youth and Families. If the Commissioner has reached a decision to disapprove a competing grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, and the total period for which project support is contemplated.

Criteria for Review and Evaluation of Applications

All competing grant applications will be reviewed and evaluated against the following criteria:

- Applicant demonstrates an understanding of the problems and related issues of the program objectives, their relationship to the needs of the population served, and includes a description of any special qualifications or relevant experience of the applicant which pertain to the requirements of the objective and fulfills the Proposal Requirements.
- Applicant demonstrates that the project objectives are identical with or capable of achieving one or more of the specific program areas defined in this program announcement under "Objective of the Grant Program."
- Applicant documents that the proposed project and/or consultants will be well-qualified in the area of special needs and other children in need of adoption and in the design and use of technical assistance resources and materials for this purpose. The applicant must also document that it has or will have adequate facilities and resources to conduct the project.
- Applicant describes an effective follow-up plan which addresses all of the following:

  How the applicant will use the materials, model and other resources developed by the project;

  How other adoptive parent groups will use the materials, models and other resources developed by the project without relying on additional federal funds; and

  How the ongoing results of the use of these materials can be assessed.
- That the estimated cost to the government and the project is reasonable considering the anticipated results.

Closing Date for Receipt of Applications

The closing date for receipt of applications under this program announcement is July 2, 1979. An Application will be considered received on time if:

- The application was sent by registered or certified mail not later than July 2, 1979 as evidence by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service; or
- The application is received on or before July 2, 1979 in the Department of Health, Education, and Welfare mailroom in Washington, D.C. In establishing the date of receipt, consideration will be given to the time date stamps of the mailroom or other documentary evidence of receipt, maintained by the Department of Health, Education, and Welfare. A hand-delivered application must be delivered to the Office of Human Development Services, Room 341–F4, Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201 Hand-delivered applications will be accepted daily between the hours of 9 a.m. and close of business (Eastern Time), except Saturday, Sundays and federal holidays. Applicants may wish to call the receiving office (245–2900) to confirm the exact time for close of business. Applications received after the deadline or incorrectly sent to any Regional Office of the Department of Health, Education, and Welfare will not be accepted and will be returned to the applicant.

(Catalog of Federal Domestic Assistance Program Number 13.652, Demonstration Grants for National Adoptive Parent Organizations to Expedite Adoption of American Children With Special Needs)

Dated: April 23, 1979.

Blandina C. Ramirez,
Commissioner for Children, Youth and Families.

Approved: April 27, 1979.

Arabella Martinez,
Assistant Secretary for Human Development Services.

[Program Announcement No. 13652-793]
[FR Doc. 79-13682 Filed 5-1-79; 8:45 am]
BILLING CODE 4110-92-M

Office on Domestic Violence

April 26, 1979.

This notice amends Part D of the Statement of Organization, Mission, Functions, and Delegations of Authority of the Department of Health, Education,

and Welfare, Office of Human Development Services (HDS) published in Volume (43, Number 147, of the **Federal Register** on July 31, 1978, 43 FR 33327–33347) to add an Office on Domestic Violence to the Administration for Children, Youth, and and Families. Chapter DC, Administration for Children, Youth, and Families in the **Federal Register** is amended as follows, to incorporate the Office on Domestic Violence:

Department of Health, Education, and Welfare

Office of Human Development Services; Administration for Children, Youth, and Families

DC:00 Mission. The Administration for Children, Youth, and Families (ACYF) seeks to expand and improve the range of human services which promote sound development of children and youth and are supportive of families. Supports and encourages services which prevent or remedy the effects of abuse or neglect of children and youth. Investigates and reports on methods and approaches for improving and enriching the lives of children and youth and for strengthening American families.

DDC.10 Organization. The Administration for Children, Youth, and Families is headed by a Commissioner who reports directly to the Assistant Secretary for Human Development Services (ASHDS) and consists of:

Office of the Commissioner (DC).
Office on Domestic Violence (DCV).
Office of Public Information and Education (DCE).
Office of Regional/State and Community (DCR).
Office of Planning, Research, and Evaluation (DCP); Planning, Management, and Policy Control Division (DCP1), Research, Demonstration, and Evaluation Division (DCP2).
Office of Developmental Services (DCF); Day Care Division (DCF1), Head Start Bureau (DCF2).
Office of Services for Children and Youth (DCS); Children's Bureau (DCS1), Youth Development Bureau (DCS2).

DC.20 Functions. A. Office of the Commissioner (DC) provides executive leadership, policy direction, management strategy, legislative liaison, and a focus to the Administration for Children, Youth, and Families in the administration of its duties. Serves as advisor to the Assistant Secretary for Human Development Services and other elements of DHEW in the area of children, youth and families.

B. Office on Domestic Violence (DCV) provides a central locus for policy planning, provision of information, and coordination of activities related to domestic violence within the Department of Health, Education, and Welfare. Headed by a Director, who reports to the Commissioner of ACYF, the Office on Domestic Violence performs, or directs the performance of the following functions:

Provides Department-wide leadership for planning, promoting, developing, and monitoring activities related to domestic violence.

Establishes and maintains liaison with other Federal agencies that have or could have programs which relate to domestic violence, in order to coordinate and increase Federal responsiveness in the area.

Coordinates with the National Institute for Mental Health, National Institute on Alcoholism and Alcohol Abuse, the National Center on Child Abuse and Neglect, the Administration for Public Services, the Office of Family Assistance of the Social Security Administration, the Bureau of Community Health Services of the Public Health Service, Regional Offices, and other HEW components, the Department's policies and programs which relate to the problem of domestic violence. Develops, collects, and disseminates information regarding domestic violence, both in response to individual requests for information and as part of an ongoing information system. Coordinates these information dissemination activities with other existing Federal efforts.

Develops and monitors a Department-wide research and demonstration agenda related to preventing domestic violence and providing services to the perpetrators and victims of domestic violence. Provides technical assitance to professional and provider organizations and State and local governments in planning, developing, implementing, and evaluating domestic violence programs, including training programs related to domestic violence.

Plans, develops, and coordinates public awareness and education activities relating to domestic violence. Develops information to assist individuals and public and private organizations in identifying financial resources for domestic violence programs.

C. Office of Public Information and Public Education (DCE) develops a national information dissemination strategy and program to keep ACYF's various constituencies, as well as the general public, continually informed about ACYF program goals, activities and results.

Identifies the information needs of the public and furnishes advice and consultation to ACYF Commissioner and program managers concerning those needs. Advises staff on Freedom of Information Act requirements and assures timely responses to requests under the Act. In coordination with the HDS Office of Public Affairs, initiates and directs media arrangements for ACYF activities and programs and maintains continuing media relationships and contacts.

Provides leadership, liaison and technical assistance to regional and appropriate national constituent groups.

D. Office of Regional/State and Community Affairs (DCR) serves as the principal liaison between ACYF Headquarters and the ten Regional Offices for Children, Youth, and Families; assits in interpreting and disseminates policy and regulations to Regional Offices; assures Regional input in the process of developing policies and regulations; assists in the resolution of issues affecting the Regions. Monitors overall activities of the ACYF Regional Staff with special emphasis on collecting and analyzing data on funding action and other program implementation by the Regions. Serves as expert technical advisor to Regional Offices in the processing of appeals by Head Start grantees, including interpreting the regulations, procuring hearing examiners, and advising the Commissioner on appeals elevated to ACYF level for final decision. Assists the Commissioner in ensuring that Regional and Headquarters staff offices provide equal opportunity to all ACYF employees. Assists the Commissioner in ensuring citizen participation in ACYF decision making process. Serves as the Commissioner's staff unit for the enforcement of Executive Order No. 11246 and Titles VI, VII, and IX of the Civil Rights Act. Works closely with other ACYF units in Headquarters and Regions to establish and maintain relationships with national and local public interest groups.

E. Office of Planning, Research and Evaluation (DCP) provides leadership, direction, management strategy, and focus for the activities of the Planning, Management, and Policy Control Division and the Research, Demonstration and Evaluation Division and coordinates the activities of these two divisions.

1. Planning, Management, and Policy Control Division (DCP1) develops long range planning guidance, coordinates, and develops the annual five-year forward plan; analyzes key program issues; and articulates goals, strategies, and budget projections. Develops guidance for the Major Initiative Tracking System (MITS); coordinates development of operational initiatives and implementation of processes for monitoring and reporting on progress toward achievement of MITS projects. Organizes Zero Base Budget process; develops policy guidance; and analyzes budgetary proposals. Works with OAM/HDS to prepare budget presentations for use at the Departmental, OMB, and Congressional levels. Analyzes existing and new legislation and existing and proposed regulations bearing upon programs affecting children, youth, and families; assesses impact on intended beneficiaries and existing services; and, as appropriate, coordinates development of implementation plans and regulatory materials. Provides and coordinates a central source for administrative services; manages timekeeping and payroll functions; develops staffing plans; coordinates the development of employees training plans; develops space utilization and communication plans; and maintains general liaison with personnel, staffing, and administrative offices at the OHDS level. Manages the Executive Secretariat; maintains correspondence control and other internal agency communications systems; and manages a system for ensuring the completion of action items from agency executive staff meetings. Provides primary liaison with OHDS staff offices including OAM, OPRE, and OPMC.

2. Research, Demonstration, and Evaluation Division (DCP2) coordinates planning for Section 426 (Title IV–B, Social Security Act) and other ACYF research and demonstration funds. Assists with the development of a Department-wide research strategy on children, youth, and families; administers the ACYF evaluation funds; coordinates the development of an ACYF-wide evaluation strategy. Provides leadership to the Federal Interagency Panel on Early Childhood Research and Development and the Federal Interagency Panel for Research and Development on Adolescence; collects, analyzes, and interprets research reports on child and family studies and identifies promising models for service programs; actively promotes the utilization of research findings; serves as clearinghouse for information related to research, demonstration, and findings in the area of child development and the family. Jointly with the National Center on Child Abuse and Neglect, develops policies, priorities, plans, and objectives for research and demonstration activities authorized by Pub. L. 93–247, the Child Abuse Prevention and Treatment Act of 1974, as amended by Title I of Pub. L. 95–266, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978. Directly administers R&D efforts related to basic research and demonstration activities; provides coordination with OPRE in research, demonstration, and evaluation activities. Develops ACYF R,D,&E plan.

F. Office of Developmental Services (DCF) provides leadership, direction, management strategy and focus for the activities of the Head Start Bureau and the Day Care Division. Coordinates programs of these divisions and serves as advisor to the Commissioner.

1. Day Care Division (DCF1) develops policies, strategies, standards, manuals and guidance material for the conduct of experiments, demonstrations and operational programs in the field of day care. Identifies the need for applied R&D program; designs and monitors nationwide studies. Serves as an advocate for quality day care to meet the needs of children and families. Develops standards and regulations, model legislation, and legislative proposals. Coordinates interagency activities relating to day care policy. Identifies training and technical assistance needs and designs programs for States and local communities. Acts as liaison with the Appalachian Regional Commission. Actively encourages and advises Federal, State, and local providers on the development of effective day care services.

2. Head Start Bureau (DCF2) develops program and administrative management policy for the operation of Head Start programs. Provides guidance and technical assistance to Regional Offices and local programs. Plans and implements programs and projects to strengthen administrative and management capabilities of Head Start grantees. Develops and manages a system for Bureau-wide monitoring of Regional Office implementation of Head Start policies, priorities and systems. Coordinates the annual planning for technical assistance and training for Head Start grantees; and develops the annual Head Start budget. Designs, tests, and implements systems for data collection from grantees and Regional Offices describing Head Start program activities. Develops and maintains a statistical data base used for analysis and review of program operations and disseminates findings.

Reviews applications for and makes awards for Head Start programs serving primarily Native American children or children of Migratory Workers; monitors and evaluates those programs; and develops and recommends policies for and provides staff support to the funded programs. Plans, provides, or arranges for technical assistance to Native American or Migrant Head Start programs and for training to the staff of these programs. Plans and conducts activities related to child abuse and child welfare services in Native American and Migrant communities. Provides technical and programmatic counsel and expertise in the areas of medical and dental services, nutrition, mental health services, social services, parent involvement, services to handicapped children and training and educational programs for staff of local Head Start programs. Assesses current policies in these areas and develops improved ones. Plans and administers projects to strengthen these programmatic areas. Plans, develops, tests, and directs the broad scale implementation of innovative programs for comprehensive child development services.

G. Office of Services for Children and Youth (DCS) provides leadership, direction, management strategy, focus, and coordination for the activities of the Children's Bureau and the Youth Development Bureau. Serves as advisor to the Commissioner on children and youth issues.

1. Children's Bureau (DCS1) advises the Commissioner on matters pertaining to conditions which affect the general well being of children. Develops policies and procedures for developing Child Welfare Services State Grant Program plans authorized under Title IV–B of the Social Security Act. Develops and interprets regulations, guidelines, instructions, and State allotments. Develops outlines for and processes fiscal requests from States forwarded by RO's. Monitors regional office State grants administration. Develops policies and oversees regional office technical assistance to States to enable them to meet requirements for State grants. Plans for, analyzes, and, in conjunction with regional offices, collects Child Welfare Program Services Data. Coordinates Child Welfare Services with other Federal agencies and non-Federal groups. Analyzes Regional Office monitoring and T/TA reports and provides program technical direction to Regional Offices.

Administers the Child Welfare Services training Program. Provides technical expertise in developing programmatic policies, standards, model laws, regulatory material, and guidelines. Studies current practices and problems, recommends action to meet

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special needs of children at risk, and promotes replication of successful designs. Provides expert knowledge, training, and technical assistance to public and private social services agencies and organizations through development of innovative programs, suggested guidelines and program design features for comprehensive child welfare services. Through the National Center on Child Abuse and Neglect, acts as the principal agent within ACYF and the Department for development of policies, advice, and plans (including input to the ACYF Long Range Plan) on programs relating to the prevention, identification, and treatment of child abuse and neglect. Develops and interprets regulations, guidelines, and instructions for grants to assist State programs on child abuse and neglect and for provision of technical assistance. Compiles and prepares for publication training materials for personnel who are or intend to be engaged in the prevention, identification, and treatment of child abuse and neglect. Receives, processes, and reviews, either through the regional or headquarters office, all applications for demonstration grants or contracts authorized to prevent, identify and treat child abuse and neglect and makes recommendations thereon to the Commissioner, ACYF.

Establishes and operates a National Clearinghouse on Child Abuse and Neglect. Develops policies, priorities, plans, and objectives for research and demonstration activities relating to child abuse and neglect. Provides staff support to the Advisory Board on Child Abuse and Neglect in the conduct of its responsibilities, including the areas of standards development, reports preparation and program coordination.

2. Youth Development Bureau (DSC2) plans, develops, and implements an integrated program of research, demonstration, and evaluation to investigate and assess a broad range of programs delivering services to youth. Tests the effectiveness of various programs and service strategies in addressing the needs of youth and their problems. Analyzes and synthesizes reports of research, demonstration, and evaluation findings; disseminates findings which will impact on youth development and youth service programs; and recommends programs which will improve services to runaway and other youth in need of services. Develops or strengthens local facilities designed to meet the needs of runaway or other homeless youth and their families by providing temporary shelter, counseling, and aftercare and by working to reunite the youth in their care with their families or provide an alternative appropriate living arrangement. Develops and implements policy for the management of facilities for runaway youth. Through the Regional Offices, monitors the facilities performance and analyzes results to improve their effectiveness. Designs, implements, and assesses contracts which provide technical assistance to the runaway facilities and short term training to their staff. Improves the services to runaway and other homeless youth through promulgation of model statutes, development of national programs and development of family/individual counseling techniques.

Serves as a youth advocate within ACYF and to other Federal agencies. Coordinates with other agencies whose programs impact on youth and serves as a clearinghouse for information on youth needs, problems and programs.

Dated: April 26, 1979.

Joseph A. Califano, jr.,
Secretary.

[FR Doc. 79-13665 Filed 5-1-79; 8:45 am]

BILLING CODE 4110-92-M

National Institute of Education

Panel for the Review of Laboratory and Center Operations; Meeting

Notice is hereby given that the next meeting of the Panel for the Review of Laboratory and Center Operations will be held on May 18–19, 1979, in the Conference Center of the One Washington Circle Hotel, One Washington Circle, N.W., Washington, D.C. The Panel will meet from 9:00 a.m. until 5:00 p.m. on Saturday, May 19 and from 9:00 a.m. until 3:00 p.m. on Sunday, May 20.

The Panel for the Review of Laboratory and Center Operations is established under section 405 of the General Education Provisions Act, as amended by section 403(d) of the Education Amendments Act of 1976, 20 U.S.C. 1221e. Its functions include: (a) the review of long range plans submitted by the 17 existing regional educational laboratories and research and development centers to the National Institute of Education; (b) the review of the operations of the laboratories and centers; and (c) making recommendations for the improvement and continuation of individual laboratories and centers and for the support of new laboratories and centers.

The entire meeting will be open to the public. Although the agenda is still tentative it will consist of two main elements: (1) continued discussion of federal dissemination policy and its impact on the improvement of educational practice and (2) continued discussion of the need for new laboratories and centers. The dissemination discussion will focus on two papers to be submitted to the Panel in advance of the meeting: one from the Council on Educational Development and Research (CEDaR) on the lab and center role in practice improvement, and one from the National Institute of Education on the NIE approach to dissemination and practice improvement.

Interested persons are invited to attend these sessions. Written statements relevant to an agenda item or any topic deemed of interest to the Panel may be submitted to the Panel staff at the address below.

Copies of the records of all Panel proceedings may be obtained through the office of the Panel staff. Minutes require approval by the Panel at a subsequent meeting and are available to the public two weeks following their approval.

In order to verify the tentative agenda, or assure adequate seating arrangements, persons likely to attend the Panel meeting may contact the Panel staff office as indicated below:

Panel for the Review of Laboratory and Center Operations, National Institute of Education, Washington, D.C. 20208, (202) 254-5510.

Dated: April 27, 1979.

Grady McGonagill,
Staff Director, Panel for the Review of Laboratory and Center Operations.

[FR Doc. 79-13636 Filed 5-1-79; 8:45 am]

BILLING CODE 4110-39-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Colorado, White River Resource Area Grazing Use Prposal, Intent to Prepare an Environmental Statement and Conduct Scoping Meeting

The Department of the Interior, Bureau of Land Management, Craig District Office will be preparing an Environmental Statement (ES) in connection with determining range resource use and management on 1.5 million acres of Public Land in northwestern Colorado.

The proposed grazing management program has evolved from coordinated land use allocations for all resources developed through the Bureau's land use planning system. The objectives of the proposed program are to enhance the vegetative resource, improve range conditions, provide quality habitat for wildlife and wild horses, provide a continuous supply of livestock forage, reduce soil erosion and sedimentation damage, improve water quality, improve the recreation and visual resources, and protect archaeological and historical sites.

The ES will include alternatives to the proposed grazing management program. Some of the expected alternatives include no action, no livestock grazing, a substantial reduction in present livestock grazing, and forage allocations with differing emphases which would either optimize or reduce forage availability for livestock, wildlife, wild horses, or watershed protection.

The environmental statement will identify the impacts that can be expected from implementation of either the proposed grazing management program or one of the alternatives. The statement will not recommend any particular course of action but will be an analytical tool used to assist in making decisions for managing livestock grazing in the White River Resource Area.

Two public meetings will be held on May 8, 1979, at 1:00 p.m. and 7:00 p.m. at the Fairfield Center in Meeker, Colorado. The meetings will concentrate on determining the scope of the issues to be addressed in the ES, identifying the significant issues which must be discussed in detail in the ES, and identifying the issues that do not require detailed study.

For information concerning the proposed action or the environmental statement, contact the following individual:

B. Curtis Smith, Project Manager, Bureau of Land Management, USDI, Post Office Box 928, Meeker, Colorado 81641, Area Code: 303-878-5064.

Dated: April 23, 1979.

Dale R. Andrus,
State Director.

[FR Doc. 79-13546 Filed 5-1-79; 8:45 am]

BILLING CODE 4310-84-M

New Orleans; Availability of Outer Continental Shelf Official Protraction Diagram, Gulf of Mexico and South Atlantic Areas

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagram, approved on the date indicated, is on file and available, for information only, in the New Orleans Outer Continental Shelf Office, Bureau of Land Management, New Orleans, Louisiana. In accordance with Title 43, Code of Federal Regulations, this protraction diagram is the basic record for the description of mineral and oil and gas lease offers in the geographic areas it represents.

Outer Continental Shelf Official Protraction Diagram

Description and Approval Date.

NG 17-11, Key West, January 29, 1979

2. Copies of this protraction diagram may be purchased for $2.00 each from the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Suite 841, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130. Checks or money orders should be made payable to the Bureau of Land Management.

John L. Rankin,
Manager, New Orleans Outer Continental Shelf Office.

April 24, 1979.

[FR Doc. 79-13547 Filed 5-1-79; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

Privacy Act of 1974; Revised System of Records

This is the notice of a revised personal records system entitled Claims—Interior Reclamation (Interior/LBR-5) previously published in the April 11, 1977 Federal Register for Privacy Act of 1974 Systems of Records.

The Revision is deemed necessary to accommodate the personal claims made to the Bureau of Reclamaltion for disaster assistance as a result of the Teton Dam failure. The authority for this addition comes from the Teton Dam Disaster Assistance Act, Public Law 94-400; 90 Stat. 1211. This proposed change has been communicated to the Office of Management and Budget, the Speaker of the House and the President of the Senate. Included in the publication of this notice is the Narrative Statement describing the change and a revised system notice.

Interested persons are invited to submit data, views or arguments related to this revised personal records system to the Privacy Act Officer, U.S. Department of the Interior, Washington, D.C. 20240. The revised system will, unless changed, be effective May 31, 1979.

Dated: April 25, 1979.

William L. Kendig,
Acting Deputy Assistant Secretary of the Interior.

Interior/LBR-5

SYSTEM NAME:

Claims—Interior, Reclamation—5.

SYSTEM LOCATION:

(1) Washington Office Manager, Bureau of Reclamation, U.S. Department of the Interior, Washington, DC 20240. (2) Reclamation offices numbered 3(a through 1), 4(a through i), 5(a through i), 6(a through i), 7(a through k), 8(a through h), and 9(a, c, e, f) in Appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed Tort, Federal Employee, or Irrigation Claims, *and claims under the Teton Dam Disaster Assistance Act, Public Law 94-400, 90 Stat. 1211.*

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains records concerning claims—including the claims and supporting information submitted by the claimant, information developed concerning the claim and a record of the disposition of the claim after processing of the claim is complete.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) Federal Tort Claims Act, 28 U.S.C. 240–2680, (2) military personnel and civilian employees Claims Act, 31 U.S.C. 240–243. (3) Public Works for Water and Power Development and Atomic Energy Commission Appropriations Act, Public Law 93–393, 88 Stat. 782, (4) (Annual Public Works Appropriation Act of 1976, Public Law 94–180, 89 Stat. 1035, (5) Act of July 12, 1976, 90 Stat. 869, and (6) Teton Dam Disaster Assistance Act, Public Law 94–400, 90 Stat. 1211.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to anaylze the facts and circumstances surrounding each accident, (b) for compilation of statistical data, (c) adjudicating tort, appropriation act, and employee claims. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or

necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other beneift; (6) to Auditors from Office of the Inspector General, U.S. Department of Agriculture, Soil Conservation Service (SCS), Agricultural Stabilization and Conservation Service (ASCS) and Farmers Home Administration (FHA), Department of Housing and Urban Development, Army Corps of Engineers, and Federal Disaster Assistance Administration to ascertain whether benefits to individuals were duplicated by the several agencies involved in disaster programs; (7) to Department of Treasury (IRS) and State Department of Revenue and Taxation relative to furnishing information as necessary for compensation for loss of salary or income; (8) to Small Business Administration, Farmers Home Administration and Department of Housing and Urban Development when related to loans secured through these agencies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Complete file maintained in manual form in file folders.

RETRIEVABILITY:

By individual's name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

In accordance with approved Retention and Disposal Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Paperwork and Records Management Branch, U.S. Department of the Interior, Bureau of Reclamation, Washington, DC 20240.

NOTIFICATION PROCEDURE:

An individual may inquire whether or not the system contains a record pertaining to him by addressing a written request to the head of the appropriate office listed under Location (above). See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as Notification above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 27.1.

RECORD SOURCE CATEGORIES:

Claimant. Investigations conducted by Reclamation offices and contractors, offices of the Department of the Interior, State or local government.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Privacy Act does not entitle an individual to access to information compiled in reasonable anticipation of a civil action or proceeding.

[FR Doc. 79-13635 Filed 5-1-79; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. New York Coffee & Sugar Exchange, Inc.

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, the following written comment on the proposed judgment filed with the United States District Court for the Southern District of New York in Civil No. 77 Civ 5038, *United States of America* v. *New York Coffee & Sugar Exchange, Inc.*, was received by the Department of Justice and is published herewith, together with Justice's response to the comment.

Dated: April 27, 1979.

Charles F. B. McAleer,
Special Assistant for Judgment Negotiations, Office of Operations, Antitrust Division.

Commodity Futures Trading Commission,
Washington, D.C., February 23, 1979.

Honorable Robert W. Sweet,
United States District Court Judge for the Southern District of New York, United States Courthouse, Foley Square, New York, N.Y.

Re: *United States of America* v. *New York Coffee and Sugar Exchange, Inc.*, 77 Civ. 5038 (S.D.N.Y.).

Dear Judge Sweet: This Commission is an independent federal regulatory agency established in April 1975 to administer and enforce the provisions of the Commodity Exchange Act, as amended ("Act").[1] Since that time the Commission has been vested with "exclusive jurisdiction" to regulate "accounts, agreements . . . and transactions *involving*" contracts for the future delivery of commodities (emphasis added).[2] The amendments to the Commodity Exchange Act in 1974, which created the Commission, also substantially expanded the coverage of the Act to encompass previously unregulated commodities, including sugar, and conferred broad powers on the agency over the operations of commodity exchanges in the United States.[3]

On January 17, 1979, pursuant to Section 5a(12) of the Commodity Exchange Act,[4] the New York Coffee and Sugar Exchange, defendant in the above-referenced action, submitted to the Commission for its approval proposed changes in the Exchange's rules governing the operation of its sugar spot price committees.[5] These committees are the subject of the instant litigation. The proposed rule changes purport to implement a stipulation and proposed consent judgment entered into between the Exchange and the Antitrust Division of the Department of Justice which have been filed with this Court and published for public comment in the Federal Register.[6]

Our examination of the stipulation and proposed consent decree reveals that neither refers to the Commodity Exchange Act or to this Commission's authority thereunder. For this reason, we wish to make clear to the parties and the Court that, as an independent agency, the Commission's authority and responsibilities are not and, as a matter of law, cannot be affected by the agreement between the Department of Justice and the New York Coffee and Sugar Exchange in this case. This is particularly so in view of the Commission's pervasive oversight functions which since 1975 Congress has entrusted to the Commission and which apply to the subject matter of the instant litigation.

Specifically, after a commodity exchange, such as the defendant, has been designated by the Commission as a "contract market" for futures trading in a particular commodity,[7] that contract market must furnish to the Commission on a continuing basis copies of all its by-laws, rules and regulations.[8] As part of its continuing oversight of contract market activities, the Commission has been authorized, under Section 5a(12) of the Act, to approve or disapprove all proposed changes to the rules of a contract market which relate to terms and conditions in contracts of sale of any commodity for which the contract market has been designated and which are executed on the contract market, or relate to other trading requirements.[9] In addition, if the Commission determines that it is necessary or appropriate to effect a change in the rules governing the operation of a contract market, it is expressly empowered by Section 8a(7) of the Act to "alter or supplement" those rules, 7 U.S.C. § 12a(7). And in exercising these continuing oversight responsibilities, Congress has entrusted antitrust functions to the Commission by providing that the Commission, in effectuating the purposes and policies of the Commodity Exchange Act, consider the antitrust laws and the anticompetitive implications of its approving or requiring a change in contract market rules.[10]

We trust that the foregoing will be of some assistance to the Court in its further consideration of this case.

Respectfully submitted,

Read P. Dunn, Jr.,
Commissioner for the Commission.

cc: Ralph T. Giordano, Esquire, Chief, New York Office, Antitrust Division, Department of Justice, 26 Federal Plaza, New York, N.Y. 10007.

Edmund R. Schroeder, Esquire, Barrett, Smith, Schapiro, Simon & Armstrong, 26 Broadway, New York, N.Y. 10004.

United States Department of Justice, Washington, D.C. 20530.

Hon. Read P. Dunn, Jr.,
Commissioner, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581.

Re: *United States* v. *New York Coffee and Sugar Exchange, Inc., (S.D.N.Y. No. 77 Civ. 5038).*

Dear Commissioner Dunn: This letter is in response to your letter of February 23, 1979 to Judge Sweet commenting on the proposed decree in the above case. In your letter you described the authority conferred on the Commodity Futures Trading Commission under various sections of the Commodity Exchange Act,[1] and noted that the proposed decree makes no reference to that authority. You also noted that the New York Coffee and Sugar Exchange, the defendant in this case, has submitted to the Commission for its approval, pursuant to Section 5a(12) of the Act, 7 U.S.C. 7a(12), rules reflecting the changes required by the proposed decree. You stated your view that the Commission's "pervasive oversight functions . . . . apply to the subject matter of the instant litigation" and indicated that "the Commission's authority and responsibilities are not and, as a matter of law, cannot be affected by the agreement between the Department of Justice and the New York Coffee and Sugar Exchange" (Letter, p. 2).

We agree that the settlement reached by the parties to this litigation does not abrogate the Commission's statutory responsibilities. Nor does it relieve the Exchange of any responsibilities imposed on it by the Commodity Exchange Act. Conversely, of course, the existence of a regulatory agency with jurisdiction over the defendant does not abrogate the responsibility of the courts to enforce the antitrust laws, where neither the statutory language nor the legislative history clearly evidence a congressional intent to exempt the spot market reporting rules from the antitrust laws and there is no irreconcilable conflict between antitrust enforcement and the regulatory scheme. *See, e.g., Gordon* v. *District Edison Co.*, 428 U.S. 579 (1976); *Silver* v. *New York Stock Exchange*, 373 U.S. 341 (1963). In this case, no such conflict exists; entry of the proposed decree would be consistent with the provisions of the Commodity Exchange Act and would not impinge on the Commission's regulatory authority.

As you know, the Commodity Exchange Act contains no provision which expressly immunizes registered futures markets such as the New York Coffee and Sugar Exchange from antitrust challenges to their rules. Morever, the legislative history indicates that Congress did not intend to create any antitrust exemption. In the course of drafting the 1974 amendments to the Act which created the Commodity Futures Trading Commission and established it as an independent regulatory agency, Congress considered adding such an express exemption, but ultimately rejected that approach. *See* H.R. Rep. No. 93-975, 93rd Cong., 2d Sess. 23-26 (1974).[2] Moreover, Section 2 of the Act, 7 U.S.C. 2, which grants the Commission exclusive jurisdiction over accounts, agreements or transactions involving futures sales and over certain standardized contracts in the nature of margin accounts, specifies that "[n]o othing in this section shall supersede or limit the jurisdiction conferred on courts of the United States or any State." The legislative history indicates that that sentence was added in response to suggestions that the section might otherwise be interpreted to preclude enforcement of the Federal antitrust laws or state commerical and contract law in the area of the Commissions's exclusive jurisdiction. See *Commodity Futures Trading Commission Act: Hearing on S. 2485, S. 2578, S. 2837 and H.R. 13113 before the Senate Committee on Agriculture and Forestry*, 93rd Cong., 2d Sess. Pt. I 257-262 (1974) (statement of Hon. Peter W. Rodino, Jr., Chairman, House Judiciary Committee). *See also*, Testimony of Keith Clearwaters, Deputy Assistant Attorney General, *id.* Pt. 2 at 663; Testimony of James T. Halverson, Director, Bureau of competition, Federal Trade Commission, *id.* at 667-669. It seems clear, therefore, that Congress did not intend to bar antitrust enforcement against futures markets simply because they are subject to regulation by the Commission.

The absence of an express grant of antitrust immunity to regulated futures exchanges does not preclude the courts from recognizing an implied immunity in particular cases where the antitrust laws could not be applied to the conduct in question without seriously undermining the goals of the regulatory system established by Congress. See *Gordon* v. *New York Stock Exchange, Inc.*, 422 U.S. 694 (1975); *United States* v. *National Association of Securities Dealers*, 422 U.S. 694 (1975); *Hughes Tool Co.* v. *Trans World Airlines, Inc.*, 409 U.S. 363 (1973). The Supreme Court has repeatedly instructed, however, that such repeals of the antitrust laws by implication from a regulatory statute are strongly disfavored and will only be recognized in cases of "plain repugnancy" between the antitrust laws and the regulatory provisions. See, *e.g., Gordon* v. *New York Stock Exchange, Inc., supra*, 422 U.S. at 710-720; *Otter Tail Power Co.* v. *United States*, 410 U.S. 366, 372 (1973); *Carnation Co.* v. *Pacific Westbound Conference*, 383 U.S. 213, 217-218 (1966); *United States* v. *Philadelphia National Bank*, 374 U.S. 321, 350-351 (1963); *Silver* v. *New York Stock Exchange*, 373 U.S. 341, 357-361 (1963). According to the classic formulation of the test, announced in *Silver* v. *New York Stock Exchange, supra*, and quoted by the House Committee in its report on the 1974 amendments, "[r]epeal is to be regarded as implied only if necessary to make the [regulatory act] work, and even then only to the minimum extent necessary." 373 U.S. at 357; H.R. Rep. No. 93-95, *supra* at 28.

Thus, assuming that the Commodity Futures Trading Commission possesses jurisdiction *over* the practices which are the subject of the antitrust complaint the existence of agency jurisdiction does not by itself foreclose antitrust jurisdiction in the district court. "Activities which come under the jurisdiction of a regulatory agency

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[1] U.S.C. § 1 *et seq.* (1976) as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, 92 Stat. 865 *et seq.* (1978). The Commission was established as an "independent agency of the United States Government" by the Commodity Futures Trading Commission Act of 1974, Pub. L. No. 93-463, § 101, 88 Stat. 1389 *et seq.* (1974).

[2] Section 2(a)(1) of the Act, 7 U.S.C. § 2 (1976).

[3] *Id.*

[4] U.S.C. § 7a(12) (1978).

[5] The Commission has determined the Exchange's rules to be of "major economic significance" and, therefore, has had these rules published in the Federal Register for a 30-day comment period, as required by the Commodity Exchange Act, as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, § 12, 92 Stat. 871 (1978). See 44 Fed. Reg. 6492 (February 1, 1979).

[6] 43 Fed. Reg. 60342 (December 27, 1978).

[7] In order to obtain designation as a contract market, a commodity exchange must demonstrate its ability to the Commission to meet certain statutory requirements. Section 5 of the Act, 7 U.S.C. § 7. Once designation has been obtained, a contract market is required to satisfy other stringent requirements including enforcement of all contract market rules which have been approved by the Commission. Section 5a(5), 7 U.S.C. § 7a(5).

[8] Section 5c(1) of the Act, 7 U.S.C. § 7a(1).

[9] Section 5c(12) provides in pertinent part that a contract market is required to submit to the Commission for its approval ". . . any bylaws, rules, regulations and resolutions made or issued by such contract market, or by the governing board thereof or any committee thereof which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirement except those relating to the setting of levels of margin. . . ."

[10] Section 15 of the Act, 7 U.S.C. § 19 (1978) mandates that the Commission, "in requiring or approving any bylaw, rule, or regulation of a contract market", "Take into consideration the public interest to be protected by the antitrust laws and to endeavor to take the least anticompetitive means of achieving the objectives of this Act, as well as the policies and purposes of this Act. . . ."

[1] 7 U.S.C. 1 *et seq.*

[2] The bill on which the House Committee held hearings contained a section exempting such exchanges and others from the antitrust laws whenever they acted pursuant to a contract market rule required or specifically approved by the Commission under the Act. H.R. Rep. No. 93-975, *supra*, at 23. The House Committee explained that it deleted this provision in reliance on the "authoritative description of antitrust considerations" contained in a letter from the Justice Department, which it reprinted in full as part of the report. *Id.* at 23-28. That letter explained that, under existing precedent, the courts would recognize an implied immunity from the antitrust laws for activities approved by a regulatory agency which are necessary to make the regulatory act work and are not more restrictive than necessary, citing *Silver* v. *New York Stock Exchange*, 373 U.S. 341, 357 (1963). Thus, the letter explained, the antitrust laws remain fully applicable where there is no conflict with the regulatory statute. The Justice Department expressed concern that the proposed immunity provision would "permit exchanges to violate the antitrust laws, by establishing anticompetitive rules and regulations which are not necessary to fulfill any purpose of the Commodity Exchange Act, but which have nevertheless been approved by the Commission . . . . simply because they do not violate the Commodity Exchange Act." *Id.* at 24.

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nevertheless may be subject to scrutiny under the antitrust laws." *Otter Tail Power Co.* v. *United States, supra,* 410 U.S. at 372; *see also, Gordon* v. *New York Stock Exchange, supra,* 422 U.S. at 682 (Stewart, J. concurring).

The existence of concurrent jurisdiction in this case would not present any "repugnancy" or conflict between Congress' antitrust and regulatory policies. The spot market reporting rules are not expressly authorized or required by the Commodity Exchange Act. Nor has the Commission required, or even expressly approved their promulgation. *Compare Gordon* v. *New York Stock Exchange, supra; United States* v. *National Association of Securities Dealers, supra.* Finally, there is no indication that application of the antitrust laws to the spot market reporting rules would frustrate Commission regulation in this area. In 1976 the Commission published a notice in the **Federal Register** announcing that it did not intend to review rules or by-laws relating to cash market trading, and that it would take no action against contract markets for failure to submit such rules for approval. 41 Fed. Reg. 40097 (1976). Although the Commission in 1977 instituted an inquiry into the cash reporting rules of three futures markets, including the defendants and subsequently suggested certain changes to the markets, it has not attempted to require changes of any kind even though its staff expressed disapproval of the defendant's rules because of their anticompetitive effect. See Inquiry Into Operations of Spot Price Committees on the New York Coffee and Sugar Exchange, Minneapolis Grain Exchange, and Kansas City Board of Trade (staff report), approved by the Commission (June 21, 1977) (Release No. 304–77). *Compare, Gordon* v. *New York Stock Exchange, supra; Hughes Tool Co.* v. *Trans World Airlines, Inc., supra.* Under these circumstances we do not believe that it reasonably could be argued that it is necessary to imply an antitrust exemption for the conduct involved in this suit to avoid seriously undermining the regulatory scheme.[3]

Your letter to the Court did not state that you believe than any specific action by the Court or the parties is required in light of the Commission's responsibilities under the Commodity Exchange Act. In particular, you did not state any objection to the proposed rules or suggest that the Commission should or would disapprove them. Nor did you challenge the authority of the Court to entertain the suit or request that the decree not be entered. As we understand your letter, its purpose was merely to alert the Court to the provisions of the Commodity Exchange Act and to point out that the Commission is not a party to the proposed consent decree.[4]

We note that the defendant has consented to the entry of the decree, and has not objected that it would be insufficiently protected from conflicting requirements. Thus, entry of the decree at this time would not be likely to lead to an unseemly conflict between the Court and the Commission or to prejudice the defendant.

Accordingly, the Antitrust Division believes that there is a sound jurisdictional basis for the filing of the complaint in this case. It also believes that the Court clearly has jurisdiction to enter the proposed final judgment.

In accordance with the requirements of the Antitrust Procedure and Penalty Act (15 U.S.C. 16) your letter to Judge Sweet and this response will be published in the **Federal Register** and filed with the District Court in the Southern District of New York.

Sincerely,

Philip F. Cody,

Attorney, Antitrust Division.

[FR Doc. 79-13656 Filed 5-1-79; 8:45 am]

BILLING CODE 4410-01-M

[3] We recognize that the Commission has expressed its willingness in a general policy statement to assist the courts in reconciling the requirements of the regulatory scheme and the antitrust laws through the doctrine of primary jurisdiction. See 41 Fed. Reg. 18471 (1976). This procedure properly may be invoked where the existence of an implied exemption from the antitrust laws depends on the resolution of a particular factual issue within the special competence of the agency or where the case requires the court to determine whether a regulatory statute or regulation has been violated. See, *e.g., Chicago Mercantile Exchange* v. *Deaktor,* 414 U.S. 113 (1973); *Ricci* v. *Chicago Mercantile Exchange,* 409 U.S. 289 (1973); *Port of Boston Marine Terminal Association* v. *Rederiaktiebolaget Transatlantic,* 400 U.S. 62 (1970). The court, however, retains final authority to determine whether an implied exemption from the antitrust laws should be recognized. *Gordon* v. *New York Stock Exchange, supra,* 422 U.S. at 686–688; *Chicago Mercantile Exchange* v. *Deaktor, supra,* 414 U.S. at 114–115; *Ricci* v. *Chicago Mercantile Exchange, supra,* 409 U.S. at 306–308. The court need not refer the case to the agency where there is no significant factual dispute within the special competence of the agency, no violation of the regulatory statute or the agency's rules is involved, and the court determines that a referral to the agency is unlikely to be of material assistance. See *Gordon* v. *New York Stock Exchange, supra,* 422 U.S. at 686–688; *Ricci* v. *Chicago Mercantile Exchange, supra.* In this case, the existence of an implied immunity does not depend on the answer to a factual issue within the Commission's special area of expertise. Nor does it require the application of the Commodity Exchange Act or the Commission's rules to a complex set of facts. Therefore, we do not believe that such a referral would be of material assistance to the Court.

[4] If the Commission ordered changes in the rules inconsistent with the requirements of the decree, and if that order were held to be within its authority by the courts, the defendant could find itself subject to conflicting requirements, the mere possibility of a conflict between regulatory policy and antitrust enforcement, however, does not provide a sufficient justification for a refusal to enforce the antitrust laws. See *Cantor* v. *Detroit Edision Co.,* 428 U.S. 579, 596 (1976). A court may properly reserve consideration of an agency's power to order relief inconsistent with an antitrust decree until the conflict occurs. See *Otter Tail Power Co.* v. *United States, supra,* 410 U.S. at 376–377. See also *Ricci* v. *Chicago Mercantile Exchange, supra,* 409 U.S. at 304. Such a course seems particularly appropriate here. The possibility of conflict appears remote since the Commission has not raised any substantive objection to the decree and, indeed, has concluded that the challenged rules are anticompetitive and should be modified. Inquiry, *supra.* The Court remains free, of course, to modify the decree at a latter date if that seems appropriate in light of Commission findings. See Rule 60(b), F.R. Civ.P.

LEGAL SERVICES CORPORATION

Grants and Contracts

April 27, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355 88 Stat. 378, 42 U.S.C. 2996–2996l, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. North Central Legal Assistance Program in Durham, North Carolina to serve Warren and Franklin Counties.

2. Legal Aid Society of Northwestern North Carolina in Winston-Salem, North Carolina to serve Iredell County.

3. Legal Services of Southern Piedmont in Charlotte, North Carolina to serve Stanly and Union Counties.

4. Legal Sevices of North Carolina in Raleigh, North Carolina to serve Alexander, Alleghany, Ashe, Avery, Camden, Cleveland, Currituck, Dare, Duplin, Edgecombe, Greene, Halifax, Haywood, Hoke, Lenoir, Lincoln, Mitchell, Montgomery, Moore, Nash, Northampton, Onslow, Perquimans, Pasquo, Rowan, Watuga, Wilkes, Wilson and Yancey Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlánta Regional Office, 615 Peachtree Street, NE., 9th Floor, Atlanta, GA 30308.

Alice Daniel,

Acting President.

[FR Doc. 79-13570 Filed 5-1-79; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

April 27, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355 88 Stat. 378, 42 U.S.C. 2996–2996l, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid Society of Sacramento County, Inc. in Sacramento, California to serve Placer County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, San Francisco Regional Office, 177 Post Street, Suite 890, San Francisco, California 94104.

Alice Daniel,

Acting President.

[FR Doc. 79-13571 Filed 5-1-79; 8:45 am]

BILLING CODE 6820-35-M

National Advisory Committee on Oceans and Atmosphere

April 26, 1979.

Meeting

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2-day meeting on Thursday and Friday, May 17–18, 1979. The session will be open to the public and will be held in the Norman Watkins Building, Narragansett Bay Campus, University of Rhode Island. The sessions on both days will begin at 9:00 a.m.

The Committee, consisting of 16-non Federal members, appointed by the President from State and local government, industry, science and other appropriate areas, was established by the Congress by Public Law 95–63, on July 5, 1977. Its duties are to: (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United State; (2) advise the Secretary of Commerce with respect to the carrying out of the programs of the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The tentative meeting schedule follows:

Thursday, May 17, 1979

9 a.m.–10:30 a.m., *plenary session:*
Opening Remarks, Chairman, NACOA.
Meetings Plans, Chairman, NACOA.
Marine Programs at the University of Rhode Island:
An Overview, Dr. John Knauss, Provost for Marine Affairs.
Examples of Ongoing Programs, Research.
Air/Sea Interaction, Dr. Robert Duce, Oceanography.
Economic Impact of the Amoco Cadiz Oil Spill, Dr. Thomas Grigalunas, Resource Economics.
Public Service:
Coastal Ponds Project, Dr. Scott Nixon, Coastal Resources Center.
Marine Advisory Service, Ms. Sarah Callaghan, Coordinator, MAS.
Education:
Commerical Fisheries Programs, Capt. Geoffrey Motte, Fisheries and Marine Technology.
Marine Affairs Program, Dr. Louis Alexander.
10:30 a.m.–12 noon, *working group sessions.*
2 p.m.–5:30 p.m., *plenary session:*
Coast Guard R & D, RADM Alfred P. Manning, Chief of R & D, U.S. Coast Guard.
Discussion of NACOA Position Regarding Draft National Ocean Pollution R & D and Monitoring Plan, Dr. Alfred Keil, NACOA.
Discussion of NACOA Plan for the Study of the Federal Role in Civil Ocean Techonology, Dr. Alfred Keil, NACOA.

Friday, May 18, 1979

9 a.m.–12 noon, *working group sessions.*
1 p.m.–3 m.p., *plenary session:*
Review of NACOA 8th Annual Report, Chairman, NACOA.
Discussion of NACOA Response to President's DNR Proposal Mr. Marne Duba, NACOA.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the perogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained though the Committee's Executive Director, Mr. John W. Connolly, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 2001 Wisconsin Avenue, N.W. (Suite 434, Page Building I), Washington, D.C. 20235. The telephone number is (202) 254–8418.

Dated: April 27, 1979.

Samuel H. Walkady,

Executive Officer.

[FR Doc. 79-13554 Filed 5-1-79; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL COMMISSION ON AIR QUALITY

Plan of Study; Availability of Draft

The National Commission on Air Quality hereby gives notice that a draft of the Commission's Plan of Study will be made available at the Commission's May 7 meeting which is scheduled to begin at 10:00 a.m. in Room 311 of the Cannon House Office Building located at First Street SE., and Independence Avenue. A copy of the draft Plan will also be published that same week in the **Federal Register.** It is requested that public comments on the Plan be submitted in writing no later than June 9, 1979 to the Commission's office at 1730 K Street NW., Suite 207, Washington, D.C. 20006.

National Commission on Air Quality.

William H. Lewis, Jr.,

Director.

April 27, 1979.

[FR Doc. 79-13668 Filed 5-1-79; 8:45 am]

BILLING CODE 6820-60-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Physiology, Cellular, and Molecular Biology; Subcommittee on Cell Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Cell Biology of the Advisory Committee for Physiology, Cellular, and Molecular Biology.
Date and time: May 21, 22, and 23, 1979: 9:00 a.m. to 6:00 p.m.
Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Liselotte Mezger-Freed, Program Director for Cell Biology, Room 331–B, National Science Foundation, Washington, D.C. 20550. Telephone number 202/634–4117.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in cell biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 19, 1977.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79–13504 Filed 5–1–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee on Memory and Cognitive Processes; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Memory and Cognitive Processes of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: May 21 and 22, 1979; 9:00 a.m. to 5:00 p.m. each day.
Place: Room 628, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Joseph L. Young, Program Director, Memory and Cognitive Processes Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone: 202–634–1583.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Memory and Cognitive Processes.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79–13505 Filed 5–1–79; 8:45 am]
BILLING CODE 7555–01–M

Advisory Committee for PCM; Subcommittee on Genetic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Genetic Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: May 24–26, 1979, 9:00 a.m.
Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Philip D. Harriman, Program Director, Genetic Biology Program, Room 326, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–5985.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in genetic biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a propreitary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79–13506 Filed 5–1–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee for Sociology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Sociology of the Advisory Committee for Social Sciences.
Date and time: May 24–25, 1979—Thursday—9:00 a.m. to 6:00 p.m.; Friday—9:00 a.m. to 4:00 p.m.
Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C.
Type of Meeting: Closed.
Contact person: Roland J. Liebert, Program Director for Sociology, Room 316, National Science Foundation, Washington, D.C. 20550, Telephone: 202 632–4204.
Purpose of subcommittee: To provide advice and recommendation concerning support for research in the Sociology Program.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79–13507 Filed 5–1–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee on Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Molecular Biology, Group A, of the Advisory Committee for Physiology, Cellular, and Molecular Biology.
Date and time: May 24–25, 1979; 9:00 a.m. to 5:00 p.m. each day.
Place: Room 536, National Science Foundation, 1800 G Street NW., Washington, DC 20550.
Type of meeting: Closed.
Contact person: Dr. Brian J. Johnson, Program Director, Biochemistry Program, Room 330, National Science Foundation, Washington, DC 20550, Telephone: 202/632–4260.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Molecular Biology.
Agenda: To review and evaluate research proposals as part of the selection process of award.
Reason for closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. Rebecca Winkler,
Acting Committee Management Officer.
[FR Doc. 79–13508 Filed 5–1–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee for Sensory Physiology and Perception; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Behavioral and Neural Sciences Subcommittee for Sensory Physiology and Perception.
Date and time: May 23 and 24, 1979, 9:00 a.m.–5:00 p.m. each day.
Place: National Science Foundation, 1800 G Street, NW., Room 1243, Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Terrence R. Dolan, Program Director, Sensory Physiology and Perception, Room 310, National Science Foundation, Washington, D.C. (202) 634–1624.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in sensory physiology and perception.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(C), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79–13509 Filed 5–1–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee for Computer Science of the Advisory Committee for Mathematical and Computer Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for Computer Science of the Advisory Committee for Mathematical and Computer Sciences.
Date and time: May 21, 22 and 23, 1979—9:00 a.m. each day.
Place: Rooms 340, 543 and 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting: Part Open—5/21—closed—9:00 a.m. to 5 p.m.; 5/22—open—9:00 a.m. to 5 p.m.; 5/23—open—9:00 a.m. to 5 p.m.
Contact person: Mr. Kent K. Curtis, Head, Computer Science Section, Room 339, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 632–7346. Anyone planning to attend this meeting should notify Mr. Curtis no later than 5/16/79.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Computer Science.
Agenda: *Monday, May 21, 1979—9:00 a.m. to 5:00 p.m.—closed.* Review and comparison of declined proposals [and supporting documentation] with successful awards under the Software Engineering Program, including review of peer review materials and other privileged material. Preparation of a report based upon the above review.
Tuesday, May 22, 1979—9:00 a.m. to 5:00 p.m.—open.
9:00 a.m.—Introduction by Mr. Kent K. Curtis, Head, CSS/MCS.
9:30 a.m.—Briefing by Dr. John R. Pasta, DD/MCS.
10:30 a.m.—Discussion of Report on Software Engineering Program.
12:00 p.m.—Lunch.
1:00—Briefing by Dr. James A. Krumhansl, AD/MPE.
2:00 p.m.—Discussion of Long Range Plan for Support of Research in Computer Science.
Wednesday, May 23, 1979—9:00 a.m. to 5:00 p.m.—open.
9:00 a.m.—Continuation of Tuesday discussion of Long Range Plan.
12:00 p.m.—Lunch.
1:00 p.m.—Continuation of morning discussion of Long Range Plan.
3:00 p.m.—Adjourn.
Reason for closing: The Subcommittee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Director, NSF, pursuant to provisions of section 10(d) of Pub. L. 92–463.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79–13601 Filed 5–1–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee on Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Molecular Biology, Group B, of the Advisory Committee for Physiology, Cellular, and Molecular Biology.
Date and time: May 21 & 22, 1979; 9:00 a.m. to 5:00 p.m. each day.
Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.
Type of meeting: Closed.
Contact person: Dr. Arthur Kowalsky, Program Director, Biophysics Program, Room 330, National Science Foundation, Washington, DC, 20550, Telephone: 202/632–4260.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Molecular Biology.
Agenda: To review and evaluate research proposals as part of the selection process of awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79–13510 Filed 5–1–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee for Geography and Regional Science of the Advisory Committee for Social Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for Geography & Regional Science.
Date and time: May 21, 1979—8:30 a.m. to 5:00 p.m.
Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C.
Type of meeting: Closed.
Contact person: Herbert L. Costner, Division Director, Room 314, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–4286.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Geography and Regional Science.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 16, 1977.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79-13803 Filed 5-1-79; 8:45 am]
BILLING CODE 7555-01-M

International Decade of Ocean Exploration Ad Hoc Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Subcommittee on the Studies in East Asia Tectonics and Resources Project of the Advisory Committee for Ocean Sciences.

Date and time: May 21, 1979—9:00 a.m. to 5:00 p.m.

Place: Department of Geology, Stanford University, Stanford, California.

Type of meeting: Closed.

Contact person: Mr. Edward M. Davin, International Decade of Ocean Exploration Section, Room 606, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-7356.

Purpose of Ad Hoc Subcommittee: To provide the IDOE with additional expertise in the review and evaluation of proposals relating to oceanographic research related to the SEATAR Project.

Agenda: Detailed review and evaluation of proposals for support of the SEATAR Project.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 16, 1977.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79-13802 Filed 5-1-79; 8:45 am]
BILLING CODE 7555-01-M

DOE/NSF Nuclear Science Advisory Committee 1979 Instrumentation Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Instrumentation Subcommittee of the Nuclear Science Advisory Committee.

Date and time: May 19, 1979—9:00 a.m.-6:00 p.m.; May 20, 1979—9:00 a.m.-5:00 p.m.

Place: Conference Room 321, National Science Foundation, Washington, D.C. Telephone (202) 632-4318.

Type of meeting: May 19, 1979—open; May 20, 1979—open.

Contact person: Dr. Howel G. Pugh, Head, Nuclear Science Section, Room 341, National Science Foundation, Washington, D.C. Telephone (202) 632-4318.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Financial and Administrative Management, National Science Foundation, Washington, D.C. 20550.

Purpose of Committee: To provide advice on the continuing basis to both DOE and NSF on support for basic nuclear science in the United States.

Agenda: Formulation of the Subcommittee's Final Report.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79-13804 Filed 5-1-79; 8:45 am]
BILLING CODE 7555-01-M

Advisory Committee for International Programs; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for International Programs.

Date: May 18, 1979.

Time: 12 p.m.-5 p.m. Friday, May 18, 1979.

Place: Room 1224, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Open.

Contact person: Dr. Bodo Bartocha, Director, Division of International Programs, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550, Telephone: 202/632-5798.

Persons interested in attending the meeting should inform Dr. Bodo Bartocha before 5 p.m. on May 14, 1979.

Summary of minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of Advisory Group: The Advisory Committee for International Programs provides advice, recommendations, and oversight concerning support for activities related to international scientific and technical cooperation.

Agenda

Friday, May 18, 1979

12:00-1:30: Brown Bag Lunch—Dr. Dorothy Zinberg, Chairperson, Advisory Committee.

Overview Remarks—Dr. Bodo Bartocha, Designated Foundation Official for Advisory Committee.

Relation of NSF International Science Programs to the Department of State—Mr. Thomas R. Pickering, Assistant Secretary, Bureau of Oceans & International Environmental and Scientific Affairs, DOS.

1:30-2:30: OMB Review of International Science Issues—Dr. Gail Pesyna, Budget Examiner, Office of Management and Budget.

2:30-2:45: Overview of Policy of NSF, International Science Programs—Dr. Richard C. Atkinson, Director, National Science Foundation.

2:45-3:00: Criteria for NSF Programs With Less Developed Countries—Dr. Jewell Plummer Cobb, National Science Board, PPC Subcommittee on International Science Activities.

3:00-3:30: Review and discussion of NAS Programs and Budget—Dr. Robert Brainard, Head, Europe Section.

3:30-4:00: INT Report on Budget Analysis, FY 76-78—Dr. Norman Neureiter, Advisory Committee Member.

4:00-5:00: 1. Issues for INT Advisory Committee related to its Charter. 2. General discussion.

M. Rebecca Winkler,
Committee Management Coordinator.
[FR Doc. 79-13805 Filed 5-1-79; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Regulatory Guides Under Development

The Nuclear Regulatory Commission, in its continuing effort to provide for increased public participation in the regulatory process, is publishing the titles and scopes of regulatory guides under development as of March 16, 1979, and, where appropriate, the related national standards such as those of the American National Standards Institute (ANSI), American Nuclear Society (ANS), Institute of Electrical and Electronics Engineers (IEEE), and the American Society of Mechanical Engineers (ASME). At the end of the title of the guide, the Office of Standards Development task number is given. This task number is temporarily used to identify the guide during its development.

The list was developed before the recent accident at the Three Mile Island Nuclear Station. It does not include any new guides or revisions to existing guides that may be found to be necessary as a result of ongoing investigations of that accident.

The primary purposes of regulatory guides are (1) to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and in some cases to delineate techniques used by the staff in evaluating specific problems or postulated accidents and (2) to provide guidance to applicants concerning certain of the information needed by the NRC staff in its review of applications for permits and licenses. Regulatory guides are not intended as substitutes for regulations, and therefore compliance with these guides is not required. Methods and solutions different from those set forth in the guides will be acceptable if they provide a basis for the findings requisite to the issuance or continuance of a permit or license by the Commission.

Although these guides are not yet available, suggestions in connection with the regulatory guides under development are encouraged and should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Following is the list of regulatory guides under development as of March 16, 1979, with the scope of the guide and any related national standards. The list is divided into two parts: existing guides that are being revised and new guides under development. This list will be updated and published periodically.

Regulatory Guides Being Revised

Division 1, Power Reactor Guides

Revision 3 to Regulatory Guide 1.3, Assumptions Used for Evaluating the Potential Radiological Consequences of a Loss-of-Coolant Accident for Boiling Water Reactors (EM 027-2).

Scope: To provide acceptable assumptions that may be used in evaluating the radiological consequences of a loss-of-coolant accident for a boiling water reactor.

Related Standard: None.

Revision 2 to Regulatory Guide 1.12, Instrumentation for Earthquakes (EM 707-5).

Scope: To specify the seismic instrumentation acceptable to the NRC staff.

Related Standard: ANSI N18.5, Earthquake Instrumentation Criteria for Nuclear Power Plants.

Revision 2 to Regulatory Guide 1.13, Design Objectives for Light Water Reactor Spent Fuel Storage at Nuclear Power Stations (FP 701-5).

Scope: To describe acceptable fuel storage and handling systems with adequate safety under normal and postulated accident conditions.

Related Standard: ANS 210-1976, Design Objectives for Light Water Reactor Spent Fuel Storage Facilities at Nuclear Power Stations.

Revision 2 to Regulatory Guide 1.14, Reactor Coolant Pump Flywheel Integrity (SC 003-2).

Scope: To describe a method acceptable to the NRC staff of implementing Commission requirements to minimize the potential for failures of the flywheels of reactor coolant pump motors in light-water-cooled power reactors.

Related Standard: ASME Code.

Revision 5 to Regulatory Guide 1.16, Reporting of Operating Information—Appendix A Technical Specifications (RS 812-4).

Scope: To describe a program of reporting requirements for Appendix A technical specifications to health and safety of a facility license acceptable to the staff.

Related Standard: None.

Revision 1 to Regulatory Guide 1.25, Assumptions Used for Evaluating the Potential Radiological Consequences of a Fuel Handling Accident in the Fuel Handling and Storage Facility for Boiling and Pressurized Water Reactors (EM 802-4).

Scope: To provide guidance for dose calculation of a fuel handling accident.

Related Standard: None.

Revision 3 to Regulatory Guide 1.33, Quality Assurance Program Requirements (Operation) (RS 902-4).

Scope: To provide recommendations with regard to overall quality assurance program requirements for the operation phase of nuclear power plants.

Related Standard: ANSI N18.7-1976/ANS 3.2, Administrative Controls and Quality Assurance for the Operational Phase of Nuclear Power Plants.

Revision 3 to Regulatory Guide 1.35, Inservice Inspection of Ungrouted Tendons in Prestressed Concrete Containments (SC 810-4).

Scope: To describe a basis acceptable to the NRC staff for developing an appropriate inservice inspection and surveillance program for ungrouted tendons in prestressed concrete containment structures of light-water-cooled reactors.

Related Standard: None.

Revision 1 to Regulatory Guide 1.46, Protection Against Pipe Whip Inside Containment (SC 001-3).

Scope: To describe an acceptable basis (1) for selecting the design locations and orientations of postulated breaks in fluid system piping and (2) for determining how to prevent pipe whipping that may result from such breaks.

Related Standard: ASME Code, Section III.

Revision 1 to Regulatory Guide 1.50, Control of Preheat Temperature for Welding of Low-Alloy Steel (SC 712-4).

Scope: To describe acceptable methods for controlling the preheat temperature for the welding of low-alloy steel. The revision will take into account present day fabrication expertise and current data from research programs.

Related Standard: ASME Code.

Revision 1 to Regulatory Guide 1.58, Qualification of Nuclear Power Plant Inspection, Examination, and Testing Personnel (RS 901-5).

Scope: To describe a method acceptable to the staff with regard to qualification of nuclear power plant inspection, examination, and testing personnel.

Related Standard: ANSI N45.2.6-1973, Qualification of Inspection, Examination, and Testing Personnel for the Construction Phase of Nuclear Power Plants.

Revision 3 to Regulatory Guide 1.59, Design Basis Floods for Nuclear Power Plants (SS 932-4).

Scope: To identify the design basis floods that nuclear power plants should be designed to withstand without loss of capability for cold shutdown and maintenance thereof.

Related Standard: ANSI N170-1976, Standards for Determining Design Basis Flooding at Power Reactor Sites.

Revision 1 to Regulatory Guide 1.71, Welder Qualification for Areas of Limited Accessibility (SC 808-4).

Scope: To provide guidance for qualifying welders to perform in areas of limited accessibility.

Related Standard: ASME Code.

Revision 1 to Regulatory Guide 1.80, Preoperational Testing of Instrument Air Systems (RS 709-4).

Scope: To describe an acceptable initial startup test program for instrument and control air systems. The

revision will (1) expand guide's scope to include non-safety-related air systems (as well as safety-related), (2) provide for detailed failure analysis of plant air systems, and (3) provide for preoperational tests to verify failure analysis.

Related Standard: None.

Revision 15 to Regulatory Guide 1.84, Design and Fabrication Code Case Acceptability—ASME Section III, Division 1 of (SC 902–4).

Scope: To present the NRC staff position on ASME Section III Code Cases related to design and fabrication. The guide is revised periodically to add code cases that have been judged acceptable and to remove code cases withdrawn by ASME.

Related Standard: ASME Code.

Revision 15 to Regulatory Guide 1.85, Materials Code Case Acceptability—ASME Section III, Division 1 (SC 903–4).

Scope: To present the NRC staff position on ASME Section III Code Cases related to materials. The guide is revised periodically to add code cases that have been judged acceptable and to remove code cases withdrawn by ASME.

Related Standard: ASME Code.

Revision 1 to Regulatory Guide 1.89, Qualification of Class 1E Equipment for Nuclear Power Plants (RS 042–2).

Scope: To provide guidance on qualification of electric equipment for nuclear power plants.

Related Standard: IEEE Std 323–1974, Standard for Qualifying Class 1E Equipment for Nuclear Power Generating Stations.

Revision 2 to Regulatory Guide 1.101, Emergency Planning for Nuclear Power Plants (SD 803–4).

Scope: To describe methods acceptable to the NRC staff for emergency planning for nuclear power plants.

Related Standard: None.

Revision 1 to Regulatory Guide 1.131, Qualification Tests of Electric Cables, Field Splices, and Connections for Light-Water-Cooled Nuclear Power Plants (RS 050–2).

Scope: To provide guidance for type tests of electric cables, field splices, and connections installed inside the containment of nuclear power plants.

Related Standard: ANSI/IEEE Std 383–1974, Type Test of Class 1E Electric Cables, Field Splices, and Connections for Nuclear Power Generating Stations.

Revision 1 to Regulatory Guide 1.133, Loose-Part Detection Program for the Primary System of Light-Water-Cooled Nuclear Power Plants (SC 523–4).

Scope: To describe a program acceptable to the NRC staff for loose-part detection in the primary system of light-water-cooled reactors.

Related Standard: None.

Revision 1 to Regulatory Guide 1.135, Normal Water Level and Discharge at Nuclear Power Plants (SS 613–4).

Scope: To define criteria and methodology for determining ambient ground and surface water level and flow at time of occurrence of extreme design basis events.

Related Standard: None.

Revision 1 to Regulatory Guide 1.137, Fuel-Oil Systems for Standby Diesel Generators (RS 070–4).

Scope: To describe methods for the design and performance of fule-oil systems for standby diesel generators.

Related Standard: ANSI N195–1976, Fuel-Oil Systems for Standby Diesel Generators.

Revision 1 to Regulatory Guide 1.139, Guidance for Residual Heat Removal (EM 801–4).

Scope: To describe a method acceptable to the NRC staff for complying with the Commission's regulations with regard to the removal of decay heat and sensible heat after a reactor shutdown.

Related Standard: None.

Revision 1 to Regulatory Guide 1.140, Design, Testing, and Maintenance Criteria for Normal Ventilation Exhaust System Air Filtration and Adsorption Units of Light-Water-Cooled Nuclear Power Plants (FP 601–4).

Scope: To describe criteria acceptable to the NRC staff for design, testing, and maintenance of exhaust filtration and adsorption units.

Related Standard: None.

Revision 1 to Regulatory Guide 1.141, Containment Isolation Provisions for Fluid Systems (EM 705–5).

Scope: To describe a method acceptable to the NRC staff for complying with the Commission's requirements with respect to containment isolation of fluid systems.

Related Standard: ANSI N271–1976, Containment Isolation Provisions for Fluid Systems.

Revision 1 to Regulatory Guide 1.142, Safety-Related Concrete Structures for Nuclear Power Plants (Other Than Reactor Vessels and Containments) (SC 822–5).

Scope: To describe a method acceptable to the NRC staff with regard to safety-related concrete structures, other than reactor vessels and containments, for nuclear power plants.

Related Standard: ACI Standard 349–76, Code Requirements for Nuclear Safety Related Concrete Structure.

Division 3, Fuels and Materials Facilities

Revision 2 to Regulatory Guide 3.5, Standard Format and Content of License Applications for Uranium Mills (FP 703–4).

Scope: To provide specific guidance on the format and content of an application for an NRC Source Material License authorizing uranium mill activities. Major changes in the guide are anticipated to be in the areas of plant operation, operating procedures, radiation and environmental monitoring, and quality assurance.

Related Standard: None.

Revision 1 to Regulatory Guide 3.34, Assumptions Used for Evaluating the Potential Radiological Consequences of Accidental Nuclear Criticality in a Uranium Fuel Fabrication Plant (FP 065–4).

Scope: To Provide assumptions used to evaluate the magnitude and radiological consequences of a criticality accident in a uranium fuel fabrication plant.

Related Standard: None.

Revision 1 to Regulatory Guide 3.35, Assumptions Used for Evaluating the Potential Radiological Consequences of Accidental Nuclear Criticality in a Plutonium Processing and Fuel Fabrication Plant (FP 073–4).

Scope: To provide assumptions used by the staff to evaluate the magnitude and radiological consequences of a criticality accident in a plutonium processing and fuel fabrication plant.

Related Standard: None.

Revision 1 to Regulatory Guide 3.42, Emergency Planning for Fuel Cycle Facilities and Plants Licensed Under 10 CFR Parts 50 and 70 (FP 059–4).

Scope: To describe a method acceptable to the NRC staff for complying with requirements to provide emergency planning for fuel cycle facilities and nuclear power plants licensed under 10 CFR Parts 50 and 70.

Related Standard: None.

Revision 1 to Regulatory Guide 3.43, Nuclear Criticality Safety in the Storage of Fissile Materials (FP 709–5).

Scope: To provide guidance for the prevention of criticality accidents in the storage of fissile materials outside nuclear reactors.

Related Standard: ANSI N16.5–1975, Guide for Nuclear Criticality Safety in the Storage of Fissile Material.

Division 4, Environmental and Siting Guides

Revision 1 to Regulatory Guide 4.14, Measuring, Evaluating, and Reporting Radioactivity in Releases of Radioactive Materials in Liquid and Airborne Effluents from Uranium Mills (ES 403–4).

Scope: To describe programs acceptable to the NRC staff for monitoring effluents from uranium mills.

Related Standard: None.

Revision 1 to Regulatory Guide 4.16, Measuring, Evaluating, and Reporting Radioactivity in Releases of Radioactive Materials in Liquid and Airborne Effluents from Nuclear Fuel Processing and Fabrication Plants (ES 404–4).

Scope: To describe methods acceptable to the NRC staff for measuring, evaluating, and reporting radioactivity in releases of radioactive materials in liquid and airborne effluents from nuclear fuel processing and fabrication plants.

Related Standard: None.

Division 5, Materials and Plant Protection

Revision 1 to Regulatory Guide 5.7, Control of Personnel Access to Protected Areas, Vital Areas, and Material Access Areas (SG 616–7).

Scope: To describe a method acceptable to the NRC staff of searching personnel prior to entry into a protected area and upon exit from a material access area, and of controlling access to protected, vital, and material access areas.

Related Standard: None.

Revision 1 to Regulatory Guide 5.12, General Use of Locks in the Protection and Control of Facilities and Special Nuclear Materials (SG 803–4).

Scope: To provide criteria acceptable to the NRC staff for selection and use of commercially available locks in protection of facilities and special nuclear materials. The revision will reflect more recent technical information and new regulations requiring more stringent physical protection.

Related Standard: None.

Revision 1 to Regulatory Guide 5.14, Visual Surveillance of Individuals in Material Access Areas, (SG 910–4).

Scope: To describe operational measures and physical features acceptable to the staff for the implementation of visual surveillance of individuals in material access areas.

Related Standard: None. Revision 1 to Regulatory Guide 5.18, Limit of Error Concepts and Principles of Calculation in Nuclear Materials Control (SG 518–5).

Scope: To identify concepts, principles, and referenced methods acceptable to the staff for calculating limits of error in nuclear materials control.

Related Standard: ANSI N15.16–1974, Limits of Error Concepts and Principles of Calculaton in Nuclear Materials Control.

Revision 1 to Regulatory Guide 5.28, Evaluation of Shipper-Receiver Differences in the Transfer of Special Nuclear Materials (SG 905–4).

Scope: To identify concepts, principles, and methods acceptable to the staff for determining significant shipper-receiver differences.

Related Standard: ANSI N15.17–1974, Concepts and Principles for the Statistical Evaluation of Shipper-Receiver Differences in the Transfer of Special Nuclear Materials.

Revision 2 to Regulatory Guide 5.44, Perimeter Instrusion Alarm Systems (SG 479–4).

Scope: To describe six types of perimeter intrusion alarm systems and set forth acceptable criteria for their performance and use.

Related Standard: None.

Revision 2 to Regulatory Guide 5.52, Standard format and Content for the Physical Protection Section of a License Application (for Facilities Other Than Nuclear Power Plants) (SG 712–4).

Scope: To provide guidance on the format and content of the physical protection section of a license application for facilities other than nuclear power plants. The guide will be revised to include changes resulting from the safeguards upgrade and guard training rules.

Related Standard: None.

Revision 1 to Regulatory Guide 5.57, Shipping and Receiving Control of Special Nuclear Material (SG 484–4).

Scope: To describe acceptable procedures with regard to the control of special nuclear materials during shipment and receipt by a licensee.

Related Standard: None.

Division 7, Transportation Guides

Revision 1 to Regulatory Guide 7.8, Load Combinations for the Structural Analysis of Shipping Casks (SC 527–4).

Scope: To establish load combinations for the structural analysis of shipping casks acceptable to the NRC staff for complying with the requirements of Appendices A and B to 10 CFR Part 71.

Related Standard: None.

Division 8, Occupational Health

Revision 4 to Regulatory Guide 8.8, Information Relevant to Ensuring That Occupational Radiation Exposures at Nuclear Power Stations Will Be As Low As Is Reasonably Achievable (ALARA) (OH 507–4).

Scope: To provide guidance to meet the criterion during design, construction, operation, and decommissioning of light-water-reactor power plants that exposures of station personnel to radiation during routine operation will be ALARA.

Related Standard: ANSI Z88.2–1969, Practices for Respiratory Protection.

Revision 1 to Regulatory Guide 8.18, Information Relevant to Ensuring That Occupational Radiation Exposures at Medical Institutions Will Be As Low As Reasonably Achievable (OH 606–4).

Scope: To recommended methods for maintaining occuptional exposures ALARA in medical institutions.

Related Standard: None.

Revision 1 to Regulatory Guide 8.19, Occuptional Radiation Dose Assessment in LWR Power Plants—Design Stage Man-Rem Estimates (OH 612–4).

Scope: To describe a method acceptable to the NRC staff for performing an assessment of collective occupational radiation dose during preliminary design stage as well as during construction after completion of design for a light-water-cooled power reactor.

Related Standard: None.

Revision 1 to Regulatory Guide 8.20, Applications of Bioassay for I–125 and I–131 (OH 712–4).

Scope: To provide criteria for the development and implementation of a bioassay program for handling or processing I–125 or I–131.

Related Standard: None.

Revision 1 to Regulatory Guide 8.21, Health Physics Surveys for Byproduct Material at NRC-Licensed Processing and Manufacturing Plants (OH 707–4).

Scope: To identify types and frequencies of surveys for processing byproduct material or manufacturing such material for distribution.

Related Standard: None.

Division 10, General Guides

Revision 1 to Regulatory Guide 10.5, Guide for the Preparation of Applications for Type A Licenses of Board Scope for Byproduct Material (OH 603–4).

Scope: To inform applicants of the desired format and information to be submitted when applying for a Type A Byproduct Material License of broad scope.

Related Standard: None.

Revision 1 to Regulatory Guide 10.6, Guide for the Preparation of Applications for Use of Sealed Sources and Devices for the Performance of Industrial Radiography (TP 602–4).

Scope: To provide guidance for licensing radiography programs.

Related Standard: None.

Revision 1 to Regulatory Guide 10.7, Guide for the Preparation of Applications for Licenses for Laboratory

Use of Small Quantities of Byproduct Material (OH 610–4).

Scope: To identify information needed by the NRC staff to evaluate an application for a specific license for laboratories using millicurie quantities of byproduct material.

Related Standard: None.

New Regulatory Guides Under Development

Division 1, Power Reactor Guides

Interim Guide on Tornado Missiles (EM 501–4).

Scope: To provide reasonably conservative design missile descriptions for power plant design against missiles based on licensing assessment of recent applications.

Related Standard: None.

Single-Failure Criteria for Light-Water Reactor Plant Fluid Systems (EM 622—5).

Scope: To define application of single-failure criteria to light-water reactor fluid systems.

Related Standard: ANSI N658–1976, Single Failure Criteria for Pressurized Water Reactor Fluid Systems.

Earthquake Instrumentation Data Handling for Nuclear Power Plants (EM 708–5).

Scope: To specify the retrieval and processing of the instrumentation data recorded during an earthquake to determine whether the Operating Basis Earthquake has been exceeded.

Related Standard: ANS 2.10, Guidlines for Retrieval, Review, Processing, and Evaluation of Records Obtained from Seismic Instrumentation (Under development).

Pressurized Water Reactor and Boiling Water Reactor Containment Spray System Design Criteria (EM 710–5).

Scope: To provide guidelines for the design, performance, testing, maintenance, instrumentation, and control and acceptable methods for analyzing the heat removal and fission product removal effectiveness of light-water reactor containment spray systems.

Related Standard: ANSI N581, Pressurized Water Reactor and Boiling Water Reactor Containment Spray Design Criteria, (Under development).

Criteria for Safety-Related Permanent dewatering systems (FP 811–4).

Scope: To define acceptable geotechnical and hydrologic engineering design bases and criteria for permanent dewatering systems that are depended on to serve safety-related purposes, including consideration for facility decommissioning.

Related Standard: None.

Criteria for Electric Instrumentation and Control System Portions of Protection Systems, Protective Action Systems, and Auxiliary Supporting Features (RS 609–5).

Scope: To provide guidance in the design of electric instrumentation and control system portions of protection systems, protective action systems, and auxiliary supporting features.

Related Standard: IEEE Std 603–1977, Criteria for Safety Systems for Nuclear Power Generating Stations.

Criteria for Lightning Protection for Nuclear Power Plants (RS 705–4).

Scope: To provide acceptable criteria for the design of lightning protection for nuclear power plants.

Related Standard: None.

Application of Torque Switches in Safety-Related Motor-Operated Valves (RS 801–4).

Scope: To describe methods acceptable to the NRC staff for correct application of torque switches in safety-related motor-operated valves to ensure compatibility of the value assembly with the system's operating conditions.

Related Standard: None.

Qualification Test for Cable Penetration Fire Stops for Use in Nuclear Power Plants (RS 809–5).

Scope: To describe methods acceptable to the NRC staff for establishing type tests for qualifying the performance of cable penetration fire stops when mounted in rated fire barriers.

Related Standard: IEEE Std 634–1978, Standard Penetration Fire Stop Qualification Test.

Qualification of Electric Modules for Nuclear Power Plants (RS 811–5).

Scope: To provide qualifications and criteria for electric modules for nuclear power plants acceptable to the NRC staff.

Related Standard: IEEE Std 381–1977, Criteria for Type Tests of Class IE Modules Used in Nuclear Power Plant Generating Stations.

Meteorological Extreme Air Temperatures for the Design and Operation of Nuclear Power Plants (SS 603–9).

Scope: To provide guidance to applicants concerning extreme ambient air temperatures and associated return intervals to be considered in the design temperatures of structures, components, and systems.

Related Standard: None.

Extreme Wind Speeds in Coastal Areas for the Design and Operation of Nuclear Power Plants (SS 604–9).

Scope: To provide guidance to applicants concerning speeds and associated recurrence intervals in coastal areas to be considered in the design wind speed specified for safety-related nuclear power plant structures, components, and systems.

Related Standard: None.

Procedures and Criteria for assessing Soil Liquefaction Potential at Nuclear Facility Sites (SS 718–4).

Scope: To provide criteria for identifying sites requiring detailed investigation; to describe procedures and limitations and laboratory and field investigations; and to discuss analytical and empirical studies, margins of safety, and important issues.

Related Standard: None.

Foundation and Earthwork Construction for Nuclear Power Plants (SS 719–4).

Scope: To identify foundation and earthwork construction activities important to safety and to describe preferred practices, acceptable performance criteria, control measures, and quality assurance requirements.

Related Standard: None.

Snow and Ice Accumulations for the Design and Operation of Nuclear Power Plants (SS 723–4).

Scope: To provide guidance to applicants concerning snow and ice accumulation and associated recurrence intervals to be considered in the design basis specified for safety-related nuclear power plants structures, systems, and components.

Related Standard: None.

Atmospheric Dispersion Models for Potential Accident Consequence Assessments at Nuclear Power Plants (SS 724–4).

Scope: To provide guidance to applicants concerning procedures for determining atmospheric dispersion conditions used in assessing consequences of potential reactor accidents made to determine the exclusion area, low population zone, and population center distance as required by 10 CFR Part 100.

Related Standard: None.

Geologic Mapping of Excavations for Nuclear Power Plants (SS 805–4).

Scope: To identify geologic conditions and special or adverse foundation conditions that should be mapped in excavations to describe acceptable techniques for mapping and photographing excavations. To describe acceptable methods for presenting geologic maps and data to the NRC staff.

Related Standard: None.

Guidance for Content of Licensing Applications for Light-Water-Reactor Reload Fuel (SC 521–4).

Scope: To provide guidelines with regard to content of licensing applications for reload fuel with respect to review of safety-related issues.

Related Standard: None.

Ultrasonic Testing (UT) of Reactor Vessel Welds During Inservice Examination (SC 705–4).

Scope: To provide recommendations and supplement the present ASME code procedure and information requirements so that greater consistency may be obtained between ultrasonic examination of flaws.

Related Standard: ASME Code.

Requirements for Qualification Tests and Production Tests for Piping and Equipment Snubbers (SC 708–4).

Scope: To provide guidance on the requirements for the qualification and production tests of piping and equipment snubbers with normal-condition load ratings not greater than 100,000 pounds.

Related Standard: None.

Code Case Acceptability—ASME Section XI, Inservice Inspection (SC 721–4).

Scope: To present the NRC staff position on ASME Section XI Code Cases. The guide will be revised and updated to include the changing status of Section XI Code Cases.

Related Standard: ASME Code.

Ultrasonic Testing (UT) of ASME Class 1 and 2 Austenitic Piping Systems (SC 802–4).

Scope: To describe methods acceptable to the NRC staff for the ultrasonic testing of ASME Class 1 and 2 austenitic piping systems.

Related Standard: None.

Determining Prestressing Forces for Inspection of Prestressed Concrete Containment Structures (SC 807–4).

Scope: To describe methods of determining the prestressing forces for inspection purposes.

Related Standard: None.

Methods of Analysis and Design of Reinforced Concrete Containment Structures (SC 808–4).

Scope: To provide information regarding acceptable methods of analysis and design of reinforced concrete containments, based primarily on Article CC–3000 of ASME Section III, Division 2, Code for Concrete Reactor Vessels and Containments. In areas where the NRC finds provisions of the Code improper or insufficient for licensing purposes, the staff will provide supplementary guidelines.

Related Standard: ASME Code.

Construction and Testing of Concrete Containments (Articles CC–4000–7000 of ASME Section III, Division 2, Code for Concrete Reactor Vessels and Containments) (SC 814–5).

Scope: To give the NRC staff's position on the acceptability for NRC licensing actions of Articles CC–4000–7000 of ASME Section III, Division 2.

Related Standard: ASME Code.

Division 3, Fuels and Materials Facilities Guides

Guidance on the Design of an Independent Spent Fuel Storage Installation (Water-Basin Type) (FP 605–4).

Scope: To provide guidance on the design of an independent spent fuel storage installation (Water-Basin Type).

Related Standard: ANSI/ANS 57.7, Design Criteria for an Independent Spent Fuel Storage Installation (Water-Basin Type) (Under development).

Standard Format and Content of License Applications for UO_2 Fuel Fabrication Facilities (FP 716–4).

Scope: To provide specific guidance on the format and content of a license application for uranium in a fuel fabrication facility. Regulatory Guide 3.39, Standard Format and Content of License Applications for Plutonium Processing and Fuel Fabrication Plants, will be used as a starting document and will be revised to reflect applicable public comments and any differences in requirements between license applications for mixed oxide facilities and those for UO_2 facilities.

Related Standard: None.

Standard Format and Content of License Applications for Class A (High-Level) Radioactive Waste Storage and Disposal in a Deep Geologic Repository (FP 805–4).

Scope: To provide guidance concerning the format and content of applications to license receipt, possession, storage, and disposal of Class A waste in deep geologic repositories.

Related Standard: None.

Standard Format and Content of License Applications for Management and Disposal of Class B and Class C Radioactive Waste (FP 808–4).

Scope: To identify the type of information needed and the format desired by the NRC staff to expedite review of applications for licenses to manage and dispose of Class B and Class C radioactive waste.

Related Standard: None.

Calculational Models for Estimating Radiation Doses From Airborne Radioactive Materials Resulting From Uranium Milling Operations (RH 802–4).

Scope: To provide standard models for assessing doses from routine radioactive effluents from mills and UF_6 facilities.

Related Standard: None.

Operational Inspection and Surveillance of Embankment Retention Systems for Uranium Mill Tailings (SC 722–4).

Scope: To describe in greater detail, as a supplement to Regulatory Guide 3.11, a basis for developing an appropriate inservice inspection and surveillance program for earth and rockfill embankments used to retain uranium mill tailings.

Related Standard: None.

Division 4, Environmental and Siting Guides

Preparation of Environmental Reports for High-Level Waste Repositories (ES 724–4).

Scope: To provide a standard format and content for environmental reports to be submitted with license applications for high-level waste repositories.

Related Standard: None.

Guidance for Establishing Site-Related Parameters for Site Selection and Design of an Independent Spent Fuel Storage Installation (FP 604–4).

Scope: To provide site-related parameters acceptable to the NRC staff for the selection and design of sites for independent spent fuel storage installations.

Related Standard: ANS 2.19, Guidelines for Establishing Site-Related Parameters for Site Selection and Design of an Independent Spent Fuel Storage Installation (Under development).

Site Suitability Criteria for Nuclear Fuel Cycle Facilities (SD 726–4).

Scope: To provide guidance on suitability of sites for fuel cycle facilities.

Related Standard: None.

Hydrologic Design Criteria for Water-Control Structures Not Related to Radiological Safety and Constructed for Nuclear Power Plants (SS 518–4).

Scope: To provide design criteria for water control structures for nuclear power plants.

Related Standard: None.

Geochronologic Techniques Applied to Nuclear Power Plant Siting (SS 702–4).

Scope: To provide guidance to applicants and consultants on the use of geochronologic techniques in determining the "absolute" age of geologic materials and dating fault movement.

Related Standard: None.

Division 5, Materials and Plant Protection Guides

Mass Calibration Techniques for Nuclear Material Control (SG 601–5).

Scope: To identify acceptance calibration techniques applicable to control of special nuclear material.

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Related Standard: N15.19–1975, Volume Calibration Techniques for Nuclear Material Control.

Standard Format and Content for the Physical Protection Plan for Strategic Special Nuclear Material in Transit (SG 606–1).

Scope: To identify the information to be provided in a physical protection plan for strategic special nuclear material in transit and describe a uniform format for presenting the information.

Related Standard: None.

Standard Format and Content for the Licensee Physical Security Plan for the Protection of Special Nuclear Material of Moderate or Low Strategic Significance (SG 705–9).

Scope: To identify the information to be included in a physical security plan for the protection of special nuclear material of moderate or low strategic significance and to describe a uniform format for presenting the information.

Related Standard: None.

Division 8, Occupational Health Guides

Health Physics Surveys at Uranium Mills (OH 710–4).

Scope: To provide guidance regarding health physics surveys that should be performed in uranium mills.

Related Standard: None.

Bioassay for Tritium (OH 713–4).

Scope: To provide criteria for a tritium bioassay program.

Related Standard: None.

Bioassay for Fission and Corrosion Products (OH 714–4).

Scope: To provide criteria for a bioassay program for fission and corrosion products.

Related Standard: None.

Radiation Protection Training at Nuclear Power Plants (OH 717–4).

Scope: To describe the elements of a training program, including content, frequency, and approach, consistent with the requirements of 10 CFR Part 19, § 19.12, and 10 CFR Part 20, § 20.1(c).

Related Standard: None.

Radiation Protection Training at Uranium Fuel Fabrication Plants (OH 718–4).

Scope: To provide guidance regarding the content and frequency of radiation protection training at uranium fuel fabrication plants.

Related Standard: None.

Radiation Safety Officer Qualifications for Large-Scale Programs (OH 722–4).

Scope: To provide guidance on educational and experience qualifications for radiation safety officers at materials license facilities.

Related Standard: None.

Audible-Alarm Dosimeters (OH 804–4).

Scope: To recommend the proper use of pocket dosimeters that alarm and discuss performance requirements for them.

Related Standard: None.

Division 10, General Guides

Preparation of Applications for Teletheraphy (TP 608–4).

Scope: To provide a format for preparation of application for teletheraphy.

Related Standard: None.

Preparation of Applications for Licenses to Manufacture or Distribute Smoke Detectors (TP 819–5).

Scope: To provide a format for license applications to manufacture or distribute smoke detectors.

Related Standard: International Standard NEA–1977, Recommendations for Ionization Chamber Smoke Detectors in Implementation of Radiation Protection Standards.

(5 U.S.C. 522(a))

Dated at Rockville, Maryland this 24th day of April 1979.

For the Nuclear Regulatory Commission.

Robert B. Minogue,
Director, Office of Standards Development.

[FR Doc. 79-13860 Filed 5-1-79; 8:45 am]

BILLING CODE 7590-01-M

Victor E. Anderson; Standards for Protection Against Radiation; Extension of Comment Period

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: The Nuclear Regulatory Commission is extending the period within which the public may comment on a petition for rule making from Mr. Victor E. Anderson, 59 Baird Avenue, Paulsboro, New Jersey. The Filing of Petition for Rule Making was published in the Federal Register on February 28, 1979 (44 FR 11284); the comment period would have expired April 30, 1979. Mr. Anderson's petition requested the Commission to amend its regulation, "Standards for Protection Against Radiation", to require that health physics personnel be certified by the Commission; the proposed amendments provide for the certification of health physicists on five level—trainee, junior, senior, supervisor, and master health physicists—and also for revocation, as well as certification and validation, of certificates.

NEW COMMENT PERIOD EXPIRES: May 30, 1979.

ADDRESSES: Written comments or suggestions concerning the proposed amendments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. A copy of the petition may be obtained by writing the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301–492–7086.

Dated at Washington, D.C. this 26th day of April 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,
Secretary of the Commission.

[Docket No. PR0620-13]

[FR Doc. 79-13891 Filed 5-1-79; 8:45]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

Redelegation of Minority Small Business and Capital Ownership Development Activities

Corrections

In FR Doc. 79–12052 appearing at page 23145 in the issue of Wednesday, April 18, 1979, make the following changes:

1. On page 23146, second column, fourth line of the paragraph numbered 2, insert ")" after "*1980.*"; and in the third column, the heading for the section lettered C and the first paragraph should have read as follows:

"C. **Chief, Government Contracts Division (Contracting Officer)**

1. *Section 8 (a)(1)(A) Contracting Authority.*"

BILLING CODE 1505-01-M

Paramount Funds, Ltd.; Application for a License To Operate as a Small Business Investment Company (Proposed License No. 06/06–0216)

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102(1978)), under the name of Paramount Funds, Ltd., (Applicant), 303 Beck Building, 400 Travis Street, Shreveport, Louisiana

71101, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The proposed officers and directors are as follows:

William Lee Rudd III, 103 Topango, Shreveport, La. 71115, President, Director.

Braxton Glasgow III, 572B Oneonta, Shreveport, La. 71106, Secretary, Treasurer, Director.

W. L. Rudd, Jr., Drawer "A", Waskom, Texas 75692, Director.

It is proposed that the Applicant will begin its operations with an initial paid-in capital and paid-in surplus of $1,001,500. The total authorized shares is 500,000 shares of common stock with no par value. Each share of stock has equal voting power. There will be no more than fifteen beneficial owners of common stock upon the initial funding of the Applicant. It is anticipated that no stockholder will own 10 percent or more of the issued and outstanding stock. Messrs. Rudd and Glasgow will each own 7.5. percent.

The Applicant proposes to conduct its operations in the States of Louisiana, Arkansas, Mississippi and Texas. Also, the Applicant will establish a diversified investment policy.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than (fifteen days from the date of publication of this notice), submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Shreveport, Louisiana.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 24, 1979.

Peter F. McNeish,
Deputy Associate Administrator for Finance and Investment.

[Proposed License No. 06/06-0216]

[FR Doc. 79-13890 Filed 5-1-79; 8:45 am]

BILLING CODE 8025-01-M

Oklahoma; Declaration of Disaster Loan Area

The above numbered Declaration (see 44 FR 24180), is amended in accordance with the President's declaration of April 13, 1979, to include Cotton County in the State of Oklahoma. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named county and adjacent counties within the State of Oklahoma. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on June 13, 1979, and for economic injury until the close of business on January 14, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 23, 1979.

A. Vernon Weaver,
Administrator.

[Declaration of Disaster Loan Area #1013, Amdt. 1]

[FR Doc. 79-13548 Filed 5-1-79; 8:45 am]

BILLING CODE 8025-01-M

Texas; Declaration of Disaster Loan Area

Nolan County and adjacent counties within the State of Texas constitute a disaster area as a result of damage caused by tornadic winds, hail, rain and flooding which occurred on March 21, 1979. Applications will be processed under the provisions of Pub. L. 94–305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 25, 1979, and for economic injury until the close of business on January 24, 1980, at: Small Business Administration, District Office, 712 Federal Office Building, U. S. Courthouse, 1205 Texas Avenue, Lubbock, Texas 79401, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 24, 1979.

A. Vernon Weaver,
Administrator.

[Declaration of Disaster Loan Area #1010]

[FR Doc. 79-13549 Filed 5-1-79; 8:45 am]

BILLING CODE 8025-01-M

Associate Deputy Administrator for Programs; Delegation of Authority

Delegation of Authority No. 1–A (Revision 6) (43 FR 36744) is hereby revised to read as follows:

I. Pursuant to authority vested in me by the Small Business Act, 72 Stat. 384, as amended, the Small Business Investment Act of 1958, 72 Stat. 689, as amended, authority is hereby delegated to the following officials in the following order:

1. Associate Deputy Administrator for Programs
2. Assistant Deputy Administrator for Support Services
3. General Counsel
4. Associate Administrator for Finance and Investment

To perform, in the event of the absence or incapacity of the Administrator and the Deputy Administrator, any and all acts which the Administrator is authorized to perform, including but not limited to authority to issue, modify, or revoke delegations of authority and regulations, except exercising authority under Section 7(a)(6), 2(d) and 11 of the Small Business Act, as amended.

II. Anyone designated by the Administrator as acting due to a vacancy in one of the positions listed above remains in the line of succession; otherwise in the absence of one of the above, the authority moves to the next position.

III. This delegation is not in derogation of any authority residing in the above listed officials relating to the operations of their respective programs nor does it affect the validity of any delegations currently in force and effect and not specifically cited as revoked or revised herein.

Effective Date: May 2, 1979.

Dated: April 26, 1979.

A. Vernon Weaver,
Administrator.

[Delegation of Authority No. 1–A (Rev. 7)]

[FR Doc. 79-13547 Filed 5-1-79; 8:45 am]

BILLING CODE 8025-01-M

Capital Corp. of America

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.701 of the Regulations governing Small Business Investment Companies (13 CFR 107.701 (1978)), for transfer of control of Capital Corporation of America (CCA), 1521 Walnut Street, Philadelphia, Pennsylvania 19102, a Federal Licensee under the Small Business Investment Act of 1958, (the Act), as amended (15 U.S.C. 661 et seq.). The proposed transfer of control of CCA, which was licensed August 9, 1962, is subject to the prior written approval of SBA.

Pursuant to a Letter of Intent, addressed to Messrs. Martin M. Newman and Barton M. Banks of CCA, dated December 21, 1978, Mr. Henry Ginsburg, investment group representative, has offered to purchase an amount of common shares of CCA

which, when issued will be at least 51 percent of the issued and outstanding shares of CCA for $500,000. Messrs. Henry Ginsburg and Leonard Sandburg will be the only two individuals owning ten percent or more of the issued and outstanding stock.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owners and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than May 17, 1979, submit written comments on the proposed SBIC to the Deputy Associate Asministrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of the Notice will be published in a newspaper of general circulation in Philadelphia, Pennsylvania.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: April 26, 1979.

Peter F. McNish,
Deputy Associate Administrator for Finance and Investment.

[License No. 03/03-0040]
[FR Doc. 79-13648 Filed 5-1-79; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting on June 20, 1979 of the Working Group on Accounting Standards of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 9:30 a.m.–12:30 p.m. The meeting will be held in Room 1105 of the State Department, 2201 C Street, N.W., Washington, D.C. 20520. The meeting will be open to the public. The public will be admitted into the building beginning at 9:15 a.m.

The purpose of the meeting will be to discuss the work in the OECD relating to questions on international accounting standards. A member of the State Department will brief the Committee and the public on the results of an April 3–5 session of the OECD Ad Hoc Working Group on Accounting Standards.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–2728.

Members of the public wishing to attend the meeting must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of the working group, will as time permits, entertain oral comments from members of the public attending the meeting.

Dated: April 24, 1979.

Clifford G. Bond,
Acting Executive Secretary.

[Public Notice CM 8-189]
[FR Doc. 79-13606 Filed 5-1-79; 8:45 am]
BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Interdepartmental Coordination Study

AGENCY: Department of Transportation, Office of Secretary.

ACTION: Request for public comments.

SUMMARY: Section 160 of the Surface Transportation Assistance Act of 1978 requires the Department of Transportation to conduct an Interdepartmental Coordination Study and report the results to the President and the Congress. The purpose of this notice is to advise the public of this study and to invite comments from interested parties.

DATE: Written comments and recommendations should be submitted on or before July 1, 1979.

ADDRESS: Responses should refer to the Interdepartmental Coordination Study and be submitted in writing to the Director, Office of Environment and Safety, U.S. Department of Transportation, Washington, D.C. 20590. Comments received will be available for public inspection during normal working hours in room 9422, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Don Ryan, Office of Environment and Safety, Room 9422, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, 202–426–4391.

SUPPLEMENTARY INFORMATION: An Interdepartmental Coordination Report to the President and to the Congress is required by Section 160 of the Surface Transportation Assistance Act of 1978, which reads as follows:

"(a) The Secretary of Transportation shall make a full and complete investigation and study with the cooperation of the Secretaries of the Departments of Energy, Housing and Urban Development, and Commerce, the Administrator of the Environmental Protection Agency, and the Director of the Office of Management and Budget of—

"(1) All those factors affecting the integration of the Clean Air Act, the Energy Policy and Conservation Act, the Urban Mass Transportation Act of 1964, and title 23, United States Code and related highway laws;

"(2) The parallel among all rules, regulations, administrative reviews, and approvals pursuant to the Acts referred to in paragraph (1) of the this subsection;

"(3) All those factors affecting the availability and coordination of funding sources to achieve improved air quality, energy conservation, and transportation efficiency;

"(4) The degree to which urban growth, development, and Federal funding to urban areas is predicated upon compliance with the Clean Air Act requirements and plans to attain air quality standards;

"(5) The feasibility of permitting tolls and other user charges on roads and highways on the Federal-aid systems as part of a state implementation plan under the Clean Air Act.

"(b) The results of investigation and study described in subsection (a) of this section shall be reported to the President and the Congress no later than one year following the date of enactment of this section.

"(c) Nothing in this section shall be construed to amend, stay, or in any other way restrict or limit any authority or duty under the Clean Air Act, the Energy Policy and Conservation Act, the Urban Mass Transportation Act of 1964, and title 23, United States Code and related highway laws."

The August 11, 1978, report by the House Committee on Public Works and Transportation includes the following explanation of Section 160:

"This study is necessary because of the need to reconcile the various requirements of each of these laws, and if conflicts exist between their requirements, to identify them and investigate possible legislative or other alternatives to resolve such conflicts.

"The Federal rules and regulations developed in response to these laws have often been blamed for wasteful duplication taxing the resources of many local, regional, and State agencies to their limits. Also, the various Federal agency interventions into the planning process required by these laws have been of major concern to many local and regional agencies. Apparently, somewhat conflicting demands have been placed on regional planning agencies by different Federal agencies, each wanting to meet the objectives of its specific law. The local, regional, and State agencies have complained that they do not have the resources necessary to reconcile the conflicting Federal requirements resulting in none of the Federal objectives being met.

"There is a clear and immediate need to examine these laws together and to identify all the resources, both Federal and non-Federal currently available to local, regional, and State agencies to achieve the objectives of these laws and to determine if any legislative changes are required and additional resources are needed."

This notice invites public comment to assist the Department in preparing the report. Specifically, interested parties are invited to identify and describe problems which exist and offer recommended solutions.

Issued in Washington, D.C. on April 24, 1979.

John J. Fearnsides,
Deputy Under Secretary.

[OST File No. 08; Notice 79-6]
[FR Doc. 79-13643 Filed 5-1-79; 8:45 am]
BILLING CODE 4910-62-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Applications; Decision-Notice

Correction

In FR Doc. 79–1353, published at page 3345, on Tuesday, January 16, 1979, on page 3347, in the first column, in the first paragraph reading "MC 41347", in the eighth line, "*common carrier*" should be corrected to read "*contract carrier*".

BILLING CODE 1505-01-M

Petitions, Applications, Finance Matters (including Temporary Authorities), Alternate Route Deviations, and Intrastate Applications.

April 21, 1979.

Petitions for Modification, Interpretation, or Reinstatement of Operating Rights Authority

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1F, M2F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)* and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 89684 (Subs 49, 54, 57, 58, 63, 74, 78, 81, 85, 91, 92, pending 100 and pending 103, M1F) (Notice of filing of petition for modification of the restriction), filed February 16, 1979. Petitioner: WYCOFF COMPANY, INCORPORATED, 560 South 300 West St., Salt Lake City, UT 84110. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Petitioner holds motor *common carrier* Certificates in MC 89684 Subs 49, 54, 57, 58, 63, 74, 78, 85, 91, and 92, issued January 18, 1971, December 30, 1968, August 8, 1969, August 8, 1969, September 21, 1970, January 14, 1971, November 27, 1972, May 14, 1974, June 7, 1976, January 6, 1978, and November 28, 1978, respectively. Petitioner also seeks to modify (1) MC 8968 Sub 100, filed October 17, 1977, published December 22, 1977, and April 27, 1978, and the decision was served March 19, 1979, and (2) MC 89684 Sub 103, filed June 23, 1978, and published August 31, 1978. All of which authorizes or seeks authorization, transporting general commodities, (except articles of unusal value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between specified points in ID, OR, UT, WY, AZ, NV, CO, MT, and CA, with certain restrictions including a restriction against the transportation of packages or articles weighing more than 200 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day. MC 89684 Sub 100, by decision served March 19, 1979, grants general commodities (except classes A and B explosives, commodities in bulk, commodities which require special equipment, and household goods as defined by the Commission), over irregular routes, between Elko and Wendover, NV, on the one hand, and, on the other, points in Washoe, Storey, Carson City, Humboldt, Pershing, Churchill, Lander, Eureka, and White Pine Counties, NV, restricted (1) to the transportation of packages or articles each not exceeding 100 pounds in weight, and (2) against the transportation of shipments of packages or articles weighing in the aggregate more than 200 pounds from one consignor to one consignee on any one day. Applicant may tack the authority in Sub 100 with its presently held authority. Sub 100 is conditioned to the witholding of the certificate for a period of 30 days from the date of publication in the Federal Register. MC 89684 Sub 103, is published as a grant in the FR issue of August 31, 1978, over irregular routes, transporting general commodities (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Las Vegas, NV, and those points in CA in an area bounded by a line beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean, then along that county line to junction CA Hwy 118, then along CA Hwy 118 to Sepulveda Blvd., then along Sepulveda Blvd. to Chatsworth Drive, then along Chatsworth Drive to the corporate boundary of the city of San Fernando, then along that corporate boundary to Maclay Ave., then along Maclay Ave., and its extension to the Angeles National Forest boundary, then along the Angeles National Forest boundary and San Bernardino National Forest boundary to Mill Creek Rd. (CA Hwy 38), then along Mill Creek Rd., to Bryant St., then along Bryant St. to and including the unincorporated community of Yucaipa, then along Yucaipa Blvd. to junction Interstate Hwy 10, then along Interstate Hwy 10 to Redlands Blvd., then along Redlands Blvd. to Barton Rd., then along Barton Rd. to La Cadena Dr., then along La Cadena Dr. to Iowa Ave., then along Iowa Ave., to CA Hwy 60, then along CA Hwy 60 and U.S. Hwy 395 to and including the March Air Force Base, then along CA Hwy 91 (including the entire city of Riverside) to junction CA Hwy 55 and CA Hwy 91, then along CA Hwy 55 to junction Interstate Hwy 5, then along Interstate

*Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission Washington, D.C. 20423.

Hwy 5 to junction CA Hwy 1, then along CA Hwy 1 to the Pacific Ocean, then along the shoreline of the Pacific Ocean then to point of beginning, restricted against the transportation of packages or articles weighing in the aggregate more than 200 pounds from one consignor to one consignee on any 1 day. By the instant petition, petitioner seeks to modify the aggregate weight limits from one consignor to one consignee on one day from 200 to 500 pounds.

MC 103721 (Sub-2) (MIF) (Notice of filing of petition to modify certificate), filed February 2, 1979. Petitioner: INDIAN VALLEY BULK CARRIERS INC., Ridge Road, Tylersport, PA 18971. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Petitioner holds a motor *common carrier* certificate in MC 103721 Sub 2 issued October 31, 1972, authorizing transportation over irregular routes, as pertinent, of *such bulk commodities* as are transported in dump vehicles, between points in Philadelphia, Delaware, Chester, and Montgomery Counties, PA, on the one hand, and, on the other, points in NJ. By the instant petition, petitioner seeks to modify the base territory to include Lancaster, Berks, Lehigh and Northhampton Counties, PA.

MC 114301 (Subs 17, 26, 43, and 82) (MIF) (Notice of filing of petition to modify certificates), filed January 24, 1979. Petitioner: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1511 K Street, N.W., Washington, DC 20005. Petitioner holds motor *common carrier* certificates in MC 114301 Subs 17, 26, 43, and 82, issued December 15, 1977. MC 114301 Sub 17 authorizes transportation, over irregular routes, of *Meat scraps, dry feed, and other dry feed ingredients* (except phosphate rock, lime, and limestone, and products of these three ingredients), in bulk, in tank and pneumatic Hopper-type vehicles), between points in DE, MD, points in that part of NJ north of NJ Hwy 33, and Wilwood, Lakewood, Elmer, and Tuckerton, NJ, PA, VA, WV (except Willow Island, WV. as an origin point), and DC. Restriction: Service authorized herein is subject to the following restriction: (1) No transportation of urea will be performed from Belle, WV: (2) no transportation will be performed of meat scraps from Baltimore, MD, to Accomack and Northampton Counties, VA, and that part of DE on and south of the Chesapeake and Delaware Canals: and (3) no transportation will be performed from Allentown and Nazareth, PA. MC 114301 Sub 26 authorizes transportation, over irregular routes, of *Meat scraps, dry feed and other dry feed ingredients* (except phosphate rock, lime, and limestone, and products of phosphate rock, lime and limestone), in bulk, between points in DE, MD, points in that part of NJ north of NJ Hwy 33, Wildwood, Lakewood, Elmer and Tuckerton, NJ, PA, VA, WV (except Willow Island, WV, as an original point), and DC. Restriction: The service authorized herein is restricted against the transportation (1) of urea from Belle, WV. (2) of meat scraps from Baltimore, MD, to points in Accomack and Northampton Counties, VA, and that part of DE on and south of the Chesapeake and Delaware Canals, (3) of such seafood by-products as may be used as feed ingredients from points in Northumberland, Richmond, Westmoreland, and Lancaster Counties, VA, to points in NJ, PA, DE, MD, and DC: and (4) restricted against the performance of any transportation from Allentown and Nazareth, PA. MC 114301 Sub 43 authorizes transportation, over irregular routes, of *Dry animal feed, dry animal feed ingredients, dry poultry feed, and dry poultry feed ingredients*, in bags, (except lime, limestone, and products thereof, crushed or ground), between points in DE, MD, PA, VA, WV, DC, and points in that part of NJ north or west of a line beginning at the DE Memorial Bridge, near Wilmington, DE, and extending along the NJ Turnpike to junction NJ Hwy 33, and then along NJ Hwy 33 to the Atlantic Ocean at Neptune, NJ (except points in Sussex, Morris, Bergen, Hudson, Essex, and Union Counties, NJ). Restriction: The authority granted herein is restricted against the transportation of (1) the above-specified commodities from points in the commericial zones of Allentown, Nazareth, and Philadelphia, PA, as defined by the Commission, (2) fish meal, from points in Northumberland, Richmond, Westmoreland, and Lancaster Counties, VA, (3) Crab meal from points in the commercial zones of Honga and Marion, MD, as defined by the Commission to points in the commercial zone of Harrisburg, PA, as defined by the Commission, and (4) fish meal and fish meal products, (a) from points in the commercial zone of Lewes, DE, as defined by the Commission, to points in the commercial zone of Orefield, PA, as defined by the Commission, and (b) from points in the commercial zone of Port Monmouth, NJ, as defined by the Commission, to points in PA and to points in the commercial zones of Baltimore, Frederick, and Hagerstown, MD, as defined by the Commission. MC 114301 Sub 82 authorizes transportation, over irregular routes, of *Dry feed and dry feed ingredients*, from points in DE, MD, PA, VA, that part of NJ north of NJ Hwy 33, Wildwood, Lakewood, Elmer, and Tuckerton, NJ, and that part of NJ north or west of a line beginning at the DE Memorial Bridge, near Wilmington, DE, and extending along the NJ Turnpike to junction NJ Hwy 33, and then along NJ Hwy 33 to the Atlantic Ocean at Neptune, NJ (except points in Sussex, Morris, Bergen, Hudson, Essex, and Union Counties, NJ), to points in ME, NH, VT, MA, CT, RI, and NY. By the instant petition, petitioner seeks to modify the above authorities by (1) modify Sub 17 so that the commodity description reads: "Feed and feed ingredients, in bulk (except liquid); delete the exceptions on WV, and delete the restriction paragraph. (2) Modify the Sub 26 commodity description to read "Feed and feed ingredients, in bulk (except liquid;);" delete the exception to WV; and also delete the restriction paragraph. (3) Modify the Sub 43 commodity description to read Feed and feed ingredients (except bulk), and to delete the restriction paragraph. (4) Modify the Sub 82 commodity description to read "Feed and feed ingredients (except liquid in bulk)", and also to delete the restriction paragraph.

MC 115331 (Sub-390) (M1F) (Notice of filing of petition to modify certificate), filed November 7, 1978. Petitioner: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: Leonard A. Jaskiewicz, 1730 M Street, NW, Washington, DC 20036. Petitioner holds a motor *common carrier* certificate in MC 115331 Sub 390 issued March 2, 1977, authorizing transportation, over irregular routes, of *Feed supplement and drugs*, in containers, from Lee's Summit, MO, to points in AR, IL, IN, IA, KY, MI, MN, NE, OH, PA, TN, and WI. By the instant petition, petitioner seeks to modify the commodity description to read: "Feed and feed ingredients, animal and poultry medicated health products, and pesticides."

MC 120910 (Sub-4) (M1F) (Notice of filing of petition to modify certificate), filed January 29, 1979. Petitioner: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35401. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Petitioner holds a motor *common carrier* certificate in MC 120910 Sub 4 issued January 3, 1974 and

served February 15, 1974, authorizes transportation, over regular and irregular routes, as follows: (A) Over irregular routes: (1) *Plastic pipe*, from the facilities of Central Foundry Company, located at Holt, Al, to points in Hancock, Harrison and Jackson Counties, MS, Benton, Washington, Madison, Carroll, Newton, Boone, Marion, Searcy, Stone, Izard, Fulton, Sharp, Lawrence, Randolph, Clay, Greene, Craighead, and Mississippi Counties, AR, Newton, McDonald, Barry, Stone, Taney, Christian, Douglas, Ozark, Howell, Oregon, Ripley, Carter, Butler, Stoddard, Mississippi, New Madrid, Dunklin, and Permiscot Counties, MO, restricted to the transportation of traffic originating at the facilities of Central Foundary Company at Holt, AL. (2) *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, and articles of unusual value), between Tuscaloosa, AL, on the one hand, and, on the other, points within 75 miles of Tuscaloosa, AL, that are located in the State of AL. Restriction: The operations authorized immediately above are restricted to the transportation of traffic (a) originating at Tuscaloosa, AL, and points in its commercial zone, and delivered to connecting carriers at those points in AL within 75 miles of Tuscaloosa, or (b) received from connecting carriers at those points in AL within 75 miles of Tuscaloosa and destined to Tuscaloosa and points in its commercial zone. (3) *Building materials, farm products, fertilizer, gravel, household goods, and sand*, between points in AL within a radius of 100 miles of Greensboro, AL, including Greensboro, AL. (B) Over regular routes: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) Between Coffeeville, AL, and Mobile, serving all intermediate points except as noted below: From Coffeeville over AL Hwy 69 to Jackson, AL, then over AL Hwy 13 to Mobile, and return over the same route. Restriction: The operations authorized immediately above are restricted against the transportation of traffic between (a) Mobile and Jackson, AL, or (b) intermediate points between Mobile and Jackson, AL, on the one hand, and, on the other, Mobile, and Jackson, AL. By the instant petition, petitioner seek to modify the above authority by (1) Broadening the commodity description in (A)(1) to read Pipe, valves, fittings, hydrants, castings and accessories thereof, (2) delete the territorial description of (A)(1) which reads "Hancock, Harrison and Jackson Counties, MS, Benton, Washington, Madison, Carroll, Newton, Boone, Marion, Searcy, Stone, Izard, Fulton, Sharp, Lawrence, Randolph, Clay, Greene, Craighead, and Mississippi Counties, AR, and (3) Delete the restriction from (A) (2).

MC 124211 (Sub-112) (M1F) (Notice of filing of petition to modify certificate), filed February 6, 1979. Petitioner: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC 124211 Sub 112 issued July 6, 1971, authorizing transportation over irregular routes of (in part): *Junk, scrap, and waste materials* (except scrap meats, scrap paper, and waste paper, and except waste materials in bulk), Between points in Nebraska, on the one hand, and, on the other, points in the United States (including Alsaka, but excluding Hawaii and except from points in Nebraska to Chicago, Ill., and Kansas City and St. Louis, Mo.). By the instant petition, petitioner seeks to modify that portion of the above certificate to read: *Junk, scrap, and waste materials* (except waste materials in bulk), *and hides and parts* thereof, Between points in Nebraska, on the one hand, and, on the other, points in the United States (except AK and HI).

MC 124211 (Sub-282) (M1F) (Notice of filing of petition to modify certificate), filed January 29, 1979. Petitioner: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Ne 68101. Representative: Thomas L. Hilt (same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC 124211 Sub 282 issued June 21, 1978 authorizing transportation over irregular routes of: Non-ferrous junk, non-ferrous scrap, non-ferrous metals, and non-ferrous waste materials (except waste materials, in bulk, and except hides and parts of hides), Between points in the United States (except Alaska and Hawaii). Restrictions: The authority is restricted against the transportation of traffic between points in the United States, on the one hand, and, on the other, points in Sarpy County, Nebr., and the facilities of Aaron Ferer & Sons Company located in Douglas County, Nebr., and restricted against the transportation of commodities which, because of their size and weight, require the use of special equipment. By the instant petition, petitioner seeks to modify the above authority to read: Junk, scrap, metals and metal articles, and waste, materials (except hides and parts of hides, and except waste materials in bulk), Between points in the United States (except Alaska and Hawaii).

MC 124211 (Sub-281) (M1F) (Notice of filing of petition to modify certificate), filed December 12, 1978. Petitioner: HILT TRUCK LINE, INC., P.O. Box 988, DTS, Omaha, NE 68101. Representative: Thomas L. Hilt (same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC 124211 Sub-281 issued February 24, 1978, authorizes transportation, over irregular routes, of *such commodities* as are manufactured, processed, sold, used, distributed, or dealt in by manufacturers, converters, and printers of paper and paper products (except commmodities in bulk), from the facilities of (1) Akrosil Corporation at or near Menasha, WI, (2) Appleton Papers Division of NCR at or near Appleton, Combined Locks, and Portage, WI, (3) Badger Paper Mills, Inc., at or near Peshtigo, WI, (4) George Banta Company, Inc., and subsidiaries at or near Neenah, Menasha, and Rhinelander, WI, (5) Bay West Division of Mosinee Paper Corporation at or near Green Bay and Columbus, WI, (6) Bergstrom Paper Company at or near Neenah, WI, (7) Brown Company at or near Eau Claire and Ladysmith, WI, (8) Callenor Company, Inc., at or near Menomonee Falls, WI, (9) Central Paper Company, at or near Menasha, WI, (10) Flambeau Paper Co., at or near Park Falls, WI, (11) Georgia Pacific Corporation at or near Tomahawk, WI, (12) Gilbert Paper Co., at or near Menasha, WI, (13) Hoffmaster Co., Inc., at or near Oshkosh, WI, (14) Kimberly Clark Corporation at or near Neenah, WI, (15) Midtec Paper Corp., Inc., at or near Kimberly, WI, (16) Pacon Corp., at or near Appleton, WI, (17) Thilmany Pulp & Paper Co., Division of Hammermill Paper at or near Kaukauna, WI, (18) Ward Paper Company at or near Merrill, WI, (19) Wausau Paper Mills Co., at or near Brokaw, WI, (20) Weyerhaeuser Company at or near Rothschild, WI, (21) Wisconsin Paper Group, Inc., at or near Menasha, WI, (22) Wisconsin Tissue Mills, Inc., at or near Menasha, WI, (23) Consolidated Papers, Inc., at or near Appleton, Biron, Stevens Point, and Wisconsin Rapids, WI, and (24) Fort Howard Paper Company, at or near Green Bay, WI, to points in AL, AR, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, restricted to the transportation of traffic originating at the above-named

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facilities and destined to points in the above-named States (except that the destined-to restriction shall not apply to movements in foreign commerce). By the instant petition, petitioner seeks to modify the territorial description and restriction to read: from points in WI, to points in AL, AR, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, restricted to the transportation of traffic originating at points in WI and destined to points in the above-named states (except that the destined-to-restriction shall not apply to movements in foreign commerce).

MC 124211 (Sub-297 (M1F) (Notice of filing of petition to modify certificate), filed January 21, 1979. Petitioner: HILT TRUCK LINE, INC., P.O. Box 988, DTS, Omaha, NE 68101. Representative: Thomas L. Hilt (same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC 124211 Sub-297 issued July 31, 1978, authorizes transportation, over irregular routes, of *Replacement automotive parts and such commodities* as are dealt in and used by manufacturers and distributors of replacement automotive parts, motor vehicle accessories, supplies and equipment (except in bulk), from the facilities of the Allen Group, Inc., its divisions and subsidiaries, in Los Angeles and Orange Counties, CA, to points in the United States (except AK and HI). By the instant petition, petitioner seeks to modify the above certificate by deleting the facility references so the territorial description will read: From points in Los Angeles and Orange Counties, CA to points in the United States (except AK and HI).

MC 124841 (Sub-7) (M1F) (Notice of filing of petition to modify permit), filed December 13, 1978. Petitioner: D. D. JACOBS, INC., Route 5, Dell Avenue, Walla Walla, WA 99362. Representative: George R. Labissoniere, 1100 Norton Building, Seattle, WA 98104. Petitioner holds a motor *contract carrier* permit in MC 124841 Sub-7 issued May 30, 1972 authorizes transportation, over irregular routes, as pertinent, of (1) *Beet Pulp*, from Wheeler, Moses Lake, Quincy, and Toppenish, WA, to points in Umatilla County, OR, under a continuing contract(s) with Archie Harris Feed Lot, of Milton-Freewater, OR, and (2) *Malt beverages and wine*, from points in CA, to Pendleton, OR, and Kennewick and Walla Walla, WA, under a continuing contract(s) with the (a) Pendleton Distributing Co., (b) Granger Distributing Company, of Kennewick, WA, and (c) Dee Dee Distributing Co. of Walla Walla, WA. By the instant petition, petitioner seeks to modify the above authority by substituting Pendleton Grain Growers, Inc. as the contracting shipper for Archie Harris Feed Lot of Milton-Freewater, OR in (1) above, and also to substitute Hewitt Distributing Company as the contracting shipper for Dee Dee Distributing Co. in (2) (a) above.

MC 133841 (Sub-1) (M1F) (Notice of filing of petition to modify certificate), filed January 23, 1979. Petitioner: DAN BARCLAY, INC., P.O. Box 426, 362 Main Street, Lincoln Park, NJ 07035. Representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner holds a motor *common carrier* certificate in MC 133841 Sub-1 issued December 20, 1974, authorizing transportation, over irregular routes, of *Machinery* (except machinery used in the manufacture of paper), between Scranton, PA, on the one hand, and, on the other, points in NY. By the instant petition, petitioner seeks to modify the above certificate by substituting points in PA for Scranton, PA.

MC 133841 (Sub-2) (M2F) (Notice of Filing of Petition To Modify Certificate), filed February 14, 1979. Petitioner: DAN BARCLAY, INC., P.O. Box 426, Lincoln Park, NJ 07035. Representative: George A. Osen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner holds a motor *common carrier* certificate in MC 133841 Sub 2 issued August 14, 1978, authorizing transportation, over irregular routes, of *Air pollution control, solar cooling, and heating units, and equipment, materials, and supplies* used in the manufacture and installation thereof (except commodities in bulk, between the facilities of the Edwards Engineering Corporation, located at or near Pompton Plains, NJ, on the one hand, and, on the other, points in the United States (except AK and HI). By the instant petition, petitioner seeks to modify the commodity description by adding Machinery.

MC 140030 (Sub-4) (M1F) (Notice of Filing of Petition To Modify Permit), filed December 28, 1978. Petitioner: RAY KURTZ AND LINDA FARLEY, d.b.a. PLASTICKEXPRESS, P.O. Box 5593, Orange, CA 92668. Representative: Richard C. Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. Petitioner holds a motor *contract carrier* permit in MC 140030 Sub 4 issued June 13, 1978, authorizing transportation over irregular routes, (1) *Lubricating oil, oil products and lubrication filters*, (a) from Vernon, CA to points in AZ and NV, (b) from Alameda, CA to points in NV and OR, and (2) *Pallets, vats*, and *containers* of over 35 gallon capacity, from points in AZ, NV, and OR, to Vernon and Alameda, CA. RESTRICTIONS: The Authority granted herein is subject to the following conditions: (i) The traffic generating at Vernon and Alameda, CA above is restricted against the transportation thereof in bulk, in tank vehicles, (ii) The authority granted herein is limited to a transportation service to be performed under a continuing contract(s) with The Pennzoil Company. By the instant petition, petitioner seeks to modify the above authority by adding OR as a destination state in (1)(a) above.

Republications of Grants of Operating Rights; Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before June 1, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 107839 (Sub-173) (2d Republication), filed September 12, 1977, published in the FR issues of October 6, 1977 and November 16, 1978, and republished this issue. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSIT, INC., 2121 East 67th Avenue, Denver, Co 80216. Representative: Edward L. Gordon, P.O. Box 16106, Denver, CO 80216. A Decision of the Commission, Division 1, decided March 8, 1979, and served March 20, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (A)(1) *foodstuffs*, (2) *Pharmaceutical materials, supplies, and products*, (3) *chemicals*, (4) *alcoholic beverages*, (5) *tobacco products*, (6) *pet foods*, and (7) *such commodities as are delt in by distribution or consolidation warehouses* for the commodities described in (1) through (6), when moving in the same vehicle at the same time as the commodities described in (1), (2), (3), (4), (5), or (6), (except commodities in bulk, in (1) through (7), in vehicles equipped with mechanical refrigeration, (a) from Denver, CO, to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), restricted to traffic originating at (or moving from storage-in-transit at) Denver, CO, or the facilities of Nobel, Inc., at Albuquerque, NM, and destined to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), and (b) from points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), and destined to (or moving to storage-in-transit at) Denver, CO, or the facilities of Nobel, Inc., at Albuquerque, NM, provided that parts (a) and (b) may be tacked in connection with shipments which originate at or are destined to the facilities of Nobel, Inc., at Albuquerque, NM; and (B) *foodstuffs*, (except in bulk), between the facilities of Packers' Cold Storage, at Laramie, WY, on the one hand, and, on the other, points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), restricted to traffic originating at and destined to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of MS as a destination State.

MC 23618 (Sub-29F) (Republication), filed June 1, 1978, published in the FR issue of July 13, 1978, and republished this issue. Applicant: McALISTER TRUCKING CO., a corporation, d.b.a. MATCO, P.O. Box 2377, Abilene, TX 79604. Representative: E. Larry Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. A Decision of the Commission, Review Board Number 2, decided March 1, 1979, and served March 27, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *underground tunnel support systems, steel beams, steel tank heads, structural steel plates, nuts, bolts, machinery, and machinery parts*, from the facilities of (a) Commercial Shearing, Inc., at Youngstown, OH, (b) Gregory Galvanizing Company, at Canton, OH, (c) Commercial Stamping and Forging Company, at Bedford Park, IL, (d) Young Galvanizing Company, at Pulaski, PA, (e) Dura Bond Corporation, at Export, PA, and (f) Hanlon Gregory Company, at Pittsburgh, PA, to points in the United States (except AK and HI), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to broaden the commodity description by adding steel tank heads; and indicate service from the facilities of Gregory Galvanizing Company, at Canton, OH; Young Galvanizing Company, at Pulaski, PA; Dura Bond Corporation, at Export, PA; and Hanlon Gregory Company, at Pittsburgh, PA.

MC 138018 (Sub-36) (Republication), filed October 14, 1977, published in the FR issue of October 27, 1977, and republished this issue. Applicant: REFRIGERATED FOODS, INC., P.O. Box 1018, Denver, CO 80201. Representative: Joseph W. Harvey (same address as applicant). A Decision of the Commission, Division 1, decided March 8, 1979, and served March 20, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (A)(1) *foodstuffs*, (2) *pharmaceutical materials, supplies, and products*, (3) *chemicals*, (4) *alcoholic beverages*, (5) *tobacco products*, (6) *pet foods*, and (7) such commodities as are dealt in by *distribution or consolidation warehouses* for the commodities described in (1) through (6), when moving in the same vehicle at the same time as the commodities described in (1), (2), (3), (4), (5), or (6) (except commodities in bulk, in (1) through (7), in vehicles equipped with mechanical refrigeration, (a) from Denver, CO, to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), restricted to traffic originating at (or moving from storage-in-transit at) Denver, CO, or the facilities of Nobel, Inc., at Albuquerque, NM, and destined to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), and (b) from points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), to Denver, CO, restricted to traffic originating at points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), and destined to (or moving to storage-in-transit at) Denver, CO, or the facilities of Nobel, Inc., at Albuquerque, NM, provided that parts (a) and (b) may be tacked in connection with shipments which originate at or are destined to the facilities of Nobel, Inc., at Albuquerque, NM; and (B) *foodstuffs* (except in bulk), between the facilities of Packers' Cold Storage, at Laramie, WY on the one hand, and, on the other, points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI) restricted to traffic originating at and destined to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 144119 (Republication), filed December 23, 1977, published in the FR issue of February 16, 1978, and republished this issue. Applicant: HANSEN CONSOLIDATORS, INC., 5966 East Slauson Avenue, City of Commerce, CA 90040. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. A Decision of the Commission, by the

Initial Decision of Administrative Law Judge William A. Shue, served December 19, 1978, becomes effective March 6, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *Such commidities as are dealt in by health food distributors* (except in bulk), in motor vehicles equipped with temperature control devices, as follows: From the warehouse facilities of Hansen Consolidators, Inc., located at or near La Mirada, CA, to the facilities of, Shilob Farms, located at Sulphur Springs, AR and Martindale, PA; Golden Lotus, located at Denver, CO; York Health Products, located at Miami, FL; Tree of Life, located at St. Augustine, FL; Chicago Natural Foods, Inc., located at South Holland, IL; Garden Food Products, located at Chicago, IL; Heilbrunn and Friends, located at Indianapolis, IN; Blooming Pariie Warehouse, Inc., located at Iowa City, IA; Miller Products, located at Glen Burnie, MD; New England Health Foods, located at Brockton, MA; Llama Trading Company, located at Greenfield, MA; Caramagno Distributors, located at Detroit, MI; Health Food Distributors, located at Troy, MI; Midwest Natural Foods, located at Ann Arbor, MI; Pave Company, located at Minneapolis, MN; Shadowfax, located at Binghamton, NY; Can-Am Foods Limited and Peter Neuer Distributors, located at New York City, NY; Balanced Foods, located at North Bergen, NJ; Quality Kitchen, located at Akron, OH; A. B. Wise and Sons, Inc., located at Cincinnati, OH; Natural Foods, located at Toledo, OH; World Wide Organic Foods, located at Cornwells Heights, PA; Beautiful Foods, located at Philadelphia, PA, and Rivendale, located at Dallas, TX. Restriction: The above authority is restricted to traffic destined to the named points, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actural grant of authority.

Motor Carrier, Broker, Water Carrier, and Freight Forwarder Operating Rights Applications

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register.** Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected.

MC 57591 (Sub-19F) (Correction), filed April 4, 1978, previously noticed in the FR issued of June 29, 1978. Applicant: EVANS DELIVERY CO., INC., P.O. Box 268, Pottsville, PA 17901. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *general commodities* (except Household Goods, Bulk Commodities, Class A and B Explosives, and Commodities requiring special equipment), between Philadelphia, PA., on the one hand, and, on the other, York, Williamsport and Scranton, PA. (Hearing site: Philadelphia, PA)

Note.—In addition to local traffic sought by this application, applicant intends to interchange traffic at Philadelphia and points within its commercial zone having an origin or destination at points beyond the Phildelphia Commercial Zone. Common control may be involved. The purpose of this correction is to indicate the request for interchange.

MC 119493 (Sub-221F), filed July 17, 1978, and previously published in the **Federal Register** on September 12, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber,* from (a) the facilities of Thomas & Proetz Lumber Company, at or near St. Louis, MO, and Nashville, IL, and (b) the facilities of Floyd A. Rice Lumber Company, Inc., at or near Harrison, AR, to points in IA, MO, WI, MN, ND, SD, NE, KS, and CO, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: St. Louis, MO, or Chicago, IL.)

Note.—The purpose of this republication is to correct a destination State and to restrictively amend the application.

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC–F–13601. Authority sought for purchase by MONROE CONTRACTORS EQUIPMENT, INC., WILLIAM E. MULLER, AND JOSEPH W. JOSLIN, 1640 Penfield Rd., Rochester, NY 14625 of the entire operating rights of Canandaigua Express, Inc., PO Box 161, Canandaigua, NY 14424. Applicants' representative: S. Michael Richards/ Raymond A. Richards, 44 North Ave., PO Box 225, Webster, NY 14580. Operating rights sought to be purchased: *General Commodities,* with exceptions, as a *common carrier,* over irregular routes, between points in Ontario County, NY, on the one hand, and, on the other, points in Monroe, Ontario, Wayne, and Yates Counties, NY; between points in Monroe County, NY, on the one hand, and, on the other, points in Wayne and Yates Counties, NY as described in Certificate No. MC 133129. Vendee holds only temporary authority in MC–FC–77349. Vendee is authorized to operate under temporary lease of a portion of Certificate NO. MC 71337 as a common carrier between Rochester, NY, on the one hand, and, on the other, points in the States of PA, NJ, CT, MA, IN, IL, WI, VA, WV, KY, TN, NC, SC, FL, and GA. Vendee is affiliated with M.C.E. Transportation Co., Inc. authorized to operate under Permit No. MC 134653 (Sub. No. 2) generally in the States of NY, NJ, RI, CT, MA, VT, NH, and ME, therefore, dual operations may be involved. Vendee intends to tack the authority to be purchased and existing authority at Rochester, NY. Application has been made for temporary authority under Section 210a(b).

Note.—MC 144710 (Sub-1F), is a directly related matter.

MC–F–13637F. Authority sought for purchase by UTAL CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield UT of the operating rights of BRAY LINES, INC., 1401 North Little Street, Cushing, OK through the purchase of authority contained in MC 112822 Sub. No. 183 (in part), and for control by Glade Holfeltz and Duane Barker. Representatives: Earl H. Scudder, Jr., P.O. Box 82028, 500 The Atrium, Lincoln, NE 68501 (attorney for the transferee) and Edward T. Lyons, 1660 Lincoln Street, Suite 1600, Denver, CO 80264 (attorney for the transferor). Operating rights sought to be purchased: IRREGULAR ROUTES: *Forest products* (except paper and paper products), *lumber, composition board, plywood, flooring, millwork, molding, doors, wood cabinets, wood cabinet parts,* and *accessories* used in the installation thereof, from points in CA to points in ID, MT, NE, NV, ND, OR, SD, TN, UT, WA, and WY, with no transportation for compensation on return except as otherwise authorized. *Composition board, flooring, millwork, molding, doors, wood cabinets, wood cabinet parts,* and *accessories* used in the installation thereof, from points in CA, to points in IL and IA, with no transportation for compensation on return except as otherwise authorized. *Forest products* (except paper and paper products), *lumber, composition board, plywood,* and *millwork,* from points in AZ and NM to points in CA, with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a common carrier in all States in the United States (except AK, HI and the District of Columbia). Application has been filed for temporary authority under Section 210a(b). Hearing site: Denver, CO.

MC–F–13858F. Transferee: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Transferors: LTL Perishables, Inc., Ajax Transfer Company, and Dakota Express, Inc., 550 East Fifth Street, South St. Paul, MN 55106. Transferee's Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transferor's Representative: Donald L. Stern, 610 Xerox Building, 7171 Mercy Road, Omaha, NE 68106. Authority sought for the purchase by Transferee of portions of the operating rights of the three Transferors as follows: LTL Perishables, Inc. MC 135874, Sub-No. 31, Foodstuffs, Kansas City, KS, to points in IA, MN, WI, ND, SD and NE restricted to traffic originating at and destined to; Sub-No. 39, Frozen Foods from a plant site near Beaver Dam and Milwaukee, WI to IA, KS, MO and NE, restricted to shipments originating at and destined to; Sub-40, Foodstuffs from named shipper in Duluth, MN to points in IA, NE, SD, MO and KS restricted to traffic destined to named States and restricted against serving named facilities in IA, IL and MN; Sub-No. 51, Frozen Foods from named plant site in Omaha, NE, to points in IA, MN, MO (with exceptions), WI and IL (with exceptions) restricted to traffic originating at and destined to; Sub-No. 72, Frozen Foodstuffs from named facility at Green Bay, WI, to MN (except Twin Cities), ND and SD, restricted to traffic originating at and destined to; Sub-No. 83, Frozen Foodstuffs from facilities of Pillsbury Company at Minneapolis, MN, to points in States west of the Mississippi River, except AZ and MN, and Materials and Supplies from destination States to Pillsbury Company at Minneapolis, MN, restricted to traffic originating at and destined to. Ajax Transfer Company MC 138896, Sub-No. 6, Meat and Packing House Products as defined and Foodstuffs between points in MN (except Twin Cities) on one hand, and on the other, points in WI and upper MI, restricted in part at Albert Lea and New Brighton, MN, and restricted to shipments originating at or destined to the named States; Sub-No. 11, Foodstuffs from a named facility at Madison, WI, to ND, restricted to traffic originating at and destined to. Dakota Express, Inc. MC 83217, Sub-No. 60, Foodstuffs from a named shipper in Iowa City and Muscatine, IA, to points in MN, ND, and SD, restricted to traffic originating at and destined to; Sub-No. 64C, Foodstuffs from points in MN to points in ND, SD (except named points), seven named counties in Northwestern IA and 20 named counties embracing the northern portion of NE. All of the above authorities and the authorities to be retined by the Transferors are subject to various amendments so that Transferors will not retain any authority which duplicates that being sold. Applicant holds authorities authorizing the transportation of various food items in many of the States in the authority to be purchased. No dulicate authority is sought. Application has been filed for temporary authority under Section 210a(b). Hearing Site: Minneapolis, MN.

Note.—MC 103798 (Sub-30F), is a directly related matter.

MC–F–13912F. Authority sought for purchase by FRED OLSON CO., INC., 6022 West State Street, Milwaukee, WI 53213, with General Cartage Co., 1511 Pearl Street, Waukesha, WI 53186. Attorney: Daniel C. Sullivan, Sullivan & Associates, Ltd., 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Operating rights sought to be controlled and merged: MC 28551, *irregular routes: General commodities,* except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over irregular routes, Between points and places in Milwaukee, WI. Between Milwaukee, WI, on the one hand, and, on the other, points and places in West Milwaukee, Wauwatosa, and West Allis, WI. MC 28551 (Sub-3), irregular routes: (1) *General commodities,* in containers, and (2) *empty containers,* Between points in Milwaukee, Waukesha, Jefferson, Ozaukee, Racine, Walworth, and Washington Counties, WI. Restriction: The operations authorized herein are restricted to the transportation of shipments having a prior or subsequent movement by rail or water. MC 28551 (Sub-4), irregular routes: (1) *Used household goods,* in containers, and (2) *commodities* which because of size or weight require the use of special equipment or special handling, and *materials, parts, and supplies* incidental to the transportation, installation, or maintenance of commodities, which because of size or weight require the use of special equipment or special handling. Between Milwaukee and Waukesha, WI, on the one hand, and, on the other, points in Wisconsin. Restriction: The authority granted herein is subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions, or limitations, in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of Section 210 of the Act. MC 28551 (Sub-5) (pending but administratively final). Irregular routes:

(1) *General commodities,* in containers, and (2) *empty containers,* Between the rail terminus of the Soo Line Railroad at Waukesha, WI, on the one hand, and, on the other, points in Wisconsin (except those in Milwaukee, Waukesha, Jefferson, Ozaukee, Racine, Walworth and Washington Counties, WI), restricted to the transportation of shipments having a prior or subsequent movement by rail. Vendee is authorized to operate as a common carrier in all states in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b). A directly related application seeking elimination of gateways is being simultaneously filed.

Note.—MC 138144 (Sub-45F) is a directly related matter.

MC–F–13925F. Authority sought for purchase by K–A EXPRESS, INC., 2630½ West Beverly Boulevard, Montebello, CA 90640 of the operating rights of the Kansas-Arizona Motor Express, Inc., of same address, and of control of such rights through the transaction. Representative: Bruce E. Mitchell, Serbe & Mitchell, PC, 3390 Peachtree Road, NE, Atlanta, GA 30329. Operating rights sought to be transferred: Meats, Fresh or Frozen PHP, Lard, Canned Meats, Dairy products, etc., as a contract carrier, from points in IA and SD to CO, TX, NM, AZ, CA, NV, WY, UT, MT, ID, OR and WA. K–A Express, Inc., holds no authority from this Commission. However, both K–A Express, Inc. and Kansas Arizona Motor Express Inc. are owned by the same stockholders, Jack E. Pressney, 2630½ W. Beverly Blvd, Montebello, CA 90640, Burl G. Varner and James R. Varner, both of 14714 S. Avalon Blvd, Gardena, CA 90248. Application has not been filed for temporary authority under section 210a(b).

MC–F–13928F. Authority sought for purchase by ECKERT TRUCKING, INC., 1090 East Springettsbury Avenue, York, PA 17403, of a portion of the operating rights of Shanahan Motor Lines, Inc., 1001 Fairview Street, Camden, NJ 08104, of control of such rights through the transaction. Representative: Norman T. Petow, 43 North Duke Street, York, PA 17401. Operating rights sought to be transferred: Contractors' materials, supplies and equipment, as a commn carrier over irregular routes between Philadelphia, PA on the one hand, and, on the other, points in NY, NJ, MD and DE (Modified to exclude New York, NY commercial zone, NJ and DE), with restrictions. Vendee is authorized to operate as a common carrier in the States of PA, WV, VA, DE, NJ, MD, DC, NY, CT, RI, NC, and MA. Application has been filed for temporary authority under section 210a(b).

MC–F–13931F. Authority sought for purchase by FREEMAN TRUCK LINE, INC., 419 Jackson Avenue, Oxford, MS 38655 of a portion of the operating rights of C–B–C Transports, Inc., a Mississippi corporation, general partner, and M. A. Creekmore, Jasper V. Bennett, and Oscar Caradine, limited partners, d.b.a. "C–B–C Transports," a limited partnership, 845 Percy Street, Greenville, MS 38701, and for acquisition by D. E. Freeman, Jr., D. E. Greeman, Sr. and Patricia Freeman, all of 419 Jackson Avenue, Oxford, MS 38655, of control of such rights through purchase. Attorney: Douglas C. Wynn, P.O. Box 1295, Greenville, MS. Operating rights sought to be purchased: General commodities (except articles of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and cement in containers) as a common carrier over irregular routes between Belzoni, Rolling Fork and Yazoo City, MS, on the one hand, and, on the other, Jackson and Vicksburg, MS. The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. Transferee is authorized to operate pursuant to Certificate No. MC–22179 and subs as a common carrier of general commodities in the States of MS and TN. Approval of the proposed transaction will result in Transferee acquiring operating authority to render through service between Memphis, TN and Jackson, MS and between Jackson and Vicksburg, MS by tacking at the Yazoo City, MS Gateway, and between Memphis, TN and Belzoni and Rolling Fork, MS be tacking at the Vicksburg Gateway. (Hearing site: Memphis, TN, Jackson, MS or Greenville, MS.)

Note.—MC 141853 (Sub-3F) is a directly related matter.

MC–F–13941F. Authority sought for the merger into RED BALL MOTOR FREIGHT, INC., of Red Ball Motor Freight of California, Inc., both of 3177 Irving Boulevard, Dallas, TX 75247, and for acquisition by RBM TRANSPORTATION SYSTEMS, INC. and TELECON CORP., both of 2424 Houston Natural Gas Building, 1200 Travis Street, Houston, TX 77002, of control of the rights and properties of Red Ball Motor Freight of California, Inc., through the transaction. Attorney: Russell R. Sage, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Operating rights sought to be merged: General commodities, with exceptions, as a common carrier over a network of regular routes in the State of California, all as specifically described in No. MC 98967 (Sub-3). This notice does not purport to be a complete description of the operating rights of Red Ball Motor Freight of California, Inc. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of the operating rights of Red Ball Motor Freight of California, Inc. Red Ball Motor Freight, Inc. is authorized to operate as a common carrier in the States of AL, AZ, AR, CA, CO, FL, GA, KS, LA, MO, MS, NM, OK, TN and TX. Application has not been filed for temporary authority under Section 210a(b) of the Act.

Note.—Red Ball Motor Freight of California, Inc. is a wholly-owned subsidiary of Red Ball Motor Freight, Inc. This merger application is filed pursuant to the direction of the Commission in MC–F–13536 to eliminate duplicating operating authority between the two companies.

Note.—MC 2229 (Sub-205F) is a directly related matter.

MC–F–13943F. Authority sought to purchase by T.F.S., INC., Box 126, Rural Route 2, Grand Island, NE 68801, of a portion of the operating rights of Edgar W. Long, Inc., 3815 Old Wheeling Road, Zanesville, OH 43701, of control of such rights through the transaction. Representatives: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501, and Richard H. Brandon, 220 West Bridge Street, Dublin, OH 43017. Operating rights, as a *common carrier,* over irregular routes, sought to be transferred: (1) *Glassware,* from Jeannette, PA, to points in FL, LA and AR, with no transportation for compensation on return except as otherwise authorized; from Columbus, OH, to points in FL, LA (except points in the New Orleans LA, Commercial Zone as defined by the Commission), and AR, with no transportation for compensation on return except as otherwise authorized; (2) *Glassware,* from Columbus, OH, to New Orleans, LA, and points in that part of WV on and east of a line beginning at the WV–VA state line near Bluefield, WV, and extending along WV Hwy. 20 to junction with WV Hwy 4 near Rock Cave, WV, thence north along WV Hwy 4 to the junction of U.S. Hwy 219 near Elkins, WV, thence north along U.S. Hwy 219 to the WV–MD state line, and to points in AL, AZ, CA, CO, GA, ID, MS, MT, NM, NV, ND, OR, SC, SD, TN, TX, UT, WA and WY. Restriction: The authority granted herein is restricted to the transportation of

shipments originating at the named origins: (3) (a) *Glassware,* from Jeannette, PA, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY, with no transportation for compensation on retrun except as otherwise authorized, (b) *Chinaware and stoneware,* from Sebring, OH, to points in the destination states listed in (a) above, with no transportation for compensation on return except as otherwise authorized, (c) *Plastic ware,* from Lake City and Girard, PA, to points in the destination states listed in (a) above, with no transportation for compensation on return except as otherwise authorized, and (4) (a) *Glassware,* from Jeannette, PA, to points in AL, GA, MS, OK, TX, KS, MO, ND, and SD; (b) *Plastic ware,* from Lake City and Girard, PA, to Points in AL, GA, MS, OK, TX, KS, MO, ND, SD and FL; and (c) *Chinaware, porcelainware and stoneware,* from Sebring and Bedford Heights, OH, to points in AL, GA, MS, OK, TX, KS, MO, ND, SD, and FL. T.F.S., Inc. holds authority as a contract carrier conducting operations between various points in the U.S. for the account of Oxford Cheese Corporation, Ag Service, Inc., Morgen Manufacturing Co., Bonsail Pool Co., and Endicott Clay Products Co. Application has been filed for temporary authority under Section 210a(b).

MC–F–13948F. Authority sought for control by CRANE CO., 300 Park Avenue, New York, NY 10022, of Wanatah Trucking Co., Inc., Box 247, Wanatah, IN 46390, by purchase of a majority of the stock of Medusa Corp., 3615 Warrensville Center Road, Shaker Heights, OH 44122, which corporation presently controls Wanatah Trucking Co., Inc. Attorney: David C. Todd, Patton, Boggs & Blow, 2550 M Street, NW., Washington, D.C. 20037. Operating rights sought to be controlled: *Grain, Feed, Fertilizer, Cement blocks, Livestock,* as a *common carrier,* over irregular routes, from, to, and between specified points in Indiana and Illinois as more specifically described in certificate of registration No. MC 113569. Approval of the transaction will result in the applicant being in control of both a rail carrier (in Colorado and Wyoming) and a motor carrier (in Indiana), Wanatah Trucking Company, Incorporated. In addition, Medusa Corporation controls a rail carrier (in Ohio), the Toledo, Angola, and Western Railway Company. The TA & W has received Commission approval for abandonment of its entire line in AB–169, effective March 14, 1979. None of the rail or motor carriers involved in this application are authorized to serve origin or destination points in common with those authorized to be served by any of the other carriers.

MC–F–13954F. Transferee: NORTH PENN TRANSFER, INC., Box 230, Routes 63 and 202, Lansdale, PA 19446. Transferor: National Transportation Co., d.b.a. National Transport 101, c/o Edgar H. Booth, Esquire, 405 Park Avenue, New York NY 10022. Representative: John W. Frame, ICC Practitioner, Box 628, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Authority sought for purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate No. MC–9876, MC–9876, Sub 21, and MC–9876, Sub 22, as follows over *Regular Routes,* (1) *General Commodities,* except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. Between New Freedom, PA and junction U.S. Hwys 1 and 9 near Woodbridge, NJ, serving all intermediate points in Pennsylvania: From New Freedom over Pennsylvania Hwy 516 to junction unnumbered hwy (formerly U.S. Hwy 111), thence over unnumbered highway via Loganville to junction I–83 (formerly U.S. Hwy 111), thence over I–83 to York, PA, thence over U.S. Hwy 30 to junction Business Route U.S. Hwy 30 (formerly portion of U.S. Hwy 30), thence over Business Route U.S. Hwy 30 via Coatesville, PA to junction U.S. Hwy 30, thence over U.S. Hwy 30 to Philadelphia, PA, and thence over U.S. Hwy 1 to junction U.S. Hwy 9, and return over the same route. Restriction: Service over the routes specified under the commodity description next above shall be limited to the transportation of traffic moving in said carrier's vehicles to or from points in Connecticut or Massachusetts on, or authorized to be served in connection with, said carrier's routes authorized hereinabove. (2) *General commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the plant site of P. H. Glatfelter Company at Spring Grove, PA, as an off-route point in connection with carrier's otherwise authorized regular route operations between New Freedom, PA, and junction U.S. Hwys 1 and 9 near Woodbrige, NJ. (3) *General commodities,* except those of unusual value, those requiring special equipment, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those injurious or contaminating to other lading, between Newark, NJ and Lancaster, PA, in connection with carrier's presently authorized regular route operations between Lancaster, PA, and Newark, NJ, over U.S. Hwys 30, 1, and 9, serving no intermediate points: From Newark over U.S. Hwy 22 to Allentown, PA, thence over U.S. Hwy 222 to Lancaster, and return over the same route. Restriction: The service authorized herein is restricted to traffic moving to and from points in Connecticut, Massachusetts, and Rhode Island. Vendee is authorized to operate as a common carrier in the States of PA, DC, DE, MD, NY, NJ, CT, and VA. Application has not been filed for temporary authority under section 210a(b) of the Act.

MC–F–13958F. Transferee: HEUERTZ TRUCKING, INC., 425 First Street, NW, LeMars, IA 51031. Transferor: Siouxland Express, Inc. Representative: D. Douglas Titus, Esq., Titus, Holman, Myers & Teichgraeber, Suite 510 Benson Building, Sioux City, IA 51101. Attorney for transferor: Bradford E. Kistler, Esq., Nelson & Harding, 1200 N Street, Lincoln, NE 68501. Authority sought for purchase by transferee of the operating rights of transferor (portion) as set forth in Certificates No. (1) MC–129413 (base docket), and (2) MC–129413 (Sub-1), as follows: (1) Commodities: *liquid chemicals* and *liquid fertilizers,* in bulk, in tank vehicles, irregular routes, from Port Neal Industrial Complex, Woodbury County, IA, and Big Soo Terminal, Woodbury County, IA, and the facilities of Terra Chemicals International, Inc., American Cynamid Company, and Morsanto Company, located at Woodbury County, IA, and Dakota County, NE, to points in CO, IL, IA, KA, MO, NE, MN, ND, OK, SD, WI, and WY. Restriction: Restricted to traffic originating at points in the above origin areas and destined to points in the above destination areas; (2) Commodities: *liquid chemicals* and *liquid fertilizers,* and *liquid fertilizer materials derived from petroleum and petroleum products,* in bulk, irregular routes, from the facilities of Terra Chemical International, Inc., Air Park West, Lincoln, NE, to points in CO, IA, KA, MO (except St. Louis), SD, and WY. Restriction: Restricted to traffic originating at the facilities of Terra Chemical International, Inc., Air Park West, Lincoln, NE, and destined to the named destination states. Transferee presently holds emergency temporary authority under MC–145737 R–3 and R–4; it seeks § 210a(b) authority. Application has been filed for temporary authority under section 210a(b).

MC–F–13960F. Authority sought for purchase by WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712, of a portion of the operating rights of Monkem Co., Inc., P.O. Box 1196, Joplin, MO 64801, and for acquisition by Wayne Daniel, Charles A. Daniel, Wesley W. Daniel, Dan A. Daniel, and Doris Daniel, all of P.O. Box 303, Mount Vernon, MO 65712, of control of such rights through the transaction. Attorney: Harry Ross, 58 South Main Street, Winchester, KY 40391. Operating rights sought to be transferred: MC–119493 (Sub-55), Diatomite and mixture of distomaceous earth and alkyl naphthalene and sodium sulfonate, as a common carrier over irregular routes from points in NV (except Las Vegas and Henderson), to points in AR, IL, IN, IA, KS, KY, LA, MO, NE, and OK; and containers, from points in the above-named destination States, to points in NV (except Las Vegas and Henderson). MC–119493 (Sub-No. E22), New bags and containers (except glass and cardboard containers), as a common carrier over irregular routes, from points in AL, MS, and TN to points in NV (except Las Vegas and Henderson). Vendee is authorized to operate as a common carrier in the States of WA, OR, CA, NV, ID, UT, AZ, NM, CO, MT, WY, ND, SD, KS, TX, MO, NE, OK, LA, AR, MS, TN, KY, OH, IN, IL, MI, WI, MN, FL, and AL, and as a contract carrier in the States of MO, AZ, TX, FL, CA, IL, OH, PA, MD, MA, NJ, NY, RI, DC, CT, DE, and VA. Application has not been filed for temporary authority under section 210a(b).

MC–F–13961F. Authority sought for purchase by VAN BRUNT & SON, INC., Box 192, Old Bridge, NJ 08857, of a portion of the operating rights of Crouthamel, Inc., P.O. Drawer U, Oaks, PA 19456, and for acquisition by Fred C. Herman, Joyce D. Herman, and Fred J. Herman, all of Box 192, Old Bridge, NJ 08857, of control of such rights through the transaction. Attorney: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Operating rights sought to be transferred: General commodities, with exceptions as a common carrier over irregular routes between points within one mile of Philadelphia, Norristown, Bridgeport and Conshohocken, PA including the points named; between Philadelphia on the one hand, and, on the other, points in PA within 25 miles of Philadelphia City Hall. Vendee is authorized to operate as a common carrier within the States of NY, NJ, PA, and DE. Application has not been filed for temporary authority under section 210a(b).

MC–F–13962F. Authority sought for control by Gerald Ragle, Route 1, P.O. Box 48, Tolar, TX 76476 of Bagle Transport Lines, Inc., 8632 Palo Pinto Road, Fort Worth, TX 76116 through stock ownership. Applicant's attorney Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. Principal operating rights of Bagle Transport Lines, Inc. as a contract carrier sought to be controlled: (1) MC–144228TA, *lamps and lamp parts*, for the account of Angelo Bros. Co., over irregular routes, between the facilities of Angelo Bros. Co., at Arlington, TX, Chicago, IL, Los Angeles, CA, Miami, FL, and Philadelphia, PA; (2) MC–144228 (Sub-No. 3TA) *Ductile iron pipe fittings and foundry supplies* utilized in the manufacture of ductile iron pipe fittings, for the account of EBAA Iron, Inc., over irregular routes, between Eastland, TX, on the one hand, and, on the other, Primos, PA; Chicago, IL; South Barre and Stoughton, MA; Hayward, CS; New York City, NY; Southington, CT; Provo, UT; Seattle, WA; Portland, OR; and Louisville, KY; and (3) MC–144228 Sub 4F, *Heat sentrys, attic fans, louver vents, and parts and machinery used in the manufacture of the foregoing commodities*, between the facilities of Henry N. Butler Company, at or near Mineral Wells, TX, on the one hand, and on the other, points in the United States (except Alaska, Hawaii, and Texas), under continuing contract with Henry N. Butler Company. The aforementioned summary is generally the commodities and territory involved. Gerald Ragle holds no authority from the Commission. However, Gerald Ragle is the sole shareholder of Lone Star Carriers, Inc. operating under MC–133805 and subs thereunder as a common carrier of specified commodities throughtout the United States generally. (Hearing site: Dallas or Fort Worth, TX)

MC–F–13969F. Authority sought by TOSE, INC., 424 West Fourth Street, Bridgeport, PA 19405, for purchase of a portion of the operating rights of RETAIL DELIVERY SERVICE, INC., a Bankrupt, formerly of P.O. Box 487, Dover, NJ 07801, and for acquisition by LEONARD H. TOSE, 424 West Fourth Street, Bridgeport, PA 19405, of control of such rights through the purchase. Applicant's Attorney: Anthony C. Vance, Esq., 1307 Dolley Madison Blvd., McLean, VA 22101. Operating rights sought to be transferred: (1) *Parcels* and *packages* (no single parcel or package to exceed 50 pounds in weight), *garments* and *furs* on hangers, for storage, and *damaged, defective, refused or exchanged merchandise* on return, Between points in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, Pa., Camden, Gloucester, Salem, Cumberland, Atlantic and Cape May Counties, N.J., that part of Burlington and Mercer Counties, N.J., bounded by a line beginning at the Delaware River at Washington Crossing, N.J., and extending through Hamiltion Square, N.J., and Allentown, N.J., to Camden County line at New Jersey Highway 534, and New Castle County, Del. Restriction: The authority granted in (1) above is restricted to transportation betweeen retail department stores, specialty shops, mail-order houses, premium redemption stores, and other retail stores and the branches and warehouses of such stores, on the one hand, and, on the other, the customers thereof. (2) *Such merchandise* as is ordinarily dealt in by retail stores, premium redemption companies, and mail-order houses, (a) From Camden, N.J., to New York, N.Y., Washington, D.C., points in Fairfield, Hartford, and New Haven Counties, Conn., Albany, Columbia, Dutchess, Fulton, Greene, Montgomery, Nassau, Orange, Putnam, Rensselaer, Rockland, Schenectady, Schoharie, Suffolk, Sullivan, Ulster and Westchester Counties, N.Y., and points in Delaware, Maryland, New Jersey and Pennsylvania, with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized in (2)(a) above shall be limited to retail store delivery service (including deliveries for premium redemption companies and mail-order houses) and no service shall be rendered in the transportation of any shipment weighing in excess of 50 pounds. For the purpose of this restriction, a package or group of packages from a single consignor to a single consignee at a single destination shall be considered a shipment. (b) Between New York, N.Y., Washington, D.C., points in Fairfield, Hartford, and New Haven Counties, Conn., Dutchess, Nassau, Orange, Putnam, Rockland, Schoharie, Suffolk, Sullivan, Ulster, and Westchester Counties, N.Y., and points in Delaware, Maryland, New Jersey, and Pennsylvania. Restriction: The service authorized in (2)(b) above is subject to the following conditions: No traffic shall be transported between Washington, D.C., on the one hand, and, on the other, points in Maryland. No traffic shall be transported from Newark, Del., and points within the commercial zone of Newark, Del. (except Wilmington, Del.), to Washington, D.C. and points in Maryland. No traffic shall be transported between points in Albany,

Columbia, Fulton, Greene, Montgomery, Rensselaer, and Schenectady Counties, N.Y. The service authorized shall be restricted against the transportation of any shipment weighing more than 250 pounds. For the purpose of this restriction a package or group of packages from a single consignor to a single consignee at a single destination shall be considered a shipment. (c) Between Albany, Columbia, Fulton, Greene, Montgomery, Rensselaer, and Schenectady Counties, N.Y. (d) From Newark, Del., to Washington, D.C., and points in Maryland, with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized in (2)(c) and (d) above is subject to the following conditions: The service authorized shall be limited to delivery to the customers (ultimate consumers) of retail stores, premium redemption companies, and mail-order houses, and the transportation of shipments of this character returned by such customers to the shippers, and shall be restricted against transportation of any commodity intended for resale, manufacturing, or other commercial processing. No transportation shall be provided for any shipment weighing more than 250 pounds for the purpose of this restriction, a package or group of packages from a single consignor to a single consignee at a single destination shall be considered a shipment. Vendee is authorized to operate as a common carrier in the States of PA, NY, MD, NJ, VA, DC, DE, CT, and MA. Application has been filed for temporary authority under Section 210a(b). *Note:* Tose, Inc. has reclaimed these rights by foreclosure on a security interest, subject to ICC approval.

MC–F–13970F. Authority sought for acquisition of control of EDWARDS TRANSFER & STORAGE COMPANY, Post Office Box 7795, Columbus, OH 43207, through acquisition of the stock of UNITED TRANSPORT INDUSTRIES, INC., Post Office Box 1161, Akron, OH 44306, and control of such rights and properties by John J. Brutvan through the transaction. Applicants' attorney: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Operating rights sought to be controlled under MC 38799 and MC 38799 Sub 3 authorize motor *common* carrier service, over irregular routes, transporting: *Shrubbery, seeds,* and *bulbs,* from Columbus, OH to ponts and places in OH within 100 miles of Columbus; between points and places in Columbus, OH; *general commodities,* (usual exceptions) from Columbus, OH to points and places in OH within 60 miles of Columbus; between points and places in Columbus, OH; *household goods,* as defined by the Commission between Franklin Co., OH on the one hand, and, on the other, points in MI, IN, IL, KY, WV, NY, and PA, traversing MD and NJ for operating convenience only; and *such commodities* as require the use of special equipment by reason of size or weight, between points and places in OH within 60 miles of Columbus, including Columbus. United Transport Industries, Inc. is a non-carrier which controls Miller Transfer & Rigging Co., and irregular route common and contract carrier of specified commodities in 48 states. Application has not been filed for temporary authority.

MC–F–13971F. Authority sought by HEMINGWAY TRANSPORT INC., 438 Dartmouth Street, New Bedford, MA 02740, to purchase a portion of the operating rights of D.F. Bast, Inc., 1425 N. Maxwell Street, Allentown, PA 18001. Applicants' representatives: Francis W. McInerny, 1000 16th Street, NW. Washington, DC 20036, and John Bonner, 1425 N. Maxwell Street, Allentown, PA 18001. Operating rights to be purchased: *general commodities,* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, silk, rayon, and products and materials of textile mills, commodities in bulk, those injurious or contaminating to other lading, and commodities requiring special equipment), over *irregular routes,* between Allentown, PA, and points within 30 milles of Allentown, on the one hand, and, on the other, points in New York. Transferee is a common carrier by motor vehicle authorized to conduct operations pursuant to Certificate No 30204, and sub numbers thereunder, in the states of CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA and WV, and the province of Quebec, Canada. Application has been filed for temporary authority under 49 USC Section 11349. (Hearing site Washington, D.C.)

MC–F–13973F. Authority sought for purchase by BAYVIEW TRUCKING, INC., 7060 Florin-Perkins, Sacramento, CA 95828, of all of the operating rights of Donald G. Olson, an individual, 611 Polk Street, Port Townsend, WA 98368, and for acquisition by Harold F. Culy, 7060 Florin-Perkins, Sacramento, CA 95828, of control of such rights through the purchase. Transferor's Attorney: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Transferee's Attorney: Ann Pougiales, Loughren and Hagerty, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Operating Rights to be purchased: Frozen fruits, frozen berries, and frozen vegetables from Albany, OR and Seattle, Kent, Arlington, and Stanwood, WA to Los Angeles, CA. Vendee also holds authority unde MC 121626TA, and has pending before the Commission an application in MC 121626 (Sub-9F), to transport perishable foods from certain points in California to certain points in Washington. Application has been filed for temporary authority under Section 210 (a) (b).

MC–F–13976F. Authority sought for purchase by H. M. KELLY, INC., R.D. No. 3, New Oxford, PA 17350 of the operating rights of ALLEN F. SEESHOLTZ, Box 3755, R.D. No. 3, Berwick, PA 18603, and for acquisition by Edmond B. Frock, Jr., R.D. No. 3, New Oxford, PA 17350 of control of such rights through the transaction. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. Operating rights, as a contract carrier, over irregular routes, sought to be transferred: *Lamps components, parts and accessories for lamps and materials, supplies and equipment* used or useful in the manufacture, distribution, or installation of lamps, between Berwick, PA and Long Beach, CA, under contract or contracts with Fulton Manufacturing Co., Inc., of Berwick, PA; *fiberglass screening,* from Compton, CA to the plant site of new York Wire Co., at Chicago, IL, and to Elizabethville and York, PA, under contract or contracts with Oxford Mills, incorporated, division of New York Wire Company of Compton, CA; *steel pipe and specialty hardware,* from Genessee, PA to Los Angeles, CA, under contract or contracts with Cooper Slide Sales, Inc., of Genessee, PA; and *insulated electrical wire and electrical wiring devices,* from Doylestown, PA to Los Angeles, CA, under contract or contracts with Triboro Electic Corporation of Doylestown, PA. Vendee is authorized to transport as a common carrier in DE, CT, IL, IN, KY, MD, MA, ME, MI, NC, NH, NJ, NY, PA, RI, TN, VT, VA, WV and DC. Application has not been filed for temporary authority under Section 210a(b).

Motor Carrier of Passengers

MC–F–13979F, filed March 20, 1979. Transferee: BLUE & WHITE LINES, INC., 516 West Plank Road, Altoona, PA 16602. Transferor: WILLETTS TRAVEL, INC., P.O. Box 40, Frostburg, MD 21532. Applicants' representatives: William A. Chesnutt, Attorney, 1776 F Street, NW., Washington, D.C. 20006 and W. Stevens

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Hidey, Attorney, 110 Washington Street, Cumberland, MD 21502. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificates of Public Convenience and Necessity at MC-119919 (Sub-Nos. 1, 8 and 9) issued September 4, 1974, November 26, 1975, and May 19, 1976, respectively, as follows: Regular Routes: Passengers and their baggage, between Frostburg, MD, and the sites of the Charles Town and Shenandoah Race Tracks at or near Charles Town, WV, serving all intermediate points between Frostburg, MD, and Romney, WV, from Frostburg over U.S. Hwy. 40 to Cumberland, MD, thence over MD Hwy. 28 to the MD–WV State line, thence over WV Hwy. 28 to Romney, WV, thence over U.S. Hwy. 50 to Winchester, VA, thence over VA Hwy. 7 to Berryville, VA, thence over U.S. Hwy. 340 to the site of the Charles Town and Shenandoah Race Tracks at or near Charles Town, and return over the same route. Irregular Routes: Passengers and their baggage in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Allegany County, MD, and extending to points in that part of PA on and west of U.S. Hwy. 15 and on and south of U.S. Hwy. 22, points in that part of WV on, east, and north of a line beginning at the OH–WV State line and extending south along WV Hwy. 18 to junction WV Hwy. 47, thence east along WV Hwy. 47 to junction U.S. Hwy. 33, and thence along U.S. Hwy. 33 to the WV–VA State line, points in that part of VA on and north of U.S. Hwy. 50, including Winchester, VA, and points in the District of Columbia. Passengers and their baggage, in the same vehicle with passengers, in charter operations, beginning and ending at points in Garrett County, MD, and extending to points in PA, MD, DE, VA, WV, and D.C. Passengers and their baggage in the same vehicle with passengers, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Allegany County, MD and extending to points in the U.S. (including AK but excluding HI). Beginning and ending at points in Garrett County, MD, and extending to points in the U.S. (including AK but excluding HI and points in Mineral County, WV). SUBJECT to the right of the Commission to impose such terms and conditions, if any, as may be deemed necessary to insure that the operations performed by carrier are limited to bonafide special operations, in round-trip sight-seeing and pleasure tours. Passengers and their baggage in the same vehicle with passengers, in round trip charter operations, beginning and ending at points in Garrett County, MD, and extending to points in the U.S. (including AK but excluding HI and points in PA, MD, DE, VA, WV, and D.C.). Passengers and their baggage, in the same vehicle with passengers, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Washington County, MD, and extending to points in the U.S. (including AK but excluding HI). Passengers and their baggage, in the same vehicle with passengers, in round-trip charter and special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Mineral County, WV, and at Berkeley Springs, Moorefield, Petersburg, and Romney, WV, and extending to points in the U.S. (including AK but excluding HI). Irregular Routes: Passengers and their baggage, in the same vehicle with passsengers, in round-trip charter and special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in PA bounded by a line commencing at junction PA Hwy. 160 and the PA–MD State line and extending along PA Hwy. 160 to junction U.S. Hwy. 219, thence along U.S. Hwy. 219 to junction PA Hwy. 281, thence along PA Hwy. 281 to junction U.S. Hwy. 40, thence along U.S. Hwy. 40 to its junction with the PA–MD State line and thence along the PA–MD State line the junction PA Hwy. 160 (the point of beginning), including those points in the above described highways, and State line, and extending to points in the U.S. (including AK but excluding HI). RESTRICTED against the performance of charter operations beginning and ending at Berlin and Somerset, PA. Beginning and ending at points in WV bounded by a line commencing at the junction of U.S. Hwy. 50 and the WV–MD State line and extending westerly along U.S. Hwy. 50 to junction WV Hwy. 72, thence along WV Hwy. 72 to junction U.S. Hwy. 219, thence along U.S. Hwy. 219 to junction WV Hwy. 32, thence along WV Hwy. 32 to junotion WV Hwy. 93, thence along WV Hwy. 93 to junction WV Hwy. 42, thence along WV Hwy. 42 to junction U.S. Hwy. 220, thence along U.S. Hwy. 220 to its junction with the WV–MD State line, and thence along the WV–MD State line to junction U.S. Hwy. 50 (the point of beginning), including those points on the described highways and State line, and extending to points in the U.S. (including AK but excluding HI). Passengers and their baggage, in special charter operations, between points in Mineral County, WV, and Allegany County, MD, on the one hand, and on the other, the Greater Pittsburgh International Airport, at or near Pittsburgh, PA, the Washington-Baltimore International Airport, at or near Baltimore, MD, the Washington National Airport, near Washington, D.C., and Dulles International Airport, at or near Herndon, VA. RESTRICTED (a) to the transportation of passengers having a prior or subsequent movement by air, and (b) against the transportation of more than 12 passengers (not including the driver or children under 12 years of age) in any one vehicle at the same time. Regular Routes: Passengers and their baggage, express, and newspapers, in the same vehicle with passengers, between Hagerstown, MD, and Keedysville, MD, serving all intermediate points: from Hagerstown over MD Hwy. 65 via Lappans, MD to Sharpsburg, MD, thence over MD Hwy. 34 to Keedysville, and return over the same route. Between Kearneysville, WV, and the Newton D. Barker General Hospital, WV, serving no intermediate points: From Kearneysville over WV Hwy. 9 to Newton D. Barker General Hospital, and return over the same route. Passengers and their baggage, and express and newspapers, in the same vehicle with passengers, between Hagerstown, MD, and Smithsburg, MD, serving all intermediate points: From Hagerstown over unnumbered highway via Chewsville and Cavetown, MD, to Smithsburg, and return over the same route. Between Sharpsburg, MD, and Charles Town, WV, serving all intermediate points: From Sharpsburg over MD Hwy. 34 to the MD–WV State line, thence over WV Hwy. 48 to junction WV Hwy. 9, thence over WV Hwy. 9 to Charles Town, and return over the same route. Passengers and their baggage, and newspapers in the same vehicle with passengers, between Hagerstown, MD, and Kearneysville, WV, serving no intermediate points: From Hagerstown over I–81 to junction WV Hwy. 9, thence over WV Hwy. 9 to Kearneysville, and return over the same route. Transferee holds ICC authority at MC 46614 and MC 46614 (Sub-7). Vendee is authorized to operate as a common carrier in the States of PA and MD. Application has been filed for temporary authority under section 210a(b).

MC–F–13980F. Applicant: WILLIAMS S. MEISLER, 1103 East Franklin Street, Evansville, IN 47711. Representative: Warren C. Moberly, Attorney at Law, 777 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought for continued control by William S. Meisler, 1103 East Franklin Street, Evansville, IN, 47711, of WALT'S DRIVE-A-WAY SERVICE, INC., 1103 East Franklin Street, Evansville, IN, 47711, and to continue to control MEISLER CARTAGE, INC., 1103 East Franklin Street, Evansville, IN. 47711, as follows: *WALT'S DRIVE-A-WAY SERVICE, INC.*, possesses permanent and temporary *common* carrier authority to transport *truck-mounted cranes, chassis for self-propelled cranes, self-propelled drilling equipment, mine, well, and quarry drilling machinery*, in drive-away service, from various specified cities in the United States to points located in all of the United States, including Alaska, but excluding Hawaii. *MEISLER CARTAGE, INC.*, possesses permanent authority to operate as a *common* carrier over irregular routes in the transportation of *general commodities* (except those of unusual value, Classes A and B explosives, a household goods as defined by the Commission, commodities in bulk, in tank vehicles and in dump vehicles, and those requiring special equipment), between Evansville, IN, on the one hand, and, on the other, Albion, Grayville, and West Salem, IL. Such authority is restricted to the transportation of shipments having a prior or subsequent movement by rail. The aforementioned summary embraces generally the commodities and territory involved but does not intend to define precisely the scope of authority of the carriers for which approval of continuing control is sought. The precise and specific authorities can be found under MC 126717*, and all subs thereunder, and under MC 142315. Further, as indicated by the authorities described herein, the type of operations of the two carriers are entirely separate and distinct and cannot be confused or commodities of one carrier handled by the other. WILLIAM S. MEISLER, holds no authority from this Commission. However, he owns controlling stock in both WAT'S DRIVE-A-WAY SERVICE, INC. and MEISLER CARTAGE, INC. Application has not been filed for temporary authority under section 210a(b).

MC–F–13961F. Authority sought for purchase by WAYNE DANIEL TRUCK LINE, INC., P.O. Box 303, Mount Vernon, MO., 65712, of a portion of the operating rights of B AND P MOTOR LINES, INC., Shiloh Road and U.S. Hwy 221 South, Forest City, NC., 28043; and for WESSLEY WAYNE DANIEL, SR.; WESSLEY WAYNE DANIEL, JR.; CHARLES A. DANIEL; DAN A. DANIEL; MRS. DORIS DANIEL to acquire control of said operating rights through the purchase. And and B AND P MOTOR LINES, INC., of the same address as above to purchase a portion of the operating rights of WAYNE DANIEL TRUCK LINE, INC., of the same address as above; and for R. D. WORKMAN, COY LAMBERT, and ALMA MOOREE WORKMAN, to acquire control of said operating rights through the purchase. Applicants' attorney: Clyde W. Carver, P.O. Box 720434, Atlanta, GA., 30328. Operating rights of B AND P MOTOR LINES, INC., sought to be transferred: Such merchandise as is dealt in by wholesale, retail, chain grocery, and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, as a common carrier, over irregular routes, from the facilities of Kraft, Inc., at Springfield, MO, to points in AZ, CA, CO, NM, OK, and TX. Operating rights of WAYNE DANIEL TRUCK LINE, INC., sought to be transferred: Electrical appliances and electric motors, as a common carrier, over irregular routes, from the facilities of Superior Electric Products, Inc., at Cape Girardeau, MO, to points in FL, GA, AL, NC, SC, and MS. Wayne Daniel Truck, Inc., is authorized to operate as a common or contract carrier within all points in the continental United States, except points in ME, NH, VT, and WV. Dual operations may be involved. B and P Motor Lines, Inc., is authorized to conduct operations as a common or contract carrier within all points in the continental United States. Dual operations may be involved. No application has been filed for temporary authority under Section 210a(b).

Operating Rights Application(s) Directly Related to Finance Proceedings

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formely Section 212(b)) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission on or before June 1, 1979. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy.

MC 2229 (Sub-205F), filed March 1, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Boulevard, Dallas, TX 75247. Applicant's representative: Russell R. Sage, Suite 400, Overlook Building, 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) (1) between San Francisco, CA, and Roseville, CA: From San Francisco over Interstate Highway 80 to Roseville, and return over the same route; (2) between Sacramento, CA and Redlands, CA: From Sacramento over California Highway 99 to junction with Interstate Highway 5 at or near Wheeler Ridge, CA, thence over Interstate Highway 5 to its junction with Interstate Highway 10, then over Interstate Highway 10 to Redlands, and return over the same route; (3) between San Francisco, CA, and Placerville, CA: From San Francisco over Interstate Highway 80 to its junction with Interstate Highway 580, then over Interstate Highway 580 to its junction with Interstate Highway 205, then over Interstate Highway 205 to its junction with Interstate Highway 5, then over Interstate Highway 5 to its junction with California Highway 99, then over California Highway 99 to its junction with U.S. Highway 50, then over U.S. Highway 50 to Placerville, and return over the same route; (4) between junction California Highway 120 and Interstate Highway 5 at Mossdale Wye, CA, and junction California Highways 120 and 108 at Yosemite Junction, CA: From junction California Highway 120 and Interstate Highway 5 at Mossdale Wye over California Highway 120 to junction California Highways 120 and 108 at Yosemite Junction, and return over the same route; (5) between Yosemite Junction, CA, and Dardanelle, CA: From Yosemite Junction over California Highway 108 to Dardanelle, and return over the same route; (6) between Fairfield, CA, and Clements, CA: From Fairfield over California Highway 12 to Clements, and return over the same route; (7) between Clements, CA and Jackson, CA: From Clements over California Highway 88 to

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Jackson, and return over the same route; (8) between junction California Highway 4 and Interstate Highway 80 near Pinole, CA, and Stockton, CA: From junction California Highway 4 and Interstate Highway 80 near Pinole over California Highway 4 to Stockton, and return over the same route; (9) between junction California Highway 33 and Interstate Highway 205 near Tracy, CA, and Maricopa, CA: From junction California Highway 33 and Interstate Highway 205 over California Highway 33 to Maricopa, and return over the same route; (10) between the California-Oregon State Line near Pelican Beach, CA, and San Ysidro, CA: From the California-Oregon State Line over U.S. Highway 101 to its junction with Interstate Highway 5 at Los Angeles, then over Interstate Highway 5 to San Ysidro, CA, and return over the same route; (11) between junction California Highway 1 and U.S. Highway 101 near Oxnard, CA, and junction of U.S. Highway 101 and Interstate Highway 5 near Capistrano Beach, CA: From junction California Highway 1 and U.S. Highway 101 near Oxnard over California Highway 1 to junction with Interstate Highway 5 near Capistrano Beach, and return over the same route; (12) between Roseville, CA, and Yuba City, CA: From Roseville over California Highway 65 to California Highway 20, thence over California Highway 20 to Yuba City, and return over the same route; (13) between Ignacio, CA, and Vallejo, CA: From Ignacio over California Highway 37 to Vallejo, and return over the same route; (14) between Marysville, CA, and Oroville, CA: From Marysville over California Highway 70 to Oroville, and return over the same route; (15) between Riverside, CA, and San Diego, CA: From Riverside over U.S. Highway 395 to San Diego, and return over the same route; (16) between Gilroy, CA, and Califa, CA: From Gilroy over California Highway 152 to Califa, and return over the same route; and (17) between Oakland, CA, and San Jose, CA: From Oakland, over California Highway 17 to San Jose, and return over the same route. Service is authorized at all intermediate points on the foregoing routes, and at all off-route points located within 25 miles of said routes. Restrictions: (a) No local service shall be provided between the San Francisco Commercial Zone, on the one hand, and, on the other, points in Marin, Sonoma, or Napa Counties located north of San Rafael, CA; and (b) no service shall be provided locally between points in the Los Angeles Commercial Zone. (If a hearing is deemed necessary applicant requests it be held at Washington, D.C.)

Note.—The foregoing authority is possessed by Red Ball Motor Freight of California, Inc., a wholly-owned subsidiary of applicant. At present applicant and Red Ball Motor Freight of California, Inc. may interchange shipments with one another at Los Angeles, CA. The purpose of this application is to remove a tacking restriction at Los Angeles, CA on the aforesaid authority and such application is a matter directly related to the merger of Red Ball Motor Freight of California, Inc. into applicant in MC–F 13941F published in a previous section of this Federal Register, which merger application was filed pursuant to the direction of the Commission in No. MC–F–13536. Common control may be involved.

MC 103798 (Sub-30F), filed January 26, 1979. Applicant: MARTEN TRANSPORT, INC., Route 3, Mondovi, Wisconsin 54755. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, Minnesota 55402. Authority sought as a common carrier by motor vehicle over irregular routes transporting, *foodstuffs* (except commodities in bulk) from points in Wisconsin and the Upper Peninsula of Michigan to points in North Dakota, and South Dakota and points in Osceola, O'Brien, Cherokee, Woodbury, Sioux, Lyon, Monona, and Plymouth Counties, Iowa, and points in Burt, Cuming, Staton, Madison, Boone, Box Butte, Sioux, Dawes, Cherry, Brown, Rock, Keya Paha, Holt, Knox, Cedar, Dixon, Antelope, Pierce, Wayne, and Thurston Counties, Nebraska. Restriction: Restricted to the transportation of shipments originating in Wisconsin or the Upper Peninsula of Michigan. (Hearing site: St. Paul, MN.)

Note.—The purpose of this application is to eliminate the gateway of points in MN and is a directly related application to MC–F–13858F published in a previous section of this FR issue.

MC 109538 (Sub-30F), filed March 2, 1979. Applicant: CHIPPEWA MOTOR FREIGHT, INC., 2845 Harlem Street, Eau Claire, WI 54701. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (a) Between points in Illinois within a 50-mile radius of Palatine, IL, and (b) between points in Illinois within a 50-mile radius of Palatine, IL, on the one hand, and, on the other, all points in Illinois. (Hearing site Chicago, Ill.)

Note.—This application is directly related to the proceeding pending in MC–F–13922F, *Chippewa Motor Freight, Inc.—Purchase—Norwood Cartage Company, Inc.*, published in the February 23, 1979, issue of the Federal Register. Note: The purpose of this application is to convert a certificate of Registration to a certificate of public convenience and necessity.

MC 111594 (Sub-85F), filed February 21, 1979. Applicant: C W TRANSPORT, INC., 610 High Street, Wisconsin Rapids, WI 54494. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (*A*)—*General Commodities* (except Classes A & B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1)—Between points in IL on the one hand, and, on the other, Cincinnati, Reading and Columbus, OH. The purpose of this filing is to eliminate the gateway of Peoria, IL; (2)—Between points in IL on the one hand, and, on the other, points in IN and points in OH on and north of U.S. Highway 40. The purpose of this filing is to eliminate the gateway of Lawrenceville, IL. (3)—Between the St. Louis, MO—East St. Louis, IL Commercial Zone, on the one hand, and, on the other, points in IL. The purpose of this filing is to eliminate the gateway of East St. Louis, IL. (4)—Between points in IL on the one hand, and, on the other, points in IL within a 50 mile radius of Batavia, Illinois. The purpose of this filing is to permit the tacking of the (2) two non-radial authorities. (*B*)—*General Commodities* (except household goods, as defined by the Commission), between points in IL, on the one hand, and, on the other, points in that part of IL and IN (except Chicago, IL) bounded by a line beginning at Zion, IL, and extending in a southwesterly direction to Grays Lake, IL, thence in a southeasterly direction to Libertyville, IL, thence in a southwesterly direction through Lake Zurich, Barrington, Elgin, Plato Center and Sycamore, IL to DeKalb, IL, thence in a southeasterly direction through Aurora and Plainfield, IL to Joliet, IL, thence in a northeasterly direction through Gary, IN to Lake Michigan, thence in a northwesterly direction along the shore of Lake Michigan to a point directly east of Zion, IL, and thence in a westerly direction to point of beginning. The purpose of this filing is to permit the tacking of the two (2) non-radial authorities. (*C*)—Liquid chemicals, in bulk, in tank vehicles, from points in IL to points in IN, OH, MI, NY, LA, DE and WI. The purpose of this filing is to eliminate the gateway of

Waukegan, IL. (*D*)—Acids and Chemicals, in bulk, in tank, or hopper-type vehicles, from points in IL to points in IN, IA, KS, KY, MI, MN, MO, OH and WI. The purpose of this filing is to eliminate the gateway of the Stauffer Chemical Company plantsite located at Chicago Heights, IL. (*E*)—Acids, Chemicals, Fertilizer and Fertilizer ingredients (except Cryogenic Liquids), in bulk, in tank vehicles, from points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, SD and WI. The purpose of this filing is to eliminate the gateway of the Apple River Chemical Company plantsites at or near Niota, IL and East Dubuque, IL. (Hearing site: Chicago, Ill.)

Note.—This gateway elimination application is related to the Section 5 application filed by C W Transport, Inc. for the purchase of the operating rights and specified properties of Trans-Illinois Express, Inc. in Docket MC–F–13920F, published in the March 8, 1979, issue of the Federal Register.

MC 141853 (Sub-3F), filed February 14, 1979. Applicant: C-B-C TRANSPORTS, A Limited Partnership [by C-B-C-Transports, Inc., General Partner], 845 Percy Street, Greenville, MS 38701. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Authority sought to operate as a common carrier by motor vehicle over irregular routes transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and cement in containers), between Belzoni, Rolling Fork and Yazoo City, MS, on the one hand, and, on the other, Jackson and Vicksburg, MS. This application is directly related to the Application filed under the title Freeman Truck Line, Inc.—Purchase (Portion) C-B-C Transports, Docket No. MC–F–13931F, published in a previous section of this Federal Register. (Hearing site: (1) Memphis, TN; (2) Jackson, MS; (3) Greenville, MS.)

Note.—The purpose of the instant Application is to remove from the authority sought to be transferred by C-B-C to Freeman the following Restriction: "Restriction: The authority granted above is restricted to the transportation of traffic having a prior or subsequent movement by rail, water, or motor vehicle."

MC 138144 (Sub-45F), filed January 29, 1979. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, Wisconsin 53213. Representative: Daniel C. Sullivan, Esq., 10 South LaSalle Street, Suite #1600, Chicago, Illinois 60603. Authority sought to operate as a motor *common carrier*, over irregular routes, transporting: (1) *Commodities* which because of size or weight require the use of special equipment or special handling, Between points in Niles, Maine, Leyden, Norwood Park, Proviso, Berwyn, Lyons, Stickney, Worth, Thornton, Bloom, Rich, New Lenox, Joliet, Lockport, Homer, Orland, Bremen, Palos, Lemont, DuPage, Lisle, Downers Grove, Milton, York, Addison, Bloomingdale, Schaumburg, Elk Grove, Palatine, Wheeling, Northfield, and New Trier Townships, IL, that part of Lake County, IN, North of U.S. Highway 30, and Chicago, IL, on the one hand, and, on the other, points in Wisconsin. Gateways eliminated: Chicago, IL and its Commercial zone and the Milwaukee, WI Commercial Zone. (2) *General commodities*, in containers, except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and iron and steel articles, which, because of size or weight, require special equipment, Between the plant site of the Bethlehem Steel Corp., in Burns Harbor, Porter County, IN, on the one hand, and, on the other, points in Jefferson County, WI. Restriction: The authority granted above is restricted to the transportation of shipments originating at, or destined to, the plant site of Bethlehem Steel Corporation, in Burns Harbor, Porter County, IN. Gateways eliminated: points in Milwaukee, Waukesha, Ozaukee, Racine, Walworth, and Washington, Counties, WI. (3) *Iron and steel articles*, as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, which, because of size or weight require the use of special equipment or special handling, From Portage, IN to points in WI. Gateways eliminated: Chicago, IL and its Commercial Zone and Milwaukee, WI. (4) *Such commodities* as are manufactured or distributed by manufacturers of (1) buildings, complete, knocked down, or in sections; (2) building sections and panels; (3) component parts, materials, and supplies for (1) and (2); and (4) parts, accessories, and equipment used in the installation of (1), (2), and (3), which, because of size or weight require the use of special equipment or special handling, From points in WI, to points in the U.S. (except AK and HI). Gateways eliminated: Brookfield, WI, a point in the Milwaukee, WI Commercial Zone. (5) *Such commodities* as are manufactured and distributed by manufacturers of (1) auto frames and auto frame parts; (2) railway car parts; (3) iron powder; (4) iron and steel articles; (5) water heaters and boilers; (6) garbage disposal; (7) livestock feeding equipment; (8) parts and accessories for (1), (2), (3), (4), (5), (6), (7); and (9) equipment, materials, and supplies used in the manufacture and distribution of (1), (2), (3), (4), (5), (6), (7), and (8) which, because of size or weight require the use of special equipment or special handling, (except commodities in bulk), Between points in Niles, Maine, Leyden, Norwood Park, Proviso, Berwyn, Lyons, Stickney, Worth, Thornton, Bloom, Rich, New Lenox, Joliet, Lockport, Homer, Orland, Bremen, Palos, Lemont, DuPage, Lisle, Downers Grove, Milton, York, Addison, Bloomingdale, Schaumburg, Elk Grove, Palatine, Wheeling, Northfield, and New Trier Townships, IL, that part of Lake County, IN north of a line extending from the IL–IN State line east through Maynard and Hobart, IN, to the Lake-Porter County Line, inclusive of the points specified, Chicago, IL and points in WI, on the one hand, and, on the other, points in IL, WI, Lake and Porter Counties, IN and St. Louis, MO. (Hearing site: Milwaukee, WI.)

Note.—The purpose of this application is to eliminate the gateways as specified above, and is a directly related application to MC–F–13912F published in a previous section of this FR issue.

MC 144710 (Sub-1F), Applicant: MONROE CONTRACTORS EQUIPMENT, INC., 1840 Penfield Rd., Rochester, NY 14625. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *common carrier*, by motor vehicle, orver irregular routes, transporting: *(1) Such commodities which because of weight or size require the use of special equipment*, between Monroe, Ontario, Wayne, and Yates Counties, NY, on the one hand, and, on the other, points in CT, MA, NJ, and PA, and *(2) Household goods*, as defined by the Commission, between Monroe, Ontario, Wayne and Yates Counties, NY, on the one hand, and, on the other, points in CT, DC, FL, GA, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and WI. Note: The purpose of this application is to eliminate the gateway of Rochester, NY. This is a matter directly related to a Section 5 finance proceeding in MC–F–13601, published in a previous section of this Federal Register issue. (Hearing site: Syracuse, NY.)

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before June 1, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 59583 (Deviation No. 58), THE MASON AND DIXON LINES, INC., P.O. Box 969, Kingsport, TN 37662, filed March 9, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Atlanta, GA over Interstate Hwy 85 to Charlotte, NC, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Atlanta, GA over U.S. Hwy 41 to junction GA Hwy 293, then over GA Hwy 293 to junction unnumbered hwy near Emerson, GA, then over unnumbered hwy via Cartersville, GA to Cass Station, GA, then over U.S. Hwy 411 to Rome, GA, then over U.S. Hwy 27 to Chattanooga, TN, (2) From Chattanooga, TN over U.S. Hwy 64 to Murphy, NC, then over U.S. Hwy 19 to Asheville, NC, and (3) From Asheville, NC over U.S. Hwy 74 to Kings Mountain, NC, then over U.S. Hwy 29 to Charlotte, NC, and return over the same routes.

MC 59680 (Deviation No. 102), STRICKLAND TRANSPORTATION CO., INC., 11353 Reed Hartman Hwy., Cincinnati, OH 45241, filed March 9, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Dallas, TX over U.S. Hwy 75 to junction U.S. Hwy 69, then over U.S. Hwy 69 to junction Interstate Hwy 44, then over Interstate Hwy 44 to St. Louis, MO, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Dallas, TX over U.S. Hwy 67 to Greenville, TX, then over TX Hwy 24 to Paris, TX, then over U.S. Hwy 82 to Texarkana, TX, then over U.S. Hwy 67 to Little Rock, AR, then over U.S. Hwy 70 to Memphis, TN, then over U.S. Hwy 63 to Jonesboro, AR, then over AR Hwy 1 to Paragould, AR, then over AR Hwy 1W to junction U.S. Hwy 62, then over U.S. Hwy 62 to Corning, AR, then over U.S. Hwy 67 to St. Louis, MO and return over the same route.

MC 69833 (Deviation 29), filed March 9, 1979. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue, NW—6th Floor, Grand Rapids, MI 49503. Representative: Harry Pohlad, Vice President-Regulation, Associated Truck Lines, Inc., 200 Monroe Avenue, NW—6th Floor, Grand Rapids, MI 49503. Carrier proposes to operate as a *common carrier*, by motor vehicle, transporting; *General Commodities*, with usual exceptions, over a deviation route as follows: From junction U.S. Hwy 6 and unnumbered Hwy (formerly U.S. Hwy 27) at Waterloo, IN. via U.S. Hwy 6 to junction U.S. Hwy 6 and U.S. Hwy 24; then via U.S. Hwy 24 to Toledo, OH., and return over the same route for operating convenience only. Carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From junction U.S. Hwy 6 and U.S. Hwy 27 at Waterloo, IN. via U.S. Hwy 27 to Fort Wayne, IN.; then via U.S. Hwy 30 to junction U.S. Hwy 30S; then via U.S. Hwy 30S to Lima, OH.; then via U.S. Hwy 25 to Toledo, OH. and return over the same route.

MC 69833 (Deviation 30), filed March 9, 1979. APPLICANT: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue, NW—6th Floor, Grand Rapids, MI 49503. Representative: Harry Pohlad, Vice President-Regulation, Associated Truck Lines, Inc., 200 Monroe Avenue, NW—6th Floor, Grand Rapids, MI 49503. Carrier proposes to operate as a *common carrier*, by motor vehicle, transporting; *General Commodities*, with usual exceptions, over a deviation route as follows: From junction U.S. Hwy 30 and U.S. Hwy 24 at Fort Wayne, IN., then over U.S. Hwy 24 to junction U.S. Hwy 24 and U.S. Hwy 25 at Toledo, OH., and return over the same route for operating convenience only. Carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Fort Wayne, IN.; then via U.S. Hwy 30 to junction U.S. Hwy 30S; then via U.S. Hwy 30S to Lima, OH.; then via U.S. Hwy 25 to Toledo, OH., and return over the same route.

MC 87909 (Deviation No. 2), KROBLIN TRANSPORTATION SYSTEMS, INC., P.O. Box 5000, Waterloo, IA 50704, filed March 9, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Omaha, NE over Interstate Hwy 80 to Lincoln, NE and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Stromsburg, NE over U.S. Hwy 81 to junction NE Hwy 92, then over NE Hwy 92 Omaha, NE and (2) From Stromsburg, NE over U.S. Hwy 81 to junction NE Hwy 2, then over NE Hwy 2 to Lincoln, NE and return over the same routes.

Note.—This deviation is premised on a grant of temporary authority under section 210(a)(b). If applicant's right to operate all or part of the authority expires, this deviation, if authorized, will likewise expire.

MC 112713 (Deviation No. 57), YELLOW FREIGHT SYSTEM INC., P.O. Box 7270, 10990 Roe Ave., Shawnee Mission, KS 66207, filed March 9, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Springfield, MO over MO Hwy 13 to junction MO Hwy 7, then over MO Hwy 7 to Harrisonville, MO and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Springfield, MO over U.S. Hwy 66 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Harrisonville, MO and return over the same route.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before June 1, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 1515 (Deviation No. 739) (Cancels Deviation No. 733), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077, filed March 9, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction VA Hwy 69 and U.S. Hwy 52 over VA Hwy 69 to junction Interstate Hwy 77, then over Interstate Hwy 77 to Charlotte, NC, with the following access routes: (a) From Hillsville, VA over U.S. Hwy 58 to junction Interstate Hwy 77, (b) From junction VA Hwy 775 and U.S. Hwy 52 near Fancy Gap, VA, over VA Hwy 775 to junction Interstate Hwy 77, and (c) From Mt. Airy, NC over NC Hwy 89 to junction Interstate Hwy 77 and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From junction VA Hwy 69 and U.S. Hwy 52 over U.S. Hwy 52 via Hillsville, VA and Mt. Airy, NC to Winston-Salem, NC, then over U.S. Hwy 158 to Mocksville, NC, then over U.S. Hwy 64 to Statesville, NC, then over NC Hwy 115 via Shepherd, Mooresville, Davidson and Huntersville to junction U.S. Hwy 21, then over U.S. Hwy 21 to Charlotte, NC, and return over the same route.

MC 74761 (Deviation No. 13), TAMIAMI TRAIL TOURS, INC., 200 Spring St., NW, Atlanta, GA 30303, filed March 9, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage* and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Atlanta, GA over Interstate Hwy 75 to Macon, GA and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers the same property over a pertinent service route as follows: From Atlanta, GA over combined U.S. Hwys 19 and 41 to junction U.S. Hwys 19 and 41, then over U.S. Hwy 19 to Thomaston, GA, then over GA Hwy 74 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Macon, GA and return over the same route.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Iowa Docket No. MV–A–79–7, filed February 20, 1979. Applicant: VAN WYK FREIGHT LINES, INC., 1018 Washington St., Grinnell, IA 50112. Representative: Russell H. Wilson, 3839 Merle Hay Rd., Suite 200, Des Moines, IA 50310. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities between the points presently authorized to be served and North English, Williamsburg, Millersburg and Guernsey, IA. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Transportation Regulation Board, Iowa Department of Transportation, 300 4th Street, Des Moines, IA 50319, and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 29362 (Sub-5), filed March 19, 1979. Applicant: WESTERN MOTOR FREIGHT, INC., 1430 W. Sheridan, Oklahoma City, OK 73106. Representative: Barney W. Miller, 2800 City National Bank Tower, Oklahoma City, OK 73102. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Authority sought to operate intrastate as provided under 47 O.S. 166, and authority to operate interstate as provided under Sec. 206(a)(6), Part II of the Interstate Commerce Act, over the following routes: General commodities (except Classes A and B explosives, articles of unusual value, household goods as defined by the Commission, and commodities requiring special equipment) (1) Between Oklahoma City, OK, and Carnegie, OK, serving the intermediate points of Hinton, Lookeba, Binger, Gracemont, Anadarko and Fort Cobb, and *passing through but not serving* Yukon and El Reno: From Oklahoma City West on Interstate Hwy 40 to its junction with U.S. Hwy 281, then south on U.S. Hwy 281 to its junction with OK Hwy 9, then west on OK Hwy 9 to Carnegie, and return over the same route; (2) Between Oklahoma City, OK, and Altus, OK, serving the intermediate points of Manitou, Frederick and Tipton, and *passing through but not serving* Lawton, Indiahoma and Cache: From Oklahoma City, OK, southwest via the H.E. Bailey Turnpike to its junction with U.S. Hwy 62, then west on U.S. Hwy 62 to its junction with U.S. Hwy 183, then south on U.S. Hwy 183 to Frederick, OK, then west and north on OK Hwy 5 to Tipton, then west on OK Hwy 5 to its junction with U.S. Hwy. 283, then north on U.S. Hwy 382 to Altus, and return over the same route. NOTICE: Notice is given that application includes the request to unitize applicant's present authority and, if granted, the authority sought in this application, to provide service to, from and between all points under applicant's combined authorities. Proposed towns to be served: Route 1—Oklahoma City, Hinton, Lookeba, Binger, Gracemont, Anadarko, Fort Cobb, and Carnegie. Route 2—Frederick, Manitou, Tipton, and Altus. Location of proposed terminals: Frederick and Anadarko. Total milage of routes: Route (1): 143 miles, Route (2): 145 miles. ALL TOWNS NOTED ARE TO BE SERVED DAILY, 5 DAYS EACH WEEK, MONDAY THROUGH FRIDAY. Intrastate, interstate and foreign commerce authority sought. Hearing: April 25, 1979, at 9:00 o'clock a.m., in the Oklahoma Corporation Commission's Referee's Court Room, Second Floor, Jim Thorpe Office Bldg., Oklahoma City, OK. Requests for procedural information should be addressed to Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, OK 73105, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–2990, filed March 15, 1979. Applicant: ELMER'S MOTOR EXPRESS, INC., P.O. Box 343, Utica, NY 13503. Representative: John L. Alfano, Esq., 550 Mamaroneck Ave., Harrison, NY 10528. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Over Regular routes: General commodities: Between the Cities of Syracuse and Utica (via NY Thruway) serving Utica for the purpose of joinder only with the irregular route authority also applied for. Over Irregular route: Between Utica, on the one hand, and, on the other, points in Essex, Franklin, Hamilton, Herkimer and Oneida Counties. NOTE: No duplicating authority sought. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, Time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of

Transportation, 1220 Washington Ave., State Campus Bldg., #4, Room C–21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 6985 (Sub-3), filed March 14, 1979. Applicant: TENNESSEE MOTOR LINES, INC., 402 Maplewood Ave., Nashville, TN 37201. Representative: Edward C. Blank II, P.O. Box 1004, 805 S. Garden St., Columbia, TN 38401. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities except Class A & B explosives, household goods as defined by the Commission and comodities in bulk and commodities requiring special handing or equipment, between Knoxville, TN. and Chattanooga, TN (limited to that portion of the commercial zone of Chattanooga, TN, located in Tennessee), from Knoxville via I–75 and U.S. Hwys 11 & 70 (St Rt. 2) to Chattanooga and return over the same routes, serving all points in Bradley, McMinn, and Monroe Counties, TN, as off-route points, said service in connection with all of carrier's existing authority as issued by the Tennessee Public Service Commission and registered with the Interstate Commerce Commission, and co-extensive authority in interstate and foreign commerce pursuant to the Interstate Commerce Act. Intrastate, interstate and foreign commerce authority sought Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Tennessee Public Service Commission, Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Volume No. 14]
[FR Doc. 79–13498 Filed 5–1–79; 8:45 am]
BILLING CODE 7035–01–M

Administrative Staff; Office Relocation

Effective April 30, 1979, the administrative staff of the Interstate Commerce Commission's Office of Hearings will move its offices in Washington, D.C. from the ICC's headquarters building on Constitution Avenue to the 1900 L Street Office Building. This staff is responsible for the management and processing of all ICC cases assigned for public hearings.

The 1900 L Street office space has previously been occupied by the ICC's Rail Services Planning Office.

New telephone numbers for contacting the Hearings Office administrative staff, including Chief Judge Robert M. Glennon and Assistant Chief Judge James E. Hopkins, effective on April 30, will be:

Chief Judge Robert M. Glennon, (202) 254–6964.
Secretary, Alice T. Durham, 254–6964.
Asst. Chief Judge James E. Hopkins, 254–6983.
Secretary, Emily R. Sample, 254–6983.

In addition to Judges Glennon and Hopkins, and the administrative staff, the offices of 19 other ICC judges will be moved to the 1900 L Street location. The remaining staff of ICC judges, including Assistant Chief Judge William J. Bateman, will remain in the Commission's headquarters building on Constitution Avenue. Judge Bateman's telephone number there, 275–7502, remains unchanged.

A complete telephone directory of all ICC judges—those remaining at the headquarters building and those moving to L Street—is available from the ICC's Office of Communications and Consumer Affairs.

All correspondence specifically directed to Chief Judge Glennon or Assistant Chief Judge Hopkins, as well as copies of pleadings or other communications concerning the ICC's Office of Hearings, should be addressed as follows: Office of Hearings, ICC, 1900 L Street, N.W., Washington, D.C. 20036.

H. Gordon Homme, Jr.
Secretary.
[FR Doc. 79–13664 Filed 5–1–79; 8:45 am]
BILLING CODE 7035–01–M

Assignment of Hearings

April 27, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

AB 7 (Sub-60), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, Abandonment near Iron Ridge and Fond du Lac in Dodge & Fond du Lac Counties, Wisconsin, now assigned for hearing on May 7, 1979, at Fond du Lac, Wisconsin and will be held in County Court House, 190 South Main.

MC 120761 (Sub-43F), Newman Bros. Trucking Company, now assigned for hearing on May 14, 1979 at Houston, Texas and will be held in Room 5212, Federal Building, 515 Rush Avenue.

MC 124692 (Sub-224F), Sammons Trucking, now assigned for hearing on May 21, 1979, at Dallas, Texas and will be held in Room 5A15–17, New Federal Building.

MC 4405 (Sub-561F), Dealers Transit, Inc., now assigned for hearing on May 23, 1979 at Dallas, Texas and will be held in Room 5A15–17, New Federal Building.

MC 82841 (Sub-229F), Hunt Transportation, Inc., now assigned for hearing on May 23, 1979, at Dallas, Texas and will be held in Room 5A15–17, New Federal Building.

MC 106398 (Sub-856F), National Trailer Convoy, Inc., now assigned for hearing on May 25, 1979, at Dallas, Texas and will be held in Room 5A15–17, New Federal Building.

MC 23618 (Sub-42F), McAllister Trucking Company, now assigned for hearing on May 25, 1979, at Dallas, Texas and will be held in Room 5A15–17, Federal Building.

MC 109692 (Sub-72F), Grain Belt Transportation Company now assigned for hearing on May 23, 1979, at Dallas, Texas and will be held in Room 5A15–17, New Federal Building.

H.G. Homme, Jr.,
Secretary.

[Notice No. 81]
[FR Doc. 79–13666 Filed 5–1–79; 8:45 am]
BILLING CODE 7035–01–M

Fourth Section Application for Relief

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before May 17, 1979.

FSA No. 43687, Southwestern Freight Bureau, Agent's No. B–808, rates on petroleum and petroleum products, in tank-carloads, from stations in Southwestern Territory, to stations in IRC and WTL Territories, effective May 18, 1979, in Supp. 20 to its Tariff SWFB 4682, ICC SWFB 4682. Grounds for relief—revision in minimum weights and rate structure.

By the Commission.

H. G. Homme, Jr.,
Secretary.
[FR Doc. 79–13665 Filed 5–1–79; 8:45 am]
BILLING CODE 7035–01–M

Fourth Section Application for Relief

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before May 17, 1979.

FSA No. 43688, Southwestern Freight Bureau, Agent's No. B–809, rates on roofing and building materials, from Sherry, Ark., to stations in Southern Territory, effective May 25, 1979, in Supp. 28 to its Tariff SWFB 4698, ICC SWFB 4698. Grounds for relief—market competition; modified short-line distance formula and grouping.

By the Commission.

H. G. Homme, Jr.,
Secretary.
[FR Doc. 79–13668 Filed 5–1–79; 8:45 am]
BILLING CODE 7035–01–M

Permanent Authority Applications; Decision-Notice

Decided: April 18, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of § 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before June 1, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members

H. G. Homme, Jr.,
Secretary.

MC 35807 (Sub-93F), filed January 30, 1979. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Steven J. Thatcher (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coin, currency, and securities*, (a) between New Orleans, LA, and points in LA, and (b) between Atlanta, GA, and points in GA, under continuing contract(s) with banks and banking institutions. (Hearing site: New Orleans, LA, or Atlanta, GA.)

MC 42146 (Sub-21F), filed January 29, 1979. Applicant: A. G. BOONE COMPANY, 1812 West Morehead Street, Charlotte, NC 28208. Representative: Floyd C. Hartsell (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in Mecklenburg County, NC, and Washington County, TN, on the one hand, and, on the other, Brooklyn, NY, points in Baltimore County, MD, Blair County, PA, NC, SC, TN, and VA, under continuing contract(s) with Rainbo Baking Company of Charlotte, NC. (Hearing site: Charlotte, NC, or Atlanta, GA.)

MC 42487 (Sub-879F), filed July 26, 1978, previously noticed in the FR issue of December 21, 1978. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, a Delaware Corporation, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives,

household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and automobiles), (1) between Billings, MT and junction U.S. Hwys 26 and 30, near Ogallala, NE: from Billings over Interstate Hwy 90 to junction U.S. Hwy 87 near Buffalo, WY, then over U.S. Hwy 87 to junction U.S. Hwy 26 near Casper, WY, then over U.S. Hwy 26 to junction U.S. Hwy 30 near Ogallala, (2) between junction Interstate Hwys 90 and 25 near Buffalo, WY, and junction Interstate Hwy 25 and U.S. Hwy 26 near Casper, WY, over Interstate Hwy 25, serving the termini for purpose of joinder only, (3) between Cheyenne, WY, and junction U.S. Hwys 26 and 30 near Ogallala, NE: from Cheyenne over Interstate Hwy 80 to junction U.S. Hwy 30 near Pine Bluffs, WY, then over U.S. Hwy 30 to junction U.S. Hwy 26, serving the intermediate point of junction Interstate Hwy 80 and U.S. Hwy 30 for the purpose of joinder only, (4) between junction U.S. Hwys 26 and 30 near Ogallala, NE, and Des Moines, IA: from junction U.S. Hwys 26 and 30 over U.S. Hwy 30 to junction NE Hwy 25 near Sutherland, NE, then over NE Hwy 25 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 235, then over Interstate Hwy 235 to Des Moines, serving the junctions of NE Hwy 25 and Interstate Hwy 80 and Interstate Hwys 80 and 680, west of Omaha, NE, and Interstate Hwys 680 and 80, northeast of Omaha, NE, as intermediate points for the purpose of joinder only, (5) between Pine Bluffs, WY and junction Interstate Hwy 80 and U.S. Hwy 30 over Interstate Hwy 80, and (6) between junction Interstate Hwys 80 and 680, west of Omaha, NE and Interstate Hwys 680 and 80, northeast of Omaha, NE, over Interstate Hwy 680, serving the termini for the purpose of joinder only. In (1) through (4) above, return over the same routes. In (1) through (6) above serving no intermediate points (except as noted above), and serving the junction of U.S. Hwys 26 and 30 for purposes of joinder only, as alternate routes for operating convenience only. (Hearing site: Washington, DC. or Chicago, IL.)

Note.—This republication is to include part (3) of the territorial description and in (1)–(4) return over the same route.

MC 43487 (Sub-898F), filed January 29, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Honda of America Manufacturing, Inc., near Marysville, OH, as an off-route point in connections with carriers presently authorized regular-route operations. (Hearing site: Columbus, OH.)

MC 42487 (Sub-901F), filed January 29, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V.R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, transporting *general commodities*, except those of unusal value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Gerber Industries, Inc., at St. Peters, MO as an off-route point in connection with carrier's presently authorized regular-route operations. (Hearing site: St. Louis, MO.)

MC 55896 (Sub-110F), filed January 26, 1979. Applicant: R–W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: John C. Scherbarth, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between Cincinnati, OH, and Muncie, IN, restricted to the transportation of traffic having prior or subsequent movement by water. Condtion: The person or persons who appear to be engaged in common control must either file an application under 49 USC § 11343(a) [formerly section 5(2) of the Interstate Commerce Act], or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Detroit, MI, or Cincinnati, OH.)

MC 59317 (Sub-13F), filed January 11, 1979. Applicant: BISOM TRUCK LINE, INC., 725 First Street North, Newton, IA 50208. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chipboard*, from Menasha, WI, to Newton, IA. (Hearing site: Des Moines, IA, or Omaha NE.)

MC 63417 (Sub-189F), filed January 29, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *glass bulbs, glass rods, glass tubing, glassware, metal rocks, cullet, electric lamps, batteries, battery chargers, lighting fixtures, holiday decorations, packaging materials, steel nestainers, lamp ballast wire, metals, displays, points, lamp bases, compressed gases in cylinders, electric cord sets, and lamp outfits*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk) between Winchester, VA, St. Louis, MO, and points in OH, on the one hand, and, on the other, points in AL, CT, DE, GA, KY, MA, MD, MS, NC, NJ, NY, OH, PA, RI, SC, TN, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of the General Electric Company. (Hearing site: Cleveland, OH, or Roanoke, VA.)

MC 63417 (Sub-190F), filed January 31, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tile, tile facing and flooring, and china bathroom fixtures*, and (2) *materials and supplies* used in the installation and maintenance of the commodities named in (1) above, from Fayette, AL, to points in FL, GA, IL, IN, KY, MD, NC, OH, PA, SC, TN, VA, WV, and DC. (Hearing site: Roanoke, VA, or Philadelphia, PA.)

No. MC 77016 (Sub-19F), filed January 16, 1979. Applicant: BUDIG TRUCKING CO., 1100 Gest Street, Cincinnati, OH 45203. Representative: George M. Catlett, Suite 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) between Madison, IN, and Vevay, IN, over IN Hwy 56 serving all intermediate points; (2) between St. Louis, MO, and Red Bud, IL: from St. Louis, over Interstate Hwy 7 to junction IL Hwy 3, then over IL Hwy 3 to Red Bud, and return over the same route, serving all

intermediate points; (3) between St. Louis, MO, and Antonia, MO, from St. Louis over Interstate Hwy 55 to junction State Hwy M, then over State Hwy M to Antonia, and return over the same route, serving all intermediate points; (4) between Louisville, KY, and Cincinnati, OH, over Interstate Hwy 71, serving no intermediate points, but serving the junction of Interstate Hwy 71 and KY Hwy 227 for the purpose of joinder only; and (5) between the junction of Interstate Hwy 71 and KY Hwy 227 and Madison, IN: from the junction of Interstate Hwy 71 and KY Hwy 227 over KY Hwy 227 to junction U.S. Hwy 42, then over U.S. Hwy 42 to junction KY Hwy 36, then over KY Hwy 36 to junction U.S. Hwy 421, then over U.S. Hwy 421 to Madison, and return over the same route, serving all intermediate points. RESTRICTION: Service at Louisville, KY, and points within its commercial zone located wholly in KY is restricted against the handling of traffic originating at, destined to, or interchanged at Maysville, KY, and points within its commercial zone located wholly in KY. (Hearing sites: St. Louis, MO, Cincinnati, OH, and Louisville, KY, each for one week.)

MC 76667 (Sub-56F), filed January 30, 1979. Applicant: LOTT MOTOR LINES, INC., West Cayuga Street, P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry animal and poultry feed, and dry animal and poultry feed ingredients*, (1) between points in CT, DE, ME, MD, NH, NJ, NY, OH, PA, MA, RI, VT, VA, and WV, and (2) between points in Seneca and Wyoming Counties, NY, on the one hand, and, on the other, points in IL and IN. (Hearing site: New York, N.Y.)

MC 93186 (Sub-6F), filed January 29, 1979. Applicant: EUDELL WATTS, III d.b.a. WATTS TRANSFER COMPANY, 825 First Avenue, Rock Island, IL 61201. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting such commodities as are dealt in by grocery and feed business houses, between Clinton and Davenport, IA, on the one hand, and, on the other, points in IL, IN, MI, MO, OH, and WI. (Hearing site: Chicago, IL.)

MC 99236 (Sub-1F), filed January 30, 1979. Applicant: BONDY CARTAGE LIMITED, P.O. Box 429, Windsor, Ontario, Canada N9A6L7. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting (1) *automobiles, trucks, and motor vehicle parts*, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, between points in OH and MI, on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada at Detroit, MI. (Hearing site: Columbus, OH.)

MC 102616 (Sub-973F), filed January 26, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from Marquette, MI, to points in WI and MN. (Hearing site: Washington, DC, or Chicago, IL.)

MC 106037 (Sub-8F), filed January 26, 1979. Applicant: ROADWAY TRANSPORT LIMITED, 25 Belfield Road, Rexdale, Ontario, Canada M9W 1E8. Representative: Robert G. Gawley, P.O. Box 184, Buffalo, NY 14221. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *automobiles, trucks, and buses*, and (2) *parts and accessories* for the commodities named in (1) above, moving in mixed loads with the commodities named in (1) above, in initial and secondary movements, in driveaway and truckaway service, (a) between points in Washtenaw County, MI, and the ports of entry on the international boundary line between the United States and Canada at points in MI, and (b) between Detroit and Port Huron, MI, on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada in MI. CONDITION: The person or persons who appear to be engaged in common control must either file an application under 49 USC § 11343(a) [formerly section 5(2) of the Interstate Commerce Act], or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Buffalo, NY, or Detroit, MI.)

MC 107107 (Sub-473F), filed January 26, 1979. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 N.W. 42nd Avenue, Opa Locka, FL 33054. Representative: Ford W. Sewell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such* commodities as are dealt in by grocery and food business houses (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between the facilities of Kraft, Inc., located in Clayton, Cobb, DeKalb, Fulton, and Gwinnett Counties GA, on the one hand, and, on the other, points in AL, KY, LA, MS, NC, SC, TN, VA, and WV, restricted to the transportation of traffic originating at or destined to the above named points. (Hearing site: Atlanta, GA.)

MC 107496 (Sub-1183F), filed January 30, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309 Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *ground slag*, in bulk, from Gary, IN, to points in IA. (Hearing site: Des Moines, IA or Chicago, IL.)

MC 111427 (Sub-8F), filed January 30, 1979. Applicant: ROBERT CURTIS, d.b.a. BOB CURTIS TRUCKING, INC., P.O. Box 606, Winner, SD 57580. Representative: Don A. Bierle, P.O. Box 36, 322 Walnut Street, Yankton, SD 57078. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer*, from St. Paul, MN, to Tripp, Gregory, Charles Mix, Yankton, Brule, Davison, Lyman, Hutchinson, Turner, Hanson, McCook, Bon Homme, Sanborn, and Jerauld Counties, SD. (Hearing site: Winner or Yankton, SD.)

MC 113646 (Sub-16F), filed January 24, 1979. Applicant: JEFFERSON TRUCKING COMPANY, a corporation, P.O. Box 17, National City, MI 48748. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials, gypsum and gypsum products*, and (2) *materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between Wilmington, NC, on the one hand, and, on the other, points in AL, GA, and SC, under continuing contract(s) with Gold Bond Building Products Division National Gypsum Company of Charlotte, NC. (Hearing site: Charlotte, NC.)

MC 115826 (Sub-377F), filed January 29, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Los Angeles, CA to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Denver, CO.)

MC 118457 (Sub-23F), filed January 19, 1979. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., 11104 West Becher Street, West Allis, WI 53227. Representative: David V. Purcell, 111 East Wisconsin Avenue, Milwaukee, WI 53202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *(1) Meats, meat products, meat byproducts, dairy products, and articles distributed by meat-packing houses* as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), and (2) *foodstuffs* except commodities in bulk, (and those destined in (1) above), in vehicles equipped with mechanical refrigeration. From points in WI, to points in IL, IN, KY, the Lower Peninsula of MI, MO, and OH; restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Milwaukee, WI or Chicago, IL.)

Note.—Applicant holds authority under Subs–3, 6, 9, 11, 13, and 16 which duplicates in part that sought in this application. Applicant states that the purpose of this application is to substitute single-line service for existing joint-line service, and to add destination States which it can now serve only under certain Subs.

MC 118457 (Sub-24F), filed January 29, 1979. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., 11104 West Becher Street, West Allis, WI 53227. Representative: Jack Meyer, 1330 Marine Plaza, 111 East Wisconsin Avenue, Milwaukee, WI 53202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Pet Incorporated, Frozen Foods Division, at (a) Benton Harbor, MI, (b) Frankfort, MI, and (c) Hart, MI, to Louisville, KY, and points in IL, IN, and WI. (Hearing site: Milwaukee, WI, or St. Louis, MO.)

MC 119777 (Sub-355F), filed January 11, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85-East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *heat exchangers* or equalizers for air, gas or liquids, (2) *machinery and equipment* for heating, cooling, conditioning, humidifying dehumdifying, and moving of air, gas, or liquids, and (3) *parts, attachments, and accessories* used in the installation and manufacture of commodities named in (1) and (2) above, from points in Montgomery County, TN, to points in the United States (except AK and HI). (Hearing site: Nashville, TN or Louisville, KY.)

Note.—Dual operations may be involved.

MC 123407 (Sub-522F), filed January 29, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *construction materials*, and *materials* and *supplies* used in the manufacture and distribution of construction materials (except commodities in bulk), between the facilities of the Celotex Corporation at or near (1) Lockland, OH and (2) Camden and Texarkana, AR, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC, or Chicago, IL.)

MC 123407 (Sub-523F), filed January 29, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing granules*, in bags, from Kremlin, WI, to South Bend, IN. (Hearing site: Washington, DC.)

MC 123407 (Sub-533F), filed January 31, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *batteries*, and (2) *fiberglass and cellulose products*, from San Antonio, TX, to points in the United States (except AK and HI), and (3) materials and supplies used in the manufacture of the commodities named in (2) above, in the reverse direction. (Hearing site: San Antonio or Houston, TX.)

MC 123407 (Sub-534F), filed January 31, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum products*, between the facilities of U.S. Reduction Co., at or near (a) East Chicago, Gary, and Hammond, IN, (b) Aurora, Alton, and Madison, IL, (c) Toledo, OH, (d) Fontana, CA, (e) Russellville, Anniston, and Sheffield, AL, and (f) Marietta, PA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 125986 (Sub-71F), filed January 29, 1979. Applicant: GOLDEN TRANSPORTATION, INC., P.O. Box 26908, Salt Lake City, UT 84125. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), (1) from the facilities of John Morrell & Co., at (a) Sioux Falls, SD, (b) Estherville, and Sioux City, IA, and (c) Worthington, MN, to points in CA, and (2) from the facilities of Sioux-Pefm Packing Co., Inc., at (a) Omaha, NE, and (b) Sioux Center, and Sioux City, IA, to points in AZ, CA, ID, NV, OR, UT, and WA, restricted in (1) and (2) above to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL, or Salt Lake City, UT.)

MC 125986 (Sub-92F), filed January 29, 1979. Applicant: GOLDEN TRANSPORTATION, INC., P.O. Box 26908, SALT LAKE CITY, UT 84125. Representative: Mac R. Reber (same address as applicant). To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *frozen potato products*, from Nampa, ID, Hermiston, OR and Connell and Moses

Lake, WA, to Mason City, IA. (Hearing sites: Des Moines, IA or Chicago, IL.)

Note.—Dual operations may be involved.

MC 127306 (Sub-9F), filed January 30, 1979. Applicant: M.W. MC CURDY & CO., INC., 401 Nora's Lane, Houston, TX 77022. Representative: Jack H. Blanshan, SUITE 200, 205 West Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *chemicals, cleaning compounds, petroleum and petroleum products*, in containers, from the facilities of Witco Chemical Corp. at Houston, TX to points in AZ, CA, CO, ID, NV, NM, OR, UT and WA. (Hearing sites: Houston or Dallas, TX.)

Note.—Dual operations may be involved.

MC 127756 (Sub-1F), filed October 26, 1978. Applicant: SERVICE TRANSPORT LINES, INC., 618 Galveston Street, P.O. Box 1232, West Sacramento, CA 95691. Representative: Donald H. Chase (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, transporting general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, automobiles, trucks, and buses), over I. Regular routes (a) Between the San Francisco Bay Area (*the San Francisco Bay area* includes all points in the cities of San Francisco, San Jose, and Richmond, and the unincorporated community of San Pablo, and those points within a boundary beginning at the San Francisco-San Mateo County boundary 1 mile west of U.S. Hwy 101, then south along a line 1 mile west of and parallel to U.S. Highway 101 to the railroad right-of-way of the Southern Pacific Company at Arastradero Road, then southeast along the said right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente, then easterly along Pollard Road to West Parr Avenue, then easterly along West Parr Avenue to Capri Drive, then south along Capri Drive to East Parr Avenue, then easterly along East Parr Avenue to the Southern Pacific Company railroad right-of-way, then south along said right-of-way to the Campbell-Los Gatos city limits, then east to the San Jose-Los Gatos Road, then northeast along San Jose-Los Gatos Road to Foxworthy Avenue, then east along Foxworthy Avenue to Almaden Road, then south along Almaden Road to Hillsdale Avenue, then east along Hillsdale Avenue to U.S. Hwy 101, then northwest along U.S. Hwy 101 to Tully Road, then northeast along Tully Road to White road, then northwest along White Road to McKee Road, then southwest along McKee Road to Capitol Avenue, then northwest on Capitol Avenue to CA Hwy 17 (Oakland Road), then north on CA Hwy 17 to Warm Springs, then north along unnumbered highway via Mission San Jose and Niles to Hayward, then north along Foothill Boulevard to Seminary Avenue, then east along Seminary Avenue to Mountain Boulevard, then north on Mountain Boulevard and Moraga Avenue to Estates Drive, then west on Estates Drive, Harbord Drive and Broadway Terrace to College Avenue, then north on College Avenue to the University of California Campus in Berkeley, serving all points in Berkeley on the said campus, then from the campus north on Euclid Avenue to Marin Avenue, then west on Marin Avenue to Arlington Avenue, then north on Arlington Avenue to U.S. Hwy 40 (San Pablo Avenue); then north along U.S. Hwy 40 to the Richmond city limits; and from the Richmond city limits over Garrard Boulevard to Point Richmond, then southwest across-San Francisco Bay to the nearest part of San Francisco, then west and south around the city and county of San Francisco to the point of beginning), and Sacramento, Stockton, Manteca, and Modesto, CA, serving all intermediate points and off-route points within 15 miles of the specified highways, restricted against service at the plants and facilities of Pacific Clay Products, (b) between Richmond, CA, and Sacramento, CA, over U.S. Hwy 40, (c) between Hayward, CA, to Sacramento, CA; from Hayward over U.S. Hwy 50 to Stockton, CA, then over U.S. Hwys 50 and 99 to Sacramento, and return over the same route, (d) between Stockton, CA, to Modesto, CA, over U.S. Hwy 99 serving the intermediate point of Manteca, CA, and (e) between Manteca, CA, and junction CA Hwy 120 and U.S. Hwy 50, over U.S. Hwy 120; II. Irregular routes (a) between points in the San Francisco Bay area as described in (1)(a) above, (b) between points within 15 miles of Sacramento, including Sacramento, and (c) between points within 15 miles of Modesto, including Modesto, restricted against the transportation of traffic of clay pipe, clay pipe fittings, brick and flue lining, sacked fire clay, concrete utility vaults, and burial vaults. (Hearing site: Sacramento or San Francisco, CA.)

Note.—The purpose of this application is to remove the restriction except commodities requiring mechanical refrigeration or temperature control from applicants certificate of public convenience and necessity issued in MC–127756.

MC 128007 (Sub-133F), filed January 22, 1979. Applicant: HOFER, INC., 20th and Bypass, P.O. Box 563, Pittsburg, KS 66762. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bentonite clay and lignite coal*, from points in Phillips County, MT and Big Horn and Crook Counites, WY, to points in AR, CO, IL, IN, LA, KS, IA, MN, MO, NE, NM, ND, OK, SD, TX, WI, and WY, and (2) *lignite coal*, from points in Bowman County, ND, to points in LA, NM, OK, and TX, restricted to the transportation of traffic originating at the facilities of American Colloid Company. (Hearing: Chicago, IL; Kansas City, MO.)

MC 128436 (Sub-2F), filed January 25, 1979. Applicant: THOMAS L. QUINN, P.O. Box 244, Brockway, PA 15824. Representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, PA 15219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coal*, from points in Jefferson and Elk Counties, PA, to those points in NY on and west of Interstate Hwy 81, under continuing contract(s) with the P and N Coal Company of Punxsutawney, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 129326 (Sub-31F), filed January 29, 1979. Applicant: CHEMICAL TANK LINES, INC., Highway 60 West, P.O. Box 432, Mulberry, FL 33860. Representative: Mark D. Russell, Suite 406–9, Walker Bldg., 734 15th Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dry urea*, in bulk, in tank vehicles, from Savannah, GA, to Auburndale, FL, and (2) *liquid resin*, in bulk, from the facilities of USS Chemicals, at or near Bartow, FL, to points in AL, AR, GA, LA, NC, SC, TN, and TX. (Hearing site: Tampa, FL, or Washington, DC.)

MC 129537 (Sub-33F), filed January 30, 1979. Applicant: REEVES TRANSPORTATION CO., a corporation, Route 5, Dews Pond Road, Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan Street, Tampa, FL 33602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes,

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transporting (1) *floor covering and carpet padding*, and (2) *materials, equipment, and supplies* used in the installation and manufacture of the commodities named in (1) above, between points in Floyd, Bartow, Chattooga, Muscogee, Gordon, Whitfield, Murray, Walker, Catoosa, and Troup Counties, GA, on the one hand, and, on the other, points in AL. (Hearing site: Baton Rouge or New Orleans, LA.)

MC 134477 (Sub-318F), filed January 29, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, in containers from Trenton, NJ, to St. Paul, MN. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-319F), filed January 30, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cleaning and washing compounds, buffing and polishing compounds, textile softener, lubricants, hypochlorite solution, deodorants, disinfectants, and paint*, (except commodities in bulk), from the facilities of Economics Laboratory, Inc., at or near Avenel, NJ, to points in IL, IN, MI, OH, and PA. (Hearing site: St. Paul, MN.)

MC 135797 (Sub-152F), filed January 29, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. BOX 200 Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Containers and container closures*, from Springdale, AR, to points in TX; (2) *Materials equipment and supplies* used in the manufacture and distribution of containers and container closures, from Cincinnati, OH, to Springdale, AR. (Hearing site: Cincinnati, OH.)

MC 135797 (Sub-175F), filed January 26, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk), between the facilities of Ralston Purina Company at points in the United States (except AK and HI), on the one hand, and, on the other, points in the United States (except AK and HI) (Hearing site: St. Louis, MO.)

MC 136077 (Sub-12F), filed January 29, 1979. Applicant: REBER CORPORATION, 2216 Old Arch Road, Norristown, PA 19401. Representative: Sheri B. Friedman, 1600 Land Title Building, 100 South Broad Street, Philadelphia, PA 19110. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lime*, from the facilities of G. & W. H. Carson, Inc. at Plymouth Meeting, Montgomery County, PA, to points in GA. (Hearing site: Philadelphia, PA.)

MC 138076 (Sub-12F), filed January 26, 1979. Applicant: HEAVY HAULING, INC., 1100 West Grand, Salina, KS 67401. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *salvage electrical substations, salvage distribution transformers, and salvage electrical wire*, from points in AZ, AR, CO, IL, IN, IA, LA, MN, MO, NE, NM, ND, OK, SD, TX, and WY, to points in Dickinson and Saline Counties, KS, and (2) *reconditioned electrical substations, reconditioned distribution transformers* and *electrical wire*, in the reverse direction. (Hearing site: Kansas City, MO.)

MC 138256 (Sub-16F), filed January 31, 1979. Applicant: INTERIOR TRANSPORT, INC., N. 2128 Waterworks, Spokane, WA 99220. Representative: George H. Hart, 1100 IBM Bldg, Seattle, WA 98101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tubular steel boat trailer manufacturing materials*, from Seattle, WA, and Chicago, IL, to the facilities of E-Z Loader in Spokane, WA, and (2) *parts and accessories for boat trailers*, from the facilities of E-Z Loader in Spokane, WA, to the facilities of E-Z Loader in OH, all of the operations in (1) and (2) above to be performed under continuing contract(s) with E-Z Loader Trailer Co., Inc., of Spokane, WA. (Hearing sites: Seattle, or Spokane, WA.)

Note.— Dual operations may be involved.

MC 138627 (Sub-57F), filed January 30, 1979. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Peoria, IL, to points in AR, IA, KS, MN, MO, NE, ND, OK, SD, and WI. (Hearing site: Chicago, IL, or Omaha, NE.)

MC 139457 (Sub-14F), filed January 26, 1979. Applicant: G. L. SKIDMORE d.b.a. JELLY SKIDMORE TRUCKING COMPANY, P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *canned and preserved foodstuffs*, and (2) *canned and packaged animal food*, from the facilities of Campbell Soup (Texas) Inc., at or near Paris, TX, to points in AR, under continuing contract(s) with Campbell Soup (Texas) Inc., of Paris, TX. (Hearing site: Dallas, TX, or Washington, DC.)

MC 142167 (Sub-4F), filed January 17, 1979. Applicant: MICHAELSEN TRUCK LINE, INC., 1619 South Garfield, Mason City, IA 50401. Representative: Steven C. Schoenebaum, 1200 Register and Tribune Bldg., Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, (1) *soybean meal* (except liquid in bulk or in tank vehicles), from the facilities of Farmers Grain Dealers Association of Iowa at or near Mason City, IA, to points in Clark, Marathon, Wood, Portage, Waupaca, Outgamie, Brown, Oconto, Kewaunee, Manitowoc, Calumet, Winnebago, Green Lake, Fond Du Lac, Sheboygan, Dodge, Jefferson, and Walworth Counties, WI, under continuing contract(s) with Farmers Grain Dealers Association of Iowa, of Mason City, IA, (2) *meat scraps* (except liquid commodities in bulk or in tank vehicles), from Dakota City, NE Milwaukee, and New London, WI, and Austin and Minneapolis, MN, to the facilities of Mason City By-Products at or near Mason City, IA, continuing contract(s) with Mason City By-Products of Mason City, IA. (Hearing site: Des Moines, IA or Minneapolis-St. Paul, MN.)

MC 142447 (Sub-9F), filed January 29, 1979. Applicant: LOUISIANA-PACIFIC TRUCKING CO., a corporation, P.O. Drawer AB, New Waverly, TX 77358. Representative: Harold R. Ainsworth, 2307 American Bank Bldg., New Orleans, LA. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sawdust and shavings*, from the facilities of the Louisiana-Pacific Corporation at or near Carthage, TX, to the facilities of Olinkraft, Inc. Particleboard Plant at or near Lillie, LA, under continuing contract(s) with the Louisiana-Pacific Corporation of Portland, OR. (Hearing site: Houston, TX.)

MC 143287 (Sub-50F), filed January 29, 1979. Applicant: CARLTON ENTERPRISE, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th Street NW., Washington, D.C. 20005. To operate as a *common carrier*, by motor vehicle, in interstate for foreign commerce, over irregular routes, transporting *plastic pipe and plastic pipe fittings*, from the facilities of Kyova Corporation, at or near Bethel, CT, and Urbana, OH, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Cleveland, OH, or Washington, D.C.)

MC 143436 (Sub-28F), filed January 30, 1979. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Rd., Indianapolis, IN 46227. Representative: Stephen M. Gentry, 1500 Main St., Speedway, IN 46224. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery houses, department stores and drug stores, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Boyle-Midway at or near Chicago, IL, to points in IN, KY and OH, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing sites: Indianapolis, IN or Chicago, IL.)

MC 144117 (Sub-27F), filed January 29, 1979. Applicant: T. L. C. LINES, INC., 1666 Fabick Drive, P.O. Box 1090, Fenton, MO 63026. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at (a) Cedar Rapids, IA, (b) Des Moines, IA, (c) Monmouth, IL, and (d) Peoria, IL, to points in CA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 144117 (Sub-28F), filed January 29, 1979. Applicant: T. L. C. LINES, INC., 1666 Fabick Drive, P.O. Box 1090, Frenton, MO 63026. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cheese, cheese products, and synthetic cheese products*, (except commodities in bulk), from the facilities of Fisher Cheese Company, at or near Wapakoneta, OH, to points in AZ, AR, CA, CO, KS, LA, MO, NV, NM, OK, TX, and UT. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 144407 (Sub-5F), filed January 19, 1979. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 412 Route 23, Pompton Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *household appliances*, and (2) *materials, equipment, and supplies* used in the manufacture or sale of the above named commodities (except in bulk), between the facilities of the Edison Products Co., Division of White-Westinghouse Corporation, at or near Edison, NJ, on the one hand, and, on the other, points in IL, IN and OH, restricted to the transportation of traffic originating at and destined to the above named points. (Hearing site: New York, NY or Washington, DC.)

MC 144626 (Sub-2F), filed January 24, 1979. Applicant: TRANS NATIONAL EXPRESS, INC., 520 Otter Hole Road, West Milford, NJ 07480. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *sprinklers and sprinkling systems*, and (2) *materials, equipment, and supplies* used in the manufacture and sale of the commodities named in (1) above, (except commodities in bulk), between the facilities of Melnor Industries at or near Moonachie, NJ, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: New York, NY, or Washington, DC.)

MC 144827 (Sub-18F), filed January 29, 1979. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview Street, Memphis, TN 38118. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *air conditioning units and heating units*, (except commodities which because of size or weight require the use of special equipment), from points in Davidson County, TN, to points in AL, AR, CT, IL, IN, LA, MI, MS, NJ, NY, OH, OK, PA, and TX. (Hearing site: Nashville, TN.)

MC 145408 (Sub-13F), filed January 28, 1979. Applicant: MIDWEST EXPRESS, INC., 380 E. Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Packerland Packing Co., Inc., at or near Green Bay, Eau Claire, and Chippewa Falls, WI, to points in CA. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 145408 (Sub-14F), filed January 28, 1979. Applicant: MIDWEST EXPRESS, INC., 380 E. Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *natural cheese, cheese products, and cheese packaging materials*, (1) from the facilities of Mountain Farms, Inc., at Hyde Park, UT, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, and WA, and (2) from points in IA, MN, and WI, to the facilities of Mountain Farms, Inc., at Hyde Park, UT. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 145586 (Sub-1F), filed January 29, 1979. Applicant: DONALD M. MAULDING & DICK M. MAULDING, d.b.a. MAULDING BROS. TRUCKING, 204 Cincinnati, Box 181, Greenup, IL 62828. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfied, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *concrete slats*, from Casey and Roanoke, IL, to points in IN, IA, KY, MO, OH, TN, and WI, under continuing contract(s) with Brim Slats, Inc., of Casey, IL. (Hearing site: St. Louis, MO.)

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MC 145797 (Sub-4F), filed January 30, 1979. Applicant: NANCY TRANSPORTATIONS, INC., 429 Stablestone Drive, Chesterfield, MO 63017. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (1) from the facilities of Sunmark, Inc., at or near Itasca, IL, to the facilities of Sunmark, Inc., at or near St. Louis, MO, and (2) from the facilities of Sunmark, Inc., and Raskas Dairy, Inc., at or near St. Louis, MO, to points in CT, MA, NJ, NY, NC, PA, and SC. (Hearing site: St. Louis, MO, or Washington, D.C.)

MC 145837 (Sub-1F), filed January 26, 1979. Applicant: WIRT TRANSPORT CO., a corporation, 400 Martin Street, Bay City, MI 48706. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *animal feed ingredients and sunflower seeds*, in dump vehicles, from points, in MI, to the facilities of the Overseas Blending and Transfer Company, at Essexville, MI, under continuing contract(s) with I. S. Joseph Company, of Minneapolis, MN. (Hearing site: Detroit, MI, or Chicago, IL.)

MC 145917 (Sub-1F), filed January 30, 1979. Applicant: CHARLES J. STALLMAN, d.b.a. STALLMAN TRUCKING, 4457 West Montana, Chicago, IL 60639. Representative: Robert J. Gill, 29 South La Salle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *scrap paper*, between the facilities of Ajax Recycling, Inc., at or near Chicago, IL, on the one hand, and, on the other, points in WI and IN, under continuing contract(s) with Ajax Recycling, Inc., of Chicago, IL. (Hearing site: Chicago, IL.)

[Permanent Authority Decisions Volume No. 38]

[FR Doc. 79-13680 Filed 5-1-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Applications; Decision-Notice

Decided: April 17, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirments of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find.—With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before June 1, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

H. G. Homme, Jr.,
Secretary.

MC 2754 (Sub-31F), filed January 24, 1979. Applicant: NEUENDORF TRANSPORTATION CO., a corporation, 121 S. Stoughton Rd., P.O. Box 588, Madison, WI 54701. Representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Chicago, IL and Milwaukee, WI, over Interstate Hwy 94, as an alternate route for operating convenience only, serving no intermediate points. (Hearing site: Chicago, IL, or Madison, WI.)

MC 95304 (Sub-29F), filed January 24, 1979. Applicant: NORTHERN NECK TRANSFER, INC., P.O. Box 168, King George, VA 22485. Representative: L. C. Major, Jr., Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Jones & Laughlin Steel Corporation, at Pittsburgh and Aliquippa, PA, to points in VA. (Hearing site: Washington, DC.)

MC 105684 (Sub-22F), filed November 20, 1978, previously noticed in the FR of March 22, 1979. Applicant: JOHN B. BARBOUR TRUCKING COMPANY, a corporation, P.O. Box 577, Iowa Park, TX 76367. Representative: Bernard H. English, 6270 Firth Rd., Ft. Worth, TX 76116. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles and materials, equipment, and supplies* used in the manufacture and installation of plastic articles (except commodities in bulk, in tank vehicles), between the facilities of Robintech Incorporated, at or near Wichita Falls, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas or Ft. Worth, TX.)

Note.—This republication states the correct sub-number.

MC 106074 (Sub-63F), filed January 22, 1979. Applicant: B AND P MOTOR LINES, INC., P.O. Box 727, Forest City, NC 28043. Representative: William E. Collier, 447 Calumet Place, San Antonio, TX 78209. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, (except in bulk), in vehicles equipped with mechanical refrigeration, from points in CA, to points in AL, CT, FL, GA, IL, IN, IA, MI, MN, MO, NJ, NY, NC, OH, PA, SC, TN, TX, VA, WI, and D.C. (Hearing site: Dallas, TX, or Washington, D.C.)

Note.—Dual operations may be involved.

MC 106644 (Sub-273F), filed January 23, 1979. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum and aluminum products*, and (2) *materials, equipment and supplies* used in the manufacture of aluminum and aluminum products (except commodities in bulk, in tank vehicles), between the facilities of Alumax, Inc., in Berkeley County, SC, on the one hand, and, on the other, points in the United States, (except AK and HI). (Hearing site: Columbia, SC, or Washington, D.C.)

MC 106674 (Sub-360F), filed January 25, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Jones and Laughlin Steel Corporation, at Aliquippa, and Pittsburgh, PA, to points in VA. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 109154 (Sub-16F), filed January 29, 1979. Applicant: BAYLOR TRUCKING, INC., Rural Route 1, Milan, IN 47031. Representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *printed matter, paper, and paper products*, and (2) *materials and supplies* used in the printing business, between Detroit, MI, on the one hand, and, on the other, points in DE, IL, IN, KY, MD, NJ, NY, OH, PA, VT, VA, and DC. (Hearing site: Columbus, OH, or Indianapolis, IN.)

MC 112184 (Sub-65F), filed November 28, 1978. Applicant: THE MANFREDI MOTOR TRANSIT CO., a corporation, 11250 Kinsman Rd., Newbury, OH 44065. Representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemical products, petroleum products, oil additives*, and *gasoline additives*, in bulk, in tank vehicles, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, in bulk, in tank vehicles, between points in the United States (except AK and HI), under continuing contract(s) with The Lubrizol Corporation, of Wickliffe, OH. (Hearing site: Columbus, OH.)

Condition.—Issuance of this permit is subject to prior or coincidental cancellation, at applicant's written request, of MC-112184 Sub 19 and MC-112184 Sub 51.

Note.—Dual operations may be involved.

MC 112304 (Sub-170F), filed January 29, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representative: Fred Schmits (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *zinc alloy ingots* and *aluminum ingots*, between the facilities of (a) Aluminum Smelting and Refining Co., Inc., and (b) Certified Alloys Co., at Maple Heights, OH, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX; and (2) *materials, equipment, and supplies* used in the manufacturing and processing of the commodities named in (1) above, (except commodities in bulk), from points in the United States in and east of ND, SD, NE, KS, OK, and TX, to the facilities named in (1) above. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 113855 (Sub-462F), filed January 12, 1979, previously noticed in the **Federal Register** of February 23, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road SE, Rochester, MN 55901. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *water treating equipment, pollution control equipment, metal fabrications, and machinery*, and (2) *parts, attachments, and accessories* for the commodities in (1) above, between the facilities of Belco Pollution Control Corp., in Fairfield, NJ, on the one hand, and on the other, points in the United States (including AK but excluding HI). (Hearing site: Washington, DC.)

Note.—This republication correctly states the location of the facilities.

MC 113874 (Sub-57F), filed January 25,1978. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., a corporation, 211 Washington Ave., Dravosburgh, PA 15034. Representative: James D. Porterfield (same as applicant). To operate as a *common carrier*, by

motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials*, and (2) *materials and supplies* used in the installation of building materials (except commodities in bulk), from the facilities of Bird & Son, Inc., at Chicago, IL, to points in AR, KS, KY, IN, IA, MI, MN, MO, NE, ND, OH, OK, SD, TN, and WI. (Hearing site: Washington, DC.)

MC 114194 (Sub-209F), filed January 18, 1979. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, *transporting* (1) *sweeteners*, in bulk, from the facilities of Industrial Sugars, Inc., a subsidiary of Borden, Inc., at or near St. Louis, MO, to points in the United States, (except AK and HI); and (2) *materials and supplies* used in the production and distribution of sweeteners, in the reverse direction. (Hearing site: St. Louis, MO, or Columbus, OH.)

MC 114194 (Sub-210F), filed January 26, 1979. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid feed*, in bulk, from Olin, IA, to points in IL, MN, MO, and WI. (Hearing site: St. Louis, MO.)

MC 114284 (Sub-79F), filed November 8, 1978. Previously noticed in the **Federal Register** issue of February 23, 1979. Applicant: FOX-SMYTHE TRANSPORTATION CO., a corporation, 1700 South Portland, P.O. Box 82307, Oklahoma City, OK 73108. Representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of MBPXL Corporation at or near Dodge City, KS, to points in AZ, AR, CA, IL, IA, MO, NE, NM, NV, OK, TX, and SD, restricted to the transportation of traffic originating at the named origin. (Hearing site: Wichita, KS.)

Note.—This republication states the correct origin.

MC 115654 (Sub-125F), filed January 22, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry Seaton, 929 Pennsylvania Building, 425 Thirteenth St. NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Munford Refrigerated Warehouse, at or near Atlanta, GA, to points in AL, AR, KY, LA, MS, and TN. (Hearing Site: Nashville, TN, or Atlanta, GA.)

MC 115654 (Sub-126F), filed January 23, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by grocery business houses, and (2) *packinghouse products* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Monument Distribution Warehouse, Inc., at Indianapolis, IN, to points in AL, AR, GA, IL, KY, LA, MS, MO, OH, TN, and those in MI on and south of U.S. Hwy 10. (Hearing site: Nashville, TN, or Indianapolis, IN.)

MC 116254 (Sub-250F), filed January 17, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petrochemicals and naphtha distillates*, in bulk, in tank vehicles, from the facilities of Union Oil Company of California Refinery, at Nederland, TX, to points in AL, AR, FL, GA, LA, MS, and TN. (Hearing site: Atlanta, GA, or Birmingham, AL.)

MC 117644 (Sub-50F), filed January 23, 1979. Applicant: D & T TRUCKING COMPANY, INC., 498 First Street NW., New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 North Fifth St., Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Armour & Co., at or near Huron, SD, to points in AL, GA, FL, NC, SC, TN, MS, LA, and KY, under continuing contract(s) with Armour Fresh Meat Company, of Phoenix, AZ. (Hearing site: Minneapolis, MN, or Phoenix, AZ.)

MC 119654 (Sub-64F), filed January 24, 1979. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th St., Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in or used by manufacturers of paper and paper products (except commodities in bulk), and (2) *waste paper*, between points in IL, IN, KY, MI, MO, OH, WI, and those in PA on and west of a line beginning at the NY-PA State line and extending along U.S. Hwy 219 to junction U.S. Hwy 119, then along U.S. Hwy 119 to the PA-WV State line, restricted in (1) above to the transportation of traffic originating at or destined to the facilities of Alton Box Board Company. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119654 (Sub-65F), filed January 24, 1979. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th St., Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *glass containers*, and (2) *accessories* for glass containers, in mixed loads with glass containers, from the facilities of Thatcher Glass Manufacturing Co., a Division of Dart Industries, at Lawrenceburg, IN, to points in IL, MI, MO, and WI, restricted to the transportation of traffic originating at the above-named origin or destined to the above-named destinations. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 124154 (Sub-72F), filed January 24, 1979. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31702. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *agricultural chemicals* and (2) *materials and supplies* used in the manufacture of agricultural chemicals, (a) between Valdosta, GA, on the one hand, and, on the other, points in IA, IL, IN, KS, NE, and MS, and (b) between Tifton, GA, on the one hand, and on the other, points in IA, KS, MO, and NE. (Hearing site: Jacksonville, FL, or Atlanta, GA.)

MC 125894 (Sub-10F), filed January 26, 1979. Applicant: J&R SCHUGEL TRUCKING, INC., 301 North Water St., New Ulm, MN 56073. Representative: Rober S. Lee, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed ingredients*, from Cedar Rapids, IA, to points in IL, IN, MI, MN, ND, OH, SD, and WI. (Hearing site: Des Moines, IA, or Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 126844 (Sub-67F), filed January 23, 1979. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Rd., Vineland, NJ 08360. Representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bananas*, and (2) *pineapples*, which are otherwise exempt from economic regulation under 49 U.S.C. 10525(a)(6), when transported in mixed loads with bananas, from Wilmington, DE, to points in CT, DE, GA, IL, IN, KS, KY, MD, MI, MN, MO, MS, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, and DC. (Hearing site: Jacksonsville, FL, or Atlanta, GA.)

MC 127705 (Sub-63F), filed September 11, 1978, previously noticed in the **Federal Register** of November 2, 1978. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, P.O. Box 40859, Indianapolis, IN 46240. To operate as a *common carrier* by motor vehicle, over irregular routes, transporting *glass containers, plastic articles, caps, covers, and lids*, (1) from Knox, Marienville, and Parker, PA, to the facilities of General Warehousing in Clearfield County, PA, and (2) from the facilities of General Warehousing in Clearfield County, PA, to points in NY, OH, MI, KY, IN, IL, WV, and WI. (Hearing site: Washington, DC.)

Note.—This republication modifies the commodity description.

MC 134064 (Sub-21F), filed January 23, 1979. Applicant: INTERSTATE TRANSPORT, INC., 1820 Atlanta Highway, Gainesville, GA 30501. Representative: Charles M. Williams, 350 Capitol Life Center, 1660 Sherman Street, Denver, CO 80203. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of Globe Products Company, at or near, Clifton, NJ, to points in AL, GA, FL, LA, MS, NC, SC, and TN. (Hearing site: Atlanta, GA, or New York, NY.)

MC 135874 (Sub-15F), filed January 18, 1979. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street S., So. St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except commodities in bulk), from points in WI, to points in AL, CO, CT, DE, FL, GA, IA, IL, IN, KS, KY, MA, MD, ME, MI, MO, NC, NE, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WV, and DC. (Hearing site: Greenbay, WI.)

MC 136844 (Sub-2F), filed January 19, 1979. Applicant: HENRY BRISTOL d.b.a. B & B TRANSPORT & LEASE, P.O. Box 149, Route 1, Reinking Road, Hampshire, IL 60140. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *materials, equipment and supplies* used in the manufacturing of electrical devices and products, (except commodities in bulk), between the facilities of TriBoro Electric Corp., and Mohawk Devices & Waterbury Products, in Doylestown, PA, and Hightatown, NJ, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with TriBoro Electric Corp., of Doylestown, PA. (Hearing site: Chicago, IL, or Philadelphia, PA.)

MC 136404 (Sub-13F), filed January 24, 1979. Applicant: DALE FOWLER & MERLE TRAPP, d.b.a. D & M TRANSPORT, P.O. Box 38, Sprague ville, IA 52074. Representative: Dale Fowler (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *heat transfer products*, and (2) *components for heat transfer products*, from Maquoketa, IA, to the facilities of (a) Cat Tractor Company, at or near, Mossville, Peoria, Aurora, and Morton, IL, (b) General Thermodynamics Inc., at or near, Milwaukee, WI, and (c) Helgesen Industries, at or near, Hartford, WI. (Hearing site: Washington, DC.)

MC 140624 (Sub-13F), filed January 25, 1979. Applicant: J. B. MONTGOMERY, INC., (a Delaware Corporation), 5565 East 52nd Avenue, Commerce City, CO 80022. Representative: Jeffrey A. Knoll (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, from Baltimore, MD, Portsmouth, VA, and New York, NY, to points in OH, MI, IL, IA, KS, MO, NE, and CO, restricted to the transportation of traffic having a prior movement by water. (Hearing site: New York, NY.)

MC 140624 (Sub-139F), filed January 25, 1979. Applicant: J. B. MONTGOMERY, INC., (a Delaware Corporation), 5565 East 52nd Avenue, Commerce City, CO 80022. Representative: Jeffrey A. Knoll (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *clothing*, from Secaucus, NJ, to Cleveland, OH, Dallas, TX, and Detroit, MI. (Hearing site: New York, NY.)

MC 141804 (Sub-164F), filed January 19, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic lids, plastic dishes, plastic tumblers, and styrene bevettes*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Mt. Sterling, OH, City of Industry, CA, Renton, WA, Phoenix, AZ, Shreveport, LA, and Ft. Worth, and Dallas, TX. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-165F), filed January 24, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *motor vehicle parts, motor vehicle accessories, and machinery parts*, (1) from Detroit, Benton Harbor, and Warren, MI, Toledo, OH, Milwaukee, WI, and Woodstock, and Chicago, IL, to Bowling Green, KY, Paris, TN, and Water Vaalley, MS, (2) from Nashville, TN, to points in the United States in and west of ND, SD, NE, KS, OK, and TX (except AK and HI) and (3) from Long Beach, CA, to Bowling Green, KY, and Nashville, TN. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-166F), filed January 24, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman

(same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *footwear*, from those points in the United States in and east of MN, IA, MO, AR, and TX, to Santa Ana, CA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-168F), filed January 29, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *musical instruments, musical accessories, electrical sending equipment, and electrical receiving equipment*, (1) from South Haven and Grand Rapids, MI, to Pennsauken, NJ, Chicago, IL, Jacksonville, FL, and Seattle, WA, and points in Los Angeles and Orange Counties, CA, and (2) from East Orange, NJ, to Chicago, IL, and points to CA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 144184 (Sub-3F), file January 26, 1979. Applicant: R. T. PUGH MOTOR TRANSPORTATION, INC., 233 Whiley Avenue, Lancaster, OH 43130. Representative: James Duvall, P.O. Box 97, Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cullet*, in bulk, in dump vehicles, from Marion, OH, to Winchester, IN. (Hearing site: Columbus, OH.)

MC 145054 (Sub-10F), file January 25, 1979. Applicant: COORS TRANSPORTATION COMPANY, A Corporation, 5101 York Street, Denver, CO 80216.Representative: David R. Parker, 717-17th Street, Suite 2600, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery stores, from the facilities of Safeway Stores, Inc., at Dallas and Denison, TX, to the facilities of Safeway Stores, Inc., at Denver, CO. (Hearing site: Denver, CO.)

MC 145154 (Sub-2F), file January 29, 1979. Applicant: YOUNG'S TRANSPORTATION COMPANY, A Corporation, 3310-L Ella Blvd., Houston, TX 77018. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *floor coverings* and (2) *materials and supplies* used in the manufacture, sale and installation of floor coverings, between points in GA, on the one hand, and, on the other, points in TX. (Hearing site: Houston, TX.)

MC 145864F, filed November 13, 1978, previously noticed in the FR of February 23, 1979 as MC 145684F. Applicant: PARAGON TRANSPORTATION CO., INC., 680 Purchase St., New Bedford, MA 02741. Representative: S. Harrison Kahn, Suite 733 Investment Bldg., 1511 K St., NW, Washington, DC 20005.

Note.—This republication correctly states the MC number.

MC 146124F, filed January 10, 1979. Applicant: ROBINSON TERMINAL WAREHOUSE CORPORATION, 2 Duke St., Alexandria, VA 22313. Representative: William F. Etherington, 1200 Mutual Bldg., Richmond, VA 23219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *groundwood printing paper*, from the facilities of Bear Island Paper Company, at Doswell, VA, to (1) the facilities of The Washington Post Company, at Washington, DC, under continuing contract(s) with The Washington Post Company, of Washington, DC, (2) the facilities of (a) the Evening Star Newspaper Company, at Washington, DC, (b) Robinson Terminal Warehouse Corporation, at Alexandria, VA, and in Fairfax County, VA, and (c) Dow-Jones, Inc., at White Oaks, MD, in (2) above under continuing contract(s) with Bear Island Paper Company, of Greenwich, CT, restricted in (2)(b) to the transportation of traffic having a subsequent movement in foreign commerce. (Hearing site: Richmond or Alexandria, VA.)

[Permanent authority decisions Volume No. 41]
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Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 1936 (Sub-1TA), filed March 26, 1979. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, PA 15224. Representative: William J. Lavelle, Esquire, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. *Iron and steel articles*, from the facilities of Republic Steel Corporation located in Canton, OH to the facilities of Brenco, Inc. located in Petersburg, VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Republic Steel Corporation, P.O. Box 700, Canton, OH 44701. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 28396 (Sub-238TA), filed March 30, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. The Waggoners, P.O. Box 990, Livington, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Galvanized steel* from Farrell, PA to Watertown, SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mr. Galvanized, Inc., P.O. Box 129, Great Neck, NY 11021. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 35807 (Sub-98TA), filed March 22, 1979. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy—Steven J. Thatcher, P.O. Box 4313, Atlanta, GA 30302. *Coin, currency and securities* between Omaha, NE and points in NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Federal Reserve Bank of Kansas City, 925 Grand Avenue, Federal Reserve Station, Kansas City, MO 64198. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 48386 (Sub-13TA), filed April 5, 1979. Applicant: GRAVER TRUCKING, INC., Route 7, Box 7655, Stroudsburg, PA 18360. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Sand, gravel and stone*, from Mount Bethel, PA, to Totowa, NJ, for 150 days. An underlying ETA seeks 90 days authority. Supporting shipper: Co-Operative Concrete Corporation, 355 Minisink Road, Totowa, NJ 07512. Send protests to: ICC, Wm. J. Green Federal Bldg., 600 Arch Street, Philadelphia, PA 19106.

MC 51146 (Sub-683TA), filed March 29, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Pet food and equipment, materials, and supplies* used in the manufacture and distribution of pet food between Perham, MN on the one hand, and, on the other, points in CT, DE, IL, IN, IA, KS, ME, MD, MA, MI, MO, NH, NY, OH, PA, RI, VT, VA, WV, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tuffy, Div. of Starkist Foods, Inc., P.O. Box 190, Perham, MN 56573. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 100666 (Sub-453TA), filed March 28, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Applicant is seeking authority to operate a common carrier over irregular routes transporting *glass* from the facilities of LOF Glass, Inc. at or near Laurinburg, NC to points in LA, OK, TX, and WI, for 180 days. Applicant has filed an underlying ETA for 90 days. Supporting shipper(s): Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695. Send protests to: Robert J. Kirspal, DS, ICC, T-9038 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 100666 (Sub-454TA), filed April 5, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Authority is being sought to operate as a common carrier over irregular routes transporting *asbestos cement pipe, fittings and materials and supplies used in the installation thereof (except in bulk)* from St. Louis, MO to points in AR, CO, KS, NE, OK, LA, and TX, for 180 days. Applicant has filed an underlying ETA for 90 days. Supporting shipper(s): CertainTeed Corporation, P.O. Box 1100, Blue Bell, PA 19422. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102567 (Sub-223TA), filed April 2, 1979. Applicant: McNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. *Pulp mill liquids, in bulk, in tank vehicles* (1) between the plantsites of International Paper Co. at or near Natchez, MS and Mobile, AL; and, (2) Between the plantsites of International Paper Co. at or near Bastrop, LA and Moss Point, MS, for 180 days. Applicant has filed an underlying ETA for 90 days. Supporting Shipper(s): International Paper Company, P.O. Box 160707, Mobile, AL 36616. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102567 (Sub-224TA), filed March 29, 1979. Applicant: McNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. (1) *Liquid Plastic Resins*, and (2) *Glycols (Polypropylene Glycol)*, in bulk, in tank vehicles between the plantsites of Chemetics Systems, Inc. at Monticello, AR, on the one hand, and, on the other, points in TX, for 180 days. Applicant has filed an underlying ETA seeking up to 30 days. Supporting Shipper(s): Chemetics Systems, Inc., 2006 Gladwick St., Compton, CA 90220. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102616 (Sub-967TA), filed March 28, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). *Petroleum and petroleum products*, in bulk, in tank vehicles, from Warren, PA, to Cleveland, Geneva, Strongsville, Ashtabula, Kent, Ravenna, Girard, Warren, Hubbard, Canton, Columbus, Marion, and Sandusky, OH; and from Niles, OH, to Barkeyville, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Refining Company, P.O. Box 780, Warren, PA 16365. Send protests to: Mary Wehner, D/S, I.C.C., 731 Federal Bldg., Cleveland, OH 44199.

MC 102616 (Sub-968TA), filed March 28, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). *Toluol*, in bulk, in tank vehicles, from Toledo, OH, to Clinton, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Superior Oil Co., Inc., 400 W. Regent Street, Indianapolis, IN 46225. Send protests to: Mary Wehner, D/S, I.C.C., 731 Federal Bldg., Cleveland, OH 44199.

MC 103926 (Sub-88TA), filed March 22, 1979. Applicant: W. T. MAYFIELD SONS TRUCKING CO., INC., P.O. Box 947, Mableton, GA 30059. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Agricultural machinery, implements, attachments and parts thereof* from the facilities of Allis-Chalmers at or near La Porte, IN to points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, TX and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allis-Chalmers Corporation, P.O. Box 512, Milwaukee, WI 53201. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 110686 (Sub-59TA), filed March 30, 1979. Applicant: McCORMICK DRAY LINE, INC., Avis, PA 17721. Representative: David A. Sutherland, Suite 400, 1150 Connecticut Ave., Washington, D.C. 20036. *General commodities* (except explosives and commodities in bulk) moving on bills of lading of direct air carriers or air freight forwarders, between Lycoming County, PA, and Philadelphia, PA and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Five Star Air Freight, Montgomery, PA 17752, Koppers Company, Inc., Sprout-Waldron Div., Muncy, PA 17756. Send protests to: ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Philadelphia, PA 19106.

MC 110617 (Sub-27TA), filed March 28, 1979. Applicant: E. L. FARMER & COMPANY, P.O. Box 3512, Odessa, TX

79760. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. *Petroleum products, paints, stains and varnishes* (except in bulk), in packages and containers, when such commodities are used in furtherance of or incidental to marine and ocean transportation, including export and/or coastwise movement, From the facilities of Mobil Oil Corparation at Houston, TX and Beaumont, TX to points in TX, LA, and MS, for 180 days. Supporting shipper(s): Mobil Oil Corporation, 8350 North Central Expressway, Campbell Centre Suite 522, Dallas, TX 75206. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission—Bureau of Operations, Box F–13206 Federal Building, Amarillo, TX 79101.

MC 114457 (Sub-482TA), filed March 7, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, same address as applicant. *(1) Such merchandise as is dealt in by wholesale, retail, chain grocery, chain grocery and food business houses; and (2) materials, ingredients, and supplies used in the manufacture, distribution and sale of the products in (1) above* between the facilities of Ralston Purina Company at or near Clinton and Davenport, IA, on the one hand, and, on the other, points in IL, IN, KY, MI, MN, MO, OH, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 114457 (Sub-495TA), filed March 28, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). *Meats, meat products, and meat by-products, articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business whn destined to and for use by meat packers (except commodities in bulk) as described in Sections A, C, and D of Appedix I to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766,* between the facilities of Lauridsen Foods, Inc. at or near Britt, IA on the one hand, and, on the other, points in the states of CT, DE, DC, GA, IL, IN, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour and Company, Manager of Transportation, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Bulding & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 115828 (Sub-440TA), filed March 28, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Bananas and agricultural commodities* exempt from regulation under Section 10526 (a) (6) of the Interstate Commerce Act when transported in mixed loads with bananas, from the facilities of Del Monte Banana Co., Port Hueneme, CA to points, in CO, ND, SD, AZ, TX, IN, ID, WY, IA, MN, KS, WI, IL, NE, UT, KY, MI, and NM. Restricted to transportation of traffic having prior movement by water, for 180 days. An identical ETA seeks 90 days authority. Supporting shipper(s): Del Monte Banana Company, 1201 Brickell Avenue, Miami, FL 33101. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 117786 (Sub-53TA), filed March 27, 1979. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: Baldo J. Lutich, 1441 E. Thomas Rd., Phoenix, AZ 85014. *(1) Such merchandise as is dealt in by wholesale, retail, chain grocery and feed business houses, and (2) materials, ingredients and supplies used in the manufacture, distribution and sale of the products in (1) above,* between the facilities of Ralston Purina Company at or near Denver, CO and points in AZ and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Ronald R. Mau, District Superisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 119577 (Sub-24TA), filed March 16, 1979. Applicant: OTTAWA CARAGE, INC., P.O. Box 458, Ottawa, Il 61350. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. *Iron and steel articles,* from the facilities of Jones & Laughlin Steel Corp. in E. Chicago, IN to points in IA and points in IL on and north of U.S. Highway 36 and Taylorville, IL for 180 days. Supporting shipper(s): Jones and Laughlin Steel Corp., 3001 Dickey Road, East Chicago, IN 46312. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 119656 (Sub-57TA), filed March 20, 1979. Applicant: North Express, Inc., 219 Main Street, Winamac, IN 46996. Representative: Donald W. Smith, Suite 945–9000 Keystone Crossing, Indianapolis, IN 46240. *Iron and steel articles;* from the facilities of Republic Steel Corp at Cleveland, Elyria, Youngstown, Warren, Canton, Massillion and Niles, OH to points in IL, IN and MI for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): Republic Steel Corporation, 224 East 131st Street, Cleveland, OH 44108. Send protests to: Annie Booker, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123987 (Sub-18TA), filed April 5, 1979. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Jewett Scott, Jr. (same as above). *Pre-cast concrete modular crypt units,* from Denver, CO to points in AZ, CA, ID, KS, MT, NE, NM, ND, OK, OR, SD, TX, UT, WA, and WY, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): DUWE Precast Concrete Products, Inc., 1770 S. Koeller St., Denver, CO. Send protests to: District Supervisor Haskell E. Ballard, Box F–13206, Federal Building, Amarillo, TX 79101. Supporting shipper(s): DUWE Precast Concrete Products, Inc., 1770 S. Koeller St., Denver, CO. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F–13206 Federal Building, Amarillo, TX 79101.

MC 123987 (Sub-19TA) filed April 5, 1979. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Jewett Scott, Jr. (same as above). *Light weight flue liner,* from Denver, CO to points in AR, OK, TX, and LA, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Castalite Mfg., Inc., P.O. Box 4122, Denver, CO 80204. Send protests to: District Suppervisor Haskell E. Ballard, Box F–13206, Federal Building, Amarillo, TX 79101. Supporting shipper(s): Castalite Mfg., Inc., P.O. Box 4122, Denver, CO 80204. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F–13206 Federal Building, Amarillo, TX 79101.

MC 123407 (Sub-560TA), filed March 12, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Plastic articles and materials* (except in bulk) from the facilities of United Foam Corporation located in Bremen, IN to points in AR, FL, ND, SD, and TX for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): United Foam Corporation, 1111 West Dewey Street, Bremen, IN 46506.

MC 123407 (Sub-561TA), filed March 14, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr., Sawyer Center, Route 1, Chesterton, IN 46304. *Lumber, lumber products, wood products and millwork;* from the facilities of Plus Wood Inc. located in Oshkosh, WI to points in AR, CO, IA, KS, KY, LA, MS, MO, NE, OH, OK, PA, and TX, for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): Plus Wood, Inc., P.O. Box 2248, Oshkosh, WI 54903. Send protests to: Annie Booker, Interstate Commerce Commission, Room 1386, Everett McKinley Dirksen Bulding, 219 South Dearborn Street, Chicago, IL 60604.

MC 123407 (Sub-562TA), filed March 12, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr., Sawyer Center, Route 1, Chesterton, IN 46304. *Lubricants and petroleum products,* (except in bulk), from Toledo, OH to Minneapolis, Duluth, and Silver Bay, MN and Eau Claire, WI, for 180 days. Supporting shipper(s): Gopher State Oil Company, 2500 Delaware Street, SE, Minneapolis, MN 55414. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123407 (Sub-563TA), filed March 13, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same as applicant). *Plastic sewer pipe, plastic drain pipe, and plastic fittings* from the facilities of Lapco Industries, Inc. at Columbus, OH to points in IL, IN, MI, OH, PA, and WV, for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Lapco Industries, Inc., 3232 Cleveland Avenue, Columbus, OH 43224. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123407 (Sub-564TA), filed March 12, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same as applicant). *Zinc die castings and plastic injection moldings,* from St. Paul, MN and Turtle Lake, WI to Rushville, IN for 180 days. Supporting shipper(s): Hartzell Corporation, 2516 Wabash Avenue, St. Paul, MN 55114. Send protests to: Annie Booker, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123407 (Sub-565TA), filed March 13, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr., Sawyer Center, Route 1, Chesterton, IN 46304. (1) *Metal roofing and siding and fabricated metal products;* and (2) *Materials and supplies used in the manufacture of the commodities named in (1) above;* (1) from Gridley, IL and Jackson, GA to points in AL, AR, CA, GA, IL, IN, IA, KY, LA, MD, MI, MN, MS, MO, NE, NM, NY, NC, ND, OH, OK, PA, SC, SD, TN, TX, WA, and WI; and (2) from the destination states named in (1) above to Gridley, IL and Jackson, GA for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Fabral, Alcan Building Products, Div. of Alcan Aluminum Corporation, P.O. Box 6877, Cleveland, OH 44101. Send protests to: Annie Booker, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123478 (Sub-42TA), filed March 29, 1979. Applicant: CURTIS TRANSPORT, INC., #23 Grandview Industrial Ct., Arnold, MO 63010. Representative: David G. Dimit (address same as above). *Expanded plastic products* with facing on one or more sides (except in bulk), between Hamilton, OH, on the one hand, and, on the other, all points in the US on or East of U.S. Hwy. 85, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Dow Chemical Company, P.O. Box 36000, Strongsville, OH 44136. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 126736 (Sub-117TA), filed March 19, 1979. Applicant: FLORIDA ROCK & TANK LINES, INC., P.O. Box 1559, Jacksonville, FL 32201. Representative: L. H. Blow (same as applicant), *Ferrous sulfate,* in bulk, from Baltimore, MD and South Amboy, NJ to points in AL, FL and GA. for 180 days. An underlying ETA has been filed. Supporting shipper(s): Davis Chemical Division, Davis Water & Waste Industries, P.O. Box A, Tallevast, FL 33588. Send protests to: G. H. Fauss, Jr., D/S, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 128296 (Sub-3TA), filed March 29, 1979. Applicant: M & D HAULING, INC., 280 Jordan Ave., Montoursville, PA 17754. Representative: John M. Musselman, P.O. Box 1146, Harrisburg, PA 17108. *Salt,* in packages, from Silver Springs, NY, to points in MD and VA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER: Morton Salt Company, 110 N. Wacker Drive, Chicago, IL 60606. SEND PROTESTS TO: ICC, Wm. J. Green, Jr. Federal Bldg., Philadelphia, PA 19106. Supporting shipper(s): Morton Salt Company, 110 N. Wacker Drive, Chicago, IL 60606. Send protests to: ICC, Wm. J. Green, Jr. Federal Bldg., 600 Arch St., Philadelphia, PA 19106.

MC 134286 (Sub-96TA), filed March 7, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses (except frozen commodities and commodities in bulk),* from the Clorox Company facilities located at Kansas City, MO to Adams, Arapahoe, and Denver Counties, CO and Denver, CO and its commercial zone, for 180 days. An underlying ETA seeks 90 days of authority. Supporting shipper(s): G. W. Junginger, The Clorox Company, 1221 Broadway, Oakland, CA 94612. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 135797 (Sub-197TA), filed March 27, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Foodstuffs* from points in CA, FL, and MI to Greenfield, MA, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Llama Trading Co., P.O. Box 1030, Greenfield, MA 01301. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 136357 (Sub-4TA), filed April 6, 1979. Applicant: BEST TRANSPORTATION CORPORATION, S. Washington Ave. & River St., Scranton, PA 18505. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. (1) *Range or stove hoods, exhaust fans, electric heaters* other than portable, and parts for installation of the above commodities, between Old Forge, PA, and Hartford, WI, and from Old Forge, PA, to Atlanta, GA, Wilkesboro, NC, Fort Lauderdale, FL, and points in NY, NJ, CT, VT, ME, NH, MA, and RI; and (2) *Materials and supplies* used in

the manufacture of commodities in (1) above, from Atlanta, GA to Old Forge, PA, for 150 days. Supporting shipper(s): Broan Manufacturing Co., Inc., 525 Bridge St., Old Forge, PA 18518. An underlying ETA seeks 90 days authority. Send protests to: ICC, Wm. J. Green, Jr., Federal Building, 600 Arch St., Philadelphia, PA 19106.

MC 136786 (Sub-151TA), filed February 22, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Avenue, Des Moines, IA 50321. Representative: William L. Libby, 7525 Mitchell Road, Eden Prairie, MN 55343. *Meats, meat products, meat by-products and articles* distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Swift & Co. at or near Glenwood, Marshalltown, Des Moines and Sioux City, IA and Grand Island and Omaha, NE to points in AZ, CA, and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: Herbert J. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 138126 (Sub-36TA), filed April 2, 1979. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., Old Denton Rd. P.O. Box 47, Federalsburg, MD 21632. Representative: Robert H. D'Armi (same as above). *Canned foodstuffs*, from Bridgeville, DE to points in IL, IN, MI, and WI, for 90 days. Supporting shipper(s): Wayne Bennett, H. P. Cannon & Son, Inc., Railroad Ave., Bridgeville, DE 19933. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 138157 (Sub-135TA), filed April 5, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *Motor vehicle parts, tools and accessories (except commodities which because of size or weight require the use of special equipment),* from the facilities of The Allen Group, Inc., Located at or near Los Angeles, CA to points in MT, WY, CO, NM, KS, NE, SD, ND, MN, WI, IA, IL, MO, IN, MI, OH, KY, WV, VA, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH, and ME, for 180 days. Restriction: Restricted to traffic originating at the facilities of The Allen Group, Inc. Supporting shipper(s): The Allen Group, Inc., 19914 So. Via Baron St., Compton, CA 90220. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 139577 (Sub-36TA), filed March 29, 1979. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. (1) *Cookies* from the facilities of Ripon Foods, Inc. and Heritage Wafers, Ltd. at Ripon, WI to points in MD, MA, NJ, NY, OH, PA & RI; (2) *Materials, equipment and supplies used in the manufacture or distribution of cookies* from points in MD, MA, NJ, NY, OH, PA & RI to the facilities of Ripon Foods, Inc. and Heritage Wafers, Ltd. at Ripon, WI, restricted to traffic originating at or destined to the facilities of Ripon Foods, Inc. and Heritage Wafers, Ltd. for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ripon Foods, Inc., Heritage Wafers, Ltd., Oshkosh St., Ripon, WI 54971. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619 Milwaukee, Wisconsin 53202.

MC 140596 (Sub-7TA), filed April 4, 1979. Applicant: NEWPORT AIR FREIGHT, INC., Airport Road, Newport, VT 05855. Representative: Cecil Wright (same address as applicant). Common, irregular routes: *General commodities,* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), *all on a priority basis with prior or subsequent movement by air.* Between Caledonia, Essex and Orleans Counties, VT on the one hand, and on the other, Logan International Airport at or near East Boston, MA, for 180 days. Supporting Shipper(s); There are approximately 14 statements of support attached to the application which may be examined at the ICC in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: ICC, P.O. Box 548, Montpelier, VT 05602.

MC 140656 (Sub-3TA), filed March 26, 1979. Applicant: TROCHU TRUCKING SERVICES, LTD., Box 8, Station T, Calgary, AB, Canada T2H 2G7. Representative: Charles E. Johnson, 418 East Rosser Avenue, Bismarck, ND 58501. *Dry fertilizer and dry fertilizer materials* from ports of entry on the U.S.-Canada International Boundary line to points in WA, OR, MT, ID, CA and AZ, in foreign commerce only, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Sherritt Gordon Mines Limited, Fort Saskatchewan, AB, Canada T8L 2P2. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 140827 (Sub-11TA), filed March 30, 1979. Applicant: MARKET TRANSPORT, LTD., 33 Middlefield Rd. N.E., Portland OR 97211. Representative: Nick I. Goyak, O'Connell, Goyak, Hagen, Elliott & Krage, P.C., 555 Benjamin Franklin Plaza, One S.W. Columbia, Portland, OR 97258. Bananas and agricultural commodities exempt from regulation under Section 10526(a)(b) of the Interstate Commerce Act when transported in mixed loads with bananas, from the facilities of Del Monte Banana Co. at Port Hueneme, CA to points in OR, UT, and WA, for 180 days. A corresponding ETA was filed March 30, 1979 for 30 + 2 and a Permanent will be filed within 60 days. Supporting shipper(s): Del Monte Banana Company, 1201 Brickell Ave., Miami, FL 33101. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 141097 (Sub-21TA), filed March 29, 1979. Applicant: CAL-TEX, INC., P.O. Box 1678, Costa Mesa, CA 92626. Representative: Eric Meierhoefer, Suite 423, 1511 "K" Street, N.W., Washington, DC 20005. *Contract:* Irregular: *General commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between points in the United States (except Alaska and Hawaii) under continuing contract or contracts with E. I. du Pont de Nemours & Co. (Inc.) of Wilmington, DE, for 180 days. Supporting shipper(s): E. I. du Pont de Nemours & Company, 1007 Market Street, Wilmington, DE 19898. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 141167 (Sub-8TA), filed March 29, 1979. Applicant: LANGDON TRANSPORTATION, INC., 5202 Industry Avenue, Pico Rivera, CA 90660. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. *Contract:* Irregular: (1) *Plastic articles* (except commodities in bulk), from the facilities of Amoco Container Company, located at La Mirada, CA, to Phoenix, Flagstaff, Tucson and Yuma, AZ, Salt Lake City, UT, Dallas and Fort Worth, TX, Seattle, WA, and Las Vegas, NV; (2) *Materials, equipment and supplies,* used in the manufacture of (1) above (except commodities in bulk and requiring special equipment), (a) Between the facilities of Amoco Container Company, located at La Mirada, CA, Orlando, FL, Monroe, GA, Seymour, IN, Mora and St. Paul, MN, Langhorne, PA, Beech Island, SC, and Chippewa Falls, WI; (b) From Tarpon Springs, FL, New Hyde Park, NY, Greer, SC, and Arlington, TX, to the facilities of Amoco Container Company located at La Mirada, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Amoco Container Company, 15221 Canary Avenue, La Mirada, CA 90637. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California.

MC 141747 (Sub-6TA), filed March 27, 1979. Applicant: DONALD ENGLE AND JAMES ENGLE, d.b.a. ENGLE BROTHERS FARMS, Rural Route 1, Rector, AR 72461. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Dry fertilizer* between points in the states of AL, AR, IL, IN, KY, LA, MO, MS and OK, for 180 days as a common carrier over irregular routes. Supporting shipper(s): W. R. Grace & Company, Agricultural Group/Chemicals, P.O. Box 277, Memphis, TN 38101. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142246 (Sub-4TA), filed March 29, 1979. Applicant: VAN WYK, INC., C Street, Box 433, Sheldon, IA 51201. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. *Contract carrier:* irregulr routes: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, except hides and commodities in bulk, in tank vehicles,* from the facilities of Dubuque Packing Co., at LeMars, IA to points in IL, IN, KS, MN, NE, ND, SD, and WI, under a continuing contract or contracts with Dubuque Packing Co. at LeMars, IA, for 180 days. Supporting shipper(s): Richard Ernst, Dubuque Packing Co., LeMars, IA 51031. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142257 (Sub-2TA), filed March 28, 1979. Applicant: STYER TRANSPORTATION CO., 2045 Iberia Avenue, Lakeville, MN 55044. Representative: Charles E. Nieman, 615 Minnesota Federal Building, Minneapolis, MN 55402. *Kitchen, wall and base cabinet, bathroom vanities, and accessories (except commodities in bulk in tank vehicles)* between Lakeville, MN and all points in ND and SD; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Merillat Industries, Inc., Traffic Manager, 2075 West Beecher Road, Adrian, MI 49221. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 144116 (Sub-1TA), filed March 29, 1979. Applicant: TRANSPORT MOTOR SERVICE, INC., 5353 Topanga Canyon Blvd., Suite 1A, Woodland Hills, CA 91364. Representative: Fred H. Makensen, c/o Murchison and Davis, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. *Contract:* Irregular: *Food products and materials,* between Evansville, IN, on the one hand, and on the other, Braddock, NJ; Doylestown and New Holland, PA; New York and Bayshore, NY; Gloucester, Boston and Everett, MA; Cambridge, MD; Amarillo, TX; Ponchatoula, LA; Philadelphia, PA for 180 days. An underlying ETA seeks up to 90 days operating authority . Supporting shipper(s): Modern Maid Food Products, Inc., 200 Garden City Plaza, Garden City, NY 11530. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 144186 (Sub-2TA), filed March 22, 1979. Applicant: SUPERIOR TRANSFER, INC., 2669 Merchant Drive, Baltimore, MD 21230. Representative: Ronald N. Cobert, Esq. Suite 501, 1730 M St., NW., Washington, DC 20036. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment,* from the facilities utilized by Streamline Shippers Association, Inc., at Baltimore, MD, to Los Angeles, and San Francisco, CA, Dallas and Houston, TX; and from the facilities utilized by Streamline Shippers Association, Inc. at Los Angeles and San Francisco, CA, Dallas and Houston, TX, to Baltimore, MD, Washington, DC, Richmond, VA, Philadephia, PA and New York, NY. Supporting shipper(s): Ray Camero, Streamline Shippers Association, Inc., P.O. Box 3806 Terminal Annex, Los Angeles, CA 90051. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 144557 (Sub-9TA), filed April 5, 1979. Applicant: HUDSON TRANSPORTATION, INC., P.O. Box 847, Troy, AL 36081. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Sugar,* (except in bulk), from the facilities of Godchaux-Henderson Sugar Co., Inc., at or near Reserve and Kenner, LA, to points in AL, AR, FL, GA, IL, IA, KY, MS, MO, NC, OH, OK, SC, TN, TX, VA, WI, WV, IN, KS, MI, and NE for 180 days. Supporting shipper(s): Gadchaux-Henderson Sugar Company, Inc., P.O. Drawer AM, Reserve, LA 70084. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 144667 (Sub-6TA), filed March 27, 1979. Applicant: ARTHUR E. SMITH & SON TRUCKING, INC., P.O. Box 1054, Scottsbluff, NE 69361. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE. 68501. *Lumber, lumber products and wood products,* from points in OR to Scottsbluff County, NE. An underlying ETA seeks 90 days authority. Supporting shipper(s): Scottsbluff Sash and Door, Inc., P.O. Box 420, Scottsbluff, NE 69361. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, Lincoln, NE 68508.

MC 145217 (Sub-1TA), filed March 29, 1979. Applicant: RICHARD McNAY, INC., Representative: Joel H. Steiner, Esquire, 39 South Lasalle St., Chicago, Illinois 60603. *Limestone and limestone products from the facilities* of Calcium Carbonate Company at Quincy, IL to those points in IN on and west of U.S. Highway 31, points in IA on and south of U.S. Highway 20 and on and east of U.S. Highway 10 and to points in MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Calcium Carbonate Company, 3150 Gardner Expressway, Quincy, IL 62301. Send protests to: Charles D. Little, District Supervisor, ICC, RM 414, 527 East Capitol Ave., Springfield, IL 62701.

MC 145317 (Sub-6TA), filed April 5, 1979. Applicant: QUALITY SERVICE TANK LINES, INC., 9022 Perrin Beitel Road, San Antonio, TX 78217. Representative: Thomas S. Musser, 9022 Perrin Beitel Road, San Antonio, TX 78217. Applicant applies for common carrier authority over irregular routes to transport *Fly ash, in bulk, in tank vehicles* from Titus County, Texas to points in LA. Supporting shipper(s): Gifford-Hill & Company, Inc., P.O. Box 47127, Dallas, TX 75247. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce

Commission, Room B-400 Federal Building, 727 E. Durango St., San Antonio, TX 78206.

MC 145546 (Sub-1TA), filed March 27, 1979. Applicant: CARL MEDLIN d.b.a., MEDLIN TRUCKING, 5890 Wood Sorrel Drive, Littleton, CO 80123. Representative: Randall Allen (same address as above). *Contract carrier:* irregular routes: *Meat* from Denver, CO to points in NY, NJ and PA, for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): United Packing Co., 5000 Clarkson St., Denver, CO. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 145557 (Sub-3TA), filed March 30, 1979. Applicant: LIBERTY TRANSPORT, INC., 4614 South 40th Street, St. Joseph, Missouri 64503. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklyn, Liberty, Missouri 64068. *Fertilizer and/or fertilizer ingredients,* from the facilities of the Brunswick River Terminal located at or near Brunswick, MO to points in AR, IL, IN, IA, KS, KY, NE, OK and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): First Miss Inc., P.O. Box 328, Ft. Madison, IA. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Missouri 64106.

MC 146116 (Sub-2TA), filed February 5, 1979. Applicant: LOCUST HARDWARE CO., INC., P.O. Box 265, Locust NC 28097. Representative: Webster S. Medlin, 43 Union Street, South, Concord, NC 28025. *Brick* from Van Wyck, SC and facilities of Boren Clay Products at or near Monroe, NC and to points in NC, SC, VA, GA, FL and TN, for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Ashe Brick Company, Van Wyck, SC 29744; Boren Clay Products Company, P.O. Box 779, Monroe, NC 28110. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 146117 (Sub-1TA). Applicant: D.C., INC., 712 South York, Mechanicsburg, PA 17055. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E, Atlanta, GA 30326. *Merchandise, equipment, and supplies,* sold, used or distributed by a manufacturer of cosmetics between Newark, DE and York, PA on the one hand, and, on the other, all points in Adams, Berks, Chester, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry and York counties in PA. Supporting shipper(s): Avon Products, Inc., 2100 Ogletown Rd., Newark, DE 19711. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869 Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 146157 (Sub-2TA), filed January 29, 1979. Applicant: HARVEY PELLETIER, d.b.a. PELLETIER TRANSPORT, North Troy, VT 05859. Representative: John P. Monte, Box 568, 61 Summer Street, Barre, VT 05641. (1) *Quadractors (4-wheel drive, all season agricultural vehicle),* From North Troy, VT to points in the U.S. (except AK and HI); (2) *materials, equipment and supplies used in the manufacture of Quadractors,* from points in the U.S. (except AK and HI) to North Troy, VT; (3) *Farm machinery and equipment* from Syracuse and Canastota, NY; NY-NJ Port Authority; Springfield, MA and Hartford, CT to St. Albans and Newport, VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Traction, Inc., North Troy, VT 05859; (2) W. S. Mitchell, Inc., 738 East Main St., Newport, VT 05855; (3) Bourbeau International, Inc., Crest Road, St. Albans, VT 05478. Send protests to: ICC, P.O. Box 548, Montpelier, VT 05602.

MC 146247 (Sub-1TA), filed March 19, 1979. Applicant: DELTA MOTOR EXPRESS, INC., 1309 Fifth Street, N.E., Washington, DC 20002. Representative: Neal A. Jackson, 1155 15th Street, N.W., Washington, DC 20005. *Bananas and agricultural commodities otherwise exempt from regulation under 49 U.S.C. S10526(6) when transported in mixed shipments with bananas,* from Baltimore, MD, Wilmington, DE, the New York, NY, Commercial Zone (as defined by the Commission) and Charleston, SC, to points in DE, DC, MD, NJ, NY, PA, VA, and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chiquita Brands, Inc., 15 Mercedes Drive, Montvale, NJ 07645; Del Monte Banana Company, P.O. Box 011940, Miami, FL 33101; Castle & Cooke Foods, Inc., 350 Motor Parkway, Hauppauge, NY 11787. Send protests to: Carol Rosen, TA, ICC, 600 Arch St., Rm. 3238, Philadephia, PA 19106.

MC 146256 (Sub-2TA), filed February 15, 1979. Applicant: SHORT LINE TRUCKING CO., INC., P.O. Box 20026, Louisville, Ky. 40220. Representative: Lavern R. Holdeman, Peterson, Bowman, Swanson & Johanns, P.O. Box 81849, Lincoln, Neb. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting (1) Such commodities as are dealt in by wholesale and retail chain, grocery and food business houses (except frozen commodities and commodities in bulk), from the facilities of Colgate-Palmolive Company, Inc., at or near Jeffersonville, IN., to Cincinnati, OH, and points in its commercial zone; (2) Plastic bottles from Cincinnati, OH, and points in its commercial zone, to the facilities of Colgate-Palmolive Company, Inc., at or near Jeffersonville, IN., to Cincinnati, OH, and points in its commercial zone; (2) Plastic bottles from Cincinnati, OH, and points in its commercial zone, to the facilities of Colgate-Palmolive Company, Inc., at or near Jeffersonville, IN. Supporting shipper(s): H. Robert Schroeder, Traffic Mgr., Colgate-Palmolive Company, Inc., State & Woerner Sts., Jeffersonville, IN 47130. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

MC 146266 (Sub-2TA), filed March 27, 1979. Applicant: P. & P. TRUCKING, Route 2, Box 477, Fort Smith, AR 72916. Representative: Jim Pate (same address as applicant). *Galvanized sheet and coil steel,* from Hennington, IL to Fort Smith, AR, for 180 days and a contract carrier over irregular routes. Supporting shipper(s): General Electric Company, 4811 South Zero Street, Fort Smith, AR 72901. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146297 (Sub-2TA), filed March 5, 1979. Applicant: FRANK, LOUIS, AND JERRY PRASIFKA, d.b.a. PRASIFKA BROS., P.O. Drawer "S," Hutchins, TX 75141. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. *Wheels, hubs, wheels with tires, brakes and brake parts, spindles, cranes and crane parts,* from Dresden, TN, to points in AR, MS, OK, and TX for 180 days. ETA seeking 90 days filed. Supporting shipper(s): Dico Company, Inc., Dresden, Tennessee. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13012, Dallas, TX 75242.

MC 146327 (Sub-1F), filed March 28, 1979. Applicant: UNITED TRUCKING COMPANY, P.O. Box 1158, Miles City, MT 59301. Representative: Joe Gerbase, Anderson, Brown, Gerbase, Cebull & Jones, 100 Transwestern Bldg., Billings, MT 59101. *Paper and paper products* (except in bulk) and *commodities produced or distributed by manufacturers or convertors of paper and paper products* (except commodities

in bulk) from points in Portage and Wood Counties, WI to points in MT, CA, OR, WA and AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nekoosa Papers, Inc., 100 Wisconsin River Dr., Port Edwards, WI 54469; Consolidated Papers, Inc., P.O. Box 50, Wisconsin Rapids, WI 54494. Send protests to: Paul J. Labane, DS, ICC, 1602 First Avenue North, Billings, MT 59101.

MC 146367 (Sub-TA), filed February 5, 1979. Applicant: COAL CORNERS, INC., Aberdeen, Ky. 42261. Representative: Rudy Yessin, Attorney, 314 Wilkinson St., Frankfort, Ky. 40601. Authorities sought to operate as a moor common carrier, over irregular routes, to transport COAL, between points in KY, TN, and IN. Supporting shipper(s): (3) Tri-Coal Energies, Inc., Rt. 1, Cromwell, Ky. 42333; Alley Cassity Coal Co., Inc., P.O. Box 23305, Nashville, TN 37202; Golden R Coal Co., Rt. 1, Cromwell, Ky. 42333. Send protests to Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

MC 146376 (Sub-1TA), filed March 7, 1979. Applicant: ALL-TOW BOAT MOVING LTD., 8533 Barnet Highway, Burnaby, B.C. V0M 1E0. Representative Michael D. Duppenthaler, 211 S, Washington, St., Seattle, WA 98104. *Boats,* between the Port of Entry on the U.S.-Canada International Boundary line at or near Blaine, WA, on the one hand, and on the other points in WA, for 180 days. Canadian traffic will be originating at or destined to points in B.C. and AB Canada. An underlying ETA seeks 90 days authority. Supporting shipper(s) Cooper Enterprises Ltd., 1642 Langan Ave., Port Coquitlam, B.C. V3C 1K5; Denny Barnes, Inc., 10511 Milford Dr., Richmond, B.C. V7A 4J8. Compass Point Yachts Ltd., 8331 River Road, Richmond, B. C. VB6X 1Y1. Send protests to: Shirley M. Homes, T/A, ICC 858 Federal Bldg., Seattle, WA 98174.

MC 146457 (Sub-1TA), filed March 28, 1979. Applicant: PAISLEY TRUCKING, INC., P.O. Box 208, Durango, IA 52309. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Sand, and sand with additives,* from Oregon, IL to points in IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Acme Resin Corporation, A Division of CPC International, Inc., Devil's Backbone Rd., Oregon, IL 61061. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146497 (Sub-2TA), filed March 13, 1979. Applicant: BURNHAM TRUCKING CO., 82 Fletcher Street, Ayer, MA 01432. Representative: James F. Martin, Jr., 6 W. Morse Road, Bellingham, MA 02019. Contract irregular. *Fruits, berries, juices, fruit and berry products and supplies and materials* used in the manufacture, sale and distribution of juices and fruit and berry products, except in bulk. Over irregular routes between the facilities of the New England Apple Products Co., Inc. at Littleton, MA on the one hand, and on the other, points in ME, VT, MA, RI, CT, NY, NJ, PA, MD, DE, DC, WV, VA, NC, SC, GA, FL, IN, OH, IA, IL, MI, MO, KY, & TN. Supporting shipper(s): New England Apple Products Co., Inc., P.O. Box 425, Littleton, MA 01460. Send protests to: Glenn A. Eady, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 146526 (Sub-1TA), filed March 30, 1979. Applicant: D.T.D., INC., 301 College Highway, Southwick, MA 01077. Representative: Patrick A. Doyle, Esq., 60 Robbins Road, Springfield, MA 01104. Contract carrier: irregular routes: *Log homes and supplies necessary for their erection,* from Berkshire County, MA to ME, NH, VT, RI, CT, NY, PA, OH, WV, VA, DE, NJ, MD, NC, IN, KY, IL, IA, MO, WI, MN, and MI, for 180 days, for the account of Country Log Homes, Inc. An underlying ETA was granted 90 days authority. Supporting shipper(s): Country Log Homes, Inc., Route 7, Ashley Falls, MA. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 146536 (Sub-2TA), filed March 19, 1979. Applicant: WALTER SHORT AGENCY, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: Edwin M. Snyder, Sullivan & Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. *Tractors,* except truck tractors, from the plant site of Ford Motor Company at Romeo, MI to points in AL, FL, GA, KY, NC, SC, and TN, for 180 days. The operations authorized herein are restricted to the transportation of traffic (a) originating at the above named origin point, and (b) destined to points in the named destination states, except that restriction (b) above shall not apply to traffic moving in foreign commerce. Supporting shipper(s): J. O. Darnell, Supervisor, Forward Planning & Analysis, Ford Motor Company-Ford Tractor Operations, 2500 E. Maple Rd., Troy, MI 48084. Send protests to: C. R. Flemming, DS, ICC, 225 Federal Building, Lansing, MI 48933.

MC 146547 (Sub-1TA), filed March 26, 1979. Applicant: RAYMOND SHOWMAN, d.b.a., RAYMOND SHOWMAN AND SONS TRUCKING, Route 66, R.D. No. 1, Edinboro, PA 16412. Representative: John L. Alden-Stiverson and Alden, 1396 West Fifth Avenue, Columbus, OH 43212. *Lime and limestone products* from Conneaut, OH to points in PA on and west of U.S. Route 219 for 180 days. An underlying ETA seeks 90 days operating authority. Supporting shipper(s): Agway, Inc., P.O. Box 4933, Syracuse, NY 13221; Frank Mills, Box 6 South Main Street, Millvillage, PA 16427. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 146557 (Sub-1TA), filed March 19, 1979. Applicant: R. B. STUCKY & N. M. STUCKEY, S&S Dairies, Route 2, Moundridge, KS 67107. Representative: Clyde N. Christey, Suite 1101, 1010 Tyler, Kansas Credit Union Bldg., Topeka, KS 66612. Liquid sweeteners, in bulk, from Muncie, KS & Keokuk, IA to Denver, CO. Liquid sweeteners, in bulk, from Keokuk, IA and Johnstown and Wheatridge, CO. to Hutchinson, KS; Liquid ice cream novelty mix, from Denver, CO. to Hutchinson, KS; Liquid Sweeteners, in bulk, between Denver, CO and Hutchinson, KS; Plastic jugs from Hutchinson, KS to points in MO, NE, CO & OK.; for 180 days, common, irregular; 90-day ETA filed simultaneously; Supporting shipper: Jackson Ice Cream Co., Inc., 2600 E. 4th, Hutchinson, KS 67501. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS. 67202.

MC 146576 (Sub-1TA), filed March 13, 1979. Applicant: K.G.L., INC., 2270 S.W. 30th Street, Fort Lauderdale, FL 33312. Representative: Frank J. Hathaway, 7615 Biscayne Boulevard, Miami, FL 33138. *Contract carrier*—Irregular route: *Medical diagnostic equipment* and *supplies; chemicals* and *related articles* requiring temperature controlled equipment between Coulter Diagnostics plant at Hialeah, FL, on the one hand, and, on the other, all points and places in the U.S. excluding AK and HI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Coulter Diagnostics, 740 West 83rd St., Hialeah, FL 33014. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission—BOp, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 146577 (Sub-1TA), filed March 26, 1979. Applicant: UNITED HAULING CORPORATION, 3rd and Railroad, Caldwell, Idaho 83605. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Scrap metal and compressed automobile bodies and parts,* from the facilities of United Metal & Scrap Co.,

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Inc., located at Caldwell, ID to Portland, OR, Seattle, WA, Los Angeles, CA, Geneva, UT, and the commercial zones thereof, and Salt Lake County, UT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Metal & Scrap Co., Inc., 3rd and R.R., Caldwell, ID 83605. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 146606 (Sub-1TA), filed March 23, 1979. Applicant: BRUNNER DRILLING & MANUFACTURING, INC., P.O. Box C, Elroy WI 53929. Representative: James Spiegel, 6425 Odana Rd., Madison, WI 53719. *Rough iron or steel castings* from Reedsburg, WI to points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Grede Foundries, Inc., P.O. Box 2849, Milwaukee, WI 53226. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 146607 (Sub-1TA), filed March 30, 1979. Applicant: SILICA TRANSPORT, INC., Highway 69 East, Melbourne, AR 72556. Representative: Louis Tarlowski, Union Life Building, Little Rock, AR 72201. *Dry fertilizer* in bulk in pneumatic tank trailers and in bags, from Memphis, TN to points in AR and MO, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Swift Agricultural Chemicals Corp., 340 Interstate No. Pkwy., Suite 150, Atlanta, GA 30339; USS Agri-Chemicals Division, United States Steel Corporation, 233 Peachtree Street, N.E., Atlanta, GA 30303. Send protests to: William H. Land Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146607 (Sub-2TA), filed March 30, 1979. Applicant: SILICA TRANSPORT, INC., Highway 69 East, Melbourne, AR 72556. Representative: Louis Tarlowski, Union Life Building, Little Rock, AR 72201. *Granulated boiler slag* in bulk in pneumatic tank trailers from Memphis, TN to points in AR, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Masonite Corporation, P.O. Box 4777—Valley Road, Meridian, MS 39301. Send protests to: William H. Land Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146647 (Sub-1TA), filed March 22, 1979. Applicant: JIM STRATTON, d.b.a. THE STRATTON COMPANY, 201 Second Street, Kaycee, WY 82639. Representative: Jim Stratton (same address as applicant). *Contract carrier: irregular routes: Oilfield machinery, equipment, materials, and supplies,* from Seattle, WA to Casper, WY, for the account of Herman Karst Enterprises, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Herman Karst Enterprises, Inc., Box 1749, Casper, WY 82602. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm. 105 Federal Bldg. & Court House, 111 South Wolcott, Casper, WY 82601.

MC 146656 (Sub-1TA), filed March 30, 1979. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224 Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Contract carrier; irregular routes: Polyurethane foam, from Baltimore and Jessup, MD to points in New Jersey, that part of New York on and south of I–84, and Philadelphia, PA, under a continuing contract with William T. Burnett & Company, Inc., for 180 days. Supporting shipper(s): Leslie Sigman, William T. Burnett & Co., Inc., 1550 Bush St., Baltimore, MD 21230. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 146666 (Sub-1TA), filed March 26, 1979. Applicant: EDWARD R. CORCORAN d.b.a. CORCORAN TRUCKING, P.O. Box 31135, Billing, MT 59107. Representative: Jack H. Blanshan, Attorney at Law, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Bananas and agricultural commodities exempt from regulation under Section 10526(a)(6) of the Interstate Commerce Act when transported in mixed loads with bananas, from the facilities of Del Monte Banana Co. at Port Hueneme, CA to points in CA, MN, MT, NE, ND, SD and WY, restricted to the transportation of traffic having a prior movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Del Monte Banana Company, 1201 Brickell Ave., Miami, FL 33101. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 146696 (Sub-1TA), filed March 27, 1979. Applicant: AGRI-BUILDING SYSTEMS, INC., P.O. Box 130, 2nd and Euclid, Waukomis, OK 73773. Representative: G. Gene Anderson, (same addess as applicant). *Pre-engineered metal buildings,* from Houston, TX, to Paoli, Moore, Ponca City, Clinton, & Waukomis, OK, and Emporia, KS, and points in their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): North Central Builders, 221 Westbury Road, Ponca City, OK 74601; Jordan's Metal Buildings, Rt. 1, Paoli, OK 73074; Sondad Inc., Steel Bldg. Division, 204 Choctaw, Clinton, OK 73601; Bedingfield Const. Co., Inc., P.O. Box 6450, Moore, OK 73153; Virgil J. Morris Sales & Service, 620 Anderson, Emporia, KS 66801. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 146717 (Sub-1TA), filed March 26, 1979. Applicant: Jack Meyer and Buddy C. Moore d.b.a. MIDWEST VIKING, Johnson, NE 68378. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *(1) Titanium and nickel base ingots and billets and steel billets and scrap material thereof,* between the facilities of Viking Metallurgical at or near Verdi, NV, on the one hand, and, on the other, Reading and Sharon, PA; New Hartford, NY; Detroit, Whitehall and Jackson, MI; Fort Wayne, IN; Houston, TX; Monroe, NC; Seattle, WA; Vernon, CA; Owensboro, KY; and Nashville, TN; *(2) Lumber and plywood,* from points in CA and NV to points in IA, IL, IN, MI, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Midwest Lumber Associates, 600 West Main, P.O. Box 187, Sun Prairie, WI 53590; (2) Viking Metallurgical, a subsidiary of Quanex, P.O. Box 339, I Erik Circle, Verdi, NV 89439. Send protests to: Max H. Johnston, ICC, 285 Federal Bldg., 100 Centennial Mall North, Lincoln, NE 68508.

MC 115826 (Sub-382TA), (Republication), filed January 10, 1979, and published in the **Federal Register** issue of February 15, 1979, and republished in this issue. Applicant: W. J. DIGBY, INC., 6015 East 58th St., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). *Foodstuffs,* (except in bulk), from Ontario and Buena Park, CA to points in AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kraft, Inc. 500 Peshtigo Court, Chicago, IL 60690. Send protests to: H. C. Ruoff, DS, 492 U.S. Customs House, 721 19th St., Denver, CO 80202. The purpose of this republication is to indicate the proper territorial description.

MC 145566 (Sub-TA), (Republication), filed October 2, 1978, and published in the **Federal Register** issue of November 21, 1978, and republished as corrected this issue. Applicant: B & K ENTERPRISES, 7950 South 27th St., Oak Creek, WI 53154. Representative: Terry W. Kultgen, 5605 Brookhaven Dr. Racine, WI 53406. *Heavy and specialized commodities or articles* requiring special equipment or special handling outside the scope of the certificates of general commodities, motor carriers, from the facilities of Oven Systems Inc., at New Berlin, WI, on the one hand, and on the other, points in NJ, MD, VA, KY, PA, OH, WV, and IN, for 180 days. Supporting shipper(s): Oven Systems, Inc., 3600 South 160th St., New Berlin, WI 53151. Send protests to: Gail Daugherty, TA, ICC, Bureau of Operations, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202. The reason for this republication is to indicate the territorial description in this application.

MC 133566 (Sub-128TA), filed December 30, 1979 and published in the **Federal Register** issue of February 16, 1979 and republished as corrected this issue. Applicant: GANGLOFF & DOWNHAM TRUCKING, INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, 1 World Trade Center, Suite 4959, New York, NY 10048. *Malt Liquor,* From Trenton, NJ, to points in FL, GA, LA, IL, IN, KS, KY, MN, NE, MO, OH, TN, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Champale, Inc., 1024 Lamberton Street, Trenton, NJ 08611. Send protests to: J. H. Gray DS, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 106037 (Sub-5TA), filed November 21, 1978, and published in the **Federal Register** issue of January 29, 1979 and republished as corrected this issue. Applicant: ROADWAY TRANSPORT LIMITED, 25 Selfield Road, Rexdale, Ontario, Canada M9W 1E8. Representative: Robert G. Gawley, P.O. Box 184, Buffalo, NY 14221. *Automobiles, Trucks and buses and parts and accessories thereof,* moving at the same time with the vehicles of which they are a part and on which they are to be installed in initial and secondary movements in driveaway and truckaway service, from ports of entry on the International Boundry line between United States and Canada located on the Detroit River to Willow Run, MI, on traffic having a prior movement in foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Motors of Canada Limited, Oshawa, Ontario L1G 1K7. Send protests to: ICC, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202. The purpose of this republication is to show the complete scope of the application as previously omitted.

MC 118457 (Sub-18TA), filed December 18, 1978 and published in the **Federal Register** issue of January 31, 1979 and republished as corrected this issue. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., 11104 West Becher Street, West Allis, WI 53227. Representative: Donald S. Mullins, 4704 West Irving Park Rd., Chicago, IL 60641. *Packing House Products,* from the facilities of Birchwood Meat & Provision Co. and Kenosha Beef International in Kensoha County, WI, to points in the District of Columbia and the States of CT, DE, GA, ME, MD, MA, NH, NM, NY, NC, PA, RI, SC, TN, VT, VA, and WV, for 180 days. Supporting shipper(s): Birchwood Meat & Provision Co., P.O. Box 639, Kenosha, WI 53141. Send protests to: Gail Daugherty, Trans. Asst., I.C.C., U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Rm. 619 Milwaukee, WI 53202.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 68]

[FR Doc. 79-13959-Filed 5-1-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 86
Wednesday, May 2, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m, Wednesday, May 2, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting to follow the open meeting.

MATTERS TO BE CONSIDERED.

Agenda, Item Number, and Subject

Hearing—1—Petition for extraordinary relief and supplement thereto in the Miami, Fla., FM license renewal proceeding, (Docket No. 20826).

Hearing—2—Certification to the Commission in the U.S. Department of Defense versus the Chesapeake and Potomac Telephone Companies and the American Telephone and Telegraph Company complaint proceeding (Docket No. 21138).

Hearing—3—Petitions for reconsideration and related interlocutory pleadings in the George T. Hernreich (KAIT-TV), Jonesboro, Arkansas, television renewal proceeding (Docket No. 19292).

General—1—Transfer of Chicago Regional Branch from the Private Radio Bureau to the Field Operations Bureau.

Complaints and Compliance—1—Results of an investigation into the affairs of KND Broadcasting Corp., licensee of Radio Station WKND, Windsor, Connecticut.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: April 27, 1979.

[S-855-79 Filed 4-30-79; 2:21 pm]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, May 2, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Joint request for approval of settlement agreement in the Flint, Michigan, comparative FM proceeding (Docket Nos. 20572 and 20574).

General—1—Criminal Conviction Question on Applications for Commercial Radio Operator Licenses.

General—2—Temporary Authorization for Restricted Radiotelephone Operator Permits.

General—3—Waiver of Antenna Tower Painting Requirements for Radio Tower of Telegraph-Herald, Inc., licensee of KFMD, Dubuque, Iowa.

General—4—Amendment of Parts 2 and 15 of the Commission's Rules concerning wireless microphones.

General—5—Modification of Public Notice required by the Sunshine Act.

General—6—Creation of Sunshine Agenda.

Private Radio—1—Amendment of Part 83 of the rules to require that remote control units used in conjunction with marine VHF radiotelephones have the capability of reducing power output to one watt or less.

Private Radio—2—Amendments of Part 83 and 87 of the rules to make the restrictions governing the use of the frequency 157.425 MHz (Channel 88) by aircraft consistent with the restrictions applying to other marine VHF frequencies available to aircraft.

Private Radio—3—Amendment of Parts 2 and 90 of the Commission's Rules to provide for phased implementation of a system licensing approach in the private land mobile radio services, and for the assignment of call signs on a system, rather than a single station, basis.

Private Radio—4—Amendment of Part 83 of the rules to require the availability of certain compulsory radio equipment to the operator at the vessel's steering station in use, and that the operator be a qualified radio operator.

Private Radio—5—Petition for Reconsideration of action in the First Report and Order, Docket No. 20846, phasing out interconnection in the General Mobile Radio Service.

Common Carrier—3—GTE/Telenet Section 214 Application regarding merger of Telenet with GTE.

Common Carrier—4—Telenet Corporation Petition for Expedited Reconsideration of letter order directing GTE and Telenet to obtain Section 214 authority.

Cable Television—1—Applications for special relief to continue carriage of station WRET-TV as well as a new distant independent station.

Cable Television—2—Petitions for reconsideration filed by Clearview Cable TV and Media Statistics, Inc.

Assignment and Transfer—1—Application for the voluntary assignment of the license of AM station WAIT, Chicago, Illinois, from WAIT Radio to Century Chicago Broadcasting Ltd.; and Petition to deny filed by the Citizens Committee on the Media, Robert Gallie and Ronald Grossman.

Assignment and Transfer—2—Application to assign the license of FM Station KFMR, Fremont, California, from Alameda Broadcasting, Inc., to Robert L. Williams, Inc. and James E. Coyle, d/b/a Spanish Metro (BALH-2721), et al.

Assignment and Transfer—3—Application for transfer of control of Kingstip Communications, Inc. (Delaware) (parent corporation of the licensee of Stations KTVV (TV) and KHFI-FM, Austin, Texas), from John R. Kingsbery, E. G. Kingsbery, Henry B. Tippie, et al (majority stockholders) to Mid-Texas Broadcasting, Inc. (File No. BTC-8718) and a Petition to Deny filed by Stanley Marsh 3, Tom F. Marshal Michael C. Marsh and Estelle M. Washington.

Renewal—4—Applications for renewal of licenses of Tupelo Broadcasting Co., Inc., Tupelo, Mississippi, for Radio Stations WELO and WELO-FM.

Renewal—5—Petition to deny application for renewal of license of Associated Communications Corporation for Station WPXY (FM), Rochester, New York, filed by Metro-Act of Rochester, Inc.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: April 27, 1979.

[S-856-79 Filed 4-30-79; 2:21 pm]

BILLING CODE 6712-01-M

3

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: April 27, 1979, 44 FR 25018.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: May 2, 1979, 10 a.m.

CHANGE IN THE MEETING: Date of meeting changed from May 2, 1979 to May 3, 1979, at 10 a.m.

[S-854-79 Filed 4-30-79; 9:32 am]

BILLING CODE 6730-01-M

4

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: April 27, 1979, 44 FR 21954.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: May 3, 1979, 10 a.m.

CHANGE IN THE MEETING: Addition of the following item to the open session:

8. Proposed rules governing rate increases under dual rate contracts.

[S-857-79 Filed 4-30-79; 2:50 pm]

BILLING CODE 6730-01-M

5

FEDERAL RESERVE SYSTEM (Board of Governors).

TIME AND DATE: 1 a.m., Wednesday, May 2, 1979. The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Request by the General Accounting Office for Board comment on a draft report entitled "Information Collected on Foreign Investments in United States Depository Institutions".

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: April 27, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[S-852-79 Filed 4-30-79; 9:32 am]

BILLING CODE 6210-01-M

6

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m. on May 10, 1979.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED: Subject matter will be the consideration of further revisions to the Commission's Rules of Procedure.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634-4015.

Dated: April 30, 1979.

[S-860-79 Filed 4-30-79; 8:45 am]

BILLING CODE 7600-01-M

7

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m. on May 16, 1979.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634-4015.

Dated: April 30, 1979.

[S-861-79 Filed 4-30-79; 3:27 p.m.]

BILLING CODE 7600-01-M

8

POSTAL RATE COMMISSION.

AGENCY HOLDING THE MEETING: Postal Rate Commission.

TIME AND DATE: 9:30 a.m., Thursday, May 3, 1979.

PLACE: Conference Room, room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Dockets A79-1 through A79-9 (Post Office closings or consolidations). Closed pursuant to 39 U.S.C. 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION: Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268, (202) 254-5614.

[S-853-79 Filed 4-30-79; 9:32 am]

BILLING CODE 7715-01-M

9

POSTAL SERVICE (Board of Governors).

Notice of Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9 a.m. on Wednesday, May 9, 1979, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260. The meeting is open to the public. The Board expects to discuss the matters stated in the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

Agenda

1. Minutes of the Previous Meeting.

2. Remarks of the Postmaster General. (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the occurrence of a recent Congressional hearing, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)

3. Quarterly Report on Service Performance. (Mr. Benson, Acting Senior Assistant Postmaster General, Operations Group, will present a quarterly report on service performance.)

4. Quarterly Report on Financial Performance. (Mr. Finch, Senior Assistant Postmaster General, Finance Group, will present the quarterly report on financial performance.)

5. Report on Energy Conservation Program. (Mr. Biglin, Senior Assistant Postmaster General for Administration Group, will brief the Board on Postal Service plans to hold down energy consumption by vehicles and on a program for investments to modify postal buildings to conserve energy.)

6. Capital Investment Projects:

a. Proposed Procurement of 750 Electric Vehicles. (The Board will consider a proposed procurement of 750 electric vehicles.)

b. South Suburban Management Sectional Center Facility for the Chicago, Illinois, area. (The Board will consider a proposed project for the construction of a Management Sectional Center Facility in the Chicago, Illinois, area.)

7. Proposed Clarification of Regulations Under the Private Express Statutes. (Mr. Cox, General Counsel, will brief the Board on the pending proposals to clarify the Postal Service's Private Express Regulations.)

Louis A. Cox,
Secretary.

[S-859-79 Filed 4-30-79; 3:12 pm]

BILLING CODE 7710-12-M

10

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: To be published.

STATUS: Closed meeting; open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: Tuesday, April 23, 1979.

CHANGES IN THE MEETING: Additional items. The following additional item will

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be considered at a closed meeting scheduled for Thursday, May 3, 1979, immediately following the 10 a.m. open meeting.

Opinion.—The following item will be considered at an open meeting scheduled for Thursday, May 3, 1979, at 2:30 p.m. immediately following the closed meeting.

Oral argument on an appeal by Roy Ray Seaton from disciplinary action taken against him by the National Association of Securities Dealers, Inc. For further information, please contact R. Moshe Simon at (202) 755–1530.

The following item will be considered at a closed meeting scheduled for Thursday, May 3, 1979, immediately following the 2:30 p.m. open meeting.

Post oral argument discussion.

Chairman Williams and Commissioners Loomis, and Evans, determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

April 27, 1979.

[S–858–79 Filed 4–30–79; 8:45 am]

BILLING CODE 8010–01–M

federal register

Wednesday
May 2, 1979

Part II

Department of Agriculture

Soil Conservation Service

Compliance with NEPA; General Procedure

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DEPARTMENT OF AGRICULTURE

Soil Conservation Service

[7 CFR Part 650]

Compliance With NEPA; General Procedure

AGENCY: Soil Conservation Service (SCS), U.S. Department of Agriculture, (USDA).

ACTION: Proposed rule.

SUMMARY: This revised rule prescribes the general procedures for compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)) and the Council on Environmental Quality's (CEQ) National Environmental Policy Act Regulations (40 CFR 1500–1508) issued November 29, 1978. This revised rule expands Part 650, Subpart A, to include all programs administered by SCS. The SCS rule adopts the CEQ regulations in total. The CEQ regulations will be distributed with the final SCS procedures.

DATES: Comments are due on or before June 18, 1979. A briefing on the proposed revised rules will be held on May 21, 1979, at 10:00 a.m.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, etc. to: Gary A. Margheim, Acting Director, Environmental Services Division, U.S. Department of Agriculture, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, (202) 447–3839. The hearing will be held in confrence Room 5221, South Agriculture Building, Independence Avenue, between 12th and 14th Street SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Gerold L. Lanman, Environmental Specialist, Environmental Services Division, U.S. Department of Agriculture, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, (202) 447–3849.

SUPPLEMENTARY INFORMATION: On August 8, 1977, the Soil Conservation Service published revised rules for streamlining the implementation of NEPA in SCS-assisted project actions. The revision made the environmental impact statement (EIS) an essential part of SCS decisionmaking.

This rule is a total revision of the procedures for implementing NEPA used by SCS to comply with the regulations of the Council on Environmental Quality, 40 CFR 1500–1508, published November 29, 1978. These rules are expanded to include procedures for implementing NEPA in all SCS-assisted programs. Several data-gathering and inventorying programs of SCS are categorically excluded from requirements to prepare an EIS.

SCS is introducing a new phrase, "environmental evaluation (EE)," to describe the interdisciplinary planning that is carried out before SCS takes any action in any program it administers. The phrase "environmental assessment (EA)" was formerly used by SCS to describe this planning; however, the definition of "environmental assessment" in the new CEQ regulations 40 CFR 1508.9 depicts a document rather than a process, making it necessary for SCS to use a new phrase.

These proposed rules have been developed in consultation with the staff of the Council on Environmental Quality and are consistent with the NEPA procedures of the Secretary of Agriculture.

These proposed rules have been determined to be significant under Executive Order 12044. An approved draft Impact analysis is available by contacting Gerold L. Lanman, Environmental Specialist, Environmental Services Division, U.S. Department of Agriculture, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, (202) 447–3849.

SCS will conduct a national briefing on the proposed revised rules on Monday, May 21, 1978, at 10:00 a.m. in conference Room 5221, South Agriculture Building, Independence Avenue, between 12th and 14th Street SW, Washington, D.C. All interested agencies, groups, and individuals are invited to attend.

Dated: April 23, 1979.

Norman A. Berg,
Associate Administrator, Soil Conservation Service.

(Catalog of Federal Domestic Assistance Programs numbered: 10.900; 10.901; 10.902; 10.903; 10.904; 10.905; 10.906; 10.907; and 10.908)

It is proposed to revise Part 650 of Title 7 of the Code of Federal Regulations to read as follows:

PART 650—COMPLIANCE WITH NEPA

Subpart A—Procedures for SCS Programs

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§ 650.1 Purpose.

(a) This rule prescribes procedures by which SCS is to implement the provisions of NEPA. The Soil Conservation Service recognizes NEPA as the national charter for protection, restoration, and enhancement of the environment. NEPA establishes policy, sets goals (Section 101), and provides means (Section 102) for carrying out the policy.

(b) The procedures included in this rule supplement CEQ's NEPA regulations, 40 CFR 1500–1508. CEQ regulations that need no additional elaboration to address SCS-assisted actions are not repeated in this rule, although the regulations are cited as references. 650.1(b) line 5. The procedures include some overlap with CEQ regulations. This is done to highlight items of importance for SCS. It is not intended that this supersede the existing body of NEPA regulations.

(c) These procedures provide that: (1) environmental information is to be available to citizens before decisions are made about actions that significantly affect the human environment, (2) SCS-assisted actions are to be supported by accurate scientific analyses, (3) SCS-prepared NEPA documents are to be available for public scrutiny, and (4) documents are to concentrate on the issues that are timely and significant to the action in question rather than amassing needless detail.

(d) Procedures for implementing NEPA are designed to insure that environmental consequences are considered in decisionmaking. They allow SCS to assist individuals and nonfederal public entities to take actions that protect, enhance, and restore environmental quality.

(e) To avoid delays in decisionmaking, these procedures make possible the early indentification of actions that have significant effects on the human environment.

§ 650.2 Applicability.

This rule applies to all SCS-assisted programs including the uninstalled parts of approved projects that are not covered by environmental documents prepared under previous rules for compliance with NEPA. It is effective on the date of publication of the final rule. SCS is to consult with CEQ in the manner prescribed by 40 CFR 1506.11 if it is necessary to take emergency actions.

§ 650.3 Policy.

(a) *SCS mission.* The SCS mission is to provide assistance that will allow use and management of ecological, cultural, natural, physical, social, and economic resources by striving for a balance between use, management, conservation, and preservation of the Nation's natural resource base. The SCS mission is reemphasized and expanded to carry out the mandate of section 101(b) of NEPA, within other legislative constraints, in all its programs of Federal assistance. SCS will continue to improve and coordinate its plans, functions, programs, and recommendations on resource use so that Americans, as stewards of the environment for succeeding generations—

(1) Can maintain safe, healthful, productive, and esthetically and culturally pleasing surroundings that support diversity of individual choices: and

(2) Are encouraged to attain the widest range of beneficial uses of soil, water, and related resources without degradation to the environment, risk to health or safety, or other undesirable and unintended consequences.

(b) *SCS environmental policy.* SCS is to administer Federal assistance within the following overall environmental policies:

(1) Provide assistance to Americans that will motivate them to maintain equilibrium among their ecological, cultural, natural, physical, social, and economic resources by striving for a balance between conserving and preserving the Nation's natural resource base.

(2) Provide technical and financial assistance through a systematic interdisciplinary approach to planning and decisionmaking to insure a balance between the natural, physical, and social sciences.

(3) Consider environmental quality as equal with economic, social, and other factors in decisionmaking

(4) Insure that plans satisfy identified needs and at the same time minimize adverse effects of planned actions on the natural environment through interdisciplinary planning and environmental evaluation before providing technical and financial assistance.

(5) Counsel with highly qualified specialists in many technical fields to insure broad planning and environmental evaluation.

(6) Encourage broad public participation in defining environmental quality objectives and needs.

(7) Identify and make provisions for detailed survey, recovery, protection, or preservation of unique cultural resources that otherwise may be irrevocably lost or destroyed by SCS-assisted project actions.

(8) Encourage local sponsors to review with interested publics the operation and maintenance programs of completed projects to insure that environmental quality is not degraded.

(9) Advocate the retention of important farmlands and forestlands, prime rangeland, wetlands, or other lands designated by State or local governments whenever proposed conversions are caused or encouraged by actions or programs of a Federal agency, licensed by or require approval by a Federal agency, or are inconsistent with local or State government plans. Provisions are to be sought to insure that such lands are not irreversibly converted to other uses unless other national interests override the importance of preservation or otherwise outweigh the environmental benefits derived from their protection. In addition, the preservation of farmland in general provides the benefits of open space, protection of scenery, wildlife habitat, and in some cases, recreation opportunities and controls on urban sprawl.

(10) Advocate actions that reduce the risk of flood loss; minimize effects of floods on human safety, health, and welfare; and restore and preserve the natural and beneficial functions and values of flood plains.

(11) Advocate and assist in the reclamation of abandoned surface-mined lands and in planning for the extraction of coal and other nonrenewable resources to facilitate restoration of the land to its prior productivity as mining is completed in defined areas or sites.

(12) Advocate the protection of valuable wetlands, threatened and endangered animal and plant species and their habitats, and designated ecosystems.

(13) Advocate the conservation of natural and manmade scenic resources, improve the technical ability of agencies to identify and evaluate scenic resources, and insure that its agencies protect and enhance the visual quality of the landscape.

§ 650.4 Definition of terms.

Definition of the following terms or phrases appear in 40 CFR 1508, CEQ regulations. These terms are important in the understanding and implementation of this rule. These definitions are not repeated in the interest of reducing duplication:

Categorical exclusion. (40 CFR 1508.4)
Cooperating agency. (40 CFR 1508.5)
Cumulative impact. (40 CFR 1508.7)
Environmental assessment (EA). (40 CFR 1508.9)
Environmental impact statement (EIS). (40 CFR 1508.11)
Finding of no significant impact (FNSI). (40 CFR 1508.13)
Human environment. (40 CFR 1508.14)
Lead agency. (40 CFR 1508.16)
Major Federal action. (40 CFR 1508.18)
Mitigation. (40 CFR 1508.20)
NEPA process. (40 CFR 1508.21)
Scope. (40 CFR 1508.25)
Scoping. (40 CFR 1501.7)
Significantly. (40 CFR 1508.27)
Tiering. (40 CFR 1508.28)

Environmental evaluation. The environmental evaluation (EE) (formerly referred to by SCS as an environmental assessment) is that part of planning that inventories and estimates the potential effects on the human environment of alternative solutions to resource problems. A wide range of concise and pertinent environmental data as well as social and economic information to indicate if a proposed action is a major Federal action significantly affecting the human environment are considered. The environmental evaluation for a program, regulation, or individual action is used to determine the need for an environmental assessment or an environemntal impact statement. It also aids in the consideration of alternatives and in the identification of available resources.

Notice of intent (NOI) (40 CFR 1508.22). A notice of intent is a brief statement inviting public reaction to the decision by the responsible Federal official to prepare an EIS for a major Federal action. The notice of intent is to be published in the Federal Register, Circulated to interested agencies, groups, individuals, and pulished in one or more newspapers serving the area of the proposed action.

Federally-assisted actions. These actions are planned and carried out by individuals, groups or local units of government largely on nonfederal land with technical and financial assistance provided by SCS.

Responsible Federal official (RFO). The SCS Administrator is the responsible Federal official (RFO) for compliance with NEPA regarding proposed legislation, programs, legislative reports, regulations, and program EIS's. SCS state conservationists (STC's) are the RFO's

for compliance with the provisions of NEPA in other SCS-assisted actions.

Interdisciplinary planning. SCS uses an interdisciplinary environmental evaluation and planning approach in which specialists and groups having different technical expertise act as a team to jointly evaluate existing and future environmental quality. The interdisciplinary group considers structure and function of natural resource systems, complexity of problems, and the economic, social, and environmental effects of alternative actions. Public participation is an essential part of effective interdisciplinary planning.

Record of Decision. (ROD) (40 CFR 1505.2). A record of decision is a concise, written rationale by the RFO regarding implementation of a proposed action requiring an environmental impact statement. This was previously defined by SCS as a Statement of Findings (SOF).

Channel realignment. Channel realignment includes the construction of a new channel or a new alignment and may include the clearing, snagging, widening, and/or deepening of the existing channel. (Channel Modification Guidelines, 42 FR 40120).

Project actions. A project action is a formally planned undertaking that is carried out within a specified area by sponsors for the benefit of the general public. Project sponsors are units of government having the legal authority and resources to install, operate, and/or maintain works of improvement.

Nonproject actions. Nonproject actions consist of technical and financial assistance provided to an individual, group, or local unit of government by SCS primarily through a cooperative agreement with a local conservation district. These actions may include consultations, advice, engineering, and other technical assistance that the land user is usually not capable of accomplishing without assistance. Nonproject technical and financial assistance may result in the land user installing field terraces, waterways, field leveling, on-farm drainage systems, farm ponds, pasture management, conservation tillage, critical area stabilization, and other conservation practices.

§ 650.5 Environmental evaluation in planning.

(a) *General.* Environmental evaluation (EE) is an essential part of SCS land and water resources planning. It begins when SCS personnel consult with applicants for SCS assistance on NEPA-related concerns. Environmental evaluation continues throughout planning and includes the following:

(1) Environmental evaluation identifies land and water resource problems, planning objectives, and needs of the applicants and sponsoring local organizations. It identifies the relevant factors of the environment that may be affected by the objectives. For project actions, environmental quality objectives are to be considered equally with national economic development objectives to insure their parallel development.

(2) A wide range of pertinent environmental, social, economic, and cultural data must be evaluated, giving consideration to future alternatives. The level of study committed to environmental factors is to be consistent with the planning objectives.

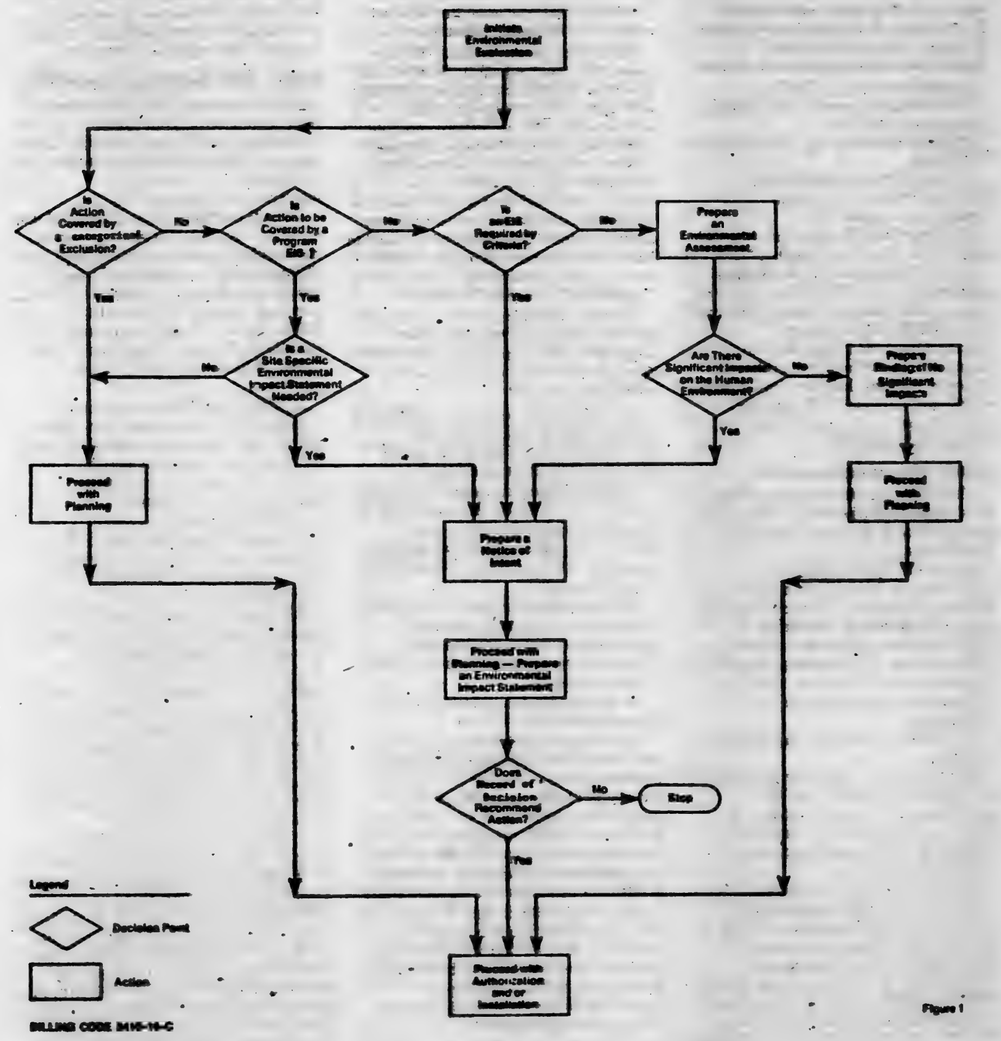
(3) The environmental evaluation assists resource planners in alternatives and analyzing effects by considering related environmental statutes and executive orders. The consideration of alternatives is to be consistent with 40 CFR 1502.14. In SCS-assisted project actions, nonstructural, water conservation, and other alternatives that are in keeping with the Water Resources Council's Principles and Standards are to be considered if appropriate.

(4) The environmental evaluation is to identify and compare environmental effects and values in sufficient detail for economic and technical analyses.

(b) *Procedures.* SCS's Guide for Environmental Assessment issued in March 1977 provides guidance for making an environmental evaluation. (42 FR 40123–40167).

(c) *Decision points.* The following flow chart (Figure 1) illustrates the decision points for compliance with NEPA in SCS decisionmaking.

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Figure 1

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§ 650.6 Categorical exclusions.

(a) Some SCS programs or parts of programs do not normally create significant individual or cumulative impacts on the human environment. Therefore, an EA or EIS is not needed. These are data gathering and interpretation programs and include—

(1) Soil Survey—7 CFR 611,

(2) Snow Survey and Water Supply Forecasts—7 CFR 612,

(3) Plant Materials for Conservation—7 CFR 613,

(4) Inventory and Monitoring—Catalog of Federal Domestic Assistance—10.908, and

(5) River Basin Studies under Section 6 of P.L. 83–566 as amended.—7 CFR 621.

(b) The environmental evaluation performed by the RFO when any new action under these programs is planned is to identify extraordinary circumstances that might lead to significant individual or cumulative impacts. Actions that have potential for significant impacts on the human environment are not eligible for categorical exclusion.

§ 650.7 When to prepare an EIS.

The following are categories of action for determining whether an EIS is to be prepared for SCS actions, programs, and regulations.

(a) *An EIS is required for*—

(1) Projects that include stream channel realignment or work to modify channel capacity by deepening or widening where significant aquatic habitat exists. If the channel supports no significant aquatic habitat, it will be reflected in the environmental evaluation.

(2) Projects requiring Congressional action.,

(3) Broad Federal assistance programs administered by SCS when the environmental evaluation indicates there may be significant cumulative impacts on the human environment (§ 650.7(e)), and

(4) Other major Federal actions that are determined after environmental evaluation to affect significantly the quality of the human environment (§ 650.7(b)). It may be necessary to complete the EE and prepare an EA if it is difficult to determine whether there is a significant impact on the human environment in order to decide if an EIS is required.

(b) The RFO is to determine the need for an EIS for each action, program, or regulation. An environmental evaluation, using a systematic interdisciplinary analysis and evaluation of data and information responding to the five provisions of Section 102(2)(C) of NEPA, will assist the RFO in deciding if the action requires the preparation of an EIS.

In analyzing the evaluating environmental concerns, the RFO is to answer the following questions:

(1) *Environmental impact.* Will the proposed action significantly affect the quality of the human environment? (40 CFR 1508.14), For example, will it significantly alter or destroy valuable wetlands, prime and unique farmland, cultural resources, or threatened and endangered species; affect social values, water quality, fish and wildlife habitats, wilderness and scenic areas; or create controversies? "Significantly" as used in NEPA requires considerations of both context and intensity. For a definition of "significantly" see 40 CFR 1508.27.

(2) *Adverse environmental effects that cannot be avoided.* What are the important environmental amenities that would be lost if the proposed action were implemented?

(3) *Alternatives.* Are there alternative methods that would achieve the planning objectives but avoid major adverse environmental effects?

(4) *Short-term uses versus long-term productivity.* Will the proposed actions, in combination with other actions, sacrifice the enhancement of significant long-term productivity as a tradeoff for short-term uses?

(5) *Commitment of resources.* Will the proposed action irreversibly and irretrievably commit the use of important resources such as prime and unique farmland.

(c) Criteria for determining the need for a program EIS:

(1) A program EIS is required if the environmental evaluation reveals that actions carried our under the program have individually insignificant but cumulatively significant environmental impacts. The RFO, through tiering, is to determine if a site specific EA or EIS is required for an individually significant action that is included in a program EIS.

(2) A project EIS, in lieu of a program EIS, is required if the environmental evaluation reveals that actions carried our under the program will have both individually and cumulatively significant environmental impacts. (7 CFR 620–623 and 640–643)

§ 650.8 When to prepare an environmental assessment (EA).

An environmental assessment (EA) is to be prepared for—

(a) Land and water resource projects that are not included in § 650.7(a) (1) through (4) for which State and local units of government receive Federal technical and financial assistance from SCS (7 CFR 620–623; and 640–643).

(b) Other actions not included in a program EIS nor categorically excluded that the EE reveals may be a major Federal action significantly affecting the quality of the human environment.

§ 650.9 NEPA and interagency planning.

(a) *Lead agency.* (1) SCS is to be the lead agency for actions under programs it administers. If the actions affect more than one State, the SCS Administrator is to designate one SCS state conservationist as the RFO.

(2) SCS normally takes the role of lead agency in actions that share program responsibilities among USDA agencies if SCS provides the majority of funds for the actions. If the lead agency role is in question, the role of SCS and other USDA agencies is to be determined by the USDA Environmental Coordinator, Office of Environmental Quality Activities.

(3) If SCS and Federal agencies outside USDA cannot agree on which will be the lead agency and which will be the cooperating agencies, the procedures contained in 40 CFR 1501.5(e) are to be followed.

(4) SCS, as lead agency, is to coordinate the participation of all concerned agencies in developing the EIS according to the provisions of 40 CFR 1501.6(a).

(b) *Cooperating agencies.* (1) SCS is to request, as appropriate, the assistance of cooperating agencies with the environmental evaluation. This assistance will broaden the expertise in the planning and help to avoid future conflict. SCS is to request assistance in determining the scope of issues to be addressed and identifying the significant issues related to a proposed action from Federal agencies that have jurisdiction by law or special expertise.

(2) SCS is to act as a cooperating agency if requested. SCS may request to be designated as a cooperating agency if proposed actions may affect areas of SCS expertise, such as prime farmlands, soils, erosion control, and agricultural sources of nonpoint pollution. SCS, as a cooperating agency, is to comply with the requirements of 40 CFR 1501.6(b) to the extent possible depending on funds, personnel, and priority. If insufficient funds or other resources prevent SCS from participating fully as a cooperating agency, SCS is to request the lead agency to provide funds or other resources to allow full participation.

(c) *Scoping.* See 40 CFR 1501.7 for a definition of scoping.

(1) SCS is to use scoping to identify and categorize significant environmental issues so that an analytical EIS can be prepared that will reduce paperwork and avoid delay. Scoping allows SCS to obtain the assistance and consultation of affected agencies that have special expertise or legal jurisdiction in the proposed action. If early environmental evaluation identifies a need for an EIS, SCS is to publish a notice of intent (NOI) to prepare an EIS. The NOI is to request the assistance of all interested agencies, groups, and persons in determining the scope of the evaluation of the proposed action.

(2) Normally a scoping meeting is held and Federal, State, or local agencies that have special expertise or legal jurisdiction in resource values that may be significantly affected are requested to participate. The scoping meeting will identify agencies that may become cooperating agencies.

(3) In the scoping meeting, the range of actions, alternatives, and impacts to be included in the EIS as defined in (40 CFR 1508.25) are to be determined. Tiering (40 CFR 1508.28) may be used to define the relation of the proposed statement to other statements.

(4) Periodic meetings of the cooperating agencies are to be held at important decisionmaking points to provide timely interagency, interdisciplinary participation.

(5) Scoping is to include the items listed in 40 CFR 1501.7(a) and may also include any of the activities in 40 CFR 1501.7(b). Appropriate, timely requests and notification are to be made to promote public participation in scoping in accordance with § 650.7 of this part.

(6) The RFO is to set time limits as prescribed in 40 CFR 1501.8. Time limits are established by SCS in consultation with sponsors according to the projected availablity of SCS resources. The RFO is to make the applicant aware of the possible need for revising time limits because of changes in SCS resources.

(d) *Public participation.* (1) *General.* Public participation activities begin early in the EE and are to be appropriate to the proposed action. For example, extensive public participation activities are required in the implementation of new programs and project actions, but limited public participation is appropriate for nonproject technical and financial assistance programs on nonfederal land.

(2) *Early public involvement.* The public is to be invited and encouraged to participate in the early stages of planning, including the consideration of the potential effects of SCS-assisted actions on significant environmental resources such as wetlands, flood plains, cultural values, endangered species, prime and unique farmland, etc.

(3) *Project activities.* The following are general considerations for providing opportunities for public participation:

(i) *Identification of interested public.* The interested public consisting of but not limited to individuals, groups, organizations, and government agencies is to be identified, sought out, and encouraged to participate in and contribute to interdisciplinary planning and environmental evaluation.

(ii) *Public notices.* (40 CFR 1506.6) If the effects of an action are primarily of local concern, notice of each public meeting or hearing should be: Submitted to State and areawide clearinghouses pursuant to OMB circular A–95 (revised); submitted to indian tribes if they are interested; published in local newspapers; distributed through other local media; provided to potentially interested community organizations including small business associations; published in newletters that may be expected to reach potentially interested persons; mailed directly to owners and occupants of nearby or affected property; and posted onsite and offsite in the area where the action is to be located.

(iii) *State statutes.* If official action by the local units of government cooperating in the proposal is governed by State statute, the public notice and mailing requirement of the statute is to be followed. If the effects of an action are of national concern, notice is to be published in the **Federal Register** and notice mailed to national organizations reasonably expected to be interested.

(iv) *Public meetings.* The RFO, after consultation with the sponsors, it to determine when public meetings or hearings are to be held. Public meetings may be in the form of a workshop, tour, open house, etc. Environmental information is to be presented and discussed along with other appropriate information. To the extent practical, pertinent information should be made available before the meetings.

(v) *Documentation.* The RFO is to maintain a reviewable record of public participation in the environmental evaluation and planning.

(4) *Nonproject activities.* Public participation in the planning and application of conservation practices with individual land users is accomplished primarily through conservation districts. These districts are governed by boards of supervisors, directors, commissioners, etc., who are elected to insure that soil, water, related resources, and environmental qualities in the district are maintained and improved. The public is to be encouraged to participate in the development of long-range district programs and district annual plans. The district keeps the public informed through public meetings, district newsletters, news stories, radio and television programs, and annual reports.

§ 650.10 Adoption of an EIS prepared by a cooperating agency. (40 CFR 1506.3)

(a) If SCS adopts and EIS prepared by another agency, the RFO is to review the document to insure that it meets the requirements of the CEQ regulations and SCS–NEPA procedures.

(b) If the actions included in the EIS are substantially the same as those proposed by SCS, the RFO is to recirculate the EIS as "final." The final EIS is to include an appropriate explanation of the action. If these actions are not substantially the same the EIS is to be supplemented and recirculated as a draft EIS. The RFO is to inform the preparing agency of the proposed action.

(c) If the adopted EIS is not final, if it is the subject of a referral under 40 CFR 1504, or if the statement's adequacy is in litigation, the RFO is to include an appropriate explanation in the EIS.

(d) The RFO is to take appropriate action to inform the public and appropriate agencies of the proposed action.

§ 650.11 Environmental documents.

(a) SCS is to use the following documents in compliance with NEPA (see § 650.4):

(1) Environmental assessments (EA)

(2) Environmental impact statements (EIS)

(3) Notice of intent (NOI)

(4) Finding of no significant impact (FNSI)

(5) Record of Decision (ROD)

(b) The format and content of each document is to be appropriate to the action being considered and consistent with the CEQ regulations.

(1) To reduce duplication, SCS may combine environmental documents with other planning documents concerning a proposal as appropriate. For example, SCS, in consultation with CEQ and the office of the Secretary of Agriculture, has determined that each EIS is to satisfy the requirements for a regulatory impact analysis as required by Executive Order 12044. This will necessitate modifying the recommended CEQ format. If documents are combined, the RFO is to include the information and sections required by the CEQ regulations (40 CFR 1502.10).

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(2) The RFO is to establish the format and content of each document giving full consideration to the guidance and requirements of the CEQ regulations. The SCS technical service center director is to provide guidance and concurrence on the format if the SCS state conservationist is the RFO. The results of scoping are to determine the content of the EA or the EIS and the amount of detail needed to analyze the impacts.

(3) In addition to the minimum requirements of the CEQ regulations (40 CFR 1502.10), environmental assessments and environmental impact statements are to include a section describing public participation activities of agencies, groups, and individuals during the environmental evaluation and planning. As appropriate, the section is to address the hazard potential of each alternative and include potential safety programs. It should include information pertaining to any approved regional plans for water resource management in the study area. It is also to address whether the proposed project is consistent with such plans, or if it is not, describe the reasons for the inconsistency. The section should describe major environmental problems, conflicts, and disagreements among groups and agencies and how they were resolved. Unresolved conflicts and the SCS's proposal for resolving the disagreements before the project is implemented are to be summarized.

(4) *Letters of comment and responses.* (40 CFR 1503.4) Letters of comment that were received and the responses to these comments are to be appended in the final EIS. Opposing views and other substantive comments that were not adequately discussed in the draft EIS are to be incorporated in the final EIS. To the maximum extent practicable, changes made in response to substantive comments are to be included in the final EIS.

(5) *Appendix.* The RFO is to decide if an appendix to an EA or EIS is needed. If the appendix is voluminous or otherwise not included with the EIS, its RFO is to make it available on request. If the appendix is included it is to—

(i) Meet the requirements of 40 CFR 1502.18,

(ii) Identify any methodologies used and make explicit reference to other sources relied on for conclusions, and

(iii) Describe the relationship between that analysis and any analysis of unquantified environmental impacts, values, and amenities if a cost benefit analysis has been prepared and the EIS is not part of a combined document. "For purposes of complying with the Act, *the weighing of the merits or drawbacks of the various alternatives need not be displayed* in a monetary cost-benefit analysis * * *." (40 CFR 1502.23). The environmental impact statement should indicate those considerations, including factors not related to environmental quality, that are likely to be relevant to a decision.

§ 650.12 SCS decisionmaking.

(a) *General.* The purpose of these procedures is to insure that environmental information is provided to decisionmakers in a timely manner. The NEPA process, is a part of SCS decisionmaking. The RFO is to insure that the policies and purposes of NEPA and CEQ regulations are complied with in SCS decisionmaking by:

(1) Including in all decision documents and supporting environmental documents a discussion of all alternatives considered in the decision. Alternatives to be considered in reaching a decision are to be made available to the public.

(2) Submitting relevant environmental documents, comments, and responses with other decision documents through the review process.

(3) Including in the record of formal rulemaking or adjudicatory proceedings relevant environmental documents, comments, and responses.

(4) Providing for pre- and post-project monitoring and evaluation in representative projects to insure that planning and evaluation procedures are preformed according to sound criteria.

(b) *Decision points in SCS-assisted projects.* SCS administers programs that may have a significant effect on the human environment. Program procedures incorporate provisions for compliance with NEPA and for providing environmental information to the public, other agencies, and decisionmakers in a timely manner. SCS provides technical and financial assistance for projects under the Watershed Protection and Flood Prevention and the Resource Conservation and Development (RC&D) programs. These usually require the preparation of project EA's or EIS's. The major decisionmaking points are as follows:

(1) For Watershed Protection and Flood Prevention projects:

(i) Application for assistance by the sponsoring local organization (SLO) that includes information on the potential environmental impacts.

(ii) A preauthorization report identifying goals, alternatives, and effects of alternatives (including environmental impacts) prepared by the RFO and submitted to the applicant for decision. It is circulated to local, State, and Federal agencies and public comment is solicited. A decision is made to stop planning assistance or to develop a watershed plan.

(iii) Granting of planning authorization by the Administrator that requires the RFO to provide an evaluation of the potential environmental impacts.

(iv) A watershed agreement between the SLO and the SCS after a watershed plan and associated environmental documents have been prepared and the review has been completed.

(v) A project agreement between the SLO and the RFO executed after the watershed plan has been approved and final plans and specification have been developed.

(2) For RC&D measure plans:

(i) A request for assistance (measure proposal) is reviewed by the RC&D council to insure that the proposal is in accordance with the RC&D area plan. The proposal is then referred to SCS.

(ii) A preliminary report is prepared by the RFO to indentify goals, alternatives, and effects (including environmental impacts) and is submitted to the sponsor for review. The sponsor may then apply to SCS for planning assistance for measures considered in the preliminary report.

(iii) An authorization for planning assistance is granted by the RFO.

(iv) The RC&D measure plan is signed by the applicant and the RFO after the preparation and review of the measure plan and environmental documents.

(v) A project agreement is signed between the applicant and the RFO after the measure plan has been approved and a final plan and specifications have been prepared.

(c) *Record of decision.* (1) *EIS's.* The RFO is to prepare a concise record of decision called a Record of Decision (ROD) for actions requiring an EIS. The Record of Decision is to be prepared before a plan is submitted to a Congressional committee and following the 30-day administrative action period initiated by EPA's publication of the notice of availability of the final EIS in the **Federal Register.** It is to be signed and dated by the RFO and serves as the public record of decision as described in section 1505.2 of the CEQ regulations, and is to be distributed to all those who provided substantive comments on the draft EIS.

(2) *EA's.* If the EA indicates that the proposed action is not a major Federal action singificantly affecting the quality of the human environment, the RFO is to prepare a finding of no significant impact (FNSI).

(3) *Publication of Record of Decision or FNSI.* The RFO is to distribute a Record of Decision or an FNSI to interested agencies and individuals. They are to be published in the **Federal Register** and in one or more newspapers serving the area of the proposed action. Single copy requests for the documents are to be filled without charge. A charge is to be made for multiple copies. Implementation of the proposed action is to be initiated for 30 days after the Record of Decision or FNSI has been published in the **Federal Register.**

(d) *Changes in projects.* Before making changes in programs and projects not categorically excluded that will change the environmental effects, the RFO is to initate an environmental evaluation of the proposed action. The RFO is to determine the need to prepare and circulate needed environmental documents according to the environmental evaluation.

§ 650.13 Review and comment.

In addition to the requirements contained in 40 CFR 1503, 1506.10 and 1506.11, SCS is to take the following steps in distributing EIS's for review and comment:

(a) *Draft EIS's.* Five copies of the draft EIS are to be filed by the RFO with the Office of Federal Activities, Environmental Protection Agency (EPA), Washington, D.C. At the same time, the RFO is to send copies of the draft EIS to the following:

(1) *Other Federal agencies.* Agencies that have jurisdiction by law or special expertise with respect to any environmental effect, other Federal agencies (including appropriate field and regional offices), and affected Indian tribes are to receive copies of the draft EIS.

(2) *State and local agencies.* OMB Circular No. A–95 (Revised), through its system of State and areawide clearinghouses, provides a means for obtaining the views of State and local environmental agencies that can assist in the preparation and review of EIS's.

(3) *Organizations, groups, and individuals.* A copy of the draft EIS it to be sent to the appropriate official of each organization or group and each individual who has requested a copy. A charge may be made for multiple copy requests.

(b) *Time period for comment.* The time period for review ends 45 days after the date EPA publishes the notice of public availability of the draft in the **Federal Register.** A 15-day extenstion of time for review and comment is to be considered by the RFO when such requests are submitted in writing. If neither comments nor a request for an extension is received at the end of the 45-day period, it is to be presumed that the agency or party from whom comments were requested has no comments to make.

(c) *News releases.* In addition to the EPA **Federal Register** notice of availability, the RFO is to announce the availability of the draft EIS in one or more newspapers serving the area.

(d) *Revising a draft EIS.* If significant changes in the proposed action are made as a result of comments on the draft EIS, a revised draft EIS may be necessary. The revised draft EIS is to be recirculated for comment in the same manner as a draft EIS.

(e) *Final EIS's.* After the review period for the draft EIS, the RFO is to prepare a final EIS, making adjustments where necessary by taking into consideration and responding to significant comments and opposing viewpoints received on the draft EIS. The following steps are to be taken in filing and distributing the final EIS:

(1) Letters of comment are to be appended to the final EIS. If numerous repetitive responses are received, summaries of the repetitive comments and a list of the groups or individuals who commented may be appended in lieu of the actual letter.

(2) The RFO is to send five copies of the final EIS to EPA and a copy of the final EIS to each State and Federal agency, organization, group, and individual who commented on the draft EIS. Single copy reqests for copies of the final EIS will be provided. A charge may be made for multiple copy requests.

(f) *Supplements to EIS's.* (1) If SCS determmines that is is necessary to clarify or amplify a point of concern raised after the final EIS is filed with EPA, appropriate clarification or amplification is to be sent to EPA with information copies furnished to those who received copies of the final EIS. The waiting periods do not apply.

(2) If the RFO determines that the final EIS previously filed becomes inadequate because of a major change in the plan for the proposed action that significantly affects the quality of the human environment, a new EIS is to be prepared, filed, and distributed as described in this section.

[FR Doc. 79-13686 Filed 5-1-79; 8:45 am]
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federal register

Wednesday
May 2, 1979

Part III

Federal Emergency Management Agency

Establishment of CFR Title and Chapter

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Chapter I

Establishment of Title and Chapter

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Reorganization Plan No. 3 of 1978 established the Federal Emergency Management Agency (FEMA). The plan was activated effective April 1, 1979 by Executive Order 12127 of March 31, 1979, "Federal Emergency Management Agency". This plan, and an executive order to be issued in the near future, will transfer to the new agency functions to five existing agencies. Since these agencies have regulations separately published in four different titles of the Code of Federal Regulations (Titles 24, 32, 32A and 45), it would be beneficial to consolidate and codify them in a single new title of the Code.

It has been determined that publication of this rule as a proposal for public comment is unnecesary as it deals only with establishment and arrangement of the title.

Therefore this publication establishes that title and describes the Subchapters of Chapter I titled "Federal Emergency Management Agency".

EFFECTIVE DATE: May 2, 1979.

ADDRESS: Federal Emergency Management Agency, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: George W. Jett, Acting General Counsel, Federal Emergency Management Agency, Washington, DC 20472, Phone: AC 202 632-9680.

SUPPLEMENTARY INFORMATION:

Functions Transferred by Reorganization Plan No. 3 of 1978

Reorganization Plan No. 3 transfers to FEMA functions, including those established under the following statutes:

(a) The Federal Fire Prevention and Control Act of 1974, as amended, (15 U.S.C. 2201 *et seq*).

(b) The National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended, (42 U.S.C. 4001 *et seq*).

(c) Title XII of the National Housing Act, as amended, (12 U.S.C. 1749bbb *et seq*).

Oversight functions in connection with the Emergency Broadcast System were also transferred to FEMA by the Reorganization Plan.

Functions To Be Transferred by Executive Order

The President's message transmitting the Reorganization Plan to Congress (Weekly Compilation of Presidential Documents, Vol. 15, p. 1129, June 19, 1978) states that all authorities and functions vested by law in the President under the Federal Civil Defense Act of 1950, as amended, (50 U.S.C. App. 2251 *et seq*) and the Disaster Relief Acts of 1970 and 1974, as amended (42 U.S.C. 4401 *et seq* and 42 U.S.C. 5121 *et seq*) are to be transferred to FEMA.

The Presidential authorities presently vested in the Federal Preparedness Agency (to include policy formulation for the National Stockpile) are to be transferred to FEMA.

Additional functions not presently assigned to any of the five agencies are to be delegated to FEMA. These include oversight responsibility for the earthquake hazards reduction program, coordination of the dam safety program, community readiness for severe weather related emergencies, disaster warning coordination and coordination of preparedness activities to reduce the consequences of major terrorist incidents.

Establishment and Organization of Title

With the anticipated transfer of those functions not presently a part of FEMA, with the transfers which have occurred, and because FEMA can be expected to issue new regulations for functions not currently addressed, it will be advantageous to consolidate the various program regulations appearing in four different titles of the Code of Federal Regulations.

Therefore, all regulations presently transferred or to be moved into FEMA will be reorganized into a single title, "Federal Emergency Management and Assistance". Chapter I will pertain to the Federal Emergency Management Agency.

Subchapter A sets forth regulations with general applicability to all FEMA components; these regulations will address such areas as the Statement of Organization, the Freedom of Information Act, issue and review of regulations, and standards of conduct.

Subchapter B and C are regulations transferred from the Federal Insurance Administration and the United States Fire Administration.

Subchapter D and E, upon issuance of the proposed executive order, will be regulations transferred from the Federal Disaster Assistance Administration, the Defense Civil Preparedness Agency, and the Federal Preparedness Agency.

Remaining subchapters will be reserved for any additional agency functions, and other chapters can deal with other agencies.

Accordingly, a new Title 44 of the Code of Federal Regulations entitled "Federal Emergency Management and Assistance" is hereby established with the following Chapter I and subchapters A–E.

Title 44

Chapter I—Federal Emergency Management Agency
Subchapter A—General
Parts 0–49—
Subchapter B—Federal Insurance and Hazard Mitigation
Parts 50–149—
Subchapter C—Fire Prevention and Control
Parts 150–199—
Subchapter D—Disaster Assistance
Parts 200–299—
Subchapter E—Preparedness
Parts 300–399—

Reorganization Plan No. 3 of 1978 (43 FR 41943) and Executive Order 12127 dated March 31, 1979 (44 FR 19367).)

Dated: April 26, 1979.

Gordon Vickery,
Acting Director.

[FR Doc. 79-13849 Filed 5-1-79; 8:45 am]
BILLING CODE 4210-23-M

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federal register

Wednesday
May 2, 1979

Part IV

Council on Wage and Price Stability

Noninflationary Pay and Price Behavior; Adoption of Form PM-1 and Correction of Technical Errors

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Parts 705 and 706

Noninflationary Pay and Price Behavior; Adoption of Form PM–1 and Correction of Technical Errors

AGENCY: Council on Wage and Price Stability.

ACTION: Adoption of reporting form and correction of technical errors.

SUMMARY: The Council is adopting a quarterly reporting form, designated as Form PM–1, and is also correcting certain minor technical errors in its rules.

EFFECTIVE DATE: May 2, 1979.

FOR FURTHER INFORMATION CONTACT: Albert Ross, Office of Price Monitoring, Council on Wage and Price Stability, 600 17th St., NW., Washington, D.C. 20506 (202/456–7725).

SUPPLEMENTARY INFORMATION: On March 29, 1979, the Council intensified its monitoring of compliance with the voluntary price standards by announcing that certain firms would be asked to provide base-period data, as well as quarterly data concerning price actions during the program year. In adopting procedural rules to implement the monitoring program, the Council announced that it would issue a quarterly reporting form, Form PM–1, and provided in 6 CFR 706.27 that certain companies would be requested to furnish data in accordance with this form (44 FR 23776, April 20, 1979).This notice contains Form PM–1, and instructions for completing it. While the April 20 notice indicated that the initial filing date would be May 7, 1979, this data has now been moved forward to May 18, 1979.

The data collected by Form PM–1 will be used by the Council to determine the extent to which firms have complied with the voluntary standards on price deceleration, gross margins, and the profit margin limitation. While the submission of data is voluntary, the Council views the access to timely, uniformly defined data as essential to the effective monitoring of compliance with the standards. The data will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Parts 702 and 704, 44 FR 5339 (January 25, 1979).

As provided in § 706.27, any company that had, or is part of a parent company that had, consolidated net sales or revenues of $250 million or more in its last complete fiscal year prior to October 2, 1978, and any other company designated by the Council, is requested to file the form and the appropriate accompanying schedules. However, financial institutions covered by Section 705C–9, insurance companies covered by Sections 705C–5 and 705C–6, and electric and gas utilities covered by Section 705C–8 are not requested to submit this information.

Data should be filed on a separate form for each company as specified in the plan for company organization previously submitted to the Council. If a plan of company organization is not on file with the Council, a plan of company organization should accompany submission of the form.

The Council has determined that the data requested by Form PM–1 will be readily available to any company, and that it can be assembled without undue effort or expense provided that the company has instituted a program for compliance with the voluntary standards. Moreover, in accordance with § 706.20, if a company has furnished the Council with any of the data requested by Form PM–1, it need not furnish it again, although it should identify for the Council the document (including page references) containing such data and the date on which it was submitted.

This form was submitted to the Office of Management and Budget in accordance with the Federal Reports Act, and was approved under No. 116–R0357.

(Council on Wage and Price Stability Act, Pub. L. 93–387, as amended (12 U.S.C. 1904, note); E.O. 12092.)

In consideration of the foregoing, the Council is adopting Form PM–1, and amending Chapter VII, Title 6 of the Code of Federal Regulations in the appendix to Part 705 and in Part 706 to read as follows.

Issued in Washington, D.C., April 27, 1979.

Barry Bosworth,
Director, Council on Wage and Price Stability.

1. Section 705C–6 in the appendix to Part 705 is amended by deleting the comma (,) after the word "If" and the phrase "in accordance with paragraph (a)" from paragraph (b)(1).

2. Section 706.61 is amended in the first sentence by inserting the term "§ 706.60" after the word "Section."

3. Form PM–1 and accompanying instructions are adopted to read as follows:

BILLING CODE 3175-01-M

Form PM-1 CWPS Winder Building 600 17th Street, N.W. Washington, D. C. 20506	PROGRAM YEAR REPORT ON PRICES, SALES AND PROFITS FOR QUARTER ENDING _____, 19____ OMB NO: 116-R0357	REPORT FOR: ☐ 6 Months (2nd Qtr.) ☐ 9 Months (3rd Qtr.) ☐ 12 Months (4th Qtr.)	CWPS USE ONLY Company No: Primary SIC:

Part I - Identifying Data

1. Reporting Status
   a. ☐ Consolidated Parent
   b. ☐ Disaggregated Company
   c. ☐ Unconsolidated Company

2. Parent Company Data	3. Data on Company Covered by this filing (Compliance Unit) (Complete only if different from item 2)
(a. Name of Company)	(a. Name of reporting company)
(b. Address (Number and Street))	(b. Address (Number and Street))
(City or Town, State and ZIP code)	(City or Town, State and ZIP code)
c. Ending date of most recent fiscal year prior to 10/2/78 (mo., day, yr.)	c. Ending date of most recent fiscal year prior to 10/2/78 (mo., day, yr.)
d. Identification Number	d. Identification Number
e. Revenues ($000) $	e. Revenues ($000) $

4. a. Program Year of Reporting Company (mo., day, yr.)
   From _____ To _____
4. b. Date of this Report (mo., day, yr.)
   _____, 19____

Part II - Report "Schedule" Attachments

A. ☐ Report of Price Data (by product line)	B. ☐ Report of Retail and Wholesale Trade (percentage gross margin)	C. ☐ Report of Food Manufacturers and Processors (gross margins)
D. ☐ Report of Petroleum Refiners (gross margins)	E. ☐ Report of Profit Margin Data	

Part III - Certification

To the best of my knowledge and belief, the data submitted herewith are factually correct, complete and prepared in accordance with the applicable instructions. It is requested that the information submitted herewith be considered as confidential within the meaning of Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, Note, and 6 CFR Parts 702 and 704, 44 FR 5339 (January 25, 1979).

Chief Executive Officer of parent firm or other authorized executive officer (please type)

Name and title: _____ Name of Company: _____

Telephone number (include area code) _____

Sign here _____ _____ (Date)

Forward this form and all supporting documents to: Office of Price Monitoring, Council on Wage and Price Stability, Winder Building, 600 17th Street, N.W., Washington, D. C. 20506. Indicate "Submission of Form PM-1" in the lower left hand corner of the envelope.

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Schedule A
Form PM-1

COUNCIL ON WAGE AND PRICE STABILITY

REPORT OF

PRICE DATA BY PRODUCT LINE

PROGRAM YEAR REPORT FOR QUARTER ENDING:

_____, 19

OMB NO: 116-R0357

CWPS USE ONLY
COMPANY NUMBER:
PARENT
REPORTING COMPANY

1. Name of Reporting Company (As shown on Part I, Block 2 or 3 Form, PM-1)

2. Base-Period Rate of Price Change (BPRC)

a. Base period (month, day, year)

Quarter ending _____, 19__

b. Was the suggested CWPS formula utilized?

(1) ☐ Yes (2) ☐ No (If "No" explain methodology)

c. Were sampling techniques utilized?

(1) ☐ Yes (2) ☐ No

d. Were average realized prices used?

(1) ☐ (2) ☐ No (If "No" explain)

3i. Calculation of base-period and reporting period program-year rates of price change

Product Line (a)	CWPS Use Only (b)	Base Period Covered Net Sales or Revenues ($000) (c)	Base Period Rate of Price Change (d)	Base Quarter Covered Net Sales or Revenues ($000) (e)	Reporting Quarter Rate of Price Change (f)
(1)		$	%	$	%
(2)					
(3)					
(4)					
(5)					
(6) Total Carried from Supporting Page(s)					
3ii. Total - Covered Net Sales or Revenues		$		$	
3iii. Sales-Weighted Average Rates of Price Change			%		%
(1) Less: Deceleration Percentage			.5		
(2) Sub Total					
(3) Less: Pay Deceleration Passthrough					
3iv. Allowable Program-Year Rate of Price Change (see instructions)			%		

4. Allowable Program-Year Rate of Price Change Thru Reporting Quarter %

5. Supporting Documentation Page: A-_____ Thru A-_____

Schedule B
Form PM-1

COUNCIL ON WAGE AND PRICE STABILITY

REPORT OF

RETAIL AND WHOLESALE TRADE

PERCENTAGE GROSS MARGINS

PROGRAM YEAR REPORT FOR QUARTER ENDING:

_____, 19

OMB NO: 116-R0357

CWPS USE ONLY
COMPANY NUMBER
PARENT
REPORTING COMPANY

1. a. Name of Reporting Company (as shown on Part I, Block 2 or 3 Form PM-1)

b. Address (Street, City, State and ZIP code)

2. a. Name of Reporting Unit (if different from 1a)

b. Address (Street, City, State, and ZIP code)

c. Program Year of Reporting Company or Entity (Month, Day, Year)

From _____ To _____

3. a. Method selected for compliance in Program Year

(1) ☐ Base-year percentage gross margin

(2) ☐ Gross-margin trend

3. b. Inventory Method:

(1) ☐ LIFO (3) ☐ Other (If "Other" provide supporting methodology)

(2) ☐ FIFO

4. Base-year percentage gross margin method ($000)

i. Allowable:

(1) Net sales (adjusted for discounts, returns, coupons, etc.) $_____

(2) Beginning inventory $_____

(3) Plus: Cost of goods purchased +_____

(4) Sub Total $_____

(5) Less: Ending inventory -_____

(6) Cost of goods sold -_____

(7) Gross margin on sales $_____

(8) Allowable percentage gross margin on sales ((line 7 ÷ Line 1) x 100) %

5. Gross-margin-trend method

i. Allowable	Base Year (a)	Year Ended Two Years Prior (b)	Ratio $\left(\frac{5i(1)(a)}{5i(1)(b)}\right)$ (c)	Allowable Trend (d)
(1) Percentage gross margin	%	%		
(2) Gross-margin-trend on sales				%
(3) Allowable gross-margin trend (item 4i(8)) x (1 + item 5i(2))				%

6. Program-year compliance test	1st Quarter (a)	2nd Quarter (b)	3rd Quarter (c)	4th Quarter (d)
(1) Actual Net Sales ($000)	$	$	$	$
(2) Actual Percentage Gross Margin	%	%	%	%
(3) Allowable Percentage Gross Margin	%	%	%	%

7. Supporting Documentation Page: B-_____ Thru B-_____

Schedule C
Form PM-1

COUNCIL ON WAGE AND PRICE STABILITY

REPORT OF

FOOD MANUFACTURERS AND PROCESSORS

GROSS MARGINS

PROGRAM YEAR REPORT FOR QUARTER ENDING:

_____, 19

OMB NO: 116-R0357

CWPS USE ONLY
COMPANY NUMBER:
PARENT
REPORTING COMPANY

1. a. Name of Reporting Company (as shown on Part I, Block 2 or 3 Form PM-1)

b. Address (Street, City, State, and ZIP code)

2. a. Name of Reporting Unit (if different from 1a)

b. Address (Street, City, State, and ZIP code)

3. Method selected for compliance in the program year

a. ☐ Base-quarter gross margin b. ☐ Alternative gross margin

4. Base-period and program-year gross margin ($000)

a. Base-quarter gross margin

(1) Net sales (adjusted for discounts, returns, coupons, etc.) $_____

(2) Less: Food ingredients used in manufacturing -_____

(3) Base-quarter gross margin $_____

(4) Alternative gross margin (base quarter sales (line 4a(1)) x (average percentage gross margin for the base year) $_____

b. Allowable program year gross margin

(1) Base-period gross margin (base quarter margin (line 4a(3)) or alternative gross margin (line 4a(4) above) $_____

(2) Plus: Allowable gross margin growth (line 4b(1) x 0.065) +_____

(3) Sub Total $_____

(4) Plus: Physical volume increase _____% x (line 4b(3)) +_____

(5) Allowable program-year gross margin $_____

5. Program year compliance test ($000)	1st Quarter (a)	2nd Quarter (b)	3rd Quarter (c)	4th Quarter (d)
(1) Actual Gross Margin	$	$	$	$
(2) Allowable Gross Margin	$	$	$	$

6. Supporting documentation: Page C-_____ Thru C-_____

Schedule D
Form PM-1

COUNCIL ON WAGE AND PRICE STABILITY

REPORT OF

PETROLEUM REFINERS

GROSS MARGINS

PROGRAM YEAR REPORT FOR QUARTER ENDING:

_____, 19

OMB NO: 116-R0357

CWPS USE ONLY
COMPANY NUMBER:
PARENT
REPORTING COMPANY

1. a. Name of Reporting Company (as shown on Part I, Block 2 or 3 Form PM-1)

b. Address (Street, City, State and ZIP Code)

2. a. Name of Reporting Unit (if different from 1a)

b. Address (Street, City, State, and ZIP Code)

3. a. Were the required adjustments made for changes in input mix?

(1) ☐ Yes

(2) ☐ No (If "No" explain)

3. b. Were adjustments made for changes in product sales mix?

(1) ☐ Yes (If "Yes" explain)

(2) ☐ No

4. Base-quarter and program-year gross margins ($000)

a. Base quarter gross margin

(1) Sales (adjusted for discounts, returns, coupons, etc.) $_____

(2) Less. Cost of petroleum ingredients, which are petroleum, petroleum products, natural gas, natural gas liquids and natural gas liquid products. -_____

(3) Gross margin in base quarter $_____

b. Allowable program-year gross margin

(1) Gross margin in base quarter (from item 4a(3)) $_____

(2) Plus: Allowable gross-margin growth (item 4a(3) x (.065)) +_____

(3) Sub Total $_____

(4) Plus: Physical volume increase _____% x (item 4b(2)) +_____

(5) Allowable program-year gross margin $_____

c. Program-year compliance test ($000)	1st Quarter (a)	2nd Quarter (b)	3rd Quarter (c)	4th Quarter (d)
1. Actual Gross Margin	$	$	$	$
2. Allowable Gross Margin	$	$	$	$

6. Supporting Documentation: Page D-_____ Thru D-_____

Schedule E Form PM-1	COUNCIL ON WAGE AND PRICE STABILITY REPORT OF PROFIT MARGIN DATA PROGRAM YEAR REPORT FOR QUARTER ENDING: _____, 19 OMB NO: 116-R0357	CWPS ONLY COMPANY NUMBER PARENT REPORTING COMPANY

1. a. Name of Reporting Company (as shown on Part I, Block 2 or 3 Form PM-1)

1. b. Basis for Use of Profit Margin Limitation:

(1) ☐ Exception to the price deceleration standard granted by CWPS.
(2) ☐ Self-administered exception to the price standard.
(3) ☐ Insufficient product coverage (Part 705A-5(b))

2. Profit Margin Data

2i. Profit and Net Sales or Revenue Data	LAST THREE FISCAL YEARS COMPLETED PRIOR TO OCTOBER 2, 1978 (a)	(b)	(c)	CWPS Use Only (d)
1. Fiscal Years Ending Dates (mo., day, yr.)				
2. Net Sales or Revenues	$	$	$	
3. Profit	$	$	$	
2ii. Profit-Margin Limitation				%

2iii. Program-Year Profit Margins	1st Quarter (a)	2nd Quarter (b)	3rd Quarter (c)	4th Quarter (d)
1. Actuals	%	%	%	%

3. Allowable Program-Year Profit

3i. Method of calculating base-year profit

(1) ☐ Actual (2) ☐ Adjusted (Base Period Revenues $_____)

3ii. Calculation (Annual Only)

1. Total base-year profit (BYP) $_____
2. Plus: Allowable Program-Year Growth (line (1) x (.065) +_____
3. Sub Total $_____
4. Plus: Physical Volume Increase _____% x (line (3)) +_____
5. Allowable Program-Year Profit $_____

4. Program-Year Profit Test	1st Quarter (a)	2nd Quarter (b)	3rd Quarter (c)	4th Quarter (d)
1. Actuals	$	$	$	$

5. Supporting Documentation: Page E-_____ Thru E-_____

BILLING CODE 3175-01-C

Instructions for Preparation of Form PM-1—Program Year Report on Prices, Sales, and Profits

General Instructions

Purpose of Form PM-1.—As part of the President's Anti-Inflation Program, the Council on Wage and Price Stability (the Council) has issued Voluntary Standards for Noninflationary Pay and Price Behavior. These standards appear at 43 FR 60772 (December 28, 1978); 44 FR 9582 (February 13, 1979); and 44 FR 17910 (March 23, 1979). The standards are further explained by the "Pay and Price Standards—Implementation Guide" at 44 FR 5339 (January 25, 1979) and by the questions and answers appearing with these publications. Special Procedural Rules for complying with the standards appear at 44 FR 1346 (January 4, 1979); 44 FR 5337 (January 25, 1979); 44 FR 9585 (February 13, 1979); 44 FR 17916 (March 23, 1979); and 44 FR 23777 (April 20, 1979).

Form PM-1 is used by the Council as a means for collecting data from companies. The data will be used to determine the extent to which firms have complied with the voluntary standards on price deceleration, gross margins, and the profit margin limitation. While the submission of data is voluntary, the Council views the access to timely, uniformly defined data as essential to the effective monitoring of compliance with the standards.

The Council on Wage and Price Stability Act, 12 U.S.C. Section 1904, note, authorizes the Council to collect data on prices, sales and profits, such as are requested on Form PM-1.

Confidentiality of Information.—Information furnished to the Council pursuant to this request will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Parts 702 and 704, 44 FR 5339 (January 25, 1979).

Suggestions for Improvement.—The Council welcomes suggestions for improving these forms. In general, it seeks ways of obtaining the information it needs to exercise its responsibilities for monitoring compliance with the Voluntary Standards for Noninflationary Pay and Price Behavior with the minimum reporting burden on reporting companies.

Who Should File.—A company that had, or is part of a parent company that had, consolidated net sales or revenues of $250 million or more in its last complete fiscal year prior to October 2, 1978, and any other company designated by the Council, is requested to file with the Council information specified in "What to File", below. However, financial institutions covered by Section 705C-9, insurance companies covered by Sections 705C-5 and 705C-6, and electric and gas utilities covered by Section 705C-8 are not requested to submit this information.

Data should be filed on a separate form for each company as specified in the plan for company organization previously submitted to the Council. If a plan of company organization is not on file with the Council, a plan of company organization should accompany this form.

If a parent company chooses to disaggregate a consolidated entity for compliance purposes, each separately identified entity must fulfill the requirements for disaggregation as set forth in the definition of company in Subpart 706D of the Voluntary Standards for Noninflationary Pay and Price Behavior and in Section 706.21 of the Special Procedural Rules.

What to File.—Each reporting company is requested to submit Form PM-1 and Schedule E, items 1a and 2i. In addition, each reporting company is requested to submit one (or more) of Schedules A through E, corresponding to its applicable standard for compliance:

	Schedule
Price Deceleration Standard	A
Percentage Margin Standard for Wholesale and Retail Trade	B
Margin Standard for Food Manufacturing and Processing Industries	C
Modified Price Standard for Petroleum Refiners	D
Profit-Margin Limitation Exception	E

Normally, a reporting company will submit only one of these additional schedules. However, if a reporting company is applying more than one of the standards to its operations, it should submit all appropriate schedules. In addition, companies using the profit-margin limitation because of Section 705A-5(b) (Insufficient Product Coverage) should submit Schedule A for lines of business not excluded under Section 705A-3 and Schedule E.

Where to File.—Form PM-1 and attachments should be addressed to:

Office of Price Monitoring, Council on Wage and Price Stability, Winder Building, 600 17th Street NW., Washington, D.C. 20506.

Specific Instructions

Part I—*Identifying Data.*

Item 1: Check the appropriate box indicating the reporting status selected by the company for measurement of compliance.

Item 2: A parent company is a company that is not directly or indirectly controlled by another company.

a. Enter name of parent company.

b. Enter address of executive office of parent company.

c. Enter ending date of most recent fiscal year of the parent company completed prior to October 2, 1978.

d. Enter the parent company's "Data Universal Numbering System" (D.U.N.S.) if known. If not known, or if the company does not have a number, leave this item blank.

e. Enter the total consolidated net sales or revenues of the parent company during its most recent fiscal year completed prior to October 2, 1978 (item 2(c)). This information is used to determine the company's reporting status.

Item 3: Fill in this item only if the reporting company covered by this filing is different from the parent company listed in item 2. The criteria for determining such reporting companies are given above under "Who Should File."

a. Enter name of reporting company covered by this filing.

b. Enter address of executive office of reporting company.

c. Enter the ending date of the most recent fiscal year of the reporting company completed prior to October 2, 1978.

d. Enter the reporting company's "Data Universal Numbering System" (D.U.N.S.) number, if known. If not known, or if the reporting company does not have a number, leave this item blank.

e. Enter the total consolidated net sales or revenues of the reporting company covered by this filing during its most recent fiscal year completed prior to October 2, 1978. This information is used to determine the company's reporting status.

Item 4a: Enter here the first and last day of the company's program year. The program year is the twelve-month period immediately following the company's base quarter; the base quarter is the company's last complete calendar or fiscal quarter prior to October 2, 1978.

Item 4b: Date that this report is submitted.

Part II—*Report Schedule Attachments.*

Items A thru E: Indicate by checking the appropriate boxes the schedules being filed by the company. See "What to File" under General Instructions.

Part III—*Certification.*—Self-explanatory.

Specific Instructions

Schedule A—Report of Price Data by Product Line.

Item 1: Name of reporting company.

Item 2: Base-period rate of price change.

Item 2a: The base period is to be measured from the last calendar or complete fiscal quarter of 1975 to the corresponding quarter of 1977. Enter in the space provided the month, day, and year of the ending month of the last quarter applicable to the company's base period.

Item 2b: Check the applicable box relating to the method used to compute the base-period rate of price change (BPRC) shown in item 3iii below. This determination may be made by reference to Part B of the Council's "Pay and Price Standards—Implementation Guide," or to Subpart 706D of the Voluntary Standards for Noninflationary Pay and Price Behavior. If "No" is marked, explain on a separate page the method used to compute the base-period rate of price change.

Item 2c: Check the applicable box to indicate if sampling techniques were used for the selection of products included in the base-period rate of price change calculations.

Item 2d: Prices used to calculate base-period rates of price change should represent average realized prices during the beginning and ending quarters of the base period. Prices may be measured at the end of the calendar or fiscal quarter provided that prices have remained substantially unchanged during the quarter. List prices may be used to compute the base-period rate of price change only if such list prices move closely with the transaction prices and are representative of average realized prices during the quarter. Check the appropriate box indicating whether or not prices used represent average realized prices during the quarter. If "No" is marked, explain on a separate page.

Item 3i: Calculation of base-period and reporting period program-year rates of price change by product line.

Column (a): Indicate name or identifying description for each major product line (*Standard Industrial Classification Manual (1972)* may be used). Use additional sheets if necessary.

Column (b): For CWPS use only.

Column (c): For each product line, provide net sales or revenues employed for revenue weighting in calculating the base-period rate of price change. (See Subpart 705D.) Revenues should be shown as covered net revenues after exclusions permitted under Section 705A–3 of the Voluntary Standards for Noninflationary Pay and Price Behavior.

Column (d): For each product line, provide the base-period rate of price change as illustrated in Part B "Pay and Price Standards—Implementation Guide."

Column (e): For each product line, provide net sales or revenues for the base quarter (last complete calendar or fiscal quarter prior to October 2, 1978) to be employed as revenue weights for calculating the program-year rate of price change (see 3iii, below, and Subpart 705D). Revenues should be shown as covered net revenues after exclusions permitted under Section 705A–3 of the Voluntary Standards for Noninflationary Pay and Price Behavior.

Column (f): For each product line, provide the actual rate of price change for the program year to date. This is computed as the ratio of the average realized price in the reporting quarter to the average realized price in the base quarter. Illustrative calculations are shown in Part B of the "Pay and Price Standards—Implementation Guide." The calculations for this item should be performed in a manner consistent with calculations performed for item 2d.

Item 3ii: Provide total covered net sales or revenues, respectively, for column (c) and column (e) of item 3i above.

Item 3iii: Using data from item 3i, column (d), calculate the company's sales-weighted average base-period rate of price change. This calculation is illustrated in the "Pay and Price Standards—Implementation Guide," Part B. Also, using data from item 3i, column (f), calculate the company's sales-weighted average rate of price change for the reporting quarter. Enter the resulting figures in columns (d) and (f), respectively.

The rates of price change should be calculated as the rate of change from the base quarter to the reporting quarter of the program year. They may be computed using the following formula:

$$\text{Rate of Price Change} = \left[\left(\sum_i S_i \frac{P_i(rQ)}{P_i(bQ)}\right) - 1\right] \times 100$$

Where

P_i (rQ) = the price of the ith product in the reporting quarter;

P_i (bQ) = the price of the ith product in the base quarter;

S_i = ith product sales or revenue shares in the base quarter; and

Σ = the summation operator, where the subscript i runs over all products not excluded under 705A–3.

Item 3iii(1): For the first program year the price-deceleration percentage is 0.5 percentage points.

Item 3iii(2): Deduct the price-deceleration percentage in 3iii(1) from item 3iii, column (d).

Item 3iii(3): If a company experiences pay deceleration that is greater than 0.5 percentage points, full pass through of the additional pay deceleration is required for compliance with the general price deceleration standard. In such instances, the total price deceleration percentage is 0.5 percentage points plus the multiple of the company pay share and the rate of pay deceleration that is in excess of 0.5 percentage points (see "Pay and Price Standards—Implementation Guide" for further explanation of pay deceleration computations). Enter calculated pay deceleration pass through if applicable.

Item 3iv: Enter the allowable program-year rate of price change. This is the sales-weighted average price change (3iii[d]) less the deceleration percentage (3iii[1]) and the pay deceleration pass through (3iii[3]). Under the price standard, the maximum allowable program-year rate of price change is 9.5 percent.

Item 4: Section 705A–4 of the Standards specifies that not more than fifty percent of the allowable program-year rate of price change may be implemented in the first six months (two quarters) of the program year and not more than seventy-five percent of the allowable program-year rate of price change may be implemented in the first nine months (three quarters) of the program year. Multiply the allowable program-year rate of price change from item 3iv by 0.5 if this is a second-quarter report, or by 0.75 if this is a third-quarter report, and enter in item 4.

Item 5: Reference any attached supporting documentation.

Specific Instructions

Schedule B—*Retail and Wholesale Trade Gross Margins.*

Item 1: Name of reporting company.

Item 2: If the report is applicable to a company unit which is a further disaggregation of the reporting company (Part I, item 3), identify the unit here. Otherwise, leave blank.

Item 3a: Indicate, by checking the appropriate box, the method selected by the company (or company unit) to establish its base-year percentage gross margin. In this regard, the company may select either the percentage gross margin experienced during its base year (four quarters ending prior to October 2, 1978) or the base-year percentage gross margin may be developed by using the margin trend method (i.e., base-year percentage gross margin factored by its margin trend). For this purpose, the margin trend is the compound annual rate of growth of the average percentage gross margin between the base year and the comparable year prior to October 2, 1978 (see Section 705C–2 of the Voluntary Standards for Noninflationary Pay and Price Behavior and the "Pay and Price Standards—Implementation Guide").

Item 3b: Indicate the inventory method used by the company by checking the appropriate box.

Item 4: Base-year percentage gross margin method.

Item 4i (1) thru (7): Amounts to be provided in 4i (1) through (7) should relate to the company's base year (last four complete calendar or fiscal quarters prior to October 2, 1978).

Item 4i(8): Divide 4i(7) by 4i(1) and multiply by 100 to calculate the allowable percentage gross margin on sales. Companies that checked box 3a(1) would use the percentage gross margin calculated for this item as their allowable program-year gross margin percentage.

Item 5: Gross-margin trend method.

Item 5i: Companies that checked box 3a(2) (gross-margin trend) should use this item to compute their margin trend.

Item 5i(1): Enter the company's gross margin percentage for (a) the base year (four quarters ending prior to October 2, 1978) from 4i(8), above, and for (b) the year ended two years prior to the base year computed in the same manner as the calculation for the base year in (a), above. In column (c), enter the percentage gross margin; this is the ratio of item 5i(1), column (a) to 5i(1), column (b).

Item 5i(2): To obtain the gross-margin trend, take the square root of the number in 5i(1)(c), subtract 1, then multiply by 100.

Item 5i(3): Companies that checked box 3a(2) would use the percentage gross margin calculated for this item as its allowable program-year gross margin percentage.

Item 6 (1) and (2): Provide actual net sales and percentage gross margin for completed quarters. These amounts should be calculated in accordance with item 4, above.

Item 6(3): This item is provided so the company can demonstrate its progressive compliance with its allowable percentage gross margin during the program year. Provide allowable gross margin percentages for each of the four quarters. They may depart from the annual averages in item 4i(8) or item 5i(3) due to margin trend and seasonality.

Item 7: Reference any attached supporting documentation.

Specific Instructions

Schedule C—*Food Manufacturers and Processors Gross Margins.*

Item 1: Name of reporting company.

Item 2: If the report is applicable to a company unit which is a further disaggregation of the reporting company (Part I, item 3), identify the unit here. Otherwise, leave blank.

Item 3: Indicate, by checking the appropriate box, the method selected by the company (or company unit) to establish its base-period gross margin. In this regard, the company may select either (a) its gross margin as experienced in the base quarter (the last complete calendar or fiscal quarter ending prior to October 2, 1978), or (b) the company may substitute for the base quarter gross margin the base quarter sales multiplied by the average percentage gross margin for the base year (last four complete calendar or fiscal quarters ending prior to October 2, 1978) (see Section 705C–2 of the Voluntary Standards for Noninflationary Pay and Price Behavior and the "Pay and Price Standards—Implementation Guides").

Item 4a(1): Enter the amount of sales (adjusted for discounts, returns, coupons, etc.) for the base quarter.

Item 4a(2): Enter the amount of food ingredients included in item 4a(1). This value is defined as the cost of food ingredients in all the food products sold during the quarter. Food ingredients are defined as agricultural or fishery commodities that undergo further refining, processing or manufacturing prior to being sold for ultimate consumption.

Item 4a(3): Subtract 4a(2) from 4a(1). The resulting gross margin includes the cost of containers, ingredients other than food commodities used in manufacturing, transportation, storage, rent, supplies, labor, company overhead, interest, income and other taxes, net profits on sales and all other costs except for food ingredients. Companies that checked item 3a would enter this amount in item 4b(1) below.

Item 4a(4): This item should be completed only by companies that checked item 3b. This computation results in the alternative gross margin for measuring compliance during the program year. Companies selecting this method should enter the amount appearing in this item in item 4b(1) below.

Item 4b(1): Enter here the amount from item 4a(3) if item 3a was checked, or the amount from item 4a(4) if item 3b was checked.

Item 4b (2) thru (4): Multiply the amount on line 4b(1) by 6.5 percent to give recognition to the allowable growth in the gross margin during the program year. Enter as item 4b(2). Enter the expected rate of increase in physical volume from the base quarter to the corresponding quarter of the program year (four quarters later) and the dollars of increase in item 4b(4).

Item 4b(5): The amount in this item represents the allowable program-year gross margin. It is the sum of 4b(3) and 4b(4).

Item 5: This item is provided so the company can demonstrate compliance with its allowable gross margin. Provide actual data, for completed quarters on line (1) and allowable gross margins for each quarter after allowance for trend and seasonality on line (2).

Item 6: Reference any attached supporting documentation.

Specific Instructions

Schedule D—*Petroleum Refiners Gross Margins.*

Item 1: Name of reporting company.

Item 2: If the report is applicable to a company unit which is a further disaggregation of the reporting company (Part I, item 3), identify the unit here. Otherwise, leave blank.

Item 3a: Check the appropriate box to indicate if the required adjustments for changes in input mix were made. If "No," explain.

Item 3b: Check the appropriate box to indicate if adjustments were made for changes in product sales mix. If "Yes," explain.

Item 4a(1): Enter the amount of sales (adjusted for discounts, returns, coupons, etc.) for the base quarter. Sales may come from either inventory of finished goods or goods manufactured during that quarter. The base quarter is the last complete calendar or fiscal quarter ending prior to October 2, 1978.

Item 4a(2): Enter the amount of petroleum ingredients included in item 4a(1). This value is defined as the cost of petroleum ingredients in all the petroleum products sold during the same quarter.

Item 4a(3): Subtract line 4a(2) from line 4a(1). Record the result in item (4a(3)). This is your company's gross margin in the base quarter. The resulting gross margin includes the cost of containers, ingredients other than petroleum products used in manufacturing, transportation, storage, rent, supplies, labor, company overhead, interest, income and other taxes, net profits on sales and all other costs except for petroleum products.

Item 4b(1): Enter base quarter gross margin from item 4a(3).

Items 4b (2) thru (4): Multiply the amount of line 4a(1) by 6.5 percent to give recognition to the allowable growth in the gross margin during the program year. Enter as item 4b(2). Enter the rate of increase in physical volume of program year over the base year and the dollars of increase in item 4b(4).

Item 4b(5): The amount represents the company's allowable program-year gross margin. It is the sum of 4b(3) and 4b(4).

Item 5: This item is provided so the company can demonstrate compliance with its allowable gross margin. For each completed quarter provide actual data on line 1 and the allowable gross margin on line 2.

Item 6: Reference any attached supporting documentation.

Special Instructions

Schedule E—*Report on Profit-Margin Data.*

Each reporting company is requested to complete items 1a and 2i of this schedule. The remainder of this schedule should be completed by companies in the following situations:

(a) Where a company has been granted approval to apply the profit-margin limitation exception of Section 705A–6(a).

(b) Where a company has self-administered a profit-margin limitation prior to April 17, 1979.

(c) Where a company is subject to the profit-margin limitation in accordance with Section 705A–5(b) (Insufficient Product Coverage).

Item 1a: Name of reporting company.

Item 1b: If the reporting company is using the profit-margin limitation to demonstrate compliance, check appropriate box to indicate basis for use. If 1b(2) or 1b(3) is checked, provide supporting documentation.

Item 2i: Enter in the spaces provided profit and net sales or revenue data for the company's last three fiscal years completed prior to October 2, 1978. In item 2i(1), show the fiscal years applicable; in item 2i(2), provide net sales or revenues (see definition of net sales or revenues, below); and in item 2i(3) show appropriate profit (see definition of profit, below).

For purposes of item 2i above, a company's "profit" and "net sales and/or revenues" are defined as follows:

(a) Profit is defined as the sum of item 14 and items 11 through 13 minus items 7 through 10 in 17 CFR Section 210.5–03. Briefly, profit is "income or loss before income tax expense" minus dividend income, interest or profit on securities and miscellaneous other income, plus interest expense and amortization of debt discount and expense, losses on securities and miscellaneous income deductions.

(b) Net sales and/or revenues consist of (1) net sales or tangible products (gross sales less discounts, returns, and allowances), (2) operating revenues such as royalties, rents, and the sale of services and intangible products (e.g., engineering, research and development; and other professional services). This definition is consistent with 17 CFR Section 210.5–03, Items 1A, 1B, and 1C.

Item 2ii: Companies applying the profit-margin limitation exception should complete item 2ii and the remainder of this schedule. The profit-margin limitation is a two-part test as described below:

(1) The program-year profit margin should be no higher than the sales-weighted average profit margin over the best two of the company's last three fiscal years prior to October 2, 1978.

(2) Program-year profit should not exceed base-year profit by more than 6.5 percent plus any positive percentage growth in physical volume from the base year to the program year.

Enter the sales-weighted average profit margin calculated in accordance with part one of the definition above and as illustrated in the "Pay and Price Standards—Implementation Guide."

Item 2iii: Enter in columns (a), (b), (c) and (d) as applicable, the actual profit margins achieved during the quarter of the program year for which you are reporting.

Item 3i: Check the box which describes the method the company chose to calculate its base-period profit. In this regard, base-year profit can be either (1) profit earned during the four complete fiscal or calendar quarters prior to the program year, or (2) the average profit margin determined in item 2i(4) above multiplied by sales or revenues in the last four complete fiscal quarters prior to the program year.

Item 3ii: Enter total base-year profits determined by the method selected in 3i above. Multiply this amount by 6.5 percent to give recognition to the allowable growth in profits (item 3ii(2)). Add a percentage representing percentage growth in physical volume of the program year over the base year (item 3ii(4)).

Item 3ii(5): The resulting figure on this line represents the allowable program-year profit for compliance with part two of the profit-margin limitation.

Item 4: On line 1, enter the actual profit earned for the completed quarters of the program year.

Item 5: Reference any attached supporting documentation.

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Wednesday
May 2, 1979

Part V

Environmental Protection Agency

Protests of Grantee Procurement Actions Under Grants for Construction of Publicly Owned Treatment Works

Subject Index List of Regional Administrator Protest Determinations Issued During 1978

ENVIRONMENTAL PROTECTION AGENCY

PROTESTS OF GRANTEE PROCUREMENT ACTIONS UNDER GRANTS FOR CONSTRUCTION OF PUBLICLY OWNED TREATMENT WORKS

Subject Index List of Regional Administrator Protest Determinations Issued During 1978

[Note.—This document was originally published in the **Federal Register** of April 4, 1979 at page 20283. It is reprinted here at the request of the Environmental Protection Agency.]

This notice supplements the subject index of 1974–1977 Regional Administrator protest determinations issued under 40 CFR 35.939 which was published at 43 FR 29086–95 (July 5, 1978). The following subject index lists only the bid protest determinations issued during calendar year 1978. A comprehensive subject index for all determinations issued through mid-1979 will be published in the **Federal Register** later this year.

Several of the standards and procedures concerning grantee procurement were changed in the recodification of EPA regulations governing the construction grants program for municipal wastewater treatment works. 43 FR 44022–99 (September 27, 1978). The amended bid protest process appears at 43 FR 44083–85. The subject headings refer to many of these regulatory changes, as well as other EPA policies which may affect grantee procurement. Reference is made to important litigation where appropriate. New subject classifications have also been added.

The determinations are cited informally, for administrative convenience. The preferred citation form is. *Grantee, State* (EPA Region——, full date of determination) (Protest of ——). Asterisked determinations contain an extensive discussion or important resolution of the subject indexed.

Copies of the issued protest determinations may be examined or obtained from the EPA Regional Counsels or from the headquarters source identified below. We understand that the full texts of the determinations will be published and offered for sale by a private company later in the year.

Interested parties are invited to submit comments concerning improvements, or correction, of the subject index list to Joseph M. Zorc, Assistant General Counsel, Grants (A–134), Office of General Counsel, United States Environmental Protection Agency, Washington, D.C. 20460. Comments should be made within sixty (60) days of this publication.

FOR FURTHER INFORMATION CONTACT:
Christopher L. Rissetto, Attorney, Grants, Contracts and General Administration Division (A–134), Office of General Counsel, United States Environmental Protection Agency, Washington, D.C., 20460, 202–755–8108.

Dated: March 21, 1979.

Joan Z. Bernstein,
General Counsel

Ambiguity *(but see Bids; Mistake).*

1. Amherst, New York (II, 5–15–78) (Cimato Bros. Inc.)
2. Barrington, Illinois (V, 10–20–78) (Utility & Industrial Construction Co.) (method of bidding; basis for contract award)

Architect/Engineering Procurement (§ 35.937).

*1. Knoxville, Tennessee (IV, 2–8–78) (Roy F. Weston Inc.) (grantee reranking of technical committee evaluation of proposals)
*2. East Bay dischargers Authority, California (IX, 2–15–78) (R.D. Smith) (subagreements; minority business enterprise)
3. Atwater, California (IX, 4–26–78) (Warren C.T. Wong & Assoc.) (price competition)
4. Penns Grove, New Jersey (II, 8–24–78) (Pandullo Quirk Assoc.) (evaluation of proposals)

Award-Prime Contract (*e.g.*, pending resolution of subcontract issue, *see* 40 C.F.R. § 35.938–4(h)(5), as amended by 43 FR 44080, September 27, 1978) (*see also Deferral of Procurement*).

*1. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance)
2. Portage, Michigan (V, 12–20–78) (Iacobelli Construction Co.) (award on 2 of 10 contracts advertised)

Bid Shopping (The Administrator, on June 29, 1978, submitted a report to congress entitled, *Waste Water Treatment Contracting and Bid Shopping* which concluded that among other things, EPA would not impose a procurement standard upon grantees with the effect of preventing bid shopping, *see* 40 C.F.R. § 35.938–4(h)(6), as amended by 43 FR 44080, September 27, 1978).

*1. Fairfax County, Virginia (III, 3–17–78) (John W. Cowper Co. Inc.) (failure of low bidder to name preapproved supplier)

Bonds (§§ 35.936–13(c) and 35.936–22).

1. West Bend, Wisconsin (V, 3–3–78) (Oliver Construction Co. Inc.) (bid—goes to responsiveness)
*2. Effingham, Illinois (V, 3–21–78) (Autotrol) (performance; combined 200% bond requirement)
*3. San Francisco, California (IX, 3–22–78) (E & I, Inc.) (experience)
4. Front Royal, Virginia (III, 4–21–78) (Lyco–Zf) (prequalification)
5. San Francisco, California (IX, 8–17–78) (E & I, Inc.) (performance)
*6. Passaic Valley Sewerage Commissioners, New Jersey (II, 10–5–78) (BSP Division of Envirotech Corp., and Wheatley Corp.) (warranty and performance bond—ambiguity: operation and maintenance costs) [Note.—The first determination in this matter was issued 12–10–77 and was affirmed in *CCTW&M* v. *U.S. EPA*, 452 F.Supp. 69 (D.N.J. 1978)].
7. Silver City, New Mexico (VI, 10–13–78) (Enviro Development Co. Inc.) (experience)
8. Concord, North Carolina (IV, 10–24–78) (EDC/Enviro Development Inc.) (5 year-justification)
*9. Chattanooga, Tennessee (IV, 11–2–78) (Philadelphia Gear) (5 year period; cost)
10. Rivanna Water and Sewer Authority, Charlottesville, Virginia (III, 11–2–78) (National Hydro Systems)

Burden of Proof (*e.g.*, § 35.939(g), as well as subtier issues).

1. Kitsap County, Washington (X, 2–3–78) (Will Construction Co., Inc.) where grantee may be awarding to other than low bidder)
2. Webster, Iowa (VII, 2–10–78) (Environmental Systems Division of George A. Hormel & Co. Inc.)
3. Effingham, Illinois (V, 3–8–78) (Mautz & Oren, Inc.) (failure of prime to list line item prices in bid)
4. Turlock, California (IX, 3–8–78) (Riga Inc.)
5. Southern Clinton County, Michigan (V, 8–11–78) (A. Z. Shmina) (for third low bidder where low prime fails to include all subcontractor names and prices at time of bid submission)
6. Toppenish, Washington (X, 10–20–78) (Ridge Construction Co.) (burden shifting from protestant to grantee)
7. Indianapolis, Indiana (V, 10–31–78) (Allis-Chalmers) (non-restrictive specification protest)

Choice of Law—General.

*1. New York City, New York (II, 1–12–78) (Schiavone Construction Co.) (public interest standard; mistake—bidder intent rule) [*Note:* The determination was affirmed in *Schiavone Construction Co.* v. *Samowitz*, 451 F.Supp. 29 (S.D.N.Y. 1978); *aff'd without opinion*, 578 F.2d 1370 (2d Cir. 1978)].
2. Kitsap County, Washington (X, 2–3–78) (Will Construction Co., Inc.)
3. Washington County, Oregon (X, 7–31–78) (North American Contractors Inc.) (fundamental fairness; need for competition)
*4. San Francisco, California (IX, 8–9–78) (Slattery Assoc., Fischbach and Moore Inc. and Morrison-Knudsen Co., joint venture) (specification language as controlling—federalizing local law issues)
5. Onondaga County, New York (II, 8–23–78) (Pizzagalli Construction Co. and John W. Cowper Co. Inc.) (public interest standard; mistake—bidder intent rule)

6. Toppenish, Washington (X, 10–20–78) (Ridge Construction Co.) (conformance to both state and federal principles)

Choice of Law—Fundamental Federal Procurement Principles *(see also, Rational Basis Test).*

1. Newcastle, Indiana (V, 5–18–78) (Spencer Turbine Co.) (fair evaluation of subcontract offers)

Choice of Law—State Law, Applicability of *(e.g.*, §§ 35.936–2, 35.937–5 and 35.939(j)(3)).

1. Niagra County Sewer District (No. 1), New York (II, 10–18–78) (Environment One Corp) (building code approvals)

Competition *(e.g.* §§ 35.936–3, 35.936–13; *see* preamble to recent recodification of 40 C.F.R., Part 35, Subpart E, at 43 FR 44046, September 27, 1978) *(see also Non-Restrictive Specifications; Salient Requirements).*

(A) *DeFacto* [This category is primarily, although not exclusively, intended to connote those determinations in which a defined class or subclass is precluded, or sought to be precluded, from actually competing under a solicitation and is distinguished from circumstances where the sole issue concerns the restrictiveness of an individual "or equal" determination; the Regional Administrator will review the procurement to determine, *inter alia*, whether an acceptable level of competition, in fact, occurred):

*1. Chester, South Carolina (IV, 3–29–78) (Carolina Concrete Pipe Co.) (single pipe material selection—vitrified clay)
*2. Cumberland County, New Jersey (II, 3–31–78) (Dorr-Oliver Inc.) (ultimately nonconforming, prequalified equipment supplier)
3. Newton, North Caroline (IV, 4–25–78) (Carolina Concrete Pipe Co.) (pipe material selection limited to 3 types—vitrified clay, lined reinforced concrete or ductile iron)
*4. Olympia, Washington (X, 5–30–78) (Pentech Division of Houdaille Industries Inc.) (project design exclusion, § 35.939(j)(5)—on-site oxygenation generation system for sludge treatment)
*5. Onondaga County, New York (II, 7–11–78) (Pentech Division of Houdaille Industries Inc.) (project design exclusion, § 35.939(j)(5)—on-site oxygenation generation system for sludge treatment; licensee—licensor relationship as permitting competition)
6.Indianapolis, Indiana (V, 10–6–78) (FMC Corp.) (project design exclusion; § 35.939(j)(5)—closed tank nitrification system)

(B) *General—Free and Open.*

1. Effingham, Illinois (V, 3–21–78) (Autotrol) (rotating biological disc equipment—salient performance requirements)
2. Newcastle, Indiana (V, 5–18–78) (Spencer Turbine Co.) (approval of offered equipment items as controlled by specification)
3. Onondaga County, New York (II, 6–30–78) (Zimpro Inc.) (bidding competition's system)
*4. Onondaga County, New York—Reconsideration (II, 7–18–78) (Zimpro Inc.) (EPA competitive process and overview)
*5. Prince William County, Virginia (III, 8–4–78) (Spencer Turbine Co.) (approval of offered equipment under rational basis analysis)
*6. Breese, Illinios (V, 10–18–78) (Midwest Soil Products and Davco-Defiance) (functional equivalency—carbon steel to solid stainless steel pump shaft)
7. Frankfort, Kentucky, (IV, 10–18–78) (Passavant)
8. Fairfield, New Jersey (II, 10–20–78) (Loc Pump) (salient performance requirements as standard; functional equivalency—rubber gasket to metal-to-metal connection of pump at discharge pipe)
*9. Chattanooga, Tennessee (IV, 11–2–78) (Philadelphia Gear) (functional equivalency—parallel to right angle shaft for design of aerator speed reducer drives)

Conflict of Interest.

*1. Newton, North Carolina (IV, 4–25–78) (Carolina Concrete Pipe Co.) (personal—competitor supplier's counsel as counsel for grantee consultant)

Defective Invitation for Bids *(see also Ambiguity; Specifications).*

*1. Snyderville, Utah (VIII, 4–17–78) (Jacobsen Construction Co. Inc.)
2. Washtenaw County, Michigan (V, 7–13–78) (Spence Bros.) (impossibility of performance, unavailability of alternate disposal site)
3. Washington County, Oregon (X, 7–31–78) (North American Contractors Inc.) (alternates)
4. Chester, South Carolina (IV, 8–7–78) (Preston Carroll Construction Co.) (multiple low bidders)

Deferral of Procurement Action (§§ 35.936–4(h)(5) and 35.939(h)) *(see also, Award—Prime Contract).*

1. Barrington, Illinois (V, 10–20–78) (Utility & Industrial Construction Co.)

Enforcement.

*1. Knoxville, Tennessee (IV, 2–8–78) (Roy F. Weston Inc.) (A/E procurement-EPA remand authority)
2. Wells, Maine (I, 3–17–78) (Purcell Pump) (barring grantee rejection of equipment)
*3. Cumberland County, New Jersey (II, 3–31–78) (Dorr-Oliver Inc.) (Technical nonrestrictive specification requirement in post-contract context)
4. Mt. Olive, North Carolina (IV, 5–18–78) (Lyco–Zf)
5. Washtenaw County, Michigan (V, 7–13–78) (Spence Bros.) (award to low base bid or readvertise)
*6. Washington County, Oregon (X, 7–31–78) (North American Contractors Inc.) (EPA directed rejection of all bids and negotiation on rebid)
7. Chester, South Carolina (IV, 8–7–78) (Preston Carroll Construction Co.) (EPA directed rejection of all bids; accelerated reprocurement by negotiation approved)
*8. San Francisco California (IX, 8–17–78) (E & I, Inc.) (rational basis justification for performance bond)
9. Newcastle, Indiana—Reconsideration (V, 8–23–78) (request of Newcastle, Indiana) (retrofit items procured to conform to determination)
10. Oklahoma City, Oklahoma (VI, 8–25–78) (Automatic Engineering Inc.) (award to other subcontractors or reprocure at no extra cost to EPA)
11. Chatanooga, Tennessee (IV, 9–20–78) (Passavant Corp.)
12. Concord, North Carolina (IV, 10–24–78) (EDC/Enviro Development Inc.)

Engineering Judgment (And *see, Non-Restrictive Specifications*)

1. Turlock, California (IX, 3–8–78) (Rega Inc.) ("or equal" judgment).
*2. Chester, South Carolina (IV, 3–29–78) (Carolina Concrete Pipe Co.) (single pipe material selection)
3. Cumberland County, New Jersey (II, 3–31–78) (Dorr-Oliver Inc.) (noncomplying preapproved supplier).
4. Front Royal, Virginia (III, 4–21–78) (Lyco-Zf)
5. Olympia, Washington (X, 5–30–78) (Pentech Division of Houdaille Industries, Inc.) (project design issue–oxygenaton sludge treatment system)
6. Cleveland Regional Sewer District (Westerly Plant) Ohio (V, 6–14–78) (McLaughlin & Associates)
*7. Prince William County, Virginia (III, 8–4–78) (Spencer Turbine Company) ("or equal" determination reviewed on rational basis standard)
8. Winchester, New Hampshire (I, 9–1–78) (Enviro Development Co. Inc.)
9. Indianapolis, Indiana (V, 10–6–78) (Allis-Chalmers) ("or equal" decision)
*10. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance) (Rational basis standard)
11. Fairfield, New Jersey (II, 10–20–78) (Loc Pump)
12. Indianapolis, Indiana (V, 10–31–78) (Allis-Chalmers) ("or equal" decision)
13. Chattanooga, Tennessee (IV, 11–2–78) (Philadelphia Gear)
14. Urbana-Champaign, Illinois (V, 11–8–78) (Norton Co.) (national basis standard)
15. Waterford, Connecticut (I, 11–17–78) (Purcell Pump)

Equal Employment Opportunity (40 C.F.R. Part 8) (*Notice:* the President, through Executive Order 12086 (October 5, 1978), transferred all primary contract compliance responsibilities and functions from previously designated contract compliance agencies (e.g. EPA) to the Department of Labor. EPA contract compliance activities are being integrated into the Department of Labor. Accordingly, Part 8 no longer reflects the obligations and responsibilities of EPA as a primary contract compliance agency for contract compliance functions under the construction grants program) *(see also, Responsiveness; Minority Business Enterprise).*

1. Sandusky, Ohio (V, 1–13–78) (Bay-Con Corp.) (certification)

*2. West Goshen, Pennsylvania (III, 3–2–78) (Philips Bros. Electrical Contractors) (EO 11246—Philadelphia Imposed Plan)
*3. San Francisco, California (IX, 8–9–78) (Slattery Assoc., Fischbach and Moore Inc. and Morrison-Knudsen Co. Inc., joint venture) (Minority business enterprise-local requirements)

Evaluation of Bids *(but see Responsibility; Responsiveness; Formal Advertising; Negotiation; Mistake; Rejection of All Bids; Award Prime Contracts).*

1. New York City, New York (II, 1–12–78) (Schiavone Construction Co.) (mistake; bidder intent test)
2. North Little Rock, Arkansas (VI, 2–1–78) (Environmental Equipment Corp.) (subtier selection by grantee; price)
3. Kitsap County, Washington (X, 2–3–78) (Will Construction Co., Inc.) (equipment listing—matter of responsibility)
4. Effingham, Illinois (V, 3–6–78) (Mautz & Oren, Inc.)
*5. Chicago (Metropolitan Sanitary District of Greater Chicago) Illinois (V, 3–12–78) (Howard Martin Construction) (waiver under local procedures)
6. Fairfax County, Virginia (III, 3–17–78) (John W. Cowper Co., Inc.) (subcontractor listing)
7. Snyderville, Utah (VIII, 4–17–78) (Jacobsen Construction Co. Inc.) (base bidding)
8. Miami-Dade Water and Sewer Authority, Florida (IV, 5–18–78) (Enviro Development Co. and Poole & Kent Co.) (equipment listing)
9. Newcastle, Indiana (V, 5–18–78) (Spencer Turbine Co.) (fundamental federal procurement principles)
10. Onondaga County, New York (II, 6–30–78) (Zimpro, Inc.) (offering competitor's system; patent infringement allegation)
11. Miami-Dade Water and Sewer Authority, Florida (IV, 7–13–78) (Ed. L. Nezelek Inc.) (prime's listing of previously unaccepted equipment)
12. Washtenaw County, Michigan (V, 7–13–78) (Spence Bros.) (implementing the specification by its terms; award to low bidder)
13. Washington County, Oregon (X, 7–31–78) (North American Contractors Inc.) (base bidding, use of multiple schedule)
14. San Francisco, California (IX, 8–9–78) (Slattery Assoc., Fischbach and Moore Inc. and Morrison-Knudsen Co. Inc., joint venture) (minority business enterprise-local requirements)
15. Southern Clinton County, Michigan (V, 8–11–78) (A. Z. Shmina) (subcontractor listing)
16. Bay County, Michigan (V, 9–12–78) (Roese Contracting Co. Inc.) (Contract No. 1–D).
17. Grand Rapids, Michigan (V, 9–26–78) (Infilco Degremont) (life-cycle cost acceptable)
18. Guilderland, New York (II, 10–3–78) (Clevepak Corp.) (base bidding)
19. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance) (base bidding)
20. Barrington, Illinois (V, 10–20–78) (Utility & Industrial Construction Co.)
21. Lake County, Illinois (V, 11–17–78) (Envirex) (listing nonresponsive equipment in bid)
22. Greenville, Texas (VI, 12–7–78) (R. B. Carter)

Experience Requirements (§ 35.936–13(c)) *(see Bonds; Non-Restrictive Specifications).* [Note: Recodification of EPA regulations, at 43 FR 44046, proposed adding the following as a final sentence to § 35.936–13(c): "No experience restriction will be permitted which unjustifiably reduces competition or innovation." This has been the effective rule in EPA protest determinations.].

*1. Effingham, Illinois (V, 3–21–78) (Autotrol) (rotating biological discs—100% performance and 100% process guarantee bonds; specifications waived)
*2. San Francisco, California (IX, 3–22–78) (E & I, Inc.) (bar screen equipment—prior supply of equipment; no provision for bond; no prior justification)
3. Front Royal, Virginia (III, 4–21–78) (Lyco-Zf) (clarifier and related equipment; performance data prequalification requirement)
4. Miami-Dade Water and Sewer Authority, Florida (IV, 5–18–78) (Enviro Development Co. and Poole & Kent Co.) (sludge dewatering system—bond in lieu of experience requirement; responsiveness)
5. San Francisco, California (IX, 8–17–78) (E & I, Inc.) (bar screen equipment—175% bond in lieu of experience)
6. Indianapolis, Indiana (V, 10–6–78) (FMC Corp.)
7. Silver City, New Mexico (VI, 10–13–78) (Enviro Development Co. Inc.)
8. Fairfield, New Jersey (II, 10–20–78) (Loc Pump) (submersible pumps—list of installations required in lieu of operating data)
9. Concord, North Carolina (IV, 10–24–78) (EDC/Enviro Development Inc.) (sludge dewatering system—5 years; procedures for; written justification requirement)
10. Chattanooga, Tennessee (IV, 11–2–78) (Philadelphia Gear) (oxygen generation and oxygenation system—5 years; overlap with warranties; justification)
11. Rivanna Water and Sewer Authority, Charlottesville, Virginia (III, 11–2–78) (National Hydro Systems) (3 year; warranty bonds; justification)

Formal Advertising (§ 35.936–4) (*see* also *Choice of Law—Fundamental Federal Procurement Principles; but see Mistake; Evaluation of Bids).*

1. Springfield, Missouri (VII, 1–24–78) (Armco Steel Corp.) (local preference rules for supply of materials)
2. Effingham, Illinois (V, 3–6–78) (Mautz & Oren, Inc.) (waiver of bid irregularities)
3. Snyderville, Utah (VIII, 4–17–78) (Jacobsen Construction Co. Inc.) (supplier price and delivery data)
4. Washtenaw County, Michigan (V, 7–13–78) (Spence Bros.) (bid evaluation—base vs. alternate bid)
5. Washington County, Oregon (X, 7–31–78) (North American Contractors Inc.) (explanation of method of contract award; award to low bidder)
6. Greenville, Texas (VI, 12–7–78) (R. B. Carter)
7. Portage, Michigan (V, 12–20–78) (Iacobelli Construction Inc.) (reject 8 of 10 contracts)

Innovative and Alternative Technologies (§§ 35.908, 35.917–1(d), 35.930–5, 35.935–20, and 35.936–13, and 43 *Fed. Reg.* 44026–29, September 27, 1978) *(see also, Jurisdiction).*

1. Olympia, Washington (X, 5–30–78) (Pentech Division of Houdaille Industries, Inc.) (protest design considerations; cost-effectiveness)
2. Onondaga County, New York (II, 7–11–78) (Pentech Division of Houdaille Industries Inc.)
*3. Indianapolis, Indiana (V, 10–6–78) (FMC Corp.) (open tank nitrification system)

Judicially Directed Review.

1. Miami-Dade Water and Sewer Authority, Florida—Supplement (IV, 4–28–78) (Intercounty Construction Co. and Morganti-South, Inc.—Wolff & Munier, a joint venture)
2. Onondaga County, New York—Supplement (II, 9–7–78) (Pizzagalli Construction Co. and John W. Cowper Co. Inc.)

Jurisdiction (§§ 35.939(a), (j)) (*but see A/E Procurement; Choice of Law* (all categories); *Subcontracts, Award of; System Design*).

1. Mountaintop, Pennsylvania (III, 1–5–78) (National Hydro Systems, Inc.) (antitrust issues; subcontract—business judgment rule)
2. North Little Rock, Arkansas (VI, 2–1–78) (Environmental Equipment Corp.) (subtier—grantee involvement)
*3. Knoxville, Tennessee (IV, 2–8–78) (Roy F. Weston Inc.) (A/E procurement; local requirements)
4. East Bay Discharges Authority, California (IX, 2–15–78) (R. D. Smith) (A/E subagreements)
5. Turlock, California (IX, 3–6–78) (Riga Inc.) (subtier protest)
6. Antigo, Wisconsin (V, 3–24,78) (General Filter Co.) (award of subcontract conforming to specifications)
7. Snyderville, Utah (VIII, 4–17–78) (Jacobsen Construction Co. Inc.) (by or for the grantee)
8. Atwater, California (IX, 4–26–78) (Warren C. T. Wong & Assoc.) (A/E procurement)
9. Newcastle, Indiana (V, 5–18–78) (Spencer Turbine Corp.) (by or for grantee)
10. Olympia, Washington (X, 5–30–78) (Pentech Division of Houdaille Industries, Inc.) (§ 35.939(j)(5) system design)
11. Cleveland Regional Sewer District (Westerly Plant), Ohio (V, 6–14–78) (McLaughlin & Associates) (§ 35.939(j)(5) system design)
*12. Onondaga County, New York (II, 7–11–78) (Pentech Division of Houdaille Industries, Inc.) (§ 35.939(j)(5) system design)
13. Miami-Dade Water and Sewer Authority, Florida, (IV), 7–13–78) (Ed. L. Nezelek Inc.) (determination "without merit")
14. Knoxville, Tennessee (IV, 9–25–78) (R. B. Carter) (substitution)

15. Guilderland, New York (II, 10–3–78) (Clevepak Corp.) (state law claim; exclusive sale arrangement; post-bid proposals)
16. Indianapolis, Indiana (V, 10–6–78) (FMC Corp.) (§ 35.939(j)(5) system design)
17. Delaware County, Ohio (V, 11–21–78) (R. B. Carter) [§ 35.939(j)(6); equipment supplier—subcontractor issues)

Minority Business Enterprise (§ 35.936–7, *and see* the EPA minority business enterprise policy at 43 FR 60220–24, December 26, 1978) (*but see Equal Employment Opportunity*).

*1. Knoxville, Tennessee (IV, 2–8–78) (Roy F. Weston Inc.) (A/E procurement)
2. East Bay Discharges Authority, California (IX, 2–15–78) (R. D. Smith)
*3. Chicago (Metropolitan Sanitary District of Greater Chicago), Illinois (V, 3–12–78) (Howard Martin Construction) (local procedures and requirements)
4. Atwater, California (IX, 4–26–78) (Warren C. T. Wong & Assoc.) (A/E procurement)
5. San Francisco, California (IX, 8–9–78) (Slattery Assoc., Fischbach and Moore Inc. and Morrison-Knudson Co., joint venture) (local requirements)

Mistake (*but see Ambiguity; Evaluation of Bids; Formal Advertising*).

*1. New York City, New York (II, 1–12–78) (Schiavone Construction Co.) (bidder's intent test)
2. Kitsap County, Washington (X, 2–3–78) (Will Construction Company, Inc.) (patent error in addition of line items; correction)
3. Onondaga County, New York (II, 8–23–78) (Pizzagalli Construction Co. and John W. Cowper Co. Inc.) (standard of review; bidder intent test; use of extrinsic evidence)
4. Onondaga County, New York—Supplement (II, 9–7–78) (Pizzagalli Construction Co. & John W. Cowper Co. Inc.)

Negotiated Procurement (§§ 35.936–18 and 35.937–5) (*and see Enforcement*).

1. Chester, South Carolina (IV, 8–7–78) (Preston Carroll Construction Co.) (use of, on resolicitation)

Non-Restrictive Specifications (§ 35.936–13) (*see also Engineering Judgments; Salient Requirements*) (*but see Experience Requirements; Sole Source Specifications; Specifications*).

1. Webster, Iowa (VII, 2–10–78) (Environmental Systems Division of George A. Hormel & Co. Inc.)
2. Turlock, California (IX, 3–6–78) (Riga Inc.)
3. Wells, Maine (I, 3–17–78) (Purcell Pump)
4. Effingham, Illinois (V, 3–21–78) (Autotrol) (salient performance requirements)
*5. Chester, South Carolina (IV, 3–29–78) (Carolina Concrete Pipe Co.) (single material pipe selection)
*6. Cumberland County, New Jersey (II, 3–31–78) (Dorr-Oliver Inc.) (post-contract interpretation; ultimately nonconforming preapproved equipment)
7. Snyderville, Utah (VIII, 4–17–78) (Jacobsen Construction Co. Inc.) (prices of subitems)
8. New Smyrna Beach, Florida (IV, 4–18–78) (Carl E. Widell & Son)
9. Clayton County, Georgia (IV, 4–19–78) (National Hydro System Inc., et al.)
10. Front Royal, Virginia (III, 4–21–78) (Lyco-Zf) (prequalification)
11. Newton, North Carolina (IV, 4–25–78) (Carolina Concrete Pipe Co.) (pipe selection limitation to three materials)
12. Waterford, Connecticut (I, 5–19–78) (Mulholland Construction Co.) (prime protest on rejection of its proposed subconstructor)
*13. Cleveland Regional Sewer District (Westerly Plant), Ohio (V, 6–14–78) (McLaughlin & Associates) (salient performance requirements)
14. Marshfield, Wisconsin (V, 6–16–78) (Empire Generator Corporation)
*15. Urbana–Champaign, Illinois (V, 6–30–78) (Paddock Refinite) (state exemption, as creating)
*16. Prince William County, Virginia (III, 8–4–78) (Spencer Turbine Co.) (equivalency determination; salient requirements)
17. Oklahoma City, Oklahoma (VI, 8–25–78) (Automatic Engineering Inc.) (as applied; specifications drafted around single manufacturer)
18. Winchester, New Hampshire (I, 9–1–78) (Enviro Development Co. Inc.)
19. Chattanooga, Tennessee (IV, 9–20–78) (Passavant Corp.)
20. Passaic Valley Sewerage Commissioners, New Jersey (II, 10–5–78) (BSP Division of Envirotech Corp. and Wheatley Corp.)
21. Indianapolis, Indiana (V, 10–6–78) (FMC Corp.)
22. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance) (base bidding)
23. Frankfort, Kentucky (IV, 10–18–78) (Passavant) (performance-related requirements as limitation)
24. Fairfield, New Jersey (II, 10–20–78) (Loc Pump) (or equal; specification generally drafted around single manufacturer)
25. Indianapolis, Indiana (V, 10–31–78) (Allis-Chalmers)
*26. Chattanooga, Tennessee (IV, 11–2–78) (Philadelphia Gear) (functional equivalency; experience)
27. Urbana-Champaign, Illinois (V, 11–8–78) (Norton Co.) (performance criteria)
28. Waterford, Connecticut (I, 11–17–78) (Purcell Pump) (as applied)

Patents (§§ 30.500 *et seq.*, 35.908, 35.936–3 and 35.936–13).

1. Onondaga County, New York (II, 6–30–78) (Zimpro, Inc.)

Prequalification (§§ 35.936–3 and 35.936–13) (*see* EPA Report to Congress, *Waste Water Treatment Contracting and Bid Shopping*, Section IV. D, which discusses certain minimum principles to insure competition, the criterion to any acceptable prequalification system).

1. Cynthiana, Kentucky (IV, 2–9–78) (James N. Gray Construction Co.)
2. Webster, Iowa (VII, 2–10–78) (Environmental Systems Division of George A. Hormel & Co. Inc.)
3. Fairfax County, Virginia (III, 3–17–78) (John W. Cowper Co. Inc.)
*4. Front Royal, Virginia (III, 4–21–78) (Lyco-Zf) (procedures; failure to comply with prequalification procedures; failure to be listed as equivalent)
5. Miami-Dade Water and Sewer Authority, Florida (IV, 5–18–78) (Enviro Development Co. and Poole & Kent Co.)
*6. Mt. Olive, North Carolina (IV, 5–18–78) (Lyco-Zf) (time for data presentation must be clear)
7. Rivanna Water and Sewer Authority, Charlottesville, Virginia (III, 11–2–78) (National Hydro Systems) (descriptive literature)

Procedure (§§ 35.939 (a), (b), (f)) (*see also, Burden of Proof; Jurisdiction; Review—Regional Administrator Authority; Standing; Sua Sponte Summary Dispositions; Time Limitations).*

1. Glenwood Springs, Colorado (VIII, 1–13–78) (Colorado Environmental Equipment, Inc.) (failure to properly plead protest, §§ 35.939 (c), (f)(7))
2. Sandusky, Ohio (V, 1–13–78) (Bay-Con Corp.) (no proper protest to EPA without grantee determination)
3. Gainesville, Georgia (IV, 1–17–78) (National Hydro Systems, Inc. and Tuttle/White Constructors) (bid bond extension; mootness)
4. West Bend, Wisconsin (V, 3–3–78) (Oliver Construction Co. Inc.) (due process)
5. Turlock, California (IX, 3–6–78) (Riga Inc.) (intervention of competitors)
6. Clayton County, Georgia (IV, 4–19–78) (National Hydro Systems, et al.) (participation of an interested party)
7. Front Royal, Virginia (III, 4–21–78) (Lyco-Zf) (bid protest process not APA review)
8. Newton, North Carolina (IV, 4–25–78) (Carolina Concrete Pipe Co.) (consultant as proper party)
9. Cleveland Regional Sewer District (Westerly Plant), Ohio (V, 6–14–78) (McLaughlin & Associates) (grantee's apparent threat to protestant for protest action)
*10. Contra Costa County Sanitation District No. 15, California—Reconsideration (IX, 7–14–78) (Gladding-McBean Inc. and Pacific Clay Products Co.) (intervention of competitors in bid protest proceeding)
11. Goose Creek, South Carolina (IV, 7–24–78) (Kenney and Assoc.) (notice of grantee determination)
12. Onondaga County, New York—Supplement (II, 9–7–78) (Pizzagalli Construction Co. and John W. Cowper Co. Inc.)
13. Knoxville, Tennessee (IV, 9–25–78) (R. B. Carter) (withdrawal)
14. Grand Rapids, Michigan (V, 9–26–78) (Infilco Degremont) (access to bids)
15. Guilderland, New York (II, 10–3–78) (Clevepak Corp.) (state law claim; exclusive sales arrangement)
16. Shreveport, Louisiana (VI, 10–25–78) (Dumesnil Construction Co. Inc.) (protests withdrawn)
17. Indianapolis, Indiana (V, 10–31–78) (Allis-Chalmers) (deadlines for written arguments)

18. Fairfield, New Jersey (II, 11–8–78) (Autocon Industries) (failed to plead case as required under EPA regulations)
19. Portage, Michigan (V, 12–20–78) (Iacobelli Construction Inc.) (no proper prostest to EPA without grantee determination)

Rational Basis Test (*e.g.*, §§ 35.936–2(b), 35.939 (e)(4) and (j)(3)).

*1. Knoxville, Tennessee (IV, 2–8–78) (Roy F. Weston Inc.) (A/E procurement—evaluation of proposals)
2. Webster, Iowa (VII, 2–10–78) (Environmental Systems Division of George A. Hormel & Co. Inc.)
*3. Chester, South Carolina (IV, 3–29–78) (Carolina Concrete Pipe Co.) (selection of single pipe material)
4. Clayton County, Georgia (IV, 4–19–78) (National Hydro Systems Inc., *et al.*)
5. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance) (use for analysis of equipment item reviews)
6. Toppenish, Washington (X, 10–20–78) (Ridge Construction Co.) (either federal or state law)
7. Concord, North Carolina (IV, 10–24–78) (EDC/Enviro Development Inc.)

Reconsideration of Administrative Determinations (but see *Finality of Administrative Determinations;* where appropriate *see* subject listing in 43 FR 29086–95 (July 5, 1978), for pre-1978 determinations).

1. Corvallis, Oregon—Reconsideration (X, 1–19–78) (request of City of Corvallis) (determination of 12–6–77 affirmed)
2. Chester, South Carolina—Reconsideration (IV, 8–23–78) (request of Carolina Concrete Pipe Co.) (determination of 3–29–78 affirmed)
3. Contra Costa County Sanitation District No. 15, California—Reconsideration (IX, 7–14–78) (request of Gladding-McBean Inc. and Pacific Clay Products Co.) (determination of 10–25–78 affirmed in part, modified in part)
4. Onondaga County, New York—Reconsideration (II, 7–19–78) (request of Zimpro) (determination of 6–30–78 affirmed)
5. Newcastle, Indiana—Reconsideration (V, 8–23–78) (request of City of Newcastle) (determination of 5–18–78 and intervening correspondence clarified as to remedy)

Rejection of All Bids (§ 35.938–4(h)(2), *and see* PRM 78–8, published at 43 FR 14725–26, April 7, 1978) (*see also Enforcement*).

1. Rivanna Water and Sewer Authority, Charlottesville, Virginia (III, 5–25–78) (National Hydro Systems, Inc.) (no good bids at reasonable prices)
*2. Bay City, Michigan (V, 6–28–78) (Greenfield Construction Co.) (contract 10 D)
3. Chester, South Carolina (IV, 8–7–78) (Preston Carroll Construction Co.) (EPA directed)
*4. Onondaga County, New York (II, 8–23–78) (Pizzagalli Construction Company and John W. Cooper)
5. Bay County, Michigan (V, 9–1–78) (Roese Contracting Co., Inc.) (contract Nos. 3 and 7)
6. Onondaga County, New York—Supplement (II, 9–7–78) (Pizzagalli Construction Co. and John W. Cowper Co. Inc.)
7. Portage, Michigan (V, 12–20–78) (Iacobelli Construction Inc.)

Responsibility (§§ 35.936–15 and 30.340–2).

1. Miami-Dade Water and Sewer Authority, Florida (IV, 1–13–78) (Continental Consolidated Corp.) (licensing)
2. Knoxville, Tennessee (IV, 2–8–78) (Roy F. Weston, Inc.) (A/E procurement; fraud and corrupt practices)
3. Fairfax County, Virginia (III, 3–17–78) (John W. Cowper Co. Inc.) (subcontractor listing)
*4. San Francisco, California (IX, 8–8–78) (Slattery Assoc., Fischbach and Moore Inc. and Morrison-Knudsen Co., joint venture) (vs. responsiveness—compliance with local minority business enterprise requirements)
5. Bay County, Michigan (V, 8–11–78) (Frank V. Louis Equipment Co.) (Contract No. 1) (addendum acknowledgment—minor informality)
6. Chattanooga, Tennessee (IV, 9–20–78) (Passavant Corp.)
7. Niagra County, Sewer District (No. 1), New York (II, 10–18–78) (Environment One Corporation) (v. responsiveness; U. L. certification and building codes)

Responsiveness (*see also Equal Employment Opportunity; Waiver*).

1. Gainesville, Georgia (IV, 11–7–78) (National Hydro Systems, Inc. and Tuttle/White Constructors) (subcontractor listing)
2. Kitsap County, Washington (X, 2–3–78) (Will Construction Company, Inc.) (equipment listing—matter of responsibility)
3. Cynthiana, Kentucky (iv, 2–9–78) (James N. Gray Construction Co.) (listing nonapproved equipment manufacturer)
4. West Bend, Wisconsin (V, 3–3–78) (Oliver Construction Co. Inc.) (subcontractor listing; bid bond as material requirement)
5. Fairfax County, Virginia (III, 3–17–78) (John C. Cowper Co. Inc.) (subcontractor listing)
6. Bloomington, Indiana (V, 3–20–78) (Huber, Hunt & Nichols) (subcontractor listing)
7. Antigo, Wisconsin (V, 3–24–78) (General Filter Co.) (concerning equipment selected by prime bidder)
8. Amherst, New York (III, 5–15–78) (Cimato Bros. Inc.) (informality)
9. Miami-Dade Water and Sewer Authority, Florida (IV, 5–18–78) (Enviro Development Co. and Poole & Kent Co.) (listing unapproved equipment)
10. Onondaga County, New York (II, 6–30–78) (Zimpro, Inc.)
11. Onondaga County, New York (II, 7–11–78) (Pentech Division of Houdaille Industries) (alternative system)
12. Miami-Dade Water and Sewer Authority, Florida (IV, 7–13–78) (Ed. L. Nezelek Inc.) (prime's listing of previously unaccepted equipment)
13. Bay County, Michigan (V, 8–11–78) (Frank V. Louis Equipment Co.) (Contract No. 1) (addendum acknowledgment—minor informality)
14. Southern Clinton County, Michigan (V, 8–11–78) (A. Z. Shmina) (subcontractor listing)
15. Onondaga County, New York (II, 8–23–78) (Pizzagalli Construction Company and John W. Cowper Co. Inc.)
16. Onondaga County, New York—Supplement (II, 9–7–78) (Pizzagalli Construction Company and John W. Cowper Co. Inc.)
17. Bay County, Michigan (V, 9–12–78) (Roese Contracting Co. Inc.) (Contract No. 1–D (conditional/qualified bid)
18. Barrington, Illinois (V, 10–20–78) (Utility & Industrial Construction Co.)
19. Toppenish, Washington (X, 10–20–78) (Ridge Construction Co.) (failure to acknowledge addendum)
*20. West Goshen, Pennsylvania (III, 11–1–78) (Philips Bros. Electrical Contractors) (EO 11246—Philadelphia Imposed Plan)

Review—Regional Administrator Authority (*see also Procedure; but see Sua Sponte Review*).

1. Sandusky, Ohio (V, 1–13–78) (Bay-Con Corp.)
2. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance) (policy direction)

Salient Requirements (§ 35.936–13(a) and 43 FR 44046, September 27, 1978) (*see also Non-Restrictive Specifications*).

1. Webster, Iowa (VII, 2–10–78) (Environmental Systems Division of George A. Hormel & Co. Inc.)
2. Wells, Maine (I, 3–17–78) (Purcell Pump)
3. Waterford, Connecticut (I, 5–19–78) (Mulholland Construction Co.)
*4. Prince William County, Virginia (III, 6–4–78) (Spencer Turbine Company) (minimum project needs based upon performance)
5. Winchester, New Hampshire (I, 9–1–78) (Enviro Development Co., Inc.)
*6. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance)
7. Frankfort, Kentucky (IV, 10–18–78) (Passavant)
8. Fairfield, New Jersey (II, 10–20–78) (Loc Pump)
9. Urbana-Champaign, Illinois (V, 11–9–78) (Norton Co.) (exclusion on performance basis)
10. Waterford, Connecticut (I, 11–17–78) (Purcell Pump)

Small Business—Procurement of (§ 35.936–7).

*1. Mountaintop, Pennsylvania (III, 1–5–78) (National Hydro Systems, Inc.)
2. Marshfield, Wisconsin (V, 6–16–78) (Empire Generator Corporation)
3. Chattanooga, Tennessee (IV, 9–20–78) (Passavant Corp.)

Sole Source Procurement (§ 35.936–12(b)).

1. Monroe County, Michigan (V, 4–7–78) (Paddock Refinite) (justification based on interchangeability)
2. Waterford, Connecticut (I, 5–19–78) (Mulholland Construction Co.) (procedure)
3. Passaic Valley Sewerage Commissioners, New Jersey (II, 10–5–78) (BSP Division of Envirotech Corp., and Wheatley Corp.)

Specifications (*see also Engineering Judgments; but see Non-Restrictive Specifications*).

1. Miami-Dade Water and Sewer Authority, Florida (IV, 4–28–78) (Intercounty Construction Co. and Morganti-South, Inc.-Wolff & Munier, a joint venture) (defective)

Standing (§§ 35.939 (a) and (j), 35.938–9 and 35.935–2).

1. Sandusky, Ohio (V, 1–13–78) (Bay-Con Corporation) (protest must be decided by grantee before filing with EPA)
2. Springfield, Missouri (VII, 1–24–78) (Armco Steel Corp.) (equipment supplier)
3. North Little Rock, Arkansas (VI, 2–1–78) (Environmental Equipment Corporation) (limited at subtier levels)
4. Turlock, California (IX, 3–6–78) (Riga, Inc.) (subtier; intervenors)
5. Wells, Maine (I, 3–17–78) (Purcell Pump) (subtier)
6. Effingham, Illinois (V, 3–21–78) (Autotrol)
7. Antigo, Wisconsin (V, 3–24–78) (General Filter Co.) (supplier challenging responsiveness of prime bid)
8. Newcastle, Indiana (V, 5–18–78) (Spencer Turbine Co.) (equipment supplier)
*9. Contra Costa County Sanitation District No. 15, California—Reconsideration (IX, 7–14–78) (Gladding-McBean Inc. and Pacific Clay Products Co.) (intervenors)
10. Lebanon, Pennsylvania (III, 8–28–78) (B. F. Goodrich General Products) (subtier protest)
11. Knoxville, Tennessee (IV, 9–25–78) (R. B. Carter) (subcontractor challenge to prime bid)
12. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Defiance)
13. Frankfort, Kentucky (IV, 10–18–78) (Passavant) (subcontractor protest limitation of § 35.939(j)(6))
14. West Goshen, Pennsylvania (III, 11–1–78) (Electric Machine Mfg. Co.) (subtier)
15. Lake County, Illinois (V, 11–17–78) (Envirex)
16. Delaware County, Ohio (V, 11–21–78) (R. B. Carter)

Sua Sponte Review (§§ 35.935–2 and 35.939(f)(6)) *(but see Review—Regional Administrator Authority).*

1. North Little Rock, Arkansas (VI, 2–1–78) (Environmental Equipment Corporation)
2. Cynthiana, Kentucky (IV, 2–9–78) (James N. Gray Construction Co.)
3. Newcastle, Indiana (V, 5–18–78) (Spencer Turbine Co.)
4. Onondaga County, New York (II, 7–11–78) (Pentech Division of Houdaille Industries)
5. Chattanooga, Tennessee (IV, 9–20–78) (Passavant Corp.)
6. Grand Rapids, Michigan (V, 9–26–78) (Infilco Degremont)
7. Guilderland, New York (II, 10–3–78) (Clevepak Corp.)
8. Passaic Valley Sewerage Commissioners, New Jersey (II, 10–5–78) (BSP Division of Envirotech Corp. and Wheatley Corp.)

Subcontracts, Awards of (§§ 35.937–12, 35.938–9 and 35.939(j)(6)).

1. Mountaintop, Pennsylvania (III, 1–5–78) (National Hydro Systems Inc.) (substitution)
2. Gainesville, Georgia (IV, 1–17–78) (National Hydro Systems Inc. and Tuttle/White Constructors)
3. North Little Rock, Arkansas (VI, 2–1–78) (Environmental Equipment Corp.) (fairness; selection by grantee)
4. Cynthiana, Kentucky (IV, 2–9–78) (James N. Gray Construction Co.) (prequalification)
5. Webster, Iowa (VII, 2–10–78) (Environmental Systems Division of George A. Hormel & Co., Inc.)
6. East Bay Dischargers Authority California (IX, 2–15–78) (R. D. Smith) (A/E subagreements; minority business enterprise)
7. Fairfax County, Virginia (III, 3–17–78) (John W. Cowper Co. Inc.)
8. Antigo, Wisconsin (V, 3–24–78) (General Filter Co.) (obligation of prime to furnish conforming equipment)
*9. Cumberland County, New Jersey (II, 3–31–78) (Dorr-Oliver Inc.) (restrictive effect of mistaken specification listing as equivalent)
10. Newton, North Carolina (IV, 4–25–78) (Carolina Concrete Pipe Co.) (pipe; alternate materials)
11. Waterford, Connecticut (I, 5–19–78) (Mulholland Construction Co.)
*12. Prince William County, Virginia (III, 6–4–78) (Spencer Turbine Co.) (prequalification; rational basis as standard)
*13. Newcastle, Indiana—Reconsideration (V, 8–23–78) (Newcastle, Indiana) (EPA overview)
14. Oklahoma City, Oklahoma (VI, 8–25–78) (Automatic Engineering Inc.)
15. Frankfort, Kentucky (IV, 10–18–78) (Passavant)
16. Urbana-Champaign, Illinois (V, 11–9–78) (Norton Co.)
17. Lake County, Illinois (V, 11–17–78) (Envirex)
18. Delaware County, Ohio (V, 11–21–78) (R. B. Carter)

Summary Disposition (§ 35.939(k)).

1. Mountaintop, Pennsylvania (III, 1–5–78) (National Hydro Systems, Inc.)
2. Glenwood Springs, Colorado (VIII, 1–13–78) (Colorado Environmental Equipment, Inc.) (procedures; timeliness)
3. Sandusky, Ohio (V, 11–3–78) (Bay-Con Corporation) (timeliness)
4. Glen Ellyn, Illinois (V, 4–7–78) (Lyco-Zf) (timeliness)
5. Atwater, California (IX, 4–28–78) (Warren C. T. Wong & Assoc.) (A/E procurement)
6. Olympia, Washington (X, 5–30–78) (Pentech Division of Houdaille Industries, Inc.)
*7. Bay City, Michigan (V, 6–28–78) (Greenfield Construction Co.) (contract 10 D) (timeliness)
8. Miami-Dade Water and Sewer Authority, Florida (IV, 7–13–78) (Ed. L. Nezelek Inc.) ("without merit")
9. Goose Creek, South Carolina (IV, 7–24–78) (Kenney and Associates) (timeliness)
10. Pepperell, Massachusetts (I, 7–28–78) (Wescor Associates, Inc.) (timeliness)
11. Bay County, Michigan (V, 8–11–78) (Frank V. Louis Equipment Co.)
12. Penns Grove, New Jersey (II, 8–24–78) (Pandullo Quirk Associates) (timeliness)
13. Bay County, Michigan (V, 9–1–78) (Roese Contracting Co. Inc.) (Contract Nos. 3 and 7) (timeliness)
14. Knoxville, Tennessee (IV, 9–25–78) (R. B. Carter)
15. Niagara County Sewer District (No. 1), New York (II, 10–18–78) (Environment One Corporation) ("without merit")
16. Frankfort, Kentucky (IV, 10–20–78) (Stewart Mechanical Enter./Sigmamotor Inc.)
17. Shreveport, Louisiana (VI, 10–25–78) (Dumesnil Construction Co. Inc.) (procedure; protest withdrawn)
18. Fairfield, New Jersey (II, 11–8–78) (Autocon Industries) (procedural omissions, § 35.939(f)(7))
19. Delaware County, Ohio (V, 11–21–78) (R. B. Carter) (subcontractor selection issues)
20. Portage, Michigan (V, 12–20–78) (Iacobelli Construction Inc.) (procedures)

System Design, Choice of (*e.g.*, §§ 35.917 and 35.939(j)(5)) (*see also Engineering Judgments; Jurisdiction; Non-Restrictive Specifications*).

1. Olympia, Washington (X, 5–30–78) (Pentech Division of Houdaille Industries, Inc.)
2. Cleveland Regional Sewer District (Westerly Plant), Ohio (V, 6–14–78) (McLaughlin & Associates) (v. restrictive specification)
*3. Onondaga County, New York (II, 7–11–78) (Pentech Division of Houdaille Industries, Inc.)

Time Limitations (§§ 35.939(b), (f))

1. Glenwood Springs, Colorado (VIII, 1–13–78) (Colorado Environmental Equipment Inc.)
2. Sandusky, Ohio (V, 1–13–78) (Bay-Con Corporation)
3. North Little Rock, Arkansas (VI, 2–1–78) (Environmental Equipment Corp.)
4. Cynthiana, Kentucky (IV, 2–9–78) (James N. Gray Construction Co.) (Post Office delay; risk of nondelivery)
5. Chicago (Metropolitan Sanitary District of Greater Chicago), Illinois (V, 2–13–78) (Howard Martin Construction)
6. Wells, Maine (I, 3–17–78) (Purcell Pump)
7. Effingham, Illinois (V, 3–21–78) (Autotrol)
8. San Francisco, California (IX, 3–22–78) (E & I, Inc.)
9. Glen Ellyn, Illinois (V, 4–7–78) (Lyco-Zf) (post-contract award)
*10. Mt. Olive, North Carolina (IV, 5–18–78) (Lyco-Zf) (prequalification)
11. Newcastle, Indiana (V, 5–18–78) (Spencer Turbine Co.)
12. Waterford, Connecticut (I, 5–19–78) (Mulholland Construction Co.)
13. Bay City, Michigan (V, 6–28–78) (Greenfield Construction Co.) (Contract No. 10 D)
14. Urbana-Champaign, Illinois (V, 6–30–78) (Paddock Refinite)
15. Washtenaw County, Michigan (V, 7–13–78) (Spence Bros.)
16. Goose Creek, South Carolina (IV, 7–24–78) (Kenney and Associates)
17. Pepperell, Massachusetts (I, 7–28–78) (Wescor Associates, Inc.)
18. Washington County, Oregon (X, 7–31–78) (North American Contractors Inc.)

19. Bay County, Michigan (V, 9–11–78) (Frank V. Louis Equipment Co.) (Contract No. 1)
20. Penns Grove, New Jersey (II, 8–24–78) (Pandullo Quirk Association)
21. Oklahoma City, Oklahoma (VI, 8–25–78) (Automatic Engineering Inc.) (subcontract award)
22. Lebanon, Pennsylvania (III, 8–28–78) (B. F. Goodrich General Products) (change order as notice event)
23. Bay County, Michigan (V, 9–1–78) (Roese Contracting Co. Inc.) (Contract Nos. 3 and 7)
24. Hinsdale, New Hampshire (I, 9–1–78) (Enviro Development Co. Inc.)
*25. Bay County, Michigan (V, 9–12–78) (Roese Contracting Co. Inc.) (Contract No. 1–D)
26. Grand Rapids, Michigan (V, 9–26–78) (Infilco Degremont) (method of delivery; bearing risk; telegram)
27. Guilderland, New York (II, 10–3–78) (Clevepak Corp.)
*28. Passaic Valley Sewerage Commissioners, New Jersey (II, 10–5–78) (BSP Division of Envirotech Corp., and Wheatley Corp.) (estoppel)
29. Indianapolis, Indiana (V, 10–6–78) (FMC Corp.)
30. Silver City, New Mexico (VI, 10–13–78) Enviro Development Co. Inc.)
31. Breese, Illinois (V, 10–18–78) (Midwest Soil Products and Davco-Definance)
32. Frankfort, Kentucky (IV, 10–20–78) (Stewart Mechanical Enter./Sigmamotor Inc.) (subtier level protest)
*33. Indianapolis, Indiana (V, 10–31–78) (Allis-Chalmers) (linkage to preceeding contracts; estoppel) [*see Passaic Valley Sewerage Commissioners, New Jersey* (II, 10–5–78) (BSP Division of Envirotech corp. and Wheatley Corp.)]
34. Urbana-Champaign, Illinois (V, 11–9–78) (Norton Co.)
35. Lake County, Illinois (V, 11–17–78) (Envirex)
36. Delaware County, Ohio (V, 11–21–78) (R. B. Carter)

Waiver.

1. Cynthiana, Kentucky (IV, 2–9–78) (James N. Gray Construction Co.) (listing nonapproved equipment)
2. Effingham, Illinois (V, 3–6–78) (Mautz & Oren Inc.) (omissions of line items)
3. Chicago (Metropolitan Sanitary District of Greater Chicago), Illinois (V, 3–12–78) (Howard Martin Construction) (local procedures)
4. Amherst, New York (II, 5–15–78) (Cimato Bros, Inc.)
*5. Bay County, Michigan (V, 8–11–78) (Frank V. Louis Equipment Co.) (Contract No. 1) (addendum acknowledgment—Minor informality)
6. Onondaga County, New York (II, 6–23–78) (Pizzagalli Construction Company and John W. Cowper)

[FRL 1497–4]
[FR Doc. 79–10379 Filed 4–6–79; 8:45 am]
BILLING CODE 6560–01–M

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federal register
Wednesday
May 2, 1979

Part VI

Department of Health, Education, and Welfare

Citizen Education for Cultural Understanding Program

4 4 1 8 6

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Part 146a

Citizen Education for Cultural Understanding Program

AGENCY: Office of Education, HEW.

ACTION: Final regulations.

SUMMARY: The Commissioner of Education amends the regulations for the Citizen Education for Cultural Understanding program. These regulations set forth rules and criteria governing the award of grants and contracts to any public or private agency or organization to increase the understanding of students in the United States about the actions and cultures of other nations, and to enable these students to make informed judgments with respect to the international policies and actions of the United States.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the **Federal Register**. The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT: Stewart Tinsman, Citizen Education for Cultural Understanding Program, Division of International Education, 400 Maryland Avenue, S.W., (Room 3919, Regional Office Building # 3), Washington, D.C. 20202 (202/245–9692).

SUPPLEMENTARY INFORMATION: Section 603 of Title VI of the National Defense Education Act, as amended, authorizes the awarding of grants and contracts to any public or private agency or organization for educational programs which will increase the understanding of students in the United States about the actions and cultures of other nations. Limited funds are available for this program for the first time in fiscal year 1979. Hence, the regulations for this program, which were published in the **Federal Register** on May 12, 1978, are being amended in order (1) that funds may be focused on projects of priority concern among the authorized activities, and (2) to achieve a wide distribution of the limited funds throughout the nation.

The Commissioner finds that publication of proposed rules in this case would be unnecessary, impracticable, and contrary to the public interest, within the meaning of 5 U.S.C. 553(b). As discussed above, the regulatory changes are based on the small appropriation for the program, which cannot be changed and is unlikely to increase significantly in future years.

To publish these changes in proposed form first would not allow sufficient time for processing awards under the final regulations. Accordingly, these changes are now adopted as final regulations.

(Catalog of Federal Domestic Assistance No. 13.581, Citizen Education for Cultural Understanding Program)

Dated: April 27, 1979.

Ernest L. Boyer,
U.S. Commissioner of Education.

Approved: April 27, 1979.

Hale Champion,
Acting Secretary of Health, Education, and Welfare.

Part 146a of Title 45 of the Code of Federal Regulations is amended as follows:

Citizen Education for Cultural Understanding Program

* * * * *

1. Section 146a.2 is revised by designating the existing provisions as a paragraph (a) and adding a new paragraph (b), to read as follows:

§ 146a.2 General authority.

* * * * *

(b) Each fiscal year, the Commissioner may announce in the **Federal Register** that all or portions of the funds available for awards in that fiscal year will be reserved for projects focusing on specific aspects of the authorized activities.

(20 U.S.C. 512a)

* * * * *

2. Section 146a.7 is revised by adding a new paragraph (b), to read as follows:

§146a.7 Evaluation criteria.

* * * * *

(b) In addition to considering the criteria applied to each application individually, the Commissioner seeks to achieve a wide distribution of awards throughout the United States.

(20 U.S.C. 512a)

* * * * *

[FR Doc. 79-13888 Filed 5-1-79; 8:45 am]
BILLING CODE 4110-02-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Citizen Education for Cultural Understanding Program; Closing Date for Transmittal of Applications for Fiscal Year 1979

Applications are invited for new projects under the Citizen Education for Cultural Understanding Program.

Authority for this program is contained in Section 603 of the National Defense Education Act of 1958, as amended.

(20 U.S.C. 512a)

This program issues awards to any public or private agency or organization, inlcuding, but not limited to, institutions of higher education, State and local educational agencies, professional associations, educational consortia, and organizations of teachers.

The purpose of the awards is to stimulate locally designed educational programs to increase the understanding of students in the United States about the cultures, actions, and policies of other nations in order to allow them to better evaluate the international and domestic impact of major policies of the United States and other nations.

Closing date for transmittal of applications: Applications for awards must be mailed or hand delivered by June 18, 1979.

Applications delivered by mail: An applicant sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.581, Washington, D.C. 20202.

Proof of mailing may consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service. (Note: The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

Program information: Funds under this program may be used to carry out the following activities:

(1) The in-service training of teachers and other educational personnel with regard to the cultures, actions, and policies of other nations;

(2) The compilation of existing information and resources about other nations in forms useful to various types of educational programs; or

(3) The dissemination of information and resources pertaining to the cultures, actions, and policies of other nations to educators and education officials upon their request.

Available funds and program priorities: An estimated $2 million is available for this program for fiscal year 1979. This will provide for approximately 10–12 major grants averaging approximately $100,000 each; approximately 4–6 mid level grants averaging approximately $80,000 each; and approximately 20–24 mini-grants averaging approximately $25,000 each.

For approximately 8 to 10 major grants priority will be given to funding elementary or secondary school-based programs which have successfully incorporated international dimensions into their regular school program, and which propose to serve as a host or resource center providing statewide and/or regional outreach training and dissemination activities to motivate and assist other potential or existing programs.

For approximately 2 to 4 major grants priority will be given to funding training and dissemination programs focusing on multicultural awareness and/or issues of global concern, and which demonstrate the potential to produce lasting state, regional, or national impact through the use of mobile workshops, production of television, radio and other audio-visual programs, or the use of the mass media.

For the mid-level and mini-grants priority consideration will be given to funding.

(a) teacher training programs, for example, school year or summer institutes and workshops, designed to show educators how to incorporate into regular school and adult education programs international cultural understanding and/or global perspectives on world issues utilizing university, business, and/or government authorities, or educators with foreign experience;

(b) dissemination programs to enable educators and education officials to provide such activities as, for example, (1) opportunities for citizens to discuss issues of worldwide concern; (2) workshops for educators, administrators, education and civic associations, school board members or public officials; (3) drawing upon the contribution of foreign students in the U.S. as a resource in secondary or elementary school programs; or (4) clearinghouse activities including compilation, production, and diffusion of printed or audio-visual materials or television or radio programs.

The applications for all grants will be evaluated competitively under the funding criteria in 45 CFR Parts 146a, and 100a.25.

There are no continuation grants in the Citizen Education for Cultural Understanding Program for this year, and awards will be made for a one-year period.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by May 2, 1979. They may be obtained by writing to the Division of International Education, U.S. Office of Education (Room 3919, Regional Office Building #3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

Applicable regulations: The regulations applicable to this program are: (a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations for the Citizen Education for Cultural Understanding Program (45 CFR Part 146a) published in the **Federal Register** on May 12, 1978, and revised in today's issue of the **Federal Register**.

Further information: For further information contact Dr. Stewart Tinsman, Division of International Education, U.S. Office of Education, (Room 3919, Regional Office Building #3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245–9692.

(20 U.S.C. 512a)

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(Catalog of Federal Domestic Assistance Program No. 13.561, Citizen Education for Cultural Understanding Program)

Dated: April 27, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

[FR Doc. 79-13669 Filed 5-1-79;8:45 am]

BILLING CODE 4110-02-M

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federal register

Wednesday
May 2, 1979

Part VII

Department of State

Fishing Conservation and Management Act of 1976; Applications for Permits to Fish Off the Coasts of the United States

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DEPARTMENT OF STATE

Fishery Conservation and Management Act of 1976; Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the Federal Register.

Applications have been recieved from the Union of Soviet Socialist Republics for fishing during 1979 and are reproduced herewith.

Individual vessel applications for fishing 1979 have been received from Japan, Korea, the Polish People's Republic, Taiwan and the Union of Soviet Socialist Republics and are summarized herein.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202) 634–7285).

Dated: April 20, 1979.

[redacted]
Director, Office of Fisheries Affairs.

Fishery codes and designation of regional councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional council
ABS	Atlantic Billfishes and Sharks	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA	Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet	North Pacific.
CRB	Crab (Bering Sea)	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic	New England, Mid-Atlantic.
SMT	Seamount Groundfish (Pacific Ocean)	Western Pacific.
SNL	Snails (Bering Sea)	North Pacific.
WOC	Washington, Oregon, California Trawl	Pacific.

Activity codes specify categories of fishing operations applied for as follows:

Activity Code and Fishing Operations

1—Catching, processing, and other support.
2—Processing and other support only.
3—Other support only.

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Korea:			
Dae Rim, cargo/transport	KS–79–0092	BSA, GOA	3
Min Woo No. 3, cargo/transport	KS–79–0093	BSA, GOA	3
O Dae Yang No. 105, cargo/transport	KS–79–0094	GOA	3
Dal Ho No. 308, large stern trawler	KS–79–0095	BSA, GOA	1
U.S.S.R.:			
Kamchatskaya Pravda, large stern trawler	UR–79–0699	BSA, GOA, WOC	1
Mys Shelikhove, large side trawler	UR–79–0703	BSA, GOA, NWA	1
Paudza, large stern trawler	UR–79–0704	BSA, GOA, WOC	1
Sovetskiye Profsoyuzy, large stern trawler	UR–79–0705	BSA, GOA, WOC	1
Poland:			
Winetta, cargo/transport	PL–79–0091	BSA, GOA, WOC	3
Taiwan:			
Highly No. 301, medium stern trawler	TW–79–0008	SMT	1
Highly No. 302, medium stern trawler	TW–79–0009	SMT	1
Japan:			
Daishin Maru No. 12, large stern trawler	JA–79–0895	SMT	1
Hatsue Maru, longliner	JA–79–0562	BSA, GOA,	1
Wakatsuki Maru, cargo/transport	JA–79–1150	BSA, GOA, NWA	3
Kaiko Maru No. 1, medium stern trawler	JA–79–0382	NWA	1
Shinnichi Maru No. 38, medium stern trawler	JA–79–0563	BSA	1
Shunyoo Maru No. 118, medium stern trawler	JA–79–0564	BSA	1
Zuihoo Maru No. 28, medium stern trawler	JA–79–0565	BSA	1
Yousho Maru No. 3, longliner	JA–79–1202	ABS	1
Yusho Maru No. 5, longliner	JA–79–1203	ABS	1
Koryo Maru No. 6, longliner	JA–79–1241	ABS	1
Kinei Maru No. 85, longliner	JA–79–1257	ABS	1
Kinei Maru No. 18, longliner	JA–79–1258	ABS	1
Kinei Maru No. 88, longliner	JA–79–1259	ABS	1
Shinzan Maru No. 3, longliner	JA–79–1260	ABS	1
Taiko Maru No. 6, longliner	JA–79–1262	ABS	1
Wakashio Maru No. 38, longliner	JA–79–1270	ABS	1
Kuromori Maru No. 38, longliner	JA–79–1273	ABS	1
Fuku Maru No. 38, longliner	JA–79–1321	ABS	1
Fukutoku Maru No. 88, longliner	JA–79–1322	ABS	1
Koei Maru No. 38, longliner	JA–79–1323	ABS	1
Koryo Maru No. 38, longliner	JA–79–1324	ABS	1
Koshin Maru No. 38, longliner	JA–79–1325	ABS	1
Matusei Maru No. 8, longliner	JA–79–1326	ABS	1
Seishu Maru No. 11, longliner	JA–79–1327	ABS	1
Shoshin Maru No. 83, longliner	JA–79–1328	ABS	1
Sumi Maru No. 15, longliner	JA–79–1329	ABS	1
Taitu Maru No. 38, longliner	JA–79–1330	ABS	1
Takatoyo Maru No. 18, longliner	JA–79–1331	ABS x	1

[FR Doc. 79–13607 Filed 5–1–79; 8:45 am]

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federal register

Wednesday
May 2, 1979

Part VIII

Department of Energy

Economic Regulatory Administration

Incentive Prices for Newly Discovered Crude Oil

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

Incentive Prices for Newly Discovered Crude Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final Rule and Continuation of Rulemaking.

SUMMARY: Effective June 1, 1979, the Mandatory Petroleum Price Regulations are amended to provide additional price incentives for crude oil production. The amendments will permit crude oil which qualifies as newly discovered to be sold at market prices without regard to the specific dollar ceiling prices that are currently applicable under the price regulations. Newly discovered crude oil is defined as crude oil sold after May 31, 1979 which was produced from: (1) An area in the outer continental shelf for which the lease was entered into on or after January 1, 1979 and from which there was no production in calendar year 1978; or (2) an onshore property from which no crude oil was produced in calendar year 1978. The determination that crude oil produced from a particular property qualifies as newly discovered crude oil is to be made by the producer. That determination may, however, be reviewed by the DOE and if found to be erroneous, the producer may be required to take remedial action. Producers should note that the DOE is considering whether, and the extent to which, it will require producers to submit certain information to it relating to the determination that a property's crude oil production qualifies for sale as newly discovered crude oil. Information filing requirements will be announced at a later date.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214B, 2000 M Street, NW., Washington, D.C. 20461. (202) 254–5201.

William Webb (Office of Public Information), Economic Regulatory Administration, Room B110, 2000 M Street, NW., Washington, D.C. 20461. (202) 634–2170.

William Carson (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, NW., Washington, D.C. 20461. (202) 254–7200.

Jack O. Kendall (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C. 20585. (202) 252–6739.

SUPPLEMENTARY INFORMATION:

I. Background
II. Summary of Comments
III. Amendments Adopted
IV. Other Matters

I. Background

On April 20, 1977, the President presented a National Energy Plan to the Congress. The plan contains pricing policies which are designed to provide price incentives for certain categories of crude oil in order to optimize domestic production. One proposal provides for the gradual lifting of ceiling prices on newly discovered crude oil.

As part of our implementation of the President's National Energy Plan (NEP), we issued on December 29, 1978 a Notice of Proposed Rulemaking to adopt amendments providing additional price incentives for newly discovered crude oil. (44 FR 1888, January 8, 1979).[1]

In the January Notice we proposed to permit newly discovered crude oil to be sold in first sales at market prices without regard to the specific dollar ceiling prices that would otherwise be applicable to such production under the crude oil pricing regulations set forth in Subpart D of 10 CFR Part 212. We also requested comments on an alternative proposal to gradually raise prices for such crude oil to 1977 world market levels adjusted for inflation as proposed in the NEP.

We proposed in the January Notice to define "newly discovered crude oil" as crude oil produced from: (1) An area in the outer continental shelf (OCS) for which there was no lease in effect on January 1, 1979 which was entered into prior to that date ("new lease" proposal); or (2) an onshore well on which surface drilling commenced on or after January 1, 1979 and which is at least 2.5 miles from an existing producing well or the completion depth of which is at least 1,000 feet below the deepest completion depth of any existing producing well within 2.5 miles of the new well ("new well" proposal); or (3) any well on an onshore reservoir if crude oil was not produced from such reservoir in commercial quantities prior to January 1, 1979 ("new reservoir" proposal). Determinations as to whether certain crude oil qualified under this definition as newly discovered crude oil would be made by the appropriate State agency or, for crude oil produced from Federal lands, the United States Geological Survey (USGS).

In proposing to make newly discovered status available to crude oil production from a new reservoir, we departed from the concept that incentives for newly discovered crude oil would be limited to exploratory drilling activity. Accordingly, we requested comments as to whether such a departure would be consistent with the objectives of the NEP and would result in any significant increase in domestic crude oil production.

Public hearings on these proposals were held in Denver, Colorado on February 27, 1979 and in Washington, D.C. on March 6, 1979. We also received written comments on the proposals through March 23, 1979.

II. Summary of Comments

Forty-seven parties submitted oral or written comments on the January Notice. These commenters included fourteen major integrated refiners, five small integrated refiners, eight independent producers, eight producers' associations, two independent refiners, three consumer or public interest organizations, a public utility, an oil service company, the State of Texas, the Texas Railroad Commission, and the U.S. Department of the Interior.

Commenters representing the petroleum industry generally urged that any final rule issued by the ERA in this proceeding define newly discovered crude oil as broadly as possible and permit that category of crude oil to be sold at market prices. These industry representatives also shared the opinion that the proposed criteria for crude oil produced from new wells would be too stringent to provide any meaningful incentive. In this regard they stated that fewer than ten percent of onshore exploratory well drillings could be expected to qualify as new wells under the 2.5 miles and 1,000 feet criteria. Furthermore, they claimed that the new well proposal was impractical because it would be difficult to obtain information concerning the completion depth of other wells within a 2.5 miles radius of the exploratory well. Several commenters also expressed concern about the administrative burden of placing with State agencies the responsibility for determining whether a new well met the distance and depth criteria set forth in the rule. In this regard, the State of Texas and the Texas Railroad Commission stated that such responsibility would require major State expenditures.

Industry representatives argued strongly that if we adopted a final rule using the new well concept, the distance and depth criteria should be relaxed. They also requested that we permit crude oil produced from any qualifying well which was completed after January 1, 1979 be eligible for sale as newly discovered crude oil, regardless of the date on which drilling commenced.

With respect to the new reservoir proposal, most industry representatives suggested a revision to permit the sale at market prices of crude oil produced from any exploratory drilling, regardless of whether there was previous production in commercial quantities from the reservoir on which the drilling occurs. Several of the commenters seeking such an extension of the new reservoir concept indicated, however, that they believed that crude oil produced from a previously developed reservoir should be eligible for sale as newly discovered crude oil only if there had been no production from the reservoir during the last six months of 1978.

Comments submitted by representatives of the oil industry as to whether determinations that certain crude oil production qualified as newly discovered crude oil should be made by producers or by the appropriate State or federal agencies were almost equally divided for both the new well and new reservoir proposals. The State of Texas, the only State that responded to the January Notice, objected to assuming the responsibility for qualifying crude oil as newly discovered. Also objecting to State determinations were the three consumer or public interest organizations.

In general, the consumer or public interest organizations were opposed to the proposals. These groups maintained that current prices provide a sufficient incentive for exploratory drilling and that further price increases would create unnecessary additional burdens on consumers. This group also criticized the proposals as an attempt to improperly transfer federal responsibility for regulating crude oil prices to the States.

III. Amendments Adopted

We have decided to adopt an amendment, similar to that which was proposed, which will provide that crude oil produced from an OCS area for which the lease was entered into on or after January 1, 1979 (including property that was leased prior to that date but was abandoned and subsequently leased again on or after that date) and from which there was no production in 1978, may be sold at market prices on or after June 1, 1979. We have also decided to modify the proposal relating to onshore production in accordance with the comments we received. Accordingly, crude oil produced from any onshore property[2] from which there was no production in calendar year 1978 and sold on or after June 1, 1979 will qualify as newly discovered crude oil and be eligible for sale at market prices without regard to specific dollar ceiling prices. Our decision to delete the depth and distance requirements and to rely exclusively on the property concept is based upon our determination that these criteria would cause substantial difficulties to both industry and State agencies. The property concept, on the other hand, has been an important feature of the crude oil price regulations since their inception. Consequently, it provides a crude oil producer with familiar criteria to apply in making a determination as to whether certain crude oil production qualifies for sale as newly discovered. Furthermore, use of the property concept will include as newly discovered crude oil all crude oil production that would have so qualified under the new reservoir proposal.

Our decision to also treat as newly discovered, crude oil produced from a property which has been previously developed but from which there was no production in calendar year 1978 is based on our belief that the availability of this incentive will result in increased domestic production in furtherance of the objectives of the NEP. In addition, we believe that limiting the incentive to properties from which there was no production in calendar year 1978 will prevent producers from abandoning production for the purpose of realizing benefits. This limitation is, however, sufficiently flexible to afford newly discovered status to crude oil produced as the result of the resumption of production on a property which was abandoned as uneconomic, as long as the abandonment occurred prior to January 1, 1978.

As indicated above, we have decided that in all cases the producer is to determine whether crude oil production from a particular property may be sold as newly discovered crude oil on or after June 1, 1979. That determination may, however, be reviewed by the DOE and if we find that a producer has improperly determined that crude oil from a particular property qualifies as newly discovered, we may require that pricing adjustments be made or other remedial action be taken.

We are reserving a decision as to whether, and the extent to which, we will require producers to submit documentation to the DOE that crude oil from a particular property qualifies as newly discovered crude oil. We are keeping the rulemaking proceeding open on this subject and plan to issue a further notice describing the information filing requirements at a later date. In the meantime, crude oil production that qualifies for treatment as newly discovered under this rule may be sold at market prices beginning June 1, 1979.

IV. Other Matters

In adopting this rule, we have considered, in accordance with DOE Order 2030, the economic impact of our action and have prepared a regulatory analysis. In fulfillment of our responsibilities under the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*), DOE relied upon the environmental impact statement (EIS) entitled *Cumulative Production/Consumption Effects of the Crude Oil Price Incentive Rulemakings* (DOE/EIS–0016, May 1979). Copies of the regulatory analysis and the EIS may be obtained from the ERA, Office of Public Information, 2000 M Street, N.W., Room B–119, Washington, D.C. 20461, (202) 634–2170.

In accordance with Section 404 of the Department of Energy Organization Act (DOE Act) (42 U.S.C. 7101 *et seq.*), the Federal Energy Regulatory Commission

[1] The January Notice of Proposed Rulemaking includes a description of the major elements of the NEP proposal for crude oil pricing. *See* 44 FR 1888, January 8, 1979.

[2] The current definition of the term "property" is set forth in § 212.72 of the crude oil price regulations (10 CFR Part 212). All rulings, adjudications, and interpretations that have been developed by the DOE or its predecessor agency with regard to the current property definition will apply similarly to the term "property" as used in this rule for newly discovered crude oil.

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received a copy of the proposed rulemaking and has notified the ERA that it has not determined that the proposed regulations would significantly affect any function within its jurisdiction under sections 402 (a)(1), (b) and (c)(1) of the DOE Act.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective June 1, 1979.

Issued in Washington, D.C., April 27, 1979.

David J. Bardin,
Administrator, Economic Regulatory Administration.

1. Section 212.73(a) is revised to read as follows:

§ 212.73 Lower tier ceiling price rule.

(a) *Rule.* Except as provided in § 212.74 with respect to new crude oil; except as provided in § 212.75 for certain crude oil produced from unitized properties; except as provided in § 212.78 for incremental crude oil produced from qualified tertiary enhanced recovery projects; except as provided in § 212.79 with respect to newly discovered crude oil; and except as provided in Subpart C of this part for exempt crude oil, no producer may charge a price higher than the lower tier ceiling price for any first sale of domestic crude oil.

* * * * *

2. Section 212.75 is revised to read as follows:

§ 212.75 Crude oil produced and sold from unitized properties.

(a) *Rule.* With respect to each unitized property, a producer shall, as of the effective date of unitization, establish a unit base production control level.

(b) *Definitions.* For purposes of this section—

"Current unit cumulative deficiency" means (1) for months prior to June 1, 1979, the total number of barrels by which production and sale of crude oil from the unitized property was less than the unit base production control level subsequent to the first month (following the establishment of a unit base production control level for that unitized property) in which any crude oil produced and sold from that unit was eligible to be classified as actual new crude oil (without regard to whether the amount of actual new crude oil was exceeded by the amount of imputed new crude), minus the total number of barrels of domestic crude oil produced and sold in each prior month from that unitized property (following the establishment of a unit base production control level for that unitized property) which was in excess of the unit base production control level for that month, but which was not eligible to be classified as actual new crude oil because of this requirement to reduce the amount of actual new crude oil in each month by the amount of the current unit cumulative deficiency;

(2) For months commencing after May 31, 1979, at the option of the producer either (i) the total number of barrels by which production and sale of crude oil from the unitized property has been less than the unit base production control level subsequent to the first month (after June 1, 1979) in which new crude oil was produced and sold, minus the total number of barrels of domestic crude oil produced and sold from the unitized property in each prior month after June 1, 1979, which was in excess of the unit base production control level for that month, but which was not classified as new crude oil because of this requirement to reduce the amount of new crude oil in each month by the amount of the current unit cumulative deficiency; or

(ii) The total number of barrels by which production and sale of crude oil from the unitized property has been less than the unit base production control level subsequent to any two-month period in which the total production and sale of crude oil from the unitized property concerned exceeds the sum of the property's unit base production control levels for that two-month period, minus the total number of barrels of domestic crude oil produced and sold in each prior month after June 1, 1979, which was in excess of the unit base production which was not classified as new crude oil because of this requirement to reduce the amount of new crude oil in each month by the amount of the current unit cumulative deficiency. A producer may not elect the option described in this paragraph (ii) for any unitized property from which new crude oil was produced and sold as new crude oil in any month which begins after May 31, 1979.

"Imputed newly discovered crude oil" means, with respect to a unitized property for which a unit base production control level was established after May 31, 1979, in a particular month, either (1) a number of barrels of crude oil equal to the total number of barrels of crude oil produced and sold in that particular month from all properties that constitute the unitized property, multiplied by the total number of barrels of crude oil (excluding condensate recovered in non-associated production) produced during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property from all newly discovered crude oil properties that constitute the unitized property, divided by the sum of (i) the total number of barrels of crude oil produced and sold during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property from all properties other than newly discovered crude oil properties that constitute the unitized property, plus (ii) the total number of barrels of crude oil produced during that period from all newly discovered crude oil properties that constitute the unitized property, or (2) a number of barrels of crude oil equal to the total number of barrels of crude oil (excluding condensate recovered in non-associated production) produced during the 12-month period preceding the establishment of a unit base production control level for the unitized property from all newly discovered crude oil properties that constitute the unitized property, divided by the number of days in that 12-month period, and multiplied by the number of days in that particular month, whichever is greater.

"Imputed stripper well crude oil" means, (1) with respect to a unitized property for which a unit base production control level was established prior to August 1, 1977, in a particular month, a number of barrels of crude oil equal to the total number of barrels of crude oil (excluding condensate recovered in non-associated production) produced during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property from all stripper well properties (qualified as such as of the establishment of a unit base production control level for the unitized property) that constitute the unitized property, divided by the number of days in that 12-month period, and multiplied by the number of days in that particular month; (2) with respect to a unitized property for which a unit base production control level was established on or after August 1, 1977, in a particular month, either (i) a

number of barrels of crude oil equal to the total number of barrels of crude oil produced and sold in that particular month from all properties that constitute the unitized property, multiplied by the total number of barrels of crude oil (excluding condensate recovered in non-associated production) produced during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property from all stripper well properties (qualified as such as of the establishment of a unit base production control level) that constitute the unitized property, divided by the sum of (A) the total number of barrels of crude oil produced and sold during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property from all non-stripper well properties that constitute the unitized property, plus (B) the total number of barrels of crude oil produced during that period from all stripper well properties that constitute the unitized property, or (ii) a number of barrels of crude oil equal to the total number of barrels of crude oil (excluding condensate recovered in non-associated production) produced during the 12-month period preceding the establishment of a unit base production control level for the unitized property from all stripper well properties (qualified as such as of the establishment of a unit base production control level of the unitized property) that constitute the unitized property, divided by the number of days in that 12-month period, and multiplied by the number of days in that particular month, whichever is greater.

"New crude oil" means, in a particular month, (1) with respect to a unitized property for which a unit base production control level was established prior to August 1, 1977, either (i) actual new crude oil, which is the total number of barrels of crude oil produced and sold in that month from all properties that constitute the unitized property, less (A) the unit base production control level, and less (B) the current cumulative deficiency; or (ii) imputed new crude oil, which is a number of barrels of crude oil equal to the total number of barrels of new crude oil produced and sold during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property, from all properties that constitute the unitized property, divided by the number of days in the 12-month period immediately preceding the establishment of a unit base production control level, multiplied by the number of days in the particular month, whichever number is greater.

"Newly discovered crude oil property" means a property from which, prior to its inclusion within an unitized property, crude oil was produced and sold in accordance with the price rule in § 212.79 of this part.

"Old crude oil" means, in a particular month, the total number of barrels of crude oil produced and sold in that month from all properties that constitute the unitized property, less (1) the total number of barrels of new crude oil produced and sold from the unitized property in that month, and less (2) the total number of barrels of imputed stripper well crude oil produced and sold from the unitized property in that month, and less (3) the total number of barrels of imputed newly discovered crude oil produced and sold from the unitized property in that month.

"Significant alteration in producing patterns" means the occurrence of either (1) the application of extraneous energy sources by the injection of liquids or gases into the reservoir, or (2) the increase of production allowable for any property that constitutes the unitized property.

"Unit base production control level" means, in a particular month, (1) with respect to a unitized property for which the volume of imputed stripper well production is determined pursuant to the provisions of subparagraph (1), or subparagraph (2)(ii) of the definition of "imputed stripper well crude oil," (i) the total number of barrels of old crude oil, as defined in § 212.72, produced and sold during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property from all properties that constitute the unitized property, divided by the number of days in that 12-month period, and multiplied by the number of days in the particular month; plus (ii) the total number of barrels of crude oil produced during that 12-month period from all stripper well properties that constitute the unitized property, divided by the number of days in that 12-month period, and multiplied by the number of days in the particular month; plus (iii) the total number of barrels of crude oil produced during that 12-month period from all newly discovered crude oil properties that constitute the unitized property, divided by the number of days in that 12-month period, and multiplied by the number of days in the particular month; (2) with respect to a unitized property for which the volume of imputed stripper well crude oil is determined pursuant to the provisions of subparagraph (2)(i) of the definition "imputed stripper well crude oil," the total number of barrels of old crude oil, as defined in § 212.72, produced and sold during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property from all properties that constitute the unitized property, divided by the number of days in that 12-month period, and multiplied by the number of days in the particular month.

"Unitized property" means the right to produce crude oil that arises from a bona fide unitization agreement approved by the applicable governmental regulatory authority (or ERA).

(c) Notwithstanding the provisions of paragraph (a) of this section, a producer shall not be required to establish a unit base production control level for a particular unitized property, provided that the producer has (pursuant to the provisions of 10 CFR Part 205, Subpart G) certified to ERA its intention to determine volumes of lower tier, upper tier, newly discovered, and stripper well property crude oil separately for all properties that constitute the unitized property, and provided further that the unitized property has not sustained a significant alteration in producing patterns.

(d) Except as provided in paragraphs (e), (f), and (g) of this section with respect to new crude oil, imputed stripper well crude oil, and imputed newly discovered crude oil, no producer of crude oil from a unitized property

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may charge a price higher than the lower tier ceiling price (as determined pursuant to §§ 212.73 and 212.77 of this part) for the first sale of domestic crude oil produced and sold from the unitized property.

(e) Notwithstanding the provisions of paragraph (d) of this section, a producer of crude oil from a unitized property may, in any month, charge a price not to exceed the upper tier ceiling price (as determined pursuant to §§ 212.74 and 212.77 of this part) in first sales of new crude oil produced and sold from the unitized property.

(f) Notwithstanding the provisions of paragraph (d) of this section, the prices charged by a producer of crude oil from a unitized property in first sales of imputed newly discovered crude oil are not subject to the ceiling price limitations of this subpart.

(g) Notwithstanding the provisions of paragraph (d) of this section, the prices charged in any month by a producer of crude oil from a unitized property in first sales of imputed stripper well crude oil are exempt.

(h) Notwithstanding the provisions of the definition of "unit base production control level" in paragraph (b) of this section, with respect to any unitized property for which a unit base production control level was established prior to June 1, 1979, a producer may, effective June 1, 1979, select as the unit base production control level, the total number of barrels of old crude oil produced and sold during the six-month period ending March 31, 1979, from all properties that constitute the unitized property, divided by 182, times the number of days during the month in 1978 which corresponds to the month concerned. The selection of a unit base production control level pursuant to this paragraph (h) does not constitute the "establishment of a unit base production control level" for any purpose under this part.

(i) The provisions of this section shall apply to each first sale of crude oil from a unitized property.

3. A new § 212.79 is added to read as follows:

§ 212.79 Newly discovered crude oil ceiling price rule.

(a) *Rule.* Notwithstanding the provisions of § 212.73(a), first sales of newly discovered crude oil on or after June 1, 1979 are not subject to the ceiling price limitations of this subpart.

(b) *Definitions.* For purposes of this section—

"New lease" means any lease entered into on or after January 1, 1979 of an area from which there was no production in calendar year 1978.

"Newly discovered crude oil" means domestic crude oil which is: (1) Produced from a new lease on the Outer Continental Shelf; or (2) produced (other than from the Outer Continental Shelf) from a property from which no crude oil was produced in calendar year 1978.

"Outer continental shelf" means Outer Continental Shelf as defined under section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

* * * * *

4. Section 212.131 is amended by revising paragraphs (a)(2)(i), (C) and (D); and by adding paragraph (a)(2)(i)(E); by revising paragraphs (a)(3)(i), (D) and (E); and by adding paragraph (a)(3)(i)(F).

§ 212.131 Certification of domestic crude oil sales.

(a) * * *

* * * * *

(2) Non-stripper well properties. * * *

(i) * * *

(C) Crude oil transported through the trans-Alaska pipeline;

(D) Incremental tertiary crude oil as determined pursuant to § 212.78; and

(E) Newly discovered crude oil as determined pursuant to § 212.79.

* * * * *

(3) *Unitized properties.* * * *

(i) * * *

(D) Incremental tertiary crude oil determined pursuant to § 212.78;

(E) Imputed stripper well crude oil, if any, determined pursuant to § 212.75(b); and

(F) Imputed newly discovered crude oil, if any, determined pursuant to § 212.75(b).

* * * * *

[Docket No. ERA-R-78-35]

[FR Doc. 79-13600 Filed 5-1-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personal Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

19193 4-3-79 / Coal mining point source category; effluent limitations guidelines for existing sources

TRANSPORTATION DEPARTMENT

Coast Guard—

19192 4-2-79 / Drawbridge operation provisions, Ashley River, S.C.

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

24297 4-25-79 / Irish potatoes grown in the Southeastern States, proposed handling regulation; comments by 5-11-79

AGRICULTURE DEPARTMENT

Farmers Home Administration—

12836 3-8-79 / Energy impacted area development assistance program; comments by 5-7-79

Rural Electrification Administration—

20709 4-6-79 / Wood telephone pedestal stubs; proposed specification; comments by 5-7-79

CIVIL AERONAUTICS BOARD

18646 3-29-79 / Intrastate pairs of points, joint fares; reply comments by 5-7-79

COMMERCE DEPARTMENT

Economic Development Administration—

20471 4-5-79 / Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands); comments by 5-7-79

National Oceanic and Atmospheric Administration—

20441 4-5-79 / Interim guidelines for fishery management plans; comments period extended from 4-6 to 5-9-79

[Originally published at 44 FR 7708, Feb. 7, 1979]

COMMODITY FUTURES TRADING COMMISSION

13495 3-13-79 / Regulation of leverage transactions as contracts for future delivery or otherwise; comments by 5-11-79

23092 4-18-79 / Leverage transactions; petition for rulemaking; comments by 5-21-79

COPYRIGHT ROYALTY TRIBUNAL

20220 4-4-79 / Cable royalty fees, supplemental rule with respect to filing of claims; reply comments by 5-9-79

DEFENSE DEPARTMENT

Office of the Secretary—

21304 4-10-79 / Financial Privacy Act of 1978; obtaining information from financial institutions; comments by 5-10-79

ENERGY DEPARTMENT

12685 3-8-79 / Electric and hybrid vehicle research, development and demonstration, performance standards; comments by 5-9-79

Economic Regulatory Administration—

17454 3-21-79 / Transitional facilities; revised interim rule to permit classification of certain powerplants and installations as existing facilities; comments by 5-8-79

ENVIRONMENTAL PROTECTION AGENCY

20719 4-6-79 / Air pollution, delayed compliance orders; proposed disapproval, Ohio: Dayton Press, Inc.; comments by 5-7-79

19206 4-3-79 / Approval of delayed compliance order issued by Georgia Department of Natural Resources; comments by 5-8-79

20461 4-5-79 / Canned and preserved seafood processing point source category; comments by 5-7-79

22481 4-10-79 / Disapproval of delayed compliance order issued by Wyoming Department of Environmental Quality to FMC Corp.; comments by 5-11-79

21315 4-10-79 / Florida Steel Corp.; proposed delayed compliance order (air pollution); comments by 5-10-79

13548 3-12-79 / Hazardous waste guidelines and regulations; comments period extended 5-12-79

[Originally published at 43 FR 58946, 12-18-78]

13043 3-9-79 / Provisions for consistent implementation of Clean Air Act; comments by 5-8-79

FEDERAL COMMUNICATIONS COMMISSION

4502 1-22-79 / Clear channel broadcasting in the standard broadcast band; reply comments by 5-9-79

17197 3-21-79 / Television broadcast stations; changes in table of assignments; Glenwood Springs, Colo. and Price and Vernal, Utah; comments by 5-11-79

16450 3-19-79 / Television broadcast stations; changes in table of assignments; Royston and Warm Springs, Ga.; comments by 5-11-79

FEDERAL TRADE COMMISSION

21005 4-9-79 / Fair Debt Collection Practices; procedures for State application for exemption; comments by 5-9-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

20663 4-6-79 / Antibiotic drugs; certification of cefamandole; comments by 5-7-79

20667 4-6-79 / Antibiotic drugs; certification of doxycycline hyclate capsules; comments by 5-7-79

12205 3-6-79 / Lead acetate; postponement of closing date for provisional listing for use as color additive in cosmetics that color hair on scalp; comments by 5-7-79

19438 4-3-79 / Records and reports on new animal drugs and antibiotics that were approved before June 10, 1963; comments extended to 5-11-79

[Originally published at 44 FR 1983, January 9, 1979]

20653 4-6-79 / 1,2-benzisothiazolin-3-1; food additive rules; establishment of safe use; comments (objections) by 5-7-79

Health Care Financing Administration—

12509 3-7-78 / Medicare program; comments by 5-7-79

Office of the Secretary—

17760 3-23-79 / National guidelines for health planning; computed tomographic scanners; comments by 5-7-79

Public Health Service—

13549 3-12-79 / Adolescent pregnancy prevention and services; comments by 5-11-79

Social Security Administration—

21486 4-10-79 / Disclosure of official records and information about individuals; comments by 6-11-79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Assistant Secretary for Housing—Federal Housing Commissioner—

22472 4-16-79 / Determination of utilities allowances for tenants of PHA-owned projects; comments period extended to 5-16-79

[Originally published at 44 FR 1600, Jan. 5, 1979]

INTERIOR DEPARTMENT

Fish and Wildlife Service—

7060 2-5-79 / Review of status of the American crocodile populations outside of Florida and the estuarine crocodile; comments by 5-7-79

Geological Survey—

13527 3-12-79 / Oil, gas or sulphur operations; Outer Continental Shelf; comments by 5-11-79

Indian Affairs Bureau—

13042 3-9-79 / Determination of funds distribution formula; comments by 5-7-79

Land Management Bureau—

12464 3-7-79 / Minerals other than oil and gas; leasing; comments by 5-7-79

JUSTICE DEPARTMENT

Immigration and Naturalization Service—

12199 3-6-79 / Arrest and bond of aliens; revisions to procedures and criteria; comments by 5-7-79

LABOR DEPARTMENT

Office of the Secretary—

21301 4-10-79 / Labor organizations allowed to file simplified annual financial reports; comments by 5-10-79

21302 4-10-79 / Responsibility of Labor Organizations to make available to members the information contained in reports filed with the Department of Labor; comments by 5-10-79

Pension and Welfare Benefit Programs Office—

21302 4-10-79 / Individual benefit reporting and recordkeeping; comments by 5-10-79

NATIONAL CREDIT UNION ADMINISTRATION

15513 3-14-79 / Advertisement of insured status; account issurance coverage; comments by 5-7-79

NATIONAL SCIENCE FOUNDATION

12214 3-6-79 / Conservation of Antarctic animals and plants; comments by 5-7-79

STATE DEPARTMENT

12457 3-7-79 / Overpayment to annuitants under the foreign service retirement and disability system; comments by 5-7-79

TRANSPORTATION DEPARTMENT

Coast Guard—

19208 4-2-79 / Drawbridge operation provisions, Ocean City, N.J.; comments by 5-6-79

18709 3-29-79 / Information cards for flammable and combustible cargoes; comments by 5-11-79

18703 3-29-79 / Vieques Island, P.R.; anchorage grounds; comments by 5-10-79

Federal Highway Administration—

12717 3-8-79 / Hours of service-drivers declared "out of service"; comments by 5-7-79

Materials Transportation Bureau—

8142 2-8-79 / LNG Facilities, Federal Safety Standards, development of new standards; comments by 5-8-79

National Highway Traffic Safety Administration—

17832 3-22-79 / Speedometers and odometers; comments by 5-7-79

VETERANS ADMINISTRATION

13544 3-12-79 / Adjudication; plot or interment allowance; headstone or memorial marker; comments by 5-11-79

12694 3-8-79 / Improved pension program; comments by 5-7-79

Next Week's Meetings

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

20728 4-6-79 / Flue-Cured Tobacco Advisory Committee, Raleigh, N.C. (open), 5-11-79

18540 3-28-79 / Meat Pricing Task Force, Washington, D.C. (open), 5-10 and 5-11-79

ARMS CONTROL AND DISARMAMENT AGENCY

24612 4-26-79 / General Advisory Committee, Washington, D.C. (closed), 5-10 and 5-11-79

ARTS AND HUMANITIES, NATIONAL FOUNDATION

24354 4-25-79 / Arts National Council, Washington, D.C. (partially open), 5-11 through 5-13-79

24173 4-24-79 / National Council on the Humanities, Washington, D.C. (closed), 5-9 through 5-11-79

CIVIL RIGHTS COMMISSION

22138 4-13-79 / Iowa Advisory Committee, Des Moines, Iowa (open), 5-9-79

24615 4-26-79 / North Carolina Advisory Committee, Raleigh, N.C. (open), 5-10-79

22139 4-13-79 / Washington Advisory Committee, Tacoma, Wash. (open), 5-10 through 5-12-79

COMMERCE DEPARTMENT

Census Bureau—

23552 4-20-79 / Census Advisory Committee on the Asian and Pacific Americans Population for the 1980 Census, Suitland, Md. (open), 5-11-79

National Oceanic and Atmospheric Administration—

21842 4-12-79 / Marine Fisheries Advisory Committee, Ft. Lauderdale, Fla. (open), 5-6 through 5-10-79

21842 4-12-79 / Mid-Atlantic Fishery Management Council, Cape May, N.J. (open), 5-9 through 5-11-79

24119 4-24-79 / Pacific Fishery Management Council's Dungeness Crab Subpanel, North Bend, Ore. (open), 5-9 and 5-10-79

20736 4-6-79 / Pacific Fishery Management Council, Scientific and Statistical Committee, La Jolla, Calif. (open), 5-7 and 5-8-79

Office of the Secretary—

21843 4-12-79 / National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete, Washington, D.C. (open), 5-8 and 5-9-79

COMMODITY FUTURES TRADING COMMISSION

24120 4-24-79 / Trading in Maine Potato Futures contracts, Presque Isle, Me., 5-9 and 5-10-79

DEFENSE DEPARTMENT

Department of the Air Force—

23107 4-18-79 / USAF Scientific Advisory Board (closed), 5-8 and 5-9-79

20744 4-6-79 / Defense Science Board, Arlington, Va. (closed), 5-10 and 5-11-79

16470 3-19-79 / Defense Systems Management College Board of Visitors, Ft. Belvoir, Va. (open), 5-7-79

17207 3-21-79 / Wage Committee, Alexandria, Va. (closed), 5-8-79

EMPLOYMENT AND UNEMPLOYMENT STATISTICS NATIONAL COMMISSION

23135 4-18-79 / Review of public comments on the Commission's Preliminary Draft Report (open), 5-7 and 5-8-79

ENERGY DEPARTMENT

Environment Office—

24152 4-24-79 / Environmental Advisory Committee, Washington, D.C. (open), 5-10 and 5-11-79

Federal Energy Regulatory Commission—

24629 4-26-79 / Financial analysis model for shale oil ventures, Washington, D.C. (open), 5-10-79

Office of the Secretary—

24340 4-25-79 / Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities; Gas Pipeline Task Group, Kansas City, Mo. (open), 5-10-79

18057 3-26-79 / National Petroleum Council Coordinating Subcommittee of the National Petroleum Council's Committee on Refinery Flexibility (open), 5-11-79

22145 4-13-79 / National Petroleum Council, Task Group of the Committee on Unconventional Gas Sources, Washington, D.C. (open), 5-9-79

23810 4-23-79 / National Petroleum Council, Refinery Capability Task Group and Coordinating Subcommittee of the Committee on Refinery Flexibility, Washington, D.C. (open), 5-11-79

ENVIRONMENTAL PROTECTION AGENCY

23932 4-23-79 / Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel, Arlington, Va. (open), 5-9, 5-10, and 5-11-79

24154 4-24-79 / Science Advisory Board; Executive Committee, Washington, D.C. (open), 5-9 and 5-10-79

FEDERAL MEDIATION AND CONCILIATION SERVICE

23121 4-18-79 / Arbitration Services Advisory Committee (open), 5-12-79

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

22812 4-17-79 / Washington, D.C. (open), 5-10-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—

20793 4-6-79 / National Advisory Mental Health Council, Rockville, Md. (partially open), 5-9 through 5-11-79

Disease Control Center—

21079 4-9-79 / Immunization Practices Advisory Committee, Atlanta, Ga. (open), 5-10 and 5-11-79

Education Office—

22817 4-17-79 / National Advisory Council on Bilingual Education, Seattle, Wash. (open), 5-6, 5-8 and 5-9-79

24346 4-25-79 / Policy Review Subcommittee of the Advisory Committee on Accreditation and Institutional Eligibility, Washington, D.C. (open), 5-10-79

Food and Drug Administration—

22814 4-17-79 / Arthritis Advisory Committee, Rockville, Md. (open), 5-10 and 5-11-79

22814 4-17-79 / Slow-Acting Anti-Rheumatic Drugs Subcommittee of the Arthritis Advisory Committee, Rockville, Md. (open), 5-9-79

Health Resources Administration—

24242 4-24-79 / Graduate Medical Education National Advisory Committee, Washington, D.C. (open), 5-10 and 5-11-79

24243 4-24-79 / Implementation and Administration Subcommittee of the National Council on Health Planning and Development, Washington, D.C. (open), 5-10-79

24243 4-26-79 / National Council on Health Planning and Development, Washington, D.C. (open), 5-11-79

24243 4-24-79 / National Guidelines, Goals, Priorities, and Standards Subcommittee of the National Council on Health Planning and Development, Washington, D.C. (open), 5-10-79

24243 4-24-79 / Technology and Productivity Subcommittee of the National Council on Health Planning and Development, Washington, D.C. (open), 5-10-79

National Institutes of Health—

19539 4-3-79 / Blood Diseases and Resources Advisory Committee, Bethesda, Md. (open), 5-7 and 5-8-79

21894 4-12-79 / Board of Scientific Counselors, NIA, Baltimore, Md. (open), 5-10 and 5-11-79

21894 4-12-79 / Cancer Control and Rehabilitation Advisory Committee, Bethesda, Md. (open), 5-10 and 5-11-79

24237 4-24-79 / Cancer Control Merit Review Committee, Silver Spring, Md. (partially open), 5-9-79

19541 4-3-79 / Diabetes National Advisory Board, Alexandria, Va. (open), 5-8-79

14642 3-13-79 / Epilepsy Advisory Committee, Bethesda, Md. (open), 5-11-79

12764 3-8-79 / Pulmonary Diseases Advisory Committee, Las Vegas, Nev. (open), 5-12-79

21080 4-9-79 / Subcommittee on Treatment and Restorative Care, Detection and Diagnosis of the Cancer Research Manpower Review Committee, New Orleans, La. (closed), 5-11 and 5-12-79

21080 4-9-79 / Subcommittee on Cancer Etiology and Prevention

NUCLEAR REGULATORY COMMISSION

21841 4-12-79 / North Carolina coastal zone management program, Raleigh, N.C., 5-8-79

24348 4-25-79 / Justice/LEAA—Final LEAA guideline revision of guide for discretionary grant program; comments by 5-25-79

21080 4-9-79 / Subcommittee on Cancer Etiology and Prevention of the Cancer, New Orleans, La. (closed), 5-11 and 5-12-79

19542 4-3-79 / Tumor Immunology Committee, Bethesda, Md. (partially open), 5-7 and 5-8-79

Office of the Secretary—

23947 4-23-79 / Advisory Council on Education Statistics, Washington, D.C. (open), 5-9-79

Social Security Administration—

18563 3-28-79 / Social Security Advisory Council, Washington, D.C. (open), 5-11 and 5-12-79

HISTORIC PRESERVATION ADVISORY COUNCIL

24613 4-26-79 / Meeting, Lone Pine, Calif. (open), 5-8-79

22786 4-17-79 / "Protection of Historic and Cultural Properties", Washington, D.C. (open), 5-8 and 5-9-79

INTERIOR DEPARTMENT

Land Management Bureau—

24159 4-24-79 / Meeting on phospnate leasing on Osceola National Forest, Fla., Lake City, Fla. (open), 5-9-79

21896 4-12-79 / Utah Wilderness Area Study Proposal, Richfield, Utah (open), 5-12-79

LABOR DEPARTMENT

Occupational Safety and Health Administration—

24172 4-24-79 / Occupational Safety and Health National Advisory Committee, Washington, D.C. (open), 5-11-79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

23134 4-18-79 / NASA Advisory Council (open), 5-8 and 5-9-79

23135 4-18-79 / NASA Advisory Council (NAC), Space and Terrestrial Applications Advisory Committee (STAAC) (open), 5-7-79

23390 4-19-79 / NASA Advisory Council's Ad Hoc Advisory Subcommittee for Innovation Study, Washington, D.C. (open), 5-10 and 5-11-79

NATIONAL SCIENCE FOUNDATION

17601 3-22-79 / Advisory Council, Task Group 5, Washington, D.C. (open), 5-7-79

23607 4-20-79 / Advisory Council, Washington, D.C. (open), 5-8 and 5-9-79

23608 4-20-79 / Behavioral and Neural Sciences Advisory Committee, Anthropology Subcommittee, Washington, D.C. (partially open), 5-7 through 5-10-79

23606 4-20-79 / Ocean Sciences Advisory Committee, Cenozoic Paleo-Oceanography Project Ad Hoc Subcommittee, Stanford, Calif. (closed), 5-7 and 5-8-79

23606 4-20-79 / Ocean Sciences Advisory Committee, Ship Construction/Assignment Ad Hoc Subcommittee, Washington, D.C. (closed), 5-9-79

23606 4-20-79 / Physics Advisory Committee, Washington, D.C. (open), 5-10 through 5-12-79

23608 4-20-79 / Physiology, Cellular and Molecular Biology, Regulatory Biology Subcommittee, Washington, D.C. (closed), 5-9 through 5-11-79

23607 4-20-79 / Physiology, Cellular, and Molecular Biology, Executive Subcommittee, Washington, D.C. (closed), 5-7 and 5-8-79

23607 4-20-79 / Post-International Phase of Ocean Drilling Advisory Committee, Washington, D.C. (partially open), 5-9-79

23606 4-20-79 / Policy Research and Analysis and Science Resources Studies Advisory Committee, Washington, D.C. (partially open), 5-10 and 5-11-79

23608 4-20-79 / Social Sciences Advisory Committee, Political Science Subcommittee, Washington, D.C. (closed), 5-7 and 5-8-79

NUCLEAR REGULATORY COMMISSION

23949 4-23-79 / Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Fuel, Washington, D.C. (open), 5-8-79

24174 4-24-79 / Reactor Safeguards Advisory Committee, Subcommittee on Combination of Dynamic Loads, Washington, D.C. (open), 5-9-79

24173 4-24-79 / Reactor Safeguards Advisory Committee, Subcommittee on Regulatory Activities, Washington, D.C. (open), 5-9-79

PRESIDENTIAL COMMISSION ON WORLD HUNGER

24661 4-26-79 / Domestic, Agriculture Policy, Consumer and Nutrition Subcommittees, Washington, D.C. (open), 5-8-79

SMALL BUSINESS ADMINISTRATION

21724 4-11-79 / National Advisory Council, San Diego, Calif. (open), 5-11-79

21723 4-11-79 / Region VII Advisory Council, Kansas City, Mo. (open), 5-11-79

21723 4-11-79 / Region IX Advisory Council, Los Angeles, Calif. (open), 5-7-79

STATE DEPARTMENT

Agency for International Development—

21925 4-12-79 / Joint Committee for Agricultural Development of the Board for International Food and Agricultural Development, Arlington, Va. (open), 5-7 and 5-8-79

24671 4-26-79 / Joint Research Committee of the Board for International Food and Agricultural Development, Arlington, Va. (open), 5-8 and 5-9-79

Office of the Secretary—

23398 4-19-79 / Shipping Coordinating Committee, Washington, D.C. (open), 5-10-79

TRANSPORTATION DEPARTMENT

Coast Guard—

20531 4-5-79 / Ship Structure Subcommittee, Washington, D.C. (open), 5-7-79

Federal Aviation Administration—

23402 4-19-79 / Albuquerque, N. Mex. terminal control area, Albuquerque, N. Mex. (open), 5-8-79

20553 4-5-79 / Special Aviation Fire and Explosion Reduction Advisory Committee, Washington, D.C. (open), 5-10 and 5-11-79

23400 4-19-79 / Radio Technical Commission for Aeronautics Executive Committee, Arlington, Va. (open), 5-10-79

VETERANS ADMINISTRATION

18131 3-28-79 / Medical Research Service Merit Review Boards (partially open), 5-6, 5-8, and 5-12-79

WOMEN, NATIONAL ADVISORY COMMITTEE

24173 4-24-79 / Meeting, Washington, D.C. (partially open), 5-10 and 5-11-79

Next Week's Public Hearings

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

21681 4-11-79 / Gulf of Mexico Fishery Management Council, Carabelle, Fla. and Lake Charles, La., 5-7-79

21681 4-11-79 / Gulf of Mexico Fishery Management Council, Tavernier, Fla. and Houma, La., 5-9-79

21681 4-11-79 / Gulf of Mexico Fishery Management Council, Key West, Fla., 5-10-79

21681 4-11-79 / Gulf of Mexico Fishery Management Council, St. Petersburg, Fla. and New Orleans, La., 5-8-79

21841 4-12-79 / North Carolina coastal zone management program, Raleigh, N.C., 5-8-79

EMPLOYMENT POLICY NATIONAL COMMISSION

19557 4-3-79 / Youth Employment Task Force, Detroit, Mich., 5-10 and 5-11-79

ENERGY DEPARTMENT

16546 3-19-79 / Residential Conservation Service Program, San Diego, Calif., 5-7 through 5-9-79

Economic Regulatory Administration—

19423 4-3-79 / Butane and natural gasoline deregulation, Wash., D.C., 5-9 through 5-11-79

22022 4-12-79 / Electric utilities, assistance and intervention in State regulatory proceeding, hearing, Washington, D.C., 5-10-79

18856 3-29-79 / Financial assistance programs for State utility regulatory commissions and eligible nonregulated electric utilities, Washington, D.C., 5-9-79

18448 3-27-79 / Grants for Offices of Consumer Services, Washington, D.C., 5-8-79

22974 4-17-79 / Submission of reports to DOE by State regulatory authorities and nonregulated electric and gas utilities, Washington, D.C., 5-10-79

21651 4-11-79 / Unleaded gasoline price rules amendment, Washington, D.C., 5-10-79

ENVIRONMENTAL PROTECTION AGENCY

17310 3-21-79 / Assessment and collection of noncompliance penalties, Chicago, Ill., 5-7 and 5-8-79

17310 3-21-79 / Assessment and collection of noncompliance penalties, San Francisco, Calif., 5-10 and 5-11-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

National Institutes of Health—

16498 3-19-79 / National Diabetes Advisory Board, long-range plan to combat diabetes, Washington, D.C., 5-9-79

INTERIOR DEPARTMENT

Geological Survey—

18993 3-30-79 / Oil and gas and sulphur operations in the outer continental shelf and geological and geophysical exploration of the outer continental shelf; Washington, D.C., 5-8-79

NATIONAL TRANSPORTATION SAFETY BOARD

21905 4-12-79 / Gulfport, Miss.; accident investigation, Gulfport, Miss., 5-8-79

TRANSPORTATION DEPARTMENT

Coast Guard—

18704 3-29-79 / Florida East Coast Railroad bridge across New River, Fla., 5-9-79

Federal Aviation Administration—

21927 4-12-79 / Terminal control areas airspace configurations, Salt Lake City, Utah, 5-8-79

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the Federal Register during the previous week.

RULES GOING INTO EFFECT

24060 4-24-79 / HEW/HDS—Head Start and Native American Programs; deletions of portions of rules; effective 4-24-79

25136 4-27-79 / HEW/PHS—Grants to nursing schools for the support of their educational programs; effective 4-27-79

DEADLINES FOR COMMENTS ON PROPOSED RULES

24889 4-27-79 / HEW/PHS—Grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy and podiatry for support of educational programs; comments by 6-26-79

24348 4-25-79 / Justice/LEAA—Final LEAA guideline revision of guide for discretionary grant program; comments by 5-25-79

24868 4-27-79 / State/AID—Nondiscrimination on the basis of handicap in programs and activities receiving or benefitting from Federal financial assistance; comments by 5-29-79

24863 4-27-79 / USDA/FmHA—Rural housing loans and grants and loan policies; comments by 6-26-79

24320 4-25-79 / VA—Federally assisted education programs; Nondiscrimination on the basis of sex; comments by 5-25-79

24307 4-25-79 / VA—Medical benefits; Grants to States for construction of State home facilities; comments by 6-25-79

APPLICATIONS DEADLINES

23844 4-23-79 / HEW/HDSO—Major assistance award for creation and operation of Center for Bilingual Research; apply by 6-22-79

24945 4-27-79 / Justice/LEAA—Grants to evaluate the Denver Project New Pride Replication Program; apply by 6-15-79

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24237 4-24-79 / HEW/NIH—Clinical Applications and Prevention Advisory Committee, Bethesda, Md. (partially open), 4-26 and 4-27-79, change in agenda

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24236 4-24-79 / HEW/NIH—General Medical Sciences National Advisory Council, Bethesda, Md. (partially open), 5-31 and 6-1-79

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24230 4-24-79 / HEW/NIH—National Institute of Dental Research Special Grants Review Committee, Bethesda, Md. (partially open), 6-5-79

24235 4-24-79 / HEW/NIH—Research Resources National Advisory Council, Bethesda, Md. (partially open), 5-21 and 5-22-79

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4 4 1 8 6 MAY 2 7 9 UMI

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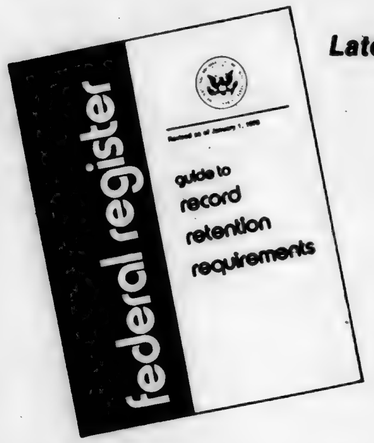
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federal register

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Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or hearing impaired persons who need information about documents published in the **Federal Register**. See the Reader Aids section for the telephone listing.

25839 **Defaulted Vendee Loans** VA amends its rules relating to expenses it will pay an investor; effective 4-26-79

25837 **Mortgage Insurance and Assistance Payments** HUD promulgates rule that lowers downpayment required under Section 235 program; effective 6-4-79

25950 **Improving Criminal Justice** Justice/LEAA issues final program announcement on planning and coordination and comments to draft announcement; apply by 6-25-79

25886 **National Research Service** HEW/PHS issues notice of decision to amend program regulations

26054 **Gas Utility Rate** DOE/ERA requires undertaking of study in order to encourage design and conservation of natural gas; comments by 7-2-79 (Part IV of this issue)

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25986 Liquefied Gas DOT/CG revises operating requirements for all new vessels on navigable waters of the U.S.; effective 5–3–79 (Part II of this issue)

25837 Special Counsel Justice establishes position to investigate and prosecute offenses against the U.S. arising from financial transactions between the Carter Warehouse and the National Bank of Georgia or any other financial institution; effective 3–23–79

25845 Federal Procurement GSA extends expiration date of temporary regulations to 4–1–81 unless canceled earlier

26050 Uniform System of Accounts DOT/UMTA issues amendments to change reporting requirements for urbanized areas; effective 4–27–79 (Part III of this issue)

25867 Wind Shear Problem DOT/FAA solicits recommendations for regulatory proposals; comments by 8–3–79

25835 Standard Instrument Approach DOT/FAA establishes, amends, suspends, or revokes procedures for operations at certain airports

25889 Aircraft Accidents NTSB proposes to modify its notification and reporting requirements; comments by 7–2–79

25953 Accidents NTSB publishes report, responses to safety recommendations and notice of availability

25883 Nitrous Oxides—Motor Vehicles EPA announces receipt of application for delay in compliance to 1981 and later model year light-duty vehicle emission standard; comments by 6–1–79

25886 Hazardous Materials DOT/MTB proposes to update regulations and reduce a backlog of rulemaking petitions; comments by 6–15–79

25959 Improving Government Regulations PS publishes response to draft report of implementation of Executive Order 12044; effective 6–1–79

25957 Agency Forms OMB publishes list under review

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts)

7 CFR Part 907

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period May 4–10, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: May 4, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act by tending to establish and maintain, in the interests of producers and consumers, an orderly flow of oranges to market and avoid unreasonable fluctuations in supplies and prices. The action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on May 1, 1979 to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is slow.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 907.764 Navel Orange Regulation 464.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period May 4, 1979, through May 10, 1979, are established as follows:

(1) District 1: 796,104 cartons;
(2) District 2: Unlimited movement;
(3) District 3: Unlimited movement.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: May 2, 1979.

D. S. Kuplinski

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service

[Navel Orange Reg. 464]
[FR Doc. 79-14088 Filed 5-2-79; 11:55 am]
BILLING CODE 3410-02-M

7 CFR Part 908

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 4–10, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: May 4, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on May 1, 1979 to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is improving.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective

Seattle 107° and Yakima, Wash., 331° radials;

Adoption of the Amendment

Independence Avenue, SW.,

date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 908.910 Valencia Orange Regulation 610.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period May 4, 1979, through May 10, 1979, are established as follows:

(1) District 1: Unlimited;

(2) District 2: Unlimited;

(3) District 3: 242,504 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 2, 1979.

D. S. Kuryloski

Acting Director, Fruit and Vegetable Division Agricultural Marketing Service.

[Valencia Orange Reg. 610]

[FR Doc. 79-14087 Filed 5-2-79; 11:35 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR 39

Airworthiness Directive; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: FAA Airworthiness Directive (AD) 78–05–08 (Amendment 39–3155 (43 FR 9592)) requires X-ray inspection of emergency escape system cool gas generator propellant cartridges in Boeing 747 airplanes. The AD is amended herein to allow an alternate inspection method.

EFFECTIVE DATE: May 14, 1979.

FOR FURTHER INFORMATION, CONTACT: Mr. Joseph M. Starkel, Airframe Section, ANW–212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2516.

SUPPLEMENTARY INFORMATION: AD 78–05–08 requires annual X-ray inspections of cool gas generator cartridges used in escape systems on Boeing Model 747 airplanes. This AD was necessary to preclude use of defective cartridges which, when fired, could produce overpressure leading to a structural failure of the generator. Subsequent to the issuance of the AD, the FAA has determined that an annual X-ray inspection is not required on cartridges installed on an airplane if the cool gas generator has not been exposed to temperatures in excess of 100°F. This finding is supported by recent additional laboratory and service testing by The Boeing Company. The results indicate that no serious overpressures will occur if generators in service are not exposed to temperatures in excess of 100°F. It has been concluded that several excursions through the high temperature phase change region is required before the cartridge can become swollen or otherwise defective leading to a serious overpressure when fired. An approved temperature sensing tab may be installed on the generator which will monitor exposure to temperatures in excess of 100°F. Therefore, the AD is being amended to require annual X-ray inspections only if the cool gas generator is exposed to temperatures in excess of 100°F.

Since this amendment is relieving and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 78–05–08 (Amendment 39–3155, 43 FR 9592), as follows:

Delete paragraph B and replace with the following new Paragraph B.

B. Inspect all cool gas generator propellant cartridges installed on airplanes (regardless of flight hours or date installed) in accordance with Paragraph E at intervals not to exceed one year. However, if an approved 100°F temperature tab (Telatemp Corporation Part Number Hotspot 100°, William Wahl Corporation Part Number 210 or Part Number 240, or an alternate tab approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region) has been installed on the cool gas generator casing at the time a new propellant cartridge or one that has been inspected in accordance with paragraph E has been installed, annually inspect the temperature tab. If the tab indicates that 100°F has not been reached, X-ray inspection of the propellant cartridge in accordance with paragraph E is not required. If temperature indication on temperature tabs exceeds 100°F, X-ray inspection of the cartridge in accordance with paragraph E is required.

This amendment becomes effective May 14, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended 49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89).

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on April 24, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

[Docket 79–NW–8–AD; Amdt. 39–3458]

[FR Doc. 79–13718 Filed 5–2–79; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 71, 73, and 75

Extension of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the Federal Register of April 12, 1979, Vol. 44, Page 21766, the description of Victor Airway V–298 between Seattle and Yakima, Washington was incorrectly published. This action corrects that error by changing the Seattle 106° radial to Seattle 107° radial.

EFFECTIVE DATE: May 3, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulation Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION: Federal Register Document 79–11182 was published on April 12, 1979, (44 FR 21766) detailing V–298 from Seattle to Yakima, Washington. An error was made in the description of V–298 and this action corrects that mistake.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me by the Administrator, Federal Register Document 79–11182 as published in the Federal Register on April 12, 1979 (44 FR 21766), is amended as follows:

"From Seattle, Wash., via INT Seattle 106° and Yakima, Wash., 331° radial to Yakima" is deleted and "From Seattle, Wash., via INT Seattle 107° and Yakima, Wash., 331° radials to Yakima," is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on April 27, 1979.

B. Keith Potts, Chief,

Chief, Airspace and Air Traffic Rules Division.

[Docket No. 79–NW–20]

[FR Doc. 79–13722 Filed 5–2–79; 8:45 am]

BILLING CODE 4910–13–M

14 CFR 71

Alteration of Tullahoma, Tenn., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This rule alters the Tullahoma, Tennessee, Transition Area. The name of William B. Northern Field has been changed to Tullahoma Municipal Airport; Seesbe-Martin Field. The action by the Tullahoma Municipal Airport Authority, officially changing the name requires this to be reflected in the transition area description.

EFFECTIVE DATE: 0901 G.m.t., June 1, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404–763–7646.

SUPPLEMENTARY INFORMATION: In a regular meeting on January 11, 1979, the Tullahoma Municipal Airport Authority officially changed the name of the William B. Northern Field to Tullahoma Municipal Airport; Seesbee-Martin Field, therefore, it is necessary to alter the description of the Tullahoma, Tennessee, Transition Area to reflect this name change. Since this alteration is editorial in nature, notice and public procedures hereon are not considered necessary.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 G.m.t., June 1, 1979, as follows:

Tullahoma, Tenn.

"• • • William Northern Field • • •" is deleted and "• • • Tullahoma Municipal Airport; Seesbe-Martin Field • • •" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9583; March 8, 1978).

Issued in East Point, Georgia, on April 24, 1979.

Phillip M. Swatek,

Director, Southern Region.

[Airspace Docket No. 79–SO–25]

[FR Doc. 79–13717 Filed 5–2–79; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination.—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase.—Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription.—Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.

FOR FURTHER INFORMATION CONTACT: Lewis O. Ota, Flight Procedures and Airspace Branch (AFS–730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure

identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, and effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR–VOR/DME SIAPs identified as follows:

** * * Effective July 12, 1979*

Bennettsville, SC—Bennettsville, VOR/DME–A, Amdt. 1.

** * * Effective June 28, 1979*

Lake City, FL—Lake City Municipal, VOR/DME–A, Amdt. 2.
Urbana, IL—Illini, VOR–A, Amdt. 8.
Urbana, IL—Illini, VOR/DME–B, Amdt. 2.
Detroit, MI—Detroit Metropolitan Wayne County, VOR Rwy 9, Amdt. 8.
LaCrosse, WI—LaCrosse Municipal, VOR Rwy 36, Amdt. 21.

** * * Effective June 14, 1979*

Los Angeles, CA—Van Nuys, VOR–A, Amdt. 2, cancelled.
Los Angeles, CA—Van Nuys, VOR/DME–B, Amdt. 2, Cancelled.
Van Nuys, CA—Van Nuys, VOR–A, Original.
Van Nuys, CA—Van Nuys, VOR/DME–B, Original.
Grand Haven, MI—Grand Haven Memorial Park, VOR–A, Amdt. 9.
Springfield, MO—Springfield Muni, VOR Rwy 19, Amdt. 14.
Knoxville, TN—McGhee-Tyson, VOR Rwy 22L, Amdt. 2.
Knoxville, TN—McGhee-Tyson, VOR Rwy 22R, Amdt. 3.
Bellingham, WA— Bellingham International, VOR 2 Rwy 16, Amdt. 4, cancelled.
Bellingham, WA— Bellingham International, VOR Rwy 16, Amdt. 5.

** * * Effective April 23, 1979*

Rolla/Vichy, MO—Rolla National, VOR Rwy 22 Amdt. 6.

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

** * * Effective June 14, 1979*

Los Angeles, CA—Van Nuys, LDA–C, Amdt. 2, cancelled.
Los Angeles, CA—Van Nuys, LOC/DME–D, Original, cancelled.
Van Nuys, CA—Van Nuys, LDA–C, Original.
Van Nuys, CA—Van Nuys, LOC/DME–D, Original.
Poplar Bluff, MO—Earl Fields Memorial, SDF Rwy 36, Original.
Springfield, MO—Springfield Muni, LOC BC Rwy 19, Amdt. 14.
Enid, OK—Enid Woodring Muni, LOC Rwy 35, Original.
Bellingham, WA—Bellingham International, LOC Rwy 16, Original.

** * * Effective May 17, 1979*

San Luis Obispo, CA—San Luis Obispo County, LOC Rwy 11, Original.
Wilkes-Barre/Scranton, PA—Wilkes-Barre/Scranton Int'l., LOC (BC) Rwy 22, Amdt. 5, cancelled.

** * * Effective April 20, 1979*

Hawthorne, CA—Hawthorne, Muni, LOC Rwy 25, Amdt. 3.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective August 9, 1979*

Portland, IN—Steed Fld, NDB Rwy 27, Amdt. 4.
Celina, OH—Lakefield, NDB Rwy 8, Amdt. 2.

** * * Effective July 12, 1979*

Goldsboro, NC—Goldsboro-Wayne Muni, NDB Rwy 22, Amdt. 1.
Bennettsville, SC—Bennettsville, NDB Rwy 6, Amdt. 2.

** * * Effective June 28, 1979*

Perry, FL—Perry-Foley, NDB Rwy 36, Amdt. 2.
Detroit, MI—Detroit Metropolitan Wayne County, NDB Rwy 21C, Amdt. 7.
Plymouth, NC—Plymouth Municipal, NDB Rwy 2, Amdt. 1.

** * * Effective June 14, 1979*

San Diego, CA—San Diego Intl-Lindbergh Field, NDB Rwy 9, Amdt. 18.
Pratt, KS—Pratt Muni, NDB Rwy 17, Amdt. 1.
Benson, MN—Benson Municipal, NDB Rwy 14, Amdt. 2.
Vicksburg, MS—Vicksburg Municipal, NDB Rwy 1, Amdt. 3.
Poplar Bluff, MO—Earl Fields Memorial, NDB Rwy 36, Original.
Poplar Bluff, MO—Earl Fields Memorial, NDB Rwy 36, Amdt. 3 cancelled.
Springfield, MO—Springfield Muni, NDB Rwy 1, Amdt. 13.
Springfield, MO—Springfield Muni, NDB Rwy 13, Amdt. 9.
Whiteville, NC—Columbus County Municipal, NDB Rwy 5, Amdt. 1.
DuBois, PA—DuBois-Jefferson County, NDB Rwy 25, Amdt. 6.
Williamsport, PA—Williamsport-Lycoming County, NDB–A, Amdt. 4.
Bellingham, WA—Bellingham International, NDB Rwy 16, Amdt. 1 cancelled.

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

** * * Effective June 14, 1979*

Los Angeles, CA—Van Nuys, ILS Rwy 16R, Original, cancelled.
San Diego, CA—San Diego Intl-Lindbergh Field, ILS Rwy 9, Amdt. 10.
Van Nuys, CA—Van Nuys, ILS Rwy 16R, Original.
Springfield, MO—Springfield Muni, ILS Rwy 1, Amdt. 13.
DuBois, PA—DuBois-Jefferson County, ILS Rwy 25, Amdt. 3.
Williamsport, PA—Williamsport-Lycoming County, ILS Rwy 27, Amdt. 11.
Knoxville, TN—McGhee-Tyson, ILS Rwy 4L, Amdt. 2.
Knoxville, TN—McGhee-Tyson, ILS Rwy 22R, Amdt. 4.

5. By amending § 97.31 RADAR SIAPs identified as follows:

** * * Effective June 14, 1979*

Knoxville, TN—McGhee-Tyson, RADAR–1, Amdt. 18.

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective August 9, 1979*

Celina, OH—Lakefield, RNAV Rwy 26, Amdt. 2.

** * * Effective June 28, 1979*

Perry, FL—Perry-Foley, RNAV Rwy 18, Amdt. 1.
Detroit, MI—Detroit Metropolitan Wayne County, RNAV Rwy 21C, Amdt. 3.

** * * Effective June 14, 1979*

Springfield, MO—Springfield Muni, RNAV Rwy 13, Amdt. 3.

** * * Effective April 23, 1979*

Rolla/Vichy, MO—Rolla National, RNAV Rwy 22, Amdt. 1.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on April 27, 1979.

James M. Vines,
Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[Docket No. 19103; Amdt. No. 1137]
[FR Doc. 79-13719 Filed 5-2-79; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 235

Mortgage Insurance and Assistance Payments for Homeownership and Project Rehabilitation; Changes in Downpayment Requirements and Maximum Subsidy Payments

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule lowers the downpayment required under the Section 235 program relating to mortgage insurance and assistance payments for homeownership and project rehabilitation and increases the maximum subsidy payment. The result will be to make participation in the program possible for many eligible families which cannot meet the current program requirements.

EFFECTIVE DATE: June 4, 1979.

FOR FURTHER INFORMATION CONTACT: William A. Rolfe, Director, Single Family Insured Housing Division, Office of Single Family Housing, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755–6887. This in not a toll-free number.

SUPPLEMENTARY INFORMATION: By interim rule published March 7, 1978 (43 FR 9273) the Secretary amended Part 235 to reduce the minimum downpayment and increase the maximum subsidy permitted under the Section 235 program.

Comments were invited through June 5, 1978. Since the one comment received endorsed the Department's effort in this regard, the interim regulations are adopted without change.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 was made in connection with the interim rule and is applicable to this final rule. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, the Secretary of Housing and Urban Development amends Chapter II of 24 CFR as follows:

1. In § 235.2, paragraphs (a) and (d) are revised to read as follows:

§ 235.2 Basic program outline.

* * * * *

(a) Assistance will be in the form of monthly payments by the Secretary to the mortgagee to reduce effective interest costs to a homeowner on an insured market rate home mortgage to as low as four percent if the homeowner cannot afford the full mortgage payment with 20 percent of his income.

* * * * *

(d) The mortgagor must have paid in cash or its equivalent at least 3 percent of the acquisition cost.

* * * * *

2. In § 235.35 paragraph (b) is revised to read as follows:

§ 235.35 Mortgagor's investment.

* * * * *

(b) The mortgagor shall have paid, at the time the mortgage is insured, on account of the property, in cash or its equivalent, at least 3 percent of the Secretary's estimate of the cost of acquisition.

* * * * *

3. § 235.335 is amended by revising paragraphs (a)(2) (ii) and (iii) to read as follows:

§ 235.335 Assistance payments and handling charges.

(a) * * *

(2) * * *

(ii) With respect to mortgages approved for insurance under this Part by the Secretary on or after January 5, 1976, but before March 7, 1978, the difference between the required monthly payment under the mortgage for principal, interest, and mortgage insurance premium and the monthly payment which would be required for principal and interest if the mortgage bore an interest rate of 5 percent.

(iii) With respect to mortgages approved for insurance under this Part by the Secretary on or after March 7, 1978, the difference between the required monthly payment under the mortgage for principal, interest, and mortgage insurance premium and the monthly payment which would be required for principal and interest if the mortgage bore an interest rate of 4 percent.

* * * * *

(Sec. 221(a)(6), Pub. L. 93–383, 88 Stat. 633, (12 U.S.C. 1715z); sec. 101(c)(4), Pub. L. 90–448, 82 Stat. 476, 484 (12 U.S.C. 1707–1715y); sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d).)

Issued at Washington, D.C., on April 27, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing—Federal Housing Commissioner.

[Docket No. R-79-613]
[FR Doc. 79-13791 Filed 5-2-79; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

Establishing the Position of Special Counsel

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order establishes the Position of Special Counsel in the Department of Justice to investigate and prosecute any offenses against the United States arising from financial transactions between the Carter Warehouse and the National Bank of Georgia or any other financial institution, from related financial or business transactions, or from the use of loan proceeds, and to initiate appropriate civil actions concerning these transactions.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT: Philip B. Heymann, Assistant Attorney General, Criminal Division, U.S. Department of Justice, Washington, D.C. 20530 (202–633–2601).

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, there is hereby established in the Department of Justice, the Position of

Special Counsel. Accordingly, Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. Section 0.1 of subpart A, which lists the organizational units of the Department, is amended by adding "Position of Special Counsel" immediately after "Executive Office for United States Attorneys."

2. A new subpart J–1 is added immediately after subpart J, to read as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart J–1—Position of Special Counsel

Sec.

0.53 General functions.
0.54 Specific functions.
0.54a Restrictions on Removal of the Special Counsel; Termination of Office.
0.54b Continued responsibilities of department personnel.

Authority: 28 U.S.C. 509, 510, and 5 U.S.C. 301.

Subpart J–1—Position of Special Counsel

§ 0.53 General functions.

The Special Counsel shall be appointed by the Attorney General. The Attorney General shall delegate to the Special Counsel pursuant to 28 U.S.C. 515(a) the duties and authorities, and shall provide to the Special Counsel the Staff and other resources, described in § 0.54 of this chapter.

§ 0.54 Specific functions.

(a) The Special Counsel shall have the Attorney General's authority for investigating and prosecuting any offenses against the United States arising from financial transactions between the Carter Warehouse and the National Bank of Georgia or any other financial institution, from related financial or business transactions, or from the use of loan proceeds. The Special Counsel shall have full authority to initiate appropriate civil actions concerning these transactions.

(b) In exercising his authority, the Special Counsel will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the Special Counsel's decisions or actions. The Special Counsel will determine whether and to what extent he will consult with the Attorney General or any other official about the conduct of his duties and responsibilities.

(c) The Special Counsel shall have full authority, with respect to these transactions, including the power:

(1) To conduct proceedings before grand juries, and to conduct any other investigations he deems necessary.

(2) To obtain and review all documentary evidence from any source, and to have full access to such evidence.

(3) To determine whether any assertion of testimonial privilege should be contested, and to conduct any legal proceedings, including appeals, necessary to contest such privilege.

(4) To receive appropriate national security clearances and, if necessary, contest in court (including, where appropriate, participating in *in camera* proceedings) any claim of privilege, or attempt to withhold evidence, on grounds of national security.

(5) To make application to any Federal court for warrants, subpoenas, or other court orders necessary in the conduct of his investigation, and to conduct any legal proceedings necessary to obtain and enforce such orders, including appeals.

(6) To inspect, obtain, and use the original or a copy of any tax return, in accordance with applicable statutes and regulations.

(7) To determine whether or not application should be made to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, and to exercise the authority vested in the Attorney General for purposes of 18 U.S.C. 6004 and 6005.

(8) To determine whether a civil action against any individual, entity, or group of individuals is or is not warranted.

(9) To initiate and conduct civil actions, including appeals, in any court of competent jurisdiction. The Special Counsel may recommend in his sole discretion that a civil action should be handled by a Division of the Department of Justice or by a United States Attorney.

(10) To determine whether the prosecution of any individual, entity, or group of individuals is or is not warranted.

(11) To initiate and conduct prosecutions in any court of competent jurisdiction, including preparing and signing indictments, filing information, and handling all aspects of any case within his jurisdiction, including appeals. The Special Counsel may recommend in his sole discretion that a prosecution be handled by the Criminal Division of the Department of Justice or by a United States Attorney.

(12) To direct and coordinate the activities of Department of Justice personnel engaged in carrying out the functions of the Special Counsel.

(13) To hire staff in such numbers and with such qualifications as he may require, including attorneys, investigators, and supporting personnel and to designate attorneys under 28 U.S.C. 515(a) to conduct any kind of legal proceeding. The Special Counsel may request the Assistant Attorneys General and other officers of the Department of Justice to assign personnel and to provide other assistance, including funds and facilities, as he may require. All personnel in the Department of Justice, including United States Attorneys, shall cooperate to the fullest extent possible with the Special Counsel.

(14) To exercise full authority for investigating and prosecuting any other matters that he consents to have assigned to him by the Assistant Attorney General in charge of the Criminal Division, and initiating appropriate civil actions concerning these matters.

(15) To make such reports to the Congress as he deems appropriate, including appearing before Congressional committees having jurisdiction over any aspect of the above matters and determining what documents, information, and assistance shall be provided to the committees. The Special Counsel shall submit a final report to the Attorney General and to the Congress.

§ 0.54a Restrictions on removal of the Special Counsel; termination of office.

(a) The Special Counsel may be removed from office only by the personal action of the Attorney General, and "only for extraordinary impropriety, physical disability, mental incapacity, or any other condition that substantially impairs the performance" of the Special Counsel's duties, see 28 U.S.C. 596(a)(1).

(b) If the Special Counsel is removed from office, the Attorney General shall promptly submit to the Committees on the Judiciary of the Senate and the House of Representatives a report specifying the facts found and the ultimate grounds for such removal.

(c) A Special Counsel so removed may seek judicial review of the removal.

(d) The Position of Special Counsel shall terminate when the Special Counsel notifies the Assistant Attorney General in charge of the Criminal Division that the investigation of all matters within the jurisdiction of the Special Counsel has been completed and any criminal prosecutions or civil actions have been completed or have been determined by the Special Counsel in his sole discretion to be more suitably handled by a Division of the Department of Justice or a United States Attorney.

§ 0.54b Continued responsibilities of department personnel.

Except for the specific investigative and prosecutorial duties assigned or to be assigned to the Special Counsel, the Assistant Attorney General in charge of the Criminal Division, other Assistant Attorneys General, and the United States Attorneys shall continue to exercise all of the duties currently assigned to them.

Dated: March 23, 1979.

Griffin B. Bell,
Attorney General.

[Order No. 835–79]

[FR Doc. 79–13786 Filed 5–3–79; 8:45 am]
BILLING CODE 4410–01–M

VETERANS ADMINISTRATION

38 CFR Part 36

Veterans Administration Payment of Interest to Investors—Repurchase of Vendee Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is amending its regulation relating to the expenses that the VA will pay an investor when repurchasing a defaulted vendee loan from that investor. This amendment should give investors who have purchased loans from the VA greater latitude in servicing defaulted loan accounts. The VA expects that this amendment will reduce the number of loans in default which the VA must repurchase from investors.

The VA also is updating titles of the VA officers with authority to sell, assign, transfer, and repurchase loans.

EFFECTIVE DATE: April 26, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond L. Brodie, Assistant Director for Loan Management (261), Loan Guaranty Service, Veterans Administration, Washington, D.C. 20420 (202–389–3668).

SUPPLEMENTARY INFORMATION: Each year the VA, as a result of its home loan programs, acquires housing units through foreclosure of guaranteed and direct loans. These houses are then sold at current market value with the VA financing the sale with mortgages of up to 30 years. Many of these mortgages, which are called vendee loans, are sold to secondary market investors. The VA guarantees to the purchasing investors that if the loans go into default, the VA will repurchase them and pay certain expenses. These expenses are outlined in § 36.4600(e)(1) and formerly included the payment to the investor of up to 90 days' interest on a defaulted loan.

On October 2, 1978, the VA published for comment in the **Federal Register** (43 FR 45400) two proposed amendments to the loan guaranty regulations. The first amendment proposed increasing to 120 days the maximum period in which interest may be payable to an investor on a defaulted vendee loan. The second amendment proposed to update the formal titles of certain officials designated to sell, assign, transfer, and repurchase loans. The VA received 3 comments concerning these proposals, all of which were highly favorable. All commentators believed that the amendment would reduce the number of loans assigned from investors to the VA. Allowing investors an additional 30 days to service defaulted loans will most likely save the VA the cost of repurchasing the loan from the investor and the administrative expense of reestablishing the account. This amendment should also increase investor participation in future loan sales and increase the yield VA receives from such sales.

Section 36.4600(e)(1) is amended to allow the payment of up to 120 days' interest on a defaulted vendee loan. This increase in the allowable period in which interest may be payable encourages the investor, in appropriate cases, to grant additional forbearance to borrowers in default than otherwise might be granted and gives investors and their servicers an opportunity to perform additional loan servicing. Additional loan servicing will most likely result in a larger percentage of such loans being reinstated by the investor. When loan reinstatement is successful, the VA avoids substantial costs of loan repurchase from the investor.

The VA also is amending § 36.4600(g)(2) to update the formal titles of officials currently designated to sell, assign, transfer, and repurchase loans, and to update titles of VA installations.

In addition, minor editorial changes have been made to §§ 36.4600 (d)(3), (e)(1), and (e)(3) to reflect the agency policy of using precise terms to denote gender.

These amendments, therefore, are adopted under authority granted the Administrator by section 210(c)(1) of Title 38, United States Code.

Accordingly, the proposed regulations are hereby adopted and are set forth below.

Approved: April 26, 1979.

By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

§ 36.4600 [Amended]

Section 36.4600 is amended as follows: (a) By deleting the word "his" and inserting "the" in paragraph (d)(3). (b) By deleting "by him" in paragraph (e)(3). (c) By revising paragraphs (e)(1) and (g)(2) as set forth below:

§ 36.4600 Sale of loans, guaranties of payment.

* * * * *

(e)(1) A cash payment shall be made to the holder upon the repurchase of a loan by the Administrator and shall be an amount equal to the price paid by the purchaser when the loan was sold by the Administrator, less repayments received by the holder which are properly applicable to the principal balance of the loan, plus any advances made for the purposes described in paragraph (c)(9) of this section, but no payments shall be made for accrued unpaid interest, except that with respect to loans sold by the Administrator after July 15, 1970, payment will be made for unpaid accured interest from the date of the first uncured default to the date of the claim for repurchase, but not in excess of interest for 120 days. If, however, there has been a failure of any holder to comply with the provisions of paragraph (c) of this section the Administrator shall be entitled to deduct from the repurchase price otherwise payable such amount as the Administrator determines to be necessary to restore the Administrator to the position the Administrator would have occupied upon repurchase of the loan in the absence of any such failure. Incident to the repurchase by the Administrator, the holder will pay to the Administrator an amount equal to the balance, if any, remaining in the tax and insurance account.

* * * * *

(g)(1) * * *

(2) Designated positions:

Chief Benefits Director.
Director, Loan Guaranty Service.
Director, Regional Office.
Director, Medical and Regional Office Center.
Director, VA Center.
Loan Guaranty Officer.

Assistant Loan Guaranty Officer.

* * * * *

[FR Doc. 79-13736 Filed 5-2-79; 8:45 am]
BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Final Rule Revising Michigan State Implementation Plan.

SUMMARY: Approved compliance schedules for the Cobb, Karn and Weadock plants of the Consumers Power Company were submitted to the Agency by the State of Michigan in 1973. The Administrator finds these compliance schedules approvable to permit the sources in question to exceed standards until January 1, 1980.

EFFECTIVE DATE: May 3, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Lazaro, Air Programs Branch, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2205.

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10482) pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of the Michigan plan for implementation of the national ambient air quality standards and the dates for attainment of these standards. On September 18, 1973, three agreements were submitted to the Administrator by the State of Michigan for approval as revisions to the Michigan State Implementation Plan. The three agreements were negotiated between the State of Michigan and Consumers Power Company, Jackson, Michigan. Covered by the agreements are the Company's B C Cobb Plant Units 1–5, D E Karn Plant Units 1 & 2 and J C Weadock Plant Units 7 & 8. Contained therein are compliance schedules which defer until January 1, 1980 the date by which emissions of sulfur dioxide from these sources must be reduced to the limits prescribed by Michigan Air Pollution Control Commission (MAPCC) Rule 336.49. On February 19, 1974 (39 FR 6126) these compliance schedules were published as proposed revisions to the Michigan State Implementation Plan by the Administrator and public comment was invited. On September 10, 1974 (39 FR 32606) the Administrator indicated that evaluation of pertinent reports was necessary before a final approval/disapproval determination could be made with regards to the compliance schedules affecting Consumers Power Company's Karn-Weadock complex and Cobb Plant. Final approval of these three unapproved compliance schedules is the subject of today's rulemaking. The approved schedules referenced below were adopted by the State of Michigan and submitted to the Environmental Protection Agency after notice and public hearings in accordance with the procedural requirements of 40 CFR 51.4 and 51.6 and the substantive requirements of 40 CFR 51.15 pertaining to compliance schedules, and have been determined to be consistent with the approval control strategies of the State of Michigan. Each compliance schedule established a new date by which the individual sources must comply with the applicable emission limitation in the Federally approved State Implementation Plan. This date is indicated in the table below, under the heading "Final Compliance Date." The three schedules are identified in this notice by source, location, applicable regulation, date schedule adopted and final compliance date. These schedules are available for public inspection at the Region V Office, 230 S. Dearborn Street, Chicago, Illinois 60604, between the hours of 8:15 a.m. and 4:45 p.m., Monday through Friday. No written comments in connection with schedules which are the subject of today's rulemaking have been submitted to the Regional Administrator for consideration in the evaluation of the schedules. Evaluation reports for all compliance schedule plan revisions and technical support documents for the approved control strategy revisions are available for public inspection at the Region V Office of the Environmental Protection Agency, at the address set forth above. The Administrator has determined that the revisions meet the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, the schedules are approved as revisions to the Michigan State Implementation Plan.

The revisions are effective on May 3, 1979. The Administrator finds good cause for making those revisions immediately effective because the compliance schedules are already effective in the State of Michigan and Federal approval imposes no additional requirements on the affected sources.

Codified language:

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

Subpart X—Michigan

1. In § 52.1175, the following schedules are added to paragraph (e):

§ 52.1175 Compliance Schedules.

* * * * *

(e) * * *

Source	Location	Regulations involved	Date schedule adopted	Final compliance Date
Bay County				
Consumers Power Company (Karn Plant Units 1 and 2).	Essexville	336.49	Sept. 18, 1973	Jan. 1, 1980.
Consumers Power Company (Weadock Plant Units 7 and 8).	Essexville	336.49	Sept. 18, 1973	Jan. 1, 1980.
Muskegon County				
Consumers Power Company (Cobb Plant).	Muskegon	336.49	Sept. 18, 1973	Jan. 1, 1980.

(42 U.S.C. 7410)

Dated: April 26, 1979.

Douglas M. Costle,
Administrator.

[FRL 1211-8]

[FR Doc. 79-13840 Filed 5-2-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

SUBCHAPTER C—AIR PROGRAMS

Approval of Revision of the Maryland State Implementation Plan; Republication

In FR Doc. 79-10019, published at page 19192, on Monday, April 2, 1979, parts of the document were inadvertently left out. Therefore, for the convenience of the reader, the document is being republished in its entirety.

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Rulemaking.

SUMMARY: This final rulemaking amends the Maryland State Implementation Plan (SIP) to include a Consent Order issued by the Circuit Court for Montgomery County, Maryland, for the Chalk Point Generating Station of the Potomac Electric Power Company (PEPCO). The Order requires PEPCO to bring the Chalk Point Station into compliance with final emission limitations for total suspended particulates (TSP) by December 31, 1981. Interim limitations adequate to protect National Ambient Air Quality Standards (NAAQS) will be in effect until that date. The Order also requires PEPCO to assure that this plant causes no violations of the NAAQS for sulfur dioxide (SO_2).

EFFECTIVE DATE: April 2, 1979.

ADDRESSES: Copies of the Order and accompanying support material are available for public inspection during normal business hours at the

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: Raymond D. Chalmers.

Bureau of Air Quality and Noise Control, State of Maryland, 201 W. Preston Street, Baltimore, Maryland 21201. ATTN: George Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: On March 21, 1978 the then Acting Governor of Maryland, Blair Lee III, submitted to EPA, Region III, a proposed revision of the Maryland State Implementation Plan consisting of a Consent Order for the Chalk Point Generating Station of the Potomac Electric Power Company (PEPCO). The Governor certified that the Order was adopted in accordance with the public hearing and notice requirements of 40 CFR, Part 51.4 and all relevant State procedural requirements, and asked that EPA consider the Consent Order as a revision of the State Implementation Plan.

The Order requires PEPCO to bring the Chalk Point Station into compliance with Maryland's air pollution control regulations for particulates. The Order also requires PEPCO to assure that this plant causes no violations of sulfur dioxide air quality standards.

PEPCO must install cold electrostatic precipitators to bring Chalk Point into complete compliance with Maryland's particulate emission control regulation. Construction of the precipitators will proceed in accordance with the following schedule:

1. Not later than April 30, 1978, PEPCO shall award contracts for the engineering and construction services necessary for the project. (completed)
2. Not later than June 30, 1978, PEPCO shall award the contract for the cold electrostatic precipitators and begin site preparation. (completed)
3. Not later than May 31, 1979, PEPCO shall begin construction.
4. Not later than June 30, 1980, PEPCO shall begin installation of the cold electrostatic precipitators.
5. Not later than September 30, 1981, PEPCO shall have operational cold electrostatic precipitators. The unit shall be tested and be in full and continuous compliance with Maryland's particulate control regulation by not later than December 31, 1981.

PEPCO must also adhere to an interim program for control of particulate emissions while the electrostatic precipitators are being installed. Maryland has demonstrated by air quality modeling that this program will adequately protect air quality standards. The components of this program are:

1. PEPCO must operate Chalk Point's coal burning units #1 and #2 in compliance with the following TSP emission limitations based on million Btu per hour heat input. The plant may emit no more than 0.6 pounds of particulates per million Btu heat input from each unit when operating the units with a heat input of from 0 to 10 million Btu per hour. When operating the units in the range of heat input from greater than 10 up to 10,000 million Btu per hour the maximum permitted particulate emissions decrease linearly when plotted on a logarithmic scale from 0.6 to 0.20 pounds per million Btu heat input. When operating at greater than 10,000 million Btu per hour heat input the maximum permitted particulate emissions are fixed at 0.20 pounds per million Btu heat input.

The compliance status of each unit is determined by stack testing. If, following the test, it is necessary to operate a unit which does not comply with the interim requirements set forth above, that unit must be operated at a load reduced by an amount which is linearly proportional to the amount by which the stack test result exceeded the interim requirement. The Company thereafter may increase the load of a unit only for the purpose of testing the unit to determine compliance at an elevated level. The fixed load limit established by these tests assures continued compliance with the maximum interim emission limits.

2. The ash content of coal used as fuel by Chalk Point's Units #1 and #2 may not exceed an average of fifteen percent for any month, based on a minimum of four weekly composite samples collected and tested by the company.

3. Visible emissions from Chalk Point's coal burning units may not be darker in shade or appearance than that designated as #2 on the Ringlemann Smoke Chart or exceed an opacity greater than forty percent.

4. PEPCO must submit semi-annual progress reports to Maryland by July 10 and January 10 of each year until compliance is achieved.

The Order also requires PEPCO to take action to limit sulfur oxide emissions from the Chalk Point generating plant. Sulfur oxide emissions from the plant's coal burning units #1 and #2 are limited to 3.5 pounds per million Btu input averaged over a two-hour period as determined by continuous in-stack measurement. Emissions from the plant's oil burning unit #3 are limited by the requirement that it burn no more than two percent sulfur content residual oil.

These SO_2 emission control limitations, not Maryland's SO_2 control regulations, are established by the Order as the basis for controlling emissions from the Chalk Point facility. NAAQS have been shown by air quality modeling to be adequately protected by these new limitations. To further assure that the NAAQS are protected, PEPCO is required to report emissions and air quality levels in the vicinity of Chalk Point by July 1, 1979 for the period from February 27, 1978 to July 1, 1979, and to project emissions through 1985. Maryland will review the data to determine if applicable air quality standards are attained and will be maintained through 1985.

Should Maryland determine that any applicable ambient air quality standards for sulfur oxides or other compounds of sulfur is or will be exceeded at any time through the year 1985, PEPCO is required to purchase fuel which meets the requirements of Maryland's SO_2 emission control regulation in accordance with the following schedule:

October 1, 1979—PEPCO informed by Maryland of need to purchase complying fuel.

January 1, 1980—PEPCO required to select a supplier of a complying fuel. The Company will commence equipment modifications to enable this fuel to be burned.

4 4 1 8 7

May 1, 1980—PEPCO shall complete the equipment modifications.

November 1, 1980—PEPCO shall achieve full compliance with Maryland's SO_2 regulation.

A review, similar to that described above, will be repeated by Maryland in five-year intervals commencing with the year 1984 and continuing thereafter. If at any time Maryland determines that any applicable ambient air quality standard for sulfur oxides or other compounds of sulfur will be exceeded, PEPCO will submit a timetable for puchase and use of fuel in compliance with Maryland's SO_2 regulation similar to the above schedule.

This revision was proposed in the **Federal Register** on November 8, 1978 (40 FR 52033). During the public comment period, no comments were received.

The revision has been found to meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR, Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

In view of this finding, the Administrator approves the amendment of the Maryland SIP to include the Consent Order for PEPCO's Chalk Point power plant.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401)

Dated: March 26, 1979.

Douglas M. Costle,
Administrator.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart V—Maryland

§ 52.1070 Identification of plan.

* * * * *

(c) Title of plan:

(22) A Consent Order for the Chalk Point power plant issued by the Circuit Court for Montgomery County on February 27, 1978.

[FRL 1084-6]

BILLING CODE 1505-01-M

40 CFR Part 65

Delayed Compliance Order for the Indiana Farm Bureau Cooperative Association, Inc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Indiana Farm Bureau Cooperative Association, Inc. (Indiana Farm Bureau). The Order requires the Company to bring air emissions from its gasoline loading and storage rack at Westfield, Indiana into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Indiana Farm Bureau's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (the Act) for violations of the SIP regulations covered in the Order.

DATES: May 3, 1979.

FOR FURTHER INFORMATION CONTACT: Arthur E. Smith, Jr., Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On December 6, 1978 the Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (43 FR 57164) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Indiana Farm Bureau. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Indiana Farm Bureau by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Indiana Farm Bureau on a schedule to bring its gasoline storage and loading rack at Westfield, Indiana into compliance as expeditiously as practicable with Regulation APC–15, Sections 3 and 4, a part of the federally approved Indiana State Implementation Plan. Indiana Farm Bureau is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Indiana Farm Bureau to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by Indiana Farm Bureau will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Indiana Farm Bureau is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Indiana Farm Bureau on a schedule for compliance with the Indiana State Implementation Plan.

Authority: 42 U.S.C. 7413(d), 7601.

Dated: April 13, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.400:

§ 65.400 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order number	Date FR proposal	SIP regulation involved	Final compliance date
Indiana Farm Bureau Cooperative Association, Inc.	Westfield, Ind.	EPA–5–79–A–25	12–6–78	APC–15 sections 3 and 4.	7–1–79

[FRL 1202–4]
[FR Doc. 79–13736 Filed 5–2–79; 8:45 am]
BILLING CODE 6560–01–M

40 CFR Part 65

Delayed Compliance Order for Indiana-Kentucky Electric Corp.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Indiana-Kentucky Electric Corporation (IKEC). The Order requires the Company to bring air emissions from its fossil-fired steam electric generating plant at Madison, Indiana, into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). IKEC's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: May 3, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On February 1, 1979 the Regional Administrator of the U.S. EPA's Region V Office published in the **Federal Register** (44 FR 6465) a notice setting out the provisions of a proposed State Delayed Compliance Order for IKEC. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to IKEC by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places IKEC on a schedule to bring its electric generating plant at Madison, Indiana, into compliance as expeditiously as practicable with Regulations APC–3 and APC–4R, a part of the federally approved Indiana State Implementation Plan. IKEC is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit IKEC to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by IKEC will preclude Federal enforcement covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that IKEC is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place IKEC on a schedule for compliance with the Indiana State Implementation Plan.

Authority: 42 U.S.C. 7413(d), 7601.

Dated: April 23, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.191:

§ 65.191 U.S. EPA approval of State delayed compliance orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Order number	Date FR proposal	SIP regulation involved	Final compliance date
Indiana-Kentucky Electric Corp.	Madison, Ohio	None	2–1–79	APC–3; APC–4R.	7–1–79

[FRL 1082–1]
[FR Doc. 79–13736 Filed 5–3–79; 8:45 am]
BILLING CODE 6560–01–M

40 CFR Part 65

Delayed Compliance Order for Eli Lilly & Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Eli Lilly and Company (Eli Lilly). The Order requires the Company to bring air emissions from four plants (McCarthy Street Plant, 1202 Kentucky Avenue Plant, 1555 Kentucky Avenue Plant and Park Fletcher Plant) at Indianapolis,

Indiana, into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Eli Lilly's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: May 3, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Bertram C. Frey, Attorney, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353–2082.

SUPPLEMENTARY INFORMATION: On February 9, 1979, the Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (44 FR 8313) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Eli Lilly. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Eli Lilly by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Eli Lilly on a schedule to bring its four plants at Indianapolis, Indiana, into compliance as expeditiously as practicable with Regulation APC–15, Section 8, a part of the federally approved Indiana State Implementation Plan. Eli Lilly is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Eli Lilly to delay compliance with the SIP regulation covered by the Order until January 31, 1979, for Source No. 12, Pre-Coat Room at the McCarty Street Plant; by January 15, 1979, for the Surge Tank at the 1202 Kentucky Avenue Plant; by June 1, 1979, for Source No. 2, Coating area EF9 at the 1555 Kentucky Avenue Plant; by June 30, 1979, for Source No. 3, Granulation Dry Hours 100 EF/4 at the 1555 Kentucky Avenue Plant; and June 30, 1979, for Source No. 1, Ethyl Alcohol Antibiotic Drying (PI) and for Source No. 2, Methyl Alcohol Tablet Coating (P2) at the Park Fletcher Plant.

Compliance with the Order by Eli Lilly will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Eli Lilly is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Eli Lilly on a schedule for compliance with the Indiana State Implementation Plan.

Authority: 42 U.S.C. 7413(d), 7601.

Dated: April 10, 1979.

Douglas M Costle,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.190:

§ 65.100 Federal delayed compliance orders issued under section 113(d)(1), (3), and (4) of the act.

Source	Location	Order number	Date FR proposal	SIP regulation involved	Final compliance date
Eli Lilly and Co	Indianapolis, Ind.	EPA–5–79–A–26	2–9–79	APC–15 Section 8.	1–31–79
		EPA–5–79–A–27			1–15–79
		EPA–5–79–A–28			6–1–79
		EPA–5–79–A–29			6–30–79

[FRL 1098–7]
[FR Doc. 79–13737 Filed 5–3–79; 8:45 am]
BILLING CODE 6560–01–M

40 CFR Part 180

Tolerances and Exemptions From Tolerances For Pesticide Chemicals in or on Raw Agricultural Commodities; O,O-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate on mushrooms at 0.75 part per million (ppm). The regulation was requested by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of the subject insecticide on mushrooms.

EFFECTIVE DATE: Effective on the May 3, 1979.

FOR FURTHER INFORMATION CONTACT:
Mrs. Patricia Critchlow, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/755–4851).

SUPPLEMENTARY INFORMATION: On March 12, 1979, the EPA published a notice of proposed rulemaking in the **Federal Register** (44 FR 13547) in response to a pesticide petition (PP 8E2071) submitted to the Agency by the Interregional Research Project No. 4 (IR–4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR–4 Technical Committee and the State Agricultural Experiment Stations of Delaware, Maryland, and Pennsylvania. This petition proposed that 40 CFR 180.153 be amended by the establishment of a tolerance for residues of the insecticide *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in or on the raw agricultural commodity mushrooms at 0.75 part per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.153 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before June 4, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St., SW., Washington, DC 20460. Such objections should be submitted and specify the provisions of the regulation

deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on May 3, 1979, Part 180, Subpart C, section 180.153 is amended by adding a tolerance for residues of the subject insecticide on mushrooms at 0.75 ppm as set forth below.

Dated: April 26, 1979.

James M. Conlon,
Acting Deputy Assistant Administrator for Pesticide Programs.

Statutory Authority: Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)].

Part 180, Subpart C, § 180.153 is amended by alphabetically inserting the tolerance of 0.75 ppm on mushrooms in the table to read as follows:

§ 180.153 O,O-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate; tolerances for residues.

* * * * *

Commodity:	Parts per million
* * * * *	
Mushrooms	0.75
* * * * *	

[FRL 1215–6; PP8E2071/R206]
[FR Doc. 79–13708 Filed 5–3–79; 8:45 am]
BILLING CODE 6560–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 1

Fair and Equitable Compensation to Professional Employees

AGENCY: General Services Administration.

ACTION: Temporary Regulation.

SUMMARY: This supplement extends the expiration date of Federal Procurement Regulations Temporary Regulation 45 (43 FR 27235, June 23, 1978). The extension will allow more time for an orderly codification process. The intended effect is to lower administrative costs by including other anticipated changes in the codification of various temporary regulation provisions.

DATES: Effective date: March 15, 1979. Expiration date: This regulation will continue in effect until April 1, 1981, unless canceled earlier.

FOR FURTHER INFORMATION CONTACT:
Phillip G. Read, Acting Director, Federal Procurement Regulations Directorate, 703–557–8947.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 1, FPR Temporary Regulation 45, Supplement 1 is added to the appendix at the end of the chapter.

Federal Procurement Regulations, Temporary Regulation 45, Supplement 1

To: Heads of Federal agencies

Subject: Fair and equitable compensation to professional employees under Federal contracts for services

1. *Purpose.* This supplement extends the expiration date of FPR Temporary Regulation 45.

2. *Effective Date.* This supplement was effective March 15, 1979.

3. *Expiration date.* FPR Temporary Regulation 45 and this supplement will expire on April 1, 1981, unless canceled earlier.

4. *Explanation of changes.* Paragraph 3 of FPR Temporary Regulation 45 is revised to delete the expiration date of April 1, 1979, and to prescribe the revised expiration date which appears in paragraph 3.

Dated: April 23, 1979.

Paul E. Goulding,
Acting Administrator of General Services.

[Temporary Reg. 45, Supplement 1]
[FR Doc. 79–13790 Filed 5–3–79; 8:45 am]
BILLING CODE 6820–62–M

Proposed Rules

Proposed Rules

Federal Register
Vol. 44, No. 87
Thursday, May 3, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 929]

Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Referendum Order; Determination of Representative Period for Voter Eligibility and Designation of Referendum Agents To Conduct the Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among growers of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, to determine whether they favor continuance of the marketing agreement and order program.

DATES: Referendum period May 14 through 23, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McCaha, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, Phone: 202–447–5975.

SUPPLEMENTARY INFORMATION: This action is taken pursuant to the marketing agreement and Order No. 929, both as amended (7 CFR Part 929) regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island, New York. This order is effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Section 929.68(d) of the marketing order specifies that a referendum shall be conducted during the month of May 1975, and during the month of May every fourth year thereafter, to ascertain whether growers favor continuance of this part. It is hereby directed that a referendum be conducted during the period May 14 through 23, 1979, among growers who, during the period September 1, 1978, through April 30, 1979 (which period is hereby determined to be a representative period for purposes of this referendum), were engaged, in the States specified above, in the production of cranberries for market to ascertain whether such growers favor the continuance of the amended marketing order.

Ronald L. Cioffi and William J. Doyle, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, are hereby designated as referendum agents of the Secretary of Agriculture to conduct said referendum. The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR Part 900.400 *et seq.*).

Copies of the text of the aforesaid amended marketing order may be examined in the office of the referendum agents or of the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Ballots to be cast in the referendum may be obtained from the referendum agents and from their appointees. This action has not been determined significant under the USDA criteria for implementing Executive Order 12044.

Dated: April 27, 1979.

Jerry C. Hill,
Deputy Assistant Secretary.

[FR Doc. 79-13837 Filed 5-3-79; 8:45 am]

BILLING CODE 3410-02-M

[7 CFR Part 979]

Melons Grown in South Texas; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This regulation would require fresh market shipments of melons grown in designated counties in South Texas to be inspected and meet minimum grade, quality and container requirements. The regulation would promote orderly marketing of such melons and keep less desirable qualities from being shipped to consumers.

DATE: Comments due May 12, 1979.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments must be submitted; the comments will be made available for public inspection at the office of the Hearing Clerk during the regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles R. Brader, Acting Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone (202) 447–4722.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 156 and Order No. 979 (7 CFR Part 979) regulate the handling of melons grown in designated counties of South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Melon Committee, established under the order, is responsible for its local administration.

This proposed regulation is based upon recommendations made by the committee at its public meetings in McAllen and Weslaco, Texas, on April 17, 19 and 25, 1979. The recommendations of the committee reflect its appraisal of the expected volume and composition of the 1979 spring crop of South Texas melons and of the marketing prospects for the shipping season which is expected to begin about mid-May 1979.

The grade requirements are designed to prevent melons of poor quality from being distributed in fresh market channels.

Thus, not more than 50 percent of the melons may fail the requirements for U.S. Commercial grade. A tolerance of 20 percent would be allowed for serious damage of which not more than 10 percent could be for melons affected by soft decay. Black surface discoloration would not be considered a defect. Individual containers would be required to contain at least 25 percent U.S. Commercial quality melons.

The container requirements would prevent the shipment of bulk loads of packing house culls which would adversely affect the reputation and returns of packed South Texas melons. However, they would require the use of containers customarily packed for the retail trade.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Up to 120 pounds of melons could be handled, other than for resale, per person per day without regard to requirements of this section in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of melons.

The requirements with respect to special purpose shipments would allow the shipment of melons for charity, relief, canning and freezing. Shipments of melons for canning or freezing are exempt under the legislative authority for this part. Shipments for charity or relief would be exempt since no useful purpose would be served by regulating such shipments.

In order to maximize the benefits of orderly marketing the proposed regulation should become effective as quickly as possible to cover as much of the marketing season as possible. The marketing season is expected to begin about May 16th. The proposed regulation was discussed at three widely publicized open public meetings where interested persons were given opportunities to make comments. Producers and handlers attending the meetings strongly supported the proposal. It is hereby determined that the period allowed for additional comments should be sufficient under the circumstances and will effectuate the declared policy of the act.

It is proposed to amend 36 CFR 979 by adding the following new sections:

§ 979.301 Handling regulation.

During the period May 16 through August 31, 1979, no person shall handle cantaloup or honey dew melons unless they meet the requirements of paragraphs (a) through (c) or (d) or (e) and (f) of this section.

(a) *Grade requirements.* Not more than 50 percent of the melons in any lot may fail to meet the requirements of U.S. Commercial grade except no more than 20 percent shall be allowed for serious damage, and including in this latter amount not more than 10 percent for melons affected by soft decay. Black surface discoloration shall not be considered as a grade defect with respect to such grade. Individual containers shall contain not less than 25 percent U.S. Commercial or better quality.

(b) *Container requirements.*

(1) Except as provided in paragraphs (d) or (e) and (f) all cantaloups shall be packed in fiberboard cartons with inside dimensions of not more than 17¼ nor less than 16¾ inches in length, not more than 13 nor less than 12¾ inches in width, and not more than 10⅝ nor less than 9¾ inches in depth. All honey dew melons shall be packed in fiberboard cartons with inside dimensions of 17 inches long by 15¼ inches wide and not more than 7½ inches nor less than 6⅛ inches deep. A tolerance of ⅛ inch for each dimension shall be permitted.

(2) Each container shall be marked to indicate the count; the name, address, and zip code of the shipper; the name of the product; and the words "Produce of U.S.A." or "Product of U.S.A."

(3) If the container in which the melons are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the container shall be conspicuously marked with the words "USED BOX" in letters not less than three-fourths (¾) inch high.

(c) *Inspection.*—(1) No handler may handle any melons regulated hereunder except pursuant to paragraphs (d) or (e) and (f) of this section unless an inspection certificate has been issued covering them and the certificate is valid at the time of shipment.

(2) No handler may transport by motor vehicle or cause such transportation of any shipment of melons for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable. A copy of such inspection certificate or committee document shall be surrendered upon request to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(4) Designated inspection stations will be located at the Texas Federal Inspection Service office, 1301 W. Expressway, Alamo (Phone (512) 787–4091 or 6881) and the official inspection station in Laredo, to be available for handlers who do not have permanent packing facilities recognized by the committee.

(5) Handlers shall pay assessments on all assessable melons according to the provisions of § 979.42, at the rate of 1¼¢ per carton.

(d) *Minimum quantity exemption.* Not withstanding any other provisions of this section melons may be handled without regard to the provisions of §§ 979.42, 979.52, 979.80, and 979.80 and the regulations issued thereunder, if the shipment does not exceed 120 pounds net weight of melons to any one person during any one day, except that the exempted quantity shall not be included as a part of any shipment exceeding 120 pounds and further that such melons are not for resale.

(e) *Special purpose shipments.* (1) The requirements of paragraphs (a) through (c) of this section shall not be applicable to shipments for charity, relief, canning and freezing if a handler presents a Certificate of Privilege for such melons prior to handling them in accordance with § 979.155.

(2) Melons failing to meet the requirements of paragraphs (a) through (c) of this section and not exempt under paragraphs (d) or (e), and all melons discarded from the grading table shall be handled only in accordance with § 979.152.

(f) *Safeguards.* Each handler making shipments of melons for relief, charity, canning or freezing under paragraph (e) of this section shall:

(1) Notify the committee of the intent to ship melons under paragraph (e) of this section by applying on forms furnished by the committee for a Certificate of Privilege applicable to such special purpose shipments.

(2) Obtain an approved Certificate of Privilege.

(3) Prepare on forms furnished by the committee a special purpose shipment report for each individual shipment.

(4) Forward copies of the special purpose shipment report to the committee office and to the receiver with instructions to the receiver to sign and return a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's Certificate of Privilege applicable to such shipments.

(g) *Definitions.* "U.S. melon standards" mean the United States Standards for Grades of Cantaloups (7 CFR 2851.475–2851.494), or the United States Standards for Grades of Honey

Dew and Honey Ball Type Melons (7 CFR 2851.3240–2851.3749), whichever is applicable, or variations thereof specified in this section. The term "U.S. Commercial" shall have the same meaning as set forth in these standards.

All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 156 and this part.

Dated: April 27, 1979.

Note.—This proposed regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-13722 Filed 5-2-79; 8:45 am]

BILLING CODE 3410-02-M

[7 CFR Part 979]

Melons Grown in South Texas; Proposed Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This subpart would establish the rules and regulations for the operation of Order No. 979, order regulating the handling of melons grown in South Texas, which became effective April 13, 1979. (44 FR 22038, April 13, 1979) The rules are necessary for implementation of the order and contain the general requirements relating to the conduct of meetings, setting of the fiscal period, eligibility of public members, special purpose shipment procedures and reporting requirements.

DATES: Comments due May 12, 1979.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments must be submitted. The comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles R. Brader, Acting Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone (202) 447–4722.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 156 and Order No. 979 (7 CFR Part 979) regulate the handling of melons grown in designated counties of South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

These proposed rules and regulations were recommended by the South Texas Melon Committee at its public meeting in McAllen, Texas, on April 17.

In order to maximize the benefits of orderly marketing the proposed rules and regulations should become effective as quickly as possible to cover as much of the marketing season as possible. The marketing season is expected to begin about May 16th. The proposed rules and regulations were discussed at three widely publicized open public meetings where interested persons were given opportunities to make comments. Producers and handlers attending the meetings strongly supported the proposal. It is hereby determined that the period allowed for additional comments should be sufficient under the circumstances and will effectuate the declared policy of the act.

The order would be defined in this subpart since the definition appears nowhere else in the part.

The fiscal period would be set at May 1 through April 30 of the following year. This would allow time for the budget to be prepared, recommended and approved prior to the time disbursements of committee funds would be made.

The proposed rules also contain eligibility requirements for the public members. The requirements would include representing a nonagricultural point of view, and not having a financial (or economic) interest in, or being closely associated with the production, processing, financing or marketing of melons. The public member and alternate would be nominated by the growers and handlers on the committee and would serve the same term of office as other committee members.

Nomination procedures for public members would also be included in the proposed rules. Under these proposed rules questionnaires could be sent to interested persons to determine their qualifications. The names and qualifications would then be submitted to the committee. The names of persons nominated for public member and alternate positions would be submitted to the Secretary by January 15.

The committee would be authorized to meet by telephone since it may not always be practical or expedient to hold an assembled meeting. Such telephone meetings could be called only by the chairman or vice-chairman acting in his stead, and seven affirmative votes would be required to approve any action. All votes would be promptly confirmed in writing.

Procedures for the handling of culls would be specified by the proposed rules. Melons failing the requirements contained in the handling regulation would be required to be either spiked or mechanically mutilated or be handled for special purpose outlets. This would preclude entry of poor quality or otherwise unsuitable melons into normal channels of trade to the detriment of the melon industry.

Handlers making shipments of melons for special purposes would be required to provide the committee with information regarding such shipments to preclude the entry of the melons into normal channels of trade. Handlers would be required to obtain a Certificate of Privilege from the committee and comply with all reporting requirements. This would give the committee the information necessary for determining compliance. The rules contain the necessary procedures for determining qualification, application for the Certificate, approval by the committee and disqualification.

In order to help the committee become informed on the size and quality of the crop, each handler would be required to furnish during the planting season, information on a bi-weekly basis to the committee. Such information would include the number of acres and location of cantaloups and honey dew melons planted by them or by growers for whom they pack.

The proposed new sections to be added to 36 CFR Part 979 read as follows:

PART 979—MELONS GROWN IN SOUTH TEXAS

Sec.

* * * * *

979.100 Order.
979.106 Registered handler.
979.110 Fiscal period.
979.122 Eligibility requirements for public members.
979.126 Nomination procedures for public members.
979.132 Procedure.
979.152 Handling of culls.
979.155 Safeguards.
979.160 Reports.

§ 979.100 Order.

"Order" means Order No. 979 (§§ 979.1 to 979.92; 44 FR 22038) regulating the handling of melons grown in South Texas.

§ 979.106 Registered handler.

For purposes of this part, a registered handler is a person who has adequate facilities for packing melons for market and who assumes initial responsibility for compliance with inspection, assessment, and other regulatory requirements on the handling of melons grown in the production area. Any person who wishes to become a registered handler shall make application for registration with the committee on forms furnished by the committee. If such applicant has facilities available which are determined by the committee as adequate for the packing of melons, he may be approved as a registered handler. Growers who make deliveries of fieldrun melons to such registered handlers are hereby determined to be exempt from otherwise applicable regulations pursuant to this part.

§ 979.110 Fiscal period.

"Fiscal period" means the annual period beginning May 1 and ending on April 30 of the following year.

§ 979.122 Eligibility requirements for public members.

(a) A public member shall represent a nonagricultural point of view, and shall not have a financial (or economic) interest in, or be closely associated with the production, processing, financing or marketing of melons.

(b) Public members should be able to devote sufficient time and express a willingness to attend committee activities regularly and to familiarize themselves with the background and economics of the industry.

(c) Public members must be residents of the production area.

(d) Public members shall be nominated by the South Texas Melon Committee and shall serve a two-year term which coincides with the term of office of producer or handler members of the committee.

§ 979.126 Nomination procedures for public members.

(a) Names of candidates together with evidence of qualification for public membership on the South Texas Melon Committee shall be submitted to the committee at its business office.

(b) Questionnaires may be sent by the committee to those persons submitted as candidates, to determine their eligibility and interest in becoming a public member.

(c) The names of persons nominated for the public member and alternate positions shall be submitted by the incumbent committee to the Secretary by January 15 with such information as deemed pertinent by the committee or as requested by the Secretary.

(d) Nomination of the initial public member shall be made as soon as possible but not later than 90 days after the first meeting of the committee.

§ 979.132 Procedure.

The committee shall be authorized to meet by telephone or other means of communication. Any vote at such a meeting shall be promptly confirmed in writing by each voter. On such occasions seven affirmative votes shall be necessary to approve any action. Telephone meetings shall be called only by the Committee chairman or vice-chairman acting in his stead.

§ 979.152 Handling of culls.

(a) The handling of culls, i.e., melons which fail to meet the grade, size, quality or other requirements established under § 979.52(b) of this part is prohibited unless such melons are:

(1) Mechanically spiked or mutilated at the packing shed rendering them unsuitable for fresh market; or

(2) Handled for special purpose outlets approved under § 979.54 of this part.

(b) As a safeguard against culls entering fresh market channels each handler under subparagraph (2) shall apply for and obtain a certificate from the committee which shall require the handler to furnish such reports or other information as the committee may request.

§ 979.155 Safeguards.

(a) *Policy.* Whenever shipments of melons for special purposes pursuant to § 979.54 are relieved in whole or in part from regulations issued under § 979.52, the committee may require information and evidence on the manner, methods, and timing of such shipments as safeguards against the entry of any such melons in trade channels other than those for which intended. Such information and evidence shall include requirements set forth below with respect to Certificates of Privilege.

(b) *Qualification.* Before handling melons for special purposes which do not meet regulations issued pursuant to § 979.52, a handler, when required by such regulations, must qualify with the committee to handle shipments for special purposes. To qualify one must (1) apply for and receive a Certificate of Privilege indicating the intent to so handle melons, (2) agree to comply with reporting and other requirements set forth in § 979.155 with respect to such shipments, and (3) receive approval of the committee, or its duly authorized agents, to so handle melons. Such approval will be based upon evidence furnished in the application for Certificate of Privilege and other information available to the committee.

(c) *Application.* (1) Applications for a Certificate of Privilege shall be made on forms furnished by the committee. Each application may contain, but need not be limited to, the name and address of the handler; the quantity by grade, size, quality and container of the melons to be shipped; the mode of transportation; the consignee; the destination; the purpose for which the melons are to be used; and certification to the United States Department of Agriculture and to the committee as to the truthfulness of the information shown thereon, and any other appropriate information or documents deemed necessary by the committee or its duly authorized agents for the purposes stated in § 979.155(a).

(2) The committee may require each handler making shipments of melons for export to include with his application a copy of the Department of Commerce Shippers Export Declaration Form No. 7525–V applicable to such shipment.

(d) *Approval.* The committee or its duly authorized agents shall give prompt consideration to each application for a Certificate of Privilege. Approval of an application, based upon the determination as to whether the information contained therein and other information available to the committee supports approval, shall be evidenced by the issuance of a Certificate of Privilege to the applicant. Each certificate shall cover a specified period and specified qualities and quantities of melons to be sold or transported to a designated consignee for the purpose declared.

(e) *Reports.* Each handler of melons shipping under Certificates of Privilege shall supply the committee with reports as requested by the committee, or its duly authorized agents, showing the name and address of the shipper; the car or truck identification; the loading point; destination; consignee; the inspection certificate number when inspection is required; and any other information deemed necessary by the committee.

(f) *Disqualification.* The committee from time to time may conduct surveys of handling of melons for special purposes requiring Certificates of Privilege to determine whether handlers are complying with the requirements and regulations applicable to such certificates. Whenever the committee finds that the handler or consignee is failing to comply with requirements and regulations applicable to handling of melons in special outlets and requiring such certificates, a Certificate or Certificates of Privilege issued such handler may be rescinded and subsequent certificates denied. Such disqualification shall apply to, and not exceed, a reasonable period of time as determined by the committee, but in no event shall it extend beyond the date of the succeeding fiscal period. Any handler who has a Certificate rescinded

or denied may appeal to the committee in writing for reconsideration of his disqualification.

§ 959.180 Reports.

Each handler shall furnish every two weeks during the planting season to the committee on a form provided by the committee the number of acres of cantaloups and honey dew melons planted by the handler or growers for whom the handler packs melons during such period and the location of such plantings. However, during the first season of operation under the order each handler need only report the number of acres each of cantaloups and honey dew melons planted together with the location of all such plantings.

Dated: April 27, 1979.

Note.—This proposed regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 79-13692 Filed 5-2-79; 8:45 am]

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FEDERAL RESERVE SYSTEM

[12 CFR Part 205]

Electronic Fund Transfers; Hearing

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule and notice of hearing.

SUMMARY: The Board is publishing for comment sections of Regulation E, electronic fund transfer regulations (including model disclosures) to implement those provisions of the Electronic Fund Transfer Act that become effective on May 10, 1980. The sections of Regulation E that implement sections 909 and 911 of the Act were issued by the Board on March 21, 1979. The Board is also proposing to amend § 205.3 (to expand the exemptions) and § 205.5—Liability of Consumer for unauthorized transfer, of the existing regulations (to make a clarifying amendment). The Board is publishing for comment an economic impact analysis, as required by section 904 of the Act. A public hearing will be held on the Board's proposal on June 18 and 19, 1979.

DATES: Comments must be received on or before July 2, 1979. Hearings will be held on June 18 and 19, 1979. Requests to appear at the hearing must be received on or before June 8, 1979.

ADDRESSES: Send comments and requests to appear at the hearing to: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted and all requests to appear at the hearing should refer to docket number R-0221. The hearing will be held before available members of the Board on the Terrace level of the Martin Building at 20th and C Streets, N.W., Washington, D.C., to begin at 9:30 a.m. each day.

FOR FURTHER INFORMATION CONTACT: Regarding the regulations: Dolores S. Smith, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2412). Regarding the economic impact analysis: Frederick J. Schroeder, Economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2584).

SUPPLEMENTARY INFORMATION: (1) *Introduction; General Matters; Hearing.* The Board recently issued sections of Regulation E (44 FR 18468, March 28, 1979) implementing sections 909 and 911 of the Electronic Fund Transfer Act (Title XX, Pub. L. 95-630), which became effective on February 8, 1979. The Board is now publishing for comment regulatory provisions to implement the remainder of the Act that will go into effect on May 10, 1980. No implementing regulations are being proposed for the sections of the Act that deal with civil and criminal liability (sections 910, 915, and 916), or for those sections that are straightforward and need no regulatory clarification (sections 912, 913, and 914). Section 910(a)(1)(E) of the Act does authorize the Board to specify circumstances under which a financial institution would not be liable for damages arising from the institution's failure to make an electronic fund transfer authorized by a consumer. Commenters are invited to specify circumstances not already contained in section 910(a)(1) that the Board may wish to particularize in implementing regulations.

Section 904(a)(1) of the Act requires the Board, when prescribing regulations, to consult with the other Federal agencies that have enforcement responsibilities under the Act. Members of the Board's staff have met with staff members from the enforcement agencies.

Federal savings and loan associations should note that they are subject to the provisions of Regulation E and that there may be some inconsistency between this regulation and the Federal Home Loan Bank Board's regulation governing remote service units (12 CFR 545.4-2). The Board of Governors has been advised by the Bank Board that § 545.4-2 will be promptly amended to conform to the Act and Regulation E.

Section 904(a)(2) requires the Board to prepare an analysis of the economic impact of the regulation on the various participants in electronic fund transfer systems, the effects upon competition in the provision of electronic fund transfer services among large and small financial institutions, and the availability of such services to different classes of consumers, particularly low-income consumers. Section 904(a)(3) requires the Board, to the extent practicable, to demonstrate that the consumer protections provided by the proposed regulation outweigh the compliance costs imposed upon consumers and financial institutions. The Board's preliminary statement on these issues is published in section (5) below. The statement and the proposed regulation have been transmitted to Congress, as required by section 904(a)(4).

Section 904(b) requires the Board to isue model disclosure clauses, writen in readily understandable language, that will make it easier for financial institutions to comply with the disclosure requirements of section 905 and that will aid consumer understanding of their rights and responsibilities. The proposed model clauses are discussed in section (4) of this material.

Section 904(c) permits the Board to modify the requirements of the Act as they affect small financial institutions if the Board determines that modifications are necessary to alleviate any undue compliance burden. The Board solicits comment on the extent to which compliance with the proposed regulation would impose undue cost and administrative or other burdens upon small financial institutions and what criteria should be use in determining what constitutes "small financial institutions" for purposes of section 904(c).

Section 904(d) requires the Board to assure that the requirements of the Act are imposed upon all persons that offer electronic fund transfer services to consumers. The Board previously solicited information regarding the offering of such services by non-financial institutions, a description of the services, and whether specific provision should be made in the regulation to insure that such persons are subject to the Act's requirements. Any further information or opinions would be welcome.

The Board also gives notice of a public hearing to be held on its proposed regulation on June 18 and 19, 1979. The hearing will be held before available members of the Board on the Terrace level of the Martin Building at 20th and C Streets, N.W., Washington, D.C. to begin at 9:30 a.m. each day.

The proceeding will consist of presentation of written or oral statements. Any person wishing to testify at the hearing should file with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, on or before June 8, 1979, a written request containing a statement of the nature of the person's interest in the proceeding, a summary of the matters concerning which the person desires to give testimony, and the names and identity of witnesses who propose to appear. A request to appear at the hearing should include the docket number set forth above. The Board reserves the right to limit participation should time constraints so require.

(2) *Amendments to Existing Sections of Regulation.* The Board proposes to amend certain sections of Regulation E that are already in effect. The existing sections that would be amended are §§ 205.2 (Definitions), 205.3 (Exemptions), and 205.5 (Liability of Consumer for Unauthorized Transfers).

Section 205.2—Definitions. The Board proposes to amend two definitions that appear in existing Regulation E, and to add two new ones, in order to avoid relettering many of the existing definitions at this time, the new definitions appear as §§ 205.2(l) and (m), following the existing definitions.

(i) "Financial institution." The Board proposes to delete the last sentence, concerning agreements among financial institutions that share compliance responsibilities. The substance of this provision has been incorporated in proposed § 205.13(a).

(k) "Unauthorized electronic fund transfer." The definition would be revised by deleting, after "error," the phrase "committed by the financial institution," and inserting instead "except as defined in § 205.2(l)(1)."

The existing definition poses a technical problem in that it excludes errors, yet the definition of "error" includes unauthorized electronic fund transfers. The proposed amendment would eliminate the inconsistency.

(l) "Error." The proposed definition is similar to the corresponding definition in the Act. The Board wishes to point out that § 205.2(l)(1), which defines an unauthorized electronic fund transfer as an error, would include a consumer's notifying a financial institution of the loss or theft of an access device. Such a notification would alert the financial institution to the possibility that unauthorized transfers have occurred or may ocur. By interpreting § 205.2(l)(1) to include notification of loss or theft of an access device, the protections of the error resolution procedures will be triggered upon notification of loss or theft (which may involve *possible* unauthorized use), rather than upon the consumer's awareness and notification of an *actual* occurrence of unauthorized use.

In addition, the Board proposed, in §§ 205.2(l)(7) and (8), to include two other types of errors in the definition. Section 205.2(l)(7) defines as an "error" any failure to provide a consumer with documentation required by the regulation. this would insure that a consumer would be able to receive promptly a copy of any required documentation that was not provided. The Board anticipates that this additional type of error will be of particular importance where a consumer did not receive a receipt at a terminal either because of terminal malfunction or because the terminal is out of paper.

Section 205.2(l)(8) would define as an error any misidentified or insufficiently identified transfer or any transfer that was not in the amount or on the date indicated on or with any required documentation. This addition would cover types of errors that may not be covered by § 205.2(l)(2). For example, § 205.2(l)(2) would cover the instance in which a transfer should not have been made at all, while § 205.2(l)(8) would cover the instance in which a transfer was properly made, but incorrectly identified on the periodic statement.

(m) "Preauthorized electronic fund transfer." The proposed definition is identical to the one contained in section 903(9) of the Act.

Section 205.3—Exemptions. The Board is proposing amendment of two paragraphs of § 205.3, Exemptions.

First, it proposes to delete the words "through a broker-dealer registered with," in paragraph (c) as adopted. This proposal would exempt electronic fund transfers occurring under mutual funds, pension and profit-sharing plans. It may be appropriate to exempt them because such transfers are regulated under other Federal laws even when the transfer is not with a registered broker-dealer and such laws require written preauthorization and documentation of transfers.

This exemption, if adopted as proposed, would not exclude all electronic transfers involving the purchase or sale of securities or commodities, but only those in which the primary purpose of the transfer is such a purchase or sale. If the purchase or sale is incidental to the primary purpose of the transfer (e.g., the payment of a third party from a money market account), the regulation's requirements would apply.

The Board solicits comment on the proposed exemption, particularly on the costs and compliance burdens that would be incurred by mutual funds and pension and profit-sharing plans if such transfers were not exempted, the consumer protections to be gained from covering such transfers, and whether the disclosure requirements of Regulation E would be duplicative (and the extent of the duplication) of requirements imposed under other applicable Federal or State law.

The Board is also proposing amendment of § 205.3(d) of the regulation. The Board had solicited comment in the original proposal on whether the exemption should be expanded. A large number of commenters suggested expansion of the exemption in various ways, but the Board decided to defer action on the issue until public comment could be elicited on specified means of broadening the exemption.

The following table shows the automatic transfers that the proposal would exempt from the regulation's scope and gives examples of the types of transfers that would be exempted. Note that to be exempted, the transfers would have to be automatic (without an individual request from the consumer) under an agreement between the consumer and the financial institution.

Automatic transfers	*Example*
(1) Between a consumer's accounts at a financial institution	Savings or share accounts to checking, NOW or share draft accounts; checking, NOW or share draft accounts to savings or share accounts.
(2) To a consumer's account by a financial institution	Crediting of interest to interest-bearing accounts.
(3) From a consumer's account to the financial institution	Debiting of service charges; automatic loan payments where the institution is the creditor; payroll deductions for institution employees.

The Board solicits comment on whether some or all of the enumerated types of transfers should be exempted, the costs that would be incurred by financial institutions (e.g., major programming or statement system changes, administrative costs) if such transfers were not exempted, and the

greater or lesser detail should be within which the subsequent notice "available" to the consumer. For

consumer benefits that would result if such transfers were covered.

Section 205.3(d)(3) would exempt transfers from a consumer's account to the financial institution (such as automatic loan payments) from all the regulation's requirements, except the periodic statement requirements of § 205.8(b). With respect to § 205.3(d)(3), the Board proposes and solicits comment on the following alternatives: (a) consideration of a complete exemption of such transfers and (b) consideration of a partial exemption (by addition of the parenthetical phrase). Comment on (b) above should focus on whether or not documentation of such transfers is already provided to the consumer, whether consumers would gain any additional protection from a periodic statement requirement, and whether, if adopted by the Board in the proposed form, related sections of the regulation should also apply (for example, § 205.10 on error resolution).

The Board also solicits comment on whether other automatic transfers should be exempted. Comment on this question should specifically address the costs, compliance burdens and loss of consumer protections that would result from exemption of such other transfers.

Section 205.5—Liability of Consumer for Unauthorized Transfers. The introductory language of § 205.5(b) would be amended by changing the phrase "series of transfers arising from a single loss or theft of the access device" to "series of related transfers." Since unauthorized transfers can occur in circumstances other than those involving loss or theft of an access device, the liability limitations should apply to a series of unauthorized transfers occurring under any circumstances. The amended language would make clear, however, that the transfers in the series must be related. For example, the transfers could arise from a single loss or theft of the access device; where the access device is not lost or stolen, they could all be effectuated by the same person (or by a group of persons acting together).

(3) *Addition of New Sections to Regulation.* The Board proposes to add to Regulation E eight new sections, number § 205.6 through § 205.13.

Section 205.6—Initial Disclosure of Terms and Conditions. Section 205.6(a) implements section 905(a) of the Act and provides for disclosure to consumers of terms and conditions of electronic fund transfer services. The disclosures need be made by the financial institution only to the extent that they apply to the offered services. The Board proposes to require that the disclosures be made in a written statement that the consumer may retain. Aside from the requirement that the disclosures be made in readily understandable language, the regulation would not contain any requirements with respect to number of pages, size of type, front or reverse pages, or relative prominence.

The Act provides that the disclosures must be made "at the time the consumer contracts for an electronic fund transfer service," while the proposal would permit the disclosures to be made at the time the consumer contracts for the service or before the first electronic fund transfer is made involving a consumer's account. The Board believes early disclosure of the terms and conditions of EFT services is desirable, but is proposing this change because of the difficulty of determining when the consumer has contracted for the service, particularly when there is an oral application or a preexisting account relationship between the consumer and the institution. Consumers would have the right to cancel the EFT service after receiving the disclosures. Comment is solicited on whether disclosure at the later time should be permitted.

Sections 205.6(a) (1) and (2) provide for disclosure of the consumer's liability for unauthorized transfers, optional disclosure of the advisability of prompt reporting of unauthorized transfers, and the name and address for notification of such transfers. These disclosures are virtually unchanged from the Act.

Section 205.6(a)(3) would require disclosure of the institution's business days. The Board is proposing this additional disclosure (which has been adopted as a transitional disclosure to accompany unsolicited distribution of access devices under § 205.4) because the term "business day" is used throughout the disclosure and substantive requirements of the regulation (e.g., consumer liability for unauthorized transfers, error resolution procedures). It is thus important for consumers to be aware of the institution's business days.

Section 205.6(a)(4) would be virtually identical to the Act, except that the Board proposes to delete the words "and nature" as unnecessary after "type." It is the Board's opinion that the exception from the disclosure of the limitations on transfers if their confidentiality is necessary to maintain security of the system only obviates disclosure of the details of the limitations; the fact that such limitations exist must be disclosed.

The disclosure required by § 205.6(a)(5) is identical to the Act. It appears that this disclosure need only include those charges that relate to electronic fund transfers or to EFT capability on an account and would not include account maintenance charges (which must be disclosed on periodic statements under section 906(c)(2) of the Act and § 205.8(c)) or check charges.

The disclosure under § 205.6(a)(6) is identical to the Act. The Board's preliminary opinion is that the financial institution need disclose only that documentation at terminals will be made available, that the consumer will receive periodic statements on a monthly or quarterly basis, and that the consumer will receive notice of preauthorized credits or the means by which the consumer can determine whether the transfer has been completed. The disclosure would not have to include a description of the information that is required to be disclosed on the documentation or periodic statement. (See the model disclosure clause for an example of the type of disclosure envisioned.)

Sections 205.6(a) (7) and (8) are proposed in virtually the same form as in the Act. It should be noted that under the Board's proposal, § 910 of the Act would not be implemented in the regulation. The Board solicits comment on whether this section should be incorporated in the regulation, particularly as to whether the Board should add other instances where the institutions should not be liable for failure to make transfers, as permitted by Section 910(a)(1)(E).

Section 205.6(a)(9) is proposed in virtually the same form as it appears in the Act. The Board believes that this disclosure should include conditions under which the financial institution will in the ordinary course of business disclose any account information to third parties, and would not be limited to disclosure of information concerning electronic fund transfers.

The Board is proposing, in § 205.6(a)(10), a notice of the error resolution procedures of the Act as a required initial disclosure, to comply with Section 905(a)(7) of the Act. This notice will also be required as a subsequent disclosure under § 205.7. The notice has been drafted in what the Board believes is "readily understandable" language; comment is solicited on ways in which the notice could be redrafted to improve the format and style. Certain provisions of Section 906 of the Act have been summarized where it appears that the details of the statutory requirements would not be particularly useful (and might be somewhat confusing) to the consumer. The Board solicits comment on whether

greater or lesser detail should be provided in the notice.

The Board's intention is that this notice must be substantially similar to the form in which it appears in the regulation in order for the institution to be assured of compliance with the statutory requirements. Deletion of inapplicable provisions (e.g., requirement of written confirmation of oral notification) and substitutions (e.g., of trade names) may be made by the financial institution.

Section 205.6(b) implements Section 905(c) of the Act and would require that the disclosures contained in paragraph (a) of § 205.6 must be given to consumers who hold accounts from or to which electronic fund transfers could be made before May 10, 1980. The disclosures would have to be given within 30 days of the effective date of the statute or with the first required periodic statement after the effective date, whichever is earlier.

Section 205.7—Subsequent Disclosures. Section 205.7(a) implements Section 905(b) of the Act and requires advance disclosure to the consumer of any unfavorable change in the account terms affecting the cost, liability for, or availability of electronic fund transfers. Paragraph (1) of § 205.7(a) requires that the financial institution mail or deliver a written notice to the consumer at least 21 days before the effective date of the change in terms. The changes that would be required to be disclosed are (a) increased fees or charges, (b) increased liability for the consumer, (c) fewer types of available EFTs, and (d) stricter limitations on the dollar or frequency amounts of transfers. The Board solicits comment on whether there are other types of unfavorable changes in terms or conditions of the account for which advance disclosure to the consumer should be made.

Paragraph (2) of § 205.7(a) provides an exception to the requirement of advance notice of changes in terms and conditions of the account, if an adverse change is immediately necessary to maintain or restore the security of the EFT system or a particular account, for example, when the security of an institution's EFT system has been breached by a thief. The paragraph would further provide that if an immediate change is later made permanent by the institution and disclosure will not jeopardize the security of the system or the account, the financial institution must provide written notice to the consumer within 30 days after the change has been made permanent. The Board proposes to specify 30 days as a reasonable time within which the subsequent notice must be given. The 30-day period would permit institutions, in most instances, to provide the notice with the next periodic statement after the change has been made permanent.

Section 205.7(b) implements § 905(a)(7) of the Act and would require that the financial institution mail or deliver the error resolution notice prescribed in § 205.6(a)(10) annually to the consumer.

Paragraph (2) of § 205.7(b) would permit an alternative method of compliance with the annual error resolution notice requirement. The proposed method is similar to that permitted under Regulation Z (12 CFR § 226.7(d)(5)). It would permit institutions to include a "short-form" notice on or with each periodic statement required by § 205.8(b) instead of sending the longer notice annually. The short notice is prescribed in the regulation and the limitations on amendment of the long notice referenced above would also apply to this shorter version. Comment is solicited on ways in which the style and format of the notice can be improved and whether it would convey sufficient information to the consumer to enable the consumer to notify the institution of an error or question.

It appears to the Board that a significant consumer benefit may accrue from permitting the alternative method of disclosure. Although the form of the notice is much abbreviated, the consumer will be able to know immediately how to assert an error in the periodic statement and where to call or write simply by looking at the back of the statement (or another piece of paper included with the periodic statement). Comment is solicited on whether such latitude should be permitted and whether institutions will take advantage of this alternative requirement.

The provision would also require institutions to send the consumer the long notice prescribed in § 205.6(a)(10) within 10 business days of receiving notice of an error from the consumer.

Section 205.8—Documentation of Transfers. Section 205.8(a) implements section 906(a) of the Act, which requires institutions to provide documentation to a consumer who initiates an electronic fund transfer from an electronic terminal. The documentation must include up to six items of information, to the extent the items are applicable to the transfer. These items correspond to the information set forth in section 906(a) (1) through (5) of the Act.

The introductory paragraph requires that the documentation be made "available" to the consumer. For example, the institution could instruct the customer to press a particular key at the time of the transfer, if he or she wishes to receive the documentation.

Footnote 1 relates to the phrase "directly or indirectly," which is taken from the statutory language. The Board believes that the use of the term "indirectly" simply permits an institution to fulfill its obligations under § 205.8(a) through a third party, most commonly a merchant at whose place of business the institution's point-of-sale terminal is located.

While the proposed regulation requires documentation to be in a written form retainable by the consumer, it does not impose any particular requirement regarding type size, the length of the document or similar factors. The section would require, however, that the information be "clearly" set forth. An institution would be obligated to adequately label the items of information on the documentation as to the type of information being conveyed. For example, the use of a series of numbers or codes for the various types of information, if unrelated to a category such as "terminal location" or "amount of transfer," would not be "clearly" set forth, within the meaning of the proposal.

The legislative history regarding section 906(a) indicates that the "type" of transfer referred to in § 205.8(a)(3) is intended to include transfers such as those listed. As proposed, this paragraph would permit financial institutions to use simple abbreviations or codes, such as "P" or "1." However, if an abbreviation or code is used, it must be explained elsewhere on the documentation—by a preprinted list on the back of the documentation, for example.

Section 906(a)(3) requires an identification of the consumer's account from or to which funds are transferred. The Board draws attention to two issues in § 205.8(a)(4), which implements this requirememt. First, the Board envisions that the means of identification chosen will usually be an account number, since this appears to be a unique and universal means of identification. However, the Board solicits comment on how financial institutions propose to identify the accounts, if not by account number. Second, the language would require, in cases where the consumer is transferring funds between accounts (from checking to savings, for example), that both accounts be identified on the terminal documentation. The Board solicits comment on any operational

problems which would arise from this

by this section, may present special

provide a periodic statement for that

consumer within two business days

4 4 1 8 7

problems which would arise from this requirement, and on any alternative means of identification which might be provided for transfers between a consumer's accounts.

Section 205.8(a)(5), which implements section 906(a)(5), requires an identification of the terminal at which the consumer initiated the electronic fund transfer. The Board wishes to focus special attention on two issues. First, the Board believes that the statutory language calling for the "location or identification" of the terminal is best served by providing the consumer with the location. The word "identification" is believed to be unnecessary in this provision since the proposal would permit use of a code, which is a type of identification. The location given should be specific enough to permit the consumer at a later time to recall the transfer. The Board envisions that in most cases a street address would be the most meaningful identification. In other cases, the name of the business establishment or the shopping center where the terminal is located may have greater meaning for the consumer than the street address. Where there is more than one terminal at a particular location, such as a department store or a bank, this paragraph would not require a more specific identification such as "housewares department" or "second floor."

The second issue relates to the use of a terminal code in place of a readily understandable location. The Congressional history of the Act indicates that Congress envisioned such an alternative. In addition, at the time of the transfer, the location of the terminal may not be an essential item of information to the consumer. It is only when the consumer later receives the periodic statement under § 205.8(c) that the location of the terminal, in readily understandable language, becomes important in assisting the consumer to identify that transfer. The Board proposes to require institutions using a code to show, on the periodic statement which reflects the transfer, the code given on the initial documentation and, in close proximity, the terminal location to which it relates. The Board believes that this alternative would provide consumers with needed information at the time when it is most useful to them. It would also take account of the present limitations of terminals, which may not be capable of generating a complete alphabetic description of location on the terminal documentation.

Section 205.8(a)(6) implements section 906(a)(4) of the Act and requires an institution to identify any third party to or from whom funds are transferred. Such transfers most often will involve a point-of-sale terminal in which a merchant is the third party. The merchant would also constitute the third party in transactions involving credits for returned goods, with the funds transferred from the merchant's account to that of the consumer.

As both the Act and the proposed regulation are written, however, the identification requirement is not limited to cases in which the third party is a seller of goods or services. This paragraph may apply as well to other types of transfers such as bill-paying services, in which consumers use a terminal to transfer funds from their accounts to, for example, a utility company. The operational limitations which warrant the use of codes in identifying a terminal location may also apply here. For this reason, paragraph (a)(6), as proposed, would permit a financial institution to use a code on the initial documentation in identifying the third party. If this option is used, however, the portion of the periodic statement which describes the transfer must provide both the code and the third party's name in a readily understandable form.

The exception for non-machine-readable documents in paragraph (a)(6) is intended to apply particularly to bill-paying services that use an automated teller machine. It is the Board's understanding that such systems may call for the consumer to key in information regarding the amount, date, and type of transfer (all of which are immediately captured by the terminal) but to provide information on the identity of the third-party payees by means of a written or other non-machine-readable document. This document is collected from the terminal and translated into a computer-readable form by the institution at a later time. The Board is particularly interested in comments relating to the availability of these services, operational problems which may prevent immediate identification of the third party in such systems, and the extent to which the exception for non-machine-readable documents proposed in paragraph (A)(6) would alleviate these problems. The Board wishes to emphasize that, if adopted, this exception would not relieve the institution of responsibility for identifying the third party, in readily understandable language, on the periodic statement which reflects the transfer.

Section 205.8(b) requires financial institutions, subject to certain exceptions, to provide consumers with periodic statements which summarize the electronic fund transfer activity occurring in the consumer's account during the period covered by the statement.

Section 205.8(b)(1) sets forth the timing requirements for the delivery of periodic statements. Together with § 205.8(b)(2), it implements § 906(c) of the Act and requires financial institutions to provide a written statement to the consumer for each month in which there was activity in the consumer's account. If no activity has occurred, the statement must be provided on at least a quarterly basis.

Section 205.8(b)(2) specifies the information which must be provided on the periodic statement. It should be noted that the statement containing electronic fund transfer information may be combined with information regarding other types of activity in the account. For example, the statement (which may encompass more than one page) may include information regarding electronic fund transfers, checking account transactions, and credit transactions subject to the Truth in Lending Act.

Section 205.8(b)(2)(i) requires that the periodic statement include, as applicable, the six items of information described in § 205.8(a). Although the content of the periodic statement is defined, in part, in terms of the initial documentation under paragraph (a), it should be emphasized that the transfers to be reflected on the periodic statement are not limited to transfers subject to that paragraph. For example, preauthorized electronic fund transfers credited to the consumer's account must also be described on the periodic statement. In such cases, the information described in paragraph (a) need only be shown on the periodic statement "as applicable." Thus, no terminal location would be shown on the periodic statement regarding a preauthorized credit. However, the "type of transfer" required by § 205.8(a)(3) must be stated with enough specificity to inform the consumer that the transfer shown was a preauthorized credit. In a transfer subject to paragraph (a) of this section, if the financial institution used a code to identify the terminal location or a third party on the initial documentation, the periodic statement must include both the code used originally and the location or name to which it relates. In all cases, the information shown under this paragraph must be sufficient to enable the consumer to identify the transfer to which it relates.

The Board recognizes that disclosure of the date of the transfer, as required by this section, may present special difficulties. In certain cases, the date on which a consumer authorized or initiated a transfer of funds may not be the same date on which the funds were debited. This could occur, for example, in electronic bill payment systems in which the consumer instructs an automated teller machine to make a payment to a utility at a later date. Under § 205.8(a)(2), the date of the transfer would be the date of the consumer's instruction to the terminal. However, if this date is used on the periodic statement, the consumer may not know when the account was debited for the amount of the transfer. The Board solicits comment on whether this fact warrants the imposition of special requirements, such as disclosure of both the initiation date and the debiting date.

Section 205.8(b)(2)(ii) requires disclosure of the amount of any fees or charges related to electronic fund transfers. It specifically excludes any charges which constitute a finance charge pursuant to § 226.7(b) of Regulation Z (Truth in Lending), even though such fees or charges may also be related to an electronic fund transfer. Since finance charges will be reflected on the periodic statement required by Regulation Z or on the Truth in Lending portion of a combined periodic statement, it may be unnecessary and possibly confusing to disclose them twice. Under this paragraph, the financial institution must also disclose any charges which are imposed for "account maintenance." The Board notes that there is a discrepancy between this term and the term "right to make such transfers," which is used to describe one of the initial disclosures made under § 205.6. This variation reflects the statutory language.

Section 205.8(b)(2)(iv) requires disclosure of an address and telephone number to be used by the consumer for making inquiries or reporting errors regarding electronic fund transfers. This information must be labeled in some manner to indicate to the consumer that the address and number are to be used for these purposes. If the financial institution, utilizing the provisions of § 205.7(b)(2)(i), sends the error resolution notice containing the address and telephone number along with the periodic statement, the institution need not repeat that information elsewhere on the statement.

Section 205.8(b)(3) implements section 906(d) of the Act. If the consumer maintains a passbook account which cannot be accessed electronically except by preauthorized electronic credits, the financial institution need not provide a periodic statement for that account. Instead, whenever the consumer presents the passbook, the institution may at that time update the passbook or provide a separate written statement to the consumer setting forth the amount and date of each preauthorized credit occurring since the passbook was last presented.

Section 205.8(b)(4) implements section 906(e) of the Act and provides a limited exception to the timing requirements of § 205.8(b). Where a nonpassbook account cannot be accessed electronically except by preauthorized credits, the financial institution need only send the statement on a quarterly basis, although the statement must otherwise comply with the requirements of § 205.8(b).

Section 205.8(c) implements section 906(b) of the Act. The Act requires financial institutions, as a general rule, to inform consumers, by either a positive or a negative form of notice, whether a regularly scheduled preauthorized credit to the consumer's account has occurred. This section would apply only where the credit is from the same payor and is scheduled to take place at least every 60 days. Transfers such as direct deposits of payroll checks and Social Security payments would be subject to this provision. The Act and regulation provide an exception to the institution's responsibility to provide notice of the transfer, where the payor initiating the transfer provides positive notice to the consumer that the transfer has been initiated.

Section 906(b) gives the Board wide discretion in implementing this provision. As proposed by the Board, § 205.8(c) provides five methods of notifying consumers of preauthorized credits, any one of which may be chosen by the financial institution, subject to one exception discussed below. An institution utilizing paragraph (1)(i) would supply a notice whenever the transfer occurs as scheduled. If no transfer occurs, no notice need be given. If the institution elects to provide negative notice pursuant to paragraph (1)(ii), it would notify the consumer only in those instances in which a preauthorized credit is not made as expected. The two-business day period would permit the institution to wait a short time before sending the negative notice, to ascertain whether the payment has merely been delayed.

Paragraph (1)(iii) would permit the financial institution to utilize the periodic statement required by paragraph (b) as the notice, in those cases where the statement, reflecting the credit, is due to be mailed to the consumer within two business days after the credit is made.

Under paragraph (1)(iv), the financial institution may provide a telephone number which the consumer may call in order to find out whether the transfer took place. If the institution choose this option, it must inform the consumer, on either the initial disclosures or the periodic statement, that this service is available.

A financial institution which chooses to utilize paragraph (1)(v) would be required to notify a consumer only in those cases in which the institution's nonreceipt of a preauthorized credit results in an overdraft of the consumer's account or triggers an extension of credit to prevent an overdraft, provided that the institution pays any items presented for payment and imposes no overdraft or other charges.

Paragraph (2) would require financial institutions that accept preauthorized transfers of the type subject to this subsection to credit the amount of the transfers and make the funds available to consumers as of the date of receipt. While this requirement is not specifically mandated by the Act itself, the Board believes that such a provision may be considered a logical extension of the Act's requirements and that it could assist in carrying out the legislative purpose of section 906(b). The proposal would require institutions to credit direct deposits as of the opening of business on the transfer date; those institutions that receive direct deposits after the opening of business on the transfer date would be required to credit the transfer by the opening of business on the next business day. The Board specifically requests comment on this requirement.

Section 205.9—Preauthorized Transfers from a Consumer's Account. This section implements section 907 of the Act. Section 205.9(a) states the general rule that preauthorized transfers from an account must be authorized by the consumer in writing, and a copy of the authorization must be given to the consumer. Section 205.9(b) provides for the consumer's stopping payment of a preauthorized transfer by giving notice up to three business days before the transfer is scheduled to occur. Notice may be either oral or written. If it is given orally the financial institution may require written confirmation within fourteen days if the consumer, when giving notice, is advised of that requirement and of the address to which confirmation should be sent.

Section 205.9(c) requires the financial institution or designated payee of a preauthorized transfer to notify the

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In addition, the Board intends that the statute. However, the Board would to Federal law are not considered to be

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consumer when that transfer varies from the preauthorized amount. The notice must be in writing, contain the date and amount of the varying transfer, and must be mailed or delivered no later than 10 days before the scheduled transfer date. This pre-transfer notification is intended to give the consumer enough time to insure that there are sufficient funds in the account to cover the transfer, and to enable the consumer to stop payment of the transfer should circumstances warrant. Comment is solicited on the form that authorizations of varying transfers may take. For example, are such authorizations generally open-ended as to amount, or do they customarily require consumers to initially specify an amount as part of the authorization?

Section 205.9(c) would also provide that under certain circumstances a consumer may waiver the right to notice of preauthorized transfers that vary in amount. It permits consumers to establish an acceptable amount of variance, or a particular range of amounts. For transfers varying within these tolerances consumers can elect to forego notice so long as the election is made in writing and with the knowledge that the consumer is otherwise entitled to receive notice of all varying transfers. The proposal would be consistent with the rules of the National Automated Clearing House Association, which permit consumers and payors to agree to vary the NACHA advance notice requirement.

This proposal stems from concern about the cost of requiring notice of varying transfers in all cases, and about the effect that cost may have in discouraging a preauthorized debit service. The Board solicits comment about the desirability of providing consumers with this option.

Section 205.10—Error Resolution Procedure. Section 205.10(a) implements, in part, section 908(a) of the Act. Since sections 908(a) (1)–(3) describes *procedures* that the consumer must follow to trigger a financial institution's error resolution responsibilities, the Board proposes that the regulatory language implementing sections 908(a) (1)–(3) be included in § 205.10, rather than in the definitional section. In so structuring the regulation, the Board has placed the requirements imposed on both the consumer and the financial institution with regard to error resolution in one section of the regulation.

The language and structure of sections 205.10(a) (1) and (2) differ in several respects from that of sections 908(a) (1)–(3). While section 908(a)(1) requires that the financial institution be able to identify the name and account number of the consumer, § 205.10(a)(1)(i) would only require identification of the consumer's account number. The Board invites comment on whether identification of the consumer's name is in fact necessary and, if so, examples of instances in which such information would prove necessary. The Board also invites the opinions of commenters as to whether other common identifying means, other than account number, are in use.

Since the requirements of sections 908(a) (2) and (3) are closely related, they have been combined in § 205.10(a)(1)(ii). This section proposes to clarify what information is expected to be provided by the consumer in alleging an error, so as to minimize the possibility that a consumer could be denied the protections of § 205.10 simply by not understanding the error or knowing its amount. Consequently, the proposed regulation states that the reasons for the consumer's belief that an error has occurred and a description of the type and amount of the suspected error need only be provided to the extent possible. While the regulation contemplates that the consumer articulate at least a general assertion or description of the suspected error, a financial institution would not be relieved of error resolution responsibilities where a consumer is unable to describe the error or articulate the amount of or the reasons for the error.

The language of § 205.10(a)(1)(ii) contemplates that the error resolution procedures can be triggered by a notification of an error in a consumer's account even where the error is discovered by the consumer prior to its appearing on a periodic statement. This interpretation is supported by the definition of "error" in § 205.2(1) in that errors are not limited to information appearing on documentation.

It should be noted that the proposed regulation would permit a consumer to assert an error reflected on any documentation required by the regulation, including notices provided under § 205.9 for preauthorized debits. This interpretation would differ from the statutory provision that refers only to errors appearing on documentation required by § 906.

In order to simplify the calculation of the 60-day time period within which the consumer must notify the financial institution about a possible error, § 205.10(a)(2) provides that the consumer will have 60 days from the periodic statement that first reflects the suspected error to allege the error, rather than, as the statute provides, 60 days from documentation or notice provided pursuant to § 906. By including the word "first" in this provision, the Board intends to define precisely the time within which a consumer must allege a possible error.

Section 205.10(b)(1) implements the general rule in § 908(a) requiring the financial institution to investigate the alleged error, determine whether an error occurred, and report or mail the results of the investigation and determination to the consumer within 10 business days of receiving a notification of an error. The regulatory language is identical to that of the statute. However, the Board proposes to add language in the introduction to § 205.10(b) relieving a financial institution of its duty to comply with the error resolution procedures should the consumer agree, after having notified the financial institution of a suspected error, that no error in fact occurred.

Section 205.10(b)(2) implements section 908(c) of the Act which permits a creditor to take up to 45 days to resolve an alleged error, provided the financial institution provisionally recredits a consumer's account for the amount of the alleged error pending its resolution. Since section 908(c) of the Act requires that the consumer have full use of recredited funds, the Board proposes, in § 205.10(b)(2)(iii), to require a notification of the recrediting to insure that the consumer know of the availability of the funds and that the funds will not be debited without further notice to the consumer.

A portion of the final paragraph of § 205.10(b)(2) implements language in Section 908(a) waiving the provisional recrediting requirement when a financial institution requires but does not timely receive written confirmation of an error. The Board proposes to add language to the final paragraph indicating that a financial institution is not relieved of its duty to comply with the error resolution procedures if written confirmation is not timely received. The proposal would also permit a financial institution to use the 45-day time limit in those instances in which written confirmation was required but not timely received. The Board is particularly interested in soliciting comments regarding these two interpretations of the Act. The Board also requests comment on whether a financial institution should have less than 45 days to resolve the alleged error in those cases in which written confirmation was required but not timely received.

In addition, the Board intends that the reference in § 205.10(b)(2)(i) to § 205.5(b), which states that any recrediting is subject to the liability limitations set forth in that paragraph, would permit financial institutions, when recrediting amounts allegedly resulting from unauthorized transfers, to withhold a maximum of $50 of the amount to be recredited pending the resolution of the investigation. This same interpretation would apply in correcting a consumer's account under § 205.10(c)(1)(i).

The Board is particularly interested in receiving comments on the investigation procedures that financial institutions anticipate conducting for alleged errors concerning preauthorized transfers and the documentation required for such transfers. The Board wishes to solicit comment on an interpretation that would require a financial institution's in-house investigation, in such cases, to be completed within 10 days. The financial institution, however, would be required to investigate the alleged error with the third-party payor where necessary to resolve the possible error, but the interpretation would give the financial institution more time to investigate without having to provisionally recredit the consumer's account.

Section 205.10(c) deals with correcting a consumer's account and providing a consumer with a notice of its findings after completion of its investigation and determination of whether an error has occurred. This section implements language in Sections 908 (a), (b), and (d) of the Act.

The Board proposes to add language in § 205.10(c)(1)(i) that would require the financial institution, in correcting a consumer's account, to refund any fees or charges imposed as a result of the error.

Section 205.10(c)(1)(ii) implements the general rule of Section 908(a) that the financial institution report or mail the results of the investigation and determination to the consumer within 10 business days. Where the financial institution agrees with the consumer, the Board proposes to require no more than a notice of the correction in the account, or if applicable, notice that a provisional recredit has been made final.

Section 205.10(c)(2) details the financial institution's responsibilities where it determines that no error occurred or that an error occurred in a manner differing from that described by the consumer. The regulatory language of § 205.10(c)(2)(i) regarding the financial institution's providing the consumer with an explanation of its findings is almost identical to the statute. However, the Board would interpret the language "deliver or mail" as requiring a *written* explanation.

The Board proposes to require in § 205.10(c)(2)(ii) that the financial institution notify the consumer prior to debiting a provisionally recredited amount in order to insure that consumers know they can use provisionally recredited funds.

Section 205.10(c)(2)(iii) deals with information that must be provided to the consumer in those instances where the financial institution does not agree with the consumer. The Board requests commenters to describe the types of documents or other data that may be used and relied upon in investigating and reaching conclusions about alleged errors.

The proposed language of § 205.10(d) explains the relationship between the error resolution provisions of the Truth in Lending and the Electronic Fund Transfer Acts where electronic fund transfers also involve credit extentions made under an agreement between a consumer and a financial institution to extend credit when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account. For example, an error may occur when a consumer uses an ATM to withdraw cash from an account and accesses an overdraft. An error in that transfer would be subject to the error resolution procedures of the EFT Act. An error in a cash advance loan obtained at an ATM or a credit purchase made at a merchant POS terminal with a combined EFT-credit card would be subject to the error resolution procedures of the TIL Act because, although the transaction is initiated electronically, no electronic fund transfer from a consumer's account has occurred.

The Board proposes and solicits comments on the addition of § 205.10(d) to provide that the Act and its corresponding regulatory provisions govern where an overdraft occurs in conjunction with an electronic fund transfer. This proposal would not only afford greater protection to the consumer, but would also simplify procedures for financial institutions where an electronic fund transfer results in both a debit to a consumer's account and a credit extension.

Section 205.11—Relation to State Law. Section 205.11(a) implements §§ 919 and 920 of the Act. Paragraph (a) states the general rule that State laws inconsistent with the Act and regulation are preempted, and explains that laws more protective of the consumer or identical to Federal law are not considered to be inconsistent.

Section 205.11(b) specifies some differences between State and Federal law that are deemed inconsistencies, states the right of appropriate parties to ask for Board review of State laws, and provides minimal requirements for requests for review. Examples of State laws that are deemed to be inconsistent include those that provide for greater consumer liability for unauthorized transfers, longer periods of time or different provisions for investigating errors alleged by consumers, or disclosure, documentation, or notification different in form from that required by the Act and regulation, except where the disclosure or information relates to substantive rights granted by State, but not Federal law. The Board requests comment on whether these and other areas of potential inconsistency should be specifically addressed in the regulation.

Section 205.11(c) states the general rule on exemption of classes of electronic fund transfers from the substantive requirements of the Act and regulation. Any State may apply for an exemption; it must show that a class of electronic fund transfers is subject to requirements that are substantially similar to those of Federal law, and that there is adequate provision for enforcement of the State law. As is the case in Regulations B and Z, concurrent jurisdiction of Federal and State courts over civil actions is specifically preserved when a class of transfers is exempted from the substantive provisions of Federal law. Once an exemption has been granted, however, the criminal penalty provisions contained in section 916(a) of the Act would not apply to violations of the State law. The Board solicits comment on its construction of the inapplicability of Federal criminal sanctions to State law violations.

Section 205.12—Administrative Enforcement. This section implements sections 915(d) and 917 of the Act. Section 205.12(a) lists the Federal agencies that are charged with responsibility for enforcing the Act and regulation. Section 205.12(b) prescribes procedures and criteria for issuance of staff interpretations.

Section 205.12(c) sets forth a general requirement that records evidencing compliance with the Act and regulation must be kept by all persons subject to the Act and regulation for a period of two years. In addition, if those persons are aware that they are the subject of an administrative, civil, or criminal enforcement action or investigation,

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they must retain required records during the pendency of the action or investigation unless otherwise permitted by the appropriate agency or court. These record retention requirements are similar to those contained in Regulations B and Z, and the Board solicits comment as to any justification for varying them with respect to this regulation.

Section 205.13—General Disclosure Requirements. This section states some general rules that would apply in connection with many of the specific requirements of other sections of the regulation. Section 205.13(a) permits financial institutions to agree among themselves as to which one will carry out the duties imposed by the Act and regulation. This provision is now contained in § 205.2(i) of existing Regulation E.

Section 205.13(b)(1) would allow combined disclosures to be given to any consumer holding two or more accounts at a financial institution. For example, a single periodic statement could be used to cover all accounts. Section 205.13(b)(2) would permit financial institutions to give one copy of the disclosures required by the regulation to joint account holders.

Section 205.13(c) would parallel § 226.6(c) of Regulation Z. Financial institutions would be permitted to give additional information or other required disclosures, such as those required by Regulation Z, along with the Regulation E disclosures.

The Board solicits comment on the usefulness of these proposed general rules, as well as on whether other general provisions should be added to this section.

(4) *Model Disclosure Clauses.* Appendix A to the portions of Regulation E that took effect on March 30, 1979, contains seven model disclosure clauses. Those clauses may be used, at the option of financial institutions, to satisfy the requirements of §§ 205.4(b)(2), (b)(3), and (d)(1) through (d)(6) of Regulation E. In addition, use of sections A(2), A(3), and A(4) will fully comply with § 205.4(a)(3).

On May 10, 1980, the requirements of the Act concerning disclosures to be made upon the opening of an EFT account will become effective. The model clauses already adopted in final form are suitable for making some of the required initial disclosures. Sections A(2) through A(7), respectively, may be used at an institution's option to comply with proposed §§ 205.6(a)(1) through (5) and 205.6(a)(9).

There remain certain initial disclosure requirements for which no model clauses have previously been issued. Therefore, the Board proposes to add to Appendix A three new model disclosure clauses. Proposed § A(8) may be used to satisfy § 205.6(a)(6); proposed § A(9), to satisfy § 205.6(a)(7), part of § 205.6(a)(8), and § 205.9(c); and proposed § A(10), to satisfy the remainder of § 205.6(a)(8).

Use of clauses that apropriately reflect an institution's EFT program, in conjunction with other requirements of the regulation, will protect the institution from civil and criminal liability under §§ 915 and 916 of the Act. Again, however, the Board emphasizes that use of these clauses is optional.

Financial institutions may choose appropriate clauses from the alternatives available, may make changes such as deleting inapplicable words, phrases, and clauses, and inserting trade names. They may also change the order in which the model clauses appear, and may use some of the model clauses, while drafting others themselves.

The Board solicits comment on whether these clauses are readily understandable to consumers and whether other clauses are needed.

(5) *Economic Impact Analysis. Introduction.* Section 904(a)(2) of the Act requires the Board to prepare an analysis of the economic impact of the regulation that the Board issues to implement the Act. The following economic analysis accompanies proposed §§ 205.6 through 205.13 and proposed amendments to certain parts of §§ 205.1 through 205.5 of the regulation.[1]

The analysis must consider the costs and benefits of the regulation to suppliers and users of EFT services, the effects of the regulation on competition in the provision of electronic fund transfer services among large and small financial institutions, and the effects of the regulation on the availability of EFT services to different classes of consumers, particularly low-income consumers.

The regulation in part reiterates provisions of the statute and in part amplifies the statute. Therefore, the economic analysis considers impacts of both the regulation and the statute, and throughout the analysis a distinction will be made between costs and benefits of the regulation and those of the statute. *It is also important to note that the following analysis assumes that the regulation and the Act have no relevant economic impact if they are less restrictive than current industry practices or State law. In this case, the regulation will not affect costs, benefits, competition, or availability and will not inhibit the market mechanism. The following analysis of the regulation and the Act is relevant only if their provisions are more constraining than those provisions under which institutions would otherwise operate.*

Impact of the Act and regulation on costs and benefits to institutions, consumers and other users. The Act requires that consumers using electronic fund transfer (EFT) services receive disclosures of the terms and conditions of those services. Section 205.6 of the regulation changes the Act's provision requiring initial disclosures at the time the consumer contracts for EFT services, so that the financial institution must make the disclosures to the consumer before the first electronic transfer is made (or by June 9, 1980, in the case of accounts in existence on May 10, 1980). This regulatory provision eliminates none of the Act's protection and obviates the need to make a determination under State law when a contract for such services is created.

The initial disclosures will benefit consumers by providing them with more information than otherwise may have been readily available. With the disclosures consumers will be better able to assess the risks and benefits associated with EFT, to plan their financial transactions, and to compare EFT services offered by different institutions. By fostering greater awareness of the risks of liability associated with EFT use, the disclosures may encourage consumers to exercise greater care in the use of access devices. The required listing of offered services may have some marketing effect, leading to greater use of EFT services and, to the extent that scale economies are possible, to lower average cost of fund transfers. Finally, the disclosures benefit consumers by describing the steps they must take to guarantee the investigation and resolution of errors; proper use of the error resolution procedure will lead to greater recovery of consumer losses resulting from errors.

Financial institutions will benefit from their mandatory disclosures to the extent that consumer understanding of the terms and conditions leads to more widespread, careful use of EFT services. Consumers will know the correct channels through which to notify an institution of loss, theft, or suspected error. The Act and regulation do not preclude financial institutions from realizing cost savings by routinizing notification procedures and by establishing shared or centralized reporting channels.

[1] Sections 205.1 through 205.5 of the regulation took effect on March 30, 1979. The analysis presented here is to be read in conjuction with the economic impact analysis that accompanies those sections at 44 FR 18474, March 28, 1979.

Financial institutions will incur drafting, legal advice, printing, distribution, and administrative costs in complying with the disclosure requirements of the Act. The regulation sets forth a mandatory disclosure statement regarding error resolution procedures, and the Board provides model disclosure clauses, but disclosure statements must be drafted by the institution to reflect its unique terms and conditions. The 1980 disclosure deadlines themselves will probably allow adequate time for all institutions to be able to include disclosure statements for existing accounts in regularly scheduled periodic statements. The deadlines are not likely to impose significant additional cost burdens on institutions by necessitating rushed compliance efforts or special mailings. The Board solicits estimates of the cost of sending the required disclosures.

Section 205.7 of the regulation reiterates the Act's requirements that financial institutions make subsequent disclosures of the error resolution procedures and prompt disclosure of any changes in their terms and conditions that increase consumer costs or restrict available services. The regulation permits financial institutions to choose either to send the full error resolution procedure disclosure, as given in § 205.6(a)(10), every year; or to send the abridged disclosure, as given in § 205.7(b)(2)(i), with every periodic statement, and to send the full disclosure within 10 business days of receiving an error notification from the consumer. These disclosures, which may be timed for distribution with periodic statements to avoid extra distribution costs, will benefit consumers by making useful information promptly available. At the same time, the requirements for subsequent disclosures will impose additional cost burdens on institutions. The Board solicits estimates of the costs of making these subsequent disclosures.

Section 205.8 of the regulation restates the Act's provisions for documentation of transfers. By requiring that written documentation be made available to the consumer for every transfer at every terminal, the Act forces every terminal to have a printing device; this provision may impose costs on society by restricting innovation in, or availability of, financial services. On the other hand, consumers and financial institutions can benefit from the record-keeping and error-detection opportunities inherent in such documentation. These benefits could outweigh the at-terminal documentation costs and encourage more widespread acceptance of EFT as a payments mechanism. The Board solicits information on the number of terminals that cannot provide the proposed documentation and the costs of modification or replacement of such terminals.

The Act, in requiring that a notification system be established for all recurring preauthorized credits to a consumer's account, allows three alternative methods of notification. The regulation allows six methods of notification, thereby expanding the range of choice for financial institutions and consumers and adding certain lower-cost alternative methods, such as a consumer-initiated telephone inquiry service. The notice alternatives that allow the institution to contact the consumer either after scheduled transfers have occurred or if scheduled transfers fail to occur would require that the institution know and monitor individual payment schedules. The costs of the monitoring and communication required by the alternative methods will offset some of the savings in transfer costs and document handling afforded by EFT. Telephone notification may be a less-costly means than written notification for some payors or institutions. The Board solicits estimates of the relative costs of telephone and written notifications and of the costs per typical account for each of these alternatives.

The Act requires that a periodic statement be delivered to the consumer not later than one month after any EFT, and at least quarterly if no EFT has occurred. This requirement may impose substantial cost burdens on those financial institutions that otherwise would issue periodic statements less frequently than monthly. The Act further requires that periodic statements, or documents accompanying them, present all the information required for atterminal documentation. Longer statements and costly changes in statement generation procedures may result. Estimates of additional costs imposed by these provisions are solicited by the Board.

Certain preauthorized transfers involving the consumer and his or her financial institutions would be exempted from the regulation by § 205.3(d), except that transfers from a consumer's account to the financial institution at which the account is held must be fully documented in the periodic statement according to § 205.8(b). This regulatory provision would ensure that the consumer would obtain adequate documentation of intrainstitutional transfers. In exempting such transfers, the regulation also allows financial institutions to pass on to the consumer the cost savings from automation of transfers. For example, institutions, in anticipation of cost savings, may offer lower mortgage interest rates or longer mortgage payment grace periods to consumers who choose automatic transfer of mortage payments.

The Act imposes certain notice requirements, as set forth in § 205.9 of the regulation, for all preauthorized transfers from a consumer's account. A written authorization must be provided to the financial institution only once to assure continuing automatic transfer service, and the consumer may specify that the transfers can be in variable amounts within set limits, so that payment services for variable-amount bills are not ruled out and benefits associated with these EFT services are not precluded.

Section 205.10 of the regulation reiterates the Act's error resolution provisions, adding specific deadlines and clarifying the definition of error for purposes of resolution. Prompt resolution of errors, as encouraged by the Act and regulation, benefits both consumers and institutions by reducing delays and errors in payments, thereby increasing efficiency in the payments mechanism. However, a consumer may lose rights to error resolution, including the provisional recrediting of disputed funds, by failing to comply with any of the Act's several error resolution procedure requirements. The provisional recrediting clause benefits consumers by protecting them from lengthy periods of illiquidity with respect to disputed amounts, while at the same time encouraging institutions through cost incentives to resolve error claims within 10 days. If an institution elects to take more than 10 days to investigate and resolve an alleged error, the institution may be required to generate as many as four different notices to a consumer, although the notices need not be written. Current industry practices regarding the reversibility of transfers that pass through automated clearing houses may provide more favorable error resolution opportunities to the consumer than the Act and regulation provide. The Board invites comments on the adequacy and cost of current industry error resolution practices and solicits estimates of the costs of the proposed error resolution procedure.

In addition, the institution is required to furnish to the consumer, at his or her request, the information upon which its decision was based. Documents that are stored electronically or that contain confidential information on other

§ 205.5 Liability of consumer for

information to third parties concerning

persons may be costly to duplicate. Consolidating the information into a report to the consumer may be costly for the institution. Another potential problem is that an allegation of an error, which triggers a costly investigation process, is almost a free good for consumers even though investigation costs may eventually be reflected in charges for EFT services or in other ways. The Board solicits estimates of error resolution procedure costs and of the costs of supplying to the consumer, in document copies or in a report, the information used to investigate an alleged error.

Sections 205.11 and 205.12 of the regulation determine under what circumstances the provisions of other sections are binding and which agencies shall enforce them. They impose no costs or benefits directly, except in the § 205.12(c) requirement that evidence of compliance be preserved for at least two years by any person subject to the Act and regulation. This requirement, which is not an explicit provision of the statute, may impose document storage and handling costs on financial institutions or their agents to the extent that these records would not otherwise be retained in the normal course of business.

Finally, § 205.13 modifies that Act's requirements so that financial institutions jointly providing EFT services may contract among themselves to comply with the Act. The regulation also specifies that an institution need send no more than one set of disclosures per customer or per joint account. These provisions encourage cost savings by institutions as they comply with the disclosure requirements of the Act.

Effects of the Act and regulation upon competition among large and small financial institutions in the provision of electronic transfer services. The proposed regulatory provisions probably will have less effect than the existing issuance and liability provisions on the ability of small financial institutions to compete with larger institutions.[2] Small institutions must spread fixed costs for the preparation and distribution of required disclosures over a smaller account and card base. Documentation printing requirements, if they make it necessary to modify existing terminals or statement generation procedures, could disadvantage small institutions, partly because they would be less able to get quantity discounts from vendors and partly because fixed costs would have to be spread over smaller bases. If smaller institutions tend to issue periodic statements less frequently, then a disproportionate cost burden may be placed on them by the Act's requirement that a periodic statement must be issued no later than one month after an EFT. Sharing arrangements might overcome these disadvantages. A recent survey of EFT services at depository institutions disclosed that small institutions may use correspondent bank or interstate interchange systems, and that 15 percent of all United States commercial banks offering non-shared EFT programs in 1978 had deposits of less than $50 million.[3]

Larger financial institutions might enjoy scale and specialization economies in error resolution, particularly if they were able to devote some staff members exclusively to it. Toll-free or 24-hour reporting services would be more costly relative to transaction volume for smaller institutions. On the other hand, if the disclosure, documentation, and error resolution provisions lead to greater consumer acceptance of EFT, small institutions can more easily build up an adequate card base for a given customer population.

The Board solicits comments on these or other size effects and on whether or not the regulation should have exceptions or special provisions for small financial institutions.

Effects of the Act and regulation on availability of electronic transfer services to different classes of consumers, especially low-income. The availability of EFT services to low-income consumers depends mainly on the already-adopted issuance and liability provisions of the regulations.[4] The provisions currently proposed would also affect availability to the extent that consumers receiving disclosures or other information about EFT services would not have known about or used them otherwise. The disclosures required by §§ 205.6 and 205.7 serve to convey information on the terms and conditions associated with other sections of the regulation. Because low-income consumers hold relatively fewer accounts at financial institutions than consumers with higher incomes, low-income consumers as a group will receive relatively less information through the disclosure statements about the availability and conditions of EFT services.[5] On the other hand, all consumers will benefit from more disclosure of information in that they will be better able to shop for financial services.

For low-income consumers who use EFT services, provisions of the Act and proposed regulation could provide the following benefits. First, by summarizing time and place information about financial transactions, the mandatory periodic statements could help all consumers organize, plan, and control their financial activities better. Second, because a transaction of a given size would likely represent a relatively larger share of his or her liquid assets, a lower-income consumer would benefit relatively more from the provisional recrediting of disputed amounts, as required by the error resolution procedures of § 205.10. Third, preauthorized transfers, especially bill payments, will benefit low-income consumers by eliminating postage costs, promoting promptness and regularity of payment and thereby serving to improve credit ratings, providing a safer means of payment, consolidating records of payments, and possibly encouraging saving. Finally, under the Act and § 205.11 of the regulation, State law provisions that are more protective of low-income consumers will not be preempted.

The Act and regulation, in requiring disclosures, documentation, and error resolution procedures that otherwise would not be offered, increase direct costs to financial institutions of providing EFT services. If institutions adopt cost-based user-charge pricing schemes, then low—income consumers may be priced out of the market. The Board invites comment on these and other aspects of the Act and regulation's probable impact on low-income consumers.

(6) Pursuant to the authority granted in Pub. L. 95–630 (to be codified in 15 U.S.C. 1693b), the Board proposes to amend Regulation E, 12 CFR Part 205, as follows:

1. Section 205.2 would be amended by deleting the last sentence of paragraph (i), by revised paragraph (k)(3), and by adding new paragraphs (*l) and (m), to read as follows:*

§ 205.2 Definitions.

* * * * *

(k) * * * (3) that constitutes an error, except as defined in § 205.2(1)(1).

[2] See the economic impact analysis accompanying §§ 205.1 through 205.5 at 44 FR 18474, March 28, 1979.

[3] RoseMary Butkovik, *Consumer Use of Electronic Payments in the United States*, Brookfield, Illinois: November 1978, as quoted in *American Banker*, April 5, 1979, p. 2.

[4] These provisions became effective March 30, 1979, as 12 CFR §§205.4 and 205.5.

[5] For evidence of the distribution of consumer accounts by income class, see Thomas A. Durkin and Gregory E. Elliehausen *1977 Consumer Credit Survey* (Washington, D.C.: Board of Governors of the Federal Reserve System, 1977), tables 21–7, 21–8, and 21–9.

(l) "Error" means

(1) An unauthorized electronic fund transfer;

(2) An incorrect electronic fund transfer from or to the consumer's account;

(3) The omission from a periodic statement of an electronic fund transfer affecting the consumer's account that should have been included;

(4) A computational error or similar error of an accounting nature made by the financial institution;

(5) The consumer's receipt of an incorrect amount of money from an electronic terminal;

(6) A consumer's request for additional information or clarification concerning an electronic fund transfer or any documentation required by this regulation;

(7) Any failure to provide a consumer with documentation required by this regulation; or

(8) Any transfer that was misidentified, insufficiently identified, or was not in the amount indicated or on the date specified on or with any documentation required by this regulation.

(m) "Preauthorized electronic fund transfer" means an electronic fund transfer authorized in advance to recur at substantially regular intervals.

2. Section 205.3 would be amended, by revising paragraphs (c) and (d) to read as follows:

§ 205.3 Exemptions.

* * * * *

(c) *Certain securities or commodities transfers.* Any transfer the primary purpose of which is the purchase or sale of securities or commodities regulated by the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(d) *Automatic transfers.* Any transfer under an agreement between a consumer and a financial institution which provides that the financial institution will initiate individual transfers without a request from the consumer

(1) Between a consumer's accounts within a financial institution;

(2) Into a consumer's accounts by a financial institution; or

(3) From a consumer's accounts to the financial institution (except that the financial institution must comply with the requirements of § 205.8(b)).

* * * * *

3. Section 205.5 would be amended by revising paragraph (b) to read as follows:

§ 205.5 Liability of consumer for unauthorized transfers.

* * * * *

(b) *Limitations on amount of liability.* The amount of a consumer's liability for an unauthorized transfer or a series of related transfers shall not exceed $50 or the amount of unauthorized transfers that occur before notice to the financial institution under paragraph (c) of this section, unless one or both of the following exceptions apply:

* * * * *

4. Sections 205.6 through 205.13 would be added, to read as follows:

§ 205.6 Initial disclosure of terms and conditions.

(a) *Content of disclosures.* At the time a consumer contracts for an electronic fund transfer service or before the first electronic fund transfer is made involving a consumer's account, a financial institution shall disclose to the consumer, in a readily understandable written statement that the consumer may retain, the following terms and conditions of the electronic fund transfer service, as applicable:

(1) The consumer's liability for unauthorized electronic fund transfers and, at the financial institution's option, the advisability of promptly reporting loss or theft of the access device or unauthorized transfers.

(2) The telephone number and address of the person or office to be notified when the consumer believes that an unauthorized electronic fund transfer has been or may be made.

(3) The financial institution's business days, as determined under § 205.2(d).

(4) The type of electronic fund transfers that the consumer may make and any limitations on the frequency and dollar amount of transfers. The details of the limitations need not be disclosed if their confidentiality is necessary to maintain the security of the electronic fund transfer system.

(5) Any charges for electronic fund transfers or for the right to make transfers.

(6) The consumer's right to receive documentation of electronic fund transfers, as provided in § 205.8.

(7) The consumer's right to stop payment of a preauthorized electronic fund transfer and the procedure for initiating a stop-payment order, as provided in § 205.9.

(8) The financial institution's liability to the consumer for its failure to make or to stop certain transfers under § 910 of the Act.

(9) The conditions under which a financial institution in the ordinary course of business will disclose information to third parties concerning the consumer's account.

(10) A notice that is substantially similar to the following notice concerning error resolution procedures and the consumer's rights under them:

In Case of Errors or Questions About Your Electronic Transfers

Telephone us at [insert telephone number] or Write us at [insert address] as soon as you can if you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt. You must tell us no later than 60 days after the statement was sent to you.

(1) Tell us your name and account number (if any).

(2) Describe the error or the transfer you are unsure about, and explain (if you can) why you believe it is an error or why you need more information.

(3) Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send us your complaint or question in writing within 10 business days.

We will tell you the results of our investigation within 10 business days and will correct any error promptly. However, we may instead take 45 days to investigate your complaint or question. If we decide to do this, we will recredit your account within 10 business days for the amount you think is in error, so that you will have the use of the money. If we ask you to put your complaint or question in writing and we do not receive it within 10 business days, we may not credit your account.

If we decide that there was no error, we will send you a written explanation within 3 business days after we finish our investigation. You may ask for copies of the documents that we used in our investigation.

(b) *Timing of disclosures for accounts in existence on May 10, 1980.* For any account from or to which electronic fund transfers could be made before May 10, 1980, a financial institution shall mail or deliver the information required by paragraph (a) of this section by June 9, 1980, or with the first periodic statement required by § 205.8(b) after May 10, 1980, whichever is earlier.

§ 205.7 Subsequent disclosures.

(a) *Change in terms.* (1) A financial institution shall mail or deliver a written notice to the consumer at least 21 days before the effective date of any change in a term or condition required to be disclosed under § 205.6(a) if the change would result in increased fees or charges, increased liability for the consumer, fewer types of available electronic fund transfers, or stricter limitations on the frequency or dollar amounts of transfers.

(2) A financial institution may change the terms and conditions disclosed under § 205.6(a) without prior notice if

received within 10 business days of an

[c] *Correction of account and notice of*

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an immediate change is necessary to maintain or restore the security of an electronic fund transfer system or an account. If the change is to be made permanent and disclosure will not jeopardize the security of the system or account, the financial institution shall provide written notice of the change to the consumer within 30 days after the change has been made permanent.

(b) *Annual error resolution procedure notice.* (1) For each account from or to which electronic fund transfers can be made, a financial institution shall mail or deliver to the consumer, at least once each calendar year, the notice set forth in § 205.6(a)(10).

(2)(i) As an alternative to the requirement of paragraph (b)(1) of this section, a financial institution may mail or deliver a notice that is substantially similar to the following notice on or with each periodic statement required by § 205.8(b):

In Case of Errors or Questions About Your Electronic Transfers

Telephone us at [insert telephone number] or write us at [insert address] as soon as you can if you think your statement or receipt is wrong or if you need more information about a transfer on the statement or receipt. You must tell us no later than 60 days after the statement was sent to you.

(1) Tell us you name and account number (if any).

(2) Describe the error or the transfer you are unsure about, and explain (if you can) why you believe there is an error or why you need more information.

(3) Tell us the dollar amount of the suspected error.

We will investigate your complaint and will correct any error promptly. We will also send you a complete explanation of your rights and obligations.

(ii) A financial institution that uses the alternative notice set forth in paragraph (b)(2)(i) of this section shall mail or deliver the notice set forth in § 205.6(a)(10) within 10 days of receiving an error notification.

§ 205.8 Documentation of transfers.

(a) *Transfers initiated by consumers at electronic terminals.* At the time an electronic fund transfer is initiated at an electronic terminal by a consumer, the financial institution shall, directly or indirectly,[1] make available to the consumer written documentation of the transfer that the consumer may retain and that clearly sets forth the following information, as applicable:

(1) The amount of the transfer.

(2) The date the transfer was initiated.

(3) The type of transfer, such as a purchase, payment, deposit or withdrawal. A code may be used if it is explained elsewhere on the documentation.

(4) The identification of the consumer's account(s) from or to which funds are transferred.

(5) The location of the terminal at which the transfer was initiated. A code may be used if it is explained on that portion of the periodic statement on which the transfer is reflected.

(6) The identification of any third party from or to whom funds are transferred, unless the information is provided by the consumer in a form that the electronic terminal cannot duplicate on the documentation. A code may be used if it is explained on that portion of the periodic statement on which the transfer is reflected.

(b) *Periodic statements.* (1) For each account that may be accessed by an electronic fund transfer, the financial institution shall mail or deliver a statement that the consumer may retain for each monthly cycle in which an electronic fund transfer has occurred, but at least quarterly if no transfer has occurred.

(2) The statement shall include the following, as applicable:

(i) For each electronic fund transfer occurring during the cycle, the information described in paragraphs (a)(1) through (6) of this section. This information may be provided on an accompanying document. If a code was used on the documentation required by paragraph (a) of this section to identify the terminal under paragraph (a)(5) or any third party under paragraph (a)(6), the code must be explained in readily understandable language on that portion of the periodic statement which reflects the transfer.

(ii) The amount of any fee or charge, other than a finance charge under 12 CFR 226.7(b)(1)(iv), assessed against the account for electronic fund transfers or for the right to make such transfers during the statement period.

(iii) The balances in the consumer's account at the beginning and the close of the statement period.

(iv) The address and telephone number to be used for inquiries or errors on the statement or other documentation preceded by "Direct Inquiries To:" or similar language. The address and telephone number may be provided on the notice of error resolution procedures set forth in § 205.7(b)(2)(i).

(3) If a consumer's passbook account may not be accessed by any electronic fund transfers other than preauthorized transfers crediting the account, the financial institution may satisfy the requirements of paragraph (b) of this section, upon presentation of the consumer's passbook, by entering in the passbok or providing on a separate document the amount and date of each electronic fund transfer since the passbook was last presented.

(4) If a consumer's account, other than a passbook account, may not be accessed by any electronic fund transfers other than preauthorized transfers crediting the account, the financial institution need only provide the periodic statement quarterly.

(c) *Preauthorized transfers to a consumer's account.* (1) Where a consumer's account is scheduled to be credited by a preauthorized electronic fund transfer from the same payor at least once every 60 days, except where the payor provides positive notice of the transfer, the financial institution shall notify the consumer as to whether the transfer occurred, by one of the following means:

(i) By providing oral or written notice to the consumer, within 2 business days after the transfer, that the transfer occurred.

(ii) By providing oral or written notice to the consumer, within 2 business days after the date on which the transfer was scheduled to occur, that the transfer did not occur.

(iii) By mailing or delivering a periodic statement that reflects the transfer and that is mailed or delivered to the consumer within 2 business days after the transfer occurred or was scheduled to occur.

(iv) By providing a telephone number that the consumer may call to ascertain whether a transfer occurred, if the financial institution has previously advised the consumer of this procedure and of the number to be used, on the initial disclosures required by § 205.6 or on the periodic statement required by paragraph (b) of this section.

(v) By providing oral or written notice to the consumer that the consumer's account is overdrawn, or that a line of credit has been accessed or an automatic transfer from a savings account to a checking account has occured to cover an overdraft, because a scheduled transfer did not occur, provided that the institution pays any items presented and imposes no overdraft or other charges.

(2) A financial institution that receives a preauthorized transfer of the type described in paragraph (c)(1) of this section shall credit the amount of the transfer and make the amount available for withdrawal or other use by the consumer no later than the opening of business on the day the transfer is received, or, if the transfer is not received by the opening of business on the day the transfer is scheduled to occur, by the opening of business on the next business day.

[1] A financial institution may arrange to have a third party, such as a merchant, provide the documentation required by this paragraph.

§ 205.9 Preauthorized transfers from a consumer's account.

(a) *Authorization.* Preauthorized electronic fund transfers from a consumer's account may be authorized by the consumer only in writing, and a copy of the authorization shall be provided to the consumer by the financial institution or the designated payee.

(b) *Stopping payment.* A consumer may stop payment of a preauthorized electronic fund transfer by notifying the financial insitution orally or in writing at any time up to 3 business days before the scheduled date of the transfer. The financial institution may require written confirmation of the stop-payment order to be made within 14 days of an oral notification if, when the oral notification is made, the consumer is advised of the requirement and of the address to which confirmation should be sent.

(c) *Notice of varying amounts.* Where a preauthorized electronic fund transfer varies in amount from the preauthorized amount, the financial institution or the designated payee shall mail or deliver, at least 10 days before the scheduled transfer date, a written notice of the amount and scheduled date of the transfer. The consumer may modify this notice requirement if the financial institution or designated payee informs the consumer of the right to receive notice of all varying transfers and the consumer elects to receive notice only when a transfer does not fall within a specified range of amounts or, alternatively, only when a transfer differs from the most recent transfer by more than an agreed-upon amount.

§ 205.10 Error resolution procedure.

(a) *Notification of an error.* (1) A notification of an error is an oral or written notification that

(i) Enables the financial institution to identify the consumer's account, and

(ii) Indicates the consumer's belief, and the reasons for that belief, that the consumer's account is in error or that any documentation required by this regulation reflects an error, including the type and the amount of the error, to the extent possible.

(2) Notification of an error must be received by the financial institution no later than 60 days from transmitting to the consumer the periodic statement that first reflects the alleged error.

(3) The financial institution may require that written confirmation be received within 10 business days of an oral notification of error if, when the oral notification is made, the consumer is advised of the requirement and the address to which the confirmation should be sent.

(b) *Investigation of errors.* After the financial institution receives a notification of an error and unless the consumer subsequently agrees that no error has occurred

(1) The financial institution shall promptly investigate the alleged error, determine whether an error has occurred, and, in accordance with paragraph (c)(1)(ii) or (c)(2) of this section, report or mail the results of the investigation and determination to the consumer within 10 business days of receipt of a notification of an error.

(2) As an alternative to the requirements of paragraph (b)(1) of this section, the financial institution shall promptly investigate the alleged error, determine whether an error has occurred, and, in accordance with paragraph (c)(1)(ii) or (c)(2) of this section, report or mail the results of the investigation and determination to the consumer within 45 days after receipt of a notification of an error provided that

(i) The financial institution, pending its investigation and determination of whether an error occurred, provisionally recredits the consumer's account for the amount of the alleged error, including interest where applicable, but subject to the liability provisions of § 205.5(b), within 10 business days after receiving a notification of an error;

(ii) The consumer has full use of the funds provisionally recredited; and

(iii) The financial institution, promptly but no later than 2 business days after the recrediting, reports or mails notice to the consumer of

(A) The amount and date of the recrediting; and

(B) The fact that the consumer will be notified no later than 3 business days before debiting the consumer's account by an amount provisionally recredited, should the financial institution determine that an error did not occur as alleged by the consumer.

A financial institution that requires but does not timely receive written confirmation of an error as provided by paragraph (a) of this section need not provisionally recredit the consumer's account, but must nevertheless investigate the alleged error, determine whether an error occurred, and report or mail its findings to the consumer in accordance with paragraph (c)(1)(ii) or (c)(2) of this section, promptly but no later than 45 days after receipt of a notification of an error.

(c) *Correction of account and notice of findings.* (1) If the financial institution determines that an error occurred, it shall

(i) Promptly, but in no event more than 1 business day after determining that an error occurred, correct the error (subject to the liability provisions of § 205.5) including the crediting of interest where applicable, and the refunding of any fees or charges imposed as a result of the error, and

(ii) Promptly, but in no event later than the time set forth in paragraph (b)(1) or (b)(2) of this section, report or mail to the consumer notice of the correction in the account or, if applicable, notice that a provisional credit has been made final.

(2) If the financial institution determines that no error occurred or that the error occurred in a manner differing from that described by the consumer, it shall

(i) Deliver or mail to the consumer within 3 business days after concluding its investigation, but in no event later than the time set forth in paragraph (b)(1) or (b)(2) of this section, a written explanation of its findings;

(ii) If the consumer's account has been provisionally recredited under paragraph (b)(2) of this section, notify the consumer, no later than 3 business days before debiting the account, of the date and the amount of debiting the account by an amount provisionally recredited; and

(iii) Upon the consumer's request, promptly mail or deliver to the consumer copies of the documents, if possible, or a report containing the data that the financial institution relied on in reaching its conclusion. The explanation of the financial institution's findings provided under paragraph (c)(2)(i) of this section shall include notice of the right to request such information.

(d) *Relation to Truth in Lending.* The provisions of the Act and this regulation concerning error resolution, rather than those of the Truth in Lending Act and 12 CFR Part 226, shall govern those instances in which electronic fund transfers also involve extensions of credit under an agreement between a consumer and a financial institution to extend credit when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account.

§ 205.11 Relation to State law.

(a) *Inconsistent State laws.* Except as otherwise provided in this section, the Act and this regulation preempt only those State laws that are inconsistent with the Act and this regulation and

then only to the extent of the inconsistency. A State law is not inconsistent if it is more protective of a consumer than the Act and this regulation. The Board shall determine whether State laws are inconsistent with the Act and this regulation upon its own motion or upon the request of any financial institution, State or other interested party. A State may request a determination by the Board for an exemption from the requirements of the Act and the regulation for any class of electronic fund transfers within the State. The Board shall grant such an exemption if it determines that the State law is substantially similar to the Act and this regulation and that the State provides adequate enforcement mechanisms.

(b) *Exemption for State-wide systems.* The Board shall exempt from the requirements of the Act and this regulation any State-wide electronic fund transfer system established by law or regulation that was in operation on January 1, 1978, and any subsequent modification of such a system, if the Board determines that the system substantially complies with the Act and this regulation.

§ 205.12 Administrative enforcement and record keeping.

(a) *Administrative enforcement.* (1) Except as otherwise provided in the Act, compliance with the Act and this regulation is enforced by the Federal agencies responsible for administrative enforcement under section 108 of the Truth in Lending Act.

(2) The Federal Trade Commission has enforcement powers under section 108(c) of the Truth in Lending Act.

(b) *Record keeping.* Any financial institution subject to the Act shall maintain evidence of compliance with the requirements imposed by the Act and this regulation for a period of not less than 2 years from the date disclosures or records are required to be made or retained. The financial institution may maintain the evidence required by reproduction methods that reproduce the original documents, such as microfilm.

§ 205.13 General disclosure requirements.

(a) *Services offered by multiple*

Section A(8)—Disclosure of Right To Receive Documentation of Transfers (§§ 205.4(b)(2), 205.6(a)(6))

Section A(10)—Disclosure of Financial Institution's Liability for Failure to Make Transfers (§§ 205.4(b)(2), 205.6(a)(8))

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then only to the extent of the inconsistency. A State law is not inconsistent with the Act and this regulation if it is more protective of a consumer.

(b) *Preempted provisions of State law.* (1) A State law is deemed to be inconsistent with the Act and this regulation and less protective of a consumer within the meaning of section 919 of the Act to the extent that the State law:

(i) Requires or permits a practice or act prohibited by the Act or this regulation;

(ii) Provides for consumer liability for unauthorized electronic fund transfers which exceeds that imposed by the Act and this regulation;

(iii) Provides for longer time periods than does the Act and this regulation with respect to a financial institution's obligation to investigate and correct errors alleged by a consumer, or fails to provide for the financial institution's recrediting of an account during its investigation of account errors as set forth in § 205.10(b); or

(iv) Provides for initial disclosure, periodic statement disclosure, transfer documentation or notification that is different in content from that required by the Act and this regulation except to the extent that the disclosures or information relate to substantive rights granted to consumers by the State law and not by the Act or this regulation.

(2) Any State, financial institution, or other interested party, may apply to the Board for a determination of whether the State law offers greater protection to consumers than the comparable provisions of the Act and this regulation, or for a determination with respect to any issues not clearly covered by paragraph (b)(1) of this section as to the consistency or inconsistency of a State law with the Act or this regulation. All requests for such determinations shall include the following:

(i) A copy of the full text of the State law in question, including any regulatory implementation or judicial interpretation of that law;

(ii) A comparison of the provisions of State law to the corresponding provisions in the Act and this regulation, together with a discussion of reasons why specific provisions of State law are either consistent or inconsistent with corresponding sections of the Act and this regulation; and

(iii) A comparison of the civil and criminal liability for violation of State law with the provisions of sections 915 and 916(a) of the Act.

(c) *Exemption for State-regulated transfers.* (1) Any State may apply to the Board for an exemption from the requirements of the Act and the corresponding provisions of this regulation for any class of electronic fund transfers within the State. The Board will grant such an exemption if the Board determines that:

(i) Under the law of the State that class of electronic fund transfers is subject to requirements substantially similar to those imposed by the Act and the corresponding provisions of this regulation, and

(ii) There is adequate provision for State enforcement.

(2) To assure that the Federal and State courts will continue to have concurrent jurisdiction, and to aid in implementing the Act:

(i) No exemption shall extend to the civil liability provisions of section 915 of the Act; and

(ii) After an exemption has been granted, for the purposes of § 915 of the Act, the requirements of the applicable State law shall constitute the requirements of the Act and this regulation, except to the extent the State law imposes requirements not imposed by the Act or this regulation.

§ 205.12 Administrative enforcement.

(a) *Enforcement by Federal agencies.* (1) Administrative enforcement of the Act and this regulation for certain financial institutions is assigned to the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Board of Directors of the Federal Deposit Insurance Corporation, Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), National Credit Union Administration, Civil Aeronautics Board and Securities and Exchange Commission.

(2) Except to the extent that administrative enforcement is specifically committed to other authorities, compliance with the requirements imposed under the Act and this regulation will be enforced by the Federal Trade Commission.

(b) *Issuance of staff interpretations.* (1) Unofficial staff interpretations will be issued at the staff's discretion where the protection of section 915(d) of the Act is either not requested or not required, or where a rapid response is necessary.

(2)(i) Official staff interpretations will be issued at the discretion of designated officials. No interpretations will be issued approving financial institutions' forms or statements. Any request for an official staff interpretation of this regulation shall be in writing and addressed to the Director of the Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request shall contain a complete statement of all relevant facts concerning the transfer or service, and shall include copies of all pertinent documents.

(ii) Within 5 business days of receipt of a request, an acknowledgement will be sent to the person making the request. If the designated officials deem issuance of an official staff interpretation to be appropriate, the interpretation will be published in the Federal Register to become effective 30 days after the publication date. If a request for public comment is received, the effective date will be suspended. The interpretation will then be republished in the Federal Register and the public given an opportunity to comment. Any official staff interpretation issued after opportunity for public comment shall become effective upon publication in the Federal Register.

(3) Any request for public comment on an official staff interpretation of this regulation shall be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. It must be postmarked or received by the Secretary's office within 30 days of the interpretation's publication in the Federal Register. The request shall contain a statement setting forth the reasons why the person making the request believes that public comment would be appropriate.

(4) Pursuant to section 915(d) of the Act, the Board has designated the Director and other officials of the Division of Consumer Affairs as officials "duly authorized" to issue, at their discretion, official staff interpretations of this regulation.

(c) *Record retention.* (1) Evidence of compliance with the requirements imposed by the Act and this regulation shall be preserved by any person subject to the Act and this regulation for a period of not less than 2 years.

(2) Any person subject to the Act and this regulation which has actual notice that it is under investigation or is subject to an enforcement proceeding for an alleged violation of the Act or this regulation by an enforcement agency charged with monitoring that person's compliance with the Act and this regulation, or that has been served with notice of an action filed under §§ 915 or 916(a) of the Act, shall retain the information required in paragraph (c)(1) of this section until final disposition of the matter, unless an earlier time is allowed by order of the agency or court.

§ 205.13 General disclosure requirements.

(a) *Services offered by multiple financial institutions.* Two or more financial institutions that jointly provide electronic fund transfer services may contract among themselves to fulfill the requirements that the Act and this regulation impose on any or all of them.

(b) *Multiple accounts and account holders.* (1) If a consumer holds two or more accounts at a financial institution, the financial institution may combine the disclosures required by the regulation into one statement (for example, mail or deliver a single periodic statement or annual error resolution notice to a consumer for multiple accounts held by that consumer).

(2) If two or more consumers hold a joint account from or to which electronic fund transfers can be made, the financial institution need provide only one set of the disclosures required by the regulation for each account.

(c) *Additional information; disclosures required by other laws.* At the financial institution's option, additional information or disclosures required by other laws (for example, Truth in Lending disclosures) may be given to the consumer with the disclosures required by this regulation.

5. Appendix A would be amended by revising the first two paragraphs, and by adding a new Sections A(8), A(9) and A(10) fo read as follows:

Appendix A—Model Disclosure Clauses

This appendix contains model disclosure clauses for optional use by financial institutions to facilitate compliance with the disclosure requirements of §§ 205.4(a)(3), (b)(2), and (b)(3), 205.6(a), and 205.9(c). Section 915(d)(2) of the Act provides that use of these clauses in conjunction with other requirements of the regulation will protect financial institutions from liability under sections 915 and 916 of the Act to the extent that the clauses accurately reflect the institutions' electronic fund transfer services.

Financial institutions need not use any of the provided clauses, but may use clauses of their own design in conjunction with the model clauses. The inapplicable portions of words or phrases in parentheses should be deleted. The underscored catchlines are not part of the clauses and should not be used as such. Financial institutions may make alterations, substitutions, or additions in the clauses in order to reflect the services offered, such as technical changes (e.g., substitution of a trade name for the word "card," deletion of inapplicable services), or substitution of lesser liability limits in section A(2).

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Section A(8)—Disclosure of Right To Receive Documentation of Transfers (§§ 205.4(b)(2), 205.8(a)(8))

(a) *Terminal transfers.* You can get a receipt for each transfer to or from your account that was made at our (automated teller machines) (or) (point-of-sale terminals). You can get the receipt when the transfer is made.

(b) *Preauthorized credits.* If you have arranged to have direct deposits made to your account,

(we will tell you when the deposit is (not) made as scheduled.)

(the person who sends the money will tell you when that has been done.)

(your periodic statement will be sent soon after the deposit is scheduled and will show whether or not it has been made.)

(you can call us at [insert telephone number] to find out whether or not the deposit has been made.)

(and if a deposit is not made as scheduled, resulting in an overdraft to your account) of (use of your overdraft line of credit) (an automatic transfer from you savings to your checking account), we will tell you. We will pay any (checks) ([insert other appropriate description]) drawn on your account that would have been paid if the deposit had been made as scheduled.

(c) *Periodic statements.* You will get a (monthly) (quarterly) account statement (unless there are no transfers in a particular month. In any case you will get the statement at least quarterly).

(d) *Passbook account where only possible electronic fund transfers are preauthorized credits.* If you bring your passbook to us, we will record any electronic deposits that were made to your account since the last time you brought in your passbook.

Section A(9)—Disclosure of right to stop payment of preauthorized transfers, procedure for doing so, right to receive notice of varying amounts and financial institution's liability for failure to stop payment (§§ 205.4(b)(2), 205.8(a)(7) and (8), 205.9(c))

(a) *Right to stop payment and procedure for doing so.* If you have told us in advance to make regular payments out of your account, you can stop any of these payments. Here's how:

Call us at [insert telephone number], or write us at [insert address], in time for us to receive your request 3 business days or more before the payment is scheduled to be made. If you call, we may require you to put your request in writing and get it to us within 14 days after you call.

(b) *Notice of varying amounts.* (We) ([insert name of designated payee]) will tell you, 10 days in advance, the scheduled amount and date of the payment. (You may choose instead to get this notice only when the payment would differ by more than a certain amount from the previous payment, or when the amount would fall outside certain limits that you set.)

(c) *Liability for failure to stop payment of preauthorized transfer.* If you order us to stop one of these payments, and we do not do so; we will be liable for your losses or damages.

Section A(10)—Disclosure of Financial Institution's Liability for Failure to Make Transfers (§§ 205.4(b)(2), 205.8(a)(8))

(a) *Liability for failure to make transfers.* If we do not properly complete a transfer to or from your account as you have directed, we will be liable for your losses or damages. However, there are some exceptions. We will not be liable:

If your account does not contain enough money to make the transfer (unless we previously did not complete a deposit to your account which would have provided enough money);

Or if your account is frozen because of a court order or some similar reason;

Or if the transfer would go over the credit limit on your overdraft line;

Or if the automated teller machine where you are making the transfer does not have enough cash;

Or if the electronic fund transfer system is not working properly and you know this at the time of the transfer;

Or if circumstances beyond our control (such as fire or flood) prevent the transfer.

By order of the Board of Governors, April 26, 1979.

Theodore E. Allison,
Secretary of the Board.

[Reg. E; Docket No. R-0221]

[FR Doc. 79-13883 Filed 5-2-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate the Stone Harbor, N.J., Transition Area, the proposed action would lower the floor of controlled airspace outside the United States to permit a lower minimum en route altitude to accommodate helicopter activity to and from oil rig sites east of the State of New Jersey.

DATES: Comments must be received on or before June 4, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 78-EA-74, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic

ICAO Considerations

Stone Harbor, N.J.

That airspace extending upward from 1,200

SUPPLEMENTARY INFORMATION:

Comment Invited

miles south of the Medford VORTAC 271 radial extending from the west edge of V-23W and north edge of V-122 to the east edge

Avenue, S.W., Washington, D.C. 20591; Telephone (202) 755-8716.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before June 4, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a Stone Harbor, N.J., Transition Area. The proposed action is necessary to lower the floor of controlled airspace within the airspace from 2,000 feet MSL to 1,200 feet MSL. Such action would permit a reduction in the available minimum en route altitude from 2,300 feet MSL to 1,500 feet MSL to accommodate IFR helicopter over water operations to and from oil rig sites east of the State of New Jersey.

2-A03052 0021(01)(02-MAY-79-13:34:24)

ICAO Considerations

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services nesessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdicion of a contracting state, derived form ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involved, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) as follows:

Under § 71.181 add:

Stone Harbor, N.J.

That airspace extending upward from 1,200 feet MSL beginning at Lat. 39°10'00"N., Long. 74°40'00"W.; to Lat. 38°48'00"N., Long. 74°08'00"W.; to Lat. 38°59'00"N., Long. 74°45'00"W.; to point of beginning.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on April 26, 1979.

B. Keith Potts,
Acting Chief, Airspace and Air Traffic Rules Division.

[Airspace Docket No. 78-EA-74]
[FR Doc. 79-13716 Filed 5-2-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Part 71]

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to alter the Medford, Oregon, Transition Area. This proposal is necessary to provide controlled airspace to protect the minimum holding pattern altitude at the MERLI Intersection (Rosenburg VOR (RBG) radial 154 and Medford VORTAC (MFR) radial 251). The proposed rule, if adopted, will expand the controlled airspace coverage in the Medford area.

DATES: Comments must be received on or before May 31, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Operations, Procedures and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108.

The official docket may be examined at the following location: Office of the Regional Counsel, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:
Robert L. Brown, Airspace Specialists, Operations, Procedures and Airspace Branch (ANW-534), Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2610.

SUPPLEMENTARY INFORMATION:

Comment Invited

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Chief, Operations, Procedures and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108. All communications received on or before May 31, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available, before and after the closing dates for comments, in the official docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rule Making by submitting a request to the Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, ANW-530, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108 or by calling (206) 767-2610. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The Federal Aviation Administration is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 6200 foot Medford, Oregon, Transition Area. A standard holding pattern procedure is needed at the MERLI Intersection for traffic segregation between Grants Pass Airport departures and other Medford terminal and en route operations. Establishment of this holding procedure will enhance and expedite the general flow of IFR traffic in the area. The requested Transition Area extension is designated so that the proposed holding pattern will lie completely within controlled airspace. Accordingly, the FAA proposes to amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

71.181 Medford, Oregon

Is amended as follows:

Replace all after "west by the east edge of V-23E"; on line nine with the following:

"and that airspace extending upward from 5,500 feet MSL within 7 miles north and 11 miles south of the Medford VORTAG 271 radial extending from the west edge of V-23W and north edge of V-122 to the east edge of V-27."

Drafting Information

The principal authors of this document are Robert L. Brown, Air Traffic Division, and Hays V. Hettinger, Regional Counsel, Northwest Region, Federal Aviation Administration.

This amendment is proposed under authority of Section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on April 23, 1979.

C. B. Walk, Jr.,
Director, Northwest Region.

[Airspace Docket No. 79-ANW-02]
[FR Doc. 79-13715 Filed 5-2-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Part 121]

Domestic, Flag and Supplemental Air Carriers and Commercial Operators of Large Aircraft; Wind Shear Equipment Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rule making.

SUMMARY: This notice duscusses the wind shear problem (the problem caused by a change in wind direction and/or speed in a very short distance in the atmosphere) and FAA research and development bearing on it. The notice requests comments and recommendations that will assist the FAA in determining what, if any, regulatory proposals should be developed.

DATE: Comments must be received on or before August 3, 1979.

ADDRESS: Send written comments in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24), Docket No. 19110, 800 Independence Ave., S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:
Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Comments Invited

This advance notice of proposed rule making is issued to invite public participation in the identification and selection of a course or alternate courses of action with respect to a particular rulemaking problem. Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and notice number, and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24), Docket No. 19110 800 Independence Ave., S.W., Washington, D.C. 20591. All comments submitted will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested persons. If it is determined to proceed further, after consideration of the available data and the comments received in response to this notice, a notice of proposed rule making will be issued and will be filed in the public docket.

Regulatory Evaluation

This ANPRM has been reviewed for economic effects under the Department of Transportation Regulatory Policies and Procedures published February 26, 1979 (44 FR 11034). A copy of the draft Regulatory Evaluation is filed in the public docket. Copies of this Evaluation may be requested from: Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 755-8716.

Availability of ANPRM

Any person may obtain a copy of this advance notice of proposed rule making (ANPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Ave., S.W., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this ANPRM. Persons interested in being placed on a mailing list for futue ANPRM's and NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Background

The FAA program has identified certain possible near-term solutions to

2. Modified Control Laws for Flight Director and Thrust Command—

FAA-RD-77-120—Wind Shear Requirements and Their Application

Carrier Aircraft Cabins" prepared by the FAA's Civil Aeromedical Institute

published in its entirety as part of this notice.

The substantive FAR sections cited in

Background

Since July 1973 there have been eight U.S. air carrier accidents attributed to encounters with strong low-level wind shears during terminal area flight operations. Additionally, during the year 1964 through 1975 there were 23 transport category airplane accidents that occurred during takeoff or approach, in which the involvement of a low-level wind shear was a distinct possibility.

In May 1977 the FAA adopted an amendment to Part 121 of the Federal Aviation Regulations which required air carriers to adopt an approved system for obtaining forecasts and reports of adverse weather conditions, including low altitude wind shear, that may affect safety of flight on each route to be flown and at each airport to be used. The FAA also issued Advisory Circular No. 00-50A, Low Level Wind Shear, to provide guidance in recognizing meteorological conditions that produce wind shear phenomena.

In addition, the FAA has established an engineering and development program for the purpose of examining the hazards associated with wind shear, developing solutions to the wind shear problem, and integrating those solutions into the National Airspace System.

Discussion of FAA Research and Development

The FAA research and development effort has taken a twofold approach to the wind shear problem. One approach has explored the feasibility of placing wind shear detection equipment on the ground and transmitting information to the pilot. The other approach has tried to determine whether equipment could be installed aboard the aircraft that would provide the pilot with wind shear information in "real time."

Research into the use of ground-based equipment has involved various arrays of anemometers, radar detectors, acoustic devices and laser sensors. Ground-based wind shear sensor systems have the potential of providing data for detecting the location and intensity of wind shears in the vicinity of an airport. The systems may be configured to alert the air traffic controller and the pilot to the probability of a wind shear encounter. Ground-based equipment can also be used to provide information to general aviation aircraft which do not have sophisticated wind shear avionics equipment installed. Additionally, ground-based detection systems can alert the pilot to likely wind shear encounters prior to takeoff.

The FAA program has identified certain possible near-term solutions to the wind shear hazard. These include use of a ground-based Low Level Wind Shear Alert System (LLWSAS) to detect the presence of hazardous wind shear in the vicinity of the airport at the surface. The LLWSAS is being installed at 60 major airports within the United States. This system will provide a warning, transmitted to the pilot by an air traffic controller, whenever the surface wind vector difference between any remote anemometers (usually installed in approach and departure corridors) and the centerfield anemometer exceeds 15 knots (7.7 mps). This system is particularly effective in detecting wind shear caused by thunderstorm gust fronts at the surface.

A forecasting technique, demonstrated in limited tests conducted by FAA and the National Weather Service (NWS), has been found to have some merit and further exploration is expected.

The following is a summary of those ground systems that have been explored and show limited promise of assisting pilots in wind shear situations:

1. Barometric Systems—This system was based upon the characteristic pressure-jump that precedes frontal wind shear.

2. Acoustic Doppler Systems—This system determined wind speed and direction by measuring frequency shift (Doppler effect) in signals reflected by the atmosphere. This system was found to be expensive and unable to operate under heavy precipitation.

3. Laser Systems—The laser system scans directly over the sensor using a CW laser. This system does not have the range required to scan the glidescope and takeoff flight path to detect wind shear. However, this capability may be available in the longer term using a pulsed doppler laser technique.

The second part of the FAA research and development approach to the wind shear problem concentrated on the airborne systems. The FAA, through a series of simulator experiments, has identified a number of airborne systems that may prove effective in warning a pilot of the existence of wind shear. These include:

1. Airspeed/Groundspeed (range rate) comparison—This is a concept that will provide a rationale and procedure for adding airspeed to the approach speed without compromising landing performance. It can be implemented in a variety of ways, including a digital display of groundspeed and a dual indicating airspeed/groundspeed instrument.

2. Modified Control Laws for Flight Director and Thrust Command—Acceleration augmentation and quickening of pitch steering commands have been found to provide the pilot with improved glidescope tracking during wind shear encounters. When combined with thrust commands based on a minimum groundspeed-augmented computation, the Flight Director indicator can provide the pilot with all the necessary commands for coping with moderate to severe wind shear.

3. Acceleration Margin—This concept compares known airplane acceleration potential with a predicted approximation of acceleration loss due to along-track wind difference (headwind loss), modified with altitude and altitude rate of change values.

Wind Shear Study Reports

The following reports based on studies made of the wind shear problem are available from the National Technical Information Center, 5285 Port Royal Road, Springfield, Virginia 22216.

Report No., Title, and Report Date

FAA-RD-76-114—Wind Shear: A Literature Search Analysis and Annotated Bibliography—Feb. 1977.
FAA-ED-15-2A—Engineering & Development Program Plan—Aug. 1977.
FAA-RD-77-36—Wind Shear Modeling for Aircraft Hazard Definition (Interim Report)—Mar. 1977.
FAA-RD-78-3—Wind Shear Modeling for Aircraft Hazard Definition (Final Report)—Mar. 1977.
FAA-RD-77-3—Wind Shear Characterization—Feb. 1977.
FAA-RD-77-166—Piloted Flight Simulation Study of Low-Level Wind Shear: Phase I, May 1977; Phase II, June 1977; Phase III, April 1978.
NASA-CR-3002—Turbulent Transport Model of Wind Shear Thunderstorm Gust Fronts—May 1978.
FAA-RD-77-184—Low-Level Frontal Wind Shear Forecasts Test Report—May 1978.
FAA-RD-78—Gust Front Model Verification Study—Sept. 1978.
FAA-RD-77-135—Derivation of Groundspeed Information from Airborne DME Interrogators—Nov. 1977.
FAA-RD-77-169—Large Aircraft Accident Analysis—December 1977.
FAA-RD-77-119—Gust From Analytical Study—December 1977.
FAA-RD-78-7—Simulation and Analysis of the Wind Shear Hazard—December 1977.
FAA-RD-77-120—Wind Shear Requirements and Their Application to Laser Systems—Feb. 1978.

Specific Questions

The FAA requests comments from interested persons which, in light of the foregoing information, will assist the agency in answering the following questions:

1. Is there a valid need to amend Part 121 and require wind shear detection equipment?

2. Which of the various systems is best suited to Part 121 operations, would be cost effective, and would provide a flightcrew with adequate and timely information to avoid wind shear hazards?

3. Have all practical solutions to the wind shear problem been explored, or are there other simpler and less costly solutions available?

4. How reliable would the various systems be in providing wind shear information and what operating and maintenance costs would each of them be likely to impose on aircraft operators?

(Secs. 313(a), 601 and 604, Federal Aviation Act of 1958. (49 U.S.C. 1354(a), 1421 and 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))).

J. A. Ferrarese,
Acting Director, Flight Standards Service.

Issued in Washington, D.C., on April 26, 1979.

Dorothy F. Gabor,
Certifying Officer.

[Docket No. 19110; Notice No. 79-11]
[FR Doc. 79-13721 Filed 5-2-79; 8:45 am]
BILLING CODE 4910-13-M

[14 CFR Parts 121 and 123]

Petition for Rule Making of the National Federation of the Blind

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Publication of petition for rule making; request for comments.

SUMMARY: This notice publishes for public comment the petition of the National Federation of the Blind (NFB), dated September 14, 1977, for repeal and amendment of various sections of Parts 121 and 123 of the Federal Aviation Regulations, (FAR) 14 CFR Parts 121 and 123. In particular, the NFB asks that § 121.589(a) be amended to exclude from those items which must be stored away from passengers the canes carried by blind persons. Published with the NFB petition is a summary of a report entitled, "Considerations Relative to the Use of Canes by Blind Travelers In Air Carrier Aircraft Cabins" prepared by the FAA's Civil Aeromedical Institute (CAMI) in Oklahoma City, Oklahoma. This notice does not propose regulations for adoption or represent an FAA position on the merits of the petition.

DATES: Comments must be received on or before July 5, 1979.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, attn: Rules Docket (AGC-24), Docket No. 17320, 800 Independence Avenue, S.W., Washington, D.C., 20591.

FOR FURTHER INFORMATION CONTACT:

Edward P. Faberman, Regulations and Enforcement Division (AGC-20), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 426-3073.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments on the petition for rule making as they may desire. Communications should identify the regulatory docket or petition notice number and be submitted in duplicate to: Federa Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before July 5, 1979, will be considered by the Administrator before taking action on the petition for rule making. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket.

Availability of Notice

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430,* Independence Ave., S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this document.

Background Information

On September 14, 1977, the NFB submitted a petition for rule making, in accordance with Part 11 of the FARs, to repeal and amend various sections of FAR Parts 121 and 123. This petition is published in its entirety as part of this notice.

The substantive FAR sections cited in the NFB petition were § 121.586 and § 121.589. Section 121.586 sets forth the conditions under which certificate holders may refuse transportation to a passenger on the basis that the passenger may need the assistance of another person to move expeditiously to an exit in the event of an emergency. Section 121.589 states in part:

§ 121.589 Carry-on baggage.

(a) No certificate holder may permit an airplane to take off or land unless each article of baggage carried aboard by passengers is stowed—

(1) In a suitable baggage or cargo stowage compartment;

(2) As provided in paragraph (c) of § 121.285; or

(3) Under a passenger seat.

(b) Each passenger shall comply with instructions given by crewmembers regarding compliance with paragraph (a) of this section.

* * * * *

Section 121.285 sets forth limitations for carriage of cargo in passenger compartments.

On March 10, 1978, the Administrator denied the petition. As to NFB's petition for the repeal of § 121.586, the "Denial of Petition" included the following statements:

The regulations cited by the NFB were established in the interest of the passenger. They ensure that safety is the only matter considered in restricting the carriage of persons who may need evacuation assistance. The rules emphasize the duty resting upon the air carriers to perform their services with the highest possible degree of safety in the public interest as required by the Federal Aviation Act of 1958.

* * * * *

Furthermore, the FAA believes it is in the public interest to require persons carrying canes to stow them prior to takeoff and landing to preclude them from becoming flying missiles during an aircraft accident, causing delay during an evacuation or damaging the evacuation slide during the escape from the aircraft.

* * * * *

In July, 1978, the Deputy Administrator of the FAA, Quentin Taylor, agreed that the agency would further study the safety problems associated with allowing passengers to keep canes at their seats during takeoff and landing. A study was undertaken by CAMI and a report was issued entitled, "Considerations Relative to the Use of Canes By Blind Travelers In Air Carrier Aircraft Cabins," dated January 17, 1979.

CAMI conducted three types of tests as part of the study: evacuation, crash simulation, and static loading tests. A

summary of the tests and the conclusions reached are as follows:

penetrating source, with sharp-pointed sources being more dangerous than

be understood that its publication to receive public comment is in accordance

sections and will not gain or lose financially by any action taken in regard to them.

FEDERAL EMERGENCY MANAGEMENT AGENCY

These elevations, together with the flood plain management measures

summary of the tests and the conclusions reached are as follows:

Evacuation Tests. Floor level and overwing exit configurations were employed as part of the test procedure. The tests indicate that for the floor-level exit, the evacuations proceeded more often without delay only when canes were *not* used by blind subjects. This result was reinforced during review of the photometric film coverage of the tests, where it was noted that in over half of the cases where canes were available to the blind subjects but there was "no delay," the canes were carried but not used for guidance. In the remainder of the tests, the canes were only used occasionally, with some reliance placed on other subjects and on seat backs to aid in guiding movement within the cabin. In the evacuation tests that used the overwing type exit, no difference was noted in the frequency of occurence of evacuation delays relative to the use or nonuse of canes. The added obstacle of a small exit opening, set above the floor, appears to be a sufficient barrier to mask any influence of cane use on frequency of occurrence of delay.

Crash Simulation Tests. The second element of the CAMI study was the crash simulation test utilizing anthropomorphic dummies equipped with canes. A dummy was seated in each of two rows of two-passenger seats and a cane was placed in a manner similar to its potential placement if it were being used by a passenger anticipating a normal landing. This configuration was then exposed to a nine "g" impact. In accordance with basic physical laws, an unrestrained cane in a crash will continue to move at the velocity of the crash until it hits something or something hits it. This was demonstrated in the first two crash tests. The study showed that the problems that result from this cane motion cannot be completely defined since the degree of injury or damage that occurs will depend on the force of the impact, the angle of impact and the location of the impact. However, the study did show that injuries to the eyes, neck and trachea are possible. For instance, the thyroid and cricoid cartilages, near the trachea, are relatively delicate and can be severly damaged by the forces a 'flying' cane is capable of transmitting (see static loading results).

An additional type of injury, discussed in the study, which could result from a "flying" cane would be a penetrating-type injury. The severity of potential penetrating injury would be dependent on: (1) the area of the penetrating source, with sharp-pointed sources being more dangerous than blunt sources; (2) the magnitude of the force causing the penetration; and (3) the site of the body where the source acts, with soft tissue being more liable to injury.

In the third and final crash test an effort was made to evaluate the possiblity of restraining canes with seatbelts. The results of this test demonstrated the injury—accentuating effect of an unavoidably slack seatbelt. During a crash, an occupant with a slack seatbelt will tend to impact the belt with sufficient speed to cause some injury, perhaps to internal organs.

Static Tests. Twenty-four canes were selected to determine the maximum load required to destroy the canes under conditions of bending or axial compressive loading. The results of these static tests indicated that canes in common use are capable of transmitting forces of sufficient magnitude to result in injury. The forces varied greatly, from 12 to 280 pounds in compression, and from 29 to 187 pounds in bending. The stronger canes could potentially block an exit if they are lodged crosswise to the exit. Furthermore, if canes are broken from whatever cause, it is possible to create sharp-pointed ends that would greatly increase the possiblity for penetrating injury or damage to inflated evaculation slides.

Interested persons desiring to read the complete CAMI study, only briefly summarized above, may review it in the Rules Docket or they may request a copy by contracting the Office of Public Affairs at the address set forth above.

The FAA solicits comments on the NFB petition, particularly in view of the results of the CAMI study. In addition to comments on the petition, the FAA asks for comments on the following in light of the CAMI study:

1. Can blind passengers evacuate an aircraft, in an emergency without the use of canes?
2. Would canes be of any benefit in a narrow aisle scattered with debris and crowded with people?
3. Can telescoping or folding canes be carried by passengers instead of rigid canes?
4. Can canes be safely stowed within the immediate area of a passenger?
5. If stowage of canes is only available at certain seats, are passengers wishing to carry canes willing to sit only in those seats?

Although this notice sets forth the contents of the NFB petition as received by the FAA without changes, it should be understood that its publication to receive public comment is in accordance with FAA procedures governing the processing of petitions for rule making. It does not propose a regulatory rule for adoption, represent an FAA position, or otherwise commit the agency on the merits of the petition. The FAA intends to proceed to consider the petition under the applicable procedures of Part 11 and to reach a conclusion on the merits of the NFB proposals after it has had an opportunity to carefully evaluate them in light of the comments received and other relevant matters presented. If the FAA concludes that it should initiate public rule-making procedures on the NFB petition, the appropriate rule-making action will be proposed by the FAA including its evaluation of the proposals.

The NFB Petition

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petition for rule making of the National Federation of the Blind, dated September 14, 1977.

Issued in Washington, D.C., on April 30, 1979.

Quentin S. Taylor,
Deputy Administrator.

National Federation of the Blind,
Washington, D.C., September 14, 1977.

Re: Petition for Repeal of Various Sections of FAR parts 121 and 123.

Langhorne Bond, Administrator,
Federal Aviation Administration, 800 Independence Avenue, Southwest, Room 1010, Washington, D.C. 20591.

Dear Mr. Bond: We hereby petition for the repeal of portions of parts 121 and 123 of the Federal Aviation Regulations as specified below. These sections were amended earlier this year and published in the Federal Register on April 7, 1977 (42 CFR 16392). This petition is made under the provisions of 14 CFR 11.25.

(1) We petition for repeal of the amendment to section 121.13(a) which inserts the phrase "121.586" after the phrase "121.575."

(2) We petition for repeal of section 121.586 of part 121.

(3) We petition for repeal of the amendment to section 123.27(k) which deleted the phrase "and 121.574" and inserted instead the phrase "121.574, and 121. 586."

In addition, we petition for amendment of section 121.589(a) to exclude from those items which must be stored away from the passenger the flexible travel canes of blind persons.

The petitioner, National Federation of the Blind, has no commercial interest in these sections and will not gain or lose financially by any action taken in regard to them.

The National Federation of the Blind is a nonprofit organization incorporated in the District of Columbia. The NFB is a membership organization of blind persons and others, with more than 50,000 members organized into state and local affiliates which exist in every state and the District of Columbia. The NFB is directed by officers who serve as volunteers and receive no financial compensation and who carry out policies determined by the members of the organization meeting in democratic assembly. The NFB is the voice of the blind in this country.

Our interest in the repeal of the above-listed FAR sections is as follows: The sections enforce procedures for the carriage of the handicapped on air carriers. The procedures work unreasonable hardship on the blind citizens of the United States in pursuit of their constitutionally protected activities for the following reasons:

(1) The sections require blind citizens to follow procedures set up arbitrarily by private air carriers, which procedures are kept secret from those who must follow them.

(2) the sections enforce humiliating, discriminatory, and unnecessary procedures to ensure "safety," although there is no evidence that the safety hazards cited actually exist.

(3) The sections do not prohibit illegal discrimination in treatment of the handicapped by private air carriers.

(4) The sections were published by the FAA after a long rule-making process. The FAA published proposed regulations and elicited comment and held hearings on the proposed rules. The sections published as final regulations, however, bore so little similarity to the proposed rules as to nullify the validity of the process leading to their publication. These sections have not been submitted for public comment.

In support of these reasons, we enclose correspondence with the FAA, responses of various FAA officials, resolutions adopted by the National Federation of the Blind, and correspondence with private air carriers.

In addition, we have major objections to the preamble to the amendments published April 7th. These objections are the stronger since private air carriers have in general adopted procedures based on this preamble rather than on the regulations themselves. However, if section 121.586 is repealed, revoking the right of air carriers to develop binding procedures, this point will become moot.

Sincerely,

James Gashel,
Chief, Washington Office.

[Petition Notice No. PR-79-3]
[FR Doc. 79-13723 Filed 5-2-79; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of Glenfield, Allegheny County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Glenfield, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Fire Hall, East Beaver Street, Glenfield, Pennsylvania. Send comments to: Honorable John W. Schwoegl, Mayor of Glenfield, R.D. 2, Hill Road, Glenfield, Sewickley, Pennsylvania 15143.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Glenfield, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 18, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Ohio River	Downstream Corporate Limits	710
	Interstate Route 79	718
	Confluence of Killbuck Run	718
	Upstream Corporate Limits	719

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 24, 1979.

Gladis M. Jamison,
Federal Insurance Administration.

[Docket FI-2305]
[FR Doc. 79-13757 Filed 5-2-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of Haysville, Allegheny County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 18, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Borough of Haysville, Allegheny County,

Honorable Robert G. Mercer, Mayor of

[24 CFR Part 1917]

required by Section 1910.3 of the program regulations, are the minimum

ACTION: Proposed rule.

Borough of Haysville, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of the Mayor, 18 River Road, Haysville, Pennsylvania. Send comments to: Honorable Charles F. Lang, Mayor of Haysville, 18 River Road, Haysville, Sewickley, Pennsylvania 15143.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410, 202–755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Haysville, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Downstream Corporate Limits	717
	Confluence of Tributary to Ohio River.	717
	Upstream Corporate Limits	718

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: April 24, 1979

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI–5399]

[FR Doc. 79–13758 Filed 5–3–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of Leetsdale, Allegheny County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Leetsdale, Allegheny County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, Broad Street, Leetsdale, Pennsylvania. Send comments to: Honorable Robert G. Mercer, Mayor of Leetsdale, 3 Beech Court, Leetsdale, Pennsylvania 15056.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Leetsdale, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Downstream Corporate Limits	711
	Upstream Corporate Limits	713

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI–5400]

[FR Doc. 79–13759 Filed 5–2–79; 8:45 am]

BILLING CODE 4210–23–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Murray, Calloway County, Ky., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Murray, Calloway County, Kentucky.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Planner's Office, City Hall, 5th and Poplar Streets, Murray, Kentucky 42071.

Send comments to: Mayor Henley or Mr. Steve Zea, City Planner City Hall, 5th and Poplar Streets, Murray, Kentucky 42071.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or toll-free line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Murray, Calloway County, Kentucky, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clarks River	Just downstream of Main Street (Highway 94).	466
	Just downstream of Old Concord Road.	468
Tributary 1 to Clarks River.	Just upstream of South Second Street.	460
	Just upstream of South Fourth Street.	455
Bee Creek	Just upstream of the eastern corporate limits.	464
	Just upstream of North Fourth Street.	466
Tributary to Bee Creek.	Just upstream of the confluence with Bee Creek.	471
	Just downstream of U.S. Highway 641 (North 12 S Street).	480
Tributary to Middle Fork Clarks Creek.	Just upstream of U.S. Highway 641 (South 12th Street).	496
	Just upstream of Meadow Lane.	509

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI–5394]

[FR Doc. 79–13743 Filed 5–3–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Park River, Walsh County, N. Dak., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Park River, Walsh County, North Dakota.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Park River, North Dakota.

Send comments to: Honorable Percy Walstad, Mayor, City of Park River, City Hall, P.O. Box 32, Park River, North Dakota 58270.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll-free line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Park River, North Dakota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

insurance premium rates for new buildings and their contents and for the

DATES: The period for comment will be ninety (90) days following the second

Source of flooding	Location	Elevation in feet, national

DATE: The period for comment will be ninety (90) days following the second

insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary 1	At Downstream Corporate Limits.	966
	Vernon Avenue (10 feet ¹)	988
	Briggs Avenue (20 feet ¹)	995
	4th Street (20 feet ¹)	1014
	At Limit of Detailed Study (approximately 0.56 miles beyond the Corporate Limits).	1044
Tributary 3	At Downstream Corporate Limits.	1006
	At Upstream Extraterritorial Limits.	1054

¹ Upstream from center line.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administration, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI–5395]
[FR Doc. 79–13754 Filed 5–2–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Newport, Lincoln County, Oreg., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Newport, Lincoln County, Oregon. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 810 Southwest Alder Street, Newport, Oregon. Send comments to: Mr. Donald A. Davis, City Manager, City of Newport, City Hall, 810 Southwest Alder Street, Newport, Oregon 97365.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Newport, Oregon, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Creek	Oregon Coast Highway 101 Culvert (Inlet) [1]	21
	Upstream Limit of Detailed Study [2]	27
Pacific Ocean	At mouth of Little Creek	27
	West of Park Drive	34
	West of Beach Drive (Loop)	28
	West of Intersection of Southwest Elizabeth Street and Fall Street	32
	West of Intersection of Southwest Elizabeth Street and Government Street.	29
Yaquina Bay	Shoreline East of Southwest Bay Boulevard.	10
	Shoreline North of intersection of Ferry Slip Road and Oregon State University Drive.	9
	East of Ferry Slip Road	9

[1] Upstream from centerline.
[2] At centerline.

Source of flooding	Location	Depth in feet above ground
Big Creek	In Vicinity between Oregon Coast Highway 101 and Northwest Oceanview Drive.	2
Pacific Ocean	Along Beach Drive (Loop)	2

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI–5396]
[FR Doc. 79–13755 Filed 5–2–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Rensselaer, Rensselaer County, N.Y., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Rensselaer, Rensselaer County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Rensselaer City Hall. Send comments to: Honorable Joseph P. Mink, Mayor of Rensselaer, 505 Broadway, Rensselaer, New York 12144.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–5581 or toll free line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Rensselaer, Rensselaer County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hudson River	Dunn Memorial Bridge	21
	Albany Tidal Gauge Station	21
	Amtrak Railroad Bridge	21
	Interstate 90	22
Mill Creek	U.S. Route 9 & 20 (Exit Ramp)	22
	U.S. Route 9 & 20	22
	Broadway Avenue	22
	Washington Street	22
	Huyck Felt Mill Culvert	22
	Third Street	22
	Second Avenue	22
	Conrail	22
	South Avenue	22
	Abandoned Railroad crossing (Downstream).	22
	Abandoned Railroad crossing (Upstream).	23
	Second Avenue (Downstream).	24
	Second Avenue (Upstream)	27
	Dam (Downstream)	27
	Dam (Upstream)	132
	High Street	134
Quackenderry Creek	Rensselaer High School Culvert.	21
	Broadway Avenue	21
	Conrail	22
	East Street	27
	Lawrence Street	27
	Wilson Street	29
	Partition Street	30
	Harrison Street	34
	John Street	35
	Bass Over Creek	36

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI–5393]
[FR Doc. 79–13752 Filed 5–2–79; 8:45 am]
BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Rye, Westchester County, N.Y., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Rye, Westchester County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Rye City Hall, Rye, New York. Send comments to: Mr. Philip J. McGovern, City Manager of Rye, Rye City Hall, Rye, New York 10580.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or toll-free line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Rye, Westchester County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Blind Brook	Oakland Beach Avenue	14
	Central Avenue	18
	Locust Avenue	24
	Highland Road	29
	Purchase Street	33
	Upstream Corporate Limits	35
Beaver Swamp Brook	Downstream Corporate Limits.	12
	Park Avenue	34
	Theodore Freed Avenue	48
	Locust Avenue	43

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Long Island Sound	Upstream Corporate Limits	47
	Entire Coastline	14

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–8394]

[FR Doc. 79–13758 Filed 5–2–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Waycross, Ware County, Ga., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Waycross, Ware County, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Waycross, Georgia. Send comments to: Honorable Don James, Mayor, City of Waycross, City Hall, Waycross, Georgia 31501.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Waycross, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Waycross Drainage Canal.	3rd Corporate Limits [1]	88
	Morningside Drive—100 feet [2]	90
	City Boulevard—20 feet [3]	94
	Plant Avenue—30 feet [3]	96
	Ricardo Street—60 feet [3]	99
	Darling Street—20 feet [3]	104
	Screven Avenue—20 feet [3]	113
	Knight Avenue—80 feet [3]	118
	Williams Street—20 feet [3]	121
	Reynolds Street—20 feet [3]	125
	Manon Street—20 feet [3]	127
	Lee Street—20 feet [3]	128
	Seaboard Coastline Railroad—	
	20 feet [3]	129
	20 feet [3]	134
Tributary A	Morningside Drive—	
	80 feet [3]	88
	60 feet [3]	93
	Seminole Trail—20 feet [3]	98
	City Boulevard—	
	85 feet [3]	98
	100 feet [3]	102
	Central Avenue—	
	40 feet [3]	112
	50 feet [3]	117
	Corporate Limits [3]	118
Tributary B	Alice Street—40 feet [3]	103
	Tebeau Street—40 feet [3]	108
	Darling Avenue—20 feet [3]	119
	Riverside Avenue—70 feet [3]	124
Tributary C	Alice Street—20 feet [3]	110
	Tebeau Street [1]	111
Tributary D	Knight Avenue—20 feet [3]	115
	Carswell Avenue—20 feet [3]	117
	Pendleton Street—40 feet [3]	122
	McDonald Street—20 feet [3]	127
	Jane Street—20 feet [3]	131
	Ethel Street—30 feet [3]	132
Tributary F	Bell Street Extension [1]	134
Tributary G	Lewis Avenue—20 feet [3]	134
Tributary A–1	Knight Avenue—125 feet [3]	120
	Knight Avenue—125 feet [3]	130
	Reynolds Street—25 feet [3]	134
	Mosley Street—25 feet [3]	136
County Creek B	Seminole Trail—25 feet [3]	96

[1] At centerline.
[2] Upstream from centerline.
[3] Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI–8393]

[FR Doc. 79–13742 Filed 5–2–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for Clay County, Mo., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Clay County, Missouri. Kentucky.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

flood-prone areas and the proposed base (100-year) flood elevations are available for review at County Administrative Offices, 103 East Kansas Avenue, Liberty, Missouri. Send comments to: Mr. Wilfred G. Winholtz, Planning and Zoning Director, Clay County, County Administrative Offices, 103 East Kansas Avenue, Liberty, Missouri 64068.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Clay County, Missouri, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Missouri River	Downstream Clay County Limits [1]	722
	Confluence with Shoal Creek (100 feet [2])	732
	State Route 291 (790 feet [2])	734
Fishing River	Downstream Clay County Limits (500 feet [2])	732
	State Highway 10 [1]	755
	Confluence with Clear Creek [1]	772
	State Highway 33 (500 feet [2])	784
	Interstate Highway 35 (300 feet [2])	792
	County Road (200 feet [2])	818
East Fork Fishing River	Confluence with Fishing River [1]	744
	City of Excelsior Springs Downstream Corporate Limits [1]	751
Williams Creek	Southbound U.S. Highway 69 (1000 feet [2])	762
	State Highway 92 [1]	807
	Confluence with Williams Creek Tributary [1]	815
Williams Creek Tributary	Confluence with Williams Creek [1]	815
	Flood Water Retaining Structure [1]	849
Crockett Creek	City of Moxby Upstream Corporate Limits [1]	767
	County Road (150 feet [2])	783
	County Road, Upstream Study Limits (75 feet [2])	810
Holmes Creek	Chicago, Milwaukee, St. Paul and Pacific Railroad [1]	767
	County Road [1]	770
	Upstream Study Limits (350 feet [2])	775
Clear Creek	Confluence with Fishing River [1]	772
	State Highway 92 [1]	785
	State Highway 33 (200 feet [2])	803
	County Road (Upstream Study Limits [1])	808
Holt Creek	Confluence with Clear Creek (2500 feet [2])	786
	Interstate Highway 35 (100 feet [2])	812
	Clay County Limits [1]	865
Dry Fork	City of Excelsior Springs Upstream Corporate Limits (50 feet [2])	795
	County Road (25 feet [2])	903
	Upstream Study Limits (50 feet [2])	906
Brushy Creek	Clay County Limits (225 feet [2])	964
	Atchison, Topeka & Santa Fe Railroad (100 feet [2])	1008
	U.S. Highway 69 (150 feet [2])	1021
Brushy Creek Tributary I.	Confluence with Brushy Creek (200 feet [2])	1013
	U.S. Highway 69 [2]	1025
Brushy Creek Tributary II.	Confluence with Brushy Creek [1]	1006
	County Highway D (400 feet [2])	1014
	Clay County Limits (100 feet [2])	1042
Little Platte River	City of Smithville Downstream Corporate Limits [1]	811
	City of Smithville Upstream Corporate Limits [1]	815
First and Second Creeks.	City of Smithville Upstream Limits (300 feet [2])	818
	State Highway 92 [1]	836
	County Road (700 feet [2])	848
Owens Branch	U.S. Highway 169 (950 feet [2])	824
	County Road W (150 feet [2])	918
Williamson Creek	City of Smithville Upstream Corporate Limits [1]	816
	State Highway 92 (800 feet [2])	841
	County Road (200 feet [2])	862
	Upstream Study Limits (200 feet [2])	871
Rocky Branch	Confluence with Williamson Creek (400 feet [2])	848
	Upstream Study Limits (100 feet [2])	865
Cates Branch	Southview Drive (75 feet [2])	756
	Ruth Ewing Road [1]	762
Town Branch	Burlington Northern [2]	733
	County Road: (50 feet [2])	736
	(400 feet [2])	743
Shoal Creek	Burlington Northern (100 feet [2])	732
	Birmingham Road (50 feet [2])	743

[1] At centerline.
[2] Downstream of centerline.
[3] Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI–8388]

[FR Doc. 79–13747 Filed 5–2–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Busti, Chautauqua County, N.Y., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Busti, Chautauqua County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, 124 Chautauqua Avenue, Lakewood, New York. Send comments to: Mr. Dale Robbins, Town Supervisor of Busti, 124 Chautauqua Avenue, Lakewood, New York 14750.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19567, April 3, 1979).

Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Waycross, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Waycross Drainage Canal.	3rd Corporate Limits [1]	88
	Morningside Drive—100 feet [2]	90
	City Boulevard—20 feet [3]	94
	Plant Avenue—30 feet [3]	96
	Ricardo Street—60 feet [3]	99
	Darling Street—20 feet [3]	104
	Screven Avenue—20 feet [3]	113
	Knight Avenue—80 feet [3]	118
	Williams Street—20 feet [3]	121
	Reynolds Street—20 feet [3]	125
	Manon Street—20 feet [3]	127
	Lee Street—20 feet [3]	126
	Seaboard Coastline Railroad—	
	20 feet [3]	129
	20 feet [3]	134
Tributary A	Morningside Drive—	
	80 feet [3]	88
	60 feet [3]	93
	Seminole Trail—20 feet [3]	98
	City Boulevard—	
	85 feet [3]	98
	100 feet [3]	102
	Central Avenue—	
	40 feet [3]	112
	50 feet [3]	117
	Corporate Limits [3]	118
Tributary B	Alice Street—40 feet [3]	103
	Tebeau Street—40 feet [3]	108
	Darling Avenue—20 feet [3]	119
	Riverside Avenue—70 feet [3]	124
Tributary C	Alice Street—20 feet [3]	110
	Tebeau Street [1]	111
Tributary D	Knight Avenue—20 feet [3]	115
	Carswell Avenue—20 feet [3]	117
	Pendleton Street—40 feet [3]	122
	McDonald Street—20 feet [3]	127
	Jane Street—20 feet [3]	131
	Ethel Street—30 feet [3]	132
Tributary F	Bell Street Extension [1]	134
Tributary G	Lewis Avenue—20 feet [3]	134
Tributary A–1	Knight Avenue—125 feet [3]	120
	Knight Avenue—125 feet [3]	130
	Reynolds Street—25 feet [3]	134
	Mosley Street—25 feet [3]	136
County Creek B	Seminole Trail—25 feet [3]	96

[1] At centerline.
[2] Upstream from centerline.
[3] Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI–8394]

[FR Doc. 79–13758 Filed 5–2–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Waycross, Ware County, Ga., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Waycross, Ware County, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Waycross, Georgia. Send comments to: Honorable Don James, Mayor, City of Waycross, City Hall, Waycross, Georgia 31501.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Busti, Chautauqua County, N.Y., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Busti, Chautauqua County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, 124 Chautauqua Avenue, Lakewood, New York. Send comments to: Mr. Dale Robbins, Town Supervisor of Busti, 124 Chautauqua Avenue, Lakewood, New York 14750.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19567, April 3, 1979).

Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Busti, Chautauqua County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cottage Park Creek	Ashville Road (Upstream)	1,310
	Gleason Road (Upstream)	1,329
Goose Creek	Downstream Corporate Limits.	1,312
	State Route 394	1,315
	Upstream Corporate Limits	1,317
Lake Chautauqua	Lomis Road at Corporate Limits.	1,310
	Lakeside Road, 1,000 feet north of intersection with State Route 394.	1,310
	Confluence of Cottage Park Creek.	1,310

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5389]
[FR Doc. 79-13748 Filed 5-2-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of East Greenbush, Rensselaer County, N.Y., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of East Greenbush, Rensselaer County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Assessor, Town Hall Annex, East Greenbush, New York. Send comments to: Mr. Michael Van Voris, Town Supervisor of East Greenbush, Town Hall Annex, Columbia Turnpike, East Greenbush, New York 12061.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of East Greenbush, Rensselaer County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hudson River	Downstream Corporate Limits.	18
	Upstream Corporate Limits	20

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI-5391]
[FR Doc. 79-13750 Filed 5-2-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Orange, New Haven County, Conn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Orange, New Haven County, Connecticut. These base (100-year) flood elevations are the basis for the flood

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Town Engineer, Town Hall, Orange, Connecticut. Send comments to: Hon. Ralph Capecelatro, Mayor of Orange, Town Hall, 617 Orange Center Road, Orange Connecticut 06477.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or toll-free line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Orange, New Haven County, Connecticut in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Housatonic River	Downstream Corporate Limits.	15
	Upstream Corporate Limits	20
Wepawaug River	Downstream Corporate Limits.	67
	Derby Milford Road (Upstream).	73
	Prudden Lane (Upstream)	80
	Grassy Hill Road (Upstream)	83
	Old Grassy Hill Road (Upstream).	91
	Confluence of Race Brook	92
Race Brook	Confluence with Wepawaug River.	92
	Mapledale Avenue (Upstream).	97
	Orange Center Road (Upstream).	106
	Lambert Road (Downstream).	114
Indian River	Downstream Corporate Limits.	40
	Confluence of Silver Brook	40
	Boston Post Road (Downstream).	47
	Boston Post Road (Upstream).	54
	Old Tavern Road (Upstream).	63
	Lambert Road (Upstream)	115
	Arch Culvert (Downstream)	118
	Arch Culvert (Downstream)	134
	Hall Drive (Upstream)	134
	Tyler City Road (Upstream)	142
	State Route 114 (Downstream).	155
Silver Brook	Confluence with Indian River	40
	Lambert Road (Upstream)	56
	Boston Post Road (Upstream).	64
	Old Tavern Road (Upstream).	80
	Race Brook Road (State Route 114) (Upstream).	93
	Smith Farm Road (Upstream)	102
	Unnamed Road (1,850 feet upstream of Smith Farm Road) (Upstream).	119
	Unnamed Road (2,100 feet upstream of Smith Farm Road) (Upstream).	123
	Dam (80 feet upstream of Unnamed Road) (Upstream).	126
	Telephone Easement (Upstream).	166
	New Haven Avenue (Upstream).	170
	Cricket Lane (Upstream)	172
	Kennedy Drive (Upstream)	183
	Russell Avenue (Upstream)	194
	Dam (500 feet upstream of Russell Drive) (Upstream).	200
	Earth Dam (900 feet upstream of Russell Drive) (Upstream).	204
	Dirt Road (2,500 feet downstream of Cumming Drive) (Upstream).	205
	Unnamed Road (250 feet downstream of Cummings Drive) (Upstream).	208
	Cummings Drive (Upstream)	209
	Derby Turnpike (Downstream).	209

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-13741 Filed 5-2-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR PART 1917]

Proposed Flood Elevation Determinations for the Town of Sabattus, Androscoggin County, Maine, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Sabattus, Androscoggin County, Maine.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Main Street, Sabattus, Maine. Send comments to: Mrs. Sturtevant, Chairman of the Board of Selectmen, Town of Sabattus, Town Office, Main Street, Sabattus, Maine 04280.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Sabattus, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly published Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L.

ACTION: Proposed rule.

SUMMARY: Technical information or

Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood

for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be

1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sabattus River	Approximately 4090 feet downstream of Crowley Road at southern corporate limits.	188
	Just upstream of Crowley Road.	201
	Just upstream of Interstate 95.	202
	Just upstream of Old Lisbon Road.	204
	Just upstream of State route 126.	207
	Just downstream of Sabattus River Dam.	209
	Just upstream of Sabattus River Dam.	219
	Just upstream of Main Street.	222
	Approximately 200 feet downstream of Greene Street.	226
	Just downstream of Greene Street.	230
	Just upstream of Greene Street.	237
	Approximately 200 feet upstream of Greene Street.	241
	Just downstream of Sabattus Pond Dam.	243
	Just upstream of Sabattus Pond Dam.	248
Sabattus Pond	Shoreline areas	248
Maxwell Brook	Confluence with Sabattus River.	202
	Just upstream of Interstate 95.	203
	Just upstream of Centre Road.	210
	Just upstream of Furbush Road.	212
	Just upstream of Bowdoin Road.	217

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI-5385]

[FR Doc. 79-13764 Filed 5-2-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Sunderland, Franklin County, Mass.; Under the National Flood Insurance Proram

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Sunderland, Franklin County, Massachusetts.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Main Street, Sunderland, Massachusetts. Send comments to: Mr. Paul Korpita, Chairman, Board of Selectmen, Town of Sunderland, Town Hall, Main Street, Sunderland, Massachusetts 01375.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Sunderland, Massachusetts in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	Downstream Corporate Limits.	128
	Sunderland Bridge (State Highway 116)—10 feet [1]	134
Dry Brook	State Highway 47—50 feet [1]	132
	Russell Street Culvert—25 feet [1]	185
Mohawk Brook	State Highway 47—50 feet [1]	130

[1] Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI-5386]

[FR Doc. 79-13745 Filed 5-2-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Watertown, Middlesex County, Mass., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Watertown, Middlesex County, Massachusetts.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or shows evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Town Clerk, Main Street, Watertown, Massachusetts. Send comments to: Mr. Thomas J. McDermott, Chairman, Board of Selectmen, Town of Watertown, Town Office, Main Street, Watertown, Massachusetts 02172. Attention: Ms. Gretchen Williams.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, (202)–755–5581 or toll free line (800)–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Watertown, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Charles River	At downstream corporate limits.	3
	Just downstream of Watertown Dam.	3
	Just upstream of Watertown Dam.	12
	0.32 miles upstream of Watertown Dam.	14
	0.39 miles downstream of Bridge Street.	16
	Just upstream of Bridge Street.	18
	At Bemis Dam remnants	20
	Upstream corporate limits	22

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI-5387]

[FR Doc. 79-13748 Filed 5-2-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Township of Carroll, Washington County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Carroll, Washington County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, 130 Baird Street, Monongahela, Pennsylvania. Send comments to: Mr. James Koslosky, Chairman of the Township of Carroll, 106 Greenridge Drive, Monongahela, Pennsylvania 15063.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Carroll, Washington County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

these elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongahela River	Downstream Corporate Limits.	795
	Upstream Corporate Limits	799

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sabattus River	Approximately 4090 feet downstream of Crowley Road at southern corporate limits.	188
	Just upstream of Crowley Road.	201
	Just upstream of Interstate 95.	202
	Just upstream of Old Lisbon Road.	204
	Just upstream of State route 126.	207
	Just downstream of Sabattus River Dam.	209
	Just upstream of Sabattus River Dam.	219
	Just upstream of Main Street.	222
	Approximately 200 feet downstream of Greene Street.	226
	Just downstream of Greene Street.	230
	Just upstream of Greene Street.	237
	Approximately 200 feet upstream of Greene Street.	241
	Just downstream of Sabattus Pond Dam.	243
	Just upstream of Sabattus Pond Dam.	248
Sabattus Pond	Shoreline areas	248
Maxwell Brook	Confluence with Sabattus River.	202
	Just upstream of Interstate 95.	203
	Just upstream of Centre Road.	210
	Just upstream of Furbush Road.	212
	Just upstream of Bowdoin Road.	217

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI-5385]

[FR Doc. 79-13764 Filed 5-2-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Sunderland, Franklin County, Mass.; Under the National Flood Insurance Proram

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Sunderland, Franklin County, Massachusetts.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Main Street, Sunderland, Massachusetts. Send comments to: Mr. Paul Korpita, Chairman, Board of Selectmen, Town of Sunderland, Town Hall, Main Street, Sunderland, Massachusetts 01375.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Sunderland, Massachusetts in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban

lights. The high density of boats in this area warrants establishment of a

With the exception of one parcel, the land adjacent to the proposed anchorage

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pigeon Creek	Downstream Corporate Limits.	755
	State Route 481 (Upstream)	756
	Mine Road (Extended)	762
	Mine Dump Access Road (Extended).	769
	Legislative Route 62016 (Crossing No. 1).	787
	Legislative Route 62016 (Crossing No. 2).	798
	Abandoned Railroad Bridge (Upstream).	812
	Legislative Route 62016 (Crossing No. 3).	820

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket FI–6367]

[FR Doc. 79–13756 Filed 5–2–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Village of Celoron, Chautauqua County, N.Y., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Celoron, Chautauqua County, New York.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, Celoron, New York. Send comments to: Honorable Alan Hamilton, Mayor of Celoron, 21 Boulevard, Celoron, New York 14720.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Celoron, Chautauqua County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
School Creek	Jackson Avenue (Upstream)	1,316
	Dunham Avenue (Upstream)	1,332
	5th Street (Upstream)	1,343
Chautauqua Lake	Entire Shore line	1,310

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5360]

[FR Doc. 79–13748 Filed 5–2–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Village of Menands, Albany County, N.Y., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Menands, Albany County, New York.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municpal Building, 250 Broadway, Menands, New York. Send comments to: Honorable Thomas A. Gibbs, Mayor Menands, Municipal Building, 250 Broadway, Menands, New York 12204.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–5581 or toll-free line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Menands, Albany County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hudson River	Downstream Corporate Limits.	22
	Upstream Corporate Limits	24

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79–13751 Filed 5–2–79; 8:45 am]

BILLING CODE 4210–23–M

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hudson River	Downstream Corporate Limits.	22
	Upstream Corporate Limits	24

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79–13752 Filed 5–2–79; 8:45 am]

BILLING CODE 4210–23–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

Special Anchorage Area, Lower Harbor, Marquette, Mich.

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: At the request of the City of Marquette, Michigan, the Coast Guard is proposing to establish a special anchorage area in the lower harbor, Marquette, Michigan. Vessels not more than 65 feet in length, when at anchor in a special anchorage area, are not required to carry or exhibit anchor lights. The high density of boats in this area warrants establishment of a defined anchorage area. This proposal will provide a safe anchorage area for approximately 15 small craft.

DATES: Comments must be received on or before June 19, 1979.

ADDRESSES: Comments should be submitted to and are available for examination at the Office of the Commander, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, Ohio 44199.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander H.E. Snow, Office of Marine Environment and Systems (G–WLE/73), Room 7315, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 22590, (202) 426–1934.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include the writers name and address, identify this notice (CGD 79–018) and give reasons for the comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the Federal Register if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

Drafting Information

The principal persons involved in drafting this proposal are Lieutenant Commander H.E. Snow, Project Manager, Office of Marine Environment and Systems, and Lieutenant J.W. Salter, Project Attorney, Office of the Chief Counsel.

Discussion of Proposed Regulation

At the request of the City of Marquette, the Coast Guard is proposing to establish a special anchorage area in the lower harbor, Marquette, Michigan. Establishment of this special anchorage area will provide a safe anchorage for the increasing number of small craft frequenting this vicinity. The anchorage is well removed from recognized traffic channels to allow safe anchoring of unlighted vessels. In special anchorage areas, vessels not more than 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights. The anchorage will be administered by the City of Marquette and all mooring or anchoring in the area will be under the jurisdiction of the local Harbormaster. With the exception of one parcel, the land adjacent to the proposed anchorage area is owned by the City of Marquette. The owner of the remaining parcel has indicated to the City that he has no objections to establishment of the anchorage.

An Environmental Assessment was completed in January 1979 which determined that there would be no impact on the quality of the human environment.

The Coast Guard has determined in accordance with DOT notice "Improving Government Regulations" (44 FR 11034) that this amendment is not significant. The economic impact of this amendment will be minimal and, accordingly, it does not warrant a full evaluation. The amendment imposes no economic burdens and benefits small vessel owners since they will not have to carry or display anchor lights, while anchored, in the special anchorage.

In consideration of the foregoing it is proposed to amend Part 110 of Title 33, Code of Federal Regulations by adding § 110.80b to read as follows:

§ 110.80b Marquette, Mich.

The area within Marquette Harbor beginning at Latitude 46°32'38"N., Longitude 87°22'46"W.; thence to Latitude 46°32'37"N., Longitude 87°22'54"W.; thence to Latitude 46°32'33"N., Longitude 87°22'54"W.; thence to Latitude 46°32'33"N., Longitude 87°22'46"W.; thence to point of origin.

Note.—An ordinance of the City of Marquette authorizes the Harbormaster to direct the location and length of time any watercraft may anchor in this area.

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(b), 80 Stat. 937; (49 U.S.C. 1655(g)(1)(b)); 49 CFR 1.46(c)(2))

Dated: April 26, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard, Commandant.

[CGD 79–018]

[FR Doc. 79–13682 Filed 5–2–79; 8:45]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 86]

Control of Nitrous Oxides From Motor Vehicles; Receipt of Application for Extension of Emission Standard; Guidelines for Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of Receipt of Application for Delay in Effective Date of 1981 and 1982 Model Year Light-Duty Vehicle

Emission Standard for Nitrous Oxides; Guidelines for Applications.

SUMMARY: Notice is given that the Administrator has received an application for a delay in the effective date of the 1981 and 1982 model year light-duty vehicle emission standard for nitrous oxides (NOx) of 1.0 gram per mile (gpm). The application requests that the 1.0 gpm standard be delayed for any light-duty vehicle manufactured during model years 1981 and 1982 by

2. List the emission-related systems used or expected to be used by the

1975–1982 without acquiring systems or components from other manufacturers.

c. List the emission control systems

scenarios in which the applicant is required to meet the statutory 1981 and 1982 Federal emission standards (1.0

Emission Standard for Nitrous Oxides; Guidelines for Applications.

SUMMARY: The purpose of this notice is to announce the receipt of an application submitted by American Motors Corporation (AMC) for a two year delay in the effective date of the 1981 and later model year light-duty vehicle emission standards for nitrous oxides (NOx). This notice is also intended to announce guidelines concerning the information which should be provided in any other application.

Based upon a preliminary review of its application, AMC appears to qualify for a two year delay under section 202(b)(1)(B) of the Clean Air Act in complying with the statutory 1981 and later model year NOx emission standard. A final decision will be published in the near future in the **Federal Register**, and will be accompanied by a Notice of Final Rulemaking if the Administrator decides that AMC should receive such a delay.

DATES: Interested persons are invited to review and to comment by June 1, 1979, on the guidelines and on AMC's application located in the public docket listed below.

ADDRESSES: Public portions of AMC's application and other pertinent information will be made available for public inspection during normal working hours (8:00 a.m.—4:00 p.m.) Monday through Friday at the U.S. Environmental Protection Agency, Central Docket Section (Docket No. EN–792), Room 2903 B, Waterside Mall, 401 M Street, S.W. Washington, D.C. 20460.

WRITTEN COMMENTS SHOULD BE SENT TO: Central Docket Section, Docket No. EN–792, Room 2903 B, U.S. Environmental Protection Agency (A–130), Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Maureen D. Smith, Attorney-Advisor, Mobile Source Enforcement Division, U.S. Environmental Protection Agency (EN–340), 401 M Street SW., Washington D.C. 20460. (202) 426–9436.

SUPPLEMENTARY INFORMATION:

I. Background

In section 202(b)(1)(B) of the Clean Air Act, as amended, 42 U.S.C. 7521(b)(1)(B) ("Act"), the Administrator is directed to prescribe alternative NOx standards for light-duty vehicles produced by manufacturers meeting certain criteria in lieu of the statutory 1.0 gram per vehicle mile (gpm) standard for 1981 and later model year light-duty vehicles. The NOx standard may not exceed 2.0 gpm for any light-duty vehicle manufactured during model years 1981 and 1982 by any manufacturer meeting the following criteria: (i) the manufacturer's production, by corporate identity, for calendar year 1976 was less than three hundred thousand light-duty vehicles worldwide; (ii) the ability of such manufacturer to meet emissin standards in the 1975 and subsequent model years was, and is, primarily dependent upon technology developed by, and purchased from, other manufacturers; and (iii) such manufacturer lacks the financial resources and technological ability to develop such technology.

The legislative history of this provison indicates that Congress intended to give relief to those companies who must purchase and then adapt sophisticated pollution control systems because they lack the in-house engineering expertise and financial resources necessary to develop their own technology to meet the 1981 and later model year emission standards. *See, e.g.* 123 CONG. REC. 9223, (daily ed. June 8, 1977). The provision would postpone the effective date of the 1.0 gpm NOx standard by extending the applicability of the 1980 model year NOx standard of 2.0 gpm for those manufacturers which qualify for the extension.

II. AMC Application

On October 18, 1978, AMC requested the Administrator to prescribe a NOx standard of 2.0 gpm to be applied to its 1981 and 1982 model year passenger cars. On November 21, 1978, AMC was notified that the information accompanying its request was not sufficient to enable the Administrator to make the determinations required under the Act. AMC also was provided with guidelines for resubmittal of its request. Those guidelines appear below and should be followed by any other manufacturers planning to apply for a similar extension of the 2.0 gpm NOx standard.

On January 19, 1979, AMC submitted information to supplement its request that the Administrator prescribe alternative NOx standards for its 1981 and 1982 model year passenger cars. A preliminary review of this information indicates that AMC qualifies for the requested two year extension on the following bases: (1) the company's 1976 worldwide light-duty vehicle production figures bring it within the small volume criterion; (ii) AMC has documented its reliance upon the purchase of other vehicle manufacturers' technology in order to meet 1975 and later model year emission standards; (iii) AMC has shown that it is unable to develop the technology necessary to meet those standards due to the lack of facilities and personnel to engage in the necessary research and development programs and the probable lack of financial resources required to invest in such technological development. In addition, AMC has indicated that it cannot purchase technology being developed by others to meet the 1981 model year 1.0 gpm NOx standard, adopt it to its own equipment and then test it without two years additional lead time.

A decision on AMC's request will be published in the **Federal Register**, and a 2.0 gpm NOx standard will be prescribed for AMC's 1981 and 1982 model year light-duty vehicles if the final decision is to grant AMC's request.

III. Intent of Guidelines

The guidelines set out below are intended to elicit from any manufacturer seeking an extension under section 202(b)(1)(B) of the Act the information necessary to allow the Administrator to make the statutorily prescribed determinations. The issues which are addressed by the four major sections of the guidelines are:

(i) Whether the applicant is eligible for the extension as a small-volume manufacturer, as established by its 1976 worldwide light-duty vehicle sales figure;

(ii) Whether the applicant's ability to meet 1975 through 1982 model year emission standards was, and is, primarily dependent upon technology developed by, and purchased from, other manufacturers;

(iii) Whether the applicant lacks the technological ability to develop the technology necessary to meet 1975 and later model year emission standards; and

(iv) Whether the applicant lacks the financial resources necessary to develop the technology required to meet 1975 and later model year emission standards.

III. Guidelines for Submittal of Requests for Extension of Federal NOx Emission Standard

1. Provide figures for applicant's worldwide light-duty vehicle production in calendar year 1976.

a. List separately such production figures for affiliated or subsidiary corporations.

b. Indicate whether such numbers are included in applicant's calculation of 1976 worldwide production.

c. Describe the corporate relationship between parent and subsidiary corporations and indicate unit sales made under each organization.

2. List the emission-related systems used or expected to be used by the applicant in model years 1975 through 1982 in order to meet Federal emission standards which were or are expected to be (a) wholly developed by and purchased from other manufacturers, (b) partially developed by and purchased from other manufacturers, and (c) wholly developed by the applicant. List the major emission-related components, in terms used in Part I Federal Certification Applications, in each of the systems enumerated above and indicate (i) which were or will be purchased from other manuacturers; (ii) the manufacturer supplying each listed component; (iii) the extent to which each purchased component was or will be developed further by the applicant or other manufacturers for use in applicant's motor vehicles. Indicate the number of vehicles produced or projected to be produced by model year for (a), (b) and (c) above. The definition of manufacturer found in section 216(l) of the Clean Air Act should be used throughout the guidelines.

3. Provide reasons for applicant's technological inability to develop emission control systems and components necessary to meet 1975–1982 emission standards.

a. List the emission-related systems and major components the applicant would use if required to meet: (i) a 2.0 gpm NOx emission standard in model years 1981 and 1982; (ii) a 1.0 gpm NOx emission standard in model years 1981 and 1982.

Explain applicant's inability to purchase, develop or apply emission-related systems and components developed by other manufacturers or the applicant in order to meet 1981 and 1982 model year Federal emission standards, including such factors as lead time requirements.

b. Indicate why the applicant's research and development programs have not been sufficient since 1975 to develop the emission controls (described in the Part I Federal Certification Applications) necessary to meet the applicable Federal emission standards. List and describe all research and development programs in effect since 1975 directed toward developing emission-related systems and components. Describe the extent to which each program is related to or dependent upon technologies developed by another manufacturer, and the degree of the applicant's success in developing systems and components which are capable of achieving Federal emission standards for any model year between 1975–1982 without acquiring systems or components from other manufacturers.

c. List the emission control systems and components to be installed in each engine family projected to be certified to demonstrate compliance with California's 1980 and later model year emission requirements. Include, by engine family, the number of vehicles projected to be produced for sale in California in model years 1980, 1981 and 1982. Explain fully why the technologies the applicant plans to apply to vehicles to be produced for the 1980 and later model year California market cannot be applied to those vehicles to be produced for sale in all other States in model years 1981 and 1982.

d. Describe all arrangements with other manufacturers to develop emission control systems or components (including purchase agreements) which have been in effect since 1975. Include all joint engine and emission control system development projects.

e. List any corporate mergers or consolidations which have occurred between 1975 and the present, and indicate the extent to which emission-related research and development is shared and/or combined.

f. Indicate the impact which any anticipated mergers or consolidations through 1982 would have on the applicant's access to emission control technology.

4. Demonstrate that applicant lacks the financial resources to develop the technology necessary to meet Federal emission standards applicable in model years 1975 through 1982.

a. Provide the actual costs incurred to purchase and apply the emission control components and systems used to demonstrate compliance with Federal emission standards in each model year 1975 through 1982, the estimated costs to internally develop those components and systems and the bases for the applicant's decision to purchase rather than internally develop those components and systems for each subject model year.

b. Provide each of the following financial statements (from 1975 forecasted through the 1980 model year) under a scenario in which the applicant is required to meet an alternate NOx standard of 2.0 gpm in model years 1981 and 1982.

i. Cash and Earnings Requirements Statement (refer to Appendix A).

ii. Income Statements.

iii. Balance Sheets.

iv. Provide statements of assumptions made in i, ii, and iii above.

c. Provide the financial statements listed in (b) above under the following scenarios in which the applicant is required to meet the statutory 1981 and 1982 Federal emission standards (1.0 gpm NOx). (Include, if applicable, fuel economy penalties and increased cost to consumers. Include in each projection, the cost of applying technology used to meet California's 1980 and later model year emission standards to those engine families to be sold in all States)—

i. If the applicant were to develop and produce all of the emission control components and systems.

ii. If the applicant were to purchase and apply another manufacturer's technology to applicant's vehicles without internally developing any part of the utilized technology.

iii. If the applicant were to rely primarily on purchased technology and develop internally portions of the technology that the applicant would most likely develop if it were required to comply with the NOx standard of 1.0 gpm in 1981 and 1982.

iv. Provide statements of the assumptions made in the financial statements and conclusions on how these financial resources reflect a lack of financial resources necessary to meet the 1981 and 1982 statutory Federal emission standards.

v. Describe the reasons for applicant's financial inability to meet, in each model year 1981 and 1982, and the 1981–1982 Federal emission standards through cash management or other strategies, or through issuing equity or attracting debt.

d. Indicate the impact which any anticipated mergers, consolidations, or cooperative research efforts would have on the applicant's financial capablity to develop or purchase/apply such technology through model year 1982.

5. Since EPA attempts to make all information submitted by an applicant available for public review, an applicant should make every effort to provide only information which can be included in the public record. Information should be claimed to be confidential only where the release of such information would cause the applicant substantial harm and should only be submitted where the failure to submit such information would seriously jeopardize the success of the application. Information for which a claim of confidentiality has been made will be treated according to the following procedures.

In order to claim confidentiality, the applicant must submit the confidential information in a separate package identified by a label such as "trade secrets," "company confidential" or other appropriate label. Failure to assert a confidential claim in this manner will automatically result in the placing of the

information in the public record without further notice. Appropriately labeled

622, Title II, Part D and Pub. L. 95–623, Section 11(d). These amendements were

and reply comments are now due April 30 and May 30, 1979, respectively.

Administration, Washington, D.C. 20590, (202–755–4962).

in §§ 178.120–2(a), 178.120–2(f), 178.121–2(a) and 178.121–2(g), (3) revise the definition of "Hazardous material" in

§ 173.245b(a)(6) to read 95 pounds, (11) add DOT Specifications MC 330 and MC 331 to § 173.247(a)(12), (12) revise

information in the public record without further notice. Appropriately labeled information will be subject to an EPA determination under 40 CFR 2, Subpart B of whether the information is entitled to confidential treatment for reasons of business confidentiality.

Appendix A—

Future Cash and Earnings Requirements*

Cash Requirements

Capital Expenditures:
Normal Replacement
Environmental (total company)
Emission Control Technology**
Repayment of debt:
Present debt
Debt incurred—Emission Control Technology**
Working Capital and Other
Dividends
Interest and Operating Costs—Emission Control
Technology**
Total Requirements

Sources of Cash (Other than Income)

Borrowings (to finance Emission Control Technology**)
Sale of Stock
Sale of Plant and Equipment
Depreciation

Estimated Income Tax Payments

Required minimum pre-tax income

Dated April 27, 1979.

Douglas M. Costle,
Administrator
[FRL 1235-3]
[FR Doc. 79-13851 Filed 5-2-79; 8:45 am]
[BILLING CODE 6560-01-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 66]

National Research Service Awards Program

AGENCY: PHS, National Institutes of Health.

ACTION: Notice of Decision to Amend Regulations.

SUMMARY: Regulations are to be drafted for the program of National Research Service Awards to incorporate the amendments mandated by Pub. L. 95-622, Title II, Part D and Pub. L. 95-623, Section 11(d). These amendements were enacted on November 9, 1978. The amendments (1) expand the scope of the program, (2) withdraw certain review requirements, (3) revise the limitation on support, and (4) modify service, payback and recovery requirements.

FOR FURTHER INFORMATION CONTACT: William Raub, Ph. D., Associate Director of Extramural Research and Training, National Institutes of Health, Bethesda, Maryland 20014, (301) 496-1096.

Dated: March 23, 1979.

Julius B. Richmond,
Assistant Secretary for Health.
[FR Doc. 79-13830 Filed 5-2-79; 8:45 am]
BILLING CODE 4110-08-M

* If the statement submitted varies in any material respect from the format shown here, identify and describe those variations.

** That technology necessary to meet Federal 1981 and 1982 model year emission standards applicable to light-duty vehicles.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 94]

Providing Regulations for Use of Radio in Public Utility Distribution Automation Systems; Order Extending Time for Filing Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time for filing comments.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in this proceeding. Petitioner, The Utilities Telecommunications Council (UTC), states that the additional time is needed to complete the studies and surveys it now has underway and to enable them to prepare a responsible and comprehensive response.

DATES: Comments must be filed on or before May 30, 1979, and reply comments must be filed on or before June 30, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau (202) 632-6497.

Adopted: April 24, 1979.

Released: April 25, 1979.

By the Chief, Private Radio Bureau.

In the matter of amendment of Part 94 of the rules to provide regulations for use of radio in public utility distribution automation systems.

1. The Utilities Telecommunications Council (UTC) has requested an extension of time until May 30, 1979, within which to file comments in the above-entitled matter. It also requested that the date for filing reply comments be extended to June 30, 1979. Comments and reply comments are now due April 30 and May 30, 1979, respectively.

2. In support of its request, the petitioner argues that the Commission's request for additional data on a number of technical and operating items required detailed studies and surveys. An extension of time is needed to complete the studies and surveys it now has underway and to enable them to prepare a responsible and comprehensive response.

3. It appears that good cause has been shown and that the public interest would be served by granting the additional period asked in order to afford the petitioner and other interested parties a full opportunity for the preparation and presentation of their views in this proceeding.

4. Accordingly, it is ordered, pursuant to Section 0.331 and 1.46 of the Commission's Rules, that the time for filing comments in the above-captioned proceeding is extended from April 30, 1979, to May 30, 1979, and for filing reply comments from May 30, 1979, to June 30, 1979.

Carlos V. Roberts,
Chief, Private Radio Bureau.
[SS Docket No. 79-18; RM-2824; RM-1833; RM-1869; RM-2045]
[FR Doc. 79-13778 Filed 5-2-79; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 171, 172, 173, 176, 178]

Proposed Miscellaneous Amendments

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau (MTB) is proposing to make several miscellaneous amendments to the regulations pertaining to the shipment of hazardous materials. This action is necessary to update the regulations and to reduce MTB's backlog of rulemaking petitions.

DATE: Comments must be received on or before June 15, 1979.

ADDRESS: Address comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Five copies are requested.

FOR FURTHER INFORMATION: Darrell L. Raines, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Washington, D.C. 20590, (202-755-4962).

SUPPLEMENTARY INFORMATION: This document is the second of a series of notices and amendments to incorporate changes in the hazardous materials regulations based on either petitions for rulemaking submitted in accordance with 49 CFR 106.31 or on MTB's own initiative. On November 30, 1978, MTB published the first notice of proposed rulemaking under Docket HM-166; Notice 78-11 (43 FR 56070). In view of the number of notices and amendments anticipated under Docket HM-166, starting with this issue, and all subsequent issues, a suffix letter will follow HM-166 (i.e., A, B, C, etc.) for specific identification purposes. The proposals to be considered in this notice of proposed rulemaking are thought to be non-controversial and are based upon either: (1) a petition for rulemaking with data and analysis supplied by the petitioner, or (2) on MTB's own initiative to clarify, simplify, update, or eliminate selected regulations.

In summary, these proposed amendments would (1) add a reference to the United States Department of Energy (USDOE) in § 171.7(c), (2) update § 171.7(d)(16)(i) to include Revision 1 and supplement for USDC, USDOE Material and Equipment Specification No. SP-9, and to include this reference in §§ 178.120-2(a), 178.120-2(f), 178.121-2(a) and 178.121-2(g), (3) revise the definition of "Hazardous material" in § 171.8 to read the same as the definition in the "Hazardous Materials Transportation Act," (4) correct the telephone number in § 171.15(b) for reporting hazardous materials incidents, (5) remove diisopropylethanolamine from § 172.101, (6) delete the entry "Empty cartridge case, primed" in § 172.101 and § 173.107(h), revise the description "empty cartridge cases primed," and "empty grenades primed" in § 173.107(h) to read "cartridge cases, empty, primed," and "grenade, empty, primed," respectively, delete the label requirement in column (4) of § 172.101 for all of the commodities named in § 173.107(h), (7) add paragraph (2) to § 173.7(a) to authorize any shipper to reship packagings which were originally shipped by the Department of Defense, (8) add paragraph (c) to § 173.7 to authorize the Bureau of Alcohol, Tobacco and Firearms to ship small samples of explosive materials in a specially designed container, (9) authorize in § 173.135(a)(9) the use of higher integrity cargo tanks for the shipment of diethly dichlorosilane, dimethly dichlorosilane, ethly dichlorosilane, ethly trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, and vinyl trichlorosilane, (10) correct the authorized net weight in § 173.245b(a)(6) to read 95 pounds, (11) add DOT Specifications MC 330 and MC 331 to § 173.247(a)(12), (12) revise § 173.1080(a) to authorize shipment of sulfur in sift-proof or lined freight containers, (13) revise §§ 176.30(a), 176.39(a), 176.39(a)(2), and 176.39(c) by clarifying that the preparation and accuracy of the dangerous cargo manifest is binding upon the ship's agents, vessel owners, operators, or any other person designated for this purpose by the carrier, (14) delete the authorization in § 178.59-21 in its entirety for the use of 4130X steel which waives the prescribed limitations of carbon content, yield point, and elongation, and (15) reinstate the requirement in § 178.83-11 that DOT Specification 5C barrels or drums used for nitric acid service must be embossed or stamped with the tare weight in pounds.

Primary drafters of this document are Darrell L. Raines, Office of Hazardous Materials Regulation, Exemptions and Regulations Termination Branch, and Evan C. Braude of the Office of the Chief Counsel, Research and Special Programs Administration.

Since this is a miscellaneous notice, it is not practical to group these proposed changes by subject area as stated in the preamble of the first HM-166 notice. Instead, a format similar to the one used for Docket No. HM-139 is being used.

Proposed Amendments of Hazardous Materials Regulations

Regulation Affected	Reason(s) for proposed change	Proposed amendment
§ 171.7(c)(16), § 171.7(d)(16)(i)	To change the reference USAEC: U.S. Atomic Energy Commission in § 171.7(c)(16) and § 171.7(d)(16)(i) to read USDOE: United States Department of Energy.	To revise § 171.7(c)(16) and § 171.7(d)(16)(i) to read: (c) * * * (16) USDOE: United States Department of Energy, Washington, D.C. 20545. Regulations of the USDOE are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Other publications by the USDOE may be obtained from the National Technical Information Center, U.S. Department of Commerce, Springfield, Virginia, 22151. (d) * * * (16) * * * (i) USDC, USDOE Material and Equipment Specification No. SP-9, Rev. 1, and Supplement, entitled "Fire Resistant Phenolic Foam."
§ 171.8	To revise the definition of "Hazardous Materials" to read as defined in the Hazardous Materials Transportation Act.	To revise the definition of "Hazardous material" in § 171.8 to read: "Hazardous material" means a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce.
§ 171.15(b)	To change the telephone number used by carriers for reporting hazardous materials incidents in order that toll free calls may be made.	To revise the first sentence in paragraph 171.15(b) to read: (b) Each notice required by paragraph (a) of this section shall be given the Department by telephone (toll-free) on 800-424-8802. * * *
§ 172.101	Recent information submitted by the Pennwalt Corp., indicates that diisopropylethanolamine is non-corrosive to tissue under the DOT definition.	To delete Diisopropylethanolamine from the Hazardous Materials Table in § 172.101.

Proposed Amendments of Hazardous Materials Regulations—Continued

Proposed Amendments of Hazardous Materials Regulations—Continued

Proposed Amendments of Hazardous Materials Regulations—Continued

Regulation Affected	Reason(s) for proposed change	Proposed amendment
§ 172.101 (Column (4), § 173.107(f))	Column (4) of § 172.101 requires Explosives C label for the following commodities: Cannon primers. Cartridge cases, empty, primed. Combination primer. Empty cartridge case, primed. Grenade, empty, primed. Percussion cap. Small arms primer. Paragraph (f) of § 173.107 states that no restrictions other than proper shipping name, packing and marking are prescribed in this part for the above commodities. Also, the entry Empty cartridge case, primed would be deleted in favor of Cartridge case, empty, primed.	To revise the Table in § 172.101 by deleting the entry for Empty cartridge case, primed and by deleting the requirement for the Explosive C label in Column (4) for the following entries: Cannon primers. Cartridge cases, empty, primed. Combination primer. Grenade, empty, primed. Percussion cap. Small arms primer.
§ 173.7(a)	To authorize non-DOD shippers to reship those packagings which were originally shipped by DOD under the provisions of paragraph (a) above.	To add paragraph (2) to § 173.7(a) to read: (2) Hazardous materials shipped by DOD under the provisions of paragraph (a) above may be reshipped by any shipper to any consignee provided the original packaging has not been damaged, opened, or altered in any manner.
§ 173.7	To authorize the Bureau of Alcohol, Tobacco and Firearms to ship not more than one gram samples of explosive materials to laboratories for analysis in support of criminal cases.	To add paragraph (c) to § 173.7 to read: (c) Shipments of explosive samples, not exceeding one gram net weight, offered by and consigned to the Bureau of Alcohol, Tobacco and Firearms (ATF) of the Department of the Treasury are not otherwise subject to the regulations in Parts 100–189 of this subchapter when placed in a specifically designed multi-unit assembly packed in a strong outside packaging. The packaging must be of a type accepted by ATF as capable of precluding a propagation of any explosive outside the packaging. The second component from the outside of the packaging must be marked or tagged to indicate the presence of an explosive.
§ 173.135(a)(9), § 173.247(a)(12)	To provide for the use of certain packagings that are equal to or greater in strength and efficiency than those already authorized.	To revise § 173.135(a)(9) and § 173.247(a)(12) to read: (9) Specification MC 300, MC 303, MC 304, MC 306, MC 307, MC 330 or MC 331 (§§ 178.340, 178.341, 178.342, and 178.337 of this subchapter). Tank motor vehicles having cargo tanks of steel or stainless steel construction. Tank bottom outlets must be equipped with valves conforming with § 178.342–5(a). (12) Specification MC 310, MC 311, MC 312, MC 330 or MC 331 (§§ 178.343, 178.337 of this subchapter. Tank motor vehicles.
§ 173.245(a)(6)	To correct the authorized net weight from 80 pounds to 95 pounds. The higher weight was added by HM–119 on July 14, 1977, and erroneously changed back to 80 pounds by HM–139 on August 22, 1977.	To revise § 173.245b(a)(6) to read: (6) Plastic drum or pail not exceeding 95 pounds net weight and not over 7-gallon capacity.
§ 173.1080(a)	To authorize the shipment of crude dry sulfur in sift-proof or lined freight containers. These containers should provide a level of safety equivalent to a tight rail car which is presently authorized in § 173.1080(a)(5).	To revise paragraph (5) and (6) of § 173.1080(a) and add paragraph (7) to read: (5) Sift-proof paper-lined burlap bag; (6) Tight rail car; or (7)Sift-proof or lined freight container.
§ 176.30(a), § 176.30(c), § 176.39(a), § 176.39(a)(2), § 176.39(c)	To clarify that the preparation and accuracy of the dangerous cargo manifest is binding upon the ships agents, vessel owners, operators, or any other person delegated for this purpose by the carrier.	To revise the first sentence of paragraph (a) of §§ 176.30, 176.30(c), 176.39(a), 176.39(a)(2), and 176.39(c) to read: § 176.30 Dangerous cargo manifest. (a) The carrier and its agents and any person designated for this purpose by the carrier or agents shall prepare a dangerous cargo manifest, list, or stowage plan. * * *. (c) The carrier and its agents shall ensure that the master, or a licensed deck officer designated by the master and attached to the vessel, or in the case of a barge, the person in charge of the barge, acknowledges the correctness of the dangerous cargo manifest, list or stowage plan by his signature. * * *. § 176.39 Inspection of cargo. (a) *Manned vessels.* (1) The carrier, its agents, and any person designated for this purpose by the carrier or agents shall cause an inspection of each hold or compartment containing hazardous materials to be made after stowage is complete, and at least once every 24 hours thereafter, weather permitting, in order to ensure that the cargo is in a safe condition and that no damage caused by shifting, spontaneous heating, leaking; sifting, wetting, or other cause has been sustained by the vessel or its cargo since loading and stowage. * * *. (2) The carrier, its agents, and any person designated for this purpose by the carrier or agents shall cause an entry to be made in the vessel's deck log book for each inspection of the stowage of hazardous materials performed. (c) The carrier, its agents, and any person designated for this purpose by the carrier or agents of each ocean-going vessel carrying hazardous materials shall, immediately prior to entering a port in the United States, cause an inspection of that cargo to be made.
§ 178.83–11	To reinstate a requirement that Specification 5C barrels or drums used for nitric acid service must be embossed or stamped with the tare weight in pounds. This requirement was inadvertently deleted by ICC Order 86, effective July 7, 1965.	To add paragraph (4) to § 178.83–11(a) to read: (4) By embossing or stamping, tare weight in pounds (for example, TW121).

Proposed Amendments of Hazardous Materials Regulations—Continued

Regulation Affected	Reason(s) for proposed change	Proposed amendment
§ 178.120–2(a), § 178.120–2(f), § 178.121–2(a), § 178.121–2(g)	The references to Material and Equipment Specification No. SP–9 would be amended to add Rev. 1, and Supplement. In addition, § 178.120.2 (e) and (f) and § 178.121–2 (a) and (g) would be amended. The USDOE advises that many of the ingredients specified for use by SP–9, Rev. 1, are no longer available, or are difficult to obtain due to specified vender grade or mesh size.	In § 178.120–2, paragraphs (a) and (f) would be revised to read: (a) Phenolic foam insulation must be fire-resistant and fabricated in accordance with USDOE Material and Equipment Specification SP–9, Rev. 1, and Supplement, which is a part of this specification. (Note: Packagings manufactured under USAEC Specification SP–9 and Rev. 1 thereto are authorized for continued manufacture and use.) A 13.7 centimeter (5.4 inch) minimum thickness of foam must be provided over the entire liner except: (f) *Waterproofing.*—Each screw hole in the outer shell must be sealed with appropriate resin-type sealing material, or equivalent, during installation of the screw. All exposed foam surfaces, including any vent hole, must be sealed with waterproofing material as prescribed in USDOE Material and Equipment Specification SP–9, Rev. 1 and Supplement, or equivalent. In § 178.121–2, paragraphs (a) and (g) would be amended to read: (a) Phenolic foam insulation must be fire resistant and fabricated in accordance with USDOE Material and Equipment Specification SP–9, Rev. 1 and Supplement, which is a part of this specification. (Note: Packagings manufactured under USAEC Specification SP–9, and Rev. 1 thereto are authorized for continued manufacture and use.) A 14 centimeter (5.5 inch) minimum thickness of foam must be provided over the entire liner except where: (g) *Waterproofing.*—Each screw hole in the outer shell must be sealed with appropriate resin-type sealing material, or equivalent, during installation of the screw. All exposed foam surfaces, including any vent hole, must be sealed with waterproofing material as prescribed in USDOE Material and Equipment Specification SP–9, Rev. 1 and Supplement, or equivalent.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and paragraph (a) of App. A to Part 106.)

NOTE.—The Materials Transportation Bureau has determined that this document will not have a major impact under Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on April 26, 1979.

Alan I. Roberts,
Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[Docket No. HM–166A; Notice No. 79–8]
[FR Doc. 79–13468 Filed 5–3–79; 8:45 am]
BILLING CODE 4910–60–M

NATIONAL TRANSPORTATION SAFETY BOARD

[49 CFR Part 830]

Proposed Limitation of Accident Reporting Requirements

AGENCY: National Transportation Safety Board.

ACTION: Proposed rule.

SUMMARY: This notice proposes to revise the Board's existing requirements for providing notice of and reporting aircraft accidents and incidents and certain other occurrences in the operation of aircraft, when they involve civil aircraft of the United States, by limiting the types of occurrences that require notice and reporting; to provide a definition of the term "incident" and to redefine the term "fatal injury" in a manner consistent with that now used by the International Civil Aviation Organization (ICAO); to add four types of incidents for which notification of the Board is required; and to make minor changes in the interest of clarity.

DATE: Comments must be received on or before July 2, 1979.

ADDRESS: Written comments may be submitted to the General Counsel, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

FOR FURTHER INFORMATION CONTACT: Fritz L. Puls, General Counsel, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594. 202–472–6034.

SUPPLEMENTARY INFORMATION: Part 830 of the rules of the National Transportation Safety Board contains the requirements pertaining to the initial notification and reporting of civil aircraft accidents, incidents, and overdue aircraft. Under the existing rules, reportable accidents include all accidents involving a civil aircraft of U.S. registry "wherever they occur." The Board now concludes that it is no longer necessary for the Board to receive notification or reports of accidents which occur in foreign states. Under the Chicago Convention, the state of occurrence is responsible for investigating accidents in its territory, and nearly all states require a pilot/operator report. The existing requirement that a report be filed with the Board is therefore duplicative and is no longer deemed necessary. It is therefore proposed to limit the Board's reporting requirements to accidents involving any civil aircraft which occur in the United States, its territories and possessions, and accidents involving civil aircraft of U.S. registry which occur at a location determined to be not in the territory of another state (i.e., high seas).

Two changes are proposed in the definitions set forth in § 830.2. The first involves the term "fatal injury." As proposed, the definition would include an injury which results in death within 30 days of the accident, rather than 7 days, as previously reflected in the definition. The change is prompted by an identical change being made in this definition in Annex 13 to the Chicago Convention.

The second change is the addition of a definition of the term "incident." The Annex 13 definition is proposed, i.e., "incident means an occurrence other than an accident, associated with the

operation of an aircraft, which affects or could affect the safety of operations."

PART 830—NOTIFICATION AND REPORTING OF AIRCRAFT

"Operator" means any person who causes or authorizes the operation of an

(9) Near midair or ground collisions if evasive action was taken by one or both

(2) To protect the wreckage from further damage; or

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric

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operation of an aircraft, which affects or could affect the safety of operations."

It is further proposed to add five additional types of incidents for which the Board must receive notifications. These involve failure of turbine engines, and electrical and hydraulic systems; decompressions resulting in emergency descent; loss of two-thirds or more of available power; near midair or ground collisions; and occurrences involving large turbine engine aircraft which result in the emergency evacuation of such aircraft. These incidents, like the others presently set forth in § 830.5 may or may not be investigated by the Board and reports need only be filed if requested by the Board. Also, the listing of incidents in which notification is required does not mean the Board will not investigate other types of incidents, if deemed necessary.

Concerning notification and reporting of incidents, the Board, in its review of this subject, has given attention to a request made to the Board to undertake a comprehensive and active incident-reporting system. This submission was in the form of a request for rulemaking and has been considered while reviewing Part 830. The Board believes that a single, comprehensive incident-reporting system could provide a helpful basis for accident prevention. However, the Board at this time has neither the funds nor the manpower to assume such a responsibility. Further, there already exists a variety of programs to obtain incident information, and an expanded Board program would be duplicative. At present, the Federal Aviation Administrative (FAA) has several programs. Malfunctions or defect reports are received by the FAA on over 5,000 incidents annually. Air carriers file reports with the FAA in the form of Service Difficulty Reports. FAA inspectors file incident reports.

In addition, the FAA has the Aviation Safety Reporting System, utilizing the National Aeronautics and Space Administration for processing reports filed by pilots, mechanics, controllers and others. Such reports are handled in a manner to assure anonymity.

In view of the existing systems available and the absence of funds to expand its efforts, the Safety Board does not intend to undertake any new incident-reporting system. The proposed minor expansion of incidents requiring notification is the maximum the Board can pursue at this time. However, the Board is continuning to review aviation safety data needs in cooperation with the FAA.

Accordingly, the Board proposes to amend Part 830 to read as follows:

PART 830—NOTIFICATION AND REPORTING OF AIRCRAFT ACCIDENTS OR INCIDENTS AND OVERDUE AIRCRAFT, AND PRESERVATION OF AIRCRAFT WRECKAGE, MAIL, CARGO, AND RECORDS

Subpart A—General

Sec.
830.1 Applicability.
830.2 Definitions.

Subpart B—Initial Notification of Aircraft Accidents, Incidents, and Overdue Aircraft

830.5 Immediate notification.
830.6 Information to be given in notification.

Subpart C—Preservation of Aircraft Wreckage, Mail, Cargo, and Records

830.10 Preservation of aircraft wreckage, mail, cargo, and records.

Subpart D—Reporting of Aircraft Accidents, Incidents, and Overdue Aircraft

830.15 Reports and statement to be filed.

Authority: Title VII, Federal Aviation Act of 1958, as amended, 72 Stat. 781, as amended by 76 Stat. 921 (49 U.S.C. 1441 et seq.), and the Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.).

Subpart A—General

§ 830.1 Applicability.

This part contains rules pertaining to:

(a) Reporting, aircraft accidents and incidents and certain other occurrences in the operation of aircraft when they involve civil aircraft of the United States and occur in the United States, its territories or possessions or at a location determined to be not in the territory of another state (i.e., high seas) and foreign civil aircraft when such events occur in the United States, its territories or possessions.

(b) Preservation of aircraft wreckage, mail, cargo, and records.

§ 830.2 Definitions.

As used in this part the following words or phrases are defined as follows:

"Aircraft accident" means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight and all such persons have disembarked, and in which any person suffers death or serious injury, or in which the aircraft receives substantial damage.

"Fatal injury" means any injury which results in death within 30 days of the accident.

"Incident" means an occurrence other than an accident, associated with the operation of an aircraft, which affects or could affect the safety of operations.

"Operator" means any person who causes or authorizes the operation of an aircraft, such as the owner, lessee, or bailee of an aircraft.

"Serious injury" means any injury which (1) requires hospitalization for more than 48 hours, commencing within 7 days from the date the injury was received; (2) results in a fracture of any bone (except simple fractures of fingers, toes, or nose); (3) causes severe hemorrhages, nerve, muscle, or tendon damage; (4) involves any internal organ; or (5) involves second- or third-degree burns, or any burns affecting more than 5 percent of the body surface.

"Substantial damage" means damage or failure which adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component. Engine failure, damage limited to an engine, bent fairings or cowling, dented skin, small punctured holes in the skin or fabric, ground damage to rotor or propeller blades, damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered "substantial damage" for the purpose of this part.

Subpart B—Initial Notification of Aircraft Accidents, Incidents, and Overdue Aircraft

§ 830.5 Immediate notification.

The operator of an aircraft shall immediately, and by the most expeditious means available, notify the nearest National Transportation Safety Board (Board), field office[1] when:

(a) An aircraft accident or any of the following listed incidents occur:

(1) Flight control system malfunction or failure;

(2) Inability of any required flight crewmember to perform normal flight duties as a result of injury or illness;

(3) Failure of structural components of a turbine engine excluding compressor and turbine blades and vanes;

(4) In-flight fire;

(5) Aircraft collide in flight;

(6) Complete failures of aircraft electrical or hydraulic systems;

(7) Decompression resulting in emergency descent;

(8) Any occurrences which cause the loss of two-thirds or more of the total available power (thrust); or

[1] The National Transportation Safety Board field offices are listed under U.S. Government in the telephone directories in the following cities: Anchorage, Alaska; Chicago, Ill.; Denver, Colo.; Fort Worth, Tex.; Kansas City, Mo.; Los Angeles, Calif.; Miami, Fla.; New York, N.Y.; Seattle, Wash.; Washington, D.C.

(9) Near midair or ground collisions if evasive action was taken by one or both aircraft.

(10) Any occurrence involving a large turbine engine aircraft which results in the emergency evacuation of such aircraft.

(b) An aircraft is overdue and is believed to have been involved in an accident.

§ 830.6 Information to be given in notification.

The notification required in § 830.5 shall contain the following information, if available:

(a) Type, nationality, and registraion marks of the aircraft;

(b) Name of owner, and operator of the aircraft;

(c) Name of the pilot-in-command;

(d) Date and time of the accident;

(e) Last point of departure and point of intended landing of the aircraft;

(f) Position of the aircraft with reference to some easily defined geographical point;

(g) Number of persons aboard, number killed, and number seriously injured;

(h) Nature of the accident, the weather and the extent of damage to the aircraft, so far as is known; and

(i) A description of any explosives, radioactive materials, or other dangerous articles carried.

Subpart C—Preservation of Aircraft Wreckage, Mail, Cargo, and Record

§ 830.10 Preservation of aircraft wreckage, mail, cargo, and records.

(a) The operator of an aircraft involved in an accident or incident for which notification must be given is responsible for preserving to the extent possible any aircraft wreckage, cargo, and mail aboard the aircraft, and all records, including all recording mediums of flight maintenance, and voice recorders, pertaining to the operation and maintenance of the aircraft and to the airmen until the Board takes custody thereof or a release is granted pursuant to § 831.10(b).

(b) Prior to the time the Board or its authorized representative takes custody of aircraft wreckage, mail, or cargo, such wreckage, mail, or cargo may not be disturbed or moved except to the extent necessary:

(1) To remove persons injured or trapped;

(2) To protect the wreckage from further damage; or

(3) To protect the public from injury.

(c) Where it is necessary to move aircraft wreckage, mail or cargo, sketches, descriptive notes, and photographs shall be made, if possible, of the original position and condition of the wreckage and any significant impact marks.

(d) The operator of an aircraft involved in an accident or incident shall retain all records, reports, internal documents, and memoranda dealing with the accident or incident, until authorized by the Board to the contrary.

Subpart D—Reporting of Aircraft Accidents, Incidents, and Overdue Aircraft

§ 830.15 Reports and statements to be filed.

(a) *Reports.* The operator of an aircraft shall file a report on Board Form 6120.1 or Board Form 6120.2 [2] within 10 days after an accident, or after 7 days if an overdue aircraft is still missing. A report on an incident for which notification is required by § 830.5(a) shall be filed only as requested by an authorized representative of the Board.

(b) *Crewmember statement.* Each crewmember, if physically able at the time the report is submitted, shall attach a statement setting forth the facts, conditions, and circumstances relating to the accident or incident as they appear to him. If the crewmember is incapacitated, he shall submit the statement as soon as he is physically able.

(c) *Where to file the reports.* The operator of an aircraft shall file any report with the field office of the Board nearest the accident or incident.

Note: The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Report Act of 1942.

Approved by the National Transportation Safety Board on April 20, 1979.

Elwood T. Driver,
Vice-Chairman.
[FR Doc. 79-13793 Filed 5-3-79; 8:45 am]
BILLING CODE 4910-58-M

[2] Forms are obtainable from the Board field offices (see footnote 1), the National Transportation Safety Board, Washington, D.C. 20594, and the Federal Aviation Administration, Flight Standards District Office.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Chapter VI]

Gulf of Mexico Fishery Management Council; Change of Address for Public Hearing

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of a change in the address of a public hearing on a draft environmental impact statement/draft fishery management plan for the reef fish fishery of the Gulf of Mexico.

SUMMARY: The Gulf of Mexico Fishery Management Council announced a series of Public Hearings on its proposed fishery management plan for the reef fish fishery of the Gulf of Mexico in (44 FR 21681). The hearing site originally scheduled as: Council Chamber of the City Hall, 1300 Berdich Street, New Orleans, Louisiana, has been changed to the Chamber of Commerce Auditorium, 301 Camp Street, New Orleans, Louisiana.

DATES: The schedule date, May 8, 1979, and time, 7:00 p.m. to 10:00 p.m., remain unchanged.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne E. Swingle, Gulf of Mexico Fishery Mangement Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

Dated: April 27, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.
[FR Doc. 79-13778 Filed 5-3-79; 8:45 am]
BILLING CODE 3510-22-M

[50 CFR Part 602]

Interim Guidelines for Development of Fishery Management Plans; Extension of Comment Period

AGENCY: National Oceanic and Atmospheric Administration/National Marine Fisheries Service.

ACTION: Extension of Comment Period.

SUMMARY: The National Marine Fisheries Service (NMFS) is extending the period for comments on "Interim Guidelines for Development of Fishery Management Plans" and on several associated items in an advance notice of

proposed rulemaking (44 FR 7708, Feb. 7, 1979) from May 9, 1979, to June 4, 1979.

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proposed rulemaking (44 FR 7708, Feb. 7, 1979) from May 9, 1979, to June 4, 1979.

DATES: Written comments on the interim regulations and the subjects identified in the advance notice of proposed rulemaking must be received on or before June 4, 1979.

ADDRESSES: Comments should be submitted in writing to: Assistant Administrator for Fisheries, National Marine Fisheries Service (F37), Washington, D.C. 20235. Please mark "Joint Venture" on the envelope.

FOR FURTHER INFORMATION CONTACT: Mr. Alfred J. Bilik, Program Support Specialist, National Marine Fisheries Service, Washington, D.C. 20235, (202) 634–7436.

SUPPLEMENTARY INFORMATION: On February 7, 1979, interim final regulations were published at 44 FR 7708, to implement Pub. L. 95–354, the so-called "joint venture" amendment of the Fishery Conservation and Management Act of 1976. The interim regulations were effective on publication and amended 50 CFR Part 602, "Guidelines for the Development of Fishery Management Plans." At the same time, NMFS sought to obtain comments on the regulations for the purpose of developing final regulations, and on the advance notice of proposed rulemaking. A public hearing was held on March 13 and written comments also were sought until April 9. As the result of a request for a 30-day extension of the comment period, NMFS extended the period to May 9, (44 FR 20441) on April 5.

NMFS now has received a written request from the North Pacific Fishery Management Council for an additional extension of the deadline for written comments. The Council has established an ad hoc working group to develop methods for closely estimating domestic allowable harvest and utilization of the U.S. harvest by domestic processors. The working group will address many of the issues listed in the advance notice of proposed rulemaking, NMFS believes the methods developed by this working group should be considered when final regulations are developed. Therefore, an additional extension for written comments to June 4, 1979, is being granted to provide the Council and other reviewers more time to develop their recommendations.

Authority: 16 U.S.C. 1801 et seq.

Signed at Washington, D.C., this the 26th day of April, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-13777 Filed 5-2-79; 8:45 am]

BILLING CODE 3510-22-M

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF INTERIOR

Advisory Council On Historic Preservation

Public Information Meeting

Notice is hereby given pursuant to Section 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on May 31, 1979, at 7:30 p.m., a public information meeting will be held at the Jacksonville Elementary School, 525 East Street, Jacksonville, Oregon. The meeting is being called by the Executive Director of the Council in accordance with Section 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed improvements to the Jacksonville sewage system, an undertaking assisted by the Environmental Protection Agency that will adversely affect Jacksonville Historic District, National Historic Landmark, a property included in the National Resister of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the property by the Environmental Protection Agency.

III. A statement by the Oregon State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Time limits for speakers' statements will be established on the basis of time available and number of speakers. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, P.O. Box 25085, Denver, Colorado 80225, (303) 234–4946.

Robert M. Utley,
Deputy Executive Director.

[FR Doc. 79-13676 Filed 5-3-79; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes National Forest; Finding of No Significant Impact of Noxious Weed Control Project

An Environmental Assessment that discusses direct application of herbicides on .129 acres for noxious weed control on the Deschutes National Forest, is available for public review in the Forest Service office in Bend, Oregon.

This project involves the use of the herbicides 2, 4-D, Kovar I, and Roundup on the Deschutes National Forest. The Environmental Assessment does not indicate that this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: [a] no irreversible resource commitments and irretrievable loss of production on the lands treated; [b] no apparent adverse cumulative or secondary effects; [c] physical and biological effects limited to the area of planned teatment; [d] no known threatened or endangered plants or animals within the affected area; and [e] the herbicides planned for use were approved for use in the 1978 Pacific Northwest Region, Forest Service Final Environmental Statement for vegetation Management with Herbicides.

Some public concern can be expected on the use of herbicides. The proposed plan of application includes measures designed to protect water quality. State and Federal water quality standards will be met.

No action will be taken prior to June 4, 1979.

The responsible official is Earl E. Nichols, Forest Supervisor, Deschutes National Forest, 211 N.E. Revere, Bend, Oregon 97701.

Dated: April 11, 1979.

Earl E. Nichols,
Forest Supervisor.

[FR Doc. 79-13681 Filed 5-3-79; 8:45 am]

BILLING CODE 3410-11-M

Finding of No Significant Impact of Control of Vegetation on Oregon State Maintained Highways Crossing the Umatilla National Forest

An Environmental Assessment evaluated four alternatives for vegetation control, on state highways crossing the Umatilla National Forest, by the Oregon State Highway Division. This E.A. is available for review by interested parties at the Umatilla National Forest headquarters, 2517 S. W. Hailey Avenue, Pendleton Oregon 97801. The project is on State Highways 204 and 244 in Union and Umatilla Counties, 207 in Morrow and Wheeler Counties, and U.S. 395 in Grant County. The herbicides to be used are: Karmex, Krovar I, Weedone 170, and Krenite. Approximately forty-four miles of highway shoulders are to be treated.

In the past, these type of projects were included in a Region-wide Environmental Impact Statement which lumped many programs and projects utilizing herbicides.

The Environmental Assessment does not indicate that this is a major Federal Action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideraton of the following factors, which are discussed in detail in the Environmental Assessment: (a) The selected herbicides have low toxicity and present no significant risk, except in the case of huckleberries, Endangered Species, or other critical areas. This risk will be essentially eliminated. (b) The

application of the herbicides used on Oregon highways present little risk

The application of the herbicides used present little risk when properly applied

National Forest, P.O. Box 907, Baker Oregon

Science and Education Administration

Administration, Cooperative Research, announces the following meeting:

triplicate, by the close of business May 17, 1979, to the Secretary, Maritime

application of the herbicides used on Oregon highways present little risk when properly applied.

Some public and Forest Service concern has been expressed about protection of nearby habitat important for wildlife, fish, huckleberries, and a Lupine species with a proposed Endangered status. The proposed treatment of rights-of-way vegetation provides measures such as: careful and controlled application, low toxicity of selected herbicides, buffer or non-treatment areas, and licensed applicators, so that adjacent habitat will not be affected.

No action will be taken prior to June 4, 1979.

The responsible official is Herbert B. Rudolph, Forest Supervisor, Umatilla National Forest, 2517 S. W. Hailey Avenue, Pendleton, Oregon 97801.

Herbert B. Rudolph,
Forest Supervisor.
April 13, 1979.
[FR Doc. 79-13660 Filed 5-2-79; 8:45 am]
BILLING CODE 3410-11-M

Umatilla National Forest; Finding of No Significant Impact of Control of Noxious Weeds

An Environmental Assessment evaluted five alternatives for Noxious Weed Control, on the Umatilla National Forest, by the U.S. Forest Service and County Weed Control Districts of Grant, Union, and Umatilla Counties. This E.A. is available for review by interested parties at the Umatilla National Forest headquarters, 2517 S.W. Hailey Avenue, Pendleton, Oregon 97801. The project is on numerous widely scattered spots measuring form 1/100 acre up to several acres. One area consists of 45 contiguous acres. The herbicides to be used are: Picloram or Glyphosate (Tordon of Roundup).

In the past, these type of projects were included in a Region-wide Environmenal Impact Statement which lumped many programs and projects utilizing herbicides.

The Environmental Assessment does not indicate that this is a major Federal Action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) The herbicides have low toxicity and present no significant risk, except in the case of non-target or other critical areas. This risk will be essentially eliminated. (b) The application of the herbicides used present little risk when properly applied.

Some public and Forest Service concern has been expressed about protection of nearby habitat important for wildlife, fish, huckleberries, and non-target species. The proposed treatment of noxious weeds provides measures such as: careful and controlled application, low toxicity of selected herbicides, buffer or non-treatment areas, and licensed applicators, so that adjacent habitat will not be affected.

No action will be taken prior to June 4, 1979.

The responsible official is Herbert B. Rudolph, Forest Supervisor, Umatilla National Forest, 2517 S.W. Hailey Avenue, Pendleton, Oregon 97801.

Herbert B. Rudolph,
Forest Supervisor.
April 23, 1979.
[FR Doc. 79-13662 Filed 5-02-79; 8:45 am]
BILLING CODE 3410-11-M

Wallowa-Whitman National Forest, Union Ranger District; Finding of No Significant Impact of Roadside Weed Control Project

An Environmental Assessment that discusses roadside weed control along approximately thirty-five (35) miles of roads on National Forest lands in Baker and Union Counties, Oregon, is available for public review at the Wallowa-Whitman National Forest Headquarters in Baker, Oregon.

The Environmental Assessment does not indicate that this will be a major Federal action having a significant effect on the quality of the human environment. Therefore, it has been determined that an environmental impact statement will not be needed. The determination was based upon consideration of the following factors:

a. The project will have no negative long-term impacts on the ecosystem.

b. There will be no irreversible commitments of resources.

c. There will be no effects on threatened or endangered plants or animal species.

The herbicide to be used is Tordon. Use of this herbicide in accordance with Federal and State regulations and label instructions will provide controls which will guarantee protection of human health and welfare.

No public concern has been expressed about the proposed project.

No action will be taken prior to June 4, 1979.

The responsible official is A. G. Oard, Forest Supervisor, Wallowa-Whitman National Forest, P.O. Box 907, Baker Oregon.

A. G. Oard,
Forest Supervisor.
[FR Doc. 79-13678 Filed 5-2-79; 8:45 am]
BILLING CODE 3410-11-M

Willamette National Forest; Finding of No Significant Impact of Roadside Brush Control

An Environmental Assessment that discusses control of undesirable vegetation along 83.2 miles of roads in Linn and Marion Counties in Oregon is available for public review in the Forest Service Office in Eugene, Oregon.

This project involves the cutting of undesirable vegetation along the roadside and the application of the chemical 2,4-D and 2,4-DP to the stumps. The Environmental Assessment does not indicate that this is a major Federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environmental impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in the Environmental Assessment: (a) all chemicals are approved by EPA for the proposed use; (b) application will comply with applicable EPA labels, State and Federal law and Forest Service policies; (c) the use of (2,4–D and 2,4–DP has been discussed extensively in the Final Environmental Statement, Vegetation Management With Herbicides—USDA, F. S.—R–6—FES (ADM) 75–18 (Revised); (d) no irreversible or irretrievable commitments of resources; (e) physical and biological effects limited to the area of the project; (f) no known threatened or endangered plants or animals are within the affected area.

Some public concern has been expressed about the possible effects of the project on water quality. The proposed project includes measures designed to protect the water quality. State and Federal water quality standards will be met.

No action will be taken prior to June 4, 1979.

The Responsible Official is John E. Alcock, Forest Supervisor, Willamette National Forest, 211 E. 7th Avenue, Eugene, Oregon.

April 19, 1979.

Gerald N. Patchen,
Assistant Forest Supervisor, Planning and Programming.
[FR Doc. 79-13679 Filed 5-3-79; 8:45 am]
BILLING CODE 3410-11-M

Science and Education Administration

Cooperative Forestry Research Advisory Board and Advisory Committee

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), the Science and Education Administration announces the following meeting:

NAME: Cooperative Forestry Research Advisory Board and Advisory Committee.

TIME: May 15, 1979—Board 8:00 a.m.; Committee 1:00 p.m. May 16 and 17, 1979—Board and Committee 8:00 a.m.

PLACE: Green Hall, University of Minnesota, St. Paul, Minnesota; May 15—Board, Room 103; Committee, Room 14, May 16 and 17—Board and Committee, Room 14

TYPE OF MEETING: Open to the public. Persons may participate in the meeting as time and space permit.

COMMENTS: Written statements may be filed with the Committee or Board before or after the meeting with the contact persons listed below and names of Board and Committee members may be obtained from them.

PURPOSE: The Advisory Board, in separate meeting, will consider recommendations on the allocation of research funds. The Advisory Committee, in separate meeting, will review program information and evaluate program activities. In joint sessions, the Board and Committee will review progress in regional-national planning and develop recommendations. Research of the host institution will be described and shown to the Board and Committee.

CONTACT PERSON FOR AGENDA AND MORE INFORMATION: Executive Secretary of the Board: W. I. Thomas (202) 447–4423) Executive Secretary of the Committee: J. D. Sullivan, (202) 447–3555.

Science and Education Administration, Cooperative Research, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., this 28th day of April, 1979.

Ralph J. McCracken,
Acting Director, Science and Education.
[FR Doc. 79-13708 Filed 5-2-79; 8:45 am]
BILLING CODE 3410-22-M

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), the Science and Education Administration, Cooperative Research, announces the following meeting:

NAME: Committee of Nine.

DATES: June 6 and 7, 1979.

TIME: 8:30 a.m. both days.

PLACE: Room 3108-South Building, 12th Street and Independence Avenue, S.W., Washington, D.C.

TYPE OF MEETING: Open to the public. Persons may participate in the meeting as time and space permit.

COMMENTS: The public may file written comments before or after the meeting with the contact person listed below.

PURPOSE: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.

CONTACT PERSON FOR AGENDA AND MORE INFORMATION: Dr. Estel H. Cobb, Recording Secretary, U.S. Department of Agriculture, Science and Education Administration, Cooperative Research, Washington, D.C. 20250, telephone: 202–447–4329.

Done at Washington, D.C., this 27th day of April, 1979.

W. I. THOMAS,
Deputy Director for Cooperative Research.
[FR Doc. 79-13707 Filed 5-3-79; 8:45 am]
BILLING CODE 3410-22-M

DEPARTMENT OF COMMERCE

Maritime Administration

Waterman Steamship Corp.; Application

On April 12, 1979, Notice was published in the **Federal Register** (44 FR 21839–21840) that an application dated March 30, 1979, had been filed with the Maritime Subsidy Board pursuant to Title VI (46 U.S.C. 1171–1183) of the Merchant Marine Act, 1936, as amended, for a twenty-year Operating Differential Subsidy Agreement for service on Trade Route 17 between U.S. Atlantic and Gulf ports and ports in Indonesia, Malaysia and Singapore, by Waterman Steamship Corporation.

Notice is hereby given that the closing date of this notice has been extended from April 26, 1979, to May 17, 1979. Comments from any interested person, firm or corporation having an interest in such application and desiring to offer views and comments thereon for consideration by the Maritime Subsidy Board, should be submitted in writing, in triplicate, by the close of business May 17, 1979, to the Secretary, Maritime Subsidy Board, Room 3099–B, Department of Commerce Building, 14th & E Streets, N.W., Washington, D.C. 20230. The Maritime Subsidy Board will consider such views and comments and take such actions with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidy (ODS).)

By Order of the Maritime Subsidy Board.

Dated: May 1, 1979.

James S. Dawson, Jr.,
Secretary.
[Docket No. S-840]
[FR Doc. 79-13661 Filed 5-3-79; 8:45 am]
BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Sea Grant Review Panel; Open Meeting

The Sea Grant Review Panel will meet on May 30 and 31, 1979, from 8:30 a.m. to 4:30 p.m. each day, in Room 926 of the Washington Science Center Building No. 5, 6010 Executive Boulevard, Rockville, Maryland.

The Panel was established in December 1976 under Section 209 of the National Sea Grant Program Improvement Act (Public Law 94–461), and advises the Secretary of Commerce with respect to:

a. Applications or proposals for, and performance under, grants and contracts awarded under Sections 205 and 206 of the Act;

b. The Sea Grant Fellowship Program, established under Section 208 of the Act;

c. The designation and operation of Sea Grant Colleges and Sea Grant Regional Consortia, (which are provided for in Section 207 of the Act) and the operation of Sea Grant programs;

d. The formulation and application of the planning guidelines and priorities established by the Secretary under Section 204(2) of the Act and applied by the Director in accordance with Section 204(c)(1); and

e. Such other matters as the Secretary refers to the Panel for review and advice.

The Panel's meeting agenda is as follows:

May 30, 1979 (8:30 a.m. to 4:30 p.m.)

8:30 a.m.—Preliminary remarks, introduction and swearing in of new members.

9:00 a.m.—The nature and current posture of, and problems facing, the National Sea Grant College Program, and the tasks before the Panel. A discussion by the Director and the Panel Chairman.

2:30 p.m.—Discussion of Institutional and Coherent Area Programs reviewed since

ACTION: To consider issuing a permit under Section 404 of the Federal Water

Dated: April 26, 1979.

James W. R. Adams,

flooding, evacuation as a solution would

agencies as well as private groups and individuals to provide review and

2. There are no reasonable structural alternatives which by themselves would

2:30 p.m.—Discussion of Institutional and Coherent Area Programs reviewed since last meeting: University of Hawaii, Massachusetts Institute of Technology, University of Rhode Island, University of Michigan, and Oregon State University.
4:30 p.m.—Recess.

May 31, 1979 (8:30 a.m. to 4:30 p.m.)

8:30 a.m.—Continued discussion of Institute and Coherent Area programs reviewed since last meeting: Louisiana State University, Texas A&M University, Woods Hole Oceanographic Institution, University of Delaware, University of Southern California, New Jersey Consortium, and University of Georgia.
10:00 a.m.—Discussion of progress toward two-year review cycle. Report on second year negotiations with: University of Wisconsin and University of California.
10:30 a.m.—Sea Grant College Candidates Discussion. The following are eligible on the basis of time to be considered for designation as Sea Grant Colleges: University of Southern California and University of Georgia.
11:00 a.m.—Review of Panel Meeting format and discussion of changing role of panelists.
4:30 p.m.—Adjourn.

All agenda items will be open to public attendance. Approximately 30 seats will be available to the public on a first-come, first-served basis. If time permits before the scheduled adjournment, the Chairman will solicit oral comments by the attendees. Written statements may be submitted at any time before or after the meeting.

Minutes of the meeting will be available 30 days thereafter on written request addressed to the National Sea Grant College Program, 6010 Executive Boulevard, Rockville, Maryland 20852.

For further information, contact Dr. Hugh J. McLellan, Acting Executive Secretary of the Sea Grant Review Panel, at the above address. Telephone: (301) 443–8926.

Dated: April 27, 1979.

R. L. Carnahan,
Acting Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.
[FR Doc. 79–13683 Filed 5–2–79; 8:45 am]
BILLING CODE 3510–12–M

DEPARTMENT OF DEFENSE

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) For Issuance of a Permit To Dredge and Fill In Waters of the United States.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: To consider issuing a permit under Section 404 of the Federal Water Pollution Control Act to W. R. Grace & Company for the mining of phosphate in a 6,684 acre tract known as Hookers Prairie. The Hookers Prairie Mine is at the headwaters of the south prong of the Alafia River near Bradley, Polk County, Florida, in Sections 13, 23, and 24 of Township 31 South, Range 13 East, and Sections 7, 8, 9, 16, 17, 18, 21, 24, 27, 32, and 33 of Township 31 South, Range 24 East. Work would be performed by bulldozers, pans, draglines, graders, and other equipment to remove a total of about 192 million cubic yards of overburden and 126 million cubic yards of phosphate bearing matrix. Approximately half of the phosphate bearing matrix is beneath 3,000 acres of wetland. A beneficiation plant is located on the poverty. A reclamation plan to be carried out by the applicant includes establishment of lakes, wetlands, and reforested areas.

2. Alternatives are not mining and mining only those lands above wetlands.

3. a. The process for determining the scope of issues to be addressed in the DEIS was completed by June 1978, and included scoping meetings with concerned agencies and groups.

b. Significant issues concerned: Methods of slime disposal and treatment, protection of waterways and flood plains, protection and maintenance of integrity of surface water flow and quality groundwater effects, restoration process and timing, restoration of wetland functions.

c. The Hookers Prairie Mine has been determined to be an "existing source," not requiring an NPDES permit by EPA. The Corps of Engineers has recognized its jurisdiction over the 3,000 acres of wetlands, and is the lead agency in preparing the DEIS.

d. Upon completion of the DEIS, a copy will be sent to the U.S. Fish and Wildlife Service, identifying endangered species and threatened species that may be present, and assessing the work's impact on them. A request for consultation under Section 7 of the Endangered Species Act Amendments of 1978 will be made. The DEIS will be reviewed by the Environmental Protection Agency, State of Florida agencies, and other agencies and groups.

4. The DEIS is scheduled to be available to the public in August 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by Mr. Moray Harrell, Chief, Environmental Quality "Section; U.S. Army Engineer District, Jacksonville, Florida 32201 (904) 791–3615.

Dated: April 26, 1979.

James W. R. Adams,
Colonel, Corps of Engineers, District Engineer.
[FR Doc. 79–13684 Filed 5–2–79; 8:45 am]
BILLING CODE 3710–AJ–M

Intent; To prepare a Draft Supplement to the Final Environmental Impact Statement (FEIS) for the Evansdale, Iowa, Local Flood Protection Project

AGENCY: U.S. Army Corps of Engineers, Rock Island District, DOD.

ACTION: The Supplement will describe and assess design modifications which have been made in the proposed project since the FEIS was filed with CEQ on 20 July 1976.

SUMMARY: I. *Description of Action.* The Corps of Engineers proposes to provide flood protection to the city of Evansdale, Blackhawk County, Iowa, by the construction of earthen levees along the Cedar River and Elk Run Creek. The protection project will utilize an embankment of the proposed I–380 highway as part of the total protection system. Two borrow areas, totaling about 41 acres, will be required to furnish material for levee stages I and II. The protective works will be about 3.2 miles in length, with a maximum height of 21 feet and an average height of 12 feet. The average base width will be 117 feet. In addition, the highway embankment being utilized as part of the protection system will be 1.1. miles long. There will be four ponding areas in the project. Their sizes are 11.0 acres, 2.8 acres, 6.0 acres, and 4.0 acres.

II. *Alternatives to the Proposed Action.* The following alternatives to the Evansdale Flood Control Project have been evaluated.

A. *No additional Program.*—If no additonal Federal action were taken, the threat of flooding would continue to limit community growth, community cohesion and the future plans for industrial activity within the city. This would not, however, preclude State or local action. State or local government, organizations, and individuals could participate in such measures as zoning, building codes, flood proofing, flood plain evacuation, and structural methods of flood control at local or State expense. If no action were taken, annual flood damage would continue to residences, community services and commercial activities. Average annual flood damages are estimated to be $347,000 (1981 dollars).

B. *Evacuation.*—Evacuation of the city of Evansdale would affect over 1,277 residences. Inasmuch as the major portion of the city is susceptible to flooding, evacuation as a solution would eliminate the community. Because of the cost of relocation assistance, recent expenditures for urban renewal and development within Evansdale and an unfavorable benefit/cost ratio of 0.02:1, evacuation is not an economical or socially acceptable solution.

C. *Reservoirs.*—As part of Iowa-Cedar River Basin Study, multipurpose reservoirs in the watershed above Evansdale were investigated. Due to the shallow and narrow valleys of land around Evansdale only two reservoir sites were found that could be developed to store large amounts of water. Even if both sites were developed and operated together, the crest of the 100-year frequency flood could only be lowered by four feet at Evansdale. It is therefore not physically possible to adequately reduce the flood problems at Evansdale by means of the two reservoirs. In addition, this plan would affect approximately 3,100 acres of prime farmland.

D. *Floodproofing.*—The construction of embankments around individual structures, raising structures above the forecasted flood levels, and other floodproofing measures, would be costly. Floodproofing is unacceptable to local interests because of the unfavorable effect this would have on the aesthetics of the city of Evansdale. Although physical damage to the houses could be prevented during such floods, access to homes, public services and business would be greatly reduced. Estimates of the cost of implementation and the benefits showed a benefit/cost ratio in the order of 0.01:1. Approximately 1,277 residences and numerous commercial establishments would require floodproofing.

E. *Levee System.*—The method found to be the most desirable from a safety, economic, social and political standpoint was the construction of a levee system. This action will have adverse effects upon the natural and cultural elements of the existing environment.

III. *Public Involvement.* The Draft Environmental Impact Statement was filed with CEQ 23 November 1973, and the final statement was filed 20 July 1976. Copies of the draft and final Environmental Impact Statement were distributed to Federal, state, and local government agencies, and private groups and individuals for review and comment. Public meetings were held on 15 January 1973 and 28 November 1977 to give interested parties an opportunity to express their views. The draft Supplement to the FEIS will be sent to Federal, state, and local government agencies as well as private groups and individuals to provide review and comment on the project.

Coordination between the Rock Island District and interested agencies and individuals is being maintained during preparation of the draft Supplement. Any interested party is invited to coordinate with the District by writing to the address below.

IV. *Content of the Supplement to the Final Environmental Impact Statement.* The Supplement will discuss all changes that have been made in the original general design and additional cultural and environmental information. Topics concerning E.O. 11988 will be included in the report. In compliance with Section 404 of the Clean Water Act, a 404 Evaluation Report is being prepared. A state water quality certificate is being applied for through the Iowa Department of Environmental Quality, and a Public Notice will be issued.

V. *Scoping Meeting.* Due to the advanced stage of project planning and the imminent release of the draft Supplement to the FEIS, a scoping meeting will not be scheduled.

VI. *Estimated Release Date.* The draft Supplement to the FEIS will be released for Public Review on or about 25 May 1979.

ADDRESS: Questions about the proposed action and the Environmental Impact Statement should be directed to: F. W. Mueller, Jr., Colonel, Corps of Engineers, District Engineer, US Army Engineer District, Rock Island, Clock Tower Building, Rock Island, Illinois 61201.

Dated: April 10, 1979.

F. W. Mueller, Jr.,
Colonel, Corps of Engineers, District Engineer.
[FR Doc. 79–13700 Filed 5–2–79; 8:45 am]
BILLING CODE 3710–GM–M

Department of the Army

Intent To Prepare a Draft Environmental Statement (DES) for a Proposed Flood Control Project on Westerly Creek in Aurora and Denver, Colo.

AGENCY: U.S. Army Corps of Engineers, Omaha District.

ACTION: Notice of Intent to Prepare a DES.

SUMMARY: 1. The proposed action is to provide additional flood control along Westerly Creek in Aurora and Denver, Colorado and to protect the integrity of Kelly Road Dam located on Lowry Air Force Base.

2. There are no reasonable structural alternatives which by themselves would solve the flood problem. A reasonable nonstructural alternative would be evacuation of the flood plain. Reasonable combination structural/nonstructural alternatives include modification of Kelly Road Dam with downstream channel modifications, some downstream relocations, flood plain regulation, and emergency flood plain evacuation or modification of Kelly Road Dam with a new dam upstream, downstream channel modifications, possible relocations (depending on size of new dam), flood plain regulations, and emergency flood plain evacuation.

3. Any agency, organization, or individual desiring to participate in the DES process is encouraged to do so by contacting the individual identified later in this notice. Public involvement to date has been limited to discussions with affected public bodies. There will be a public meeting to discuss a potential solution in the summer of 1979. There are no significant issues which have been identified. The project is also subject to the Historic Preservation Act; the Endangered Species Act; the Fish and Wildlife Coordination Act; Executive Order 11988 on Flood Plains; and Executive Order 11990 on Wetlands.

4. There will be no scoping meeting.

5. The DES should be available for public review in June 1979.

ADDRESS: Questions about the proposed action and DES can be answered by: Richard Gorton; Chief, Environmental Analysis Branch; Omaha District, CE; 6014 U.S.P.O. and Courthouse; Omaha, Nebraska 68102.

John E. Vukelich, P.E.,
Chief, Planning Division, Omaha District, CE.
[FR Doc. 13779 Filed 5–3–79; 8:45 am]
BILLING CODE 3710–GW–M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Regulatory Permit Action Involving an Oil Refinery Proposed by Brunswick Energy Co. (BECO) in Brunswick County, N. C., Near the Confluence of the Brunswick and Cape Fear Rivers

LEAD AGENCY: U.S. Army Corps of Engineers, Wilmington District, North Carolina.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: BECO's plans are to process imported crude oils in the refinery. The sources and properties of the oils to be processed have not been established at

this time, but this information will be provided when available. The nominal

of the Draft Environmental Impact Statement (DEIS). Public and agency

includes such programs as integrated circuits, charge coupled devices and

DEPARTMENT OF ENERGY

API Well Number: 47–0792–0904–0000
Section of NGPA: 103

Purchaser: Consolidated Gas Supply Corp.
Volume: 197 Mcf.

this time, but this information will be provided when available. The nominal capacity of the refinery will be approximately 150,000 barrels per day. Among the products to be produced are unleaded gasoline, No. 2 and No. 6 fuel oils.

Construction of the refinery and related facilities is expected to span approximately 24 to 30 months, and to furnish employment over that period for an average work force of about 2,000 persons. Operation of the refinery will require a permanent work force of about 250 persons. The preliminary estimated cost to complete construction for the project is $450 million in 1979.

Present plans are to deliver crude oil to the plant site by pipeline from tankers to be docked in the nearby Brunswick or Cape Fear Rivers. The existing shipping channel in the Cape Fear River is maintained to a minimum depth of 38 feet. The Brunswick River is not maintained and would require significant dredging for docking facilities.

The alternatives that are presently being considered by BECO involve different pipeline routes for transporting crude oil and products between the plant and docking facilities either in the Brunswick or Cape Fear Rivers.

Two scoping meetings will be held to determine issues to be addressed in the DEIS and for identifying the significant issues related to the proposed action. The meetings are scheduled as follows:

1. May 22, 1979, 7:30 p.m.
Cafeteria,
Brunswick County Office Complex; Bolivia, NC.

2. May 23, 1979, 7:30 p.m.
Wake County Courthouse,
Seventh Floor, Room 700,
316 Fayetteville Mall,
Raleigh, NC.

All affected Federal, State, and local agencies, and all other interested persons or groups are encouraged to attend these meetings. Written and oral comments will be taken at the meetings and written comments accepted within 10 days after the meetings. As a result of these meetings a scope of work will be developed for the DEIS. This scope will be made available for public review and comment.

The merits of the applicant's proposal will not be debated at these meetings. The purpose of the meetings is to assist in developing the scope of the required EIS. The Wilmington District Corps of engineers will conduct an exhaustive "public interest review" of this proposal which will coincide with the publication of the Draft Environmental Impact Statement (DEIS). Public and agency comment on the merits of the project, both verbal and written, will be received in the administrative record of the permit application at that time. It is anticipated that the DEIS should be released for review and comment in the summer of 1980. Representatives of several North Carolina regulatory agencies will participate in conducting the scoping meetings. In addition BECO must receive some 12 state authorizations prior to construction and/or operation of the proposed facility. Also the state has formed a Technical Advisory Committee, of which the Corps is a member, to assist the applicant through the permit processes.

The significant issues to be analyzed indepth in the DEIS will probably be air pollution, oil spills, impacts on endangered and threatened species, energy needs, and socioeconomic impacts. Consultations under Section 7 of the Endangered Species act are anticipated regarding impacts on endangered and threatened species.

Questions about the proposed action and DEIS can be answered by Mr. Frank Yelverton, Special Projects Manager, Regulatory Functions Branch, Wilmington District Corps of Engineers, PO Box 1890, Wilmington, North Carolina 28402, telephone (919) 343-4640, (FTS) 671-4640.

A. A. Kopcsak,
Major, Corps of Engineers, Deputy District Engineer.
[FR Doc. 79-13780 Filed 5-2-79; 8:45 am]
BILLING CODE 3710-6N-M

Office of the Secretary of Defense

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group B (mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session 26 June 1979, at National Bureau of Standards, 325 Broadway, Boulder, Colorado 80303.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, section 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. section 552b(c) (1) (1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.
April 30, 1979.
[FR Doc. 79-13797 Filed 5-2-79; 8:45 am]
BILLING CODE 3810-70-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session June 6, 1979 at 201 Varick Street, 9th Floor, New York, New York 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, section 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.
April 30, 1979.
[FR Doc. 79-13798 Filed 5-3-79; 8:45 am]
BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Appalachian Exploration & Development, Inc., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 17, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of West Virginia, Department of Mines, Oil and Gas Division

FERC Control Number: JD79-5251
API Well Number: 47-0792-0823-0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Putnam Land B-10
Field: Union
County: Putnam
Purchaser: Cabot Corporation
Volume: 31.9 MMcf.

FERC Control Number: JD79-5252
API Well Number: 47-0812-0428-0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: New River #10
Field: Town
County: Raleigh
Purchaser: Cabot Corporation
Volume: 80.3 MMcf.

FERC Control Number: JD79-5253
API Well Number: 47-0792-0871-0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: McLean Heirs A-2
Field: Union
County: Putnam
Purchaser: Cabot Corporation
Volume: 7.7 MMcf.

FERC Control Number: JD79-5254
API Well Number: 47-0792-0866-0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Hardy Heirs B-3
Field: Union
County: Putnam
Purchaser: Cabot Corporation
Volume: 31.0 MMcf.

FERC Control Number: JD79-5255
API Well Number: 47-0792-0875-0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Hardy Heirs B-4
Field: Union
County: Putnam
Purchaser: Cabot Corporation
Volume: 25.6 MMcf.

FERC Control Number: JD79-5256
API Well Number: 47-0792-0904-0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Putnam Land B-8
Field: Union
County: Putnam
Purchaser: Cabot Corporation
Volume: 109 MMcf.

FERC Control Number: JD79-5257
API Well Number: 47-0792-0922-0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Putnam Land B-9
Field: Union
County: Putnam
Purchaser: Cabot Corporation
Volume: 21.9 MMcf.

FERC Control Number: JD79-5258
API Well Number: 47-0792-0870-0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Putnam Land B-7
Field: Union
County: Putnam
Purchaser: Cabot Corporation
Volume: 36.0 MMcf.

FERC Control Number: JD79-5259
API Well Number: 47-0392-2796-0000
Section of NGPA: 103
Operator: Appalachian Exploration & Devel., Inc.
Well Name: Shonk Land #31
Field: Cabin Creek
County: Kanawha
Purchaser: Consolidated Gas Supply Corporation
Volume: 20.0 MMcf.

FERC Control Number: JD79-5260
API Well Number: 47-005-1345
Section of NGPA: 103
Operator: Ashland Exploration, Inc.
Well Name: Southern Land #8—063121
Field: Logan-Wyoming
County: Boone
Purchaser: Consolidated Gas Supply Corp.
Volume: 146 MMcf.

FERC Control Number: JD79-5261
API Well Number: 47-005-01259
Section of NGPA: 103
Operator: Ashland Exploration, Inc.
Well Name: Southern Land #9—063131
Field: Logan-Wyoming
County: Boone
Purchaser: Consolidated Gas Supply Corp.
Volume: 40 MMcf.

FERC Control Number: JD79-5262
API Well Number: 47-039-03199
Section of NGPA: 103
Operator: Ashland Exploration, Inc.
Well Name: Bedford Land No. 12 079581
Field: Paint Creek Field
County: Kanawha
Purchaser: Columbia Gas Transmission Corp.
Volume:

FERC Control Number: JD79-5263
API Well Number: 47-005-01992
Section of NGPA: 103
Operator: Ashland Exploration, Inc.
Well Name: Southern Land #7—075031
Field: Logan-Wyoming
County: Boone
Purchaser: Consolidated Gas Supply Corp.
Volume: 197 MMcf.

FERC Control Number: JD79-5264
API Well Number: 47-005-00880
Section of NGPA: 103
Operator: Ashland Exploration, Inc.
Well Name: Perdue #59-074871
Field: Logan-Wyoming
County: Logan
Purchaser: Consolidated Gas Supply Corp.
Volume: 30.8 MMcf.

FERC Control Number: JD79-5265
API Well Number: 47-005-00870
Section of NGPA: 103
Operator: Ashland Exploration, Inc.
Well Name: Elk Creek Coal #21 078681
Field: Logan-Wyoming
County: Logan
Purchaser: Consolidated Gas Supply Corp.
Volume: 31.3 MMcf.

FERC Control Number: JD79-5266
API Well Number: 47-087-1939
Section of NGPA: 103
Operator: Trio Petroleum Corp.
Well Name: Humphreys No. 3
Field: Heaters
County: Braxton
Purchaser: Consolidated Gas Supply Corp.
Volume: 23.5 MMcf.

FERC Control Number: JD79-5267
API Well Number: 47-007-1345
Section of NGPA: 103
Operator: Trio Petroleum Corp.
Well Name: Humphreys No. 4
Field: Heaters
County: Braxton
Purchaser: Consolidated Gas Supply Corp.
Volume: 23.5 MMcf.

FERC Control Number: JD79-5268
API Well Number: 47-047-0800
Section of NGPA: 103
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. #A-20
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 23.7 MMcf.

FERC Control Number: JD79-5269
API Well Number: 47-047-0737
Section of NGPA: 10e
Operator: Texas International Petroleum Corp.
Well Name: Pocahontas Land Corp. #A-44
Field: North Fork
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 23.7 MMcf.

FERC Control Number: JD79-5270
API Well Number: 47-049-00321
Section of NGPA: 103
Operator: Phillips Petroleum Company
Well Name: Barth-A No. 1
Field: Neel
County: Marion
Purchaser: Undedicated
Volume: 0.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is

treated as confidential under 18 CFR 275.206, at the Commission's Office of

Volume: 21 MMcf.
FERC Control Number: JD79-5026

Section of NGPA: 102
Operator: Beren Corporation

API Well Number: 26-033-21777

Croft Petroleum Co. et al.;

Purchaser: Kansas-Nebraska Natural Gas

treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E. Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correpondnece concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-13827 Filed 5-2-79; 8:45 am]
BILLING CODE 6450-01-M

Beren Corp. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 5, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Nebraska Oil and Gas Conservation Commission

FERC Control Number: JD79-5022
API Well Number: 28-105-21731
Section of NGPA: 102
Operator: Beren Corporation
Well Name: State of Nebraska "C" No. 1
Field: Undesignated
County: Kimball
Purchaser: None
Volume: 170 MMcf.

FERC Control Number: JD79-5023
API Well Number: 28-105-21649
Section of NGPA: 102
Operator: Beren Corporation
Well Name: Mills No. 2
Field: West Shelda
County: Kimball
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 11 MMcf.

FERC Control Number: JD79-5024
API Well Number: 28-105-21715
Section of NGPA: 102
Operator: Beren Corporation
Well Name: Mills No. 3
Field: West Shelda
County: Kimball
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 15 MMcf.

FERC Control Number: JD79-5025
API Well Number: 28-105-21639
Section of NGPA: 102
Operator: Beren Corporation
Well Name: Nelson "F" No. 1
Field: Draw
County: Kimball
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 21 MMcf.

FERC Control Number: JD79-5026
API Well Number: 28-105-21653
Section of NGPA: 102
Operator: Beren Corporation
Well Name: Nelson "F" No. 2
Field: Draw
County: Kimball
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 31 MMcf.

FERC Control Number: JD79-5027
API Well Number: 28-105-21716
Section of NGPA: 102
Operator: Beren Corporation
Well Name: Nelson "F" No. 3
Field: Draw
County: Kimball
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 18 MMcf.

FERC Control Number: JD79-5028
API Well Number: 28-105-21717
Section of NGPA: 102
Operator: Beren Corporation
Well Name: Nelson "F" No. 4
Field: Draw
County: Kimball
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 5 MMcf.

FERC Control Number: JD79-5029
API Well Number: 28-105-21699
Section of NGPA: 102
Operator: Beren Corporation
Well Name: Rasmussen No. 1
Field: Draw
County: Kimball
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 23 MMcf.

FERC Control Number: JD79-5030
API Well Number: 28-033-21801
Section of NGPA: 102
Operator: Beren Corporation
Well Name: Terman No. 1
Field: Undesignated
County: Cheyenne
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 110 MMcf.

FERC Control Number: JD79-5031
API Well Number: 28-105-21654
Section of NGPA: 102
Operator: Beren Corporation
Well Name: Nelson "D" No. 3
Field: West Shelda
County: Kimball
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 3 MMcf.

FERC Control Number: JD79-5032
API Well Number: 28-033-21741
Section of NGPA: 102
Operator: Beren Corporation
Well Name: Nelson "H" No. 1
Field: North Draw
County: Cheyenne
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 10 MMcf.

FERC Control Number: JD79-5033
API Well Number: 28-033-21739
Section of NGPA: 102
Operator: Beren Corporation
Well Name: Nelson-Allen No. 2
Field: Draw
County: Kimball
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 12 MMcf.

FERC Control Number: JD79-5034
API Well Number: 28-105-21743
Section of NGPA: 102
Operator: Beren Corporation
Well Name: Beal No. 1
Field: Undesignated
County: Kimball
Purchaser: None
Volume: 170 MMcf.

FERC Control Number: JD79-5035
API Well Number: 28-033-21702
Section of NGPA: 103
Operator: Beren Corporation
Well Name: Fleming No. 1
Field: Jennie
County: Cheyenne
Purchaser: None
Volume: 6 MMcf.

FERC Control Number: JD79-5036
API Well Number: 28-033-21755
Section of NGPA: 103
Operator: Beren Corporation
Well Name: Fleming No. 2
Field: Jennie
County: Cheyenne
Purchaser: None
Volume: 157 MMcf.

FERC Control Number: JD79-5037
API Well Number: 28-033-21832
Section of NGPA: 103
Operator: Beren Corporation
Well Name: Fleming No. 3
Field: Jennie
County: Cheyenne
Purchaser: None
Volume: 6 MMcf.

FERC Control Number: JD79-5038
API Well Number: 28-105-21698
Section of NGPA: 102
Operator: Beren Coporation
Well Name: Hansen No. 1
Field: Tyson
County: Kimball
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 72 MMcf.

FERC Control Number: JD79-5039
API Well Number: N/A
Section of NGPA: 102
Operator: Evans Energy Inc.
Well Name: #1 Fleming-Brett
Field: Eggleston
County: Cheyenne
Purchaser: None
Volume: 100 MMcf.

FERC Control Number: JD79-5040
API Well Number: N/A
Section of NGPA: 102
Operator: Evans Energy Inc.
Well Name: #1 Nelson
Field: Rohlfing, NE
County: Cheyenne
Purchaser: None
Volume: 50 MMcf.

FERC Control Number: JD79-5041
API Well Number: 28-033-21777
Section of NGPA: 103
Operator: Quest Oil Company
Well Name: Owens No. 1
Field: S. W. Sidney
County: Cheyenne
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 36.5 MMcf.

FERC Control Number: JD79-5042
API Well Number: 28-033-21728
Section of NGPA: 102
Operator: Quest Oil Company
Well Name: Atkins No. 1
Field: S. W. Sidney
County: Cheyenne
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 90.0 MMcf.

FERC Control Number: JD79-5043
API Well Number: 28-105-21303
Section of NGPA: 102
Operator: Brownlie, Wallace, Armstrong and Bander
Well Name: Olsen #1
Field: Jade
County: Kimball
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 14.2000 MMcf.

FERC Control Number: JD79-5044
API Well Number: 28-033-21762
Section of NGPA: 103
Operator: Quest Oil Company
Well Name: Oakley No. 1
Field: S. W. Sidney
County: Cheyenne
Purchaser: Kansas-Nebraska Natural Gas Company
Volume: 36.5 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-13829 Filed 5-2-79; 8:45 am]
BILLING CODE 6450-01-M

Croft Petroleum Co. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Montana

FERC Control Number: JD79-5000
API Well Number: 25-101 21383
Section of NGPA: 108
Operator: Croft Petroleum Co.
Well Name: State of Montana 16, 630-75 No. 1 (13-9)
Field: Willow Ridge Gas Field NE SW Sec. 9-34N-2E
County: Toole
Purchaser: The Montana Power Co.
Volume: 5,838 Mcf.

FERC Control Number: JD79-5001
API Well Number: 25-101-21481
Section of NGPA: 108
Operator: Croft Petroleum Co.
Well Name: Sun Ag, Inc. (Great Falls) No. 1
Field: Willow Ridge Gas Field NE SW Sec. 21-34N-2E
County: Toole
Purchaser: The Montana Power Co.
Volume: 13, 865 Mcf.

FERC Control Number: JD79-5002
API Well Number: 25-101-21595
Section of NGPA: 108
Operator: Croft Petroleum Co.
Well Name: R. J. Christiaens No. 1
Field: Willow Ridge Gas Field NW SE Sec. 10-34N-2E
County: Toole
Purchaser: The Montana Power Co.
Volume: 10,826 Mcf.

FERC Control Number: JD79-5003
API Well Number: 25-073-21232-00
Section of NGPA: 102
Operator: Antares Oil Corporation
Well Name: State C-1
Field: Unnamed
County: Pondera
Purchaser: Not currently under contract
Volume: 73 MMcf.

FERC Control Number: JD79-5004
API Well Number: 25-071-21568
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1771 1-1771 R. Anderson
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc
Volume: 19 MMcf.

FERC Control Number: JD79-5005
API Well Number: 25-107-21589
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 0771#1 Harrison-LaRoche Trust
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc
Volume: 30 MMcf.

FERC Control Number: JD79-5006
API Well Number: 25-071-21549
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1570 1-15 Brown
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc
Volume: 48 MMcf.

FERC Control Number: JD79-5007
API Well Number: 25-071-21691
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 2470 1-24 Brown
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc
Volume: 28 MMcf.

FERC Control Number: JD79-5008
API Well Number: 25-085-21147-00
Section of NGPA: 102
Operator: True Oil Company
Well Name: Kragedal #32-5
Field: Medicine Lake Area
County: Roosevelt
Purchaser: Montana-Dakota Utilities
Volume: 38.6

FERC Control Number: JD79-5009
API Well Number: 25-017-21482
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 2970 1-29 Rose Bakkestigay
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc
Volume: 60 MMcf.

FERC Control Number: JD79-5010
API Well Number: 25-071-21561
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 2370 1-23 Brown
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc
Volume: 24 MMcf.

FERC Control Number: JD79-5011
API Well Number: 25-071-21529
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 2871 1-28-37-31 LaRoche-Harrison
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska natural Gas Co., Inc.
Volume: 24 MMcf.

FERC Control Number: JD79-5012
API Well Number: 25-071-21553
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1470 1-14 LaRoche-Harrison
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
FERC Control Number: JD79-5013

API Well Number: 25 071 21493
Section of NGPA: 102

The applications for determination in

Persons objecting to any of those final

County: Mercer
Purchaser: Consolidated Gas Supply Corp.

treated as confidential under 18 CFR 275.206, at the Commission's Office of

hereinafter be agreed to, and to transport for WGI's account, up to 2,500

API Well Number: 25 071 21493
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 3470 #1 Rosella Burns
Field: Bowdoin
County: Phillips
Purchaser: Kansas-Nebraska Natural Gas Co., Inc
Volume: 30 MMcf.

FERC Control Number: JD79–5014
API Well Number: 25 101 21453
Section of NGPA: 108
Operator: Croft Petroleum Co.
Well Name: Kolstad-Edminster No. 2
Field: Willow Ridge Gas Field SE SW NW Sec. 15–34N–2E
County: Toole
Purchaser: The Montana Power Co.
Volume: 9483 Mcf.

FERC Control Number: JD79–5015
API Well Number: 33 053 00708
Section of NGPA: 103
Operator: Prosper Energy Corporation
Well Name: No. 1 Haugen 6207
Field: Charlson Deep (Silurian)
County: McKenzie
Purchaser: Contract Pending
Volume: 100* MMcf.

FERC Control Number: JD79–5017
API Well Number: 49 005 24900
Section of NGPA: 103
Operator: J. M. Huber Corporation
Well Name: Keeline-Chase No. 27–3
Field: Hilight
County: Campbell
Purchaser: McCulloch Gas Processing Corp.
Volume: 20 MMcf.

FERC Control Number: JD79–5018
API Well Number: 49 041 20161
Section of NGPA: 102
Operator: Mesa Petroleum Co.
Well Name: Burnt Hill State #2–31
Field: Yellow Creek
County: Uinta
Purchaser: Mountain Fuel Supply Co.
Volume: 3000 MMcf.

FERC Control Number: JD79–5019
API Well Number: 49–019–20377
Section of NGPA: 103
Operator: Phillips Petroleum Building
Well Name: Jepson Draw St. A No. 1
Field: Holler Draw
County: Johnson
Purchaser: Panhandle Eastern Pipe Line Company
Volume: 3 MMcf.

FERC Control Number: JD79–5020
API Well Number: 49–019–20382
Section of NGPA: 103
Operator: Phillips Petroleum Company
Well Name: Streeter C No. 1
Field: Holler Draw
County: Johnson
Purchaser: Panhandle Eastern Pipe Line Company
Volume: 2 MMcf.

FERC Control Number: JD79–5021
API Well Number: 25–071–21485
Section of NGPA: 102
Operator: Midlands Gas Corporation
Well Name: 1671 State #1
Field: Bowdoin
County: Phillips
Purchaser: Kansas Nebraska Gas Co., Inc
Volume: 48 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–13822 Filed 5–2–79; 8:45 am]
BILLING CODE 6450–01–M

Daniel Oil Co. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 4, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Louisiana, Department of Natural Resources, Office of Conservation

FERC Control Number: JD79–5353
API Well Number: 1702321222
Section of NGPA: 103
Operator: Daniel Oil Company
Well Name: SL 6938 #1
Field: Grand Lake
County: Cameron Parish
Purchaser: Texas Gas Transmission Corp.
Volume: 600 MMcf.

FERC Control Number: JD79–5354
API Well Number: 1702321155
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: K B Hanszen No. 19–D
Field: Chalkley
County: Cameron Parish
Purchaser: Texas Gas Transmission Corp.
Volume: 365 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–13819 Filed 5–2–79; 8:45 am]
BILLING CODE 6450–01–M

Energy Development Corp.; *et al.*; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 13, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines, Oil and Gas Division

FERC Control Number: JD79 5178
API Well Number: 47–047–695
Section of NGPA: 103
Operator: Energy Development Corporation
Well Name: EDC No. 5—McD–695
Field: Big Sandy
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 60 MMcf.

FERC Control Number: JD79 5179
API Well Number: 47–067–0418
Section of NGPA: 103
Operator: Texas International Pet. Corp.
Well Name: Mower Lumber Company #1
Field: Jefferson
County: Nicholas County
Purchaser: Equitable Gas Company
Volume: 73.0 MMcf.

FERC Control Number: JD79 5180
API Well Number: 47–109–789
Section of NGPA: 103
Operator: Texas Internaitonal Pet. Corp.
Well Name: Pocahontas Land Corp. A–52
Field: Barkers Ridge
County: Wyoming
Purchaser: Consolidated Gas Supply Corp.
Volume: 36.5 MMcf.

FERC Control Number: JD79 5181
API Well Number: 47–055–0066
Section of NGPA: 103
Operator: Texas International Pet. Corp.
Well Name: Pocahontas Land Corp.
Field: Rock
County: Mercer
Purchaser: Consolidated Gas Supply Corp.
Volume: 50.0 MMcf.

FERC Control Number: JD79 5182
API Well Number: 47–055–0065
Section of NGPA: 103
Operator: Texas International Pet. Corp.
Well Name: Pocahontas Land Corp. D–9
Field: Rock
County: Mercer
Purchaser: Consolidated Gas Supply Corp.
Volume: 25.0 MMcf.

FERC Control Number: JD79 5183
API Well Number: 47–047–750
Section of NGPA: 103
Operator: Energy Development Corporation
Well Name: EDC No. 9—McD–750
Field: Big Sandy
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 30 MMcf.

FERC Control Number: JD79 5184
API Well Number: 47–047748
Section of NGPA: 103
Operator: Energy Development Corporation
Well Name: EDC No. 7—McD–748
Field: Big Sandy
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 75 MMcf.

FERC Control Number: JD79 5185
API Well Number: 47–047–749
Section of NGPA: 103
Operator: Energy Development Corporation
Well Name: EDC No. 8—McD–749
Field: Big Sandy
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 10 MMcf.

FERC Control Number: JD79 5185
API Well Number: 47–047–749
Section of NGPA: 103
Operator: Energy Development Corporation
Well Name: EDC No. 8—McD–749
Field: Big Sandy
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 10 MMcf.

FERC Control Number: JD79 5186
API Well Number: 47–047–691
Section of NGPA: 103
Operator: Energy Development Corporation
Well Name: EDC No. 2—McD–691
Field: Big Sandy
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 20 MMcf.

FERC Control Number: JD79 5187
API Well Number: 47–047–703
Section of NGPA: 103
Operator: Energy Development Corporation
Well Name: EDC No. 4—McD–703
Field: Big Sandy
County: McDowell
Purchaser: Consolidated Gas Supply Corp.
Volume: 50 MMcf.

FERC Control Number: JD79 5188
API Well Number: 47–047–00776–0000
Section of NGPA: 103
Operator: Cities Service Company
Well Name: Malone "A" #4
Field: Bradshaw
County: McDowell
Purchaser: Columbia Gas Trans. Corp.
Volume: 60.2 MMcf.

The applications for determination in these proceedings together with a copy of description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–13829 Filed 5–2–79; 8:45 am]
BILLING CODE 6450–01–M

El Paso Natural Gas Co.; Application

April 20, 1979.

Take notice that on April 2, 1979, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP79–251 an application pursuant to Section 7[c] of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 2,500 Mcf of natural gas per day for the account of Western Gas Interstate Company (WGI), on a best efforts basis, to Southern Union Company (Southern) at certain existing points of delivery located on El Paso's inerstate transmission pipeline system situated in New Mexico and Texas, all as more fully set forth in the application which is on file with the commission and open to public inspection.

El Paso states that WGI has acquired natural gas supplies situated in the San Juan Basin area of New Mexico which are in proximity to El Paso's existing field gathering and other related facilities. WGI seeks to cause such quantities of gas to be tendered to El Paso at an initial point of receipt located in San Juan County, New Mexico, for transportation and delivery by El Paso to certain points on Southern's distribution system located in Curry County, New Mexico and Hutchinson County, Texas, it is stated. In order to assist WGI in making such quantities of gas available to southern, WGI and El Paso have entered into a gas transportation agreement dated January 31, 1979, whereby gas supplies acquired by WGI can be made available for sale by WGI to Southern, so that Southern may continue to serve its high priority end-use requirement customers, it is asserted.

El Paso states that it has agreed to accept at an existing point of receipt, and such other points of receipt as may hereinafter be agreed to, and to transport for WGI's account, up to 2,500 Mcf per day of natural gas acquired by WGI and to redeliver equivalent volumes of gas, less shrinkage if any, to southern for the account of WGI at delivery points in Curry County, New Mexico and Hutchinson County, Texas. It is indicated that El Paso shall have the right to purchase as excess gas, that volume of gas in excess of the gross transportation volume designated by WGI pursuant to the gas transportation agreement between WGI and El Paso.

El Paso also requests authorization to transport gas from additional points of receipt when additional volumes of gas become available to WGI, so long as the quantities of gas transported do not exceed the aggregate total of 2,500 Mcf per day. El Paso requests authorization as well, for the deletion by mutual consent, of points of receipt and delivery as conditions require.

El Paso states that any facilities constructed in furtherance of the agreement would be the responsibility of WGI, unless such facilities constitute an integral part of El Paso's existing interstate transmission pipeline system.

It is stated that pursuant to the agreement, WGI would compensate El Paso through the payment of an administrative fee consisting of one cent for each Mcf of gas delivered at the points of delivery. It is stated further that additional compensation would take the form of the rates in effect as set forth on Sheet No. 1–D.2 of El Paso's FERC Gas Tariff, Third Revised Volume No. 2, or superseding tariff.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice

and Procedure, a hearing will be held without further notice before the

Well Name: Schultz Com #4
Field: Blanco, South-Pictured Cliffs Gas

The applications for determination in these proceedings together with a copy

County: Lea
18 CFR 275.203 and 18 CFR 275.204, file a

operated by the GBRA on the

and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP79-251]
[FR Doc. 79-13800 Filed 5-2-79; 8:45 am]
BILLING CODE 6450-01-M

El Paso Natural Gas Co. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 4, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79-2642
API Well Number: 30045216730000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Brookhaven Com H #10
Field: Blanco-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 14.2 MMcf.

FERC Control Number: JD79-2643
API Well Number: 30039062070000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Johnston A Com #1
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 3.3 MMcf.

FERC Control Number: JD79-2644
API Well Number: 30039062400000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Hamilton Com C #6
Field: Ballard-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 3 MMcf.

FERC Control Number: JD79-2645
API Well Number: 30045064890000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Schultz Com #4
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 11 MMcf.

FERC Control Number: JD79-2646
API Well Number: 30039068130000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: San Juan 27-5 Unit #18
Field: Tapacito-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 14 MMcf.

FERC Control Number: JD79-2647
API Well Number: 30045061670000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfano Unit #15
Field: Kutz, West-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 1.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-13810 Filed 5-2-79; 8:45 am]
BILLING CODE 6450-01-M

Exxon Corp; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Florida

FERC Control Number: JD79-3037
API Well Number: 0911320172
Section of NCPA: 107
Operator: Exxon Corporation
Well Name: St. Regis Paper Co. No. 6-2
Field: Jay/LEC
County: Santa Rosa
Purchaser: Florida Gas Trans. Co.
Volume: 2300 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-13816 Filed 5-2-79; 8:45 am]
BILLING CODE 6450-01-M

Getty Oil Co. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979

On April 9, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79-2746
API Well Number: N/A
Section of NGPA: 103
Operator: Getty Oil Company
Well Name: Getty "2" State No. 1
Field: Undesignated
County: Lea
Purchaser: TUCO Inc.
Volume: 600 MMcf.

FERC Control Number: JD79-2747
API Well Number: 30-025-25672
Section of NGPA: 103
Operator: Getty Oil Company
Well Name: Mexico "L" No. 26
Field: Dollarhide
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 6 MMcf.

FERC Control Number: JD79-2748
API Well Number: 30-025-26070
Section of NGPA: 103
Operator: Getty Oil Company
Well Name: J.W. Sherrell No. 9
Field: Jalmat Gas
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 60 MMcf.

FERC Control Number: JD79-2749
API Well Number: 30-025-25677
Section of NGPA: 103
Operator: Getty Oil Company
Well Name: Myers Langlie-Mattix Unit No. 74
Field: Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 8 MMcf.

FERC Control Number: JD79-2750
API Well Number: 30-025-25945
Section of NGPA: 103
Operator: Getty Oil Company
Well Name: Myers Langlie-Mattix Unit No. 60
Field: Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 3 MMcf.

FERC Control Number: JD79-2751
API Well Number: 30-025-25949
Section of NGPA: 103
Operator: Getty Oil Company
Well Name: Myers Langlie-Mattix Unit No. 188
Field: Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 8 MMcf.

FERC Control Number: JD79-2752
API Well Number: 30-025-25948
Section of NGPA: 103
Operator: Getty Oil Company
Well Name: Myers Langlie-Mattix Unit No. 131
Field: Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 8 MMcf.

FERC Control Number: JD79-2753
API Well Number: 30-025-25947
Section of NGPA: 103
Operator: Getty Oil Company
Well Name: Myers Langlie-Mattix Unit No. 92
Field: Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 8 MMcf.

FERC Control Number: JD79-2754
API Well Number: 30-025-25946
Section of NGPA: 103
Operator: Getty Oil Company
Well Name: Myers Langlie-Mattix Unit No. 76
Field: Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 5 MMcf.

FERC Control Number: JD79-2755
API Well Number: 30-025-25678
Section of NGPA: 103
Operator: Getty Oil Company
Well Name: Myers Langlie-Mattix Unit No. 75
Field: Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 8 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-13811 Filed 5-2-79; 8:45 am]
BILLING CODE 6450-01-M

Getty Oil Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 3, 1979, the Federal Energy Regulatory Commission received notice from the North Dakota Geological Survey of a determination pursuant to 18 CFR 274.104 and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

FERC Control Number: JD79-2713
API Well Number: 33053007850
Operator: Getty Oil Company
Well Name: Jens Robertson No. 11-27
Field: Charlson-Silurian
County: McKenzie
Purchaser: Aminoil USA, Inc.
Volume: 70 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-13813 Filed 5-2-79; 8:45 am]
BILLING CODE 6450-01-M

Guadalupe-Blanco River Authority; Petition for Declaratory Order

April 19, 1979.

Take notice that on November 22, 1978, the Guadalupe-Blanco River Authority (hereinafter GBRA or Petitioner) filed a petition under the Federal Power Act (Act), 16 U.S.C. §§ 791a-825r, for an order declaring that six hydroelectric projects and appurtenant facilities owned and operated by the GBRA on the Guadalupe River in Guadalupe and Gonzales Counties, Texas, are not subject to the Commission's licensing jurisdiction. Correspondence with the GBRA on this matter should be addressed to: Larry R. Veselka, Vinson & Elkins, 1101 Connecticut Avenue, NW., Washington, D.C. 20036, and John H. Specht, General Manager, Guadalupe-Blanco River Authority, P.O. Box 271, Seguin, Texas 78155.

The GBRA states that each of the six projects (the dams are named Dunlap, McQueeny, Seguin, Nolte, No. H-4, and No. H-5) was constructed prior to 1935, that the Guadalupe River is non-navigable above River Mile 175.9 and that all six projects are located above this point, and that there has been no constructin since 1935 that would require the filing of a declaration of intent pursuant to Section 23(b) of the Act (16 U.S.C. § 817).

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before June 4, 1979. The Commission's address is: 825 N. Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,
Acting Secretary.

[Docket No. EL79-4]
[FR Doc. 79-13801 Filed 5-2-79; 8:45 am]
BILLING CODE 6450-01-M

Gulf Oil Co. *et al.*; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 17, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

North Dakota State Industrial Commission, Oil and Gas Division

FERC Control Number: JD79-5279
API Well Number: 3302300730
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: Gulf-Federal No. 1
Field: Wildcat
County: Billings
Purchaser: Gulf Oil Corporation
Volume: 14 MMcf.

FERC Control Number: JD79-5278
API Well Number: 3302300730
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: Gulf-Federal No. 1
Field: Wildcat
County: Billings
Purchaser: Gulf Oil Corporation
Volume: 54 MMcf.

FERC Control Number: JD79-5060.
API Well Number: 3222.
Section of NGPA: 102.
Operator: Midlands Gas Corporation.

price of $2.30 (U.S.) per million Btu's equivalent established by the National

Section of NGPA: 102.
Operator: Midlands Gas Corporation.

North Dakota State Industrial Commission, Oil and Gas Division

FERC Control Number: JD79–5271
API Well Number: 33–025–00064
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: State 1–18–3D
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 55 MMcf.

FERC Control Number: JD79–5272
API Well Number: 33–025–00063
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: P. Marinenko 1–32–1A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 68 MMcf.

FERC Control Number: JD79–5273
API Well Number: 33–025–00067
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Martin Weber 1–18
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 91 MMcf.

FERC Control Number: JD79–5274
API Well Number: 33–025–00700
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Glovatsky 1–17–4A
Field: Little Knife
County: Dunn
Purchaser: Montana Dakota Utilities
Volume: 24 MMcf.

FERC Control Number: JD79–5275
API Well Number: 33–007–00226
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Tarnavsky 1–9–2D
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 176 MMcf.

FERC Control Number: JD79–5276
API Well Number: 33–007–00239
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Tedrow 2–11–4A
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 58 MMcf.

FERC Control Number: JD79–5277
API Well Number: 33–007–00210
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Kasimer Schmalz 1–12–4D
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 10 MMcf.

FERC Control Number: JD79–5278
API Well Number: 33–007–00243
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Radloff 1–28–1B
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 14 MMcf.

FERC Control Number: JD79–5279
API Well Number: 33–007–00267
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Burian 1–15–2B
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 21 MMcf.

FERC Control Number: JD79–5280
API Well Number: 33–007–00285
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Radloff 5–21–3B
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 36 MMcf.

FERC Control Number: JD79–5281
API Well Number: 33–007–00221
Section of NGPA: 102
Operator: Gulf Oil Corporation
Well Name: Zabolotny 1–3–4A
Field: Little Knife
County: Billings
Purchaser: Montana Dakota Utilities
Volume: 241 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-13815 Filed 5-2-79; 8:45 am]
BILLING CODE 6450-01-M

Horace F. McKay, Jr.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 4, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104 and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

FERC Control Number: JD79–2773
API Well Number: 30–045–23265 00
Operator: Horace F. McKay, Jr.
Well Name: Sullivan No. 3A
Field: Aztec/Fruitland
County: San Juan County
Purchaser: El Paso Natural Gas Co.
Volume: 54 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E. Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-13812 Filed 5-2-79; 8:45 am]
BILLING CODE 6450-01-M

Hunt Energy Corp. et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 5, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Michigan, Department of Natural Resources

FERC Control Number: JD79–5057.
API Well Number:
Section of NGPA: 102.
Operator: Hunt Energy Corporation, et al.
Well Name: Bray et al., No. 2–30, 32392.
Field: Winterfield–30 Field.
County: Clare.
Purchaser: Consumers Power Company.
Volume: 10 MMcf.

FERC Control Number: JD79–5058.
API Well Number:
Section of NGPA: 102.
Operator: Hunt Energy Corporation, et al.
Well Name: Bray et al., No. 1–30, 32385.
Field: Winterfield–30 Field.
County: Clare.
Purchaser: Consumers Power Company.
Volume: 10 MMcf.

FERC Control Number: JD79–5059.
API Well Number: 31604.
Section of NGPA: 102.
Operator: Northern Michigan Exploration Company.
Well Name: Miller Brothers State-Cleon "24".
Field: Cleon "24" Field.
County: Manistee.
Purchaser: Consumers Power Company.
Volume: 45 MMcf.

FERC Control Number: JD79–5060.
API Well Number: 3222.
Section of NGPA: 102.
Operator: Northern Michigan Exploration Company.
Well Name: NOMECO Can. Creek Ranch Assoc., Herzog 1–1.
Field: Montmorency "14" Field.
County: Montmorency.
Purchaser: Consumers Power Company.
Volume: 3.7 MMcf.

FERC Control Number: JD79–5061.
API Well Number: 31873.
Section of NGPA: 102.
Operator: Northern Michigan Exploration Company.
Well Name: Shell Drotleff No. 1–31.
Field: Cleon "21" Field.
County: Manistee.
Purchaser: Consumers Power Company.
Volume: 80 MMcf.

FERC Control Number: JD79–5062.
API Well Number: 32248.
Section of NGPA: 102.
Operator: Northern Michigan Exploration Company.
Well Name: NOMECO Shumsky 3–22.
Field: Blair "22A".
County: Grand Traverse.
Purchaser: Consumers Power Company.
Volume: 400 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-13821 Filed 5-2-79; 8:45 am]
BILLING CODE 6450-01-M

Michigan Wisconsin Pipe Line Co.; Petition To Amend

April 20, 1979.

Take notice that on April 17, 1979, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP70–22 a petition to amend further the order issued April 30, 1970, as amended, in said docket pursuant to Section 3 of the National Gas Act so as to authorize Petitioner to continue to import natural gas from Canada to the United States at the increased border price of $2.30 (U.S.) per million Btu's equivalent established by the National Energy Board of Canada (NEB), effective May 1, 1979, all as more fully set forth in the petition to amend further which is on file with the Commission and open to public inspection.

It is indicated that the subject gas is purchased from TransCanada Pipelines Limited (TransCanada) at the current border price of $2.16 (U.S.) per million Btu's and is imported at a point on the international boundary near Emerson, Manitoba. It is further indicated that TransCanada exports the gas pursuant to export license GL–38. Petitioner states that natural gas imported from Canada forms a vital portion of its gas supply and that unless Petitioner's existing import authorization is amended prior to May 1, 1979, to provide for payment of the increased rate, Petitioner would be faced with the termination of its gas supply from TransCanada.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,
Acting Secretary.
[Docket No. CP70–22]
[FR Doc. 79-13802 Filed 5-2-79; 8:45 am]
BILLING CODE 6450-01-M

Midlands Gas Corp., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 6, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Montana Department of Natural Resources & Conservation, Board of Oil and Gas Conservation

FERC Control Number: JD79–5045.
API Well Number: 25 071 21308.
Section of NGPA: 102.
Operator: Midlands Gas Corporation.
Well Name: 3670 No. 1 State.
Field: Bowdoin.
County: Phillips.
Purchaser: Kansas-Nebraska Natural Gas Company, Inc.
Volume: 42 MMcf.

FERC Control Number: JD79–5046.
API Well Number: 25 071 21528.
Section of NGPA: 102.
Operator: Midlands Gas Corporation.
Well Name: 3471 1–34 Westergaard.
Field: Bowdoin.
County: Phillips.
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 30 MMcf.

FERC Control Number: JD79–5047.
API Well Number: 25 071 21441.
Section of NGPA: 102.
Operator: Midlands Gas Corporation.
Well Name: 3170 No. 1 Comptron.
Field: Bowdoin.
County: Phillips.
Purchaser: Kansas-Nebraska Natural Gas Co., Inc.
Volume: 24 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-13808 Filed 5-2-79; 8:45 am]
BILLING CODE 6450-01-M

Monsanto Co.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 5, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Oil and Gas Conservation Commission, State of Wyoming

FERC Control Number: JD79–2880.
API Well Number: 491320634.
Section of NGPA: 102.
Operator: Monsanto Company.

Well Name: MDU Lybyer No. 1–38.

the Canadian government increased the

these supplies of gas exceed the

for leave to intervene is timely filed, or if the Commission on its own motion

sales of 2,294,2407 Mcf to West Texas Gas, Incorporated (WTN) which resells

Under the procedure herein provided for, unless otherwise advised, it will be

Well Name: MDU Lybyer No. 1-38.
Field: Madden.
County: Fremont.
Purchaser: Colorado Interstate Gas Company.
Volume: 69 MMcf.
FERC Control Number: JD79-2881.
API Well Number: 4901320745.
Section of NGPA: 102.
Operator: Monsanto Company.
Well Name: Spratt No. 1-4.
Field: Madden.
County: Fremont.
Purchaser: Colorado.
Volume: 585 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-13815 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

The Montana Power Co.; Petition To Amend

April 20, 1979.

Take notice that on April 13, 1979,[1] the Montana Power Company (Montana Power), 40 East Broadway, Butte, Montana 59701, filed in Docket No. CP74-187 a petition to amend further the order issued March 21, 1975, as amended, in said docket pursuant to Section 3 of the Natural Gas Act by authorizing Petitioner to import natural gas from Canada at an increased border price of $2.30 per million Btu's equivalent of natural gas, effective May 1, 1979, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it currently is authorized in the subject docket to import from Canada natural gas purchased from Canadian-Montana Pipe Line Company at a price of $2.16 per million Btu's and that on March 28, 1979, the Canadian government increased the border price to $2.30 per million Btu's, effective May 1, 1979. Petitioner asserts that it imports from Canada more than 65 percent of the natural gas supply necessary to serve its market and that the ability of Petitioner to meet its customers' requirements and avoid curtailment of service directly depends on continued importation of gas under the authorization granted in the subject docket. Accordingly, Petitioner requests that the order of March 21, 1975, as amended, be further amended to permit Petitioner to import gas purchased at the increased price.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP74-187]
[FR Doc. 79-13808 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

[1] The application was initially tendered for filing on April 13, 1979; however, the fee required by Section 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until April 18, 1979; thus, filing was not completed until the latter date.

Natural Gas Pipeline Co. of America; Notice of Application

April 24, 1979.

Take notice that on April 5, 1979, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP79-255 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of connecting facilities in Jim Hogg and Nueces Counties, Texas, for receipt and redelivery of natural gas transported by Applicant for Houston Pipe Line Company (Houston), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant has been advised by Houston that Houston now owns or controls natural gas in close proximity to Applicant's North East Thompsonville gas supply facilities located in Jim Hogg County, Texas. Houston states that these supplies of gas exceed the capacity of its existing transmission system and has requested Applicant to transport and redeliver said volumes to Houston in Nueces County, Texas. Accordingly, Applicant and Houston have entered into a gas transportation agreement dated March 27, 1979 pursuant to which Applicant would accept on a best efforts basis, such gas delivered by Houston in Jim Hogg County, Texas, for transportation and redelivery of equivalent volumes, less fuel, to Houston at a point of delivery in Nueces County, Texas. Applicant states it would perform the transportation service pursuant to Subpart A of Part 284 of FERC's Regulations (18 CFR 284.101 *et seq.*) implementing Section 311(a)(1) of the Natural Gas Policy Act of 1978.

Applicant indicates that minor appurtenant facilities would have to be constructed in Jim Hogg County, Texas and that a measuring facility, tap connection, and other appurtenant facilities would be constructed in Nueces County, Texas in order to implement the proposed service.

Applicant estimates the cost of these facilities to be $113,000 which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-255]
[FR Doc. 79-13804 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Northern Natural Gas Co.; Notice of Application

April 20, 1979.

Take notice that on March 29, 1979, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79-246 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain small volume sales measuring stations, and the sale and deliver of additional volumes of natural gas in the states of Montana, South Dakota, Minnesota, Iowa, Nebraska, Kansas, Oklahoma and Texas to 53 right-of-way grantors, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has received numerous requests for service from right-of-way grantors whose easements provide for the contractual right to gas service as partial consideration for the easement to construct and operate pipeline facilities across their property. Applicant requests authorization to construct and operate 46 small volume sales measuring stations in Minnesota, South Dakota, Iowa, Nebraska, Kansas, and Texas in order to sell natural gas to rights-of-way grantors through its Peoples Division. The firm volumes to be delivered would be provided from Peoples Division's presently authorized contract demand.

Applicant indicates that granting of the proposed service to the 5 right-of-way grantors in Oklahoma would result in an increase in annual sales to Southern Union Gas Company (So Union), under Rate Schedule X-46, of 8,234 Mcf, requiring an increase in the authorized annual sales from 746,469 Mcf to 754,703 Mcf. Applicant further indicates that the granting of the proposed service to 1 of its pipeline right-of-way grantors in Texas with annual heating requirements of 188 Mcf would result in a total annual authorized sales of 2,294,2407 Mcf to West Texas Gas, Incorporated (WTN) which resells the gas to Applicant's right-of-way grantors. Applicant states that it has received a request from one individual in rural Hill County, Montana, who, being right-of-way grantor desires natural gas service from Applicant's pipeline. Such service would be rendered pursuant to a farm tap service contract between Applicant and the new customer, it is stated.

The Applicant states that the small volume industrial, commercial and residential service would provide necessary natural gas volumes for individual rural dwellings for space heating, cooking, water heating and clothes drying appliances; seasonal use by farms as irrigation engine fuel; seasonal use by farms in direct firing of agricultural crop drying equipment and for space heating farm buildings.

The total cost of the facilities proposed to be constructed is $62,030, which cost Applicant proposes to finance from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

[Docket No. CP79-246]
[FR Doc. 79-13806 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Northwest Alaskan Pipeline Co.; Order Consolidating Proceedings, Establishing Procedures, Granting Interventions and Initiating Hearings

April 20, 1979.

In the matter of Northwest Alaskan Pipeline Co.; Northwest Pipeline Corp.; El Paso Natural Gas Co.; Pacific Interstate Transmission Co.; Northwest Alaskan Pipeline Co.; Pacific Gas Transmission Co.; Northwest Alaskan Pipeline Co.; Northern Border Pipeline Co.

On April 5, 1978, Northwest Alaskan Pipeline Company (Northwest Alaskan) filed in Docket Nos. CP78-123, *et al.*, two applications, pursuant to Section 3 of the Natural Gas Act and Sections 5 and 9 of the Alaska Natural Gas Transportation Act (ANGTA), requesting the Commission to grant conditional authorization for the importation of natural gas from Canada. In these applications, Northwest Alaskan requested authorization to import, on an average daily basis, up to 240,000 Mcf of gas at an existing import point on the U.S.-Canada Boundary near Kingsgate, British Columbia and up to 800,000 Mcf of gas per day at a proposed import point on the U.S.-Canadian Boundary in the vicinity of Monchy, Saskatchewan. Northwest Alaskan proposes to purchase such gas from Pan-Alberta Gas, Ltd. (Pan-Alberta) [1] pursuant to the terms of contracts dated March 9, 1978. It asserts that this purchase will facilities the pre-building of the southern portions of the Alaskan Natural Gas Transportation System (ANGTS). In one application, Northwest Alaskan requested import authorization for a sale to Pacific Interstate Transmission Company (Pac-Interstate) for ultimate delivery to markets served by Southern California Gas Company (So-Cal). In the second application, Northwest Alaskan requested the import authorization for a sale to United Gas Pipe Line Company (United), Northern Natural Gas Company (Northern), and Panhandle Eastern Pipe Line Company (Panhandle).

[1] Pan-Alberta is an affiliate of Alberta Gas Trunkline Company, Ltd., one of the sponsoring companies for the Canadian segment of the Alaskan Natural Gas Transportation System.

On June 7, 1978, the Commission

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Eastern Leg

and Report on the *Alaskan Natural Gas*

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On June 7, 1978, the Commission granted conditional approval of the requested import authorizations. On July 24, and August 4, 1978, the Commission issued orders denying petitions for rehearing and reconsideration of the June 7, 1978 order.

The Commission's June 7, July 24 and August 4, 1978 orders granting conditional import authorizations were affirmed by the United States Court of Appeals for the District of Columbia Circuit in *Midwestern Gas Transmission Company* v. *FERC*, 589 F.2d 603 (1978).

Subsequent to the issuance of the conditional import authorization and judicial review thereof, other related applications have been filed as follows:

Western Leg

On November 6, 1978, as amended on February 15, 1979, Northwest Alaskan filed an application in Docket No. CP79–59, pursuant to the provisions of Section 7(c) of the Natural Gas Act and ANGTA, for a certification of public convenience and necessity authorizing the sale of a daily average volume of 240,000 Mcf of natural gas to Pac-Interstate for use in market areas served by So-Cal. The volumes to be sold by Northwest Alaskan to Pac-Interstate are those volumes Northwest Alaskan proposes to import pursuant to the prior Commission orders in Docket Nos. CP78–123, *et al.* In order to effectuate delivery of the Canadian gas to So-Cal, Pacific Gas Transmission Company (PGT), Northwest Pipeline Corporation (Northwest), El Paso Natural Gas Company (El Paso), and Pac-Interstate have entered into various arrangements whereby the gas to be imported and sold to Pac-Interstate for delivery to So-Cal would be transported utilizing existing and/or expanded facilities of PGT, Northwest and El Paso.

In its application Northwest Alaskan states that the volumes of natural gas would be delivered into the facilities of Pacific Gas Transmission Company by Alberta Natural Gas Company, Ltd. (ANG) for the accounts of Northwest Alaskan and Pan-Alberta. The sale by Northwest Alaskan to Pac-Interstate would be concurrent with delivery by ANG to PGT at the Kingsgate, British Columbia delivery point.

On November 6, 1978, PGT filed an application in Docket No. CP79–60, pursuant to Section 7(c) of the Natural Gas Act and Section 9 of ANGTA, for a certificate of public convenience and necessity authorizing PGT to construct and operate 160.5 miles of 36-inch pipeline loops to be installed in six sections on PGT's pipeline between the U.S.–Canada Boundary and Stanfield, Oregon and further authorizing the transportation of up to 240,000 Mcf of natural gas per day for Pac-Interstate. In its application, PGT states that the proposed facilities would be a "pre-built" portion of the Western leg of the Alaska Highway Pipeline Project approved by the President and Congress under ANGTA. PGT further states that it would receive the gas at the International Boundary and would transport the gas to Northwest's facilities near Stanfield, Oregon for the account of Pac-Interstate.

On November 6, 1978, Northwest filed an application in Docket No. CP79–56, pursuant to Section 7(c) of the Natural Gas Act and Section 9 of ANGTA, for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the transportation of 240,000 Mcf per day of natural gas for Pac-Interstate. More specifically, Northwest requests authorization to transport 240,000 Mcf of gas per day from a point of interconnection with the facilities of PGT in the vicinity of Stanfield, Oregon to a point of intercomnection with the facilities of El Paso in the vicinity of Ignacio, Colorado.

On November 6, 1978, El Paso filed an application in Docket No. CP79–57, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities on its existing transmission system and the transportation and delivery of up to 240,000 Mcf of natural gas per day for the account of Pac-Interstate. In its application, El Paso states that it would transport the gas received from Northwest through utilization of its interstate transmission system, expanded as proposed in this application, and deliver said gas to So-Cal at an existing delivery point on the Arizona-California Boundary for Pac-Interstate's account.

On November 6, 1978, Pac-Interstate filed its application in Docket No. CP79–58, pursuant to Section 7(c) of the Natural Gas Act and the Alaska Natural Gas Transportation Act, for a certificate of public convenience and necessity authorizing the sale of natural gas to So-Cal. The Pac-Interstate application requests approval for the sale of up to 240,000 Mcf of natural gas per day to So-Cal.

The above applications for the transportation and sale of the volumes of gas to be imported by Northwest Alaskan were noticed by this Commission on December 4, 1978.

Eastern Leg

On February 1, 1979, as amended on February 15, 1979, Northwest Alaskan filed an application in Docket No. CP79–170, pursuant to Section 7(c) of the Natural Gas Act and the provisions of ANGTA, for a certificate of public convenience and necessity authorizing the sale of a daily average quantity of 800,000 Mcf of natural gas to Northern, Panhandle, and United for use in their respective market areas. The volumes to be sold by Northwest Alaskan to Northern, United and Panhandle are those volumes Northwest Alaskan proposes to import pursuant to the prior Commission orders in Docket Nos. CP78–123, *et al.*

Of the 800,000 Mcf, 200,000 Mcf per day would be initially allocated for sale to Northern, 150,000 Mcf per day would be allocated for sale to Panhandle, and 450,000 Mcf per day would be initially allocated for sale to United. Northwest Alaskan states that with the beginning of the third contract year and each year thereafter, Northern may elect to increase its average daily quantity to 250,000 Mcf and, if Northern so elects, the deliveries to United would be decreased by an equal amount.

Northwest Alaskan proposes to purchase such gas from Pan-Alberta and states that said gas would be delivered into the facilities of Northern Border Pipeline Company (Northern Border) by Foothills Pipeline Saskatchewan, Ltd. (Foothills Saskatchewan) for the accounts of Northwest Alaskan and Pan-Alberta and that this sale would be concurrent with the delivery by Foothills Saskatchewan to Northern Border at the Monchy, Saskatchewan delivery point.

On January 26, 1979, Northern Border filed a supplemental application in Docket No. CP78–124, pursuant to Section 7 of the Natural Gas Act and the provisions of ANGTA, for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the transportation and delivery of those volumes of gas purchased by Northern, United, and Panhandle from Northwest Alaskan. More specifically, Northern Border proposes to prebuild 800 miles of the 42-inch pipeline, extending from a point near Port of Morgan, Montana on the International Border to a point near Ventura, Iowa, which was approved and authorized[2] by the President's Decision

[2] The approved system for the Eastern Leg is 2,117 miles of 42-inch pipeline, extending from the named point on the Canada-U.S. border to Dwight, Illinios (near Chicago). The size of the authorized pipeline is subject only to certification by the Secretary of Energy to the Commission: "... whether there has been any material change in the facts regarding

Footnotes continued on next page

and Report on the *Alaskan Natural Gas Transportation System*, issued September 22, 1977. Northen Border states that prebuilding this segment of the approved facilities will permit delivery of Canadian gas directly or by exchange arrangements to the systems of the proposed purchasers (United, Panhandle and Northern).

On February 7 and March 1, 1979, the Commission issued notices of Northwest Alaskan's application in Docket No. CP79–170. On February 7 and 12, 1979, the Commission issued notices of Northern Border's supplemental application.

In accordance with the Commission's Administrative Order No. 3, issued on February 21, 1979, the Director of the Alaska Gas Project Office presided over preliminary, on the record, conferences on March 16, 19 and 20, 1979. The purpose of these preliminary conferences was to encourage the participants to enter into stipulations or other formal or informal agreements that would serve to narrow and define the issues for adjudication. In accordance with Administrative Order No. 3, the Director has reported to the Commission summarizing the results of these on the record discussions and has made certain recommendations for expediting the Commission's consideration of these applications under the mandate of ANGTA. Under Section 9 of ANGTA, these related applications must be expedited and they take precedence over any similar applications before the Commission. We adopt the phasing procedures and expedited procedural dates recommended by the Director, including the consolidation of these related applications for the purposes of hearing.

Discussion

1. Consolidation For Hearing

As noted, the Commission previously has granted conditional import authorization to Northwest Alaskan. This import authorization was conditioned, *inter alia*, upon the related filings for the construction and operation of all necessary facilities, applications for the sale and transportation of the gas in question, final certification of these related arrangements, and final approval of the imports applied for. A majority of the requisite applications have now been filed.[3] Based on the stated interrelationship between these filings and the ANGTS, the Commission conditionally finds that the sales applications of Northwest Alaskan and all related transportation and downstream sales applications may be "necessary or related to the construction and initial operation of the [ANGTS]" within the meaning of ANGTA. Because Section 9 of ANGTA requires this Commission to expedite consideration of and rulings upon applications related to ANGTS, we shall provide for expedited consideration of the instant applications.[4]

For purposes of hearing, the import applications and all related Section 7 applications for both the Eastern and Western legs are consolidated, and the consolidated proceeding shall be subject to the expedited procedures as hereinafter detailed. The downstream Eastern leg applications will be consolidated when filed. The Commission reserves the right to issue separate decisions on the Eastern and Western legs if it subsequently develops after hearing that the applications with respect to one segment are ripe for decision prior to a decision on the applications for the other segment.

2. Phasing of Hearing

Pursuant to our statutory duty to expedite as mandated by ANGTA, the Commission establishes the following hearing procedures.

(1) There appears to be a concensus among the parties that phasing these proceedings will expedite final determination by the Commission.[5] The Commission will, therefore, phase the hearing in the manner hereinafter provided. In order to assure that the Presiding Law Judge is afforded the necessary flexibility to develop a full record in these proceedings, we shall permit him to deviate from the phasing and time schedule provided for in this order under certain limited circumstances. If the Presiding Law Judge is of the view that the state of the record requires augmentation or clarification in order to eliminate some deficiency or misunderstanding, he is free to deviate from the procedures set forth herein in order to cure such a defect. If at the time of Commission decision on the applications the requisite counterpart authorizations have not been issued by Canadian regulatory authorities, the Commission may condition any order approving any aspect of these imports to the issuance of satisfactory Canadian export authorizations.

(2) Phase I will be confined to examination of the relationship between the prebuild project and implementation of the ANGTS as approved by the President the Congress in the *Decision*. The objective of this phase will be development of specific terms and conditions defining the relationship between the prebuild project and the ANGTS as a whole, which conditions are to be attached to any Commission certificates for the prebuild project if subsequently approved by the Commission. In order to facilitate timely development of these conditions, the Presiding Administrative Law Judge is requested to close the record on this Phase and certify it to the Commission no later than July 13, 1979. Briefs to the Commission shall be filed by July 31, 1979, with reply briefs failed by August 13, 1979. To the extent consistent with this time schedule, Phase I should address such matters as: the relationship between the depreciation schedules for the facilities and the allocation of project risks of the pre-built facilities as well as the total ANGTS; the relationship of these imports and related applications to the overall construction and operation of the ANGTS; any specific benefits of the imports to the ANGTS including possible expedition; and the role of the prebuild project in obtaining financing for the project as a whole.

(3) Phase II will be a general examination of the merits of the prebuild project. Phase II will consider whether the proposed imports meet the standards of Section 3 of the Natural Gas Act and should, therefore, be approved in all respects. Phase II will also include issues relating to the Pan-Alberta—Northwest Alaskan gas purchase contracts; the desirability of these imports from a policy standpoint; the need for the gas to be imported; the Northern Border Partnership Agreement; all issues related to facilities utilized for importation, transportation and sale; gas supplies; the environment; right-of-way; all downstream transportation and exchange arrangements; all issues relating to the resale of the imported gas, including marketability; all cost

Footnotes continued from last page

future potential gas supplies for the East or West since the date of this Decision that would warrant certification of such facilities at a different rated capacity than authorized herein." (*Decision*, pp. 39–40).

[3] Additional filings relating to downstream delivery arrangements for gas moving through the Eastern Leg remain to be filed. When filed, the issues raised in such applications shall be heard in Phase II of the hearing process as more fully described hereinafter.

[4] The Court of Appeals for the District of Columbia Circuit in *Midwestern Gas Transmission Company* v. *FERC*, 589 F.2d 603 (1978), has upheld the Commission's determination that the apporved import authority is necessary or related to the construction and initial operation of the ANGTS within the ANGTA, and is therefore entitled to expedited consideration under Section 9 of that Act.

[5] Only a few parties filed comments that related to the proposed phasing of these proceedings. These comments did not express general opposition to phasing of the proceedings as provided for in this order.

estimates and financing plans; and any

any way preclude the utilization of

supplies would tend to ease both the

that the waiver requested by the project sponsors should not be granted. Motions

subsequent applications at the appropriate time, we will also extend

requests for intervention not withstanding that some may have been

estimates and financing plans; and any tariff-related issues which are not decided by the Commission in Docket No. RM 78-12.[6] Phase II shall also include any issue in Phase I whose consideration could not be completed by the date upon which the record in Phase I was certified to the Commission, but shall not reconsider any issue (in particular, the certificate conditions) that was already fully considered in Phase I.

(4) Phase III shall deal with the various proposals that certain parties contend are competitive with the instant proposal and the needs of these parties for continued or additional supplies of Canadian gas.

The Commission will make provision herein for the Presiding Administrative Law Judge designated to preside over these proceedings to convene a prehearing conference after this order issues for the purpose of fixing appropriate procedural dates for the final two phases of the hearing. The Presiding Judge will submit a report to the Commission on or before June 1, 1979, on the procedural schedule he has established.

Michigan Wisconsin Pipeline Company (Michigan Wisconsin) filed certain comments which, while posing no basic objection to the proposed phasing, did request some clarification of the phasing procedures, particularly those relating to the issues set forth above in Phase I as proposed by the project sponsors.[7] Michigan Wisconsin contends that the issue relative to the desirability of these imports and the relationship and benefits of these imports and related applications and facilities to the ANGTS should not be wholly restricted to their Phase I. Michigan Wisconsin asserts that the facts necessary to quantify any basically general testimony called for in Phase I will be presented in subsequent phases and that Phase III is especially relevant to the general desirability issue that the sponsors would have incorporated into Phase I of this hearing.

The basic reason for phasing the testimony in these proceedings is to fulfill our statutory duty, as mandated by ANGTA, to expedite the proceedings relating to the construction of ANGTS. The phasing of the testimony does not in any way preclude the utilization of detailed testimoney introduced in one of the later phases to either support or contest positions taken by parties on any general issues. We do recognize that there may be an essential relationship between the testimony introduced in the various phases provided for in this order. It would be difficult to perceive any objection to a party indicating on the record that portions of the testimony it had presented in a subsequent phase was in support or opposition to a particular presentation made in Phase I. However, no party should be permitted to reiterate any general testimony in any of the subsequent phases. The Presiding Judge has the authority to rule with respect to any disputes between the parties dealing with the scope of the evidence that may be introduced in the various phases.

Midwestern and those parties who contend that they are in a competitive posture with the applicants herein for prospective supplies of Canadian gas request advice relating to the phase in which this issue should be addressed. Phase III is the appropriate place in which to introduce matters relating to their specific needs for Canadian gas and other Canadian import proposals that may be in conflict or competition with the proposal of the applicants. The reservation of the competitive issues for the final phase should facilitate an expeditious and uninterrupted presentation by the applicants and provide those parties that may be in a competitive posture with this proposal with the opportunity of making a full response during the course of their own presentation.

In addition it is possible that the Canadian National Energy Board (N.E.B.) may, before the final phase of these proceedings is concluded, render a determination on one or more of the proposals that certain parties contend are competitive in nature with the proposals of the applicants in the instant proceedings. Such a determination by the N.E.B. could moot or otherwise help clarify the scope of proposals that may be considered as being competitive with the instant proposal to import additional Canadian gas supplies.

Michigan Wisconsin also requests that we clarify whether the "need for the gas to be imported", which is to be addressed by the parties in Phase I, relates to the national need for Canadian gas, or to the needs of the specific importers, or both. In view of the existing energy shortage confronting the nation it would seem that the importation of additional Canadian supplies would tend to ease both the over-all national needs as well as the needs of the specific importers to these consolidated proceedings. It is our opinion that testimony relating both to the national and individual implications of this importation will prove helpful in the development of a full record in these proceedings. However, it would be more consistent with the prescribed procedures to reserve for the final phase of the hearing the needs of those parties alleging that they are involved in proposals that are by nature competitive with those of the applicants.

On April 6, 1979, the Commission issued its Notice of Proposed Rulemaking in Docket No. RM78-12.[8] At this juncture it is not possible to gauge the impact that the final rule promulgated in Docket No. RM78-12 will have with respect to the need for adjudication of the issues that we have included in Phase II. There will of course be no need to adjudicate in these proceedings those tariff-related issues and other Phase II issues pertaining to the pre-delivery of Canadian gas involved herein to the extent that they are decided by the Commission in the rulemaking proceeding. As previously indicated, the Presiding Judge will establish procedural dates for adjudication of the issues set forth in Phase II and reschedule these dates if that becomes necessary due to the final rule that is ultimately issued in Docket No. RM78-12.

The Commission notes that the applicants have the burden of demonstrating that their applications, as filed, meet the requirements of the Natural Gas Act and the Alaska Natural Gas Transportation Act. As a corollary, any party in opposition to the applications, as filed, has the burden of filing evidence to the contrary if such opposition depends upon facts to be established of record. Provision may be made herein by the Presiding Judge for the filing of answering testimony and the parties opposing the applications filed in these proceedings may file such testimony setting forth the basis of their opposition to these applications.

3. Other Procedural Matters

The project sponsors suggest that the Commission is mandated under the requirements of ANGTA to waive the intermediate decision procedure pursuant to Section 1.30(c) of its rules and regulations. Conversely the Commission Staff and several of the other parties contend that an initial decision from the Presiding Judge would be most helpful to the Commission and

[6] See Notice of Proposed Rulemaking to Set Values for Incentive Rate of Return, Approved Filed Tariffs and Establish Change of Scope and Inflation Adjustment Procedures in Docket No. RM78-12 issued on April 6, 1979.

[7] See Comments filed with the Director of the Alaska Gas Project Office by Michigan Wisconsin in a letter dated March 28, 1979, which comments were adopted by Midwestern Gas Transmission Company (Midwestern) by letter to the Director of the same date.

[8] See footnote 6, *supra*.

that the waiver requested by the project sponsors should not be granted. Motions for waiver of the intermediate decision procedure are normally made at the conclusion of a hearing before the Presiding Judge fixes a briefing schedule. There is usually no need for the Commission to determine, prior to the commencement of the formal hearing, whether the intermediate decision procedure should be waived. However, due to the importance that Phase I may have to the implementation of the over-all project, we find it appropriate to waive the intermediate decision procedure with respect to that phase at this time. The parties will be free to make such a motion with respect to the remaining two phases at the conclusion of the hearing and we will entertain such a request at that time. If at the conclusion of the hearing a request for such a waiver is made and granted, the Commission will also, at that time, fix a suitable briefing schedule.

One further procedural issue should be resolved at this time. While numerous parties have petitioned to intervene in these dockets, many parties have not requested a hearing nor indicated their intent to participate in any hearing. Accordingly, the Commission hereby directs the Presiding Administrative Law Judge to establish procedures for a limited service list for all future filings. While any party who has been granted intervention by our order issued today may be placed on the resticted service list, the Commission notes that in prior cases such as this, a large service list has constituted a burden on the Commission, its Staff and all filing parties. Therefore, the Commission requests that only those parties who find it necessary to receive all future pleadings, filings and evidence, request to be placed on the restricted service list. Of course, all parties to the proceeding will receive all notices and orders of the Commission.

Prior to this order, the Commission granted intervention to a large number of persons in the start-up phase of these proceedings relating to the application filed by Northwest Alaskan in Docket Nos. CP78-123, *et al.*[9] In our June 7, 1978, order we recognized that additional applications will be filed in the overall proceedings in Docket Nos. CP78-123, *et al.* to cover all of its various phases and segments. We noted in that order that while we will entertain petitions to intervene with respect to these subsequent applications at the appropriate time, we will also extend the party status of a person permitted to intervene in a particular phase of these proceedings to all other phases of the over-all proceedings. We will continue the practice of extending party status, in applications subsequently filed, to any person previously permitted to intervene in the proceedings. Therefore, those persons already permitted to intervene herein are not obliged to make a further filing in order to attain party status in any subsequent applications filed in these proceedings.

The Commission publicly noticed the import applications in Docket Nos. CP78-123, *et al.* on April 12, 1978, and provided in that notice for the filing of petitions to intervene and protests on or before April 21, 1978. A large number of petitions to intervene filed in these proceedings, both timely and untimely, have been granted by the Commission. (See footnote 9, *supra*.). A number of additional untimely petitions and notices of intervention in Docket Nos. CP78-123, *et al.* have since been received by the Commission.[10] All of these petitions will be hereinafter granted.

In our June 7, 1978, order issued in Docket Nos. CP78-123, *et al.*, we made the observation that a number of applications remain to be filed in connection with Northwest Alaskan's application. In that order we granted untimely petitions to intervene, absent the required showing of good cause, because certain of the filings necessary to complete the consolidation were still outstanding. As we have previously indicated in this order, there are still a number of applications outstanding that must be filed before these proceedings can be concluded. Due to the unique problems associated with this complex matter, we will continue, as noted, our policy of authorizing a person permitted to intervene in one docket the right to participate in all other dockets that are now or will be consolidated therewith. Morever, in the unique circumstances of this case, good cause exists to permit all requests for intervention not withstanding that some may have been filed out of time with no showing of cause having been made.

A number of petitions have also been received requesting permission to intervene in the more recently filed applications that relate to specific segments of the over-all project. Some of these petitioners seeking to intervene in specific applications of these consolidated proceedings have not been afforded a party status in any other phase of the over-all proceedings in Docket Nos. CP78-123, *et al.* Therefore, we will grant all of the latter petitioners permission to intervene in the instant consolidated proceedings.[11]

We have attached for reference a copy of the memorandum submitted to the Commission by the Director of the Commission's Alaska Gas Project Office. The views expressed therein do not necessarily reflect the views of the Commission.

The Commission finds: (1) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act and the Alaska Natural Gas Transportation Act that the Commission enter upon a hearing concerning the applications of Northwest Alaskan Pipeline Company, Northern Border Pipeline Company, Pacific Gas Transmission Company, Pacific Interstate Transmission Company, Northwest Pipeline Corporation, El Paso Natural Gas Company and the applications to be filed by Panhandle Eastern Pipe Line Company, Northern Natural Gas Company, and United Gas Pipe Line Company for downstream delivery of the gas subject to these applications.

(2) Participation by the petitioners to intervene listed above may be in the public interest.

(3) Good cause exists to permit those petitioners filing untimely petitions the right to intervene in these proceedings.

[9] See Commission orders issued in these proceedings on June 7, 1978, and August 4, 1978, granting numerous petitions to intervene in the instant proceedings.

[10] Untimely applications to intervene in Docket Nos. CP78-123, *et al.* were filed by the following petitions: North Central Public Service Company, Division of Donovan Companies, Inc., Central Illinois Public Service Company, Wisconsin Natural Gas Company, *supra*. Firstmiss, Inc., Pacific Gas and Electric Company, Great Lakes Transmission Company, the Upper Tananna Development Corporation, General Service Customer Group, The Brooklyn Union Gas Company, Northern States Power Company (Wisconsin and Minnesota), United Mid-Continent Pipeline Company, Minnesota Gas Company, Metropolitan Utilities District of Omaha (2), and Iowa Public Service Company. The Wisconsin Public Service Commission and the Iowa State Commerce Commission have filed notices of intervention in these proceedings.

[11] Timely petitions by petitioners, not previously granted intervention in any of the applications consolidated in the instant proceedings, were filed in specific applications, consolidated for hearing purposes in this order, by the following persons: Entex Inc., Iowa Electric Light and Power Company, General Motors corporation, Washington Natural Gas Company and Southern Union Company. Untimely petitions by petitioners, not previously granted intervention herein, were filed by the following persons in connection with specific applications consolidated for hearing by this order: Public Service Company of Colorado, Western Slope Gas Company, Cheyenne Light Fuel and Power Company, The Department of Water and Power of the City of Los angeles, California, The City of Hawley, Minnesota, Mountain Fuel Supply Company, Property Owners Fruitland/New Plymouth Area, Payette County, Idaho, and The Villages of Hallock, Argyle, Lake Park, Stephen, Warren, Parkam and New York Mills, Minnesota.

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(4) The applications filed in Docket Nos. CP78–123, CP78–124, CP79–170, CP79–56, CP79–57, CP79–58, CP79–59 and CP79–60 and the applications to be filed by Panhandle Eastern Pipe Line Company, Northern Natural Gas Company and United Gas Pipe Line Company for downstream delivery of the gas subject to these applications, are conditionally found to be necessary or related to the construction and initial operation of the Alaskan Natural Gas Transportation System subject to a final determination that these applications are not inconsistent with the public interest under Section 3 of the Natural Gas Act and that such applications are required by the public convenience and necessity under Section 7 of the Natural Gas Act, where such standard is applicable.

(5) Due to common issues of fact and law consolidation of the foregoing applications is necessary.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7 and 9 thereof, the Alaska Natural Gas Transportation Act, and the Commission's rules and regulations, a public hearing shall be held on the above referenced applications, in the manner provided for in the instant order.

(B) The petitioners named or referenced herein are hereby permitted to intervene as requested subject to the rules of the Commission; provided that the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the petitions to intervene, and that the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order issued by the Commission in these proceedings.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose [18 CFR 3.5(d)], shall convene and preside at a prehearing conference in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, for the purpose of determining an appropriate procedural schedule for the two final phases of the hearing as more fully described in this order. The date to be fixed for the convening of such a prehearing conference should be sufficiently early so that the Presiding Judge can file a report to the Commission, on or before June 1, 1979, with respect to the procedural schedule he has established.

(D) The Presiding Administrative Law Judge designated by the Chief Administrative Law Judge for the purposes set forth in ordering paragraph (C) above shall preside over the hearing provided for in this order, and shall consistent therewith assure its timely commencement, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further rules and any other procedural dates as provided for in this order and in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

Lois D. Cashell,
Acting Secretary.

Federal Energy Regulatory Commission

April 19, 1979.

Memorandum for the Commission.

From: John B. Adger, Jr., Director, Alaska Gas Project Office.

Subject: Hearing Schedule for "Pre-Build" Applications.

The Commission has now received and noticed almost all of the required filings for the ANGTS sponsors' proposals to construct, in advance of when they would be required for Alaska gas service, certain of the facilities authorized by the President and the Congress under the provisions of the Alaska Natural Gas Transportation Act (ANGTA).[1] The President's Decision and Report to Congress on the Alaska Natural Gas Transportation System[2] mentioned the possibility of a "prebuild project" (see, e.g., pp. 92–93), but left for the Commission any consideration of specific proposals which might be developed.

I held three on-the-record conferences regarding these filings (March 16, 19 and 20, 1979), with a fourth on tariff issues (March 27, 1979), some of which also impact the Eastern Leg proposal. The conferences were useful in getting the parties to substantially agree on what the issues are in this proceeding, and to agree that Commission consideration of the issues can and should be phased.

There are two important timing matters which the Commission should try to accommodate in its consideration of the proposals. First, I understand that the ANGTS sponsors will be seeking financial commitments for the project as a whole later on this year. They have asserted that the pre-build project could facilitate obtaining financing for the project. Thus, the role of the pre-build project in the financing of the entire project should be defined in time to be part presentations to the financial community if it is to have any beneficial effect.

Secondly, the Government of Canada is expected to begin in early summer consideration of specific projects to exports natural gas found surplus to Canada's requirements in the recent report of the National Energy Board.[3] Decisions are expected later this year. Representatives of the Canadian Government have publicly stated[4] that Canada would not approve the Canadian portions of the pre-build project without adequate assurances that the entire project would be completed. Accordingly the Commission at the earliest opportunity should speak to the relationship of the pre-build project to completion of the ANGTS.

In addition to the two timing matters, certain specific aspects of the pre-build project as proposed also require Commission evaluation on a threshold issue basis. In particular, trying the depreciation schedules for the pre-built segments to the length of the Canadian gas supply contracts involves some redistribution of risk from that which was inherent in Northwest's proposal filed with the Federal Power Commission in March of 1977. The short depreciation schedules also raise a question with regard to whether transportation charges based on such schedules would constitute ". . . a fee, surcharge, or other payment in relation to the [ANGTS] * * *", which payments are prohibited prior to completion of the system by finance condition 3 in the *Decision* (pp. 37–38).

Because of matters such as these, I recommend early Commission action in conditioning any approvals which might be granted to the pre-build project with respect to its role in implementation of the rest of the project. I believe the product of Commission consideration of these matters should be a list of specific conditions under which the Commission is prepared to further consider the pre-build applications. I would specifically encourage the Presiding Judge and all

[1] The filings also cover certain facilities which are in addition to those authorized under ANGTA.

[2] Executive Office of the President, Energy Policy and Planning: *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (referred to as "the *Decision*"); September, 1977.

[3] National Energy Board, *Canadian Natural Gas Supply and Requirements*, February, 1979.

[4] See, e.g., the testimony of the Honorable Mitchell Sharp, Commissioner of the Canadian Northern Pipeline Agency, before the Standing Committee in the House of Commons on February 13, 1979, and that of Mr. C. G. Edge, Vice Chairman of the National Energy Board, before the same Committee on February 15, 1979.

parties to explore such conditions fully and completely, but I believe a Commission decision would be best developed directly from the record, and would recommend waiving the initial decision.

[Docket Nos. CP78–123; CP78–88–60; CP79–170; CP78–124]
[FR Doc. 79–13805 Filed 5–1–79; 8:45 am]
BILLING CODE 6450–01–M

Patrick Petroleum Corp. of Michigan; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 5, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274. 104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Michigan Department of Natural Resources

FERC Control Number: JD79–2931
API Well Number: 2110131997
Section of NGPA: 103
Operator: Patrich Petroleum Corporation of Michigan
Well Name: State Springdale 3–27 MI 15425
Field: Springdale 28
County: Manistee
Purchaser: Consumers Power Company
Volume: 73.949 MMcf.

FERC Control Number: JD79–2932
API Well Number: 31804
Section of NGPA: 102
Operator: Northern Michigan Exploration Company
Well Name: NOMECO State-Kalkaska #1–10
Field: Kalkaska "10" Field
County: Kalkaska
Purchaser: Consumers Power Company
Volume: 168 MMcf.

FERC Control Number: JD79–2933
API Well Number: NA
Section of NGPA: 102
Operator: Hunt Energy Corporation et al
Well Name: Bray et al #3–30 32393
Field: Winterfield—30 Field
County: Clare
Purchaser: Consumers Power Company
Volume: 10 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–13820 Filed 5–2–79; 8:45]
BILLING CODE 6450–01–M

Santa Fe Energy Co., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 6, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of California—Resources Agency Department of Conservation Division of Oil and Gas

FERC Control Number: JD79–5046
API Well Number: 111–20785
Section of NGPA: 103
Operator: Santa Fe Energy Company
Well Name: ARCO 12
Field: Ojai-Silverthread
County: Ventura
Purchaser: ARCO Oil and Gas Company
Volume: 8 MMcf.

FERC Control Number: JD79–5049
API Well Number: 111–20815
Section of NGPA: 103
Operator: Santa Fe Energy Company
Well Name: ARCO 13
Field: Ojai-Silverthread
County: Ventura
Purchaser: ARCO Oil and Gas Company
Volume: 6 MMcf.

FERC Control Number: JD79–5050
API Well Number: 111–20843
Section of NGPA: 103
Operator: Santa Fe Energy Company
Well Name: ARCO 20RD
Field: Ojai-Silverthread
County: Ventura
Purchaser: ARCO Oil and Gas Company
Volume: 11 MMcf.

FERC Control Number: JD79–5051
API Well Number: 111–20818
Section of NGPA: 103
Operator: Santa Fe Energy Company
Well Name: Tar Creek 34–28
Field: Sespe
County: Ventura
Purchaser: Shell Oil Company
Volume: 17 MMcf.

FERC Control Number: JD79–5052
API Well Number: 111–20784
Section of NGPA: 103
Operator: Santa Fe Energy Company
Well Name: Tar Creek 43–28
Field: Sespe
County: Ventura
Purchaser: Shell Oil Company
Volume: 7 MMcf.

FERC Control Number: JD79–5053
API Well Number: 111–20844
Section of NGPA: 103
Operator: Santa Fe Energy Company
Well Name: Tar Creek 59V–28
Field: Sespe
County: Ventura
Purchaser: Shell Oil Company
Volume: 1 MMcf.

FERC Control Number: JD79–5054
API Well Number: 111–20635
Section of NGPA: 103
Operator: Santa Fe Energy Company
Well Name: Thornbury-Geis 62–29
Field: Sespe
County: Ventura
Purchaser: Shell Oil Company
Volume: 28 MMcf.

FERC Control Number: JD79–5055
API Well Number: 111–20777
Section of NGPA: 103
Operator: Santa Fe Energy Company
Well Name: Thornbury-Geis 72–29
Field: Sespe
County: Ventura
Purchaser: Shell Oil Company
Volume: 40 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of those final determinations may in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79–13817 Filed 5–2–79; 8:45 am]
BILLING CODE 6450–01–M

Stevens Oil Co., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 17, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of New Mexico, Energy and Minerals Department, Oil Conservation Division

FERC Control Number: JD79–5248
API Well Number:
Section of NGPA: 103
Operator: Stevens Oil Company
Well Name: Citgo-State #4
Field: Twin Lakes San Andres

4 4 1 8 7 M Y 3 7 9 UMI

County: Chaves
Purchaser: Stevens Oil Co., Transwestern Pipeline Co.
Volume: 10.0 MMcf.
FERC Control Number: JD79-5249
API Well Number:
Section of NGPA: 103
Operator: Stevens Oil Company
Well Name: O'Brien "E" #2
Field: Twin Lakes San Andres
County: Chaves
Purchaser: Stevens Oil Co., Transwestern Pipeline Co.
Volume: .0 MMcf.
FERC Control Number: JD79-5250
API Well Number:
Section of NGPA: 103
Operator: Stevens Oil Company
Well Name: O'Brien "E" #1
Field: Twin Lakes San Andres
County: Chaves
Purchaser: Stevens Oil Co., Transwestern Pipeline Co.
Volume: 5.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-13823 Filed 5-2-79; 8:45 am]

BILLING CODE 6450-01-M

Terra Resources, Inc., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978.

April 25, 1979.

On April 13, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

North Dakota Geological Survey

FERC Control Number: JD79-5150
API Well Number: 5967 33-053-00676
Section of NGPA: 102
Operator: Terra Resources, Inc.
Well Name: Minnie Olsen 2-18
Field: Bicentennial
County: McKenzie
Purchaser: True Oil Company
Volume: 70 MMcf.
FERC Control Number: JD79-5151
API Well Number: 6028 33-053-00679
Section of NGPA: 102
Operator: Terra Resources, Inc.
Well Name: BNRR 1-19
Field: Bicentennial
County: McKenzie
Purchaser: True Oil Company
Volume: 28 MMcf.
FERC Control Number: JD79-5152
API Well Number: 6308 33-053-00723
Section of NGPA: 102
Operator: Terra Resources, Inc.
Well Name: BNRR 1-7
Field: Bicentennial
County: McKenzie
Purchaser: True Oil Company
Volume: 50 MMcf.
FERC Control Number: JD79-5153
API Well Number: 6508 33-033-00049
Section of NGPA: 102
Operator: Terra Resources, Inc.
Well Name: Messersmith 1-1
Field: Bicentennial
County: Golden Valley
Purchaser: True Oil Company
Volume: 94 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-13814 Filed 5-2-79; 8:45 am]

BILLING CODE 6450-01-M

Triad Oil & Gas Co., Inc., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 9, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

The State Oil and Gas Board of Mississippi

FERC Control Number: JD79-5063
API Well Number: 23-095-20215
Section of NGPA: 102 and 103
Operator: Triad Oil & Gas Co., Inc.
Well Name: Ladner Et Al Weyerhaeuser No. 1
Field: Buttahatchie River Field
County: Monroe
Purchaser: Tennessee Gas Pipeline Company
Volume: 483,700 MMcf.
FERC Control Number: JD79-5084
API Well Number: 23-085-20086
Section of NGPA: 107
Operator: System Fuels, Inc.
Well Name: Armstrong 25-11 No. 1 Well
Field: Holiday Creek
County: Jefferson Davis
Purchaser: System Fuels, Inc.
Volume: 1,100 MMcf.
FERC Control Number: JD79-5085
API Well Number: 23-085-20098
Section of NGPA: 107
Operator: System Fuels, Inc.
Well Name: Olin Geiger No. 1 Well
Field: Holiday Creek
County: Jefferson Davis
Purchaser: System Fuels, Inc.
Volume: 330 MMcf.
FERC Control Number: JD79-5086
API Well Number: 23-085-20109
Section of NGPA: 107
Operator: System Fuels, Inc.
Well Name: H. Stringer 24-11 Well No. 1
Field: Holiday Creek
County: Jefferson Davis
Purchaser: None (from System Fuels)
Volume: 800 MMcf.
FERC Control Number: JD79-5087
API Well Number: 23-085-20095
Section of NGPA: 107
Operator: Placid Oil Company
Well Name: C. P. Price No. 1
Field: Bassfield
County: Jefferson Davis
Purchaser: Transcontinental Gas Pipeline Corp.
Volume: 350 MMcf.
FERC Control Number: JD79-5068
API Well Number: 23-07-300030
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: I. H. Bass Et Al CU-C G-3
Field: Baxterville
County: Lamar
Purchaser: United Gas Pipeline Co.
Volume: 15 MMcf.
FERC Control Number: JD79-5069
API Well Number: 23-09-120055
Section of NGPA: 102
Operator: Exxon Corporation
Well Name: HUB Gas Unit 11, No. 1
Field: Hub
County: Marion
Purchaser: Southern Natural Gas Company
Volume: 730 MMcf.
FERC Control Number: JD79-5090
API Well Number: 23-06-520024
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: M. W. Berry Well #3
Field: Gwinville Field
County: Jefferson Davis
Purchaser: United Gas Pipeline Company
Volume: 13 MMcf.

FERC Control Number: JD79-5091
API Well Number: 23-085-20105
Section of NGPA: 107
Operator: Amoco Production Company
Well Name: Sabine—Amoco Unit 32-6 No. 1
Field: Oakvale Field
County: Jefferson Davis
Purchaser: Transcontinental Gas Pipeline Corp.
Volume: 1825 MMcf
FERC Control Number: JD79-5092
API Well Number: 23-017-20013
Section of NGPA: 102
Operator: Ceja Corporation
Well Name: Baskin Heirs Well No. 2
Field: Trebloc
County: Chickasaw
Purchaser: Texas Eastern Transportation Corp.
Volume: 65 MMcf.
FERC Control Number: JD79-5093
API Well Number: 23-017-20015
Section of NGPA: 102 & 103
Operator: Ceja Corporation
Well Name: Pulliam Well No. 1
Field: Trebloc
County: Chickasaw
Purchaser: Texas Eastern Transportation Corp.
Volume: 280 MMcf.
FERC Control Number: JD79-5094
API Well Number: 23-001-21805
Section of NGPA: 102
Operator: Walter W. Heard, Jr.
Well Name: Armstrong—Oakland "A" No. 1
Field: North Cranfield Field
County: Adams County
Purchaser: Southern Natural Gas Company
Volume: 225 MMcf.
FERC Control Number: JD79-5095
API Well Number: 23-10-900077
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: P. E. Norris Well No. 2
Field: Pistol Ridge
County: Pearl River
Purchaser: United Gas Pipeline Company
Volume: 17 MMcf.
FERC Control Number: JD79-5096
API Well Number: 23-031-20042
Section of NGPA: 102
Operator: Mosbacher Production Co.
Well Name: Board of Supervisors 16-14 No. 1
Field: Jaynesville Field
County: Covington County
Purchaser: United Gas Pipeline Company
Volume: 54 MMcf.
FERC Control Number: JD79-5096-A
API Well Number: 23-031-20042
Section of NGPA: 103
Operator: Mosbacher Production Co.
Well Name: Board of Supervisors 16-14 No. 1
Field: Jaynesville Field
County: Covington County
Purchaser: United Gas Pipeline Company
Volume: 54 MMcf.
FERC Control Number: JD79-5097
API Well Number: 23-085-20210
Section of NGPA: 102 & 103
Operator: Triad Oil & Gas Co., Inc.
Well Name: Ladner Et Al Sam Creekmore No. 2
Field: Maple Branch Field
County: Monroe
Purchaser: Tennessee Gas Pipeline Company
Volume: 86,600 MMcf.
FERC Control Number: JD79-5098
API Well Number: 23-045-20057
Section of NGPA: 103
Operator: Phillips Petroleum Company
Well Name: Crosby Estate—C, Well No. 2
Field: Waveland Field
County: Hancock County
Purchaser: United Gas Pipeline Company
Volume: 1,460 MMcf.
FERC Control Number: JD79-5099
API Well Number: 23-031-20039
Section of NGPA: 102
Operator: Mosbacher Production Co.
Well Name: Stroud Polk Unit Well No. 1
Field: Jaynesville Field
County: Covington
Purchaser: United Gas Pipeline Company
Volume: 360 MMcf.
FERC Control Number: JD79-5100
API Well Number: 23-147-20107
Section of NGPA: 103
Operator: Getty Oil Company
Well Name: Stogner 12-8 No. 1
Field: Dexter
County: Walthall
Purchaser: Southern Natural Gas Company
Volume: 720 MMcf.
FERC Control Number: JD79-5101
API Well Number: 23-127-20030
Section of NGPA: 103
Operator: Amax Petroleum Corporation
Well Name: Gordon Reed 22-9 #1-D
Field: Martinville
County: Simpson
Purchaser: United Gas Pipe Line Company
Volume: 90 MMcf.
FERC Control Number: JD79-5102
API Well Number: 23-127-20026
Section of NGPA: 102
Operator: Amax Petrolum Cotporation
Well Name: #1 MacGregor 22-9
Field: Martinville
County: Simpson
Purchaser: United Gas Pipe Line Company
Volume: 100 MMcf.
FERC Control Number: JD79-5103
API Well Number: 23-127-20026
Section of NGPA: 102
Operator: Amax Petroleum Corporation
Well Name: #1 MacGregor 22-9
Field: United Gas Pipe Line Company
County: 65 MMcf.
Purchaser:
Volume:
FERC Control Number: JD79-5104
API Well Number: 23-045-20027
Section of NGPA: 102 & 103
Operator: Spooner Petroleum Company
Well Name: Cinque Bambini No. 2 Well
Field: Waveland
County: Hancock
Purchaser: United Gas Pipeline Company
Volume: 550 MMcf.
FERC Control Number: JD79-5105
API Well Number: 23-045-20023
Section of NGPA: 102 & 103
Operator: Spooner Petroleum Company
Well Name: Cinque Bambini No. 1 Well
Field: Waveland
County: Hancock
Purchaser: United Gas Pipeline Company
Volume: 550 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-13825 Filed 5-2-79; 8:45 am]

BILLING CODE 6450-01-M

Upper Peninsula Power Co.; Order Granting in Part and Denying in Part Application for Rehearing and Granting Intervention

Issued: April 24, 1979.

On March 14, 1979, Upper Peninsula Power Company (UPPCO) filed an application for rehearing of the Commission's order of February 12, 1979 in this docket. UPPCO contends, *inter alia*, that (1) it should be permitted to use the 48 percent Federal income tax rate in effect during its historic Period I test period in computing its cost of service; or that (2) if required to refile using the new 46 percent tax rate, which will be the statutory rate during the effective period of the proposed rate increase, its shareholders should not be required to bear the cost of refiling. UPPCO bases the latter argument on the fact that its use of unadjusted historic cost data was proper for a Period I filing under the Commission's regulations, § 35.13(b)(4)(iii).

The Commission has permitted utilities electing *not* to file an estimated Period II test period to propose adjustment for known and measurable changes to the historic cost data required.[1] Thus UPPCO's claims that the Commission has compelled reflection of the lower tax rate without providing the company an opportunity to show offsetting cost increases is incorrect. Moreover, the statutory change in the applicable federal income tax effective January 1, 1979 is a known and measurable change of such a substantial nature, and one unrelated to other cost of service changes, that the Commission

[1] *e.g., Boston Edison Company*, Docket No. E-8855, Order issued June 18, 1978, pages 7-8.

properly required UPPCO, as well as other utilities, to reflect this adjustment to its historic test year. We therefore deny UPPCO's application for rehearing of our determination that the company must adjust its proposed rates to reflect the 48 percent federal income tax rate in its cost of service.

However, since our regulations do not *require* the making of adjustments to Period I data, we shall grant rehearing on the limited question of whether UPPCO's shareholders should absorb the expense of the refiling. Since UPPCO's filing was in compliance with our regulations, we shall not require it to absorb the cost of refiling to reflect the 46 percent tax rate. However, we shall continue to require utilities filing Period II data to absorb this cost since the statutory federal income tax rate in effect during Period II is the only proper "estimate" of such tax. Since the net benefit to UPPCO's customer may not be more than the cost of refiling, which would ultimately be passed on to the consumer as a regulatory expense, we shall not require interim refiling to reflect the tax rate change in this case.

On March 6, 1979, Wisconsin Electric Power Company filed a late petition to intervene in this proceeding. We find that it may be in the public interest to grant this petition.

UPPCO also seeks rehearing of the Commission's determination that the company's proposed rate increase be suspended for the full five month statutory period. UPPCO contends that the suspension period should be shortened to one day in view of the company's poor current financial condition. Review of UPPCO's rate filing and the application for rehearing indicates that the utility has not demonstrated that its current financial condition warrants any reduction of the suspension period.

The Commission finds: (1) Good cause exists to grant rehearing on the limited issue of whether UPPCO's shareholders must absorb the costs of refiling its rates to reflect the 46 percent federal income tax rate.

(2) UPPCO has shown no new facts or law which would justify granting rehearing of the other issues raised in its application.

The Commission orders: (A) Rehearing is granted to the limited extent that ordering paragraph (E) of our February 12, 1979 order in this docket is hereby amended to delete the second sentence entirely.

(B) Rehearing of all other issues raised in UPPCO's application is hereby denied.

(C) Wisconsin Electric Power Company shall be permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* that participation by such intervenors shall be limited to matters set forth in their petitions to intervene; and *Provided, further,* that the admission of these intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) The Secretary shall cause prompt publication of this order to be made in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[Docket No. ER79-107]

[FR Doc. 79-13807 Filed 5-2-79; 8:45 am]

BILLING CODE 6450-01-M

Warrior, Inc., et al.; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 25, 1979.

On April 16, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Polciy Act of 1978.

State of New Mexico, Energy and Minerals Department, Oil Conservation Division

FERC Control Number: JD79-5355
API Well Number:
Section of NGPA: 108
Operator: Warrior, Inc.
Well Name: Ida White #2
Field: Eumont Yates Seven Rivers Queen
County: Lea
Purchaser: Phillips Petroleum Co.
Volume: 5 MMcf.

FERC Control Number: JD79-5356
API Well Number:
Section of NGPA: 108
Operator: Warrior, Inc.
Well Name: Alexander #1
Field: Eumont Queen—Gas
County: Lea
Purchaser: Getty Oil Co.
Volume: 10 MMcf.

FERC Control Number: JD79-5357
API Well Number:
Section of NGPA: 108
Operator: Warrior, Inc.
Well Name: Freedman State #2
Field: Jalmat Yates Seven Rivers
County: Lea
Purchaser: Phillips Petroleum Co.
Volume: 2 MMcf.

FERC Control Number: JD79-5358
API Well Number:
Section of NGPA: 108
Operator: Warrior, Inc.
Well Name: Freedman State #1
Field: Jalmat Yates Seven Rivers
County: Lea
Purchaser: Phillips Petroleum Co.
Volume: 1 MMcf.

FERC Control Number: JD79-5359
API Well Number:
Section of NGPA: 108
Operator: Warrior, Inc.
Well Name: State WE "B" #2
Field: Eumont Yates Seven Rivers Queen
County: Lea
Purchaser: Phillips Petroleum Co.
Volume: 3 MMcf.

FERC Control Number: JD79-5360
API Well Number:
Section of NGPA: 108
Operator: Warrior, Inc.
Well Name: State #2
Field: Eumont Yates Seven Rivers Queen
County: Lea
Purchaser: Phillips Petroleum Co.
Volume: 19 MMcf.

FERC Control Number: JD79-5361
API Well Number: 30-045-011228
Section of NGPA: 108
Operator: Consolidated Oil & Gas, Inc.
Well Name: Ripley No. 1 Well
Field: Blanco Mesaverde
County: San Juan
Purchaser: Southern Union Gas Company
Volume: 10.100 MMcf.

FERC Control Number: JD79-5362
API Well Number: 30-045-13142
Section of NGPA: 108
Operator: Consolidated Oil & Gas, Inc.
Well Name: Compass No. 1-22
Field: Basin Dakota
County: San Juan
Purchaser: Southern Union Gas Company
Volume: 10.950 MMcf.

FERC Control Number: JD79-5363
API Well Number:
Section of NGPA: 108
Operator: C & K Petroleum, Inc.
Well Name: Harold Olive Com. No. 1
Field: Carlsbad, South (Wolfcamp)
County: Eddy
Purchaser: El Paso Natural Gas Company
Volume: 13 MMcf.

FERC Control Number: JD79-5364
API Well Number: 30-045-010412
Section of NGPA: 108
Operator: Consolidated Oil & Gas, Inc.
Well Name: Templeton No. 1-27
Field: Basin Dakota
County: San Juan
Purchaser: Southern Union Gas Company
Volume: 9.125 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 18, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-13824 Filed 5-2-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Arkansas and Louisiana; Specific Exemptions To Use Avitrol To Control Blackbird Depredation on Newly Seeded Rice Fields

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA has issued specific exemptions to the States of Arkansas and Louisiana (hereafter referred to by State or as the "Applicants") to use Avitrol (0.03 percent active 4-aminopyridine) to control blackbird depredation of newly seeded rice fields. The specific exemptions end on June 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room E-315, Washington, D.C., Telephone 202/755-4851.

SUPPLEMENTARY INFORMATION: According to the Applicants, blackbird depredation of small grains is a recurring problem in Arkansas and Louisiana. Although the problem is usually associated with maturing grain, in the case of rice, blackbirds consume the newly planted rice seeds and seedlings. Significant yield losses result from the activity of large flocks of blackbirds which roost in these areas or stop to feed as they migrate northward.

Aerial broadcast seeding, a common agricultural practice, has contributed to the problem. The exposed seed grain is vulnerable to blackbird attack from seed stage until such time as the seedlings become established. There is a 6–8 week critical period, depending on moisture conditions.

The Applicants reported that blackbird damage causes not only a significant reduction of yield at harvest, but also ncessitates reseeding. Louisiana reported that reseeding cost $30 per acre in 1978. Arkansas estimated a $30 million value loss to the rice industry due to the blackbird damage in 1979. The Applicants further reported that the number of blackbird roosts and blackbird population have been increasing significantly.

Prior to the suspension of most aldrin/dieldrin uses, seed rice was treated with aldrin, primarily against rice weevil larvae. According to the Applicants, aldrin also served as a bird repellent. In 1976, with aldrin-treated seed no longer available, blackbird depredation of rice fields became a serious problem. There are no available pesticides registered for bird damage control on rice.

Alternatives to chemical control include noise devices, late planting and drill seeding. The Applicants claimed that noise devices become ineffective with their continued use as the birds become accustomed to them, reduced yields and frost damage may result from late planting, and drill seeding is not an acceptable alternative due to soil conditions at time of planting since rice fields are flooded until seeding. In addition, blackbirds attack seedlings as they break through the surface of the ground.

The Applicants proposed to use Avitrol Corn Chops-99 which is composed of a choice bird food impregnated with 4-aminopyridine. Avitrol is an acute poison that is highly toxic to both avian and mammalian species. Birds ingesting Avitrol react with distress symptoms and calls. By limiting the amount of bait available to relatively few birds (only one in one hundred kernels is treated with the toxic chemical), the remainder of the flock can be frightened away from feeding sites with a minimum of mortality. Avitrol Corn Chops-99 is registered for blackbird damage control on corn and sunflowers.

The greatest hazard associated with the use of Avitrol is to non-target avian species (migratory and native waterfowl, upland game birds, shore birds, and songbirds). Numerous waterfowl, upland game birds, shore birds, and songbirds). Numerous waterfowl species utilize rice fields as well as adjacent areas during early spring. Although many of these birds are beginning to migrate north by mid-March, birds that wintered farther south are continually using rice fields as stopover sites on their journey northward. Certain species of waterfowl may be found in these areas by late May. The greatest hazard is to the smaller avian species; however, treated corn kernels may contain more toxic chemical than is required to kill the target species and, therefore, can kill a bird larger than a blackbird. EPA has limited applications of Avitrol to one percent of the total rice acreage in each state to limit the extent of any adverse impact.

A tolerance of 0.1 part per million (ppm) has been established for negligible residues of the bird repellant 4-aminopyridine in or on the raw agricultural commodities corn grain, forage and fodder, and sunflower seeds. EPA has reviewed the data submitted for this use of Avitrol and has determined that residues in or on rice grain or straw would not be expected to exceed 0.1 ppm under this use.

After reviewing the application and other available information, EPA has determined that (a) bird depredation of seeded rice in Arkansas and Louisana is likely to occur; (b) there is no pesticide presently registered and available for use to control bird damage to rice crops; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if birds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until June 30, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The EPA-registered product, Avitrol Corn Chops-99 (EPA Reg. No. 11649-12), will be used and applied at a maximum rate of three pounds of product per acre of treated swaths. Avitrol will be applied in 60-foot swaths with a 120-foot swath between treated areas;

2. A maximum of three applications may be made. The second and third applications, if necessary, will be made to untreated swaths to prevent double treatment of the same land;

3. A maximum of 30,000 pounds of Avitrol may be applied to 10,000 acres in Arkansas and a maximum of 18,000 pounds may be applied to 6,000 acres in Louisiana;

4. This product is extremely toxic to wildlife. Care must be taken to keep it out of lakes, streams, or ponds and to prevent contamination of water by cleaning of equipment or disposal of waste;

5. All applicable directions, restrictions and precautions on the EPA-approved label will be observed;

6. Applications will be limited to State-licensed commercial applicators. Records of sale and distribution wil be maintained;

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7. A residue level not to exceed 0.1 ppm of 4-aminopyridine in or on rice grain or straw has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. The Applicants should recommend late seeding, drill seeding, trapping and scare devices as means of mitigating blackbird damage when efficacious and practical;

9. Applicator must report the time and place of application prior to application. Accurate records of these requests must be maintained and this information must be made available to those responsible for supervising applications of Avitrol. In Arkansas, the report may be made to one of the following: (a) State Plant Board, (b) State Cooperative Extension Service, (c) local county Cooperative Extension Service office, or (d) State Plant Board area specialist;

10. In Arkansas, on-site surveillance of all applications will be conducted by personnel of the State Cooperative Extension Service, State Plant Board, Arkansas Game and Fish Commission, or the U.S. Fish and Wildlife Service. In Louisiana, a sufficient number of qualified personnel from the Louisiana Department of Agriculture, Extension Service, State Fish and Game Agencies, and the U.S. Fish and Wildlife Service must be made available to conduct surveillance required under tis exemption. These personnel will be responsible for both pre- and post-treatment surveillance of applications of Avitrol;

11. On-site surveillance of all applications will be conducted. The purpose of the surveillance will be to:

a. Determine that there is a need for the treatment to prevent damage to newly seeded rice fields and that alternative methods of control (trapping and scare devices) are not efficacious or practical, or that bird populations of migratory birds (aside from those specified on the label) are found, and

b. Prohibit the application of Avitrol in areas where high populations of migratory birds (aside from those specified on the label) are found, and

c. Confirm that treatment was made in accordance with label precautions and directions and the requirements of the specific exemption;

12. In Arkansas, post-treatment monitoring will be conduted by personnel of the State Cooprative Extension Service, State Plant Board, Arkansas Game and Fish Commission, or the U.S. Fish and Wildlife Service. Post-treatment monitoring in Arkansas will be conducted on not less than one percent of the total acreage treated. Post-treatment monitoring in Louisiana will be conducted on no less than sixty acres. The purpose of post-treatment monitoring will be to:

a. Make observations concerning the effectiveness of the treatment in controlling blackbird damage,

b. Determine by observation and thorough search of the treated fields and of adjacent areas whether target and non-target species have been affected, and

c. Collect water, soil, and rice plant and grain samples from represenative fields for residue analysis;

13. The EPA shall be immediately informed of any adverse effects resulting from this use of Avitrol; and

14. A full report must be submitted to EPA by December 1, 1979.

Statutory Authority: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: April 29, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FRL 1216-1; OOP-180277]

[FR Doc. 79-13847 Filed 5-3-79; 8:45 am]

BILLING CODE 6560-01-M

Florida Department of Agriculture and Consumer Services; Specific Exemption To Use Methamidophos To Control Leafminers on Celery

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a Specific exemption.

SUMMARY: EPA has issued a specific exemption to the Florida Department of Agriculture and Consumer Services (hereafter referred to as the "Applicant") to use Monitor (methamidophos) to control leafminers on 6,500 acres of celery in Florida. The specific exemption ends on June 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Room E-315, Washington, D.C. 20460, Telephone: 202/755-4851.

SUPPLEMENTARY INFORMATION: The primary damage by the vegetable leafminer is caused by the tunneling larvae which destroy the leaf tissue; heavily mined leaves sometimes have nearly 100 percent of their mesophyll (photosynthetic tissue) removed. Leafminer damage to celery results in reduced quality and leaf death; ultimately, the plant branches die. This damage necessitates stripping, trimming, and culling, which drastically reduce yield and quality, the Applicant stated; further, complete fields may be lost or marketed only as a salvage operation by the grower.

According to the Applicant, the registered pesticides are not effective and methamidophos is highly effective as a larvicide and is also an excellent adulticide.

The Applicant proposed to treat commercial celery in the following areas; Zellwood in Orange County; Belle Glade, Pahokee and South Bay in Palm County; Sanford and Oviedo in Seminole County; and Sarasota in Sarasota County. A maximum of five applications made at seven-day intervals was proposed.

EPA has determined that the residue levels of methamidophos in or on celery or celery flakes resulting from the proposed use should not exceed the levels deemed adequate to protect the public health. EPA has imposed limitations to ensure that methamidophos does not adversely affect the environment.

After reviewing the application and other available informtion, EPA has determined that (a) a pest outbreak of leafminers on celery has occurred or is about to occur; (b) there is no effective pesticide presently registered and available for use to control this pest in Florida; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the leafminer is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1979, to the extent and in the manner set forth in the application, subject to the following conditions:

1. The product Monitor 4 is authorized for use at rates of 0.5 to 1.0 active ingredient (a.i.) per acre;

2. A maximum of 6,500 acres may be treated;

3. Applications of Monitor are limited to commerical celery in the areas mentioned above;

4. A maximum of five applications at a rate of 0.5 to 1.0 pound a.i. per acre may be applied;

5. All applications of Monitor must be applied by ground equipment. The minimum spray mixture volume for ground equipment will be twenty-five gallons per acre;

6. Applications of Monitor shall be limited to areas where acceptable scouting techniques show a definite trend of an excessive build up of leafminers. Fields that are not scouted may be treated in accordance with the recommendations of the local extension service;

7. All applications will be made by qualified growers or by commerical State-certified applicators;

8. Field monitoring must be conducted to evaluate adverse effects on birds and small mammals;

9. Monitor is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which an economically significant number of bees are actively foraging. Protective information may be obtained from the State Cooperative Agricultural Extension Service;

10. Precautions must be taken to avoid or minimize spray drift to non-target areas;

11. Celery treated according to the above provisions is not expected to have residues in excess of 2 parts per million (ppm) methamidophos. Residues of methamidophos in or on dried celery flakes are not expected to exceed 100 ppm. Celery and dried celery flakes with residues not exceeding these levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

12. A twenty-one day pre-harvest interval for all treated celery will be observed;

13. The EPA shall be informed immediately of any adverse effects resulting from this use of Monitor;

14. All applicable directions, restrictions, and precautions on the product label must be followed; and

15. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by June 30, 1979.

Statutory Authority: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: April 27, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FRL 1216-2; OPP-180278]

[FR Doc. 79-13846 Filed 5-3-79; 8:45 am]

BILLING CODE 6560-01-M

Idaho Department of Agriculture; Specific Exemption To Use Pydrin To Control Pear Psylla on Pears

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the Idaho Department of Agriculture (hereafter referred to as the "Applicant") to use Pydrin to control pear psylla on a maximum of 300 acres of pears in Canyon, Gem, Payette, Twin Falls, and Washington Counties. The specific exemption ends on June 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Room E-315, Washington, D.C. 20460, Telephone: 202/755-4851.

SUPPLEMENTARY INFORMATION: According to the Applicant, pear psylla is a very serious and difficult pest to control. The insect has three distinct developmental forms: the egg, the nymph, and the adult. In addition to a spring generation, there are three to five summer generations of this pest. Adults of the final summer generation are referred to as the over-wintering adults; they survive the winter in cracks and crevices of the bark and buds of pear and other trees. Although adults may be found on many different hosts, development of the immature insect occurs only on pears. Pear psylla causes serious damage, such as pear decline, decreased tree vitality, leaf blackening and leaf drop, tree death, fruit russeting, and reduced fruit size.

According to the Applicant, chemical control of pear psylla begins well before the growing season. In most orchards both a dormant and delayed-dormant (pre-bloom) spray of superior oil plus an insecticide(s) are applied to kill over-wintering adult psylla before they lay their eggs. Because there is little dispersal of pear psylla during the summer months, an effective dormant treatment is extremely important to reduce future summer populations. During the last ten years, perthane and endosulfan have been used in the pre-bloom program to reduce adult psylla populations; however, the Applicant stated that these chemicals have lost their effectiveness in controlling over-wintering adults. For example, endosulfan seems to be effective only during the early nymphal stages; pear psylla have also developed resistance to organophosphates. Therefore, according to the Applicant, the current problem is the unavailability of an efficacious pesticide to control the pest during the summer growing season. The problem has been intensified by the withdrawal of chlordimeform from the market; this pesticide had previously been effective in providing control during this season. Although chlordimeform is still registered for the proposed use, it was not available to pear growers last year and will be unavailable again this year.

The Applicant proposed to use Pydrin 2.4 E.C., manufactured by Shell Chemical Company, which contains cyano (3-phenoxyphenyl) methyl-4-chloro-alpha (1-methylethyl) benzeneacetate. Applications will be made by air and ground at a rate of up to 0.4 pound active ingredient (a.i.) per acre. A maximum of two applications will be made during the dormant to pre-bloom stages of pear tree development. The Applicant estimates losses at 25 to 40 percent of the total crop due to pear psylla damage if Pydrin is not used to control pear psylla. Idaho was tenth in the nation in pear production in 1977, producing 1,800 tons of pears valued at $360,000.

EPA has determined that the proposed use of Pydrin should not result in residue levels exceeding 0.01 part per million (ppm) in or on pears or apples. Secondary residues in meat, fat, and meat byproducts should not exceed the established 0.02 ppm temporary tolerances provided cover crops grown in treated orchards or not fed to livestock. These residue levels have been deemed adequate to protect the public health. After consultation with the Fish and Wildlife Service, U.S. Department of the Interior, EPA has concluded that the proposed use of Pydrin is not likely to jeopardize the continued existence of endangered species or adversely modify their critical habitats.

After reviewing the appliation and other available information, EPA has determined that (a) a pest outbreak of pear psylla has occurred; (b) there is no effective pesticide presently registered and available for use to control the pear psylla in Idaho; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the pear psylla is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1979 to the extent and in the manner set forth in the

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application. The specific exemption is also subject to the following conditions:

1. Pydrin may be applied at a rate of up to 0.4 pound a.i. per acre per application;

2. A maximum of two applications may be made during the dormant to the pre-bloom stages of pear tree development. A maximum of 240 pounds a.i. may be applied;

3. Applications may be made with ground or air equipment;

4. Spray mixture volumes of 3 to 20 gallons will be applied by aircraft, 25 to 400 gallons with ground equipment;

5. A maximum of 300 acres may be treated;

6. All applications will be limited to commercial orchards in the counties named above;

7. All applications will be made by State-certified private or commercial applicators;

8. Precautions will be taken to avoid spray drift to non-target areas;

9. Pydrin is extremely toxic to fish and aquatic invertebrates. Care will be used when applying it in areas adjacent to any body of water. There will be no applications when weather conditions favor run-off or drift. Pydrin will be kept out of lakes, streams, and ponds. Contamination of water caused by cleaning of equipment or disposal of wastes is to be avoided;

10. Pydrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied, or allowed to drift, to weeds in bloom on which an economically significant number of bees are actively foraging. The Idaho Cooperative Agricultural Extension Service will provide information on protection of bees;

11. Pears with residue levels of Pydrin not exceeding 0.01 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

12. The feeding or grazing of orchard cover crops is prohibited;

13. All applicable directions, restrictions, and precautions on the product label must be followed;

14. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by August 31, 1979; and

15. The EPA shall be immediately informed of any adverse effects resulting from the use of Pydrin in connection with this exemption.

Statutory Authority: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: April 30, 1979.

James M. Conlon,
Deputy Assistant Administrator for Pesticide Programs.

[FRL 1216-3; OPP-180269]
[FR Doc. 79-13845 Filed 5-2-79; 8:45 am]
BILLING CODE 6560-01-M

New Jersey Department of Environmental Protection; Issuance of Specific Exemption To Use Azinphos Methyl To Control Carrot Weevil on Root Parsley and Moss-Curl Parsley

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the New Jersey Department of Environmental Protection (hereafter referred to as the "Applicant") to use azinphos methyl to control carrot weevil on 320 acres of root and moss-curl parsley in southern New Jersey. This exemption ends on August 15, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Room E-315, Washington, D.C. 20460, Telephone: 202/755-4851.

SUPPLEMENTARY INFORMATION: In the larval stage, the carrot weevil *(Listronotus oregonensis)* is a fat, white, legless grub whose tunneling in parsley destroys the tap root. According to the Applicant, this pest presents a serious threat to the parsley crop in Cumberland and Atlantic Counties, and unless an effective pesticide is made available, parsley growers may lose from $174,000 to $290,000. DDT had provided economic control of this pest, but this use of DDT was cancelled in the early 1970's. Currently, no insecticide is registered for control of carrot weevil on either root parsley or moss-curl parsley.

The Applicant proposed to use the products Guthion 2S (EPA Reg. No. 3125-123) and Guthion 50W (EPA Reg. No. 3129-193), containing the active ingredient (a.i.) azinphos methyl, at a dosage rate of 0.5 pound a.i. per acre. EPA has found azinphos methyl (Guthion) to be effective against carrot weevil on parsley at this rate.

EPA has imposed a 28-day pre-harvest interval restriction. Residues of azinphos methyl resulting from the proposed use will not exceed 2 parts per million (ppm) in root and moss-curl parsley at 28 days after treatment. This level has been deemed adequate to protect the public health. There is no expectation of residues in meat, milk, eggs, or meat by-products as a result of the proposed use and minimal hazard to the environment is anticipated.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of carrot weevil on root parsley and moss-curl parsley has occurred or is about to occur; (b) there is no pesticide presently registered and available for use to control the carrot weevil on this crop in New Jersey; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the carrot weevil is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 15, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products Guthion 2S, EPA Reg. No. 3125-123, and Guthion 50W, Reg. No. 3129-193, manufactured by Chemagro, are authorized;

2. Guthion will be applied at a rate of 0.5 pound a.i. per acre. A maximum of three applications to root parsley and a maximum of five applications to moss-curl parsley may be made;

3. A maximum of 320 acres may be treated;

4. Application may be made by ground and air equipment;

5. No application will be made within 28 days of any harvest;

6. All applications will be made by qualified private and commercial applicators;

7. Residue levels of azinphos methyl are not expected to exceed 2 ppm in moss-curl parsley and in root parsley. Moss-curl parsley and root parsley with residues which are not in excess of these levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education and Welfare, has been advised of this action;

8. All applicable directions, restrictions, and precautions on the product label must be followed;

9. Precautions will be taken to avoid or minimize spray drift to non-target areas;

10. The Applicant shall be responsible for assuring that all of the provisions of this specific exemption are followed and must submit a report summarizing the results of this program by December 31, 1979;

11. The New Jersey Cooperative Extension Service shall determine the presence of carrot weevil prior to application; and

12. The EPA shall be immediately informed of any adverse effects resulting from the use of Guthion 2S and Guthion 50W in connection with this exemption.

Statutory Authority: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: April 30, 1979.

James M. Conlon,
Deputy Assistant Administrator for Pesticide Programs.

[FRL 1216-4; OPP-180268]
[FR Doc. 79-13846 Filed 5-2-79; 8:45 am]
BILLING CODE 6560-01-M

Office of Toxic Substances; Workshop on Subchronic Toxicity Testing

A workshop on Subchronic Toxicity Testing, sponsored by the Office of Toxic Substances, Environmental Protection Agency, will be held May 21-24, 1979 in the Cosmopolitan Hotel, Denver, Colorado.

The purpose of the workshop is to examine the scientific basis for the various factors incorporated into the experimental design of a subchronic toxicity study. The ultimate objective of the workshop is to provide the rationale for developing cost effective and scientifically sound subchronic toxicity testing procedures. The workshop is expected to provide EPA with a report which will aid the Agency in development of its testing standards and guidelines. Plans are being made to publish the workshop report in scientific journal.

Draft documents produced by working groups into which the workshop is divided will be presented to the workshop on May 24, 1979 from 9:30 a.m. to 2:00 p.m. Each presentation will be followed by an opportunity for public comment. The introductory presentations on May 21, 1979 9:00 a.m. will be open to the public. Public participation in working group meetings will be restricted due to limited conference room space.

Mr. Michael Ryon, Workshop Coordinator, Oak Ridge National Laboratory, Oak Ridge, Tennessee 37830, phone (615) 576-2378 or Dr. Wayne M. Galbraith, Workshop Project Officer, Office of Toxic Substances (TS-792), Environmental Protection Agency, Washington, D.C. 20460, phone (202) 426-2067 will provide additional information.

Dated: April 26, 1979.

Steven D. Jellinek,
Assistant Administrator for Toxic Substances.

[FRL 1215-6; OTS-040092; TS-793]
[FR Doc. 79-13866 Filed 5-2-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available for Processing Pursuant to Section 1.572(c) and 1.573(d) of the Commission's Rules

Adopted: April 25, 1979.
Released: April 26, 1979.

By the Chief, Broadcast Facilities Division:

Notice is hereby given pursuant to Section 1.572(c) and 1.573(d) of the Commission's Rules, that on June 14, 1979, the TV and FM translator applications listed in the attached Appendix will be considered ready and available for processing. Pursuant to Sections 1.227(b)(1) and 1.591(b) of the Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on June 13, 1979, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on June 13, 1979.

Any party in interest desiring to file pleadings concerning any pending TV or FM translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Rules, which specifies the time for filing and other requirements relating to such pleadings.

Federal Communications Commission.

William J. Tricarico,
Secretary.

UHF TV Translator Applications

BPTT—780901IF (New) Jackson, Alabama, Alabama Educational Television Commission. Req: Channel 58, 734-740 MHz, 100 watts Primary: WIIQ-TV, Demopolis, Alabama.

BPTT—781010IK (New) Fergus Falls, Minnesota, Spokane Television, Inc. Req: Channel 55, 716-722 MHz, 100 watts Primary: KTHI-Fargo, North Dakota.

BPTT—781215IF (New) Durango, Colorado, Four States Television, Inc. Req: Channel 66, 782-788 MHz, 100 watts Primary: KIVA-TV, Farmington, New Mexico.

BPTT—781226ID (New) Lund & Preston, Nevada, White Pine Television District. Req: Channel 53, 704-710 MHz, 20 watts Primary: KLAS-TV, Las Vegas, Nevada.

BPTT—781228IE (New) Chautauqua County, Kansas, KOTV, Inc. Req: Channel 58, 734-740 MHz, 100 watts Primary: KOTV-TV, Tulsa, Oklahoma.

BPTT—781229IF (New) Grainola, Oklahoma, KOTV, Inc. Req: Channel 58, 746-752 MHz, 100 watts, Primary: KOTV-TV, Tulsa, Oklahoma.

BPTT—781230IG (New) Ponca City, Oklahoma, KOTV, Inc. Req: Channel 63, 764-770 MHz, 100 watts Primary: KOTV-TV, Tulsa, Oklahoma.

BPTT—781227IG (New) Worthington, Minnesota, Hubbard Broadcasting, Inc. Req: Channel 38, 608-614 MHz, 1000 watts Primary: KSTP-TV, St. Paul, Minnesota.

BPTT—780105IO (New) Silt & Rural Areas & Four Mile Creek, Colorado, Garfield County. Req: Channel 49, 680-686 MHz, 100 watts Primary: KRMA-TV, Denver, Colorado.

BPTT—790110IA (New) Silt & Rural Areas & 4 Mile Creek, Colorado, Garfield County. Req: Channel 47, 668-674 MHz, 100 watts Primary: KWGN-TV, Denver, Colorado.

BPTT—790112IA (New) Rulison & Rural Areas East of Rifle, Colorado, Garfield County. Req: Channel 66, 782-788 MHz, 100 watts Primary: KRMA-TV, Denver, Colorado.

BPTT—790129IH (New) Towaoc, Colorado, Ute Mountain Ute Tribe Of Indians. Req: Channel 57, 728-734 MHz, 1 watt Primary: KGGM-TV, Albuquerque, New Mexico.

BPTT—781222IC (New) Tucson, Arizona, Seven Hills Television Company. Req: Channel 40, 626-632 MHz, 10 watts Primary: KTVW-TV, Phoenix, Arizona.

BPTT—790115IE (New) Susanville & Herlong, California, Honey Lake Community TV Corporation. Req: Channel 67, 776-784 MHz, 100 watts Primary: KHSL-TV, Chico, California.

BPTT—790116IA (New) Rulison & Rural Areas South Rifle, Colorado, Garfield County. Req: Channel 61, 752-758 MHz, 100 watts Primary: KBTV-TV, Denver, Colorado.

BPTT—790116IB (New) Rulison & Rural Areas East Rifle, Colorado, Garfield County. Req: Channel 63, 764-770 MHz, 100 watts Primary: KOA-TV, Denver, Colorado.

BPTT—790116IC (New) Rulison & Rural Areas South Rifle, Colorado, Garfield County. Req: Channel 68, 794-800 MHz, 100 watts Primary: KWGN-TV, Denver, Colorado.

BPTT—790122IE (New) Aitkin, Minnesota, Hubbard Broadcasting, Inc. Req: Channel 64770-776 MHz, 100 watts Primary: KSTP-TV, St. Paul, Minnesota.

BPTT—790123IA (New) Cauplin & Des Moines, New Mexico, Regents Of The University Of New Mexico And Board Of Education Of The City Of Albuquerque, New Mexico. Req: Channel 55, 716-722 MHz, 1 watt Primary: KNME-TV, Albuquerque, New Mexico.

BPTT—790123IB (New) Nolan & Wooton, New Mexico, Regents of the University Of New Mexico And Board Of Education Of The City Of Albuquerque, New Mexico. Req: Channel 58, 734-740 MHz, 1 watt Primary: KNME-TV, Albuquerque, New Mexico.

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BPTT—790123IC (New) Durango, Colorado, Regents Of The University Of New Mexico And Board Of Education Of The City Of Albuquerque, New Mexico. Req: Channel 59, 740–746 MHz, 100 watts Primary: KNME–TV, Albuquerque, New Mexico.
BPTT—790123ID (New) Carrizozo, New Mexico, Regent Of The University Of New Mexico And Board Of Education Of The City Of Albuquerque, New Mexico. Req: Channel 82, 758–764 MHz, 1 watt Primary: KNME–TV, Albuquerque, New Mexico.
BPTT—790123IE (New) Las Vegas, New Mexico, Regents Of The University Of New Mexico And Board Of Education Of The City of Albuquerque, New Mexico. Req: Channel 65, 776–782 MHz, 1 watt Primary: KNME–TV, Albuquerque, New Mexico.
BPTT—790123IF (New) Wagon Mound, New Mexico, Regents Of The University Of New Mexico And Board of Education Of The City Of Albuquerque, New Mexico. Req: Channel 68, 794–800 MHz, 1 watt Primary: KNME–TV, Albuquerque, New Mexico.
BPTT—790123IG (New) Roy & Mosquero, New Mexico, Regents Of The University Of New Mexico And Board Of Education Of The City Of Albuquerque, New Mexico. Req: Channel 69, 800–806 MHz, 2 watts Primary: KNME–TV, Albuquerque, New Mexico.
BPTT—790123IH (New) Chama, New Mexico, Regents Of The University Of New Mexico And Board Of Education Of The City Of Albuquerque, New Mexico. Req: Channel 69, 800–806 MHz, 1 watt Primary: KNME–TV, Albuquerque, New Mexico.
BPTT—790123II (New) Sheridan, New Mexico, Regents Of The University Of New Mexico And Board Of Education Of The City Of Albuquerque, New Mexico. Req: Channel 69, 800–806 MHz, 1 watt Primary: KNME–TV, Albuquerque, New Mexico.
BPTT—790123IJ (New) Taos, New Mexico, Regents Of The University Of New Mexico And Board Of Education Of The City Of Albuquerque, New Mexico. Req: Channel 69, 800–806 MHz, 1 watt Primary: KNME–TV, Albuquerque, New Mexico.
BPTT—790212IC (New) Denver, Colorado, Trinity Broadcasting Of Denver, Inc. Req: Channel 57, 728–734 MHz, 100 watts Primary: KTBN–TV, Fontana, California.
BPTT—790212ID (New) Oklahoma City, Oklahoma, Trinity Broadcasting Of Oklahoma City, Inc. Req: Channel 14, 470–476 MHz, 100 watts Primary: KTBN–TV, Fontana, California.
BPTT—790312IA (New) Mayaguez, Puerto Rico, Ponce Television Corporation. Req: Channel 16, 482–488 MHz, 1000 watts Primary: WRIK–TV, Ponce, Puerto Rico.
BPTT—790102IE (K06AT) Sheridan & Fort Mackenzie, Wyoming, Sheridan TV Translator, Inc. Req: Change principal community to Ft. McKenzie & Big Goose Community, Wyoming, change primary TV Station to KTWO–TV, Channel 2, Casper, Wyoming.
BPTT—790103IA (New) Wrangell, Alaska, Wrangell Radio Group. Req: Channel 9, 186–192 MHz, 10 watts Primary: KENI–TV, KTVA–TV, KIMO–TV, KAKM–TV, KTOC–TV, Juneau, & Anchorage, Alaska.
BPTT—790108IQ (K04BJ) La Pine, Oregon, La Pine TV Corporation. Req: Change primary TV Station to KOIN–TV, Channel 6, Portland, Oregon.
BPTT—790115IF (New) Bat Cave, Gerton, Chimney Rock & Lake Lure, North Carolina, Wometco Skyway Broadcasting, Co. Req: Channel 6, 82–88 MHz, 1 watt Primary: WLOS–TV, Asheville, North Carolina.
BPTT—790122ID (New) Johnson Creek Area, Idaho, Lafe Cox. Req: Channel 13, 210–216 MHz, 1 watt Primary: KIVI–TV, Nampa, Idaho.
BPTT—790326IB (New) Ganado, Arizona, Ganado Community TV Club, Inc. Req: Channel 9, 186–192 MHz, 10 watts Primary: KOB–TV, Albuquerque, New Mexico.
BPTT—790326IC (New) Ganado, Arizona, Ganado Community Television Club. Req: Channel 7, 174–180 MHz, 10 watts Primary: KOAT–TV, Albuquerque, New Mexico.
BPTT—781114ID (New) Cook, Minnesota, Stereo Broadcasting, Inc. Req: Channel 280, 103.9 MHz, 10 watts Primary: WAKX–FM, Duluth, Minnesota.
BPTT—781116ID (New) Orr, Minnesota, Iron Range Broadcasting, Inc. Req: Channel 288, 105.5 MHz, 10 watts Primary: WEVE–FM, Eveleth, Minnesota.
BPTT—781120IO (K276AA) Salida & Buena Vista, Colorado, Chaffee County TV Translator, Association. Req: Change primary station to KCOL–FM, Ft. Collins, Colorado.
BPTT—781127IN (New) Okanogan & Omak, Washington, Omak Jaycees, Inc. Req: Channel 232, 94.3 MHz, 1 watt Primary: KHQ–TV, Spokane, Washington.
BPTT—781130ID (New) Virginia, Minnesota, Ray E. Kent. Req: Channel 269, 101.7 MHz, 10 watts Primary: WAKX–FM, Duluth, Minnesota.
BPTT—781114IC (K209AB) Placerville, Colorado, San Miguel Educational Fund. Req: Change frequency to Channel 288, 105.5 MHz.
BPTT—790412IA (New) Greenville & Erwin, Tennessee, The Moody Bible Institute Of Chicago. Req: Channel 202, 88.3 MHz, 1 watt Primary: WMBW–FM, Chattanooga, Tennessee.
BPTT—790412IB (W217AA) Johnson City, Kingsport & Bristol, Tennessee and Virginia, The Moody Bible Institute Of Chicago. Req: Change frequency to Channel 205, 88.9 MHz, delete Johnson City from present principal community.
BPTT—790412IG (W202AA) Elizabethton, Tennessee, The Moody Bible Institute Of Chicago. Req: Change frequency to Channel 218, 91.5 MHz, add Johnson City to present principal community.

[FR Doc. 79-13730 Filed 5-2-79; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Expedited Surcharges for Recovery of Carriers' Increased Fuel Costs in the Foreign Commerce of the United States; Order of Investigation and Hearing and Disposition of Petition for Relief

The carriers and conferences listed in Appendix A have filed bunker surcharges to become effective on 30 or more days' notice on the grounds that extraordinary circumstances, not within their control, justify effectiveness on less than the 90 days' notice ordinarily required by section 14b of the Shipping Act, 1916 (46 U.S.C. 813a) (the Act) and by their applicable dual rate Merchant Freighting Contracts.

The Commission also has before it a "Petition for Relief" filed jointly by the Council of American-Flag Ship Operators (CASO), Delta Steamship Lines, Inc. and Waterman Steamship Corporation (Petitioners). This Petition requests that the Commission authorize dual rate contract bunker surcharges on not more than 15 days' notice for ocean carriers in the foreign commerce of the United States "who are confronted with sudden, abnormal and uncontrollable increases in the price of fuel oil necessary for their operations."

Section 14b of the Shipping Act, 1916 (46 U.S.C. 813a) requires:

. . . that whenever a tariff rate for the carriage of goods under the contract becomes effective, insofar as it is under the control of the carrier or conference of carriers, it shall not be increased before a reasonable period, but in no case less than 90 days. . . .

In *The Dual Rate Cases* (8 F.M.C. 16 (1964)), the Commission interpreted this part of the statute and prescribed standard dual rate contract clauses to meet such extraordinary circumstances where they exist. These prescribed clauses subsequently were adopted as Articles 14 (a) through (c) Uniform Merchant's Contract promulgated by the Commission in Part 536 of its Rules (46 C.F.R. 538.10). These Articles provide as follows:

(a) In the event of war, hostilities, warlike operations, embargoes, blockades, regulations of any governmental authority pertaining thereto, or any other official interferences with commercial intercourse arising from the above conditions, which affect the operations of any of the Carriers in the trade covered by this Agreement, the Carrier or Carriers may suspend the effectiveness of this Agreement with respect to the operations affected, and shall notify the Merchant of such suspension. Upon cessation of any cause or causes of suspension set forth in this article and invoked by any Carrier or Carriers, said Carrier or Carriers shall forthwith reassume its or their rights and obligations hereunder and notify the Merchant on fifteen (15) days' written notice that its suspension is terminated.

(b) In the event of any of the conditions enumerated in Article . . . [the clause set out above] the Carrier or Carriers may increase any rate or rates affected thereby, in order to meet such conditions in lieu of suspension. Such increase or increases shall be on not less than 15 days' written notice to the Merchant, who may notify the Carrier or Carriers in writing not less than 10 days before increases are to become effective of its intention to suspend this Agreement insofar as such increase or increases is or are concerned, and in such event the Agreement shall be suspended as of the effective date of such increase or increases, unless the Carrier or Carriers shall give written notice that such increase or increases have been rescinded and cancelled.

* * * * *

(c) In the event of any extraordinary conditions not enumerated in Article 14(a), which conditions may unduly impede, obstruct, or delay the obligations of the Carrier or Carriers, the Carrier or Carriers may increase any rate or rates affected thereby, in order to meet such conditions; provided, however, that nothing in this article shall be construed to limit the provisions of section 18(b) of the Shipping Act, 1916, in regard to the notice provisions of rate changes. The Merchant may, not less than 10 days before increases are to become effective, notify the Carrier or Carriers that this agreement shall be suspended insofar as the increases are concerned, as of the effective date of the increases, unless the Carrier or Carriers shall give notice that such increase or increases have been rescinded and cancelled.

The Commission has stated the criteria for determining whether a surcharge is permissible on less than 90 days' notice.

The criteria are apparent: The condition must be outside or beyond the carrier's control, the condition must impede or delay the carrier's service, and there must be an emergency, an abnormal condition, or an extraordinary circumstance. *Imposition of Surcharge at United States Atlantic and Gulf Ports on Cargo Moving Between Said Ports and Latin American Ports*, 10 F.M.C. 13, 22 (1966).

Applying these criteria to bunker surcharges, the Commission found, in 1970 and 1971, that certain bunker surcharges were not entitled to expedited effectiveness:

. . . *for such conditions as rising salaries, costs of vessels, fuel or increased stevedoring expenses requiring additional freight revenue, 90 days' notice is required because the carrier is expected to anticipate these needs.* (Emphasis in original). *Atlantic and Gulf/West Coast of South America Conference—Imposition of Bunker Surcharge on Less than 90-Day Tariff Filing Notice*, 14 F.M.C. 168, 170. *See also, Surcharge of North Atlantic Westbound Freight Association on Commodities Moving Under Wine and Spirits Contract*, 14 F.M.C. 292.

The filing Carriers and Petitioners herein allege that the circumstances of recent actions resulting in higher costs of bunker fuel are quite different from those in 1971 and that the imposition of surcharges on less than 90 days' notice therefore is justified. It is the Commission's responsibility to determine whether that in fact is the case.

Where it is obvious that surcharges do not meet the criteria set forth in standard dual rate contract clauses and Commission precedent, the Commission may summarily reject such filings under section 18(b)(4) of the Shipping Act, 1916. The Commission will not accept dual rate bunker surcharges filed to be effective on 15 days' notice since they do not meet the conditions specified in Paragraphs 14 (a) and (b) of the standard dual rate contract, and the Petition for Relief of CASO is denied to this extent.

On the other hand, dual rate bunker surcharges filed to become effective on 30 or more days' notice because of other extraordinary conditions as set forth in Paragraph 14(c) are not so unjustified on their face as to require summary rejection. Their acceptance for filing, however, does not establish their legality which will be determined by this proceeding. Because the rights of parties to a contract are involved, special permission under section 18(b)(2) of the Shipping Act, 1916 is inapplicable. Rather, an adjudication is necessary to interpret the applicable contract terms and in such a proceeding, the carriers seeking to invoke the emergency provisions of the Merchant's Freight Contract have the burden of proving that the emergency conditions actually exist, and (1) were beyond their control, (2) were not reasonably foreseeable, and (3) significantly impede their operation. This is true even though the bunker surcharges filed were not, or are not, initially rejected.

In addition to those parties and surcharges listed in Appendix A, we are providing that other similar bunker surcharges involving dual rate contract be made part of this proceeding as they are filed. Because time is of the essence, decisions in the individual Sub Dockets will be issued as each Sub Docket is completed. This should do much to alleviate the problem of delay which often accompanies multi-party litigation.

Wherefore, The Commission believes that a formal proceeding is necessary to determine whether or not the bunker surcharges listed in, or to be added to, Appendix A satisfy the extraordinary-conditions clause of the applicable dual rate contract so as to warrant effectiveness on 30 or more days' notice, and, if not, whether or not a violation of section 14b of the Shipping Act, 1916 has occurred.

Therefore, it is ordered, That pursuant to sections 14b, 18 and 22 of the Shipping Act, 1916, an investigation and hearing is hereby commenced to examine bunker surcharges filed by Respondents listed in Appendix A hereto. This investigation shall examine whether such charges:

1. Are the result of any extraordinary conditions, which conditions may unduly impede, obstruct, or delay the obligations of the carrier or carriers; whether they are outside or beyond the carrier's or carriers' control and whether the carrier or carriers, using a high degree of diligence and sound business judgment, should have foreseen or anticipated the conditions upon which the supercharges are based; and

2. Whether the impostions of such bunker surcharges on less than 90 days' notice violates section 14b of the Shipping Act, 1916;

It is further ordered, That those parties filing bunker surcharges shall have the burden of proof with respect to all issues described in the previous ordering paragraph and shall file a copy of their applicable dual rate contract forms;

It is further ordered, That this proceeding be limited to the submission of memoranda of law and affidavits of fact to the extent possible;

It is further ordered, That any requests for discovery or evidentiary hearing must be accompanied by a statement setting forth in detail the facts to be proven or developed, the relevance to the issues in this proceeding, and why such data could not be otherwise developed, or, in the case of requests for evidentiary hearing, why such data could not be submitted, through affidavit;

It is further ordered, That the Council of American Flag Ship Operators, Delta Steamship Lines, Inc., Waterman Steamship Corporation, and the conferences and carriers listed in Appendix A be named Respondents and that Hearing Counsel also be a party to this proceeding;

It is further ordered, That persons other than those already parties to this proceeding who desire to become parties and to participate shall file a Petition for Leave to Intervene pursuant to Rule 72 of the Commission's Rules of

Practice and Procedure (46 C.F.R. 502.72):

It is further ordered, That to the extent necessary, this proceeding shall be divided into Sub Dockets as reflected in Appendix A; that additional Sub Dockets may be added by the Secretary upon his finding that newly filed bunker surcharges should be placed in issue; that the Secretary shall promptly notify such newly designated Respondents of this action; that, upon such notification, those Respondents are made parties to this proceeding; and that the Secretary will determine the various procedural deadlines for such new Sub Dockets commensurate with the procedures set forth below;

It is further ordered, That the following procedural sequence be adhered to in each Sub Docket:

May 11, 1979—Petitions to Intervene;
May 25, 1979—Opening Memoranda of Law and Affidavits of Fact of Petitioner, Respondents and Intervenors;
June 15, 1979—Reply Memoranda of Law and Affidavits of Fact of Hearing Counsel and any other parties to this proceeding desiring to file at this time;
June 22, 1979—Requests for discover, hearing and/or oral argument;

It is further ordered, That a notice of this Order be published in the Federal Register and that a copy be served upon all parties of record;

It is further ordered, That, except as provided in Rules 159 and 201(a) of the Commission's Rules of Practice and Procedure (46 C.F.R. 502.159 and 502.201(a)), all documents submitted by any party of record in a Sub Docket of this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 C.F.R. 502.118), as well as mailed directly to all parties of record in such Sub Docket;

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, or any Sub Docket thereof, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,
Secretary.

Appendix A

Sub-Docket	Tariff and filer	Date filed	Effective date	Surcharge
	Dominick J. Manfredi, Chairman, American West African Freight Conference, 67 Broad Street, New York, New York 10004.			
1	FMC 18, Supp. No. 1	Mar. 6, 1979	Apr. 9, 1979	$8.00 payable ton.
2	FMC 19, Supp. No. 1	Mar. 6, 1979	Apr. 9, 1979	$8.00 payable ton.
3	FMC 20, Supp. No. 1	Mar. 6, 1979	Apr. 9, 1979	$8.00 payable ton.
4	FMC 21, Supp. No. 1	Mar. 6, 1979	Apr. 9, 1979	$8.00 payable ton.
	Dominick J. Manfredi, Chairman, U.S. Great Lakes and St. Lawrence River Ports/West New York, New York 10004.			
5	FMC 5, Supp. No. 1	Mar. 6, 1979	Apr. 9, 1979	$8.00 payable ton.
6	FMC 6, Supp. No. 1	Mar. 6, 1979	Apr. 9, 1979	$8.00 payable ton.
	E. W. Norberg, Chairman, U.S. Atlantic and Gulf-Santo Domingo Conference, 11 Broadway, New York, New York 10004.			
7	FMC 1, 6th Rev. P. 7–A	Mar. 12, 1979	Apr. 11, 1979	$10.00 freight ton.
	E. W. Norberg, Chairman, Leeward and Windward Islands and Guianas Conference, 11 Broadway, New York, New York 10004.			
8	FMC 3, 1st rev. p. 15	Mar. 2, 1979	Apr. 5, 1979	$5.00 per ton W/M.
9	FMC 5, 1st rev. p. 15	Mar. 2, 1979	Apr. 5, 1979	$5.00 per ton W/M.
	E. W. Norberg, Chairman, East Coast Colombia Conference, 11 Broadway, New York, New York 10004.			
10	FMC 3, pp. 6, 7	Mar. 8, 1979	Apr. 9, 1979	$3.00 per ton.
	E. W. Norberg, Chairman, Atlantic and Gulf/West Coast of South America Conference 11 Broadway, New York, New York 10004.			
11	FMC 1	Mar. 8, 1979	Apr. 9, 1979	$3.00 per ton.
	D. Dick, Chairman/Secretary, New York Freight Bureau (Hong Kong), P & O Building, 16th Floor, Hong Kong.			
12	FMC 14, 1st rev. p. 49	Mar. 29, 1979	Apr. 1, 1979	$5.00 revenue ton.
	Henri P. Blok, Chairman, Latin America/Pacific Coast Steamship Conference, 417 Montgomery Street, San Francisco, California 94104.			
13	FMC 2, 12th rev. p. 19–A	Mar. 15, 1979	Apr. 15, 1979	$8.00 W/M. $16.00MBM
14	FMC 3, 6th rev. p. 23–A	Mar. 15, 1979	Apr. 15, 1979	$8.00 W/M. $16.00MBM
15	FMC , 9th rev. p. 6	Mar. 15, 1979	Apr. 15, 1979	$8.00 W/M. $16.00MBM.
	Eric Brown, Secretary, Mediterranean-U.S.A. Great Lakes Westbound Freight Conference, 10, Place De La Joliette, Marseilles 2E, France.			
16	FMC 11, Orig. p. 7–A	Mar. 29, 1979	Apr. 28, 1979	9 Percent.
	Mr. James F. Nash, Chairman, Atlantic and Gulf-Inodonesia Conference, 40 Rector Street, New York, New York 10006.			
17	FMC 6, 1st rev. p. 34	Mar. 12, 1979	Apr. 12, 1979	$10.00 revenue ton.
	H. R. Rollins, Chairman, Pacific-Straits Conference, 320 California Street, Suite 600, San Francisco, California 94120.			
18	FMC 8, 3rd rev. p. 18	Apr. 2, 1979	May 2, 1979	$5.00 revenue ton.
	E. W. Norberg, Chairman, U.S. Atlantic and Gulf-Haiti Conference, 11 Broadway, New York, New York 10004.			
19	FMC 1, 21st rev. p. 6	Apr. 2, 1979	May 2, 1979	$5.00 W/M.
	Mr. M. Torbiak, U.S. Great Lakes/South and East Africa Rate Agreement No. 9509, c/o Farrell Lines, Ltd., One Whitehall Street, New York, New York 10004			

Appendix A—Continued

Sub-Docket	Tariff and filer	Date filed	Effective date	Surcharge
20	FMC 5, 1st rev. p. 5	Mar. 19, 1979	Apr. 18, 1979	$25.00/cubic meter. $27.75/1,000 kg.
	E. W. Norberg, Chairman, U.S. Atlantic and Gulf-Jamaica Conference, 11 Broadway, New York, New York 10004.			
21	FMC 1, 28th rev. p. 13	Apr. 2, 1979	May 2, 1979	$11.00 freight ton.
	D. Dick, Chairman/Secretary, Trans Pacific Freight Conference, P & O Building, 17th Floor, Des Voeux Road Central, Hong Kong.			
22	FMC 21, 1st rev. p. 65	Mar. 29, 1979	May 1, 1979	$5.00 rev. ton.
	James F. Nash, Chairman, Atlantic and Gulf-Singapore, Malaya and Thailand Conference, 40 Rector Street, New York, New York 10006.			
23	FMC 6, 3rd rev. p. 22	Mar. 12, 1979	Apr. 12, 1979	$10.00 rev. ton.
	Louis P. Kopley, Chairman, North Atlantic French Atlantic Freight Conference, 17 Battery Place, New York, New York 10004.			
24	FMC 4, 10th rev. p. 4	Apr. 4, 1979	May 5, 1979	$5.09/40 cu. ft. $8.25/2240 lbs.
	Gerald J. Flynn, Chairman, Far East Conference, 40 Rector Street, New York, New York 10006.			
25	FMC 12, 5th rev. p. 5	Mar. 30, 1979	May 1, 1979	$9.50 per ton.
	Louis P. Kopley, Chairman, North Atlantic United Kingdom Freight Conference, 17 Battery Place, New York, New York 10004.			
26	FMC 3, 9th rev. p. 3A	Apr. 4, 1979	May 5, 1979	$5.00/40 cu. ft. $8.25/2,240 lbs.
	Louis P. Kopley, Chairman, North Atlantic Baltic Freight Conference, 17 Battery Place, New York, New York 10004.			
27	FMC 4, 4th rev. p. 4A	Apr. 4, 1979	May 5, 1979	$5.00/40 cu. ft. $8.25/2240 lbs.
	E. H. Bosch, Chairman, Philippines North America Conference, 2d Floor, Heritage Condominium, 1851 Dr. A. Vasquez St., Malate, Manila, P.O. Box 1376, Manila 2801, Philippines.			
28	FMC 14, 1st rev. p. 8	Apr. 2, 1979	May 6, 1979	$4.00 rev. ton.
	Robert D. Grey, Chairman, Japan/Korea-Atlantic and Gulf Freight Conference, Sumitomo Seimei Yaesu Building, 2–1, Yaesu 2–Chome, Chuo–Ku, Tokyo 104 Japan.			
29	FMC 7, 1st rev. p. 7A	Mar. 30, 1979	May 1, 1979	$4.00 rev. ton.
	E. F. Reardon, Chairman, U.S. Atlantic and Gulf/Australia-New Zealand Conference, 19 Rector Street, Room 1116, New York, New York 10006.			
30	FMC 12, 2d rev. p. 3A	Apr. 6, 1979	May 7, 1979	10 percent.
	D. D. Day, Chairman, Pacific Westbound Conference, 320 California Street, San Francisco, California 94104.			
31	FMC 19, 6th rev. p. 78	Mar. 30, 1979	May 1, 1979	$5.00 rev. ton.
	H. Rollins, Chairman, Pacific/Indonesian Conference, 320 California Street, Suite 600, P.O. Box 7411, San Francisco, California 94120.			
32	FMC 9, 2d rev. p. 18	Apr. 2, 1979	May 2, 1979	$5.00 per ton.
	G. Ravera, Secretary, Mediterranean North Pacific Coast Freight Conference, P.O. Box 1070, Genoa, Italy.			
33	FMC 3, 1st rev. p. 18	Apr. 5, 1979	May 5, 1979	13 percent.
	G. Ravera, Secretary, West Coast of Italy, Sicilian and Adriatic Port/North Atlantic Range Conference, P.O. Box 1070, Genoa, Italy.			
34	FMC 3, 2d rev. p. 79	Apr. 5, 1979	May 5, 1979	8.5 percent.
	R. H. Cabrera, Chairman, Iberian/U.S. North Atlantic Westbound Freight Conference, 40 Rector Street, New York, New York 10006.			
35	FMC 4, 3rd rev. p. 42	Apr. 5, 1979	May 5, 1979	8.5 percent.
	G. Retournat, Secretary, Marseilles North Atlantic U.S.A. Freight Conference, 10 Place De La Joliette, Marseilles 2E, France.			
36	FMC 13, 2d rev. p. 46	Apr. 5, 1979	May 5, 1979	$4.75 M or W/M rates. $8.75 on all other rates.
	D. D. Day, Chairman, Pacific Coast Australasian Tariff Bureau, 320 California Street, Suite 600, San Francisco, California 94104.			
37	FMC 11, 3rd rev. p. 31	Apr. 11, 1979	May 11, 1979	10 percent.
	R. H. Cabrera, Chairman, North Atlantic Mediterranean Freight Conference, 40 Rector Street, New York, New York 10006.			
38	FMC 6 (Italian Section) 13th rev. p. 6	Apr. 6, 1979	May 6, 1979	15 percent
39	FMC 7 (French Section) 4th rev. p. 21–A	Apr. 6, 1979	May 6, 1979	15 percent
40	FMC 8, 16th rev. p. 6	Apr. 6, 1979	May 6, 1979	15 percent
	Robert D. Grey, Chairman, Japan/Korea-Atlantic and Gulf Freight Conference, Sumitomo Seimei Yaesu Building 2–1, Yaesu 2–Chome, Chuo-Ku, Tokyo, Japan.			
41	FMC 7, 1st rev. p. 7–A	Mar. 30, 1979	May 1, 1979	$4.00 revenue ton.
	1st rev. p. 9–A	Mar. 30, 1979	May 1, 1979	$4.00 revenue ton.
	3rd rev. p. 27	Mar. 30, 1979	May 1, 1979	$4.00 revenue ton.
	R. A. Velez, Chairman, Pacific Coast European Conference, 417 Montgomery Street, San Francisco, California 94104.			

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Appendix A—Continued

Sub-Docket	Tariff and filer	Date filed	Effective date	Surcharge
42	FMC 16, 9th rev. p. 5 C. J. Smith Chairman, Gulf/United Kingdom Conference, Suite 927—Whitney Building, New Orleans, Louisiana 70130.	Apr. 13, 1979	May 13, 1979	$7.80 per ton.
43	FMC 18, 14th rev. p. 8 (previously $3.50 effective through 5–16–79. William L. Hamm, Chairman, The India, Pakistan, Bangladesh, Ceylon and Burma Outward Freight Conference, 26 Broadway, New York, New York 10004.	Apr. 13, 1979	May 16, 1979	$5.00 W/M.
44	FMC 3, 7th rev. p. 5 G. Revera, Secretary, Med-Gulf Conference, P.O. Box 1070, Genoa, Italy.	Apr. 13, 1979	May 16, 1979	$40.50 payable ton.
45	FMC 3, 1st rev. p. 2–A Henri P. Blok, Executive Administrator, Pacific Coast River Plate Brazil Conference, 417 Montgomery Street, San Francisco, California 94104.	Apr. 5, 1979	May 5, 1979	8.5 percent bunker.
46	FMC 5, 28th rev. p. 9	Apr. 10, 1979	May 10, 1979	$9.00 W/M. $9.00 MBM

[Docket 79–46]

[FR Doc. 79–13637 Filed 5–2–79; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: American Broadcasting Companies is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of stock of Chilton Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by American Broadcasting Companies. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: April 20, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202–523–3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires person contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79–13636 Filed 5–2–79; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

National Institute of Arthritis, Metabolism, and Digestive Diseases; Board of Scientific Counselors Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Arthritis, Metabolism, and Digestive Diseases, June 1–2, 1979, National Institutes of Health, Building 2, Room 102.

This meeting will be open to the public from 9:30 a.m. to 4:30 p.m. on June 1, and from 9:00 a.m. to 11:00 a.m. on June 2, and will be devoted to scientific presentations by various laboratories of NIAMDD intramural research. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of P.L. 92–463, the meeting will be closed to the public from 4:30 p.m. to closing on June 1 and from 11:00 a.m. to adjournment on June 2 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Messrs. James N. Fordham or Irving Shapiro, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, (301) 496–3583, will provide summaries of the meeting and rosters of the members.

Dated: April 25, 1979.

Suzanne L. Freeman,

Committee Management Officer, NIH.

[FR Doc. 79–13607 Filed 5–2–79; 8:45 am]

BILLING CODE 4110–08–M

Amended Notice of Meeting—Cancellation of Cancer Control and Rehabilitation Advisory Committee

Notice is hereby given of the cancellation of the meeting of the Cancer Control and Rehabilitation Advisory Committee, National Cancer Institute, National Institutes of Health, Bethesda, Maryland, May 10–11, 1979, which was published in the Federal Register on April 12, 1979 (44 FR 21884). The meeting will be rescheduled at a later date and notice will be published in the Federal Register.

For further information, please contact Mr. H. C. Noyes, Acting Executive Secretary, National Cancer Institute, Blair Building, Room 720, Silver Spring, Maryland 20910, 301–427–8053.

Dated: April 27, 1979.

Suzanne L. Freeman,

Committee Management Officer, NIH.

[FR Doc. 79–13608 Filed 5–2–79; 8:45 am]

BILLING CODE 4110–08–M

Public Health Service

Assistance for Construction and Modernization of Hospitals and Other Medical Facilities; Delegations of Authority

A. Notice is hereby given that pursuant to the delegations of authority to the Assistant Secretary for Health on March 13, 1968 (33 FR 4924) by the Acting Secretary of Health, Education, and Welfare, and on May 22, 1975 (40 FR 25079) by the Secretary of Health, Education, and Welfare, the following delegations have been made under Title VI, Assistance for Construction and Modernization of Hospitals and other Medical Facilities, of the Public Health Service Act (42 U.S.C. 291 *et seq.*), as amended:

1. Delegation from the Assistant Secretary for Health to the Administrator, Health Resources Administration, of all the authorities delegated to the Assistant Secretary for Health under Title VI of the Public Health Service Act (42 U.S.C. 291 *et seq.*), as amended, excluding:

(a) the authorities under Section 610 and Part B of Title VI of the Public Health Service Act, as amended, which were delegated on June 19, 1978 by the Assistant Secretary for Health to the Administrator, Health Resources Administration (43 FR 31238); and

(b) the authority to prescribe regulations.

These delegated authorities may be redelegated.

2. Delegation from the Administrator, Health Resources Administration, to the Regional Health Administrators of:

a. Authority under Section 606(c) pertaining to the approval of requests by State agencies that portions of allotments be made available to pay expenditures found necessary for the proper and efficient State plan administration; and

b. Authority under Section 645(j) pertaining to the determination of the necessary cost of construction and modernization under a project.

These delegated authorities may be redelegated to officials within the Public Health Service Regional Offices, with further redelegation prohibited.

3. Delegation from the Administrator, Health Resources Administration, to the Director, Bureau of Health Facilities Financing, Compliance, and Conversion, Health Resources Administration, of the authority which was delegated to the Administrator, Health Resources Administration, under Title VI of the Public Health Service Act (42 U.S.C. 291 *et seq.*), as amended, excluding the authority delegated to the Regional Health Administrators, as specified in item 2. above, and the following authorities which the Administrator, Health Resources Administration, retains:

a. Authority to issue notes or other obligations under Section 626(b);

b. Authority to sell loans and guarantee such loans under Section 627(b) and Section 627(c); and

c. Authority to waive the Secretary's right of recovery under Section 623(e)(1) and Section 627(d).

These delegated authorities may be redelegated, with further redelegation prohibited.

The delegation to the Director, Bureau of Health Facilities Financing, Compliance, and Conversion, Health Resources Administration, includes the authority which was delegated to the Administrator, Health Resources Administration, on June 19, 1978 (43 FR 31238) by the Assistant Secretary for Health under Section 610 of the Public Health Service Act and Part B of Title VI of the Public Health Service Act.

B. The June 23, 1978 delegation (43 FR 29034–29035), from the Assistant Secretary for Health to the Administrator, Health Resources Administration, as it pertains to authorities delegated under Title VI of the Public Health Service Act, has been superseded. The March 1, 1970, delegation (35 FR 7357–7358), from the Administrator, Health Services and Mental Health Administration, to the Regional Health Administrators, as it pertains to authorities delegated under Title VI of the Public Health Service Act, has been superseded. The June 19, 1978 delegations (43 FR 31238), from the Assistant Secretary for Health to the Administrator, Health Resources Administration, of authorities under Section 610 and Part B of Title VI of the Public Health Service Act remain in effect.

C. The delegations specified under paragraph A. above became effective on April 20, 1979.

Dated: April 25, 1979.

John C. Deska,

Director, Office of Management, Public Health Service.

[FR Doc. 79–13609 Filed 5–2–79; 8:45 am]

BILLING CODE 4110–08–M

Health Resources Development; Delegations of Authority

A. Notice is hereby given that pursuant to the delegation of authority to the Assistant Secretary for Health on October 26, 1976 (41 FR 52011), by the Secretary of Health, Education, and Welfare, the following delegations of authority have been made under Title XVI, Health Resources Development, of the Public Health Service Act (42 U.S.C. 300o *et seq.*), as added by Public Law 93–641:

1. Delegation from the Assistant Secretary for Health to the Administrator, Health Resources Administration, of all the authorities delegated to the Assistant Secretary for Health under Title XVI of the Public Health Service Act (42 U.S.C. 300o *et seq.*), as added by Public Law 93–641.

These delegated authorities may be redelegated.

2. Delegation from the Administrator, Health Resources Administration, to the Regional Health Administrators of:

a. Authority under Section 1604(d) to afford State agencies an opportunity for a hearing and to conduct such hearings;

b. Authority under Section 1611(a) to make payments to the States for an approved medical facility project;

c. Authority under Section 1612(c) to investigate complaints of noncompliance of an entity which is receiving or has received financial assistance under Title VI or Title XVI;

d. Authority under Section 1635 to provide technical assistance to entities developing applications under Section 1604; and

e. Authority under Section 1640 to make development grants for Area Health Services Development Funds.

These delegated authorities may be redelegated to officials within the Public Health Service Regional Offices, with further redelegation prohibited.

3. Delegation from the Administrator, Health Resources Administration, to the Director, Bureau of Health Planning, Health Resources Administration, of the authority which was delegated to the Administrator, Health Resources Administration, as specified in item 1. above, under Section 1640 of the Public Health Service Act (42 U.S.C. 300t), as added by Public Law 93–641, relating to functions required for, or involved in, the administration of the Area Health Services Development Fund program, excluding the authority under Section 1640 delegated to the Regional Health Administrators, as specified in item 2. above.

These delegated authorities may be redelegated, with further redelegation prohibited.

4. Delegation from the Administrator, Health Resources Administration, to the Director, Bureau of Health Facilities Financing, Compliance, and Conversion, Health Resources Administration, of the authority which was delegated to the Administrator, Health Resources

Administration, as specified in item 1. above, under Title XVI of the Public Health Service Act (42 U.S.C. 300o *et seq.*), as added by Public Law 93–641, excluding the authority delegated to the Regional Health Administrators as specified in item 2. above, and the Director, Bureau of Health Planning, Health Resources Administration, as specified in item 3. above, and the following authorities which the Administrator, Health Resources Administration, retains:

a. Authority under Section 1603(b) to afford State agencies an opportunity for a hearing and to conduct such hearings regarding the disapproval of State medical facilities plans and any modifications to such plans.

b. Authority under Section 1611(b)(2) to afford State agencies an opportunity for a hearing and to conduct such hearings regarding withholding of allotments pursuant to Section 1612;

c. Authority under Section 1612(a) and Section 1612(b) for withholding of payments and other compliance actions;

d. Authority under Section 1622(a)(2)(A) and Section 1622(b)(3) to waive the Secretary's right of recovery of any payment;

e. Authority under Section 1622(c)(1) and Section 1622(c)(3) concerning the sale of loans;

f. Authority under Section 1622(d)(2) concerning the issuance of notes and other obligations; and

g. Authority under Section 1630 to file in the United States Court of Appeals the record of the proceedings on which the Secretary based his action pursuant to Section 1612 of the Public Health Service Act.

These delegated authorities may be redelegated, with further redelegation prohibited.

The delegation to the Director, Bureau of Health Facilities Financing, Compliance, and Conversion, Health Resources Administration, includes the authority to provide technical assistance, technical materials, and the methodologies, policies, and standards necessary to carry out Section 1635 of the Public Health Service Act.

B. The June 23, 1978 delegation (43 FR 29034–29035), from the Assistant Secretary for Health to the Administrator, Health Resources Administration, and the June 19, 1978 delegation (43 FR 31238–31239), from the Assistant Secretary for Health to the Regional Health Administrators, as they pertain to authorities under Title XVI of the Public Health Service Act, as added by Public Law 93–641, have been superseded.

C. The delegations specified under paragraph A. above became effective on April 20, 1979.

Dated: April 25, 1979.

John C. Drake,
Director, Office of Management, Public Health Service.
[FR Doc. 79–13687 Filed 5–2–79; 8:45 am]
BILLING CODE 4110–83–M

Limitation on Federal Participation for Capital Expenditures; Delegations of Authority

A. Notice is hereby given that pursuant to the authority delegated to Assistant Secretary for Health on February 7, 1974 (39 FR 5809–5810), by the Secretary of Health, Education, and Welfare, the following delegations concerning the limitation on Federal participation for capital expenditures have been made under Section 1122 of the Social Security Act (42 U.S.C. 1320a–1), as amended:

1. Delegation from the Assistant Secretary for Health to the Administrator, Health Services Administration, of authority to identify and deny payment of those amounts to be excluded from reimbursement under Title V of the Social Security Act (42 U.S.C. 1320a–1), as amended where such exclusion has been found necessary under subsections (d) or (e) of Section 1122 of the Social Security Act, as amended. This includes the authority to determine the amounts to be withheld from the reimbursements on a fixed fee or negotiated rate or per capita basis under Title V.

The delegated authority may be redelegated.

2. Delegation from the Assistant Secretary for Health to the Administrator, Health Resources Administration, of the authority delegated to the Assistant Secretary for Health under Section 1122 of the Social Security Act (42 U.S.C. 1320a–1), as amended, excluding the authority delegated to the Administrator, Health Services Administration, as specified in item 1, above.

The delegated authority, except for that under Section 1122(f), may be redelegated.

3. Delegation from the Administrator, Health Resources Administrations, to the Regional Health Administrators of:

a. Authority to determine whether a proposed capital expenditure is subject to the provisions of Section 1122 of the Social Security Act;

b. Authority under Section 1122(b) of the Social Security Act to make agreements with the States;

c. Authority under Section 1122 to receive and review the findings and recommendations prepared by the State agency, to make initial determinations under Section 1122(d)(1), and to give the necessary notices under Section 1122(d); and

d. Authority to seek the advice of the National Council on Health Planning and Development under Section 1122(d)(2) as to whether reimbursements should not be excluded from payments and to make the determination as to inclusion or exclusion of reimbursements under Section 1122(d)(2).

The delegated authority may not be redelegated.

4. Delegation from the Administrator, Health Resources Administration, to the Director, Bureau of Health Planning, Health Resources Administration, of the authority which was delegated to the Administrator, Health Resources Administration, as specified in item 2 above, under Section 1122 of the Social Security Act (42 U.S.C. 1320a–1), as amended, excluding the authority under Section 1122(f) and the authority delegated to the Regional Health Administrators, as specified in item 3 above.

The delegated authority may not be redelegated.

B. The June 23, 1978 delegation (43 FR 29034–29035), from the Assistant Secretary for Health to the Administrator, Health Services Administration, and to the Administrator, Health Resources Administration, and the February 15, 1974 delegation (39 FR 5809–5810), from the Assistant Secretary for Health to the Regional Health Administrators, as they pertain to authorities under Section 1122 of the Social Security Act, as amended, have been superseded.

C. The delegations specified under paragraph A above become effective on April 20, 1979.

Dated: April 25, 1979.

John C. Drake,
Director, Office of Management, Public Health Service.
[FR Doc. 79–13685 Filed 5–2–79; 8:45 am]
BILLING CODE 4110–83–M

National Health Planning and Development; Delegations of Authority

A. Notice is hereby given that pursuant to the delegation of authority to the Assistant Secretary for Health on October 31, 1975 (40 FR 53611), by the Secretary of Health, Education, and Welfare, which was amended on October 28, 1977 (42 FR 57351–57353), the following delegations have been made under Title XV, National Health Planning and Development, of the Public Health Service Act (42 U.S.C. 300k *et seq.*), as added by Public Law 93–641:

1. Delegation from the Assistant Secretary for Health to the Administrator, Health Resources Administration, of all the authorities delegated to the Assistant Secretary for Health under Title XV of the Public Health Service Act (42 U.S.C. 300k *et seq.*), as added by Public Law 93–641.

These delegated authorities may be redelegated.

2. Delegation from the Administrator, Health Resources Administration, to the Regional Health Administrators of:

a. Authority under Section 1514 to provide technical assistance to entities desiring to be designed as health systems agencies;

b. Authority under Section 1516 to make grants to designated health systems agencies to assist in the performance of the functions of the agencies;

c. Authority under Section 1522 to approve State administrative programs and any modifications to such State programs, and to conduct the annual review for compliance of each State program;

d. Authority under Section 1523(b)(1) to approve requests by the State Governors to enter into agreements for performance of functions by another agency of the State government;

e. Authority under Section 1525 to make grants to State health planning and development agencies to assist in meeting the costs of their operations;

f. Authority under Section 1532(a) to approve procedures for the review of proposed or existing health services and resources;

g. Authority under Section 1533(a)(1) and Section 1533(a)(3) to provide assistance to designated health systems agencies and State agencies in developing health plans, and authority to provide assistance concerning the performance of functions of designated health systems agencies and State agencies. This does not include the authority to develop or publish the materials specified under Section 1533(b);

h. Authority under Section 1534(a) to provide technical and consulting assistance to designated health systems agencies and State agencies to conduct research studies and analyses of health planning and resources development, and authority to assist entities in developing new centers and operating existing and new centers for multidisciplinary health planning development and assistance. This does not include the authority to make grants or contracts under Section 1534(a);

i. Authority under Section 1535(a) to review and approve or disapprove the annual budget of each designated health systems agency and State agency; and

j. Authority under Section 1535(c) and Section 1535(d) to review the structure, operations, and performance of the functions of designated health systems agencies and State agencies.

These delegated authorities may be redelegated to officials within the Public Health Service Regional Offices, with further redelegation prohibited.

3. Delegation from the Administrator, Health Resources Administration, to the Director, Bureau of Health Planning, Health Resources Administration, of the authority which was delegated to the Administrator, Health Resources Administration, as specified in item 1. above, under Title XV of the Public Health Service Act (42 U.S.C. 300k *et seq.*), as added by Public Law 93–641, excluding the authority delegated to the Regional Health Administrators, as specified in item 2. above, and the following authorities which the Administrator, Health Resources Administration, retains:

a. Authority under Section 1501 concerning national guidelines for health planning;

b. Authority under Section 1502 concerning national health priorities; and

c. Authority under Section 1511(b)(3)(B) concerning revision of health service area boundaries.

These delegated authorities may be redelegated, with further redelegation prohibited.

The delegation to the Director, Bureau of Health Planning, Health Resources Administration, includes the authority to provide technical assistance, technical materials, and the methodologies, policies, and standards necessary to carry out Section 1514; Sections 1533(a), 1533(b), and 1533(c); and Section 1534(a) of the Public Health Service Act, as added by Public Law 93–641.

B. The June 23, 1978 delegation (43 FR 29034–29035), from the Assistant Secretary for Health to the Administrator, Health Resources Administration, and the April 1, 1976 delegation (41 FR 15982–15983), from the Assistant Secretary for Health to the Regional Health Administrators, as they pertain to authorities under Title XV of the Public Health Service Act, as added by Public Law 93–641, have been superseded.

C. The delegations specified under paragraph A. above became effective on April 20, 1979.

Dated: April 25, 1979.

John C. Drake,
Director, Office of Management, Public Health Service.
[FR Doc. 79–13686 Filed 5–2–79; 8:45 am]
BILLING CODE 4110–83–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

Alabama; Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Alabama (FDAA–578–DR), dated April 18, 1979, and related determinations.

DATES: April 18, 1979.

FOR FURTHER INFORMATION CONTACT:
John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of April 18, 1979 to the Secretary, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Alabama resulting from severe storms, high wind and flooding, beginning on or about April 11, 1979, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Alabama.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Arthur T. Doyle of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Alabama to have

Dated: April 25, 1979.

John C. Drake,
Director, Office of Management, Public Health Service.
[FR Doc. 79–13688 Filed 5–2–79; 8:45 am]
BILLING CODE 4110–83–M

been affected adversely by this declared major disaster.

The following counties for Individual Assistance only:

Chambers, Chilton, Choctaw, Clay, Dekalb, Elmore, Fayette, Greene, Houston, Jefferson, Lamar, Marshall, Marengo, Randolph, Shelby, St. Clair, Sumter, Talladega, Tallapoosa, Tuscaloosa.

The following counties for both Individual and Public Assistance:

Autauga, Coosa, Dallas, Pickens, Walker.

(Catalog of Federal Domestic Asst. No. 14,701, Disaster Assistance)

Thomas R. Casey,

Deputy Administrator, Federal Disaster Assistance Administration.

[FDAA-578-DR; Docket No. NFD-681]

[FR Doc. 79-13724 Filed 5-2-79; 8:45 am]

BILLING CODE 4210-22-M

Arkansas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Arkansas (FDAA–574–DR), dated April 11, 1979.

DATED: April 14, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: The Notice of major disaster for the State of Arkansas dated April 11, 1979, is hereby amended by the President in his amended declaration of April 14, 1979, as follows:

I have determined that the severe storms and tornadoes caused by the same weather system which produced a tornado April 8, 1979, have since that date caused additional damage in the State of Arkansas which is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93–288.

I therefore amend the April 11, 1979, declaration of a major disaster for the State of Arkansas (FDAA–574–DR) so as to provide Federal assistance under Public Law 93–288 as a result of severe storms and tornadoes beginning on or about April 8, 1979.

The Notice of major disaster for the State of Arkansas dated April 11, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 11, 1979.

For Both Individual and Public Assistance:

Polk County.

(Catalog of Federal Domestic Asst. No. 14,701, Disaster Assistance.)

Thomas R. Casey,

Deputy Administrator, Federal Disaster Assistance Administration.

[FDAA–574–DR; Docket No. NFD–679]

[FR Doc. 79–13732 Filed 5–2–79; 8:45 am]

BILLING CODE 4210–23–M

Arkansas; Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Arkansas (FDAA–574–DR), dated April 11, 1979, and related determinations.

DATED: April 11, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter on April 11, 1979 to the Secretary, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Arkansas resulting from a tornado April 8, 1979, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Arkansas.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. William C. Tidball of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Arkansas to have been adversely affected by this declared major disaster.

For Individual Assistance Only:

Bradley County, Calhoun County, Howard County.

For Both Individual and Public Assistance:

Ashley County, Ouachita County.

(Catalog of Federal Domestic Asst. No. 14,701, Disaster Assistance)

William H. Wilcox,

Administrator, Federal Disaster Assistance Administration.

[FDAA–574–DR; Docket No. NFD–680]

[FR Doc. 79–13733 Filed 5–2–79; 8:45 am]

BILLING CODE 4210–22–M

Mississippi; Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Mississippi (FDAA–577–DR), dated April 16, 1979.

DATED: April 20, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: The Notice of major disaster for the State of Mississippi dated April 16, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 16, 1979.

For Only Individual Assistance:

Clarke County, Copiah County, Lauderdale County, Simpson County.

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance.)

William H. Wilcox,

Administrator, Federal Disaster Assistance Administration.

[FDAA–577–DR; Docket No. NFD–685]

[FR Doc. 79–13849 Filed 5–3–79; 8:45 am]

BILLING CODE 4210–22–M

Mississippi; Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Mississippi (FDAA–577–DR), dated April 16, 1979, and related determinations.

DATED: April 16, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of April 16, 1979 to the Secretary, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Mississippi resulting from severe storms, tornadoes and flooding, beginning on or about April 8, 1979, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Mississippi.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Paul E. Hall of the Federal Disaster Assistance Administratin to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Mississippi to have been affected adversely by this declared major disaster.

The following counties for Individual Assistance only:

Attala, Claiborne, Clay, Choctaw, Holmes, Issaquena, Kemper, Lawrence, Leake, Leflore, Madison, Marion, Monroe, Neshoba, Newton, Noxubee, Oktibbeha, Scott, Sharkey, Warren, Winston, Yazoo.

The following counties for both Individual and Public Assistance:

Hinds, Lowndes, Rankin.

(Catalog of Federal Domestic Asst. No. 14,701, Disaster Assistance.)

Thomas R. Casey,

Deputy Administrator, Federal Disaster Assistance Administration.

[FDAA–577–DR: Docket No. NFD–682]

[FR Doc. 79–13725 Filed 5–3–79; 8:45 am]

BILLING CODE 4210–23–M

Mississippi; Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Mississippi (FDAA–3077–EM), dated April 14, 1979, and related determinations.

DATED: April 14, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 634–7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–205; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974: (88 Stat. 143); notice is hereby given that, in a letter on April 14, 1979 to the Secretary, the President declared an emergency as follows:

I have determined that the impact of severe storms, tornadoes and flooding on the State of Mississippi beginning on or about April 11, 1979, is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93–288. I therefore declare that such an emergency exists in the State of Mississippi.

In order to provide Federal assistance, you are hereby authorized to donate Government-owned mobile homes to the State of Mississippi for the purpose of providing temporary housing under the provisions of Section 404 of Public Law 93–288.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Developing under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Paul E. Hall of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency.

The Counties of: Issaquena, Leake, Sharkey, Warren, Yazoo.

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance.)

Thomas R. Casey,

Deputy Administrator, Federal Disaster Assistance Administration.

[FDAA–3077–EM; Docket No. NFD–684]

[FR Doc. 79–13726 Filed 5–3–79; 8:45 am]

BILLING CODE 4210–23–M

Modifications of the Revocation of Redelegation of Authority (Temporary Housing) and of the Redelegation of Authority (Temporary Housing)

AGENCY: Department of Housing and Urban Development, Federal Disaster Assistance Administration (FDAA).

ACTION: Modifications of the Revocation of Redelegation of Authority and the Redelegation of Authority concerning Temporary Housing Assistance as published in the **Federal Register** on January 4, 1979.

SUMMARY: This notice modifies the Revocation of Redelegation of Authority (Temporary Housing) to the Assistant Secretary for Housing-Federal Housing Commissioner, HUD (44 FR 1225, January 4, 1979) and the Redelegation of Authority by the Administrator, FDAA, to the Regional Directors, FDAA (44 FR 1226, January 4, 1979). Those two notices provided that each action was effective "for major disasters and emergencies declared on or after January 28, 1979." These modifications make the actions effective on January 28, 1979, for all temporary housing functions, regardless of the date of the declaration of major disaster or emergency under which temporary housing activities are conducted.

FOR FURTHER INFORMATION: Hugh Richardson, Individual Assistance Office, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202–634–7860).

NOTICE: Section A. The last two paragraphs of the Revocation of Redelegation of Authority (44 FR 1225, January 4, 1979) are deleted and the following paragraph is added as the final paragraph:

Accordingly, the redelegation of authority from the Administrator, FDAA, to the Assistant Secretary for Housing-Federal Housing Commissioner (41 FR 29719, July 19, 1976) is revoked effective January 28, 1979.

Section B. In the Redelegation of Authority to the Regional Directors, FDAA (44 FR 1226, January 4, 1979), the third paragraph under supplementary information and the final paragraph are deleted and the following is added as the final paragraph:

This redelegation of authority is effective January 28, 1979.

(Disaster Relief Act of 1974 (42 U.S.C. 5121 et. seq., PL 93–288); E.O. 11795 (39 FR 25930, dated July 11, 1974); Delegation of Authority (39 FR 28227, August 5, 1974).)

Issued at Washington, D.C., January 18, 1979.

William H. Wilcox,
Administrator, Federal Disaster Assistance Administration.

[Docket Nos. D-79-448, D-79-450]
[FR Doc. 79-13734 Filed 5-2-79; 8:45 am]
BILLING CODE 4210-23-M

Oklahoma; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Oklahoma (FDAA–576–DR), dated April 13, 1979.

DATED: April 19, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: This Notice of major disaster for the State of Oklahoma dated April 13, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 13, 1979.

For Public Assistance in addition to Individual Assistance:

Jefferson County, Carter County.

For both Individual and Public Assistance:

Cotton County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Thomas R. Casey,
Deputy Administrator, Federal Disaster Assistance Administration.

[FDAA–576–DR; Docket No. NFD–693]
[FR Doc. 79-13728 Filed 5-2-79; 8:45 am]
BILLING CODE 4210-23-M

Oklahoma; Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Oklahoma (FDAA–576–DR), dated April 13, 1979, and related determinations.

DATED: April 13, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–295; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter on April 13, 1979 to the Secretary, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Oklahoma resulting from severe storms and tornadoes beginning on or about April 10, 1979, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Oklahoma.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–295, I hereby appoint Mr. Donald G. Eddy of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Oklahoma to have been affected adversely by this declared major disaster.

For Individual Assistance Only:

Jefferson County, Carter County

For Both Individual and Public Assistance:

Tillman County, Comanche County, Stephens County

(Catalog of Federal Domestic Asst. No. 14.701, Disaster Assistance.)

Thomas R. Casey,
Deputy Administrator, Federal Disaster Assistance Administration.

[FDAA–576–DR; Docket No. NFD–695]
[FR Doc. 79-13727 Filed 5-2-79; 8:45 am]
BILLING CODE 4210-23-M

Texas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Texas (FDAA–575–DR), dated April 11, 1979.

DATES: April 16, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: This Notice of major disaster for the State of Texas dated April 11, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 11, 1979.

For Public Assistance in addition to Individual Assistance:

Clay County

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance.)

Thomas R. Casey,
Deputy Administrator, Federal Disaster Assistance Administration.

[FDAA–575–DR; Docket No. NFD–676]
[FR Doc. 79-13729 Filed 5-2-79; 8:45 am]
BILLING CODE 4210-23-M

Texas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Texas (FDAA–575–DR), dated April 11, 1979.

DATED: April 16, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: This Notice of major disaster for the State of Texas dated April 11, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 11, 1979.

For Public Assistance in addition to Individual Assistance:

Clay County

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance.)

Thomas R. Casey,
Deputy Administrator, Federal Disaster Assistance Administration.

[FDAA–575–DR; Docket No. NFD–676]
[FR Doc. 79-13729 Filed 5-2-79; 8:45 am]
BILLING CODE 4210-23-M

Texas; Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Texas (FDAA–575–DR), dated April 11, 1979, and related determinations.

DATED: April 11, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634–7825).

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–265; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter on April 11, 1979 to the Secretary, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Texas resulting from severe storms and tornadoes on April 10–11, 1979, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Texas.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Joe D. Winkle of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster.

The Counties of:

Wichita
Wilbarger

(Catalog of Federal Domestic Asst. No. 14,701, Disaster Assistance)

William H. Wilcox,
Federal Disaster Assistance Administration.

[FDAA–575–DR; Docket No. NFD–676]
[FR Doc. 79-13731 Filed 5-3-79; 8:45 am]
BILLING CODE 4210-23-M

DEPARTMENT OF INTERIOR

Bureau of Land Management

Idaho Falls District; Great Rift Wilderness Environmental Statement; Intent and Scoping meeting

To comply with Section 603(a) of the Federal Land Policy and Management Act of 1976, the Bureau of Land Management, Idaho Falls District intends to prepare an Environmental Statement (ES) on a wilderness suitability recommendation for the Grassland Kipuka Research Natural Area (160 acres) and associated roadless lands (308,060 acres). The associated roadless lands include the Craters of the Moon lava flow and the Wapi lava flow. The ES area is hereinafter referred to as the proposed Great Rift Wilderness Area.

This will be a site specific ES to analyze a proposal that would designate 308,220 acres (148,780 acres in the Idaho Falls District and 159,440 acres in the Shoshone District) of Public Lands as the proposed Great Rift Wilderness Area into the National Wilderness Preservation System. These acreages are approximate pending a final decision by the Idaho State Director regarding total acreage having wilderness characteristics. Alternatives to the proposal include:

(1) No Action; continue the administration of the Grassland Kipuka Research Natural Area and associated roadless lands under present management plans.

(2) Designate the Grassland Kipuka Research Natural Area and associated roadless lands and suitable adjacent Public Lands to the National Wilderness Preservation System as the Great Rift Wilderness Area (336,350 acres).

(3) Designate the Grassland Kipuka Research Natural Area and contiguous roadless lands (Craters of the Moon lava flow) to the National Wilderness Preservation System as the Great Rift Wilderness Area (263,460 acres).

In order to provide an early opportunity for public input in identifying significant issues and impacts associated with the proposed action and alternatives, the Idaho Falls District will be holding a scoping meeting on May 23, 1979, at 7:00 p.m., at the Intermountain Science Experience Center, Idaho Falls.

This meeting will be open to the general public, however, several of the participants will be there by special invitation. Those who will receive special invitations include:

County Commissioners

Butte, Blaine, Bingham, Minidoka, and Power Counties District Grazing Advisory Board Representatives, James Mays and Bob Waddoups.

State Government

Governor's Office—Natural Resource Advisor (Carey Jones)
State Representative—Aberdeen (Dwight Horsch)
Idaho Department of Lands—(Lou Benedict)

Federal Government

Senator McClure's Office (Mike Field)
National Park Service—Craters of the Moon National Monument (Cy Hentges)
Department of Energy—Chief, Geothermal Energy Branch (John Griffith)

News Media

Post Register—Idaho Falls (Robb Brady)
Times News—Shoshone (Jeff Sher)

Interested Groups

Idaho Conservation League (Jan Brown)
Idaho Environmental Council (Jerry Jayne)
Wilderness Society—Idaho Representative (Steve Payne)
Idaho State University (Jay Anderson)
Idaho Trail Machine Association (Steve Miller)
Idaho Wildlife Federation (Donald Zuck)
Magic Valley Gun Club (George Holmes)
Picabo Livestock Company (L. N. Purdy)
Public Lands Committee (Douglas Rose)
Recreation Development (C. A. Patterson)
Sun Valley Center for Arts and Humanities (George Holmes)

Input from the scoping meeting as well as input obtained during the public comment period (3–15–79 to 5–15–79) will be used to identify major issues and impacts that need to be addressed in the ES; and provide a partial data base on social attitudes and values for development of the social impacts section of the ES. The results of the scoping process will be used to identify the significant issues and allow the ES to only concentrate on the significant environmental issues and impacts.

If further information is required concerning the Great Rift Wilderness Area Proposal, contact: Dee Williamson, Team Leader-Great Rift Wilderness Area ES, 940 Lincoln Road, Idaho Falls, Idaho 83401, (208) 529–1020.

April 25, 1979.

O'dell A. Frandsen,
District Manager.

[FR Doc. 79-12980 Filed 5-3-79; 8:45 am]
BILLING CODE 4310-84-M

Availability of Final West-Central Colorado Coal Regional Environmental Statement for the Proposed Development of Coal Resources in West-Central Colorado

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of Interior has prepared a final environmental statement (FES) on possible development of coal resources in West-Central Colorado.

The FES analyzes the environmental effects that would result from six proposed underground mining and reclamation plans and examines the cumulative impacts of potential coal development through 1990 in Delta, Garfield, Gunnison, Mesa, Montrose, Ouray, and Pitkin Counties in West-Central Colorado.

Copies of the DES were sent to approximately 1,450 Federal, State, and local government agencies, nongovernmental organizations, and private citizens for their review and comment. Public hearings were also held in Delta, Grand Junction, and Denver, Colorado. All substantive comments received on the adequacy of the DES during the public review process have been responded to in the FES.

Single copies of the final statement can be obtained from the:

BLM District Manager, Montrose District Office, Highway 550 South, P.O. Box 1269, Montrose, Colorado 81401.
BLM District Manager, Grand Junction District Office, 764 Horizon Drive, Grand Junction, Colorado 81501.
BLM State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

Copies of the statement are also available for inspection at the following locations:

Washington Office of Public Affairs, Bureau of Land Management, Room 5623, 18th and C Steets, N.W., Washington, D.C. 20240.
Montrose Regional Library, Montrose, Colorado 81401.
Delta City Public Library, Delta, Colorado 81416.
Paonia Public Library, Paonia, Colorado 81428.
Conservation Library, Denver Public Library, 1357 Broadway, Denver, Colorado 80206.
Glenwood Springs Public Library, Glenwood Springs, Colorado 81601.
Mesa College Library, Grand Junction, Colorado 81501.
Montrose County Courthouse, Montrose, Colorado 81401.
Delta County Courthouse, Delta, Colorado 81416.
Garfield County Courthouse, Glenwood Springs, Colorado 81601.
Ouray County Courthouse, Ouray, Colorado 81427.
Mesa County Courthouse, Grand Junction, Colorado 81501.
Gunnison County Courthouse, Gunnison, Colorado 81230
Pitkin County Courthouse, Aspen, Colorado 81611.

Ronnie H. Hastings,
Acting Associate Director, Bureau of Land Management.

Approved:

Larry E. Meierotto,
Assistant Secretary of the Interior.

[Int. FES 79-20]
[FR Doc. 79-13802 Filed 5-2-79; 8:45 am]
BILLING CODE 4310-84-M

Utah; Termination of Proposed Withdrawal and Reservations of Lands

Notice of an application filed by the Forest Service, U.S., Department of Agriculture, U-13044, for withdrawal and reservation of public lands was published as Federal Register Document 70-17169 on page 19371 of the issue for December 22, 1970. The Forest Service has canceled its application involving the lands described in the Federal Register publication referred to above. Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1) such lands will be relieved of the segregative effect of the above-mentioned application at 10:00 a.m. on June 15, 1979.

Dated: April 25, 1979.

Paul L. Howard,
State Director.

[U-13044]
[FR Doc. 79-13781 Filed 5-2-79; 8:45 am]
BILLING CODE 4310-84-M

The five proposed pipelines will transport natural gas from wells, to existing gathering lines in the area within Tps. 17 and 18 N., R. 93 W., Carbon County, and T. 22 N., R. 92 W., and T. 21 N., R. 93 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[Wyoming 67607]
[FR Doc. 79-13782 Filed 5-2-79; 8:45 am]
BILLING CODE 4310-84-M

Motorized Vehicles on Public Lands; Closure To Use

Notice is hereby given that use of motorized vehicles on the following described lands, in Franklin County, Washington, is prohibited in accordance with the provisions of 43 CFR 6010.4. These lands are located approximately fifteen air miles northeast of Pasco, Washington in the area known as Juniper Forest. The area contains approximately 4800 acres.

Willamette Meridian

T. 10 N., R. 31 E.,
Sec. 36 portion of.
T. 10 N., R. 32 E.,
Sec. 5 and 6.
T. 11 N., R. 32 E.,
Sec. 29 and 32;
Sec. 20, 28, 31, and 33-portions of all.

This closure does not apply to emergency, law enforcement, and federal or other government vehicles, while being used for official or emergency purposes, or vehicles authorized by permit or contract.

This area is unique to the State of Washington in that it contains the largest concentration of Western juniper (*Juniperus occidentalis*), and the largest area of active sand dunes in the state. This area was previously closed under these regulations on February 14, 1972 and again under regulations contained in 43 CFR 6290, on June 1, 1975. A court decision in 1976 invalidated regulations in 43 CFR 6290 and they are presently being revised. This closure, which is effective immediately, will remain in effect until April 1, 1980 or until the revised regulations are released and the area can be closed permanently, whichever date comes sooner.

This area was fenced and signed at the time of previous closures. However, increasing vandalism has resulted in the fence being cut in many places. ORV use is occuring within the fenced area and is damaging this unique area. This closure is necessary to protect the area from further degredation.

Violation of this closure could result in a fine of not more than $1000.00, or imprisonment for not more than 12 months, or both. A map of the closed area is available for inspection in the Spokane District Office, Bureau of Land Management, W. 920 Riverside, Spokane, Washington 99201.

Roger Burwell,
District Manager.

[FR Doc. 79-13783 Filed 5-2-79; 8:45 am]
BILLING CODE 4310-84-M

Wyoming; Application

April 24, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct three 4½ and two 6⅝ inch pipelines and appurtenant facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 22 N., R. 92 W.,
Sec. 35, SE¼SE¼.
T. 17 N., R. 93 W.,
Sec. 4, NW¼SW¼.
T. 18 N., R. 93 W.,
Sec. 22, SE¼SE¼;
Sec. 28, N½S½.
T. 21 N., R. 93 W.,
Sec. 22, W½SW¼, SE¼SE¼;
Sec. 26, NE¼NW¼.

Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Meeting and Comments on Accelerated Wilderness Inventory for Certain Lands in Emery County, Utah in Connection with the Intermountain Power Project.

SUMMARY: A Public Meeting will be held in Castle Dale, Utah on May 29, 1979 and written comments will be received until July 14, 1979 on the results of the inventory. Information to be used for input into the Environmental Statement on the Intermountain Power Project.

The Moab District of the Bureau of Land Management is conducting a wilderness inventory of lands in Emery County, Utah associated with a proposal by the Intermountain Power Project which might include construction of power lines and a railroad if eventual authorization is given to construct the powerplant at the Salt Wash site in Wayne County, Utah. The results of the wilderness studies conducted will be used as input to an environmental statement currently being prepared by the Richfield District of the BLM which will assess the overall impacts of the powerplant proposal. The wilderness study in Emery County will determine whether or not those affected roadless areas do or do not have wilderness characteristics and whether or not areas or parts of areas should be recommended as Wilderness Study Areas. The Moab District had previously conducted studies on the proposed corridor only and now is considering the entire roadless area which is adjacent to the corridor. Ten roadless areas are being inventoried totaling about 315,000 acres of public lands.

A public meeting will be held in the Emery County Courthouse on May 29, 1979 at 7:00 p.m. to discuss the findings of this wilderness inventory and written comments will be accepted until July 14, 1979 concerning those findings. Comments should be addressed to:

District Manager, Moab District, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

A synopsis of the study findings can also be obtained by writing to the same address.

DATE: Published on or before April 29, 1979.

ADDRESS: District Manager, Moab District, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

FOR FURTHER INFORMATION CONTACT: District Manager, Moab District (801) 259-6111.

SUPPLEMENTARY INFORMATION: After review of the public comments received based on a study of the influence corridor alone, it was decided to complete the accelerated inventory of all of the affected roadless areas.

S. Gene Day,
District Manager.

[FR Doc. 79-13804 Filed 5-2-79; 8:45 am]
BILLING CODE 4310-84-M

Alaska Native Claims Selection

On April 2, 1975, Doyon, Limited filed Selection application AA-8103-2, as amended, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (Supp. V, 1975)), for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of Nikolai.

Doyon, Limited, in its April 2, 1975, application, excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the region pursuant to Sec. 12(c) of Alaska Native Claims Settlement Act. Additionally, in its April 2, 1975, application, Doyon, Limited failed to select T. 33 N., R. 29 W., Seward Meridian, Alaska. The township was withdrawn pursuant to Sec. 11(a)(1).

The acreage allocated to Doyon, Limited, pursuant to Sec. 12(c) will exceed the acreage available for selection in the Sec. 11(a)(1) withdrawals.

Section 12(c)(3) and 43 CFR 2652.3(a) provide that a regional corporation must, to the extent necessary to obtain its entitlement, select all available lands withdrawn pursuant to Sec. 11(a)(1) before selecting lands withdrawn pursuant to Sec. 11(a)(3). On August 2, 1974, Doyon, Limited entered into a stipulation and agreement, as amended, filed in *Doyon, Limited, et al.* v. *Rogers C.B. Morton* (Civil action No. 1586-73, D.D.C.). Paragraph 3.B.(1) of that stipulation and agreement provides that Doyon, Limited will be required to select all the so-called odd/odd, even/even townships within the lands in its region withdrawn pursuant to Sec. 11(a)(1) which are not otherwise unavailable. On November 6, 1975, Doyon, Limited, submitted its "Supplemental Application, 11(a)(1) Regional Selection" to amend applicaton AA-8103-2. In its amendment, Doyon, Limited requested:

Any and all available public lands as defined by Section 3(e) and withdrawn pursuant to Section 11(a)(1) of the Alaska Native Claims Settlement Act, which are located in even numbered townships in even numbered ranges, and in odd numbered townships in odd numbered ranges.

For all of the above reasons, the water bodies which were improperly excluded in the April 2, 1975, application and all available lands in T. 33 N., R. 29 W., Seward Meridian, are considered selected by Doyon, Limited.

As to the lands described below, selection application AA-8103-2, as amended, submitted by Doyon, Limited pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entries perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c), aggregating approximately 60,595 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of the Alaska Native Claims Settlement Act.

Kateel River Meridian, Alaska (Unsurveyed)

T. 26 S., R. 22 E.,
Secs. 17 to 20, inclusive, all;
Secs. 29 to 32, inclusive, all.
Containing approximately 5,013 acres.
T. 26 S., R. 24 E.,
Secs. 12, 13 and 14, all;

Secs. 20 to 23, inclusive, all;
Secs. 24 and 25, excluding North Fork Kuskokwim River;
Secs. 26 to 34, inclusive, all;
Sec. 35, excluding Native allotment F–17322 Parcel B and North Fork Kuskokwim River;
Sec. 36, excluding North Fork Kuskokwim River.

Containing approximately 12,115 acres.

T. 27 S., R. 21 E.,
Secs. 1, 25, 26 and 27, all;
Sec. 28, excluding mineral survey application AA–12518;
Secs. 31 to 36, inclusive, all.

Containing approximately 6,828 acres.

T. 27 S., R. 23 E.,
Secs. 1 to 11, inclusive, all;
Sec. 12, excluding North Fork Kuskokwim River;
Secs. 16 to 19, inclusive, all;
Sec. 20, excluding North Fork Kuskokwim River;
Sec. 21, excluding Native allotment F–17262 Parcel A and North Fork Kuskokwim River;
The bed of East Fork Kuskokwim River located in protracted Sec. 36.

Containing approximately 11,379 acres.

T. 27 S., R. 25 E.,
The bed of East Fork Kuskokwim River located in protrated Sec. 31.

Containing approximately 25 acres.

T. 28 S., R. 22 E.,
Sec. 27, SW¼;
Sec. 32, SE¼;
Secs. 33, 34 and 35, all;
Sec. 36, SW¼.

Containing approximately 2,400 acres.

T. 28 S., R. 26 E.,
Sec. 3, all;
Secs. 4 and 5, excluding Native allotment F–17320;
Secs. 6 and 7, all;
Secs. 8 and 9, excluding Native allotment F–17320;
Secs. 17 to 20, inclusive, all.

Containing approximately 6,849 acres.

T. 29 S., R. 25 E.,
Secs. 1 to 6, inclusive, all.

Containing approximately 3,373 acres.

Seward Meridian, Alask (Unsurveyed)

T. 33 N., R. 25 W.,
Secs. 1 to 6, inclusive, all;
Secs. 9, 10 and 11, all;
Secs. 12 and 13, excluding Native allotment F–17262 Parcel B;
Secs. 14 and 19, all;
Secs. 29 to 32, inclusive, all.

Containing approximately 10,781 acres.

T. 33 N., R. 29 W.,
The beds of Pitka Fork and Middle Fork Kuskokwim River.

Containing approximately 1,225 acres.

T. 34 N., R. 26 W.,
Sec. 33, all.

Containing approximately 607 acres.

T. 34 N., R. 28 W.,
Secs. 31 to 36, inclusive, all.

Containing approximately 3,630 acres.
Aggregating approximately 84,225 acres.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservations to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA–16630–2, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 2 C3, D1, D9, L) An easement for an existing access trail twenty-five (25) feet in width from the junction of trail EIN 7 C3 in Sec. 36, T. 28 S., R. 24 E., Kateel River Meridian, easterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 7 C3) An easement for an existing access trail fifty (50) feet in width from Nikolai easterly thence southeasterly along the Little Tonzona River to Public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

c. (EIN 8 L) An easement for an existing access trail twenty-five (25) feet in width from Medfra northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 10 D1, M) An easement for an existing access trail twenty-five (25) feet in width from Nikolai northerly to the North Fork Kuskokwim River and continuing to trail EIN 8. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 12 C3, D1, D9) An easement for an existing access trail fifty (50) feet in width from Medfra westerly to public lands and McGrath. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

f. (EIN 13 C3, D1) An easement for an existing access road sixty (60) feet in width from Medfra northerly to public lands and the Nixon Fork Mine. The uses allowed are those listed above for a sixty (60) foot wide road easement.

g. (EIN 28 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 31, T. 26 S., R. 23 E., Kateel River Meridian, southwesterly to Sec. 1, T. 27 S., R. 22 E., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of lands shall be subject to:

1. Issuance of a patent conforming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date 1,096,628 acres of land, selected pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, have been approved for conveyance to Doyon, Limited.

Only the following water body within the described lands is considered to be navigable: North Fork Kuskokwim River.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 406, Anchorage, Alaska 99501; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 4, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board. If an appeal is taken, the adverse party to be served with a copy of the notice of appeal is:

Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Don A. Wolf,
Chief, Branch of Adjudication.

[AA–8103–B]
[FR Doc. 79–13859 Filed 5–2–79; 8:45 am]
BILLING CODE 4310–84–M

Alaska Native Claims Selection

On April 2, 1975, Doyon, Limited filed Selection application AA–8103–2, as amended, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (Supp. V, 1975)), for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of Nikolai.

Doyon, Limited, in its April 2, 1975, application, failed to select T. 33 N., R. 29 W., Seward Meridian, Alaska. Further, while the written application properly selects T. 34 N., R. 28 W., Seward Meridian, Alaska, this township was not included in the map portrayal of the selection; and 43 CFR 2650.2(d)(5) provides the map shall be controlling in such cases. Both townships were withdrawn pursuant to Sec. 11(a)(1).

The acreage allocated to Doyon, Limited, pursuant to Sec. 12(c) will exceed the acreage available for selection in the Sec. 11(a)(1) withdrawals.

Section 12(c)(3) and 43 CFR 2652.3(a) provide that a regional corporation must, to the extent necessary to obtain its entitlement, select all available lands withdrawn pursuant to Sec. 11(a)(1) before selecting lands withdrawn prusuant to Sec. 11(a)(3). On August 2, 1974, Doyon, Limited entered into a stipulation and agreement, as amended, filed in *Doyon, Limited, et al. v. Rogers C. B. Morton* (Civil action No. 1586–73, D.D.C.). Paragraph 3.B. (1) of that stipulation and agreement provides that Doyon, Limited will be required to select all the so-called odd/odd, even/even townships within the lands in its region withdrawn pursuant to Sec. 11(a)(1) which are not otherwise unavailable. On November 6, 1975, Doyon, Limited, submitted its "Supplemental Application, 11(a)(1) Regional Selections" to amend application AA–8103–2. In its amendment, Doyon, Limited requested:

Any and all available public lands as defined by Sec. 3(e) and withdrawn pursuant to Section 11(a)(1) of the Alaska Native Claims Settlement Act, which are located in even numbered townships in even numbered ranges, and in odd numbered townships in odd numbered ranges.

For all of the above reasons, all available lands in T. 33 N., R. 29 W., Seward Meridian, and T. 34 N., R. 28 W., Seward Meridian, are considered selected by Doyon, Limited.

As to the lands described below, selection application AA–8103–2, as amended, submitted by Doyon, Limited pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entries perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c), aggregating approximately 187,212 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of the Alaska Native Claims Settlement Act.

Kateel River Meridian, Alaska (Unsurveyed)

T. 26 S., R. 22 E.,
Secs. 1 to 18, inclusive, all;
Secs. 21 to 28, inclusive, all;
Secs. 33 to 36, inclusive, all;
Containing approximately 17,856 acres.

T. 26 S., R. 24 E.,
Secs. 1 to 11, inclusive, all;
Secs. 15 to 18, inclusive, all;
Containing approximately 10,119 acres.

T. 26 S., R. 26 E.,
Secs. 1 to 36, inclusive, excluding North Fork Kuskokwim River.
Containing approximately 22,809 acres.

T. 27 S., R. 21 E.,
Secs. 2 to 15, inclusive, all;
Secs. 16 and 17, excluding mineral survey application AA–12517;
Secs. 18 and 19, all;
Secs. 20 and 21, excluding mineral survey applications AA–12517 and AA–12518;
Secs. 22, 23 and 26, all;
Sec. 29, excluding mineral survey application AA–12518;
Sec. 30, all;
Containing approximately 15,525 acres.

T. 27 S., R. 23 E.,
Secs. 34 and 35, all;
Sec. 36, excluding East Fork Kuskokwim River.
Containing approximately 1,650 acres.

T. 27 S., R. 25 E.,
Secs. 1 to 36, inclusive, excluding North Fork Kuskokwim River and East Fork Kuskokwim River.
Containing approximately 22,813 acres.

T. 28 S., R. 22 E.,
Sec. 1, excluding North Fork Kuskokwim River;
Sec. 8, excluding Kuskokwim River;
Sec. 9, all;
Sec. 10, excluding Native allotments F–17519 Parcel A, and F–17525, and South Fork Kuskokwim River;
Sec. 11, excluding South Fork Kuskokwim River;
Secs. 12 to 13, all;
Secs. 14 and 15, excluding South Fork Kuskokwim River;
Secs. 16 and 17, all;
Secs. 18, 20, and 21, all;
Secs. 22 to 28, inclusive, excluding South Fork Kuskokwim River;
Sec. 29, N½, SE¼;
Secs. 28 to 31, inclusive, all;
Sec. 32, N½, SW¼;
Sec. 36, N½, SE¼.
Containing approximately 14,971 acres.

T. 28 S., R. 26 E.,
Secs. 1 and 2, all;
Secs. 10 to 15, inclusive, all.
Secs. 21 to 36, inclusive, all.
Containing approximately 15,986 acres.

T. 29 S., R. 21 E.,
Secs. 1, 2 and 3, all;
Sec. 4, excluding Kuskokwim River;
Secs. 5 and 6, all.
Containing approximately 3,213 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 33 N., R. 25 W.,
Sec. 7, excluding Native allotment F–17261;
Sec. 8, all;
Secs. 15 to 18, inclusive, all;
Secs. 20 to 28, inclusive, all;
Secs. 33 to 36, inclusive, all.
Containing approximately 11,994 acres.

T. 33 N., R. 27 W.,
Secs. 1 to 36, inclusive, all.
Containing approximately 23,035 acres.

T. 33 N., R. 29 W.,
Secs. 1 to 5, inclusive, all;
Sec. 6, excluding Kuskokwim River;
Secs. 7, 8 and 9, excluding Middle Fork Kuskokwim River;
Sec. 10, all;

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Secs. 11 to 14, inclusive, excluding Pitka Fork Kuskokwim River;
Sec. 15, excluding Native allotment F–17785 Parcel A and Pitka Fork and Middle Fork Kuskokwim River;
Sec. 16, excluding Middle Fork Kuskokwim River;
Secs. 17 and 18, excluding Native allotment F–17638 and Middle Fork Kuskokwim River;
Secs. 19 and 20, all;
Sec. 21, excluding Middle Fork Kuskokwim River;
Sec. 22, excluding Native allotment F–17785 Parcels A and B and Pitka Fork and Middle Fork Kuskokwim River;
Sec. 23, excluding Pitka Fork Kuskokwim River;
Secs. 24 and 25, all;
Secs. 26 and 27, excluding Middle Fork Kuskokwim River;
Secs. 28 to 34, inclusive, all;
Sec. 35, excluding Middle Fork Kuskokwim River;
Sec. 36, all.
Containing approximately 21,460 acres.

T. 34 N., R. 26 W.,
Secs. 34, 35 and 36, all.
Containing approximately 1,821 acres.
Aggregating approximately 186,582 acres.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservations to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Sup. V, 1975)), the following pubic easements, reference by easement identification number (EIN) on the easement maps attached to this document, copies of which wil be found in case file AA–18630–2, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

a. (EIN 1 C5, M, L) An easement for an existing access trail fifty (50) feet in width from Sec. 6, T. 33 N., R. 29 W., Kateel River Meridian, easterly to the Salmon River. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

b. (EIN 3 C3, D1, D9, L) An easement for an existing access trail fifty (50) feet in width from Nikolai northwesterly to Medfra. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

c. (EIN 4 C5, M) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 31, T. 34 N., R. 27 W., Seward Meridian, southwesterly to Sec. 1, T. 33 N., R. 28 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 5 C5, M) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 36, T. 34 N., R. 29 W., Seward Meridian, southeasterly to Sec. 6, T. 33 N., R. 28 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter use.

e. (EIN 11 M) An easement for an existing access trail twenty-five (25) feet in width from Medfra southwesterly paralleling the Kuskokwim River to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter use.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date 1,032,403 acres of land, selected pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, have been approved for conveyance to Doyon, Limited.

Only the following water bodies within the described lands are considered to be navigable:

Kuskokwim River (main branch); North Fork Kuskokwim River; and South Fork Kuksokwim River from its mouth upstream to the village of Nikolai.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 4, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is taken, the adverse party to be served with a copy of the notice of appeal is:

Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Ben Wolf,
Chief, Branch of Adjudication.

[AA–6103–2]
[FR Doc. 79–13864 Filed 5–3–79; 8:45 am]
BILLING CODE 4310–84–M

Alaska Native Claims Selection

On December 12, 1974, Sealaska Corporation filed selection application AA–14015, as amended, under the provisions of Sec. 14(h)(8) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (85 Stat. 688, 705; 43 U.S.C. 1601, 1613(h)(8) (1976)) for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 16(a) for the Native villages in southeast Alaska.

The selection application identified lands in T. 76 S., R. 84 E., and T. 77 S., R. 85 E., Copper River Meridian, which are not available for selection.

Section 14(h) and Departmental regulations issued thereunder authorize the Secretary of the Interior to withdraw and convey only unreserved and unappropriated public lands. Since a portion of the lands encompassed in the subject Sec. 14(h)(8) application had been properly withdrawn by Power Site Classification (PSC) 192 and Power Projects (PP) 132, 186 and 664, the lands described below were not unreserved or unappropriated at the time of selection by Sealaska Corporation.

All unsurveyed lands within one-fourth mile of Lake Josephine, Lake Mellen, Summit Lake, Reynolds Creek, and two unnamed streams connecting Summit Lake and Lake Josephine to Lake Mellen.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 14(h)(8) of ANCSA, aggregating approximately 160,549 acres, are considered proper for acquisition by Sealaska Corporation and are hereby approved for conveyance pursuant to Sec. 14(h)(8) of ANCSA:

U.S. Survey 1885, Alaska, located on the north shore of Hetta Inlet, Prince of Wales Island. Containing 29.17 acres.

Copper River Meridian, Alaska (Unsurveyed)

T. 42 S., R. 60 E.,
Secs. 17 and 18 (fractional), all;
Sec. 19, all;
Secs. 20, 21, 22, and 25 (fractional), all;
Sec. 26 (fractional), excluding U.S. Surveys 1355 and 1478;
Sec. 27 (fractional), excluding U.S. Survey 1475;
Sec. 28 (fractional), all;
Secs. 29 to 34, inclusive, all;
Sec. 35 (fractional), excluding U.S. Survey 1355;
Sec. 36 (fractional), all.
Containing approximately 7,539 acres.

T. 43 S., R. 60 E.,
Secs. 1 to 11, inclusive, all;
Sec. 12, W½NW¼;
Sec. 14, all;
Secs. 17 to 20, inclusive, all;
Sec. 21, N½;
Sec. 28, SW¼;
Secs. 29 to 32, inclusive, all.
Containing approximately 13,276 acres.

T. 44 S., R. 60 E.,
Sec. 3 (fractional), all;
Sec. 4, all;
Secs. 9, 10 and 16 (fractional), all.
Containing approximately 1,555 acres.

T. 57 S., R. 73 E.,
Sec. 1, all;
Sec. 11 (fractional), E½NE¼, SE¼SW¼, SE¼;
Sec. 12, all;
Secs. 13 and 14 (fractional), all;
Sec. 15 (fractional), NE¼NE¼, S½N½, S½;
Sec. 23 (fractional), excluding historical place application AA–10485;
Secs. 24 and 25 (fractional), all.
Containing approximately 3,227 acres.

T. 72 S., R. 80 E.
Secs. 1, 2, 11 and 12, all;
Sec. 13 (fractional), all;
Secs. 14, 19 and 20, all;
Secs. 21 to 24 (fractional), inclusive, all;
Sec. 25 (fractional), N½, SW¼;
Secs. 26 to 29 (fractional), inclusive, all;
Sec. 30, all;
Secs. 31 and 32 (fractional), all;
Sec. 33 (fractional), excluding Mineral Survey 2201;
Sec. 34 (fractional), N½NE¼, SW¼NE¼, NW¼, N½SW¼, SW¼SW¼, excluding Mineral Survey 2201;
Sec. 35 (fractional), N½NW¼.
Containing approximately 8,957 acres.

T. 72 S., R. 81 E.,
Secs. 1 to 7, inclusive, all;
Secs. 8 to 11 (fractional), inclusive, all;
Sec. 12, all;
Secs. 13, 14 and 15 (fractional), all;
Sec. 16 (fractional), N½NE¼, SE¼NE¼, NW¼, W½SW¼, E½SE¼;
Secs. 17, 18 and 19 (fractional), all;
Sec. 20 (fractional), NW¼NE¼, NW¼, N½SW¼, SW¼SW¼;
Sec. 21 (fractional), E½;
Secs. 22 to 27, inclusive, all;
Sec. 28, NE¼, E½NW¼, S½;
Sec. 29 (fractional), S½SE¼;
Sec. 32, NE¼, S½;
Secs. 35 and 36, all.
Containing approximately 16,516 acres.

T. 72 S., R. 85 E.,
Secs. 5, 6, 7 and 8 (fractional), all;
Secs. 17, 18 and 19 (fractional), all;
Sec. 20, all;
Secs. 26 and 27 (fractional), all;
Secs. 28 to 34, inclusive, all;
Sec. 35 (fractional), all.
Containing approximately 9,449 acres.

T. 72 S., R. 86 E.,
Secs. 1 and 2, all;
Secs. 3 and 10 (fractional), all;
Secs. 11 to 14, inclusive, all;
Secs. 15, 22 and 23 (fractional), all;
Sec. 24 and 25, all;
Secs. 26, 35 and 36 (fractional), all.
Containing approximately 7,325 acres.

T. 73 S., R. 85 E.,
Secs. 1 and 2, all;
Sec. 3 (fractional), all;
Sec. 7 (fractional), S½N½, S½;
Sec. 10 (fractional), all;
Sec. 11 (fractional), N½, SW¼, N½SE¼, SW¼SE¼, excluding U.S. Surveys 1019, 1447 and 1784, and Mineral Survey application AA–24795;
Sec. 12 (fractional), N½, N½S½, excluding Mineral Survey application AA–24795;
Secs. 18, 19 and 20 (fractional), all;
Secs. 27 to 32 (fractional), inclusive, all;
Sec. 33 (fractional), excluding U.S. Survey 2336;
Sec. 34 (fractional), all.
Containing approximately 5,680 acres.

T. 74 S., R. 85 E.
Secs. 5 and 6 (fractional), all;
Secs. 7 and 8, all;
Secs. 17 to 20, inclusive, all;
Sec. 28, W½W½;
Secs. 29 to 32, inclusive, all;
Secs. 33 and 34 (fractional), all.
Containing approximately 8,429 acres.

T. 75 S., R. 80 E.
Secs. 9 and 10 (fractional), all;
Sec. 11 (fractional), W½W½;
Sec. 13 (fractional), S½SW¼, SW¼SE¼;
Sec. 14, SW¼NE¼, W½, W½SE¼, SE¼SE¼;
Secs. 15, 16 and 17 (fractional), all;
Secs. 20, 21 and 22 (fractional), all;
Secs. 23 to 26, inclusive, all;
Secs. 29 and 33 (fractional), all;
Secs. 34, 35 and 36, all.
Containing approximately 8,075 acres.

T. 76 S., R. 83 E.
Secs. 1 to 5, inclusive, all;
Secs. 8 to 16, inclusive, all;
Secs. 17 and 20 (fractional), all;
Secs. 21 to 28, inclusive, all;
Sec. 29 (fractional), all;
Secs. 35 and 36, all.
Containing approximately 16,650 acres.

T. 76 S., R. 84 E.
Secs. 1 to 9, inclusive, all;
Sec. 10 (fractional), excluding U.S. Surveys 691 and 1885;
Sec. 11 (fractional), excluding Mineral Survey 743;
Sec. 12, excluding Mineral Survey 743;
Sec. 13 (fractional), excluding Mineral Survey 743;
Sec. 14 (fractional), excluding Mineral Surveys 743 and 562B;
Sec. 15 (fractional), excluding Mineral Survey 562B and U.S. Surveys 691 and 1885;
Secs. 16 and 17 (fractional), all;
Sec. 18 and 19, all;
Sec. 20 (fractional), all;
Sec. 21 (fractional), excluding Mineral Survey 562B;
Sec. 22, excluding Mineral Surveys 562A and 562B;
Secs. 23 and 24, all;
Sec. 25 (fractional), excluding U.S. Survey 1191 and Mineral Surveys 562B, 1525, 1542, 1588 and 1589;
Sec. 29 (fractional), all;
Sec. 30, all;
Secs. 31 and 32 (fractional), all;
Sec. 33 (fractional), excluding U.S. Survey 1191 and Mineral Surveys 562B, 1525 and 1588.
Containing approximately 15,972 acres.

T. 77 S., R. 82 E.
Sec. 5 (fractional), excluding AA–22288, request for designation under Sec. 3(e) of the Alaska Native Claims Settlement Act, Lively Island Aid to Navigation Site;
Secs. 7, 8 and 9 (fractional), all;
Secs. 16, 17 and 18 (fractional), all;
Secs. 19 and 20, all;
Sec. 21 (fractional), all;
Secs. 28 to 33 (fractional), inclusive, all.
Containing approximately 4,977 acres.

T. 77 S., R. 84 E.
Sec. 1 (fractional), N½, E½SW¼, SE¼;
Sec. 2, N½NE¼, NW¼;
Sec. 3, N½.
Containing approximately 1,100 acres.

T. 77 S., R. 85 E.

Secs. 1 and 2, excluding PSC 192 and Mineral Survey 1524;
Sec. 3, excluding PSC 192 and Mineral Surveys 419A, 886 and 1023;
Sec. 4 (fractional), excluding PSC 192 and Mineral Surveys 419A, 419B, and 1023;
Sec. 5 (fractional), excluding historical place application AA–10456;
Sec. 6 (fractional), all;
Sec. 8 (fractional), excluding Mineral Survey 419B;
Sec. 9 (fractional), excluding PSC 192 and Mineral Surveys 419B, 884B, 1522B and 1523B;
Sec. 10, excluding PSC 192 and Mineral Surveys 884A, 1522A and 1523A;
Sec. 11, excluding PSC 192 and Mineral Surveys 884A and 1523A;
Secs. 12 and 13, all;
Sec. 14, excluding Mineral Surveys 884A, 1522A and 1523A;
Sec. 15 (fractional), excluding Mineral Surveys 884A, 1522A and 1523A;
Sec. 16 (fractional), all;
Sec. 22 (fractional), excluding historical place applications AA–10458 and AA–10460;
Sec. 23, excluding historical place application AA–10458;
Secs. 24 and 25, all;
Sec. 26 (fractional), excluding historical place application AA–10458 and U.S. Survey 312;
Sec. 27 (fractional), excluding historical place applications AA–10458 and AA–10460 and U.S. Survey 315;
Sec. 34 (fractional), all;
Secs. 35 and 36, all.

Containing approximately 10,731 acres.

T. 78 S., R. 82 E.
Secs. 2, 3 and 4 (fractional), all;
Sec. 5, all;
Secs. 6 and 7 (fractional), all;
Secs. 8, 9 and 10, all;
Secs. 11 and 14 (fractional), all;
Sec. 15, all;
Secs. 16 and 17 (fractional), all;
Sec. 18, all;
Sec. 19, excluding Mineral Survey 2206;
Sec. 20 (fractional), excluding Mineral Survey 2206;
Secs. 21 and 22 (fractional), all;
Sec. 23 (fractional), excluding Mineral Surveys 1556, 1565 and 1567;
Sec. 25 (fractional), excluding Mineral Survey 2231;
Sec. 26 (fractional), excluding Mineral Surveys 1556, 1566, 1567 and 2231;
Sec. 27 (fractional), all;
Sec. 28 (fractional), excluding Mineral Survey 2206;
Secs. 29 to 33, inclusive, excluding Mineral Survey 2206;
Secs. 34, 35 and 36 (fractional), all.

Containing approximately 13,013 acres.

T. 78 S., R. 83 E.
Sec. 31 (fractional), all.

Containing approximately 30 acres.

T. 78 S., R. 85 E.
Sec. 1, all;
Sec. 2 (fractional), all;
Sec. 3, all;
Secs. 10 to 24 (fractional), inclusive, all;
Sec. 25, all;
Secs. 26 to 31 (fractional), inclusive, all;
Sec. 32 (fractional), excluding Mineral Survey 1430;
Secs. 33 to 36 (fractional), inclusive, all.

Containing approximately 7,419 acres.
Aggregating approximately 160,549 acres.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservations to the United States:

1. The right to itself, its permittees or licensees, to enter upon, occupy and use, any part or all of that portion lying within twenty-five (25) feet of the center line of the transmission line right-of-way of Power Project 2432, for the purposes set forth in and subject to the conditions and limitations of Sec. 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1075, as amended (16 U.S.C. 818). Such portions located in T. 57 S., R. 73 E., Copper River Meridian, Alaska.

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1976)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in casefile AA–18968–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

50 Foot Trail.—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

60 Foot Road.—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

100 Foot Proposed Road.—The uses allowed on a one-hundred (100) foot wide road easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks. All roads in this category must be proposed for construction within a five-year period. If the road is not constructed the easement will be reduced to a trail width. If after the road has been constructed a lesser width is sufficient to accommodate the road, the easement shall be reduced to a 60 foot wide easement.

One Acre Site.—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

EASEMENTS TO BE RESERVED.—a. (EIN 1a C5) An easement for an existing access trail twenty-five (25) feet in width from a point on the selection boundary in Sec. 21, T. 74 S., R. 65 E., Copper River Meridian, westerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 6 G) An easement sixty (60) feet in width for an existing road the City of Kake easterly to a fork in the road in Sec. 1, T. 57 S., R. 73 E., Copper River Meridian. Thence northerly and southerly to areas of public lands. The uses allowed are those listed above for a sixty (60) foot wide road easement.

c. (EIN 30 G) An easement sixty (60) feet in width for an existing road from a point on the selection boundary in Sec. 1, T. 72 S., R. 81 E., Copper River Meridian, southerly to public lands. The uses allowed are those listed above for a sixty (60) foot wide road easement.

d. (EIN 31 G) An easement one hundred (100) feet in width for a proposed road from EIN 30 G in Sec. 24, T. 72 S., R. 81 E., Copper River Meridian, southerly to Black Lake. The uses allowed are those listed above for a one hundred (100) foot wide road easement.

e. (EIN 33 G) An easement one hundred (100) feet in width for a proposed road from a point on the selection boundary in Sec. 27, T. 72 S., R. 85 E., Copper River Meridian, westerly to public lands. The uses allowed are those listed above for a one hundred (100) foot wide road easement.

f. (EIN 35 G) An easement one hundred (100) feet in width for a proposed road from a point on the selection boundary in Sec. 36, T. 72 S., R. 86 E., Copper River Meridian, northerly to public lands. This uses allowed are those listed above for a one hundred (100) foot wide road easement.

g. (EIN 35a G) An easement one hundred (100) feet in width for a proposed road from a point on the selection boundary in the SW ¼ of Sec. 35, T. 71 S., R. 86 E., Copper River Meridian, southerly into Sec. 2, 72 S., R. 86 E., thence curving northeasterly into the SW ¼ of Sec. 36, T. 71 S., R. 86 E., Copper River Meridian. The uses allowed are those listed above for a one hundred (100) foot wide road easement.

h. (EIN 35b G) An easement one hundred (100) feet in width for a proposed road from EIN 35c G in Sec. 24, T. 72 S., R. 86 E., Copper River Meridian, northerly to public lands. The uses allowed are those listed above for a one hundred (100) foot wide road easement.

i. (EIN 35c G) An easement one hundred (100) feet in width for a proposed road from EIN 35 G in Sec. 23, T. 72 S., 86 E., Copper River Meridian, easterly to public lands. The uses allowed are those listed above for a one hundred (100) foot wide road easement.

j. (EIN 36 D9) An easement for an existing access trail twenty-five (25) feet in width from a point on the selection boundary in Sec. 36, T. 72 S., R. 86 E., Copper River Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

k. (EIN 48 G) An easement sixty (60) feet in width for an existing road from the shore of Hetta Inlet in Sec. 33, T. 76 S., R. 84 E., Copper River Meridian, easterly to public lands. The uses allowed are those listed above for a sixty (60) foot wide road easement.

l. (EIN 53 D1) An easement for an existing access trail twenty-five (25) feet in width from EIN 55 D9 in Sec. 24, T. 77 S., R. 85 E., Copper River Meridian, easterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

m. (EIN 55 D9) A site easement upland of the ordinary high water mark in Sec. 24, T. 77 S., R. 85 E., Copper River Meridian, on the east shore of Hetta Lake. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the lake along the entire waterfront of the site. The uses allowed are those listed above for a one (1) acre site.

n. (EIN 56 D1) An easement for an existing access trail twenty-five (25) feet in width from Hetta Point in Sec. 22, T. 77 S., R. 85 E., Copper River Meridian, easterly to EIN 55 D9. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

o. (EIN 62 D1) An easement for an existing access trail twenty-five (25) feet in width from View Cove in Sec. 20, T. 78 S., R. 82 E., Copper River Meridian, westerly to Manhattan Arm. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

p. (EIN 62a C5) A one (1) acre site easement upland of the mean high tide line in Sec. 20, T. 78 S., R. 82 E., Copper River Meridian, on the west shore of View Cove. The uses allowed are those listed above for a one (1) acre site.

q. (EIN 66 C5) A one (1) acre site easement upland of the mean high tide line in Sec. 33, T. 76 S., R. 84 E., Copper River Meridian, on the east shore of Hetta Inlet. The uses allowed are those listed above for a one (1) acre site.

r. (EIN 69 C5) An easement for a proposed access trail twenty-five (25) feet in width from a point below Nutkwa Falls in Sec. 12, T. 78 S., R. 85 E., Copper River Meridian, northerly approximately ¼ mile to a point above the falls. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

s. (EIN 70 C5) An easement for a proposed access trail fifty (50) feet in width from the beach in Sec. 13, T 43 S., R. 60 E., Copper River Meridian, westerly to isolated public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1976 ed.)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. The following third-party interest, if valid, created and identified by the U.S. Forest Service, as provided by Sec. 14(g) of ANCSA: Special use permit dated October 15, 1970, issued to the Oregon-Portland Cement Company, for a road located within SW¼SW¼ Sec. 22, T. 78 S., R. 82 E., Copper River Meridian.

4. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k) (1976)), that, until December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such mnanagement practices on adjacent national forest lands.

Sealaska Corporation is entitled to conveyance of a minimum of 220,201 acres of land selected pursuant to Sec. 14(h)(8) of ANCSA. By this decision, approximately 160,549 acres have been approved for conveyance. Patent to the surface and subsurface estates of the surveyed land herein approved will be issued when this decision becomes final; interim conveyance will be issued for the unsurveyed land. Conveyance of the remaining entitlement will be made at a later date.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Southeast Alaska Empire (Juneau). Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until April 4, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the part to be served with a copy of the notice of appeal is:

Sealaska Corporation, One Sealaska Plaza Juneau, Alaska 99801.

Sue Wolf,
Chief, Branch of Adjudication.

[AA-14015]
[FR Doc. 79-13885 Filed 5-2-79; 8:45 am]
BILLING CODE 4310-84-M

Alaska Native Claims Selection

On April 2, 1975, Doyon, Limited filed selection application AA–8103–3, as amended, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (Supp. V, 1975)), for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of McGrath (MTNT, Ltd.) The application excluded several water bodies as being navigable. As these are considered nonnavigable and as Sec. 12(c)(3) and 43 CFR 2652.3(c) require the region to select all avaialble lands within the township, these water bodies are considered selected.

As to the lands described below, selection application AA–8103–3, as amended, submitted by Doyon, Limited is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entries perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c), aggregating approximately 5,357 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of the Alaska Native Claims Settlement Act.

The bed of the unnamed lake located in protracted Secs. 12 and 13, T. 33 N., R. 31 W., Seward Meridian, Alaska. Containing approximately 85 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 32 N., R. 34 W.,
Secs. 19 and 20, all;
Sec. 28, excluding the Kuskokwim River;
Secs. 29, 30 and 31 all;
Sec. 32, excluding the Kuskokwim River.
Containing approximately 4,312 acres.

T. 31 N., R. 35 W.,
Sec. 2, all;
Sec. 11, N½.
Containing approximately 960 acres.
Aggregating approximately 5,357 acres.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date 747,616 acres of land, selected pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, have been approved for conveyance to Doyon, Limited.

Within the above described lands, only the following inland water body is considered to be navigable:

Kuskokwim River.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 406, Anchorage, Alaska 99501; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 4, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is taken, the adveree party to be served with a copy of the notice of appeal is:

Doyon, Limited
First and Hall Streets
Fairbanks, Alaska 99701

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Sue Wolf,
Chief, Branch of Adjudication.

[AA-8103-3]
[FR Doc. 79-13886 Filed 5-2-79; 8:45 am]
BILLING CODE 4310-84-M

Alaska Native Claims Selection

On April 2, 1975, Doyon, Limited filed selection application AA–8103–3, as amended, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (Supp. V, 1975)), for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of McGrath (MTNT, Ltd.)

As to the lands described below, selection application AA–8103–3, as amended, submitted by Doyon, Limited is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entries perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c), aggregating approximately 105,956 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of the Alaska Native Claims Settlement Act.

Seward Meridian, Alaska (Unsurveyed)

T. 33 N., R. 31 W.,
Secs. 1 to 36, inclusive, excluding the Kuskokwim River and the unnamed lake located in Secs. 12 and 13.
Containing approximately 22,505 acres.

T. 32 N., R. 32 W.,
Secs. 1 to 36, inclusive, all.
Containing approximately 22,806 acres.

T. 31 N., R. 33 W.,
Secs. 1 to 30, inclusive, all.
Containing approximately 22,972 acres.

T. 32 N., R. 34 W.,
Sec. 27, excluding the Kuskokwim River.
Containing approximately 625 acres.

T. 34 N., R. 34 W.,
Secs. 31 to 34, inclusive, all;
Sec. 35, excluding Native allotments F-16914 and F-16267;
Sec. 36, excluding Native allotments F-16267 and F-16914 and the Takotna River.
Containing approximately 3,350 acres.

T. 31 N., R. 35 W.,
Sec. 1, excluding Native allotment F-16091;
Secs. 3 to 10, inclusive, all;
Sec. 11, S½;
Secs. 15 to 22, inclusive, all;
Secs. 28 to 34, inclusive, all.
Containing approximately 16,752 acres.

T. 33 N., R. 35 W.,
Secs. 7 to 18, inclusive, all;
Sec. 19, excluding Public Land Order 731;
Secs. 20 to 29, inclusive, all;
Secs. 30 to 33, excluding Public Land Order 731;
Secs. 34, 35 and 36, all.
Containing approximately 17,048 acres.
Aggregating approximately 105,956 acres.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in casefile AA–16630–3, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel-drive vehicles.

a. (EIN 5 D9) An easement for an existing access trail twenty-five (25) feet in width from the Iditarod Trail in Sec. 10, T. 33 N., R. 34 W., Seward Meridian, southwesterly to the Ophir Road in Sec. 12, T. 32 N., R. 36 W., Seward Meridian, near the Tatalina RCA site. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter use.

b. (EIN 9 C1) An easement for an existing access trail twenty-five (25) feet in width from McGrath easterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

(EIN 20 C1, C3, D6) An easement for an existing access trail twenty-five (25) feet in width from McGrath westerly to Takotna along the old Iditarod Trail route. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter use.

d. (EIN 35 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 31, T. 32N., R. 33 W., Seward Meridian, southwesterly to Sec. 1, T. 31 N., R. 34 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 37 C5) An easement for a proposed access trail fifty (50) feet in width from Sec. 36, T. 32 N., R. 33 W., Seward Meridian, southeasterly to Sec. 6, T. 31 N., R. 32 W., Seward Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

f. (EIN 49 E) An easement for a proposed access trail fifty (50) feet in width from Sec. 31, T. 32 N., R. 35 W., Seward Meridian, southwesterly to Sec. 1, T. 31 N., R. 36 W., Seward Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date 742,201 acres of land, selected pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, have been approved for conveyance to Doyon, Limited.

Only the following water bodies within the described lands are considered to be navigable: Kuskokwim River; Takotna River.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 406, Anchorage, Alaska 99501; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 4, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is taken, the adverse party to be served with a copy of the notice of appeal is:

Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Sue Wolf,
Chief, Branch of Adjudication.

[AA-8103-3]
[FR Doc. 79-13887 Filed 5-2-79; 8:45 am]
BILLING CODE 4310-84-M

Alaska Native Claims Settlement Act

On April 3, 1975, Doyon, Limited filed selection application AA–8103–1, as amended, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (Supp. V, 1975)), for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of Telida.

As to the lands described below, selection application AA–8103–1, as amended, submitted by Doyon, Limited is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto.

These lands do not include any lawful entires perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c), aggregating approximately 199,591 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of the Alaska Native Claims Settlement Act:

Fairbanks Meridian, Alaska (Unsurveyed)

T. 18 S., R. 28 W.,
Secs. 1 to 11, inclusive, all;
Sec. 12, excluding Native allotment F–17524 Parcel A;
Secs. 13 to 36, inclusive, all.
Containing approximately 22,776 acres.

Kateel River Meridian, Alaska (Unsurveyed)

T. 23 S., R. 27 E.,
Secs. 1 and 2, excluding the North Fork Kuskokwim River;
Secs. 11 to 15, inclusive, excluding the North Fork Kuskokwim River;
Secs. 16 to 20, inclusive, all;
Sec. 21, excluding Native allotment F–16051 Parcel B and the North Fork Kuskokwim River;
Secs. 22 and 23, excluding the North Fork Kuskokwim River;
Secs. 24, 25 and 26, all;
Secs. 27 and 28, excluding the North Fork Kuskokwim River;
Secs. 29, 30 and 31, all;
Secs. 32, 33 and 34, excluding the North Fork Kuskokwim River;
Secs. 35 and 36, all.
Containing approximately 21,572 acres.

T. 22 S., R. 28 E.,
Secs. 1 and 2, all;
Secs. 3 and 4, excluding the North Fork Kuskokwim River;
Secs. 5, 6, 7 and 8, all;
Secs. 9 and 10, excluding the North Fork Kuskokwim River;
Secs. 11, 12, 13 and 14, all;
Sec. 15, excluding the Swift Fork Kuskokwim River;
Sec. 16, excluding the Swift Fork Kuskokwim River and the North Fork Kuskokwim River;
Sec. 17, excluding Native allotment F–17361 Parcel B and the North Fork Kuskokwim River;
Secs. 18 and 19, all;
Sec. 20, excluding Native allotment F–17361 Parcel B, the Swift Fork Kuskokwim River and the North Fork Kuskokwim River;
Sec. 21, excluding the Swift Fork Kuskokwim River and the North Fork Kuskokwim River;
Secs. 22 and 27, excluding the Swift Fork Kuskokwim River;
Sec. 28, all;
Secs. 29, 30 and 31, excluding the North Fork Kuskokwim River;
Secs. 32, 33 and 34, all.
Containing approximately 18,056 acres.

T. 24 S., R. 28 E.,
Secs. 1 to 36, inclusive, all
Containing approximately 23,004 acres.

T. 26 S., R. 28 E.,
Secs. 1 to 30, excluding the Slow Fork Kuskokwim River and the unnamed lake located in Secs. 8, 9, 16 and 17;
Sec. 32, N½
Sec. 33, N½ and SE¼
Secs. 34, 35 and 36, all.
Containing approximately 21,208 acres.

T. 23 S., R. 29 E.,
Sec. 1, all;
Secs. 2 and 3, excluding Native allotment F–17185 Parcel B;
Sec. 4, all;
Secs. 5 and 6, excluding the Swift Fork Kuskokwim River;
Sec. 7, all;
Sec. 8, excluding the Swift Fork Kuskokwim River;
Sec. 9, all;
Secs. 10 and 11, excluding Native allotment F–17185 Parcel B;
Secs. 12 to 16, inclusive, all;
Sec. 17, excluding the Swift Fork Kuskokwim River;
Secs. 18 and 19, all;
Sec. 20, excluding the Swift Fork Kuskokwim River;
Secs. 21 to 27, inclusive, all;
Sec. 29, excluding the Swift Fork Kuskokwim River;
Sec. 30, all;
Secs. 31 and 32, excluding the Swift Fork Kuskokwim River.
Containing approximately 19,487 acres.

T. 25 S., R. 29 E.,
Secs. 2 to 11, inclusive, all;
Secs. 14 to 23, inclusive, all;
Secs. 25 to 36, inclusive, all.
Containing approximately 20,240 acres.

T. 22 S., R. 30 E.,
Secs. 2 to 11, inclusive, all;
Secs. 14 to 23, inclusive, all'
Secs. 26 to 35, inclusive, all.
Containing approximately 19,417 acres.

T. 24 S., R. 30 E.,
Secs. 19 to 23, excluding the Swift Fork Kuskokwim River;
Secs. 26 to 35, excluding the Swift Fork Kuskokwim River.
Containing approximately 9,775 acres.

T. 26 S., R. 30 E.,
Secs. 1 to 36, excluding Grayling Lake.
Containing approximately 22,474 acres.

T. 25 S., R. 31 E.,
Secs. 30 and 31, all.
Containing approximately 1,562 acres.
Aggregating approximately 199,591 acres.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservations to the United States:

1. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA–16630–1, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 2 C5) An easement for an existing access trail twenty-five (25) feet in width from Telida northwesterly to public lands in Sec. 34, T. 23 S., R. 28 E., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 3 D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 17, T. 22 S., R. 28 E., Kateel River Meridian, on the left bank of the North Fork Kuskokwim River at the juncture of the Swift Fork. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 5 D1, D9)-An easement for an existing access trail twenty-five (25) feet in width from Telida southwesterly to Nikolai. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 6 C3, D9) An easement for an existing access trail twenty-five (25) feet in width from Telida southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 11 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 36, T. 22 S., R. 29 E., Kateel River Meridian, southeasterly to Sec. 6, T. 23 S., R. 30 E., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 12 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 31, T. 22 S., R. 29 E., Kateel River Meridian, southwesterly to Sec. 1, T. 23 S., R. 28 E., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 13 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 36, T. 22 S., R. 27 E., Kateel River Meridian, southeasterly to Sec. 6, T. 23 S., R. 28 E., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

h. (EIN 14 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 31, T. 23 S., R. 28 E., Kateel River Meridian, southwesterly to Sec. 1, T. 24 S., R. 27 E., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

i. (EIN 15 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 31, T. 25 S., R. 30 E., Kateel River Meridian, southwesterly to Sec. 1, T. 26 S., R. 29 E., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

j. (EIN 16 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 36, T. 25 S., R. 28 E., Kateel River Meridian, southeasterly to Sec. 6, T. 26 S., R. 29 E., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights, therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 [72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970)]), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date 618,940 acres of land, selected pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, have been approved for conveyance to Doyon, Limited.

Only the following water bodies within the described lands are considered to be navigable: The North Fork Kuskokwim River; the Swift Fork Kuskokwim River from its mouth upstream to the village of Telida.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 4, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513. If an appeal is taken, the adverse party to be served with a copy of the notice of appeal is:

Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701.

Don A. Wall,
Chief, Branch of Adjudication.

[AA–8103–1]
[FR Doc. 79-13686 Filed 5-2-79; 8:45 am]
BILLING CODE 4310-84-M

Alaska Native Claims Settlement Act

On April 3, 1973, Doyon, Limited filed selection application AA–8103–1, as amended, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (Supp. V, 1975)), for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of Telida. The application excluded several water bodies as being navigable. As these are considered nonnavigable and as Sec. 12(c)(3) and 43 CFR 2652.3(c) require the region to select all available lands within the township, these water bodies are considered selected.

As to the lands described below, selection application AA–8103–1, as amended, submitted by Doyon, Limited is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entries perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c), aggregating approximately 17,365 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of the Alaska Native Claims Settlement Act:

The bed of the Slow Fork Kuskokwim River located in protracted T. 26 S., R. 28 E., Kateel River Meridian;
The bed of the unnamed lake located in protracted Secs. 8, 9, 16 and 17, T. 26 S., R. 28 E., Kateel River Meridian;
The bed of the Swift Fork Kuskokwim River located in protracted Secs. 19 to 23 and Secs. 26 to 35, T. 24 S., R. 30 E., Kateel River Meridian;
The bed of Grayling Lake located in protracted T. 26 S., R. 30 E., Kateel River Meridian.
Aggregating approximately 960 acres.

Fairbanks Meridian, Alaska (Unsurveyed)

T. 18 S., R. 28 W.
Secs. 1 to 4, inclusive, all;
Secs. 9 to 16, inclusive, all;
Secs. 21 to 28, inclusive, all;
Secs. 33 to 36, inclusive, all.
Containing approximately 15,360 acres.

Kateel River Meridian, Alaska (Unsurveyed)

T. 26 S., R. 28 E.
Sec. 31, all;
Sec. 32 S½;
Sec. 33, SW¼.
Containing approximately 1,005 acres.
Aggregating approximately 17,365 acres.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservations to the United States:

1. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA–16630–1, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail.—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel

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vehicles and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

a. (EIN 1 C3, D9) An easement for an existing access trail twenty-five (25) feet in width from Telida northeasterly toward Lake Minchumina. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights, therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid exising right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date 636,305 acres of land, selected pursuant to Sec. 12(c) of the Alaska Native Claims Settlement Act, have been approved for conveyance to Doyon, Limited.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 4, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse party to be served with a copy of the notice of appeal is:

Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701.

Sue A. Wolf,
Chief, Branch of Adjudication.

[AA-8103-1]
[FR Doc. 79-13859 Filed 5-2-79; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

Proposed Reauthorization of the Central Valley Project, California; Notice of Intent to Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental statement on the proposed reauthorization of the Central Valley Project (CVP). The statement will identify all viable options for utilizing the currently uncontracted portion of the CVP yield and the impacts which would result from them.

The statement will include the viable options to and the impacts which result from renegotiation of the present draft agreement between the State and Federal Governments for the coordinated operation of the CVP and the State Water Plan.

The concepts presently contemplated for inclusion in the legislation are:

1. Authorize the Secretary to operate the CVP in accordance with current State Delta Standards.

2. Amend the CVP authorization statutes to provide that fish and wildlife are added as project purposes. Give equal consideration to fish and wildlife and Delta water quality in the allocation of future water supplies.

3. Authorize the relocation of the Contra Costa Canal intake from its present location to Clifton Court Forebay with the State of California, the Federal Government, and Contra Costa County Water District each sharing in the cost.

4. Provide funding for a conjunctive ground- and surface-water management program on Central Valley National Wildlife Refuges to increase water supplies to the refuges.

The first public meeting will be held on May 8, 1979, from 7:00 p.m. to 10:30 p.m. in the Sacramento Convention Center, Exhibit Hall B, 14 and K Street, Sacramento, California.

An additional public meeting will be held in each of the following cities: Fresno, Stockton, Concord and Redding. The meeting date, time and location will be announced in the local news media prior to the meeting.

For this environmental statement, the contact person will be: J. Bruce Kimsey, Office of Environmental Quality, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825, Telephone (916) 484-4792.

Dated: April 24, 1979

E. Keith Higginson,
Commissioner of Reclamation.

[FR Doc. 79-13686, Filed 5-2-79; 8:45 am]
BILLING CODE 4310-09-M

National Park Service

Golden Gate National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held on Saturday, May 12, 1979, at 9:30 a.m (PDS) at West Marin School, Point Reyes Station, California.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service system in Marin and San Francisco counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman; Ms. Amy Meyer, Secretary; Mr. Ernest Ayala, Mr. Richard Bartke, Mr. Fred Blumberg, Ms. Daphne Greene, Mr. Peter Haas, Sr., Mr. John Jacobs, Ms. Gimmy Park Li, Mr. Joseph Mendoza, Mr. John Mitchell, Mr. Merritt Robinson, Mr. Jack Spring, Dr. Edgar Wayburn, and Mr. Joseph Williams.

The major agenda items will be a swearing in ceremony for two new Commissioners (Burr Heneman and Thomas Winnett); a public discussion on a proposed pet policy for areas within Point Reyes National Seashore; and update on Sir Francis Drake Quadricentennial activities; updates on committee reports; and an update on the General Management Plan progress. This meeting is open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact Lynn H. Thompson, General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA 94123, telephone 415-556-2920.

Minutes of the meeting will be available for public inspection by June 15, 1979 in the Office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA.

Dated: April 18, 1979.

Lynn H. Thompson,
General Superintendent, Golden Gate National Recreation Area.

[FR Doc. 79-13629 Filed 5-2-79; 8:45 am]
BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

Carbon Steel Plate From Poland; Investigation and Hearing

Having received advice from the Department of the Treasury on April 17, 1979, that carbon steel plate from Poland produced by Stalexport is being, or is likely to be, sold at less than fair value, the United States International Trade Trade Commission, on April 27, 1979, instituted investigation No. AA1921-203 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For the pruposes of its determination concerning sales at less than fair value, the Treasury Department defined carbon steel plate as hot-rolled carbon steel plate, not coated or plated with metal and not clad, other than black plate, not alloyed, and other than in coils, as provided for in item 608.8415 of the Tariff Schedules of the United States Annotated.

Hearing. A public hearing in connection with the investigation will be held on Thursday, May 24, 1979, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, beginning at 10 a.m., e.d.t. Requests to appear at the public hearing should be filed with the Secretary of the Commission, in writing, not later than noon, Monday, May 14, 1979.

The investigation to which this report relates was undertaken for the purpose of advising the President as to the probable economic effect on the domestic industry concerned of the termination of import relief provided for in items 923.20 through 923.26, inclusive, of the Appendix to the TSUS. Import relief presently in effect with respect to such articles is scheduled to terminate at the close of June 13, 1979, unless extended by the President. The relief is provided for in Presidential Proclamation 4445 of June 11, 1976 (41 F.R. 24101), as modified by Proclamaiton 4477 of November 16, 1976 (41 F.R. 50960), Proclamation 4509 of June 15, 1977 (42 F.R. 30829), and Proclamation 4559 of April 5, 1978 (43 F.R. 14433).

The investigation was instituted on December 11, 1978, following receipt on November 30, 1978, of a petition filed by the Tool and Stainless Steel Industry Committee and the United Steelworkers of America, AFL-CIO. Public notice of the investigation and hearing was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and in the Commission's New York Office, and by publishing the notice in the **Federal Register** of December 22, 1978 (43 F.R. 59914). The public hearing in conneciton with this investigation was held on March 6-7, 1979, in the Commission's hearing room in Washington, D.C.

The information contained in this report was obtained from field work, from questionnaires sent to domestic manufacturers and importers, from the Commission's files, from other Government agencies, from information received at the public hearing, and from briefs filed by interested parties.

By order of the Commission.
Issued: April 30, 1979.

Kenneth R. Mason,
Secretary.

[AA1921-203]
[FR Doc. 79-13839 Filed 5-2-79; 8:45 am]
BILLING CODE 7020-02-M

Carbon Steel Plate From Poland; Investigation and Hearing

Having received advice from the Department of the Treasury on April 17, 1979, that carbon steel plate from Poland produced by Stalexport is being, or is likely to be, sold at less than fair value, the United States International Trade Commission, on April 27, 1979, instituted investigation No. AA1921-203 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For the purposes of its determination concerning sales at less than fair value, the Treasury Department defined carbon steel plate as hot-rolled carbon steel plate, not coated or plated with metal and not clad, other than black plate, not alloyed, and other than in coils, as provided for in item 608.8415 of the Tariff Schedules of the United States Annotated.

Hearing. a public hearing in connection with the investigation will be held on Thursday, May 24, 1979, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, beginning at 10 a.m., e.d.t. Requests to appear at the public hearing should be filed with the Secretary of the Commission, in writing, not later than noon, Monday, May 14, 1979.

A prehearing conference in connection with this investigation will be held in Washington, D.C., at 10 a.m., e.d.t., on Monday, May 14, 1979, in Room 117, U.S. International Trade Commission Building, 701 E Street, NW.

By order of the Commission.

Issued: April 30, 1979.

Kenneth R. Mason,
Secretary.

[AA1921-203]
[FR Doc. 79-13842 Filed 5-2-79; 8:45 am]
BILLING CODE 7020-02-M

Certain Precision Resistor Chips; Designation of Commission Investigative Attorney

Please take note that the Commission investigative attorney on Investigation No. 337-TA-65, Certain Precision Resistor Chips, is Robert D. Bannerman, Esq. Please serve Mr. Bannerman with all future papers filed in this investigation.

The Secretary is requested to have a notice to this effect published in the **Federal Register.**

Dated: April 30, 1979.

Earl Levy,
Deputy Director, Office of Legal Services.

[Investigation No. 337-TA-65]
[FR Doc. 79-13841 Filed 5-2-79; 8:45 am]
BILLING CODE 7020-02-M

Certain Precision Resistor Chips; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: April 27, 1979.

Donald K. Duvall
Chief Administrative Law Judge.

[Investigation No. 337-TA-46]
[FR Doc. 79-13868 Filed 5-2-79; 8:45 am]
BILLING CODE 7020-02-M

Sugar From Canada; Inquiry and Hearing

The United States International Trade Commission (Commission) received advice from the Department of Treasury (Treasury) on April 25, 1979, that during the course of determining whether to institute an investigation with respect to sugar provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States from Canada in accordance with section 201(c) of the Antidumping Act, 1921 as amended (19 U.S.C. 160(c)), Treasury had concluded from the information developed during its preliminary investigation that there is substantial doubt that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of this merchandise into the United States. Therefore, the Commission on May 1, 1979, instituted inquiry AA1921–Inq.–27, under section 201(c)(2) of that act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Public Hearing

A public hearing in connection with the inquiry will be held in Washington, D.C. on Thursday, May 10, 1979, at 10:00 a.m., e.d.t. The hearing will be held in the Hearing Room, United States International Trade Commission Building, 701 E Street, NW., Washington, D.C. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at this public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(d)), should be received in writing in the office of the Secretary of the Commission not later than noon Monday, May 7, 1979.

Written statements.

Interested parties may submit statements in writing in lieu of, and in addition to appearance at the public hearing. A signed original and nineteen true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received not later than Tuesday, May 15, 1979.

Issued: May 1, 1979.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[AA1921-INQ-27]
[FR Doc. 79-13869 Filed 5-2-79; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Advisory Policy Board; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Crime Information Center (NCIC) Advisory Policy Board will be held on June 13–14, 1979, Holiday Inn, Durango, Colorado. The meeting will begin at 9 a.m. and terminate at 5 p.m. each day.

The purpose of this meeting will be to discuss policy matters relating to NCIC including the Wanted and Missing Persons File, Stolen Property Files and the Computerized Criminal History File.

The meeting will be open to the public. Persons who wish to make statements and ask questions of the Board members must notify the Designated Federal Employee (DFE) identified below or the Assistant Director, Technical Services Division, FBI, Washington, D.C. 20535, at least 24 hours prior to the commencement of the session. Name, corporate designation, consumer affiliation or government designation must be provided along with a capsulized version of the statement to be given and an outline of the material to be offered.

Additional information may be obtained from the DFE, Mr. Lawrence G. Lawler, Chief, NCIC Section, Technical Services Division, FBI Headquarters, Washington, D.C. 20535, telephone 202/324–2606.

Minutes of the meeting will be available upon request from the above-designated FBI official.

William H. Webster,
Director.

[FR Doc. 79-13784 Filed 5-2-79; 8:45 am]
BILLING CODE 4410-02-M

Law Enforcement Assistance Administration

Program Announcement; Response to Public Comment and Notice of Issuance

AGENCY: Law Enforcement Assistance Administration, Justice

ACTION: Response to Public Comment and Notice of Issuance

SUMMARY: The Law Enforcement Assistance Administration (LEAA) published in the Federal Register on February 7, 1979 [44 FR 7845–7846] a DRAFT program announcement entitled "Improving Criminal Justice Planning and Coordination" for public review and comment. This notice summarizes the comments received and LEAA's response, and issues the final program announcement. The program is an addition to LEAA's 1979 *Guide for Discretionary Grant Programs* (M4500.1G) and constitutes a new paragraph 55 of that Guideline Manual.

ISSUANCE AND DISTRIBUTION: Copies of the program announcement have been sent to each State Planning Agency. Other interested persons may obtain copies by writing LEAA, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Persons requesting single copies of the 1979 *Guide for Discretionary Grant Programs*, which provides information about the major categorical programs sponsored by LEAA, should write the National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850.

COMMENTS RECEIVED: The comments and LEAA's response are summarized below:

1. *Use of reverted Part B (planning grant) monies.* The draft program was to be supported by the reprogramming of reverted Part B (planning grant) monies awarded to the states under the Omnibus Crime Control and Safe Streets Act of 1968, as amended. Although most respondents endorsed the program's objectives, state planning agencies objected to the use of Part B funds in this way and urged that reverted planning monies be reallocated among the states as general supplements. As a result, LEAA has allocated $500,000 in FY 1979 Part C (action grant) discretionary funds in lieu of reverted Part B monies to the program.

2. *Local eligibility.* Three respondents urged that the program be expanded to extend specific eligibility to local planning units. Due to limited funds, such an expansion is not feasible at present. LEAA endorses the principle of extending eligibility to local units, but a decision to do so in fiscal year 1980 is contingent upon fund availability.

3. *Clarification of program activities.* Two respondents raised issues concerning the types of activities to be supported under the program. Clarifying language has been added to the descriptions of options 1 and 2 in response to these comments.

4. *Other issues.* One respondent expressed concern that State Planning Agency planning and evaluation activities may be at the expense of the planning and evaluation activities of operating agencies. Another criticized the program for encouraging State Planning Agencies to engage in legislative activities. No modifications to the program were made in response to these comments.

The following individuals and organizations commented on the draft:

1. The National Conference of State Criminal Justice Planning Administrators (including individual replies from 15 State Planning Agencies).
2. Dr. Charles E. Becknell, Secretary, Criminal Justice Department, State of New Mexico.
3. Richard Sullivan, Senior Research Associate, Illinois Law Enforcement Commission, State of Illinois.
4. William M. Nugent, Acting Administrator, Office of Criminal Justice, Department of Management and Budget, State of Michigan.
5. The National Association of Criminal Justice Planners.
6. H. Lake Wise, Director, Criminal Justice Coordinating Council, City of New York.
7. John J. Henning, Illinois.
8. Neal Knox, Executive Director, National Rifle Association of America.
9. Manuel Dones Pinero, Executive Director, Commission for the Reorganization of the Executive Branch, Office of the Governor, Commonwealth of Puerto Rico.

FOR FURTHER INFORMATION CONTACT: John Thomas, Policy and Management Planning Staff, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue N.W., Washington, D.C. 20531 202/376–2279 (after April 27, 1979: 202/724–7669).

The text of the final program announcement follows:

55. IMPROVING CRIMINAL JUSTICE PLANNING AND COORDINATION

a. *Objective.* The objective of this program is to aid selected states to strengthen and improve their criminal and juvenile justice planning and coordination functions.

b. *Program Description.* (1) Problem Addressed. (a) Over the past ten years, State Governments have increased their criminal justice planning capabilities. They have analyzed problems, set goals and priorities, developed programs, and evaluated results.

(b) Nevertheless, several observers have pointed to the need to make improvements. These include greater involvement of key decisionmakers and especially elected officials; increased attention on non-federal resources; and more integration with normal government processes, such as budgeting and law-making.

(c) This program, "Improving Criminal Justice Planning and Coordination" builds upon the positive achievements of the past ten years while providing a catalyst for making improvements in criminal justice planning and coordination at the State level.

(2) Results Expected. (a) Greater involvement by State Criminal Justice Planning Agencies in criminal and juvenile justice issues, strategies, and resources outside the confines of the Federal grant program.

(b) Increased interaction between state criminal justice planning agencies and other key decision-makers, including the Governor, members of the legislature, relevant department heads, and local officials.

(c) Increased use of state planning agency skills, resources and work products in criminal and juvenile justice policy, programs and resource allocation decision-making.

c. *Program Strategy.* States may opt for any one of the following three approaches. However, in the event that there are more applications that meet the funding criteria than can be supported with available monies, priority for grant awards will be given to those applications under options 1 and 2.

(1) Option 1—Development and Execution of Legislative and/or Executive Branch Implementation Strategies for Major Program Priorities.

This option calls for state planning agencies in concert with the Governor's offices to take a leadership role in bringing about criminal and juvenile justice improvements through means not limited to the LEAA grant program. Activities to be supported under this option may include: detailed issue or problem analysis, development or identification of strategies for dealing with the priority issue or problem; implementation planning; and management and coordination of the execution of the implementation plan.

It assumes that states—as part of their planning efforts—have previously identified one or more major issues or problems that are of statewide priority, that are amenable to state action, and that, if resolved, are likely to lead to significant improvements. States applying under this option must demonstrate that the issues or problem to be addressed has been identified and documented as a priority in previous comprehensive criminal justice plans.

State planning agencies are to develop and/or identify programs that are likely to be effective in dealing with one or more priority problems or issues, and that have a broad base of support within the state. The process of developing and/or identifying programs must be a participatory one, with opportunities for involvement of state and local criminal justice officials, representatives of general local government, and elected officials. Programs developed and/or identified for implementation must be endorsed by the State Supervisory Board and the Governor.

State planning agencies are to develop comprehensive implementation strategies for the program(s) selected. In developing such strategies, states should consider:

(a) Gubernatorial-action (e.g., adoption of the program as a major policy initiative of the Governor; incorporation in gubernatorial statements—i.e., urban strategy or crime control messages; executive orders; preparation of legislative proposals and budget.)

(b) Legislative-action (e.g., enactment of state legislation authorizing the program; appropriations of state and/or federal funds.)

(c) Administrative-action (e.g., changes in rules and regulations; joint funding procedures.)

State planning agencies are expected to take the lead in executing these implementation strategies in concert with other relevant decision-makers.

An essential feature of this option is the involvement of the State Planning Agency in program development and implementation activities that significantly go beyond activities routinely carried out in administering the LEAA grant program and that enhance the SPAs ties with the Governor's office, the State Legislature, and other key public agencies.

(2) Option 2—Conduct of State Government Reorganization Studies and/or Implementation of State Reorganization Plans.

Under this option, funds would be available to assist states either considering or in the process of reorganization of the executive branch of State Government where reorganization is likely to impact on or be affected by criminal justice planning and coordination concerns.

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"Reorganization" is not necessarily limited to formal, structural change, but may include changes in authority, function and relationships where such changes significantly improve the role of criminal juvenile justice planning and coordination in the governing process and are authorized or agreed to by the appropriate state officials. Possible activities that could be undertaken include, but are not limited to: government organization studies; management consulting assistance; and transition staffing.

The aim of this alternative is to help states that, as part of a general reorganization movement or a more limited focus on criminal justice, are moving in the direction of embedding criminal justice planning and coordination functions into the working of state government. This means greater integration of criminal justice planning and coordination with normal state processes, such as budgeting, legislation, general state planning, etc., and increased acceptance of the planning approach in the state's criminal justice system.

(3) Option 3—Conduct of Program Evaluations.

This option provides state planning agencies an opportunity to improve their evaluation capabilities and to expand their role in criminal and juvenile justice evaluation. SPAs would conduct an evaluation of one (or more) high-priority, non-federally funded program or improvement in the state (e.g., a new law such as mandatory sentencing; a community restitution program).

In selecting evaluation topics, states should give special attention to the evaluability of the topic and the potential audience for and use of the evaluation results. The application must indicate the reasons why a particular topic has been selected, how the results will be used, and how the evaluation will be conducted. Principal users should be involved in planning the evaluation and a plan for utilization of results should be formulated, submitted to, and endorsed by the principal intended users.

d. *Application Requirements.* (1) In preparing applications, states must conform with the requirements set forth in M4500.1G, *Guide for Discretionary Grant Programs.* States must also describe each specific product that will result from the project, and the uses thereof.

(2) States must provide evidence that the Governor is aware of and committed to the project. To the extent feasible and appropriate, states should indicate the degree of coordination with and support from other key officials, including members of the legislature.

(3) States must describe clearly and succinctly how the proposed project will contribute to the objective and results expected under this program described above. They must fully address the respective program elements and requirements set forth under the various options.

(4) States should, as appropriate, provide supporting information regarding the responsibilities and operations of the SPA, its role in state government, and its relationship with other agencies.

(5) States must agree to provide at the conclusion of the project a final report documenting the activities undertaken and the results achieved.

e. *Dollar Range and Number of Grants.* It is estimated that five to ten grants ranging from about $25,000 to $100,000 will be awarded. Grants will require a ten percent cash match and will be for a 12–18 month period.

f. *Eligibility.* State Planning Agencies (SPAs) are eligible to receive grants.

g. *Deadline for Submission of Applications.* Applications must be received by June 25, 1979.

h. *Criteria for Selection.* Applications will be reviewed and selected for funding on a competitive basis, using the following criteria:

(1) Degree to which the proposed project is responsive to the objectives and requirements of the particular option selected (see paragraph c).

(2) Degree to which the application fully responds to the requirements of paragraph d.

(3) Degree to which the state has allocated non-federal resources (funds, staff, facilities, etc.) to the project.

(4) Evidence of the capability of the SPA to efficiently organize and manage the project.

(5) Extent to which the estimated cost of the project is reasonable considering the activities planned and the results anticipated.

i. *Evaluation.* Evaluation is not required, but grantees must comply with the self-assessment and monitoring requirements of Appendix 4, paragraphs 3 and 4, and Appendix 5 of the 1979 *Guide for Discretionary Grant Programs* (M4500.1G).

j. *Contact.* For further information, contact:

John Thomas, Policy and Management Planning Staff, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531 202/376–2279. (After April 27, 1979: 202/724–7669.)

Henry S. Dogin,
Administrator.
[FR Doc. 79-13708 Filed 5-2-79; 8:45 am]
BILLING CODE 4410-18-M

National Advisory Committee for Juvenile Justice and Delinquency Prevention; Meeting

Notice is hereby given that the National Advisory Committee for Juvenile Justice and Delinquency Prevention (the Committee) and its subcommittees will meet Wednesday, Thursday, Friday and Saturday, May 16, 17, 18 and 19, 1979, at the Boston Park Plaza Hotel in Boston, Massachusetts. The meeting will be open to the public.

On Wednesday evening, May 16, the Executive Committee will meet at 6:00 p.m. The 16th meeting of the full Committee is scheduled to convene at 9:00 a.m. on Thursay, May 17. The session will begin with reports from the Office of Juvenile Justice and Delinquency Prevention and the Law Enforcement Assistance Administration. At 10:30 a.m., following a brief recess, the four subcommittees: Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention; Advisory Committee on Standards for Juvenile Justice; Advisory Committee to the Administrator of the Office; and Advisory Committee on the Concentration of Federal Effort, will meet. The Subcommittee to Advise the Administrator and the Subcommittee on the Concentration of Federal Effort will meet in joint session from 10:30 a.m. until 12:30 p.m. Following at 12:30 p.m.—1:30 p.m. luncheon recess, the subcommittees will reconvene in individual sessions for the remainder of the day. Topics scheduled to be addressed by the Subcommittees include: State Subsidies and Development of Regional Advisory Committees, Training Functions of the National Institute, Intervention and Supervision Standards and the Re-examination of the definition of juvenile detention and correctional facilities. The Advisory Committee on the National Institute has scheduled a presentation by members of the staff of the Learning Disabilities Study funded by the Institute.

On Friday, May 18, at 10:30 a.m., the full Committee will reconvene to hear reports from the Executive Committee and each of the four subcommittees. Following a 12:30 p.m.—1:30 p.m. luncheon recess, the full Committee will meet to hear a Panel Discussion by Congressional Oversight Committee representatives of Reauthorization of the Juvenile Justice Act. After a brief recess at 3:30 p.m., the full Committee will reconvene at 3:45 p.m. to hear a presentation from a program and a study regarding juveniles who have committed violent offenses. This will be followed by an opportunity for public commentary.

The full Committee will reconvene on Saturday, May 19, at 9:00 a.m. to hear another presentation regarding juveniles who have committed violent offenses. This will be followed by discussion of recommendations on this issue. This discussion will be followed by a review of plans for the (next) meeting of the Committee. The meeting of the full Committee is scheduled to adjourn at 11:30 a.m.; an hour long meeting of the Executive Committee will follow.

For further information contact Mr. David D. West, Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, Department of Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

David D. West,
Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention.
[FR Doc. 79-13687 Filed 5-2-79; 8:45 am]
BILLING CODE 4410-18-M

NATIONAL ENDOWMENT FOR THE ARTS

Folk Arts Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Folk Arts Advisory Panel to the National Council on the Arts will be held June 7, 8, and 9, 1979, from 9:00 a.m. to 5:30 p.m., in room 1422, Columbia Plaza Office Building, 2401 E St. NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: April 25, 1979.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.
[FR Doc. 79-13710 Filed 5-2-79; 8:45 am]
BILLING CODE 7537-01-M

Music Advisory Panel (Planning); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Planning Section) to the National Council on the Arts will be held May 22, 1979, from 9:30 a.m. to 5:30 p.m. and May 23, 1979, from 9:30 a.m. to 5:00 p.m., in Room 1422, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C.

A portion of this meeting will be open to the public on May 22, 1979, from 9:30 a.m. to 5:30 p.m. and May 23, from 1:30 p.m. to 4:00 p.m. The topics of discussion will be Music Program Staff reports.

The remaining sessions of this meeting on May 23, 1979, from 9:30 a.m. to 1:30 p.m. and from 4:00 p.m. to 5:00 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: April 25, 1979.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.
[FR Doc. 79-13711 Filed 5-2-79; 8:45 am]
BILLING CODE 7537-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Accident Report, Responses to Safety Recommendations; Availability

Marine Accident Report No. NTSB–MAR–79–5

Capsizing and Sinking of the Self-Elevating Mobile Offshore Drilling Unit OCEAN EXPRESS near Port O'Connor, Texas, April 15, 1978.—The National Transportation Safety Board has released its formal report on the investigation of this accident. Investigation revealed that as the OCEAN EXPRESS arrived under tow at its new drilling site, it could not be set in place because of adverse seas. Three tugs held the OCEAN EXPRESS in position awaiting better weather, but the seas continued to increase. One tug's starboard reduction gear failed, and another tug's towline broke. With only one effective tug remaining, the OCEAN EXPRESS turned broadside to the wind and seas, drifted, grounded, capsized, and sank.

The bargemaster was rescued by a Coast Guard helicopter. The crew abandoned the OCEAN EXPRESS in the unit's survival capsules. The 14 persons in one capsule were rescued without incident. The other capsule capsized with 20 persons inside; 7 persons escaped and 13 persons drowned. The vessel was valued at $20 million.

The Safety Board determined that the probable cause of the accident was the complete loss of control of the OCEAN EXPRESS because of equipment failures on two of the three assisting tugs, which allowed the unit to turn broadside to the wind and seas, drift, ground, and capsize. Contributing to the accident were the lack of preparation for towing emergencies, the lack of complete information in the unit's operating manual, and the inaccuracy of the National Weather Service's weather forecasts. Contributing to the loss of life was the capsizing of the No. 3 survival capsule because of extreme wave action alone or in combination with tripping forces imparted by a small line attached to the rescue tug.

Thirteen safety recommendations are incorporated in the Board's report on this accident. They were directed on April 17 to the U.S. Coast Guard (M–79–39 through 47); to Bethlehem Steel (M–79–48); to Ocean Drilling and Exploration Company, the owner of OCEAN EXPRESS (M–79–49); to the Whittaker Corporation, manufacturer of the survival capsules (M–79–50); and to the International Association of Drilling Contractors (M–79–51). (See also 44 FR

24857, April 26, 1979, for the full text of these recommendations.)

Responses to Safety Recommendations

Aviation

A–72–178 and 179.—Letter of April 9 from the Federal Aviation Administration advises as to the status of these recommendations, issued in connection with the Board's 1972 special study, "Air Taxi Safety." The recommendations asked FAA to amend Federal Aviation Regulation 135.136 to provide for daily, weekly, and monthly flight and duty time limitations (A–72–178), and to provide that all flying, including private as well as commercial, shall not exceed the prescribed flight and duty time set forth in that section (A–72–179).

In response, FAA reports that the following extract was provided as supplementary information at 43 FR 46744, October 10, 1978, for amended Part 135:

> Flight and Duty Time Limitations (Proposed Subpart F). An entire subpart dealing with flight crewmember flight and duty time limitations has been deferred for further consideration while the rulemaking proposed in Notice 78–3 is completed. That notice proposed changes in flight and duty time limitations governing Parts 121 and 123 operators. Since many of the concepts presented in Notice 78–3 are similar to those proposed in Notice 77–17, information received in response to Notice 78–3 will be helpful to the FAA in completing the Part 135 flight and duty time limitations rulemaking action. In view of the deferral, the present regulation is retained.

FAA states that further regulatory action will be taken when review of the comments has been completed. This is a top priority project, and FAA will advise the Board when action has been completed.

Highway

H–78–12.—Letter of April 10 from the Federal Highway Administration is in answer to the Safety Board's February 13 letter commenting on FHWA's response of September 6. The recommendation was issued after investigation of the March 8, 1977, collision of a tractor-semitrailer with a schoolbus near Rustberg, Va., and concerned enforcement practices of the Bureau of Motor Carrier Safety (BMCS).

Recommendation H–78–12 asked FHWA to revise its enforcement policy, which precludes filing charges against drivers and carriers in violation of the Federal Motor Carrier Safety Regulations (FMCSR) unless they have previously been served with a copy of the regulations, to permit the filing of charges for violations under severe circumstances such as preventable, fatal highway accidents. FHWA's September 6 response stated that BMCS has no such policy but has procedures for establishing knowledge and willfulness. The service of FMCSR on a carrier is useful in establishing knowledge and willfulness, but it is not a policy requirement before prosecution can be pursued. Also, FHWA stated that "willfulness" as used in 49 U.S.C. 322(a) has been interpreted as an intentional disregard or plain indifference to statutory duty. Knowledge means knowledge of facts as opposed to knowledge of the law. FHWA noted that the Rustburg case had no enforcement investigation because (1) the State of Virginia decided to prosecute, (2) there was no way to establish knowledge and willfulness, and (3) the geographic distribution in this case would cause the court administrative problems.

The Safety Board on February 13 acknowledged that BMCS policy is broader than suggested by recommendation H–78–12. BMCS Operations Manual Volume 7, Chapter VIII, Paragraph 2a reads, in part:

> "* * * it has been and will continue to be the *policy of the Bureau*, until further notice, to recommend criminal proceedings only against those who either have been advised of their duties and obligations or who are known to be familiar with such duties and obligations, or who because of circumstances can reasonably be expected to know of such duties and obligations."

The Board reiterated its belief that the issue of driver awareness of and compliance with the FMCSR is extremely important. Board highway accident investigations continue to identify truck operators involved in interstate commerce who are in violation of one or more of the FMCSR and who claim no knowledge of these regulations. The Board was aware that the BMCS Operations Manual was being revised, and expressed the hope that the revised version would include more encouragement to investigators to seek the needed information for prosecution.

FHWA's April 10 letter states that the matter of the legal requirements of section 322(a) of the Interstate Commerce Act (49 U.S.C. 322) and its practical implementation has been considered by BMCS and FHWA's Office of the Chief Counsel several times. FHWA states, "Changes in the policy and operational practices to which you refer will not overcome the statutory requirements, nor would they provide an enforcement tool useful in the kinds of situations that gave rise to your recommendation. A change in the authorizing statute is necessary. FHWA further states that a legislative change is being sought, either through an upgrading of present motor carrier safety enforcement sanctions in connection with a comprehensive bill addressing interstate commercial motor carriers, or as a separate bill to improve the sanctions available in administering this program.

H–79–3 and 4.—Letter of April 4 from the State of Washington Department of Transportation concerns recommendations issued following investigation of a grade crossing accident near Elbe, Wash., last July 31. The recommendations asked Washington DOT to improve the flashing light signals at rail-highway grade crossing 397–189–J on the Milwaukee Road at Milepost 2.5 of State Route 706 east of Elbe to assure that motorists are afforded ample warning of oncoming trains, and to survey all east-west rail-highway grade crossings within its jurisdiction to determine if glare from sunlight reduces the visibility of warning devices at the crossing and to take necessary corrective action. (See 44 FR 12784, March 8, 1979.)

Washington DOT's response states that the primary responsibility for installing railroad signals lies with the Milwaukee Road, not the State DOT, and suggests that the Safety Board correspond with the Milwaukee Road.

H–79–12.—On April 19 the National Highway Traffic Safety Administration responded to a recommendation issued March 20 in connection with the Safety Board's safety effectiveness evaluation of NHTSA's Passive Restraint Evaluation Program. The recommendation asked NHTSA to develop and publish by October 1, 1979, a formal evaluation program plan to effectively manage NHTSA evaluation activities related to the passive restraint standard, FMVSS 208 as amended July 5, 1977. (See 44 FR 18749, March 29, 1979.)

In response NHTSA reports a close study of the accident experience of automobiles equipped with automatic restraints that are now in use. An initial evaluation plan was develop in 1973 when General Motors was committed to producing approximately 100,000 full size and luxury cars with air cushion restraints in the 1974 model year. However, since actual production fell far below their original target, the evaluation could not be carried out. Because of the lower production levels for airbag equipped cars, NHTSA has investigated all reported crashes of such cars in which the air bags deployed or the car had to be towed from the scene. The original evaluation plan was updated in 1976 as part of the occupant restraint rulemaking initiated by former Department of Transportation Secretary William Coleman.

NHTSA notes that evaluation of automatic belt performance has been primarily through the Fatal Accident Reporting system which has allowed a comparison between the fatality experience of otherwise similar cars with automatic and manual belts.

NHTSA now has a contract with the Center of Environment and Man, Inc., for a preliminary analysis of proposed sampling programs for the initial automatic restraint production in 1980 and 1981. Proposed data sources are State accident records, bilevel police studies, special investigation teams, and National Accident Sampling system sites, which will be used to acquire data for monitoring the field performance of cars with automatic restraints. NHTSA is looking at this analysis, and will soon decide on an evaluation plan design.

Further, NHTSA is reviewing Safety Board recommendations and will address the weaknesses identified by the Board. A fully detailed plan, containing a schedule of projects and analyses for the period before and after the effective date of the standard, will be published this fall. NHTSA's evaluation activities have three primary objectives: (1) to measure the fatality and injury reducing effectiveness of production automatic restraint systems; (2) to verify expected performance levels and use of automatic restraints; and (3) to continue assessment of the public acceptance of automatic restraints by monitoring the comfort, convenience, disconnection rates, and postcrash reinstallation rates of these systems.

Marine

M–78–70 through 72.—Halliburton Services of Duncan, Okla., on March 26 responded to recommendations issued last September 28 following investigation of the M/V HALLIBURTON 207 explosion and sinking at Garden Island Bay, Mississippi River, February 4, 1978. (See 43 FR 48742, October 19, 1978.)

Recommendation M–78–70 asked Halliburton Services to alter the cement discharge piping of all of its cementing vessels by installing a device at the outlet end of the piping to prevent flow from the well back into the vessel, and by providing a means to release entrapped pressure downstream of the device. Halliburton has taken these actions: (1) disconnected cross connect lines on all vessels to prevent any flow from wells to the hold of the vessels, and (2) instructed all operating personnel to install backpressure valves on all jobs where hydrocarbons are anticipated.

In response to M–78–71, which asked Halliburton to establish instructions requiring the hydrostatic testing of both the cement discharge lines and the mixing discharge lines before servicing petroleum wells, Halliburton has instructed all operating personnel to pressure test all discharge and mixing lines prior to each job to a pressure exceeding the pressure to be used on the job.

Recommendation M–78–72 asked Halliburton to establish instructions requiring its employees who supervise petroleum well servicing operations to formulate contingency plans with the person in charge of the well, before commencing service operations. Such plans should include, but not be limited to, the manning of key valves. To implement this recommendation, Halliburton has instructed all operating personnel to conduct pre-job safety and planning meetings including Halliburton and customer representatives covering work to be performed by Halliburton. Instruction was given to operating personnel at safety meetings in the first quarter of 1978. Instructions are bimonthly.

Pipeline

P–77–41 and 42.—Letter dated November 24, 1978, recently received by the Safety Board from the materials Transportation Bureau, Research and Special Programs Administration of the U.S. Department of Transportation, concerns recommendations stemming from the January 25, 1977, Pennsylvania Gas and Water Co. natural gas explosion at Williamsport, Pa.

Recommendation P–77–41 asked MTB to extend its Emergency Services Training Course contract to include a section on the hazardous materials aspects of flammable pipeline materials such as natural gas and liquid hydrocarbons; also, coordinate and cooperate with the American Gas Association (AGA), the American Petroleum Institute (API), and the Interstate Natural Gas Association of America (INGAA) to use their expertise in this area. The response notes that as the referenced contract had been completed, MTB entered into a new contract with the National Fire Protection Association (NFPA) which does include hazardous materials aspects of pipeline materials. In developing the instructional material, NFPA sought the input of AGA, INGAA, API, and others. A preview of the draft course was given by MTB on February 1, 1979; Safety Board staff members were included.

Recommendation P–77–42 asked MTB to instruct all Office of Pipeline Safety Operations Regional compliance offices and State agencies to inspect gas companies under their jurisdictions for compliance with amended 49 CFR 192.615 (emergency plans) effective October 1, 1976, particularly noting the provision that requires gas companies to train appropriate operating personnel to assure knowledgeability of emergency procedures and how the company tests employees to verify effectiveness of the training. MTB reports that Regional compliance officers and State agents have been instructed to review all provisions of 49 CFR 192.615. Increased attention is being given to the requirement that gas companies train and test operating personnel. This issue will be reemphasized at the next Regional Chief's meeting, MTB stated.

On April 17 the Safety Board acknowledged MTB's response and noted that both recommendations P–77–41 and P–77–42 have been classified as "closed-acceptable action." The Board further noted that the inclusion of an example inspection checklist with a section on 49 CFR 192.615 in MTB's "Procedural Guide for State's Gas Pipeline Safety Program" and the discussion of the topic of emergency plans at the January 1979 MTB Regional Chief's meeting in Houston, Texas, fulfill the intent of P–77–42. The Safety Board urged MTB to continue to make "615" compliance investigation and enforcement a priority item in its operations across the country. The Safety Board will observe the effectiveness of company emergency plans and address this issue in its reports on accident investigations as necessary.

Railroad

R–73–23, R–73–30, and R–73–38.—The Federal Railroad Administration on March 28 responded to the Safety Board's letter of December 22 commenting on FRA's September 28 responses to these three recommendations. (See 43 FR 50064, October 26, 1978.)

With respect to R–73–23, which resulted from investigation of the May 24, 1973, explosion of 12 carloads of bombs in a Southern Pacific Transportation Co. train near Benson, Ariz., the Safety Board noted that while Department of Defense studies may lead to improved bomb-loading configurations and heat-detector alarms,

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in the last analysis, a mechanically sound car is a prerequisite for the safe transportation of explosives. The Board concurred with FRA that the requirements of 49 CFR 174.104, if given due attention by both the carrier and the shipper, offer the primary means to insure safe movement of cars of munitions. Accordingly, the Board advised that recommendation R–73–23 was being closed out as acceptable alternate action.

Regarding R–73–30, the Board on December 22 noted that many passenger-carrying commuter operations are still under FRA jurisdiction despite the recent rulings which resulted in the Urban Mass Transportation Administration's assuming responsibility for rail rapid transit agencies. The Board asked to be advised of FRA's intent to address an automatic train control system or other procedures appropriate to preventing a collision of high-speed commuter trains. FRA's March 28 response indicates intention to study and evaluate signal and train control devices in the operation of high-speed commuter and passenger trains. The intent of this study will be to determine which train control system will be most effective in the prevention of high-speed commuter train collisions. The information gathered from the FRA Safety Inquiry, held February 22–23, 1979, will be used to update FRA regulations and policy regarding signals and train control.

Recommendation R–78–38 issued following investigation of the head-on collision between freight trains at Taft, La., February 21, 1973, and called on FRA to incorporate in the Federal regulations on operating practices requirements which will govern the physical protection that will be provided main track to guard against unplanned and unauthorized movements onto the main track. The Safety Board's December 22 letter indicated that FRA's response may show the Board's need to clarify the objective of this recommendation. The Board said that what is sought is a device, such as a derail, that will afford positive protection to trains on the main track from any rolling equipment making an unplanned or unauthorized movement from an auxiliary track. While a yard track movement could be involved, the Board also thinks it could involve locations such as house tracks and industrial tracks leading to the main track, where an unprotected route can result in a collision.

FRA's March 28 response regarding R–73–38 states that its accident data for 1977 indicates that there were 242 train accidents resulting from a failure to properly secure rolling equipment. Although the reporting system does not identify the specific number of instances in these 242 accidents in which equipment moved uncontrolled from the auxiliary track to the main line, FRA is confident that they do not constitute the majority. These accidents accounted for 18 of the 61,028 injuries which occurred to employees on duty in 1977. None involved fatalities. FRA finds insufficient substantive data to indicate a need for Federal regulations requiring mechanical devices that afford protection to trains on the main track from rolling equipment making an unplanned or unauthorized movement from an auxiliary track. Thus, FRA does not consider any additional action on recommendation R–78–38 to be warranted.

R–77–1.—FRA's letter of April 19 is a followup to the agency's initial response of last July 5 (43 FR 34223, August 3, 1978) and to the Safety Board's subsequent inquiry of August 18. The recommendation called on FRA to investigate immediately the interaction between SDP–40F and P–30CH locomotives of passenger trains and track conditions to determine the causes for the widening of the track gage and act to correct the causes. The recommendation was adressed to FRA following investigation of the derailment of an Amtrak train on the Louisville & Nashville Railroad at New Castle, Ala., January 16, 1977.

FRA initially advised the Board that a four-party group, including Amtrak, the locomotive manufacturer, the Association of American Railroads, and FRA, had agreed to cooperate in the testing of six-axle locomotives. The Board also was informed that Amtrak was converting the SDP–40F units from their characteristic three-axle truck configuration, thus eliminating the principal cause of the condition cited in the recommendation. FRA now advises that testing on the Chessie System has also provided data which has led to a better understanding of the dynamics of 6-axle truck locomotives, including the SDP–40F type. The results of these tests are being considered by FRA in preparing revised safety standards now in progress.

R–78–5 and 6.—Letter of March 19 is in response to the Safety Board's comments of February 6 regarding FRA's January 4 reponse (44 FR 5217, January 25, 1979.) The recommendations emanated from the investigation of the rear end collision of Conrail freight trains at Stemmers Run, Md., June 12, 1977, and asked FRA to (R–78–5) analyze the data relating to the role of radio in train accidents and report its findings; and (R–78–6) unless refuted by that analysis, require railroads to install radios where appropriate on trains and to maintain them in operating condition, unless all personnel involved are notified to the contrary by appropriate railroad procedures.

To clarify any misunderstanding concerning R–78–5, the Board noted that FRA statistics concerning the number and type of radio-related accidents, although informative, do not offer the means to determine the accident prevention potential associated with proper radio usage. Using CY 76 FRA figures to illustrate the objective of the recommendation, the Board noted that there were 1,368 train accidents caused by collisions. An in-depth analysis of these collisions might disclose that the timely use of radio between the involved trains would have afforded a warning to the engine and train crews, thus averting the collision. "Certainly the subject accident, although caused by a substandard performance on the part of the engineer of the following train suggests that awareness of the leading train's being stopped would have resulted in more judicious train handling," the Board stated.

With respect to R–78–6, the Board on February 6 concurred with FRA's belief that compliance with operating rules is essential to safe train operations. The use of radio to complement the rules could substantially enhance safety. Accordingly, the Board suggested that the approach to radio-related accident analysis should be from the standpoint of prevention rather than cause. Should the analysis indicate that radio usage would produce the optimum level of operating safety, appropriate regulatory action would be a logical extension.

In rejecting the Safety Board's argument, FRA on March 19 stated that the suggested in-depth analysis of all train collisions on the basis of using radio to complement the rules would, of necessity, be extremely speculative. FRA stated, "Certainly, the functioning signal system provided a recognized, time-honored indication that the leading train was in the block. Speculation on our part as to the functioning of the engineer had there been related radio communication, would be pure conjecture. Injection of verbal radio communication into the area of compliance with visual signal indications must be minimized if the positive integrity of signal systems is to be maintained."

R–78–42.—FRA's letter of April 5 is in response to the Safety Board's February 1 request for time frames for completing the cost benefit analysis of right-of-way fences and the Hazard Analysis and Priority Determination System relative to this recommendation. The Board's request was made after reviewing FRA's initial response of last November 30 (43 FR 58436, December 14, 1978.)

FRA concludes that the impact on the number of trespasser casualties would not be reduced significantly by fencing the right-of-way. FRA says that fencing is a best an imperfect answer to the problem of trespassers, thieves and vandals. Maintaining fencing intact requires a vast increase in surveillance which would encompass large expenditures for carriers and municipalities, and FRA can see no practicality in fencing as a deterrent to trespassers as a permanent safety measure. FRA reports that the Hazard Analysis and Priority Determination Study is now in the developmental phase, and FRA does not anticipate the capability to establish meaningful rankings of cost effective safety improvement projects until the end of FY 81.

Note.—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of the Board's recommendation letters, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2168, 2172 (49 U.S.C. 1903, 1906)).)

Margaret L. Fisher,
Federal Register Liaison Officer.

April 30, 1979.

[N–AR 79–16]

[FR Doc. 79–13702 Filed 5–2–79; 8:45 am]

BILLING CODE 4910–59–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
An estimate of the number of forms that will be filled out;
An estimate of the total number of hours needed to fill out the form; and
The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that requires one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk(*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for futher improvements to this notice, please send them to Stanley F. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

Department of Agriculture

(Agency Clearance Officer—Donald W. Barrowman—447–6202)

New Forms

Economics, Statistics, and Cooperatives Service
Study of Economic Information Needs of Farmers
Single time
Selected farmers, 252 responses, 252 hours
Charles A. Ellett, 395–5080

Office of General Sales Manager
*Regulations Covering Intermediate Credit Exports Sales Program for Breeding Animals
GSM–201
On occasion
U.S. exporters, 100 responses, 50 hours
Charles A. Ellett, 395–5080

Revisions

Food and Nutrition Service
Civil Rights Title VI Collection Reports
FNS–101, 191, and 86
On occasion
Institutions, 2,500 responses, 2,500 hours
Charles A. Ellett, 395–5080

Extensions

Farmer's Home Administration
Long-time Farm & Home Plan (Non-supervised FHA loans)
FHA 431–1
On occasion
FMHA loan borrowers, 22,098 responses, 7,366 hours
Charles A. Ellett, 395–5080

Department of Energy

(Agency Clearance Officer—Albert H. Linden—566–9821)

New Forms

Crude Oil Resellers Self Reporting Form
ERA–69 (Schedule I & V)
On occasion
Crude oil resellers, 5,220 responses, 30,860 hours
Jefferson B. Hill, 395–5867

Crude Oil Resellers Self-Reporting Form
ERA–69 (Schedules II, III, IV, VI)
Single time
Crude oil resellers, 800 responses, 484 hours
Jefferson B. Hill, 395–5867

Information Requirements for special Rule for Crude Oil Buy/Sell
ERA–183

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On occasion
Refiners, 40 responses, 240 hours
Jefferson B. Hill, 395–5867

Department of Health, Education, and Welfare

(Agency Clearance Officer—Peter Gness—245–7488)

New Forms

National Institutes of Health
Medical Career Choice Study
Single time
Physicians/Clinical Fellows, 800 responses, 400 hours
Off. of Federal Statistical Policy and Standards, 673–7974

Revisions

Center for Disease Control
*Pilot Study for Toxoplasmosis Surveillance on Occasion
Physicians, 700 responses, 70 hours
Richard Eisinger, 395–3214

Department of Housing and Urban Development

(Agency Clearance Officer—John T. Murphy (Acting)—755–5190)

Extensions

Housing Management, Performance Funding System—Funding Formula Data Collection Form
HUD—52720, 52720A, and 52720B
Annually
Public Housing Agencies, 2,685 responses, 26,850 hours
Arnold Strasser, 395–5080

Housing Production and Mortgage Credit
Development Program of Indian Housing Authority
HUD–53045/54045A
On Occasion
Indian Housing Authorities, 100 responses, 1,200 hours
Charles A. Ellett, 395–5080

Department of Labor

(Agency Clearance Officer—Philip M. Oliver—523–6341)

New Forms

Bureau of Labor Statistics
Consumer Expenditure Surveys
CE–801, 802, 803(L)
Other (See SF–83)
Households in 102 selected areas, 5,470 responses, 28,717 hours
Off. of Federal Statistical Policy and Standard, 673–7974

Labor Management and Service Administration
Strikes and Strike Penalties in Public Sector
LMSA 57T
Single time
Public sector labor and management, 200 responses, 200 hours
Arnold Strasser, 395–5080

Revisions

Employment and Training Administration
Application for Alien Employment Certification
ETA 750 (FRM MA 7–50A, B & C)
On occasion
Emp. and aliens seek. adm. as immigrants and nonimmigrants, 150,000 responses, 115,000 hours
Arnold Strasser, 395–5080

Extensions

Employment and Training Administration
Questionnaire—National Longitudinal Survey of Labor Force Behavior Youth Cohorts
MT–292A
Other (see SF–83)
200 YT., ages 15–22; 50 Hisp.; 50 blk, 50 PR. W., 50 MIW, 12, 230 responses 11,211 hours
Arnold Strasser, 395–5080

Department of Transportation

(Agency Clearance Officer—Bruce H. Allen—426–1887)

New forms

Federal Aviation Administration
Vicon Program Evaluation FAA Form NA 7233–12
Single time
Pilots, 1,144 responses, 227 hours
Susan B. Geiger, 395–5867

Revisions

Federal Highway Administration
Guide for Reporting Roadway, Travel, and Accident Data
Annually
50 St. Highway Agen., D.C., P.R., and U.S. Terr., 52 Responses, 12,896 hours
Susan B. Geiger, 395–5867

Extensions

Federal Aviation Administration
*Application for Type Certificate, Production Certificate or Supplemental Type Certificate
FAA form, 8110–12
On occasion
Aircraft owners and manufacturing firms, 2,500 responses, 1,250 hours
Susan B. Geiger, 395–5867

Environmental Protection Agency

(Agency Clearance Officer—John J. Stanton—245–3084)

New Forms

Contract Level Outlay Projections for Construction Grants Projects
EPA 5700–XX
Other (see SF–83)
Municipal governments of sewerage authorities, 4,500 responses, 4,500 hours
Edward H. Clarke, 395–5867

National Science Foundation

(Agency Clearance Officer—Herman Fleming—634–4070)

New Forms

Toward the Development of Science Education Indicators
Single time
Leading decisionmakers in education, 50 responses, 75 hours
Richard Sheppard, 395–3211

Railroad Retirement Board

(Agency Clearance Officer—Pauline Lohens—312–751–4693)

Extensions

*Statement by Divorced Woman Regarding Contributions and Support From Her Former Husband
G–134
On occasion
Applicants for benefit under RRA, 1,000 responses, 500 hours
Barbara F. Young, 395–6132

*Supplement to Application for Widow(er)'s Insurance Annuity
AA–17B
On occasion, 2,400 responses, 400 hours
Barbara F. Young, 395–6132

*Canadian Unemployment Insurance Benefit Information (Form)
UI–62–F
On occasion, 1,000 responses, 17 hours
Barbara F. Young, 395–6132

*Supplemental Report of Service or Compensation (By Employer for Periods Subsequent to Those Already Filed)
UI–41
On occasion, 5,000 responses, 833 hours
Barbara F. Young, 395–6132

*Claim for Sickness Benefits Due Employee . . . At Death
SI–62
On occasion,
Survivor(s) of deceased railroad worker, 3,000 responses, 500 hours
Barbara F. Young, 395–6132

*Authorization of Payment and Release of All Claims to Death Benefits and Annuity Payments
G–131
On occasion, 700 responses, 117 hours
Barbara F. Young, 395–6132

*Annuitant's Report of Earnings and Disability
RL–150
Annually, 1,000 responses, 250 hours
Barbara F. Young, 395–6132

*Application for Lump-Sum Death Payment and Annuities Unpaid at Death
AA–21
On occasion, 24,000 responses, 12,000 hours
Barbara F. Young, 395–6132

Tennessee Valley Authority

(Agency Clearance Officer—Eugene E. Mynatt—615–755–2915)

New Forms

*User Prefernces at TVA Recreation Areas
TVA 20027 and 20027A
Annually
Head of camping party—head of day-use party, 22,000 responses, 7,300 hours
Charles A. Ellett, 395–5080

United States International Trade Commission

(Agency Clearance Officer—Robert Cornell—523–0301)

New Forms

Sugar From Canada
Single Time
Producers of refined sugar and corn sweeteners, 41 responses, 830 hours
Susan B. Geiger, 395–5867

Veterans Administration

(Agency Clearance Officer—R. C. Whitt—389–2282)

New Forms

Study of Pension Benefits Paid To Persons Residing Overseas
Single Time
Pension Recipients Outside U.S., 2,780 responses, 695 hours
David P. Caywood, 395–6140

Revisions

*Veterans Administration—Application for Medical Benefits for Dependents and Survivors—CHAMPVA
VA 10–10D
On occasion, individuals applying for CHAMPVA benefits, 25,000 responses, 8,333 hours
David P. Caywood, 395–6140

Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-13835 Filed 5-2-79; 8:45 am]

BILLING CODE 3110-01-M

POSTAL SERVICE

Implementation of Executive Order No. 12044, Improving Government Regulations; Report

AGENCY: Postal Service.

ACTION: Report on Implementation of Executive Order No. 12044.

SUMMARY: This notice responds to section 5(b) of Executive Order No. 12044, Improving Government Regulations (the Order). Section 5 (b) of the Order requires that each Executive Agency publish in the Federal Register a final report on its regulatory process, after having received comments from the public on its draft report. Although the Postal Service is not subject to the Order, it publishes this notice in voluntary compliance with section 5(b) of the Order.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT: Neva R. Watson, (202) 245–4642.

SUPPLEMENTARY INFORMATION: On May 25, 1978, the Postal Service published for comment in the Federal Register a draft report in response to Executive Order No. 12044. 43 FR 22567.

We received two comments on our draft report. Our response to the comments follows.

One commenter requested that the Postal Service reconsider and reverse its determination that postal regulations implementing the recommended decisions of the Postal Rate Commission on rate and classification matters, placed into effect by the postal Governors, are not "significant regulations" within the meaning of Sections 2 and 3 of the Order. The commenter stated that because recommended decisions have such a substantial effect on the Postal Service and its customers the regulations implementing those decisions should be considered "significant". The commenter also suggested that the postal Governors apply the principles of the Order in determining whether to approve, modify or reject a Postal Rate Commission recommended decision.

The Postal Service did not adopt the commenter's suggestions. The purpose of designating a regulation as "significant" within the terms of the Order is to ensure that there will be advance opportunity for public participation and that alternatives to and possible effects of the proposal are considered before the regulation is adopted . The Order exempts from its coverage regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act, 5 U.S.C. 556 and 557 because "those rulemakings tend to be narrowly focused and governed by specific procedural requirements that assure opportunities for public participation and careful analysis of issues." (Executive Order 12044, Summary and Analysis of Public Comments, 43 FR 12669). Before rendering a recommended decision, the Postal Rate Commission is required to give the Postal Service, users of the mail, and an officer of the Commission who represents the public interest, an opportunity for a hearing on the record under the formal rulemaking provisions of 5 U.S.C. 556 and 557. 39 U.S.C. 3624. The observance of formal rulemaking procedures in rate and classification matters before the Postal Rate Commission ensures that there will be an opportunity for participation by our customers as well as by a public interest representative and that alternatives to and effects of proposals will be considered before a recommended decision is rendered.

Although the regulations which implement these recommended decisions are regulations of the Postal Service and not the Rate Commission, they flow from formal rulemaking proceedings which fulfill the objectives of the Order. Classifying those regulations as "significant" would result in a duplication of a process which formal rulemaking proceedings before the Postal Rate Commission already provide. We rejected the suggestion that the Governors be required to apply the principles of the Order when acting on a recommended decision for the same reason.

The other comment, from the Justice Department Task Force on Sex Discrimination, stated that the Task Force has recommended that agencies correct unnecessary gender-specific language as regulations are rewritten or reissued and that all new regulations be free of gender-specific language. The Task Force suggested that we amend the last sentence of "IV. Review of Existing Regulations" in our draft report (renumbered II.C. in the final report) to include among our goals the goal of having regulations "free of discriminatory language." The Postal Service, as it revises existing regulations and adopts new regulations, is avoiding

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the use of masculine or feminine terminology whenever practical. Although we are not adopting the language suggested by the Task Force, we are revising the last sentence of the report to read as follows:

In order to avoid any appearance of sex discrimination in our regulations, we are avoiding the use of masculine or feminine terminology whenever such action is practical and in keeping with the Postal Service's goal of producing concise regulations, written in plain English, that mailers and postal employees can understand.

In addition, the Postal Service made some minor technical and editorial revisions which have been incorporated into the final report which follows.

I. *Background.*—The President published Executive Order 12044 entitled "Improving Government Regulations" on March 24, 1978 (43 FR 12661). The Order requires, in general, that executive agencies review and redesign, in accordance with the policies and directives of the Order, the process by which they develop regulations, in order to make that process more efficient and responsive to public needs. The Postal Service agrees with the policies of the Order and intends to conduct its rulemaking activities in compliance with them to the extent appropriate.

The Postal Service believes, however, that the Order is legally inapplicable to it. Section 410(a) of title 39, U.S.C., provides, with exceptions not here applicable, that "no Federal law dealing with public or Federal contracts, property, works, officers, employees, budgets, or funds, including the provisions of chapters 5 and 7 of title 5, shall apply to the exercise of the powers of the Postal Service." The Order implements the rulemaking provisions of the Administrative procedure Act, 5 U.S.C. 553, a part of chapter 5 of title 5. As an Order implementing a law that generally does not apply to the exercise of postal powers, the Order itself does not, in our opinion, apply. In addition, the Order itself does not, in our opinion, apply. In addition, the Order itself does not appear to be directed to the Postal Service since it is directed to executive agencies, a term that has been defined to exclude the Postal Service. 5 U.S.C. 104, 105.

The Postmaster General published in the Postal Bulletin a memorandum calling on all employees to write simply so postal regulations, letters and memoranda will be easy to understand. (See complete text of the Postmaster General's statement in the Appendix to this report.)

In this spirit, the Postal Service is publishing this implementation report. Although not subject to the Order, the Postal Service intends to comply voluntarily with it to the extent outlined below.

II. *Implementation.*—A. *Procedure for Developing Regulations.*—The following is an outline of our general procedure for developing regulations:

(1) The originating division, acting on its own or at the request of other postal employees, or mailers, develops a proposal for a new regulation or an amendment to an existing regulation.

(2) The originating division seeks comments on the proposal from departments within the Postal Service to which the matter is of concern.

(3) The Postal Service takes steps to provide for early and meaningful public participation in the rulemaking process. While a regulation is in the early stages of development, the Postal Service often calls it to the attention of parties known to have an interest in it. For example, the Postal Service, prior to the publication of its packaging regulations in proposed rule form, conducted an intensive packaging task force study with the cooperation of major mailers' associations. The packaging regulations thus were able to reflect commercial standards identified during the study.

(4) When the Postal Service determines that it is necessary or appropriate to invite comments from the general public on a proposed new or amended regulation, the Service publishes the proposed regulation in the Federal Register, generally with 30 days allowed for comment. At or about the same time, if it is believed that the rule has or might have a wide effect on the general public, the Postal Service issues a press release informing the public of the proposal and inviting their comments.

(5) The Postal Service considers each written comment that is received. Often a comment will raise a question or make a suggestion which convinces the Postal Service to revise the proposed rule. For instance, almost 2,000 comments were received from the public on post office closing regulations proposed in 1977. The Postal Service considered each comment and, where warranted, made changes in the proposed regulation before the final regulation was published.

(6) The final rule is published in the Federal Register, together with an explanation of the principal matters considered prior to deciding on the final regulation.

B. *Significant Regulations; Regulatory Analysis.*—The Postal Service's principal mission is to provide postal services to the public. The terms and conditions under which services are provided are spelled out in postal regulations.

While often affecting large numbers of individuals, firms or governmental units, postal regulations do not generally impose compliance or reporting requirements, apart from those involved in obtaining postal services. In general, postal regulations have no substantial relationship to the regulations and programs of other agencies, nor do they affect competition, the economy, or the costs of individuals, firms or governmental units, except as outlined below. Accordingly, postal regulations in general do not appear to be "significant" or to involve "major economic consequences" within the meaning of sections 2 and 3 of the Order. Many postal regulations relate solely to agency management or personnel, regulations which section 6(b)(3) of the Order exempts from coverage.

The Postal Service at times publishes regulations to implement Postal Rate Commission recommended decisions, placed into effect by the postal Governors. See, for example, 41 FR 22375 (the proposal), and 41 FR 28478 (the final rules). Postal Rate Commission recommended decisions in rate and classification cases—which as placed into effect admittedly could be "significant" within the meaning of sections 2 and 3 of the Order—are issued in accordance with the formal rulemaking requirements, 5 U.S.C. 556, 557. See 39 U.S.C. 3624. Section 6 of the Order exempts regulations issued in accordance with formal rulemaking. Since postal regulations implementing the actions of the Postal Rate Commission and the postal Governors merely carry out these actions, we do not regard these regulations as themselves being the kind generally subject to the Order.

The Postal Service has regulations that implement its general statutory monopoly over the coverage of "letters" and "packets" under the Private Express Statutes. These regulations do affect competition with the Postal Service, though they are largely consistent with prior administrative practice under the Private Express Statutes developed over many years.

Since the Postal Service has no continuing program regarding the issuance of "significant" regulations within the meaning of sections 2 and 3 of the Order, voluntary compliance with these sections would not appear to be appropriate. Should such regulations be proposed in the future, however, the agency will strive to apply the policies reflected in the Order during the course of the rulemaking.

C. *Review of Existing Regulations.*—The Postal Service has had special task forces engaged for some time in an intensive program of reviewing, revising, and, where necessary, rewriting its regulations. The process of reviewing postal regulations is a long term project, since it includes both internal, procedural regulations and other regulations which have an effect on the public.

In order to avoid any appearance of sex discrimination in our regulations, we are avoiding the use of masculine or feminine terminology whenever such action is practical and in keeping with the Postal Service's goal of producing concise regulations, written in plain English, that mailers and postal employees can understand.

W. Allen Sanders,
Acting Deputy General Counsel.

Appendix—*Memorandum for All Postal Employees*

Postal Service Correspondence

The President recently said that the people and the Congress are tired of *bureaucratic gobbledygook*[1]so am I.

A task force at Headquarters is reviewing all the Postal Service's regulations—those affecting the public and those directed to our own people—and will try to make them easier to understand.

In addition, I want all letters and memoranda written by the Postal Service to be easy to understand and to be simple, friendly, and courteous.

Avoid legal jargon. Give compete answers to questions. Do not make it necessary for people to write a second letter to find out what we meant in reply to their first letter.

Simple writing is hard work. It may mean changing the habits of a lifetime. But let's give it a try.

William F. Bolger,
Postmaster General.
[FR Doc. 79-13707 Filed 5-2-79; 8:45 am]
BILLING CODE 7710-12-M

PRESIDENT'S COMMISSION ON THE ACCIDENT AT THREE MILE ISLAND

Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following meeting:

NAME: President's Commission on the Accident at Three Mile Island.

PLACE: The Pennsylvania State University, Capitol Campus, Multi-purpose Building, Middletown, Pennsylvania.

TIME: Thursday, May 17, 9:00 a.m.–6:00 p.m. Friday, May 18, 9:00 a.m.–6:00 p.m., Saturday, May 19, 9:00 a.m.–6:00 p.m.

Proposed Agenda

I. Testimony by witnesses.

II. Tour of the Three Mile Island plant by the Commission.

III. Discussion of future Commission activities.

The Commission was established by Executive Order 12130 on April 11, 1979, to conduct a comprehensive study and investigation of the recent accident involving the nuclear power facility on Three Mile Island in Pennsylvania.

The meeting is open to the public. Inquiries should be addressed to Barbara Jorgenson (202/653–7660).

Dated: May 1, 1979.

Bruce Lundien,
Staff Director.
[FR Doc. 79-13847 Filed 5-2-79; 8:45 am]
BILLING CODE 3160-01-M

SMALL BUSINESS ADMINISTRATION

Region V Advisory Council; Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Detroit, Michigan, will hold a public meeting on Thursday, June 7, 1979, at the Holiday Inn, St. Joseph, Michigan, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. Registration will begin at 8:30 a.m., with the formal meeting commencing at 9:00 a.m.

For further information, write or call Raymond Harshman, District Director, U.S. Small Business Administration, 515 Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Michigan 48226—(313) 226–7240.

Dated: April 30, 1979.

K Dixon,
Deputy Advocate for Advisory Councils.
[FR Doc. 79-13844 Filed 5-2-79; 8:45 am]
BILLING CODE 8025-01-M

Region X Advisory Council; Public Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Portland, Oregon, will hold a public meeting at 1:30 p.m., on Wednesday, May 23, 1979, at the Standard Insurance Company Board Room, 7th Floor South, Standard Insurance Company, 1100 SW Sixth, Portland, Oregon 97204, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For farther information, write or call J. Don Chapman, District Director, U.S. Small Business Administration, 1220 SW Third Avenue, Room 676, Portland, Oregon 97204, (503) 221–3461.

Dated: April 30, 1979.

K Dixon,
Deputy Advocate for Advisory Councils.
[FR Doc. 79-13845 Filed 5-2-79; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Agency for International Development

Housing Guaranty Program for Tunisia; Information for Lenders

The Agency for International Development (A.I.D.) has authorized a guaranty of a loan in an amount not to exceed $10 million to provide shelter and related facilities affordable by families in Tunisia having incomes below the median income level in Tunisia. Eligible investors as defined below are invited to make proposals to La Caisse Nationale D'Epargne Logement (Borrower). The full repayment of the loan will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the Act).

This project is referred to as Project No. 664–HG–003B.

Lenders (investors) eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

Selection of an eligible investor and the terms of the loan are subject to approval by A.I.D. The investor and A.I.D. shall enter into a Contract of Guaranty, covering the loan. Disbursements under the loan will be subject to certain conditions required of the borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the borrower.

To be eligible for guaranty, the loan must be repayable in full no later than the thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no

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higher than the maximum rate established from time to time by A.I.D. The Borrower projects a schedule of disbursements as follows: Between June 1 and December 30, 1979, $7 million, and between January 1 and December 30, 1980, $3 million, for a total of no more than five (5) disbursements.

The borrower desires to receive proposals from eligible investors as defined above. The proposals should be based on the indicated disbursement schedule shown above. Since investor selection will be made on the basis of the proposals, the proposals should contain the best terms to be offered by investors. The proposals should state:

A. The fixed interest rate per annum for a period not to exceed thirty (30) years from the first disbursement.

B. The grace period for repayment of principal; such period not to exceed ten (10) years.

C. The minimum time during which prepayment of principal will not be accepted.

D. The investor's commitment or service fee, if any, and schedule of payment of such fee.

E. The period during which the proposal may be accepted which shall be at least seventy-two (72) hours after the closing date specified below.

The proposal may state other terms and conditions which the investor desires to specify. After investor selection by the borrower and approval by A.I.D., the borrower and investor shall negotiate all other terms and conditions of the Loan Agreement.

In the event the investor will engage in the reselling of the loan to other persons, the investor must provide for the servicing of his loan, i.e., recordation and disposition of loan payments received from the borrower.

The closing date by which prospective investors are requested to submit proposals to the borrower is the close of business on May 21, 1979 at 5 P.M. Negotiation of the Loan Agreement and Contract of Guaranty is expected to take place in Washington, D.C. in early June.

Eligible investors are invited to consult promptly with the borrower. Those investors interested in extending a loan to the borrower should communicate with the borrower at the following address:

Embassy of Tunisia, 2408 Massachusetts Avenue, N.W., Washington, D.C. 20008, Telephone: Area Code (202) 234–6644.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Director, Office of Housing, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523, Telephone: (202) 632–9637.

To facilitate A.I.D. approval, copies of proposals made to the borrower may, at the investor's option, be sent to A.I.D. at the above address on or after the closing date noted above.

This notice is not an offer by A.I.D. or by the borrower. The borrower and not A.I.D. will select an investor and negotiate the terms of the proposed loan.

David McVoy,
Assistant Director for Operations, Office of Housing.

April 23, 1979.

[FR Doc. 79-13601 Filed 5-2-79; 8:45 am]

BILLING CODE 4710-02-M

Mission Director, USAID/Upper Volta; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12,836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby amend Redelegation of Authority No. 99.1.61 dated November 11, 1974 (39 FR 41,267) as follows:

1. "Country Development Officer/Upper Volta" is changed to read "Mission Director/Upper Volta."

2. "Country Development Officer" is changed to read "Mission Director." Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on the date of signature.

Dated: April 24, 1979.

Hugh L. Dwelley,
Director, Office of Contract Management.

[Redelegation of Authority No. 99.1.61, Amdt. 3]

[FR Doc. 79-13785 Filed 5-2-79; 8:45 am]

BILLING CODE 4710-02-M

Advisory Committee on the Law of the Sea; Partially Closed Meeting

In accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) as amended by Pub. L. 94–409 Section 5(c), notice is hereby given that the Advisory Committee on the Law of the Sea will meet in closed session on Friday, May 18 and in open session on Monday, May 21, 1979. The open session of the meeting will convene on Monday at 2:30 p.m. in Room 1912, U.S. Department of State, Washington, D.C. In arriving for this meeting please use the 21st Street, N.W. Entrance to the Building.

The purpose of the closed meeting is to discuss specific conference issues coming out of the Eighth Session of the Third United Nations Conference on the Law of the Sea held in Geneva March 19 to April 27, 1979. During the closed session, documents classified under the provisions of Executive Order 12065 will be discussed.

These documents relate to issues which the United States is negotiating with other countries at the Law of the Sea Conference. The documents are exempt from disclosure under 5 U.S.C. 552b(c)(1), and are required to be withheld from disclosure in the public interest.

The issues cover such subjects as freedom of navigation on the high seas and in international straits, national security interests, the nature of a deep seabeds mining regime and proposed deep seabed mining legislation, the breadth of the continental margin, the juridical status of the economic zone, fisheries, vessel source pollution, dispute settlement, and other related topics involving U.S. national security matters. Premature disclosure of the contents of these documents could adversely affect our foreign relations interests and jeopardize the chances of obtaining a timely and satisfactory Law of the Sea Treaty.

The open session of the Advisory Committee meeting will discuss all principal agenda issues under consideration at the Third United Nations Conference on the Law of the Sea, including those issues stated above, but will not examine the classified items discussed during the closed session.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines and other public groups. As such, it will comprehensively review the proposals which will come before the Conference.

At the open session, beginning at 2:30 p.m. on May 21, the general public attending may participate in the discussion subject to instructions of the Chairman.

As entrance to the State Department is controlled, members of the public who wish to attend the open session should contact Mr. Thomas Okada by May 14 and provide their name and affiliation to facilitate their attendance. Mr. Okada's telephone number is (area code 202) 632–0041.

Dated: April 25, 1979.

Victor Comras,
Office of the Law of the Sea Negotiations.

[FR Doc. 79-13836 Filed 5-2-79; 8:45 am]

BILLING CODE 4710-10-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

Qualification of Dundee Cement Co. as a Citizen of the United States

Notice is given that pursuant to 46 CFR 67.23–7, issued under the provisions of section 27A of the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883–1), Dundee Cement Company of Dundee, Michigan, incorporated under the laws of the State of Delaware, did on January 31, 1979 file with the Commandant, United States Coast Guard, in duplicate, an oath for qualification of the corporation as a citizen of the United States following the forms of oath prescribed in Form CG–1260.

The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States;

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States or in a Territory, District, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States, its Territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

The Commandant, United States Coast Guard, having found this oath to be in compliance with the law and regulations, on March 16, 1979, issued to Dundee Cement Company a certificate of compliance on Form CG–1262, as provided for in 46 CFR 67.23–7. The certificate and any authorization granted thereunder will expire three years from March 16, 1979, unless there first occurs a change in the corporate status requiring a report under 46 CFR 67.23–7.

Dated: April 27, 1979.

Henry H. Bell,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[CGD 79-087]

[FR Doc. 79-13552 Filed 5-2-79; 8:45 am]

BILLING CODE 4910-14-M

Ship Structure Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Ship Structure Committee to be held Tuesday, June 5, 1979 at 9:00 a.m. in Room 8334, U.S. Coast Guard Headquarters, 400 7th Street, SW., Washington, D.C. The agenda for this meeting is a follows: a) Review the current program and operations of the Committee, and b) Consider and establish the future research program of the Ship Structure Committee.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, LCDR T. H. Robinson, USCG Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters, Washington, D.C. 20590 202–426–2205 not later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

Henry H. Bell,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[CGD 79-088]

[FR Doc. 79-13550 Filed 5-2-79; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Consensus Views of Aviation User/Industry Representatives on New Engineering and Development Initiatives—Policy and Technology Choices

AGENCY: Federal Aviation Administration.

ACTION: Notice of availability of report for comment. Report title is "New Engineering and Development Initiatives—Policy and Technology Choices: Consensus Views of Aviation User/Industry Representatives". For those persons interested in obtaining a copy of this report for review, please write to the address listed below.

BACKGROUND: In March 1978, FAA launched a process to gather the views of the user community including aviation manufacturers, consultants, consumers and suppliers of goods and services on a series of critical questions dealing with the future evolution of the air traffic control and airport systems.

FAA undertook this effort because the need to accommodate the future growth of aviation safely and efficiently with minimum burden on the participants, as well as the taxpayers, will require a series of major decisions to be made on the preferred ways in which the future system should evolve—decisions which should not be made by the Government alone, but which should fold in the wisdom and experience of the participants in the system.

More than 250 experts and some 60 organizations met about 60 times over the last year and reported their recommendations to FAA in the above report. Until now, aviation community consensus and views have been established through a contractor. FAA now wishes to obtain formal comments on the report, including the views of those who did not have the opportunity to participate in this process.

DATES: Comments are due on or before June 25, 1979.

ADDRESS: Director, Office of Systems Engineering Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Milton Meisner, AEM–3, Office of Systems Engineering Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202–426–3065.

Issued in Washington, D.C. on April 20, 1979.

A. P. Allwardt,
Acting Associate Administrator for Engineering and Development, Federal Aviation Administration, Department of Transportation.

[FR Doc. 79-13788 Filed 5-2-79; 8:45 am]

BILLING CODE 4910-13-M

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I)

and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: May 23, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on April 27, 1979.

Edward P. Faberman,
Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
			None during the period Apr. 21 through Apr. 27, 1979.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
18959	Emerald Airlines	14 CFR 121.343, 121.359, and 121.360.	To permit Emerald Airlines to operate F-27 aircraft N20HE without a flight recorder, cockpit voice recorder, and ground proximity warning system. *Granted 4/20/79.*
18953	Air New England, Inc	14 CFR Section 121.291(a)	To permit Air New England, Inc., to operate three Convair 580 aircraft without having to conduct the required emergency evacuation demonstrations. *Granted 4/20/79.*
13498	Aerolineas Itavia	14 CFR Parts 21, 61, and 91	To amend Exemption No. 1668M, as amended, to include additional airmen in the appendix so that they may serve as flight crewmembers on certain leased, U.S. aircraft. *Granted 4/26/79.*
16912	Transasian Airlines Ltd	14 CFR Parts 21, 61, 63, and 91	To amend Exemption No. 2714 to include additional airmen in the appendix so that they may serve as flight crewmembers on U.S.-registered B-707-320B aircraft N762TB leased from West Bay Leasing, Inc./Euro-Eastern World Transport Holding, Ltd. *Granted 4/26/79.*
16966	McDonnell Douglas Astronautics Co	14 CFR 133.1(b) and 133.45	To permit the carriage of passengers during evaluation of its suspended maneuvering system (SMS). *Granted 4/24/79.*
18697	Zantop Airways, Inc	14 CFR 121.343, 121.359, and 121.360.	To amend Exemption No. 2857 to allow it to operate 4 additional G-159 aircraft without a cockpit voice recorder, a flight data recorder, and a ground proximity warning system until 12/1/79. *Partial grant 4/24/79.*

[Summary Notice No. PE-79-3]
[FR Doc. 79-13705 Filed 5-2-79; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Executive Committee; Rescheduled Meeting

This Notice announces the rescheduling of the Radio Technical Commission for Aeronautics (RTCA) Executive Committee meeting which was to be held May 10, 1979 and announced in the **Federal Register** on April 19, 1979, (44 FR 23400). The meeting has been rescheduled for June 1, 1979, and will be held in the Air Transport Association of America Conference Rooms 5A, B and C, 1709 New York Avenue, N.W., Washington, D.C., commencing at 9:00 a.m.

Issued in Washington, D.C. on April 25, 1979.

Karl F. Bierach,
Designated Officer.
[FR Doc. 79-13702 Filed 5-2-79; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 139—Airborne Equipment Standards for Microwave Landing System (MLS); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 139 on Airborne Equipment Standards for Microwave Landing System (MLS) to be held May 23 through 25, 1979, Conference Room 9A, DOT/Federal Aviation Administration Building, 800 Independence Avenue, S.W., Washington, D.C., commencing at 9:30 a.m. The agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Meeting held September 28-29, 1978; (3) Approval of Minutes of Meeting held January 23-25, 1979; (4) Briefing on International Civil Aviation Organization All Weather Operations Panel Meeting; (5) Report on FAA Microwave Landing System Test and Evaluation Program; (6) Briefing on Application of FAA Technical Standard Order, Advisory Circulars, etc.; (7) Report on European Organization for Civil Aviation Electronics Working Group 19 Activities; (8) Summary Reports from Working Group Chairmen; (9) Assignment of Tasks; (10) Working Groups Meet in Separate Sessions; (11) Committee Closing Plenary Session; (12) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statement at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on April 23, 1979.

Karl F. Bierach,
Designated Officer.
[FR Doc. 79-13702 Filed 5-3-79; 8:45 am]
BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Auto Inspection, Maintenance and Repair Conference; Meeting

AGENCY: National Highway Traffic Safety Administration.

ACTION: Notice of Public Meeting and Request for Participants.

SUMMARY: The National Highway Traffic Safety Administration in cooperation with the Transportation Research Board will be conducting a three-day workshop to address the principal issues involved in automobile inspection, maintenance and repair. The purpose of the workshop is to obtain consumer and industry input to assist the National Highway Traffic Safety Administration in planning future programs in this vital area.

The program calls for formal presentations on Tuesday, to be followed with the convening of the "issue" panels. The second day and evening will also be devoted to panel work sessions. On the third day the recommendations of the panels will be presented to all attendees for their priority ranking.

Four panels have been initially established to cover major issues. If there is sufficient interest in other issues additional panels will be formed.

The initial four panels cover the following main issues:

- Standardization
- Equipment
- Inspection/diagnosis
- Consumer and self-help programs

Problems will be ranked in order of criticality, while the solution or remedies will be ranked on the basis of cost, political and technical feasibility, and consumer acceptance.

Representatives from State and local governments, consumer groups, repair industry, equipment manufacturers, vehicle manufacturers, Congressional committees, and Federal agencies, are being invited.

TIME AND DATE: The meeting will be held at 1:00 p.m., May 22, to Noon, May 24, 1979. Registration will be from 11:00 a.m. to 1:00 p.m., May 22, 1979.

ADDRESS: The location of the meeting is: The National Academy of Science, 2101 Constitution Avenue, N.W., Washington, D.C. 20418.

FOR FURTHER INFORMATION CONTACT: Mr. James Forrester, NHTSA, Director, OSVP, NTS-30, 400 7th Street, S.W., Washington, D.C. 20590, 202-426-9294.

Issued in Washington, D.C. April 24, 1979.

Joan Claybrook,
Administrator, National Highway Traffic Safety Administration.
[FR Doc. 79-13459 Filed 5-3-79; 8:45 am]
BILLING CODE 4910-59-M

Freightliner Corp.; Receipt of Petition for Determination of Inconsequential Noncompliance; Correction

This notice corrects the comment closing date in the notice of receipt of a petition for determination of inconsequential noncompliance from Freightliner Corp. published in the **Federal Register** on April 23, 1979 (44 FR 23963). The comment closing date was stated incorrectly and should have read "May 23, 1979."

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued April 24, 1979.

Michael M. Finkelstein,
Associate Administrator for Rulemaking.

[Docket IP79-4; Notice 1]
[FR Doc. 79-13494 Filed 5-3-79; 8:45 am]
BILLING CODE 4910-59-M

1970-73 Ford Maverick and 1971-73 Mercury Comet; Public Proceeding Scheduled

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966 as amended (Pub. L. 93-492, 88 Stat. 1470; October 27, 1974), 15 U.S.C. § 1412, the Acting Associate Administrator for Enforcement, National Highway Traffic Safety Administration, has made an initial determination that a safety related defect exists in the fuel tanks and filler necks installed in 1970-73 Ford Maverick and 9171-73 Mercury Comet automobiles.

A public proceeding will be held at 10 a.m., May 29, 1979, in Room 2230, Department of Transportation Building, 400 Seventh Street, SW., Washington, D.C. 20590, at which time the Ford Motor Co. will be afforded an opportunity to present data, views and arguments to establish that there is no safety related defect in the 1970-73 Ford Mavericks and 1971-73 Mercury Comets.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Ms. Joyce Tannehill, Office of Defects Investigation, National Highway Traffic Safety Administration, Room 5328, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (telephone 202-426-2850) before close of business on May 18, 1979.

The agency's investigative file in this matter is available for public inspection during working hours (7:45 a.m. to 4:15 p.m.) in the Technical Reference Library, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegation of authority at 49 CFR 1.51 and 49 CFR 501.8).

Issued on April 27, 1979.

Lynn L. Bradford,
Acting Associate Administrator for Enforcement.
[FR Doc. 79-13699 Filed 5-3-79; 8:45 am]
BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of Authority.

SUMMARY: The authority granted the Commissioner of Internal Revenue by the Federal Personnel Manual (original delegation contained in FPM Bulletin 300-48) and Treasury Department Order 177-19, Revision No. 1, in the matter of approval of extensions of details beyond 120 days is delegated to the Director, Personnel Division.

EFFECTIVE DATE: April 30, 1979.

FOR FURTHER INFORMATION CONTACT: Wanda Brasher, Room 708, Warner Building, 501 13th Street NW., Washington, DC 20004, 202-376-0530 (not toll-free).

This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

A. W. D'Amato,
Director, Personnel Division.

Delegation of Authority to Approve Details in Excess of 120 Days.

The authority vested in the Commissioner of Internal Revenue by the Federal Personnel Manual (original delegation contained in FPM Bulletion 300-48) and Treasury Department Order 177-19, Revision No. 1, in the matter of approval of extensions of details beyond 120 days is delegated to the Director, Personnel Division.

This authority may not be redelegated.

This Amendment supplements Chart 1 of Attachment B to Delegation Order No. 61 (Rev. 10), issued April 16, 1979, which is printed in the Federal Register dated April 9, 1979, Vol. 44, Number 69, Pages 21110-21133.

William E. Williams,
Acting Commissioner.

[Delegation Order No. 61 (Rev. 10), Amend. 1]
[FR Doc. 79-13823 Filed 5-2-79; 8:45 am]
BILLING CODE 4830-01-M

Office of the Secretary

Announcement of Public Meeting To Discuss United States-Argentina Tax Treaty

Issued: May 31, 1979.

The Treasury Department announces that it will hold a public meeting on Thursday, May 31, 1979, to solicit the views of interested persons on issues being considered in negotiations of a prospective income tax treaty between the United States and Argentina.

The public meeting will be held at the Treasury Department, at 2:00 p.m., in room 4121. Persons interested in attending are requested to give notice in writing by May 25, 1979, of their intention to attend. Notices should be addressed to H. David Rosenbloom, International Tax Counsel, Department of the Treasury, Washington, D.C. 20220.

Today's announcement of the May public meeting follows the recent conclusion of a second round of negotiations between representatives of the United States and Argentina to develop an income tax treaty for the avoidance of double taxation and the prevention of tax evasion. There is no income tax treaty now in effect between the two countries.

In the course of the recent negotiations, many subjects of mutual concern were identified and discussed. Among the issues being considered are: the taxes to be covered (and credited); the definition of a "permanent establishment"; the withholding rates at source on dividends, interest, and royalties; the taxation of capital gains; and the taxation of personal property rentals, payments for technical assistance, director's fees, annuities and the profits of shipping and aircraft companies.

The Treasury seeks the views of interested persons in regard to these issues, as well as on other matters relevant to the negotiation of an income tax treaty between the United States and Argentina. The May 31 public meeting is being held to provide an opportunity for an exchange of views, as well as for the purpose of discussing the United States position in regard to the issues presented in the negotiations.

Dated: April 27, 1979.

Donald C. Lubick,
Assistant Secretary (Tax Policy).

[FR Doc. 79-13794 Filed 5-2-79; 8:45 am]
BILLING CODE 4810-25-M

Announcement of Public Meeting To Discuss United States-Norway Tax Treaty

Issued: May 30, 1979.

The Treasury Department announces that it will hold a public meeting on Wednesday, May 30, 1979, to solicit the views of interested persons on issues being considered in negotiations to amend the income tax treaty between the United States and Norway.

The public meeting will be held at the Treasury Department, at 2:00 p.m., in room 4121. Persons interested in attending are requested to give notice in writing by May 25, 1979, of their intention to attend. Notices should be addressed to H. David Rosenbloom, International Tax Counsel, Department of the Treasury, Washington, D.C. 20220.

Today's announcement of the May public meeting follows the recent conclusion of a second round of negotiations between representatives of the United States and Norway on amendments to the income tax treaty for the avoidance of double taxation and the prevention of tax evasion which has been in effect since 1971.

In the course of the recent negotiations, several subjects of mutual concern were identified and discussed. Among the issues being considered are: Norwegian taxation of income from petroleum resources and other offshore activities; Norwegian reserve requirements for branches of U.S. corporations; withholding rates at source on dividends and interest; the taxation of capital gains; and exchange of information.

The Treasury seeks the views of interested persons in regard to these issues, as well as other matters relevant to the income tax treaty between the United States and Norway. The May 30 public meeting is being held to provide an opportunity for an exchange of views, as well as for the purpose of discussing the United States position in regard to the issues presented in the negotiations.

Dated: April 27, 1979.

Donald C. Lubick,
Assistant Secretary, Tax Policy.

[FR Doc. 79-13795 Filed 5-2-79; 8:45 am]
BILLING CODE 4810-25-M

Stainless Steel Round Wire From Japan; Termination of Antidumping Investigation

AGENCY: U.S. Treasury Department.

ACTION: Termination of Antidumping Investigation.

SUMMARY: This notice is to advise the public that the antidumping investigation concerning stainless steel round wire from Japan is being terminated. The termination is based on withdrawal of the original antidumping petition, as detailed in the body of this notice and the appendix hereto.

EFFECTIVE DATE: May 3, 1979.

FOR FURTHER INFORMATION CONTACT: Charles F. Goldsmith, Economist, Office of Tariff Affairs, U.S. Department of the Treasury, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20220, telephone (202) 566-2323.

SUPPLEMENTARY INFORMATION: On July 14, 1978, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27) from counsel acting on behalf of various American manufacturers alleging that stainless steel round wire from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). The petitioners are: Alloy Wire Manufacturing Co., Houston, Texas; Al Tech Specialty Steel Corp., Dunkirk, N.Y.; ARMCO Steel Corp., Philadelphia, Pa.; Branford Wire Manufacturing Co., North Haven, Conn.; Brookfield Wire Co., Inc., Brookfield, Mass.; Carpenter Technology Corp., Reading, Pa.; Crucible Inc., Specialty Metals Division, Syracuse, N.Y.; Cyclops Corp., Pittsburgh, Pa.; Harris Metals Co., Holyoke, Mass.; Industrial Alloys, Inc., City of Industry, Calif.; Madison Wire Co., Buffalo, N.Y.; Mapes Piano String Co., Elizabethton, Tenn.; Maryland Specialty Wire Co., Cockeysville, Md.; National Standard Co., Niles, Mich.; H. K. Porter Co., Inc., Alloy Metals Wire Works, Prospect Park, Pa.; Techalloy Co., Inc., Rahns, Pa.; and Willing B. Wire Corp., Beverly, N.J.

For purposes of this notice, the term "stainless steel round wire" means stainless steel round wire, as defined and provided for in item 609.45, Tariff Schedules of the United States.

The information submitted was the subject of an "Antidumping Proceeding Notice" which was published in the Federal Register of July 28, 1978 (43 FR 32914). This case was referred to the U.S. International Trade Commission (ITC) for a preliminary injury determination because there appeared to be substantial doubt as to whether a domestic industry was being injured. On August 31, 1978, the ITC published its determination that there was a reasonable indication of injury (43 FR 38949) by reason of the importation of the subject merchandise from Japan. Accordingly, the Treasury's investigation continued. A notice extending the antidumping investigatory period was published in the Federal Register on February 9, 1979 (44 FR 8409).

In a letter to counsel for the petitioner, dated April 17, 1979, it was indicated that Treasury would terminate the investigation based on certain understandings. Upon receipt of this letter, counsel for petitioner confirmed its desire to withdraw the petition. The correspondence relating to withdrawal between petitioner and Treasury is reproduced as an appendix to this notice.

Accordingly, I hereby conclude that, based upon the withdrawal of the antidumping petition and the fact that stainless steel round wire is subject to the "trigger price mechanism" administered by this Department, it is appropriate to terminate this investigation. This termination is without prejudice to the filing of a subsequent antidumping petition concerning the same product.

Robert H. Mundheim,
General Counsel of the Treasury

April 25, 1979.

April 16, 1979.

Mr. Peter D. Ehrenhaft,
Deputy Assistant Secretary, Tariff Affairs, U.S. Department of the Treasury, 15th & Pennsylvania Ave. NW., room 3424, Washington, D.C. 20220.

Re: Antidumping: stainless steel round wire.

Dear Mr. Ehrenhaft: On behalf of the stainless steel round wire producers, petitioners in the above referenced proceeding, I respectfully request a termination of the current investigation based upon withdrawal of the petition. The specialty steel wire producers emphasize their reasons for making this request are as follows:

1. For the past several years it has been clear that Japanese producers of round stainless steel wire have been selling these products in the United States market at prices significantly less than fair value (LTFV) as defined by the Antidumping Act. These LTFV sales were clearly present when this proceeding was initiated and it is our understanding such LTFV sales were tentatively confirmed by an investigation conducted by U.S. Customs Service.

2. In the past five months, it is our understanding that the margins of LTFV sales by Japanese producers have been significantly reduced or eliminated.

3. The American stainless steel round wire producers are concerned only with the elimination of LTFV sales in the United States and are not anxious to engage in extensive litigation if such LTFV sales have been eliminated.

4. It is our understanding that the Department of the Treasury will continue to monitor sales of Japanese round stainless steel wire in the United States and will, on its own intiative, reinstitute this proceeding should there be evidence of reoccurrence of such LTFV sales.

5. This withdrawal and termination will be entered without prejudice to the rights of the stainless steel wire industry to reinstitute this proceeding at any time should the situation so warrant.

6. This withdrawal and termination have been requested without reference to any other policies or programs of the Department of the Treasury including the so-called Trigger Price Mechanism (TPM). TPM levels do not reflect margins of LTFV sales and it is the belief of the stainless steel wire industry that LTFV sales can occur without reference to trigger prices.

As noted previously, the stainless steel wire industry is not litigious and desires only to assure that competition in the United States market be maximized by preventing illegal and unfair pricing policies. As this goal can apparently be accomplished without the necessity of further litigation, the American stainless steel wire industry welcomes the opportunity to request termination of this proceeding.

Sincerely,

Donald E. deKieffer,
Counsel, American Stainless Steel Wire Industry.

April 17, 1979.

Donald E. deKieffer, Esq.,
Collier, Shannon, Rill, Edwards & Scott, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.

Dear Mr. deKieffer: Thank you for your letter of April 16, 1979, in which you indicate that based on certain understandings, the domestic specialty wire industry requests a termination of the dumping investigation of round stainless steel wire imported from Japan based upon its withdrawal of the petition it filed on July 14, 1978. In light of the withdrawal, I have recommended to the General Counsel that the investigation be terminated. He has agreed to this on the following understandings:

This termination is requested because sales at less than fair value, which formed the basis of the domestic industry's complaint, have been substantially reduced or eliminated in the past five months. However, the termination requested at this time will not prejudice the industry's right to refile an antidumping petition concerning Japanese stainless steel round wire in the future.

Moreover, if such a petition should be refiled, relevant evidence submitted or developed in connection with the industry's previous complaint will be considered. Treasury should then be able expeditiously to conclude its disposition of any refiled complaint on this product, utilizing all the relevant information contained in its files, including information obtained in formulating, updating and implementing the trigger price mechanism. Such an investigation could be concluded well within the time limits normally required for reaching Determinations of Sales at Less than Fair Value under the law.

Finally, as long as the trigger price mechanism is in effect and covers round stainless steel wire, the Treasury Department will continue to monitor imports of that product from Japan and will, on its own initiative, reinstitute a dumping investigation should circumstances warrant.

Sincerely,

Peter D. Ehrenhaft,
Deputy Assistant Secretary and Special Counsel (Tariff Affairs).

April 16, 1979.

Mr. Peter D. Ehrenhaft,
Deputy Assistant Secretary, Tariff Affairs, U.S. Department of the Treasury, 15th & Pennsylvania Ave. NW., Room 3424, Washington, D.C. 20220.

Dear Mr. Ehrenhaft: This is to confirm our understanding as expressed in our exchange of letters dated April 16th and 18th respectively, that the stainless steel round wire producers requested termination of the antidumping proceeding regarding Japanese stainless steel round wire based upon withdrawal of the petition.

Sincerely,

Donald E. deKieffer.

[FR Doc. 79-13799 Filed 5-2-79; 8:45 am]
BILLING CODE 4810-22-M

Titanium Dioxide From Belgium, France, West Germany, and the United Kingdom; Extension of Antidumping Investigatory Period

AGENCY: United States Treasury Department.

ACTION: Extension of Antidumping Investigatory Period.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has concluded that tentative determinations as to whether sales at less than fair value of titanium dioxide from Belgium, France, West Germany, and the United Kingdom have occurred cannot reasonably be made within 6 months. The tentative determinations will be made no later than 9 months

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from the date of the initiation of these investigations.

Sales at less than fair value generally occur when the price of the merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market.

EFFECTIVE DATE: May 3, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5492).

SUPPLEMENTARY INFORMATION: On September 18, 1978, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel on behalf of S.C.M. Corporation, New York, N.Y., alleging that titanium dioxide from Belgium, France, West Germany, and the United Kingdom is being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) ("the Act"). On the basis of this information, an "Antidumping Proceeding Notice" was published in the Federal Register on October 31, 1978 (43 FR 50781).

Pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)), notice is hereby given that the Secretary concludes that the determinations provided for in section 201(b)(1) of the Act (19 U.S.C. 160(b)(1) cannot reasonably be made within 6 months. The determinations under section 201(b)(1) of the Act will, therefore, be made within no more than 9 months. This conclusion is based on various complicating factors. These include questions raised concerning the scope of the investigations with regard to ceramic grade titanium dioxide, questions concerning the applicable market for the determination of fair value, and questions concerning further manufacture of the titanium dioxide by the related United States purchasers before resale. In addition, this conclusion is based upon the difficulty arising from calculations involving various grades of titanium dioxide and the numerous individual transactions which must be separately analyzed.

Some of the foreign producers and importers involved in these investigations have requested, pursuant to § 153.35(b) of the Customs Regulations (19 CFR 153.35(b)), an extension to 6 months of the period during which appraisement will be withheld if the Tentative Determinations in these cases are affirmative. Others have specifically requested that the period of withholding be no more than 3 months. Should withholding of appraisement be appropriate, the Department presently intends to deny the requests for a six-month period of withholding. Accordingly, the Department intends to afford to interested parties an opportunity to present views pursuant to section 153.40, Customs Regulations (19 CFR 153.40), prior to the end of the 9-month period to which the investigations have been extended by this notice.

This notice is published purusant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)).

Robert H. Mundheim,
General Counsel of the Treasury.

April 26, 1979.

[FR Doc. 79-13788 Filed 5-2-79; 8:45 am]

BILLING CODE 4810-22

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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	Items
Commodity Futures Trading Commission	1
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Nuclear Regulatory Commission	7, 8
Securities and Exchange Commission	9

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m. May 11, 1979.

PLACE: 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-866-79 Filed 5-1-79; 3:14 pm]

BILLING CODE 6351-01-M

2

FEDERAL ELECTION COMMISSION.

DATE AND TIME: 10 a.m., Tuesday, May 8, 1979.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public.—Discussion of response to request from Senate Rules Committee Res. 623.

Portions closed to the public (following open session.—Any matters not completed and under consideration at the executive sessions of April 11, April 19, April 25, and May 3.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, 202–523–4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-870-79 Filed 5-1-79; 3:53 pm]

BILLING CODE 6715-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 12:30 p.m., April 30, 1979.

PLACE: Hearing room A, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Docket No. RM79–22, Amendment and Clarification of the Commission's Interim Regulations implementing the Natural Gas Policy Act of 1978 and Regulations under the Natural Gas Act.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary (202) 275–4166.

[S-866-79 Filed 5-1-79; 2:35 pm]

BILLING CODE 6740-02-M

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published April 30, 1979; 44 FR 25351.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 2, 1979.

CHANGE IN MEETING: The following items have been added.

Item Number, Docket Number, and Company

M–1. RM79–6, Procedures Governing the Collection and Reporting of Information Associated with the Cost of Providing Electric Service.
M–2. RM79–30, Final Part of 273 Regulations Under Natural Gas Policy Act of 1978.
M–3(A). Notice of Well Category Determination by the Office of Conservation of Louisiana.
M–3(B). Proration Units and their Applicability to Section 103 of the NGPA.
M–3(C). Notice of Well Category Determination by State of Ohio, Department of Natural Resources, Division of Oil and Gas.
M–4. RM79–13, Interim Regulation of Section 401 of the Natural Gas Policy Act of 1978.
CP–2. CP74–192, Florida Gas Transmission Company.
CAP–9. ER78–539, Missouri Power & Light Company.

Kenneth F. Plumb,
Secretary.

[S-867-79 Filed 5-1-79; 2:35 pm]

BILLING CODE 6740-02-M

5

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 3:30 p.m., May 2, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: 1. Bunker surcharges filed by Matson Navigation.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-862-79 Filed 5-2-79; 10:17 am]

BILLING CODE 6730-01-M

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., May 9, 1979.

PLACE: Room 12126, 1100 L Street NW Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 10347: Cooperative working arrangement between Deutsche Dampfschiffahrts-Gesellschaft "Hansa" and Nedlloyd Lijnen B.V.
2. Stute International, Inc. Application for an independent ocean freight forwarder license.
3. Affiliated Forwarding Services, Inc. Application for independent ocean freight forwarder license.
4. John C. Grandon d.b.a. Consulspeed Services. Application for independent ocean freight forwarder license.
5. Proposed revision of General Order No. 6. Rules Governing the Right of Independent Action in Agreements.
6. Rules governing filing of rates in the domestic offshore trades. Certification and disclosure requirements.

Docket No. 75–6: Policy and procedures for Environmental Protection. Proposed rules.

Portions closed to the public:

1. Agreement No. 10286 (Italy–USA North Atlantic Pool Agreement). Staff report.
2. Domestic rate analysis. Staff briefing.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney (202) 523–5725.

[S-869-79 Filed 5-1-79; 3:21 pm]

BILLING CODE 6730-01-M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Friday, April 27, 1979.

PLACE: Chairman's conference room 1717 H Street NW., Washington, D.C.

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STATUS: Closed.

MATTERS TO BE CONSIDERED: Friday, April 27, 10:30 a.m.—Discussion of litigation aspects of Babcock & Wilcox matter.

ADDITIONAL INFORMATION: The Commission voted 5–0 on April 27, that pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business required that the above discussion be held on less than one week's notice to the public. Prompt discussion was required for this matter of possible litigation.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Dated: April 30, 1979.

Roger M. Tweed,
Office of the Secretary.
[S–864–79 Filed 5–1–79; 2.20 pm]
BILLING CODE 7590–01–M

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: April 30, May 2, 3, and 7, 1979.

PLACE: Commissioners conference room, 1717 H Street, NW., Washington, D.C.

STATUS: Open/closed (changes).

MATTERS TO BE CONSIDERED: Monday, April 30, 2 p.m.—

1. Affirmation Session (changes) Item a (S–3) and Item E (Motion in Shearon Harris) were postponed.
2. At 2:45 p.m., a briefing was held entitled Discussion of S–3 Rulemaking (public meeting).

ADDITIONAL INFFORMATION: The Commission voted 5–0 on April 30, that pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, Commission business required that Item 2 above be held on less than one week's notice to the public. Prompt discussion was required for this item which would have expired without Commission action.

Wednesday, May 2

10:30 a.m.—Discussion of S–3 Rulemaking (approximately ½ hour, public meeting).
3:30 p.m.—Briefing by Executive Branch on Non Proliferation Matters (approximately 1½ hours, closed—exemption 1).

Thursday, May 3

1:30 p.m.—The meeting titled Briefing by Executive Branch International Safeguards Matters was postponed.

Monday, May 7

10 a.m.—Discussion of Uranium Mill Tailings (tentative) (approximately 1 hour, public meeting).

CONTACT PERSON FOR MORE INFORMATION: Roger Tweed (202) 634–1410.

Dated: April 30, 1979.

Roger M. Tweed,
Office of the Secretary.
[S–865–79 Filed 5–1–79; 2:20]
BILLING CODE 7590–01–M

9

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 7, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meeting will be held on Tuesday, May 8, 1979, at 10 a.m. and on Wednesday, May 9, 1979, immediately following the 10 a.m. open meeting. An open meeting will be held on Wednesday, May 9, 1979 at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Commissioners Loomis, Evans, Pollack and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 8, 1979, at 10 a.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory Authorities.
Formal order of investigation and access to investigative files by Federal, State, or Self-Regulatory Authorities.
Formal orders of investigation.
Settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.
Litigation matter.
Other litigation matters.
Institution of administrative proceedings of an enforcement nature.
Chapter X proceeding.
Regulatory matter regarding financial institution.

The subject matter of the closed meeting scheduled for Wednesday, May 9, 1979, immediately following the 10 a.m. open meeting, will be:

Opinion.

The subject matter of the open meeting scheduled for Wednesday, May 9, 1979, at 10 a.m., will be:

1. Consideration of a request by the participants in the Intermarket Trading System ("ITS") that the Commission approve an amendment to the ITS Plan allocating the costs of various telecommunications lines among the participants in the ITS. The Commission will also consider whether to delegate authority, under Section 11A(a)(3)(B) of the Securities Exchange Act of 1934, to the Director of the Division of Market Regulation to approve amendments to joint industry plans, which plans have been previously approved by the Commission pursuant to Section 11A(a)(3)(B). For further information, please contact Brandon Becker at (202) 755–8749.
2. Consideration of proposed Commission release soliciting additional written submissions of data, views and arguments from interested persons on issues associated with a proposed rule change of the National Association of Securities Dealers that would govern the giving and receiving of selling concessions, discounts and other allowances in connection with fixed price offerings and announcing that the Commission intends to hold public hearings on this subject during September 1979. The proposed rule change was precipitated by the decision in *Papilsky* v. *Berndt*, which held that, in the absence of a contrary ruling from the Commission or the NASD, "underwriting recapture" was available and legal under Article III, Section 24 of the NASD Rules of Fair Practice. For further information, please contact Richard T. Chase at (202) 755–7620.
3. Consideration of whether to propose for comment amendments to Forms 10–K and 10–Q specifying that certain wholly-owned subsidiaries filing reports on those forms may omit certain otherwise required information. For further information, please contact Douglas S. Perry at (202) 755–1750.
4. Consideration of whether to grant a petition for review of the Division of Corporation Finance's denial of a request for an extension of time to file Form 10–K for the fiscal year ended December 31, 1978 of American Home Investment Company. For further information, please contact Letty G. Lynn at (202) 755–1478.

FOR FURTHER INFORMATION CONTACT: John Ketels at (202) 755–1129.

Dated: April 30, 1979.

[S–863–79 Filed 5–1–79; 11:00 am]
BILLING CODE 8010–01–M

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federal register

Thursday
May 3, 1979

Part II

Department of Transportation

Coast Guard

Safety Standards for Self-Propelled Vessels Carrying Bulk Liquefied Gases; Special Interim Regulations for Issuance of Letters of Compliance to Barges and Existing Liquefied Gas Vessels

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 31, 34, 40, 54, 56, 98, 154, and 154a

Safety Standards for Self-Propelled Vessels Carrying Bulk Liquefied Gases; Special Interim Regulations for Issuance of Letters of Compliance to Barges and Existing Liquefied Gas Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This amendment revises construction, equipment, safety and operating requirements for all new vessels carrying liquefied gases in bulk on the navigable waters of the United States. Due to the increasing amounts of liquefied gases being shipped in bulk, and the potential hazard these cargoes present, the Coast Guard determined that more detailed rules governing their carriage were necessary to maintain a high degree of safety to both life and property.

EFFECTIVE DATE: This amendment is effective on May 31, 1979.

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SUPPLEMENTARY INFORMATION: On October 4, 1976, the Coast Guard published a proposal in the Federal Register (41 FR 43822) to revise the regulations governing new self-propelled vessels carrying liquefied gases in bulk. The proposal would adopt all but four recommendations contained in the Inter-Governmental Maritime Consultative Organization's (IMCO) *Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk*, Resolution A.328(IX), adopted without amendments November 1975 (IMCO Gas Code). The four areas in which this rule is more stringent than the IMCO Gas Code are:

1. The specification of design ambient temperatures;

2. Requiring enhanced grades of steel for crack arresting purposes in the deck stringer, sheer strake and bilge strake;

3. Specification of higher allowable stress factors for independent tanks type B and C; and

4. Prohibiting the use of cargo venting as a means of cargo pressure/temperature control.

Interested persons were given an opportunity to submit written comments to the Coast Guard concerning the proposal until December 15, 1976. A public hearing was held in Washington, D.C. on 15 November 1976. A discussion of comments received is contained in the following paragraphs.

DRAFTING INFORMATION: The principal persons involved in the drafting of this rule are: LCDR T. R. Dickey and Dr. A. L. Rowek, Project Managers, Officer of Merchant Marine Safety, and Mr. Stanley M. Colby, Project Attorney, Officer of Chief Council.

Discussion of Comments

Miscellaneous

The authority for the proposal was derived from 46 USC 170, except for flammable and combustible liquid cargoes for which the authority is derived from 46 USC 391a. Since the proposal was published, the Port and Tanker Safety Act of 1978 (Pub. L. 95–474, 92 Stat 1471, October 17, 1978) has been enacted. This new Act allows the Coast Guard to regulate flammable liquids and solids, combustible liquids and solids, poisons, oxidizing or corrosive materials, and compressed gases. Since there is no longer any need to cite 46 USC 170 for part of the authority, the authority citation has been changed.

Several commenters requested that, in addition to the table cross-referencing the requirements of Part 154 with the IMCO Gas Code, a table be provided cross-referencing the IMCO Gas Code to Part 154. The Coast Guard has developed the additional cross-reference list but has not published it with this rule due to its length and similarity with the cross-reference list in the preamble to the proposed rule. These tables will be published in a future Navigation and Vessel Inspection Circular.

One commenter questioned how liquefied gasses not listed on Table 4 may be shipped in bulk. When a shipper or carrier asks to ship a liquefied gas that is not included in Table 4, he must first notify the Coast Guard of his intention to transport the cargo, and submit a data sheet showing the chemical and physical properties of the product. Coast Guard form CG–4355 is available from local Marine Safety Offices for this purpose. After the Commandant (G–MHM) has evaluated the hazards of the product, and determined that it may be safely carried in bulk on ships, the appropriate requirements will be developed and the interested persons notified. A new section has been added at § 154.12 to include these considerations.

To incorporate present Coast Guard requirements for a Letter of Compliance into these proposed regulations, the portions of existing 46 CFR Part 154, "Special Interim Regulations for Issuance of Letters of Compliance," that applied to new liquefied gas carriers have been added to proposed Part 154. The sections added generally deal with the administrative requirements for obtaining a Letter of Compliance and describe the procedure which the owner of a foreign flag vessel must follow to arrange for the Coast Guard to examine his vessel. To incorporate this information the following changes and additions were made to proposed Part 154:

(1) Add a new section, § 154.150, entitled, "Examination for a Letter of Compliance."

(2) Add a new section, § 154.151, entitled, "Scheduling a Letter of Compliance examination."

(3) Add a new section, § 154.152, entitled, "Notification of arrival for a Letter of Compliance examination."

(4) Add a new section, § 154.153, entitled, "Carrying cargo into U.S. waters for a Letter of Compliance examination."

(5) Change proposed § 154.1802 to require either a Letter of Compliance or written authorization by the Commandant (G–MHM) for a foreign flag vessel to operate in U.S. waters.

(6) Add a new section, § 154.1803, entitled, "Expiration of Letters of Compliance".

The Coast Guard will continue to perform the "Concept approval" review service, a pre-construction Coast Guard-Industry design consultation, for all new cargo containment designs for vessels of U.S. registry or foreign flag registry intended for trade in the U.S. However, with the publication of this rule, the procedure for the "concept approval" review service is modified. If the Coast Guard determines that the proposed containment system meets section 4.2 of the IMCO Gas Code, no further "concept approval" review will be performed. For U.S. flag vessels, this is done by the Coast Guard prior to conducting full ship plan review. For new or novel designs which do not meet section 4.2 of the IMCO Gas Code, the "concept approval" review procedures will remain unchanged.

Comments of a general nature, usually critical of the Coast Guard's proposal having exceeded the IMCO Gas Code, were received. Many of these comments offered no specific details where the proposal exceeded the Code's recommendations. Some claimed that, taken together, these additions would make U.S. flag vessels more expensive to construct and would put the U.S. flag vessel owner at an economic disadvantage. One commenter also noted that if the Coast Guard's economic assessment of the impact of the proposal were based on the Code's requirements, the assessment should be reconsidered.

Where specific comments were received that indicated that the Coast Guard had exceeded the Code, they have been addressed in this preamble. As explained in the preamble to the notice of proposed rulemaking, there are four areas where the Coast Guard intended to exceed the Code. These requirements are applicable to foreign flag vessels as well as U.S. flag vessels. Further, they have been standards adhered to in the U.S. for some time now, therefore, they neither put the U.S. flag vessel at a disadvantage, nor do they increase the cost of the vessel over current costs.

As also explained in the preamble of the notice, specific details have been added to the Code's rather general language in many instances. This is necessary in order to give designers, builders, and operators definitive guidelines as to what the Coast Guard will accept. Administrations of other nations will undoubtedly have to do the same. Being more specific may be viewed by some as "exceeding the Code" but using the sometimes vague language of the Code would require designers and builders to constantly approach the Coast Guard for interpretations. While that will still be inevitable in some cases, the regulations have been written to minimize those occurrences.

To assess the economic impact of specific design requirements versus a general design goal is difficult, if not impossible. For instance, if the Code required that filling lines extend to "near the bottom of the tank" and Coast Guard regulations required the line to terminate 100 mm (4 inches) from the bottom, how can the cost difference, if any, be assessed? The Coast Guard did revise many requirements where the proposal exceeded the Code unintentionally. In other instances, more liberal, satisfactory interpretations of the Code's requirements allowed relaxation of the proposal. The Coast Guard has attempted to hold instances of implied "exceeding the Code" to an absolute minimum, consistent with the goal of providing definitive guidelines wherever possible.

For the reasons outlined above, the Coast Guard cannot accept the argument that the regulations will make the U.S. flag ship non-competitive, nor that the economic impact of the regulation is significantly different than previously determined.

Finally, numerous editorial changes and corrections have been made to the proposal. Where the Coast Guard determined that these corrections were important, they have been explained, however, due to space limitations other routine or unimportant editorial changes have not.

Amendments to Subchapters D, F, and I

Section 31.10–18a. One commenter suggested that for several of the operating requirements in proposed § 31.10–18a, the master should not be held responsible for ensuring that certain procedures are carried out, but that the responsibility should be placed on "the master or duly appointed company representative." It is traditional and reasonable that the master of the vessel is ultimately responsible for the safety of his ship and crew. Therefore, the suggestion was rejected and the requirements remain as proposed.

Section 54.15–25. One commenter said that in proposed § 54.15–25(c) the formulae used to calculate the gas factor, G, in metric units and English units are not equivalent. The constant in each formula for G consists of the assumed heat flux into the cargo tank plus conversion factors which yield flow capacity in volume flow of dry air at standard temperature and pressure. Assumed standard conditions in metric units are P=1 atm. and T=0°C, while in English units they are P=14.7 psia(1 atm) and T=60°F (15.6°C). The difference in assumed standard temperature produces the slight difference in calculated flow. To convert Q calculated in one set of units to the other units, multiply Q by the square root of the ratio of the standard temperatures after applying the usual conversion factors for volume. The formulae for G are correct as proposed and no change has been made.

Section 54.25–10. Three commenters pointed out errors in the chemical composition limits for carbon manganese steel in proposed § 54.25–10. Sulfur and phosphorus limits have been changed from "0.35" to "0.035".

Subpart 98.25. In the amendments to existing regulations which were proposed, Subpart 98.25 of this chapter, entitled "Anhydrous Ammonia in Bulk", was revoked. This was incorrect. The applicability of Subpart 98.25 is to all ships carrying anhydrous ammonia. Proposed Part 154 includes requirements for the carriage of anhydrous ammonia only on new ships, i.e. those meeting proposed § 154.1. Subpart 98.25 as it applies to *existing* anhydrous ammonia ships must therefore be retained. This subpart has been retained and § 98.25–1 rewritten to include the correct applicability.

General

Section 154.1. One commenter pointed out that the proposed regulations and the IMCO Gas Code apply to steel-hulled ships, but do not specifically state this. He further suggests that this consideration be included in the proposed applicability section. The Coast Guard does not consider this necessary. These proposed regulations and the IMCO Gas Code were developed to cover all liquefied gas vessels. The requirements in proposed § 154.170, which establishes acceptable standards for the outer hull materials, address only steel because steel is considered to be the standard construction material. It is noted, however, that a vessel with a hull constructed of materials other than steel would be handled under the equivalency provisions of § 154.8. Due to these considerations this suggestion was not accepted.

Several commenters raised questions regarding existing ships, i.e., those ships not included in the proposed Applicability section § 154.1. Existing foreign flag liquefied gas vessels are now regulated by 46 CFR Part 154, "Special Interim Regulations for Issuance of a Letter of Compliance," while existing U.S. flag vessels are regulated by Subchapter D, 46 CFR Parts 30–40, "Tank Vessels," and Subchapter I, 46 CFR Parts 90–109, "Cargo and Miscellaneous Vessels." Existing gas ships will continue to be regulated under these parts until the publication of more detailed rules covering these vessels. With the publication of new Part 154, the "Special Interim Regulations . . .", previously published as Part 154, have been redesignated Part 154a.

When originally published, the "Special Interim Regulations . . ." covered the carriage of both bulk liquid chemicals and liquefied gases on new or existing foreign flag ships and barges. With the publication of Part 154 and Part 153 (42 FR 49016), regulation of *new* liquefied gas ships and *new or existing* bulk liquid chemcial carriers has been transferred from the "Special Interim Regulations . . ." to these parts. Accordingly, after these editorial changes, the "Special Interim

Regulations . . ."now cover only foreign flag barges and existing gas ships.

To invite public participation in the rulemaking for "existing" liquefied gas vessels at an early stage, an advance notice of proposed rulemaking entitled "Construction and Equipment of Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases," was published in the June 30, 1977 issue of the Federal Register (42 FR 33353). Briefly these new rules will follow present U.S. requirements and those substantive requirements of the "IMCO Code for Existing Ships carrying Liquefied Gases in Bulk", adopted October 1976, that exceed current U.S. standards in 46 CFR Subchapters D, F, I, and J. These rules should be similar in structure and content to new Part 154 and will apply to both U.S. and foreign flag existing gas vessels. When these new regulations are published, as a final rule, they will cover the remaining portions of the "Special Interim Regulations . . ." and that rule will be deleted. Regulations for froegin flag barges will then be incorporated into 46 CFR Part 151. Until that time, the owner of an *existing* foreign flag vessel should go to Part 154, and specifically to the "Special Interim Regulations . . .", Part 154a, to obtain the procedure and requirements for issuance of a Letter of Compliance.

It should be noted that the application dates listed in § 154.1 are prior to the effective date of these regulations. The application dates are the same dates contained in the IMCO Gas Code, which this rule is implementing. As stated in the preamble to the proposed rulemaking, published on October 4, 1976, 41 FR 43622, the Coast Guard began applying these standards to new ship construction on an ad hoc basis on March 11, 1975. Applicants requesting certification for the carriage of liquefied gases on ships were notified that compliance with the standards of the Gas Code were being applied to the maximum extent possible, taking into consideration the stage of each vessel's construction. This was done to ensure the safe carriage of liquefied gases at the earliest possible date.

Section 154.3. Commenting on proposed § 154.3(f), one commenter noted that cargo pump rooms and compressor rooms were not included in the definition of "cargo area", as is done in the IMCO Gas Code. They were not included in this definition since § 154.315 requires cargo pump rooms and compressor rooms to be in the cargo area and therefore it was considered redundant. Since it appears that confusion or misunderstanding may occur, the definition has been changed to include cargo pump rooms and cargo compressor rooms.

In proposed § 154.3(l) the "inner deck", used in some vessel designs, was not included in the definition of "Contiguous Hull Structure" and has been added.

The words " This does not include special fire control equipment which can be most practically located in the cargo area," that appear in the IMCO Gas Code definition of "control station spaces" were inadvertently omitted from proposed § 154.3(m). These words were included in the IMCO Gas Code to avoid confusion since dry chemical units are, in fact, required and permitted in the cargo area. To avoid any possible confusion, wording has been added to recognize that the presence of fire control equipment required or permitted to be in the cargo area does not make that space a "control space."

The definition of "essential auxiliary" was included in proposed § 154.3(p) since the term was in proposed § 154.178 with regard to hull structure heating systems. Due to a comment on proposed § 154.178, it was noted that the term was confusing since it may also apply to other systems and carries a definite connotation in some classification society rules. For these reasons it has been omitted from the definition section, and proposed § 154.178 no longer contains the term "essential auxiliary".

An important distinction between hold spaces of containment systems requiring secondary barriers and those not requiring secondary barriers was inadvertently omitted from proposed § 154.3(s)(4) and has been added.

Commenting on proposed § 154.3(jj), several commenters questioned the requirement for "nominal" metal to metal contact of valve operating parts, and whether it was intended to prohibit resilient-seated valves. It was the intent of the Coast Guard to exclude the use of resilient-seated valves as "shut-off valves." Shut-off valves are required when there must be complete flow stoppage, as for instance in a fire. Resilient-seated valves, although they may provide adequate service under normal operating conditions, are not expected to meet this criterion. Some specific types of resilient-seated valves have, however, been approved for use as "stop valves" on liquefied gas vessels but, where positive flow stoppage is required they may only be used in series with a "shut-off valve." For further discussion see the preamble remarks relative to proposed § 154.530.

Proposed § 154.3(uu), the definition of "recognized classification society", has been omitted. This term was used throughout the proposal to follow a similar statement in the IMCO Gas Code. After further review, the Coast Guard determined that the term was not sufficiently informative. 46 U.S.C. 391a provides for the adoption of rules of the American Bureau of Shipping (ABS), a recognized classification society, after public hearing. The publication of the notice of proposed rulemaking, October 4, 1976, and the public hearing on November 15, 1976, resulted in no public comment or question concerning the adoption of standards of a "recognized classification society". Accordingly, the Coast Guard adopts certain ABS rules pertaining to the efficiency of hulls as specific standards. Proposed § 154.3(uu) has been omitted and proposed §§ 154.170(a), 154.174(a), 154.176(a), 154.188, 154.195(b), 154.420(a), 154.421, 154.439, 154.440(c) and Table 1 have been changed accordingly.

It was suggested that in proposed § 154.3 definitions of the various independent tank types and process pressure vessels be added to the list of definitions since the terms are used throughout the regulations and not just in the sections dealing with their design. This has been done under the definitions for "Independent Tank" and "Process Pressure Vessel".

Finally, certain definitions were added, changed or deleted from this section as the result of comments on other proposed sections of the regulations. For a discussion of the reasons for these changes see the remaining preamble.

Section 154.5. Proposed § 154.5 was rewritten to clarify the required submissions for a Letter of Compliance application.

There were several questions on proposed § 154.5(a)(7) from foreign interests about the information required to be submitted with an IMCO Certificate of Fitness in order to waive plan review. Proposed § 154.5(a)(7) would require "Plans, calculations, or *other information* (emphasis added) to show compliance under * * *" to be submitted. The information the Coast Guard is seeking is evidence that the ship has been designed to meet the ambient conditions specified in § 154.466(a)(1) or (a)(2), the stress factors required for types B and C tanks in §§ 154.447 and 154.450, the requirement in § 154.170 for crack arresting steel in the hull, and the requirement in §§ 154.701–154.709 for cargo pressure/temperature control without venting. The model certificate contained in the Appendix to the IMCO Gas Code requires that the stress factors used in tank design and the ambient design temperatures be specified. Appropriate entries in the IMCO Certificate would satisfy the requirement of § 154.5(a)(7) in these two areas. Finally, to show compliance with §§ 154.170 and 154.701 through 154.709, the Coast Guard would accept classification society certificates indicating that crack arresting steels have been used in the hull, and that a means of cargo tank pressure/temperature control, other than control via vapor venting, is available. Proposed § 154.5(a) was rewritten to clarify what required documentation was necessary to show compliance with these regulations.

Section 154.6. Commenting on proposed § 154.6(b), one commenter suggested that the Commandant could issue an IMCO Certificate of Fitness to a vessel that met the IMCO Gas Code but failed to meet U.S. regulations. Since the Coast Guard only issues IMCO Certificates to U.S. flag vessels, those vessels must meet U.S. regulations.

Section 154.8. Several comments were received concerning the applicability of these regulations to new or novel designs of cargo containment systems or new or different types of vessels. New technological advances, while not regulated by specific design criteria in Part 154, are covered by § 154.8(a), which requires that they be accepted by the Commandant and shown "to be as effective as that specified in this part." A similar statement of "equivalency" is contained in paragraph 1.5.1 of the IMCO Gas Code.

Section 154.10. Proposed 154.10(b) states that if a vessel carries cargoes regulated by Part 154 and another part, the requirements of both parts must be met. One commenter suggested that this statement could cause confusion if one part has higher minimum standards than the other. A vessel that meets one part's higher minimum standard would exceed (and, therefore, "meet") the other part's lower minimum standard. Accordingly, no change was made to this section.

Inspection and Tests

Subpart B—§ 154.40 through 154.142. Many comments were received on proposed Subpart B, entitled "Inspections and Tests". This subpart contains the Coast Guard's requirements for construction tests, original inspections and reinspections for Certificates of Inspections. Because several of the comments were very important and may require major modifications to the proposal, the Coast Guard determined that a complete review of this proposed subpart was necessary. In order to allow sufficient time to compare the requirements to those of classification societies, i.e. American Bureau of Shipping (ABS), and because the revised requirements would not have been finished in time to include them with this final rule, §§ 154.40 through 154.142 have been omitted. Once review and redrafting, if necessary, has been completed, the Coast Guard will determine whether or not the proposal has been changed to the extent that a new notice of proposed rulemaking is necessary. If not, these requirements will be published as a final rule in a future edition of the Federal Register. Until that time tests and inspections of liquefied gas vessels will be performed under the guidelines of 46 CFR Parts 30–40 (Subchapter D) of this chapter, and those additional requirements established by the Commandant (G–MMT) for the vessel.

Hull Structure

Section 154.170. One commenter suggested that in proposed paragraph (b) the longitudinal extent of required special hull steel grades should be specified. The Coast Guard agrees and has incorporated the suggestion by adding the words, "along the length of the cargo area—", to paragraph (b).

One commenter said that proposed paragraphs (b) and (c) did not give sufficient guidance to determine equivalent steel grades, and that additional guidance is needed regarding when Grade D vs. Grade E steel is required at the bilge strake. The commenter also said that a rolled gunwale plate of Grade E should be allowed as an option to using separate sheer and stringer plates of Grade E.

The Coast Guard does not agree with the initial comment. The details to show steel equivalence to Grades D and E are already outlined briefly in proposed paragraphs (b) and (c) as "* * * equivalent chemical properities, mechanical properties and heat treatment". The determination of steel equivalence to Grades D and E is through special approval by the Commandant (G–MMT). With reference to the final comments, for the bilge strake, either Grade D or E may be used at the builder's choice, and the rolled gunwale plate might be a suitable option and could be accepted under the equivalence § 154.8.

One commenter indicated that proposed paragraph (d), in referring to the effect of cargo on the outer hull steel temperature, was confusing. The Coast Guard agrees and believes confusion arose because the ambient design temperatures and the intent of paragraph 4.9.1 of the IMCO Gas Code were not included or properly conveyed in the proposed rule. The requirement has been clarified by omitting proposed paragraph (d), reorganizing and renumbering the section, adding a new paragraph (b)(3) which includes the design ambient temperatures of 0° C (32° F) still sea water and 5° C (41° F) still air and by adding the hull steel design condition that the secondary barrier, if one is required for the tank type, is assumed to be at the cargo temperature. The latter addition is based on both the Coast Guard's long standing position and the intent of paragraph 4.9.1 of the IMCO Gas Code that failure of the primary barrier, requiring use of the secondary barrier, is considered a design condition, and not only a casualty condition.

Additionally, the temperature below which the outer hull steel must meet the same material requirements as the continguous hull steel has been changed from that proposed in paragraph (d). The intent of this IMCO-based requirement was to provide Administrations with a means of comparing new ship/tank systems to existing acceptable designs in the area of hull temperature effects, and as such, the recommendation of a 0° C (32° F) temperature criterion was adopted by the Coast Guard in the proposed rule. The 0° C temperature criterion, however, proved unrealistic in practice, due largely to the "no velocity" water condition imposed for the theoretical calculation. Reassessment of the outer hull steel temperature criterion leads to the conclusion that a slightly lower temperature, namely −5° C (23° F), consistent with the degree of safety originally intended, should be adopted. Accordingly, this change has been made in new paragraph (b)(3) of this section.

Finally, several commenters questioned, in proposed § 154.170, the need for crack arresting steels in the hulls of gas ships when classification society rules do not require them. Classification society rules generally recognize the need for enhanced grades of steel in the hull as a means of crack arresting, based on material thickness, material toughness, and ship length. In gas ships, there are two considerations that are overlooked in classification society rules for crack arrestors. First, there is the possibility of a spill of liquefied gas causing a crack to be initiated. Crack arrestors are designed to prevent the crack from propagating into a catastrophic failure of the hull girder. Secondly, gas ships generally have double hulls. This permits the scantlings of the outer hull to be less than that required for a single skin vessel of comparable length while

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providing the same level of hull strength. This normally results in the use of hull plating which is thinner than the minimum plate thickness for which classification societies require special heat treatment to improve notch toughness of the steel. A single skin vessel of comparable length would most likely have hull plating which is thicker than this minimum and therefore would require improved notch toughness. The Coast Guard, therefore, does not accept that the rules for single skin vessels carrying liquid cargoes are equally applicable to liquefied gas ships and the requirement for crack arresting steels in proposed § 154.170 has been retained.

Section 154.172. The Coast Guard noted that proposed § 154.172(a) should be changed as castings are not normally used in a hull structure. The words "and castings" have therefore been omitted.

Two commenters pointed out that reference to § 154.610 in proposed paragraphs (b) is incorrect. The reference has been changed to § 154.615 and the words "except the steel thickness limitation" have been omitted because they do not apply to § 154.615.

Finally, it was discovered that the term "design temperature" was incorrectly used in proposed §§ 154.172 (a) and (b) and in other sections of the proposal. As defined in proposed § 154.3(n), design temperature means "the minimum temperature at which cargo may be loaded, unloaded or carried". In some instances, especially §§ 154.170 through 154.182, the term was incorrectly used to mean the minimum temperature at which the contiguous hull materials exhibited adequate mechanical properties for the intended service. Since the contiguous hull does not contact the cargo under normal conditions this temperature is higher than the "design temperature". For this and other reasons, this incorrect usage and others appearing in the proposal have been corrected. The sections and paragraphs changed are: §§ 154.172 (a) and (b), Table 1, 154.174(b), 154.176(b), 154.176(b)(2), 154.180, 154.182, 154.466,154.512, 154.528 (b) and (c), and 154.702(a)(1).

Section 154.176. One commenter suggested that the reference to Alaskan waters in proposed § 154.176, should be changed to "waters in which Arctic conditions are encountered" as there is a possibility that U.S. flag vessels might trade in foreign ports with ambient conditions as cold or colder than Alaska. See the preamble discussion under § 154.466.

Sections 154.174 and 154.176. One commenter questioned the Coast Guard's requiring ambient air temperatures for Alaskan and other U.S. waters lower than those specified in paragraph 4.8.1 of the IMCO Gas Code. Also the use of −2°C (28°F) sea water instead of 0°C (32°F) was questioned. Paragraph 4.8.1 of the IMCO Gas Code allows each Administration to set minimum ambient temperatures lower or higher than the 0°C (32°F) sea water and 5°C (41°F) air, as specified by IMCO. The Coast Guard has required the proposed temperatures since 1966 for the lower 48 states and 1972 for Alaska. These lower ambients are based on surveys of actual minimum temperatures occurring in U.S. ports during the winter months. Accordingly, no change was made to this section.

The substance of proposed § 154.174(c) and 154.176(c) have been included in proposed § 154.178. The Coast Guard determined that for clarity the requirements for heat load calculations for contiguous hull heating systems should be included in § 154.178 with the remaining requirements for the heating systems.

Section 154.178. One commenter requested that a definition of "essential auxiliary" be included in proposed § 154.178(a). This is a term used in classification society rules to describe certain types of equipment for which inspections are required. Since it has a definite connotation in classification society rules, the term has been omitted from this section.

Section 154.182. Several commenters considered the requirement for production testing of contiguous hull structure, that does not act as a secondary barrier, to be performed for each 50 meters of weld to be too stringent. The Coast Guard concurs and has changed the proposed requirements to read "each 100m—(328-ft.) * * *"

One commenter suggested that when a weld fails both the initial Charpy V-notch test and the bend test, and also fails the subsequent retests, as required by proposed § 154.182(c), the weld seam should then be subjected to 100% radiographic or ultrasonic testing before a portion of the weld is repaired. He further suggests that this will determine the weld's soundness and freedom from flaws, and will aid in the determination of the extent of weld to be removed. The Coast Guard agrees that radiographic and ultrasonic testing will indicate flaws, however, the Charpy V-notch test and the bend test are used to determine the toughness, ductility and quality of the production weld. Radiographic and ultrasonic tests do not provide any information about toughness or ductility of the weld and, hence, these material properties must be evaluated through the use of the Charpy V-notch and the bend tests. The requested change was not made.

One commenter pointed out that 46 CFR 57.06–4, referenced in proposed paragraph (a), includes several types of bend tests and it was questioned which one was to be used. It was intended that all bend tests required by 46 CFR 57.06–4 be used as required for the plate thickness. Paragraph (a) has been changed for clarification.

Ship Survival Capability and Cargo Tank Locations

Section 154.200. One commenter questioned whether the vessel must be examined for the full range of drafts when the vessel only operates within a limited range of drafts. Proposed § 154.200 has been clarified by adding the word "operating" before the word "drafts" in the second line.

Section 154.205. One commenter stated that it was not clear in proposed § 154.205 whether or not water ballast was allowed to achieve positive metacentric height. Section 154.205 has been reworded to make it clear that water ballast is allowed.

Section 154.210. One commenter stated that the basic definitions of hull types found in paragraph 2.1.2 of the IMCO Gas Code should be contained in the regulations. This comment has been accepted and proposed § 154.210 has been changed.

Section 154.215. One commenter pointed out that in proposed § 154.215(e), 10 feet had been incorrectly rounded to 3.0 m instead of 3.05 m. This error has been corrected.

Section 154.225. Two commenters questioned the meaning of the free surface assumptions contained in proposed § 154.225(a). The designer is given two options. First, he may calculate the free surface effect of all liquids at an angle of heel of 5°. He would then use this value in all of his calculations. Second, he may calculate the free surface effect at every degree of heel by the moment of transference method. After reviewing the wording of proposed § 154.225(a), the Coast Guard finds that no change in the proposal is necessary.

Section 154.230. One commenter pointed out that the proposed wording of § 154.230 may permit a negative GM after damage. To prohibit this dangerous condition, a new paragraph (d) has been added to this section.

Four commenters pointed out that the proposed regulations do not contain any statement concerning the treatment of watertight superstructures. A new paragraph (e) has been included in proposed § 154.230 to cover this consideration. The remaining paragraphs have been renumbered accordingly.

Section 154.235. One commenter asked if there is an exception for tank location in proposed § 154.235 for concrete hulls. These proposed regulations and the IMCO Gas Code address only steel hulled ships (see the preamble discussion for proposed § 154.1), and as such do not specifically outline standards for concrete hulls. The acceptance of such a design, including the subject of tank location, would be done under the provisions of § 154.8, *Equivalents.*

Ship Arrangements

Section 154.310. One commenter asked if gas freeing piping was included in the reference to purge piping in proposed § 154.310(a). "Purge" is commonly understood in the industry to mean the effective removal of undesirable vapors. With proper purging, the cargo piping or tank can be gas freed; therefore, the term "gas freeing," used in the IMCO Gas Code, is considered unnecessary by the Coast Guard and no change was made.

Commenting on proposed § 154.310(d), one commenter stated that drain lines for the interbarrier spaces may be located below deck. This is correct and is provided for in the IMCO Gas Code. The proposed section has, therefore, been changed to both provide for this piping location and to more clearly indicate the requirements for the cargo piping that must be located above the weather deck and that which must be in the cargo area. Proposed paragraph (d) is now paragraphs (d) and (e), and proposed paragraphs (e) and (f) are now designated (f) and (g) respectively.

One commenter questioned the meaning of "emergency dumping" as used in the preamble and § 154.310(d) of the proposal. The intent was to provide a means for emergency jettisoning of cago in the event of a primary barrier failure. The IMCO Gas Code requires that cargo leaked into an interbarrier space be returned to a cargo tank. This is clearly impractical if all tanks other than the leaking one are full. The Coast Guard determined that an alternative of jettisoning the cargo must therefore be included. The wording of proposed § 154.310(d) has been changed for clarification. Additionally, a new section was added at § 154.336 to describe the requirements for the emergency jettisoning arrangement required in §§ 154.350(c) and 154.1725(e).

One commenter suggested that in proposed § 154.310(e), the phrase "above the open deck" be changed to "above the weather deck". The Coast Guard agrees with this editorial change and the word "weather" replaces the word "open".

Section 154.315. One commenter suggested that the words "unless specially approved by the Commandant" be added to proposed § 154.315(a) to agree with the IMCO Gas Code. This suggestion was not accepted since the Coast Guard does not anticipate approving a design containing below deck cargo compressor or pump rooms.

Two commenters stated that proposed § 154.315(b)(2) should be changed to allow the use of pressure grease seals, equipment previously allowed by the Coast Guard. The Coast Guard agrees with this comment and the requirement now allows the use of pressure grease seals.

Section 154.320. One person suggested that the words "remote readout" be used instead of "indirect reading" in proposed § 154.320(b)(3). Remote readout instrumentation may not necessarily exclude cargo vapor from the cargo control room, therefore, the suggestion was not accepted and no change has been made to this paragraph.

Another commenter proposed to add the words "as far as practical" into paragraph (b)(3), as provided for in the IMCO Gas Code. The Coast Guard has determined that with the exception of gas detection equipment, any instrumentation of other than indirect reading type would allow unnecessary hazards in the gas safe cargo control room. The suggestion was not adopted and the requirement remains as proposed.

Section 154.325. One commenter stated that without modification of the definition of "Control spaces" in proposed § 154.3, proposed § 154.325(a) would prohibit locating dry chemical fire control equipment in the cargo area. The Coast Guard agrees with the commenter and did not intend to make this prohibition. Accordingly, the definition of "Control space" has been corrected to exclude any fire fighting units when these units are required or permitted. Paragraph (a) is correct as proposed.

Commenting on proposed § 154.325(b), one commenter submitted a drawing of an arrangement which included a triangular shaped cofferdam above the main deck used to separate the accommodation from the hold space. This may be acceptable, however, the intent of this section is twofold:

(1) To prevent gas from the hold space from entering safe spaces through a single weld failure; and

(2) To ensure that the cofferdam space is of sufficient size to allow internal inspection of the space.

Accordingly, the section has been changed to specify the minimum dimensions for clearance in this space.

Section 154.330. One commenter noted that "forced and natural ventilation exhausts" are included in proposed § 154.330(a) while not specifically included in the IMCO Gas Code. He suggests that this term be deleted. The Coast Guard does not agree and has determined that ventilation exhausts are included in paragraph 3.2.4 of the IMCO Gas Code as "openings to accommodations, service and control spaces", particularly in instances when the fan is not running. The comment, therefore, was not accepted.

Editorial changes have been made to proposed § 154.330(a) by correcting the minimum distance from 3 m (10 ft) to 3.05 m (10 ft), to agree with the IMCO Gas Code, and by adding the words "to accommodations, service, and control spaces," after the word "openings".

An editorial change has been made to proposed § 154.336(b) to agree with the distances in § 154.330(a)(1) and to use the same terminology for port lights used in the structural fire protection regulations, 46 CFR 32.56.

Commenting on proposed § 154.330(c), two commenters stated that waterlight doors with dogs on the wheelhouse would be heavy and unwieldly, may be improperly secured much of the time, and could not be operated as quickly as those without dogs. The Coast Guard agrees with this comment and omitted the requirement for dogs.

Commenting on proposed § 154.330(c), two commenters suggested that the purpose of this door was gas safety not water tightness. The Coast Guard agrees, however, the only method of ensuring gas tightness would be either an air test or a vapor leak detection test (for instance using helium) of the secured door. While these tests are acceptable, they would generally be impractical. The fire hose test, which can be done rather easily, is an adequate demonstration that the door's gasket is properly seated thus producing a good seal and making the secured door reasonably gas tight. Paragraph (c) has been rewritten to clarify the intent.

Editorial changes have also been made to proposed § 154.330(c) to specify the same distances as in § 154.330(a)(1) and to use the term "not fixed" in place of the term "open."

One commenter stated that the requirement in proposed § 154.330(e) for gasketed metal covers exceeds the IMCO Gas Code which uses the term "closing devices". The Coast Guard has determined that "closing devices" does not adequately describe the acceptable covers nor are gasketed metal covers the only type acceptable. This section has been changed to include metal covers which pass a tightness test.

Two commenters requested a definition of toxic cargoes. This had already been included in § 154.3.

Section 154.340. One commenter stated that the exemption for ballast spaces provided in paragraph 3.5.3(c) of the IMCO Gas Code was not included in proposed § 154.340(b). This comment is correct and the requirement now includes the IMCO Gas Code exemption for spaces separated by a single gastight boundary from hold spaces where a containment system requiring a secondary barrier is provided. Proposed § 154.340(b) and (c) have been rewritten and combined as § 154.340(b). The remainder of the section has been renumbered accordingly.

One commenter indicated that smaller size openings should be permitted if the integrity of the hold space insulation can be ascertained from outside the hold space while the tank is at the design temperature. Another commenter suggested that the minimum clear opening dimensions for void spaces, hold spaces and other gas-dangerous spaces be reduced to 15 inches by 23 inches (oval) and 18 inches in diameter (circular) when the larger dimensions could have an effect on major or principal ship dimensions. The Coast Guard does not agree with these comments. Except for those spaces which are exempted from the access requirements as noted above, accesses, where provided or required, must have the dimensions specified in proposed paragraph (b). The intent of this requirement is to allow entry and inspection of the spaces by personnel wearing protective clothing and breathing apparatus and, in the event of injury, to allow unconscious personnel to be removed from the space; therefore, no change has been made to the sizes specified.

Three commenters noted that proposed § 154.340(g) (renumbered (f)) apparently contains requirements in excess of the IMCO Gas Code by requiring the inspection of the hold space insulation from within the hold space while the tank is at the cargo temperature. That interpretation was not intended and this section has been changed accordingly.

Section § 154.345. One commenter stated that the distances specified in proposed § 154.345(b)(1) conflict with the IMCO Gas Code and should, therefore, be changed. Agreement has already been reached at a meeting of the IMCO Subcommittee on Bulk Chemicals, that the distances proposed in § 154.345(b)(1) will be included in the IMCO Gas Code as an amendment. Accordingly, the comment is not accepted.

One commenter felt that the requirement for mechanical ventilation in proposed § 154.345(b)(4) was redundant since the system in the gas-safe space would perform the same function. This double margin of safety was intended by the Coast Guard and IMCO (see paragraph 3.6.5 of the IMCO Gas Code) for gas safe spaces in the cargo area. Accordingly, the comment is not accepted.

One commenter considered the requirement in proposed § 154.345(b)(6) for twelve changes of air per hour to be unreasonable and that the requirement in proposed § 154.345(b)(5) for air locks to be maintained at a higher pressure than the gas dangerous zone to be sufficient. Although maintaining the space at an over pressure to the gas dangerous zone is one goal, the Coast Guard believes that continuous air changes are necessary to ensure safety. The proposed number of changes of air has been reduced to 8 per hour as is required for gas safe cargo control rooms.

Commenting on proposed § 154.345(c)(2), one commenter stated that the automatic deenergizing of electrical equipment upon loss of air lock pressure may be hazardous since atmospheric disturbances could give false signals. The source for this proposed requirement is the IMCO Gas Code, and the Coast Guard has determined that it would provide a necessary margin of safetly. Also, the air lock pressure should be high enough to preclude false signals due to atmospheric disturbances. Accordingly, the comment is not accepted.

Section 154.350. Two commenters noted that proposed § 154.350(d) prohibits conventional bilge suctions in such spaces as pipe tunnels, duct keels and void cofferdams. The proposed requirements of this section are identical to those contained in the IMCO Gas Code and the intent is to prohibit the possibility of cross connection between gas-dangerous and gas-safe spaces. A bilge system is an open system that could allow free communication of gases between a gas-dangerous space and a gas-safe one. Accordingly, the Coast Guard determined that the proposal should not be changed.

Section § 154.355. Commenting on proposed § 154.355, one commenter requested clarification concerning the use of bow and stern loading piping for toxic cargoes on type IIG/IIPG ships. § 154.1870(d) contains the necessary operational restrictions. Accordingly, this section was not changed.

Section § 154.356. See the preamble comments concerning proposed § 154.310(d).

Cargo Containment Systems

Section 154.406. Commenting on proposed § 154.406, one commenter pointed out that the loads need not always include "gas pressurization for cargo transfer." The Coast Guard concurs with the comment and for clarification has changed proposed paragraph (a)(11) in this section.

Section 154.407. Paragraph (a) in proposed § 154.407 has an error which has been corrected to read $a_\beta Z_\beta \gamma$; where:".

Paragraph (b) in proposed § 154.407 has been rewritten to clarify the definition of $(h_{ca})_{max}$ used in the equation for h_{ca} in § 154.407(a).

Section 154.409. One commenter said that the dynamic accelerations in proposed § 154.409, which are the same as those in section 4.12 and Figure 4.1 of the IMCO Gas Code, greatly exceed the dynamic accelerations the Coast Guard previously required in 46 CFR 38.05–2. The commenter also noted that the maximum allowable stress has not been changed and suggested that a change be made because allowable stresses and design criteria, such as dynamic loads, are related and not independent of each other. The Coast Guard does not agree with this comment. The criteria for dynamic loads in proposed § 154.409 is considered to be more representative of the actual loads experienced in service than those previously used. The regulations, as proposed, contain the allowable stresses which are based on the assumption that the designer will take all loads into consideration, including dynamic loads.

One commenter suggested that in proposed § 154.409(c), the definition of "L_s" be changed to reflect paragraph 4.12(d)(i) of the IMCO Gas Code which states that the length should be "as defined in Recognized Standards". The definition of "L_s" has been changed to read the same as the definition of length used by the American Bureau of Shipping.

Proposed § 154.409(c)(2) has been changed to state that the acceleration

formulae correspond to a 10^{-8} probability level for the North Atlantic Ocean for vessels over 50 meters in length. This statement was inadvertently omitted from the proposed regulations. This paragraph now agrees with section 4.12 of the IMCO Gas Code.

Section 154.427. One commenter suggested that proposed § 154.427 does not provide for equipment that protects a membrane system from pressure or vacuum which must, as a practical matter, always be included in the design of a membrane containment system. The Coast Guard agrees with the suggestion and has changed the wording of proposed § 154.425 to specify the components of a membrane tank system. Pressure control equipment was added as one of these components. Proposed § 154.427 was rewritten to clarify that the membrane tank system rather than the membrane or supporting insulation must be designed for the specified loads.

Section 154.439. Proposed § 154.439 has been changed to eliminate redundancy and to clarify that the intent of the section is to require that an independent tank type A meet the standards of the American Bureau of Shipping and also be designed for certain specified loads.

Section 154.444. Proposed § 154.444 has been changed to eliminate redundancy by omitting paragraphs (a) and (b) and adding reference to §§ 154.445 through 154.449.

Section 154.447. Several commenters pointed out that the maximum allowable stress required in proposed § 154.447(a) is less than that allowed by section 4.5 of the IMCO Gas Code. Specifically, proposed Table 2 required A=4.0 while IMCO requires only A=3.0 or A=3.5. The commenters suggested that the Coast Guard try to resolve the differences although they realized that it may require a change to the ASME Boiler and Pressure Vessel Code.

One commenter also said that the IMCO Gas Code does not invite individual administrations to set higher standards than in IMCO. The maximum allowable stress used by the Coast Guard is taken from Section VIII, Division 1, of the ASME Boiler and Pressure Vessel Code. This Code is the basic standard used for the design of pressure vessels throughout North America and has been used in Coast Guard regulations for many years. At this time the Coast Guard does not consider it appropriate to deviate from that Code for liquefied gas tankers. Paragraph 4.5.1(d)(i) of the IMCO Gas Code states that the values of A, B, C and D should be at least the *minimum* specified in the table, which allows higher values to be used. At meetings during the development of the IMCO Gas Code, the Coast Guard repeatedly and consistently stated its intentions to set maximum allowable stress based on the ASME Code even if it was more stringent than the final version of the Code.

One commenter thought that some definitions and expressions for terms used in this section had been omitted. These terms have not been omitted and are contained in Appendices A and B to Part 154 which are referenced in this section.

Section 154.448. Two commenters suggested that the value of C_v in proposed § 154.448 could be greater than 0.5 if supported by analysis and testing as allowed by paragraph 4.4.5(f) of the IMCO Gas Code. The Coast Guard recognizes a C_v equal to or less than 0.5 as being the "state of the art" for fatigue analysis, however, in order to follow the IMCO Gas Code more closely and to allow for a more sophisticated analysis, paragraph (g) of § 154.448 has been rewritten to allow values of C_v more than 0.5 if specially approved by the Commandant (G–MMT).

Section 154.451. Two commenters indicated that the definition of "σ_m" in proposed § 154.451 was incorrect because the word "membrane" was omitted. The definition has been corrected to read "Design primary membrane stress".

One commenter suggested that "at the design temperature" should be included in the definition of "ρ". The Coast Guard agrees with the commenter, however, no change has been made since "specific gravity (ρ)" is defined in § 154.3 and includes consideration of the cargo temperature.

Section 154.459. Two commenters suggested an addition to proposed § 154.459 to allow for future designs that could have a different secondary barrier arrangement. New or novel designs not included in this section are provided for in § 154.8. For further discussion see the preamble discussion for § 154.8.

Several commenters pointed out that the reference in proposed § 154.459(d)(1) is incorrect because § 154.600 does not exist. The correct reference to §§ 154.605 through 154.630 has been substituted.

Section 154.460. Proposed § 154.460(a) has been changed to distinguish between the design capacity requirement for partial and complete secondary barriers.

Section 154.465. Two commenters objected to the more severe design ambient temperatures proposed under § 154.449 and under proposed §§ 154.174 and 154.176. One commenter said that unless U.S. ships could be built to the IMCO Gas Code design ambient temperatures, they could not compete economically with foreign flag vessels on routes other than those to U.S. ports. The other commenter thought the Coast Guard should make further investigations to determine the exact behavior of different steels of varying toughness at different ambient temperatures and under various load conditions. Both commenters suggested that proposed § 154.466 be rewritten to indicate that the specified design ambient temperatures are for unrestricted service and that warmer temperatures, including but not exceeding those allowed by the IMCO Gas Code, be allowed depending on the circumstances.

IMCO assumes a minimum ambient air temperature of 5° C (41° F) for worldwide service. This clearly does not realistically reflect prevailing temperatures in many U.S. ports year round. Existing Coast Guard regulations (46 CFR 38.05–2(c)) specify −18° C (0° F) *still air*, while the proposed regulations specify −18° C (0° F) air at *5 knots* for service to all U.S. ports except those in Alaska. For Alaskan service, air temperature for design purposes would be −29° C (−20° F) at 5 knots, and sea water at −2° C (28° F). These temperatures reflect actual minimum temperatures occurring in U.S. ports during the winter months. The design temperatures proposed have been in use for several years by designers of foreign vessels that are designed to engage in U.S. trade, and by the designers of gas ships that are designed for U.S. flag. Accordingly, the Coast Guard sees no reason to change the proposal. Further, the Coast Guard does not intend to perform new research on the effects of temperature on hull steel as the effects are well known. The Coast Guard would welcome any submitted data regarding the combined effects of temperature and loading on hull steels.

Concerning the final comment, the Coast Guard has required the proposed Alaskan ambients since 1972 and has never allowed restricted Alaskan service based upon the seasonably warmer temperatures prevailing during certain portions of the year. The Coast Guard is continuing with this policy in the future. Service to Alaska will only be allowed if the contiguous hull structure is adequately designed based upon the minimum cargo carriage temperature and the Alaskan design ambients. Depending upon the design of the vessel, carriage of certain cargoes to and from Alaska may be authorized

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while other cargoes, carried at lower temperatures, are prohibited. These carriage limitations will be noted on the Certificate of Inspection or on the *Cargoes and Restrictions* list which is included with the Letter of Compliance.

One commenter suggested that some foreign ports, where U.S. gas ships may be trading, may also require the use of lower ambient design temperatures. There is the possibility of U.S. ships trading in cold weather ports in other parts of the world where ambient conditions are comparable to those in Alaska, however, the Coast Guard has not received proposals for U.S. gas ships trading to such ports as yet, and consequently temperature statistics have not been collected for foreign ports. The comment is well taken but cannot be addressed at this time.

Section 154.470. One commenter noted that proposed § 154.470(c) is more restrictive than paragraph 4.6.7 of the IMCO Gas Code, which allows plastic deformation that does not endanger the hull structure when anti-flotation loads are considered. The Coast Guard agrees with this comment and has changed paragraph (c) to allow plastic deformation that would not endanger the hull structure.

Cargo and Process Piping Systems

Section 154.506. Two commenters objected to an implied limit on the number of mechanical expansion joints used in a piping system. It was suggested that if specific restrictions are intended, they should be included in the regulations in order to provide guidance to designers.

This section is intended to follow paragraph 5.2.1(b) of the IMCO Gas Code which specifies that the use of the mechanical expansion joints should be kept to a minimum. This is also the long standing policy of the Coast Guard when specially approving the use of mechanical expansion joints in piping systems on liquefied gas carriers. To clarify the requirements, the proposed section was rewritten by combining the requirements of proposed §§ 154.506 and 154.508 into one section. The requirement in proposed § 154.506 for "the number of mechanical expansion joints to be specially approved by the Commandant (G–MMT)" was replaced by a new paragraph (a) which specifies the conditions for use of mechanical expansion joints outside of the cargo tanks. New paragraphs (b) and (c) have also been added to § 154.506 to replace proposed § 154.508. The preamble discussion of proposed § 154.508 explains paragraph (c) which is different from the requirements in proposed § 154.508(b).

Section 154.508. Many commenters objected to proposed § 154.508, which required a cover on bellows expansion joints to prevent icing damage. The commenters' reasons for not installing a cover included:

(1) The need for visual inspection for corrosion, leakage, or damage before and during use.

(2) Water could be trapped under a cover and could cause pitting and stress corrosion.

(3) Trapped water would freeze and could cause a greater ice buildup than if the bellows were not covered.

(4) The experience and standard of industry are not to cover bellows expansion joints.

The Coast Guard concurs and has changed the requirement by omitting § 154.508 and by adding new paragraphs (b) and (c) to § 154.506.

Section 154.514. Two commenters recommended that the method of electrical bonding be specified in proposed § 154.514. It was suggested that separate pipe sections which are each grounded to the hull need not have an additional electrical bond across their connections. It was also suggested that bolted flange connections which provide metal to metal contact between the bolts and both flanges need not have a separate bonding strap across the connection. These are universally accepted methods of electrical bonding and the Coast Guard agrees with both suggestions. In order to clarify the intent of the term "electrical bond", and to indicate the acceptability of these techniques, the Coast Guard has added these methods to this section as a new paragraph (c). Additionally, metal to metal contact between adjacent parts under normal operating conditions has also been added as an acceptable method of electrical bonding.

Another commenter questioned if the intent of the Coast Guard, when including hose connections in proposed § 154.514(b), was to require ship to shore grounding, noting the permissive, but not mandatory, provision for a ground connection in 46 CFR 35.35–5. The Coast Guard's intent was not to require ship to shore grounding but to require that the metallic end fitting on a hose connected to ship's piping be grounded. Proposed paragraph (b) has been changed for clarification.

Section 154.519. Two commenters suggested that in proposed § 154.519, the liquid relief valves in the cargo piping system be allowed to discharge into either a cargo tank or a cargo vent mast. § 154.519 (a) and (b), have been changed to allow either method of discharge.

One of the commenters suggested that a prohibition of shut-off valves in the relief valve discharge lines to the cargo tanks should be included. The other commenter said that proposed § 154.519 is in conflict with proposed §§ 154.530(a) and 154.532(a) which require shut-off valves at all tank connections. The Coast Guard does not agree with either comment. Shut-off valves are required at all tank connections to allow complete isolation of a tank and prevent any flow into or out of the tank. For a relief valve to discharge directly to a cargo tank, it would be necessary to arrange the piping to allow an alternate path for the relieved liquid should the valve at the cargo tank be closed. As discussed in the previous paragraph, there is also the alternative of discharging to a vent mast. While the two sections may appear to be in conflict at first glance, there are several arrangements that can meet both requirements.

One commenter also suggested that a relief valve discharging to a cargo vent mast be installed above the cargo piping it protects to improve the likelihood of vapor being discharged. This arrangement might be advantageous and is not prohibited by the proposed section, however, the Coast Guard does not consider it necessary to make it a requirement.

Section 154.520. One commenter suggested that vibration and wind loads be included as design considerations in proposed § 154.520. No change has been made to this section so that it remains equivalent to paragraph 5.2.7 of the IMCO Gas Code which lists the same loads included in § 154.520 (a) through (e). The Coast Guard considers vibration and wind loads less important than the listed loads but this does not prevent the designer from including them in his analysis when he thinks they are necessary.

Proposed § 154.520 has been changed to require that stress analysis for piping with a design temperature of −110° C (−166° F) or lower be "specially approved by the Commandant (G–MMT)." This wording was inadvertently omitted from the proposal and was added to follow paragraph 5.2.7 of the IMCO Gas Code which states that the stress analysis, "should be submitted to the administration."

Section 154.522. One commenter suggested that in proposed § 154.522 steel pipe meeting ASTM A333, grade 1, should be allowed for open ended piping inside cargo tanks at temperatures of −55° C (−67° F) or warmer. In 46 CFR 56.50–105, the Coast Guard allows pipe

meeting the suggested standards to be used at temperatures of −34.4° C (−30° F) or warmer. The Coast Guard, therefore, does not agree with the suggestion for open ended piping inside cargo tanks; however, this material could be considered for open ended vent piping as allowed in this section.

Section 154.524. Two commenters noted that socket weld fittings were not included as an acceptable means for joining pipes in proposed § 154.524. The commenters suggested that the fittings be allowed for pipe sizes of either three inches or two inches and less, without temperature limitations. The Coast Guard agrees with these comments and since socket weld fittings, such as socket weld flanges under § 154.528, are acceptable to the Coast Guard, they have been included in a new paragraph (c), however, the size has been limited to pipe sizes of 50 mm (2 in.) or less, and design temperatures of −55° C (−67° F) or warmer which is the same requirement for socket weld flanges. The paragraph proposed as (c) has been designated (d) and a new paragraph (e) has been added to allow other fittings or methods of joining pipes that are specially approved by the Commandant (G–MMT).

Section 154.528. One commenter noted the exclusion of nominal pipe size 100 mm (4 in.) and 50 mm (2 in.) in proposed §§ 154.528 (b)(1) and (b)(2) respectively. Paragraphs (b)(1) and (b)(2) have been corrected to read "100 mm (4 in.) or less," and "50 mm (2 in.) or less" respectively.

Section 154.530. One commenter stated that proposed § 154.530 conflicts with proposed § 154.1310 because the former section excludes a closed gauging device from the requirement for a tank shut-off valve while the latter section requires it for closed gauges not mounted directly on the tank. A similar conflict occurs in § 154.536 which requires a quick-closing shut-off valve or excess flow valve on tank gauge connections if the gauge allows an outward flow greater than the flow through a 1.4 mm hole. Proposed § 154.530(a) has been changed to clarify the requirement by adding the word "tank" before the words "safety relief valve", by adding the words "other than those under §§ 154.536 or 154.1310" after the words "gauging devices", and by rearranging the text. These changes eliminate any apparent conflict with the requirements in §§ 154.536 or 154.1310.

For clarification, proposed § 154.530(a)(3) has been changed to read "are capable of local manual operation" and is now redesignated § 154.530(a)(2). The words "manual control" were changed to "local manual operation" to clarify the intent that the valve must be able to be opened and closed manually. A new paragraph (a)(3) has been added to permit the valve to be remotely controlled. This wording reflects that used in paragraph 5.3.1(a) of the IMCO Gas Code.

One commenter suggested that in proposed § 154.530(a) the required shut-off valves on tank vapor connections be allowed to have resilient seats instead of the "nominal metal to metal contact" included in the definition of shut-off valve in § 154.3. The commenter said the lower leakage rate of a resilient seat would be preferable to the greater degree of fire protection provided by a metal to metal seat.

The Coast Guard does not concur as the degree of fire protection is the more important consideration. These regulations do not prohibit a second valve with a resilient seat from being used in series with the required shut-off valve if less leakage is desired during normal operating conditions. To clarify the type of valve which is required, reference to the definition of a "shut-off valve" was added to proposed § 154.530(a). Additionally, proposed § 154.530(a)(1) was omitted since it is already included in the definition of "shut-off valve".

Section 154.532. The comments received for proposed § 154.530 also apply to proposed § 154.532. The same changes have been made to proposed paragraph (a) as were made to § 154.530(a).

Commenting on proposed § 154.532(a), one commenter objected to requiring a manually controlled stop valve and a quick-closing shut-off valve since the quick-closing shut-off valve is already required under § 154.540 to have manual control and, therefore, could perform the function for both valves. Proposed § 154.532 follows paragraph 5.3.1(b) of the IMCO Gas Code which requires both valves unless the quick-closing shut-off valve is capable of performing all the functions of a manually controlled stop valve. Specifically, the valve must be capable of being opened and closed manually and, once manually closed, the valve must only open manually. To clarify this requirement, paragraph (c)(2) of proposed § 154.532 has been changed to read "is capable of local manual operation". Also, see the discussion on proposed §§ 154.540 and 154.544 for similar changes to those sections.

Section 154.534. For clarification the word "cargo" has been inserted before the word "compressors" in proposed § 154.534.

Section 154.538. Proposed § 154.538(a) has been changed by adding references to §§ 154.540 and 154.544. This was done to clarify which requirements the remotely controlled quick-closing shut-off valve must meet.

Section 154.540. One commenter suggested that in proposed § 154.540 the location for the controls to operate the emergency shut down system should be designated as the "normal operating position of the person in charge of cargo transfer operations." Paragraph 5.3.4 of the IMCO Gas Code requires that the location of the controls include the cargo control room or cargo loading station. The Coast Guard has followed the IMCO Gas Code by requiring controls in at least two locations remote from the valves with controls in each cargo control station. If there are two or more cargo control stations, single controls in each of these locations will satisfy the requirements. This commenter's suggestion would have been allowed under proposed § 154.540(b)(2), and the suggested change was not necessary.

In response to comments on proposed § 154.532, which have been previously discussed, several changes have been made to clarify the requirements of § 154.540. The word "control" has been changed to "shutdown" wherever it applies to the "control system", to better describe the purpose and function of the system. Also, the word "operate" which implies both opening and closing has been changed to "close". As a practical matter, it is realized that the system will probably be able to both open and close the valves, however, the emergency shut-down system is only required to close the valves.

To incorporate these changes, proposed § 154.540(b)(1) has been changed by adding a reference to § 154.320 and proposed paragraph (c) has been omitted and the requirements moved to § 154.544. Finally, since the fusible elements are an integral control element of the emergency shut-down system, the substance of proposed § 154.542 has been added to proposed § 154.540 and proposed § 154.542 is omitted. All references to § 154.542 have been omitted. The proposed section was rewritten to clarify the requirements, eliminate redundancy and to separate the design requirements for the emergency shut-down system from the design requirements for the quick-closing valves.

Section 154.542. See the preamble comments concerning proposed § 154.540.

Section 154.544. Two commenters questioned the 30 second maximum closing time in proposed § 154.544 as

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being arbitrary and possibly causing a pressure surge that could damage long loading lines at some shore terminals. The Coast Guard is aware of the pressure surge problem and is investigating possible solutions which might require a future change to these requirements. For the present, the 30 second maximum closing time is considered reasonable and it is necessary to define "quick-closing". It should be noted that other measures, such as reduced loading rates, can be used to reduce the pressure surge.

To clarify this section several changes were made as follows:

(1) A reference to the definition of a shut-off valve was added as paragraph (a).

(2) The required closing time in proposed § 154.544 was changed to read ". . . 30 seconds or less," and is now in paragraph (b).

(3) The requirements omitted from proposed § 154.540(c) were added to § 154.544 as new paragraphs (c) and (d).

(4) Paragraph (d) was reworded the same as article 5.3.4 of the IMCO Gas Code and clarified that the quick-closing valves need be "capable of local manual closing" rather than "have manual control".

Sections 154.552–154.562. Commenting on proposed §§ 154.552 to 154.562, one commenter suggested it be specified that the requirements for cargo hose are applicable only to cargo hose carried on board the vessel. He further suggested that requirements for hoses furnished by the shore facility should be covered by shore facility regulations. The Coast Guard concurs and to state this limitation, a new § 154.551 has been added to the proposed rule.

Section 154.554. For clarification an editorial correction has been made to proposed § 154.554 by changing the words "pressurized by the tank" to "exposed to the pressure in the cargo tank."

Section 154.558. One commenter suggested that each cargo hose under proposed § 154.558 be marked to indicate the products for which it has been approved. This suggestion was not adopted because the Coast Guard does not consider it practical to mark a hose with all cargoes for which it could be used. The requirement to mark maximum working pressure and minimum service temperature is considered sufficient. It should be noted that the proposed section does not prohibit a vessel operator from marking the hoses for the cargoes carried by his vessel. This could be advantageous to operating personnel. Also it should be noted that proposed § 154.1725(b) requires marking of cargo hoses used for ethylene oxide.

Section 154.560. In response to comments on proposed § 154.1858, proposed § 154.560 has been rewritten to note that the hose used for the prototype test cannot be used as a cargo hose.

Materials

Sections 154.605 through 154.620. One commenter said that in proposed §§ 154.605 through 154.620 it was difficult to determine the Coast Guard requirements which were in addition to the provisions of the IMCO Gas Code. He suggested that the regulations be separated into requirements based on the IMCO Gas Code and additional Coast Guard requirements, if any. The commenter also suggested that certain other provisions of Chapter 6 of the IMCO Gas Code be included in these regulations. The Coast Guard does not accept these suggestions. Those IMCO requirements of Chapter 6 not specified in proposed §§ 154.605 through 154.620 are already contained in other U.S. Coast Guard regulations, which are referenced in the appropriate sections. (§ 54.25–10, which is referenced in proposed § 154.615, has been changed in this document to agree with Table 6.2 of the IMCO Gas Code.) Additionally, for certain details of Chapter 6, the IMCO Code allows the approving administration to establish the standards within certain guidelines. For clarity and to avoid future confusion, the Coast Guard has chosen to specify the acceptable standards in these regulations. Finally, since the four areas in which Part 154 exceeds the IMCO Gas Code have been outlined in the preamble to this rule and the Notice of Proposed Rulemaking, no separation of the regulations is needed.

Commenting on proposed §§ 154.610, 154.615 and 154.620, one commenter suggested the following:

(1) Deletion of the word "castings" from these sections since castings are not included in Tables 6.1, 6.2 and 6.3 of the IMCO Gas Code;

(2) Requiring "fine grain practice" only in plates in proposed § 154.610(a) since forgings and shapes may not be made using "fine grain practice"; and

(3) That low alloy steels should be acceptable under proposed § 154.610(a), in addition to carbon-manganese steel for service temperatures not colder than 0° C (32° F).

The Coast Guard concurs with the suggestions and has made changes as follows:

(1) The word "castings" has been deleted wherever it appeared in proposed §§ 154.610, 154.615 and 154.620.

(2) Proposed § 154.610(a) has been divided into three new paragraphs (a), (b) and (c) and changed to require "fine grain practice" only for plates.

(3) Materials other than carbon manganese steel have been included under § 154.610(b) by adding references to §§ 154.615, 154.620, and 154.625.

Section 154.610. One commenter objected to the material requirements in proposed § 154.610 being applied to process pressure vessels. He states that many materials currently being used have proven satisfactory in service and their use in process pressure vessels would be prohibited under the proposed requirement. Additionally, the commenter claimed that adherence by the manufacturer to the proposed material requirements would make each component "special", thus increasing cost and lead times. It was suggested that the Coast Guard continue applying the material requirements of 46 CFR Part 54, which the commenter considers to be adequate.

The Coast Guard agrees that the current requirements for materials used in pressure vessels under 46 CFR Part 54 are sufficient and has changed proposed § 154.610 by making the section applicable only to "cargo tanks". Also, an addition has been made to proposed § 154.610 to emphasize that cargo tank materials for service at or above 0° C (32° F) must meet the ASME Code requirements under 46 CFR 54.25–1 and 54.25–3.

Pipes and tubes have been eliminated as product forms subject to the requirements of § 154.610. This follows Table 6.1 of the IMCO Gas Code which specifies "normal practice" for seamless and welded pipes and tubes. The Coast Guard considers this adequately addressed in 46 CFR Part 56.

Section 154.615. One commenter noted that proposed § 154.615 sets the upper temperature limit for low temperature operation at 0° C (32° F), as specified in the IMCO Gas Code. This differs from the previously required Coast Guard temperature limit of minus 18° C (0° F). The commenter claims this will affect a large group of process pressure vessels, used in LPG/NH_3 reliquefaction systems, which operate between 0° F and 32° F since they will now have to meet the requirements for low temperature service. It was suggested that the 0° F cut-off temperature be retained.

The Coast Guard agrees and has changed proposed § 154.615 by making this section applicable only to cargo tanks and secondary barriers. Process pressure vessels must meet 46 CFR Part 54 as required by § 154.450.

Section 154.620. In response to comments on proposed § 154.630, a new paragraph (b) was added to this section to include aluminum alloys. Because of the addition of aluminum alloys, extruded bars and shapes have been added as product forms in this section.

Section 154.630. One commenter pointed out that aluminum alloys are not mentioned in proposed § 154.610, § 154.615, or § 154.620, when in fact, many LNG cargo tanks in the United States are being constructed of aluminum. It was suggested that aluminum be included other than in proposed § 154.630(b). The Coast Guard agrees and has included aluminum alloys in § 154.620(b).

The same commenter also questioned the intent of proposed § 154.630(b). He understood it to mean that aluminum alloys, which are used for independent tank types A and B, must be in the annealed condition. The commenter objected suggesting that this would essentially prevent the use of heat treated alloys such as 6061–T4, which have been used for piping inside tanks. It was suggested that heat treated alloys not be eliminated. The Coast Guard's intent was to follow paragraph 4.5.1(f)(i) of the IMCO Gas Code which states that for welded connections the minimum tensile strength used in determining allowable stress should correspond to the tensile strength of the alloy in the "as fabricated condition" (annealed condition). Proposed paragraph (b) has been rewritten to clarify this.

Construction

Section 154.650. One commenter suggested that proposed § 154.650(b), which references 46 CFR 57.02–4, should also include an allowance for the use for weld filler metals approved by classification societies other than the American Bureau of Shipping (ABS). This is needed especially for ships that will be foreign built to meet U.S. regulations. A provision allowing the use of filler metals other than those approved by ABS is already included in 46 CFR 57.02–4(b). Accordingly, no change was made to this section.

Section 154.655. One commenter noted that proposed § 154.655(b) appears to require mandatory stress relieving of independent type C tanks constructed of materials other than carbon or carbon manganese steels, with the details of the procedure being specially approved by the Commandant (G-MMT). The commenter suggests that tanks constructed of materials such as 9% nickel steel, stainless steel and aluminum do not need stress relieving. The Coast Guard agrees with the commenter that not all materials requires stress relief. The requirement has been clarified by changing proposed paragraph (b) to indicate that tanks, constructed of materials other than carbon and carbon manganese steel, be stress relieved in accordance with 46 CFR Part 54.

One commenter objected to the limitations on mechanical stress relief in 46 CFR Subpart 54.30, referenced in proposed § 154.655, which allows mechanical stress relief in lieu of thermal stress relief provided the tank shell thickness is 1 inch or less. The commenter suggested that this limit be increased to 30 mm (1.18 in.) which has been allowed by some classification societies. The Coast Guard is currently reviewing this problem and is considering a change to 46 CFR Subpart 54.30 to increase the tank shell thickness limit. If a change is made, it will be published in a future notice of proposed rulemaking. Accordingly, no change is now made to 46 CFR Subpart 54.30.

Section 154.660. Two commenters questioned proposed § 154.660 asking whether it was intended that longitudinal butt welds be included in proposed paragraphs (b) and (c) in addition to girth butt welds. For purposes of this section, a longitudinal butt weld is considered to be included under the term "butt weld" when it is in a piping component other than a component manufactured to a standard specification under 46 CFR 56.60–1. For clarification proposed paragraph (b) has been changed to specify which type of butt welds must meet the requirements of this section.

One commenter stated that proposed paragraph (b) requires both mandatory post-weld heat treatment and compliance with 46 CFR 56.50–105 and Subpart 56.85. He further states that these requirements conflict with paragraph 5.2.10(f) of the IMCO Gas Code since IMCO permits exclusions from post-weld heat treatment for materials less than 10 mm thick. The Coast Guard does not agree that a conflict exists. IMCO allows exclusions from post-weld heat treatment at the "Administration's" discretion. The Coast Guard, representing the "Administration", has decided to continue with present U.S. regulations as contained in Subchapter F, specifically § 56.50–105(a)(3), which does not permit general exclusions based upon material thickness. However, to clarify this requirement, proposed paragraph (b) has been changed to require post-weld heat treatment only when required by 46 CFR 56.50–105. Due to other changes to this section this paragraph is now designated paragraph (b)(1).

Also commenting on proposed paragraph (b), one commenter recommended that the requirement for post-weld heat treatment be reevaluated, since in the past several vessels have been exempted from this requirement and have performed satisfactorily. It was further suggested that if the requirement is deemed necessary, then it should be limited to a specified range of service temperatures. The Coast Guard does not consider a few isolated incidents of satisfactory performance as adequate justification for changing a long standing, well-founded requirement. Additionally, the service conditions of pressure and temperature for which post-weld heat treatment is required are specified in the referenced regulation. Accordingly, this recommendation was not accepted.

Two commenters had questions or suggestions regarding the requirements for radiographic testing of welds. One commenter suggested that for open ended vent pipes the requirement for radiographic testing of butt welds should be reduced from 100% to 10% random radiography. The Coast Guard does not agree. This requirement is consistent with the current requirements of 46 CFR Subpart 56.95 requiring 100% radiographic testing for Class II–L piping. The Coast Guard has, however, determined that cargo piping inside independent cargo tanks need not be 100% radiographically tested and has changed proposed paragraph (c)(1) accordingly. Radiographic testing of piping inside membrane or semi-membrane tanks is still required since these tanks could be damaged should the cargo piping fail.

The other commenter noted that the proposed rule requires radiographic testing of butt welds in pipes with an inside diameter greater than 100 mm while paragraph 5.2.10(f) of the IMCO Gas Code requires radiography for all pipes with an inside diameter greater than 75 mm. The commenter asked whether this apparent liberalization was intended.

The Coast Guard intended to incorporate the requiremens of 46 CFR 56.95–10 into proposed § 154.660. Unfortunately, the diameter restriction was mistakenly included in the proposal as *"inside* diameter of 100 mm", rather than *"nominal* diameter of 100 mm" (this is considered to be equivalent to nominal 4 inch pipe). Using the word "nominal", proposed paragraph (c)(1) is consistent with § 56.95–10 of this

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chapter and is equivalent to paragraph 5.2.10(f) of the IMCO Gas Code. Hence, no liberalization was intended or given. The word "inside" has been changed to "nominal" in proposed paragraph (c)(1) (renumbered paragraph (b)(2)).

Cargo Pressure and Temperature Control

Section 154.701. Several commenters expressed concern that proposed § 154.701(a)(1) could be interpreted as requiring separate refrigeration systems for each tank. As this was not intended, the wording has been changed to reflect the acceptability of an arrangement where each tank is served by a common system.

Several commenters felt that in proposed § 154.701(a)(2) MARVS should have been used as a design criteria in lieu of P_v. Paragraph 7.1.1 of the IMCO Gas Code, on which this section is based, refers neither to P_v nor MARVS, but system design pressure at upper ambient conditions. This section has been changed to reflect the proper pressure standard, and now requires that the safety relief valve be set at a pressure which is equal to or greater than the vapor pressure of the cargo at 45° C but not greater than the MARVS.

One commenter noted that design of containment systems to the standard in this section was limited to independent tanks type C, a restriction not included in the IMCO Gas Code. Since other types of tanks could meet the standard for relatively low vapor pressure gases, that restriction has been removed.

One commenter requested that proposed § 154.701(b) be changed to include the alternatives to separate refrigeration systems for incompatible cargoes as stated in paragraph 7.2.2 of the IMCO Gas Code. Should a suitable alternative to separate systems be developed, the Coast Guard could accept it on the basis of equivalence. Accordingly, this change was not incorporated into this section. Proposed paragraphs (a) and (b), however, were combined for clarification of the requirements.

One commenter suggested that vessels carrying certain cargoes (e.g. LNG) be permitted to control cargo tank pressure by venting, as in paragraph 7.1.1(e) of the IMCO Gas Code. The Coast Guard does not allow the atmospheric venting of hazardous cargoes under normal operating conditions. There are adequate alternatives for controlling the cargo vapors that are generated during normal operations and carriage. Many of these techniques are in this proposed section. The Coast Guard recognizes that in emergencies atmospheric cargo venting may be the only feasible method to prevent a tank rupture; however, since alternatives are available during normal operations, antospheric venting has not been added to this section.

The same commenter requested that provision for other systems for pressure and temperature controls be made, as in paragraph 7.1.1(d) of the IMCO Gas Code. The proposed methods of control provide an adequate range of alternatives. Additionally, since there is a mechanism for evaluating other alternatives as equivalents, paragraph 7.1.1(d) will not be specifically included in these regulations.

Section 154.702. One commenter noted that the pressure criteria in proposed §§ 154.702(a)(1) and 154.703 should have been the MARVS in lieu of P_v. The Coast Guard does not agree with this commenter. The correct pressure criteria is the set pressure of the cargo tank safety relief valve. This correction was made to the proposal.

One commenter requested that proposed §§ 154.702(a)(1) and 154.703 clearly allow a refrigeration system to serve a number of tanks. The former section has been changed to clarify this point for both sections.

Wording was added to proposed § 154.702(c)(1) to clarify that the excess capacity of a refrigeration heat exchanger is calculated as a percentage of the *required* capacity, not the actual capacity.

Two commenters noted that the distinction between "essential service" and "interference with essential service" was not recognized in proposed § 154.702(d)(3), as it was in paragraph 7.2.3 of the IMCO Gas Code. This section has been changed to include this consideration.

One commenter suggested that the types of refrigeration systems, described in paragraph 7.2.4 of the IMCO Gas Code, should also be described in proposed § 154.702(e). This suggestion was not accepted since the descriptions appear in proposed Subpart D—Special Requirements, where their inclusion is more appropriate.

One Commenter indicated that the requirement for automatic and manual cargo temperature controls in proposed § 154.702(f) were in excess of IMCO requirements. It was not the intent of the Coast Guard to require automatic cargo temperature control for each refrigeration system, but rather to ensure that manual control was always provided. Since manual control, via at least an on-off power switch, is always available, it was decided that this requirement was unnecessary. Accordingly, this paragraph has been omitted, and proposed paragraph (g) has been designated paragraph (f).

Section 154.703. Two commenters questioned the 21 day retention requirement in proposed § 154.703. One suggested that it was in excess of the previously mentioned 14 day criterion, while the other questioned if it was applicable to all vessels regardless of the length of the transport voyage. The 21 day criterion is applicable regardless of normal voyage length. The 14 day criterion does not exist. The confusion stems from a requirement related to secondary barrier performance for 15 days in the case of primary barrier failure. Accordingly, no change was made to this section.

Section 154.705. One commenter asked whether proposed § 154.705(c) precluded the burning of 100% boil off gas at sea. Reference in § 154.705(c) to § 154.1854 was inserted to indicate the acceptability of this mode of operation.

Section 154.706. One commenter suggested that the rate of air change required in proposed § 154.706(a)(2) for gas fuel line vent ducts specifically include consideration of the ruptured fuel line condition. Because the minimum rate specified in this proposal is consistent with the IMCO Gas Code, the Coast Guard did not change the requirement. Factors such as a ruptured fuel line condition, the interrelationship of the flow rate and the gas detection equipment capabilities, and other factors, could only be evaluated on a case by case basis. Accordingly, no change was made to this section.

Section 154.708. Proposed § 154.708(c) was changed so that it now follows the IMCO Gas Code which requires automatic closure of the master gas valve upon loss of inert gas pressure within a double-walled gas fuel piping system.

Section 154.709. The requirement is proposed § 154.709(a)(2) for automatic closure of the master gas valve upon detection of gas was changed to follow the IMCO Gas Code. The valve is required to close "before" (not "*if*" as proposed) the concentration reaches 3% by volume.

Cargo Vent Systems

Section 154.801. One commenter noted that proposed § 154.801(b) requires two relief valves of "equal capacity," while the IMCO Gas Code requires that they be only "approximately equal". This section has been rewritten to require two valves of "the same nominal relieving capacity."

One commenter questioned the requirement in proposed § 154.801(c)(1) that the pressure relief valves meet 46 CFR Subpart 162.017 if the tank MARVS is 69 kPa gauge (10 psig) or less. He suggested that all pressure relief valves on gas carriers be required to meet 46 CFR Subpart 162.018 regardless of the tank MARVS. The intent of the proposal is that, when the cargo tank MARVS is 69 kPa gauge or less and the pressure relief device is also capable of vacuum relief, i.e. a P–V valve, the requirements of 46 CFR Subpart 162.017 may be met instead of 46 CFR Subpart 162.018. This section has been rewritten to clarify the intent.

Several persons commented on proposed § 154.801(c)(4) that the requirement to insulate the pressure relief valve from the cargo tank when carrying a cargo at a temperature below 0° C (32° F) is both impractical and unnecessary since these valves are designed for low temperature service. Further, they suggest that no material exists which will satisfy this requirement and also meet proposed § 154.522(b). The Coast Guard's intent in this section was to address the problem of the valves becoming inoperative due to ice formation. It is recognized that other alternatives are available to prevent this problem. Accordingly, proposed paragraph (c)(4) has been rewritten and moved into a new paragraph (d) in this section. The remaining proposed paragraphs were renumbered.

One commenter suggested that it be specified whether the required 0.015 L trim in proposed § 154.801(c)(5) is by the bow and stern or by the stern only. The proposed section has been rewritten to say that both trim by the bow and trim by the stern must be considered.

Section 154.804. Commenting on proposed § 154.804(a)(1), one commenter suggested that the audible and visual alarms for each tank be required only in the cargo control station. The Coast Guard agrees that a grouped alarm rather then independent alarms should be allowed in the wheelhouse. Requiring independent alarms in the wheelhouse for each tank provides no additional protection since no corrective action can be taken from this location. Accordingly, the section has been rewritten to reflect the comment. A definition of a "remote group alarm" is included in § 154.3.

Section 154.805. One commenter suggested that the provision contained in paragraph 5.2.10 of the IMCO Gas Code for vessels less than 90 meters in length be incorporated into proposed § 154.805(e) since it may be impractical to locate a vent mast 25 meters away from gas safe spaces on smaller ships. Another commenter suggested that the distance requirement stated in this proposed section, i.e. B or 25 meters whichever is less, is excessive in all cases. A distance of B or 25 meters is the required separation distance contained in paragraph 8.2.18 of the IMCO Gas Code and vessel designers have been able to meet this requirement. It is recognized, however, that on certain smaller vessels it may be impractical to locate vent masts B or 25 meters from gas safe spaces. Accordingly, this proposed section has been rewritten to allow shorter separation distances on vessels less than 90 meters in length if specially approved by the Commandant (G–MMT).

Section 154.806. One commenter suggested that proposed § 154.806 include specific reference to consideration of the anticipated inlet pressure losses to the relief valve to prevent resonant chattering of the valve, in addition to back pressure considerations when sizing the relief valves. Typical relief valve inlet nozzles on gas carriers could produce significant pressure losses if they are other than flush with the interior surface of the tank. Also, a long pipe riser (not usually used on gas carriers) or pipe bends could also produce this effect. When significant inlet pressure losses are present, it is expected that appreciable "resonant chattering of the valve" will occur. This is detrimental to the normal operation of the valve since it reduces the valve capacity and could potentially destroy the relief valve. The Coast Guard knows of no way in which "resonant chattering" can be prevented merely by sizing the relief valves. This effect can be eliminated, however, by proper design of the relieving arrangement so as to minimize inlet pressure losses to the relief valve. Accordingly, this problem has not been addressed in this section but is included in § 154.801 as a design consideration.

One person commented on this proposed section that when sizing the cargo tank relief valves the maximum capacity of the installed tank inerting system only becomes relevant if the maximum working pressure of this system exceeds the tank MARVS. The Coast Guard agrees with this comment and the section has been rewritten to reflect it.

Atmospheric Control in Cargo Containment Systems

Section 154.901. Several commenters questioned the need in proposed § 154.901(d)(1) for a gas sampling point at the middle of the tank. The IMCO Gas Code requires "sufficient" sampling points and the commenters report that sampling points at the top and the bottom of the tank have proven sufficient. One commenter stated that a sampling point in the middle of the tank required an additional line through the tank dome resulting in a potential decrease in safety. The Coast Guard accepts these comments and the requirement for the middle sampling point has been omitted.

Additionally, the words "gas freeing" have been removed from proposed paragraph (a). See the preamble discussion concerning proposed § 154.310.

Sections 154.902 and 154.903. One commenter suggested that the Coast Guard relax its dew point criteria in proposed §§ 154.902(c)(2), (d) and 154.903(b) since moisture is not detrimental to insulation applied to the inner hull rather than the cargo tank. The intent of these paragraphs is to limit the amount of water vapor in the atmosphere in these spaces. The Coast Guard agrees that the proposed dew point is too stringent, especially in light of the fact that state-of-the-art inert gas generating equipment can only produce gas with dew points as low as approximately −50° C to −60° C. Also, at these temperatures moisture content in the gas is insignificant. For this reason, the Coast Guard has decided to change the dew point criteria so that the dew point of the inert gas or dry air admitted to the spaces must only be below −45° C (−49° F), or the lowest temperature of any surface in these spaces when the lowest surface temperature is warmer than −45° C (−49° F). This is the proposed dew point limit for gases admitted to cargo tanks carrying sulfur dioxide, see proposed § 154.1715. Accordingly, these changes were made to the subject paragraphs.

The proposal included six design or operation requirements for "inertion" of various components of the cargo containment system. These requirements can be found in proposed §§ 154.902(b), 154.1700, 154.1848(a)(4), and 154.1854(d). The sections, however, do not specify the concentration limits for flammable gas or oxygen that determine that a space is "inerted". The Coast Guard determined that the terms "inertion or inert atmosphere" are vague since they only indicate that the "inerted" space cannot support combustion. This is an extremely important safety consideration and should not be vague. Reviewing the available literature, most notably the "International Oil Tanker and Terminal Safety Guide (IOTTSG)", 2nd ed., 1974, the Coast Guard found that if a space contains less than 8–16% by volume

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oxygen, combustion could not be supported. Hence the terms "inertion and inert atmosphere" could be construed as requiring any oxygen concentration from 8% by volume to as little as 0% by volume. For clarification, the Coast Guard has chosen to specify a maximum oxygen concentration for any space which is to be considered inerted. The value chosen was the IOTTSG's recommended value of 8% by volume O_2. Accordingly, the appropriate changes were made to the subject sections.

Section 154.904. Several commenters pointed out that the IMCO Gas Code only requires two check valves if the inert gas system is located in the machinery space or other space outside the cargo area. For inert gas systems located in other locations, one check valve is adequate for safety. The Coast Guard agrees with this comment and proposed § 154.904 is changed to require only one check valve in the inert gas system in the cargo area. A second check valve is required only when the inert gas system is located in the machinery space or other space outside the cargo area.

Section 154.908. Several commenters noted that proposed § 154.908 appears to rule out locating inert gas generators in the main machinery space, which was not intended by the IMCO Gas Code. The Coast Guard agrees with the comment and the wording in the section has been changed to allow the installation of inert gas generators in main machinery spaces.

Section 154.912. One commenter said that the method for sizing relief valves on inerted spaces should be specified in proposed § 154.912. The Coast Guard agrees, and plans to develop a criteria for sizing these safety devices to be proposed in a future issue of the **Federal Register.**

Electrical

Section 154.1010. One commenter suggested that it would be helpful to the operator if an additional alarm were provided to indicate loss of normal cargo pump pressure prior to the automatic shut-down that would be required under proposed § 154.1010(c)(1). The Coast Guard does not see a need to make this a requirement. It is noted, however, that the proposal does not prohibit such an alarm.

One commenter questioned whether proposed §§ 154.1010(j) and (k) apply to ammonia carriers under the applicability in § 154.1000(b). The Coast Guard thinks the wording of § 154.1000(b) is clear; for the purposes of §§ 154.1005 through 154.1020, an ammonia carrier is not gas-dangerous on the weather deck. Accordingly, paragraph (j) does not apply to ammonia carriers since it concerns zones on the open deck, and paragraph (k) may or may not apply depending on the particular spaces or areas involved.

Section 154.1015. One commenter suggested that in proposed § 154.1015 at least one the required two or more branch lighting circuits be supplied from the emergency power system. The Coast Guard has included such a requirement in a proposed revision of 46 CFR Subchapter J published in the June 27, 1977 issue of the **Federal Register** (42 FR 32700). Section 154.1015(a) is not changed since it does not prohibit the use of the suggested arrangement.

Firefighting System: Exterior Water Spray

Section 154.1110. Four comments were received concerning the meaning of proposed §§ 154.1110(a) and (d). It was felt that the proposed wording could be altered to more clearly define the requirement for water spray. Accordingly, paragraph (a) has been separated into new paragraphs (a) and (b) and the remaining proposed paragraphs renumbered. The definition of "other control valves" in proposed paragraph (d) has been changed to include only those valves "essential to cargo flow."

Section 154.1115. One comment was received questioning the technical justification of the 3.7 m (12 ft) limit for rundown on vertical surfaces in proposed § 154.1115. Experimental work at the Coast Guard's Fire & Safety Test Facility as well as work conducted at Southwest Research Institute has shown that water running down vertical surfaces will tend to "channel" or provide incomplete coverage after it has travelled a distance of 10–15 feet on bare steel. Section 4033 of NFPA STD. 15 "Water Spray Fixed Systems" also recommends 12 ft as a maximum vertical spacing for spray nozzles. Accordingly, the proposed spacing is correct.

During the review of this section, the Coast Guard determined that the proposed requirement for vertical spacing of nozzles could be misleading and should be located in § 154.1120. Accordingly, the requirement has been rewritten without changing the substance and moved to the appropriate section.

Section 154.1125. Four comments were received pertaining to proposed 154.1125. The commenters requested clarification of the purpose of paragraphs (b) and (e). Additional wording has been added to paragraph (b) to clarify the intent of the requirement, and paragraph (e) has been expanded into two paragraphs, (e) and (f).

Section 154.1130. One commenter requested an explanation of "the area of an athwartship tank grouping" in proposed § 154.1130. The Coast Guard agrees that an explanation should be incorporated into the requirement. A sentence was added to § 154.1130(a) to state what must be included in this area.

Section 154.1135. One commenter pointed out the fact that the Coast Guard had omitted the IMCO Gas Code requirement for an interconnection between the fire main and the water spray system. This is essential to provide a back up source of water for the spray system. This requirement was added to proposed § 154.1135(b).

Firefighting System: Dry Chemical

Sections 154.1140 to 154.1170. One general comment was received on the proposed regulations for dry chemical firefighting systems. The commenter suggested that the amount of fixed piping to a remote hose reel be limited to 300 feet. This comment was not accepted because all piped dry chemical systems are performance tested prior to approval. The maximum permissible amount of piping, which may be less than 300 feet, is determined at that time.

Section 154.1140. One commenter suggested that proposed § 154.1140 be expanded to include the Coast Guard requirements for dry chemical systems installed to protect gas fired boiler hoods. The Coast Guard agrees with the comment but at present does not require additional dry chemical protection in this area. This suggestion will be reviewed further and if regulations are warranted they will be published in a future notice of proposed rulemaking. Vessel owners may, however, install additional protection in these areas, subject to Coast Guard acceptance.

Proposed paragraph (b) has been removed and the requirement for the submission of plans of the dry chemical supply and distribution systems added as a new paragraph to proposed § 154.4. This change was made since the submission of plans for Coast Guard plan review applies only to U.S. flag vessels.

Section 154.1145. Two commenters expressed concern over proposed § 154.1145(d). The commenters felt that, as worded, the paragraph does not clearly define the 45 second operation requirements and should be reworded. Proposed paragraph (d) included design requirements for both the intended operation of the dry chemical system and the quantity of dry chemical which must be stored. The Coast Guard agrees that confusion was possible since it was not obvious that both requirements were contained in the proposed paragraph. To clarify the wording proposed paragraph (d) has been replaced by new paragraphs (d) and (e) with the former containing the design operation requirement and the latter the design capacity requirement. Additionally, it should be noted that in paragraph (e) the design capacity requirement is the greater of either sequential or simultaneous operation; i.e., a 45 second requirement not a 90 second requirement as the proposal may have implied.

Section 154.1150. After reviewing proposed paragraph (a), the Coast Guard determined that the requirement for separate dry chemical supplies for hand hose lines and monitors exceeded the IMCO Gas Code. Accordingly, the requirement has been omitted.

Three comments were received concerning proposed § 154.1150(c). All of the commenters felt that the proposed requirement that at least one hose line or monitor to be located aft of the area being protected was in excess of the IMCO Gas Code, however, two of the commenters said that the requirements were logical and necessary, and supported them as written. The third commenter objected to the requirement on the basis that the requirement for separate dry chemical supplies in combination with the requirement of proposed paragraph (c) would serve to lower the effectiveness of the dry chemical firefighting system.

The Coast Guard agrees with the commenters that proposed paragraph (c) exceeds the IMCO Gas Code. This was not the intent of the Coast Guard and the proposed paragraph has been omitted. This requirement is currently being reviewed in detail, and if warranted an amendment to the Gas Code will be proposed to IMCO. At that time a change to U.S. regulations will also be proposed. This action, however, does not prevent the designers of liquefied gas vessels from employing such an arrangement if they feel it is necessary for improved dry chemical fire fighting protection.

Proposed paragraph (e) was omitted since the requirement is already covered by paragraph (a).

Section 154.1160. Two comments were submitted on proposed § 154.1160. One commenter suggested that a deflector or similar device be required on dry chemical monitors to preclude splashing at close ranges. Such a device is unnecessary because hand hose lines are provided for extinguishing fires of this nature. The second comment recommended that actual ranges be used in determining the coverage allowed for a monitor instead of using standard allowances. This comment cannot be adopted because a standardized test method for measuring this range is unavailable. Accordingly, these suggestions were not accepted.

Proposed paragraph (f) has been omitted since the Coast Guard determined that data extrapolation was not the intent of paragraph 11.4.6 of the IMCO Gas Code. Accordingly, the maximum allowable coverage for any dry chemical monitor, delivering 45 kg/sec or more, is 40 meters.

Section 154.1165. Proposed paragraph (a) has been changed to include hose cabinets as well as hose reels. The intent of this paragraph is to provide for the capability of remotely actuating (inert gas pressurizing and charging of hose line) the dry chemical storage unit from the site where the hose line is stored, whether it is a hose reel or hose cabinet. As proposed, the paragraph implied that only a hose reel could be used to store a hose. This was incorrect and has been corrected.

Six comments were received on proposed § 154.1165(b). The primary concern of these commenters was the intent of the "actuated and controlled" requirement for monitors. The intent of this paragraph was to require local actuation and control of all dry chemical monitors. In addition, those monitors for the cargo loading and discharge manifold must be capable of remote actuation and, except for pre-aimed monitors, remote control. Since pre-aimed monitors are pre-set to cover the manifold areas, it isn't necessary that they be capable of being controlled remotely, only locally. To clarify these requirements, proposed paragraph (b)(1), which contains the requirement for local control capability has been redesignated paragraph (b), and proposed paragraph (b)(2) rewritten and redesignated paragraph (c). The remaining paragraphs were renumbered accordingly.

Three commenters requested changes in proposed § 154.1165 (c) and (d) concerning the requirements for stop valves. It was recommended that, for those dry chemical fire fighting systems which do not have remote monitors and/or hose reels, stop valves were unnecessary. The Coast Guard concurs. Proposed paragraphs (c) and (d) were rewritten to require stop valves only where remote hand hose lines and monitors are installed and to clarify the requirements for operation of these stop valves.

Section 154.1170. Proposed paragraph (b) has been changed to require storage of the hose on either a hose reel or in a hose cabinet. This requirement was implied when proposed paragraph (b) and proposed § 154.1165(a) were considered. Other forms of hose storage could be accepted as equivalent under § 154.8.

Cargo Area: Mechanical Ventilation System

Section 154.1200. A change has been made to proposed § 154.1200(b)(2) to require supply-type mechanical ventilation only for those gas-safe cargo control stations located in the cargo area. If a cargo control station is located outside the cargo area the possibility of unexpected hazardous vapors entering the space is limited, and supply-type mechanical ventilation is no longer necessary.

Section 154.1205. Two commenters proposed that the required number of air changes for cargo control rooms suggested in proposed § 154.1205(d) be reduced if the space is adequately air conditioned. The intent of the ventilation system is to avoid the accumulation of flammable or toxic vapors and to ensure a safe working environment. Since air conditioning recycles the air in the space and introduces only a percentage of fresh air, it does not accomplish the intended purging of the atmosphere. This paragraph is in accordance with the IMCO Gas Code and the Coast Guard did not adopt the suggestion.

One commenter questioned whether or not the reference to § 154.703 in proposed § 154.1205(g) was relevant. The referenced section applies to gas burning which requires a mechanically ventilated pipe or duct for fuel gas lines that enter machinery spaces. The reference to § 154.703 is, therefore, relevant.

One commenter recommended that explosion-proof motors be permitted in the air stream. The requirement in proposed § 154.1205(h) is from the IMCO Gas Code and is consistent with attempts to minimize electrical equipment in hazardous areas. The Coast Guard did not accept the recommendation and the paragraph was not changed.

Section 154.1210. Commenting on proposed § 154.1210(a), one commenter requested that a definition of cargo piping be added to the rules, stating that without a definition § 154.1210(a) might require fixed mechanical ventilation in duct keels and void tanks containing

interbarrier drains and gas detection system piping. The Coast Guard has determined that a general definition of cargo piping would be impractical to incorporate into the regulations, as any incomplete definition would be both confusing and misleading to designers. In addition since the IMCO Gas Code does not include a definition of cargo piping and since the Coast Guard determined that adequate specifications and design criteria are already incorporated into U.S. regulations, the proposed change was not made.

After further review of proposed § 154.1210, it was determined that the wording of paragraph (a) was confusing. As proposed the requirement may be literally interpreted as requiring mechanical ventilation of hold spaces, void spaces and cofferdams only when these spaces contain cargo piping. This is incorrect. The Coast Guard's intent was to provide a means of mechanically ventilating these spaces whether or not cargo piping was installed in them, and also to require a means of mechanically ventilating any other space containing cargo piping. To eliminate this possible confusion the wording of proposed paragraph (a) has been changed.

Instrumentation

Section 154.1305. One commenter noted that a literal interpretation of proposed § 154.1305(a) would not require level gauge operation until a pressure equal to the MARVS was reached. The Coast Guard agrees with this comment and the section was changed to require that the level gauge be operable at pressures up to and including the MARVS.

One commenter indicated that proposed § 154.1305(b) contained no design standard that a secondary level gauge would have to meet. The Coast Guard agrees with this comment and the section was changed to require the secondary level gauge to comply with the same standard as a primary gauge.

One commenter requested that in proposed § 154.1305(b), consideration be given to allowing the use of separate probes, one at the top and one at the bottom of the tank, in lieu of a full height probe for the redundant liquid level gauge. The Coast Guard did not accept this comment because the alternative is not considered as equivalent to the required arrangement.

Several commenters objected to the requirement in proposed § 154.1305(c) that level gauges be capable of measuring liquid levels as low as 100 mm (4 inches), stating that it was not within the capability of devices specifically included as acceptable for this application. Because other Coast Guard regulations provide for both thermal detection of cargo in the tank bottom and automatic cargo pump low liquid level shutdown, this section was changed to include a new lower limit of 400 mm (16 inches). This value was determined to be the minimum liquid level which could be detected by all devices which are listed as acceptable to the Coast Guard in § 154.1300. Additionally, the term "tank bottom" was changed to "lowest point in the tank," to avoid confusion when considering spherical tanks.

A correction has been made to proposed §§ 154.1300, 154.1305 and 154.1325. As proposed these sections implied that the full range of liquid levels in the cargo tank must be measured by *one* liquid level gauge. This was not the Coast Guard's intent nor the intent of paragraph 13.2.1 of the IMCO Gas Code. The intent of the Coast Guard was to ensure that any liquid level, from 400 mm from the tank bottom to 100% full, could be measured. It is recognized that devices or systems which are acceptable for this task may consist of more than *one* liquid level gauge, for instance, one gauge measuring from 400 mm to 55% full and a second gauge measuring from 50% to 100% full, rather than only one gauge measuring the full range. To clarify the Coast Guard's intent, the term "liquid level gauges" has been replaced by the term "liquid level gauging systems" wherever it appeared in proposed §§ 154.1300, 154.1305 and 154.1325.

Section 154.1315. One commenter noted that a literal reading of proposed § 154.1315 would allow multiple openings for each gauging device. The Coast Guard agrees with this commenter, and the section was changed by omitting the redundant requirement and referring to the section that contains the requirement, § 154.536.

Section 154.1325. Two commenters suggested that proposed § 154.1325 did not allow the alarm (paragraph (b)) and shut-down (paragraph (c)) functions of the high liquid level alarm to be actuated by separate sensors as in paragraph 13.3.1 of the IMCO Gas Code. The intent of the Coast Guard was to require that both alarm and shutdown be available and be *automatically* actuated to prevent the tank from becoming 100% liquid full. This can be accomplished by one or two sensors at the designer's discretion. The commenter's confusion may have resulted from the use of the term "high liquid level alarm" in both the title and introductory remarks of proposed § 154.1325, since this term implies a single component. To clarify the Coast Guard's intent in this section, the term has been changed to "high liquid level alarm system" in both places.

Proposed paragraphs (b) and (c) have also been changed. In proposed paragraph (b), the high liquid level alarm system is intended as a last line of defense against overfill, and as such, the alarm should be set to sound prior to, or when, closing of the flow shut-down values begins. This correction has been made to proposed paragraph (b).

Finally, the intent of paragraph (c) is to prevent overfill of the cargo tanks without causing damaging pressure surges in the cargo loading lines, hence stopping the flow of cargo to the tank is the most important consideration. Proposed paragraph (c) requires that this be accomplished via actuation of quick-closing valves, however, the Coast Guard recognizes that other methods may perform equally well. For this reason a change has been made to this paragraph by adding actuation and closure of a stop valve in the cargo loading line as another acceptable method of preventing tank overfill. It should be further noted, that variables such as valve closing time and cargo loading rate, must be considered when determining the tank liquid level at which closure begins.

Section 154.1340. Several commenters questioned the requirement in proposed §§ 154.1340 (c)(3) and (c)(4) for the display of temperature readings at regular intervals while underway, since the cargo control station would be normally unmanned. This proposed requirement follows paragraph 13.5.2 of the IMCO Gas Code, except that intervals of one hour or less were proposed in this paragraph to define "regular intervals". Additionally, proposed paragraph (c)(4) of this section was changed to require a "remote group alarm" in the wheelhouse. This was done to ensure that a warning was available in a manned location.

One commenter noted that proposed § 154.1340(e) required devices for initial verification of the cool down procedure, on *one* tank of the first vessel of a class of vessels, which are in addition to those required by paragraph (d). This ignores the situation where *all* of the tanks are instrumented with more than the minimum number of devices required in paragraph (d). In this case, the number of devices satisfying paragraph (d) may also satisfy paragraph (e), but, using a literal translation of paragraph (e), more devices must be added to one tank. This was not the intent of the Coast Guard, and proposed paragraph (d) has been changed to remove the requirement for "additional" devices.

After further review the Coast Guard determined that this proposed paragraph was not a design requirement but rather specifies the equipment necessary to test, and thereby verify, the proposed cool down procedure. As such this paragraph was removed from this section and placed in proposed Subpart B—Tests and Inspection, as a new section 154.65. Additionally, no consideration was given when the same tank design is used in another class of vessels. This consideration was also incorporated into new § 154.65. As stated above Subpart B will be published in a future issue of the **Federal Register.**

Section 154.1345. Proposed § 154.1345(c) has been changed to exclude all gas-safe spaces from housing fixed gas detection systems for the two extremely toxic cargoes; methyl bromide and sulfur dioxide. This paragraph now follows paragraph 17.11.1 of the IMCO Gas Code. Additionally, since methyl bromide is flammable (see Table 4–Summary of Minimum Requirements), proposed § 154.1340 requires a fixed flammable gas detector meeting § 154.1360. Proposed paragraph (c)(1) is therefore redundant with respect to the carriage of methyl bromide, and has been changed such that it now applies only to the carriage of sulfur dioxide.

Section 154.1350. One commenter suggested that the requirement for gas detection in boiler vent hoods be included in proposed § 154.1350(a). The Coast Guard does not agree with this suggestion because this consideration is specifically included in §§ 154.706 and 154.709.

Several commenters requested clarification of proposed § 154.1350(a)(5) with regard to whether cargo area ballast tanks are included in the term "other enclosed spaces". This section was changed to clarify that ballast tanks are exempt from fixed gas detection requirements.

One commenter noted that proposed § 154.1350(c) was not consistent with proposed § 154.1350(m) in that it did not include the wheelhouse as an acceptable location for gas detection equipment and piping runs. The Coast Guard agrees, however, the location intended was that gas-safe space where the gas detector was housed. Since this location may be a gas-safe space other than the wheelhouse or gas-safe cargo control station, proposed paragraphs (c) and (m) have been changed to indicate the correct locations. A new paragraph was included at § 154.1350(d) that requires each gas detection system to have a readout. The remaining paragraphs were renumbered accordingly.

One commenter indicated that proposed § 154.1350 (e) and (g) were not clear with regards to where visual alarms, traceable to the alarmed space, were required. These alarms are only required in the space where the gas detection system's readout is located. A "remote group alarm", as defined in § 154.3, is acceptable in other areas, such as the wheelhouse or cargo control station when the gas detector readout is not located there, since in those areas it is only important to know that an alarm condition exists. Proposed paragraphs (e) and (g) have been changed to clarify this intent and renumbered (g) and (h) respectively.

Commenting on proposed § 154.1350(j), one commenter questioned the technical necessity for protection of gas sampling lines with flame arrestors. The flame arrestors are intended to prevent flame propagation to the tanks via the sampling tubes not to protect the sampling lines themselves. The wording in this paragraph was changed to reflect this intent and the paragraph was renumbered paragraph (k).

Several commenters felt that in proposed § 154.1350(s) the requirement for a flow meter in each sampling line was unnecessary, and that a common meter would suffice. The purpose for requiring flow indication in each line is to enable the operator to ensure that gas is not flowing from one space to another; i.e., back flow from a gassy space at high pressure to a gas free one at a lower pressure. This paragraph was changed to permit the installation of only one meter in the system, but to require an individual indication of flow in each sampling line.

Proposed paragraph (t) has been changed to require a different concentration range to be detected. As proposed, the detection system must be capable of measuring gas concentrations of 0–100% of the lower flammable limit (LFL), while alarming at or below a concentration of 30% of the LFL (proposed paragraph (d)). The Coast Guard recognizes that for the carriage of toxic-flammable cargoes, a more important alarm concentration may be the threshold limit value (TLV) of the cargo rather than 30% of the LFL. For all of the cargoes that are considered to be toxic under this rule, the TLV is significantly less than the LFL, i.e. ppm concentrations vs. percentage concentrations, hence, the requirement to alarm at or below 30% of the LFL is always satisfied. The Coast Guard further recognizes that to require a detector to both alarm at parts per million concentrations and to measure 0–100% of the LFL could significantly reduce the precision of the equipment and the resulting accuracy of the alarm setting, while not increasing the level of safety. Due to these considerations the Coast Guard has changed proposed paragraph (t) to require that the detector be capable of measuring gas concentrations of at least 0–30% *of the alarm condition,* rather than 0–100% of the LFL.

Section 154.1365. Commenting on proposed § 154.1365(c), one commenter asked whether all alarm locations, including remote locations, were required to show the space in which a fault exists. This paragraph was changed to clarify that "remote group alarms" need not identify the space in which the alarm condition exists.

Sections 154.1370, 154.1375. Commenting on proposed §§ 154.1370 and 154.1375, one commenter stated that marking of limits on indicating devices was applicable to analog devices only and not to digital devices. The Coast Guard did not change these sections since the marking requirement is applicable to both types. For a digital device, compliance could be achieved by providing a label, sign, or other indication of operating limits on or near the face of the display.

Safety Equipment

Section 154.1400. One commenter noted that proposed § 154.1400(a)(1) required six self-contained breathing apparatus for vessels less than 25,000 m^3, whereas the IMCO Gas Code only required five. The IMCO Gas Code requires vessels of under 25,000 m^3 to have three sets of fireman's protective clothing (paragraph 11.6.1) and three sets of safety equipment (section 14.3), each set containing a self-contained breathing apparatus; therefore, six apparatus is correct.

Another commenter suggested that a more appropriate division than over or under 25,000 m^3 could be found. IMCO is currently considering revising the Code requirements as a result of proposals similar to the commenter's. However, the regulations in Part 154 follow the IMCO Gas Code, which uses 25,000 m^3. Amendments to Part 154 will be proposed when revisions are made to the Code.

Two commenters said that "chemical protective outfits" should be defined in proposed § 154.1400(b)(10). The intent of this regulation was to require clothing that would protect the wearer against the hazards of the cargo. As one commenter pointed out, for methane,

ethane, propane and butane, the principal hazard is fire and, therefore, the "chemical protective outfits" may be the same type of clothing as the "fireman's protective outfits". For other cargoes, such as sulfur dioxide, the hazard that the clothing is to protect against would be corrosivity. The wording of this section has been changed to make it clear that the clothing is to protect the wearer against the particular personnel hazards presented by the cargo vapor.

One commenter questioned whether or not the equipment required in proposed § 154.1400 was in addition to or in lieu of that required by 46 CFR 35.30–20. The equipment required by § 154.1400 is considered to exceed and, therefore, to fulfill, the requirements of 46 CFR 35.30–20. Proposed paragraphs (a) and (b) have been reworded to clarify this requirement, and proposed § 154.1800 has been changed to omit compliance with § 35.30–20.

Finally, proposed §§ 154.1400 (a)(1), (b)(1) and (c)(1) have been changed in order to clarify the type of breathing apparatus that are acceptable to the Coast Guard.

Section 154.1405. One commenter stated that the respiratory protection equipment required in proposed § 154.1405 should be permanently located at other places in addition to those required to be stored in the wheelhouse. The Coast Guard feels the stowage and distribution of the required equipment, other than the two required to be in the wheelhouse, is the vessel operator's purview. Accordingly, this suggestion was not accepted. Proposed paragraphs (a) and (b) were changed, however, in order to clarify the level of protection that is required of this equipment.

Section 154.1420. One commenter stated that it is not clear in proposed § 154.1420 as to what type of equipment is required. This equipment must provide a means for effectively removing an injured person from a cargo tank. Any device which reasonably accomplishes this task is acceptable. The Coast Guard does not intend to prescribe specifications for this device at this time.

Another commenter asked what is intended other than to recognize that facilities must be available to remove an injured person. Nothing else is intended by this section other than the effective removal of an injured person.

Section 154.1425. Proposed § 154.1425 has been omitted because the Coast Guard is in the process of developing a proposed rule covering safety equipment common to all tank vessels. This rule will be proposed in a future Federal Register.

Special Design and Operating Requirements

Section 154.1710. See the preamble comments concerning proposed § 154.902.

Sections 154.1725 and 154.1730. Two questions were received on the requirements for propylene oxide. Propylene oxide is presently regulated under 46 CFR Part 153 (42 FR 40016) because it is a liquid chemical. IMCO is considering the addition of propylene oxide and six other high vapor pressure chemicals to the Gas Codes. When these additions are made, the Coast Guard will consider similar revisions to Part 154.

During the development of proposed §§ 154.1725 and 154.1730 for ethylene oxide, the Coast Guard inadvertently omitted two existing requirements contained in 46 CFR 40.05–63 (b) and (d). The first special requirement, 46 CFR 40.05–63(b), deals with the insertion of the vapor space of a cargo tank containing ethylene oxide. For the other flammable cargoes regulated by Part 154, inertion is used to reduce the oxygen level below the minimum necessary to form a flammable mixture. For ethylene oxide, however, this is not the only consideration since this product contains its own oxidizer. While proposed § 154.1730(a)(2) and 17.2.1(b) of the IMCO Gas Code both require inertion of the vapor spaces, neither specifies the extent of inertion necessary to ensure that the ethylene oxide vapor is non-flammable. To ensure this, the vapor space must be inerted to at least 45% nitrogen by volume. This value is the same as the existing special requirement in 46 CFR 40.05–63(b). This consideration has been added to § 154.1725. The Coast Guard will propose this correction to IMCO.

Second, the Coast Guard inadvertently omitted the existing special requirement, 46 CFR 40.05–63(d), that for ethylene oxide carriage the water spray system must also protect the above deck cargo piping. The requirement has been added at § 154.1725(a)(7) to correct that omission.

Section 154.1735. Since the publication of this proposal, a new composition for methyl acetylene-propadiene gas mixtures was specially approved for carriage on liquefied flammable gas vessels. This composition was added to this section as a new paragraph (a)(2). The requirements for the carriage of this new composition are the same as for the original composition proposed.

The methyl acetylene-propadiene mixture composition originally proposed in § 154.1735 was in error. Corrections have been made to proposed paragraphs (a)(3) and (a)(4) and proposed paragraph (a)(5) has been omitted. This corrected composition now reflects the mixtures currently being authorized for carriage by the Coast Guard. Additionally, certain other requirements in proposed § 154.1735 were rewritten for clarification.

Section 154.1755. One commenter suggested that proposed § 154.1755 would be clearer if worded "Nitrogen cargo containment systems and piping systems on vessels carrying nitrogen in other than deck tanks must be specially approved by the Commandant (G–MMT)". Wording similar to the suggested wording was incorporated.

Section 154.1760. One commenter noted that the prohibition in paragraph 17.12.4 of the IMCO Gas Code against spraying ammonia into a tank containing air was omitted. There is considerable doubt that static discharge is a valid concern with commercial anhydrous ammonia, although there is some scientific data to indicate it could be with pure, laboratory grade ammonia. This question is being considered at IMCO, and the Coast Guard agrees that until the question is resolved safety demands that the conservative approach be adopted as the prohibition stated in paragraph 17.12.4. Accordingly, a new section containing this prohibition is added at § 154.1760. For further discussion see the preamble comments for proposed § 154.902.

Operations

Sections 154.1800–154.1870. One commenter suggested that the words "Cargo Officer or" be added to the phrase "the master shall ensure" wherever it appears in proposed § 154.1812 through § 154.1870, so that either the master or cargo officer would be responsible for those operating requirements. The proposed wording of these sections does not prevent the master from delegating these duties to the cargo officer and not actually doing them himself. However, for these requirements the master always must bear the ultimate responsibility for the safety of his ship even if he has delegated certain duties to others. The Coast Guard rejected the comment.

For clarification, a new section has been added at § 154.1831 to specify that it is the responsibility of the master of the vessel to designate one individual as the "person in charge of cargo transfer."

Section 154.1802. This proposed section was rewritten for clarification and to add the Cargo Ship Safety Construction and Equipment Certificates to the list of plans and certificates which must be maintained onboard the vessel. The requirement that the Certificates be carried onboard was transferred from existing 46 CFR Part 154. Proposed § 154.1802 is now §§ 154.1801 and 154.1802.

Section 154.1803. A new section was added to the proposal indicating that a Letter of Compliance is valid for a period not exceeding two years. For further discussion, see the "miscellaneous" preamble comments.

Section 154.1810. One commenter requested that specific reference to the loading and stability manual be made in proposed § 154.1810(b)(17) to insure that the "operational means" were clearly defined. The Coast Guard concurs and has changed the regulation.

One commenter stated that the inclusion of "cargo jettisoning system" in proposed § 154.1810(b)(9)(xi) raises a new subject not discussed elsewhere in the regulations. Sections 154.310, 154.350 and 154.1725(e) address that system.

Since vessels with IMCO Certificates will have cargo manuals accepted by their flag administration, they have been excluded from the applicability of this section.

Section 154.1814. One commenter asked if the information cards required in proposed § 154.1814 were the cards published by the Manufacturing Chemists Association (MCA). Those cards would satisfy the requirements in § 154.1814, but the cards do not necessarily have to be MCA cargo information cards. The commenter further stated that on cards such as the MCA card, the procedures to follow in the event of "equipment breakdown" would be too lengthy. Since this information would be included in the cargo manual required in § 154.1810, the words "equipment breakdown" have been omitted from § 154.1814.

Section 154.1828. Two commenters suggested that proposed § 154.1828 be omitted because it is not practical or necessary. The proposed requirement does not mean that each and every time someone enters a pump room, for example, he must receive specific approval of the master and that the master has personally tested the atmosphere of the space. It does mean, however, that the master has procedures for ensuring the safety of his crew and that approval for personnel to enter cargo handling spaces is given under certain conditions. The wording has been changed to indicate that following a procedure established by the master is acceptable.

Section 154.1836. Some commenters questioned whether proposed § 154.1836 applied to operation of relief valves and restricted gauges. As stated in the preamble of the proposal, the IMCO Gas Code allows pressure and temperature control of cargoes by venting of cargo vapors in port if accepted by the "receiving administration". The intent of § 154.1836 was to serve notice that the Coast Guard, representing the receiving administration, would not accept this means of cargo temperature/pressure control in U.S. waters. The prohibition was not intended to apply to vapor releases by relief valves under abnormal conditions, such as fire, nor to small releases of cargo vapor through restricted gauges. The wording in proposed § 154.1836 was modified to clarify this intent.

One commenter stated that cargo is routinely vented to atmosphere when disconnecting cargo hoses. The Coast Guard does not concur. Nitrogen purge connections are specifically installed to prevent this from occurring when disconnecting loading arms and cargo hoses.

One commenter requested clarification of proposed § 154.1836 by the specification that it is limited to U.S. ports. As discussed above the prohibition applies to all U.S. waters.

Section 154.1840. In agreement with a comment, proposed § 154.1840 has been changed to exclude those persons assigned to gas safe cargo control rooms during the cargo transfer operation from the requirements to wear protective clothing since they will not be exposed to the hazards of the cargo in their regular duties.

Section 154.1842. One commenter questioned whether the intent of proposed § 154.1842 was to require activation of the test controls for the alarms or to actually create an alarm condition to see if the alarm worked. The intent is to test the alarms by means of a test control or other simulation of the alarm condition.

It was also questioned whether the proposed section meant all alarms or just those for high liquid level. The wording has been changed to make it clear that the test is a simulated overfill condition and that the liquid level alarm required under § 154.1325 is tested.

Section 154.1844. One commenter thought that the 98% maximum filling limit applied to all tanks. As proposed in § 154.1844(a)(2), a higher limit would be accepted if specified on the IMCO Certificate of Fitness or the Certificate of Inspection. The higher limit would be allowed if it could be shown that, due to the shape of the tank, arrangement of relief valves, accuracy of level and temperature gauging, and other conditions, the tank level will drop during operation of the relief valve and the relief valve will not be exposed to liquid. The Coast Guard agrees that confusion could have resulted and has changed the wording in this section to clarify the intent.

Section 154.1848. Commenting on proposed § 154.1848, one commenter suggested that some flexibility be provided concerning the inerting requirements during shipboard maintenance and repair. It is assumed that the intent of this suggestion is to permit hold and interbarrier spaces, which are normally inerted, to be filled with air to allow personnel to enter them while gas is in the tanks. The Coast Guard does not accept the suggestion since this compromises the safety of the vessel.

See the preamble comments concerning proposed § 154.902.

Section 154.1854. Two commenters recommended that in proposed § 154.1854(a) "pilot fuel oil burner" be changed to "fuel oil fired pilot" as some dual fuel burners are designed for a minimum oil flow at all times and no separate pilot fuel oil burner exists. The Coast Guard concurs and has amended the regulations accordingly.

One commenter requested that the words "Chief Engineer" be inserted for "Master" in this section. The Coast Guard does not concur. The Master has the ultimate responsibility to ensure that this section is met.

See the preamble comments concerning proposed § 154.902.

Section 154.1856. This proposed section has been omitted pending publication of Subpart B of this proposal. For further discussion, see the preamble comments for Subpart B—§§ 154.40 through 154.149.

Section 154.1858. One commenter said that a master would have no way of knowing the prior history of hoses and therefore it is inappropriate in proposed § 154.1858 to impose this responsibility on the master, particularly if the cargo hose is provided by a shore facility. As stated in the preamble discussion to proposed §§ 154.552–154.562, the Coast Guard is not attempting to set standards for shore facility equipment in these vessel regulations. However, for cargo transfer operations, the use of cargo hose necessitates interfacing between the shore facility and the vessel. For safety, the Coast Guard wants to ensure that only cargo hose meeting the minimum standards of this part or

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equivalent standards is used during cargo transfer. Since this rule applies only to vessels, the responsibility under these regulations must be exercised by ship's personnel. Therefore, for cargo transfer, the person in charge must ensure that either the vessel's cargo hose is used or hose meeting equivalent standards is obtained from the shore facility.

Based upon the above comment and after further review, the Coast Guard determined that proposed § 154.1858 needs clarification. The intent of this section was to ensure that only cargo hose meeting the standards of this part or equivalent standards be used for cargo transfer. Further, the proposed prohibition should be an equipment requirement rather than an operating requirement. To clarify the Coast Guard's intent in this section, the proposed prohibition has been moved to § 154.560, where prototype testing of cargo hose is addressed, and § 154.1858 rewritten to reflect the correct operating requirement.

Section 154.1872. A new section was added at § 154.1872 to include the operational requirements for cargo jettisoning. For further discussion see the preamble to § 154.310(d).

Table 4. Summary of Minimum Requirements

Two commenters noted that chlorine was not included in proposed Table 4 although it is listed in the IMCO Gas Code. This chemical is not listed in Table 4 because the Coast Guard does not allow the bulk shipment of chlorine on manned vessels.

The ommission, in proposed Table 4, of other cryogenic liquefied gases, such as helium and hydrogen, was questioned. These cargoes are not included in the IMCO Gas Code, nor are they under current Coast Guard regulations for bulk shipment. If other liquefied gases are proposed for bulk shipment, safe carriage requirements will be developed and proposed if it is determined that they may be safely carried in bulk. For further discussion, see the preamble for "Miscellaneous" comments.

General Comments

Besides the changes to the original proposal which are described in this preamble, many typographical errors were corrected.

The Coast Guard has determined that the proposed regulations would have no foreseeable significant impact on the quality of the human environment. An environmental assessment with a negative declaration has been prepared. Copies may be obtained in Room 8117, Coast Guard Headquarters, Washington, D.C. 20590.

The economic evaluation for this proposal shows that for each of the next seven fiscal years the proposed regulations would result in the following:

(1) A decreased expenditure of about $0.2 million by the Federal government, and no significant impact on state and local governments. The cost savings to the Federal government resulted from decreased manpower requirements, both professional and clerical, and reductions in estimated travel expenses.

(2) An increased cost of $21.6 million to consumers, businesses and industry. The increased cost primarily impacts the maritime industry and results from the need for improved ship construction and equipment necessary to meet the upgraded safety standards of this rule. These costs are eventually passed on to the consumer.

(3) No significant impact on energy consumption, important materials or employment.

The benefits to the public of the proposal include:

(1) A consolidation into one part of design and equipment regulations for various liquefied gas ships.

(2) Incorporation of an internationally agreed upon standard for liquefied gas ships with clarification, where possible, of portions of that standard (the IMCO Gas Code) that are left to "the satisfaction of the Administration."

(3) Codification of existing and additional requirements for the design, construction and operation of liquefied gas ships.

A quantitative analysis of the benefit to the public is difficult to access due to the excellent safety record of liquefied gas ships. However, it is clear that the adoption of an international standard, that further increases the level of safety of gas ships, is beneficial to the public interest. U.S. gas ship owners and operators will benefit by having an internationally accepted Certificate to facilitate their vessel's operation in foreign ports.

This rule has been reviewed under Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, March 8, 1978). A final evaluation has been prepared and is included in the public docket.

In consideration of the foregoing, the proposed rules published in the October 4, 1976 issue of the Federal Register (41 FR 43822) are hereby adopted with the changes described above and set forth below.

Chapter I of Title 46, Code of Federal Regulations, is amended as follows:

PART 31—INSPECTION AND CERTIFICATION

1. By amending Part 31 by adding § 31.10–18a to read as follows:

§ 31.10–18a Liquefied gas vessels: additional firefighting equipment inspections.

(a) Once during each 12 month period after the month an original Certificate of Inspection is issued for a liquefied gas vessel under § 31.05–1, the master shall ensure that the firefighting systems required in Part 154 of this chapter for a liquefied gas vessel meets the following:

(1) The exterior water spray system must past a water spray test.

(2) The dry chemical system must meet the manufacturer's specifications for—

(i) The amount of dry chemical powder; and

(ii) The pressure for nitrogen bottles.

(3) The piping, valves, and controls of the system must be operable.

(b) On the same date that the requirements under paragraph (a) of this section are met, the master shall record in the vessel's official logbook the following information:

(1) The date of the inspection.

(2) The identification of each device inspected.

(3) The name of the inspector.

PART 34—FIREFIGHTING EQUIPMENT

2. By adding new text at the end of paragraph (b) of § 34.10–15 and after the words "approximately" and "50 pounds per square inch" in paragraph (c) of the same section to read as follows:

§ 34.10–15 Piping—T/All.

* * * * *

(b) * * * except on self-propelled vessels carrying bulk liquefied gases that must have stop valves—

(1) at cross connections;

(2) at the front of the after deck house: and

(3) in the cargo area spaced 40 m (131 ft.) or less between hydrants.

* * * * *

(c) * * * 71 pounds per square inch on self-propelled vessels that carry bulk liquefied gases and approximately * * * on other tankships.

* * * * *

PART 40—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR CARRYING CERTAIN FLAMMABLE OR COMBUSTIBLE DANGEROUS CARGOES IN BULK

§ 40.05 [Revoked]

4. By revoking Subpart 40.05.

PART 54—PRESSURE VESSELS

By amending § 54.15–25 by revising paragraph (c) and adding paragraph (c–1) to follow paragraph (c) to read as follows:

§ 54.15–25 Minimum relief capacities for cargo tanks containing compressed or liquefied gas.

* * * * *

(c) The rate of discharge for heat input of fire must meet the following formula:

$$Q = FGA^{0.82}$$

Where:

Q = minimum required rate of discharge in cubic meters (cubic feet) per minute of air at standard conditions 0° C and 1.03 kp/cm² (60° F and 14.7 psia).

F = fire exposure factor for the following tank types:

F = 1.0 for tanks without insulation located on the open deck.

F = 0.5 for tanks on the open deck having insulation that has approved fire proofing, thermal conductance, and stability under fire exposure.

F = 0.5 for uninsulated independent tanks installed in holds.

F = 0.2 for insulated independent tanks in holds or for uninsulated independent tanks in insulated holds.

F = 0.1 for insulated independent tanks in inerted holds or for uninsulated independent tanks in inerted, insulated holds.

F = 0.1 for membrane and semi-membrane tanks.

G = gas factor of:

$$G = \frac{177}{LC}\sqrt{\frac{ZT}{M}} \qquad \left(G = \frac{633,000}{LC}\sqrt{\frac{ZT}{M}}\right)$$

Where:

L = latent heat of the material being vaporized at the relieving conditions, in Kcal/kg (Btu per pound).

C = constant based on relation of specific heats (k). Table § 54.15–25 (c) (if k is not known, C = .606 (315)).

Z = compressibility factor of the gas at the relieving conditions (if not known, Z = 1.0).

T = temperature in degrees K = (273 + degrees C) (R = (460 + degrees F)) at the relieving conditions (120% of the pressure at which the pressure relief valve is set).

M = molecular weight of the product.

A = external surface area of the tank in m² (sq. ft.) for the following tank types:

For a tank of a body of revolution shape:

A = external surface area.

For a tank other than a body of revolution shape:

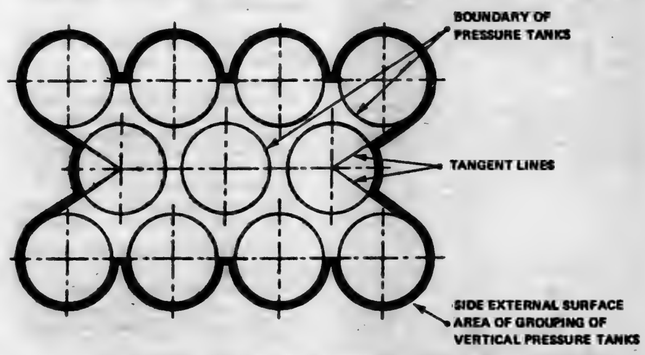
A = external surface area less the projected bottom surface area.

For a grouping of pressure vessel tanks having insulation on the vessel's structure:

A = external surface area of the hold without the projected bottom area.

For a grouping of pressure tanks having insulation on the tank:

A = external surface area of the pressure tanks excluding insulation, and without the projected bottom area.[1]



SIDE EXTERNAL SURFACE AREA OF GROUPING OF VERTICAL PRESSURE TANKS

Figure 54.15–25 (c)

Table 54.15–25 (c)–*Constant C*

k	C		k	C	
1.00	.606	(315)	1.54	.750	(390)
1.02	.611	(318)	1.56	.752	(391)
1.04	.615	(320)	1.58	.756	(393)
1.06	.620	(322)	1.60	.758	(394)
1.08	.624	(324)	1.62	.760	(395)
1.10	.628	(327)	1.64	.763	(397)
1.12	.633	(329)	1.66	.765	(398)
1.14	.637	(331)	1.68	.767	(399)
1.16	.641	(333)	2.00	.770	(400)
1.18	.645	(335)	2.02	.772	(401)
1.20	.649	(337)	2.20	.782	(412)
1.22	.652	(339)			
1.24	.656	(341)			
1.26	.660	(343)			
1.28	.664	(345)			
1.30	.667	(347)			
1.32	.671	(349)			
1.34	.674	(351)			
1.36	.677	(352)			
1.38	.681	(354)			
1.40	.685	(356)			
1.42	.688	(358)			
1.44	.691	(359)			
1.46	.695	(361)			
1.48	.698	(363)			
1.50	.701	(364)			
1.52	.704	(366)			
1.54	.707	(368)			
1.56	.710	(369)			
1.58	.713	(371)			
1.60	.716	(372)			
1.62	.719	(374)			
1.64	.722	(375)			
1.66	.725	(377)			
1.68	.728	(378)			
1.70	.731	(380)			
1.72	.734	(382)			
1.74	.736	(383)			
1.76	.739	(384)			
1.78	.742	(386)			
1.80	.745	(387)			
1.82	.747	(388)			

(c–1) For an independent tank that has a portion of the tank protruding above the open deck, the fire exposure factor must be calculated for the surface area above the deck and the surface area below the deck, and this calculation must be specially approved by the Commandant (G–MMT).

* * * * *

§ 54.25–10 [Amended]

5. By amending § 54.25–10 as follows:

a. In paragraph (a)(1), by striking the words "in Subchapter D (tank vessels)" and inserting the reference "and § 154.3" in place thereof after the reference "§ 38.05–4".

[1] Figure 54.15–25(c) shows a method of determining the side external surface area of a grouping of vertical pressure tanks.

b. In paragraph (b)(1)(i) by striking "−70° F" and inserting "−67° F" in place thereof.

c. In table 54.25–10 (b)(1) in the column entitled "Minimum service[1] temperature ° F", by striking "−70" and inserting "−67" in place thereof, and in the column entitled "Manganese range[1] percent" by striking "0.90" and inserting "0.70" in place thereof, and by striking "1.65" and inserting "1.60" in place thereof.

d. By striking the columns following footnote 1 of table 54.25–10 (b)(1) and inserting the following two columns in place thereof:

	Range percent
Si	0.10–0.50
	Maximum
S	0.035
P	0.035
Ni	0.60
Cr	0.25
Mo	0.08
Cu	0.35
Nb	0.05
V	0.08

e. In the second line of paragraph (b)(2), by striking "–70° F" and inserting "–67° F" in place thereof.

PART 56—PIPING SYSTEMS AND APPURTENANCES

§ 56.50–105 [Amended]

6. By striking in the second sentence in § 56.50–105 (a) the words "Subchapter D (Tank Vessels) and I (Cargo and Miscellaneous Vessels)" and inserting "Subchapters D, I, and O" in place thereof.

PART 98—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR CERTAIN DANGEROUS CARGOES IN BULK

7. By revising § 98.25–1 to read as follows:

§ 98.25–1 Applicability.

(a) The regulations in this subpart apply to each self-propelled vessel that has anhydrous ammonia on board as a cargo, cargo residue, or vapor and that is not regulated under Part 154 of this chapter.

(b) Any self-propelled vessel to which this subpart applies shall be inspected and certificated under this Subchapter and Subchapter D of this chapter.

PART 154—REDESIGNATED AS PART 154a

PART 154a—REDESIGNATED FROM PART 154 AND AMENDED

8. By redesignating Part 154 as Part 154a and amending new Part 154a as follows:

a. By revising the title to read as follows:

PART 154a—SPECIAL INTERIM REGULATIONS FOR ISSUANCE OF LETTERS OF COMPLIANCE TO BARGES AND EXISTING LIQUEFIED GAS VESSELS

b. By revising Paragraph 1 to read as follows:

1. *General.*

(a) *Applicability*—The regulations in this part apply to foreign flag vessels that—

(1) are barges that have onboard any of the products listed in Table 1 of Annex A to this part, as cargo, cargo residue, or vapor; or

(2) are self-propelled vessels that—

(i) have onboard any of the products listed in Table 4 of 46 CFR Part 154 as cargo, cargo residue, or vapor; and

(ii) are not regulated under Parts 153 or 154 of this chapter.

(b) *Purpose.*—This interim regulation prescribes procedures for the issuance of a Letter of Compliance to foreign flag barges and liquefied gas vessels carrying certain bulk dangerous cargoes which create potential unusual operating risks to life and property in U.S. ports. These unusual operating risks may be by virtue of the vessel design, the vessel operation or the cargoes carried.

A Letter of Compliance, valid for a period of not more than 2 years, is issued to vessels upon satisfactory completion of plan review and examination. Reissuance of a vessel's Letter of Compliance requires a satisfactory Coast Guard reexamination.

c. By striking the fifth paragraph of Paragraph 2.

d. By striking the words "for existing vessels," in the first sentence of Paragraph 4(a)(2)(i).

e. By striking Paragraph 4(a)(2)(ii).

f. By amending Paragraph 4 by revising (b)(1), (b)(3), (b)(5), (c), the first sentence of (d)(1)(iii), the last sentence of (e), (f)(1), (g)(2), and by deleting (h), to read as follows:

4. *Action.*

* * * * *

(b) * * *

(1) The required plans and specifications are reviewed using criteria equivalent to those used in the review of a similar design for U.S. registry. Review of self-propelled liquefied gas vessels is based upon those plans required in Annex A of this part and the requirements of Part 38 of this chapter. Review of barges is based upon the plans required in Annex A and the requirements of Part 151 of this chapter.

* * * * *

(3) Instead of initially submitting plans and drawings, the vessel's owner may submit the vessel's IMCO Certificate of Fitness issued by the flag administration under—

(i) the "IMCO Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk," adopted without amendments by Assembly Resolution A.328(IX);

(ii) the "IMCO Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk," adopted without amendments by Assembly Resolution A.328(IX) in accordance with IMCO Resolution A.329(IX);

(iii) the "IMCO Code for Existing Ships Carrying Liquefied Gases in Bulk." Following Coast Guard review of the IMCO Certificate of Fitness, the owner is advised of any additional plans and drawings needed for review.

* * * * *

(5) Upon completion of plan review, the Commandant (G–MHM) notifies the owner that plan review is complete and specifies the cargoes authorized for carriage and the applicable restrictions.

(c) *Notification of arrival*

After receiving notification from the Commandant (G–MHM) that plan review is complete, the owner may send his vessel to a U.S. port for examination. To arrange for the examination, the owner or charterer must notify the Commandant (G–MHM) in writing of the vessel's initial arrival, stating—

(1) the expected date of the vessel's arrival in U.S. waters;

(2) the port of call of the vessel;

(3) the vessel's agent in that port of call; and

(4) any cargoes the vessel is to carry.

This notification of arrival must be made at least 14 days before the vessel's date of arrival. Late notification may cause the vessel's examination and scheduled cargo operation to be delayed.

* * * * *

(d) * * *

(1) * * *

(iii) For those vessels that have an IMCO Certificate of Fitness, accepted by the Coast Guard under Paragraph 4(b)(3), a copy of the IMCO Certificate in English or French must be available for examination by the boarding party.* * *

* * * * *

(e) * * * For those vessels that have an IMCO Certificate of Fitness, accepted by the Coast Guard under Paragraph 4(b)(3), a copy of the certificate, in English or French, must be presented.

(f) * * *

(1) If the vessel meets all applicable requirements of these regulations, a Letter of Compliance is issued by the Coast Guard. The Letter of Compliance must be available for presentation to Coast Guard inspection parties whenever the vessel is boarded by Coast Guard personnel. The letter will indicate that the special cargo carrying and handling features of the vessel have been evaluated and found satisfactory for the cargoes specified. For subsequent vessel arrivals, the Captain of the Port, in conjunction with the Officer in Charge, Marine Inspection, will make such reexamination as he considers necessary to insure that the vessel has been maintained as initially examined. This will be in addition to the regular biennial reexamination. Vessels which have a Letter of Compliance issued on the basis of an IMCO Code certification must maintain a valid certificate and provide the Commandant (G–MHM) with amendments to and updated copies of the certificate, whenever issued by the flag administration.

Changes of vessel name, vessel owner, vessel registry and modifications to the vessel's cargo containment system terminates the Letter of Compliance and must be reported to the Commandant (G–MHM). Upon completion of a satisfactory reexamination, a revised Letter of Compliance will be issued.

(g) * * *

(2) Cargo compatibility must be considered in preparing a loading diagram and in the subsequent cargo transfer operations. Proper safeguards against accidental mixing of reactive products would include consideration of such factors as avoidance of the use of common cargo and vent lines and carriage in adjacent tanks having a common bulkhead. The current compatibility guide entitled "Bulk Liquid Cargoes: Guide to Compatibility of Chemicals," should be consulted when determining the compatability of chemicals. A copy of the compatibility guide is enclosed with the Letter of Compliance when issued. Additional copies are available from the Commandant (G–MHM) upon request.

g. By amending Annex A, by deleting in Paragraph 2, the paragraph following the words "The Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402," and by deleting Table II and the note to Table II.

9. By adding a new Part 154 to read as follows:

PART 154—SAFETY STANDARDS FOR SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES

Subpart A—General

Sec.
- 154.1 Applicability.
- 154.2 Carriage of liquefied gases in bulk.
- 154.3 Definitions and abbreviations.
- 154.4 U.S. flag vessel: endorsement application.
- 154.5 Foreign flag vessel: Letter of Compliance endorsement application.
- 154.6 U.S. flag vessel: Certificate of Inspection endorsement and IMCO Certificate.
- 154.8 Equivalents.
- 154.9 Special approval: requests.
- 154.10 Conflict in regulations.
- 154.12 Liquefied gases not included in Table 4.
- 154.13 Incorporation by reference.

Subpart B—Inspections and Tests

154.40—154.149 [Reserved]

Examination Requirements for a Letter of Compliance

- 154.150 Examination for a Letter of Compliance.
- 154.151 Scheduling a Letter of Compliance examination.
- 154.152 Notification of arrival for a Letter of Compliance examination.
- 154.153 Carrying a cargo into U.S. waters for a Letter of Compliance examination.

Subpart C—Design, Construction, and Equipment

Hull Structure

Sec.
- 154.170 Outer hull steel plating.
- 154.172 Contiguous steel hull structure.
- 154.174 Transverse contiguous hull structure.
- 154.176 Longitudinal contiguous hull structure.
- 154.178 Contiguous hull structure: heating system.
- 154.180 Contiguous hull structure: welding procedure.
- 154.182 Contiguous hull structure: production weld test.
- 154.188 Membrane tank: inner hull steel.
- 154.195 Aluminum tank: steel enclosure.

Ship Survival Capability and Cargo Tank Location

- 154.200 Stability requirements: general.
- 154.205 Intact stability requirements.
- 154.210 Damage stability requirement.
- 154.215 Hull type calculation.
- 154.220 Damage calculations.
- 154.225 Permeability of spaces and free surface effect.
- 154.230 Damage survival.
- 154.235 Cargo tank location.

Ship Arrangements

- 154.300 Segregation of hold spaces from other spaces.
- 154.305 Segregation of hold spaces from the sea.
- 154.310 Cargo piping systems.
- 154.315 Cargo pump and cargo compressor rooms.
- 154.320 Cargo control stations.
- 154.325 Accommodation, service, and control spaces.
- 154.330 Openings to accommodation, service, or control spaces.
- 154.340 Access to tanks and spaces in the cargo area.
- 154.345 Air locks.
- 154.350 Bilge and ballast systems in the cargo area.
- 154.355 Bow and stern loading piping.
- 154.356 Cargo emergency jettisoning piping.

Cargo Containment Systems

- 154.401 Definitions.
- 154.405 Design vapor pressure (P_o) of a cargo tank.
- 154.406 Design loads for cargo tanks and fixtures: general.
- 154.407 Cargo tank internal pressure head.
- 154.408 Cargo tank external pressure load.
- 154.409 Dynamic loads from vessel motion.
- 154.410 Cargo tank sloshing loads.
- 154.411 Cargo tank thermal loads.
- 154.412 Cargo tank corrosion allowance.

Integral Tanks

- 154.418 General.
- 154.419 Design vapor pressure.
- 154.420 Tank design.
- 154.421 Allowable stress.

Membrane Tanks

- 154.425 General.
- 154.428 Design vapor pressure.
- 154.427 Membrane tank system design.
- 154.428 Allowable stress.
- 154.429 Calculations.
- 154.430 Material test.
- 154.431 Model test.
- 154.432 Expansion and contraction.

Semi-Membrane Tanks

- 154.435 General.
- 154.436 Design vapor pressure.

Independent Tank Type A

- 154.437 General.
- 154.438 Design vapor pressure.
- 154.439 Tank design.
- 154.440 Allowable stress.

Independent Tank Type B

- 154.444 General.
- 154.445 Design vapor pressure.
- 154.446 Tank design.
- 154.447 Allowable stress.
- 154.448 Calculations.
- 154.449 Model test.

Independent Tank Type C and Process Pressure Vessels

- 154.450 General.
- 154.451 Design vapor pressure.
- 154.452 External pressure.
- 154.453 Failure to meet independent tank type C standards.

Secondary Barrier

- 154.459 General.
- 154.460 Design criteria.

Insulation

- 154.465 General.
- 154.466 Design criteria.
- 154.467 Submission of insulation information.

Support System

- 154.470 General.
- 154.471 Design criteria.
- 154.476 Cargo transfer devices and means.

Cargo and Process Piping Systems

- 154.500 Cargo and process piping standards.
- 154.503 Piping and piping system components: protection from movement.
- 154.506 Mechanical expansion joint: limits in a piping system.
- 154.512 Piping: thermal isolation.
- 154.514 Piping: electrical bonding.
- 154.516 Piping: hull protection.
- 154.517 Piping: liquid pressure relief.
- 154.519 Piping relief valves.
- 154.520 Piping calculations.
- 154.522 Materials for piping.
- 154.524 Piping joints: welded and screwed couplings.
- 154.526 Piping joints: flange connection.
- 154.528 Piping joints: flange type.
- 154.530 Valves: cargo tank MARVS 69 kPa gauge (10 psig) or lower.
- 154.532 Valves: cargo tank MARVS greater than 69 kPa gauge (10 psig).
- 154.534 Cargo pumps and cargo compressors.
- 154.536 Cargo tank gauging and measuring connections.
- 154.538 Cargo transfer connection.
- 154.540 Quick-closing shut-off valves: emergency shut-down system.
- 154.544 Quick-closing shut-off valves.
- 154.546 Excess flow valve: closing flow.

Sec.
154.548 Cargo piping: flow capacity.
154.550 Excess flow valve: bypass.
154.551 Cargo hose: general.
154.552 Cargo hose: compatibility.
154.554 Cargo hose: bursting pressure.
154.556 Cargo hose: maximum working pressure.
154.558 Cargo hose: marking.
154.560 Cargo hose: prototype test.
154.562 Cargo hose: hydrostatic test.

Materials

154.605 Toughness test.
154.610 Design temperature not colder than 0° C (32° F).
154.615 Design temperature below 0° C (32° F) and down to −55° C (−67° F).
154.620 Design temperature below −55° C (−67° F) and down to −165° C (−265° F).
154.625 Design temperature below 0° C (32° F) and down to −165° C (−265° F).
154.630 Cargo tank material.

Construction

154.650 Cargo tank and process pressure vessel welding.
154.655 Stress relief for independent tanks type C.
154.660 Pipe welding.
154.665 Welding procedures.

Cargo Pressure and Temperature Control

154.701 Cargo pressure and temperature control: general.
154.702 Refrigerated carriage.
154.703 Methane (LNG).
154.705 Cargo boil-off as fuel: general.
154.706 Cargo boil-off as fuel: fuel lines.
154.707 Cargo boil-off as fuel: ventilation.
154.708 Cargo boil-off as fuel: valves.
154.709 Cargo boil-off as fuel: gas detection equipment.

Cargo Vent Systems

154.801 Pressure relief systems.
154.802 Alternate pressure relief settings.
154.804 Vacuum protection.
154.805 Vent masts.
154.806 Capacity of pressure relief valves.

Atmospheric Control in Cargo Containment Systems

154.901 Atmospheric control within cargo tanks and cargo piping systems.
154.902 Atmospheric control within hold and interbarrier spaces.
154.903 Inert gas systems: general.
154.904 Inert gas system: controls.
154.906 Inert gas generators.
154.908 Inert gas generator: location.
154.910 Inert gas piping: location.
154.912 Inerted spaces: relief devices.

Electrical

154.1000 Applicability.
154.1002 Definition.
154.1005 Equipment approval.
154.1010 Electrical equipment in gas-dangerous space or zone.
154.1015 Lighting in gas-dangerous space.
154.1020 Emergency power.

Firefighting

Firefighting System: Exterior Water Spray

Sec.
154.1105 Exterior water spray system: general.
154.1110 Areas protected by system.
154.1115 Discharge.
154.1120 Nozzles.
154.1125 Pipes, fittings, and valves.
154.1130 Sections.
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Firefighting System: Dry Chemical

154.1140 Dry chemical system: general.
154.1145 Dry chemical supply.
154.1150 Distribution of dry chemical.
154.1155 Hand hose line: coverage.
154.1160 Monitor coverage of system.
154.1165 Controls.
154.1170 Hand hose line: general.

Cargo Area: Mechanical Ventilation System

154.1200 Mechanical ventilation system: general.
154.1205 Mechanical ventilations system: standards.
154.1210 Hold space, void space, cofferdam, and spaces containing cargo piping.

Instrumentation

154.1300 Liquid level gauging system: general.
154.1305 Liquid level gauging system: standards.
154.1310 Closed gauge shut-off valve.
154.1315 Restricted gauge excess flow valve.
154.1320 Sighting ports, tubular gauge glasses, and flat plate type gauge glasses.
154.1325 Liquid level alarm system: all cargo tanks.
154.1330 Liquid level alarm system: independent tank type C.
154.1335 Pressure and vacuum protection.
154.1340 Temperature measuring devices.
154.1345 Gas detection.
154.1350 Flammable gas detection system.
154.1360 Oxygen analyzer.
154.1365 Audible and visual alarms.
154.1370 Pressure gauge and vacuum gauge marking.
154.1375 Readout for temperature measuring device: marking.

Safety Equipment

154.1400 Safety equipment: all vessels.
154.1405 Respiratory protection.
154.1410 Decontamination shower.
154.1415 Air compressor.
154.1420 Stretchers and equipment.
154.1430 Equipment locker.
154.1435 Medical first aid guide.
154.1440 Antidotes.
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Subpart D—Special Design and Operating Requirements

154.1700 Materials of construction.
154.1705 Independent tank type C.
154.1710 Exclusion of air from cargo tank vapor spaces.
154.1715 Moisture control.
154.1720 Indirect refrigeration.
154.1725 Ethylene oxide.
154.1730 Ethylene oxide: loading and off-loading.
154.1735 Methyl acetylene-propadiene mixture.
154.1740 Vinyl chloride: inhibiting and inerting.
154.1745 Vinyl chloride: transferring operations.
154.1750 Butadiene or vinyl chloride: refrigeration system.
154.1755 Nitrogen.
154.1760 Liquid ammonia.

Subpart E—Operations

154.1800 Special operating requirements under Part 35 of this chapter.
154.1801 Certificates, letters, and endorsements: U.S. flag vessels.
154.1802 Certificates, letters, and endorsements: foreign flag vessels.
154.1803 Expiration of Letters of Compliance.
154.1804 Document posted in wheelhouse.
154.1806 Regulations on board.
154.1808 Limitations in the endorsement.
154.1809 Loading and stability manual.
154.1810 Cargo manual.
154.1812 Operational information for terminal personnel.
154.1814 Cargo information cards.
154.1816 Cargo location plan.
154.1818 Certification of inhibition.
154.1820 Shipping document.
154.1822 Shipping document: copy for transfer terminal.
154.1824 Obstruction of pumproom ladderways.
154.1826 Opening of cargo tanks and cargo sampling.
154.1828 Spaces containing cargo vapor: entry.
154.1830 Warning sign.
154.1832 Incompatible cargo.
154.1834 Cargo transfer piping.
154.1836 Vapor venting as a means of cargo tank pressure and temperature control.
154.1838 Discharge by gas pressurization.
154.1840 Protective clothing.
154.1842 Cargo system: controls and alarms.
154.1844 Cargo tanks: filling limits.
154.1846 Relief valves: changing set pressure.
154.1848 Inerting.
154.1850 Entering cargo handling spaces.
154.1852 Air breathing equipment.
154.1854 Methane (LNG) as fuel.
154.1858 Cargo hose.
154.1860 Integral tanks: cargo colder than −10° C (14° F).
154.1862 Posting of speed reduction.
154.1864 Vessel speed within speed reduction.
154.1866 Cargo hose connection; transferring cargo.
154.1868 Portable blowers in personnel access openings.
154.1870 Bow and stern loading.
154.1872 Cargo emergency jettisoning.
Appendix A—Equivalent Stress.
Appendix B—Stress analyses definitions.

Authority: 92 Stat. 1460 (Port and Tanker Safety Act of 1978, 46 U.S.C. 391a); 49 CFR 1.46(n)(4).

PART 154—SAFETY STANDARDS FOR SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES

Subpart A—General

§ 154.1 Applicability.

This part applies to each self-propelled vessel that has onboard bulk liquefied gases as a cargo, cargo residue, or vapor and that—

(a) Is constructed under a building contract awarded after October 31, 1976;

(b) In the absence of a building contract, has the keel laid or is at a similar stage of construction after December 31, 1976;

(c) Is delivered after June 30, 1980; or

(d) Has undergone a major conversion for which—

(1) The building contract is awarded after October 31, 1976;

(2) In the absence of a building contract, conversion is begun after December 31, 1976; or

(3) Conversion is completed after June 30, 1980.

§ 154.2 Carriage of liquefied gases in bulk.

Each vessel under this part must meet the design, construction and operating requirements of this part for carriage in bulk of a liquefied gas listed in Table 4.

§ 154.3 Definitions and abbreviations.

As used in this part:

"'A' Class Division" means a division as defined in Regulation 3 of Chapter II–2 of the 1974 Safety Convention.

"Accommodation spaces" means public spaces, corridors, lavatories, cabins, offices, hospitals, cinemas, games and hobbies rooms, pantries containing no cooking appliances and similar spaces. Public spaces are those portions of the accommodations that are used as halls, dining rooms, lounges and similar permanently enclosed spaces.

"Boiling point" means the temperature at which a cargo exhibits a vapor pressure equal to the atmospheric barometric pressure.

"Breadth (B)" means the maximum width of the vessel in meters measured amidships to the moulded line of the frame in a ship with a metal shell and to the outer surface of the hull in a ship with a shell of any other material.

"Cargo area" means that part of the vessel that contains the cargo containment system, cargo pump rooms, and cargo compressor rooms and includes the deck areas over the full beam and length of the vessel above them. The cargo area does not include the cofferdams, ballast spaces or void spaces at the after end of the aftermost hold space or the forward end of the forwardmost hold space.

"Cargo containment system" means the arrangement for containment of cargo including a primary and secondary barrier, associated insulation and any intervening spaces, and adjacent structure if necessary for the support of these elements.

"Cargo service space" means a space within the cargo area used for work shops, lockers, and store rooms of more than 2m² (21.5 ft.²) in area.

"Cargo tank" means the liquid tight shell that is the primary container of the cargo.

"Cofferdam" means the isolating space between two adjacent steel bulkheads or decks which in some cases are void spaces or ballast spaces.

"Contiguous hull structure" means hull structure that includes the inner deck, the inner bottom plating, longitudinal bulkhead plating, transverse bulkhead plating, floors, webs, stringers, and attached stiffeners.

"Control space" means those spaces in which the vessel's radio or main navigating equipment or the emergency source of power is located or where the fire control equipment, other than firefighting equipment required or permitted in the cargo area by §§ 154.1140 to 154.1170, is centralized.

"Design temperature" means the minimum temperature at which cargo is approved for loading, unloading or carriage.

"Design vapor pressure (P_o)" means the maximum gauge pressure at the top of the cargo tank for the design of the cargo tank.

"Flammable cargoes" means the following liquefied gases from Table 4:

Acetaldehyde
Butadiene
Butane
Butylene
Dimethylamine
Ethane
Ethylamine
Ethyl chloride
Ethylene
Ethylene oxide
Methane (LNG)
Methyl acetylene-propadiene mixture
Methyl bromide
Methyl chloride
Propane
Propylene
Vinyl chloride

"Flammable range" means the range between the minimum and maximum concentrations of vapor in air which form a flammable mixture.

"Gas-dangerous space" means:

(1) A space in the cargo area that does not have approved arrangements to ensure that its atmosphere is at all times maintained in a safe condition.

(2) An enclosed space outside the cargo area through which any piping that may contain liquid or gaseous cargo passes, or within which such piping terminates, unless it has approved arrangements that prevent any escape of gas into the atmosphere of this space.

(3) A cargo containment system and cargo piping.

(4) A hold space where cargo is carried in a cargo containment system required by this part to have a secondary barrier.

(5) A hold space where cargo is carried in a cargo containment system not required by this part to have a secondary barrier.

(6) A space separated from the hold space defined in subparagraph (4) of this definition by a single gastight boundary.

(7) A cargo pumproom and a cargo compressor room.

(8) A zone on the weather deck, or semi-enclosed space on the weather deck, within 3.05m (10 ft.) of any cargo tank outlet, gas or vapor outlet, cargo pipe flange, cargo valve, or of entrances and ventilation openings to a cargo pump room and cargo compressor room.

(9) The weather deck over the cargo area and 3.05m (10 ft.) forward and aft of the cargo area on the weather deck up to a height of 2.4m (8 ft.) above the weather deck.

(10) A zone within 2.4m (8 ft.) of the outer surface of a cargo containment system where the surface is exposed to the weather.

(11) An enclosed or semi-enclosed space in which there are lines containing cargo, except—

(i) A space with gas sampling lines going to gas detection equipment under § 154.1350(n); or

(ii) A space in which boil-off gas is used as fuel and complies with § 154.705.

(12) A space for storage of cargo hoses.

(13) An enclosed or semi-enclosed space having a direct opening into any gas-dangerous space or zone, as defined in subparagraphs (1) through (12) of this definition.

"Gas-safe space" means a space that is not a gas-dangerous space.

"Hold space" means the space enclosed by the vessel's structure in which there is a cargo containment system.

"IMCO" means the Inter-Governmental Maritime Consultative Organization.

"IMCO Certificate" means a Certificate of Fitness for the Carriage of Liquefied Gases in Bulk issued under the

IMCO Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, adopted without amendments on November 12, 1975 by Assembly Resolution A. 328(IX).

"Independent tank" means a cargo tank that is permanently affixed to the vessel, is self-supporting, forms no part of the vessel's hull and is not essential to the strength or integrity of the hull.

"Independent tank type A" means an independent cargo tank designed primarily using classification society classical ship structural analysis procedures.

"Independent tank type B" means an independent cargo tank designed from model tests, refined analytical tools and analysis methods to determine stress levels, fatigue life and crack propagation characteristics.

"Independent tank type C" (pressure tank) means an independent cargo tank meeting pressure vessel criteria where the dominant stress producing load is design vapor pressure.

"Insulation space" means a space, that may or may not be an interbarrier space, occupied wholly or in part by insulation.

"Integral tank" means a cargo tank that forms a structural part of the vessel's hull and is influenced in the same manner and by the same loads that stress the adjacent hull structure.

"Interbarrier space" means the space between a primary and a secondary barrier, whether or not completely or partially occupied by insulation or other material.

"Length (L)" means ninety-six percent of the total length in meters on a waterline at eighty-five percent of the least molded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, whichever is greater. In vessels designed with a rake of keel, the waterline on which L is measured is parallel to the design waterline.

"Letter of Compliance" means a letter issued by the Coast Guard that allows a foreign flag vessel to carry a bulk cargo regulated under this part.

"Liquefied gas" means a cargo having a vapor pressure of 172 kPa gauge (25 psia) or more at 37.8°C (100°F).

"MARVS" means the Maximum Allowable Relief Value Setting of a cargo tank.

"Membrane tank" means a cargo tank that is nonself-supporting and consists of a thin layer (membrane) supported through insulation by the adjacent hull structure.

"Permeability of a space" means the ratio of the volume within a space that is assumed to be occupied by water to the total volume of the space.

"Primary barrier" means the inner boundary that contains the cargo when the cargo containment system includes two boundaries.

"Process pressure vessel" means a pressure vessel that is used in a reliquefaction, cargo heating, or other system that processes cargo on board.

"Remote group alarm" means an audible and visual alarm which identifies that an alarm condition exists while not identifying the space in which the condition exists, nor the exact nature of the alarm.

"Secondary barrier" means the liquid resisting outer boundary of a cargo containment system when the cargo containment system includes two boundaries.

"Semi-membrane tank" means a cargo tank that is nonself-supporting in the loaded condition and consists of flat surfaces supported through insulation by the adjacent hull structure, and of shaped corners that connect the flat surfaces that can expand and contract due to thermal, hydrostatic, and pressure loading.

"Service space" means a space outside the cargo area used for a galley, pantry containing cooking appliances, locker or store room, workshop other than those forming part of the machinery spaces, and similar spaces and trunks to such spaces.

"Shut-off valve" means a valve that fully closes a pipeline and provides nominal metal to metal contact between the valve operating parts, including the disc and gate, and the valve body.

"Specific gravity (ρ)" means the ratio of the density of the cargo, at the lowest temperature at which it may be carried, to the density of water at 4°C (39°F).

"Tank cover" means the protective structure intended to protect the cargo containment system against damage where it protrudes through the weather deck, and to ensure the continuity and integrity of the deck structure.

"Tank dome" means the upward extension of a portion of the cargo tank. For below deck cargo containment systems, it means the extension of the cargo tank that protrudes through the weather deck or through a tank cover.

"Toxic cargoes" means the following liquefied gases from Table 4:

Acetaldehyde
Ammonia, anhydrous
Dimethylamine
Ethylamine
Ethyl chloride
Ethylene oxide
Methyl bromide
Methyl cloride
Sulfur dioxide
Vinyl chloride

"Vapor density" means the relative weight of the vapor compared with the weight of an equal volume of dry air at standard conditions of temperature and pressure.

"Vapor pressure" means the absolute equilibrium pressure of the saturated vapor above the liquid, expressed in kPa (psia), at a specific temperature.

"Void space" means an enclosed space in the cargo area external to a cargo containment system, other than a hold space, ballast space, fuel oil tank, cargo pump or compressor room, or any space used by personnel.

"1974 Safety Convention" means the International Convention on Safety of Life at Sea, 1974, done at London, November 1, 1974.

§ 154.4 U.S. flag vessel: Endorsement application.

(a) A person who desires the endorsement required by § 154.1801 for a U.S. flag vessel must submit an application to an Officer in Charge, Marine Inspection, in the inspection zone in which the vessel is to be built, for an endorsement of the vessel's subchapter D Certificate of Inspection.

(b) The person requesting an endorsement under paragraph (a) of this section must submit to the Coast Guard when requested—

(1) Hull type calculation required by § 154.215;

(2) The plans and information listed in §§ 54.01–18, 56.01–10, 91.55–5 (a), (b), (d), (g), and (h), and 111.05–5(d) of this chapter;

(3) Plans for the dry chemical supply and distribution systems, including the controls; and

(4) Any other vessel information, such as plans, design calculation, test results, certificates, and manufacturer's data, that the Coast Guard needs to determine whether or not the vessel meets the standards of this part.

§ 154.5 Foreign flag vessel: Letter of Compliance endorsement application.

(a) A person who desires an endorsed Letter of Compliance required under § 154.1802(a) for a foreign flag vessel, whose flag administration issues IMCO Certificates, must submit to the Commandant (G–MHM), U.S. Coast Guard, Washington, D.C., 20590, a copy of the IMCO Certificate [1] issued to the vessel with—

(1) The design ambient temperatures and cargo tank design stress factors, listed in item 3 of the IMCO Certificate, that meet §§ 154.174, 154.176, 154.215(c), 154.447, 154.450 and 154.466;

(2) A classification society certification that the vessel complies with the requirements of § 154.170 and §§ 154.701 through 154.709;

(3) A description of the vessel;

(4) Specifications for the cargo containment system;

(5) A general arrangement plan of the vessel;

(6) A midship section plan of the vessel;

(7) Schematic plans of the liquid and vapor cargo piping;

(8) A firefighting and safety plan;

(9) The vessel's Cargo Ship Safety Construction Certificate and Cargo Ship Safety Equipment Certificate issued under the International Convention for Safety of Life at Sea, 1960; and

(10) Any additional plans, certificates, and information that the Commandant (G–MHM) may request.

(b) A person who desires an endorsed Letter of Compliance required under § 154.1802(b) for a foreign flag vessel, whose flag administration does not issue IMCO Certificates, must submit to the Commandant (G–MHM) the plans, calculations, and information under § 154.4(b).

(c) Correspondence to the Coast Guard and vessel information submitted under this part must be in English, except—

(i) IMCO Certificates may be in French; and

(ii) SOLAS Certificates may be in the official language of the flag administration.

§ 154.6 U.S. flag vessel: Certificate of inspection endorsement and IMCO Certificate.

The Certificate of Inspection for a U.S. flag vessel intended to carry any liquefied gas is endorsed for each individual cargo as follows:

"Inspected and approved for the carriage of (enter the applicable cargo name) at a maximum allowable relief valve setting of ——— kPa gauge (——— psig) with an F factor of ———, a maximum external pressure of ——— kPa gauge (——— psig), a minimum service temperature of ——— °C (——— °F), and a maximum specific gravity of ———. Hull type ———."

(b) The Coast Guard also issues an IMCO Certificate if requested by the U.S. flag vessel's owner or operator.

§ 154.8 Equivalents.

(a) Where a vessel must have particular fitting, material, appliance, apparatus, equipment, provision, procedure, or arrangement, including cargo segregation, the Commandant may accept any other fitting, material, appliance, appartus, equipment, provision, procedure, or arrangement, that he determines to be as effective as that specified in this part.

(b) In any case where it is shown to the satisfaction of the Commandant that the use of any particular equipment, apparatus, or arrangement not specifically required by statute, but prescribed by regulations is unreasonable or impracticable, the Commandant may allow the use of alternate equipment, apparatus, or arrangement to such an extent and upon such conditions as will insure a degree of safety consistent with the minimum standards set forth in this part.

(c) Operational methods or procedures are generally not substituted for a particular fitting, material, appliance, apparatus, item or type of equipment, required in this part.

§ 154.9 Special approval: requests.

Each request for special approval must be in writing to the Commandant (G–MHM) or (G–MMT) as required under this part. The mailing address is as follows:

Commandant (G–MHM) or Commandant (G–MMT), U.S. Coast Guard, Washington, D.C. 20590.

§ 154.10 Conflict in regulations.

(a) When a specific requirement in another part of this chapter is in conflict with any requirement in this part, the regulations in this part take precedence.

(b) When a vessel carries cargoes regulated by this part and by another part, the requirements of both parts must be met.

§ 154.12 Liquefied gases not included in Table 4.

(a) A liquefied gas not appearing in Table 4 must be specially approved by the Commandant (G–MHM) for carriage in bulk in U.S. waters.

(b) A person who desires to ship a liquefied gas in bulk that is not listed in Table 4, must submit to the Commandant (G–MHM) a completed form CG–4355. This form may be obtained from either Commandant (G–MHM) or any Officer in Charge, Marine Inspection (OCMI), at the nearest port.

§ 154.13 Incorporation by reference.

Industry standards referred to in this part were approved under 1 CFR Part 151 for incorporation by reference in this chapter by the director of the Federal Register on November 21, 1967. These industry standards are on file in the Federal Register library and are available from the appropriate organization at the following addresses:

(a) American Bureau of Shipping, 65 Broadway, New York, New York 10006.

(b) American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

(c) American National Standards Institute, 1430 Broadway, New York, New York 10018.

Subpart B—Inspections and Tests

§ 154.40–§ 154.149 (Reserved)

Examination Requirements for a Letter of Compliance

§ 154.150 Examination for a Letter of Compliance.

Before a Letter of Compliance is issued by the Coast Guard to a foreign flag vessel, the vessel's owner must have his vessel examined by the Coast Guard in a U.S. port to determine whether or not it meets the requirements of this part.

§ 154.151 Scheduling a Letter of Compliance examination.

The Commandant (G–MHM) schedules the Letter of Compliance examination under § 154.150 after—

(a) The Coast Guard has completed review of the vessel's plans or has accepted the vessel's IMCO Certificate; and

(b) Receiving a written request for examination from the owner with—

(1) The expected date of the vessel's arrival in U.S. waters;

(2) The port of call where the vessel is to be inspected;

(3) The vessel's agent in the port of call; and

(4) Any cargoes the vessel is to carry under § 154.153.

§ 154.152 Notification of arrival for a Letter of Compliance examination.

A Letter of Compliance examination is scheduled 14 days or more after the request under § 154.151(b) has been received, unless the Commandant (G–MHM) concurs in a request to arrange for an examination in less than 14 days after the request is received.

§ 154.153 Carrying a cargo into U.S. waters for a Letter of Compliance examination.

When entering U.S. waters for an examination under §§ 154.150 and 154.151, a vessel that has not been issued a Letter of Compliance or whose Letter of Compliance has expired or been revoked may not carry cargo regulated under this part unless that

[1] Usually, the IMCO Certificate is sufficient for the Coast Guard to endorse the vessel's Letter of Compliance with the names of those cargoes in Table 4 that are listed on the IMCO Certificate.

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carriage is specially approved by the Commandant (C–MHM).

Subpart C—Design, Construction and Equipment

Hull Structure

§ 154.170 Outer hull steel plating.

(a) Except as required in paragraph (b) of this section, the outer hull steel plating, including the shell and deck plating must meet the material standards of the American Bureau of Shipping published in "Rules for Building and Classing Steel Vessels" 1976.

(b) Along the length of the cargo area, grades of steel must be as follows:

(1) The deck stringer and sheer strake must be at least Grade E steel or a grade of steel that has equivalent chemical properties, mechanical properties, and heat treatment, and that is specially approved by the Commandant (G–MMT).

(2) The strake at the turn of the bilge must be Grade D, Grade E, or a grade of steel that has equivalent chemical properties, mechanical properties, and heat treatment, and that is specially approved by the Commandant (G–MMT).

(3) The outer hull steel vessels must meet the standards in § 154.172 if the hull steel temperature is calculated to be below −5° C (23° F) assuming—

(i) For any waters in the world, the ambient cold conditions of still air at 5° C (41° F) and still sea water at 0° C (32° F);

(ii) For cargo containment systems with secondary barriers, the temperature of the secondary barrier is the design temperature; and

(iii) For cargo containment systems without secondary barriers, the temperature of the cargo tank is the design temperature.

§ 154.172 Contiguous steel hull structure.

(a) Except as allowed in paragraphs (b) and (c) of this section, plates, forgings, forged and rolled fittings, and rolled and forged bars and shapes used in the construction of the contiguous steel hull structure must meet the thickness and steel grade in Table 1 for the temperatures under § 154.174(b) and 154.176(b).

(b) for a minimum temperature, determined under §§ 154.174(b) and 154.176(b), below −25° C (13° F), the contiguous steel hull structure must meet § 54.25–10 for that minimum temperature.

(c) If a steel grade that is not listed in Table 1 has the equivalent chemical properties, mechanical properties, and heat treatment of a steel grade that is listed, the steel grade not listed may be specially approved by the Commandant (C–MMT), for use in the contiguous hull structure.

Table 1.—Minimum Temperature, Thickness, and Steel Grades in Contiguous Hull Structures.

Minimum temperature	Steel thickness	Steel[1] grade
0° C (32° F)....	All.....	Standards of the American Bureau of Shipping published in "Rules for Building and Classing Steel Vessels", 1976
−10° C (14° F).	t≤112.5mm (½ in.).	B
	12.5<t≤25.5mm(1 in.)	D
	t>25.5mm(1 in.).	E
−25° C (−13° F).	t≤12.5mm ½ in.).	D
	t>12.5mm (½ in.).	E

[1] Steel grade of the American Bureau of Shipping published in "Rules for Building and Classing Steel Vessels", 1976.

§ 154.174 Transverse contiguous hull structure.

(a) The transverse contiguous hull structure of a vessel having cargo containment systems without secondary barriers must meet the standards of the American Bureau of Shipping published in "Rules for Building and Classing Steel Vessels", 1976.

(b) The transverse contiguous hull structure of a vessel having cargo containment systems with secondary barriers must be designed for a temperature that is—

(1) Colder than the calculated temperature of this hull structure when—

(i) The temperature of the secondary barrier is the design temperature; and

(ii) For any waters in the world except Alaskan waters, the ambient cold condition of—

(A) Five knots air at −18° C (0° F); and

(B) Still sea water at 0° C (32° F); or

(iii) For Alaskan waters the ambient cold condition of—

(A) Five knots air at −29° C (−20° F); and

(B) Still sea water at −2° C (28° F); or

(2) Maintained by the heating system under § 154.178, if, without heat, the contiguous hull structure is designed for a temperature that is colder than the calculated temperature of the hull structure assuming the—

(i) Temperature of the secondary barrier is the design temperature; and

(ii) Ambient cold conditions of still air at 5° C (41° F) and still sea water at 0° C (32° F).

§ 154.178 Contiguous hull structure: heating system.

The heating system for transverse and longitudinal contiguous hull structure must—

(a) Be shown by a heat load calculation to have the heating capacity to meet § 154.174(b)(2) or § 154.176(b)(2);

(b) Have stand-by heating to provide 100% of the required heat load and distribution determined under paragraph (a); and

(c) Meet Parts 52, 53, and 54 of this chapter.

§ 154.180 Contiguous hull structure: welding procedure.

Welding procedure tests for contiguous hull structure designed for a temperature colder than −18° C (0° F) must meet § 54.05–15 and Subpart 57.08 of this chapter.

§ 154.182 Contiguous hull structure: production weld test.

If a portion of the contiguous hull structure is designed for a temperature colder than −34° C (−30° F) and is not part of the secondary barrier, each 100m (328 ft.) of full penetration butt welded joints in that portion of the contiguous hull structure must pass the following production weld tests in the position that the joint is welded:

(a) Bend tests under § 57.06–4 of this chapter.

(b) A Charpy V-notch toughness test under § 57.06–5 of this chapter on one set of 3 specimens alternating the notch location on successive tests between the center of the weld and the most critical location in the heat affected zone.[1]

(c) If the contiguous hull structure does not pass the test under paragraph (b) of this section, the retest procedures under § 54.05–5(c) must be met.

§ 154.188 Membrane tank: inner hull steel.

For a vessel with membrane tanks, the inner hull plating thickness must meet the deep tank requirements of the American Bureau of Shipping published in "Rules for Building and Classing Steel Vessels", 1976.

§ 154.195 Aluminum cargo tank: steel enclosure.

(a) An aluminum cargo tank and its dome must be enclosed by the vessel's hull structure or a separate steel cover.

(b) The steel cover for the aluminum cargo tank must meet the steel structural standards of the American Bureau of Shipping published in "Rules for Building and Classing Steel Vessels", 1976.

(c) The steel cover for the aluminum tank dome must be—

(1) At least 3.2 mm (⅛ in.) thick;

(2) Separated from the tank dome, except at the support points; and

(3) Thermally isolated from the dome.

Ship Survival Capability and Cargo Tank Location

§ 154.200 Stability requirements: general.

Each vessel must be stable for the full range of operating drafts including the effects on stability of any empty or partially filled tanks and the weight and volume of cargoes carried.

§ 154.205 Intact stability requirements.

(a) Each vessel must meet Part 93 of this chapter.

(b) During loading and unloading, the vessel must have at least 50 mm (2 inches) of positive metacentric height which can be maintained by water ballast and the sequencing of cargo loading and unloading.

§ 154.210 Damage stability requirement.

(a) Each vessel must be shown by design calculations to meet the survival presumptions in § 154.220 assuming the damage for the cargo it carries in the hull type specified in § 154.215.

(b) For the carriage of a cargo listed in Table 4, the vessel must be at least the ship type specified in Table 4 for that cargo.

Note.—Products with the greatest hazard are carried in a Type IG hull. Products with lesser hazards are carried in Type IIG/IIPG or Type IIIG hulls.

§ 154.215 Hull type calculation.

(a) Where Table 4 requires a type IG hull, design calculations must show that the vessel can survive damage at any location.

(b) Where Table 4 requires a type IIG hull, design calculations must show that a vessel—

(1) Longer than 150 m (492 ft.) in length can survive damage at any location; and

(2) 150 m (492 ft.) or less in length can survive damage at any location except the transverse bulkheads bounding an aft machinery space.

(c) If a vessel has independent tanks type C with a MARVS of 889 kPa gauge (100 psig), is 150 m (492 ft.) or less in length, and Table 4 allows a type II PG hull, the design calculations must show that the vessel can survive damage at any location, except on transverse bulkheads spaced farther apart than the longitudinal extent of damage specified in § 154.220(b)(1)(i).

(d) Where Table 4 requires a type IIIG hull, design calculations must show that a vessel—

(1) 125 m (410 ft.) or longer can survive damage at any location except on transverse bulkheads spaced farther apart than the longitudinal extent of damage specified in § 154.220(b)(1)(i); and

(2) Shorter than 125 m (410 ft.) can survive damage at any location, except on transverse bulkheads spaced farther apart than the longitudinal extent of damage specified in § 154.220(b)(1)(i) and except in the main machinery space.

(e) For the purposes of paragraphs (c) and (d) of this section, damage must be assumed to transverse bulkheads spaced closer than the longitudinal extent of damage specified in § 154.220(b)(2)(i), and a main transverse bulkhead or a transverse bulkhead bounding side tanks or double bottom tanks must be assumed damaged if there is a step or a recess in a transverse bulkhead that is longer than 3.05 m (10 ft.) located within the extent of penetration of assumed damage. The step formed by the after peak bulkhead and after peak tank top is not a step for the purpose of this regulation.

§ 154.220 Damage calculations.

(a) For the purpose of § 154.210, design calculations must include both side and bottom damage, applied separately.

(b) Damage must consist of the most disabling penetration up to and including penetrations having the following dimensions:

(1) For side penetrations—(i) A longitudinal extent of $1/3L^{2/3}$ or 14.5 m ($0.495L^{2/3}$ or 47.6 ft.), whichever is shorter;

(ii) A transverse extent (inboard from the ship's side at right angles to the centerline at the level of the summer load line assigned under Subchapter E of this chapter) of B/5 or 11.5 m (37.7 ft.), whichever is shorter; and

(iii) A vertical extent measuring from the base line upward without limits.

(2) For bottom penetrations—(i) At the forward end but not including any damage aft of a point 0.3L aft of the forward perpendicular—

(A) A longitudinal extent of $1/3L^{2/3}$ or 14.5 m ($0.495L^{2/3}$ or 47.6 ft.), whichever is shorter;

(B) A transverse extent of B/6 or 10 m (32.8 ft.), whichever is shorter; and

(C) A vertical extent, from the molded line of the shell at the centerline, of B/15 or 2 m (6.6 ft.), whichever is shorter; and

(ii) At any longitudinal position aft of a point 0.3L aft of the forward perpendicular—

(A) A longitudinal extent of L/10 or 5 m (16.4 ft.), whichever is shorter;

(B) A transverse extent of B/6 or 5 m (16.4 ft.), whichever is shorter; and

(C) A vertical extent, from the molded line of the shell at the centerline, of B/15 or 2 m (6.6 ft.), whichever is shorter.

(c) When the damage assumption excludes a transverse bulkhead bounding a machinery space, the machinery space must be assumed to be damaged as a case separate from the side and bottom penetration.

§ 154.225 Permeability of spaces and free surface effect.

(a) The free surface effect must be calculated at an angle of heel of 5° for each individual space or the effect of free liquid in a tank must be calculated by assessing the shift of liquids by moment of transference calculations.

(b) In calculating the effect of free surfaces of consumable liquids, it must be assumed that, for each type of liquid, at least one transverse pair of wing tanks or a single center line tank has a free surface. The tank or combination of tanks selected must be those where the effect of free surfaces is the greatest.

(c) Calculations in which a machinery space is treated as a floodable space must be based on an assumed machinery space permeability of 0.85, unless the use of an assumed permeability of less than 0.85 is justified in detail.

(d) The assumed permeability of a floodable space other than a machinery

[1] The most critical location in the heat affected zone of the weld is based on procedure qualification results, except austenitic stainless steel must have notches only in the center of the weld.

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space must be as listed in the following table:

Space	Permeability
Storerooms	0.60.
Accommodation spaces.	0.95.
Void	0.95.
Consumable liquid tanks.	0.95 or 0, whichever results in the more disabling.
Other liquid tanks	0.95 or 0, the permeability of partially filled tanks must be consistent with the density and amount of liquid carried.

(e) Wherever damage penetrates a cargo tank it must be assumed that the cargo is completely lost from the compartment and replaced by salt water up to the level of the final plane of equilibrium.

§ 154.230 Damage survival.

A vessel is presumed to survive assumed damage if it meets the following conditions in the final stage of flooding:

(a) *Heel angle.* The maximum angle of heel must not exceed 30°.

(b) *Final waterline.* The waterline, taking into account sinkage, heel and trim, must be below the lower edge of openings such as air pipes and openings closed by weathertight doors or hatch covers, except openings closed by means of watertight manhole covers and watertight flush scuttles, small watertight cargo tank hatch covers that maintain the high integrity of the deck, remotely operated watertight sliding doors, and side scuttles of the non-opening type.

(c) *Range of stability.*—(1) The righting lever curve must be positive and have a minimum range of 20° beyond the angle of equilibrium.

(2) The maximum righting lever within the range specified in paragraph (c)(1) of this section must be at least 100 mm (4 in.).

(3) Each opening within the 20° range beyond the angle of equilibrium must be at least weathertight.

(d) *Metacentric height.*—After flooding the vessel's metacentric height must be at least 50 mm (2 inches) when the vessel is in the upright position.

(e) *Bouyancy of superstructure.*—The bouyancy of superstructures directly above the side damage is not included except that the unflooded parts of superstructures beyond the extent of that damage may be included if they are separated from the damaged space by watertight bulkheads and meet paragraph (b) of this section. Hinged watertight doors may be in watertight bulkheads in the superstructure if they meet Subpart 73.35 of this chapter.

(f) *Local damage.*—The maximum angle of heel must not exceed the greater of 30° or the angle at which restoration of propulsion, steering engine power, and use of the ballast system is precluded for local damage, extending 760 mm (30 in.) normal to the hull shell, that affects a—

(1) Longitudinal bulkhead; and

(2) Transverse bulkhead on type IG and IIG vessels.

(g) *Equalization arrangements.*—Equalization arrangements requiring mechanical aids such as valves or cross-flooding lines may not be considered for reducing the angle of heel. Spaces joined by ducts of large cross-sectional area are treated as common spaces.

(h) *Progressive flooding.*—If pipes, ducts, or tunnels are within the assumed extent of damage, arrangements must be made to prevent progressive flooding in a space that is not assumed to be flooded in the damaged stability calculations. If an intermediate stage of flooding is more critical than the final stage, calculations for the intermediate stage must be submitted for special approval by Commandant (G-MMT).

§ 154.235 Cargo tank location.

(a) For type IG hulls, cargo tanks must be located inboard of—

(1) The transverse damage specified in 154.220(b)(1)(ii);

(2) The vertical damage specified in §§ 154.220(b)(2)(i)(C) and 154.220(b)(2)(ii)(C); and

(3) 760 mm (30 inches) from the shell plating.

(b) For type IIG, IIPG, and IIIG hulls, cargo tanks must be located inboard of—

(1) The vertical extent of damage under §§ 154.220(b)(2)(i)(C) and 154.220(b)(2)(ii)(C); and

(2) 760 mm (30 inches) from the shell plating.

(c) In vessels having membrane and semi-membrane tanks, the vertical and transverse extents of damage must be measured to the inner hull.

(d) For type IIG, IIPG, and IIIG hulls, cargo tank suction wells may penetrate into the area of bottom damage specified in §§ 154.220(b)(2)(i)(C) and 154.220(b)(2)(ii)(C) if the penetration is the lesser of 25% of the double bottom height or 350 mm (13.8 in.).

Ship Arrangements

§ 154.300 Segregation of hold spaces from other spaces.

Hold spaces must be segregated from machinery and boiler spaces, accommodation, service and control spaces, chain lockers, potable, domestic and feed water tanks, store rooms and spaces immediately below or outboard of hold spaces by a—

(a) Cofferdam, fuel oil tank, or single gastight A-60 Class Division of all welded construction in a cargo containment system not required by this part to have a secondary barrier;

(b) Cofferdam or fuel oil tank in a cargo containment system required by this part to have a secondary barrier; or

(c) If there are no sources of ignition or fire hazards in the adjoining space, single gastight A-O Class Division of all welded construction.

§ 154.305 Segregation of hold spaces from the sea.

In vessels having cargo containment systems required by this part to have a secondary barrier, hold spaces must be segregated from the sea by—

(a) A double bottom if the cargo tanks meet this part for design temperatures colder than −10° C (14° F); and

(b) Wing tanks if the cargo tanks meet this part for design temperatures colder than −55° C (−67° F).

§ 154.310 Cargo piping systems.

Cargo liquid or vapor piping must—

(a) Be separated from other piping systems, except where an interconnection to inert gas or purge piping is required by § 154.901(a);

(b) Not enter or pass through any accommodation, service, or control space;

(c) Except as allowed under § 154.703, not enter or pass through a machinery space other than a cargo pump or compressor room;

(d) Be in the cargo area except—

(1) As allowed under § 154.703;

(2) Bow and stern loading piping; and

(3) Emergency jettisoning piping.

(e) Be above the weather deck except—

(1) As allowed under § 154.703;

(2) Pipes in a trunk traversing void spaces above a cargo containment system; and

(3) Pipes for draining, venting, or purging interbarrier and hold spaces;

(f) Connect into the cargo containment system above the weather deck except—

(1) Pipes in a trunk traversing void spaces above a cargo containment system; and

(2) Pipes for draining, venting, or purging interbarrier and hold spaces.

(g) Be inboard of the transverse cargo tank location required by § 154.235, except for athwartship shore connection manifolds not subject to internal pressure at sea.

§ 154.315 Cargo pump and cargo compressor rooms.

(a) Cargo pump rooms and cargo compressor rooms must be above the weather deck and must be within the cargo area.

(b) Where pumps and compressors are driven by a prime mover in an adjacent gas safe space—

(1) The bulkhead or deck must be gastight; and

(2) The shafting passing through the bulkhead or deck must be sealed by a fixed oil reservoir gland seal, a pressure grease seal, or another type of positive pressure seal specially approved by the Commandant (G-MMT).

§ 154.320 Cargo control stations.

(a) Cargo control stations must be above the weather deck.

(b) If a cargo control station is in accommodation, service, or control spaces or has access to such a space, the station must—

(1) Be a gas safe space;

(2) Have an access to the space that meets § 154.330; and

(3) Have indirect reading instrumentation, except for gas detectors.

(c) Cargo control stations, including a room or area, must contain all alarms, indicators, and remote controls associated with each cargo tank that the station controls.

§ 154.325 Accommodation, service, and control spaces.

(a) Accommodation, service, and control spaces must be outside the cargo area.

(b) If a hold space having a cargo containment system, required by this part to have a secondary barrier, is separated from any accommodation, service, or control space by a cruciform joint, there must be a cofferdam providing at least 760 mm (30 inches) by 760 mm (30 inches) clearance on one side of the cruciform joint.

§ 154.330 Openings to accommodation, service, or control spaces.

(a) Entrances, forced or natural ventilation intakes and exhausts, and other openings to accommodation, service, or control spaces, except as allowed in paragraph (c) of this section, must be—

(1) At least L/25 or 3.05m (10 ft) from the athwartship bulkhead facing the cargo area, whichever is farther, except that the distance need not exceed 5m (16.4 ft); and

(2) On a house athwartship bulkhead not facing the cargo area or on the outboard side of the house.

(b) Each port light, located on the athwartship bulkhead of a house facing the cargo area or the house sides within the distance specified in paragraph (a)(1) of this section, must be a fixed type.

(c) Wheelhouse doors and windows that are not fixed may be within the distance specified in paragraph (a)(1) of this section from the athwartship bulkhead of a house facing the cargo area, if they have gaskets and pass a tightness test with a fire hose at not less than 207 kPa gauge (30 psig).

(d) Port lights in the hull plating below the uppermost continuous deck and in the first tier of the superstructure must be a fixed type.

(e) Air intakes and openings into accommodation, service, and control spaces must have metal closures that pass a tightness test with a fire hose at not less than 207 kPa gauge (30 psig).

(f) On liquefied toxic gas vessels, the closures required in paragraph (e) of this section must be capable of being closed from inside the space.

§ 154.340 Access to tanks and spaces in the cargo area.

(a) Each cargo tank must have a manhole from the weather deck, the clear opening of which is at least 600 mm by 600 mm (23.6 in. by 23.6 in.).

(b) Each access into and through a void space or other gas-dangerous space in the cargo area, except spaces under subparagraph (6) of the definition for "gas-dangerous space" in § 154.3, must—

(1) Have a clear opening of at least 600 mm by 600 mm (23.6 in. by 23.6 in.) through horizontal openings, hatches, or manholes;

(2) Have a clear opening of at least 600 mm by 600 mm (23.6 in. by 31.5 in.) through bulkheads, frames or other vertical structural members; and

(3) Have a fixed ladder if the lower edge of a vertical opening is more than 600 mm (23.6 in.) above the deck or bottom plating.

(c) Each access trunk in the cargo area must be at least 760 mm (30 in.) in diameter.

(d) The lower edge of each access from the weather deck to gas-safe spaces in the cargo area must be at least 2.4 m (7.9 ft.) above the weather deck or the access must be through an air lock that meets § 154.345.

(e) The inner hull in the cargo area must be accessible for inspection from at least one side without the removal of any fixed structure or fitting.

(f) The hold space insulation in the cargo area must be accessible for inspection from at least one side from within the hold space or there must be a means, that is specially approved by the Commandant, of determining from outside the hold space whether or not the hold space insulation meets this part.

§ 154.345 Air locks.

(a) An air lock may be used for access from a gas-dangerous zone on the weather deck to a gas-safe space.

(b) Each air lock must—

(1) Consist of two steel doors, at least 1.5 m (4.9 ft.) but not more than 2.5 m (8.2 ft.) apart, each gasketed and tight when tested with a fire hose at not less 207 kPa gauge (30 psig);

(2) Have self-closing doors with no latches or other devices for holding them open;

(3) Have an audible and visual alarm on both sides which are actuated when both door securing devices are in other than the fully closed position at the same time;

(4) Have mechanical ventilation in the space between the doors from a gas-safe area;

(5) Have a pressure greater than that of the gas-dangerous area on the weather deck;

(6) Have the rate of air change in the space between the doors of at least 8 changes per hour; and

(7) Have the space between the doors monitored for cargo vapor leaks under § 154.1350.

(c) In addition to the requirements of paragraphs (a) and (b) of this section, no gas-safe space on a liquefied flammable gas carrier may have an air lock unless the space—

(1) Is mechanically ventilated to make the pressure in the space greater than that in the air lock; and

(2) Has a means of automatically de-energizing all electrical equipment that is not explosion-proof in the space when the pressure in the space falls to or below the pressure in the air lock.

§ 154.350 Bilge and ballast systems in the cargo area.

(a) Hold, interbarrier, and insulation spaces must have a means of sounding the space or other means of detecting liquid leakage specially approved by the Commandant (G-MMT).

(b) Each hold and insulation space must have a bilge drainage system.

(c) Interbarrier spaces must have an eductor or pump for removing liquid cargo and returning it to the cargo tanks or to an emergency jettisoning system meeting § 154.350.

(d) Spaces in the cargo containment portion of the vessel, except ballast spaces and gas-safe spaces, must not

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connect to pumps in the main machinery space.

§ 154.355 Bow and stern loading piping.

(a) Bow and stern loading piping must—

(1) Meet § 154.310;

(2) Be installed in an area away from the accommodation, service, or control space on type IG hulls;

(3) Be clearly marked;

(4) Be segregated from the cargo piping by a removable spool piece in the cargo area or by at least two shut-off valves in the cargo area that have means of locking to meet § 154.1870(a);

(5) Have a means for checking for cargo vapor between the two valves under paragraph (a)(4) of this section;

(6) Have fixed inert gas purging lines; and

(7) Have fixed vent lines for purging with inert gas to meet § 154.1870(b).

(b) Entrances, forced or natural ventilation intakes, exhausts, and other openings to accommodation, service, or control spaces that face the bow or stern loading area must meet § 154.330.

§ 154.356 Cargo emergency jettisoning piping.

Emergency jettisoning piping must—

(a) Meet § 154.355(a);

(b) Be designed to allow cargo discharge without the outer hull steel temperature falling below the minimum temperatures under §§ 154.170 and 154.172; and

(c) Be specially approved by the Commandant (G-MMT).

Cargo Containment Systems

§ 154.401 Definitions.

As used in §§154.440 and 154.447:

"σ_Y" means the minimum yield strength of the tank material, including weld metal, at room temperature.

"σ_B" means minimum tensile strength of the tank material, including weld metals, at room temperature.

§ 154.405 Design vapor pressure (P_o) of a cargo tank.

(a) The design vapor pressure (P_o) of a cargo tank must be equal to or greater than the MARVS.

(b) The P_o of a cargo tank must be equal to or greater than the vapor pressure of the cargo at 45° C (113° F) if—

(1) The cargo tank has no temperature control for the cargo; and

(2) The vapor pressure of the cargo results solely from ambient temperature.

(c) The P_o of a cargo tank may be exceeded under harbor conditions if specially approved by the Commandant (G-MMT).

§ 154.406 Design loads for cargo tanks and fixtures; general.

(a) Calculations must show that a cargo tank and its fixtures are designed for the following loads:

(1) Internal pressure head.

(2) External pressure load.

(3) Dynamic loads resulting from the motion of the vessel.

(4) Transient or stationary thermal loads if the design temperature is colder that −55° C (−67° F) or causes thermal stresses in cargo tank supports.

(5) Sloshing loads, if the cargo tank is designed for partial loads.

(6) Loads resulting from vessel's deflection.

(7) Tank weight, cargo weight, and corresponding support reaction.

(8) Insulation weight.

(9) Loads of a pipe tower and any other attachments to the cargo tank.

(10) Vapor pressure loads in harbor conditions allowed under § 154.405.

(11) Gas pressurization if the cargo tank is designed for gas pressurization as a means of cargo transfer.

(b) A cargo tank must be designed for the most unfavorable static heel angle within a 0° to 30° range without exceeding the allowable stress of the material.

(c) A hydrostatic or hydropneumatic test design load must be specially approved by the Commandant (G-MMT).

§ 154.407 Cargo tank internal pressure head.

(a) For the calculation required under § 154.406(a)(1) and (b), the internal pressure head (h_{eq}), must be determined from the following formula:

$$h_{eq} = 10\,P_o + (h_{ei})_{max}$$

where:

h_{ei} (the value of internal pressure, in meters of fresh water, resulting from the combined effects of gravity and dynamic accelerations of a full tank) $= a_\beta Z_\beta Y$

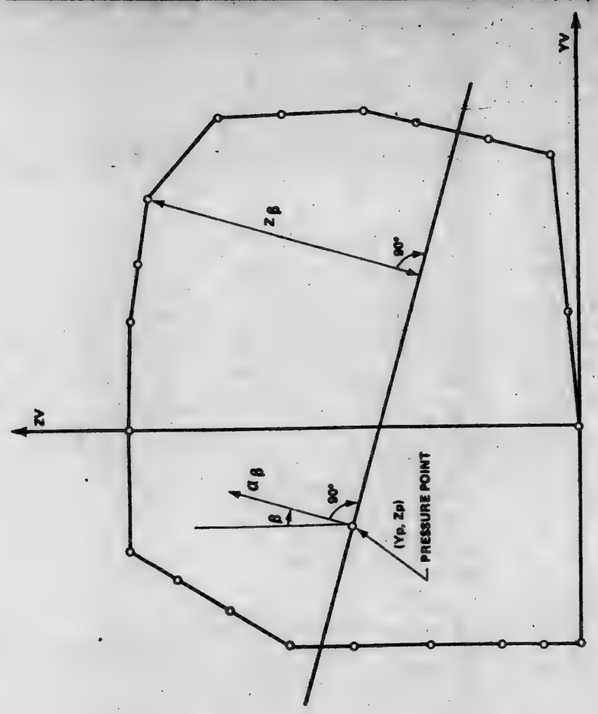
where:

a_β = dimensionless acceleration relative to the acceleration of gravity resulting from gravitational and dynamic loads in the β direction (see figure 1);

Z_β = largest liquid height (m) above the point where the pressure is to be determined in the β direction (see figure 2);

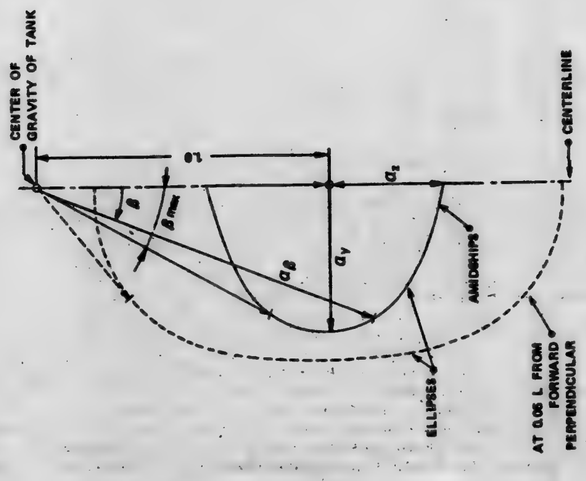
Y = maximum specific weight of the cargo (t/m³) at the design temperature.

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NOTE: LARGEST LIQUID HEIGHT ABOVE THE POINT WHERE THE PRESSURE IS DETERMINED = Z_β

Figure 2. Determination of Internal Pressure Heads



NOTE: RESULTING ACCELERATION (STATIC + DYNAMIC) = a_β IN ARBITRARY DIRECTION β.

a_y = TRANSVERSE COMPONENT OF ACCELERATION.

a_z = VERTICAL COMPONENT OF ACCELERATION.

Figure 1. Acceleration Ellipse

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(b) The $(h_{wd})_{max}$ is determined for the β direction, on the ellipse in Figure 1, which gives the maximum value for h_{wd}.

(c) When the longitudinal acceleration is considered in addition to the vertical transverse acceleration, an ellipsoid must be used in the calculations instead of the ellipse contained in Figure 1.

§ 154.409 Cargo tank external pressure load.

For the calculation required under § 154.406 (a)(2) and (b), the external pressure load must be the difference between the minimum internal pressure (maximum vacuum), and the maximum external pressure to which any portion of the cargo tank may be simultaneously subjected.

§ 154.409 Dynamic loads from vessel motion.

(a) For the calculation required under § 154.406 (a)(3) and (b), the dynamic loads must be determined from the long term distribution of vessel motions, including the effects of surge, sway, heave, roll, pitch, and yaw on irregular seas that the vessel may experience during 10^8 wave encounters. The speed used for this calculation may be reduced from the ship service speed if specially approved by the Commandant (G-MMT) and if that reduced speed is used in the hull strength calculation under § 31.10-5(c) of this chapter.

(b) If the loads determined under paragraphs (c), (d), or (e) of this section result in a design stress that is lower than the allowable stress of the material under §§ 154.610, 154.615, or 154.620, the allowable stress must be reduced to that stress determined in paragraphs (c), (d), or (e).

(c) If a tank is designed to avoid plastic deformation and buckling, then acceleration components of the dynamic loads must be determined for the largest loads the vessel may experience during an operating life corresponding to the probability level of 10^{-8} by using one of the following methods:

(1) Method 1 is a detailed analysis of the vessel's acceleration components.

(2) Method 2 applies to vessels of 50 m (164 ft) or more in length and is an analysis by the following formulae that corresponds to a 10^{-8} probability level in the North Atlantic:

(i) Vertical acceleration under § 154.409(f)(1):

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$$a_z = \pm a_o \sqrt{1 + \left(5.3 - \frac{45}{L_o}\right)^2 \left(\frac{x}{L_o} + 0.05\right)^2 \left(\frac{0.6}{C_B}\right)^{3/2}}$$

(ii) Transverse acceleration under § 154.409(f)(2):

$$a_y = \pm a_o \sqrt{0.6 + 2.5\left(\frac{x}{L_o} + 0.05\right)^2 + K\left(1 + 0.6K\frac{z}{B}\right)^2}$$

(iii) Longitudinal acceleration under § 154.409(f)(3):

$$a_x = \pm a_o \sqrt{0.06 + A^2 - 0.25A}$$

where:

$$A = \left(0.7 - \frac{L_o}{1200} + 5\frac{z}{L_o}\right)\left(\frac{0.6}{C_B}\right)$$

L_o = the distance in meters on the estimated summer loadline, from the fore side of the stem to the after side of the rudder-post or sternpost; where there is no rudderpost or sternpost, L_o is to be measured to the centerline of the rudder stock, but in any case L_o is not to be less than 96% and need not be greater than 97% of the length on the summer loadline.

C_B = block coefficent.

B = greatest moulded breadth, in meters.

x = longitudinal distance, in meters, from amidships to the center of gravity of the tank with contents (positive - forward of amidships, negative - aft of amidships).

z = vertical distance in meters, from the vessel's waterline, to center of gravity of tank with contents (positive - above, and negative - below the waterline).

$$a_o = 0.2\frac{V}{\sqrt{L_o}} + \frac{34 - (600/L_o)}{L_o}$$

V = service speed in knots.

K = 1.0 or $\frac{13GM}{B}$, whichever is greater.

GM = metacentric height in meters.

a_x = the maximum dimensionless acceleration in the x direction, acting separately for calculation purposes, and includes the component of the static weight in the longitudinal direction due to pitching.

a_y = maximum dimensionless acceleration in the y direction, acting separately for calculation purposes, and includes the component of static weight in the transverse direction due to rolling.

a_z = maximum dimensionless acceleration in the z direction, acting separately for calculation purposes, not including the static weight.

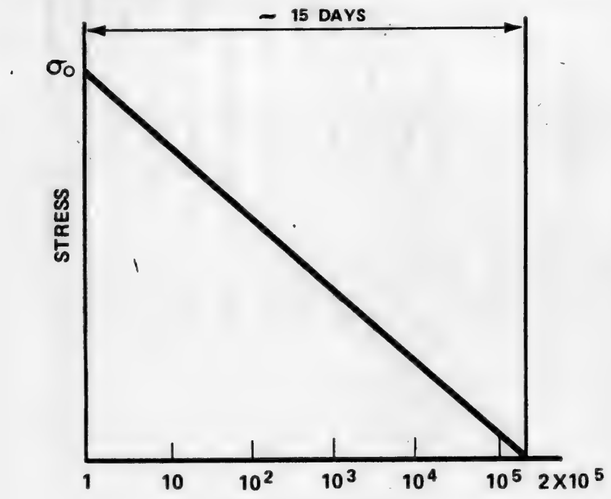
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(d) If a cargo tank is designed to avoid fatigue, the dynamic loads determined under paragraph (a) of this section must be used to develop the dynamic spectrum.

(e) If a cargo tank is designed to avoid uncontrolled crack propagation, the dynamic loads are—

(1) Determined under paragraph (a) of this section; and

(2) For a load distribution for a period of 15 days by the method in Figure 3.



NOTE: σ_o = MOST PROBABLE MAXIMUM STRESS DURING THE LIFE OF THE VESSEL.

RESPONSE CYCLE SCALE IS LOGARITHMIC.

THE VALUE OF $2X10^5$ IS GIVEN AS AN EXAMPLE OF ESTIMATE.

Figure 3. Simplified Load Distribution

(f) When determining the accelerations for dynamic loads under paragraph (a) of this section, the accelerations acting in a cargo tank must be estimated for the cargo tank's center of gravity and include the following component accelerations:

(1) Vertical accelerations, meaning the motion acceleration of heave and pitch, and of any roll normal to the vessel base that has an effect on the component acceleration.

(2) Transverse acceleration, meaning the motion acceleration of sway, yaw and roll, and gravity component of roll.

(3) Longitudinal acceleration, meaning the motion acceleration of surge and pitch and gravity component of pitch.

§ 154.410 Cargo tank sloshing loads.

(a) For the calculation required under § 154.406 (a)(5) and (b), the determined sloshing loads resulting from the accelerations under § 154.409(f) must be specially approved by the Commandant (G–MMT).

(b) If the sloshing loads affect the cargo tank scantlings, an analysis of the effects of the sloshing loads in addition to the calculation under paragraph (a) of this section must be specially approved by the Commandant (G–MMT).

§ 154.411 Cargo tank thermal loads.

For the calculations required under § 154.406(a)(4), the following determined loads must be specially approved by the Commandant (G–MMT):

(a) Transient thermal loads for the cooling down periods of cargo tanks for design temperatures lower than −55° C (−67° F).

(b) Stationary thermal loads for cargo tanks for design temperatures lower than −55° C (−67° F) that cause high thermal stress.

§ 154.412 Cargo tank corrosion allowance.

A cargo tank must be designed with a corrosion allowance if the cargo tank—

(a) is located in a space that does not have inert gas or dry air; or

(b) carries a cargo that corrodes the tank material.

Note.—Corrosion allowance for independent tank type C is contained in § 54.01–35 of this chapter.

Integral Tanks

§ 154.416 General.

An integral tank must not be designed for a temperature colder than −10° C (14° F), unless the tank is specially approved by the Commandant (G–MMT).

§ 154.419 Design vapor pressure.

The P_o of an integral tank must not exceed 24.5 kPa gauge (3.55 psig) unless special approval by the Commandant (G–MMT) allows a P_o between 24.5 kPa gauge (3.55 psig) and 69 kPa gauge (10 psig).

§ 154.420 Tank design.

(a) The structure of an integral tank must meet the deep tank scantling standards of the American Bureau of Shipping published in "Rules for Building and Classing Steel Vessels", 1976.

(b) The structure of an integral tank must be designed and shown by calculation to withstand the internal pressure determined under § 154.407.

§ 154.421 Allowable stress.

The allowable stress for the integral tank structure must meet the American Bureau of Shipping's allowable stress for the vessel's hull published in "Rules for Building and Classing Steel Vessels", 1976.

Membrane Tanks

§ 154.425 General.

The design of the hull structure and the design of the membrane tank system, that includes the membrane tank, secondary barrier, including

welds, the supporting insulation, and pressure control equipment, must be specially approved by the Commandant (G–MMT).

§ 154.426 Design vapor pressure.

The P_o of a membrane tank must not exceed 24.5 kPa gauge (3.55 psig) unless special approval by the Commandant (G–MMT) allows a P_o between 24.5 kPa gauge (3.55 psig) and 69 kPa gauge (10 psig).

§ 154.427 Membrane tank system design.

A membrane tank system must be designed for—

(a) Any static and dynamic loads with respect to plastic deformation and fatigue;

(b) Combined strains from static, dynamic, and thermal loads;

(c) Preventing collapse of the membrane from—

(1) Over-pressure in the interbarrier space;

(2) Vacuum in the cargo tank;

(3) Sloshing in a partially filled cargo tank; and

(4) Hull vibrations; and

(d) The deflections of the vessel's hull.

§ 154.428 Allowable stress.

The membrane tank and the supporting insulation must have allowable stresses that are specially approved by the Commandant (G–MMT).

§ 154.429 Calculations.

The tank design load calculations for a membrane tank must include the following:

(a) Plastic deformation and fatigue life resulting from static and dynamic loads in the membrane and the supporting insulation.

(b) The response of the membrane and its supporting insulation to vessel motion and acceleration under the worst weather conditions. Calculations from a similar vessel may be submitted to meet this paragraph.

(c) The combined strains from static, dynamic, and thermal loads.

§ 154.430 Material test.

(a) The membrane and the membrane supporting insulation must be made of materials that withstand the combined strains calculated under § 154.429(c).

(b) Analyzed data of a material test for the membrane and the membrane supporting insulation must be submitted to the Commandant (G–MMT).

§ 154.431 Model test.

(a) The primary and secondary barrier of a membrane tank, including the corners and joints, must withstand the combined strains from static, dynamic, and thermal loads calculated under § 154.429(c).

(b) Analyzed data of a model test for the primary and secondary barrier of the membrane tank must be submitted to the Commandant (G–MMT).

§ 154.432 Expansion and contraction.

The support system of a membrane tank must allow for thermal and physical expansion and contraction of the tank.

Semi-Membrane Tanks

§ 154.435 General.

(a) The design of a semi-membrane tank, the supporting insulation for the tank, and the supporting hull structure for the tank must be specially approved by the Commandant (G–MMT).

(b) A semi-membrane tank must be designed to meet—

(1) § 154.425 through § 154.432;

(2) § 154.437 through § 154.448; or

(3) § 154.444 through § 154.448.

§ 154.436 Design vapor pressure.

The P_o of a semi-membrane tank must not exceed 24.5 kPa gauge (3.55 psig) unless special approval by the Commandant (G–MMT) allows a P_o between 24.5 kPa gauge (3.55 psig) and 69 kPa gauge (10 psig).

Independent Tank Type A

§ 154.437 General.

An independent tank type A must meet § 154.426 through § 154.448.

§ 154.438 Design vapor pressure.

(a) If the surface of an independent tank type A are mostly flat surfaces, the P_o must not exceed 69 kPa gauge (10 psig).

(b) If the surfaces of an independent tank type A are formed by bodies of revolution, the design calculation of the P_o must be specially approved by the Commandant (G–MMT).

§ 154.439 Tank design.

An independent tank type A must meet the deep tank standard of the American Bureau of Shipping published in "Rules for Building and Classing Steel Vessels", 1976, and must—

(a) withstand the internal pressure determined under § 154.407;

(b) withstand loads from tank supports calculated under §§ 154.470 and 154.471; and

(c) have a corrosion allowance that meets § 154.412.

§ 154.440 Allowable stress.

(a) The allowable stresses for an independent tank type A must—

(1) for tank web frames, stringers, or girders of carbon manganese steel or aluminum alloys, meet $\sigma_m/2.66$ or $\sigma_T/1.33$, whichever is less; and

(2) for other materials, be specially approved by the Commandant (G–MMT).

(b) A greater allowable stress than required in paragraph (a)(1) of this section may be specially approved by the Commandant (G–MMT) if the equivalent stress (σ_e) is calculated from the formula in Appendix A of this part.

(c) Tank plating must meet the American Bureau of Shipping's deep tank standards, for an internal pressure head that meets § 154.439(a), published in "Rules for Building and Classing Steel Vessels", 1976.

Independent Tank Type B

§ 154.444 General.

An independent tank type B must be designed to meet §§ 154.445 through 154.448.

§ 154.445 Design vapor pressure.

If the surfaces of an independent tank type B are mostly flat surfaces, the P_o must not exceed 69 kPa gauge (10 psig).

§ 154.446 Tank design.

An independent tank type B must meet the calculations under § 154.448.

§ 154.447 Allowable stress.

(a) An independent tank type B designed from bodies of revolution must have allowable stresses [3] determined by the following formulas:

$\sigma_m \leq f$
$\sigma_L \leq 1.5f$
$\sigma_b \leq 1.5F$
$\sigma_L + \sigma_b \leq 1.5F$
$\sigma_m + \sigma_b \leq 1.5F$

Where:

σ_m = equivalent primary general membrane stress [4]
σ_L = equivalent primary local membrane stress [4]
σ_b = equivalent primary bending stress [4]
f = the lesser of (σ_u/A) or (σ_y/B)
F = the lesser of (σ_u/C) or (σ_y/D)
A, B, C, and D = stress factors in Table 2.

Table 2.—Values for Stress Factor

	Nickel steel and carbon manganese steel values	Austenitic steel values	Aluminum alloy values
Stress factor:			
A	4.0	4.0	4.0
B	2.0	1.6	1.5
C	3.0	3.0	3.0
D	1.5	1.5	1.5

(b) An independent tank type B designed from plane surfaces must have

[3] See Appendix B for stress analyses definitions.
[4] See Appendix A for equivalent stress.

allowable stresses specially approved by the Commandant (G–MMT).

§ 154.448 Calculations.

The following calculations for an independent tank type B must be specially approved by the Commandant (G–MMT):

(a) Plastic deformation, fatigue life, buckling, and crack propagation resulting from static and dynamic loads on the tank and its support.

(b) A three-dimensional analysis of the stress exerted by the hull on the tank, its its support, and its keys.

(c) The response of the tank and its support to the vessel's motion and acceleration in irregular waves or caculations from a similar vessel.

(d) A tank buckling analysis considering the maximum construction tolerance.

(e) A finite element analysis using the loads determined under § 154.406.

(f) A fracture mechanics analysis using the loads determined under § 154.406.

(g) The cumulative effects of the fatigue load from the following formula:

$$\sum \frac{n_i}{N_i} + \frac{10^3}{N_j} \leq C_w$$

Where:

n_i = the number of stress cycles at each stress level during the life of the vessel;

N_i = the number of cycles to failure for corresponding stress levels from the Wohler (S–N) curve;

N_j = the number of cycles to failure from the fatigue load by loading and unloading the tank; and

C_w = 0.5 or less. A C_w of greater than 0.5 but not exceeding 1.0 may be specially approved by the Commandant (G–MMT).

§ 154.449 Model test.

The following analyzed data of a model test of structural elements for independent tank type B must be submitted to the Commandant (G–MMT) for special approval:

(a) Stress concentration factors.

(b) Fatigue life.

Independent Tank Type C and Process Pressure Vessels

§ 154.450 General.

Independent tanks type C and process pressure vessels must be designed to meet the requirements under Part 54 of this chapter, except § 54.01–40(b), and—

(a) The calculation under § 54.01–18 (b)(1) must also include the design loads determined under § 154.406;

(b) The calculated tank plating thickness, including any corrosion allowance, must be the minimum thickness without a negative plate tolerance; and

(c) The minimum tank plating thickness must not be less than—

(1) 5mm (3/16 in.) for carbon-manganese steel and nickel steel;

(2) 3mm (1/8 in.) for austenitic steels; or

(3) 7mm (9/32 in.) for aluminum alloys.

§ 154.451 Design vapor pressure.

The P_o (kPa) of an independent tank type C must be calculated by the following formula:

$P_o = 196 + AC(\rho)^{3/2}$

Where:

$A = 1.613 (\sigma_m / \Delta\sigma_A)^{\frac{1}{2}}$

σ_m = design primary membrane stress;

$\Delta\sigma_A$ = (allowable dynamic membrane stress for double amplitude at probability level $Q = 10^{-8}$) 53.9 MPa (7821 psi) for ferritic and martensitic steels and 24.6 MPa (3555 psi) for 5083–0 aluminum;

C = a characteristic tank dimension that is the greatest of h, 0.75b, or 0.45 l;

Where:

h = the height of the tank or the dimension in the vessel's vertical direction, in meters;

b = the width of the tank or the dimension in the vessel's transverse direction; in meters; and

l = the length of the tank or the dimension in the vessel's longitudinal direction, in meters; and

ρ = the specific gravity of the cargo.

§ 154.452 External pressure.

The design external pressure, P_e, for an independent tank type C must be calculated by the following formula

$P_e = P_1 + P_2 + P_3 + P_4$

where:

P_1 = the vacuum relief valve setting for tanks with a vacuum relief valve, or 24.5 kPa guage (3.55 psig) for tanks without a vacuum relief valve.

$P_2 = 0$, or the pressure relief valve setting for an enclosed space containing any portion of a pressure vessel.

P_3 = total compressive load in the tank shell from the weight of the tank, including corrosion allowance, weight of insulation, weight of dome, weight of pipe tower and piping, the effect of the partially filled tank, the effect of acceleration and hull deflection, and the local effect of external and internal pressure.

$P_4 = 0$, or the external pressure from the head of water from any portion of the pressure vessel on exposed decks.

§ 154.453 Failure to meet independent tank type C standards.

If the Commandant (G–MMT) determines during plan review, that a tank designed as an independent tank type C fails to meet the standards under §§ 154.450, 154.451, and 154.452 and can not be redesigned to meet those standards, the tank may be redesigned as an independent tank type A or B.

Secondary Barrier

§ 154.459 General

(a) Each cargo tank must have a secondary barrier that meets Table 3 and except as allowed in Table 3, the hull must not be in the secondary barrier.

(b) If the Commandant (G–MMT) specially approves an integral tank for a design temperature at atmospheric pressure lower than −10° C (14° F), the integral tank must have a complete secondary barrier that meets § 154.460.

(c) If the Commandant (G–MMT) specially approves a semi-membrane tank under the requirements of an independent tank type B, the semi-membrane tank may have a partial secondary barrier specially approved by the Commandant (G–MMT).

(d) If Table 3 allows the hull to be a secondary barrier, the vessel's hull must—

(1) Meet §§ 154.605 through 154.630; and

(2) Be designed for the stresses resulting from the design temperature.

BILLING CODE 4910-14-M

Table 3 - Secondary Barriers for Tanks

Tank Type	Cargo Temperature (T) at Atmospheric Pressure		
	$T \geq -10^{\circ}C$ ($14^{\circ}F$)	$-10^{\circ}C$ ($14^{\circ}F$) $> T \geq -55^{\circ}C$ ($-67^{\circ}F$)	$T < -55^{\circ}C$ ($-67^{\circ}F$)
Integral	Tank type not usually allowed[1]	Tank type not allowed	
Membrane	Complete secondary barrier[1]	Complete secondary barrier	
Semi-membrane	Complete secondary barrier[1]	Complete secondary barrier	
Independent Type A	Complete secondary barrier	Complete secondary barrier	
Type B	Partial Secondary barrier	Partial secondary barrier	
Type C	No secondary barrier required	No secondary barrier required	

Tank Type	$T \geq -10^{\circ}C$ ($14^{\circ}F$)
Integral	No Secondary Barrier required
Membrane	Ditto
Semi-membrane	Ditto
Independent Type A	Ditto
Type B	Ditto
Type C	Ditto

[1] The hull may be a secondary barrier.

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§ 154.460 Design criteria.

At static angles of heel up through 30°, a secondary barrier must

(a) If a complete secondary barrier is required in § 154.459, hold all of the liquid cargo in the cargo tank for at least 15 days under the dynamic loads in § 154.409(e);

(b) If a partial secondary barrier is permitted in § 154.459, hold any leakage of liquid cargo corresponding to the extent of failure under § 154.448(a) after initial detection or primary barrier leak for at least 15 days under the dynamic loads in § 154.409(e);

(c) If the primary barrier fails, prevent the temperature of the vessel's structure from falling below the minimum allowable service temperature of the steel; and

(d) Be designed so that a cargo tank failure does not cause a failure in the secondary barrier.

Insulation

§ 154.465 General.

If the design temperature is below −18° C (14° F), the cargo tank insulation must prevent the temperature of the vessel's hull from cooling below the minimum temperature allowed under § 154.172.

§ 154.466 Design criteria.

(a) The insulation for a cargo tank without a secondary barrier must be designed for the cargo tank at the design temperature, and for a vessel operating in—

(1) Any waters in the world, except Alaskan waters, for the ambient cold condition of—

(i) Five knots air at −18° C (0° F); and

(ii) Still sea water at 0° C (32° F); or

(2) Alaskan waters for the ambient cold condition of—

(i) Five knots air at −29° C (20° F); and

(ii) Still sea water at −2° C (28° F).

(b) The insulation for a cargo tank with a secondary barrier must be designed for the secondary barrier at the design temperature, and the ambient cold conditions listed under paragraph (a)(1) or paragraph (a)(2) of this section.

(c) The insulation material must be designed for any loads transmitted from adjacent hull structure.

(d) Insulation for cargo tank and piping must meet § 38.05–20 of this chapter.

(e) Powder or granulated insulation must—

(1) Not compact from vibrations of the vessel;

(2) Maintain the thermal conductivity listed under § 154.467; and

(3) Not exert a static pressure greater than the external design pressure of the cargo tank under § 154.408.

§ 154.467 Submission of insulation information.

The following insulation information must be submitted for special approval by the Commandant (G–MMT):

(a) Compatibility with the cargo.

(b) Solubility in the cargo.

(c) Absorption of the cargo.

(d) Shrinkage.

(e) Aging.

(f) Closed cell content.

(g) Density.

(h) Mechanical properties.

(i)Thermal expansion.

(j) Abrasion.

(k) Cohesion.

(l) Thermal conductivity.

(m) Resistance to vibrations.

(n) Resistance to fire and flame spread.

(o) The manufacturing and installation details of the insulation including—

(1) fabrication;

(2) storage;

(3) handling;

(4) erection; and

(5) quality control.

Support System

§ 154.470 General.

(a) A cargo tank must have a support system that—

(1) prevents movement of the cargo tank under the static and dynamic loads in § 154.406; and

(2) allows the cargo tank to contract and expand from temperature variation and hull deflection without exceeding the design stress of the cargo tank and the hull.

(b) The cargo tank support system must have a key that prevents rotation of the cargo tank.

(c) An independent tank must have supports with an antiflotation system that withstands the upward force of the tank without causing plastic deformation that endangers the hull structure when the tank is—

(1) Empty; and

(2) In a hold space flooded to the summer load draft of the vessel.

§ 154.471 Design criteria.

(a) The cargo tank support system must be designed—

(1) For the loads in § 154.406(a);

(2) To not exceed the allowable stress under this part at a static angle of heel of 30°;

(3) To withstand a collision force equal to at least one-half the weight of the cargo tank and cargo from forward and one-quarter the weight of the cargo tank and cargo from aft; and

(4) For the largest resulting acceleration in Figure 1, including rotational and translation effects.

(b) The cargo tank support design loads in paragraph (a) of this section may be analyzed separately.

§ 154.476 Cargo transfer devices and means.

(a) If a cargo pump in a cargo tank is not accessible for repair when the cargo tank is in use, the cargo tank must have an additional means of cargo transfer, such as another pump or gas pressurization.

(b) If cargo is transferred by gas pressurization, the pressurizing line must have a safety relief valve that is set at less than 90 percent of the tank relief valve setting.

Cargo and Process Piping Systems

§ 154.500 Cargo and process piping standards.

The cargo liquid and vapor piping and process piping systems must meet the requirements in §§ 154.508 through 154.562, Subparts 56.01 through 56.35, §§ 56.50–20 and 56.50–105, and Subparts 56.60 through 56.97 of this chapter.

§ 154.503 Piping and piping system components: protection from movement.

Where thermal movement and movements of the cargo tank and the hull structure may cause stresses that exceed the design stresses, the piping and piping system components and cargo tanks must be protected from movement by—

(a) Offsets;

(b) Loops;

(c) Bends;

(d) Mechanical expansion joints including—

(1) Bellows;

(2) Slip joints;

(3) Ball joints; or

(e) Other means specially approved by the Commandant (G–MMT).

§ 154.506 Mechanical expansion joint: limits in a piping system.

Mechanical expansion joints in a piping system outside of a cargo tank—

(a) May be installed only if offsets, loops or bends cannot be installed due to limited space or piping arrangement;

(b) Must be a bellows type; and

(c) Must not have insulation or a cover unless necessary to prevent damage.

§ 154.512 Piping: thermal isolation.

Low temperature piping must be thermally isolated from any adjacent hull structure to prevent the temperature

of that structure from dropping below the minimum temperature for the hull material under § 154.170.

§ 154.514 Piping: electrical bonding.

(a) Cargo tanks or piping that are separated from the hull structure by thermal isolation must be electrically bonded to the hull structure by a method under paragraph (c) of this section.

(b) A pipe joint or a hose connection fitting that has a gasket must be electrically bonded by a method under paragraph (c) of this section that bonds—

(1) Both sides of the connection to the hull structure; or

(2) Each side of the connection to the other side.

(c) An electrical bond must be made by at least one of the following methods:

(1) A metal bonding strap attached by welding or bolting.

(2) Two or more bolts that give metal to metal contact between the bolts and the parts to be bonded.

(3) Metal to metal contact between adjacent parts under designed operating conditions.

§ 154.516 Piping: hull protection.

A vessel's hull must be protected from low temperature liquid leakage by a drip pan, or other means specially approved by the Commandant (G–MMT), at—

(a) Each piping connection dismantled on a routine basis;

(b) Cargo discharge and loading manifolds; and

(c) Pump seals.

§ 154.517 Piping: liquid pressure relief.

The cargo loading and discharge crossover headers, cargo hoses, and cargo loading arms must have means to relieve cargo pressure and to remove liquid cargo.

§ 154.519 Piping relief valves.

(a) The liquid relief valve that protects the cargo piping system from liquid pressure exceeding the design pressure must discharge into—

(1) A cargo tank; or

(2) A cargo vent mast if that vent mast has a means for the detection and removal of the liquid cargo that is specially approved by the Commandant (G–MMT).

(b) A relief valve on a cargo pump that protects the cargo piping system must discharge into the pump suction.

§ 154.520 Piping calculations.

A piping system must be designed to meet the allowable stress values under § 56.07–10 of this chapter and, if the design temperature is −110° C (−166° F) or lower, the stress analysis must be specially approved by the Commandant (G–MMT) and must include—

(a) Pipe weight loads;

(b) Acceleration loads;

(c) Internal pressure loads;

(d) Thermal loads; and

(e) Loads from the hull.

§ 154.522 Materials for piping.

(a) The materials for piping systems must meet § 154.825 for the minimum design temperature of the piping, except the material for open ended vent piping may be specially approved by the Commandant (G–MMT) if—

(1) The temperature of the cargo at the pressure relief valve setting is −55° C (−67° F) or warmer; and

(2) Liquid can not discharge to the vent piping.

(b) Materials for piping outside the cargo tanks must have a melting point of at least 925° C (1697° F), except for short lengths of pipes with fire resisting insulation that are attached to the cargo tanks.

§ 154.524 Piping joints: welded and screwed couplings.

Pipe lengths without flanges must be joined by one of the following:

(a) A butt welded joint with complete penetration at the weld root except that for design temperatures colder than −10° C (14° F) the butt weld must be double welded or must be welded using a—

(1) A backing ring that for design pressures greater than 979 kPa gauge (142 psig) must be removed after the weld is completed;

(2) A consumable insert; or

(3) An inert gas back-up on the first weld pass.

(b) A slip-on welded joint with sleeves and attachment welds is allowed for an open ended pipe with an external diameter of 50 mm (2 in.) or less and a design temperature of −55° C (−67° F), or warmer.

(c) A socket weld fitting with attachment welds is allowed for pipe with an external diameter of 50 mm (2 in.) or less and a design temperature of −55° C (−67° F) or warmer.

(d) Screwed couplings are allowed for instrumentation and control piping that meets § 56.30–20 and § 56.50–105 (a)(4) and (b)(4) of this chapter.

(e) A method or fitting specially approved by the Commandant (G–MMT).

§ 154.526 Piping joints: flange connection.

Flange connections for pipe joints must meet § 56.30–10 and § 56.50–105 (a)(4) and (b)(4) of this chapter.

§ 154.528 Piping joints: flange type.

(a) A flange must be one of the following types:

(1) Welding neck.

(2) Slip-on.

(3) Socket weld.

(b) If the piping is designed for a temperature between −10° C (14° F) and −55° C (−67° F), the pipe flange may be a—

(1) Slip-on type, if the nominal pipe size is 100 mm (4 in.) or less;

(2) Socket weld, if the nominal pipe size is 50 mm (2 in.) or less; or

(3) Welding neck.

(c) If the piping is designed for a temperature lower than −55° C (−67° F), the pipe flange must be a welding neck type.

§ 154.530 Valves: cargo tank MARVS 69 kPa gauge (10 psig) or lower.

(a) Except connections for tank safety relief valves and except for liquid level gauging devices other than those under §§ 154.536 and 154.1310, liquid and vapor connections on a cargo tank with a MARVS of 69 kPa gauge (10 psig) or lower must have shut-off valves, as defined in § 154.3, that—

(1) Are located as close to the tank as practical;

(2) Are capable of local manual operation; and

(3) May be remotely controlled.

(b) The cargo piping system for a cargo tank with a MARVS of 69 kPa gauge (10 psig) or lower must have at least one remotely controlled quick-closing shut-off valve for closing liquid and vapor piping between vessel and shore that meets §§ 154.540 and 154.544.

§ 154.532 Valves: cargo tank MARVS greater than 69 kPa gauge (10 psig).

(a) Except connections for tank safety relief valves and except for liquid level gauging devices other than those under §§ 154.536 and 154.1310, liquid and vapor connections on a cargo tank with a MARVS greater than 69 kPa gauge (10 psig) must have, as close to the tank as practical, a—

(1) Stop valve capable of local manual operation; and

(2) A remotely controlled quick-closing shut-off valve.

(b) If the nominal pipe size of a liquid or vapor connection is less than 50 mm (2 in.), an excess flow valve may be substituted for the quick-closing valve under paragraph (a) of this section.

(c) One valve may be substituted for the manual controlled stop valve and the remotely controlled quick-closing shut-off valve required under paragraph (a) of this section if that valve—

(1) Meets §§ 154.540 and 154.544; and

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(2) Is capable of local manual operation.

§ 154.534 Cargo pumps and cargo compressors.

Cargo pumps and cargo compressors must shut-down automatically when the quick-closing shut-off valves under §§ 154.530 and 154.532 are closed by the emergency shut-down system required under § 154.540.

§ 154.536 Cargo tank gauging and measuring connections.

Unless the outward flow from a cargo tank is less than the flow through a circular hole of 1.4 mm (0.055 in.) in diameter, cargo tank connections for gauging or measuring devices must have the excess flow, shut-off, or quick-closing shut-off valves under §§ 154.530 or 154.532.

§ 154.538 Cargo transfer connection.

A cargo transfer connection must have a—

(a) Remotely controlled quick-closing shut-off valve that meets §§ 154.540 and 154.544; or

(b) Blank flange.

§ 154.540 Quick-closing shut-off valves: emergency shut-down system.

The quick-closing shut-off valves under §§ 154.530, 154.532, and 154.538 must have an emergency shut-down system that—

(a) Closes all the valves;

(b) Is actuated by a single control in at least two locations remote from the quick-closing valves;

(c) Is actuated by a single control in each cargo control station under § 154.320; and

(d) Has fusible elements at each tank dome and cargo loading and discharge manifold that melt between 98° C (208° F) and 104° C (220° F) and actuate the emergency shut-down system.

§ 154.544 Quick-closing shut-off valves.

The quick-closing shut-off valve under §§ 154.530, 154.532 and 154.538 must—

(a) Be a shut-off valve as defined in § 154.3;

(b) Close from the time of actuation in 30 seconds or less;

(c) Be the fail-closed type; and

(d) Be capable of local manual closing.

§ 154.546 Excess flow valve: closing flow.

(a) The rated closing flow of vapor or liquid cargo for an excess flow valve must be specially approved by the Commandant (G–MMT).

(b) An excess flow valve allowed under § 154.532(b) must close automatically at the rated closing flow.

§ 154.548 Cargo piping: flow capacity.

Piping with an excess flow valve must have a vapor or liquid flow capacity that is greater than the rated closing flow under § 154.546.

§ 154.550 Excess flow valve: bypass.

If the excess flow valve allowed under § 154.532(b) has a bypass, the bypass must be of 1.0 mm (0.0394 in.) or less in diameter.

Cargo Hose

§ 154.551 Cargo hose: general.

Each of the vessel's liquid and vapor cargo hose for loading or discharging cargo must meet §§ 154.552 through 154.562.

§ 154.552 Cargo hose: compatibility.

Liquid and vapor cargo hoses must—

(a) Not chemically react with the cargo; and

(b) Withstand design temperature.

§ 154.554 Cargo hose: bursting pressure.

Cargo hose that may be exposed to the pressure in the cargo tank, the cargo pump discharge, or the vapor compressor discharge must have a bursting pressure of at least five times the maximum working pressure on the hose during cargo transfer.

§ 154.556 Cargo hose: maximum working pressure.

A cargo hose must have a maximum working pressure not less than the maximum pressure to which it may be subjected and at least 1034 kPa gauge (150 psig).

§ 154.558 Cargo hose: marking.

Each cargo hose must be marked with the—

(a) Maximum working pressure; and

(b) Minimum service temperature for service at other than ambient temperature.

§ 154.560 Cargo hose: prototype test.

(a) Each cargo hose must be of a type that passes a prototype test at a pressure of at least five times its maximum working pressure at or below the minimum service temperature.

(b) Each cargo hose must not be the hose used in the prototype test.

§ 154.562 Cargo hose: hydrostatic test.

Each cargo hose must pass a hydrostatic pressure test at ambient temperature of at least one and a half times its specified maximum working pressure but not more than two-fifths its bursting pressure.

Materials

§ 154.606 Toughness test.

(a) Each toughness test under §§ 154.610 through 154.625 must meet Subpart 54.05 of this chapter.

(b) If subsize test specimens are used for the Charpy V-notch toughness test, the Charpy V-notch energy must meet Table 54.05–20 (a) of this chapter.

§ 154.610 Design temperature not colder than 0° C (32° F).

Materials for cargo tanks for a design temperature not colder than 0° C (32° F) must meet the following:

(a) The tank materials must meet §§ 54.25–1 and 54.25–3 of this chapter.

(b) Plates, forgings, rolled and forged bars and shapes must be carbon manganese steel or other material allowed under §§ 154.615, 154.620, and 154.625.

(c) Plates must be normalized or quenched and tempered and where the thickness exceeds 20 mm (0.787 in.), made with fine grain practice, austenitic grain size of five or finer. A control rolling procedure may be substituted for normalizing if specially approved by the Commandant (G–MMT). Plate for an independent tank type C must also meet the requirements of ASTM A–20–75 and § 54.01–18(b)(5) of this chapter.

(d) For integral and independent type A tanks, the American Bureau of Shipping's grade D not exceeding 20 mm (0.787 in.) in thickness, and Grade E hull structural steel are allowed if the steel meets § 54.05–10 of this chapter.

(e) The tensile properties under paragraph (a) of this section must be determined for—

(1) Each plate as rolled; and

(2) Each five short ton batch of forgings, forged or rolled fittings, and forged or rolled bars and shapes.

(f) The specified yield strength must not exceed 637 MPa (92.43 Ksi) and when it exceeds 490 MPa (71.10 Ksi), the hardness of the weld and the heat affected zone must be specially approved by the Commandant (G–MMT).

(g) The Charpy V-notch impact energy must be determined for—

(1) Each plate as rolled; and

(2) Each five short ton batch of forgings, forged or rolled fittings and rolled or forged bars and shapes.

(h) The orientation and required impact energy of a 10 mm x 10 mm (0.394 in. x 0.394 in.) Charpy V-notch specimen must be—

(1) For plates; transverse specimen and 27.4 J (20 ft-lbs); and

(2) For forgings, forged and rolled fittings and rolled and forged bars: longitudinal specimen and 41.1 J (30 ft-lbs).

(i) The test temperature of the Charpy V-notch specimens is as follows:

Material Thickness	Test Temperature
t≤ 20 mm (0.788 in.)	0° C (32° F)
20<t≤ 30 mm (1.182 in.)	−20° C (−4° F)
30<t≤40 mm (1.576 in.)	−40° C (−40° F)

§ 154.615 Design temperature below 0° C (32° F) and down to −55° C (−67° F).

Plates, forgings, forged or rolled or forged bars and shapes for cargo tanks and secondary barriers for a design temperature below 0° C (32° F) and down to −55° C (−67° F) must meet § 54.25–10 of this chapter.

§ 154.620 Design temperature below −55° C (−67° F) and down to −165° C (−265° F).

Plates, forgings and forged or rolled fittings, and rolled, forged or extruded bars and shapes for cargo tanks, secondary barriers, and process pressure vessels for a design temperature below −55° C (−67° F) and down to −165° C (−265° F) must—

(a) Meet § 54.25–10(b)(2), § 54.25–15, or § 54.25–20 of this chapter; or

(b) Be of an aluminum alloy that is specially approved by the Commandant (G–MMT).

§ 154.625 Design temperature below 0° C (32° F) and down to −165° C (−265° F).

Pipes, tubes, forgings, castings, bolting, and nuts for cargo and process piping for a design temperature below 0° C (32° F) and down to −165° C (−265° F) must meet § 56.50–105 of this chapter.

§ 154.630 Cargo tank material.

(a) If a material of a cargo tank is not listed in §§ 154.610, 154.615 or 154.620, the allowable stress of that material must be specially approved by the Commandant (G–MMT).

(b) For cargo tanks of aluminum alloys with welded connections, the minimum tensile strength (σ_m) for the calculations under § 154.440, § 154.447 and § 154.450 must be the minimum tensile strength of the alloy in the annealed condition.

(c) Increased yield strength and tensile strength of a material at low temperature for independent tanks type A, B, and C must be specially approved by the Commandant (G–MMT).

Construction

§ 154.650 Cargo tank and process pressure vessel welding.

(a) Cargo tank and process pressure vessel welding must meet Subpart 54.05 and Part 57 of this chapter.

(b) Welding consumables used in welding cargo tanks must meet § 57.02–4 of this chapter.

(c) Independent tanks must meet the following:

(1) Each welded joint of the shells must be a full penetration butt weld, except dome to shell connections may have full penetration tee welds.

(2) Each nozzle weld must be of the full penetration type, except for small penetrations on domes.

(d) Each welded joint in an independent tank type C or in a process pressure vessel must meet Part 54 of this chapter, except that any backing rings must be removed unless specially approved by the Commandant (G–MMT).

(e) Each welded joint in a membrane tank must meet the quality assurance measures, weld procedure qualification, design details, materials, construction, inspection, and production testing of components developed during the prototype testing program that are specially approved by the Commandant (G–MMT) under this part.

(f) Each welded joint in a semi-membrane tank must meet paragraph (c) or (e) of this section.

§ 154.655 Stress relief for independent tanks type C.

For a design temperature colder than −10° C (14° F), an independent tank type C of—

(a) Carbon and carbon-manganese steel must be stress relieved by post-weld heat treatment under § 54.25–7 of this chapter or by mechanical stress relief under Subpart 54.30 of this chapter; or

(b) Materials other than carbon and carbon manganese steel must be stress relieved as required under Part 54 of this chapter. The procedure for stress relieving must be specially approved by the Commandant (G–MMT).

§ 154.660 Pipe welding.

(a) Pipe welding must meet Part 57 of this chapter.

(b) Longitudinal butt welds, in piping that does not meet a standard or specification under § 56.60–1 of this chapter, and girth butt welds must meet the following:

(1) Butt welds of pipes made from carbon, carbon manganese, or low alloy steels must meet § 56.50–105 of this chapter, including the requirements for post-weld heat treatment.

(2) Except for piping inside an independent cargo tank type A, B, or C, butt welds must be 100% radiographically tested if the design temperature is lower than −10° C (14° F), and—

(i) The wall thickness is greater than 10 mm (0.394 in.); or

(ii) The nominal pipe diameter is greater than 100 mm (nominal 4 in.).

(3) If Table 4 references this section, butt welds for deck cargo piping exceeding 75 mm (3 in.) in diameter must be 100% radiographically tested.

(4) Butt welds of pipes not meeting paragraph (b)(2) or (b)(3) of this section must meet the non-destructive testing requirements under Subpart 56.95 of this chapter.

§ 154.665 Welding procedures.

Welding procedure tests for cargo tanks for a design temperature colder than 0° C (32° F), process pressure vessels, and piping must meet § 54.05–15 and Subpart 57.03 of this chapter.

Cargo Pressure and Temperature Control

§ 154.701 Cargo pressure and temperature control: General.

Except as allowed under § 154.703, cargo tanks must—

(a) Have their safety relief valves set at a pressure equal to or greater than the vapor pressure of the cargo at 45° C (113° F) but not greater than the MARVS under § 154.405; or

(b) Be refrigerated by a system meeting § 154.702, and each refrigerated incompatible cargo refrigerated by a separate system.

§ 154.702 Refrigerated carriage.

(a) Each refrigeration system must—

(1) Have enough capacity to maintain the cargo vapor pressure in each cargo tank served by the system below the set pressure of the relief valves under ambient temperatures of 45° C (113° F) still air and 32° C (89.6° F) still water with the largest unit in the system inoperative; or

(2) Have a standby unit with a capacity at least equal to the capacity of the largest refrigeration unit in the system.

(b) For the purpose of this section, a "refrigeration unit" includes a compressor and its motors and controls.

(c) Each refrigeration system must—

(1) Have a heat exchanger with an excess capacity of 25 percent of the required capacity; or

(2) A standby heat exchanger.

(d) Where cooling water is used in a refrigeration system—

(1) The cooling water pump or pumps must be used exclusively for the system;

(2) Each pump must have suction lines from sea chests on the port and starboard sides of the vessel; and

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(3) There must be a standby pump, that may be used for—

(i) Non-essential purposes on the vessel; or

(ii) Essential purposes on the vessel, if the pump is sized to simultaneously provide for the capacity requirements for the essential purposes and the refrigeration cooling water.

(e) Each refrigeration system must use refrigerants that are compatible with the cargo and, for cascade units, with each other.

(f) The pressure of the heat transfer fluid in each cooling coil in a tank must be greater than the pressure of the cargo.

§ 154.703 Methane(LNG).

Unless a cargo tank carrying methane (LNG) can withstand the pressure build up due to boil-off for 21 days, the pressure in the cargo tank must be maintained below the set pressure of the safety relief valve for at least 21 days by—

(a) A refrigeration system that meets § 154.702;

(b) A waste heat or catalytic furnace that burns boil-off gas, and—

(1) Maintains the stack exhaust temperature below 535°C (995°F);

(2) Exhibits no visible flame; and

(3) Is specially approved by the Commandant (G-MMT);

(c) Boilers, inert gas generators, and combustion engines in the main propelling machinery space that use boil-off gas as fuel; or

(d) Equipment for services, other than those under paragraph (c) of this section, that use boil-off gas as fuel and that are located—

(i) In the main propelling machinery space; or

(ii) a space specially approved by the Commandant (G-MMT).

§ 154.705 Cargo boil-off as fuel: general.

(a) Each cargo boil-off fuel system under § 154.703(c) must meet §§ 154.706 through 154.709.

(b) The piping in the cargo boil-off fuel system must have a connection for introducing inert gas and for gas freeing the piping in the machinery space.

(c) A gas fired main propulsion boiler or combustion engine must have a fuel oil fired pilot that maintains fuel flow as required under § 154.1854 if the gas fuel supply is cut-off.

§ 154.706 Cargo boil-off as fuel: fuel lines.

(a) Gas fuel lines must not pass through accommodation, service, or control spaces. Each gas fuel line passing through other spaces must have a master gas fuel valve and meet one of the following:

(1) The fuel line must be a double-walled piping system with the annular space containing an inert gas at a pressure greater than the fuel pressure. Visual and audible alarms must be installed at the machinery control station to indicate loss of inert gas pressure.

(2) The fuel line must be installed in a mechanically exhaust-ventilated pipe or duct, having a rate of air change of at least 30 changes per hour. The pressure in the space between the inner pipe and outer pipe or duct must be maintained at less than atmospheric pressure. Continuous gas detection must be installed to detect leaks in the ventilated space. The ventilation system must meet § 154.1205.

(b) Each double wall pipe or vent duct must terminate in the ventilation hood or casing under § 154.707(a). Continuous gas detection must be installed to indicate leaks in the hood or casing.

§ 154.707 Cargo boil-off as fuel: ventilation.

(a) A ventilation hood or casing must be installed in areas occupied by flanges, valves, and piping at the fuel burner to cause air to sweep across them and be exhausted at the top of the hood or casing.

(b) The hood or casing must be mechanically exhaust-ventilated and meet § 154.1205.

(c) The ventilated hood or casing must have an airflow rate specially approved by the Commandant.

§ 154.708 Cargo boil-off as fuel: valves.

(a) Gas fuel lines to the gas consuming equipment must have two fail-closed automatic valves in series. A third valve, designed to fail-open, must vent that portion of pipe between the two series valves to the open atomosphere.

(b) The valves under paragraph (a) of this section must be arranged so that loss of boiler forced draft, flame failure, or abnormal gas fuel supply pressure automatically causes the two series valves to close and the vent valve to open. The function of one of the series valves and the vent valve may be performed by a single three-way valve.

(c) A master gas fuel valve must be located outside the machinery space, but be operable from inside the machinery space and at the valve. The valve must automatically close when there is—

(1) A gas leak detected under § 154.706(a)(2) or § 154.706(b);

(2) Loss of the ventilation under § 154.706(a)(2) or § 154.707(c); or

(3) Loss of inert gas pressure within the double-walled piping system under § 154.706(a)(1).

§ 154.709 Cargo boil-off as fuel: gas detection equipment.

(a) The continuous gas detection system required under § 154.706(a)(2) and (b) must—

(1) Meet § 154.1350(c), (d), and (j) through (s); and

(2) Have a device that—

(i) Activates an audible and visual alarm at the machinery control station and in the wheelhouse if the methane concentration reaches 1.5 percent by volume; and

(ii) Closes the master gas fuel valve required under § 154.706(c) before the methane concentration reaches 3 percent by volume.

(b) The number and arrangement of gas sampling points must be specially approved by the Commandant (G-MMT).

Cargo Vent Systems

§ 154.801 Pressure relief systems.

(a) Each cargo tank that has a volume of 20m³ (706 ft.³) or less must have at least one pressure relief valve.

(b) Each cargo tank that has a volume of more than 20m³ (706 ft.³) must have at least two pressure relief valves of the same nominal relieving capacity.

(c) Each pressure relief valve must—

(1) Meet Subpart 162.018 of this chapter or, if the valve is also capable of vacuum relief and the MARVS is 69 kPa gauge (10 psig) or less, Subpart 162.017 of this chapter, and have at least the capacity required under § 154.806;

(2) Not be set for a higher pressure than the MARVS;

(3) Have a fitting for sealing wire that prevents the set relieving pressure from being changed without breaking the sealing wire;

(4) Be fitted on the cargo tank to remain in the vapor phase under conditions of 15° list and of 0.015 L trim by both the bow and stern;

(5) Vent to a vent mast under § 154.805, except a relief valve may vent to a common tank relief valve header if the back pressure is included in determining the required capacity under § 154.806;

(6) Not vent to a common header or common vent mast if the relief valves are connected to cargo tanks carrying chemically incompatible cargoes;

(7) Not have any stop valves or other means of isolating the cargo tank from its relief valve unless—

(i) The stop valves are interlocked or arranged so that only one pressure relief valve is out of service at any one time;

(ii) The interlock arrangement automatically shows the relief valve that is out of service; and

(iii) The other valves have the relieving capacity required under § 154.806, or all relief valves on the cargo tank are the same size and there is a spare of the same size, or there is a spare for each relief valve on a cargo tank.

(d) The pressure relief system must—

(i) If the design temperature is below 0° C (32° F), be designed to prevent the relief valve from becoming inoperative due to ice formation; and

(ii) Be designed to prevent chattering of the relief valve.

§ 154.802 Alternate pressure relief settings.

Cargo tanks with more than one relief valve setting must have one of the following arrangements:

(a) Relief valves that—

(1) Are set and sealed under § 154.801(c);

(2) Have the capacity under § 154.806; and

(3) Are interlocked so that cargo tank venting can occur at any time.

(b) Relief valves that have spacer pieces or springs that—

(1) Change the set pressure without pressure testing to verify the new setting; and

(2) Can be installed without breaking the sealing wire required under § 154.801(c)(3).

§ 154.804 Vacuum protection.

(a) Except as allowe d under paragraph (b) of this section, each cargo tank must have a vacuum protection system meeting paragraph (a)(1) of this section and either paragraph (a)(2) or (a)(3) of this section.

(1) There must be a means of testing the operation of the system.

(2) There must be a pressure switch that operates an audible and visual alarm in the cargo control station identifying the tank and the alarm condition and a remote group audible and visual alarm in the wheelhouse. Both alarms must be set at or below 20% of the maximum external design pressure differential of the cargo tanks. There must be a second, independent pressure switch that automatically shuts off all suction of cargo liquid or vapor from the cargo tank and secures any refrigeration of that tank at or below the maximum external designed pressure differential.

(3) There must be a vacuum relief valve that—

(i) Has a gas flow capacity at least equal to the maximum cargo discharge rate per tank;

(ii) Is set to open at or below the maximum external designed pressure differential; and

(iii) Admits inert gas, cargo vapor from a source other than a cargo vapor header, or air except as prohibited under § 154.1710.

(b) A vacuum protection system does not have to be installed if the cargo tank is designed to withstand—

(1) A maximum external pressure differential exceeding 24.5 kPa gauge (3.55 psig); and

(2) The maximum external pressure differential that can be obtained—

(i) At maximum discharge rates with no vapor return to the cargo tanks;

(ii) By operation of the cargo refrigeration system; or

(iii) By drawing off vapor for use in accordance with § 154.703(c)

§ 154.805 Vent masts.

Relief valves or common vent headers from relief valves must discharge to a vent mast that—

(a) Discharges vertically upward;

(b) Has a rain cap or other means of preventing the entrance of rain or snow;

(c) Has a screen with 25mm (1 inch) wire mesh or bars not more than 25mm (1 in.) apart on the discharge port;

(d) Extends at least to a height of B/3 or 6m (19.7 ft.), whichever is greater, above the weather deck and 6m (19.7 ft.) above the working level;

(e) For a cargo tank, does not exhaust cargo vapors within a radius of B or 25m (82 ft.), whichever is less, from any forced or natural ventilation intake or other opening to an accommodation, service, control station, or other gas-safe space, except that for vessels less than 90m (295 ft.) in length, shorter distances may be specially approved by the Commandant (G-MMT);

(f) For a containment system, except a cargo tank, does not exhaust vapor within a radius of 10m (32.8 ft.) or less from any forced or natural ventilation intake or other opening to an accommodation, service, control station, or other gas-safe space;

(g) Has drains to remove any liquid that may accumulate; and

(h) Prevents accumulations of liquid at the relief valves.

§ 154.806 Capacity of pressure relief valves.

Pressure relief valves for each cargo tank must have a combined relief capacity, including the effects of back pressure from vent piping, headers, and masts, to discharge the greater of the following with not more than a 20% rise in cargo tank pressure above the set pressure of the relief valves:

(a) The maximum capacity of an installed cargo tank inerting system if the maximum attainable working pressure of the cargo tank inerting system exceeds the set pressure of the relief valves.

(b) The quantity of vapors generated from fire exposure that is calculated under § 54.15-25 of this chapter.

Atmospheric Control in Cargo Containment Systems

§ 154.901 Atmospheric control within cargo tanks and cargo piping systems.

(a) Each vessel must have a piping system for purging each cargo tank and all cargo piping.

(b) The piping system must minimize the pocketing of gas or air remaining after purging.

(c) For cargo tanks certificated to carry flammable gases, the piping system must allow purging the tank of flammable vapors before air is introduced and purging the tank of air before the tank is filled with cargo.

(d) Each cargo tank must have—

(1) Gas sampling points at its top and bottom; and

(2) Gas sampling line connections that are valved and capped above the deck.

§ 154.902 Atmospheric control within hold and interbarrier spaces.

(a) Vessels certificated to carry flammable cargo in cargo containment systems with full secondary barriers must have an inert gas system or onboard storage of inert gas that provides enough inert gas to meet the requirements of § 154.1848 for 30 days consumption.

(b) Vessels certificated to carry flammable cargo in cargo containment systems with partial secondary barriers must—

(1) Have an inert gas system or onboard inert gas storage that can inert the largest hold and interbarrier space so that the oxygen concentration is 8 percent or less by volume; and

(2) Meet paragraph (a) or (c)(2) of this section.

(c) Vessels certificated to carry only nonflammable cargo in cargo containment systems with secondary barriers must—

(1) Meet paragraph (a) of this section; or

(2) Have air drying systems that reduce the dewpoint of air admitted to hold or interbarrier spaces below the temperature of any surface in those spaces or —45° C (—49° F), whichever is warmer.

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(d) Vessels with refrigerated independent tanks type C must have inert gas or air drying systems that reduce the dewpoint of any inert gas or air admitted to the hold spaces below the temperature of any surface in those spaces or −45° C (−49° F), whichever is warmer.

§ 154.903 Inert gas systems: general.

(a) Inert gas carried or generated to meet §§ 154.901, 154.902, and 154.1848 must be non-flammable and non-reactive with the cargoes that the vessel is certificated to carry and the materials of construction of the cargo tanks, hold and interbarrier spaces, and insulation.

(b) The boiling point and dewpoint at atmospheric pressure of the inert gas must be below the temperature of any surface in those spaces or −45° C (−49° F), whichever is warmer.

(c) For the temperatures and pressures at which the gas is stored and used, storage vessels and inert gas piping must meet §§ 154.450 and 154.500 respectively.

§ 154.904 Inert gas system: controls.

The inert gas system must have—

(a) At least one check valve in the cargo area to prevent the back flow of cargo vapor into the inert gas system, or another means specially approved by the Commandant (G–MMT);

(b) If the inert gas system is in the machinery space or another space outside the cargo area, a second check valve in the cargo area meeting paragraph (a) of this section;

(c) Automatic and manual inert gas pressure controls; and

(d) Valves to isolate each inerted space.

§ 154.906 Inert gas generators.

The inert gas generator must—

(a) Produce an inert gas containing less than 5% oxygen by volume;

(b) Have a device to continuously sample the discharge of the generator for oxygen content; and

(c) Have an audible and visual alarm in the cargo control station that alarms when the inert gas contains 5% or more oxygen by volume.

§ 154.908 Inert gas generator: location.

(a) Except as allowed in paragraph (b) of this section, an inert gas generator must be located in the main machinery space or a space that is not in the cargo area and does not have direct access to any accommodation, service, or control space.

(b) An inert gas generator that does not use flame burning equipment may be located in the cargo area if specially approved by the Commandant (G–MMT).

§ 154.910 Inert gas piping: location.

Inert gas piping must not pass through or terminate in an accommodation, service, or control space.

§ 154.912 Inerted spaces: relief devices.

Inerted spaces must be fitted with relief valves, rupture discs, or other devices specially approved by the Commandant (G–MMT).

Electrical

§ 154.1000 Applicability.

Sections 154.1005 through 154.1020 apply to flammable cargo and ammonia carriers.

§ 154.1002 Definition.

For the purposes of §§ 154.1005 through 154.1020, "gas-dangerous" does not include the weather deck of an ammonia carrier.

§ 154.1005 Equipment approval.

(a) Electrical equipment that is required to be intrinsically safe or explosion proof under § 154.1010 must be specially approved by the Commandant or listed as intrinsically safe or explosion proof by an independent laboratory that is specially approved by the Commandant (G–MMT), for Class I Division I locations and the Group that is specified in Table 4 for the cargo carried.

(b) Each submerged cargo pump motor installation must be specially approved by the Commandant (G–MMT).

(c) Electrical equipment that must be intrinsically safe to meet § 154.1010 must meet the definition in § 110.15–100(i) of this chapter.

(d) Electrical equipment that must be explosion proof to meet § 154.1010 must meet § 110.15–65(e) of this chapter.

§ 154.1010 Electrical equipment in gas-dangerous space or zone.

(a) Except as allowed in this section, electrical equipment must not be installed in a gas-dangerous space or zone.

(b) Intrinsically safe electrical equipment and wiring may be in a gas-dangerous space or zone.

(c) A submerged cargo pump motor may be in a cargo tank if—

(1) Low liquid level, motor current, or pump discharge pressure automatically shuts down power to the pump motor if the pump loses suction;

(2) There is an audible and visual alarm at the cargo control station that actuates if the motor shuts down under the requirements of paragraph (c)(1) of this section; and

(3) There is a lockable circuit breaker or lockable switch that disconnects the power to the motor.

(d) A supply cable for a submerged cargo pump motor may be in a hold space.

(e) A hold space that has a tank that is not required to have a secondary barrier under § 154.450 may only have—

(1) Through runs of cable;

(2) Explosion-proof lighting fixtures;

(3) Depth sounding devices in gas-tight enclosures;

(4) Log devices in gas-tight enclosures; and

(5) Impressed current cathodic protection system electrodes in gas-tight enclosures.

(f) A space that is separated by a gastight steel boundary from a hold space that has a cargo tank that must have a secondary barrier, under the requirements of § 154.459, may only have—

(1) Through runs of cable;

(2) Explosion-proof lighting fixtures;

(3) Depth sounding devices in gastight enclosures;

(4) Log devices in gastight enclosures;

(5) Impressed current cathodic protection system electrodes in gastight enclosures;

(6) Explosion-proof motors that operate cargo system valves or ballast system valves; and

(7) Explosion-proof bells for general alarm systems.

(g) A cargo handling room may only have—

(1) Explosion-proof lighting fixtures; and

(2) Explosion-proof bells for general alarm systems.

(h) A space for cargo hose storage may only have—

(1) Explosion-proof lighting fixtures; and

(2) Through runs of cable.

(i) A space that has cargo piping may only have—

(1) Explosion-proof lighting fixtures; and

(2) Through runs of cable.

(j) A gas-dangerous zone on the weather deck may only have—

(1) Explosion-proof equipment that is for the operation of the vessel; and

(2) Through runs of cable.

(k) A space, except those under paragraphs (e) through (j) of this section, that has a direct opening to a gas-dangerous space or zone may only have the electrical equipment allowed in the gas-dangerous space or zone.

§ 154.1015 Lighting in gas-dangerous space.

(a) Each gas-dangerous space that has lighting fixtures must have at least two branch circuits for lighting.

(b) Each switch and each overcurrent protective device for any lighting circuit that is in a gas-dangerous space must open each conductor of the circuit simultaneously.

(c) Each switch and each overcurrent protective device for lighting in a gas-dangerous space must be in a gas-safe space.

§ 154.1020 Emergency power.

The emergency generator must be designed to allow operation at the final angle of heel under § 154.230(a).

Firefighting

Firefighting System: Exterior Water Spray

§ 154.1105 Exterior water spray system: General.

Each liquefied flammable gas vessel and each liquefied toxic gas vessel must have an exterior water spray system that meets §§ 154.1110 through 154.1135.

§ 154.1110 Areas protected by system.

Each water spray system must protect—

(a) All cargo tank surfaces that are not covered by the vessel's hull structure or a steel cover;

(b) Each cargo tank dome;

(c) Each on-deck storage vessel for flammable or toxic liquefied gases;

(d) Each cargo discharge and loading manifold;

(e) Each quick-closing valve under §§ 154.530, 154.562, and 154.536, and other control valves essential to cargo flow;

(f) Each boundary facing the cargo area of each superstructure that contains accommodation, service, or control spaces;

(g) Each boundary facing the cargo area of each deckhouse that contains accommodation, service, or control spaces; and

(h) Each boundary of each deckhouse that is within the cargo area and that is manned during navigation of the vessel or during cargo transfer operations, except the deckhouse roof if it is 2.4 m (7.9 ft.) or higher above the cargo containing structure.

§ 154.1115 Discharge.

(a) The discharge density of each water spray system must be at least—

(1) 10000 $cm^3/m^2/min.$ (0.25 $gpm/ft.^2$) over each horizontal surface; and

(2) 4000 $cm^3/m^2/min.$ (0.10 $gpm/ft.^2$) against vertical surface, including the water rundown.

(b) The water spray protection under § 154.1110 (d) and (e) must cover an area in a horizontal plane extending at least 0.5 m (19 in.) in each direction from the pipes, fittings, and valves, or the area of the drip tray, whichever is greater.

§ 154.1120 Nozzles.

(a) Nozzles for the water spray system must be spaced to provide the minimum discharge density under § 154.1115 in each part of the protected area.

(b) The vertical distance between water spray nozzles for the protection of vertical surfaces must be 3.7 m (12 ft.) or less.

§ 154.1125 Pipes, fittings, and valves.

(a) Each pipe, fitting, and valve for each water spray system must meet part 56 of this chapter.

(b) Each water spray main that protects more than one area listed in § 154.1110 must have at least one isolation valve at each branch connection and at least one isolation valve downstream of each branch connection to isolate damaged sections.

(c) Each valved cross-connection from the water spray system to the fire main must be outside of the cargo area.

(d) Each pipe, fitting, and valve for the water spray system must be made of fire resistant and corrosion resistant materials, such as galvanized steel or galvanized iron pipe.

(e) Each water spray system must have a means of drainage to prevent corrosion of the system and freezing of accumulated water in subfreezing temperatures.

(f) Each water spray system must have a dirt strainer that is located at the water spray system manifold or pump.

§ 154.1130 Sections.

(a) If a water spray system is divided into sections, each section must at least include the entire deck area bounded by the length of a cargo tank and the full beam of the vessel.

(b) If a water spray system is divided into sections, the control valves must be at a single manifold that is aft of the cargo area.

§ 154.1135 Pumps.

(a) Water to the water spray system must be supplied by—

(1) A pump that is only for the use of the system;

(2) A fire pump; or

(3) A pump specially approved by the Commandant (G–MMT).

(b) Operation of a water spray system must not interfere with simultaneous operation of the fire main system at its required capacity. There must be a valved cross-connection between the two systems.

(c) Except as allowed under paragraph (d) of this section, each pump for each water spray system must have the capacity to simultaneously supply all areas named in § 154.1110.

(d) If the water spray system is divided into sections, the pump under paragraph (a) of this section must have the capacity to simultaneously supply the required discharge density under § 154.1115(a) for—

(1) The areas in §§ 154.1110(f) through (h) and 154.1115(b); and

(2) The largest section that includes the required protection under § 154.1110 (a), (b), and (c).

Firefighting System: Dry Chemical

§ 154.1140 Dry chemical system: General.

Each liquefied flammable gas carrier must have a dry chemical firefighting system that meets §§ 154.1145 through 154.1170, Part 56 and Subpart 162.039 of this chapter.

§ 154.1145 Dry chemical supply.

(a) A vessel with a cargo carrying capacity less that 1000 m^3 (35,300 $ft.^3$) must have at least one self-contained dry chemical storage unit for the cargo area with an independent inert gas pressurizing source adjacent to each unit.

(b) A vessel with a cargo carrying capacity of 1000 m^3 (35,300 $ft.^3$) or more must have at least two self-contained dry chemical storage units for the cargo area with an independent inert gas pressurizing source adjacent to each unit.

(c) A vessel with bow and stern loading and discharge areas must have at least one self-contained dry chemical storage unit with an independent inert gas pressurizing source adjacent to the unit for each area.

(d) Each dry chemical storage unit and associated piping must be designed for—

(1) Sequential discharge of each hose line and each monitor for 45 seconds; and

(2) Simultaneous discharge of all hose lines and monitors for 45 seconds.

(e) Each fully charged dry chemical storage unit must have the greater of the following:

(1) Enough dry chemical to provide for sequential discharge of each attached hose and monitor for 45 seconds.

(2) Enough dry chemical to provide for simultaneous discharge of all attached hoses and monitors for 45 seconds.

§ 154.1150 Distribution of dry chemical.

(a) All locations on the above deck cargo area and the cargo piping outside that cargo area must be protected by—

(1) At least two dry chemical hand hose lines; or

(2) At least one dry chemical hand hose line and one dry chemical monitor.

(b) At least one dry chemical storage unit and hand hose line or monitor must be at the after end of the cargo areas.

(c) Each cargo loading and discharge manifold must be protected by at least one dry chemical monitor.

§ 154.1155 Hand hose line coverage.

The coverage for the area for a hand hose line under § 154.1150 must not exceed the length of the hand hose line except the coverage for the protection of areas that are inaccessible to personnel must not exceed one-half the projection of the hose at its rated discharge, or 10 m (32.8 ft.), whichever is less.

§ 154.1160 Monitor coverage of system.

The coverage of each dry chemical system monitor under § 154.1150 must not exceed—

(a) 10 m (32.8 ft.) at 10 kg/sec (22 lb/sec);

(b) 30 m (98.4 ft.) at 25 kg/sec (55 lb/sec);

(c) 40 m (131.2 ft.) at 45 kg/sec (99 lb/sec);

(d) An interpolation between 10 m (32.8 ft.) at 10 kg/sec (22 lb/sec) and 30 m (98.4 ft.) at 25 kg/sec (55 lb/sec); or

(e) An interpolation between 30 m (98.4 ft.) at 25 kg/sec (55 lb/sec) and 40 m (131.2 ft.) at 45 kg/sec (99 lb/sec).

§ 154.1165 Controls.

(a) Each dry chemical hand hose line must be one that can be actuated at its hose reel or hose storage cabinet.

(b) Each dry chemical monitor must be one that can be actuated and controlled at the monitor.

(c) A dry chemical monitor for the cargo loading and discharging manifold areas must be one that can be—

(1) Actuated from a location other than the monitor and manifold area; and

(2) Except for pre-aimed monitors, controlled from a location other than the monitor and manifold area.

(d) Each dry chemical storage unit must have independent piping with a stop valve in the piping for each remote hand hose line and remote monitor where the piping connects to the storage container, if the unit has—

(1) More than one hand hose line;

(2) More than one monitor; or

(3) A combination of hand hose lines and monitors.

(e) Each stop valve under paragraph (d) of the section must be capable of—

(1) Manual operation; and

(2) Being opened from the hose reel or monitor to which it is connected.

(f) Damage to any dry chemical system hose, monitor, pipe or control circuits must not prevent the operation of other hoses, monitors, or control circuit that are connected to the same storage unit.

§ 154.1170 Hand hose line: General.

Each dry chemical hand hose line must—

(a) Not be longer than 33m (108 ft.);

(b) Be stored on a hose reel or in a hose cabinet and be one that is operable whether or not it is unwound from a hose reel or removed from a hose cabinet;

(c) Be non-kinkable;

(d) Have a nozzle with a valve to start and stop the flow of chemical;

(e) Have a capacity of at least 3.5 kg/sec (7.7 lb./sec); and

(f) Be one that can be operated by one person.

Cargo Area: Mechanical Ventilation System

§ 154.1200 Mechanical ventilation system: General.

(a) Each cargo compressor room, pump room, gas-dangerous cargo control station, and space that contains cargo handling equipment must have a fixed, exhaust-type mechanical ventilation system.

(b) The following must have a supply-type mechanical ventilation system:

(1) Each space that contains electric motors for cargo handling equipment.

(2) Each gas-safe cargo control station in the cargo area.

(3) Each gas-safe space in the cargo area.

(4) Each space that contains inert gas generators, except main machinery spaces.

§ 154.1205 Mechanical ventilation system: Standards.

(a) Each exhaust type mechanical ventilation system required under § 154.1200 (a) must have ducts for vapors from the following:

(1) The deck level.

(2) Bilges.

(3) If the vapors are lighter than air, the top of each space that personnel enter during cargo handling operations.

(b) The discharge end of each duct under paragraph (a) of this section must be at least 10 m (32.8 ft.) from ventilation intakes and openings to accomodation, service, control station, and other gas-safe spaces.

(c) Each ventilation system under §§ 154.1200(a) and (b)(1) must change the air in that space and its adjoining trunks at least 30 times each hour.

(d) Each ventilation system for a gas-safe cargo control station in the cargo area must change the air in that space at least eight times each hour.

(e) A ventilation system must not recycle vapor from ventilation discharges.

(f) Each mechanical ventilation system must have its operational controls outside the ventilated space.

(g) No ventilation duct for a gas-dangerous space may pass through any machinery, accomodation, service, or control space, except as allowed under § 154.703.

(h) Each electric motor that drives a ventilation fan must not be within the ducts for any space that may contain flammable cargo vapors.

(i) Ventilation impellers and the housing in way of those impellers on a flammable cargo carrier must meet one of the following:

(1) The impeller, housing, or both made of non-metallic material that does not generate static electricity.

(2) The impeller and housing made of non-ferrous material.

(3) The impeller and housing made of austenitic stainless steel.

(4) The impeller and housing made of ferrous material with at least 13mm (0.512 in.) tip clearance.

(j) No ventilation fan may have any combination of fixed or rotating components made of an aluminum or magnesium alloy and ferrous fixed or rotating components.

(k) Each ventilation intake and exhaust must have a protective metal screen of not more than 13mm (0.512 in.) square mesh.

§ 154.1210 Hold space, void space, cofferdam, and spaces containing cargo piping.

(a) Each hold space, void space, cofferdam, and spaces containing cargo piping must have—

(1) A fixed mechanical ventilation system; or

(2) A fixed ducting system that has a portable blower that meets § 154.1205(i) and (j).

(b) A portable blower in any personnel access opening must not reduce the area of that opening so that the opening does not meet § 154.340.

Instrumentation

§ 154.1300 Liquid level gauging system: General.

(a) If Table 4 lists a closed gauge for a cargo, the liquid level gauging system under § 154.1305 must be closed gauges that do not have any opening through which cargo liquid or vapor could escape, such as an ultrasonic device, float type device, electronic or magnetic probe, or bubble tube indicator.

(b) If Table 4 lists a restricted gauge for a cargo, the liquid level gauging system under § 154.1305 must be closed gauges that meet paragraph (a) of this section or restricted gauges that do not vent the cargo tank's vapor space, such as a fixed tube, slip tube, or rotary tube.

§ 154.1305 Liquid level gauging system: Standards.

(a) Each cargo tank must have at least one liquid level gauging system that is operable—

(1) At pressure up to, and including, the MARVS of the tank; and

(2) At temperatures that are within the cargo handling temperature range for all cargoes carried.

(b) Unless the cargo tank has one liquid gauging system that can be repaired and maintained when the tank contains cargo, each cargo tank must have at least two liquid level gauging systems that meet paragraph (a) of this section.

(c) Each liquid level gauging system must measure liquid levels from 400 mm (16 in.) or less from the lowest point in the cargo tank, except collection wells, to 100 percent full.

§ 154.1310 Closed gauge shut-off valve.

Each closed gauge that is not mounted directly on the cargo tank must have a shut-off valve that is as close to the tank as practical.

§ 154.1315 Restricted gauge excess flow valve.

Each restricted gauge that penetrates a cargo tank must have an excess flow valve unless the gauge meets § 154.536.

§ 154.1320 Sighting ports, tubular gauge glasses, and flat plate type gauge glasses.

(a) Cargo tanks may have sighting ports as a secondary means of liquid level gauging in addition to the gauges under § 154.1305, if—

(1) The tank has a MARVS that is less than 69 kPa gauge (10 psig);

(2) The port has a protective cover and an internal scale; and

(3) The port is above the liquid level.

(b) Tubular gauge glasses must not be liquid level gauges for cargo tanks.

(c) Flats type gauge glasses must not be liquid level gauges for cargo tanks, except deck tanks if the gauge connections have excess flow valves.

§ 154.1325 Liquid level alarm system: All cargo tanks.

Except as allowed under § 154.1330, each cargo tank must have a high liquid level alarm system that—

(a) Is independent of the liquid level gauging system under § 154.1305;

(b) Actuates quick-closing valves under §§ 154.530, 154.532, and 154.538 or a stop valve in the cargo tank loading line to prevent the tank from becoming 100 percent liquid full and without causing the pressure in the loading lines to exceed the design pressure; and

(c) Actuates an audible and visual alarm at the cargo control station at the liquid level at which the valves under paragraph (b) of this section are actuated or at some lower liquid level.

§ 154.1330 Liquid level alarm system: Independent tank type C.

Independent tanks type C need not have the high liquid level alarm system under § 154.1325 if—

(a) The tank volume is less than 200 m^3 (7,060 $ft.^3$); or

(b) The tank can withstand the maximum possible pressure during loading, that pressure is below the relief valve setting, and overflow of the tank cannot occur.

§ 154.1335 Pressure and vacuum protection.

(a) Each cargo tank must have the following:

(1) A pressure gauge that—

(i) Monitors the vapor space;

(ii) Is readable at the tank; and

(iii) Has remote readouts at the cargo control station.

(2) If vacuum protection is required under § 154.804, a vacuum gauge meeting paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii) of this section.

(b) The vessel must have at least one high pressure alarm that—

(1) Actuates before the pressure in any cargo tank exceeds the maximum pressure specially approved by the Commandant (G–MMT); and

(2) Actuates an audible and visual alarm at the cargo control station, and a remote group alarm in the wheelhouse.

(c) If vacuum protection is required under § 154.804, the vessel must have at least one low pressure alarm that—

(1) Actuates before the pressure in any cargo tank falls below the minimum pressure specially approved by the Commandant (G–MMT); and

(2) Actuates an audible and visual alarm at the cargo control station, and a remote group alarm in the wheelhouse.

(d) At least one pressure gauge must be fitted on each—

(1) Enclosed hold;

(2) Enclosed interbarrier space;

(3) Cargo pump discharge line;

(4) Liquid cargo manifold; and

(5) Vapor cargo manifold.

(e) There must be a local manifold pressure gauge between each manifold stop valve and each hose connection to the shore.

§ 154.1340 Temperature measuring devices.

(a) Each cargo tank must have devices that measure the temperature—

(1) At the bottom of the tank; and

(2) Near the top of the tank and below the maximum liquid level allowed under § 154.1844.

(b) Each device required by paragraph (a) must have a readout at the cargo control station.

(c) Except for independent tanks type C, each cargo containment system for a design temperature colder than −55° C (−67° F) must have temperature measuring devices that meet the following:

(1) The number and location of the devices must be specially approved by the Commandant(G–MMT).

(2) The devices must be within the cargo tank's insulation or on the adjacent hull structure.

(3) Each device must show the temperature continuously or at regular intervals of one hour or less.

(4) Each device must actuate an audible and visual alarm at the cargo control station and a remote group alarm in the wheelhouse before the temperature of the steel of the adjacent hull structure is cooled below the lowest temperature allowed for the steel under § 154.172.

(d) For each cargo tank with a design temperature colder than −55° C (−67° F), the number and arrangement of the devices that show the temperature of the tank during cool down procedures must be specially approved by the Commandant (G–MMT).

§ 154.1345 Gas detection.

(a) Each vessel carrying a cargo that is designated with an "I" or "I and T" in Table 4 must have—

(1) A fixed flammable gas detection system that meets § 154.1350; and

(2) Two portable gas detectors that can each measure 0 to 100% of the lower flammable limit of the cargo carried.

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(b) Each vessel carrying a cargo that is designated with a "T" or "I and T" in Table 4 must have—

(1) Two portable gas detectors that show if the concentration of cargo is above or below the threshold limit value listed in 29 CFR 1910.1000 for that cargo; and

(2) Fixed gas sampling tubes in each hold space and interbarrier space with—

(i) The number of tubes specially approved by the Commandant (G-MMT);

(ii) Each tube valved and capped above the main deck unless it is connected to a fixed toxic gas detector;

(iii) If the vessel carries cargo that is heavier than the atmosphere of the space, each tube's open end in the lower part of the space;

(iv) If the vessel carries cargo that is lighter than the atmosphere of the space, each tube's open end in the upper part of the space;

(v) If the vessel carries cargo that is heavier than the atmosphere of the space and another cargo that is lighter than the atmosphere of the space, tubes with their open ends in the lower part of the space and tubes with their open ends in the upper part of the space; and

(vi) If the vessel carries cargo that can be both heavier and lighter than the atmosphere of the space, tubes with their open ends in the lower part of the space and tubes with their open ends in the upper part of the space.

(c) A vessel that carries methyl bromide or sulfur dioxide must have a fixed gas detection system that is not located in a gas-safe space.

(d) A vessel that carries sulfur dioxide must have a fixed gas detection system that meets § 154.1350 except paragraph (j).

(e) Each alarm under § 154.1350(e) on a vessel that carries methyl bromide or sulfur dioxide must be set at or below the threshold limit value listed in 29 CFR 1910.1000 for the cargo carried.

§ 154.1350 Flammable gas detection system.

(a) The vessel must have a fixed flammable gas detection system that has sampling points in—

(1) Each cargo pump room;

(2) Each cargo compressor room;

(3) Each motor room for cargo handling machinery;

(4) Each cargo control station that is not gas-safe;

(5) Each hold space, interbarrier space, and other enclosed spaces, except fuel oil or ballast tanks, in the cargo area, unless the vessel has independent tanks type C; and

(6) Each space between the doors of an air lock under § 154.945.

(b) The sampling points under paragraph (a) of this section must meet § 154.1345(b)(2) (iii) through (vi).

(c) Gas sampling lines for the flammable gas detection system must not pass through any gas-safe space, except the gas-safe space in which the gas detection equipment is located.

(d) Gas detection systems must have a readout with meters that show flammable gas concentration over the concentration or volume ranges under paragraph (t) or (u) of this section.

(e) Each flammable gas detection system must have audible and visual alarms that are actuated at a cargo concentration that is 30% or less of the lower flammable limit in air of the cargo carried.

(f) Each flammable gas detection system must have an audible and visual alarm for power failure and loss of gas sampling flow.

(g) The alarms under paragraphs (e) and (f) of this section must signal in the space where the gas detection system's readout is located and must meet § 154.1365.

(h) Remote group alarms, that indicate that one of the alarm conditions under paragraphs (e) and (f) of this section exists, must meet § 154.1365 and must be in each wheelhouse and in each cargo control station if the gas detection system's readout is not located in those spaces.

(i) Each flammable gas detection system must monitor each sampling point at 30 minute or shorter intervals.

(j) Electrical equipment for each flammable gas detection system that is in a gas-dangerous space or area must meet §§ 154.1000 through 154.1015.

(k) Each flammable gas detection system must have enough flame arrestors for all gas sampling lines to prevent flame propagation to the spaces served by the system through the sampling lines.

(l) Each flammable gas detection system must have a filter that removes particulate matter in each gas sampling line.

(m) Each filter under paragraph (l) of this section must be located where it can be removed during vessel operation, unless it can be freed by back pressure.

(n) Each flammable gas detection system in a gas-safe space must—

(1) Have a shut-off valve in each sampling line from an enclosed space, such as a hold or interbarrier space; and

(2) Exhaust gas to a safe location in the open atmosphere and away from all ignition sources.

(o) Each flammable gas detection system must not have common sampling lines, except sampling lines may be manifolded at the gas detector location if each line has an automatic valve that prevents cross-communication between sampling points.

(p) Each flammable gas detection system must have at least one connection for injecting zero gas and span gas into the system for testing and calibration.

(q) Each flammable gas detection system must have span gas for testing and calibration that is of known concentration.

(r) The calibration test procedure and type and concentration of span gas under paragraph (q) of this section must be on or in each gas analyzer cabinet.

(s) Each flammable gas detection system must have at least one flow meter capable of measuring the flow to the gas analyzer, and must provide a means for ensuring that there is a positive flow in the right direction in each sampling line at all times.

(t) Each flammable gas detection system must measure gas concentrations that—

(1) Are at least 0% through 200% of the alarm concentration; and

(2) Allow calibration of the equipment with span gas.

(u) In each hold and each interbarrier space that contains tanks other than independent tanks type A, B, or C, the flammable gas detection system must measure cargo concentrations of 0 to 100% by volume with—

(1) An analyzer other than the one under paragraph (t) of this section; or

(2) The analyzer under paragraph (t) of this section with a scale switch that automatically returns the analyzer to the concentration range under paragraph (t) of this section when released.

§ 154.1360 Oxygen analyzer.

The vessel must have a portable analyzer that measures oxygen levels in an inert atmosphere.

§ 154.1365 Audible and visual alarms.

(a) Each audible alarm must have an arrangement that allows it to be turned off after sounding. For remote group alarms this arrangement must not interrupt the alarm's actuation by other faults.

(b) Each visual alarm must be one that can be turned off only after the fault that actuated it is corrected.

(c) Each visual alarm must be marked to show the type and, except for remote group alarms, the location of each fault that actuates it.

(d) Each vessel must have means for testing each alarm.

§ 154.1370 Pressure gauge and vacuum gauge marking.

Each pressure gauge and vacuum gauge under § 154.1335(a) must be marked with the maximum and minimum pressures that are specified on the vessel's certificate for the cargo carried.

§ 154.1375 Readout for temperature measuring device: Marking.

Each readout under § 154.1340 for a device that measures temperature in a cargo tank must be marked with the design temperature specified for the cargo tank on the vessel's certificate.

Safety Equipment

§ 154.1400 Safety equipment: All vessels.

(a) Instead of the equipment under § 35.30-20 of this chapter, a vessel of less than 25,000 m^3 cargo capacity must have the following personnel safety equipment:

(1) Six self-contained, pressure-demand-type, air-breathing apparatus approved by the Mining Enforcement and Safety Administration (MESA) or the National Institute for Occupational Safety and Health (NIOSH), each having at least a 30 minute capacity.

(2) Nine spare bottles of air for the self-contained air-breathing apparatus, each having at least a 30 minute capacity.

(3) Six steel-cored lifelines.

(4) Six three-cell, explosion proof flashlights with the Underwriters' Laboratories, Inc., label for Class I Division 1 and the Electrical Hazard Group listed in Table 4 for each cargo carried.

(5) Three fire axes.

(6) Six helmets that meet ANSI Safety Requirements for Industrial Head Protection, Z-89.1 (1969).

(7) Six sets of boots and gloves that are made of rubber or other electrically non-conductive material.

(8) Six sets of goggles that meet the specifications of ANSI Practice for Occupational and Educational Eye and Face Protection, Z-87.1 (1968).

(9) Three outfits that protect the skin from scalding steam and the heat of a fire, and that have a water resistant outer surface.

(10) Three chemical protective outfits that protect the wearers from the particular personnel hazards presented by the cargo vapor.

(b) Instead of the equipment under § 35.30-20 of this chapter, a vessel of 25,000 m^3 cargo capacity or more must have the following personnel safety equipment:

(1) Eight self-contained, pressure-demand-type, air-breathing apparatus approved by the Mining Enforcement and Safety Administration (MESA) or the National Institute for Occupational Safety and Health (NIOSH), each having at least a 30 minute capacity.

(2) Nine spare bottles of air for the self-contained air-breathing apparatus, each having at least a 30 minute capacity.

(3) Eight steel-cored lifelines.

(4) Eight three-cell, explosion proof flashlights with the Underwriters' Laboratories, Inc., label for Class I Division 1 and the Electrical Hazard Group listed in Table 4 for each cargo carried.

(5) Five fire axes.

(6) Eight helmets that meet ANSI Safety Requirements for Industrial Head Protection, Z-89.1 (1969).

(7) Eight sets of boots and gloves that are made of rubber or other electrically non-conductive material.

(8) Eight sets of goggles that meet the specifications of ANSI Practice for Occupational and Educational Eye and Face Protection, Z-87.1 (1968).

(9) Five outfits that protect the skin from scalding steam and the heat of a fire, and that have a water resistant outer surface.

(10) Three chemical protective outfits that protect the wearers from the particular personnel hazards presented by the cargo vapor.

(c) When Table 4 references this section, a vessel carrying the listed cargo must have the following additional personnel protection equipment:

(1) Three self-contained, pressure-demand-type, air-breathing apparatus approved by the Mining Enforcement and Safety Administration (MESA) or the National Institute for Occupational Safety and Health (NIOSH), each having at least a 30 minute capacity.

(2) Nine spare bottles of air for the self-contained air-breathing apparatus, each having at least a 30 minute capacity.

(3) Three steel-cored lifelines.

(4) Three three-cell, explosion proof flashlights with the Underwriters' Laboratories, Inc., label for Class I Division 1 and the Electrical Hazard Group listed in Table 4 for each cargo carried.

(5) Three helmets that meet ANSI Safety Requirements for Industrial Head Protection, Z-89.1 (1969).

(6) Three sets of boots and gloves that are made of rubber or other electrically non-conductive material.

(7) Three sets of goggles that meet the specifications of ANSI Practice for Occupational and Educational Eye and Face Protection, Z-87.1 (1968).

(8) Three chemical protective outfits that protect the wearers from the particular personnel hazards presented by the cargo vapor.

§ 154.1405 Respiratory protection.

When Table 4 references this section, a vessel carrying the listed cargo must have—

(a) Respiratory protection equipment for each person on board that protects the person from the cargo vapor for at least 5 minutes; and

(b) Two additional sets of respiratory protection equipment that—

(1) Are stowed in the wheelhouse; and

(2) Protects the wearer from the cargo vapor for at least 5 minutes.

§ 154.1410 Decontamination shower.

When Table 4 references this section, a vessel carrying the listed cargo must have a decontamination shower and an eye wash that—

(a) Are on the weatherdeck; and

(b) Have their location marked EMERGENCY SHOWER in letters—

(1) 7.6 cm (3 in.) high; and

(2) 5.1 cm (2 in.) wide.

§ 154.1415 Air compressor.

Each vessel must have an air compressor to recharge the bottles for the air-breathing apparatus.

§ 154.1420 Stretchers and equipment.

Each vessel must have—

(a) Two stretchers or wire baskets; and

(b) Equipment for lifting an injured person from a cargo tank, hold, or void space.

§ 154.1430 Equipment locker.

One of each item of equipment under §§ 154.1400 and 154.1420 must be stowed in a marked locker—

(a) On the open deck in or adjacent to the cargo area; or

(b) In the accommodation house, near to a door that opens onto the main deck.

§ 154.1435 Medical first aid guide.

Each vessel must have a copy of the *IMCO Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*, printed by IMCO, London, U.K.

§ 154.1440 Antidotes.

Each vessel must have the antidotes prescribed in the *IMCO Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*, printed by IMCO, London, U.K. for the cargoes being carried.

§ 154.1445 Lifesaving devices.

The design of the lifeboats and liferafts must allow for launching at the final angle of heel from the lower side of the vessel.

Subpart D—Special Design and Operating Requirements

§ 154.1700 Purpose.

This subpart prescribes design and operating requirements that are unique for certain cargoes regulated by this part.

§ 154.1702 Materials of construction.

When Table 4 references one of the following paragraphs in this section, the materials in the referenced paragraph must not be in components that contact the cargo liquid or vapor:

(a) Aluminum and aluminum bearing alloys.

(b) Copper and copper bearing alloys.

(c) Zinc or galvanized steel.

(d) Magnesium.

(e) Mercury.

(f) Acetylide forming materials, such as copper, silver, and mercury.

§ 154.1705 Independent tank type C.

The following cargoes must be carried in an independent tank type C that meets § 154.701(a):

(a) Ethylene oxide.

(b) Methyl bromide.

(c) Sulfur dioxide.

§ 154.1710 Exclusion of air from cargo tank vapor spaces.

When a vessel is carrying acetaldehyde, butadiene, ethylene oxide, or vinyl chloride, the master shall ensure that air is—

(a) Purged from the cargo tanks and associated piping before the cargo is loaded; and

(b) Excluded after the cargo is loaded by maintaining a positive pressure of at least 13.8 kPa gauge (2 psig) by—

(1) Introducing a gas that—

(i) Is not reactive;

(ii) Is not flammable; and

(iii) Does not contain more than 0.2% oxygen by volume; or

(2) Controlling the cargo temperature.

§ 154.1715 Moisture control.

When a vessel is carrying sulfur dioxide, the master shall ensure that—

(a) A cargo tank is dry before it is loaded with sulfur dioxide; and

(b) Air or inert gas admitted into a cargo tank carrying sulfur dioxide during discharging or tank breathing has a moisture content equal to or less than the moisture content of air with a dewpoint of −45° C (−49° F) at atmospheric pressure.

§ 154.1720 Indirect refrigeration.

A refrigeration system that is used to cool acetaldehyde, ethylene oxide, or methyl bromide, must be an indirect refrigeration system that does not use vapor compression.

§ 154.1725 Ethylene oxide.

(a) A vessel carrying ethylene oxide must—

(1) Have cargo piping, vent piping, and refrigeration equipment that have no connections to other systems;

(2) Have valves, flanges, fittings, and accessory equipment made of steel, stainless steel, except types 416 and 442, or other material specially approved by the Commandant (G–MHM);

(3) Have valve disk faces, and other wearing parts of valves made of stainless steel containing not less than 11% chromium;

(4) Have gaskets constructed of spirally wound stainless steel with teflon or other material specially approved by the Commandant (G–MHM);

(5) Not have asbestos, rubber, or cast iron components in the cargo containment system and piping;

(6) Not have threaded joints in cargo piping;

(7) Have a water spray system under § 154.1105 that protects the above deck cargo piping; and

(8) Have a nitrogen inerting system or on board nitrogen gas storage that can inert the vapor space of an ethylene oxide cargo tank for a period of 30 days under the condition of paragraph (e) of this section.

(b) Cargo hose used for ethylene oxide must—

(1) Be specially approved by the Commandant (G–MMT); and

(2) Be marked "For (Alkylene or Ethylene) Oxide Transfer Only."

(c) Ethylene oxide must be maintained at less than 30°C (86° F).

(d) Cargo tank relief valves for tanks containing ethylene oxide must be set at 539 kPa gauge (78.2 psig) or higher.

(e) The vapor space of a cargo tank carrying ethylene oxide must be maintained at a nitrogen concentration of 45% by volume.

(f) A vessel must have a method for jettisoning ethylene oxide that meets §§ 154.350 and 154.1872.

§ 154.1730 Ethylene oxide: Loading and off loading.

(a) The master shall ensure that before ethylene oxide is loaded into a cargo tank—

(1) The tank is thoroughly clean, dry, and free of rust;

(2) The hold spaces are inerted with an inert gas that meets § 154.1710(b)(1); and

(3) The cargo tank vapor space is inerted with nitrogen.

(b) Ethylene oxide must be off loaded by a deepwell pump or inert gas displacement.

(c) Ethylene oxide must not be carried in deck tanks.

§154.1735 Methyl acetylene-propadiene mixture.

(a) The composition of the methyl acetylene-propadiene mixture at loading must be within the following limits or specially approved by the Commandant (G–MHM):

(1) One composition is—

(i) Maximum methyl acetylene and propadiene molar ratio of 3 to 1;

(ii) Maximum combined concentration of methyl acetylene and propadiene of 65 mole percent;

(iii) Minimum combined concentration of propane, butane, and isobutane of 24 mole percent, of which at least one-third (on a molar basis) must be butanes and one-third propane; and

(iv) Maximum combined concentration of propylene and butadiene of 10 mole percent.

(2) A second composition is—

(i) Maximum methyl acetylene and propadiene combined concentration of 30 mole percent;

(ii) Maximum methyl acetylene concentration of 20 mole percent;

(iii) Maximum propadiene concentration of 20 mole percent;

(iv) Maximum propylene concentration of 45 mole percent;

(v) Maximum butadiene and butylenes combined concentration of 2 mole percent;

(vi) A minimum saturated C_4 hydrocarbon concentration of 4 mole percent; and

(vii) A minimum propane concentration of 25 mole percent.

(b) A vessel carrying a methyl acetylene-propadiene mixture must have a refrigeration system without vapor compression or have a refrigeration system with the following features:

(1) A vapor compressor that does not raise the temperature and pressure of the vapor above 60°C (140°F) and 1.72 MPa gauge (250 psig) during its operation and that does not allow vapor to stagnate in the compressor while it continues to run.

(2) Discharge piping from each compressor stage or each cylinder in the same stage of a reciprocating compressor that has—

(i) Two temperature actuated shutdown switches set to operate at 60° C (140° F) or less;

(ii) A pressure actuated shutdown switch set to operate at 1.72 MPa guage (250 psig) or less; and

(iii) A safety relief valve set to relieve 1.77 MPa guage (256 psig) or less.

(3) A relief valve that vents to a mast meeting § 154.805 and that does not relieve into the compressor suction line.

(4) An alarm that sounds in the cargo control station and in the wheelhouse when any of the high pressure or high temperature switches under paragraphs (b)(2)(i) and (b)(2)(ii) of this section operate.

(c) A vessel carrying a methyl acetylene-propadiene mixture must have separate cargo piping, vent piping, and refrigeration equipment for methyl acetylene-propadiene that are segregated from other cargo piping, vent piping and refrigeration equipment on the vessel.

§ 154.1740 Vinyl chloride: Inhibiting and inerting.

When a vessel is carrying vinyl chloride, the master shall ensure that—

(a) Section 154.1618 is met; or

(b) Section 154.1710 is met, and the oxygen content of inert gas is less than 0.1% by volume.

§ 154.1745 Vinyl chloride: Transferring operations.

A vessel carrying vinyl chloride must meet § 40.15–1 of this chapter.

§ 154.1750 Butadiene or vinyl chloride: Refrigeration system.

A refrigeration system for butadiene or vinyl chloride must not use vapor compression unless it—

(a) Avoids any stagnation points where uninhibited liquid can accumulate; or

(b) Has inhibited liquid from the cargo tank added to the vapor upstream of the condenser.

§ 154.1755 Nitrogen.

Except for deck tanks and their piping systems, cargo containment systems and piping systems carrying nitrogen must be specially approved by the Commandant (G–MMT).

§ 154.1760 Liquid ammonia.

The master shall ensure that no person sprays liquid ammonia into a cargo tank containing more than 8% oxygen by volume.

Subpart E—Operations

§ 154.1800 Special operating requirements under Part 35 of this chapter.

Each vessel must meet the requirements of Part 35 of this chapter except § 35.30–20.

§ 154.1801 Certificates, letters, and endorsements: U.S. flag vessels.

No person may operate a U.S. flag vessel unless the vessel has a Certificate of Inspection, issued under Subchapter D of this chapter, which is endorsed with the name of the cargo that it is allowed to carry.

§ 154.1802 Certificates, letters and endorsements: Foreign flag vessels.

(a) No person may operate on the navigable waters of the United States a foreign flag vessel, whose flag administration issues IMCO Certificates, unless the vessel has—

(1) An IMCO Certificate issued by the flag administration which is endorsed with the name of the cargo that it is allowed to carry, and a Letter of Compliance issued by the Coast Guard endorsed under this part with the name of the cargo that it is allowed to carry; or

(2) Special approval under §§ 154.12 or 154.153.

(b) No person may operate on the navigable waters of the United States a foreign flag vessel, whose flag administration does not issue IMCO Certificates, unless the vessel has—

(1) A Letter of Compliance issued by the Coast Guard endorsed under this part with the name of the cargo that is allowed to carry; or

(2) Special approval under §§ 154.12 or 154.153.

(c) No person may operate on the navigable waters of the United States a foreign flag vessel unless the vessel has onboard the following plans and information which except for the certificates under paragraph (c)(1), are in English:

(1) The vessel's Cargo Ship Safety Construction Certificate and Cargo Ship Safety Equipment Certificate issued under the International Convention for Safety of Life at Sea, 1960.

(2) A description and schematic plan of the arrangement for inerting cargo tanks, hold spaces, and interbarrier spaces.

(3) A description of the cargo tank gauging equipment.

(4) A description and instruction manual for the calibration of the cargo leak detector equipment.

(5) A schematic plan that shows the locations of leak detectors and sampling points.

(6) If the vessel carries methane, a description of the systems for cargo temperature and pressure control. (See §§ 154.703 through 154.709).

§ 154.1803 Expiration of letters of compliance.

A Letter of Compliance is valid for a period not exceeding two years after the date of the examination under § 154.150. The Coast Guard marks the expiration date on the Letter of Compliance.

§ 154.1804 Document posted in wheelhouse.

No person may operate a U.S. flag vessel unless the documents under § 154.1801 are under glass in a conspicuous place in the wheelhouse.

§ 154.1806 Regulations on board.

No person may operate a U.S. flag vessel unless a copy of this part and a copy of Part 35 of this chapter are on board.

§ 154.1808 Limitations in the endorsement.

No person may operate a vessel unless that person complies with all limitations in the endorsement on the vessel's Certificate of Inspection or Letter of Compliance.

§ 154.1809 Loading and stability manual.

(a) No person may operate a vessel unless that vessel has on board a loading and stability manual.

(b) The loading and stability manual must contain—

(1) Information that enables the master to load and ballast the vessel while keeping structural stresses within design limits and positive metacentric height;

(2) Damage stability information, including all loading restrictions; and

(3) Trim information.

§ 154.1810 Cargo manual.

(a) No person may operate a foreign flag vessel, whose flag administration does not issue IMCO Certificates, on the navigable waters of the United States, or a U.S. flag vessel, unless the vessel has on board a cargo manual containing the information:

(1) A description of each cargo carried, its handling hazards as a liquid or as a gas including frostbite or asphyxiation, its safety equipment and necessary first aid measures required by this part.

(2) A description of the dangers of asphyxiation from the inerting gases used on the vessel.

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(3) The measures that mitigate embrittlement of steel structure in way of cargo leakage.
(4) The use of the firefighting systems on the vessel.
(5) The features of the cargo containment system that affect its operation and maintenance, including pressure and temperature ranges and relief valve settings.
(6) Pressures, temperatures, and liquid levels for all operations.
(7) General information derived from the first loading of the vessel.
(8) Alarm settings.
(9) Descriptions of the components of the cargo system, including the following:
(i) Liquid cargo system.
(ii) Liquid recirculating or condensate return system.
(iii) Cargo tank cool-down system.
(iv) Cargo tank warm-up or vaporization system.
(v) Gas main system.
(vi) Cargo tank or compressor relief system and blocked liquid or gas relief system.
(vii) Inerting system.
(viii) Boil-off gas compressor or reliquefaction system.
(ix) Gas detection systems.
(x) Alarm or safety indication systems.
(xi) Cargo jettisoning system.
(xii) The system for using boil-off gas as fuel.
(10) A description of cargo loading and discharge operations, including simultaneous handling of multigrades of cargo and ballast.
(11) A description of cargo operations during the voyage.
(12) A description of cargo tank cool-down and warm-up operations including purging with inert gas and air.
(13) A description of hull and cargo tank temperature monitoring systems.
(14) A description of gas detection systems and alarm or safety systems.
(15) A description of the following conditions and their symptoms, including emergency measures and corrective actions:
(i) Cargo or ballast valve malfunction.
(ii) Low cargo tank gas pressure.
(iii) High fill level shutdown.
(iv) Gas compressor shutdown.
(v) Hull cold spots.
(vi) Cargo piping leaks.
(vii) Primary or secondary barrier failure.
(viii) Hold boundary structural failure.
(ix) Fire in vent mast head.
(x) Reliquefaction plant failure.
(xi) Vaporizer malfunction or failure.
(xii) Piping or cargo valve freeze-up.
(16) Any other matters relating to operation of the cargo systems.
(17) The operational means to maintain the vessel in a condition of positive stability in accordance with the loading and stability manual under § 154.1809 through all conditions of—
(i) Loading and deballasting; and
(ii) Unloading and ballasting.
(b) The master shall ensure that the cargo manual is kept up-to-date.

§ 154.1812 Operational information for terminal personnel.

The master shall ensure that terminal personnel are told the operational information required by § 154.1810(a)(17).

§ 154.1814 Cargo information cards.

(a) No person may operate a vessel unless a cargo information card for each cargo being transported is carried either in the wheelhouse, in the ship's office, or in another location easily accessible to the person in charge of the watch.
(b) When a vessel is moored at a terminal, the master shall ensure that a set of information cards is in the possession of the terminal's person in charge of cargo transfer operations.
(c) Each card must be at least 17 cm x 24 cm (6¾ in. x 9½ in.), have printing on one side only, and must contain the following information about the cargo:
(1) Name as listed in Table 4.
(2) Appearance.
(3) Odor.
(4) Safe handling procedures, including special handling instructions, and handling hazards.
(5) Procedures to follow in the event of spills, leaks, or uncontrolled cargo release.
(6) Procedures to be followed if a person is exposed to the cargo.
(7) Firefighting procedures and materials.

§ 154.1816 Cargo location plan.

The master shall ensure that—
(a) A cargo location plan is prepared that gives—
(1) The location and number of each cargo tank; and
(2) The name of the cargo in each tank;
(b) One cargo location plan is kept with the sets of cargo information cards required under § 154.1814; and
(c) The cargo names in the cargo location plan do not differ from the names of the cargoes listed in Table 4.

§ 154.1818 Certification of inhibition.

(a) Except as provided in § 154.1740(b), no person may operate a vessel carrying butadiene or vinyl chloride without carrying in the wheelhouse written certification from the shipper that the product is inhibited.
(b) The certification required by this section must contain the following information:
(1) The name and concentration of the inhibitor.
(2) The date the inhibitor was added.
(3) The expected duration of the inhibitor's effectiveness.
(4) Any temperature limitations qualifying the inhibitor's effective lifetime.
(5) The action to be taken if the time of the voyage exceeds the inhibitor's lifetime.

§ 154.1820 Shipping document.

No person may operate a vessel without carrying a shipping document in the wheelhoue that lists for each cargo on board—
(a) The cargo tank in which the cargo is stowed;
(b) The name of the shipper;
(c) The location of the loading terminal;
(d) The cargo name as listed in Table 4; and
(e) The approximate quantity of the cargo.

§ 154.1822 Shipping document: copy for transfer terminal.

While a vessel is moored at a transfer terminal, the master shall ensure that at least one copy of the shipping document is given to the terminal's person in charge of cargo transfer.

§ 154.1824 Obstruction of pumproom ladderways.

The master shall ensure that each cargo pumproom access is unobstructed.

§ 154.1826 Opening of cargo tanks and cargo sampling.

(a) The master shall ensure that each cargo tank opening is fully closed at all times.
(b) The master may authorize the opening of a cargo tank—
(1) During tank cleaning; and
(2) To sample a cargo that Table 4 allows to be carried in a containment system having a restricted gauging system if—
(i) The cargo tank is not being filled during sampling;
(ii) The vent system has relieved any pressure in the tank; and
(iii) The person sampling the cargo wears protective clothing.
(c) The master shall ensure that cargoes requiring closed gauging as listed in Table 4 are sampled only through the controlled sampling arrangement of the cargo tank.

§ 154.1828 Spaces containing cargo vapor: entry.

(a) No person may enter a cargo handling space without the permission of the master or without following a safety procedure established by the master.
(b) Before allowing anyone to enter a cargo handling space, the master shall ensure that—
(1) The space is free of toxic vapors and has an oxygen concentration of at least 19.5 percent oxygen by volume; or
(2) Those entering the space wear protective equipment with breathing apparatus and an officer closely supervises the entire operation in the space.

§ 154.1830 Warning sign.

(a) The master shall ensure that a vessel transferring cargo, while fast to a dock or while at anchor in port, displays a warning sign—
(1) At the gangway facing the shore so that the sign may be seen from the shore; and
(2) Facing outboard towards the water so that the sign may be seen from the water.
(b) Except as provided in paragraph (e) of this section, each warning sign must have the following words:
(1) Warning.
(2) Dangerous Cargo.
(3) No Visitors.
(4) No Smoking.
(5) No Open Lights.
(c) Each letter in the words on the sign must—
(1) Be block style;
(2) Be black on a white background;
(3) Be 7.6 cm (3 in.) high;
(4) Be 5.1 cm (2 in.) wide, except for "M" and "W" which must be 7.6 cm (3 in.) wide, and the letter "I" which may be 1.3 cm (½ in.) wide; and
(5) Have 1.3 cm (½ in.) stroke width.
(d) The spacing between letters must be—
(1) 1.3 cm (½ in.) between letters of the same word on the sign;
(2) 5.1 cm (2 in.) between words;
(3) 5.1 cm (2 in.) between lines; and
(4) 5.1 cm (2 in.) at the borders of the sign.
(e) The words "No Smoking" and "No Open Lights" may be omitted when the cargoes on board a vessel are not flammable.
(f) When a vessel carries or transfers vinyl chloride, the warning sign under paragraph (b) of this section must also have the words "Cancer Suspect Agent."

§ 154.1831 Person in charge of cargo transfer.

Before cargo transfer operations are started, the master shall designate the person in charge of cargo transfer.

§ 154.1832 Incompatible cargo.

(a) The person in charge of cargo transfer may not authorize the loading of incompatible[a] cargoes into cargo containment systems unless the cargo containment systems are separated by—
(1) Cofferdams, other than the spaces between primary and secondary barriers;
(2) Empty tanks;
(3) Tanks containing mutually compatible cargo; or
(4) Piping tunnels.
(b) The person in charge of cargo transfer may not authorize loading of incompatible [a] cargoes into cargo containment systems that have common piping or venting systems.
(c) The person in charge of cargo transfer may not authorize the loading into a tank of a cargo that is incompatible [a] with residue left in the tank from a previous cargo.

§ 154.1834 Cargo transfer piping.

The person in charge of cargo transfer shall ensure that cargo is transferred to or from a cargo tank only through the cargo piping system.

§ 154.1836 Vapor venting as a means of cargo tank pressure and temperature control.

When the vessel is on the navigable waters of the United States, the master shall ensure that the cargo pressure and temperature control system under §§ 154.701 through 154.709 is operating and that venting of cargo is unnecessary to maintain cargo temperature and pressure control, except under emergency conditions.

§ 154.1838 Discharge by gas pressurization.

The person in charge of cargo transfer may not authorize cargo discharge by gas pressurization unless—
(a) The tank to be offloaded is an independent tank type B or C;
(b) The pressurizing medium is the cargo vapor or a nonflammable, nontoxic gas that is inert with the cargo; and
(c) The pressurizing line has—
(1) A pressure reducing valve that has a setting that is 90 percent or less of the tank's relief valve setting; and
(2) A manual control valve between the pressure reducing valve and the tank.

§ 154.1840 Protective clothing.

The person in charge of cargo transfer shall ensure that each person involved in a cargo transfer operation, except those assigned to gas-safe cargo control rooms, wears protective clothing.

§ 154.1842 Cargo system: controls and alarms.

The master shall ensure that the cargo emergency shut-down system and the alarms under § 154.1325 are tested and working before cargo is transferred.

§ 154.1844 Cargo tanks: filling limits.

(a) Unless a higher limit is specified on the certificate the master shall ensure that a cargo tank is not loaded—
(1) More than 98 percent liquid full; or
(2) In excess of the volume determined under the following formula:

$$V_L = (0.98\ V)\left(\frac{d_T}{d_L}\right)$$

where:
V_L = maximum volume to which the tank may be loaded;
V = volume of the tank;
d_T = density at the reference temperature specified in paragraph (b) of this section; and
d_L = density of the cargo at the loading temperature and pressure.

(b) The reference temperature to be used in paragraph (a)(2) of this section is the temperature corresponding to the vapor pressure of the cargo at the set pressure of the pressure relief valves.

§ 154.1846 Relief valves: changing set pressure.

The master shall—
(a) Supervise the changing of the set pressure of relief valves under § 154.802(b);
(b) Enter the change of set pressure in the vessel's log; and
(c) Ensure that a sign showing the set pressure is posted—
(1) In the cargo control room or station; and
(2) At each relief valve.

§ 154.1848 Inerting.

(a) The master shall ensure that—
(1) Hold and interbarrier spaces on a vessel with full secondary barriers are inerted so that the oxygen concentration is 8 percent or less by volume when flammable cargoes are carried;

[a] Incompatible cargoes are listed in the compatibility guide entitled *Bulk Liquid Cargoes; Guide to Compatibility of Chemicals*. This circular is available from the Commandant (G-MHM-8/83), U.S. Coast Guard, Washington, D.C. 20590.

(2) Hold and interbarrier spaces contain only dry air or inert gas on—

(i) A vessel with partial secondary barriers;

(ii) A vessel with full secondary barriers when non-flammable cargoes are carried; and

(iii) A vessel with refrigerated independent tanks type C;

(3) When cargo tanks containing flammable vapor are to be gas freed, the flammable vapors are purged from the tank by inert gas before air is admitted; and

(4) When gas free cargo tanks are to be filled with a flammable cargo, air is purged from the tank by inert gas until the oxygen concentration in the tank is 8 percent or less by volume before cargo liquid or vapor is introduced.

(b) Inert gas must be supplied from the shore or from the vessel's inert gas system.

§ 154.1850 Entering cargo handling spaces.

(a) The master shall ensure that the ventilation system under § 154.1200 is in operation for 30 minutes before a person enters one of the following:

(1) Spaces containing cargo pumps, compressors, and compressor motors.

(2) Gas-dangerous cargo control spaces.

(3) Other spaces containing cargo handling equipment.

(b) The master shall ensure that a warning sign listing the requirement for use of the ventilation system, is posted outside of each space under paragraph (a) of this section.

(c) The master shall ensure that no sources of ignition are put in a cargo handling space on a vessel carrying flammable cargo unless the space is gas free.

§ 154.1852 Air breathing equipment.

(a) The master shall ensure that a licensed officer inspects the compressed air breathing equipment at least once each month.

(b) The master shall enter in the vessel's log a record of the inspection required under paragraph (a) of this section that includes—

(1) The date of the inspection; and

(2) The condition of the equipment at the time of the inspection.

§ 154.1854 Methane (LNG) as fuel.

(a) If methane (LNG) vapors are used as fuel in the main propulsion system of a vessel, the master shall ensure that the fuel oil fired pilot under § 154.705(c) is used when the vessel is on the navigable waters of the United States.

(b) When the methane (LNG) fuel supply is shut down due to loss of ventilation or detection of gas, the master shall ensure that the methane (LNG) fuel supply is not used until the leak or other cause of the shutdown is found and corrected.

(c) The master shall ensure that the required procedure under paragraph (b) of this section is posted in the main machinery space.

(d) The master shall ensure that the oxygen concentration in the annular space of the fuel line under § 154.706(a)(1) is 8% or less by volume before methane (LNG) vapors are admitted to the fuel line.

§ 154.1858 Cargo hose.

The person in charge of cargo transfer shall ensure that cargo hose used for cargo transfer service meets §§ 154.552 through 154.562.

§ 154.1860 Integral tanks: cargo colder than −10° C (14° F).

The master shall ensure that an integral tank does not carry a cargo colder than −10° C (14° F) unless that carriage is specially approved by the Commandant (G-MMT).

§ 154.1862 Posting of speed reduction.

If a speed reduction is specially approved by the Commandant under § 154.409, the master shall ensure that the speed reduction is posted in the wheelhouse.

§ 154.1864 Vessel speed within speed reduction.

The master shall ensure that the speed of the vessel is not greater than the posted speed reduction.

§ 154.1866 Cargo hose connection: Transferring cargo.

No person may transfer cargo through a cargo hose connection unless the connection has the remotely controlled quick closing shut off valve required under § 154.538.

§ 154.1868 Portable blowers in personnel access openings.

The master shall ensure that a portable blower in a personnel access opening does not reduce the area of the opening so that it does not meet § 154.340.

§ 154.1870 Bow and stern loading.

(a) When the bow or stern loading piping is not in use, the master shall lock closed the shut-off valves under § 154.355(a)(4) or remove the spool piece under § 154.355(a)(4).

(b) The person in charge of cargo transfer shall ensure that after the bow or stern loading piping is used it is purged of cargo vapors with inert gas.

(c) The person in charge of cargo transfer shall ensure that entrances, forced or natural ventilation intakes, exhausts, and other openings to any deck house alongside the bow or stern loading piping are closed when this piping is in use.

(d) The person in charge of cargo transfer shall ensure that bow or stern loading piping installed in the area of the accommodation, service, or control space is not used for transfer of the following:

(1) Acetaldehyde.
(2) Ammonia, anhydrous.
(3) Dimethylamine.
(4) Ethylamine.
(5) Ethyl Chloride.
(6) Methyl Chloride.
(7) Vinyl Chloride.

§ 154.1872 Cargo emergency jettisoning.

(a) The master shall ensure that emergency jettisoning piping under § 154.356, except bow and stern loading and discharging piping, is only used when an emergency exists.

(b) Emergency jettisoning piping when being used may be outside of the transverse tank location under § 154.310.

(c) The master shall ensure that cargo is not jettisoned in a U.S. port.

(d) When ethylene oxide is carried, the master shall ensure that the emergency jettisoning piping with associated pumps and fittings is on-line and ready for use for an emergency.

(e) The master shall lock closed the shut-off valves under § 154.356 when the emergency jettisoning piping is not in use.

(f) The person in charge of cargo transfer shall ensure that after the emergency jettisoning piping is used it is purged of cargo vapors with inert gas.

(g) The person in charge of cargo transfer shall ensure that entrances, forced or natural ventilation intakes, exhausts, and other openings to accommodation, service, or control spaces facing the emergency jettisoning piping area and alongside the emergency jettisoning piping are closed when this piping is in use.

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Table 4 - Summary of Minimum Requirements

CARGO NAME	SHIP TYPE	INDEPENDENT TANK TYPE C REQUIRED	CONTROL OF CARGO TANK VAPOR SPACE	VAPOR DETECTION (2)	GAUGING (3)	ELECTRICAL HAZARD CLASS AND GROUP	SPECIAL REQUIREMENTS
ACETALDEHYDE	IIG/IIPG	-	Inert	I & T	C	C I - C	154.1710 154.1720 154.1870
AMMONIA, ANHYDROUS	IIG/IIPG	-	-	T	C	C I - D	154.1000 (c) 154.1010
BUTADIENE	IIG/IIPG	-	Inert	I	R	R I - B	154.1605 154.1410 154.1702 (b), (c),(e) 154.1760 154.1870
BUTANE	IIG/IIPG	-	-	I	R	R I - D	154.1000 (c) 154.1600 (c)
BUTYLENE	IIG/IIPG	-	-	I	R	R I - D	154.1702 (b), (d),(f) 154.1710 154.1750 154.1818
DIMETHYLAMINE	IIG/IIPG	-	-	I & T	C	C I - C	NONE
ETHANE	IIG	-	-	I	R	R I - D	154.1000 (c) 154.1005
ETHYLAMINE	IIG/IIPG	-	-	I & T	C	C I - C	NONE
ETHYL CHLORIDE	IIG/IIPG	-	-	I & T	R	R I - D	154.1400 (c) 154.1405
ETHYLENE	IIG	-	-	I	R	R I - C	154.1410 154.1702 (b), (c), (e) 154.1870
							NONE
							154.1870
							154.1702 (b), (c),(e) 154.1760 154.1870
							154.1702 (b), (c), (e)
							154.1870
							NONE

CARGO NAME	SHIP TYPE	INDEPENDENT TANK TYPE C REQUIRED	CONTROL OF CARGO TANK VAPOR SPACE	VAPOR DETECTION (2)	GAUGING (3)	ELECTRICAL HAZARD CLASS AND GROUP	SPECIAL REQUIREMENTS			
ETHYLENE OXIDE	IG	Yes	Inert	I & T	C	I - B	154.660(b)(3) 154.1400(c) 154.1405	154.1410 154.1702 (b), (d),(f) 154.1705	154.1710 154. 1720 154.1725	154.1730 154.1870(a),
METHANE (LNG)	IIG	-	-	I	C	I - D	154.703 through 154.709 154.1854			
METHYL ACETY-LENE-PROPADIENE MIXTURE	IIG/ IIPG	-	-	I	R	I	154.1735			
METHYL BROMIDE	IG	Yes	-	I & T	C	I - D	154.660 (b)(3) 154.1345 (c)(d) 154.1400 (c)	154.1405 154.1410 154.1702(a),(d)	154.1705 154.1720 154.1870(a), (b)	
METHYL CHLORIDE	IIG/ IIPG	-	-	I & T	C	I - D	154.1702 (a) 154.1870			
NITROGEN	IIIG	-	-	O	C	-	154.1755			
PROPANE	IIG/ IIPG	-	-	I	R	I - D	NONE			
PROPYLENE	IIG/ IIPG	-	-	I	R	I - D	NONE			
REFRIGERANT	IIIG	-	-	-	R	-	NONE			

CARGO NAME	SHIP TYPE	INDEPENDENT TANK TYPE C REQUIRED	CONTROL OF CARGO TANK VAPOR SPACE	VAPOR DETECTION (2)	GAUGING (3)	ELECTRICAL HAZARD CLASS AND GROUP	SPECIAL REQUIREMENTS		
SULFUR DIOXIDE	IG	Yes	Dry	T	C	-	154.660 (b)(3) 154.1345 (c), (d) 154.1400 (c)	154.1405 154.1410 154.1705	154.1715 154.1720 154.1870(a), (b)
VINYL CHLORIDE	IIG/ IIPG	-	-	I & T	C	I - D	154.1405 154.1410 154.1702(a)(b)(d)(f)	154.1710 154.1740 154.1745	154.1750 154.1818 154.1830 (f) 154.1870

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SPECIAL REQUIREMENTS
(1) Refrigerant gases include non-toxic, non-flammable gases such as: dichlorodifluoromethane dichloromonofluoromethane dichlorotetrafluoroethane monochlorodifluoromethane monochlorotetrafluoroethane monochlorotrifluoromethane (2) As used in this column: "I" stands for flammable vapor detection "T" stands for toxic vapor detection "O" stands for oxygen detection See §§ 154.1345 thru 154.1360 (3) As used in this column: "C" stands for closed gauging "R" stands for restricted gauging See § 154.1300 (4) The designations used in this column are from the National Electrical Code.

Appendix A—Equivalent Stress

I. Equivalent stress (σc) is calculated by the following formula or another formula specially approved by the Commandant (G–MMT) as equivalent to the following:

$$\sigma_c = \sqrt{\sigma_x^2 + \sigma_y^2 - \sigma_x\sigma_y + 3\tau_{xy}^2}$$

Where:

σ_x=total normal stress in "x" direction.

σ_y=total normal stress in "y" direction.

τ_{xy}=total shear stress in "xy" plane.

II. When the static and dynamic stresses are calculated separately, the total stresses in paragraph I are calculated from the following formulae or another formulae specially approved by the Commandant (G–MMT) as equivalent to the following:

$$\sigma_x = \sigma_{x(\text{static})} \pm \sqrt{\Sigma(\sigma_{x(\text{dynamic})})^2}$$

$$\sigma_y = \sigma_{y(\text{static})} \pm \sqrt{\Sigma(\sigma_{y(\text{dynamic})})^2}$$

$$\tau_{xy} = \tau_{xy(\text{static})} \pm \sqrt{\Sigma(\tau_{xy(\text{dynamic})})^2}$$

III. Each dynamic and static stress is determined from its acceleration component and its hull strain component from hull deflection and torsion.

Appendix B—Stress Analyses Definitions

The following are the standard definitions of stresses for the analysis of an independent tank type B:

"Normal stress" means the component of stress normal to the plane of reference.

"Membrane stress" means the component of normal stress that is uniformly distributed and equal to the average value of the stress across the thickness of the section under consideration.

"Bending stress" means the variable stress across the thickness of the section under consideration, after the subtraction of the membrane stress.

"Shear stress" means the component of the stress acting in the plane of reference.

"Primary stress" means the stress produced by the imposed loading that is necessary to balance the external forces and moments. (The basic characteristic of a primary stress is that it is not self-limiting. Primary stresses that considerably exceed the yield strength result in failure or at least in gross deformations.)

"Primary general membrane stress" means the primary membrane stress that is so distributed in the structure that no redistribution of load occurs as a result of yielding.

"Primary local membrane stress" means the resulting stress from both a membrane stress, caused by pressure or other mechanical loading, and a primary or a discontinuity effect that produces excessive distortion in the transfer of loads to other portions of the structure. (The resulting stress is a primary local membrane stress although it has some characteristics of a secondary stress.) A stress region is local if—

$$S_1 \leq 0.5\sqrt{Rt}; \text{ and}$$

$$S_2 \leq 2.5\sqrt{Rt}$$

Where:

S_1=distance in the meridional direction over which the equivalent stress exceeds 1.1 f.

S_2=distance in the meridional direction to another region where the limits for primary general membrane stress are exceeded.

R=mean radius of the vessel.

t=wall thickness of the vessel at the location where the primary general membrane stress limit is exceeded.

f=allowable primary general membrane stress.

"Secondary stress" means a normal stress or shear stress caused by constraints of adjacent parts or by self-constraint of a structure. The basic characteristic of a secondary stress is that it is self-limiting. Local yielding and minor distortions can satisfy the conditions that cause the stress to occur.

(92 Stat. 1480 (Port and Tanker Safety Act of 1978, 46 U.S.C. 391a); 49 CFR 1.46(n)(4))

Dated: April 25, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard Commandant.

[CGD 74–289]

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May 3, 1979

Part III

Department of Transportation

Urban Mass Transportation Administration

Reporting Requirements for Urbanized Areas

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 630

Reporting Requirements for Urbanized Areas

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Final rule.

SUMMARY: These amendments make changes to the reporting requirements for urbanized areas for data necessary to administer the Section 5 program (Section 5 of the Urban Mass Transportation Act of 1964, as amended). These amendments are based on comments received on a previously published emergency regulation. These amendments will clarify the requirements, and answer questions raised by the comments.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT: Peter Benjamin, Director of Program Analysis, Urban Mass Transportation Administration, 400–7th Street, S.W., Washington, D.C. 20590, Phone 202–472–2435.

SUPPLEMENTARY INFORMATION: On December 18, 1978, UMTA published emergency regulations and requested comments on the regulations (43 FR 58928). Interested parties were given until February 18, 1979, to submit comments. A total of nineteen written comments were received. These comments, along with UMTA's responses, are discussed below.

Under Executive Order 12044, and the DOT Order implementing it, (44 FR 11034), these regulations are not considered significant:

Since these amendments make minor changes to the previously published regulations based on the comments received, and the expected impact is minimal, no regulatory evaluation has been prepared.

Since these amendments clarify the existing regulations and are based on comments received, it is in the public interest that they be made effective immediately.

Discussion of Comments

Several comments were received regarding the means of allocation of commuter rail route and train mileage between urbanized areas sharing the same service. The allocation method used involved assigning those mileages within urbanized areas to those urbanized areas, and allocating the mileages in non-urbanized areas between two urbanized areas to the urbanized areas according to the relative degree of financial support provided for the service by each.

Many of the comments received objected to this approach, on the grounds that it does not recognize existing funding agreements for the support of such service. The regulations, it was argued, are especially unfair where there are substantial differences between the amounts of route and train miles that would be allocated to various urbanized areas and the amount of funding support for the service attributed to or provided by them. Further, it was requested that UMTA clarify the method of allocation of commuter rail route and train miles for that portion of a commuter rail line, serving more than one urbanized area, that extends beyond the outermost area.

UMTA agrees with the comments, and the allocation procedure for commuter rail route miles and train miles is being altered.

Under the new procedure, the total mileage attributable to the service is to be divided among all the urbanized areas served according to the relative amounts of financial support provided by each urbanized area for the service, without regard to the mileages within the urbanized areas themselves or the number of urbanized areas served. This new procedure will require the resubmittal of commuter rail route mileage and train mileage data by those multiple urbanized areas served by the same commuter rail service. In order to provide for the earliest possible calculation of apportionments of the commuter rail funds under Section 5(a)(3)(A) of the Urban Mass Transportation Act as amended, these data must be submitted to the UMTA Regional Offices by June 4, 1979, and the audit of these data must be submitted to the UMTA Regional Offices by August 6, 1979. The resubmitted data must be in the same format as that submitted previously, and must include the names of the other urbanized areas with which the commuter rail service is shared. Other details of the reporting procedure are unchanged.

Comments were received requesting that UMTA relax the definition of fixed guideway, so that light rail service operating in shared rights-of-way on streets would qualify for inclusion in the fixed guideway route mileage data.

The definition of fixed guideway contained in Section 12(c)(2) of the Urban Mass Transportation Act, as amended is quite restrictive in this regard. It clearly states that fixed guideway "means any public transportation facility which utilizes and occupies a separate right-of-way for the exclusive use of public transportation service * * *" Light rail service operating in a shared right-of-way on streets clearly does not fit this description, and therefore UMTA is unable to allow its inclusion in the fixed guideway route mileage data. However, UMTA recognizes the problems caused by this wording, and has requested a legislative modification to the definition.

A comment was received requesting that UMTA relax the restrictions on the degree of separation necessary for bus lanes to qualify for inclusion in the fixed guideway route mileage data. The regulations as currently worded exclude busway lanes separated from conventional roadway lanes by painted markings and insubstantial barriers such as traffic cones. To qualify for inclusion, busway lanes must be permanently and physically separated from conventional roadway lanes. Specifically, it was requested that UMTA allow contraflow bus lanes, separated from mixed traffic by signs, flashing lights and painted lines, to be included in the fixed guideway route mileage figures.

Referring again to the definition of fixed guideway in the Urban Mass Transportation Act as amended, the requirement is for the guideway to be a separate right-of-way for the exclusive use of public transportation service. The Act further states that this includes "exclusive facilities for buses * * *" It is UMTA's interpretation that the wording of the Act intends a substantial degree of physical separation between bus lanes and conventional lanes for the bus lanes to qualify for inclusion. Funds under Section 5(a)(3)(A)(ii) of the Act are authorized to be apportioned on the basis of fixed guideway route mileage, not transit route mileage in general. The intent of the Act is to provide extra support for operations on, and the maintenance of separate, exclusive transit facilities. In effect, it is providing additional support for those communities willing to undertake significant commitments in the establishment of separate transit rights-of-way. Although the establishment of special bus lanes on conventional streets by the use of painted lines, lights, and signs does represent a significant step toward the provision of improved transit service, it does not constitute a sufficient commitment to qualify for the funds authorized by Section 5(a)(3)(A)(ii) of the Act.

Comments were received stating that the requirement for an audit of the fixed guideway and commuter rail data is impractical, because of the difficulty in finding qualified firms capable of and willing to perform the necessary audit. It was requested that UMTA remove this requirement.

UMTA established the requirement for an audit for two reasons: to provide a check of procedural and mathematical accuracy of the data submitted; and to obtain an independent verification of the veracity of these data which will be used for the purpose of apportioning Federal funds. It has been learned that a number of the urbanized areas reporting fixed guideway and commuter rail data have been able to arrange for an audit of the data, and in fact one such audit has been completed and received by UMTA. Therefore, in view of these facts, there appears to be no compelling reason for relaxing the audit requirement.

Comments were received regarding the interpretation of the term "route mile". Specifically, objections were raised over the fact that a group of contiguous tracks are considered to constitute a single "route" for the purpose of calculating route miles, and that separately numbered or labelled transit routes travelling over the same or contiguous track are not considered separately.

The term "route mile" is distinct from the term "track mile" or "lane mile", and is intended to apply to a group of tracks or guideway lanes that are contiguous or coincident. Further, it is not intended to apply to individual transit service routes separately identified by number or letter.

Comments were received noting that some bus systems alter their route structure throughout the year according to the season, and that the requirement to report their route miles of service as of the last day of their fiscal year could result in a misleading figure. It was requested that instead UMTA allow the reporting of a figure that was more representative of the year-round route mileage.

UMTA agrees with this request. In those cases where the route structure undergoes changes during the year, an additional option for reporting route mileage is suggested. The respondent may either:

a. Report the route mileage in effect at the end of the operator's data collection period, as originally called for, or

b. Calculate the average route mileage for the year by determining the product of the route mileage and the period of time it existed for each different route structure occurring during the operator's data collection period, summing these, and dividing by the total amount of time in the operator's data collection period.

Comments were received suggesting the inclusion of ridership indicators in the bus data submitted, in order that any proposed fund allocation mechanism resulting from the study required under Section 319(a) of the Surface Transportation Assistance Act of 1978 would reflect actual ridership levels.

The schedule established for the study by the legislation is such that only data currently available can be utilized, and ridership data of a sufficient level of accuracy has heretofore not been collected on a widespread scale. Although it is now being collected as part of the Section 15 reporting requirements, the first full submission of Section 15 reports will not be completed in time for the completion of this study. Furthermore, ridership data would be impractical to use as a parameter for the apportionment of Federal funds due to the difficulty of verifying their accuracy. The ridership data being reported under Section 15 are generally obtained by sampling procedures, and this does not yield sufficient accuracy in this regard and, further, is subject to manipulation. The difficulties in obtaining verifiable ridership data are overwhelming.

Clarification was requested for two of the data elements required in the bus data submittal. Specifically, the question was raised as to which operator was referred to when reporting "year acquired by operator" and over what time period was the "total mileage" to be collected, in part "A. Bus Fleet Age Distribution" of Attachment 1 to Appendix "B". The operator currently possessing the bus is the operator referred to in the term "year acquired by operator," and the "total mileage" refers to the total mileage operated by that bus since its manufacture.

A comment was received objecting to the imposition of the sanction of declaring those designated recipients failing to report the required bus data to be ineligible for Section 5 grants. In view of the importance of obtaining the bus data from all operators, in order to carry out the study required by Section 319(a) of the Surface Transportation Assistance Act of 1978, and the large number of operators from which these data must be obtained, it is felt that a significant sanction must be available to encourage potential respondents that are reluctant to comply with the regulations.

Several comments were received objecting to the requirement that, in urbanized areas with more than one designated Section 5 recipient, the Metropolitan Planning Organization is responsible for the submittal of the data. In particular, it was claimed the operators themselves should provide the data directly to UMTA, instead of passing it through the Metropolitan Planning Organization. In addition, a comment was received stating that where a single operator provides service in more than one urbanized area, that operator should provide the data to UMTA directly, rather than through the various Metropolitan Planning Organizations for the urbanized areas it serves.

The Section 5 funds are apportioned to individual urbanized areas, and it is important that there be a single agency within each area responsible for gathering all the appropriate data for that area and forwarding it in one package to UMTA. Otherwise, there is a danger that data for that area could be incomplete, resulting in a reduced apportionment. For this reason, UMTA intends to continue to require that the Metropolitan Planning Organization submit the urbanized area's data for those areas that have more than one designated Section 5 recipient.

Numerous comments were received objecting to the increased paperwork involved in the reporting requirements, questioning the necessity of such reporting, and questioning why the required data were not obtained through UMTA's Section 15 reporting procedure. A common theme of these comments was an apparent incongruity of the extra reporting required in view of the Administration's goal to reduce paperwork and red tape. One such comment requested that any of the required bus data that had already been submitted as part of a Title VI Civil Rights Circular Submission need not be submitted again in response to this reporting requirement.

UMTA shares the concern about the extra time and effort involved in reporting the data called for, and desires in general to reduce the paperwork burden experienced by grantees. However, in order to apportion the funds authorized by Section 5(a)(3) of the Urban Mass Transportation Act, as amended, information is required on fixed guideway and commuter rail systems that UMTA does not currently possess. In order to conduct the study of alternative means of distributing funds apportioned for capital purposes under Section 5(a)(4) of the Urban Mass Transportation Act, as amended, as called for in section 319(a) of the Surface Transportation Assistance Act of 1978, data that UMTA does not currently possess are required on bus operations and fleets for all urbanized areas. Consequently, it is necessary to request these data from the urbanized areas if

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UMTA is to carry out its legislative mandate. Since these data are critical elements in the apportionment of Federal funds, it is vital that they be of high accuracy. For this reason, it should be noted that they are considered to be official representations by the designated submitting agencies.

The regular Section 15 reporting system as originally constituted cannot, at this time, be used for this purpose because much of the data were not originally called for under Section 15, and the data must be available to UMTA before the first complete set of Section 15 reports are submitted. The Section 5 reporting requirements are now officially a part of the Section 15 reporting requirements, although through a different reporting procedure. It is planned that, at some time in the future, the data required for apportionment of the Section 5 funds will be obtained through the regular Section 5 procedure. As stated in the Section 5 Reporting Requirement regulations in the December 18, 1978 **Federal Register**, any of the information called for that had already been submitted to UMTA as part of a Section 15 report submittal did not have to be re-submitted. UMTA agrees with the request to extend this to any information already submitted to UMTA under any other required data submittal, provided the submitting agency within the urbanized area references the report within which the data exists.

PART 630—UNIFORM SYSTEM OF ACCOUNTS AND RECORDS AND REPORTING SYSTEM

Accordingly, Subpart D of Part 630 of Title 49 of the Code of Federal Regulations is amended as follows:

1. In Appendix A, the paragraphs in section III.B.2. beginning with the words "In cases where the same commuter rail service * * *" and ending with the words "* * * the non-urbanized route mileage is attributed equally between the two." are revised to read as follows:

Appendix A—Reporting Requirements for Fixed Guideway and Commuter Rail Systems

* * * * *

III. Data Required

* * * * *

B. *Required Information.*

* * * * *

2. *Commuter Rail Route Miles.*

* * * * *

In cases where the same commuter rail service traverses more than one urbanized area, the commuter rail route miles and train miles attributed to this service will be allocated among the urbanized areas so served according to the share of financial support provided for the service by each area during the applicable standard data collection period. In cases where a regional or state agency provides the financial support for the service for a group of urbanized areas, such that amounts are not provided by or attributable to the individual urbanized areas in the group, the commuter rail route miles and train miles allocated to this group of urbanized areas are to be divided equally among the urbanized areas in the group for the purpose of these reporting requirements.

* * * * *

Appendix B—Reporting Requirements for Bus System [Amended]

2. In Appendix B, the last sentence of the paragraph in section III beginning with the words "Data should be presented in a format * * *" is revised to read as follows: "If any of the data called for here have been previously submitted as part of a Section 15 report, or any other required UMTA report, this previous report may be cited and these particular data need not be repeated here."

3. In Appendix B, the list in section III.A.1 is revised to read as follows:

A. *Required Data*—1. *Bus Fleet Age Distribution.*

* * * * *

b. Year of acquisition by the current operator

* * * * *

f. Total mileage operated by bus since its manufacture

4. In Appendix B, the paragraphs in section III.A.2 beginning with the words "In cases where a particular transit bus service * * *" and ending with the words "* * * is to be divided equally among the two urbanized areas" are revised to read as follows:

III. *Data required.*

* * * * *

A. *Required Data*

* * * * *

2. *Bus Revenue Vehicle Miles.*

* * * * *

In cases where the same bus transit service traverses more than one urbanized area, the total bus revenue vehicle miles for this service will be allocated among the urbanized areas so served according to the share of financial subsidy provided for this service by each area. In cases where a regional or state agency provides the financial subsidy for this service for a group of urbanized areas, such that amounts are not provided by or attributable to the individual urbanized areas in the group, the bus revenue vehicle miles allocated to this group are to be divided equally among the urbanized areas in the group for the purpose of these reporting requirements.

* * * * *

5. In Appendix B, the first paragraph of section III.A.4 is revised to read as follows:

III. *Data required.*

* * * * *

A. *Required Data*

* * * * *

4. *Bus Route Miles.* The datum required is the total length of the route structure, in statute miles, for bus transit revenue service within the urbanized area, and outside of but still serving the urbanized area, operated by or under contract for a public transit agency. The datum may be reported in one of two optional ways:

a. The route mileage figure may be reported as of the end of the data collection period; or

b. In cases where the route structure has undergone significant changes throughout the data collection period, an average route mileage value may be determined by calculating the product of the route mileage and the amount of time (days, weeks, or months) for which it existed, for each of the different route structures in effect during the course of the data collection period, summing these products, and then dividing this sum by the total amount of time, (days, weeks, or months) in the data collection period.

* * * * *

(49 U.S.C. 1604, 1611; sec. 319, Pub. L. 95-599; 49 CFR 1.51.)

Dated: April 27, 1979.

Charles F. Bingman,
Deputy Administrator.

[Docket No. 79-A]

[FR Doc. 79-13706 Filed 5-2-79; 8:45 am]
BILLING CODE 4910-57-M

federal register

Thursday
May 3, 1979

Part IV

Department of Energy

Economic Regulatory Administration

Gas Utility Rate Design Study; Responsibilities Under Public Utility Regulatory Policies Act of 1978

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DEPARTMENT OF ENERGY

Economic Regulatory Administration

Gas Utility Rate Design Study; Responsibilities Under Public Utility Regulatory Policies Act of 1978

AGENCY: Economic regulatory administration (ERA).

ACTION: Notice of Inquiry.

SUMMARY: Title III, Sec. 306 of the Public Utility Regulatory Policies Act of 1978 (PURPA) requires the Department of Energy to undertake a gas utility rate design study and to report the findings of that study to the Congress by May 1980. Upon completion of the study the Secretary of the Department of Energy is required to develop proposals and legislative recommendations to improve gas utility rate design and encourage conservation of natural gas. The proposals and legislative recommendations must be transmitted to the Congress by November 1980.

Sec. 306 of PURPA also requires that the gas utility rate design study be undertaken in consultation with the Federal Energy Regulatory Commission (FERC) and in a manner which provides an opportunity for consultation and comment by representatives of the State regulatory commissions, gas utilities, and gas consumers. This notice is intended to partially fulfill this requirement by soliciting public comment on issues related to the gas utility rate design study.

This notice is organized into two sections. The first section, "Background Information of PURPA," provides a narrative summary of PURPA Title III, Sec. 306. The second section sets forth specific inquiries on which DOE is seeking public comment.

DATES: Comments by July 2, 1979.

ADDRESSES: All comments are to be forwarded to: Department of Energy, Office of Public Hearing Management, Room 2313, 2000 M Street, NW., Docket ERA–R–79–22, Washington, D.C. 20461, Telephone 202–254–5201. Ten copies should be submitted.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen S. Skjei, Division of Regulatory Assistance, Office of Utility Systems, Economic Regulatory Administration (ERA), 2000 M Street, NW., Washington, D.C. 20461. (202) 254–9690.

Notice of Inquiry

The U.S. Department of Energy (DOE) is hereby seeking public comment on its duties, responsibilities and authorities under Title III, Section 306 of the Public Utility Regulatory Policies Act of 1978 (PURPA; Pub. L. 95–617), enacted on November 9, 1978.

Background Information

The purposes of Title III of PURPA are to encourage the following:

1. Conservation of energy supplied by gas utilities
2. Optimization of the efficiency of the use of facilities and resources by gas utility systems
3. Equitable rates to consumers of natural gas.

Section 306 of Title III of PURPA requires that a gas utility rate design study be undertaken to analyze both conceptually and empirically certain rate designs and related gas utility issues. The rate designs and issues identified in Sec. 306 of PURPA for inclusion in the study are as follows:

Rate Designs

1. Incremental pricing
2. Marginal cost pricing
3. Seasonal rate differentials
4. Demand-commodity rate design
5. Declining block rates
6. End user rate schedules

Related Issues

7. Interruptible service
8. End user gas consumption taxes
9. Wellhead natural gas pricing policies

Also identified in Sec. 306 of PURPA are certain evaluative criteria with respect to which the rate designs and related issues must be analyzed. The identified evaluative criteria are the following:

1. Pipelines and distribution load factors
2. Rates to each class of user, including residential, commercial and industrial users
3. Change in total costs resulting from gas utility designs (including capital and operating costs) to gas consumers and classes thereof
4. Demand for and consumption of natural gas.
5. End use profiles of natural gas pipelines and distribution companies.
6. Competition with alternative fuels.

II. Opportunities for Public Comment

DOE is hereby requesting public comment on the following aspects of the rate design study.

1. *Additional rate designs and related issues.* In addition to those specified in PURPA, ERA has already identified the following rate designs for inclusion in the study: volumetric rates, lifeline rates, inverted rates. ERA seeks public comment on other rate designs and related issues for inclusion in the study.

2. *Additional evaluative criteria.* ERA has identified the criterion of equitable rates to consumers, one of the purposes of Title III, as an additional standard with respect to which the rate designs and related issues must be analyzed. ERA requests public comment on other evaluative criteria that might be employed in analyzing the rate designs and related issues.

3. *Definitions of Rates and Evaluative Criteria.* In many cases the rate designs to be analyzed and the evaluative criteria can be defined in a number of different ways. ERA seeks public comment on the definitions of the rate designs, the related issues, and the evaluative criteria that might be employed in the study.

4. *Opportunities for consultation and comment.* Through this Notice of Inquiry, ERA is satisfying, in part, its statutory requirement that the public be afforded an opportunity to consult and comment on the gas utility rate design study. In the future, ERA intends to provide additional opportunities for public comment and consultation. ERA requests proposals as to the alternative means of providing these additional opportunities for public comment.

5. *General comments.* ERA is interested in obtaining public comment on any other aspects, both general and specific, of gas utility rate design which should be addressed in the study.

All public comments should be in writing to the addresses and by the dates indicated in this notice.

Issued in Washington, D.C. on April 30, 1979.

Jerry L. Pfeffer,

Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[Docket No. ERA–R–79–22]

[FR Doc. 79–13790 Filed 5–2–79; 8:45 am]

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Reader Aids

Federal Register

Vol. 44, No. 87

Thursday, May 3, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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federal register

Friday
May 4, 1979

Highlights

Principles of Regulations Writing Seminar See the Reader Aids section at the end of this issue.

Telecommunications Device for the Deaf Office of the Federal Register provides a new service for deaf or hearing impaired persons who need information about documents published in the **Federal Register.** See the Reader Aids section for the telephone listing.

26688, 26692 **Securities** SEC proposes to amend exchange rules relative to restricted off-board trading and to adopt rule providing price protection for public limit orders; comments by 6-15, 7-15, and 7-22-79; hearings on 6-20-79 (2 documents) (Part VII of this issue)

26702 **Securities** SEC proposes comment rules to require inclusion of statement on internal accounting control management in certain annual reports; comments by 7-31-79 (Part VIII of this issue)

26298 **Educational Grants** HEW/Education Division proposes general administrative regulations governing direct and State-administered programs; comments by 7-3-79 (Part II of this issue)

26554 **National Forest System** USDA/FS proposes rules to guide land and resource management planning; comments by 7-3-79 (Part V of this issue)

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Area Code 202–523–5240

Highlights

26540–26550 **Federal Prisoners** Justice/U.S. Parole Commission revises paroling policy guidelines for adults and youths, and adopts rules regarding parole recommendations and determination proceedings, and governing disclosure of documents; effective 6–4–79 (4 documents) (Part IV of this issue)

26660 **Low-Income Housing** HUD establishes policies, procedures and operating guidelines for new Moderate Rehabilitation Program; effective 5–24–79 (Part VI of this issue)

26712, 26724 **Motor Gasoline Allocation** DOE/ERA issues interim final rule regarding base period and adjustments; effective 5–1–79; comments by 5–11 and 7–10–79; public conference on 5–8–79; hearings on 7–7 and 7–19–79 (2 documents) (Part IX of this issue)

26060, 26113 **Small Petroleum Refiners** DOE/ERA amends emergency allocation provisions of crude oil Buy/Sell Program and proposes amendments to current list of sellers and basis for pricing crude oil sold; effective immediately; hearing on 5–31–79; comments by 5–31–79; requests to speak by 5–16–79 (2 documents)

26075 **Aid to Families with Dependent Children** HEW/SSA adopts rules enabling State use of prospective budgeting method or retrospective budgeting method in determining program eligibility and amount of payment; effective 5–4–79

26089 **Gypsy Moth and Browntail Moth Control** USDA/APHIS announces public hearing on quarantining certain States and proposes to adopt new regulatory management concept based on pest risk; hearing on 6–19–79; comments by 7–3–79

25128 **Health Care Labor Disputes** Federal Mediation and Conciliation Service proposes giving parties options to usual Board of Inquiry procedure; comments by 7–3–79

26121 **Air Carriers** CAB proposes rules regarding direct marketing of charters; comments by 6–18–79

26258 **Sunshine Act Meetings**

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document delegates the authority of the Secretary of Agriculture to administer the Emergency Agricultural Credit Adjustment Act of 1978 and section 601 of the Powerplant and Industrial Fuel Use Act of 1978 to the Assistant Secretary for Rural Development and the Administrator of the Farmers Home Administration. This action also repeals a reservation of authority to the Secretary which is no longer viable due to amendments to affected statutes.

EFFECTIVE DATE: May 4, 1979.

FOR FURTHER INFORMATION CONTACT: Joseph Linsley, Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Washington, D.C. (202-447-4057). Accordingly, 7 CFR Part 2 is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs

1. Section 2.23 is amended by revising paragraph (a)(8) and by adding a new paragraph (a)(14) to read as follows:

§ 2.23 Delegations of authority to the Assistant Secretary for Rural Development.

* * * * *

(a) *Related to farmers home activities.*

* * *

(8) Administer the emergency loan and guarantee programs and the rural housing disaster program under sections 232, 234, 237, and 253 of the Disaster Relief Act of 1970 (Pub. L. 91-606), the Disaster Relief Act of 1969 (Pub. L. 91-79), Pub. L. 92-385 approved August 16, 1972, the Emergency Livestock Credit Act of 1974 (Pub. L. 93-357), as amended, and the Emergency Agricultural Credit Adjustment Act of 1978 (title II of Pub. L. 95-334).

* * * * *

(14) Administer section 601 of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95-620).

* * * * *

§ 2.24 [Revoked and Reserved]

2. Section 2.24 is hereby revoked and reserved as set forth above.

Subpart J—Delegations of Authority by the Assistant Secretary for Rural Development

3. Section 2.70 is amended by revising paragraph (a)(8) and by adding a new paragraph (a)(28) to read as follows:

§ 2.70 Administrator, Farmers Home Administration.

(a) *Delegations.* * * *

(8) Administer the emergency loan and guarantee programs and the rural housing disaster program under sections 232, 234, 237, and 253 of the Disaster Relief Act of 1970 (Pub. L. 91-606), the Disaster Relief Act of 1969 (Pub. L. 91-79), Pub. L. 92-385 approved August 16, 1972, the Emergency Livestock Credit Act of 1974 (Pub. L. 93-357), as amended, and the Emergency Agricultural Credit Adjustment Act of 1978 (title II of Pub. L. 95-334).

* * * * *

(28) Administer section 601 of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95-620).

* * * * *

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953)

For Subpart C:
Dated: April 25, 1979.

Bob Bergland,
Secretary of Agriculture.

For Subpart J:
Dated: April 25, 1979.

Alex P. Mercure,
Assistant Secretary for Rural Development.

[FR Doc. 79-13971 Filed 5-3-79; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period May 6-12, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 6, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on May 1, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is active.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register

(5 U.S.C. 553), because of insufficient time between the date when the information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.497 Lemon Regulation 197.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period May 6, 1979, through May 12, 1979, is established at 260,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: May 2, 1979.

D. S. Kuryloski,

Director, Fruit and Vegetable Division Agricultural Marketing Service.

[Lemon Reg. 197]

[FR Doc. 79-14199 Filed 5-3-79; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments add the counties of Crittenden and Woodruff, Arkansas; Massac, Illinois; and Clay, Franklin, Lancaster, Nuckolls, Saline, Stanton, and Thayer in Nebraska to the list of Certified Brucellosis-Free Areas and delete such counties from the list of Modified Certified Brucellosis Areas. It has been determined that these counties qualify to be designated as Certified Brucellosis-Free Areas. The effect of this action will allow for less restrictions on cattle moved interstate from these areas.

EFFECTIVE DATE: May 4, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, USDA, APHIS, VS, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8713.

SUPPLEMENTARY INFORMATION: A complete list of brucellosis areas was published in the **Federal Register** (43 FR 60865–60867) effective December 29, 1978. These amendments add the counties of Crittenden, and Woodruff, Arkansas; Massac, Illinois; and Clay, Franklin, Lancaster, Nuckolls, Saline, Stanton, and Thayer in Nebraska to the list of Certified Brucellosis-Free Areas in § 78.20 and delete such counties from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area contained in § 78.1(1) of the regulations. This list is updated monthly and reflects actions taken under criteria for designating areas according to brucellosis status.

Accordingly, Part 78, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. In § 78.20, paragraph (b) is amended by adding: *Arkansas.* Crittenden, Woodruff; *Illinois.* Massac; *Nebraska.* Clay, Franklin, Lancaster, Nuckolls, Saline, Stanton, Thayer.

2. In § 78.21, paragraph (b) is amended by deleting: Arkansas. *Crittenden, Woodruff;* Illinois. *Massac;* Nebraska. Clay, Franklin, Lancaster, Nuckolls, Saline, Stanton, Thayer.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f, 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

These amendments designating areas as Certified Brucellosis Free Areas relieve restrictions presently imposed on cattle moved in interstate commerce. These restrictions are no longer necessary to prevent the spread of brucellosis, and these amendments must be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 26th day of April 1979.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-13610 Filed 5-3-79; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 94

Change in Disease Status of Belgium; Swine Vesicular Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: This document will delete Belgium from the list of countries considered to be free of swine vesicular disease. Notice has been received that 5 outbreaks of swine vesicular disease have occurred in Belgium. The intended effect of these amendments is to restrict the entry into the United States of swine, wild swine and pork or pork products from Belgium, in order to protect the livestock of the United States.

EFFECTIVE DATE: The foregoing amendments shall become effective on May 1, 1979, except with respect to shipments of swine, wild swine and pork or pork products originating in Belgium that are on board a carrier moving to the United States on or before that date. Such shipments shall upon arrival in the United States be allowed entry only under such specific conditions, or be disposed of in such manner, as the Deputy Administrator, Veterinary Services, may determine in each specific case to be necessary and adequate to safeguard against the introduction or dissemination of the contagion of swine vesicular disease into the United States.

FOR FURTHER INFORMATION CONTACT: Dr. J. D. Roswurm, USDA, APHIS, VS, Federal Building, Room 819, Hyattsville, MD 20782, 301–436–8499.

SUPPLEMENTARY INFORMATION: Dr. R. Depierreux, Chief Veterinarian of Belgium, announced at the Bianmual Meeting of the European Commission for Control of Foot-and-Mouth Disease, FAO, Rome, Italy, March 27–30, 1979, that Belgium had an outbreak of SVD on January 12, 1979, and that there have been 4 associated outbreaks. Accordingly, SVD is considered to exist in Belgium. Therefore, these amendments will delete Belgium (1) from the list of countries in § 94.12(a) which are considered to be free of swine vesicular disease; and (2) from the list of countries in § 94.13 which are declared to be free of swine vesicular disease in § 94.12(a) but which supplement their national meat supply by the importation of fresh, chilled, or frozen meat of swine from countries, where swine vesicular disease is considered to exist; or which have a common border with such countries; or which have certain trade practices that are less restrictive than are acceptable to the United States. This action, which has the effect of further restricting the importation of certain meats and meat products of swine, and of prohibiting the importation of swine, and of restricting the importation of wild swine into the United States from Belgium, is deemed necessary to prevent the introduction or dissemination of the contagion of this disease and to protect the livestock of the United States.

Accordingly, 9 CFR Part 94 is hereby amended as follows:

1. In § 94.12(a) the name of Belgium is deleted.

2. In § 94.13 in the first sentence of the introductory paragraph the name of Belgium is deleted.

(Sec. 2, 32 Stat. 792, as amended; secs 2, 3, 4, and 11, 76 Stat. 129, 130, 132; (21 U.S.C. 111, 134a, 134b, 134c, 134f); 37 FR 28464, 28477; 38 FR 19141)

It is necessary to publish these amendments as an emergency final rule, to become effective immediately, in order to protect the livestock of the United States against the introduction of swine vesicular disease from Belgium.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by G. V. Peacock, Director, National Program Planning Staffs, VS, APHIS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 1st day of May 1979.

E. A. Schiff,

Acting Deputy Administrator, Veterinary Services.

[FR. Doc. 79-13572 Filed 5-3-79; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Quality Service

9 CFR Part 381

Young Chicken Slaughter Inspection Rate Maximums; Change in Effective Date

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Change in effective date of final rule.

SUMMARY: This document changes the effective date for the mandatory application of the final rule entitled "Young Chicken Slaughter Inspection Rate Maximums" published in the Federal Register and made immediately effective on April 13, 1979 (44 FR 22047). This will help to avoid economic hardship and possible poultry shortages. The delay in effective date will be 60 days.

DATE: The date of the mandatory application of the regulation is changed to July 3, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Clyde S. Smithson, Acting Chief Staff Officer, Work Standards and Data Services Staff, Technical Services, Meat and Poultry Inspection, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2987.

SUPPLEMENTAL INFORMATION: On April 3, 1979, the United States District Court for the Eastern District of Arkansas issued an injunction directing that the Department forthwith use uniform maximum inspection rates for young chickens and apply and enforce the rates uniformly in all federally inspected poultry slaughtering plants in the United States. The Department had previously conducted a study and prepared a proposed regulation, based on the study recommendations, to achieve this same objective. However, in order to comply with the court's order, while assuring that consumers were adequately protected, the regulation providing for national uniform maximum inspection rates under the traditional inspection procedure was issued on an immediately effective basis.

While many plants were able to increase production speed under this regulation, a large number of plants were required to immediately decrease their speeds, and, thus, their total production. Therefore, at that time a final rule entitled "Modified Traditional Poultry Inspection" was also published in the **Federal Register** on an immediately effective basis (44 FR 22049). It was hoped that the implementation of this new procedure, which had recently been perfected and which allows for increased production line speeds, would alleviate problems of economic dislocation of plants and of shortages of poultry availability or increases in poultry prices for consumers.

In the short time since promulgation, it appears that these regulations are working admirably. Many plants are operating efficiently under the new traditional inspection rates or are quickly converting to the modified traditional inspection procedure. However, problems have arisen that were not fully anticipated by the Department. A significant number of plants throughout the country, which were required to decrease speeds under the new traditional inspection procedure rates, have been unable to rapidly convert to the modified traditional inspection procedure because the individual peculiarities of their facilities require more extensive renovation.

Young chickens are approximately 7½ weeks old at the time of slaughter. Therefore, production levels must be set at least 7½ weeks in advance of the slaughter date. Because of these problems, it appears that millions of chickens, which are already in the growing stage, will be unable to be slaughtered under the current regulations. In addition to economic dislocation, this may result in shortages of poultry availability or increases in poultry prices at the time of year when consumer demands for chicken are the greatest. Therefore, the Department believes that immediate further measures must be taken to deal with this serious, but unforeseen, problem.

Accordingly, the mandatory application of the inspection rate maximums under the traditional inspection procedure is hereby delayed until July 3, 1979. During this period, all plants will be able to operate in accordance with these rates. However, the inspector in charge at all plants will have discretion to allow inspection rates in excess of these rates to the extent that he determines that adulterated or misbranded product will not be produced. This discretion, and all

supervisorial review thereof, will be exercised on a line by line basis in accordance with the general inspectional criteria in the Meat and Poultry Inspection Manual.[1] Conversion to modified traditional inspection, under the maximum inspection rate specified therefor, may continue during this period.

This 60 day period should allow all plants to convert their facilities or adjust their future production levels. This uniform policy will also be in accord with the requirements of the above-described court order.

Done at Washington, D.C., on May 2, 1979.

Donald L. Houston,

Acting Administrator, Food Safety and Quality Service.

[FR Doc. 79-14108 Filed 5-3-79; 8:45 am]

BILLING CODE 3410-37-M

[1] Copies of this Manual are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

Uranium Fuel Cycle Impacts From Spent Fuel Reprocessing and Radioactive Waste Management; Extension of Interim Fuel Cycle Rule

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of the interim fuel cycle rule.

SUMMARY: The Commission promulgated on March 14, 1977 (42 FR 13803) an interim rule identifying the environmental impact values for the uranium fuel cycle which are to be included in environmental reports and environmental impact statements for individual light water nuclear power reactors. The interim rule was made effective for 18 months with the possibility of extension for good cause. The Commission has made two extensions of the period of effectiveness of the interim rule. The most recent extension enlarged this period to April 30, 1979. The Commission now finds good cause to enlarge this period until May 15, 1979.

DATE: The interim rule published at 42 FR 13803, March 14, 1977 (10 CFR 51.20(e)) is extended until May 15, 1979.

FOR FURTHER INFORMATION CONTACT: E. Leo Slaggie, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, phone 202-634-3224.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Nuclear Regulatory Commission has extended through May 15, 1979 the effectiveness of the interim fuel cycle, 10 CFR 51.20(e) ("table S-3," as revised). The Commission finds this extension desirable to avoid disruption in licensing procedures.

Background

The status of the Commission's interim fuel cycle rule and the course of the final rulemaking up to the submission of the Hearing Board's report on the extensive evidentiary record were reviewed in the notice of September 18, 1978 (43 FR 41373), which extended the interim rule through March 14, 1979. The purpose of that extension was to retain the advantage of having a fuel cycle rule in place during the time needed for the Hearing Board to prepare its recommendations for a final rule and for the Commission to study the record and the Board's recommendations prior to reaching a final decision in the fuel cycle rulemaking.

An additional extension to April 30, 1979 proved necessary because of additional procedures which the Commission adopted in order to receive further comments from participants in the rulemaking. See notice on March 19, 1979 (44 FR 16360). The purpose of that extension was to provide adequate time for the Commission to prepare a thorough statement of consideration in support of its decision to adopt a final rule. That statement is now essentially completed but has not yet been formally adopted. Accordingly, for the reasons given in the previous notices of extension, the Commission finds good cause to extend the period of effectiveness of the interim rule through May 15, 1979.

Dated at Washington, DC, this 30th day of April, 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-14017 Filed 5-3-79; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

Emergency Allocation Provisions of the Crude Oil Buy/Sell Program

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule, Further Notice of Proposed Rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy hereby amends, on an emergency basis, the provisions for emergency allocations for small refiners under the crude oil Buy/Sell Program. The amendments adopted today: (1) provide criteria for determining the level of emergency allocations; (2) change the reference period for determining a small refiner's current level of reduction in supplies from the most recent six-month period to the period January through October 1978; and (3) describe the information which must be submitted in an application for an emergency allocation. The amendments are effective immediately in order to permit ERA to address on a more equitable basis the crude oil supply problems of small refiners in the face of severely restricted supplies of crude oil in the world market. If the effective date of these amendments were delayed, some small refiners likely would experience serious disruptions in their operations due to the inability of the Buy/Sell Program to respond effectively to their supply needs.

The ERA is continuing this rulemaking proceeding to receive public comment on the amendments adopted today and on two additional proposed amendments to the emergency allocation provisions published elsewhere in this issue. These proposed amendments would (1) add to the current list of sellers (the 15 so-called "major" refiners), for purposes of emergency allocations only, all other refiners with in excess of 175,000 barrels per day of refining capacity and (2) provide that, with respect to emergency allocations, the price of crude oil sold to small refiners whose refining capacity is more than 50,000 barrels per day shall be based on the actual cost of the crude oil sold, rather than the seller's adjusted weighted average landed cost of imports, as currently provided.

DATES: This final rule is effective immediately. A hearing on this rule and the further proposed amendments will be held on May 31, 1979 in Washington, D.C. Written comments on the final rule and the further proposed amendments must be received by May 31, 1979. Requests to speak must be received by May 16, 1979. Copies of oral statements must be received by May 30, 1979.

ADDRESSES: All comments, copies of oral statements and requests to speak to: Public Hearing Management, ERA Docket No. ERA-R-79-21, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Hearing: Room 2105, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2222A, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5201.
William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.
John W. Glynn (Regulations and Emergency Planning), Economic Regulatory Administration, Room 8222, 2000 M Street, N.W., Washington, D.C. 20461, (202) 632-5133.
Robert G. Bidwell, Jr. (Fuels Regulation), Economic Regulatory Administration, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-9707.
Samuel M. Bradley (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6754.

SUPPLEMENTARY INFORMATION:

I. *Background*
II. *Amendments to Section 211.65(c)(2)*
III. *Request for Comments on Further Amendments*
IV. *Procedural Requirements*
V. *Comment Procedures*
A. *Written Comments*
B. *Public Hearing*

I. Background

Effective October 1, 1977, the Federal Energy Administration (FEA) significantly revised the crude oil Buy/Sell Program in 10 CFR 211.65 to limit purchases under the program to those small refiners ("refiner-buyers") with refineries which had a demonstrated need for allocations of crude oil based on lack of access to adequate supplies of domestic and foreign crude oil. Small refiners that were initially determined to have access to sufficient supplies of crude oil, and that were therefore ineligible to participate in the program, were permitted to reenter the program in the event that they experienced a significant reduction in crude oil supplies. In addition, provision was made for emergency allocation of crude oil for eligible refiners that experienced at least a 25 percent reduction in their supplies of crude oil. At the time these modifications to the Buy/Sell Program were adopted, there was a surplus of foreign crude oil available for importation into the United States, and the amendments thus were premised upon the belief that supplies of crude oil for most small refiners were and would continue to be adequate.

The current international crude oil market exhibits vastly different market conditions than those prevalent in October 1977. For the last five months, supplies available to the United States and other major petroleum consuming nations in the world market have decreased substantially. This situation has resulted primarily from the disruption and eventual cessation in late December 1978 of crude oil exports from Iran because of the political turmoil in that country. Exports from Iran have since resumed, although not at levels prior to the turmoil in Iran. An additional factor which contributed to the general tightening of world crude oil supplies is a very strong petroleum product demand worldwide, as well as substantial increases in European demand for low sulfur crude oils during the first quarter of 1979 as a result of more stringent environmental standards coming into effect. Finally, petroleum exporting countries other than Iran (for example, Saudi Arabia, Libya, Indonesia and Algeria) have effectuated or are considering reductions in crude oil production, and uncertainly remains as to whether the current worldwide supply/demand balance is temporary.

Domestic refiners dependent on imported crude oil began to experience this tightening of world crude oil supplies in November 1978. These market conditions impacted more severely on small refiners which, generally speaking, are at a disadvantage in the world crude oil markets vis-a-vis the major intergrated and large independent refiners. We received reports from many small refiners of contracts suddenly cancelled by their suppliers of imported crude oil, resulting in substantial inventory drawdowns, and forced reductions in crude oil run levels. A number of small refiners advised us that they were unable to purchase adequate foreign crude oil supplies at any price. Other small refiners were unable to pay the very high premiums commanded by certain of the light, sweet foreign crude oils in the spot market. For these crude oils, spot market transactions involving premiums of between $4.00 and $8.00 per barrel over normal contract prices were reported.

In the last five months, ERA has assigned emergency allocations of crude oil totalling 8,181,350 barrels under § 221.65(c)(2) [1] of the Buy/Sell Program to 19 small refiners that had experienced a 25 percent or greater reduction in their crude oil supplies due to the restricted supply situation in the international crude market. As a result of these emergency allocations, the total sales obligation for refiner-sellers under the program has increased by approximately 100 percent over the total sales obligation shown on the Buy/Sell List as initially published for the October 1978 through March 1979 allocation period.

The bulk of these emergency allocations were granted to small refiners that previously were ineligible to participate in the program because they had access to adequate supplies of domestic and foreign crude oil. However, these small refiners were permitted to reenter the program under the review of eligibility provisions in § 211.65(c)(1) [2] based on a significant change in their access to imported crude oil. In the preamble to the current regulations, (42 FR 42770, August 24, 1977), the Federal Energy Administration (FEA) made it clear that if, at a date subsequent to the initial determination of ineligibility, a refinery can establish that, despite the presumption of access to foreign crude oil under the criteria in section 211.65(a), that refinery does suffer a "significant change" in its access to foreign crude oil, the review procedure contained in section 211.65(c)(1) is designed to provide necessary relief. In that situation, ERA can make emergency allocations under § 211.65(c)(2) to such refiner "for one or more allocation periods, or for part of an allocation period."

The regulatory history of §§ 211.65(c)(1) and 211.65(c)(2) confirms that their purpose is to permit a flexible response to small refiner's crude oil access problems. When the regulations were promulgated, FEA recognized the major oil companies' general support of the FEA's proposal.

To limit the scope of the program to small refiners that are able to demonstrate a *need* for allocated crude oil. 42 FR 42770, August 24, 1977 (emphases added).

And, in direct response to small refiners concerns over apparent inflexibility and "absolute" presumptions under the

[1] Section 211.65(c)(2) provides in relevant part as follows:

"(2) Upon application at any time by a refiner-buyer, the [ERA] may grant an emergency supplemental allocation for one of more of the refiner-buyer's eligible refineries for one or more allocation periods, or for part of an allocation period; *provided, that* such refiner shall be required to demonstrate that it has incurred or will incur a reduction in its crude oil supply (excluding crude oil allocated under this section or under § 211.63) for the eligible refinery for which an emergency supplemental allocation is sought equal to at least twenty-five (25%) percent of such crude oil supply in the preceding six-month period. In granting a request of a refiner-buyer for an emergency supplemental allocation, the [ERA] may also direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer pursuant to paragraph (j) of this section. * * *"

[2] Section 211.65(c)(1) provides in relevant part that ERA may "* * * review the eligibility of a refinery owned by [a small refiner] where significant changes in the refinery's access to imported crude oil have occurred since the refinery was determined by [ERA] to be ineligible for an allocation; * * *"

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regulations, FEA assured them that it has retained the flexibility to respond to the needs fo small refiners initially determined to be ineligible:

> [I]n the event that there are significant changes in the access of a small refiner's refinery to imported crude oil, the amendments adopted today provide that FEA may review the eligibility of that refinery for participation in the program. FEA believes that this review provision should provide sufficient protection for refineries that are initially determined to be ineligibile for an allocation. (42 FR at 42771)

Thus, the provisions of section 211.65(c)(1) were expressly intended to permit a review of not only a small refiner's access to *physical* means of transporting imported crude oil, but "significant changes" in a small refiner's *actual* access, which may be significantly affected by disruptions in the worldwide crude oil supply and distribution.

In March 1979 Iran resumed production and limited exports. However, the crude oil supply situation in the world market continues to be extremely tight and uncertain. In addition, as a result of the further significant OPEC price increase effective April 1, crude oil prices in the world market have not stabilized. Reflecting these abnormal market conditions, there are 21 applications for emergency allocations by small refiners pending before ERA requesting assignments totalling approximately 100,000 barrels per day for the months of May and June 1979.

Although we have attempted to redress the supply problems of many small refiners in this period of tight supplies under the Buy/Sell Program's current emergency allocation provision, the provision has functioned imperfectly in a number of respects. First, we believe that the regulatory requirement to use the most recent six months as the reference period for determining a small refiner's current level of reduction in supplies is not appropriate in light of the disruptions in crude oil supplies in the world market since November 1978. This is particularly true in the case of small refiners that have experienced a gradual decline in crude oil supplies over the last six months. Accordingly, we have determined that the reference period should be changed to the period January 1, 1978 through October 31, 1978, when crude oil supplies in the world markets were relatively adequate to provide a more accurate measure of small refiner's need for an emergency allocation.

Second, the emergency allocation provision in § 211.65(c)(2) does not provide specific guidance as to how to determine the amount of crude oil that should be allocated. Generally speaking, the emergency allocations recently granted to small refiners have covered between seventy-five and one hundred percent of the particular refiner's shortfall, based on its supplies for the previous period. However, the emergency allocations may, in certain cases, have permitted the recipients to operate at a rate that is higher than both the operating rate of the seller, as well as that of other small refiners that do not qualify for emergency allocations. We believe that emergency allocations under this program should not in any case permit the recipient to maintain a crude run level higher than ERA's estimate of the current national utilization rate for all refiners.

Finally, the current emergency allocation provision does not provide specific guidance as to the manner in which ERA is to apply the general eligibility criterion of a twenty-five percent reduction in crude oil supplies or the types of information that ERA requires from a small refiner to determine eligibility for an allocation. In this regard, we have received many requests from small refiners for guidance as to the contents of an application for an emergency allocation and as to how the terms of the current provision are to be applied. In addition, it frequently has been necessary for us to make several requests to applicants for additional information, causing significant delays in the processing of applications.

In the case of the allocations assigned to date, we have required each small refiner to demonstrate that its loss of crude oil supplies was involuntary, and that it is unable or cannot reasonably be expected to replace its lost supplies through its own efforts. To satisfy these requirements, we have requested each applicant to identify its historical supplies of crude oil, document the reasons for the loss of supplies, identify each firm from which crude oil has been sought and document the results of the search. We believe it is essential to revise the current emergency allocations provision to reflect these factors in order to facilitate the operation of the program.

We also believe that it is appropriate to revise the current provision to make it clear that we will take into account the price which a small refiner must pay for available crude oil supplies in determining whether a small refiner can reasonably be expected to replace its lost supplies through its own efforts. This is particularly appropriate at this time because crude oil prices in the world market are highly unstable. Consideration of the price a small refiner must pay to replace its lost supplies of crude oil is consistent with our mandate under the Emergency Petroleum Allocation Act of 1973, as amended ["EPAA"], to promote the "equitable distribution of crude oil * * * at equitable prices among all * * * sectors of the petroleum industry, including independent refiners [and] small refiners * * *" (EPAA, § 4(b)(1)(F)). This objective reflects the specific Congressional concern that crude oil supplies of small refiners be at equitable prices, consistent with the section 4(b)(1)(D) objective of preservation of the competitive viability of small refiners. Therefore, we are recognizing that in cases where a small refiner must pay a price for imported crude oil that is significantly higher than the then current normal range of posted prices in the world markets for the particular quality of crude oil required for its operations, that small refiner should not be required to purchase this high-priced crude oil and become ineligible for an emergency allocation. If we did not take into account the price which a small refiner must pay for available supplies, there would be a strong probability that small refiners would encounter strong financial barriers to maintaining the type of viable competitive business operation which the EPAA directly seeks to protect.

We believe it is necessary to change the emergency allocation provisions in § 211.65(c)(2) in the respects described above as quickly as possible to permit us to redress equitably the supply problems of small refiners under a regulation designed specifically for the current supply conditions, consistent with our mandates under the EPAA. These changes also are necessary to provide immediate guidance to small refiners and refiner-sellers regarding the criteria to be applied in determining eligibility for emergency allocations, the level of allocations, and the data requirements for applications, thereby facilitating the operation of the Buy/Sell Program. Although we have seriously considered activating one of the phases of the recently adopted standby crude oil allocation program, we have determined that the current restricted supply situation does not at this time warrant allocating crude oil to all segments of the refining industry. Certain of the reporting provisions, however, have been placed into effect, so that any necessary implementation of the standby program will be facilitated.

II. Amendments to § 211.65(c)(2)

For the reasons stated above, we are adopting the amendments to § 211.65(c)(2) described below on an emergency basis.

Under these amendments, a small refiner will be eligible for an emergency allocation if it demonstrates that it is incurring a reduction in its supply of crude oil equal to at least twenty-five percent of the volume of its crude oil runs to stills (excluding runs in excess of the refiner's DOE certified crude oil refining capacity) during the period January through October 1978 and that it is not able or cannot reasonably be expected to replace such lost supplies through its own efforts. For the reasons noted above, § 211.65(c)(2) as amended today expressly provides that ERA may determine that a small refiner "cannot reasonably be expected to replace such lost supplies through its own efforts," where the small refiner must pay an aberrational price for replacement supplies, significantly in excess of the range of prices being paid for most crude oil purchased on the world market, considering the quality of crude oil in question.

Under the current Buy/Sell Program regulations, emergency allocations are available to small refiners that receive regular allocations under the program (that is, "refiner-buyers"), as well as to other small refiners that are permitted to reenter the program on a temporary basis under the § 211.65(c)(1) review of eligibility provision by demonstrating a significant change in their access to imported crude oil. Since, generally speaking, eligibility for an emergency allocation (that is, a twenty-five percent reduction in crude oil supplies) generally satisfies the requirement under the § 211.65(c)(1) review of eligibility provision of a "significant change in access," it appears that the administrative requirement of applying for a review of eligibility is essentially redundant. Accordingly, the amendments effectively eliminate this administrative requirement by providing that ERA may assign an emergency allocation to any small refiner (except newly-constructed refineries that were not constructed or committed for prior to August 24, 1977, as currently provided) that makes the requisite showing.

In the event that a small refiner is eligible for an allocation, the amendments provide that ERA may assign a maximum allocation equal to that volume of crude oil required to maintain the refiner's volume of crude oil runs to stills at a level equivalent to ninety-five percent of the refiner's level of crude oil runs to stills in the reference period, or ninety-five percent of our estimate of the current national utilization rate for all domestic refiners, whichever is less. In computing the national utilization rate, we will divide the total of the estimated average daily crude oil runs to stills for all domestic refiners for any month or months in the allocation period by the total of the average daily crude oil runs to stills for all domestic refiners during the period January through October 1978. As is the case under the current emergency allocation provisions, we may direct one or more sellers to sell assigned allocations.

Finally, § 211.65(c)(2) as amended describes in detail the information which a small refiner must submit in its application for an emergency allocation. In particular, the application must contain a detailed explanation of the reasons for the small refiner's reduction or projected reduction in crude oil supplies; the name of each firm from which crude oil has been sought and a statement as to why the refiner believes it has exhausted all supply possibilities; and, if the applicant has rejected an offer by any firm to sell crude oil, the price quoted by the offering firm and the small refiner's reason for rejecting the offer. Applications must be submitted by the fifteenth day of the month prior to the month for which an allocation is sought.

III. Request for Comments on Further Proposed Amendments

We are continuing this rulemaking proceeding to receive public comment on two further proposed amendments to the emergency allocation provisions. The first proposed amendment would add all refiners with in excess of 175,000 barrels per day refining capacity and not currently categorized as "major" refiners to the category of sellers for emergency allocations only. The second proposed amendment would provide that, with respect to emergency allocations, the price of crude oil sold to small refiners whose refining capacity is more than 50,000 barrels per day shall not be based on the seller's adjusted weighted average landed cost of imports, as currently provided, but would be based on the actual cost of the crude oil sold. The considerations underlying these proposals are set forth below.

Since the monthly volume of emergency allocations has been increasing, it can be expected that the burden and disruptive effects of the allocations on the current group of refiner-sellers also will increase. For this reason, we have tentatively determined that the class of sellers (for emergency allocations only) should be expanded to include all refiners with refining capacity in excess of 175,000 barrels per day, rather than just the 15 "major" refiners, so as to spread the burden of allocation sales more equitably among all refiners that are large enough to have access to the world markets for a significant portion of their supplies and who thus have the capability to negotiate for these supplies on favorable terms.

Among this expanded class of sellers, we believe that the emergency allocations should be shared on the basis of each seller's proportionate share of total crude oil runs to stills of all sellers during a recent base period, rather than on the basis of each seller's proportionate share of the total of all sellers' refining capacity as of a base date, as currently provided. In our view, the latter standard may not be the most accurate measurement of a seller's ability to obtain supplies of crude oil for its refineries in a period of restricted supplies.

The second proposal relates to the price for emergency allocation sales. During this period of fluctuating foreign crude oil prices, refiner-seller's replacement costs for crude oil sold under the Buy/Sell Program have frequently exceeded the maximum permitted sales price for allocated crude oil, and thus resulted in a substantial financial penalty to the seller. We believe that small refiners with a refining capacity not exceeding 50,000 barrels per day, which is the class of refiners selected for preferential contract awards by the Small Business Administration, should continue to be permitted to purchase allocated crude oil at the average cost of imported crude oil to the seller to ensure that they remain competitive. However, we believe that it is appropriate, balancing all these considerations, that small refiners whose capacity is 50,000 barrels per day or more receive allocations where the maximum-permitted sale price more nearly reflects the market value of the allocated crude oil.

Accordingly, we have tentatively determined that the maximum permissible sale price for transactions involving emergency allocations to such small refiners with a capacity of 50,000 barrels per day or more should be, in the case of imported crude oil, the seller's actual cost in an arms-length transaction or the landed cost as defined in § 212.82 of acquiring the imported crude oil offered for sale; in the case of domestic crude oil, it would be the actual cost of

the domestic crude oil sold. This is the same rule as contained in the special price rule (Special Rule No. 1 to Subpart L, Part 212) of the Standby Mandatory Crude Oil Allocation and Refinery Yield Programs. As we stated in the preamble accompanying the Standby Regulations (42 FR 3418, January 18, 1979), by using the acquisition cost for sales to small refiners whose capacity exceeds 50,000 barrels per day, these firms will have an incentive to search for new supplies of imported and domestic crude oil.

In the event we determine on the basis of the comments in this proceeding to adopt these proposals, they would be reflected in a new Special Rule No. 11 (the "Special Rule") to Subpart C, Part 211, which is described below. The proposed regulatory language for the Special Rule is set forth in the proposed rules section of this issue.

"Seller" would be defined in the Special Rule as any refiner-seller under the current Buy/Sell Program and any other refiner that is not a small refiner. As is the case under the current regulations, the sales obligations of the current refiner-sellers with respect to emergency allocations would be in addition to their sales obligations shown on the Buy/Sell list published pursuant to § 211.65(g). For each allocation period, each seller would be required to sell a volume of crude oil equal to its "fixed percentage share" multiplied by the total of the emergency allocations assigned under § 211.65(c)(2). "Fixed percentage share" would be defined as a seller's proportionate share of the total volume of crude oil runs to stills of all sellers during the period September 1978 through February 1979.

In directing sales of assigned emergency allocations, the Special Rule would require that, to the maximum extent practicable, ERA apportion the sales among all sellers in a manner such that each seller's sales obligation with respect to emergency allocations for an allocation period does not exceed its total sales obligation for the allocation period. However, at any time during an allocation period, ERA could direct one seller to sell more than its sales obligation at that particular time to eliminate the necessity of splitting up an allocation to a small refiner among several sellers. The Special Rule would prohibit directed sales that exceed a seller's sales obligation by more than twenty-five percent.

Any seller that sells more than its share of the total sales obligation would receive a barrel-for-barrel reduction in its sales obligation under § 211.65(c)(2) for the next allocation period. Similarly, any unsold sales obligations for an allocation period would be added to the seller's sales obligation for emergency allocations for the following allocation period.

With one significant exception, transactions involving emergency allocations would continue to be governed by the "terms and conditions" in § 211.65(i) applicable to regular allocated sales. As discussed above, the exception is that the price of crude oil sold pursuant to an emergency allocation to a small refiner whose DOE certified refining capacity is greater than 50,000 barrels per day would be the seller's actual cost of the particular crude oil sold, as provided in the special pricing rule of the Standby Regulations. The handling fee for such sales would be 5¢ per barrel, as currently provided, rather than the 25¢ per barrel handling fee specified in the standby pricing provisions. Since sales at the seller's weighted average cost to small refiners whose refining capacity is 50,000 barrels per day or less result in a certain penalty for the seller, because replacement costs will in most cases exceed the seller's weighted average cost, the obligations to sell crude oil to those small refiners entitled to purchase emergency allocations at the weighted average cost would be separately distributed on a pro-rata basis among all sellers.

Finally, the Special Rule would provide that ERA would publish supplemental buy/sell lists periodically during an allocation period listing the emergency allocations assigned under § 211.65(c)(2) and the fixed percentage share for each seller. In particular, each list would specify the quantity of crude oil assigned to buyers whose DOE certified crude oil refining capacity is 50,000 barrels per day or less and the quantity of crude oil that each seller would be obligated to offer for sale to such buyers. We would anticipate publishing a supplemental buy/sell list at the beginning of each month during an allocation period.

IV. Procedural Requirements

A. *Section 501 of the DOE Act*

Under section 501(e) of the Department of Energy Organization Act (Pub. L. 95-91, DOE Act), we may waive the prior notice and hearing requirements of subsections (b), (c), and (d) of section 501 upon our finding that strict compliance with these requirements is likely to cause serious harm or injury to the public health, safety or welfare. We believe such a finding can and should be made in this instance since the current provision for emergency allocations functions imperfectly, as discussed above, and greatly restricts ERA's ability to respond effectively and equitably to the supply problems of small refiners during this period of severely restricted crude oil supplies. In addition, immediate adoption of these amendments is required to provide guidance to refiners regarding the criteria to be applied in determining eligibility for emergency allocations, the level of such allocations and the information required in applications for emergency allocations.

However, in accordance with section 501(e) and in order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we have scheduled a public hearing for May 31, 1979 and will receive written comments through May 31, 1979 on the amendments adopted and the further proposed amendments. We are particularly interested in receiving comments regarding the manner in which we will take into account the price of available crude oil supplies in determining a small refiner's eligibility for an emergency allocation. We will reconsider today's action with regard to the comments received and will publish in the Federal Register our response to these comments along with our decision whether to take any further action in this rulemaking proceeding.

B. *Section 404 of the DOE Act*

Section 404(a) of the DOE Act requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary of Energy proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of functions transferred to him under section 301 or section 306 of the DOE Act. If the FERC determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any of its functions under sections 402(a)(1), (b) and (c)(1) of the DOE Act, the Secretary shall immediately refer the matter to the FERC.

Following an opportunity to review these amendments, the FERC has declined to determine that the amendments may significantly affect one of its functions under the sections noted above.

C. *Section 7 of the FEA Act*

As required by section 7(a)(1) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275, FEA Act), a copy of this rulemaking was submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of the proposal on the quality of the environment. The Administrator had no comments.

D. *Section 553 of the Administrative Procedure Act*

Section 553(b) of the Administrative Procedure Act requires that general notice of proposed rulemaking shall be published in the Federal Register, except where the agency, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest. In addition, section 553(d) of the Administrative Procedure Act requires that a substantive rule not become effective less than thirty days after its publication unless the agency promulgating the rule finds good cause to waive this requirement and publishes this finding together with the rule. For the reasons stated in subsection A of this section of this preamble, we have determined that notice is impracticable and contrary to the public interest and that good cause exists to waive the section 553(d) requirement.

E. *Executive Order 12044*

The sixty-day public comment period required for proposed rulemakings pursuant to Executive Order 12044, entitled "Improving Government Regulations" (43 FR 12661, March 23, 1978) and DOE's implementing procedures, DOE Order 2030.1 (44 FR 1032, January 3, 1979), have been waived by the Deputy Secretary of Energy for the reasons previously stated for making the amendments to § 211.65(c)(2) effective immediately.

Executive Order 12044 also requires that a regulatory analysis to be prepared for all regulations which will result in "an annual effect on the economy of $100 million or more" or will result in "a major increase in costs or prices for individual industries, levels of government or geographic regions." We have determined that neither of these threshold criteria for the preparation of a regulatory analysis is met by the amendments adopted today. However, with respect to the further proposed amendments, we are preparing a preliminary regulatory analysis which examines the various potential impacts of these proposals. When this document is completed, we will publish a notice of its availability in the Federal Register and will provide you an opportunity to comment on the document. Such comments will be taken into account in the preparation of a final regulatory analysis on any further final rule that may be adopted.

F. *Office of Management and Budget Review*

The information requirements specified in the amendment adopted today have been approved by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act (Pub. L. 96-620), as amended. The OMB approval number is 038-R-0407.

IV. *Written Comment and Public Hearing Procedures*

A. *Written Comments*

You are invited to participate in this proceeding by submitting data, views or arguments with respect to any matters relevant to this notice. Comments should be submitted by 4:30 p.m., d.s.t., May 31, 1979 to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Emergency Crude Oil Allocations." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. *Public Hearing*

1. *Procedure for Requests to Make Oral Presentation.* If you have any interest in the matters discussed in this notice, you may make a written request for an opportunity to make an oral presentation by 4:30 p.m., d.s.t., May 16, 1979. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., d.s.t., May 21, 1979, and will be required to submit fifty copies of your statement to the appropriate address indicated in the "Addresses" section of this notice before 4:30 p.m., d.s.t., May 30, 1979.

2. *Conduct of the Hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of the hearing from the reporter.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective immediately.

Issued in Washington, D.C., April 27, 1979.

David J. Bardin,
Administrator, Economic Regulatory Administration.

Section 211.65 is amended by revising the heading of paragraph (c) and by revising subparagraph (2) of paragraph (c) to read as follows:

§ 211.65 Method of Allocation.

* * * * *

(c) *Review of eligibility for allocations, adjustments to purchase opportunities, and emergency allocations.*

(1) * * *

(2)(i) Notwithstanding any provision of this section to the contrary, any small refiner (except a small refiner with newly-constructed refining capacity or reactivated refining capacity that does not satisfy the requirements of § 211.65 (a)(1)(iii) of this Chapter) which is

incurring, or will incur in the allocation

the quantities of crude oil already obtained as well as offered or expected

The purpose of the revision is to designate a limited number of NASA

(2) *SECRET and CONFIDENTIAL*

Committee. The Chairperson of the

(28) To grant exemptions from paragraph (c)(1) of Rule 11Ac1-1

incurring, or will incur in the allocation period for which an allocation is sought, a reduction in its supply of crude oil equal to the lesser of twenty-five (25) percent of its DOE certified crude oil refining capacity, or twenty-five (25) percent of the volume of its crude oil runs to stills, as adjusted for increases or decreases in the refiner's crude oil refining capacity as certified by DOE, during the period January through October 1978, and which is not able or cannot reasonably be expected to replace such lost supplies through its own efforts, may apply at any time to ERA for an emergency allocation of crude oil. The ERA may determine that a small refiner cannot reasonably be expected to replace its lost supplies through its own efforts where the small refiner must pay a price for replacement supplies significantly in excess of the range of prices being paid for most crude oil purchased on the world market, considering the quality of crude oil in question.

(ii) *Applications.* Applications shall be addressed to Chief, Crude Oil Allocation Branch, Office of Fuels Regulations, Economic Regulatory Administration, P.O. Box 19028, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with the procedures established in Subpart G of Part 205 of this chapter. Applications must be submitted by the fifteenth day of the month prior to the month(s) for which an allocation is sought. Each application shall contain the following information (including documentation where appropriate):

(A) The location and DOE certified refining capacity of each refinery for which an allocation is sought.

(B) The information specified in § 211.66(d) (i) through (vi) of this chapter for the period January 1, 1978 through October 31, 1978 for each refinery for which an allocation is sought, identifying each supplier, whether the purchase was under contract or in the spot market and the volumes of crude oil allocated under sections 211.63 and this section.

(C) Beginning and ending inventory by month for the period January 1, 1978 through October 31, 1978 and current inventory.

(D) The volume of and a detailed explanation of the reasons for the reduction or projected reduction in crude oil supplies.

(E) List of actual and/or prospective supplies for the current month and the next four months, identifying the volumes of domestic (separately identifying crude oil allocated under § 211.63 and this section), and imported crude oils and each supplier. Indicate the quantities of crude oil already obtained as well as offered or expected during this period.

(F) The current approximate product yields for the refinery when using a typical feedstock. With respect to each covered product, indicate the current allocation fraction.

(G) The name and location of all firms from which crude oil has been sought and the specifications of the crude oil sought from each such firm, with a statement as to why the applicant believes it has exhausted all supply possibilities.

(H) The response (including copies of correspondence) of each firm to which a request to purchase crude oil has been made, and the telephone number of the individual contacted at each such firm. If the applicant rejected an offer by any such firm to sell crude oil, state the price quoted by such firm and the reason for rejecting the offer.

(iii) *Allocations.* In the event ERA determines that a small refiner is eligible for an allocation, ERA may assign the refiner a maximum allocation for one or more months during an allocation period equal to that volume of crude oil required to maintain the refiner's volume of crude oil runs to stills at a level equivalent to the lesser of ninety-five (95) percent of the refiner's level of crude oil runs to stills during the period January through October 1978, as determined under subclause (i) of this subparagraph (2), or ninety-five (95) percent of ERA's estimate of the current national utilization rate of all domestic refiners. In granting a request of a small refiner for an emergency allocation, the ERA may direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner pursuant to § 211.65(j) of this chapter.

[Docket No. ERA-R-79-21]
[FR Doc. 79-14015 Filed 5-2-79; 8:45 am]
BILLING CODE 6450-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1203

Information Security Program; Delegation of Authority To Make Determinations in Original Classification Matters

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This revision is necessary to comply with the provisions of Section 1-204, Executive Order 12065, "National Security Information" dated July 3, 1978. The purpose of the revision is to designate a limited number of NASA officials having original classification authority as prescribed by the Executive Order. This revision accomplishes the stated purpose.

DATE: May 4, 1979.

ADDRESS: Director, Security Division, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Ben B. Pagac, Security Division, Telephone (202) 755-3400, National Aeronautics and Space Administration, Washington, D.C. 20546.

SUPPLEMENTARY INFORMATION: This regulation involves a national security function and is exempt from the procedures of 5 U.S.C. 553.

1. In 14 CFR Chapter V, Subpart 1203.F is redesignated as Subpart 1203.H and revised to read as follows:

Subpart 1203.H—Delegation of Authority To Make Determinations in Original Classification Matters

Sec.
1203.800 Delegations.
1203.801 Redelegation.
1203.802 Reporting.

Authority: 42 U.S.C. 2451 et seq. and E.O 12065.

Subpart 1203.H—Delegation of Authority To Make Determinations in Original Classification Matters

§ 1203.800 Delegations.

(a) The NASA officials listed in paragraph (c) of this section are authorized to make, modify, or eliminate security classification assignments to information under their jurisdiction for which NASA has original classification authority. Such actions shall be in accordance with currently applicable criteria, guidelines, laws, and regulations and they shall be subject to any contrary detemination that has been made by the Chairperson of the NASA Information Security Program Committee or by any other NASA official authorized to make such a determination.

(b) Only the NASA officials listed in paragraph (c)(1) of this section are authorized to classify any information for a period greater than six years from the date of original classification.

(c) Designated Officials.

(1) *TOP SECRET Classification Authority.* (i) Administrator.

(ii) Deputy Administrator.

(iii) Chairperson, NASA Information Security Program Committee.

(iv) Assistant for Special Projects.

(2) *SECRET and CONFIDENTIAL Classification Authority.* (i) Officials listed in paragraph (c)(1) of this section.

(ii) Associate Deputy Administrator.

(iii) Associate Administrator for Management Operations.

(iv) Associate Administrator for External Relations.

(v) General Counsel.

(vi) Director, Security Division.

(vii) Director, DOD Affairs Division.

(viii) Director, International Affairs Division.

(ix) NASA Security Classification Manager.

(x) Field Installation Directors.

(xi) Manager, NASA Resident Procurement Branch—JPL.

(xii) Installation Security Classification Officers.

(xiii) Such other officials as may be delegated original classification authority.

(d) Written requests for original classification authority shall be forwarded to the Executive Secretary, NASA Information Security Program Committee, with appropriate justification appended thereto. The Executive Secretary will submit such requests to the Committee Chairperson for a determination by the Committee regarding the validity of the requests. Findings and recommendations of the Committee will then be submitted by the Committee Chairperson to the Administrator for approval.

(e) The Executive Secretary shall maintain a list of all delegations of original classification authority by name or title of the position held.

(f) The NASA Information Security Program Committee shall conduct periodic reviews of delegation lists to ensure that the officials so designated have demonstrated a continuing need to exercise such authority.

(g) Original classification authority shall not be delegated to persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide.

§ 1203.801 Redelegation.

Redelegation of TOP SECRET, SECRET, or CONFIDENTIAL original classification authority is not authorized.

§ 1203.802 Reporting.

The officials to whom original classification authority has been delegated herein shall ensure that feedback is provided to the Administrator through the NASA Information Security Program Committee. The Chairperson of the Committee shall keep the Administrator currently informed of all significant actions, problems, or other matters of substance related to the exercise of the authority delegated hereunder.

Subpart 1203.F [Reserved]

2. Subpart 1203.F is reserved.

Robert A. Frosch,
Administrator.

[FR Doc. 79-13966 Filed 5-3-79; 8:45 am]
BILLING CODE 7510-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

Delegation of Authority to the Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to delegate authority to the Director of the Division of Market Regulation to grant exemptions to responsible brokers and dealers acting in the capacity of third market makers from their obligation to communicate quotation information to the National Association of Securities Dealers, Inc. for dissemination to quotation vendors.

EFFECTIVE DATE: April 19, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen L. Parker, Division of Market Regulation, Securities and Exchange Commission, Room 391, 500 North Capitol Street, Washington, D.C. 20549 202-755-8949.

SUPPLEMENTARY INFORMATION: The Commission finds, in accordance with the Administrative Procedure Act ("APA") [5 U.S.C. 553(b)(3)(B)], that this amendment relates solely to agency organization, procedures or practice and that notice and procedures pursuant to the APA are therefore not necessary and that such amendment shall be adopted, effective immediately.

PART 200—ORGANIZATION, CONDUCT AND ETHICS, AND INFORMATION AND REQUESTS

Accordingly, 17 CFR Chapter II, is Part 200, is amended by adding a new paragraph (a)(28) to § 200.30-3 reatling as follows:

§ 200.30-3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(28) To grant exemptions from paragraph (c)(1) of Rule 11Ac1-1 ("Rule") [§ 240.11Ac1-1], pursuant to paragraph (d) of the Rule, to responsible brokers or dealers acting in the capacity of third market makers within the meaning of the Rule.

* * * * *

(Pub. L. 97-582, 76 Stat. 394, 15 U.S.C. 78d-1, 78d-2)

By the Commission.

George A. Fitzsimmons,
Secretary.

April 26, 1979.

[Release No. 34-15771]
[FR Doc. 79-13985 Filed 5-3-79; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35 and 154

Final Regulation Modifying the Time Limit for Commission Action on R.D. & D. Plans

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Order amends 18 CFR 35.22(d) and 154.38(d)(5)(iv) to allow 120 days, rather than the current 90 days, for Commission action on an application for advance approval of a research, development and demonstration (R.D. & D.) program to allow for a more thorough analysis of the application.

EFFECTIVE DATE: May 29, 1979.

FOR FURTHER INFORMATION CONTACT: Bruce A. Connell, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 275-4802.

SUPPLEMENTARY INFORMATION: On February 2, 1979, the Commission issued a Notice of Proposed Rulemaking in this docket, proposing to amend 18 CFR 35.22(d) and 154.38(d)(5)(iv) to allow 120 days, rather than the current 90 days, for Commission action on an application for advance approval of a research, development and demonstration (R.D. & D.) program.

Comments were invited from interested parties on or before March 15, 1979. Timely comments were received from the Gas Research Institute (GRI) and Kadane Oil Company (KOC). Comments of the people of the State of California and the Public Utilities Commission of the State of California

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(California) were filed on March 26, 1979.

Background

In order to receive advance approval of an R.D. & D. program for a given year, an R.D. & D. organization or a jurisdictional company seeking such approval must submit a five year R.D. & D. plan at least 180 days prior to the commencement of the program. Under the Commission's current regulations, 18 CFR 35.22(d) and 154.38(d)(5)(iv), the Commission must act upon the R.D. & D. plan within 90 days after it is filed.

On June 30, 1978, the Gas Research Institute (GRI) submitted a proposed research and development program which was approved in Opinion No. 30.[1] The People of the State of California and the Public Utilities Commission of the State of California (California) filed a comment in the GRI docket criticizing the short timetable imposed as a result of the 90-day deadline. California suggested that the Commission's review of subsequent GRI applications would be "substantially enhanced by a modest amendment of the Commission's regulations" to allow 120 days for Commission action on an application for advance approval of an RD&D program. In Opinion No. 30 the Commission stated that it would issue a Notice of Proposed Rulemaking to obtain comments on California's proposal.

GRI supports the modification from 90 days to 120 days but would strongly oppose any period longer than 120 days. GRI objects to any schedule which would provide for the filing of comments by parties as to which GRI would not have an opportunity to reply. KOC objects to the modification from 90 days to 120 days, stating that such additional time is unnecessary. California strongly supports the modification and reaffirms its support for its proposed procedural schedule.

California also suggested a schedule for handling GRI's next annual application. Assuming that GRI submits its next application on June 4, 1979 in order to obtain Commission action by October 1, 1979, California proposed that initial comments and a staff report be filed on July 13, 1979. Reply Comments by GRI would be filed on August 3, 1979, and further comments would be filed on August 24, 1979.

In the February 2, 1979, Notice of Proposed Rulemaking, the Commission stated:

The Commission notes, however, that comments on procedures to be followed in handling GRI's application are solicited through this Notice of Proposed Rulemaking only so that the Commission will have the comments available when it establishes a procedural schedule after GRI files its next annual application in 1979. This is not a rulemaking to establish a particular procedural schedule. The rulemaking proposed herein only revises the 90-day deadline to 120 days. (mimeo p. 3) emphasis added.

Accordingly, we will defer ruling on the appropriate schedule for GRI's next annual application at this time.

The proposed amendment to the Regulations will provide the Commission a better opportunity to review GRI's application together with the comments of interested parties without prejudice to any party. Thus, the Commission finds that good cause exists for revising the Regulations as proposed.

[Federal Power Act, as amended, 16 U.S.C. 792 *et seq.*, Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*, Department of Energy Organization Act, Pub. L. 95–91, E.O. 12009, 42 FR 46267, Natural Gas Policy Act of 1978, Pub. L. 95–621, 92 Stat. 3350]

In consideration of the foregoing, the Commission is amending § 35.22(d) of Part 35, Subchapter B, Chapter I, of Title 18 and § 154.38(d)(5)(iv) of Part 154, Subchapter E, Chapter I of Title 18 of the Code of Federal Regulations as set forth below, to be effective 30 days from date of issuance.

By the Commission.

Lois D. Cashell,
Acting Secretary.

§ 35.22 [Amended]

Section 35.22 of Part 35, Subchapter B, Chapter I of Title 18 of the Code of Federal Regulations is amended by revising paragraph (d) so that the phrase "90 days" is deleted and the phrase "120 days" is inserted in lieu thereof.

§ 154.38 [Amended]

Section 154.38(d)(5)(iv) of Part 154, Subchapter E, Chapter I, of Title 18 of the Code of Federal Regulations is amended by revising clause (iv) of subparagraph (5) of paragraph (d) so that the phrase "90 days" is deleted and the phrase "120 days" is inserted in lieu thereof.

[Docket No. RM79–16]
[FR Doc. 79–14045 Filed 5–3–79; 8:45 am]
BILLING CODE 6450–01–M

[1] *Gas Research Institute*, "Opinion and Order Approving the Gas Research Institute's 1979 Research and Development Program," Docket No. RP78–76, issued September 21, 1978.

18 CFR Parts 271 and 273

Amendment to Regulations Relating to Publication of Prescribed Maximum Lawful Prices Under the Natural Gas Policy Act of 1978

April 27, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: This rule amends certain sections of the Commission's Regulations implementing the Natural Gas Policy Act of 1978. By this amendment the Commission is issuing a compilation of Prescribed Maximum Lawful Prices under NGPA for the months of May, June and July, 1979. Section 101(b)(6) of the NGPA requires that the Commission compute and make available prices and inflation adjustments at least five days before the beginning of any month for which such figures apply.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mark Magnuson, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. (202) 275–4850.

SUPPLEMENTARY INFORMATION:

A. Background

On December 1, 1978, the Federal Energy Regulatory Commission (Commission) issued Interim Regulations (43 FR 56448, December 1, 1978), implementing the Natural Gas Policy Act of 1978 (NGPA), Pub. L. No. 95–621, 92 Stat. 3350.

On January 25, 1979, the Commission issued the Publication of Prescribed Maximum Lawful Prices Under the NGPA and Amendments to Regulations Relating to Minimum Rate Gas. (Docket Nos. RM79–3 and 79–4).

Sections 271.101(a), 271.202, 271.302, 271.402(a), 271.402(c)(4), 271.602, 271.702, 271.802, 271.902, and 273.201(a)(1) of the Commission's regulations under the NGPA set forth maximum lawful prices per MMBtu (Mcf for minimum rate gas) for deliveries made in December, 1978, through April, 1979. Section 271.102(c) sets forth the monthly inflation adjustment factors. Section 101(b)(6) of the NGPA requires that the Commission compute and make available maximum lawful prices and inflation adjustments at least five days before the beginning of any month for which such figures apply. Pursuant to that mandate, the Commission hereby amends its regulations implementing the NGPA to add to the existing price tables, prices and inflation adjustments for the months of May, June, and July 1979.

B. Summary of Amended Regulations

The Commission's regulations under the NGPA are being modified to include the maximum lawful prices and inflation adjustments for May, June, and July 1979. The subparts of Part 271 of Subchapter H of the interim regulations so affected, and the types of natural gas to which these subparts apply, are as follows: Subpart A—Summary Tables and Calculations (§§ 271.101(a) and 271.102(c)); Subpart B—New Natural Gas and Certain Natural Gas Produced from the Outer Continental Shelf (§ 271.202); Subpart C—New, Onshore Production Wells (§ 271.302); Subpart D—Natural Gas Committed or Dedicated to Interstate Commerce (§ 271.402(a), (§ 271.402(c)(4)); Subpart F—Intrastate Rollover Contracts (§ 271.602); Subpart G—High-Cost Natural Gas (§ 271.702); Subpart H—Stripper Well Natural Gas (§ 271.802); and Subpart I—Other Categories of Natural Gas (§ 271.902). Further, Part 273 of Subchapter H is amended by publishing the maximum lawful prices for May, June, and July, 1979 to Subpart B—Interim Collection Authority (§ 273.201(a)(1)).

C. Effective Date

The Commission is making these amendments effective upon the date of issuance of this order upon a finding that good cause exists to proceed without compliance with the notice, public procedure and effective date provisions of 5 U.S.C. § 553. The GNP Implicit Price Deflator computed and published by the Department of Commerce for the most recent calendar quarter is published at least 8 days before the beginning of each quarter. Section 101(b)(6) of the NGPA requires that maximum lawful prices and inflation adjustments be made available by the Commission at least five days before the beginning of the month to which they apply. Unless amendments regarding rate changes for May, June and July 1979 are made effective immediately producers may bill and file incorrectly for the affected categories of gas. Thus, good cause exists to make these amendments effective upon issuance of this order. In addition, for the above mentioned reason, the Commission believes good cause exists to dispense with public comment procedures.

(Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*, Energy Supply and Environmental Coordination Act, 15 U.S.C. 791, *et seq.*, Federal Energy Administration Act, 15 U.S.C. 761, *et seq.*, Natural Gas Policy Act of 1978, Pub. L. 95–621, 92 Stat. 3350, Department of Energy Organization Act, Pub. L. 95–91, E.O. 12009, 42 FR 46267).

In consideration of the foregoing, Parts 271 and 273 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, are amended as set forth below, effective immediately.

By the Commission.

Lois D. Cashell,
Acting Secretary.

PART 271—CEILING PRICES UNDER THE NATURAL GAS POLICY ACT OF 1978

1. Section 271.101(a) is amended by revising Tables I and II to read as follows:

§ 271.101 Ceiling prices for certain categories of natural gas.

(a) * * *

Table I.—*Summary of certain gas ceiling prices*

(Prices in $/MMBtu)

Subpart of part 271	NGPA section	Category of gas	Maximum lawful price for deliveries made in: May 1979	June 1979	July 1979
B	102	New Natural Gas, Certain OCS Gas	2.177	2.196	2.220
C	103	New, Onshore Production Wells	2.033	2.047	2.062
G	107	High-Cost (below 15,000' only) Natural Gas	2.177	2.196	2.220
H	108	Stripper Wells	2.329	2.352	2.375
I	109	Not Otherwise Covered	1.684	1.696	1.708

Table II.—*Certain gas committed or dedicated to interstate commerce on November 8, 1978*

Subpart of part 271	NGPA Section	Category of natural gas	Type of sale or contract	Maximum lawful price per MMBtu for deliveries made in: May 1979	June 1979	July 1979
D	104	Post-1974 gas	All producers	1.684	1.696	1.708
		1973–1974 Biennium gas	Small producer	1.424	1.434	1.444
			Large producer	1.093	1.101	1.109
	106(a)	Interstate Rollover gas	Small producer	.715	.715	.715
			Large producer	623	627	631
	104	Replacement contract gas or recompletion gas.	Small producer	.796	.802	.808
			Large producer	.612	.616	.620
		Flowing gas	Small producer	.407	.410	.413
			Large producer	.342	.344	.346
		Certain Permian Basin gas	Small producer	.477	.480	.483
			Large producer	.419	.422	.425
		Certain Rocky Mountain gas	Small producer	.477	.480	.483
			Large producer	.407	.410	.413
		Certain Appalachian Basin gas	North subarea contracts dated after 10–7–69.	.379	.382	.385
			Other Contracts	.355	.358	.361

2. Section 271.102(c) is revised to read as follows:

§ 271.102 Calculation of inflation adjustment for certain maximum lawful prices.

* * * * *

(c) *Inflation adjustment.* The following table contains the inflation adjustment applicable for each month beginning with May 1977, and ending with July 1979:

Table III.—*Inflation adjustment*

Month of delivery	Factor by which price in preceding month is multiplied
1977:	
May	1.00636
June	1.00636
July	1.00431
August	1.00431
September	1.00431
October	1.00463
November	1.00463
December	1.00463
1978:	
January	1.00597
February	1.00597
March	1.00597
April	1.00889
May	1.00889
June	1.00889
July	1.00581
August	1.00581
September	1.00581
October	1.00581
November	1.00581
December	1.00581
1979:	
January	1.00581
February	1.00667
March	1.00667
April	1.00667
May	1.00713
June	1.00713
July	1.00713

3. Section 271.202 is revised to read as follows:

§ 271.202 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

NGPA section	Category of natural gas	Type of sale or contract	Maximum lawful price per MMBtu for deliveries made in: May 1979	June 1979	July 1979
104	Post-1974 gas	All producers	1.684	1.696	1.706
	1973–1974 Biennium gas	Small producer	1.424	1.434	1.444
		Large producer	1.093	1.101	1.109
106(a)	Interstate Rollover gas	Small producer	.715	.715	.715
		Large producer	.623	.627	.631
104	Replacement contract gas or recompletion gas	Small producer	.796	.802	.808
		Large producer	.612	.616	.620
	Flowing gas	Small producer	.407	.410	.413
		Large producer	.342	.344	.346
	Certain Permian Basin gas	Small producer	.477	.480	.483
		Large producer	.419	.422	.425
	Certain Rocky Mountain gas	Small producer	.477	.480	.483
		Large producer	.407	.410	.413
	Certain Appalachian Basin gas	North subarea contracts dated after 10–7–69	.379	.382	.385
		Other Contracts	.355	.358	.361

* * * * * * *

6. Section 271.402 is amended by revising paragraph (c)(4) to read as follows:

§ 271.402 Maximum lawful prices.

* * * * *

(c) *Applicable higher rates.* * * *

(4) Notwithstanding § 270.101(b), the minimum rate for minimum rate gas (at 14.73 psia and 60° F) is the amount determined in the following table:

If delivery occurs in the calendar month of:	The rate per Mcf for minimum rate gas is:
May 1979	.208
June 1979	.209
July 1979	.210

subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	The maximum lawful price is:
May 1979	2.177
June 1979	2.198
July 1979	2.220

4. Section 271.302 is revised to read as follows:

§ 271.302 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	The maximum lawful price is:
May 1979	2.033
June 1979	2.047
July 1979	2.062

5. Section 271.402(a) is revised to read as follows:

§ 271.402 Maximum lawful prices.

(a) *Ceiling prices.* Unless a different rate is applicable under paragraph (c), the maximum lawful price for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	The maximum lawful price is:
May 1979	1.160
June 1979	1.168
July 1979	1.176

(b) The maximum lawful price, per MMBtu, for natural gas to which section 106(b)(2) of the NGPA (relating to certain State or Indian natural gas production interests) applies shall be the amount determined in accordance with the following table in lieu of the amount determined under the table under paragraph (a)(2) of this section:

If delivery occurs in the calendar month of:	The maximum lawful price is:
May 1979	2.177
June 1979	2.198
July 1979	2.220

8. Section 271.702 is revised to read as follows:

§ 271.702 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	The maximum lawful price is:
May 1979	2.177
June 1979	2.198
July 1979	2.220

9. Section 271.802 is revised to read as follows:

§ 271.802 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	The maximum lawful price is:
May 1979	2.329
June 1979	2.352
July 1979	2.375

10. Section 271.902 is revised to read as follows:

§ 271.902 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	The maximum lawful price is:
May 1979	1.684
June 1979	1.696
July 1979	1.706

PART 273—COLLECTION AUTHORITY; REFUNDS

11. Section 273.201(a)(1) is revised to read as follows:

§ 273.201 Transitional rule for certain new wells.

(a) *General rule.* (1) The price determined under the following table may be charged and collected for any first sale of natural gas from a new well to which this section applies:

If delivery occurs in the calendar month of:	The maximum lawful price is:
May 1979	1.684
June 1979	1.696
July 1979	1.706

(2) * * *

* * * * *

[Docket No. RM79–39]

[FR Doc. 79–13077 Filed 5–3–79; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 654

Modification of Rules for Classifying Labor Surplus Areas; Preference in Federal Procurement Under Defense Manpower Policy DMP–4A and Executive Orders 12073 and 10582

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is modifying its rules for classifying labor surplus areas under Defense Manpower Policy DMP–4A and Executive Orders 10582 and 12073 to extend the annual date for eligibility determinations of labor surplus areas and the cutoff date of the interim labor surplus area classification provisions. The extension is necessitated by unavoidable delays in developing the required employment and unemployment statistics.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Davis A. Portner, Office of Policy Evaluation and Research, 601 "D" Street, N.W., Room 9420, Washington, D.C. 20213, (202) 376–6274.

SUPPLEMENTARY INFORMATION: Defense Manpower Policy No. 4A (DMP–4A), 32A CFR Part 134, became effective November 3, 1977. The purpose of DMP–4A is to encourage the purchase of goods and services by the Federal Government and the placement of Federal facilities in areas of labor surplus. Under DMP–4A the Secretary of Labor is required to classify labor surplus areas and to disseminate this information for the use of all Federal agencies in directing procurement activity and locating new plants or facilities. Firms which agree to perform most of the work in labor surplus areas are eligible for preference in the award of procurement contracts and grants and the execution of agreements.

The regulations for classifying labor surplus areas in 20 CFR Part 654 were recently revised to reflect comments received on the previous regulations and to account for the Promulgation of Executive Order 12073, Federal Procurement in Labor Surplus Areas, which was signed by the President on August 16, 1978. 44 FR 1046 (January 3, 1979) and 44 FR 1688 (January 5, 1979). Among the revisions to the regulations was a change in the frequency of the classification of labor surplus areas from a quarterly to an annual basis. The purpose of this change was to provide greater stability in the contracting process. Thus, the regulations at § 654.4(d) establish May 1st as the annual date of eligibility determination and, at § 654.21, provide for an interim classification procedure during the period from January 1, 1979 through April 30, 1979.

Due to unforeseen and unavoidable delays in developing the necessary employment and unemployment statistics for classifying labor surplus areas under the new procedures, the Department will be unable to publish its annual listing by May 1st. The Department is therefore amending its regulations to extend the annual date of eligibility determinations to June 1st. The Department is also extending the interim classification of labor surplus areas beyond its expiration date of April 30, 1979. The current listing will remain in effect through May 31, 1979 when it will be replaced by the first annual listing on June 1, 1979.

The Secretary of Labor has determined that there is no need to prepare a regulatory analysis as discussed in Executive Order 12044, Improving Government Regulations. This rule is not expected to have any economic or inflationary impact.

Since these regulations involve a matter relating to "public property, loans, grants, benefits, or contracts" they are exempt from the rulemaking requirements of the Administrative Procedure Act, (5 U.S.C. § 553(a)(2)). Moreover, the Secretary of Labor has determined that it is in the public interest to publish these regulations in final form to avoid disruption of the Federal procurement process. This finding constitutes a waiver of the Department's regulation in 29 CFR 2.7. This rule will therefore become effective May 1, 1979.

Accordingly, Part 654, Chapter V, Title 20 of the Code of Federal Regulations is amended as follows:

PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

§ 654.4 [Amended]

1. Paragraph (d) of § 654.4, is amended by changing the date "May 1" to "June 1".

§ 654.21 [Amended]

2. The first paragraph of § 654.21 is amended by changing the date "May 1, 1979" to "June 1, 1979" and changing the date "April 30, 1979" to "May 31, 1979."

Signed at Washington, D.C., on May 2, 1979.

Ray Marshall,
Secretary of Labor.

[FR Doc. 79–14168 Filed 5–3–79; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 444

Certification of Sterile Tobramycin Sulfate

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic drug regulations to provide for the certification of sterile tobramycin sulfate. The manufacturer has supplied sufficient data and information to

establish the safety and efficacy of sterile tobramycin sulfate.

DATES: Effective May 4, 1979; comments by June 4, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: The agency has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of sterile tobramycin sulfate and concludes that the data supplied by the manufacturer concerning this antibiotic drug product are adequate to establish its safety and efficacy when the drug is used as directed in the labeling and that the regulations should be amended in Part 444 (21 CFR Part 444) to provide for the drug's certification.

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 444 is amended as follows:

1. In Subpart A, by adding new § 444.81a to read as follows:

§ 444.81a Sterile tobramycin sulfate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sterile tobramycin sulfate is the sulfate salt of 0-3-amino-3-deoxy-α-*D*-glucopyranosyl-(1→4)-0-[2,6-diamino-2,3,6-trideoxy-α-*D*-*ribo*-hexapyranosyl-(1→6)]-2-deoxy-*L*-streptamine. It is a lyophilized powder. It is so purified and dried that:

(i) Its potency is not less than 634 micrograms and not more than 739 micrograms of tobramycin per milligram on an "as is" basis. If it is packaged for dispensing, its content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of tobramycin that it is represented to contain.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(v) Its moisture content is not more than 2.0 percent.

(vi) Its pH in an aqueous solution containing 40 milligrams per milliliter, or when reconstituted as directed in the labeling, is not less than 6.0 and not more than 8.0.

(vii) It gives a positive identity test for tobramycin.

(viii) Its residue on ignition is not more than 1.0 percent.

(ix) Its heavy metals content is not more than 30 parts per million.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, moisture, pH, identity, residue on ignition, and heavy metals.

(ii) Samples required:

(*a*) If the batch is packaged for repacking or for use in the manufacture of another drug:

(*1*) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(*2*) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(*b*) If the batch is packaged for dispensing:

(*1*) For all tests except sterility: A minimum of 14 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample with sufficient sterile distilled water to obtain a stock solution of convenient concentration; also, if it is packaged for dispensing, reconstitute as directed in the labeling. Then, using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container; or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute with sterile distilled water to obtain a stock solution of convenient concentration. Further dilute a portion of the stock solution with sterile distilled water to the reference concentration of 2.5 micrograms of tobramycin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, using a solution containing 10 milligrams of tobramycin per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter.

(5) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(6) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 40 milligrams per milliliter, or if it is packaged for dispensing, reconstitute as directed in the labeling.

(7) *Identity.* Proceed as directed in § 436.318 of this chapter.

(8) *Residue on ignition.* Proceed as directed in § 436.207(a) of this chapter.

(9) *Heavy metals.* Proceed as directed in § 436.208 of this chapter.

2. In Subpart C, by adding new § 444.281 to read as follows:

§ 444.281 Sterile tobramycin sulfate.

The requirements for certification and the tests and methods of assay for sterile tobramycin sulfate packaged for dispensing are described in § 444.81a.

Because the conditions prerequisite to providing for certification of this drug have been complied with and because the matter is noncontroversial, the Commissioner finds for good cause that prior notice and public procedure are impracticable and unnecessary, and that the amendment may become effective upon the day of its publication in the Federal Register.

Interested persons may, on or before June 4, 1979, file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments, in four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document. Comments received may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date. This regulation shall be effective May 4, 1979.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

Dated: April 30, 1979.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[Docket No. 78 N–0274]

[FR Doc. 79–13876 Filed 5–3–79; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 240

Mortgage Insurance on Loans for Fee Title Purchase; Increase in Maximum Loan Amounts

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule increases the maximum mortgage amount for the purchase of a fee title in Hawaii to $30,000. The increase is authorized by law and is intended to increase participation in the program.

EFFECTIVE DATE: May 24, 1979.

FOR FURTHER INFORMATION CONTACT: William A. Rolfe, Director, Single Family Insured Housing Division, Office of Single Family Housing, Department of Housing and Urban Development, Room 6124, Washington, D.C. 20410, Telephone: (202) 755–6887.

SUPPLEMENTARY INFORMATION: Section 314 of the Housing and Community Development Amendments of 1978 increased the maximum amount of loans insurable under Section 240 of the National Housing Act for the purchase of fee simple titles in Hawaii to $30,000. The Secretary has determined that in order to comply with the statutory amendment an amendment to 24 CFR Part 240 is necessary, that advance notice and public procedure are unnecessary and that cause exists for making this amendment effective less than 30 days after this publication.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Accordingly, the Department amends § 240.5(a) of Chapter II of Title 24 CFR as follows:

§ 240.5 Maximum loan amounts.

* * * * *

(a) The cost of purchasing the fee simple title or $10,000 ($30,000 if the property is located in Hawaii) per family unit, whichever is the lesser; or

* * * * *

(Sec. 3, Pub. L. 75–424, 52 Stat. 9 (12 U.S.C. 1715(b); sec. 7(d), Pub. L. 89–174, 79 Stat. 670 (42 U.S.C. 3535(d))); Pub. L. 95–557, 92 Stat. 2099, 12 U.S.C. 1715z–5)

Issued at Washington, D.C., April 24, 1979.

Lawrence B. Simmons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[Docket No. R–79–696]

[FR Doc. 79–14052 Filed 5–3–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Cape Cod National Seashore; Private Oversand Vehicle Operation

AGENCY: National Park Service.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to redesign the existing permit system for private oversand vehicles at Cape cod as a system of special recreation permits and to authorize the charging of fees for these permits, in accordance with Section 4 of the Land and Water Conservation Fund Act of 1965, as amended. The amendment also includes in the regulation, descriptive standards for the items with which vehicles must be equipped in order to qualify for permits and operate on oversand routes. In addition, there is a decrease in permitted speed on these routes.

EFFECTIVE DATE: May 4, 1979.

FOR FURTHER INFORMATION CONTACT: Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663, Telephone: (617) 349–3785.

SUPPLEMENTARY INFORMATION:

Background

The intent of the regulations is to control vehicular use on marked oversand trails within the seashore to protect the fragile resources and to promote public safety. The Department of the Interior, National Park Service, has determined that special recreational permit fees are required at Cape Cod National Seashore. Subsection 4(c) of the Land and Water Conservation Fund Act, (86 Stat. 459, as amended, 16 U.S.C. 460*l*–6a(c)), specifically authorizes the charging of fees for these permits.

A proposal was published on Thursday, March 23, 1978 (43 FR 12042) to amend Section 7.87 of Title 36 of the Code of Federal Regulations.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections to the proposed amendment. A total of thirteen letters were received commenting on the proposed revision. Of the thirteen letters, six were from individuals and six were from organized sportsmen groups located along the Atlantic Coast. Seven letters recommended the establishment of a short-term permit that would accommodate the one-time visitor. A uniform permit system for use on all eastern national seashores was suggested in five letters.

The National Park Service concurs that the establishment of a short-term permit will provide a more equitable fee structure for the occasional oversand vehicle user. Accordingly, provision for a short-term permit will be made as a part of the special recreation permit system at Cape Cod National Seashore.

As a result of the letters suggesting a uniform permit system for the use of oversand vehicles on all eastern national seashores, and both previous and subsequent requests from various off-road vehicle and sport fishing groups, the National Park Service is in the process of investigating the feasibility of a uniform permit system. This analysis will consider such items as the legality and practicality of a common permit, common equipment requirements and the criteria for permit fees contained in the Land and Water Conservation Fund Act of 1965, as amended, and implemented by Section 18.10 of title 43 of the Code of Federal Regulations.

The reduced speed limit and modified equipment standards are adopted as a result of public concern expressed both prior to and during the public comment period.

Authority

Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended, 16 U.S.C. 3); the Act of August 7, 1961, (75 Stat. 288, 16 U.S.C. 459b *et seq.*); and section 4 of the Land and Water Conservation Fund Act of 1965 (86 Stat. 459, as amended, 16 U.S.C. 460*l*–6a).

Drafting Information

The primary author of this regulation is Harry Delashmutt, Chief Ranger, Cape Cod National Seashore.

Impact Analysis

The National Park Service has determined that this document is not a significant rule requiring preparation of

a regulatory analysis under Executive Order 12044 and Part 14 of title 43 of the Code of Federal Regulations; nor is it a major Federal action significantly affecting the quality of the human environment, which would require preparation of an Environmental Impact Statement.

Richard S. Tousley,

Acting Associate Director, Management and Operations, National Park Service.

April 27, 1979.

In consideration of the foregoing, subparagraphs (c)(1) and (c)(7) of 36 CFR 7.67 are amended to read as follow:

§ 7.67 Cape Cod National Seashore.

* * * * *

(c) *Private oversand vehicle operations.* (1) The Superintendent is authorized to establish a system of special recreation permits for private oversand vehicles and to establish special recreation permit fees for these permits, consistent with the conditions and criteria of 43 CFR 18.10. Operation of privately owned motor vehicles not-for-hire (including all forms of vehicles used for travel oversand) on designated routes in the park area without a special recreation permit is prohibited.

(i) Before a permit will be issued, each vehicle will be inspected to assure that it is equipped as follows:

(A) *Shovel* of a heavy duty type equal to or better than the military folding entrenching tool.

(B) *Tow rope,* chain, cable or other similar towing device not less than 14 feet in length with a minimum working load strength of 1,400 lbs. (Chain size 5/16"; cable ¼"; hemp 1"; nylon ¾"; or polypropylene ¾".) The towing device will be equipped with grab hooks or other suitable attaching devices on both ends.

(C) *Jack support,* board or similar support, to have a surface of not less than 144 square inches and be no more than 18 inches in length. Thickness to be not less than ⅝" if plywood and not less than 1½" if of solid wood. Other materials must equal the strength and durability of the standard wood supports.

(D) *Jack* of the standard size and type as that which comes with the vehicle.

(E) *Tire gauge,* low pressure, able to register to a minimum of 5 psi.

(F) *Tire,* meeting the following standards:

(*1*) Tires for four-wheel drive vehicles will comply with standards established and made available through the Office of the Superintendent. This list is subject to continual revision due to technological and nomenclature changes by manufacturers.

(*2*) Two-wheel drive vehicles are to be equipped with tires of sufficient size and configuration to propel the vehicle over designated routes without excessive wheel spin or becoming inoperable when the vehicle is operated at speeds not to exceed 15 MPH, except that no drive tires will be less than an "H" series.

(ii) Prior to the issuance of a permit, operators must show compliance with Federal and State regulations applicable to licensing, registering, inspecting, and insuring of such vehicles.

(iii) An oversand vehicle permit must be affixed to the vehicle as specified at time of issuance.

(iv) Any vehicle being operated on designated routes must be equipped as required in (1)(i) of this paragraph.

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(7) Maximum speed shall not exeed 15 miles per hour.

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[FR Doc. 79-13886 Filed 5-3-79; 8:45 am]

BILLING CODE 4310-70-M

POSTAL RATE COMMISSION

39 CFR Part 3001

Order Amending Rules of Practice to Reflect Adoption of Comprehensive Domestic Mail Classification Schedule (DMCS) Issued April 30, 1979.

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: This rule amends the rules of practice of the Commission to reflect the adoption of a comprehensive DMCS by the Governors of the Postal Service on April 3, 1979. This rule adds to our Rules of Practice a definition of DMCS which makes it clear that the Commission regards schedules of rates and fees that were included as part of the DMCS recommended by the Commission in Docket No. MC76–5 as integral parts of the DMCS adopted by the Governors on April 3, 1979. In addition, this rule requires that proposed changes in postal rates or classifications filed formally by the Postal Service with the Commission include all amendments to DMCS rate and fee schedules that such proposed changes would require.

EFFECTIVE DATE: April 30, 1979.

FOR FURTHER INFORMATION CONTACT: David F. Stover, Assistant General Counsel (Regulation), U.S. Postal Rate Commission, 2000 L Street, N.W., Suite 500, Washington, D.C. 20268, (202) 254–3830.

SUPPLEMENTARY INFORMATION: On April 3, 1979, the Governors of the United States Postal Service rendered their decision adopting the Recommended Decision of the Postal Rate Commission in Docket No. MC76–5 concerning the scope and extent of the Domestic Mail Classification Schedule (DMCS). The decision of the Governors does not purport to allow under protect, modify or reject the reommended decision of the Commission, as 39 U.S.C. 3625 authorizes. Nevertheless, it creates some uncertainty as to the nature and form of this and subsequent recommended decisions of the Commission. It is therefore incumbent upon us to apprise the parties and the public, of our interpretation of the form and nature of the DMCS that has been adopted as a result of the Governors' Decision, and to adopt certain "housekeeping" amendments to our rules of practice that bring them into conformity with the newly-adopted comprehensive DMCS.

The Commission's recommended decision concerning the scope and extent of the DMCS recommended the adoption of the Domestic Mail Classification Schedule set forth in Volume 2 of that decision. Volume 2 included schedules of full and phased rates for all classes of service offered by the Postal Service and was transmitted to the Governors as a single, integral schedule. The decision of the Governors adopting the schedule appearing in Volume 2, however, took the form of two physically separated documents. The Governors' Decision was attached only to pages i through v, and pages 1 through 170 of Volume 2. Pages vi and vii, and pages 171 through 259 of Volume 2, consisting of schedules of full and phased rates for all Postal Service offerings, were transmitted with the Governors' Decision, but as a separate document.

The ordering paragraph of the Governors' Decision ordered the schedule "as attached hereto" into effect. If read literally, that decision could be construed to adopt as the DMCS only pages i through v and 1 through 170 of Volume 2. Also supporting such an inference, is a statement at page 6 of that decision's narrative section asserting that the Commission attached "separate and distinct rate schedules to the Domestic Mail Classification Schedule as illustrative, and not recommended, rates and fees."

Any implication in the Governors' Decision that we did not recommend that the rate schedules set forth in Volume 2 be adopted as an integral part of the DMCS would, however, constitute a misinterpretation and modification of our recommended decision. While our recommended decision does not regard unit rates as substantive classification requirements, it does regard schedules of rates and fees as inseparable from the remainder of the DMCS. It does so for several reasons.

In terms of regulatory theory, applicable rates and fees are no less appropriate for inclusion in the DMCS than any other term of availability of a service offering. Indeed, they should be viewed as central terms of availability, without which the remaining terms of availability have little meaning.

But rate and fee schedules are inseparable from the DMCS for several practical reasons as well.

Some conditions of rate applicability, including the presortation requirements for presorted first-class mail, and the weight threshold for priority mail, appear only in the rate schedules themselves.[1] The schedules of rates and fees, therefore, must be included if the DMCS is to contain all of the terms of availability of the various classes of service. Furthermore, there are numerous cross-references throughout the DMCS to these schedules of rates and fees. Therefore, if the schedules of rates and fees were excluded from the DMCS, the DMCS would not be an integral and self-contained statement of the terms of availability of the Postal Service's offerings.

For these reasons the Commission finds it necessary and proper to include in its Rules of Practice and Procedure a definition of "Domestic Mail Classification Schedule" that removes uncertainty as to the status of the schedules of rates and fees as integral parts of the DMCS.

The Commission notes that with the establishment of a comprehensive DMCS, the need arises to keep the schedules of rates and fees included therein current. To aid the Commission in this task, the Commission has determined to amend Rules 54 and 64 of its Rules of Practice to require all formal filings that propose changes in postal rates or classifications to include schedules, arranged in legislative format, showing any conforming changes to the rate and fee schedules of the DMCS that such proposals would require.

Accordingly, the Commission finds:

(1) The rules of practice and procedure herein adopted are necessary and proper to carry out the provisions of the Postal Reorganization Act.

(2) Since the rules herein adopted are rules of practice and procedure, the notice, hearing, and effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) are not applicable.

(3) Because our experience with the comprehensive DMCS recently adopted is brief, we will consider subsequent amendments to the procedural rules herein adopted if interested parties demonstrate them to be appropriate.

The Commission, acting pursuant to the authority provided by 39 U.S.C. § 3603, and in accordance with 5 U.S.C. 552, orders:

1. Section 3001.5, Subpart A, Part 3001, Subchapter A, Chapter III, Title 39 of the Code of Federal Regulations, is amended by adding a new § 3001.5(p), which reads as follows:

§ 3001.5 Definitions.

* * * * *

(p) "Domestic Mail Classification Schedule" means the classification schedule, including schedules of full and phased rates and fees, adopted by the Decision of the Governors of the United States Postal Service Re Recommended Decision of the Postal Rate Commission Regarding the Proper Scope and Extent of the Mail Classification Schedule, issued April 3, 1979, and any amendments thereto adopted pursuant to the procedures of Subchapter III, Chapter 36, Title 39 of the United States Code.

2. Section 3001.54(b)(1), Subpart A, Subchapter A, Chapter III, Title 39 of the Code of Federal Regulations is amended by changing the first sentence thereof to read as follows:

§ 3001.54 Contents of formal requests.

* * * * *

(b) * * *

(1) Every formal request shall include schedules of the then effective rate or rates of postage and fee or fees for all postal services, and, arranged in legislative format, schedules of the rate or rates of postage and fee or fees for all postal services proposed by the Postal Service, as they would appear in the Domestic Mail Classification Schedule.

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3. Section 3001.64(b)(1), Subpart A, Subchapter A, Chapter III, Title 39 of the Code of Federal Regulations is amended to read as follows:

§ 3001.64 Contents of formal requests.

* * * * *

(b) * * *

(1) Every formal request shall include copies of the then effective Domestic Mail Classification Schedule and the proposed changes therein, including, in legislative format, all proposed changes in the schedules of rate or rates of postage and fee or fees for postal services that appear therein.

* * * * *

By the Commission.

David F. Harris,

Secretary.

[Order No. 272; Docket No. RM79-3]

[FR Doc. 79-13885 Filed 5-3-79; 8:45 am]

BILLING CODE 7715-01-M

[1] *See* PRC Op. MC76–5, Vol. 2, pp. 263–64. These terms of availability were contested in Docket No. MC76–5, and were the subject of findings and conclusions in the narrative opinion accompanying our Recommended Decision.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

45 CFR Parts 205, 206, 233

Budgeting Methods States May Use To Determine Eligibility and Amount of Assistance Under Aid to Families With Dependent Children Program

AGENCY: Social Security Administration, HEW.

ACTION: Final rules.

SUMMARY: These rules provide that a State may use a prospective budgeting method (using estimated income) or a retrospective budgeting method (using actual reported income) to determine eligibility for AFDC and the amount of the AFDC assistance payment. Under retrospective budgeting, income received in the prior budget month is the basis for calculating the assistance payment for the current payment month. States which choose a retrospective method but cannot make the monthly assistance payment within 25 days of the end of the budget month are required to provide supplemental payments to recipients who are eligible for them and request them. A recipient is eligible for a supplemental payment if the family's income plus assistance payment for the current month is less than at least 80 percent of the amount a State pays for a similar family with no income. All States using retrospective budgeting must require monthly income reporting from recipients who have earned income.

The rules affect recipients of AFDC in all jurisdictions and the adult assistance titles of the Social Security Act (I, X, XIV, and XVI (AABD)) administered in Guam, Puerto Rico, and the Virgin Islands.

EFFECTIVE DATE: May 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Constance Katz, 330 C Street, S.W., Washington, D.C. 20201, telephone (202) 245–0982.

SUPPLEMENTARY INFORMATION: On October 4, 1978, these rules were published in the **Federal Register** as a Notice of Proposed Rulemaking (43 FR 45888).

Need for Regulations

Neither the Social Security Act nor our regulations have any specific provisions on what budgeting methods a State may use to determine the amount of AFDC assistance payments. The Social Security Act does not speak to the frequency with which income should be measured and reported or the proper correlation between an income measurement period and the date of the corresponding assistance payment. Similarly, regulations to date contain no periodic income reporting rules and do not define the interval over which income should be considered. As a result, States vary greatly in how they obtain reports of income from recipients and in their budgeting methods. (*See* Congressional Research Service, United States Library of Congress, Administration of the AFDC Program—A Report to the House Committee on Government Operations (1977)). The lack of precise rules has caused much uncertainty among the States, recipients, and HEW. These rules are intended to help clear up this uncertainty by defining two specific budgeting methods between which States may choose.

Public Involvement

We published an earlier Notice of Proposed Rulemaking on August 19, 1975 (40 FR 36141), which would have required states to adopt a retrospective, "prior month" budgeting system. This was withdrawn on October 4, 1978, and superseded by a new NPRM published on that date. We have drafted these rules with the benefit of extensive comments on both NPRM's, received from Governors, State agencies, city and county welfare agencies, legal aid groups, members of Congress, and other organizations and individuals. We have met with the staffs of States using retrospective budgeting, with staffs of some States considering adopting it, and with representatives of interested recipient groups. Provisions that respond to many of the concerns raised by written comments and in those meetings have been incorporated in these rules. In addition, recent research and demonstration projects, and further State experience with different budgeting methods, have provided evidence that has contributed to the rules.

Provisions of the Regulations

Implementing the Law

The rules specify the budgeting methods which a State is permitted to use in determining eligibility for and the amount of the assistance payment under titles I, IV–A, X, XIV, and XVI (AABD) of the Social Security Act. These rules implement Sections 402(a)(5), 402(a)(7) and 402(a)(10) of the Social Security Act covering the title IV–A program (AFDC) and parallel provisions for the other titles. Section 402(a)(5) requires a State plan to "provide such methods of administration . . . as are found by the Secretary to be necessary for the proper and efficient operation of the plan". Section 402(a)(7) requires that a State plan must "provide that the State agency shall, in determining need, take into consideration any other income and resources" of any person claiming AFDC benefits. Section 402(a)(10) requires a State plan to provide that AFDC "shall . . . be furnished with reasonable promptness to all eligible individuals."

Budgeting Methods

The rules require a State to select and identify in its plan one of two budgeting methods for computing the amount of financial assistance a recipient receives. One method is prospective budgeting, under which the amount of assistance for a month is based on an estimate of income the assistance unit will receive in that month. The second method is retrospective budgeting, under which continuing assistance is based on the recipient's income in an earlier month.

Prospective Budgeting

Under the prospective budgeting method, which is the one most widely used by states, the amount of the AFDC assistance payment for a month is based on the best estimate of the income and circumstances reasonably expected to exist during the month. The estimate is made on the basis of the agency's knowledge of past, current and future circumstances of the recipient.

We will soon be recodifying Part 233 of Chapter II, Title 45 Code of Federal Regulations. In that recodification we will provide more specific rules on prospective budgeting. In these regulations, we concentrate on rules for retrospective budgeting, because there is a more immediate need for clarity regarding what the Department will permit under that approach.

Retrospective Budgeting

Definition

Under the retrospective budgeting method, the state computes the amount of the assistance payment for each payment month based on actual income received in a prior month, defined as the "budget month". The payment thus computed is the correct payment for that payment month.

Time Requirement of Making Assistance Payments

Under retrospective budgeting, a State must make assistance payments to recipients within specific time limits. A State has two options. It may choose to make payments within 25 days after the end of the budget month, or it may choose to make payments between 25 and 45 days after the end of the budget month. Under either option, a State is required to have procedures which assure that payments will be made on schedule to all recipients who file on time a monthly report and to those who are not required to file a report.

Supplemental Payments Under Retrospective Budgeting

When a State does not meet the 25 day standard, it is required to give supplemental payments within 5 days of the request to recipients who are eligible for them and request them. We require this payment be made in order to help maintain a family during the time it takes for the assistance payment to reflect a change in circumstances, particularly when there is a loss of income. A State that pays within 25 days may provide supplemental payments but is not required to make them.

The supplemental payment must be paid to an eligible individual for the month in which it was requested. For example, it must be paid for June when it is requested in June. Conversely, a recipient may not wait until July to request a supplemental payment for June.

A recipient is eligible for a supplemental payment if the recipient's income and regular assistance payment for a month total less than 80 percent of the amount a State pays for a similar family with no income. However, a State may choose to pay from 80 to 100 percent. For example, assume that $400 is the most assistance a State will pay to a family of 4. If the State elects to meet 80 percent, then the supplement would be computed by deducting the family's income and regular assistance payment for that month from $320. If the State elected to meet 100 percent, income and regular assistance would be deducted from $400.

The supplemental payment assures that a family will receive no less than 80 percent of the amount of a State's payment to a family of similar size with no income. Although we will match supplemental payments up to 100 percent, States have the option of providing a supplement in the 80 to 100 percent range. This option recognizes

the nature of the supplemental payments as an amount which is meant to carry the family over until the budgeting system reflects the change in circumstances. The supplemental is not meant to meet all of the recipients' needs for that month, but rather merely to carry them over until their check reflects the income they had in the budget month. A State's full monthly payment includes costs which are incurred over time, such as clothing, furniture, etc. These expenses in time will be adequately met under a retrospective budgeting system. It is the immediate need for food or to pay rent or other essential needs to which the supplemental payment is addressed, and studies show that these needs account for less than 80 percent of the AFDC payment.

When the State computes the amount of the supplemental payment, it must include as income the assistance payment for that month and any income received or expected to be received by the recipient. The State may not include income which is paid for work-related expenses. This exclusion of income used for work expenses was inadvertently omitted from the October 1978 NPRM.

In computing the regular monthly assistance payments a State is required to disregard the first $30 of income and one-third of the remaining income. However, for purposes of computing the supplemental payment, the State does not have to disregard this income. The State may also choose not to disregard other kinds of income which must be disregarded in computing the regular monthly assistance payment. This rule specifies exceptions to this policy, however, when income is provided for purposes such as educational loans and relocation assistance.

The October NPRM required a State to consider liquid resources as income for purposes of the supplemental payment. This rule permits a State the option to either include or exclude as income cash in hand or available in bank accounts.

Determining Eligibility and Computing the Assistance Payment in the Initial One or Two Months

This rule provides that a State must determine eligibility and the payment for at least the first month prospectively, i.e., using its best estimate of income and circumstances which will exist in that month. A State which makes assistance payments within 25 days has the option to determine eligibility and compute assistance prospectively for the second payment month. However, a State which does not make payments within 25 days has no option and is required to continue prospectively for the second month of assistance. This position was taken in response to the concerns raised by comments to the NPRM published in the **Federal Register** on August 19, 1975. The NPRM would have mandated use of retrospective budgeting in initial months, using the 30-day period preceding application as the first budget month. Many of the commenters on the 1975 NPRM viewed the 30-day period as imposing a waiting period for assistance in violation of Section 402(a)(10) of the Social Security Act, as well as increasing the use of State-funded general assistance programs.

When a person who previously received assistance reapplies during the same month in which a termination became effective, the amount of the assistance payment will be computed retrospectively beginning with the first month of the new eligibility. This is an exception to the requirement that payment for the initial one or two months be computed prospectively. It has been included because of the potential that the requirement for prospective budgeting in the initial months would eliminate considerable income from consideration. To avoid such "gaps" in income considerations, we require that a State compute the initial payments retrospectively for people who return to the rolls during the same month in which their assistance was terminated.

Computing the Assistance Payment After the Initial One or Two Months

Following the initial one or two months of assistance, a State must compute the amount of each subsequent month's payment on the basis of earned and unearned income received in the prior budget month.

In some cases, the budget month upon which the first retrospective payment is based will include income received before the recipient applied for assistance. We do not believe this income should be considered in determining the amount of assistance. To a significant extent this is why we require that prospective budgeting be used in the first month or two.

To overcome this problem, the rule does not permit a State, in computing the first retrospective payment, to consider income received before the date of application for assistance. This prohibition does not apply to situations in which the State uses retrospective budgeting for a person who is eligible for assistance and reapplies during the month in which assistance was terminated, as described above.

Determining Eligibility After the Initial One or Two Months

A State has three options for determining eligibility before it computes the amount of the assistance payment. Under the first option, a State must consider all factors of eligibility retrospectively. For example, when a State determines eligibility for the month of June, it must consider income and circumstances which existed in the earlier budget month. If a family is eligible to receive a payment based on a previous month's (the budget month) information, the family would receive an assistance payment for the month of June.

Under the second option, a State must consider all factors of eligibility prospectively. In the above example, a State would determine eligibility for the month of June by considering income and circumstances which are reasonably expected to exist during the month of June. If the family is found ineligible for June, the State would not make payment for that month. If the family is eligible for June, the State must compute the payment based on information from the prior budget month to make the payment for June.

The third option requires a State to use a combination of the other two options. The State determines eligibility for factors other than income, by considering circumstances which are reasonably expected to exist in the payment month. For example, an unemployed father in an AFDC–UF case notifies the agency that he expects to be employed full time in June. The family would be ineligible for June. However, when the State determines whether a family has too much income to be eligible for June, the State must consider income received in the earlier budget month. If the family meets all the requirements, the State must issue a payment for June.

Monthly Reporting

In a State which uses retrospective budgeting, recipients with earned income, other than income from self-employment, must file a monthly report. The State may require recipients with unearned income, no income, or income from self-employment, to file a monthly report. In the 1978 NPRM, we did not exclude self-employment income. We have added the exclusion in response to commenters who pointed out the difficulty of computing net profit on a month to month basis.

We also specify in this regulation more detail about the format of the

the requirement of 45 CFR 205.10(a)(4)(i)(B) for adequate notice.

which the budgeting method cannot compensate within a reasonable period

raise its payment level equitably for all recipients.

writing, that the supplemental payment is available, when they can get one, and

known income, earned and unearned, from the budget month.

We also specify in this regulation more detail about the format of the monthly report than was in the 1978 NPRM. The form must be easy to understand, specify whom the recipient can contact for help in completing the form, inform recipients about supplemental payments, specify the due date and explain the consequences of missing it, and include a statement, signed by the recipient, that he understands that assistance might be reduced or terminated as a result of his report.

The State must allow the recipient at least 5 days to complete the report and give the recipient at least five days after the close of the budget month to file the report. In addition, the agency must provide a stamped, self-addressed envelope for returning the monthly report.

What Notices Are Required

The monthly reporting requirement produces a number of different notices depending on when a monthly report is received and what use is made of the information:

1. If a completed monthly report is received on time, the State must notify the recipient of any changes in the assistance payment and the reasons for the changes. The notice must meet the requirements of 45 CFR 205.10(a)(4)(i)(B) on adequate notice. When assistance has been reduced or terminated, the notice must be received by the recipient no later than his or her resulting payment or in lieu of the payment. A 10-day notice is not required. However, the recipient is protected because he or she can have his or her previous month's level of assistance reinstated by requesting a fair hearing within 10 days.

2. If a completed report is not filed on time, the agency must send a notice to the recipient which informs him or her that the report is overdue or is not complete. This notice must inform the recipient that he or she has at least 10 additional days to comply. It must also inform the recipient that termination may result if that is the agency's policy, if the report is not filed within the extension period. This notice must be sent so that it reaches the recipient at least 10 days before the expected payment for which the monthly report was filed. A recipient who files within the 10 day extension receives a payment but this payment may be delayed.

If a monthly report is not received by the end of the extension period, a State may terminate assistance. If a State decides to terminate assistance it must send the recipient a notice which meets the requirement of 45 CFR 205.10(a)(4)(i)(B) for adequate notice.

3. Under both 1 and 2 above, a recipient receives a notice any time an action is taken by the agency which affects him or her. However, because of the nature of the monthly reporting requirement, it is impractical to require that the notice be sent 10 days before an action based on his or her report would become effective. A recipient who files the required reports is protected since he or she may have assistance reinstated immediately by requesting a fair hearing within 10 days after learning that assistance has been reduced or terminated. Furthermore, the recipient is informed by the monthly report that it will be used to determine the next assistance payment and therefore, if conditions are not identical, a recipient will not expect to receive the same payment each month.

Comments

Supplemental Payments Should Be Required for Both Options

Comments: Several groups stated that supplemental payments should be required under both retrospective budgeting options. Also supplemental payments should be required for changes other than reduced income.

Response: If a State using retrospective budgeting makes assistance payments within 25 days of the end of the budget month, the recipient can receive a quicker response than is required under the current prospective budgeting method, there we allow a State 2 months to adjust AFDC payments. Therefore, we do not believe it is necessary to require supplemental payments where a State meets the 25 day standard. Where States cannot meet this standard, we believe the supplemental payment is necessary to help the system provide a timely response to changes.

It should be noted that these regulations do not preclude States from using supplemental payments under both options.

Elimination or Restricted Use of Supplemental Payment Provision

Comment: There were three suggestions that the supplement be paid only when employment ends. The State would then not have to determine hardship which is very judgmental. Two States urged that supplements not be required.

Response: We believe that supplemental payments are necessary to maintain the family at any time there is a sudden change in circumstances for which the budgeting method cannot compensate within a reasonable period of time. In response to comments, we have eliminated the requirement for a determination of hardship and replaced it with less subjective criteria for supplemental payments. When a recipient's income for the month drops below a level set by the State (which must be at least 80% of the State's payment level), the recipient is entitled to request and receive a supplement. The rule also gives States some latitude in what they include as "income."

The 3-Day Time Limit for Making Supplemental Payments

Comment: Several States said that the 3-day time limit for paying the supplement is administratively difficult; it does not allow time for verification. One State suggested that the time span should be a State option. Another State asked whether FFP would be available if the supplement is paid by a voucher (i.e., a vendor payment) rather than by cash.

Response: We have revised the rule to permit 5 working days for payment of the supplement. This will permit longer processing time yet retain the value of this payment as rapid assistance in time of sudden need. Federal financial participation is available for vendor payments for supplements to the same extent it is available for the assistance payments themselves (i.e., where particular sanctions or mismanagement apply).

Denying Federal Financial Participation (FFP) for Excessive Supplemental Payments

Comment: One commenter questioned the legality of denying FFP to a State which supplements a family's gross income and resources by an amount which is more than the State's AFDC payment level for a family with no income. The commenter felt that HEW has no authority to bar a State from using a current needs system to determine eligibility for a supplemental payment.

Response: Under the final regulations States have great flexibility to determine the amount of a supplemental payment. They may issue a supplemental check in an amount which, together with the assistance payment received in the month, equals the most a State pays a family similarly situated. We do not believe the supplemental payment should be used to extend to some people total assistance greater than that available to others in the same situation. If a State wishes to pay more, it must raise its payment level equitably for all recipients.

Adequacy of Supplemental Payments

Comment: Advocacy groups commented that the proposed amount for supplements does not sufficiently compensate for the loss or decline in income. They recommended that the supplemental payment be a least 100 percent of the amount that would be paid if the family had no income. The commenters pointed out that in many cases this is still less than the State's standard of need.

Response: We have revised the provisions on supplemental payments to eliminate the highly judgmental "hardship" requirement. We have also excluded employment expenses from what could be considered total income and dropped the requirement that liquid resources be considered.

The minimum level of the supplement has been increased from 75 percent in the NPRM to 80 percent. We will also match up to 100 percent.

The basic purpose of the supplement is to provide immediate relief to a family, after an unanticipated change of circumstances, until the budgeting system adjusts the monthly assistance payment. A supplemental payment is not intended to meet all of a recipient's needs for that month. A State's full monthly payment includes costs which occur over time, such as clothing, furniture, etc. These expenses will be adequately met under a retrospective budgeting system. It is immediate essential needs which the supplemental payment seeks to meet.

Disposing of Liquid Resources

Comment: Many commenters believe that a recipient should not have to dispose of liquid resources to be eligible for supplemental payments. This requirement discourages financial thrift by recipient families. It causes further hardship where the family must spend its resources that are needed for everyday living, and is inequitable because it doesn't apply to a family with non-liquid resources. Many commenters said that in fact very few recipients have liquid resources. Several States believes that the inclusion of liquid resources would lead to increased error.

Response: We have changed the policy so that a State may now exclude liquid assets when determining the amount of the supplemental payment.

Informing Recipients About Supplemental Payments

Comment: Several groups said that recipients should be told, orally or in writing, that the supplemental payment is available, when they can get one, and how to apply. There was one comment that the payment should be triggered automatically, when a recipient's payment and countable income fall below the State's maximum aid payment.

Response: The regulations require the report to inform recipients about the supplemental payments. There is no way, within a retrospective budgeting system, to automatically trigger a supplemental payment in the month in which there is a decline in income. Information on the decline will not normally be received until the month following the budget month. Therefore, only the recipient knows during a particular month about a change in circumstances which warrants a supplement. Under this circumstance, he or she must request one.

Quality Control Review of Supplemental Payments

Comment: Some States questioned how HEW's AFDC Quality Control Program will review the accuracy of supplemental payments.

Response: Under our quality control system, we will review the correctness of supplemental payments in accordance with this regulation, permissible State practice, and the special provisions applicable to changes in recipient's circumstances, under 45 CFR 205.40. A supplemental payment which reflects correct case facts, and which is computed in accordance with this rule, will be a correct payment.

Use of Income Before Eligibility

Comment: There was concern that under retrospective budgeting rules, determining eligibility and computing assistance payments would be based on income received before a family became eligible for assistance and, therefore, before they were in need.

Response: These regulations now provide that in determining the payment for the month in which retrospective budgeting begins, the State must not consider income received before the date of application.

Treatment of Unearned Income

Comment: Some commenters requested that unearned income be treated prospectively, even in a retrospective system.

Response: We see no reason for treating earned and unearned income differently. Under a retrospective budgeting system, the amount of the payment must always be based on known income, earned and unearned, from the budget month.

Need for Specific Standards

Comment: The regulations as published in the NPRM are vague. Standards are needed for reporting, processing, due process, and supplementation. These are necessary to protect the rights of recipients and to ensure that States properly and efficiently administer retrospective budgeting.

Response: We have added specifics to the rule in each of the areas identified by the commenters. In particular, we have been more specific regarding (1) monthly reporting of income and the scope of the reporting form; (2) use of notices before the State adjusts or terminates payments; and (3) the right to request a supplement, and when and to whom supplemental payments must be made.

10-Day Prior Notification Period

Comment: Some commenters feel that timely notice as defined under 45 CFR 205.10(a)(4), should not be required when a State intends to reduce or terminate assistance on the basis of information provided in a monthly report. Other commenters feel that the regulations should require some form of advance notice in these situations.

Response: We have not required advance notice when the agency intends to reduce or terminate assistance on the basis of information provided in the report. We do require that adequate notice be sent whenever there is a change or assistance is terminated. That notice must explain the reasons for the action. Since the agency cannot compute assistance without the monthly report, the recipient, therefore, cannot expect a check until he or she has provided the necessary information in the report. In addition, the report form will clearly indicate to the recipient that changes in the assistance payments can result from the information on the form.

A recipient is protected by the rule which requires a State to reinstate assistance immediately at the prior month's level, when a recipient requests a fair hearing within 10 days of a reduction or termination based on information in the monthly report. The payment must be made from the date that assistance was reduced or terminated.

Violation of Federal Law

Comment: Retrospective budgeting violates Federal law because the amount of the assistance payment is

based on income which is not available

Retrospective Budgeting and Medicaid

retrospective budgeting. The date the

Response: We believe that a sufficient

than without a monthly report, while the

based on income which is not available for current use.

Response: Neither the Social Security Act nor Federal regulations deal expressly with the budgeting methods that may or may not be used by States. This reflects, we believe, the wide latitude given the States in the administration of their respective AFDC programs. The regulation that income not available for current use not be considered is directed against premature anticipation of income and against income not actually received. However, this rule has long been accompanied by other regulations which recognize that income changes may not be reflected for one or two months. We do not believe that the Act or the regulations ties the consideration of income to the payment of assistance in a particular month. We also believe that retrospective budgeting falls within the meaning of the availability of income regulation.

Coordination Between AFDC and Food Stamp Programs

Comments: Two States urged coordination between AFDC and Food Stamps.

Response: There has been considerable discussion between HEW and the Department of Agriculture to assure that the implementation of monthly reporting and retrospective budgeting in AFDC will not hamper a State's ability to comply with Food Stamp requirements. The current Food Stamp regulations are consistent with our regulations regarding the use of monthly reports in AFDC.

Alternatives to Proposed Budgeting Methods

Comment: There were several comments that a State should be allowed to use a variation of the methods provided in the NPRM. For example, it was suggested that the 30-day period before the date of application be the first budget period. Another suggestion was that retrospective "averaging" of several months' income be permitted.

Response: We have specified two budgeting methods, with two options under retrospective budgeting regarding payment times and three options relating to eligibility determinations. While these choices do not cover all methods which could be used, we believe they are diverse enough so that every State can reasonably be expected to conform to at least one.

In the 1975 NPRM, we proposed the use of the 30 day period before application as the first budget period. In response to numerous comments, we have dismissed that idea. Many commenters felt that such an approach resulted in a waiting period before assistance can be started, which would be contrary to the statute.

Short Breaks in Assistance

Comment: There were several suggestions that retrospective budgeting be used to determine the amount of a payment when a former recipient applies for reinstatement of assistance. There was concern that some income received would never be taken into consideration because the requirement for prospective budgeting in the initial month(s) of reeligibility would effectively eliminate some budget periods from consideration.

Response: The regulation provides that a State must compute the amount of an applicant's first assistance payment retrospectively, if the applicant reapplies for assistance during the month in which the termination became effective. This policy precludes recent income from not being counted when the recipient returns to the rolls.

Complex Reporting Forms Cause Nonreporting and Termination of Assistance

Comment: Several commenters stated that the reporting forms are difficult to understand, especially for many undereducated recipients, and it is difficult to get help at busy welfare offices. As a result, many recipients either will not complete the form or will complete it incorrectly. This results in payments being terminated, followed by hardship for recipients and an administrative burden for the agency to reinstate payments.

Response: State experience with mandatory reporting requirements indicates that recipients can manage the requirements of periodic reporting. Data from Colorado indicate that nearly 90 percent of all reports are filed within 5 days after the close of the budget month. Approximately 50 percent of all reports are processed without further action by either recipients or caseworkers.

We have modified the regulations to explicitly require that the reporting form be clearly worded, specify a due date, and tell the recipient whom he or she can contact for prompt assistance in completing the form.

In addition, we have provided explicitly for reminder notices for those people who have not filled out their forms, and have limited the extend to which an agency may consider monthly reports incomplete when they contain information adequate for a payment computation.

Retrospective Budgeting and Medicaid

Comments: The regulations must discuss the relationship between retrospective budgeting and Medicaid eligibility. Specifically, what effect does non-filing of a required report in a particular month have on the family's eligibility for Medicaid in that month? Also, how will Medicaid eligibility be determined for those who apply as medically needy and for those who apply for Medicaid as "eligible but are not receiving AFDC," in States which provide Medicaid under these options?

Response: Categorical eligibility for Medicaid is based on receipt of AFDC assistance, which relates to the month of entitlement. The final rules define "payment month" as the month established by the agency for which a particular assistance payment is made. If a recipient does not submit information required on the monthly report, the State cannot authorize assistance for that payment month because it has no basis for computing the amount of that payment. If the recipient does not receive assistance in the payment month, the recipient would not be categorically eligible for Medicaid.

For families who are not receiving AFDC, Medicaid eligibility as categorically needy must be determined in the same way that the State determine eligibility for AFDC. States that participate in the medically needy program may determine eligibility for that program prospectively even though eligibility for AFDC is determined retrospectively. The same kinds of income must be counted and disregarded under both programs.

Retrospective Budgeting and Child Support Collections

Comment: Will child support collected by the agency during a month be considered as income in that budget month, and be reflected in the payment month as income for purposes of Section 402(a)(8) of the Social Security Act? How do the regulations, which provide time frames for redetermination of eligibility on the basis of child support for a particular month, relate to retrospective budgeting?

Response: Child support collected by a State Child Support Enforcement agency is not income to the AFDC family. The Child Support Enforcement agency reports the amount of the collection to the AFDC agency so that the AFDC agency can determine whether the amount of the collection, if paid to the family, would make them ineligible. This process is unchanged by retrospective budgeting. The date the child support collection is reported to the AFDC agency, rather than the date of the actual child support collection by the Child Support Enforcement agency, will determine the timing of the eligibility decision in which that child support collection is considered.

Payments under section 402(a)(28) of the Act are calculated on the basis of the computation of the assistance payment for which the family is otherwise eligible and the amount of the child support collection. Retrospective budgeting would not affect this calculation. The 402(a)(28) payment would be calculated using the information reported by the recipient for the budget month and current report of child support collections from the Child Support Enforcement agency.

The only time that child supported collected by the Child Support Enforcement agency can affect the amount of the assistance payment is when a portion of the support collection is distributed to the family by the Child Support Enforcement agency. This occurs under 45 CFR 302.51(a) (3) and (5) when there is an excess of support collections. In these instances, the amount distributed would be income to the family when received.

Complexity of Retrospective Budgeting

Comment: There were some comments that retrospective budgeting is to complex for applicants to understand and is difficult even for State personnel.

Response: The experience of States which have adopted retrospective budgeting has generally been that it is administratively feasible and is not unduly difficult for recipients to understand. Simple monthly reporting forms appear to be successfully used by recipients to transmit information to the agency. Caseworkers have been supportive of retrospective budgeting. In addition, as we noted in the 1978 NPRM, several States have successfully implemented a retrospective budgeting system.

Retrospective Budgeting Not Justified Now

Comment: HEW should not sanction retrospective budgeting until the Colorado project and similar studies have been completed. These projects will provide information about the effect of retrospective budgeting on recipients, the impact of improved reporting in prospective budgeting, and the impact of combining reporting changes with a retrospective system.

Response: We believe that a sufficient body of experience exists now to warrant states proceeding with the implementation of retrospective budgeting and reporting systems, if they so desire. Extensive experience in a number of States demonstrates that these systems can be administered successfully by a variety of jurisdictions, and that recipients in these jurisdictions are capable of meeting the regular reporting requirement. This experience further demonstrates that monthly reporting and retrospective budgeting can have a positive impact on error rates (California), can identify and respond to a higher incidence of changes in income and circumstance, and can lead to a reduction in total benefit outlays (Colorado) due to the more accurate and timely processing of information. This experience is summarized in greater detail in the Preamble to the October 1978 NPRM.

This does not mean that more should not be learned about these systems. For this reason, we are supporting a series of research and demonstration projects designed to refine our understanding of the impact of monthly reporting and retrospective budgeting. These projects will enable us to identify potential modifications to the system that can increase administrative efficiency or simplify the reporting requirement, and to study in detail the implementation process. While these projects are now, and will continue to be, a source of information for states considering the adoption of monthly reporting and retrospective budgeting, they have important long term value to us in terms of forming future policy for the AFDC program.

Reporting Systems Vis-a-Vis Retrospective Budgeting

Comment: One commenter indicated the belief that the benefits from retrospective budgeting should be considered separately from those of improved reporting systems.

Response: It is true that we have not studied the benefits which could be gained from implementing a monthly reporting system, independent of retrospective budgeting, as intensively as we have studied the benefits of the two together. However, there is sufficient experience in administering a monthly reporting system together with retrospective budgeting so that we feel secure in encouraging States to use the two together. Experience indicates that such systems are extremely compatible administratively. The monthly report permits the agency to be more responsive to changes in circumstances than without a monthly report, while the retrospective aspects of the system help to lower error rates by basing payments on actual rather than estimated income.

We do recognize that benefits of each can be realized separately. Indeed, States may use monthly reporting in a prospective budgeting system.

Retrospective Budgeting Is Unresponsive

Comment: Proposed retrospective budgeting is unresponsive to need and will cause irreparable harm to needy children.

Response: Retrospective budgeting (with the implementing of a monthly reporting requirement) does insure that assistance payments will be adjusted in response to changes in client circumstances. Recent data from the HEW-supported monthly reporting project in Denver, Colorado reveal that, compared to the regular Denver system, the demonstration system yielded five times as many changes in client circumstances that led to an increase in the amount of the assistance payment, but only twice as many changes that led to a decrease.

Comment: Retrospective budgeting does nothing to improve the response to a change in circumstances, and increases the delay between the occurrence of a change and reflection of such change in the family's budget.

Response: We do not claim that retrospective budgeting alone improves response to change. However, in combination with monthly reporting, it ensures that recipients can easily and efficiently report changes in circumstance, and that these changes will be reflected in the corresponding payment. States currently can take up to two months to process changes without experiencing an overpayment under quality control. But the rapidity with which this is done depends upon the administrative efficiency of the State and the presence or absence of special "rapid payment" procedures. Monthly reporting and retrospective budgeting can provide better response times without the same special procedures. The processing and payment standards incorporated into the new regulations will ensure that, on average, lags in response time will be reduced.

Errors in Retrospective Budgeting

Comment: Retrospective budgeting does not reduce errors.

Response: Retrospective budgeting reduces errors because it relates actual income received during the budget month to a payment made after the close of this budget period. Prospective

budgeting, by contrast, inevitably

PART 206—APPLICATION,

the requirements in §§ 233.21 through

§ 233.23 When assistance shall be paid under retrospective budgeting.

retrospectively, i.e., shall be based on earned and unearned income received in

When a IV–A agency receives an official report of a child support

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budgeting, by contrast, inevitably introduces error because a certain level of income is assumed, when in fact it may change.

The Final Rules

We have made numerous changes to the proposed rules which were in the NPRM. Most of these changes are discussed elsewhere in this preamble. In addition to those discussed changes, we have amended § 205.10 to require, in paragraph (a)(5) that a person who is denied a supplemental payment may request a fair hearing. We have also amended § 206.10 to require that a recipient of assistance be able to apply promptly for a supplemental payment in a State which provides such payments, and to require that adequate notice be sent after the State has made its determination on the recipient's request for a supplemental payment.

(Secs. 405, 406, and 1102 of the Social Security Act, as amended; 49 Stat. 629, as amended, 47 Stat. 647; 42 U.S.C. 605, 606, and 1302; 91 Stat. 1354)

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid.)

Dated: April 26, 1979.

Stanford G. Ross,
Commissioner of Social Security.

Approved: April 30, 1979.

Joseph A. Califano, Jr.,
Secretary of Health, Education, and Welfare.

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAM

1. Part 205 of Chapter II, Title 45 of the Code of Federal Regulations is amended as follows:

The first sentence of § 205.10(a)(5) is revised to read as follows:

§ 205.10 Hearings.

(a) *State plan requirements.* * * *

(5) An opportunity for a hearing shall be granted to any applicant who requests a hearing because his or her claim for financial assistance (including a request for supplemental payments under §§ 233.23 and 233.27) or medical assistance is denied, or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by any agency action resulting in suspension, reduction, discontinuance, or termination of assistance. * * *

* * * * *

PART 206—APPLICATION, DETERMINATION OF ELIGIBILITY AND FURNISHING ASSISTANCE—PUBLIC ASSISTANCE PROGRAMS

2. Part 206 of Chapter II, Title 45 of the Code of Federal Regulations is amended as follows:

In § 206.10, paragraph (a)(1)(vi) is added and paragraph (a)(4) is amended by changing the first sentence to read as follows:

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) *State plan requirements.* * * *

(1) * * *

(vi) Every recipient in a State which provides a supplemental payment under § 233.27 of this chapter shall have the opportunity to request that payment without delay.

* * * * *

(4) Adequate notice shall be sent to applicants and recipients to indicate that assistance, including supplemental payments, has been authorized (including the amount of financial assistance) or that it has been denied or terminated.

* * * * *

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

3. Part 233 of Chapter II, Title 45 of the Code of Federal Regulations is amended as follows:

In § 233.20, paragraph (b)(4) is added and new §§ 233.21 through 233.29 are added to read as follows:

§ 233.20 Need and amount of assistance.

* * * * *

(b) *Federal financial participation; General.* * * *

(4) Federal participation is available for supplemental payments in a retrospective budgeting system. Federal participation is provided when the amount of the supplemental payment, together with the monthly assistance payment and any income specified by the State under § 233.27(b), do not exceed the amount a State pays for a similar family with no income.

* * * * *

§ 233.21 Budgeting methods.

(a) *Requirements for State plans.* A State plan shall specify if assistance payments shall be computed using a prospective budgeting system or a retrospective budgeting system. A State electing retrospective budgeting shall specify which options it selects and the State plan shall state that it shall meet the requirements in §§ 233.21 through 233.29.

(b) *Definitions.* The following definitions apply to §§ 233.21 through 233.29:

(1) "Prospective budgeting" means that the agency shall compute the amount of assistance for a payment month based on its best estimate of income and circumstances which will exist in that month. This estimate shall be based on the agency's reasonable expectation and knowledge of current, past or future circumstances.

(2) "Retrospective budgeting" means that the agency shall compute the amount of assistance for a payment month based on actual income or circumstances which existed in a previous month, the "budget month".

(3) "Budget month" means the fiscal or calendar month from which the agency shall use income or circumstances of the family to compute the amount of assistance.

(4) "Payment month" means the fiscal or calendar month for which an agency shall pay assistance. Payment is based upon income or circumstances in the budget month. In prospective budgeting, the budget month and the payment month are the same. In retrospective budgeting, the payment month follows the budget month and the payment month shall begin within 32 days after the end of the budget month.

(5) "Make an assistance payment." In the context of retrospective budgeting, to make an assistance payment means that the check shall be deposited in the U.S. mail, hand delivered to the recipient, or deposited with an intermediary organization, such as a bank.

(6) "Supplemental payment." In the context of retrospective budgeting, a supplemental payment is a payment which maintains a family during the time it takes for the monthly assistance payment to reflect a change in circumstances or income.

§ 233.22 Determining eligibility under prospective budgeting.

In States which compute the amount of the assistance payment prospectively, the State plan shall provide that the State shall also determine all factors of eligibility prospectively. Thus, the State agency shall establish eligibility based on its best estimate of income and circumstances which will exist in the month for which the assistance payment is made.

§ 233.23 When assistance shall be paid under retrospective budgeting.

(a) A State which uses retrospective budgeting shall specify in its plan that it will make assistance payments within the following time limits to recipients who file a completed report on time, and to those who are not required to file a report. A State shall choose one of two time periods for making assistance payments. The State plan shall provide that payment must be made—

(1) Within 25 days from the close of the budget month; or

(2) Between 25 and 45 days from the close of the budget month.

(b)(1) Where a State makes payments between 25 and 45 days from the close of the budget month, the State plan shall provide that the State will make supplemental payments as provided in § 233.27.

(2) If a State makes payments within 25 days from the close of the budget month, and also makes supplemental payments as provided in § 233.27, the State plan shall so specify.

(c) In States which issue two checks for each payment month, these time periods apply to the first check.

§ 233.24 Retrospective budgeting; determining eligibility and computing the assistance payment in the initial one or two months.

(a) States which make assistance payments within 25 days of the close of the budget month shall determine eligibility and compute the amount of the payment for all recipients prospectively for the initial month of assistance. These States may choose to determine eligibility and compute the payment prospectively for the second month, also.

(b) States which make assistance payments between 25 and 45 days from the close of the budget month shall determine eligibility and compute the amount of the payment prospectively for the initial two months of assistance.

(c) When a person who previously received assistance reapplies during the same month in which a termination became effective, eligibility shall be determined according to paragraph (a) or (b) of this section. However, the amount of the assistance payment for the month of the reapplication shall be computed retrospectively.

§ 233.25 Retrospective budgeting; computing the assistance payment after the initial one or two months.

The State plan shall provide:

(a) After the initial one or two payment months of assistance under § 233.24, the amount of each subsequent month's payment shall be computed retrospectively, i.e., shall be based on earned and unearned income received in the corresponding budget month.

(b) In these subsequent months, other factors of need which affect the amount of the assistance payment may also be based on circumstances in the corresponding budget month, or they may be based on circumstances in the payment month.

(c) For the first month in which retrospective budgeting is used, a State shall not consider income received by the recipient before the date of application. When a person reapplies during the same month in which a termination became effective, the State may consider income received before the date of application.

§ 233.26 Retrospective budgeting; determining eligibility after the initial one or two months.

(a) Under retrospective budgeting, there are three options for determining eligibility. The State plan shall specify that eligibility, following the initial one or two months under § 233.24, shall be determined by one of the following methods—

(1) A State may consider all factors, including income retrospectively, i.e., only from the budget month. For example, if a change in circumstances occurs which affects eligibility, e.g., deprivation ceases, the change may be reported at the end of the budger month and assistance shall be terminated for the corresponding payment month. Thus, even if the agency could have terminated assistance earlier than the corresponding payment month, it shall not do so under retrospective determination of eligibility.

(2) A State may consider all factors, including income, prospectively. For example, if deprivation ceases, and the family becomes ineligible, the agency shall immediately take steps to terminate assistance.

(3) A State may use a combination of the options in paragraphs (a) and (b) of this section by considering factors related to earned and unearned income retrospectively and all other factors prospectively. For example, if a change in income makes the family ineligible, the agency shall wait until the corresponding payment month to terminate assistance. On the other hand, if a change of circumstances other than income makes the family ineligible, the agency shall immediately take steps to terminate assistance.

(b) Child support collected by the IV–D agency and reported to the IV–A agency is an exception to the methods outlined in paragraph (a) of this section. When a IV–A agency receives an official report of a child support collection it shall consider that information as provided in § 232.20(a) of this chapter. (§ 233.20(a) explains the treatment of child support collections.)

§ 233.27 Supplemental payments under retrospective budgeting.

(a) *General requirements.* A State plan which provides for payments between 25 and 45 days from the close of a budget month, shall provide for supplemental payments to eligible recipients who request them. A State plan which provides for payments within 25 days may provide for supplemental payments.

(1) The supplemental payment shall be paid for the month in which it was requested.

(2) The recipient family is eligible for a supplemental payment if its income for the month is less than 80 percent of the amount the State would pay for a similar family with no income. However, this percentage of the amount the State would pay for a similar family with no income may be set between 80 and 100 percent, as specified in the State plan. The supplemental payment equals the difference between the family's income in the payment month and that percentage.

(3) Supplemental payments shall be issued within 5 working days of request.

(b) *How income is treated.* For purposes of supplemental payments, income includes that month's assistance payment and any income received or expected to be received by the recipient, but does not include work-related expenses.

(1) The amount used for the assistance payment shall be the monthly assistance payment without regard to any recoupments made for prior overpayments or adjustments for prior underpayments.

(2) The agency may include as income cash in hand or available in bank accounts. It may also include as income any cash disregarded in determining need or the amount of the assistance payment, but not cash payments that are disregarded by paragraphs (c) on relocation assistance, (d) on educational grants or loans, (g) on payments for certain services and (j) on experimental housing allowances, of § 233.20(a)(4)(ii).

§ 233.28 Monthly reporting.

(a) State plans specifying retrospective budgeting shall require that recipients with earned income, other than income from self-employment, report that income to the agency monthly. The State may require

recipients with unearned income, no income, or income from self-employment to report monthly. The agency shall provide a form for this purpose, which—

(1) Is written in clear simple language;

(2) Specifies the date by which the agency must receive the form and the consequences of a late or incomplete form, including whether the agency will delay or withhold payment if the form is not returned by the specified date;

(3) Identifies an individual or agency unit the recipient should contact to receive prompt answers to questions about information requested on the form, and provides a telephone number for this purpose;

(4) Includes a statement, to be signed by the recipient, that he or she understands that the information he or she provides may result in changes in assistance, including reduction or termination;

(5) Advises the recipient if supplemental payments are available and the proper procedures for initiating a request; and

(6) Advises the recipient of his or her right to a fair hearing on any decrease or termination of assistance or denial of a supplemental payment.

(b) The agency shall specify the date by which it must receive the monthly report. This date shall be at least 5 days from the end of the budget month and shall also allow the recipient at least 5 days to complete the report.

(c) The agency may consider a monthly report incomplete only if it is unsigned or omits information necessary to determine eligibility or compute the payment amount.

(d) The agency shall provide a stamped, self-addressed envelope for returning the monthly report.

(e) The agency shall make special provisions for persons who are illiterate or have other handicaps so that they cannot complete a monthly report form.

§ 233.29 How monthly reports are treated and what notices are required.

(a) *What happens if a completed monthly report is received on time.* When the agency receives a completed monthly report by the date specified in § 233.28 it shall process the payment. The agency shall notify the recipient of any changes from the prior payment and the basis for its determinations. This notice must meet the requirements of § 205.10(a)(4)(i)(B) of this chapter on adequate notice if the payment is being reduced or assistance is being terminated. This notice must be received by the recipient no later than his or her resulting payment or in lieu of the payment.

(b) *What happens if the completed monthly report is received before the extension deadline.* (1) If the completed monthly report is not received by the date specified in § 233.28, the agency shall send a notice to the recipient. This notice shall inform him or her that the monthly report is overdue or is not complete and that he or she has at least 10 additional days to file. It must inform the recipient that termination may result if that is the agency's policy, if the report is not filed within the extension period. This notice must reach the recipient at least 10 days before the expected payment. However, in States in which the date specified in § 233.28 is within 10 days of the expected payment date, the notice must reach the recipient on or before the expected payment date.

(2) When the report is received within the extension period, the agency may delay payment to the recipient, as follows—

(i) In a State that pays within 25 days of the budget month the payment may be delayed 10 days;

(ii) In a State that pays within 25 to 45 days of the budget month, the payment may not be delayed beyond the 45th day.

(c) *What happens if a monthly report is not received by the end of the extension period.* An agency may terminate assistance if it has not received a report or has received an incomplete report, and the 10 day extension period has expired. If the State decides to terminate assistance, it must send the recipient a notice which meets the requirements of § 205.10(a)(4)(i)(B) on adequate notice.

(d) *How a recipient may delay an adverse action based on a monthly report.* If a recipient's assistance is reduced or terminated based on information in the monthly report, and he or she requests a fair hearing within 10 days, the assistance payment shall be reinstated immediately at the previous month's level pending the hearing decision. The payment shall be made effective from the date assistance was reduced or terminated.

[FR Doc. 79-13691 Filed 5-3-79; 8:45 am]

BILLING CODE 4110-07-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Distribution of Grain Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Second Revised Service Order No. 1301.

SUMMARY: Burlington Northern Inc., is encountering severe shortages of boxcars suitable for grain loading. Second Revised Service Order No. 1301 requires other railroads to return to BN their 40-ft., narrow-door plain boxcars. This revision excludes the Chicago and North Western Transportation Company, completely and deletes jumbo covered hopper cars of Burlington Northern ownership.

DATE: Effective 11:59 p.m., April 30, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided: April 30, 1979.

There is an acute shortage of plain, 40-ft., narrow-door boxcars on the Burlington Northern Inc. (BN). These shortages are preventing the orderly flow of grain to markets, both domestic and export, and are causing severe economic loss to producers and shippers of grains dependent upon the BN for transporting these products to market. A portion of the BN's fleet of these cars are loaded to points on the lines of other railroads. Such cars must be returned promptly to the BN for subsequent loading by shippers dependent upon the BN for transporting their shipments. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

§ 1033. 1301 Second Revised Service Order No. 1301.

(a) *Distribution of grain cars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Exclude from all loading and return to owner empty except as otherwise provided in paragraphs (3 and 4) of this section, all 40-ft., narrow-door plain boxcars described in paragraph (2) of this section owned by the following railroad:

Burlington Northern Inc., Reporting Marks: BN–CBQ–GN–NP–SPS.

(2) The term "40-ft., narrow-door plain boxcars" as used in this order means freight cars listed in the Official Railway Equipment Register, ICC–RER No. 6410–A, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" with inside length 40-ft., 6-in. or less and equipped with doors less than 9-ft. wide.

(3) *Exception.* Empty 40-ft., narrow-door plain boxcars located in the States of New York, Pennsylvania, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire or Maine may be loaded to any station on the lines of the Burlington Northern Inc.

(4) *Exception.* For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Chief Transportation Officer of the car owner, or by the Director or Assistant Director of the Bureau of Operations, Interstate Commerce Commission. Modifications authorized by the car owner must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to the Director or Assistant Director.

(5) Carrier named in paragraph (1) above is prohibited from loading all 40-ft. narrow-door, plain boxcars foreign to their lines and must return such cars to the owner, either via the reverse of the service route or direct, as agreed to by the owner.

(6) *Exception.* Carrier named in paragraph (1) above is authorized to use empty 40-ft., narrow-door plain boxcars owned by other railroads which are located in the States of Colorado, Wyoming, and Montana, or west thereof, for loading to any point on its line between Kansas City, Missouri; Omaha, Nebraska; Sioux City, Iowa; Minneapolis, Minnesota; and Duluth, Minnesota; or east thereof, regardless of the provisions of Section (a)(5) of Second Revised Service Order No. 1301.

(7) *Exception.* Carrier named in paragraph (1) above is authorized to use 40-ft., narrow-door plain boxcars owned by any railroad which has made its cars exempt from Car Service Rules 1 and 2, which are identified in Interstate Commerce Commission Exemptions Nos. 12 and 129, or successive issues thereof.

(b) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded car, described in this order, contrary to the provisions of the order.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 11:59 p.m., April 30, 1979.

(e) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126)).

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H. G. Homme, Jr.,
Secretary.

[Second Rev. S.O. No. 1301]

[FR Doc. 79-13687 Filed 5-3-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

Norfolk & Portsmouth Belt Line Railroad Co. Authorized To Operate Over Tracks of Norfolk & Western Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order; Service Order No. 1377.

SUMMARY: Service Order No. 1377 authorizes Norfolk and Portsmouth Belt Line Railroad Company to operate over 3.65 miles of Norfolk and Western Railway Company tracks at South Norfolk, Virginia, in order to serve the NPB industries.

DATES: Effective 12:01 a.m., May 1, 1979; Expires 11:59 p.m., July 31, 1979.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided: April 27, 1979.

Norfolk and Portsmouth Belt Line Railroad Company, (NPB) will replace its bridge number 1 over Scuffletown Creek at South Norfolk (Chesapeake), Virginia, NPB will not be able to provide service to its customers south of the bridge during the time of construction. An alternate route is available over Norfolk and Western Railway Company (NW) tracks between NPB–NW connection at Belt Junction and NW Bridge 5 in order to serve these customers and to have necessary track room for making and breaking up NPB trains to be moved to and from its line south of the bridge.

It is the opinion of the Commission that an emergency exists requiring operation of NPB trains over these tracks of the NW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

§ 1033.1377 Service Order No. 1372.

(a) Norfolk and Portsmouth Belt Line Railroad Company authorized to operate over tracks of Norfolk and Western Railway Company. The Norfolk and Portsmouth Belt Line Railroad Company (NPB) is authorized to operate over tracks of the Norfolk and Western Railway Company (NW) between NPB–NW connection at Belt Junction, (NW milepost V6+2804.6) and NW Bridge 5 (NW milepost LP5+286), including switching tracks between NW milepost N2+2061.5 and NW milepost LP5+2285, near South Norfolk (Chesapeake), Virginia, a distance of approximately 3.65 miles, for the purpose of serving NPB industries.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates Applicable.* Inasmuch as this operation by the NPB over tracks of the NW is deemed to be due to carrier's disability, the rates applicable to traffic moved by the NPB over tracks of the NW shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., May 1, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-13868 Filed 5-3-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

Car Service Decision; Order To Show Cause

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Service Order No. 1340.

SUMMARY: The Hazard Coal Operators Association petitioned the Commission to extend Service Order No. 1340. Since the emergency no longer exists, the petition is denied and the order will expire on April 30.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Section of Rail and Pipeline Operations, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

In the matter of Atlanta and West Point Rail Road Company, Clinchfield Railroad Company, Georgia Railroad, Seaboard Coast Line Railroad Company and Western Railway of Alabama to Deliver Locomotives to Louisville and Nashville Railroad Company.

Regulations for the use of locomotives.—By petition filed April 25, 1979, the Hazard Coal Operators Association filed a motion with the Interstate Commerce Commission to extend Service Order No. 1340 beyond the current expiration date of April 30, 1979.

This motion requests an additional extension of the Service Order because the peak season for coal loading in the LN service area is the good weather months from approximately the first of April throughout the remainer of the spring and summer. LN has filled all orders for cars placed by non-unit-train shippers in Eastern Kentucky and Eastern Tennessee since the weekly period ending January 6. See Appendix A.

Since the LN is filling all orders for cars from these shippers, we do not find that an emergency now exists. LN has agreed to continue making reports to the Commission as now required by the service order. See Appendix B. The Commission will continue to monitor the supply of hopper cars and train delays on the LN. If the situation deteriortes and develops into an emergency, the Commission will consider the reinstatement of the requirements of this order in whole or in part.

We have decided to permit Service Order No. 1340 to expire as the emergency no longer exists.

It is ordered.—(1) Service Order No. 1340 be allowed to expire at 11:59 p.m., April 30, 1979.

(2) The Hazard Coal Operators Association's request that Service Order No. 1340 be extended is denied.

By the Commission. Vice Chairman Brown and Commissioners Gresham, Clapp and Christian. Chairman O'Neal and Commissioner Staffor were absent and did not participate.

H. G. Homme, Jr.,
Secretary.

Appendix "A"

DATE: April 18, 1979.

To: The Commission.
From: Railroad Service Board.
Subject: Service Order No 1340.

On August 3, 1978, the Commission entered an order requiring the six railroads which are owned or controlled by the Seaboard Coast Line Railroad Company (SCL), to show cause why the Commission should not issue two proposed service orders. One proposed service order, entitled *Regulations For The Use Of Locomotives*, would have ordered the other five members of the Family Lines collectively to deliver 100 locomotives to the Louisville and Nashville Railroad Company (LN). The other proposed service order, entitled *Regulations For The Distribution of Hopper Cars*, would have ordered the LN to supply weekly each coal mine ordering cars for single-car or non-unit-train shipments a minimum of forty percent of its daily mine rating multiplied by the number of working days in the week. The order to show cause was entered as a result of the Commission's conclusion that an acute shortage of locomotives and hopper cars for transporting single-car shipments of coal originating at stations on the LN in Eastern Kentucky existed.

Numerous responses to the show cause order were filed by the Family Lines, by producers and receivers of coal and other commodities, and by public officials in the States served by the Family Lines. The Commission held oral argument on the show cause order on September 7, 1978.

In a decision served September 22, 1978, the Commission ordered that the proposed service order entitled *Regulations For The Use of Locomotives* be issued in modified form. The Commission deferred issuance of the proposed service order entitled *Regulations For The Distribution of Hopper Cars.*

Subsequent to the issuance of this order, 54 locomotives were returned by the LN at the request of non-Family Line owners. Numerical replacement of these locomotives with locomotives furnished by SCL was not accomplished until some time between November 1 and November 15, 1978. At the time the "Show-Cause" order in this proceeding was served, on August 4, 1978, the LN was operating 120 leased locomotives, including 26 furnished voluntarily by SCL. As a result of the recall of fifty locomotives by Consolidated Rail Corporation and the Norfolk and Western the number of leased units had declined to 96 on October 15, in spite of the furnishing by SCL of 24 additional units as required by the order. On November 1, the LN was operating 103 leased locomotives, including eleven SP units.

On November 15, it was operating 127 leased locomotives including 37 SP units. (Four Detroit, Toledo and Ironton locomotives were recalled and returned between October 15 and November 15). On January 1, 1979, the LN was operating a total of 130 leased locomotives, ten more than the number operated when the proceeding was opened and 34 more than were operated on October 15, 1978, when the first report of trains held for power was due.

The largest number of hopper cars ordered was 29,942 for the week ending November 11, 1978. The number of cars ordered by these single-car shippers for the first fourteen weeks of 1979 has averaged less than 6,000 cars per week.

The car distribution reports received from the LN indicate that all orders for cars placed by non-unit-train shippers in the three Eastern Kentucky car distribution districts and in Eastern Tennessee have been filled since the weekly period ending January 6th.

The coal market has been very "soft" for the last several weeks. Indications are that the demand will increase sightly over the next several weeks, but no dramatic increase of car orders is expected.

Service Orders No. 1340 is due to expire on April 30, 1979. The order was amended on Janaury 31, 1979, authorizing LN temporarily to return to the SCL fifty of the 100 locomotives furnished by the SCL to the LN in accordance with the requirements of the order.

These fifty locomotives were required to be returned to the LN by the SCL if the LN furnishes less than forty percent of the cars ordered by single-car coal shippers in Eastern Kentucky and Eastern Tennessee. This has not been necessary as the number of cars furnished has been well above forty percent.

Listed below are cars ordered and furnished single-car coal shippers in Eastern Kentucky and Eastern Tennessee since the week ending January 6; the number of SCL and LN trains held 12 hours or more for power since week ending January 6; and the locomotive situation on LN for October 16, the week of the first report, and weekly since January 2nd.

Memorandum to the Commission:

Hopper Cars Ordered and Furnished to Single-Car Coal Shippers in Eastern Kentucky and Eastern Tennessee:

Week ending	Ordered	Furnished
1/6	6572	6572
1/13	5527	5527
1/20	6020	6020
1/27	5262	5262
2/3	5157	5157
2/10	5230	5230
2/17	5527	5527
2/24	6410	6410
3/3	5463	5463
3/10	5710	5710
3/17	5814	5814
3/24	5708	5708
3/31	6192	6192
4/7	6452	6452

Number of Trains Held 12 Hours or More For Power Since January 1:

Week ending	SCL trains	Week ending	LN trains
1/6	17	1/6	92
1/13	32	1/13	109
1/20	20	1/21	136
1/27	15	1/28	158
2/3	15	2/4	124
2/10	8	2/11	98
2/17	8	2/18	79
2/24	8	2/25	116
3/3	23	3/4	151
3/10	12	3/11	157
3/17	11	3/18	161
3/24	22	3/25	141
3/31	16	4/1	119
4/7	22	4/8	115

Memorandum to the Commission:

Locomotive Situation on LN

Period Ending October 6, 1978	
LN	1100
Leased	46
SCL	50
Total	1196
Period Ending January 2, 1979	
LN	1098
Leased	80
SCL	50
Total	1228
Period Ending January 16, 1979	
LN	1097
Leased	79
SCL	50
Total	1226
Period Ending February 2, 1979	
LN	1095
Leased	73
SCL	50
Total	1218
Period Ending February 16, 1979	
LN	1095
Leased	68
SCL	50
Total	1213

Locomotive Situation on LN—Continued

Period Ending March 1, 1979	
LN	1099
Leased	84
SCL	12
Total	1195
Period Ending March 16, 1979	
LN	1114
Leased	80
SCL	11
Total	1185
Period Ending April 2, 1979	
LN	1122
Leased	52
SCL	10
Total	1184
Period Ending April 16, 1979	
LN	1141
Leased	52
SCL	10
Total	1203

Memorandum to the Commission:

Most of the leased locomotives are SP locomotives leased by SCL for LN in order to comply with the service order. The LN has received 52 of their new locomotives.

Since March 18th, the weekly number of trains held on LN for power has declined from 161 to 115.

In view of the improvement in the number of LN trains held for power and the current level of cars available to single-car shippers, the Railroad Service Board recommends that Service Order No. 1340 be permitted to expire on April 30, 1979.

The Section of Rail and Pipeline Operations will continue to monitor the supply of hopper cars and train delays on the LN. If the situation worsens appreciably, the Railroad Service Board will recommend the reinstatement of the requirements of this order in whole or in part.

Railroad Service Board.

Joel E. Burns,
Chairman.

Robert S. Turkington,
Member.

John R. Michael,
Member.

Louisville & Nashville Railroad Co.,
April 18, 1979.

Mr. Joel E. Burns,
Director, Bureau of Operations, Room 7115, Interstate Commerce Commission, Washington, D.C. 20423.

Service Order No. 1340.

Dear Mr. Burns: This will confirm my oral advice to you today that should the Commission determine to allow Service Order No. 1340 to expire, the Family Lines subject to the service order will continue making reports to the Commission as required by the service order. We will make these reports at least until this fall when we will have received all of our new locomotives. At that time we would like to reevaluate the situation to determine whether the reports continue to be necessary and useful.

Sincerely yours,

Fred R. Battcher.

[Service Order No.1340]

[FR Doc. 79-13869 Filed 5-3-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

Car Service; Railroads Authorized To Forward Portions of Certain Multiple-Car Shipments Transporting Less Than Minimum Quantities Specified by Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 3 to Revised Service Order No. 1313.

SUMMARY: Many railroad tariffs require the tender of from two to twenty-four cars at one time. Because of severe car shortages the railroads are unable to furnish, at one time, all of the cars required to transport the shipment. Serious delays to cars occur while the shipper awaits receipt of the remaining cars required. Service Order No. 1313 requires railroads to accept and forward partial shipments without delay when the carrier is unable to furnish, at one time, all of the cars required to complete the multiple-car shipment before tendering additional shipments in the same kind of car. Amendment No. 3 extends the order.

DATES: Effective 11:59 p.m., April 30, 1979, expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided: April 27, 1979.

Upon further consideration of Service Order No. 1313 (43 FR 21893, 29126 and 56674), and good cause appearing therefor:

It is ordered:

§ *1033.1313 Revised Service Order No. 1313,* Railroads authorized to forward portions of certain multiple-car shipments transporting less than minimum quantities specified by tariffs is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 30, 1979.

(49 U.S.C. (10304–10305 and 11121–11126))

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the **Federal Register**.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Joel E. Burns not participating.

H. G. Homme, Jr.,
Secretary.

[Rev. S.O. 1313, Amdt. 3]

[FR Doc. 79-13970 Filed 5-3-79; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 44, No. 88
Friday, May 4, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Parts 271 and 272]

Food Stamp Program; Outreach and Complaint Procedures; Correction

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule; Correction.

SUMMARY: This document corrects: (1) The "Date" section for receiving comments on the proposed Outreach/Complaint Procedures rulemaking which appeared on Page 21541 of the **Federal Register** of April 10, 1979. This material should read—"Comments must be received not later than May 25, 1979 in order to be assured of consideration"; and

(2) The "For Further Information" section also appearing on Page 21541 of the **Federal Register** of April 10, 1979 on the proposed Outreach/Complaint Procedures rulemaking. The telephone number of Susan McAndrew should read—"(202) 447–6535".

FOR FURTHER INFORMATION CONTACT: Sue McAndrew, (202) 447–6535.

Dated: April 30, 1979.

Carol Tucker Foreman,
Assistant Secretary.

[FR Doc. 79-13978 Filed 5-3-79; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

[7 CFR Part 301]

Gypsy Moth and Browntail Moth Quarantine and Regulations; Public Hearing

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule and public hearing.

SUMMARY: This gives notice of a public hearing to consider a proposal by the Plant Protection and Quarantine Programs (PPQ) to quarantine the State of Michigan, North Carolina, South Carolina, Virginia, Washington, West Virginia, and Wisconsin because of the presence of gypsy moth. It is also proposed to change the direction of the gypsy moth and browntail moth programs by adopting a new regulatory management concept based on pest risk. The new concept would be based on moth population levels in an area in relation to the potential for its artificial spread with regulated articles. The purpose of this proposed program change would be to provide a more practical and effective basis for controlling the pests by controlling the movement of articles which pose a high risk of artificially spreading these pests.

DATES: The hearing will be held on June 19, 1979, at 10 a.m. Comments are due on or before July 3, 1979.

ADDRESSES: The hearing will be held in Room 349, John C. Kluczynski Federal Building, 230 S. Dearborn Street, Chicago, Ill. 60604. Submit written data, views, or arguments to: H. V. Autry, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, U.S. Department of Agriculture, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT: H. V. Autry, (301) 436–8247.

SUPPLEMENTARY INFORMATION: All written submissions made pursuant to this notice will be made available for public inspection in Room 633, Federal Building, Hyattsville, Md. 20782, during regular hours of business, unless the person makes the submission to the Regulatory Support Staff, Plant Protection and Quarantine Programs, and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect any person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of the denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Under this proposal, the Gypsy Moth and Browntail Moth Quarantine and regulations (7 CFR 301.45, 301.45–1, *et seq.*) would be revised to extend the quarantine to Michigan, North Carolina, South Carolina, Virginia, Washington, West Virginia, and Wisconsin because of the existence of gypsy moth infestations in those States and to incorporate a new regulatory management concept based on pest risk.

The gypsy moth, *Lymantria dispar* L., a highly destructive pest of forest trees, was brought to the United States from Europe for experimental studies in 1869. By accident the insect escaped at Medford, Massachusetts, and became established in that community and had gradually spread to at least 11 northeastern States by 1972. It has been the subject of continuous control and suppression work by the States since 1889. The Federal Government has cooperated with the States in regulatory measures since 1906. The Federal quarantine was promulgated in 1912. Currently, the infested area under Federal regulation includes the southern portion of Maine; most of New Hampshire, New York, Pennsylvania, and Vermont; the entire State of Massachusetts, Connecticut, Rhode Island, and New Jersey; and a small portion of Maryland. In the generally infested States, defoliation, tree mortality, and the nuisance of the caterpillars remain a serious problem, particularly in the high-use, high-value forest recreation areas and forested communities. The Animal and Plant Health Inspection Service has information that dangerous infestations of the gypsy moth have been found in portions of Michigan, North Carolina, South Carolina, Virginia, Washington, West Virginia, and Wisconsin. It is proposed to add these States to the Federal quarantine to prevent the artificial spread of the pest to noninfested areas of the United States.

This proposed revision of the Gypsy Moth and Browntail Moth Quarantine and regulations also would incorporate a new regulatory management concept based on pest risk. The pest risk concept is designed to improve upon efficiency of regulatory measures presently in effect and provide better distribution of

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manpower and resources in the Department's effort to prevent the artificial spread of the gypsy moth and browntail moth. The objective of the pest risk concept is to determine the potential risk of artificially spreading the pest with the movement of regulated articles from an infested area to a noninfested area and to concentrate available resources and manpower on those articles in infested areas most likely to artificially spread the pest. This action should reduce the probability of artificially spreading the pest, and personnel and resources can be better utilized and allocated on the basis of risk factors, making the pest risk concept more efficient and cost productive.

The current regulations require inspection or treatment and certification of regulated articles before they are moved from a regulated area without regard to population levels of the life stages of the insects at the origin of the movement. Empirical evidence indicates that one of the most important factors in determining the risk of spreading the moths in the number of eggs, larvae, pupae, or adults in relation to the regulated articles in any particular area which move to a nonregulated area.

Therefore, it is proposed that the amount of regulatory control in an area be categorized as being high or low based on the number of eggs, larvae, pupae, or adults in any given area and the risk of artificially spreading these life stages of the pests to nonregulated areas posed by the movement of regulated articles to nonregulated areas.

When an infestation of the gypsy moth or browntail moth has been found in a State, the entire State is quarantined. Less than an entire quarantined State will be regulated only if the State has adopted and is enforcing a quarantine or regulations restricting the intrastate movement of regulated articles substantially the same as those concerning their intrastate movement under Federal regulations and regulation of less than the entire State is adequate to prevent the artificial interstate spread of the pests, as determined by the Deputy Administrator. Regulated areas are designated as being either high-risk or low-risk. All regulated areas which do not meet the criteria for designation as a high-risk area are designated low-risk areas.

This proposal would establish new criteria for classifying, in the professional judgment of the inspector, gypsy moth and browntail moth regulated areas as being a high-risk or low-risk of artificially spreading the pest based on eggs, larvae, pupae, or adults present in a given area in relation to regulated articles moving from the area to a nonregulated area. Accordingly, it is proposed that the regulations be revised to designate, gypsy moth and browntail moth regulated areas as "high-risk" or "low-risk," as determined by an inspector, according to the degree of infestation in relation to regulated articles in the area which may move to a nonregulated area.

In the proposed regulations, high-risk areas pertaining to gypsy moths are defined as those areas where there is a substantial risk of artificial spread of life stages of gypsy moth by movement of regulated articles to nonregulated areas. Substantial risk of artificially spreading life stages of the gypsy moth is based on regulated articles being located within or adjacent to areas where defoliation occurs or areas where 50 or more egg masses per acre are present. Defoliation is defined in the regulations as a condition existing when at least 10% of the leaves are stripped from the trees by gypsy moths in an area as determined by visual inspection of an inspector. Experience has indicated that defoliation in areas where the pest occurs, as determined by trapping or visual survey, is evidence of larval feeding and indicative of a substantial infestation of the gypsy moth.

From experience, it is known that when populations of the gypsy moth occur in sufficient numbers to cause defoliation and there are regulated articles available within or adjacent to such areas, there is extreme risk of artificial spread of gypsy moth. Regulated articles are known to be places where the pests lay their eggs and which may otherwise harbor various hitchhiking life stages of the pests. Therefore, the proposed regulations would designate areas as high-risk when there are regulated articles within areas of defoliation.

With regard to the gypsy moth, the proposed regulations would also designate areas as high-risk when there are regulated articles "adjacent to" an area of defoliation. Articles would be regulated if "adjacent to" an area of defoliation because it is known that life stages of the insect would occur beyond the leading edges of the area of defoliation. Such adjacent areas where life stages of gypsy moth occur would be determined by visual inspection.

Likewise, experience has indicated that if there are 50 or more egg masses of gypsy moth per acre and regulated articles are within or adjacent to such area, there is a high risk of artificial pest spread of the gypsy moth by reason of egg masses or other life stages of the pest hitchhiking on regulated articles. The regulations would propose that an area be designated high-risk if the inspector has reason to believe there are 50 or more egg masses per acre. Experience has indicated that for each egg mass found by visual inspection of crevices of trees and exposed surfaces of other ariticles, there are at least 10 egg masses not discovered. There are also other factors which would be indicative that 50 or more egg masses per acre are present, e.g. visible presence of other life stages of the gypsy moth found in conjunction with egg masses, or egg masses are readily apparent making it obvious 50 or more egg masses are present. Therefore, the regulations would state that with respect to gypsy moth, an area can be designated as high-risk when the inspector has "reason to believe that 50 or more egg masses are present."

Experience has also indicated that where there are five or more webs of browntail moth per acre and regulated articles are within such an area, there is a high risk of spreading browntail moth. A greater area would be regulated around an infestation of the gypsy moth than the browntail moth because gypsy moth larva are known to forage over a much greater area than browntail moth.

The proposal provides that when an inspector makes a determination that an area should be temporarily regulated and designated as "high-risk" or "low-risk," written notice of such designation shall be made on the owners or other persons in possession of all premises in the temporarily regulated area and regulated articles from such premises shall be subject to the applicable provisions of this subpart. As soon as practicable after such designation, such area would be added to the list in § 301.45–2a or such designation would be terminated and written notice of such action would be given to the owners or other persons in possession of all premises in such area.

In order to protect uninfested areas, regulated articles moving interstate from a high-risk area to or through a nonregulated area would be required to be treated, or inspected, or grown, produced, manufactured, stored or handled in such a manner that no infestation would be transmitted thereby, as determined by an inspector, and a certificate or permit would be required to be attached as evidence of such actions. The moths occur in both high-risk and low-risk areas and the intent of the quarantine would be to protect uninfested areas. Therefore, regulated articles moving from a high-risk area to a contiguous regulated area or from a low-risk area to a high-risk area would not require treatment, inspection, or specified handling, since the moths would already be present in such areas and it does not appear that such movements would significantly affect such infestations.

The risk of artifically spreading the pests by moving regulated articles from low-risk areas to nonregulated areas would not appear to justify the expenditure of limited time and money thereon which could be put to better use in monitoring regulated articles moving from high-risk areas to nonregulated areas. There is a low risk that such regulated articles would contain the pests or if they do contain the pests, that they would be moved to a nonregulated area which would be a conducive environment for their multiplication and subsequent infestation.

Regulated articles moving interstate from a low-risk area to a nonregulated area would not require treatment, inspection, or specified handling, unless an inspector determines in his professional judgment that moths in any stage of development are on such regulated articles which may move to a nonregulated area. Such conditions present a high risk of artificially spreading the gypsy moth or browntail moth, if such regulated articles are not inspected or treated prior to such removal.

Gypsy moth and browntail moth regulated articles currently appear in § 301.45(b) of the regulations. In the proposed regulations, the revised list of these articles would appear in § 301.45–1(u) with the definition for regulated articles.

In relation to gypsy moth, experience over the years in inspecting regulated articles has shown that all stone and quarry products, parts of trees and shrubs, and certain timber products have rarely been known to carry gypsy moths and present minimal risk of artificial spread of this pest. Therefore, it is proposed that these articles would no longer be regulated because of gypsy moth.

Logs and pulpwood are timber products known to carry life stages of the gypsy moth, primarily egg masses, and, therefore, would continue to be regulated, but this proposal would exempt logs and pulpwood if they are moved to a designated mill operating under a compliance agreement which would minimize the risk of artificial spread of the pests. To be designated, a mill would be required to operate under a compliance agreement with the Department, and the names of such mills would be available upon request from the Deputy Administrator or an inspector. To be designated, precautions prescribed by an inspector would be required to be taken by the mill to prevent establishment of an infestation of gypsy moths. Such precautions would consist of treating with chemical sprays any host material in the mill environs, disposing of bark and other waste material to prevent a hazard of spreading the pest, or utilizing traps to detect any infestation that may occur.

Firewood is currently regulated under the category of timber products, but would be specificially listed as a regulated article under this proposal. This would alert the public that this article is hazardous and should not be moved out of a high-risk area to a nonregulated area unless treated.

In the proposed regulations, the phrase "e.g. outdoor household articles" would be added to the "any other products" clause in the list of regulated articles under § 301.45–1(u)(3). Outdoor household articles include outdoor furniture, barbecue grills, garden tools, and other such articles currently included as "any other products." This proposed addition to the regulations is intended to give added emphasis to the need to be aware of the hazard of moth spread associated with such articles when household goods are moved.

If the above-mentioned changes in the list of regulated articles are adopted, a supplementary regulation listing exempted articles would serve no useful purpose. The same objectives can be attained by stating exceptions to a regulated article beside the listed article in § 301.45–1(u)(1); e.g., "Trees with roots, and shrubs with roots and persistent woody stems, *except* if greenhouse grown throughout the year." Therefore, provision for exempting such articles would no longer be needed, and the supplemental regulation, § 301.45–2b Exempted Articles, would be deleted.

In the current regulation, mobile homes and associated equipment are regulated for gypsy moth only if moving from a site that has been declared hazardous and so listed in the regulations. In the proposal, the movement of all mobile homes and associated equipment from a high risk area to a nonregulated area would be regulated because such homes, in most instances, remain stationary for many years. This means they are continually exposed to infestation, present an extremely high-risk of spreading the gypsy moth when moved to a nonregulated area, and must be inspected and/or treated prior to being moved. Although pesticidal spray treatments could reduce gypsy moth populations around areas where mobile homes are parked, such treatments are impractical and are not usually applied since only a small number of mobile homes are moved each year. Hazardous recreational vehicle sites would continue to be listed.

Definitions for "generally infested area," "restricted destination permit," "scientific permit," and "suppressive area" would be deleted since these terms are not used in the proposed regulations.

Definitions for "defoliation," "high-risk area," "low-risk area," "outdoor household articles," and "under the direction of" would be added as pertinent to this subpart.

The current definitions for "associated equipment," "compliance agreement," "limited permit," "moved," "certificate," "person," and "Plant Protection and Quarantine Programs" would be amended for purposes of simplification and clarity.

The definition for "Deputy Administrator" would be amended for uniformity with such definition in similar regulations.

The definition of "gypsy moth" would be amended to adopt the currently accepted name for the species of *"Lymantria dispar* L." instead of the previous accepted name for the species of *"Porthetria dispar* L."

The definition for "Hazardous mobile home parks or recreational sites," and for "Mobile home; mobile home park" would be amended to remove reference to "mobile home park" because the regulations pertaining to mobile home parks would no longer be applicable.

The definition for "regulated articles" would be amended by adding to the definition the revised list of regulated articles, for a more logical arrangement of material.

The definition for "treatment manual" would be corrected to reflect a change in the name of the manual. Appropriate footnotes would be added to indicate that the Director of the Federal Register has approved the incorporation by reference of the "Plant Protectin and Quarantine Treatment Manual" and that the "Gypsy Moth and Browntail Moth Program Manual" is published as an appendix to these regulations.

The use of restricted destination permits and scientific permits would be deleted since the limited permit can be used for the same purpose. Accordingly, it is proposed that the reference in the regulations to the use of restricted destination permits and scientific permits and the definitions for such permits would be deleted.

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Proposed § 301.45–3(b) of the regulations would prohibit the interstate movement of any regulated articles from a low-risk area into or through a nonregulated area unless a certificate or permit has been issued by an inspector, if he determines that any life stage of gypsy moth or browntail moth is on any of the articles and the person in possession of the articles has been so notified. As to gypsy moth, this would primarily apply to a mobile home or recreational vehicle, but could also apply to other regulated articles with regard to both pests. it is difficult to find all the life stages of the gypsy moth on a recreational vehicle or mobile home because of the many nooks and cranies on this type of vehicle. Also, other regulated articles present similar difficulties in finding life stages of the pests, and if any life stage is found on the articles it is reasonable to believe there are additional life stages on the regulated article that cannot be readily found.

Proposed § 301.45–4(a)(4) of the regulations authorizes the inspector to issue a certificate for movement of any regulated article if, among other things, the article has been grown, produced, manufactured, stored, or handled in a manner that no infestation would be transmitted, as determined by an inspector. An infestation would not be transmitted by such movement if the article was grown in an environment protected from an infestation, e.g., nursery stock grown in the protected environment of a greenhouse, or an article manufactured, stored, or handled so that no infestation would be transported, such as debarked logs.

Section 301.45–4(f) of the current regulations authorizes the Deputy Administrator or an inspector to withdraw certificates or permits for the movement of regulated articles if he determines that the holder thereof has not complied with any condition for the use of the document imposed by the regulations. Section 301.45–4(f) would be designated § 301.45–4(d) and amended to provide specifically for procedures for such withdrawals by allowing any person whose certificate or permit has been withdrawn to appeal the decision in writing to the Deputy Administrator within 10 days after receiving written notification of the withdrawal. The Deputy Administrator shall grant or deny the appeal, in writing, as promptly as circumstances permit. If there is a dispute as to any material fact, a hearing shall be held to resolve such conflict.

Section 301.45–5 of the current regulations concerning the cancellation of compliance agreements would be amended to provide for procedures for the cancellation of compliance agreements similar to those for the withdrawal of certificates and permits by allowing any person whose compliance agreement has been canceled to appeal the decision, in writing, to the Deputy Administrator within 10 days after receiving written notice of the cancelation. The Deputy Administrator would grant or deny the appeal, in writing, as promptly as circumstances permit. If there is a dispute as to any material fact, a hearing would be held to resolve such conflict.

Under requirements of the proposal, in § 301.45–6, shippers desiring to move regulated articles interstate must give notice to the PPQ inspector as far in advance as possible, but no less than 48 hours before the desired movement to allow the PPQ inspector time to arrange inspection in accordance with his work schedule.

Various other minor editorial changes would be made for clarity and simplification of the regulations.

An environmental impact statement has been prepared on the cooperative gypsy moth suppression and regulatory program. Copies are available from USDA Forest Service, Washington, DC 20013.

Accordingly, it is proposed that the regulations relating to the Gypsy Moth and Browntail Moth Quarantine (7 CFR 301.45, 301.45–1, *et seq.*) be revised to read as follows:

Quarantine and Regulations

Sec.

301.45 Notice of quarantine; restriction on interstate movement of specified regulated articles.
301.45–1 Definitions.
301.45–2 Authorization to designate, and terminate designation of, regulated areas, high-risk and low-risk areas, and hazardous sites for recreational vehicles.
301.45–2a Regulated areas: High-risk and low-risk areas.
301.45–2b [Reserved]
301.45–2c List of hazardous recreational vehicle sites.
301.45–3 Conditions governing the interstate movement of regulated articles from quarantined States.
301.45–4 Issuance and cancellation of certificates and permits.
301.45–5 Compliance agreement, and cancellation thereof.
301.45–6 Assembly and inspection of regulated articles.
301.45–7 Attachment and disposition of certificates or permits.
301.45–8 Inspection and disposal of regulated articles and pests.
301.45–9 Movement of live gypsy moths and browntail moths.

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Quarantine and Regulations

§ 301.45 Notice of quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of Quarantine.* Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 30, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), the Secretary of Agriculture heretofore determined after public hearing to quarantine the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, in order to prevent the spread of the gypsy moth (*Lymantria dispar* L.), and the States of Maine and Massachusetts to prevent the spread of the browntail moth (*Nygmia phaeorrhoea* Donov.) dangerous insects injurious to forests and shade trees and not theretofore widely prevalent or distributed within or throughout the United States. It has now been determined that, after public hearing it is also necessary to quarantine the States of Michigan, North Carolina, South Carolina, Virginia, Washington, West Virginia, and Wisconsin to prevent the spread of the gypsy moth. Therefore, under the authority of said provisions, the Secretary hereby continues to quarantine the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont and quarantines the States of Michigan, North Carolina, South Carolina, Virginia, Washington, West Virginia, and Wisconsin, because of the gypsy moth; and continues to quarantine the States of Maine and Massachusetts because of the browntail moth. The quarantine shall be in effect with respect to the interstate movement from the quarantined States of the articles described in § 301.45–1(v) pursuant to the regulations in this subpart governing such movement.

(b) *Quarantine restrictions on interstate movement of regulated articles.* No common carrier or other person shall move interstate from any regulated area any regulated article except in accordance with the conditions prescribed in this subpart.

§ 301.45–1 Definitions.

When used in this subpart, the following definitions shall apply. Terms used in the singular shall be deemed to import the plural, and vice versa, as the case may demand.

(a) *Associated equipment.* Articles associated with mobile homes and recreational vehicles, such as, but not limited to, awnings, tents, outdoor furniture, trailer blocks, and trailer skirts.

(b) *Browntail moth.* The live insect known as the browntail moth *(Nygmia phaeorrhoea* Donov.), in any life stage of development (egg, larva, pupa, adult).

(c) *Certificate.* A document issued by the inspector, to allow the movement of regulated articles to any destination.

(d) *Compliance agreement.* A written agreement between a person engaged in growing, handling, or moving regulated articles, and the Plant Protection and Quarantine Programs, wherein the former agrees to comply with the requirements of the compliance agreement.

(e) *Defoliation.* A condition existing when at least 10 percent of the leaves are stripped from the trees by gypsy moth larvae as determined by visual inspection of an inspector.

(f) *Deputy Administrator.* The Deputy Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture for the Plant Protection and Quarantine Programs, or any other officer or employee of the Department to whom authority has heretofore been or may hereafter be delegated to act in his stead.

(g) *Gypsy moth.* The live insect known as the gypsy moth (*Lymantria dispar* L.) in any life stage (egg, larva, pupa, adult).

(h) *Hazardous recreational vehicle site.* Any site where a recreational vehicle is, or may be parked, and it is determined in the professional judgment of an inspector that such site harbors populations of gypsy moth, on the basis of eggs which are present year-round, larvae and pupae which are present in spring and summer, or adults which are present in summer, that could hitchhike on and be spread by a recreational vehicle, and such site is listed by the Deputy Administrator in § 301.45–2c.

(i) *High-risk area.* That portion of a regulated area where it is visually determined in the professional judgment of an inspector that there is a substantial risk of artificial spread of gypsy moths or browntail moths in any life stage by movement of regulated articles to nonregulated areas. There is substantial risk of artificially spreading the gypsy moth when the inspector determines that regulated articles exist within or adjacent to an area where defoliation has occurred or where the inspector has reason to believe that 50 or more egg masses per acre of the gypsy moth are present. There is substantial risk of artificially spreading browntail moth when the inspector determines that regulated articles are within an area where 5 or more browntail moth webs per acre may be present.

(j) *Infestation.* (1) With regard to the browntail moth, it means the presence of eggs, larva(e), pupa(e), or adult(s) of the browntail moth. (2) With regard to the gypsy moth, it means (i) the presence of gypsy moths as determined by the trapping of male moths in accordance with the program manual in a pattern indicating an established population, or (ii) the detection of any other life stage of the gypsy moth through visual inspection.

(k) *Inspector.* An employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the quarantine and regulations in this subpart.

(l) *Interstate.* From any State into or through any other State.

(m) *Limited permit.* A document issued by an inspector to allow the interstate movement of regulated articles to a specified destination.

(n) *Low-risk area.* That portion of the regulated area not designated as a high risk area.

(o) *Mobile home.* A mobile home is any vehicle, other than a recreational vehicle, designed to serve, when parked, as a dwelling or place of business.

(p) *Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means. "Movement" and "move" shall be construed in accordance with this definition.

(q) *Outdoor household articles.* Articles associated with a household that have been kept outside the home such as outdoor furniture, barbecue grills, dog houses, boats, hauling trailers, garden tools, tents, and awnings.

(r) *Person.* Any individual, partnership, corporation, company, society, association, or other organized group.

(s) *Plant Protection and Quarantine Programs.* The organizational unit within the Animal and Plant Health Inspection Service delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act and related legislation, and quarantines and regulations promulgated thereunder.

(t) *Recreational vehicles.* Highway vehicles, including pickup truck campers, one-piece motor homes, and travel trailers, designed to serve as a temporary place of dwelling.

(u) *Regulated area.* Any quarantined State, or any portion thereof, listed as a regulated area in § 301.45–2a or otherwise designated as a regulated area in accordance with § 301.45–2(b).

(v) *Regulated articles.*—(1) Gypsy moth regulated articles:

(i) Trees with roots, and shrubs with roots and persistent woody stems, *except* if greenhouse grown throughout the year.

(ii) Logs and pulpwood, *except* if moved to a mill operating under a compliance agreement.[1]

(iii) Firewood.

(iv) Mobile homes and associated equipment.

(v) Recreational vehicles and associated equipment, moving from hazardous recreational vehicle sites listed in § 301.45–2c.

(vi) Other products, articles, and means of conveyance listed in subparagraph (3) of this paragraph.

(2) Browntail moth regulated articles:

(i) Deciduous trees, and shrubs with persistent woody stems, and parts of such trees and shrubs, with leaves attached.

(ii) Other products, articles, and means of conveyance listed in subparagraph (3) of this paragraph.

(3) Any other products, articles (e.g., outdoor household articles), or means of conveyance, of any character whatsoever when it is determined by an inspector that any life stage of gypsy moth or browntail moth are in proximity to such articles and the articles present a high risk of artificial spread of gypsy moth or browntail moth infestations and the person in possession thereof has been so notified.

(w) *State.* Any State, Territory, or District of the United States including Puerto Rico.

(x) *Treatment manual.* The provsions currently contained in the "Gypsy Moth and Browntail Moth Program Manual" [2, 4] and the "Plant Protection and Quarantine Treatment Manual." [2, 3]

[1] Names of mills under compliance agreement are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from an inspector.

[2] Pamphlets containing such provisions are available upon request to the Deputy Administrator, Plant Protection and Quarantine Programs, APHIS, U.S. Department of Agriculture, Washington, DC 20250, or from an inspector.

[3] Note.—Provisions for incorporation by reference of the PPQ Treatment Manual approved by the Director, Office of the Federal Register on June 15, 1972.

[4] The Gypsy Moth and Browntail Moth Program Manual is published as an appendix to these regulations.

(y) *Under the direction of.* Monitoring treatments to assure compliance with the requirements in this subpart.

§ 301.45–2 Authorization to designate and terminate designation of regulated areas and high-risk and low-risk areas and hazardous recreational vehicle sites.

(a) *Regulated areas and high-risk or low-risk areas.* The Deputy Administrator shall list as regulated areas in § 301.45–2a, each quarantined State, or each portion thereof in which a gypsy moth or browntail moth infestation has been found by an inspector, or each portion of a quarantined State which the Deputy Administrator deems necessary to regulate because of their proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator may designate any regulated area or portion thereof as a high-risk area or a low-risk area if he determines that it meets the criteria for such area specified in §§ 301.45–i(i) and (n). Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart, as determined by the Deputy Administrator; and

(2) The designation of less than the entire State as a regulated area will be adequate to prevent the artificial interstate spread of infestations of the gypsy moth and browntail moth.

(b) *Temporary designation of nonregulated areas and low-risk areas as high-risk areas.* The Deputy Administrator or an inspector may temporarily designate any nonregulated area or low-risk area or portion thereof in a quarantined State in which a gypsy moth of browntail moth infestation has been found by an inspector, as a regulated area and may designate the regulated area or portions thereof as a high-risk area if an inspector or the Deputy Administrator determines that it meets the criteria for such an area, as provided in § 301.45–1(i). Written notice of such designation shall be given to the owner or person in possession of such nonregulated or low-risk areas, and, thereafter, the interstate movement of regulated articles from such areas shall be subject to the applicable provisions of this subpart. As soon as practicable, such areas shall be added to the list in § 301.45–2a or such designation shall be terminated by the Deputy Administrator or an authorized inspector, and notice thereof shall be given to the owner or person in possession of the areas.

(c) *Termination of designation as a regulated area.* The Deputy Administrator shall terminate the regulation of any area or change its designation from a high-risk area to a low-risk area whenever he determines that such redesignation is appropriate or required under the criteria specified in paragraph (a) of this section.

(d) *List of hazardous recreational vehicle sites.* The Deputy Administrator shall list as hazardous in § 301.45–2c any recreational vehicle sites in a quarantined State in which gypsy moth has been found by an inspector, or in which there is a risk of infestation of the gypsy moth because of the proximity to infestation of the gypsy moth.

§ 301.45–2a Regulated areas; high-risk and low-risk areas.

(a) The civil divisions and parts of civil divisions described below are designated as gypsy moth regulated areas within the meaning of the provisions of this subpart, and such regulated areas are hereby divided into high-risk areas or low-risk areas as follows:

Connecticut

(1) *High-risk area.*

Hartford County. The entire county.
Middlesex County. The entire county.
New London County. The entire county.
Tolland County. The entire county.
Windham County. The entire county.

(2) *Low-risk area.*

Fairfield County. The entire county.
Litchfield County. The entire county.
New Haven County. The entire county.

Delaware

(1) *High-risk area.* None.
(2) *Low-risk area.*

New Castle County. The entire county.

Maine

(1) *High-risk area.*

Androscoggin County. The entire county.
Cumberland County. The entire county.
Franklin County. The townships of Chesterville, Jay, and New Sharon.
Hancock County. The entire county except the townships of 3ND, 4ND, 41MD, and 35MD.
Kennebec County. The entire county.
Knox County. The entire county.
Lincoln County. The entire county.
Oxford County. The townships of Albany, Batchelders Grant, Brownfield, Buckfield, Canton, Denmark, Dixfield, Fryeburg, Greenwood, Hartford, Hebron, Hiram, Lovell, Mason Plantation, Norway, Oxford, Paris, Peru, Porter, Stoneham, Stow, Sumner, Sweden, Waterford, and Woodstock.
Penobscot County. The townships of Alton, Argyle, Bangor City, Bradford, Bradley, Brewer City, Carmel, Charleston, Clifton, Corinna, Cornith, Dixmont, Edinburg, Etna, Exeter, Glenburn, Greenbush, Greenfield, Hampden, Hermon, Holden, Hudson, Kenduskeag, La Grange, Levant, Milford, Newburgh, Newport, Old Town City, Orono, Orrington, Pasadumkeag, Plymouth, Stetson, Veazie-Eddington, and 1ND.
Sagadahoc County. The entire county.
Somerset County. The townships of Anson, Athens, Canaan, Cornville, Detroit, Fairfield, Harmony, Hartland, Madison, Mercer, Norridgewock, Palmyra, Pittsfield, Skowhegan, Smithfield, Solon, St. Albans, and Starks.
Waldo County. The entire county.
Woshington County. The townships of Beddington, Cherryfield, Columbia, Deblois, Harrington, Milbridge, Steuben, 18MD and 24MD.
York County. The townships of Cornish and Parsonfield.

(1) *Low-risk area.*

Franklin County. The townships of Avon, Carthage, Crockertown, Dallas Plantation, Farmington, Freeman, Industry, Jerusalem, Kingfield, Madrid, Mount Abraham, New Vineyard, Perkins, Phillips, Rangeley Plantation, Redington, Salem, Sandy River Plantation, Strong, Temple, Washington, Weld, Wilton, E, D, 1 R 2, 3 R 2, 4 R 1, and 4 R 2.
Oxford County. The townships of Andover, Andover North, Andover West, Bethel, Byron, Gilead, Grafton, Hanover, Magalloway Plantation, Mexico, Milton Plantation, Newry, Richardsontown, Riley, Roxbury, Rumford, Upton, C, C Surplus, and 4 R1.
Penobscot County. The townships of Enfield, Grand Falls Plantation, Howland, Lincoln, Lowell, Mattamiscontis, Maxfield, and 1 R 7.
Piscataquis County. The townships of Abbott, Atkinson, Dover-Foxcroft, Guilford, Kingsbury Plantation, Medford, Milo, Orneville, Parkman, Sangeville, Sebec, and Wellington.
Somerset County. The townships of Bingham, Brighton Plantation, Cambridge, Concord Plantation, Embden, Highland Plantation, Lexington Plantation, Mayfield, Moscow, New Portland, Pleasant Ridge Plantation, and Ripley.
York County. The townships of Acton, Alfred, Berwick, Biddeford City, Buxton, Dayton, Eliot, Hollis, Kennebunk, Kittery, Lebanon, Limerick, Limington, Lyman, Newfield, North Berwick, North Kennebunkport, Old Orchard Beach, Saco City, Sanford, Shapleigh, South Berwock, Waterboro, Wells, and York.

Maryland

(1) *High-risk area.* None.
(2) *Low-risk area.*

Baltimore County. That portion of the county bounded by a line beginning at a point where U.S. Highway 140 intersects with the Baltimore-Carroll County line; thence southeasterly along U.S. Highway 140 to its intersection with U.S. Interstate 695; thence easterly along U.S. Interstate 695 to its intersection with U.S. Highway 1; thence northeasterly along U.S. Highway 1 to its intersection with the Baltimore-Harford County line; thence northerly along said county line to its junction with the Maryland-Pennsylvania State line; thence westerly along said State line to its junction with the Baltimore-Carroll County line; thence southwesterly along said county line to the point of beginning.
Carroll County. The entire county.
Cecil County. The entire county.
Frederick County. The entire county.
Harford County. The entire county.
Kent County. The entire county.
Washington County. That area bounded by a line beginning at a point where U.S. Highway 40A intersects State Highway 66; thence northerly along State Highway 66 to its intersection with State Highway 64; thence west along said Highway to its intersection with the Hagerstown City limits; thence southerly, westerly, and northerly along said city limits to its intersection with U.S. Highway 40; thence west along said highway to its intersection with Interstate 81; thence southerly along Interstate 81 to its intersection with State Highway 68; thence southerly along State Highway 68 to its intersection with U.S. Highway 40A; thence southerly along U.S. 40A to point of beginning.

Massachusetts

(1) *High-risk area.*

Barnstable County. The entire county.
Berkshire County. The entire county.
Bristol County. The entire county.
Franklin County. The entire county.
Hampden County. The entire county.
Hampshire County. The entire county.
Middlesex County. The entire county.
Norfolk County. The entire county.
Plymouth County. The entire county.
Suffolk County. The entire county.
Worcester County. The entire county.

(2) *Low-risk area.*

Dukes County. The entire county.
Essex County. The entire county.
Nantucket County. The entire county.

Michigan

(1) *High risk area.*

Isabella County. Sec. 33, T. 13 N., R. 4 W.; and sec. 35, T. 14 N., R. 6 W.
Montcalm County. Secs. 7 and 18, T. 12 N., R. 5 W.; sec. 2, T. 12N., R. 6 W.; and sec. 25, T. 11 N., R. 7 W.

(2) *Low-risk area.*

Grotiot County. T. 10 N., R. 1 W.; T. 12 N., R. 1 W.; T. 11 N., R. 2 W.; sec. 31, T. 12 N., R. 2 W.; T. 10 N., R. 3 W.; T. 11 N., R. 3 W.; T. 12 N., R. 3 W.; sec. 24, T. 11 N., R. 4 W.; and T. 12 N., R. 4 W.
Isabella County. T. 13 N., R. 3 W.; T. 14 N., R. 3 W.; sec. 30, T. 16 N., R. 3 W.; T. 13 N., R. 4 W., excluding sec. 33; T. 14 N., R. 4 W.; T. 13 N., R. 5 W.; T. 14 N., R. 5 W.; T. 13 N., R. 6 W.; T. 14 N., R. 6 W., excluding sec. 35.
Midland County. Secs. 4 and 9, T. 13 N., R. 2 E.; sec. 27, T. 14 N., R. 1 E.; T. 13 N., R. 1 W.; T. 14 N., R. 1 W.; T. 13 N., R. 2 W.; T. 14 N., R. 2 W.
Montcalm County. T. 11 N., R. 5 W.; T. 12 N., R. 5 W., excluding secs. 7 and 18; T. 11 N., R. 6 W.; T. 12 N., R. 6 W., excluding sec. 2; T. 11 N., R. 7 W.; secs. 3, 4, and 5, T. 12 N., R. 6 W.
Saginaw County. Sec. 16, T. 12 N., R. 1 E.

New Hampshire

(1) *High-risk area.*

Belknap County. The entire county.
Carroll County. The entire County.
Coos County. The townships of Beans Purchase, Cutts Grant, Hadleys Purchase, Pinkhams Grant, and Sargents Purchase.
Grafton County. The townships of Alexandria, Ashland, Bridgewater, Bristol, Campton, Groton, Hebron, Holderness, Livermore, Orange, Plymouth, Rumney, Thornton, and Waterville.
Hillsboro County. Weare Township.
Merrimack County. The entire county.
Rockingham County. The townships of Deerfield and Northwood.
Strafford County. The entire county.

(2) *Low-risk area.*

Cheshire County. The entire county.
Coos County. The townships of Beans Grant, Berlin City, Cambridge, Carroll, Chandlers Purchase, Crawfords Purchase, Dalton, Dummer, Gorham, Greens Grant, Jefferson, Kilkenny, Lancaster, Low & Burbank Grant, Martins Location, Milan, Northumberland, Odell, Randolph, Shelburne, Stark, Stratford, Success, Thompson & Meserve Purchase, and Whitefield.
Grafton County. The townships of Bath, Benton, Bethlehem, Canaan, Dorchester, Easton, Ellsworth, Enfield, Franconia, Grafton, Hanover, Haverhill, Landaff, Lebanon, Lincoln, Lisbon, Littleton, Lyman, Lyme, Monroe, Oxford, Piermont, Warren Wentworth, and Woodstock.
Hillsboro County. The townships of Amherst, Antrim, Bedford, Bennington, Brookline, Deering, Francestown, Goffstown, Greenfield, Greenville, Hancock, Hillsboro, Hollis, Hudson, Litchfield, Lyndeboro, Manchester City, Mason, Merrimack, Milford, Mont Vernon, Nashua City, New Boston, New Ipswich, Pelham, Peterboro, Sharon, Temple, Wilton, and Windsor.
Rockingham County. The townships of Atkinson, Auburn, Brentwood, Candia, Chester, Danville, Derry, E. Kingston, Epping, Exeter, Freemont, Greenland, Hampstead, Hampton Falls, Hampton, Kensington, Kingston, Londonderry, Newcastle, Newfields, Newington, Newmarket, Newton, North Hampton, Nottingham, Plaistow, Portsmouth City, Raymond, Rye, Salem, Sandown, Seabrook, South Hampton, Stratham, and Windham.
Sullivan County. The entire county.

New Jersey

(1) *High-risk area.* The entire State *except* Hudson and Union Counties.

(2) *Low-risk area.*

Hudson County. The entire county.
Union County. The entire county.

New York

(1) *High-risk area.*

Broome County. The entire county.
Chenango County. The town of Afton, Bainbridge, Coventry, German, Greene, Guilford, McDonough, New Berlin, North Norwich, Norwich, Oxford, Pharsalia, Pitcher, Plymouth, Preston, Smithville, and the city of Norwich.
Clinton County. The entire county.
Columbia County. The entire county.
Cortland County. The towns of Cincinnatus, Cortlandville, Freetown, Hartford, Lapeer, Marathon, Solon, Taylor, Virgil, Willet, and the city of Cortland.
Delaware County. The entire county.
Dutchess County. The entire county.
Essex County. The entire county.
Franklin County. The towns of Bangor, Bellmont, Bombay, Brandon, Brighton, Burke, Chateaugay, Constable, Dickinson, Duane, Fort Covington, Franklin, Malone, Moira, St. Regis Indian Reservation, and Westville.
Greene County. The entire county.
Hamilton County. The towns of Hope, Indian Lake, Lake Pleasant, and Wells.
Monroe County. The towns of Penfield, Perinton and Pittsford.
Nassau County. The entire county.
Orange County. The entire county.
Otsego County. The entire county.
Putnam County. The entire county.
Rensselaer County. The entire county.
Rockland County. The entire county.
Saratoga County. The entire county.
Schoharie County. The entire county.
St. Lawrence County. The towns of Brasher, Hopkinson, Lawrence, Louisville, Massena, Norfolk, and Stockholm.
Suffolk County. The entire county.
Sullivan County. The entire county.
Tioga County. The entire county.
Tompkins County. The towns of Caroline, Danby, Dryden, Enfield, Ithaca, Newfield and the city of Ithaca.
Ulster County. The entire county.
Warren County. The entire county.
Washington County. The entire county.
Westchester County. The entire county.

(2) *Low-risk area.*

Albany County. The entire county.
Allegany County. The entire county.
Bronx County. The entire county.
Cattaraugus County. The entire county.
Cayuga County. The entire county.
Chautauqua County. The entire county.
Chemung County. The entire county.
Chenango County. The towns of Columbus, Linklaen, Otselic, Smyrna, and Sherburne.
Cortland County. The towns of Cuyler, Homer, Preble, Scott, and Truxton.
Erie County. The entire county.
Franklin County. The towns of Altamont and Harriststown.
Fulton County. The entire county.
Genesee County. The entire county.
Hamilton County. The towns of Arietta, Benson, Inlet, Long Lake, and Morehouse.
Herkimer County. The entire county.
Jefferson County. The entire county.
Clinton County. The entire county.
Caldeonia County. The townships of

to its junction with Lawe Street, thence north

(b) A regulated article shall not be

requirements of all other applicable

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Jefferson County. The entire county.
Kings County. The entire county.
Lewis County. The entire county.
Livingston County. The entire county.
Madison County. The entire county.
Monroe County. The towns of Brighton, Chile, Clarkson, Gates, Greece, Hamlin, Henrietta, Irondequoit, Mendon, Ogden, Parma, Riga, Rochester City, Rush, Sweden, Webser, and Wheatland.
Montgomery County. The entire county.
New York County. The entire county.
Niagara County. The entire county.
Oneida County. The entire county.
Onondaga County. The entire county.
Ontario County. The entire county.
Oswego County. The entire county.
Orleans County. The entire county.
Queens County. The entire county.
Richmond County. The entire county.
Schenectady County. The entire county.
Schuyler County. The entire county.
Seneca County. The entire county.
Steuben County. The entire county.
St. Lawrence County. The towns of Canton, Clare, Clifton, Colton, DeKalb, DePeyster, Edwards, Fine, Fowler, Gouverneur, Hammond, Hermon, Lisbon, Macomb, Madrid, Morristown, Oswegatchie, Parishville, Piercefield, Pierrepont, Pitcairn, Potsdam, Rossie, Russell, and Waddington.
Tompkins County. The towns of Groton, Lansing, and Ulysses.
Wayne County. The entire county.
Wyoming County. The entire county.
Yates County. The entire county.

North Carolina

(1) *High-risk area.* None.
(2) *Low-risk area.*

Avery County. That area bounded by a line beginning at a point where County Road 1143 intersects State Highway 194, thence northwesterly along said road to its intersection with County Road 1149, thence northerly along said road to its intersection with County Road 1150, thence northerly and northeasterly along said road to its intersection with County Road 1151, thence northerly along said road to its junction with State Highway 194, thence northerly and westerly along said highway to its intersection with County Road 1500, thence northerly and easterly along said road to its intersection with County Road 1501, thence southerly and southeasterly along said road for 1 mile, thence along a line projected due east to its intersection with the Linville River, thence southerly, westerly and northwesterly along said river to a point where it flows adjacent to State Highway 194, from that point on State Highway 194, thence northerly and easterly along said highway to the point of beginning.

Pennsylvania

(1) *High-risk area.*

Berks County. The entire county.
Blair County. The entire county.
Bucks County. The entire county.
Carbon County. The entire county.
Centre County. The entire county.
Chester County. The entire county.
Clearfield County. The entire county.
Clinton County. The entire county.
Columbia County. The entire county.
Cumberland County. The entire county.
Dauphin County. The entire county.
Delaware County. The entire county.
Huntingdon County. The entire county.
Juniota County. The entire county.
Lachawanna County. The entire county.
Lancaster County. The entire county.
Lebanon County. The entire county.
Lehigh County. The entire county.
Luzerne County. The entire county.
Lycoming County. The entire county.
Mifflin County. The entire county.
Monroe County. The entire county.
Montgomery County. The entire county.
Montour County. The entire county.
Northampton County. The entire county.
Northumberland County. The entire county.
Perry County. The entire county.
Pike County. The entire county.
Schuylkill County. The entire county.
Snyder County. The entire county.
Union County. The entire county.
Wayne County. The entire county.
York County. The entire county.

(2) *Low-risk area.* Counties not designated as high-risk area.

Rhode Island

(1) *High-risk area.* The entire State.
(2) *Low-risk area.* None.

South Carolina

(1) *High-risk area.* None.
(2) *Low-risk area.*

Horry County. That area bounded by a line beginning at a point where 17th Avenue North, Surfside Beach, joins the Atlantic Ocean and extending northwest along said avenue (the northeast city limits of Surfside Beach) to its junction with U.S. Highway 17, thence northeast along said highway to its intersection with 29th Avenue South, Myrtle Beach, thence southeast along said avenue to the Atlantic Ocean, thence southwest along the Atlantic Ocean to the point of beginning.
That area bounded by a line beginning at a point where Singleton Lake enters the Atlantic Ocean at Singleton Swash and extending northwest along a projected line to the south entrance of Cove Drive and U.S. Highway 17, thence northeast along said highway to its junction with 37th Avenue South, North Myrtle Beach, thence southeast along said avenue to the Atlantic Ocean, thence southwest along the Atlantic Ocean to the point of beginning.

Vermont

(1) *High-risk area.*

Addison County. The entire county.
Chittenden County. The entire county.
Franklin County. The entire county.
Grand Isle County. The entire county.
Lamoille County. The entire county.
Rutland County. The entire county.
Washington County. The entire county.

(2) *Low-risk area.*

Bennington County. The entire county.
Caldeonia County. The townships of Barnet, Danville, Groton, Hardwick, Kirby, Peacham, Ryegate, St. Johnsbury, Walden, and Waterford.
Essex County. The townships of Concord, Granby, Guildhall, Lunenburg, Maidstone, and Victory.
Orange County. The entire county.
Windham County. The entire county.
Windsor County. The entire county.

Virginia

(1) *High-risk area.* None.
(2) *Low-risk area.*

Clarke County. That area bounded by a line beginning at a point where the Shenandoah River crosses the Virginia/West Virginia State line, thence southerly along the Shenandoah River to its intersection with State Highway 7, thence easterly along said highway to its intersection with the Clark County/Loudoun County line, thence northerly along said county line to its junction with the Jefferson County, West Virginia County line, thence northwesterly along the Virginia/West Virginia State line to the point of beginning.
Loudoun County. That aera bounded by a line beginning at a point where State Highway 9 crosses the Virginia/West Virginia State line, thence southeasterly along State Highway 9 to its intersection with County Highway 719, thence southerly along said county highway to its intersection with State Highway 7, thence westerly along said highway to its intersection with the Loudoun County/Clarke County line, thence northerly along said county line to the point of beginning.

Washington

(1) *High-risk area.* None.
(2) *Low-risk area.*

King County. That area of the city of Renton bounded by Renton Avenue on the south, 77th Avenue on the west and Rainier Avenue on the north and east.

West Virginia

(1) *High-risk area.* None.
(2) *Low-risk area.*

Jefferson County. That area bounded by a line beginning at a point where State Highway 9 crosses the Shenandoah River, thence southerly along said river to its intersection with the Virginia/West Virginia State line, thence easterly and northerly along said State line to its intersection with State Highway 9, thence westerly along said highway to the point of beginning.

Wisconsin

(1) *High-risk area.* None.
(2) *Low-risk area.*

Outagamie County. That portion of the city of Appleton beginning at a point where Arlington Street intersects Newberry Street, thence south on Arlington Street to its intersection with Bluebird Lane, thence west on Bluebird Lane to its junction with an imaginary straight line projected across the golf course and west on said imaginary line

to its junction with Lawe Street, thence north on Lawe Street to its intersection with College Avenue, thence west on College Avenue to its junction with Newberry Street, thence west on Newberry Street to the point of beginning.
Waukesha County. N½ Sec. 2, and NE¼ Sec. 3, T. 7 N., R. 17 E; SE¼ Sec. 34, and S½ Sec. 35, T. 8 N, R. 17 E.

(b) The civil divisions and parts of civil divisions described below are designated browntail moth regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into high-risk areas or low-risk areas as follows:

Maine

(1) High-risk area.

Cumberland County. The towns of Brunswick, Cape Elizabeth, Cumberland, Falmouth, Freeport, Gray, Gorham, Harpswell, North Yarmouth, Pownal, Scarboro, Windham, and Yarmouth; the cities of Portland, South Portland, and Westbrook; and the offshore islands within the Casco Bay area of Cumberland County.
Sagadahoc County. The towns of Arrowsic, Georgetown, Phippsburg, West Bath, and Woolwich; the city of Bath; and the offshore islands within the Casco Bay area of Sagadahoc County.
York County. The entire county.

(2) *Low-risk area.* None.

Massachusetts

(1) *High-risk area.*

Barnstable County. The towns of Barnstable, Brewster, Chatham, Dennis, Eastham, Harwich, Orleans, Provincetown, Truro, Wellfleet, and Yarmouth.

(2) *Low-risk area.* None.

§ 301.45-2b [Reserved]

§ 301.45-2c List of hazardous recreational vehicle sites.

The recreational vehicle sites listed below are hereby designated as gypsy moth hazardous recreational vehicle sites within the meaning of the provisions of this subpart as indicated below.

(a) *Hazardous recreational vehicle sites.*

§ 301.45-3 Conditions governing the interstate movement of regulated articles from quarantined States.[3]

(a) A regulated article shall not be moved interstate from any high-risk area into or through any nonregulated area unless a certificate or permit has been issued and attached to such regulated article in accordance with §§ 301.45-4 and 301.45-7 of this part.

[3]Requirements under all other applicable Federal domestic plant quarantines must also be met.

(b) A regulated article shall not be moved interstate from any low-risk area into or through any nonregulated area when it is determined by an inspector that any life stage of the gypsy moth or browntail moth is on the regulated article, and the person in possession thereof has been so notified by an inspector, unless a certificate or permit has been issued and attached to such regulated articles in accordance with §§ 301.45-4 and 301.45-7 of this part.

(c) A regulated article originating outside of any high-risk area, except any regulated article in any low-risk area determined by an inspector to present a hazard of spreading the gypsy moth or browntail moth pursuant to paragraph (b) of this section, may be moved interstate directly through any high-risk area without a certificate or permit, if the point of origin of the article is clearly indicated by shipping documents, their identify has been maintained, and they have been safeguarded against infestation while in any high-risk area.

§ 301.45-4 Issuance and cancellation of certificates and permits.

(a) Certificates may be issued for any regulated article by an inspector if he determines that it is eligible for certification for movement to any destination under all Federal domestic plant quarantines applicable to such article and:

(1) It has originated in noninfested premises in a high-risk area and has not been exposed to the pests while within the high-risk area; or

(2) Upon the inspector's examination, he finds it to be free of the pests; or

(3) It has been treated under the direction of an inspector to destroy the pests in accordance with the treatment manual; or

(4) It has been grown, produced manufactured, stored, or handled in such a manner that no infestation would be transmitted thereby as determined by an inspector.

(b) Limited permits may be issued by an inspector to allow interstate movement of any regulated article under this subpart, to specified destinations for specified handling, utilization, processing, or for treatment in accordance with the treatment manual, when, upon evaluation of all of the circumstances involved in each case, the Deputy Administrator determines that such movement will not result in the spread of the gypsy moth or browntail moth becauser life stages of the moths will be destroyed by such specified handling, utilization, processing or treatment or the pest will not survive in areas to which shipped, and the requirements of all other applicable Federal domestic plant quarantines have been met.

(c) Certificate and limited permit forms may be issued by an inspector to any person for use for subsequent shipments of regulated articles provided such person is operating under a compliance agreement, and any such person may be authorized by an inspector to reproduce such forms on shipping containers or otherwise for the movement of regulated articles. Any such person may execute and issue the certificate forms or reproduction of such forms, for the interstate movement of regulated articles from the premises of such person identified in the compliance agreement if such person has treated such regulated articles to destroy infestation in accordance with the treatment manual, and if such regulated articles are eligible for certification for movement to any destination under all applicable Federal domestic plant quarantines. Any such person may execute and issue the limited permit forms, or reproductions of such forms, for interstate movement of regulated articles to specified destinations when the inspector has made the determinations specified in paragraph (b) of this section.

(d) Any certificate or permit which has been issued or authorized may be withdrawn by an inspector if he determines that the holder thereof has not complied with any condition for the use of such document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose certificate or permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for his decision as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

§ 301.45-5 Compliance agreement and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this subpart. A compliance agreement shall specify safeguards necessary to prevent spread of the gypsy moth and browntail

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moth such as disinfestation practices or application of chemical materials. Compliance agreement forms may be obtained from the Deputy Administrator or an inspector.

(b) Any compliance agreement may be canceled by the inspector who is supervising its enforcement, orally or in writing, whenever he finds that such person has failed to comply with the conditions of the agreement. If the cancellation is oral, the decision and the reasons therefor shall be confirmed in writing, as promptly as circumstances permit. Any persons whose compliance agreement has been canceled may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for his decision, as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

§ 301.45–6 Assembly and inspection of regulated articles.

Persons (other than those authorized to use certificates or limited permits, or reproductions thereof, under § 301.45–4(c)) who desire to move interstate regulated articles which must be accompanied by a certificate or permit shall, as far in advance as possible, but no less than 48 hours before the desired movement, request an inspector to examine the articles prior to movement. Such articles shall be assembled at such points and in such manner as the inspector designates to facilitate inspection.

§ 301.45–7 Attachment and disposition of certificates and permits.

(a) If a certificate or permit is required for the interstate movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such articles are moved, except that, where the certificate or permit is attached to the waybill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, the attachment of the certificate or permit to each container of the articles is not required.

(b) All certificates or permits for the movement of regulated articles shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.45–8 Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and gypsy moths or browntail moths as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd).

§ 301.45–9 Movement of live gypsy moths and browntail moths.

Regulations requiring a permit for and otherwise governing the movement of live gypsy moths and browntail moths in interstate or foreign commerce are contained in the Federal Plant Pest Regulations in Part 330 of this chapter.

Appendix—Gypsy Moth and Browntail Moth Program Manual [1]

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Authorization

The gypsy moth and browntail moth Quarantine 45, as amended (7 CFR 301.45), sets forth conditions governing the movement of regulated articles. One of these provisions is the treatment of articles under the direction of an authorized inspector in accordance with administratively approved procedures. Procedures outlined in section III of this manual are administratively authorized for the treatment of the regulated articles. Other articles which may require treatment to prevent spread of the gypsy moth and the browntailmoth, as determined by an inspector, likewise may be treated in accordance with procedures contained herein. These treatment procedures are based on information developed by both State and Federal agencies.

Under the authority of the Organic Act (7 U.S.C. 147a) the Department may cooperate with the States or others to carry out measures to suppress or control the spread of plant pests.

Notice

Recommendations in this manual which involve the use of pesticides concern products which have been registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. Precautions on the pesticide label and all instructions in this manual must be carefully followed.

Plant Protection and Quarantine Programs personnel may not make any warranty or representations, expressed or implied, concerning the use of these pesticides and shall not be responsible for any loss, damage, or injury sustained as a result of the use of any pesticide as specified in this manual.

The use of trade names in this manual does not imply an endorsement of those products or of the manufacturers thereof by Federal/State pest control programs.

Dated: April 23, 1977.

James O. Lee, Jr.,
Deputy Administrator, Plant Protection and Quarantine Programs.

I. General Information—Gypsy Moth

A. Economic Importance

The gypsy moth, *Lymantria dispar*, Linnaeus, family Lymantriidae, is probably the most destructive insect

[1] This manual supersedes the following which shall be discarded: 803–04.0000 Gypsy Moth—Survey (dated February 1977); *Except retain the pamphlet,* "Meet the Gypsy Moth." 805–04.0000 Gypsy Moth and Browntail Moth—Regulatory (dated August 3, 1976). 807–04.0000 Gypsy Moth and Browntail Moth—Control (dated April 1978).

threatening or currently attacking hardwood forests and shade trees in the eastern United States. The larval or caterpillar stage of this insect is a leaf-eater capable of completely defoliating trees, resulting in reduced tree growth and often tree mortality as a result of excessive or repeated defoliation. Many deciduous forest, shade, fruit, and ornamental trees are susceptible to this insect. The later larval instars will also readily feed on conifers; killing the eastern hemlock for example, in one defoliation. Intangible losses include increased potential fire hazard, esthetic damage, and the impact as a public nuisance when large numbers of caterpillars occur in populated areas. The nuisance of millions of larvae in a resort area, village, or town cannot be expressed in terms of dollars; but it has historically been, and remains, the type of situation which attracts the public's attention and results in demands for the State and Federal Governments to take action.

Some indication of the impact, actual and potential, of this pest is shown by the fact that the southern New England States, New York, New Jersey, and Pennsylvania are continuing efforts on an annual basis to reduce damage by the gypsy moth in forested recreational and residential areas.

B. Distribution

Viable egg masses of the gypsy moth were introduced into this country at Medford, Massachusetts, in 1869. The purpose of this introduction was to develop a hardy race of silk-producing insects by crossing gypsy moths with silkworm moths. Spread of the insect was slow at first, but it was found in Rhode Island in 1901; Connecticut and New Hampshire in 1905; New York in 1912; and Vermont in 1915. Gradual spread was recorded over the next few decades in New Jersey, Pennsylvania and Michigan; with successful eradication efforts recorded during the intervening years to the early 1960's. The present known area of general infestation includes the New England States, New Jersey, and major portions of New York, Pennsylvania, Delaware, and Maryland. There are recently identified sites of infestation in areas outside the generally infested States where the most up-to-date methods will be used to eradicate this insect or the necessary control and regulatory measures will be used to reduce any hazard of further spread.

C. Host Plants

The gypsy moth larva is a general feeder on many kinds of trees and shrubs. Plants generally fall into four classes of preference as food. Among the most favored food plants for any larval instar are oaks of all types, apple, speckled alder, aspen, birch (except black and yellow], willows, linden, basswood, and larch. The later larval stages readily feed on all species of pine and spruse, hemlock, chestnut, blueberry, and beech. Less favored hosts on which larval development can be completed are cherry, elm, hickory, black and yellow birch, and maple. The larvae tend to avoid yellow or tulip poplar, ash, azalea, blackberry, catalpa, dogwood, elder, currant, holly, horsechestnut, poison ivy, balsam, butternut, grape, sycamore, and red cedar.

D. Life History

The gypsy moth has one generation a year. The insect overwinters in the egg stage, a period running from late July to mid-April. The female moth will lay her eggs in a cluster averaging approximately 500 eggs, but varying from 100 to 1,000, depending on the type of food available and population pressure. Egg hatching dates will vary widely according to local climatic conditions.

The normal hatching date in southern New Jersey is early April as opposed to mid-May in parts of New York and New England. The time of hatch in any given locality may spread over a 10 to 30 day period depending on egg mass location and local climatic conditions. For example, eggs exposed to the sun on a tree trunk will hatch from several days to a week earlier than eggs under a stone at the tree base.

Newly hatched larvae measure approximately 1.6 mm (1/16 inch) in length. They begin a random search for food when temperatures have moderated to above 16°C (60°F). When disturbed or in a high population density situation, the larvae will react to such stress by spinning down from the tree branches on silken threads. The insects are readily carried by the wind over considerable distances dependent on terrain, wind velocity, and other factors. This is a major source of natural spread, often exceeding distances of 16–24 kilometers (10–15 miles). Male larvae normally go through five instars and females through six. The larvae develop rapidly, and the amount of food consumed is greatest during the fifth instar. In light infestations, most feeding occurs at night. The pupal period will last about 10 days. The male moth emerges a few days earlier than the female. Mating occurs very soon after the females have emerged. Oviposition usually occurs near the empty pupal case. Once this function is completed, the female moth will die. Neither male not female adults feed.

E. Description

See the U.S. Department of Agriculture-Forest Service pamphlet, "Meet the Gypsy Moth." (Agriculture Information Bulletin No. 399.)

F. Definition of Infestation

An infestation of gypsy moth is considered established when one of the following criteria are met:

1. Trapping—The delimiting survey at a positive trap site yields a pattern of positive male moth recoveries in the year following the original find; or

2. Scouting—Inspection reveals the establishment of any other life stage of the gypsy moth in a susceptible area.

The area regarded infested will be 1.6 kilometers (one mile) beyond the site of each specimen recovery. Three consecutive negative surveys covering a span of 3 years will be required before eradication is declared.

When deemed necessary, a 1.6 kilometer (one-mile) radius from the point of specimen recovery will be regulated.

II. Survey Procedures—Gypsy Moth

The various types of survey provide information on the occurrence, abundance, and extent of gypsy moth populations.

Sex attractant or pheromone traps operated during the summer months are the most effective and economical method available for the detection of light infestations; to delimit infested areas; to check the results of control or eradication treatments; to determine the need for or intensity of egg mass survey; and to determine population trends.

Visual scouting techniques for egg masses are used to determine if an infestation has become established, or to determine population trends. This scouting is usually done after leaf-fall and in winter for best results.

Aerial defoliation surveys are conducted in the early summer, timed to coincide with pupation. This activity is recommended to determine the presence and extent of high population levels of gypsy moth.

A. Trapping Survey

1. *Detection—Area.* Trapping for detection purposes is conducted in areas well removed from known infestations. This usually involves covering a large area with a specific number of traps. The number of traps and the distribution pattern are based on the distance from

known infested areas, the likelihood of artificial introduction, hosts available, and financial resources available.

In those States where a uniform trapping array is planned, survey should occur in one-third of the total area in the State. The trap array will be one trap per 2.5 square kilometers (one square mile).

The areas designated for trapping within a State should be established by field personnel based on the location of resident Plant Protection and Quarantine Programs (PPQ) personnel, the availability of cooperator personnel, and the availability of part-time employees. The trap array within a State does not have to be restricted to a contiguous portion of the State to provide for trapping in one-third of the total area.

2. *Detection—Selected Sites.* The entire trapping program for many States may be restricted to selective site trapping. In this type of survey, special consideration should be given to those points or environs where infestations are most likely to be artificially introduced. Particular attention should be given to any location with a history of continuing commodity or vehicle movement from the generally infested area. State and Federal parks, campgrounds, tourist attractions, trailer courts, truck stops, and nurseries are examples of sites which should be considered for trap placement.

A trap array of one (1) trap per 2.5 square kilometers (one square mile) will provide an adequate survey in areas that present a high potential for infestation.

3. *Delimiting.* When a positive trap find is reported, a delimiting survey must be conducted the following year to determine if an infestation is present. If the original find is not too late in the season, a trapping survey of about 9 square miles will be conducted during the same season as the original find. This will better establish the area to be covered by the delimiting survey.

a. In the area of the positive trap find, 10, 12, or 31 traps per square kilometer (25, 32, or 81 traps per square mile) will be used in a 23.3 square kilometer (9 square mile) area. Three and one half traps per square kilometer (9 traps per square mile) should be used in a 41.4 square kilometer (16 square mile) area surrounding the core area. This area may be extended to 104 square kilometers (40 square miles).

b. One and one half traps per square kilometer (4 traps per square mile) can be used when an infestation is located over a large area (over 93 square kilometers (36 square miles)) and funds are limited. Usually, around 100 traps placed in a uniform distribution in a delimiting survey will give a fairly good picture of the location of the core of the infestation.

4. *Monitoring—Assessing Population Trends.* The pheromone trap is used to determine population trends along the leading edge of the area generally infested with gypsy moth.

Traps are placed at a rate of one per square kilometer (one and no more than two per square mile) in the 32 kilometer (20 mile) buffer zone from the area of detectable defoliation. (A larger area may be used based on historical information.)

Monitoring trapping can also be conducted in other areas where populations may be increasing, to assess risk.

5. *Distance Between Traps for Surveys.* The following table indicates distances for various trap densities.

Traps per square mile:	Distances between traps in feet
1	5,280
2	3,733
3	3,048
4	2,640
5	2,361
9	1,760
10	1,669
25	1,056
32	934
36	880
49	754
64	660
81	587

6. *Timing of trapping surveys.* Male gypsy moths emerge a few days earlier than the female and are usually present late in the season, after the females have completed their activity. At these times, there is no competition with the pheromone traps for attracting the male moth. When possible, trap placement should occur before the male moth is expected to emerge.

7. *Training and supervising trap tenders.* The correct placement of traps in a gypsy moth survey is essential to an effective program. The trapping season is only about 2 months long, and each trapper should be properly trained in trap placement procedures before the activity begins. Supervisors must teach the trap tender how to select good trap sites, to erect the traps properly and to mark trap sites in such a way that the traps may be found quickly for subsequent patrol and removal. After the traps are placed, each supervisor should periodically check to determine if the tender is checking all traps in the proper manner. Manpower limitations will dictate how often traps can be visited during the season.

A simple system should be developed to assist the supervisor in promptly locating trappers in the field. To be effective, the system should provide for a mutually convenient prearranged location used as a note station. The note will tell the supervisor where and when the trapper expects to begin the days activity. If changes in the planned route of travel occur, another note can be placed near the trap at the last scheduled site visited by the trapper. A simple and efficient system for trapping is to patrol traps in a numerical order. The date and time of inspection should be recorded on each trap visited. Each trap must have an exclusive number.

a. *Selection of Trap Sites.* The approximate trap location sites may be marked in advance on maps used in detection or delimiting surveys. The trapper should use discretion in selecting the optimum location for each trap in the vicinity of these mapped sites. Many factors enter into determining the location for traps in a given area, and these should be explained to the trapper prior to beginning the work. Several general rules to consider in selecting effective trap sites are as follows:

(1) Male moths usually follow wood edges and lines of tree growth. They do not frequent open areas where there are no trees or shrubs.

(2) Woodland edges are the best sites for trap placement. Traps generally are most effective when placed at or near a woodland corner. If there is a choice, place the trap on the windward side so prevailing wind currents will carry the scent into the woods.

(3) If there is no woodland within a reasonable distance (150 to 300 meters (500 to 1,000 feet)) from the mapped location, the best location for a trap is the end of a hedge row or tree line leading to a wooded area.

(4) Traps placed at chest height on a tree trunk are usually more effective than those on branches. In areas frequented by small children or cattle, the trap should be placed out of their reach.

(5) Traps should be placed in a shady area when available. Foliage or branches should not block the trap openings.

If possible, place the trap so that one end faces in the direction of prevailing winds.

The distance between traps will depend on the type of survey, the area to be surveyed, and the extent of favored host trees available.

Whatever the purpose of the survey, the traps must be placed in a uniform

array on a choice host or in a habitat preferred by the gypsy moth.

b. *Marking Trap Locations.* An adequate system for marking trap locations expedites trap tending as well as supervision. The trap marking system to be used combines the use of plastic ribbon and marking crayon. A length of ribbon, only the amount needed, is tied to a telephone pole, tree trunk, or other suitable object at the roadside. To the fullest extent possible, the marking ribbon should be placed so that it is readily visible when approched from either direction. In addition to the ribbon, the roadside pole, tree, or other object should be marked with crayon to indicate, with an arrow, the direction of the trap. The tree on which the trap is placed should be marked with a "T" on the side from which it is approached.

Brightly colored plastic tape has proven to be the most satisfactory ribbon marker. The marking crayon must be sufficiently soft to mark wet trees.

In urban areas where streets are named and houses are numbered, these addresses may be used rather than the tape and/or crayon markers. The trapper should also use restraint in placing ribbon markers at roadside rests, picnic areas, and other high use areas where the ribbon will detract from the site's appearance.

If traps are placed in areas close to homes, a contact should be made with the property owner, when the trappers presence may cause concern or attract attention.

c. *Adult Male Pheromone Trap and Lure.* The pheromone trap is designed to attract and retain the adult male gypsy moth. Disparlure is the common name of the synthetic sex attractant of the gypsy moth. It is a duplication of the natural attractant emitted by female moths to lure males for mating. Disparlure is incorporated into dispensers which are placed inside the trap as shown on next page and Attachment No. 1. At no time should the dispenser come in contact with the adhesive. Properly installed, the pheromone should remain active for the entire season without servicing.

Delta Insect Trap—Description and Assembly

The "Delta" trap is made of weather resistant polycoated paperboard. When assembled, the trap is approximately 18.3 centimeters (7.2 inches) long and is triangular in shape when viewed from the end. Each end has a baffled triangular opening that measures 3.2 centimeters (1¼ inches) along each edge.

Two of the inside surfaces are coated with insect trapping adhesive. For shipping and storage, these two surfaces are folded together.

A baited wick is to be attached to the third inside surface.

The trap is manufactured from a single piece of paperboard and is precreased or perforated along all bend lines.

The instructions shown on the following page are enclosed in each shipping carton.

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Assembly Instructions for "Delta" Insect Trap

1. Attach bait - See Figure 2.
2. Pull Trap open and assemble - See Figures 2 and 3.
3. Open Trap and mount - See Figure 4.
4. Trap may be mounted with soft wire through hole in top edge.
5. Materials required - stapler, hammer, nails, soft wire, pliers, and paper clips.

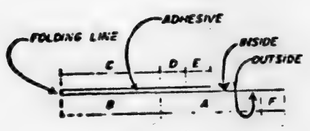


Figure 1
Trap as Received

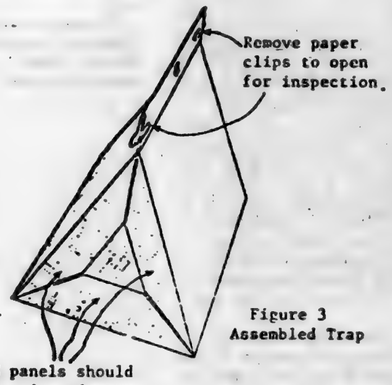


Figure 3
Assembled Trap

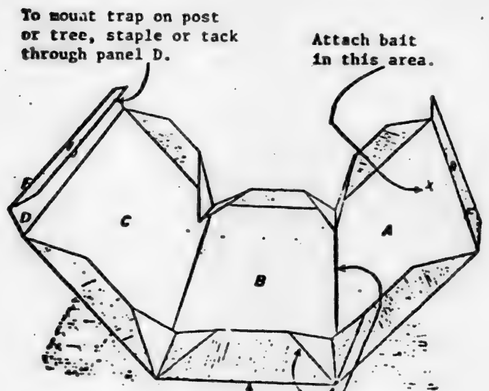


Figure 2
Open Trap



Figure 4
Trap Mounted on Tree

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d. *Patrolling Traps.* After a trap line is established, traps should be patrolled in a sequence which eliminates "dead-heading" or overlapping travel. The time between trap visits will depend on the initial trap distribution. Ideally, each trap should be visited at least once during the trapping season.

The steps in tending traps are as follows:

(1) Check trap for overall condition and possible presence of suspect insects. Replace badly damaged traps.

(2) When the trap contains a suspect moth, remove the trap without disturbing the specimen. Note on the trap the date of recovery and notify the supervisor according to local instructions.

(3) When a suspect gypsy moth is recovered, the find should be noted on the trap map and the field record form. The supervisor should determine that the trap records and mapped location are correct as soon as possible.

(4) Record the trap inspection by noting the date and time on the trap. Note the date and time on the trap record provided for this purpose.

(5) To avoid confusion, always be sure each trap is indentified by a number.

e. *Trap Removal.* At end of trapping season remove the trap and examine it to determine whether any specimens resembling the gypsy moth have been captured. If a trap contains a suspect moth, see section I, D. (page 12). Leave no litter at the trap site. Traps should be collected and disposed of by burning in an incinerator or burying at a sanitary landfill. Remove all materials used to mark sites *except* where markings will help to identify a positive site for subsequent inspection and egg mass surveys.

B. *Scouting for Egg Masses.* Egg mass surveys are usually conducted for one of the following reasons: to determine intensity of infestations, to determine the need for regulatory action to prevent artificial spread, and to observe population trends as a guide to control measures to prevent defoliation.

Egg masses normally are deposited in sheltered spots. A well established infestation may exist in which few, if any, egg masses are easily seen. They are found on trees under loose bark, in crevices and cavities, as well as on tree trunks and under tree limbs. Egg masses are also found on the underside of any type ground litter, on stones, in stone walls, in dumps, under the siding and eaves of buildings—in fact, anywhere in the immediate vicinity of tree growth.

There is little likelihood of finding egg masses in lightly infested areas due to the enormity of the problem of adequately examining all possible locations where the eggs may be deposited. Egg mass surveys to determine lightly infested areas are often futile.

Visual surveys for egg masses should be conducted during the winter months after leaf-fall with priority given to preferred host areas. Larval skins and pupal cases may be found even when egg masses are not readily observed.

The intensity of egg mass surveys will depend upon the objective, the nature of the terrain, and tree growth. Personnel involved with egg mass survey should adapt the intensity of their survey to the local situation. The recovery of a single male moth at a site far removed from any known infestation will usually prove negative for egg mass scouting. Such an area should receive a cursory inspection with emphasis on preferred food trees. Positive male moth recoveries in two or more traps in such an area, or multiple recoveries in one trap, should be more intensively surveyed. A more intensive survey is conducted by examining tree growth and ground litter, working in the immediate vicinity of the trap site. Where two or more single moth recovery sites are involved in close proximity, a cursory examination of likely areas lying between the trap locations may be productive. Regardless of the survey situation, the preferred flight path of the male, the usual method of roadside trap placement, prevailing wind currents, and the presence of referred food trees should be considered in any scouting effort. When the presence of egg masses is established, the area of infestation should be delimited.

When egg mass surveys are conducted for the purpose of determining population levels, a strip method of scouting woodland may be used, confined principally to areas of preferred host plants and where site conditions are favorable for rapid build-up of the insect. A classification of infestations is based on the following range:

Egg Masses		Level of infestation
Per hectare	per acre	
1 to 124	1 to 50	Light infestation.
125 to 1,230	51 to 499	Medium infestation.
1,231 or more.	500 or more	Heavy infestation.

Severe defoliation may be expected in heavily infested areas and defoliation to a lesser degree usually occurs in areas classified as a medium infestation, particularly in those portions having 495 or more egg masses per hectare (200 or more egg masses per acre).

The criteria listed above are provided as a guide. No criteria have been developed, to date, which can uniformly predict to what extent defoliation will occur at a given level of gypsy moth population.

Egg mass surveys are also conducted in the environs of establishments handling regulated products to guide necessary quarantine action. The intensity of this activity depends on the type of products regulated and the associated hazard of spread, the terrain and tree growth involved, and the result of larval trapping surveys.

C. Defoliation Surveys. Defoliation surveys are made from aircraft to determine general population trends and the degree of defoliation over large areas. New infestations of gypsy moth have been discovered during aerial defoliation surveys for other forest insects. Defoliation will usually peak from late June to early July. All defoliated areas should be mapped by the aerial observer and followed up by observations on the ground to verify the presence of the gypsy moth. When the gypsy moth is found, all such areas should be recorded on maps and reported through regular channels.

Aerial defoliation surveys are often provided by the U.S. Forest Service and cooperating State agencies to determine general insect population trends. Information from these activities should be utilized by PPQ to determine the possible presence of the gypsy moth in remote areas where unexplained defoliation has occurred.

D. Handling Specimens for Determination. When a suspect gypsy moth is recovered, the entire trap should be removed with the specimen undisturbed. The sticky material used to retain the male moth will often destroy the specimen if removed in the field. The specimen, in the trap, should be forwarded to the designated primary identifier. Mailing tubes should be provided to each trapper with preaddressed mailing labels at the beginning of the trapping season. Always provide the following information with each suspected positive trap: State, county, town, trap number, collector, date, and collection number.

Caterpillars, pupae, and egg masses are submitted in 70 percent alcohol. A label is always placed in vials with specimens showing the collection number printed with soft lead pencil preferably on bond paper.

PPQ Form 390 Specimens for Determination, should accompany each specimen submitted from the field.

E. Records and Maps. 1. *Records.* A record should be maintained of all positive trap locations including any descriptive information needed to assist in locating the traps; dates when the traps are placed, inspected, and removed; and a record of trap catches.

A record should also be made of surveys conducted for egg masses. Local guidelines should be followed for proper record maintenance.

In developing local guidelines for survey records, it is best to determine what information is required and the most efficient manner for recording each item.

2. *Maps.* For detection surveys, county or State highway road maps are usually satisfactory. The trap pattern will determine what map scale is desirable.

A satisfactory map for delimiting surveys is a U.S. Geodetic Survey quadrangle, with a scale of 1:24,000. A recent map showing forest overlay and new construction is preferable. Maps of a different scale may be used.

Each trap location should be consecutively numbered within a given township, county, work unit, or other designated area. The type, number and distribution of maps will vary according to local needs.

When trap maps are prepared in advance, a system should be devised which will assure a proper distribution of traps. This may be accomplished through the use of a ruler, calipers, a grid overlay, or by following the square mile blocks provided on many State maps. When this system is followed, however, adjustments should be made in the field when needed to place the trap in a favorable site closest to the original mapped position. Corrections should be made on all field maps to indicate actual trap locations.

When the trapping map is not prepared in advance of the survey season, trap sites are marked on the map as they are selected in the field. After the trap line has been completed, additional copies of the map are made as needed. Adjustments should be made in the route of travel to conserve time and distance.

When supplemental traps are added to existing positive trap sites as a means of intensifying the overall distribution pattern, these should have the supplemented trap number with a letter added. If trap 25 is supplemented, the first trap will be 25a, then 25b, 25c, etc.

A map legend should be stapled or glued to each survey map indicating the program starting date, completion date, name of trapper, and any other pertinent information required at the local level.

III. Regulatory Procedures

A. *Instructions to Officers.* Officers must know and follow instructions in this manual as a basis for the treatment or other procedures to be followed in authorizing the movement of regulated products. It will serve as a basis for explaining such procedures to persons interested in moving products affected by the quarantine regulations. Only the treatment procedures authorized herein will be utilized.

Officers should be familiar with the following for regulatory purposes:

Plant Protection and Quarantine Treatment Manual
Aerial Application-Planning (807–52.0000)
Aerial Application-Operations (807–53.0000)
Instructions for Calibration of Ground Equipment (807–54.0000)
Formulas and Other General Information Useful in Control Operations (807–55.0000)
Gypsy Moth and Browntail Moth Quarantine 7 CFR 301.45

Officers should furnish complete information to anyone interested in moving regulated products. Shippers should be advised of all authorized procedures available and should be guided by the inspector in the selection of the proper procedure.

B. *Authorized Chemicals.* The following chemicals are authorized for treatment of regulated articles for gypsy moth as specifically listed on the pesticide label or in this manual.

Ovicides
Creosote
Methyl Bromide
Larvicides
Carbaryl (Sevin®)
Trichlorfon (Dylox®)
Acephate (Orthene®)
Diflubenzuron (Dimilin®)

C. Approved Treatments—Gypsy Moth. 1. *Mobile Homes and Recreational Vehicles.*

a. Cleaning and Inspection

General. This inspection procedure can apply to both mobile homes and recreational vehicles. However, since the movement of recreational vehicles is usually contingent upon treatment of the site, the procedure is addressed to mobile homes. The inspection of mobile homes is difficult and time consuming. Thorough inspection is necessary to assure that all visible infestation has been removed from the vehicle and its associated equipment. Since we cannot be sure that all egg masses have been found, a limited permit is used whenever a mobile home is moved from a hazardous site to a point outside the regulated area.

Special Equipment. Flashlight, small hand mirror.

Method. (1) *Exterior of mobile home.* (a) Inspect the roof and eaves, window sills (top and bottom), fuse boxes, electrical connections, propane gas tanks, and other appendages.

(b) Inspect accessories, such as sheds, which may be used as storage and then dismantled to accompany the vehicle to its new destination. The interior as well as the exterior of such building should be inspected.

(c) Inspect fences used around a mobile home which may also be dismantled to accompany the vehicle.

(d) Inspect steps, trailer hitches, expandable rooms, and patios.

(e) Inspect wheels, including inside of rims and brake drums, which sometimes shelter egg masses.

(f) Inspect blocks or other material used to hold the vehicle in place.

(g) Inspect gardens and flower boxes if the mobile home has been in place for some time. It should be determined from the owner if any of these items will be moved with the mobile home.

(2) *Underside of mobile home.* Crawl beneath the mobile home. Care must be taken to examine all floor boards, frame, tubing, corners, interior of I-beams, and any other recess that could shelter an egg mass. Use flashlight and hand mirror to assist inspection.

(3) *Interior of mobile home.* The interior of the mobile home should be searched for any articles that may have been out of doors during the period of egg disposition. Inspect such articles for egg masses. Note: Permission of owner or agent must be obtained before interior inspection.

Special Information. If egg masses are found on a mobile home or its accessories, see below.

If larvae are found, see below.

All life stages of the gypsy moth should be removed from a mobile home after treatment and before its movement.

Visual and trapping surveys, in the vicinity of suspect mobile homes which have moved under limited permit, should be conducted at destination to the extent possible.

Treatments to be applied as needed.

b. *Insecticidal Treatment—Egg Masses.*

Material. Creosote—a clear, transparent formulation is preferred.

Equipment. Small brush, scraper.

Method. All egg masses on articles being inspected must be thoroughly saturated with creosote before removal. All egg masses should be removed after treatment but prior to movement.

Limitation. Creosote should not be used on marble, due to the possibility of staining.

c. *Insecticidal Treatment—Larvae.*

Material. Carbaryl.

Dosage. Actual insecticide: 12 gr. per liter (.01 lb. per gal.) Coverage 12 sq. meters per liter (5009 sq. ft. per gal.).

Formulation

Sevin® 80S 15 gr. per liter (⅛ oz. per gallon) (1¼ tablespoons per gallon).

Method. Spray all surfaces. Avoid treating in the presence of people or pets. Food should be covered.

Special Information The pH of water used in mixing pesticides must be checked and adjusted within a range of pH 6.0–7.0 prior to mixing.

2. *Timber and Timber Products Stone and Quarry Products.* a. *Cleaning and Inspection. General.* Piece-by-piece inspection can be used advantageously for small lots of regulated articles at establishments which ship infrequently and for noncommercial shipments. This method may be used for assembly-yard inspection of articles such as collected native plant material and for timber products.

Method. Inspect all exposed surfaces and crevices where egg masses may be attached. practicular attention should be directed to dunnage and crating material when stone and quarry shipments are involved.

If egg masses or larvae are found, see below.

b. *Insecticidal Treatment—Egg Masses.* Use treatment shown in section III., C.l.b. on page 17.

c. *Insecticidal Treatment—Larvae.* Use treatment shown in section III., C.l.c. on page 17.

d. *Fumigation. Material* Methyl bromide at normal atmospheric pressure (NAP).

Temperature	Dosage grams/meter^3 (lbs/1000 ft^3)	Exposure Hours	Concentration readings - Grams/meter^3 or oz./1000 ft^3 1/2 hr	4 hr	8 hr	12 hr	16 hr
-17 -9°C(0-15°F)	140 (8 3/4)	4	98	65	—	—	—
	80 (5)	8	60	40	28	—	—
	60 (3 3/4)	16	45	30	21	21	18
-8 -0°C(16-32°F)	100 (6 1/4)	4	75	50	—	—	—
	60 (3 3/4)	8	45	30	21	—	—
	52 (3 1/4)	16	38	26	18	18	15
1 -10°C(33-50°F)	72 (4 1/2)	4	54	36	—	—	—
	52 (3 1/4)	8	38	26	18	—	—
	40 (2 1/2)	16	30	20	14	14	12
10°C up (50°F up)	56 (3 1/2)	4	42	28	—	—	—
	40 (2 1/2)	8	30	20	14	—	—
	32 (2)	16	24	16	12	12	10

Method. A thermal conductivity unit will be used when fumigating under tarps. It is important that the enclosure be measured carefully to insure that the proper amount of fumigant is administered. Tarpaulins or other enclosures must be as gastight as possible. Fans should be run until equal distribution of the fumigant within the enclosure is noted on the TC unit. See also PPQ Treatment Manual.

Special Information. Fumigations below 5°C (40°F) are not recommended.

Certification Period. Until next egg-laying season, if not exposed to reinfestation.

3. *Trees and Shrubs.* a. *Cleaning and Inspection. General.* Piece-by-piece inspection can be used advantageously for small lots of regulated articles at establishments which ship infrequently and for noncommercial shipments. This method may be used for assembly-yard inspecton of articles such as collected native plant material and for timber products.

Method. Inspect all exposed surfaces and crevices where egg masses may be attached. Particular attention should be directed to dunnage and crating material when stone and quarry shipments are involved.

If egg masses or larvae are found, see below.

b. *Insecticidal Treatment—Egg Masses.* Use treatment shown in section III, C.1.b. on page 17.

c. *Insecticidal Treatment—Larvae.* Use treatment shown in section III, C.1.c. on page 17.

d. *Fumigation.*

Material. Methyl bromide at normal atmospheric pressure (NAP). (Must *not* contain chloropicrin.)

Temperature	Dosage Grams/meter^3 (lbs/1000 ft^3)	Exposure hours	Concentration Readings-1/2 hour	Grams/m^3 (oz/1000 ft^3) at end
Schedule I Long exposure Normal Atmospheric Pressure (NAP)				
5-9°C(40-49°F)	56 (3.5)	4.5	42	28
10-15°C(50-59°F)	43 (3.0)	4.0	36	24
16-20°C(60-69°F)	40 (2.5)	3.0	30	20
21-23°C(70-74°F)	32 (2.0)	2.5	24	16
24°C up(75°F up)	24 (1.5)	2.5	18	12
Schedule II Short exposure NAP				
5-9°C(40-49°F)	80 (5.0)	2.5	60	40
10-15°C(50-59°F)	64 (4.0)	2.5	48	32
16-20°C(60-69°F)	48 (3.0)	2.5	36	24

Method. A thermal conductivity unit will be used when fumigating under tarps. It is important that the enclosure be measured carefully to insure that the proper dose of fumigant is calculated. Tarpaulins or other enclosures must be as gastight as possible. Plants in a dormant state are generally more tolerant to fumigation. When trees and shrubs are treated, wet rags or other means of introducing moisture into the chamber is required. Fans should be run until equal distribution of the fumigant is noted on the TC unit. See also PPQ Treatment manual.

Special Information. This schedule is also effective against all stages of Japanese beetles.

Precautions. There is evidence that some evergreens, especially narrow-leafed and some azaleas may be injured, under certain circumstances, by this treatment. Plant tolerance tests to methyl bromide have been conducted on most species, and this information is available in the "Handbook of Plant Tolerances to Methyl Bromide."

Certification Period. Until next egg-laying season, if not exposed to reinfestation.

4. *Hazardous Sites.* (Includes: Mobile home parks and recreational sites, timber and timber product premises, stone and quarry product premises, and tree and shrub premises.)

a. *Inspection.* Regulated articles may be moved without individual inspection and treatment if the articles and the site on which they are located have been determined not to present a hazard of spread of the infestation.

Determination of hazard—Sites and their environs will be inspected for living stages of gypsy moth. Inspections for egg masses should be made when visibility is not hampered by tree foliage.

The following guidelines are to be used to determine the hazard of any site. Topographic and vegetative conditions may vary the distance figures. The final determination of the hazard present in any site rests with the officer.

Guidelines—a. One or more egg masses found on the articles or within 3 meters (10 feet) of the articles.

b. Twelve (12) or more egg masses per hectare (5 per acre) found within approximately 30 meters (100 feet) of the articles.

c. Heavy larval infestations found within 1600 meters (1 mile) which, in the opinion of the inspector, could result in infestation through blow-in or larval migration onto the site.

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b. Insecticidal Treatment - Ground Application

Material and Dosage

MATERIAL		MIXING DIRECTIONS Small amt.	MIXING DIRECTIONS Large Amount	APPLICATION RATE	DOSAGE (ACTUAL INSECTICIDE)
		MISTBLOWER			
carbaryl	Sevin® 80S sticker* water	60 grams 3.75 ml 1 liter	11.34 kg. (25 lbs.) 710 ml. (24 oz.) 189.25 liters (50 gallons)	Use sufficient mix to obtain good coverage. (Approx. 5 gal./acre)	2.24 kg per hectare (2 lbs. per acre)
diflubenzuron	Dimilin® W-25 water	1.45 grams 1 liter	272.2 grams (0.6 lbs.) 189.25 liters (50 gallons)	Use sufficient mix to obtain good coverage. (Approx. 5 gal./acre)	16.8 grams per hectare (0.015 lb. per acre)
acephate	Orthene® 75% water	32 grams 1 liter	6.05 kg.(26.6 lbs.) 189.25 liters (50 gallons)	Use sufficient mix to obtain good coverage. (Approx. 5 gal./acre)	1.12 kg. per hectare (1 lb. per acre)
		HYDRAULIC SPRAY EQUIPMENT			
carbaryl	Sevin® 80S sticker* water	1.5 grams 3.75 ml 1 liter	567 grams (1 1/4 lbs.) 1.4 liter (3 pints) 378.5 liters (100 gallons)	Thoroughly wet the foliage. (Approx. 100 gal./acre)	1.12 kg. per hectare 1 lb. per acre
acephate	Orthene® 75% water	0.8 grams 1 liter	303 grams (10.7 oz.) 378.5 liters (100 gallons)	Thoroughly wet the foliage. (Approx. 100 gal./acre)	561 grams per hectare (1/2 lb. per acre)

* Pinolene or Chevron stickers are comparable in effectiveness.

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Equipment. Mistblowers, portable, or truck-mounted hydraulic sprayers, and hand-operated sprayers.

Method. Treat the infested portions of the site. Treat the environs of the site to a depth equal to the effective range of the spray equipment in use. A minimum depth of 21 meters (70 feet) will usually suffice to keep migrating late instar larvae from reinfesting the site. If reinfestation does occur, additional treatments may be necessary. In heavily infested sites, two applications, with a 7–10 day interval may be necessary.

Seasonal Limitation. Proper timing of the treatment is essential. The normal larval period is from about May 1 to June 15—a few days earlier in southern sections of the infested area and a few days later in more northern sections. The insecticide should not be applied until general egg hatch is complete in the area. Applications should be made when first, second, and third instar larvae are present. Best results are obtained if application can be delayed until the foliage of white oaks or other preferred hosts is ⅓ to ½ grown. When practical, applications should be made immediately prior to movement of infested articles.

Certification Period. Until the next egg-laying season, if not exposed to reinfestation.

Special Information. Ground treating of mobile home parks is not generally recommended, because of the public relations problems. If a mobile home park is treated, the same procedures apply. Campgrounds can generally be treated adequately by truck-mounted ground equipment. Coverage of the environs, however, will be limited compared to aerial application.

Carbaryl—Avoid using around beehives or in areas frequented by bees.

The pH of water used in mixing pesticides must be checked and adjusted within a range of pH 6.0–7.0 prior to mixing. The pH should be adjusted with commercially available phosphoric acid (85 percent). Generally, 31 ml. (one ounce) of phosphoric acid will adjust 1900 liters (500 gallons) of water from a pH of 9.0 to the acceptable level.

Additional Information. With mist blower application, saturation of foliage with the spray mixture should be avoided. At best, it is virtually impossible to evenly apply 1 pound of pesticide per acre to tree foliage by mist blower. The aim is to obtain an even distribution of pinhead-size droplets on the foliage. Instructions for must blower calibration are found in manual 807–54.8000. The techniques of mist blower operation are beyond the scope of this manual. Such operations should be directly supervised by experienced personnel who can thus properly train inexperienced personnel.

In using hydraulic ground equipment, the spray mixture is applied to thoroughly wet the foliage—keep dripping of the spray mixture from treated foliage to a minimum.

Water-base sprays may dry out prior to contact with the foliage under conditions of high temperatures and/or low relative humidity. Ground personnel should be alerted to detect such occurrences.

Carbaryl has a residual effectiveness for 7–10 days, Dylox for 3–5 days, when applied under similar environmental conditions. Field experience indicates that Dylox should not be applied to wet foliage or when rain may occur within 8 hours after application; rain occurring 2 hours after carbaryl application should not adversely affect the effectiveness of the material. In comparing pesticide costs, remember to include costs of additional materials that would be required with each pesticide, such as sticker or kerosene diluent.

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c. Insecticidal Treatment - Aerial Application

Material and Dosage		Spray mixture - per hectare (per acre)	Application rate	Dosage - Actual Insecticide
Material	Formulation			
carbaryl	Sevin[R] 4 oil	Sevin[R] 4 oil 2.34 liters (1 quart) Kerosene - .58 liters (8 oz.)	2.92 liters per hectare (40 oz. per acre)	1.12 kilograms per hectare (1 pound per acre)
	Sevin[R] 80 S	Sevin[R] 80S 1.4 kilograms (1 1/4 lbs.) Sticker - 291 ml (4 oz.) Water - to make 9.35 liters (1 gallon)	9.35 liters per hectare (1 gal. per acre)	1.12 kilograms per hectare (1 pound per acre)
trichlorfon	Dylox[R] 1.5 oil	Apply undiluted	6.23 liters per hectare (5.33 pints per acre)	1.12 kilograms per hectare (1 pound per acre)
diflubenzuron	Dimilin[R] W-25*	67.22 grams (0.06 lb.) Water 4.68 liters (1/2 gallon)	4.68 liters per hectare (1/2 gallon per acre)	16.81 grams per hectare (0.015 lb. per acre)
acephate	Orthene[R] 75%	1.12 kilograms (1 lb.) Water - to make 4.67 liters (1/2 gallon)	4.67 liters per hectare (1/2 gal. per acre)	840 grams per hectare (0.75 lb. per acre)

*For eradication treatments, see section IV, C. 1. for increased water.

BILLING CODE 3410-34-C

Method. Aircraft should be used whenever possible to apply insecticides for regulatory purposes on mobile home parks and campgrounds since better insecticidal coverage is obtained.

Seasonal Limitation. Proper timing of the treatment is essential. The normal larval period is from about May 1 to June 15—a few days earlier in southern sections of the infested area and a few days later in more northern sections. Insecticides should not be applied until general egg hatch is complete in the area. Applications should be made when first, second, and third instar larvae are present. Best results are obtained if application can be delayed until the foliage of white oaks or other preferred hosts is ⅓ to ½ grown.

Certification Period. Until the next egg-laying season, if not exposed to reinfestation.

Special Information. Carbaryl—Avoid using around beehives or in areas frequented by bees.

The pH of water used in mixing pesticides must be checked and adjusted within a range of pH 6.0–7.0 prior to mixing. The pH should be adjusted with commerically available phosphoric acid (85 percent). Generally, 31 ml. (one ounce) of phosphoric acid will adjust 1900 liters (500 gallons) of water from a pH of 9.0 to the acceptable level.

Water-base sprays may dry out prior to contact with the foliage under conditions of high temperatures and/or low relative humidity. Ground personnel should be alerted to detect such occurrences.

Before and after application of Sevin 4 Oil, flush entire aircraft spray system with kerosene until system is clean. If Dylox 1.5 Oil is to be used, flush the entire aircraft spray system before and after application with *water;* drain all excess water from the system before filling with Dylox 1.5 Oil.

Carbaryl has a residual effectiveness for 7–10 days, Dylox for 3–5 days, when applied under similar environmental conditions. Field experience indicates that Dylox should not be applied to wet foliage or when rain may occur within 8 hours after application; rain occurring 2 hours after carbaryl application should not adversely affect the effectiveness of the material. In comparing pesticide costs, remember to include costs of additional materials that would be required with each pesticide, such as sticker or kerosene diluent.

Diflubenzuron—restricted to forest use (infrequently or sparsely populated areas).

D. *Approved Treatments—Trees and Shrubs—Browntail Moth.* 1. *Cleaning and Inspection.* Inspect leaves (green or dry) for webs, larvae, or egg clusters. Remove and destroy any infested leaves.

2. *Fumigation.*

Material and Dosage. Methyl bromide at normal atmospheric pressure (NAP). (Must not contain chloropicrin.)

Temperature	Dosage Grams/meter^3 (lbs/1000 ft^3)	Exposure hours	Concentration Readings-1/2 hour	Grams/m^3 (oz/1000 ft^3) at end
Schedule I Long exposure Normal Atmospheric Pressure (NAP)				
5–9°C(40–49°F)	56 (3.5)	4.5	42	28
10–15°C(50–59°F)	43 (3.0)	4.0	36	24
16–20°C(60–69°F)	40 (2.5)	3.0	30	20
21–23°C(70–74°F)	32 (2.0)	2.5	24	16
24°C up(75°F up)	24 (1.5)	2.5	18	12
Schedule II Short exposure NAP				
5–9°C(40–49°F)	80 (5.0)	2.5	60	40
10–15°C(50–59°F)	64 (4.0)	2.5	48	32
16–20°C(60–69°F)	48 (3.0)	2.5	36	24

Method. A thermal conductivity unit will be used when fumigating under tarps. It is important that the enclosure be measured carefully to insure that the proper dose of fumigant is calculated. Tarpaulins or other enclosures must be as gastight as possible. Plants are generally more tolerant to fumigation in a dormant state. When trees and shrubs are treated, wet rags or other means of introducing moisture into the chamber is required. Fans should be run until equal distribution of the fumigant is noted on the TC unit. See also PPQ Treatment manual.

Special Information. This schedule is also effective against all stages of Japanese beetles.

Precautions. There is evidence that some evergreens, especially narrow-leafed and some azaleas may be injured, under certain circumstarics, by this treatment. Plant tolerance tests to methyl bromide have been conducted on most species, and this information is available in the "Handbook of Plant Tolerances to Methyl Bromide."

Certification Period. For the shipment if protected from reinfestation.

IV. Control Procedures—Gypsy Moth

A. *Background.* The control phase of the gypsy moth program is one of containment providing: (1) Eradicative treatments of isolated infestations found in nonregulated territory and of infestations within a suppressive area; (2) suppression treatments in nonregulated areas in the periphery of the generally infested area. Responsibility for most of the control efforts to suppress outbreak populations within the generally infested area rests with the States. Information on control of the gypsy moth for regulatory purposes is contained in section III of this manual.

Significant changes in control procedures or use of other than authorized pesticides must not be arbitrarily made in the field. Experience may indicate that a particular modification would be of value in accomplishing the objective of a control program. In such cases, consult your supervisor. If a decision is not within his authority, he will know the proper office to contact.

Formulations of several chemical pesticides are currently registered with EPA for control of gypsy moth. The pesticides carbaryl, diflubenzuron, trichlorfon, and acephate have been primarily used in programs involving PPQ participation. These formulations are approved by PPQ for use on gypsy moth control programs.

While certain authorized pesticides can be used in areas involving food and forage crops, efforts should be made to keep spray deposits in such areas at a minimum consistent with attaining the desired objective of the treatment. If conditions favor drift into nontarget areas, treatment should cease. Eradication treatments should be monitored to determine if residues are present. People in the treatment areas must be notified prior to the program. An extensive public relations program is necessary when treatments are planned over residential areas. The objectives of the treatment and the description of the chemicals should be included. (Diflubenzuron is for forest use only.)

Carbaryl is highly toxic to bees. Generally, arrangements are made with the appropriate official of the cooperating State involved in the treatment program to insure that the domestic bee problem is satisfactorily handled. If bee hives are temporarily moved from the area scheduled for treatment, a minimum of one mile outside the spray boundaries is suggested. Bees sometimes fly several miles from the apiary, but as the distance to a treated area increases, the hazard decreases. It is not necessary to remove honey bee colonies from areas that are to be treated with diflubenzuron or trichlorfon.

In recent years pollen traps installed at the entrances of bee hives have been used with some success in lieu of moving the hives. The traps prevent pesticide-contaminated pollen from being carried into the hives. Information on these traps is available from PPQ District Offices.

A Federal Bee Indemnification Program administered by the Agricultural Stabilization and Conservation Service (ASCS) provides for reimbursement to bee owners who sustain bee losses due to Federal-State treatment programs. This indemnification places certain responsibilities upon PPQ, ASCS, and bee owners before payments for bee losses are considered. PPQ District Offices should be aware of current policy and procedures related to the indemnification program and insure that fulfillment of PPQ's responsibilities is adequately considered in program planning. Guidelines on PPQ responsibility for preventing bee destruction are available from PPQ National Program Planning Staff, Hyattsville, Maryland.

Current pesticide labels contain more specific and detailed information than was required in the past. PPQ personnel charged with planning and directing pest control programs must be familiar with label information. Copies of current pesticide labels are available from the PPQ National Program Planning staff in Hyattsville, Maryland.

B. *Authorized Pesticides.* The following pesticides are authorized for control of gypsy moth in cooperative Federal-State programs as specifically listed on the pesticide lable or in this manual.

Common name:	Formulations
carbaryl	Sevin® Sprayable 80%. Sevin® 4 Oil.
trichlorfon	Dylox® 1.5 Oil.
diflubenzuron	Dimilin® W-25.
acephate	Orthene® Forest Spray. Orthene® Tree and Ornamental Spray.
pheromone	Disparlure 2.2% in gelatin microcapsules.
virus	Gypchek nucleopolyhedrosis virus.

C. *Approved Treatments—Gypsy Moth.* 1. *Aerial Application.* a. *Chemical Pesticides.* Use treatments shown in section III, C., 4.c. of this manual (page 25). Exception is diflubenzuron which must be applied at same rate, but mixed in 4.68 liters (⅛ gallon) water.

diflubenzuron	Dimilin® W-25	Spray Mixture - per hectare (per acre) 67.25 grams (0.06 lb.) Water 4.68 liters (1/2 gallon) Application rate 4.68 liters per hectare (1/2 gallon per acre) Dosage - Actual Insecticide 16.81 grams per hectare (0.015 lb. per acre)

Dosages listed will be used to obtain control. Eradication programs (to reduce gypsy moth populations to below detectable levels) will require two applications of these pesticides 7–14 days apart when the larvae are active. Do not make more than two applications per year. This product restricted to forest use. Treatment must not be made to food or feed crops, pastures, urban areas, or residential areas.

b. *Disparlure—Gypsy Moth Male Confusion Technique in Isolated Infestation.* Use subject to approved experimental use permit.

Suppression of low-level populations of gypsy moth (less than 10 egg masses per acre) in isolated infestations can be used in an integrated pest management program. The micro encapsulated material is applied aerially 5 days after male pupation is noted and a second application at 14 days following the first. Methods development and other staff personnel must be consulted concerning the mixing, application, and evaluation of the treatments.

Formulation	*Spray mixture*	*Dosage—actual insecticide*
2.2% disperlure in gelatin microcapsules (MCR).	11.8 liters per hectare (1.25 gal. per acre). Add RA1645 latex sticker at 1% by weight of formulated material.	50 grams per hectare (20 grams per acre)

The formulated material must be agitated prior to mixing the sticker. Do not allow this material to settle in aircraft hopper overnight.

c. *Gypchek (virus)—Gypsy Moth Suppression in Integrated Program Utilizing Other Controls.* Suppression in gypsy moth populations below 2500 egg masses per acre has been attained by the use of the virus. In demonstration blocks, the virus may be used under the direction of methods development personnel. Careful selection of the areas to be treated and a method for evaluation is essential in the initial treatments with this new biological insecticide.

Gypchek Biological Insecticide consists of polyhedra of the gypsy moth nucleopolyhedrosis virus and inert ingredients. Care must be taken in the mixing and applications of this product.

4 4 1 8 8

Stickers and ultraviolet protectants may enhance performance of this product. Apply in sufficient spray mixture for thorough and uniform coverage. This spray mixture is for aerial application only. Application is at the rate of 2 gal. (U.S.) finished spray per acre. Use boom and nozzle systems designed to result in droplets with a mass media diameter of 150–400 microns. (For example: Beecomist 275 or flatfan 8006.)

Tank Mixture (per gallon)

Gypchek	Amount to result in 25.0 to 125.0 million gypsy moth potency units per acre.
Molasses	0.25 gallon.
Chevron Sticker	3 fl. oz.
Shade [R]	1.0 lb. (same amt. for 2 gal).
Water	0.72 gallon.

Important: Check pH of water from field source. If pH exceeds 7.5 or is below 5.5, add sufficient acid or base to adjust pH to approximately 7. *Never use chlorinated water in the spray formulation.*

Mixing sequence for conventional mixing equipment.

1. Fill tank with water and start agitation.
2. Add acid or base if necessary to adjust pH.
3. Add sunscreen (Shade [R]) by slowly pouring onto the surface of mixture under agitation. Avoid large lumps of powder.
4. Add molasses by slowly pouring into water and mix thoroughly.
5. Add sticker.
6. Add Gypchek. Mixing time can be reduced by premixing Gypchek with a small amount of water in a blender before adding to tank mix. Final formulation should be mixed for 10–30 minutes.

Directions for Use. For foliar protection from gypsy moth larvae make 2 applications 7 to 10 days apart at the rate of 25.0 to 125.0 million gypsy moth potency units per acre in sufficient water for thorough and uniform coverage. Stickers and ultraviolet protectants may enhance performance of this product.

Dosages listed will be used to obtain control. Eradication programs (to reduce gypsy moth populations to below detectable levels) will require two applications of these pesticides 7–14 days apart when the larvae are active.

2. *Ground Application.* Use treatments shown in section III, C.4.b. of this manual (pages 22–24). Dosages listed will be used to obtain control. Eradication programs (to reduce gypsy moth populations to below detectable levels) will require two applications of these pesticides 7–14 days apart when the larvae are active.

Diflubenzuron is restricted to forest use.

D. *General.* 1. *Size of Treatment Areas.* The size of the area to be treated will vary depending upon program objectives, degree and density of infestation, distance from other known infestation, tree growth and terrain, natural spread potentials, and other local conditions. In suppressive and in nonregulated areas, all woody growth should be treated to a minimum distance ½ mile from the infested sites. Where program objectives or local conditions so indicate, this minimum should be extended to one mile or more. Treatment of a larger area is indicated where infestation is well established and located in hilly terrain or higher elevations where the danger of spread of the insect is greater.

2. *Seasonal Limitations.* Formulations of the authorized pesticides are effective only against the larval stages of the gypsy moth. Proper timing of application is essential and is difficult to maintain in a large program. Actual spray dates will vary according to locality and insect development. The normal larval period of the moth is from about May 1 to June 15—a few days earlier in southern sections of the infested area and a few days later in the more northern sections.

Pesticides should not be applied until general hatch has occurred within the area. Egg hatch period in a particular locality may extend over a period of 30 days. Generally, female larvae have six instars, male larvae have five instars. Spray applications are most effective when first, second, and third instar larvae are present; avoid treatment of late larval stages with these pesticides. Best results are obtained if applications are made when leaves of oak or other preferred host trees are ⅓ to ½ grown.

3. *Equipment.* Sevin 4 Oil and Dylox 1.5 Oil are restricted to aircraft appliction. Sevin Sprayable 80%, Dimilin, and Orthene can be applied by aircraft, mist blowers, and hydraulic spray equipment.

Due to variations of topography and woody growth in areas to be treated, more than one type of aircraft or ground equipment may be required. Multi-engine aircraft should be used to spray large unbroken forest areas and multi-engine or helicopters should be used over population centers. Small single-engine planes and helicopters should be used to treat scattered tree growth, hedgerows, and tree growth adjacent to sensitive areas. Such areas require precise, narrow-swath application. Truck-mounted mist blowers can be used for treating woody growth along roadsides and in residential sections or recreational areas. Backpack mist blowers or sprayers can be used in areas inaccessible to other types of ground equipment.

E. *Public Relations.* Publicity on program operations is handled at the local level by cooperating agencies, who develop rural and community contacts in the immediate area of operation through various communications media available. These activities must be coordinated between agencies concerned to provide uniform, factual information to all segments of public interest. An extensive public relations program is necessary when treating populated areas to inform the public about the pesticides being used. Information on pesticides is available from the manufacturers and the Hyattsville staff. All inquiries or complaints on program operations must be checked or investigated promptly and documented.

F. *Biological Control.* Many natural control factors reduce gypsy moth populations. Winter temperatures of −20°F. or lower kill eggs that are unprotected by snow or similar cover; and late spring frosts often reduce larval populations. Insectivorous birds feed to some extent on the caterpillars, and rodents eat larvae and pupae found on the forest floor. During severe outbreaks, when woodlands are entirely stripped of foliage, many larvae die of starvation. The "wilt," a polyhedral virus disease, attacks and kills caterpillars and pupae. During some seasons it kills an enormous number of caterpillars and reduces localized infestation.

Numerous species of gypsy moth parasites and predators have been imported from Europe and Asia and released in the infested area in this country. Eleven parasites and two predators have been established. They have been helpful in keeping populations reduced but have not been effective in preventng serious outbreaks and resultant damage.

Formulations of *Bacillus thuringiensis* (Bt), a bacterium that infects and kills many species of lepidopterous larvae, are regustered for control of gypsy moth. Bt has not been used operationally on PPQ control programs but has been used by some States on their control programs. The major objections to Bt to date have been the need for multiple applications to obtain foliage protection (which can still leave many larvae in the treated area) and the relatively high cost of the material compared to chemical pesticides.

An ongoing research and development program is studying and testing various potential controls other than conventional chemical pesticides. These include the synthetic sex pheromone dispalure, and sterile moths.

V. Safety Precautions

Personnel safety must a prime consideration at all times. Safety practices should be stressed in preprogram planning and supervisors must enforce on-the-job safety procedures.

Pesticides authorized for use vary in toxicity. If improperly used, they may injure people, wildlife, bees, etc. Specific safety precautions for each pesticide are listed on the product label. In addition, any special precautions listed in this manual shall be observed.

Keep pesticides in closed, properly-labeled containers in a dry place. Store them where they will not contaminate food or feed and where children and animals cannot reach them.

When handling a pesticide, follow all precautionary labeling.

Should there be contact through spillage or otherwise, wash immediately with soap and water. Should clothing become contaminated, launder before wearing again. Refer to PPQ Treatment Manual Section X for additional information.

Empty pesticide containers should be disposed of in an approved sanitary landfill, by incineration, or by other satisfactory methods approved by the Federal Environmental Protection Agency whereby they will not present a hazard or problem. Arrangements for disposal of such containers should be completed and thoroughly understood by all parties directly involved with a program prior to actual start of operations. PPQ District Offices should be consulted for pertinent information in States where operations are planned.

When applying a pesticide, it is essential to consider the potential impact of the pesticide on all components of the total environment which includes humans, crops, livestock, wildlife, aquatic life, and domesticated honey bees. Avoid contamination of lakes, streams, or ponds.

First Aid Suggestions

In case of accidental poisoning or as soon as any person shows symptoms of having been affected by any pesticides:

1. Remove the victim to a place where he/she will be safe from any further contact with the pesticide.
2. Cause the victim to lie down and keep quiet.
3. Call a physician and inform him/her of the name and formulation of the pesticide in use and as to any first aid given.
4. If needed, the local poison control center telephone number may be found on the inside front cover of the local telephone directory.

This proposal has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations," and has been designated "significant." A Draft Impact Analysis Statement has been prepared and is available from PPQ, APHIS, Room 633, Federal Building, Hyattsville, MD 20782. The alternatives considered during the analysis are listed in the draft impact analysis statement. That list of alternatives is made part of this document by this reference to its availability.

Done at Washington, D.C., this 30th day of April 1979.

James O. Lee, Jr.,
Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 79-14020 Filed 5-3-79; 8:45 am]
BILLING CODE 3410-34-M

Agricultural Marketing Service

[7 CFR Part 1207]

Potato Research and Promotion Plan; Proposed Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This notice invites written comments on proposed expenses for the functioning of the National Potato Promotion Board. It would enable the Board to collect assessments from designated handlers on all assessable potatoes and to use the resulting funds for its expenses.

DATES: Comments due by June 2, 1979.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Donald S. Kuryloski, Acting Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone (202) 447–5393.

SUPPLEMENTARY INFORMATION: The Potato Board is the administrative agency established under the Potato Research and Promotion Plan (7 CFR 1207). This program is effective under the Potato Research and Promotion Act (7 U.S.C. 2611–2627).

The proposed budget and rate of assessment has not been determined significant under USDA criteria for implementing Executive Order 12044. They should be approved before the beginning of the Board's fiscal period beginning July 1, 1979, because the program requires that the rate of assessment for a fiscal period should apply to all assessable potatoes from the beginning of such period.

It is proposed to amend 7 CFR part 1207 by adding § 1207.408 to read as follows.

§ 1207.408 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1979, and ending June 30, 1980, by the National Potato Promotion Board for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate will amount to $2,178,000.

(b) The rate of assessment to be paid by each designated handler in accordance with the provisions of the Plan shall be one cent ($0.01) per hundredweight of assessable potatoes handled by him during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as an operating monetary reserve.

(d) Terms used in this section have the same meaning as when used in the Potato Research and Promotion Plan.

Dated: April 30, 1979.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-14019 Filed 5-3-79; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 211]

Emergency Allocation Provisions of the Crude Oil Buy/Sell Program

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy is amending today, on an emergency basis, the provisions for emergency allocations for small refiners under the crude oil Buy/Sell Program. The amendments adopted today: (1) provide criteria for determining the level of emergency allocations; (2) change the

reference period for determining a small refiner's current level of reduction in supplies from the most recent six-month period to the period January through October 1978; and (3) describe the information which must be submitted in an application for an emergency allocation. The amendments are effective immediately in order to permit ERA to address on a more equitable basis the crude oil supply problems of small refiners in the face of severely restricted supplies of crude oil in the world market. If the effective date of these amendments were delayed, some small refiners likely would experience serious disruptions in their operations due to the inability of the Buy/Sell Program to respond effectively to their supply needs.

The ERA is continuing this rulemaking proceeding to receive public comment on the amendments adopted today and on two additional proposed amendments to the emergency allocation provisions. These proposed amendments would (1) add to the current list of sellers (the 15 so-called "major" refiners), for purposes of emergency allocations only, all other refiners with in excess of 175,000 barrels per day of refining capacity and (2) provide that, with respect to emergency allocations, the price of crude oil sold to small refiners whose refining capacity is more than 50,000 barrels per day shall be based on the actual cost of the crude oil sold, rather than the seller's adjusted weighted average landed cost of imports, as currently provided.

DATES: A hearing on the proposed amendments will be held on May 31, 1979 in Washington, D.C. Written comments on the proposed amendments must be received by May 31, 1979. Requests to speak must be received by May 16, 1979. Copies of oral statements must be received by May 30, 1979.

ADDRESSES: All comments, copies of oral statements and requests to speak to: Public Hearing Management, ERA Docket No. ERA–R–79–21, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Hearing: Room 2105, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2222A, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–5201.
William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634–2170.
John W. Glynn (Regulations and Emergency Planning), Economic Regulatory Administration, Room 6222, 2000 M Street, N.W., Washington, D.C. 20461, (202) 632–5133.
Robert G. Bidwell, Jr. (Fuels Regulation), Economic Regulatory Administration, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–9707.
Samuel M. Bradley (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–6754.

SUPPLEMENTARY INFORMATION:

Supplementary information concerning the final rules adopted today and the additional proposed amendments to the provisions for emergency allocations for small refiners under the Crude Oil Buy/Sell Program (10 CFR 211.65) is set forth in the final rules section of this issue.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, D.C., April 27, 1979.

David J. Bardin,
Administrator, Economic Regulatory Administration.

Part 211 is amended by adding to the Appendix to Subpart C a new Special Rule No. 11 to read as follows:

Special Rule No. 11—Supplemental Provisions for Emergency Crude Oil Allocations

1. *Scope.* This Special Rule No. 11 to Subpart C. Part 211, sets forth supplemental provisions for emergency crude oil allocations under § 211.65(c)(2) of this chapter.

2. *Applicability.* (a) This Special Rule is effective on the date of its issuance.

(b) During the time period this Special Rule is in effect, it supplements the provisions of §§ 211.62 and 211.65 of this chapter.

3. *Definitions.* For the purposes of allocations under § 211.65(c)(2) of this chapter:

"Fixed percentage share" means a seller's proportionate share, expressed as a percentage, of the total volume of crude oil runs to stills of all sellers during the period September 1978 through February 1979, as reported to ERA pursuant to § 211.66(h) of this chapter.

"National utilization rate" means the total of the estimated average daily crude oil runs to stills for all U.S. refiners for any month or months in an allocation period divided by the total of the average daily crude oil runs to stills for all U.S. refiners during the period January through October 1978.

"Seller" means any refiner that is a refiner-seller as defined in § 211.62 of this chapter and any other refiner that is not a small refiner as defined in § 211.62 of this chapter.

4. *Supplemental Provisions for Emergency Crude Oil Allocations.* Notwithstanding any provision of §§ 211.62 and 211.65 of this chapter to the contrary, the following provisions shall be applicable to allocations assigned under § 211.65(c)(2) of this chapter:

(a) *Sales Obligations and Directed Sales.* (1) The sales obligation with respect to allocations assigned under § 211.65(c)(2) for a refiner-seller for an allocation period shall be in addition to any sales obligation for such refiner-seller under paragraph (f) of § 211.65 of this chapter for such allocation period. For each allocation period, sellers shall be required to offer for sale, directly or through exchange, to small refiners assigned allocations under § 211.65(c)(2) a quantity of crude oil equal to the sum of the quantities of crude oil allocated under § 211.65(c)(2).

The sales obligation for each seller for an allocation period shall be equal to that seller's fixed percentage share multiplied by the total of the allocations assigned under § 211.65(c)(2), adjusted by any carryovers of unsold sales obligations and reductions in sales obligations for sales in excess of sales obligations in previous allocation periods; *provided, that,* at any time during an allocation period a seller may be directed under subparagraph (2) of this paragraph (a) to sell more than its sales obligation at that time; *provided further, that,* the sales obligations with respect to buyers that have a DOE certified crude oil refining capacity of 50,000 barrels per day or less shall be distributed on a pro-rata basis among all sellers, and each seller's pro-rata share of such sales obligations shall be equal to its fixed percentage share multiplied by the total allocations assigned to such small refiners under § 211.65(c)(2).

(2) In assigning an allocation to a small refiner under § 211.65(c)(2), the ERA may direct one or more sellers to sell a suitable type of crude oil to such refiner. In directing sellers to make such sales, the ERA shall apportion, to the maximum extent practicable, the sales among all sellers in a manner such that each seller's sales obligation for an allocation period does not exceed that seller's fixed percentage share multiplied by the total of the allocations assigned under § 211.65(c)(2); *provided, that,* the ERA may issue one or more directed sales orders that would result in one or more sellers selling more than their sales obligations for that allocation period; *provided further, that,* no such directed sale shall increase any seller's sales obligation under § 211.65(c)(2) by more than twenty-five percent (25%).

(3) For any allocation period, if the sales of any seller exceed its total sales obligation for that allocation period, such seller shall receive a barrel-for-barrel reduction in its sales obligation with respect to allocations assigned under § 211.65(c)(2) for the next allocation period, and the volume of each seller's unsold sales obligation under § 211.65(c)(2) in an allocation period shall be added to that seller's sales obligation for the next allocation period.

(b) *Supplemental Buy/Sell Notice.* From time to time during an allocation period, ERA shall publish a supplemental buy/sell notice, in addition to the buy/sell notice specified in § 211.65(g) of this chapter, listing the quantity of crude oil assigned to each small refiner under § 211.65(c)(2), the fixed percentage share of each seller, the quantity of crude oil that each seller shall be obligated to offer for sale to small refiners whose DOE certified crude oil refining capacity exceeds 50,000 barrels per day, and the quantity of crude oil that each seller shall be obligated to offer for sale to small refiners whose DOE certified crude oil refining capacity is 50,000 barrels per day or less.

(c) *Terms and Conditions of Sales.* The provisions of § 211.65(i) of this chapter shall be applicable to all sales made pursuant to § 211.65(c)(2); *provided, that,* with respect to sales of crude oil pursuant to § 211.65(c)(2) to refiners whose DOE certified refining capacity is greater than 50,000 barrels per day, the pricing rules set forth in Special Rule No. 1 to Subpart L, Part 212 shall apply, except that the handling fee shall be 5 cents per barrel rather than 25 cents per barrel.

5. *Provisions of Subpart C.* The provisions of Subpart C of Part 211 shall remain in full force and effect except as expressly modified or supplemented by the provisions of this Special Rule.

[Docket No. ERA–R–79–21]
[FR Doc. 79–14016 Filed 5–2–79; 8:45 am]
BILLING CODE 6450–01–M

[10 CFR Part 211]

Mandatory Petroleum Allocation Regulations: Motor Gasoline Allocation Base Period and Adjustments

Cross Reference: The Department of Energy is proposing to adopt on a permanent basis the interim rule published in Part IX of this issue. See FR Doc. 79–14054.

[Docket No. ERA–R–79–22]
BILLING CODE 6450–01–M

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 725]

National Credit Union Administration Central Liquidity Facility; Membership and Lending

AGENCY: National Credit Union Administration.

ACTION: Proposed Rule.

SUMMARY: These proposed regulations would establish the membership requirements and lending policies and procedures of the National Credit Union Administration Central Liquidity Facility ("Facility"). The Facility was created by Title XVIII of Pub. L. 95–630 as a corporation within the National Credit Union Administration ("NCUA") to provide credit unions with a reliable source of funds to meet their liquidity needs. These proposed regulations provide credit unions with information on the policies and requirements regarding membership and lending under which the Facility will operate.

DATES: Comments must be received on or before June 18, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 2025 M Street, NW, Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Michael Fischer, Chief Accountant, Office of Examination and Insurance (Membership); Layne L. Bumgardner, Chief, Credit Union Operations, Office of Examination and Insurance (Lending); or Mark S. Medvin, Attorney-Advisor, Office of General Counsel, National Credit Union Administration, 2025 M Street, NW, Washington, D.C. 20456. Telephone: (202) 254–8760 (Mr. Fischer and Mr. Bumgardner) or (202) 632–4870 (Mr. Medvin).

SUPPLEMENTARY INFORMATION:

1. *Background.* The National Credit Union Administration Central Liquidity Facility ("Facility") was established as a corporation within the National Credit Union Administration ("NCUA") by the National Credit Union Administration Central Liquidity Facility Act ("Act"), Title XVIII of Public Law 95–630. It will be managed by the 3-person NCUA Board and will have as its purpose the improvement of general financial stability by meeting the liquidity needs of credit unions.

Banks and savings and loan associations have long had access to loans from the Federal Reserve System "discount window" and the Federal Home Loan Banks, respectively, to meet their liquidity needs, but there has been no similar Government-sponsored source of funds available to credit unions. The Central Liquidity Facility was established by Congress to fill this void. The Facility is presently in its organizational phase and will begin operation on October 1, 1979. It is anticipated that the Facility will open its books for stock subscriptions in mid to late summer, 1979. These proposed regulations address membership in and loans from the Facility.

2. *Regulatory Approach.* The general approach of these regulations is dictated, for the most part, by the Act. In the sections on membership, most of the provisions merely reflect the statutory membership provisions in 12 U.S.C. 1795c and 1795d. The lending sections are less reflective of *specific* statutory provisions (12 U.S.C.1795e), but nevertheless were dictated, to a large degree, by the statutory provisions which:

(a) provide only for loans to meet liquidity needs of *natural person credit unions* (12 U.S.C. 1795a(a)), and

(b) provide that loans may be made only to members of the Facility (12 U.S.C. 1795e), without any provision for direct dealings between the Facility and credit unions served by Agents.

These provisions account for the structure of the lending process when Agents are involved (e.g., the documentation structure and the "two-tier" loan process of CLF loans to Agents and corresponding loans to natural person credit unions).

The regulations were drafted with the intent of keeping the paperwork burden to a minimum. Although the membership application will include a number of agreements and authorizations, these

requirements are included so that the paper flow in the lending process can be kept to a minimum. All necessary authorizations will be required at the inception and there will be no need for the signing of a note and security agreement each time an advance is made. Any changes to the master agreements will be accomplished by amending § 725.21 and giving notice of the amendments (§ 725.22). This avoids the need to sign new documents when changes are made. After the agreements and authorizations are filed, it is anticipated that, under normal circumstances, the only paper flowing in connection with loans will be an application for the loan and a confirmation form to be sent upon disbursal of the funds. The application will require only enough information to insure that the loan is for a liquidity need and to judge credit worthiness as required by the statute (12 USC 1795e(a)(2)).

A draft regulatory analysis has been prepared and is available for comment upon request.

Membership

3. *Types of Membership.* Membership in the Facility is available to both Federal and State chartered credit unions. Two types of membership in the Facility are provided for in the Act and the proposed regulations: *Regular* membership and *Agent* membership. Regular membership is available only to the traditional type of credit unions which primarily serve natural persons (Section 725.3(a)). Agent membership, on the other hand, is open only to credit unions or groups of credit unions which primarily serve other credit unions (Section 725.3(b)). For purposes of distinguishing these two types of credit unions, the Facility proposes to use a "50 percent of activity test"—that is, a credit union with more than 50 percent of its activity (basically the sum of shares and loans) devoted to natural persons will be classified as a "natural person credit union" (Section 725.2(k)), while a credit union with more than 50 percent of its activity devoted to other credit unions will be considered to be a "central credit union" (Section 725.2(d)).

4. *Access to Loans.* The Central Liquidity Facility was established to provide a source of funds to meet the liquidity needs of *natural person credit unions* only, and this is reflected in the definition of "liquidity needs" (Section 725.2(g)) which tracks the statutory definition. The statutory scheme provides natural person credit unions which desire access to Facility loans a choice as to how to deal with the Facility. A natural person credit union can join the Facility directly as a Regular member, in which case the credit union will submit its loan applications directly to, receive its loans directly from, and, in general, communicate and carry on its dealings directly with the Facility.

In the alternative, a natural person credit union can gain access to Facility loans by joining a central credit union which is an Agent member of the Facility. In this case, the natural person credit union would not itself be a member of the Facility, but would have access to Facility loans "through" the Agent member. Credit unions choosing to gain access to Facility loans in this manner would deal only with the agent member and not directly with the Facility. The fact that a credit union is a member of a central credit union which is an Agent does not prevent that credit union from choosing Regular membership and dealing directly with the Facility.

Regardless of the way in which a natural person credit union chooses to gain access to Facility loans, the terms of the loans to the credit union will be the same (§ 725.20(b)).

5. *Regular Membership.* "Regular" membership is, by statute, available to natural person credit unions and this is reflected in § 725.3(a). In order to become a Regular member of the Facility, a natural person credit union must submit an application, copies of its charter and bylaws (unless these are already on file with NCUA), and its most recent month-end financial and statistical report. The credit union must also subscribe to the capital stock of the Facility in an amount equal to one-half of 1 percent of its "paid-in and unimpaired capital and surplus," a term defined in § 725.2(m) of the proposed regulations. It should be emphasized that only one-half of the required stock subscription—in other words, one-quarter of 1 percent of paid-in and unimpaired capital and surplus—must be paid to the Facility, while the other one-half of the stock subscription may be held by the member on call o fthe NCUA Board and invested in specified assets (§ 725.5(b)). Section 725.5(a)(2) provides that the amount of the stock subscription will be adjusted annually based on changes in the member's paid-in and unimpaired capital and surplus.

The Act does not provide for any discretion on the part of the NCUA Board in approving an application to become a Regular member of the Facility. Any natural person credit union that complies with the application and stock subscription requirements will be accepted as a Regular member of the Facility. Consequently, § 725.3(a)(2) requires that an applicant for Regular membership forward the portion of its stock subscription which must be paid to the Facility with its application.

6. *Agent Membership.* "Agent" membership is, by stature, available only to "a credit union or group of credit unions primarily serving other credit unions," and this is reflected in § 725.3(b). Thus, a single central credit union or a group of central credit unions can apply to become an Agent member of the Facility.

Section 725.3(b) of the proposed regulation sets out the steps which must be taken by a central credit union or group of central credit unions desiring Agent membership. As in the case of Regular members, a prospective Agent member must submit an application, copies of its charter and bylaws (unless already on file at NCUA), and its most recent month-end financial and statistical report. When a group of central credit unions applies for Agent membership, these documents and reports must be submitted by each central credit union in the group.

Agent members must also subscribe to captial stock of the Facility. The amount of the stock subscription is one-half of 1 percent of the paid-in and unimpaired capital and surplus of all the natural person credit unions which are members of the applicant central credit union or, in the case of a group of central credit unions, which are members of any central credit union in the group. In order to prevent double stock subscriptions, Agent members do not have to consider the paid-in and unimpaired capital and surplus of any of their members which choose to join the Facility as Regular members. Section 725.3(b)(2) provides for the Agent stock subscription.

As in the case of Regular members, only one-half of the stock subscription must be *paid* to the Facility, while the remainder will be on call of the NCUA Board and may be invested in specified assets (§§ 725.3(b)(2) and 725.5(b)). Agent applicants must receive approval from the NCUA Board before becoming and Agent member and, therefore, § 725.3(b)(2) does not require Agent applicants to forward the amount representing one-half of their stock subscription until the NCUA Board approves them as Agent members. Prospective Agents should note that, from the Facility's viewpoint, it is the Agent which is responsible for paying the required portion of the stock subscription, although the Agent is not prohibited from passing the cost of the stock subscription through to its members.

Section 725.3(b)(6) requires that applicants for Agent membership receive approval of the NCUA Board in order to become an Agent. This requirement is imposed because Agent members will be operating essentially as an arm of the Facility and it is necessary that the Facility be assured that the management, operations, and financial position of its Agent members are sound. Criteria which will be considered by the NUCA Board in determining whether to approve an applicant to become an Agent member are specified in § 725.4(a). In the case of a group of central credit unions, each central credit union in the group must meet these criteria.

In addition, to insure the continued integrity of Facility operations, Agents must agree to comply with all regulations and reporting requirements that may be imposed by the Facility on Agent members (§ 725.3(b)(4)), and to submit to unrestricted examination by the NCUA Board or its designee (§ 725.3(b)(5)).

7. *Capital Stock.* The Central Liquidity Facility is a corporation and, as such, it will issue capital stock. Members of the Facility must subcribe to Facility capital stock in specified amounts (§§ 725.3(a)(2) and 725.3(b)(2)) and are actually shareholders/owners of the Facility. The stock is nonvoting, but is entitled to share in dividend distributions without preference Dividends will be paid on the issued captial stock (that is, on the paid-up portion of the total stock subscription) at rates and times determined by the NCUA Board (§ 725.5(d)).

8. *Termination of Membership.* The proposed regulations provide for both voluntary and involuntary termination of membership. The provisions on voluntary withdrawal from membership (§ 725.6(a), (b), (d)) provide for the redemption of stock at the purchase price after a waiting period fo 24 months for large members (over 5 percent of subscribed Facility stock) and 6 months for other members.

Section 725.6(c) reflects the statutory provision for involuntary termination of membership in the Facility. The proposed regulations give a member the right to a hearing before having its membership terminated. Regulations to govern the conduct of such hearings are currently being drafted and will amend 12 CFR Part 747. A credit union whose membership is involuntarily terminated will not be permitted to rejoin the Facility until the NCUA Board is satisfied that the credit union will comply with all applicable laws and regulations.

LENDING

9. *Liquidity Needs.* The Central Liquidity Facility will make loans to meet "liquidity needs," as defined in § 725.2(g). This definition tracks the definition in the statute and indicates the three types of credit which will be available from the Facility. These are:

(a) Short-term adjustment credit—for example, credit to meet a temporary shortage of funds due to a delay in receiving payroll deduction funds from a sponsor;

(b) Seasonal credit—for example, credit to meet a shortage of funds due to summer share withdrawals from a teachers' credit union; and

(c) Protracted adjustment credit—for example, a long term funds shortage due to the closing of a factory and the resulting unemployment of members.

The Facility is authorized only to make loans to meet liquidity needs and is specifically prohibited from making loans "to expand credit union portolios" (12 USC 1795e(a)(1)).

The definition of liquidity needs includes only the liquidity needs of *natural person credit unions.* Although central credit unions are eligible for Agent membership in the Facility, their borrowings from the Facility must be based on documented liquidity needs of the natural person credit unions which they serve. This means that Facility advances cannot be used by Agents for their own purposes.

10. *Applications for extension of credit to Regular members.* Those natural person credit unions which choose to become Regular members will deal directly with the Facility. Regular members will submit their applications for credit to a Facility lending officer (§ 725.17(d)) either at the Washington office, a Regional office, or at some other designated location. The application will be reviewed and the creditworthiness of the applicant will be considered (§ 725.18(a)) as required by the statute. Section 725.17(d) provides that applications for advances will be approved or denied within five working days after they are received.

11. *Applications for extensions of credit to Agent members.* Agent members will apply directly to the Facility for extensions of credit, but only to meet the documented liquidity needs of their member natural person credit unions. Thus, § 725.17(b) requires that, prior to applying for a Facility advance, the Agent must have received an application from one or more of its member natural person credit unions for an advance(s) to meet liquidity needs.

Natural person credit unions which choose to gain access to Facility loans through an Agent will submit their applications for advances to meet liquidity needs to the Agent. The Facility will provide the Agents with guidelines, and the Agent will have the authority to review applications and approve or deny them without any involvement of the Facility. Any applications which fall outside the established guidelines will be referred to the Facility for final action.

Upon approval by an Agent of one or more applications from its members for advances to meet liquidity needs, the Agent will request funds from the Facility in the amount of the approved application(s). Section 725.17(b) requires the Agent to certify in the application that it has received applications from its members for funds to meet liquidity needs in the amount requested from the Facility and that it has considered the creditworthiness of the credit unions on whose applications the request is based. The Facility will then advance funds to the Agent which, in turn, will advance the funds to the natural person credit union(s) which requested them.

In general, applications for extensions of credit must be in writing, although other forms of application may be developed later. In any event, § 725.17(c) permits verbal applications in the case of emergencies.

Agent members will be compensated for the services they perform for the Facility in a manner to be specified by the NCUA Board (§ 725.4(e)).

12. *Creditworthiness.* Prior to any advance of Facility funds, Section 725.18 requires the Facility or the Agent, as appropriate, to consider the creditworthiness of the natural person credit union to which the funds will be advanced. Sources of information pertaining to an applicant's creditworthiness include Federal and State supervisory and/or insurance agencies and lenders associated with the applicant. Section 725.18(c) lists some of the factors which will be considered in assessing creditworthiness, and § 725.18(d) indicates that applicants that do not meet the creditworthiness standards will either be denied the advance or limited in its use.

13. *Collateral for Advances.* Advances of Facility funds by the Facility or an Agent will normally be secured by an interest in the general assets (notes receivable chattel paper, securities, instruments, etc.) of the natural person credit union which receives the advance

(§ 725.19). The Facility will not require a security interest in specific assets unless circumstances suggest the need. Section 725.19(c) provides that the Facility and Agents will have the right at any time to perfect any security interest held by them by filing or taking possession of the collateral, but in most cases the security interest will not be perfected and the collateral will remain in the possession of the borrowing credit union so as not to interfere with the normal operation of the credit union.

14. *Repayment, Security and Credit Reporting Agreement.* In order to eliminate the need to sign documents each time an advance is made, the Facility will require all its members, both Regular and Agent, to sign a repayment, security and credit reporting agreement governing all advances made by the Facility (§§ 725.21(a) and (b)). Additionally, the Facility will require its Agent members to enter into a repayment, security and credit reporting agreement with all the natural person credit unions which they serve (§ 725.21(c); the terms of this agreement will be essentially the same as those of the agreement between the Facility and its Regular members.)

The agreements will include a promise to repay all advances, a security agreement, and such other loan terms as can be known in advance (§ 725.21). Other more specific terms, such as the amount, maturity, and interest rate, will be disclosed in a confirmation form that will be sent out at the time each advance is made, and/or in Operating Circulars of the Facility (§ 725.20(a)). The agreements will also include a credit reporting agreement which will set reporting requirements for recipients of Facility funds to enable the Facility to obtain information bearing on the status of the advances and on any problem which may arise.

When the final regulations are published, the repayment, security, and credit reporting agreements will be incorporated into the regulation in § 725.21. Section 725.22 and the agreements signed by the credit union will provide that any amendments made to an agreement in § 725.21 will, after notice, constitute an amendment to the agreement signed by the credit union. This provides a means of updating all existing agreements without necessitating the signing of new agreements by all credit unions with access to Facility loans each time a change is made in the agreement terms.

15. *Other Facility Advances.* The provisions of § 725.23 implement Section 1795f(16) of the Act. Advances to State insurance funds, etc., are not intended to provide a means of circumventing the membership requirements of the Facility to those credit unions which do not join the Facility as Regular members or gain access to loans through an Agent. A credit union which receives loans through a State insurance fund, etc. will receive them subject to stringent conditions.

The provisions of § 725.24 provide for expanded Facility lending authority when in the national interest. The authority for lending under this section is based on the following remarks of Congressman St Germain on this aspect of Pub. L. 96–630:

> Additionally, the committee believes the Facility should be available to enhance the Federal Government's ability to improve economic well-being and expects the Facility to be operated in close consultation with the Federal Reserve Board and Department of Treasury. At present, recession avoidance depends on appropriate fiscal and monetary policies and credit extensions supportive of the mortgage market by the Federal Home Loan Bank System.
>
> To assure the Facility is able to contribute to national economic well-being by stimulating consumer lending when it is in the national interest, your committee expects the non-expansionary provision not to apply if a determination is made by the Federal Reserve Board, Department of the Treasury, and National Credit Union Administration, that the national economic interest would be served by stimulating consumer buying by expanding the loan base of credit unions through expansionary Facility lending. In this way, the availability of the Facility to enhance economic well-being would be preserved while at the same time assuring that this capability would be exercised only with the concurrence of the Department of Treasury and the Federal Reserve Board.
>
> Your committee expects the Administrator to promulgate regulations as necessary to give effect to the full range of lending activities that are appropriate for the Facility (124 *Cong. Rec.* E5953 (11/9/78)).

16. *Abbreviated comment perod.* It is the Administration's normal practice to provide a 60 day public comment period for proposed regulations. The comment period has been shortened in this instance, however, (to June 18, 1979) so that it will be possible to issue a final regulation and open the books of the Facility for stock subscriptions sufficiently in advance of the October 1, 1979, effective date.

Accordingly, it is proposed that new Part 725, as set forth below, be added to Chapter VII of Title 12 of the Code of Federal Regulations.

April 30, 1979.

Lawrence Connell,
Administrator.

Authority: Sections 301–307 of the Federal Credit Union Act, 92 Stat. 3719–3722 (12 U.S.C. 1795–1795f).

New Part 725, as follows, is added to Chapter VII of Title 12 of the Code of Federal Regulations:

PART 725—NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

§ 725.1 Scope.

(a) This Part contains the regulations implementing the National Credit Union Administration Central Liquidity Facility Act, Subchapter III of the Federal Credit Union Act. The National Credit Union Administration Central Liquidity Facility is a mixed-ownership Government corporation within the National Credit Union Administration. It is managed by the National Credit Union Administration Board and is owned by its member credit unions. The purpose of the Facility is to improve the general financial stability of credit unions by meeting their liquidity needs and thereby encouraging savings, supporting consumer and mortgage lending and providing basic financial resources to all segments of the economy.

(b) Subpart A contains the regulations governing membership in the Facility, and Subpart B contains the regulations governing lending by the Facility.

(c) The regulations contained in this Part are promulgated pursuant to Sections 301–307 of the Federal Credit Union Act (12 U.S.C. 1795–1795f).

§ 725.2 Definitions.

As used in this Part:

(a) "Agent" means an Agent member of the Facility.

(b) "Agent group" means an Agent member of the Facility consisting of a group of central credit unions.

(c) "Chief officer" means the officer who has primary responsibility for the operation of a credit union, such as the President or the Chairman of the Board of Directors.

(d) "Central credit union" means a Federal or State chartered credit union primarily serving other credit unions. A credit union is primarily serving other credit unions when the total dollar amount of the shares and deposits that it has received from other credit unions plus loans to other credit unions exceeds 50 percent of the total dollar amount of all shares and deposits plus loans to members during the qualifying period, as defined in subsection (n) of this section.

(e) "Facility" or "Central Liquidity Facility" means the National Credit Union Administration Central Liquidity Facility.

(f) "Facility lending officer" means any employee of the Facility or the National Credit Union Administration who has been designated by the NCUA Board as a Facility lending officer.

(g) "Liquidity needs" means the needs of credit unions primarily serving natural persons for:

(1) Short-term adjustment credit available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities;

(2) Seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans; and

(3) Protracted adjustment credit available in the event of unusual or emergency circumstances of a longer term nature resulting from national, regional or local difficulties.

(h) "Management policies" means policies of a credit union with respect to membership, shares, deposits, dividends, interest rates, lending, investing, borrowing, safeguarding of assets, hiring, training and supervision of employees, and general operating and control practices and procedures.

(i) "Member" means a Regular or Agent member of the Facility, unless the context indicates otherwise.

(j) "Member natural person credit union," when used with reference to Agents, means a member of an Agent or of any central credit union in an Agent group. Member natural person credit unions are not members of the Facility unless they are also Regular members of the Facility.

(k) "Natural person credit union" means a Federal or State chartered credit union primarily serving natural person. A credit union is primarily serving natural persons if it is not a central credit union.

(l) "NCUA Board" or "Board" means the National Credit Union Administration Board.

(m) "Paid-in and unimpaired capital and surplus" means the balance of the paid-in share accounts and deposits as of a given date, less any loss that may have been incurred for which there is no reserve or which has not been charged against undivided earnings, plus the credit balance (or less the debit balance) of the undivided earnings account as of a given date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom. Statutory reserves or special reserves required by regulation or special agreement between the credit union and its regulatory authority or between the credit union and its member account insurer shall not be considered as part of surplus.

(n) "Qualifying Period" means:

(1) for initial qualification, any 7 months out of the 12 months immediately preceding the month in which application is made to become a member of the Facility; and

(2) for subsequent period qualifications, any 7 months out of the previous calendar year.

Subpart A—Membership

Sec.
725.3 Applications for membership.
725.4 Agent member requirements.
725.5 Capital stock.
725.6 Termination of membership.
725.7—725.16 [Reserved].

§ 725.3 Applications for membership.

(a) A natural person credit union may become a Regular member of the Facility by:

(1) Making application on a form approved by the Facility which shall be signed by the chief officer and the secretary of the credit union;

(2) Subscribing to capital stock of the Facility in an amount equal to one-half of 1 percent of the credit union's paid-in and unimpaired capital and surplus, as determined in accordance with subsection 725.5(a) of this Part, and forwarding with its completed application funds equal to one-half of this stock subscription; and

(3) Furnishing the following reports and documents with the completed membership application:

(i) A copy of the credit union's financial and statistical report for the most recent month-end; and

(ii) Copies of the credit union's charter and bylaws, unless such credit union is federally chartered.

(b) A central credit union or a group of central credit unions may become an Agent member of the Facility by (in the case of a group of central credit unions, each central credit union in the group must do each of the following except for paragraph (2), which shall be done by the group):

(1) Making application on a form approved by the Facility which shall be signed by the chief officer and the secretary of the central credit union;

(2) Subscribing to the capital stock of the Facility in an amount equal to one-half of 1 percent of the paid-in and unimpaired capital and surplus (as determined in accordance with § 725.5(a) of this Part) of all the central credit union's or central credit union group's member natural person credit unions which are not Regular members of the Facility. Upon approval of the application, the Agent shall forward funds equal to one-half of this initial stock subscription to the Facility.

(3) Furnishing the following reports and documents with the completed membership application:

(i) A copy of the central credit union's financial and statistical report for the most recent month-end; and

(ii) Copies of the central credit union's charter and bylaws, unless such credit union is federally chartered;

(4) Agreeing to submit to the supervision of the NCUA Board and to comply with all regulations and reporting requirements which the NCUA Board shall prescribe for Agent members;

(5) Agreeing to submit to periodic unrestricted examinations by the NCUA Board or its designee; and

(6) Obtaining the approval of the NCUA Board which shall be in writing and shall specify the services that shall be performed for the Facility.

(c) All applications, agreements, reports, and documentation required for becoming a member of the Facility shall be filed with the National Credit Union Administration Central Liquidity Facility, 2025 M St., NW. Washington, DC 20456.

(d) A credit union or credit union group that becomes a member of the Facility, or a credit union that becomes a member of an Agent of the Facility, later than six months after the Facility opens its books for capital stock subscriptions may not receive advances from the Facility (directly or through an Agent) without approval by the NCUA Board for a period of six months after beoming a member. This subsection (d) shall not apply to any credit union which becomes a member of the Facility within six months after such credit union is chartered or which has converted from Regular membership in the Facility to membership in an Agent, or vice versa, within a six month period.

§ 725.4 Agent member requirements.

(a) The NCUA Board may approve a central credit union or group of central credit unions as an Agent member of the Facility, provided the NCUA Board is satisfied that such credit union or credit union group meets certain criteria, including but not limited to the following (in the case of a group of central credit

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unions, each central credit union in the group must meet these criteria):

(1) The management policies are in writing, approved by the central credit union's board of directors, and reviewed annually by such board;

(2) Adequate internal controls are in place to assure accurate and timely reporting of transactions and the safeguarding of assets;

(3) The financial condition of the central credit union is sound with adequate reserves for losses;

(4) Surety bond coverage provides protection for the central credit union's employees while performing the duties of an Agent of the Facility; and

(5) Management has demonstrated its ability to use such techniques as cash flow analysis, budgeting and projections of sources and uses of funds to manage the affairs of the central credit union efficiently and in conformity with sound business practices.

(b) Upon approval as an Agent member of the Facility, the Agent member shall obtain from each of its member natural person credit unions which is not a Regular member of the Facility, and retain on file the following:

(1) A repayment, security, and credit reporting agreement as specified in § 725.21(c) of this Part; and

(2) An authorization to borrow and to enter into and be bound by the terms of the repayment, security, and credit reporting agreement.

The Agent shall also obtain and retain on file the documents specified in paragraphs (1) and (2) of this subsection from each natural person credit union which becomes a member of the Agent or of any central credit union in the Agent group subsequent to its becoming an Agent member of the Facility.

(c) Each Agent, or in the case of an Agent group, each central credit union in the group, must:

(1) Maintain records related to Facility activity in conformity with requirements prescribed by the NCUA Board from time to time; and

(2) Submit such reports as may be required by the Facility to determine financial soundness, quality and level of service, and conformity with established guidelines and procedures.

(d) Each Agent, or in the case of an Agent group each central credit union in the group, must have on an annual basis, a third party independent audit of its books and records and provide the Facility with copies of such audit reports. The auditor selected must be recognized by a state or territorial licensing authority as possessing the requisite knowledge and experience to perform audits.

(e) Agent members will be compensated for the services they perform for the Facility in a manner to be specified by the NCUA Board.

§ 725.5 Capital stock.

(a) The capital stock subscriptions provided for in § 725.3 shall be:

(1) Based on an arithmetic average of paid-in and unimpaired capital and surplus over the six months preceding applicaton for membership, and

(2) Adjusted at the close of each calendar year in accordance with an arithmetic average of paid-in and unimpaired capital and surplus over the twelve months in such calendar year. Payments for adjustments to the capital stock subscription must be received no later than March 31 of the following year.

(b) That part of a member's stock subscription which is not paid-in may be held by the member on call of the NCUA Board and shall be held in demand deposits or invested in such other assets as the NCUA Board may from time to time prescribe.

(c) Any member may at any time purchase additional capital stock in the Facility.

(d) Dividends will be paid on capital stock at such times and rates as are determined by the NCUA Board. All issued (paid for) capital stock shall share in dividend distributions without preference.

§ 725.6 Termination of membership.

(a) A member of the Facility whose capital stock subscription constitutes less than 5 percent of subscribed Facility stock may withdraw from membership in the Facility six months after notifying the NCUA Board of its intention to do so.

(b) A member of the Facility whose capital stock subscription constitutes 5 percent or more of subscribed Facility stock may withdraw from membership in the Facility twenty-four months after notifying the NCUA Board of its intention to do so.

(c) The NCUA Board may terminate membership in the Facility if, after the opportunity for a hearing as provided for in Part 747 of this Chapter, the NCUA Board determines the member has failed to comply with any provision of the National Credit Union Administration Central Liquidity Facility Act or any regulation issued pursuant thereto. If membership is terminated under this subsection, the credit union will be required to obtain the approval of the NCUA Board before becoming a member of the Facility again. Such approval will be granted only if the NCUA Board is satisfied that the credit union will comply with such Act and regulations.

(d) In the event that membership is terminated under any provision of this section, the terminated member's stock shall be redeemed at the price originally paid for the stock. In such event, the Facility may retain any amount owed by the member to the Facility.

§§ 725.7 through 725.16 [Reserved]

Sections 725.7 through 725.16 are reserved for future use.

Subpart B—Lending

Sec.

725.17 Applications for extensions of credit.
725.18 Creditworthiness.
725.19 Collateral requirements.
725.20 Terms and conditions.
725.21 Repayment, security, and credit reporting agreements.
725.22 Modification of agreements.
725.23 Advances to insurance organizations.
725.24 Other advances.

§ 725.17 Applications for extensions of credit.

(a) A Regular member of the Facility may apply for an extension of credit to meet its liquidity needs by filing an application on a Facility-approved form, or by any other method approved by the Facility.

(b) An Agent member of the Facility may apply for an extension of credit to meet the liquidity needs of its member natural person credit union(s) by filing an application on a Facility-approved form, or by any other method approved by the Facility. The Agent's application shall certify that:

(1) the Agent has approved an application(s) from its member natural person credit union(s) which requests an extension(s) of credit for liquidity needs in the amount requested by the Agent; and

(2) the Agent has considered the creditworthiness of the member natural person credit union(s) which requested the extension(s) of credit.

(c) In emergency circumstances, the application for an extension of credit may be verbal, but must be confirmed within five working days by an application as required by subsection (a) or (b) of this section.

(d) Applications of Regular and Agent members shall be filed with a Facility lending officer. Each application for credit which is completed and properly filed will be approved or denied within five working days after the day of receipt.

§ 725.18 Creditworthiness.

(a) Prior to approval of each application by a Regular member for an extension of credit, the Facility shall consider the creditworthiness of such member.

(b) Prior to approval of each application of a member natural person credit union for an extension of credit, an Agent shall consider the creditworthiness of such member natural person credit union.

(c) Specific characteristics of an uncreditworthy credit union include, but are not limited to, insolvency as defined by § 700.1(k) of this Chapter, unsatisfactory practices in extending credit, lower than desirable reserve levels, high expense ratio, failure to repay previous Facility advances as agreed, excessive dependence on borrowed funds, inadequate cash management policies and planning, or any other relevant characteristics creating a less than satisfactory position. The mere presence of one or more of these characteristics will not necessarily mean that a credit union will be considered uncreditworthy.

(d) A natural person credit union (whether a Regular member of the Facility or a member natural person credit union of an Agent) which does not meet the creditworthiness standards established by the Facility may be limited in or denied the use of advances for its liquidity needs.

§ 725.19 Collateral requirements.

(a) Each advance of Facility funds to a natural person credit union, whether by the Facility or an Agent, shall be secured by a security interest in the general assets of the credit union, whenever acquired, and/or at the discretion of the Facility, in specific assets of the credit union.

(b) Each advance of Facility funds to an Agent member shall be secured by the obligations and security interests arising out of the Agent's advances of Facility funds to its member natural person credit unions, whenever arising.

(c) The Facility or the Agent, as applicable, shall have the right to perfect its security interest at any time by filing or taking possession of any or all of the assets covered by its security agreement(s).

§ 725.20 Terms and conditions.

(a) Advances of Facility funds shall be subject to such terms and conditions as shall be established from time to time by the NCUA Board. These terms and conditions are specified in § 725.21 of this Part. Other terms and conditions, such as amount, maturity, and interest rate, will be specified in the Facility's Operating Circulars and/or in confirmations of credit provided in connection with each advance.

(b) The terms, including rates, on advances of Facility funds to natural person credit unions shall be the same regardless of whether the advance is received directly from the Facility or through an Agent member.

(c) Each member of the Facility (Regular or Agent) shall sign a repayment, security, and credit reporting agreement as specified in § 725.21 of this Part.

(d) In the case of an Agent member which is an Agent group, each central credit union in the Agent group shall be jointly and severally liable on each repayment obligation of the Agent member to the Facility.

§ 725.21 Repayment, security, and credit reporting agreements.

(a) The repayment, security, and credit reporting agreement under which extensions of credit are made to Regular members of the Facility is as follows:

(A copy of the repayment, security, and credit reporting agreement will be included in the final regulations).

(b) The repayment, security, and credit reporting agreement under which extensions of credit are made to Agent members of the Facility is as follows:

(A copy of the repayment, security, and credit reporting agreement will be included in the final regulations).

(c) The repayment, security, and credit reporting agreement under which Agents shall make extensions of credit to their member natural person credit unions is as follows:

(A copy of the repayment, security, and credit reporting agreement will be included in the final regulations).

§ 725.22 Modification of agreements.

The terms of the repayment, security, and credit reporting agreements reflected in paragraphs (a), (b), and (c) of § 725.21 of this Part shall be subject to modification from time to time as the NCUA Board may determine. Any modification to such agreements shall be published in the **Federal Register** and shall become a term of the corresponding agreement which was signed by the credit union as of the effective date specified in the **Federal Register** The new term shall apply to all advances disbursed by the Facility after the effective date.

§ 725.23 Advances to insurance organizations.

(a) In accordance with policies established by the NCUA Board, the Facility may advance funds to a State credit union share or deposit insurance corporation, guaranty credit union, or guaranty association. Requests for such advances shall be supported by an application which sets forth and supports the need for the advance.

(b) Advances under subsection (a) shall be subject to the approval of the NCUA Board and shall be made subject to the following terms:

(1) the advance shall be fully secured,

(2) the maturity of the advance shall not exceed 12 months,

(3) the advance shall not be renewable at maturity, and

(4) the funds advanced shall not be relent at an interest rate exceeding that imposed by the Facility.

§ 725.24 Other advances.

(a) The NCUA Board may authorize extensions of credit to members of the Facility for purposes other than liquidity needs if the NCUA Board of Governors of the Federal Reserve System, and the Secretary of the Treasury concur in a determination that such extensions of credit ar in the national economic interest.

(b) Extensions of credit approved under the conditions of paragraph (a) of this section shall be subject to such terms and conditions as shall be established by the NCUA Board.

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CIVIL AERONAUTICS BOARD

[14 CFR 207, 208, 212, 214, 380 and 381]

Direct Marketing of Charters by Air Carriers

Dated: April 26, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is proposing, at its own initiative, to allow control relationships between direct air carriers and charter operators, to allow direct air carriers to market charter tours to individuals, and to allow direct air carriers to substitute their surety bond or depository agreement provisions for the similar consumer protection provisions now required of charter operators.

DATES: Comments by: June 18, 1979. Reply comments by: July 3, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: May 14, 1979. Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 34965, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 714, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Mark Frisbie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: The Board discussed the consequences of allowing sales of charter tours by direct air carriers and allowing control relationships between direct carriers and charter operators in a request for public comments issued March 8, 1979 (44 FR 14609, March 13, 1979). The request for comments was designed to aid the Board in preparing a report to Congress required by section 108 of the Federal Aviation Act, as amended by Public Law 95–504, the Deregulation Act of 1978. The issuance also asked for comments on whether the Board should adopt rules allowing direct sales of charters, subject to restrictive conditions, in the interim while Congress considers the Board's report.

On April 2, 1979, the Board heard argument from air carriers, charter operators, and travel agents on the pros and cons of vertical integration between direct carriers and independent charter operators.

This rulemaking proposes to allow vertical integration and direct sales of charters by air carriers. The type of service that could be marketed under this rule would be similar to Public Charters, except for a 7-day advance purchase requirement.

The proposal also suggests changes to the Public Charter rule (14 CFR Part 380) allowing direct air carriers to assume the consumer protection requirements now placed on charter operators. In light of the fact that we are proposing to allow any type of relationship to exist between charter operators and direct air carriers, the available options should allow the most efficient arrangement to be worked out between them, without degrading the protection provided to consumers.

Direct Sales and Vertical Integration

The Federal Aviation Act has since 1968 prohibited charter (formerly supplemental) air carriers from selling or offering for sale "an inclusive tour in air transportation by selling or offering for sale individual tickets directly to members of the general public, or to do so indirectly by controlling, being controlled by, or under common control with, a person authorized by the Board to make such sales." Before the Deregulation Act, that prohibition was part of the definition of "supplemental air transportation," found in section 101 of the Act. The Deregulation Act moved the prohibition from section 101 to section 401(n)(4). The Conference Report noted that this shift "permits the Board to exercise its exemption authority with respect to this prohibition." (H.R. Report No. 95–1779, 95th Cong., 2d Sess. 68 (1978), *reprinted in* [1978] U.S. Code Cong. & Ad. News 5523, 5536).

The prohibition on direct sales of charters by air carriers was included in Pub. L. 90–514, enacted September 26, 1968, which expressly allowed supplemental air carriers to operate inclusive tour charter trips through independent charter operators. According to the House Report, the prohibition on direct sales "keeps [supplemental] carriers out of the business of offering individually ticketed services in competition with the scheduled carriers." (H.R. Report No., 1639, 90th Cong. 2d Sess. 2 (1968).) At that time, the policy of Congress was to prevent supplemental carriers from diverting traffic from scheduled carriers, on the ground that the latter were under service obligations on all of their routes and needed revenues from their profitable routes to subsidize their unprofitable ones. The supplemental carriers, which had no route obligations, were seen as a threat to the scheduled carriers' profitable routes, and therefore to the entire regulated system, if they were allowed to sell individual tickets for inclusive tours in competition with individually-ticket service by carriers. Although the prohibition, read literally, applies only to inclusive tours, and not to air-only and one-way trips, the Board's regulations have always extended the prohibition to all forms of charter travel.

It is clear from the emphasis of the Deregulation Act on competition that potential diversion of traffic from scheduled carriers is no longer a persuasive reason for limiting the type of service that other carriers provide. Thus, the original reason for the prohibition on direct sales by charter carriers is obsolete. We have tentatively decided that a relaxation of the prohibition, using the Board's exemption power as contemplated by Congress, would allow increased efficiencies in the provision of charter service to the public, which could result in lower prices. We are not convinced by arguments that allowing direct sales or sales through tour operator affiliates would reduce competition or stifle creativity in developing new markets.

Direct carriers are not now permitted an independent role in deciding which charter markets will be served and developed. Although they may offer flight programs in developed markets, they evidently are not likely to attempt to develop a market themselves unless an independent operator is involved. Efficient large-scale charter programs typically entail back-to-back, season-long utilization of aircraft, and today depend on a charter's willingness and ability to make dependable large-scale commitments for aircraft. Independent charter operators may not always be willing to make such commitments. Allowing direct carriers the freedom to make basic marketing decisions might therefore increase the variety or reduce the price of charter offerings to the public.

The ability to market tours themselves would also give carriers some protection against cancellations of charter contracts by independent operators. Commitments for charter aircraft are typically made months in advance of scheduled use. Subsequent cancellations of a commitment by one operator may endanger a charter program in which other operators are involved, and leave the direct carrier with expenses for underutilized aircraft and ferry mileage. Although the direct carrier can encourage other operators to take up the slack caused by the cancellation, it cannot take direct action itself. Allowing carriers to market tours themselves could add a measure of stability and certainty to the planning of charter programs, since the direct carrier could take quick action (through an affiliate or by itself) to mitigate cancellations. The economies of more stable charter operations should also benefit the consumer.

Independent operators have expressed concern that allowing direct sales will lead to discriminatory practices in the allocation of aircraft capacity. We are not convinced, however, that discrimination against independent operators is a significant problem. We have substantial enforcement powers to prevent unfair or deceptive practices, and any preference given to an affiliate but withheld from others may be considered unfair or deceptive. Discrimination against independent operators would injure participants as well as the operators, and both could bring potential problems to our attention.

Independents have argued that allowing direct sales will lead to concentration of the tour industry in the hands of a few direct carriers, resulting in less competition, higher prices, and fewer choices for consumers. They claim that if direct carriers come to dominate the heavily travelled markets, the expenses and risks to independents of developing new and exotic markets will be prohibitive. Also, they argue that direct carriers will have a vested interest in *not* developing new markets, out of a desire to protect their established markets.

We are not persuaded that these fears are well-founded. In Great Britain and Canada, where vertical integration between carriers and tour operators is permitted, there continues to be a large number of tour operators. Although vertical integration in this country may reduce the existing number of independents, we have confidence in the adaptability and resourcefulness of most of the industry, and in its ability to survive, thrive, and promote competition. Judging from the number of tour operators in Canada and Britain,[1] the charter travel business does not seem subject to strong economies of scale, and the relatively low capital costs of starting a new tour operator business present no serious obstacles to the entry of new entrepeneurial talent.

If independents could not compete successfully with direct carriers in the established markets, it could mean that carriers could provide significant economies of service and thus there would be further economic justification for allowing these new types of charter activity. It is true that independent operators have played a major role in developing new markets. But, if new markets cannot provide a sufficient promise of an economic return to be worth developing for their own sake, it does not make economic sense to cross-subsidize them, in effect, with the profits of established markets.

We are therefore asking for comments on a proposal to permit direct air carriers to market charter tours of all types to individuals, directly or through affiliated tour operators. We are proposing to grant an exemption for charter air carriers from section 401(n)(4) of the Act, and to grant an exemption for both scheduled route carriers and charter air carriers from section 408 and 409 of the Act, permitting them to control and acquire Public Charter operators. We are also proposing to amend the exemption in § 380.20 of the Public Charter rule to permit controlling and interlocking relationships where the charter operator is the dominant party.

Nothing in the Act now specifically prohibits direct sale of charters by foreign air carriers or their affiliates, so no explicit exemption is necessary for them. However, since it has been the Board's policy, expressed through case law and interpretation, to prohibit direct sales of charters by foreign air carriers or their foreign charter operator affiliates, we would expressly change that policy. We would also delete § 380.10(a), which states that "the charter shall be arranged and sold by a charter operator as an independent principal with respect to the air transportation included in the charter and not as an agent for a direct air carrier."

We are also proposing to amend Parts 207, 208, 212, and 214, and add a new Part 381 to our Special Regulations, to allow all direct carriers to market charter transportation directly to the general public, without using a charter operator middleman. The type of charter service that could be marketed by direct carriers would bear most of the same charcteristics as Public Charters. One-way flights and intermingling of passengers would be permitted, with no minimum stay restrictions, although as at present a participant would have to contract for a specific return date on round-trip charters. However, we would apply a 7-day advance purchase requirement to all charters by a direct carrier or affiliate; this restriction would not apply to charters by unaffiliated operators. The direct carrier would have to meet all the responsibilities and limitations applicable to charter operators, including prospectus filing, participant contracts with consumer protection provisions, escrow or bonding arrangements (discussed below), and solicitation restrictions.

The minimum contract size of 20 persons would not apply to charters by direct carriers, since there would be no contract with a charter operator middleman. Also, since charter operators are not required to sell all the seats that they charter, a direct carrier would not have to fill every seat on a directly-sold charter. We are, therefore, proposing to add a paragraph to the charter flight limitations of Parts 207, 208, 212, and 214, that would allow the direct air carrier to provide a charter trip without all the seats on the plane being sold.

The resulting directly-sold charter service would be distinguishable from individually-ticketed scheduled service in several ways. First, it would require a written contract, signed by the participants at least 7 days before the flight. The contract would specify the rights and duties of the participant and the carrier, including cancellation penalties and the carrier's rights to change the time and place of departure. An ordinary scheduled service ticket is less informative, and can be purchased up to the time of departure. Traditionally, scheduled service has also been distinguishable from charter service in that it permits ticket cancelation without penalty, and the risk of flight cancelation for lack of sales is virtually nil. Second, directly-sold charter service could only be marketed after complying with the prospectus-filing, solicitation, and depository protection or bonding requirements of the Public Charter rule, none of which are ordinarily applicable to scheduled flights. Thus, from the carrier's point of view as well as from the participant's, directly-sold charter service would retain significant differences from scheduled service.

The advance purchase restriction would prevent the charter operator or carrier from entering into any participant contracts less than 7 days before scheduled departure. In accordance with the existing rules for Public Charters, substitutions at any time prior to departure would be permitted for participants who have signed a contract but wish to drop out.

Surety Bond and Escrow Arrangements

Under the Public Charter rule, charter operators must maintain either a surety bond for the entire charter price or the combination of a smaller surety bond and an escrow agreement with a bank for the protection of customer deposits. The bonding and escrow agreements guard against misallocation of participant deposits and insure against insolvency of the charter operator. The surety and bonding agreements cover all parts of the tour package, including ground accommodations and services such as hotels and car rentals.

Under our charter regulations governing direct air carriers, they must maintain either an unlimited surety bond or an escrow agreement with a bank for the protection of payments

[1] A study by Transportation Analysis International, Ltd., of Shannon, Ireland, indicates that there are over 480 tour operator license holders in Great Britain. International Vacations, Ltd., claims that there are about 120 tour operators in Canada.

made by charterers to the carrier. These arrangements protect only money paid

allocated to the various flight accounts in proportions specified by the direct

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO

(10) By a foreign direct air direct air carrier in accordance with Part 381 of

(b) Charter operators (other than foreign charter operators) are hereby

sightseeing enterprises, or other persons or companies furnishing ground

made by charterers to the carrier. These arrangements protect only money paid for air transportation, not for ground services.

We are proposing to change these escrow and bonding requirements in two ways. First, since we would allow direct carriers to market charter tours, including ground services, directly to the public, we would require them to change their bonding or escrow arrangements to protect the ground portion of participant payments and the obligations of the carrier under the charter contract. If an escrow were used, participants would pay money directly to the escrow account, and the bank would pay vendors of ground services upon presentation of bills and certification by the direct carrier. The bank would pay refunds to participants in accordance with the terms of the participant contract. Under the existing rule, escrowed money is accounted for by flight, and the bank may not release escrowed funds to the carrier until the charter flight is completed. These provisions would remain in effect. The direct carrier would have to supplement its escrow arrangement with a limited surety bond, as charter operators are currently required to do. As an alternative to the escrow/limited bond combination, the carrier could use an unlimited surety bond without any escrow provision.

The second change relates to charters sold through tour operators, independent or otherwise. In many cases it may be more efficient and less expensive to have only one set of bonding and escrow arrangements applicable to a charter tour. Under the present rules, the money for air transportation must usually go through two escrow accounts, each time with separate charges. This proposal would allow the direct carrier to eliminate one of the escrow/bonding layers by agreeing to take responsibility for the obligations of a charter operator doing business with it. Direct carriers may especially want to do this with closely-controlled affiliates, but our proposal would not restrict the option to affiliates. On the other hand, affiliates could use the existing separate bonding and depository provisions if they wished. Charter operators who wished to take advantage of the new option would have to include in their charter prospectus a statement from the direct carrier agreeing to take responsibility for the operator's obligations, along with evidence of a properly modified bond or escrow agreement reflecting the change.

If an escrow account were used, the participant would pay money directly to the escrow bank. The payment would be allocated to the various flight accounts in proportions specified by the direct carrier, as long as each account received at least the pro rata seat price. Vendors' bills would be paid by the bank upon presentation and certification by the charter operators. After completion of the flight, the balance in the account would be disbursed by the bank to the direct carrier, who would deduct the charter price and transmit the remaining profit to the charter operator.

Cancellation of Charters by Direct Carriers

We are proposing an addition to the Public Charter rule providing that the direct air carrier may not cancel a charter flight less than 10 days before scheduled departure, except for reasons that make the flight physically impossible. The existing Public Charter rule provides that the charter operator may not cancel less than 10 days before departure, but is silent about the carrier's responsibilities. Since the charter operator need not actually pay the carrier before departure, it would arguably be permissible for the carrier to cancel at the last minute for lack of payment. However, the Board has stated in a recent order [3] its position that the direct carrier is obligated to perform the flight to the same extent as the charter operator. We would make this requirement explicit by the addition of a new § 380.43.

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Parts 207, 208, 212, 214, and 380, and to add a new 14 CFR Part 381, as follows:

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

New paragraphs (b)(12) and (c)(10) would be added to § 207.11, to read as follows:

§ 207.11 Charter flight limitations.

Charter flights (trips) in air transportation shall be limited to the following:

* * * * *

(b) * * *

(12) By a direct air carrier in accordance with Part 381 of this chapter.

(c) * * *

(10) By a direct air carrier in accordance with Part 381 of this chapter;

* * * * *

[3] Order 79-4-117

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

1. The table of contents would be amended to read as follows:

Sec.

* * * * *

208.30 Exemption.
208.31 Suspension of exemption authority.

* * * * *

2. New pargraphs (b)(11) and (c)(10) would be added to § 208.6, to read as follows:

§ 208.6 Charter flight limitations.

Charter flights in air transportation performed by supplemental air carriers shall be limited to the following:

* * * * *

(b) * * *

(11) By a direct air carrier in accordance with Part 381 of this chapter.

(c) * * *

(10) By a direct air carrier, in accordance with Part 381 of this chapter;

* * * * *

3. New § 208.30 and § 208.31 would be added, to read as follows:

§ 208.30 Exemption.

Charter air carriers are hereby exempted from section 401(n)(4) of the Act.

§ 208.31 Suspension of exemption authority.

The Board reserved the power to suspend the exemption authority of any charter air carrier, without hearing, if it finds that such action is necessary in order to protect the rights of the traveling public.

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

New paragraphs (a)(12) and (b)(10) would be added to § 212.8, to read as follows:

§ 212.8 Charter flight limitations.

Charter flights (trips) shall be limited to foreign air transportation performed by a foreign air carrier holding a foreign air carrier permit issued pursuant to section 402 of the Act authorizing such carrier to engage in foreign air transportation on an individually ticketed or individually waybilled basis—

(a) * * *

(12) By a foreign direct air carrier in accordance with Part 381 of this chapter.

(b) * * *

(10) By a foreign direct air direct air carrier in accordance with Part 381 of this chapter:

* * * * *

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

New paragraph (a)(9) would be added to § 214.7, to read as follows:

§ 214.7 Charter flight limitations.

Charter flights shall be limited to air tranportation performed by a direct foreign air carrier on a time, mileage, or trip basis where—

(a) * * *

(9) By a foreign direct air carrier in accordance with Part 381 of this chapter.

(b) * * *

(9) By a foreign direct air carrier in accordance with Part 381 of this Chapter;

PART 380—PUBLIC CHARTERS

1. The Table of Contents would be amended to read as follows:

Sec.

* * * * *

380.25a Charters by direct air carrier affiliates.

* * * * *

380.34a Substitution of direct air carrier's surety bond and depository agreement.

* * * * *

380.43 Cancellations by direct air carriers.
380.44 Exemption.
380.45 Suspension of exemption authority.

* * * * *

Appendix E

§ 380.10a [Reserved]

2. Section 380.10(a) would be revoked and reserved.

3. Section 380.20 would be amended to read as follows:

§ 380.20 Exemption.

(a) Charter operators (other than foreign charter operators) are hereby relieved from the following provisions of Title IV of the Federal Aviation Act of 1958, as amended, only if and so long as they comply with the provisions of this part and the conditions imposed herein, and to the extent necessary to permit them to organize and arrange Public Charters:

(1) Section 401.

(2) Section 403.

(3) Section 404(a), except the requirement to provide adequate service in connection with Public Charters operated hereunder.

(4) Section 405(b).

(5) Section 407 (b) and (c).

(b) Charter operators (other than foreign charter operators) are hereby relieved from section 408(a), 409, and 412 of the Federal Aviation Act of 1958, as amended, only if and so long as they comply with the provisions of this part and the conditions imposed herein.

4. A new § 380.25a would be added, to read as follows:

§ 380.25a Charters by direct air carrier affiliates.

A charter operator controlling, controlled by, or under common control with a direct air carrier may not enter into any operator-participant contract for a charter trip provided by the affiliated direct carrier less than 7 days before the scheduled departure date. For the purposes of this section, "control" means any ownership, common management, debtor-creditor, or other relationship between the two entities by which one entity could influence the other's business decisions other than by arms-length business transactions.

5. A new § 380.34a would be added, to read as follows:

§ 380.34a Substitution of direct air carrier's surety bond and depository agreement.

(a) A charter operator may comply with the following requirements of this section instead of complying with § 380.34, but only for charter trips in which all the air transportation is provided by one direct air carrier.

(b) The charter prosectus shall, instead of information regarding the charter operator's surety bond or escrow agreement, include:

(1) A statement in the form set out in Appendix E of this part by each direct air carrier providing air transportation that it will take responsibility for all charter participant deposits (including those for ground accommodations and services) and for the fulfillment of all the charter operator's contractual and regulatory obligations to the charter participants, and

(2) The statement described in either paragraph (c) or (d) of this section.

(c) (First alternative) A statement from the charter operator, the direct air carrier, and the direct air carrier's depository bank (under §§ 207.17, 208.40, 212.15, or § 214.9c), in the form set out in Appendix D, that:

(1) They have entered into a depository agreement covering the proposed flight schedule that provides, in addition to existing requirements under §§ 207.17, 208.40, 212.15, or § 214.9c, that:

(i) The bank shall pay funds from a flight account directly to the hotels, sightseeing enterprises, or other persons or companies furnishing ground accommodations and services, if any, in connection with the charter flight, upon presentation to the bank of vendors' bills and upon certification by the person who contracted for the ground accommodations or services of the amounts payable and the persons or companies to whom payment is to be made; and

(ii) Charter participants, or travel agents with whom they deal, shall make payments direct to the escrow account. The depository bank shall pay refunds to participants according to the terms of the operator-participant contract and this rule.

(2) The bank has received a copy of the proposed flight schedule, identified by the schedule number assigned by the charter operator under this part.

(d) (Second alternative) A statement from each direct air carrier providing air transportation and its surety company (under §§ 207.17, 208.40, 212.15, or § 214.9c), in the form set out in Appendix C to this part, that:

(1) They have entered into a surety bond rider or amendment assuring the direct air carrier's responsibilities to charter participants under this section, in an unlimited amount (except that the liability of the surety with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant);

(2) The surety has received a copy of the proposed flight schedule, identified by the schedule number assigned by the charter operator under this part.

(e) If a depository agreement is used, the prospectus shall include a statement from each direct air carrier providing air transportation and a surety company meeting the qualifications in § 380.34(c), in the form set out in Appendix C to this part, that:

(1) They have entered into a surety bond assuring the direct air carrier's responsibilities to charter participants under this section. The bond shall be in an amount of at least $10,000 times the number of flights, except that the amount need not be more than $200,000, and the liability of the surety to any charter participant shall not exceed the amount paid by the participant to the charter operator for that charter;

(2) The surety has received a copy of the proposed flight schedule, identified by the schedule number assigned by the charter operator under this part.

(f) A copy of the depository agreement under paragraph (c) of this section shall be filed with the Board, and it shall not be effective until approved by the Board.

(g) A copy of the surety bond rider or amendment under paragraph (d) of this section, or a copy of the surety bond under paragraph (e) of this section, shall be filed with the Board. It shall insure the financial responsibility of the direct air carrier for supplying the transporation and all other accommodations, services, and facilities in accordance with the contract between the charter operator and the charter participants. Such bond shall meet all the other requirements of § 380.34(c) and (d).

6. New § 380.43, § 380.44, and § 380.45 would be added, to read as follows:

§ 380.43 Cancellations by direct air carriers.

The direct air carrier may not cancel any charter flight under this part less than 10 days before the scheduled departure date, except for circumstnaces that make it physicaly impossible to perform the charter trip.

§ 380.44 Exemption.

Air carriers (other than foreign air carriers) are hereby relieved from section 408(a), 409, and 412 of the Federal Aviation Act of 1978, as amended, to the extent necessary to permit them to acquire, control, have interlocking relationships with, or market charter tours in conjunction with charter operators, but only so long as they comply with the provisions of this part and the conditions imposed herein.

§ 380.45 Suspension of exemption authority.

The Board reserves the power to suspend the exemption authority of any air carrier, withour hearing, if it finds that such action is necessary in order to protect the rights of the traveling public.

5. Appendix B, C, and D would be amended to read as follows:

Appendix B

Statement of Charter Operator and Direct Air Carrier Flight Schedule Number ———

1. Name and address of charter operator:

2. Name and address of direct air carrier:

3. Proposed Date and routing of each flight:

4. Type of aircraft and number of seats engaged:

5. Charter price for each flight:

6. Tour itinerary (if any) including hotels (name and length of stay at each), and other ground accommodations and services:

Appendix C

Statement of Charter Operator or Direct Air Carrier and Surety Company

We, ——— (charter operator) (direct air carrier) and ——— (surety company), certify that we have entered into a (surety bond) (surety bond rider), No. ———, in the amount of $———, on ——— (date). This bond covers proposed flight schedule number ———, a copy of which has been received by ——— (surety company). This bond complies with (§ 380.34) (§ 380.34a) of the Civil Aeronautics Board's Special Regulations (14 CFR § 380.34 or § 380.34a).

(check one, unless bond is in unlimited amount)

——— There are no outstanding claims against this bond.

——— There are outstanding claims against this bond in the amount $———. We have executed a rider to the bond on ——— (date) increasing the bond by this amount.*

Appendix D

Statement of Charter Operator, Direct Air Carrier and Depository Bank

We, ——— (charter operator, if any *), ——— (direct air carrier), and ——— (depository bank) certify that we have entered into a depository agreement on ——— (date). This depository agreement covers proposed flight schedule number ———, a copy of which has been received by ——— (depository bank). The depository agreement complies with (§ 380.34) (§ 380.34a) of the Civil Aeronautics Board's Special Regulations (14 CFR § 380.34 or § 380.34a).

Charter Operator

By: ———
Title: ———
Address: ———

Depository Bank

By: ———
Title: ———
Address: ———

Direct Air Carrier

By: ———
Title: ———
Address: ———

7. A new Appendix E would be added, to read as follows:

Appendix E

Statement of Direct Air Carrier

I, ——— (direct air carrier), hereby promise that I will take responsibility for all obligations owed by ——— (charter operator) to participants on charter flight No. ——— (or other designation of charter trip), including obligations for ground services and accommodations.

Direct Air Carrier

Signature and date: ———

*In place of this sentence, the following statement may be used: "——— (surety company) will separately pay any claims for which it may be liable without impairing the bond or reducing the amount of coverage."

* Write "N.A." if there is no charter operator.

Title: ———
Address: ———

PART 381—CHARTER SALES BY DIRECT AIR CARRIERS

A new part to the Board's Special Regulations would be adopted, to read as follows:

Sec.
381.1 Applicability.
381.2 Terms of service.
381.3 Board powers.

§ 381.1 Applicability.

This part applies to direct air carriers that provide charter trips, including trips with ground accommodations and services, directly to individuals.

§ 381.2 Terms of service.

(a) Charter trips under this part shall bear only such characteristics as are permitted for Public Charters under Part 380 of this title, except:

(1) They may be arranged and sold by a direct air carrier;

(2) There is no minimum contract size; and

(3) The participant contracts shall all be signed not less than 7 days before scheduled departure of the outbound flight.

(b) Each direct air carrier operating a charter trip under this part shall comply with all the requirements and limitations of Part 380 of this chapter, *Public Charters*, applicable to direct carriers and to charter operators of the same citizenship as the direct air carrier under this part, except that:

(1) Those provisions of Part 380 relating to the existence of a contract between a charter operator and a direct carrier do not apply;

(2) Section 380.34 does not apply;

(3) The statement of responsibility in § 380.34a(b)(1) need not be filed;

(4) If a depository agreement is used, it shall comply with § 380.34a; and

(5) If a surety bond rider or amendment is used, it shall:

(i) Protect charter participant deposits (including those for ground accommodations and services) and assure the direct air carrier's contractual and regulatory responsibilities to charter participants in an unlimited amount (except that the liability of the surety with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant);

(ii) Otherwise comply with § 380.34a.

(c) For the purposes of this section, "charter trip" includes charter tours with or without ground accommodations and services.

§ 381.3 Board powers.

The Board retains, with respect to charters under this part, all powers that it has under Part 380 of this chapter with respect to Public Charters.

(Secs. 102, 204, 401, 402, 416 of the Federal Aviation Act of 1958, as amended, 92 Stat. 1708, 72 Stat. 743, 754, 757, 92 Stat. 1731; 49 U.S.C. 1302, 1324, 1371, 1372, 1386.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[EDR-374; SPDR-68; Docket No. 34665]
[FR Doc. 79-13688 filed 5-3-79; 8:45 am]
BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

[16 CFR Part 443]

Health Spas; Publication of Presiding Officer's Report Regarding Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Publication of Presiding Officer's Report.

SUMMARY: On May 24, 1977, the presiding officer published in the **Federal Register** final notice of the proposed trade regulation rulemaking proceeding. The presiding officer's report, which is required by the Commission's Rules of Practice for Rulemaking and consists of his summary, findings and conclusions with regard to the issues designated by him in this proceeding, has been made public and placed on the public record.

DATE: The Commission's Rules of Practice for Rulemaking also provide a 60-day period for public comment on both the report by the presiding officer and the report of the staff. This will not commence until the staff's report has been made public and placed on the public record.

ADDRESS: Copies of the presiding officer's report may be obtained by written request to the Federal Trade Commission/SSD, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Roger J. Fitzpatrick, Presiding Officer, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202)–724–1054.

SUPPLEMENTARY INFORMATION: On May 24, 1977, the presiding officer published in the **Federal Register** (42 FR 26432) final notice of the proposed trade regulation rulemaking proceeding. The presiding officer's report, required by the Commission's Rules of Practice for rulemaking (16 CFR 1.13(f)) consisting of his summary, findings and conclusions with regard to those issues designated by him, has been made public and placed on the Public Record 215–50. A limited number of copies of the presiding officer's report have been printed for distribution; to obtain a copy, address a request to the Federal Trade Commission/SSD, Washington, D.C. 20580.

When completed, the staff's report on the rulemaking record and its recommendations to the Commission also will be made public and notice thereof published in the **Federal Register**. The Rules of Practice for Rulemaking (16 FR 1.13(h)) provide a 60-day period, for public comment on both the report by the presiding officer and the report of the staff. This comment period will not commence until the staff's report has been made public and placed on the public record. Comment on the presiding officer's report alone would be considered premature at this time. The presiding officer's report has not been reviewed or adopted by either the Bureau of Consumer Protection or the Commission itself and its publication should not be interpreted as reflecting the present views of the Commission or any indivdual Commissioner.

Issued: May 1, 1979.

Roger J. Fitzpatrick,
Presiding Officer.

[FR Doc. 79-14048 Filed 5-3-79; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 882]

Medical Devices; Classification of Carotid Artery Clamps

Correction

In FR Doc. 78-32935, appearing at page 55701 in the issue of Thursday, November 28, 1978, the ninth line of the first complete paragraph in the second column should read, "[pa-]tients out of a series of 220 (15.5 per-[cent]".

[Docket No. 78N-1079]
BILLING CODE 1505-01-M

[21 CFR Part 882]

Medical Devices; Classification of Rigidity Analyzers

Correction

In FR Doc. 78-32859, appearing at page 55645 in the issue of Tuesday, November 28, 1978, the second and fourth lines of the second paragraph under the heading "Proposed Classification" should read, "Drug, and Cosmetic Act (secs. 516," and "(21 U.S.C. 360c, 371(a)) and under au-[thority]" respectively.

[Docket No. 78N-1001]
BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Parts 524 and 525]

Special Minimum Wages for Handicapped Workers in Competitive Employment and Employment of Handicapped Clients in Sheltered Workshops Notice of Hearing on Petition

AGENCY: Wage and Hour Division, Labor.

ACTION: Notice of Hearing on Petition and Advanced Notice of Possible Proposed Rulemaking.

SUMMARY: The Wage and Hour Division of the Department of Labor will be conducting a hearing to determine approprate action on a petition filed with the Department of Labor by the National Federation of the Blind to have the Department revise Regulations, 29 CFR Parts 524 and 525 so that no certificates authorizing wages lower than the applicable minimum wage under the Fair Labor Standards Act could be issued for blind or otherwise visually handicapped workers.

DATES: A public hearing is to be held beginning at 10:00 a.m. on June 5, 1979. Interested parties desiring to testify in person should notify the Administrator in writing no later than May 25, 1979 of their desire to testify. Interested persons desiring to comment should submit their comments to the Administrator on or before June 5, 1979.

ADDRESS: The hearing will be held in Conference Room S–4215, A, B, C, U.S. Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, which is an accessible building. Parties desiring to testify and parties desiring to submit comments should submit their requests or comments to the Administrator, Wage and Hour Division, U.S. Department of Labor, NDOL, 200 Constitution Avenue, NW, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Arthur H. Korn, Director, Division of Special Minimum Wages, Wage and Hour Division, U.S. Department of

Labor, 200 Constitution Avenue, N.W., Room C-4316, Washington, D.C. 20210, (202) 523-8727.

SUPPLEMENTARY INFORMATION: Section 14(c) of the Fair Labor Standards Act provides that the Secretary of Labor, to the extent necessary to prevent the curtailment of opportunities for employment, shall by order or regulation provide for the employment under special certificates of individuals whose earning or productive capacity is impaired by age or physical or mental disability at wages which are lower than the minimum wage applicable under section 6 of the Act. The minimum wage under section 6 is $2.90 an hour and will be increased to $3.10 an hour beginning January 1, 1980, and to $3.35 an hour beginning January 1, 1981. Title 29 of the Code of Federal Regulations Parts 524 and 525, the regulations the petition proposes to amend, were issued pursuant to section 14(c). Part 524 established the terms and conditions for authorizing lower minimum wages for handicapped workers employed in competitive industry and Part 525 established the terms and conditions for authorizing lower minimum wages for handicapped workers employed in sheltered workshops.

The hearing is being held to obtain information which will be helpful in determining whether the petition of the National Federation of the Blind shall be granted. The issues to be decided are whether the discontinuance of lower minimum wages for the blind and otherwise visually impaired individuals (1) will curtail their employment opportunities or (2) is not justified in light of their earning or productive capacity. The comments should be directed to presenting factual information on these issues. If, as a result of the hearing, it is determined that the present regulations should be amended, a specific proposal will be published in the **Federal Register.**

Copies of the petition, the Fair Labor Standards Act and Regulations Parts 524 and 525 may be obtained by contacting Arthur H. Korn at the address in this notice.

Interested parties desiring to testify in person are requested to notify the Administrator in writing. They should furnish the following information:

(1) The name, address, and telephone number of the person(s) appearing.

(2) If appearing in a representative capacity, the person(s) appearing should provide the name(s) and address(es) of the person(s) or organization(s) being represented.

(3) The length of time required for the presentation.

(4) Where written data or comments are to be provided for the record, they should be furnished in triplicate.

Interested parties who do not desire to testify in person but who wish to submit written data, proposals or other related material for the record should provide such, in triplicate, to the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, not later than June 5, 1979.

In an endeavor to hear all interested parties, those persons who have not previously advised the Administrator that they wish to be heard will be heard following those who have so advised the Administrator, but they may be limited to ten minutes for their presentation.

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator, Office of Fair Labor Standards, Wage and Hour Division, U.S. Department of Labor.

Signed at Washington, D.C., May 1, 1979.

C. Lamar Johnson,
Deputy Administrator, Wage and Hour Division.

[FR Doc. 79-14044 Filed 5-3-79; 8:45 am]

BILLING CODE 4510-27-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

[29 CFR Part 1420]

Boards of Inquiry in Health Care Industry Collective Bargaining Disputes; Proposed Regulations

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Publication of Proposed Regulations for Public Comment.

SUMMARY: The Federal Mediation and Conciliation Service ("the Service") is proposing regulations under the authority of the Labor-Management Relations Act, as amended in 1974, to give the parties to collective bargining disputes in the health care industry the option of having some input into the selection of any Board of Inquiry that may be appointed by the Service. The Service is also proposing under the same authority, regulations under which the Service would defer to the parties' own privately agreed to factfinding or arbitration procedure and decline to appoint a Board of Inquiry as long as the parties' own procedure meets certain conditions so as to satisfy the Service's responsbilities under the statute. Both of these procedures would be entirely optional on the parties and the Service would not intend to impose such procedures on any party(s) that does not desire to use them. Interested persons are invited to submit comments concerning these proposed regulations.

DATES: Comments must be submitted on or before July 3, 1979.

ADDRESSES: Comments should be addressed to Scott A. Kruse, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, D.C. 20477.

FOR FURTHER INFORMATION CONTACT: Scott A. Kruse (202) 653-5305, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, D.C. 20427.

SUPPLEMENTARY INFORMATION:

Functions of the Service in Health Care Industry Bargaining Under the Labor-Management Relations Act, as Amended (Section 1420.1)

This section merely describes the two functions of the Federal Mediation and Conciliation Service in health care industry collective bargaining as provided for in the Labor-Management Relations Act ("the Act"). The first function is the Service's authority to receive notice of such bargaining disputes and to attempt to mediate those disputes. The second function is the Service's authority to appoint a Board of Inquiry to conduct factfinding and make recommendations to the parties to such disputes where the Service determines that such a Board of Inquiry is appropriate. The language of this section of the proposed regulations is taken directly from the Act, except for some shortening in the interest of brevity and simplicity. It is intended simply as a useful introduction to subsequent sections.

Optional Input of Parties to Board of Inquiry Selection (Section 1420.2)

A number of parties in the health care industry have expressed to the Federal Mediation and Conciliation Service their desire for some input to the process by which the Service selects an individual(s) to serve as a Board of Inquiry ("BoI") under Section 213 of the Labor-Management Relations Act in a collective bargaining dispute. Such expressions have been made by many representatives from both management and unions.

The proposed regulations would give the parties an option to have input into the selection process if that input comes well in advance of the Board of Inquiry appointment date and the negotiation process and if it is done in a feasible manner. The Service is proposing making available to the parties in the health care industry an optional procedure under which the parties may, if they so desire, jointly submit to the Service a list of arbitrators or other impartial individuals who would be acceptable BoI members to both parties. The submission of this list could occur at any time at least 90 days prior to the contract expiration date in a contract renewal dispute, or at any time prior to the statutory notice to the Service in an initial contract dispute. The Service will then make every effort to select any BoI that might be appointed from that jointly submitted list, although the Service cannot promise that it would select a BoI from such list.

Submission or receipt of any such list would not in any way constitute an admission of the appropriateness of appointment of a BoI nor an expression of the desirability of a BoI by any party or by the Service.

The jointly submitted list could be worked out and submitted by a particular set of parties for a particular dispute between them, or by a particular set of parties for use in all future disputes between them, or by a group of health care employers and unions in a community or geographic area for use in all disputes between any two or more of those parties.

It should be emphasized that this procedure would be a purely optional one to the parties, and not one which the Service would intend to impose on the parties. It would be solely to provide the parties with an opportunity to have some input into the selection of a BoI if they so desire.

FMCS Deferral to Parties' Own Private Factfinding or Interest Arbitration Procedures (Sections 1420.8 and 1420.9)

A number of parties in the health care industry have expressed to the Service their desire to establish and utilize their own privately agreed to factfinding or interest arbitration procedures, rather than be forced into the statutory Board of Inquiry procedure. The reasons for this desire by the parties range from avoiding the timing and time limits of the statutory BoI procedure to gaining control over the selection of the third party neutral. In some cases, the parties simply prefer interest arbitration as a last resort if they cannot settle their differences, rather than the non-binding BoI factfinding procedure.

In a number of specific disputes, the parties have jointly agreed to their own alternative procedures which were submitted to the Service. The Service has in effect deferred to some such private procedures and declined to appoint a BoI.

The proposed regulations establish a written policy of deferral to such private factfinding and interest arbitration procedures as long as such procedures meet certain conditions so as to satisfy the Service's responsibilities under the Labor-Management Relations Act. The Service will decline to appoint a BoI and leave the selection and appointment of a factfinder or arbitrator to the parties if the parties have agreed in writing to their own factfinding or interest arbitration procedure which is consistent with the intent of the Act. The conditions for deferral stated in the proposed regultions are based upon the responsibilities of the Service under the Act.

This deferral policy by the Service would only come into play if both parties desired to establish their own alternative procedure to the BoI procedure.

Advance Notice of Proposed Rulemaking on which these proposed regultions are based was published in the **Federal Register** on March 13, 1979.

Title 29 of the Code of Federal Regulations is prepared to be amended by adding a new Part 1420.

PART 1420—FEDERAL MEDIATION AND CONCILATION SERVICE—ASSISTANCE IN THE HEALTH CARE INDUSTRY

Sec.

1420.1 Functions of the Service in Health Care Industry bargaining under the Labor-Management Relations Act, as amended (hereinafter "the Act").
1420.2–1420.4 [Reserved]
1420.5 Optional input of parties to Board inquiry selection.
1420.6–1420.7 [Reserved]
1420.8 FMCS deferral to parties' own private factfinding procedures.
1420.9 FMCS deferral to parties' own private interest arbitration procedures.

Authority: Secs. 8(d), 201, 203, 204, and 213 of the Labor Management Relations Act, as amended in 1974 (29 U.S.C. 158(d), 171, 173, 174 and 183).

§ 1420.1 Functions of the Service in Health Care Industry Bargaining Under the Labor-Management Relations Act, as Amended (hereinafter "the Act").

(a) *Dispute Mediation.* Whenever a collective bargaining dispute involves employees of a health care institution, either party to such collective bargaining must give certain statutory notices to the Federal Mediation and Conciliation Service (hereinafter "the Service") before resorting to strike or lockout and before terminating or modifying any existing collective bargaining agreement. Thereafter, the Service will promptly communicate with the parties and use its best efforts, by mediation and conciliation, to bring them to agreement. The parties shall participate fully and promptly in such meetings as may be called by the Service for the purpose of aiding in a settlement of the dispute. (29 U.S.C. Sections 158(d) and 158(g).)

(b) *Boards of Inquiry.* If, in the opinion of the Director of the Service a threatened or actual strike or lockout affecting a health care institution will substantially interrupt the delivery of health care in the locality concerned, the Director may establish within certain statutory time periods an impartial Board of Inquiry. The Board of Inquiry will investigate the issues involved in the dispute and make a written report, containing the findings of fact and the Board's non-binding recommendations for settling the dispute, to the parties within 15 days after the establishment of such a Board. (29 U.S.C. 183.)

§ 1420.5 Optional Input of Parties to Board of Inquiry Selection.

The Act gives the Director of the Service the authority to select the individual(s) who will serve as the Board of inquiry if the Director decides to establish a Board of Inquiry in a particular health care industry bargaining dispute (29 U.S.C. 183). If the parties to collective bargaining involving a health care institution(s) desire to have some input to the Service's selection of an individual(s) to serve as a Board of Inquiry (hereinafter "BoI"), they may jointly exercise the following optional procedure: (a) At any time at least 90 days prior to the expiration date of a collective bargaining agreement in a contract renewal dispute, or at any time prior to the notice required under clause (B) of Section 8(d) of the Act (29 U.S.C. 158(d)) in an initial contract dispute, the employer(s) and the union(s) in the dispute may jointly submit to the Service a list of arbitrators or other impartial individuals who would be acceptable BoI members both to the employer(s) and to the union(s). Such list submission must identify the dispute(s) involved and must include addresses and telephone numbers of the individuals listed and any information available to the parties as to current and past employment of the individuals listed. The parties may jointly rank the individuals listed. The parties may jointly rank the individuals in order of preference if they desire to do so.

(b) The Service will make every effort to select any BoI that might be appointed from that jointly submitted list. However, the Service cannot promise that it will select a BoI from

such list. The chances of the Service

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SUPPLEMENTARY INFORMATION: The

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such list. The chances of the Service finding one or more individuals on such list available to service as the BoI will be increased if the list contains a sufficiently large number of names and if it is submitted at as early a date as possible. Nevertheless, the parties can even preselect and submit jointly to the Service one specific individual if that individual agrees to be available for the particular BoI time period. Again the Service will not be bound to appoint that individual, but will be receptive to such a submission by the parties.

(c) The jointly submitted list may be worked out and agreed to by: (1) A particular set of parties in contemplation of a particular upcoming negotiation dispute between them, or (2) a particular set of parties for use in all future disputes between that set of parties, or (3) a group of various health care institutions and unions in a certain community or geographic area for use in all disputes between any two or more of those parties.

(d) Submission or receipt of any such list will not in any way constitute an admission of the appropriateness of appointment of a BoI nor an expression of the desirability of a BoI by any party or by the Service.

(e) This joint submission procedure is a purely optional one to provide the parties with an opportunity to have input into the selection of a BoI if they so desire.

(f) Such jointly submitted lists should be sent jointly by the employer(s) and the union(s) to the appropriate regional office of the Service. The regional offices of the Service are as follows:

Region 1, Federal Building, Room 2937, 26 Federal Plaza, New York, NY 10007.
Region 2, Mall Building, Room 401, Fourth and Chestnut Streets, Philadelphia, PA 19106.
Region 3, Suite 400, 1422 West Peachtree Street, N.W., Atlanta, GA 30309.
Region 4, Superior Building, Room 1525, 815 Superior Avenue, N.E., Cleveland, OH 44114.
Region 5, Insurance Exchange Building, 16th Floor, 175 West Jackson Boulevard, Chicago, IL 60604.
Region 6, Chromalloy Plaza, Fifth Floor, 120 South Central Street, St. Louis, MO 63105.
Region 7, Francisco Bay Building, Suite 235, 50 Francisco Street, San Francisco, CA 94133.
Region 8, Fourth and Vine Building, Room 444, 2615 Fourth Avenue, Seattle, WA 98121.

§ 1420.8 FMCS Deferral to Parties' own Private Factfinding Procedures

(a) The Service will defer to the parties' own privately agreed to factfinding procedure and decline to appoint a Board of Inquiry (BoI) as long as the parties' own procedure meets certain conditions so as to satisfy the Service's responsibilities under the Act. The Service will decline to appoint a BoI and leave the selection and appointment of a factfinder to the parties to a dispute if both the parties have agreed in writing to their own factfinding procedure which meets the following conditions:

(1) The factfinding procedure must be invoked automatically at a specified time (for example, at contract expiration if no agreement is reached).

(2) It must provide a fixed and determinate method for selecting the impartial factfinder(s).

(3) It must provide that there can be no strike or lockout and no changes in conditions of employment (except by mutual agreement) prior to or during the factfinding procedure and for a period of at least seven days after the factfinding is completed.

(4) It must provide that the factfinder(s) will make a written report to the parties, containing the findings of fact and the recommendations of the factfinder(s) for settling the dispute, a copy of which is sent to the Service.

The parties to a dispute who have agreed to such a factfinding procedure should jointly submit a copy of such agreed upon procedure to the appropriate regional office of the Service at as early a date as possible, but in any event prior to the appointment of a BoI by the Service. See § 1420.5(f) for the addresses of the regional offices.

(b) Since the Service does not appoint the factfinder under paragraph (a) of this section, the Service cannot pay for such factfinder. In this respect, such deferral by the Service to the parties' own factfinding procedure is different from the use of stipulation agreements between the parties which give to the Service the authority to select and appoint a factfinder at a later date than the date by which a BoI would have to be appointed under the Act. Under such stipulation agreements by which the parties give the Service authority to appoint a factfinder at a later date, the Service can pay for the factfinder. However, in the deferral to the parties' own factfinding procedure, the parties choose their own factfinder and they pay for the factfinder.

§ 1420.9 FMCS Deferral to Parties' Own Private Interest Arbitration Procedures

(a) The Service will defer to the parties' own privately agreed to interest arbitration procedure and decline to appoint a Board of Inquiry (BoI) as long as the parties' own procedure meets certain conditions so as to satisfy the Service's responsibilities under the Act. The Service will decline to appoint a BoI if the parties to a dispute have agreed in writing to their own interest arbitration procedure which meets the following conditions:

(1) The interest arbitration procedure must provide that there can be no strike or lockout and no changes in conditions of employment (except by mutual agreement) during the contract negotiation covered by the interest arbitration procedure and the period of any subsequent interest arbitration proceedings.

(2) It must provide that the award of the arbitrator(s) under the interest arbitration procedure is final and binding on both parties.

(3) It must provide a fixed and determinate method for selecting the impartial interest arbitrator(s).

(4) The interest arbitration procedure must provide for a written award by the interest arbitrator(s).

The parties to a dispute who have agreed to such an interest arbitration procedure should jointly submit a copy of their agreed upon procedure to the appropriate regional office of the Service at as early a date as possible, but in any event prior to the appointment of BoI by the Service. See § 1420.5(f) for the addresses of regional offices.

This publication of proposed regulations is issued under the authority of sections 8(d), 201, 203, 204, and 213 of the Labor Management Relations Act, as amended in 1974 (29 U.S.C. Section 158(d) 171, 173, 174 & 183).

Issued in Washington, D.C., on April 23, 1979.

Wayne L. Horvitz,
Director, Federal Mediation and Conciliation Service.

[FR Doc. 79-14018 Filed 5-3-79; 8:45 am]
BILLING CODE 6732-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3500]

Leasing of Minerals Other Than Oil and Gas, General; Fees, Rentals and Royalties; Requirement of Minimum Production or Minimum Royalty Payments in Potassium, Sodium, Sulfur and Phosphate; Extension of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Extension of Comment Period.

SUMMARY: The comment period on the proposed rulemaking on Fees, Rentals and Royalties; Requirement of Minimum Production or Minimum Royalty Payments in Potassium, Sodium, Sulfur and Phosphate is extended for an additional 90 day period as requested by the comments.

DATE: Comment period extended to August 6, 1979.

ADDRESS: Send comments to: Director (210), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 at the above address during regular business hours (7:45 a.m.–4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David M. Carty, (202) 343–7753.

SUPPLEMENTARY INFORMATION: In response to requests for an extension of 90 days of the comment period on this proposed rulemaking, an extension of 90 days is authorized to permit the public to carefully study the proposed rulemaking and make adequate comments.

Gary J. Wicks,
Acting Assistant Secretary of the Interior.

April 30, 1979.

[FR Doc. 79-13635 Filed 5-3-79; 8:45 am]
BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1206 and 1207]

Disclosure of Depreciation Policies in the Annual Report of Motor Carriers of Property and Motor Carriers of Passengers

AGENCY: Interstate Commerce Commisison.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission is proposing to expand the disclosure of depreciation policies in the footnotes of the annual reports for motor carriers of property and passengers. This is the result of increasing concern over excessive depreciation rates used by motor carriers of property and passengers. The additional disclosure will facilitate ratemaking analyses and enable the Commission to evaluate the need for prescribed depreciation rates.

DATES: Written comments must be received by June 30, 1979.

ADDRESSES: Send comments (with 15 copies, if possible) to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., Phone No.: 202–275–6236.

SUPPLEMENTARY INFORMATION: The Commission has become increasingly concerned with excessive depreciation rates used by motor carriers of property and passengers. The number of audit exceptions taken involving depreciation policies has substantially increased. A growing number of motor carriers are using depreciation rates that materially exceed the practical life of the asset. As a result, depreciation expense is overstated and operating income is understated.

The Commission does not prescribe depreciation rates for motor carriers. However, depreciation is an operating expense that can have a significant impact on a carrier's operating income and ratemaking. Excessive depreciation of operating equipment or property can lead to the imposition of higher rates. In order to facilitate ratemaking analysis and the evaluation of the impact of different depreciation policies on carrier financial statements more detailed disclosure is necessary.

The Commission is also aware that certain State regulatory bodies are considering prescribing motor carrier depreciation rates as a result of excessive depreciation practices. With the additional depreciation policy disclosure, we will be able to monitor depreciation policy and determine if there is a need for prescribed depreciation rates. If necessary, the Commission and State regulatory bodies could jointly prescribe rates to minimize the carriers' accounting and reporting burden.

We propose to require the following disclosures to be added in the footnotes to the financial statements in Annual Report Form M and Form MP.

Depreciation Policy for Carrier Operating Property

(a) Describe company's depreciation policy including maintenance policy towards revenue equipment, retention period for revenue equipment, and circumstances under which deviations from the prescribed depreciation policy would occur.

(b) Describe how the service life and salvage value depreciable assets is determined, and

(c) Give the percentage of fully depreciated assets in these categories: (1) Structures, (2) Revenue equipment, and (3) Service cars and equipment.

Item (a) is designed to disclose the carrier's attitude toward fixed assets. For example, a management commitment to regularly scheduled maintenance programs and asset retention periods of long duration should be reflected in the depreciation rates. Excessive depreciation of assets should be minimal in these carriers. Item (b) is designed to disclose how depreciable asset lives and salvage values are determined. Carriers employing guidelines developed by the industry or Internal Revenue Service are less likely to have excessive depreciation. Carriers employing guidelines based on management profit objectives or other criteria instead of economic realities are more likely to have excessive depreciation policies. Item (c) will disclose the number of assets in use but fully depreciated. If the percentage of fully depreciated assets in service is large, this would be a strong indicator that the carrier's depreciation policy is excessive.

The public and the affected carriers are requested to study the proposed changes in the forms, and to submit their views and comments. After the comments are reviewed, the Commission will publish a further notice which will contain the decision in this matter.

The Commission will serve this notice on all Class I motor carriers, the Governor of every State, all State agencies, having jurisdiction over transportation and all interested parties.

This proposal does not significantly affect the quality of the human environment.

This proposal is made under the authority of 49 U.S.C. 11142.

Decided April 6, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian.

H. G. Homme, Jr.,
Secretary.

[No. 37109]

[FR Doc. 79-13673 filed 5-3-79; 8:45 am]
[BILLING CODE 7035-01-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

Preliminary Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Approval of Preliminary Fishery Management Plan Amendment, Proposed Regulations and Request for Comments.

SUMMARY: The Assistant Administrator for Fisheries has approved an amendment to the preliminary fishery management plan (PMP) for the foreign trawl fishery in the fishery conservation zone (FCZ) off the coasts of Washington, Oregon and California.

Regulations affecting foreign fishermen which implement the amended PMP are proposed. Comments on the proposed regulations are invited.

DATE: Comments are invited until May 26, 1979.

ADDRESS: Comments should be addressed to: Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109. Telephone: (206) 442-7575.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries (Assistant Administrator) approved the amendment to the PMP on April 25, 1979. The amended PMP, as approved, provides the basis for the regulations published here, and is available for public inspection at the Northwest regional office of the National Marine Fisheries Service (address above). Subpart E of the 1979 foreign fishing regulations which were published in the **Federal Register** on December 19, 1978 (43 FR 59292) was reserved. These proposed regulations would be inserted as Subpart E of the 1979 foreign fishing regulations, and would govern all foreign fishing during 1979 in the FCZ seaward of Washington, Oregon, and California. While they are similar to those regulations which were in effect during 1978, there are some significant differences. Those differences are summarized here:

—Based upon recent stock assessments, the initial total allowable level of foreign fishing (TALFF) would increase from 89,000 metric tons of hake to 109,120 metric tons.

—Based upon application of three criteria set forth in the proposed regulations, an additional reserve of 39,780 mt of hake (20% of the total allowable catch) could be allocated to the foreign fishery after August 1.

—No directed fishery would be allowed for jack mackerel. However, an incidental catch allowance of 3.0% of the hake catch would be permitted.

—A separate incidental catch allowance would be established for Pacific ocean perch (POP) of 0.062% of the hake catch.

—The Klamath River Pot Sanctuary would be expanded. This is an area which has been closed to foreign fishing.

—Hake catch would be reported to the nearest 0.1 m.t. rather than to the nearest metric ton.

Pacific Ocean Perch

The 1978 regulations inlcuded POP in the incidental catch allowance for "rockfish". That category includes several species found in the FCZ where the foreign trawl fishery for hake is conducted.

POP are important to domestic fishermen, and concern has been expressed as to whether the inclusion of POP within the "rockfish" category afforded adequate protection for that species. A separate incidental catch allowance for POP is therefore proposed. That allowance is expressed in the PMP in terms of a percentage of the hake, catch, as are the allowances for several other species caught incidentally to hake. The proposed percentage for 1979 is based on the best scientific evidence of the condition of the POP stock. It is intended to both protect POP and allow a reasonable opportunity for foreign fishermen to harvest their hake allocation with the attendant unavoidable catch of small quantities of POP. These regulations propose a POP catch allowance of 0.062%, which is higher than the 0.048%, which appeared in the draft PMP amendment and in the final supplemental environmental impact statement (SEIS). The final SEIS also contained a provision for a possible midseason adjustment of up to 0.08%, if warranted by reassessment of POP stock abundance. The final amendment to the PMP, as approved by the Assistant Administrator includes a catch allowance of 0.062%, but eliminates the provision for potential ajustment.

Another mechanism for protecting POP also is proposed in these regulations. If, at the time the release of the hake reserve is being considered, the total harvest (domestic and foreign) of the the POP is greater than 80 percent of the equilibrium yield, and if it is determined that a further harvest of POP would be detrimental to the conservation requirements of the Columbia area POP stock, no release of reserve hake to foreign fishermen would be made.

Criteria for Release

These regulations would establish a set of criteria for apportionment of the hake reserve at midseason, and procedures for that apportionment. The reserve is intended to allow for uncertainty respecting both resource abundance and domestic harvest levels. The proposed criteria call for apportioning the reserve to the foreign fishery after August 1, unless:

(1) Soviet hake catch rate is less than expected, indicating lower than projected stock abundance. This is intended to protect the hake stock. The increase in abundance of hake should allow a greater harvest of that species in 1979. However, uncertainty exists concerning the total abundance of that stock. Therefore, a margin of error must be provided in favor of the resource.

(2) All or part of the reserve is expected to be harvested by United States fishermen. This criterion recognizes that while the domestic harvest of hake is increasing, the exact level of that harvest cannot be predicted.

(3) The combined foreign and domestic catch of POP is approaching the equilibrium yield of that species, requiring curtailment of further harvest. This criterion reflects concern with both the impact of the increased hake harvest on POP and uncertainty with regard to total POP abundance. Application of this criterion would require re-evaluation of current POP abundance estimates.

The proposed regulations would allow interested persons to submit comments up to July 15 on matters relevant to application of the reserve criteria.

Other Provisions

The proposed expansion of the Klamath River Pot Sanctuary reflects the need to further reduce the possibility of gear conflicts between foreign and domestic vessels and gear. The proposed elimination of the directed fishery for jack mackerel, and its replacement with an incidental catch allowance, reflects increasing domestic harvest of hake, with resultant increase in the incidental catch of jack mackerel. All other provisions are essentially the same as those in effect in 1979.

The Assistant Administrator for fisheries has determined that these regulations are not significant under Executive Order 12044.

Signed at Washington, D.C., this 28th day of April, 1979.

Winifred H. Malhahn,
Executive Director, National Marine Fisheries Service.
(16 U.S.C. Section 1801 *et. seq.*)

§ 611.20 [Amended]

1. Table I to 50 CFR § 611.20 is proposed to be amended by deleting all entries under Washington, Oregon, California Trawl Fishery and footnote 1 and replacing them with the following:

Fishery	Species	Species code	TALFF (metric tons)
Washington, Oregon, California Trawl	Hake, Pacific	704	[1] 109,120
Do	Flounders	129	[1] 109
Do	Mackerel, jack	206	[1] 3,274
Do	Rockfishes, including Pacific ocean perch	549	[1] 873
Do	Perch, Pacific ocean	790	[1] 66
Do	Sablefish	703	[1] 109
Do	Other species	499	[1] 546

[1] Unavoidable incidental catch only. Amount will be increased if amount of Pacific hake held in reserve is released to TALFF.

2. 50 CFR Part 611 is proposed to be amended by adding the following Subpart E:

Subpart E—Northeast Pacific Ocean

§ 611.70 Washington, Oregon, California trawl fishery.

(a) *Purpose.* This subpart regulates all foreign fishing conducted under a Governing International Fishery Agreement in the fishery conservation zone seaward of Washington, Oregon and California.

(b) *Authorized fishery*—(1) *TALFFs and reserves.* (i) *TALFFs.* The total allowable levels of foreign fishing (TALFFs) and the amounts of fish set aside as reserves are set forth in Table I of this section.

Table I.—*Washington, Oregon, California Trawl Fishery: TALFF and Reserve by species* [1]

[In metric tons]

Species	TALFF	Reserve	Total
Pacific hake	109,120	39,780	148,900
Flounders [2]	109	40	149
Jack mackerel [3]	3,274	1,193	4,467
Rockfishes, including Pacific Ocean perch [3]	873	318	1,191
Pacific Ocean perch [3]	66	25	89
	9		
Sablefish [3]	109	40	149
Other species [3] [5]	546	199	745

[1] The TALFFs specified in this table may be modified during the year if reserves are apportioned to TALFF.
[2] Unavoidable incidental catch only. Reserve amounts may be apportioned to TALFFs to the extent the Pacific hake reserve is apportioned to TALFF during the year.
[3] The category "other species" includes all species of fish except: (A) the other fish listed in the table; and (B) billfish, Pacific halibut, salmon, scallops, sharks (except dogfish), shrimp, steelhead trout, and Continental Shelf fishery resources.

(ii) *Reserves*—(A) *Apportionment of reserves.*—As soon as practicable after August 1, the Regional Director shall apportion all or a part of the reserves to TALFF. The Regional Director may withhold all or part of the Pacific hake reserve based on the criteria in paragraph (b)(1)(ii)(B) of this section. Apportionment of the reserves for other species shall be based on the following maximum incidental catch rates.

Species:	*TALFF* [1]
Flounders	0.1
Jack mackerel	3.0
Rockfishes, including Pacific ocean perch	0.8
Pacific ocean perch	0.062
Sablefish	0.1
Other species	0.5

[1] Percentage of Pacific hake.

(B) *Criteria.* The Regional Director my withhold all or part of the Pacific hake reserve if, as of July 15:

(1) The Average catch rate of Pacific hake by vessels of the U.S.S.R. is less than 27 m.t. per trawler per day; or

(2) All or part of the Pacific hake reserve will be harvested by vessels of the United States during the rest of the fishing year, as determined by the following factors:

(i) Reported U.S. catch and effort compared to previously projuected U.S. harvesting capacity; and

(ii) Projected U.S. catch and effort for the rest of the fishing year; or

(3) The all-nation catch of Pacific ocean perch in the Columbia Area (see Appendix II to § 611.9) is greater than 80 percent of the equilibrium yield for that species in that area and the Regional Director determines that further catch of Pacific ocean perch by foreign vessels would not be consistent with conservation of that species. Factors which shall be considered in this determination are:

(i) Catch per unit of effort;

(ii) Any new or proposed State restrictions on domestic catch of Pacific ocean perch in the Columbia Area during the rest of the fishing year;

(iii) Condition of the stocks within the Columbia Area; and

(iv) Any other factors relevant to abundance of Pacific ocean perch.

(C) *Public comment.*

(1) Comments may be submitted to the Regional Director concerning all matters relevant to the determinations made by the Regional Director under paragraph (b)(1)(ii)(B) of this section. (Address: NMFS, 1700 Westlake Avenue North, Seattle, Washington 98109.)

(2) Comments must be submitted no later than July 15.

(3) The Regional Director shall consider any timely comment filed in accordance with this section in making the determinations specified in paragraph (b)(1)(ii)(B) of this section.

(4) The Regional Director shall compile, in aggregate form the most recent available reports on: *(i)* foreign catch of Pacific hake per unit of effort; *(ii)* catch and effort by vessels of the U.S. fishing for hake seward of Washington, Oregon, and California; and *(iii)* catch, effort, and abundance of Pacific ocean perch in the Columbia Area. This data shall be available, as it is compiled, for public inspection during business hours at the National Marine Fisheries Service, Northwest Regional Office, 1700 Westlake Avenue North, Seattle, Washington, during the period July 1–15.

(D) *Procedure.* As soon as practicable after August 1, the Regional Director shall publish in the **Federal Register:** *(1)* the amounts of reserves to be apportioned to the TALFFs; *(2)* the reasons for the determinations regarding apportionment to TALFF of the Pacific hake reserve; and *(3)* responses to comments received.

(2) *Fishing permitted.* The catching and retention of any species for which a nation has an allocation is permitted, provided that:

(i) The vessels of that nation have not caught:

(A) the allocation of that nation for Pacific hake, or

(B) the maximum allowable incidental catch limitation of that nation for any species or species group (e.g., "other species"). When vessels of a foreign nation have caught a maximum allowable incidental catch limitation, all further fishing (as defined in § 611.2(r)(1)) by vessels of that nation must cease, even if the Pacific hake allocation has not been reached. Therefore, it is essential that a foreign nation plan its fishing strategy to ensure that the reaching of an incidental catch limitation does not close its Pacific hake fishery.

(ii) A directed fishery is not conducted for species or species groups other than Pacific hake.

(iii) The fishery has not been closed for other reasons under § 611.15.

(c) *Open season.* Foreign fishing authorized under this subpart may begin at 0700 G.m.t. on June 1 and will terminate not later than 0600 G.m.t. on November 1, except as specified otherwise in a permit.

(d) *Open areas.* Except as prohibited in paragraph (e) of this section, foreign fishing under this Subpart is permitted beyond twelve nautical miles from the

baseline used to measure the U.S. territorial sea between 39°00′ N. latitude and 47°30′ N. latitude, and as otherwise specifically authorized by permit.

(e) *Closed areas.* Trawling by foreign vessels is prohibited in the following areas:

(1) "Columbia River Recreational Fishery Sanctuary"—that area between 46°00′ N. latitude and 47°00′ N. latitude and east of a line connecting the following coordinates in the order listed: 46°00′ N. lat., 124°55′ W. long.; 46°20′ N. lat., 124°40′ W. long.; and 47°00′ N. lat., 125°20′ W. long.

(2) "Klamath River Pot Sanctuary"—that area between 41°20′ N. latitude and 41°37′ N. latitude and east of a line connecting the following coordinates in the order listed: 41°20′ N. lat., 124°32′ W. long.; and 41°37′ N. lat., 124°34′ W. long.

(f) *Gear restrictions.* (1) No foreign vessel may use any gear other than a pelagic trawl with a minimum mesh size of 100 mm, stretched measure. No liners are permitted in the cod end of the trawl.

(2) Except as specifically authorized in writing by the Regional Director, no foreign fishing vessel may:

(i) attach any device to pelagic fishing gear or use any other means that would, in effect, make it possible to fish on the bottom; or

(ii) use any device or method which would have the effect of reducing mesh size.

(g) *Statistical reporting.*

(1) *Daily fishing log.* The basis for all reports shall be a daily fishing log. On-deck estimates of catch shall be logged prior to the next fishing operation, and adjusted, if necessary, with processed catch information within 24 hours. The following information must be included in the log.

(i) Date.

(ii) Times of commencement and completion of each set.

(iii) Vessel's positions in degrees and minutes of latitude and longitude at the time of commencement and completion of each set.

(iv) Bottom depth, averaged over length of tow.

(v) Depth of gear during tow.

(vi) Catch, to the nearest tenth of a metric ton (0.1 m.t.), of the following species:

(A) Pacific hake.
(B) Jack mackerel.
(C) Pacific ocean perch.
(D) Other rockfishes.
(E) Sablefish.
(F) Flounders.
(G) Other species.

(vii) Catch, in numbers of fish, of the following prohibited species:

(A) Pacific halibut.
(B) Salmon.

(2) In addition to the requirements of § 611.9, the owner or operator of each foreign fishing vessel shall maintain catch and effort statistics and shall submit reports as follows to the Regional Director. (Address: Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109.)

(i) *Daily report.* From the time the NMFS estimates that 90 percent of a nation's allocation of any species (directed or incidental) has been reached, and so notifies the designated representative of that nation, the information required under § 611.9(e) (Weekly Catch Report) shall be submitted on a daily basis and must reach the Regional Director not later than three days after the reported fishing day.

(ii) *Annual report.* Each nation whose fishing vessels operate in the fishery shall report by May 30 of the following year, annual catch and effort statistics, in tabular form, as follows:

(A) *Effort* in hours trawled, by vessel-class, by gear-type, by month, by ½° latitude by 1° longitude statistical area;

(B) *Catch* by vessel-class, by gear-type, by month, by ½° latitude by 1° longitude statistical area: *(1)* to the nearest tenth of a metric ton (0.1 m.t.) for the following species or species groupings: Pacific hake, jack mackerel, Pacific ocean perch, other rockfishes, sablefish, flounder, and any other species taken in excess of 1,000 metric tons; and *(2)* in numbers of fish for Pacific halibut and salmon.

(g) *Additional report.* Each foreign vessel entering this fishery with fish on board shall report to the Regional Director, before operating in this fishery, the species and amounts of fish on board which were harvested in any other fishery. Any fish on board not so reported will be presumed to have been harvested in this fishery. Such reports shall be submitted in accordance with the procedures specified in § 611.4(b).

[FR Doc. 79-13775 Filed 5-3-79; 8:45 am]

BILLING CODE 3510-22

Notices

Federal Register
Vol. 44, No. 88
Friday, May 4, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Tri-State Generation & Transmission Association, Inc., Negative Determination for Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration (REA) has made a negative determination on the need for an environmental impact statement by REA in connection with a proposed loan from REA for Tri-State Generation and Transmission Association, Inc., of Thornton, Colorado, to construct 12 miles of 230 kV transmission line. The construction will consist of stringing 12 miles of 230 kV conductor on the west side of the Department of Energy's (DOE) existing 230 kV steel pole structures with double circuit capability, from the DOE Ault substation to the DOE/Public Service Company Weld substation. Three single circuit 230 kV structures will be erected to support one-fourth mile of the 230 kV conductor between the DOE's double circuit structures and the Weld substation. Also, approximately one-half mile of 115 kV single pole transmission structures will be constructed for a segment of the existing DOE Cheyenne to Fort Collins 115 kV circuit, which will be displaced from the west side of the 230 kV double circuit structures by the proposed 230 kV circuit. Tri-State will also make additions to the Ault and Weld substations to accommodate the transmission line.

The route proposed uses the existing DOE 230 kV double circuit structures to minimize the effects of the construction. The environmental impact of this DOE transmission line was considered in the *Final Environmental Statement, Archer-Weld 230 kV Transmission Line and Weld Substation, Colorado River Storage Project, Colorado,* prepared by the Department of the Interior, Bureau of Reclamation, Region 7, October 5, 1971. The additional single pole 115 kV structures will be constructed adjacent to the existing 230 kV line right-of-way.

The borrower has prepared a brief environmental report covering the proposed transmission line. Tri-State has considered alternatives and has thoroughly examined the environmental impact of the project and shown that the proposed action is best from an environmental standpoint. There are no known historical or archaeological sites in the vicinity of the proposed project. The Colorado State Historical Society and the State Archaeologist concur that no historical or archaeological sites will be affected by this project.

Our independent evaluation of the proposed project leads us to conclude that REA's proposed financial assistance for this project does not represent a major Federal action that would significantly affect the quality of the human environment, and a negative determination was made under Section V., paragraph K of REA Bulletin 20–21.

Copies of the brief environmental report may be secured on request, submitted to Mr. Joseph S. Zoller, Assistant Administrator—Electric, Rural Electrification Administration, United States Department of Agriculture, Washington, D.C. 20250.

Final REA action with respect to this matter may be taken on or before May 21, 1979, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 30th day of April 1979.

Robert W. Feragen,
Administrator.

[FR Doc. 79-13675 Filed 5-3-79; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

Britannia Airways Ltd. et al.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 79–4–177.

SUMMARY: The Board proposes to amend the foreign air carier permits held by the following airlines of the United Kingdom:

Britannia Airways Limited
British Airtours Limited
British Airways Board
British Caledonian Airways Limited
British Midland Airways Limited
Dan-Air Services Limited
International Aviation Services, (U.K.) Ltd. d.b.a. IAS Cargo Airlines
Laker Airways Limited
Tradewinds Airways Limited
Transmeridan Air Cargo Limited

These carriers' present permits are not consistent with the charter provisions of the recently renegotiated Air Transport Services Agreement between the United States and the United Kingdom ("Bermuda 2"). Some of the permits contain restrictions or limitations which, for reasons outlined in the order no longer need be retained. In addition to the permit changes made on the Board's initiative, pending permit amendment applications of two of the carriers are treated in this order: British Airtours Docket 30402 and International Aviation Services (U.K.) Ltd., d.b.a. IAS Cargo Airlines, Docket 33137.

Most of the changes in these ten carriers' permits are technical and minor. They do, however, authorize the charter only passenger carriers to originate Fifth Freedom charter flights in the United States and remove certain directional limitations and numerical allowances for which the Board had waived prior application requirements for Fifth Freedom charters (those between a U.S. point and a point or points neither in the United States nor the United Kingdom). The proposal also would require advance application and Board approval of all U.K. Fifth Freedom charters here, in keeping with the U.K. regulatory practice with respect to U.S. airlines operating there. This prior-approval requirement was suggested by President Carter in his December 28, 1978, letter to the Chairman of the Civil Aeronautics Board, returning without action the Board's previously amended permit for British Airtours in Docket 30402.

Persons interested in the above changes in authority and regulatory practice should obtain a copy of the complete show-cause order, as provided below, before filing comments.

Objections: All interested persons having objections to the Board's

tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall file a statement of such objections NO LATER THAN May 24, 1979, with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of the United Kingdom in Washington D.C. A statement of objections must cite the appropriate docket number and must include a summary of testimony, statistical data, or other such supporting evidence. If objections concern only British Airtours, cite Docket number 30402. If only IAS Cargo, cite Docket 33137. Objections to any other carriers' proposed authority, or to more than one, should cite Docket 35414; addresses for carriers other than those shown may be obtained from the Regulatory Affairs Division, below. If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permits.

ADDRESSES FOR OBJECTIONS:

Docket 35414, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

(Docket 30402), British Airtours, c/o Condon & Forsyth, 1251 Avenue of the Americas, New York, New York 10020.

(Docket 33137), IAS Cargo Airlines, c/o Bridgeman & Nerenberg, 210 United Unions Bldg., 1750 N.Y. Ave., N.W., Washington, D.C. 20006.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

For further information, or a service list, contact the Regulatory Affairs Division of the Bureau of International Aviation, Civil Aeronautics Board, (202) 673-5880.

By the Civil Aeronautics Board: April 26, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-13986 Filed 5-3-79; 8:45 am]

BILLING CODE 6320-01-M

Fast Air Carrier LTDA; Order To Show Cause

AGENCY: Civil aeronautics Board.

ACTION: Notice of Order to Show Cause: ORDER 79-4-158.

SUMMARY: The Board proposes to approve the following application:

Applicant: FAST AIR CARRIER LTDA.

Application Date: December 1, 1978. Docket 34152.

Authority Sought: A foreign air carrier permit to carry property and mail on a nonscheduled basis between a point or points within the Republic of Chile, various intermediate points in South and Central America and the coterminal points Miami, Florida and New York, New York.

Objections: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN May 22, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of the Republic of Chile in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS:

Docket 34152, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Fast Air Carrier Ltda., c/o Fisher, Gelband & Sinick, P.C., Suite 440, 2020 K Street NW., Washington, D.C. 20006.

TO GET A COPY OF THE COMPLETE ORDER, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: The Regulatory Affairs Division of the Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5880.

By the Civil Aeronautics Board: April 26, 1979.

Phyllis T. Kaylor,
Secretary.

[Order 79-4-158; Docket 34152]

[FR Doc. 79-13979 Filed 5-3-79; 8:45 am]

BILLING CODE 6320-01-M

Florida Service Case; Order

Issued under delegated authority April 27, 1979.

By Order 78-7-128, July 25, 1978, the Board delegated to the Administrative Law Judge the authority to consolidate any applications which conform to the scope of the above-styled proceeding.

Trans World Airlines, Inc. (TWA) filed a motion on April 5, 1979, to consolidate amendment number one to its application originally filed in Docket 33261 and consolidated into this proceeding by Order 78-9-122, September 28, 1978.

Eastern Air Lines, Inc., and Allegheny Airlines, Inc., have filed answers opposing TWA's motion.

TWA's motion is denied. The Board's Rules of Practice require that motions to consolidate "be filed not later than the prehearing conference in the proceeding with which consolidation . . . is requested." Rule 12(b), 14 CFR 302.12(b). The prehearing conference in this proceeding was held on October 12, 1978. TWA's motion was filed on April 5, 1979, over five months after the prehearing conference. Moreover, the hearing has already been held and briefs to the Judge were filed on April 3, 1979. Under these circumstances, grant of TWA's motion would prejudice the rights of the other parties.

Accordingly, it is ordered:

1. That the motion of Trans World Airlines, Inc. to consolidate amendment number one to its application in Docket 33261 be denied;

2. Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order; and

3. This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless before that date a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order shall be published in the **Federal Register.**

William H. Dapper,
Administrative Law Judge.

Phyllis T. Kaylor,
Secretary.

[Order 79-4-191; Docket No. 33091]

[FR Doc. 79-13994 Filed 5-3-79; 8:45 am]

BILLING CODE 6320-01-M

Order Instituting Informal Nonpublic Investigation of Airline Practices in Handling International Baggage Claims

Issued under delegated authority April 27, 1979.

The Bureau of Consumer Protection has received numerous consumer complaints concerning the practices of air carriers and foreign air carriers in settling claims for lost, pilfered, or damaged checked baggage accepted for international transportation, as that term is used in the Warsaw Convention (49 Stat. 3000). Passengers have reported many instances where the compensation they received was considerably less than their actual losses. In other cases, claims for damaged fragile or perishable items and for lost jewelry, or other high value items have not been honored at all.

A preliminary review of the complaints indicates carriers may be improperly limiting their liability, and may be misleading claimants about the extent of their legal responsibility to passengers for the losses incurred. Under the Warsaw Convention, which is made applicable to carriers through their respective certificates or permits issued by the Board under section 401 or 402 of the Federal Aviation Act of 1958, as amended (Act), carriers may limit their liability for baggage accepted for international transportation. However, in order to avail themselves of the limited liability provision in the Convention, they must record the weight and the number of pieces of baggage on the passenger's baggage check and must use that weight in computing the limitation on liability. To the extent that carriers have limited or denied liability for baggage carried under the Convention without observing these requirements, or have misinformed passengers about their obligation to comply with these requirements before being able to assert the liability limitations, the carriers may have engaged in unfair or deceptive practices within the meaning of section 411 of the Act and may have violated the conditions in their certificates or permits.

The Board is especially interested in ensuring that consumers are fairly treated with respect to compensation for loss or damage to their baggage, and that their rights established under international law are observed by air carriers and foreign air carriers operating under the Board's authority. Obtaining information on whether claims are settled in conformity with the law is of substantial concern to us. In this connection we have determined that the public interest requires the institution of an informal nonpublic investigation, in accordance with Part 305 of the Board's Procedural Regulations, to obtain such information. The investigation is being initiated pursuant to authority granted under sections 204, 411, 415, 1001, 1002, and 1004, of the Act and § 305.5 of the Board's Regulations and the authority delegated to the Director, Bureau of Consumer Protection, by § 385.22(b) of the Regulations.

Petitions for review of this order may be filed by any person who discloses a substantial interest that would be adversely affected by this investigation. Such petitions shall conform to the requirements of section 385.51 of the Regulations and shall be filed on or before May 14, 1979.

Accordingly,

1. We institute an informal nonpublic investigation under Part 305 of the Board's Procedural Regulations, for the purpose of obtaining information to determine:

(a) whether air carriers or foreign air carriers have been or are improperly limiting or denying liability or misinforming claimants about the extent of their responsibility for losses incurred to baggage accepted for international transportation under the Warsaw Convention; and

(b) whether formal enforcement action or any other appropriate course of action should be taken.

2. We designate Howard M. Schmeltzer, Michael K. Nolan, Paul W. Wallig, and Ronald A. Brown, staff attorneys of the Bureau of Consumer Protection, as Investigation Attorneys for the purpose of conducting this investigation.

3. This order shall be published in the **Federal Register** as provided in § 305.10 of the Board's Regulations.

Phyllis T. Kaylor,
Secretary.

[Order 79-4-194; Docket No. 35425]

[FR Doc. 79-13982 Filed 5-3-79; 8:45 am]

BILLING CODE 6320-01-M

Texas International et al.; New Orleans-Baltimore/Washington Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-4-119, *New Orleans-Baltimore/Washington Show-Cause Proceeding,* Docket 35362

SUMMARY. The Board is proposing to grant nonstop authority between New Orleans, on the one hand, and Baltimore-Washington International, Dulles International and Washington National Airport, on the other, to Texas International, Braniff, Allegheny, Northwest and Ozark, and between New Orleans and Dulles and National Airports to Continental. The Board also proposes to grant the authority in issue to any other fit, willing and able applicants whose fitness can be established by officially noticeable data. The order proposed to award authority at each of the Washington airports separately. Therefore, each carrier will have to serve each airport, or its authority at that point will be declared unused authority.

The Board rejected arguments advanced by various incumbents and civic associations opposed to additional authority at National Airport. The Board granted such authority despite the existence of an FAA-imposed ceiling on the number of landing and take-off slots, and a 650-mile limitation on flights to and from the airport. The Board stated that the decision of which Washington airport to serve was up to the carrier; the existence of restrictions is not a valid reason for the Board to deny operating authority to new entrants. To do so would be discriminatory and anti-competitive. We declined to institute a large-scale investigation of service to National, saying that we intend to consider applications on a case-by-case basis.

The Board also rejected objections that applications for authority at National should be denied for environmental reasons. It reports that its analysis on the carriers' environmental evaluations demonstrated that the noise and pollutant thresholds established by the Board's regulations will not be exceeded by the proposed service. Although new service would be sanctioned, the Board reasoned, the added competition would lead to few if any additional flights.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than June 1, 1979, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than May 17, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 35362, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Mark Atwood, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5333.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: Texas International

Airlines, Braniff Airways, Northwest Airlines, Allegheny Airlines, Continental Air Lines, Ozark Air Lines, Delta Air Lines, Eastern Air Lines, the City of New Orleans, the Chamber of Commerce of New Orleans, Neighbors Opposed to Irritating Sound Emissions, the Foxhall Community Citizens Association, and Mr. Joel G. Joseph.

* * * * *

The complete text of Order 79–4–119 is available from our Distribution Section Room 516, 1825 Connecticut Avenue, N.W., Washington, D. C. Persons outside the metropolitan area may send a postcard request for Order 79–4–119 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: April 19, 1979.

Phyllis T. Kaylor,
Secretary.

[Order 79–4–119; Docket No. 35362]
[FR Doc. 79–13985 Filed 5–3–79; 8:45 am]
BILLING CODE 6320–01–M

Piedmont Aviation; Removing Restriction in the Nashville–Knoxville Market

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79–4–160, removing restriction in the Nashville-Knoxville market by Order to Show-Cause.

SUMMARY: The Board is proposing to remove Piedmont's restriction in the Nashville-Knoxville market (Docket 35408) and to grant unrestricted multiple authority in the market. The complete text of this order is available as noted below.

DATES: Objections to the issuance of an order making final our proposed action should be filed no later than May 31, 1979, and answers should be filed no later than June 11, 1979.

ADDRESSES: Documents should be filed in Docket 35408, Docket Section, Room 516, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Nancy B. Rosenbaum, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20248, 202–673–5345.

SUPPLEMENTARY INFORMATION: Objections should be served on Piedmont Aviation.

The complete text of Order 79–4–160 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the Washington metropolitan area may send a postcard request for Order 79–4–160 to the Distribution Section.

By the Civil Aeronautics Board: April 26, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79–13983 Filed 5–3–79; 8:45 am]
BILLING CODE 6320–01–M

Northwest Alaska Service Investigation; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on May 23, 1979, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before May 11, 1979, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., April 27, 1979.

Phyllis T. Kaylor,
Secretary.

[Docket No. 31571]
[FR Doc. 79–13981 Filed 5–3–79; 8:45 am]
BILLING CODE 6320–01–M

Wien Air Alaska; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79–4–162)

SUMMARY: The Board is proposing to award new and improved authority between the points Seattle and Kenai, Alaska to Wien Air Alaska and any other fit, willing and able applicant whose fitness, willingness and ability can be established by officially noticeable date. The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by May 31, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

ADDRESSES: Objections to the issuance of a final order should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C., 20428, in Docket 35409. In addition, copies of such filings should be served on Wien Air Alaska.

FOR FURTHER INFORMATION CONTACT: Arthur B. Barnes, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW. Washington, D.C. 20428, (202) 673–5198.

SUPPLEMENTARY INFORMATION: In the event no objections are filed, the Secretary of the Board will enter an order making final the tentative findings and conclusions contained in the show-cause order.

The complete text of Order 79–4–162 is available from the Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue NW. Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79–4–162 to that address.

By the Civil Aeronautics Board, April 26, 1979.

Phyllis T. Kaylor,
Secretary.

[Order 79–4–162]
[FR Doc. 79–13980 Filed 5–3–79; 8:45 am]
BILLING CODE 6320–01–M

CIVIL RIGHTS COMMISSION

Minnesota Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Minnesota Advisory Committee (SAC) of the Commission will convene at 5:00 pm and will end at 8:00 pm., on May 29, 1979, at Capp Towers, 77 East 9th Street, St. Paul, Minnesota 55119.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss interviews and hearing plans for Police Study; Indian Subcommittee to report on decisions made regarding follow-up activities or actions on the Indian Study recommendations.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., April 30, 1979.

John I. Blakley,
Advisory Committee Management Officer.

[FR Doc. 79–13991 Filed 5–3–79; 8:45 am]
BILLING CODE 6335–01–M

Louisiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Louisiana Advisory Committee (SAC) of the Commission will convene at 8:00 am and will end at 6:00 pm, on May 25–26, 1979, at the Convention Hall Annex, 500 River Parkway, Shreveport, Louisiana 71101.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Heritage Plaza, 418 South Main Street, San Antonio, Texas 78204.

The purpose is the Louisiana Advisory Committee will hold a hearing on the Community Development Block Grant program.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 1, 1979.

John I. Blakley,
Advisory Committee Management Officer.

[FR Doc. 79–13982 Filed 5–3–79; 8:45 am]
BILLING CODE 6335–01–M

Kentucky Advisory Committee; Meeting; Amendment

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Kentucky Advisory Committee (SAC) of the Commission carried the heading *Michigan Advisory Committee* (FR Doc. 79–139094) page 24900.

The heading now should be changed to Kentucky Advisory Committee. The date, time and place remain the same.

Dated at Washington, D.C., May 1, 1979.

John I. Blakley,
Advisory Committee Management Officer.

[FR Doc. 79–13983 Filed 5–3–79; 8:45 am]
BILLING CODE 6335–01–M

Maryland Advisory Committee; Meeting; Amendment

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission originally scheduled for May 14, 1979 (FR Doc. 79–13092) on page 24899 has been changed to May 7, 1979.

The meeting place and time will remain the same.

Dated at Washington, D.C., May 1, 1979.

John I. Blakley,
Advisory Committee Management Officer.

[FR Doc. 79–13984 Filed 5–3–79; 8:45 am]
BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

University of Pennsylvania; Decision on Application For Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 735, 666–11th Street NW., Washington, D.C.

Docket Number: 78–00157. Applicant: University of Pennsylvania, 3451 Walnut Street, Philadelphia, PA 19104. Article: Mass Spectrometer, Model CH–7A and Accessories. Manufacturer: Varian Mat GmbH, West Germany. Intended use of article: The article will be used for investigation in respiratory physiology, particularly of gaseous exchanges, at the whole body, organ, cellular and molecular levels. The pertinent projects are as follows: (1) Measurement of CO Production and Catabolism; (2) Metabolism of Oxygen; and (3) Measurement of very low absolute concentration of gases such as O_2, CO and CO_2, in solution; (4) exchanges of CO between blood and alveolar gas in the lungs and between maternal and fetal blood in the placenta to determine the transfer characteristics of these capillary surfaces. This work will be carried out in the Department of Physiology in the Medical School in which there are at any one time about 20 Postdoctoral Research Fellows and 30 graduate students in Physiology and/or Bioengineering and/or Biophysics and Biochemistry.

Comments: No comments have been received with respect to this application. A letter dated April 28, 1978 was received from the Instrument Products Division of E. I. du Pont de Nemours & Company (Inc.) (Du Pont) after the expiration of the comment perior. This letter is being treated as an offer to provide additional information in accordance with Subsection 301.10(a) of the regulations (15 C.F.R. 301.10(a)(1978)). Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (November 29,1978). Reasons: This application is a resubmission of Docket Number 77–00205 which was denied without prejudice to resubmission on October 14, 1977 for informational deficiencies. The applicant in response to question 8 alleges that certain features of the article are pertinent to its intended use. The applicant assumed that the domestic Nuclide Corporation (Nuclide) could meet these requirements on a custom basis but claims a critical need for production of the required instrument in significant numbers and for available experience with its operation. However, the Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 28, 1978 that the inability to see and inspect an exactly equivalent instrument in service does not establish inadequancy and the National Bureau of Standards (NBS) advises in its memoranda of August 11, 1978 and December 13, 1978 that Nuclide could have satisfied all of the applicant's requirements with instuments such as the Model 12–90–G or 6–60–G equipped with available options. A discussion of the key issues in this application including each of the features alleged to be pertinent follows.

AVAILABLE DOMESTIC INSTRUMENT

The applicant in response to question 8 states in part:

A critical requirement for our purposes is that the mass spectrometer be a standard off-the-shelf model of which a significant number have been made and kept in operation for several years so that the manufacturer obtained experience concerning performance in the field and in maintenance. [Personnel at this institution] have used several mass spectrometers in biochemical and physiological research over the period since 1950. Even though these instruments were produced by the experienced manfacturers * * * a great deal to time had to be spent initially on the instrument rather than on the biological or interfacing aspects of the research. We are not physicists or physical chemists, or are not interested per se in the mass spectrometer. * * * We are anxious not to be compelled to reinvest laboratory time in modifications. We do not believe that a significant number of instruments embodying all capabilities specified have been produced by the domestic manufacturers and kept in operation but that this is true of the Varian Mat CH–7A [the foreign article]. The scientific leadership of Nuclide is superb and we were aware of their well known reputation for custom-made instruments

in contrast to their statement dated July 22, 1977 (see pp–246, Roboz, J., Mass Spectrometry: Interscience: New York, 1968). * * * Our concern was not whether they could produce an instrument to our specifications, we assumed they could, but whether they had already done so and in fact had already produced a number of such instruments so that we could be sure our laboratory would not be shut down for a considerable period while the inevitable bugs were taken out. While delivery time in the formal sense is not a preeminent requirement (4–6 months is acceptable), once the new mass spectrometer arrives, the time required to set it up, to have it operating up to specifications and to interface it with our biological experimental apparatus, which we have to do ourselves, is lost from our research effort. It is the time we are mainly concerned with.

As a possibility we could obtain two or more instruments to carry out our research programs. Practically, this is impossible for a large instrument such as a mass spectrometer. * * *

In connection with these allegations, the Department notes the following:

1. The legislative history to Pub. L. 89–651 and the Department's regulations (15 CFR 301.11(1978)) require the Departments to take into account the capability of a manufacturer to produce an instrument with certain specifications, even if it is not previously done so. As will be shown below (in the discussion of features of the article alleged to be pertinent) Nuclide specifications, literature and past shipments indicate that this firm had considerable experience producing the type of instrument required by the applicant. New development would not be required by Nuclide to meet the applicant's needs. Even if some customization would be required, Nuclide literature (e.g., PUBS 1151–0771) indicates that this firm tests its instruments prior to delivery to eliminate performance problems. No evidence has been supplied to support the applicant's claim that Nuclide would not have been willing and able to supply a ready-to-use instrument providing all of the pertinent specifications of the foreign article within a reasonable time. Nuclide was not sent a formal request for quote (RFQ) even though the applicant acknowledges Nuclide's ability to meet the specifications of the foreign article. Installation, confirmation of specifications and biological interface would be required on both the foreign and domestic intruments. Nuclide could also provide operational expertise and/or training to save time. Thus, while applicant's interest in procuring on an off-the-shelf model may be an operational or economic consideration in purchasing a scientific instrument, this is not a basis under the Department's regulations for duty-free entry.

2. In response to question 9 the applicant stated, ". . . only Nuclide and Varian [Varian Mat GmbH, the foreign manufacturer] were serious choices and we picked the latter because they have already produced instruments with our precise specifications and we were able to obtain data on their performance . . ." In support of this statement the applicant provided test data stated to have been obtained on the foreign article (serial number 190) *prior* to the decision to purchase. However, these data are dated December 22, 1976, which is *after* the purchase date, and do not specify the sensitivity at which the resolution was obtained. Further, no evidence was presented to show that Varian had produced more than one CH–7A having the key features of serial number 190.

As to the contention that Nuclide could meet the applicant's needs with an instrument presenting minimal problems after delivery (because that firm did not have an instrument meeting the applicant's technical requirement in service at the time of contact), the Department of Health, Education, and Welfare (HEW) advises in its memoranda dated June 28, 1978 and February 8, 1979 that the inability to see and inspect an exactly equivalent instrument in service does not establish inadequacy and, considering the applicant's requirements, there is no doubt that Nuclide could easily supply the needed instrument. HEW also notes that to be eligible for duty-free entry the choice of the foreign article cannot be based on matters of convenience which are not pertinent within the meaning of § 301.2(n) of the regulations.

3. In the initial submission (Docket Number 77–00205) the applicant stated that Nuclide's 6–60–RMS (ratio mass spectrometer) "appears to be a custom built instrument whereas [the foreign article] is the latest in a series of well known catalog instruments." The applicant later added that to incorporate the alleged pertinent features of the foreign article into a Nuclide instrument would require development of a "one-of-a-kind" special instrument. Nuclide in its letter dated July 27, 1977 alleged, among other things, that its 6–60–RMS had been offered longer than the CH–7 (since 1956) that the 6–60–RMS is marketed as a standard system (listing a variety of options), that customization (which Nuclide also offers) would not be necessarily to meet the applicant's needs in a single instrument and that the applicant's representative was assured that the institution's needs could be met with a standard Nuclide instrument outfitted with standard accessories (either a 12–60 or a 6–60). Nuclide also claimed that (a) the applicant's representative indicated that purchase of two instruments was being considered (depending on finding), (b) this individual had been assured that two instruments would not be necessary but system recommendation would depend on actual funding when known and (c) Nuclide was not advised (as expected) when the University set up a budget. A copy of Nuclide's letter was forwarded to the applicant as a part of the Department's Denial Without Prejudice to Resubmission (DWOP) of the initial application.

The applicant, on resubmission (Docket Number 78–00157), did not deny specific allegations made in Nuclide's letter of July 27, 1977 and provided no positive evidence to support continued reference to Nuclide's products as "custom made". As a matter of fact the only tangible data on this subject provided by the applicant (in two submissions) supports Nuclide's claims. Page 246 of Roboz's "Mass Spectrometry" clearly indicates that even before 1968 Nuclide produced a full line of single and double focusing magnetic mass spectrometers and, in addition, provided custom made instruments. To provide some idea of standard products covered in its full line, Nuclide outlined many of these products (but certainly not all the products or options known to be available from Nuclide"s more detailed literature) in the "short form" catalog "Nuclide Instrument Guide" (PUBS 1377–1073). The applicant attached pages two and three of this Guide to both the initial submission and this submission. No other material from Nuclide was provided by the applicant.

Nuclide literature and other factual information in the Department's possession clearly indicates that (starting with the 6–60–RMS which was first produced in 1956) Nuclide had been producing a number of standard mass spectrometers with a variety of standard options many years before the foreign article was ordered. Further, much of this material stipulates that, like the foreign article, Nuclide's 6–60 and 12–90 are modular instruments with many interchangeable options and parts which can be applied to basically different kinds of studies with no compromise in

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performance or can be readily expended to increase basic specifications.

4. The applicant addresses the possibility of obtaining two or more instruments on the assumption that Nuclide could not provide RMS capability and high resolution in a single instrument without new development. The applicant also assumes that Nuclide does not have experience interfacing turbo pumps to mass spectrometers. The Department notes that Nuclide has shipped high resolution RMS instruments in the past. Several of these were cited by Nuclide in its letter of July 27, 1977. Nuclide has also accepted orders for mass spectrometers interfaced to turbo pumps in the past. Nuclide's ability to provide high resolution, RMS and turbo pumps will be covered under the discussion of each of these features below.

Applicant's Contact With Nuclide

Question 8.c. of the application form provides guidelines needed for justification of duty-free entry. The applicant is asked to identify the particular domestic instrument(s) that were compared with the foreign article and to list the features of that article that are both pertinent to the intended program and unmatched in domestic instrument(s) to be compared with the foreign article depends on the information that the appplicant obtains on the instrumentation available from the domestic manufacturer. However, the information that one obtains from manufacturers can vary greatly with the manner in which one approaches them. Question 9 of the application form and §§ 301.7 and 301.9(c)(7) of the regulations are intended, in part, to ascertain whether the domestic manufacturers were made sufficiently aware of the applicant's needs to furnish the required information. Both question 9 and subsection 301.7 request that documentation be enclosed with the application to support the applicant's statements relative to the nature of the contact with the domestic manufacturers. Nuclide's ability to build an instrument analogous to the foreign article from modular components designed and constructed (to Nuclide specifications) in the past is similar to Varian's. Many of Nuclide's products are "produced on order" as defined in § 301.2(j) and § 301.11(b) of the regulations. The applicant's conclusion that Nuclide's products are all custom made (i.e., built to customer specifications) and that any mass spectrometer combining RMS, high resolution and turbo pumping capabilities from this firm would be the result of a new development effort appears to be a misunderstanding on the applicant's part. The applicant alleges that Nuclide was contacted by phone roughly 8–15 months before purchases of the foreign article to obtain technical data and that Nuclide forwarded its most recent brochures, technical notes and product bulletin. If the last call to Nuclide occurred 8 months before purchase, Nuclide (a firm whose scientific leadership is acknowledged by the applicant) could have substantially increased its capabilities long before the necessity of purchase decision (and capabilities could have been increased even more if the last call had been made 15 months prior to purchase). The data available shows that Nuclide could meet the applicant's needs well before the foreign article was ordered. Further, the only Nuclide literature provided by the applicant was the "short form" catalog which could not be expected to describe Nuclide's capabilities in detail. Finally, the applicant did not afford Nuclide an opportunity to respond to a formal RFQ. Had this been done, the applicant would have been informed that one of Nuclide's instruments, such as the 12–90–G, could have satisfied all the institution's technical requirements.

The Department notes that, to allay fears associated with possible defects after delivery, RFQ could address damages for such shortcomings, performance bonds, etc. In addition, any questionable or negotiable matters in a manfacturer's response to a RFQ can be clarified through correspondence.

Double Collector

In response to question 8 of the initial application (Docket Number 77–00205) the applicant alleged that a double collector was pertinent to the planned use of the foreign article and indicated that both the foreign article and Nuclide's 6–60–RMS provided the required double collector. At the same time the applicant doubted Nuclide's ability to produce a trouble-free instrument providing both the required double collector and high resolution without taking time for development. HEW, in its memorandum of August 10, 1977, pointed out how Nuclide could provide all of the features claimed pertinent. HEW's memorandum was forwarded to the applicant as part of the denial without prejudice to resubmission of the initial application.

In this resubmission, (Docket Number 78–00157) the application changed the description of the double collector feature alleged pertinent to: *"Cup to Cup double collector* for isotope ratio measurements able to determine changes in $1/10^{-6}$". Although it is not clear what the applicant means by "able to determine changes in $1/10^{-6}$" and the foreign manufacturer's literature does not cover this aspect of the double collector feature, it is clear from the applicant's response to HEW's memorandum of August 10, 1977 (and from Table I which the applicant attached to both submissions) that the applicant acknowledges the ability of the 6–60–RMS to fulfill the isotope ratio measurement requirement of the institution but not the resolution requirement.

Nuclide literature (e.g., PUBS 1002A–0172) states that the same dual inlet and dual collector system components are used in the 3–60, 6–60, and 12–90 versions of its RMS instruments which, equipped with accessories, can be used for other applications. Nuclide has previously specified double Faraday cup collectors (e.g., PUBS 1151–1771) and even triple cup collectors (e.g., Nuclide publication no. 1661–1076). Nuclide currently offers a 12–90 version of the RMS that would permit isotope ratio measurement at the resolution required by the applicant and has previously delivered instruments which combine the high resolution of 12–90–G and RMS capability. NBS advises that the Nuclide 12–90–G, capable of resolving power exceeding that of the foreign article was available with a dual inlet/cup to cup dual collector system satisfying the applicant's requirements at the time that the artile was ordered. In veiw of the discussion above and this NBS advice, the Department finds that the Nuclide 12–90–G with accessories could match the double collector of the foreign article at the time of order.

Resolution

The foreign article provides a resolution of 6000 (10% Valley). Nuclide specifications for the 12–90G dated 1975 indicate that this instrument normally provides a resolution of 10,000 (10% Valley). Higher resolution (up to 20,000) is also available at a higher price. NBS has also advised that the 12–90–G satisfies the applicant's resolution requirement as well as the other requirements listed in Table I. Based on the above information and advice, the Department finds that the resolution of the 12–90–G matches that of the foreign article.

Flexibility

The applicant alleges that a turbo pump system is necessary for switching mode of operation from such modes as double collector to high resolution. In connection with the availability of turbo

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pumps, the applicant stated that: (1) because of the possibility of unexpected difficulties in interfacing turbo pumps to mass spectrometers effects of the instrument background, vibration and electrical noise must be demonstrated in practice situations; (2) only after conversations with individuals who had been using the Varian CH7 with turbo pumps at NBS in Gaithersburg, Maryland and the Food and Drug Administration in Washington, D.C. was there confidence that the Varian product would not give significant trouble; (3) turbo pumps are available as a standard item with the CH–7A and are listed in their (sic) catalog; (4) and there is no clear statement in Nuclide's letter of July 27, 1977 (in which Nuclide pointed out, among other things, that it had accepted orders for turbo pumped mass spectrometers) that "they supplied a mass spectrometer with turbo pumps that is in operation at this time." Discussion of these statements follows.

In conversation with the concerned agencies the Department has been advised that neither NBS in Gaithersburg nor FDA in Washington had a CH–7 or any other mass spectrometer equipped with a turbo pump prior to the time the foreign article was ordered. FDA, in 1977, and NBS, in 1978, did have turbo pumps on other models, however.

The applicant has not furnished any literature showing that turbo pumps were standard or optional with the CH–7A. Literature in the Department's files on this instrument (including literature dated March 1977) does not list a turbo pump option and although requested, Varian has not been able to supply the Department with any literature verifying such an option. On the other hand, Nuclide specifications received in 1975 indicated that a turbomolecular pump could be specified for the 12–90–G and Nuclide publication no. 16611–1076 lists a turbo pump option for its RMS instruments. In view of the information given above and NBS advice that the 12–90–G can be fitted with turbo pumps such as those available on the foreign article in order to facilitate the flexibility specified by the applicant, the Department finds that the 12–90–G matches the foreign article with respect to flexibility.

Based on the foregoing consideration, NBS advice and our own review of the application as well as other factual information in our possessions specification, textbooks, etc.), we find that the Nuclide Model 12–90–G with accessories was of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79–13677 Filed 5–3–79; 8:45 am]

BILLING CODE 3510–25–M

University of South Carolina; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 735, 666 11th Street NW., Washington, D.C.

Docket Number: 78–00269. Applicant: University of South Carolina, Department of Geology, Columbia, South Carolina 29208. Article: Isotope Ratio Mass Spectrometer, Model 602D and Accessories. Manufacturer: V.G. Micromass, United Kingdom. Intended Use of Article: The article is intended to be used for studies carried out to investigate the history of Antarctic circulation as recorded in biogenic sediments on the sea floor. Microscopic fossils composed of calcium carbonate will be isotopically analyzed for their $^{18}O/^{16}O$ and $^{13}C/^{12}C$ ratios. The $^{18}O/^{16}C$ and $^{13}C/^{12}C$ ratios of the tests of living foraminifera from plankton towa, fossil foraminifera from deep-sea sediments, as well as coccoliths and benthonic foraminifera from laboratory cultures will be determined to ascertain the magnitude of non-equilibrium fractionation in these forms and its relationship to various environmental parameters. In addition, an investigation will be made of the paleo-hydrographic potential of $S^{18}O/S^{13}C$ ratios of fossil foraminifera. It is also proposed to derive an emperical relationship between temperature and $^{18}O/^{16}O$ fractionation in pteropods (aragnite) and foraminifera (calcite). Routine analyses of extremely minute quantities of gas for S and N isotopes as well as C and O will be conducted. The article will also serve as an education tool for courses "Geochemistry", "Isotope Geology and Geochronology", "Geochemistry of Salt Marshes" and "Hydrogeology".

Comments: Comments dated August 8, 1978 were received from the Nuclide-Corporation (Nuclide). Nuclide alleged, among other things, that (1) the performance capabilities of the Nuclide 3–60–RMS (ratio mass spectrometer) in the applicant's application area exceed those of the foreign article, (2) in the November 1977 contact (cited by the applicant in response to question 9), representatives of the applicant were advised of the superiority of the 3–60–RMS over the foreign article, (3) experienee with a Nuclide instrument of the individual consulted by the applicant is not relevant to Nuclide capability at the time the foreign article was ordered because that individual used an ancient instrument delivered in 1967 that had a glass inlet system and did not include Nuclide's small sample option, and (4) the applicant included erroneous information on the 3–60–RMS in the table submitted in response to question 8.c.(2).

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (March 9, 1978).

Reasons: The applicant alleges in response to question 8 that certain features of the foreign article are pertinent to its intended use (within the meaning of Subsection 301.2(n) of the regulations) that are not available in any domestic instrument including those manufactured by Nuclide. However, the National Bureau of Standards (NBS) advises in its memorandum dated September 26, 1978 that either Nuclide's 3–60–RMS or its 6–60–RMS, which are comparable to the foreign article, was of equivalent scientific value to the foreign article for its intended use at the time the foreign article was ordered. A discussion of the key issues in this application including each of the features alleged by the applicant to be pertinent follows.

Applicant's Contact With Nuclide

Question 8.c. of the application form provides guidelines needed for justification of duty-free entry. The applicant is asked to identify the particular domestic instrument(s) that were compared with the foreign article and to list the features of that article that are both pertinent to the intended program and unmatched in domestic instrument(s) being compared. An important facit in selection of the instrument(s) to be compared with the foreign article depends very much on the information that the applicant obtains on the instrumentation available from the domestic manufacturer. However, the information that one obtains from manufacturers can vary greatly with the manner in which one approaches them. Question 9 of the application form as well as §§ 301.7 and 301.9(c)(7) of the regulations are intended, in part, to ascertain whether the domestic manufacturer was made sufficiently aware of the applicant's needs in order to furnish the appropriate information. Both question 9 and Section 301.7 request that documentation be enclosed with the application to support the applicant's statements relative to the nature of the contact with the domestic manufacturer.

The record contains no evidence that Nuclide (a firm long established as a manufacturer of comparable ratio mass spectrometers (RMS) was made aware of the complete specifications alleged by the applicant to be pertinent to the article's intended use. In its decision relating to Docket Number 76–00460, the Department noted that, in the case of applications relating to the Model 602 Series, applicants almost never afford Nuclide an opportunity to respond to a formal request for quote (RFQ) prior to purchase. This application represents one more example of this phenomena.

Although the applicant acknowledges that Nuclide is the only domestic manufacturer of an isotope RMS, Nuclide was not sent a formal RFQ. Two other domestic firms, which do not manufacture RMS instruments, received an RFQ and declined to bid. In the past, Nuclide has responded affirmatively to requests for specifications at issue in this case (as indicated in the discussion of the specifications below) and has even offered to exceed some of these specifications. Further, the Department has no knowledge of failure on Nuclide's part to offer the specifications in question after receipt of a formal RFQ or failure to provide them after acceptance of an order based on such an offer. In this regard, it is noted that the legislative history to Pub. L. 89–651 and the Department's regulations (15 CFR 301.11 (1978)) require the Department to take into account the capability of a domestic manufacturer to produce an instrument with certain specifications, even if it has not previously done so. No evidence is supplied which suggests that Nuclide was not able to supply the pertinent specifications of the article at the time it was ordered (March 9, 1978).

All Metal Bakeable Inlet

NBS advises in the memorandum cited above that the specific choice of materials of which the inlet system is made is a design feature which is not pertinent to the applicant's intended use of the article but that a bakeable inlet system is pertinent. Dated specifications show that Nuclide has been delivering glass or metal bakeable inlets since 1965 or earlier.

The inlet system of the foreign article is bakeable to 250°C. As the Department noted in its decision relating to Docket Number 76–00460, a Nuclide system, available at the time the foreign article was ordered, could provide bakeability to 400°C. The Department also notes that Nuclide has demonstrated its willingness to match the all metal inlet of the foreign article without reservation in response to a formal RFQ. For example, attachments to Docket Number 78–00046 indicate that, on March 11, 1977, Nuclide offered such an inlet in response to a formal RFQ patterned on the specifications of the foreign article.

Furthermore, NBS advises that either the 3–60–RMS or the 6–60–RMS could match the bakeable inlet specification of the foreign article with glass or metal designs which have been available from that firm for many years. Based on a review of the above, the Department finds that either the 3–60–RMS or the 6–60–RMS is scientifically equivalent to the article with respect to this pertinent feature.

Vacuum System background Pressure in the 10^{-9} torr Range

NBS notes that the term "10^{-9} torr range" is ambiguous as it is not a quantitiative definition but advises that the best available vacuum, at least 10^{-9} torr, is pertinent to the applicant's intended use. Specifications for the foreign article-state that its vacuum system provides a typical residual vacuum for the analyzer of 10^{-9} torr, read on the Bayard-Alpert gauge. Attachments to Docket Number 78–00046 indicate that Nuclide offered to match this specification on its 3–60–RMS (which is modularly similar to the higher capability 6–60–RMS) on March 11, 1977. Further, NBS advises that at the time the foreign article was ordered, Nuclide's 3–60–RMS and 6–60–RMS were both available with ion pumps capable of producing a vacuum of better than 10^{-9} torr. In view of the above the Department finds that either the 3–60–RMS or the 6–60–RMS was capable of matching the vacuum system background pressure of the foreign article.

Accelerating Voltage of 5000 Volts

Nuclide, in its comments, states that the accelerating voltage (v) of both the 3–60–RMS and the 6–60–RMS is 5000 v standard and 10,000 v optional. Prior to the time the foreign article was ordered, Nuclide, bidding against specifications tailored to those of the foreign article, offered 5000 v for both the 3–60–RMS (March 11, 1977) and the 6–60–RMS (ordered from Nuclide on June 20, 1974). Based on this information and on the recommendation of NBS, the Department finds that Nuclide could match the ion accelerating voltage of the foreign article at the time or order with either the 3–60–RMS or the 6–60–RMS.

Minimum Sample Size of 0.025 Atmosphere Cubic Centimeter (atm.cm ^{3})

Nuclide publication 1661 dated October 1976 (before the foreign article was ordered) states that a small sample option for the analysis of 0.01 ml STP (0.01 atm. cm ^{3}) range samples of noncondensable and condensable gases is available. The Department notes that Nuclide met a 1974 RFQ (and subsequent order) by providing the capability for analysis of 0.025 atm.cm^3. Nuclide also offered 0.01 atm. cm^3 on March 11, 1977 in response to a formal RFQ. Both of these RFQ's were based on the specifications of the foreign article. Further, NBS advises that Nuclide was capable of satisfying the applicant's 0.025 atm.cm^3 small sample requirement at the time the foreign article was ordered. Based on review of the above, the Department finds that Nuclide was capable of satisfying the applicant's small sample requirement at the time of order in either the 3–60–RMS or the 6–60–RMS.

Durability

The applicant alleges that an all metal inlet system is stronger and more durable than a glass inlet system. The applicant further alleges that durabililty is pertinent since the article will be used by many investigators and students. But, as has been shown above, Nuclide could provide an all metal inlet system at the time the foreign article was ordered. Moreover, NBS advises that durability is a feature of convenience which is not pertinent within the meaning of subsection 301.2(n) of the regulations to the applicant's intended program. In view of the above, the Department finds that Nuclide instruments were scientifically equivalent to the article with respect to durability.

Based on the foregoing considerations, NBS advice and our own review of the applications as well as other factual information in our possession (specifications, textbooks etc.), we find that the Nuclide Models 3–60–RMS and 6–60–RMS were each of equivalent scientific value to the foreign article for such purposes as this article is intended

to be used at the time the foreign article was ordered.
(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79-13942 Filed 5-3-79; 8:45 am]
BILLING CODE 3510-25-M

U.S. Geological Survey et al.; Applications for Duty-Free Entry of Scientific Articles

The folowing are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before May 24, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 735, 666 11th Street, NW., Washington, D.C.

Docket Number: 79-00188. Applicant: U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California 94025. Article: Magnetic Susceptibility Meter. Manufacturer: Ustav uzite geofyziky, Brno, Czechoslovakia (Geophysical Instrumentation Institute). Intended use of article: The article is intended to be used to distinguish between the magnetite-free and magnetite-bearing intrusive rocks which are impossible to differentiate in the field by any other means. Application received by Commissioner of Customs: March 20, 1979.

Docket Number: 79-00190. Applicant: Brookhaven National Laboratory, Upton, L.I., N.Y. 11973. Article: 8 (each) Neutron Guide Tubes and Accessories. Manufacturer: Munich Technical University, West Germany. Intended use of article: The article is intended to be used in a research program involving the study of the properties of solids using slow neutrons from the Brookhaven High Flux Beam Reactor. A narrow beam of neutrons impinging on a solid will be broadened due to the interaction of the neutrons and the various inhomogeneities. The following are representative areas of research in the sciences for which experiments utilizing the neutron guide tubes, are planned:

Precipitation in glasses
Defects in irradiated crystals
Metal-nonmetal phase transitions
Guinier-Preston Zones in alloys
Local strain around imperfections in semiconductors
Magnetic coercivity in spherical crystal
Study of the vortex lattice in superconductors
Dislocation scattering in cold-worked metals
Structure of microcrystalline and amorphous materials.

Application received by Commissioner of Customs: March 15, 1979.

Docket Number: 79-00191. Applicant: University of Chicago of Argonne National Laboratory, 9700 S. Cass Avenue, Argonne, Illinois 60439. Article: Klystrons Tubes, Electromagnet and Accessories. Manufacturer: Thomson—CSF, France. Intended use of article: The article is intended to be used to produce the electromagnetic waves in the waveguides that accelerate the electrons to the required energy for experimental purposes. Basic research will be conducted in the following two areas:

(1) Photoneutron experiments in which neutron spectra near threshold are observed with high resolution, thus enabling a better understanding of neutron-nuclei interations with applications directed toward reactor physics, readiological physics and physics in general;

(2) Pulse radiolysis experiments, utilizing fast pulse domain of less than 50 picoseconds to study fast rections related to reaction kinetics, free radical and unstable ion chemistry, reaction chemistry, radiation biology, photosynthesis, combustion, and pollution and atmospheric chemistry.

Application received by Commissioner of Customs: March 15, 1979.

Docket Number: 79-00192. Applicant: University of Florida—College of Pharmacy, Box J-4, J. Hillis Miller Health Center, Gainsville, Florida 32610. Article: Model J-500 Automatic Recording Spectropolarimeter and Accessories. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use of article: The article is intended to be used in experiments to obtain circular dichroism spectra of the complexes under various conditions of temperature and concentration. Primarily, proteins and nucleic acids will be studied to quantitiatively assess the structure of macromolecules, to study stubtle changes of the environment of the macromolecules, to study the interaction of drugs and macromolecules in a quantitative manner and to compare predicted and experimental structures. Application received by Commissioner of Customs: March 13, 1979.

Docket Number: 79-00193. Applicant: Mount Sinai School of Medicine, 1 Gustave Levy Place, New York, New York 10029. Article: BAF 301 High Vacuuum Freeze Etch Unit and Accessories Without High Current Supply. Manufacture: Balzers High Vacuum Corp., Switzerland. Intended use of article: The article is intended to be used for the study of airways mucosal permeability to protein macromolecules in guinea pigs exposed to nitrogen dioxide and in "allergic" asthma. The information obtained is by freeze-etched replicas of the respiratory tract mucosa which will be correlated with data obtained by radioimmunoassay of plasma for the tracer protein and by monitoring of the various parameters of respiratory mechanics (tidal volume, resistance, dynamic compliance and frequency of respiration). Such studies may further the understanding of the fundamental phenomenon underlying response of airways to environmental pollutants and bronchial asthma. Application received by Commissioner of Customs: March 15, 1979.

Docket Number: 79-00194. Applicant: University of California, Los Angeles, Department of Chemistry, 405 Hilgard Avenue, Los Angeles, CA 90024. Article: Rare Gas-Halide Excimer UV Laser, Lumonics Model TE-261-2 and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of Article: The Article is intended to be used in the photolysis of gaseous HI to determine the energy partitioning in the reaction of hydrogen atoms with hydrogen iodide. The concentration of product hydrogen molecules in various vibrational states will be observed using a conventional vacuum ultraviolet absorption spectrometer. Application received by Commissioner of Customs: March 15, 1979.

Docket Number: 79-00195. Applicant: University of Rochester School of Medicine and Dentistry, 601 Elmwood Avenue, Rochester, N.Y. 14642. Article: Three-color Ink Jet Plotter with Accessories. Manufacturer: Colorjet AB, Sweden. Intended use of article: The article is intended to be used to create color renditions of ultrasonic pulse-echo data in order to extract more information from the ultrasonic echoes than currently being obtained. The Color plots are expected to provide data elucidating the flow of blood in heart chambers and also the position of structure within the heart. Application received by Commissioner of Customs: March 15, 1979.

Docket Number: 79-00196. Applicant: State University of New York at Binghamton, Vestal Parkway East, Binghamton, New York 13901. Article: Model 150XR UV excimer Laser and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used to study materials such as diazomethane, dioxetane and hemoglobin derivates which are known to dissociate photochemically. The experiments will consist of photolyzing crystals of these chemical at very low temperatures with the laser and examining the changes in magnetic properties that accompany the photochemical dissociation. In addition, the article will be used by graduate and undergraduate students enrolled in the courses Independent Study, Thesis Research, and Dissertation Research. Application received by Commissioner of Customs: March 15, 1979.

Docket Number: 79-00197. Applicant: Montana State University, Department of Veterinary Science, Bozeman, Montana 59717. Article: Electron Microscope, Model JEM-100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of Article: The article is intended to be used in the diagnoisis of many animal diseases, for identification of certain poorly differentiated neoplastic cells, for identification of viral particles, and certain environmental elements in lungs of affected animals. Specifically, the research purposes involve the study and identification of heavy elements in clinical cases of environmental lung diseases and in experimentally, induced pulmonary lesions. Other research will involve study and trace selenium and other elements in cellular malfunction both in vivo and in vitro experimental models. In addition, the article will be used for training students and staff in the principles, operation and applications of the techniques of TEM, SEM, STEM and X-ray microanalysis. Application received by Commissioner of Customs: March 15, 1979.

Docket Number: 79-00198. Applicant: Woods Hole Oceanographic Institution, Water Street, Woods Hole, MA 02543, Article: Hydraulic Manipulator. Manufacturer: International Submarine Engineering Ltd., Canada. Intended use of article: The article will be attached to the forward structure of the deep-diving research submarine ALVIN and be used to hold and position underwater cameras used to make still photographs and motion pictures in color or black-and-white; it will also be used to hold and operate a hydraulic rock crusher used for obtaining geological samples; it will further be used to move and position specially designed containers for obtaining samples. Application received by Commissioner of Customs: March 15, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79-13879 Filed 5-3-79; 8:45 am]
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Veterans Administration Medical Center et al.; for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before May 24, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 735, 666—11th Street, NW, Washington, D.C.

Docket Number: 79-00199. Applicant: Veterans Administration Medical Center, Laboratory Service (113), Electron Microscope Unit, Hines, Illinois 60141. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of plant, animal and fungal specimens. Investigations will include ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies of fungal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The objective pursued in the course of these investigations is to understand early pathological alterations in tissues (as induced in animal models) and to correlate these changes with clinical alterations seen in human diseased tissues. Application received by Commissioner of Customs: March 15, 1979.

Docket Number: 79-00200. Applicant: Surgical Neurology Branch NINCDS/National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014. Article: LKB 2088 Ultrotome V Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of various biological materials including normal, neoplastic and injured (post traumatic and ischemic) neurons and glia. Scientific problems to be studied will include:

1. The ultrastructural characteristics of gliomas and other types of brain tumors.

2. Quantitative ultrastructural surface and cytoplasmic characteristics of chromatolytic and regenerating neurons and quiescent, hypertrophic and mitotic post-injury microglia, oligodendroglia and astroglia.

3. Quantitative ultrastructural surface and cytoplasmic characteristics of arachnoidal cells under quiescent and various experimental conditions.

4. Surface membrane characterization of gliomas and other brain tumors.

5. Analysis of lectin and other receptor movement after alterations of membrane fluidity and cytoskeletal organization; surface and cytoplasmic events in transformation as well as nerve regeneration.

6. Quantitative analysis of fine structural changes in glioma cells after treatment with various chemotherapeutic agents such as CCNU, BCNU, phenytoin, procarbazine, methotrexate (TEM with quantitative image analysis).

Post-doctoral fellows as well as medical students and neurological and neurosurgical residents will be trained to use the instrument as part of the research training in the laboratory. Application received by Commissioner of Customs: March 15, 1979.

Docket Number: 79-00201. Applicant: Duke University Medical Center, Box 3011, Anatomy Department, Durham, North Carolina 27710. Article: Double Tilt-lift Device. Manufacturer: Siemens and Halski Company, West Germany. Intended use of article: The article is intended to be used with an electron microscope to permit high resolution electron micrographs to be taken of biological membranes and membrane

structures at large angles of tilt. The experiments that are to be done involve

Commissioner of Customs: March 15, 1979.

wish to acquire experience in the fine structural pathology of the nervous

consistent with the purposes and

Secretary of Commerce is forwarding

Zone Management (OCZM), National Oceanic and Atmospheric

structures at large angles of tilt. The experiments that are to be done involve taking minimal dose electron micrographs at large angles of tilt followed by computer image analysis procedures and three-dimensional reconstruction of membrane components. The techniques will be applied particularly to the communicating junction structure (gap junction) derived from liver tissue and to a three-dimensional reconstruction of the highly organized membrane placque structures in mammalian urothelial cell fusiform vacuoles. The article will also be used for stereoscopic studies of freeze-fracture-etch preparation of several types of membranes including urothelial cell membranes and the purple membrane of *Halobacterium halobium*. In addition, the article will be used for training graduate students and postdoctoral fellows in the techniques of three-dimensional reconstruction by low dose electron microscopy. Application received by Commissioner of Customs: March 15, 1979.

Docket Number: 79–00202. Applicant: NASA Headquarters, Washington, DC 20546. Article: Mark–I Microelectrophoresis Apparatus and Accessories. Manufacturer: Rank Brothers, United Kingdom. Intended use of article: The article is intended to be used to determine the precise mobility distribution of biological cells. Mobility distributions as a function of buffer properties (pH, ionic strength, misc. constituents) will be measured. Mobility variations of 0.01 micron cm/volt sec. need to be measured. Application received by Commissioner of Customs: March 16, 1979.

Docket Number: 79–00203. Applicant: University of North Carolina, Department of Medicinal Chemistry, School of Pharmacy, Beard Hall 315, Chapel Hill, N.C. 27514. Article: Model DCC–A, Droplet Countercurrent Chromatograph and Glass Columns. Manufacturer: Tokyo Rikakikai Co. Ltd., Japan. Intended use of article: The article is intended to be used for studies of extracts from plants, animals and fungus metabolites. Countercurrent chromatographic separation (with a droplet mechanism) of the mixture extracts will be conducted. The overall objective is to separate and isolate the pure active component from the mixture extracts, especially the water-soluble polar active substances. A limited number of post-doctoral and pre-doctoral graduate students will be instructed individually in Droplet Countercurrent Chromatography (DCC) when their research requires this technique. Application received by Commissioner of Customs: March 15, 1979.

Docket Number: 79–00204. Applicant: UCLA Lab. of Nuclear Medicine, 900 Veteran Ave., Los Angeles, California 90024. Article: DC Power Supply. Manufacturer: Fuji Denpa Kohki Co., Ltd., Japan. Intended use of article: The article is an electrical transformer—DC Power Supply for providing moderately high current at high voltage (1,250 volts) to the anode of a compact cyclotron which is used for medical research purposes for producing radioactive isotopes. These radionuclides, in turn, are used in developing and applying new techniques for diagnosis of various human diseases. Application received by Commissioner of Customs: March 15, 1979.

Docket Number: 79–00205. Applicant: Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, Md. 20014. Article: Model J–500A Automatic Recording Spectropolarimeter and Accessories. Manufacturer: Japan Spectroscopic Co., Japan. Intended use of article: The article is intended to be used for studies of proteins, nucleic acids, chemical carcinogens, and pharmaceuticals. Experiments will be conducted to obtain circular dichroism spectra of the proteins, carcinogen and drug metabolites, and carcinogen-bound nucleic acids, carcinogen and drug metabolites. The objectives pursued in these investigations are:

(i) To develop quantitative methods of assessing the structure of proteins in solution.

(ii) To study the absolute configuration of chemical carcinogen and drug metabolites.

(iii) To study the circular dichroic properties of chemical carcinogen-bound nucleic acids and nucleosides.

Application received by Commissioner of Customs: March 15, 1979.

Docket Number: 79–00206. Applicant: College of Medicine and Dentistry of New Jersey, P.O. Box 10146, Newark, New Jersey 07101. Article: Electron Microscope, Model Elmiskop 102 and Accessories. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used for the study of diseased human and animal tissues and cells, and viruses. Observations will be carried out on the fine structural pathology of certain nervous system disorders in man and in experimental animals. The article will also be used for training graduate students in Neuroanatomy and Neurosciences, and residents in Neuropathology and Neurology who wish to acquire experience in the fine structural pathology of the nervous system and in electron cytochemistry and immunocytochemistry. Application received by Commissioner of Customs: March 15, 1979.

Docket Number: 79–00207. Applicant: The Pennsylvania State University, Department of Chemistry, Whitmore Laboratory, University Park, PA 16802. Article: TEA–103–2CO_2 Laser with Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for research in the infra-red photo-chemistry of gaseous molecules. Application received by Commissioner of Customs: March 15, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79–13878 Filed 5–3–79; 8:45 am]
BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration, National Marine Fisheries Service; Issuance of Permit To Take Endangered Marine Mammals

On March 20, 1979, Notice was published in the **Federal Register** (44 FR 16951, and on April 2, 1979, a correction was published 44 FR 19220), stating that an application had been filed with the National Marine Fisheries Service by Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510, for a Scientific Research/Scientific Purposes Permit to take 575 gray whales and 2,590 bowhead whales. Of these, 100 gray whales and 500 bowhead whales would be taken by harassment per year for 5 years. Specimen materials would be collected from 15 dead beached gray whales per year. Specimen materials would be collected from 18 bowhead whales taken during the course of the Alaskan Native subsistence hunt or animals which have beached themselves.

Notice is hereby given that on April 26, 1979, the National Marine Fisheries Service issued a Scientific Research/Scientific Purposes Permit, as authorized by the provisions of the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973 to the Bureau of Land Management subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on a finding that such Permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to, Parts 220 and 222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: April 26, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.
[FR Doc. 79–13880 Filed 5–3–79; 8:45 am]
BILLING CODE 3510–22–M

National Marine Fisheries Service; Receipt of Application for Marine Mammals Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant: a. Name: Southeast Fisheries Center, National Marine Fisheries Service. b. Address: 75 Virginia Beach Drive, Miami, Florida 33149.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Atlantic bottlenose dolphins (*Tursiops truncatus*), 10,400.

4. Type of Take: Applicant proposes to conduct population censusing which will involve bottlenose dolphins throughout the study area over a 3 year period. During the course of censusing, up to 10,000 individual animals may be harassed. Up to 400 animals will be surrounded and captured. Of these, 275 will be marked, tagged, have specimen materials taken, and be injected with oxytetracyline to combat infection and to provide future age information. All 400 animals will be release to the wild.

5. Location of Activity: Southeast U.S. coastline from Texas to North Carolina.

6. Period of Activity: 3 years.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before June 4, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33701.

Dated: April 24, 1979.

Richard B. Roe,
Acting Deputy Director, Office of Mammals/Endangered Species, National Marine Fisheries Service.
[FR Doc. 79–13888 Filed 5–3–79; 8:45 am]
BILLING CODE 3510–22–M

National Oceanic and Atmospheric Administration

Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold a public hearing for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed Alabama Coastal Area Management Program.

The hearing schedule is: June 6, 1979—2:00 p.m., Killian Room, International Trade Center, Mobile, Alabama.

The views of interested persons and organizations on the adequacy of the impact statement and the proposed Alabama Coastal Area Management program are solicited, and may be expressed orally or in written statements. Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (phone: 202/634–4253) so that an appearance schedule may be prepared. In addition, requests for presentations will be accepted immediately prior to the hearing. Presentations are scheduled on a first-come, first-served basis, and should be limited to ten minutes in order to assure that all views can be heard. Office of Coastal Zone Management staff may wish to question speakers following the conclusion of his/her statement. If time permits, additional statements (and general discussion) may be scheduled at the conclusion of presentation. No verbatim transcript of the hearing will be maintained, but staff present will record the general thrust of the remarks.

As part of the review of the proposed Alabama Coastal Area Management Program, the Assistant Administrator for Coastal Zone Management will consider fully all comments received at these hearings, as will as as written statements submitted to and received by OCZM, on or before June 18, 1979. As part of the procedures leading toward approval of this program, a Final Environmental Impact Statement will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines which reflect consideration of these comments. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: April 30, 1979.

R. L. Carnahan,
Acting Assistant Administrator for Administration.
[FR Doc. 79–13894 Filed 5–3–79; 8:45 am]
BILLING CODE 3510–08–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1979 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 4, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On February 16, 1979, and March 9, 1979, the Committee for Purchase From the Blind and Other Severely Handicapped published notices (44 FR 10103 and 44 FR 13061) of proposed additions to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement list 1979:

Class 5120

Screwdriver, Cross-Tip
5120–00–820–2995
5120–00–060–2004
5120–00–224–7370
5120–00–529–3101
5120–00–227–7293
5120–00–234–8913
5120–00–542–3438
5120–00–224–7375
5120–00–596–0666
5120–00–237–8174
5120–00–580–2361
5120–00–357–7175
5120–00–580–0334

Class 7530

Paper, Teletypewriter Roll
7530–00–223–7966
(For GSA Regions 1, 2, 3, 7, 8, 9, 10).

C. W. Fletcher,
Executive Director.
[FR Doc. 79–13946 Filed 5–3–79; 8:45 am]
BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Intent To Prepare a Draft Supplement Environmental Impact Statement for the proposed Roseau River Flood Control Project, Minnesota

AGENCY: St. Paul District, U.S. Army Corps of Engineers.

ACTION: Notice of Intent To Prepare a Draft Supplement Environmental Impact Statement (EIS).

SUMMARY: The proposed action would provide damage reduction for flood events with a recurrence frequency of once in 30 years in th city of Roseau, once in 50 years in the agricultural area between Roseau and the Roseau Lakebed (approximately 8 miles), and once in 10 years for the remaining project area. This protection would be accomplished through channel modifications along 46.2 miles of the Roseau River between the Canadian border and the city of Roseau in northwestern Minnesota. The major modifications would include: channel widening, mainly along one bank; nine channel cutoffs totalling 5 miles with diversion structures to pass low flows through 11¾ miles of existing channel; construction of two levees (7.7 miles); and placement of five channel plugs in abandoned loops. A total of 87 side ditch inlets would be fixed for erosion and drainage control.

In addition to the proposed action, the following reasonable alternatives have been identified:

1. No action, i.e., no reduction in frequency or duration of flooding.

2. Non-structural methods, i.e., temporary or permanent evacuation of the floodplain, floodwarning and emergency protection, or floodproofing of buildings.

3. Floodwater storage, i.e., impounded storage in the drained bed of Roseau Lake with or without tributary storage on Sprague Creek, or storage in the downstream Big Swamp area, all of these with or without channel modification from the city of Roseau to the impoundment.

4. Channel modification with bypass, i.e., excavating a high-flow bypass channel along the alignment of existing State Ditch 51, to avoid excavation in a 6-mile-high gradient reach containing the majority of the walleye-spawning habitat in the project area.

5. Levees, i.e., the effective height of the channel banks would be raised to accommodate flood flows.

6. Floodway, i.e., increased width of excavation and decreased depth limited to a level above the ordinary low-flow channel elevation.

7. Increased urban protection, i.e., providing protection against 50- and 100-year flood events for the entire urban area.

Copies of the Draft and Final Environmental Impact Statement were provided for coordination to all concerned Federal, State, and local agencies; affected Indian tribes; and private organizations and individuals. Copies of the Draft Supplement EIS will be provided to all those identified above. Anyone else who is interested in reviewing this supplement is invited to do so and should contact the St. Paul District, Corps of Engineers, to assure that they are included on the mailing list.

Significant issues to be analyzed in the Draft Supplement EIS include:

1. Project design modifications completed since publication of the Final EIS.

2. An expanded discussion of alternatives considered.

3. Measures to mitigate project-induced losses.

4. A Section 404(b) Evaluation of the discharge into U.S. water of dredged or fill material.

Our review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Part 1500–1508), and applicable Corps of Engineers regulations and guidance. A Draft Environmental Impact Statement is currently being prepared by the Minnesota Department of Natural Resources.

A scoping meeting will not be held for the preparation of this supplement since its preparation was initiated early in 1978. Significant issues to be discussed in this supplement were identified through coordination with Federal, State, and local government agencies; interested citizens' groups; and individual citizens.

We estimate that the Draft Supplement EIS will be available to the public by June 1979.

Questions concerning the proposed action and the Draft Supplement EIS can be directed to:

Colonel Forrest T. Gay III, District Engineer, St. Paul District, Corps of Engineer, 1135 U.S. Post Office and Custom House, St. Paul, Minnesota 55101.

Dated: April 26, 1979.

Forrest T. Gay III,
Colonel, Corps of Engineers, District Engineer.
[FR Doc. 79–13680 Filed 5–3–79; 8:45 am]
BILLING CODE 3710–CY–M

Department of the Navy

Academic Advisory Board to the Superintendent, U.S. Naval Academy, a Subcommittee of the Secretary of the Navy's Advisory Board on Education and Training; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Academic Advisory Board to the Superintendent, United States Naval Academy, a subcommittee of the Secretary of the Navy's Advisory Board on Education and Training, will meet on May 21, 1979, at conference room 4E714, The Pentagon, Washington, D.C. The meeting will commence at 10:00 a.m. and terminate at 3:00 p.m.

The purpose of the meeting is to advise and assist the Superintendent of the Naval Academy concerning the education of midshipmen. To accomplish this objective, the Board will review academic policies and practices of the Naval Academy and will submit their proposals to the Superintendent to aid him in improving educational standards and in solving Academy problems.

For further information concerning this meeting contact: Major Donald W. Nelson, USAF, Military Secretary to the Academic Advisory Board, Division of English and History, United States Naval Academy, Annapolis, MD 21402. Telephone number (301) 267–2170.

Dated: May 1, 1979.

P. B. Walker,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).
[FR Doc. 79–13941 Filed 5–3–79; 8:45 am]
BILLING CODE 3810–71–M

DEPARTMENT OF ENERGY

Conservation and Solar Applications; Food Industry Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given that the Food Industry Advisory Committee and Subcommittees will meet Wednesday, May 23, 1979, at 9:00 a.m. to approximately 5:00 p.m., at the Conrad Hilton, 720 South Michigan Avenue, Chicago, Illinois.

The Committee was established to provide the Secretary of Energy with recommendations and advice with respect to the development and implementation of policies and programs affecting the food industry.

The tentative agenda and room locations for the meetings are as follows:

9:00–10:00 a.m.: Opening Remarks, Phil Zeidman—Lower Summit Room, Reorganization Briefing.
10:00–12:00 noon: Subcommittee Meetings. Parlor 412, Technology Subcommittee; Parlor 413, Conservation and Commercialization Subcommittee; Parlor 414, Supply Subcommittee; Parlor 419, Transportation and Distribution Subcommittee.
12:00–1:30 p.m.: Lunch.
1:30–2:30 p.m.: Presentation of Subcommittee Plans—Lower Summit Room.
2:30–3:00 p.m.: Presentation of Agriculture Priorities for Natural Gas.
3:30–4:00 p.m.: President's Energy Contingency Plans.
4:00–4:30 p.m.: Presentation by Food Industry, Agriculture, and Consumer Groups.
4:30–5:00 p.m.: Public Comment (10 Minute Rule).

The full Committee and Subcommittee meetings are open to the public. The Chairman of the Committee, and each Subcommittee is empowered to conduct each meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee concerning items on the agenda will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements concerning items on the agenda should inform Georgia Hildreth, Director, Advisory Committee Management, 202/252–5187, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter. An Executive Summary of the meeting may be obtained by calling the Advisory Committee Management Office at the number above.

Issued at Washington, D.C., on April 30, 1979.

Georgia Hildreth,
Director, Advisory Committee Management.
[FR Doc. 79–14067 Filed 5–3–79; 8:45 am]
BILLING CODE 6450–01–M

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94–163), notice is hereby provided of the following meetings:

I. A meeting of Subcommittee C of the Industry Advisory Board to the International Energy Agency (IEA) will be held on May 8, 1979, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 a.m. The agenda is as follows:

1. Opening remarks.
2. Pricing in an emergency.
3. Extraordinary costs.
4. Dispute Settlement Center.
5. Legal clearances: A. U.S. Voluntary Agreement; B. EEC Commission and interface with IEA.
6. Future work program.

II. A meeting of Subcommittee A of the Industry Advisory Board to the International Energy Agency (IEA) will be held on May 9, 1979, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 a.m. The agenda is as follows:

1. Opening remarks.
2. Possible activation and role of Subcommittee B.
3. Base Period Final Consumption—seasonality, demand growth and other factors affecting the trigger calculation.
4. Role of government observers in an emergency.
5. Review Secretariat papers: A. Counterseasonal adjustments and time shift of demand in crisis management; B. Distortions in Questionnaire A and B data.
6. Questionnaire A and B reporting instructions—report of meeting between IEA, IAB (BP and VERA), Dutch, German and Swiss administrations, March 29, 1979.
7. Report by IEA secretariat on: A./IEA and EEC interface; B. Procedures and problems in preparing quarterly oil forecasts.
8. Standard format for voluntary offer submission—Sun Oil and IEA Secretariat proposal.
9. Preparation for ISAG training session and product imbalance workshop.
10. Demand restraint measures—role of companies.
11. Closing remarks.

III. A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on May 10, 1979, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 a.m. The agenda is as follows:

1. Opening remarks by Chairman, including: A. Subcommittee B Chairmanship and Membership and ISAG staffing; B. Communications to and from the IEA and Reporting Companies.
2. Matters arising from the Record Note of IAB meeting on February 15, 1979.
3. Report on SEQ meetings:
A. February 19, 1979.
B. March 22, 1979.
C. March 23, 1979 (Joint with SOM).
D. April 24, 1979.
E. April 25, 1979 (Joint with SOM).
4. Worldwide supply outlook.
5. Report by IEA on procedures and problems in preparing quarterly oil forecasts.
6. Subcommittee C report:
A. Disputes Settlement Center.
B. Legal clearances: (1) IEA and EEC interface; (2) Survey of IEA countries.
C. Pricing in an emergency.
D. Extraordinary costs.

E. Future work program.

period november 16, 1973, through

Connecticut Valley Electric Co., Inc.; Tariff Change

CIG respectfully requests that the

with the Commission and are available

with the Commission and are available

E. Future work program.
7. Subcommittee A report:
A. Possible activation and role of Subcommittee B.
B. Base Period Final Consumption—seasonality, demand growth and other factors affecting the trigger calculation.
C. Role of government observers in an emergency.
D. Review Secretariat papers: (1) Counterseasonal adjustments and time shift of demand in crisis management; (2) Distortions in Questionnaire A and B data; (3) Consumer stocks.
E. Questionnaire A and B reporting instructions.
F. IEA/EEC interface.
G. Standard format for voluntary offer submissions.
H. Preparation for ISAG training session and product imbalance workshop.
I. Demand restraint measures—role of companies.
J. Future work program.
8. ISAG Manager's report.
9. Position of Reporting Companies under: A. EEC competition regulations; B. U.S. Voluntary Agreement.
10. Future work programs.
11. Dates and venues of future meetings of the IAB and subcommittees.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public. As provided by section 209.32 of DOE regulations, IEP requirements and unanticipated procedural delays in processing this notice require the usual 7-day notice period to be shortened.

Issued in Washington, D.C., May 1, 1979.

Robert C. Goodwin, Jr.,
Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 79-13936 Filed 5-1-79; 3:58 pm]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Texfel Petroleum Corp. and I.U. International Oil & Gas, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to the Texfel Petroleum Corporation, 10889 Wilshire Boulevard, Suite 1440, Los Angeles, CA 90024 and I.U. International Oil and Gas, Inc. 1500 Walnut Creek, Philadelphia, PA 19102. This Proposed Remedial Order charges Texfel Petroleum and I.U. International with pricing violations in the amount of $647,967.29, connected with the sale of domestic crude oil during the time period november 16, 1973, through December 31, 1975, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Lyle L. Nelson, Acting District Manager of Enforcement, 111 Pine Street, San Francisco CA 94111, phone 415/556-7200. On or before May 21, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals in accordance with 10 CFR 205.193.

Issued in Los Angeles, CA. on the 20th day of April 1979.

Lyle L. Nelson,
Acting District Manager of Enforcement, Western District.

[FR Doc. 79-13887 Filed 5-3-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Alaska Power Administration; Filing

April 30, 1979.

Take notice that the Assistant Secretary for Resource Applications of the Department of Energy on March 15, 1979, tendered for filing, for the confirmation and approval on a final basis by the Commission, pursuant to the authority vested in the Commission by the Delegation Order No. 0204-33, Rate Schedule SN-F-1 for wholesale firm power service from the Snettisham Project, Alaska Power Administration, which was confirmed and approved by the Assistant Secretary for Resource Applications, by Rate Order No. APA-1, effective April 1, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. EF79-1021]

[FR Doc. 79-13889 Filed 5-3-79; 8:45 am]

BILLING CODE 6450-01-M

Connecticut Valley Electric Co., Inc.; Tariff Change

April 30, 1979.

The filing Company submits the following:

Take notice that Connecticut Valley Electric Company Inc., on April 23, 1979, tendered for filing proposed changes in its Transmission Service Agreement with the New Hampshire Electric Cooperative, Inc. The proposed changes would decrease revenues from jurisdictional sales and service by $72 based on the 12 month period ending May 1979. The Company has requested a waiver of the Commission's 60 day notice requirement so that the reduction may become effective on June 1, 1979.

The filing is made to comply with the provisions of the Transmission Agreement (FPC No. 8) which requires that charges shall be modified annually to incorporate the applicable cost data contained in the Company's current FERC Form No. 1.

Copies of the filing were served upon the New Hampshire Electric Cooperative, Inc., and the New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-329]

[FR Doc. 79-13999 Filed 5-3-79; 8:45 am]

BILLING CODE 6450-01-M

Colorado Interstate Gas Co.; Compliance Filing

April 30, 1979.

Take notice that Colorado Interstate Gas Company, on April 27, 1979, tendered for filing proposed modifications to its April 1, 1979, PGA filing. The filing was made according to the Company in compliance with the Commission's March 28, 1979, Order in Docket No. RP72-122 (PGA79-1).

CIG respectfully requests that the instant filing be made effective on April 1, 1979.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP72-122 (PGA79-1)]

[FR Doc. 79-14000 Filed 5-3-79; 8:45 am]

BILLING CODE 6450-01-M

Colorado Interstate Gas Co.; Certification of Joint Motion of Designated Parties for the Acceptance of Stipulation

April 30, 1979.

Take notice that on April 17, 1979, Administrative Law Judges Lotis and Lewnes certified to the Commission a stipulation and joint motion filed by designated parties[1] on April 16, 1979. The stipulation would sever the issue of the prudence of the Nueces gathering fee from Docket Nos. RP78-51 and RP79-1 and resolve the issue in Docket No. RP72-122 (PGA78-3).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 10, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP72-122 (PGA79-1)]

[FR Doc. 79-14001 Filed 5-3-79; 8:45 am]

BILLING CODE 6450-01-M

[1] Colorado Interstate Gas Company, Public Service Company of Colorado, City of Colorado and Commission Staff.

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 30, 1979.

Take notice that Columbia Gas Transmission Corporation (Columbia) on April 11, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, as follows:

Substitute Original Sheet No. 66

Columbia states that the foregoing tariff sheets is being filed in compliance with requirement to meet the standards set forth in the Commission's Order issued on March 30, 1979, in Docket No. RP79-31, *et al.*, that the tracking provision for the Louisiana First Use Tax (LFUT) should reflect a methodology for calculating volumes subject to the first use tax consistent with the pipeline's PGA methodology for calculating volumes to develop current adjustments. Section 22.4 of Substitute Original Sheet No. 66 has been revised to provide for the determination of volumes in the same manner as provided in Columbia's presently effective Purchased Gas Adjustment clause (§ 20.3). Section 22.3 has also been revised to indicate that the estimated volumes subject to LFUT shall be at a 15.025 psia.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket Nos. RP72-122 (PGA79-1)(AP79-1)]

[FR Doc. 79-14002 Filed 5-3-79; 8:45 am]

BILLING CODE 6450-01-M

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

April 30, 1979.

Take notice that Consolidated Gas Supply Corporation (Consolidated), on April 20, 1979, tendered for filing proposed changes to its FERC Gas Tariff, Third Revisd Volume No. 1. The proposed changes, shown on Second Substitute Eleventh Revised Sheet No. 16, to be effective March 1, 1979, reflect a rate reduction filed by Texas Eastern Transmission Corporation on April 4, 1979 at Docket No. RP78-67.

Consolidated also tendered for filing Second Substitute Twelfth Revised Sheet No. 16 proposed to be effective April 1, 1979. Second Substitute Twelfth Revised Sheet No. 16 includes the aforementioned rate reduction and incorporates the Louisiana First Use Tax Surcharge as originally submitted March 1, 1979 at Docket No. RP79-47.

Additionally, Consolidated included a comparison of the calculation of the NGPA Surcharge as originally filed January 30, 1979 and as revised March 30, 1979.

Consolidated requests a waiver of any of the Commission's Rules and Regulations as may be deemed necessary by the Commisison to permit the revised tariff sheets to become effective as proposed.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petiton to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

Docket nos. RP72-137 (PGA No 79-4); RP79-4]
[FR Doc. 79-14002 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

El Paso Natural Gas Co.; Revised Purchased Gas Cost Adjustment Filing

April 30, 1979.

Take notice that on April 24, 1979, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, the following revised tariff sheets in accordance with the Commission's letter order dated March 30, 1979, in the captioned proceeding, to become effective April 1, 1979:

Original Volume No. 1

Second Substitute Twenty-third Revised Sheet No. 3-B

Third Revised Volume No. 2

Second Substitute Thirteenth Revised Sheet No. 1-D

Original Volume No. 2A

Second Substitute Fifteenth Revised Sheet No. 1-C
First Substitute Eleventh Revised Sheet No. 1-D

El Paso states that said letter order dated March 30, 1979, *inter alia*, conditionally, accepted effective April 1, 1979, certain revised tariff sheets to El Paso's FERC Gas Tariff which were tendered as a part of El Paso's March 1, 1979, notice of change in rates for jurisdictional gas service.[1] El Paso states that said March 1, 1979, PGAC filing reflected changes in rates based upon (i) the currently effective PGAC and PGAC-CHPG provisions contained in El Paso's FERC Gas Tariff, (ii) an estimate of the impact of the Natural Gas Policy Act of 1978 ("NGPA") on certain of El Paso's purchased and produced gas costs [2] and (iii) the variations in cost attributable to the Advance Payment Adjustment, Transportation Cost and Revenue Adjustment and Gas Well Royalty Cost Variations provisions contained in El Paso's Stipulation and Agreement dated June 23, 1978, approved and accepted by the Commission's order issued September 5, 1978, at Docket No. RP78-18.

El Paso states that the Commission's acceptance of such revised tariff sheets was conditioned upon El Paso refiling rates reflecting (i) elimination of costs not authorized to be charged by producer-suppliers as of April 1, 1979, pursuant to the NGPA, the Natural Gas Act and the Regulations thereunder; and (ii) the proper producer-supplier rates from reversionary interest owners. In accordance with the Commission's March 30, 1979, letter order, El Paso is tendering the instant filing in order to submit substitute tariff sheets containing proposed revised PGAC and PGAC-CHPG rates to become effective as of April 1, 1979.

El Paso states that the revised rates reflected on the above described tariff sheets have been determined in accordance with the directives set forth by the Commission in its letter order dated March 30, 1979, by adjusting the rates filed March 1, 1979, so as to eliminate gas costs which El Paso's producer-suppliers are not authorized on April 1, 1979, to charge El Paso and reflecting the proper producer-supplier rates from reversionary interest owners.[3] El Paso states the resulting overall revised net PGAC adjustment is an increase of 36.24¢ per Mcf applicable to El Paso's east-of-California ("EOC") customers and 31.70¢ per Mcf applicable to El Paso's California customers, above El Paso's currently effective rates. Said adjustments are 7.33¢ per Mcf and 7.33¢ per Mcf, respectively, below the overall net PGAC adjustment of 43.57¢ per Mcf and 39.03¢ per Mcf applicable to El Paso's EOC and California customers, respectively, initially proposed in El Paso's March 1, 1979, PGAC filing.

El Paso further states that the net PGAC-CHPG adjustment resulting from the elimination of costs not authorized as of April 1, 1979, to be collected and the correction of certain of the producer-supplier rates from reversionary interest owners is a net increase of 7.2425¢ per Mcf above El Paso's currently effective rates. Said adjustment is 8.6648¢ per Mcf below the net increase in PGAC-CHPG rates of 15.9073¢ per Mcf initially proposed in said March 1, 1979, PGAC filing.

Since the revised tariff sheets described above are designed to revise the rates which were tendered as a part of El Paso's March 1, 1979, PGAC filing, El Paso respectfully requested that the tendered tariff sheets be substituted for their respective counterparts tendered by El Paso on March 1, 1979. El Paso also requested that the revised tariff sheets be accepted for filing and permitted to become effective on April 1, 1979, the effective date provided by the Commission in said letter order dated March 30, 1979.

El Paso also states that it submitted under Enclosure No. 4 to the instant filing the information required by Appendix A of the Commission's March 30, 1979, letter order.

El Paso states that copies of the instant tender have been served upon all parties of record in Docket Nos. RP72-155 and RP78-18 (PGA79-1 and AP79-1), and, otherwise, upon all affected customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before May 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket Nos. RP72-155; RP78-18 (PGA 79-1, AP79-1)]
[FR Doc. 79-14004 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Georgia Power Co.; Filing

April 30, 1979.

Take notice that on April 24, 1979, Georgia Power Company (Georgia) tendered for filing a letter requesting Commission authorization to continue to provide emergency and economy energy service to Savannah Electric & Power Company (Savannah) for up to sixty (60) days after the May 31, 1979 termination date or until the new interchange contract is made effective, whichever occurs first.

Georgia states that negotiations are presently being made which will lead to a new contract.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-329]
[FR Doc. 79-14005 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Kansas Power & Light Co.; Notice of Compliance Filing

April 30, 1979.

Take notice that Kansas Power & Light Company on April 16, 1979, tendered for filing revised rate schedule for wholesale service to rural electric cooperatives (RCW-78 Revised) as required by the Commission's letter dated March 30, 1979. The revised rate schedule is purportedly in conformance with the approved settlement proposal and such rates will be effective April 2, 1978.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER78-1]
[FR Doc. 79-14006 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Michigan Wisconsin Pipe Line Co.; Proposed Changes in FERC Gas Tariff

April 30, 1979.

Take notice that on April 12, 1979, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing, Substitute First Revised Sheet No. 7 and Original Sheet Nos. 48, 49 and 50 to its F.E.R.C. Gas Tariff, Original Volume No. 1, in accordance with Commission "Order Accepting Certain Tariff Sheets, Conditionally Accepting Certain Tariff Sheets, and Rejecting Certain Other Tariff Sheets, Which Reflect the Louisiana First Use Tax in Pipeline Rates Pursuant to Order Nos. 10, 10-A and 10-B". Michigan Wisconsin proposes an effective date of May 1, 1979 for said revised tariff sheets.

Michigan Wisconsin states that these tariff sheets replace those which were filed with Michigan Wisconsin's letter dated March 9, 1979, and reflect revisions in accordance with the Commission's Order. Such revisions entail the refiling of a corporate undertaking which conforms with the Commission's regulations and a change in the tracking methodology to be utilized to recover the effect of the Louisiana First Use Tax (LFUT). The change in tracking methodology does not require a change in the LFUT adjustment originally filed for, 3.5¢.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-43]
[FR Doc. 79-14007 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Michigan, Department of Natural Resources; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 24, 1979.

On April 5, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of Michigan, Department of Natural Resources

FERC Control Number: JD79-2931.
API Well Number: 2110131997.
Section of NGPA: 103.
Operator: Patrich Petroleum Corporation of Michigan.
Well Name: State Springdale 3-27 MI 15425.
Field: Springdale 28.
County: Manistee.
Purchaser: Consumers Power Company.
Volume: 73.949 MMcf.Q02
FERC Control Number: JD79-2930.
API Well Number: 32167.
Section of NGPA: 102.
Operator: Wolverine Gas and Oil Company, Inc.
Well Name: Wolverine-Martella-Pahkanen 1-20.
Field: Maple Grove 20A.
County: Manistee.
Purchaser: Consumers Power Company.
Volume: 100 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 21, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-12887 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Minnesota Power & Light Co.; Compliance Filing

April 30, 1979.

Take notice that Minnesota Power & Light Company (Company) on April 6, 1979, tendered for filing a Revised Compliance Filing to FERC Opinion No. 12 in response to a letter from the Office

[1] Such service is rendered under rate schedules affected by and subject to ARTICLE 19, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in the General Terms and Conditions applicable to El Paso's FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A, and under rate schedules affected by and subject to the PGAC—Clean High Pressure Gas Provisions ("PGAC-CHPG") contained in El Paso's FERC Gas Tariff, Original Volume No. 2A.

[2] Order No. 18 issued December 1, 1978, at Docket No. RM79-7 amended § 154.38(d) of the Commission's Regulations to permit a one-time passthrough of certain estimated NGPA costs which may be added to the actual amounts reflected in Account 191, Unrecovered Purchased Gas Costs.

[3] The change in rates applicable to the Account 191 balance as of December 31, 1978, and the variations in costs attributable to the Advance Payment Adjustment, Transportation Costs and Revenue Adjustment and Gas Well Royalty Cost Variations as contained in the March 1, 1979, PGAC filing are not affected by the instant tender.

of Electric Power Regulation dated

appropriate action to be taken, but will

Pennsylvania Power & Light Co.;

become a party must file petition to

with the Commission and are available

tariff sheets is to provide an annual rate

of Electric Power Regulation dated March 7, 1979. The revised filing reflects a correction of direct assignment of costs to the Municipal-B resale customer and to the nonjurisdictional class from the assignment made in the original compliance filing to FERC Opinion No. 12.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Captiol Street, NE., Washington, D.C., 20426, in accordance with the Commission's Rules of practice and procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. E-8494]
[FR Doc. 79-14008 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Natural Gas Pipeline Co. of America; Proposed Changes in FERC Gas Tariff

April 30, 1979.

Take notice that on April 16, 1979, Natural Gas Pipeline Company of America, (Natural) tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. Natural states that the proposed changes will make effective:

Substitute Thirty-eighth Revised Sheet No. 5
Substitute Original Sheet No. 14B

Natural states that the substitute sheets to be effective April 1, 1979, were submitted in compliance with Commission order issued March 30, 1979, Docket No. RP79-38 (RP79-53, et al.). The substitute tariff sheets also reflect the lower PGA unit adjustment filed March 12, 1979, in Docket No. RP71-125 (PGA79-1).

Copies of this filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-38]
[FR Doc. 79-14009 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Northern Natural Gas Co., Louisiana First Use Tax; Proposed Addition to FERC Gas Tariff

April 30, 1979.

Take notice that Northern Natural Gas Company (Northern), on April 16, 1979, in compliance with Commission Order issued March 30, 1979 in the above proceeding, submitted for filing amended tariff sheets incorporating a provision for the termination of the tracking of the Louisiana First Use Tax, in its F.E.R.C. Gas Tariff, Volume No. 1 and Volume No. 2.

The Tariff Sheets are:

Third Revised Volume No. 1

First Substitute Original Sheet No. 74b

Original Volume No. 2

First Substitute Original Sheet No. 1o

Northern states that copies of its filing were served on all jurisdictional customers and affected State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitons or protests should be filed on or before May 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-41]
[FR Doc. 79-14010 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Pennsylvania Power & Light Co.; Compliance Filing

April 30, 1979.

Take notice that on April 3. 1979, Pennsylvania Power & Light Company (PP&L) tendered for filing new fuel adjustment clauses and a report on the recomputation of fuel clause billings under the new clauses. PP&L states in its transmittal letter that this filing is made in compliance with the Commission's Opinion No. 34, issued January 15, 1979.

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER76-398]
[FR Doc. 79-14011 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Public Service Co. of Oklahoma; Cancellation

April 30, 1979.

The filing Company submits the following:

Take notice that Public Service Company of Oklahoma on April 23, 1979 tendered for filing a Notice of Cancellation of the Letter Agreement dated September 23, 1975, Supplement to Rate Schedule FERC No. 118 between Public Service Company of Oklahoma and Southwestern Electric Power Company. PSO indicates that this cancellation is to be effective as of May 31, 1979.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file petition to intervene. Copies of this application are filed with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-322]
[FR Doc. 79-14012 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Southeastern Power Administration; Filing

April 30, 1979.

Take notice that the Assistant Secretary for Resource Applications of the Economic Regulatory Administration on behalf of the Southeastern Power Administration (SEPA) on March 5, 1979, tendered for filing, for the Commission's confirmation and approval on a final basis, a request for an extension of short-term rates for Laurel Project power.

(SEPA) indicates that the Economic Regulatory Administration (ERA) has, through a series of orders dated April 21, September 20, and December 29, 1978, pursuant to the Secretary of Energy's, Delegation Order No. 0204-33, approved on an interim basis short-term rates through March 31, 1979.

SEPA indicates that it has concluded an arrangement with East Kentucky Power Cooperative, Inc. for, among other things, the long-term sale of the Laurel Project output to cooperative but will be unable to complete the arrangement and obtain the necessary approval for the long-term rates before March 31, 1979. Accordingly, SEPA contends, the extension of short-term rates is appropriate. SEPA further indicates that the short-term rates may be required through June 30, 1979, to provide the limited time needed to develop long-term rates.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. EF79-3051]
[FR Doc. 79-13990 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Southeastern Power Administration; Filing

April 30, 1979.

Take notice that the Assistant Secretary for resource Applications of the Department of Energy on April 17, 1979, tendered for filing, for final approval by the Commission, Rate Order No. SEPA-2, by which the Assistant Secretary for Resource applications confirmed on an interim basis, effective June 1, 1979, Wholesale Power Rate Schedule LP-1 applicable to power from the Laurel Project of the Southeastern Power Administration.

The Administrator indicates that the rate schedule will replace short-term contract rates presently in effect.

The Administrator indicates that the rate schedule is submitted for the Commission's approval on a final basis pursuant to Delegation Order No. 0204-33. Approval is requested for a period ending June 30, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before may 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Comission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. EF79-3052
[FR Doc. 79-13991 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Southern Natural Gas Co.; Proposed Changes in FPC Gas Tariff

April 30, 1979.

Take notice that Southern Natural Gas Company (Southern), on April 27, 1979, tendered for filing proposed changes to its FPC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2. The effect of the revised tariff sheets is to provide an annual rate increase of $39,394,709. Also, Southern has reflected the substitution of the current level of purchased gas costs as represented in Southern's Purchased Gas Adjustment (PGA) filing of December 15, 1978.

Southern states that, on October 31, 1978, Southern filed a general rate increase in Docket No. RP79-7 to become effective on December 1, 1978. The Commission, by order issued November 30, 1978, accepted the revised tariff sheets for filing and suspended their use until May 1, 1979, subject to certain conditions.

Southern requested that the proposed tariff sheets be allowed to be substituted for the tariff sheets previously suspended by the Commission's order of November 30, 1978. Since the proposed tariff sheets contain the same costs included in Southern's rate filing, modified in accordance with the Commission's November 30, 1978 order, Southern requested that the Commission grant any such waivers as are necessary so as to allow the proposed tariff sheets to become effective as contemplated by the Commission in Ordering Paragraph (C) of that order.

Copies of this filing have been served upon Southern's jurisdictional customers, interested state public service commissions and all parties of record.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP 79-7]
[FR Doc. 79-13989 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Southern Natural Gas Co., Louisiana First Use Tax; Notice of Proposed Changes in FERC Gas Tariff

April 30, 1979.

Take notice that Southern Natural Gas Company (Southern) on April 17, 1979, tendered for filing proposed changes to its FERC Gas Tariff, Sixth Revised Volume No. 1, to become effective on April 1, 1979. Southern states that such filing is made in compliance with the Commission's Order issued March 30, 1979 which required revised tariff sheets to be filed to reflect the computation of the Louisiana First Use Tax surcharge by use of actual balances in the deferred account.

Copies of the filing are being served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-48]
[FR Doc. 79-13992 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Southwestern Power Administration; Filing

April 30, 1979.

Take notice that the Assistant Secretary for Resource Applications of the Department of Energy on April 23, 1979, tendered for filing for the Commission's final approval pursuant to Delegation Order No. 0204-33, rates placed into effect by the Assistant Secretary for Resource Applications on an interim basis, effective June 1, 1979, by Rate Order No. SWPA-2, applicable to Sam Rayburn Dam. The contract concerned is between the Southwestern Power Administration and the Sam Rayburn Dam Electric Cooperative and supersedes a rate which has been in effect since March 5, 1971 ($1,030,000 per annum). The new rate is $1,388,300 per annum.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petiton to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. EF79-4021]
[FR Doc. 79-13993 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Southwestern Power Administration; Filing

April 30, 1979.

Take notice that the Assistant Secretary for Resource Applications of the Department of Energy on March 7, 1979, submitted to the Commission for confirmation and approval on a final basis, pursuant to the authority vested in the Commission by Delegation Order No. 0204-33, the following rate schedules and contract rate of the Southwestern Power Administration (SWPA) which the Assistant Secretary for Resource Applications placed in effect on an interim basis effective April 1, 1979, by Rate Order No. SWPA-1:

Rate Schedule P-3, Hydro Peaking and Seasonal Peaking Power.
Rate Schedule F-2, Firm Power from Integrated System.
Rate Schedule F-3, Firm Power through Oklahoma Utilities Companies.
Rate Schedule EE-2, Excess Energy.
Rate Schedule IC-2, Interruptible Capacity.
Contract Rate under Section 2 of the Tex-La Electric Cooperative, Inc. Contract No. 14-02-001-864.

The Assistant Secretary for Resource Applications also indicates that by the same Order, he also placed into effect on an interim basis, effective January 1, 1979, the application of Rate Schedule P-3 to the power and energy sales under § 1.02 and the application of rate schedule EE-2 to the secondary energy sales under § 1.04 of the contract among SWPA and the Arkansas Power and Light Company and the Reynolds Metals Company, Contract No. ISPA-514 (Aluminum Contract).

The Assistant Secretary of Resource Applications indicates that these rates will immediately increase average annual system gross revenues from $50.3 million to $65.2 million (30 percent) and provide an additional $8.1 million in 1980 (3 percent) after the Harry S. Truman Project becomes operative.

Any person desiring to be heard or to protest said filing should file a petition to intervefie or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Kenneth F. Plumb,
Secretary.

[Docket No. EF79-4013]
[FR Doc. 79-13994 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Compliance Filing

April 30, 1979.

Take notice that on April 16, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) filed tariff sheets to Ninth Revised Volume No. 1 of its FERC Gas Tariff, consisting of the followig:

Second revised Sheet No. 2130.
First Revised Sheet Nos. 213R and 213S.
Original Sheet No. 213T.

Tennessee states that the sole purpose of these tariff sheets is to revise Article XXVIII in the General Terms and Conditions of its FERC Gas Tariff, which provides for tracking of the State of Louisiana First Use Tax, to conform to the requirements of the Commission's order issued March 30, 1979, in Docket Nos. RP79-53, *et al.*

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissins.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-52]
[FR Doc. 79-13995 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 30, 1979.

Take notice that on April 16, 1979, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing propose changes in its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Second Substitute Forty-eighth Revised Sheet No. 14
Second Substitute Forty-eighth Revised Sheet No. 14A
Second Substitute Forty-eighth Revised Sheet No. 14B
Second Substitute Forty-eighth Revised Sheet No. 14C
Second Substitute Forty-eighth Revised Sheet No. 14D

The above tariff sheets ae filed in substitution for the respective tariff sheets, which reflected Texas Eastern's proposed April 1, 1979 Louisiana First Use Tax tracking rate increase which Texas Eastern by its March 15, 1979 motion requested to be placed into effect April 1, 1979. The above-listed tariff sheets reflect a reduction to Texas Eastern's March 15, 1979 filing based on a recalculation of Texas Eastern's estimated cost of the Louisiana First Use Tax under the First Use Regulations promulgated by the Department of revenue and Taxation of the State of Louisiana subsequent to Texas Eastern's March 15, 1979 filing.

In the event the alternative tariff sheets filed by Texas Eastern on April 4, 1979 are placed into effect as of March 1, 1979 by the Commission, Texas Eastern submitted the following alternate tariff sheets in order to recover the estimated cost of the Louisiana First Use Tax as part of its FERC Gas Tariff, Fourth Revised Volume No. 1:

Alternate Second Substitute Forty-eighth Revised Sheet No. 14
Alternate Second Substitute Forty-eighth Revised Sheet No. 14A
Alternate Second Substitute Forty-eighth Revised Sheet No. 14B
Alternate Second Substitute Forty-eighth Revised Sheet No. 14C
Alternate Second Substitute Forty-eighth Revised Sheet No. 14D

In compliance with Ordering Paragraphs (E), (F), and (G) of the Commission's March 30, 1979 order, Texas Eastern also submitted for filing Substitute Original Sheet No. 119 in lieu of Original Sheet No. 119 filed on March 15, 1979.

Texas Eastern requested the Commission to waive all rules and regulations necessary to permit the appropriate tariff sheets to become effective April 1, 1979.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-40]
[FR Doc. 79-13996 Filed 5-3-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of April 23 to 27, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from May 4, 1979 and will end on June 18, 1979. The 30-day wait period for final EIS's will be computed from the date of receipt by EPA and commenting parties.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Environmental Review A-104, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-0780.

SUMMARY OF NOTICE: Appendix I sets forth a list of EIS's filed with EPA during the week of April 23 to 27, 1979 the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: May 1, 1979.

Peter L. Cook,
Acting Director, Office of Environmental Review.

Appendix I—EIS's Filed With EPA During the Week of April 23 to 27, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447–3965.

Forest Service

Draft

Mt. Magazine Recreation Development, Logan County, Ark., April 27: Proposed is a recreational development plan for 2,200 acres on top of Mr. Magazine, Ozark National Forest, Logan County, Arkansas. Features include: replacement of a lodge that burnt in 1971 with a structure containing a restaurant, visitor information center and observation deck; replacement of deteriorated cabins; a sewage treatment plant and related facilities; rehabilitating campgrounds and picnic areas along with increased capacity; and increasing trail mileage (USDA–FS–08–10–79–01). (EIS Order No. 90443.)

Rural Electrification Administration

Draft

Seminole Plant, Units 1 and 2, Transmission, Putnam County, Fla., April 24: Proposed is the issuance of loan guarantees for the construction and operation of a 1,200 MW, net, coal-fired steam electric generating station to be located on an approximate 2,000 acre site adjacent to the St. Johns River in Putnam County, Florida. Major station facilities include two approximately 450 foot high natural draft cooling towers, a wet limestone flue gas desulfurization (FGD) system, electrostatic precipitators, boilers, a single 675 foot stack, a chemical waste treatment system, onsite disposal of FGD wastes as stabilized cake, and rail delivery of coal and approximately 69 miles of double-circuit 230 KV transmission line (USDA–REA(ADM)–79–3–D). (EIS Order No. 90425.)

Soil Conservation Service

Final

Hamilton Creek Watershed Plan, Burnet County, Tex., April 23: Proposed is a flood prevention plan for portions of the 52,995 acres of the Hamilton Creek Watershed in the City and County of Burnet, Texas. It is proposed that three floodwater retarding structures be installed to protect 231 acres of urban land in the City and 576 acres of agricultural flood plain land. Each retarding structure will consist of a principal spillway and plunge basin, and emergency spillway, a floodwater retarding pool, a sediment pool, and in total will require 172 acres (USDA–SCS–EIS–WS–(ADM)–78–5–(F)–(TX)). Comments made by: DUI, EPA, USDA, HEW, State agencies. (EIS Order No. 90419.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, (202) 693–6795.

Draft

Carolina Beach Inlet, Navigation Project, New Hanover County, N.C., April 23: Proposed is the construction of a navigation channel for the Carolina Beach Inlet located in New Hanover County, North Carolina. The channel would have a low water depth of 8 feet and a bottom width, at that level, of 150 feet extending for 1,500 feet, from the seaward side of the ocean bar at Carolina Beach Inlet to the intersection of the inlet with the Atlantic Intracoastal Waterway Channel. Initial channel excavation would require the net removal of 43,100 cubic yards of bar material that would be disposed of in the surf zone along an area approximately 3,000 to 5,000 feet south of the inlet (Wilmington District). (EIS Order No. 90422.)

Deepwater Port and Crude Oil System, Permit, Galveston County, Tex., April 25: Proposed is the issuance of a permit for an onshore deepwater port project which would involve the deepening of the existing ship channel into Galveston, Galveston County, Texas and extending the channel further into the Gulf of Mexico. Also proposed is the construction of a crude oil pipeline distribution system, originating at Pelican Island, and an oil storage tank farm. Several disposal sites will be used, dependent upon the type of dredged material (Galveston District). (EIS Order No. 90429.)

Final

Lake Front Steel Mill, Conneaut, Permit, Ashtabula County, Ohio; Erie County, Pa., April 26: This statement deals with a request by the US Steel Corporation for a permit to perform work in and along the southern shore of Lake Erie and its tributaries extending one mile east of Conneaut, Ashtabula County, Ohio to Springfield Township, Erie County, Pennsylvania. The actions involved include, in part; construction of a water intake and discharge system, an unloading dock, an erosion control structure; installation of a raw materials handling system; dredging and filling; and culverting of Turkey Creek. The proposed action is part of an overall plan to develop a steel manufacturing complex on a 2,800 acre site between Conneaut and West Springfield (Buffalo District). Comments made by: USDA, DOC, DOE, EPA, HEW, HUD, DOT, DOI, NRC, TVA, State and local agencies. Groups, individuals and businesses. (EIS Order No. 90438.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce Washington, D.C. 20230, (202) 377–4335.

National Oceanic and Atmospheric Administration

Draft

Alabama Coastal Area Management Program (CZM), Alabama: April 26: Proposed is the Alabama State Coastal Area Management Program. The program includes general rules and regulations; resource use rules and regulations concerning siting/construction/operation of energy facilities, dredge and filling, shoreline erosion, public access, natural hazards, and solid waste disposal. Natural resources rules and regulations address water quality, wetlands and submerged grassbeds, air quality, beaches and dunes, water resources, protection of cultural resources, fisheries management, and wildlife habitat. (EIS Order No. 90436.)

Apalachicola River and Bay Estuarine Sanctuary, Grant, Franklin and Gulf Counties, Fla., April 26: Proposed is the awarding of an acquisition grant to the State of Florida for the acquisition, development, and operation of a estuarine sanctuary located in the Apalachicola River and Bay region of Franklin and Gulf Counties. The grant would apply to 12,000 acres of land, to be included within the boundaries of a proposed sanctuary consisting of approximately 190,000 acres. The purposes of acquisition include recreation, wildlife management, and conservation and protection of environmentally unique and irreplaceable lands. (EIS Order No. 90437.)

Final

Virgin Islands Coastal Management Program (CZM), Virgin Islands, April 25: Proposed is a coastal zone management program for the Virgin Islands. Approval would permit implementation of the proposed program, allow program administration grants to be awarded to the Territory, and require that Federal actions be consistent with the program. The program addresses general areas of particular concern and site specific recommendations. Comments made by: DOI, DOT, DOC, GSA, FERC, COE, USDA and Local Agency. (EIS Order No. 90428.)

ENVIRONMENTAL PROTECTION AGENCY

Draft

Contact: Mr. Clinton Spotts, Environmental Protection Agency, Region IV, First International Building, 1201 Elm Street, Dallas, Tex. 75270, (214) 767–2716.

WWT Facilities, St. Mary Parish, Grant, St. Mary County, La., April 27: Proposed is the issuance of five grants for the design and construction of sewerage facilities in St. Mary Parish, Louisiana. The project is split into five areas each with a different sewerage plan. They are: 1) Morgan City and Amelia-two distinct systems; 2) Wards 5 and 8—served by a single, centrally located treatment plant; 3) Franklin and vicinity—two distinct systems; 4) Baldwin and vicinity—separate treatment plants in the eastern and western subareas; and 5) Cypremort Point—a single plant. (EIS Order No. 90440.)

Draft

Contact: Ms. Betty Jankus, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, California 94105 (415) 556–8695.

Modesto Wastewater Facilities Improvements, Grant, Stanislaus County, Calif, April 26: Proposed is grant funding for modification improvements of the wastewater treatment and disposal facilities in the City of Modesto, Stanislaus County, California. The project would add a new 15 MGD influent pump station with a cross connection to one of the two existing pump stations; new booster pumps on the primary effluent pipeline to the oxidation ponds; two new sludge thickeners; a new sludge digester; additional sludge drying beds; 1,440 horsepower in additional aerators at the oxidation pond; and new chlorination and dechlorination facilities at the oxidation ponds. (EPA–9CA–Stanislaus-Modesto-WWIP–9).(EIS Order No. 90433.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Brown, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–6308.

Draft

Imperial Oaks Subdivision, Mortgage Insurance, Montgomery County, Tex., April 24: Proposed is the issuance of HUD home mortgage insurance for the Imperial Oaks Subdivision, Montgomery County, Texas. When completed the subdivision will contain approximately 3,000 dwelling units on approximately 958.7 acres. There will also be some commercial reserves and recreational areas within the proposed development. (HUD–R06–EIS–70–79.) (EIS Order No. 90426.)

Final

Carmelitos Housing Complex, Los Angeles County, Calif., April 23: Proposed is the redevelopment of the Carmelitos Housing Complex located in the City of Long Beach, Los Angeles County, California. The project will include the modernization of an existing 64 acre, 713 unit, low-rent housing project, the rehabilitation of 583 family units, the demolition of 130 units of stucco/frame buildings, and replacement construction of 130 new elderly units. (HUD–R09–EIS–77–34.) Comments made by: AHP, local agencies, groups, individuals and businesses. (EIS Order No. 90421.)

Final

Northdale/North Lakes Subdivision, Tampa, Hillsborough County, Fla., April 23: Proposed is the issuance of HUD home mortgage insurance for the Northdale/ North Lakes subdivision located in Tampa, Hillsborough County, Florida. The project site will encompass 2,710 dwelling units on approximately 1,276 acres on the Northdale site and 3,136 dwelling units on approximately 760 acres on the North Lakes site. The subdivision will also include an office center, commercial center, a cultural and ecumenical center, a park/school site, and additional recreational areas. (HUD–R04–EIS–77–07–E.) Comments made by: EPA, DOC, DOI, HEW, FERC, State and local agencies. (EIS Order No. 90432.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240 (202) 343–3891.

Bureau of Land Management

Draft

Drewsey Grazing Management Program, Harney County, Oreg., April 27: Proposed is the continuance of a livestock grazing program for 677,709 acres of public land in the Drewsey study area, Harney County, Oregon. The program consists of implementing 68 AMPs on 61 allotments covering 636,444 acres of public land. Less intensive management is proposed for 43 allotments covering 18,553 acres; 1,680 acres would continue as a driveway; and 21,032 acres would continue with no livestock grazing. The plan will include: allocation of livestock forage to livestock, wild horses, wildlife, and watershed; establishment of grazing systems; and construction of range improvements. (DES–79–22.) (EIS Order No. 90441.)

Draft Supplement

Phosphate Leasing, Osceola National Forest, Several counties, Florida, April 27: This statement supplements a final EIS filed with CEQ on June 28, 1974 (EIS No. 41065, USDA–FES–74–37). The proposed action is the issuance of 41 phosphate preference right leases on 52,000 acres of the Osceola National Forest located in north central Florida. The scope of this supplement is limited to only those impacts, alternatives and new issues that have surfaced since 1974. A new alternative discusses the issuance of leases providing for two beneficiation plants in the Oaceola National Forest. (DES–79–17.) (EIS Order No. 90351.)

STATE DEPARTMENT

Contact: Mr. William H. Mansfield, III, Office of Environmental Affairs, Department of State, Washington, D.C. 20520 (202) 632–2418.

Final

Narcotics Control in Mexico, Herbicide Use, Foreign, April 27: Proposed and examined is the continuation of the joint US Government-Government of Mexico program which utilizes herbicides to eradicate opium poppy (2,4-D) and marihuana (paraquat) crops. The statement addresses Mexican narcotics eradication and control projects including the use of herbicides. It presents drug traffic and drug consumer profiles and estimates the extent of contamination of heroin and marihuana in the US along with associated health effects. Comments made by: HEW, DOI, EPA, State agencies, groups and businesses. (EIS Order No. 90431.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426–4357.

Federal Highway Administration

Draft

TH–120, I–494 in Woodbury to I–694 in Oakdale, Washington and Ramsey Counties, Minn., April 23: Proposed is the improvement of TH–120 from I–494 in Woodbury to I–694 in Oakdale, Ramsey and Washington Counties, Minnesota. The existing facility would be upgraded to a four-lane divided roadway with shoulder and with a raised median of sufficient width to accommodate turn lanes. The roadway will be approximately 8 miles in length and will require a minimum right-of-way width of 128 feet. (FHWA–MN–EIS–79–01–D.) (EIS Order No. 90423.)

TH–10, Hanson Boulevard to I–35W, Anoka and Ramsey Counties, Minn, April 23: Proposed is the issuance of funds for the construction/reconstruction of about 6 miles of TH–10 between Hanson Boulevard in Coon Rapids in Anoka County to I–35W in Mounds View in Ramsey County, Minnesota. The project would provide a four lane divided expressway built to highway standards with controlled access between these two termini. The alternatives include no build and two route alternatives. (FHWA–MN–EIs–79–02–D.) (EIS Order No. 90424).

Final

Relocated US 321, Dallas to Hickory, Lincoln, Catawba, Gaston Counties, N.C., April 23: Proposed is the construction of a 4-lane divided highway on new location, connecting the existing improved section of US 321 at Dallas, Gaston County, through Lincoln County, to the existing (new) interchange with I–40 at Brookford, just south of Hickory, Catawba County, North Carolina. New corridor locations under consideration vary from 30 to 32 miles in length. The new roadway will generally parallel and replace existing US 321, which extends about 37 miles between Dallas and Brookford (FHWA–NC–EIS–78–11–F) Comments made by: USDA, DOI, EPA, COE, DOT, HEW, HUD, State and local agencies. (EIS Order No. 90418.)

PR–10, Arecibo to Ponce, Puerto Rico, April 26: Proposed is the improvement of PR–10, from Arecibo to Ponce in Puerto Rico. The proposed action will consist of the construction of 58.0 kilometers of highway with partial access control from PR–22, De Diego Expressway, on the south-east of the town of Arecibo to existing Route PR–10 on the north part of the City of Ponce. The project will be a four-lane divided highway from Route PR–22 to San Pedro Community, were it narrows to a two-lane undivided highway and is maintained for the remaining of the project's length. The selected alternative traverses through agricultural and forest land areas. (FHWA–NC–EIS–75–01–F). Comments made by: HUD, HEW, DOI, EPA, COE, USDA, State agencies, and businesses. (EIS Order No. 90350.)

Final

US 52 to NC–24/NC–27, New Connector, Construction, Stanly County, N.C., April 23: Proposed is the construction of a new

connector from US 52 to NC–24/NC–27 in Albermarle, Stanly County, North Carolina for a distance of 2.6 miles. The project will consist of the construction of a four lane, 48-foot curb and gutter cross section partially on new location and partially along existing Carolina Avenue. The northern terminal of the proposed project will intersect US 52 just south of Snuggs Street while at the southern terminal it will tie into NC–138 (Aquadale Road) at NC–24/NC–27. (FHWA–NC–EIS–77–04–F). Comments made by: DOI, EPA, USDA, HEW, DOT, COE, State and local agencies. (EIS Order No. 90420.)

U.S. Coast Guard

Draft

Pudget Sound Vessel Traffic, Regulations, Regulatory, April 27: Proposed is the promulgation of a set of regulations for the operation of tank vessels carrying oil and hazardous substances in Puget Sound and adjacent waters. The regulations would amend the Puget Sound Vessel Traffic Service Regulation. The regulations would be applicable to all tank vessels of 40,000 DWT or greater carrying oil or hazardous substances in bulk. Features include: an upper limit of 125,000 DWT would be imposed; additional navigation equipment would be required on vessels 100,000 DWT or above, tug escort would be required within certain waters, and others. (EIS Order No. 90442.)

Veterans Administration

Contact: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, (202) 389–2528.

Draft

Vancouver VA Medical Center, Clark County, Washington, April 27: Proposed is the construction of a 200-bed replacement hospital for the Vancouver VA Medical Center, Clark County, Washington. The facility would provide additional modern nursing home care and other medical services, and includes the demolition of some buildings. A laundry and warehouse will also be constructed. (EIS Order No. 90439.)

EIS's Filed During the Week of April 23 to 27, 1979

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Dated filed	Orig. Agency No.
Alabama		Draft	Alabama Coastal Area Management Program (CZM).	90436	4–26–79	DOC.
Arkansas	Logan	Draft	Mt. Magazine Recreation Development	90443	4–27–79	USDA.
California	Los Angeles	Final	Carmelitos Housing Complex	90421	4–23–79	HUD.
	Stanislaus	Draft	Modesto Wastewater Facilities Improvements, Grant.	90433	4–26–79	EPA.
Florida	Franklin	Draft	Apalachicola R. and Bay Estuarine Sanctuary, Grant.	90437	4–26–79	DOC.
	Gulf	Draft	Apalachicola R. and Bay Estuarine Sanctuary, Grant.	90437	4–26–79	DOC.
	Hillsborough	Final	Northdale/North Lakes Subdivision, Tampa	90432	4–23–79	HUD.
	Putnam	Draft	Seminole Plant, Units 1 and 2, Transmission	90425	4–24–79	USDA.
	Several	Supple	Phosphate Leasing, Osceola National Forest	90351	4–27–79	DOI.
Foreign		Final	Narcotics Control in Mexico, Herbicide Use	90431	4–25–79	STAT.
Louisiana	St. Mary	Draft	WWT Facilities, St. Mary Parish, Grant	90440	4–27–79	EPA.
Minnesota	Anoka	Draft	TH–10, Hanson Boulevard to I–35W	90424	4–23–79	DOT.
	Ramsey	Draft	TH–120, I–494 in Woodbury to I–694 in Oakdale	90423	4–23–79	DOT.
		Draft	TH–10, Hanson Boulevard to I–35W	90424	4–23–79	DOT.
	Washington	Draft	TH–120, I–494 in Woodbury to I–694 in Oakdale	90423	4–23–79	DOT.
North Carolina	Catawba	Final	Relocated US 321, Dallas to Hickory	90418	4–23–79	DOT.
	Gaston	Final	Relocated US 321, Dallas to Hickory	90418	4–23–79	DOT.
	Lincoln	Final	Relocated US 321, Dallas to Hickory	90418	4–23–79	DOT.
	New Hanover	Draft	Carolina Beach Inlet, Navigation Project	90422	4–23–79	COE.
	Stanly	Final	U.S. 52 to NC–24/NC–27, New Connector, Construction.	90420	4–23–79	DOT.
Ohio	Ashtabula	Final	Lake Front Steel Mill, Conneaut, Permit	90438	4–26–79	COE.
Oregon	Harney	Draft	Drewsey Grazing Management Program	90441	4–27–79	DOI.
Pennsylvania	Erie	Final	Lake Front Steel Mill, Conneaut, Permit	90438	4–26–79	COE.
Puerto Rico		Final	PR–10, Arecibo to Ponce	90350	4–26–79	DOT.
Regulatory		Draft	Puget Sound Vessel Traffic, Regulations	90442	4–27–79	DOT.
Texas	Burnet	Final	Hamilton Creek Watershed Plan	90419	4–23–79	USDA.
	Galveston	Draft	Deepwater Port and Crude Oil System, Permit	90429	4–25–79	COE.
	Montgomery	Draft	Imperial Oaks Subdivision, Mortgage Insurance	90426	4–24–79	HUD.
Virgin Islands		Final	Virgin Islands Coastal Management Program (CZM)	90428	4–25–79	DOC.
Washington	Clark	Draft	Vancouver VA Medical Center	90439	4–27–79	VA.

Appendix II.—*Extension/waiver of review periods on EIS's filed with EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
DEPARTMENT OF ENERGY					
Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station E–201 GTN, Washington, D.C. 20545, (202) 376–5998.	Waste Isolation Pilot Plant, Construction.	Draft 90407	4–27–79	Extension	7–6–79

Appendix III.—*EIS's filed with EPA which have been officially withdrawn by the originating agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—*Notice of official retraction*

Federal agency contact	Title of EIS	Status/number	Date notice published in "Federal Register"	Reason for retraction
DEPARTMENT OF INTERIOR				
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, (202) 343–3891.	Lake Mead National Recreation Area.	Draft 90291	4–2–79	Distribution of the draft EIS has not been made.
	Phosphate Leasing, Osceola National Forest.	Draft Supplement 90351	4–13–79	Distribution of the DS was not made when the notice of availability was published in FR 4–13–79 and it is refiled as of 4–27–79. See Appendix I.
DEPARTMENT OF AGRICULTURE				
Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447–3965.	San Miguelito Subwatershed, Santa Ynez River.	Final 90336	4–13–79	Distribution of the FEIS has not been made.
DEPARTMENT OF TRANSPORTATION				
Mr. Martin Convisser, Director, Office of Environmental Affairs, Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426–4357.	PR–10, Arecibo to Ponce	Final 90350	4–13–79	Distribution of the FEIS was not made when the notice of availability was published in FR 4–13–79 and it is refiled as of 4–26–79. See Appendix I.

Appendix V.—*Availability of reports/additional information relating to EIS's previously filed with EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
U.S. ARMY CORPS OF ENGINEERS			
Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, (202) 693–6795.	Clarification statement to the April 1974 FEIS Cleveland Harbor Operations & Maintenance, Cuyahoga County, Ohio.	4–25–79	90427
	Supplemental information to the FEIS local flood protection project, Milan, Illinois.	4–26–79	90434
	Supplemental information to the FEIS local flood protection project, Davenport, Iowa.	4–26–79	90435

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Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
DEPARTMENT OF TRANSPORTATION				
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-4357.	FL-45, Halfway Creek to North of Estero (FS).	Final Supplement 90376	4-20-79	The agency number that was published was incorrect and should have stated (FHWA-FL-EIS-72-13-FS).
DEPARTMENT OF INTERIOR				
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, (202) 343-3891.	Haleakala National Park, Boundary Expansion.	Draft Supplement 90110	2-13-79	A retraction for this was published in FR 2-27-79 and the DS was refiled 3-5-79. The notice of availability should have been published in FR 3-19-79. Comments were due 4-30-79.

[FRL 1216-7]
[FR Doc. 79-14053 Filed 5-3-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Sea-Land Service, Inc. (Sea-Land) Proposed 5-Percent General Rate Increase in Six Puerto Rico and Virgin Islands Trades; Order of Investigation and Hearing

On January 28, 1979, Sea-Land Service, Inc. filed amendments to its tariffs covering its services in the Puerto Rico-Virgin Islands trades, proposing a five (5) percent general rate increase, effective April 1, 1979. The proposed increases were later postponed, except as noted below, to May 1, 1979, to coincide with the effective date of a similar increase proposed by the Puerto Rico Maritime Shipping Authority, a competitor of Sea-Land. The proposed increases apply to all ocean freight rates, extra size charges, per trailer rates or maximum charges per trailer, minimum charges for exclusive use of trailer, and charges for the return of empty pallets, tarpaulins, tote bins, etc. in the subject trades. In addition to the above, the charge for southbound trailerloads of pallets used for the northbound carriage of rum is also subject to the five percent increase. Accomplishment of the proposed changes was made by the filing of supplements to the involved tariffs which are shown below.

Sea-Land intends to discontinue the service provided pursuant to Tariffs FMC–F No. 51 and FMC–F No. 52,[1] two of the tariffs subject to the increase, and filed supplements which would have cancelled the tariffs on April 8, 1979. However, in order to allow itself adequate time to amend its applicable Puerto Rican tariffs to provide for the commodity movements presently provided for under Tariffs FMC–F Nos. 51 and 52, Sea-Land filed appropriate supplements to the tariffs, postponing the April 1 effective date of the proposed increase and the proposed April 8 cancellation date, until May 15, 1979. Since the tariffs are being cancelled May 15, 1979, the proposed increase will not become effective.

Supporting data, as required at the time of the filing of the proposed increase, was submitted with the tariff filings. At the time of Sea-Land's initial filing of the proposed increase, the Commission had not yet amended its Rules of Practice and Procedure to establish the filing procedure for said general rate increase, thus we have not received any of the carrier's exhibits, documents, testimony or supporting workpapers.

Protests were recevied from the Puerto Rico Manufacturers Association (PRMA) on February 27, 1979, and the Government of the Virgin Islands (GVI) on April 12, 1979.

PRMA, who requests that a hearing and investigation be held, contends that the proposed general rate increase may actually exceed five percent when combined with increases made in individual commodity items. PRMA expresses concern that it, and/or its members, may have been subjected to the payments of rates for transportation which were, and are, unjust and unreasonable.

The GVI estimated that in 1977, 4.87 percent of all cargo carried by Sea-Land to Puerto Rico from East Coast ports was destined for the Virgin Islands.[2] Upon receiving notice of Sea-Land's increases and after contacting the carrier, the GVI states that they were supplied with a copy of Sea-Land's General Order 11 and four pages of testimony. No other exhibits, documents, testimony or supporting workpapers related to the proposed increases were received. After review of the data submitted, the GVI believes that Sea-Land has failed to provide sufficient justification that its proposed rates are just, reasonable and lawful under section 18(a) of the Shipping Act, 1916, and under sections 3 and 4 of the Intercoastal Shipping Act of 1933 as amended.

The GVI submits that due in part to the complexity of the issues raised, the questionable nature of Sea-Land's projected data, the need to resolve the issue of whether Sea-Land's LTL trade to and from the Virgin Islands is unfairly subsidizing the less profitable routes of the carrier between the mainland and Puerto Rico, and due to the significant volume of additional information that Sea-Land must provide to establish the reasonableness of its proposed rates, a hearing is required. The GVI requests that an investigation of the proposed rates be initiated and that such investigation include at least the following issues:

1. Whether the proposed rates are unjust and unreasonable in that they will provide Sea-Land with an excessive return as measured by accepted analytical methods;

2. Whether the proposed rates on Virgin Islands LTL service are unjust and unreasonable in that they will provide Sea-Land with an excessive return on such service as measured by accepted analytical methods and as compared to the return being earned on other portions of the trade;

3. Whether Sea-Land's projection of the revenue that is designed to be produced by the proposed rates is reasonable;

4. Whether Sea-Land's projection of expenses related to the trade at issue is reasonable;

5. What is a reasonable method of allocation of rate base and expenses to each of the trades at issue; and

6. Whether the proposed rates are unjust and unreasonable in that their negative effect on the Virgin Islands economy outweighs the carrier's need, if any, for increased revenues.

Sea-Land's reply, to the protest of PRMA was received in the Commission on April 6, 1979, prior to the filing of GVI's protest. Sea-Land's April 23, 1979 reply to the protest of GVI was received late to be considered by the Commission.

Sea Land contends that the financial data which it has submitted demonstrates that the five percent general raise increase is fully justified. The carrier states that its General Order No. 11 Report for the 12 months immediately preceding the general rate increase shows that it incurred a loss in the Puerto Rico trade and that, had its revenue for that 12 month period been increased by five percent, Sea-Land's rate of return would have been less than three percent on rate base. Sea-Land believes that it has clearly demonstrated the need for additional revenue to be generated by the five percent increase. This would still leave the carrier in a position of earning an inferior rate of return on investment.

Sea-Land further states that it has reviewed its tariff activity in its Atlantic and Gulf/Puerto Rico tariffs for the 12 months preceding the filing of the five percent general rate increase[3] and concluded that there was but one increase in one individual commodity.[4] After determining that there were numerous decreases, Sea-Land states that they decided not to attempt the effort to quantify the decreases.

It is Sea-Land's contention that the evidence (namely the official tariffs on file with the FMC) is overwhelming and establishes that, as a general revenue matter, the carrier's tariff activity in the 12 months preceding the general revenue increase has, because of competition and other market factors, been to reduce, and not to increase general revenue.

While a number of areas regarding Sea-Land's data have been clarified, many questions raised in the protests, as set forth below, remain unanswered. We are of the opinion, therefore, that the increases should be investigated.

Now, therefore, it is ordered, That, pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. sections 815, 821, 845, 845a), an expedited investigation is hereby instituted into the lawfulness of the tariff matters listed in Attachment No. 1 for the purpose of making such findings as the facts and circumstances warrant;

It is further ordered, That, this proceeding be limited to an investigation of the following areas:

1. What effect did Sea-Land's change in the treatment of overland costs from a reduction of revenue to an increase in "terminal and container expense" have on the calculation of projected revenue and, in light of the change, how can the projected revenue be compared with prior period revenues?

2. Why are direct vessel and port and cargo expenses in the South Atlantic/Puerto Rico trade projected to increase by 60 percent while the volume of traffic is projected to increase by only 40 percent?

3. Why is there a projected 103 percent increase in "other property and equipment" as a rate base item in the South Atlantic/Puerto Rico trade?

4. Why is there a projected increase in "working capital" for all trades despite a decreasing volume of traffic in all but one trade?

5. Why are direct vessel and port and cargo expenses in trades other then South Atlantic/Puerto Rico trade projected to decrease by only 16 percent while the volume of traffic is proejcted to decrease by 29 percent?

6. Why is the rate-of-return in the East Coast/Virgin Islands trade declining?

It is further ordered, That Sea-Land Service, Inc. be named Respondent in this proceeding;

It is further ordered, That the Government of the Virgin Islands and the Puerto Rico Manufacturers Association be named Protestants in this proceeding;

It is further ordered, That in accordance with Rule 42 of the Commission's Ruels of Practice and Procedure (46 CFR 502.42), Hearing Counsel shall be a party to this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge;

It is further ordered, That the parties submit to the Administrative Law Judge, at a prehearing conference, recommendations identifying all unresolved issues and specifying the type of procedure best suited to resolve them. After consideration of these recommendations, the Administrative Law Judge will issue an appropriate order limiting the issues and establishing the procedure for their resolution;

It is further ordered, That the hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That any hearing in this proceeding shall be completed within sixty days of service of this order;

It is further ordered, That the initial decision of the Presiding Administrative Law Judge shall be submitted in writing to the Commission within one hundred and twenty days of service of this order;

It is further ordered, That during the pendency of this investigation, Respondent will serve the Administrative Law Judge and all parties of record with notice of any tariff changes affecting the material under investigation at the same time such changes are filed with the Commission;

It is further ordered, That notice of this Order be published in the **Federal Register**, and a copy be served upon all parties of record;

It is further ordered, That any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, That except as provided in Rules 159 and 201(s) of the Commission's Rules of Practice and Procedure, (46 CFR 502.159, 46 CFR 502.201(s)), all documents submitted by any party of record in this proceeding

[1] Tariff FMC–F No. 51 contains joint commodity rates via rail-water applicable to Puerto Rico from Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, North Carolina, Ohio, Tennessee, Texas, Virginia and Wisconsin.

Tariff FMC–F No. 52 contains joint commodity rates via water-rail applying from Puerto Rico to Georgia, Illinois, Missouri, Nevada, North Carolina, Ohio, Oklahoma, Tennessee and Texas.

[2] Sea-Land's Virgin Islands bound cargo is moved from Puerto Rico via three feeder services, Caribbean Area Transportation, Inc. (Agreement No. DC–74), Interisland Intermodal Lines, Inc. (Agreement No. DC–87), and International Maritime Transport Service, Inc. (Agreement No. DC–130).

[3] Because of changes in the West Coast/Puerto Rico service from all-water to mini-bridge, Sea-Land alleges that the tariff logs are not accurate and no attempt was made to survey individual rate activity in those tariffs.

[4] Sea-Land's Tariff FMC–F No. 36 U.S. South Atlantic/Puerto Rico, Item No. 9660 "Glucose in carriers" tank trailers was increased from 285 cents, minimum 40,000 pounds to 308 cents, minimum 45,000 pounds, effective December 21, 1978. Sea-Land advises that this was a proportional rate and because of added service to Savannah, Georgia, resulted in no increased cost to the shipper.

shall be filed in accordance with Rule

FMC–F No. 37 (Applying From Ports in

purpose of publishing this notice in the

specifically provided in Part 375 may

DATES: Bioavailability supplements to

milligrams, caffeine 32 milligrams, and codeine phosphate 16 milligrams;

shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,
Secretary.

The following Amendments are scheduled to become effective May 1, 1979:

FMC–F No. 27 (Applying Between U.S. Atlantic and Gulf Ports and Virgin Islands Ports)

Supplement No. 6 and:

9th Revised Page 64
14th Revised Page 78
12th Revised Page 92
13th Revised Page 65
10th Revised Page 78–A
10th Revised Page 92–A
9th Revised Page 66
10th Revised Page 79
10th Revised Page 93
14th Revised Page 67
10th Revised Page 80
10th Revised Page 93–A
11th Revised Page 68
13th Revised Page 81
9th Revised Page 94
11th Revised Page 71
11th Revised Page 82
10th Revised Page 94
11th Revised Page 72
12th Revised Page 83
15th Revised Page 95
12th Revised Page 72
15th Revised Page 84
9th Revised Page 96
11th Revised Page 72–A
11th Revised Page 85
9th Revised Page 97
12th Revised Page 73
12th Revised Page 85–A
10th Revised Page 99
12th Revised Page 74
9th Revised Page 86
11th Revised Page 100
11th Revised Page 74–A
11th Revised Page 87
14th Revised Page 104
17th Revised Page 75
9th Revised Page 88
6th Revised Page 105
18th Revised Page 75
9th Revised Page 89
14th Revised Page 106
14th Revised Page 75–A
11th Revised Page 90
14th Revised Page 107
13th Revised Page 76
17th Revised Page 91
10th Revised Page 77
18th Revised Page 91

FMC–F No. 34 (Applying Between U.S. Atlantic Ports and Ports in Puerto Rico)

Supplement No. 8

FMC–F No. 36 (Applying From U.S. South Atlantic Ports to Ports in Puerto Rico)

Supplement No. 6

FMC–F No. 37 (Applying From Ports in Puerto Rico to U.S. South Atlantic Ports)

Supplement No: 6

FMC–F No. 40 (Applying From U.S. Gulf Ports to Ports in Puerto Rico)

Supplement No. 5

FMC–F No. 41 (Applying From Ports in Puerto Rico to U.S. Gulf Ports)

Supplement No. 5

FMC–F No. 45 (Applying From Rail Carrier's Terminals at U.S. Pacific Seaport Cities to Ports in Puerto Rico and the U.S. Virgin Islands)

Supplement No. 6

FMC–F No. 46 (Applying From Ports in Puerto Rico and the U.S. Virgin Islands To Rail Carriers' Terminals at U.S. Pacific Seaport Cities)

FMC–F No. 53 (Applying Between San Juan, Puerto Rico and Canadian Ports With Interchange at New Jersey-Intermodal Tariff)

Supplement No. 2 and:

1st Revised Page 25
1st Revised Page 34
3rd Revised Page 44
1st Revised Page 26
1st Revised Page 35
2nd Revised Page 45
2nd Revised Page 28
1st Revised Page 36
1st Revised Page 46
1st Revised Page 27
1st Revised Page 37
1st Revised Page 47
2nd Revised Page 27
1st Revised Page 38
2nd Revised Page 48
1st Revised Page 28
1st Revised Page 39
2nd Revised Page 49
1st Revised Page 29
1st Revised Page 40
2nd Revised Page 50
1st Revised Page 30
1st Revised Page 41
3rd Revised Page 50
1st Revised Page 31
2nd Revised Page 42
2nd Revised Page 51
1st Revised Page 32
2nd Revised Page 43
2nd Revised Page 52
1st Revised Page 33
2nd Revised Page 44

[Docket No. 79–47]

[FR Doc. 79–13867 Filed 5–3–79; 8:45 am]

BILLING CODE 6730–01–M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on April 25, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before May 22, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Civil Aeronautics Board

The CAB requests clearance of the recordkeeping and reporting requirements contained in Part 375 of the Board's Special Regulations, "Navigation of Foreign Civil Aircraft Within the United States". Specifically section 375.43(b) which requires cargo operations to keep for one year true copies of all manifests, air waybills, invoices, and other traffic documents covering flights originating or terminating in the United States; section 375.43(c) which requires each holder of a permit for passenger operations to keep for six months a list of all passengers transported on each flight; section 375.44(b) which requires holders of permits issued under section 375.42 to submit letter reports to the Board of passenger flights conducted pursuant thereto or a letter stating that no operations were conducted; section 375.45 which requires that scheduled international air services proposed to be operated pursuant to the International Air Services Transit Agreement in transit across the United States not be undertaken by foreign civil aircraft unless the operator of such aircraft, and (if other than the operator) the carrier offering such service to the public, has, not less than 15 days prior to the date of commencement of such service, filed with the Board a Notice of Proposed Transit Flights Pursuant to the International Air Services Transit Agreement; and section 375.70 which requires that any person desiring to navigate a foreign civil aircraft within the United States otherwise than as specifically provided in Part 375 may petition the Board for authorization to perform the particular flight or series of flights. The CAB states that adherence to these requirements is mandatory under the Federal Aviation Act of 1958, as amended. The CAB estimates that potential respondents number approximately 109 Foreign Air Carriers and that reporting burden will average 15 minutes per report filed for section 375.44(b), 30 minutes per report filed for section 375.45, and 15 minutes per report filed for section 375.70. The CAB estimates that there is no burden on respondents for the recordkeeping requirements contained in sections 375.43(b) and 375.43(c).

Norman F. Heyl,
Regulatory Reports Review Officer.

[FR Doc. 79–13862 Filed 5–3–79; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Food and Drug Administration

Abbott Laboratories, Inc.; Panel Recommendation on Petition for Reclassification

Correction

In FR Doc. 79–6099, appearing at page 11832, in the issue of Friday, March 2, 1979, make the following corrections:

(1) On page 11832, in the last column, the fourth paragraph, the fourth line correct "1.25 I AFP" to read "125 I AFP".

(2) On page 11833, in the first column, the fifth line down, correct "performation" to read "perforation".

[Docket No. 78–F–0167]

BILLING CODE 1505–01–M

Carisoprodol in Combination With Phenacetin and Caffeine With or Without Codeine Phosphate; and Carisoprodol 250-Milligram Capsules; Drug Efficacy Study Implementation; Reevaluation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice (1) reclassifies carisoprodol in combination with phenacetin and caffeine, with or without codeine, and carisoprodol 250-milligram capsules to effective for use in acute musculo-skeletal conditions, and (2) announces the conditions for marketing the products.

DATES: Bioavailability supplements to approved new drug applications due on or before October 31, 1979. Other supplements due on or before July 3, 1979.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 11792, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Neuropharmacological Drug Products (HFD–120), Rm. 10B–34, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD—530), Bureau of Drugs.

Requests for guidelines on conducting dissolution tests: Division of Biopharmaceutics (HFD–520), Bureau of Drugs.

Requests for the report of the National Academy of Sciences—National Research Council: Public Records and Document Center (HFC–18), Rm. 4–62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301–443–3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 11792) published in the Federal Register of September 1, 1970 (35 FR 13854), the Food and Drug Administration announced its conclusion that the following drug products are possibly effective for the relief of pain and stiffness in a variety of traumatic, rheumatic, and other conditions affecting muscles and joints, and lack substantial evidence of effectiveness for all other labeled indications.

1. NDA 12–365; Soma Compound Tablets containing carisoprodol 200 milligrams, phenacetin 160 milligrams, and caffeine 32 milligrams;

2. NDA 12–366; Soma Compound with Codeine Tablets containing carisoprodol 200 milligrams, phenacetin 160 milligrams, caffeine 32 milligrams, and codeine phosphate 16 milligrams;

3. NDA 11–792; Soma Capsules containing carisoprodol 250 milligrams; all marketed by Wallace Pharmaceuticals, Division of Carter-Wallace, Inc., Half Acre Rd., Cranbury, NJ 08512.

Other drugs named in the September 1, 1970 notice are not affected by this notice.

The following is a discussion of Federal Register notices that were published about the products and information that was submitted in support of their effectiveness after the September 1, 1970 notice.

Carisoprodol 250 milligrams. No data were submitted on the 250-milligram strength of carisoprodol. A notice (DESI 11792; Docket No. FDC–D–685 (now Docket No. 78N–0116)) published in the Federal Register of August 15, 1974 (39 FR 29399), announced that this strength was regarded as an inappropriate strength, and the drug product was reclassified to lacking substantial evidence of effectiveness. The notice offered an opportunity for a hearing on the proposal to withdraw approval of that part of the new drug application pertaining to the 250-milligram product. No hearing was requested.

Carisoprodol, phenacetin, and caffeine. In a followup notice published in the Federal Register of March 21, 1975, (40 FR 12826), the combination drug product was reclassified to less than effective (probably effective) for use as an adjunct to rest, physical therapy, and other measures for the relief of discomfort associated with acute, painful musculo-skeletal conditions.

Carisoprodol, phenacetin, caffeine and codeine phosphate. No data were submitted, and in a notice (DESI 11792; Docket No. FDC–D–693 (now Docket No. 78N–0116)) published in the Federal Register of June 27, 1974 (39 FR 23292), the product was reclassified to lacking substantial evidence of effectiveness as a fixed combination for its labeled indications. The notice offered an opportunity for a hearing on the proposal to withdraw approval of the new drug application. On July 24, 1974, Wallace Pharmaceuticals requested a hearing.

In response to the notices discussed above, Wallace submitted data from clinical studies on Soma Compound and Soma Compound with Codeine designed to satisfy the requirements of the combination drug policy (21 CFR 300.50) and show that each component makes a contribution to the overall therapeutic

effect claimed for the drugs. The studies adequate information for safe and reference drug. Guidelines for

SUMMARY: This document announces a

Propoxyphene; Public Hearing

Dated: April 24, 1979.

Sanford A. Miller,

effect claimed for the drugs. The studies were reviewed and determined to provide substantial evidence of effectiveness for the combination products. Although data were not submitted specifically concerning a 250-milligram strength of carisoprodol, the studies of the two combinations, each of which contains 200 milligrams carisoprodol justify reclassifying the 250-milligrams carisoprodol to effective.

Accordingly, the June 27, 1974 and August 15, 1974 notices of opportunity for hearing (the latter as it pertains to carisoprodol 250 milligrams) are rescinded; and the September 1, 1970, August 15, 1974, and March 21, 1975 notices are amended to read as follows:

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application in a requirement for marketing such drug products.

In addition to the products specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug products are effective for the indications described in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* These preparations are in tablet or capsule form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

Carisoprodol; and Carisoprodol, Phenacetin and Caffeine

As an adjunct to rest, physical therapy, and other measures for the relief of discomfort associated with acute, painful musculo-skeletal conditions. The mode of action of carisoprodol has not been clearly identified, but may be related to its sedative properties. Carisoprodol does not directly relax skeletal muscles in man.

Carisoprodol, Phenacetin, Caffeine, and Codeine Phosphate

As an adjunct to rest, physical therapy, and other measures for the relief of discomfort associated with acute, painful musculo-skeletal conditions when the additional action of codeine is desired. The mode of action of carisoprodol has not been clearly identified, but may be related to its sedative properties. Carisoprodol does not directly relax tense skeletal muscles in man.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before July 3, 1979, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)). In addition, on or before October 31, 1979, the holders of such applications are required to supplement their applications to provide dissolution data conducted on three consecutive lots of the products in accordance with the methods provided for in the guidelines on conducting dissolution tests, which are available from the Division of Biopharmaceutics.

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such products. Bioavailability regulations (21 CFR 320.21) published in the **Federal Register** of January 7, 1977, require any person submitting an abbreviated new drug application after July 7, 1977, to include either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. For these products this requirement will be regarded as satisfied by adequate dissolution rate data comparing the test drug with the reference drug. Guidelines for conducting the dissolution test are available form the Division of Biopharmaceutics. If any dosage from of the drug fails to acheive adequate dissolution, its in vivo bioavailability must be demonstrated. Marketing prior to approval of a new drug application will subject such products, and those persons who cause the products to be marketed to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: April 23, 1979.

J. Richard Crout,
Director, Bureau of Drugs.

[Docket No. 78N–0116; DESI 11792]
[FR Doc. 79–13563 Filed 5–3–79; 8:45 am]
BILLING CODE 4110–03–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forthcoming consumer exchange meeting to be chaired by George Gerstenberg, District Director, Brooklyn District Office, Brooklyn, NY.

DATE: The meeting will be held from 10:30 a.m. to 12:30 p.m., Wednesday, May 16, 1979.

ADDRESS: The meeting will be held at 28 Federal Plaza, Rm. 1–102, New York, NY.

FOR FURTHER INFORMATION CONTACT: Alicia Martinez, Consumer Affairs Officer, Food and Drug Administration, 830 Third Ave., Brooklyn, NY 11232, 212–965–5754.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and Food and Drug Administration (FDA) officials to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and the FDA Brooklyn District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: April 30, 1979.

Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–14072 Filed 5–3–79; 8:45 am]
BILLING CODE 4110–03–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forthcoming consumer exchange meeting to be chaired by Maurice J. Strait, District Director, Baltimore District Office, Baltimore, MD.

DATE: The meeting will be held at 10 a.m., Thursday, June 7, 1979.

ADDRESS: The meeting will be held at Department of Health, Education, and Welfare, Food and Drug Administration, Conference Rm., 900 Madison Ave., Baltimore, MD 21201.

FOR FURTHER INFORMATION CONTACT: Anne B. Lane, Supervisor, Consumer Affairs, Food and Drug Administration, Department of Health, Education, and Welfare, 900 Madison Ave., Baltimore, MD 21201, 301–962–3731.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and Food and Drug Administration (FDA) officials to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and the FDA Baltimore District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: April 30, 1979.

Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–14074 Filed 5–3–79; 8:45 am]
BILLING CODE 4110–03–M

Immunology Devices Section of the Immunology and Microbiology Devices Panel; Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The meeting of the Immunology Device Section of the Immunology and Microbiology Devices Panel announced by notice in the **Federal Register** of April 17, 1979 (44 FR 22812), for May 17 and 18, 1979, has been cancelled.

FOR FURTHER INFORMATION CONTACT: William C. Dierksheide, Bureau of Medical Devices (HFK–440), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–427–7234.

Dated: April 30, 1979.

Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

[FR FR Doc. 79–14073 5–3–79; 8:45 am]
BILLING CODE 4110–03–M

Propoxyphene; Public Hearing

Correction

In FR Doc. 79–6246, appearing at page 11837, in the issue of Friday, March 2, 1979, make the following corrections:

(1) On page 11838, in the last column, the last pararaph, the sixth line, correct "trail" to read "trial".

(2) On page 11840, in the second column, the first line, correct "reviewed" to read "received".

(3) On page 11848, in the middle column under the undesignated center heading "References", in paragraph 7., the last line, correct "113:251" to read "13:251".

[Docket No. 77 N–0288; DESI 10990]
BILLING CODE 1505–01–M

Sandoz, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Sandoz, Inc., has filed a petition proposing that the food additive regulations be amended to express the use limitation on the optical brightener 7-(2*H*-naptho[1, 2-*d*] triazol-2-yl)-3-phenyl-coumarin in olefin polymers intended for food contact as the product of the concentration of the optical brightener in the polymer times the thickness of the polymer.

FOR FURTHER INFORMATION CONTACT: John J. McAuliffe, Bureau of Foods (HFF–334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B3431) has been filed by Sandoz Color and Chemicals, a Division of Sandoz, Inc., E. Hanover, NJ 07936, proposing to amend § 177.1520 *Olefin polymers* (21 CFR 177.1520 in paragraph (b) to express the use limitation on the optical brightener 7-[2*H*-naptho[1,2-*d*] triazol-2-yl)-3-phenyl-coumarin in olefin polymers intended for food contact as the product of the concentration of the optical brightener in the polymer times the thickness of the polymer.

The agency has determined that the proposed action falls under 21 CFR 25.1(f)(1)(v) and is exempt from the requirement of an environmental impact analysis report, and that no environmental impact statement is necessary.

Dated: April 24, 1979.

Sanford A. Miller,
Director, Bureau of Foods.

[Docket No. 79F–0119]
[FR Doc. 79–13875 Filed 5–3–79; 8:45 am]
BILLING CODE 4110–05–M

Health Resources Administration

National Advisory Council on Nurse Training; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of May 1979:

Name: National Advisory Council on Nurse Training
Date and Time: May 22–24, 1979, 10:30 a.m.
Place: Room 339A Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201.
Open May 22, 1979, 10:30 a.m.–12:15 p.m.
Closed remainder of meeting.
Purpose: The Council advises the Secretary and Administrator, Health Resources Administration, concerning general regulations and policy matters arising in the administration of the Nurse Training Act of 1975. The Council also performs final review of grant applications for Federal assistance, and makes recommendations to the Administrator, HRA.
Agenda: Agenda items for the open portion of the meeting include announcements; consideration of minutes of previous meeting; discussion of future meeting dates; and administrative and staff reports. The remainer of the meeting will be devoted to the review of grant applications for Federal assistance, and will therefore be closed to the public in accordance with prvosions set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Dr. Mary S. Hill, Bureau of Health Manpower, Room 3–50, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436–6681.

Agenda items are subject to change as priorities dictate.

Dated: April 30, 1979.

James A. Walsh,
Associate Administrator for Operations and Management.

[FR Doc. 79–13880 Filed 5–3–79; 8:45 am]
BILLING CODE 4110–83–M

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National Institutes of Health

Report on Bioassay of Azobenzene for Possible Carcinogenicity; Availability

Azobenzene (CAS 103–33–3) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of azobenzene for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice. The chemical is a byproduct in the manufacture of benzidine, a human carcinogen.

It is concluded that under the conditions of this bioassay, azobenzene was carcinogenic (sarcomagenic) for F344 rats, inducing various types of sarcomas in the spleen and other abdominal organs of both males and females. The test chemical was not carcinogenic for B6C3F1 mice of either sex.

Single copies of the report, Bioassay of Azobenzene for Possible Carcinogenicity (T.R. 154), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: April 27, 1979.

Donald S. Fredrickson,
Director, National Institutes of Health.

[FR Doc. 79–13685 Filed 5–3–79; 8:45 am]

BILLING CODE 4110–08–M

Report on Bioassay of 2,4-Diaminotoluene for Possible Carcinogenicity; Availability

2,4-Diaminotoluene (CAS 95–80–7) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 2,4-diaminotoluene for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice. Applications of the chemical include use in hair dyes and as an intermediate in the manufacture of polyurethanes, dyes, varnishes, wood stains and pigments.

Under the conditions of this bioassay, 2,4-diaminotoluene was carcinogenic for F344 rats, inducing hepatocellular carcinomas or neoplastic nodules in both males and females and carcinomas or adenomas of the mammary gland in females. The test chemical was also carcinogenic for female B6C3F1 mice, inducing hepatocellular carcinomas. The incidence of lymphomas in the female mice suggested that these tumors also may have been related to administration of the test chemical.

Single copies of the report, Bioassay of 2,4-Diaminotoluene for Possible Carcinogenicity (T.R. 162), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: April 27, 1979.

Donald S. Fredrickson,
Director, National Institutes of Health.

[FR Doc. 79–13683 Filed 5–3–79; 8:45 am]

BILLING CODE 4110–08–M

Report on Bioassay of 6-Nitrobenzimidazole for Possible Carcinogenicity; Availability

6-Nitrobenzimidazole (CAS 94–52–0) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of 6-nitrobenzimidazole was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use in photographic developers. 6-Nitrobenzimidazole was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, dietary administration of 6-nitrobenzimidazole was not carcinogenic to Fischer 344 rats; however, the compound was carcinogenic to B6C3F1 mice, causing hepatocellular carcinomas in both sexes.

Single copies of the report, Bioassay of 6-Nitrobenzimidazole for Possible Carcinogenicity (T.R. 117), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: April 27, 1979.

Donald S. Fredrickson,
Director, National Institutes of Health.

[FR Doc. 79–13684 Filed 5–3–79; 8:45 am]

BILLING CODE 4110–08–M

Report on Bioassay of 2,4,5-Trimethylaniline for Possible Carcinogenicity; Availability

2,4,5-Trimethylaniline (CAS 137–17–7) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 2,4,5-trimethylaniline for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice. Applications of the chemical include use in the manufacture of the red dye Ponceau 3R.

It is concluded that under the conditions of this bioassay, 2,4,5-trimethylaniline was carcinogenic for male and female F344 rats and female B6C3F1 mice, including hepatocellular carcinomas or neoplastic nodules in the rats of each sex, alveolar/bronchiolar carcinomas in the female rats, and hepatocellular carcinomas in the female mice.

Single copies of the report, Bioassay of 2,4,5-Trimethylaniline for Possible Carcinogenicity (T.R. 160), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20205.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: April 27, 1979.

Donald S. Fredrickson,
Director, National Institutes of Health.

[FR Doc. 79–13686 Filed 5–3–79; 8:45 am]

BILLING CODE 4110–08–M

Office of the Secretary

Board of Advisors to the Fund for the Improvement of Postsecondary Education; Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that the next meeting of the Board of Advisors to the Fund for the Improvement of Postsecondry Education will be held on May 17, 1979 at 5:00 p.m. through May 19, 1979 at 2:30 p.m. at the Belmont Conference Center, 6555 Belmont Woods, Elkridge, Maryland.

The Board of Advisors to the Fund was established to recommend to the Director of the Fund and the Assistant Secretary for Education priorities for funding and the approval or disapproval of grants and contracts of a given kind or over a designated amount under Section 404 of the General Education Provisions Act.

The meeting will not be open to the public. It will be for the sole purpose of reviewing and evaluating grant applications submitted to the Fund under the Comprehensive Program. The meeting will involve discussion of project designs, personnel, and other information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. It has therefore been determined that closing this meeting is in accordance with 5 U.S.C. 552b(c)(4) and (6) and the policies of the Federal Advisory Committee Act.

A summary of the proceedings of the meeting and a roster of members may be obtained from the Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, S.W., Room 3123, Washington, D.C. 20202, telephone (202) 245–8091.

Signed at Washington, D.C. on April 11, 1979.

Ernest Bartell,
Director, Fund for the Improvement of Postsecondary Education.

[FR Doc. 79–13039 Filed 5–3–79; 8:45 am]

BILLING CODE 4110–12–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Burns-Paiute Indian Reservation; Acceptance of Retrocession of Jurisdiction

April 25, 1979.

Pursuant to the authority vested in the Secretary of the Interior by Executive Order No. 11435 (33 FR 17339) and redelegated to the Assistant Secretary, Indian Affairs by 209 DM 8, I hereby accept, as of 12:01 a.m. (est) of the day following publication of this notice in the **Federal Register**, retrocession to the United States of all jurisdiction, Civil and Criminal, exercised by the State of Oregon over the Burns-Paiute Indian Reseration, in the State of Oregon as offered by the Governor of Oregon in Executive Order No. EO–79–04 on the 22nd day of February, 1979, Salem, Oregon.

Forrest J. Gerard,
Assistant Secretary, Indian Affairs.

[FR Doc. 79–13040 Filed 5–3–79; 8:45 am]

BILLING CODE 4310–02–M

Membership Roll of the Confederated Tribes of Siletz Indians of Oregon

The membership roll of the Confederated Tribes of Siletz Indians of Oregon has been prepared under the Act of November 18, 1977 (95 Stat. 1415), and the regulations issued by the Assistant Secretary—Indian Affairs to assist in its preparation, specifically Subchapter F, Chapter I, Part 43p of Title 25 of the Code of Federal Regulations.

This membership roll, compiled for use in the restoration of federal recognition of these tribes is published as required by Section 6(3)(3) of the November 18, 1977, Act.

Dated: April 24, 1979.

Rick Lavis,
Deputy Assistant Secretary—Indian Affairs.

Department of the Interior, Bureau of Indian Affairs; Membership Roll of the Confederated Tribes of Siletz Indians of Oregon prepared under the Act of November 18, 1977 (95 Stat. 1415)

Certification

The undersigned certify that to the best of our belief and knowledge the attached roll consisting of 44 pages (in the original document) and containing a total of 1083 names constitutes the Membership Roll of the Confederated Tribes of Siletz Indians of Oregon prepared in accordance with Sections 4a, b, and c, of the Act of November 18, 1977 (95 Stat. 1415), and the regulations issued in Subchapter F, Chapter I, Part 43p, of Title 25 of the Code of Federal Regulations.

Dated: April 14, 1979.

Arthur S. Bussell,
Tribal Council Chairman.

Lois C. Chilcott,
Tribal Enrollment Officer.

Approval

In accordance with Section 4(b)(2)(2), of the Act of November 18, 1977 (95 Stat. 1415), dispostion has been made of all current appeals to the Secretary of the Interior from the rejection of the applications for the inclusion of persons on the roll prepared under the act. Consequently, subject to the adjudication of any additional appeals and under the regulations issued in Subchapter F, Chapter I, Part 43p, of Title 25 of the Code of Federal Regulations, the Membership Roll of the Confederated Tribes of Siletz Indians of Oregon, a copy of which is attached, is approved.

Vincent Little,
Area Director.

[FR Doc. 79–13689 Filed 5–3–79; 8:45 am]

BILLING CODE 4310–02–M

2–A04053 0034(02)(03–MAY–79–18:31:18)

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Membership Roll of the Confederated Tribes of Siletz Indians of Oregon, prepared under the Act of November 18, 1977 (95 Stat. 1415).

Roll Number	Name	Address	Sex	Date of Birth	Degree Siletz Blood	Total Indian Blood	Basic Roll Number	Ancestor's Name and Relationship
1	ADAMS, Naomi Virginia(Lane)	5948 Stayton Rd., Turner, OR 97392	F	7-23-45	3/8	3/8	490	Self
2	ADAMS, Russell	395 N.W. 21st Dr., Pendleton, OR 97801	M	5-30-96	3/4	3/4	2	Self
3	ALICANTE, Augusta (Evans)	7412 Westlawn Ave., Los Angeles, CA 90045	F	11-28-98	3/4	3/4	4	Self
4	ALTREE, Florence (Martin)	Box 53, Tenakee Springs, AK 99841	F	9-12-17	3/8	3/8	365	Self
5	ANDEREGG, Verdene Myrtle (McQuire)	Route 3, Box 355, Troutdale, OR 97060	F	9-18-50	1/4	1/4	609	Self
6	ANDERSON, Montie Gene	560 W. 15th St., Lebanon, OR 97355	M	9-13-64	7/16	7/16	---	Joan Washington - Son
7	ANDERSON, Patricia Marie (Flagg)	4806 Talisman, Ave., S., Salem, OR 97302	F	3-18-55	7/16	7/16	---	Mercelene Flagg - Dau
8	ANDERSON, Vance Ernest	560 W. 15th St., Lebanon, OR 97355	M	9-14-60	7/16	7/16	---	Joan Washington - Son
9	ANDERSON, Vanessa L.	560 W. 15th St., Lebanon, OR 97355	F	9-24-62	7/16	7/16	---	Joan Washington - Dau
10	ANTIOQUIA, Serena (Logan)	Rt. 3, Box 1668, Port Angeles, WA 98362	F	3-20-39	1/2	1/2	539	Self
11	ARDEN, Amos B.	55 N.W. 23rd, Gresham, OR 97030	M	4-14-30	1/2	1/2	7	Self
12	ARDEN, Clayborne William	55 N.W. 23rd, Gresham, OR 97030	M	8-09-60	1/4	1/4	---	Amos Arden - Son
13	ARDEN, Clinton Anthony	832 S.E. 148th, Portland, OR 97233	M	5-02-57	1/4	1/4	---	Amos Arden - Son
14	ARDEN, Lisa Denice	55 N.W. 23rd, Gresham, OR 97030	F	10-26-58	1/4	1/4	---	Amos Arden - Dau
15	ARDEN, Steven Douglas	55 N.W. 23rd, Gresham, OR 97030	M	7-08-54	1/4	1/4	8	Self
16	ARRINGTON, Dorothy(Delgado)	1342 S. E. Tacoma, Portland, OR 97202	F	9-24-24	3/8	3/8	273	Self
17	ARTIAGO, Maurice William	8616 S. E. 16th, Portland, OR 97202	M	8-26-51	3/16	3/16	11	Self
18	ASHLEY, Darrel David	c/o Mary Ashley, Rt. 1, Box 66, Brookings, OR 97415	M	4-08-69	1/4	1/4	---	Martina Gilbert - Son
19	ASHLEY, Mary (Curl)	Route 1, Box 66, Brookings, OR 97415	F	12-19-38	1/2	1/2	198	Self
20	AUSTIN, June	4733 N. E. 30th, Portland, OR 97211	F	6-09-24	5/8	5/8	925	Self
21	AUSTIN, Randall C.	4733 N. E. 30th, Portland, OR 97211	M	3-21-61	5/16	5/16	---	June Austin - Son
22	AVERY, Letha Louise	2001 N.W. Van Buren Ave., Corvallis, OR 97330	F	9-02-07	1/8	1/8	12	Self
23	BAILEY, Julie	c/o Priscilla Hoffenbredl, 30100 Salmon River Hwy, Grand Ronde, OR 97347	F	2-18-62	1/4	1/4	---	Kenneth Logan - Dau
24	BAKER, George, Jr.	P. O. Box 34, Siletz, OR 97380	M	11-26-14	1/2	1/2	13	Self
25	BAKER, Gilbert Francis	Box 141, Copalis Beach, WA 98535	M	7-24-28	1/2	1/2	18	Self
26	BAKER, Judy Ann	P. O. Box 34, Siletz, OR 97380	F	3-22-44	1/4	1/4	14	Self
27	BAKER, Lloyd	Box 102, Garibaldi, OR 97118	M	12-09-16	1/2	1/2	15	Self
28	BAKER, Margaret Cecelia (Girard)	633 Ferry St., S. E., Monterey Apts, No. 110 Salem, OR 97301	F	4-31-52	1/8	1/8	330	Self
29	BALLIE, Sandra May	921 S. K Street, Lakeworth, FL 33460	F	4-06-46	1/4	1/4	506	Self
30	BALZA, Alice C. (Menard)	7506 N. Kerby, Portland, OR 97217	F	5-22-18	3/4	3/4	19	Self

Membership Roll of the Confederated Tribes of Siletz Indians of Oregon, prepared under the Act of November 18, 1977 (95 Stat. 1415).

Roll Number	Name	Address	Sex	Date of Birth	Degree Siletz Blood	Total Indian Blood	Basic Roll Number	Ancestor's Name and Relationship
31	BARNHURST, Cathleen Rose (Rickette)	93320 Dorsey Lane, Junction City, OR 97448	F	12-22-48	1/4	1/4	689	Self
32	BARTOW, Bert Alured	Box 145, Reedsport, OR 97467	M	8-16-22	1/4	1/4	22	Self
33	BARTOW, Grace (Walker)	Box 145, Reedsport, OR 97467	F	5-21-92	1/2	1/2	21	Self
34	BARTOW, Nancy Lee	6665 N. C, Springfield, OR 97477	F	7-02-49	1/8	1/8	23	Self
35	BASYE, Sondra Claire (Shields)	4600 Auburn, #26, Sacramento, CA 95841	F	12-05-47	1/8	1/8	741	Self
36	BATTISE, Eva	c/o St. Timothy Nursing Home, 820 Cottage, N. E., Salem, OR 97302	F	10-26-21	4/4	4/4	312	Self
37	BATTISE, James William	6195 Lake Labish Rd., Salem, OR 97303	M	2-02-45	1/2	1/2	313	Self
38	BATTISE, Kay Annette	6195 Lake Labish Rd., Salem, OR 97303	F	11-04-66	1/4	1/4	---	James Battise - Dau
39	BAYYA, Evaristo L.	c/o Lillian Bayya, Box 124, Siletz, OR 97380	M	10-23-57	1/4	1/4	---	Lillian Bayya - Son
40	BAYYA, Lillian (Lawson)	Box 124, Siletz, OR 97380	F	9-11-22	1/2	1/2	28	Self
41	BAYYA, Robert Lee	Box 124, Siletz, OR 97380	M	6-15-52	1/4	1/4	29	Self
42	BAYYA, Sammy, Jr.	c/o Lillian Bayya, Box 124, Siletz, OR 97380	M	2-09-55	1/4	1/4	---	Lillian Bayya - Son
43	BEALS, Peter J.	c/o C.E. Beals, 5198 Skyline Rd., S., Salem, OR 97302	M	9-13-57	1/2	1/2	---	Maxine Preston - Son
44	BEAVER, Crystal Fayne(Curl)	P. O. Box 155, Glide, OR 97347	F	7-30-52	1/2	1/2	205	Self
45	BELGARD, Brenda Dawn	Siletz, OR 97380	F	4-02-54	1/4	1/4	33	Self
46	BELGARD, Ronald Craig	3636 S. E. Hall, #16, Portland, OR 97206	M	6-10-51	1/4	1/4	31	Self
47	BELGARDE, Gary L., Sr.	852 Shangri-La Ave., N.E., Salem, OR 97303	M	8-14-51	7/16	7/16	36	Self
48	BELGARDE, Geraldine Gloria (Strong)	1185 N.E. Market, Salem, OR 97303	F	2-18-29	7/8	7/8	34	Self
49	BELGARDE, Jacqueline Mae	852 Shangri-La Ave., N.E., Salem, OR 97303	F	11-27-52	7/16	7/16	37	Self

Membership Roll of the Confederated Tribes of Siletz Indians of Oregon, prepared under the Act of November 18, 1977 (95 Stat. 1415).

Page 3

Roll Number	Name	Address	Sex	Date of Birth	Degree Siletz Blood	Total Indian Blood	Basic Roll Number	Ancestor's Name and Relationship
50	BELGARDE, Verne Gerald	3225 Knox Butte, Albany, OR 97321	M	10-25-46	7/16	7/16	35	Self
51	BELGARDE, Wanda Rae	262 4th St., Reedsport, OR 97467	F	11-25-53	7/16	7/16	38	Self
52	BELL, Angelena Agnes	Fort Belknap Agency, Harlem, MT 59526	F	12-22-47	3/8	3/8	45	Self
53	BELL, Delbert Wayne	636 G Street, Springfield, OR 97477	M	8-25-40	7/8	7/8	42	Self
54	BELL, James Douglas	Fort Belknap Agency, Harlem, MT 59526	M	12-17-48	3/8	3/8	46	Self
55	BELL, Signa Arlene	Box 852, Harlem, MT 59526	F	5-21-51	3/8	3/8	48	Self
56	BELL, Sina (Thompson)	Fort Belknap Agency, Harlem, MT 59526	F	4-19-20	3/4	3/4	44	Self
57	BELL, Theodore Elliott	Fort Belknap Agency, Harlem, MT 59526	M	8-07-52	3/8	3/8	49	Self
58	BELLINGER, Cynthia K.	Siletz, OR 97380	F	6-14-48	5/16	5/16	51	Self
59	BELLINGER, Donald	820 Cherry St., Apt. F, Seattle, WA 98501	M	1-29-24	5/8	5/8	50	Self
60	BELLINGER, Donald Walter	820 Cherry St., Apt. F, Seattle, WA 98501	M	3-23-47	5/16	5/16	52	Self
61	BELLINGER, Gregory Phillip	Siletz, OR 97380	M	7-23-51	5/16	5/16	53	Self
62	BEN, Archie	Box 213, Siletz, OR 97380	M	5-25-1900	4/4	4/4	54	Self
63	BEN, Chester Allen	Box 213, Siletz, OR 97380	M	11-19-53	3/8	3/8	60	Self
64	BEN, Edmond Archie, Jr.	4886 Portland Rd., N. E. #3, Salem, OR 97303	M	12-28-57	3/8	3/8	---	Edmund Archie Ben - Son
65	BEN, Edmund Archie	1075 Sharon Loop, S.E., Salem, OR 97302	M	12-25-27	3/4	3/4	63	Self
66	BEN, Gerald Duane	5110 Hill Villa, S., Salem, OR 97302	M	3-04-49	3/8	3/8	64	Self
67	BEN, Raymond Dale	Box 372, Siletz, OR 97380	M	5-10-47	3/4	3/4	59	Self
68	BEN, Rodney Wayne	9595 Hughey Lane, Tillamook, OR 97141	M	1-02-52	3/8	3/8	65	Self
69	BEN, Victoria Abbie(Butler)	Box 213, Siletz, OR 97380	F	12-25-12	1/2	1/2	55	Self
70	BENNET, Barbara Joan	210 S.E. 6th, Redmond, OR 97756	F	5-05-48	5/16	5/16	303	Self
71	BENNETT, Elsie Lorraine (Zosel)	P. O. Box 388, Fort Dick, CA 95538	F	3-26-45	3/16	3/16	929	Self
72	BENNETT, Linda Louise (Flenary)	4355 W. Hwy 126, Redmond, OR 97756	F	10-08-51	5/16	5/16	306	Self
73	BENSELL, Arthur, Jr.	Siletz, OR 97380	M	4-23-09	5/8	5/8	67	Self
74	BENSELL, William Edward	Star Route, Dayville, OR 97825	M	12-02-11	5/8	5/8	66	Self

Membership Roll of the Confederated Tribes of Siletz Indians of Oregon, prepared under the Act of November 18, 1977 (95 Stat. 1415).

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Roll Number	Name	Address	Sex	Date of Birth	Degree Siletz Blood	Total Indian Blood	Basic Roll Number	Ancestor's Name and Relationship
75	BENSELL, Ida (Samuels)	Box 273, Siletz, OR 97380	F	12-23-1878	4/4	4/4	68	Self
76	BERRY, Agnes (Dowd)	Siletz, OR 97380	F	3-19-15	3/4	3/4	70	Self
77	BERRY, Arlene	P. O. Box 647, Warm Springs, OR 97761	F	02-04-34	3/8	3/8	72	Self
78	BERRY, George, Jr.	P. O. Box 415, Warm Springs, OR 97761	M	12-18-32	3/8	3/8	71	Self
79	BETTS, Arthur Alvin	Box 213, Siletz, OR 97380	M	6-12-58	3/8	3/8	---	Victoria Nelson - Son
80	BETTS, Richard	Box 213, Siletz, OR 97380	M	3-07-57	3/8	3/8	---	Victoria Nelson - Son
81	BEVENS, Susan K.(Hoover)	1660 Eugene Ct., N.E., Salem, OR 97303	F	6-04-49	1/8	1/8	391	Self
82	BIGELOW, Cheryl Christine (Stagge)	1517 S. E. Pine, Roseburg, OR 97470	F	4-14-51	7/16	7/16	793	Self
83	BILLIE, Kenneth	P. O. Box 1134, Taholah, WA 98587	M	7-12-36	3/16	3/16	279	Self
84	BLACKETER, Fearn Henry	510 Clark, North Bend, OR 97459	M	11-22-40	1/4	1/4	78	Self
85	BLACKETER, James	6844 S. E. Fleet, Lincoln City, OR 97367	M	2-24-09	3/4	3/4	79	Self
86	BLACKETER, John Harrison	P. O. Box 823, Seaside, OR 97138	M	8-08-14	1/4	1/4	---	S505 - G-G-G-son
87	BLACKETER, Kenneth, Jr.	2209 1/2 Simpson Ave., Hoquiam, WA 98550	M	1-11-49	3/8	3/8	82	Self
88	BLACKETER, Kenneth R.	6526 S. E. Jordan, Portland, OR 97222	M	5-17-22	3/8	3/8	80	Self
89	BLACKETER, Mike Richard	656 N. Larch, Cannon Beach, OR 97138	M	6-26-56	3/8	3/8	---	Kenneth Blacketer - son
90	BLACKETER, Raymond James	4999 S.E. 30th, Apt. 51, Portland, OR 97202	M	8-16-50	3/8	3/8	83	Self
91	BLACKETER, Rebecca Jean	4999 S.E. 30th, Apt. 51, Portland, OR 97202	F	4-12-52	3/8	3/8	84	Self
92	BLAIR, Kenneth P.	6824 N. Haight, Portland, OR 97217	M	11-11-39	1/4	1/4	89	Self
93	BLAIR, Virgene	Route 2, Bx 2165A, Deer Island, OR 97054	F	5-24-38	1/4	1/4	88	Self
94	BLAIR, Virgene (Carson)	Route 2, Bx 2166, Deer Island, OR 97054	F	1-11-06	1/2	1/2	86	Self DOD: 10-23-78
95	BLOMSTROM, Carol Jean (Chapman)	Box 518, Siletz, OR 97380	F	7-27-46	7/16	7/16	161	Self
96	BOERM, Cindy Lou	4830 Sunnyside Rd., S.E., Apt. 10, Salem, OR 97302	F	4-29-56	1/4	1/4	---	Rose Mary Ricketts - Dau
97	BOLTON, Gladys (Hudson)	Anderson Dam Ranch, Mountain Home, ID 83647	F	12-19-23	3/8	3/8	397	Self
98	BOND, Sandra Doreen	6865 McTimmonds Rd, Dallas, OR 97338	F	4-02-51	7/16	7/16	335	Self

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99	BORIGO, Charlotte(Delgado)	2745 N.E. 26th, Portland, OR 97212	F	10-23-41	3/8	3/8	212	Self
100	BOSTROM, Debra Leah (Voutrin)	Box 29, Dallas, OR 97338	F	9-08-52	3/8	3/8	857	Self
101	BOSTROM, Juanita (Miles)	P. O. Box 424, Belmont NH 03220	F	8-04-14	1/2	1/2	616	Self
102	BOSTWICK, Dennis Paul (aka Hines)	Box 1093, Gold Beach, OR 97444	M	10-08-41	5/16	5/16	373	Self
103	BOSTWICK, Larry Andrew	5210 Auburn Rd., N.E., Salem, OR 97301	M	3-14-50	5/16	5/16	92	Self
104	BOSTWICK, Mae (Lawson)	5210 Auburn Rd., N.E., Salem, OR 97301	F	8-12-16	5/8	5/8	91	Self
105	BOURRIE, Michele Renee (Martin)	4637 Southland Ave., Alexandria, VA 22312	F	4-13-53	15/32	15/32	573	Self
106	BOURRIE, Travis Wayne	c/o Michele Bourrie, 4637 Southland Ave., Alexandria, VA 22312	M	2-10-72	17/64	17/64	---	Michele Bourrie - Son
107	BOYD, Janice Elaine (Logsden)	c/o Allison Klokman, 532 Del Monte, Pasadena, CA 91103	F	10-20-38	3/8	3/8	553	Self
108	BREMER, Kathy Adele (Mortenson)	1507 N.E. 126th Ct., Vancouver, WA 98664	F	4-13-53	1/4	1/4	638	Self
109	BREMNER, Rosalie (Lane)	352 Cummings Lane, N., Salem, OR 97303	F	8-27-38	3/8	3/8	466	Self
110	BREON, Bensell Lewis	Star Route, Dayville, OR 97825	M	5-22-41	1/4	1/4	94	Self
111	BRETT, Caroline Jean (Belgard)	2923 S.E. Division, Portland, OR 97202	F	2-26-52	1/4	1/4	32	Self
112	BREWER, Lloyd Allen	Star Rt. No. Box 80, Newport, OR 97365	M	12-12-53	1/8	1/8	99	Self
113	BROWN, Andrew Ralph	Box 326, Siletz, OR 97380	M	6-10-49	5/8	5/8	109	Self
114	BROWN, Bennie	Box 326, Siletz, OR 97380	M	4-02-10	3/4	3/4	100	Self
115	BROWN, Bennie Joshley	Box 165, Siletz, OR 97380	M	5-13-36	5/8	5/8	102	Self
116	BROWN, Daniel	Box 326, Siletz, OR 97380	M	1-13-51	5/8	5/8	110	Self
117	BROWN, Darlene (Picard)	Warm Springs, OR 97761	F	5-19-36	1/2	1/2	114	Self
118	BROWN, Debra L.	c/o Vernon Brown, P. O. Box 32, San Ysidro, NM 87053	F	7-18-71	5/16	5/16	---	Vernon Brown - Dau
119	BROWN, Douglas Paul	Box 254, Fairview, OR 97024	M	7-31-42	5/8	5/8	105	Self
120	BROWN, Ivan Alvin	711 A Street, Toledo, OR 97391	M	10-25-47	5/8	5/8	108	Self
121	BROWN, James	1126 S. W. 12th, Portland, OR 97205	M	10-06-02	1/4	1/4	118	Self
122	BROWN, Mary Alice	Box 326, Siletz, OR 97380	F	5-21-44	5/8	5/8	106	Self

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123	BROWN, Mitzi Faye	514 S.W. 6th, Apt. #2, Newport, OR 97365	F	3-14-58	7/16	7/16	---	Bennie J. Brown - Dau
124	BROWN, Sandra Fay	Box 326, Siletz, OR 97380	F	11-08-46	5/8	5/8	107	Self
125	BROWN, Stephen	Box 326, Siletz, OR 97380	M	2-01-40	5/8	5/8	103	Self
126	BROWN, Tonya Denette	Box 165, Siletz, OR 97380	F	4-17-61	7/16	7/16	---	Bennie J. Brown - Dau
127	BROWN, Vernon	P. O. Box 32, San Ysidro, NM 87053	M	8-09-41	5/8	5/8	104	Self
128	BROWN, Virgil V.	c/o Vernon Brown, P.O. Box 32, San Ysidro, NM 87053	M	6-05-74	5/16	5/16	---	Vernon Brown - Son
129	BROWN, Wilda Jane	Siletz, OR 97380	F	10-27-52	1/4	1/4	115	Self
130	BROWN, William	1834 S.W. 5th, Portland, OR 97201	M	5-31-97	3/4	3/4	119	Self
131	BUCHANAN, Charlene (Martin)	c/o Lorna B. Martin, 4305 25th Ave., N.E., Salem, OR 97303	F	8-11-56	5/16	5/16	---	Lorna Martin - Dau
132	BURSELL, Darryn Martin	c/o Clark Martin, 6428 Edsall Rd., #1, Alexandria, VA 22312	F	9-15-54	15/32	15/32	---	Wilbur Martin - Dau
133	BURSELL, Tony Lee	c/o Clark Martin, 6428 Edsall Rd., #1, Alexandria, VA 22312	M	8-05-75	17/64	17/64	---	Wilbur Martin - G/son
134	BUTLER, Alfred Ivan	Route 1, Box 6, Logsden, OR 97357	M	12-8-51	1/2	1/2	123	Self
135	BUTLER, Alfred Ivan, Jr.	c/o Alfred Butler, Route 1, Box 6, Logsden, OR 97357	M	3-11-78	1/4	1/4	---	Alfred I. Butler - Son
136	BUTLER, Allen Josh	9357 Grand Ronde Rd., Grand Ronde, OR 97347	M	7-21-60	5/16	5/16	---	Alton N. Butler - Son
137	BUTLER, Alton Gussie	Route 1, Box 126, Sheridan, OR 97378	M	6-13-50	11/16	11/16	130	Self
138	BUTLER, Alton Ivan	P. O. Box 2442, Lincoln City, OR 97367	M	5-22-11	1/2	1/2	120	Self
139	BUTLER, Alton Nathaniel	9375 Grand Ronde Rd., Grand Ronde, OR 97347	M	7-05-30	5/8	5/8	142	Self
140	BUTLER, Arthur Louis	315 High Street, Oregon City, OR 97045	M	10-02-53	1/2	1/2	138	Self
141	BUTLER, Barry Curtis	c/o Delmer Butler, Sr., 315 S. 19th St., Reedsport, OR 97467	M	4-30-63	5/16	5/16	---	Delmer L. Butler - Son
142	BUTLER, Brent Ronald	c/o Delmer Butler, Sr., 315 S. 19th St. Reedsport, OR 97467	M	6-05-58	5/16	5/16	---	Delmer L. Butler - Son
143	BUTLER, Bruce III	c/o Laverne Butler, 711 A St., Apt. 4, Toledo, OR 97391	M	11-19-45	1/2	1/2	134	Self
144	BUTLER, Charles Allen	c/o Patricia Smith, P. O. Box 2426, Lincoln City, OR 97367	M	5-12-55	1/2	1/2	---	Edythe L Butler - Son

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145	BUTLER, Chester	6634 S. Fleet Street, Lincoln City, OR 97367	M	1-03-20	1/2	1/2	139	Self
146	BUTLER, Christopher Allen	c/o Alfred Butler, Route 1, Box 6, Logsden, OR 97357	M	9-21-71	1/4	1/4	---	Alfred I. Butler -Son
147	BUTLER, Darrel Dean	c/o Rosella Butler, 6634 S. Fleet St., Lincoln City, OR 97367	M	4-08-42	1/4	1/4	577	Self
148	BUTLER, Delmer L.	315 S. 19th St., Reedsport, OR 97467	M	1-12-32	5/8	5/8	125	Self
149	BUTLER, Delmer L., Jr.	Box 54, Gardiner, OR 97441	M	1-06-57	5/16	5/16	---	Delmer L. Butler - Son
150	BUTLER, Dent Ward	c/o Delmer Butler, 315 S. 19th St., Reedsport, OR 97467	M	3-30-60	5/16	5/16	---	Delmer L. Butler - Son
151	BUTLER, Eleanor Lilly(Logan)	2084½ Birch, Reedsport, OR 97467	F	9-23-45	1/2	1/2	541	Self
152	BUTLER, Ella Margaret	c/o Delmer Butler, Sr., 315 S. 19th St., Reedsport, OR 97467	F	8-10-65	5/16	5/16	---	Delmer L. Butler - Dau
153	BUTLER, Elvin Michael	9375 Grand Ronde Rd., Grand Ronde, OR 97347	M	10-15-58	5/16	5/16	---	Alton A. Butler - Son
154	BUTLER, Ethel R. (Case)	6634 Fleet St., Lincoln City, OR 97367	F	11-04-21	1/2	1/2	140	Self
155	BUTLER, Gary Leroy	711 A Street, Apt. 4, Toledo, OR 97391	M	7-15-57	5/16	5/16	---	Reginald Butler - Son
156	BUTLER, Gary Nathaniel	Route 1, Box 177, Grand Ronde, OR 97347	M	7-04-52	11/16	11/16	132	Self
157	BUTLER, Kent Lynn	c/o Delmer Butler, Sr., 315 S. 19th St., Reedsport, OR 97467	M	10-24-61	5/16	5/16	---	Delmer L. Butler - Son
158	BUTLER, Laverne Joan	711 A Street, Apt. 4, Toledo, OR 97391	F	4-26-50	1/2	1/2	136	Self
159	BUTLER, Loraine Eyvonne	c/o Laverne Butler, 711 A Street, Apt. 4, Toledo, OR 97391	F	10-25-76	1/4	1/4	---	Laverne J. Butler - Dau
160	BUTLER, Marcellus	1852 Scott Rd., Springfield, OR 97477	M	9-02-54	1/4	1/4	---	Everett Butler - Son
161	BUTLER, Priscilla Louise	c/o Patricia Smith, P. O. Box 2426, Lincoln City, OR 97367	F	5-24-77	1/4	1/4	---	Patricia Smith - Dau
162	BUTLER, Randall Lee, Jr.	c/o Alton Butler, 9375 Grand Ronde Rd., Grand Ronde, OR 97347	M	2-12-74	11/32	11/32	---	Randall L. Butler - Son
163	BUTLER, Randall	Route 1, Grand Ronde, OR 97347	M	5-23-51	11/16	11/16	131	Self
164	BUTLER, Reginald	2084½ Birch, Reedsport, OR 97467	M	2-14-33	5/8	5/8	126	Self
165	BUTLER, Robert Lee	c/o Alfred I. Butler, Route 1, Box 6, Logsden, OR 97357	M	10-13-69	1/4	1/4	---	Alfred I. Butler - Son
166	BUTLER, Ronald	Box 67, Siletz, OR 97380	M	8-21-38	5/8	5/8	127	Self
167	BUTLER, Sharon Lea (Metcalf)	Box 67, Siletz, OR 97380	F	9-25-49	3/4	3/4	613	Self
168	BUTLER, Sylvia Lorree	Box 2442, Lincoln City, OR 97367	F	6-27-59	1/2	1/2	---	Edythe L. Butler - Dau
169	BUTLER, Tracy Leanne	c/o Alton Butler, 9375 Grand Ronde Rd., Grand Ronde, OR 97347	F	10-08-72	11/32	11/32	---	Randall L. Butler - Dau
170	BUTLER, Winona Gustava	c/o Ceon Person, 2050 W. 12th, Eugene, OR 97402	F	1-11-75	1/4	1/4	---	Bruce Butler III - Dau

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171	BUTORAC, Wanda Lou Ann (Shriner)	5515 Verna St., S.E., Olympia, WA 98503	F	3-24-52	1/8	1/8	750	Self
172	CABA, Arthur Griffin	36851 S. E. Bluff Rd., Boring, OR 97009	M	12-14-53	5/16	5/16	145	Self
173	CABA, Carl Franklin	36851 S. E. Bluff Rd., Boring, OR 97009	M	9-26-49	5/16	5/16	144	Self
174	CABA, Hallie, Jr.	121 S. E. 220th, Troutdale, OR 97060	M	11-20-48	5/16	5/16	143	Self
175	CABA, James E., Jr.	3753 S.E. Main, Portland, OR 97214	M	2-12-57	5/16	5/16	---	Florine Caba - Son
176	CABA, Tamera Lyn	c/o James E. Caba, Sr., 1117 N.E. 118th, Portland, OR 97220	F	5-21-62	5/16	5/16	---	Florine Caba - Dau
177	CADENA, Christy Lynn(Lane)	2957 Morningside St., San Diego, CA 92139	F	1-24-49	3/16	3/16	472	Self
178	CALLAHAN, Henry Andrew	Siletz, OR 97380	M	10-24-42	1/2	1/2	148	Self
179	CARKHUFF, Darlene Marie (Simmons)	P. O. Box 126, Siletz, OR 97380	F	7-05-52	9/16	9/16	773	Self
180	CARSON, Glynn	711 N. 4th, Corvallis, OR 97330	M	2-22-28	1/4	1/4	151	Self
181	CARSON, Willard	5805 La Mirada, Hollywood, CA 90038	M	1-13-22	1/4	1/4	150	Self
182	CARTER, Regina Ann (Campbell)	121 S.E. 3rd, Miltonfreewater, OR 97862	F	9-24-95	1/4	1/4	152	Self
183	CASE, Clifford Willis	2455 F Street, S.E., Auburn, WA 98002	M	8-29-34	1/4	1/4	155	Self
184	CASE, Edward, Jr.	Box 78, Chiloquin, OR 97624	M	3-31-17	1/2	1/2	154	Self
185	CASE, Elouise (Butler)	Box 304, Siletz, OR 97380	F	3-23-37	5/8	5/8	128	Self
186	CASE, Fonda Colene	P. O. Box 304, Siletz, OR 97380	F	7-23-63	5/16	5/16	---	Elouise Case - Dau
187	CASE, Reginald Gregg	P. O. Box 304, Siletz, OR 97380	M	12-21-60	7/16	7/16	---	Elouise Case - Son
188	CASE, Shannon Lynn	P. O. Box 304, Siletz, OR 97380	F	7-05-58	7/16	7/16	---	Elouise Case - Dau
189	CASE, Wayne Leroy	2202 N. E. Ten Pl., Renton, WA 98055	M	9-30-35	1/4	1/4	156	Self
190	CFARLEY, Debra Ann (Lane)	2865 Wiggles Court, Salem, OR 97303	F	11-10-52	3/16	3/16	469	Self
191	CHAPMAN, Frederick Abe	Box 385, Siletz, OR 97380	M	8-29-47	7/16	7/16	162	Self
192	CHAPMAN, Fritz	P. O. Box 385, Siletz, OR 97380	M	12-31-22	3/8	3/8	158	Self
193	CHAPMAN, Marie (Logan)	P. O. Box 385, Siletz, OR 97380	F	7-06-29	1/2	1/2	159	Self
194	CHAPMAN, Walter Louis	Route 2, Box 2254, Yelm, WA 98597	M	5-28-41	3/16	3/16	164	Self
195	CHARLEY, Franklin Leroy	P. O. Box 355, Siletz, OR 97380	M	2-13-47	1/2	1/2	171	Self
196	CHARLEY, George	2122 N. W. Irving, Portland, OR 97210	M	7-18-35	4/4	4/4	169	Self

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197	CHENOIS, Alice Margaret	Siletz, OR 97380	F	9-16-41	1/2	1/2	177	Self
198	CHENOIS, Edythe Edwin	Siletz, OR 97380	M	2-10-51	1/2	1/2	180	Self
199	CHRISTENSEN, Gary Wayne	1195 Crowley S.E., Salem, OR 97302	M	11-16-64	1/4	1/4	---	Willie Johnson - G-Son
200	CHRISTENSEN, Jay Robert	1195 Crowley S.E., Salem, OR 97302	M	1-08-57	1/4	1/4	---	Willie Johnson - G-Son
201	CHRISTENSEN, Jeanette Louise	1195 Crowley, S.E., Salem, OR 97302	F	12-18-60	1/4	1/4	---	Willie Johnson - G-Dau
202	CHRISTENSEN, John William	1195 Crowley, S.E., Salem, OR 97302	M	11-10-31	1/2	1/2	---	Willie Johnson - G-Son
203	CHRISTENSEN, Laurie Ann	1195 Crowley, S.E., Salem, OR 97302	F	7-15-68	1/4	1/4	---	Willie Johnson - G-Dau
204	CHRISTENSEN, Randy A.	1662 5th, N.E., Salem, OR 97303	M	5-25-58	1/4	1/4	---	Willie Johnson - G-Son
205	CHRISTENSEN, Rex Larry	1195 Crowley, S.E., Salem, OR 97302	M	8-09-59	1/4	1/4	---	Willie Johnson - G-Son
206	CLAWSON, Jolynne M	c/o Geraldine Belgarde, 1185 N.E. Market, Salem, OR 97301	F	4-15-66	7/16	7/16	---	Geraldine Belgarde - Dau
207	CLAWSON, Norma Jean	c/o Geraldine Belgarde, 1185 N.E. Market, Salem, OR 97301	F	2-11-72	7/16	7/16	---	Geraldine Belgarde - Dau
208	CLAWSON, Vilayne L.	c/o Geraldine Belgarde, 1185 N.E. Market, Salem, OR 97301	F	11-05-67	7/16	7/16	---	Geraldine Belgarde - Dau
209	COLGAN, Gail Agnes (Marks)	7224 S. W. 27th, Portland, OR 97219	F	7-31-38	1/4	1/4	561	Self
210	COLLINS, Arless	1230 Center St., Albany, OR 97321	F	7-13-49	1/4	1/4	184	Self
211	COLLINS, Divona Marie	c/o Arless Collins, 1230 Center St., Albany, OR 97321	F	3-27-58	1/4	1/4	---	Edward G. Collins - Dau
212	COLLINS, Edward G.	c/o Arless Collins, 1230 Center St., Albany, OR 97321	M	6-27-23	1/2	1/2	183	Self
213	COLLINS, Georgene M.	c/o Arless Collins, 1230 Center St., Albany, OR 97321	F	6-25-60	1/4	1/4	---	Edward G. Collins - Dau
214	COLLINS, Maxwell	Oakville, WA 98586	M	4-16-53	1/4	1/4	187	Self
215	COMBS, Joy Lynn (Wilcox)	7623 Henderson Blvd, S.E., Olympia, WA 98501	F	11-1-37	1/4	1/4	899	Self
216	CONN, Henry Ellson	Siletz, OR 97380	M	7-09-49	3/8	3/8	188	Self
217	COOK, James R.	Gen. Del., Anchorage, AK 99510	M	6-22-41	1/4	1/4	190	Self
218	COOK, Misty Lee	c/o Loraine Metcalf, P.O. Box 1001, Priest River, ID 83856	F	11-29-77	1/4	1/4	---	Loraine Metcalf - Dau
219	CORDTS, Elena Marie (Delgado)	2239 S.E. 145th, Portland, OR 97233	F	7-02-47	3/16	3/16	277	Self
220	COUNTRYMAN, Adella (Menard)	2660 Shasta Way, #67, Klamath Falls, OR 97601	F	6-01-93	4/4	4/4	191	Self

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221	COURVILLE, Alta (Tom)	204 Mandrin Dr., N., Salem, OR 97303	F	1-29-19	7/8	7/8	192	Self
222	COURVILLE, David George	204 Mandrin Dr., N., Salem, OR 97303	M	6-04-54	7/16	7/16	194	Self
223	CRAWFORD, Naomi R.	Box 44401, Lake Havasu, AZ 86403	F	2-02-35	1/8	1/8	---	Cora Prettyman - Dau
224	CREPEAU, Ginger (Irby)	P. O. Box 1212, Anchorage, AK 99510	F	3-17-48	15/16	15/16	404	Self
225	CRESON, Donald R.	Route 1, Box 1061, La Grande, OR 97850	M	4-01-16	1/8	1/8	195	Self
226	CUMMINGS, Kateri Marie (Brewer)	1757 Persimmon, Coos Bay, OR 97420	F	5-12-52	1/8	1/8	98	Self
227	DARCY, Brad Michael	c/o Michael Darcy, 275 W. H St., Apt. M, Madras, OR 97741	M	8-02-66	1/4	1/4	---	Michael Darcy - Son
228	DARCY, John Everett	c/o Michael Darcy, 275 W. H St., Apt. M, Madras, OR 97741	M	11-29-68	1/4	1/4	---	Michael Darcy - Son
229	DARCY, Michael	275 W. H St., Apt. M, Madras, OR 97741	M	6-24-43	1/2	1/2	207	Self
230	DAUGHERTY, Julie Ann	c/o Buford Daugherty, Star Rt, Box 654, Newport, OR 97365	F	5-08-59	3/8	3/8	---	Willa Daugherty - Dau
231	DAUGHERTY, Lawana Kay	c/o Buford Daugherty, Star Rt, Box 654, Newport, OR 97365	F	9-11-60	3/8	3/8	---	Willa Daugherty - Dau
232	DAUGHERTY, Lesia Gaye	c/o Buford Daugherty, Star Rt. Box 654, Newport, OR 97365	F	10-07-57	3/8	3/8	---	Willa Daugherty - Dau
233	DAUGHERTY, Willa Roberta (Orton)	Star Rt, Box 654, Newport, OR 97365	F	11-26-37	3/4	3/4	654	Self
234	DAUGHERTY, Willo B.	c/o Buford Daugherty, Star Rt, Box 654, Newport, OR 97365	F	2-22-63	3/8	3/8	---	Willa Daugherty - Dau
235	DAVIS, Jessie (Arden)	P. O. Box 476, Dallas, OR 97338	F	11-04-41	3/8	3/8	6	Self
236	DAVIS, Minnie (Menard)	1949 Melrose, Klamath Falls, OR 97601	F	8-08-20	3/4	3/4	208	Self
237	DAVIS, Paul Francis	1949 Melrose, Klamath Falls, OR 97601	M	7-17-59	3/8	3/8	---	Minnie Davis - Son
238	DAVIS, Peter E.	c/o Elnathan Davis, 1949 Melrose, Klamath Falls, OR 97601	M	7-09-55	3/8	3/8	---	Minnie Davis - Son
239	DAVIS, Ruby Elizabeth	1949 Melrose, Klamath Falls, OR 97601	F	12-16-64	3/8	3/8	---	Minnie Davis - Dau
240	DAVIS, Ruth Elizabeth	1949 Melrose, Klamath Falls, OR 97601	F	12-16-64	3/8	3/8	---	Minnie Davis - Dau
241	DEPOE, Duane Allen	P. O. Box 166, Elmer City, WA 99124	M	1-30-42	1/4	1/4	218	Self
242	DEBUSK, Coleen Cileste	P. O. Box 241, Waldport, OR 97394	F	2-07-55	1/4	1/4	---	Margaret Lundy - Dau
243	DEFRIES, Judith Lynn	2415 Meridian St., Bellingham, WA 98225	F	6-13-55	3/8	3/8	---	Arneva Pyle - Dau

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Roll Number	Name	Address	Sex	Date of Birth	Degree Siletz Blood	Total Indian Blood	Basic Roll Number	Ancestor's Name and Relationship
244	DELGADO, Andrew	2252 S.E. 32nd Pl., Portland, OR 97214	M	6-30-38	3/8	3/8	211	Self
245	DELGADO, Antonio	2745 N.E. 26th, Portland, OR 97212	M	7-29-29	3/8	3/8	210	Self
246	DELGADO, Dora (Brown)	2745 N.E. 26th, Portland, OR 97212	F	10-10-05	3/4	3/4	209	Self
247	DELGADO, Vincent A.	2745 N.E. 26th, Portland, OR 97212	M	9-03-34	3/8	3/8	214	Self
248	DEMOE, Ida Mae (Case)	Siletz, OR 97380	F	2-24-33	1/4	1/4	215	Self
249	DEPOE, Charles Robert	107 Casey, Richland, WA 99253	M	8-14-37	1/4	1/4	217	Self
250	DEPOE, William	5284 44th, S.W., Seattle, WA 98136	M	12-24-13	1/2	1/2	219	Self
251	DIAZ, Ismael Mark	c/o Rowenda Diaz, 972 Cottage Dr., #2, Albany, OR 97321	M	6-29-75	3/8	3/8	---	Rowenda Diaz - Son
252	DIAZ, Rowenda Rosa (Strong)	972 Cottage Dr., #2, Albany, OR 97321	F	8-24-52	3/4	3/4	805	Self
253	DICK, Frederick	Siletz, OR 97380	M	1-22-92	3/4	3/4	220	Self
254	DICKSON, Judy Kay (Bartow)	1757 Greenwood, Reedsport, OR 97467	F	12-19-51	1/8	1/8	24	Self
255	DODDS, Richard Vernon	Box 1091, Knoxville, TN 37901	M	1-18-45	3/16	3/16	223	Self
256	DOHERTY, Agnes (Winkler)	1824 W. Margaret, Pasco, WA 99301	F	3-08-05	1/2	1/2	224	Self
257	DOHERTY, Edgar	1056 South Sullivan, Seattle, WA 98108	M	4-15-30	1/4	1/4	227	Self
258	DOHERTY, Patricia Lynn	3434 S. 144th, Apt. 119, Seattle, WA 98168	F	9-12-53	1/8	1/8	228	Self
259	DOSSNER, Lori S. (Beals)	5198 Skyline Rd., S., Salem, OR 97302	F	10-15-58	1/2	1/2	---	Maxine Preston - Dau
260	DOXSON, Elizabeth (Wilcox)	106 E. 5th St., Cle Elum, WA 98922	F	11-04-34	1/4	1/4	897	Self
261	DOWNEY, Everett Leroy	9186 S.E. Lester, Portland, OR 97266	M	2-20-40	1/8	1/8	232	Self
262	DOWNEY, Everett William	2617 S.E. 33rd Pl., Portland, OR 97202	M	7-11-23	1/4	1/4	231	Self
263	DOWNEY, Kay Lavone	222½ Meadow, New Iberia, LA 70569	F	6-26-52	1/8	1/8	239	Self
264	DOWNEY, Margaret (Harney)	1696 I Street, Arcata, CA 95521	F	2-05-01	1/2	1/2	235	Self
265	DOWNEY, Marvin George	2617 S.E. 33rd Pl., Portland, OR 97202	M	10-18-26	1/4	1/4	236	Self
266	DOWNEY, May (Adams)	P. O. Box 294, Siletz, OR 97380	F	11-22-99	3/4	3/4	240	Self
267	DOWNEY, Melvin Richard	4352 N.E. Dover Ave., Salem, OR 97303	M	12-06-22	3/8	3/8	241	Self
268	DOWNEY, Michael Gene	Box 97, Mc Alester, OK 74501	M	8-11-51	1/8	1/8	238	Self
269	DOWNEY, Peter Jerome	Route 1, Box 278, Toledo, OR 97391	M	7-02-34	3/8	3/8	243	Self
270	DOWNEY, Roy, Jr.	1306 Church, N.E., Salem, OR 97303	M	5-04-30	3/8	3/8	242	Self
271	DOWNEY, Thomas Charles	2332 S.E. 122nd, Portland, OR 97233	M	5-22-43	3/8	3/8	247	Self
272	DOWNEY, Tim Patrick	6395 S.W. Broadoak, Beaverton, OR 97005	M	2-09-42	1/8	1/8	233	Self
273	DRAKE, Patricia Carol (Pond)	10551 Caminito West Chester, San Diego, CA 92126	F	12-25-51	3/16	3/16	666	Self
274	DUGAN, Bertha (Hatch)	P. O. Box 791, Agana, GU 96910	F	4-13-25	5/8	5/8	249	Self
275	DUGAN, Martin	c/o Bertha Dugan, P. O. Box 791, Agana, GU 96910	M	4-04-49	5/16	5/16	250	Self

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276	EASTER, Angeline Delores	c/o Caroline Easter, 1118 L St., Springfield, OR 97477	F	8-20-76	11/32	11/32	---	Caroline Easter - Dau
277	EASTER, Carlene Delores	1118 L St., Springfield, OR 97477	F	4-19-54	11/16	11/16	257	Self
278	EASTER, Caroline Louise	1118 L St., Springfield, OR 97477	F	7-01-51	11/16	11/16	255	Self
279	EASTER, Corliss Delight	1118 L St., Springfield, OR 97477	F	11-03-55	11/16	11/16	---	Esther Easter - Dau
280	EASTER, Esther Delores (Bell)	1118 L St., Springfield, OR 97477	F	12-30-31	7/8	7/8	254	Self
281	EASTER, Isaac Leroy	c/o Ralph Easter, 85961-64 Edenvale Rd., Pleasant Hill, OR 97401	M	7-21-74	11/32	11/32	---	Ralph Easter - Son
282	EASTER, Lisa Marie	c/o Ralph Easter, 85961-64 Edenvale Rd., Pleasant Hill, OR 97401	F	4-21-78	11/32	11/32	---	Ralph Easter - Dau
283	EASTER, Ralph Leroy	85961-64 Edenvale Rd., Pleasant Hill, OR 97401	M	8-13-53	11/16	11/16	256	Self
284	EASTER, Walter Jake	1118 L St., Springfield, OR 97477	M	6-07-32	1/2	1/2	253	Self
285	EDDINGS, Sherry Leola (Towner)	2335 N. Willamette Blvd., Portland, OR 97217	F	11-15-38	1/8	1/8	452	Self
286	EDENFIELD, Joan Irby(Lane)	1905 S.E. Kauri, Toledo, OR 97391	F	9-21-49	3/8	3/8	480	Self
287	EDENFIELD, Sharon Ann(Brown	6615 19[illegible]th St., S.W., 425, Tacoma, WA 98439	F	5-22-57	7/16	7/16	---	Bennie Brown - Dau
288	EDMONDS, Earl Davis	Siletz, OR 97380	M	9-04-31	3/16	3/16	259	Self
289	EDMONDS, Iola (Anderson)	Siletz, OR 97380	F	5-04-11	3/8	3/8	258	Self
290	EDWARDS, Derold	c/o Marie Edwards, Star Route, Logsden, OR 97357	M	5-02-73	3/8	3/8	---	Marie Fuller - G-Son
291	EDWARDS, Marie Rose Lawson	Star Route, Logsden, OR 97357	F	10-04-55	3/4	3/4	---	Marie Fuller - Dau
292	EDWARDS, Tina	c/o Marie Edwards, Star Route, Logsden, OR 97357	F	6-29-77	3/8	3/8	---	Marie Fuller - G-Dau
293	EGGERSGLUSS, Alice B (McClintock)	16421 S.E. Gordon, Milwaukie, OR 97222	F	9-26-25	1/4	1/4	260	Self
294	EGGERSGLUSS, Raymond	7012 S.E. Furnberg St., Milwaukie, OR 97222	M	10-07-46	1/8	1/8	261	Self
295	ELLIOTT, Ida Mae (Curl)	P. O. Box 83, Otis, OR 97368	F	9-08-43	1/2	1/2	202	Self
296	ELLIOTT, Lincoln Paul	c/o Ida Elliott, P. O. Box 83, Otis, OR 97368	M	8-22-71	1/4	1/4	---	Ida M. Elliott - Son
297	EVANS, Gale	Route 1, Box 68, Logsden, OR 97357	M	2-07-04	3/4	3/4	264	Self
298	FERAN, Frances M.	Siletz, OR 97380	F	4-09-06	3/8	3/8	269	Self
299	FERNANDEZ, Consuelo Dora (Delgado)	5300 N.E. Cully Blvd., Apt. 11, Portland, OR 97218	F	8-01-45	3/16	3/16	3/16	Self
300	FERNANDEZ, Delores Sebrina (Delgado)	8002 S.E. 13th, Portland, OR 97202	F	2-25-44	3/16	3/16	274	Self

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301	FERNANDEZ, Richard Antonio (aka Delgado)	5414 S.E. Ogden, Portland, OR 97206	M	8-30-46	3/16	3/16	276	Self
302	FIELDER, James	Box 638, Amanda Park, WA 98526	M	10-06-39	3/16	3/16	280	Self
303	FIFE, Danny Keith	Siletz, OR 97380	M	10-23-53	3/32	3/32	286	Self
304	FIFE, Larry Allen	Siletz, OR 97380	M	6-17-49	3/32	3/32	284	Self
305	FIFE, Urla Ann (Edmonds)	Siletz, OR 97380	F	10-08-29	3/16	3/16	283	Self
306	FIFE, Wendy Sue	Siletz, OR 97380	F	6-20-51	3/32	3/32	285	Self
307	FINLEY, Marjorie Evangeline (McClay)	470 Elm St., Reedsport, OR 97467	F	7-22-12	1/4	1/4	287	Self
308	FINLEY, Robert Joseph	1144 N.E. 118th, Portland, OR 97220	M	11-01-47	1/8	1/8	288	Self
309	FISH, Allan Craig	20070 S.W. Blanton, Aloha, OR 97005	M	1-14-50	3/8	3/8	290	Self
310	FISH, Yvonne Carleen	13616 S.E. Rhine, Portland, OR 97236	F	10-15-52	3/8	3/8	291	Self
311	FISHER, Barbara Ann (Chapman)	Box 147, Siletz, OR 97380	F	7-27-46	7/16	7/16	160	Self
312	FISHER, Cheryl Ann	c/o Franklin Simmons, P. O. Box 144, Siletz, OR 97380	F	9-28-57	5/16	5/16	---	Nancy Simmons - Dau
313	FISHER, Chuck Allen	Box 64, Siletz, OR 97380	M	8-10-50	5/16	5/16	296	Self
314	FISHER, Frank Bensell	c/o Rm. 440, Vanderbilt Hall, 107 Ave. Louis Pasteur, Boston MA 02115	M	6-30-53	1/8	1/8	297	Self
315	FISHER, Joan Felicia (Bensell)	1705 Julian Court, El Cerrito, CA 94530	F	7-20-25	1/4	1/4	298	Self
316	FISHER, Mary Agnes (Simmons)	Box 64, Siletz, OR 97380	F	4-08-29	5/8	5/8	293	Self
317	FISHER, Michael S.	Box 64, Siletz, OR 97380	M	4-04-58	5/16	5/16	---	Mary Fisher - Son
318	FISHER, Ramona Kay	Box 142, Siletz, OR 97380	F	1-09-57	5/16	5/16	---	Mary Fisher - Dau
319	FISHER, Randall Allen	Box 142, Siletz, OR 97380	M	6-24-73	17/64	17/64	---	Mary Fisher - G-Son
320	FISHER, Terry Daniel	Gen. Del., Siletz, OR 97380	M	2-03-48	5/16	5/16	294	Self
321	FLAGG, Marvin J.	3835 Liberty Rd., S., Salem, OR 97302	M	2-02-58	7/16	7/16	---	Mercelene Flagg - Son
322	FLAGG, Mercelene (Tom)	3835 Liberty Rd., S., Salem, OR 97302	F	7-01-26	7/8	7/8	300	Self
323	FLANARY, Agnes (Logan)	Route 1, Box 347, Terrebonne, OR 97760	F	10-19-26	5/8	5/8	301	Self
324	FLANARY, Leonard Keith	744 Finch Ct., N.E., Salem, OR 97301	M	5-27-49	5/16	5/16	304	Self
325	FLEMING, Carol Janice	c/o Jimmy Fleming, P. O. Box 175, Siletz, OR 97380	F	6-25-48	1/4	1/4	311	Self
326	FLEMING, Donald Duane	148 S.W. 1st. Toledo, OR 97391	M	9-17-65	1/4	1/4	309	Self

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327	FLEMING, Howard Rae	3631 E. 18th, Eugene, OR 97403	M	3-27-47	1/4	1/4	310	Self
328	FLEMING, James B.	Box 175, Siletz, OR 97380	M	5-24-23	1/2	1/2	307	Self
329	FLEMING, Raymond Roscoe	Box 175, Siletz, OR 97380	M	3-05-44	1/4	1/4	308	Self
330	FLORES, Alejandro	c/o Randall P. Flores, 6195 Lake Labish, N.E., Salem, OR 97303	M	2-13-77	1/4	1/4	---	Eva Battise - G-Son
331	FLORES, Heather Ann	c/o Orville Flores, 1315 19th St., N.E., Salem, OR 97301	F	3-31-77	1/4	1/4	---	Orville Flores - Dau
332	FLORES, Jennifer Nicole	c/o Orville Flores, 1315 19th St., N.E., Salem, OR 97301	F	3-31-77	1/4	1/4	---	Orville Flores - Dau
333	FLORES, Orville Dwayne	1315 19th St., N.E., Salem, OR 97301	M	6-05-49	1/2	1/2	315	Self
334	FLORES, Randall P.	6195 Lake Labish, N.E., Salem, OR 97303	M	11-13-54	1/2	1/2	---	Eva Battise - Son
335	FLORES, Randall P. II	c/o Randall Flores, 6195 Lake Labish, N.E., Salem, OR 97303	M	2-13-77	1/4	1/4	---	Eva Battise - G-Son
336	FLORES, Stephanie Jean	c/o Stephen L. Flores, 4936 13th Ave., N., Salem, OR 97303	F	10-08-67	1/4	1/4	---	Stephen Flores - Dau
337	FLORES, Stephen Lee	4936 13th Ave., N., Salem, OR 97303	M	8-17-47	1/2	1/2	314	Self
338	FLORES, Stephen Lee, Jr.	c/o Stephen L. Flores, 4936 13th Ave., N., Salem, OR 97303	M	5-27-74	1/4	1/4	---	Stephen Flores - Son
339	FREEMAN, Gary Allen	8456 41st, S.W., Seattle, WA 98136	M	3-18-42	3/16	3/16	321	Self
340	FREEMAN, Prudence	31 Broadway, Tacoma, WA 98402	F	2-18-02	3/8	3/8	318	Self
341	FREEMAN, Roger Lee	9345 Fauntleroy Way, S.W., Seattle, WA 98136	M	5-26-27	3/16	3/16	320	Self
342	FULLER, Marie (Charley)	2122 N.W. Irving, Portland, OR 97210	F	3-10-24	4/4	4/4	170	Self
343	FURLONG, Michelle Regina (McKenny)	603 White, Walla Walla, WA 99362	F	4-07-41	1/4	1/4	605	Self
344	GAGE, Charles	Siletz, OR 97380	M	6-27-40	3/16	3/16	325	Self
345	GALLAMORE, Ruth (Umatata)	Box 109, Toledo, OR 97391	F	12-26-02	4/4	4/4	326	Self
346	GAMBLE, Rebecca Lynn (Christensen)	E. 611 Bismark, Spokane, WA 99207	F	7-25-54	1/4	1/4	---	Willie Johnson - G-Dau
347	GARDNER, Glenna Gail (Rolfson)	2115 Simpson Ave., Hoquiem, WA 98550	F	2-19-41	1/2	1/2	716	Self
348	GARRETT, Jean (Downey)	1549 N.W. Grove St., Newport, OR 97365	F	6-27-35	3/8	3/8	328	Self
349	GAVIN, Genevieve Victoria (Gray)	1410 Rockfeller, Everett, WA 98201	F	10-18-19	3/8	3/8	221	Self
350	GEISZLER, Jeanette (Delgado)	2804 N.E. 27th, Portland, OR 97212	F	8-02-31	3/8	3/8	9	Self

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351	GILBERT, Chiquita Martina	c/o Martina Gilbert, 1302 Montana, Coos Bay, OR 97420	F	12-29-72	1/4	1/4	---	Martina Gilbert - Dau
352	GILBERT, Martina Agatha (Curl)	1302 Montana, Coos Bay, OR 97420	F	8-15-42	1/2	1/2	201	Self
353	GILBERT, Willie Jay	c/o Martina Gilbert, 1302 Montana, Coos Bay, OR 97420	M	7-03-65	1/4	1/4	---	Martina Gilbert - Son
354	GIRARD, Bruce	894 Commercial, N.E., Salem, OR 97301	M	7-23-30	1/4	1/4	333	Self
355	GIRARD, Mary Joyce	Siletz, OR 97380	F	6-11-37	1/8	1/8	331	Self
356	GIRARD, Raymond	911 Palm, Sanluis Obispo, CA 93401	M	11-01-26	1/4	1/4	332	Self
357	GODFREY, Harriet E. (Hatch)	Route 2, Florence, OR 97439	F	1-03-31	5/8	5/8	338	Self
358	GOLSH, Mildred (Crigge)	Siletz, OR 97380	F	4-13-22	1/2	1/2	339	Self
359	GONZALES, Josephine(John)	367 18th St., S.E., Salem, OR 97303	F	6-10-40	3/8	3/8	417	Self
360	GOODELL, David, Jr.	Box 303, Siletz, OR 97380	M	3-24-37	1/4	1/4	337	Self
361	GOODMAN, Jessie (Hancorne)	626½ Monroe St., Hoquiam, WA 98550	F	9-08-39	1/4	1/4	353	Self
362	GRABERT, Mary Alena (Johnson)	Siletz, OR 97380	F	8-28-20	1/4	1/4	340	Self
363	GREEN, Abbie (George)	834 Del Norte St., Crescent City, CA 95531	F	9-21-23	3/8	3/8	342	Self
364	GREEN, Anita Dawn	2347 Howland Hill Rd., Crescent City, CA 95531	F	6-22-52	3/16	3/16	345	Self
365	GRIFFN, Lowell Kenny	2347 Howland Hill Rd., Crescent City, CA 95531	M	9-05-48	3/16	3/16	343	Self
366	GREEN, Marietta	2347 Howland Hill Rd., Crescent City, CA 95531	F	7-12-53	3/16	3/16	346	Self
367	GREEN, Tessabelle D (Goodell)	6865 McTimmonds Rd., Dallas, OR 97338	F	5-05-30	7/16	7/16	341	Self
368	GREEN, William Darell	2347 Howland Hill Rd., Crescent City, CA 95531	M	9-04-49	3/16	3/16	344	Self
369	GREENWELL, Jacquelyn Winifred	Siletz, OR 97380	F	2-07-53	1/2	1/2	348	Self
370	GRIGGS, Florence	Siletz, OR 97380	F	2-05-20	1/2	1/2	349	Self
371	HAINLINE, Gloria Joan (Flanary)	890 F Street, W., Vale, OR 97918	F	5-28-47	5/16	5/16	302	Self
372	HALL, Aldona (Fielder)	c/o Lillian Jackson, Route 3, Box 833, Brookings OR 97415	F	7-14-42	3/16	3/16	282	Self
373	HALL, Carlotta Ann (Lundy)	Box 540 River Rd., Yachats, OR 97498	F	12-18-53	1/4	1/4	558	Self
374	HALL, Dorothy Jean (Adams)	395 N.W. 21st Dr., Pendleton, OR 97801	F	5-10-29	3/8	3/8	350	Self
375	HAMILTON, Eva Jean (Rabinsky)	Box 81, Route 1, Scappoose, OR 97056	F	7-06-25	1/4	1/4	351	Self

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376	HAMILTON, Fred Randolph	Box 81, Route 1, Scappoose, OR 97056	M	3-15-54	1/8	1/8	352	Self
377	HARPER, Juanita Gertrude (Curl)	2680 Bennett Cr. Dr., Cottage Grove, OR 97424	F	9-25-52	1/2	1/2	204	Self
378	HARPER, Sharon Lou(Hostler)	1911 S Street, Eureka, CA 95501	F	11-10-46	3/16	3/16	396	Self
379	HARRINGTON, Kathryn June (Werth)	1160 N. 55th Pl., Springfield, OR 97477	F	6-28-50	7/16	7/16	891	Self
380	HARRISON, Robert Nelson	c/o Victorine Harrison, 14838 S.E. Taylor Ct., Portland, OR 97233	M	9-05-69	1/4	1/4	---	Victorine Harrison - Son
381	HARRISON, Victorine (Simmons)	14838 S.E. Taylor Ct., Portland, OR 97233	F	6-19-30	1/2	1/2	579	Self
382	HARTT, Barbara Louise	Route 1, Box 265, Colton, OR 97017	F	2-06-57	1/4	1/4	---	Clementine Hartt - Dau
383	HARTT, Clementine (Arden)	Route 1, Box 265, Colton, OR 97017	F	4-14-33	1/2	1/2	357	Self
384	HARTT, Elliot Donald	Route 1, Box 265, Colton, OR 97017	M	3-29-61	1/4	1/4	---	Clementine Hartt - Son
385	HARTT, Minnie (Arden)	Route 3, Box 319, Estacada, OR 97023	F	3-12-25	1/2	1/2	355	Self
386	HATCH, Beverly Joyce (Youngman)	6218 Meylon Dr., S.W., Olympia, WA 98502	F	11-13-43	5/16	5/16	926	Self
387	HATCH, David Russell	55 W. 31st St., Eugene, OR 97405	M	12-12-53	5/16	5/16	361	Self
388	HATCH, Herbert Hallam	55 W. 31st St., Eugene, OR 97405	M	10-30-52	5/16	5/16	360	Self
389	HATCH, Judith	1117 Neola St., Los Angeles, CA 90042	F	12-04-40	5/8	5/8	364	Self
390	HATCH, Kenneth Martin	55 W. 31st St., Eugene, OR 97405	M	10-16-22	5/8	5/8	359	Self
391	HATFIELD, Oscar	c/o Buena Vista Area, Route 1, Independence, OR 97351	M	9-17-38	3/16	3/16	366	Self
392	HAVRANEK, Barbara K. (Towner)	7354 S.E. Division, Portland, OR 97206	F	6-13-53	7/16	7/16	834	Self
393	HEDRICK, Jean Shirley (Koehler)	1631 N.W. Everett, Portland, OR 97209	F	2-26-41	1/4	1/4	459	Self
394	HEDRICK, Virginia Marie	6353 65th, N.E., Seattle, WA 98115	F	9-09-53	1/8	1/8	371	Self
395	HEDRICK, William P.	2005 Road 33, Pasco, WA 99301	M	1-24-49	1/8	1/8	368	Self
396	HEGGE, Minnie Rose (Lane)	872 Highland Ave., Salem, OR 97303	F	11-09-39	3/8	3/8	488	Self
397	HELMIG, Henrietta Betty (Koehler)	4094 Noon Ave., N.E., Salem, OR 97303	F	6-25-43	1/4	1/4	460	Self
398	HENDRICKSON, Maureen Suzanne	P. O. Box 285, Waldport, OR 97394	F	11-11-56	1/4	1/4	---	Margaret Lundy - Dau

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Roll Number	Name	Address	Sex	Date of Birth	Degree Siletz Blood	Total Indian Blood	Basic Roll Number	Ancestor's Name and Relationship
399	HENRY, Frances D. (Wilcox)	Route 7, Box 430, Olympia, WA 98506	F	6-31-31	1/4	1/4	748	Self
400	HESKITH, Lorraine Ann (Courville)	1777 Meadowlark, Dr., N.E., Salem, OR 97303	F	10-26-49	7/16	7/16	193	Self
401	COMENOUT, Phyllis Rae (Collins)	3192 Freeman Rd., E., Puyallup, WA 98371	F	10-10-36	3/4	3/4	377	Self
402	HOHENSTEIN, Marion (Baker)	2602 4th & Vine, Apt. C, Seattle, WA 98121	F	3-28-13	3/8	3/8	378	Self DOD: 3-08-79
403	HOINESS, Corrine Mae	c/o Ila Hoiness, 2645 32nd Ave., Longview, WA 98632	F	1-21-51	3/16	3/16	380	Self
404	HOINESS, Harold Leroy	274 Beach St., Longview, WA 98632	M	1-21-48	3/16	3/16	252	Self
405	HOINESS, Ila (Downey)	2645 32nd Ave., Longview, WA 98632	F	5-18-27	3/8	3/8	379	Self
406	HOINESS, Raymond Sevrine	c/o Ila Hoiness, 2645 32nd Ave., Longview, WA 98632	M	6-29-53	3/16	3/16	381	Self
407	HOINESS, Ronald Lee	302 K St., Hoquiam, WA 98550	M	10-24-46	3/16	3/16	251	Self
408	HOLLAND, Bernard Stevens	1430 S.E. 14th, Portland, OR 97214	M	5-27-57	1/4	1/4	---	Minetta Holland - Son
409	HOLLAND, Daniel Brian	4919 S.E. Kelly, Portland, OR 97214	M	1-09-56	1/4	1/4	---	Minetta Holland - Son
410	HOLLAND, Irene Ann	3529 S.E. Clinton, Portland, OR 97202	F	7-02-50	1/4	1/4	383	Self
411	HOLLAND, Jeffrey Joseph	c/o Minetta Holland, 5308 S.E. Sherman, Portland, OR 97215	M	12-22-52	1/4	1/4	385	Self
412	HOLLAND, Kathleen Margaret	1430 S.E. 14th, Portland, OR 97214	F	10-08-51	1/4	1/4	384	Self
413	HOLLAND, Minetta T. (Simmons)	5308 S.E. Sherman, Portland, OR 97215	F	10-15-28	1/2	1/2	382	Self
414	HOLMES, Donna L. (Logan)	1610 High St., S. E. , Salem, OR 97301	F	4-09-39	1/2	1/2	531	Self
415	HOOVER, Alonzo	359 N.E. 1st., Toledo, OR 97391	M	2-20-12	1/4	1/4	386	Self
416	HOOVER, Edward	1520 Pacific Ave,, St. George Hotel, Santa Cruz, CA 95060	M	4-27-21	1/4	1/4	388	Self
417	HOOVER, Herbert Leith	Box 554, Toledo, OR 97391	M	5-01-36	1/8	1/8	387	Self
418	HOOVER, Richard	549 Churchdale Ave., N., Salem, OR 97303	M	8-03-14	1/4	1/4	390	Self
419	HOSTLER, Fred Franklin	2242 E. Irwin Way, Eugene, OR 97402	M	11-27-27	3/8	3/8	392	Self
420	HOSTLER, Frederick Roger	c/o Catherine Richards, Smith River,CA 95567	M	11-03-49	3/16	3/16	393	Self
421	HOWELL, Deanna Lee (Downey)	P. O. Box 45, Siletz, OR 97380	F	12-13-39	3/8	3/8	245	Self
422	HOWERTON, Rebecca Janice (Raya)	1539 N.W. 11th, Corvallis, OR 97330	F	6-30-49	1/8	1/8	---	Sally Bobb S-19 - G-G-G-Da

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423	HUBBARD, Germaine (Wilcox)	17801 Sargent Rd., S.W., Rochester, WA 98579	F	6-04-36	1/4	1/4	898	Self
424	HUDSON, Donald Gene	2221 Lee Street, S.E., Salem, OR 97301	M	11-18-46	9/16	9/16	400	Self
425	HUDSON, Dwayne Andres	c/o Donald Hudson, 2221 Lee Street, S.E., Salem, OR 97301	M	8-14-67	9/32	9/32	---	Donald Hudson - Son
426	HUDSON, John Freeman	377 N.W. 32nd, Springfield, OR 97477	M	1-18-59	7/16	7/16	---	Rose Hudson - Son
427	HUDSON, Ronald Lee	4085 Market, N.E., #64, Salem, OR 97301	M	11-18-46	9/16	9/16	399	Self
428	HUDSON, Rose Catherine(Bell)	377 N. 32nd, Springfield, OR 97477	F	5-16-17	7/8	7/8	575	Self
429	HUDSON, Tamora Michelle	c/o Donald Hudson, 2221 Lee Street, S.E., Salem, OR 97301	F	8-15-72	9/32	9/32	---	Donald Hudson - Dau
430	HUDSON, William Paul	1799 Wessner, N.E., Salem, OR 97303	M	6-30-44	3/16	3/16	398	Self
431	HUNT, Pamela Jean (Lane)	1705 Prescott St., Springfield, OR 97477	F	9-05-48	3/8	3/8	496	Self
432	HUSTON, Anna	c/o Patricia Hofenbredl, 30100 Salmon River Hwy, Grand Ronde, OR 97347	F	9-25-60	1/4	1/4	---	Kenneth Logan - Dau
433	INGLE, Gloria Ann (Rilatos)	Box 756, Wrangell, AK 99929	F	3-17-44	1/8	1/8	694	Self
434	JACKSON, Joseph	Siletz, OR 97380	M	11-30-1900	4/4	4/4	406	Self
435	JACKSON, Lillian (Fielder)	Route 3, Box 833, Brookings, OR 97415	F	10-30-40	3/16	3/16	281	Self
436	JACKSON, Sharmaine (Scott)	P. O. Box 99, Smith River, CA 95567	F	11-28-49	7/16	7/16	731	Self
437	JACKSON, Tracey Christine	c/o Darlene Carkhuff	F	3-29-72	9/32	9/32	---	Darlene Carkhuff - Dau
438	JAMES, Constance Elaine (Williams)	4122 S.E. 74th, Portland, OR 97206	F	1-22-47	3/4	3/4	917	Self
439	JAMES, Delores	Taholah, WA 98587	F	11-22-32	1/2	1/2	407	Self
440	JAMES, Elizabeth	Siletz, OR 97380	F	5-02-49	1/4	1/4	408	Self
441	JAMES, Kenya Karleen	c/o Constance E. James, 4122 SE 74, Port. OR	F	6-27-64	3/8	3/8	---	Constance James - Dau
442	JAMES, Marlene	Siletz, OR 97380	F	1-01-53	1/4	1/4	409	Self
443	JAMES, Robert	605 Yesler St., Seattle, WA 98104	M	9-04-34	1/2	1/2	410	Self
444	JAMES, Troy Murdock	c/o Constance James, 4122 S.E. 74th, Portland, OR 97206	M	4-04-63	3/8	3/8	---	Constance James - Son
445	JANIK, Marva Elizabeth (Downey)	P. O. Box 14, Cascade Locks, OR 97014	F	3-06-50	1/8	1/8	237	Self
446	JENNINGS, Joanne (Eggersgluss)	5230 N.E. Prescott St., Portland, OR 97218	F	7-26-54	1/8	1/8	263	Self
447	JETT, Ernestine (Read)	5834 N.E. Rodney, Portland, OR 97211	F	12-22-22	1/4	1/4	413	Self

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448	JOBIN, Ardith June (Hart)	P. O. Box 392, Estacada, OR 97023	F	12-17-48	1/4	1/4	356	Self
449	JOGTICH, Patricia Ann (Blair)	17628 S.E. 292nd Pl, Kent, WA 98031	F	8-25-36	1/4	1/4	87	Self
450	JOHANSON, Andrea May (Martin)	1715 S.W. 192nd, Aloha, OR 97005	F	11-02-53	1/4	1/4	580	Self
451	JOHN, Clark	c/o Gylene M. Jones, 412 Market, Coos Bay, OR 97420	M	1-28-08	3/4	3/4	414	Self
452	JOHN, David Andrew	412 Market, Coos Bay, OR 97420	M	3-10-43	3/8	3/8	418	Self
453	JOHN, Diana Lynn	2867 Sterne Pl., Fremont, CA 94536	F	8-06-59	5/16	5/16	---	William C. John - Dau
454	JOHN, Elizabeth Jane	613 N.E. Eads, Newport, OR 97365	F	10-23-46	3/8	3/8	420	Self
455	JOHN, Glendora	2867 Sterne Pl., Fremont, CA 94536	F	7-24-56	5/16	5/16	---	William C. John - Dau
456	JOHN, Jane (Service)	2867 Sterne Pl., Fremont, CA 94536	F	5-11-33	1/4	1/4	734	Self
457	JOHN, Leroy	Star Route N., Box 179 E, Newport, OR 97365	M	6-24-45	3/8	3/8	419	Self
458	JOHN, Lindsey	1154 Chemawa Loop, N.E., Salem, OR 97303	M	7-10-10	3/4	3/4	424	Self
459	JOHN, Lindsey Frank	c/o Gylene M. Jones, 412 Market, Coos Bay, OR 97420	M	12-23-48	3/8	3/8	421	Self
460	JOHN, Robert	101 N. 10th Ave., Stayton, OR 97383	M	9-29-38	3/8	3/8	416	Self
461	JOHN, William Clark	2867 Sterne Pl., Fremont, CA 94536	M	7-01-33	3/8	3/8	415	Self
462	JOHN, William Clark, Jr.	2867 Sterne Pl., Fremont, CA 94536	M	1-01-62	5/16	5/16	---	William C. John - Son
463	JOHNS, Sharon Carol (Duncan)	Siletz, OR 97380	F	1-06-43	1/4	1/4	425	Self
464	JOHNSON, Alice L.	Siletz, OR 97380	F	2-14-37	1/2	1/2	432	Self
465	JOHNSON, Brian T.	c/o Lori Johnson, 6106 S.E. 44th, Portland, OR 97206	M	4-12-65	3/8	3/8	---	Geneva Johnson - Son
466	JOHNSON, Caroline (Metcalf)	P. O. Box 197, Siletz, OR 97380	F	2-28-11	3/4	3/4	788	Self
467	JOHNSON, Denise L.	c/o Lori Johnson, 6106 S.E. 44th, Portland, OR 97206	F	4-17-56	3/8	3/8	---	Geneva Johnson - Dau
468	JOHNSON, Donald Lee	2018 Myrtle, St., North Bend, OR 97459	M	5-12-37	3/4	3/4	434	Self
469	JOHNSON, Doris Ann	c/o Johnnie Johnson, 1907 North Callear, Newburg, OR 97132	F	11-10-56	5/16	5/16	---	Agnes Flanary - Dau
470	JOHNSON, Frank Logan	2018 Myrtle St., North Bend, OR 97459	M	12-10-10	4/4	4/4	435	Self
471	JOHNSON, Geneva Alice (Williams)	6104 S.E. 44th, Portland, OR 97206	F	11-17-28	3/4	3/4	289	Self
472	JOHNSON, John Matthew	15525 S. E. Johnson, Clackamas, OR 97015	M	1-19-58	3/8	3/8	---	Geneva Johnson - Son

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473	JOHNSON, Kevin B.	c/o Lori Johnson, 6106 S.E. 44th, Portland, OR 97206	M	5-20-59	3/8	3/8	---	Geneva Johnson - Son
474	JOHNSON, Lorna Gail	4553 Arabian Ct., S.E., Salem, OR 97301	F	7-05-55	1/4	1/4	---	Willie Johnson - C-Dau
475	JOHNSON, Louis W.	18710 S.W. Wright, Aloha, OR 97005	M	7-17-33	1/2	1/2	431	Self
476	JOHNSON, Raymond H.	6200 S.W. Hall Blvd., #105, Beaverton, OR 97005	M	5-29-32	1/2	1/2	430	Self
477	JOHNSON, Violet (Smith)	c/o Raymond Johnson, 6200 S.W. Hall Blvd., #105 Beaverton, OR 97005	F	4-21-12	4/4	4/4	429	Self
478	JOHNSON, Wayne Kenneth	c/o Lori Johnson, 6106 S. E. 44th, Portland, OR 97206	M	4-09-64	3/8	3/8	---	Geneva Johnson - Son
479	JOHNSTON, Rosalie(Rolfson)	P. O. Box 9, Kalama, WA 98625	F	5-25-48	1/2	1/2	717	Self
480	JONES, Gylene M. (John)	412 Market, Coos Bay, OR 97420	F	11-23-36	3/8	3/8	830	Self
481	JONES, Nora Leola(Towner)	P. O. Box 1093, Wickenburg, AZ 85358	F	9-05-20	1/4	1/4	826	Self
482	JORDAN, Geraldine (Girard)	4868 Chinook Ct., S.E., Salem, OR 97301	F	7-11-33	1/4	1/4	644	Self
483	JUCATAN, Anthony	6245 Lake Labish Rd., N.E., Salem, OR 97303	M	12-17-45	1/2	1/2	438	Self
484	JUCUTAN, Adrienne Ann	c/o Anthony Jucutan, 6245 Lake Labish Rd., N.E. Salem, OR 97303	F	6-27-74	1/4	1/4	---	Anthony Jucutan - Dau
485	JUCUTAN, Amber Nadine	c/o Anthony Jucutan, 6245 Lake Labish Rd., N.E. Salem, OR 97303	F	5-10-72	1/4	1/4	---	Anthony Jucutan - Dau
486	JUCUTAN, Anthony Adam	c/o Anthony Jucutan, 6245 Lake Labish Rd., N.E. Salem, OR 97303	M	8-29-69	1/4	1/4	---	Anthony Jucutan - Son
487	KAISER, Andrea Jane (Huffine)	3011 S. 90th, Yakima, WA 98908	F	3-18-44	1/4	1/4	401	Self
488	KARNOWSKI, Adelaide(Adams)	Box 182, Route 2, Logsden, OR 97357	F	2-04-01	3/4	3/4	439	Self
489	KEISER, Byron M.	4211 State St., Salem, OR 97301	M	3-06-58	3/4	3/4	---	Martha Moody - Son
490	KEKUA, Alfred Joseph, Sr.	Mapleton, OR 97453	M	4-10-25	1/2	1/2	440	Self
491	KEKUA, Alfred Joseph, Jr.	P. O. Box 849, Florence, OR 97439	M	10-27-47	1/4	1/4	441	Self
492	KELLER, Pamela Rae(Fisher)	Box 3076, Juneau, AK 99801	F	1-29-49	5/16	5/16	295	Self
493	KELSO, Shelly Mae(Ricketts)	345 South 42nd, Pl., Springfield, OR 97477	F	9-25-50	1/4	1/4	690	Self
494	KENTTA, Arlen Ray	633 Ferry St., S., Apt. 309, Salem, OR 97301	M	3-18-43	3/16	3/16	445	Self
495	KENTTA, Arlene Frances (Logan)	Route 1 Weitchpec, Hoopa,, CA 95546	F	5-17-48	1/2	1/2	543	Self
496	KENTTA, Donald William	Siletz, OR 97380	M	12-11-45	3/16	3/16	446	Self DOD: 1-27-79
497	KENTTA, Henry Lee	Route 1, Box 647, Toledo, OR 97391	M	6-14-51	3/16	3/16	451	Self
498	KENTTA, John Victor	21 Putnam, S., Claremont, NH 03743	M	7-26-41	3/16	3/16	444	Self

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499	KENTTA, Monte Wayne	2936 S.W. Anchor, Newport, OR 97365	M	5-19-53	3/16	3/16	448	Self
500	KENTTA, Norma (Belinger)	4416 Scott Ave., N.E., Salem, OR 97303	F	1-23-21	3/8	3/8	442	Self
501	KENTTA, Norma Jean	Siletz, OR 97380	F	7-21-54	3/16	3/16	449	Self
502	KENTTA, Rosalie Grace	20 Eugene St., Mellville, NY 11746	F	10-02-39	3/16	3/16	443	Self
503	KESSINGER, Donna Lee (Strong)	852 Shangri-La Ave., N.E., Salem, OR 97303	F	6-26-38	1/4	1/4	801	Self
504	KIRKWOOD, Sheila	4357 41st Ave., N.E., Salem, OR 97303	F	6-21-48	1/4	1/4	724	Self
505	KLAMATH, Clifton Dale	c/o Walter L. Klamath, Box 14185, Portland, OR 97214	M	4-15-54	1/4	1/4	455	Self
506	KLAMATH, Lynette Rae	c/o Sharon M. Klamath, 6505 S.E. Clatsop, Portland, OR 97206	F	12-21-65	1/4	1/4	---	Walter Klamath - Dau
507	KLAMATH, Pamela Kay	5811 S.E. 86th, Portland, OR 97266	F	11-26-58	1/4	1/4	---	Walter Klamath - Dau
508	KLAMATH, Walter Lawrence	Box 14185, Portland, OR 97214	M	5-18-30	1/2	1/2	454	Self
509	KLINE, Corey Wayne	c/o Joella Kline, P. O. Box 345, Siletz, OR 97380	M	7-15-77	3/8	3/8	---	Stanley Strong- G-Son
510	KLINE, Joella E.	P. O. Box 345, Siletz, OR 97380	F	2-13-58	3/4	3/4	---	Stanley Strong - Dau
511	KLOKMAN, Allison Faye	532 Del Monte, Pasadena, CA 91103	F	5-14-55	7/16	7/16	---	Theodora Logsden - Dau
512	KNOX, Mary Margaret (Hedrick)	1-B S. McKinley, Kennewick, WA 99336	F	5-03-52	1/8	1/8	370	Self
513	KOEHLER, Edmund E.	3761 Carnes Rd., Roseburg, OR 97470	M	12-10-38	1/4	1/4	458	Self
514	KOEHLER, Henry Richard	3808 Peck Ave., S.E., Salem, OR 97302	M	7-03-36	1/4	1/4	457	Self
515	KUNKEL, Rosenette V.	c/o Lyle O. Pearson, 920 Airport Rd., Albany, OR 97321	F	10-15-49	1/4	1/4	---	Willie Johnson - G-Dau
516	LA CHANCE, Melvin Richard	769 S.E. Hankel, Dallas, OR 97338	M	2-02-35	1/4	1/4	464	Self
517	LA CHANCE, Matthew Eugene	379 S. 47th St., Springfield, OR 97477	M	6-06-30	1/4	1/4	463	Self
518	LA CHANCE, Thomas Theodore	General Delivery, Grand Ronde, OR 97347	M	9-13-29	1/4	1/4	462	Self
519	LAFFERTY, Vera (Wallace)	Route 2, Box 1316, Smith River, CA 95567	F	1-07-36	3/8	3/8	862	Self
520	LAGREW, June Faith (Towner)	c/o W.B. Eddings, II, 2335 N. Willamette Blvd., Portland, OR 97217	F	6-25-23	1/4	1/4	740	Self
521	LANDIS, Rosemary (Breon)	P. O. Box 44, Brightwood, OR 97011	F	2-13-43	1/4	1/4	95	Self
522	LANE, Alfred, Jr.	2735 3rd St., National City, CA 92050	M	3-03-26	3/8	3/8	471	Self
523	LANE, Arnold Dean	c/o Ernestine Wooten, 4610 12th Ave., N.E., Salem, OR 97303	M	9-17-68	3/8	3/8	---	Dennis Lane - Son
524	LANE, Arthur Harry, Jr.	142 N. Oak, Independence, OR 97351	M	10-28-53	3/16	3/16	470	Self

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525	LANE, Burma Jodene (Williams)	Route 1, Box 34A, Philomath, OR 97370	F	6-12-44	3/8	3/8	907	Self
526	LANE, Charles Raymond	440 N. 36th, Springfield, OR 97477	M	10-02-42	3/16	3/16	482	Self
527	LANE, Clayton Frank	160 14th, N.E., Salem, OR 97303	M	2-09-42	3/8	3/8	489	Self
528	LANE, David Leroy	1695 D St., N.E., Salem, OR 97301	M	7-24-36	3/8	3/8	487	Self
529	LANE, Dennis	2296 Northgate Ave., N.E., Salem, OR 97303	M	12-14-40	3/4	3/4	479	Self
530	LANE, Gerald Andrew	c/o Naomi Adams, 5948 Stayton Rd., Turner, OR 97392	M	4-14-48	3/8	3/8	491	Self
531	LANE, James	310 N.W. 6th, Portland, OR 97209	M	9-04-06	3/4	3/4	476	Self
532	METCALF, Janice DeVonn (Lane)	Rt. 2, Box 182, Toledo, OR 97391	F	5-24-47	3/8	3/8	495	Self
533	LANE, Joseph Harry	3335 S.E. 43rd., Portland, OR 97206	M	3-28-21	3/8	3/8	481	Self
534	LANE, Joseph Harry, Jr.	1920 Sunshine Dr., Concord, CA 94520	M	8-24-44	3/16	3/16	483	Self
535	LANE, Marjorie (Martin)	4610 12th Ave., N.E., Salem, OR 97303	F	2-12-16	3/4	3/4	477	Self
536	LANE, Virgil Alan	c/o Ernestine Wooten, 4610 12th Ave., N.E., Salem, OR 97303	M	3-16-70	3/8	3/8	---	Dennis Lane - Son
537	LANE, William Alfred	P. O. Box 251, Siletz, OR 97380	M	1-02-51	3/8	3/8	497	Self
538	LANEGAN, Elaine Adele	Siletz, OR 97380	F	10-20-50	1/8	1/8	500	Self
539	LANEGAN, Joseph K.	Siletz, OR 97380	M	3-11-23	1/4	1/4	499	Self
540	LANIER, Lois Louise	235 N. Valley Ave., Apt. 22, Burbank, CA 91505	F	8-13-25	1/8	1/8	---	Cora Prettyman - Dau
541	LARSEN, Charles Raymond	5260 S. Santa Fe Dr., No. 24, Littleton, CO 80120	M	11-13-52	1/4	1/4	508	Self
542	LARSEN, Franklin	Siletz, OR 97380	M	9-09-43	1/4	1/4	505	Self
543	LARSEN, George Allen	1451 W. Nevada Pl., Denver, CO 80203	M	4-14-54	1/4	1/4	509	Self
544	LARSEN, Kenneth Lee	St George Hotel, Rm. 351, Santa Cruz, CA 95060	M	4-11-42	1/4	1/4	504	Self
545	LARSEN, Raymond L.	16 W. 10th Ave., Harding Apt. 207, Denver, CO 80204	M	3-26-19	1/2	1/2	503	Self
546	LARSEN, Victor	Fairview Hospital, 2250 Strong Rd., S.E., Salem, OR 97302	M	6-18-10	1/2	1/2	502	Self
547	LARUE, Lila M.	49 North 200, East, Santaquin, UT 84655	F	5-16-48	1/4	1/4	---	Willie Johnson - G-Dau
548	LARVIE, Lillian (Case)	390 S.E. Lancaster Court, Apt. 5, Salem, OR 97303	F	11-13-23	1/2	1/2	848	Self
549	LASH, Ellen Arlene (Curl)	Box 712, Lincoln City, OR 97397	F	2-27-41	1/2	1/2	200	Self
550	LAWSON, Lavina Lou	1226 N.W. Lake, Newport, OR 97365	F	3-27-34	1/4	1/4	514	Self

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Roll Number	Name	Address	Sex	Date of Birth	Degree Siletz Blood	Total Indian Blood	Basic Roll Number	Ancestor's Name and Relationship
551	LEE, Charles Leroy	Siletz, OR 97380	M	3-01-52	3/16	3/16	523	Self
552	LEE, Dixie Sue (Williams)	2749 S.W. Morris Ave., Corvallis, OR 97330	F	11-14-46	3/8	3/8	908	Self
553	LEE, Larry Leonard	Siletz, OR 97380	M	12-14-48	3/16	3/16	521	Self
554	LEE, Marsida Marie	Siletz, OR 97380	F	5-03-53	3/16	3/16	524	Self
555	LEE, Patricia Ann	Siletz, OR 97380	F	8-01-54	3/16	3/16	525	Self
556	LEE, Rosena Marvina	Siletz, OR 97380	F	3-29-51	3/16	3/16	522	Self
557	LENO, Claudia Louise	P. O. Box 2, Grand Ronde, OR 97347	F	11-12-43	1/2	1/2	533	Self
558	LENO, Gregg E.	c/o Claudia Leno, P. O. Box 2, Grand Ronde, OR 97347	M	3-29-68	1/4	1/4	---	Claudia Leno - Son
559	LENO, Michelle L.	c/o Claudia Leno, P. O. Box 2, Grand Ronde, OR 97347	F	4-25-67	1/4	1/4	---	Claudia Leno - Dau
560	LITTLETON, Earl Clark	4055 Langton, Eugene, OR 97405	M	4-09-53	3/16	3/16	527	Self
561	LOGAN, Cherine	Siletz, OR 97380	F	7-23-40	1/2	1/2	549	Self
562	LOGAN, Elmer Louis	Gen. Del., Willimina, OR 97396	M	1-03-49	1/2	1/2	535	Self
563	LOGAN, Frankie Carl	4139 Polar Way, Longview, WA 98632	M	11-18-48	1/4	1/4	547	Self
564	LOGAN, John, Jr.	Siletz, OR 97380	M	12-17-46	1/2	1/2	542	Self
565	LOGAN, Kendall John	10813 Geo-Ann Rd., Oregon City, OR 97045	M	4-19-53	1/4	1/4	548	Self
566	LOGAN, Kenneth R.	Siletz, OR 97380	M	12-18-39	1/2	1/2	530	Self
567	LOGAN, Larkie Charles	355 S. Manzanita Ct., Canby, OR 97013	M	11-18-48	1/4	1/4	546	Self
568	LOGAN, Larry	Siletz, OR 97380	M	7-23-40	1/2	1/2	550	Self
569	LOGAN, Leonard Leroy	P. O. Box 187, Willamina, OR 97396	M	6-12-45	1/2	1/2	534	Self
570	LOGAN, Nelda Lee	644 Lancaster Dr., N.E., Salem, OR 97301	F	4-01-53	1/2	1/2	536	Self
571	LOGSDEN, Bambi Lynn	c/o Allison Klokman, 532 Del Monte, Pasadena, CA 91103	F	1-25-61	7/16	7/16	---	Theodore Logsden - Dau
572	LOGSDEN, Carl	Siletz, OR 97380	M	6-08-92	4/4	4/4	551	Self
573	LOGSDEN, John Arnold	Siletz, OR 97380	M	4-04-21	1/2	1/2	552	Self
574	LOGSDEN, Richard Mark	c/o Janice Boyd, 532 Del Monte, Pasadena, CA 91103	M	5-12-57	7/16	7/16	---	Janice Boyd - Son
575	LOGSDEN, Tamara Marie	c/o Janice Boyd, 532 Del Monte, Pasadena, CA 91103	F	12-21-58	7/16	7/16	---	Janice Boyd - Dau
576	LOGSDEN, Theodore	Siletz, OR 97380	M	2-07-36	1/2	1/2	554	Self
577	LONG, Alfred Abeson	c/o Louise Long, 17505 Mt. Hebo Rd., Hebo, OR 97122	M	7-22-57	1/4	1/4	---	Louise Long - Son
578	LONG, Brock Monroe	c/o Louise Long, 17505 Mt. Hebo Rd., Hebo, OR 97122	M	1-01-60	1/4	1/4	---	Louise Long - Son

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579	LONG, Coleman Clayton	c/o Louise Long, 17505 Mt. Hebo Rd., Hebo, OR 97122	M	2-09-64	1/4	1/4	---	Louise Long - Son
580	LONG, Louise Agnes (Curl)	17505 Mt. Hebo Rd., Hebo, OR 97122	F	1-23-40	1/2	1/2	199	Self
581	LOPEZ, Henrietta Lee (Curl)	Route 4, Box 442-C, Coos Bay, OR 97420	F	7-14-35	1/2	1/2	869	Self DOD: 1-04-79
582	LOVELAND, Elinor (Caba)	4617 N.E. 75th, Portland, OR 97218	F	4-28-28	5/8	5/8	142	Self
583	LUND, Sherry Lee (McQuire)	1407 7th St., Astoria, OR 97103	F	1-02-46	1/4	1/4	607	Self
584	LUNDY, Dale Rodney	RR Box 494, Yachats, OR 97498	M	11-16-51	1/4	1/4	557	Self
585	LUNDY, Daniel Everett	P. O. Box 1254, Bonners Ferry, ID 83805	M	7-25-50	1/4	1/4	556	Self
586	MARKS, Violet Johnson	8604 S.W. 41st., Portland, OR 97219	F	12-30-15	1/2	1/2	560	Self
587	MARSH, Shelley Marie (Robertson)	N.E. 1134 Markley Dr., #1, Pullman, WA 99163	F	5-18-54	7/16	7/16	714	Self
588	MARTIN, Angela E.	c/o Joella Kline, P. O. Box 345, Siletz, OR 97380	F	9-29-74	3/8	3/8	---	Stanley Strong -G-Dau
589	MARTIN, Antoine	395 McNamara St., Crescent City, CA 95531	M	4-30-19	1/2	1/2	562	Self
590	MARTIN, Antone Frederick	395 McNamara St., Crescent City, CA 95531	M	10-28-51	3/8	3/8	565	Self
591	MARTIN, Bradley Shawn	c/o Virgil Martin, 445 S.W. 6th, Newport, OR 97365	M	12-30-62	1/4	1/4	---	Virgil Martin - Son
592	MARTIN, Brenda Lee (Lucas)	2194 Vaughn Ave., N.E., Salem, OR 97303 Salem, OR	F	2-03-38	5/16	5/16	---	Lorna Martin - Dau
593	MARTIN, Cheryl Lynn	P. O. Box 328, Haines, AK 99827	F	12-29-59	1/4	1/4	---	Ernest Martin - Dau
594	MARTIN, Christopher Shane	c/o Virgil Martin, 445 S. W. 6th, Newport, OR 97365	M	6-16-61	1/4	1/4	---	Virgil Martin - Son
595	MARTIN, David	2122 N.W. Irving, Portland, OR 97210	M	5-10-11	4/4	4/4	574	Self
596	MARTIN, Ernest	P. O. Box 328, Haines, AK 99827	M	7-07-37	1/2	1/2	569	Self
597	MARTIN, Jaimi Jill	c/o Clark W. Martin, 6428 Edsall Rd., No. 1, Alexandria, VA 22312	F	8-13-55	15/32	15/32	---	Wilbur Martin - Dau
598	MARTIN, Joseph Clayton	325 46th Ave., S.E., Salem, OR 97301	M	6-12-53	5/16	5/16	567	Self
599	MARTIN, Katherine Janelle	c/o Arliss Strickler, P. O. Box 313, Siletz, OR 97380	F	12-08-62	1/4	1/4	---	Marie Spratt - Dau
600	MARTIN, Kristi Lynn	P. O. Box 1442, Newport, OR 97365	F	3-26-50	1/4	1/4	578	Self
601	MARTIN, Kyle Kevin	4637 Southland Ave., Alexandria, VA 22312	M	2-08-57	15/32	15/32	---	Wilbur Martin - Son
602	WHITEHEAD, Linda Joy	Box 16, Siletz, OR 97380	F	4-19-52	1/4	1/4	894	Self
603	MARTIN, Lori Ann	P. O. Box 328, Haines, AK 99827	F	2-10-61	1/4	1/4	---	Ernest Martin - Dau
604	MARTIN, Lorna Beth (Washington)	325 46th Ave., S.E., Salem, OR 97301	F	7-18-34	5/8	5/8	566	Self

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605	MARTIN, Rickey Gene	P. O. Box 328, Haines, AK 99827	M	9-21-57	1/4	1/4	---	Ernest Martin - Son
606	MARTIN, Roberta (Goodell)	6428 Edsall Rd., #1, Alexandria, VA 22312	F	7-04-32	7/16	7/16	572	Self
607	MARTIN, Steven Dean	P. O. Box 328, Haines, AK 99827	M	11-15-58	1/4	1/4	---	Ernest Martin - Son
608	MARTIN, Vernie Creta (Collins)	514 7th St., #3, Marysville, CA 95901	F	12-24-04	4/4	4/4	93	Self
609	MARTIN, Violet Gylene	c/o Arliss Strickler, P. O. Box 313, Siletz OR 97380	F	1-24-64	1/4	1/4	---	Marie Spratt - Dau
610	MARTIN, Virgil Dean, Jr.	c/o Virgil Martin, 445 S.W. 6th, Newport, OR 97365	M	2-13-60	1/4	1/4	---	Virgil Martin - Son
611	MARTIN, Virgil Eugene	c/o Arliss Strickler, P. O. Box 313, Siletz, OR 97380	M	1-23-67	1/4	1/4	---	Marie Spratt - Son
612	MARTIN, Virginia Jeanine	c/o Arliss Strickler, P. O. Box 313, Siletz, OR 97380	F	1-23-67	1/4	1/4	---	Marie Spratt - Dau
613	MARTIN, Wilbur, Jr.	6428 Edsall Rd., #1, Alexandria, VA 22312	M	1-26-31	1/2	1/2	571	Self
614	MARZAN, Benito Mariano	P. O. Box 356, Siletz, OR 97380	M	11-25-47	1/8	1/8	582	Self
615	MARZAN, Juan Francisco	P. O. Box 24, Orange Cove, CA 93646	M	4-13-50	1/8	1/8	583	Self
616	MARZAN, Mary M. (Silatos)	334 6th St., Orange, Cove, CA 93646	F	2-09-27	1/4	1/4	581	Self
617	MARZAN, Robert Anthony	P. O. Box 356, Siletz, OR 97380	M	4-21-52	1/8	1/8	584	Self
618	MASON, Cynthia Mary	c/o Madge Mason, Box 13, Waldport, OR 97394	F	12-15-60	1/4	1/4	---	Madge Mason - Dau
619	MASON, Howard Paul	Box 19, Yachats, OR 97498	M	10-09-47	1/4	1/4	587	Self
620	MASON, Judith Annette	c/o Madge Mason, Box 13, Waldport, OR 97394	F	6-23-62	1/4	1/4	---	Madge Mason - Dau
621	MASON, Madge (Darcy)	Box 13, Waldport, OR 97394	F	2-11-23	1/2	1/2	585	Self
622	MASON, Monica Lynne	c/o Madge Mason, Box 13, Waldport, OR 97394	F	8-02-63	1/4	1/4	---	Madge Mason - Dau
623	MASON, Pamela Jo	P. O. Box 431, Yachats, OR 97498	F	8-12-53	1/4	1/4	592	Self
624	MASON, Tad	711 S.W. Minnie, Newport, OR 97365	M	6-18-52	1/4	1/4	591	Self
625	MASON, Terrence M.	Gen. Del. Kodiak, AK 99615	M	6-30-45	1/4	1/4	586	Self
626	MASON, Tim Duane	c/o Doug Maulton, 69 Jadwin Ave., Quarry Apt. No. 66, Richland, WA 99352	M	1-13-51	1/4	1/4	590	Self
627	MASON, Todd Walter	P. O. Box 13, Waldport, OR 97394	M	1-03-50	1/4	1/4	589	Self
628	MAUCH, Elma Louise (Chapman)	Route 1, Box 353, Toledo, OR 97391	F	7-12-19	1/2	1/2	814	Self
629	MAYS, Angelina Anna (Artiago)	2804 N.E. 27th, Portland, OR 97212	F	8-08-50	3/16	3/16	10	Self

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630	MCCLAY, Meri Jane	Box 273, Bonham, TX 75418	F	5-04-44	1/8	1/8	594	Self
631	MCCLAY, Charles David	2049 Dogwood, Reedsport, OR 97467	M	7-13-17	1/4	1/4	593	Self
632	MCCLAY, David Charles	957 Fir, Reedsport, OR 97467	M	5-21-48	1/8	1/8	595	Self
633	MCCLINTOCK, Allen Eugene	4022 S.E. Risley, Milwaukie, OR 97222	M	6-02-35	1/4	1/4	597	Self
634	MCCLINTOCK, Earl L.	652 Holly St., Junction City, OR 97448	M	5-06-27	1/4	1/4	596	Self
635	MCCLINTOCK, Freddie Lamont	675 E. Beacon Dr., Eugene, OR 97404	M	9-23-51	1/8	1/8	598	Self
636	MCCLINTOCK, Orpha Mae	652 Holly St., Junction City, OR 97448	F	6-25-53	1/8	1/8	599	Self
637	MCCORMICK, James Henry	425 13th, Independence, OR 97351	M	5-08-47	5/16	5/16	602	Self
638	MCCOY, Joseph Lincoln	Columbia Apt., Aberdeen, WA 98520	M	9-29-20	4/4	4/4	601	Self
639	MCKENNY, Alice (Briggs)	601 S.W. 2nd, College Place, WA 99324	F	8-04-08	1/2	1/2	604	Self
640	MCKNIGHT, Arthur Thomas	145 U Street, Springfield, OR 97471	M	1-19-58	7/16	7/16	---	Clarice McKnight - Son
641	MCKNIGHT, Clarice Nadine (Bell)	636 G Street, Springfield, OR 97471	F	4-25-37	7/8	7/8	41	Self
642	MCKNIGHT, Francis Melvin	700 N. 1st. Street, Apt. 15, Springfield, OR 97471	M	1-12-57	7/16	7/16	---	Clarice McKnight - Son
643	MCLEOD, Diane Louise (Chatterson)	P. O. Box 81, Fall Creek, OR 97438	F	11-18-51	1/4	1/4	174	Self
644	MCMAHON, Martha (Downey)	P. O. Box 336, Siletz, OR 97380	F	8-12-28	3/8	3/8	494	Self
645	MCQUIRE, Esther Annabelle (Simmons)	1034 James St., Astoria, OR 97103	F	4-08-25	1/2	1/2	606	Self
646	MCQUIRE, Marvin Lewis	P. O. Box 1612, Forks, WA 98331	M	9-28-47	1/4	1/4	608	Self
647	MEDLEY, Evalina (Fernandes)	509 Robinson Rd., Woodland, WA 98674	F	4-17-45	3/16	3/16	271	Self
648	MEEKS, Phyllis (Doherty)	707 N. Hawaii St., Kennewick, WA 99336	F	10-18-27	1/4	1/4	367	Self
649	MERRILL, Linda Lou (Lane)	9643 S.W. Alsea Dr., Tualatin, OR 97062	F	2-03-48	3/16	3/16	484	Self
650	METCALF, Ellen Louise	Box 67, Siletz, OR 97380	F	2-16-51	3/4	3/4	614	Self
651	METCALF, Leon Earl	Route 2, Box 182, Toledo, OR 97391	M	8-12-53	3/4	3/4	615	Self
652	METCALF, Loraine Yvonne (Butler)	Box 1001, Priest River, ID 83856	F	11-22-48	1/2	1/2	135	Self
653	METCALF, Martha Michelle	c/o Loraine Metcalf, Box 1001, Priest River, ID 83856	F	10-05-66	5/8	5/8	---	Willard Metcalf - Dau
654	METCALF, Michael Damon	c/o Ellen Metcalf, Box 67, Siletz, OR 97380	M	8-05-71	3/8	3/8	---	Ellen Metcalf - Son
655	METCALF, Nathan Thomas	c/o Loraine Metcalf, Box 1001, Priest River, ID 83856	M	3-12-70	5/8	5/8	---	Willard Metcalf - Son

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656	METCALF, Renee Lanette	c/o Loraine Metcalf, Box 1001, Priest River, ID 83856	F	11-24-65	5/8	5/8	---	Willard Metcalf - Dau
657	METCALF, Willard Lee	c/o Janice Metcalf, Route 2, Box 182, Toledo, OR 97391	M	10-07-75	9/16	9/16	---	Leon Metcalf - Son
658	MILES, Charles	Siletz, OR 97380	M	4-23-32	1/4	1/4	617	Self
659	MILLER, Eileen (Fitzpatrick)	Siletz, OR 97380	F	2-14-10	1/2	1/2	621	Self
660	MILLER, Gaylene Marie (Reynolds)	2463 Meadow Lane, Eureka, CA 95501	F	3-25-47	1/8	1/8	685	Self
661	MILLER, Jo Ann (Downey)	Route 2, Box 156, Logsdan, OR 97357	F	3-10-32	3/8	3/8	450	Self
662	MILLER, Mary (Lawson)	Siletz, OR 97380	F	8-28-12	1/2	1/2	623	Self
663	MILLER, Robert Leland	Siletz, OR 97380	M	11-25-29	1/4	1/4	622	Self
664	MILLS, Wilma Lou(Chapman)	709 N. Daisy, Escondidos, CA 92027	F	7-10-44	3/16	3/16	165	Self
665	MINTHORN, Vivian(McIntyre)	Route 1, Box 43, Adams, OR 97810	F	7-28-15	1/2	1/2	376	Self
666	MONTANA, Pauline Ruby (Washington)	732 N.E. Couch, Portland, OR 97232	F	12-25-42	7/8	7/8	878	Self
667	MONTGOMERY, Fred	Siletz, OR 97380	M	3-20-87	1/4	1/4	626	Self
668	MONTGOMERY, Herman	Siletz, OR 97380	M	7-08-94	1/4	1/4	627	Self
669	MONTGOMERY, Orleana (Johnson)	Siletz, OR 97380	F	11-18-97	1/4	1/4	428	Self
670	MONTGOMERY, Robert	Siletz, OR 97380	M	11-24-29	1/8	1/8	625	Self
671	MOODY, Charles Edward	c/o Genavieve Moody, 21130 S.E. Salmon, Gresham, OR 97030	M	10-13-51	1/8	1/8	629	Self
672	MOODY, Genevieve (McClintock)	21130 S.E. Salmon, Gresham, OR 97030	F	12-13-21	1/4	1/4	628	Self
673	MOODY, Lawrence William	212 Cedar, Brookings, OR 97415	M	2-27-53	1/8	1/8	630	Self
674	MOODY, Martha (Case)	1920 N.W. 26th, Portland, OR 97221	F	10-27-26	1/2	1/2	402	Self
675	MORRELL, Priscilla Ann (Fernandez)	8315 S.W. 133rd, Beaverton, OR 97005	F	3-14-46	3/16	3/16	272	Self
676	MORRISON, Virgene Louise (Weber)	4910 S.W. 192nd, Aloha, OR 97005	F	7-16-49	1/8	1/8	885	Self
677	MORTENSON, Arnold	c/o Marjorie Mortenson, 6530 S.E. Clatsop, Portland, OR 97206	M	7-19-51	1/4	1/4	636	Self
678	MORTENSON, Arthur	c/o Marjorie Mortenson, 6530 S.E. Clatsop, Portland, OR 97206	M	7-19-51	1/4	1/4	637	Self

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679	MORTENSON, Ellery Peter	c/o Marjorie Mortenson, 6530 S.E. Clatsop, Portland, OR 97206	M	6-22-48	1/4	1/4	635	Self
680	MORTENSON, Marjorie (Menard)	6530 S.E. Clatsop, Portland, OR 97206	F	3-28-23	1/2	1/2	632	Self
681	MORTENSON, Paul	c/o Marjorie Mortenson, 6530 S.E. Clatsop, Portland, OR 97206	M	2-03-55	1/4	1/4	---	Marjorie Mortenson - Son
682	MORTENSON, Ronald Verden	c/o Marjorie Mortenson, 6530 S.E. Clatsop, Portland, OR 97206	M	10-20-44	1/4	1/4	633	Self
683	MOSES, Joy Gertrude(Hill)	745 Cedar Flat Rd., Williams, OR 97544	F	11-28-31	1/4	1/4	---	Vivian Minthorn - Dau
684	MUNCY, Mary Alice (Bensell)	P. O. Box 23, Siletz, OR 97380	F	7-22-07	5/8	5/8	642	Self
685	MUSCHAMP, Clint Charles	c/o Jack Muschamp, P. O. Box 364, Siletz, OR 97380	M	5-11-70	1/4	1/4	---	Jack Muschamp - Son
686	MUSCHAMP, George	Box 273, Siletz, OR 97380	M	6-08-48	1/2	1/2	640	Self
687	MUSCHAMP, Gladys (Bensell)	Box 273, Siletz, OR 97380	F	9-03-14	4/4	4/4	639	Self
688	MUSCHAMP, Jack Charles	Box 364, Siletz, OR 97380	M	2-23-50	1/2	1/2	641	Self
689	MUSCHAMP, Marci Lynn	c/o Jack Muschamp, Box 364, Siletz, OR 97380	F	7-08-71	1/4	1/4	---	Jack Muschamp - Dau
690	NAVARRO, Donna Marie (Voutrin)	2120 Vaughn, N.E., Salem, OR 97303	F	6-27-41	3/8	3/8	855	Self
691	NEIMI, Judy Kay (Lawson)	RR No. 2 Creston Dr., Terrace, B. C.	F	7-07-42	1/4	1/4	511	Self
692	NELSON, Archie Hugh	Box 36, Siletz, OR 97380	M	6-15-65	3/8	3/8	---	Victoria Nelson - Son
693	NELSON, Park H. IV	Box 36, Siletz, OR 97380	M	6-08-64	3/8	3/8	---	Victoria Nelson - Son
694	NELSON, Victoria Marie (Ben)	Box 36, Siletz, OR 97380	F	6-08-30	3/4	3/4	56	Self
695	NEVAREZ, Nadine Antonette	700 N. 1st. Apt. 4, Springfield, OR 97477	F	5-30-50	3/8	3/8	564	Self
696	NEWPORT, Mary Alice (Leach)	RR Deana Cr., Reedsport, OR 97467	F	4-15-50	1/8	1/8	519	Self
697	NORTON, Marge Elaine (Pullam)	4155 Bonillo Dr., #309, San Diego, CA 92115	F	8-08-51	1/4	1/4	670	Self
698	O LEARY, Andrew Washington	c/o Pauline Montana, 732 N. E. Couch, Portland OR 97232	M	8-06-65	7/16	7/16	---	Pauline Montana - Son
699	O LEARY, Marcus Lee	c/o Pauline Montana, 732 N. E. Couch, Portland, OR 97232	M	3-06-61	7/16	7/16	---	Pauline Montana - Son

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Roll Number	Name	Address	Sex	Date of Birth	Degree Siletz Blood	Total Indian Blood	Basic Roll Number	Ancestor's Name and Relationship
700	OLEMAN, Stacie Anne (Strickler)	Route 3, Box 485, Siletz, OR 97380	F	6-12-54	7/32	7/32	796	Self
701	OLSON, Ada Nancy (Service)	P. O. Box 1574, Newport, OR 97365	F	10-30-23	1/4	1/4	648	Self
702	OLSON, Ole Willard	c/o Ada Olson, P. O. Box 1574, Newport, OR 97365	M	11-26-52	1/8	1/8	649	Self
703	OLSON, Patricia Bernice (Logan)	10813 Geo-Ann Rd., Oregon City, OR 97045	F	4-25-47	1/4	1/4	545	Self
704	ORTON, Charles James	P. O. Box 155, Toledo, OR 97391	M	12-06-09	3/4	3/4	652	Self
705	ORTON, Charles William	4000 Flynn, Bellingham, WA 98225	M	9-14-41	3/4	3/4	655	Self
706	ORTON, Daniel	2710 S.E. Olsen St., Milwaukee, OR 97222	M	6-16-02	3/4	3/4	657	Self
707	ORTON, Nellie (Metcalf)	P. O. Box 155, Toledo, OR 97391	F	3-06-13	3/4	3/4	653	Self
708	OWEN, Beverly A. (Flagg)	1539 Madras St., S.E., Salem, OR 97302	F	9-13-56	7/16	7/16	---	Mercelene Flagg - Dau
709	PACLEB, Diana Battise	Siletz, OR 97380	F	3-29-51	1/2	1/2	661	Self
710	PACLEB, Domingo, Jr.	Siletz, OR 97380	M	6-01-49	1/2	1/2	660	Self
711	PAEZ, Jose A., III	7838 Ben Ave., N. Hollywood, CA 91605	M	11-20-48	3/16	3/16	---	Augusta Alicante - G-Son
712	PAEZ, Theresa Alicante	7838 Ben Ave., N. Hollywood, CA 91605	F	9-07-26	3/8	3/8	---	Augusta Alicante - Dau
713	PALOMINO, Clara (Towner)	7106 S.E. Mitchell Court, Portland, OR 97206	F	6-23-28	3/4	3/4	611	Self
714	PALOMINO, Priscilla Shay	c/o Clara Palomino, 7106 S.E. Mitchell Court, Portland, OR 97206	F	8-31-65	3/8	3/8	---	Clara Palomino - Dau
715	PARR, Ardella Marie (Case)	P. O. Box 182, Siletz, OR 97380	F	10-25-56	7/16	7/16	---	Elouise Case - Dau
716	PATRICK, Susan Darlene (Staggs)	1501 S.E. Stephens, Roseburg, OR 97470	F	3-27-50	7/16	7/16	792	Self
717	PEARSON, David Francis	P. O. Box 63, Springville, UT 84663	M	9-02-51	1/4	1/4	---	Willie Johnson - G-Son
718	PEARSON, Dennis Paul	c/o Frances Pearson, 920 Airport Rd., Albany, OR 97321	M	2-15-53	1/4	1/4	---	Willie Johnson - G-Son
719	PEARSON, Frances	920 Airport Rd., Albany, OR 97321	F	3-18-30	1/2	1/2	---	Willie Johnson - Dau
720	PEARSON, John C.	3779 Fisher Rd., N.E., Salem, OR 97303	M	1-23-54	1/4	1/4	---	Willie Johnson - G-Son
721	PEARSON, Mark C.	c/o Frances Pearson, 920 Airport Rd., Albany, OR 97321	M	5-20-57	1/4	1/4	---	Willie Johnson - G-Son
722	PEARSON, Richard Lavell	555 17th St., S.E., Salem, OR 97301	M	7-17-55	1/4	1/4	---	Willie Johnson - G-Son
723	PEARSON, Robb Lee	115 S. Pinon, Vernal UT 84078	M	3-28-47	1/4	1/4	---	Willie Johnson - G-Son
724	PETERSON, Bonnie May (Brown)	5143 Alpine Loop, Eugene, OR 97405	F	2-04-34	1/4	1/4	116	Self

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725	PETERSON, Pauline Jean (Lane)	202 French Ave., Toledo, OR 97391	F	5-27-34	3/8	3/8	663	Self
726	PHILBROOK, Rena Rose (Blacketer)	3614 23rd St., Forest Grove, OR 97116	F	9-05-53	3/8	3/8	85	Self
727	PIERSON, Honie Ann	c/o Juanita Harper, 2680 Bennett Cr. Dr., Cottage Grove, OR 97424	F	8-21-72	1/4	1/4	---	Juanita Harper - Dau
728	PIGSLEY, Delores Ann (Lane)	1322 Larchwood, N., Salem, OR 97303	F	3-29-43	3/8	3/8	467	Self
729	PILGRIM, Agnes E. (Baker)	1245 Inyo St., Crescent City, CA 95531	F	9-11-24	1/4	1/4	563	Self
730	POERSCH, Veronica Jean (Siniscal)	Route 2, Box 175H, Hillsboro, OR 97123	F	10-21-44	1/8	1/8	774	Self
731	POND, Clayton	7012 Warmick Pl., Laurel MD 20810	M	8-29-20	3/8	3/8	665	Self
732	POND, Gerald Alfred	980 Church St., Woodburn, OR 97071	M	3-28-55	1/4	1/4	---	Alfred Pond - Son
733	POND, Terry Lee	9205 S.W. Terwilliger Blvd., Portland, OR 97219	M	10-23-44	1/4	1/4	---	Alfred Pond - Son
734	PORTER, Catherine Jean (Workman)	Route 3, Box 138, Dayton, OR 97114	F	2-04-48	1/4	1/4	924	Self
735	POTTER, Jana Sue (Ricketts)	1016 Cunningham Ln., S., #32, Salem, OR 97302	F	4-01-52	1/4	1/4	691	Self
736	POTTER, Melissa (Viles)	821 S. Main St., Prineville, OR 97754	F	3-08-48	1/8	1/8	852	Self
737	PRESTON, Maxine(Washington)	Siletz, OR 97380	F	12-06-34	4/4	4/4	870	Self
738	PULLAM, Florine (Darcy)	Box 343, Waldport, OR 97394	F	5-27-27	1/2	1/2	669	Self
739	PULLAM, Mark Anthony	Box 343, Waldport, OR 97394	M	1-15-63	1/4	1/4	---	Florine Pullam - Son
740	PULLAM, Patrick Lynn	P. O. Box 1293, Oakridge, OR 97463	M	6-03-53	1/4	1/4	671	Self
741	PULLAM, Tina Marie	c/o Florine Pullam, Box 343, Waldport, OR 97394	F	11-27-55	1/4	1/4	---	Florine Pullam - Dau
742	PYLE, Arneva (Orton)	2415 Meridian, Bellingham, WA 98225	F	9-09-35	3/4	3/4	672	Self
743	PYLE, James Darwin	3126 Cedarwood, Bellingham, WA 98225	M	5-16-51	3/8	3/8	673	Self
744	PYLE, Wendy Doreen	295 Barrel Springs Rd., Bow, WA 98232	F	4-29-58	3/8	3/8	---	Arneva Pyle - Dau
745	RABINSKY, Genevieve	Box 80, Route 1, Scappoose, OR 97056	F	8-15-23	1/8	1/8	675	Self
746	RALSTON, Donna Lou (Lane)	6532 Parkside Ave., San Diego, CA 92139	F	6-24-54	3/16	3/16	474	Self
747	RANDOL, Joann Rebecca (Balza)	1575 S. E. 7th, Gresham, OR 97030	F	5-08-41	3/8	3/8	20	Self
748	RAY, Ada Nancy Lee (Olsen)	1004 S.W. Alder St., Newport, OR 97365	F	2-05-34	1/8	1/8	650	Self
749	RAYA, Phillip Theodore	P. O. Box 186, Warden, WA 98857	M	1-13-51	1/8	1/8	---	Sally Bobb - G-G-G-Son
750	RAYA, Sequoia Bobb	2022 W. Broadway, Moses Lake, WA 98837	M	7-03-54	1/8	1/8	---	Sally Bobb - G-G-G-Son

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751	REED, Albert A.	2980 E. Main, Hillsboro, OR 97123	M	2-16-25	1/4	1/4	677	Self
752	REED, Albert Elmer	16431 N.E. Wasco, Portland, OR 97230	M	2-16-49	1/8	1/8	678	Self
753	REED, Donald	3315 3rd St., Tillamook, OR 97141	M	2-04-33	1/8	1/8	683	Self
754	REED, Esther Marie	539 E. 38th, Albany, OR 97321	F	10-25-50	1/8	1/8	679	Self
755	REED, Kenneth	3315 3rd St., Tillamook, OR 97141	M	9-25-28	1/8	1/8	681	Self
756	REED, Robert	Box 102, Garibaldi, OR 97118	M	6-13-31	1/8	1/8	682	Self
757	REED, Tony	Siletz, OR 97380	M	8-12-95	1/4	1/4	680	Self
758	REYNOLDS, Harry Duayne	261 Rockpit Rd., Arcata, CA 95521	M	8-24-50	1/8	1/8	686	Self
759	REYNOLDS, Ida Marie (Downey)	Route 1, Box 355-A, Arcata, CA 95521	F	5-26-24	1/4	1/4	684	Self
760	RICHARDS, Theresa Rose (Collins)	c/o Arless Collins, 1230 Center St., Albany, OR 97321	F	8-11-52	1/4	1/4	185	Self
761	RICHARDSON, Joan(Service)	220 W. 9th, Prineville, OR 97754	F	5-11-33	1/4	1/4	735	Self
762	RICKETTS, Rose Mary (Lawson)	1051 S.W. Levens, Dallas, OR 97338	F	7-28-27	1/2	1/2	688	Self
763	RICKETTS, Sharon Lee (Mason)	10192 W 64th Ave., Arvada, CO 80004	F	8-14-48	1/4	1/4	588	Self
764	RICKS, Pauline (Bell)	2660 N. 20th, Springfield, OR 97477	F	11-19-29	7/8	7/8	647	Self
765	RIDING IN, Debra S.	c/o Doris Riding In, 6026 S. E. 84th, Portland, OR 97266	F	7-08-63	1/4	1/4	---	Doris Riding In - Dau
766	RIDING IN, Delores Marlene	c/o Doris Riding In, 6026 S. E. 84th, Portland, OR 97266	F	6-14-57	1/4	1/4	---	Doris Riding In - Dau
767	RIDING IN, Denise Lyn	c/o Doris Riding In, 6026 S. E. 84th, Portland, OR 97266	F	2-07-62	1/4	1/4	---	Doris Riding In - Dau
768	RIDING IN, Doris (Tom)	6026 S. E. 84th Portland, OR 97266	F	4-21-33	1/2	1/2	692	Self
769	RIDING IN, Dorna Mae	c/o Doris Riding In, 6026 S. E. 84th, Portland, OR 97266	F	9-25-55	1/4	1/4	---	Doris Riding In - Dau
770	RILATOS, Daniel Ezra	P. O. Box 437, Siletz, OR 97380	M	3-23-44	1/8	1/8	704	Self
771	RILATOS, David Carl	Box 282, Tygh Valley, OR 97063	M	8-20-50	1/8	1/8	700	Self
772	RILATOS, David Louis	Siletz, OR 97380	M	3-09-20	1/4	1/4	706	Self
773	RILATOS, Donald Leslie	P. O. Box 605, Wrangell, AK 99929	M	9-04-52	1/8	1/8	697	Self
774	RILATOS, Edward	P. O. Box 605, Wrangell, AK 99929	M	3-01-25	1/4	1/4	693	Self
775	RILATOS, Edward Rizal	P. O. Box 781, Wrangell, AK 99929	M	10-07-48	1/8	1/8	696	Self
776	RILATOS, Emanual	Box 484, Wrangell, AK 99929	M	9-13-23	1/4	1/4	698	Self

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777	RILATOS, Kari Kerlynn	c/o Roger Rilatos, P. O. Box 525, Siletz, OR 97380	M	3-05-77	1/4	1/4	---	Robert Rilatos - G-Dau
778	RILATOS, Katherine Jane	Box 104, Siletz, OR 97380	F	5-07-54	7/16	7/16	711	Self
779	RILATOS, Manuel Francisco	N. 3315 Woodruff, Spokane, WA 99206	M	4-20-42	1/8	1/8	702	Self
780	RILATOS, Marita Selene	c/o Robert Rilatos, Box 104, Siletz, OR 97380	F	9-11-61	7/16	7/16	---	Robert Rilatos - Dau
781	RILATOS, Maxine (Ben)	Box 104, Siletz, OR 97380	F	7-08-32	3/4	3/4	709	Self
782	RILATOS, Pearl (Simmons)	P. O. Box 356, Siletz, OR 97380	F	10-09-05	1/2	1/2	705	Self
783	RILATOS, Phillip Monroe	Box 665, Wrangell, AK 99929	M	8-24-51	1/8	1/8	701	Self
784	RILATOS, Phillip Walter	3591 Highway 34, Waldport, OR 97394	M	4-13-35	1/4	1/4	707	Self
785	RILATOS, Randy William	P. O. Box 421, Siletz, OR 97380	M	1-11-77	1/4	1/4	---	Robert Rilatos - G-Son
786	RILATOS, Richard Wayne	345 S. 9th, St Helens, OR 97053	M	8-27-47	1/8	1/8	699	Self
787	RILATOS, Robert Paul	P. O. Box 104, Siletz, OR 97380	M	11-24-32	1/8	1/8	708	Self
788	RILATOS, Robert Paul, III	c/o Robert Paul Rilatos, Box 421, Siletz, OR 97380	M	9-27-74	1/4	1/4	---	Robert Rilatos - G-Son
789	RILATOS, Robert Paul, Jr.	Box 421, Siletz, OR 97380	M	6-11-55	7/16	7/16	---	Robert Rilatos - Son
790	RILATOS, Roger Manuel	Box 525, Siletz, OR 97380	M	5-28-57	7/16	7/16	---	Robert Rilatos - Son
791	RILATOS, Rollie	c/o Robert Rilatos, Box 104, Siletz, OR 97380	M	9-10-62	7/16	7/16	---	Robert Rilatos - Son
792	RILATOS, Valerie	c/o Robert Rilatos, Box 104, Siletz, OR 97380	F	9-04-55	7/16	7/16	---	Robert Rilatos - Dau
793	ROBERTSON, Angella Maurice (Pullam)	c/o Florine Pullam, Box 343, Waldport, OR 97394	F	4-28-57	1/4	1/4	---	Florine Pullam - Dau
794	ROBERTSON, Diane M. (Delgado)	2745 N.E. 26th, Portland, OR 97212	F	1-04-44	3/8	3/8	213	Self
795	ROBERTSON, Ellen Marie	3109 Brown Rd., N.E., Salem, OR 97303	F	11-27-28	7/8	7/8	713	Self
796	ROBERTSON, Jesse Francis	c/o Ida M. Elliott, Route 3, Box 1180 Estacada, OR 97023	M	10-02-61	1/4	1/4	---	Ida Elliott - Son
797	ROBERTSON, Kenneth Alford	c/o Ida M. Elliott, Route 3, Box 1180, Estacada, OR 97023	M	2-23-64	1/4	1/4	---	Ida Elliott - Son
798	ROBERTSON, Lynn Allen	c/o Ida M. Elliott, Route 3, Box 1180, Estacada, OR 97023	M	3-10-65	1/4	1/4	---	Ida Elliott - Son
799	ROBERTSON, Michael Anthony	c/o Ida M. Elliott, Route 3, Box 1180, Estacada, OR 97023	M	2-22-63	1/4	1/4	---	Ida Elliott - Son
800	ROGERS, Marjorie Kay (Reynolds)	3211 Dows Prairie Rd., Mckinleyville, CA 95521	F	10-14-51	1/8	1/8	687	Self

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801	ROLFSON, Robert Clifton	Route 3, Box 580, Hoquiam, WA 98550	M	7-16-49	1/2	1/2	718	Self
802	RUSSELL, Diane Laverne	1225 Clearview Dr., N.E., Salem, OR 97303	F	11-27-59	7/16	7/16	---	Emma Russell - Dau
803	RUSSELL, Emma Verdyne (Tom)	1225 Clearview Dr., N.E., Salem, OR 97303	F	2-17-31	7/8	7/8	832	Self
804	RUSSELL, Janet Verdyne	1225 Clearview Dr., N.E., Salem, OR 97303	F	5-03-55	13/16	13/16	---	William Towner - Dau
805	RUSSELL, Roberta Pauline	1225 Clearview Dr., N.E., Salem, OR 97303	F	5-08-54	7/16	7/16	835	Self
806	RUSSELL, Terry Bruce	1225 Clearview Dr., N.E., Salem, OR 97303	M	9-29-61	7/16	7/16	---	Emma Russell - Son
807	RUSSELL, William Larry	3141 N. Shore, #12, Albany, OR 97321	M	7-10-51	7/16	7/16	833	Self
808	SAMPSON, Margaret Lynn (Hutchens)	228 S.W. 28th Dr., 370, Pendleton, OR 97801	F	5-18-51	3/16	3/16	---	Arthur Lane II - Dau
809	SANDERS, Gary Charles	1317 N.E. Barnes Ct., Gresham, OR 97030	M	10-21-45	1/4	1/4	726	Self
810	SANDERS, Robert	754 Kotzy, S., Salem, OR 97302	M	7-01-24	1/2	1/2	725	Self
811	SCHNEIDER, Sharon	8723 S.E. 70th, Portland, OR 97206	F	1-10-46	1/4	1/4	634	Self
812	SCOGGINS, Gertrude Esther	5948 Stayton Rd., Turner, OR 97392	F	4-25-50	3/8	3/8	492	Self
813	SCOTT, Frederick William	P. O. Box 35, Fort Dick, CA 95538	M	6-14-51	7/16	7/16	732	Self
814	SCOTT, John R.	Siletz, OR 97380	M	1-01-03	1/4	1/4	727	Self
815	SEAGRAVES, Anna Joyce (Brown)	920 N. Main St., Toledo, OR 97391	F	11-25-52	5/8	5/8	111	Self
816	SEPULVEDA, Rosalie Marie (Colby)	401 Cedar St., Seattle, WA 98121	F	1-01-40	1/4	1/4	181	Self
817	SERVICE, Diane Lee	Siletz, OR 97380	F	3-09-43	1/8	1/8	739	Self
818	SERVICE, Michael	333 15th, Washougal, WA 98671	M	2-14-40	1/4	1/4	737	Self
819	SERVICE, William	c/o Jane John, 2867 Sterne Pl., Fremont, CA 94536	M	1-18-35	1/4	1/4	736	Self
820	SEVERSON, Frances Jean (Simmons)	1974 S.E. Howard St., Astoria, OR 97103	F	1-13-35	1/2	1/2	769	Self
821	SEVERSON, Lori Michelle	1974 S.E. Howard St., Astoria, OR 97103	F	6-04-61	1/4	1/4	---	Frances Severson - Dau
822	SEVERSON, Marti Diane	1974 S.E. Howard St., Astoria, OR 97103	F	5-12-58	1/4	1/4	---	Frances Severson - Dau
823	SEVERSON, Robert Alan	1974 S.E. Howard St., Astoria, OR 97103	M	10-06-59	1/4	1/4	---	Frances Severson - Son
824	SEVERSON, Steven Michael	1974 S.E. Howard St., Astoria, OR 97103	M	3-03-67	1/4	1/4	---	Frances Severson - Son
825	SHEPPARD, Rebecca Ann (Bartow)	Box 145, Reedsport, OR 97467	F	4-11-54	1/8	1/8	25	Self
826	SHIELDS, Stephany Kim	1522 Keeaumoku St., #1, Honolulu, HI 96822	F	5-14-49	1/8	1/8	742	Self
827	SHIELDS, Sydney Diane	1522 Keeaumoku St., #1, Honolulu, HI 96822	F	10-12-50	1/8	1/8	743	Self

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828	SHOEMAKER, Julia Ellen (Adams)	23740 N.E. Shamrock Dr., Troutdale, OR 97060	F	6-11-42	3/4	3/4	3	Self
829	SHORT, George Melvin	894 Travis Ave., Eugene, OR 97402	M	11-01-49	1/2	1/2	746	Self
830	SHORT, Gerald Dean	830 Bertelson, Eugene, OR 97402	M	1-01-51	1/2	1/2	747	Self
831	SHORT, Gregory Matthew	c/o George Short, 894 Travis Ave., Eugene, OR 97402	M	10-25-75	1/4	1/4	---	George Short - Son
832	SHORT, Jason Lee	c/o Robert Short, Box 434, Siletz, OR 97380	M	10-11-74	1/4	1/4	---	Robert Short - Son
833	SHORT, Robert E.	Siletz, OR 97380	M	9-26-47	1/2	1/2	---	Self
834	SHORT, Sabrena Lee	c/o George Short, 894 Travis Ave., Eugene, OR 97402	F	5-28-70	1/4	1/4	---	George Short - Dau
835	SHRINER, David James	2404 N. Quince, Olympia, WA 98506	M	12-23-53	1/8	1/8	751	Self
836	SHRINER, Robert Dean	1109 Rhoton Court, N.W., Yelm, WA 98597	M	4-24-51	1/8	1/8	749	Self
837	SIMMONS, Aleatha Viola	c/o Arliss Strickler, P. O. Box 313, Siletz, OR 97380	F	9-10-72	1/4	1/4	---	Robert Simmons
838	SIMMONS, Allison Rena	c/o Franklin Simmons, Box 144, Siletz, OR 97380	F	8-30-64	5/8	5/8	---	Franklin D. Simmons - Da
839	SIMMONS, Calvin, Jr.	Route 2, Box 324, Clatskanie, OR 97016	M	4-25-49	11/16	11/16	755	Self
840	SIMMONS, Calvin Fred	Box 164, Siletz, OR 97380	M	1-27-26	5/8	5/8	752	Self
841	SIMMONS, Daphne Renee	c/o Clarice Norton, Box 94, Toledo, OR 97391	F	9-09-72	11/32	11/32	---	Donald Simmons - Dau
842	SIMMONS, Darwin Lee	Box 164, Siletz, OR 97380	M	12-01-47	11/16	11/16	754	Self
843	SIMMONS, Derek Jay	c/o Sheryl K. Simmons, Box 203, Siletz, OR 97380	M	8-10-74	11/32	11/32	---	Lenford Simmons - Son
844	SIMMONS, Donald Leroy	Route 2, Box 324, Clatskanie, OR 97016	M	4-23-50	11/16	11/16	756	Self
845	SIMMONS, Donald Leroy, Jr.	c/o Clarice Norton, Box 94, Toledo, OR 97391	M	7-26-74	11/32	11/32	---	Donald Simmons - Son
846	SIMMONS, Edwin Edward	Box 156, Siletz, OR 97380	M	9-28-10	1/2	1/2	759	Self
847	SIMMONS, Franklin D.	Siletz, OR 97380	M	2-12-35	5/8	5/8	765	Self
848	SIMMONS, Harding	Box 126, Siletz, OR 97380	M	1-11-21	5/8	5/8	771	Self
849	SIMMONS, Jason Ezka Dean	c/o Arliss Strickler, Box 313, Siletz, OR 97380	M	11-27-73	1/4	1/4	---	Robert Simmons - Son
850	SIMMONS, Kelly Gwyn	c/o Franklin D. Simmons, Box 144, Siletz, OR 97380	F	3-25-63	5/8	5/8	---	Franklin D. Simmons - Dau
851	SIMMONS, Kevin Frederick	c/o Calvin Simmons, Jr., Route 2, Box 320, Clatskanie, OR 97016	M	8-30-67	11/32	11/32	---	Calvin Simmons Jr. - Son
852	SIMMONS, Lavera Marie	Box 174, Siletz, OR 97380	F	9-09-31	5/8	5/8	764	Self
853	SIMMONS, Lenford	Box 203, Siletz, OR 97380	M	2-26-53	11/16	11/16	758	Self

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Roll Number	Name	Address	Sex	Date of Birth	Degree Siletz Blood	Total Indian Blood	Basic Roll Number	Ancestor's Name and Relationship
854	SIMMONS, Leonda May	412 S. Denver Ave., Albany, OR 97321	F	12-23-51	11/16	11/16	757	Self
855	SIMMONS, Lester	2949 S.E. Yamhill, Portland, OR 97214	M	5-01-03	1/2	1/2	767	Self
856	SIMMONS, Lester Charles	4616 S.E. Roethe Rd., #62, Milwaukie, OR 97222	M	6-20-47	1/2	1/2	770	Self
857	SIMMONS, Luella	c/o Leonda Simmons, Box 361, Siletz, OR 97380	F	6-19-72	11/32	11/32	---	Leonda Simmons - Dau
858	SIMMONS, Marci Belva	c/o Harding Simmons, Siletz, OR 97380	F	7-22-71	9/16	9/16	---	Harding Simmons - Dau
859	SIMMONS, Nancy Loretta (Butler)	Box 144, Siletz, OR 97380	F	10-02-34	5/8	5/8	292	Self
860	SIMMONS, Paul Anthony	c/o Calvin Simmons, Jr., Route 2, Box 320, Clatskanie, OR 97016	M	10-25-69	11/32	11/32	---	Calvin Simmons - Son
861	SIMMONS, Robert Edwin	Box 81, Siletz, OR 97380	M	2-17-42	1/4	1/4	761	Self
862	SIMMONS, Shyla Ann	c/o Sheryl K. Simmons, Bx 203, Siletz, OR 97380	F	3-27-78	11/32	11/32	---	Lenford Simmons - Dau
863	SIMMONS, Tami Michelle	c/o Calvin Simmons, Jr., Route 2, Box 320, Clatskanie, OR 97016	F	10-25-72	11/32	11/32	---	Calvin Simmons - Dau
864	SIMMONS, Ulysses	c/o Leonda Simmons, Box 361, Siletz, OR 97380	M	6-05-71	11/32	11/32	---	Leonda Simmons - Son
865	SIMMONS, Yolanda L.	c/o Leonda Simmons, Box 361, Siletz, OR 97380	F	12-02-74	11/32	11/32	---	Leonda Simmons - Dau
866	SINISCAL, Douglas Reed	6252 N.E. Roselawn, Portland, OR 97211	M	9-14-51	1/8	1/8	777	Self
867	SINISCAL, George Frank	5317 S.E. Hacienda, Hillsboro, OR 97123	M	12-06-47	1/8	1/8	775	Self
868	SINISCAL, Thomas Edward	c/o Ernestine Jett, 5834 N.E. Rodney Ave., Portland, OR 97211	M	12-17-46	1/8	1/8	776	Self
869	SKRADE, Edith (Montgomery)	Siletz, OR 97380	F	6-28-82	1/4	1/4	778	Self
870	SMITH, Benjamin Dewey, Jr.	Siletz, OR 97380	M	5-24-54	1/2	1/2	782	Self
871	SMITH, Darlene Joyce (Charley)	132 N.W. 10th, Toledo, OR 97391	F	12-04-52	1/2	1/2	172	Self
872	SMITH, Elaine Pearl (Rilatos)	Corner Bay, Wrangell, AK 99841	F	3-12-47	1/8	1/8	695	Self
873	SMITH, Juanita	Route 1, Box 41, Florence, MT 59833	F	9-27-34	1/4	1/4	618	Self
874	SMITH, Margaret (Washington)	Siletz, OR 97380	F	6-01-33	4/4	4/4	781	Self
875	SMITH, Patricia Ann (Butler)	P. O. Box 2442, Lincoln City, OR 97367	F	4-02-53	1/2	1/2	124	Self
876	SMITH, Rachel C. (Blair)	454 North 10th, St. Helens, OR 97051	F	7-15-41	1/4	1/4	90	Self
877	SMITH, Ronald Lee	Box 545, Scottsburg, OR 97473	M	2-08-45	5/16	5/16	783	Self
878	SMITH, Yvonne Joyce (Scott)	P. O. Box 35, Fort Dick, CA 95538	F	10-17-48	7/16	7/16	730	Self

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Roll Number	Name	Address	Sex	Date of Birth	Degree Siletz Blood	Total Indian Blood	Basic Roll Number	Ancestor's Name and Relationship
879	SONDAG, Mary Jeanne	27314 Farm Creek, Huffman, TX 77336	F	1-14-53	3/16	3/16	667	Self
880	SONDENAA, Edwin Leroy	Siletz, OR 97380	M	5-22-43	1/4	1/4	785	Self
881	SONDENAA, Lawrence Lynn	Siletz, OR 97380	M	4-19-47	1/4	1/4	787	Self
882	SONDENAA, Raymond W., Jr.	8091 Holanda Ct., Dublin, CA 94566	M	7-26-44	1/4	1/4	786	Self
883	SONDENAA, Viola Louise (Logan)	Siletz, OR 97380	F	3-08-25	1/2	1/2	784	Self
884	SPEARTHUNDER, Robert	P. O. Box 647, Warm Springs, OR 97761	M	12-28-48	3/8	3/8	75	Self
885	SPRATT, Marie Louise (Chatterson)	Box 134, Nashville, Rd., Blodgett, OR 97326	F	8-04-32	1/2	1/2	173	Self
886	STAGGS, Charles Thomas	1112 Adeline, Coeur d'Alene, ID 83814	M	10-17-47	7/16	7/16	790	Self
887	STAGGS, Gladys (Tom)	1673 G Street, Springfield, OR 97477	F	2-24-22	7/8	7/8	789	Self
888	STAGGS, Julie Annette	1673 G Street, Springfield, OR 97477	F	5-02-68	7/16	7/16	---	Gladys Staggs - Dau
889	STAGGS, Kenneth Leroy	709 E. Harrison St., Coeur d'Alene, ID 83814	M	2-11-49	7/16	7/16	791	Self
890	STAHL, Patricia Ann (Redrick)	P. O. Box 66, Roy, WA 98580	F	3-28-51	1/8	1/8	369	Self
891	STAINBROOK, Lucille (Flores)	1147 Saginaw, Salem, OR 97302	F	6-17-32	1/2	1/2	317	Self
892	STEELE, Kathleen D. (Orton)	2926 S. E. 136th, Portland, OR 97236	F	10-08-41	3/8	3/8	638	Self
893	STEOGELL, Arlene (Baker)	217 S. W. Walnut, #4, Dallas, OR 97338	F	2-07-42	1/4	1/4	16	Self
894	STEIN, Alena Lee (Lane)	5762 Calle Casas Bonitas, San Diego, CA 92139	F	5-11-50	3/16	3/16	473	Self
895	STOKES, Patricia Nadine	P. O. Box 213, Toledo, OR 97391	F	1-28-55	3/8	3/8	---	Scott Lane - Dau
896	STRATTON, Laurella May (Rolfson)	P. O. Box 87, Neotsu, OR 97364	F	8-02-51	1/2	1/2	719	Self
897	STREET, Louise C. (Girard)	P. O. Box 204, Fort Jones, CA 96032	F	9-20-28	1/4	1/4	329	Self
898	STRICKLER, Arliss Marie (Chatterson)	P. O. Box 313, Siletz, OR 97380	F	3-09-52	1/4	1/4	175	Self
899	STRICKLER, Charlotte Ruth (Downey)	Siletz, OR 97380	F	8-09-40	3/8	3/8	246	Self
900	STRICKLER, Shirley Ann (Goodell)	Route 2, Box 225, Logsden, OR 97357	F	9-16-37	7/16	7/16	795	Self
901	STRONG, Byron Samuel	c/o Beverly E. Winn, Route 1, Box 446, Pendleton, OR 97801	M	4-26-47	1/2	1/2	799	Self
902	STRONG, Joel M.	c/o Stanley Strong, Siletz, OR 97380	M	7-13-59	3/4	3/4	---	Stanley Strong - Son

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903	STRONG, Norman Paul	Box 345, Siletz, OR 97380	M	9-20-53	3/4	3/4	806	Self
904	STRONG, Royce R.	c/o Stanley Strong, Siletz, OR 97380	M	11-02-54	3/4	3/4	---	Stanley Strong - Son
905	STRONG, Stanley	Box 345, Siletz, OR 97380	M	11-09-08	4/4	4/4	802	Self
906	STRONG, William S.	c/o Stanley Strong, Siletz, OR 97380	M	1-22-56	3/4	3/4	966	Self
907	STRONG, Wilma(Washington)	Box 345, Siletz, OR 97380	F	1-17-31	1/2	1/2	803	Self
908	STUART, Marlene Roberta (Rilatos)	4258 Delaware Dr., Fremont, CA 94538	F	4-02-53	7/16	7/16	710	Self
909	STUART, Thomas Anthony, Jr.	4258 Delaware Dr., Fremont, CA 94538	M	12-08-77	1/4	1/4	---	Marlene Stuart - Son
910	SUAZO, Shawn Daniel	c/o Joan M. Washington, 1830 N.W. 24th, Apt. 11 Portland, OR 97210	M	3-03-67	7/16	7/16	---	Joan Washington - Son
911	SUMMER, Alice Rachel (Eggersgluss)	1625 S.E. Washington, Portland, OR 97214	F	5-24-48	1/8	1/8	262	262
912	SUTALO, Janine Denise	c/o Rose Sutalo, 598 15th St., S.E., Salem, OR 97301	F	11-24-71	3/8	3/8	---	Rose M. Sutalo - Dau
913	SUTALO, Lawrence	c/o Rose Sutalo, 598 15th St., S.E., Salem, OR 97301	M	10-06-69	3/8	3/8	---	Rose M. Sutalo - Son
914	SUTALO, Maurice Frank	c/o Rose Sutalo, 598 15th St., S.E., Salem, OR 97301	M	12-17-68	3/8	3/8	---	Rose M. Sutalo - Son
915	SUTALO, Philip	c/o Rose Sutalo, 598 15th St., S.E., Salem, OR 97301	M	10-06-69	3/8	3/8	---	Rose M. Sutalo - Son
916	SUTALO, Rose Marie (Tronson)	598 15th St., S.E., Salem, OR 97301	F	3-12-31	3/4	3/4	867	Self
917	SWADER, Donna Fay (Lawson)	1521 Quaker St., Eugene, OR 97402	F	6-17-49	1/4	1/4	513	Self
918	TAYLOR, Darlene S. (Rilatos)	Box 631, Wrangell, AK 99929	F	1-21-44	1/8	1/8	703	Self
919	TAYLOR, Jacoulyn Doreen (Martin)	c/o Lorna Martin, 1234 Scepter Way, N.E., Salem, OR 97301	F	2-03-55	5/16	5/16	---	Lorna B. Martin - Dau
920	TAYLOR, LaVonne Ilene (Butler)	Route 2, Box 282A, Albany, OR 97321	F	8-02-51	1/2	1/2	137	Self
921	TAYLOR, Livingston Nelson IV	c/o Lavonne Taylor, Route 2, Box 282A, Albany, OR 97321	M	7-04-70	1/4	1/4	---	Lavonne Taylor - Son
922	TAYLOR, Louis Keith	8151 Franklin Ave., Buena Park, CA 90621	M	10-12-45	1/4	1/4	808	Self
923	TAYLOR, Robert Lloyd	c/o Agnes Pilgrim, 1245 Inyo St., Crescent City, CA 95531	M	7-05-44	1/4	1/4	807	Self

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924	TAYLOR, Sonia Rose	c/o Dr. William T. Parker, 412 Market St., Long Beach, CA 90805	F	6-21-47	1/4	1/4	809	Self
925[1]	THOMAS, Elaine Louise (Butler)	20690 Hwy. 22, Sheridan, OR 97378	F	4-26-50	1/2	1/2	122	Self
926	THOMAS, Mary	Siletz, OR 97380	F	6-01-40	4/4	4/4	811	Self
927	THOMAS, Theresa	Siletz, OR 97380	F	3-05-30	4/4	4/4	810	Self
928	THOMPSON, George Louis	P. O. Box 551, Siletz, OR 97380	M	1-19-38	7/16	7/16	815	Self
929	TIEDT, Carabella (Doherty)	1023 2nd St., Cheney, WA 99804	F	10-25-28	1/4	1/4	225	Self
930	TOLLEFSON, Elizabeth (Walker)	470 Elm St., Reedsport, OR 97467	F	6-16-90	1/2	1/2	817	Self
931	TOLLEFSON, Wrathea Winifred (Johnson)	Siletz, OR 97380	F	4-08-18	1/4	1/4	818	Self
932	TOM, Robert Paul	1610 Riverview St., Eugene, OR 97403	M	8-15-37	7/8	7/8	820	Self
933	TOWNER, George Everett	P. O. Box 195, Siletz, OR 97380	M	12-15-28	3/4	3/4	829	Self
934	TOWNER, Gilbert, Jr.	2424 N. E. 40th, Portland, OR 97212	M	12-25-29	3/4	3/4	822	Self
935	TOWNER, Gregory Dewain	c/o Gylene Jones, 412 Market, Coos Bay, OR 97420	M	4-24-56	9/16	9/16	---	Gylene Jones - Son
936	TOWNER, Leah L.	Siletz, OR 97380	F	6-21-20	1/2	1/2	825	Self
937	TOWNER, Lena Mary (Logan)	Box 187, Willamina, OR 97396	F	1-30-41	1/2	1/2	532	Self
938	TOWNER, Louise Roberta	c/o Gilbert Towner, 2424 N. E. 40th, Portland, OR 97212	F	2-14-62	5/8	5/8	---	Gilbert Towner - Dau
939	TOWNER, Michelle Lanae	c/o William Towner, 15619 N.E. Caples Rd., #63, Brush Prairie, WA 98606	F	2-26-72	3/8	3/8	---	William Towner - Dau
940	TOWNER, Stacey Ranae	c/o William Towner, 15619 N.E. Caples Rd., #63, Brush Prairie, WA 98606	F	9-19-73	3/8	3/8	---	William Towner - Dau
941	TOWNER, Wilbur Wayne	c/o Gilbert Towner, 2424 N. E. 40th, Portland, OR 97212	M	9-24-60	5/8	5/8	---	Gilbert Towner - Son
942	TOWNER, William, Jr.	15619 N.E. Caples Rd., #63, Brush Prairie, WA 98606	M	3-21-25	3/4	3/4	831	Self
943	TREFREN, Lydia Mae (Kentta)	P. O. Box 506, Beatty, NV 89003	F	10-30-48	3/16	3/16	447	Self
944	TRONSON, Adolph, Jr.	9 N.E. 31st Ave., #109, Portland, OR 97232	M	1-19-28	1/4	1/4	837	Self
945	TRONSON, Adolph	Siletz, OR 97380	M	6-15-08	1/2	1/2	836	Self DOD: 7-07-78

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Roll Number	Name	Address	Sex	Date of Birth	Degree Siletz Blood	Total Indian Blood	Basic Roll Number	Ancestor's Name and Relationship
946	TRONSON, Audrey Alair	c/o Rosemary Sutalo, 598 15th St., S.E., Salem, OR 97301	F	12-25-43	1/4	1/4	839	Self
947	TRONSON, Donald George	c/o Rosemary Sutalo, 598 15th St., S.E., Salem, OR 97301	M	8-30-33	1/4	1/4	838	Self
948	TRONSON, Vernie F.	c/o Evergreen Care Center, 3011 N.E. Park, Dr., Lincoln City, OR 97367	M	4-01-10	1/4	1/4	843	Self
949	TUCKER, Terrie Lynn	P. O. Box 112, Curtin, OR 97428	F	10-27-56	1/4	1/4	---	Henriette Lopez - Dau
950	TUFT, Dennis	Siletz, OR 97380	M	3-19-38	3/16	3/16	844	Self
951	TURCOTTE, Ramona Beth	P. O. Box 723, Aumsville, OR 97325	F	10-10-52	3/8	3/8	---	Antone Martin - Dau
952	TYLER, Blanche Darlene (Downey)	S. Bay Rd., Toledo, OR 97391	F	2-24-37	3/8	3/8	244	Self
953	TYLER, Carol Ann (Weder)	P. O. Box 542, Toledo, OR 97391	F	12-14-50	1/8	1/8	887	Self
954	UNGER, Betty Jane (Brown)	445 Lincoln St., Fairview, OR 97024	F	5-04-32	5/8	5/8	847	Self
955	UNGER, Dewayne Homer	c/o Louida I. Unger, Box 47, PeEll, WA 98572	M	10-22-56	1/4	1/4	---	Homer Unger - Son
956	UNGER, Edward	c/o Louida I. Unger, Box 47, PeEll, WA 98572	M	1-14-61	1/4	1/4	---	Homer Unger - Son
957	UNGER, Homer Ire, Jr.	c/o Betty J. Unger, 445 Lincoln St., Fairview, OR 97024	M	9-10-58	9/16	9/16	---	Homer Unger - Son
958	UNGER, Rebecca	c/o Louida I. Unger, P. O. Box 47, PeEll, WA 98572	F	5-13-62	1/4	1/4	---	Homer Unger - Dau
959	UNGER, Verna Esther	c/o Louida I. Unger, P. O. Box 47, PeEll, WA 98572	F	6-10-64	1/4	1/4	---	Homer Unger - Dau
960	VAILE, Angela Delores (Maya)	1539 N. W. 11th, Corvallis, OR 97330	F	12-19-52	1/8	1/8	---	Sally Bobb - G-G-G-Dau
961	VAN DYKE, Dennis Wayne, Jr.	c/o Elaine Thomas, 20690 Hwy 22, Sheridan, OR 97378	M	2-18-70	1/4	1/4	---	Elaine Thomas - Son
962	VILES, Daniel Franklin	835 W. 6th, Prineville, OR 97754	M	8-08-50	1/8	1/8	853	Self
963	VILES, David	9603 S.W. 52nd Ave., Portland, OR 97219	M	3-04-46	1/8	1/8	851	Self
964	VILES, Mary (Service)	P. O. Box 477, Prineville, OR 97754	F	8-11-27	1/4	1/4	850	Self
965	VOUTRIN, Mary (Menard)	P. O. Box 29, Dallas, OR 97338	F	2-12-16	3/4	3/4	854	Self
966	VOUTRIN, Marylin Dorene	1720 McCoy Ave., N.E., Salem, OR 97303	F	11-17-48	3/8	3/8	856	Self
967	WAGNER, Debra Jean (Pyle)	6148 Portal Way, Ferndale, WA 98248	F	3-21-53	3/8	3/8	674	Self
968	WAGNER, Lana Rae (Lawson)	1205 Clearwater Lane, Springfield, OR 97477	F	10-16-45	1/4	1/4	512	Self
969	WAHWASSUCK, Judy P. (McKnight)	700 N. 1st. #15, Springfield, OR 97477	F	12-19-59	7/16	7/16	---	Clarice McKnight - Dau

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970	WALDREP, Retha (Carson)	Box 563, Toledo, OR 97391	F	5-26-03	1/2	1/2	858	Self
971	WALKER, Angela Dawn	c/o Shirley Walker, 28525 S.W. Canyon Cr. Dr., Wilsonville, OR 97070	F	11-17-72	3/8	3/8	---	Shirley Walker - Dau
972	WALKER, Heather Rae	c/o Shirley Walker, 28525 S.W. Canyon Cr. Dr., Wilsonville, OR 97070	F	3-03-78	3/8	3/8	---	Shirley Walker - Dau
973	WALKER, Shirley Ann (Ben)	28525 S.W. Canyon Cr. Dr., Wilsonville, OR 97070	F	8-01-42	3/4	3/4	58	Self
974	WALLACE, Albert	1355 W. 2nd St., #75, McMinnville, OR 97128	M	3-18-40	3/8	3/8	863	Self
975	WALLACE, Richard (aka Hostler)	Route N. Box 159 A, Newport, OR 97365	M	3-10-33	3/8	3/8	861	Self
976	WALSH, Lorena M.	c/o Eds Motel, 203 N. Alexander, Port Allen, LA 70767	F	8-20-49	1/4	1/4	507	Self
977	WARD, Joline Mildred (Downey)	P. O. Box 441, Mill City, OR 97360	F	5-28-50	1/8	1/8	234	Self
978	WARREN, Alfred Glenn	c/o Henrietta Lopez, Route 4, Box 442C, Coos Bay, OR 97420	M	5-16-67	1/4	1/4	---	Mary Ashley - Son
979	WARREN, Alicea Mae (Pond)	12603 25th Ave., S.E., Everett, WA 98204	F	4-03-32	3/8	3/8	864	Self
980	WARREN, Daniel James	2600 Center St., N.E. Salem, OR 97301	M	9-21-53	3/8	3/8	868	Self
981	WARREN, Donald George	c/o Rose Sutalo, 598 15th St., S.E., Salem, OR 97301	M	4-14-58	3/8	3/8	---	Rose M. Sutalo - Son
982	WARREN, Harold Arthur	c/o Henrietta Lopez, Route 4, Box 442C, Coos Bay, OR 97420	M	3-08-66	1/4	1/4	---	Mary Ashley - Son
983	WARREN, Michael Duane	12603 25th Ave., S.E., Everett, WA 98204	M	11-10-32	3/16	3/16	866	Self
984	WARREN, Roselia Iola	c/o Henrietta Lopez, Route 4, Box 442C, Coos Bay, OR 97420	F	2-21-65	1/4	1/4	---	Mary Ashley - Dau
985	WARREN, Sheila	12603 25th Ave.,S.E., Everett, WA 98204	F	1-21-51	3/16	3/16	865	Self
986	WARREN, Sheryl Ann	c/o Rose Sutalo, 598 15th St., S.E., Salem, OR 97301	F	4-14-58	3/8	3/8	---	Rose M. Sutalo - Dau
987	WASHINGTON, Celeste Kim	c/o Pauline Montana, 732 N.E. Couch, Portland, OR 97232	F	11-23-58	9/16	9/16	---	Pauline Montana - Dau
988	WASHINGTON, Cynthia	1830 N.W. 24th Pl., Portland, OR 97210	F	12-21-45	7/8	7/8	879	Self
989	WASHINGTON, Joan Mary	1830 N.W. 24th Pl., Portland, OR 97210	F	8-07-32	7/8	7/8	875	Self
990	WASHINGTON, Margaret J.	1830 N.W. 24th Pl., Portland, OR 97210	F	6-06-48	7/8	7/8	880	Self
991	WASHINGTON, Mary (Brown)	c/o Yaquina Care Center, 835 S.W. 11th, Newport, OR 97365	F	7-15-07	3/4	3/4	874	Self DOD: 2-06-79

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992	WASHINGTON, Timothy Damon	c/o Margaret J. Washington, 1830 N.W. 24th Pl., Portland, OR 97210	M	4-21-65	7/16	7/16	---	Bernadine Washington - Son
993	WATERS, Esther May	Siletz, OR 97380	F	12-01-42	1/8	1/8	882	Self
994	WEDER, Mary Joan (Carson)	Route 1, Box 281, Toledo, OR 97391	F	8-04-30	1/4	1/4	884	Self DOD: 1-12-79
995	WEDER, Ronald Wayne	Route 1, Box 281, Toledo, OR 97391	M	4-10-53	1/8	1/8	886	Self
996	WENTWORTH, Joseph Paul	700 N. 1st., #15, Springfield, OR 97477	M	8-25-70	7/16	7/16	---	Margaret Washington - Son
997	WENTWORTH, Nunna Jolene	c/o Margaret Washington, 1830 N.W. 24th Pl., Portland, OR 97210	F	3-16-67	7/16	7/16	---	Margaret Washington - Dau
998	WENTWORTH, William John, Jr.	c/o Margaret Washington, 1830 N.W. 24th Pl., Portland, OR 97210	M	2-11-68	7/16	7/16	---	Margaret Washington - Son
999	WERTH, Alice (Tom)	858 N. 19th, Springfield, OR 97477	F	4-28-29	7/8	7/8	888	Self
1000	WERTH, Gloria Jean	1535 Carter Lane, #32, Springfield, OR 97477	F	8-16-48	7/16	7/16	889	Self
1001	WERTH, James Michael	858 N. 19th, Springfield, OR 97447	M	12-26-64	7/16	7/16	---	Alice Werth - Son
1002	WERTH, Stanley Eugene	2393 Northtree Court, N.E., Salem, OR 97303	M	2-30-49	7/16	7/26	890	Self
1003	WERTIN, Peter Michael	685 Court, N.E., Salem, OR 97301	M	9-28-41	1/4	1/4	892	Self
1004	WHITEHEAD, Betty Jean (Logan)	Siletz, OR 97380	F	3-19-34	1/2	1/2	893	Self
1005	WHITEHEAD, Craig Steven	c/o Linda Whitehead, Box 114, Siletz, OR 97380	M	3-06-59	1/4	1/4	---	Betty Whitehead - Son
1006	WHITEHEAD, Peggy Jean	Box 114, Siletz, OR 97380	F	4-06-55	1/4	1/4	---	Betty Whitehead - Dau
1007	WHITEHEAD, Stuart Lee	c/o Linda Whitehead, Box 114, Siletz, OR 97380	M	3-19-58	1/4	1/4	---	Betty Whitehead - Son
1008	WERTH, Theodore Alan	858 N. 19th, Springfield, OR 97477	M	7-17-59	7/16	7/16	---	Alice Werth - Son
1009	WHITEHEAD, Tamara Sue	c/o Linda Whitehead, Box 114, Siletz, OR 97380	F	3-17-61	1/4	1/4	---	Betty Whitehead - Dau
1010	WHITEHEAD, Tony Paul	c/o Linda Whitehead, Box 114, Siletz, OR 97380	M	6-27-65	1/4	1/4	---	Betty Whitehead - Son
1011	WILCOX, Charles A.	Route 2, Box 2497, Yelm, WA 98597	M	5-16-39	1/4	1/4	900	Self
1012	WILCOX, Daniel P.	Route 2, Box 2497, Yelm, WA 98597	M	4-13-46	1/4	1/4	903	Self
1013	WILCOX, Ina (Larson)	345 Nadenas St., Pittsburg, CA 94565	F	3-06-05	1/2	1/2	896	Self
1014	WILCOX, Ina Isleen	Siletz, OR 97380	F	1-22-41	1/4	1/4	904	Self
1015	WILCOX, Margaret J.	P. O. Box 444, Tenino, WA 98589	F	6-10-42	1/4	1/4	901	Self
1016	WILKERSON, Josephine	36 E. Laurel St., Porterville, CA 93257	F	6-04-27	3/8	3/8	520	Self

Membership Roll of the Confederated Tribes of Siletz Indians of Oregon, prepared under the Act of November 18, 1977 (95 Stat. 1415).

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Roll Number	Name	Address	Sex	Date of Birth	Degree Siletz Blood	Total Indian Blood	Basic Roll Number	Ancestor's Name and Relationship
1017	WILLETTE, Catherine Ann	c/o Jose Paez, 7838 Ben Ave., North Hollywood, CA 91605	F	4-22-50	3/16	3/16	---	Augusta Alicante - G-Dau
1018	WILLIAMS, Duane Scott	P. O. Box 325, Siletz, OR 97380	M	7-22-64	3/8	3/8	---	Eugene Williams - Son
1019	WILLIAMS, Eugene, Jr.	P. O. Box 325, Siletz, OR 97380	M	3-07-56	3/8	3/8	---	Eugene Williams - Son
1020	WILLIAMS, Gordon Lynn	P. O. Box 325, Siletz, OR 97380	M	11-29-57	3/8	3/8	---	Eugene Williams - Son
1021	WILLIAMS, Henrietta (Fleming)	1629 Kelly St., N.E., Salem, OR 97303	F	2-24-17	1/2	1/2	918	Self
1022	WILLIAMS, Jeanice Charmaine	P. O. Box 325, Siletz, OR 97380	F	11-14-62	3/8	3/8	---	Eugene Williams - Dau
1023	WILLIAMS, Jeffrey Hale	P. O. Box 542, Philomath, OR 97370	M	11-29-48	3/8	3/8	909	Self
1024	WILLIAMS, Joseph Wendell	6960 N.W. Concord, Corvallis, OR 97330	M	7-18-41	3/8	3/8	906	Self
1025	WILLIAMS, Mary Ellen (Ewan)	Box 272, Willow Creek, CA 95573	F	7-24-28	3/8	3/8	526	Self
1026	WILLIAMS, Matthew, Jr.	3550 Pattison, Eugene, OR 97402	M	11-18-31	3/4	3/4	915	Self
1027	WILLIAMS, Matthew Robert	3550 Pattison, Eugene, OR 97402	M	8-02-58	3/8	3/8	---	Matthew Williams - Son
1028	WILLIAMS, Melody Muriel	P. O. Box 325, Siletz, OR 97380	F	12-25-60	3/8	3/8	---	Eugene Williams - Dau
1029	WILLIAMS, Nora Nadine	P. O. Box 325, Siletz, OR 97380	F	3-21-59	3/8	3/8	---	Eugene Williams - Dau
1030	WILLIAMS, Robina Lee	c/o Matthew Williams, Jr, 3550 Pattison, Eugene, OR 97402	F	9-29-62	3/8	3/8	---	Matthew Williams - Dau
1031	WILLIAMS, Rory Dean	c/o Matthew Williams, Jr., 3550 Pattison, Eugene, OR 97402	M	8-16-64	3/8	3/8	---	Matthew Williams - Son
1032	WILLIAMS, Roxann Marie	3550 Pattison, Eugene, OR 97402	F	5-10-60	3/8	3/8	---	Matthew Williams - Dau
1033	WILLIAMS, Stacey Wade	P. O. Box 325, Siletz, OR 97380	M	12-02-65	3/8	3/8	---	Eugene Williams - Son
1034	WILLIAMS, Wendy Lutrica	c/o Matthew Williams, Jr., 3550 Pattison, Eugene, OR 97402	F	8-30-71	3/8	3/8	---	Matthew Williams - Dau
1035	WILLIAMS, Willie Norwood	2750 S.W. Morris, Ave., Apt. 5, Corvallis, OR 97370	M	10-26-50	3/8	3/8	910	Self
1036	WILLIAMS, Zachery Omar	Route 1, Box 33, Philomath, OR 97370	M	1-16-54	3/8	3/8	911	Self
1037	WILSON, Kenneth Harry	Siletz, OR 97380	M	3-03-06	1/4	1/4	919	Self
1038	WINN, Beverly Elaine (Strong)	Route 1, Box 446, Pendleton, OR 97801	F	3-21-46	1/2	1/2	798	Self
1039	WOOD, Teresa Francine	c/o Darlene Wood, P. O. Box B, Glendale, OR 97442	F	11-01-67	7/16	7/16	---	Bennie J. Brown - Dau
1040	WOODRUM, Dorothy Maxine (Flanary)	1776 Hayes St., North Bend, OR 97459	F	10-07-50	5/16	5/16	305	Self
1041	WOODS, Donna Mae (Lane)	6075 Roanoke St., San Diego, CA 92139	F	2-01-35	3/8	3/8	920	Self

Membership Roll of the Confederated Tribes of Siletz Indians of Oregon, prepared under the Act of November 18, 1977 (95 Stat. 1415).

Roll Number	Name	Address	Sex	Date of Birth	Degree Siletz Blood	Total Indian Blood	Basic Roll Number	Ancestor's Name and Relationship
1042	WOODS, Raymond Daniel	Gen. Del., Taholah, WA 98587	M	6-06-48	1/2	1/2	923	Self
1043	WOODS, Richard Carl	P. O. Box 473, Madras, OR 97741	M	3-21-44	1/2	1/2	922	Self
1044	WOOTEN, Ernestine (Lane)	4610 12th Ave., N.E., Salem, OR 97303	F	1-07-35	3/4	3/4	478	Self
1045	WOOTEN, James Melvin	c/o Ernestine Wooten, 4610 12th Ave., N.E., Salem, OR 97303	M	3-22-58	3/8	3/8	---	Ernestine Wooten - Son
1046	WOOTEN, Karen Darlene	c/o Ernestine Wooten, 4610 12th Ave., N.E., Salem, OR 97303	F	10-21-58	3/8	3/8	---	Ernestine Wooten - Dau
1047	WOOTEN, Robin Monique	c/o Ernestine Wooten, 4610 12th Ave., N.E., Salem, OR 97303	F	4-04-61	3/8	3/8	---	Ernestine Wooten - Dau
1048	WORLEY, Nancy Lee (Mitchell)	321 S. 40th St., Springfield, OR 97477	F	3-11-53	3/8	3/8	498	Self
1049	YARBOUR, Bruce V.	c/o Ernestine Yarbour, 1816 S.E. 11th, Portland OR 97214	M	1-17-68	1/4	1/4	---	Ernestine Yarbour - Son
1050	YARBOUR, Ernestine	1816 S.E. 11th, Portland, OR 97214	F	5-19-33	1/2	1/2	30	Self
1051	YARBOUR, Gwendolyn L.	c/o Ernestine Yarbour, 1816 S.E. 11th, Portland OR 97214	F	10-16-61	1/4	1/4	---	Ernestine Yarbour - Dau
1052	YARBOUR, Rhonda Fay	1816 S.E. 11th, Portland, OR 97214	F	7-08-60	1/4	1/4	---	Ernestine Yarbour - Dau
1053	YARBOUR, Robert V.	c/o Ernestine Yarbour, 1816 S.E. 11th, Portland OR 97214	M	2-21-64	1/4	1/4	---	Ernestine Yarbour - Son
1054	YONKER, Donna Jean	c/o Minnie Hartt, Route 3, Box 319, Estacada, OR 97023	F	3-27-58	1/4	1/4	---	Minnie Hartt - Dau
1055	ZIGLER, Bonnie Lee	2287 Wisconsin St., Eugene, OR 97402	F	5-18-54	1/4	1/4	---	Henrietta Lopez - Dau
1056	ZIMMERMAN, Gloria Jean (Dodds)	5201 91st Pl., N.E., Marysville, WA 98270	F	6-16-41	3/16	3/16	222	Self
1057	ZOSEL, Norman Earl	P. O. Box 7, Smith River, CA 95567	M	3-25-44	3/16	3/16	928	Self
1058	BAKER, Larry Gilbert	812 5th St., Anacortes, WA 98221	M	2-16-77	1/4	1/4	---	Gilbert F. Baker - Son
1059	BAKER, Tina Marie	c/o Gilbert Baker, P. O. Box 141, Conalis Beach, WA 98535	F	10-05-71	1/4	1/4	---	Gilbert F. Baker - Dau
1060	BLACKETER, Patricia Kay	4999 S. E. 30th, #61, Portland, OR 97202	F	9-15-58	3/8	3/8	---	Kenneth Blacketer - Dau
1061	BUTLER, Jamie Mae	c/o Laverne Butler, 711 A St., #4, Toledo, OR 97391	F	10-10-70	1/4	1/4	---	Laverne Butler - Dau
1062	DOWNEY, Henry George	6395 S. W. Broadoak, Beaverton, OR 97005	M	6-04-55	1/4	1/4	---	Everett Downey - Son
1063	FLANARY, Jessica Lynn	c/o Leonard Flanary, 744 Finch Ct., N.E., Salem, OR 97301	F	1-25-74	1/4	1/4	---	Leonard Flanary - Dau
1064	FLANARY, Leonard Keith, Jr.	c/o Leonard Flanary, 744 Finch Ct., N.E., Salem, OR 97301	M	11-02-71	1/4	1/4	---	Leonard Flanary - Son
1065	YARBOUR, Donald Burl, Jr.	1816 S. E. 11th, Portland, OR 97214	M	2-16-59	1/4	1/4	---	Ernestine Yarbour - Son

Membership Roll of the Confederated Tribes of Siletz Indians of Oregon, prepared under the Act of November 18, 1977 (95 Stat. 1415).

Roll Number	Name	Address	Sex	Date of Birth	Degree Siletz Blood	Total Indian Blood	Basic Roll Number	Ancestor's Name and Relationship
1066	HALL, Allan Darryl	c/o Lillian Jackson, Rt. 3, Box 833, Brookings, OR 97415	M	7-12-57	11/32	11/32	---	Aldona L. Hall - Son
1067	HALL, Kenneth James Hall	c/o Lillian Jackson, Rt., 3, Box 833, Brookings, OR 97415	M	6-29-58	11/32	11/32	---	Aldona L. Hall - Son
1068	Hall, Steven Lee	c/o Lillian Jackson, Rt., 3, Box 833, Brookings, OR 97415	M	12-11-59	11/32	11/32	---	Aldona L. Hall - Son
1069	JACKSON, Andrew Gary	c/o Lillian Jackson, Rt., 3, Box 833, Brookings, OR 97415	M	3-05-68	11/32	11/32	---	Lillian Jackson - Son
1070	JACKSON, Olissa Gay	c/o Lillian Jackson, Tr., 3, Box 833, Brookings, OR 97415	F	12-10-60	11/32	11/32	---	Lillian Jackson - Dau
1071	JOHNSON, Elizabeth Anne	c/o Louis Johnson, 18710 S.W. Wright, Aloha, OR 97005	F	6-15-58	1/4	1/4	---	Louis Johnson- Dau
1072	JOHNSON, Eugene Douglas	c/o Louis Johnson, 18710 S.W. Wright, Aloha, OR 97005	M	1-17-64	1/4	1/4	---	Louis Johnson- Son
1073	JOHNSON, Ferrol Cerise	c/o Louis Johnson, 18710 S.W. Wright, Aloha, OR 97005	F	8-18-56	1/4	1/4	---	Louis Johnson- Dau
1074	JOHNSON, Roxanna Faith	c/o Louis Johnson, 18710 S.W. Wright, Aloha, OR 97005	F	6-29-60	1/4	1/4	---	Louis Johnson- Dau
1075	JOHNSON, Lori Annette	6106 S.E. 44th, Portland, OR 97206	F	3-19-55	3/8	3/8	---	Geneva Johnson - Dau
1076	KRAXBERGER, Denise Minnie (Downey)	9785 Kraxberger Rd., Canby, OR 97013	F	11-07-56	1/4	1/4	---	Everett Downey - Dau
1077	LARVIE, Albert Brian	c/o Lillian Larvie, 390 Lancaster Dr., S.E., Apt. 5, Salem, OR 97301	M	10-12-64	1/4	1/4	---	Lillian Larvie - Son
1078	LARVIE, Cheri Mae	c/o Liblian Larvie, 390 Lancaster Dr., S.E., Apt. 5, Salem, OR 97301	F	1-13-68	1/4	1/4	---	Lillian Larvie - Dau
1079	NORWEST, Everetta Jane (Butler)	921 S.W. Hwy. 101, Lincoln City, OR 97367	F	7-25-55	1/4	1/4	---	Everett Butler - Dau
1080	SNIDER, Dixie Rae (Fielder)	c/o Lillian M. Jackson Rt. 3, Box 833, Brookings, OR 97415	F	10-04-56	11/32	11/32	---	Lillian Jackson - Dau
1081	TRIBBLE, Sharon LaVonne	c/o Ellen Metcalf, Box 67, Siletz, OR 97380	F	8-25-74	3/8	3/8	---	Ellen Metcalf - Dau
1082	WOODS, Michael Scott	c/o Daniel Woods, Gen. Del., Taholah, WA 98587	M	5-16-70	1/4	1/4	---	Daniel Woods - Son
1083	WOODS, Wendy Lee	c/o Daniel Woods, Gen. Del., Taholah, WA 98587	F	2-19-68	1/4	1/4	---	Daniel Woods, - Dau

BILLING CODE 4310-03-C

Bureau of Land Management

Alaska Native Claims Selection

On April 29, 1960 and June 16, 1972, the State of Alaska filed State selection applications A-051864 and AA-3089, respectively, and subsequently amended the applications to include lands in Lots 1, 3, 6 to 11, inclusive, of U.S. Survey 1726. On August 17, 1967, State selection application AA-2036 was filed and later amended, for lands in T. 18 N., R. 1 W., Seward Meridian and Ts. 17-18 N., R. 2 W., Seward Meridian. On November 29, 1963 and August 17, 1967, State selection applications A-060527 and AA-2036, respectively, were filed and then amended for lands in T. 18 N., R. 3 W., Seward Meridian. All of the above lands are in the general area of the Native village of Knik.

None of the above State selections are valid applications as to the lands described below because the lands were segregated from selection at the time of the State's filings and amendments thereto by either entries under the public land laws or withdrawals pursuant to Sec. 11(a)(1) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 696; 43 U.S.C. 1601, 1610(a)(1) (1976), (hereinafter referred to as ANCSA)).

Therefore, the following State selection applications for the lands listed below are hereby rejected:

State selection A-051864 filed on April 29, 1960, as amended, and AA-3089, as amended, on June 16, 1972:

U.S. Survey 1726

Lots 1, 3, 6 to 11, inclusive.

Containing 17.75 acres.

State selection AA-2036 filed on August 17, 1967, as amended:

T. 18 N., R. 1 W.,

Seward Meridian

Sec. 20, N½NW¼NW¼, N½S½ NW¼NW¼, SW¼SW¼NW¼NW¼, SE¼SE¼NW¼NW¼.

Containing 35.00 acres.

T. 17 N., R. 2 W.,
Sec. 4, SE¼NW¼, N½SW¼, N½SW¼SW¼, SE¼SW¼SW¼, SW¼SW¼SW¼, excluding the bed of the Alaska Railroad one-hundred (100) feet each side of the centerline;
Sec. 13, S½NE¼NE¼SE¼, N½SE¼ NE¼SE¼, SE¼SE¼.

Containing 209.00 acres.

T. 18 N., R. 2 W.,
Sec. 21, E½SW¼SW¼, SE¼SW¼, SW¼SE¼;
Sec. 28, NE¼NW¼NW¼, E½SE¼ NW¼NW¼.

Containing 115.00 acres.

State selection A-060527 filed on November 29, 1963, as amended, and AA-2036 filed on August 17, 1967, as amended:

T. 18 N., R. 3 W.,
Sec. 21, SW¼NE¼, SE¼NW¼.

Containing 80.00 acres.

The State selection applications rejected above aggregate approximately 456.75 acres. Further action on these State selection applications as to the lands not rejected herein will be taken at a later date.

On December 17, 1974, July 14, 1975 and September 22, 1976, Knikatnu, Inc., for the Native village of Knik, filed selection applications and amendments, AA-8485-A, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)), for the surface estate of certain lands in the vicinity of Knik.

The village corporation selected certain lands described below which were withdrawn by Sec. 11(a)(1) of ANCSA. Section 12(a)(1) of ANCSA provides that village selections shall be made from lands withdrawn by Sec. 11(a). Since none of the above listed State selections were valid applications, as to the lands listed above, this acreage will not be charged against the 12(a) entitlement of Knikatnu, Inc., as State selected lands. The total amount of valid State selected lands previously rejected to permit conveyance to Knikatnu, Inc. is 440.91 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

As to the lands described below, the village applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 549.76 acres, is considered proper for acquisition of Knikatnu, Inc. and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Surveyed)

Lots 1, 3, 6 to 11, inclusive, U.S. Survey 1726, situated at Knik, Alaska.

Containing 17.75 acres.

T. 18 N., R. 1 W.,
Sec. 20, N½NW¼NW¼, N½S½ NW¼NW¼, SW¼SW¼NW¼NW¼, SE¼SE¼NW¼NW¼.

Containing 35.00 acres.

T. 17 N., R. 2 W.,
Sec. 4, SE¼NW¼, N½SW¼, N½SW¼SW¼, SE¼SW¼SW¼;
Sec. 13, S½NE¼NE¼SE¼, N½SE¼ NE¼SE¼, SE¼SE¼.

Containing 200.00 acres.

T., 18 N., R. 2 W.
Sec. 21, E½SW¼SW¼, SE¼SW¼, SW¼SE¼;
Sec. 28, NE¼NW¼NW¼, E½SE¼ NW¼NW¼.

Containing 115.00 acres.

T. 18 N., R. 3 W.,
Sec. 21, SW¼NE¼SE¼.

Containing 80.00 acres.

T. 14 N., R. 4 W.,
Sec. 12, lot 1;
Sec. 32, N½SW¼.

Containing 93.01 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 17 N., R. 2 W.,
Sec. 4, SW¼SW¼SW¼, excluding the bed of the Alaska Railroad one-hundred (100) feet each side of the centerline.

Containing approximately 9.00 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (1976)).

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of ANCSA.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)(2) (1976), (ANCSA)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (1976)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

4. A right-of-way, A-062107 for a Federal Aid Highway in Lots 6, 8, 9, 10 and 11 of U.S. Survey 1726, issued under the Act of August 27, 1958 (72 Stat. 885; 23 U.S.C. 317).

Knikatnu, Inc. is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is 2,507.91 acres. The remaining entitlement of approximately 66,612.09 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued Cook Inlet Region, Inc. when the surface estate is cnveyed to Knikatnu, Inc., and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the *Anchorage Times*. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until June 4, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Knikatnu, Inc., P.O. Box 2130, Wasilla, Alaska 99687.

Cook Inlet Region, Inc., P.O. Drawer 4-N, Anchorage, Alaska 99509.

Ben Wolf,
Chief, Branch of Adjudication.

[AA-8485-A]
[FR Doc. 79-13858 Filed 5-3-79; 8:45 am]
BILLING CODE 4310-84-M

Central and Northern California Outer Continental Shelf Oil and Gas; Intent To Prepare an Environmental Impact Statement for Proposed OCS Sale No. 53

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior's Bureau of Land Management (BLM) intends to prepare an environmental impact statement for the purpose of considering the effects of the proposed Outer Continental Shelf (OCS) oil and gas lease Sale No. 53 offshore central and northern California, scheduled for February 1981. A list of 243 tracts on the OCS, comprising 532,588 hectares (1.3 million acres), has been selected for further environmental study in this environmental impact statement.

Possible alternatives to this proposed sale include but are not limited to: (1) Cancellation; (2) proceeding; (3) delaying; and (4) modifying the proposed sale.

The Pacific Outer Continental Shelf Office of BLM has invited affected Federal and State agencies, local communities, and other special interest groups to participate in the process of scoping the signficant actions, alternatives, and impacts which should be considered in the environmental impact statement.

In the last half of January 1979, the Environmental Assessment Staff of the Pacific Outer Continental Shelf Office conducted a series of scoping meetings in central and northern California on the preparation of a Draft Environmental Impact Statement (DEIS) for the proposed oil and gas Lease Sale No. 53.

The DEIS information Briefings were held on the following dates and at these locations.

January 17, 1979: Redwood City, Calif.
January 18, 1979: Santa Cruz, Calif.
January 19, 1979: San Luis, Obispo, Calif.
January 24, 1979: Eureka, Calif.
January 25, 1979: Ft. Bragg, Calif.
January 26, 1979: Santa Rosa, Calif.

The scoping meetings consisted of an overview of the DEIS structure and format, presentations by staff members as to their proposed approach, and a request for continued involvement in DEIS preparation or at least an active role in the review of respective draft sections as they are accomplished.

Other groups will be contacted by letter inviting their written comments on significant actions, alternatives, and impacts. These written responses should be received on or before May 29, 1979, and addressed to the Manager, Pacific OCS Office, Room 7127, 300 N. Los Angeles Street, Los Angeles, California 90012.

Any questions concerning the proposed action and environmental impact statement may be directed to the Manager, Pacific OCS Office, at (213) 688-7234.

Approved: May 1, 1979.

Arnold E. Petty,
Acting Associate Director, Bureau of Land Management.
Guy R. Martin,
Assistant Secretary of the Interior.
[FR Doc. 79-13887 Filed 5-3-79; 8:45 am]
BILLING CODE 4310-84-M

Colorado; Wilderness Study Report; Public Comment Period

Summary: Notice is hereby given that pursuant to the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579), a 45-day public comment period will begin May 1, 1979, on the results of the wilderness characteristics evaluation of the North Sand Hills (Dunes) Instant Wilderness Study Area administered by the Bureau of Land Management (BLM) near Walden, in Jackson County, Colorado.

Comments will be accepted through June 14, 1979, regarding the BLM recommendation that the Study Area does not meet the wilderness criteria as defined by Sec. 2(c) of the Wilderness Act of 1964 (Pub. L. 88-577).

A copy of the report can be obtained from the Craig District Office, Bureau of Land Management, P.O. Box 248, Craig, Colorado 81625. Phone (303) 824-3417.

Dated: April 26, 1979.

Marvin Pearson,
District Manager.
[FR Doc. 79-13888 Filed 5-3-79; 8:45 am]
BILLING CODE 4310-84-M

New Mexico; Application

April 27, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by

the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipelines right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 21 S., R. 26 E.,
Sec. 28, N½NW¼;
Sec. 29, N½NE¼ and NE¼NW¼.

These pipelines will convey natural gas across 0.887 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Raul E. Martinez,
Acting Chief, Branch of Lands and Minerals Operations.

[NM 30650]
[FR Doc. 79-13884 Filed 5-3-79; 8:45 am]
BILLING CODE 4310-84-M

New Mexico; Application

April 27, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Company has applied for two 6⅝-inch natural gas pipelines right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 17 S., R. 29 E.,
Sec. 13, E½SE¼;
Sec. 19, lot 2;
Sec. 24, E½NE¼ and NE¼SE¼.

These pipelines will convey natural gas across 1.178 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and if so under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Raul E. Martinez,
Acting Chief, Branch of Lands and Minerals Operations.

[NM 28662]
[FR Doc. 79-13882 Filed 5-3-79; 8:45 am]
BILLING CODE 4310-84-M

New Mexico; Transfer of Jurisdiction to Pueblo of Santa Ana; Correction

April 27, 1979.

Federal Register Document Volume 44, No. 61 as published in the Federal Register of Wednesday, March 28, 1979, is corrected as follows:

Page 18565, 2nd column under T. 13 N., R. 3 E., sec. 23 the last land description in section should read N½NE¼SE¼NE¼SE¼ not N½NE¼, SE¼NE¼SE¼.

Page 18565, 2d column under T. 13 N., R. 4 E., sec. 3 is corrected to read lots 4 to 6 inclusive, W½NE¼ and NW¼ not lots 4 to inclusive, W½NE¼ and NW¼.

Page 18565, 3d column under T. 14 N., R. 4 E., sec. 31 is corrected to read E½NE¼, SW¼NE¼, NW¼NW¼, S½NW¼, S½ and bed of the Jemez River.

Raul E. Martinez,
Acting Chief, Branch of Lands and Minerals Operations.

[NM 35466]
[FR Doc. 79-13883 Filed 5-3-79; 8:45 am]
BILLING CODE 4310-84-M

Buresu of Reclamation

Closed Basin Division—San Luis Valley Project, Colo.; Public Hearing on Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the Closed Basin Division—San Luis Valley Project, Colorado. This statement (INT DES 79-20, dated April 19, 1979) was made available to the public on April 20, 1979.

The draft statement deals with a multiple-purpose water resource project designed to deliver to the Rio Grande water now being removed by evaporative processes from the Closed Basin. The project is scheduled for stage development. About 66,000 to 104,000 acre-feet of ground water will be pumped annually, with 100,800 acre-feet per year being a reasonable project yield objective. Of this 100,800 acre-feet of water, 5,300 acre-feet will be delivered to the existing Alamosa National Wildlife Refuge (NWR); and 95,500 acre-feet will be delivered annually to the Rio Grande. This delivery to the Rio Grande will help Colorado to meet its commitments for water deliveries to Texas and New Mexico under the Rio Grande Compact and will assist the United States in meeting its commitments to Mexico under the Rio Grande Convention of 1906. The project will also provide for the establishment of Mishak National Wildlife Refuge; for stabilization of the water level of San Luis Lake at about 890 surface acres; for development of recreational facilities at San Luis Lake; and for fish and wildlife enhancement.

Public hearings will be held at the Student Union Building, Carson Auditorium, Adams State College, Alamosa, Colorado, on June 5, 1979, to receive views and comments from interested organizations or individuals relating to environmental impacts of this project. The hearings will commence at 1:00 p.m., and 7:00 p.m. Oral statements at the hearings will be limited to 10 minutes. Speakers will not trade their time to obtain a longer oral presentation; however, the hearings officer may allow any speaker to provide additional oral comment after all persons wishing to comment have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request whenever possible, and any scheduled speaker not present when called will lose his privilege in the scheduled order and his name will be recalled at the end of the scheduled speakers. Requests for scheduled presentation will be accepted up to June 1, 1979, and any subsequent requests will be handled on a first-come-first-served basis following the scheduled presentation.

Organizations or individuals desiring to present statements at the hearing should contact the Office of the Regional Director, Bureau of Reclamation, Herring Plaza, Box H-4377, Amarillo, TX 79101, telephone (806) 376-3401, and announce their intention to participate. Written comments from those unable to attend and from those wishing to supplement their oral presentation at the hearing should be received by June 20, 1979, for inclusion in the hearing record.

Dated: May 1, 1979.

E. Keith Higbee,
Commissioner.

[FR Doc. 79-13878 Filed 5-3-79; 8:45 am]
BILLING CODE 4310-09-M

Office of the Secretary

Availability of the Department of the Interior's Proposed Stipulations for the Alaska Natural Gas Transportation System

AGENCY: Department of the Interior.

ACTION: Notice—Availability of Stipulations for the Alaska Natural Gas Transportation System.

SUMMARY: The Stipulations for the Alaska Natural Gas Transportation System will be attached to the Department of the Interior's Grant of Right-of-Way which will permit the construction of this pipeline system on Federal lands as authorized by the Mineral Leasing Act of 1920 as amended, 30 U.S.C. 185. These Stipulations are being made available for public review and comment on any of the requirements contained therein.

SUPPLEMENTARY INFORMATION: These Stipulations will be attached to the Grants of Right-of-Way which, when issued by the Department of the Interior, will authorize the construction of the Alaska Natural Gas Transportation System on Federal lands. These Stipulations establish the administrative procedures and the general environmental and technical standards which the Department of the Interior has determined to be necessary for the protection of the environment, public health and safety, and the integrity of the pipeline itself. A separate set of Stipulations has been prepared for each of the three legs of the Alaska Natural Gas Transportation System to accommodate the different environmental and technical problems which will be encountered. The Alaska Stipulations will apply to those Federal lands crossed by the pipeline within the State of Alaska; the Western Leg Stipulations will apply to those Federal lands crossed in the States of Idaho, Washington, Oregon, and California; and the Northern Leg Stipulations will apply to those Federal lands crossed in the States of Montana, North Dakota, South Dakota, Minnesota, Iowa, and Illinois.

Request for Comments

Persons interested in these Stipulations may furnish written comments on or before June 22, 1979. Comments must be filed with the Office of the Project Manager, Alaska Natural Gas Transportation System, (105) Department of the Interior, Washington, D.C. 20240. Copies of these Stipulations may be obtained by contacting the Office of the Project Manager at (202) 343-6932, or by writing to that office at the above address.

Guy R. Martin,
Assistant Secretary of the Interior.

May 1, 1979.

[FR Doc. 79-13963 Filed 5-3-79; 8:45 am]
BILLING CODE 4310-84

INTERNATIONAL TRADE COMMISSION

Perchloroethylene from Belgium, France, and Italy; Determinations of Injury

On the basis of information obtained in investigations Nos. AA1921-194, AA1921-195, and AA1921-196, the Commission determines (Vice Chairman Alberger and Commissioner Stern dissenting) that an industry in the United States is being injured by reason of the importation of perchloroethylene from Belgium, France, and Italy that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On January 30, 1979, the United States International Trade Commission received advice from the Department of the Treasury that perchloroethylene from Belgium, France, and Italy is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on February 8, 1979, the Commission instituted investigations Nos. AA1921-194 (perchloroethylene from Belgium) AA1921-195 (perchloroethylene from France), and AA1921-196 (perchloroethylene from Italy) under section 201(a) of said act, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

In connection with the investigations, a public hearing was held in Washington, D.C., on March 13, 1979. Notice of the institution of the investigations and the public hearing was given by posting copies of the notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's office in New York City, and by publishing the notice in the Federal Register of February 20, 1979 (44 FR 10442).

The Treasury Department instituted its investigations after receiving a complaint filed on June 16, 1978, from counsel acting on behalf of PPG Industries, Inc., Pittsburgh, Pa.; Stauffer Chemical Co., Westport, Conn.; Diamond Shamrock Corp., Cleveland, Ohio; Vulcan Materials Co., Birmingham, Ala.; and Dow Chemical U.S.A., Midland, Mich. Treasury's notices of withholding of appraisement and its determinations of sales at LTFV were published in the Federal Register of February 2, 1979 (44 FR 6821-6824).

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

Statement of Reasons of Chairman Joseph O. Parker and Commissioners George M. Moore and Catherine Bedell

On January 30, 1979, the United States International Trade Commission received advice from the Treasury Department that it had determined, on the basis of investigations it had made, that perchloroethylene from Belgium, France, and Italy is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on February 8, 1979, the Commission instituted investigations Nos. AA1921-194 (perchloroethylene from Belgium), AA1921-195 (perchloroethylene from France), and AA1921-196 (perchloroethylene from Italy) under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established,[1] by reason of the importation of such merchandise into the United States.

The Commission previously conducted inquiries into perchloroethylene imports from the countries in question under section 201(c) of the Antidumping Act (AA1921-Inq.-14, 15, and 16) after receiving advice from Treasury that there was substantial doubt that an industry was being or was likely to be injured by reason of the importation of this merchandise into the United States. As a result of those investigations, the Commission determined that the criteria for continuing the investigations had been met. Treasury's investigations were instituted on the basis of a petition filed with Treasury by five U.S. producers of perchloroethylene.

Determination

On the basis of the information obtained in this investigation, we determine that an industry in the United States is being injured by reason of the importation of perchloroethylene from Belgium, France, and Italy which the Treasury Department has determined is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

[1] Prevention of establishment of an industry is not an issue in these investigations and will not be discussed further in these views.

Injury by Reason of LTFV Sales

In order to make an affirmative determination in an antidumping investigation, it is necessary to determine that a U.S. industry is being or is likely to be injured by reason of the LTFV sales determined by the Secretary of the Treasury. The legislative history of the Antidumping Act and Commission decisions have both established that the injury criterion of this unfair trade practice statute is satisfied if there is injury which is "more than frivolous, inconsequential, insignificant, or immaterial." [2] It is also well established that the term "by reason of" expresses a causation linkage between the LTFV sales and injury to the U.S. industry but does not mean that the LTFV imports must be a principal, major, or a substantial cause of such injury.[3] In our judgment, the information obtained in these investigations shows these criteria to have been satisfied.

The Treasury Department investigated imports of perchloroethylene from Belgium and France during the 6-month period beginning February 1, 1978. It was determined that 100 percent of the perchloroethylene imported from Belgium during this period was at LTFV. Treasury made comparisons on 90 percent of perchloroethylene imported from France into the United States during this period and all of the sales compared were found to have been at LTFV. The weighted average LTFV margins for sales from Belgium were 60 percent and those for sales from France were 32 percent. The Treasury Department also determined that 100 percent of the sales of perchloroethylene imported from Italy during the 17-month period beginning January 1, 1977, were at LTFV and that the weighted average margin of such sales was 24 percent.

Total imports from these three countries increased from 15 million pounds in 1974 to 41 million pounds in 1977 and increased as a share of apparent consumption from 2 percent to 6.3 percent. This increase occurred at the same time that there was a 66 million pound drop in apparent consumption. In 1978, total imports from the three counties declined to 23 million pounds, with the sharpest decline occurring in the 6-month period after the filing of the complaint with the Treasury Department in June 1978 which was the basis on which these investigations were initiated.

Virtually all the perchloroethylene imported from Belgium, France, and Italy enters the United States through ports located in the Northeastern United States, and nearly all of it is consumed in this market. These imports, which are all drycleaning-grade perchloroethylene, have had a disproportionate impact on the Northeastern market. In 1977, such imports accounted for nearly 40 percent of apparent consumption of the drycleaning-grade perchloroethylene in the Northeast, and even after the decline in 1978, such imports still accounted for about 25 percent of this market.

The information obtained in the investigation clearly established that this import penetration was achieved as a result of prices being the same as or below domestic prices and that, had the imports been sold at fair value, they would have been priced considerably higher than domestically made perchloroethylene. Except for one 2-month period, the lowest average weighted price per pound of perchloroethylene during 1976–78 sold in the domestic market was accounted for by imports from either France or Italy.

The Commission's investigation shows that the domestic industry lost sales as a result of this underselling by LTFV imports. Of 14 purchasers identified by U.S. producers as accounts to which sales were lost, all but 3 confirmed that they had purchased perchloroethylene imported from Belgium, France, and/or Italy in lieu of perchloroethylene offered by U.S. producers, and that price was the primary reason for purchasing the imports.

In our judgment, the domestic industry is being injured, within the meaning of the Antidumping Act, by reason of imports of perchloroethylene from the countries under consideration. These imports occurred at a time when the domestic industry was in a substantially weakened position and particularly susceptible to the injury caused by their penetration of the market. From 1976 to 1978, the price of perchloroethylene declined by more than 30 percent. As a result of this decline and rising costs of production, the profitability of the domestic industry declined precipitously. During both 1977 and 1978, the domestic industry suffered substantial operating losses in perchloroethylene operations and was plagued by substantial unused capacity. Thus, it is clear that the presence of LTFV imports being sold at prices below those of domestic producers, with a resulting loss of sales, caused injury to the U.S. producers.

[2] U.S. Senate, *Trade Reform Act of 1974: Report of the Committee on Finance * * *,* S. Rept. No. 93–1298 (93d Cong., 2d sess.), p. 180.

[3] Ibid.

Statement of Reasons of Commissioner Bill Alberger

In order for the Commission to find in the affirmative in an investigation under the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being established,[4] and the injury or the likelihood thereof must be by reason of imports at less than fair value (LTFV). I find in the case of perchloroethylene from Belgium, France, and Italy, the domestic industry is not being injured by reason of such imports which the Secretary of the Treasury (Treasury) has determined are being, or are likely to be, sold at LTFV.

The Imported Article and the Domestic Industry

Perchloroethylene is a clear, heavy (1.6 times heavier than water), non-flammable liquid used primarily as a drycleaning and industrial solvent and as an intermediate in the synthesis of other chemicals.

The domestic industry in this case consists of the facilities in the United States devoted to the production of perchloroethylene. Presently, there are seven firms producing the perchloroethylene at 10 plant sites. The seven firms are: Dow Chemical, U.S.A.; PPG Industries, Inc.; Vulcan Materials Co.; Diamond Shamrock Corp. (Diamond); E. I. du Pont deNemours & Co. (Du Pont); Stauffer Chemical Co.; and Ethyl Corp.

LTFV Sales

The Treasury investigations of LTFV imports of perchloroethylene from Belgium and France covered sales made during the 6-month period February 1, 1978 through July 31, 1978; its investigation of sales from Italy covered the 17-month period January 1, 1977 through July 31, 1978. Price comparisons were made on 100 percent of the sales from Belgium and Italy and on 90 percent of the sales from France made during the periods of investigation. LTFV margins were found on 100 percent of the sales from the 3 countries that were examined. The LTFV margins for sales from Belgium ranged from 59.5 to 60.6 percent of the home market price, with a weighted average margin of 60.0 percent. The margins for sales from France ranged from 23.2 to 36.2 percent of the home market price, with a weighted average margin of 32.4 percent, and the margin for sales from Italy ranged from 13.0 to 35.0 percent of the home market prices with a weighted average price of 23.5 percent.

[4] Prevention of establishment of an industry is not an issue in this case and will not be discussed further.

National or Regional Industry

It was urged by petitioner that the Commission look at injury to a regional market, namely the Northeast. The statute requires us to make our determination based upon "an industry in the United States". The industry may be considered "regional" in character, particularly where: (1) Domestic producers of an article are located in and serve a particular regional market predominantly or exclusively, *and* (2) the LTFV imports are concentrated primarily in this regional market.[5] In this case, the second criterion is met, since all LTFV imports entered the Northeast market, mostly New York City. However, the domestic industry is located in Texas and Louisiana, and distribution is nationwide, so the first criterion is not even close to being satisfied. Thus, I have looked at the national market.

No Injury by Reason of LTFV Sales

Imports and market share. Imports from the three countries in question show sharp increases in 1976 from the relatively low to nonexistent levels of 1974 and 1975. Italy was a new entrant in the U.S. market in 1976 and increased its level of imports further in 1977. In 1978, imports from Italy dropped precipitously and represented only 0.7 percent of domestic consumption. Belgium's 1976 imports were nearly ten times those of 1974, but by 1978 the level of Belgian imports was less than half of 1976 and represented 0.8 percent of U.S. consumption. Perchloroethylene imports from France peaked in 1976 and then dropped by more than 35 percent in 1977. In 1978, imports from France dropped still further and held a 1.7 percent share of the domestic market. For the three countries combined, the 6.7 percent import to consumption ratio attained in 1976 represents their largest market share in the 1974–78 period. Following that peak, the combined ratio dropped slightly in 1977 and in 1978, at 3.2 percent, was less than half the 1976 level.

Production and shipments. 1974 and 1978 represent the peak years for production and shipments by U.S. producers of perchloroethylene. Production dropped by more than 9 percent from 1974 to 1975 and, after maintaining a steady level in 1976 and 1977, climbed back near 1974 levels in 1978. Shipments by U.S. producers dipped by nearly 15 percent from 1974 to 1975, then leveled off for the next two years. However, in 1978, shipments showed a strong increase over the previous three years and even exceeded the 1974 level of shipments.

Exports. Exports by U.S. producers more than doubled from 1974 through 1978, going from 29 million pounds in 1974 to more than 59 million pounds in 1978. These levels represent an increase from 4 to 8 percent as a percentage of producers' shipments and would seem to indicate that U.S. producers are quite competitive in the world market. In fact, exports exceeded total imports in three of the five years.

Capacity utilization. The raw data shows capacity utilization falling from 60 percent in 1974 to a low point of 54 percent in 1977 and rising to 58 percent in 1978. One might assume that an industry operating at such a low level of capacity utilization for 5 years must be injured. However, aggregate capacity for the domestic industry has remained well above total consumption plus exports for the five-year period 1974–78. Thus, there is gross overcapacity and a comparison of production with consumption plus exports yields perhaps a more realistic measure of capacity utilization. 1974 is 99 percent, 1976 and 1977 are 96 percent, and 1978, a period of declining imports and disposal of large stocks of inventory, was 91 percent. Those are strong figures, and any shortfall in actual capacity utilization is the result of capacity far in excess of demand.

Inventories. U.S. producers' inventories of perchloroethylene increased sharply from 76 million pounds in 1974 to over 157 million pounds in 1977 before falling to about 113 million pounds by the end of 1978. Most of this increase involves one producer, Diamond, which previously supplied Du Pont and built up its inventory on the assumption startup problems would occur in the latter's new plant. There apparently were no such problems, and Diamond was left with large inventories. Factoring Diamond's inventories out of the total, inventories throughout 1975 to 1978 are more level. The total volume of Diamond's inventories in 1975 through 1977 was larger than total imports in each year, and significantly larger than imports from countries involved in these investigations.

Employment. Employment was basically steady from 1974 through 1978. In this case, however, employment does not play a particularly important role since a drop in production for most of the chemical industry does not necessarily result in a drop in employment. Employees are generally kept on the payroll to maintain the production equipment to have it ready when production of a chemical resumes. Consequently, employment is not as accurate a reflection of the industry's condition as other factors I have considered.

Profits. In general, those U.S. producers supplying financial data (only 5 firms did) show sharply declining profits on perchloroethylene operations. Aggregate 1978 data shows a ratio of net operating *loss* to net sales of 30.7 percent, down from a profit of 37 percent in 1974. this is obviously a disastrous change, and suggests serious problems, particularly for 4 of these 5 firms (the fifth shows healthy profits). Almost all of the firms producing perchloroethylene are large, diversified, multinational corporations in which perchloroethylene plays a relatively small role. It is entirely possible that there are serious allocation problems, since the ratio of net operating profit to net sales for chlorinated solvents operations for 4 of the 5 firms (the 5th did not submit such data) was 22.4 percent, a very healthy showing. The one producer showing profits on perchloroethylene throughout 1974–78 generally priced all other competitors, importers and domestic, with apparent success.

Lost sales. Three producers identified 14 purchasers of imports from the three countries involved as sales lost during 1976–78. Eleven were verified by the staff. The other three had switched to other U.S. producers. Price was given as the primary reason for the switch. Several also mentioned that U.S. producers' prices had been artificially high in a time of excess supply. However, many also indicated the decline of the dollar relative to European currencies in the last 6 to 8 months absorbed the price difference and they consequently had switched back to the U.S. product. With the domestic consumption up and the market share and volume of LTFV imports going down in 1978, importers must have lost sales to the domestic industry as well. This decline in LTFV imports began well before this case was filed with Treasury. Even the aggregate of the lost sales do not equal Diamond's lost sale to a fellow domestic producer, Du Pont, which now totally supplies itself through internal production.

Prices. There is some indication, as I stated in AA1921-Inq. 14, 15, and 16 (U.S.I.T.C. Publication No. 904), that U.S. producers were involved to a signficiant degree in price reduction efforts. In fact during 1978, while the volume of imports

[5] U.S. Senate, Report of the Committee on Finance to accompany H.R. 10710, Trade Act of 1974, S. Rept. No. 93–1298 (93d Congress, 2nd Sess.) 1974, at pp. 188–191.

was declining, average prices by U.S. producers dropped considerably. Significant inventories, mostly the result of Diamond's miscalculation, overhung the market, depressing the prices. Since 1974 total producers' inventories have been between three and six times total imports from the three countries involved in these investigations. This oversupply would pressure an industry to lower prices regardless of imports.

Conclusion

Among the indicators I have considered, capacity utilization, profits, prices, and lost sales appear to suggest injury. However, the capacity utilization problem is explained by excess capacity. The poor profit picture and the low prices are the result of the inventory surplus of one producer which lost its largest account to another domestic producer. Finally, the lost sales that were found were offset by the declining market share of LTFV imports throughout 1978. Consequently, whatever, injury may exist is not by reason of LTFV imports from Belgium, France, or Italy. This is true whether these imports are considered separately or cumulatively.

By order of the Commission.

Issued: April 30, 1979.

Kenneth R. Mason,
Secretary.

[AA1921-194, AA1921-195, and AA1921-196]
[FR Doc. 79-13940 Filed 5-3-79; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Beth-Elkhorn Corp.; Petition for Modification of Application of Mandatory Safety Standard

Beth-Elkhorn Corporation, Jenkins, Kentucky 41537, has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations), to its No. 22 Mine, located in Letcher County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. In some airways of the petitioner's mine (designated on a map supplied with the petition), roof conditions have deteriorated, making it hazardous to walk the airways for weekly inspections. Up to three feet of shale rock have fallen in some areas.

2. As an alternative, the petitioner proposes to examine the airways weekly by going through man-doors off the track entry and observing conditions in both directions of the airways.

3. The petitioner states that this alternative method will guarantee the miners affected no less then the same measure of protection given them by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 26, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-35-C]
[FR Doc. 79-14024 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-29-M

Cabin Knoll Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Cabin Knoll Coal Company, Star Route, Box 22, Elkhorn City, Kentucky 41522, has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its No. 74–6 Mine, located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The petition concerns the installation of canopies on the petitioner's scoops, cutting machine, and roof bolting machine.

2. The petitioner is mining coal seams ranging from 44 to 56 inches in height.

3. Undulations in the coal seam would necessitate the use of a low canopy configuration to prevent the canopy from dislodging and possibly destroying roof support.

4. Such a configuration would allow vertical space of only 25 inches in the operating compartment, thereby limiting the equipment operator's view of surrounding mining conditions and of other miners.

5. For these reasons the petitioner feels that the application of the standard to its mine would result in a reduction of the safety to it miners.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 25, 1979.

Eckehard Muessig,
Acting Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-46-C]
[FR Doc. 79-14025 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-29-M

Excel Mineral Co.; Petition for Modification of Application of Mandatory Safety Standard

Excel Mineral Company, P.O. Box 1277, Taft, California, 93268, has filed a petition to modify the application of 30 CFR 55.15–3 (protective footwear), to its Excel Pit and Mill Mine and to its Sheep Springs Pit and Mill Mine, both located in Kern County, California. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The petitioner requests permission for its employees to wear a serviceable leather shoe rather than a steel-toed safety shoe or boot in its packing room and warehouse.

2. The floor in these areas is smooth-surface concrete. Employees handle wooden pallets and bags of a crushed clay product as well as work around forklifts. However, no one is in constant contact with the wooden pallets or forklifts. The crushed clay product is packaged in 5 and 25 pound units and shipped in 50 pound bales.

3. For these reasons, the petitioner believes that serviceable leather shoes would be suitable protective footwear for employees in its packing room and warehouse.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 27, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-13-M]
[FR Doc. 79-14026 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-29-M

Jewell Ridge Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Jewell Ridge Coal Corporation, Jewell Ridge, Virginia, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 12A Mine, located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The petition concerns the installation of additional lighting for the petitioner's longwall mining equipment.

2. Vertical clearance at the longwall face in the petitioner's mine allows an average of 23 inches of travel space between the face support chocks of the mining equipment.

3. The petitioner cannot install stationary lighing fixtures because there is no place for the ballast boxes necessary for their operation.

4. Illumination of the longwall would require mounting a light over the panline on which the chocks rest. The plow or plowed coal could tear off such a fixture, creating a dangerous electrical hazard.

5. The placement of lighting cables, fixtures and other electrical wiring would result in extreme difficulty in traversing the face.

6. Any lights mounted in the area above the crawl space area of the mining equipment would reduce the crawl area to such an extent that the area could not be travelled.

7. For these reasons the petitioner states that the application of the standard would result in a reduction of the safety to its miners.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 25, 1979.

Eckehard Muessig,
Acting Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-47-C]
[FR Doc. 79-14027 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-29-M

Jumacris Mining, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Jumacris Mining Inc., Post Office Drawer D, Gilbert, West Virginia 25621, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its Jumacris No. 10 Mine located in Mingo County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The petition concerns the illumination of working places in the petitioner's mine while self-propelled mining equipment is operated in the working place.

2. The petitioner states that illumination systems would result in a diminution of safety to the miners affected because equipment operators would have difficulty in adjusting to constant changes in illumination as they move about the mine; their vision would be impaired, posing a safety hazard to themselves and other miners.

3. The petitioner also states that the possibility of an electrical hazard is increased by the use of illumination systems.

4. As an alternative, the petitioner proposes to install two 150-watt lamps at each end of each piece of face equipment in service at its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 27, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-38-C]
[FR Doc. 79-14028 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-29-M

Leeco, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Leeco, Inc., Rt. 9, Box 15, London, Kentucky 40741, has filed a petition to modify the application of 30 CFR 75.805 (electrical couplers) to its No. 22 and No. 29 Mines in Leslie County, Kentucky and its No. 42 Mine in Laurel County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The petitioner requests permission to use junction boxes (Pemco Corporation part number J-133527) which are equipped with a micro-switch wired in series with the ground check circuit. The micro-switch causes the power circuit to deenergize if the cover of the box is removed. The boxes are constructed of ⅛-inch steel with insulated strain straps.

2. The junction boxes will be located in dry, well rockdusted areas or supported above wet locations.

3. When different size cables are used, fittings for the cable entrance will be properly sized and secured to prevent strain on the electrical connections.

4. High-voltage cables shall be terminated according to the termination kit manufacturer's recommendations.

5. The junction box and cables will be protected according to the provisions of 30 CFR 75.807 and 30 CFR 75.1107–1(a)(3).

6. The petitioner states that this alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: April 26, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-45-C]
[FR Doc. 79-14029 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-29-M

The North American Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

The North American Coal Corporation, Powhatan Point, Ohio 43942, has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its No. 1 Mine located in Belmont and Monroe Counties, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. Numerous boreholes of abandoned oil/gas wells penetrate the coal seam the petitioner intends to mine.

2. A barrier of coal around these boreholes as required by the standard would interfere with the petitioner's longwall mining plan and ventilation plan. Such barriers are also less efficient and secure than other available methods to prevent well gas leaks.

3. As an alternative, the petitioner proposes to plug and mine through the boreholes following the proven techniques in MESA Informational Report 1052, "Cleaning Out, Sealing and Mining Through Wells Penetrating Areas of Active Coal Mines in Northern West Virginia."

4. The petition details the steps of these techniques which include the use of mechanical bridge plugs, expanding

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cement and sulfur hexafluoride or Krypton-85 tracer units.

5. The petitioner states that this alternative will guarantee the miners affected no less than the same measure of protection given them by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 27, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-58-C]
[FR Doc. 79-14036 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-29-M

Peerless Alma Coals, Inc.; Petitions for Modification of Application of Mandatory Safety Standard

Peerless Alma Coals, Inc., Post Office Drawer D, Gilbert, West Virginia 25621, has filed separate petitions to modify the application of 30 CFR 75.1719 (illumination) to its Peerless Alma No. 1 (M-79-40-C) and Peerless Alma No. 3 (M-79-39-C) Mines, located in Mingo County, West Virginia. The petitions are filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petitions follows:

1. The petitions concern the illumination of working places in the petitioner's mines while self-propelled mining equipment is operated in the working place.

2. The petitioner states that illumination systems would result in a diminution of safety to the miners affected because equipment operators would have difficulty in adjusting to constant changes in illumination as they move about the mines; their vision would be impaired, posing a safety hazard to themselves and other miners.

3. The petitioner also states that the possibility of electrical hazards would be increased by the use of illumination systems.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 27, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-39-C and M-79-40-C]
[FR Doc. 79-14031 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-29-M

Solar Fuel Co.; Petition for Modification of Application of Mandatory Safety Standard

Solar Fuel Company, P.O. Box 488, Somerset, Pa. 15501, has filed a petition to modify the application of 30 CFR 75.1710 (canopies), to its Solar No. 5 and No. 9 mines, located in Somerset County, Pa. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petitioner is mining coal seams varying from 40 to 48 inches in height.

2. The petitioner's mining system uses a Jeffrey 101 mining machine with radio or cable-remote control which allows the operator to remain well outby the last permanent roof support.

3. The petitioner's continuous-type haulage system begins at the mining machine and uses a bridge carrier. The bridge carrier operator is always outby the mining machine operator.

4. The continuous haulage system requires constant visual communication between the mining machine operator and the bridge carrier operator.

5. The petitioner states that the use of cabs or canopies on the bridge carriers will result in a diminution of safety to the bridge carrier operators for the following reasons:

a. Canopies would restrict the bridge carrier operator's line-of-sight communication with the mining machine operator.

b. The confined space would severely restrict the movements of the operator and possibly hamper the operator's ability to properly control the equipment.

c. At times, canopies will not allow sufficient clearance between the canopy top and the roof line and/or roof supports.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 27, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-54-C]
[FR Doc. 79-14032 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-29-M

Youghiogheny & Ohio Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Youghiogheny & Ohio Coal Company, 4614 Prospect Avenue, Cleveland, Ohio 44103, has filed a petition to modify the application of 30 CFR 75.519 (disconnecting switches) to its Nelms No. 2 Mine in Harrison County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petitioner proposes to install an air brake disconnect switch for its main power circuit in a breakthrough along a main haulage entry.

2. The distance from the switch to the borehole through which the main power circuit enters the underground area of the mine would be 600 feet—100 feet more than allowed by the standard.

3. By placing the switch in the proposed location, nearly all miners would be aware of the switch's location. If the switch were located 500 feet from the borehole as required, it would be located in an isolated intake air entry.

4. The petitioner believes that this alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before June 4, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: April 26, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-56-C]
[FR Doc. 79-14033 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-29-M

Office of the Secretary

Bomar Crystal Co., Middlesex, N.J.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 4, 1979 in response to a worker petition received on April 3, 1979 which was filed on behalf of workers and former workers of the Middlesex, New Jersey facility of the Bomar Crystal Company.

The Notice of Investigation was published in the Federal Register on April 13, 1979 (44 FR 22207-8). No public hearing was requested and none was held.

In a letter dated April 17, 1979 the petitioner requested that the petition be withdrawn. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this April 25, 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[TA-W-5103]
[FR Doc. 79-14038 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-28-M

Cameron Dress Co., Harrisburg, Pa.; Negative Determination Regarding Application for Reconsideration

By letter of March 21, 1979, counsel for the workers and former workers requested admistrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Cameron Dress Company, Harrisburg, Pennsylvania. The determination was published in the Federal Register on February 23, 1979, (44 FR 10795).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of the facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

Counsel for the workers and former workers claims the Department of Labor's determination did not consider imports of garments from Hong Kong and Taiwan stored at the Harrisburg, Pennsylvania, plant. Further, counsel charges that goods similar to those produced by Cameron Dress but manufactured overseas were seen by employees of Cameron Dress on sale in retail stores.

The Department's investigation revealed that all of the sewing department workers were laid off April 28, 1978, when the company was a part of Genesco, Inc. According to company officials, Genesco did not import ladies' dresses, the major project, by far, of the Harrisburg, Pennsylvania, plant. However, some sweaters designed to match the dresses were imported prior to 1977 but this was a one-time event. Sweaters were never produced by the subject firm.

Late in 1978, the Cameron Dress Company was sold and renamed Rondalco. According to company officials, the new owner imports designer jeans and denim jackets and tops and stores some of them at the Harrisburg, Pennsylvania, plant. The Department does not see any connection between the closing of the sewing department in April 1978 and the subsequent imports of other products stored at Harrisburg when under new ownership in October 1978. According to company officials, there have been no other layoffs since the closing of the sewing department.

The ratio of imports to domestic production for women's and misses' dresses has remained less than 5 percent since 1973. The Department conducted a survey of the manufacturers for whom the subject firm did contract work. Two manufacturers accounted for the majority of the subject firm's production. One of these manufacturers increased his contract work with Cameron Dress in 1977 compared to 1976 and decreased contract work in the first ten months of 1978 compared to the same period in 1977. This manufacturer's sales increased during this period, and it imported no foreign-made garments and did no business with foreign contractors.

The other of these manufacturers was formerly the subject firm's parent company. It imported no foreign garments and did no work with foreign contractors. Adjusted sales decreased slightly in the first nine months of 1978 compared to the same period in 1977. A secondary survey of this firm's major customers revealed that only two customers accounting for only an insignificant percentage of the parent firm's total sales decreased purchases from this manufacturer while increasing purchases of imports.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Deprarment of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 27th day of April 1979.

C. Michael Aho,
Director, office of Foreign Economic Research.

[TA-W-4439]
[FR Doc. 79-14037 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-28-M

Crazy Horse, Paterson, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4785: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 9, 1979 in response to a worker petition received on January 30, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's sportswear at Crazy Horse, Paterson, New Jersey. The investigation revealed that Crazy Horse is primarily involved in sales of imported women's sweaters.

The Notice of Investigation was published in the Federal Register on February 23, 1979 (44 FR 10800). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Crazy Horse, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that the employment declines at Crazy Horse occurred in departments which handle primarily company imports of sweaters.

The preponderance of sales by Crazy Horse consists of sweaters which are imported by the company. Crazy Horse has never manufactured sweaters.

Crazy Horse also sells ladies' sportswear which is produced for the subject firm by contractors. However,

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the employment declines which occurred from 1977 to 1978 at Crazy Horse were in departments whose primary activity involves processing company imports. In these departments, employment levels fluctuate in direct proportion to sales of imported sweaters. Employment in the pattern making, production, and design departments whose employment is a function of sales of domestically produced sportswear remained constant from 1977 to 1978.

Conclusion

After careful review, I determine that all workers of Crazy Horse, Paterson, New Jersey be denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of April 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[TA-W-4765]
[FR Doc. 79-14038 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-28-M

Johnson Outboard Co., Waukegan, Ill.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4214: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 26, 1978 in response to a worker petition received on September 21, 1978 which was filed by the Independent Marine and Machinists Association on behalf of workers and former workers producing outboard motors at the Waukegan, Illinois plant of the Johnson Outboard Company, a division of the Outboard Marine Corporation.

The Notice of Investigation was published in the **Federal Register** on October 10, 1978 (43 FR 46591). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Outboard Marine Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Company-wide sales in adjusted value and company-wide production in quantity of outboard motors increased during the January–October period of 1978 compared to the same period of 1977. Both sales and production in the fourth quarter of 1977 were affected by a three-week strike which occurred in that quarter.

The Waukegan, Illinois plant of the Johnson Outboard Company produces only outboard motors with 70 or more horsepower. All smaller motors are built at another domestic facility. While production of the larger motors at the Waukegan plant declined marginally in the January–October period of 1978 compared to the same period of 1977, production of the smaller motors increased at the other facility. The marginal production and employment declines at the Waukegan plant resulted, respectively, from a shift in the production mix at the Waukegan plant to higher powered, but fewer, outboard motors and from a cost-reduction program instituted in 1978.

Conclusion

After careful review, I determine that all workers at the Waukegan, Illinois plant of the Johnson Outboard Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of March 1979.

Harry J. Gilman,
Supervisory International Economist, Office of Foreign Economic Research.

[TA-W-4214]
[FR Doc. 79-14039 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 14, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 14, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 28th day of April 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of Petition	Petition No.	Articles produced
Amstar Corp., Spreckels Sugar Div., Factory No. 1, (Sugar Refinery Workers Union).	Spreckels, Calif.	4/16/79	4/11/79	TA-W-5,302	Beet sugar, beet pulp for cattle feed, molasses, packaging and warehousing.
Arco Auto Carriers (Teamsters)	Ridgefield, N.J.	4/12/79	4/9/79	TA-W-5,303	Deliver cars to the metropolitan areas.
Conair Corporation (workers)	Edison, N.J.	4/9/79	3/30/79	TA-W-5,304	Assemble, finish and package hair dryers and sun lamps.
Lilly Augering Co., Inc., Willis Branch Mine (U.M.W.A.).	Raleigh County, W. Va.	4/23/79	3/28/79	TA-W-5,305	Mining of coal.
Maben Energy Corp., Maben Energy Mine No. 1 (U.M.W.A.).	Wyoming County, W. Va.	4/23/79	3/28/79	TA-W-5,306	Contract mining of coal.
Maben Energy Corp., Maben Energy Mine No. 3 (U.M.W.A.).	Wyoming County, W. Va.	4/23/79	3/28/79	TA-W-5,307	Contract mining of coal.
Maben Energy Corp., Maben Energy Mine No. 4 (U.M.W.A.).	Wyoming County, W. Va.	4/23/79	3/28/79	TA-W-5,308	Contract mining of coal.
Maben Energy Corp., Maben Energy Mine No. 5 (U.M.W.A.).	Wyoming County, W. Va.	4/23/79	3/28/79	TA-W-5,309	Contract mining of coal.
Sewell Mountain Trucking, Inc. (U.M.W.A.)	Danese, W. Va.	4/25/79	3/26/79	TA-W-5,310	Trucking hauling of coal.
Victory Clothes Co., Inc. (ACTWU)	Philadelphia, Pa.	4/24/79	4/20/79	TA-W-5,311	Contractors of men's suits and sportcoats and some ladies' suits.

[FR Doc. 79-14034 Filed 5-3-79; 8:45 am]
BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 14, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 14, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Atomic Textiles (company)	Fort Lee, N.J.	4/20/79	4/20/79	TA-W-5,281	Sweaters and baby shawls.
Bethlehem Steel Corp., Baltimore Yards, Fort McHenry (IUMSWA).	Baltimore, Md.	4/17/79	4/16/79	TA-W-5,282	Repairs ships.
Bethlehem Steel Corp., Baltimore Yards, Key Highway (IUMSWA).	Baltimore, Md.	4/17/79	4/16/79	TA-W-5,283	Repairs ships.
Carla Leather, Inc. (workers)	New York, N.Y.	4/9/79	4/4/79	TA-W-5,284	Shearling leather goods, coats, jackets, skirts.
Cresco Perlin Sportswear, Inc. (United Garment Workers Union).	Ashland, Ohio	4/20/79	4/18/79	TA-W-5,285	Men's leather and cloth outercoats.
Fenton Shoe Corp. (workers)	Cambridge, Mass.	4/17/79	4/9/79	TA-W-5,286	Women's shoes.
M. Goldenberg & Son, Inc. (ACTWU)	Philadelphia, Pa.	4/25/79	4/17/79	TA-W-5,287	Men's slacks.
Haas Tailoring Co. (ACTWU)	Baltimore, Md.	4/23/79	4/17/79	TA-W-5,288	Men's and women's suits and uniforms.
Maryland-Hempstead Clothing Co. (ACTWU)	Hempstead, Md.	4/23/79	4/17/79	TA-W-5,289	Men's shirts.
Mirando Manufacturing Co., Inc. (ACTWU)	Elizabeth, N.J.	4/23/79	4/16/79	TA-W-5,290	Men's leather jackets.
Modern Slack Creations, Inc. (ACTWU)	Northampton, Pa.	4/23/79	4/17/79	TA-W-5,291	Ladies' and men's pants.
J. Molasky & Sons (ACTWU)	Baltimore, Md.	4/23/79	4/17/79	TA-W-5,292	Men's pants contractors.
Northampton Pants Co., Inc. (ACTWU)	Easton, Pa.	4/25/79	4/17/79	TA-W-5,293	Men's pants.
Paramount Clothing Co. (ACTWU)	Baltimore, Md.	4/23/79	4/17/79	TA-W-5,294	Cuts shirts, outerwear and assembles clothing also, job of billing.
Joseph J. Pietrafesa Co., Inc. (ACTWU)	Syracuse, N.Y.	4/23/79	4/17/79	TA-W-5,295	Men's tailored clothing.
Plastilite Corp. (workers)	Eight Mile, Ala.	4/23/79	4/19/79	TA-W-5,296	Babies' clothing shawls.
Rock Creek Mining Company (workers)	Davin, W. Va.	4/23/79	4/16/79	TA-W-5,297	Mining of coal.

Company (the Employer), and products

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Rosanna Knitted Sportswear (workers)	West Deptford, N.J.	4/23/79	4/17/79	TA-W-5,298	Ladies' knitted sportswear.
Seal Tanning Co. (Amalgamated Meat Cutters and Butcher Workman of North America).	Manchester, N.H	4/23/79	4/20/79	TA-W-5,299	Finish leather for shoe manufacturers.
Strongwear Slack, Inc. (ACTWU)	Easton, Pa	4/23/79	4/17/79	TA-W-5,300	Ladies' slacks.
Strongwear Pants Co., Inc. (ACTWU)	Easton, Pa	4/23/79	4/17/79	TA-W-5,301	Men's and ladies' slacks.

[FR Doc. 79-14035 Filed 5-3-79; 8:45 am]

BILLING CODE 4510-28-M

Office of Pension and Welfare Benefit Programs

Proposed Exemption for Certain Transactions Involving Kern County Electrical Pension Fund

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt, retroactively and prospectively, the continuing acts of the common trustees under the terms of a 20 year construction and mortgage loan made by Kern County Electrical Pension Fund (the Plan) to Kern County Electrical Apprenticeship and Training Fund (the Fund). The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Plan, the Fund, and the trustees of the Plan and the Fund.

DATES: Written comments and requests for a public hearing must be received by the Department on or before June 18, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. L–359. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: C. E. Beaver of the Department, (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(b)(2) of the Act. The proposed exemption was requested in an application filed by the trustees of the Plan, pursuant to section 408(a) of the Act, and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

(1) The Fund and the Plan are Taft-Hartley multiemployer employee benefit plans with common trustees, who are the same persons acting at all times for both the Fund and the Plan, under the terms of the loan agreement hereinafter described.* The participants in the Plan and the Fund are substantially the same persons.

(2) Effective July 26, 1974, the Trustees of the Plan loaned $100,000 to the Fund for the purpose of financing construction and improvements at the facilities of the Fund. The loan was evidenced by a promissory note from the Fund, payable to the Plan, and the note is secured by the real property and improvements. The note provides for interest of 10% per annum on the outstanding balance and the repayment of principal and interest in equal monthly installments of $965 over a period of 20 years. All monthly payments have been timely. In addition, the Fund has made two prepayments in the amount of $10,000 each. As of August 2, 1977, the outstanding principal balance of the loan was $83,137, which represents about 1.5% of Plan assets. The note contains no prepayment penalty clause. An appraisal, which was performed by a qualified independent real estate appraiser, was submitted by the applicant and states that the value of the property was $205,000 as of June 1, 1974, and $273,000 as of November 8, 1977. The appraisal states that present use of the property is appropriate and that the property is adaptable for secondary use as commercial offices.

(3) California usury laws restrict private parties (but not banks and certain other commercial lenders) to interest rates not exceeding 10% per annum, so the Plan is lending at the maximum rate allowable. The Fund did not seek a loan from an unrelated party, such as a commercial lender or a bank. A statement signed by K. E. Fortner, Vice President and Assistant Manager of American National Bank, Bakersfield, California, indicates that from May 20, 1974, to June 25, 1974, the bank's prime rate was 11.5% and increased on June 26, 1974, to 12%. The bank's construction loan rate for the same period was approximately 10% plus loan fees of two to four points. For the same period of time, the bank's commercial property rate was estimated to be 11% to 13% plus three to four points. A point is equal to 1% of the principal amount of the loan. Other Plan assets are earning interest of 5½% to 8½% per annum.

(4) The common trustees, who were electrical workers and contractors, were knowledgeable with respect to loans involving real estate. Under all of the circumstances of the loan from the Plan to the Fund, the common trustees believed that the loan would be a sound investment for the Plan providing a desirable rate of return. They determined that the terms of the loan were as fair as an arm's-length transaction would be. In addition, the common trustees felt that both the Plan and the Fund achieved important benefits from the transaction.

(5) If the exemption is granted, the common trustees of the Plan and of the Fund will be permitted to act on behalf of the Plan and the Fund, retroactively and prospectively, under the terms of a 20 year construction and mortgage loan agreement which allows the Plan to realize the highest yield permissible between private parties under the controlling law, and which is represented to be more than adequately secured by real property.

Notice to Interested Persons

Notice of the pending exemption as published in the Federal Register will be given to all trustees of the Plan and the Fund and to all participants of the Plan and the Fund. In the case of the trustees, notice will be provided by first class mail, addressed to the business addresses of the Plan and the Fund respectively. In the case of the participants, notice will be provided by first class mail, addressed to the residence address of each such participant which is on file with the Plan and the Fund at the time notice is filed. This notice will be postmarked no later than 10 days following the publication of such notice in the Federal Register.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under sections 406(a), 406(b)(1) and 406(b)(3) of the Act.

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1. If the exemption is granted, from January 1, 1975, the restrictions of section 406(b)(2) of the Act shall not apply, retroactively or prospectively, to the continuing acts of the common trustees under the terms of the 20 year construction and mortgage loan in the amount of $100,000 made on July 26, 1974, by the Plan to the Fund. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 27th day of April, 1979.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[Application No. L–359]

[FR Doc. 79–14021 Filed 5–3–79; 8:45 am]

BILLING CODE 4510-29-M

Employee Benefit Programs; Exemption From the Prohibitions Respecting a Transaction Involving E. H. Sheldon & Co. Pension Trust for Union Employees and Sheldon Salaried Employees Pension Trust

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables the E. H. Sheldon and Company Pension Trust for Union Employees (the Union Plan) and the Sheldon Salaried Employees Pension Trust (the Salaried Plan) (collectively the Plans) to accept the formal tender offer made on April 29, 1977, by the American Seating Company (the Employer), and enables the Plans to sell to the Employer, on or about May 28, 1977, in accordance with the tender offer, 5,700 shares of common stock of the Employer for $15.08 per Share.

FOR FURTHER INFORMATION CONTACT: C. E. Beaver of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 2, 1979 notice was published in the Federal Register (44 FR 11858) of the pendency before the Department of Labor (the Department) of a proposal for an exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 19/4 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for transactions described in an application filed by the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no request for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service, but the notice of pendency was issued solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested, to the Secretary of Labor. Therefore, this exemption is granted solely by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a

* In this regard, the Department has indicated that two multiple-employer employee benefit plans are not parties in interest or disqualified persons with respect to each other merely because they are maintained by the same plan sponsors. The presence of trustees or fiduciaries who are common to more than one multiemployer plan does not make such plans parties in interest or disqualified persons to one another. (*See* 41 FR 12740, 12744, March 26, 1976.)

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fiduciary or party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act, nor does the fact that the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Therefore, the exemption proposed in the notice of March 2, 1979 (44 FR 11858), is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 27th day of April, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[Prohibited Transaction Exemption 79–14]

[FR Doc. 79–14022 Filed 5–3–79; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NASA Advisory Council (NAC) Space Systems and Technology Advisory Committee Meeting

A meeting of the Informal Executive Subcommittee of the Space Systems and Technology Advisory Committee will be held May 24, 1979, from 9:30 a.m. to 4:00 p.m. in Room 647, NASA Headquarters, 600 Independence Avenue, SW., Washington, D.C. 20546. The meeting will be open to the public up to the seating capacity of the room (about 15 persons including Subcommittee members and participants).

The Space Systems and Technology Advisory Committee was established to advise NASA senior management through the NASA Advisory Council in the area of space research and technology. The purpose of the Executive Subcommittee meeting is to review and discuss recent and planned activities of the informal ad hoc subcommittees and to formulate plans for the June meeting of the Space Systems and Technology Advisory Committee. The Chairperson is Mr. Robert L. Johnson. There are seven members on the Informal Executive Subcommittee.

Agenda

May 24, 1979

9:30 a.m., Reports from the Informal Ad Hoc Subcommittees' Chairpersons.

1:00 p.m., Future Activities of the Informal Ad Hoc Subcommittees.

3:00 p.m., Planning for the June 1979 Meeting of the Space Systems and Technology Advisory Committee.

For further information, please contact C. Robert Nysmith, Executive Secretary, (202) 755–3252, NASA Headquarters, Code RP–4, Washington, D.C. 20546.

Arnold W. Frutkin,

Associate Administrator for External Relations.

April 30, 1979.

[FR Doc. 79–13926 Filed 5–3–79; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The Fifteenth meeting of the National Commission on Unemployment Compensation is scheduled to be held at the Shoreham Americana Hotel, Washington, D.C. on June 28, 29, and 30. The meeting will begin at 10:00 a.m. and conclude at 5:00 p.m. each day.

Requests for presenting testimony must be submitted 30 days prior to the meeting date and must indicate the topics to be discussed. Individuals and organizations requesting time must limit oral testimony to not more than ten minutes. Forty copies of written testimony must be submitted, but oral testimony should summarize any written testimony. Depending upon the number of persons and organizations requesting the opportunity to testify at a meeting, and the topics to be discussed, individuals and organizations will be notified of time and place allocated for testimony. Whenever feasible, individuals and organizations presenting similar views will be grouped together and will be handled as a panel in order to enable discussion, questioning, and responses to be developed with a view to assisting the Commission to deal with the mandate established by Congress.

Telephone inquiries and communications concerning this meeting should be directed to: James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, 1815 Lynn Street, Room 440, Rosslyn, Virginia 22209 (702) 235–2782.

Signed at Washington, D.C. this 26th day of April, 1979.

James M. Rosbrow,

Executive Director, National Commission on Unemployment Compensation

[FR Doc. 79–14023 Filed 5–3–79; 8:45 am]

BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.40, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

Dated April 27, 1979, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Gerald G. Oplinger,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Attachment

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
1. General Electric Co. April 13, 1979, April 18, 1979, XSNM01498.	3.65 percent enriched uranium.	18,452	510	Reload fuel for Fukushima 1, unit 6	Japan
2. Transnuclear, Inc. April 20, 1979, April 23, 1979, XSNM01500.	93.3 percent enriched uranium.	15.036	14.030	Fuel for DR–3 reactor	Denmark

[FR Doc. 79–13956 Filed 5–3–79; 8:45 am]

BILLING CODE 7590–01–M

Commonwealth Edison Co., et al.; Carroll County Site; Hearing on Application for Construction Permits and a Request for Early Site Review

In the matter of Commonwealth Edison Co. Interstate Power Company Iowa-Illinois Gas and Electric Company.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Commonwealth Edison Company, *et al.* (the applicant) for construction permits and a request for an early site review, hearing and partial initial decision on issues of site suitability within the purview of the applicable provisions of 10 CFR Parts 50, 51 and 100 for a proposed site designated as the Carroll County site. The Carroll County site is located in northwestern Illinois, about 5 miles southeast of the city of Savanna and 3 miles east of the Mississippi River in Carroll County, Illinois.

The hearing, which will be scheduled to begin in the vicinity of the proposed site, will be conducted by an Atomic Safety and Licensing Board which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Glenn O. Bright, R. L. Holton, and John F. Wolf, Chairman.

Pursuant to 10 CFR 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and peformed by the Commission. Notice as to the membership of the Appeal Board will be published in the **Federal Register** at a later date.

Pursuant to 10 CFR 2.606 and 2.761a, respectively, the Board will make findings on issues of site suitability for which early consideration is sought and render a partial decision.

The application for construction permits with a request for an early site review identified as the issues of site suitability for which early consideration is sought the following: whether, from both an environmental and safety standpoint, the Carroll County site is suitable with respect to: geology, hydrology, meteorology, terrestrial and aquatic ecology, water use, regional demography, community characteristics, economy, historical and national landmarks, land use, noise considerations, and aesthetics. In the event the Board makes favorable findings on these issues, the partial decision shall remain in effect either for a period of five years or until the applicant for the construction permit has made timely submittal of the remaining information required to support the application and the proceeding for a permit to construct a facility on the site identified in the partial decision has been concluded, unless the Commission, Atomic Safety and Licensing Appeal Board, or Atomic Safety and Licensing Board, upon its own initiative or upon motion by a party to the proceeding, finds that there exists significant new information that substantially affects the earlier conclusions and reopens the hearing record on site suitability issues.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n), the Board will determine without conducting a *de novo* evaluation of the application whether the application and the record of the proceeding contain sufficient information and whether the review conducted by the Commission's staff pursuant to the National Environmental Policy Act of 1969 (NEPA) has been adequate.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with 10 CFR 51.52(c): (1) determine whether the requirements of Section 102(2)(A), (C), and (E) of NEPA and 10 CFR Part 51 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding; and (3) determine, after weighing the environmental, economic, technical and other benefits against environmental and other costs, the suitability of the site with respect to the factors reviewed. The Board will convene a prehearing conference of the parties, or their counsel to be held subsequent to any required special prehearing conference, and within sixty (60) days after discovery has been completed or at such other time as the Board may specify, for the purpose of dealing with the matters specified in 10 CFR 2.752.

The Board will set the time and place for any special prehearing conference, prehearing conference and evidentiary hearing, and the respective notices will be published in the **Federal Register.**

Any person who does not wish, or is not qualified, to become a party to this

Amendment No. 29 to Facility Operating

proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may make an oral or written statement of position on the issues. He does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of site suitability. A limited appearance may be made at any session of the hearing or at any prehearing conference subject to such limits and conditions as may be imposed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by July 3, 1979.

Any person whose interest may be affected by the proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene in accordance with the provisions of 10 CFR 2.714. A petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceedings. The petition, should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene.

Any person who as filed a petition for leave to intervene or who has been admitted as a party may amend a petition, without prior approval of the presiding officer at any time up to 15 days prior to the holding of the first prehearing conference, but such an amended petition must satisfy the specificity requirements described above. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with a reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to present evidence and cross-examine witnesses.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Board designated to rule on the petition and/or request that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714 (a)(1)(i)–(v) and 23.714(d).

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the applicant by May 24, 1979.

A request for a hearing or a petition to intervene shall be filed by June 4, 1979 with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. A copy of any petition for intervention should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Isham, Lincoln & Beale, Attention: Richard E. Powell, Esquire, One First National Plaza, 42nd Floor, Chicago, Illinois 60603, attorney for the applicant. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. Any questions or requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

For further details, see the application for Construction permits and request for an early site review consisting of the Site Suitability Environmental Report and the Site Suitability Site Safety Report dated April 5, 1979. Any amendments or supplements thereto are or will be available as noted above for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., between the hours of 8:30 AM and 5:00 PM on weekdays. Copies of those documents will also be available at the Savanna Township Library, 328 Third Street, Savanna, Illinois, for inspection by members of the public between the hours of 1:30 PM and 5:30 PM Monday through Saturday. As they become available, the Draft and Final Site Environmental Statements, the transcripts of the prehearing conferences and of the hearing, and other relevant documents, will also be available at the above locations. Copies of the Final Site Environmental Statement and Site Safety Evaluation Report, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Washington, D.C. this 1st day of May 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,
Secretary of the Commission.

[Docket Nos. 550-599, 550-600]
[FR Doc. 79-13949 Filed 5-3-79; 8:45 am]
BILLING CODE 7590-01-M

Puerto Rico Water Resources Authority; Availability of Site Safety Evaluation Report for the North Coast Nuclear Station

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Site Safety Evaluation Report reviewing site related safety issues to determine the suitability of the Islote Site for eventual construction of the North Coast Nuclear Station in Arecibo, Puerto Rico. Notice of receipt of Puerto Rico Water Resources Authority's Environmental Report was published in the **Federal Register** on February 14, 1975 (40 FR 6835).

This report summarizes the results of NRC's technical evaluation of the proposed Islote site suitability for a nuclear power plant performed by the NRC staff and delineates the scope of the technical matters considered in evaluating the suitability of the site for a nuclear power plant.

To the extent possible, review has been completed in the areas of seismology, geology, meteorology, hydrology, and in the area of hazards to a nuclear power plant which could result from man's activities.

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., the Arecibo City Hall Library, Arecibo, Puerto Rico and the Etien Totti Public Library, Hato Rey, Puerto Rico for inspection and copying. The report (Document No. NUREG–0541) can also be purchased, at current rates, from the National Technical Information Service, Springfield, Virginia 22161. (Printed copy: $5.25; microfiche: $3.00.)

Dated at Bethesda, Maryland, this 27th day of April 1979.

For the Nuclear Regulatory Commission.

Ronald L. Ballard,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[Docket No. 50-378]
[FR Doc. 79-13953 Filed 5-3-79; 8:45 am]
BILLING CODE 7590-01-M

Virginia Electric & Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment 10 to the Facility Operating License No. NPF–4, issued to Virginia Electric and Power Company, which requires an inservice inspection program to periodically inspect the flow splitter plates installed in the reactor coolant system pipe elbow adjacent to the reactor coolant pump. Changes have been made to the Appendix A Technical Specifications regarding the inservice inspection of flow splitter plates, the displacement monitoring system, and a limiting condition for operation requiring the loose-parts detection system to be operable during startup and power operation. Amendment No. 10 is effective as of its date of issuance.

The Amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action see a copy of (1) Amendment No. 10 to NPF–4, and (2) the Safety Evaluation dated April, 1979. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of these items may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland this 27th day of April, 1979.

For the Nuclear Regulatory Commission.

Olan D. Parr,
Chief, Light Water Reactors Branch No. 3 Division of Project Management.

[Docket No. 50-338]
[FR Doc. 79-13954 Filed 5-3-79; 8:45 am]
BILLING CODE 7590-01-M

Wisconsin Public Service Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR–43 issued to Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (the licensee) which revised Technical Specifications for operation of the Kewaunee Nuclear Power Plant located in Kewaunee, Wisconsin. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to require safety injection actuation based on low pressurizer pressure, 2 out of 3 channels.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 20, 1979, (2) Amendment No. 29 to Facility Operating License No. DPR–43, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555, and at the Kewaunee Public Library, 822 Juneau Street, Kewaunee, Wisconsin 54216. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 27th day of April 1979.

For the nuclear regulatory commission.

A. Schwencer,
Chief, Operating Reactors Branch No. 1 Division of Operating Reactors.

[Docket No. 50-305]
[FR Doc. 79-13955 Filed 5-3-79; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Trade Policy Staff Committee; Specialty Steel-Extension, Reduction or Termination of Import Relief; Solicitation of Public Views

On June 11, 1976 the President issued a proclamation imposing import restrictions on certain Stainless Steel and Alloy Tool Steel (Specialty Steel), now found in TSUS items 923.20, 923.21, 923.22, 923.23 and 923.26 effective June 14, 1976 for a period three years. (Presidential Proclamation 4445, 41 FR 24101 of June 11, 1976—see also modifications on the relief on Proclamation 4477 of Nov. 16, 1976 (41 FR 5096), Proclamation 4509 of June 15, 1977 (42 FR 30829) and Proclamation 4559 of April 15, 1978 (43 FR 14433)). These restrictions were imposed pursuant to Section 203(a) of the Trade Act of 1974, in response to a finding by the USITC that the US industry producing like or directly competitive products was suffering from serious injury or the threat thereof caused by increased imports of the above named specialty steel products.

The imports relief proclaimed and implemented will expire on June 13, 1979 unless extended by the President, after receiving advice from the USITC and taking into account the considerations in 202[c] of the Trade Act, pursuant to Sec. 203(h)(3) of the Trade Act.

On April 24, 1979 the USITC reported to the President its advice under 203 (1)(2) and (1)(5) of the Trade Act as to the probable economic effects of such expiration (see USITC Report Number

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TA–203–5 of April 24, 1979 for further details).

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take with respect to any action on an extension, reduction or termination of relief. In order to assist the Trade Policy Staff Committee in developing recommendations to the President, interested persons are invited to submit written briefs to the Trade Policy Staff Committee on the probably effects of any extension, reduction or termination of present import restrictions now in effect with respect to Specialty Steel, specifically with respect to the following factors:

(1) The probable effectiveness of the extension, reduction or termination import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of the extension, reduction or termination of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of the extension, reduction or termination of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any (extension of the possible modification of duties or other) import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States

(6) The extent to which the United States market is a focal point for exports of such article by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not extended, terminated or reduced.

Briefs should be submitted in twenty (20) copies to Chairman, Trade Policy Staff Committee, Room 729, Office of the Special Representative for Trade Negotiations, 1800 G Street, NW., Washington, D.C. 20506.

To be considered by the Trade Policy Staff Committee, submissions should be received in the Office of the Special Representative for Trade Negotiations no later than the close of business Monday, May 14, 1979.

Richard L. Matthiesen,
Acting Chairman, Trade Policy Staff Committee.
[FR Doc. 79–14107 Filed 5–3–79; 8:45 am]
BILLING CODE 3190–01–M

SMALL BUSINESS ADMINISTRATION

Mississippi; Disaster Loan Area

The above numbered Declaration (See 44 FR 24179) is amended in accordance with the President's declaration of April 16, 1979, to include Clarke, Copiah, Lauderdale and Simpson Counties in the State of Mississippi. The Small Business Adminstration will accept applications for disaster relief loans from disaster victims in the above-named counties, and adjacent counties within the State of Mississippi. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on June 15, 1979, and for economic injury until the close of business on January 15, 1980.

(Catalog of Federal Domestic Assistance program Nos. 59002 and 59008)

Dated: April 26, 1979.

A. Vernon Weaver,
Administrator.
[Disaster Loan Area No. 1618, Amdt. No. 1]
[FR Doc. 79–14050 Filed 5–3–79; 8:45 am]
BILLING CODE 8025–01–M

Missouri; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Cape Girardeau, Dunklin, Jefferson, Lincoln, Mississippi, New Madrid, Pemiscot, Pulaski, St. Charles, St. Louis, Ste. Genevieve, Scott, Stoddard and Texas Counties and adjacent counties within the State of Missouri, constitute a disaster area because of damage resulting from tornadoes, torrential rains and flooding beginning on or about March 31, 1979. Applications will be processed under provisions of Pub. L. 94–305. Interest rate is 7¾ percent. Eligible persons, firms and organizations may file applications for loans for physcial damage until close of business on June 22, 1979, and for economic injury until the close of business on January 22, 1980, at:

Small Business Administration, District Office, 12 Grand Bldg., 5th Floor, 1150 Grand Avenue, Kansas City, Missouri 64106.

Small Business Administration, District Office, Mercantile Tower, Suite 2500, One Mercantile Center, St. Louis, Missouri 63101.

or other locally announced locations.

(Caltalog of Federal Domestic Assistance Program Nos. 59002. and 59008)

Dated: April 27, 1979.

William H. Mauk, Jr.,
Acting Administrator.
[Disaster Loan Area No. 1622]
[FR Doc. 79–14051 Filed 5–3–79; 8:45 am]
BILLING CODE 8025–01–M

South Carolina; Declaration of Disaster Loan Area

Greenville County and adjacent counties within the State of South Carolina constitute a disaster area as a result of damage caused by tornadoes which occurred on March 23, 1979. Applications will be processed under the provisions of Pub. L. 94–305. Interest rate is 7¾ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 25, 1979, and for economic injury until the close of business on January 28, 1980, at:

Small Business Administration, District Office, 1801 Assembley, Room 131, Columbia, South Carolina 29201

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 28, 1979.

A. Vernon Weaver,
Administrator.
[Disaster Loan Area No. 1621]
[FR Doc. 79–14049 Filed 5–3–79; 8:45 am]
BILLING CODE 8025–01–M

Universal Investment Corp.; Issuance of Small Business Investment Company License

On December 27, 1978, a Notice of application for a license as a small business investment company was published in the **Federal Register** (43 FR 60361) stating that an application had been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1978)), for a license to operate as a small business investment company by Universal Investment Company, 300 Curry Street, Carson City, Nevada 89701.

Interested parties were given until the close of business on January 11, 1979, to submit their comments. No comments were received.

Notice is hereby given pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and facts with regard thereto, SBA issued License No. 09/09–0235, to Universal Investment Corporation on April 5, 1979.

(Catalog of Federal Assistance Program No. 59.011, Small Business Investment Companies).

Dated: April 30, 1979.

Peter F. McNeish,
Deputy Associate Administrator for Finance and Investment.
[License No. 09/09–0235]
[FR Doc. 79–14048 Filed 5–3–79; 8:45 am]
BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Illinois Central Gulf Railroad; Hearing

The Illinois Central Gulf Railroad (ICG) has petitioned the Federal Railroad Administration (FRA) seeking approval of a proposed modification of a portion of its signal system. The proposed modification involves discontinuance of the automatic block signal system currently installed on a line of railroad extending between Clark and Rock Creek Junction in the State of Missouri. This proceeding is identified as FRA Block Signal Application Number 1508 and involves a single track line approximately 130 miles in length.

The Railroad Safety Board has voted to hold a public hearing before entering its decision in this proceeding. Accordingly, a public hearing is hereby set for 11 a.m. on May 31, 1979, Room 1341, Federal Building, located at 210 North 12th Street, St. Louis, Missouri.

The hearing will be an informal one, and will be conducted in accordance with Rule 31 of the FRA rulemaking procedures (49 CFR 211.31), by a representative designated by the Board.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The representatives of the Board will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary, for the conduct of the hearing will be announced at the hearing.

Issued in Washington, D.C., on May 1, 1979.

J. W. Walsh,
Chairman, Railroad Safety Board.
[FR Doc. 79–13951 Filed 5–3–79; 8:45 am]
BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Customs Service

Receipt of American Manufacturer's Petition Alleging That the Appraised Value of Certain Printing Presses Manufactured in East Germany is too low

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: Customs has received a petition from an American manufacturer of web-fed offset lithographic printing presses alleging that the appraised value of certain web-fed lithographic printing presses from East Germany is too low.

DATES: Interested persons may comment on this petition. Comments (preferably in triplicate) must be received on or before July 3, 1979.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, Room 2335, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Burton L. Schlissel, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–2938).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer of web-fed lithographic printing presses. The petitioner alleges that the appraised value of the Zephyr 300 printing press, a web-fed lithographic printing press manufactured by The Polygraph Company of Leipzig, German Democratic Republic (East Germany), is too low. Importations of the Zephyr 300 printing press are being classified under the provision for other printing machinery in item 668.20, Tariff Schedules of the United States, with duty at the column 2 rate of 25 percent ad valorem.

The petitioner bases his allegation, in part, upon a comparison of the value of an equivalent printing press manufactured in West Germany with Department of Commerce data regarding the value of web presses imported from East Germany.

The petitioner estimates the present appraised value of the presses to be $60,134, based on Commerce Department (Bureau of Census) data for the year 1977.

The petitioner claims a value for the presses of $280,907. It should be noted that some question exists as to whether the same electrical components are included in the presses on which the present appraised value was calculated, as are included in the presses on which the claimed value was calculated.

Comments

Pursuant to § 175.21(a) of the Customs Regulations (19 CFR 175.21(a)), the Customs Service invites written comments on this petition from all interested parties.

The American manufacturer's petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with §§ 103.8(b) and 175.21(b), Customs Regulations (19 CFR 103.8(b), 175.21(b)), during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, Room 2335, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

This notice is published in accordance with § 175.21(a) of the Customs Regulations (19 CFR 175.21(a)).

April 27, 1979.

Leonard Lehman,
Assistant Commissioner, Regulations and Rulings.
[521114]
[FR Doc. 79–13944 Filed 5–3–79; 8:45 am]
BILLING CODE 4810–22–M

Receipt of American Manufacturer's Petition Alleging That the Appraised Value of Tapered Roller Bearings and Components Imported From Japan is too low

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: Customs has received a petition from an American manufacturer of tapered roller bearings and components alleging that the appraised value of tapered roller bearings and components imported from Japan is too low.

DATES: Interested persons may comment on this petition. Comments (preferably in triplicate) must be received on or before July 3, 1979.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, Room 2335,

1301 Constitution Avenue, N.W. Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:
Jesse V. Vitello, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–8410).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer of tapered roller bearings and components. The petitioner alleges that the appraised value of certain tapered roller bearings and components manufactured in Japan by Koyo Seiko Co., Ltd., Nippon Seiko, K.K., Fujikoshi, Ltd., and the Toyo Bearing Mfg. Co., Ltd. is too low. This allegation is based upon a claimed disparity between the average unit dutiable value of the subject tapered roller bearings and their average unit foreign value. The average unit dutiable value is derived by petitioner from Department of Commerce data for 1978 concerning tapered roller bearings and components classified under item 680.35, Tariff Schedules of the United States. The average unit foreign value is derived by petitioner from independent market research data indicating the prices at which tapered roller bearings are offered for sale by distributors in the Japanese home market. The petitioner asserts that the average unit dutiable value of tapered roller bearings and components from Japan is approximately one third of the Japanese home market price.

The petitioner alleges that the present appraised value is $1.66 (average unit dutiable value) and claims that the value should be $4.67 (average unit foreign value/Japanese home market price).

Comments

Pursuant to § 175.21(a) of the Customs regulations (19 CFR 175.21(a)), the Customs Service invites written comments on this petition from all interested parties.

The American manufacturer's petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with §§ 103.8(b) and 175.21(b), Customs Regulations (19 CFR 103.8(b), 175.21(b)), during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, Room 2335, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

This notice is published in accordance with § 175.21(a) of the Customs Regulations (19 CFR 175.21(a)).

April 27, 1979.

Donald W. Lewis,
Acting Assistant Commissioner, Regulations and Rulings.
[FR Doc. 79-13045 Filed 5-3-79; 8:45 am]
BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

Policy Statement Concerning Disposition of Temporary Authority Decisions

AGENCY: Interstate Commerce Commission.

ACTION: Policy notice.

SUMMARY: The Commission on its own motion is changing its policy in regard to the type of notice that applicant's representatives receive when temporary authority applications under section 49 U.S.C. 11349 (formerly section 210a(b)) of the act are granted or denied. Presently practitioners located outside Washington, D.C. are notified of the Commission's decision by collect commercial telegram. under this policy notice, practitioners located outside of Washington, D.C. shall be notified by FTS telephone, at no charge to the receiving party. FTS telephone is less costly, more efficient and expedient than commercial telegrams. Practitioners who wish to receive notice of the Commission's decision on or about the date of decision must include in their application a telephone number where they can be contacted during normal business hours.

EFFECTIVE DATE: Effective for all applications filed on or after May 4, 1979.

ADDRESS: Send comments to Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:
Michael Erenberg (202) 275–7245.

SUPPLEMENTARY INFORMATION: This proceeding was instituted by the Commission on its own motion to expedite the notice given to practitioners on temporary authority applications under section 11349 of the act.

Presently practitioners are notified of a Commission decision by two separate means. Practitioners located in greater Washington, D.C. (i.e., the local (202) area dialing code) are notified by telephone. Practitioners located outside Washington, D.C. are notified by collect commercial telegram.

By this proceeding, and to expedite notice to practitioners located outside Washington, D.C., the Commission shall notify practitioners of the Commission's decision by FTS telephone (no charge to receiving party) instead of by collect commercial telegram.

In addition to the savings to the practitioner a considerable savings will be had by the Commission. Presently, the Commission's staff prepares, types, and proofreads the commercial telegram notices. These notices require several separately addressed carbon copies for internal distribution and filing. All this would be unnecessary, and would be consistent as with the present practice of notifying practitioners in Washington, D.C., by telephone.

Practitioners desiring to receive notice of the Commission's decision on or about the date of decision must include in their application a telephone number where they can be contacted during normal business hours.

Dated: April 20, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian.

H. G. Homme, Jr.,
Secretary.

[Ex Parte No. MC-123]
[FR Doc. 79-13027 Filed 5-3-79; 8:45 am]
BILLING CODE 7035-01-M

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

April 30, 1979.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 14, 1979. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 124174 (Sub-E83), filed November 2, 1976. Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, NE 68137. Representative: Karl E. Momsen (same as above). *Hides, skins, and pieces thereof, tannery products, tannery by-products, and supplies* (except commodities in bulk, in tank vehicles) from points in WY to points in IA on and east of a line beginning at Sioux City extending along US Hwy 75 to jct. IA Hwy 60, then along IA Hwy 60 to the IA–MN State line; points in MN on and east of a line beginning at the IA–MN State line extending along MN Hwy 60 to jct. MN Hwy 15, then along MN Hwy 15 to jct. US Hwy 169, then along US Hwy 169 to Minneapolis, then along I Hwy 94 to jct. US Hwy 52, then along US Hwy 52 to jct. I Hwy 94, then along I Hwy 94 to jct. US Hwy 71, then along US Hwy 71 to jct. MN Hwy 34, then along MN Hwy 34 to jct. MN Hwy 371, then along MN Hwy 371 to jct. US Hwy 2, then along US Hwy 2 to jct. MN Hwy 6, then along MN Hwy 6 to jct. US Hwy 71, then along US Hwy 71 to the US-CN International Boundary line; points in NE on and east of a line beginning at Hastings extending along US Hwy 281 to the NE-KS State line; points in KS on and east of US Hwy 281; points in OK on and east of US Hwy 281; points in TX on and east of a line beginning at the OK-TX State line extending along US Hwy 183 to jct. US Hwy 287, then along US Hwy 287 to jct. US Hwy 281, then along US Hwy 281 to jct. TX Hwy 16, then along TX Hwy 16 to the US–MX International Boundary line; and Buford, GA; Hazelwood, NC; New Orleans, LA; and points in WI, IL, MO (within 60 miles of Auburn, NE), AR, TN, KY, IN, MI, OH, VA, WV, MD, PA, NJ, MA, VT, NH, and ME. (Gateways eliminated: Sioux City, IA; St. Paul, MN, and Hastings, NE.)

MC 124174 (Sub-E84), filed November 2, 1976. Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, NE 68137. Representative: Karl E. Momsen (same as above). *Hides, skins, and pieces thereof, tannery products, tannery by-products, and supplies* (except commodities in bulk, in tank vehicles) from points in ND to points in NE on, south, and east of a line beginning at Sioux City extending along US Hwy 20 to jct. US Hwy 81, then along US Hwy 81 to jct. US Hwy 6 then along US Hwy 6 to jct. US Hwy 283, then along US Hwy 283 to the NE-KS State line; points in KS on and east of a line beginning at the KS-NE State line extending along US Hwy 281 to jct. US Hwy 24, then along US Hwy 24 to jct. US Hwy 83, then along US Hwy 83 to the KS-OK State line; points in OK on and east of a line beginning at the OK-KS State line extending along US Hwy 83 to jct. US Hwy 64, then along US Hwy 64 to the OK-TX State line; points in TX on and east of US Hwy 54; points in MN on and south of a line beginning at St. Paul extending along US Hwy 12 to the MN-WI State line; points in WI on and southeast of a line beginning at the MN-WI State line extending along US Hwy 12 to jct. WI Hwy 40, then along WI Hwy 40 to jct. WI Hwy 70, then WI Hwy 70 to jct. US Hwy 2/141, then along US Hwy 2/141 to the WI-MI State line; points in MI on and southeast of US Hwy 2; points in IA, IL, IN, OH, WV, MD, PA, NJ, MA, VT, NH, ME, VA, AR, MO (within 60 miles of Auburn, NE), KY, TN, Hazelwood, NC, Buford, GA, and New Orleans, LA. (Gateways eliminated: Hastings, NE; St. Paul, MN; and Sioux City, IA).

MC 124174 (Sub-E85). Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, NE 68137. Representative: Karl E. Momsen (same as above). *Hides, skins, and pieces thereof, tannery products, tannery by-products, and supplies* (except commodities in bulk, in tank vehicles) between points in ME, NH, VT, MA, NY, NJ, PA, DE, MD, OH, WV, VA, MI, IN, KY, TN, WI, IL, MN, IA, TX, NE, and SD, on the one hand, and, on the other, Hazelwood, NC; Buford, GA, and New Orleans, LA; and from points in MT, WY, CO, ND, KS, OK, AR, MS, AL and GA to Hazelwood, NC. (Gateway eliminated: points in VA and TN.)

H. G. Homme, Jr.,
Secretary.
[FR Doc. 79-13028 Filed 5-3-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

April 30, 1979.

Important Notice

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Notes.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 31389 (Sub-274TA), filed February 14, 1979, and published in the Federal Register issue of April 12, 1979, and republished as corrected this issue. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving (1) Between Pensacola, FL and Nashville, TN, serving all intermediate points in AL: From Pensacola, FL over U.S. Hwy 29 to the junction of FL Hwy 97 to the junction of AL Hwy 21 to the junction of Interstate Hwy 65, thence over Interstate Hwy 65 to Nashville, TN and return over the same. (2) Between Dothan, AL and Montgomery, AL, serving all intermediate points: From Dothan, Al over U.S. Hwy 231 to Montgomery, AL and return over the same route. (3) Between Atmore, AL and Andalusia, AL, serving all intermediate points: From Atmore, AL over U.S. Hwy

commodities (except those of unusual

Line and Statesboro, GA: From the SC/ days. An underlying ETA seeks 90 days

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29 to Andalusia, AL and return over the same route. (4) Between Montgomery, AL and Columbus, GA, serving all intermediate points: From Montgomery, AL over Interstate Hwy 85 to the junction of U.S. Hwys 280 and 431 at or near Opelika, AL, thence over U.S. Hwy 280 to Phenix City, AL, thence over U.S. Hwy 280 to Columbus, GA, return over the same route. (5) Between Columbus, GA and Atlanta, GA, serving no intermediate points: From Columbus, GA over U.S. Hwy Alt 27, AL Hwy 85E and AL Hwy 85 to Atlanta, GA and return over the same route. (6) Between Birminghan, AL and Altanta, GA, serving all intermediate points in AL: From Birmingham, AL over Interstate Hwy 20 to Altanta, GA and return over the same route. (7) Between Montgomery, AL and Altanta, GA, serving all intermediate points in AL: From Montgomery, AL over Interstate Hwy 85 to Atlanta, GA and return over the same route. (8) Between Dothan, AL and Phenix City, AL, serving all intermediate points: From Dothan, AL over U.S. Hwy 431 to Phenix City, AL and return over the same route. (9) Between Eufaula, AL and Montgomery, AL, serving all intermediate points: From Eufaula, AL over U.S. Hwy 82 to Montgomery, AL and return over the same route. (10) Between Memphis, TN and Atlanta, GA, serving all intermediate points in MS and AL: From Memphis, TN over U.S. Hwy 72 to the junction of Alt 72 near Tuscumbia, AL, thence over Alt 72 to AL Hwy 67 at or near Decatur, AL, thence over AL Hwy 67 to the junction of U.S. Hwy 231, thence over U.S. Hwy 231 to the junction of U.S. Hwy 278, thence over U.S. Hwy 278 via Gadsden, AL to Atlanta, GA and return over the same route. (11) Between Nashville, TN and Montgomery, AL, serving all intermediate points in AL: From Nashville, TN over Interstate Hwy 24 to the junction of U.S. Hwy 231, thence over U.S. Hwy 231 via Huntsville and Ashville, AL to Montgomery AL (also from junction of U.S. Hwy 231 and AL Hwys 79 and 75, over AL Hwys 79 and 75 to Birmingham, AL, thence over Interstate Hwy 65 to Montgomery, AL), and and return over the same route. (12) Between Memphis, TN and Birmingham, AL, serving all intermediate points in MS and AL: From Memphis, TN over U.S. Hwy 78 to Birmingham, AL and return over the same route. (13) Between Corinth, MS and Mobile, AL, serving all intermediate points: From Corinth, MS over U.S. Hwy 45 via Columbus, MS to Mobile, AL (also over Alt. U.S. Hwy 45), and return over the same route. (14) Between Mobile, AL and the junction of AL Hwy 97, serving all intermediate points: From Mobile, AL over Interstate Hwy 65 to the junction of AL Hwy 97 and return over the same route. (15) Between New Orleans, LA and Memphis, TN, serving all intermediate points in MS: From New Orleans, LA over Interstate Hwy 10 to the junction of Interstate Hwy 55 (U.S. Hwy 51), thence over Interstate Hwy 55 via Jackson, MS to Memphis, TN, and return over the same route. (16) Between Greenwood, MS and Montgomery, AL, serving all intermediate points: From Greenwood, MS over U.S. Hwy 82 to Montgomery, AL and return over the same route. (17) Between Jackson, MS and Birmingham, AL, serving all intermediate points: From Jackson, MS over Interstate Hwy 20 to Birmingham, AL and return over the same route. (18) Between Baton Rouge, LA and Greenville, MS, serving all intermediate points in MS: From Baton Rouge, LA over U.S. Hwy 61 to Greenville, MS and return over the same route. (19) Between Vicksburg, MS and Jackson, MS, serving all intermediate points: From Vicksburg, MS over Interstate Hwy 20 to Jackson, MS and return over the same route. (20) Between New Orleans, LA and Meridian, MS, serving all intermediate points in MS: From New Orleans, LA over Interstate Hwy 10 to the junction of Interstate Hwy 59 thence over Interstate Hwy 59 to the junction of Interstate Hwy 20, thence over Interstate Hwy 20 to Meridian, MS and return over the same route. (21) Between New Orleans, LA and Mobile, AL, serving all intermediate points in MS and AL: From New Orleans, LA over U.S. Hwy 90 to Mobile, AL and return over the same route. (22) Between Natchez, MS and Mobile, AL, serving all intermediate points: From Natchez, MS over U.S. Hwy 98 via Hattiesburg, MS to Mobile, AL and return over the same route. (23) Between Gulfport, MS and Jackson, MS, serving all intermediate points: From Gulfport, MS over U.S. Hwy 49 to Jackson, MS and return over the same route. (24) Between Laurel, MS and Walnut, MS, serving all intermediate points: From Laurel, MS over MS U.S. Hwy 15 to Walnut, MS and return over the same route. (25) Between Mobile, AL and Florence, AL, serving all intermediate points: From Mobile, AL over U.S. Hwy 43 to Florence, AL and return over the same route. (26) Between the junction of Interstate Hwy 20 and U.S. Hwy 80 west of York, AL and Montgomery, AL, serving all intermediate points: From the junction of Interstate Hwy 20 and U.S. Hwy 80 over U.S. Hwy 80 to Montgomery, AL and return over the same route. (27) Between Jackson, MS and Clarksdale, MS, serving all intermediate points: From Jackson, MS over U.S. Hwy 49 to the junction of U.S. Hwy 49E at Yazoo City, MS, thence over U.S. Hwy 49E to the junction of U.S. Hwy 49 at or near Tutwiler, MS, thence over U.S. Hwy 49 to Clarksdale, MS and return over the same route. (28) Between Clarksdale, MS and Tupelo, MS, serving all intermediate points: From Clarksdale, MS over MS Hwy 6 to Tupelo, MS and return over the same route. (29) Between Valdosta, GA and Bude, MS, serving all intermediate points in AL and MS: From Valdosta, GA over U.S. Hwy 84 via Dothan, AL, Laurel, MS and Brookhaven, MS to Bude, MS and return over the same route. (30) Between Natchez, MS and Alexandria, LA, serving all Alexandria, LA for purposes of joinder only: From Natchez, MS over U.S. Hwy 84 to the junction of LA Hwy 28, thence over LA Hwy 28 to Alexandria and return over the same route. (31) Between Vicksburg, MS and Shreveport, LA, serving Shreveport, LA for purposes of joinder only: From Vicksburg, MS over Interstate Hwy 20 to Shreveport, LA and return over the same route. (32) Between Vicksburg, MS and Little Rock, AR, serving all intermediate points in MS: From Vicksburg, MS over Interstate Hwy 20 (also over U.S. Hwy 80) to the junction of U.S. Hwy 65, thence over U.S. Hwy 65 to Little Rock, AR and return over the same route. Serving as intermediate and off-route points, all points in AL and MS in conjunction with the above identified routes, for 180 days. An underlying ETA seeks 90 days authority. Applicant proposes to tack the authority sought here with its lead docket, MC–31389, and proposes to interline with carriers at selected points common to McLean and connecting carriers. Supporting shipper(s): There are approximately 650 shippers. Their statements may be examined at the Office listed below and Headquarters. Send protests to: Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205. The purpose of this republication is to reflect territorial description as previously omitted.

Note.—Common control may be involved.

MC 31389 (Sub-276TA), filed March 20, 1979, and published in the **Federal Register** issue of April 20, 1979, and republished as corrected this issue. Applicant: MCLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) Between Savannah, GA and Jacksonville, FL: From Savannah over US Highway 17 to Jacksonville (also from junction of US Highway 17 and Interstate Highway 95 near Richmond Hill, GA over Interstate Highway 95 to Jacksonville), and return over the same route. (2) Between Augusta, GA and Jacksonville, and return over the same route. (3) Between Augusta, GA and Savannah, GA: From Augusta over US Highway 25 to the junction of US Highway 80, thence over US Highway 80 to Savannah, and return over the same route. (4) Between the SC/GA State Line and the GA/AL State Line: From the SC/GA State Line over US Highway 278 to the junction of US Highway 78 near Atlanta, GA, thence over US Highway 78 to the GA/AL State Line (also over Interstate Highway 20), and return over the same route. (5) Between Savannah, GA and Atlanta, GA: From Savannah over Interstate Highway 16 to the junction of Interstate Highway 75 at Macon, GA, thence over Interstate Highway 75 to Atlanta (also from Savannah over US Highway 80 to Macon, GA, thence over the above described route to Atlanta), and return over the same route. (6) Between Macon, GA and the GA/FL State Line: From Macon over US Highway 41 (also over Interstate Highway 75) to the GA/FL State Line, and return over the same route. (7) Between Madison, GA and Dublin, GA: From Madison over US Highway 441 to Dublin, and return over the same route. (8) Between the junction of US Highways 80 and 280 at or near Blichton, GA and Columbus, GA: From the junction of US Highways 80 and 280 over US Highway 280 to Columbus, and return over the same route. (9) Between Brunswick, GA and Dothan, AL: From Brunswick over US Highway 84 to Dothan, and return over the same route. (10) Between Atlanta, GA and the GA/FL State Line: From Atlanta over US Highway 19 to the GA/FL State Line, and return over the same route. (11) Between Waycross, GA and Eaufaula, AL: From waycross over US Highway 82 to Eufaula, and return over the same route. (12) Between Macon, GA and Brunswick, GA: From Macon over US Highway 23 to Hazlehurst, GA, thence over US Highway 341 to Brunswick, and return over the same route. (13) Between Midway, GA and Waycross, GA: From Midway over US Highway 82 to Waycross, and return over the same route. (14) Between the SC/GA State Line and Statesboro, GA: From the SC/GA State Line over US Highway 301 to Statesboro, and return over the same route. (15) Between Wrens, GA and Macon, GA: From Wrens over GA Highway 88 to Sandersville, GA, thence over GA Highway 24 to Milledgeville, GA, thence over GA Highway 49 to Macon, and return over the same route. (16) Between Helen, GA and the GA/FL State Line: From Helen over US Highway 441 to the GA/FL State Line, and return over the same route. (17) Between the TN/GA State Line and Bainbridge, GA: From the TN/GA State Line over US Highway 27 to Bainbridge, and return over the same route. (18) Between Macon, GA and Columbus, GA: From Macon over US Highway 80 to Columbus, and return over the same route. (19) Between Atlanta, GA and Lanett, AL: From Atlanta over US Highway 29 (also over Interstate Highway 85) to Lanett, and return over the same route. (20) Between Albany, GA and Donalsonville, GA: From Albany over GA Highway 91 to Donalsonville, and return over the same route. (21) Between Atlanta, GA and Blairsville, GA: From Atlanta over US Highway 19 to Blairsville, and return over the same route. (22) Between Madison, GA and Clayton, GA: From Madison over US Highway 441 to Clayton, and return over the same route. (23) Between Atlanta, GA and the GA/TN State Line: From Atlanta over Interstate Highway 75 (also over US Highway 41) to the GA/TN State Line, and return over the same route. (24) Between Dalton, GA and Clayton, GA: From Dalton over US Highway 76 to Clayton, and return over the same route. (25) Between Atlanta, GA and the GA/SC State Line: From Atlanta over Interstate Highway 85 to the GA/SC State Line, and return over the same route. (26) Between Atlanta, GA and Memphis, TN: From Atlanta over US Highway 278 to the junction of US Highway 78, thence over US Highway 78 to Memphis, and return over the same route. (27) Between Thomson, GA and Athens, GA: From Thomson over US Highway 78 to Athens, and return over the same route. (28) Between Washington, GA and the junction of Interstate Highway 85 and GA Highway 366: From Washington over GA Highway 17 to the junction of GA Highway 77, thence over GA Highway 77 to the junction of GA Highway 366, thence over GA Highway 366 to the junction of Interstate Highway 85, and return over the same route. Serving all points in Georgia as intermediate or off-route points in conjunction with the above described regular routes, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack the authority sought herein with their MC–31389 and also intends to interline with other carriers at selected points common to it and connecting carriers. Supporting shipper(s): There are approximately 150 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205. The purpose of this republication is to reflect territorial description as previously omitted.

Note—Common control may be involved.

MC 40978 (Sub-58TA), filed April 5, 1979. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321, Business 141 South, Sheboygan, WI 53081. Representative: William C. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *(1) New office furniture, fixtures and equipment and (2) parts of commodities named in (1) above*, from the facilities of Steelcase, Inc., Grand Rapids and Wyoming, MI to points in the States of WI, IL, MN, IA, IN, MO, and Upper Peninsula of MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Steelcase, Inc., Grand Rapids, MI 49501. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

MC 78228 (Sub-114TA), filed March 20, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., Esq., 2310 Grant Bldg., Pittsburgh, PA 15219. *Bauxite ore*, in bulk, in dump vehicles, from Baltimore, MD to Gary, IN, Warren, OH and Sproul, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Refractories Company, 50 Monument Rd., Bala Cynwyd, PA 19004. Send protests to: J. A. Niggemyer, DS, 416 Old Post Office Bldg., Wheeling, WV 26003.

MC 109689 (Sub-347TA), filed March 14, 1979. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, Attorney at Law, 10 West Broadway Bldg., Suite 400, Salt Lake City, UT 84101. *Ferro phosphorous slag*, in bulk, from the facilities of Stauffer Chemical at or near Silver Bow, MT to the facilities of Kerr McGee Corporation at or near Soda Springs, ID, for 180 days. An underlying ETA requests 90 days authority. Supporting shipper(s): Stauffer Chemical Company, P.O. Box 3060, Rincon Annes, San Francisco, CA 94119.

Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 112989 (Sub-85TA), filed February 21, 1979, and published in the Federal Register issue of April 12, 1979, and republished as corrected this issue. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same as above). *Containers, container closures, and container accessories,* from the facilities of Glass Container Corp. in CA to points in OR, WA, and ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glass Containers Corp., 535 North Gilbert Avenue, Fullerton, CA 92634. Send protests to: A. E. Odoms, ICC, 114 Pioneer Courthouse, Portland, OR 97204. The purpose of this republication is to show correct territorial description.

MC 1122989 (Sub-87TA), filed March 15, 1979, and published in the Federal Register issue of April 20, 1979, and republished as corrected this issue. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same as above). *Lumber, lumber mill products, millwork, and wood products,* from CA, ID, OR, and WA to MN, NE, KS, WI, IA, MO, IL, IN, OH and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Douglas Forest Materials Corp., P.O. Box 02217, Portland, OR 97202. Champion International Corporation, 1600 Valley River Drive, Eugene, OR. Sunrise Forest Products Co., P.O. Box 25060, Portland, OR 97225. Send protests to: A. E. Odoms, ICC, 114 Pioneer Courthouse, Portland, OR 97204. The purpose of this republication is to add Ohio (OH) as a destination state.

MC 112989 (Sub-92TA), filed April 9, 1979. Applicant: WEST COAST TRUCK LINES, 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405. *Iron and Steel articles, Plastic Articles, and Aluminum Articles* from the facilities of Joseph T. Ryerson & Son at or near Chicago, Illinois, to Renton and Spokane, Washington and Emeryville and Los Angeles, California, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Joseph T. Ryerson & Son, Incorporated 2621 West 15th Place, Chicago, IL 60608. Send protests to: A. E. Odoms, District Supervisor, ICC, 114 Pioneer Courthouse, Portland, OR 97204

MC 113678 (Sub-777TA), filed January 2, 1979 and published in the Federal Register issue of March 5, 1979, and republished as corrected this issue. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same as applicant). *Non frozen foodstuffs, and commodities the transportation of which is partially exempt pursuant to the provision of Section 203(b)(6) of the Act when moving in the same vehicle and at the same time with non-frozen foodstuffs* (except commodities in bulk) *in vehicles equipped with mechanical refrigeration, from AZ and CA to Champaign, IL; Ft. Wayne, IN; Des Moines, IA; Hopkins, MN; Bismarck and Fargo, ND; Xenia, OH; Michell, SD; and Green Bay, WI, restricted to traffic destined to the facilities of Super Valu Stores, Inc., at the named destination, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Super Valu Stores, Inc., 101 Jefferson Avenue, Hopkins, MN 55343. Send protests to: H. C. Ruoff, ICC, 429 U.S. Customs House, 721 19th Street, Denver, CO 80202. The purpose of this republication is to show correct territorial description as previously indicated.*

MC 115669 (Sub-186TA), filed April 3, 1979. Applicant: DAHLSTEN TRUCK LINE, INC. P.O. Box 95, Clay Center, NE, 68933. Representative: Howard N. Dahlsten (same address as applicant). *Iron and Steel articles,* from Chicago, IL and its commercial zone to points in Harvey County, KS. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hesston Corporation, Hesston, KS, 67062. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE, 68508

MC 117519 (Sub-3TA), filed April 9, 1979. Applicant: TRANSPORTATION, INC., RR 4, Ottawa, KS 66067. Representative: David L. Bones, 205 E. Wilson, Ottawa, KS 66067. *Contract carrier:* irregular routes: *Expanded Shale Aggregates,* from Ottawa and Marquette, KS to points in LA; points in TX on and west of U.S. Hwy 83 and north of U.S. Hwy 380; points in NM lying on and north of a line beginning at the TX–NM state line, thence west along U.S. Hwy 60 to its junction with Interstate Hwy 25, thence north along Interstate Hwy 25 to its junction with State Hwy 44, thence north and west along State Hwy 44 to the CO–NM state line, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Buildex, Inc., P.O. Box 15, Ottawa, KS 66067. Send protests to: Thomas P. O'Hara, DS, ICC, 256 Federal Bldg., 444 SE. Quincy, Topeka, KS. 66683.

MC 118089 (Sub-34TA), filed March 20, 1979. Applicant: ROBERT HEATH TRUCKING, INC., P.O. Box 2501, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Section A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and skins and commodities in bulk), from the facilities of John Morrell & Co., at or near Amarillo, TX to points in MT, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission—Bureau of Operations, Box F–13206 Federal Building, Amarillo, TX 79101.

MC 118959 (Sub-209TA), filed April 10, 1979. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Food and food products,* and materials, equipment and supplies (except in bulk) used in the manufacture, sale or distribution of food and food products (1) from KS, MN, and NE to Steelville and Chester, IL and Perryville, MO; (2) from Chicago, IL, to Perryville, MO, and Wilson, AR, and (3) from Kansas City, MO to Steelville and Chester, IL, for 180 days. Supporting shipper(s): Gilster Mary Lee Corporation, 1037 State St., Chester, IL 62233. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 118959 (Sub-210TA), filed April 10, 1979. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Marc J. Blumenthal, 39 S. LaSalle St., Chicago, IL 60603. *Silica, silica products,* and materials, equipment and supplies used in the manufacture, distribution or sale of silica and silica products between Alexander County, IL on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK and TX, for 180 days. Supporting shipper(s): Illinois Mineral Company, 2035 Washington, Cario, IL 62914. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 120098 (Sub-33TA), filed March 22, 1979. Applicant: UINTAH FREIGHTWAYS, 1030 South Redwood Road, Salt Lake City, UT 84104. Representative: William S. Richards, Post Office Box 2465, Salt Lake City, UT 84110. Common carrier, regular route, *general commodities,* except livestock, commodities of unusual value, commodities in bulk, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment. (a) From Montrose, CO to Farmington, NM over U.S. Hwy 550 and return over the same route. (b) From Grand Junction, CO over Interstate 70 to the junction of Interstate 70 and U.S. Hwy 163; thence over U.S. Hwy 163 to the junction of U.S. Hwy 163 and U.S. Hwy 666; thence over U.S. Hwy 666 to the junction of U.S. Hwy 666 and U.S. Hwy 550; thence over U.S. Hwy 550 to Farmington, NM and return of the same route, serving the intermediate points of Shiprock, NM and Crescent Junction, UT. (c) Serving Crescent Junction, UT for purpose of joinder only with carrier's presently authorized regular-route authority between Salt Lake City, UT and Grand Junction, CO in Docket No. MC–120098 Sub-No. 28, for 180 days. Applicant proposes to interline with another carrier at Grand Junction and Montrose, CO and Farmington, NM, and intends to tack with its present MC–120098 (Sub-No. 28). An underlying ETA seeks 90 days authority. Supporting shipper(s): Two motor carriers and approximately 36 shippers supported this application. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Building, Salt Lake City, UT 84138.

MC 124679 (Sub-100TA), filed March 12, 1979. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same address as applicant). *Canned or preserved foodstuffs* from the facilities of the Gorton Group at Millville, NJ to points in Anaheim and Oakland, CA, Portland, OR, Seattle and Spokane, WA, Salt Lake City, UT and Denver, CO, for 180 days. An underlying ETA requests 90 days authority. Supporting shipper(s): The Gorton Group, Div. of General Mills, Inc., 327 Main St., Gloucester, MA 01930. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125689 (Sub-3TA), filed April 9, 1979. Applicant: BEATTYVILLE TRANSPORT, INC., P.O. Box 357, Catlettsburg, KY 41129. Representative: Oakie G. Ford (same address as above). Authority sought to operate as a common carrier by motor vehicle, over irregular routes, to transport Petroleum and Petroleum Products, in bulk, in tank vehicles, between points in Boyd County, KY and points in OH and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Emil M. Sturzenegger, Traffic Manager, Ashland Petroleum Company, P.O. Box 391, Ashland, KY 41101. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 126118 (Sub-146TA), filed April 2, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). Empty beverage containers, and related lids, and packaging materials, from San Antonio, TX and its commericial zone to Omaha, NE, and its commercial zone. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pearl Brewing Company, 312 Pearl Parkway, San Antonio, TX 78296. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 127019 (Sub-11TA), filed March 8, 1979. Applicant: LaRUE LAMB. d.b.a. LaRUE LAMB TRUCKING, Box 374, Myton, UT 84052. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Cement,* in bulk, from the plantsite of Southwest Cement Co., at or near Bushland, TX to Vernal, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Halliburton Services, Div. of Halliburton Company, Box 1431, Duncan, OK 73533. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 127019(Sub-12TA), filed March 29, 1979. Applicant: LaRUE LAMB, d.b.a. LaRUE LAMB TRUCKING, Box 374, Myton, UT 84052. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Gilsonite,* in bulk, from Bonanza, Uintah County, UT to the facilities of Halliburton Services at or near Wooster, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Halliburton Services, Div. of Halliburton Company, Box 1431, Duncan, OK 73533. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 127019 (Sub-13TA), filed March 29, 1979. Applicant: LaRUE LAMB, d.b.a. LaRUE LAMB TRUCKING, Box 374, Myton, UT 84052. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Gilsonite,* in bulk, from Bonanza, Uintah County, UT to the facilities of Halliburton Services at or near Tioga, ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Gilsonite Company, 1150 Kennecott Building, Salt Lake City, UT 84133. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 133689 (Sub-282TA), filed March 29, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foodstuffs (except commodities in bulk)* from Owatonna, MN to Foxboro, MA and Teterboro, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Company, Supervisor—Motor Carrier Services, P.O. Box 800, Austin, MN 55912. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134498 (Sub-4TA), filed March 27, 1979. Applicant: FREEWAY TRANSPORT, INC., 835 S.E. 11th Avenue, Portland, OR 97214. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Avenue, Park Ridge, IL 60068. *Bananas and agricultural commodities exempt from regulation under Section 10526(a)(6) of the Interstate Commerce Act when transported in mixed loads with bananas,* from the facilities of Del Monte Banana Co. at Port Hueneme, CA to points in OR and WA, for 180 days. Corresponding ETA filed 3/27/79 for 30+2, Permanent to be timely filed. An underlying ETA seeks 90 days authority. Supporting shipper(s): Del Monte Banana Company, 1201 Brickell Avenue, Miami, FL. Send protests to: R. V. Dubay, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 134599 (Sub-170TA), filed March 28, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Contract carrier, irregular route authority to transport *Such commodities as are used, manufactured and dealt in by producers of rubber and rubber products* (except commodities in bulk or those which because of their size or weight require special handling or equipment), (1) from the facilities of The Armstrong Rubber Company at Des Moines, IA, to points in AZ, CA, CO, ID, MI, MT, NV, NM, OR, UT, WA, and WY; (2) between the facilities of The Armstrong Rubber Company at West Haven, CT, Des Moines, IA, Natchez, MS, Madison, TN, Knoxville, TN, West Allis, WI and Hanford, CA; (3) from Laurel Hill, NC, Baton Rouge, LA, and Borger, TX, to the facilities of The

Armstrong Rubber Company at Des Moines, IA; (4) from Tacoma, WA to the facilities of The Armstrong Rubber Company at Des Moines, IA, Natchez, MS, Nashville, TN and Clinton, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Armstrong Rubber Company, 500 Sargent Drive, New Haven, CT 06507. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 134888 (Sub-8TA), filed April 6, 1979. Applicant: MOROSA BROS. TRANSPORTATION COMPANY, 4800 Stine Road, Bakersfield, CA 93309. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Ink, in bulk, in shipper-furnished trailers,* from Bakersfield, CA to points in AZ, OR, WA, MT, ID, UT, NV, CO, and NM, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Sun Chemical Corporation, 22 S. Marginal Road, Fort Lee, NJ 07024. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC 136318 (Sub-62TA), filed April 9, 1979. Applicant: COYOTE TRUCK LINE, INC., P.O. Box 756, Thomasville, NC 27360. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. *Contract* Carrier-Irregular routes, *New furniture, furnishings and accessories* from points in AL to the facilities of Montgomery Ward in NY, MD, PA, OK, MI, IL, IN, MN, IA, MO, OH, CO, TX, AZ, CA, NV, OR and VA. RESTRICTIONS: (1) Restricted to traffic destined to the facilities of Montgomery Ward; and (2) Restricted to traffic moving under a continuing contract, or contracts with Montgomery Ward, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Montgomery Ward, 535 Chicago Ave., West, Chicago, IL 60671. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd.—Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 140829 (Sub-207TA), filed March 30, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* from points in MA and VT to points in CO, IL, IN, IA, MI, MN, MO, NE, OH, OK, TX, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Seidensticker, New England Shipping Association Co-operative, 1029 Pearl St., Brockton, MA 02403. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140829 (Sub-208TA), filed April 2, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Packaged lime,* from the facilities of Atlantes Industries, Inc., at or near Dallas, TX to all points in CO, IA, KS, KY, NY, OH, PA, and WI, for 180 days. Supporting shipper(s) Thomas Lundberg, Atlantes Industries, Inc., 8320 Chancellor Row, Dallas, TX 75247. Send protests to Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140829 (Sub-209TA), filed April 2, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Canned foodstuffs,* from the facilities of Stokely-Van Camp, Inc., at or near Gibson City, Hoopeston and Rochelle, IL; Fairmont and Lakeland, MN; and Appleton, Columbus, Cumberland, Frederic, Plymouth and Sheboygan, WI, to all points in the United States in and east of ND, SD, NE, KS, OK,and TX, for 180 days. Supporting shipper(s): David A. Madinger, Stokely-Van Camp, Inc., P.O. Box 1113, Indianapolis, IN. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140829 (Sub-210TA), filed April 2, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux city, IA 51102. Representative: Willima J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Fully baked bread in loaves,* from the facilities of Oroweat Foods Company, at or near Dallas, TX to points in the states of KS, MO, and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Coy Robinson, Oroweat Foods Company, 10689 Harry Hines Boulevard, Dallas, TX 75220. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142559 (Sub-90TA), filed March 28, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, Esq., 100 East Broad Street, Columbus, OH 43215. *Sanitary paper products,* from the facilities of Scott Paper Company at Fond du Lac, Green Bay, Oconto Falls, and Marinette, WI, to AL and GA, for 180 days. Supporting shipper(s): Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: Mary A. Wehner, District Supervisor, Interstate Commerce Commission, 1240 E. Ninth Street, Cleveland, OH 44199.

MC 142669 (Sub-10TA), filed February 28, 1979. Applicant: GENE WALTERS AND CLARK WURTELE, d.b.a. M & M TRUCKING, 115 East Brewster Street, Harvey, ND 58341. Representative: Charles E. Johnson, 416 East Rosser Avenue, P.O. box 1982, Bismarck, ND 58501. *Dry fertilizer and dry fertilizer materials* from Duluth, Wilmar and Minneapolis, MN and their commercial zones to points in ND and SD, for 180 days. Supporting shipper(s): Martrex Company, Chanhassen, MN 55317; Peavey Company, 730 2nd Avenue South, Minneapolis, MN 55402. Send protests to: District Supervisor, Interstate Commerce Commission, Room 268, Fed. Bldg. and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 143059 (Sub-67TA), filed March 9, 1979. Applicant: MERCER TRANSPORTATION CO., 12th & Main Sts. (P.O. Box 35610), Louisville, Ky. 40232. Representative: Lousis J. Amato, Attorney, P.O. Box E, Bowling Green, Ky. 42101. Iron and steel articles, from Chicago, IL and points in its commercial zone and Burns Harbor, IN, to Louisville, Ky. for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): W. Jerome Der, Corporate Traffic Manager, American Air Filter Company, Inc., 215 Central Avenue, Louisville, Ky. 40277. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

MC 143059 (Sub-68TA), filed April 3, 1979. Applicant: MERCER TRANSPORTATION COMPANY, P.O. Box 35610, Louisville, Ky. 40232. Representative: John M. Nader, Attorney, 1600 Citizens Plaza, Louisville, Ky. 40202. Iron and steel articles from Canfield, Martins Ferry, Mingo, Steubenville, and Yorkville, OH, Monessen and Allenport, PA, Beech Bottom, Benwood, Follansbee, and Wheeling, WV, to points in IL, IN, and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): D. J. Stuthers, Manager—Traffic Services, Wheeling-Pittsburgh Steel Corp., P.O. Box 118, Pittsburgh, PA 15230. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

MC 143059 (Sub-69TA), filed April 3, 1979. Applicant: MERCER TRANSPORTATION COMPANY, 12th and Main Sts., P.O. Box 35610,

Louisville, Ky. 40232. Representative: Edw. G. Villalon, 1032 Pennsylvania Bldg., Penn Ave. and 13th Sts., NW., Washington, D.C. 20004. Iron and steel articles, from Marengo and Chicago, IL, Detroit and Grand Rapids, MI, and Cleveland, OH, to Shreveport, LA, Como, MS, Decatur, AL, and points in TN, IN, KY, and AR. Supporting Shipper(s): Charles L. Tuttle, Traffic Manager, American United Steel Co., 2970 Maria Ave., Northbrook, IL 60062. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

MC 143179 (Sub-14TA), filed March 5, 1979. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent (same address as applicant). *Contract carrier:* Irregular route: *(1) Urethane foam products,* from the plantsites of Future Foam, Inc., at Newton, KS and Council Bluffs, IA to points in AL, ID, KY, LA, MS, MT, NE, NM, ND, SD, TN, and WY; and *(2) Materials, equipment, and supplies used in the manufacture and distribution of items in (1) above,* from points in TX to the plantsite of Future Foam, Inc., at Newton, KS; and between the plantsites of Future Foam, Inc., at Council Bluffs, IA; Kansas City, MO; Middleton, WI; Newton, KS; of Future Foam, Inc. at Council Bluffs, IA; Kansas City, MO; Middleton, WI; Newton, KS; and Oklahoma City, OK, under continuing contract with Future Foam, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Robert Ginsburg, Future Foam, Inc., 400 No. 10th St., Council Bluffs, IA 51501. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102

MC 143209 (Sub-8TA), filed March 15, 1979. Applicant: HOUSTON FREIGHTWAYS, INC., P.O. Box 473, Galena Park, TX 77547. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Common carrier over irregular routes. *Rust preventive pipeline coating, in bulk, in tank vehicles* from Granite City, IL to Fort Collins, CO, Birmingham, AL, EL Reno and Tulsa, OK and Baton Rouge, LA for 180 days authority. An underlying ETA seeks 90 days authority. Supporting shipper(s): Reilly Tar & Chemical Corp., 320 Brookes Dr., Rm. 201, Hazelwood, MO 63042. Send protests to: John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 143639 (Sub-16TA), filed March 19, 1979. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2780, Missoula, MT 59806. Representative: David A. Sutherland, Fulbright & Jaworski, Suite 400, 1150 Connecticut Avenue NW., Washington, DC 20036. *Pulpboard* from the facilities of Champion International Corp. at or near Frenchtown, MT to points in CA, WA, OR, WI and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Champion International Corporation, Knightsbridge Dr., Hamilton, OH 45020. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143398 (Sub-3TA), filed March 20, 1979. Applicant: C. C. ROBERTS CONCRETE CONSTRUCTION CO., INC., 3725 Gibbon Road, Charlotte, NC 28213. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Animal and poultry feed and animal and poultry feed ingredients* (except liquid in bulk, in tank trailers) between points in AL, FL, GA, NC, SC, TN and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 7 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 143659 (Sub-7TA), filed March 8, 1979. Applicant: VALLEY TRUCKING, INC., Rural Route 2, Box 55, Fargo, ND 58102. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. *Foodstuffs, other than frozen, except in bulk,* from the facilities of RJR Foods, Inc., at or near Ortonville, MN, to point in IA, NE, ND and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): RJR Foods, Inc., P.O. Box 3037, Winston-Salem, NC 27102. Send protests to: DS, ICC, Room 268 Federal Building and U.S. Post Office, 657 Second Avenue North, Fargo, ND 58102.

MC 143739 (Sub-11TA), filed March 12, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses, except hides and commodities in bulk,* from the facilities utilized by Jason Foods, Inc. at Minneapolis-St. Paul, MN and destined to points in IL, WI, IN and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Jason Foods, Inc., 8665 Woodhead Drive, Northbrook, IL 60062. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 143739 (Sub-12TA), filed March 16, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Foodstuffs* from the facilities of Green Giant Company at Belvidere, IL to points in IN, MI, MO and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Green Giant Company, Director of Transportation, Le Sueur, MN 56058. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401

MC 144069 (Sub-6TA), filed March 1, 1979. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: Thomas A. McNeely, 2460 First Union Plaza, Charlotte, NC 28282. *Iron and steel articles* from, to, or between points in NC, SC, GA, FL, AL, TN, KY, WV, OH, VA, MD and DC for the account of DuBose Steel, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): DuBose Steel, Inc., P.O. Box 1088, Roseboro, NC 28382. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 144069 (Sub-7TA), filed March 1, 1979. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: Thomas A. McNeely, 2460 First Union Plaza, Charlotte, NC 28282. *Iron and steel articles* between the facilities of Intercontinental Metals Corporation at or near Monks Corner, SC and Charleston, SC, and North Charleston, SC, on the one hand and on the other, NC, SC, GA, FL, AL, TN, KY, WV, VA, MD, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Intercontinental Metals Corp., P.O. Box 10166, Charleston, SC. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 144069 (Sub-8TA), filed March 1, 1979. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: Thomas A. McNeely, 2460 First Union Plaza, Charlotte, NC 28282. *Iron and steel articles* between the facilities of Georgetown Steel Corporation at or near Georgetown, SC on the one hand and on the other, points and places in NC, GA, AL, TN, KY, WV, VA, MD, and DC, for 180 days. Supporting shipper(s): Georgetown Steel Corp., P.O. Box 619, Georgetown, SC

29440. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 144209 (Sub-5TA), filed April 3, 1979. Applicant: ERWIN TRUCKING, INC., 9100 F Street, Omaha, NE 68127. Representative: Paul D. Kratz, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Telephone equipment; switchboard parts; materials and supplies used in the installation and maintenance of telephone equipment and telephone lines; plant and office supplies,* from Kearny and South Kearny, NJ to Goddard, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clifford M. Amrhein, Western Electric Co., Inc., P.O. Box 25000, Greensboro, NC 27420. Send protests to: Carroll Russell, ICC, Suite 620, 110 N. 14th St., Omaha, NE 68102

MC 144298 (Sub-9TA), filed March 19, 1979. Applicant: MASTER TRANSPORT SERVICES, INC., 5000 Wyoming Avenue, Suite 203, Dearborn, MI 48126. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 47080. *Contract Carrier:* irregular routes: *Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses and, in connection therewith, equipment, materials and supplies* used in the conduct of such business (except commodities in bulk); and commodities which are otherwise exempt from economic regulation under 49 USC Section 10526 (a), when moving in mixed loads with the commodities above FROM Los Angeles and San Francisco, CA; Tampa, Orlando, and Dade City, FL; Newark, NJ; Albany, NY; Seattle and Tacoma, WA; Charleston, SC; New Orleans, LA; Chicago, IL; and Baltimore, MD to Warren, MI, under a continuing Contract or contracts with Chatham. For 180 days. An underlying ETA seeks no days authority. Supporting shipper(s): Chatham Super Markets, Inc., 2300 E. Ten Mile Road, Warren, MI 48091. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 144599 (Sub-3TA), filed February 27, 1979. Applicant: TRANSFER, INC., 90 S. Ko-We-Ba Lane, Indianapolis, IN 46241. Representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. *Corn starch,* dry, in bulk, from Indianapolis, IN, to points in the U.S., except AK and HI. Restricted to traffic originating at the facilities of National Starch & Chemical Corp. at Indianapolis, IN, for 180 days. Supporting shipper(s): National Starch & Chemical Corp., 10 Finderne Avenue, Bridgewater, NJ 08807. Send protests to: Beverly J. Williams, Transportation Assistant, I.C.C., 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 144609 (Sub-3TA), filed March 20, 1979. Applicant: ADAN J. DOMINGUEZ, d.b.a., DOMINGUEZ BROS. PRODUCE CO., 1500 South Zarzamora Street, San Antonio, TX 78207. Representative: Kenneth R. Hoffman, Lanham, Hatchell, Sedberry & Hoffman, 801 Vaughn Building, Austin, TX 78701. Authority sought as a common carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except in bulk) from San Antonio, TX to points in CA on and south of Interstate Highway 80, and all points in the San Francisco and Oakland Commercial Zones, and points in AZ, NM and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pearl Brewing Co., P.O. Box 1661, San Antonio, TX 78296. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B400, Federal Building, 727 E. Durango Street, San Antonio, TX 78206.

MC 144688 (Sub-14TA), filed March 2, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Household appliances and equipment, materials and supplies used in the manufacture, sale and distribution of household appliances (except in bulk)* from the facilities of General Electric Company at or near Louisville, KY and points in its commercial zone to points in the state of FL, for 180 days. Supporting shipper(s): General Electric Co., Appliance Park, Building 10, Louisville, KY 40225. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 144688 (Sub-15TA), filed March 6, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, Suite 500 (P.O. Box 81849), Lincoln, NE 68501. *(1) Household cleaning products, water purifying compounds and dry acids (except in bulk) and (2) materials, equipment and supplies used in the manufacture, sale and distribution of commodities listed in (1) (except in bulk)* between the facilities of Purex Corporation at or near Auburndale, FL and the facilities of Purex Corporation at or near Atlanta, GA and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Purex Corp., 24600 S. Main Street, Carson, CA 90749. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 144688 (Sub-16TA), filed March 22, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, Suite 500, Lincoln, NE 68501. *Animal and poultry feed, fish feed and corn products (except in bulk)* from the facilities of The Jim Dandy Company and its subsidiaries, at or near Birmingham and Decatur, AL and Springfield, TN to points in the state of FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Jim Dandy Co., P.O. Box 10687, Birmingham, AL 35202. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 144819 (Sub-10TA), filed April 4, 1979. Applicant: C & N TRANSPORT, INC., 727 S. Overhead Drive, Oklahoma City, OK 73108. Representative: C. L. Phillips, Room 248, Classen Terrace Building, 1411 N. Classen, Oklahoma City, OK 73106. *Paper, paper products and cellulose products,* from the facilities of Proctor & Gamble Paper Products Co., at or near Neeley's Landing, MO, to points in AL, AR, CA, CO, GA, LA, OH, OK, OR, TN, TX, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Proctor & Gamble Paper Products Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Building, 215 N.W. Third, Oklahoma City, OK 73102.

MC 144858 (Sub-7TA), filed March 21, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9950, 1310 Stagecoach Road, Little Rock, AR 72209. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. *Shampoo and toilet preparations* and *accessories* for the foregoing items (except commodities in bulk in tank vehicles), from Cranford, Piscataway and Clark, NJ, to points in AZ, CA, CO, NV, NM and UT, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Cosmair, Inc., 222 Terminal Avenue, Clark, NJ 07066. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144859 (Sub-4TA), filed March 13, 1979. Applicant: SCOTT PALLETS, INC., Box 341, Amelia, VA 23002.

Representative: Calvin P. Major, attorney, 200 W. Grace Street, Richmond, VA 23219. Contract carrier—irregular routes. *Wire and nails,* from points in MD, OH and PA to points in MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): American Nail Corporation, 13743 Rider Trail, Earth City, MO 63045. Send protests to:Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 144889 (Sub-4TA), filed February 20, 1979. Applicant: RONWAL TRANSPORTATION, INC., 2600 Calumet Avenue, Hammond, IN 43620. Representative: Walter R. Rymarowicz, address same as applicant. *Iron and steel articles* from the facilities of J & L Steel Company located in the Chicago Commercial Zone to points in IL on and north of a line commencing at the IN–IL state line at U.S. Hwy. 36 to Decatur, then along U.S. Hwy. 48 to the intersection of U.S. Hwy. 29, then along U.S. Hwy. 29 to the intersection of U.S. Hwy. 36, then west along U.S. Hwy. 36 to the IL–IA state line, for 180 days. Supporting Shipper(s): Jones & Laughlin Steel Corp., 3001 Dickey Road, East Chicago, IN 46312. Send protests to: Annie Booker, transportation assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chiago, IL 60604.

MC 144889 (Sub-5TA), filed March 2, 1979. Applicant: RONWAL TRANSPORTATION, INC., 2600 Calumet Avenue, Hammond, IN 46320. Representative: Walter C. Rymarowicz, address same as applicant. *Iron and Steel Articles,* from the facilities of Bethlehem Steel Corporation at Burns Harbor, IN to points in IL on and north of U.S. Hwy. 36, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Bethlehem Steel Corp., P.O. Box 248, Chesterton, IN 46304. Send protests to: Annie Booker, transportation assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 144889 (Sub-6TA), filed February 20, 1979. Applicant: RONWAL TRANSPORTATION, INC., 2600 Calumet Avenue, Hammond, In 46320. Representative: Walter C. Rymarowicz, address same as applicant. *Iron and Steel Articles and Rolling Mill Rolls* between the facilities of Union Rolls Corporation at Valparaiso, IN on the one hand, and on the other points in IL on and north of U.S. Hwy. 36, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Union Rolls Corp., P.O. Box 29, Valparaiso, IN 46383. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 144939 (Sub-3TA), filed February 21, 1979. Applicant: LARRY A. HOUSEHOLDER, d.b.a. HOUSEHOLDER TRUCKING, R.R. No. 1, Fenton, IA 50539. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Meat scraps, bone meal, and blood meal* from the facilities of John Morrell & Co. at Estherville, IA, to points in ND, SD, NE, KS, OK, AR, MO, MN, WI, and IL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): John Morrell & Co., 208 S. LaSalle Street, Chicago, IL 60604. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 145018 (Sub-3TA), filed March 5, 1979. Applicant: NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. *Paper bags,* from the plantsite of terminal Paper Bag Co., Inc., at Yulee, FL to points in PA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Terminal Paper Bag Co., Inc., 529 5th Ave., New York, NY 10017. Send protests to: P. J. Kenworthy, DS, ICC, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 145279 (Sub-2TA), filed March 14, 1979. Applicant: JOHN DAVID MEARS, JR. and BONNIE MEARS, d.b.a. MEARS TRUCKING CO., Highway 71 South, Malone, FL 32445. Representative: Felix A. Johnston, Jr., 1030 E. Lafayette Street, Suite 112, Talahassee, FL 32301. *Steel and steel beams,* from Gadsden County, FL to Jacksonville, FL, Lubbock, TX, and Birmingham, AL for 180 days. Supporting Shipper(s): Gulf Steel Corp., P.O. Box 110, 521 South Virginia Street, Quincy, FL 32351. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 145338 (Sub-2TA), filed March 19, 1979. Applicant: MEDICAL EMERGENCY TRANSPORTATION CORPORATION, d.b.a. METCOR, P.O. Box 8, Califon, NJ 07830. Representative: Norman Weiss, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Contract carrier:* irregular routes: *Radiopharmaceuticals and Medical Isotopes,* from Newark International Airport at Newark, NJ to points in Adams, Berks, Bucks, Carbon, Chester, Columbia, Dauphin, Delaware, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montgomery, Northampton, Northumberland, Philadelphia, Schuykill, Sullivan, Wyoming and York counties, PA, restricted to the transportation of traffic having a prior movement by air and restricted against transportation of packages or articles weighing in the aggregate more than 40 pounds from one consignor to one consignee on any one day. Under a continuing contract or contracts with New England Nuclear Corporation of North Billerica, MA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): New England Nuclear Corp., 601 Treble Cove Road, North Billerica, MA. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 145378 (Sub-No. 1TA), filed March 7, 1979. Applicant: DON ANDERSON HAULAGE LTD., P.O. Box 146, Unionville, ON, Canada L3R 2L8. Representative: Robert D. Gunderman, Esq., Suite 710 Statler Building, Buffalo, NY 14202. *Bridge Girders, the transportation of which because of size or weight require the use of special equipment, and related parts and assemblies.* From ports of entry on the International Boundary line between the US and Canada in NY to all points in NY, for 180 days. Supporting Shipper: Canron Limited (Eastern Structural Division), 100 Bisco Road, Rexdale, Ontario, Canada. Send protests to: Richard H. Cattadoris, DS, 111 West Huron Street, Buffalo, NY 14200.

MC 145389 (Sub-6TA), filed April 4, 1979. Applicant: SHAY DISTRIBUTING CO., INC., P.O. Box 3557, Orange, CA 92665. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. *Frozen foodstuffs,* from the facilities of Butcher Boy Foods, Inc., at Vernon, Riverside and Compton, CA, to points in the United States, except AK and HI, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Butcher Boy Foods, Inc., P.O. Box 5847, Riverside, CA 92517. Send protest to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC 145439, (Sub-1TA), filed March 14, 1979. Applicant: DAVID STOCK, d.b.a. David Stock Trucking, Route 1, Box 108, Newton, WI 53063. Representative: Michael Wyngaard, 150 E. Gilman Street, Madison, WI 53703. Contract carrier; irregular routes; *Foodstuffs,* from Fredricksburg, IA; Chicago, IL; Green Bay, Hilbert, Livingston, Mayville,

Beverly J. Williams, Transportation Assistant, I.C.C., 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 144609 (Sub-3TA), filed March 20, 1979. Applicant: ADAN J. DOMINGUEZ, d.b.a., DOMINGUEZ BROS. PRODUCE CO., 1500 South Zarzamora Street, San Antonio, TX 78207. Representative: Kenneth R. Hoffman, Lanham, Hatchell, Sedberry & Hoffman, 801 Vaughn Building, Austin, TX 78701. Authority sought as a common carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except in bulk) from San Antonio, TX to points in CA on and south of Interstate Highway 80, and all points in the San Francisco and Oakland Commercial Zones, and points in AZ, NM and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pearl Brewing Co., P.O. Box 1661, San Antonio, TX 78296. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B400, Federal Building, 727 E. Durango Street, San Antonio, TX 78206.

MC 144688 (Sub-14TA), filed March 2, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Household appliances and equipment, materials and supplies used in the manufacture, sale and distribution of household appliances (except in bulk)* from the facilities of General Electric Company at or near Louisville, KY and points in its commercial zone to points in the state of FL, for 180 days. Supporting shipper(s): General Electric Co., Appliance Park, Building 10, Louisville, KY 40225. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 144688 (Sub-15TA), filed March 6, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, Suite 500 (P.O. Box 81849), Lincoln, NE 68501. *(1) Household cleaning products, water purifying compounds and dry acids (except in bulk) and (2) materials, equipment and supplies used in the manufacture, sale and distribution of commodities listed in (1) (except in bulk)* between the facilities of Purex Corporation at or near Auburndale, FL and the facilities of Purex Corporation at or near Atlanta, GA and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Purex Corp., 24600 S. Main Street, Carson, CA 90749. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 144688 (Sub-16TA), filed March 22, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, Suite 500, Lincoln, NE 68501. *Animal and poultry feed, fish feed and corn products (except in bulk)* from the facilities of The Jim Dandy Company and its subsidiaries, at or near Birmingham and Decatur, AL and Springfield, TN to points in the state of FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Jim Dandy Co., P.O. Box 10687, Birmingham, AL 35202. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 144819 (Sub-10TA), filed April 4, 1979. Applicant: C & N TRANSPORT, INC., 727 S. Overhead Drive, Oklahoma City, OK 73108. Representative: C. L. Phillips, Room 248, Classen Terrace Building, 1411 N. Classen, Oklahoma City, OK 73106. *Paper, paper products and cellulose products,* from the facilities of Proctor & Gamble Paper Products Co., at or near Neeley's Landing, MO, to points in AL, AR, CA, CO, GA, LA, OH, OK, OR, TN, TX, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Proctor & Gamble Paper Products Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Building, 215 N.W. Third, Oklahoma City, OK 73102.

MC 144858 (Sub-7TA), filed March 21, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9950, 1310 Stagecoach Road, Little Rock, AR 72209. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. *Shampoo and toilet preparations* and *accessories* for the foregoing items (except commodities in bulk in tank vehicles), from Cranford, Piscataway and Clark, NJ, to points in AZ, CA, CO, NV, NM and UT, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Cosmair, Inc., 222 Terminal Avenue, Clark, NJ 07066. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144859 (Sub-4TA), filed March 13, 1979. Applicant: SCOTT PALLETS, INC., Box 341, Amelia, VA 23002.

Representative: Calvin P. Major, attorney, 200 W. Grace Street, Richmond, VA 23219. Contract carrier—irregular routes. *Wire and nails,* from points in MD, OH and PA to points in MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): American Nail Corporation, 13743 Rider Trail, Earth City, MO 63045. Send protests to:Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 144889 (Sub-4TA), filed February 20, 1979. Applicant: RONWAL TRANSPORTATION, INC., 2600 Calumet Avenue, Hammond, IN 43620. Representative: Walter R. Rymarowicz, address same as applicant. *Iron and steel articles* from the facilities of J & L Steel Company located in the Chicago Commercial Zone to points in IL on and north of a line commencing at the IN–IL state line at U.S. Hwy. 36 to Decatur, then along U.S. Hwy. 48 to the intersection of U.S. Hwy. 29, then along U.S. Hwy. 29 to the intersection of U.S. Hwy. 36, then west along U.S. Hwy. 36 to the IL–IA state line, for 180 days. Supporting Shipper(s): Jones & Laughlin Steel Corp., 3001 Dickey Road, East Chicago, IN 46312. Send protests to: Annie Booker, transportation assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chiago, IL 60604.

MC 144889 (Sub-5TA), filed March 2, 1979. Applicant: RONWAL TRANSPORTATION, INC., 2600 Calumet Avenue, Hammond, IN 46320. Representative: Walter C. Rymarowicz, address same as applicant. *Iron and Steel Articles,* from the facilities of Bethlehem Steel Corporation at Burns Harbor, IN to points in IL on and north of U.S. Hwy. 36, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Bethlehem Steel Corp., P.O. Box 248, Chesterton, IN 46304. Send protests to: Annie Booker, transportation assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 144889 (Sub-6TA), filed February 20, 1979. Applicant: RONWAL TRANSPORTATION, INC., 2600 Calumet Avenue, Hammond, In 46320. Representative: Walter C. Rymarowicz, address same as applicant. *Iron and Steel Articles and Rolling Mill Rolls* between the facilities of Union Rolls Corporation at Valparaiso, IN on the one hand, and on the other points in IL on and north of U.S. Hwy. 36, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Union Rolls Corp., P.O. Box 29, Valparaiso, IN 46383. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 144939 (Sub-3TA), filed February 21, 1979. Applicant: LARRY A. HOUSEHOLDER, d.b.a. HOUSEHOLDER TRUCKING, R.R. No. 1, Fenton, IA 50539. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Meat scraps, bone meal, and blood meal* from the facilities of John Morrell & Co. at Estherville, IA, to points in ND, SD, NE, KS, OK, AR, MO, MN, WI, and IL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): John Morrell & Co., 208 S. LaSalle Street, Chicago, IL 60604. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 145018 (Sub-3TA), filed March 5, 1979. Applicant: NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. *Paper bags,* from the plantsite of terminal Paper Bag Co., Inc., at Yulee, FL to points in PA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Terminal Paper Bag Co., Inc., 529 5th Ave., New York, NY 10017. Send protests to: P. J. Kenworthy, DS, ICC, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 145279 (Sub-2TA), filed March 14, 1979. Applicant: JOHN DAVID MEARS, JR. and BONNIE MEARS, d.b.a. MEARS TRUCKING CO., Highway 71 South, Malone, FL 32445. Representative: Felix A. Johnston, Jr., 1030 E. Lafayette Street, Suite 112, Talahassee, FL 32301. *Steel and steel beams,* from Gadsden County, FL to Jacksonville, FL, Lubbock, TX, and Birmingham, AL for 180 days. Supporting Shipper(s): Gulf Steel Corp., P.O. Box 110, 521 South Virginia Street, Quincy, FL 32351. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 145338 (Sub-2TA), filed March 19, 1979. Applicant: MEDICAL EMERGENCY TRANSPORTATION CORPORATION, d.b.a. METCOR, P.O. Box 8, Califon, NJ 07830. Representative: Norman Weiss, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Contract carrier:* irregular routes: *Radiopharmaceuticals and Medical Isotopes,* from Newark International Airport at Newark, NJ to points in Adams, Berks, Bucks, Carbon, Chester, Columbia, Dauphin, Delaware, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montgomery, Northampton, Northumberland, Philadelphia, Schuykill, Sullivan, Wyoming and York counties, PA, restricted to the transportation of traffic having a prior movement by air and restricted against transportation of packages or articles weighing in the aggregate more than 40 pounds from one consignor to one consignee on any one day. Under a continuing contract or contracts with New England Nuclear Corporation of North Billerica, MA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): New England Nuclear Corp., 601 Treble Cove Road, North Billerica, MA. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 145378 (Sub-No. 1TA), filed March 7, 1979. Applicant: DON ANDERSON HAULAGE LTD., P.O. Box 146, Unionville, ON, Canada L3R 2L8. Representative: Robert D. Gunderman, Esq., Suite 710 Statler Building, Buffalo, NY 14202. *Bridge Girders, the transportation of which because of size or weight require the use of special equipment, and related parts and assemblies.* From ports of entry on the International Boundary line between the US and Canada in NY to all points in NY, for 180 days. Supporting Shipper: Canron Limited (Eastern Structural Division), 100 Bisco Road, Rexdale, Ontario, Canada. Send protests to: Richard H. Cattadoris, DS, 111 West Huron Street, Buffalo, NY 14200.

MC 145389 (Sub-6TA), filed April 4, 1979. Applicant: SHAY DISTRIBUTING CO., INC., P.O. Box 3557, Orange, CA 92665. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. *Frozen foodstuffs,* from the facilities of Butcher Boy Foods, Inc., at Vernon, Riverside and Compton, CA, to points in the United States, except AK and HI, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Butcher Boy Foods, Inc., P.O. Box 5847, Riverside, CA 92517. Send protest to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC 145439, (Sub-1TA), filed March 14, 1979. Applicant: DAVID STOCK, d.b.a. David Stock Trucking, Route 1, Box 108, Newton, WI 53063. Representative: Michael Wyngaard, 150 E. Gilman Street, Madison, WI 53703. Contract carrier; irregular routes; *Foodstuffs,* from Fredricksburg, IA; Chicago, IL; Green Bay, Hilbert, Livingston, Mayville,

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Merrill, Milwaukee, Monroe and Sheboygan, WI to the facilities of Crescent Food Co. at or near Los Angeles, CA, under continuing contract(s) with Crescent Food Co. at Los Angeles, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Crescent Food Co., 5430 Santa Fe Avenue, Los Angeles, CA 90058. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 145468 (Sub-4TA), filed March 1, 1979. Applicant: K.S.S. TRANSPORTATION CORP., P.O. Box 3052, Route No. 1 and Adams Station, New Brunswick, NJ 08702. Representative: Daniel C. Sullivan, 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. Common carrier, irregular routes for 180 days. Such commodities as are utilized or distributed by restaurants (except commodities in bulk), From Oneida, NY and Rocky Mountain, NC to the facilities of Hardee's Food System, Inc. at Mason City, IA and Independence, MO. Supporting Shipper(s): Hardee's Food Systems, Inc., 1811 W. 19th, Mason City, IA. Send protests to: Irwin Rosen, TS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 145468 (Sub-5TA), filed March 23, 1979. Applicant: K.S.S. TRANSPORTATION CORP., P.O. Box 3052, Route No. 1 and Adams Station, North Brunswick, NJ 08702. Representative: Elaine M. Conway, Sullivan & Associates, Ltd., 10 S. LaSalle Street, Chicago, IL 60603. Common carrier, irregular routes for 180 days. *Canned Foodstuffs*, from Clyman, WI to points in AL, AR, CO, FL, KS, KY, GA, IA, MA, MD, MI, MN, MO, NE, NY, NC, SC, PA, TN, TX, VA, WV, and OH. Supporting Shipper(s): Aunt Nellie's Foods, Inc., Box 67, Clyman, WI 53016. Send protests to: Irwin Rosen, TS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 145499 (Sub-1TA), filed March 6, 1979. Applicant: R.M.S., INC., P.O. Box 249, Route 2, CO. Trunk F, Edgerton, WI 53534. Representative: James A. Spiegel, 6425 Odana Road, Madison, WI 53719. *Truck semi-trailers* (except those designed to be drawn by passenger automobiles) in initial movements in truckaway service, from Edgerton, WI, to points in the Chicago, IL Commercial Zone (as defined by the Commission in 41 FR 56652), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Dorsey Trailers, Inc., 405 E. Fulton Street, Edgerton, WI 53534. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 145499 (Sub-2TA), filed April 9, 1979. Applicant: R.M.S. INC. of WISCONSIN, P.O. Box 249, Edgerton, WI 53534. Representative: James Spiegel, 6425 Odana Road, Madison, WI 53719. (1) *Truck semi-trailers (except those designed to be drawn by passenger automobiles) in initial movements in truckaway service;* and (2) *used truck trailers and trailer parts and accessories in shipper and customer-owned trailers in secondary movements in truckaway service,* between Edgerton, WI and Cincinnati, OH; Des Moines, IA; Detroit and Grand Rapids, MI; Fort Wayne and Indianapolis, IN; Minneapolis and St. Paul, MN; Omaha, NE and St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Dorsey Trailers, Inc., 405 E. Fulton Street, Edgerton, WI 53534. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 145529 (Sub-2TA), filed April 5, 1979. Applicant: ROBERT STEEN d.b.a. STEEN's FEEDS, East Elkhorn, Belle Fourche, SD 57717. Representative: Mark Menard, 5301 No. Cliff, P.O. Box 480, Sioux Falls, SD 57101. *Iron and steel, iron and steel articles* from the facilities of U.S. Steel Corp. at or near Gary, IN; South Chicago, Joiliet and Waukegan, IL to points in IA, MN & NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): United States Steel Corp., 1000 East 80th Place, Merrillville, IN 46410. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Building, Pierre, SD 57501.

MC 145568 (Sub-1TA), filed March 14, 1979. Applicant: POLLARD TRANSPORTATION, INC., 582 West 150 South, Vernal, UT 84078. Representative: James T. Pollard (same address as applicant). *Machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products between points in UT, CO, WY, ID, and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): There are nine supporting shippers. Their statements may be examined at the office listed below or at Headquarters. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 145579 (Sub-3TA), filed March 23, 1979. Applicant: D. IRVIN TRANSPORT LTD., Box 8, Station T, Calgary, AB, Canada T2H 2G7. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. *Drilling mud additives* from Gravette, AR to ports of entry on the International Boundary line between the U.S. and Canada, for furtherance in foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Dresser Industries, Magcobar Division, P.O. Box 479, Blackfalds, AB, Canada. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 145588 (Sub-11TA), filed March 15, 1979. Applicant: GULF MID-WESTERN, INC., 12151 West 44th Avenue, Denver, CO 80033. Representative: William W. Selman, 18700 John F. Kennedy Boulevard, Houston, TX 77205. *Foodstuffs and canned goods,* from plant sites and storage facilities of Oconomowoc Canning Co. from throughout the State of WI to all points in the states of AL, AR, AZ, CA, CO, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, NE, NC, ND, NH, NJ, NM, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, VA, VT, WA, WI, WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Texaco, Inc., P.O. Box 52332, Houston, TX 77052. Send protests to: A. J. Rodriguez, DS,

ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 145679 (Sub-8TA), filed March 19, 1979. Applicant: A & A TRANSPORT SERVICES, INC., Maple Tree Industrial Park, Boston Road, P.O. Box 12, Palmer, MA 01069. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Meats and packinghouse products,* from the facilities of Wilson Foods Corporation located at Omaha, NE to points in CT, ME, MA, NH, NJ, NY, RI and VT, for 180 days. An underlying ETA for 90 days has been granted. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Boulevard, Oklahoma City, OK 73105. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 145768 (Sub-1TA), filed March 15, 1979. Applicant: KREILKAMP TRUCKING, INC., R.R. #1, Allenton, WI 53002. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Farm machinery and related accessories and parts* from the facilities of Kasten Mfg. Corp., at or near Allenton, WI to points in IA, OH, IN, MI, MN, and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kasten Mfg. Corp., 536 Main St., Allenton, WI 53002. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 145828 (Sub-2TA), filed March 15, 1979. Applicant: RONALD JONES, d.b.a. Algoma Farms, 1762 Leonard Rd., North, Oshkosh, WI 54901. Representative: James A. Spiegel, 6425 Odana Rd., Madison, WI 53719. Contract carrier; irregular routes; *Precast concrete beams, roof decks, joists, double T's, crypts and panels,* from Oshkosh, WI to points in IL, IA, IN, MI, MN, NE, ND and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Duwe Precast Concrete Products, Inc., 1770 S. Koeller Rd., Oshkosh, WI 54901. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 146068 (Sub-4TA), filed March 7, 1979. Applicant: CONSOLIDATED CARRIERS CORPORATION, Box 25842, Charlotte, NC 28205. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *General commodities* which are, at the time, moving on freight forwarder bills of lading from GA, NC and SC to AZ, CA and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Westransco Freight Company, PO Box 30514, Charlotte, NC 28230. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd.—Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 146068 (Sub-5TA), filed March 20, 1979. Applicant: CONSOLIDATED CARRIERS CORP., Box 25842, Charlotte, NC 28212. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW, Washington, DC 20005 *Aluminum slugs* from Harrisonburg, VA to Chico, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Victor Industries, 385 20th St., Chico, CA 95926. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 146076 (Sub-6TA), filed March 20, 1979. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 394, Malvern, AR 72104. Representative: Thomas W. Bartholomew (Same as applicant). (1) *Such merchandise* as is dealt in by wholesale, retail, chain grocery and food business houses, and (2) *materials, ingredients and supplies* used in the manufacture, distribution, and sale of the products in (1) above, between the facilities of the Ralston Purina Company at or near Oklahoma City, OK on the one hand, and on the other, points in the states of IA, OH, NY and PA, or 180 days as a common carrier over irregular routes, an underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, Chekerboard Square, St. Louis, MO 63188. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146149 (Sub-3TA), filed March 13, 1979. Applicant: KENNEDY FREIGHT LINES, INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, Esq., Beery & Spurlock Co., L.P.A., 275 East State St., Columbus, OH 43215. *Glass containers and fibreboard boxes,* from South Volney, NY to points in NC, for 180 days. An underlying ETA seeks 90 days authority. Common carrier-irregular routes. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 146149 (Sub-4TA), filed March 13, 1979. Applicant: KENNEDY FREIGHT LINES, INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, Esq., Beery & Spurlock Co., L.P.A., 275 East State St., Columbus, OH 43215. *Containers,* from the plantsite of the Van Dorn Company of Tampa, FL to points in NC, SC, TN and VA, for 180 days. An underlying ETA seeks 90 days authority. Common carrier-irregular routes. Supporting shipper(s): Davies Can Co., A Division of Van Dorn Company, 2685 East 79th St., Cleveland, OH 44101. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 146149 (Sub-5TA), filed March 13, 1979. Applicant: KENNEDY FREIGHT LINES, INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, Esq., Beery & Spurlock Co., L.P.A., 275 East State St., Columbus, OH 43215. *Carpeting,* from the plantsite of Homeland Carpet Company at or near Dalton, GA to points in OH and MI, for 180 days. An underlying ETA seeks 90 days authority. Common carrier-irregular routes. Supporting shipper(s): Homeland Carpet Co., 1734 Lawson Ave., Dalton, GA 30720. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 146149 (Sub-6TA), filed March 26, 1979. Applicant: KENNEDY FREIGHT LINES, INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Wiping cloths, except commodities in bulk,* from points in the United States (except Alaska and Hawaii), to Jackson, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jackson Bearing Co., P.O. Box 1561, Jackson, TN 38301. Send protests to: Interstate Commerce Commission, Bureau of Operations, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 146158 (Sub-1TA), filed March 6, 1979. Applicant: MARVIN EFFENSON d.b.a. EFFENSON ENTERPRISES, 3130 Produce Row, Houston, TX 77023. Representative: Anthony F. Mercurio, 3703 Yoakum, Suite 200, Houston, TX 77006. Common carrier over irregular routes. *Bananas* from Gulfport, MS to Houston, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kroger Co., 701 Gellhorn, Houston, TX 77001. Chiquita Brands, Inc., 212 Veterans Blvd., Suite 100, Metairie, LA 70005. Send protests to: John F. Mensing, District Supervisor, 8610 Federal Bldg., 515 Rusk Avenue, Houston, TX 77002.

MC 146168 (Sub-1TA), filed March 2, 1979. Applicant: PONCHATOULA LEAD

CO., INC., Route 1, Box 66, Ponchatoula, LA 70454. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. (1) *Antimonial lead,* from the facility of Schuylkill Metals Corp. in East Baton Rouge Parish, LA to points in MS, IL, TN, KY, AR, TX, LA, GA, FL, MO, and IN; and, (2) *Scrap batteries and scrap lead plates,* from points in MS, IL, TN, KY, AR, TX, LA, GA, FL, MO, and IN to the facilities of Schuylkill Metals Corp. in East Baton Rouge Parish, LA, under a continuing contract or contracts with Schuylkill Metals Corp. of East Baton Rouge Parish, LA, for 180 days. Applicant has filed an underlying ETA for 90 days. Supporting shipper(s): Schuylkill Metals Corporation, P.O. Box 73916, Baton Rouge, LA 70807. Send protests to: Connie A. Guillory, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 146239 (Sub-1TA), filed March 12, 1979. Applicant: INTERNATIONAL FOODS TRANSPORT, INC., P.C. Box 127, Hope, NJ 07844. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. Contract carrier, irregular routes for 180 days. Foodstuffs, excluding commodities in bulk. Between Chicago, IL; Hanover, PA; Baltimore, MD; New York, NY; Oakland and Stockton, CA; Savannah, GA; New Orleans, LA; Charleston, SC; Philadelphia, PA; Norfolk, VA; Miami, FL; and Detroit, MI; on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii). An underlying ETA seeking 90 days authority. Supporting shipper(s): SSC International, Inc., P.O. Box 825, Hackensack, NJ 07602. Send protests to: Joel Morrows, DS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 146258 (Sub-4TA), filed March 1, 1979. Applicant: M. R. BRUTON, INC., P.O. Box 547, Cuba, MO 65453. Representative: Jack H. Blanshan, Atty., Suite 200, 205 W. Toughy Ave., Park Ridge, IL 60068. *Fresh meats and packinghouse products,* from the facilities of Wilson Foods Corporation at Marshall, MO to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: P. E. Binder, OC, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 146299 (Sub-1TA), filed February 9, 1979. Applicant: D. Q. SERVICE, INC., 26019 Continental, Taylor, MI 48180. Representative: Jack Goodman, 39 South LaSalle Street, Chicago, IL 60603. *Industrial paint finishing equipment and materials, equipment and supplies,* (except commodities in bulk) used in the installation thereof, from Livonia, MI to Shreveport, LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Otto Durr, Inc., 12163 Glove, Livonia, MI 48150. Send protests to: Timothy Quinn, District Supervisor, Interstate Commerce Commission, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 146318 (Sub-1TA), filed March 8, 1979. Applicant: RUSS E. JOHNSON, d.b.a. SANTA CLARA TRANSFER SERVICE, 1180 Richard St., Santa Clara, CA 95050. Representative: Russ E. Johnson (address same as above). *Contract carrier:* irregular routes: *Soda Ash,* from Sweetwater County, WY to Alameda County, CA, bulk/dump truck type equipment, for the accounts of The Clorox Company, and Brockway Glass Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, P.O. Box 24305, Oakland, CA 94623. Brockway Glass Co., 8717 G Street, Oakland, CA 94621. Send protests to: District Supervisor, M. M. Butler, 211 Main, Suite 500, San Francisco, CA 94105.

MC 146319 (Sub-1TA), filed March 7, 1979. Applicant: ELLIOT LAKE FREIGHT LINES LIMITED, P.O. Box 70, Spragge, Ontario, Canada. Representative: Robert D. Gunderman, Esq., 710 Statler Building, Buffalo, NY 14202. Uranium U-308 Trade Name "Yellow Cake" from points of entry on the International Boundary line between the United States and Canada located in the upper peninsula of MI to points in IL. An underlying ETA seeks 90 days authority. Supporting shipper(s): Denison Mines Limited, Spragge, Ontario. Send protests to: C. R. Flemming, D/S, 225 Federal Building, Lansing, MI 48933.

MC 146328 (Sub-1TA), filed February 23, 1979. Applicant: ALLIED DELIVERY SYSTEM CO., 6200 Roland Avenue, Cleveland, OH 44127. Representative: David A. Turano, Esq., 100 East Broad Street, Columbus, OH 43215. (1) *Paint, stains, and varnishes* (except in bulk) and (2) *related display materials* moving in mixed shipments with the commodities in (1) above, between Cleveland, OH, on the one hand, and, on the other, points in OH. Restricted to the transportation of traffic having a prior or subsequent movement in interstate commerce by motor vehicle, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Coatings, Inc., 3050 North Rockwell, Chicago, IL 60618. Send protests to: Mary Wehner, D/S, ICC, 731 Federal Office Building, Cleveland, OH 44199.

MC 146329 (Sub-2TA), filed March 6, 1979. Applicant: W-H TRANSPORTATION CO., INC., P.O. Box 1222, Wausau, WI 54401. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Tractors, tractor attachments, farm and industrial machinery and equipment and parts* from the facilities of J. I. Case at Racine, WI and Burlington, IA to the States of AR, AL, LA, MS, OK, TN and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. I. Case Co., 700 State St., Racine, WI 53404. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 146379 (Sub-2TA), filed February 28, 1979. Applicant: AUTO EXPRESS, INC., 50 Oak Street, Lodi, NJ 07644. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Used automobiles, in secondary movements, in truckaway service (1) between Boston, MA, Philadelphia, PA and New York, NY on the one hand, and on the other, points in FL (2) Between Albany, NY on the one hand, and on the other, Boston, MA, (3) Between Manheim, PA and Bordentown, NJ on the one hand, and on the other, points in the New York, NY commercial zone, (4) between Boston, MA commercial zone on the one hand, and on the other, points in the New York, NY commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 10 supporting shippers on file. Their statements may be examined at the office of the ICC Newark, or at Washington, D.C. Send protests to: Joel Morrows, D/S, ICC, 9 Clinton St., Room 618, Newark, NJ 07102.

MC 146399 (Sub-1TA), filed March 2, 1979. Applicant: SERVICECRAFT DISTRIBUTION SYSTEMS, INC., 5650 Dolly Avenue, Buena Park, California 90620. Representative: Milton W. Flack, 4311 Wilshire Blvd., No. 300, Los Angeles, CA 90010. *Aluminum ingots and scrap aluminum,* in straight shipments of containers not exceeding 40 feet in length, having a subsequent movement by water, from Fontana and Buena Park, CA, to Los Angeles and Long Beach Harbors, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): U.S. Reduction Company, 4610 Kennedy Avenue, East Chicago, IN 46312. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 146409 (Sub-1TA), filed March 20, 1979. Applicant: WESTSHIP TRUCKING, INC., 5565 E. 52nd Ave., Commerce City, CO 80022. Representative: James O. Pearcy, President (address same as above). (1) *Electric household appliances and equipment; kitchen and bathroom appliances and equipment; oral hygiene appliances and equipment; hydro therapy equipment; sink and shower fixtures; smoke alarms; food processing machines; filters;* (2) *Materials, equipment and supplies used in the manufacture or distribution of the commodities named in (1) above;* Between the facilities of Teledyne Water Pik located in Larimer County, CO and Denver County, CO on the one hand, and on the other, Dallas, Ft. Worth and Houston, TX; New Orleans, LA; Mobile, AL; Tallahassee, Orlando, Tampa, Miami and Jacksonville, FL; Savannah, GA; Charleston, SC; Norfolk and Richmond, VA; Baltimore, MD; New York City, Syracuse and Dansville, NY; Youngstown, Cleveland and Toledo, OH; Detroit and Lansing, MI; and Chicago, IL, for 180 days. Underlying ETA seeks 90 days authority. Restricted to the above commodities being hauled solely in intermodal container-trailers, and restrained to the use of such equipment. Supporting shipper: Teledyne Water Pik, 1730 Prospect, Ft. Collins, CO 80521. Send protests to: D/S Roger L. Buchanan, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 146418 (Sub-1TA), filed March 7, 1979. Applicant: WALTER A. SOWDEN, JR., d.b.a. SOWDEN TRANSPORTATION CO., 318 Talmage Avenue, Bound Brook, NJ 08805. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. Contract carrier, irregular routes for 180 days. Scrap plastic, except in bulk in tank vehicles, Between points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, WV, DE, MD, FL, MS, LA, TN, TX, WI, IL, IN, MI, and OH. Underlying ETA seeking authority for 90 days. Supporting shipper(s): Heritage International, Inc., 75 Claremont Road, Bernardsville, NJ 07924. Send protests to: Irwin Rosen, TS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 146419 (Sub-1TA), filed March 6, 1979. Applicant: RAYMOND J. SCHWANEBECK & LEE ALLEN SCHWANEBECK, d.b.a. SCHWANEBECK BROS., Rt. 1, Box 187C, Pittsville, WI 54466. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Such commodities as are manufactured, processed, sold, used, distributed or dealt in by manufacturers, converters, and printers of paper and paper products* (except commodities in bulk): (a) from the facilities of Consolidated Papers, Inc., at or near Stevens Point and Wisconsin Rapids, WI to points in AZ, CA, OR and WA; and (b) from the facilities of Nekoosa Papers Inc. at or near Nekoosa, Port Edwards and Stevens Point, WI to points in AZ, CA, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nekoosa Papers, Inc., Port Edwards, WI 54469 and Consolidated Papers, Inc., Wisconsin Rapids, WI 54494. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 146428 (Sub-1TA), filed March 15, 1979. Applicant: CARDINAL EXPRESS CORPORATION, 1304 Douglas Ave., Racine, WI 53402. Representative: Monroe Thomas, 1304 Douglas Ave., Racine, WI 53402. *Materials, equipment, supplies and parts used in the manufacture and distribution of farm tractors, and attachments and parts thereof,* between the commercial zones of Chicago, IL; Davenport, IA; Rockford, IL and Milwaukee, WI on the one hand and the commercial zone of Racine, WI on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. I. Case Co., 700 State St., Racine, WI 53404. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 146438 (Sub-1TA), filed February 27, 1979. Applicant: ETV, INC., P.O. Box 93, Comstock Park, MI 49321. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Frozen foods* from the facilities of Chef Pierre, Inc. at or near Traverse City, MI to points in CA, NV, WA, MT, UT, OR, ID, AZ, and NM, for 180 days. Supporting shipper(s): Chef Pierre, Inc., P.O. Box 1009, Traverse City, MI 49684. An underlying ETA seeks 90 days authority. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing, MI 48933.

MC 146439 (Sub-1TA), filed March 7, 1979. Applicant: HEAVYWEIGHT TRUCKING CO., INC., 7164 Santa Clara Street, Buena Park, CA 90620. Representative: Thomas G. Horngren (same address as applicant). *Tanks, filter (water conditioning) and necessary equipment and media for their installation and operation,* from City of Industry, CA to points and places in the United States (except HI), for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): LA/Water Treatment Division, 17400 E. Chestnut Street, City of Industry, CA. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California.

MC 146458 (Sub-1TA), filed March 16, 1979. Applicant: VIRGIL MOELLER, d.b.a. MOELLER FARMS, Box 104, Spring Valley, MN 55975. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. *Dry animal and poultry feed, dry mineral mixtures, insecticides in containers, and livestock and poultry feeders,* from Quincy, IL to all points in MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Moorman Mfg. Co., Manager—Traffic Operations, 1000 North 30th Street, Quincy, IL 62301. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 146499 (Sub-1TA), filed March 6, 1979. Applicant: R. LEON PETERSON TRUCKING, INC., 835 North 600 East, Spanish Fork, UT 84660. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. Contract carrier: irregular route: *High pressure, reinforced rubber hose* and equipment, materials and supplies used in the manufacture, installation and distribution of high pressure, reinforced rubber hose between Nephi, UT on the one hand, and, on the other, points in AZ, CA, CO, IL IN, IA, KS, KY, MI, MN, MO, NE, NM, OH, OK, SD, TX and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): NRP Division of Bastian-Blessing, 255 West 11th North, Nephi, UT 84648. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 145488 (Sub.-2TA), filed March 7, 1979. Applicant: R. LEON PETERSON TRUCKING, INC., 835 North 600 West, Spanish Fork, UT 84660. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT, 84111. Contract carrier: irregular routes: *calcium carbide, foundry sand core binding compounds,*

resin coated sands, chemicals, and materials, equipment and supplies used in or in connection with metal foundry operations, (1) from points in OH, PA, WV, IN, MI, IL, WI, IA, MO, KS, WY, SD, and NV to CO, UT, and AZ, and (2) between AZ, CO, and UT, under a continuing contract(s) with Waterton Sand & Clay, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Waterton Sand & Clay, Inc., 950 West Center, Lindon, UT 84062. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 146519 (Sub-2TA), filed March 13, 1979. Applicant: CALIANA MARKETING, INC., 2120 Prarieton Road, Terre Haute, IN 47802. Representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. Contract carrier: Irregular routes: *Scrap metal,* from the facilities of Unarco Home Products at or near Paris, IL to Detroit, MI, for 180 days. Under contract with Unarco Home Products, Division of Unarco Industries, Inc. at Paris, IL. Supporting shipper: Unarco Home Products, Division of Unarco Industires, Inc., P.O. Box 429, Paris, IL 61944. Send protests to: Beverly J. Williams, Transportation Assistant, I.C.C., 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 146569 (Sub-1TA), filed March 26, 1979. Applicant: REGIONAL TRANSPORTATION COMPANY, INC., 600 Secaucus Road, Secaucus, NJ 07094. Representative: Arthur A. Arsham, Esq., 277 Park Avenue, New York, NY 10017. Contract carrier, irregular routes for 180 days. Merchandise, equipment and supplies sold, used or distributed by a manufacturer of cosmetics (1) Between Springdale, OH; Glenview, IL; Morton Grove, IL; and Hoboken, NJ; Newark, DE; Rye, NY; Suffern, NY; and West Nyack, NY; (2) Between Springdale, OH; and Morton Grove, IL; (3) From Millville, NJ and Baltimore, MD to Springdale, OH; and Morton Grove, IL. An underlying ETA seeks 90 days authority. Supporting shipper(s): Avon Products, Inc., 9 West 57th Street, New York, NY 10019. Send protests to: Robert E. Johnston, DS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 146648 (Sub-1TA), filed April 3, 1979. Applicant: NIMCO TRUCKING, INC., 308 South 25th Street, Boise, ID 83706. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Scrap metal, batteries and automobile bodies compressed and parts,* from the facilities of Northern Iron & Metals Co., Inc. at Boise, ID to points in CA, OR, UT, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Northern Iron and Metals Co., Inc., 308 S. 25th Street, Boise, ID 83706. Send protests to: Barney L. Hardin, ICC, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 145859 (Sub-2TA), filed March 1, 1979. Applicant: SIERRA HIGHLANDS BUS CO., INC., 1559 Broadway, Fresno, CA 93721. Representative: Otto L. Johansen (same as above). *Passengers and their baggage* in the same vehicle on both special and charter operations, from Fresno County and Madera County, CA to 48 states in the U.S. and Alaska, for 180 days. An underlying ETA seeks 90 days authority. There are 7 statements in support attached to this application which may be examined at the ICC in Washington, DC or copies of which may be examined in the San Francisco, CA field office. Send protests to: District Supervisor M. M. Butler, 211 Main, Suite 500, San Francisco, CA 94105.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 75]
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Motor Carrier Board Transfer Proceedings

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before June 4, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77850, filed September 5, 1978. Transferee: GEO. W. NOFFS MOVING & STORAGE, INC., 1735 E. Davis St. Arlington Heights, IL 60005. Transferor: AMODIO MOVING, INC., 1199 Whitney Ave., Hamden, CT 06517. Representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought for purchase by transferee of a portion of the operating rights of transferor in Certificate No. MC-107229, issued March 26, 1962, and acquired by transferor pursuant to No. MC-F 13402, as follows: *Household goods* as defined by the Commission, between Chicago, IL, and points in IL, IN, MI, and WI withing 100 miles of Chicago, on the one hand, and, on the other, points in KS, MO, IA, MN, WI, MI, IL, IN, KY, TN, AL, FL, GA, SC, NC, VA, WV, OH, PA, DE, NJ, NY, CT, RI, MA, VT, NH, ME, restricted against through shipments between Chicago, IL, and points within 100 miles thereof, on the one hand, and, on the other, points in MD and DC. Transferee holds no ICC authority and no temporary application has been filed.

MC-FC-77835, filed August 25, 1978. Transferee: HAROLD WILLIAMS, d.b.a. WILLIAMS MOVING CO. U.S. Highway 60, P.O. Box 518, Dexter, MO 63841. Transferor: COURTNEY VAN LINES, Inc., Rt. 4, Box 149 Lake Estates, Marion, IL 62959. Representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 19240, issued November 4, 1969, as follows: *Household goods* as defined by the Commission, between points in Williamson, Franklin, Saline, Jackson, Johnson, Alexander, Pulaski, Massac, Pope, Hardin, Gallatin, White, Hamilton, Jefferson, Perry, Union, Wabash, Wayne, and Edwards Counties, IL, on the one hand, and, on the other, points in MO, KY, IN, IA, OH, WV, PA, NM, TX, KS, WI, OK, TN, MI, NE, CO, AL, AR, and DC. Transferee holds authority under docket No. MC 135743.

Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77944, filed December 4, 1978. Transferee: HAYNES TRANPSORT CO., INC., P.O. Box 9, Salina, KS 67401. Transferor: TEJAS LINES, INC., P.O. Box 9, Salina, KS 67401. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Topeka, KS 66612. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC-141519, and Sub-Nos. 2, 4, and 5, issued February 12, 1976, February 12, 1976, August 23, 1977, and April 12, 1978, respectively, as follows: (A) *Anhydrous ammonia,* in bulk, in tank vehicles, (1) from the facilities of Farmland Industries, Inc., at or near Enid, OK, to points in KS, CO, MO, AR, LA, and TX (except points in Chambers, Montgomery, Harris, Fort Bend, Galveston, Liberty, and Brazoria Counties), restricted to the transportation of traffic originating at the named facilities and destined to the named destinations, (2) from the pipeline terminal facilities of Mid-America Pipeline Company, near Conway, KS, to points in CO, KS, MO, and NE, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations, (3) from the plant site of Farmland Industries, Inc., at or near Dodge City, KS, to points in CO, WY, TX, OK, MO, NE, and IA, (4) from the plant site of Hill Chemicals, Inc., at or near Borger, TX, to points in CO, KS, and OK, and (5) from the facilities of Farmland Industries, Inc., at or near Farnsworth, TX, to points in CO, KS, NM, and, OK; and (B) *anhydrous ammonia, nitrogen fertilizer solutions, and urea liquor,* from the plant sites of Oklahoma Nitrogen Company and Bison Nitrogen Products Co., at or near Woodward, OK, to points in AR, CO, IA, KS, LA, MO, NE, NM, SD, and TX. Transferee presently holds authority from this Commission under MC-145150. Application has not been filed for temporary authority under 49 U.S.C. § 11349.

MC-FC-77966, filed December 19, 1978. Transferee: LONGMONT TRANSPORTATION COMPANY, INC., 149 Kimbark St., Longmont, CO 80501. Transferor: LONGMONT, TURKEY PROCESSORS, INC., Longmont, CO 80501. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permits No. MC-141666 and MC-141666 (Sub-No. 1), issued October 12, 1977, and November 9, 1978, respectively, as follows: (1) *chemicals,* (2) *laboratory, graphic arts, electroplating, laundry, dry cleaning, and swimming pool supplies and equipment,* and (3) *materials* used in the manufacture, sale, and distribution thereof, from points in CA, CT, DE, IL, IN, MD, MI, NJ, NY, OH, PA, TX, WA, and WV, to Denver, CO, restricted against the transportation of commodities in bulk, under continuing contract in (1), (2), and (3) above, with Chemical Sales Company, of Denver, CO. (4) *Turkey products,* and *commodities* otherwise exempt under 49 U.S.C. § 10526(a)(6) (formerly section 203(b)(6) of the Interstate Commerce Act), when moving in mixed loads with turkey products, and (5) *materials, equipment and supplies* used in raising, manufacture, and distribution of the commodities in (4) above, (except commodities in bulk), between points in Weld and Boulder Counties, CO, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract in (4) and (5) above, with Longmont Turkey Processors, Inc., of Longmont, CO, subject to the condition that Longmont Turkey Processors, Inc., shall maintain separate books and records for its transportation and nontransportation activities. Transferee presently holds no authority from this Commission. Application for temporary authority under 49 U.S.C. § 11349 (formerly section 210a(b) of the Interstate Commerce Act) was denied by decision served January 22, 1979.

MC-FC-77967, filed January 24, 1979. Transferee: TOMMY L. APPLETON, d.b.a. APP'S DELIVERY SERVICE, 1485 Karl St., San Jose, CA 95122. Transferor: T.P. Drayage, Inc., 1236 Connecticut, San Francisco, CA 94107. Representative: Marvin Handler, 100 Pine St., Suite 2550, San Francisco, CA 94111. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate of Registration No. MC 121701, acquired by the transferor in No. MC-FC-76375, authorizing the transportation of *general commodities,* with exceptions, between points in the San Francisco Territory. Transferee holds no authority from the Commission. Application has not been filed for temporary authority under 49 U.S.C. § 11349 (formerly Section 210a(b) of the Act).

MC-FC-77978, filed December 28, 1978. Transferee: ROBERT J. RATHWAY AND WILLIAM C. PAULL, Jr., A Partnership, WOLFE & WOLFE, R.D. #2, Box 189A, Perryopolis, PA 15473. Transferor: Lavern E. Wolfe, Wolfe & Wolfe, 305 Crossland Avenue, Uniontown, PA 15401. Representatives: John A. Pillar, Esq., Pillar and Mulroy, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222, Attorney for transferee. William J. Lavelle, Esq., 2310 Grant Building, Pittsburgh, PA 15219, Attorney for transferor. Authority sought to purchase by transferee of the operating rights of transferor as set forth in Certificates Nos. MC-141877 and MC-141877 (Sub-No. 1), issued November 23, 1976, and July 29, 1977, respectively, as follows: Foundry sand, from Twinsburg, OH, to points in Greene, Fayette, Washington, Allegheny, Westmoreland, Beaver, Armstrong, and Venango Counties, PA, and from Connellsville and Uniontown, PA, to Newark, OH; and pulverized limestone (except in bulk, in dump vehicles), from the facilities of Benwood Limestone Co., at Benwood, WV, to points in Washington and Greene Counties, PA, and points in Marion and Monongalia Counties, WV. Transferee presently holds temporary authority under No. MC-144380. Application has been filed for temporary authority under Section 2110a(b).

MC-FC-77980, filed December 26, 1978. Transferee: TRANS-NATIONAL TRUCK, INC. (a NV Corporation), P.O. Box 4168, Amarillo, TX 69105. Transferor: Trans-National Truck, Inc. (a TX corporation) P.O. Box 4168, Amarillo, TX 79105. Representative: Charles W. Singer, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. Authority is sought to transfer to transferee all of the authority held by transferor in Certificate MC-133655 and sub numbers thereunder embracing a number of specified commodities from, to and between various points in the United States. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77981, filed December 27, 1978. Portion of authority sought to be transferred from CARTAGE SERVICES, INC., 26380 Van Born Road, Dearborn, Michigan, 48125, to TRUCKING SERVICES, INC., 26400 Van Born Road, Dearborn Heights, Michigan, 48125. Applicant's attorney: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Operating rights sought to be transferred are as follows: Contract Carrier Permit in MC-128972 Sub. 22 to transport over irregular routes: Lumber and pre-cut building

panels and sections, from the facilities of Fingerle Lumber Co., at or near Ann Arbor, Michigan, to points in Pennsylvania, Illinois, New York, Kentucky, Ohio, Wisconsin, and Indiana, under a continuing contract, or contracts, with Fingerle Lumber Co., also Common Carrier Certificate in MC-118594 to transport over irregular routes: Vermiculite (other than crude), in bags, from Dearborn, Michigan, to points in Williams, Henry, Fulton, Woods, Ottawa, Sandusky, Defiance, Paulding, Putnam, Hancock, Seneca, Van Wert, Allen, Hardin, Wyandot, Crawford, Mercer, Auglaize, Marion, Morrow, Darke, Shelby, Logan, Union, Delaware, Knox, Madison, Franklin, Champaign, Miami, Lucas, and Clark Counties, Ohio. Transferor holds authority under docket number MC 142439. Application for temporary authority has not been filed.

MC-FC 77982, filed December 28, 1978. Transferee: JAMES V. BEILFUSS, 6379 Hallen Ave., Belvidere, IL 61008. Transferor: Carl E. Parnell, 418 West 8th St., Belvidere, Il 61008. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 143442 Sub 2, issued June 30, 1978, as follows: (1) *Ice cream mix, yogurt, and non-dairy cream substitutes,* in bulk, in tank vehicles, and (2) *raw cream and whey,* in bulk, in tank vehicles, when moving in mixed loads with the commodities named in (1) above, between points in Illinois, on the one hand, and, on the other, points in Wisconsin. Transferee holds no authority from the Commission. Application has not been filed for temporary authority under 49 U.S.C. § 11349 (formerly Section 210a(b) of the Act).

MC-FC 77983, filed December 28, 1978. Transferee: CHEVALLEY MOVING & STORAGE OF LAWTON, INC., 402 S. W. Texas, Lawton, OK 73501. Transferor: STONE TRANSFER & STORAGE CO., a corporation, 1703 Linwood, Oklahoma City, OK 73106. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 74077, issued June 5, 1973, as follows: Household goods, Between Oklahoma City, OK., and points within 150 miles of Oklahoma City, on the one hand, and, on the other, points in AR, KS, MO, NE, NM and TX., Uncrated new household furniture, Between Oklahoma City, OK., on the one hand, and, on the other, points in KS, MO, TX and NM. Transferee presently holds authority in MC 145578. Application for temporary authority under Section 210a(b) has not been filed.

MC-FC-77996, filed November 8, 1978. Transferee: ROZELLA A. ANDERSON, 20801 Kendall Drive, San Bernardino, CA 92407. Transferor: RUTH W. MALLORY PLACE, doing business as MALLORY TRUCKING, 1977 Pennsylvania Ave., Colton, CA 92324. Representative: Mark A. Ostoich, 396 West Fourth St., San Bernardino, CA 92401. Authority sought for purchase by transferee of the operating rights of transferor in Certificates Nos. MC 112196 Sub 1 and MC 112196 Sub 5, issued March 8, 1963, authorizing in Sub 1 *cement* in bulk, from Crestmore, Oro Grande, and Victorville, CA, to Yuma, AZ; from Crestmore and Oro Grande, CA, and points within five miles of each, to points in Yuma County, AZ, within 75 miles of Yuma, AZ; from Oro Grande and Riverside, CA, and points within five miles of each origin point, to Ligurta, Wellton, and Tyson, AZ, and points within five miles of each destination point; *cement,* in bulk, in hopper type vehicles, form Victorville and Oro Grande, CA, to the facilities of Mojave Rock Materials, Co., at Kingman, AZ; and in Sub 5 *cement,* in bulk, in tank-type trucks and trailers, form Colton, CA, to the boundary of the United States and Mexico at Calexico, CA. Transferee holds no authority from the Commission. Application has not been filed for temporary authority.

MC-FC-77997, filed December 28, 1978. Transferee: ODEAN DUANE BAKKEN, doing business as BAKKEN TRUCK LINE, Northwood, IA 50459. Transferor: KATUIN BROS., INC., P.O. Box 311, Ft. Madison, IA 52627. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates MC-126539 (Sub-Nos. 18, 22, 23, and 28), issued August 8, 1977, April 14, 1976, June 8, 1977, and January 16, 1978, respectively, as follows: *Meats, meat products and meat by-products, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from the facilities of Wilson Foods Corporation, at Cedar Rapids, IA, to points in MO, (2) from the facilities of Wilson & Co., Inc., at Cedar Rapids, IA, to those points in IL in the St. Louis, MO-East St. Louis, IL Commercial Zone, and (3) from the facilities of Hygrade Food Products Corp., at or near Storm Lake and Cherokee, IA, to points in IN and OH, restricted in (1), (2), and (3) above, to the transportation of traffic originating at the named origins and destined to the indicated destinations. *Liquid animal feed* and *liquid animal feed supplements,* in bulk, from the site of Land O'Lakes, Inc., at or near Clarence, IA, to points in IL (except Chicago), IA, NM, NE, ND, SD, and WI. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. § 11349.

MC-FC-78001, filed December 11, 1978. Transferee: ASKINS MOVING & STORAGE, INCORPORATED, P.O. Box 3954, Florence, SC 29501. Transferor: PARRISH DRAY LINE, INC., P.O. Drawer 160, Leland, NC 28451. Representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, SC 29201. Authority sought for purchase by transferee of a portion of the operating rights of transferor set forth in Certificate No. MC 78170, issued December 20, 1940, as follows: *Household goods,* between Sumter, SC, and points within 50 miles of Sumter, on the one hand, and, on the other, points in Virginia, North Carolina, South Carolina, Georgia, and Florida. Transferee holds authority in Certificate of Registration No. MC 58721 Sub 1. Application for temporary authority has not been filed.

MC-FC-78002, filed January 14, 1979. Transferee: HOMER MEEKS, Route 1, Binger, OK. Transferor: Frank Vincent, doing business as VINCENT TRUCKING, Route 1, Eakly, OK. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit MC-139073 (Sub-No. 2), issued March 1, 1976, as follows: *Dry fertilizer,* from points in KS (except Military), MO (except Atlas), TX, and NM, to opints in Caddo and Washita Counties, OK, under continuing contract with Farmer Union Co-op Gin, of Eakly OK. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349 (formerly section 210a(b) of the Interstate Commerce Act).

MC-FC-78003, filed January 16, 1979. Transferee: BOYD MARTIN ENTERPRISES, INC., Route 5, Box 270, Fulton, MO 65251. Transferor: ELWOOD LYNCH, 1009 Halleck Street, Moberly, MO 65270. Representative: Tom B. Kretsinger, Attorney at Law, 20 East Franklin, Liberty, MO 64068. Authority

sought to purchase by transferee of the operating rights of transferor as set forth in Permits Nos. MC-136384 (Sub-No. 2) and MC-136384 (Sub-No. 4), issued January 2, 1974, and September 27, 1974, respectively, as follows: Malt beverages, from Belleville, IL, to Moberly, MO, and from Memphis, TN, to Moberly, MO, restricted to a transportation service to be performed under a contract with Hunt Distributing, Inc., of Moberly, MO. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-78005, filed January 16, 1979. Transferee: A.F.D., INC., Route 94, Florida, NY 10921. Transferor: REDNER TRUCKING, INC. (William M. Gruner, trustee in bankruptcy), Box 35, Route 208, Walkill, NY. Representatives: Arthur J. Piken, 1 Lefrak City Plaza, Flushing, NY 11368; William Gruner, trustee in bankruptcy, P.O. Box 547, New Paltz, NY 12561. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate MC-134803, issued January 18, 1971, as follows: *General commodities* (except commodities in bulk, and household goods as defined by the Commission), between Central Valley, NY and points within 15 miles of Central Valley, on the one hand, and, on the other, New York, NY, and points in NJ within 20 miles of Rutherford, NJ. Transferee presently holds Certificate of Registration MC-70917 (Sub-No. 4), from the Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349 (formerly section 210a(b) of the Interstate Commerce Act).

MC-FC-78007, filed January 18, 1979. Transferee: DAVID C. RICHARD, doing business as D & M EXPRESS, Route 19, Evans City, PA 16033. Transferor: DONNA HALLSTROM, doing business as D & M EXPRESS, P.O. Box 231, Evans City, PA 16033. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permits No. MC-136432, and Sub-Nos. 1 and 2, issued June 7, 1973, April 15, 1974, and September 23, 1976, respectively, as follows: *Railway car or locomotive brake shoes and brake shoe parts,* from the facilities of D & M Express, in Cranberry Township (Butler County), PA, to points in OH, WV, IN, MD, NY, PA, DE, KY, MI, NJ, and VA; from Waukegan, IL and Laurinburg, NC, to the storage facilities of D & M Express, in Cranberry Township (Butler County), PA; and from Laurinburg, NC, to points in DE, KY, MD, MI, NY, NJ, OH, PA, VA, and WV, under a continuing contract with Railroad Friction Products Corp., of Wilmerding, PA. *Abrasive grinding wheels,* from Carlisle, PA, to points in IL, IN, OH, MI, and WI; and from the storage facilities of D & M Express, in Cranberry Township (Butler County), PA, to points in IL, IN, OH, MI, and WI, under continuing contract with SGL Abrasives, a Division of SGL Industries, Inc. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. § 11349 (formerly section 210a(b) of the Interstate Commerce Act).

MC-FC-78010, filed January 11, 1979. Transferee: WOLTER TRUCK LINES, INC., Greenwood, DE. Transferor: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representatives: Chester Zyblut, attorney for transferee, 366 Executive Bldg., 1030—15th St. NW, Washington, DC 20005; James D. Griffin, attorney for transferee, P.O. Box 612, Georgetown, DE 19947. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in MC-72069 and Sub-Nos. 3, 5, 7, 8, and 9, issued October 16, 1975, November 23, 1964, May 16, 1975, February 24, 1978, May 27, 1977, and March 17, 1978, respectively, as follows: *Fertilizer,* from Philadelphia, PA and Baltimore, MD, to points in MD and DE. *Fertilizer and fertilizer ingredients,* in bulk, from Hopewell, VA, to Laurel, DE, Cambridge, MD, and points in Kent County, DE; from Norfolk and Chesapeake, VA, to Cambridge, Berlin and Pocomoke City, MD, and points in New Castle and Kent Counties, DE; From Laurel, DE, to points in Caroline, Cecil, Dorchester, Kent, Somerset, Talbot, Worcester, Wicomico, and Queen Anne Counties, MD, and points in Accomack and Northampton Counties, VA. *Fertilizer,* from Cambridge, MD, to points in DE (except Dover, Middletown, and points in Sussex County). *Agricultural lime,* from points in Chester County, and Salisbury Township, (Lancaster County), PA, to points in DE, and those in MD east of the Susquehana River and the Chesapeake Bay. *Livestock, seeds, and poultry feed,* from Philadelphia, PA, to Kearney, NJ points in DE on and south of an east and west line passing through Wilmington, DE, and those in Cecil, Kent, Queen Anne, Talbot, Caroline, Dorchester, Wicomico, Worcester, and Somerset Counties, MD. *Anthracite coal,* from Minersville, Pottsville, and New Philadelphia, PA, and points within five miles of each, to Milford, Lincoln, Ellendale, Houston, Milton, Lewes, Frederica, and Dover, DE. *Bituminous coal,* from points in Westmoreland and Fayette Counties, PA, to Milford, DE. And *insecticides,* from Philadelphia, PA, to Berlin, MD, and points in Sussex County, DE. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78012, filed January 24, 1979. Transferee: MIRMAN TRANSPORTATION, INC., 66 Jack London Square, Oakland, CA 94623. Transferor: MITCHELL BROS. TRUCK LINES, a corporation, 3841 N. Columbia Rd., Portland, OR 97217. Representatives: Michael S. Rubin, 256 Montgomery St., San Francisco, CA 94104; Lex F. Page, 3841 N. Columbia Rd., Portland, OR 97217. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC-32882 (Sub-No. 50), issued October 29, 1974, as follows: *General commodities* (except explosives, blasting supplies, and motor vehicles), in containers, having an immediately prior or subsequent movement by water, between ports of entry in CA, OR, and WA (except those on the International Boundary line between the United States and Canada), on the one hand, and, on the other, points in CA, ID, MT, NV, OR, UT, and WA. *Empty containers,* between points in CA, ID, MT, NV, OR, UT, and WA. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349 (formerly section 210a(b) of the Interstate Commerce Act).

MC-FC-78013, filed January 25, 1979. Transferee: COYLE TRANS., INC., 180 W. First St., South Boston, MA 02127. Transferor: Kemp Transfer, Inc., 265 South Main St., West Bridgewater, MA 02379. Representatives: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., N.W., Washington, DC 20036. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate of Registration No. MC 120282 Sub 1, issued December 27, 1973, authorizing the transportation of *general commodities* (except household goods as defined by the Commission), over irregular routes, between points in Massachusetts. Transferee holds no authority from the Commission. Application has been filed for temporary authority.

MC-FC-78014, filed January 23, 1979. Transferee: PETTER ALAN PURKEY AND JANE MITCHELL McNAIR, a partnership, GRAYPORT TRANSFER AND STORAGE CO., Unit No. 2 Bldg., A

port warehouse, Hoquiam, WA 98550. Transferor: Grayport Transfer & Storage Co., Inc., P.O. Box E, 500 South Alder St., Aberdeen, WA 98520. Representatives: George Kargianis, Attorney at Law, 2120 Pacific Building, Third Avenue & Columbia Street, Seattle, WA 98104. Authority sought to purchase by transferee portion of the operating rights of transferor as set forth in Certificate No. MC–81495 (Sub-No. 1), issued April 11, 1966, as follows: Household goods, as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between Aberdeen, WA, and points in Grays Harbor County, WA, on the one hand, and, on the other, points in Oregon. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC–FC–78017, filed January 25, 1979. Transferee: HAROLD L. CHEW, doing business as ILLINOIS FILM SERVICE, Route 5, Carbondale, IL 62901. Transferor: J. R. McGINNIS, doing business as ILLINOIS FILM SERVICE, 1405 Old West Main, Carbondale, Il 62901. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., 411 North 7th St., St. Louis, MO 63101. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 2332, issued January 31, 1979, as follows: *Motion picture films, theatre supplies, and advertising matter*, between St. Louis, MO, on the one hand, and, on the other, specified points in Illinois and Missouri; and *newspapers, periodicals, films and materials, supplies and equipment* used in the operation of motion-picture theatres, between St. Louis, MO, on the one hand, and, on the other, points in a specified portion of Illinois. Transferee holds no authority from the Commission. Application has not been filed for temporary authority.

MC–FC–78018, filed January 31, 1979. Transferee: SCARI'S DELIVERY SERVICE, INC., Arnold Ave. and Skeet Road, Wilmington, DE 19720. Transferor: JAMES C. KINDBEITER, Jr., doing business as DELAWARE MOTOR FREIGHT, 1800 Ogletown Road, Newark, DE 19711. Representative: Albert F. Beitel, 1625 I St., N.W., Suite 400, Washington, DC 20006. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 120609 Sub 2, issued December 9, 1969, as follows: *general commodities* with the usual exceptions, between points in that part of Delaware bounded on the east by the Delaware River, on the north by the Delaware-Pennsylvania State line, on the west by the Delaware-Maryland State line, and on the south by the Chesapeake and Delaware Canal. Transferee holds authority from the Commission under docket No. MC 115955. An application for temporary authority has not been filed.

MC–FC–78019, filed January 30, 1979. Transferee: TOK DISTRIBUTING SERVICE, INC., P.O. Box 501, Anchorage, AK 99510. Transferor: WILLIAM A. HOOD, JOHN W. HOOD, AND RICHARD HOOD, doing business as HOOD & SONS, P.O. Box 1087, Palmer, AK 99645. Representative: George L. Benesch, 213 W. 6th Ave., Suite No. 1, Anchorage, AK 99501. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 119723 Sub 1, issued May 15, 1963, as follows: *general commodities* with exceptions, between points in Valdez, AK; and between Veldez, AK, on the one hand, and, on the other, specified portions of Alaska. Transferee holds authority in Certificate No. MC 118534 Sub 2. No application for temporary authority has been filed.

MC–FC–78020, filed January 30, 1979. Transferee: JET TRANSFER CORP., East Road, North Clarendon, VT 05759. Transferor: RONALD A. HESS d.b.a., EQUINOX MOTORS, Route 7, P.O. Box 414, Manchester, VT 05254. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought for purchase by Jet Transfer Corp. of the operating rights of Ronald A. Hess d.b.a. Equinox Motors. Operating rights sought to be purchased: Gasoline, kerosene, heating oils, fuel oils, and aviation fuel, from Albany, Fort Ann and Rensselaer, NY to points in VT and NH. The rights are contained in Permit No. MC 142741 Sub 2, issued February 16, 1978. The operations authorized therein are under a continuing contract, or contracts, with Johnson's Fuel Service, Inc. of Manchester Center, VT. Vendee presently holds no authority from the Commission. Application has been filed for Temporary Authority under Section 210(a)(b).

MC–FC–78021, filed January 30, 1979. Transferee: GOODWILL MOVING & STORAGE, INC., 1619 East 95th Street, Brooklyn, NY 11236. Transferor: A.J.N. EXPRESS SERVICE, INC., 1311 Washington Avenue, West Islip, NY 11795. Representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. Authority sought for purchase by transferee of operating rights set forth in Certificate MC 103827, issued November 8, 1977, as follows: Household goods, as defined by the Commission, Between New York, NY, and points in Suffolk County, NY, on the one hand, and, on the other, Washington, DC, Alexandria, VA, points in CT, DE, MD, MA, NJ, NY and RI, and points in Pennsylvania on and east of specified highways. Transferee is a non-carrier. Application is filed simultaneously for temporary lease under Section 210(a)(b).

MC–FC–78022, filed January 8, 1979. Transferee: DOMAN MARPOLE TRANSPORT LIMITED, Duncan Financial Centre, Duncan, British Columbia, Canada. Transferor: DAVINDER FREIGHTWAYS LIMITED (same as transferee). Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. Authority sought for purchase by transferee of the operating rights of transferor in Certificates Nos. MC 134060 Subs 1, 5, 7, 11, 15, 17, and 19, issued November 17, 1970, August 27, 1971, October 25, 1972, June 24, 1975, July 11, 1977, October 30, 1978, and January 27, 1978, as follows: Sub 1: Lumber, between ports of entry on the United States-Canada Boundary line, located in Washington, on the one hand, and, on the other, points in those parts of Washington and Oregon on and west of U.S. Highway 97, restricted to traffic originating at or destined to points in Vancouver Island, British Columbia, Canada; Sub 5: Wood bark fiber extenders, in containers, from Longview and Anacortes, WA, to ports of entry on the United States-Canada Boundary line located at or near Blaine, Lynden, Sumas, and Seattle, WA; Sub 7: Sodium chlorate, in bulk, in tank vehicles, from the port of entry on the United States-Canada Boundary line at or near Blaine, WA, to Everett, WA; Sub 11: baled wood pulp, from the ports of entry on the United States-Canada Boundary line at or near Blaine and Sumas, WA, to Everett, WA; Sub 15: clay brick, clay tile, and clay pipe (except commodities the transportation of which because of size or weight require the use of special equipment), from Seattle and Tacoma, WA, to ports of entry on the United States-Canada Boundary line located at or near Blaine, WA, restricted to the transportation of traffic moving to Vancouver Island, British Columbia, Canada; Sub 17: Waste paper, from points in that part of Oregon and Washington on and west of U.S. Highway 97 to the ports of entry on the United States-Canada Boundary line located at or near Blaine and Sumas, WA; Sub 19: liquid sodium chlorate, in bulk, in tank vehicles, from the port of entry on the United States-Canada Boundary line at or near Blaine, WA, to Bellingham, WA. Transferee holds no authority from the Commission. Application for temporary authority has not been filed.

MC–FC–78023, filed January 12, 1979. Transferee: BRANT TRANSPORTATION, INC., 38 Tower Avenue, South Weymouth, Massachusetts 02190. Transferor: MIKE KRASILOUSKY TRUCKING & MILLWRIGHT CO., INC., 1301 Metropolitan Avenue, Brooklyn, New York 11237. Applicants' representatives: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, Massachusetts 02181 and Piken & Piken, One Lefrak City Plaza, Flushing, New York 11368. Authority sought by Transferee for the partial purchase of operating rights of Transferor set forth in Certificate No. 30871, issued November 14, 1973, as follows: *Heavy Machinery*, between points in Connecticut, Massachusetts and Rhode Island. Transferee presently holds no authority from the Commission. Application has not been filed for temporary authority.

MF–FC–78024, filed February 2, 1979. Transferee: BAB TRANSFER, INC., Clinton St. Extention, Springfield, MA 01104. Transferor: Northways, Incorporated, (Kearons J. Whalen, III, Trustee in Bankruptcy), 31 Wendell Ave., Pittsfield, MA. Representative: David M. Marshall, 101 State St.—Suite 304, Springfield MA 01103. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate MC–72758 issued November 8, 1971, as follows: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Monroe Bridge, MA and Readsboro, VT, on the one hand, and, on the other, Albany, NY and points in MA. *Paper, paper products, and materials, equipment and supplies* used in the manufacture of paper and paper products, between Monroe Bridge, MA, on the one hand, and, on the other, Bennington, VT, Elizabeth, Bloomfield, and Hoboken, NJ, points in CT, and points in that part of NY east of a line begining at the United States-Canada Boundary line and extending along NY Hwy 374 to Chateaugay, then along a line from Chateaugay through Amsterdam and Middletown, NY, to the NY–NJ State line at a point near Greenwood Lake, NY. Transferee presently holds authority from the Commission in Certificate of Registration MC–87679 (Sub-No. 1).

Application has not been filed for temporary authority under 49 U.S.C. § 11349 (formerly section 210a(b) of the Interstate Commerce Act).

MC–FC–78025, filed February 2, 1979. Applicant: HAROLD DEAN HEATH, d.b.a. BOB 's LIBERTY TRUCK LINE, 1108 Cordell, Excelsior Springs, MO 64024. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Authority sought for purchase by Harold Dean Heath, d.b.a Bob's Liberty Truck Line, of a portion of the operating rights of H. H. Sperbeck, and individual d.b.a Pleasant Hill Transfer, P. O. Box 206, Pleasant Hill, Missouri 64080. The involved rights were issued October 1, 1975. Operating rights sought to be transferred are contained in MC 59703 Sub 2 as follows: General Commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Kansas City, Missouri and Liberty, Missouri. Transferee is a non-carrier. Application for temporary authority has not been filed

No. MC–FC–78026, filed February 7, 1979. Transferee: CARGO DISTRIBUTION, INC., 1300 Newark Turnpike, Kearny, NJ 07032. Transferor: Passaic Terminal and Transportation Co., Inc., 800 Bloomfield Ave., Clifton, NJ 07012. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 22829, issued September 15, 1942, as follows: *general commondities*, with exceptions, over irregular routes, between Passaic, NJ, and points in New Jersey within 30 miles of Passaic on the one hand, and, on the other, New York, NY, and points in Bergen, Passaic, Mofris, Somerset, Middlesex, Union, Essex, and Hudson Counties, NJ. Transferee holds no authority from the Commission. Application has not been filed for temporary authority.

MC–FC–78027, filed February 5, 1979. Transferee: PAUL STRASSER, Box 191B, R. R. 1, Almena, WI 54805. Transferor: Walter Strasser, R. R. 2, Turtle Lake, WI 54889. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates MC–88563 and MC–88563 (Sub-No. 3), issued September 8, 1966, and December 2, 1964, respectively, as follows: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Minneapolis, MN, to Almena, Cumberland, Crystal Lake, Prairie Farm, Turtle Lake, Arland and Maple Grove (Barron County), WI, and Beaver and Clayton (Polk County), WI. *Wood*, from Turtle Lake, WI and points within 10 miles of Turtle Lake, to Minneapolis, MN. *Firewood*, from Prairie Farm, Vance Creek, and Crystal Lake Townships (Barron County), WI, to Minneapolis, MN. *Feed, seed, salt, and farm machinery*, from Minneapolis, MN, to Turtle Lake, WI and points within 10 miles of Turtle Lake. *Farm machinery and Feed*, from Minneapolis, MN, to Prairie Farm, Vance Creek, and Crystall Lake Townships (Barron County), WI. *Household goods* as defined by the Commission, *twine, and grain*, from Minneapolis, MN, to Almena, Crystal Lake, Arland, Vance Creek, Turtle Lake, and Prairie Farm Townships (Barron County), WI and Beaver and Clayton Townships, (Polk County), WI. *Livestock*, (a) from Almena, Clinton, Barron, Cumberland, Crystal Lake, Prairie Farm, Turtle Lake, Arland and Maple Grove (Barron County), WI and Beaver and Clayton (Polk County), WI, to Minneapolis, MN; (b) Between Prairie Farm, Vance Creek and Crystal Lake Townships (Barron County), WI, Turtle Lake, WI and points within 10 miles of Turtle Lake, on the one hand, and, on the other, South St. Paul, MN; and (c) Between Almena, Arland, Turtle Lake, and Clinton (Barron County), WI, and Beaver and Clayton Townships (Polk County), WI, on the one hand, and, on the other, South St. Paul, MN. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. § 11349.

MC–FC–78028, filed February 2, 1979. Transferee: HERITAGE TRANSPORTATION COMPANY, a Corporation, 3848 Carson Street—Suite 310, Torrance, Ca 90503. Transferor: Penn-Pacific, Inc., 20615 Currier Road, Walnut, CA 91789. Representative: William J. Monheim, P.O. BOX 1756, Whittier, CA 90609. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate MC 143060, issued January 17, 1978, as follows: (1) *Bananas*, and (2) *agricultural commodities* exempt from economic regulation under Section 203(b)(6) of the Act, when transported in mixed loads with bananas, from points in (a) Maricopa, Mohave, Pima, Pinal, Santa Cruz, and Yuma Counties, AZ, (b) that part of California in and south of Sonoma, Lake Colusa, Butte, Yuba, and Sierra Counties (except points in Inyo and Mono Counties), and (c) Nevada, to

ports of entry on the United States-Canada Boundary line in that part of Idaho, Montana, and North Dakota, and points in Washington east of U.S. Highway 97. Transferee presently holds no authority from the Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-78030, filed February 2, 1979. Transferee: BROWN & SONS, INC., P.O. Box 55, Gratis, OH 45330. Transferor: Weber Trucking Co., a Corporation, 1061 Township St., Cincinnati, OH 45225. Representative: Lewis S. Witherspoon, Suite 1940, 88 E. Broad St., Columbus, OH 43215. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC-128657, issued November 18, 1971, as follows: *Scrap metal,* in dump vehicles, between points in OH, IN, KY, WV, MI, and PA, under continuing contract(s) with The David J. Joseph Co., of Cincinnati, OH. Transferee presently holds authority from this Commission under Permit MC-144211. Application has been filed for temporary authority under 49 U.S.C. § 11349.

MC-FC-78031, filed February 14, 1979. Transferee: PARK MOVING & STORAGE CO., INC., 1537 S. Philadelphia Blvd., Aberdeen, MD 21001. Transferor: Kent Freight Lines, Inc., 304 Stockhams Lane, Aberdeen, MD 21001. Representative: Wm. E. Derbyshire, P.O. Box 866, Aberdeen, MD 21001. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate MC-49117, issued October 8, 1975, as follows: *Household goods,* as defined by the Commission, between points in Baltimore, Cecil, and Harford Counties, MD, on the one hand, and, on the other, points in MD, PA, NY, NJ, DE, VA, WV, and DC. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. § 11349.

MC-FC-78032, filed February 14, 1979. Transferee: SHORE AIR FREIGHT SERVICE, INC., P.O. Box 18302, BWI Airport, MD 21240. Transferor: Mid-Atlantic Air Freight, Inc., 1825 K. St. NW., Washington, DC 20006. Representative: Marshall Kragen, 1835 K. St. NW—Suite 600, Washington, DC 20006. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate MC-134296, issued July 29, 1974, as follows: *General commodities* (except classes A and B explosives, commodities in bulk, and those requiring special equipment), between the Friendship International Airport, near Glen Burnie, MD, on the one hand, and, on the other, points in Somerset, Worchester, Wicomico, Dorchester, Talbot, Caroline, Queen Annes, Kent, Cecil, St. Marys, Charles, Calvert, and Anne Arundel Counties, MD, restricted to the transportation of traffic having a prior or subsequent movement by air, and, restricted against the transportation of traffic originating at Friendship International Airport, Washington National Airport, and Dulles International Airport, and terminating at another of such named airports. Transferee presently holds no authority from this Commission. Application has not be filed for temporary authority under 49 U.S.C. § 11349.

MC-FC-78033, filing date, February 12, 1979. Transferee: CONLAN TRUCK LINES, INC., 11400 West Abbott Avenue, Hales Cormers, WI 53130. Transferor: Star Line Trucking Corporation, 18460 West Lincoln Avenue, New Berlin, WI 53151. Representative: Richard A. Westley, 4506 Regent Street, Madison, WI 53705. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC-124383 (Sub. No. 12) issued November 12, 1975, as follows: Laundry care products, home care products, beauty care toiletry products, stainless steel cookware, cutlery and food supplements (except commodities in bulk), from the facilities of Amway Corporation located at or near Ada, MI to points in IA, WI, MN, and the Upper Peninsula of MI. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-78034, filed February 9, 1979. Transferee: THE OHIO RIVER TRUCKING COMPANY, 1020 Second National Bank Bldg., Ashland, KY 41101. Transferor: LAWRENCE MCKENZIE, d.b.a. MCKENZIE TRUCKING SERVICE, Winchester, KY 40391. Representative: William P. Emrick, P.O. Box 1554, Ashland, KY 41101. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificates Nos. MC-118611 Subs 4, 7, 9, 11, issued October 1, 1976, April 24, 1978, December 28, 1978, and November 6, 1978, respectively, as follows: Sub 4: *Scrap metal,* in dump vehicles, between the facilities of (a) Mansbach Metal Company, and (b) Kentucky Electric Steel Company, located at or near Ashland, KY, on the one hand, and, on the other, points in Franklin, Greene, Hamilton, Montgomery, Ross and Scioto Counties, OH, Cabell County, WV, and Wayne County, IN; Sub 7: *Scrap metal,* in dump vehicles, from points in Kanawha, Putnam and Wood Counties, WV, to the facilities of Kentucky Electric Steel Company and Mansbach Metal Company at or near Ashland, KY; Sub 9: *Scrap metal,* in dump vehicles, from Lexington, KY, to Ironton, OH; and Sub 11: *Scrap metal,* in dump vehicles, between points in Gallia and Jackson Counties, OH, on the one hand, and, on the other, the facilities of Kentucky Electric Steel Company and Mansbach Metal Company, at or near Ashland, KY; and from Ironton, OH, to the facilities of Kentucky Electric Steel Company, located at or near Ashland, KY. Transferee holds no authority from the Commission. No application for temporary authority has been filed.

MC-FC-78036, filed February 16, 1979. Transferee: WILCO GARMENT DELIVERY CO. INC., 2708 Summit Ave., Union City, NJ 07087. Transferor: WILLIAM LUSTBERG, d.b.a. WILCO GARMET DELIVERY, (Miriam Lustberg, Elecutrix) (Same address as transferee). Representative: Richard E. Sands, 450 Seventh Ave., New York, NY 10001. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificates Nos. MC-117190 Subs 2 and 4, issued May 14, 1968, and March 6, 1969, as follows: Sub 2: *Wearing apparel, and materials and supplies* used in the manufacture of wearing apparel, between New York, NY, on the one hand, and on the other, points in Dutchess County, NY; and Sub 4: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel, between Union City, NJ, on the one hand, and, on the other, Suffern and Middletown, NY; between New York, NY, and points in Bergen, Essex, and Hudson Counties, NJ, on the one hand, and, on the other, points in Greene, Orange, Sullivan, and Ulster Counties, NY; and between Kingston, NY, on the one hand, and, on the other, points in Bergen, Essex, and Hudson Counties, NJ. Transferee holds no authority from the Commission. Application for temporary authority has not been filed.

MC-FC-78037, filed February 26, 1979. Transferee: KAY LEASE SERVICE, INC., 443 Liberty Road, P. O. Box EE, Natchez, MS 39120. Transferor: J. C. BOWMAN TRUCKING COMPANY, Highway 61 North, P.O. Box 824, Natchez, MS 39120. Representatives: Joseph S. Zuccaro, P.O. Box 1047, Natchez, MS 39120. John A. Crawford, P.O. Box 22567, Jackson, MS 39205. Authority sought for purchase by transferee of the operating rights of

transferor set forth in Certificate No. MC 50242 Sub 1, issued June 18, 1973, authorizing *oilfield equipment, materials, and supplies,* between points in Louisiana and Mississippi; *trees,* between points in Mississippi, on the one hand, and, on the other, New Orleans, LA, and points in Louisiana within 10 miles of New Orleans; and *boats,* between points in Louisiana and Mississippi. Transferee holds no authority from the Commission. Application has been filed for temporary authority.

MC-FC-78038, filed February 21, 1979. Transferee: CARTAGE SERVICE, INC., 2437 East 14th St., Los Angeles, CA 90021. Transferor: LOS ANGELES CITY EXPRESS, INC. (Irving Sulmeyer, Trustee-in-Bankruptcy), 615 South Flower St., Los Angeles, CA 90017. Representative: Miles L. Kavaller, Suite 315, 315 South Beverly Drive, Beverly Hills, CA 90212. Authority sought for purchase by transferee of the operating rights of transferor in Certificate of Registration No. MC 97977 Sub 4, issued June 7, 1973, as follows: *General commodities* with exceptions, between named points in California. Transferee holds no authority from the Commission. Application for temporary authority has not been filed.

MC-FC-78039, filed February 16, 1979. Transferee: SCHIERDING TRUCKING CO., 3690 West Clay, St. Charles, MO 63301. Transferor: EUGENE J. and THOMAS E. GLOSIER, a partnership d.b.a. GLOSIER SERVICE CO., P.O Box 338, St. Charles, MO 63301. Representative: James E. Schierding (same as transferee). Authority sought for purchase by transferee of the operating rights of transferor in Permits Nos. MC 126758 Subs 6 and 8, issued October 25, 1974, as follows: *Malt beverages,* from Belleville, IL, to Memphis, TN, under contract with A. S. Barboro, Inc., and *malt beverages,* from Memphis, TN, to St. Charles, MO, under contract with R. C. Fischer and Son Distributing Company. Transferee holds authority in No. MC 142382 Sub 2. No temporary authority application has been filed.

MC-FC-78041, filed February 22, 1979. Transferee: ROBERT D. COSTA, d.b.a. CORLISS TOURS, 696 W. Foothill Blvd., Monrovia, CA 91016. Transferor: PACIFIC PALISADES EDUCATIONAL TOURS, a Corporation, d.b.a. TEENTOURS, P.O. Box 3372, Santa Monica, CA 90403. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in License No. MC-12788, issued June 18, 1962, as follows: Operations as a *broker* at Pacific Palisades, CA, in arranging for the transportation by motor vehicle, of passengers and their baggage, in special and charter operations, in all-expense round-trip tours, beginning and ending at points in Los Angeles County, CA, and extending to points in the United States (except AK and HI). By a concurrently filed petition, transferee seeks to change the location of broker operations from Pacific Palisades, CA to Monrovia, CA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. § 11349.

MC-FC-78042, filed February 16, 1979. Applicant: OHIO VALLEY TRANSPORTATION, INC., 6121 Station B, Evansville, IN 47712. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Authority sought for a purchase by Ohio Valley Transportation, Inc., of a portion of the operating rights of Lemmons & Co., a Bankrupt Corporation, 535 South Second Street, Booneville, Indiana 47601. Operating rights sought to be purchased: MC 138128, Sub 2—*Coal,* from points in Jefferson and Saline Counties, IL to points in Warrick and Vanderburgh Counties, IN, *Sand and gravel,* from points in White County, IL to points in Warrick County, IN, issued May 13, 1974. MC 138128, Sub 7—*Coal,* from points in Williamson County, IL to points in Vanderburgh and Warrick Counties, IN, issued July 12, 1976. Trustee in bankruptcy for transferor is Frank J. Folz. Transferee holds no ICC authority, and application for temporary authority has not been filed.

MC-FC 78043, filed February 26, 1979. Transferor: CHARLES W. TANNER, d.b.a. TANNER TRUCK LINE, F.F.D. 2, P.O. Box 310, Wamego, KS 66547. Transferee: MEINHARDT FARM EQUIPMENT INC., U.S. Highway 24, Wamego, KS 66547. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603. Authority sought for purchase by transferee of operating rights of transferor as set forth in certificate MC-36443 issued August 8, 1974 as follows: Over regular routes, *livestock* from 12 mile radius of Alma, KS to Kansas City, MO and Kansas City, KS; *livestock, mill feeds, machinery, coal, lunber, asphalt shingles* and *tanks* from Kansas City MO—Kansas City, KS to all points in above radius. Irregular routes, *livestock, seeds feeds, building and fencing materials, agricultural implements and parts, binder twine, windmills and parts, iron and steel tanks, baling wire, petroleum products, in containers and containers for petroleum products,* between Alma, KS and points within 15 miles, on the one hand and on the other, Kansas City and North Kansas City, MO and Kansas City, KS. The above commodities plus *fertilizers, home appliances, tires, tubes and batteries* between Alma KS and points within 20 miles except Manhattan, KS on the one hand and on the other, St. Joseph, MO, Kansas City, MO and Kansas City, KS; *livestock, agricultural commodities, wool, agricultural implements and parts thereof, and empty containers* from Wamego, KS and points within 15 miles thereof to Kansas City, KS and Kansas City and North Kansas City, MO: *general commodities* with usual exception from Kansas City, KS and Kansas City and North Kansas City, MO to points in the above specified Kansas territory, including Wamego, KS; *livestock and agricultural commodities* from points in the above specified Kansas territory, including Wamego, KS to St. Joseph, MO; *livestock and feed* from St. Joseph, MO to points in the above specified Kansas territory, including Wamego, KS; *wool* from above specified Kansas territory, including Wamego, KS to Lincoln, NE, and *grain* from Lincoln, NE and points within 10 miles thereof to points in above described Kansas territory, including Wamego, KS. Transferee presently holds no authority from this Commission. Application for temporary authority under Section 210(a)(b) has not been filed.

MC-FC-78044 filed February 23, 1979. Transferee: LARRY SCHEFUS TRUCKING, INC., Route 1, Box 202, Redwood Falls MN 56283. Transferor: C & D LEASING, INC., Fairfax, MN 55332. Representative: Larry Schefus, Route 1, Box 202, Redwood Falls, MN 56283. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 140276 Sub 2, issued December 15, 1975, as follows: *Pre-cut, prefabricated buildings and accessories* for pre-cut, prefabricated buildings, over irregular routes, from Morton and Redwood Falls, MN, to points in IL, IA, KS, MO, MT, NE, ND, SD, and WI. Transferee holds no authority from te Commission. Application for temporary authority has not been filed.

MC-FC-78045 filed February 26, 1979. Transferee: TERRY SKALBERG, d.b.a. TERRY SKALBERG TRUCKING, Route 3, Red Oak, IA 51566. Transferor: Luverne Marcusson, 600 Reed Street, Red Oak, IA 51566. Applicant's

representative: Rian Ridenour, P.O. Box 82028, Lincoln, NE 68501. Authority sought for purchase of the operating rights of transferor as set forth in Permits MC–123025 [Sub–No. 1 and Sub–No. 4), issued *July 30, 1971* and *October 2, 1973*, respectively as follows: *Sand, gravel, dirt, rocks*, and *crushed limestone*, in dump vehicles, over irregular routes between points in NE and IA, (except points on and west of Interstate Highway 29, located in Pottawattamie, Mills, and Fremont Couties, IA); *Sand, gravel, dirt, rock*, and *crushed limestone*, in dump trucks, over irregular routes between points in IA (except Muscatine), MO (except Sequiota), and KS [except Bomer Springs]. The service authorized in MC–123025, Sub–No. 1 is subject to the following conditions: Carrier shall maintain a completely separate accounting system for his private and for-hire operations; and carrier shall not at the same time and in the same vehicle transport property both as a private carrier and as a carrier for-hire. Application has not been filed for temporary authority under section 210(b). Transferee holds no authority from the Commission.

MC–FC–78047, filed February 26, 1979. Transferee: PROFIT INVESTMENT CORPORATION, INC., doing business as PICI, 11500 Stemmons Freeway, #Suite 185, Dallas, TX 75229. Transferor: JAMES S. HELWIG and ALLEN L. GRIMLAND, doing business as H & G LEASING, 2509 Inwood Rd., Dallas, TX 75235. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Ft. Worth, TX 76112. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Permit MC–143480, issued September 21, 1978, as follows: *Such merchandise* as is dealt in or used by wholesale and retail gift item stores, from points in MA, CT, NY, PA, NJ, and MD, to the facilities of Tuesday Morning, Incorporated, at Addison, TX; and from the facilities of Tuesday Morning, Incorporated, at Addison, TX, to the facilities of Tuesday Morning, Incorporated, at Memphis, TN, Atlanta, GA, and Washington, DC, under continuing contract(s) with Tuesday Morning, Incorporated, of Addison, Tx. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. § 11349.

MC–FC–78048, filed February 21, 1979. Transferee: DELANEY BUS LINES, LIMITED, R.R. 1, Avonmore, Ontario, Canada K0C 1C0. Transferor: Allan J. McDonald, Limited, 1062 Jane St., Cornwall, Ontario, Canada K6J 1X7. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate MC–138829, issued March 28, 1974, as follows: *Passengers and their baggage*, in charter operations, from ports of entry on the United States-Canada Boundary line, in NY and MI, to points in that part of the United States in and east of WI, IL, KY, TN, and MS, and return, restricted to the transportation of passengers originating at Cornwell, Ingleside, Long Sault, and St. Andrews, Ontario, Canada. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. § 11349.

MC–FC–78049, filed February 26, 1979. Transferee: PONY EXPRESS HORSE TRANSPORTATION, INC., 232 S. Cleveland St., Oceanside, CA 92054. Transferor: Van Champ Horse Van Service, Inc., 150 S. River St., Seattle, WA 98108. Representative: V. Van Dyke, 150 S. River St., Seattle, WA 98108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificates MC–119246 (Sub-Nos. 1 and 8), issued March 11, 1971, and July 10, 1972, respectively, as follows: *Horses*, other than ordinary, and in the same vehicle with such horses, *stable supplies and equipment* used in their care, *mascots*, and the *personal effects* of attendants, (a) between points in Spokane and Whitman Counties, WA, on the one hand, and, on the other, points in ID, MT, and OR; (b) between points in WA, on the one hand, and, on the other, points in CA and AZ; (c) between points in ID, on the one hand, and, on the other, points in OR and WA (except points in Spokane and Whitman Counties, WA); (d) between points in WA (except those in Spokane and Whitman Counties), on the one hand, and, on the other, points in OR; (e) between points in OR, on the one hand, and, on the other, points in CA. *Horses*, other than ordinary horses, and, in the same vehicle therewith, *mascots, personal effects of attendants*, and *supplies and equipment* used in the care of such horses, between Townsend, MT, the site of the Les Turner ranch near Quincy, WA, and points in Spokane and King Counties, WA, on the one hand, and, on the other, points in Fayette County, KY. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. § 11349.

MC–FC–78051 filed February 26, 1979. Transferee: AARON SMITH TRUCKING COMPANY, INC., P.O. Box 153, Dudley, NC 28333. Transferor: George Foster, Kenly, NC 27542. Representative: John N. Fountain, P.O. Box 2246, Raleigh, NC 27602. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC–124916, issued November 6, 1963, as follows: *fertilizer*, in bags, from Norfolk and Portmouth, VA, to points in North Carolina on and east of U.S. Highway 15 (except Durham, NC). Transferee holds authority from the Commission in dockets Nos. MC 143510 and MC 126139. Application for temporary authority has not been filed.

MC–FC–78052 filed February 21, 1979. Transferee: CLAVIN'S EXPRESS, INC., 3 Florence Street, Riverside, RI 02895. Transferor: J. N. Muldoon Co., 133 Oliver Street, Boston, MA 02110. Representatives: John F. O'Donnell, 60 Adams Street, P.O. Box 238, Milton, MA 02187; Francis E. Barrett, jr., 19 Industrial Park Road, Hingham, MA 02043. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC–29802 issued July 26, 1955 as follows: Incandescent lamps from Boston, MA to Providence, RI; oil, in containers, from Boston, MA to New Haven, CT and Manchester, NH; machinery, hardware, office supplies and desks from Boston, MA to Hartford and New London, CT, Manchester and Nashua, NH, E. Greenwich, RI and New York, NY; fire escapes and parts, partitions, body wood, iron and screws from Boston, MA to Providence, RI; steamfitters tools and supplies from Boston, MA to Concord and Manchester, NH; hides, from Boston, MA to Nashua, NH; general commodites, except those of unusual value, Class A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, between Boston, MA and Providence, R.I. Transferee operates as a docket No. MC–78175. Application has been filed for temporary authority under section 210a(b).

MC–FC–78056, filed February 16, 1979. Transferee: EMERICK TRUCKING, INC., 4 Kennedy St., Uxbridge, MA 01569. Transferor: Gringeri Bros. Transportation Co., Inc. (M. G. Sherman, trustee in bankruptcy), 18 Tremont St., Boston, MA 02108. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought for purchase by transferee of portions of the operating rights of transferor, as set forth in Certificates No. MC–117758 and MC–117758 (Sub-No. 4), issued February 18, 1969, and October 24, 1975, respectively, as follows: *Frozen blueberries*, from Gloucester, MA, to New York, NY. *Uncrated new furniture*, from Boston, MA, to points in NJ and NY. *Furniture, frames and springs*, and *damaged or rejected shipments* of uncrated new furniture, from points in NJ and NY, to Boston, MA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. § 11349 (formerly section 210a(b) of the Interstate Commerce Act).

Finance Docket No. 28960F, filed February 28, 1979. Transferee: CALIFORNIA RICE TRANSPORT, INC., P.O. Box 958, Sacramento, CA 95804. Transferor: Bulk Food Carriers, Inc., 425 California St., San Francisco, CA 94104. Representative: J. Raymond Clark, Suite 1150, 600 New Hampshire Ave. NW., Washington, DC 20037. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate W–1278 (Sub–No. 4), issued May 8, 1978, as follows: *Commodities* generally (except articles exceeding 19 feet in height, or 12 feet in width, or 90 feet in length or 100 net tons in weight), by self-propelled vessel and/or tug and barge service, (A) between ports and points on the Atlantic coast and its tributary waterways, on the one hand, and, on the other, ports and points on the Pacific coast and its tributary waterways; and (b) between ports and points on the Pacific Coast and its tributary waterways, on the one hand, and, on the other, ports and points on the Gulf Coast and its tributary waterways, restricted in (A) and (B) above, against (1) service to or from ports and points (a) on the Columbia River above or beyond The Dalles OR, (b) on the Mississippi River above or beyond Baton Rouge, LA, (c) on the Warrior Tombigbee River System above or beyond Mobile, AL, (d) on the Great Lakes, and (e) on the New York State Canal System, (2) operations via the Gulf Intracoastal Waterway, and (3) the transportation between ports and points on the Atlantic Coast, on the one hand, and, on the other, ports and points on the Pacific Coast of shipments (a) in or on containers or trailers, and (b) weighing less than 3,000 tons. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. § 11349.

[Notice No. 67]

[FR Doc. 79-13830 Filed 5-3-79; 8:45 am]

BILLING CODE 7035-01-M

Petitions, Applications, Finance Matters (including Temporary Authorities), Alternate Route Deviations and Intrastate Applications; Republication Pursuant to Court Remand to the Interstate Commerce Commission

MC 18068 (Sub-56) (3d Republication), filed December 3, 1973, published in the Federal Register issues of April 11, 1974, October 17, 1975, and April 9, 1979, and republished this issue. The republication in the issue of April 9, 1979 is revoked and superseded in its entirety by this republication. Applicant: FLOYD & BEASLEY TRANSFER CO., INC., P.O. Drawer 8, Sycamore, AL 35149. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., NW., Washington, DC 20036. Following a partial grant by Joint Board No. 14 sustained by Decision and Order of the Commission, Division 1, dated October 12, 1977, the United States Court of Appeals for the Fifth Circuit in *North Alabama Express, Inc., et al.* v. *United States et al.*, 585 F. 2d 783, stayed the Commission's Order and remanded the proceedings to the Commission for republication in the Federal Register to include explicit notice of Applicant's intention to tack the authority sought to authority already held. By decision of the Commission of February 14, 1979 the proceeding was reopened for further consideration, further notice in the Federal Register was ordered, including information respecting tacking and affording interested persons 30 days from publication for protest. The portion of the authority sought which was granted by the Decision and Order of the Commission, Division 1, dated October 12, 1977 (the authority which applicant now seeks) is as follows: operation in interstate of foreign commerce, as a *common carrier* by motor vehicle, over regular routes, of *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) between Pell City and Hamilton, AL: from Pell City over U.S. Hwy 78 to Hamilton, AL, and return over the same route, serving the off-route points of Birmingham, AL, the facilities of Winfield Cotton Mills at or near Winfield, AL, and the facilities of Fayette Cotton Mills at or near Fayette, AL; (2) between Pell City, AL, and junction Alternate U.S. Hwy 72 and U.S. Hwy 72 at or near Tuscumbia, AL: from Pell City over U.S. Hwy 231 to junction AL Hwy 67, then over AL Hwy 67 to junction Alternate U.S. Hwy 72, then over Alternate U.S. Hwy 72 to junction U.S. Hwy 72 at or near Tuscumbia, AL, and return over the same route, serving points in Coosa and Clay Counties, AL as off-route points; (3) between Pell City and Centreville, AL: from Pell City over U.S. Hwy 231 to Harpersville, AL, and then over AL Hwy 25 to Centreville, AL, and return over the same route, serving Vincent, AL, as an intermediate point for purpose of joinder only, and the plant site and warehouse facilities of Aliceville Cotton Mills at or near Aliceville, AL, as off-route points; (4) between Pell City and Cuba, AL: from Pell City over U.S. Hwy 231 to Rockford, AL, then over AL Hwy 22 to Selma, AL, then over U.S. Hwy 80 to Cuba, AL, and return over the same route, serving all intermediate points in AL.

Note.—The purpose of this republication is to give notice of Applicant's intention to tack the sought authority with existing authority (including irregular route authority) at points in East Central Alabama to provide service between points in AL, GA, SC, and TN. An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before June 4, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named. All material previously submitted by the parties to this proceeding will remain a part of the record and will be considered by the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-13829 Filed 5-3-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 88
Friday, May 4, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., May 8, 1979.

PLACE: 2033 K Street, NW., Washington, D.C., sixth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Foreign Brokers and Traders/Proposed Rules Requiring Foreign Brokers and Traders to Designate an Agent in the United States to Receive Service of Communications issued by the Commission.

1.35(g)/Summary of Comments.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–872–79 Filed 5–2–79; 10:42 pm]

BILLING CODE 6351–01–M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m., May 8, 1979.

PLACE: 2033 K Street, NW., Washington, D.C., Fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matter/Proposed order designating persons to issue subpoenas and take testimony in private investigation.

Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–873–79 Filed 5–2–79; 10:42 am]

BILLING CODE 6351–01–M

3

May 2, 1979.

COUNCIL ON ENVIRONMENTAL QUALITY.

TIME AND DATE: 11:30 a.m. May 10, 1979.

PLACE: Conference room, 722 Jackson Place, N.W.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Old business.
2. Briefing on GAO report: "Environmental Protection Issues Facing the Nation."
3. Briefing on Status of Agency NEFA Implementing Procedures.
4. Briefing on Annual Report.

CONTACT PERSON FOR MORE INFORMATION: Foster Knight, 395–4616.

[S–870–79 Filed 5–2–79; 1:43 pm]

BILLING CODE 3125–01–M

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, May 8, 1979.

PLACE: Commission conference room, No. 6240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part with be closed to the public.

MATTERS TO BE CONSIDERED.

Open to the public

1. Proposed Revisions of EEOC Compliance manual section 9, concerning Providing Copies of Charges of Discrimination to Respondents Headquarters Offices.
2. Proposed Revisions of Regulations Governing EEOC Employees' Responsibilities and Conduct.
3. Report on Lawyers' Review of "No Cause" Determinations.
4. Report on Commission Operations by the Executive Director.

Closed to the public

1. Litigation Authorization; General Counsel Recommendations.
2. Proposed Decisions in Charge Nos. TN03–1711 and 011–761681.
3. Proposed Contract for Updating Statutory Index.
4. Discussion of the Status of Particular Charges of Discrimiantion.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634–6748.

This Notice Issued May 1, 1979.

[S–876–79 Filed 5–2–79; 11:59 am]

BILLING CODE 6570–06–M

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, May 2, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: Inadvertently omitted.

Agenda, Item Number, and Subject

Common Carrier—6—Proposed amendment of accounting rules for telephone companies to provide for expensing station connection costs and to provide accounting requirements for terminal equipment offerings.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: May 1, 1979.

[S–874–79 Filed 5–2–79; 10:53 am]

BILLING CODE 6712–01–M

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published April 30, 1979; 4 FR 25351.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 am., May 2, 1979.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number and company

CP–3. CP79–214, Transcontinental Gas Pipe Line Corp.; CP79–221, National Fuel Gas Supply Corp.; CP79–280, Tennessee Gas Pipeline Corp.; CP79–275, Transcontinental Gas Pipe Line Corp.; and CP79–278, Texas Eastern Transmission Corp.
[CP–4. CP78–237, Northern Natural Gas Co.

Kenneth F. Plumb,
Secretary.

[S–878–79 Filed 5–2–79; 1:43 pm]

[BILLING CODE 6740–02–M

7

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44. No. 84, April 30, 1979, page 25351.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., May 3, 1979.

PLACE: 1700 G Street, NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202–377–6677).

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting:

Consideration of FDIC Indentification of FSLIC: Converting Mutual Savings Banks.

No. 237, May 2, 1979.

[S–877–79 Filed 5–2–79 12:36 pm]

BILLING CODE 6720–01–M

8

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS.

TIME AND DATE: 10 a.m., Wednesday, May 9, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed reauthorization of forms F.R. T–1 and F.R. T–2, required to be filed by non-member banks before they can extend credit to brokers or dealers.

Discussion Agenda

1. Further consideration of a program to improve Federal Reserve automated clearing house services.
2. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: May 2, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[S–881–79 filed 5–3–79; 3:10 pm]

BILLING CODE 6210–01–M

9

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 24692; April 26, 1979.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, April 23, 1979.

CHANGES IN THE MEETING: Additional item—The following additional item will be considered at an open meeting scheduled for Thursday, May 3, at 10 a.m.

The Commission will consider a request for an administrative hearing be held on an application filed pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act") by Investors Diversified Services, Inc., ("IDS"), the IDS Life Insurance Company ("IDS Life"), Alleghany Corporation ("Alleghany"), and two groups of open-end, diversified, management investment companies advised by IDS and IDS Life (the "Funds") requesting a temporary exemption from the provisions of Section 15(a) of the Act to permit the surviving corporation of a proposed merger of IDS into a wholly-owned subsidiary of Alleghany, and IDS Life to continue to render investment advisory services to the Funds after the assignment of their present advisory contracts on the same basis as such services are currently being provided, pending shareholder approval of new contracts. For further information, please contact Glen Payne at (202) 755–1739 or Katherine Malfa at (202) 755–1613.

Commissioners Loomis, Pollack and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

May 1, 1979.

[S–871–79 Filed 5–2–79; 10:42 am]

BILLING CODE 8010–01–M

10

U.S. COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: 9 a.m.–12 noon, Monday, May 7, 1979 (discussion on school desegregation); 1:30 p.m.–5:30 p.m. (monthly Commission agenda)

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C. 20425.

STATUS: Open to public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda.
II. Approval of Minutes of Last Meeting.
III. Staff Director's Report.

A. Status of Funds
B. Personnel Report
C. Office Directors' Reports
D. Correspondence
1. Letter from Henry Sawyer, Esq.
IV. Report on Civil Rights Developments in the Midwestern Region
V. State Advisory Committee Re-charters
A. California
B. Florida
C. Maine
D. Minnesota
E. Hawaii Interim Appointments
F. Illinois Interim Appointments
G. South Carolina Interim Appointments
H. Wisconsin Interim Appointments
VI. Status Report and Recommendation on Higher Education Desegregation.
VII. Recommendation re Response to National Coalition for Women and Girls in Education on Title IX.
VIII. Request for Justice Department Intervention in Pittsburgh School Desegregation litigation.

PERSON TO CONTACT FOR FURTHER INFORMATION: Barbara Brooks, Public Affairs Unit, 254–6697.

[S–875–79 Filed 5–2–79; 11:15 am]

BILLING CODE 6335–01–M

11

U.S. CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, May 9, 1979, Commission meeting/briefing.

PLACE: Room 456 Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Part open, part closed—

A. Open to the Public

Matters To Be Considered

Briefing on Amendments to Section 7 Regulations.—The staff will brief the Commission on draft proposed regulations which would reorganize and amend CPSC regulations for developing proposed safety standards. The revisions are based on recent amendments to the Consumer Product Safety Act.

2. Briefing on Non-Adjudicative Rules.—The staff will brief the Commission on draft final rules for investigations. Inspections and Inquiries under the Consumer Produce Safety Act.

B. Closed to the Public

3. Selection of TAB Members.—The Commission will select members of its Toxicological Advisory Board (TAB), which Congress authorized in recent legislation to provide specific scientific and technical advice to the Commission regarding the labeling of hazardous substances. (Closed under exemption 6: possible invasion of personal privacy.)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, suite 300, 1111, 18th Street, NW., Washington, D.C. 20207, (202) 634–7700.

[S–880–79 Filed 5–3–79; 2:23 pm]

BILLING CODE 6355–01–M

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federal register

Friday
May 4, 1979

Part II

Department of Health, Education, and Welfare

Office of Education

Direct Grant Programs, State-Administered Programs, and General; General Administrative Regulations

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Parts 100, 100a, 100b, 100c and 100d]

Direct Grant Programs, State-Administered Programs, And General; General Administrative Regulations

AGENCY: Education Division, Department of Health, Education, and Welfare (HEW).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Education Division, HEW, proposes general regulations to apply to all direct grant and State-administered programs administered by the Education Division. The proposed regulations advance the objectives of "Operation Common Sense" announced by the Secretary of HEW, in September 1977, and by the President's Executive Order 12044, March 23, 1978 on "Improving Government Regulations."

The objectives of "Operation Common Sense" are to assure that "regulations shall be as simple and clear as possible. They shall not impose unnecessary burdens on the economy on individuals, on public or private organizations, or on State and local governments."

These regulations cover how to apply for a grant, information that must be included in applications, the general criteria used to select applications for funding, administrative responsibilities of those who receive a grant or subgrant, and compliance procedures used by the Education Division, HEW.

DATES: Written comments must be received on or before July 3, 1979.

Workshops and Hearings

Times and locations of workshops and hearings are as follows:

City	Date/time	Address
Washington, D.C.	May 17, 1979. Workshop—9:30 a.m.–noon. Hearing—2:00 p.m.–4:30 p.m.	Auditorium, Regional Office Bldg. No. 3, 7th & D Streets, S.W., Washington, D.C. 20202.
Region IV, Atlanta	June 4, 1979. Workshop—9:00 a.m.–noon. Hearing—2:00 p.m.–5:00 p.m.	Suite 2221, 101 Marietta Tower Bldg., Atlanta, Ga. 30323.
Region I, Boston	June 5, 1979. Workshop—9:00 a.m.–noon. Hearing—2:00 p.m.–5:00 p.m.	Room 2403, John F. Kennedy Federal Building, Boston, Mass. 02203.
Region II, New York	June 6, 1979. Workshop—9:00 a.m.–noon. Hearing—2:00 p.m.–5:00 p.m.	Auditorium, Bank Street College of Education, 610 West 112th Street, New York, N.Y. 10027
Region III, Philadelphia	June 7, 1979. Workshop—9:00 a.m.–noon. Hearing—2:00 p.m.–5:00 p.m.	Room 10030, 3535 Market Street, Philadelphia, Pa. 19108.
Region V, Chicago	June 8, 1979. Workshop—9:00 a.m.–noon. Hearing—2:00 p.m.–5:00 p.m.	Center for Urban Education, 160 West Wendell Street (1050 North Wells), Chicago, Ill. 60606.
Region X, Seattle	June 11, 1979. Workshop—9:00 a.m.–noon. Hearing—2:00 p.m.–5:00 p.m.	Room 360, New Federal Bldg., 915 Second Avenue, Seattle, Wash. 98174.
Region IX, San Francisco	June 12, 1979. Workshop—9:00 a.m.–noon. Hearing—2:00 p.m.–5:00 p.m.	Room 206, Federal Office Bldg., 50 United Nations Plaza, San Francisco, Calif. 94102.
Region VIII, Denver	June 13, 1979. Workshop—9:00 a.m.–noon. Hearing—2:00 p.m.–5:00 p.m.	Room 361, Federal Office Bldg., 1961 Stout Street, Denver, Colo. 80202.
Region VII, Kansas City	June 14, 1979. Workshop—9:00 a.m.–noon. Hearing—2:00 p.m.–5:00 p.m.	Room 147, New Federal Office Bldg., 601 East 12th Street, Kansas City, Mo. 64106.
Region VI, Dallas	June 15, 1979. Workshop—9:00 a.m.–noon. Hearing—2:00 p.m.–5:00 p.m.	Room 7A23, Earl Cabell Federal Bldg., 1100 Commerce Street, Dallas, Tex. 75202.

ADDRESSES: Written comments should be addressed to: Dr. Marcell DuVall, 400 Maryland Avenue, SW. (Room 508, Reporters Building), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Marcell DuVall, 202–472–7773 or 472–7785.

FOR INFORMATION ON REGIONAL WORKSHOPS AND HEARINGS CONTACT: The appropriate Regional Commissioner for Education Programs. The Regional Commissioners are listed below in order of dates of hearings:

Region IV, Atlanta, Dr. William L. Lewis, (404) 221–2063.

Region I, Boston, Dr. Thomas J. Burns, (617) 223–7500.

Region II, New York, Dr. William D. Green, (212) 264–4370.

Region III, Philadelphia, Dr. Albert C. Crambert, (215) 596–1001.

Region V, Chicago, Dr. Juliette Noone Lester, (312) 353–5215.

Region X, Seattle, Mr. Allen Apodaca, (206) 442–0460.

Region IX, San Francisco, Dr. Caroline Gillin, (415) 556–4920.

Region VIII, Denver, Dr. John Runkel, (303) 837–3544.

Region VII, Kansas City, Dr. Harold Blackburn, (816) 374–2276.

Region VI, Dallas, Mr. Edward J. Baca, (214) 767–3626.

SUPPLEMENTARY INFORMATION:

Authority. The statutory authority is the General Education Provisions Act, (Pub. L. 90–247), as amended, and the statutes that authorize the programs covered.

I. Need for Regulations

Certain rules are needed for the proper administration of a Federal grant program. These rules relate to such matters as the types of institutions eligible to apply for a grant, the types of assistance available, the information which must be included in applications, and the criteria used to judge applications. Applicants must know this information to determine whether or not to apply and how to submit applications. These rules generally appear in the form of a program regulation and are published in the **Federal Register.**

The Office of Education has previously published general regulations (45 CFR Parts 100–100d) which provided administrative and fiscal requirements related to grant programs administered by the Office of Education. The National Institute of Education has published similar regulations. In the spirit of "Operation Common Sense," it has been determined that there should be a single set of regulations that establish administrative and fiscal requirements which apply to all grant programs administered by the Education Division. It is the objective of these proposed regulations to:

a. Be as clear and simple as possible.

b. Eliminate unnecessary burden resulting from requirements of previous regulations.

c. Consolidate into a single document common elements found in all Education Division program regulations. These common provisions will be eliminated from individual program regulations when the Education Division General Administrative Regulations (EDGAR) are finally published in the **Federal Register.**

d. Incorporate changes resulting from new legislation enacted since the last publication of the general provisions regulations.

e. Make the regulations of the Education Division comply with the Department's Administration of Grants Regulations (45 CFR Part 74).

Fellowship and student assistance programs were not considered appropriate for inclusion in general provisions regulations of the Education Division. An analysis of these programs revealed that there is significant statutory inconsistency between the programs in matters such as the type of assistance, application procedures, eligibility criteria and the amount and terms of assistance. Although some common elements exist, the number of exceptions reduced the usefulness and readability of consolidated regulations. In addition, the regulatory provisions of these programs are not consistent with those relating to grant programs.

The public is invited to participate in the development of these regulations. After public comments on the proposed regulations are received and considered, final regulations will be published in the **Federal Register** together with an explanation of the Education Division's response to the comments. The regulations will later be codified in the Code of Federal Regulations (CFR), the official compilation of Federal regulations.

II. Summary of the Regulations

Part 100a applies to direct grant programs under which the Education Division makes grants directly to eligible agencies, organizations, institutions and individuals. Part 100b applies to a State-administered program under which each State is entitled to receive funds and either uses the funds itself or makes subgrants to eligible agencies, organizations and institutions. The definitions in part 100c apply to all Education Division programs, including student financial assistance and fellowship programs.

Additional requirements are imposed by 45 CFR Part 74, HEW's Administrative Regulations for the Administration of Grants. These requirements are adopted in these regulations by reference. To aid reviewers, a copy of part 74 is attached.

Some of the major subjects relating to direct grant programs found in Part 100a include:

a. The application process.
b. State review procedures.
c. Selection of new projects.
d. Approval of multi-year projects.
e. General administrative responsibilities.
f. Data collection instruments.
g. Procedures used by the Education Division to get compliance.

Some of the major subjects in part 100b relating to State-administered programs include:

a. State plans and applications.
b. Participation of children enrolled in private schools.
c. Conditions that the State and its subgrantees must meet after funds are awarded.
d. Administrative responsibilities of the State and its subgrantees.
e. Use of funds by the State and its subgrantees.
f. Complaint procedures of the State.

Part 100c—General, contains definitions which apply to all Education Division programs, records under the Freedom of Information Act and regulations removed from the Code of Federal Regulations. This is the only part of these regulations that relates to student financial assistance and fellowship programs.

III. Major Provisions

EDGAR was developed from existing general regulations, program regulations, other policy documents, and in some cases, new legislation.

To the extent possible, the sources for each section of EDGAR are listed after the section. The sources are primarily regulations in Title 45 of the CFR, as they existed August 31, 1978. In some cases, sources are the General Education Provisions Act (GEPA), the Grants Administration Manual (GAM), or the Office of Education Grant and Procurement Management Manual (OE III–2). The major provisions in each part and subpart of EDGAR are highlighted in the following summary:

Major Provisions in Part 100a

1. Subpart A—General

a. *Direct grants—discretionary and formula.* Section 100a.200 defines the terms "discretionary grant programs" and "formula grant programs."

The regulations in part 100a apply to both formula and discretionary direct grant programs. Unlike the existing general provisions regulations, the proposed part 100a attempts to distinguish between the two types of direct grant programs, and to provide better guidance as to which regulations apply to each.

b. *Relationship of other regulations.* EDGAR consolidates administrative and fiscal requirements currently in the general provisions regulations (45 CFR Parts 100–100d) and in individual program regulations of the Education Division. Additional requirements or exceptions to EDGAR for individual programs may be necessary in program regulations if required by statute or where the nature of the programs makes certain EDGAR requirements inappropriate. To make an EDGAR provision inapplicable, a program will put a specific exemption in its regulations.

c. *Relationship of EDGAR to 45 CFR Part 74.* EDGAR adopts by reference the HEW general regulations in 45 CFR Part 74 that apply to the administration of grants. This approach is a major change from the existing general provisions regulations, which copied the text of these provisions, rather than referencing them. By consolidating program requirements into EDGAR and eliminating these requirements from program regulations, EDGAR should reduce unnecessary burden on applicants who apply under more than one program. Similarly, the adoption by reference of Part 74, which applies to all grant programs of HEW, should reduce the burden on applicants who apply for grants under programs administered by different agencies in HEW. By adopting Part 74 by reference, these applicants will not have to read both Part 74 and EDGAR to determine if there is point-for-point consistency, as they had to do in the past.

There are also disadvantages to the adoption by reference of Part 74. Applicants and grantees who are only interested in Education Division programs will have to refer to an additional document to answer certain questions about these programs. The index planned for EDGAR and Part 74 should help the reader determine which subjects are covered in Part 74 and which in EDGAR. As pointed out in the "Introduction to Regulations of the Education Division" that precedes Part 100a, it is necessary to have an increasing number of documents which contain all of the rules that apply to a program. The Education Division is exploring means of packaging these various documents—statutes, regulations, application notices, etc.—that will help a reader to find the information he or she needs.

The HEW regulations in Part 74 incorporate provisions of Circular A–110 issued by the Office of Management and Budget which establishes government-wide grant policies. Part 74 provides standardized rules for all HEW grant programs. EDGAR provides exceptions to Part 74 where required by statute. For example, GEPA specifies that records relating to Education Division grants must be retained for 5 years, replacing the three-year requirement in Part 74.

The index planned will be attached as an appendix to part 100c of EDGAR when these regulations are published in final form in the **Federal Register.**

d. *Simplification.* EDGAR has been written in much simpler language than the existing regulations it replaces. This will reduce the amount of time spent in reading regulations. EDGAR also includes a brief introduction that explains in easy-to-understand terms how to use regulations and how to get the information needed to apply for assistance under Education Division programs. This is expected to reduce the time spent in both applying for and

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administering grants and subgrants under Education Division programs.

2. Subpart C—How to Apply for a Grant

Note.—Subpart B is reserved for future regulations.

Under existing procedures, programs of the Education Division have a wide variety of methods for applying for a grant. In the development of EDGAR, each program was reviewed. An attempt has been made to select the best of these methods as the standards for all programs. Having only one set of application procedures for all programs should reduce applicant time spent determining whether differently worded requirements are intended to produce different results.

a. *Application notices.* The Education Division explains what kind of assistance is available under its various programs by publishing application notices in the Federal Register. These notices explain the process of applying for a grant and provide information to help potential applicants. Each notice states the deadline for submitting applications or preapplications under a program. The proposed regulations state how to meet a deadline date and provide a full set of rules relating to the application process.

b. *Application contents.* A number of significant reforms relating to the content of grant applications are included in EDGAR. EDGAR requires a general assurance in an application under a direct grant program. The applicant must assure that, if awarded a grant, compliance will be made with applicable statutes and regulations. This assurance will be used by the Education Division as a basis for eliminating more specific assurances required by program regulations and statutes. The result will be reduced paperwork in applying for an Education Division grant.

EDGAR includes a requirement for discretionary grant programs that the application must include information that responds to any selection criteria used under the program. This provision will be used as a basis for eliminating program regulation provisions that have redundant requirements—for example, a selection criterion on evaluation and another requirement in the regulations that the application must contain information on evaluation. This consolidation of selection criteria and application contents will provide a basis for eliminating program application requirements by sorting out those that are essential to the program from those that are not. The nonessential requirements will be eliminated, thus reducing the paperwork burden on grantees and making the entire process more systematic and logical.

EDGAR limits application submissions to an original and two copies for all Education Division programs. This will reduce printing and mailing costs for applicants, as well as the time previously spent making additional copies. It also provides for uniformity among programs.

c. *Multi-year projects.* EDGAR eliminates the current practice in a number of programs of requiring applicants for continuation awards to compete for funds. Under the EDGAR provision, continuations under a multi-year project would be funded without competition, subject to the standards stated in EDGAR, including satisfactory performance and availability of funds. This will eliminate full annual applications for those projects, a considerable paperwork reduction.

d. *Preapplications.* EDGAR provides the basis for the Education Division to expand its use of preapplications. Preapplications can significantly reduce the burden on applicants by screening out ineligible projects and by providing a vehicle for technical assistance by the Education Division. While the EDGAR does not accomplish this directly, any program, without further regulation, can now avail itself of this procedure.

e. *Open meetings.* The existing general provisions regulations (45 CFR Part 100d) address the statutory requirement for open meetings under the Elementary and Secondary Education Act (ESEA). EDGAR simplifies the procedures and requirements for the conduct of open meetings, which are required to be conducted by local educational agencies that submit applications under certain programs authorized by the ESEA.

EDGAR gives more discretion to local agencies on how they may conduct open meetings. All local educational agencies are subject to this requirement. Because the Education Amendments of 1978 made many more programs subject to this requirement, individual school districts are urged to give careful consideration to this provision. Under the statute, a grant application for an affected program cannot be accepted without the required certification that an open meeting was held.

f. *State reviews.* EDGAR includes provisions relating to the review by a State agency of individual grant applications. Federal law and implementing regulations require for certain programs that a State agency must review and approve or comment on each application or preapplication for a grant. These provisions, which were not in previous general provisions regulations, have been derived from various program regulations. EDGAR establishes a uniform process to be followed by the State agency under each of these programs, authorizes the Education Division to establish deadlines for the State agency to complete its review, and describes the effect of the State agency's action in approving, disapproving, commenting, or failing to comment.

g. *OMB Circular A-95 Clearinghouse procedures.* EDGAR includes provisions relating to the Office of Management and Budget (OMB) Circular A-95. This Circular requires an applicant, under certain Federal programs, to notify the appropriate State and areawide clearinghouses of the applicant's intent to apply for a grant from the Education Division.

EDGAR identifies those direct grant programs which are subject to this requirement. The regulations also specify the type of information to be included in the notice to the clearinghouse. EDGAR also specifies the number of days that the OMB Circular requires that the clearinghouse be given for its review of the application, and other aspects of this process.

3. Subpart D—How Grants Are Made

Consistent with the "Operation Common Sense" objective to consolidate common requirements, these regulations propose that general selection criteria be used to evaluate applications. EDGAR describes the elements of these criteria and how they are used, how projects would be selected, and procedures for setting the amount and determining the conditions of a grant.

a. *Selection criteria.* The inclusion of weighted criteria in EDGAR would be a major change from the existing General regulations. In addition to eliminating a large number of varying regulations, EDGAR criteria would provide a uniform base for awarding discretionary grants under many programs. This policy question is discussed in greater detail under the heading "Major Issues."

Reviewers should note that the selection criterion on quality of staff also has a focus on preventing the use of lower quality staff where there is a potential conflict of interest. This provision on hiring practices relates to three categories—(1) a member of the immediate family of a person on the project staff, (2) a member of the governing body of the grantee, (3) or a member of the immediate family of a person on that governing body.

b. *Selection process.* EDGAR describes in detail the process that would be used to select new projects. This process includes the procedure for returning applications to applicants under both discretionary and formula grant programs. Also explained is how the discretionary grant applications are reviewed by groups of experts and the way rank orderings are used for the selection of projects. The regulations reference current policy that the rankings and readers' comments are advisory only; that it is the program official's responsibility to make final award decisions.

Reviewers should note sections 100a.219–100a.221, which describe the circumstances under which projects may be selected for funding without competition with other projects.

The remaining provisions on project selection deal with matters such as budget, cost analysis, amounts and terms of the grant. Sections 100a.250–100a.254 set forth the procedures for multi-year projects and continuations. Continuations of multi-year projects do not compete with new projects for funding, and would not compete among themselves unless appropriations are inadequate to fund them all.

Part 100a of the existing general provisions regulations has few rules regarding the application selection process. By having the procedures that the Education Division uses to make awards, applicants will spend less time in trying to determine their rights and to get other information about the handling of their application.

4. Subpart E—What Conditions Must Be Met By A Grantee?

Subpart E prescribes conditions which grantees must meet. For example, grantees are required to comply with Federal statutes and regulations on nondiscrimination. Provisions in this subpart describe specific requirements, standards and qualifications for project staff selection, compensation, and conflict of interest.

Other conditions which are covered include allowable costs, indirect cost rates, coordination with other activities, evaluation, construction, equipment and supplies, and publications and copyright. Reviewers should note that copyright policy is a significant issue found in the discussion of "Major Issues."

This subpart also describes other requirements for certain projects. Reviewers should note section 100a.660 which cross references requirements in §§ 100b.650–100b.663. These sections set standards for children enrolled in private schools where the statute requires an opportunity for their participation. These requirements have been detailed in part 100b, rather than repeated in both parts 100a and 100b because many more applicants are affected by 100b (almost every school district in the United States receives funds under the programs covered under Part 100b). This approach is an example of keeping EDGAR consolidated and non-repetitive. However, comments are welcome on this approach.

5. Subpart F—What Are the Administrative Responsibilities of a Grantee?

Subpart F requirements apply to a grantee's administration of a project including compliance with statutes, regulations, and applications, responsibility to administer and supervise the project, and fiscal control and fund accounting procedures. Section 100a.707 provides a useful table for determining when an obligation is incurred for various kinds of property and services.

This subpart also includes codification of a major policy which reduces the number of fiscal and performance reports for most grantees to no more often than annually.

Other administrative responsibilities relate to records, privacy, and grantee data collection. The privacy provisions cross-reference the Family Educational Rights and Privacy Act and its implementing regulations under 45 CFR Part 99 (relating to student records) and section 439 of GEPA (relating to psychological and psychiatric research and testing).

These proposed regulations refer to clearance of grantee data collection instruments under OMB A-40 clearance procedures. Reviewers should be aware that the Department is separately developing procedures for another review which will partially replace OMB clearance.

The "Paperwork Control" requirements of Pub. L. 95-561 require that certain data collection activities be reviewed by the Secretary rather than by OMB. Coverage under this review will extend to:

> • • • collection of information and data acquisition activities of all Federal agencies, (i) whenever the respondents are primarily educational agencies or institutions, and (ii) whenever the purpose of such activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.
>
> (Section 400A(a)(1)(A) of the General Education Provisions Act, as amended by section 1212 of Pub. L. 95-561)

When the procedures are developed for the paperwork control review, they may be incorporated into the final regulations for EDGAR.

6. Subpart G—What Procedures Does the Education Division Use to Get Compliance

The HEW Grant Appeals Board is used for post-award disputes for most of the discretionary grant programs. EDGAR, Subpart G, identifies applicable regulations governing the jurisdiction of the board and procedures for suspension and termination.

The new Education Appeals Board, enacted under the Education Amendments of 1978, may handle certain kinds of disputes under direct grant programs. The extent of jurisdiction of the Education Appeals Board will be described more fully in a regulation to be published separately from this document. Clarification on the role of both appeals boards will be available when that regulation is completed.

Major Provisions in Part 100b

1. Subpart A—General

a. *State formula grants and subgrants.* Unlike the existing Part 100b general provisions regulations, the new EDGAR Part 100b applies to all programs that authorize formula grants to the States, even if the States do not have statutory authority under a particular program to make subgrants. These regulations simplify requirements and make clear what provisions apply under which conditions. They also implement a number of burden reduction reforms enacted in the Education Amendments of 1978.

b. *Relationship to program regulations.* EDGAR consolidates administrative and fiscal requirements currently in the general provisions regulations and in individual program regulations of the Education Division. If a program needs regulations that are not consistent with Part 100b, the implementing regulations for that program will be amended to identify the sections of Part 100b that do not apply.

c. *45 CFR Part 74.* EDGAR adopts the HEW general regulations in 45 CFR Part 74 that apply to these programs. The reasons for this approach are the same as described under the summary of major provisions in part 100a.

d. *Program statutes.* Program statutes determine eligibility and whether subgrants are authorized. Statutes also

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designate the responsible State agency or permit the State to designate the agency, determine the extent to which a State may use grant funds directly or make subgrants to eligible applicants, and determine whether a State is required to distribute funds by an objective formula or through a discretionary procedure.

2. Subparts B and C—How a State Applies for a Grant; How a Grant is Made to a State

Subpart B establishes general requirements that a State must meet to apply for a grant under a State-administered program. Additional requirements are in the authorizing statute and the implementing regulations for the individual program.

a. *Major reforms.* This subpart of EDGAR implements a number of significant reforms recommended by HEW's Zero Based Review of Federal Planning Requirements Study and Regulations Reform Project. Reviewers should note that there is a general discussion on these reform studies under the heading "Recommendations and Studies."

1. *General State application.* EDGAR implements a general application for programs under which the State educational agency may make subgrants to local educational agencies. A State may submit a single application to cover all of these programs. GEPA Section 435, which authorizes the single State application, and other GEPA provisions that apply to part 100b are contained in Appendix A to Part 100b of EDGAR.

The general State application replaces the general application filed by States under the Education Amendments of 1974 and is an expansion of previous efforts to consolidate and reduce paperwork. The new general State application consolidates a number of provisions that apply to State-administered programs.

The general State application remains in effect until such time as Congress amends the statute. Paperwork will be reduced since the application will be used as a means of eliminating overlapping assurances in State plans under the various programs.

2. *Three-year State plans.* EDGAR implements a second major reform, the three-year State plan. The three-year plan will replace annual State plans and applications. This provision, also authorized under the Education Amendments of 1978, will be implemented no later than fiscal year 1981 for all the State-administered programs. Under any program, the Commissioner may ask States to submit the three-year plans on a staggered schedule. Program regulations may also provide for a longer effective period than three years if the program statute permits. Implementation of this procedure should reduce paperwork considerably.

3. *Certification requirements.* EDGAR implements a third major reform, the elimination of the State attorney general certification which was previously required in nearly all State plans. EDGAR provides that one set of necessary certifications will be accepted from the agency submitting the plan. As with the other major reforms, burden on the States will be reduced.

b. *General information on how a grant is made.* EDGAR provides provisions on the grant making process, including how to make an amendment to a State plan, the statutory and regulatory requirements which must be met before a plan can be approved, opportunity for a hearing before a plan is disapproved, and how allotments and reallotment of grants funds are made.

3. Subparts D and E—How To Apply to the State for a Subgrant; How a Subgrant is Made to an Applicant

Subparts D and E contain major consolidations of procedures currently followed under State-administered programs that authorize subgrants.

a. *Application procedures.* To get information about applying for subgrants, applicants should contact the State agency that administers the program. The EDGAR provides uniform procedures which the State must follow in notifying the subgrantee of the amount, period, and Federal requirements that apply to a subgrant. Procedures also address joint applications and projects, making approved applications available for public inspection, and amending applications.

A major reform implemented in EDGAR is the local educational agency general application which is authorized under the Education Amendments of 1978. The local educational agency application covers all State-administered programs under which the agency applies. The same advantages of the general State application occur—consolidation, reduced paperwork, and simplification. The use of this application will permit the Education Division to eliminate overlapping program regulations, therefore shortening the agency's annual application under each program. Appendix A to part 100b contains section 436 of GEPA which sets forth the contents of the single local educational agency application.

b. *State review procedures.* EDGAR codifies the rules and procedures which States must follow in reviewing applications for subgrants. This consolidation should result in greater consistency in the review and funding of subgrant applications. Reviewers should note that § 100b.401 implements the hearing procedures authorized by section 425 of the GEPA. Section 425 is contained in Appendix A to 100b.

4. Subpart F—What Conditions Must Be Met by the State and Its Subgrantees?

a. *General conditions.* EDGAR prescribes conditions which must be met by States and subgrantees. These provisions generally parallel requirements in part 100a, such as complying with Federal statutes and regulations on nondiscrimination, allowable costs, indirect cost rates, coordination, evaluation, participation of children enrolled in private schools, and construction. Some rules found in part 100a are not included in Part 100b because they are not appropriate for a State-administered program, such as rules on project staff and conflict of interest.

b. *Private schools.* Special attention is called to §§ 100b.650–100b.663 that set standards for children enrolled in private schools to participate where the statute provides for this opportunity. As previously noted, the same rules and procedures apply under Part 100a for a program that has a similar statutory requirement. At present, there are some program regulations but no general provisions for these requirements. Inclusion of such provisions in EDGAR is a major policy question which is discussed under "Major Issues."

EDGAR provisions address such matters as State and subgrantee responsibilities, consultation with representatives of private school students, and the determination of the number of eligible students and their needs. Also covered are the level of benefits and expenditures for the students, application requirements, use of funds, and use of personnel.

5. Subpart G—What Are the Administrative Responsibilities of the State and Its Subgrantees?

a. *State and subgrantees responsibilities.* Subpart G describes the various types of administrative requirements that apply to States and subgrantees. These rules on compliance, project supervision, fiscal control and fund accounting procedures, reports, records, privacy, and data collection are similar to those in Part 100a. As pointed out in the description of administrative responsibilities under Part 100a, a major improvement in these regulations is a table describing when an obligation is incurred. The table is found in § 100b.707.

b. *State responsibilities.* This subpart also contains rules that States must follow on dissemination of information, providing technical assistance, encouraging eligible applicants to apply, and adopting complaint procedures.

6. Subpart H—What Procedures Does the Commissioner Use to Get Compliance?

Subpart H sets forth the procedures used by the Commissioner to get compliance. The applicable regulations in 45 CFR Part 74 on suspension and termination authority are identified. Unlike compliance for Part 100a, in which the HEW Grants Appeals Board is used for most post-award disputes, the principal tool of enforcement for State-administered programs will be the new Education Appeals Board, created under the Education Amendments of 1978. The board will conduct audit appeal hearings, withholding hearings, cease and desist hearings, and other designated proceedings. Appendix A to Part 100b contains section 451 of the GEPA which establishes the Board.

Major Provision in Part 100c

Definitions

The definitions in Part 100c apply to all Education Division programs, including student assistance and fellowship programs (which are not covered by Parts 100a and 100b). Part 100c also identifies the definitions in 45 CFR Part 74 which apply to Education Division programs. The definitions apply to a program unless a statute or regulation provides otherwise.

The consolidation and simplification of hundreds of separate definitions into one set of common definitions should help eliminate confusion and reduce burden on applicants and grantees.

IV. Major Issues

A number of policy issues surfaced in the development of EDGAR. The most sensitive of these issues are highlighted below. The Education Division is seeking public comment on these issues and the options identified. The comments received will serve as guidance in drafting the final regulations.

1. Should the EDGAR include regulations relating to affirmative action activities of applicants or grantees or both? If so, in what manner?

A review of Education Division affirmative action policies and procedures, completed in September 1978, revealed that most programs lack satisfactory compliance with and support of Federal civil rights and affirmative action statutes. The EDGAR Task Force met with program managers and with officials within the Education Division and the HEW Office for Civil Rights to consider whether the EDGAR should include regulations relating to affirmative action. Four options were considered.

One option was to continue with current practices. Nothing would be added to EDGAR. Programs would of course continue to require signed assurances of compliance with civil rights statutes and regulations.

A *second option* would be to add an additional criterion to the five general selection criteria to evaluate affirmative action by applicants.

A *third option* would combine a number of possible provisions into a general affirmative action statement in EDGAR.

Option four, proposed in EDGAR, would be to reflect affirmative action concerns in various sections of EDGAR. The following provisions are proposed (See the text of the regulations for context.)

• § 100a.110 *Describe the project.*

An application must describe the project in detail. The description must include—

* * * * *

(e) An assessment of the effect, if any, of the project on persons who are members of groups that have been traditionally under-represented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

• § 100a.115 *Demonstrate capability; include evaluation of completed project.*

(a) An application must include information that demonstrates the applicant's capability to—

* * * * *

(2) Meet the needs of the persons (if any) that the applicant plans to serve with the project.

* * * * *

• § 100a.140 *Give notice of the meeting; make information available.*

* * * * *

(c) The agency shall take steps to ensure that persons who are members of groups that have been traditionally underrepresented receive the type of notice required by paragraph (b)(1) and that these persons are encouraged to participate in the meeting. These persons include—

(1) Members of racial or ethnic minority groups;

(2) Women;

(3) Handicapped persons; and

(4) The elderly.

* * * * *

• § 100a.141 *Certify that open meeting was held.*

If a local educational agency must hold an open meeting under § 100a.139, the agency shall certify in its application that—

* * * * *

(c) The agency made information available in accordance with § 100a.140(c);

• § 100a.205 *Selection criterion—evaluation plan.*

* * * * *

(b)The official looks for information that shows an objective quantifiable method of evaluation under § 100a.590.

* * * * *

• § 100a.206. *Selection criterion—adequacy of resources.*

(a) The appropriate official of the Education Division reviews each application for information that shows that the applicant plans to devote adequate resources to the project, including resources to meet the needs of persons to be served by the project who are members of groups that have been traditionally underrepresented, such as

(1) Members of racial or ethcic minority groups;

(2) Women;

(3) Handicapped persons; and

(4) The elderly.

* * * * *

• § 100a.500 *Federal statutes and regulations on nondiscrimination.*

Each grantee shall comply with the following statutes and regulations.

Subject	Statute	Regulations
Discrimination on the basis of race, color, or national origin.	Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4).	45 CFR Part 80
Discrimination on the basis of sex	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681–1683).	45 CFR Part 86.
Discrimination on the basis of handicap	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).	45 CFR Part 84.
Discrimination on the basis of age	The Age Discrimination Act (42 U.S.C. 6101 *et seq.*).	45 CFR Part 90.

• § 100a.590 *Evaluation by the grantee.*

A grantee shall evaluate at least annually:

* * * * *

(c) The effect of the project on persons being served by the project, including persons who are members of groups that have been traditionally underrepersented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

• § 100a.620 *General conditions on publication.*

(a) *Content of materials.* Subject to any specific requirements that apply to its grant, a grantee may decide the format and content of project materials that it publishes or arranges to have published. However, the grantee shall avoid race stereotype or sex bias in project materials. As used in this section—

(1) "Race stereotype" means an assumption that members of a racial group share common abilities, interests, values, or roles because they are members of that group; and

(2) "Sex bias" means an attitude that supports strucfuring the educational development of boys and girls differently on any basis other than physiological differences.

* * * * *

• § 100b.500 *Federal statutes and regulations on nondiscrimination.*

Each grantee shall comply with the following statutes and regulations.

Subject	Statute	Regulations
Discrimination on the basis of race, color, or national origin.	Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d through 2000d–4).	45 CFR Part 80.
Discrimination on the basis of sex	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681–1683).	45 CFR Part 86.
Discrimination on the basis of handicap	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).	45 CFR Part 84.
Discrimination on the basis of age	The Age Discrimination Act (42 U.S.C. 6101 *et seq.*	45 CFR Part 90.

• § 100b.761 *A State shall encourage eligible applicants to apply.*

(a) Each State shall encourage all [the word "all" added] eligible applicants to apply for subgrants.

* * * * *

Public comments are specifically invited on each of the provisions.

2. *Participation of children enrolled in private schools.*

EDGAR covers another subject not previously covered in general regulations—participation of students enrolled in private schools. Under a number of Office of Education programs, the program statute requires each recipient to use its grant or subgrant to provide services in which private school students can participate.

A number of problems arose in the attempt to consolidate existing program regulations under these statutes. Some of the statutes have different requirements on how a recipient must provide services. Some statutes include a "by-pass" authority that allows the Commissioner to provide the services directly (under certain circumstances). Other statutes do not include this authority. All of the statutes have varying eligibility and residency requirements. However, over the years the regulations on serving private school students have retained many rules that are alike. EDGAR proposes to consolidate these rules where possible.

The proposed EDGAR would govern the manner in which a recipient must serve private school students. It does not cover eligibility or residency requirements, or procedures for using the various "by-pass" authorities. Rules on these matters would remain in the program regulations. The EDGAR include standards for comparing services to private and public school students, rules on involving appropriate representatives of private school students in making decisions that affect those services, and protections to make sure that private schools are not improperly benefited by the use of program funds.

The basis principle in EDGAR, as it is in existing program regulations, is fair treatment of private school students. If their needs are the same as public school students, are they receiving the same kind of services? Are program funds being spent evenhandedly? Have representatives of private school students been fully involved in these decisions?

The Education Division specifically requests comments on this consolidation, including the balance drawn between the interests of the public and private school students.

3. *Should EDGAR include general selection criteria for direct grant programs?*

The EDGAR Task Force analyzed 107 sets of program selection criteria. The Task Force identified five selection criteria with general program applicability.

Under EDGAR, the appropriate official of the Education Division would use the five general weighted selection criteria in EDGAR and the specific program selection criteria to evaluate each application submitted for a new project under a discretionary grant program. If a program does not have selection criteria, the EDGAR criteria are used alone, unweighted, to evaluate applications.

The procedure for using the criteria is stated in EDGAR. If the selection criteria for a program are not weighted, each criterion is evaluated equally. If the selection criteria for a program are weighted, the appropriate Education Division official assigns in the program regulations a total number of points that an applicant may receive under all of the criteria. The specific program selection criteria use 70 percent of the total points assigned to the program and the EDGAR selection criteria use the remaining 30 percent of the total points. Each of the five EDGAR criteria have assigned weights which may be expressed as a percentage of the total points assigned to the program. The criteria and weights are—

(1) Plan of operation (10 percent).

(2) Quality of key personnel (7 percent).

(3) Budget and cost effectiveness (5 percent).

(4) Evaluation plan (5 percent).

(5) Adequacy of resources (3 percent).

Under a program that uses the EDGAR criteria, the program regulations may increase the weights assigned in EDGAR for any of the criteria. A program regulation may also change or eliminate EDGAR criteria, if necessary, for program purposes.

Reviewers are invited to comment on the desirability of the EDGAR approach as well as the options. One option would allow programs complete flexibility to increase or decrease the weights assigned to these EDGAR criteria.

A second option would be to allow programs to (1) assign unique weights to EDGAR criteria and to (2) add detail to EDGAR criteria when justified for programmatic reasons.

A third option, and the one proposed in EDGAR, is to publish weighted EDGAR criteria with the understanding that they apply to all programs unless they are altered in specific program regulations.

4. *What should be the coypyright policy of the Education Division?*

Three policy options were considered with respect to materials developed under grants. One option would retain the current policy of limited copyright and sharing of royalties which has been in effect since 1968. Under this policy, grantees are required to request authorization to copyright. Copyright is normally authorized only for a period of five years. Generally fifty percent of net royalty income is remitted to the Government. A waiver of any of the requirements is permitted if it would promote effective dissemination.

Under a second option, the one proposed in EDGAR, the Education Division would adopt the liberal HEW policy (45 CFR Part 74) which permits unlimited copyright by a grantee unless otherwise provided in a particular grant. Part 74 would also govern the use of royalty income. Any exception would require provisions in individual program regulations.

A third option would be to adopt the HEW policy but allow individual programs to set their own copyright policy in program regulations.

The Education Division requests comments on these options, particularly whether it is advisable to retain the 1968 policy, and whether individual programs should be allowed to have varying policies.

The EDGAR proposes a different rule for Education Division contractors. Unless otherwise specified in the terms of a contract, the Education Division would reserve all rights, including the right to authorize copyright.

(5) Should EDGAR include regulations on "cooperative agreements?"

The Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95–224, February 3, 1978), requires the use of procurement contracts for all agency acquisition activity and the use of assistance instruments (grants or cooperative agreements) for specified types of assistance relationships. The Act, which became effective on February 3, 1979, requires agencies to distinguish between grants and cooperative agreements.

Cooperative agreements are a new type of assistance instruments. *Grants* must be used for assistance actions whenever *no substantial Federal involvement* is anticipated with the recipient during performance. *Cooperative agreements* must be used for all assistance actions when *substantial Federal involvement* is anticipated with the recipient during performance. At the present time, however, there are no standard definitions for grants and cooperative agreements. We anticipate that it will take a period of time to identify and test the distinctions between the two types of instruments. These regulations propose to be silent on cooperative agreements. The Department issued guidelines on the new Act in Chapter 1–01 and 1–02 of its Grants Administration Manual (October 23, 1978) in which present administrative requirements apply both to grants and cooperative agreements. The Manual points out that the results of experience and the OMB study on this topic will allow for future elaboration.

The advantage of being silent in EDGAR is that maximum flexibility will permit development of key programmatic distinctions as well as identification of the nature and form of "substantial Federal involvement." In light of the developments, EDGAR can be amended in the future after this review is completed.

V. Recommendations and Studies

Several recommendations from HEW's Zero Based Review of Federal Planning Requirements Study (ZBR) and Regulations Reform Project (RRP) are included as reforms in these regulations.

The EDGAR implements the general State application for State-administered programs where funds flow through State educational agencies to local educational agencies. The EDGAR also implements the local educational agency general application, used under the State-administered programs. These general applications, which were authorized by the Education Amendments of 1978, will reduce paperwork by States and by local educational agencies since they will replace assurances and provisions previously required in each plan or application submitted each year. Also implemented as a result of the recommendations of both studies is the three-year State application under the State-administered programs. This three-year application will replace annual State plans and applications. This should reduce paperwork considerably.

The EDGAR implements the RRP recommendation to eliminate the State attorney general certification previously required under most State-administered programs. The previous requirement was for two sets of certifications, one from the State agency and one from the State attorney general. One set of necessary certifications would now be accepted from the agency submitting the plan. The EDGAR also follows the RRP recommendation in consolidating existing regulations on children enrolled in private schools.

VI. Burden Reduction

These proposed regulations would consolidate more than one thousand separate program regulations and definitions, many with differing requirements, into one set of requirements, written in much simpler language. The amount of time spent by applicants and grantees in reading regulations will be reduced substantially.

In addition to the reforms cited as a result of some of the ZBR and RRP recommendations, a number of other EDGAR provisions should result in burden reduction.

The EDGAR requires a general assurance in an application under a direct grant program that the applicant, if awarded a grant, will comply with applicable statutes and regulations. This assurance will be used as a basis for eliminating more specific assurances required by program regulations and program statutes. The result will be reduced paperwork in applying for an Education Division grant.

The EDGAR includes a requirement for direct grant programs that the application must include information that responds to the selection criteria under the program. This will be used as a basis for eliminating duplicative program regulations.

The EDGAR includes a set of general, weighted selection criteria. In addition to eliminating a large number of varying regulations, the EDGAR criteria provide a uniform base for awarding discretionary grants. Regardless of the number of programs an applicant applies under, the applicant can be fairly confident that the grant management aspects of its project will be judged on the same basis from program to program. For that type of applicant, the EDGAR criteria will save considerable time in formulating a plan of operation, staff qualifications, budget,

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evaluation plan, and resources. Also, a successful grantee will be able to rely to a degree on its basic management approach if it applies again since at least some of the same standards will apply.

Other changes which should result in additional burden reduction include:

—Expanded use of pre-applications and elimination of time and costs of preparing full applications for ineligible projects

—Reduction of fiscal and performance reports to no more than an annual basis.

VII. Public Participation

The Education Division will hold public hearings and workshops on these proposed regulations in Washington, D.C., and in each of the 10 regions.

The combined workshop and public hearing in Washington, D.C. will serve as a pilot session. It will enable participants from State agencies, local educational agencies, community agencies, postsecondary institutions, educational organizations, private schools and colleges, and other interested parties to become familiar with EDGAR.

During the morning participants will be divided into groups to discuss with the Federal officials who drafted EDGAR their concerns about these proposed regulations. The morning workshop will be informative and will, also, provide an opportunity for participants to ask questions and to exchange ideas. Attention will be given to helping participants formulate their comments for the more formal hearing in the afternoon or for later submission of written comments.

At the Washington, D.C. workshop and public hearing, representative organizations will be asked to contact their affiliates or clients and assist in obtaining the widest possible attendance at the regional hearings. The afternoon session will be a formal hearing to receive oral comments.

Each of the 10 regions will hold a workshop and public hearing similar to the one described for Washington.

In oral comments at a hearing and in written comments sent to the EDGAR Task Force, each commenter should (1) identify specifically that section of the proposed regulations to which comments are being addressed; (2) describe his or her concern with respect to that section; and (3) recommend specific action. This is the kind of information that the Education Division needs in order to give maximum consideration to each commenter's concerns.

Written comments received in response to this notice will be available for public inspection, both during and after the comment period, at the EDGAR Task Force office, Room 506, Reporters Building, 7th and D Streets, SW., Mondays through Fridays between 8:00 a.m. and 4:00 p.m., except Federal holidays.

Dated: February 16, 1979.

Mary F. Berry,
Assistant Secretary for Education.

Dated: February 13, 1979.

Ernest L. Boyer,
U.S. Commissioner of Education.

Dated: February 16, 1979.

Patricia Albjerg Graham,
Director of the National Institute of Education.

Dated: February 16, 1979.

Lee Kimche,
Director of the Institute of Museum Services.

Approved: April 18, 1979.

Joseph A. Califano, Jr.,
Secretary of Health, Education, and Welfare.

Introduction to Regulations of the Education Division

I. What can I Learn from this Introduction?

In this introduction, you will find information that will help you answer the following questions:

- What is the Education Division?
- What kinds of Federal programs of assistance does the Education Division administer?
- What Education Division regulations apply to these programs?
- How do I use Education Division regulations?
- What steps should I take to apply for assistance under an Education Division program?

II. What is the Education Division?

- The Education Division is an agency in the U.S. Department of Health, Education, and Welfare.
- The Education Division includes four parts:

—The Office of the Assistant Secretary for Education (including the National Center for Education Statistics);

—The United States Office of Education;

—The Institute of Museum Services; and

—The National Institute of Education.

- Each of these Offices and Institutes administers Federal programs of assistance.

III. What Kinds of Federal Programs of Assistance Does the Education Division Administer?

- The Education Division provides assistance under two kinds of programs:

—Student financial assistance programs; and

—Grant programs.

- Student financial assistance programs include guaranteed loans, fellowships, and grants for individual students.
- Grant programs are generally divided into two kinds:

—State-administered programs; and

—Direct grant programs.

- Under a State-administered program, each State is entitled to receive funds, and, depending on the requirements of the program statute, either uses the funds itself or makes subgrants to eligible agencies, organizations, and institutions.
- Under a direct grant program, the Education Division makes grants directly to eligible agencies, organizations, and institutions, and (under a few programs) individuals. Subgrants are not authorized.

IV. What Federal Regulations Apply to These Programs?

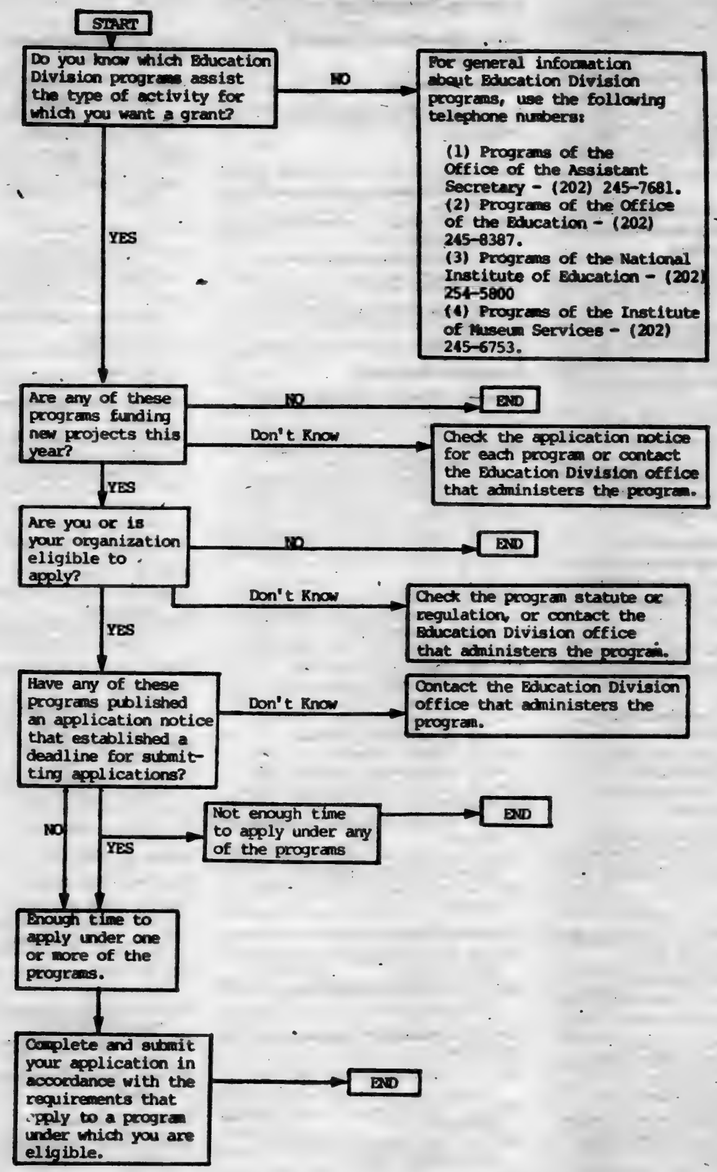
- The Education Division publishes its regulations in the **Federal Register**, and codifies the regulations in Title 45 of the Code of Federal Regulations (45 CFR). There is usually a regulation for each Federal program of assistance. For example, regulations for the Guaranteed Student Loan Program of the Office of Education are located in Part 177 of Title 45 (45 CFR Part 177).
- In addition to these program regulations, there are general regulations that apply to certain categories of programs:

—Certain student financial assistance programs are subject to general regulations in 45 CFR Part 168.

—Grant programs are subject to the Education Division General Administrative Regulations (EDGAR) in 45 CFR Parts 100a and 100b. Part 100a applies to direct grant programs. Part 100b applies to State-administered programs.

—All programs are subject to the general definitions in Part 100c of the EDGAR.

To apply under a direct grant program, consider using the steps suggested in the following chart:



V. How Do I Use Education Division Regulations?

• Each regulation has a table of contents in the front of the regulation. The table of contents lists all of the headings used in the regulation.

• There will be a subject index for EDGAR in the final rule. The index will list, in alphabetical order, the subjects covered in EDGAR and in 45 CFR Part 74, HEW's general grant administration regulations. The index will be located in Appendix A.

• To have a set of requirements that apply to a program, you need a copy of:

—The program statute;

—The program regulations;

—The EDGAR and 45 CFR Part 74 (for a grant program);

—The application notice that the Education Division publishes in the Federal Register each year (for a direct grant program under which grants are awarded competitively);

—45 CFR Part 168 (for a student financial assistance program).

VI. What Steps Should I Take if I Want To Apply for Assistance Under an Education Division Program?

• For general information about student financial assistance, talk to a student financial aid officer at your local college or university, or write to the following address:

Bureau of Student Financial Assistance, U.S. Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

• For general information about applying to your State for a subgrant under a State-administered program, contact your State department of education or other State agency that administers the program.

• For general information about a direct grant program of the Office of the Assistant Secretary for Education, call (202) 245–7681.

• To find out about programs administered by the National Institute of Education, call (202) 254–5800.

• To find out about programs administered by the Office of Education, call (202) 245–8387.

• To find out about programs administered by the Institute of Museum Services, call (202) 245–6753.

It is proposed that 45 CFR be amended by: (1) Deleting Parts 100 and 100d and (2) Revising Parts 100a, 100b, and 100c as follows:

Subchapter A—Education Division General Administrative Regulations

PART 100—[DELETED]

PART 100A—DIRECT GRANT PROGRAMS

Subpart A—General

Regulations That Apply to Direct Grant Programs

Sec.

100a.1 Programs to which Part 100a applies.
100a.2 Exceptions in program regulations to Part 100a.
100a.3 HEW general grant regulations apply to these programs.
100a.4 Education Division contracts.

Eligibility for a Grant

100a.50 How to find out whether you are eligible.
100a.51 How to prove nonprofit status.

Subpart B—[Reserved]

Subpart C—How To Apply for a Grant

The Application Notice

100a.100 Publication of an application notice; content of the notice.
100a.101 Information in the application notice that helps an applicant apply.
100a.102 Deadline date for applications.
100a.103 Deadline date for preapplications.
100a.104 Applicants must meet procedural rules.

Application Contents

100a.107 Application content: Purpose of §§ 100a.108–100a.118.
100a.108 Address each selection criterion.
100a.109 Assure compliance with appropriate requirements of law.
100a.110 Describe the project.
100a.111 Include a timeline.
100a.112 Describe key personnel.
100a.113 Describe the resources.
100a.114 Describe the evaluation plan.
100a.115 Demonstrate capability; include evaluation of completed project.
100a.116 Changes to application; number of copies.
100a.117 Information needed if applicant proposes a multi-year project.
100a.118 How to apply for funds to continue a project.

Separate Applications—Alternate Programs

100a.125 Submit a separate application to each program.
100a.126 How to seek funding from more than one program.

More Than One Eligible Party Can Join in an Application

100a.127 Eligible parties may apply as a group.
100a.128 Who acts as applicant; the group agreement.
100a.129 Legal responsibilities of each member of the group.

Preapplications

100a.130 Consideration of a preapplication.
100a.131 The effect of not submitting a preapplication.
100a.132 Result of a preapplication.
100a.133 The basis for the preapplication decision.

Open Meeting Certification Under Certain ESEA Programs

100a.138 Open meetings: Purpose of §§ 100a.139–100a.141.
100a.139 The local educational agency shall hold an open meeting.
100a.140 Give notice of the open meeting; make information available.
100a.141 Certify that open meeting was held.

State Review Procedures

100a.150 Review procedure if State must approve applications: Purpose of §§ 100a.151–100a.153.
100a.151 When an applicant must submit its application to the State; proof of submission.
100a.152 The State reviews each application.
100a.153 Deadlines for State approval.
100a.154 Effect of State approval; failure to approve.
100a.155 Review procedure if State may comment on applications: Purpose of §§ 100a.156–100a.158.
100a.156 When an applicant must submit its application to the State; proof of submission.
100a.157 The State reviews each application.
100a.158 Deadlines for State comments.
100a.159 Effect of State comments or failure to comment.
100a.160 Procedure for State approval of or comment on preapplications.

OMB Circular A–95 Clearinghouse Procedures

100a.170 Clearinghouse procedures: Purpose of §§ 100a.170–100a.173.
100a.171 Notify the appropriate clearinghouses.
100a.172 Applicant shall show compliance with A–95 procedures.
100a.173 The effect of not complying with Part I of OMB Circular A–95.

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Selection of New Projects

100a.200 How new projects are selected.
100a.201 How to use the selection criteria.
100a.202 Selection criterion—plan of operation.
100a.203 Selection criterion—quality of key personnel.
100a.204 Selection criterion—budget and cost effectiveness.
100a.205 Selection criterion—evaluation plan.
100a.206 Selection criterion—adequacy of resources.

Selection Procedures

100a.215 How the Education Division selects a new project: Purpose of §§ 100a.216–100a.221.
100a.216 Returning an application to the applicant.

100a.217 How the Education Division reviews an application.
100a.218 How the Education Division selects new projects.
100a.219 A project can be selected for funding without competition.
100a.220 Procedures the Education Division uses under § 100a.219(a).
100a.221 Procedures the Education Division uses under § 100a.219(b).

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100a.230 How the Education Division makes a grant: Purpose of §§ 100a.231–100a.236.
100a.231 Additional budget information.
100a.232 The cost analysis; basis for grant amount.
100a.233 Setting the amount of the grant.
100a.234 The conditions of the grant.
100a.235 The notification of grant award.
100a.236 Effect of the grant.

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100a.250 Project period can be longer than one year.
100a.251 The budget period.

Continuation Awards and Extension of a Project

100a.253 Continuation of a multi-year project after the first budget period.
100a.254 Extension of a project period.

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100a.260 Allotments and reallotments.

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100a.500 Federal statutes and regulations on nondiscrimination.

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100a.510 Use of a project director.
100a.511 Waiver of requirement for a full-time project director.
100a.515 Qualifications of project staff.
100a.516 Inservice training for project staff.
100a.517 Use of consultants.
100a.518 Compensation of consultants—employees of institutions of higher education.
100a.519 Changes in key staff members.
100a.520 Minimum wage rates.
100a.521 Dual compensation of staff.

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100a.524 Conflict of interest: Purpose of § 100a.525.
100a.525 Conflict of interest—participation in a project.

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100a.531 Limit on total cost of a project.
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100a.590 Evaluation by the grantee.
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100a.606 Completing the construction.
100a.607 General considerations in designing facilities and carrying out construction.
100a.608 Areas in the facilities for cultural activities.
100a.609 Comply with safety and health standards.
100a.610 Access by the handicapped.
100a.611 Avoidance of flood hazards.
100a.612 Supervision and inspection by the grantee.
100a.613 Relocation assistance by the grantee.
100a.614 Grantee must have operational funds.
100a.615 Operation and maintenance by the grantee.

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100a.618 Charges for use of equipment or supplies.

Publications and Copyrights

100a.620 General conditions on publication.
100a.621 Copyright policy for grantees and contractors.
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100a.625 Invention and patent policy.
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100a.751 Procedures if approval is required.
100a.752 Responsibility for data collection.
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100a.755 Definitions used in §§ 100a.750–100a.753.

Subpart G—What Procedures Does the Education Division Use To Get Compliance?

100a.900 Waiver of regulations prohibited.
100a.901 Suspension and termination.
100a.902 Informal procedures.
100a.903 Effective date of termination.

Authority: Sec. 406(a)(1) of Pub. L. 90–247, as amended, 88 Stat. 559, 560 (20 U.S.C. 1221e–3(a)(1), unless otherwise noted.

PART 100a—DIRECT GRANT PROGRAMS

Subpart A—General

Regulations That Apply to Direct Grant Programs

§ 100a.1 Programs to which Part 100a applies.

The regulations in Part 100a apply to grants under the programs of the Education Division that are listed in the following table. In addition to the name of the program, the table gives the statute that authorizes the program, the regulations that implement the program, and the number that the Catalog of Federal Domestic Assistance (CFDA) gives to the program.

(20 U.S.C. 1221e–3(a)(1))

Name of program*	Authorizing statute	Implementing regulations	CFDA number
I. Office of the Assistant Secretary for Education			
Fund for the Improvement of Postsecondary Education	Section 404 of the General Education Provisions Act (20 U.S.C. 1221d).	Part 1501	13.925.
Capacity Building for Statistical Activities in State Educational Agencies.	Section 406 of the General Education Provisions Act (20 U.S.C. 1221-1).	Part 164	13.922.
II. National Institute of Education			
Programs of the National Institute of Education	Section 405 of the General Education Provisions Act (20 U.S.C. 1221e).	Parts 1430, 1450, 1451, 1460, 1470, 1480, and 1490.	13.950.
III. Institute of Museum Services			
Museum Services Program	Section 206 of the Museum Services Act (20 U.S.C. 965).	Part 64	13.923.
IV. Office of Education			
A. General programs			
Program Planning and Evaluation	Section 416 of the General Education Provisions Act (20 U.S.C. 1226b).	Part 107	None.
National Diffusion Network	Section 422(a) of the General Education Provisions Act (20 U.S.C. 1231a(a)).	Part 193	None.
B. Elementary and secondary education programs			
Assistance for School Construction in Areas Affected by Federal Activities.	Public Law 81-815, except section 16 (20 U.S.C. 631-645, 647).	Part 114	13.477.
Handicapped Children and Children with Specific Learning Disabilities.	Section 3(d)(2)(C) of Public Law 81-874 (20 U.S.C. 238).	Part 115, Subpart H	13.478.
Entitlements Related to Low-Rent Public Housing	Section 5(e)(3) of Public Law 81-874 (20 U.S.C. 240).	Part 115, Subpart I	13.478.
School Construction Assistance in Cases of Certain Disasters.	Section 16 of Public Law 81-815 (20 U.S.C. 646)	Part 112	13.477.
Assistance for Current School Expenditures in Cases of Certain Disasters.	Section 7 of Public Law 81-874 (20 U.S.C. 241-1)	Part 113	13.478.
Coordination of Migrant Education	Section 143 of the Elementary and Secondary Education Act (20 U.S.C. 2763).	None	None.
Transition of Neglected or Delinquent Children	Section 153 of the Elementary and Secondary Education Act (20 U.S.C. 2783).	None	None.
Basic Skills Improvement—National Program	Title II-A of the Elementary and Secondary Education Act (20 U.S.C. 2881-2890).	None	None.
Basic Skills Improvement—State Leadership Program	Section 224 of the Elementary and Secondary Education Act (20 U.S.C. 2904).	None	None.
Special Programs for Improving Basic Skills	Title II-C of the Elementary and Secondary Education Act (20 U.S.C. 2911-2912).	None	None.
Special Projects	Title III-A of the Elementary and Secondary Education Act (20 U.S.C. 2941-2943).	None	None.
Metric Education	Title III-B of the Elementary and Secondary Education Act (20 U.S.C. 2951-2954).	None	None.
Arts in Education	Title III-C of the Elementary and Secondary Education Act (20 U.S.C. 2961-2963).	None	None.
Preschool Partnership	Title III-D of the Elementary and Secondary Education Act (20 U.S.C. 2971).	None	None.
Consumer Education	Title III-E of the Elementary and Secondary Education Act (20 U.S.C. 2981-2986).	None	None.
Youth Employment	Title III-F of the Elementary and Secondary Education Act (20 U.S.C. 2991-2992).	None	None.
Law-related Education	Title III-G of the Elementary and Secondary Education Act (20 U.S.C. 3001-3003).	None	None.
Environmental Education	Title III-H of the Elementary and Secondary Education Act (20 U.S.C. 3011-3018).	None	None.
Health Education	Title III-I of the Elementary and Secondary Education Act (20 U.S.C. 3021-3024).	None	None.
Correction Education	Title III-J of the Elementary and Secondary Education Act (20 U.S.C. 3031-3034).	None	None.
Dissemination of Information	Title III-K of the Elementary and Secondary Education Act (20 U.S.C. 3041).	None	None.
Biomedical Sciences	Title III-L of the Elementary and Secondary Education Act (20 U.S.C. 3051-3057).	None	None

Name of program*	Authorizing statute	Implementing regulations	CFDA number
Population Education	Title III-M of the Elementary and Secondary Education Act (20 U.S.C. 3061-3062).	None	None.
Federal Financial Assistance for Strengthening State Departments of Education-Special Project Grants.	Section 505 of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978).	119	None.
Comprehensive Educational Planning and Evaluation	Sections 531-534 of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978).	Part 129	None.
Bilingual Education	Title VII of the Elementary and Secondary Education Act (20 U.S.C. 3221-3261).	Part 123	13.403.
Financial Assistance for Demonstration Projects for Reducing School Dropouts.	Section 807 of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978).	Part 124	None.
Grants for Demonstration Projects to Improve School Health and Nutrition Services for Children from Low-Income Families.	Section 908 of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978).	Part 127	None.
Community Education Programs	Sections 809-813 of the Elementary and Secondary Education Act (20 U.S.C. 3289-3293).	None	None.
Gifted and Talented Children	Section 905 of the Elementary and Secondary Education Act (20 U.S.C. 3315).	None	None.
Educational Proficiency Standards	Title IX-B of the Elementary and Secondary Education Act (20 U.S.C. 3331-3332).	None	None.
Women's Educational Equity	Title IX-C of the Elementary and Secondary Education Act (20 U.S.C. 3341-3346).	None	None.
Safe Schools	Title IX-D of the Elementary and Secondary Education Act (20 U.S.C. 3351-3354).	None	None.
Follow Through Program	Sections 551-558 of the Community Services Act of 1974 (20 U.S.C. 2929-2929e).	Part 150	13.433.
Guidance and Counseling	Title III-D of the Education Amendments of 1976 (20 U.S.C. 2531-2534).	Part 191	13.577.
C. Education of the handicapped programs			
Regional Resource Centers	Section 621 of the Education of the Handicapped Act (20 U.S.C. 1421).	Part 121b	13.450
Centers and Services for Deaf-Blind Children	Section 622 of the Education of the Handicapped Act (20 U.S.C. 1422).	Part 121c	13.445
Early Education for Handicapped Children	Section 623 of the Education of the Handicapped Act (20 U.S.C. 1423).	Part 121d	13.444
Severely Handicapped Children	Section 624 of the Education of the Handicapped Act (20 U.S.C. 1424).	None	13.568
Auxiliary Activities	Section 624 of the Education of the Handicapped Act (20 U.S.C. 1424).	Part 121e	None.
Training Personnel for the Education of the Handicapped	Sections 631, 632, and 634 of the Education of the Handicapped Act (20 U.S.C. 1431, 1432, 1434).	Part 121f	13.451.
Recruitment of Personnel and Dissemination of Information	Section 633 of the Education of the Handicapped Act (20 U.S.C. 1433).	Part 121g	13.452.
Research in the Education of the Handicapped	Part E of the Education of the Handicapped Act (20 U.S.C. 1441-1444).	Part 121h	13.443.
Instructional Media for the Handicapped	Part F of the Education of the Handicapped Act (20 U.S.C. 1451-1454).	Part 121i	13.446.
Regional Education Programs for Handicapped Persons	Sections 625-627 of the Education of the Handicapped Act (20 U.S.C. 1424a-1426).	Part 121k	13.560.
Removal of Architectural Barriers to the Handicapped	Section 607 of the Education of the Handicapped Act (20 U.S.C. 1406).	None	None.
D. Occupational and adult education programs			
Commissioner's Discretionary Programs of Vocational Education.	Title I-B and Section 103(a)(1)(B) of the Vocational Education Act (20 U.S.C. 2301-2461).	Part 105	13.496, 13.559, 13.566, 13.567, and 13.568.
Career Education-Model Programs	Section 16 of the Career Education Incentive Act (20 U.S.C. 2606).	None	None.
Career Education Information Program	Section 11 of the Career Education Incentive Act (20 U.S.C. 2610).	None	None.
Adult Education Programs	Sections 309 and 316 of the Adult Education Act (20 U.S.C. 1207a and 1211c).	None	None.
E. Higher education programs			
College Library Resources Program	Title II-A of the Higher Education Act (20 U.S.C. 1021-1026).	Part 131	13.406.
Grants for Training in Librarianship	Section 222 of the Higher Education Act (20 U.S.C. 1031-1033).	Part 132	13.466.
Library Research and Demonstration	Section 223 of the Higher Education Act (20 U.S.C. 1034).	Part 133	13.475.
Strengthening Research Library Resources	Title II-C of the Higher Education Act (20 U.S.C. 1041-1046).	Part 136	13.576.
Modern Foreign Language and Area Studies (except Foreign Language and Area Studies Fellowships—See Part 100c).	Title VI of the National Defense Education Act (except sections 511(b) and 603).	Part 146 (except Subpart D)	13.435 and 13.436.
Higher Education Programs in Modern Foreign Language Training and Area Studies.	Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act (22 U.S.C. 2452(b)(6).	Part 148	13.440.
Citizen Education for Cultural Understanding Program	Section 603 of the National Defense Education Act (20 U.S.C. 512a).	Part 146a	None.
Educational Opportunity Centers	Sections 417A and 417B of the Higher Education Act (20 U.S.C. 1070d and 1070d-1).	Part 154	13.543.

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Name of program*	Authorizing statute	Implementing regulations	CFDA number
E. HIGHER EDUCATION PROGRAMS—Continued			
Upward Bound Program	Sections 417A and 417B of the Higher Education Act (20 U.S.C. 1070d and 1070d–1).	Part 155	13.492.
Special Services for Disadvantaged Students	Sections 417A and 417B of the Higher Education Act (20 U.S.C. 1070d and 1070d–1).	Part 157	13.482.
Talent Search Program	Sections 417A and 417B of the Higher Education Act (20 U.S.C. 1070d and 1070d–1).	Part 159	13.468.
Strengthening Developing Institutions Program	Title III of the Higher Education Act (20 U.S.C. 1051–1056).	Part 169	13.454.
Training for Higher Education Personnel	Section 533 of the Higher Education Act (20 U.S.C. 1119a–1).	Part 198	13.417.
Financial Assistance for Construction of Higher Education Facilities (except Loans for Construction of Academic Facilities and Annual Interest Grants for Construction of Academic Facilities).	Parts A and B of Title VII of the Higher Education Act (20 U.S.C. 1132b–1).	Part 170 (except Subparts D and E)	13.455.
Instructional Equipment Grants for Institutions of Higher Education.	Title VI of the Higher Education Act (20 U.S.C. 1121–1129).	Part 171	13.518.
Financial Assistance for Community Service and Continuing Education Programs—Special Programs and Projects.	Section 106 of the Higher Education Act (20 U.S.C. 1005a).	Part 173, Subpart C	13.557.
Cooperative Education Programs	Title VIII of the Higher Education Act (20 U.S.C. 1133–1133b).	Part 182	13.510.
Veteran's Cost-of- Instruction Payments to Institutions of Higher Education.	Section 420 of the Higher Education Act (20 U.S.C. 1070e–1).	Part 189	13.540.
Public Service Education Program—Public Service Institutional Grants.	Sections 901–904 of the Higher Education Act (20 U.S.C. 1134–1134c).	Part 194, Subpart A	13.555.
Graduate and Professional Study Institutional Grant	Sections 901–904 of the Higher Education Act (20 U.S.C. 1134–1134b).	Part 179 (except Subpart C)	13.580.
State Postsecondary Education Commissions Program—Inter-state Planning.	Section 1203(c) of the Higher Education Act (20 U.S.C. 1142b(c)).	None	13.550.
Community Colleges	Title X of the Higher Education Act (20 U.S.C. 1135 through 1135c–1).	None	None.
Ethnic Heritage Studies Program	Title IX–E of the Elementary and Secondary Education Act (20 U.S.C. 3381–3387).	Part 184	13.549.
F. OTHER PROGRAMS			
Special Projects	The Special Projects Act (20 U.S.C. 1851–1853, 1861–1867, 887d).	Part 180	13.541.
Metric Education Program	Section 403 of the Education Amendments of 1974 (20 U.S.C. 1862).	Part 180a	13.581.
Program for the Gifted and Talented	Section 404 of the Education Amendments of 1974 (20 U.S.C. 1863).	Part 180b	13.582.
Community Education Program	Section 405 of the Education Amendments of 1974 (20 U.S.C. 1864).	Part 180c	13.583.
Career Education Program	Section 406 of the Education Amendments of 1974 (20 U.S.C. 1865).	Part 180d	13.554.
Consumer's Education Program	Section 811 of the Elementary and Secondary Education Act (20 U.S.C. 887d).	Part 180e	13.564.
Women's Educational Equity Act Program	Section 408 of the Education Amendments of 1974 (20 U.S.C. 1866).	Part 180f	13.565.
Arts Education Program	Section 409 of the Education Amendments of 1974 (20 U.S.C. 1867).	Part 180g	13.566.
National Reading Improvement Program (except State Reading Improvement Programs—See Part 100b).	Parts A and C of Title VII of the Education Amendments of 1974.	Part 182 (except Subpart C)	13.533.
National Alcohol and Drug Abuse Prevention Program	Public Law 93–422 (21 U.S.C. 1001–1007)	Part 182a	13.420.
Financial Assistance for Environmental Education Projects	The Environmental Education Act (20 U.S.C. 1531–1536).	Part 183	13.522.
Educational Broadcasting Facilities Program	Part IV of the Title III of the Communications Act of 1934 (47 U.S.C. 390–395 and 397–399).	Part 153	13.413.
Television Program Assistance	Section 1527 of the Education Amendments of 1978 (20 U.S.C. 1221j).	None	None.
Teacher Corps Program	Section V–A of the Higher Education Act (20 U.S.C. 1101–1107a).	Part 172	13.489.
Teachers Centers Program	Section 532 of the Higher Education Act (20 U.S.C. 1119a).	Part 197	13.416.
Territorial Teacher Training	Section 1525 of the Education Amendments of 1978	None	None.
Education Information Management System	Section 400A (f) and (g) of the General Education Provisions Act (20 U.S.C. 1221–3 (f) and (g)).	None	None.
Indian Elementary and Secondary School Assistance (Part A)	Title III of Public Law 81–874 (20 U.S.C. 241aa–241ff)	Part 186	13.534 and 13.551.
Indian Education (Part B) (except the Indian Fellowship Program—See Part 100c).	Section 1005 of the Elementary and Secondary Education Act (20 U.S.C. 3385).	Part 187	13.535.
Indian Education (Part C)	Section 314 of the Adult Education Act (20 U.S.C. 1211a).	Part 188	13.536.
Desegregation of Public Education	Title IV of the Civil Rights Act (42 U.S.C. 2000c through 2000c–9).	Part 180	13.405.
Emergency School Aid	Title VI of the Elementary and Secondary Education Act (20 U.S.C. 3191–3207).	Part 185	13.525, 13.526, 13.528, 13.529, 13.530, 13.532, 13.569, and 13.580.
Racially Isolated School Districts	Section 1522 of the Education Amendments of 1978	None	None.

* Some programs may not be funded. Check the application notices published under § 100a.100.

§ 100a.2 Exceptions in program regulations to Part 100a.

If a program has regulations that are not consistent with Part 100a, the implementing regulations for that program identify the sections of Part 100a that do not apply.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.3 HEW general grant regulations apply to these programs.

The HEW general grant regulations in Part 74 of this title apply to the programs covered by this part. To find subjects covered under Part 74, look in the table of contents at the beginning of Part 74.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.4 Education Division contracts.

(a) A contract of the Education Division is governed by:

(1) Chapters 1 and 3 of Title 41 of the Code of Federal Regulations;

(2) Any applicable program regulations; and

(3) The request for proposals for the procurement, if any, referenced in *Commerce Business Daily*.

(b) The regulations in Part 100a do not apply to a contract of the Education Division except where they specifically provide otherwise.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 105.5(b); 121h.1(b)(2d sent.); 123.62(b); 146 Appendix Chapter V, Sec 1.1(a); 160a.4; 160e.1(c)(2)(i); 160e.8(b)(1)(ii); 160f.1(c)(2); 160f.9(a)(2); 185.84(b); 191.25(b); 193.3; 193.15; 193.25; 1400.2(g))

Eligibility for a Grant

§ 100a.50 How to find out whether you are eligible.

Eligibility to apply for a grant under a program of the Education Division is governed by the authorizing statute and implementing regulations for that program. The table in § 100a.1 gives references to the statutes and regulations that apply to the direct grant programs of the Education Division.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.51 How to prove nonprofit status.

(a) Under some programs, an applicant must show that it is a nonprofit organization. (See the definition of "nonprofit" in § 100c.1)

(b) An applicant may show that it is a nonprofit organization by any of the following means:

(1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code;

(2) A statement from a State taxing body or the State attorney general certifying that—(i) the organization is a nonprofit organization operating within the State, and (ii) no part of its net earnings may lawfully benefit any private shareholder or individual;

(3) A certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or

(4) Any of the items described in subparagraphs (1) through (3) of this paragraph if that item applies to a State or national parent organization, together with a statement by the parent organization that the applicant is a local nonprofit affiliate.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 123.14(c)(2); 184.22(a); 185.61(b))

Subpart B—[Reserved]

Subpart C—How To Apply for a Grant

The Application Notice

§ 100a.100 Publication of an application notice; content of the notice.

(a) Each fiscal year each appropriate official of the Education Division publishes application notices in the **Federal Register** that explain what kind of assistance is available under the programs that he or she administers.

(b) The application notice for a program explains one or more of the following:

(1) How to apply for a grant to start a new project.

(2) How to apply for a grant to continue an existing project already being funded by the Education Division.

(3) How to preapply for a grant to start a new project, if preapplications are used under the program.

(c) The appropriate official of the Education Division publishes the application notice for each program together in a single notice in the **Federal Register** unless the official finds that it is necessary to publish a separate notice for a particular program.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.15(1st sent.); 114.2; 114 App. § 2.5; 148.12(a)(4th sent.); 148.22(a)(3rd sent.); 148.32(a)(2nd sent.);148.42(d); 154.5(c); 169.28(b); 169.36(b); 172.137)

Note.—The term "appropriate official of the Education Division is defined in § 100c.1 of this title to mean the official that has overall administrative responsibility for an Education Division program. For each program, that official is one of the following—

(a) The Assistant Secretary;

(b) The Commissioner;

(c) The Director of the National Institute of Education; or

(d) The Director of the Institute of Museum Services.

§ 100a.101 Information in the application notice that helps an applicant apply.

(a) The application notice for each program gives important information that can help an applicant. The information usually includes—

(1) How an applicant can get an information package that contains detailed information about the program and the application form that the applicant must use;

(2) Where in the Education Division an applicant must send its application;

(3) The amount of funds available to start new projects;

(4) The number of new projects the Education Division expects to fund under the program;

(5) The average amount of funding that the Education Division expects to provide to a new project under the program;

(6) The average duration of a new project that the Education Division expects to approve under the program;

(7) The amount of funds available to continue existing projects already being funded under the program;

(8) The number of these existing projects the Education Division expects to fund under the program;

(9) The average amount of funding that the Education Division expects to provide to these existing projects; and

(10) A reference to the regulations that apply to the program.

(b) If the appropriate official of the Education Division either requires or permits preapplications under a program, an application notice for the program explains how an applicant can get the preapplication form.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.102 Deadline date for applications.

(a) An application notice for each program sets a deadline date for applications.

(b) If an applicant wants a grant for a new project, the applicant shall—

(1) Mail the application to the Education Division on or before the deadline date; or

(2) Hand deliver the application to the Education Division before 4:30 p.m. (Washington, D.C. time) on or before the deadline date.

(c) If an applicant wants a grant to continue a project, the applicant, to be assured of consideration, shall—

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(1) Mail the application to the Education Division on or before the deadline date; or

(2) Hand deliver the application to the Education Division before 4:30 p.m. (Washington, D.C. time) on or before the deadline date.

(d) The appropriate official of the Education Division accepts each of the following as proof of mailing:

(1) A legible U.S. Postal Service dated postmark; or

(2) A mail receipt with the date of mailing stamped by the U.S. Postal Service.

Note.—The U.S. Postal Service does not uniformly provide a dated postmark. An applicant should check with its local post office before relying on this method.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 115.12; 127.5(a)(3rd sent.); 146.15(a)(1st sent.); 146.25(a)(1st sent.); 146.53(a)(1st sent.); 155.7(a)(1st sent.); 157.5(a)(1st sent.); 159.6(a)(1st sent.); 160a.24(1st sent.))

§ 100a.103 Deadline date for preapplications.

(a) If the appropriate official of the Education Division invites or requires preapplications under a program, an application notice for the program sets a deadline date for preapplications.

(b) An applicant shall submit its preapplication in accordance with the procedures for applications in § 100a.102(b) and (d).

(20 U.S.C. 1221e–3(a)(1))

(Sources: 127.5(a)(3rd sent.); 160a.23(a)(1st sent., wds. 4–10); 160b.5(a)(wds. 31 to end); 160f.7(a)(1)(1st sent., wds. 28 to end))

§ 100a.104 Applicants must meet procedural rules.

The appropriate official of the Education Division may make a grant only to an eligible party that—

(a) Submits an application; and

(b) Complies with all procedural rules that govern the submission of the application.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 119.2(a)(2nd sent.); 160e.8(a); 160f(a); 160f.8(b)(1)(1st sent.); 179.4(c))

Application Contents

§ 100a.107 Application contents: Purpose of §§ 100a.108–100a.118.

(a) An applicant shall include in its application the information described in §§ 100a.108 through 100a.118.

(b) An applicant shall also include in its application any other information that is required under a particular program.

(c) If a program does not need some of the information required by these sections, the implementing regulations for the program identify the sections that do not apply.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.15; 100a.16(g); 105.605(a)(3); 105.615(a)(3); 105.625(c); 123.14(a)(Rejected); 123.24(a)(Rejected); 128.3(b); 142.5(j); 153.5(a)(3); (i)+(iii); 154.5(a); 155.7(a); 157.5(a); 159.6(a); 160a.24; 169.15(a); 169.34(a); 169.36(a); 170.17(a); 170.52; 170.73; 171.9(a); 183.41(b)(Rejected); 187.14(n); 187.24(o); 187.44(k); 187.55(m); 187.65(m); 188.7(g); 192.5(b))

§ 100a.108 Address each selection criterion.

If an applicant applies for a grant under a program that uses selection criteria, the application must include information that addresses each selection criterion that applies to the program.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 105.110; 105.605(a)(2); 105.615(a)(2); 105.625(b); 136.05(b); 146.15(a); 146.25(a); 146.34; 146.36(a)(1); 148.53(a); 160b.21(b)(4); 160c.14(b)(1); 160c.15(b)(1); 160d.7; 160c.8(c)(6); 160f.8(c); 162.12(d); 162.4c(b)(2)(x); 172.134; 179.23(c); 187.14(b); 187.24(b); 187.34(b); 187.44(b); 187.55(b); 187.65(b); 188.7(g); 191.31(c)(3); 191.44(b)(2); 197.9(a)(5); 198.6(c))

§ 100a.109 Assure compliance with appropriate requirements of law.

An application must include an assurance that a grantee will comply with the requirements imposed by the appropriate official of the Education Division concerning—

(a) Special requirements of law;

(b) Program requirements; and

(c) Administrative requirements.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.15; 105.605(a)(1); 105.614(b); 105.15(a)(1); 105.625(a); 153.53(b)(3); 157.5(c)+(d); 158.25(a); 160c.14(c); 160c.32(d)(4); 160c.33(d); 160e.8(c)(1); 160e.11(b); 160f.8(c)(1); 162.40(a)(1); 162.52(a)(5); 169.15(a)(3); 169.36(a)(8); 170.17(a)(3rd sent., 2nd clause); 170.53(b); 171.8(b); 171.9(a)(2nd sent., 2nd clause); 178a.6(a)(3rd sent.); 184.22(b); 185.13(c); 185.13(1) (5)+(m); 185.33; 185.53(c)(1); 185.93–2(b)(1); 186.33(b)(1); 189.21(b)(6); 192.5(b)(4); 193.13(b))

§ 100a.110 Describe the project.

An application must describe the project in detail. The description must include—

(a) The purpose of the project;

(b) Each objective of the project;

(c) The methods the applicant proposes to use to meet these objectives;

(d) How the applicant plans to use its resources and personnel to achieve each objective; and

(e) An assessment of the effect, if any, of the project on persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.16(a); 121d App. § 3.2(a)(4); 112.8(a); 114.62(c)(7); 123.14(a); 123.53(a)(3); 123.24(a)(1st sent.); 123.33(a); 124.5; 136.05(a)(2); 146.15(a); 146.25(a); 154.5(a)(3); 160a.22(a); 160b.3(b)(8); 160c.14(b)(1); 160c.15(b)(1); 160c.31(a)(1)(i)+(iii); 160f.8(c)(3)+(4)(i); 162.52(a)(1)+(3); 162.61(c)(1)(i)+(iii); 169.28(a)(10); 171 App. § 4.2(a); 171 guides § 5.1(a)–(c); 172.110(a)(1)+(7); 172.127; 178a.6(a); 185.73(e)(1); 187.14(d)(2); 187.24(d)(2); 187.34(d)(2); 187.44(d)(2); 187.55(d)(1)+(2); 187.65(d)(1)+(2); 188.7(a)–(c); 191.31(c)(1)(ii)+(iii); 191.44(b)(1)(ii)+(ii 192.5(a)(1); 193.13(b); 194.5(a))

§ 100a.111 Include a timeline.

(a) An application must propose a project period for the project.

(b) An application must describe when, in each budget period of the project, the applicant plans to meet each objective of the project.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.16(a); 121d App. § 4.1; 121h App. § 3.2(a)(4); 160a.14(b)(7); 160a.15(e); 160c.31(a)(1)(ii); 160d.6(b)(5); 160e.8(c)(4)(ii)(D)(1); 162.12(a)(2); 162.52(a)(2); 162.61(c)(1)(ii); 172.110(a)(2); 187.14(d)(3); 187.24(d)(3); 187.34(d)(3); 187.44(d)(3); 187.55(d)(3); 187.65(d)(3); 191.31(c)(1)(vi); 191.44(b)(1)(viii))

§ 100a.112 Describe the key personnel.

An application must include the name and qualifications of each key person in the proposed project. This information must include—

(a) The name and qualifications of the project director (if any);

(b) The name and qualifications of each of any other key personnel in the project; and

(c) The time that each person referred to in paragraphs (a) and (b) of this section plans to commit to the proposed project.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.113 Describe the resources.

An application must describe the resources the applicant plans to devote to the project, including—

(a) Facilities; and

(b) Equipment and supplies.

§ 100a.114 Describe the evaluation plan.

An application must include a description of the plan to evaluate the project under § 100a.590 and the implementing regulations of the program.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.115 Demonstrate capability; include evaluation of completed project.

(a) An application must include information that demonstrates the applicant's capability to—

(1) Conduct the project; and

(2) Meet the needs of the persons (if any) that the applicant plans to serve with the project.

(b) If an applicant wants a grant for a new project that furthers the objectives of a project already completed by the applicant, the applicant shall include an evaluation of the completed project.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 105.604(e); 155.7(a)(3)(ii); 159.8(a)(3)(ii); 160c.14(b)(2)(i)+(3); 160c.15(b)(2)(i)+(3); 160e.8(c)(2)(i); 160f.8(c)(2)(v)+(5); 185.73(e); 185.73(e)(4); 185.74(f) (2nd sent.); 197.9(b)(1)–(3))

§ 100a.116 Changes to application; number of copies.

(a) An applicant may make changes to its application on or before the deadline date for submitting applications under the program.

(b) Each applicant shall submit an original and two copies of its application to the Education Division, including any information that the applicant supplies voluntarily.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 123.14(a); 153.5(a)(5); 160f.8(b)(3); 173 App A§ 4.1; 183.41(b))

§ 100a.117 Information needed if applicant proposes a multi-year project.

An applicant that proposes a multi-year project shall include in its application—

(a) Information that shows why a multi-year project is needed;

(b) A budget for the first budget period of the project; and

(c) An estimate of the Federal funds needed for each budget period of the project after the first budget period.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 105.209; 123.04(c); 136.10(b)&(c); 160d.9(a); 160e.5(b)&(c); 160f.5(a)&(c); 162.17(b); 162.44(b)&(c); 162.55(b)&(c); 162.63(b)&(c); 197.7(c); 198.8(c))

§ 100a.118 How to apply for funds to continue a project.

(a) An applicant shall comply with paragraph (b) of this section if—

(1) The applicant wants funds to continue a project already approved on a multi-year basis;

(2) The applicant is about to complete one or more of the budget periods; and

(3) The budget period for which the applicant wants a continuation award is within the approved project period.

(b) An applicant for a continuation award shall—

(1) Comply with the deadline date for continuation applications (see § 100a.102(c)); and

(2) Submit the following:

(i) A revised face page (standard form 424) and revisions to any other affected pages.

(ii) A budget that covers the next budget period, and an estimate of the amount of funds that will remain unobligated at the end of the current budget period.

(iii) An estimate of the Federal funds needed for each budget period that comes after the next budget period.

(c) The criteria the appropriate official of the Education Division uses to decide whether to make a continuation grant are in § 100a.253.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 123.04(e); 123.14(a) (Rejected); 127.5(c); 173 App A § 4.1 (Rejected); 183.41(b))

Separate Applications—Alternate Programs

§ 100a.125 Submit a separate application to each program.

An applicant shall submit a separate application to each program under which it wants a grant.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.126 How to seek funding from more than one program.

If an applicant wants to submit its application under more than one program, the applicant shall list in each application the other programs under which the applicant is applying.

(20 U.S.C. 1221e–3(a)(1))

More Than One Eligible Party Can Join in an Application

§ 100a.127 Eligible parties may apply as a group.

(a) Eligible parties may apply as a group for a grant.

(b) Depending on the program under which a group of eligible parties seeks assistance, the name used to refer to the group may vary. The list that follows contains some of the names used to identify a group of eligible parties:

(1) Combination of institutions of higher education;

(2) Consortium;

(3) Joint applicants;

(4) Cooperative arrangements.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.19(a); 100a.19(b); 121c.10(a); 158.43(1st sent. and 2nd sent., 3rd clause); 160a.15(b); 171 Guidelines § 2.2(b) 1st sent.; 172.32; 172.108)

§ 100a.128 Who acts as applicant; the group agreement.

(a) If a group of eligible parties applies for a grant, the members of the group shall either—

(1) Designate one member of the group to apply for the grant; or

(2) Establish a separate, eligible legal entity to apply for the grant.

(b) The members of the group shall enter into an agreement that—

(1) Details the activities that each member of the group plans to perform; and

(2) Binds each member of the group to every statement and assurance made by the applicant in the application.

(c) The applicant shall submit the agreement with its application.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 119.10(b); 121c.10(b); 123.11(b); 123.21(c); 123.31(b); 146.15(b); 146.25(b); 154.3(a)(2); 154.5(b); 155.6(b); 157.4(b); 159.5(b); 160a.15(d); 169.22(a)(2); 171 Guidelines § 2.2(b) (2nd sent.))

§ 100a.129 Legal responsibilities of each member of the group.

(a) If the appropriate official of the Education Division makes a grant to a group of eligible applicants, the applicant for the group is the grantee and is legally responsible for—

(1) The use of all grant funds; and

(2) Ensuring that the project is carried out by the group in accordance with Federal requirements.

(b) Each member of the group is legally responsible to—

(1) Carry out the activities it agreeds to perform; and

(2) Use the funds that it receives under the agreement in accordance with Federal requirements that apply to the grant.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 119.10(b); 121c.10(b); 123.21(c); 123.31(b); 146.15(b); 146.25(b); 154.3(a)(2); 154.5(b); 155.6(b); 157.4(b); 159.5(b); 160a.15(d); 169.22(a)(2); 171 Guidelines § 2.2(b) (2nd sent.); 172.42)

Preapplications

§ 100a.130 Consideration of a preapplication.

The appropriate official of the Education Division considers a preapplication if—

(a) The applicant complies with the procedural rules that govern submission of the preapplication; and

(b)(1) The preapplication is submitted in response to an application notice that invites or requires preapplications; or

(2) The preapplication is submitted by a government. (See Subpart N of Part 74 of this title.)

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.31; 160a.23(a) (1st sent.); 160b.5(a); 160f.7(a)(1) (1st sent.))

§ 100a.131 The effect of not submitting a preapplication.

(a) If the appropriate official of the Education Division invites but does not require preapplications under a program, an applicant may apply for a grant under the program even if the applicant did not preapply.

(b) If the appropriate official of the Education Division requires preapplications under a program and an applicant does not preapply, the applicant may not apply for a grant under the program.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.132 Result of a preapplication.

(a) If an applicant submits a preapplication under a program, the appropriate official of the Education Division—

(1) Informs the applicant that it is eligible and encourages it to apply for grant under the program;

(2) Informs the applicant that it is eligible but does not encourage it to apply for a grant under the program; or

(3) Informs the applicant that it is ineligible for assistance under the program.

(b) An applicant may apply under a program even if the official does not encourage it to apply.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 114 App. A § 2.6(b)+(c); 124.3 (last sent.); 127.5(a) (2nd sent.); 160b.5(b)(4); 160c.12(b)(2); 160f.7(a)(3) (2nd sent.))

§ 100a.133 The basis for the preapplication decision.

To decide whether to encourage a preapplicant to apply, the appropriate official of the Education Division uses the same criteria that the official uses to select an applicant for a grant. (See §§ 100a.200–100a.206 for a description of how selection criteria work.)

(20 U.S.C. 1221e–3(a)(1))

(Sources: 124.3 (last sent.); 160b.5(b)(3); 160c.12(b)(3); 160f.7(d) (separate criteria approach rejected))

Open Meeting Certification under Certain ESEA Programs

§ 100a.138 Open meetings: Purpose of §§ 100a.139–100a.141.

(a) Sections 100a.139–100a.141 implement Section 1006 of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

(b) Section 1006 requires a local educational agency that submits an application under certain ESEA programs to certify that it has held an open meeting regarding the contents of the application.

(c) Section 1006 aplies to each ESEA program listed in § 100a.1.

(20 U.S.C. 887e)

(Source: 100d.1)

§ 100a.139 The local educational agency shall hold an open meeting.

(a) If a local educational agency applies for a grant under an ESEA program listed in § 100a.1, the agency shall hold at least one meeting.

(b) The agency shall make the meeting open to the public.

(c) The agency shall inform the people who attend the meeting of—

(1) The ESEA program under which the agency wants a grant;

(2) The kinds of activities that are authorized under the statute and program regulations; and

(3) The activities for which the agency wants the grant.

(d) The agency shall give each person who attends the meeting an opportunity to comment or make recommendations on the proposed activities.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.140 Give notice of the meeting; make information available.

(a) If a local educational agency must hold an open meeting under § 100a.139, the agency shall give notice of the time, place, and purpose of the meeting.

(b) The agency shall give notice that—

(1) Is likely to reach the general public in the area served by the project; and

(2) Gives the public time to prepare for the meeting.

(c) The agency shall take steps to ensure that persons who are members of groups that have been traditionally underrepresented receive the type of notice required by paragraph (b)(1) of this section and that these persons are encouraged to participate in the meeting. These persons include—

(1) Members of racial or ethnic minority groups;

(2) Women;

(3) Handicapped persons; and

(4) The elderly.

(d) The agency shall make the following material availble for inspection by the public at least 24 hours before the open meeting begins.

(1) An outline of the information described in § 100a.139(c).

(2) A draft copy of the agency's application if the application has been prepared.

(20 U.S.C. 1221e–3(a)(1))

(Source: 100d.2(b))

§ 100a.141 Certify that open meeting was held.

If a local educational agency must hold an open meeting under § 100a.139, the agency shall certify in its application that—

(a) The agency held at least one open meeting under § 100.139;

(b) The agency gave notice of each open meeting in accordance with § 100a.140 (a) and (b);

(c) The agency made information available in accordance with § 100a.140(c);

(d) The agency gave meaningful consideration to any comments or recommendations that it received at each open meeting; and

(e) The agency has included the results of the that consideration in its application.

(20 U.S.C. 887e)

(Source: 100d.3)

State Review Procedures

§ 100a.150 Review procedure if State must approve applications—purpose of §§ 100a.151–100a.153.

If the authorizing statute for a program requires the State to approve each application, the State and the applicant shall use the procedures in §§ 100a.151–100a.153

(20 U.S.C. 1221e–3(a)(1))

§ 100a.151 When an applicant must submit its application to the State; proof of submission.

(a) Each applicant under a program covered by § 100a.150 shall submit a copy of its application to the State at least 15 days before the deadline date for submitting the application to the Education Division.

(b) The applicant shall attach to its application a copy of its letter that requests the State to approve the application.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 102.13(b); 102.39(a)(2))

§ 100a.152 The State reviews each application.

Each State that receives an application under § 100a.151 shall review the application to decide if the State wishes to approve or disapprove the application.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.153 Deadlines for State approval.

(a) The appropriate official of the Education Division may publish in the Federal Register a notice that establishes a deadline for receipt of State approvals of applications under a program covered by § 100a.150.

(b) If a State approves an application, the appropriate State official shall:

(1) Sign a statement that approves the application; and

(2) Submit the application and the statement by the deadline date for State approvals. The procedures in § 100a.102(b) and (d) (how to meet a deadline) apply to this submission.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 102.13(c) (1st sent.)+(d)(1); 102.13(e) (Rejected; 102.39(a)(3) (1st sent.)+(a)(4))

§ 100a.154 Effect of State approval; failure to approve.

(a) If a State approves an application on or before the deadline for State approval, the appropriate official of the Education Division may select that project for a grant.

(b) If a State does not approve an application on or before the deadline for State approval, the appropriate official of the Education Division may not select that project for a grant.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 124.4; 102.13(c) (2nd sent.); 102.39(a)(3) (2nd sent.))

§ 100a.155 Review procedure if State may comment on applications—purpose of §§ 100a.156–100a.158.

If the authorizing statute or implementing regulations for a program require that a State be given an opportunity to comment on each application, the State and the applicant shall use the procedures in §§ 100a.156–100a.158.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.156 When an applicant must submit its application to the State; proof of submission.

(a) Each applicant under a program covered by § 100a.155 shall submit a copy of its application to the State on or before the deadline date for submitting its application to the Education Division.

(b) The applicant shall attach to its application a copy of its letter that requests the State to comment on the application.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 105.207; 105.804(a) (1st sent.); 123.24(b)(9); 128.4 (b)(2); 160a.23(b); 160b.23(c)(1) (1st sent.); 160c.13(b); 160d.10 (2nd+3rd sents.); 160e.7(b); 160f.8(e)(2); 160g.15(b); 179.23(b); 182a.13(d) (1st sent.); 181.31(c); 185.13(j); 194.5(b))

§ 100a.157 The State reviews each application.

A State that receives an application under § 100a.156 may review and comment on the application.

(20 U.S.C. 1221e–3(a)(1))

((Sources: 128.4(b)(3); 170.73 (3rd sent.))

§ 100a.158 Deadlines for State comments.

(a) The appropriate official of the Education Division may publish in the Federal Register a notice that establishes a deadline for receipt of State comments on applications under a program covered under § 100a.155.

(b) The State shall make its comments in a written statement signed by an appropriate State official

(c) The appropriate State official shall submit comments by the deadline date for State comments. The procedures in § 100a.102(b) and (d) (how to meet a deadline) apply to this submission.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 105.804(a) (2nd sent.); 129.4(c); 160a.28(c) (1st sent.); 160b.23(c)(1) (2nd sent.); 160c.13(c) (1st sent.); 160a.7(c) (1st sent); 160f.8(e)(3) (1st sent.); 160g.15(c) (1st sent.); 179.73(4th–6th sents.); 182a.13(d) (2d sent.); 191.32(d) (1st sent.))

§ 100a.159 Effect of State comments or failure to comment.

(a) The appropriate official of the Education Division considers those comments of the State that relate to—

(1) Any selection criteria that apply under the program; or

(2) Any other matter that affects the selection of projects for funding under the program.

(b) If the State fails to comment on an application on or before the deadline date for the appropriate program, the State waives its right to comment.

(c) If the applicant does not give the State its opportunity to comment, the appropriate official of the Education Division may not select that project for a grant.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 129.4(a) (2nd sent.); 160a.13(b)(5); 160a.28(a)+(c) (2d sent.); 160c.13(c) (2d sent.); 160e.7(c) (2d sent.); 160f.8(e)(1)+(3) (2d sent.); 160g.15(a)+(c) (2d sent.); 185.13(j) (2nd sent.); 185.53(c)(2) (3rd sent.); 185.83(b)(3)(iii); 191.32(d) (2d sent.))

§ 100a.160 Procedure for State approval of or comment on preapplications.

(a) If the authorizing statute for a program requires that a State approve each preapplication, the State and the applicant shall use the approval procedures in §§ 100a.151–100a.153 for the preapplication.

(b) If the authorizing statute or implementing regulations for a program require that a State be given an opportunity to comment on each preapplication, the State and the applicant shall use the comment procedures in §§ 100a.156–100a.158 for the preapplication.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 124.3; 160c.12(b)(4); 160f.7(b))

OMB Circular A–95 Clearinghouse Procedures

§ 100a.170 Clearinghouse procedures—Purpose of §§ 100a.170–100a.173.

(a) Sections 100a.170 through 100a.173 implement Part I of OMB Circular A–95.

(b) Part I of OMB Circular A–95 requires an applicant under certain Federal programs to notify the appropriate State and areawide clearinghouses of the applicant's intent to apply. The clearinghouses may comment on the application.

(c) The following programs listed in § 100a.1 are covered by Part I of OMB Circular A–95:

Name of program	Authorizing statute	Implementing regulations	CFDA number
Environmental education.	Title III–H of the Elementary and Secondary Education Act (20 U.S.C. 3011).	None	None
Follow through program.	Sections 551–554 of the Community Services Act of 1974 (42 U.S.C. 2229b).	Part 105	13.433
Model programs under the research in the education of the handicapped program.	Section 641 of the Education of the Handicapped Act (20 U.S.C. 1441).	Part 121h	13.443
Community service and continuing education programs—special programs and projects.	Section 105 of Title I the Higher Education Act of 1965 (20 U.S.C. 1005a).	Subpart C of part 173.	13.557

(20 U.S.C. 1221e–3(a)(1))

(Source: Catalog of Federal Domestic Assistance)

§ 100a.171 Notify the appropriate clearinghouses.

(a) An applicant under a program listed in §§ 100.270 shall include in its notice to the clearinghouses a summary of the project. The summary must include—

(1) The identity of the applicant;

(2) The geographic location of the proposed project (include a map, if appropriate);

(3) A brief description of the proposed project that helps the clearinghouses identify any State and local agencies that have plans or projects that may be affected by the project. The description must include—

(i) The type of project;

(ii) The purpose of the project;

(iii) The general size of the project;

(iv) The estimated cost of the project;

(v) The beneficiaries of the project; and

(vi) Any other information that will help the clearinghouse identify affected agencies;

(4) A statement that shows whether the applicant must prepare an Environmental Impact Statement;

(5) The name of the program and the Catalog of Federal Domestic Assistance number for the program; and

(6) The date the applicant expects to submit its application to the Education Division.

(b) If an applicant uses the preapplication procedure in this subpart, the applicant shall submit a copy of the preapplication to the appropriate clearinghouses on the same date it submits the preapplication to the Education Division.

(20 U.S.C. 1221e–3(a)(1))

(Source: OMB Circular A–95)

§ 100a.172 Applicant shall show compliance with A–95 procedures.

An applicant under a program listed in §§ 100a.170 shall include the following in its application:

(a) The comments of each clearinghouse that commented on the application; or

(b) A statement that the applicant used the procedures of OMB Circular A–95 but did not receive any clearinghouse comments.

(20 U.S.C. 1221e–3(a)(1))

(Source: OMB Circular A–95)

§ 100a.173 The effect of not complying with Part I of OMB Circular A–95.

(a) OMB Circular A–95 gives a clearinghouse 30 days to—

(1) Review the applicant's notice;

(2) Notify affected agencies and governments; and

(3) Consult with the applicant about the application.

(b) The Circular also permits a clearinghouse to take an additional 30 days to review the application.

(c) The appropriate official of the Education Division may make a grant under a program listed in § 100a.170 only if the applicant has complied with Part I of OMB Circular A–95.

(20 U.S.C. 1221e–3(a)(1))

(Source: OMB Circular A–95)

Subpart D—How Grants Are Made

Selection of New Projects

§ 100a.200 How new projects are selected.

(a) The Education Division administers two different kinds of direct grant programs. A direct grant program is either a discretionary grant or a formula grant program.

(b) *Discretionary grant programs.* (1) A discretionary grant program is one that permits the appropriate official of the Education Division to select new projects on the basis of the quality of competing applications. To receive a grant under this kind of program, an applicant usually must compete with other applicants (but see § 100a.219).

(2) The appropriate official of the Education Division uses the selection criteria in EDGAR and the specific selection criteria for a program to evaluate each application submitted for a new project under a discretionary grant program.

(3) Sections 100a.202–100a.206 contain the EDGAR selection criteria.

(4) The specific selection criteria for a program are in the implementing regulations for that program. However, if a discretionary grant program does not have specific selection criteria, the program uses the EDGAR criteria alone to evaluate applications. If used alone, the EDGAR criteria are not weighted.

(5) If a discretionary grant program has criteria that are inconsistent with one or more of the EDGAR selection criteria, the implementing regulations for that program identify the EDGAR selection criteria that do not apply..

(c) *Formula grant programs.* (1) A formula grant program is one that entitles certain applicants to receive grants if they meet the requirements of the program. Applicants do not compete with each other for the funds, and each grant is either for a set amount or for an amount determined under a formula.

(2) The appropriate official of the Education Division uses the program statute and regulations to select new projects under a formula grant program. The EDGAR selection criteria in §§ 100a.202–100a.206 are not used to evaluate applications.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.201 How to use the selection criteria.

(a) If the selection criteria for a program are not weighted, the appropriate official of the Education Division evaluates each criterion equally.

(b) If the selection criteria for a program are weighted—

(1) The appropriate official of the Education Division assigns in the program regulations a total number of points that an applicant may receive under all of the criteria;

(2) The specific program selection criteria use 70 percent of the total points assigned to the program; and

(3) The EDGAR selection criteria use the remaining 30 percent of the total points assigned to the program.

(c) The last paragraph under each EDGAR selection criterion gives the weight assigned to that criterion under EDGAR. This weight is expressed as a percentage of the total points assigned to the program. To find the number of points assigned to an EDGAR selection criterion under a particular program, use the following steps:

(1) Find the percentage given in the last paragraph of the EDGAR selection criterion in which you are interested.

(2) Find the total number of points assigned to the program in which you are interested.

(3) Multiply the percentage you found under step (1) by the number you found under step (2).

Example: You are interested in finding out how many points the EDGAR selection criterion "Evaluation plan" gets under the bilingual vocational training program. The EDGAR criterion "Evaluation plan" is in § 100.205. Paragraph (c) of that section indicates that the criterion gets 5% of the total number of points used by a program. The bilingual vocational training program is in Subpart 5 of Part 105 of this title. Section 105.606 gives the selection criteria for this program. Section 105.606 indicates that the program has a maximum of 100 points for selection criteria. Multiply 100 by 5% (.05)-the answer is 5 points. This is the number of points that §§ 100a.205 assigns to "Evaluation plan" under the bilingual vocational training program.

(d) If the selection criteria for a program are weighted, the program regulations may increase, but may not decrease, the weight of an EDGAR criterion. This is done by adding points to the EDGAR selection criterion. The appropriate official of the Education Division uses part of the 70% weight devoted to specific program selection criteria to add weight to an EDGAR criterion.

(20 U.S.C. 1221e–3(a)(1))

§§ 100a.202 Selection criterion—plan of operation.

(a) The appropriate official of the Education Division reviews each application for information that shows the quality of the plan of operation for the project.

(b) The official looks for information that shows:

(1) High quality in the design of the project;

(2) An effective plan of management that insures proper and efficient administration of the project;

(3) A clear description of how the objectives of the project relate to the purpose of the program; and

(4) The way the applicant plans to use its resources and personnel to achieve each objective.

(c) Under a program using weighted selection criteria, this criterion is assigned 10 percent of the total number of points assigned to the program.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 105.110(c)+(e); 105.211(c)+(d); 105.606(b)(c); 105.616(b)+(c); 105.626(c)+(d); 123.15(a)(2); 123.25(b); 123.26(b); 123.27(b); 123.349(a)(2; 132 App A(a)(3)+(5); 132 App A(b)(1)+(3); 133 App A(a)(3)+(4); 136.06(b)(1)+(3); 153.12(b)(6); 158.52(b)+(c); 160a.25(a)(9),(12)+(14); 160b.6(b)(2); 160b.46(a); 160c.17(b); 160c.18(b); 160c.35(a)(3); 160d.7(c); 160e.9(a); (3); 160f.10(a)(3)(i)+(iii); 162.14(a)(8); 162.14(c)(8); 162.41(a); 162.53(b)(1), (2)+(3); 172.151(a)+(b); 180.44; 185.14(b)(2); 185.24; 185.34(b)(1), (2)+(3); 185.35(b)(1); 185.54(b)(2); 185.64(b)(2); 184.91–2(b)(2); 185.92–3(a)(2); 185.94–3; 185.108(6); 185.107(b)+(d)(3); 187.12(c); 187.22(c); 187.32(c); 187.42(c): 187.53(c); 187.63(c); 191.33(b); 191.45(b)(2)+(3); 194.8(c); 198.7(f)(1))

§§ 100a.203 Selection criterion—quality of key personnel.

(a) The appropriate official of the Education Division reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(b) The official looks for information that shows—

(1) The qualifications of the project director (if any);

(2) The qualifications of each of the other key personnel used in the project;

(3) The qualifications of any of the following persons who are hired for the project—

(i) Any member of the immediate family of a person on the project staff;

(ii) Any member of the governing body of the grantee; or

(iii) Any member of the immediate family of a person on that governing body.

(4) The time that each person referred to in paragraphs (b)(1)—(3) of this section plans to commit to the project; and

(5) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(c) To determine the qualifications of a person, the official considers evidence of past experience in fields related to the objectives of the project, as well as other information that the applicant provides.

(d) Under a program using weighted selection criteria, this criterion is assigned 7 percent of the total number of points assigned to the program.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 105.110(h); 105.211(g); 105.606(f); 105.616(f); 105.626(h); 123.15(a)(2); 123.25(b); 123.26(b); 123.27(b); 123.34(a)(3); 123.54(c); 132 App A(a) (8)+(7); 132 App A(b)(5); 132 App A(c)(6); 133 App A(a)(5); 136.06(b)(5); 153.12(b)(6); 154.6(c)(4); 155.5(c)(3); 155.6(h)(3); 157.6(c)(3); 157.6(f)(3); 158.42(b)(2); 158.52(g); 159.7(c)(3); 159.7(f)(3); 160b.6(b)(4); 160b.32(c); 160b.46(a)(9); 160c.17(b); 160c.18(b); 160c.35(a)(2); 160d.7(g); 160d.15(f); 160e.9(a)(1); 160f.10(a)(1)(iv)+(v); 162.14(a)(3); 162.14(c)(3); 162.41(d); 162.62(a)(2); 179.26(b)(6); 180.14(c); 180.24(c); 180.34(c); 182.16(a)(2); 182a.25(a)(2); 185.149b)(3); 185.24; 185.34(b)(2); 185.35(b)(2); 185.54(b); 185.64(b); 185.91–2(b)(3) (ii); 185.92–3(a)(3)(ii); 185.94–3; 185.108(c)(2); 185.107(c)(2); 187.12(f); 187.22(e); 187.32(e); 187.42(f); 187.53(f); 187.63(f); 188 15(b)(6); 191.33(d); 191.45(b)(5); 193.14(d); 193.24(b)(3); 194.8(c); (2); 198.7(b))

§§ 100a.204 Selection criterion—budget and cost effectiveness.

(a) The appropriate official of the Education Division reviews each application for information that shows that the project has an adequate budget and is cost effective.

(b) The official looks for information that shows:

(1) The budget for the project is adequate to support the project activities; and

(2) Costs are reasonable in relation to the objectives of the project.

(c) Under a program using weighted selection criteria, this criterion is assigned 5 percent of the total number of points assigned to the program.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 105.110(i); 105.211(h); 105.505(b)(8)+(9); 105.606(g); 105.616(g); 105.626(i); 123.15(a)(3); 123.25(c); 123.26(c); 123.27(c); 123.34(a)(10); 123.54(f); 132 App A(a)(9); 132 App A(c)(6); 133 App A(a)(1); 136.06(b)(4); (146.14(a)(4)) (146.24(a) (5)); 153.12(b)(7); 154.6(c)(10); 155.5(c)(4); 157.6(c)(4); 159.7(c)(4); 160b.36(c)(1) (iii); 160c.35(a)(3)(iv); 160d.7(h); 160d.15(g); 160e.9(a)(3)(iv); 160f.10(a)(3)(v); 162.14(a)(5); 162.41(e); 162.62(a)(4); 179.26(b)(3); 180.14(d); 180.24(e); 180.34; 180.44; 185.14(b)(4)(ii)+(iv); 185.24; 185.34(b)(3); 185.35(b)(3); 185.54(b)(4); 185.64(b)(4); 185.91–2(b)(4); 185.92–3(a)(4); 185.94–3; 185.108(d)(1)+(2); 185.107(d)(1)+(2); 187.12(b)(6); 187.22(b)(5); 187.32(b)(5); 187.42(b)(2); 187.53(b)(6); 187.63(b)(6); 188.15(f)(3); 188.16; 191.33(e); 191.45(b)(6); 193.14(g); 193.24(b)(8); 194.8(c)(5); 198.7(d))

§ 100a.205 Selection criterion—evaluation plan.

(a) The appropriate official of the Education Division reviews each application for information that shows the quality of the evaluation plan for the project.

(b) The official looks for information that shows an objective, quantifiable method of evaluation under § 100a.590.

(c) Under a program using weighted selection criteria, this criterion, is assigned 5 percent of the total number of points assigned to the program.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 105.10(f); 105.211(f); 105.606(e); 105.616(e); 105.626(f); 121f.20(b), (e), (f), (h), (i)(1)+(j)(2)+(3); 123.18(a)(4); 123.25(d); 123.26(d); 123.27(d); 123.34(a)(8); 132 App A(a)(12)+(13); 132 App A(b)(2)+(12); 132 App A(c)(6); 133 App A(a)(6); 146.24(a)(2); 155.5(c)(2); 155.5(h)(2); 157.6(c)(2); 157.6(f)(2); 158.52(f); 159.7(c)(2); 159.7(f)(2); 160a.25(a)(11); 160b.6(b)(5); 160d.7(e); 160e.9(a)(3); 160f.10(a)(2)(iii); 160f.10(a)(3)(ii); 162.14(a)(8); 162.14(b)(3); 162.14(c)(3); 162.53(b)(4); 179.26(b)(2); 180.14(e); 180.24(d); 180.34; 180.44; 185.14(b)(5); 185.24; 185.34(b)(4); 185.35(b)(4); 185.54(b)(5); 185.64(b)(5); 185.91–2(b)(5); 185.92–3(a)(5); 185 94–3; 185.108(e); 185.107(e); 187.12(d); 187.22(d); 187.32(d); 187.42(d); 185.53(d); 187.63(d); 188.15(d); 188.16; 191.33(c); 191.45(b)(4); 193.14(b); 193.24(b)(2); 194.8(c)(7); 198.7(f)(2))

§ 100a.206 Selection criterion—adequacy of resources.

(a) The appropriate official of the Education Division reviews each application for information that shows that the applicant plans to devote adequate resources to the project, including resources to meet the needs of persons to be served by the project who are members of groups that have been traditionally underrepresented, such as

(1) Members of racial or ethnic minority groups;

(2) Women;

(3) Handicapped persons; and

(4) The elderly.

(b) The official looks for information that shows:

(1) The facilities that the applicant plans to use are adequate; and

(2) The equipment and supplies that the applicant plans to use are adequate.

(c) Under a program using weighted selection criteria, this criterion is assigned 3 percent of the total number of points assigned to the program.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 105.110(j)(2); 105.211(i)(2); 105.606(h)(2); 105.616(h)(2); 105.626(j)(2); 121f.20(c); 132 App A(a)(8); 132 App A(b)(8); 132 App A(c)(6); 136 App A(a)(5); 153.12(b)(8); 155.5(c)(3); 155.5(h)(3); 157.6(c)(3); 157.6(f); 159.7(c)(3); 159.7(f); 160b.6(b)(4); 160a.9(a)(1); 160f.10(a)(1)(vi); 162.14(a)(4); 162.62(a)(3); 185.91–2(b)(3)(iii); 185.92–2(b)(3)(iii); 185.92–3(a)(3)(iii); 185.108(d)(4); 185.107(d)(4); 187.12(g)(1); 187.22(f)(1); 187.32(f)(1); 187.42(e)(2); 188.15(f)(7); 193.14(e); 198.26(b)(4); 194.8(c)(6); 198.7(c))

Selection Procedures

§ 100a.215 How the Education Division selects a new project: Purpose of §§ 100a.216–100a.221.

Sections 100a.216—100a.221 describe the process the appropriate official of the Education Division uses to select new projects. All of these sections apply to a discretionary grant program. However, only § 100a.216 applies to a formula grant program (see § 100a.200 for a description of the difference between a discretionary grant program and a formula grant program).

(20 U.S.C. 1221e–3(a)(1))

§ 100a.216 Returning an application to the applicant.

(a) The appropriate official of the Education Division returns an application to an applicant if—

(1) The applicant is not eligible;

(2) The application does not contain the information required under the program; or

(3) The proposed project cannot be funded under the authorized statute or implementing regulations for the program.

(b) If the appropriate official of the Education Division returns an application under this section, the official includes a statement that gives the reason that the application was returned.

(20 U.S.C. 1221e–3(a)(1))

(Sources: OE III–2.7.IC; 153.8(a)(1st sent.); 156.8(a)(1st sent.); 178a.7; 183.30(2nd sent.); 183.31)

§ 100a.217 How the Education Division reviews an application.

(a) The appropriate official of the Education Division uses a group of experts to review an application unless the circumstances under § 100a.219 exist.

(b)(1) The appropriate official of the Education Division may use one or more groups of experts to review the applications submitted under each program.

(2) Each group of experts consists of 3 or more persons who are well qualified to review the applications.

(3) In each group of experts, there is at least one person who is not an employee of the Federal Government.

(4) A person may not serve with a group of experts if—

(i) The person is an employee of HEW who is involved in the administration of the program for which the group is reviewing applications; or

(ii) Ther person was involved within the past year in the administration of the program for which the group is reviewing applications.

(5) If the appropriate official of the Education Division signs a waiver for a person covered by paragraph (b)(4) of this section, the person may serve on a group of experts.

(c) A group of experts uses the selection criteria that apply to the program to rate the quality of each application.

(d) after the groups of experts have completed their review and have rated the applications, the appropriate official of the Education Division prepares a rank ordering of the applications. The rank ordering of applications is based on the ratings of the applications by the groups of experts.

(e)(1) If the official has information that affects the rank ordering of applications, he or she attaches this information to the rank ordering.

(2) The official only attaches information to a rank ordering if the information is—

(i) Relevant to a matter that affects selection of projects for funding under the program; and

(ii) Gained through appropriate procedures such as site visits or recommendations of advisory groups.

(20 U.S.C. 1221e–3(a)(1))

(Sources: OE III–2.7.2A1; III–2.7.2D; III–2.8)

§ 100a.218 How the Education Division selects new projects.

(a) Under each program, the appropriate official of the Education Division selects the projects of highest quality based on the selection criteria that apply to the program.

(b) In deciding which projects to select, the official considers the following:

(1) The information in each application;

(2) The rank ordering of the applications; and

(3) The information attached to the rank ordering of applications.

(c) In each competition under a program the official selects projects until the funds available for new projects are used up.

(d) If a project is not selected under the procedures of this section, the appropriate official of the Education Division—

(1) Returns the application to the applicant; and

(2) Informs the applicant why the application was not selected.

(20 U.S.C. 1221e–3(a)(1))

(Source: OE III–2.8.1)

§ 100a.219 A project can be selected for funding without competition.

The appropriate official of the Education Division may select a project for funding without competition with other projects if—

(a) The objectives of the project cannot be achieved unless the official makes the grant before the date grants can be made under the selection procedure in §§ 100a.217 and 100a.218; or

(b)(1) The project was reviewed by a group of experts under the preceding competition of the program;

(2) The group of experts rated the project high enough to deserve selection under § 100a.218; and

(3) The proposed project was not selected for a grant because the application was mishandled by the Education Division.

(20 U.S.C. 1221e–3(a)(1))

(Sources: OE III–2.13.1A; III–2.13.2A intro.)

§ 100a.220 Procedures the Education Division uses under § 100a.219(a).

If the special circumstances of § 100a.219(a) appear to exist for an application, the appropriate official of the Education Division uses the following procedures:

(a) The official assembles a board to review the application.

(b) The board consists of—

(1) A program officer of the program under which the applicant wants a grant;

(2) An HEW grants officer; and

(3) An HEW employee who is not a program officer of the program but who is well qualified to review the application.

(c) The board reviews the application to decide if—

(1) The special circumstances under § 100a.219(a) are satisfied;

(2) The proposed project rates high enough, based on the selection criteria that apply to the program, to deserve selection; and

(3) If the proposed project is selected, it will not have an adverse impact on the budget of the program.

(d) The board forwards the results of its review to the appropriate official of the Education Division.

(e) The appropriate official of the Education Division may select the proposed project if each of the conditions in paragraph (c) of this section are satisfied.

(f) If the official does not select the project, the applicant may submit its application under the procedures in Subpart C.

(20 U.S.C. 1221e–3(a)(1))

(Source: OE III–2.13.1B–f)

§ 100a.221 Procedures the Education Division Uses Under § 100a.219(b).

If the special circumstances of § 100a.219(b) appear to exist for an application, the appropriate official of the Education Division may select the project if—

(a) The official has documentary evidence that the special circumstances of § 100a.219(b) exist;

(b) The official has a statement that explains the circumstances of the mishandling; and

(c) The appropriate program officer recommends that the project be selected.

(20 US.C. 1221e–3(a)(1))

(Source: OE III–213.2A1–4, B–D)

Procedures To Make a Grant

§ 100a.230 How the Education Division makes a grant: purpose of §§ 100a.231–100.236.

If the appropriate official of the Education Division selects a project under §§ 100a.218, 100a.220, or 100a.221, the official follows the procedures in §§ 100a.231–100a.236 to set the amount and determine the conditions of a grant.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.231 Additional budget information.

After selecting a project for funding, the appropriate official of the Education Division may ask the applicant to submit additional budget information.

(20 U.S.C. 1221e–3(a)(1))

(Source: 115.13)

§ 100a.232 The cost analysis; basis for grant amount.

(a) Before the appropriate official of the Education Division sets the amount of a grant, the official does a cost analysis of the project. The official—

(1) Verifies the cost data in the detailed budget for the project.

(2) Evaluates specific elements of costs; and

(3) Examines costs to determine if they are necessary, reasonable, and allowable under applicable statutes and regulations.

(b) The official uses the cost analysis as a basis for determining the amount of the grant to the applicant. The cost analysis shows whether the applicant can achieve the objectives of the project with reasonable efficiency and economy under the budget in the application.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.233 Setting the amount of the grant.

The appropriate official of the Education Division may fund up to 100 percent of the allowable costs in the budget. In deciding what percent of the allowable costs to fund, the official considers—

(a) Matching or cost sharing requirements that apply; and

(b) Any other financial resources available to the applicant.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.50; 158.65a(c))

§ 100a.234 The conditions of the grant.

The appropriate official of the Education Division makes a grant to an applicant only after determining—

(a) The approved costs; and

(b) Any special conditions.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.235 The notification of grant award.

(a) To make a grant, the appropriate official issues a notification of grant award and sends it to the grantee.

(b) The notification of grant award sets the amount of the grant and gives other information about the grant.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.236 Effect of the grant.

The grant obligates both the Federal Government and the grantee to the requirements that apply to the grant.

(20 U.S.C. 1221e–3(a)(1))

Approval of Multi-Year Projects

§ 100a.250 Project period can be longer than one year.

(a) The appropriate official of the Education Division generally approves a project period of not more than 12 months.

(b) If an applicant cannot achieve the objectives of the project in 12 months, the official may approve a project period of up to 60 months.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 105.209; 113.8(a); 121.5(b); 123.04(b); 136.10(a)+(c); 146.17(a); 146.27(a); 160a.17; 160c.5(a); 160d.9(a)+(b); 160d.17(a)+(b); 160e.5(b)+(c); 160f.5(a)+(c); 160g.4; 162.17(c); 162.44(c); 162.55(c);162.63(c); 164.06 (1st sent.); 172.30; 179.27(a)+(b); 180.20(c); 180.39(b); 180.57(b); 180.65(b); 182.34(b) (3rd sent.)+(c)(1); 191.34: 191.46; 197.7(a)+(b); 198.8(a); 105.107; 105.302(b); 105.433; 113.2(b) (1st + 2nd sents.); 121.5(a) (1st sent.); 127.5(d); 132.13; 162.17(a); 162.44(a); 162.55(a); 162.63(a); 189.27; 182.34(a); 187.6(a)+(b); 187.78; 188.11(a)+(b); 187.7(a) (2nd clause))

§ 100a.251 The budget period.

(a) The appropriate official of the Education Division usually approves a budget period of not more than 12 months, even if the project has a multi-year project period.

(b) If the official approves a multi-year project period, the official—

(1) Makes a grant to the project for the initial budget period; and

(2) Indicates his or her intention to make continuation awards to fund the remainder of the project period.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 113.8(a); 121.5(b); 136.10(c) (2nd sent., 2nd clause); 146.17(b); 146.27(b); 160a.17; 160c.5(a); 160d.9(a)+(b); 160d.17(b); 160e.5(c); 160f.5(c) (2nd clause); 160g.4; 162.44(c); 162.55(c); 162.63(c); 172.30; 182.34(b) (93rd sent.); 180.20(c); 180.39(b); 180.57(b); 180.65(b); 187.6(b); 191.29(a)(5); 191.46))

Continuation Awards and Extension of a Project

§ 100a.253 Continuation of a multi-year project after the first budget period.

(a) The appropriate official of the Education Division may make a continuation award for a budget period after the first budget period of an approved multi-year project if—

(1) The Congress has appropriated sufficient funds under the program;

(2) The official is satisfied that the grantee will satisfactorily complete the budget period that is about to end;

(3) The grantee has submitted every report that it must submit before the date of the continuation award; and

(4) Continuation of the project is in the best interest of the Federal Government.

(b) A grantee that is in the final budget period of a project period may seek continued assistance for the project under the procedures for selecting new projects. (See Subpart C.)

(20 U.S.C. 1221e–3(a)(1))

(Sources: 105.209; 105.308; 105.436; 113.8(a); 121h.4(b); 121.80(b); 121i.119(b); 123.04(d); 123.15(b); 136.10(c)(d)+(e); 157.6(a)+(b); 158.13(a); 158.52; 159.7(a)+(b); 160.4(c); 160a.17(b); 160c.5(a); 160d.9(a); 160d.17(b); 160e.5(c); 160f.5(c); 160g.4; 162.44 (c)(d)+(e); 162.55(c)(d)+(e); 162.63(c)(d)+(e); 172.30; 172.150(c); 180.20(c); 180.39(b); 180.57(b); 180.65(b); 182.34(b)(3rd sent.); 187.6(c); 188.11(c)+(d); 191.34; 191.46; 198.8(d))

§ 100a.254 Extension of a project period.

The appropriate official of the Education Division may extend a project period if:

(a) Special or unusual circumstances exist that delay completion of the project;

(b) The grantee provides the official with a written request or the extension;

(c) The grantee requests the extension at least 45 days before the end of the project period;

(d) The grantee states the reason that it needs the extension;

(e) The extension does not violate any statute or regulation; and

(f) The extension does ot involve the obligation of additional Federal funds.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.54(a)(2nd sent.) and (b); 100–100d App. A para. 2(b); 164.06 (3rd+4th sents.); 1406.9(a)(2nd sent.)+(b))

Miscellaneous

§ 100a.260 Allotments and reallotments.

(a) Under some of the programs listed in § 100a.1, the appropriate official of the Education Division allots funds under a statutory or regulatory formula.

(b) If the official determines that a grantee does not need all of the funds that are alloted under one of these programs, the official reallots the unneeded funds among grantees in the same way that the official reallots funds among states under §§ 100b.230–100b.235.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 119.9(a), (b); 129.20; 186.25(b); 192.3(b), (c), (d))

Subpart E–What Conditions Must Be Met by a Grantee?

Nondiscrimination

§ 100a.500 Federal statutes and regulations on nondiscrimination.

Each grantee shall comply with the following statutes and regulations:

Subject	Statute	Regulations
Discrimination on the basis of race, color, or national origin.	Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d through 2000d–4.	45 CFR Part 80.
Discrimination on the Basis of Sex	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681–1683),	45 CFR Part 86.
Discrimination on the basis of handicap	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).	45 CFR Part 84.
Discrimination on the basis of age	The Age Discrimination Act (42 U.S.C. 6101 *et seq.*).	45 CFR Part 90.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.160; 100a.262; 112.17; 113.19; 114.83(c)(1)(ix); 114.83(c)(2(x); 115.16; 158.85; 160f.3(d)(3); 171 App. Sec. 2.2(a); 189.4)

Project Staff

§ 100a.510 Use of a project director.

(a) This section applies to each grantee that uses a project director to administer its project.

(b) The grantee shall insure that its project director has—

(1) Approprite professional qualifications, experience, and administrative skills; and

(2) A clear commitment to the objectives of the project.

(c) The grantee shall give its project director sufficient authority to conduct the project effectively and to spend project funds.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 155.5(e)(3)+(4); 155.9(a)(3)+(4); 157.7(b)(6); 159.9(b)(6))

§ 100a.511 Waiver of requiremeht for a full-time project director.

(a) The appropriate official of the Education Division may waive a program regulation that requires a full-time project dirrector if:

(1) The project will not be adversely affected by the waiver; and

(2)(i) The project director is needed to coordinate two or more related projects; or

(ii) The project director must teach a minimum number of hours to retain faculty status.

(b) The waiver either permits the grantee—

(1) To use a part-time project director; or

(2) Not to use any project director.

(c)(1) An applicant grantee may request the waiver.

(2) The request must be in writing and must demonstrate that a waiver is appropriate under this section.

(3) The appropriate official of the Education Division gives a waiver of a program regulation in writing. The waiver is effective on the date the official signs the waiver.

(20 U.S.C. 1221e–3(a)(1))

(Cross reference: Changes in key people in a research project—See § 74.103(c) of this title)

(Sources: 155.9(a)(3); 157.7(b)(6); 159.9(b)(6))

§ 100a.515 Qualifications of project staff.

A grantee shall operate its project with a staff that is adequate in education, experience, and number to achieve the objectives of the project.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 155.5(d)(4); 157.7(b)(7); 159.9(b)(7))

§ 100a.516 Inservice training for project staff.

A grantee shall provide any necessary preservice and inservice training for its project staff.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 157.7(b)(8); 159.9(b)(8))

§ 100a.517 Use of consultants.

(a) Subject to federal statutes and regulations, a grantee shall use its general policies and practices when it hires, uses, and pays a consultant as part of the project staff.

(b) The grantee may not use its grant to pay a consultant unless:

(1) There is a need in the project for the services of that consultant; and

(2) The grantee cannot meet that need by hiring an employee rather than a consultant.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.518 Compensation of consultants—employees of institutions of higher education.

If an institution of higher education receives a grant for research or for educational services, it may pay a consultant's fee to one of its employees only in unusual circumstances and only if—

(a) The work performed by the consultant is in addition to his or her regular departmental load; and

(b)(1) The consultation is across departmental lines; or

(2) The consultation involves a separate or remote operation.

(20 U.S.C. 1221e–3(a)(1))

(Source: 100–100d App. A para. 20c; HEW GAM Ch. 1–45)

§ 100a.519 Changes in key staff members.

A grantee shall comply with § 74.103(c)(2) of this title (replacement or lesser involvement of any key project staff), whether or not the grant is for research.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.260; 100–100d App. A para. 23)

§ 100a.520 Minimum wage rates.

The grantee shall pay a project staff member not less than any minimum wage required under Federal law.

(20 U.S.C 1221e–3(a)(1))

(Sources: 155.12(b), 157.12(b), 158.66; 159.12(b))

§ 100a.521 Dual compensation of staff.

A grantee may not use its grant to pay a project staff member for time or work for which that staff member is compensated from some other source of funds.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.261; 100–100d App. A para. 17; 1410.15)

Conflict of Interest

§ 100a.524 Conflict of interest: Purpose of § 100a.525.

(a) The conflict of interest regulations of the Education Division that apply to a grant are in § 100a.525.

(b) These conflict of interest regulations do not apply to a "government" as defined in § 74.3 of this title.

Note: A government must provide a conflict of interest assurance under the standard application required by Subpart N of Part 74.

(c) The regulations in § 100a.525 do not apply to a grantee's procurement contracts. The conflict of interest regulations that cover those procurement contracts are in Part 74 of this title.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.525 Conflict of interest—participation in a project.

(a) A grantee may not permit a person to participate in an administrative decision regarding a project if:

(1) The decision is likely to benefit that person or a member of his or her immediate family; and

(2) The person—

(i) Is a public official; or

(ii) Has a family or business relationship with the grantee.

(b) A grantee may not permit any person participating in the project to use his or her position for a purpose that is—or gives the appearance of being—motivated by a desire for a private gain for that person or for others.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.250; 167.82(a); 1410.14)

Allowable Costs

§ 100a.530 General cost principles.

The general principles to be used in determining costs applicable to grants and cost-type contracts under grants are referenced in Subpart Q of Part 74 of this title.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.80–100a.84; 100–100d App. A para. 4b and 9; 100–100d Apps. B, C and D; 119.6; 136.08(b); 155.14; 157.14; 159.14; 160b.7(a)(1); 160c.36(a); 160f.15(a)(1); 162.18(b); 162.64; 164.05(a); 189.34(b); 191.35(a); 197.8(a)(6); 198.4(a)(2))

§ 100a.531 Limit on total cost of a project.

A grantee shall insure that the total cost to the Federal Government is not more than the amount set forth in the notification of grant award.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.51; 100–100d App. A para. 3a; 153.14(a)(1st sent.); 160c.10(b); 189.34)

§ 100a.532 Use of funds for religion prohibited.

(a) A grantee may not use its grant to pay for any of the following:

(1) Religious worship, instruction, or proselytization;

(2) Equipment or supplies to be used for any of those activities;

(3) Construction, remodeling, repair, operation, or maintenance of any facility or part of a facility to be used for any of those activities; or

(4) An activity of a school or department of divinity.

(b) As used in this section, "school or department of divinity" means an institution or a component of an institution whose program is specifically for the education of students to—

(1) Prepare them to enter into a religious vocation; or

(2) Prepare them to teach theological subjects.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 112.11; 113.14; 123.13(e); 131.4(a)+(b); 136.08(c); 158.66; 169.5; 171 App. Sec. 4.2(c); 173.16; 179.25(c); 182.18(b); 185.13(f); 187.4; 189.21(b)(3); 194.7(c))

§ 100a.533 Acquisition of real property; construction.

A grantee may not use its grant for acquisition of real property or for constuction unless specifically permitted by the authorizing statute or implementing regulations for the program.

(20 U.S.C 1221e–3(a)(1))

(Sources: 184.23(b); 186.72(d); 185.92–1; 185.103(b)(3))

§ 100a.534 Foreign travel.

A grantee may not use its grant for foreign travel unles approved in advance by the appropriate official of the Education Division. The term "foreign travel" does not include travel between the United States, Puerto Rico, and the U.S. Virgin Islands.

(20 U.S.C. 1221e–3(a)(1))

(Source: 100–100d App. A para. 13)

§ 100a.535 Training grants—automatic increases for additional dependents.

The appropriate official increases an educational training grant to cover the cost of additional dependents not specified in the notification of grant award if—

(a) Allowances for those dependents are authorized by the program statute and are allowable under the grant; and

(b) Appropriations are available to cover the cost.

(20 U.S.C. 1221e–3(a)(1))

(Source: 100–100d App. A para. 3c)

Indirect Cost Rates

§ 100a.560 General indirect cost rates; exceptions.

(a) Appendices C–F to Part 74 of this title describe the differences between direct and indirect costs and include the principles for determining the general indirect cost rate that a grantee may use for grants under most programs.

(b) Sections 100a.562–100a.568 provide restrictions on indirect cost rates under certain programs.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.561 Approval of indirect cost rates.

(a) The appropriate official of the Education Division approves an indirect cost rate for a grantee other than a local educational agency.

(b) Each State educational agency, on the basis of a plan approved by the Commissioner, shall approve an indirect cost rate for each local educational agency that requests it to do so.

(c) Each indirect cost rate for a grantee must be approved annually.

(20 U.S.C. 1221e–3(a)(1))

(Source: 100c.2(a)+(b))

§ 100a.562 Indirect cost rates for educational training projects.

(a) The appropriate official of the Education Division may approve an indirect cost rate for an educational training project at the lesser of—

(1) The actual indirect cost rate of the grantee; or

(2) Eight percent of the total direct costs of the project.

(b) This section does not apply to—

(1) A State (as defined in § 74.3 of this title); or

(2) A local government (as defined in § 74.3 of this title).

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100–100d App. A para 4c; 155.11(c); 157.11(c); 159.11(c); 160c.36(a); 160f.15(d))

§ 100a.563 Restricted indirect cost rate—programs covered.

Sections 100a.564–100a.568 apply to each program that has a statutory requirement not to supplant Federal funds, including the following:

Program	*Authorizing statute*
Bilingual Education	Title VII of the Elementary and Secondary Education Act
Follow Through Program	Sections 551–554 of the Community Services Act of 1974
Indian Elementary and Secondary School Assistance (Part A)	Title III of Public Law 81–874
Strengthening Developing Institutes Program	Title III of the Higher Education Act

(20 U.S.C. 1221e–3(a)(1))

(Source: 100c.1)

§ 100a.564 Restricted indirect cost rate—formula.

(a) An indirect cost rate for a grant under a program covered by § 100a.563 is determined with the following formula:

Indirect cost rate = (Administrative charges + Fixed charges) − (Other expenditures).

(b) Administrative charges, fixed charges, and other expenditures must be determined under §§ 100a.565–100a.567.

(20 U.S.C. 1221e–3(a)(1))
(Source: 100c.2(c))

§ 100a.565 Administrative charge.

(a) As used in § 100a.564, "**administrative charge**" means the cost of an activity that is for the direction and control of the grantee's affairs that are organization-wide. An activity is not organization-wide if it is limited to one activity, component of the grantee, subject, phase of operations, or other single responsibility.

(b) The term includes a service function, such as accounting, payroll, or personnel, that is normally at the grantee's level even if the function is physically located elsewhere for convenience or better management.

(c) The term does not include expenditures for:

(1) The governing body of the grantee;

(2) Compensation of the chief administrative officer of the grantee;

(3) Compensation of the chief administrative officer of each of the components of the grantee; and

(4) Operation of the immediate offices of these officers.

(20 U.S.C. 1221e–3(a)(1))
(Source: 100c.2(d))

§ 100a.566 Fixed charges.

As used in § 100a.564, "fixed charges" only include contributions of the grantee to:

(a) Retirement, including State, county, or local retirement funds, social security, and pension payments; and

(b) Property, employee, and liability insurance.

(20 U.S.C. 1221e–3(a)(1))
(Source: 100c.2(e))

§ 100a.567 Other expenditures.

(a) As used in § 100a.564, "**other expenditures**" means the grantee's total expenditures for its Federal and non-Federal activities in the most recent year for which data are available.

(b) The term does not include:

(1) Administrative charges determined under § 100a.565;

(2) Fixed charges determined under § 100a.566;

(3) Capital outlay;

(4) Debt service;

(5) Fines and penalties;

(6) Contingencies; and

(7) Election expenses.

(20 U.S.C. 1221e–3(a)(1))
(Source: 100c.2(c))

§ 100a.568 Using the restricted indirect cost rate.

(a) Under the programs referenced in § 100a.563, the maximum amount of indirect costs under a grant is determined under the following formula:

Indirect costs = (Indirect cost rate) × (Total direct costs of the grant minus any costs for capital outlay, debt service, or election expenses).

(b) If a grantee uses an indirect cost rate, the administrative and fixed charges covered by that rate must be excluded from the direct costs it charges to the grant.

(20 U.S.C. 1221e–3(a)(1))
(Source: 100c.2(f) + (g))

Coordination

§ 100a.580 Coordination with other activities.

(a) A grantee shall, to the extent possible, coordinate its project, with other activities that serve similar purposes.

(b) The grantee shall continue this coordination during the entire project period.

(20 U.S.C. 1221e–3(a)(1))
(Source: 100a.275)

§ 100a.581 Methods of coordination.

Depending on the objectives and requirements of a project, coordination could include one or more of the following:

(a) Planning the project with organizations and individuals who have similar objectives or concerns.

(b) Sharing information, facilities, staff, services, or other resources.

(c) Using the grant funds so as not to duplicate or counteract the effects of funds made available under other programs.

(d) Using the grant funds to increase the impact of funds made available under other programs.

(20 U.S.C. 1221e–3(a)(1))

Evaluation

§ 100a.590 Evaluation by the grantee.

A grantee shall evaluate at least annually:

(a) The grantee's progress in achieving the objectives set forth in its approved application;

(b) The effectiveness of the project in meeting the purposes of the program; and

(c) The effect of the project on persons being served by the project, including persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(20 U.S.C. 1221e–3(a)(1))
(Sources: 100a.276; 121b.11(b) (2nd sent.); 121b.13(a); 121c.34(b); 121e.5; 123.23(a)(5); 127.8(d); 155.9(a)(5); 160b.53(f); 178a.4(c)(5); 187.81(d))

§ 100a.591 Federal evaluation—cooperation by a grantee.

A grantee shall cooperate in any evaluation of the program by the Secretary or the appropriate official of the Education Division.

(20 U.S.C. 1226c, 1231a)
(Sources: 123.14(b)(7)(i); 123.24(b)(7)(i); 123.53(b)(2)(i); 158.3(b); 160b.3(b)(7)(ii); 160c.14(g); 160c.15(g); 160c.31(d); 160f.8(g); 162.38(b); 162.40(a)(3); 185.13(d); 187.81(d)(2))

§ 100a.592 Federal evaluation—satisfying requirement for grantee evaluation.

If a grantee cooperates in a Federal evaluation of a program, the appropriate official of the Education Division may determine that the grantee meets the evaluation requirements of the program, including § 100a.590.

(20 U.S.C. 1226c, 1231a)

Construction

§ 100a.600 Use of a grant for construction—purpose of §§ 100a.601–100a.615.

Sections 100a.601–100a.615 apply to:

(a) An applicant if it requests funds for construction; and

(b) A grantee if its grant includes funds for construction.

(20 U.S.C. 1221e–3(a)(1))
(Sources: 100a.155; 105.507; 1422.1(a) + (d))

§ 100a.601 Applicant's assessment of environmental impact.

The applicant shall provide the HEW regional office with its assessment of the impact of the project on the quality of the environment in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 and Executive Order No. 11514 (34 FR 4247).

(42 U.S.C. 4332(2)(c).)
(Sources: 100a.165; 1422.7)

§ 100a.602 Preservation of historic sites must be described in the application.

(a) The applicant shall describe in its application the project's relationship to and probable effect on any district, site, building, structure, or object that is included in the National Register of Historic Preservation of the National Park Service.

(b) In deciding whether to make a grant, the appropriate official of the Education Division considers:

(1) The information provided by the applicant under paragraph (a) of this section; and

(2) Any comments by the advisory council on historic preservation.

(16 U.S.C. 470f)
(Sources: 100a.166; 1422.41)

§ 100a.603 Grantee's title to site.

The grantee must have or get a full title or other interest in the site, including right of access, that is sufficient to insure the grantee's undisturbed use and possession of the facilities for not less than the useful life of the facilities or 50 years, whichever is longer.

(20 U.S.C. 1221e–3(a)(1))
(Sources: 100a.161; 170.53(a); 1422.3)

§ 100a.604 Availability of cost-sharing funds.

(a) The grantee shall insure that sufficient funds are available to meet any non-Federal share of the cost of constructing the facility.

(20 U.S.C. 1221e–3(a)(1))
(Sources: 100a.171; 1422.15)

§ 100a.605 Beginning the construction.

(a) The grantee shall begin work on the project within a reasonable time after the grant is made.

(b) The grantee shall get approval by the appropriate official of the Education Division of the final working drawings and specifications before the construction is advertised or placed on the market for bidding.

(20 U.S.C. 1221e–3(a)(1))
(Sources: 100a.158; 100a.159(a); 1422.13; 1422.35)

§ 100a.606 Completing the construction.

(a) The grantee shall complete the project within a reasonable time.

(b) The grantee shall complete the construction in accordance with the application and approved drawings and specifications.

(20 U.S.C. 1221e–3(a)(1))
(Sources: 100a.158; 100a.159(b); 1422.13; 1422.35)

§ 100a.607 General considerations in designing facilities and carrying out construction.

(a) The grantee shall insure that the construction is—

(1) Functional;

(2) Economical; and

(3) Not elaborate in design or extravagant in the use of materials, compared with facilities of a similar type constructed in the State or other applicable geographic area.

(b) The grantee, shall, in developing plans for the facilities, consider excellence of architecture and design, and inclusion of works of art. The grantee may not spend more than 1 percent of the cost of the project on inclusion of works of art.

(20 U.S.C. 1221e–3(a)(1))
(Sources: 100a.157; 112.2(h); 1422.1(c); ESEA section 502(b)(c))

§ 100a.608 Areas in the facilities for cultural activities.

The grantee shall make reasonable provision, consistent with the other uses to be made of the facilities, for areas in the facilities which are adaptable for artistic and other cultural activities.

(20 U.S.C. 1221e–3(a)(1))
(Sources: 100a.173; 1422.11)

§ 100a.609 Comply with safety and health standards.

In planning for and designing facilities the grantee shall observe nationally recognized safety and health standards and codes, including:

(a) National Fire Protection Association standards;

(b) Standards under the Occupational Safety and Health Act of 1970 (Pub. L. 91–576); and

(c) State and local codes, to the extent that they are more stringent.

(29 U.S.C. 651)
(Sources: 100a.184; 1422.5)

§ 100a.610 Access by the handicapped.

Each grantee shall comply with the Federal regulations on access by the handicapped that apply to construction and alteration of facilities. These regulations are—

(a) For residential facilities—24 CFR Part 40; and

(b) For non-residential facilities—41 CFR Subpart 101–19.6.

(20 U.S.C. 1221e–3(a)(1))
(Sources: 100a.169; 105.503(e); 1422.33)

§ 100a.611 Avoidance of flood hazards.

In planning the construction, the grantee shall, in accordance with the provisions of Executive Order No. 11988 of February 10, 1978 (43 FR 6030) and such rules and regulations as may be issued by the Secretary to carry out those provisions—

(a) Evaluate flood hazards in connection with the construction; and

(b) As far as practicable, avoid uneconomic, hazardous, or unnecessary use of flood plains in connection with its construction.

(E.O. No. 11296.)
(Sources: 100a.190; 112.2(e)(2); 1422.37)

§ 100a.612 Supervision and inspection by the grantee.

The grantee shall maintain competent architectural engineering supervision and inspection at the construction site to insure that the work conforms to the approved drawings and specifications.

(20 U.S.C. 1221e–3(a)(1))
(Sources: 100a.172; 1422.25)

§ 100a.613 Relocation assistance by the grantee.

The grantee is subject to the regulations on relocation assistance and real property acquisition in part 15 of this title.

(20 U.S.C. 1221e–3(a)(1))
(Sources: 100a.191; 1422.39)

§ 100a.614 Grantee must have operational funds.

The grantee shall insure that sufficient funds will be available when construction is completed for effective operation and maintenance of the facility.

(20 U.S.C. 1221e–3(a)(1))
(Sources: 100a.171; 1422.15)

§ 100a.615 Operation and maintenance by the grantee.

The grantee shall operate and maintain the facilities in accordance with applicable Federal, State, and local requirements for the operation and maintenance of those facilities.

(20 U.S.C. 1221e–3(a)(1))
(Sources: 100a.170; 1422.31)

Equipment and Supplies

§ 100a.618 Charges for use of equipment or supplies.

A grantee may not charge students or school personnel for the ordinary use of equipment or supplies purchased with grant funds.

(20 U.S.C. 1221e–3(a)(1))
(Sources: 134.82)

Publications and Copyrights

§ 100a.620 General conditions on publication.

(a) *Content of materials.* Subject to any specific requirements that apply to its grant, a grantee may decide the

format and content of project materials that it publishes or arranges to have published. However, the grantee shall avoid race stereotype or sex bias in project materials, as used in this section—

(1) **"Race stereotype"** means an assumption that members of a racial group share common abilities, interests, values, or roles because they are members of that group; and

(2) **"Sex bias"** means an attitude that supports structuring the educational development of boys and girls differently on any basis other than physiological differences.

(b) *Required statement.* The grantee shall insure that any publication that contains project materials also contains the following statements:

"The contents of this (insert type of publication: e.g., book, report, film) were developed with financial assistance from the (insert name of agency in the Education Division that provided the grant), Department of Health, Education, and Welfare. However, those contents do not necessarily represent the position or policy of that agency and a reader should not infer endorsement by the Federal Government."

(20 U.S.C. 1221e–3(a)(1))

§ 100a.621 Copyright policy for grantees and contractors.

(a) A grantee may copyright project materials in accordance with Part 74 of this title.

(b) A contractor may not copyright any project materials developed under the contract unless specifically permitted in the contract.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.622 Definition of "project materials."

As used in § 100a.620 "project materials" means copyrightable work developed with funds from a grant or contract of the Education Division.

(20 U.S.C. 1221e–3(a)(1))

Inventions and Patents

§ 100a.625 Invention and patent policy.

Grantees and contractors are subject to the HEW policy regarding inventions and patents in 45 CFR Parts 6 and 8.

§ 100a.626 Show federal support; give papers to vest title.

(a) Any patent application filed by the grantee for an invention made under a grant shall include the following statement in the first paragraph:

"The invention described in this application was made under a grant from the (insert name of agency in the Education Division that gave the grant), Department of Health, Education, and Welfare."

(b) On request, the grantee shall furnish HEW with executed instruments prepared by the Federal Government, and other papers that may be necessary, to vest in the Federal Government the rights reserved to it in accordance with a determination made in accordance with Part 8 of this title. These instruments and papers enable the Government to apply for and prosecute a patent application, in any country, to cover each invention for which the Federal Government has the right to file an application.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100–100d App. A para. 12; 1409.5; 1415.17)

Other Requirements for Certain Projects

§ 100a.660 Participation of children enrolled in private schools.

If the authorizing statute for a program requires that a grantee must provide an opportunity for participation by children enrolled in private schools, the grantee shall provide that opportunity in accordance with the requirements that apply to subgrantees under §§ 100b.650–100b.663 of this title.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 123.16(d); 158.29; 158.30; 160b.25(b)+(c); 162.12(c)(2)(i)(C)+(c)(2)(ii)(B); 162.40(b)(2)(ix); 185.42(a)+(b)(2)+(e)–(h); 185.95–6)

§ 100a.661 Indian Self-Determination and Education Assistance Act.

The Indian preference provisions of Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) apply to the following programs:

(a) Vocational education—The contract program for Indian Tribes and Indian Organizations (see Subpart 2 of Part 105 of this title).

(b) The Indian Education Act (Part B) (See Part 187 of this title).

(c) The Indian Education Act (Part C) (See Part 188 of this title).

(25 U.S.C. 450e(b))

(Sources: 105.202; 187.3; 188.4)

§ 100a.662 Protection of human research subjects.

If a grantee uses a human subject in a research project, the grantee shall protect the person from physical, psychological, or sociological harm.

(20 U.S.C. 1221e–3(a)(1))

(Source: 1410.2)

§ 100a.663 Treatment of animals.

If a grantee uses an animal in a project, the grantee shall provide the animal with proper care and humane treatment in accordance with the Animal Welfare Act of 1970.

(Pub. L. 89–544, as amended).

(Sources: 100a.270; 100–100d App. A para. 24; 1410.3)

§ 100a.664 Health or safety standards for facilities.

A grantee shall comply with any Federal health or safety requirements that apply to the facilities that the grantee uses for the project.

(20 U.S.C. 1221e–3(a)(1))

(Source: 100–11d App. A para. 16)

§ 100a.665 Day care services.

(a) If a grantee uses program funds to provide day care services, the grantee shall comply with the Federal Interagency Day Care Regulations in Part 71 of this title.

(b) The appropriate official of the Education Division may waive this requirement by publication of a notice in the **Federal Register.**

(20 U.S.C. 1221e–3(a)(1))

Subpart F—What are the Administrative Responsibilities of a Grantee?

General Administrative Responsibilities

§ 100a.700 Compliance with statutes, regulations, and applications.

A grantee shall comply with applicable statutes, regulations, and approved applications, and shall use Federal funds in accordance with those statutes, regulations, and applications.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100–100d App. A para. 2a; 153.16(b)(2); 183.4(b)(3); 185.13(m); 1405.1)

§ 100a.701 The grantee administers or supervises the project.

(a) A grantee shall directly administer or supervise the administration of the project.

(b) The grantee may not transfer responsibility to others, in whole or in part, for using program funds or for carrying out of project activities.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.18(a); 100a.30; 100–100d App. A para. 15, 105.604(b); 105.624(a); 121c.10(b)(5)–(c); 123.14(b)(1); 123.24(b)(1); 123.33(b)(1); 132.7(c); 148.18(a); 148.28(a); 160a.21(a); 160b.22(e); 160c.11(d)(2); 162.11(b)(4)(i)–(iii); 162.61(d)(1)–(3); 183.4(b)(1); 185.13(b); 186.12(a); 1400.5; 1403.5(a); 1414.1(b))

§ 100a.702 Fiscal control and fund accounting procedures.

A grantee shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100–100d App. A para. 5a; 123.14(b)(3); 123.24(b)(3); 123.33(b)(3); 169.26(a)(15); 169.36(a)(12); 170.4; 171.7(a); 186.12(a); 192.4(i))

§ 100a.703 Obligation of funds during the grant period.

A grantee may only use grant funds for obligations it makes during the grant period.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.707 When obligations are made.

The following table shows when a grantee makes obligations for various kinds of property and services.

If the obligation is for—	*Then the obligation is made—*
(a) Acquisition of real or personal property	On the date the grantee makes a binding written commitment to acquire the property.
(b) Personal services by an employee of the grantee	When the services are performed.
(c) Personal services by a contractor who is not an employee of the grantee	On the date the grantee makes a binding written commitment to get the personal services.
(d) Performance of work other than personal services	On the date the grantee makes a binding written commitment to get the work.
(e) Public utility services	When the grantee receives the services.
(f) Travel	When the grantee's personnel take the travel.
(g) Rental of real or personal property	When the grantee uses the property.
(h) A preaward cost that was properly approved by the appropriate official of the Education Division under the cost principles in Appendices C–F to Part 74 of this title.	On the date the grant was made.

(20 U.S.C. 1221e–3(a)(1))

(Source: 100a.55)

§ 100a.708 Prohibition of subgrants.

A grantee may not make a subgrant under a program listed in 100a.1 unless specifically authorized by statute.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100c.11(d)(1); 162.61(d)(2))

Reports

§ 100a.720 Financial and performance reports.

(a) This section applies to the reports required under Subpart I (Financial reporting) and J (Performance reporting) or Part 74 of this title.

(b) A grantee shall submit these reports annually, unless the appropriate official of the Education Division allows less frequent reporting. However, a grantee of the National Institute of Education shall submit these reports quarterly.

(c) The appropriate offical of the Education Division may, under § 74.7 (Special grant or subgrant conditions) or § 74.72(e) (Grantee accounting systems), require a grantee to report more frequently than annually.

(20 U.S.C. 1221e–3(a)(1))

Records

§ 100a.730 Records related to grant funds.

A GRANTEE SHALL KEEP RECORDS THAT FULLY SHOW—

(a) The amount of funds under the grant;

(b) How the grantee uses the funds;

(c) The total cost of the project;

(d) The share of that cost provided from other sources; and

(e) Other records to facilitate an effective audit.

(20 U.S.C. 1232f)

(Sources: 100a.477; 100–100d App. A para. 5a–b; GEPA Section 437(a))

§ 100a.731 Records related to compliance.

A grantee shall keep records to show its compliance with Federal statutes and regulations that apply to the grant.

(20 U.S.C. 1221e–3(a)(1))

§ 100a.732 Records related to performance.

(a) A grantee shall maintain records of significant project experiences and results.

(b) The grantee shall use the records under paragraph (a) to—

(1) Determine progress in accomplishing project objectives; and

(2) Revise those objectives, if necessary.

(20 U.S.C. 1221e–3(a)(1))

(Source: 172.52)

(Cross-reference: Procedures for revising objectives—See 45 CFR 74.103 (b) and (c))

§ 100a.733 Records related to State approval of applications.

(a) This section applies to programs that require State approval of applications.

(b) The State shall establish a complete case file on each application it receives.

(c) The State shall keep a full record of—

(1) Any hearing related to an application; and

(2) Any proceeding by which the State establishes relative priorities or recommends Federal shares for eligible projects.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 170.5; 171.9)

§ 100a.734 Record retention period.

A grantee is subject to the requirements in Subpart D of Part 74 of this title with respect to records that it must keep. However, Section 437(a) of the GEPA requires that a grantee must keep records for five years after the completion of the activity for which it uses grant funds.

(20 U.S.C. 1232c)

(Sources: 100a.477(a); 100–100d App. A para. 5e; 119.61; 170.5; 171.9; 192.12; GEPA Section 437(a))

Privacy

§ 100a.740 Protection of and accessibility to student records.

Most records on present or past students are subject to the requirements of Section 438 of GEPA and its implementing regulations under Part 99 of this title. (Section 438 is the Family Educational Rights and Privacy Act of 1974.)

(20 U.S.C. 1231g)

(Sources: 185.91–3(c); GEPA Section 438)

§ 100a.741 Protection of students' privacy in research and testing.

(a) Section 439(a) of GEPA provides that parents or guardians of children who participate in a research or experimentation project funded by the Office of Education must be given access to instructional material used in that project; and

(b) A grantee shall comply with Section 439(b) of GEPA with respect to psychiatric or psychological examination, testing, or treatment of students as part of a project funded by the Office of Education.

(20 U.S.C. 1232h)

(Source: GEPA Section 439)

Data Collection by a Grantee

§ 100a.750 Approval by the Education Division.

A grantee does not have to get approval from the Education Division for the use of a data collection instrument unless—

(a) Approval is specifically required under the grant; or

(b) Approval by OMB is required for some other reason under OMB Circular A–40.

(20 U.S.C. 1221e–3(a)(1))

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(Sources: 100a.263(d)(1); 100–100d App. A para. 21)

Note.—The OMB review will be replaced by review by the Secretary under the "paperwork control" requirement in Pub. L. 96–561. Procedures for that review are being developed separately and may be incorporated in EDGAR at a later date. That review will cover activities of all Federal agencies whenever—

(a) The respondents are primarily educational agencies or institutions; and

(b) The purpose of these activities is to request information needed for the management of, or the formulation of policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

§ 100a.751 Procedures if approval is required.

If approval of a data collection instrument is specifically required under a grant, or if approval by the Office of Management and Budget is required under OMB Circular A–40 for some other reason, the grantee shall submit seven copies of each of the following to the appropriate official of the Education Division:

(a) The proposed data instrument.

(b) A completed Office of Management and Budget Standard Form 83.

(c) The supporting statement required in the "Instructions for Requesting OMB Approval under the Federal Reports Act," as set forth in Standard Form No. 83A.

(20 U.S.C. 1221e–3(a)(1))

(Source: 100a.263(d)(2))

§ 100a.752 Responsibility for data collection.

Unless the Office of Management and Budget approves a data collection instrument, the grantee may not in any way represent or imply that the data is being collected by or for the Federal Government. This does not preclude the grantee from acknowledging the assistance it received under the grant.

(20 U.S.C. 1221e–3(a)(1))

(Source: 100a.263(e))

§ 100a.753 Confidentiality of response.

In using data collection instruments, a grantee shall provide for anonymity and confidentiality of responses from individuals.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100a.263(c)(2); 1410.1)

§ 100a.754 Exception from coverage.

The regulations in §§ 100a.750—100a.753 do not apply to instruments that deal solely with—

(a) Functions of technical proficiency, such as scholastic aptitude, school achievement, and vocational proficiency;

(b) Routine demographic information; or

(c) Routine institutional information.

(20 U.S.C. 1221e–3(a)(1))

(Source: 100a.263)

§ 100a.755 Definitions used in §§ 100a.750–100a.753.

As used in §§ 100a.750–100a.753:

"Data collection instrument" means a report form, application form, schedule, questionnaire, or similar instrument for getting answers to identical questions from ten or more respondents.

"Respondent" is an individual or organization from whom information is collected either directly or indirectly.

(20 U.S.C. 1221e–3(a)(1))

(Source: 100a.263(a))

Subpart G—What Procedures Does the Education Division Use to Get Compliance?

§ 100a.900 Waiver of regulations prohibited.

(a) No official, agent, or employee of HEW may waive any regulation that applies to an Education Division program, unless the regulation specifically provides that it may be waived.

(b) No act or failure to act by an official, agent, or employee of HEW can affect the right of the appropriate official of the Education Division to enforce a regulation.

(43 Dec. Comp. Gen. 31 (1963))

(Source: 100a.483)

§ 100a.901 Suspension and termination.

(a) The appropriate official of the Education Division uses the Department's Grant Appeals board to resolve disputes within the jurisdiction of that board. The regulations governing the Grant Appeals board are in Part 16 of this title (See 45 CFR 16.5 for jurisdiction of the board).

(b) The Commissioner may use the Education Appeals Board to resolve disputes that are not within the jurisdiction of the Grant Appeals Board.

(c) The following regulations in Part 74 of this title apply to suspension and termination of a grant:

(1) Section 74.113 (Violation of terms).

(2) Section 74.114 (Suspension).

(3) Section 74.115 (Termination).

(4) The last sentence of § 74.73(c) (Financial reporting after a termination).

(4) Section 74.112 (Amounts payable to the Federal Government).

(20 U.S.C. 1221e–3(a)(1))

(Sources: 111.1; 111.2(b)(c); 111.3; 111.4; 111.5; 111.6; 111.7; 111.8; 111.9; 111.10; 111.69(a) (third sent.) and (b)–(h))

§ 100a.902 Informal procedures.

Although either the appropriate official of the Education Division or the grantee may request an informal meeting regarding a proposed termination, the grantee is considered, for purposes of § 16.5(b)(2) of this title, to have exhausted Education Division informal procedures when the grantee receives the notice of termination.

(20 U.S.C. 1221e–3(a)(1))

(Source: 100a.495(g)(2))

§ 100a.903 Effective date of termination.

Termination is effective—

(a) On delivery to the grantee of the notice of termination; or

(b) If the Grant Appeals Board takes jurisdiction of the termination proceeding, on final decision under § 16.10 of this title.

(20 U.S.C. 1221e–3(a)(1))

PART 100b—STATE-ADMINISTERED PROGRAMS

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100b.900 Waiver of regulations prohibited.
100b.901 Regulations in Part 74 on suspension and termination.
100b.902 Education Appeals Board.
100b.903 Judicial review.

Authority: Section 408(a)(1) of Pub. L. 90–247, as amended, 86 Stat. 559, 560 (20 U.S.C. 1221e–3(a)(1)), unless otherwise noted.

PART 100b—STATE-ADMINISTERED PROGRAMS

Subpart A—General

Regulations That Apply to State-Administered Programs

§ 100b.1 Programs to which these regulations apply.

The regulations in part 100b apply to the programs of the Office of Education that are listed in the following table. In addition to the name of the program, the table gives the statute that authorizes the program, the regulations that implement the program, and the number that the Catalog of Federal Domestic Assistance (CFDA) gives to the progam.

(20 U.S.C. 1221e–3(a)(1))

(Note.—Some programs are not funded. Check with the State agency responsible for administering the program.)

§ 100b.2 Exceptions in program regulations to Part 100b.

If a program has regulations that are not consistent with part 100b, the implementing regulations for that program identify the sections of part 100b that do not apply.

(20 U.S.C. 1221e–3(a)(1))

§ 100b.3 HEW general grant regulations apply to these programs.

The HEW general grant regulations in Part 74 of this title apply to the programs covered by this part. To find subjects covered under Part 74, look in the table of contents at the beginning of Part 74.

(20 U.S.C. 1221e–3(a)(1))

Name of program	Authorizing statute	Implementing regulations	CFDA number
A. Elementary and Secondary Education Programs			
Financial Assistance to Local Educational Agencies to Meet the Special Educational Needs of Educationally Deprived Children (except Coordination of Migrant Education and Transition of Neglected or Delinquent Children—See Part 100a).	Title I–A of the Elementary and Secondary Education Act (except Sections 143 and 198) (20 U.S.C. 2701–2754).	Parts 116 and 116e	13.428 and 13.512.
Grants to State Agencies for Programs to Meet the Special Educational Needs of Children in Institutions for Neglected or Delinquent Children.	Sections 151–153 of the Elementary and Secondary Education Act (20 U.S.C. 2781–2783).	Parts 116, 116c	13.431.
Grants to State Educational Agencies for Programs to Meet the Special Educational Needs of Migratory Children.	Sections 141–143 of the Elementary and Secondary Education Act (20 U.S.C. 2761–2763).	Parts 116, 116d	13.429.
State Basic Skills Program	Title II–B of the Elementary and Secondary Education Act (20 U.S.C. 2901–2904).	None	None.
Financial Assistance for School Library Resources, Textbooks and Other Instructional Materials.	Title II of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978).	Part 117	None.
Supplementary Centers and Services, Guidance, Counseling, and Testing Programs.	Title III of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978).	Part 118	None.
Instructional Materials and School Library Resources, Improvement in Local Educational Practices, and Guidance, counseling, and Testing.	Title IV of the Elementary and Secondary Education Act (20 U.S.C. 1891–1932).	Parts 134, 134a and 134b	13.570 and 13.571.
Strengthening State Educational Agency Management	Title V–B of the Elementary and Secondary Education Act (20 U.S.C. 3161–3163.	None	None.
Federal Financial Assistance for Strengthening State Departments of Education—Basic Grants.	Title V–A (except section 505—See Part 100a) of the Elementary and Secondary Education Act (as in effect September 30, 1978).	Part 119, Subpart B	None.
Community Schools Program	Title VIII of the ESEA (except Sections 809–813—See Part 100a) (20 U.S.C. 3281–3288).	None	None.
Gifted and Talented Children Program	Title IX of the Elementary and Secondary Education Act (except Section 905—See Part 100a) (20 U.S.C. 3311–3314; 3316–3316).	None	None.
Indochinese Refugee Children Program	Title II of the Indochina Refugee Children Assistance Act (20 U.S.C. 1211b).	None	None.
Strengthening Instruction in Academic Subjects in Public Schools.	Title III–A of the National Defense Education Act of 1958 (20 U.S.C. 441–444).	Part 141	None.
State Reading Improvement Programs	Title VII–B of the Education Amendments of 1974 (20 U.S.C. 1941–1944).	Part 162, Subpart C	None.
B. Education of the Handicapped Programs			
State-operated programs for Handicapped Children	Sections 146–147 of the Elementary and Secondary Education Act (20 U.S.C. 2771–2772).	Parts 116, 116b	13.427.
Assistance to States for Education of Handicapped Children	Part B of the Education of the Handicapped Act (20 U.S.C. 1411–1418; 1420).	Part 121a	13.449.
Incentive Grants	Section 619 of the Education of the Handicapped Act (20 U.S.C. 1419).	Part 121m	13.449.
C. Occupational and Adult Education Programs			
State Vocational Education Programs	Part A of Title I of the Vocational Education Act (20 U.S.C. 2301–2461).	Part 104	13.493, 13.494, 13.495, 13.498, and 13.500.
Career Education—State Allotment Program	Career Education Incentive Act (except sections 10, 11, and 12) (20 U.S.C. 2601–2614).	None	None.
State Adult Education Programs	Adult Education Act (except sections 309, 314, and 316—See Part 100a) (20 U.S.C. 1201–1211a).	Part 166	13.400.
D. Higher Education Programs			
Community Service and Continuing Education Programs (except Special Programs and Projects—See Part 100a).	Title I of the Higher Education Act (except section 106) (20 U.S.C. 1001–1005; 1006–1011).	Part 173 (except Subpart C)	13.491.
State Student Incentive Grant Program	Sections 415A–415E of the Higher Education Act (20 U.S.C. 1070c through 1070c–4).	Part 192	13.548.
Educational Information Centers Program	Sections 418A and 418B of the Higher Education Act (20 U.S.C. 1070d–2 and 1070d–3).	Part 137	13.585.
Incentive Grants for State Student Financial Assistance Training Program.	Section 493C of the Higher Education Act (20 U.S.C. 1088B–3).	Part 178a	13.582.
State Postsecondary Education Commissions Program—Interstate Planning.	Section 1203(a) of the Higher Education Act (20 U.S.C. 1088b–3).	Part 199a	13.550.
E. Other Programs			
Library Services, Public Library Construction and	Library Services and Construction Act (20 U.S.C.	Part 136	13.464, 13.469, and 13.465.
Assistance to States for State Equalization Plans	Section 842 of the Education Amendments of 1974 (20 U.S.C. 246).	Part 156	13.572.

§ 100b.4 Statutes determine eligibility and whether subgrants are made.

(a) Under a program listed in § 100b.1, the Commissioner makes a grant—

(1) To the State agency designated by the authorizing statute for the program; or

(2) To the State agency designated by the State in accordance with the authorizing statute.

(b) The authorizing statute determines the extent to which a State may—

(1) Use grant funds directly; or

(2) Make subgrants to eligible applicants.

(c) The regulations in Part 100b on subgrants apply to a State under a program only if subgrants are authorized under that program.

(d) The authorizing statute determines the eligibility of an applicant for a subgrant.

(20 U.S.C. 1221e–3(a)(1))

§ 100b.5 A State distributes funds by formula or competition.

If a program statute authorizes a State to make subgrants, the statutes requires the State to use one of the following two methods to distribute funds:

(a) An objective formula; or

(b) A competition among the applicants or some other procedure that gives the State discretion to select sugrantees.

(20 U.S.C. 1221e–3(a)(1))

Subpart B—How a State Applies for a Grant

State Plans and Applications

§ 100b.100 Effect of this subpart.

This subpart establishes general requirements that a State must meet to apply for a grant under a program listed in § 100b.1. Additional requirements are in the authorizing statute and the implementing regulations for the program.

(20 U.S.C. 1221e–3(a)(1)

§ 100b.101 The general State application.

(a) This section applies to the programs listed in § 100b.1 under which the State educational agency may make subgrants to local educational agencies.

(b)(1) A State shall submit to the Commissioner a general application that contains the assurances set forth in Section 435(b) of the General Education Provisions Act (GEPA).

(2) The State may submit—

(i) A single general application to cover all of the programs;

(ii) A group of general applications, each general application covering either a group of programs or an individual progam.

(20 U.S.C. 1232d)

(Source: GEPA Section 435)

(Note. Appendix A to this part contains the sections of GEPA that are relevant to part 100b.)

§ 100b.102 Definition of "State plan" for Part 100b.

As used in this part, "State plan" means any of the following documents that a State submits to the Commissioner under the authorizing statute for a program listed in § 100b.1: *

(a) *Compensatory education.* The application under Section 162 of Title I of the Elementary and Secondary Education Act.

(b) *Basic skills.* The agreement under Title II–B of the Elementary and Secondary Education Act.

(c) *Library resources.* State plan under Title II of the Elementary and Secondary Education Act (as in effect on Sept. 30, 1978).

(d) *Innovative projects; Guidance and Counseling.* The State plan under Title III of the Elementary and Secondary Education Act (as in effect on Sept. 30, 1978).

(e) *Libraries; Innovative projects; Guidance and Counseling.* The State plan under Title IV of the Elementary and Secondary Education Act.

(f) *State educational agencies.* The State plan under Title V–B of the Elementary and Secondary Education Act.

(g) *State educational agencies.* The application under Title V–A of the Elementary and Secondary Education Act (as in effect September 30, 1978).

(h) *Community schools.* The State plan under Title VIII of the Elementary and Secondary Education Act.

(i) *Gifted and talented children.* The application under Section 904(b)(1) of Title IX of the Elementary and Secondary Education Act.

(j) *Indochinese children.* The application under Section 205 of Title II of the Indochina Refugee Children Assistance Act.

(k) *Academic subjects.* The State plan under Title III–A of the National Defense Education Act.

(l) *Reading.* The agreement under Title VII–B of the Education Amendments of 1974.

(m) *Handicapped Children.* The State plan under Part B of the Education of the Handicapped Act.

(n) *Handicapped children.* The application under Section 619 of the Education of the Handicapped Act.

(o) *Vocational education.* The annual program plan under Part A of Title I of the Vocational Education Act.

(p) *Career education.* The application under Section 6 of the Career Education Incentive Act.

(q) *Adult education.* The State plan under the Adult Education Act.

(r) *Community services.* The State plan under Title I of the Higher Education Act.

(s) *State student incentives.* The application under Section 415C of the Higher Education Act.

(t) *State student incentives.* The application under Section 493C of the Higher Education Act.

(u) *Postsecondary commissions.* The application for State postsecondary education commission—interstate planning, under section 1203(a) of the Higher Education Act.

(v) *Libraries.* The basic State plan under the Library Services and Construction Act.

(w) *State equalization.* The application under Section 842 of the Education Amendments of 1974.

(20 U.S.C. 1221e–3(a)(1))

(*Note.—Some of the programs listed in this section are not currently funded.)

§ 100b.103 Three-year State plans.

(a) Beginning no later than fiscal year 1981, each State plan will be effective for a period of three fiscal years, unless the program regulations provide for a longer effective period.

(b) If the Commissioner determines that the three-year State plans under a program should be submitted by the States on a staggered schedule, the Commissioner may require groups of States to submit or resubmit their plans in different years.

(20 U.S.C. 1231g(a))

(Source: GEPA Section 430(a))

§ 100b.104 A State shall include certain certifications in its State plan.

(a) A State shall include the following certifications in a State plan:

(1) That the plan is submitted by the State agency that is eligible to submit the plan.

(2) That the State agency has authority under State law to perform the functions of the State under the program.

(3) That the State legally may carry out each provision of the plan.

(4) That all provisions of the plan are consistent with State law.

(5) That a State officer, specified by title in the certification, has authority under State law to receive, hold, and

disburse Federal funds made available under the plan.

(6) That the State officer who submits the plan, specified by title in the certification, has authority to submit the plan.

(7) That the agency that submits the plan has adopted or otherwise formally approved the plan.

(8) That the plan is the basis for State operation and administration of the program.

(Sources: 104.171(a)+(b)+(h); 116.3(a)(4); 117.5(e)+(f); 118.6(c); 118.7(b); 121a.112(a)+(b); 130 App.; 141.4; 141.5; 141.8; 166.14; 166 App. A; 173.12; 173.21)

(20 U.S.C. 1221e-3(a)(1))

§ 100b The Governor has 45 days to comment on the State plan.

(a) Before a State submits a State plan to the Commissioner, the State shall give its Governor 45 days to comment on the plan.

(b) The State shall attach to the plan any comments the Governor makes.

(c) If the Governor does not comment, the official who submits the State plan shall certify that—

(1) The State submitted the plan to the Governor at least 45 days before submitting it to the Commissioner; and

(2) The Governor did not comment.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100b.36; 118.22(b)(2); 130 App. A para. 3; 130 App. B Sec. 1.2(d); 166.16(a); 166 App. A (10); OMB Circular A-95)

§ 100b.106 State plan is public information.

A State shall make the following documents available for public inspection:

(a) All State plans and related official materials;

(b) All documents that the Commissioner transmits to the State regarding a program; and

(c) All documents that the State uses to administer or operate a program.

(20 U.S.C. 1221e-3(a)(1))

(Source: 104.141(f)(9))

Amendments

§ 100b.140 Amendments to a State plan.

(a) If the Commissioner determines that an amendment to a State plan is essential during the effective period of the plan, the State shall make the amendment.

(b) A State shall also amend a State plan if there is a significant and relevant change in—

(1) The information or the assurances in the plan;

(2) The administration or operation of the plan; or

(3) The organization, policies, or operations of the State agency that received the grant, if the change materially affects the information or assurances in the plan.

(20 U.S.C. 1221e-3(a)(1); GEPA Section 430(a))

(Sources: 100b.28; 116d.8(a); 117.5(d); 118.6; 173.11; GEPA Section 430(a))

§ 100b.141 An amendment requires the same procedures as the document being amended.

A State shall use the same procedures to amend a State plan or other document it submits to the Commissioner, as it uses to prepare and submit the document itself.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100b.28; 100b.36; 116d.8; 118.6(e); 118.22(b)(2); 130 App. para. 3; 166.64(b); 166 App. A (10))

§ 100b.142 An amendment is approved on the same basis as the document being amended.

The Commissioner uses the same procedures to approve an amendment to a State plan or other document a State submits as the Commissioner uses to approve the document itself.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100b.28)

Subpart C—How a Grant is Made to a State

Approval or Disapproval by the Commissioner

§ 100b.201 A State plan must meet all statutory and regulatory requirements.

The Commissioner approves a State plan if it meets the requirements of the Federal statutes and regulations that apply to the plan.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 116d.39; 117.5(g); 130.16(b); 141.3; 141.9; 166.16(b))

§ 100b.202 Opportunity for a hearing before a State plan is disapproved.

The Commissioner may disapprove a State plan only after—

(a) Notifying the State;

(b) Offering the State a reasonable opportunity for a hearing; and

(c) Holding the hearing, if requested by the State.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 104.271(a); 117.5(g); 130.16(b); 141.9; 166.16(b); 173.15(a))

§ 100b.203 The notification of grant award.

(a) To make a grant to a State, the Commissioner issues a notification of grant award and sends it to the State.

(b) The notification of grant award tells the amount of the grant and provides other information about the grant.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 117.5(g); 141.9)

Allotments and Reallotments of Grant Funds

§ 100b.230 Allotments are made under program statute.

The Commissioner allots program funds to a State in accordance with the authorizing statute for the program.

(20 U.S.C. 1221e-3(a)(1))

§ 100b.231 Funds that exceed a State's needs are reallotted.

(a) If the Commissioner determines that a State has more funds than it needs under a program, the Commissioner may reduce a grant under the program to the amount needed by the State.

(b) The Commissioner may determine that a State has more funds than it needs on the basis of—

(1) Statements the State submits under § 100b.235; and

(2) Other relevant information that is available to the Commissioner.

(c) If the Commissioner reduces a grant to a State under paragraph (a) of this section, the Commissioner reallots the funds to other States.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 116d.22(d); 118.52(a); 130.42; 134.74(b); 162.26(a); 141.36(a)+(c))

§ 100b.232 Limits on amount of reallotment to a State.

If the Commissioner reallots funds to a State under § 100b.231, the amount of the reallotment—

(a) Cannot result in the State's receiving more than its maximum entitlement under the program; and

(b) Cannot be more than the amount the State needs under the program.

(20 U.S.C. 1221e-3(a)(1))

(Source: 116a.11(a)(3))

§ 100b.233 The notice of reallotment.

Before any reallotment, the Commissioner notifies each State affected by the reallotment. The notice specifies the total amount of the State's grant after the reallotment.

(20 U.S.C. 1221e-3(a)(1))

(Source: 173.23(c))

§ 100b.234 Reallotted funds are part of a receiving State's grant.

Funds that a State receives as a result of a reallotment are part of the State's grant for the appropriate fiscal year. However, the Commissioner does not consider a reallotment in determining the maximum or minimum amount to which a State is entitled for a following fiscal year.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 116d.11(b); 116.52(a); 130.42)

§ 100b.235 The statement of need for funds.

A State shall, if requested by the Commissioner, submit a statement to the Commissioner showing its anticipated need for funds during the current fiscal year. The State shall include in the statement any additional information that the Commissioner requests. The State shall submit the statement by the date that the Commissioner specifies.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 117.43(b); 116.52(b); 130.42; 141.33(b); 162.26(b); 173.23(b) (first and third sents.)

Subpart D—How to Apply to the State for a Subgrant

§ 100b.300 Contact the State for procedures to follow.

An applicant for a subgrant can find out the procedures it must follow by contacting the State agency that administers the program.

(20 U.S.C. 1221e-3(a)(1))

(Source: 121a.180)

(Cross-reference: See Subparts E and G for the general responsibilities of the State regarding applications for subgrants.)

§ 100b.301 Local educational agency general application.

A local educational agency that applies for subgrants under one or more programs listed in § 100b.1 shall submit to the State a general application that contains the assurances set forth in section 436(b) of the GEPA.

(20 U.S.C. 1232e)

(Source: GEPA Section 436)

§ 100b.302 The notice to the subgrantee.

A State shall notify a subgrantee in writing of—

(a) The amount of the subgrant;

(b) The period during which the subgrantee may obligate the funds; and

(c) The Federal requirements that apply to the Subgrant.

(20 U.S.C. 1221e-3(a)(1))

§ 100b.303 Joint applications and projects.

(a)(1) Two or more eligible parties may submit a joint application for a subgrant.

(2) Each joint applicant shall—

(i) Carry out the activities that the applicant agreed to carry out; and

(ii) Use the funds in accordance with Federal requirements.

(3) The State may not make a subgrant that exceeds the sum of the entitlements of the separate applicants.

(b) A subgrantee may combine funds with another subgrantee to conduct a joint project. However, each subgrantee shall use an accounting system that permits identification of the costs paid for under its subgrant.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 116a.19(d); 166.11(b)(4)(i))

§ 100b.304 State and subgrantee shall make subgrant application available to the public.

A State and a subgrantee shall make an approved subgrant application available for public inspection.

(20 U.S.C. 1221e-3(a)(1))

(Source: 116.5(e))

§ 100b.305 Amendments to applications.

If a subgrantee amends its application, it shall use the same procedures as those it must use to submit an application.

(20 U.S.C. 1221e-3(a)(1))

Subpart E—How a Subgrant is Made to an Applicant

§ 100b.400 State procedures for reviewing an application.

A State that receives an application for a subgrant shall take the following steps:

(a) The State shall review the application.

(b) The State shall approve an application if—

(1) The application is submitted by an applicant that is entitled to receive a subgrant under the program; and

(2) The applicant meets the requirements of the Federal statutes and regulations that apply to the program.

(c) The State may approve an application if—

(1) The application is submitted by an applicant under a program in which the State has the discretion to select subgrantees;

(2) The applicant meets the requirements of the Federal statutes and regulations that apply to the program; and

(3) The State determines that the project should be funded under the authorizing statute and implementing regulations for the program.

(d) The State may not approve an application if—

(1) The applicant does not meet the requirements of the Federal statutes or regulations that apply to the program; or

(2) The application is for an amount that would result in the applicant receiving more than its maximum entitlement under the program.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 116.5; 116.19(a); 121a.193)

§ 100b.401 An applicant has an opportunity for a hearing.

(a) If a State does not approve an application for a subgrant, the State shall provide the applicant with an opportunity for a hearing in accordance with section 425 of the GEPA.

(b) Under the following programs listed in § 100b.1, the State shall notify an applicant of its right to a hearing and provide an opportunity for the hearing before it may disapprove the application:

(1) Financial Assistance to Local Educational Agencies to Meet the Special Educational Needs of Educationally Deprived Children.

(2) State-operated Programs for Handicapped Children.

(3) Grants to State Agencies for Programs to Meet the Special Educational Needs of Children in Institutions for Neglected or Delinquent Children.

(4) Grants to State Educational Agencies to Meet the Special Educational Needs of Migratory Children.

(5) Financial Assistance for School Library Resources Textbooks and Other Instructional Materials.

(6) Supplementary Centers and Services, Guidance, Counseling, and Testing Programs.

(7) Assistance to States for Education of Handicapped Children.

(8) Strengthening Instruction in Academic Subjects in Public Schools.

(9) State Vocational Education.

(10) Indochinese Refugee Children.

(c) Under the other programs listed in § 100b.1, the State does not have to provide an opportunity for a hearing before the State disapproves an application.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 116.5(c); 118.8(f)(3); 118.23(f); 121a.114; 130.19(b)(3)(v))

Subpart F—What Conditions Must be Met by the State and its Subgrantees?

Nondiscrimination

§ 100b.500 Federal statutes and regulations on nondiscrimination.

A State and a subgrantee shall comply with the following statutes and regulations:

Subject	Statute	Regulation
Discrimination on the basis of race, color, or national origin	Title VI of the Civil Rights Act of 1964 (45 U.S.C. 2000d through 2000d–4.	45 CFR Part 80
Discrimination on the basis of sex	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681–1683).	45 CFR Part 86
Discrimination on the basis of handicap	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).	45 CFR Part 84
Discrimination on the basis of age	The Age Discrimination Act (42 U.S.C. 6101 *et seq.*)	45 CFR Part 90

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100b.160; 100b.262; 104.553 (1st + 2nd sents.); 121a.50; 121a.239; App. para. 6; 166 App. A para. 9; 166 App. C Sec. 2.1)

Allowable Costs

§ 100b.530 General cost principles.

Subpart Q of part 74 of this title references the general cost principles that apply to grants, subgrants, and cost-type contracts under grants and subgrants.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100b.80–100b.84; 100–100d Apps. B, C, and D.)

§ 100b.531 Specific cost principles in Part 100a.

A State and a subgrantee shall comply with § 100a.532–100a.534 regarding the use of Federal funds for—

(a) Religion (§ 100a.532);

(b) Acquisition of real property; construction (§ 100a.533); and

(c) Foreign Travel (§ 100a.534).

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100b.59; 166.23(b); 166.44; 166 App. C Sec. 5.4(b); 173.1(g); 173.17)

Indirect Cost Rates

§ 100b.560 General indirect cost rates; exceptions.

(a) Appendices C–D to Part 74 of this title include—

(1) A description of the difference between direct and indirect costs; and

(2) The principles for determining the general indirect cost rate that a State or subgrantee may use under some programs.

(b) Section 100b.562 provides restrictions on indirect cost rates under certain programs.

(20 U.S.C. 1221e–3(a)(1))

§ 100b.561 Approval of indirect cost rates.

(a) A State or a subgrantee other than a local educational agency may not use an indirect cost rate unless the rate is approved by the Commissioner.

(b) A State educational agency, on the basis of a plan approved by the Commissioner, shall annually establish an indirect cost rate for a local educational agency that requests it to do so.

(20 U.S.C. 1221e–3(a)(1))

(Source: 100c.2(a)+(b))

§ 100b.562 Restricted indirect cost rate; programs covered.

A State and a subgrantee shall use a restricted indirect cost rate, computed under §§ 100a.564—100a.568 of this title, for each program listed in § 100b.1 that has a statutory requirement not to use Federal Funds to supplant other funds. These programs include the following:

Program	*Authorizing Statute*
State Vocational Education, Programs	Part A of Title I of the Vocational Education Act
Financial Assistance to Local Educational Agencies to Meet the Special Educational Needs of Educationally Deprived Children	Title I–A of the Elementary and Secondary Education Act
Grants to State Agencies for Programs to Meet the Special Educational Needs of Migratory Children	Sections 141–143 of the Elementary and Secondary Education Act
State-operated Programs for Handicpped Children	Sections 146–147 of the Elementary and Secondary Education Act
Grants to State Agencies for Programs to Meet the Special Educational Needs of children in Institutions for Neglected or Delinquent Children	Section 151–153 of the Elementary and Secondary Education Act
State Basic Skills Improvement Program	Title II of the Elementary and Secondary Education Act
Financial Assistance for School Library Resources, Textbooks, and other Instructional Materials	Title II of the Elementary and Secondary Education Act (as in effect Sept 30, 1978)
Supplementary Centers and Services, Guidance, Counseling, and Testing Programs	Title III of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978)
Strengthening Instruction on Academic Subjects in Public Schools	Title III–A of the National Defense Education Act
State Adult Education Programs	Adult Education Act
Community Service and Continuing Education Programs	Title I of the Higher Education Act

(20 U.S.C. 1221e–3(a)(1))

(Source: 100c.1)

§ 100b.581 Methods of coordination.

Depending on the objectives and requirements of a project, coordination could include one or more of the following:

(a) Planning the project with organizations and individuals who have similar objectives or concerns.

(b) Sharing information, facilities, staff, services, or other resources.

(c) Using the grant or subgrant funds so as not to duplicate or counteract the effects of funds used under other programs.

(d) Using the grant or subgrant funds to increase the impact of funds made available under other programs.

(20 U.S.C. 1221e–3(a)(1))

(Source: 116.22(b)(1))

Evaluation

§ 100b.591 Federal evaluation—cooperation by a grantee.

A State and a subgrantee shall cooperate in any evaluation of the program by the Secretary or the Commissioner.

(20 U.S.C. 1226c; 1231a)

§ 100b.592 Federal evaluation satisfying requirement for State or subgrantee evaluation.

If a State or a subgrantee cooperates in a Federal evaluation of a program, the Commissioner may determine that the State or subgrantee meets the evaluation requirements of the program.

(20 U.S.C. 1226c; 1231a)

Construction

§ 100b.600 Where to find construction regulations.

(a) A State or a subgrantee that uses program funds for construction shall comply with the rules on construction that apply to applicants and grantees under §§ 100a.600—100a.615.

(b) The State shall perform the functions that the appropriate official of the Education Division performs under §§ 100a.602 (preservation of historic sites) and 100a.605 (approval of drawings and specifications).

(c) the State shall provide to the Commissioner the information required under § 100a.602(a) (preservation of historic sites).

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100b.155; 100b.157; 100b.158; 100b.159; 100b.161; 100b.170; 100b.171; 100b.172; 100b.173; 100b.184; 100b.185; 100b.186; 1090b.189; 100b.190; 100b.191; 104.553(3rd sent.); 116.32(a) (4th sent.); 130.5(c); 130 App.B sec. 2.2(b)+(c))

Participation of Children Enrolled in Private Schools

§ 100b.650 Private schools; purpose of §§ 100b.651—100b.663.

(a) Under some programs, the authorizing statute requires that students enrolled in private schools be given an opportunity to participate. Sections 100b.651–100b.663 apply to those programs and provide rules for that participation.

(b) If any other rules for that participation apply under a particular program, they are in the authorizing statute or implementing regulations for that program.

(20 U.S.C. 1221e–3(a)(1))

§ 100b.651 Responsibility of a State.

(a) A State shall insure that its subgrantees provide students enrolled in private schools with an opportunity to participate in accordance with the requirements in §§ 100b.652–100b.662 and in the authorizing statute and implementing regulations for the program.

(b) If the State carries out a project directly, it shall comply with these requirements as if it were a subgrantee.

(U.S.C. 1221e–3(a)(1))

§ 100b.652 Responsibility of a subgrantee.

(a) A subgrantee shall give students enrolled in private schools genuine opportunities to participate in a program.

(b) The subgrantee shall provide those opportunities consistent with the number of those students and their needs.

(Sources: 116a.23(a)(2d sent.); 121a.452(b))

(c) The subgrantee shall maintain continuing administrative direction and control over benefits it provides under the program to students enrolled in private schools.

(Sources: 104.533(c); 116a.23(f)(2d sent.); 121a.450(b); 134.86)

(20 U.S.C. 1221e–3(a)(1))

§ 100b.653 Consultation with representatives of private school students.

(a) An applicant for a subgrant and a subgrantee shall consult with appropriate representatives of students enrolled in private schools.

Coordination

§ 100b.580 Coordination with other activities.

(a) State and a subgrantee shall, to the extent possible, coordinate each of its projects with other activities that serve similar purposes.

(b) The State and subgrantee shall continue this coordination during the entire period that it carries out the project.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 100b.275; 116d.39(d)–(f); 118.22(b); 118.26(b); 166.13(c)(2nd sent.)+(e)–(g); 166 App. C Secs. 3.2(c)(2)(2nd para.)+(c)(3), 3.6; 5.5(b)(4), 5.7(b)(7)+(c)(6)–(9))

(b) This consultation must take place before the applicant or subgrantee makes any decision that affects the participation of the private school students.

(c) The applicant or subgrantee shall give the representatives a genuine opportunity to express their views regarding the decision.

(d) The following are examples of decisions that are subject to this section:

(1) Whether the applicant will participate in a program;

(2) Which children will receive benefits under the program;

(3) How the children's needs will be identified;

(4) What benefits will be provided;

(5) How the benefits will be provided; and

(6) How the project will be evaluated.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 116a.23(b); 121a.453; 134.90)

§ 100b.654 Needs; number of students; types of services.

A subgrantee shall determine the following matters on a basis comparable to that used by the subgrantee in providing for participation of public school students:

(a) The needs of students enrolled in private schools.

(b) The number of those students who will participate in a project.

(c) The benefits that the subgrantee will provide under the program to those students.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 104.533(b)(1)+(2); 116a.23(b); 118.15(a)(2d sent.); 121a.453; 134.92)

§ 100b.655 Same or different benefits for private school students.

(a) If a subgrantee concentrates program funds on a particular group, attendance area, or grade or age level, the subgrantee shall insure equitable participation by students enrolled in private schools who—

(1) Have the same needs; and

(2) Are in that group, attendance area, or age or grade level.

(b)(1) A subgrantee shall provide different program benefits to students enrolled in private schools from the program benefits it provides to students enrolled in public schools, if the differences are necessary to meet the special needs of the students enrolled in the private schools.

(2) However, the program benefits for the students enrolled in private schools must be comparable in quality, scope, and opportunity for participation to the program benefits for students enrolled in public schools who have needs of equal importance.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 116a.23(c); 121a.455; 134.95)

§ 100b.656 Level of expenditures for students enrolled in private schools.

(a) Subject to paragraph (b) of this section, a subgrantee shall spend the same average amount of program funds on:

(1) A student enrolled in a private school who receives benefits under the program; and

(2) A student enrolled in a public school who receives benefits under the program.

(b) The subgrantee shall spend a different average amount on program benefits for a student enrolled in a private school if the costs of meeting the needs of students enrolled in private schools are different from the costs of meeting the needs of students enrolled in public schools.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 134.96; 134.94)

§ 100b.657 Information in an application for a subgrant.

An applicant for a subgrant shall include the following information in its application:

(a) A description of how the applicant will meet the Federal requirements for participation of children enrolled in private schools.

(b) The number of children enrolled in private schools who will receive benefits under the program.

(c) The basis the applicant used to select the children.

(d) The manner and extent to which the applicant complied with § 100b.653 (consultation).

(e) The places and times that the children will receive benefits under the program.

(f) The differences, if any, between the program benefits the applicant will provide to public and private school students, and reasons for the differences.

(20 U.S.C. 1221e–3(a)(1))

§ 100b.658 Separate classes prohibited.

A subgrantee may not use program funds for classes that are separated on the basis of school enrollment or religion of the students if—

§ 100b.731 Records related to

(a) The classes are in a public facility; and

(b) The classes include students enrolled in public schools and students enrolled in private schools.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 166a.23(e); 118.15(b)(2d sent.); 121a.456; 134.101)

§ 100b.659 Funds not to benefit a private school.

(a) A subgrantee may not use program funds to finance the existing level of instruction in a private school or to otherwise benefit the private school.

(b) The subgrantee shall use program funds to meet the special needs of students enrolled in private schools, rather than

(1) The needs of a private school; or

(2) The general needs of the students enrolled in a private school.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 116a.23(d)(1st sent.); 117.6(e)(2nd sent.); 118.15(c)(6))

§ 100b.660 Use of public school personnel.

A subgrantee may make public personnel available in other than public facilities only—

(a) To the extent necessary to provide program benefits specially designed for students enrolled in a private school; and

(b) If those benefits are not normally provided by the private school.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 116a.23(f)(1st sent.); 121a.456(a))

§ 100b.661 Use of Private school personnel.

(a) A subgrantee may use program funds to pay for the services of an employee of a private school if—

(1) The employee performs the services outside—

(i) His or her regular hours of duty; and

(ii) The regular hours of the private school; and

(2) The employee performs the services under public supervision and control.

(b) This section does not apply to the following programs:

(1) Instructional Materials and School Library Resources, Improvement in Local Educational Practices, and Guidance, Counseling, and Testing—Title IV of the Elementary and Secondary Education Act; and

(2) Indochina Refugee Children Program—Title II of the Indochina Refugee Children Assistance Act.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 116a.23(f)(3rd sent.); 118.15(c)(1); 121a.456(c)(1))

§ 100b.662 Equipment and supplies.

(a) A public agency shall keep title to and exercise continuing administrative control of all equipment and supplies that the subgrantee acquires with program funds. This public agency is usually the subgrantee.

(b) The public agency may place equipment and supplies in a private school for a limited period of time.

(c) The public agency shall insure that the equipment or supplies placed in a private school—

(1) Are used only for the purposes of the program; and

(2) Can be removed from the private school without remodeling the private school facilities.

(d) The public agency shall remove equipment or supplies from a private school if—

(1) The equipment or supplies are no longer needed for the purposes of the program; or

(2) Removal is necessary to avoid use of the equipment or supplies for other than program purposes.

(Sources: 104.533(c); 116a.23(f)(2d sent.); 117.6(f); 118.15(c)(3); 121a.457(a)+(b); 134.96; 134.100(b))

§ 100b.663 Construction.

A subgrantee shall insure that program funds are not used for the construction of private school facilities.

(20 U.S.C. 1221e–3(a)(1)

(Sources: 116.23(f)(3rd sent.); 118.15(c)(4); 121a.456(c)(2))

Other Requirements for Certain Programs

§ 100b.680 Inventions and patents.

A State and a subgrantee shall comply with §§ 100a.625 and 100a.626 of this title with respect to any invention made under a grant or subgrant.

(20 U.S.C. 1221e–3(a)(1))

§ 100b.682 Protection of human research subjects.

If a State or a subgrantee uses a human subject in a research project, the State or subgrantee shall protect the person from physical, psychological, or sociological harm.

(20 U.S.C. 1221e–3(a)(1))

§ 100b.683 Treatment of animals.

If a State or a subgrantee uses an animal in a project, the State or subgrantee shall provide the animal with proper care and humane treatment in accordance with the Animal Welfare Act of 1970.

(Pub. L. 89–544, as amended)

§ 100b.684 Health or safety standards for facilities.

A State and a subgrantee shall comply with any Federal health or safety requirements that apply to the facilities that the State or subgrantee uses for a project.

(20 U.S.C. 1221e–3(a)(1))

§ 100b.685 Day care services.

(a) If a State or a subgrantee uses program funds to provide any day care services, the State or subgrantee shall comply with the Federal Interagency Day Care Regulations in part 71 of this title.

(b) The Commissioner may waive this requirement by publication of a noice in the **Federal Register**.

(20 U.S.C. 1221e–3(a)(1))

(Source: 104.612(b))

Subpart G—What are the Administrative Responsibilities of the State and its Subgrantees?

General Administrative Responsibilities

§ 100b.700 Compliance with statutes, regulations, State plan, and applications.

A State and a subgrantee shall comply with the State plan and applicable statutes, regulations, and approved applications, and shall use Federal funds in accordance with those statutes, regulations, plan, and applications.

(Sources: 104.301; 104.792(b); 116.4(a); 116.46; 116b.32(b)(2), 116.52; 117.5(d); 121a.15; 121a.600(a); 130.30; 141.3; 141.6(a), 141.46; 166.12(a)(last sent.); 166.41)

§ 100b.701 The State or subgrantee administers or supervises each project.

(a) A State or a subgrantee shall directly administer or supervise the administration of each project.

(b) The State or subgrantee may not transfer responsibility to others, in whole or part, for using program funds or for carrying out project activities.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 118.23(c)(1); 121a.600(a)(1); 130 App.; 166.11(b)(4)(i))

§ 100b.702 Fiscal control and fund accounting procedures.

A state and a subgrantee shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 130 App. A para. 1(b); 141.11(b))

§ 100b.703 When a State may begin to obligate funds.

A State may not begin to obligate funds under a program until the later of the following two dates:

(a) The date that the State submits the State plan to the Commissioner in substantially approvable form.

(b) The date that the funds are first available for obligation by the Commissioner.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100b.35; 116d.8(d)(1))

§ 100b.704 When certain subgrantees may begin to obligate funds.

(a) This section applies to a program if the authorizing statute requires a State to make subgrants on the basis of an objective formula. (See § 100b.5.)

(b) An applicant for a subgrant may not begin to obligate funds under a program until the later of the following two dates:

(1) The date that the State may begin to obligate funds under § 100b.703; or

(2) The date that the applicant submits its application to the State in substantially approvable form.

(20 U.S.C. 1221e-3(a)(1))

(Source: 116.5(b); 116a.19(a); 116d.8(d)(2); 121a.193(a))

§ 100b.705 Funds may be obligated during a "carryover period."

(a) If any grant funds are not obligated by a State or a subgrantee by the end of the fiscal year for which Congress appropriated the funds, it may obligate the funds during a carryover period of one additional fiscal year.

(b) The State shall return to the Federal Government any carryover funds not obligated by the end of the carryover period by the State and its subgrantees.

(20 U.S.C. 1225(b)

(Sources: 100b.55(b); GEPA Section 412)

§ 100b.706 Obligations made during a carryover period are subject to current statutes, regulations, and applications.

A State and a subgrantee shall use carryover funds in accordance with—

(a) The Federal statutes and regulations that apply to the program and are in effect for the carryover period; and

(b) Any State plan, application, or other document that the program statute and regulations require the State or subgrantee to submit for the carryover period.

(20 U.S.C. 1225 (b))

(Source: GEPA Section 412(b))

§ 100b.707 When obligations are made.

The following table shows when a State or a subgrantee makes obligations for various kinds of property and services.

If the obligation is for—	Then the obligation is made—
(a) Acquisition of real or personal property.	On the date the State or subgrantee makes a binding written commitment to acquire property.
(b) Personal services by an employee of the State or subgrantee.	When the services are performed.
(c) Personal services by a contractor who is not an employee of the State or subgrantee.	On the date the State or subgrantee makes a binding written commitment to get the services or work.
(d) Performance or work other than personal services.	On the date the State or subgrantee makes a binding written commitment to get the work.
(e) Public utility services	When the State or subgrantee receives the services.
(f) Travel	When the State's or subgrantee's personnel take the travel.
(g) Rental of real or personal property.	When the State or subgrantee uses the property.

(20 U.S.C. 1221e–3(a)(1))

(Source: 100b.56)

Reports

§ 100b.720 Financial and performance reports by a State.

(a) This section applies to a State's reports required under subparts I (Financial reporting) and J (Performance reporting) of part 74 of this title.

(b) A State shall submit these reports annually, unless the Commissioner allows less frequent reporting.

(c) However, the Commissioner may under § 74.7 (Special grant or subgrant conditions) or § 74.72(e) (Grantee accounting systems), require a State to report more frequently than annually.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 116b.11(a); 116d. (c); 130 App. para. 1(e); 141.11(c); 166.52)

§ 100b.721 A subgrantee makes reports required by the State.

A State may require a subgrantee to furnish reports that the State needs to carryout its responsibilities under the program.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 116b.23(b); 116d.6(c); 118.23(c)(5); 166.27)

Records

§ 100b.730 Records related to grant funds.

A State and a subgrantee shall keep records that fully show—

(a) The amount of funds under the grant or subgrant;

(b) How the State or subgrantee uses the funds;

(c) The total cost of the project;

(d) The share of that cost provided from other sources; and

(e) Other records to facilitate an effective audit.

(20 U.S.C. 1232f)

(Sources: 100a.477; 100–100d App. A para. 5a+b; 116d.6(c); 141.11(c); GEPA Section 437(a))

§ 100b.731 Records related to compliance.

A State and a subgrantee shall keep records to show its compliance with the Federal statutes and regulations that apply to a grant or subgrant.

(20 U.S.C. 1221e–3(a)(1))

(Source: 130 App. para. 1(f))

§ 100b.734 Record retention period.

A State and a subgrantee are subject to the requirements in subpart D of part 74 of this title with respect to records that it must keep. However, Section 437(a) of the GEPA requires that the State and the subgrantee must keep records for five years after completion of the activity for which it uses grant or subgrant funds.

(20 U.S.C. 1232f(a))

(Source: GEPA Section 437(a))

Privacy

§ 100b.740 Protection of and accessibility to student records.

Most records on present or past students are subject to the requirements of Section 438 of GEPA and its implementing regulations under part 99 of this title. (Section 438 is the Family Educational Rights and Privacy Act of 1974.)

(20 U.S.C. 1231g)

(Source: GEPA Section 438)

§ 100b.741 Protection of students' privacy in research and testing.

(a) Section 439(a) of GEPA provides that parents or guardians of children who participate in a research or experimentation project funded by the Office of Education must be given access to instructional material used in that project; and

(b) A State and a subgrantee shall comply with Section 439(b) of GEPA with respect to psychiatric or psychological examination, testing, or treatment of students as part of a project funded by the Office of Education.

(20 U.S.C. 1232h)

(Source: GEPA Section 439)

(Note: Appendix A to this part contains sections of GEPA that are relevant to Part 100b.)

Use of Funds by States and Subgrantees

§ 100b.750 More than one program may assist a single activity.

A State or a subgrantee may use funds under more than one program to support different parts of the same project if the State or subgrantee meets the following conditions:

(a) The State or subgrantee complies with the requirements of each program

(b) An application submitted under

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with respect to the part of the activity assisted with funds under that program; and

(b) The State or subgrantee has an accounting system that permits identification of the costs funded under each program.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 116.41(b); 130 App. para. 1(f))

§ 100b.751 Federal funds may pay 100 percent of costs.

A State or a subgrantee may use program funds to pay up to 100 percent of the cost of a project if—

(a) The State or subgrantee is not required to match the funds; and

(b) The project can be assisted under the authorizing statute and implementing regulations for the program.

(20 U.S.C. 1221e–3(a)(1))

State Administrative Responsibilities

§ 100b.760 A State shall perform certain duties with respect to applications for subgrants.

With respect to each program that authorizes subgrants, a State shall perform the following duties and any other duties required by statute or regulations:

(a) Disseminate information regarding the availability of funds under each program.

(b) Develop procedures for applicants to follow in competing and submitting applications for subgrants.

(c) Provide application forms.

(d) Assist applicants in applying for funds.

(e) Review applications and, within the limits of available funds, award subgrants.

(f) Notify each applicant as to whether it will receive a subgrant.

(g) Not act in any manner that excludes eligible applicants under the program.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 104.32(c); 104.32; 104.33; 116.4(a);116.5(a); 116.13(a), (b), and (f); 116d.11(a); 117.21(c) and (f); 118.8(f)(1); 118.23(b)(2) and (e); 121a.181; 130 App. B sec. 2.2(a); 134.37(a); 116.12(b); 116 App. C secs. 5.5(a), 5.6, 5.7, 5.8, 5.9, and 5.11(a)+(b); 173.12(c))

§ 100b.761 A State shall encourage eligible applicants to apply.

(a) Each State shall encourage all eligible applicants to apply for subgrants.

(b) The State shall inform eligible applicants of—

(1) The availability of subgrants;

(2) The objectives of the programs;

(3) The objectives of the State plan of each program;

(4) The assistanoe the State provides to an applicant in completing and submitting an application; and

(5) The procedures that State uses to select applications for funding.

(20 U.S.C. 1222c.–3(a)(1))

(Sources: 116a.22(a)(1); 116.23(b)+(c)(7); 166.12(b)(2)(i); (iv); (viii); 166 App. C 3.4(c); 166 App. C 5.6, 5.8)

§ 100b.762 Other responsibilities of the State.

(a) A State shall—

(1) Provide technical assistance, as required by statute and regulations, to evaluate projects;

(2) Develop and use procedures to monitor each project; and

(3) Develop procedures, issue rules, or take whatever action may be necessary to avoid illegal, imprudent, wasteful, or extravagant use of funds by the State or a subgrantee.

(b) This section does not apply to the program under Title I of the Elementary and Secondary Education Act (See § 100b.1).

(c) For the program under Title IV of the Elementary and Secondary Education Act (See § 100b.1), a State meets the requirements of this Section if it complies with sections 505 and 506 of that Act.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 116.11; 116d.4(a))

Complaint Procedures of the State

§ 100b.780 A State shall adopt complaint procedures.

(a) A state shall adopt written procedures for—

(1) Receiving and resolving any complaint that the State or subgrantee is violating a Federal statute or regulations that applies to a program;

(2) Reviewing an appeal from a decision of a subgrantee with respect to a complaint; and

(3) Conducting an independent on-site investigation of a complaint if the State determines that an on-site investigation is necessary.

(b) Sections 100b.780–100b.782 do not apply to the program under Title I of the Elementary and Secondary Education Act. (See §100b.1)

(c) For the program under Title IV of the Elementary and Secondary Education Act (See § 100b.1), a State meets the requirements of §§ 100b.780–100b.782 if it meets the requirements of section 507 of that Act.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 116.6(a); 116.7(b); 121a.602(a); 134.102(b))

§ 100b.781 An organization or individual may file a complaint.

An organization or individual may file a written signed complaint with a State. The complaint must include—

(a) A statement that the State or a subgrantee has violated a requirement of a Federal statute or regulation that applies to a program; and

(b) The facts on which the statement is based.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 121a.602(a); 134.102(a))

§ 100b.782 Minimum complaint procedures.

A state shall include the following in its complaint procedures:

(a) A specific time limit, which must be 60 days or less unless exceptional circumstances exist, for—

(1) Resolving a complaint or completing a review of an appeal from a subgrantee's decision with respect to a complaint; and

(2) If necessary, carrying out an independent on-site investigation.

(b) The right to request the Commissioner to review the final decision of the State.

(20 U.S.C. 1221e–3(a)(1))

(Source: 116.6; 134.102(b))

Subpart H—What Procedures Does the Commissioner Use to Get Compliance?

§ 100b.900 Waiver of regulations prohibited.

(A) No official, agent, or employee of HEW may waive any regulation that applies to an Office of Education program unless the regulation specifically provides that it may be waived.

(b) No act or failure to act by an official, agent, or employee of HEW can affect the responsibility of the Commissioner to enforce a regulation.

(43 Dec. Comp. Gen. 31 (1963))

(Source: 100b.463)

§ 100b.901 Regulations in Part 74 on suspension and termination.

The following regulations in Part 74 of this title apply to suspension and termination of a grant:

(a) Section 74.113 (Violation of terms).

(b) Section 74.114 (Suspension).

(c) Section 74.115 (Termination).

(d) The last sentence of § 74.73(c) (Financial reporting after a termination).

(e) Section 74.112 (Amounts payable to the Federal Government).

(20 U.S.C. 1221e–3(a)(1))

§ 100b.902 Education Appeals Board.

The Education Appeals Board, established under Part E of the GEPA, has the following functions:

(a) Audit appeal hearings under Section 452 of the GEPA;

(b) Withholding hearings under Section 453 of the GEPA;

(c) Cease and desist hearings under Section 453 of the GEPA; and

(d) Any other proceeding designated by the Commissioner.

(20 U.S.C. 1234)

(Sources: 104.282; 104.283; 104.284; 104.285; 104.286; 104.287; 104.288; 104.291; 116.a23–1(e)(1); 121a.113(c); 121a.580; 121a.582; 121a.583; 134.108(c); GEPA Section 451)

§ 100b.903 Judicial review.

(a) After a hearing, a State is usually entitled to judicial review of the Commissioner's decision.

(b) Whether a State is entitled to judicial review is governed by the statute that required the hearing.

(20 U.S.C. 1221e–3(a)(1))

(Sources: 104.289; 116a.23–1(e)(2); 121a.593; 134.109; 173.95(c))

Attachment No. 1—Selected Sections of the General Education Provisions Act

These selected sections of the General Education Provisions Act are published here as Attachment No. 1 to assist readers in understanding the statutory basis for some of the provisions in part 100b of this notice of Proposed Rulemaking. This will not be published with the final rule.

Selected Sections of the General Education Provisions Act

Review of Applications

Sec. 425. (a) In the case of any applicable program under which financial assistance is provided to (or through) a State educational agency to be expended in accordance with a State plan approved by the Commissioner, and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965, any applicant or recipient aggrieved by the final action of the State educational agency, and alleging a violation of State or Federal law; rules, regulations, or guidelines governing the applicable program, in

(1) Disapproving or failing to approve its application or program in whole or part,

(2) Failing to provide funds in amounts in accord with the requirements of laws and regulations,

(3) Ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, or

(4) Terminating further assistance for an approved program, may within thirty days request a hearing. Within thirty days after it receives such a request, the State educational agency shall hold a hearing on the record and shall review such final action. No later than 10 days after the hearing the State educational agency shall issue its written ruling, including reasons therefor. If it determines such final action was contrary to Federal or State law, or the rules, regulations and guidelines, governing such applicable program it shall rescind such final action.

(b) Any applicant or recipient aggrieved by the failure of a State educational agency to rescind its final action after a review under such subsection (a) may appeal such action to the Commissioner. An appeal under this subsection may be taken only if notice of such appeal is filed with the Commissioner within twenty days after the applicant or recipient has been notified by the State educational agency of the results of its review under subsection (a). If on such appeal, the Commissioner determines the final action of the State educational agency was contrary to Federal law, or the rules, regulations, and guidelines governing the applicable program, he shall issue an order to the State educational agency prescribing appropriate action to be taken by such agency. On such appeal, findings of fact of the State educational agency, if supported by substantial evidence, shall be final. The Commissioner may also issue such interim orders to State educational agencies as he may deem necessary and appropriate pending appeal or review.

(c) Each State educational agency shall make available at reasonable times and places to each applicant or recipient under a program to which this section applies all records of such agency pertaining to any review or appeal such applicant or recipient is conducting under this section, including records of other applicants.

(d) If an State educational agency fails or refuses to comply with any provision of this section, or with any order of the Commissioner under subsection (b), the Commissioner shall forthwith terminate all assistance to the State educational agency under the applicable program affected.

Single State Application

Sec. 435. (a) In the case of any State which applies, contracts, or submits a plan, for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of, the State educational agency of that State, such State shall submit (subject, in the case or programs under titles I and IV of the Elementary and Secondary Education Act of 1965, to the provisions of title V of such Act) to the Commissioner a general application containing the assurances set forth in subsection (b). Such application may be submitted jointly for all programs covered by the application, or it may be submitted separately for each such program or for groups of programs. Each application submitted under this section must be approved by each official, agency, board, or other entity within the State which, under State law, is primarily responsible for supervision of the activities conducted under each program covered by the application.

(b) An application submitted under subsection (a) shall set forth assurances, satisfactory to the Commissioner—

(1) That each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2) That the control of funds provided under each program and title to property acquired with program funds will be in a public agency, or in a nonprofit private agency, institution, or organization if the statute authorizing the program provides for grants to such entities, and that the public agency or nonprofit private agency, institution, or organization will administer such funds and property;

(3) That the State will adopt and use proper methods of administering each applicable program, including—

(A) Monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions, and organizations under law,

(B) Providing technical assistance, where necessary, to such agencies, institutions, and organizations,

(C) Encouraging the adoption of promising or innovative educational techniques by such agencies, institutions, and organizations,

(D) The dissemination throughout the State of information on program requirements and successful practices, and

(E) The correction of deficiencies in program operations that are identified through monitoring or evaluation;

(4) That the State will evaluate the effectiveness of covered programs in meeting their statutory objectives, at such intervals (not less often than once every three years) and in accordance with such procedures as the Commissioner may prescribe by regulation, and that the State will cooperate in carrying out any evaluation of each program conducted by or for the Secretary or other Federal official;

(5) That the State will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each program;

(6) That the State will make such reports to the Commissioner (including reports on the results of evaluations required under paragraph (4)) as may reasonably be necessary to enable the Commissioner to perform his duties under each program, and that the State will maintain such records, in accordance with the requirements of section 437 of this Act, and afford access to the records as the Commissioner may find necessary to carry out his duties; and

(7) That the State will provide reasonable opportunities for the participation by local agencies, representatives of the class of individuals affected by each program and other interested institutions, organizations, and individuals in the planning for an operation of each program, including the following:

(A) The State will consult with relevant advisory committees, local agencies, interest groups, and experienced professionals in the development of program plans required by statute;

(B) The State will publish each proposed plan, in a manner that will ensure circulation throughout the State, at least sixty days prior to the date on which the plan is submitted to the Commissioner or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on such plans to be accepted for at least thirty days;

(C) The State will hold public hearings on the proposed plans if required by the Commissioner by regulation; and

(D) The State will provide an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with applicable statutes and regulations.

(c) Each general application submitted under this section shall remain in effect for the duration of any program it covers. The Commissioner shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant changes in the circumstances affecting an assurance in that application.

Single Local Educational Agency Application

Sec. 436. (a) Each local educational agency which participates in an applicable program under which Federal funds are made available to such agency through a State agency or board shall submit to such agency or board a general application containing the assurances set forth in subsection (b). That application shall cover the participation by that local education agency in all such programs.

(b) The general application submitted by a local educational agency under subsection (a) shall set forth assurances—

(1) That the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications;

(2) That the control of funds provided to the local educational agency under each program and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;

(3) That the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to that agency under each program;

(4) That the local educational agency will make reports to the State agency or board and to the Commissioner as may reasonably be necessary to enable the State agency or board and the Commissioner to perform their duties and that the local educational agency will maintain such records, including the records required under section 437, and provide access to those records, as the State agency or board or the Commissioner deem necessary to perform their duties;

(5) That the local educational agency will provide, reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for an operation of each program;

(6) That any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public;

(7) That in the case of any project involving construction—

(A) The project is not inconsistent with overall State plans for the construction of school facilities, and

(B) In developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 504 of the Rehabilitation Act of 1973 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by handicapped individuals; and

(8) That the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

(c) A general application submitted under this section shall remain in effect for the duration of the programs it covers. The State agencies or boards administering the programs covered by the application shall not require the submission or amendment of such application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in such application.

Protection of Pupil Rights

Sec. 439. (a) All instructional material, including teacher's manuals, films, tapes, or other supplementary instructional material which will be used in connection with any research or experimentation program or project shall be available for inspection by the parents or guardians of the children engaged in such program or project. For the purpose of this section "research or experimentation program or project" means any program or project in any applicable program designed to explore or develop new or unproven teaching methods or techniques.

(b) No student shall be required, as part of any applicable program, to submit to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, in which the primary purpose is to reveal information concerning:

(1) Political affiliations;

(2) Mental and psychological problems potentially embarrassing to the student or his family;

(3) Sex behavior and attitudes;

(4) Illegal, anti-social, self-incriminating and demeaning behavior;

(5) Critical appraisals of other individuals with whom respondents have close family relationships;

(6) Legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers; or

(7) Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program), without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of unemancipated minor, without the prior written consent of the parent.

PART E—Enforcement Education Appeal Board

Sec. 451. (a) The Commissioner shall establish in the Office of Education an Education Appeal Board (hereinafter in this part referred to as the "Board") the functions of which shall be to conduct—

(1) Audit appeal hearings pursuant to section 452 of this Act,

(2) Withholding hearings pursuant to section 453 of this Act,

(3) Cease and desist hearings pursuant to section 454 of this Act, and

(4) Other proceedings designated by the Commissioner.

(b) The members of the Board shall be designated by the Secretary, in consultation with the Assistant Secretary for Education and the Commissioner, and may include individuals who are officers or employees of the United States, as well as individuals who are not fulltime employees of the Federal Government.

(c) The Board shall be composed of not less than fifteen nor more than thirty members, of whom no more than one-third shall be officers or employees of the Department. The Secretary shall designate one of the members of the Board to be the Chairman.

(d) For the purposes of conducting hearings as provided in subsection (a) the Chairman may appoint hearing panels of not less than three members of the Board, or the Chairman may designate the entire Board to sit as a panel for any case or class of cases. On any such panel—

(1) The majority of members shall not be individuals in the full-time employment of the Federal Government,

(2) The membership shall not include any individual who is a party to, or has any responsibility for, any particular matter assigned to that panel, and

(3) The Chairman of the Board shall designate one member of each such panel to be the presiding officer.

(e) The proceedings of the Board shall be conducted according to such rules as the Commissioner shall prescribe by regulation in conformance with the rules relating to hearings in title 5, United States Code, sections 554, 556 and 557 respecting—

(1) The receipt of oral or written testimony,

(2) Notice of the issues to be considered,

(3) The right to counsel,

(4) Intervention of third parties,

(5) Transcripts of proceedings, and

(6) Such other matters as may be necessary to carry out the functions of the Board.

(f) If there has been established within the Department of Health, Education, and Welfare an appeal board which the Commissioner determines is capable of carrying out the functions of the Board established under this section, he may, with the approval of the Secretary, designate such Department appeal board to carry out the functions of this section.

Audit Determinations

Sec. 452. (a) Whenever the Commissioner determines that an expenditure not allowable under a program listed in section 435(a) of this title, or conducted under title VI and title VII of the Elementary and Secondary Education Act of 1965 or under the Emergency School Aid Act, has been made by a State or by a local educational agency, or that a State or local educational agency has otherwise failed to discharge its obligation to account for funds under any such program, the Commissioner shall give such State or local educational agency written notice of a final audit determination, and he shall at the same time notify such State or agency of its right to have such determination reviewed by the Board.

(b) A State or a local educational agency that has received written notice of a final audit determination and that desires to have such determination reviewed by the Board shall submit to the Board an application for review not later than thirty days after receipt of notification of the final audit determination. The application for review shall be in the form and contain the information specified by the Board. The Board shall return to the Commissioner for such action as he deems appropriate any final audit determination which, in the judgment of the Board, contains insufficient detail to identify with particularity those expenditures which are not allowable. Unless the Board determines that a final audit determination lacks sufficient detail, the burden shall be upon the State or local educational agency to demonstrate the allowability of expenditures disallowed in the final audit determination.

(c) When a State or a local educational agency has submitted an application for review with respect to a final audit determination, no action shall be taken by the Commissioner to collect the amount determined to be owing until the Board has issued a final decision upholding the audit determination as to all or any part of such amount. The filing of such an application shall not affect the authority of the Commissioner to take any other adverse action against such State or agency under this part.

(d) A decision of the Board with respect to an application for review under this section shall become final unless within sixty days following receipt by the State or by the local educational agency of written notice of the decision—

(1) The Commissioner for good cause shown, modifies or sets aside the decision, in whole or in part, in which case the decision shall become final sixty days after such action by the Commissioner, or

(2) The State or the local educational agency files a petition for judicial review as provided in section 455 of this Act.

(e) A final audit determination by the Commissioner under subsection (a) with respect to which review has not been requested pursuant to subsection (b), or a final decision of the Board under this section upholding a final audit determination against a State or a local educational agency shall establish the amount of the audit determination as a claim of the United States which the State or the local educational agency shall be required to pay to the United States and which may be collected by the Commissioner in accordance with the Federal Claims Collection Act of 1966.

(f)(1) Notwithstanding any other provision of law, the Commissioner may, subject to the notice requirements of paragraph (2), compromise any claim established under this section for which the initial determination was found to be not in excess of $50,000, where the Commissioner determines that (A) the collection of any or all of the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the claim has been corrected and will not recur.

(2) Not less than forty-five days prior to the exercise of the authority to compromise a claim pursuant to paragraph (1), the Commissioner shall publish in the Federal Register a notice of his intention to do so. Such notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

(g) No State and no local educational agency shall be liable to refund any amount expended under an applicable program which is determined to be unauthorized by law if that expenditure was made more than five years before that State or local educational agency is given the notice required by subsection (a).

(h) The Secretary shall employ, assign, or transfer sufficient professional personnel to ensure that all matters brought before the Board may be dealt with in a timely manner.

Withholdings

Sec. 453. (a) Whenever the Commissioner has reason to believe that any recipient of funds under any applicable program (other than a program to which regulations promulgated under section 497A of the Higher Education Act of 1965 apply), has failed to comply substantially with any requirement of law applicable to such funds, he shall notify such recipient in writing of his intention to withhold, in whole or in part, further payments under such program, including payments for State or local administrative costs, until he is satisfied that the recipient no longer fails to comply with such assurances or other terms.

(b) The notification required under subsection (a) shall state (1) the facts upon which the Commissioner has based his belief and (2) a notice of opportunity for a hearing to be held on a date at least thirty days after the notification has been sent to the recipient. The hearing shall be held before the Board and shall be conducted in accordance with rules prescribed pursuant to section 451(e) of this Act.

(c) Pending the outcome of any proceeding initiated under this section, the Commissioner may suspend payments to such a recipient, after such recipient has been given reasonable notice and opportunity to show cause why such action should not be taken.

(d) The decision of the Board in any proceeding brought under this section shall, become final unless within sixty days following receipt by the recipient of written notice of the decision—

(1) The Commissioner for good cause shown, modifies, or sets aside the decision in whole or in part, in which case the decision as modified shall become final sixty days after such action by the Commissioner, or

(2) The recipient files a petition for judicial review as provided in section 455 of this Act.

Cease and Desist Orders

Sec. 454. (a) Whenever the Commissioner has reason to believe that any State or any local educational agency that receives funds under any applicable program has failed to comply substantially with any requirement of law applicable to such funds, in lieu of proceeding under section 453 of this Act, the Commissioner may issue and cause to be served upon such State or upon such local educational agency a complaint (1) stating the charges upon which his belief is based, and (2) containing a notice of a hearing to be held before the Board on a date at least thirty days after the service of that complaint.

(b) The State or the local educational agency upon which such a complaint has been served shall have the right to appear before the Board on the date specified and to show cause why an order should not be entered by the Board requiring such State or such local educational agency to cease and desist from the violation of law charged in the complaint.

(c) The testimony in any hearing held under this section shall be reduced to writing and filed with the Board. If upon that hearing the Board shall be of the opinion that the State or the local educational agency is in violation of any requirement of law as charged in the complaint, it shall make a report in writing stating its findings of fact and shall issue and cause to be served upon the State or the local educational agency an order requiring the State or the local educational agency to cease and desist from the practice, policy, or procedure which resulted in such violation.

(d) The report and order of the Board shall become final on the sixtieth day following the date upon which the order of the Board was served upon the State or the local educational agency unless before that day the State or local educational agency files a petition for judicial review as provided in section 455 of this Act.

(e) A final order of the Board under this section may be enforced, as determined by the Commissioner, by—

(1) The withholding of any portion of the amount payable, including amounts payable for administrative costs, under the effected program to the State or the local educational agency against which the final order has been issued, or

(2) The Commissioner certifying the facts to the Attorney General whose duty it shall be to cause appropriate proceeding to be brought for the enforcement of the order

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Judicial Review

Sec. 455. (a) Any recipient of funds under an applicable program that would be adversely affected by any action under section 452, 453, or 454 of this Act, and any State entitled to receive funds under a program listed in section 435(a) of this title whose application therefor has been disapproved by the Commissioner, shall be entitled to judicial review of such action in accordance with the provision of this section

(b) Any State, local educational agency, or other recipient entitled to judicial review under subsection (a) that desires such review of any action by the Commissioner or the Board qualifying for review under this section shall, within sixty days of that action, file with the United States Court of Appeals for the circuit in which that State, local educational agency, or other recipient is located, a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28, United States Code.

(c) The findings of fact by the Board, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Board to take further evidence, and the Board may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(d) The court shall have jurisdiction to affirm the action of the Board or the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

Use of Recovered Funds

Sec. 456. (a) Whenever the Commissioner has recovered funds following a final audit determination with respect to any applicable program, he may consider those funds to be additional funds available for that program and may arrange to repay to the State or the local agency affected by that action not to exceed 75 percent of those funds upon determination that—

(1) The practices or procedures of the State or local agency that resulted in the audit determination have been corrected, and that the State or the local agency is in all other respects in compliance with the requirement of that program;

(2) The State or the local agency has submitted to the Commissioner a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) The use of those funds in accordance with that plan would serve to achieve the purpose of the program under which the funds were originally granted.

(b) Any payments by the Commissioner under this section shall be subject to such other conditions as the Commissioner deems necessary to accomplish the purposes of the Affected programs, including—

(1) The submission of periodic reports on the use of funds provided under this section; and

(2) Consultation by the State or local agency with parents or representatives of the population that will benefit from the payments.

(c) Notwithstanding any other provisions of law, the Commissioner may authorize amounts made available under this section to remain available for expenditure, subject to such conditions as he deems appropriate, for up to three fiscal years following the fiscal year in which the audit determination referred to in subsection (a) was made.

(d) At least thirty days prior to entering into an arrangement under this section, the Commissioner shall publish in the **Federal Register** a notice of his intent to do so and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least thirty days to submit comments to the Commissioner regarding the proposed arrangement.

PART 100c—GENERAL

Sec.

100c.1 Definitions that apply to all Education Division Programs.
100c.2 Records under the Freedom of Information Act.

Authority: Sec. 408(a)(1) of Pub. L. 90–247, as amended, 88 Stat. 559, 560 (20 U.S.C. 1221e–3(a)(1)), unless otherwise noted.

PART 100c—GENERAL

§ 100c.1 Definitions that apply to all Education Division programs.

(a) Unless a statute or regulation provides otherwise, the definitions in this section apply to the regulations for—

(1) The Museum Services Program (Part 64 of this title);

(2) Programs of the Office of Education (Parts 100–199 of this title);

(3) Programs of the National Institute of Education (Parts 1400–1499 of this title); and

(4) Programs of the Office of the Assistant Secretary for Education (Parts 164 and 1501 of this title).

(b) The following definitions in Part 74 of this title apply to the regulations listed in paragraph (a) of this section. The section of Part 74 which contains the definition is given in the parentheses.

Budget (74.104)
Contract (includes definition of SUBCONTRACT) (74.3)
Equipment (74.132)
Federally recognized Indian tribal government (74.3)
Grant (74.3)
Grantee (74.3)
HEW (74.3)
Local government (74.3)
Personal property (74.132)
Real property (74.132)
Recipient (74.3)
Subgrant (74.3)
Subgrantee (74.3)
Supplies (74.132)

(c) The following definitions also apply to the regulations listed in paragraph (a) of this section:

"Acquisition" means taking ownership of property, receiving the property as a gift, entering into a lease-purchase arrangement, or leasing the property. The term includes processing, delivery, and installation of property.

(Sources: 134a.5; 117.20; 100.1; 131.2)

"Applicant" means a party requesting a grant or subgrant under a program of the Education Division.

(Sources: 100.1; 114.1(b); 115.3(b); 1400.1)

"Application" means a request for a grant or subgrant under a program of the Education Division.

(Sources: 100.1, 1400.1, 115.3(c), 114.4)

"Appropriate Official of the Education Division" means the official that has overall administrative responsibility for an Education Division program. For each program, that offical is one of the following—

(a) The Assistant Secretary;
(b) The Commissioner;
(c) The Director of the National Institute of Education; or
(d) The Director of the Institute of Museum Services.

"Assistant Secretary" means the Assistant Secretary for Education of the Department of Health, Education, and Welfare or an official or employee of the Education Division to whom the Assistant Secretary has delegated authority.

(Source: 185.02(a))

"Award" means an amount of funds that the Education Division provides under a grant or contract.

(Source: 1400.1)

"Budget Period" means an interval of time into which a project period is divided for budgetary purposes.

(Sources: HEW GAM 1–85; 100.1; 1400.1)

"Commissioner" means the U.S. Commissioner of Education or an official or employee of the Office of Education to whom the Commissioner has delegated authority.

(Sources: 100.1; 105 App A; 100–100d App A para. 1(2); 190.2(d); 116.2(b))

"Department" means the U.S. Department of Health, Education, and Welfare.

(Sources: 100–100d App A para. 1(b); 1400.1)

"EDGAR" means the Education Division General Administrative Regulations (parts 100a, 100b, and 100c of this title).

"Director of the Institute of Museum Services" means the Director of the Institute of Museum Services or an officer or employee of the Institute of Museum Services to whom the Director has delegated authority.

"Director of the National Institute of Education" means the Director of the National Institute of Education or an officer or employee of the National Institute of Education to whom the Director has delegated authority.

"Education Division" means the HEW agency, headed by the Assistant Secretary, that is composed of—

(a) The Office of the Assistant Secretary (which includes the National Center for Education Statistics);
(b) The Office of Education;
(c) The National Institute of Education; and
(d) The Institute of Museum Services.

(Source: CEPA Section 401)

"Elementary school" means a day or residential school that provides elementary education, as determined under State law.

(Sources: 160f.2; 191.12; 100.1; 116.2(b) App. sec. 403)

"Facilities" means one or more structures in one or more locations.
(Sources: 158.3; 1422.1(b); 100b.156)

"Fiscal year" means a period beginning on October 1 and ending on the following September 30.

(Source: 100.1; 1400.1; 1501.3)

"GEPA" means The General Education Provisions Act.

"Grant period" means the period for which funds have been awarded.

(Sources: HEW GAM 1–85; 100–100d App A para. 1(b); 1400.1; 100.1)

"Local educational agency" means:

(a) A public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform service functions for public elementary or secondary schools in—

(1) A city, county, township, school district, or other political subdivision of a State; or

(2) Such combination of school districts or counties as a State recognizes as an administrative agency for its public elementary or secondary schools; or

(b) Any other public institution or agency that has administrative control and direction of a public elementary or secondary schools.

(Sources: 129.1(j); 127.1(j); 121.2; 121a.8; 160f.2; 116.2(b); 181.2; 141.1; 104 App A; 197.2; 123.82(d); 198.12; 180.3; 123.02(d); 144.2; 168.73(a); 182.2; 160b.2; 124.2; 112.1; 180a.3; 185.02; 160g.2; 127.2; 113.1; 172.3; 134.2; 114.1(m); 158.2; 118.2; 117.2; 189.2; 180c.2; 186.2; 118.23)

"Minor remodeling" means minor alternations, in a previously completed building. The term also includes the extension of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed building. The term does not include building construction, structural alternations to buildings, building maintenance, or repair.

(Sources: 1400.1, 183.1, 134.2; 141.1; 142.3; 186.2)

"Nonprofit", as applied to an agency, organization, or institution, means that it is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.

(Sources: 160f.2, 175.2, 180.2, 100.1, 1501.3)

"Non-public" as applied to elementary or secondary school means nonprofit elementary or secondary school that is operated or controlled by an organization that is not a public agency.

(Sources: 169.62, 191.12, 160b.2, 197.2)

"Preschool" means the educational level from a child's birth to the time at which the State provides elementary education.

(Source: 100.1)

"Private" as applied to an agency, organization, or institution, means that it is not under public supervision or control.

(Sources: 1401.1; 1501.3)

"Project" means the activity described in an application.

(Source: HEW GAM 1–85)

"Project period" means the period for which the appropriate offical of the Education Division approves a project.

(Source: HEW GAM 1–85, 1400.1)

"Public", as applied to an agency, organization, or institution, means that the agency, organization, or institution is under the administrative supervision or control of a government other than the Federal Government.

(Source: 1400.1; 1501.3)

"Secondary school" means a day or residential school that provides secondary education, as determined under the State law. In the absence of State law, the Commissioner determines whether the term includes education beyond the twelfth grade.

(Sources: 155.4(f); 180.2; 160f.2; 100.1; 141.1; 191.12; 116.2(b)

"Secretary" means the Secretary of the Department of Health, Education, and Welfare, or an official or employee of the Department to whom the Secretary has delegated authority.
(Sources: 1400.1, 105 App A; 100.1)

"Service functions", with respect to a local educational agency—

(a) Means an educational service that is performed by a legal entity, such as an intermediate agency—

(1)(i) Whose jurisdiction does not extend to the whole State; and

(ii) That is authorized to provide consultative, advisory, or educational program services to public elementary or secondary schools; or

(2) That has regulatory functions over agencies having administrative control or direction of public elementary or secondary schools.

(b) The term does not include a service that is performed by a cultural or educational resource.

(Source: 100.1)

"State" includes each of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(Sources: 197.1(h); 117.2; 119.1(a); 123.02(h); 129.1(n); 130.3; 141.1; 146.2; 154.2; 155.2; 157.2; 159.2; 160.3; 160c.2; 180.3; 189.1; 182.2; 121a.15; 105 App. A; 153.3; 158.2; 178a.2; 187.2; 193.2; 191.12; 175.2; 176.2; 190.2; 172.3)

"State educational agency" means the State board of education or other agency or officer primarily responsible for the supervision of public elementary and secondary schools in a State. In the absence of this officer or agency, it is an officer or agency designated by the Governor or State law.

(Sources: 197.1; 107.1(T); 121.2; 134.2; 180a.3; 160g.2; 185.02; 158.2; 197.2; 164.03; 117.1; 123.02(1); 141.1; 160b.2; 162.2; 188.2; 187.2; 116.2(b); 160f.2; 172.2; 168.73(a); 119.1(n); 129.1(1); 160.3; 160d.2; 191.12)

"Work of art" means an item that is incorporated into facilities primarily because of its aesthetic value.

(20 U.S.C. 1221e-3(e)(1))

(Source: 100.1)

§ 100c.2 Records under the Freedom of Information Act.

The Education Division makes records available in accordance with the Freedom of Information Act and the Department's regulations in part 5 of this title. The Education Division uses the fee schedule in § 5.1.

(5 U.S.C. 552)
(Sources: 100.5; 100.6; 100.7)

PART 100d—[Deleted]

Part 74—Administration of Grants

As revised on August 2, 1978 (43 FR 34076)

Note: Part 74 is republished as Attachment No. 2 to the EDAG NPRM to assist readers in following cross references to Part 74. This will not be published with the final rule.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[45 CFR Part 74]

Administration of Grants

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Authority: 5 U.S.C. 301.

Subpart A—General

§ 74.1 Purpose and scope of this part.

This part establishes uniform requirements for the administration of HEW grants and principles for determining costs applicable to activities assisted by HEW grants.

§ 74.2 Scope of subpart.

This subpart contains general rules pertaining to this Part 74 (definitions, purpose and scope, applicability, and appeals) and procedures for control of deviations from the part.

§ 74.3 Definitions.

As used in this part:

"Awarding party" means (1) with respect to a grant, the granting agency, and (2) with respect to a subgrant, the grantee. (See § 74.4(b))

"Contract" means (except as used in the definitions for "grant" and "subgrant" in this section and except where qualified by "Federal") a procurement contract under a grant or subgrant, and "subcontract" means a procurement subcontract under such a contract.

"Cost-type contract" means a contract or subcontract in which the contractor or subcontractor is paid on the basis of the costs it incurs, but the term does not include such subcontracts under a non-cost-type contract or subcontract.

"Expenditure report" means: (1) For nonconstruction grants, the "Financial Status Report" (or other equivalent report); (2) for construction grants, the "Outlay Report and Request for Reimbursement for Construction Programs" (or other equivalent report). (See subpart I of this part.)

"Federally recognized Indian tribal government" means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs. However, for policies applicable to tribal government hospitals and institutions of higher education, see § 74.4(c), "Applicability of this part."

"Government" means a State or local government or a Federally recognized Indian tribal government. However, for policies applicable to government hospitals and institutions of higher education, see § 74.4(c), "Applicability of this part."

"Grant" means an award of financial assistance in the form of money, or property in lieu of money, by the Federal Government to an eligible recipient. The term includes such financial assistance when provided by contract, but does not include any Federal procurements subject to the procurement regulations in 41 CFR, nor does it include technical assistance, which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the recipient is not required to account for on an actual cost basis.

"Grantee" means the government, nonprofit corporation, or other legal entity to which a grant is awarded and which is accountable to the Federal Government for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the award document. For example, a grant award document may name as the grantee an agency of a State, or one school or campus of a university. In these cases, the granting agency usually intends, or actually requires, that the named component assume primary or sole responsibility for administering the grant-assisted project or program. Nevertheless, the naming of a component of a legal entity as the grantee in a grant award document shall not be construed as relieving the whole legal entity from accountability to the Federal Government for the use of the funds provided. (This definition is not intended to affect the eligibility provisions of grant programs in which eligibility is limited to organizations, such as State welfare departments, which may be only components of a legal entity.) The term "grantee" does not include any secondary recipients such as subgrantees, contractors, etc., who may receive funds from a grantee pursuant to a grant.

"Granting agency" means any organizational component of HEW authorized to award and administer grants.

"HEW" means the U.S. Department of Health, Education, and Welfare.

"Local government" means a local unit of government including specifically a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), "sponsor or sponsoring local organization" of a watershed project (as defined in 7 CFR 620.2, 40 FR 12472, March 19, 1975), any other regional or interestate government entity, or any agency or instrumentality of a local government. However, for policies applicable to government hospitals and institutions of higher education, see § 74.4(c), "Applicability of this part."

"OGP" means the Office of Grants and Procurement, which is an organizational component within the Office of the Secretary, HEW, and reports to the Assistant Secretary for Management and Budget.

"OMB" means the Office of Management and Budget within the Executive Office of the President.

"Recipient" means grantee or subgrantee. (See § 74.4(b).)

"State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. However, for policies applicable to government hospitals and institutions of higher education, see § 74.4(c), "Applicability of this part."

"Subgrant" means an award of financial assistance in the form of

money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contract, but does not include procurements; nor does it include any form of assistance which is excluded from the definition of "grant" in this section.

"Subgrantee" means the government, nonprofit corporation, or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided. The subgrantee is the entire legal entity even if only a particular component of the entity is designated in the subgrant award document.

"Terms of a grant or subgrant" means all requirements of the grant or subgrant, whether in statute, regulations, the award document or elsewhere.

§ 74.4 Applicability of this part.

(a) *General.* Except where inconsistent with Federal statutes, regulations, or other terms of a grant, this part applies to all HEW grants. However, unless expressly made applicable by the granting agency, this part shall not apply when the grantee is a Federal agency, foreign government or organization, international organization such as the United Nations, for-profit organization, or individual.

(b) *Subgrants.* For each substantive provision in this part, either the language of the provision itself or other text in the same subpart will indicate whether the provision affects only grants, only subgrants, or both. Use of the term "recipient" (as defined in § 74.3) in a provision shall be taken as referring equally to grantees and subgrantees. Similarly, use of the term "awarding party" (as defined in § 74.3) shall be taken as referring equally to granting agencies and to grantees awarding subgrants. However, unless expressly made applicable by the granting agency, this part need not be applied by the grantee to a subgrant if the subgrantee is a Federal agency, foreign government or organization, international organization such as the United Nations, for-profit organization, or individual.

(c) *Public institutions of higher education and hospitals.* Grants and subgrants to institutions of higher education and hospitals operated by a government shall be subject only to provisions of this subpart that apply to nongovernmental organizations.

§ 74.5 Appeals.

In accordance with parts 16 and 75 of this title, grantees may appeal certain postaward administrative decisions made by HEW officials.

§ 74.6 Deviations.

(a) Except as provided in § 74.7, a deviation is any exception to this part not required by Federal statute without allowance of agency discretion. A deviation may be either:

(1) Use of any policy, procedure, form, standard, or grant or subgrant term which is inconsistent with an applicable provision of this part, or

(2) Failure to use any applicable policy, procedure, form, standard, or grant or subgrant term which is required by this part.

(b) In order to maintain uniformity to the greatest extent feasible, deviations shall be kept to a minimum. A deviation, whether proposed by an applicant, a recipient, or an official of the granting agency, may be authorized only when it is necessary to meet programmatic objectives, or to conserve grant funds, or when it is otherwise essential in the public interest.

(c) Except as provided in paragraph (d) of this section, a deviation from this part may be made only when authorized by both:

(1) The head of the granting agency or other officials if designated in or pursuant to formal deviation control procedures established by the agency, and

(2) OGP.

(d) Deviations from subpart Q of this part and appendixes C, D, E, and F to this part in individual cases (i.e., where only a single grant or subgrant is involved) shall not require OGP approval.

§ 74.7 Special grant or subgrant conditions.

(a) Without regard to the deviation control procedures of § 74.6, special grant conditions more restrictive than those prescribed in this part 74 may be imposed as needed when the granting agency has determined that the grantee:

(1) Is financially unstable,

(2) Has a history of poor performance, or

(3) Has a management system which does not meet the standards of this part.

(b) When special conditions are imposed under paragraph (a) of this section, the grantee will be notified in writing:

(1) Why the special conditions were imposed and

(2) What corrective action is needed.

Furthermore, in accordance with OMB Circulars A–102 and A–110, OMB and other Federal agencies in a granting relationship with the grantee will be provided copies of the notice to the grantee.

(c) Grantees may apply the provisions of paragraphs (a) and (b) of this section to their subgrantees. Whenever they do so, a copy of the notice to the subgrantee shall be furnished to the granting agency.

Subpart B—Cash Depositories

§ 74.10 Physical segregation and eligibility.

Except as provided in § 74.11, awarding parties shall not impose grant or subgrant terms which:

(a) Require the recipient to use a separate bank account for the deposit of grant or subgrant funds, or

(b) Establish any eligibility requirements for banks or other financial institutions in which recipients deposit grant or subgrant funds.

§ 74.11 Checks-paid basis letter of credit.

A separate bank account shall be used when payments under letter of credit are made on a "checks-paid" basis. A checks-paid basis letter of credit is one under which funds are not drawn until the recipient's checks have been presented to its bank for payment. (See Subpart K for definition of "letter of credit.")

§ 74.12 Minority-owned banks.

Consistent with the national goal of expanding opportunities for minority business enterprises, grantees and subgrantees are encouraged to use minority-owned banks. Upon request, OGP will furnish a list of minority-owned banks.

Subpart C—Bonding and Insurance

§ 74.15 General.

In administering grants and subgrants, recipients shall observe their regular requirements and practices with respect to bonding and insurance. No additional bonding and insurance requirements, including fidelity bonds, shall be imposed by the terms of the grant or subgrant except as provided in §§ 74.16 through 74.18.

§ 74.16 Construction and facility improvement.

(a) *Scope of this section.* This section covers requirements for bid guarantees, performance bonds, and payments bonds when the recipient will contract for construction or facility improvement (including alterations and renovations of real property) under a grant or subgrant.

(b) *Definitions.* (1) "Bid guarantee" means a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, if its bid is accepted, execute the required contractual documents within the time specified.

(2) "Performance bond" means a bond executed in connection with a contract to secure fulfillment of all the contractor's obligations under the contract.

(3) "Payment bond" means a bond executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(c) *Bids and contacts of $100,000 or less.* The recipient shall follow its own requirements and practices relating to bid guarantees, performance bonds, and payment bonds.

(d) *Bids and contracts exceeding $100,000.* The recipient may follow its own regular policy and requirements if the HEW granting agency has determined that the Federal Governments's interest will be adequately protected. If this determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to 5 percent of the bid price;

(2) A performance bond on the part of the contractor for 100 percent of the contract price; and

(3) A payment bond on the part of the contractor for 100 percent of the contract price.

§ 74.17 Fidelity bonds.

(a) If the grantee is not a government, the granting agency may require it to carry adequate fidelity bond coverage where the absence of coverage for the grant-supported activity is considered as creating an unacceptable risk.

(b) If the subgrantee is not a government, the granting agency or the grantee may require that it carry adequate fidelity bond coverage where the absence of coverage for the subgrant-supported activity is considered as creating an unacceptable risk.

(c) A fidelity bond is a bond indemnifying the recipient against losses resulting from the fraud or lack of integrity, honesty or fidelity of one or more employees, officers or other persons holding a position of trust.

§ 74.18 Source of bonds.

Any bonds required under §§ 74.16(d)(1) through (3) or 74.17 shall be obtained from companies holding certificates of authority as acceptable sureties (31 CFR Part 223). A list of these companies is published annually by the Department of the Treasury in its Circular 570.

Subpart D—Retention and Access Requirements for Records

§ 74.20 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to all financial and programmatic records, supporting documents, statistical records and other records of recipients and of contractors and subcontractors under grants and subgrants, which are:

(1) Required to be maintained by the terms of an HEW grant, or

(2) Otherwise reasonably considered as pertinent to an HEW grant.

(b) This subpart does not apply to records maintained by the contractor or subcontractor for any of the following types of awards it has received under a grant or subgrant:

(1) Any contract or subcontract of $10,000 or less, or

(2) Any contract or subcontract awarded using the formal advertising method of procurement, whether or not required to be so awarded, or

(3) Any subcontract awarded under a contract or subcontract described in paragraph (b)(2) of this section.

§ 74.21 Length of retention period.

(a) Except as provided in paragraphs (b) and (c) of this section, records shall be retained for 3-years from the starting date specified in § 74.22.

(b) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

(c) In order to avoid duplicate recordkeeping, awarding parties may make special arrangements with recipients to retain any records which are continuously needed for joint use. The awarding party will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the awarding party the 3-year retention requirement is not applicable to the recipient.

§ 74.22 Starting date of retention period.

(a) *General.* (1) Where HEW grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee submits to HEW its single or last expenditure report for that period. However, if HEW grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits to HEW its expenditure report for the last quarter of the Federal fiscal year. In all other cases, the retention period starts on the day the grantee submits its final expenditure report to HEW. If an expenditure report has been waived, the retention period starts on the day the report would have been due. "Expenditure report" is defined in § 74.3.

(2) Exceptions to this paragraph are contained in paragraphs (b) through (d) of this section.

(b) *Equipment records.* The retention period for the equipment records required by § 74.140(a) starts from the date of the equipment's disposition (§ 74.139) or replacement (§ 74.138) or transfer at the direction of the awarding party (§ 74.136).

(c) *Records for income transactions after grant or subgrant support.* (1) In some cases an HEW requirement concerning the disposition of program income, as defined in subpart F of this part, will be satisfied by applying the income to costs incurred after expiration or termination of grant or subgrant support for the activity giving rise to the income. In such a case, the retention period for the records pertaining to the costs starts from the end of the recipient's fiscal year in which the costs are incurred.

(2) In some cases, there may be an HEW requirement concerning the disposition of copyright royalties or other program income which is earned after expiration or termination of grant or subgrant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the end of the recipient's fiscal year in which the income is earned. (See subpart F of this part.)

(d) *Indirect cost rate proposals, cost allocation plans, etc.*—(1) *Applicability.* This paragraph applies to the following types of documents, and their supporting records:

(i) Indirect cost rate computations or proposals;

(ii) Cost allocation plans under Appendix C to this part;

(iii) Hospital patient care rate computations or proposals; and

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(iv) Any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(2) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(3) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

§ 74.23 Substitution of microfilm.

Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

§ 74.24 Access to records.

(a) *Records of grantees.* HEW and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any books, documents, papers, or other records of the grantee which are pertinent to the HEW grant, in order to make audit, examination, excerpts, and transcripts.

(b) *Records of subgrantees.* HEW, the Comptroller General of the United States, and the grantee, or any of their authorized representatives, shall have the right of access to any books, documents, papers, or other records of the subgrantee which are pertinent to the HEW grant, in order to make audit, examination, excerpts, and transcripts.

(c) *Records of contractors and subcontractors.* Except as provided in § 74.20(b), HEW, the Comptroller General of the United States, the grantee, and (if the contract was awarded under a subgrant) the subgrantee, or any of their authorized representatives, shall have the right of access to any books, documents, papers, or other records of the contractor or subcontractor which are pertinent to the HEW grant, in order to make audit, examination, excerpts, and transcripts.

(d) *Expiration of right of access.* The rights of access in this section shall not be limited to the required retention period but shall last as long as the records are retained.

§ 74.25 Restrictions on public access.

Unless required by Federal statutes, awarding parties may not impose grant or subgrant terms which limit public access to records covered by this subpart except after a determination by the granting agency that the records must be kept confidential and would have been excepted from disclosure under HEW's "Freedom of Information" regulation (part 5 of this title) if the records had belonged to HEW. This section does not require recipients or their contractors and subcontractors to permit public access to their records.

Subpart E—Waiver of Single State Agency Requirements

§ 74.30 Policy.

Requests to HEW from Governors, or other duly constituted State authorities, for waiver of single State agency requirements in accordance with section 204 of the Intergovernmental Cooperation Act of 1968 will be given expeditious handling. Whenever possible, such requests will be granted.

Subpart F—Grant-Related Income

§ 74.40 Scope of subpart.

This subpart contains policies and requirements relating to (a) program income and (b) interest and other investment income earned on advances of grant funds.

§ 74.41 Meaning of program income.

(a) Except as explained in paragraphs (b) and (c) of this section, program income means gross income earned by a recipient from activities part or all of the cost of which is either borne as a direct cost by a grant or counted as a direct cost towards meeting a cost sharing or matching requirement of a grant. It includes but is not limited to such income in the form of fees for services performed during the grant or subgrant period, proceeds from sale of tangible personal or real property, usage or rental fees, and patent or copyright royalties. If income meets this definition, it shall be considered program income regardless of the method used to calculate the amount paid to the recipient—whether, for example, by a cost-reimbursement method or fixed price arrangement. Nor will the fact that the income is earned by the recipient from a Federal procurement contract or from a procurement contract under a Federal grant awarded to another party affect the income's classification as program income.

(b) For research grants that are subject to an institutional cost-sharing agreement, income shall be considered program income only if it is earned from an activity part or all of the cost of which is borne as a direct cost by the Federal grant funds. An institutional cost-sharing agreement is one entered into between HEW and a grantee covering all of HEW's research project grants to the grantee in the aggregate.

(c) The following shall not be considered program income:

(1) Revenues raised by a government recipient under its governing powers, such as taxes, special assessments, levies, and fines. (However, the receipt and expenditure of such revenues shall be recorded as a part of grant or subgrant project transactions when such revenues are specifically earmarked for the project in accordance with the terms of the grant or subgrant.)

(2) Tuition and related fees received by an institution of higher education for a regularly offered course taught by an employee performing under a grant or subgrant.

(d) For the purposes of this subpart, program income is divided into several categories. Each category is treated in a separate section of this subpart.

§ 74.42 General program income.

(a) *Definition.* General program income means all program income accruing to a grantee during the period of grant support or to a subgrantee during the period of subgrant support, other than the special categories of such income treated in §§ 74.43 through 74.45.

(b) *Use.* (1) General program income shall be retained by the recipient and used in accordance with one or a combination of the alternatives in paragraphs (c), (d), and (e) of this section, as follows: The alternative in paragraph (c) may always be used by recipients and must be used if neither of the other two alternatives is permitted by the terms of the grant. The alternatives in paragraphs (d) or (e) may be used only if expressly permitted by the terms of the grant. In specifying alternatives that may be used, the terms of the grant may distinguish between income earned by the grantee and income earned by subgrantees and between the sources, kinds, or amounts of income.

(2) The terms of a subgrant may restrict the use of general program income earned by the subgrantee to only one or some of the alternatives permitted by the terms of the grant, but the alternative in paragraph (c) of this section shall always be permitted.

(c) *Deduction alternative.* (1) Under this alternative, the income is used for allowable costs of the project or program. If there is a cost-sharing or matching requirement, costs borne by the income may not count toward satisfying that requirement. Therefore, the maximum percentage of Federal participation is applied to the net amount determined by deducting the income from total allowable costs and third-party in-kind contributions. The income shall be used for current costs unless the granting agency authorizes deferral to a later period.

(2) To illustrate this alternative, assume a project in which the grantee incurs $100,000 of allowable costs and receives no third-party in-kind contributions. If the grantee earns $10,000 in general program income and this alternative applies, that $10,000 must be deducted from the $100,000 before applying the maximum percentage of Federal participation. If that pecentage is 90 percent, the most that could be paid to the grantee would therefore be $81,000 (90 percent times $90,000).

(d) *Cost-sharing or matching alternative.* (1) Under this alternative, the income is used for allowable costs of the project or program but, in this case, the costs borne by the income may count toward satisfying a cost-sharing or matching requirement. Therefore, the maximum percentage of Federal participation is applied to total allowable costs and third-party in-kind contributions. The income shall be used for current costs unless the granting agency authorizes deferral to a later period.

(2) To illustrate this alternative, assume the same situation as in paragraph (c)(2) of this section. Under this alternative, the 90 percent maximum pecentage of participation would be applied to the full $100,000, and $90,000 could therefore be paid to the grantee. (It should be noted that if $20,000 of general program income is earned, only $80,000 could be paid, since a grant cannot pay for costs which have been borne by general program income.)

(e) *Additional costs alternative.* Under this alternative, the income is used for costs which are in addition to the allowable costs of the project or program but which nevertheless further the objectives of the Federal statute under which the grant was made. Provided that the costs borne by the income further the broad objectives of that statute, they need not be of a kind that would be permissible as charges to Federal funds.

Examples of purposes for which the income may be used are:

(1) Expanding the project or program.

(2) Continuing the project or program after grant or subgrant support ends.

(3) Supporting other projects or programs that further the broad objectives of the statute.

(4) Obtaining equipment or other assets needed for the project or program or for other activities that further the statute's objectives.

§ 74.43 Program income—Proceeds from sale of real property and from sale of equipment and supplies acquired for use.

The following kinds of program income shall be governed by subpart O of this part:

(a) Proceeds from the sale of real property purchased or constructed under a grant or subgrant.

(b) Proceeds from the sale of equipment and supplies fabricated or purchased under a grant or subgrant and intended primarily for use in the grant- or subgrant-supported project or program rather than for sale or rental.

§ 74.44 Program income—Royalties and other income earned from a copyrighted work.

(a) This section applies to royalties, license fees, and other income earned by a recipient from a copyrighted work developed under the grant or subgrant. Income of that kind is covered by this section whether a third party or the recipient itself acts as the publisher, seller, exhibitor, or performer of the copyrighted work. In some cases the recipient incurs costs to earn the income but does not charge these costs to HEW grant funds, to required cost-sharing or matching funds, or to other program income. Costs of that kind may be deducted from the gross income in order to determine how much must be treated as program income.

(b) The terms of the grant govern the disposition of income subject to this section. If the terms do not treat this kind of income, there are no HEW requirements governing the disposition. A grantee is not prohibited from imposing requirements of its own on the disposition of this kind of income which is earned by its subgrantees provided those requirements are in addition to and not inconsistent with any requirements imposed by the terms of the grant.

§ 74.45 Program income—Royalties or equivalent income earned from patents or from inventions.

Disposition of royalties or equivalent income earned on patents or inventions arising out of activities assisted by a grant or subgrant shall be governed by determinations made or agreements entered into under HEW's patent regulations. (See parts 6 and 8 of this title.) If the determination or agreement does not provide for the disposition of the royalties or equivalent income, the disposition shall be in accordance with the recipient's own policies.

§ 74.46 Program income—Income after grant or subgrant support not otherwise treated.

(a) This section applies to program income not treated elsewhere in this part which arises from or is attributable to an activity while supported by a grant or subgrant but which does not accrue until after the period of grant or subgrant support. An example is proceeds from the sale or rental of a residual inventory of merchandise fabricated or purchased by a grant-supported workshop during the period of support.

(b) The terms of the grant govern the disposition of income subject to this section. If the terms do not treat this kind of income, there are no HEW requirements governing the disposition. A grantee is not prohibited from imposing requirements of its own on the disposition of this kind of income which is earned by its subgrantees provided those requirements are in addition to and not inconsistent with any requirements imposed by the terms of the grant.

§ 74.47 Interest earned on advances of grant funds.

(a) Except when exempted by Federal statute (see paragraph (b) of this section for the principal exemption), grantees shall remit to the Federal Government any interest or other investment income earned on advances of HEW grant funds. This includes any interest or investment income earned by subgrantees and cost-type contractors on advances to them that are attributable to advances of HEW grant funds to the grantee. Unless the grantee receives other instructions from the responsible HEW official, the grantee shall remit the amount due by check or money order payable to the Department of Health, Education, and Welfare.

(b) In accordance with the Intergovernmental Cooperation Act of 1968 (Pub. L. 90-577), States, as defined in the act, shall not be accountable to the Federal Government for interest or investment income earned by the State itself, or by its subgrantees, where this income is attributable to grants-in-aid, as defined in the act (42 U.S.C. 4213).[1]

[1] "State" is defined in the act to include any agency or instrumentality of a State, and the definition does not exclude a hospital or institution of higher education which is such an agency or instrumentality. "Grant-in-aid" is defined in the act to exclude "payments under research and development contracts or grants which are awarded

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(c) Recipients are cautioned that they are subject to the provisions in § 74.61(e) for minimizing the time between the transfer of advances and their disbursement. Those provisions apply even if there is no accountability to the Federal Government for interest or other investment income earned on the advances.

Subpart G—Cost Sharing or Matching

§ 74.50 Scope of subpart.

(a) This subpart contains rules for satisfying Federal requirements for cost sharing or matching. These rules apply whether the cost sharing or matching is required by Federal statute or by other terms of the grant.

(b) HEW and a grantee may enter into an institutional cost-sharing agreement covering all of HEW's research project grants to that grantee in the aggregate. Except as provided by the institutional cost-sharing agreement, this subpart applies to the satisfaction of the grantee's obligation under the agreement, as well as to the satisfaction of cost-sharing or matching requirements that apply only to a single grant.

§ 74.51 Definitions.

For purposes of this subpart:

"Cost sharing or matching" means the value of third-party in-kind contributions and that portion of the costs of a grant-supported project or program not borne by the Federal Government.

"Equipment" has the same meaning given to that term in § 74.132, except that instead of "acquisition cost," the words "market value at the time of donation" shall be substituted.

"Supplies" means all tangible personal property other than "equipment" as defined in this section.

"Third-party in-kind contributions" means property or services which benefit a grant-supported project or program and which are contributed by non-Federal third parties without charge to the grantee, the subgrantee, or a cost-type contractor under the grant or subgrant.

§ 74.52 Basic rule: Costs and contributions acceptable.

With the qualifications and exceptions listed in § 74.53, a cost-sharing or matching requirement may be satisfied by either or both of the following:

(a) Allowable costs incurred by the grantee, the subgrantee, or a cost-type contractor under the grant or subgrant. This includes allowable costs borne by non-Federal grants or by other cash donations from non-Federal third parties.

(b) The value of third-party in-kind contributions applicable to the period to which the cost-sharing or matching requirement applies.

§ 74.53 Qualifications and exceptions.

(a) *Costs borne by other Federal grants.* (1) Except as provided by Federal statute, a cost-sharing or matching requirement may not be met by costs borne by another Federal grant. This prohibition does not apply to costs borne by general program income earned from a contract awarded under another Federal grant.

(2) For the purposes of this part, general revenue sharing funds under 31 U.S.C. 1221 are not considered a Federal grant. Therefore, in the absence of any provision of Federal statute to the contrary, allowable costs borne by these funds may count towards satisfying a cost-sharing or matching requirement.

(b) *Costs or contributions counted towards other Federal cost-sharing requirements.* Neither costs nor the values of third-party in-kind contributions may count towards satisfying a cost-sharing or matching requirement of an HEW grant if they have been or will be counted towards satisfying a cost-sharing or matching requirement of another Federal grant, a Federal procurement contract, or any other award of Federal funds.

(c) *Costs financed by general program income.* Costs financed by general program income, as defined in § 74.42, shall not count towards satisfying a cost-sharing or matching requirement of the HEW grant supporting the activity giving rise to the income unless the terms of the grant expressly permit the income to be used for cost sharing or matching. (This is the alternative for use of general program income described in § 74.42(d).)

(d) *Records.* Costs and third-party in-kind contributions counting towards satisfying a cost-sharing or matching requirement must be verifiable from the records of recipients or cost-type contractors. These records must show how the value placed on third-party in-kind contributions was arrived at. To the extent feasible, volunteer services shall be supported by the same methods that the organization uses to support the allocability of its regular personnel costs.

(e) *Special standards for third-party in-kind contributions.* (1) Third-party in-kind contributions shall count towards satisfying a cost-sharing or matching requirement only where, if the party receiving the contributions were to pay for them, the payments would be allowable costs.

(2) A third-party in kind contribution shall not count as direct cost sharing or matching where, if the party receiving the contribution were to pay for it, the payment would be an indirect cost. Cost-sharing or matching credit for such contributions shall be given only if the recipient or contractor has established, along with its regular indirect cost rate, a special rate for allocating to individual projects or programs the value of the contributions. (Information on how to establish these rates can be obtained from the Division of Cost Allocation in any HEW regional office's Regional Administrative Support Center.)

(3) The values placed on third-party in-kind contributions for cost-sharing or matching purposes shall conform to the rules in the succeeding sections of this subpart. If a third-party in-kind contribution is of a type not treated in those sections, the value placed upon it shall be fair and reasonable.

§ 74.54 Valuation of donated services.

(a) *Volunteer services.* Unpaid services provided to a recipient by individuals shall be valued at rates consistent with those ordinarily paid for similar work in the recipient's organization. If the recipient does not have employees performing similar work, the rates shall be consistent with those ordinarily paid by other employers for similar work in the same labor market. In either case, a reasonable amount for fringe benefits may be included in the valuation.

(b) *Employees of other organizations.* When an employer other than a recipient or cost-type contractor furnishes free of charge the services of an employee in the employee's normal line of work, the services shall be valued at the employee's regular rate of pay exclusive of the employer's fringe benefits and overhead costs. If the services are in a different line of work, paragraph (a) of this section shall apply.

§ 74.55 Valuation of donated supplies and loaned equipment or space.

(a) If a third party donates supplies, the contribution shall be valued at the market value of the supplies at the time of donation.

(b) If a third party donates the use of equipment or space in a building but retains title, the contribution shall be valued at the fair rental rate of the equipment or space.

§ 74.56 Valuation of donated equipment, buildings, and land.

If a third party donates equipment, buildings, or land, and title passes to a recipient, the treatment of the donated property shall depend upon the purpose of the grant or subgrant, as follows:

(a) *Awards for capital expenditures.* If the purpose of the grant or subgrant is to assist the recipient in the acquisition of property, the market value of that property at the time of donation may be counted as cost sharing or matching.

(b) *Other awards.* If assisting in the acquisition of property is not the purpose of the grant or subgrant, the following rules apply:

(1) If approval is obtained from the awarding party, the market value at the time of donation of the donated equipment or buildings and the fair rental rate of the donated land may be counted as cost sharing or matching. In the case of a subgrant, the terms of the HEW grant may require that the approval be obtained from the granting agency as well as the grantee. In all cases, the approval may be given only if a purchase of the equipment or buildings or a purchase or rental of the land would be approved as an allowable direct cost.

(2) If approval is not obtained under paragraph (b)(1) of this section, no amount may be counted for donated land, and only depreciation or use allowances may be counted for donated equipment and buildings. The depreciation or use allowances for this property are not treated as third-party in-kind contributions. Instead, they are treated as costs incurred by the recipient. They are computed and allocated (usually as indirect costs) in accordance with the cost principles specified in subpart Q of this part, in the same way as depreciation or use allowances for purchased equipment and buildings. The amount of depreciation or use allowances for donated equipment and buildings is based on the property's market value at the time it was donated.

§ 74.57 Appraisal of real property.

In some cases under §§ 74.55 and 74.56, it will be necessary to establish the market value of land or a building or the fair rental rate of land or of space in a building. In these cases, the granting agency may require that the market value or fair rental rate be established by a certified real property appraiser (or by a representative of the U.S. General Services Administration, if available) and that the value or rate be certified by a responsible official of the party to which the property or its use is donated. For subgrants, this requirement may also be imposed by the grantee.

Subpart H—Standards for Grantee and Subgrantee Financial Management Systems

§ 74.60 Scope of subpart.

This subpart prescribes standards for financial management systems of grant- and subgrant-supported activities. Awarding parties shall not impose additional standards on recipients unless specifically provided for in a Federal statute (e.g. the Joint Funding Simplification Act, Pub. L. 93–510) or these regulations. However, suggestions and assistance may be provided in establishing or improving financial management systems when needed or requested.

§ 74.61 Standards.

Grantees and subgrantees shall meet the following standards for their grant and subgrant financial management systems.

(a) *Financial reporting.* Accurate, current, and complete disclosure of the financial results of each project or program shall be made in accordance with the financial reporting requirements of the grant or subgrant. The terms of grants and subgrants shall not require financial reporting on the accrual basis if the recipient's accounting system is maintained on the cash basis. When accrual reporting is statutorily required, a recipient whose accounting system is not maintained on that basis shall not be required to convert it to the accrual basis; the recipient may develop the accrual information through an analysis of the documentation on hand.

(b) *Accounting records.* Records which identify adequately the source and application of funds for grant- or subgrant-supported activities shall be maintained. These records shall contain information pertaining to grant or subgrant awards, authorizations, obligations, unobligated balances, assets, outlays, income, and, if the recipient is a government, liabilities.

(c) *Internal control.* Effective control and accountability shall be maintained for all grant or subgrant cash, real and personal property covered by subpart O of this part, and other assets. Recipients shall adequately safeguard all such property and shall assure that it is used solely for authorized purposes.

(d) *Budgetary control.* The actual and budgeted amounts for each grant or subgrant shall be compared. If appropriate or specifically required, recipients shall relate financial information to performance or productivity data, including the production of unit cost information. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

(e) *Advance payments.* Procedures shall be established to minimize the time elapsing between the advance of Federal grant or subgrant funds and their disbursement by the recipient. When advances are made by a letter-of-credit method, the recipient shall make drawdowns as close as possible to the time of making disbursements. Grantees advancing cash to subgrantees shall conform substantially to the same standards of timing and amount as apply to advances by Federal agencies to grantees, including requirements for timely reporting of cash disbursements and balances. (See subpart K of this part.)

(f) *Allowable costs.* Procedures shall be established for determining the reasonableness, allowability, and allocability of costs in accordance with the applicable cost principles prescribed by subpart Q of this part and the terms of the grant.

(g) *Source documentation.* Accounting records shall be supported by source documentation such as cancelled checks, paid bills, payrolls, contract and subgrant award documents, etc.

(h) *Audits.*—(1) *General.* External or internal audits shall be made in accordance with generally accepted auditing standards, including the standards of the U.S. General Accounting Office's publication "Standards for Audit of Governmental Organizations Programs, Activities, and Functions."[1] The auditors engaged by the recipient shall meet the criteria for qualifications and independence in that publication.

(2) *Purpose and scope.* The purpose of these audits shall be to determine the effectiveness of the financial management systems and internal procedures established by the recipient to meet the terms of its grants and subgrants. The recipient's auditors need not examine every grant or subgrant awarded to the recipient. Rather, audits generally should be made on an organization-wide basis to test the fiscal integrity of financial transactions and compliance with the terms of awards. These tests would include an

[1] Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Footnotes continued from last page directly and on similar terms to all qualifying organizations, whether public or private." (42 U.S.C. 4201)

appropriate sampling of Federal grants and subgrants.

(3) *Frequency.* These audits shall be conducted on a continuing basis or at scheduled intervals, usually once a year, but at least every two years. The frequency shall depend on the nature, size and complexity of the recipient's grant- or subgrant-supported activities.

(4) *Relation to Federal audit.* These audits may affect the frequency and scope of Federal audit. However, nothing in this section is intended to limit the right of the Federal Government to conduct an audit of a grant- or subgrant-supported activity.

(5) *Audit resolution.* The recipient shall follow a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(6) *Copies of audit reports.* A copy of each audit report, and a description of its resolution, shall be furnished to the appropriate regional office of the HEW Audit Agency.

Subpart I—Financial Reporting Requirements

§ 74.70 Scope and applicability of subpart.

(a) This subpart prescribes requirements and forms for grantees to report financial information to HEW, and to request grant payments when a letter of credit is not used.

(b) This subpart need not be applied by grantees in dealing with their subgrantees. However, grantees are encouraged not to impose on subgrantees more burdensome requirements than HEW imposes on grantees.

§ 74.71 Definitions.

As used in this subpart or in the forms identified by this subpart:

"Accrued expenditures" are the charges by grantee during a given period requiring the provision of funds for: (a) Goods and other tangible property received; (b) services performed by employees, contractors, subgrantees, and other payees; and (c) amounts "becoming owed" for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

"Accrued income" is the sum of (a) earnings during a given period from services performed by the grantee and from goods and other tangible property delivered to purchasers, and (b) amounts becoming owed to the grantee for which no current services or performance is required by the grantee.

"Federal funds authorized" means the total amount of Federal funds obligated by the Federal Government and authorized for use by the grantee.

"In-kind contributions" means "third-party in-kind contributions" as defined in subpart G of this part.

"Obligations" are the amounts of orders placed, contracts and subgrants awarded, services received, and similar transactions during a given period, which will require payment during the same or a future period.

"Outlays" are charges made to the grant project or program. Outlays may be reported on a cash or accrual basis.

"Program income" has the same meaning it has in subpart F of this part.

"Unobligated balance" is the portion of the Federal funds authorized which has not been obligated by the grantee and is determined by deducting the grantee's cumulative obligations from the cumulative Federal funds authorized.

"Unliquidated obligations," for reports prepared on a cash basis, are the amount of obligations incurred by the grantee that has not been paid. For reports prepared on an accrued expenditure basis, they are the amount of obligations incurred by the grantee for which an outlay has not been recorded.

§ 74.72 General.

(a) Except as provided in paragraphs (d) and (e) of this section, grantees shall use only the forms specified in §§ 74.73 through 74.76, and such supplementary or other forms as may from time to time be authorized by OGP, for:

(1) Submitting grant financial reports to granting agencies, or

(2) Requesting advances or reimbursements when letters of credit are not used.

(b) Grantees shall follow all applicable standard instructions issued by OMB for use in connection with the forms specified in §§ 74.73 through 74.76. Granting agencies may issue substantive supplementary instructions only with the approval of OGP. Granting agencies may shade out or instruct the grantee to disregard any line item that the granting agency finds unnecessary for its decision making purposes.

(c) Grantees will not be required to submit more than the original and two copies of forms required under this subpart.

(d) Granting agencies may provide computer outputs to grantees to expedite or contribute to the accuracy of reporting. Granting agencies may accept the required information from grantees in machine usable format or computer printouts instead of prescribed formats.

(e) When a granting agency has determined that a grantee's accounting system does not meet the standards for financial management systems contained in subpart H of this part, it may require financial reports with more frequency or more detail (or both), upon written notice to the grantee (without regard to § 74.7), until such time as the standards are met.

(f) HEW may waive any report required by this subpart if not needed.

(g) Granting agencies may extend the due date for any financial report upon receiving a justified request from the grantee.

§ 74.73 Financial Status Report.

(a) *Form.* Grantees shall use Standard Form 269, Financial Status Report, to report the Status of funds for all nonconstruction grants.

(b) *Accounting basis.* Each grantee shall report program outlays and program income on the same accounting basis, i.e., cash or accrued expenditure (accrual), which it uses in its accounting system.

(c) *Frequency.* The granting agency may prescribe the frequency of the report for each project or program. However, the report shall not be required more frequently than quarterly except as provided in §§ 74.7 and 74.72(e). If the granting agency does not specify the frequency of the report, it shall be submitted annually. A final report shall be required upon expiration or termination of grant support.

(d) *Due date.* When reports are required on a quarterly or semiannual basis, they shall be due 30 days after the reporting period. When required on an annual basis, they shall be due 90 days after the grant year. Final reports shall be due 90 days after the expiration or termination of grant support.

§ 74.74 Federal Cash Transactions Report.

(a) *Form.* (1) For grants paid by letters of credit (or Treasury check advances) through any HEW payment office except the Departmental Federal Assistance Financing System (DFAFS), the grantee shall submit to the payment office Standard Form 272, Federal Cash Transactions Report, and when necessary, its continuation sheet, Standard Form 272a. For grants paid by DFAFS, the grantee shall submit DFAFS Report 27, Recipient Report of Expenditures, to DFAFS.

(2) These reports will be used by the HEW payment office to monitor cash advanced to grantees and to obtain disbursement or outlay information for each grant from grantees. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment: *Provided,* That the information to be submitted is not changed in substance.

(b) *Forecasts of Federal cash requirements.* Forecasts of Federal cash requirements may be required in the "Remarks" section of the report.

(c) *Cash in hands of secondary recipients.* When considered necessary and feasible by the responsible HEW payment office, grantees may be required to report the amount of cash subadvances in excess of three days' needs in the hands of their subgrantees or contractors and to provide short narrative explanations of actions taken by the grantee to reduce the excess balances.

(d) *Frequency and due date.* Grantees shall submit the report no later than 15 working days following the end of each quarter. However, where a letter of credit authorizes advances at an annualized rate of one million dollars or more, the HEW payment office may require the report to be submitted within 15 working days following the end of each month.

§ 74.75 Request for advance or reimbursement.

(a)(1) *Advance payments.* Requests for Treasury check advance payments shall be submitted on Standard Form 270, Request for Advance or Reimbursement. (This form is not used for drawdowns under a letter of credit or when Treasury check advance payments are made to the grantee automatically on a predetermined basis.)

(2) *Reimbursements.* Requests for reimbursement under non-construction grants shall also be submitted on Standard Form 270. (For reimbursement requests under construction grants, see § 74.76(a).)

(b) The frequency for submitting payment requests is treated in § 74.96.

§ 74.76 Outlay report and request for reimbursement for construction programs.

(a) *Construction grants paid by reimbursement method.* (1) Requests for reimbursement under construction grants shall be submitted on Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. Granting agencies may, however, prescribe the Request for Advance or Reimbursement form specified in § 74.75 instead of this form.

(2) The frequency for submitting reimbursement requests is treated in § 74.96.

(b) *Construction grants paid by letter of credit or Treasury check advance.* (1) When a construction grant is paid by letter of credit or Treasury check advances, the grantee shall report its outlays to the granting agency using Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. The granting agency will provide any necessary special instruction. However, frequency and due date shall be governed by § 74.73(c) and (d).

(2) When a construction grant is paid by Treasury check advances based on periodic requests from the grantee, the advances shall be requested on the form specified in § 74.75.

(3) The granting agency may substitute the Financial Status Report specified in § 74.73 for the Outlay Report and Request for Reimbursement.

(c) *Accounting basis.* The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by § 74.73(b).

Subpart J—Monitoring and Reporting of Program Performance

§ 74.80 Scope of subpart.

This subpart sets forth the procedures for monitoring and reporting program performance of recipients. These procedures are designed to place reliance on recipients to manage the day-to-day operations of their grant- and subgrant-supported activities.

§ 74.81 Monitoring by recipients.

Recipients shall monitor the performance of grant- and subgrant-supported activities. They shall review each program, function, or activity to assure that adequate progress is being made towards achieving the goals of the grant or subgrant.

§ 74.82 Performance reports under nonconstruction grants.

(a) Where the granting agency determines that performance information sufficient to meet its programmatic needs will be available from subsequent applications, the granting agency will require the grantee to submit a performance report only upon expiration or termination of grant support. This report will be due on the same date as the final financial Status Report unless waived by the granting agency. Note that the "Application for Federal Assistance (Nonconstruction Programs)" prescribed by subpart N of this part, when used to request continued support, provides information substantially equivalent to a performance report.

(b) Except as provided in paragraph (a) of this section, grantees shall submit annual performance reports unless the granting agency requires quarterly or semiannual reports. Annual reports shall be due 90 days after the grant year; quarterly or semiannual reports shall be due 30 days after the reporting period. A final performance report shall be due 90 days after the expiration or termination of grant support. Granting agencies may extend the due date for any performance report upon receiving a justified request from the grantee. In addition, granting agencies may waive the requirement for any performance report which is not needed.

(c) The content of performance reports shall conform to any instructions issued by the granting agency, including, to the extent appropriate to the particular grant, a brief presentation of the following for each program, function, or activity involved:

(1) A comparison of actual accomplishments to the goals established for the period. Where the output of the project or program can be readily expressed in numbers, a computation of the cost per unit of output may be required if that information will be useful.

(2) The reasons for slippage if established goals were not met.

(3) Other pertinent information including, when appropriate, analysis and explanation of unexpectedly high overall or unit costs.

(d) Grantees will not be required to submit more than the original and two copies of performance reports.

(e) Grantees shall adhere to the standards in paragraphs (a) through (d) of this section in prescribing performance reporting requirements for subgrantees.

§ 74.83 Performance reports under construction grants.

In general, awarding parties rely heavily on on-site technical inspection and certified percentage-of-completion data to keep themselves informed as to progress under construction grants and subgrants. Formal performance reports to supplement those sources of information shall be required only if considered necessary by the awarding party, and in no case more frequently than quarterly.

§ 74.84 Significant developments between scheduled reporting dates.

Between the scheduled performance reporting dates, events may occur which have significant impact upon the grant- or subgrant-supported activity. In such cases, the recipient shall inform the

awarding party as soon as the following types of conditions become known:

(a) Problems, delays, or adverse conditions which will materially impair the ability to attain the objective of the award. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(b) Favorable developments which enable meeting time schedules and goals sooner or at less cost than anticipated or producing more beneficial results than originally projected.

§ 74.85 Site visits.

Site visits may be made as necessary by representatives of HEW to:

(a) Review program accomplishments and management control systems.

(b) Provide such technical assistance as may be required.

Subpart K—Grant and Subgrant Payment Requirements

§ 74.90 Scope of subpart.

This subpart prescribes the basic standard and the methods under which HEW will make grant payments to grantees, and grantees will make subgrant payments to their subgrantees.

§ 74.91 Definitions.

As used in this subpart:

"Advance by Treasury check" is a payment made by a Treasury check to a grantee, upon its periodic request or through the use of predetermined payment schedules, before payments are made by the grantee.

"Letter of credit" is an instrument certified by an authorized official which authorizes a recipient to draw funds needed for immediate disbursement in accordance with Treasury Circular No. 1075.

"Percentage of completion method" refers to a system under which payments are made for construction work according to the percentage of completion of the work, rather than to the grantee's rate of disbursements.

§ 74.92 Basic standard.

Methods and procedures for making payments to recipients shall minimize the time elapsing between the transfer of funds and the recipient's disbursements.

§ 74.93 Payment methods under nonconstruction grants.

(a) Letters of credit will be used to pay HEW grantees when all of the following conditions exist:

(1) There is or will be a continuing relationship between the grantee and the HEW payment office for at least a year and the total amount of advances to be received from the HEW payment office is $120,000 or more per year,

(2) The grantee has maintained, or demonstrated to HEW the willingness and ability to maintain, procedures that minimize the time elapsing between the transfer of funds from the Treasury and their disbursement by the grantee, and

(3) The grantee's financial management system meets the standards for fund control and accountability in Subpart H of this part.

(b) Advances by Treasury check will be used, in accordance with Treasury Circular No. 1075, when the grantee does not meet the requirements in paragraph (a)(1) of this section but does meet the requirements in paragraphs (a)(2) and (3) of this section.

(c) Reimbursement by Treasury check will be preferred method when the requirements of either paragraph (a)(2) or paragraph (a)(3) of this section are not met. This method may also be used when the major portion of the program is accomplished through private market financing or Federal loans, and the Federal grant assistance constitutes a minor portion of the program.

§ 74.94 Payment methods under construction grants.

(a) Reimbursement by Treasury check shall be the preferred method when the grantee does not meet the requirements specified in § 74.93(a) (2) or (3), and may be used for any HEW construction grant unless HEW has entered into an agreement with the grantee to use a letter of credit for all HEW grants, including construction grants.

(b) When the reimbursement by Treasury check method is not used, § 74.93 (a) and (b) shall apply to the construction grant. Implementing procedures under § 74.93 (a) and (b) will be insofar as possible the same for construction grants as for nonconstruction grants awarded to the same grantee.

(c) HEW will not use the percentage of completion method to pay its construction grants. The grantee may use that method to pay its construction contractor, but if it does, HEW's payments to the grantee will nevertheless be based on the grantee's actual rate of disbursements.

§ 74.95 Withholding of payments.

(a) Unless otherwise required by Federal statute, payments for proper charges incurred by grantees will not be withheld unless (1) the grantee has failed to comply with Federal reporting requirements or (2) the grant is suspended pursuant to § 74.114 or (3) the grantee owes money to the United States and collection of the debt by withholding grant payments will not impair the accomplishment of the objectives of any grant program sponsored by the United States.

(b) Cash withheld for failure to comply with reporting requirements but without suspension of the grant will be released to the grantee upon subsequent compliance. When a grant is suspended, payment adjustments will be made in accordance with § 74.114. When a debt is to be collected, HEW may withhold payments or require appropriate accounting adjustments to recorded grant cash balances for which the grantee is accountable to the Federal Government, in order to liquidate the indebtedness.

§ 74.96 Requesting advances or reimbursements.

(a) If advances are made by Treasury check and the advances are not prescheduled, the grantee shall submit its requests for payment monthly. Less frequent requests are not permitted because they would result in advances covering excessive periods of time.

(b) If payments are made through reimbursement by Treasury check, the grantee may submit its requests for reimbursement monthly and may submit them more often if authorized. The grantee will be paid as promptly as possible, ordinarily within 30 days after receipt of a proper request for reimbursement.

(c) The forms for requesting advances or reimbursements are identified in subpart I of this part.

§ 74.97 Payments to subgrantees.

Grantees shall observe the requirements of this subpart in making (or withholding) payments to subgrantees, with the following exceptions:

(a) Advance payment by check may be used instead of letter of credit;

(b) The forms specified in subpart I of this part for requesting advances and reimbursements are not required to be used by subgrantees; and

(c) The reimbursement by check method may be used to pay any construction subgrant, whether or not HEW has agreed to use a letter of credit for all direct HEW grants to that same recipient.

Subpart L—Programmatic Changes and Budget Revisions

§ 74.100 Scope and applicability of this subpart.

(a) *Scope.* This subpart deals with prior approval requirements for post-award programmatic changes and budget revisions by recipients.

(b) *Exemption of mandatory grants.* Sections 74.103 through 74.106 do not apply to programmatic changes or budget revisions made by grantees under State plan or other grants which the granting agency is required by law to award if the applicant meets all applicable requirements for entitlement. (These are generally called "mandatory" or "formula" grants.)

(c) *Exemption of certain subgrants.* Sections 74.103 through 74.106 do not apply to subgrants from States to their local governments under a mandatory or formula grant, if the local government is not required to apply for the subgrant on a project basis. Generally, such exempt subgrants will occur under a State plan which provides for local administration of a State-wide program under State supervision.

§ 74.101 Relationship to cost principles.

The cost principles in Appendices C, D, E, and F to this part contain requirements for prior approval of certain types of costs (see § 74.176). Except when waived, those requirements apply to all grants and subgrants even if §§ 74.103 through 74.106 do not.

§ 74.102 Prior approval procedures.

(a) *For grants.* When requesting a prior approval required by this subpart, grantees shall address their requests to the responsible grants officer of the granting agency. Approvals shall not be valid unless they are in writing and signed by either the grants officer, the head of the granting agency, or the head of the granting agency's regional office.

(b) *For subgrants.* Grantees shall be responsible for reviewing requests from their subgrantees for the approvals required by this subpart and for giving or denying the approval. A grantee shall not approve any action which is inconsistent with the purpose or terms of the Federal grant. If an action by a subgrantee will result in a change in the overall grant project or budget requiring granting agency approval, the grantee shall obtain that approval before giving its approval to the subgrantee. Approvals shall not be valid unless they are in writing and signed by an authorized official of the grantee.

(c) *Timing.* Within 30 days from the date of receipt of a request for approval, the approval authority shall review the request and notify the recipient of its decision. If the request for approval is still under consideration at the end of 30 days, the approval authority shall inform the recipient in writing as to when to expect the decision.

§ 74.103 Programmatic changes.

(a) *Scope.* This section contains requirements for prior approval of departures, other than budget revisions, from approved project plans. In addition to the requirements in this section, awarding parties may require prior approval for other kinds of programmatic changes to an approved grant or subgrant project.

(b) *Changes to project scope or objectives.* The recipient shall obtain prior approval for any change to the scope or objectives of the approved project. (For construction projects, any material change in approved space utilization or functional layout shall be considered a change in scope.)

(c) *Changes in key people.* The recipient of a grant or subgrant for research (or any other kind of grant or subgrant if the terms of the award make this rule applicable) shall obtain prior approval:

(1) To continue the project during any continuous period of more than 3 months without the active direction of an approved project director or principal investigator; or

(2) To replace the project director or principal investigator (or any other persons named and expressly identified as key project people in the notice of grant or subgrant award) or to permit any such people to devote substantially less effort to the project than was anticipated when the grant or subgrant was awarded.

(d) *Other programmatic changes.* The following shall require prior approval except to the extent explicitly included in the project plan as approved by the awarding party at the time of award:

(1) Providing financial assistance to a third party by subgranting or any other means.

(2) Tranferring to a third party, by contracting or any other means, the actual performance of the substantive programmatic work. The term "substantive programmatic work" means activities which are central to carrying out the purpose of the project, and not merely incidental. Transfer of substantive programmatic work does not include purchase of supplies, materials, or equipment; acquisition of general or incidental support services; obtaining advice; or transfer of activities whose cost is treated as an indirect cost.

(3) Providing medical care to individuals under research grants.

§ 74.104 Budgets generally.

(a) *Definitions.* In this subpart:

(1) "Budget" means the recipient's financial plan for carrying out the project or program.

(2) "Approved budget" means a budget (including any revised budget) which has been approved by the awarding party.

(b) *Research project budgets.* For research projects, approved budgets shall not include the recipient's share of project costs.

(c) *Non-research project budgets.* For non-research projects which involve cost sharing or matching, approved budgets shall ordinarily consist of a single set of figures covering total project cost (the sum of the awarding party's share and the recipient's share). However, the awarding party may specify that the recipient's share not be included in the approved budget. In no case, however, shall the approved budget be in the form of a separate set of figures for each share.

(d) *Subdivision by programmatic segments.* Some grants and subgrants encompass two or more programmatic segments (such as discrete programs, projects, functions, or types of activities). In these cases, the awarding party may require that the approved budget be subdivided to show the anticipated cost of each programmatic segment.

§ 74.105 Budget revisions—nonconstruction projects.

(a) Except as provided in paragraph (b) of this section, the recipient of a grant or subgrant having an approved budget shall obtain prior approval for any budget revision which will:

(1) Involve transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or

(2) Involve transfer of amounts previously budgeted for student support (tuition waivers, stipends, and other payments to or for trainees), or

(3) Result in a need for the award of additional funds, e.g., an increase in the base upon which indirect costs are calculated which will increase allocable indirect costs and result in a claim for a supplementary award.

(b) Any or all of the prior approval requirements in paragraph (a) of this section may be waived by the awarding party.

(c) Except as provided in §§ 74.107 and 74.176, other budget changes under

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nonconstruction grants do not require approval.

§ 74.106 Budget revisions—construction projects.

Unless provided otherwise by the terms of the grant or subgrant, revisions to construction project budgets do not require approval.

§ 74.107 Construction and nonconstruction work under the same grant or subgrant.

When a grant or subgrant provides support for both construction and nonconstruction work, the awarding party may require prior approval before any fund or budget transfers between the two types of work.

§ 74.108 Authorized funds exceeding needs.

The recipient shall notify the awarding party promptly whenever the amount of grant or subgrant authorized funds is expected to exceed needs by more than $5,000 or 5 percent of the grant or subgrant, whichever is greater. This notification will not be required under continuing grants or subgrants if the application for the next period's funding will include an estimate of what the unobligated balance of authorized funds will be at the end of the current period.

Subpart M—Grant and Subgrant Closeout, Suspension, and Termination

§ 74.110 Definitions.

"Grant closeout" means the process by which a granting agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the granting agency.

"Suspension" of a grant means temporary withdrawal of the grantee's authority to obligate grant funds pending corrective action by the grantee or a decision to terminate the grant.

"Termination" of a grant means permanent withdrawal of the grantee's authority to obligate previously awarded grant funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the grantee.

"Termination" does not include:

(a) Withdrawal of funds awarded on the basis of the grantee's underestimate of the unobligated balance in a prior period;

(b) Refusal by the granting agency to extend a grant or award additional funds (such as refusal to make a competing or noncompeting continuation, renewal, extension, or supplemental award);

(c) Withdrawal of the unobligated balance as of the expiration of a grant;

(d) Annulment, i.e., voiding, of a grant upon determination that the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

§ 74.111 Closeout.

(a) Each grant shall be closed out as promptly as is feasible after expiration or termination.

(b) In closing out HEW grants, the following shall be observed:

(1) Upon request, HEW shall promptly pay the grantee for any allowable reimbursable costs not covered by previous payments.

(2) The grantee shall immediately refund or otherwise dispose of, in accordance with instructions from HEW, any unobligated balance of cash advanced to the grantee.

(3) The grantee shall submit, within 90 days of the date of expiration or termination, all financial, performance, and other reports required by the terms of the grant. HEW may extend the due date for any report upon receiving a justified request from the grantee, and may waive any report which is not needed.

(4) The granting agency shall make a settlement for any upward or downward adjustment of the Federal share of costs, to the extent called for by the terms of the grant.

(c)(1) The closeout of a grant does not affect the retention period for, or Federal rights of access to, grant records. See subpart D of this part.

(2) If a grant is closed out without audit, the granting agency retains the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

(3) The closeout of a grant does not affect the grantee's responsibilities with respect to property under subpart O of this part, or with respect to any program income for which the grantee is still accountable under subpart F of this part.

§ 74.112 Amounts payable to the Federal Government.

For each grant, the following sums shall constitute a debt or debts owed by the grantee to the Federal Government, and shall, if not paid upon demand, be recovered from the grantee or its successor or assignees by set-off or other action as provided by law:

(a) Any grant funds paid to the grantee by the Federal Government in excess of the amount to which the grantee is finally determined to be entitled under the terms of the grant;

(b) Any interest or other investment income earned on advances of grant funds which is due the Federal Government pursuant to § 74.47;

(c) Any royalties or other special classes of program income which, under the terms of the grant, are required to be remitted to the Federal Government (see subpart F of this part);

(d) Any amounts due the Federal Government under subpart O of this part; and

(e) Any other amounts finally determined to be due the Federal Government under the terms of the grant.

§ 74.113 Violation of terms.

(a) When a grantee has materially failed to comply with the terms of a grant, the granting agency may suspend the grant, in accordance with § 74.114, terminate the grant for cause, as provided in § 74.115, or take such other remedies as may be legally available and appropriate in the circumstances.

(b) If a project or program is supported over two or more funding periods, a grant may be suspended or terminated in the current period for failure to submit a report still due from a prior period.

§ 74.114 Suspension.

(a) When a grantee has materially failed to comply with the terms of a grant, the granting agency may, upon reasonable notice to the grantee, suspend the grant in whole or in part. The notice of suspension will state the reasons for the suspension, any corrective action required of the grantee, and the effective date. The suspension may be made effective at once if a delayed effective date would be unreasonable considering the granting agency's responsibilities to protect the Federal Government's interest. Suspensions shall remain in effect until the grantee has taken corrective action satisfactory to the granting agency, or given evidence satisfactory to the granting agency that such corrective action will be taken, or until the granting agency terminates the grant.

(b) New obligations incurred by the grantee during the suspension period will not be allowed unless the granting agency expressly authorizes them in the notice of suspension or an amendment to it. Necessary and otherwise allowable costs which the grantee could not reasonably avoid during the suspension period will be allowed if they result from obligations properly incurred by the grantee before the effective date of the suspension and not in anticipation of suspension or termination. At the discretion of the granting agency, third-party in-kind contributions applicable to the suspension period may be allowed in satisfaction of cost sharing or matching requirements.

(c) Appropriate adjustments to payments under the suspended grant will be made either by withholding subsequent payments or by not allowing the grantee credit for disbursements made in payment of unauthorized obligations incurred during the suspension period.

§ 74.115 Termination.

(a) *Termination for cause.* The granting agency may terminate any grant in whole, or in part, at any time before the date of expiration, whenever it determines that the grantee has materially failed to comply with the terms of the grant. The granting agency shall promptly notify the grantee in writing of the determination and the reasons for the termination, together with the effective date.

(b) *Termination on other grounds.* Except as provided in paragraph (a) of this section, grants may be terminated in whole or in part only as follows:

(1) By the granting agency with the consent of the grantee, in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial terminations, the portion to be terminated, or

(2) By the grantee, upon written notification to the granting agency, setting forth the reasons for such termination, the effective date, and in the case of partial terminations, the portion to be terminated. However, if, in the case of a partial termination, the granting agency determines that the remaining portion of the grant will not accomplish the purposes for which the grant was made, the granting agency may terminate the grant in its entirety under either paragraph (a) or paragraph (b)(1) of this section.

(c) *Termination settlements.* When a grant is terminated, the grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The granting agency shall allow full credit to the grantee for the Federal share of the noncancellable obligations properly incurred by the grantee prior to termination.

§ 74.116 Applicability to subgrants.

Grantees shall adhere to the same standards regarding closeout, suspension, and termination of subgrants as are prescribed in this subpart for granting agencies.

Subpart N—Forms for Applying for Grants

§ 74.120 Scope of subpart.

(a) This subpart prescribes forms and instructions to be used by governmental organizations (except hospitals and institutions of higher education operated by a government) in applying to HEW for grants. This subpart is not applicable, however, to mandatory or formula grant programs which do not require applicants to apply to HEW for funds on a project basis.

(b) This subpart permits granting agencies to prescribe the form of applications by nongovernmental organizations (including hospitals and institutions of higher education operated by a government), but prescribes the use of a standard facesheet for certain of these applications.

(c) This subpart applies only to applications for grants, and is not required to be applied by grantees in dealing with applicants for subgrants. However, grantees are encouraged not to adopt more detailed or burdensome application requirements for subgrants.

§ 74.121 Authorized forms and instructions for governmental organizations.

(a) In applying to HEW for grants, governments shall use only the forms specified in §§ 74.122 through 74.126, and such supplementary or other forms as may from time to time be prescribed by the granting agency with the approval of OGP.

(b) Governments will not be required to submit more than the original and two copies of their applications.

(c) Governments shall follow all applicable standard instructions promulgated by OMB for use in connection with the forms specified in §§ 74.122 through 74.126. Granting agencies may specify and describe the programs, functions, or activities that will be used to plan, budget, and evaluate the work under a grant. Other supplementary instructions may be issued only with the approval of OGP. For any form, the granting agency may shade out or instruct the applicant to disregard any line item that is not needed.

(d) When a government applies for additional funding (such as a continuation or supplemental award) or amends a previously submitted application, only the facesheet and any other affected pages need be submitted. Previously submitted pages whose information is still current need not be resubmitted.

§ 74.122 Preapplications for Federal assistance for governmental organizations.

(a) When a preapplication is submitted by a government, the preapplication for Federal assistance form prescribed by OMB Circular A-102 shall be used. The purposes of preapplications shall be to:

(1) Establish communication between the applicant and the granting agency;

(2) Determine the applicant's eligibility;

(3) Determine how well the project can compete with similar applications from others in order to discourage proposals which have little or no chance for Federal funding before applicants incur significant expenditures for preparing an application.

(b) Preapplication shall be mandatory when the potential applicant is a government and the proposed project (1) is for construction, land acquisition, or land development, and (2) would require more than $100,000 of Federal funding. The granting agency may require preapplications regardless of the type of project and regardless of the estimated amount of Federal funding. In addition, any government may submit a preapplication even when not required by the granting agency.

§ 74.123 Notice of preapplication review action for governmental organizations.

The notice of preapplication review action form prescribed by attachment M of OMB Circular No. A-102 will be used by granting agencies to inform governmental applicants of the results of the review of the preapplications submitted to them. The granting agency will send a notice to the applicant ordinarily within 45 days of the receipt of the preapplication form. If the review cannot be made within 45 days, the applicant will be informed by letter as to when the review will be completed.

§ 74.124 Application for Federal assistance (nonconstruction programs) for governmental organizations.

The applicant for Federal assistance (nonconstruction programs) form prescribed by attachment M of OMB Circular No. A-102 shall be used by governments in applying for any grant to which this subpart is applicable except where a form specified in § 74.125 or § 74.126 is to be used.

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§ 74.125 Application for Federal assistance (for construction programs) for governmental organizations.

The applicant for Federal assistance (for construction programs) form prescribed by attachment M of OMB Circular No. A–102 shall be used by governments in applying for any grant whose purpose is soley or primarily construction, land acquisition, or land development.

§ 74.126 Application for Federal assistance (short form) for governmental organizations.

The applicant for Federal assistance (short form) form prescribed by attachment M of OMB Circular No. A–102 shall be used by governments in applying for any single-purpose one-time grant of less than $10,000 not requiring clearinghouse review, an environmental impact statement, or the relocation of persons, businesses, or farms. Granting agencies may, at their discretion, authorize or prescribe this form for applications for larger amounts.

§ 74.127 Authorized forms and instructions for nongovernmental organizations.

Nongovernmental organizations shall use application forms and instructions prescribed by the granting agency, except that the facesheet of such applications shall be standard form 424 for grants under programs covered by attachment A. part I, of OMB Circular No. A–95.

Subpart O—Property

General

§ 74.130 Scope and applicability of this subpart.

(a) Except as explained in paragraphs (c), (d), and (e) of this section this subpart applies to real property, equipment, and supplies acquired with grant support. To be considered acquired with grant support, some or all of the property's acquisition cost must be a direct cost under the grant, a subgrant, or a cost-type contract and must be either borne by grant funds or counted toward satisfying a grant cost-sharing or matching requirement.

(b) This subpart also deals with inventions, patents, and copyrights arising out of activities assisted by a grant or subgrant.

(c) This subpart does not apply to—

(1) Property for which only depreciation or use allowances are charged;

(2) Property donated entirely as a third-party in-kind contribution (as defined in § 74.51); or

(3) Equipment or supplies acquired primarily for sale or rental rather than for use.

(d) Equipment or supplies acquired by a contractor under a grant or subgrant shall be subject to this subpart only if, by terms of the contract, title vests in the grantee or subgrantee.

(e) For research grants that are subject to an institutional cost-sharing agreement (see § 74.50(b)), real property, equipment, and supplies shall be subject to this subpart only if at least some part of the acquisition cost is borne as a direct cost by Federal grant funds.

§ 74.131 Prohibition against additional requirements.

Recipients may follow their own property management policies and procedures: *Provided,* They observe the requirements of this subpart. Awarding parties may not impose on recipients property requirements (including property reporting requirements) not authorize by this subpart, unless specifically required by Federal statutes or Executive Orders.

§ 74.132 Definitions.

As used in this subpart:

"Acquisition" of property includes purchase, construction, or fabrication of property, but does not include rental of property or alterations and renovations of real property.

"Acquisition cost" of an item of purchased equipment means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the equipment usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance shall be included in or excluded from the unit acquisition cost in accordance with the regular accounting practices of the organization purchasing the equipment. If the item is acquired by trading in another item and paying an additional amount, "acquisition cost" means the amount received for trade-in plus the additional outlay.

"Amount received for trade-in" of an item of equipment traded in for replacement equipment means the amount that would have been paid for the replacement equipment without a trade-in minus the amount paid with the trade-in. The term refers to the actual difference, not necessarily the trade-in value shown on an invoice.

"Equipment" means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit except that organizations subject to Cost Accounting Standards Board (CASB) regulations may use the CASB standard of $500 or more per unit and useful life of two years. An organization may use its own definition of equipment: *Provided,* That such definition would at least include all tangible personal property as defined herein.

"Personal property" means property of any kind except real property. It may be tangible—having physical existence, or intangible—having no physical existence, such as patents, inventions, and copyrights.

"Real property" means land, including land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

"Replacement equipment" means property acquired to take the place of other equipment. To qualify as replacement equipment, it must serve the same function as the equipment replaced and must be of the same nature or character, although not necessarily the same model, grade, or quality.

"Supplies" means all tangible personal property other than equipment.

§ 74.133 Title to real property, equipment, and supplies.

Subject to the obligations and conditions set forth in this subpart, title to real property, equipment, and supplies acquired under a grant or subgrant shall vest, upon acquisition, in the grantee or subgrantee respectively.

Real Property

§ 74.134 Real property.

Except as otherwise provided by federal statutes, real property to which this subpart applies shall be subject to the following requirements, in addition to any other requirements imposed by the terms of the grant:

(a) *Use.* The property shall be used for the originally authorized purpose as long as needed for that purpose. When no longer so needed, approval of the granting agency may be requested to use the property for other purposes. Use for other purposes shall be limited to:

(1) Projects or programs supported by other Federal grants or assistance agreements.

(2) Activities not supported by other Federal grants or assistance agreements but having, nevertheless, purposes consistent with those of the legislation under which the original grant was made.

(b) *Transfer of title.* Approval may be requested from the granting agency to transfer title to an eligible third party for continued use for authorized purposes in accordance with paragraph (a) of this section. If approval is permissable under Federal statutes and is given, the terms of the transfer shall provide that the transferee shall assume all the rights and obligations of the transferor set forth in this subpart or in other terms of the grant or subgrant.

(c) *Disposition.* When the real property is no longer to be used as provided in paragraphs (a) and (b) of this section, the disposition instructions of the granting agency shall be followed. Those instructions will provide for one of the following alternatives:

(1) The property shall be sold and the Federal Government shall be paid an amount computed by multiplying the Federal share of the property (see § 74.142) times the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). Proper sales procedures shall be used that provide for competition to the extent practicable and result in the highest possible return.

(2) The recipient shall have the option either of selling the property in accordance with paragraph (c)(1) of this section or of retaining title. If title is retained, the Federal Government shall be paid an amount computed by multiplying the market value of the property by the Federal share of the property.

(3) The recipient shall transfer the title to either the Federal Government or an eligible non-Federal party named by the granting agency. The grantee shall be entitled to be paid an amount computed by multiplying the market value of the property by the non-Federal share of the property. If the property belonged to a subgrantee, see § 74.143 for subgrantee's share.

Equipment and Supplies

§ 74.135 Exemptions for equipment and supplies subject to certain statutes.

(a) Some Federal statutes, in certain circumstances, permit title to equipment or supplies acquired with grant funds to vest in the recipient without further obligation to the Federal Government or on such terms and conditions as deemed appropriate. An example of such a statute is the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224, which provides this authority for equipment and supplies purchased with the funds of grants (and Federal contracts and cooperative agreements) for the conduct of basic or applied scientific research at nonprofit institutions of higher education or at nonprofit organizations whose primary purpose is the conduct of scientific research.

(b) If equipment is subject to a statute of the kind described in paragraph (a) of this section, it shall be exempt from the requirements in the remaining sections of this subpart. However, an item of such equipment having a unit acquisition cost of $1,000 or more shall be subject to § 74.136, concerning rights to require transfer, and, while subject to such a right, to the rules on replacement in § 74.138.

(c) If supplies are subject to a statute of the kind described in paragraph (a) of this section, they shall be exempt from all provisions of the remainder of this subpart which would otherwise apply.

§ 74.136 Rights to require transfer of equipment.

(a) *HEW right.* For items of equipment having a unit acquisition cost of $1,000 or more, the granting agency shall have the right to require transfer of the equipment (including title) to the Federal Government or to an eligible non-Federal party named by the granting agency. This right will normally be exercised by HEW granting agencies only if the project or program for which the equipment was acquired is transferred from one grantee to another. The right shall be subject to the following conditions:

(1) In order for the granting agency to exercise the right, a specific notice that it is exercising the right or considering doing so must be issued no later than the 120th day after the end of HEW grant support for the project or program for which the equipment was acquired. Furthermore:

(i) If the equipment is eligible for the exemptions in § 74.135 and ceases to be needed for the project or program for which it was acquired while the project or program is still being performed by the recipient, the notice must have been received by the grantee while the equipment was still needed for that project or program.

(ii) If the equipment is not eligible for those exemptions, the notice must have been received by the grantee before other permissible disposition of the equipment took place in accordance with § 74.139.

(2) If the right is exercised, the grantee shall be entitled to be paid any reasonable, resulting shipping or storage costs incurred, plus an amount computed by multiplying the market value of the equipment by the non-Federal share of the equipment. (See §§ 74.142 and 74.143.)

(b) *Right of parties awarding subgrants.* When a grantee awards a subgrant, it may reserve for itself a right similar to that in paragraph (a) of this section for items of equipment having a unit acquisition cost of $1,000 or more which are acquired under that subgrant. Without the approval of the granting agency, the right may be exercised only if the project or program for which the equipment was acquired is transferred to another subgrantee and only for the purpose of transferring the equipment to the new subgrantee for continued use in the project or program.

(c) *Equipment lists.* If at any time an awarding party is considering exercising its right to require transfer of equipment, it may require the recipient to furnish it a listing of all items of equipment that are subject to the right. This will enable the awarding party to determine which items, if any, should be transferred.

§ 74.137 Use of equipment.

(a) *Basic rule.* Equipment which has not been transferred under § 74.136 shall be used by the recipient in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original project or program, the recipient shall use the equipment, if needed, in other projects or programs currently or previously sponsored by the Federal Government, in the following order of priority:

(1) Projects or programs currently or previously sponsored by the same granting agency.

(2) Projects or programs currently or previously sponsored by other Federal agencies.

(b) *Shared use.* If equipment is being used less than full time in the project or program for which it was originally acquired, the recipient shall make it available for use in other projects or programs currently or previously sponsored by the Federal Government: *Provided,* Such other use will not interfere with the work on the original project or program. First preference for such other use shall be given to other projects or programs sponsored by the same granting agency.

(c) *Use by other recipients.* When the recipient can no longer use the equipment as required by paragraph (a) of this section, it may voluntarily make the equipment available for use on projects or programs currently or previously sponsored by the Federal Government which the recipient is supporting through subgrants or through non-Federal grants. If the recipient is a subgrantee, it may also voluntarily make the equipment available for use on projects or programs currently or previously sponsored by the Federal

Government which are being conducted or supported by the grantee.

(d) *Other uses.* Unless the granting agency provides otherwise, while equipment is being used as described in the preceding paragraphs of this section, it may also be used part time for other purposes. However, use as described in those paragraphs shall be given priority over other uses.

§ 74.138 Replacement of equipment.

(a) Equipment may be exchanged for replacement equipment if needed. The replacement may take place either through trade-in or through sale and application of the proceeds to the acquisition cost of the replacement equipment. In either case, the transaction must be one which a prudent person would make in like circumstances.

(b) If an additional outlay to acquire the replacement equipment is charged as a direct cost to either Federal funds or required cost-sharing or matching under a Federal award, the replacement equipment shall be subject to whatever property requirements or exemptions are applicable to that award. If the award is a grant from HEW, the full acquisition cost of the replacement equipment shall determine which provisions of this subpart apply.

(c) For any replacement not covered by paragraph (b) of this section, the provisions of this subpart applicable to the equipment replaced shall carry over to the replacement equipment. However, none of the provisions of this subpart shall carry over if (1) the Federal share of the equipment replaced was 10 percent or less or (2) the product of that share times the amount received for trade-in or sale is $100 or less.

§ 74.139 Disposition of equipment.

When original or replacement equipment is no longer to be used in projects or programs currently or previously sponsored by the Federal Government, disposition of the equipment shall be made as follows:

(a) *Equipment with a unit acquisition cost of less than $1,000 and equipment with no further use value.* The equipment may be retained, sold, or otherwise disposed of, with no further obligation to the Federal Government.

(b) *All other equipment.* (1) The equipment may be retained or sold, and the Federal Government shall have a right to an amount calculated by multiplying the current market value or the proceeds from sale by the Federal share of the equipment (see § 74.142). If part of the Federal share in the equipment came from an award under which the exemptions in § 74.135 were applicable, the amount due shall be reduced pro rata. In any case, if the equipment is sold, $100 or 10 percent of the total sales proceeds, whichever is greater, may be deducted and retained from the amount otherwise due for selling and handling expenses.

(2) If the grantee's project or program for which or under which the equipment was acquired is still receiving grant support from the same Federal program and if the granting agency approves, the net amount due may be used for allowable costs of that project or program. Otherwise, the net amount must be remitted to the granting agency by check.

§ 74.140 Equipment management requirements.

Procedures for managing equipment (including replacement equipment) until transfer, replacement, or disposition takes place shall, as a minimum, meet the following requirements:

(a) Property records shall be maintained accurately. (Retention and access requirements for these records are explained in subpart D of this part.) For each item of equipment, the records shall include:

(1) A description of the equipment, including manufacturer's model number, if any.

(2) An identification number, such as the manufacturer's serial number.

(3) Identification of the grant under which the recipient acquired the equipment.

(4) The information needed to calculate the Federal share of the equipment. (See § 74.142.)

(5) Acquisition date and unit acquisition cost.

(6) Location, use, and condition of the equipment and the date the information was reported.

(7) All pertinent information on the ultimate transfer, replacement, or disposition of the equipment.

(b) A physical inventory of equipment shall be taken and the results reconciled with the property records at least once every 2 years to verify the existence, current utilization, and continued need for the equipment. A statistical sampling basis is acceptable. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the differences.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(e) Where equipment is to be sold and the Federal Government is to have a right to part or all of the proceeds, selling procedures shall be established which will provide for competition to the extent practicable and result in the highest possible return.

§ 74.141 Supplies.

(a) If supplies exceeding $1,000 in total aggregate market value are left over upon termination or expiration of the grant or subgrant for which they were acquired and the supplies are not needed for any project or program currently or previously sponsored by the Federal Government, the grant shall be credited by an amount computed by multiplying the Federal share of the supplies times the current market value or, if the supplies are sold, the proceeds from sale. If the supplies are sold, 10 percent of the proceeds may be deducted and retained from the credit, for selling and handling expenses.

(b) For possible exemptions from this section, see § 74.135.

Federal Share of Real Property, Equipment, and Supplies

§ 74.142 Federal share of property.

Several sections of this subpart require a determination of the Federal (or non-Federal) share of real property, equipment, or supplies. In making such a determination, the following principles shall be observed:

(a) *General.* (1) Except as explained in the succeeding paragraphs of this section, the Federal share of the property shall be the same percentage as the Federal share of the acquiring party's total costs under the grant during the grant or subgrant year (or other funding period) to which the acquisition cost of the property was charged. For this purpose, "costs under the grant" means allowable costs which are either borne by the grant or counted towards satisfying a cost-sharing or matching requirement of the grant. Only costs are to be counted—not the value of third-party in-kind contributions. Moreover, if the property was acquired by a grantee that awarded subgrants, costs incurred by its subgrantees shall be included only to the extent borne by the subgrants. (For example, if a subgrantee incurred $200,000 of project costs, of which $150,000 was borne by the subgrant, only the $150,000 shall be included in the grantee's costs.)

(2) If the property is acquired by a subgrantee, the Federal share of the subgrantee's costs under the grant and hence of the property shall be calculated by multiplying the Federal share of the grantee's costs by the latter's share of the subgrantee's costs. For example, if the Federal share of a grantee's costs is 50 percent and the subgrant bears only 50 percent of a subgrantee's costs, then the Federal share of that subgrantee's costs (and of the property acquired by that subgrantee) is 25 percent.

(b) *Property acquired only partly under a grant.* (1) Sometimes only a part of the acquisition cost of an item of property is borne as a direct cost by the grant or counted as a direct cost towards a cost-sharing or matching requirement. The remainder might, for example, represent voluntary cost sharing or matching, or it might be charged to a different activity. Occasionally, the amount paid for the property is only a part of its value, and the remainder is donated as an in-kind contribution by the party that provided the property.

(2) To calculate the Federal share of such property, first determine the Federal share of the acquiring party's total costs under the grant, as explained in the paragraph (a) of this section. Then multiply that share by the percentage of the property's acquisition cost (or its market value, if the item was partly donated) which was borne as a direct cost by the grant or counted as a direct cost towards a cost-sharing or matching requirement.

(c) *Replacement equipment.* The Federal share of replacement equipment shall be calculated as follows:

(1) *Step 1.* Determine the Federal share (percentage) of the equipment replaced.

(2) *Step 2.* Determine the percentage of the replacement equipment's cost that was covered by the amount received for trade-in or the sales proceeds from the equipment replaced.

(3) *Step 3.* Multiply the step 1 percentage by the step 2 percentage.

(4) *Step 4.* If an additional outlay for the replacement equipment was charged as a direct cost either to HEW grant funds or to required cost-sharing or matching funds, calculate the Federal share attributable to that additional outlay as explained in paragraph (b)(2) of this section. Add that additional percentage to the step 3 percentage.

(d) *Institutional cost-sharing agreements.* If a grant is subject to an institutional cost-sharing agreement (see § 74.130(e)), the Federal share of property acquired under the grant shall be calculated as though there were no cost-sharing requirement applicable to the grant (that is, as if all the grantee's cost sharing were voluntary).

§ 74.143 Subgrantee's share of market value or sales proceeds.

Where this subpart requires a sharing of the market value or sales proceeds of property acquired under a subgrant, the non-Federal share shall be proportionally divided between the grantee and the subgrantee. The subgrantee shall be entitled to the amount it would have received or retained if the award to it had been made directly by the Federal Government. The remainder of the non-Federal share shall belong to the grantee.

Intangible Personal Property

§ 74.144 Inventions and patents.

HEW's regulations on inventions and patents arising out of activities assisted by a grant are set forth in parts 6 and 8 of this title.

§ 74.145 Copyrights.

(a) *Works under grants.* Unless otherwise provided by the terms of the grant, when copyrightable material is developed in the course of or under a grant, the grantee is free to copyright the material or permit others to do so.

(b) *Works under subgrants.* Unless otherwise provided by the terms of the grant or subgrant, when copyrightable material is developed in the course of or under a subgrant, the subgrantee is free to copyright the material or permit others to do so.

(c) *HEW rights.* If any copyrightable material is developed in the course of or under a HEW grant or subgrant, HEW shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Federal Government purposes. A grantee awarding a subgrant may reserve a similar right for itself with respect to copyrightable material developed under that subgrant.

(d) *Exemption of student-developed works.* HEW awards training grants and other kinds of grants under which individuals are provided stipends or other financial assistance for the primary purpose of aiding them to further their education or training. Except as provided by the terms of the grant, copyrightable material developed by an individual or group of individuals in the course of education or training pursued with such assistance shall not be subject to the HEW right described in paragraph (c) of this section, unless the development of the material also receives other forms of support under the same or another HEW grant (such as a research grant).

Subpart P—Procurement Standards

§ 74.160 Scope of subpart; terminology.

(a) This subpart contains standards for use by recipients in establishing procedures for the procurement of supplies, equipment, construction, and other services whose cost is borne in whole or in part as a direct cost by Federal grant funds.

(b) No additional procurement standards or requirements shall be imposed by awarding parties upon recipients unless specifically required by Federal statutes or Executive Orders.

(c) As used in this subpart:

(1) "Formal advertising" refers to that procurement method which involves adequate purchase description, sealed bids, and public opening of bids.

(2) "Negotiation" refers to any method of procurement other than formal advertising.

§ 74.161 General.

(a) Recipients may use their own procurement policies: *Provided,* That procurements subject to this subpart are made in accordance with the standards in this subpart.

(b) The standards in this subpart do not relieve the recipient of the contractual responsibilities arising under its contracts. The recipient is the responsible authority, without recourse to HEW, regarding issues arising out of its procurements. This includes but is not limited to: Disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

§ 74.162 Code of conduct.

(a) The recipient shall maintain a code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the awarding and administration of contracts that are subject to this subpart. The code or standards shall provide for disciplinary actions to be applied for violations of the code or standards by the recipient's officers, employees, or agents. For governmental recipients, such disciplinary actions are required only to the extent otherwise permissible under the Government's laws, rules, or regulations. To the extent permissible under its laws, rules, or regulations, the governmental recipient shall also provide for actions to be taken

against contractors or their agents who wrongfully take part in a violation of the code or standards of conduct.

(b) The recipient's officers, employees or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. This is not intended to preclude bona-fide institutional fund-raising activities.

(c) No employee, officer, or agent of a nongovernmental recipient shall participate in the selection, award, or administration of a contract subject to this subpart where, to his or her knowledge, any of the following has a financial interest in that contract:

(i) The employee, officer, or agent;

(ii) Any member of his or her immediate family;

(iii) His or her partner;

(iv) An organization in which any of the above is an officer, director, or employee;

(v) A person or organization with whom any of the above individuals is negotiating or has any arrangement concerning prospective employment.

§ 74.163 Free competition.

(a) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practicable, open and free competition.

(b) The recipient should be alert to organizational conflicts of interest or noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In particular, a contractor that develops or drafts specifications, requirements, a statement of work, an invitation for bids or a request for proposals for a particular procurement by a nongovernmental recipient should be excluded from competing for that procurement except when, upon request of the recipient, the granting agency waives this requirement for a particular procurement.

(c) Solicitations shall clearly set forth all requirements that the bidder/offerer must fulfill in order for his bid/offer to be evaluated. Awards shall be made to the responsible bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the recipient, price and other factors considered. Factors such as discounts, transportation costs, and taxes may be considered in determining the lowest bid. Any and all bids/offers may be rejected when it is in the recipient's interest to do so, and, in the case of governmental recipients, such rejections are in accordance with the government's applicable law, rules, or regulations.

§ 74.164 Procedural requirements.

The recipient shall establish procurement procedures which provide for, as a minimum, the following:

(a) Proposed procurement actions shall follow a procedure to assure that unnecessary or duplicative items are not purchased. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(b) Solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by bidders/offerors should be clearly specified.

(c) Where applicable, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)) shall be observed.

(d) Positive efforts shall be made by procuring parties to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts subject to this subpart. [1]

(e) The type of procuring instruments used—e.g., fixed-price contracts, cost reimbursable contracts, purchase orders, incentive contracts—shall be determined by the recipient but must be appropriate for the particular procurement and for promoting the best interest of the grant project or program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(f) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

(g) The terms of the grant may require that the following be submitted for prior approval of the granting agency if the aggregate expenditure is expected to exceed $5,000: (1) Any proposed sole source contract and (2) any contract which a nongovernmental recipient proposes to award after seeking competition but receiving only one bid or proposal.

(h) Nongovernmental recipients should make some form of price or cost analysis in connection with every negotiated procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost proposed by the offeror to determine reasonableness, allocability and allowability.

(i) Procurement records and files for purchases in excess of $10,000 shall include the following:

(1) Basis for contractor selection;

(2) Justification for lack of competition when competitive bids or offers are not obtained;

(3) Basis for award cost or price.

(j) A system for contract administration shall be maintained to ensure contractor conformance with terms, conditions and specifications of the contract, and to ensure adequate and timely followup of all purchases.

§ 74.165 Requirement for governments to use formal advertising.

(a) Except as provided in paragraph (b) of this section, in making procurements that are subject to this subpart, governmental recipients shall use formal advertising.

(b) Procurements may be negotiated if it is not practicable or feasible to use formal advertising. Generally, such procurements may be negotiated if one or more of the following conditions prevail:

(1) The public exigency will not permit the delay incident to advertising.

(2) The material or service to be procured is available from only one person or firm.

(3) The aggregate amount involved does not exceed $10,000.

(4) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institution.

(5) The material or services are to be procured and used outside the limits of the United States and its possessions.

[1] Advice and assistance regarding the use of small or minority businesses may be obtained from the following Federal organizations:

1. The Small Business Administration and its field offices.
2. The Office of Minority Business Enterprise, Department of Commerce.
3. The Office of Facilities Engineering, HEW and its regional offices (for assistance in identifying minority-owned firms interested in performing construction, alteration, or renovation work).
4. The Office for Civil Rights, HEW.
5. The Office of Grants and Procurement, HEW.

(6) No acceptable bids have been received after formal advertising.

(7) The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, for experimental, developmental or research work, for supplies purchased for authorized resale, or for technical or specialized supplies requiring substantial intitial investment for manufacture.

(8) Formal advertising is otherwise not practicable or feasible, and negotiation is authorized by applicable law, rules, or regulations.

(c) Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

(d) For every negotiated procurement in excess of $10,000 by a governmental recipient, written justification for the use of negotiation in lieu of formal advertising shall be included in the government's procurement records and files, in addition to the information required by § 74.164(i). The justification may be on a class basis, i.e., covering a group of related or similar contracts, or it may be on an individual contract basis.

§ 74.166 Contract provisions.

(a) *Scope.* This section contains requirements relating to provisions that must be included in contracts that are subject to this part. The requirements shall also apply to subcontracts of any tier under such contracts, and the term "contracts" in this section shall be construed as including subcontracts.

(b) *General.* All contracts shall contain sufficient provisions to define a sound and complete agreement.

(c) *Administrative remedies for violations.* Contracts in excess of $10,000 shall contain contractual provisions or conditions that will allow for administrative, contractual or legal remedies in instances in which contractors violate or breach contract terms, and provide for such remedial actions as appropriate.

(d) *Termination provisions.* Contracts in excess of $10,000 shall contain suitable provisions for termination by the party awarding the contract, including the manner by which termination will be effected and the basis for settlement. These contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(e) *E.O. 11246.* Where applicable, construction contracts in excess of $10,000 shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

(f) *Copeland Act.* Contracts in excess of $2,000 for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick-Back Act" (18 U.S.C. 874) as supplemented in Department of Labor regulation (29 CFR Part 3). All suspected or reported violations shall be reported to the granting agency by the grantee.

(g) *Davis-Bacon Act.* When required by the Federal legislation governing the grant program, all construction contracts in excess of $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a–7) as supplemented by Department of Labor regulations (29 CFR Part 5). All suspected or reported violations shall be reported to the granting agency by the grantee.

(h) *Contract Work Hours and Safety Standards Act.* All contracts subject to the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) shall include a provision requiring the contractor to comply with the applicable sections of the act and the Department of Labor's supplementing regulations (29 CFR Parts 5 and 1926).

(i) *Inventions and patents.* Contracts which may give rise to inventions subject to parts 6 and 8 of this title shall include a provision requiring compliance with those parts.

(j) *Access to Records.* Contracts that are subject to Subpart D of this part shall include a provision reflecting § 74.24(c) on rights of access to the contractor's records.

(k) *Clean Air and Water Acts.* Contracts in excess of $100,000 shall contain provisions requiring compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act as amended (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported in writing to the appropriate regional office of the Environmental Protection Agency, and a copy of the report shall be submitted to the granting agency. (See 40 CFR Part 15 for relevant regulations of the Environmental Protection Agency.)

Subpart Q—Cost Principles

§ 74.170 Scope of subpart.

This subpart identifies the principles to be used in determining costs applicable to grants, subgrants, and cost-type contracts under grants and subgrants.

§ 74.171 Governments.

The principles to be used in determining the allowable costs of activities conducted or administered by governments are in appendix C to this part.

§ 74.172 Institutions of higher education.

(a) *Research and development.* The principles for determining the allowable costs of research and development work performed by institutions of higher education (other than for-profit institutions) are in part I of appendix D to this part.

(b) *Training and other educational services.* The principles for determining the allowable costs of training and other educational services provided by institutions of higher education (other than for-profit institutions) are in part II of appendix D to this part.

(c) *Other activities.* Appendix D to this part shall be used as a guide for determining the allowable costs of other activities conducted by institutions of higher education (other than for-profit institutions).

§ 74.173 Hospitals.

(a) *Research and development.* The principles for determining the allowable costs of research and development work performed by hospitals are in Appendix E to this part.

(b) *Other activities.* Appendix E to this part shall be used as a guide for determining the allowable costs of other activities conducted by hospitals.

§ 74.174 Other nonprofit organizations.

(a) *Nonconstruction awards.* Under nonconstruction awards, the principles for determining the allowable costs of activities conducted by nonprofit organizations other than institutions of higher education, hospitals, and governmental organizations are in Appendix F to this part.

(b) *Construction awards.* Appendix F to this part shall be used as a guide for determining the allowable costs of work under construction awards to nonprofit organizations (other than institutions of higher education, hospitals and governmental organizations).

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§ 74.175 Subgrants and cost-type contracts.

(a) The cost principles applicable to a subgrantee or cost-type contractor under an HEW grant will not necessarily be the same as those applicable to the grantee. For example, where a State government awards a subgrant or cost-type contract to an institution of higher education, Appendix D to this part would apply to the costs incurred by the institution of higher education, even though Appendix C would apply to the costs incurred by the State.

(b) The principles to be used in determining the allowable costs of work performed by for-profit organizations (other than hospitals) under cost-type contracts awarded to them under HEW grants are in 41 CFR Subpart 1–15.2.

§ 74.176 Costs allowable with approval.

Each set of cost principles identifies certain costs that, in order to be allowable, must be approved by the granting agency. Other costs do not require approval. The following procedures govern approval of these costs.

(a) When costs are treated as indirect costs (or are allocated pursuant to a government-wide cost allocation plan), acceptance of the costs as part of the indirect cost rate or cost allocation plan shall constitute approval.

(b)(1) When the costs are treated as direct costs, they must be approved in advance by the awarding party.

(2) If the costs are specified in the budget, approval of the budget shall constitute approval of the costs.

(3) If the costs are not specified in the budget, or there is no approved budget, the recipient shall obtain specific prior approval in writing from the awarding party. For this purpose the prior approval procedures of § 74.102 shall be followed, except that for formula or mandatory grants, the granting agency's written approval may be signed by any authorized official of the granting agency.

(c) The awarding party may waive or conditionally waive the requirement for its approval of the costs. Such a waiver shall apply only to the requirement for approval. If, upon audit or otherwise, it is determined that the costs do not meet other requirements or tests for allowability specified by the applicable cost principles, such as reasonableness and necessity, the costs may be disallowed.

(d) In the case of subgrants and cost-type contracts, no approval shall be given which is inconsistent with the purpose or the terms of the Federal grant.

Appendix A [Reserved]

Appendix B [Reserved]

Appendix C—Principles for Determining Costs Applicable to Grants and Contracts With State and Local Governments

Part I—General

A. Purpose and Scope

1. *Objectives.* This appendix sets forth principles for determining the allowable costs of programs administered by State and local governments under grants from and contracts with the Federal Government. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal and State or local participation in the financing of a particular grant. They are designed to provide that federally assisted programs bear their fair share of costs recognized under these principles, except where restricted or prohibited by law. No provision for profit or other increment above cost is intended.

2. *Policy guides.* The application of these principles is based on the fundamental premises that:

a. State and local governments are responsible for the efficient and effective administration of grant and contract programs through the application of sound management practices.

b. The grantee or contractor assumes the responsibility for seeing that federally assisted program funds have been expended and accounted for consistent with underlying agreements and program objectives.

c. Each grantee or contractor organization, in recognition of its own unique combination of staff facilities and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration.

3. *Application.* These principles will be applied in determining costs incurred by State and local governments under Federal grants and cost reimbursement type contracts (including subgrants and subcontracts) except those with (a) publicly financed educational institutions subject to Appendix D to this part and (b) publicly owned hospitals and other providers of medical care subject to requirements of Appendix E to this part.

B. Definitions

1. *Approval or authorization of the grantor Federal agency* means documentation evidencing consent prior to incurring specific cost.

2. *Cost allocation plan* means the documentation identifying, accumulating, and distributing allowable costs under grants and contracts together with the allocation methods used.

3. *Cost,* as used herein, means cost as determined on a cash, accrual, or other basis acceptable to the Federal grantor agency as a discharge of the grantee's accountability for Federal funds.

4. *Cost objective* means a pool, center, or area established for the accumulation of cost. Such areas include organizational units, functions, objects or items of expense, as well as ultimate cost objectives including specific grants, projects, contracts, and other activities.

5. *Federal agency* means the Department of Health, Education, and Welfare.

6. Grant means an agreement between the Federal Government and a State or local government whereby the Federal Government provides funds or aid in kind to carry out specified programs, services, or activities. The principles and policies stated in this appendix as applicable to grants in general also apply to any federally sponsored cost reimbursement type of agreement performed by a State or local government, including contracts, subcontracts and subgrants.

7. *Grant program* means those activities and operations of the grantee which are necessary to carry out the purposes of the grant, including any portion of the program financed by the grantee.

8. *Grantee* means the department or agency of State or local government which is responsible for administration of the grant.

9. *Local unit* means any political subdivision of government below the State level.

10. *Other State or local agencies* means departments or agencies of the State or local unit which provide goods, facilities, and services to a grantee.

11. *Services,* as used herein, means goods and facilities, as well as services.

12. *Supporting services* means auxiliary functions necessary to sustain the direct effort involved in administering a grant program or an activity providing service to the grant program. These services may be centralized in the grantee department or in some other agency, and include procurement, payroll, personnel functions, maintenance and operation of space, data processing, accounting budgeting, auditing, mail and messenger service, and the like.

C. Basic Guidelines

1. *Factors affecting allowability of costs.* To be allowable under a grant program, costs must meet the following general criteria:

a. Be necessary and reasonable for proper and efficient administration of the grant program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State or local governments.

b. Be authorized or not prohibited under State or local laws or regulations.

c. Conform to any limitations or exclusions set forth in these principles, Federal laws, or other governing limitations as to types or amounts of cost items.

d. Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the unit of government of which the grantee is a part.

e. Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.

f. Not be allocable to or included as a cost of any other federally financed program in either the current or a prior period.

g. Be net of all applicable credits.

2. *Allocable costs.* a. A cost is allocable to a particular cost objective to the extent of benefits received by such objective.

b. Any cost allocable to a particular grant or cost objective under the principles provided for in this appendix may not be shifted to other Federal grant programs to overcome fund deficiencies, avoid restrictions imposed by law or grant agreements, or for other reasons.

c. Where an allocation of joint cost will ultimately result in charges to a grant program, an allocation plan will be required as prescribed in section J.

3. *Applicable credits.* a. Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to grants as direct or indirect costs. Examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; sale of publications, equipment, and scrap; income from personal or incidental services; and adjustments of overpayments or erroneous charges.

b. Applicable credits may also arise when Federal funds are received or are available from sources other than the grant program involved to finance operations or capital items of the grantee. This includes costs arising from the use or depreciation of items donated or financed by the Federal Government to fulfill matching requirements under another grant program. These types of credits should likewise be used to reduce related expenditures in determining the rates or amounts applicable to a given grant.

D. Composition of Cost

1. *Total cost.* The total cost of a grant program is comprised of the allowable direct cost incident to its performance, plus its allocable portion of allowable indirect costs, less applicable credits.

2. *Classification of costs.* There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the grant or other ultimate cost objective. It is essential therefore that each item of cost be treated consistently either as a direct or an indirect cost. Specific guides for determining direct and indirect costs allocable under grant programs are provided in the sections which follow.

E. Direct Costs

1. *General.* Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to grants, contracts, or to other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of costs pending distribution in due course to grants and other ultimate cost objectives.

2. *Application.* Typical direct costs chargeable to grant programs are:

a. Compensation of employees for the time and effort devoted specifically to the execution of grant programs.

b. Cost of materials acquired, consumed, or expended specifically for the purpose of the grant.

c. Equipment and other approved capital expenditures.

d. Other items of expense incurred specifically to carry out the grant agreement.

e. Services furnished specifically for the grant program by other agencies, provided such charges are consistent with criteria outlined in Section C of these principles.

F. Indirect Costs

1. *General.* Indirect costs are those [a] incurred for a common or joint purpose benefiting more than one cost objective, and [b] not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities, to the grantee department. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect cost within a grantee department or in other agencies providing services to a grantee department. Indirect cost pools should be distributed to benefiting cost objectives on bases which will produce an equitable result in consideration or relative benefits derived.

2. *Grantee departmental indirect costs.* Al grantee departmental indirect costs, including the various levels of supervision, are eligible for allocation to grant programs provided they meet the conditions set forth in this Appendix. In lieu of determining the actual amount of grantee departmental indirect cost allocable to a grant program, the following methods may be used:

a. *Predetermined fixed rates for indirect costs.* A predetermined fixed rate for computing indirect costs applicable to a grant may be negotiated annually in situations where the cost experience and other pertinent facts available are deemed sufficient to enable the contracting parties to reach an informed judgment (1) as to the probable level of indirect costs in the grantee department during the period to be covered by the negotiated rate, and (2) that the amount allowable under the predetermined rate would not exceed actual indirect cost.

b. *Negotiated lump sum for overhead.* A negotiated fixed amount in lieu of indirect costs may be appropriate under circumstances where the benefits derived from a grantee department's indirect services cannot be readily determined as in the case of small, self-contained or isolated activity. When this method is used, a determination should be made that the amount negotiated will be approximately the same as the actual indirect cost that may be incurred. Such amounts negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses of the grantee department before allocation to remaining activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

3. *Limitation on indirect costs.* a. Federal grants may be subject to laws that limit the amount of indirect cost that may be allowed. Agencies that sponsor grants of this type will establish procedures which will assure that the amount actually allowed for indirect costs under each such grant does not exceed the maximum allowable under the statutory limitation or the amount otherwise allowable under this Appendix, whichever is the smaller.

b. When the amount allowable under a statutory limitation is less than the amount otherwise allocable as indirect costs under this Appendix, the amount not recoverable as indirect costs under a grant may not be shifted to another federally sponsored grant program or contract.

G. Cost Incurred by Agencies Other Than the Grantee

1. *General.* The cost of service provided by other agencies only may include allowable direct costs of the service plus a pro rata share of allowable supporting costs (section B.12.) and supervision directly required in performing the service, but not supervision of a general nature such as that provided by the head of a department and his staff assistants not directly involved in operations. However, supervision by the head of a department or agency whose sole function is providing the service furnished would be an eligible cost. Supporting costs include those furnished by other units of the supplying department or by other agencies.

2. *Alternative methods of determining indirect cost.* In lieu of determining actual indirect cost related to a particular service furnished by another agency, either of the following alternative methods may be used provided only one method is used for a specific service during the fiscal year involved.

a. *Standard indirect rate.* An amount equal to 10 percent of direct labor cost in providing the service performed by another State agency (excluding overtime, shift, or holiday premiums and fringe benefits) may be allowed in lieu of actual allowable indirect cost for that service.

b. *Predetermined fixed rate.* A predetermined fixed rate for indirect cost of the unit or activity providing service may be negotiated as set forth in section F.2.a.

H. Cost Incurred by Grantee Department for Others

1. *General.* The principles provided in section G. will also be used in determining the cost of services provided by the grantee department to another agency.

I. [Reserved]

J. Cost Allocation Plan

1. *General.* A plan for allocation of costs will be required to support the distribution of any joint costs related to the grant program. All costs included in the plan will be supported by formal accounting records which will substantiate the propriety of eventual charges.

2. *Requirements.* The allocation plan of the grantee department should cover all joint costs of the department as well as costs to be allocated under plans of other agencies or organizational unit which are to be included in the costs of federally sponsored programs. The cost allocation plans of all the agencies rendering services to the grantee department, to the extent feasible, should be presented in a single document. The allocation plan should contain, but not necessarily be limited to, the following:

a. The nature and extent of services provided and their relevance to the federally sponsored programs.

b. The items of expense to be included.

c. The methods to be used in distributing cost.

3. *Instructions for preparation of cost allocation plans.* The Department of Health, Education, and Welfare, in consultation with the other Federal agencies concerned, will be responsible for developing and issuing the instructions for use by State and local government grantees in preparation of cost allocation plans. This responsibility applies to both central support services at the State and local government level as well as indirect cost proposals of individual grantee departments.

4. *Negotiation and approval of indirect cost proposals for States.* a. The Department of Health, Education, and Welfare, in collaboration with the other Federal agencies concerned, will be responsible for negotiation, approval and audit of cost allocation plans, which will be submitted to it by the States. These plans will cover central support service costs of the State.

b. At the grantee department level in a State, a single Federal agency will have responsibility similar to that set forth in a. above for the negotiation, approval and audit of the indirect cost proposal. Cognizant Federal agencies have been designated for this purpose. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare in collaboration with the other interested agencies, and submitted to the Office of Management and Budget for final approval. A current list of agency assignments will be maintained by the Department of Health, Education, and Welfare.

c. Questions concerning the cost allocation plans approved under a. and b. above should be directed to the agency responsible for such approvals.

5. *Negotiation and approval of indirect cost proposals for local governments.* a. Cost allocation plans will be retained at the local government level for audit by a designated Federal agency except in those cases where that agency requests that cost allocation plans be submitted to it for negotiation and approval.

b. A list of cognizant Federal agencies assigned responsibility for negotiation, approval and audit of central support service cost allocation plans at the local government level is being developed. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare in collaboration with the other interested agencies, and submitted to the Office of Management and Budget for final approval. A current list of agency assignments will be maintained by the Department of Health, Education, and Welfare.

c. At the grantee department level of local governments, the Federal agency with the predominant interest in the work of the grantee department will be responsible for necessary negotiation, approval and audit of the indirect cost proposal.

6. *Resolution of problems.* To the extent that problems are encountered among the Federal agencies in connection with 4. and 5. above, the Office of Management and Budget will lend assistance as required.

Part II—Standards for Selected Items of Cost

A. Purpose and Applicability

1. *Objective.* This part provides standards for determining the allowability of selected items of cost.

2. *Application.* These standards will apply irrespective of whether a particular item of cost is treated as direct or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable, rather determination of allowability in each case should be based on the treatment of standards provided for similar or related items of cost. The allowability of the selected items of cost is subject to the general policies and principles stated in Part I of this appendix.

B. Allowable Costs

1. *Accounting.* The cost of establishing and maintaining accounting and other information systems required for the management of grant programs is allowable. This includes cost incurred by central service agencies for these purposes. The cost of maintaining central accounting records required for overall State or local government purposes, such as appropriation and fund accounts by the Treasurer, Comptroller, or similar officials, is considered to be a general expense of government and is not allowable.

2. *Advertising.* Advertising media includes newspapers, magazines, radio, and television programs, direct mail, trade papers, and the like. The advertising costs allowable are those which are solely for:

a. Recruitment of personnel required for the grant program.

b. Solicitation of bids for the procurement of goods and services required.

c. Disposal of scrap or surplus materials acquired in the performance of the grant agreement.

d. Other purposes specifically provided for in the grant agreement.

3. *Advisory councils.* Costs incurred by State advisory councils or committees established pursuant to Federal requirements to carry out grant programs are allowable. The cost of like organizations is allowable when provided for in the grant agreement.

4. *Audit service.* The cost of audits necessary for the administration and management of functions related to grant programs is allowable.

5. *Bonding.* Costs of premiums on bonds covering employees who handle grantee agency funds are allowable.

6. *Budgeting.* Costs incurred for the development, preparation, presentation, and execution of budgets are allowable. Costs for services of a central budget office are generally not allowable since these are costs of general government. However, where employees of the central budget office actively participate in the grantee agency's budget process, the cost of identifiable services is allowable.

7. *Building lease management.* The administrative cost for lease management which includes review of lease proposals, maintenance of a list of available property for lease, and related activities is allowable.

8. *Central stores.* The cost of maintaining and operating a central stores organization for supplies, equipment, and materials used either directly or indirectly for grant programs is allowable.

9. *Communications.* Communication costs incurred for telephone calls or service, telegraph, teletype service, wide area telephone service (WATS), centrex, telpak (tie lines), postage, messenger service and similar expenses are allowable.

10. *Compensation for personal services*—a. *General.* Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant agreement, including but not necessarily limited to wages, salaries, and supplementary compensation and benefits (section B.13.). The costs of such compensation are allowable to the extent that total compensation for individual employees: (1) is reasonable for the services rendered. (2) follows an appointment made in accordance with State or local government laws and rules and which meets Federal merit system or other requirements, where applicable, and (3) is determined and supported as provided in b. below. Compensation for employees engaged in federally assisted activities will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the State or local government. In cases where the kinds of employees required for the federally assisted activities are not found in the other activities of the State or local government, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

b. *Payroll and distribution* of time. Amounts charged to grant programs for personal services, regardless of whether treated as direct or indirect costs, will be based on payrolls documented and approved in accordance with generally accepted practice of the State or local agency. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees chargeable to more than one grant program or other cost objective will be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort.

11. *Depreciation and use allowances.* a. Grantees may be compensated for the use of buildings, capital improvements, and equipment through use allowances or depreciation. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

b. The computation of depreciation or use allowance will be based on acquisition cost. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used in the computation. The computation will exclude the cost or any portion of the cost of buildings and equipment donated or borne directly or indirectly by the Federal Government through charges to Federal grant programs or otherwise, irrespective of where title was originally vested or where it presently resides. In addition, the computation will also exclude the cost of land. Depreciation or a use allowance on idle or excess facilities is not allowable, except when specifically authorized by the grantor Federal agency.

c. Where the depreciation method is followed, adequate property records must be maintained, and any generally accepted method of computing depreciation may be used. However, the method of computing depreciation must be consistently applied for any specific asset or class of assets for all affected federally sponsored programs and must result in equitable charges considering the extent of the use of the assets for the benefit of such programs.

d. In lieu of depreciation, a use allowance for buildings and improvements may be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment (excluding items properly capitalized as building cost) will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable equipment.

e. No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated: *provided, however,* That reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

12. *Disbursing service.* The cost of disbursing grant program funds by the Treasurer or other designated officer is allowable. Disbursing services cover the processing of checks or warrants, from preparation to redemption, including the necessary records of accountability and reconciliation of such records with related cash accounts.

13. *Employee fringe benefits.* Costs identified under a. and b. below are allowable to the extent that total compensation for employees is reasonable as defined in section B.10.

a. Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, court leave, military leave, and the like, if they are: (1) provided pursuant to an approved leave system, and (2) the cost thereof is equitably allocated to all related activities, including grant programs.

b. Employee benefits in the form of employers' contribution or expenses for social security, employees' life and health insurance plans, unemployment insurance coverage, workmen's compensation insurance, pension plans, severance pay, and the like, provided such benefits are granted under approved plans and are distributed equitably to grant programs and to other activities.

14. *Employee morale, health, and welfare costs.* The costs of health of first-aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, and any related expenses incurred in accordance with general State or local policy are allowable. Income generated from any of these activities will be offset against expenses.

15. *Exhibits.* Costs of exhibits relating specifically to the grant programs are allowable.

16. *Legal expenses.* The cost of legal expenses required in the administration of grant programs is allowable. Legal services furnished by the chief legal officer of a State or local government or his staff solely for the purpose of discharging his general responsibilities as legal officer are unallowable. Legal expenses for the prosecution of claims against the Federal Government are unallowable.

17. *Maintenance and repair.* Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable.

18. *Materials and supplies.* The cost of materials and supplies necessary to carry out the grant programs is allowable. Purchases made specifically for the grant program should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the grantee. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges are a proper part of material cost.

19. *Memberships, subscriptions and professional activities*—a. *Memberships.* The cost of membership in civic, business, technical and professional organizations is allowable provided: (1) the benefit from the membership is related to the grant program, (2) the expenditure is for agency membership, (3) the cost of the membership is reasonably related to the value of the services or benefits received, and (4) the expenditure is not for membership in an organization which devotes a substantial part of its activities to influencing legislation.

b. *Reference material.* The cost of books and subscriptions to civic, business, professional, and technical periodicals is allowable when related to the grant program.

c. *Meetings and conferences.* Costs are allowable when the primary purpose of the meeting is the dissemination of technical information relating to the grant program and they are consistent with regular practices followed for other activities of the grantee.

20. *Motor pools.* The costs of a service organization which provides automobiles to user grantee agencies at a mileage or fixed rate and/or provides vehicle maintenance, inspection and repair services are allowable.

21. *Payroll preparation.* The cost of preparing payrolls and maintaining necessary related wage records is allowable.

22. *Personnel administration.* Costs for the recruitment, examination, certification, classification, training, establishment of pay standards, and related activities for grant programs, are allowable.

23. *Printing and reproduction.* Costs for printing and reproduction services necessary for grant administration, including but not limited to forms, reports, manuals, and informational literature, are allowable. Publication costs of reports or other media relating to grant program accomplishments or results are allowable when provided for in the grant agreement.

24. *Procurement service.* The cost of procurement service, including solicitation of bids, preparation and award of contracts, and all phases of contract administration in providing goods, facilities and services for grant programs, is allowable.

25. *Taxes.* In general, taxes or payments in lieu of taxes which the grantee agency is legally required to pay are allowable.

26. *Training and education.* The cost of in-service training, customarily provided for employee development which directly or indirectly benefits grant programs, is allowable. Out-of-service training involving extended periods of time is allowable only when specifically authorized by the grantor agency.

27. *Transportation.* Costs incurred for freight, cartage, express, postage, and other transportation costs relating either to goods purchased, delivered, or moved from one location to another, are allowable.

28. *Travel.* Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business incident to a grant program. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in nonfederally sponsored activities. The difference in cost between first-class air accommodations and less-than-first-class air accommodations is unallowable except when less-than-first-class

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air accommodations are not reasonably available.

c. Costs Allowable With Approval of Grantor Agency

1. *Automatic data processing.* The cost of data processing services to grant programs is allowable. This cost may include rental of equipment or depreciation on grantee-owned equipment. The acquisition of equipment, whether by outright purchase, rental-purchase agreement or other method of purchase, is allowable only upon specific prior approval of the grantor Federal agency as provided under the selected item for capital expenditures.

2. *Building space and related facilities.* The cost of space in privately or publicly owned buildings used for the benefit of the grant program is allowable subject to the conditions stated below. The total cost of space, whether in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality. The cost of space procured for grant program usage may not be charged to the program for periods of nonoccupancy, without authorization of the grantor Federal agency.

a. *Rental cost.* The rental cost of space in a privately owned building is allowable.

b. *Maintenance and operation.* The costs of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs, and alterations and the like, are allowable to the extent they are not otherwise included in rental or other charges for space.

c. *Rearrangements and alterations.* Cost incurred for rearrangement and alteration of facilities required specifically for the grant program or those that materially increase the value or useful life of the facilities (section C.3.) are allowable when specifically approved by the grantor agency.

d. *Depreciation and use allowances on publicly owned buildings.* These costs are allowable as provided in section B.11.

e. *Occupancy of space under rental-purchase or a lease with option-to-purchase agreement.* The cost of space procured under such arragngements is allowable when specifically approved by the Federal grantor agency.

3. *Capital expenditures.* The cost of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets is allowable when such procurement is specifically approved by the Federal grantor agency. When assets acquired with Federal grant funds are (a) sold, (b) no longer available for use in a federally sponsored program, or (c) used for purposes not authorized by the grantor agency, the Federal grantor agency's equity in the asset will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new items, only the net cost of the newly acquired assets is allowable.

4. *Insurance and indemnification.* a. Cost of insurance required, or approved and maintained pursuant to the grant agreement, is allowable.

b. Cost of other insurance in connection with the general conduct of activities is allowable subject to the following limitations:

(1) Types and extent and cost of coverage will be in accordance with general State or local government policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the grantor agency has specifically required or approved such costs.

c. Contributions to a reserve for a self-insurance program approved by the Federal grantor agency are allowable to the extent that the type of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant agreement. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage and disappearance of small hand tools which occur in the ordinary course of operations, are allowable.

e. *Indemnification* includes securing the grantee against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the grantee only to the extent expressly provided for in the grant agreement, except as provided in d above.

5. *Management studies.* The cost of management studies to improve the effectiveness and efficiency of grant management for ongoing programs is allowable except that the cost of studies performed by agencies other than the grantee department or outside consultants is allowable only when authorized by the Federal grantor agency.

6. *Preagreement costs.* Costs incurred prior to the effective date of the grant or contract, whether or not they would have been allowable thereunder if incurred after such date, are allowable when specifically provided for in the grant agreement.

7. *Professional services.* Cost of professional services rendered by individuals or organizations not a part of the grantee department is allowable subject to such prior authorization as may be required by the Federal grantor agency.

8. *Proposal costs.* Costs of preparing proposals on potential Federal Government grant agreements are allowable when specifically provided for in the grant agreement.

D. Unallowable Costs

1. *Bad debts.* Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable.

2. *Contingencies.* Contributions to a contingency reserve or any similar provision for unforeseen events are unallowable.

3. *Contributions and donations.* Unallowable.

4. *Entertainment.* Costs of amusements, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities, are unallowable.

5. *Fines and penalties.* Costs resulting from violations of, or failure to comply with, Federal, State, and local laws and regulations are unallowable.

6. *Governor's expenses.* The salaries and expenses of the office of the Governor of a State or the chief executive of a political subdivision are considered a cost of general State or local government and are unallowable.

7. *Interest and other financial costs.* Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are unallowable except when authorized by Federal legislation.

8. *Legislative expenses.* Salaries and other expenses of the State legislature or similar local governmental bodies such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction, are unallowable.

9. *Underrecovery of costs under grant agreements.* Any excess of cost over the Federal contribution under one grant agreement is unallowable under other grant agreements.

Appendix D

Part I—Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts With Educational Institutions

A. Purpose and Scope

1. *Objectives.* This appendix provides principles for determining the costs applicable to research and development work performed by educational institutions under grants from and contracts with the Federal Government. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a particular research or development project. The principles are designed to provide recognition of the full allocated costs of such research work under generally accepted accounting principles. No provision for profit or other increment above cost is intended.

2. *Policy guides.* The successful application of these principles requires development of mutual understanding between representatives of universities and of the Federal Government as to their scope, implementation, and interpretation. It is recognized that—

a. The arrangements for agency and institutional participation in the financing of a research and development project are properly subject to negotiation between the agency and the institution concerned in accordance with such Government-wide criteria as may be applicable.

b. Each college and university, possessing its own unique combination of staff, facilities, and experience, should be encouraged to conduct research in a manner consonant with its own academic philosophies and institutional objectives.

c. Each institution, in the fulfillment of its obligations, should employ sound management practices.

d. The application of the principles established herein should require no significant changes in the generally accepted accounting practices of colleges and universities and standards herein provided on a consistent basis. Where wide variations exist in the treatment of a given cost item among institutions, the reasonableness and equitableness of such treatments will be fully considered during the rate negotiations and audit.

3. *Application.* The Department of Health, Education, and Welfare, will apply these principles and related policy guides in determining the costs incurred for such work under any type of research and development agreement. These principles should also be used as a guide in the pricing of fixed-price contracts or lump sum agreements.

B. Definition of Terms

1. *Organized research* means all research activities of an institution that are separately budgeted and accounted for.

2. *Departmental research* means research activities that are not separately budgeted and accounted for. Such research work, which includes all research activities not encompassed under the term "organized research," is regarded for purposes of this document as a part of the instructional activities of the institution.

3. *Research agreement* means any valid arrangement to perform federally sponsored research, including grants, cost-reimbursement type contracts, cost-reimbursement type subcontracts, and fixed-price contracts and subcontracts for research.

4. *Other institutional activities* means all organized activities of an institution not directly related to the instruction and research functions, such as residence halls, dining halls, student hospitals, student unions, intercollegiate athletics, bookstores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, and other similar activities or auxiliary enterprises. Also included under this definition is any other category of cost treated as "unallowable," provided such category of cost identifies a function or activity to which a portion of the institution's indirect costs (as defined in section E.1.) are properly allocable.

5. *Apportionment* means the process by which the indirect costs of the institution are assigned as between (a) instruction and research, and (b) other institutional activities.

6. *Allocation* means the process by which the indirect costs apportioned to instruction and research are assigned as between (a) organized research, and (b) instruction, including departmental research.

7. *Stipulated salary support* is a fixed or a stated dollar amount of the salary of professorial or other professional staff involved in the conduct of research which a Government agency agrees in advance to reimburse an educational institution as a part of sponsored research costs.

8. *Federal agency* or sponsoring agency means the Department of Health, Education and Welfare.

C. Basic Considerations

1. *Composition of total costs.* The cost of a research agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allowable indirect costs of the institution, less applicable credits as described in section C.5.

2. *Factors affecting allowability of costs.* The tests of allowability of costs under these principles are: (a) they must be reasonable; (b) they must be allocable to research agreements under the standards and methods provided herein; (c) they must be accorded consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the research agreement as to types or amounts of cost items.

3. *Reasonable costs.* A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefor, reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are:

(a) whether or not the cost is of a type generally recognized as necessary for the operation of the institution or the performance of the research agreement; (b) the restraints or requirements imposed by such factors as arm's-length bargaining, Federal and State laws and regulations, and research agreement terms and conditions; (c) whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the institution, its employees, its students, the Government, and the public at large; and (d) the extent to which the actions taken with respect to the incurrence of the cost are consistent with established institutional policies and practices applicable to the work of the institution generally, including Government research.

4. *Allocable costs.* a. A cost is allocable to a particular cost objective (i.e., a specific function, project, research agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a research agreement if it is incurred solely to advance the work under the research agreement; or it benefits both the research agreement and other work of the institution in proportions that can be approximated through use of reasonable methods; or it is necessary to the overall operation of the institution and, in the light of the standards provided in this appendix is deemed to be assignable in part to organized research. Where the purchase of equipment or other capital items is specifically authorized under a research agreement, the amounts thus authorized for such purchases are allocable to the research agreement regardless of the use that may subsequently be made of the equipment or other capital items involved.

b. Any costs allocable to a particular research agreement under the standards provided in this appendix may not be shifted to other research agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by terms of the research agreement, or for other reasons of convenience.

5. *Applicable credits.* a. The term applicable credits refers to those receipt or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to research agreements as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates, or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges.

b. In some instances, the amounts received from the Federal Government to finance institutional activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the institution in determining the rates or amounts to be charged to Government research for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds. (See sections F.6., J.10.b., and J.37. for areas of potential application in the matter of direct Federal financing.)

6. *Costs incurred by State and local governments.* Costs incurred or paid by State or local governments in behalf of educational institutions for certain personnel benefit programs such as pension plans, FICA, and any other costs specifically disbursed in behalf of and in direct benefit to the institutions, are allowable costs of such institutions whether or not these costs are recorded in the accounting records of such institutions, subject to the following:

a. Such costs meet the requirements of sections C.1. through C.5.

b. Such costs are properly supported by cost allocation plans in accordance with Appendix C to this part.

c. Such costs are not otherwise borne directly or indirectly by the Federal Government.

D. Direct Costs

1. *General.* Direct costs are those costs which can be identified specifically with a particular research project, an instructional activity or any other institutional activity or which can be directly assigned to such activities relatively easily with a high degree of accuracy.

2. *Application to research agreements.* Identifiable benefit to the research work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of research agreements. Typical transactions chargeable to a research agreement as direct costs are the compensation of employees for performance of work under the research agreement, including related staff benefit and pension plan costs to the extent that such items are consistently treated by the educational institution as direct rather than indirect costs; the costs of materials consumed or expended in the performance of such work; and other items of expense incurred for the research agreement, including extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of research agreements provided such items are consistently treated by the institution as direct rather than indirect costs and are charged under a recognized method of costing or pricing designed to recover only actual costs and conforming to generally accepted cost accounting practices consistently followed by the institution.

E. Indirect Costs

1. *General.* Indirect costs are those that have been incurred for common or joint objectives and therefore cannot be identified specifically with a particular research project, an instructional activity or any other institutional activity. At educational institutions such costs normally are classified under the following functional categories: general administration and general expenses; research administration expenses; operation and maintenance expenses; library expenses; and departmental administration expenses.

2. *Criteria for distribution—a. Base period.* A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

b. *Need for cost groupings.* The overall objective of the allocation and apportionment process is to distribute the indirect costs described in section F to organized research, instruction, and other activities in reasonable proportions consistent with the nature and extent of the use of the institution's resources by research personnel, academic staff, students, and other personnel or organizations. In order to achieve this objective, it may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the functional categories of indirect costs referred to in section E.1. In general, the cost groupings established within a functional category should constitute, in each case, a pool of those items of expense that are considered to be of like character in terms of their relative contribution to (or degree of remoteness from) the particular cost objectives to which distribution is appropriate. Cost groupings should be established considering the general guides provided in c. below. Each such pool or cost grouping should then be distributed individually to the appertaining cost objectives, using the distribution base or method most appropriate in the light of the guides set out in d. below.

c. *General considerations on cost groupings.* The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgment to be determined on a case-by-case basis. Typical situations which may warrant the establishment of two or more separate cost groups (based on account classification or analysis) within a functional category include but are not limited to the following:

(1) Where certain items or categories of expense relate solely to one of the three major divisions of the institution (instruction, organized research or other institutional activities) or to any two but not the third, such expenses should be set aside as a separate cost grouping for direct assignment or selective distribution in accordance with the guides provided in b. above and d. below.

(2) Where any types of expense ordinarily treated as general administration and general expenses or departmental administration expenses are charged to research agreements as direct costs, the similar type expenses applicable to other activities of the institution must, through separate cost groupings, be excluded from the indirect costs allocable to those research agreements and included in the direct cost of other activities for cost allocation purposes.

(3) Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organized research and other activities at the institution or within the department.

(4) Where organized activities (including identifiable segments of organized research as well as the activities cited in section B.4.) provide their own purchasing, personnel administration, building maintenance or similar service, the distribution of general administration and general expenses or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central indirect costs (such as for overall management) which are properly allocable to such activities.

(5) Where the institution elects to treat as indirect charges the cost of the pension plan and other staff benefits, such costs should be set aside as a separate cost grouping for selective distribution to appertaining cost objectives, including organized research.

(6) The number of separate cost groupings within a functional category should be held within practical limits, after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

d. *Selection of distribution method.* (1) Actual conditions must be taken into account in selecting the method or base to be used in distributing to applicable cost objectives the expenses assembled under each of the individual cost groupings established as indicated under b. above. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to appertaining cost objectives should be made through use of a selected base which will produce results that are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base provided (a) it can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, man-hours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (b) it is common to the appertaining cost objectives during the base period.

(2) Results of cost analysis studies may be used when they result in more accurate and equitable distribution of costs. Such cost analysis studies may take into consideration weighting factors, population, or space occupied if they produce equitable results. Cost analysis studies, however, should (a) be appropriately documented in sufficient detail for subsequent review by the cognizant Federal agency, (b) distribute the indirect costs to the appertaining cost objectives in accord with the relative benefits derived, (c) be conducted to fairly reflect the true conditions of the activity and to cover representative transactions for a reasonable period of time, (d) be performed specifically at the institution at which the results are to be used, and (e) be updated periodically and used consistently. Any assumptions made in the study will be sufficiently supported. The use of cost analysis studies and periodic changes in the method of cost distribution must be fully justified.

(3) The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to appertaining cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

3. *Administration of limitations on allowances for research costs.* Research agreements may be subject to statutory or administrative policies that limit the allowance of research costs. When the maximum amount allowable under a statutory limitation or the terms of a research agreement is less than the amount otherwise reimbursable under this Appendix, the amount not recoverable under that research agreement may not be charged to other research agreements.

F. Identification and Assignment of Indirect Costs

1. *General administration and general expenses.* a. The expenses under this heading are those that have been incurred for the general executive and administrative offices of educational institutions and other expenses of a general character which do not relate solely to any major division of the institution; i.e., solely to (1) instruction, (2) organized research, or (3) other institutional activities. The general administration and general expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category may be apportioned and allocated on the basis of total expenditures exclusive of capital expenditures in situations where the results of the distribution made on this basis are deemed to be equitable both to the Government and the institution; otherwise the distribution of general administration and general expenses should be made through use of selected bases applied to separate cost groupings established within this category of expenses in accordance with the guides set out in section E.2.d.

2. *Research administration expenses.* a. The expenses under this heading are those that have been incurred by a separate organization or identifiable administrative unit established solely to administer the research activity, including such functions as contract administration, security, purchasing, personnel administration, and editing and publishing of research reports. They include the salaries and expenses of the head of such research organization, his assistants, and their immediate secretarial staff together with the salaries and expenses of personnel engaged in supporting activities maintained by the research organization, such as stock rooms, stenographic pools, and the like. The salaries of members of the professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to research administration is supported as required by section J.7. The research administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowance and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category should be allocated to organized research and, where necessary, to departmental research or to any other benefiting activities on any basis reflecting the proportion fairly applicable to each. (See section E.2.d.)

3. *Operation and maintenance expenses.* a. The expenses under this heading are those that have been incurred by a central service organization or at the departmental level for the administration, supervision, operation, maintenance, preservation, and protection of the institution's physical plant. They include expenses normally incurred for such items as janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture and equipment; and care of grounds and maintenance and operation of buildings and other plant facilities. The operation and maintenance expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, and charges representing use allowance and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category should be apportioned and allocated to applicable cost objectives in a manner consistent with the guides provided in section E.2. on a basis that gives primary emphasis to space utilization. The allocations and apportionments should be developed as follows: (1) where actual space and related cost records are available or can readily be developed and maintained without significant change in the accounting practices, the amount distributed should be based on such records; (2) where the space and related cost records maintained are not sufficient for purposes of the foregoing, a reasonable estimate of the proportion of total space assigned to the various cost objectives normally will suffice as a means for effecting distribution of the amounts of operation and maintenance expenses involved; or (3) where it can be demonstrated that an area or volume of space basis of allocation is impractical or inequitable, other bases may be used provided consideration is given to the use of facilities by research personnel and others, including students.

4. *Library expenses.* a. The expenses under this heading are those that have been incurred for the operation of the library, including the costs of books and library materials purchased for the library, less any items of library income that qualify as applicable credits under section C.5. The library expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing the allowances and/or depreciation applicable to the buildings and equipment utilized in the performance of the functions represented thereunder. Costs incurred in the purchases of rare books (museum-type books) with no research value should not be allocated to Government-sponsored research.

b. The expenses included in this category should be allocated on the basis of population including students and other users. Where the results of the distribution made on this basis are deemed to be inequitable to the Government or the institution, the distribution should then be made on a selective basis in accordance with the guides set out in section E.2. Such selective distribution should be made through use of reasonable methods which give adequate recognition to the utilization of the library attributable to faculty, research personnel, students and others. The method used will be based on data developed periodically on the respective institution's experience for representative periods.

5. *Departmental administration expenses.* a. The expenses under this heading are those that have been incurred in academic deans' offices, academic departments and organized research units such as institutes, study centers and research centers for administrative and supporting services which benefit common or joint departmental activities or objectives. They include the salaries, and expenses of deans or heads, or associate deans or heads, of colleges, schools, departments, divisions, or organized research units, and their administrative staffs together with the salaries and expenses of personnel engaged in supporting activities maintained by the department, such as stockrooms, stenographic pools, and the like, provided such supporting services cannot be directly identified with a specific research project, with an instructional activity or with any other institutional activity. The salaries of other members of the professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to departmental administration expenses is supported as required by section J.7. The departmental administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The distribution of departmental administration expenses should be made through use of selected bases applied to cost groupings established within this category of expenses in accordance with the guides set out in section E.2.d.

6. *Setoff for indirect expenses otherwise provided for by the Government.* a. The items to be accumulated under this heading are the reimbursements and other receipts from the Federal Government which are used by the institution to support directly, in whole or in part, any of the administrative or service (indirect) activities described in the foregoing (sections F.1. through F.5.). They include any amounts thus applied to such activities which may have been received pursuant to an institutional base grant or any similar contractual arrangement with the Federal Government other than a research agreement as herein defined (section B.3).

b. The sum of the items in this group shall be treated as a credit to the total indirect cost pool before it is apportioned to organized research and to other activities. Such setoff shall be made prior to the determination of the indirect cost rate or rates as provided in section G.

These standards should apply irrespective of

agreements, either as direct costs or indirect

individual must not per se result in increasing

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G. Determination and Application of Indirect Cost Rate or Rates

1. *Indirect cost pools.* a. Subject to b. below, indirect costs allocated to organized research should be treated as a common pool, and the costs in such common pool should then be distributed to individual research agreements benefiting therefrom on a single rate basis.

b. In some instances a single rate basis for use across the board on all Government research at an institution may not be appropriate, since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of Government research at the institution. For this purpose, a particular segment of Government research may be that performed under a single research agreement or it may consist of research under a group of research agreements performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of Government research is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that (1) such indirect cost rate differs significantly from that which would have obtained under a. above, and (2) the volume of research work to which such rate would apply is material in relation to other Government research at the institution.

2. *The distribution base.* Indirect costs allocated to organized research should be distributed to applicable research agreements on the basis of direct salaries and wages. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to section G.1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the total direct salaries and wages of all research agreements identified with such pool. For the purpose of establishing an indirect cost rate, direct salaries and wages may include that portion contributed to the research by the institution for cost sharing or other purposes. Bases other than salaries and wages may be used provided it can be demonstrated that they produce more equitable results.

3. *Negotiated lump sum for indirect costs.* A negotiated fixed amount in lieu of indirect costs may be appropriate for self-contained, off-campus, or primarily subcontracted research activities where the benefits derived from an institution's indirect services cannot be readily determined. Such amount negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses before apportionment to instruction, organized research, and other institutional activities. The base on which such remaining expenses are allocated should be approximately adjusted.

4. *Predetermined fixed rates for indirect costs.* Public Law 87–638 (76 Stat. 437) authorizes the use of predetermined fixed rates in determining the indirect costs applicable under research agreements with educational institutions. The stated objectives of the law are to simplify the administration of cost-type research and development contracts (including grants) with educational institutions, to facilitate the preparation of their budgets, and to permit more expeditious closeout of such contracts when the work is completed. In view of the potential advantages offered by this procedure, consideration should be given to the negotiation of predetermined fixed rates for indirect costs in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting period.

5. *Negotiated fixed rates and carryforward provisions.* When a fixed rate is negotiated in advance for a fiscal year (or other time period), the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation. When the rate is negotiated before the carryforward adjustment is determined due to the delay in audit, the carryforward may be applied to the next subsequent rate negotiation. When such adjustments are to be made, each fixed rate negotiated in advance for a given period will be computed by applying the expected indirect costs allocable to Government research for the forecast period plus or minus the carryforward adjustment (over- or under-recovery) from the prior period, to the forecast distribution base. Unrecovered amounts under lump-sum agreements or cost-sharing provisions of prior years shall not be carried forward for consideration in the new rate negotiation. There must, however, be an advance understanding in each case between the institution and the cognizant Federal agency as to whether these differences will be considered in the rate negotiation rather than making the determination after the differences are known. Further, institutions electing to use this carryforward provision may not subsequently change without prior approval of the cognizant Federal agency. In the event that an institution returns to a postdetermined rate, any over- or under-recovery during the period in which negotiated fixed rates and carryforward provisions were followed will be included in the subsequent postdetermined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate. This procedure also applies to rates established for grants and contracts for training and other educational services, but does not apply to cost-type research agreements covering work performed in wholly or partially Government-owned facilities.

H. Simplified Method for Small Institutions

1. *General.* a. Where the total direct cost of all federally supported work under research and educational service agreements at an institution does not exceed $1 million in a fiscal year (excluding direct payments by the institution to participants under educational service agreements for stipends, support, and similar costs requiring little, if any, indirect cost support), the use of the abbreviated procedure described in 2., below, may be used in determining allowable indirect costs. Under this abbreviated procedure, the institution's most recent annual financial report and immediately available supporting information, with salaries and wages segregated from other costs, will be utilized as a basis for determining the indirect cost rate applicable both to federally supported research and educational service agreements.

b. The rigid formula approach provided under this abbreviated procedure should not be used where it produces results which appear inequitable to the Government or the institution. In any such case, indirect costs should be determined through use of the regular procedure.

2. *Abbreviated procedure.* a. Establish the total amount of salaries and wages paid to all employees of the institution.

b. Establish an indirect cost pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles or their equivalents:

(1) General administration and general expenses (exclusive of costs of student administration and services, student aid, student activities, and scholarships).

(2) Operation and maintenance of physical plant.

(3) Library.

(4) Department administration expenses, which will be computed as 20 percent of the salaries and expenses of deans and heads of departments.

In those cases where expenditures classified under 2.b.(1) and 2.b.(2) have previously been allocated to other institutional activities, they may be included in the indirect cost pool. The total amount of salaries and wages included in the indirect cost pool must be separately identified.

c. Establish a salary and wage distribution base, determined by deducting from the total of salaries and wages as established under 2.a. the amount of salaries and wages included under 2.b.

d. Establish the indirect cost rate, determined by dividing the amount in the indirect cost pool 2.b. by the amount of the distribution base 2.c.

e. Apply the indirect cost rate established to direct salaries and wages for individual agreements to determine the amount of indirect costs allocable to such agreements.

I. [Reserved]

J. General Standards for Selected Items of Cost

Sections J.1. through J.46. provide standards to be applied in establishing the allowability of certain items involved in determining cost.

These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of discrepancy between the provisions of a specific research agreement and the applicable standards provided, the provisions of the research agreement should govern.

1. *Advertising costs.* The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like. The only advertising costs allowable are those which are solely for: (a) The recruitment of personnel required for the performance by the institution of obligations arising under the research agreement, when considered in conjunction with all other recruitment costs, as set forth in J.32; (b) the procurement of scarce items for the performance of the research agreement; or (c) the disposal of scrap or surplus materials acquired in the performance of the research agreement. Costs of this nature, if incurred for more than one research agreement or for both research agreement work and other work of the institution, are allowable to the extent that the principles in sections D and E are observed.

2. *Bad debts.* Any losses, whether actual or estimated arising from uncollectible accounts and other claims, related collections costs, and related legal costs, are unallowable.

3. *Capital expenditures.* The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment, are unallowable except as provided for in the research agreement. Government funds shall not be used for the acquisition of land, or any interest therein, except with the specific prior approval of the sponsoring agency.

4. *Civil defense costs.* Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant pro- tection costs, first-aid training and supplies, firefighting training, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when distributed to all activities of the institution. Capital expenditures for civil defense purposes will not be allowed, but a use allowance or depreciation may be permitted in accordance with provisions set forth in section J.10. Costs of local civil defense projects not on the institution's premises are unallowable.

5. *Commencement and convocation costs.* Costs incurred for commencements and convocations apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs.

6. *Communication costs.* Costs incurred for telephone services, local and long-distance telephone calls, telegrams, radiograms, postage and the like, are allowable.

7. *Compensation for personal services*—a. *General.* Compensation for personal services covers all remuneration paid currently or accrued to the institution for services of employees rendered during the period of performance under Government research agreements. Such remuneration includes salaries, wages, staff benefits (see section J.39.), and pension plan costs (see section J.23.). The costs of such remuneration are allowable to the extent that the total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the institution consistently applied, and provided that the charges for work performed directly on Government research agreements and for other work allocable as indirect costs to organized research are determined and supported as hereinafter provided.

b. *Payroll distribution.* Amounts charged to organized research for personal services, except stipulated salary support, regardless of whether treated as direct costs or allocated as indirect costs, will be based on institutional payrolls which have been approved and documented in accordance with generally accepted institutional practices. Support for direct and indirect allocations of personal service costs to (1) instruction, (2) organized research, and (3) indirect activities as defined in section E.1., or (4) other institutional activities as defined in section E.4., will be provided as described in c., d., e., and f., below.

c. *Stipulated salary support.* As an alternative to payroll distribution, stipulated salary support amounts may be provided in the research agreement for professorial staff, any part of whose compensation is chargeable to Government-sponsored research. Stipulated salary support may also be provided for any other professionals who are engaged part time in sponsored research and part time in other work. The stipulated salary support for an individual will be determined by the Government and the educational institution during the proposal and award process on the basis of considered judgment as to the monetary value of the contribution which the individual is expected to make to the research project. This judgment will take into account any cost sharing by the institution and such other factors as the extent of the investigator's planned participation in the project and his ability to perform as planned in the light of his other commitments. It will be necessary for those who review research proposals to obtain information on the total academic year salary of the faculty members involved; the other research projects or proposals for which salary is allocated; and any other duties they may have such as teaching assignments, administrative assignments, number of graduate students for which they are responsible, or other institutional activities. Stipulated amounts for an individual must not per se result in increasing his official salary from the institution.

d. *Direct charges for personal services under payroll distribution.* The direct cost charged to organized research for the personal services of professorial and professional staff, exclusive of those whose salaries are stipulated in the research agreement, will be based on institutional payroll systems. Such institutional payroll systems must be supported by either: (1) an adequate appointment and workload distribution system accompanied by monthly reviews performed by responsible officials and a reporting of any significant changes in workload distribution of each professor or professional staff member, or (2) a monthly after-the-fact certification system which will require the individual investigators, deans, departmental chairmen or supervisors having first-hand knowledge of the services performed on each research agreement to report the distribution of effort. Reported changes will be incorporated during the accounting period into the payroll distribution system and into the accounting records. Direct charges for salaries and wages of nonprofessionals will be supported by time and attendance and payroll distribution records.

e. *Direct charges for personal services under stipulated salaries.* The amounts stipulated for salary support will be treated as direct costs. The stipulated salary for the academic year will be prorated equally over the duration of the grant or contract period during the academic year, unless other arrangements have been made in the grant or contract instrument. No time or effort reporting will be required to support these amounts. Special provision for summer salaries, or for a particular "off period" if other than summer, will be required. The research agreements will state that any research covered by summer salary support must be carried out during the summer, not during the academic year, and at locations approved in advance in writing by the granting agency. The certification required in section K will attest to this requirement as well as all others in a given research agreement. Stipulated salary support remains fixed during the funding period of the grant or contract and will be costed at the rate described above unless there is a significant change in performance. For example, a significant change in performance would exist if the faculty member (1) was ill for an extended period, (2) took sabbatical leave to devote effort to duties unrelated to his research, or (3) was required to increase substantially his teaching assignments, administrative duties, or responsibility for more research projects. In the latter event, it will be the responsibility of the educational institution to reduce the charges to the research agreement proportionately or seek an appropriate amendment. In the case of those covered by stipulated salary support, the auditors are no longer required to review the precise accuracy of time or effort devoted to research projects. Rather, their reviews should include steps to determine on a sample basis that an institution is not reimbursed for more than 100 percent of each

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faculty member's salary and that the portion of each faculty member's salary charged to Government-sponsored research is reasonable in view of his university workload and other commitments. The stipulated salary method may also be agreed upon for that portion of a professional's salary that represents cost sharing by the institution.

f. *Indirect personal services costs.* Allowable indirect personal services costs will be supported by the educational institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government officials.

g. *General guidance for charging personal services.* Budget estimates on a monthly, quarterly, semester, or yearly basis do not qualify as support for charges to federally sponsored research projects and should not be used unless confirmed after the fact. Charges to research agreements may include reasonable amounts for activities contributing and intimately related to work under the agreement, such as preparing and delivering special lectures about specific aspects of the ongoing research, writing research reports and articles, participating in appropriate research seminars, consulting with colleagues and graduate students with respect to related research, and attending appropriate scientific meetings and conferences. In no case should charges be made to federally sponsored research projects for lecturing or preparing for formal courses listed in the catalog and offered for degree credit, or for committee or administrative work related to university business.

h. *Nonuniversity professional activities.* A university must not alter or waive university-wide policies and practices dealing with the permissible extent of professional services over and above those traditionally performed without extra university compensation, unless such arrangements are specifically authorized by the sponsoring agency. Where university-wide policies do not adequately define the permissible extent of consultantship or other nonuniversity activities undertaken for extra pay, the Government may require that the effort of professional staff working under research agreements be allocated as between (1) university activities, and (2) nonuniversity professional activities. If the sponsoring agency should consider the extent of nonuniversity professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

i. *Salary rates for academic year.* Charges for work performed on Government research by faculty members during the academic year will be based on the individual faculty member's regular compensation for the continuous period which, under the practice of the institution concerned, constitutes the basis of his salary. Charges for work performed on research agreements during all or any portion of such period would be allowable at the base salary rate. In no event will the charge to research agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period, and any extra compensation above the base salary for work on Government research during such period would be unallowable. This principle applies to all members of the faculty at an institution. Since intrauniversity consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time base salary, the principle also applies to those who function as consultants or otherwise contribute to a research agreement conducted by another faculty member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing extra compensation above the base salary are allowable provided such consulting arrangement is specifically provided for in the research agreement or approved in writing by the sponsoring agency.

j. *Salary rates for periods outside the academic year.* Charges for work performed by faculty members on Government research during the summer months or other periods not included in the base salary period will be determined for each faculty member at a monthly rate not in excess of that which would be applicable under his base salary and will be limited to charges made in accordance with other subsections of J.7.

k. *Salary rates for part-time faculty.* Charges for work performed on Government research by a faculty member having only part-time appointment for teaching will be determined at a rate not in excess of that for which he is regularly paid for his part-time teaching assignments. Example: An institution pays $5,000 to a faculty member for half-time teaching during the academic year. He devoted one-half of his remaining time (25 percent of his total available time) to Government research. Thus his additional compensation, chargeable by the institution to Government research agreements, would be one-half of $5,000 or $2,500.

8. *Contingency provisions.* Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable.

9. *Deans of faculty and graduate schools.* The salaries and expenses of deans of faculty and graduate schools, or their equivalents, and their staffs, are allowable.

10. *Depreciation and use allowances.* a. Institutions may be compensated for the use of buildings, capital improvements, and usable equipment on hand through use allowances or depreciation. Use allowances are the means of providing such compensation when depreciation or other equivalent costs are not considered. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

b. Due consideration will be given to Government-furnished facilities utilized by the institution when computing use allowances and/or depreciation if the Government-furnished facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides and, secondly, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits, and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to organized research is developed from the amount thus amortized for the base period involved. Amortization methods once used should not be changed for a given building or equipment unless approved in advance by the cognizant Federal agency.

c. Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable and needed equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding 10 percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable and needed equipment which may be used to compute the use allowance at an annual rate not exceeding 6⅔ percent of such estimate.

d. Where the depreciation method is followed, adequate property record must be maintained and periodic inventory (a statistical sampling basis is acceptable) must be taken to insure that properties for which depreciation is charged do exist and are needed. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular research area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

e. Where an institution elects to go to a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that, under d. above, would be viewed as fully depreciated provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

11. *Employee morale, health, and welfare costs and credits.* The costs of house publications, health or first-aid clinics and/or infirmaries, recreational activities, employees' counseling services, and other expenses incurred in accordance with the institution's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee-performance, are allowable. Such costs will be equitably apportioned to all activities of the institution. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

12. *Entertainment costs.* Costs incurred for amusement, social activities, entertainment, and any items relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable.

13. *Equipment and other facilities.* The costs of permanent equipment or other facilities are allowable where such purchases are approved by the sponsoring agency concerned or provided for by the terms of the research agreement. Total expenditures for permanent equipment may not exceed 125 percent of the amount allotted for the permanent equipment category by the sponsoring agency (through an approved budget or other document) except with approval. The term "permanent equipment" shall mean an item of property which has an acquisition cost of $200 or more and has an expected service life of one year or more.

a. *General purpose equipment.* Approval must be obtained to acquire with Government funds any general purpose permanent equipment, i.e., any items which are usable for activities of the institution other than research, such as office equipment and furnishings, air conditioning, reproduction, or printing equipment, motor vehicles, etc., or any automatic data processing equipment.

b. *Research equipment.* Approval must be obtained to acquire with Government funds any item of permanent research equipment costing $1,000 or more.

14. *Fines and penalties.* Costs resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the research agreement or instructions in writing from the contracting officer.

15. *Insurance and indemnification.* a. Costs of insurance required or approved, and maintained, pursuant to the research agreement, are allowable.

b. Costs of other insurance maintained by the institution in connection with the general conduct of its activities, are allowable subject to the following limitations: (1) types and extent and cost of coverage must be in accordance with sound institutional practice; (2) costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to Government-owned property are unallowable except to the extent that the Government has specifically required or approved such costs; and (3) costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted.

c. Contributions to a reserve for an approved self-insurance program are allowable to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the research agreement, except that costs incurred because of losses not covered under existing deductible clauses for insurance coverage provided in keeping with sound management practice as well as minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

e. Indemnification includes securing the institution against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided for in the research agreement, except as provided in d. above.

16. *Interest, fund raising, and investment management costs.* a. Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

b. Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are not allowable under Government research agreements.

c. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are not allowable under Government research agreements.

d. Costs related to the physical custody and control of monies and securities are allowable.

17. *Labor relations costs.* Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employees' publications, and other related activities, are allowable.

18. *Losses on other research agreements or contracts.* Any excess of costs over income under any other research agreement or contract of any nature is unallowable. This includes, but is not limited to, the institution's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect costs.

19. *Maintenance and repair costs.* Costs incurred for necessary maintenance, repair, or upkeep of property (including Government property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life but keep it in an efficient operating condition, are allowable.

20. *Material costs.* Costs incurred for purchased materials, supplies, and fabricated parts directly or indirectly related to the research agreement, are allowable. Purchases made specifically for the research agreement should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stockrooms should be charged at their cost under any recognized method of pricing stores' withdrawals conforming to sound accounting practices consistently followed by the institution. Incoming transportation charges are a proper part of material cost. Direct material cost should include only the materials and supplies actually used for the performance of the research agreement, and due credit should be given for any excess materials retained, or returned to vendors. Due credit should be given for all proceeds or value received for any scrap resulting from work under the research agreement. Where Government-donated or furnished material is used in performing the research agreement, such material will be used without charge.

21. *Memberships, subscriptions, and professional activity costs.* a. Costs of the institution's membership in civic, business, technical, and professional organizations are allowable.

b. Costs of the institution's subscriptions to civic, business, professional, and technical periodicals are allowable.

c. Costs of meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.

22. *Patent costs.* Cost of preparing disclosures, reports, and other documents required by the research agreement and of searching the art to the extent necessary to make such invention disclosures, are allowable. In accordance with the clauses of the research agreement relating to patents, costs of preparing documents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the Government, are allowable. (See also section J.33.)

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23. *Pension plan costs.* Costs of the institution's pension plan which are incurred in accordance with the established policies of the institution are allowable, provided such policies meet the test of reasonableness and the methods of cost allocation are not discriminatory, and provided appropriate adjustments are made for credits or gains arising out of normal and abnormal employee turnover or any other contingencies that can result in forfeitures by employees which inure to the benefit of the institution.

24. *Plant security costs.* Necessary expenses incurred to comply with Government security requirements, including wages, uniforms, and equipment of personnel engaged in plant protection, are allowable.

25. *Preresearch agreement costs.* Costs incurred prior to the effective date of the research agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable unless specifically set forth and identified in the research agreement.

26. *Professional services costs.* a. Costs of professional services rendered by the members of a particular profession who are not employees of the institution are allowable subject to b. and c. below, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government. Retainer fees to be allowable must be reasonably supported by evidence of services rendered.

b. Factors to be considered in determining the allowability of costs in a particular case include (1) the past pattern of such costs, particularly in the years prior to the award of Government research agreements; (2) the impact of Government research agreements on the institution's total activity; (3) the nature and scope of managerial services expected of the institution's own organizations; and (4) whether the proportion of Government work to the institution's total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government research agreements.

c. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with organization and reorganization or the prosecution of claims against the Government, are unallowable. Costs of legal, accounting and consulting services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the research agreement.

27. *Profits and losses on disposition of plant, equipment, or other capital assets.* Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sale or exchange of either short- or long-term investments, shall not be considered in computing research agreement costs.

28. *Proposal costs.* Proposal costs are the costs of preparing bids or proposals on potential Government and nongovernment research agreements or projects, including the development of engineering data and cost data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods will be allocable in the current period to the Government research agreement. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the method used, the results obtained may be accepted only if found to be reasonable and equitable.

29. *Public information services costs.* Costs of news releases pertaining to specific research or scientific accomplishment are unallowable unless specifically authorized by the sponsoring agency.

30. *Rearrangement and alteration costs.* Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when such work has been approved in advance by the sponsoring agency concerned.

31. *Reconversion costs.* Costs incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of Government research agreement work, fair wear and tear excepted, are allowable.

32. *Recruiting costs.* a. Subject to b., c., and d. below, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and rel*BAD MAG TAPE**ERR01*ocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to a well-managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

b. In publications, costs of help-wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect), are unallowable.

c. Costs of help-wanted advertising, special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel from other institutions that do not meet the test of reasonableness or do not conform with the established practices of the institution, are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution will be required to refund or credit such relocation costs to the Government.

33. *Royalties and other costs for use of patents.* Royalties on a patent or amortization of the costs of acquiring a patent or invention or rights thereto, necessary for the proper performance of the research agreement and applicable to tasks or processes thereunder, are allowable unless the Government has a license or the right to free use of the patent, the patent has been adjudicated to be invalid or has been administratively determined to be invalid, the patent is considered to be unenforceable, or the patent has expired.

34. *Sabbatical leave costs.* Costs of leave of absence to employees for performance of graduate work or sabbatical study, travel, or research, are allowable provided the institution has a uniform policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all appertaining activities of the instiutution. Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the institution's actual experience under its sabbatical leave policy.

35. *Scholarships and student aid costs.* Costs of scholarships, fellowships and other forms of student aid apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs. However, in the case of students actually engaged in work under research agreements, any tuition remissions to such students for work performed are allocable to such research agreements provided consistent treatment is accorded such costs. (See section J.39.)

36. *Severance pay.* a. Severance pay is compensation in addition to regular salaries and wages which is paid by an institution to employees whose services are being terminated. Costs of severance pay are allowable only to the extent that such payments are required by law, by employer-employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by circumstances of the particular employment.

b. Severance payments that are due to normal, recurring turnover and which otherwise meet the conditions of a. above may be allowed provided the actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period.

c. Severance payments that are due to abnormal or mass terminations are of such conjectural nature that allowability must be determined on a case-by-case basis. However, the Govermnment recognizes its obligation to participate, to the extent of its fair share, in any specific payment.

37. *Specialized service facilities operated by institution.* a. The costs, including amortization by generally accepted accounting practice, of institutional services involving the use of highly complex and specialized facilities such as electronic computers, including the cost of adapting computers for use, wind tunnels, and reactors are allowable provided the charges therefor meet the conditions of b. or c. below, and otherwise take into account any items of income or Federal financing that qualify as applicable credits under section C.5.

b. The costs of such institutional services normally will be charged directly to applicable research agreements based on actual usage or occupancy of the facilities on the basis of a schedule of rates that (1) is designed to recover only aggregate costs of providing such services over a long term agreed upon in advance by the cognizant Federal agency on an individual basis, and (2) is applied on a nondiscriminatory basis as between organized research and other work of the institution, including usage by the institution for internal purposes. Commercial or accommodation sales of computer services will be charged at not less than the above rates; however, if the rates charged for these services are greater, the total amount of charges above the scheduled rates when significant may be considered in revising the schedule of rates. Further, within the constraints of this paragraph, it is not necessary that the rates charged for services be equal to the cost of providing those services during any one fiscal year.

c. In the absence of an acceptable arrangement for direct costing as provided in b. above, the costs incurred for such institutional services may be assigned to research agreements as indirect costs, provided the methods used achieve substantially the same results. Such arrangements should be worked out in coordination with the cognizant Federal agency in order to assure equitable distribtution of the indirect costs.

38. *Special services costs.* Costs incurred for general public relations activities, catalogs, alumni activities, and similar services, are unallowable.

39. *Staff benefits.* a. Staff benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, military leave, and the like, are allowable provided such costs are absorbed by all institutional activities, including organized research, in proportion to the relative amount of time or effort actually devoted to each. (See section J.34. for treatment of sabbatical leave.)

b. Staff benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, the pension plan (see section J.23.), tuition or remission of tuition for individual employees or their families (see section J.35.), and the like, are allowable provided such benefits are granted in accordance with established institutional policies, and provided such contributions and other expenses, whether treated as indirect costs or as an increment of direct labor costs, are distributed to particular research agreements and other activities in a manner consistent with the pattern of benefits accruing to the individuals or groups of employees whose salaries and wages are chargeable to such research agreements and other activities.

40. *Student activity costs.* Costs incurred for intramural activities, student publications, student clubs, and other student activities, apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs.

41. *Student services costs.* Costs of the deans of students, administration of student affairs, registrar, placement offices, student advisers, student health and infirmary services, and such other activities as are identifiable with student services apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs. However, in the case of students actually engaged in work under research agreements, a proportion of student services costs measured by the relationship between hours of work by students on such research work and total student hours including all research time may be allowed as a part of research administration expenses.

42. *Taxes.* a. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for: (1) taxes from which exemptions are available to the institution directly or which are available to the institution based on an exemption afforded the Government and in the latter case when the sponsoring agency makes available the necessary exemption certificates, and (2) special assessments on land which represent capital improvements.

b. Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as research agreement costs, will be credited or paid to the Government in the manner directed by the Government provided any interest actually aid or credited to an institution incident to a refund of tax, interest and penalty will be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest, and penalties.

43. *Transportation costs.* Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the research agreement, should be treated as a direct cost.

44. *Travel costs.* a. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the institution. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed by the institution in its regular operations.

b. Travel costs are allowable subject to c., d., e., and f. below, when they are directly attributable to specific work under a research agreement or are incurred in the normal course of administration of the institution or a department or research program thereof.

c. The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would:

(1) Require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

d. Costs of personnel movements of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency or its authorized representative.

e. Foreign travel costs are allowable only when the travel has received specific prior approval. Each separate foreign trip must be specifically approved. For purposes of this provision, foreign travel is defined as "any travel outside of Canada and the United States and its territories and possessions."

f. Expenditures for domestic travel may not exceed $500, or 125 percent of the amount allotted for such travel by the sponsoring agency, whichever is greater, except with approval.

45. *Termination costs applicable to research agreements.* a. Termination of research agreements generally gives rise to the incurrence of costs or to the need for special treatment of costs, which would not have arisen had the agreement not been terminated. Items peculiar to termination are set forth below. They are to be used in conjunction with all other provisions of this Appendix in the case of termination.

b. The cost of common items of material reasonably usable on the institution's other work will not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, consideration should be given to the institution's plans and orders for current and scheduled work. Contemporaneous purchases of common items by the institution will be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allowable to the terminated portion of the agreement should be limited to the extent that the quantities of such items on hand, in

transit, and on order are in excess of the reasonable quantitative requirements of other work.

c. If in a particular case, despite all reasonable efforts by the institution, certain

agreements will include a certification, signed by an authorized official of the univesity, which reads essentially as follows: "I certify that all expenditures reported (or

services to students, including expenses of such activities as deans of students, admissions, registrar, counseling and placement services, student advisers, student health and infirmary services, catalogs, and

with the principles set forth in section G.1.b. of Part I. Where direct charges are provided for under educational service agreements for such things as commencement fees, student fees, and tuition, the related indirect costs,

unless specifically authorized in the educational service agreement or approved in writing by the sponsoring agency.

5. *Student services costs (J.41.).* Expenses incurred for student services are unallowable

must be identified as a cost center(s) for the cost finding and step-down requirements of the Medicare program, or in its absence the Medicaid program.

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transit, and on order are in excess of the reasonable quantitative requirements of other work.

c. If in a particular case, despite all reasonable efforts by the institution, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this Appendix, except that any such costs continuing after termination due to the negligent or willful failure of the institution to discontinue such costs will be considered unacceptable.

d. Loss of useful value of special tooling and special machinery and equipment is generally allowable, provided: (1) such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the institution; (2) the interest of the Government is protected by transfer of title or by other means deemed appropriate by the contracting officer or equivalent; and (3) the loss of useful value as to any one terminated agreement is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the agreement bears to the entire terminated agreement and other Government agreements for which the special tooling, special machinery, or equipment was acquired.

e. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated agreement, less the residual value of such leases, if: (1) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the agreement and such further period as may be reasonable; and (2) the institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the agreement, and of reasonable restoration required by the provisions of the lease.

f. Settlement expenses including the following are generally allowable: (1) accounting, legal, clerical, and similar costs reasonably necessary for the preparation and presentation to contracting officers or equivalent of settlement claims and supporting data with respect to the terminated portion of the agreement, and the termination and settlement of subagreements; and (2) reasonable costs for the storage, transportation, protection, and disposition of property provided by the Government or acquired or produced by the institution for the agreement.

g. Claims under subagreements, including the allocable portion of claims which are common to the agreement and to other work of the institution, are generally allowable.

K. Certification of Charges

To assure that expenditures for research grants and contracts are proper and in accordance with the research agreement documents and approved project budgets, the annual and/or final fiscal reports or vouchers requesting payment under research agreements will include a certification, signed by an authorized official of the univesity, which reads essentially as follows: "I certify that all expenditures reported (or payments requested) are for appropriate purposes and in accordance with the agreements set forth in the application and award documents."

Part II—Principles for Determining Costs Applicable to Training and Other Educational Services Under Grants and Contracts With Educational Institutions

A. *Purpose.* This part extends the scope of Part I to cover the determination of costs incurred by educational institutions under Federal grants and contracts for training and other educational services.

B. *Application.* The Department of Health, Education, and Welfare will use Parts I and II of this Appendix as a basis for determining allowable costs under grants and cost reimbursement type contracts with educational institutions for work performed under federally supported education service agreements.

C. *Terminology.* The following definitions are to be used in determining the indirect cost of federally sponsored training and other educational services under this Part II:

1. *Educational service agreement* means any grant or contract under which Federal financing is provided on a cost reimbursement basis for all or an agreed portion of the costs incurred for training or other educational services. Typical of the work covered by educational service agreements are summer institutes, special training programs for selected participants, professional or technical services to cooperating countries, the development and introduction of new or expanded courses, and similar instructional oriented undertakings, including special research training programs, that are separately budgeted and accounted for by the institution.

The term does not extend to: (a) grants or contracts for organized research, (b) arrangements under which the Federal financing is exclusively in the form of scholarships, fellowships, traineeships, or other fixed amounts such as a cost of education allowance or the normal published tuition rates and fees of an institution, or (c) construction, facility and exclusively general resource or institutional-type grants.

2. *Instruction* means all of the academic work other than organized research carried on by an institution, including the teaching of graduate and undergraduate courses, departmental research (see section B.2. of Part I) and all special training or other instructional-oriented projects sponsored by the Federal Government or others under educational service agreements.

D. *Student administration and services.* In addition to the five major functional categories of indirect costs described in section F of Part I, there is established an additional category under the title "Student administration and services" to embrace the following:

1. The expenses in this category are those that have been incurred for the administration of student affairs and for services to students, including expenses of such activities as deans of students, admissions, registrar, counseling and placement services, student advisers, student health and infirmary services, catalogs, and commencements and convocations. The salaries of members of the academic staff whose academic appointments or assignments involve the performance of such administrative or service work may also be included to the extent that the portion so charged is supported pursuant to section J.2. of Part I. The student administration and services category also includes the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the cost of the operation and maintenance of the physical plant, and charges representing use allowance or depreciation applicable to the buildings and equipment utilized in the performance of the functions included in this category.

2. The expenses in this category are generally applicable in their entirety to the instruction activity. They should be allocated to applicable cost objectives within the instruction activity, including educational service agreements, when such agreements reasonably benefit from these expenses. Such expenses should be allocated on the basis of population served (computed on the basis of full-time equivalents including students, faculty, and others as appropriate) or other methods which will result in an equitable distribution to cost objectives in relation to the benefits received and be consistent with guides provided in section E.2. of Part I.

E. *Direct costs of educational service agreements.* Direct costs of work performed under educational service agreements will be determined consistent with the principles set forth in section D of Part I.

F. *Indirect costs of the instruction activity.* The indirect costs of the instruction activity as a whole should include its allocated share of administrative and supportive costs determined in accordance with the principles set forth in section D above and in section F of Part I. Such costs may include other items of indirect cost incurred solely for the instruction activity and not included in the general allocation of the various categories of indirect expenses. Costs incurred for the institutions by State and local governments are allowable as provided for in section C.6. of Part I.

G. *Indirect costs applicable to educational service agreements.* The individual items of indirect costs applicable to the instruction activity as a whole should be assigned to: (1) educational service agreements, and (2) all other instructional work through use of appropriate cost groupings, selected distribution bases, and other reasonable methods as outlined in section E.2. of Part I. A single indirect pool may be used for all educational service agreements provided this results in a reasonably equitable distribution of costs among agreements in relation to indirect support services provided. However, when the level of indirect support significantly varies for work performed either on campus or off campus under a particular agreement or group of agreements, separate cost pools should be established consistent with the principles set forth in section G.1.b. of Part I. Where direct charges are provided for under educational service agreements for such things as commencement fees, student fees, and tuition, the related indirect costs, through separate cost groupings, should be excluded from the indirect costs allocable to the service agreements.

H. *Indirect cost rates for educational service agreements.* An indirect cost rate should be determined for the educational service agreement pool or pools, as established under section G above. The rate in each case should be stated as the percentage which the amount of the particular educational service agreement pool is of the total direct salaries and wages of all educational service agreements identified with such pool. Indirect costs should be distributed to individual agreements by applying the rate or rates established to direct salaries and wages for each agreement. When a fixed rate is negotiated in advance of a fiscal year, the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation as in sections G.4. and G.5. of Part I.

I. *General standards for selected items of cost.* The standards for selected items of cost as set forth in sections J.1. through J.46. of Part I applicable to research agreements will also be applied to educational service agreements with the following modifications:

1. *Commencement and convocation costs (J.5.).* Expenses incurred for convocations and commencements apply to the instruction activity as a whole. Such expenses are unallowable as direct costs of educational service agreements unless specifically authorized in the agreement or approved in writing by the sponsoring agency. For eligibility of allocation as indirect costs, see section D.

2. *Compensation for personal services (J.7.).* Charges to educational service agreements for personal services will normally be determined and supported consistent with the provisions of section J.7. of Part I. However, the provision for stipulated salary support will not be used for educational service agreements. Also, charges may include compensation in excess of the base salary of a faculty member for the conduct of courses outside the normal duties of such member provided that: (a) extra charges are determined at a rate not greater than the basic salary rate of the member; (b) salary payments for such work follow practices consistently applied within the institution; and (c) specific authorization for such charges is included in the educational service agreement.

3. *Scholarships and student aid costs (J.35.).* Expenses incurred for scholarships and student aid are unallowable as either direct costs or indirect costs of educational service agreements, unless specifically authorized in the educational service agreement or approved in writing by the sponsoring agency.

4. *Student activity costs (J.40.).* Expenses incurred for student activities are unallowable as either direct costs or indirect costs of educational service agreements, unless specifically authorized in the educational service agreement or approved in writing by the sponsoring agency.

5. *Student services costs (J.41.).* Expenses incurred for student services are unallowable as direct costs of educational service agreements unless specifically authorized in the agreement or approved in writing by the sponsoring agency. For eligibility of allocation as indirect costs, see section D.

Appendix E—Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts With Hospitals

I. Purpose and Scope

A. *Objectives.* This appendix provides principles for determining the costs applicable to research and development work performed by hospitals under grants and contracts with the Department of Health, Education, and Welfare. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of hospital participation in the financing of a particular research or development project. The principles are designed to provide recognition of the full allocated costs of such research work under generally accepted accounting principles. These principles will be applicable to both proprietary and non-profit hospitals. No provision for profit or other increment above cost is provided for in these principles. However, this is not to be interpreted as precluding a negotiated fee between contracting parties when a fee is appropriate.

B. *Policy guides.* The successful application of these principles requires development of mutual understanding between representatives of hospitals and of the Department of Health, Education, and Welfare as to their scope, applicability and interpretation. It is recognized that:

1. The arrangements for hospital participation in the financing of a research and development project are properly subject to negotiation between the agency and the hospital concerned in accordance with such Government-wide criteria as may be applicable.

2. Each hospital, possessing its own unique combination of staff, facilities and experience, should be encouraged to conduct research in a manner consonant with its own institutional philosophies and objectives.

3. Each hospital in the fulfillment of its contractual obligations should be expected to employ sound management practices.

4. The application of the principles established herein shall be in conformance with the generally accepted accounting practices of hospitals.

5. Hospitals receive reimbursements from the Federal Government for differing types of services under various programs such as support of Research and Development (including discrete clinical centers) Health Services Projects, Medicare, etc. It is essential that consistent procedures for determining reimbursable costs for similar services be employed without regard to program differences. Therefore, both the direct and indirect costs of research programs must be identified as a cost center(s) for the cost finding and step-down requirements of the Medicare program, or in its absence the Medicaid program.

C. *Application.* All operating agencies within the Department of Health, Education, and Welfare that sponsor research and development work in hospitals will apply these principles and related policy guides in determining the costs incurred for such work under grants and cost-reimbursement type contracts and subcontracts. These principles will also be used as a guide in the pricing of fixed-price contracts and subcontracts.

II. Definitions of Terms

A. "Organized research" means all research activities of a hospital that may be identified whether the support for such research is from a federal, non-federal or internal source.

B. "Departmental research" means research activities that are not separately budgeted and accounted for. Such work, which includes all research activities not encompassed under the term organized research, is regarded for purposes of this document as a part of the patient care activities of the hospital.

C. "Research agreement" means any valid arrangement to perform federally-sponsored research or development including grants, cost-reimbursement type contracts, cost-reimbursement type subcontracts, and fixed-price contracts and subcontracts.

D. "Instruction and training" means the formal or informal programs of educating and training technical and professional health services personnel, primarily medical and nursing training. This activity, if separately budgeted or identifiable with specific costs, should be considered as a cost objective for purposes of indirect cost allocations and the development of patient care costs.

E. "Other hospital activities" means all organized activities of a hospital not immediately related to the patient care, research, and instructional and training functions which produce identifiable revenue from the performance of these activities. If a non-related activity does not produce identifiable revenue, it may be necessary to allocate this expense using an appropriate basis. In such a case, the activity may be included as an allocable cost (See para. III D below.) Also included under this definition is any category of cost treated as "Unallowable," provided such category of cost identifies a function or activity to which a portion of the institution's indirect cost (as defined in para. V. A.) are properly allocable.

F. "Patient care" means those departments or cost centers which render routine or ancillary services to in-patients and/or out-patients. As used in para. IX B.23, it means the cost of these services applicable to patients involved in research programs.

G. "Allocation" means the process by which the indirect costs are assigned as between:

1. Organized research,
2. Patient care including departmental research.
3. Instruction and training, and
4. Other hospital activities.

H. "Cost center" means an identifiable department or area (including research) within the hospital which has been assigned an account number in the hospital accounting

determination of the reasonableness of a cost are:

1. Whether or not the cost is of a type generally recognized as necessary for the operation of the hospital or the performance

hospital activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures

V. Indirect Costs

A. *General.* Indirect costs are those that have been incurred for common or joint objectives, and thus are not readily subject to

use of a selected base which will produce results which are equitable to both the Government and the hospital. In general, any cost element or past-related factor associated

selective distribution to related cost centers.

f. Where the hospital is affiliated with a medical school or some other institution

H. "Cost center" means an identifiable department or area (including research) within the hospital which has been assigned an account number in the hospital accounting system for the purpose of accumulating expense by department or area.

I. "Cost finding" is the process of recasting the data derived from the accounts ordinarily kept by a hospital to ascertain costs of the various types of services rendered. It is the determination of direct costs by specific identification and the proration of indirect costs by allocation.

J. "Step down" is a cost finding method that recognizes that services rendered by certain nonrevenue-producing departments or centers are utilized by certain other nonrevenue producing centers as well as by the revenue-producing centers. All costs of nonrevenue-producing centers are allocated to all centers which they serve, regardless of whether or not these centers produce revenue. Following the apportionment of the cost of the nonrevenue-producing center, that center will be considered closed and no further costs are apportioned to that center.

K. "Scatter bed" is a bed assigned to a research patient based on availability. Research patients occupying these beds are not physically segregated from nonresearch patients occupying beds. Scatter beds are geographically dispersed among all the beds available for use in the hospital. There are no special features attendant to a scatter bed that distinguishes it from others that could just as well have been occupied.

L. "Discrete bed" is a bed or beds that have been set aside for occupancy by research patients and are physically segregated from other hospital beds in an environment that permits an easily ascertainable allocation of costs associated with the space they occupy and the services they generate.

III. Basic Considerations

A. *Composition of total costs.* The cost of a research agreement is comprised of the allowable direct costs incident to its performance plus the allocable portion of the allowable indirect costs of the hospital less applicable credits. (See para. III–E.)

B. *Factors affecting allowability of costs.* The tests of allowability of costs under these principles are:

1. They must be reasonable.

2. They must be assigned to research agreements under the standards and methods provided herein.

3. They must be accorded consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances (See para. I–E.5.) and

4. They must conform to any limitations or exclusions set forth in these principles or in the research agreement as to types or amounts of cost items.

C. *Reasonable costs.* A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefor reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are:

1. Whether or not the cost is of a type generally recognized as necessary for the operation of the hospital or the performance of the research agreement,

2. The restraints or requirements imposed by such factors as arm's length bargaining, federal and state laws and regulations, and research agreement terms and conditions,

3. Whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the hospital, its patients, its employees, its students, the Government, and the public at large, and

4. The extent to which the actions taken with respect to the incurrence of the cost are consistent with established hospital policies and practices applicable to the work of the hospital generally, including Government research.

D. *Allocable costs.* 1. A cost is allocable to a particular cost center (i.e., a specific function, project, research agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost center in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a research agreement if it is incurred solely to advance the work under the research agreement; or it benefits both the research agreement and other work of the hospital in proportions that can be approximated through use of reasonable methods; or it is necessary to the overall operation of the hospital and, in light of the standards provided in this chapter, is deemed to be assignable in part to organized research. Where the purchase of equipment or other capital items are specifically authorized under a research agreement, the amounts thus authorized for such purchases are allocable to the research agreement regardless of the use that may subsequently be made of the equipment or other capital items involved.

2. Any costs allocable to a particular research agreement under the standards provided in these principles may not be shifted to other research agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by terms of the research agreement, or for other reasons of convenience.

E. *Applicable credits.* 1. The term applicable credits refers to those receipts or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to research agreements as direct or indirect costs as outlined in para. V-A. Typical examples of such transactions are: purchase discounts, rebates, or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; tuition; adjustments of overpayments or erroneous charges; and services rendered to patients admitted to federally funded clinical research centers, primarily for care though also participating in research protocols.

2. In some instances, the amounts received from the Federal Government to finance hospital activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the hospital in determining the rates or amounts to be charged to government research for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by federal funds. Thus, where such items are provided for or benefit a particular hospital activity, i.e., patient care, research, instruction and training, or other, they should be treated as an offset to the indirect costs apportioned to that activity. Where the benefits are common to all hospital activities they should be treated as a credit to the total indirect cost pool before allocation to the various cost objectives.

IV. Direct Costs

A. *General.* Direct costs are those that can be identified specifically with a particular cost center. For this purpose, the term cost center refers not only to the ultimate centers against which costs are finally lodged such as research agreements, but also to other established cost centers such as the individual accounts for recording particular objects or items of expense, and the separate account groupings designed to record the expenses incurred by individual organizational units, functions, projects and the like. In general, the administrative functions and service activities described in para. VI are identifiable as separate cost centers, and the expenses associated with such centers become eligible in due course for distribution as indirect costs of research agreements and other ultimate cost centers.

B. *Application to research agreements.* Identifiable benefit to the research work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of research agreements. Typical of transactions chargeable to a research agreement as direct costs are the compensation of employees for the time or effort devoted to the performance of work under the research agreement, including related staff benefit and pension plan costs to the extent that such items are consistently accorded to all employees and treated by the hospital as direct rather than indirect costs (see para. V. B4b); the costs of materials consumed or expended in the performance of such work; and other items of expense incurred for the research agreement, such as extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of research agreements provided such items are consistently treated by the institution as direct rather than indirect costs and are charged under a recognized method of costing or pricing designed to recover only the actual direct and indirect costs of such material or service and conforming to generally accepted cost accounting practices consistently followed by the institution.

V. Indirect Costs

A. *General.* Indirect costs are those that have been incurred for common or joint objectives, and thus are not readily subject to treatment as direct costs of research agreements or other ultimate or revenue producing cost centers. In hospitals such costs normally are classified but not necessarily restricted to the following functional categories: Depreciation; Administrative and General (including fringe benefits if not charged directly); Operation of Plant; Maintenance of Plant; Laundry and Linen Service; Housekeeping; Dietary; Maintenance of Personnel; and Medical Records and Library.

B. *Criteria for distribution.*—1. *Base period.* A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the hospital, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

2. *Need for cost groupings.* The overall objective of the allocation process is to distribute the indirect costs described in para. VI to organized research, patient care, instruction and training, and other hospital activities in reasonable proportions consistent with the nature and extent of the use of the hospital's resources by research personnel, medical staff, patients, students, and other personnel or organizations. In order to achieve this objective with reasonable precision, it may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the functional categories of indirect costs referred to in para. V-A. In general, the cost groupings established within a functional category should constitute, in each case, a pool of those items of expense that are considered to be of like character in terms of their relative contribution to (or degree of remoteness from) the particular cost centers to which distribution is appropriate. Each such pool or cost grouping should then be distributed individually to the related cost centers, using the distribution base or method most appropriate in the light of the guides set out in B3 below. While this paragraph places primary emphasis on a step-down method of indirect cost computation, para. VIII provides an alternate method which may be used under certain conditions.

3. *Selection of distribution method.* Actual conditions must be taken into account in selecting the method or base to be used in distributing to related cost centers the expenses assembled under each of the individual cost groups established as indicated under B2 above. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Care should be given, however, to eliminate similar or duplicative costs from any other distribution made to this area. Where the expenses under a cost grouping are more general in nature, the distribution to related cost centers should be made through use of a selected base which will produce results which are equitable to both the Government and the hospital. In general, any cost element or cost-related factor associated with the hospital's work is potentially adaptable for use as a distribution base provided:

a. It can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, manhours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and

b. It is common to the related cost centers during the base period. The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to related cost centers in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

4. *General consideration on cost groupings.* The extent to which separate cost groupings and selective distribution would be appropriate at a hospital is a matter of judgment to be determined on a case-by-case basis. Typical situations which may warrant the establishment of two or more separate cost groups (based on account classification or analysis) within a functional category include but are not limited to the following:

a. Where certain items or categories of expense relate solely to one of the major divisions of the hospital (patient care, sponsored research, instruction and training, or other hospital activities) or to any two but not all, such expenses should be set aside as a separate cost grouping for direct assignment or selective distribution in accordance with the guides provided in B3 and B5 above.

b. Where any types of expense ordinarily treated as indirect cost as outlined in para. V-A are charged to research agreements as direct costs, the similar type expenses applicable to other activities of the institution must through separate cost grouping be excluded from the indirect costs allocable to research agreements.

c. Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organized research and other hospital activities.

d. Where organized activities (including identifiable segments of organized research as well as the activities cited in para. B-E) provide their own purchasing, personnel administration, building maintenance, or housekeeping or similar service, the distribution of such elements of indirect cost to such activities should be accomplished through cost grouping which includes only that portion of central indirect costs (such as for overall management) which are properly allocable to such activities.

e. Where the hospital elects to treat as indirect charges the costs of pension plans and other staff benefits, such costs should be set aside as a separate cost grouping for selective distribution to related cost centers, including organized research.

f. Where the hospital is affiliated with a medical school or some other institution which performs organized research on the hospital's premises, every effort should be made to establish separate cost groupings in the Administrative and General or other applicable category which will reasonably reflect the use of services and facilities by such research. (See also para. VII-A.3)

5. *Materiality.* Where it is determined that the use of separate cost groupings and selective distribution are necessary to produce equitable results, the number of such separate cost groupings within a functional category should be held within practical limits, after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

C. *Administration of limitations on allowances for indirect costs.* 1. Research grants may be subject to laws and/or administrative regulations that limit the allowance for indirect costs under such grant to a stated percentage of the direct costs allowed. Agencies that sponsor such grants will establish procedures which will assure that:

a. the terms and amount authorized in each case conform with the provisions of paragraphs III, V and IX of these principles as they apply to matters involving the consistent treatment and allowability of individual items of cost; and

b. the amounts actually allowed for indirect costs under each such research grant does not exceed the maximum allowable under the limitation or the amount otherwise allowable under these principles, whichever is the smaller.

2. Where the actual allowance for indirect costs on any research grant must be restricted to the smaller of the two alternative amounts referred to in C1 above, such alternative amounts should be determined in accordance with the following guides:

a. The maximum allowable under the limitation should be established by applying the stated percentage to a direct cost base which shall include all items of expenditure authorized by the sponsoring agency for inclusion as part of the total cost for the direct benefit of the work under the grant; and

b. The amount otherwise allowable under these principles should be established by applying the current institutional indirect cost rate to those elements of direct cost which were included in the base on which the rate was computed.

3. When the maximum amount allowable under a statutory limitation or the terms of a research agreement is less than the amount otherwise allocable as indirect costs under these principles, the amount not recoverable as indirect costs under the research agreement involved may not be shifted to other research agreements.

VI. Identification and Assignment of Indirect Costs

A. *Depreciation or use charge.* 1. The expenses under this heading should include

purposes of the foregoing, a reasonable estimate of the proportion of total space assigned to the various costs centers normally will suffice as a means for effecting distribution of the amounts involved; or

linen by research personnel and others, including patients.

F. *Housekeeping.* 1. The expenses under this heading should include:

a. All salaries and wages of the department

otherwise to reduce the expense to be allocated;

b. A net cost per housed employee may then be computed; and

c. Allocation should be made on a

b. The volume of research work to which such rate would apply is material in relation to other government research at the institution.

3. It is a common practice for grants or

minimal, the use of the abbreviated procedure described in para. VIII–B below may be acceptable in the determination of allowable indirect costs. This method may also be used to initially determine a

VI. Identification and Assignment of Indirect Costs

A. *Depreciation or use charge.* 1. The expenses under this heading should include depreciation (as defined in para. IX–B.9a) on buildings, fixed equipment, and movable equipment, except to the extent purchased through federal funds. Where adequate records for the recording of depreciation are not available, a use charge may be substituted for depreciation (See para. IX–B.)

2. The expenses included in this category should be allocated to applicable cost centers in a manner consistent with the guides set forth in para. V–B, on a basis that gives primary emphasis to (a) space utilization with respect to depreciation on buildings and fixed equipment; and (b) specific identification of assets and their use with respect to movable equipment as it relates to patient care, organized research, instruction and training, and other hospital activities. Where such records are not sufficient for the purpose of the foregoing, reasonable estimates will suffice as a means for effecting distribution of the amounts involved.

B. *Administration and general expenses.* 1. The expenses under this heading are those that have been incurred for the administrative offices of the hospital including accounting, personnel, purchasing, information centers, telephone expense, and the like which do not relate solely to any major division of the institution, i.e., solely to patient care, organized research, instruction and training, or other hospital activities.

2. The expenses included in this category may be allocated on the basis of total expenditures exclusive of capital expenditures, or salaries and wages in situations where the results of the distribution made on this basis are deemed to be equitable both to the Government and the hospital; otherwise the distribution of Administration and General expenses should be made through use of selected bases, applied to separate cost groupings established within this category of expenses in accordance with the guides set out in para. V–B.

C. *Operation of plant.* 1. The expenses under this heading are those that have been incurred by a central service organization or at the departmental level for the administration, supervision, and provision of utilities (exclusive of telephone expense) and protective services to the physical plant. They include expenses incurred for such items as power plant operations, general utility costs, elevator operations, protection services, and general parking lots.

2. The expenses included in this category should be allocated to applicable cost centers in a manner consistent with the guides provided in para. V–B, on a basis that gives primary emphasis to space utilization. The allocations should be developed as follows:

a. Where actual space and related cost records are available or can readily be developed and maintained without significant change in the accounting practices, the amount distributed should be based on such records;

b. Where the space and related cost records maintained are not sufficient for purposes of the foregoing, a reasonable estimate of the proportion of total space assigned to the various costs centers normally will suffice as a means for effecting distribution of the amounts involved; or

c. Where it can be demonstrated that an area or volume of space basis of allocation is impractical or inequitable, other bases may be used provided consideration is given to the use of facilities by research personnel and others, including patients.

D. *Maintenance of plant.* 1. The expenses under this heading should include:

a. All salaries and wages pertaining to ordinary repair and maintenance work performed by employees on the payroll of the hospital;

b. All supplies and parts used in the ordinary repairing and maintaining of buildings and general equipment; and

c. Amounts paid to outside concerns for the ordinary repairing and maintaining of buildings and general equipment.

2. The expenses included in this category should be allocated to applicable cost centers in a manner consistent with the guides provided in para. V–B. on a basis that gives primary emphasis to space utilization. The allocations and apportionments should be developed as follows:

a. Where actual space and related cost records are available and can readily be developed and maintained without significant change in the accounting practices, the amount distributed should be based on such records;

b. Where the space and related cost records maintained are not sufficient for purposes of the foregoing, a reasonable estimate of the proportion of total space assigned to the various costs centers normally will suffice as a means for effecting distribution of the amounts involved; or

c. Where it can be demonstrated that an area or volume of space basis of allocation is impractical or inequitable, other basis may be used provided consideration is given to the use of facilities by research personnel and others, including patients.

E. *Laundry and linen.* 1. The expenses under this heading should include:

a. Salaries and wages of laundry department employees, seamstresses, clean linen handlers, linen delivery men, etc.;

b. Supplies used in connection with the laundry operation and all linens purchased; and

c. Amounts paid to outside concerns for purchased laundry and/or linen service.

2. The expense included in this category should be allocated to related cost centers in a manner consistent with the guides provided in para. V–B. on a basis that gives primary emphasis to actual pounds of linen used. The allocations should be developed as follows:

a. Where actual poundage and related cost records are available or can readily be developed and maintained without significant change in the accounting practices, the amount distributed should be based on such records;

b. Where it can be demonstrated that a poundage basis of allocation is impractical or inequitable other bases may be used provided consideration is given to the use of linen by research personnel and others, including patients.

F. *Housekeeping.* 1. The expenses under this heading should include:

a. All salaries and wages of the department head, foreman, maids, porters, janitors, wall washers, and other housekeeping employees;

b. All supplies used in carrying out the housekeeping functions; and

c. Amounts paid to outside concerns for purchased services such as window washing, insect extermination, etc.

2. The expenses included in this category should be allocated to related cost centers in a manner consistent with the guides provided in para. V–B. on a basis that gives primary emphasis to space actually serviced by the housekeeping department. The allocations and apportionments should be developed as follows:

a. Where actual space serviced and related cost records are available or can readily be developed and maintained without significant change in the accounting practices, the amount distributed should be based on such records;

b. Where the space serviced and related cost records maintained are not sufficient for purposes of the foregoing, a reasonable estimate of the proportion of total space assigned to the various cost centers normally will suffice as a means for effecting distribution of the amounts of housekeeping expenses involved; or

c. Where it can be demonstrated that the space serviced basis of allocation is impractical or inequitable, other bases may be used provided consideration is given to the use of housekeeping services by research personnel and others, including patients.

G. *Dietary.* 1. These expenses, as used herein, shall mean only the subsidy provided by the hospital to its employees including research personnel through its cafeteria operation. The hospital must be able to demonstrate through the use of proper cost accounting techniques that the cafeteria operates at a loss to the benefit of employees.

2. The reasonable operating loss of a subsidized cafeteria operation should be allocated to related cost centers in a manner consistent with the guides provided in para. V–B. on a basis that gives primary emphasis to number of employees.

H. *Maintenance (housing) of personnel.* 1. The expenses under this heading should include:

a. The salaries and wages of matrons, clerks, and other employees engaged in work in nurses' residences and other employees' quarters;

b. All supplies used in connection with the operation of such dormitories; and

c. Payments to outside agencies for the rental of houses, apartments, or rooms used by hospital personnel.

2. The expenses included in this category should be allocated to related cost centers in a manner consistent with the guides provided in para. V–B. on a basis that gives primary emphasis to employee utilization of housing facilities. The allocation should be developed as follows:

a. Appropriate credit should be given for all payments received from employees or

otherwise to reduce the expense to be allocated;

b. A net cost per housed employee may then be computed; and

c. Allocation should be made on a departmental basis based on the number of housed employees in each respective department.

I. *Medical records and library.* 1. The expenses under this heading should include:

a. The salaries and wages of the records librarian, medical librarian, clerks, stenographers, etc.; and

b. All supplies such as medical record forms, chart covers, filing supplies, stationery, medical library books, periodicals, etc.

2. The expenses included in this category should be allocated to related cost centers in a manner consistent with the guides provided in para. V–B. on a basis that gives primary emphasis to a special time survey of medical records personnel. If this appears to be impractical or inequitable, other bases may be used provided consideration is given to the use of these facilities by research personnel and others, including patients.

VII. Determination and Application of Indirect Cost Rate or Rates

A. *Indirect cost pools.* 1. Subject to (2) below, indirect costs allocated to organized research should be treated as a common pool, and the costs in such common pool should be distributed to individual research agreements benefiting therefrom on a single rate basis.

2. In some instances a single rate basis for use on all government research at a hospital may not be appropriate since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of government research at the institution. For this purpose, a particular segment of government research may be that performed under a single research agreement or it may consist of research under a group of research agreements performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of government research is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. An example of this differential may be in the development of a separate indirect cost pool for a clinical research center grant. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that:

a. Such indirect cost rate differs significantly from that which would have obtained under (1) above; and

b. The volume of research work to which such rate would apply is material in relation to other government research at the institution.

3. It is a common practice for grants or contracts awarded to other institutions, typically University Schools of Medicine, to be performed on hospital premises. In these cases the hospital should develop a separate indirect cost pool applicable to the work under such grants or contracts. This pool should be developed by a selective distribution of only those indirect cost categories which benefit the work performed by the other institution, within the practical limits dictated by available data and the materiality of the amounts involved. Hospital costs determined to be allocable to grants or contracts awarded to another institution may not be recovered as a cost of grants or contracts awarded directly to the hospital.

B. *The distribution base.* Preferably, indirect costs allocated to organized research should be distributed to applicable research agreements on the basis of direct salaries and wages. However, where the use of salaries and wages results in an inequitable allocation of costs in the research agreements, total direct costs or a variation thereof, may be used in lieu of salaries and wages. Regardless of the base used, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to para. VII–A. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the total direct salaries and wages (or other base selected) for all research agreements identified with such a pool.

C. *Negotiated lump sum for overhead.* A negotiated fixed amount in lieu of indirect costs may be appropriate for self-contained or off-campus research activities where the benefits derived from a hospital's indirect services cannot be readily determined. Such amount negotiated in lieu of indirect costs will be treated as an offset to the appropriate indirect cost pool after allocation to patient care, organized research, instruction and training, and other hospital activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

D. *Predetermined overhead rates.* The utilization of predetermined fixed overhead rates may offer potential advantages in the administration of research agreements by facilitating the preparation of research budgets and permitting more expeditious close out of the agreements when the work is completed. Therefore, to the extent allowed by law, consideration may be given to the negotiation of predetermined fixed rates in those situations where the cost experience and other pertinent factors available are deemed sufficient to enable the Government and the hospital to reach a reasonable conclusion as to the probable level of the indirect cost rate for the ensuing accounting period.

VIII. Simplified Method for Small Institutions

A. *General.* 1. Where the total direct cost of all government-sponsored research and development work at a hospital in a year is minimal, the use of the abbreviated procedure described in para. VIII–B below may be acceptable in the determination of allowable indirect costs. This method may also be used to initially determine a provisional indirect cost rate for hospitals that have not previously established a rate. Under this abbreviated procedure, data taken directly from the institution's most recent annual financial report and immediately available supporting information will be utilized as a basis for determining the indirect cost rate applicable to research agreements at the institution.

2. The rigid formula approach provided under the abbreviated procedure has limitations which may preclude its use at some hospitals either because the minimum data required for this purpose are not readily available or because the application of the abbreviated procedure to the available data produces results which appear inequitable to the Government or the hospital. In any such case, indirect costs should be determined through use of the regular procedure rather than the abbreviated procedure.

3. In certain instances where the total direct cost of all government-sponsored research and development work at the hospital is more than minimal, the abbreviated procedure may be used if prior permission is obtained. This alternative will be granted only in those cases where it can be demonstrated that the step-down technique cannot be followed.

B. *Abbreviated procedure.* 1. Total expenditures as taken from the most recent annual financial report will be adjusted by eliminating from further consideration expenditures for capital items as defined in para. IX–B.4 and unallowable costs as defined under various headings in para. IX and para. III–E.

2. Total expenditures as adjusted under the foregoing will then be distributed among (a) expenditures applicable to administrative and general overhead functions, (b) expenditures applicable to all other overhead functions, and (c) expenditures for all other purposes. The first group shall include amounts associated with the functional categories, Administration and General, and Dietary, as defined in para. VI. The second group shall include Depreciation, Operation of Plant, Maintenance of Plant, and Housekeeping. The third group—expenditures for all other purposes—shall include the amounts applicable to all other activities, namely, patient care, organized research, instruction and training, and other hospital activities as defined under para. II–E. For the purposes of this section, the functional categories of Laundry and Linen, Maintenance of Personnel, and Medical Records and Library as defined in para. VI shall be considered as expenditures for all other purposes.

3. The expenditures distributed to the first two groups in para. VIII–B.2 should then be adjusted by those receipts or negative expenditure types of transactions which tend to reduce expense items allocable to research agreements as indirect costs. Examples of such receipts or negative expenditures are itemized in para. III–E.1.

4. In applying the procedures in para. VIII–B.1 and B.2, the cost of unallowable activities such as Gift Shop, Investment Property Management, Fund Raising, and Public

subsequent disallowance or dispute based on unreasonableness or nonallocability, it is important that prospective recipients of federal funds particularly those whose work

2. *Bad debts.* Losses arising from uncollectible accounts and other claims and related collection and legal costs are unallowable except that a bad debt may be

allowable to the extent that the total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the

hospital activities in terms of the percentage of total effort devoted to each of the broad functional categories referred to in (b) above. The estimate of effort spent on a research

compensation when depreciation or other equivalent costs are not considered.

b. Due consideration will be given to

4. In applying the procedures in para. VIII–B.1 and B.2, the cost of unallowable activities such as Gift Shop, Investment Property Management, Fund Raising, and Public Relations, when they benefit from the hospital's indirect cost services, should be treated as expenditures for all other purposes. Such activities are presumed to benefit from the hospital's indirect cost services when they include salaries of personnel working in the hospital. When they do not include such salaries, they should be eliminated from the indirect cost rate computation.

5. The indirect cost rate will then be computed in two stages. The first stage requires the computation of an Administrative and General rate component. This is done by applying a ratio of research direct costs over total direct costs to the Administrative and General pool developed under para. VIII–B.2 and B.3 above. The resultant amount—that which is allocable to research—is divided by the direct research cost base. The second stage requires the computation of an All other Indirect Cost rate component. This is done by applying a ratio of research direct space over total direct space to All Other Indirect Cost pool developed under para. VIII–B.2 and B.3 above. The resultant amount—that which is allocable to research—is divided by the direct research cost base.

The total of the two rate components will be the institution's indirect cost rate. For the purposes of this section, the research direct cost or space and total direct cost or space will be that cost or space identified with the functional categories classified under Expenditures for all other purposes under para. VIII–B.2.

IX. General Standards for Selected Items of Cost

A. *General.* This section provides standards to be applied in establishing the allowability of certain items involved in determining cost. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of discrepancy between the provisions of a specific research agreement and the applicable standards provided, the provisions of the research agreement should govern. However, in some cases advance understandings should be reached on particular cost items in order that the full costs of research be supported. The extent of allowability of the selected items of cost covered in this section has been stated to apply broadly to many accounting systems in varying environmental situations. Thus, as to any given research agreement, the reasonableness and allocability of certain items of costs may be difficult to determine, particularly in connection with hospitals which have medical school or other affiliations. In order to avoid possible subsequent disallowance or dispute based on unreasonableness or nonallocability, it is important that prospective recipients of federal funds particularly those whose work is predominantly or substantially with the Government, seek agreement with the Government in advance of the incurrence of special or unusual costs in categories where reasonableness or allocability are difficult to determine. Such agreement may also be initiated by the Government. Any such agreement should be incorporated in the research agreement itself. However, the absence of such an advance agreement on any element of cost will not in itself serve to make that element either allowable or unallowable. Examples of costs on which advance agreements may be particularly important are:

1. Facilities costs, such as;
a. Depreciation
b. Rental
c. Use charges for fully depreciated assets
d. Idle facilities and idle capacity
e. Plant reconversion
f. Extraordinary or deferred maintenance and repair
g. Acquisition of automatic data processing equipment.
2. Preaward costs
3. Non-hospital professional activities
4. Self-insurance
5. Support services charged directly (computer services, printing and duplicating services, etc.)
6. Employee compensation, travel, and other personnel costs, including;
a. Compensation for personal service, including wages and salaries, bonuses and incentives, premium payments, pay for time not worked, and supplementary compensation and benefits, such as pension and retirement, group insurance, severance pay plans, and other forms of compensation
b. Morale, health, welfare, and food service and dormitory costs
c. Training and education costs
d. Relocation costs, including special or mass personnel movement

B. *Selected items.*—1. *Advertising costs.* The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like. The only advertising costs allowable are those which are solely for;

a. The recruitment of persons required for the performance by the institution of obligations arising under the research agreement, when considered in conjunction with all other recruitment costs as set forth in para IX–B.34
b. The procurement of scarce items for the performance of the research agreement; or
c. The disposal of scrap or surplus materials acquired in the performance of the research agreement.

Costs of this nature, if incurred for more than one research agreement or for both research agreement work and other work of the institution, are allowable to the extent that the principles in paragraph IV and V are observed.

2. *Bad debts.* Losses arising from uncollectible accounts and other claims and related collection and legal costs are unallowable except that a bad debt may be included as a direct cost of the research agreement to the extent that it is caused by a research patient and approved by the awarding agency. This inclusion is only intended to cover the situation of the patient admitted for research purposes who subsequently or in conjunction with the research receives clinical care for which a charge is made to the patient. If, after exhausting all means of collecting these charges, a bad debt results, it may be considered an appropriate charge to the research agreement.

3. *Bonding costs.* a. Bonding costs arise when the Government requires assurance against financial loss to itself or others by reason of the act or default of the hospital. They arise also in instances where the hospital requires similar assurance.

Included are such types as bid, performance, payment, advance payment, infringement, and fidelity bonds.

b. Costs of bonding required pursuant to the terms of the research agreement are allowable.

c. Costs of bonding required by the hospital in the general conduct of its business are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

4. *Capital expenditures.* The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment should be capitalized and are unallowable except as provided for in the research agreement.

5. *Civil defense costs.* Civil defense costs are those incurred in planning for, and the protection of life and property against the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, fire-fighting training, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when distributed to all activities of the institution. Capital expenditures for civil defense purposes will not be allowed, but a use allowance or depreciation may be permitted in accordance with provisions set forth elsewhere. Costs of local civil defense projects not on the institution's premises are unallowable.

6. *Communication costs.* Costs incurred for telephone services, local and long distance telephone calls, telegrams, radiograms, postage, and the like are allowable.

7. *Compensation for personal services.*—a. *General.* Compensation for personal services covers all remuneration paid currently or accrued to employees of the hospital for services rendered during the period of performance under government research agreements. Such remuneration includes salaries, wages, staff benefits (see para. IX–B.10), and pension plan costs (see para. IX–B.25). The costs of such remuneration are allowable to the extent that the total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the institution consistently applied, and provided that the charges for work performed directly on government research agreements and for other work allocable as indirect costs to sponsored research are determined and supported as hereinafter provided. For non-profit, non-proprietary institutions, where federally supported programs constitute less than a preponderance of the activity at the institution the primary test of reasonableness will be to require that the institution's compensation policies be applied consistently both to federally-sponsored and non-sponsored activities alike. However, where special circumstances so dictate a contractual clause may be utilized which calls for application of the test of comparability in determining the reasonableness of compensation.

b. *Payroll distribution.* Amounts charged to organized research for personal services, regardless of whether treated as direct costs or allocated as indirect costs, will be based on hospital payrolls which have been approved and documented in accordance with generally accepted hospital practices. In order to develop necessary direct and indirect allocations of cost, supplementary data on time or effort as provided in (c) below, normally need be required only for individuals whose compensation is properly chargeable to two or more research agreements or to two or more of the following broad functional categories: (1) patient care; (2) organized research; (3) instruction and training; (4) indirect activities as defined in para. V–A; or (5) other hospital activities as defined in para. II–E.

c. *Reporting time or effort.* Charges for salaries and wages of individuals other than members of the professional staff will be supported by daily time and attendance and payroll distribution records. For members of the professional staff, current and reasonable estimates of the percentage distribution of their total effort may be used as support in the absence of actual time records. The term professional staff for purposes of this section includes physicians, research associates, and other personnel performing work at responsible levels of activities. These personnel normally fulfill duties, the competent performance of which usually requires persons possessing degrees from accredited institutions of higher learning and/or state licensure. In order to qualify as current and reasonable, estimates must be made no later than one month (though not necessarily a calendar month) after the month in which the services were performed.

d. *Preparation of estimates of effort.* Where required under (c) above, estimates of effort spent by a member of the professional staff on each research agreement should be prepared by the individual who performed the services or by a responsible individual such as a department head or supervisor having first-hand knowledge of the services performed on each research agreement. Estimates must show the allocation of effort between organized research and all other hospital activities in terms of the percentage of total effort devoted to each of the broad functional categories referred to in (b) above. The estimate of effort spent on a research agreement may include a reasonable amount of time spent in activities contributing and intimately related to work under the agreement, such as preparing and delivering special lectures about specific aspects of the ongoing research, writing research reports and articles, participating in appropriate research seminars, consulting with colleagues with respect to related research, and attending appropriate scientific meetings and conferences. The term "all other hospital activities" would include departmental research, administration, committee work, and public services undertaken on behalf of the hospital.

e. *Application of budget estimates.* Estimates determined before the performance of services, such as budget estimates on a monthly, quarterly, or yearly basis do not qualify as estimates of effort spent.

f. *Non-hospital professional activities.* A hospital must not alter or waive hospital-wide policies and practices dealing with the permissible extent of professional services over and above those traditionally performed without extra hospital compensation, unless such arrangements are specifically authorized by the sponsoring agency. Where hospital-wide policies do not adequately define the permissible extent of consultantships or other non-hospital activities undertaken for extra pay, the Government may require that the effort of professional staff working under research agreements be allocated as between (1) hospital activities, and (2) non-hospital professional activities. If the sponsoring agency should consider the extent of non-hospital professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case by case basis.

g. *Salary rates for part-time appointments.* Charges for work performed on government research by staff members having only part-time appointments will be determined at a rate not in excess of that for which he is regularly paid for his part-time staff assignment.

8. *Contingency provisions.* Contributions to a contingency reserve or any similar provisions made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable.

9. *Depreciation and use allowances.* a. Hospitals may be compensated for the use of buildings, capital improvements and usable equipment on hand through depreciation or use allowances. Depreciation is a charge to current operations which distributes the cost of a tangible capital asset, less estimated residual value, over the estimated useful life of the asset in a systematic and logical manner. It does not involve a process of valuation. Useful life has reference to the prospective period of economic usefulness in the particular hospital's operations as distinguished from physical life. Use allowances are the means of allowing compensation when depreciation or other equivalent costs are not considered.

b. Due consideration will be given to government-furnished research facilities utilized by the institution when computing use allowances and/or depreciation if the government-furnished research facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of grounds, buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides, and secondly, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits, and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided in the institution's books of accounts, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to organized research is developed from the amount thus amortized for the base period involved.

c. Normal depreciation on a hospital's plant, equipment, and other capital facilities, except as excluded by (d) below, is an allowable element of research cost provided that the amount thereof is computed:

1. Upon the property cost basis used by the hospital for Federal Income Tax purposes (See section 167 of the Internal Revenue Code of 1954); or
2. In the case of non-profit or tax exempt organizations, upon a property cost basis which could have been used by the hospital for Federal Income Tax purposes, had such hospital been subject to the payment of income tax; and in either case
3. By the consistent application to the assets concerned of any generally accepted accounting method, and subject to the limitations of the Internal Revenue Code of 1954 as amended, including—
i. The straight line method;
ii. The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in (i) above;
iii. The sum of the years-digits method; and
iv. Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the use of the property and including the current year, does not during the first two-thirds of the useful life of the property exceed the total of such allowances which would have been used had such allowances been computed under the method described in (ii) above.

d. Where the depreciation method is followed, adequate property records must be maintained. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular research area, and the renewal and

replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced

Where the hospital desires to change to actual depreciation but either has no historical cost records or has incomplete

specific provisions of the research agreement, or instructions in writing from the awarding agency.

amounts for overhead, or legal or administrative limitations.

18. *Maintenance and repair costs.* a. Costs necessary for the upkeep of property

the hospital, cost of shareholders meetings preparation and publication of reports to shareholders, preparation and submission of required reports and forms to taxing and

bed units shall be determined and proposed in accordance with Section 23.c.ii.

d. Where federally sponsored research programs provide specifically for the direct reimbursement of nursing, dietary, and other

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replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

e. Depreciation on idle or excess facilities shall not be allowed except on such facilities as are reasonably necessary for standby purposes.

f. Where an institution elects to go on a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that would be viewed as fully depreciated; provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

g. Hospitals which choose a depreciation allowance for assets purchased prior to 1966 based on a percentage of operating costs in lieu of normal depreciation for purposes of reimbursement under Public Law 89–97 (Medicare) shall utilize that method for determining depreciation applicable to organized research.

The operating costs to be used are the lower of the hospital's 1965 operating costs or the hospital's current year's allowable costs. The percent to be applied is 5 percent starting with the year 1966–67, with such percentage being uniformity reduced by one-half percent each succeeding year. The allowance based on operating costs is in addition to regular depreciation on assets acquired after 1965. However, the combined amount of such allowance on pre-1966 assets and the allowance for actual depreciation on assets acquired after 1965 may not exceed 6 percent of the hospital's allowable cost for the current year. After total depreciation has been computed, allocation methods are used to determine the share attributable to organized research.

For purposes of this section, "Operating Costs" means the total costs incurred by the hospital in operating the institution, and includes patient care, research, and other activities. "Allowable Costs" means operating costs less unallowable costs as defined in these principles; by the application of allocation methods to the total amount of such allowable costs, the share attributable to Federally-sponsored research is determined.

A hospital which elects to use this procedure under Public Law 89–97 and subsequently changes to an actual depreciation basis on pre-1966 assets in accordance with the option afforded under the Medicare program shall simultaneously change to an actual depreciation basis for organized research.

Where the hospital desires to change to actual depreciation but either has no historical cost records or has incomplete records, the determination of historical cost could be made through appropriate means involving expert consultation with the determination being subject to review and approval by the Department of Health, Education, and Welfare.

h. Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost of usable equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding ten percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable equipment which may be used to compute the use allowance at an annual rate not exceeding six and two-thirds percent of such estimate.

i. Depreciation and/or use charges should usually be allocated to research and other activities as an indirect cost.

10. *Employee morale, health, and welfare costs and credits.* The costs of house publications, health or first-aid benefits, recreational activities, employees' counseling services, and other expenses incurred in accordance with the hospital's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance, are allowable. Such costs will be equitably apportioned to all activities of the hospital. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

11. *Entertainment costs.* Except as pertains to 10 above, costs incurred for amusement, social activities, entertainment, and any items relating thereto, such as meals, lodging, rentals, transportation, and gratuities are unallowable.

12. *Equipment and other facilities.* The cost of equipment or other facilities are allowable on a direct charge basis where such purchases are approved by the sponsoring agency concerned or provided for by the terms of the research agreement.

13. *Fines and penalties.* Costs resulting from violations of, or failure of the institution to comply with federal, state and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the research agreement, or instructions in writing from the awarding agency.

14. *Insurance and indemnification.* a. Costs of insurance required or approved and maintained pursuant to the research agreement are allowable.

b. Costs of other insurance maintained by the hospital in connection with the general conduct of its activities are allowable subject to the following limitations: (1) types and extent and cost of coverage must be in accordance with sound institutional practice; (2) costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to government owned property are unallowable except to the extent that the Government has specifically required or approved such costs; and (3) costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted.

c. Contributions to a reserve for an approved self-insurance program are allowable to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks. Such contributions are subject to prior approval of the Government.

d. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the research agreement, except that costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice as well as minor losses not covered by insurance such as spoilage, breakage and disappearance of small hand tools which occur in the ordinary course of operations are allowable.

15. *Interest, fund raising and investment management costs.* a. Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

b. Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are not allowable.

c. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are not allowable.

d. Costs related to the physical custody and control of monies and securities are allowable.

16. *Labor relations costs.* Costs incurred in maintaining satisfactory relations between the hospital and its employees, including costs of labor management committees, employees' publications, and other related activities are allowable.

17. *Losses on research agreements or contracts.* Any excess of costs over income under any agreement or contract of any nature is unallowable. This includes, but is not limited to, the hospital's contributed portion by reason of cost-sharing agreements, under-recoveries through negotiation of flat

amounts for overhead, or legal or administrative limitations.

18. *Maintenance and repair costs.* a. Costs necessary for the upkeep of property (including government property unless otherwise provided for), which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are to be treated as follows:

1. Normal maintenance and repair costs are allowable;

2. Extraordinary maintenance and repair costs are allowable, provided they are allocated to the periods to which applicable for purposes of determining research costs.

b. Expenditures for plant and equipment, including rehabilitation thereof, which according to generally accepted accounting principles as applied under the hospital's established policy, should be capitalized and subjected to depreciation, are allowable only on a depreciation basis.

19. *Material costs.* Costs incurred for purchased materials, supplies and fabricated parts directly or indirectly related to the research agreement, are allowable. Purchases made specifically for the research agreement should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stockrooms should be charged at their cost under any recognized method of pricing stores withdrawals conforming to sound accounting practices consistently followed by the hospital. Incoming transportation charges are a proper part of material cost. Direct material cost should include only the materials and supplies actually used for the performance of the research agreement, and due credit should be given for any excess materials retained or returned to vendors. Due credit should be given for all proceeds or value received for any scrap resulting from work under the research agreement. Where government donated or furnished material is used in performing the research agreement, such material will be used without charge.

20. *Memberships, subscriptions and professional activity costs.* a. Costs of the hospital's membership in civic, business, technical and professional organizations are allowable.

b. Costs of the hospital's subscriptions to civic, business, professional and technical periodicals are allowable.

c. Costs of meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.

21. *Organization costs.* Expenditures such as incorporation fees, attorneys' fees, accountants' fees, brokers' fees, fees to promoters and organizers in connection with (a) organization or reorganization of a hospital, or (b) raising capital, are unallowable.

22. *Other business expenses.* Included in this item are such recurring expenses as registry and transfer charges resulting from changes in ownership of securities issued by the hospital, cost of shareholders meetings preparation and publication of reports to shareholders, preparation and submission of required reports and forms to taxing and other regulatory bodies, and incidental costs of directors and committee meetings. The above and similar costs are allowable when allocated on an equitable basis.

23. *Patient care.* The cost of routine and ancillary or special services to research patients is an allowable direct cost of research agreements.

a. Routine services shall include the costs of the regular room, dietary and nursing services, minor medical and surgical supplies and the use of equipment and facilities for which a separate charge is not customarily made.

b. Ancillary or special services are the services for which charges are customarily made in addition to routine services, such as operating rooms, anesthesia, laboratory, BMR-EKG, etc.

c. Patient care, whether expressed as a rate or an amount, shall be computed in a manner consistent with the procedures used to determine reimbursable costs under Public Law 89–97 (Medicare Program) as defined under the "Principles Of Reimbursement For Provider Costs" published by the Social Security Administration of the Department of Health, Education, and Welfare. The allowability of specific categories of cost shall be in accordance with those principles rather than the principles for research contained herein. In the absence of participation in the Medicare program by a hospital, all references to the Medicare program in these principles shall be construed as meaning the Medicaid program.

i. Once costs have been recognized as allowable, the indirect costs or general service center's cost shall be allocated (stepped-down) to special service centers, and all patient and nonpatient costs centers based upon actual services received or benefiting these centers.

ii. After allocation, routine and ancillary costs shall be apportioned to scatter-bed research patients on the same basis as is used to apportion costs to Medicare patients, i.e. using either the departmental method or the combination method, as those methods are defined by the Social Security Administration; except that final settlement shall be on a grant-by-grant basis. However, to the extent that the Social Security Administration has recognized any other method of cost apportionment, that method generally shall also be recognized as applicable to the determination of research patient care costs.

iii. A cost center must be established on Medicare reimbursement forms for each discrete-bed unit grant award received by a hospital. Routine costs should be stepped-down to this line item(s) in the normal course of stepping-down costs under Medicare/Medicaid requirements. However, in stepping-down routine costs, consideration must be given to preventing a step-down of those costs to discrete-bed unit line items that have already been paid for directly by the grant, such as bedside nursing costs. Ancillary costs allocable to research discrete-bed units shall be determined and proposed in accordance with Section 23.c.ii.

d. Where federally sponsored research programs provide specifically for the direct reimbursement of nursing, dietary, and other services, appropriate adjustment must be made to patient care costs to preclude duplication and/or misallocation of costs.

24. *Patent costs.* Costs of preparing disclosures, reports and other documents required by the research agreement and of searching the art to the extent necessary to make such invention disclosures are allowable. In accordance with the clauses of the research agreement relating to patents, costs of preparing documents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the Government, are allowable. (See also para. IX–B.36.)

25. *Pension plan costs.* Costs of the hospital's pension plan which are incurred in accordance with the established policies of the institution are allowable, provided such policies meet the test of reasonableness and the methods of cost allocation are not discriminatory, and provided appropriate adjustments are made for credits or gains arising out of normal and abnormal employee turnover or any other contingencies that can result in forfeitures by employees which inure to the benefit of the hospital.

26. *Plan security costs.* Necessary expenses incurred to comply with government security requirements including wages, uniforms and equipment of personnel engaged in plant protection are allowable.

27. *Preresearch agreement costs.* Costs incurred prior to the effective date of the research agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable unless specifically set forth and identified in the research agreement.

28. *Professional services costs.* a. Costs of professional services rendered by the members of a particular profession who are not employees of the hospital are allowable subject to (b) and (c) below when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government. Retainer fees to be allowable must be reasonably supported by evidence of services rendered.

b. Factors to be considered in determining the allowability of costs in a particular case include (1) the past pattern of such costs, particularly in the years prior to the award of government research agreements on the institution's total activity; (2) the nature and scope of managerial services expected of the institution's own organizations; and (3) whether the proportion of government work to the hospital's total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under government research agreements.

c. Costs of legal, accounting and consulting services, and related costs incurred in connection with organization and reorganization or the prosecution of claims against the Government are unallowable. Costs of legal, accounting and consulting

services, and related costs incurred in connection with patent infringement litigation are unallowable unless otherwise provided for in the research agreement.

recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect) are

payments are required by law, by employer-employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by

remission of hospital charges to the extent of costs for individual employees or their families, and the like are allowable provided such benefits are granted in accordance with

b. Travel costs are allowable subject to (c) and (d) below when they are directly attributable to specific work under a research agreement or when they are incurred in the normal course of administration of the

or by other means deemed appropriate by the contracting officer; and (3) the loss of useful value as to any one terminated contract is limited to that portion of the acquisition cost which bears the same ratio to the total

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services, and related costs incurred in connection with patent infringement litigation are unallowable unless otherwise provided for in the research agreement.

29. *Profits and losses on disposition of plant equipment, or other assets.* Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sales or exchange of either short- or long-term investments, shall be excluded in computing research agreement costs.

30. *Proposal costs.* Proposal costs are the costs of preparing bids or proposals on potential government and non-government research agreements or projects, including the development of technical data and cost data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods will be allocable in the current period to the government research agreement. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the methods used, the results obtained may be accepted only if found to be reasonable and equitable.

31. *Public information services costs.* Costs of news releases pertaining to specific research or scientific accomplishment are unallowable unless specifically authorized by the sponsoring agency.

32. *Rearrangement and alteration costs* Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special rearrangement and alteration costs incurred specifically for a project are allowable only as a direct charge when such work has been approved in advance by the sponsoring agency concerned.

33. *Reconversion costs.* Costs incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of government research agreement work, fair wear and tear excepted are allowable.

34. *Recruiting costs.* a. Subject to (b), (c), and (d) below, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where an institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

b. In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect) are unallowable.

c. Costs of help wanted advertising, special emoluments; fringe benefits, and salary allowances incurred to attract professional personnel from other institutions that do not meet the test of reasonableness or do not conform with the established practices of the institution are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within twelve months after hire, the institution will be required to refund or credit such relocations costs as were charged to the Government.

35. *Rental costs (including sale and lease back of facilities).* a. Rental costs of land, building, and equipment and other personal property are allowable if the rates are reasonable in light of such factors as rental costs of comparable facilities and market conditions in the area, the type, life expectancy, condition, and value of the facilities leased, options available, and other provisions of the rental agreement. Application of these factors, in situations where rentals are extensively used, may involve among other considerations comparison of rental costs with the amount which the hospital would have received had it owned the facilities.

b. Charges in the nature of rent between organizations having a legal or other affiliation or arrangement such as hospitals medical schools, foundations, etc., are allowable to the extent such charges do not exceed the normal costs of ownership such as depreciation, taxes, insurance, and maintenance, provided that no part of such costs shall duplicate any other allowed costs

c. Unless otherwise specifically provided in the agreement, rental costs specified in sale and lease-back agreements incurred by hospitals through selling plant facilities to investment organizations such as insurance companies or to private investors, and concurrently leasing back the same facilities are allowable only to the extent that such rentals do not exceed the amount which the hospital would have received had it retained legal title to the facilities.

36. *Royalties and other costs for use of patents.* Royalties on a patent or amortization of the cost of acquiring a patent or invention or rights thereto necessary for the proper performance of the research agreement and applicable to tasks or processes thereunder are allowable unless the Government has a license or the right to free use of the patent, the patent has been adjudicated to be invalid or has been administratively determined to be invalid, the patent is considered to be unenforceable, or the patent has expired.

37. *Severance pay.* a. Severance pay is compensation in addition to regular salaries and wages which is paid by a hospital to employees whose services are being terminated. Costs of severance pay are allowable only to the extent that such payments are required by law, by employer employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by circumstances of the particular employment.

b. Severance payments that are due to normal, recurring turnover, and which otherwise meet the conditions of (a) above may be allowed provided the actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period

c. Severance payments that are due to abnormal or mass terminations are of such conjectural nature that allowability must be determined on a case-by-case basis. However, the Government recognizes its obligation to participate to the extent of its fair share in any specific payment.

38. *Specialized service facilities operated by a hospital.* a. The costs of institutional services involving the use of highly complex and specialized facilities such as electronic computers and reactors are allowable provided the charges therefor meet the conditions of (b) or (c) below, and otherwise take into account any items of income or federal financing that qualify as applicable credits under para. III–E.

b. The costs of such hospital services normally will be charged directly to applicable research agreements based on actual usage or occupancy of the facilities at rates that (1) are designed to recover only actual costs of providing such services, and (2) are applied on a nondiscriminatory basis as between organized research and other work of the hospital including commercial or accommodation sales and usage by the hospital for internal purposes. This would include use of such facilities as radiology laboratories, maintenance men used for a special purpose, medical art, photography etc.

c. In the absence of an acceptable arrangement for direct costing as provided in (b) above, the costs incurred for such institutional services may be assigned to research agreements as indirect costs provided the methods used achieve substantially the same results. Such arrangements should be worked out in coordination with all government users of the facilities in order to assure equitable distribution of the indirect costs.

39. *Special administrative costs.* Costs incurred for general public relations activities, catalogs, alumni activities, and similar services are unallowable.

40. *Staff and/or employee benefits.* a. Staff and/or employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job such as for annual leave, sick leave military leave and the like are allowable provided such costs are absorbed by all hospital activities including organized research in proportion to the relative amount of time or effort actually devoted to each.

b. Staff benefits in the form of employer contributions or expenses for Social Security taxes, employee insurance, Workmen's Compensation insurance, the Pension Plan (see para. IX–B.25), hospital costs or remission of hospital charges to the extent of costs for individual employees or their families, and the like are allowable provided such benefits are granted in accordance with established hospital policies, and provided such contributions and other expenses whether treated as indirect costs or an increment of direct labor costs are distributed to particular research agreements and other activities in a manner consistent with the pattern of benefits accruing to the individuals or groups of employees whose salaries and wages are chargeable to such research agreements and other activities.

41. *Taxes.* a. In general, taxes which the hospital is required to pay and which are paid or accrued in accordance with generally accepted accounting principles, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable except for (1) taxes from which exemptions are available to the hospital directly or which are available to the hospital based on an exemption afforded the Government and in the latter case when the sponsoring agency makes available the necessary exemption certificates, (2) special assessments on land which represent capital improvements, and (3) Federal Income Taxes.

b. Any refund of taxes, interest, or penalties, and any payment to the hospital of interest thereon attributable to taxes, interest or penalties, which were allowed as research agreement costs will be credited or paid to the Government in the manner directed by the Government provided any interest actually paid or credited to a hospital incident to a refund of tax, interest, and penalty will be paid or credited to the Government only to the extent that such interest accrued over the period during which the hospital had been reimbursed by the Government for the taxes, interest, and penalties.

42. *Transportation costs.* Costs incurred for inbound freight, express, cartage, postage and other transportation services relating either to goods purchased, in process, or delivered are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the material received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the research agreement, should be treated as a direct cost.

43. *Travel costs.* a. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the hospital. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed by the institution in its regular operations.

b. Travel costs are allowable subject to (c) and (d) below when they are directly attributable to specific work under a research agreement or when they are incurred in the normal course of administration of the hospital or a department or research program thereof.

c. The difference in cost between first class air accommodations and less than first class air accommodations is unallowable except when less than first class air accommodations are not reasonably available to meet necessary mission requirements such as where less than first class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

d. Costs of personnel movements of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency or its authorized representative.

44. *Termination costs applicable to contracts.* a. Contract terminations generally give rise to the incurrence of costs or to the need for special treatment of costs which would not have arisen had the contract not been terminated. Items peculiar to termination are set forth below. They are to be used in conjunction with all other provisions of these principles in the case of contract termination.

b. The cost of common items of material reasonably usable on the hospital's other work will not be allowable unless the hospital submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, consideration should be given to the hospital's plans for current scheduled work or activities including other research agreements. Contemporaneous purchases of common items by the hospital will be regarded as evidence that such items are reasonably usable on the hospital's other work. Any acceptance of common items as allowable to the terminated portion of the contract should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirement of other work.

c. If in a particular case, despite all reasonable efforts by the hospital, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in these principles, except that any such costs continuing after termination due to the negligent or willful failure of the hospital to discontinue such costs will be considered unacceptable.

d. Loss of useful value of special tooling and special machinery and equipment is generally allowable, provided (1) such special tooling, machinery or equipment is not reasonably capable of use in the other work of the hospital; (2) the interest of the Government is protected by transfer of title or by other means deemed appropriate by the contracting officer; and (3) the loss of useful value as to any one terminated contract is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the contract bears to the entire terminated contract and other government contracts for which the special tooling, special machinery or equipment was acquired.

e. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated contract, less the residual value of such leases, if (1) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the contract and such further period as may be reasonable; and (2) the hospital makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the contract and of reasonable restoration required by the provisions of the lease.

f. Settlement expenses including the following are generally allowable: (1) accounting, legal, clerical, and similar costs reasonably necessary for the preparation and presentation to contracting officers of settlement claims and supporting data with respect to the terminated portion of the contract and the termination and settlement of subcontracts; and (2) reasonable costs for the storage, transportation, protection, and disposition of property provided by the Government or acquired or produced by the institution for the contract.

g. Subcontractor claims including the allocable portion of claims which are common to the contract and to other work of the contractor are generally allowable.

45. *Voluntary services.* The value of voluntary services provided by sisters or other members of religious orders is allowable provided that amounts do not exceed that paid other employees for similar work. Such amounts must be identifiable in the records of the hospital as a legal obligation of the hospital. This may be reflected by an agreement between the religious order and the hospital supported by evidence of payments to the order.

Appendix F—Principles for Determining Costs Applicable to Grants and Contracts With Nonprofit Institutions

A. Purpose and Scope

1. *Objectives.* This Appendix provides principles for determining the costs applicable to grants and contracts awarded by the Department of Health, Education, and Welfare and performed by nonprofit organizations other than educational institutions, hospitals and State and local Government organizations. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a particular project. The principles are designed to

provide recognition of the full allocated costs of work under generally accepted accounting principles. No provision for profit or other increment above cost is provided for in these principles. No provision for profit or other increment above cost is provided for in these principles. These principles are not intended to guide in the pricing of fixed price contracts and subcontracts. The principles do not apply to construction grants or contracts.

B. Basic Considerations

1. *Composition of total costs.* The total cost of a project is the sum of the allowable direct and allocable indirect costs less any applicable credits.

2. *Factors affecting allowability of costs.* To be allowable under a grant or contract, costs must meet the following general criteria:

(a) Be reasonable for the performance of the project and be allocable thereto under these principles.

(b) Conform to any limitations or exclusions set forth in these principles or in the grant or contract as to types or amounts of cost items.

(c) Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the institution.

(d) Be accorded consistent treatment. A cost may not be assigned to a grant or contract as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the grant or contract as an indirect cost.

(e) Be determined in accordance with generally accepted accounting principles.

(f) Be adequately documented.

3. *Reasonable costs.* A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. Reasonableness of specific costs must be examined with particular care in connection with institutions or units thereof that receive the bulk of their funds from the Government. Particular attention must be given to costs that may have been incurred or allocated to the grant or contract under special circumstances or that mark significant departures from the institution's established practices or from those generally prevailing in the institutions for the type of work involved. The question of reasonableness is particularly important when the institution is predominantly engaged in government work and when it has a cost-reimbursement type agreement. Costs which would not arise in the ordinary course of business are presumed to be unreasonable in the absence of compelling evidence to the contrary. Costs which are unreasonable will not be allowed either directly or indirectly.

4. *Allocable costs.* A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, costs are allocable to grants and contracts if they:

(a) Are incurred specifically for the grant or contract.

(b) Benefit both the grant or contract and other work of the institution, in proportions that can be approximated through use of reasonable methods.

(c) Are necessary to the overall operation of the institution, although a direct relationship to any particular cost objective cannot be shown.

of activities when normal or necessary to an institution's primary mission shall be treated as direct costs:

(a) Maintenance of membership rolls,

individual cost groupings established to applicable cost objectives. Where a distribution can be made by assignment of a cost grouping directly to the area benefited,

thereof. Where a particular segment of work is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be

provide recognition of the full allocated costs of work under generally accepted accounting principles. No provision for profit or other increment above cost is provided for in these principles.

2. *Definition of Nonprofit Institution.* (a) A nonprofit institution for purposes of this document is any corporation, foundation, trust, association, cooperative or other organization other than (i) educational institutions, (ii) hospitals and (iii) State and local Governmental agencies, bureaus or departments, which is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest, which is not organized primarily for profit and which uses all income exceeding costs to maintain, improve and/or expand its operations.

The charter or other legally binding authority for the existence of the institution must provide that no part of the net earnings, properties or other assets of the institution, on dissolution or otherwise, shall inure to the benefits of any private person or individual including any member, employee, officer, director or trustee of the institution, and that, on liquidation or dissolution all properties and assets remaining after providing for all debts and obligations shall be distributed and paid over to such other fund, foundation or other organization formed and operated as a nonprofit institution, as defined herein, as the board of directors or trustees may determine. Institutions which have received tax exemptions as nonprofit institutions from the U.S. Internal Revenue Service shall be considered to have met the criteria of this definition.

(b) For purposes of this document, the terms nonprofit and not-for-profit as they are descriptively applied to institutions shall be considered synonymous provided the requirements of 2(a) are met.

3. *Policy guides.* The successful application of these principles requires development of mutual understanding between representatives of nonprofit institutions and of the Federal Government as to their scope, applicability, and interpretation. It is recognized that the arrangements for agency and institutional participation in the financing of a project are properly subject to negotiation between the agency and the institution concerned in accordance with such governmentwide criteria as may be applicable, that each institution should be expected to employ sound management practice in the fulfillment of its obligation, and that each grantee or contractor organization in recognition of its own unique combination of staff, facilities and experience should be responsible for employing whatever form of organization and management techniques as may be necessary to assure proper efficient administration.

4. *Application.* These principles shall be applied in determining cost incurred in the performance of all grants and cost-reimbursement type contracts awarded by the Department of Health, Education, and Welfare. The principles shall also apply to cost-reimbursement type contracts performed under DHEW grants and cost-reimbursement type subcontracts and shall be used as a guide in the pricing of fixed price contracts and subcontracts. The principles do not apply to construction grants or contracts.

B. Basic Considerations

1. *Composition of total cost.* The total cost of a contract or grant is the sum of the allowable direct and indirect costs allocable to the grant/contract less any applicable credits. In ascertaining what constitutes costs, any generally accepted accounting method of determining or estimating costs that is equitable under the circumstances may be used.

2. *Factors affecting allowability of costs.* Factors to be considered in determining the allowability of individual items of cost include (a) reasonableness, (b) allocability, (c) application of those generally accepted accounting principles and practices appropriate to the particular circumstances, and (d) any limitations or exclusions set forth in this document or otherwise included in the grant/contract as to types or amounts of cost items.

3. *Definition of reasonableness.* A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with institutions or separate divisions thereof which may not be subject to effective competitive restraints. What is reasonable depends upon a variety of considerations and circumstances involving both the nature and amount of the cost in question. In determining the reasonableness of a given cost, consideration shall be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the institution or the performance of the grant/contract.

(b) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, Federal and State laws and regulations, and grant/contract terms and specifications;

(c) The action that a prudent businessman would take in the circumstances, considering his responsibilities to the public at large, the Government, his employees, his clients, shareholders or members and the fulfillment of the purposes for which the institution was organized; and

(d) Significant deviations from the established practices of the institution which may unjustifiably increase the grant/contract costs.

4. *Definition of allocability.* A cost is allocable if it is assignable or chargeable to a particular cost objective, such as a grant/contract, project, product, service, process, or other major activity, in accordance with the relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a Government grant/contract if it:

(a) Is incurred specifically for the grant/contract;

(b) Benefits both the grant/contract and other work and can be distributed to them in reasonable proportion to the benefits received; or

(c) Is necessary to the overall operation of the institution, although a direct relationship to any particular cost objective cannot be shown.

Where an organization utilizes the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations (or comparable generally accepted accounting standards peculiar to its particular organizational structure or activity) to allocate costs to non-HEW supported activities it must also use such standards to allocate costs to HEW grants/contracts.

5. *Applicable credits.* The term applicable credits refers to those receipt or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to grants or contracts as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges. The applicable portion of any income, rebate, allowance, and other credit relating to any allowable cost, received by or accruing to the grantee/contractor shall be credited to the Government either as a cost reduction or by cash refund, as appropriate.

C. Direct Costs

1. A direct cost is any cost which can be identified specifically with a particular cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor. Costs identified specifically with the grant/contract are direct costs of the grant/contract and may be charged directly thereto. Costs identified specifically with other work of the institution are direct costs of that work and are not to be charged to the grant/contract either directly or indirectly. Items charged as direct cost to Government-supported projects must be charged in a uniform manner to all other work of the institution in order to preclude an overcharge to the Government as a result of the Government's participation in the indirect cost pool. Conversely, where the institution's established accounting system provides for the treatment of certain items of cost as direct costs of the institution, then the same items must be considered direct costs to Government-supported projects and may not be included in the indirect cost pool.

2. Certain types of cost, or costs associated with certain activities are not reimbursable as a charge to a DHEW grant/contract. These unallowable costs or activities are identified in section G. Even though a particular activity or cost is designated as unallowable for purposes of computing costs charged to Government work, it nonetheless must be treated as a direct cost or activity if a portion of the institution's indirect cost (as defined in section D) is properly allocable to it. The amount of indirect cost allocated must be in accordance with the principles set forth in section D–2. In general, an unallowable institutional activity shall be treated as a direct function when it (1) includes salaries of personnel, (2) occupies space, and (3) is serviced by an indirect cost grouping(s). Thus the costs associated with the following types

of activities when normal or necessary to an institution's primary mission shall be treated as direct costs:

(a) Maintenance of membership rolls, subscriptions, publications and related functions.

(b) Providing services and information to members, legislative or administrative bodies or the public.

(c) Promotion, lobbying, and other forms of public relations.

(d) Meetings and conferences except those held to conduct the general administration of the institution.

(e) Fund raising.

(f) Maintenance, protection, and investment of special funds not used in operation of institutions.

(g) Administration of group benefits on behalf of members or clients including life and hospital insurance, annuity or retirement plans, financial aid, etc.

(h) Other activities performed primarily as a service to a membership, clients, or the public.

3. This definition shall be applied to all items of cost of significant amount unless the institution demonstrates that the application of any different current practice achieves substantially the same results. Direct cost items of minor amount may be distributed as indirect costs as provided in section D.

Dd. Indirect Costs

1. An indirect cost is one which, because of its incurrence for common or joint objectives, is not readily subject to treatment as a direct cost. Minor direct cost items may be considered to be indirect costs for reasons of practicality. After direct costs have been determined and charged directly to the grant/contract or other work as appropriate, indirect costs are those remaining to be allocated to the several classes of work. The overall objective of the allocation process is to distribute the indirect costs of the institution to its various major activities or cost objectives in reasonable proportions with the benefits provided to those activities or cost objective. Because of the diverse natures and purposes of organizations falling within the definition of a non-profit organization, it is impractical to specifically identify those functions which constitute major activities for purposes of identifying and distributing indirect costs. Such identification will be dependent upon an institution's purpose-in-being, the services it renders to the public, its clients and/or members, the amount of effort devoted to fund raising activities, public relations, and membership activities, etc. (See section G–2.)

2. Indirect costs shall be accumulated by logical cost groupings with due consideration of the reasons for incurring the costs. Each grouping should be determined so as to permit distribution of the grouping on the basis of the benefits accruing to the several cost objectives. Sub-grouping may be required where there is no single equitable distribution base for all the elements of cost comprising a group. Actual conditions must be taken into account in selecting the method or base to be used in distributing the expenses assembled under each of the individual cost groupings established to applicable cost objectives. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to the cost objectives should be made through use of a selected base which will produce results which are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base provided (1) it can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, manhours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (2) it is common to the cost objectives during the base period. The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to the cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

3. The number and composition of the groupings should be governed by practical considerations and should be such as not to complicate unduly the allocation where substantially the same results are achieved through less precise methods.

4. A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

E. Determination and Application of Indirect Cost Rate or Rates

1. *Indirect cost pools.* (a) Subject to (b) below, indirect costs allocable to an institution's direct functions should be treated as a common pool, and the costs in such common pool should then be distributed to the individual projects benefiting therefrom by use of a single rate.

(b) In some instances a single rate for use across the board on all activities at an institution may not be appropriate, since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of work at the institution. For this purpose, a particular segment of work may be that performed under a single grant/contract or it may consist of work under a group of grants/contracts performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of work is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that (1) such indirect cost rate differs significantly from that which would have been obtained under (a) above, and (2) the volume of work to which such rate would apply is material in relation to other activity at the institution.

2. *The distribution base.* Indirect costs should be distributed to each applicable project on the basis of direct salaries and wages, total direct costs or other basis which results in an equitable distribution. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to section E.1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the base selected.

F. Application of Principles and Procedures

1. Costs shall be allowed to the extent that they are reasonable (see B.3) allocable (see B.4) and determined to be allowable in view of the other factors set forth in paragraph B.2. and section G. These criteria apply to all of the selected items of cost which follow notwithstanding that particular guidance is provided in connection with certain specific items for emphasis or clarity.

2. Costs of all subcontracts under a grant or cost-reimbursement type contract are subject to those Federal cost regulations and policies appropriate to the subcontract involved. Thus if the subcontract is for supplies or services with a nonprofit institution other than an educational institution, hospital or State and local governmental unit this document would apply; if the subcontract is for supplies or services with a commercial organization, Federal Procurement Regulation Part 1.15.2 would apply; if the subcontract is with an educational institution, Appendix D to this Part (Federal Procurement Regulation Part 1.15.3) would apply; if the subcontract is with a hospital, the Department of Health, Education, and Welfare's Cost Principles for Hospitals would apply (see Appendix E to this Part).

3. Selected items of cost are treated in Section G. However, section G does not cover every element of cost and every situation that might arise in a particular case. Failure to treat any item of cost in Section G is not intended to imply that it is either allowable or unallowable. With respect to all items, whether or not specifically covered, determination of allowability shall be based on the principles and standards set forth in this document and, where appropriate, the treatment of similar or related selected items.

G. General Standards for Selected Items of Cost

Sections G–1 through G–46 provide standards to be applied in establishing the

allowability of certain items involved in determining costs. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost

2. *Bad debts.* Bad debts, including losses (whether actual or estimated) arising from uncollectible customers' accounts and other claims, related costs, and related legal costs,

(1) Compensation is paid in accordance with policy, programs, and procedures that effectively relate individual compensation to the individual's contribution to the

(f) Notwithstanding any other provisions of this subsection, costs of compensation are not allowable to the extent that they result from provisions of labor-management

contributions to pension and annuity plans, (ii) contributions to disability, withdrawal, insurance, survivorship, and similar benefit plans, and (iii) other deferred compensation.

institution to its employees as compensation in addition to regular wages and salaries. Costs of fringe benefits, such as pay for vacations, holidays, sick leave, military

allowability of certain items involved in determining costs. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of a discrepancy between the provisions of a specific grant/contract and the applicable standards provided, the provisions of the grant/contract shall govern. Under any given grant/contract the reasonableness and allocability of certain items of costs may be difficult to determine. This is particularly true in connection with nonprofit institutions which are so diverse in nature and not subject to effective competitive restraints. In order to avoid possible subsequent disallowance or dispute based on unreasonableness or nonallocability, it is important that institutions entering into grants or contracts with the Government seek agreement in advance of the incurrence of special or unusual costs in categories where reasonableness or allocability are difficult to determine. Such action may also be initiated by the Government. Examples of costs on which advance agreements may be particularly important are:

1. Compensation for personal services;
2. Consultant fees;
3. Deferred maintenance costs;
4. Excess facility costs;
5. Materiel, services, and supplies sold between organizations or divisions under common control;
6. Preaward costs;
7. Publication and public information costs;
8. Royalties;
9. Training and educational costs;
10. Travel costs, as related to special or mass personnel movement, and to the class of air-travel accommodations allowable;
11. Use charge for fully depreciated assets;
12. Depreciation or use charge on assets donated to the institution by third parties.

1. *Advertising costs.* (a) Advertising costs mean the costs of advertising media and corollary administrative costs. Advertising media include magazine, newspapers, radio, and television programs, direct mail, trade papers, outdoor advertising, dealer cards, and window displays, conventions, exhibits, free goods, and samples, and the like.

(b) The only advertising costs allowable are those which are solely for (1) the recruitment of personnel required for the performance by the institution of obligations arising under the grant/contract, when considered in conjunction with all other recruitment costs, as set forth in G.36; (2) the procurement of scarce items for the performance of the grant/contract or (3) the disposal of scrap or surplus materials acquired in the performance of the project. Costs of this nature, if incurred for more than one Government award or for both Government work and other work of the institution, are allowable to the extent that the principles in paragraphs B–3, B–4, and section D are observed.

2. *Bad debts.* Bad debts, including losses (whether actual or estimated) arising from uncollectible customers' accounts and other claims, related costs, and related legal costs, are unallowable.

3. *Bidding or proposal costs.* Bidding or proposal costs are the immediate costs of preparing bids or proposals on potential Government and non-Government contracts or projects or applications for financial assistance under Federal grant and contract programs, including development of scientific, engineering and cost data necessary to support the institution's bids, proposals or applications. Bidding costs of the current accounting period are allowable as part of the indirect cost pool. Costs of past accounting periods are unallowable. Bidding costs do not include any of those costs described in section G–16 and G–30.

4. *Bonding costs.* (a) Bonding costs arise when the Government requires assurance against financial loss to itself or others by reason of the act or default of the grantee/contractor. They arise also in instances where the grantee/contractor requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.

(b) Costs of bonding required pursuant to the terms of the grant/contract are allowable.

(c) Costs of bonding required by the grantee/contractor in the general conduct of its operations are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

5. *Civil defense costs.* (a) Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, fire fighting training and equipment, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when allocated to all work of the institution.

(b) Costs of capital assets under (a) above are allowable through depreciation or use charges in accordance with G–10.

(c) Contributions to local civil defense funds and projects are unallowable.

6. *Compensation for personal services—*
(a) *Definition.* Compensation for personal services includes all remuneration paid currently or accrued in whatever form and whether paid immediately or deferred for services rendered by employees of the institution during the period of grant/contract performance. It includes, but is not limited to salary, wages, directors' and executive committee members' fees, bonuses, incentive awards, employee insurance, fringe benefits, and contributions to pension, annuity, and management employee incentive compensation plans.

(b) *Allowability.* Except as otherwise specifically provided in this subsection, the costs of compensation for personal services are to be treated as allowable to the extent that:

(1) Compensation is paid in accordance with policy, programs, and procedures that effectively relate individual compensation to the individual's contribution to the performance of grant or contract work, result in internally consistent treatment of employees in like situations, and effectively relate compensation paid within the organization to that paid for similar services outside the organization;

(2) Total compensation of individual employees is reasonable for the services rendered; and

(3) Costs are not in excess of those costs which are allowable by the Internal Revenue Code and regulations thereunder.

(c) *Reasonableness.* (1) When the institution is predominantly engaged in activities other than those sponsored by the Federal Government, compensation for employees on federally sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the institution's other activities;

(2) When the institution is predominantly engaged in federally sponsored activities, and in cases where the kind of employees required for the federally sponsored activities are not found in the institution's other activities, compensation for employees on federally sponsored work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the institution competes for the kind of employees involved.

(d) *Review and approval of compensation of individual employees.* In determining the reasonableness of compensation, the compensation of each individual employee normally need not be subject to review and approval. Reviews and approvals of individuals need be made only in those cases in which a general review reveals amounts or types of compensation which appear unreasonable or otherwise out of line.

(e) *Special considerations in determining allowability.* Certain conditions require special consideration and possible limitation as to allowability for grant and contract cost purposes where amounts appear excessive. Among such conditions are the following:

(1) Compensation to share holders, members, trustees, directors, associates, officers or members of the immediate families thereof, or to persons who are contractually committed to acquire a substantial financial interest in the enterprise. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs.

(2) Any change in an institution's compensation policy resulting in a substantial increase in the institution's level of compensation, particularly when it was concurrent with an increase in the ratio of Government awards to other business, or any change in the treatment of allowability of specific types of compensation due to changes in Government policy.

(3) The institution's activities are such that its compensation levels are not subject to the restraints normally occurring in the conduct of competitive business.

(f) Notwithstanding any other provisions of this subsection, costs of compensation are not allowable to the extent that they result from provisions of labor-management agreements that, as applied to work in the performance of Government grants or contracts are determined to be unreasonable either because they are unwarranted by the character and circumstances of the work or because they are discriminatory against the Government. The application of the provisions of a labor-management agreement designed to apply to a given set of circumstances and conditions of employment (for example, work involving extremely hazardous activities or work not requiring recurrent use of overtime) is unwarranted when applied to a Government grant or contract involving significantly different circumstances and conditions of employment, (for example, work involving less hazardous activities or work continually requiring use of overtime). It is discriminatory against the Government if its results in individual personnel compensation (in whatever form or name) in excess of that being paid for similar non-Government work under comparable circumstances. Disallowance of costs will not be made under this subparagraph unless:

(1) The institution has been permitted an opportunity to justify the costs; and

(2) Due consideration has been given to whether there are unusual conditions pertaining to the Government work which impose burdens, hardships, or hazards on the institution's employees, for which compensation that might otherwise appear unreasonable is required to attract and hold necessary personnel.

(g)(1) In addition to the general requirements set forth in (a) through (f) of this subsection, certain forms of compensation are subject to further requirements as specified in (2) through (9) below.

(2) *Salaries and wages.* Salaries and wages for current services include gross compensation paid to employees in the form of cash, products, or services, and are allowable. However, see G.25 as it relates to compensation for overtime.

(3) *Incentive compensation.* Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc. are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the institution and the employees before the services were rendered, or pursuant to an established plan followed by the institution to consistently as to imply, in effect, an agreement to make such payment. Awards, and incentive compensation when deferred are allowable to the extent provided in (4) below.

(4) *Deferred compensation.* (a) As used herein, deferred compensation includes all remuneration, in whatever form, for which the employee is not paid until after the lapse of a stated period of years or the occurrence of other events as provided in the plans, except that it does not include normal end of accounting period accruals for regular salaries and wages. It includes (i) contributions to pension and annuity plans, (ii) contributions to disability, withdrawal, insurance, survivorship, and similar benefit plans, and (iii) other deferred compensation.

(b) Deferred compensation is allowable to the extent that (i) except for past service pension and retirement costs, it is for services rendered during the grant/contract period; (ii) it is, together with all other compensation paid to the employee, reasonable in amount; (iii) it is paid pursuant to an agreement entered into in good faith between the institution and its employees before the services are rendered, or pursuant to an established plan followed by the institution so consistently as to imply, in effect, an agreement to make such payments; (iv) the benefits of the plan are vested in the employees or their designated beneficiaries and no part of the deferred compensation reverts to the employer institution; (v) in the case of past service pension costs, it is amortized over a period of ten years or more; and (vi) for a plan which is subject to approval by the Internal Revenue Service, it falls within the criteria and standards of the Internal Revenue Code and the regulations of the Internal Revenue Service.

(c) In determining the cost of deferred compensation allowable under the grant or contract, appropriate adjustments shall be made for credits or gains, including those arising out of both normal and abnormal employee turnover, or any other contingencies that can result in a forfeiture by employees of such deferred compensation. Adjustments shall be made only for forfeitures which directly or indirectly inure to the benefit of the institution; forfeitures which inure to the benefits of other employees covered by a deferred compensation plan with no reduction in the institution's costs will not normally give rise to an adjustment in grant/contract costs. Adjustments for normal employee turnover shall be based on the institution's experience and on foreseeable prospects, and shall be reflected in the amount of cost currently allowable. Such adjustments will be unnecessary to the extent that the institution can demonstrate that its contributions take into account normal forfeitures. Adjustments for possible future abnormal forfeitures shall be effected according to the following rules:

(i) Abnormal forfeitures that are foreseeable and which can be currently evaluated with reasonable accuracy, by actuarial or other sound computation shall be reflected by an adjustment of current costs otherwise allowable; and

(ii) Abnormal forfeitures, not within (i) above, may be made the subject of agreement between the Government and the institution either as to an equitable adjustment or a method of determining such adjustment.

(d) In determining whether deferred compensation is for services rendered during the agreement period or is for future services, consideration shall be given to conditions imposed upon eventual payment, such as requirements of continued employment, consultation after retirement, and covenants not to compete.

(5) *Fringe benefits.* Fringe benefits are allowances and services provided by the institution to its employees as compensation in addition to regular wages and salaries. Costs of fringe benefits, such as pay for vacations, holidays, sick leave, military leave, employee insurance, and supplemental unemployment benefit plans are allowable to the extent required by law, employer-employee agreement, or an established policy of the institution.

(6) Severance pay. See G.40.

(7) Training and education expenses. See G.44.

(8) *Location allowances.* (a) "Location allowances," sometimes called "supplemental pay" or "incentive pay," are compensation in addition to normal wages or salaries and are paid by institutions to especially compensate or induce employees to undertake or continue work at locations which may be isolated or in an unfavorable environment. Location allowances include extra wage or salary payments in the form of station allowances, extended per diem, or mileage payments for daily commuting; they also include such benefits as institution-furnished housing. Payment of location allowances shall be allowed as costs under grants and cost-reimbursement type contracts, or recognized in pricing fixed-price type contracts, only with prior approval in writing from the awarding agency and only where and so long as the isolation or unfavorable environment of the site makes such payments necessary to the accomplishment of the work without unacceptable delays. Whether the site is so isolated, or its environment is so unfavorable, as to require location allowances is to be determined in the light of (a) its location and climate; (b) the availability and adequacy of housing within reasonable commuting distance; and (c) the availability and adequacy of educational, recreational, medical, and hospital facilities. The extent to which compensation includes location allowances is to be determined by comparing it with (a) the institution's normal compensation policy, including pay scales at its principal operating locations; (b) pay scales of other organizations and concerns operating at or near the site; and (c) compensation paid by other concerns within the same field for similar services elsewhere.

(b) Locations for which location allowances are paid shall be reviewed at least once a year to determine whether such allowances should continue to be allowed.

(9) *Support of salaries and wages.* (a) Direct charges for professionals must be supported by either:

(i) An adequate appointment and workload distribution system, accompanied by monthly reviews performed by responsible change in workload distribution of each professional (i.e., an exception reporting system) or

(ii) A monthly after-the-fact certification system which will require persons in supervisory positions having firsthand knowledge of the services performed to report the distribution of effort (i.e., a positive reporting system). Such reports must account for the *total* salaried effort of the persons covered. Consequently, a system which provides for the reporting only of effort

applicable to federally sponsored activities is not acceptable.

(b) Direct charges for salaries and wages of nonprofessionals will be supported by time and attendance and payroll distribution records.

(c) Allowable indirect personal services costs will be supported by the institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government representatives.

7. *Capital expenditures.* The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment, are unallowable except as provided for in the grant/contract.

8. *Contingencies.* (a) A contingency is a possible future event or condition arising from presently known or unknown causes, the outcome of which is indeterminable at the present time.

(b) In historical costing, contingencies are not normally present since such costing deals with costs which have been incurred and recorded on the institution's books. Accordingly, contingencies are generally unallowable for historical costing purposes. However, in some cases, as for example, terminations, a contingency factor may be recognized which is applicable to a past period to give recognition to minor unsettled factors in the interest of expeditious settlement.

(c) In connection with estimates of future costs, contingencies fall into two categories:

(1) Those which may arise from presently known and existing conditions, the effects of which are foreseeable within reasonable limits of accuracy; e.g., pension funds, sick leave, and vacation accruals, etc. In such situations where they exist, contingencies of this category are to be included in the estimates of future cost so as to provide the best estimate of performance costs; and

(2) Those which may arise from presently known or unknown conditions, the effect of which cannot be measured so precisely as to provide equitable results to the institution and to the Government; e.g., results of pending litigation, and other general business risks. Contingencies of this category are to be excluded from cost estimates under the several items of cost, but should be disclosed separately, including the basis upon which the contingency is computed in order to facilitate the negotiation of appropriate contractual coverage (see, for example, G-17, G-21, and G-40).

9. *Contributions and donations.* (a) Contributions and donations by the grantee/contractor are unallowable.

(b) The value of donated services or goods provided by individual volunteers or members of volunteer organizations is not an allowable cost; however, the fair market value of donated services or goods utilized in the performance of a direct cost activity as defined in C.1 and C.2 shall be considered in the determination of the indirect cost rate(s) and, accordingly, shall be allocated a proportionate share of indirect cost.

10. *Depreciation and use allowances.* (a) Institutions may be compensated for the use of buildings, capital improvements and usable equipment on hand through depreciation or use allowances. Depreciation is a charge to current operations which distributes the cost of a tangible capital asset, less estimated residual value, over the estimated useful life of the asset in a systematic and logical manner. It does not involve a process of valuation. Useful life has reference to the prospective period of economic usefulness in the particular institution's operations as distinguished from physical life. Use allowances are the means of allowing compensation when depreciation or other equivalent costs are not considered.

(b) Depreciation or a use allowance on assets donated by third parties is allowable. However, any limitations on the amount of depreciation which would have applied to the donor as a result of restrictions contained in this Section shall also apply to the recipient organization.

(c) Due consideration will be given to Government-furnished facilities utilized by the institution when computing use allowances and/or depreciation if the Government-furnished facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of grounds, buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides, and secondly, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits, and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided in the institution's books of account, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to the grant or contract is developed from the amount thus amortized for the base period involved.

(d) Normal depreciation on an institution's plant, equipment, and other capital facilities, except as excluded by (d) below, is an allowable element of cost provided that the amount thereof is computed:

(1) Upon a property cost basis which could have been used by the institution for Federal Income Tax purposes, had such institution been subject to the payment of income tax; and

(2) By the consistent application to the assets concerned of any generally accepted accounting method, and subject to the limitations of the Internal Revenue Code of 1954 as amended, including—

(i) The straight line method;

(ii) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in (i) above;

(iii) The sum-of-the-years-digits method; and

(iv) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the use of the property and including the current year, does not during the first two-thirds of the useful life of the property exceed the total of such allowances which would have been used had such allowances been computed under the method described in (ii) above.

(v) Where the depreciation method is followed, adequate property records must be maintained. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

(vi) Depreciation on idle or excess facilities shall not be allowed except on such facilities as are reasonably necessary for standby purposes. (See G. 13.)

(vii) Where an institution elects to go on a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that would be viewed as fully depreciated. *Provided, however,* that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

(viii) Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding 10 percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable equipment which may be used to compute the use allowance at an annual rate not exceeding 6⅔ percent of such estimate.

(ix) Depreciation and/or use charges should usually be allocated to all activities as an indirect cost.

11. *Employee morale, health, welfare costs, and credits.* (a) Employee morale, health, and welfare activities are those services or benefits provided by the institution to its employees to improve working conditions, employer-employee relations, employee morale, and employee performance. Such activities include house publications, health or first-aid clinics, recreation, employee counseling services and, for the purpose of this paragraph, food and dormitory services. Food and dormitory services include operating or furnishing facilities for cafeterias, dining rooms, canteens, lunch wagons, vending machines, living accommodations, or similar types of services for the institution's employees at or near its facilities.

(b) Except as limited by (c) below, the aggregate of costs incurred on account of all activities mentioned in (a) above, less income generated by all such activities is allowable to the extent that the net amount is reasonable.

(c) Losses from the operation of food and dormitory services may be included as cost incurred under (b) above, only if the institution's objective is to operate such services on a break-even basis. Losses sustained because food services or lodging accommodations are furnished without charge or at prices or rates which obviously would not be conducive to accomplishment of the above objective, are not allowable, except that a loss may be allowed to the extent the institution can demonstrate that unusual circumstances exist (e.g., (1) where the institution must provide food or dormitory services at remote locations where adequate commercial facilities are not reasonably available or (ii) where it is necessary to operate a facility at a lower volume than the facility could economically support) such that, even with efficient management, operation of the services on a break-even basis would require charging inordinately high prices or prices or rates higher than those charged by commercial establishments offering the same services in the same geographical areas.

(d) In those situations where the institution has an arrangement authorizing an employee association to provide or operate a service such as vending machines in the institution's plant, and retain the profits derived therefrom, such profits shall be treated in the same manner as if the institution were providing the service (but see (e)).

(e) Contributions by the institution to an employee organization, including funds set over from vending machine receipts or similar sources, may be included as cost incurred under (b) above only to the extent that the institution demonstrates that an equivalent amount of the costs incurred by the employee organization would be allowable if incurred by the institution directly.

12. *Entertainment costs.* Costs of amusement, diversion, social activities, ceremonials, and incidental costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable (but see G-11 and G-43).

13. *Excess facility costs.* (a) As used in this paragraph, the words and phrases defined in this subparagraph (a) shall have the meanings set forth below.

(1) Facilities means plant or any portion thereof (inclusive of land integral to the operation); equipment indivdually or collectively; or any other tangible capital asset, wherever located, and whether owned or leased by the institution.

(2) Idle Facilities means completely unused facilities that are excess to the institution's current needs.

(3) Idle Capacity means the unused capacity of partially used facilities. It is the difference between that which a facility could achieve under 100 percent operating time on a one shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materiels, and other normal delays, and the extent to which the facility was actually used to meet demands during the accounting period. (A multiple shift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.)

(4) Costs of idle facilities or idle capacity are costs such as maintenance, repair, housing, rent, and other related costs, e.g., property taxes, insurance, and depreciation.

(b) The costs of idle facilities are unallowable except to the extent that:

(i) They are necessary to meet fluctuations in workload; or

(ii) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, grantee/ contractor efforts to produce more economically, reorganization, termination, or other causes which could not have been reasonably foreseen.

Under the exception stated in (ii) of this subparagraph (b), costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed 1 year, depending upon the initiative taken to use, lease, or dispose of such facilities (but see G.42(b) and (e)).

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or overhead rates from period to period. Such costs are allowable, provided the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economics, or security practices. Widespread idle capacity throughout an entire plant or among a group of assets having substantially the same function may be idle facilities.

14. *Fines and penalties.* Costs of fines and penalties resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the grant or contract instructions in writing from the awarding agency.

15. *Fringe benefits.* (See G.–6–(g)–(5.)

16. *Independent research and development.* (a) An institution's independent research and development (I.R. & D.) is that research and development which is not sponsored by the Government or a non-Government organization or agency under a grant/contract or other arrangement.

(b) Basic research, for the purpose of this document, is that type of research which is directed toward increase of knowledge within a particular discipline. In such research, the primary aim of the investigator is a fuller knowledge or understanding of the subject under study, rather than any practical application thereof. Applied research, for the purpose of this document consists of that type of effort which (1) is normally derived from the results of basic research, but may not be severable from the related basic research, (2) attempts to determine and expand the potentialities of new scientific discoveries or improvements in technology, materiels, processes, methods, devices, and techniques, and (3) attempts to "advance the state of the art." Applied research, does not include any such efforts when their principal aim is the design, development, or test of specific articles or services to be offered for sale, which are within the definition of the term development as defined in (c) below. Census research, for the purpose of this document, is that type of activity devoted to the compilation and interpretation of statistical and other analytical information acquired through survey (e.g., interview, circularization of questionnaires), observations or from books, treatises, articles or other sources relative to specifically defined activities, occurrences or conditions for the purpose of accomplishing some scientific end.

(c) "Development" is the systematic use of scientific knowledge which is directed toward the production of, or improvements in, useful products to meet specific performance requirements, but exclusive of manufacturing and production engineering.

(d) Independent research and development will be treated in a manner consistent with the treatment of sponsored research and development. Accordingly, an institution's I.R. & D. shall be allocated in proportionate share of indirect costs on the same basis that indirect costs are allocated to sponsored research and development.

(e) The cost of an institution's I.R. & D. including its proportionate share of indirect costs, is unallowable.

17. *Insurance and indemnification.* (a) Insurance includes insurance which the institution is required to carry, or which is approved, under the terms of the grant or contract and any other insurance which the institution maintains in connection with the general conduct of its business.

(1) Costs of insurance required or approved, and maintained, pursuant to the grant or contract are allowable.

(2) Costs of other insurance maintained by the institution in connection with the general conduct of its business are allowable subject to the following limitations:

(i) Types and extent and cost of coverage are in accordance with sound institutional practice;

(ii) Costs of insurance or of any contributions to any reserve covering the risk of loss of, or damage to, Government property are unallowable except to the extent that the Government has specifically required or approved such costs;

(iii) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation (see G-6(b)(2)). The costs of such insurance when the institution is named as beneficiary are unallowable; and

(iv) Costs of insurance against defects are unallowable.

(b) Actual losses which could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable, except as otherwise provided in the grant or contract or unless expressly provided for in an approved budget, or the absence of insurance or adequate insurance was considered in the negotiation of the grant or contract.

(c) Costs of contingency reserves established for self-insurance, whether or not segregated, are unallowable with the following exceptions:

(i) Costs of self-insurance reserves covering risks arising from the operation of motor vehicles may be allowed, provided the reserves are actuarially developed and adequately supported;

(ii) Costs of self-insurance reserves covering risks arising from public liability may be allowed, provided the reserves are actuarially developed and adequately supported; and

(iii) Costs of self-insurance reserves covering risks arising from errors and omissions may be allowed, provided the reserves are actuarially developed and adequately supported.

(d) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public are allowable, except that costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of motor vehicles are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(e) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of aircraft are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(f) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of watercraft are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(g) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of vehicles are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(h) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of equipment are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(i) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of property are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(j) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(k) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(l) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(m) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(n) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(o) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(p) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(q) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(r) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(s) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(t) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(u) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(v) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(w) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(x) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(y) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(z) Costs of premiums for insurance against loss of life, personal injury, or property damage suffered by the public resulting from the operation of other types of activities are allowable only to the extent that the coverage is reasonable in relation to the exposure and conforms to sound practice.

(c) Reasonable adjustments arising from differences between periodic physical inventories and book inventories may be

taxing and other regulatory bodies; and incidental costs of director and committee meetings. The above and similar costs are

27. *Pension plans.* (See G–6–(g)–(8).)

28. *Plant protection costs.* Costs of items such as (a) wages, uniforms, and equipment

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of

(2) Costs of other insurance maintained by the institution in connection with the general conduct of its business are allowable subject to the following limitations:

(a) Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances;

(b) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of profit;

(c) Costs of insurance or of any provision for a reserve covering the risk of loss of or damage to Government property are allowable only to the extent that the institution is liable for such loss or damage and such insurance or reserve does not cover loss or damage which results from willful misconduct or lack of good faith on the part of any of the institution's trustees, directors or officers, or other equivalent representatives, who have supervision or direction of (i) all or substantially all of the institution's business, or (ii) all or substantially all of the institution's operations at any one separate location in which the grant or contract is being performed, or who are specifically identified as the project director in the project or otherwise primarily responsible for the direction and/or execution of the project supported by the grant or contract.

(d) Provisions for a reserve under an approved self-insurance program are allowable to the extent that types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks; and

(e) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation. (See G-6).

(3) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant or contract, except:

(a) Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice, are allowable; and

(b) Minor losses not covered by insurance, such as spoilage, breakage, and disappearance of supplies, which occur in the ordinary course of doing business, are allowable.

(c) Indemnification includes securing the institution against liabilities to third persons and any other loss or damage not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided in (a)(3) above.

18. *Interest and other financial costs.* (a) Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

(b) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are unallowable.

(c) Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

(d) Where substantial effort or time is devoted to fund raising and investment activities as described in (b) and (c) in relation to other functions of an institution, such activities shall be considered as a major activity of the institution and shall be allocated its share of indirect costs in accordance with section D. (See also C-2.)

19. *Labor relations costs.* Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employee publications, and other related activities, are allowable.

20. *Losses on other grants or contracts.* Any excess of costs over income on any grant or contract is unallowable as a cost of any other grant or contract.

21. *Maintenance and repair costs.* (a) Costs necessary for the upkeep of property (including Government property unless otherwise provided for), which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are to be treated as follows (but see G-10):

(1) Normal maintenance and repair costs are allowable:

(2) Extraordinary maintenance and repair costs are allowable provided such are allocated to the periods to which applicable for purposes of determining grant or contract costs.

(b) Expenditures for plant and equipment, including rehabilitation thereof, which, according to generally accepted accounting principles as applied under the institution's established policy, should be capitalized and subjected to depreciation, are allowable only on a depreciation basis.

22. *Materials costs.* (a) The cost of consumable supplies, serum, drugs, fabricated parts, and other materials necessary to carry out the objectives of a grant or contract, whether purchased outside or manufactured by the institution are allowable subject to the provisions (b) through (e) below. The cost may include such collateral items as inbound transportation and intransit insurance.

In computing these costs consideration will be given to reasonable overruns, spoilage, or defective work if consistent with the nature of the project being performed and the recognized practice of the industry.

(b) Costs of material shall be suitably adjusted for applicable portions of income and other credits, including available trade and cash discounts, refunds, rebates, allowances, and credits for scrap and salvage and materiel returned to vendors. Such income and other credits shall either be credited directly to the cost of the materiel involved or be allocated (as credits) to indirect costs. However, where the institution can demonstrate that failure to take cash discounts was due to reasonable circumstances, such lost discounts need not be so credited.

(c) Reasonable adjustments arising from differences between periodic physical inventories and book inventories may be included in arriving at costs, provided such adjustments relate to the period of performance of the grant or contract.

(d) When the materiels are purchased specifically for and identifiable solely with performance under a grant or contract, the actual purchase cost thereof should be charged to that grant or contract. If materiel is issued from stores, any generally recognized method of pricing such materiel is acceptable if that method is consistently applied and the results are equitable. When estimates of materiel costs to be incurred in the future are required, either current market price or anticipated acquisition cost may be used, but the basis of pricing must be disclosed.

(e) Allowance for all materiels, supplies and services which are sold or transferred between any division, subsidiary or affiliate of the institution under a common control shall be on the basis of cost incurred in accordance with these principles, except that when it is the established practice of the transferring organization to price intercorganization transfers of materiels, supplies and services at other than cost for non-Government work of the institution or any division, subsidiary or affiliate of the institution under a common control, allowance may be at a price when:

(1) It is or is based on an "established catalog or market price of commercial items sold in substantial quantities to the general public;" or

(2) It is the result of "adequate price competition" and is the price at which an award was made to the affiliated organization after obtaining quotations on an equal basis from such organization and one or more outside sources which normally produce the item or its equivalent in significant quantity.

Provided, that in either case:

(1) The price is not in excess of the transferor's current sales price to his most favored customer (including any division, subsidiary, or affiliate of the institution under a common control) for a like quantity under comparable conditions, and

(2) The price is not determined to be unreasonable by the awarding agency.

The price determined in accordance with (1) above should be adjusted, when appropriate, to reflect the quantities being procured and may be adjusted upward or downward to reflect the actual cost of any modifications necessary because of grant or contract requirements.

23. *Organization costs.* Expenditures, such as incorporation fees, attorney's fees, accountant's fees, broker's fees, fees to promoters and organizers, in connection with (a) organization or reorganization of a business, or (b) raising capital, are unallowable unless specified otherwise in the grant or contract.

24. *Other business expenses.* Included in this item are such recurring expenses as preparation and publication of reports to members and trustees; preparation and submission of required reports and forms to taxing and other regulatory bodies; and incidental costs of director and committee meetings. The above and similar costs are allowable when allocated on an equitable basis.

25. *Overtime, extra-pay shift and multishift premiums.* Premiums for overtime, extra-pay shifts, and multishift work are allowable only to the extent approved by the awarding agency except:

(a) When necessary to cope with emergencies, such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(b) When by indirect labor employees such as those performing duties in connection with administration, protection, transportation maintenance, standby plant protection, operation of utilities, or accounting;

(c) In the performance of tests, laboratory procedures, or other similar operations which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or

(d) When lower overall cost to the Government will result.

Overtime premiums and shift premiums may be considered proper for approval when determined in writing by the awarding agency that approval:

(a) Is necessary to meet delivery or performance schedules, and such schedules are determined to be extended to the maximum consistent with essential program objectives;

(b) Is necessary to make up for delays which are beyond the control and without the fault or negligence of the institution;

(c) Is necessary to eliminate foreseeable bottlenecks of an extended nature which cannot be eliminated in any other way.

Approvals should ordinarily be prospective, but may be retroactive where justified by the circumstances. Such approvals may be for an individual grant or contract project, or program, or for a division, department, or branch, as most practicable.

Overtime for which overtime premiums would be at Government expense should not be approved under an award where the institution is already obligated, without the right to additional compensation, to meet the required delivery date.

Where overtime premiums or shift premiums are being paid at Government expense in connection with the performance of Government grant or contract the continued need therefor should be subject to periodic review by the awarding agency.

26. *Patent and copyright costs.* Costs of preparing disclosures, reports, and other documents required by the grant/contract and of searching the art to the extent necessary to make such disclosures, are allowable. In accordance with the conditions of the grant or contract relating to patents or copyrights, costs of preparing documents and any other costs, in connection with the filing of a patent application or copyright where title is conveyed to the Government, are allowable. However, similar costs incurred in connection with patents or copyrights where title is not conveyed to the Government are unallowable. (See C-39.)

27. *Pension plans.* (See C-8(g)-(j).)

28. *Plant protection costs.* Costs of items such as (a) wages, uniforms, and equipment of personnel engaged in plant protection; (b) depreciation on plant protection capital assets, and (c) necessary expenses to comply with security requirements are allowable.

29. *Plant reconversion costs.* Plant reconversion costs are those incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to the commencement of the grant or contract work, fair wear and tear excepted. Reconversion costs are unallowable except for the cost of removing Government property and the restoration or rehabilitation costs caused by such removal. However, in special circumstances where equity so dictates, additional costs may be allowed to the extent agreed upon in writing before the costs are incurred. Whenever such costs are given consideration, care should be exercised to avoid duplication through allowance as contingencies, as additional profit or fee, or in other grants or contracts.

30. *Preaward costs.* Preaward costs are those incurred prior to the effective date of the grant or contract directly pursuant to the negotiation and in anticipation of the award of the grant or contract where such incurrance is necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the prior written approval of the awarding agency.

31. *Professional service cost—legal, accounting, scientific and other.* (a) Costs of professional services rendered by members of a particular profession who are not employees of the institution are allowable, subject to (b), (c) and (d) below, when reasonable in relation to the services rendered. (But see G-23.);

(b) Factors to be considered in determining the allowability of costs in a particular case includes:

(1) The nature and scope of the service rendered in relation to the service required;

(2) The necessity of contracting for the service considering the institution's capability in the particular area;

(3) The past pattern of such costs, particularly in years prior to the award of Government work;

(4) The impact of Government work on the institution's business (i.e., what new problems have arisen);

(5) Whether the proportion of Government work to the institution's total business is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government grants/contracts;

(6) Whether the service can be performed more economically by employment rather than by contracting;

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on nongovernment grants/contracts;

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required; rate of compensation; termination provisions).

(c) Retainer fees to be allowable must be reasonably supported by evidence of bona fide services available or rendered.

(d) Costs of legal, accounting, and consulting service, and related costs, incurred in connection with organization and reorganization, defense of anti-trust suits, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with patent or copyright infringement litigation, are unallowable unless otherwise provided for in the grant or contract.

32. *Profits and losses on disposition of plant equipment, or other capital assets.* Profits or losses of any nature arising from the sale or exchange of plant equipment, or other capital assets, including sale or exchange of either short- or long-term investments, shall be excluded in computing grant or contract costs.

33. *Public information services costs.* Public information services costs include the costs associated with promotions, public relations, pamphlets, news releases, and other forms of information services. Such costs are normally incurred to:

(a) Inform or instruct individuals, groups or the general public about health or social problems;

(b) Interest individuals or groups in participating in a service program of the institution;

(c) Provide stewardship reports to State and local Government agencies, benefactor foundations and associations, etc.;

(d) Appeal for funds;

(e) Disseminate the results of sponsored and non-sponsored research or other activity to the scientific community.

To the extent that the costs incurred for any of these purposes are identifiable with a particular cost objective they should be charged to the objective to which they relate.

If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all major activities of the institution except that costs related to fund-raising appeals are unallowable as costs of grants and contracts.

Public information service costs are unallowable as a direct cost of grants and contracts unless formally approved by the awarding agency.

34. *Publication and printing costs.* Publication costs include the costs of printing (including the processes of composition, platemaking, press work, binding) and the end products produced by such processes), distribution, promotion, mailing and general handling.

Publication costs are unallowable as a direct cost of grants and contracts unless formally approved by the awarding agency.

35. *Rearrangement and alteration costs.* Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when written approval

has been given in advance by the awarding agency.

38. *Recruitment costs.* (a) Subject to (b), (c) and (d) below, costs incurred in recruitment of personnel to the extent that such costs are incurred pursuant to a well-managed recruitment program, are allowable. Costs of operating a personnel office and costs incurred in attracting personnel of the kind and quality usually needed are allowable. Costs of special emoluments, fringe benefits, and salaries over the normal scale are unallowable.

(b) Costs of help-wanted advertising that result in specific recruitment of individuals necessary for the performance of grants or contracts are allowable to the extent that the size, length, frequency, and media of the advertisements are reasonable.

(c) Costs of operating an employment office and costs incurred in maintaining a list of prospective employees are allowable to the extent that the costs are limited to those necessary to achieve a reasonable expectation of filling a vacancy when it occurs.

(d) Costs of travel of prospective employees are allowable to the extent that such travel is consistent with the institution's travel policy.

39. *Relocation costs.* Relocation costs are costs incident to the permanent change of duty station of an employee. Subject to the following provisions, relocation costs are allowable to the extent that they are reasonable and are incurred pursuant to an established policy which is consistently followed by the institution.

(a) Costs of moving the employee, his family, and household effects, including costs of temporary quarters, are allowable when the new duty station is at least 50 miles distant from the old duty station.

(b) Costs of travel to the new duty station are allowable for the employee and members of his family while occupying temporary quarters.

(c) Costs of temporary quarters are allowable for a period not exceeding 30 days.

(d) Costs of house-hunting trips are allowable when the new duty station is at least 50 miles distant from the old duty station.

(e) Costs of temporary storage of household goods are allowable for a period not exceeding 30 days.

(f) Costs of the disposal of an employee's residence and other costs incident to the settlement of a lease, including brokerage fees, transfer taxes, and costs of canceling an unexpired lease are unallowable.

(g) Costs of the purchase of a residence by the employee, including points, loan fees, and other costs incident to the purchase are unallowable.

(h) Costs of the sale of a residence by the employee, including the usual costs of selling, such as commissions, attorney's fees, and similar costs are unallowable.

(i) Costs for losses on the sale of a residence owned by the employee prior to the date of transfer of employment or subsequent thereto are unallowable.

(j) Costs for purchase options, and costs of canceling such options are unallowable.

(k) Costs of maintaining, managing, and disposing of a residence, including costs such as utilities, taxes, insurance, rent, upkeep and repairs are unallowable.

(l) Costs incident to the purchase or lease of a residence in a location in which it is unreasonable for the employee to reside in the performance of his duties are unallowable.

(m) Costs allowed under this section shall be limited to those costs which are incurred not later than 1 year following the change of the employee's duty station.

40. *Rental costs.* Rental costs are costs for the use of real property or equipment, regardless of the method by which payment is made. Rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased. Rental costs under "sale and leaseback" arrangements are allowable only up to the amount that would be allowed had the institution continued to own the property. This amount would include depreciation, interest on borrowed capital, but no land costs. Rental costs under "less-than-arm's-length" leases are allowable only up to the amount that would be allowed had title to the property been vested in the institution. For this purpose, a less-than-arm's-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between divisions of an institution; those between an institution and its employees; those between an institution and a profit-making organization which is closely associated with the institution by ownership or management; and those between an institution and a nonprofit organization which is closely associated with the institution, for example, an institution and its fund-raising foundation.

41. *Royalties and other costs for use of patents.* Royalties on a patent or copyright or amortization of the cost of acquiring a patent or copyright purchased after August 30, 1957, are allowable unless the Government has a right to a free use of the patent or copyright or to purchase it at a reasonable price. Royalties paid for patents which are unenforceable, for example, because they have been held invalid, or have expired, are unallowable. Royalties paid prior to the grant or contract, under certain circumstances, may be allowable. (See C-38.)

42. *Selling and marketing.* Costs of selling and marketing any products or services of the institution are unallowable, except as direct costs, if specifically provided for in the grant or contract.

43. *Taxes.* (a) In general, taxes which the institution is required to pay are allowable except for (1) taxes from which exemptions are available to the institution directly or which are available to the institution by means of an exemption granted to another organization, and (2) special assessments on land which represent capital improvements.

(b) Any refund of taxes, and any payment to the institution of interest thereon, which were allowed as grant or contract costs, shall be credited or paid to the awarding agency. However, any interest actually paid or credited to an institution incident to a refund of taxes (and related interest) for which it was not previously reimbursed is allowable to the extent that such interest accrued over the period during which the institution had been reimbursed for the taxes, but not to exceed the amount the institution would have received had legal title to the facilities been vested in it.

be considered on a case-by-case basis in the event of occurrence.

[illegible] Taxes on certain charges made by the institution are unallowable. (See C-4.)

[illegible] Taxes which are refundable, even though not refunded, are unallowable.

44. *Termination costs.* Termination costs are costs of terminating grants or contracts, or a portion thereof, either for the convenience of the Government or for the convenience of the institution. Termination costs are allowable to the extent that they are reasonable and are incurred pursuant to an established policy which is consistently followed by the institution.

(a) Costs of severance pay to employees terminated as a result of the termination are allowable.

(b) Costs of continuing rental, maintenance, and other costs incurred after the termination are unallowable.

(c) Costs of settlement with subcontractors, including costs of legal and accounting services incurred in connection therewith, are allowable.

(d) Costs of settlement with employees, including costs of legal and accounting services incurred in connection therewith, are unallowable.

(e) Inventory disposal costs are allowable to the extent that they are reasonable.

(f) Costs of legal and accounting services incurred in connection with the preparation of the termination claim are allowable.

45. *Training costs.* Costs of training institution employees are allowable to the extent that they are reasonable and are incurred pursuant to an established policy which is consistently followed by the institution.

46. *Transportation costs.* Costs incurred for freight, express, cartage, postage, and other transportation services relating to goods purchased, in process, or delivered, are allowable. When such costs can be readily identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, such costs may be charged to indirect cost accounts.

47. *Travel costs.* Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, are allowable to the extent that such costs are reasonable and are incurred pursuant to an established policy which is consistently followed by the institution.

48. *Trustees.* Travel costs of trustees, directors, and associate members of the institution are allowable.

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has been given in advance by the awarding agency.

36. *Recruitment costs.* (a) Subject to (b), (c), and (d) of this G–36, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of help-wanted advertising, operating costs of an employment office necessary to secure and maintain an adequate labor force, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, and travel costs of applicants for interviews for prospective employement are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

(b) In publications, costs of help-wanted advertising that (1) includes color, (2) includes advertising materiel for other than recruitment purposes, or (3) is excessive in size (taking into consideration recruitment purposes for which intended and normal business practices in this respect) are unallowable.

(c) Costs of (1) help-wanted advertising and (2) excessive salaries, fringe benefits, and special emoluments that have been offered to prospective employees, designed to attract personnel from another institution performing as grantee or contractor to the Government, or in excess of the standard practices in comparable institutions, are unallowable.

(d) Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution shall be required to refund or credit such relocation costs to the Government.

37. *Relocation costs.* (a) Relocation costs, for the purpose of this document, are costs incident to the permanent change of duty assignment (for an indefinite period, or for a stated period of no less than 12 months) of an existing employee or upon recruitment of a new employee. These costs may include, but are not limited to cost of (i) transportation of the employee, members of his immediate family and his household and personal effects to the new location; (ii) finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period; (iii) closing costs (i.e., brokerage fees, legal fees, appraisal fees, etc.), incident to the disposition of housing; (iv) other necessary and reasonable expenses normally incident to relocation, such as cost of cancelling an unexpired lease, disconnecting or reinstalling household appliances, and purchase of insurance against damages to personal property; (v) loss on sale of home; and (vi) acquisition of a home in a new location (i.e., brokerage fees, legal fees, appraisal fees, etc.).

(b) Subject to (c) below, relocation costs of the type covered in (a) (i), (ii), (iii), and (iv) above are allowable, provided (i) the move is for the benefit of the employer; (ii) reimbursement is in accordance with an established policy or practice consistently followed by the employer, and such policy or practice is designed to motivate employees to relocate promptly and economically; (iii) the costs are not otherwise unallowable under the provisions of G–36 or any other paragraph of this document and (iv) amounts to be reimbursed shall not exceed the employee's actual (or reasonably estimated) expenses.

(c) Costs otherwise allowable under (b) above are subject to the following additional provisions: (i) the transition period for incurrance of costs of the type covered in (a) (ii) above shall be kept to the minimum number of days necessary under the circumstances, but shall not, in any event, exceed a cumulative total of 30 days including advance trip time; and (ii) allowance for cost of the type covered in (a)(iii) above shall not exceed 8 percent of the sales price of the property sold. Costs of the type covered in (a) (iii) and (iv) above are allowable only in connection with the relocation of existing employees, and are not allowable for newly recruited employees.

(d) Costs of the type covered in (a) (v) and (vi) above are not allowable.

38. *Rental costs (including sale and leaseback of facilities).* (a) Rental costs of land, building, and equipment and other personal property are allowable if the rates are reasonable in light of such factors as rental costs of comparable facilities and market conditions in the area, the type, life expectancy, condition, and value of the facilities leased, options available, and other provisions of the rental agreement. Application of these factors, in situations where rentals are extensively used, may involve among other considerations, comparison of rental costs with the amount which the institution would have received had it owned the facilities.

(b) Charges in the nature of rent between plants, divisions, or organizations under common control are allowable to the extent such charges do not exceed the normal costs of ownership, such as depreciation, taxes, insurance, and maintenance: Provided, That no part of such costs shall duplicate any other allowed costs.

(c) Unless otherwise specifically provided in the grant or contract, rental costs specified in sale and leaseback agreements, incurred by institutions through selling plant facilities to investment organizations, such as insurance companies, associate institutions, or to private investors, and concurrently leasing back the same facilities, are allowable only to the extent that such rentals do not exceed the amount which the grantee/contractor would have received had it retained legal title to the facilities.

(d) Rentals for land, building and equipment and other personal property owned by affiliated organizations including corporations or by stockholders, members, directors, trustees, officers or other key personnel of the institution or their families either directly or through corporations, trusts or other similar arrangements in which they hold a more than token interest are allowable only to the extent that such rentals do not exceed the amount the institution would have received had legal title to the facilities been vested in it.

(e) The allowability of rental costs under unexpired leases in connection with terminations is treated in G–42(e).

39. *Royalties and other costs for use of patents and copyrights.* (a) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent or rights thereto, necessary for the proper performance of the grant or contract applicable to grant products or processes, are allowable unless:

(1) The Government has a license or the right to free use of the patent;

(2) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid;

(3) The patent or copyright is considered to be unenforceable; or

(4) The patent or copyright is expired.

(b) Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less than arm's-length bargaining; e.g.:

(1) Royalties paid to persons, including corporations, affiliated with the institution;

(2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Government grant or contract would be awarded; or

(3) Royalties paid under an agreement entered into after the award of the grant or contract.

(c) In any case involving a patent or copyright formerly owned by the institution, the amount of royalty allowed should not exceed the cost which would have been allowed had the institution retained title thereto.

40. *Severance pay.* (a) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by institutions to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that, in each case, it is required by (1) law, (2) employer-employee agreement, (3) established policy that constitutes, in effect, an implied agreement on the institution's part, or (4) circumstance of the particular employment.

(b) Costs of severance payments are divided into two categories as follows:

(1) Actual normal turnover severance payments shall be allocated to all work performed in the institution's facilities; or, where the institution provides for accrual of pay for normal severances, such method will be acceptable if the amount of the accrual is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts accrued are allocated to all work performed in the institution's facilities; and

(2) Abnormal or mass severance pay is of such a conjectural nature that measurement of costs by means of an accrual will not achieve equity to both parties. Thus, accruals for this purpose are not allowable. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Thus, allowability will

be considered on a case-by-case basis in the event of occurrence.

41. *Taxes.* (a) Taxes are certain charges levied by Federal, State, or local governments. They do not include fines and penalties except as otherwise provided herein. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles are allowable, except for:

(1) Federal income taxes and similar levies against income of the institution derived from activities unrelated to the project supported by the grant or contract;

(2) Taxes in connection with financing, refinancing, or refunding operations (see G–18);

(3) Taxes from which exemptions are available to the institution directly or available to the institution based on an exemption afforded the Government except when the awarding agency determines that the administrative burden incident to obtaining the exemption outweighs the corresponding benefits accruing to the Government;

(4) Special assessments on land which represent capital improvements; and

(5) Taxes on any category of property which is used solely in connection with work other than on Government grants or contracts. (Taxes on property used solely in connection with either non-Government or Government work should be considered directly applicable to the respective category of work unless the amounts involved are insignificant or comparable results would otherwise be obtained.)

(b) Taxes otherwise allowable under paragraph (a) of this section, but upon which a claim of illegality or erroneous assessment exists, are allowable provided the institution, prior to payment of such taxes:

(1) Promptly requests instructions from the awarding agency concerning such taxes, and

(2) Takes all action directed by the awarding agency arising out of subparagraph (1) of this paragraph or an independent decision of the Government as to the existence of a claim of illegality or erroneous assessment, including cooperation with and for the benefit of the Government to (i) determine the legality of such assessment, or (ii) secure a refund of such taxes. Reasonable costs of any such action undertaken by the institution at the direction or with the concurrence of the awarding agency are allowable. Interest and penalties incurred by an institution by reason of the nonpayment of any tax at the direction of the awarding agency or by reason of the failure of the awarding agency to issue timely direction after prompt request therefor, are also allowable.

(c) Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as project costs, shall be credited or paid to the Government in the manner directed by the Government, provided any interest actually paid or credited to an institution incident to a refund of tax, interest or penalty shall be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest or penalties.

42. *Termination costs.* Grants and contracts terminations generally give rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the project not been terminated. Cost principles covering these items are set forth below. They are to be used in conjunction with the remainder of this document in termination situations.

(a) *Common items.* The cost of items reasonably usable on the institution's other work shall not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, the awarding agency should consider the institution's plans and orders for current and scheduled production. Contemporaneous purchases of common items by the institution shall be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allocable to the terminated portion of the project should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

(b) *Costs continuing after termination.* If in a particular case, despite all reasonable efforts by the institution, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this document, except that any such costs continuing after termination due to the negligent or willful failure of the institution to discontinue such costs shall be considered unallowable.

(c) *Initial costs.* Initial costs, including starting load and preparatory costs, are allowable, subject to the following:

(1) Starting load costs are costs of a nonrecurring nature arising in the early stages of operation, investigation or production and not fully absorbed because of the termination. Such costs may include the cost of labor and materiel, and related indirect cost attributable to such factors as:

(a) Excessive spoilage resulting from inexperienced labor;

(b) Idle time and subnormal production occasioned by testing and changing methods of processing;

(c) Employee training; and

(d) Unfamiliarity or lack of experience with the product, materiels, manufacturing processes, and techniques.

(2) Preparatory costs are costs incurred in preparing to perform the terminated project including costs of initial plant rearrangement and alterations, management and personnel organization, production planning and similar activities, but excluding special machinery and equipment and starting load costs.

(3) If initial costs are claimed and have not been segregated on the institution's books, segregation for settlement purposes shall be made from cost reports and schedules which reflect the high unit cost incurred during the early stages of the project.

(4) Where the settlement proposal is on the inventory basis, initial costs should normally be allocated on the basis of total end items called for by the project immediately prior to termination; however, if the project includes end items of a diverse nature, some other equitable basis may be used, such as machine or labor hours.

(5) When initial costs are included in the settlement proposal as a direct charge, such costs shall not also be included in overhead.

(6) Initial costs attributable to only one project shall not be allocated to other projects.

(d) *Loss of useful value.* Loss of useful value of special tooling and special machinery and equipment is generally allowable if:

(1) Such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the institution;

(2) The interest of the Government is protected by transfer of title or by other means deemed appropriate by the awarding agency; and

(3) The loss of useful value as to any one terminated project is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the project bears to the entire terminated project and other Government projects for which the special tooling and special machinery and equipment were acquired.

(e) *Rental costs.* Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated project less the residual value of such leases, if:

(1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the project and such further period as may be reasonable; and

(2) The institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease.

There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the project, and of reasonable restoration required by the provisions of the lease.

(f) *Settlement expenses.* Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for—

(a) The preparation and presentation to awarding agency of settlement claims and supporting data with respect to the terminated portion of the project, and

(b) The termination and settlement of subcontracts; and

(2) Reasonable costs for the storage, transportation, protection, and disposition of property acquired or produced for the project.

(g) Subcontractor claims. Subcontractor claims, including the allocable portion of claims which are common to the project and to other work of the institution are generally allowable.

43. *Trade, Business, Technical, and Professional Activity Costs.*—(a) *Membership.* This category includes costs of

procedure in this respect. Outbound freight, if reimbursable under the terms of the grant or

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43. *Trade, Business, Technical, and Professional Activity Costs*—(a) *Membership.* This category includes costs of memberships in trade, business, technical, and professional organizations. Such costs are allowable.

(b) Subscriptions. This item includes cost of subscriptions to trade, business, professional, or technical periodicals. Such costs are allowable.

(c) Meetings and conferences. This item includes costs of meals, transportation, rental of facilities for meetings, and costs incidental thereto, when the primary purpose of the incurrence of such costs is the dissemination of technical information or stimulation of production. Such costs are allowable.

44. *Training and educational costs.* (a) The costs of training courses taken by a bona fide employee to acquire basic skills which he should bring to the job or to qualify a person for duties other than those related to an institution's goals are unallowable.

(b) Costs of on-the-job training and part-time education, at an undergraduate or post-graduate college level, related to the job requirements of bona fide employees, identified in (1) through (5) below, are allowable.

(1) Training materiels;

(2) Textbooks;

(3) Fees charged by the educational institution;

(4) Tuition charged by the educational institution, or in lieu of tuition, instructors' salaries and the related share of indirect cost of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution; and

(5) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year where circumstances do not permit the operation of classes or attendance at classes after regular working hours.

(c) Costs of tuition, fees, training materiels and textbooks (but not subsistence, salary, or any other emoluments) in connection with full time scientific and medical education at a post-graduate (but not undergraduate) college level related to the job requirements of bona fide employees for a total period not to exceed 1 school year for each employee so trained, are allowable when approved in writing by the awarding agency.

(d) Grants to educational or training institutions, including the donation of facilities or other properties, scholarships, or fellowships, are considered contributions and are unallowable.

45. *Transportation costs.* Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly costed as transportation costs or added to the cost of such items (see G–22).

Where identification with the materiels received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the grant or contract, shall be treated as a direct cost.

46. *Travel costs.* (a) Travel costs include costs of transportation, lodging, subsistence, and incidental expenses, incurred by institution personnel in a travel status while on official business.

(b) Travel costs may be based upon actual costs incurred, or on a per diem or mileage basis in lieu of actual costs, or on a combination of the two, provided the method used does not result in an unreasonable charge. The difference in cost between first-class and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

(c) Travel costs incurred in the normal course of overall administration of the business are allowable and shall be treated as indirect costs.

(d) Travel costs directly attributable to specific grant or contract performance are allowable and may be charged to the grant or contract in accordance with the principle of direct costing (see section C).

(e) Costs of personnel movement of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency.

[FR Doc. 79-13552 Filed 5-3-79; 8:45 am]

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INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202–523–5240.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

INTERIOR DEPARTMENT
Land Management Bureau—
20390 4–4–79 / Utilization of geothermal resources—power plant siting

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing Apr. 24, 1979

PRINCIPLES OF REGULATIONS WRITING SEMINAR—JUNE 1979

WHAT: The aim of the seminar is to improve the quality of Federal regulations by teaching how to design and draft clear regulations.
The Principles of Regulations Writing Seminar covers the following concepts:
1. Drafting conventions, preferred usage, the rule of consistency.
2. How to arrange and organize your regulation.
3. What you can do to make regulations easier to read and easier to use.

WHO: Any Federal employee who drafts documents or who reviews documents for substance that are published in the Federal Register.

WHEN: June 13, 1979. If there are more people registered than the June 13 seminar can accommodate, there will be a seminar held June 20, 1979 for those persons.

WHERE: Office of the Federal Register, 1100 L Street, N.W., Washington, D.C., Room 9407.

COST: $75 for each person.

HOW: Each person registers by sending a training authorization form 170 or the training authorization form your office uses to: Special Projects Unit, Office of the Federal Register, NARS, Washington, D.C. 20480.

FOR MORE INFORMATION: Phone the Special Projects Unit, (202) 523–4534.

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	1975 (Book II)	$13.75	

JIMMY CARTER

1977 (Book I)	$16.00	1977 (Book II)	$15.25

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Book 2 of 2 Books
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Minimum Wages for Federal and Federally Assisted Construction

Part IV—Justice:
Paroling, Recommitting, and Supervising Federal Prisoners

Part V—USDA/FS:
Land and Resource Management Planning

Part VI—HUD:
Low-Income Housing, Moderate Rehabilitation Program

Part VII—SEC:
Restricted Off-Board Trading

Part VIII—SEC:
Internal Accounting Control Management Statement in Annual Reports

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Motor Gasoline Allocation, Base Period and Adjustments

Part X—State Department:
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Part III

Department of Labor

Employment Standards Administration

Minimum Wages For Federal And Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Government Contract Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

New General Wage Determination Decisions

Alabama.—AL79–1079.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Florida: FL79–1019	Feb. 2, 1979.
Louisiana: LA79–4001; LA79–4002	Jan. 5, 1979.
Maryland: MD79–3046	May. 19, 1978.
New Jersey: NJ78–3047	June 16, 1978.
North Carolina: NC75–1078	Sept. 5, 1975.
Oregon: OR79–5103	Feb. 23, 1979.
Texas: TX78–4114	Oct. 20, 1978.
TX79–4003; TX79–4004; TX79–4011	Jan. 5, 1979.
TX79–4031; TX79–4038; TX79–4048	Mar. 16, 1979.
Washington: WA78–5133	Dec. 29, 1978.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL78–1067(AL79–1060)	Aug. 18, 1978.
Illinois: IL78–2092(IL79–2027); IL79–2093(IL79–2028); IL78–2106(IL79–2029); IL78–2109(IL79–2031); IL78–2111(IL79–2032); IL78–2112(IL79–2033)	Oct. 20, 1978.
IL78–2165(IL79–2030)	Dec. 8, 1978.
Maine: ME78–2156(ME78–2042)	Nov. 17, 1978.
Michigan: MI78–2072(MI79–2012); MI78–2073 (MI79–2013); MI78–2074(MI79–2014); MI78–2075(MI79–2015); MI78–2076 (MI79–2016); MI78–2077(MI79–2017); MI78–2078(MI79–2019)	Sept. 29, 1978.
MI79–2009(MI79–2045)	Mar 23, 1979.
MI78–2001(MI79–2018)	Feb. 3, 1978.
Minnesota: MN78–2082(MN79–2026)	July 14, 1978.
MN78–2095(MN79–2021); MN78–2097 (MN79–2023); MN78–2099(MN79–2025)	Sept. 29, 1978.
MN78–2150(MN79–2022); MN78–2151 (MN79–2024)	Oct. 27, 1978.
Ohio: OH78–2157(OH79–2043)	Nov. 24, 1978.
Pennsylvania: PA78–3053(PA79–3009)	Aug. 11, 1978.
Rhode Island: RI78–3050, RI78–3051, RI78–3052 (RI79–2039)	July 21, 1978.
South Dakota: SD78–5102(SD79–5122)	June 9, 1978.
SD78–5126(SD79–5121)	Sept. 8, 1978.
Texas: TX78–4115(TX79–4051)	Dec. 1, 1978.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 27th day of April 1979.

Dorothy P. Coms,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #FL79-1019 - Mod. #3 (44 FR 6852 - February 2, 1979) Duval County, Florida					
Add: Plumbers & Pipefitters	$11.75	.55	.55		.08
DECISION #LA79-4001 - Mod. #5 (44 FR 1634 - January 5, 1979) Entire State of Louisiana					
Change:					
Asbestos workers - Zone 1	$12.32	.525	.90		.04
Zone 2	11.13	.50	.76		.03
Bricklayers & stonemasons:					
Zone 3	11.85	.53	.67		.05
Zone 4	11.30	.50	.55		.035
Zone 6	10.60	.40	.45		
Zone 8	11.25		.25		
Zone 9	11.50				
Carpenters (Bldg. Construction):					
Zone 2:					
Carpenters, piledrivermen & soft floor layers	10.75	.60	.33		.07
Millwrights	12.35				.09
Zone 3 - Carpenters	10.50	.60	.45		
Millwrights	11.75	.60	.45		
Piledrivermen	10.80	.60	.45		
Zone 4:					
Carpenters & piledrivermen	11.30	.50	.60		.05
Zone 5:					
Carpenters & soft floor layers	10.82	.60	.45		.04
Millwrights	11.81	.60	.45		.04
Piledrivermen	10.92	.60	.45		.04
Zone 6:					
Carpenters & soft floor layers	10.655	.60	.45		.04
Millwrights	11.21	.60	.45		.04
Piledrivermen	10.93	.60	.45		.04
Zone 8:					
Carpenters & soft floor layers	10.15	.45	.40		.04
Millwrights	10.90	.45	.40		.04
Piledrivermen	10.40	.45	.40		.04
Cement masons (Bldg. Construction):					
Zone 1	10.41		.75		.05
Zone 3	9.35	.50	.40		.04
Zone 4	10.745	.45			
Zone 6	7.50				
Zone 7	9.65	.35	.25		
Zone 8	9.97				
Cement masons (Highway Construction):					
Zone 7:					
On concrete lined ditches	9.35	.50	.75		.05
Zone 8:					
On concrete lined ditches	9.35	.50	.75		.05

NEW DECISION

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
STATE: Alabama					
COUNTIES: Calhoun, Cherokee, Cleburne, De Kalb, Etowah					
DATE: Date of Publication					
DECISION NO: AL79-1079					
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and garden type apartments up to and including 4 stories.					
Air conditioning & heating mechanic	3.75				
Bricklayers	7.00				
Carpenters	6.15				
Drywall finisher	6.00				
Drywall hanger	6.00				
Concrete finisher	4.50				
Electricians	10.45				
Insulator	4.65				
Laborers	3.08				
Painters, brush	6.00				
Plumbers and pipefitters	7.95	.40	.33		
Roofers	8.00				
Sheet metal workers	4.35				
Soft floor layers	6.25				
Welders - Rate for craft					
POWER EQUIPMENT OPERATORS:					
Bulldozer	5.00				

MODIFICATIONS P. 2

DECISION #LA79-4001 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians:					
Zone 3 - Electricians	$14.00	.35	3%+.40		1/10%
Cable splicers	14.25	.35	3%+.40		1/10%
Ironworkers (Bldg. Construction):					
Zone 1	11.36	.63	.35		.04
Zone 3	11.40	.45	.90		.06
Zone 4	11.45	.45	1.15		.06
Zone 6	11.35	.45	.65		.05
Laborers (Bldg. Construction):					
Zone 2 - Group 1	6.67	.25	.20		.05
Group 2	6.87	.25	.20		.05
Zone 3 - Group 1	8.20	.25	.20		.05
Group 2	8.30	.25	.20		.05
Group 3	8.35	.25	.20		.05
Group 4	9.16	.25	.20		.05
Group 5	8.72	.25	.20		.05
Group 6	8.56	.25	.20		.05
Group 7	8.25	.25	.20		.05
Group 8	8.45	.25	.20		.05
Zone 6 - Group 1	8.15	.25	.27		.05
Group 2	8.25	.25	.27		.05
Group 3	8.40	.25	.27		.05
Group 4	8.31	.25	.27		.05
Group 5	8.41	.25	.27		.05
Zone 7 - Group 1	7.825	.25	.27		.05
Group 2	7.975	.25	.27		.05
Group 3	8.025	.25	.27		.05
Zone 8 - Group 1	6.21	.25	.20		.05
Group 2	6.41	.25	.20		.05
Group 3	6.46	.25	.20		.05
Group 4	6.51	.25	.20		.05
Group 5	6.86	.25	.20		.05
Zone 9 - Group 1	6.83	.25	.20		.05
Group 2	6.93	.25	.20		.05
Group 3	7.00	.25	.20		.05
Group 4	7.05	.25	.20		.05
Zone 10 - Group 1	6.60	.25	.20		.05
Group 2	6.70	.25	.20		.05
Group 3	6.85	.25	.20		.05
Lathers - Zone 1	10.08	.20	.30		.05
Zone 2	10.23	.20	.30		.05
Zone 3	10.48	.20	.30		.05
Zone 4	10.83	.20	.30		.05
Zone 5	11.17				.01
Zone 8	11.65				

MODIFICATIONS P. 3

DECISION #LA79-4001 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line construction:					
Zone 3:					
Lineman, equipment ops.	$14.00	.35	3%+.40		1/10%
Cable splicers	14.25	.35	3%+.40		1/10%
Groundman	12.00	.35	3%+.40		1/10%
Marble, tile & terrazzo workers & finishers:					
Zone 1:					
Marble setters	11.30	.50	.35		.035
Tile & terrazzo workers	11.30	.50	.35		.035
Zone 2:					
Marble & terrazzo workers	11.85	.53	.67		.05
Zone 3 - Marble setters	11.50				
Zone 4:					
Marble, tile & terrazzo workers	10.22		.25		
Zone 5:					
Marble, tile & terrazzo workers	9.45	.30			
Painters:					
Zone 2 - Group 1	9.85		.25		.08
Group 2	10.92		.25		.08
Plasterers - Zone 4	10.98				.01
Zone 6	7.50				.01
Zone 8	11.25		.25		
Plumbers & pipefitters-Zone 4	11.46	.55	.80	1.00	.09
Power Equipment Ops, (Bldg. Construction):					
Zone 1 - Group 1	7.94	.65	.73		.05
Group 2	8.30	.65	.73		.05
Group 3	8.63	.65	.73		.05
Group 4	8.72	.65	.73		.05
Group 5	9.04	.65	.73		.05
Group 6	10.32	.65	.73		.05
Zone 3 - Group 1	8.18	.65	.85		.05
Group 2	7.86	.65	.85		.05
Group 3	7.65	.65	.85		.05
Group 4	8.46	.65	.85		.05
Group 5	10.85	.65	.85		.05
Group 6	8.47	.65	.85		.05
Group 7	9.35	.65	.89		.05

MODIFICATIONS P. 4

DECISION #LA79-4001 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 6 - Group 1	$ 8.33	.65	.85		.05
Group 2	7.69	.65	.85		.05
Group 3	7.46	.65	.85		.05
Group 4	8.01	.65	.85		.05
Group 5	8.80	.65	.85		.05
Group 6	10.06	.65	.85		.05
Group 7	11.26	.65	.85		.05
Group 8	11.51	.65	.85		.05
Group 9	11.76	.65	.85		.05
Group 10	12.01	.65	.85		.05
Zone 7 - Group 1	10.73	.65	.85		.05
Group 2	10.98	.65	.85		.05
Group 3	7.80	.65	.85		.05
Group 4	8.19	.65	.85		.05
Group 5	9.05	.65	.85		.05
Group 6	10.48	.65	.85		.05
Roofers:					
Zone 1 - Roofers	10.78		.20		
Zone 2 - Roofers	8.26	.70	.75	.25	.70
Truck drivers (Bldg. Construction):					
Zone 1 - Group 1	9.31				
Group 2	9.79				
Group 3	10.02				
Group 4	9.81				
Group 5	9.91				
Group 6	9.83				
Group 7	10.25				
Zone 2 - Group 1	7.20				
Group 2	7.45				
Group 3	8.00				
Group 4	7.85				
Group 5	8.30				
Group 6	8.40				
Group 7	8.70				
Group 8	8.85				
Zone 3 - Group 1	7.47				
Group 2	7.55				
Group 3	7.80				
Group 4	7.93				
Group 5	8.10				
Group 6	8.30				
Group 7	8.65				
Zone 5 - Group 1	$ 8.39	.45			
Group 2	9.00	.45			
Group 3	9.05	.45			
Group 4	9.31	.45			

MODIFICATIONS P. 5

DECISION #LA79-4002 - Mod. 44 (44 FR 1650 - January 5, 1979) Bossier, Caddo & Calcasieu Parishes, Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Changes:					
Asbestos workers:					
Bossier & Caddo Parishes	$11.13	.50	.76		.03
Calcasieu Parish	12.32	.525	.90		.04
Bricklayers & stonemasons:					
Bossier & Caddo Parishes	10.60	.40	.45		
Calcasieu Parish	11.85	.53	.67		.03
Carpenters:					
Bossier & Caddo Parishes:					
Carpenters	10.15	.45	.40		.04
Millwrights	10.90	.45	.40		.04
Piledrivermen	10.40	.45	.40		.04
Calcasieu Parish:					
Carpenters & piledrivermen	10.75	.60	.33		.07
Millwrights	12.35				.07
Cement masons:					
Bossier & Caddo Parishes	9.65	.35			
Calcasieu Parish	9.45				
Electricians:					
Calcasieu Parish:					
Other work - Electricians	14.00	.35	3%+.40		1/10%
Cable splicers	14.25	.35	3%+.40		1/10%
Ironworkers:					
Bossier & Caddo Parishes	11.40	.45	.90		.06
Calcasieu Parish	11.35	.45	.65		.05
Laborers:					
Bossier & Caddo Parishes:					
Group 1	6.85	.25	.20		.05
Group 2	6.95	.25	.20		.05
Group 3	7.00	.25	.20		.05
Group 4	7.05	.25	.20		.05
Calcasieu Parish - Group 1	8.20	.25	.20		.05
Group 2	8.30	.25	.20		.05
Group 3	8.35	.25	.20		.05
Group 4	8.45	.25	.20		.05
Group 5	9.16	.25	.20		.05
Group 6	8.72	.25	.20		.05
Group 7	8.56	.25	.20		.05
Group 8	8.25	.25	.20		.05
Lathers:					
Bossier & Caddo Parishes	11.65				
Marble setters:					
Bossier & Caddo Parishes	9.40	.30			

DECISION #LA79-4002 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers & pipefitters:					
Bossier & Caddo Parishes	$11.46	.95	.80	1.00	.09
Roofers:					
Calcasieu Parish - Roofers	10.78		.20		
Soft floor layers:					
Bossier & Caddo Parishes	10.15	.45	.40		.04
Calcasieu Parish	10.75	.60	.33		.07
Terrazzo workers:					
Bossier & Caddo Parishes	9.45	.30			
Calcasieu Parish	11.85	.53	.67		.05
Tile setters:					
Bossier & Caddo Parishes	9.45	.30			
Truck drivers:					
Bossier & Caddo Parishes:					
Group 1	7.47				
Group 2	7.55				
Group 3	7.80				
Group 4	7.95				
Group 5	8.10				
Group 6	8.30				
Calcasieu Parish - Group 1	9.31				
Group 2	9.79				
Group 3	10.02				
Group 4	9.81				
Group 5	9.91				
Group 6	9.83				
Group 7	10.25				
Power Equipment Operators:					
Calcasieu Parish - Group 1	8.18	.65	.85		.05
Group 2	7.86	.65	.85		.05
Group 3	7.65	.65	.85		.05
Group 4	8.46	.65	.85		.05
Group 5	10.85	.65	.85		.05
Group 6	8.87	.65	.85		.05
Group 7	9.35	.65	.85		.05

DECISION #MD78-3046 - Mod. #4
(42 FR 21813 - May 19, 1978)
Baltimore City, Maryland

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers	10.88	.70	.50		.07
Electricians	11.10	.80	3%+1.10		1%
Ironworkers:					
Structural & Reinforcing	10.49	.90	1.91		.06
Fence erectors	10.14	.90	1.91		.06
Line Construction:					
Linemen, Cable Splicers, Digging & Equipment Operators	12.40	.60	3%		
Winch trucks & trucks with pole or steel handling	8.27	.60	3%		
Truck without winch	7.71	.60	3%		
Groundmen	5.95	.60	3%		
Power Equipment Operators:					
Highway Construction					
Group I	10.02	.95	1.00	a	.12
Group II	9.52	.95	1.00	a	.12
Group III	8.95	.95	1.00	a	.12
Group IV	7.87	.95	1.00	a	.12
Group V					
a	10.42	.95	1.00	a	.12
b	10.62	.95	1.00	a	.12
c	10.82	.95	1.00	a	.12
d	11.02	.95	1.00	a	.12
e	11.27	.95	1.00	a	.12
Truck Drivers:					
Pick-ups	7.66	1.05	.75	a+b	
Dumps	7.88	1.05	.75	a+b	
Drop frame, gooseneck, and trailer drivers	8.07	1.05	.75	a+b	
Euclid & Dumpsters	8.19	1.05	.75	a+b	
Add:					
Piledriverman	9.80	.75	.89		.07

DECISION #NJ78-3047 - Mod. #6
(43 FR 26235 - June 16, 1978)
Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean & Salem Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers:					
Zone 1	12.67	.90	1.05		
Zone 2	12.10	.90	1.05		.025
Bricklayers, Stonemasons, Marble Masons, Cement Masons, Plasterers, Tile Layers, and Terrazzo Workers:					
Zone 1:					
Bricklayers, Stonemasons, Marble Masons, & Plasterers	11.70	.75	1.00		.04
Cement Masons, Tile Layers, & Terrazzo Workers	11.65	.75	1.00		.04
Zone 5	12.445		.655		.02
Carpenters, Millwrights, and Insulators:					
Zone 1	12.13	8%	7%		.3%
Zone 5 - Ocean County:					
Carpenters & Insulators	12.13	8%	7%		1%
Millwrights	12.38	8%	7%		1%
Zone 6 - Monmouth County:					
Carpenters & Insulators	12.13	8%	7%		1%
Millwrights	12.38	8%	7%		1%
Electricians & Cable Splicers:					
Zone 5	12.23	7%	3%+.60		.02
Laborers, Building Construction					
Zone 1:					
Laborers, masons & plasterers tenders, and concrete workers	8.50	.60	.75		.07
Tool operators (except small hand tools) including operation of motorized buggies	8.75	.60	.75		.07
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	8.90	.60	.75		.07
Zone 2					
Construction Laborers	8.45	.55	.85		.07
Brick tenders, mortar tenders, scaffold builders (brick), hod carriers (brick), & power tool operators	8.55	.55	.85		.07
Motorized buggy operators, burners, nozzlemen (gunnite work)	8.675	.55	.85		.07
Jackhammer operators, barko tamper operators, & concrete vibrator operators (over 27 pounds)	8.80	.55	.85		.07
Plasterers' & lathers' tenders	8.95	.55	.85		.07
Zone 3					
Laborers	9.05	.40	.65		.07
Hod carriers, mason tenders, operators of jackhammers, tampers, and electric hammers	9.30	.40	.65		.07

DECISION #NJ78-3047 - Mod. #6 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, Heavy & Highway Construction:					
Zone 1:					
Group 1	9.35	1.00	1.00	a	.10
Group 2	9.05	1.00	1.00	a	.10
Group 3	9.00	1.00	1.00	a	.10
Group 4	8.85	1.00	1.00	a	.10
Group 5	8.75	1.00	1.00	a	.10
Group 6	8.50	1.00	1.00	a	.10
Group 7	8.45	1.00	1.00	a	.10
Group 8	8.35	1.00	1.00	a	.10
Zone 2					
Group 1	9.85	1.00	1.00	a	.10
Group 2	9.70	1.00	1.00	a	.10
Group 3	9.45	1.00	1.00	a	.10
Group 4	9.40	1.00	1.00	a	.10
Group 5	9.30	1.00	1.00	a	.10
Group 6	9.20	1.00	1.00	a	.10
Group 7	8.95	1.00	1.00	a	.10
Group 8	8.80	1.00	1.00	a	.10
Group 9	8.75	1.00	1.00	a	.10
Laborers, Free Air Tunnel Jobs					
Group 1	10.22	1.00	1.00	a	.10
Group 2	9.82	1.00	1.00	a	.10
Group 3	9.86	1.00	1.00	a	.10
Group 4	9.13	1.00	1.00	a	.10
Line Construction:					
Zone 1					
Linemen, Cable Splicers, & Equipment Operators	12.30	7%	3%+1.87		3/4%
Groundman	10.35	7%	3%+1.87		3/4%
Truck Drivers:					
Zone 1:					
Group 1	8.55	v	w	1+k	
Group 2	8.65	v	w	1+k	
Group 3	8.80	v	w	1+k	
Group 4	8.95	v	w	1+k	

FOOTNOTES:

v. Employer contributes $6.30 per day per employee to Health and Welfare funds.

w. Employer contributes $4.00 per day per employee to Pension funds.

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NC75-1078 - Mod. #3 (40 FR 41367 - September 5, 1975) Statewide, North Carolina					
Omit:					
Power Equipment Operators:					
Rollers	$2.78				
Tractor	2.78				
Change:					
Truck Drivers	2.90				
DECISION NO. OR79-5103 - Mod. #3 (44 FR 10951-February 23, 1979) Statewide, Oregon					
Change:					
Line Construction:					
(Change Fringe Benefits ONLY)					
Groups 1 to 3		.45	3%+1.10	.10	1/2%
Groups 4 to 6		.45	3%+ .70	.10	1/2%

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4114 - Mod. #7 (43 FR 49208 - October 20, 1978) Lubbock County, Texas					
Change:					
Bricklayers & stonemasons	$10.27		.30		.03
DECISION #TX79-4003 - Mod. #4 (44 FR 1671 - January 5, 1979) Brazos County, Texas					
Change:					
Ironworkers	11.86	.55	1.45		.10
DECISION #TX79-4004 - Mod. #4 (44 FR 1673 - January 5, 1979) El Paso County, Texas					
Change:					
Ironworkers	9.30	.55	1.40		.15
DECISION #TX79-4011 - Mod. #4 (44 FR 1683 - January 5, 1979) Galveston & Harris Cos., Texas					
Change:					
Carpenters:					
Carpenters & piledrivermen	11.60	1.00	.85		.07
Millwrights	11.985	1.00	.85		.07
Ironworkers	11.86	.55	1.45		.10
DECISION #TX79-4031 - Mod. #3 (44 FR 16324 - March 16, 1979) Bexar County, Texas					
Change Modification #1 in the FR of 4/20/79 on page 23733 to read Modification #2					

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX79-4038 - Mod. #3 (44 FR 16328 - March 16, 1979) Travis County, Texas					
Change:					
Plumbers & pipefitters	$11.55	.45	.40		.03
DECISION #TX79-4048 - Mod. #1 (44 FR 16330 - March 16, 1979) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
Change:					
Bricklayers & stonemasons	11.05		.40		
Carpenters:					
Zone 1 - Carpenters	10.65		.40		.01
Millwrights	11.00		.40		.01
Laborers - Group 1	5.92	.63	.32		
Group 2	6.07	.63	.32		
DECISION NO. WA78-5133 - Mod. #4 (43 FR 61199-December 29, 1978) Statewide, Washington					
Change:					
Line Construction:					
(Change Fringe Benefits ONLY)					
Groups 1 to 3		.45	3%+1.10	.10	1/2%
Groups 4 to 6		.45	3%+ .70	.10	1/2%

SUPERSEDEAS DECISION

STATE: Alabama
COUNTIES: *Sde below
DECISION NO.: AL79-1080
DATE: Date of Publication
Supersedes Decision NO.: AL78-1067 dated August 18, 1978 in 43-FR-36838
DESCRIPTION OF WORK: Heavy Construction Projects

*Counties: Calhoun, Etowah, Green, Jefferson, Pickens, St. Clair, Shelby, Sumter, Talladega, Tuscaloosa and Walker

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	9.50				
Carpenters:					
Green, Pickens, Sumter and Tuscaloosa Counties	8.30				.06
Jefferson, Shelby, Walker and that portion of St. Clair and Talladega County West of Highway 231 from the Blount County line South to Interstate 20. Also that portion of St. Clair and Talladega Counties South of Interstate 20 and West of U.S. Alternate 231 South, not including the City of Talladega and that portion of Talladega County South, of the City of Talladega and West and South of the Talladega National Forest	8.65	.50	.35		.07
Calhoun, Etowah and Remainder of St. Clair and Talladega Counties	7.28	.50	.35		.06
Electricians	11.45	.55	3%+.40		4 of 1%
Ironworkers	8.50	.60	.615		.04
Laborers:					
Air tool operator	6.20	.30	.35		.05
Asphalt lute man	6.20	.30	.35		.05
Asphalt raker	6.20	.30	.35		.05
Batch truck dumper	6.05	.30	.35		.05
Caisson hole man (10'dia.)	6.80	.30	.35		.05
Chain saw operator	6.20	.30	.35		.05
Concrete saw operator	6.20	.30	.35		.05
Dry cement handlers (bulk or bag)	6.20	.30	.35		.05
Hand blade operator	6.05	.30	.35		.05
General laborer	6.05	.30	.35		.05
Mortar Mixers	6.15	.30	.35		.05
Muckers	6.15	.30	.35		.05
Pipelayers	6.15	.30	.35		.05
Powdermen & blasters	6.88	.30	.35		.05

AL79-1080 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers (Cont'd):					
Side rail setters	6.20	.30	.35		.05
Vibrator operator	6.20	.30	.35		.05
Wagon drill operator	6.45	.30	.35		.05
Oxagon operator	7.55	.30	.35		.05
Tunnel work (free air)					
Chuck tender	6.60	.30	.35		.05
Head miner	7.05	.30	.35		.05
Pneumatic concrete gun operator & nozzlemen	6.75	.30	.35		.05
Tunnel laborer	6.45	.30	.35		.05
Tunnel miner	6.85	.30	.35		.05
Plumbers and Pipefitters	9.45	.30	.30		.05
Truck drivers	5.75	.20	.45		.05
Welders - Rate for craft.					

AL79-1080 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	9.76	.40	.30		.10
CLASS B	9.17	.40	.30		.10
CLASS C	8.72	.40	.30		.10
CLASS D	8.06	.40	.30		.10

CLASS A: Asphalt plant, asphalt spreader, backhoe, boat operator, (inboard), bo-a tractor, bulldozer, cableways, cherry picker, compressors-2, or more within 200 ft. radius, concrete plants-stationary, mixer operator, concrete pump, conveyor-2 or more up to 4, core driller-crane-derrick-dragline--deck hoist on construction barges, crane-hydro, dinky locomotive, distributors-bituminous surface, dredge operator, farm tractor with attachments (30 HP or more-which are an intergral part of tractor), fork lift, front end loader, gradall, headhouse operator, heavy duty, mechanic, hoist-2 drums or more, ice plant in connection with concrete, mixers-5 bags or over, motor graders, pile driver, push tractor, quarry master and rock crusher, rollers-asphalt, scraper, scrapers in tandem (operator to receive 25¢ per hour for each additional scraper), shovels, trenching machines and all similar equipment.

CLASS B: Crawler tractor, hoist-1 drum, pumps-2 or more 4 inch & over, under 5 within 200 ft, radius, rollers (other than asphalt), winch truck, well points and other equipment used for dewatering.

CLASS C: Air compressor, blade graders-pull type, farm tractor with attachments finishing machine-screed mounted self-propelled, mixers-under 5 bags.

CLASS D: Outboard boats, air compressor-125 and under, conveyor-one (1) tended by oiler, pumps-under 4 inch-3 or under, welding machines-3 or under, oiler in board boats, deck hand.

STATE: Illinois COUNTIES: Adams, Brown & Pike
DECISION NUMBER: IL79-2027 DATE: Date of Publication
Supersedes Decision No.: IL78-2092, dated October 20, 1978 in 43 FR 49154
DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 12.63	.80	.97		
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS:					
Bricklayers, Stonemasons, Marble Setters, Terrazzo Workers, Tile Setters, Pointers, Caulkers & Cleaners	11.65		.20		
CARPENTERS:					
Adams County:					
Carpenters & Soft Floor Layers	10.50	.65	.35		.02
Millwrights & Piledrivermen	10.75	.65	.35		.02
Brown County & Pike County:					
Carpenters & Soft Floor Layers	10.90	.55	.25		.02
Millwrights	11.15	.55	.25		.02
Piledrivermen	11.40	.55	.25		.02
CEMENT MASONS	9.85		1.00		
ELECTRICIANS:					
Electricians	11.15	.50	3%+.75		1%
ELEVATOR CONSTRUCTORS:					
Constructors	11.34	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS	10.39	.45	.50		
IRONWORKERS:					
Brown County, Pike County & the S. E. corners of Adams County	12.25	.55	1.05		.08
Remainder of Adams County	12.40	.55	.90		.06
LATHERS:					
Brown & Pike Counties	13.15				
PAINTERS:					
Adams County:					
Brush	8.80				
Sand & Water Blasting; Spray & Steamcleaning	8.80				
Pike County:					
Commercial	11.05	.55	.35		
Industrial	11.30	.55	.35		

DECISION NO. IL79-2027

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	10.20		1.00		.01
PLUMBERS & STEAMFITTERS:					
Adams & Brown Counties	12.05	.35	.40		.05
Pike County	12.43	.35	.88		.07
ROOFERS	9.90	.50		.50	
SHEET METAL WORKERS:					
Adams & Pike Counties	10.78	.55	.55		.12
Brown County	12.93	.75+c	.78		.07
SPRINKLER FITTERS	12.10	.75	1.05		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thansgiving; G-Christmas Day

FOOTNOTES:
a. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

b. 7 paid Holiday: A through G

C. 3% of Gross to SASMI

DECISION NO. IL79-2027

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Adams County:					
Unskilled	10.38	.45	.36		.035
Semi-skilled	10.58	.45	.36		.035
Skilled	10.73	.45	.36		.035
Brown and Pike Counties:					
Unskilled	10.44	.30	.45		.035
Semi-Skilled	10.64	.30	.45		.035
Skilled	10.79	.30	.45		.035

CLASSIFICATIONS

UNSKILLED: All sewer workers plus depth pay, Asphalt Plant Laborers, Bankmen on Floating Plant, Batch Dumpers, Carpenters, Tenders, Cleaning Lumber, Cofferdam workers plus depth pay, Deck Hand, Dredge Hand and Shore Laborers, Dispatchers; Driving of stakes, Stringlines for all Machinery, Fencing Laborers, Firemen of Salamander Tenders, Fireproofing Laborers, Fire Shop Laborers; Flagman, Form Handlers, Gravel Box men, Dumpmen and Spotters, Janitors, Laborers with De-watering systems, Landscapers, Laying of Sod, Material Checkers, Material Handlers, Pit Men, Plaster Installers, Planting of Trees, Removal of Trees, Rip Rap Men, Rod and Chairmen, Scaffold workers, Tool Cribmen, Track Laborers, Unloading explosives, Unloading and carrying Lath, Unloading and carrying or re-bars, Wrecking, Dismantling Building, Wallmen and House-movers, Wrecking Laborers, Wretef or Scale Tickets.

SEMI-SKILLED: Asphalt Workers with machine, Asphalt Raker, and Layers, Cement Handlers, Cement Silica, Clay, Fly Ash, Lime and Plasters, Hander (Bulk or Bag) Chain Saw, Chloride Handlers, Concrete Workers (wet); Grade Checker, Handling or material treated with oil, creosote, asphalt and/or any foreign material harmful to skin or clothing, Kettle and Tar Men, Mason Tenders, Mortar Mixer Operators, Motorized Buggies or Motorized Union used for wet concrete to handling of building materials, Oh concrete paving, placing, cutting and typing or Reinforcing, Signal man on Crane Tank Cleaning helpers in free air, Vibrator Operators

SKILLED: Air Temping Hammerman, Caisson workers plus depth, Concrete Burning Machine Operator, Concrete Saw Operator, Corming Machine Operator, Gunnite Nozzlemen, Jackhammer and drill Operators, Laborers handling masterplante or similar materials, Laborers Tending Masons will hot material or where foreign materials are used, Laser Beam Operaotr, Layout Man/or Tile Layer Leadman on sewer work Lutsman, Multiple Concrete Duct - Leadman, Plasterer Tenders, Ready Mix Scalesman, Portable or templsary plant, Screenman on Asphalt Paver, Steel Form Setters - street and highway, Welders, Cutters, Burners, and Torchmen

DECISION NO. IL79-2027

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	12.40	.70	.80		.05
CLASS II	10.85	.70	.80		.05
CLASS III	9.50	.70	.80		.05

CLASS I - Asphalt screed man, Aspco concrete spreaders, Asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, cableways, cherry pickers, claim shell, C.M.E. 7 similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derrick, derrick boats, draglines, earth augeror boring machines, elevating graders engineers on dredge, gravel processing machines, high list or fork lists, hoist w/two drums or two or more loadlines locomotives (all) mechanics, motar graders or auto patrols, operators or levelman on dredge, operators power boat, operators pug mill (asphalt plants), orange peels, overhead cranes, paving mixers, piledrivers, pipe wrapping & painting machines, push dozers, or push cats, roch drushers, ross carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot roller (self propelled) shovels, skimmer scoops, test holedrilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type fork lists or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoops, all or tournapull.

CLASS II - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 drum & 1 load line, mud jacks, post holediggers, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine, vibratory compacter, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressors, track or self-propelled, asphalt plant enfineers, bul cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generator*, greasers, helper on single paving mixer, light plants*, mechanic helpers, mechanical heaters*, oilers, power from graders, power sub-graders, pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/o power attachments regardless of size of type) truck crane oiler & driver 1 (man), water pumps*, welding machines (one 300 amp. or over*)* welding machines*

*COMBINATION OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

DECISION NO. IL79-2027

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
GROUP I	10.80	.65	a20.00		
GROUP II	11.20	.65	a20.00		
GROUP III	11.40	.65	a20.00		

GROUP I - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers; warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II - 2 or 3 axle trucks hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Forklifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III - 2,3, or 4 axle trucks hauling 16 tons or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES:

a. Per week Per employee

40-000 04 3 65

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: Champaign & Vermillion
DECISION NUMBER: IL79-2028 DATE: Date of Publication
Supersedes Decision No. IL78-2093, dated October 20, 1978 in 43 FR 49157
DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.15	.50	1.20		.01
BOILERMAKERS	11.45	.95	1.00		.03
BRICKLAYERS:					
Champaign County:					
Bricklayers; Stonemasons	12.45	.45	.50		.05
Marble, Tile, Terrazzo Workers	13.30		.50		
Vermillion County:					
Bricklayers; Stonemasons	12.45	.45	.50		.05
Marble, Terrazzo Workers;					
Tile Setters	13.30		.50		
CARPENTERS:					
Champaign County:					
Carpenters & Soft Floor Layers	12.315	.45	1.10		.13
Millwrights & Piledrivermen	12.815	.45	1.10		.13
Vermillion County:					
North of Rossville					
Carpenters; Soft Floor Layers;					
Millwrights & Piledrivermen	11.88	.65	.80		.01
Remainder of County					
Carpenters & Soft Floor Layers	12.415	.75	.80		.05
Millwrights & Piledrivermen	12.915	.75	.80		.05
CEMENT MASONS & PLASTERERS:					
Champaign County:					
Cement Masons	12.325	.45	.25		.025
Plasterers	12.515	.45			.025
Vermillion County:					
Cement Masons & Plasterers	12.40		1.00		
ELECTRICIANS:					
Champaign County	12.45	.50	3%+.40		.3%
Vermillion County	12.27	.50	3%+.50		.25%
ELEVATOR CONSTRUCTORS:					
Constructors	11.34	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS:					
Champaign County	10.39	.45	.50		.08
IRONWORKERS	12.15	.65	1.00		.08
LATHERS	11.99	.45	.50		.01

40-000 04 3 66

DECISION NO. IL79-2028

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Champaign County:					
Brush	12.32	.65	.40		.04
Open and Erected Steel	13.32	.65	.40		.04
Vermillion County:					
Brush	11.80				
Spray	12.80				
PLUMBERS AND STEAMFITTERS:					
Champaign County	12.65	.35	1.15		.12
Vermillion County	11.52	.35	1.05		.25
ROOFERS:					
Champaign County:					
Roofers	12.39	.70	.45		.03
Vermillion County	11.55				
SHEET METAL WORKERS	11.94	60+c	.67		
SPRINKLER FITTERS	12.10	.75	1.05		.08
Welders: receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTES:
a. 7 paid Holidays: A through G

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. 3% of Gross to SASMI

DECISION NO. IL78-2028

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Champaign County:					
Unskilled	11.50	.30	.30		.035
Semi-skilled	11.70	.30	.30		.035
Skilled	11.85	.30	.30		.035
Vermillion County:					
Unskilled	11.05	.45	.60		.035
Semi-Skilled	11.25	.45	.60		.035
Skilled	11.40	.45	.60		.035

UNSKILLED - All sewer workers plus depth pay, Asphalt plant laborers, Bankmen on floating plant, Barch dumpers, Carpenters tenders, Cleaning lumber, Cofferdam workers plus depth pay, Deck Hand, Dredge hand and shore laborer, Dispatchers, Driving of stakes; Stringlines for all machinesy, Fencing laborers, Firemen or Salamander tenders; fireproofing laborers, Fire Shop laborers; Flagmen; Form handlers, Gravel box men, Dumpmen and Spotters; Janitors, Laborers with de-watering systems; Landscapers, Laying of sod, Material checkers, Material handlers, Pit men, Plaster installers, Planting of trees, Removal of trees, Rip rap men, Rod and chairmen, Scaffold workers, Tool cribmen, Tractor laborers, Unloading explosives, Unloading and carrying Lath, Unloading and carrying re-bars, wrecking, dismantling building, Waimen and housemovers, Wrecking laborers, Writer or scale tickets

SEMI-SKILLED - Asphalt workers with machine, asphalt raker and layers, Cement handlers, cement silica, clay, Fly ash, lime and plasters handler (bulk or Bag) Chain saw; Chloride handlers, concrete workers (wet); Grade checker; Handling of materials treated with oil, creosote, asphalt and/or any foreign material harmful to skin or clothing; Kettle and Tar man; Mason tenders; Mortar mixer operators; Motorized buggies or motrized unit used for wet concrete or handling of building materials, on concrete paving, placing, cutting and typing or reinforcing, Signal men on crane tank cleaning, Tunnel helpers in free air, Vibrator operators

SKILLED - Air tamping hammerman, Caisson workers plus depth, Concrete burning machine operator, Concrete saw operator, corming machine operator, Gunnite nozzle man, Jackhammer and drill operators, Laborers handling masterplate or similar materials, Laborers tending fusons with hot material or where foreign material are used, Lader beam operator, Layout man and/or tile Plasterer tenders, ready mix scalemen, portable or temporary plant, Screenmen or asphalt pavers, Steel form setters - street and highway, Welders, cutters, burners and torchmen

DECISION NO. IL79-2028

ILL-1-PEO-1-2-3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appl. Tr.
CLASS I	13.40	.85	.75		.08
CLASS II	13.20	.65	.75		.08
CLASS III	12.10	.55	.75		.08
CLASS IV	8.00	.55	.75		.08

CLASS I - Master Mechanic

CLASS II - Utility Operator

CLASS III - Power Striker, Draglines, Electric overhead cranes, Shovels, Crandall; Mechanics; Repair and Maintenance of all equipment, Tractor Hightift shovel; Forklifts; Tournamixer, 2 drums machine or 2 cage hoist, Cableways; Tower machines, Motor Patrol; Boom tractor, Boom or winch truck, Truck Crane; Tournapull, Tractor operating scoops, Bulldozer, Push tractor; Finishing Machine on asphalt, Large Rollers & Rollers on asphalt Gravel Macadam & Brick surface, Hoe Cartilar or similar Machine, Asphalt Plant Engineer or Pug Mill; Two (2) air compressors, Hetherington paver operator; Farm tractor with 4 yard bucket and/or backhoe attachment, Trench machine cutting over 24" Dredging Equipment, Central mix plant engineer Concrete spreader, Air compressors 200 cu. ft. or over, Standard or Dinky Locomotive; Scoopmobiles, Euclid loader, Soil cement machine, Mixer 1½ capacity or less, trench machine cutting 24" & under, backfiller, Elevating Machine, Power Blade, asphalt Engineer, Well drilling machines, Plant Machine; Pipe cleaning machine, Pipe wrapping machine, Pipe bedding machine; Spout paver, Boring machine, w/d winch, Head equipment, Greasers, Berger Trench Loaders; Pettibone paver, farm tractor with less than half-yard Bucket and other attachments except backhoe, Well point System

CLASS IV - Power Sub-Grader, Bull Float, Form Grader, Finishing machine, Pavement Breaker; Rock Crushers, Cab drum machine, air compressor less than 200 cu. ft. capacity; Concrete pumps, Gunnite Machine, Air Tuggers, Truck crane drivers; House Elevator when used for temporary heat, Small rollers on earth, Engine tenders, Fireman on pain pots; Firemen; Wagon Drill Plowman plane, Conveyor, 2 to 4 Water Pumps, Siphon & Puldometer, Switchman, Fireman on Asphalt plants, Distributor operator on trucks, Tampers, Power Broom, Post Hole Digger, Self propelled concrete saw, Striping machine (horse driven); Form tamper, seaman tiller, bulk cement Plant Equipment Greaser

ILL-82-TD-1-2-3

DECISION NO. IL79-2028

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.80	.65	a20.00		
GROUP II	11.30	.65	a20.00		
GROUP III	11.80	.65	a20.00		

GROUP I - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including pulled by separate units; truck driver helpers, warehouseman, mechanic helpers; greasers & oilmen; pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs. capacity.

GROUP II - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydraulic trucks, or over 6,00 lb. capacity; winch trucks; 2-axle combination units; ticket writer

GROUP III - 2, 3 or 4 axle truck hauling 16 ton or more, drivers on ash distributors; water pulls, Mechanics & working foreman; 3-axle or more combination units; dispatchers

FOOTNOTES:
a. Per Week Per Employee

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SUPERSEDEAS DECISION

STATE: Illinois

COUNTIES: Fulton, Hancock
McDonough & Schuyler

DECISION NUMBER: IL79-2029

DATE: Date of Publication

Supersedes Decision No.: IL78-2106, dated October 20, 1978 in 43 FR 49167

DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Fulton & Schuyler Counties	12.63	.80	.97		
Hancock & McDonough Counties	11.55	.40	.60		.10
BOILERMAKERS	11.45	.95	1.00		.03
BRICKLAYERS:					
Schuyler County:					
Bricklayers, Stonemasons, Plasterers, Marble-Tile-Terrazzo Workers, Cement Blocklayers, Pointers-Caulkers-Cleaners	11.50	.50	.52		.02
Marble & Tile Setters' Finishers	11.40				
Fulton County:					
Bricklayers, Stonemasons, Cement Blocklayers, Cleaners-Pointers & Caulkers	11.70	.70	1.00		.01
Marble-tile-Terrazzo Workers	11.45	.70	1.00		.01
Marble & Tile Setters' Finishers	11.85	.60	.25		
Hancock & McDonough Counties:					
Bricklayers, Stonemasons, Cement Block Layers, Marble-Tile & Terrazzo Workers	12.90				
Marble & Tile Setters' Finishers	11.85	.60	.25		
CARPENTERS:					
Schuyler County:					
Carpenters & Soft Floor Layers	10.90	.55	.25		.02
Millwrights	11.15	.55	.25		.02
Piledrivermen	11.40	.55	.25		.02
Fulton County:					
Carpenters & Soft Floor Layers	12.61	.40	.75		.05
Millwrights Co. & Eastern 1/3 of Hancock Co.					
Carpenters & Soft Floor Layers	12.61	.40	.75		.05
Millwrights & Piledrivermen	13.11	.40	.50		.05
Remainder of Hancock County:					
Carpenters & Soft Floor Layers	11.55	.75	.90		.04
Millwrights & Piledrivermen	12.25		.90		.04

DECISION NO. IL79-2029

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
Hancock, McDonough & Schuyler Counties					
Cement Masons	12.95				
Hancock & McDonough Counties					
Plasterers	12.70				
Fulton County					
Cement Masons	12.16	.80	.90		.05
Plasterers	11.20	.80	.90		.03
ELECTRICIANS:					
Hancock & Schuyler Cos., Twps. of Lamoine, Bethel, Industry & Eldorado in McDonough County	11.15	.50	3%+.75		.1%
Twps. of Cass, Deerfield, Ellisville, Harris, Lee, Union, Young & Hickory in Fulton Co., & the Northern 2/3 of McDonough County	12.06	.50	3%+.75		3/4%
Remainder of Fulton County	12.32	.50	3%+.75		1%
IRONWORKERS:					
Hancock & McDonough Cos., the Western ½ of Schuyler County	11.50	.55	.90		.06
Eastern ½ of Schuyler Co.	12.25	.55	1.05		.08
The Southern Tip of Fulton Co., incl. Marbletown, Astoria, Summum, & Remainder of Fulton Co.	11.75	.55	1.05		.08
LABORERS:					
Hancock & McDonough Counties					
Unskilled	10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035
Schuyler County					
Unskilled	10.44	.30	.45		.035
Semi-Skilled	10.64	.30	.45		.035
Skilled	11.40	.30	.45		.035
Fulton County					
Projects Under $375,000					
Unskilled	11.00	.60	.60		.035
Semi-Skilled	11.20	.60	.60		.035
Skilled	11.40	.60	.60		.035

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
Projects in Excess of $375,000					
Unskilled	$ 11.40	.60	.60		.035
Semi-Skilled	11.60	.60	.60		.035
Skilled	11.80	.60	.80		.035
PAINTERS:					
Fulton & Schuyler Cos.					
Brush	11.30	.95	.30		.03
Structural Steel & Spray	11.95	.95	.30		.03
Hancock & McDonough Cos.					
Brush	10.75				
Structural Steel & Spray	11.25				
PLUMBERS & STEAMFITTERS:					
Fulton & McDonough Counties	12.32	.35	.35	4%	
Hancock & Schuyler Counties	12.05	.35	.40		.05
ROOFERS:					
Schuyler County					
Composition	12.43	.75			
Slate-Tile & Precast Slab	12.93	.75			
Fulton Co., & Eastern ⅓ of McDonough Co., Including Radomb					
Slate-Tile-Composition-Tear & Waterproof	12.89	.70	.40		.025
Hancock Co., & Western ⅔ of McDonough Including Radomb					
Slate-Tile-Damp & Weaterproof	11.10				
SHEET METAL WORKERS:					
Fulton & McDonough Counties	12.68	.65	.99		.10
Hancock County	10.78	.55	.55		.12
Schuyler County	12.93	3%+.75	.78		
SPRINKLER FITTERS	12.93	.75	1.05		.08

Welders - Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTE:
3% of Gross earnings to SASHI

DECISION NO IL79-2029

SCHUYLER COUNTY

POWER EQUIPMENT OPERATORS:

ILL-5-FEO-1-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
CLASS I	$ 12.40	.70	.80		.05
CLASS II	10.85	.70	.80		.05
CLASS III	9.50	.70	.80		.05

POWER EQUIPMENT OPERATORS:

CLASS I - Asphalt screed man, Aspoc concrete spreaders, Asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, cableways, cherry pickers, claim shell, C.M.E. & similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derrick, derrick boats, draglines, earth augeror boring machines, elevating graders engeers on dredge, gravel processing machines, high list or fork lists, hoist w/two drums or two or more loadlines locomotives (all) mechanics, motar graders or auto patrols, operators or levelman on dredges, operators power boat, operators pug mill (asphalt plants), orange peels, overhead cranes, paving mixers, piledrivers, pipe wrapping & painting machines, push dozers, or push cats, rock crushers, rose carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot foller (self propelled) shovels, skimmer scoops, test holedrilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type fork lists or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoops, all or tourmapull.

CLASS II - Asphalt boosters & heaters, asphalt distributors, asphalt plant firemen, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 drum & 1 load line, mud jacks, post holediggers, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine, vibratory compactor, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressors, track or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanic helpers, mechanical heaters*, oilers, power from graders, power sub-graders, pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/o power attachments regardless of size of type) trade Stake hiker & driver 1 (ton), water pumps*, welding machines (one 300 amp. or over)* welding machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

DECISION NO. IL79-2029

ILL-6-PEO-1

POWER EQUIPMENT OPERATORS REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	13.08	.45	.80		.05
GROUP 2	12.88	.45	.80		.05
GROUP 3	12.505	.45	.80		.05
GROUP 4	12.23	.45	.80		.05
GROUP 5	11.62	.45	.80		.05

POWER EQUIPMENT OPERATORS:

GROUP 1 - Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot, after 80 feet or boom including jib, overhead cranes, gradall, cherry pickers (and similar types, over 15 ton lifting capacity) require oiler, mechanics, central concrete mixing plant operator, road pavers (27E-dual drum-tri batchers), blacktop plant operators and plant engineers, 3 drum hoist, derricks, hydro cranes, shovels skimmer scoops, koehring scoopers, draglines, backhoe, hopties-crane-type that require oilers, derrick boats, pile drivers and skid rigs, clamshells, locomotive cranes, dredge (all types), motor patrol, power blades dumore-elevating and similar types tower cranes (crawler mobile) and stationary, crane-type backfiller, drott yumbo and similar types considered as cranes, caisson rigs (require oilers) dozer, tourna-dozer, work boats, ross carrier and helicopter

GROUP 2 - Trench machine, pumpcrete-helt-wqueeze cretes-screw-type pumps and gysum bulker and pump, dinkeys, power launches, tournapulls (all), multiple unit earth movers, $.25 per hour for each scoop over one, scoops (all sizes), push cats, endloaders (all types), side boon, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm type w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine euclid loader, forklifts, formless finishing machine, jeeps w/ditching machine, or other attachments, tunsluger, rock crushers, automatic cement gravel batching plants, mobile drills (soil testing and similar types), (require oilers), flaherty spreader or similar types (require oilers), heavy equipment greaser (top greaser on spread), gurries and similar type), 1 and 2 drum hoists (buck hoists and similar types freight and passenger elevators Chicago boom, boring machine and pipe jacking, machine, hydro boom, statting engineer on pipeline, C.M.I. and similar types (require oiler) Straw blower, hydro seeder and F.W.D. and similar types

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POWER EQUIPMENT OPERATORS (Cont'd)

Group 3: Tractor (track type) without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling rollers, center stripper, cement finishing machines, barber greene or similar loaders, vibro tamper (all similar types), self-propelled, winch or boom truck, mechanical bull floats, mixer over 3 bags to 27E, tractor pulling power blade or elevating grader, porter rex rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

Group 4: Air compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-air without attachments, curb machines, truck crane oilers, and truck type hoptoe oilers

Group 5: Herman Nelson heater, Dravo, Warner, Silent glo, and similar types, one engineer will operate 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser on spread, roller, 5 tons and under on earth or gravel, form grader, pump 1 or 2, generator (1) or (2), welding machine (1) or (2) - 300 amp. or over, mixer (3) bag and under (standard capacity), bulk cement plant, crawler crane and skid rig oilers

DECISION NO. IL79-2029

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.80	.65	a20.00		
GROUP II	11.20	.65	a20.00		
GROUP III	11.40	.65	a20.00		

TRUCK DRIVERS

GROUP I - Drivers on 2 axle truck hauling less than 9 tons, air compressor and welding machine including those pulled by separate units truck driver helpers, warehousemen, mechanics helpers, greasers & tiremen, pick-up trucks when hauling materials, tolls, or men to and from and on the jobs site; Fork lifts up to 6,000lbs., capacity.

GROUP II - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4 axle combination units; ticket writers

GROUP III - 2,3 or 4 axle truck hauling 16 ton or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatcher

FOOTNOTES

a. Per week Per Employee

40-000 04 3 77

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: Ford & Iroquois
DECISION NUMBER: IL79-2030 DATE: Date of Publication
Supersedes Decision No. IL78-2165, dated December 8, 1978 in 43 FR 57786
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.01	.91	.99		.05
BOILERMAKERS:					
Ford & Iroquois Counties	11.45	.95	1.00		.03
BRICKLAYERS, STONEMASONS, MARBLE SETTERS, TERRAZZO WORKERS, TILE SETTERS, POINTERS, CAULKERS & CLEANERS:					
South of Roberts in Ford County					
Bricklayers & Stonemasons	12.45	.45	.50		.05
Marble-Tile & Terrazzo Workers	13.30		.50		
Remainder of Ford County:					
Bricklayers & Stonemasons	11.70	.80	.75		
Marble Setters	11.45	.70	1.00		.01
Iroquois County:					
Bricklayers & Stonemasons	11.70	.80	.75		
Marble-Tile & Terrazzo Workers	11.45	.70	1.00		.01
CARPENTERS:					
Ford County:					
Carpenters & Soft Floor Layers	12.315	.45	1.10		.13
Millwrights & Piledrivermen	12.815	.45	1.10		.13
Iroquois County:					
Carpenters, Millwrights, Soft Floor Layers & Piledrivermen	11.88	.65	.80		.01
CEMENT MASONS:					
Ford County	12.575	.45	.25		.025
Iroquois County	11.70	.80	.75		
ELECTRICIANS:					
Twps. of Fountain Creek, Love Joy & Prairie Green in Iroquois County	12.27	.50	3%+.50		.25%
Area S. of Roberts Twps in Ford County, Twps of Artesia, Pigeon Grove & Lode in Iroquois Counties	12.42	.88	3%+.70		.2 of 1%
GLAZIERS:					
Piper City & North thereof in Ford County	9.65			.65	
Remainder of Ford County	12.33	.55	.60		.01

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DECISION NO. IL79-2030

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Ford County	12.15	.65	1.00		.08
Iroquois County	12.50	.75	.75		.05
LATHERS:					
Ford County	11.99	.45	.50		.01
PAINTERS:					
Ford County:					
Brush & Roller	11.20	.55		.06	.06
Paperhanging	11.45	.55			.06
Structural Steel	11.70	.55			.06
Iroquois County:					
Brush and Roller	10.85	.55	.50		
Spray	12.35	.55	.50		
PLASTERERS:					
Ford County	12.515	.45			.025
Iroquois County	11.50	.80	.75		
PLUMBERS & STEAMFITTERS:					
Ford County	12.65	.35	1.15		.12
Iroquois County	12.68	.35	1.00		.08
ROOFERS:					
Ford County	12.39	.70	.45		.01
Iroquois County	11.55				
SHEET METAL WORKERS:					
Ford County	11.94	3%+.60	.67		.16
Iroquois County	12.97	.70	.89		.08
SPRINKLER FITTERS	12.10	.75	1.05		.08
TRUCK DRIVERS:					
Remainder of Iroquois County & Northern ¼ of Ford Co.					
2-3 Axle Trucks	10.65	b29.00	b33.00		
4 Axle Trucks	10.80	b29.00	b33.00		
5 Axle Trucks	11.00	b29.00	b33.00		
6 Axle Trucks	11.20	b29.00	b33.00		

FOOTNOTE:
3% of Gross Earnings to SASKI

DECISION NO. IL79-2030

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAY: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving Day; G-Christmas Day

FOOTNOTES:

a. 6 paid holidays: A through G

b. Per week - Per Employee

DECISION NO. IL79-2030

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Unskilled	11.20	.40	.42		.035
Semi-skilled	11.40	.40	.42		.035
Skilled	11.60	.40	.42		.035

UNSKILLED - Common Laborer; carpenter tenders; tool cribmen firemen or salamander tenders; flagmen; gravel box men; dumpmen & spotters; form handlers; material patchers; landscapers; unloading; explosives; laying of sod; planting of trees; asphalt plant laborers; wrecking laborers; writer of scale tickets; fire shop laborers; fireproofing laborers; janitors; wrecking-dismantling buildings; wallmen & housemovers; driving of stakes; stringlines for all machinery

SEMI-SKILLED - Handling of materials treated with oil, creosote, asphalt or any foreign material, track laborers; cement handlers; chloride workers (wet); tunnel helpers in free air; batch dumpers; mason & plasterer tenders 7 material wheelers kettlemen & tarmen; tank cleaners; plastic installers; scaffold workers; motorized buggies or motorized unit used for wet concrete or handling of building materials laborers w/dewatering systems; all sewer workers plus depth; rod & chainmen with land surveyors; vibrator operators; motor mixer operator; cement silica; clay; fly ash; lime & Plasters/handlers (bulk or bag); cofferdam workers plus depth; (one concrete paving) placing, cutting & trying or reinforcing; deck hand; dredge hand & shore laborers; bankmen on floating plant; asphalt workers w/machine; asphalt rakers; grade checker

SKILLED - Dynamite man or blasters; caisson workers plus depth; gunnite; nozzle men leadman on sewer work; welder; cutters; burners; torchmen; chain saw operators; jackhammer & drill operators; layout man; steel form setters (street & highway); air tamping hammermanl signal man on crane, concrete saw operator; screenman on asphalt pavers; laborers tending masons w/hot materials are used; multiple concrete duct-leadmen; curb asphalt machine operator; ready-mix scalemen; pottable or temporary plant; laborers handling masterplate or similar materials; laser beam operator; coring machine operator

DECISION NO. IL79-2030 ILL-1-PEO-1-2-3

POWER EQUIPMENT OPERATORS: FORD & IROQUOIS COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	12.40	.55	.75		.08
CLASS II	12.30	.55	.75		.08
CLASS III	12.10	.55	.75		.08
CLASS IV	8.08	.55	.75		.08

CLASS I - Master Mechanic

CLASS II - Utility Operator

CLASS III - Power cranes, Draglines, Electric overhead cranes, Shovels, Gradall, Mechanics, Repair and Maintenance of all equipment, Tractor highlift shovel, Forklifts, Tournamixer, 2 drums machine or 2 cage hoist, Cableways, Tower machine, Motor Patrol, Boom tractor, Boom or winch truck, Truck Crane, Tournapull, Tractor operating scoops, Bulldozer, Push Tractor, Finishing machine on Asphalt, Large rollers & rollers on asphalt, Gravel Macadam & Brick surface, Ross carrier or similar machine, Asphalt Plant Engineer or Pug Mill, Two (2) air compressors, Hetherington paver operator, Farm tractor with ½ yard bucket and/or backhoe attachment, Trench machines cutting over 24," Dredging equipment, Central mix plant engineer, concrete spreader, Air compressors 200 cu. ft. or over, Standard or Dinkey locomotives, Scoopmobiles, Euclid loader, soil cement machine, Mixers 14S capacity or less, Trench Machine cutting 24" & under, Backfiller, Elevating machine, Power Blade, Asphalt Plant Engineer, Well drilling Machines, Paint Machine, Pipe Cleaning Machine, Pipe wrapping machine, Pipe Bending Machine Apsco paver, Boring Machine, w/o winch, Head equipment, Greasers, Barber Green Loaders, Formless paver, Farm Tractor with less than half-yard bucket other attachments except backhoe, Well Point System

CLASS IV - Power Sub-Grader, Bull Float, Form Grader, Finishing Machine, Pavement breaker, Rock Crushers, One drum machine, air compressor less than 20 cu. ft. capacity, Concrete pump, Gunnite machine, Air Tuffers, Truck crane drivers, House Elevators when used for temporary heat, Small rollers on earth, Engine tenders, Fireman on pain pots, Fireman, Wagon Drill, Foxaplane, Conveyor, 2 to 4 Water Pumps, Siphon & Pulsometer, Switchman, Fireman on Asphalt plants, Distributor operator on trucks, Tampers, Power Broom, Post Hole Digger, Self Propelled Concrete Saw, Striping Machine (Motor Driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser

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DECISION NO. IL79-2030 ILL-82-TD-1-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS - S.E. CORNER OF IROQUOIS CO., & S. ½ OF FORD CO.					
GROUP I	10.80	.65	a20.00		
GROUP II	11.20	.65	a20.00		
GROUP III	11.40	.65	a20.00		

TRUCK DRIVERS

GROUP I - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanics helpers, greasers & firemen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity

GROUP II - 2 or 3 axle trucks hauling more than 9 tons, but hauling less than 18 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Forklifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III - 2,3 or 4 axle trucks hauling 16 tons or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

STATE: Illinois COUNTIES: Bureau, LaSalle, Livingston, Marshall, Putnam and Woodford

DECISION NUMBER: IL79-2031 DATE: Date of Publication

Supersedes Decision No. IL78-2109, dated October 20, 1978 in 43 FR 49175

DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 12.01	.91	.99		.05
BOILERMAKERS	11.45	.95	1.00		.03
BRICKLAYERS AND STONEMASONS:					
LaSalle County:					
Peru & Vicinity	11.70	.65	1.00		
Streator & Vicinity	11.75	.70	.50		
Ottawa & Vicinity	11.80	.75	1.00		
Woodford & Marshall Counties	11.70	.70	1.00		.01
Livingston County	11.55	.85	.50		
Bureau & Putnam Counties	12.25	.70	.40		
CARPENTERS:					
LaSalle, Marshall, Bureau Cos. The Northern half of Putnam County and Northwestern corner of Livingston County Carpenters; Piledrivermen and Soft Floor Layers	11.68	.75	.70		.03
Millwrights	11.93	.75	.70		.03
Remainder of Livingston County Carpenters; Soft Floor Layers	11.76	.40	.75		.05
Millwrights and Piledrivermen	12.26	.40	.75		.05
Woodford County Carpenters and Soft Floor Layers	11.76	.40	.75		.05
Millwrights & Piledrivermen	12.26	.40	.75		.05
CEMENT MASONS:					
LaSalle, Bureau, Putnam Cos. and the Northern part of Livingston County	11.85		1.00		
Southern part of Livingston County and that portion East of Roanoke in Woodford Co.	12.63	.75			
Marshall County & the Remainder of Woodford County	12.16	.80	.90		.05
ELECTRICIANS:					
Northern half and Central Southern part of LaSalle Co. Walnut; Ohio, LaMoille, Clarion, Bureau, Dover, Verlin and Westville, Townships in Bureau County	13.93	.80	3%+.70		.2 of 1%

DECISION NO. IL79-2031

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (CONT'D)					
Vicinity of LaSalle - S. W. part of County; Remainder of Putnam County; Arispe, Concord, Fairfield, Gold, Greenville, Hall, Indianatown, Leepertown, Macon, Manilus, Milo, Mineral, Neponset, Princeton, Sibley, Wheatland, and Waynat Townships, in Bureau County	12.30	.50	3%+.30		.25%
Area West of Bell Plain and Roberts Townships in Marshall County; Area West to but not including Linn, Kansas, Palestone, Roanoke, Cazenovia and Metamora Townships in Woodford County	12.32	.50	3%+.75		1%
Livingston County; Vicinity of Streator - S. E. part of County; Magnolia Township in Putnam County; Area East of Cazenovia and Metamora Townships, including Linn, Clayton, Minak, Roanoke, Green & Panola Townships in Woodford County; Remainder of Marshall County	12.45	.50	3%+.40		.3%
El Paso, Kansas and Palestine Townships S. E. corner of Woodford County	11.95	.80	3%+.85		.002
IRONWORKERS:					
LaSalle, Bureau, Putnam and the Remainder of Marshall County Woodford County; and the S. W. corner of Marshall County Livingston County	13.19	.65	.375		.02
	12.82	.65	.925		
	12.82	.65	.925		
LATHERS:					
S. W. half of Marshall County	11.92	.40	.40		.01

DECISION NO. IL79-2031

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Livingston County:					
Brush	9.00				
Structural Steel	9.80				
Vicinity of Ottawa, Streator and Marseilles in LaSalle Co.					
Brush	9.75	.65	.30		
Spray	10.75	.85	.30		
Putnam County and the Vicinity of LaSalle, Mendota, Oglesby, Utica and Peru in LaSalle Co.					
Brush	9.75	.55	.30		
Spray and Taping	10.75	.55	.30		
Woodford and Marshall Counties:					
Brush	11.30	.85	.30		.03
Spray	11.96	.85	.30		.03
Bureau County:					
Brush and Roller	10.62	.85	.85		.18
Spray	11.12	.55	.85		.18
PLASTERERS:					
Vicinity of LaSalle and Peru in LaSalle County	11.70	.65	1.00		
Vicinity of Ottawa, Naplville, Seneca and Marseilles - LaSalle County	11.80	.75	1.00		
Vicinity of Streator; LaSalle County and Northern part of Livingston County	11.75	.70	.80		
Portion East of Roanoke in Woodford County & the Southern part of Livingston County	13.08				
Marshall county & the Remainder of Woodford County	11.20	.90	.90		.03
Putnam and Bureau Counties	12.25	.70	.40		
PLUMBERS AND STEAMFITTERS:					
LaSalle, Putnam and Bureau Cos. and North of Pontiac in Livingston County	12.70	.55	.60		.09
City of Pontiac and South thereof Livingston County	13.30	.75	1.20		.15
Illinois State Prison (Pontiac) in Livingston County	12.68	.35	1.00		.08

DECISION NO. IL79-2031

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
LaSalle, Bureau, Putnam, Livingston and N. E. half of Marshall county	11.38	.40	.60		
Woodford County and S. E. half of Marshall County	12.85	.70	.50		.025
SHEET METAL WORKERS:					
Woodford County	12.68	.65	.99		.10
LaSalle, Bureau, Marshall, Putnam and Southern part of Livingston County	11.39	.65+b	.99		.06
Northern portion of Livingston County	12.97	.70	.89		.08
SPRINKLER FITTERS	12.10	.75	1.05		.08
TRUCK DRIVERS:					
Remainder of Woodford and Livingston Counties					
2-3 Axle Trucks	10.65	a29.00	a33.00		
4 Axle Trucks	10.80	a29.00	a33.00		
5 Axle Trucks	11.00	a29.00	a33.00		
6 Axle Trucks	11.20	a29.00	a33.00		
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:

a. Per week per employee
b. 3% of gross earnings to SASMI

DECISION NO. IL79-2031

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Unskilled	11.20	.40	.42		.035
Semi-skilled	11.40	.40	.42		.035
Skilled	11.60	.40	.42		.035

UNSKILLED - Common Laborer; Carpenter Tenders; Tool Cribmen; Fireman or Salamander Tenders; Flagmen; Gravel Box Men; Dumpmen and Spotters; Form Handlers; Material Handlers; Fencing Laborers; Cleaning Lumber; Pit Men Material Checkers; Dispatchers; Landscapers; Unloading explosives; Laying of sod; Planting of trees; Asphalt Plant Laborers; Wrecking Laborers; Writer or scale tickets; Fire shop Laborers; Fireproofing Laborers; Janitors; Wrecking-dismantling buildings; Wallmen and Housemovers; Driving of Stakes; Stringlines for all Machinery

SEMI-SKILLED - Handling of Materials treated with oil, creosote, asphalt or any foreign material, track Laborers; Cement Handlers; Chloride Handlers; the unloading and Laborers w/steel workers and rebard; Concrete Workers (wet); Tunnel Helpers in free air; Batch Dumpers; Mason and Plasterer Tenders and material wheelers; Kettlemen and Tarmen; Tank Cleaners; Plastic Installers; Scaffold Workers; Motorized buggies or motorized unit used for wet concrete or handlin of building materials; Laborers w/dewatering systems; All sewer workers plus depth; Rod and Chainmen with land surveyors; Vibrator Operators; Mortar Mixer Operator; Cement Silica, Clay, Fly Ash, Lime and Plasters; Handlers (bulk or bag); Cofferdam Workers plus depth; (on concrete paving); Placing, Cutting and trying or Reinforcing; Deck Hand; Dredge hand or Shore Laborers; Bankmen on floating plant; Asphalt Workers w/machine; Asphalt Raker; Grade Checker

SKILLED - Dynamite Man or Blasters; caisson workers plus depth; Gunnite Nozzl Men; Leadmen on sewer work; Welders; Cutters; Burners; Torchmen; Chain Saw Operator; Jackhammer and Drill Operators; Layout man; Wheel Form Setters (street and highway); Air Tamping Hammerman; Signalman on crane, Concrete Saw Operator; Screenman on Asphalt Pavers; Laborers tending Masons w/hot materials are used; Multiple Concrete Duct-Leadmen; Lutemen; Curb Asphalt Machine Operator; Ready-mix Scalemen; Portable or temporary plant; Laborers handling master plate or similar materials; Laser Beam Operator; Coring Machine Operator

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DECISION NO. IL79-2031

ILL-12-PEO-1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: Bureau (e. of Rt. #26); LaSalle; Livingston; Putnam (e. of Illinois River)					
CLASS I	12.55	1.00	1.00	.50	.05
CLASS II	11.25	1.00	1.00	.50	.05
CLASS III	10.10	1.00	1.00	.50	.05
CLASS IV	8.85	1.00	1.00	.50	.05

CLASS I - Asphalt plant, asphalt spreader, auto-grade, batch plant, Benoto (requires two engineers), boiler & throttle valve, caisson tugs, central ready-mix plant, combination backhoe front end-loader machine, compressor & throttle valve, concrete breaker (truck mounted), conveyor, concrete paver, concrete placer, concrete tower, cranes (all), derricks (all), grader, elevating, grouting machines, highlift shovels or front endloader 2½ yd. & over, hoists, one, two & three drum, hoists, two & three, drum, hoists, two tugger one floor, hydraulic boom trucks, locomotives (all) mechanic, motor patrol, pile drivers & skid rig, post-hole digger, pre-stress machine, pump cretes dual ram (requiring frequent lubrication & water), pumpcretes, squeeze cretes - screw types pumps, Gyaum bulker & pump, rock drill (self-propelled), rock drill (truck mounted), scoopes - tractor drawn, slip form paver, straddle buggies, tournapull, tractor with boom & side, trenching machines

CLASS II - Boilers, bulldozers, broom all power propelled, concrete mixer (2 bag & over), conveyor portable, forklift truck greaser engineer, highlift shovels or front endloaders under 2½ yd., hoists, automatic, hoists, all elevators, hoists, tugger single drum, rollers, all steam generators, stone trushers, tractors, all winch trucks with "A" frame

CLASS III - Air compressor - small 150 & under (1) to 5 not to exceed a total of 900 ft.), Air compressor - large over 150, combination - small equipment opr., generators under & over 50 KW, heaters, mechanical pumps, over 3" (1 to 3 not to exceed a total of 900 ft.), pumps, well points, welding machines (2 through 5), winches, 4 small electric drill winches

CLASS IV - Oilers

DECISION NO. IL79-2031

ILL-6-PEO-1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: Bureau (w. of Rt. #26); Marshall; Putnam (W. of Illinois River); & Woodford Counties					
GROUP 1	13.00	.45	.80		.05
GROUP 2	12.88	.45	.80		.05
GROUP 3	12.505	.45	.80		.05
GROUP 4	12.23	.45	.80		.05
GROUP 5	11.62	.45	.80		.05

GROUP 1 - Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot, after 80 feet or boom including jib, overhead cranes, gradall, cherry pickers (and similar types, over 15 ton lifting capacity (require oiler), mechanics, central concrete mixing plant operator, road pavers (27e-dual drum-tri batchers), blacktop plant operators and plant engineers, 3 drum hoist, derricks, hydro cranes, shovels skimmer scoops, kohring scoopers, draglines, backhoe, lopstoes-crane-type that require oilers, derrick boats, pile drivers and skid rigs, clamshells, locomotives, cranes, dredge (all types), motor patrol, power blades dumore-elevating and similar types tower cranes (crawler mobile) and stationary, crane-type backfiller, drott yumbo and similar types considered as cranes caisson rigs (require oilers) dozer, tourne-dozer, work boats, ross carrier and helicopter

GROUP 2 - Trench machine, pumperete-belt-crete-squeeze cretei-screw-type pumps and gypsum bulker and pump, dinkey, power launches, tournapulls (all), multiple unit, earth mover, $.25 per hour for each scoop over one, scoops (all sizes), push cats, endloaders (all types), side boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm type w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine euclid loader, forklifts, formless finishing machine jeeps w/ditching machine, or other attachments, tunneluger, rock crushers, automatic cement and gravel batching plants, mobile drills (soil testing and similar types), require oiler), flaherty spreader or similar types (require oiler), heavy equipment greaser (top greaser on spread), gurries and similar type), 1 and 2 drum hoists (buck hoists and similar types freight and passenger elevators Chicago boom, boring machine and pipe jacking, machine, hydrp boom, starting engineer on pipeline, C.M.I. and similar types (require oiler) straw blower, hydro seeder and F.W.D. and similar types

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 3 - Tractor (track type) without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling roller, center stripper, cement finishing machines, barger greene or similar loaders, vibro tamper (all similar types), self-propelled, winch or boom truck, mechanical bull floats, mixer over 3 bags to 27E, tractor pulling power blade or elevating grader, porter rex rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

GROUP 4 - Air compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-air without attachments, surb machines, truck crane oilers, and truck type hoptoe oilers

GROUP 5 - Herman Nelson heater, Dravo, Warner, Silent flo, and similar types, one engineer will opera 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser on spread, roller, 5 tons and under on earth or gravel, form grader, pump 1 Or 2, generator (1) or (2), welding machine (1) or (2) - 300 amp. or over, mixer (3) bag and under (standard capacity), bulk cement plant, crawler crane and skid rig oilers

DECISION NO. IL79-2031

TRUCK DRIVERS; Bureau, LaSalle, Marshall & Putnam Cos., Woodford Co.: (NW Corner) Livingston Co: (SW Corner)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.80	.65	a20.00		
GROUP II	11.20	.65	a20.00		
GROUP III	11.40	.65	a20.00		

GROUP I - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity

GROUP II - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III - 2,3, or 4 axle trucks hauling 16 tons or more, drivers on oil distributors, water pulls, mehcanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week per employee

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: Logan, Mason & Menard
DECISION NUMBER: IL79-2032 DATE: Date of Publication
Supersedes Decision No. IL78-2111, dated October 20, 1978 in 43 FR 49179
DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and garden type apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 12.63	.90	.97		
BOILERMAKERS:					
Menard County	11.45	.90	1.20		.03
Logan and Mason Counties	11.45	.95	1.00		.03
BRICKLAYERS:					
Logan and Mason Counties					
Bricklayers, Stonemasons, Cement Blocklayers, Caulkers, Pointers, Cleaners and Plasterers	12.40				
Marble-Tile and Terrazzo Workers	12.15				
Marble-Tile Finishers	11.40				
Menard County					
Bricklayers, Stonemasons, Marble-Tile and Terrazzo Workers, Pointer, Caulkers and Cleaners	11.25	.50	1.00		.02
Plasterers	13.26	.50	1.00		.02
Marble and Tile Finishers	10.90				
CARPENTERS:					
Logan County					
Carpenters and Soft Floor Layers	11.65	.45	.80		.06
Millwrights and Piledrivermen	12.15	.45	.80		.06
Menard County					
Carpenters and Soft Floor Layers	11.95	.55	.55		.06
Millwrights and Piledrivermen	12.45	.55	.55		.06
Mason County					
Carpenters and Soft Floor Layers	12.61	.40	.75		.05
Millwrights and Piledrivermen	13.11	.40	.75		.05
CEMENT MASONS:					
Logan	11.95				
Menard County	9.98	.35	.35		.02
Mason County	12.16	.80	.90		.05

DECISION NO. IL79-2032

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Logan and Menard Counties; the Townships of Bath, Crane Creek, Kilbourne, Lunchburg, Mason City and Salt Creek in Mason County	12.37	.50	3%+.60		.1 of 1%
Remainder of Mason County	12.32	.50	3%+.75		3/4%
GLAZIERS	10.39	.45	.50		
IRONWORKERS	12.25	.55	1.05		.08
LABORERS:					
Logan County and Northern half of Menard County					
Unskilled	10.10	.45	.40		.035
Semi-skilled	10.30	.45	.40		.035
Skilled	10.45	.45	.40		.035
Southern half Menard County					
Unskilled	10.55	.45	.45		.035
Semi-skilled	10.75	.45	.45		.035
Skilled	10.90	.45	.45		.035
Mason County					
Unskilled	10.44	.30	.45		.035
Semi-skilled	10.64	.30	.45		.035
Skilled	10.79	.30	.45		.035
LATHERS	13.15				
PAINTERS:					
Logan and Menard Counties					
Brush and Roller	10.15	.55	.50		
Spray	10.65	.55	.50		
Mason County					
Brush	10.15	.55	.50		.03
Spray	10.65	.55	.50		.03
PLUMBERS AND PIPEFITTERS	12.43	.35	.88		.07
ROOFERS	12.93	.70			
SHEET METAL WORKERS	11.86	3%+.50	.78		.07
SPRINKLER FITTERS	12.10	.75	1.05		.08
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:
3% of Gross earnings to SASMI

DECISION NO. IL79-2032

POWER EUIPMENT OPERATORS LOGAN & MENARD COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	12.40	.70	.80		.05
CLASS II	10.85	.70	.80		.05
CLASS III	9.50	.70	.80		.05

CLASS I - Asphalt screed man, Aspco concrete spreaders, Asphalt paver, Asphalt rollers on bituminous concrete, athey loaders, backfiller, crane type, backhoes, cableways, cherry pickers, claim shell, C.N.E. & similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derrick, derrick boats, draglines, earth augeror boring machines, levating graders engineers on dredge, gravel processing machines, high lifts or fork lifts, hoist w/two drums or two or more loadlines locomotive (all) mechanics, motar graders or auto patrols, operators or levelman on dredges, operator power boat, operators pug mill (asphalt plants), orange peels, overhead cranes, paving mixers, piledrivers, pipe wrapping & painting machines, push dozer, or push cats, rock crushers, ross carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot roller (self propelled) shovels, skimmer scoops, test hole drilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type form lifts or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnel luggers, wheel type end laoders, winch cat, scoops, all or turnapull.

CLASS - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic,hoist w/1 drum & 1 load line, mud jacks, post hole diggers, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine vibratory compactor, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressor, track or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanic pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/o power attachments regardless of size or type) truck crane oiler & driver 1 (man), water pumps*, welding machines (300 amp. or over)* welding machines

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS. WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTIERS OR WINTIN 300 FT.

DECISION NO. IL79-2032

ILL-6-PEO-1

POWER EQUIPMENT OPERATORS: MASON COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	13.08	.45	.80		.05
GROUP 2	12.88	.45	.80		.05
GROUP 3	12.505	.45	.80		.05
GROUP 4	12.23	.45	.80		.05
GROUP 5	11.62	.45	.80		.05

GROUP 1 - Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot, after 80 feet or boom including jib, overhead cranes, gredall, cherry pickers (and similar types, over 15 tons lifting capacity (require oiler), mechanics, central concrete mixing plant operator, road pavers (27E-dual drum tri-batchers), blacktop plant operators and plant engineers 3 drum hoist, derricks, hydro cranes,shovels skimmer scoops, koehring scoopers, draglines, badkhoe, hoptoes-cranes-type that require oilers, derrick boats, pile drivers and skid rigs, clamshells, locomotive cranes, dredge (all types), motor patrol, power blades dumore-elevating and similar types tower cranes (crawler mobile) and stationary, crane-type backfiller, drott yumbo and similar type considered as cranes, caisson rigs (require oilers) dozer, tourna-dozer, work boats, ross carrier and helicopter

GROUP 2 - Trench machine, pumpcrete-belt crete-squeese crete-screw-type pumps and gysum bulker and pump, dinkeys, power launches, tournapulls (all), multiple unit, earth mover, $.25 per hour for each scoop over one, scoops (all sizes), push cats, endloaders (all types), side boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm type w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine, euclid loader, forklifts, formless finishing machine, jeeps w/ditching machine, or other attachments, tuneluger, rock crushers, automatic cement and gravel batching plants, mobile drills (soil testing and similar types), require oiler), flaherty spreader or similar types (require oiler), heavy equipment greasers (top greaser on spread), gurries and similar type), 1 and 2 drum hoists (buck hoists and similar types freight and passenger elevators Chicago boom, boring machine and pipe jacking, machine, hydro boom, starting engineer on pipeline, C.M.I and similar types (require oilers) straw blower, hydro seeder and F.W.D. and similar types

DECISION NO. IL79-2032

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 3 - Tractor (track type) without power unit pulling rollers, rollers on asphalt, brick or macadam,concrete breakers, concrete spreaders, mule pulling rollers, center stripper, cement finishing machines, barger greene or similar loaders, vibro tamper (all similar types), self-propelled, winch or boom truck mechanical bull floats, mixer over 3 bags to 27E, tractor pulling power blade or elevating grader, portar rex rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

GROUP 4 - Air compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-air without attachments, curb machines, truck crane oilers, and truck type hoptoe oilers

GROUP 5 - Herman Nelson heater, Dravo, Warner, Silent glo, and similar types, one engineer will operate 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistnat heavy equipment greaser on spread, roller, 5 tons and under on earth or gravel, form grader, pump 1 or 2, generator (1) or (2), welding machine (1) or (2) - 300 amp. or over, mixer (3) bag and under (standard capacity), bulk cement plant, crawler crane and skid rig oilers

DECISION NO. IL79-2032

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.80	.65	a20.00		
GROUP II	11.20	.65	a20.00		
GROUP III	11.40	.65	a20.00		

TRUCK DRIVERS

GROUP I - Drivers on 2 axle truckd hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehousemen, mechanic helpers, greasers & firemen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity

GROUP II - 2 or 3 axle truck hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units. ticket writers

GROUP III - 2,3 or 4 axle truck hauling 16 tons or more, drivers on oil distributors, water pulls, mechanic & working foremen; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

STATE: Illinois
COUNTY: McLean
DECISION NUMBER: IL79-2033
DATE: Date of Publication
Supersedes Decision No. IL78-2112 dated October 20, 1978 in 43 FR 49182
DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and garden type apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 13.01	.91	.99		.05
BOILERMAKERS	11.45	.95	1.00		.03
BRICKLAYERS:					
Bricklayers, Stonemasons, Marble, Tile, Terrazzo Workers	11.50	.70	.80		
CARPENTERS:					
Carpenters & Soft Floor Layers	12.61	.40	.75		.05
Millwrights and Piledrivermen	13.11	.40	.75		.05
CEMENT MASONS	12.63	.75			
ELECTRICIANS:					
Cropsey, Anchor, Cheney Grove and Bell Flower Townships	12.45	.50	3%+.40		.3%
Remainder of County	11.95	.50	3%+.55		.002
ELEVATOR CONSTRUCTORS:					
Constructors	11.34	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS	12.33	.55	.60		.01
IRONWORKERS:					
Eastern Part of County	12.15	.65	1.00		.08
Western Part of County	12.825	.65	.925		
LABORERS:					
Unskilled	9.97	.55	.60		.035
Semi-skilled	10.17	.55	.60		.035
Skilled	10.37	.55	.60		.035
LATHERS	11.92	.40	.40		.01
PAINTERS:					
Brush	*11.20	.55			.06
Structural Steel and Spray	11.70	.55			.06
PLASTERERS	12.05				.01
PLUMBERS & STEAMFITTERS	12.30	.70	1.20		.15
ROOFERS:					
Composition; slate; tile and Asbestos Damp and Waterproof	11.00		.45		
SHEET METAL WORKERS	12.60	.65	.99		.10
SPRINKLER FITTERS	12.10	.75	1.05		.08

*Welders - Receive rate prescribed for craft performing operation to which welding is incidental.

DECISION NO. IL79-2033

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTES:
a. 7 Paid Holidays: A through G

b. Employer contributes 8% of Regular Hourly Rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 4% of Regular Hourly Rate to Vacation Pay Credit for employee who has worked in Business less than 5 years.

DECISION NO. IL79-2033

ILL-6-PEO-1

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	13.08	.45	.80		.05
GROUP 2	12.88	.45	.80		.05
GROUP 3	12.505	.45	.80		.05
GROUP 4	12.23	.45	.80		.05
GROUP 5	11.62	.45	.80		.05

GROUP 1 - Cranes, combined rate on cranes, derricks, booms, $.01 per hour, per foot, after 80 feet or boom including jib, overhead cranes, gradall, chevry pitkers (and similar types, over 15 ton lifting capacity (require oiler), machines, central concrete mixing plant operator, road pavers (27E-dual drum-2E1 hauchers), blacktop plant operators and plant engineers, 3 drum hoist, derricks, hydro cranes, shovels skimmer scoops, hoisting scoopers, draglines, backhoe, laptoes-crane-type that require oilers, derrick boats, pile drivers and skid rigs, clamshells, locomotives, cranes, dredge (all types), creek patrol, power shades dumore-elevating and similar types motor cranes (crawler mobile) and stationary, crane-type backfillers, drott cranes and similar types enumerated as cranes caisson rigs (requires oilers) dozer, tourn-dozer; push boats, rues carrier and helicopter

GROUP 2 - Trench macine, pumpcrete-belt-crete-squeeze cretes-screw-type pumps and gypsum bulker and pump, dinkey, power launches, tournapulls (all), multiple unit, earth mover, $.25 per hour for each scoop over one, scoops (all sizes), push cats, endloaders (all types), side boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm type w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine euclid loader, forklifts, formless finishing machine jeeps w/ditching machine or other attachments, vacuum lugger, rock crushers, automatic cement and gravel batching plants, mobile drills (soil testing and si ilar types), require oiler), flaherty spreader or similar types (require oiler), Heavy equipment greaser (top greaser on spread similar types (require oiler), 1 and 2 drum hoists (muck hoists and similar types freight and passenger elevators Chicago boom, boring machine and pipe jacking, machine, hydro boom, starting engineer on pipeline, C.M.I and similar types (require oiler) straw blower, hydro seeder and F.W.D and similar types

DECISION NO. IL79-2033

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 3 - Tractor (track type) without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling rollers, center strippes, cement finishing machines, barget greene or similar loaders, vibro tamper (all similar types), self-propelled, winch or boom truck, mechanical bull floats, mixer over 3 bags to 27E, tractor pulling power blade or elevating grader, porter rax rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

GROUP 4 - Air Compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-air without attachments, surb machines, truck crane oilers, and truck type hoptoe oilers

GROUP 5 - Herman Nelson heater, Bravo, Warner, Silent flow and similar types, one engineer will opera 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser on spread, roller, 3 tons and under on earth or gravel, form grader, pump 1 or 2, generator (1) or (2), welding machine (1) or (2) - 300 amp. or over, mixer (1 bag and under (standard capacity), bulk cement plant, crawler crane and skid rig oiler

DECISION NO. IL79-2033

ILL-82-TD-1-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
GROUP I	10.80	.65	a20.00		
GROUP II	11.20	.65	a20.00		
GROUP III	11.40	.65	a20.00		

TRUCK DRIVERS:

GROUP I - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers a tireman, pick-up trucks when hauling materials, tool, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity

GROUP II - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units;

GROUP III - 2,3 or 4 axle trucks hauling 16 ton or more, drivers on oil distributores, water pulls, mechanics & working foreman; 5-axle or more combination unit; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: MAINE COUNTY: CUMBERLAND
DECISION NUMBER: ME79-2042 DATE: DATE OF PUBLICATION
Supersedes Decision No. ME78-2158, dated November 17, 1978 in 43 FR 53959
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 9.00	.40	.50		.02
CARPENTERS	6.86				
CEMENT MASONS	9.00	.40	.50		.02
ELECTRICIANS	10.30	.65	3%+.25		.02
GLAZIERS	5.40				
IRONWORKERS, STRUCTURAL, ORNAMENTAL AND REINFORCING	9.65	.70	1.00		.04
LABORERS	6.45	.60	.80		.10
PLUMBERS & PIPEFITTERS	9.80	.55	.90		.02
ROOFERS	7.85				
SHEET METAL WORKERS	7.98	.52	.165		.05
SHEETROCKERS	7.85				
TAPERS	7.85				
POWER EQUIPMENT OPERATORS: Crane	6.92				

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: See Below
DECISION NO. MI79-2012 DATE: Date of Publication
Supersedes Decision No. MI78-2072 dated Spetember 29, 1978 in 43 FR 45103
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including 4 stories) and Heavy (excluding Bridge Airport and Sewer) Contruction Projects.

COUNTIES: Alcona, Alpena, Charlevoix, Emmet, Grand Traverse, Leelanau, Mason, Montmorency, Muskegon, Oceana, Oscoda and Presque Isle.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.85	.95	1.63		.02
BOILERMAKERS	11.955	1.18	1.20	2.00	.03
BRICKLAYERS:					
Mason County:					
Bricklayers; Stonemasons; Marble-Tile Workers, Cement Masons & Plasterers	8.70	.65	.35		
Muskegon & Oceana Counties					
Bricklayers & Stonemasons	9.945	.80	.75		
Marble Masons	8.90	.55	.70		
Terrazzo & Tile Workers	8.65	.55	.70		
Plasterers	10.68	.60	.50		.02
Remaining Counties					
Bricklayers; Stonemasons; Plasterers-Marble Workers	9.93	.70	.25		.02
Terrazzo & Tile Workers	9.37	.70	.25		
CARPENTERS:					
Mason, Muskegon & Oceana Counties					
Carpenters	10.50	.60	.70		.04
Millwrights	12.25	.60	.70		.05
Piledrivers	10.90	.60	.70		.05
Remaining Counties					
Carpenters & Soft Floor Layers	10.01	.60	.80		.03
Millwrights	10.51	.60	.80		.03
Piledrivers	10.46	.60	.80		.03
CEMENT MASONS:					
Muskegon & Oceana Counties	9.63	.60	.50		.02
Remaining Counties	9.48	.70	.25		.02
ELECTRICIANS:					
Charlevoix, Grand Traverse, Leelanau & Emmet (except Wawatan Township) Counties and (Grant, Presscott, and Meade Townships) in Mason County	11.50	.50	3%+.40		.1 of 1%

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DECISION NO. MI79-2012

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
Muskegon, Oceana and the Remainder of Mason Counties	$11.68	.50	3%+.35		.03
Remaining Counties & (Wawatan Township) in Emmet County:					
Electricial Contractors $35,000 and below	9.75	.50	3%+.30		.1 of 1%
Electrical Contracts in excess of $35,000	11.70	.50	3%+.30		.1 of 1%
ELEVATOR CONSTRUCTORS:					
Alcona, Alpena, Montmorency, Oscoda and Presque Isle:					
Elevator Constructor	11.21	.745	.56	a	.025
Elevator Constructor Helpers	70%JR	.745	.56	a	.025
Elevator Constructor Helpers (Prob.)	50%JR				
ELEVATOR CONSTRUCTORS:					
Remainder of Counties:					
Elevator Constructors	10.195	.743	.56	a	.025
Elevator Constructors Helpers	70%JR	.743	.56	a	.025
Elevator Constructors Helpers (Prob.)	50%JR				
GLAZIERS:					
Emmet & Muskegon Counties	$ 8.55	.55	.30	3%	
Charlevoix, Grand Traverse, Leelanau, Mason, & Oceana Counties	8.30	.55	.30	5%	
IRONWORKERS:					
Alcona, Alpena, Montmorency, Oscoda and Presque Isle Counties:					
Structural and Ornamental	11.90	8%	15%	18%	.09
Reinforcing	10.97	.90+.25	15%	15%	.07
Fence Erectors	10.82	8%	14%	17%	.09
Remaining Counties	11.86	6%	8%		.03
LATHERS:	8.85	.64	.10	.50	.01
Grand Traverse County	9.40	.92	.30		.01
Muskegon County	9.82	.92	.30		.01
PAINTERS:					
Alcona and Oscoda Counties					
Brush	9.30	.55	.80		.02
Spray	10.35	.55	.80		.02

DECISION NO. MI79-2012

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Grand Traverse and Leelanau Counties and that portion of Charlevoix County lying South of and straight line drawn from Charlevoix (city) to Elmira					
Brush	$ 9.25	.50			.02
Spray	9.90	.50			.02
Tapers	9.85	.50			.02
Mason County	8.75				
Muskegon & Oceana Counties					
Brush, Tapers	8.00				
Paper hangers	8.25				
Spray & Sandblast	8.50				
Remainder of Charlevoix County and Remaining Counties					
Brush & Drywall	9.95				
Spray - Commercial	10.70				
PLUMBERS & STEAMFITTERS:					
Alcona and Oscoda Counties	11.34	.85	.60	1.80	
Alpena, Montmorency & Presque Isle Counties	12.05	.35	.60		
Mason, Muskegon & Oceana Counties	11.71	1.19	.75		.04
Remaining Counties	11.41	.60	.50		.06
ROOFERS:					
Mason, Muskegon & Oceana Counties	9.45	.67		.20	.01
Remainder of Counties: Composition, Damp & Waterproofers	9.62				
SHEET METAL WORKERS:					
Charlevoix, Emmet, Grand Traverse and Leelanau Counties	10.70	.50	.53		.05
Mason, Muskegon & Oceana Counties	11.40	.77	.95	.67	.02
Remaining Counties	12.86	.80	1.00		.03
SPRINKLER FITTERS	12.10	.75	1.05		.08

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Alcona, Alpena, Montmorency, Oscoda & Oroque Isle Counties					
Regular Truck Driver	$ 8.25	b28.00	b37.00	.50	
8 cu. yds. and over	8.35	b28.00	b37.00	.50	
Euclid Type Bottom & End Dump	8.55	b28.00	b37.00	.50	
Charlevoix, Emmet, Grand Traverse and Leelanau Counties					
Regular Truck Driver	7.95	b26.00	b20.00	c	
8 cu. yds. and over	8.05	b26.00	b20.00	c	
Semi-Driver	8.15	b26.00	b20.00	c	

Welder receive rate prescribed for craft to which welding is incidental.

FOOTNOTES:

a. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 6% contribution for more than 5 years-plus 7 Paid Holidays-New Years Day-Memorial Day-Independence Day-Labor Day-Thanksgiving Day-Day after Thanksgiving & Christmas Day

b. Per week; For Employee & Dental & Optical

c. Paid vacation computed at a 40 hour week at straight time as follows: one year or more - one week; three years or more - two weeks; eight years or more - three weeks; and 7 Paid Holidays provided employee has been in service of employer 20 days or more and worked the full scheduled day prior to and after the holiday - New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Friday after Christmas Day.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Mason County					
Group 1	$ 7.70	.65	.35		.04
Group 2	7.85	.65	.35		.04
Group 3	8.15	.65	.35		.04
Group 4	8.05	.65	.35		.04
Group 5	8.10	.65	.35		.04
Group 6	7.95	.65	.35		.04
Muskegon and Oceana Counties					
Group 1	7.71	.65	.35	.55	.04
Group 2	7.86	.65	.35	.55	.04
Group 3	7.96	.65	.35	.55	.04
Group 4	8.21	.65	.35	.55	.04
Remaining Counties					
Group 1	7.35	.65	.35	.55	.04
Group 2	7.50	.65	.35	.55	.04
Group 3	7.95	.65	.35	.55	.04

LABORERS:

Mason County
Group 1 - Building and Heavy Construction Laborers
Group 2 - Plaster and Mason Tenders; Mortar Mixers; Material Mixers; All power Tools; Vibrator; Chain saw; Nozzleman; Green Cut Concrete work
Group 3 - Jackhammer; Acetylene Torch; Windlass and Tugger Operators; swing Scaffold Chimneys; Tower, Crane Scaffold; Rock Crusher
Group 4 - Pipelayers or Crock Layers in Buildings
Group 5 - Plasterers Tenders - Machine pumped
Group 6 - Work on Scaffold 30' in height or more

Muskegon and Oceana Counties
Group 1 - All Construction Laborers on Building and Heavy Construction Pumps and well Wheels
Group 2 - Plasterer tender; Material Mixers; Operators of Portable Mixers; Air, Electric or Gasoline Tools; Mortar Driver Buggies; Swing Scaffold
Group 3 - Jackhammer Operator, Crocklayers & Caisson workers in Buildings
Group 4 - Top men on Chimney or Towers over 30' in Height

Remaining Counties:
Group 1 - Building and Heavy Construction Laborers
Group 2 - Mortar Mixer; Material Mixers (hand or machine); Vibrator Operators; Operators of Concrete Mixers; Chipping Hammer; Concrete Breakers (90 lb. hammer or less); Tamping Machine (air, gas or electric); Sand blasters; Operator or Motor Driven Buggies; Plaster Mixer; Plasterers Tenders
Group 3 - Cement Gun Nozzleman

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LC - ZONE II

LINE CONSTRUCTION: ZONE II	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lineman; Heavy Equipment Operator	$11.00	.45	3%	a	.5%
Cable Splicer	11.46	.45	3%	a	.5%
Combination Digger Operator; Tractor Operator Groundman					
1st 6 months	7.94	.45	3%	a	.5%
Over 6 months	8.58	.45	3%	a	.5%
Light Equipment Operator Groundman; Distribution Line					
1st 6 months	6.90	.45	3%	a	.5%
Over 6 months	7.53	.45	3%	a	.5%
Combination Truck Driver Groundman	6.08	.45	3%	a	.5%

FOOTNOTES:

7 paid Holidays; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION NO. M179-2012

MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS:
BUILDING & HEAVY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.55	.95	1.50		.05
CLASS B	13.30	.95	1.50		.05
CLASS C	12.80	.95	1.50		.05
CLASS D	11.65	.95	1.50		.05
CLASS E	11.45	.95	1.50		.05
CLASS F	10.25	.95	1.50		.05
CLASS G	9.55	.95	1.50		

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, crane, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging) Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyers

CLASS G - Oiler, Fireman & Heater Operator

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MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS:
STEEL ERECTION

ALCONA, ALPENA, MONTMORENCY, OSCODA & PRESQUE ISLE COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where opoators work stations is 501 or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D Hoisting operator
CLASS E Compressor (or welder) operator
CLASS F - Oiler or fireman

MICH-6-PEO-SE

POWER EQUIPMENT OPERATORS:
STEEL ERECTION
REMAINING COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.90	.95	1.50		.05
CLASS B	13.65	.95	1.50		.05
CLASS C	13.15	.95	1.50		.05
CLASS D	12.00	.95	1.50		.05
CLASS E	10.75	.95	1.50		.05
CLASS F	9.55	.95	1.50		

CLASS A - Crane operator w/main boom & jib 220' or longer
CLASS B - Crane operator w/main boom & jib 140' or longer; power cranes, gantry crane; whirley derrick
CLASS C - Regular equipment operator; crane; dozer; loader; hoist, straddle wagon, Job mechanic
CLASS D - Air tugger (single drum); material hoist, pump 6' or over
CLASS E - Air compressor, welder, generators-conveyors
CLASS F - Oiler & Fireman

DECISION NO. M179-2012

MICH-9-PEO-U-X-2

POWER EQUIPMENT OPERATORS:
UNDERGROUND CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, screper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grador, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip fom paver slope paver, conveyor loader (euclid type)
CLASS II - Trenchor (8' digging capacity & smaller), endloador (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusives of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloador), crushet
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumperete machine (and similar equipment), mechanic helper, maintenance man, boom truck(non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishng machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: Michigan
COUNTIES: See Below
DECISION NO.: M179-2013
DATE: Date of Publication
Supersedes Decision No. M178-2073, dated September 29, 1978 in 43 FR 45107
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including four stories) and Heavy (excluding Bridge, Airport and Sewer) Construction Projects.

COUNTIES: Alger, Baraga, Chippewa, Dickinson, Gogebic Houghton, Keweenaw, Mackinac, Marquette & Ontonagon

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Chippewa & Mackinac Counties	$11.85	.95	1.63		.02
Gogebic & Ontonagon Counties	11.10	.40	.50		
Remainder of Counties	11.36	.85	.50	1.00	.10
BOILERMAKERS	11.955	1.18	1.20	2.00	.03
BRICKLAYERS:					
Alger & Marquette Counties:					
Bricklayers, Stonemasons, Plasterers, & Marble-Tile-Terrazzo Workers	11.41	.75	.60		.02
Chippewa & Mackinac Counties:					
Bricklayers & Stonemasons	9.59	.70	.60		
Plasterers	9.44	.70	.60		
Tile & Terrazzo Workers	9.39	.70	.60		
Remainder of Counties:					
Bricklayers, Stonemasons, Plasterers, Marble-Tile and Terrazzo Workers	9.62	.75	.50		.01
CARPENTERS:					
Carpenters & Soft Floor Layers	10.94	.60	.80		.02
Millwrights	12.34	.60	.80		.02
Piledrivermen	11.14	.60	.80		.02
CEMENT MASONS:					
Alger & Marquette Counties	10.91	.75	.60		.02
Chippewa & Mackinac Counties	9.02	.70	.60		
Remainder of Counties	9.12	.75	.50		.01
ELECTRICIANS:					
Dickinson County:					
Contracts $50,000 or more & all Industrial Work	11.74	.50	3%		.5%
Contracts less than $50,000	10.42	.50	3%		.5%
Alger & Marquette Counties:					
Contracts over $50,000	12.55	.45	3%+1.00		½ of 1%
Contracts $50,000 or less	10.92	.45	3%+1.00		½ of 1%

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Chippewa & Mackinac Counties	$10.30	.50	3%+1.00		15.00 p/y
Gogebic County	11.47	4%	5%	11%	1%
Remainder of Counties:					
Contracts $45,000 & over	10.54	.50	3%+1.00		½ of 1%
Contracts up to $45,000	7.75	.50	3%+1.00		½ of 1%
ELEVATOR CONSTRUCTORS:					
Constructors	10.765	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (Prob.)	50%JR				
IRONWORKERS	11.05	.70	1.00	1.70	.04
PAINTERS:					
Dickinson County:					
Commercial & Industrial	8.95		.75		
Alger & Marquette Counties					
Brush	9.95				
Glaziers	9.75				
Bridges, Water Tanks, Radio & TV	12.00				
Chippewa & Mackinac Counties:					
Commercial-Industrial & Sign Painter	8.80			1.50	
Taper-Hand	9.30			1.50	
Steel	11.30			1.50	
Glaziers	9.60			1.50	
Baraga, Houghton, Keweenaw & the northern portion of Ontonagon County:					
Brush, Paperhangers, Tapers and Glaziers	8.00				
Spray & Sandblasting	8.55				
Gogebic County & the Remainder of Ontonagon County:					
Brush, Paperhangers	6.00				
Spray	6.50				

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAM FITTERS	$10.66	.70	.70	1.00	.02
ROOFERS	9.15		.50		
SHEET METAL WORKERS	9.73	.704.10	.88	1.25	.05
SPRINKLER FITTERS	12.10	.75	1.05		.08
TRUCK DRIVERS:					
Truck Driver	7.72	b22.00	b16.00		
Heavy Duty, Double Axle & Semi	7.85	b22.00	b16.00		
Euclid	8.08	b22.00	b16.00		

FOOTNOTES:
a. 7 Paid Holidays-New Year's Day-Memorial Day- Independence Day-Labor Day-Thanksgiving Day-Day after Thanksgiving & Christmas Day plus employer contributes 8% of Regular Hourly Rate to vacation pay credit for employee who has worked in business more than 5 years & 6% for employees in business less than 5 years
b. Per Week; Per Employee

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Welders receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 4% contribution for more than 5 years.

b. Per Week; Per Employee

LABORERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class A	$ 8.80	.65	.35		.04
Class B	8.90	.65	.35		.04
Class C	9.20	.65	.35		.04
Class D	9.35	.65	.35		.04

LABORERS

CLASS A: General Construction Laborers

CLASS B: Chipping Hammers; Concrete Mixers; Green Cutting (Air, electric or gas); Material Mixers (Hand or Machine) Motor Driven Buggies; Mortar Mixers; Sand Blasters; Tamping Machines; Vibrator Operator; Laborers with concrete mixer to pour, including pour from trucks

CLASS C: Blasters; Buster Operators; Cement Gun Nozzleman; Drillers; Layers of all non-metallic pipe; Mixers

CLASS D: Underground Work; Tunnels and Shafts - Muckers; Caisson Workers, miners, drillers, blasters.

DECISION NO. MT79-2013

LC -ZONE II

LINE CONSTRUCTION: ZONE II	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Heavy Equipment Operator	$11.00	.45	3%	a	.5%
Cable Splicer	11.44	.45	3%	a	.5%
Combination Digger Operator; Tractor Operator Groundman					
1st 6 months	7.94	.45	3%	a	.5%
Over 6 months	8.58	.45	3%	a	.5%
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 months	6.90	.45	3%	a	.5%
Over 6 months	7.53	.45	3%	a	.5%
Combination Winch Truck Driver Groundman:					
1st 6 months	6.28	.45	3%	a	.5%
Over 6 months	7.18	.45	3%	a	.5%
Combination Truck Driver Groundman	6.08	.45	3%	a	.5%

FOOTNOTE:

a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

DECISION NO. MI79-2013 MICH-7-PEO-1-2-SE-U

POWER EQUIPMENT OPERATORS: BUILDING, HEAVY & UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$ 9.95	.95	1.50	11%	.02
CLASS B	8.86	.95	1.50	11%	.02
CLASS C	8.34	.95	1.50	11%	.02
CLASS D	7.74	.95	1.50	11%	

CLASS A - Regular equipment operator, crane, dozer, front end loader, job mechanic
CLASS B - Air Track drill, boom truck, concrete mixers, fork truck, material hoist & tugger, pumps 6" or over, pumperete, belt crete, squeeze crete, sweeping machine trencher, winches, well pointsa nd freeze systems
CLASS C - Air compressor, conveyor, concrete saw, farm tractor (without attachments) generator, guard post driver, mulching pumps under 6" welders
CLASS D - Oiler, fireman, heater operator

POWER EQUIPMENT OPERATORS: STEEL ERECTION					
CLASS 1 - Operator	$ 8.95	.80	1.00	10%	.02
CLASS 2 - Compressor or Welder	7.95	.80	1.00	10%	.02
CLASS 3 - Oiler & Fireman	7.05	.80	1.00	10%	

SUPERSEDEAS DECISION

STATE: Michigan COUNTY: Marquette
DECISION NO.: MI79-2014 DATE: Date of Publication
Superseded Decision No. MI78-2074, dated September 29, 1978 in 43 FR 45110
DESCRIPTION OF WORK: Residential Construction Projects of single family homes and garden type apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.81	.70	.50		.05
BOILERMAKERS	11.955	1.18	1.20	2.00	.03
BRICKLAYERS & STONEMASONS	11.41	.75	.60		.02
CARPENTERS & SOFT FLOOR LAYERS	8.20	.60	.80		.02
CEMENT MASONS	10.91	.75	.60		.02
ELECTRICIANS	8.20	.45	3%		1of1%
ELEVATOR CONSTRUCTORS:					
Constructors	10.765	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
IRONWORKERS	11.05	.70	1.00	1.70	.04
LABORERS:					
Laborers	8.80	.65	.35		.04
Chipping Hammers; Concrete Mixers, Green Cutter (Air, Electric or Gas), Material Mixers, Mortar Mixers, Motor driven buggy operator, sand-blasters, Tamping machines, vibrator operators	8.90	.65	.35		.04
MILLWRIGHTS	12.34	.60	.80		.02
PAINTERS:					
Brush & Glaziers	9.25				
PILEDRIVERMEN	11.14	.60	.80		.02
PLASTERERS	11.41	.75	.60		.02
PLUMBERS & STEAMFITTERS	10.66	.70	.70	1.00	.02
ROOFERS	9.15		.50		
SHEET METAL WORKERS	9.73	.70+.10	.88	1.25	.05
SPRINKLER FITTERS	12.10	.75	1.05		.08
TILE-MARBLE & TERRAZZO WORKERS	11.41	.75	.60		.02
TRUCK DRIVERS:					
Regular	7.72	22.00c	16.00c		
Heavy Duty, double axle and semi	7.85	22.00c	16.00c		
Euclid type equipment	8.08	22.00c	16.00c		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators Regular Equipment Operator Crane, Dozer, Front End Loaders Job Mechanic	$ 9.95	.95	1.50	11%	.02
Air Track Drill, Boom Truck Concrete Mixers, Fork Truck, Material Hoist and Tugger, Pump, 6" andover, Pumperete, Belt Crete, Squeeze crete, Sweeping Machine, trencher, Winches, Well points and Freeze Systems	8.86	.95	1.50	11%	.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving Day & Christmas Day

FOOTNOTES:

a. Six paid holidays: A through G

b. Employer contributes 8% of regular hourly rate to vacation credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Per week, Per employee

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: See Below
DECISION NO. MI79-2015 DATE: Date of Publication
Superseded Decision No: MI78-2075, dated September 29, 1978 in 43 FR 45111
DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including four stories) and Heavy (excluding, Bridge, Airport and Sewer) Construction Projects

COUNTIES: Allegan, Berrien Calhoun, Clinton, Eaton, Ingham, Jackson & Kalamazoo

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Berrien County	$12.98	.65	.90		
Remaining Counties	11.85	.95	1.63		.02
BOILERMAKERS	11.955	1.18	1.20	2.00	.03
BRICKLAYERS & STONEMASONS:					
Allegan County (Casco, Clyde Ganges and Lee Townships) and Berrien County	10.75	.95	.60		
Allegan County (Allegan, Cheshire, Gun Plain, Martin, Otsego, Trowbridge, Valley, and Watson Townships) and Kalamazoo County	11.71	.85	.85		.09
Allegan County (Remainder)	9.90	.75	.25		.04
Calhoun County and Bellevue, Carmel, Kalamo, and Walton Townships in Eaton County	11.65	.85	.35		
Clinton and Ingham (except Onondaga, Leslie, Bunker Hill and Stockbridge Townships) Counties and the remainder of Eaton County	12.35		.90		.01
Jackson County and remainder of Ingham County	12.87	1.10	.80		
CARPENTERS:					
Berrien County (Chikaming, New Buffalo and Three Oaks Townships)	12.78	.65	.87		.05
Clinton, Eaton (except Bellevue, Walton, Kalamo and Vermontville Townships), Ingham & Jackson Counties	12.07	.60	.80		.03
Remaining Counties and the remainder of Berrien and Eaton Counties	10.50	.60	.70		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Kalamazoo County; Calhoun Co; Allegan Co., (Twps of Allegan, Cheshire, Gunn Plain, Martin, Otsego, Trowbridge, Valley & Watson)	$11.07	.85	.35		.02
Allegan County (Casco, Ganges & Lee Townships) and Berrien County	9.95	.95	.60		
Remainder of Allegan County	9.32	.50	.50		.02
Remainder of Counties	10.40	.60	.50		.02
ELECTRICIANS:					
Allegan County (Laketon, Fillmore, Leighton Townships	11.03	.50	3%+.35		.01
Allegan County (Remainder) and Kalamazoo County	12.02	.50	9½%		.01
Berrien County	11.85	4.8%	7%		.2%
Calhoun County and Sunfeild, Vermontville, Kalamo, Bellevue Eaton and Brookfield townships in Eaton County	12.15	.50	3%		.01
Clinton and Ingham (except Onondaga, Leslie, Stockbridge and Bunker Hill Townships) Counties and the remainder of Eaton County	12.57	.50	3%+1.00		.5%
Jackson County	11.47	4%+.50	3%+.60		2%
Remainder of Ingham County	11.81	4%+.50	3%+.60		3/4 of 1%
ELEVATOR CONSTRUCTORS:					
Allegan, Kalamazoo, and Calhoun Counties:					
Constructor	10.81	.745	.56	a	.025
Helper	70%JR	.745	.56	a	.025
Helper (Prob.)	50%JR				
Berrien County:					
Constructor	11.44	.745	.56	a	.035
Helper	70%JR	.745	.56	a	.035
Helper (Prob.)	50%JR				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS (CONT'D)					
Eaton, Ingham & Jackson Counties:					
Constructor	$12.41	.745	.56	a	.025
Helper	70%JR	.745	.56	a	.025
Helper (Prob.)	50%JR				
IRONWORKERS:					
Berrien County	11.45	.90	1.33		.03
Clinton, Ingham & Jackson Cos.					
Structural & Ornamental	11.90	8%	15%	18%	.09
Fence Erectors	10.82	8%	15%	18%	.09
Reinforcing	10.97	.98+.25	15%	15%	.07
Remaining Counties	11.86	6%	8%		.03
LATHERS:					
Ingham & Jackson Cos.	9.92	.92	.30		.01
Calhoun County	9.82	.92	.30		.01
MARBLE, TILE & TERRAZZO WORKERS					
Allegan Co. (Gun Plain Otsego, Trowbridge Valley, Allegan, Cheshire, Martin and Watson Townships) and Kalamazoo County	9.10	.60			.05
Remainder of Allegan Co.	9.40	.75	.25		
Clinton, Ingham (except Onogdaga, Leslie, Bunker Hill, and Stockbridge Townships) and Eaton (except Kalamo, Carmel, Bellevue, and Walton Townships) Counties	11.73		.80		
Calhoun Co. & Bellevue, Carmel, Kalamo & Walton Twps. in Eaton County					
Marble Setters	11.45	.55	.35		
Tile & Terrazzo Workers	8.85	.85	.35		
Jackson County and the Remainder of Ingham County					
Tile & Terrazzo Workers	11.60	1.10	.80		
Marble Setters	12.87	1.10	.80		
PAINTERS:					
Allegan Co. (Northern portion)					
Brush	8.55	.50	.25		.02
Spray,	9.05	.50	.25		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Allegan County (S.E.¼) and Kalamazoo County					
Brush; Drywall Taping; Pan Roller	$10.45		.40		
Swing Stage; Structural Steel	11.10		.40		
Spray	11.35		.40		
Berrien County					
Brush	10.90				
Structural Steel	11.90				
Calhoun County					
Brush; Roller	8.30	.25			
Clinton, Eaton & Ingham Counties					
Brush and Roller & Tapers	11.39	.50	.40		.0025
Structural Steel	11.79	.50	.40		.0025
Spray & Sandblasting	12.14	.50	.40		.0025
Jackson County					
Brush and Roller	11.35	.92	1.15	1.10	50.00p/y
Spray	11.85	.92	1.15	1.10	50.00p/y
Drywall Taper	11.60	.92	1.15	1.10	50.00p/y
PLASTERERS:					
Allegan County (Casco, Clyde, Ganges and Lee Townships) and Berrien County	10.15	.95	.60		
Remainder of Allegan County and Remainder Counties	10.68	.60	.50		.03
PLUMBERS:					
Allegan County (Northern Tier Townships)	12.09	.60+.15	.90		.05
Allegan County (Remainder) and Kalamazoo County	11.71	.60	.86		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS (CONT'D)					
Berrien County (except city of Niles and vicinity)	$12.17	.94	.65		
City of Niles and Vicinity in Berrien County	11.75	.55	.95		.10
Calhoun County and Bellevue, Olivet, Hastings and Charlotte in Eaton County	12.37	1.30	1.00		
Clinton and Ingham Counties and Sunfeild, Roxand, Onesida, Delta and Windsor townships in Eaton County	12.16	.75	1.25		
Jackson County	12.10	.87+.30	.90		.02
ROOFERS:					
Jackson County					
Composition	10.65	.94	.65	1.05	.10
Slate & Tile	11.68	.94	.65	1.05	.10
Allegan County					
Built-Up	7.65	.55	.35	.70	
Slate, Tile & Asbestos	7.90	.55	.35	.70	
Calhoun and Kalamazoo Counties:					
Composition	10.35			.25	
Slate, Tile & Asbestos	10.60			.25	
Clinton, Eaton and Ingham Cos.	9.30		.65	.45	
SHEET METAL WORKERS:					
Berrien County	10.98	.65	.615		.035
Remaining Counties	11.58	.90	1.13		.05
SOFT FLOOR LAYERS:					
Allegan, Berrien (except Chickaming, New Buffalo and Three Oaks townships), Calhoun, Kalamazoo Counties and Bellevue, Vermontville, Kalmo and Walton townships in Eaton County	8.80	.60	.70		.01
Clinton and Ingham Counties and the remainder of Eaton County	9.98	.60	.70		.01
Jackson County	12.07	.60	.80		.03
Chickaming, 3 Oaks & New Buffalo Twps. in Berrien Co.	12.78	.65	.47		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$12.37	.75	1.05		.08
TRUCK DRIVERS:					
Allegan, Berrien and Kalamazoo Counties:					
8 cu yds. & under	8.84	b24.00	b22.00		
8 cu yds. & over	9.00	b24.00	b22.00		
Low Boys Semis	9.11	b24.00	b22.00		
Calhoun County					
Less than 8 cu. yds.	7.95	b21.00	b12.00	.20	
8 cu. yds. and over; Semi - Tandem	8.05	b21.00	b12.00	.20	
Clinton, Eaton and Ingham Cos.					
8 cu yds. & under	8.61	b28.00	b37.00	c	
Truck Drivers on dump trucks 8 cu. yds. Capacity and over pole trailers	8.71	b28.00	b37.00	c	
Low boys drivers; Double bottom drivers	8.81	b28.00	b37.00	c	
Jackson County	5.95	b24.00	b22.00		
Welders receive rate prescribed for craft performing operation to which welding is incidental.					

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PAID HOLIDAYS (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTES:

a. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years, 6% contribution for more than 5 years, plus 7 paid holidays - A through G

b. Per week, Per employee

c. One year's service, one week vacation; 3 years service, two weeks vacation

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Allegan, Berrien, Calhoun and Kalamazoo Counties					
Group 1	$ 8.35	.65	.35	.55	.04
Group 2	8.50	.65	.35	.55	.04
Group 3	8.60	.65	.35	.55	.04
Group 4	8.85	.65	.35	.55	.04
Clinton, Eaton and Ingham Counties					
Group 1	8.75	.65	.35	a	.04
Group 2	8.83	.65	.35	a	.04
Group 3	8.89	.65	.35	a	.04
Group 4	9.04	.65	.35	a	.04
Group 5	8.99	.65	.35	a	.04
Group 6	9.11	.65	.35	a	.04
Group 7	9.365	.65	.35	a	.04
Jackson County					
Group 1	9.48	.65	.35	.88	.04
Group 2	9.98	.65	.35	.88	.04

LABORERS:

Allegan, Berrien, Calhoun and Kalamazoo Counties
Group 1 - All construction laborers on buildings and Heavy Construction Pumps and Well Wheels
Group 2 - Plasterer Tenders; Material Mixers, Operators of Portable Mixers; Air, Electric or Gasoline Tools; Motor Driven Buggies; Swing Scaffolds
Group 3 - Jackhammer Operators, Crocklayers & Caisson Workers in Building
Group 4 - Top men on Chimney or Towers over 30' in height

Clinton, Eaton and Ingham Counties
Group 1 - Building Laborers
Group 2 - Mortar Mixers, hand or machine
Group 3 - Plasterer Tenders; Portable concrete mixer operator (14 and under); Air, Electric or Gasoline Tools; Tar Kettle tenders; Gasoline vibrators; Concrete gas buggies; concrete saw; Signal men and top men
Group 4 - Tunnel men; concrete shovelers; Car pushers, etc.
Group 5 - Windlass Operator (on caisson work)
Group 6 - Crock Layers (or pipe layers); Caisson workers; Tunnel muckers
Group 7 - Tunnel Miners

Jackson County
Group 1 - General Laborer
Group 2 - Jackhammer and Acetylene Torch

FOOTNOTE:
a - 5.00 per day

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LC ZONE I

LINE CONSTRUCTION WILLIAMSTON, LOCKE, LEROY, WHAYFIELD & WHITE OAK TOWN SHIPS IN INGHAM COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$13.37	1.40	9%		4%
Cable Splicer	13.95	1.40	9%		4%
Combination Equipment Operator & Groundman	10.71	1.40	9%		4%
Combination Driver & Groundman	10.08	1.40	9%		4%
Groundman	9.28	1.40	9%		4%

LC -ZONE II

LINE CONSTRUCTION: ZONE II REMAINING COS: & THE REMAINDER OF INGHAM CO.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen; Heavy Equipment operator	$11.00	.45	3%	a	.5%
Cable Splicer	11.44	.45	3%	a	.5%
Combination Digger operator; Tractor operator Groundman:					
1st 6 months	7.94	.45	3%	a	.5%
Over 6 months	8.58	.45	3%	a	.5%
Light Equipment operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 months	6.90	.45	3%	a	.5%
Over 6 months	7.53	.45	3%	a	.5%
Combination Winch Truck Driver Groundman:					
1st 6 months	6.28	.45	3%	a	.5%
Over 6 months	7.18	.45	3%	a	.5%
Combination Truck Driver Groundman	6.08	.45	3%	a	.5%

FOOTNOTE:
a. 7 paid Holiday: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

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MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS:
BUILDING & HEAVY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.55	.95	1.50		.05
CLASS B	13.30	.95	1.50		.05
CLASS C	12.80	.95	1.50		.05
CLASS D	11.65	.95	1.50		.05
CLASS E	11.45	.95	1.50		.05
CLASS F	10.25	.95	1.50		.05
CLASS G	9.55	.95	1.50		

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Ops., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging) Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater Operator

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MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS:
STEEL ERECTION
CLINTON, INGHAM & JACKSON COS.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where operators work stations is 501 Or more above first sub level
CLASS C - Crane operator; job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

MICH-6-PEO-SE

POWER EQUIPMENT OPERATORS:
Grand Rapids and
REMAINING COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Educati- and/or Appr. T
CLASS A	$13.90	.95	1.50		.05
CLASS B	13.65	.95	1.50		.05
CLASS C	13.15	.95	1.50		.05
CLASS D	12.00	.95	1.50		.05
CLASS E	10.75	.95	1.50		.05
CLASS F	9.55	.95	1.50		

CLASS A - Crane operator w/main boom & jib 220' or longer
CLASS B - Crane operator w/main boom & jib 140' or longer; power cranes, gantry crane; whirley derrick
CLASS C - Regular equipment operator; crane; dozer; loader; hoist, straddle wagon, Job mechanic
CLASS D - Air tugger (single drum); material hoist, pump 6' or over
CLASS E - Air compressor, welder, generators-conveyors
CLASS F - Oiler & Fireman

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MICH-8-PEO-U

POWER EQUIPMENT OPERATORS:
UNDERGROUND CONSTRUCTION
CALHOUN, CLINTON, EATON, INGHAM & JACKSON COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scrapor (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip for paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumperete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

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MICH-9-PEO-U

POWER EQUIPMENT OPERATORS:
UNDERGROUND CONSTRUCTION
REMAINING COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scrapor (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip for paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumperete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ dy or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NO.: MI79-2016
COUNTIES: See Below
DATE: Date of Publication

Supersedes Decision No. MI78-2076, dated September 29, 1978 in 43 FR 45118

DESCRIPTION OF WORK: Building (Does not include single family homes and garden type apartments up to and including 4 stories) and Heavy (excluding Bridge, Airport and Sewer) Construction Projects.

COUNTIES: Bay, Genesee, Huron, Iosco, Lapeer, Saginaw, St. Clair, Sanilac, Shiawassee & Tuscola

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
St. Clair County	$ 12.95	1.51	1.48		.07
Remainder of Counties	11.85	.95	1.63		.02
BOILERMAKERS	11.955	1.18	1.20	2.00	.03
BRICKLAYERS:					
Genesee, Lapeer & Shiawassee Cos.					
Bricklayers & Stonemasons	12.45	.80	1.30		
Marble-Tile-Terrazzo Workers	10.55	.80	1.30		
St. Clair & Sanilac Counties					
Bricklayers & Stonemasons	12.18	1.15	.85		
Marble Setters	12.88	.70	1.10		
Terrazzo Workers	11.99	.70	1.10		
Tile Setters	12.41	.70	1.10		
Remainder of Counties					
Bricklayers & Stonemasons	11.89	.88	.70		
Marble-Tile-Terrazzo Workers	11.30				
CARPENTERS:					
Sanilac (Except the West 5 Miles & St. Clair Counties:					
Carpenters & Piledrivermen	11.79	.95	11%	11%	.04
Soft Floor Layers	11.49	1.00	7%	8%	.03
Remainder of Counties & the West 5 Miles of Sanilac County:					
Carpenters & Piledrivermen	11.09	.60	.70		.02
Soft Floor Layers	9.98	.60	.70		.01
CEMENT MASONS:					
St. Clair & Sanilac Counties	11.62	1.15	.85		
Lapeer County	11.10	.80	1.30		
Genesee & Shiawassee Counties	10.80	.70	.75		.02
Remainder of Counties					
Cement Masonry on sidewalks, curbs & gutters not related to highway, road and street construction	11.19	.88	.70		

DECISION NO. MI79-2016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Iosco County; Northern ½ of Co.:					
Contracts over $35,000	11.70	.50	3%+.30		1/10of1%
Contracts under $35,000	9.75	.50	3%+.30		1/10of1%
Bay Co; & Southern ½ of Iosco Co.	13.15	.40	3%+.30		½ of 1%
Genesee, Lapeer & Shiawassee Cos.	12.10	.50	3%+1.25		.02
Saginaw & Tuscola Counties	12.85		3%+1.10		½ of 1%
Remainder of Counties	13.35	1.65	3%+1.06		.03
ELEVATOR CONSTRUCTORS:					
St. Clair County:					
Constructors	12.475	.745	.56	a	.025
Helpers 70%JR	.745	.56	a	.025	
Helpers (Prob.) 50%JR					
Remainder of Counties:					
Constructors	11.21	.745	.56	a	.025
Helpers 70%JR	.745	.56	a	.025	
Helpers (Prob.) 50%JR					
GLAZIERS:					
Genesee, Lapeer & Shiawassee Cos.	9.64	.55	.70		.02
St. Clair County	9.77	.55	.65		
Bay, Huron, Iosco, Tuscola & Saginaw Cos.	9.15		.50	.25	.01
IRONWORKERS:					
Structural & Ornamental	11.90	8%	15%	18%	.09
Reinforcing	10.97	.98+.25	15%	15%	.07
Fence Erectors	10.82	8%	15%	18%	.09
LABORERS:					
Iosco County; Unskilled	7.35	.65	.35	.55	.04
Mortar & Plaster Mixers, Sewer & Caisson Workers, Plasterer Tenders,	7.50	.65	.35	.55	.04
Cement Gun Nozzlemen	7.95	.65	.35	.55	.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Saginaw & Genesee Counties	$ 9.92	.92	.30		.01
PAINTERS:					
Bay Iosco Cos., Huron (West of M-53) Cos., & the Townships of Akron, Almer, Columbia, Elkland, Ellington, Elmwood, Fairgrove, Gilford, Novesta, & Wisner in Tuscola County:					
Commercial	9.30	.55	.80		.02
Industrial	10.20	.55	.80		.02
Spray	10.35	.55	.80		.02
Saginaw Co., & the Remainder of Tuscola County:					
Brush	9.95		.35		.02
Spray	10.70		.35		.02
Genesee, Lapeer, & Shiawassee Cos.	10.70	.50	.70		10.00p/mo
Western ½ of Shiawassee County	11.38	.50	.40		.0025
Huron (East of Hwy 53) St. Clair & Sanilac Cos.:					
Commercial & Industrial					
Brush	12.03	.55	.70		.01
Open Steel & Spray	12.58	.55	.70		.01
PLASTERERS:					
Lapeer County	11.35	.80	1.30		
Bay, Huron, Iosco, Saginaw & Tuscola Counties	11.29	.88	.20		.03
Genesee & Shiawassee Cos.	10.88	.60	.50		
St. Clair & Sanilac Counties	11.62	1.15	.85		
PLUMBERS AND STEAMFITTERS:					
Bay Iosco., N. ½ of Tuscola & the W ½ of Huron (running from Port Autin south to Sanilac County line)	11.34	.85	.60	1.80	.02
Genesee, Lapeer & Shiawassee Cos	12.37	1.00	1.20		
Saginaw & S. ½ of Tuscola (including Carco, Washjemerga and South of the Lapeer County line Counties	11.03	.94	1.15	1.25	.02
Remainder of Huron County; St. Clair & Sanilac Counties	11.31	1.25	1.46	1.80	.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Bay, Iosco, Saginaw, & Tuscola Cos.	$11.95	1.05	.60		
Genesee, Lapeer & Shiawassee Cos					
Composition	11.45	.60	.60		
Slate & tile	11.80	.60	.60		
St. Clair, Sanilac & Huron Cos.	8.45				
SHEET METAL WORKERS:					
Bay, Iosco, Huron, Saginaw & Tuscola Counties	12.86	.80	1.00		.03
Genesee, Lapeer & Shiawassee Cos.	10.65	.79	1.20	1.00	
St. Clair & Sanilac Counties	11.305	1.81	1.73	1.24	.12
SPRINKLER FITTERS	12.37	.75	1.05		.08
TRUCK DRIVERS:					
Bay, Iosco, Saginaw & Tuscola					
Under 8 cubic yards	8.25	b28.00	b37.00	.50	
8 cubic yards & over	8.35	b28.00	b37.00	.50	
Euclid Type Equipment	8.55	b28.00	b37.00	.50	
Genessee, Lapeer & Shiawassee	9.60	a32.00	a37.00		
Huron, St. Clair & Sanilac					
Pole Trailers, Low Boys Straddle Carriers, Double Bottoms & Special Load Permit Drivers	10.80	b32.50	b31.00		
Semi Drivers	10.50	b22.50	b31.00		
All Other Truck Drivers	10.35	b22.50	b31.00		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. 7 paid holidays - New Year's Day - Memorial Day - Independence Day; Labor Day; Thanksgiving Day - Day after Thanksgiving Day and Christmas Day plus employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years and 6% for employees in business less than 5 years.

b. Per Week; Per Employee, (plus $3.00 per week - optical & dental - HSW T/D in Bay, Iosco, Saginaw & Tuscola Cos. - only)

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bay, Huron, Saginaw & Tuscola Counties					
CLASS A	$ 9.49	.65	.35		.04
CLASS B	9.61	.65	.35		.04
CLASS C	9.69	.65	.35		.04
CLASS D	10.26	.65	.35		.04
Genesee, Lapeer & Shiawassee Cos:					
CLASS A	9.64	.65	.65		.04
CLASS B	9.74	.65	.65		.04
CLASS C	9.84	.65	.65		.04
CLASS D	9.94	.65	.65		.04
CLASS E	10.14	.65	.65		.04
St. Clair & Sanilac Counties:					
GROUP 1	10.28	.65	.35		.04
GROUP 2	10.40	.65	.35		.04
GROUP 3	10.53	.65	.35		.04
GROUP 4	10.45	.65	.35		.04
GROUP 5	10.63	.65	.35		.04

LABORERS:
Bay, Huron, Saginaw & Tuscola Counties
CLASS A - all Construction Laborers on Building & Heavy Construction not specified in Classes, B,C, & D, below; Also includes pumps with a 3" or less discharge and not hooked up in a batterey; Mechanized Buggy Operator and Motar Mixer when done by hand.
CLASS B - Mechanized Mortar Mixers; Air, electric and gas driven tools; Vibrators
CLASS C - Air or Electric driven pavement Breakers; Plasterers Tenders; Plaster Mixers; Crock and/or Pipelayers; Signal Men & Top Man; Windlass and Tugger Operator; Caisson Worker
CLASS D - Drillers & Plasters; Burners

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LABORERS (CONT'D)

Genesee, Lapeer & Shiawassee Counties

CLASS A - Construction Laborers not specified in Classes B & E below

CLASS B - Mortar Mixer (includes concrete mixer ½ cu. yds. or smaller); Signal Men & Top Men (on caisson work; Air, Gasoline or Electric Tool Operators.

CLASS C - Jackhammer & Air Spade; Tunnel Menl Windlass Operators (on caisson work); Burner

CLASS D - Crock or Pipe Layers; Conduit and any Vertified Tile except 4" drain tile around Building; Caisson Workers & Tunnel Muckers

CLASS E - Tunnel Miners

St. Clair & Sanilac Counties

GROUP 1 - General Laborers; Mason Tenders; all Demolition Laborers

GROUP 2 - Morter Mixers (Hand or Machine)

GROUP 3 - Air, Electric, Gas, Tool, Pump Operators

GROUP 4 - Concrete Gas Buggies; Concrete Saw Operators, Plasterers Tenders

GROUP 5 - Crock or Pipelayers - caisson workers in buildings

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LC-ZONE-I

LINE CONSTRUCTION HURON, LAPEER, ST. CLAIR, SANILAC & TUSCOLA COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lineman - Technician	$13.37	1.40	9%		4%
Cable Splicer	13.95	1.40	9%		4%
Combination Equipment Operator & Groundman	10.71	1.40	9%		4%
Combination Driver-Groundman	10.08	1.40	9%		4%
Groundman	9.28	1.40	9%		4%

LC-ZONE II

LINE CONSTRUCTION: ZONE II BAY, IOSCO, GENESEE, SAGINAW & SHIAWASSEE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lineman; Heavy Equipment operator	11.00	.45	3%	a	.5%
Cable Splicer	11.44	.45	3%	a	.5%
Combination Digger operator; Tractor operator Groundman:					
1st 6 months	7.94	.45	3%	a	.5%
Over 6 months	8.58	.45	3%	a	.5%
Light Equipment operator Groundman; Distribution Line Truck Driver Operator:					
1st 6 months	6.90	.45	3%	a	.5%
Over 6 months	7.33	.45	3%	a	.5%
Combination winch Truck Driver Groundman:					
1st 6 months	6.28	.45	3%	a	.5%
Over 6 months	7.18	.45	3%	a	.5%
Combination Truck Driver Groundman	6.08	.45	3%	a	.5%

Footnote: a-7 Paid Holidays; New Years Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving; and Christmas Day

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MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION ST. CLAIR COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$12.74	.90	1.25	11%	.05
CLASS B	12.51	.90	1.25	11%	.05
CLASS C	12.20	.90	1.25	11%	05
CLASS D	12.08	.90	1.25	11%	.05
CLASS E	11.70	.90	1.25	11%	.05
CLASS F	10.32	.90	1.25	11%	

CLASS A - Crane with boom & jib or leads 220' or longer
CLASS B - Crane with boom and jib or leads 140' or longer
CLASS C - Regular crane operator
CLASS D - Regular Engineer
CLASS E - Engineer when operating Compressor (or welding machine)
CLASS F - Fireman or oiler

MICH -2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operating combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom jib 140' or longer Tower crane & derrick operator (where operators work stations is 501 or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

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MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$13.55	.95	1.50		.05
CLASS B	13.30	.95	1.50		.05
CLASS C	12.80	.95	1.50		.05
CLASS D	11.65	.95	1.50		.05
CLASS E	11.45	.95	1.50		.05
CLASS F	10.25	.95	1.50		.05
CLASS G	9.55	.95	1.50		

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, jbb mechanic & head grease man

CLASS D - Air Tugger (single drum), Material Hoist, Boiler Opra., Sweeping Machine,winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift

CLASS E - Pump 6" or over, Well Points, Freeze Systems, Boom truck (non Swinging Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater Operator

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MICH-9-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION IOSCO COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	9.24	.80	1.00	10%	.05
CLASS II	8.98	.80	1.00	10%	.05
CLASS III	8.52	.80	1.00	10%	.05
CLASS IV	8.27	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip form paver slope, paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclu- sive of generator), hoist boom truck (power single type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM, air compressors 600 cu. ft. per min. or larger), pumperete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd. or larger wagon drill (multiple), elevator (other than passenger), con-crete breaker (self-propleeed or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

DECISION NO. MI79-2016

MICH-8-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shove, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip form paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclu-sive of generator), hoist, boom truck power single type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumperete machine (and similar equipment), mechanic helpers, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd. or larger wagon drill (multiple), elevator (other than passenger), con-crete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 ore more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment, finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H. P. or over)

SUPERSEDEAS DECISION

STATE: Michigan

COUNTIES: Genesee, Lapeer, Saginaw, St. Clair & Shiawassee

DECISION NUMBER: MI79-2017

DATE: Date of Publication

Supersedes Decision Number MI78-2077, dated September 29, 1978 in 43 FR 45123

DESCRIPTION OF WORK: Residential Construction Projects consisting of Single Family Homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:	$12.93	1.51	1.48		.07
St. Clair County	11.85	.95	1.63		.02
Remainder of Counties	11.955	1.18	1.20	2.00	.03
BOILERMAKERS					
BRICKLAYERS:					
Genesee, Lapeer & Shiawassee	12.45	.80	1.30		
Saginaw County	11.89	.88	.70		
St. Clair County	9.25	1.15	.85		
CARPENTERS:					
Saginaw County & Remaining Cos.	7.67	.60	.70		.02
St. Clair	11.79	.95	11%	11%	.04
CEMENT MASONS:					
Genesee & Shiawassee Counties	10.80	.70	.75		.02
Lapeer County	11.10	.80	1.30		
Saginaw County	11.19	.88	.70		
St. Clair County	8.63	1.15	.85		
ELECTRICIANS:					
Genesee, Lapeer & Shiawassee Cos.	7.28	.40	3%+.75		.02
Saginaw County	8.13		3%+.15		½ of 1%
St. Clair County	13.35	1.65	3%+1.06		.03
ELEVATOR CONSTRUCTORS:					
St. Clair County					
Constructors	12.475	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (Prob.)	50%JR				
Remainder of Counties					
Constructors	11.21	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers	50%JR				
GLAZIERS:					
Genesee, Lapeer & Shiawassee Cos.	9.64	.55	.70		.02
Saginaw County	9.15		.50	.25	.01
St. Clair County	9.77	.55	.65		
IRONWORKERS:					
Structural & Ornamental	11.90	8%	15%	18%	.09
Reinforcing	10.97	.984.25	15%	15%	.07
Fence Erectors	10.82	8%	15%	18%	.09

DECISION NO. MI79-2017

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Saginaw County					
Laborers; Mortar Mixers (Hand)	$ 9.49	.65	.35		.04
Plaster Mixers & Tenders	9.69	.65	.35		.04
Genesee, Lapeer & Shiawassee Cos.					
Laborers	9.64	.65	.65		.04
Air, Gas & Electric Tool Oprs	9.74	.65	.65		.04
Mortar Mixers	9.74	.65	.65		.04
Crock or Pipelayers	9.94	.65	.65		.04
St. Clair County					
Laborers; Mason Tenders	10.28	.65	.35		.04
Mortar Mixers	10.40	.65	.35		.04
Air, Gas & Electric Tool Oprs	10.53	.65	.35		.04
Crock or Pipelayers	10.63	.65	.35		.04
LATHERS:					
Saginaw & Genesee Cos.	9.92	.92	.30		.01
MARBLE, TILE & TERRAZZO WORKERS:					
Genesee, Lapeer & Shiawassee Cos.	10.53	.80	1.30		
Saginaw County	11.30				
St. Clair County:					
Marble Masons	12.88	.70	1.10		
Terrazzo Workers	11.99	.70	1.10		
Tile Setters	12.41	.70	1.10		
PAINTERS:					
Genesee & Eastern ½ of Counties: West of Hwy. #33 in Lapeer	10.70	.50	.70		10.00p/mo
St. Clair Co; & East of Hwy. #33 in Lapeer County	12.03	.55	.70		.01
Saginaw County	9.95		.35		.02
Western ½ of Shiawassee County	11.39	.50	.40		.0025
PLASTERERS:					
Saginaw County	11.29	.88	.20		
Genesee & Shiawassee Counties	10.68	.60	.50		.02
Lapeer County	11.35	.80	1.30		
St. Clair County	8.82	1.15	.85		
PLUMBERS:					
Genesee, Lapeer & Shiawassee Cos.	12.37	1.00	1.20		.02
Saginaw County	11.03	.94	1.15	1.15	.02
St. Clair County	11.31	1.25	1.46	1.00	.07

DECISION NO. MI79-2017

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
St. Clair County					
Regular Engineer	$12.08	.90	1.25	11%	.05
Regular Crane Operator	12.20	.90	1.25	11%	.05
Remainder of Counties					
Regular Equipment Operator; Scraper; Dozer; Grader, Front End Loader	12.80	.95	1.30		.05
Bob Cat & Similar Type Equip.	11.65	.95	1.30		.05
Air compressors; Generators	10.25	.95	1.30		.05
ROOFERS:					
Genesee, Lapeer & Shiawassee Cos.	11.45	.60	.60		
St. Clair County	8.45	.78			
SHEET METAL WORKERS:					
Genesee, Lapeer & Shiawassee Cos.	10.65	.79	1.30	1.00	
Saginaw County	12.86	.80	1.80		.03
St. Clair County	11.305	1.81	1.73	1.24	.12
SOFT FLOOR LAYERS:					
St. Clair County	11.49	1.00	7%	8%	.03
Remainder of County	9.98	.60	.70		.01
SPRINKLER FITTERS	12.37	.75	1.05		.08
TRUCK DRIVERS:					
Genesee, Lapeer, & Shiawassee Cos.	9.60	b32.50	b37.00		
Saginaw County					
Truck drivers	8.25	b28.00	b37.00	.50	
8 Cubic yards & over Euclid Type Equipment	8.35	b28.00	b37.00	.50	
St. Clair County	8.55	b28.00	b37.00	.50	
Truck Drivers	10.35	b32.50	b31.00		
Semi Trucks	10.50	b32.50	b31.00		

FOOTNOTES:

a. 7 paid Holidays - New Year's Day - Memorial Day - Independence Day - Labor Day - Thanksgiving Day - Day after Thanksgiving - Christmas Day plus employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years and 6% for employees in business less than 5 years.

b. Per week; Per Employee plus $3.00 for dental & optical - H&W - T/D in Saginaw County, only

STATE: Michigan COUNTY: Kent
DECISION NUMBER: MI79-2018 DATE: Date of Publication
Supersedes Decision No. MI78-2001 dated February 3, 1978 in 43 FR 4817
DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 7.80				
BOILERMAKERS	11.07	1.10	1.20	1.50	.03
BRICKLAYERS & STONEMASONS	7.45				
CARPENTERS	5.96				
CEMENT MASONS	6.12				
ELECTRICIANS	11.03	.50	3%+.35		.02
ELEVATOR CONSTRUCTORS	9.90	.545	.35	4%+a&b	.02
IRONWORKERS:					
Structural & Ornamental	5.86				
Reinforcing	5.92				
LABORERS - UNSKILLED	4.89				
LABORERS - MASON TENDERS	5.15				
PAINTERS - BRUSH	8.55	.50	.25		.02
PAINTERS - TAPERS	8.55	.50	.25		.02
PLASTERERS	7.80				
PLUMBERS & STEAMFITTERS	12.09	.60+.15	.90		
ROOFERS	5.35				
SHEET METAL WORKERS	11.40	.77	.95	.67	.02
TRUCK DRIVERS	5.62				
POWER EQUIPMENT OPERATORS:					
Backhoe Operator	7.15				
Bulldozer Operator	8.35				
Crane Operator	8.87				
Finishing Machine Operator	5.50				
Front End Loader	7.02				
Scraper	7.00				

FOOTNOTES:
a. 6 Paid Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day.
b. Employer contributes 4% or regular hourly rate to vacation pay credit for employees who has worked in business more than 5 years & 2% for employee in business less than 5 years.
c. $3.00 per month - Life Insurance

STATE: Michigan COUNTIES: *See below
DECISION NO.: MI79-2019 DATE: Date of Publication
Supersedes Decision No.: MI78-2078 dated September 29, 1978 in 43 FR 45125
DESCRIPTION OF WORK: Building Construction (Including Residential) and Heavy (Excluding Bridge, Airport and Sewer) Construction Projects.

*Counties: Macomb, Monroe, Oakland, Washtenaw, & Wayne.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Monroe County	$13.08	.55	1.30		.04
Twps. of Bridgewater, Dexter, Freedom, Lima, Lydon, Manchester, Sharon & Sylvan in Washtenaw County	11.85	.95	1.63		.02
Remainder of Counties & the Remainder of Washtenaw County	12.95	1.51	1.48		.07
BOILERMAKERS:					
Monroe County	13.10	.70	1.00		.03
Remainder of Counties	11.910	1.38	1.20	1.00	.03
BRICKLAYERS & STONEMASONS:					
West of Hwy # 23 in Monroe Co.	10.53	.86	.55	.75	.05
Washtenaw County	13.08		1.85		
Remainder of Counties & East of Hwy. # 23 in Monroe County	12.27	.95	8%+.20	11%	.05
CARPENTERS & PILEDRIVERMEN					
Washtenaw County	11.94	.60	.70		.03
Remainder of Counties	11.79	.95	11%	11%	.04
CEMENT MASONS:					
South of Hwy. # 151 in Monroe County	14.14	.60			.02
Washtenaw County	13.73		1.25		
Remainder of Counties & North of Hwy. # 151 in Monroe County	12.38	.95	11%		.02
ELECTRICIANS:					
Washtenaw County	11.81	.50+4%	3%+.60	10%	2%
Monroe County:					
Building	13.80	.65	3%+.55		.1%
Residential	8.88	.65	3%+.55		.1%
Remainder of Counties:					
Building	13.35	1.65	3%+1.06		.03
Residential	13.35	1.65	3%+1.06		.03

DECISION NO. MI79-2019

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Monroe County:					
Constructors	$12.355	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (prob.)	50%JR				
Washtenaw County					
Constructors	12.41	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (prob.)	50%JR				
Remainder of Counties					
Constructors	12.475	.745	.56	a	.025
Helpers	70%JR	.745	.56	a	.025
Helpers (prob.)	50%JR				
GLAZIERS	$ 9.77	.55	.65		
IRONWORKERS:					
Monroe County	12.87	1.06	1.32		.05
Remainder of Counties:					
Structural & Ornamental	11.90	8%	15%	18%	.09
Reinforcing	10.97	.98+.25	15%	15%	.07
Fence Erectors	10.82	8%	15%	18%	.09
Riggers & Machinery Erectors	10.50	1.25	1.98	16%	.02
LABORERS: (BUILDING, RESIDENTIAL & HEAVY)					
Monroe County:				¢	
Construction Laborer & Carpenter helper	10.07	.65	.35	.90	.04
Mortar Mixer, Mason & Plaster Tender, Carpenter Helper, Cement Mason Helper, Tool Operator & Caisson Worker	10.27	.65	.35	.90	.04
LATHERS:					
Monroe County; excluding s/w corner-eastern portion of Washtenaw County & Remainder of Counties	12.08	1.62	1107		.04
MILLWRIGHTS:					.03
Washtenaw County	11.94	.60	.70		.04
Remainder of Counties	11.63	.97	13%	23%	

DECISION NO. MI79-2019

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS:	$13.88		1.25		
Washtenaw County					
Remainder of Counties:					
Marble Mason	12.88	.70	1.10		
Marble Mason Finishers	10.37	.85	.80		
PAINTERS:					
Brush - Roller	11.35	.92	1.15	1.10	50.00p/y
Spray	11.85	.92	1.15	1.10	50.00p/y
Drywall Tapers	11.60	.92	1.15	1.10	50.00p/y
PLASTERERS:					
South of Hwy. #151 in Monroe Co.	13.80	.60			.01
Washtenaw County	13.88		1.25		
Remainder of Counties & Remainder of Monroe County	13.22	.85	.75		
PLUMBERS & STEAMFITTERS:					
Monroe County	11.95	.90	.80		.12
Washtenaw County	11.76	.95+.15	.75		.10
Remainder of Countyies:					
Plumbers	11.31	1.25	1.46	1.80	.07
Pipefitters	11.55	1.25	1.51	1.50	.05
ROOFERS:					
Monroe County	12.63	1.06	1.00	¢	.02
Washtenaw County:					
Composition	10.65	.94	.65	1.05	.10
Slate	11.68	.94	.65	1.05	.10
Remainder of Counties:					
Compositon	11.51	.90	.90	1.10	
Slate	12.51	.90	.90	1.10	
SHEET METAL WORKERS:					
Monroe County	12.655	1.06	1.36		.045
Remainder of Counties	11.306	1.81	1.73	1.24	.12

DECISION NO. MI79-2019

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Washtenaw County	$11.94	.60	.70		.03
Remainder of Counties	11.49	1.00	7%	8%	.03
SOUND & COMMUNICATION WORKERS:					
Wayne, Oakland & Macomb Cos:					
Electrical Technician	8.28	b1.60	b6.00		
Electrical Technician Jr.	6.86	b1.60	b6.00		
SPRINKLER FITTERS:					
Monroe County	12.37	.75	1.05		.08
Remainder of Counties	13.805	.75+.50	1.05		.10
TILE & TERRAZZO WORKERS:					
Washtenaw County	13.47		1.00		
Remainder of Counties:					
Terrazzo Workers	11.98	.70	1.10		
Terrazzo Workers' Finishers	11.77	.70	.40	.65	
Tile Setters	12.41	.70	1.10		
Tile Setters' Finishers	9.27	.65	.80	.80	
TRUCK DRIVERS: Building, Heavy & Residential Construction					
Pole Trailer; Low Boys; Straddle Carrier; Double Bottoms & special Load Permits	10.60	b32.50	b31.00		
Dump Drivers	10.50	b32.50	b31.00		
All Other Truck Drivers	10.35	b32.50	b31.00	¢	
TRUCK DRIVERS: Underground Construction					
Truck Drivers (Except dump trucks of 8 cubic yards capacity or over, pole trailers, semis, low boys, Euclid, double bottom & fuel trucks	9.00	b24.00	b28.00		
Truck Drivers on dump trucks 8 qubic yards capacity or over, Pole trailers, semis & fuel trucks	9.21	b24.00	b28.00		
Low boys, Euclid & double bottom driver	9.41	b24.00	b28.00		

FOOTNOTES: a. 7 Paid Holidays-New Years Day-Memorial Day-Independence Day-Labor Day Thanksgiving Day-Day after Thanksgiving-Christmas Day plus Employer contributes 8% or Regular Hourly Rate to Vacation Pay Credit for employe who has worked in business more than 5 years & 6% for employees in business less than 5 years.
b. Per Week; Per Employee

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LABORERS BUILDING, RESIDENTIAL & HEAVY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Washtenaw County:					
GROUP 1	9.16	.65	.35	1.00	.04
GROUP 2	9.36	.65	.35	1.00	.04
GROUP 3	9.46	.65	.35	1.00	.04
Wayne, Oakland & Macomb Cos:					
GROUP 1	9.53	.90	.90	.85	.04
GROUP 2	9.61	.90	.90	.85	.04
GROUP 3	9.78	.90	.90	.85	.04
GROUP 4	9.76	.90	.90	.85	.04
GROUP 5	10.03	.90	.90	.85	.04
GROUP 6	9.86	.90	.90	.85	.04
GROUP 7	9.91	.90	.90	.85	.04
GROUP 8	10.28	.90	.90	.85	.04

LABORERS BUILDING, RESIDENTIAL & HEAVY

Washenaw County:

GROUP 1 - All Construction Laborers not specified below
GROUP 2 - Mortar mixers; Material Mixers (hand or machine) Air, Gas, Electric Tool Operators; Power Buggie Operatees; Scaffold Building or Dismantler; Windlass Operators; Tar and Kettle Operators
GROUP 3 - Crock or Pipe Layers; Caisson Workers

Wayne, Oakland & Macomb Counties:

GROUP 1 - All Construction Laborers not specified below
GROUP 2 - Mortar Mixers, Scaffold Builders
GROUP 3 - Signal Men, Air gas or electric tool operators, Windlass and Tugger operator, Jackahmmer and Vibrator Operator
GROUP 4 - Crock grade man
GROUP 5 - Furnace Battery Heater Helper
GROUP 6 - Crock and Pipe Layers
GROUP 7 - Caisson Workers
GROUP 8 - Lansing Burners, Blasters, Powderman

DECISION NO. MI79-2019

LABORERS: OPEN CUT CONSTRUCTION WASHTENAW COUNTY	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.40	.65	.35	.55	.04
CLASS 2	8.48	.65	.35	.55	.04
CLASS 3	8.53	.65	.35	.55	.04
CLASS 4	8.58	.65	.35	.55	.04
CLASS 5	8.63	.65	.35	.55	.04
WAYNE, OAKLAND, & MACOMB COS:					
CLASS 1	8.81	.90	.75	.85	.04
CLASS 2	8.89	.90	.75	.85	.04
CLASS 3	8.94	.90	.75	.85	.04
CLASS 4	8.99	.90	.75	.85	.04
CLASS 5	9.04	.90	.75	.85	.04
MONROE COUNTY					
CLASS 1	8.40	.65	.35	.55	.04
CLASS 2	8.50	.65	.35	.55	.04
CLASS 3	8.60	.65	.35	.55	.04
CLASS 4	8.65	.65	.35	.55	.04
CLASS 5	8.75	.65	.35	.55	.04

CLASS 1 - Construction Laborer
CLASS 2 - Mortar, & Material Mixers, Concrete form man, Signal Man, Wheel Point, Man, Manhole, Headwall & catch Basin Building, Guard Rail Builders & fence Erectors.
CLASS 3 - Air, gasoline, Electric Tool Ops., Vibrator Op., Drillers, Pumpman Tar Kettle Oprs., bracers, rodder, Reinfroced Steel or Mesh (under 40 H.P.) Windlass & Tugger Man
CLASS 4 - Trench Excavating Grade Man
CLASS 5 - Pipelayer

DECISION NO. MI79-2019

LABORERS: TUNNEL, SHAFT & CASSION CONSTRUCTION WASHTENAW & MONROE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.03	.65	.35	.55	.04
CLASS 2	9.11	.65	.35	.55	.04
CLASS 3	9.16	.65	.35	.55	.04
CLASS 4	9.31	.65	.35	.55	.04
CLASS 5	9.51	.65	.35	.55	.04
CLASS 6	9.76	.65	.35	.55	.04
Wayne, Okaland & Macomb Cos:					
CLASS 1	8.81	.90	.75	.85	.04
CLASS 2	8.89	.90	.75	.85	.04
CLASS 3	8.94	.90	.75	.85	.04
CLASS 4	9.09	.90	.75	.85	.04
CLASS 5	9.29	.90	.75	.85	.04
CLASS 6	9.54	.90	.75	.85	.04

CLASS 1 - Tunnel, Shaft & cassion laborer, dump man, Shanty man, Hog house tender, Testing Man (on gas)
CLASS 2 - Manhole, Headwall catch basin builder, Bricklayers Tender, Mortar man, Material mixer, fence Erector & Guard rail Builder
CLASS 3 - Air Tool operator (Jackhammer man, Brush Hammer man & Grinding Man) First Bottom man, Second bottom man, Cage Tender, Car pusher, carrier man, Concrete man, concrete form man, Concrete repair man, Cement invert laborer, Cement finisher, concrete shoveler, conveyor man, Floor man, Gasoline & Electric Tool operator, Gunnite man, grout operator, Heading dinry man, inside lock tender, pea gravel operator, pump man, outside lock tender, Vibrator man, top signal man switch man, track man, Tugger man, Utility man, Vibrator man, Winch Operator, concrete saw operator (under 40 H.P.)
CLASS 4 - Tunnel, shaft & cassion mucker, Bracer man, Under Plate man, Long Haul Dinky driver & well point man
CLASS 5 - Tunnel, shaft, & Cassion Miner, Driller Hammer, Key board Operator, Power Knife operator, reinforced steel or mesh man (Wire Mesh, Steel Mats, Dowell Bars, Etc.)
CLASS 6 - Dynamite man & Powerman

DECISION NO. MI79-2019

LANDSCAPE LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS "A" Landscape Specialist, including air, gas, diesel, electric tool and/or equipment	$ 6.89				
CLASS "B" Landscape Laborers, Truck Drivers, Material Haulers & Small Power Equipment	5.14				

DECISION NO. MI79-2019

LINE CONSTRUCTION Wayne, Macomb, & Remainder of Washtenaw, Monroe & Oakland Counties	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen - Technician	$13.37	1A0	9%		½%
Cable splicers	13.95	1A0	9%		½%
Combination Equipment Operator & Groundman	10.71	1A0	9%		½%
Combination Driver-Groundman	10.08	1A0	9%		½%
Groundman	9.28	1A0	9%		½%
LINE CONSTRUCTION: Twps. of Lyndon, Manchester, Sharon, & Sylvan in Washtenaw Co; Twps. of Bedford, Erie LaSalle & Whiteford in Monroe County Twp. of Holly in Oakland Co.					
Linemen; Heavy Equipment Operator	11.00	.45	3%	a	.5%
Cable Splicers	11.44	.45	3%	a	.5%
Combination Digger Operator; Tractor Operator Groundman: 1st 6 months	7.94	.45	3%	a	.5%
Over 6 months	8.58	.45	3%	a	.5%
Light Equipment Operator Groundman; Distribution Line Truck Driver Operator: 1st 6 months	6.90	.45	3%	a	.5%
Over 6 months	7.53	.45	3%	a	.5%
Combination Winch Truck Driver Groundman: 1st 6 months	6.28	.45	3%	a	.5%
Over 6 months	7.18	.45	3%	a	.5%
Combination Truck Driver Groundman	6.08	.45	3%	a	.5%

FOOTNOTES:

7 paid Holidays; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day After Thanksgiving Day; and Christmas Day.

DECISION NO. MI79-2019

MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING, RESIDENTIAL & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$12.74	.90	1.25	11%	.05
CLASS B	12.51	.90	1.25	11%	.05
CLASS C	12.20	.90	1.25	11%	.05
CLASS D	12.08	.90	1.25	11%	.05
CLASS E	11.70	.90	1.25	11%	.05
CLASS F	10.32	.90	1.25	11%	
CLASS G	9.44	.90	1.25	11%	

CLASS A - Crane with boom & jib or leads 220' or longer
CLASS B - Crane with boom and jib or leads 140' or longer
CLASS C - Crane with boom & jib 120' or longer
CLASS D - Regular Crane Operator
CLASS E - Regular Engineer
CLASS F - Engineer when operating compressor or welding machine
CLASS G- Firemen or Oiler

MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.57	.55	.75	10%	.05
CLASS B	11.33	.55	.75	10%	.05
CLASS C	10.85	.55	.75	10%	.05
CLASS D	10.70	.55	.75	10%	.05
CLASS E	9.61	.55	.75	10%	.05
CLASS F	8.65	.55	.75	10%	

CLASS A - Engineer when operation combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer tower crane & derrick operator (where operators work stations is 501 or more above first sub level)
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

DECISION NO. MI79-2019

MICH-8-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	10.61	.80	1.00	10%	.05
CLASS II	10.49	.80	1.00	10%	.05
CLASS III	9.83	.80	1.00	10%	.05
CLASS IV	9.31	.80	1.00	10%	.05

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (3 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip form paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor (pneu-tired, other than backhoe or front endloader), crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-bringing, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ yd or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), cuting machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NO. MI79-2045
Supersedes Decision No. MI79-2009, dated March 23, 1979 in 44 FR 17895
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and garden type apartments up to and including 4 stories

COUNTIES: INGHAM, EATON, CLINTON
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS/BLOCKLAYERS	$ 8.64				
CARPENTERS	7.93				
CEMENT MASONS/FINISHERS	8.78				
DRYWALL WORKERS:					
Hangers	8.00				
Tapers/Finishers	8.94				
ELECTRICIANS	8.47				
LABORERS:					
Common	5.79				
Landscape	3.00				
PAINTERS	6.64				
PLUMBERS/PIPEFITTERS	8.49				
ROOFERS	8.00				
SOFT FLOOR LAYERS/CARPET LAYERS	7.39				
SHEET METAL WORKERS	6.10				
TRUCK DRIVERS	7.36				
POWER EQUIPMENT OPERATORS:					
Bulldozer Operators	9.94				
Backhoe Operators	9.55				
Crane Operators	9.82				
Grader	9.82	.90	1.25	11%	.05
Paver	9.82	.90	1.25	11%	.05
Miller Operators	9.82	.90	1.25	11%	.05

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN79-2021
Supersedes Decision No. MN78-2095, dated September 29, 1978 in 43 FR 45130
DESCRIPTION OF WORK: Building (Including Residential), Construction Projects

COUNTIES: See Below
DATE: Date of Publication

COUNTIES: Anoka, Carver, Hennepin, Scott, Dakota, Ramsey & Washington

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.70	.65		.02
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	11.51	.655	.53	.56	
CARPENTERS:					
Building					
S.W. Portion of Scott Co.	11.70	.42			
Remainder of Cos. & Scott Co. Carpenters, Millwrights & Piledrivermen	11.06	.554.15	.55	.53	.02
Soft Floor Layers	10.73	.71	.64	.60	.02
Site Preparation, Excavation & Incidental Paving	10.13	.60	.60		
ELECTRICIANS:					
Building					
Hennepin & Scott Cos. & Twps. of Anoka & Pridley in Anoka County					
Contracts over $50,000	11.35	7%	6%	10½%	1 3/4%
Contracts less than $50,000	9.20	7%	4%	10½%	1 3/4%
Remainder of Anoka County & Remaining Counties	11.85	5 3/4%	5 7/8%	11½%	3/8%
Residential					
Carver, Hennepin & Scott Cos; Twps. of Anoka, Pridley, Crow & Ramsey in Anoka County: Construction of all new family dwellings up to 6 including A-plexes; and to all residential remodeling, rewiring & repairing in apartment buildings up to 6 including a 400 ampere service. This is limited to 3 floor occupied as living quarters floors, & non-elevator apartment buildings.	7.13	.48	3%	.27	1%
CEMENT MASONS:					
Building	11.63	.60	.60		
Site Preparation, Excavation & Incidental Paving	10.13	.60	.60		

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DECISION NO. MN79-2021

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
Dakota, Ramsey, Washington Cos. & Remainder of Anoka Co.: Construction of all new family dwellings up to & including 4-plexes, townhouses of 4 or less contiguous units; and to all residential remodeling, rewiring & repairing except that any single apartment project including a change of main service entrance shall not exceed 8 living units or 400 amps.	8.00	.50	3%	5%	3/4 of 1%
ELEVATOR CONSTRUCTORS:					
Constructors	11.31	.745	.35	a	.02
Helpers	70%JR	.745	.35	a	.02
Helpers (Prob.)	50%JR				
IRONWORKERS	12.40	.75	.70		.04
LATHERS:					
Anoka, Carver & Hennepin Cos.	10.99	.50	.65		.01
Washington; Dakota & Ramsey Cos.	11.69		.50	.70	.01
MARBLE SETTERS	11.536	.655	.53		
MARBLE FINISHERS	9.35	.37	.50		
TERRAZZO WORKERS	12.02	.64	.25		
TILE SETTERS	11.50	.62	.50		
TILE FINISHERS	10.65	.62	.50		
PAINTERS:					
Dakota, Ramsey & Washington Cos: Brush & Drywall Finisher	10.84	.53	.25		.12
Structural Steel & Spray	11.44	.55	.25		.12
Remaining Counties: Brush & Roller	10.76	.55	.30		.11
Structural Steel & Spray	11.36	.55	.30		.11
PLASTERERS:					
Dakota, Ramsey & Washington Cos.	10.66	.70	.25	.65	.01
Remaining Counties	9.80	.45	.20		.01
GLAZIERS	10.50	.45	.50	.35	.01

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS:					
Plumbers, Steamfitters & Pipefitters: Dakota, Ramsey & Washington Cos.	$10.92	.53	.80	1.52	.06
Plumbers & Steamfitters & P/F Remaining Counties: Plumbers	11.09	.53	.50	1.35	.05
Steamfitter & Pipefitters	11.14	.54	.50	1.25	.05
ROOFERS	11.75	.85	.35		.03
SHEET METAL WORKERS:					
Dakota, Ramsey & Washington Cos.	12.66	.79	.80		.06
Remaining Counties	13.02	.52	.81		.06
SPRINKLER FITTERS	12.03	.75	1.05		.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Day After Thanksgiving

FOOTNOTE:

a/ Employer contributes 6% Basic Hourly Rate for over 5 years service, 4% Basic Hourly Rate for under 5 years as Vacation Pay; 7 Paid Holidays A through G

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MNBN-27-LAB-1

LABORERS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.40	.60	.45	.40	
CLASS 2	9.45	.60	.45	.40	
CLASS 3	9.50	.60	.45	.40	
CLASS 4	9.55	.60	.45	.40	
CLASS 5	9.65	.60	.45	.40	
CLASS 6	9.70	.60	.45	.40	
CLASS 7	9.75	.60	.45	.40	
CLASS 8	9.80	.60	.45	.40	
CLASS 9	10.105	.60	.45	.40	

CLASS 1 - Common Laborer, Steel hoist handler (erection); Power Buggy Operator, Carpenter Tender, Earth Dumpman, Flagman

CLASS 2 - Reinforced Steel Handler

CLASS 3 - Men handling cement 2 hours per day (Bulk or Sack, excluding Mortar Mixer; Mason Tender; Concrete Joint Saw Operator, Demolition & Wrecking Laborer

CLASS 4 - Hot tar caulker & corker; Laborers on swing stage line scaffold (excl. "patent" scaffolding); Automatic Tamper Operator; chipping Hammer Setter & Driver on Heavy Building, Excavation, Jackhammer Men

CLASS 5 - Underground Work

CLASS 6 - Pipelayer

CLASS 7 - Caisson Work, Underpinning

CLASS 8 - Nozzleman

CLASS 9 - Dynamite Men, Power for Blasting purposes

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MNBN-9-LAB

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING LABORERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.35	.60	.45	.40	
CLASS 2	9.45	.60	.45	.40	
CLASS 3	9.50	.60	.45	.40	
CLASS 4	9.60	.60	.45	.40	
CLASS 5	9.65	.60	.45	.40	
CLASS 6	9.70	.60	.45	.40	
CLASS 7	9.75	.60	.45	.40	
CLASS 8	9.78	.60	.45	.40	
CLASS 9	9.80	.60	.45	.40	
CLASS 10	9.98	.60	.45	.40	
CLASS 11	10.05	.60	.45	.40	

CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler

CLASS 2 Laborer, wrecking & Demolition; Bit. Batchermen (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch trucks); Compaction Equip. Shoveler, batchermen Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer, Curb Setter (Stone or Precast Conc.) Kettleman (Bit. or lead); Service connection maker; Power Buggy; Joint Sawer; Squeeze man (Bit. Brick or Block); Stabilising batchermen (Stationary Plant); Stonemasons tender; Drill Runner (Heavy, including Churn Drill)

CLASS 3 Chainsaw Man, Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer' Pipe Handler; Pipe Derrickman (Triped, manual)

CLASS 4 Bottom Man (Sewer, Water or Gas trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Underpinning Work, Caisson Work, Other work more than 8' below level of manual work Open ditch Work

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LABORERS: (CONT'D)

CLASS 5 - Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker
CLASS 6 - Cement Gun (1½ & over); Leadman
CLASS 7 - Nozzlemen (Gunite)
CLASS 8 - Brick or Block Paving Setter
CLASS 9 - Bituminous Raker, Floater & Utility Man
CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
CLASS 11 - Powderman

MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Serviceman; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

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MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$15.10	.70	.55		.05
CLASS 2	13.45	.70	.55		.05
CLASS 3	13.20	.70	.55		.05
CLASS 4	12.60	.70	.55		.05
CLASS 5	12.25	.70	.55		.05
CLASS 6	12.15	.70	.55		.05
CLASS 7	11.90	.70	.55		.05
CLASS 8	11.78	.70	.55		.05
CLASS 9	11.70	.70	.55		.05
CLASS 10	11.43	.70	.55		.05
CLASS 11	10.75	.70	.55		.05
CLASS 12	10.30	.70	.55		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on miltiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

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MINN-7M-PEO-2-3

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$15.30	.70	.55		.05
GROUP 2	12.01	.70	.55		.05
GROUP 3	11.65	.70	.55		.05
GROUP 4	11.52	.70	.55		.05
GROUP 5	11.43	.70	.55		.05
GROUP 6	10.55	.70	.55		.05
GROUP 7	10.05	.70	.55		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill; Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

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POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu..yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

SUPERSEDEAS DECISION

STATE: Minnesota

COUNTIES: Blue Earth, Fairbault, Freeborn & Mower

DECISION NUMBER: MN79-2022

DATE: Date of Publication

Supersedes Decision NO. 1 MN78-2150, dated October 27, 1978 in 43 FR 50332

DESCRIPTION OF WORK: Building Construction (Including Residential), Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.70	.65		.02
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS:					
Blue Earth County					
Bricklayers, Stonemasons & Blocklayers	11.105	.65	.51	.61	
Mower County & that part of Freeborn Co., east of a line running north & south from Geneva to Gordon & the City of Blooming Prairie:					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers, Caulkers & Cleaners	11.775	.70	.25		
Fairbault & Remainder of Freeborn County					
Bricklayers, Stonemasons, Tuck Pointers & Blocklayers	11.20	.70	.50		
CARPENTERS:					
Building:					
Blue Earth County					
N. W. Portion of County	10.85				
Remainder of County	10.70	.42			.02
Freeborn & Fairbault Counties					
Carpenters, Millwrights & Piledrivermen	10.42	.55	.55		
Mower County	11.52				
Carpenters & Piledrivermen					
Site Preparation, Excavating & Incidential Paving					
Blue Earth County	7.32	.30			
Fairbault, Freeborn & Mower Cos.	8.48				
CEMENT MASONS & PLASTERERS:					
Building:					
Blue Earth County					
Cement Masons	10.18				
Plasterers	9.40				
Mower County & that part of Freeborn Co., east of a line running north & south from Geneva to Gordon:					
Cement Masons & Plasterers	9.35	.50	.25		

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CEMENT MASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fairbault Co., & Remainder of Freeborn No.:					
Cement Masons & Plasterers	$10.30	.70	.50		
Site preparation, Excavation & Incidential Paving					
Blue Earth County	10.10				
Fairbault Co.; Freeborn Co: (West of a line running North & South from Geneva to Gordonsville)	9.43	.42	.25		
Mower Co. & Remainder of Freeborn County	9.50	.35	.25		
ELECTRICIANS:					
Blue Earth & Fairbault Counties					
Jobs outside the Mankato City Area less than $50,000	9.20/	7%	6%	10½%	3/4 of 1%
Jobs within a 5 mile radius of Mankato $50,000 & over	11.35	7%	6%	10½%	3/4 of 1%
Freeborn & Mower Counties $75,000 or more	10.65	.60	3%	6%	.25%
$75,000 or less & Residential	8.52	.60	3%	6%	.25%
ELEVATOR CONSTRUCTORS:					
Blue Earth County					
Constructors	11.31	.745	.35	a	.02
Helpers	70%JR	.745	.35	a	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Blue Earth County	10.76			.30	
Remainder of Counties	10.00				
IRONWORKERS	12.40	.75	.70		.04
LABORERS: Building					
General Laborers & Carp. Tender	9.45	.35	.15		
Mason tenders & Vibrator Oprs.	9.55	.35	.15		
Mortar Mixers	9.60	.35	.15		
MARBLE-TILE-TERRAZZO WORKERS:					
Marble Setters	11.555	.655	.53		
Terrazzo Workers	12.02	.64	.25		
Tile Setters	11.50	.62	.50		
Marble Setters' Finishers	9.35	.37	.50		
Tile Setters Finishers	10.65	.62	.50		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Mower County					
Brush & Roller	$10.75	.37	.40		.08
Spray	11.25	.37	.40		.08
Remainder of Counties					
Brush & Tapers	10.50	.65	.15		.11
Spray	11.00	.65	.15		.11
Structural Steel	11.50	.65	.15		.11
PLUMBERS & STEAMFITTERS:					
Blue Earth County	12.47	.53			.05
Remainder of Counties	12.36	.50	.20		.02
ROOFERS:					
Mower County	10.02		.20		
Remainder of Counties	9.95	.55			
SHEET METAL WORKERS	10.74	.52	.33		
SPRINKLER FITTERS	11.93	.75	1.05		.08
TRUCK DRIVERS	9.45				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Employer contributes 8% BHR for over 5 years service & 6% BHR for under 5 years service as Vacation Pay. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day and Day after Thanksgiving

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MINN-12-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.50	.35	.15		
CLASS 2	9.60	.35	.15		
CLASS 3	9.65	.35	.15		
CLASS 4	9.75	.35	.15		
CLASS 5	9.90	.35	.15		
CLASS 6	9.95	.35	.15		
CLASS 7	10.00	.35	.15		

CLASS 1 - Unskilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & Blower Tender; Sod; Sod Layer & Nurserymen, Stonemason Tender.

CLASS 2 - Bituminous Shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag) Chain Saw Shoveler; Temper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Drill) Dumper (wagon, Truck Jackhammerman; Joint Sawyer, Kettlemen (Bituminous or Lead); Mortar Mixers; Paving Buster; Power Buggy; Tunnel Laborer (Atmospheric Pressure).

CLASS 3 - Bituminous Tamper

CLASS 4 - Bituminous Raker; Floater & Utility Man; Caisson Work; Cofferdam

CLASS 5 - Nozzleman (Gunite)

CLASS 6 - Pipelayer (Sewer, Water & Gas) Laser Beam

CLASS 7 - Powderman - Tunnel Miner

DECISION NO. MN79-2022

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$15.10	.70	.55		.05
CLASS 2	13.45	.70	.55		.05
CLASS 3	13.20	.70	.55		.05
CLASS 4	12.60	.70	.55		.05
CLASS 5	12.25	.70	.55		.05
CLASS 6	12.15	.70	.55		.05
CLASS 7	11.90	.70	.55		.05
CLASS 8	11.78	.70	.55		.05
CLASS 9	11.70	.70	.55		.05
CLASS 10	11.43	.70	.55		.05
CLASS 11	10.75	.70	.55		.05
CLASS 12	10.30	.70	.55		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on miltiples equal to 100 KW and over); Tractor Operator over 80; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

DECISION NO. MN79-2022

MINN-6-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$15.00	.70	.55		.05
GROUP 2	11.71	.70	.55		.05
GROUP 3	11.35	.70	.55		.05
GROUP 4	11.23	.70	.55		.05
GROUP 5	11.13	.70	.55		.05
GROUP 6	10.25	.70	.55		.05
GROUP 7	9.75	.70	.55		.05

GROUP 1 - Helicoptar Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shoval type controls 3 cu. yds. & over Mfg. rated capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rated capacity, Dredge Operator or Engineer, dredge Oper. (power) & Engineer, Front End Loader Op., 5 cu. yds. & over, Grader or Motor Patrol, Finishing earthwork & bituminous, Locomotive Crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Straddle carrier Op., Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm-tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op., (or similar type) well point installation, dismatling or repair mechanic

DECISION NO. MN79-2022

POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air compressor Op. 375 CFM or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrc , gunite op. gunall, lead greader on truck or rack, loaderop., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman, conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN79-2022

MINN-5-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Fairbault County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Serviceman; Tank Truck Helper (Gas, Oil, Road Oil & Water) Tenmaster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN79-2022

MINN-7-TD

TRUCKD RIVERS: SITE PREPARATION, EXCAVATING & INCIDENTIAL PAVING Blue Earth County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.62	.40	.50		
GROUP 2	8.32	.40	.50		
GROUP 3	8.22	.40	.50		
GROUP 4	8.02	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches)); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water)); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN79-2022

MINN-55-TD

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Freeborn & Mower Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 9.15	.40	.50		
GROUP 2	8.85	.40	.50		
GROUP 3	8.75	.40	.50		
GROUP 4	8.55	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches)); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water)); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

SUPERSEDEAS DECISION

STATE: Minnesota
COUNTY: Olmsted
DECISION NUMBER: MN79-2023
DATE: Date of Publication
Supersedes Decision No. MN78-2097, dated September 29, 1978 in 43 FR 45141
DESCRIPTION OF WORK: Building (Including Residential) Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.70	.65		.01
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS: Bricklayers; Stonemasons; Cement Blocklayers; Pointers; Caulkers & Cleaners	11.775	.70	.25		
CARPENTERS: Building	10.80	.55	.55		
Site Preparation, Excavation & Incidential Paving Carpenters & Piledrivermen	7.88	.50	.20		
CEMENT MASONS: Building	10.55	.70	.25		
Site Preparation, Excavation & Incidential Paving	10.35				
ELECTRICIANS: $75,000 or more	10.65	.60	3%	6%	.25%
Under $75,000 & Residential	8.52	.60	3%	6%	.25%
GLAZIERS	10.06			.30	
IRONWORKERS	12.40	.75	.70		.04
LABORERS: BUILDING CONSTRUCTION General Laborer; Carpenter Tender; Flagman; Power Buggy Operator	9.45	.35	.15		
Mason Tender; Drill Runner; Vibrator Operator; Rebar Laborer	9.55	.35	.15		
Mortar Mixer; Air Acutated Tool	9.60	.35	.15		
Plasterer Tender	9.70	.35	.15		
Nozzleman	9.85	.35	.15		
LATHERS	10.50				
MARBLE SETTERS	11.555	.655	.53		
PAINTERS: Brush & Roller	10.75	.37	.40		.08
Spray	11.25	.37	.40		.08
Structural Steel	11.00	.37	.40		.08

DECISION NO. MN79-2023

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	10.55	.70	.25		
PLUMBERS & STEMAFITTERS	12.36	.50	.20		.02
ROOFERS	9.40	.42	.33		
SHEET METAL WORKERS	10.74	.52	.33		.02
SPRINKLER FITTERS	11.93	.75	1.05		.08
TILE SETTERS	11.95				
TRUCK DRIVERS -	9.45				
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.					

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MINN-12-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.50	.35	.15		
CLASS 2	9.60	.35	.15		
CLASS 3	9.65	.35	.15		
CLASS 4	9.75	.35	.15		
CLASS 5	9.90	.35	.15		
CLASS 6	9.95	.35	.15		
CLASS 7	10.00	.35	.15		

CLASS 1 - Unskilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & blower Tender; Sod Layer & Nurseryman, Stonemason Tender.
CLASS 2 - Bituminous Shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag) Chain Saw Shoveler; Tamper & Puddler(Paving); Concrete Vibrator; Conduit Layers (w/o wiring); drill Runner (Heavy, incl. Churn Drill) Dumper (wagon, Truck Paving Buster; Power Buggy; Tunnel Laborer (Atmospheric Pressure).
CLASS 3 - Bituminous Tamper
CLASS 4 - Bituminous Raker; Floater & Utility Man; Caisson Work; Cofferdam
CLASS 5 - Nozzleman (Gunite)
CLASS 6 - Pipelayer (Sewer, Water & Gas) Laser Beam
CLASS 7 - Powderman - Tunnel Miner.

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MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$15.10	.70	.55		.05
CLASS 2	13.45	.70	.55		.05
CLASS 3	13.20	.70	.55		.05
CLASS 4	12.60	.70	.55		.05
CLASS 5	12.25	.70	.55		.05
CLASS 6	12.15	.70	.55		.05
CLASS 7	11.90	.70	.55		.05
CLASS 8	11.78	.70	.55		.05
CLASS 9	11.70	.70	.55		.05
CLASS 10	11.43	.70	.55		.05
CLASS 11	10.75	.70	.55		.05
CLASS 12	10.35	.70	.55		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on miltiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

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MINN-6-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIALPAVING	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$15.00	.70	.55		.05
GROUP 2	11.71	.70	.55		.05
GROUP 3	11.35	.70	.55		.05
GROUP 4	11.23	.70	.55		.05
GROUP 5	11.11	.70	.55		.05
GROUP 6	10.25	.70	.55		.05
GROUP 7	9.75	.70	.55		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

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POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augers and boring mach. op, power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-55-TD

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING					
GROUP 1	$9.15	.40	.50		
GROUP 2	8.85	.40	.50		
GROUP 3	8.75	.40	.50		
GROUP 4	8.55	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Serviceman; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

SUPERSEDEAS DECISION

STATE: Minnesota
COUNTIES: Benton, Sherburne & Stearns
DECISION NUMBER: MN79-2024
DATE: Date of Publication
Supersedes Decision No. MN78-2151, dated October 27, 1978, in 43 FR 50337
DESCRIPTION OF WORK: Building (Including Residential), Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.70	.65		.02
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	11.10		.25	1.00	
CARPENTERS:					
Building Construction					
Southern tip of Sherburne Co.					
Carpenters, Millwrights & Piledrivermen	11.06	.70	.55	.55	.02
Soft Floor Layers	10.73	.71	.64	.60	.02
Cities of Little Rock & Skaja in Benton County					
Carpenters	10.75				
Stearns Co., Remainder of Benton & Sherburne Counties					
Carpenters & Piledrivermen	11.18	.35		.75	
Soft Floor Layers	7.50				
Site Preparation, Excavation & Incidential Paving					
Sherburn Co.; Northern Bondary of T-34-N & East of the Western Boundary of R-27-W	8.21	.40	.30	.50	.02
Benton Co., Stearns Co. (East of A North-South Line Drawn from the intersection of Stearns, Todd & Morrison Cos.) & the remainder of Sherburne Co.	7.47			.75	
Remainder of Stearns County	7.62				
CEMENT MASONS:					
Building Construction					
Benton & Stearns Counties					
Cement masons & Plasterers	9.55		.25	.35	
Sherburne County					
Cement Masons	11.63	.60	.60		
Plasterers	10.00	.70	.25	.65	.01
Site Prepatation, Excavation & Incidential Paving					
Sherburne County	10.13	.60	.60		
Benton & Stearns Counties	9.90			.25	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Benton & Stearns Cos.; Twps. of Haven, Palmer, Santiago, Becker & Clear Lake inSherburne County:					
Jobs under $50,000	$ 9.20	7%	6%	10½%	3/4 of 1%
Jobs over $50,000	11.35	7½%	6%	10½%	1½%
Remainder of Sherburne County	11.85	5 3/4%	5 7/8%	11½%	3/8%
GLAZIERS	10.75	.40			
IRONWORKERS	12.40	.75	.70		.04
LABORERS:					
Building Construction					
Stearns & Benton Counties:					
General Laborers, Demolition & Wrecking; Concrete Joint Saw Opr.; Signal Men	9.25	.35	.15		
Power Buggy Operators	9.30	.35	.15		
Mortar Mixers; Plasterer Tenders	9.35	.35	.15		
Jackhammer Men	9.40	.35	.15		
Underground; Caisson; Cofferdam & Tunnel work	9.50	.35	.15		
Dynamite Men & Pipelayers	9.55	.35	.15		
Sherburne County:					
Common, Carpenter Tender	9.40	.60	.45	.40	
Wrecking & demolition	9.50	.60	.45	.40	
Vibrator Opr; Jackhammerman; Mortar Mixers	9.55	.60	.45	.40	
Underground Work	9.65	.60	.45	.40	
Pipelayers	9.70	.60	.45	.40	
Caisson Work - Underpinning	9.75	.60	.45	.40	
Dynamite Men	10.105	.60	.45	.40	
LATHERS:					
Benton & Stearns Counties	10.99	.50	.65	.01	
MARBLE SETTERS	11.355	.655	.53		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Eastern 2/3 of Sherburne County:					
Brush, Roller & Paperhangers	10.76	.55	.30		.11
Spray, Structural Steel & Sandblasting	11.36	.55	.30		.11
Benton, & Stearns Counties & the Remainder of Sherburne County:					
Residential	8.50			3%	
Brush	7.90			3%	
Structural Steel	8.40			3%	
Spray	8.90			3%	
PLUMBERS & STEAMFITTERS:					
Sherburne County:					
Plumbers Eastern ½ of County	11.09	.53	.50	1.35	.05
Steamfitters Eastern ½ of County	11.14	.54	.50	1.25	.05
Benton & Stearns Cos. & the Western ½ of Sherburne Co:					
Plumbers & Steamfitters	11.82	.53	.50		.06
ROOFERS:					
Roofers	9.60		.30	.25	
SHEET METAL WORKERS	11.52	.52	.31		.03
SPRINKLER FITTERS	11.93	.75	1.05		.08
TRUCK DRIVERS - Building	9.25				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. MN79-2024

MINN-9-LAB

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne County					
CLASS 1	$ 9.35	.60	.45	.40	
CLASS 2	9.45	.60	.45	.40	
CLASS 3	9.50	.60	.45	.40	
CLASS 4	9.60	.60	.45	.40	
CLASS 5	9.65	.60	.45	.40	
CLASS 6	9.70	.60	.45	.40	
CLASS 7	9.75	.60	.45	.40	
CLASS 8	9.78	.60	.45	.40	
CLASS 9	9.80	.60	.45	.40	
CLASS 10	9.98	.60	.45	.40	
CLASS 11	10.03	.60	.45	.40	

CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler

CLASS 2 Laborer, wrecking & Demolition; Bit. Batchermen (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch trucks); Compaction Equip. Shoveler, batchermen Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.e. wiring); Chipping Hammer, Curb Setter (Stone or Precast Conc.) Kettleman (BIT. or lead); Service connection maker; Power Buggy; Joint Sawer; Squeeze man (Bit. Brick or Block); Stabilizing batchermen (Stationary Plant); Stonemasons tender; Drill Runner (Heavy, including Churn Drill)

CLASS 3 Chainsaw Man, Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer' Pipe Handler; Pipe Derrickman (Triped, manual)

CLASS 4 Bottom Man (Sewer, Water or Gas trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Underpinning Work, Caisson Work, Other work more than 8' below level of manual work Open ditch Work

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LABORERS: (CONT'D)

CLASS 5 - Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker
CLASS 6 - Cement Gun (1½ & over); Leadman
CLASS 7 - Nozzlemen (Gunite)
CLASS 8 - Brick or Block Paving Setter
CLASS 9 - BITUminous Raker, Floater & Utility Man
CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
CLASS 11 - Powderman

DECISION NO. MN79-2024

MINN-11-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Benton & Stearns Counties					
CLASS 1	$ 8.85	.55	.35	.40	
CLASS 2	8.90	.55	.35	.40	
CLASS 3	8.95	.55	.35	.40	
CLASS 4	9.00	.55	.35	.40	
CLASS 5	9.10	.55	.35	.40	
CLASS 6	9.25	.55	.35	.40	
CLASS 7	9.30	.55	.35	.40	
CLASS 8	9.35	.55	.35	.40	

CLASS 1 - Bricklayer Tender, Carpenter, Drill Runner Helper, Laborers-Wrecking & Demolition, Landscape Gardner, Pipe Handler (Water, Gas & Cast Iron); Salamander Heater & Blower Tender, Sod Layer & Nurseryman; Stone-mason Tenders; Unskilled Laborers

CLASS 2 - Form Setter (Municipal Type Curb & Sidewald, Form Setter (Pavement) coverman (Batch Trucks); Cement Handler (Bulk or Bag); chain Saw Man; Compaction equipment (Hand operated); Concrete Mixer (1 Bag); Concrete Shoveler Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (wagon, Truck, etc.); Jackhammerman, Joint Sawer, Kettleman (Bituminous or Lead); Mortar Mixers, Paving Buster, Power Buggy, Tunnel Laborer (Atmospheric pressure)

CLASS 4 - Bituminous Raker, Floater & Utility Man;, Caisson work, Cofferdam
CLASS 5 - Leadman
CLASS 6 - Gunnite
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman, Tunnel Miner

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MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$15.10	.70	.55		.05
CLASS 2	13.45	.70	.55		.05
CLASS 3	13.20	.70	.55		.05
CLASS 4	12.60	.70	.55		.05
CLASS 5	12.25	.70	.55		.05
CLASS 6	12.15	.70	.55		.05
CLASS 7	11.90	.70	.55		.05
CLASS 8	11.78	.70	.55		.05
CLASS 9	11.70	.70	.55		.05
CLASS 10	11.43	.70	.55		.05
CLASS 11	10.75	.70	.55		.05
CLASS 12	10.30	.70	.55		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compresser Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on miltiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

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SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING

MINN-7M-PED-2-3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne Co. (South of the Northern Boundary of T-33-N & East of the Western Boundary of R-27-W					
GROUP 1	$15.30	.70	.55		.05
GROUP 2	12.01	.70	.55		.05
GROUP 3	11.65	.70	.55		.05
GROUP 4	11.52	.70	.55		.05
GROUP 5	11.43	.70	.55		.05
GROUP 6	10.55	.70	.55		.05
GROUP 7	10.05	.70	.55		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)

sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic
GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-6-PED

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stearns Co; (East of the Western Right-of-Way of Minn. Hwy. 15) Benton Co.: (East of the Western Right-of-Way of Hwy. 10) & Remainder of Sherburne Co.					
GROUP 1	$15.00	.70	.55		.05
GROUP 2	11.71	.70	.55		.05
GROUP 3	11.35	.70	.55		.05
GROUP 4	11.23	.70	.55		.05
GROUP 5	11.13	.70	.55		.05
GROUP 6	10.25	.70	.55		.05
GROUP 7	9.75	.70	.55		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumperete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping

DECISION NO. MN79-2024

(POWER EQUIPMENT OPERATORS) (CONT'D)

GROUP 5 (Cont'd)

machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic
GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-7-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remainder of Benton & Steatns Cos.					
GROUP 1	$14.55	.70	.55		.05
GROUP 2	10.37	.70	.55		.05
GROUP 3	9.72	.70	.55		.05
GROUP 4	9.58	.70	.55		.05
GROUP 5	9.30	.70	.55		.05
GROUP 6	8.97	.70	.55		.05
GROUP 7	8.57	.70	.55		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)

tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic
GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISIN NO. MN79-2024

MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne County					
GROUP 1	$ 9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

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MINN-5-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Benton & Stearns Counties					
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN79-2025
Supersedeas Decision No.: MN78-2099 dated September 29, 1978 in 43 FR 45151
DESCRIPTION OF WORK: Building Construction (Including Residential) Construction Projects

COUNTIES: *See Below
DATE: Date of Publication

*Counties: Carlton, Cook, Itasca, Koochiching Lake and St. Louis

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.10	.40	.50	1.15	
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS:					
Bricklayers & Stonemasons:					
Koochiching County	11.95	.60	.30		
Cook, Lake & Carlton Counties & all that part of St. Louis County South of line between township 54 & 55 to 2 miles north of Cotton	10.27	.40	.30	.50	
Itasca County & the northern half of St. Louis County	10.875	.30			
CARPENTERS:					
Building Construction:					
Koochiching County & Cities of Ashe Lake, Crane Lake, Kabetogama & Kinmount in St. Louis County	10.85	.40			
Cook County; Cities of Alborn, Arnold, Barlett, Birch, Brookston, Canyon, Clinton, Culver, Duluth, Floodwood, Cowan, Island, Kelsey, Lakewood, Meadowlands, Munger, Palmers, Payne, Praist, Shaw Taff in St. Louis County & Southern portion of Lake County					
Carpenters, Piledrivermen & Soft Floor Layers	10.65	.40	.50	.75	
Millwrights	10.87	.40	.50	.75	
Carlton County:					
Carpenters & Piledrivermen	10.08	.40	.40	.50	
Millwrights	10.94	.40	.40	.50	
Cities of Ball Club, Bass Lake, Big Fork, Blackberry, Bovey, Bowstring, Calument, Cohasset, Colerain, Deer River, Dora, Lake, Dunbar, Effie, Grand Rapids, Inger Marble, Marcell, Max, Pomroy, Spring Lake, Square Lake, Suomi, Talmoon, Warba & Wirt in Itasca County	10.64	.40	.50	.30	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Cities of Allen, Aurora, Babbit, Britt, Biwabik, Buyck, Casco, Central, Lakes, Cook, Cusson, Ely, Embarrass, Eveleth, Florenton, Forbes, Gilbert, Hoyt Lakes, Indington, Iron Junction, Makinen, McComber, Masaba, Mountain, Iron, Ridge, Sax, Sherman Corners, Sherwood, Skibo, Soudon, Tower, Virginia, Wahlsten, Winton & Zim in St. Louis & Northern portion of Lake County					
Carpenters, Soft Floor Layers, and Tile Setters	$10.89	.40	.50	.30	
Cities of Goodland, Keewatin, Nashwauk, Pengilly, Sawan River, Togo & Wawina in Itasca County & Cities of Bengal, Beer Lake Buhl Chrisholm, Gheen, Greaney, Hibbing, Kelly, Lake, Nett Lake, Orr Riley, Side Lake, Silica & Tovola in St. Louis County:					
Carpenters & Soft Floor Layers	11.14	.40		.30	
Site Preparation, Excavation & Incidential Paving:					
Lake, Cook, Carlton, Itasca & St. Louis Counties	8.28	.30		.30	
Koochiching County	7.32	.30			

DECISION NO. MN79-2025

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
Building Construction:					
Koochiching County:					
Cement Masons & Plasterers	$11.60	.60	.30		
Itasca Co. and the Northern portion of St. Louis County, North or White Face River					
Cement Masons	10.05	.30			
Plasterers	10.65	.30			
Cook, Lake, Carlton Counties & the City or Duluth in St. Louis County:					
Cement Masons	11.845	.40			
Plasterers	10.20	.30		.45	
ELECTRICIANS:					
Cook, Lake, Carlton Counties the southerly 12 Townships of Itasca County including Harris, Fealy, Blackberry, Spang, Goodland, Sago & Wawina & all of the southerly part of County bounded on the north by the lines of Kelsey Township extended east & west in St. Louis County	11.43	4%	6%	c 11%	½ of 1%
Koochiching County, Itasca County, (except that section south of a line extending east and west of the south line of Grand Rapids & Trout Lake Township), Northern part of St. Louis County bounded by the South Line of Ellsburg Township extended east and west	11.28	4%	6%	11%	1½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
St. Louis & Lake Counties:					
Constructors	$10.31	.75	.35	8%+a	.02
Helpers	70%JR	.75	.35	8%+a	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Cook, Lake, St. Louis, Carlton, Koochiching Counties	9.60	.40	.40	b	
IRONWORKERS	12.00	.40	.60		.02
LABORERS: BUILDING CONSTRUCTION					
Carlton, Cook, Lake, St. Louis Co. South of T-55-N, including the City of Duluth:					
Common Laborers	9.30	.40	.45	.50	
Mortar Mixers, Carpenters & Mason Tender, Jackhammer & Vibrator Operator	9.40	.40	.45	.50	
Itasca & Koochiching Counties and north of T-55-N, including Cities of Hibbing, Chisolm & Buhl in St. Louis County					
Common Laborer	9.90	.35	.15		
Carpenters & Mason Tender, Mortar Mixer, Bricklayer Tender and Jackhammer	10.00	.35	.15		
Pipelayer (non-metallic)	10.25	.35	.15		
LATHERS:					
St. Louis & Lake Counties	11.20	.40			
MARBLE, TILE & TERRAZZO WORKERS:					
St. Louis Co. (City of Duluth)					
Marble & Tile Setter	10.43	.30			
Remainder of Counties & Remainder of St. Louis County					
Marble Setters	11.555	.655	.53		
Tile Setters	11.50	.62	.50		
Marble Finishers	9.35	.37	.50		
Tile Finishers	10.65	.62	.50		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush, Tapers & Rollers	$10.81	.40	.40		.11
Spray, Structural Steel, Tapers & Paperhangers	11.41	.40	.40		.11
PLUMBERS & STEAMFITTERS:					
Koochiching County	13.90				
Cook & Carlton Counties & Southern half of St. Louis & Lake Counties	10.66	.40	.75	1.50	.05
Itasca Coutny & Northern portions of St. Louis & Lake Counties	10.65	.56	.64	1.00	.05
ROOFERS:					
Cook, Lake, Carlton Counties & Southern half of St. Louis County					
Roofers	10.58	.40	.25	1.25	
2nd Roofers	10.33	.40	.25	1.25	
Kettlemen	10.13	.40	.25	1.25	
Itasca & Koochiching Counties, the Northern half of St. Louis County					
1st Roofer	10.66	.52	.55		
2nd Roofer	10.36	.52	.55		
SHEET METAL WORKERS:					
Cook, Lake, Carlton Counties & Southern half of St. Louis County	10.81	.40	.55	1.25	.03
Itasca & Koochiching Counties, the Northern half of St. Louis County	10.92	.52	.55		
TRUCK DRIVERS:					
Building Construction:					
Koochiching County	9.90				
Itasca County	9.90				

FOOTNOTES:

a. Employer contributes 4% Basic Hourly Rate for over 5 years service, 2% of Basic Hourly Rate for 6 months to 5 years service as Vacation Pay Credit. Six (60 Paid Holidays, New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day.

b. 2 weeks vacation

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MINN-10-LAB

LABORERS: Counties of Itasks and St.Louis Counties North of T-55. Site Preparation, Excavation & Incidental Paving:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.73	.35	.15	.25	
CLASS II	9.83	.35	.15	.25	
CLASS III	9.98	.35	.15	.25	
CLASS IV	10.03	.35	.15	.25	
CLASS V	10.08	.35	.15	.25	
CLASS VI	10.13	.35	.15	.25	
CLASS VII	10.23	.35	.15	.25	
CLASS VIII	10.33	.35	.15	.25	

CLASS I - Unskilled-Laborers, Laborers; wrecking & demolition; Bricklayer tender, drill runner helper, Landscape gardner, Sod layer & nurseryman pipihandler (water, gas cast iron); Salamander heater & blower tender; Carpenter tender; Stonemasons tender

CLASS II - Bituminous Shoveler, Bottom man (sewer , water or gas trench), Cement handler (bulk or bag); Chain saw man, compaction equipment (hand operator); Concrete mixer operator (1 bag), Concrete Shoveler, tamper & puddler (paving) Concrete Vibrator, Conduit layers (w/o wiring); Dumper (wagon, truck etc.), Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer man & paving busters, Kettlemen (Bituminous or lead), Mortar mixer, Power buggy, Joint drawer, tunnel laborer (atmospheric pressure)

CLASS III - Bitminous Tamper, Cofferdam work, Caisson work

CLASS IV - Drill Runner (Heavy, including churn drill)

CLASS V - Bituminous Raker, Floater, Utility Men, Pipelayers (sewer, water, gass); Leadsman (Gunnite)

CLASS VI - Nozzleman (Gunite)

CLASS VII - Powderman

CLASS VIII - Tunnel Miner

DECISION NO. MN79-2025

MINN-13-LAB

LABORERS Site preparation, Excavation & Incidental Paving Koochiching County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.25	.35	.15		
CLASS 2	8.35	.35	.15		
CLASS 3	8.40	.35	.15		
CLASS 4	8.50	.35	.15		
CLASS 5	8.60	.35	.15		
CLASS 6	8.65	.35	.15		
CLASS 7	8.70	.35	.15		
CLASS 8	8.75	.35	.15		

CLASS 1 - Skilled Laborers, Bricklayers & Carpenters Tenders; Drill Runner Helper; Laborers Wreching & Demolition, Landscape Gardner, Pipe Handler (Water, Gas, Cast Iron), Salamander Heater, & Blower Tender, Sod Layer & Nurseryman; Stonemasons tender

CLASS 2 - Bituminous Shoveler, Bottom man (Sewer, Water or gas trench), Cement Coverman (Batch Trucks); Cement handler (Bulk or bag); Chain Saw Man, Compaction equipment (hand operated), Concrete mixer (1 bag); Concrete Shoveler, Tamper & Puddler (paving), Concrete vibrator, Conduit layers (w/o wiring); Drill runner (heavy, incl. Churn Driver Dumper (wagon truck, etc.); Jackhammerman, Joint Sewer, Kettlemen (Bituminous or Lead), Mortar Mixer Paving Buster; Power Buggy; Tunnel Laborer (atmospheric pressure)

CLASS 3 - Form setters (Municipal type curb & Sidewalk) form setter(pavement)

Class 4 - Bituminous Tamper, caisson work & cofferdam

CLASS 5 - Bituminous raker, floater, & Utility man; Leadman

CLASS 6 - Nozzleman (Gunnite)

CLASS 7 - Pipelayer, (Sewer, Water & Gas)

CLASS 8 - Powderman, Tunnel Miner

DECISION NO. MN79-2025

MINN-14-LAB

LABORERS - SITE PREPARATION EXCAVATION & INCIDENTIAL PAVING Cook, Lake, Carlton & St. Louis Counties South of T-55	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.13	.40	.45	.50	
CLASS II	9.23	.40	.45	.50	
CLASS III	9.38	.40	.45	.50	
CLASS IV	9.43	.40	.45	.50	
CLASS V	9.48	.40	.45	.50	
CLASS VI	9.53	.40	.45	.50	
CLASS VII	9.63	.40	.45	.50	
CLASS VIII	9.73	.40	.45	.50	

CLASS I - Unskilled Laborers, Laborers; wrecking & demolition; Bricklayer tender, drill runner helper, Landscape gardner, Sod layer & nurseryman Pipehandler (water, gas, cast iron); Salamander heater & blower tender; Carpenter tneder; Stonemasons tender

CLASS II - Bituminous Shoveler, Bottom man (sewer, water or gas trench), Cement handler (bulk or bag); Chain saw man, compaction equipment (hand operated); Concrete mixer operatos (1 bag), Concrete Shoveler, tamper & puddler (paving) Concrete Vibrator, Conduit layers (w/o wiring); Dumper (wagon, truck, etc.), Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer man & paving busters, Kettleman (Bituminous or lead), Mortar mixer, Power buggy, Joint drawer, tunnel laborer (atmospheric pressure)

CLASS III - Bituminous Tamper, Cofferdam work, Caisson work

CLASS IV - Drill Runner (Heavy, including churn drill)

CLASS V - Bituminous Raker, Floater & Utility Man, Pipelayers (sewer, water, gas); Leadman (Gunite)

CLASS VI - Nozzleman (Gunnite)

CLASS VII - Powderman

CLASS VIII - Tunnel Miner

DECISION NO. MN79-2025

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$15.10	.70	.55		.05
CLASS 2	13.45	.70	.55		.05
CLASS 3	13.20	.70	.55		.05
CLASS 4	12.60	.70	.55		.05
CLASS 5	12.25	.70	.55		.05
CLASS 6	12.15	.70	.55		.05
CLASS 7	11.90	.70	.55		.05
CLASS 8	11.78	.70	.55		.05
CLASS 9	11.70	.70	.55		.05
CLASS 10	11.43	.70	.55		.05
CLASS 11	10.75	.70	.55		.05
CLASS 12	10.35	.70	.55		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Operator over D2; Wall Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

DECISION NO. MN79-2025

MINN-7M-PFO-2-3

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING POWER EQUIPMENT OPERATORS: Cook, Lake, & St. Louis Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Educatio and/or Appr. Tr
GROUP 1	$15.30	.70	.55		.05
GROUP 2	12.01	.70	.55		.05
GROUP 3	11.65	.70	.55		.05
GROUP 4	11.52	.70	.55		.05
GROUP 5	11.43	.70	.55		.05
GROUP 6	10.55	.70	.55		.05
GROUP 7	10.05	.70	.55		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op. Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

DECISION NO. MN79-2025

POWER EQUIPMENT OPERATORS (Cont'd)

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augers and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o powe. take-off, truck crane oiler

DECISION NO. MN79-2025

MINN-6-PEO

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING (JURISDICTION - NEXT PAGE)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$15.00	.70	.55		.05
GROUP 2	11.71	.70	.55		.05
GROUP 3	11.35	.70	.55		.05
GROUP 4	11.23	.70	.55		.05
GROUP 5	11.13	.70	.55		.05
GROUP 6	10.25	.70	.55		.05
GROUP 7	9.75	.70	.55		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl.mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumperete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

POWER EQUIPMENT OPERATORS (Cont'D) SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING-CARLTON CO; KOOCHICHING CO., EAST OF A NORTH SOUTH LINE FROM THE CANADIAN BORDER TO PELLAND TO BIG FALLS & MINN. HWY. #6; ITASCA COUNTY EAST OF THE WESTERN RIGHT OF WAY OF MINN. HWY. #6.

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, tr ching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Pine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HF with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or leas w/o power take-off, truck crane oiler

MINN-7-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Remainder of Itasca & Koochiching	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.55	.70	.55		.05
GROUP 2	10.37	.70	.55		.05
GROUP 3	9.72	.70	.55		.05
GROUP 4	9.58	.70	.55		.05
GROUP 5	9.50	.70	.55		.05
GROUP 6	8.97	.70	.55		.05
GROUP 7	8.57	.70	.55		.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. muckling operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning

(POWER EQUIPMENT OPERATORS (Cont'd)

or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Pine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or leas w/o power take-off, truck crane oiler

MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Cook, Lake, Carlton & St. Louis Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelle Packer; Slurry Operator; Single Axle Trucks.

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MINN-5-TD

DECISION NO MN79-2025

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING					
ITASCA & KOOCHICHING COS.					
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1
Driver (hauling machinery for employer's own use including operation of hand & power operated winches); Truck train mechanic; Welder; Tractor-Trailer; Off road truck.

GROUP 2
Tri-Axle (including 4 Axles); Dump dry batch hauler; Tank truck (gas, oil, road oil & water); Boom & "A" Frame; Ready mix concrete; Slurry driver.

GROUP 3
Bituminous distributor driver; Bituminous distributor (1 man operation); Tandem axle.

GROUP 4
Bituminous distributor spray (rear-end oiler); Dumpman; Greaser & truck service man; Tank truck helper (gas, oil, road oil & water); Teamster and stableman; Tractor operator (wheel type used for any purpose); Pilot car; Self-propelled packer; Slurry operator; Single axle.

SUPERSEDEAS DECISION

LOAin

STATE: Minnesota — COUNTIES: See Below
DECISION NUMBER: MN79-2026 — DATE: Date of Publication
Supersedeas Decision No. MN78-2062 dated July 14, 1978 in 43 FR 30459
DESCRIPTION OF WORK: Heavy and Highway Construction Projects

COUNTIES

Aitken	Dakota	Houston	Mower	Stearns
Anoka	Dodge	Itaska	Nicollet	Steel
Benton	Fairbault	Kanabec	Olmsted	St. Louis
Blue Earth	Fillmore	Koochiching	Ramsey	Wabasha
Carlton	Freeborn	Lake	Rice	Waseca
Carver	Goodhue	LeSueur	Scott	Washington
Chisago	Hennepin	Mille Lacs	Sherburne	Winona
Cook		Morrison	Sibley	Wright

CARPENTERS & PILEDRIVERMEN:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Counties of Anoka, carver, Chisago, Dakota, Hennepin, Ramsey, Scott & Washington, Sherburne County (North of the Northern Boundary of T-34- or West of the western Boundary of R-27), & Wright County east of & including Minnesota Highway #25	$ 8.21	.40	.30	.50	.02
Counties of Aitkin, Cook, Itaska, Kanabec, Lake, Mille Lacs & St. Louis	8.28	.30		.30	
Carlton County	8.58	.30			
Benton County, the Remainder of Sherburne & Wright Counties, Stearns County east of a north-south line drawn from the Intersection of Stearns, Todd and Morrison Counties	7.47			.75	
Blue Earth County (entire Co. except N.W. corner including cities of Butternut, Judson & Cambria), LeSueur County (West 2/3 of county including Cities of New Sweden, Nicollet, Norseland, North Mankato & St. Peter), Waseca County (N.W. Corner including City of Smithmill), & Sibley County (S.E. corner incl. Cities of Henderson & Rush River	7.32	.30			

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DECISION NO. MN79-2026

CARPENTERS & PILEDRIVERMEN (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Rice County, Dodge County (NE portion including Cities of Clermont & West Concord), Goodhue County (Along west border including Cities of Geyon, Denmison, Skyburg, Soga, Stanton & Wanga), steele County (Entire County except along South border including Cities of Blooming prairie & Ellendale), Waseca County (Entire County except Smithmill in NW corner & along the South border including the cities of Matawah & New Richland) & the Remainder of LeSueur Co.	8.08	.40			
Olmsted County, Fillmore County the vicinity of the Cities of Borne, Concord, Dodge Center, Kasson, Dansville, Eden, Waterville & Wasioja), Mower County (N.W. Corner including the city of Racine & Wabasha County (in the vicinity of the Cities of Elgin, Hammond, Millville, Plainview, Conseption, Dunfries, Jarret, South Troy & Theilman	7.88	.40	.30		
Counties of Fairbault, Freeborn, Houston & Winona & the remainder of Dodge, Fillmore, Goodhue, Mower, Steele, Wabasha & Waseca Counties	8.48				
Koochiching County	7.33	.30			
Counties of Morrison, Remainder of Sibley & Stearns Counties	7.62				

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DECISION NO. MN79-2026

CEMENT MASONS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Counties of Anoka, Carver, Chisago, Dakota, Hennepin Kanabec, McLeod, Mills Lacs, Ramsey, Scott, Sherburne, Sibley, Washington & Wright	10.13	.60	.60		
Counties of Aitkin, Carlton, Cook, Lake & St. Louis Co. South of T-55-N	12.13	.40			
Itaska County & St. Louis co. North of T-54-N	10.05	.30			
Koochiching County	10.35	.40	.15		
Morrison County	10.20		.15		
counties of Benton & stearns	9.90		.25		
Counties of Blue earth & Nicollet, LeSueur Co. (East ½ including the Cities of Cleveland, Elysian, Kasato, LeCenter, LeSueur, Lexington, Ottawa, & ST. Thomas), Waseca County (East ½ including the Cities of Alma City, Janesville, Smithmill & Waldorf	10.10				
Fairbault County & Freeborn Counties (West of a line running north & south from Genevia to Gordansville	9.43	.42	.25		
Counties of Rice & Steele, the Remainder of LeSueur & Waseca Counties & Dodge County West of Highway 56	10.10				
Olmsted County, Dodge County (east of Highway 56), & Fillmore Co. east of a line drawn north & south established east of the City of Dodge Center	10.35				
Counties of Houston & Winona & the Remainder of Fillmore Co.	10.10				

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DECISION NO. MN79-2026

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (CONT'D)					
Counties of Goodhue & Wabasha Mower County & the Remainder of Freeborn	10.33	.42	.25		
	9.50	.35	.25		
IRONWORKERS:					
Counties of Anoka, Benton, Blue Earth, Carver, Chisago, Dakota Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Hennepin Houston, LeSueur, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Stearns, Steele, Wabasha, Waseca, Washington, Winona & Wright; Kanabec Co., (excluding north 1/3 of County including cities of Warman, Kruschel & Woodland), Mille Lacs County (excluding NE cor. including cities of Bayview, Opstead, Isle, Wahkun Cove & Vineland), & Pine County (the SW corner including the cities of Pine City, Henriette, Greely, rock Creek & West Rock)	12.40	.75	.70		.04
Counties of Aitkin, Carlton, Cook, Itaska, Koochiching, Lake, St. Louis, Kanabec & Mille Lacs Counties	12.00	.40	.60		.02

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DECISION NO. MN79-2026

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN:					
Counties of Aitkin, Carlton, Cook, Lake, Morrison, Itaska County that portion South of T-55 R-27, Bass Rock Grand Rapids, Trout Lake, T-55 R-23 & that portion of Goodhue & Township South of a Line west from the S.W. of T-55 R-23; St. Louis Co; that portion south of Ault, Kilsburg, Lavell, T-55 R-14, T-55 R-15, T-55 R-18 & T-55 R-21 Townships, Kanabec co. north of Ann Lake, Knife Lake & White Townships; Mille Lacs county north of baily and Mudgett Townships	$11.43	4%	8%	11%	½ of 1%
Koochiching County & the Remainder of Itaska & St. Louis Cos	11.28	4%	6%	11%	1½%
Counties of Chisago, Dakota, Ramsey, Rice & Washington; Remainder of Kanabec & Mille Lacs Cos., Anoka County (Entire County except Anoka, Firdely, Grow & Ramsey Twps.) Goodhue Co. (Entire County (except Pine Island, Minneola Roseoe & Zumbrota Twps.), LeSueur County (that portion east of Cleveland, Sharon, Tyrone of Washington Twps.); Sherburne Co. (that portion east of Becker & Santiago Twps; & Wabasha County (Entire Co. excpet Elgin & Plainview Twps.)	11.85	5-3/4%	5 7/8%	11½%	3/8%
Houston & Winona County	9.97	.65	3%		.5%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN (CONT'D)					
Counties of Benton, Blue Earth Carver, Fairbault, Hennepin, Nicollet, Scott, Sibley, Stearns, Waseca, Wright & the Remainder of Anoka, LeSueur & Sherburne Cos.	11.35	7%	6%	10½%	3/4 of 1%
Counties of Dodge, Fillmore, Freeborn, Mower, Olmsted, Steele & the Rem. of Goodhue & Wabasha Counties	8.31	.35	1%		.04
PAINTERS:					
Counties of Carlton, Cook, Lake, Koochiching, St. Louis & Itaska					
Brush	10.81	.40	.40		.13
Structural Steel & Bridges	11.41	.40	.40		.11
Counties of Chisago, Dakota, Ramsey & Washington					
Brush	10.84	.55	.25		.12
Structural Steel & Bridges	11.44	.55	.25		.12
Counties of Anoka, Carver, Hennepin, Kanabec, Scott and the eastern 2/3 of Sherburne & Wright counties:					
Brush & Roller	10.76	.55	.30		.11
Structural Steel & Bridges	11.36	.55	.30		.11
Counties of Benton, Mille Lacs & Stearns (the western 1/3 of Sherburne & Wright Counties) & the Southern ½ of Morrison County:					
Brush	5.90				.02
Structural Steel	6.40				.02
Spray	6.90				.02
Aitkin & the southern ½ of Morrison County:					
Brush	9.10				
Structural Steel & Bridges	9.60				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Counties of Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Wabasha & Winona:					
Brush	8.50	.37	.25		.08
Spray	10.10	.37	.25		.08
Counties of Blue Earth, Nicollet Sibley, Rice, LeSueur, Steel & Waseca					
Brush	10.30	.65	.20		.11
Structural Steal & Bridges	11.00	.65	.20		.11
WELL DRILLING:					
(Construction or Repair of water wells and aprurtenances)					
Metropolitian Area					
Hennepin, Ramsey, Washington, Anoka, Carver, Scott & Dakota Counties; that part of Wright County east of T.H. 25, Sherburne County South of T-34N & East of R-27W & that Part of Chisago Co. South of T-35N					
Field Work					
Driller - Pumpman	9.00				
General - Helper	7.40				
Mechanic - Welder	8.35				
Driver or Service Man	7.40				
Rural Area					
Remainder of Counties					
Field Work					
Driller - Pumpman	9.00				
General Helper	6.50				
Mechanic - welder	7.85				
Driver or Service Man	6.95				

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MINN-9-LAB

LABORERS: Counties of Anoka, Carver, Chisago, Dakota, Hennepin, Ramsey, Scott, Sherburne, Washington & Wright	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.35	.60	.45	.40	
CLASS 2	9.45	.60	.45	.40	
CLASS 3	9.50	.60	.45	.40	
CLASS 4	9.60	.60	.45	.40	
CLASS 5	9.65	.60	.45	.40	
CLASS 6	9.70	.60	.45	.40	
CLASS 7	9.75	.60	.45	.40	
CLASS 8	9.78	.60	.45	.40	
CLASS 9	9.80	.60	.45	.40	
CLASS 10	9.98	.60	.45	.40	
CLASS 11	10.03	.60	.45	.40	

CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab., Rein. Steel Salamander Heater & Blower Tender Carpenter Tender; Winch Handler
CLASS 2 - Laborer,wrecking & Demolition; Bit. Batchermen (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch trucks); Compaction Equip. Shoveler, batchermen Conc., Conc. Vibrator TAmper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o wiring); Chipping Hammer, Curb Setter (Stone or Precast Conc.) Kettleman (Bit. or lead); Service connection maker; Power Buggy; Joint Sawer' Squeeze man (Bit. Brick or Block); Stablizing batchermen (Stationary Plant); Stonemasons tender; Drill Runner (Heavy, including Churn Drill)
CLASS 3 - Chainsaw Man, Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer' Pipe Handler; Pipe Derrickman (Triped, manual)
CLASS 4 - Bottom Man (Sewer, Water or Gas Trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Underpinning work, Caisson Work, other work more than 8' below level of manual work Open ditch work

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LABORERS: (CONT'D)

Class 5 - Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker
CLASS 6 - Cement Gun (1½ & over); Leadman
CLASS 7 - Nozzlemen (Gunite)
CLASS 8 - Brick or Block Paving Setter
CLASS 9 - Bituminous Raker, Floater & Utility Man
CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
CLASS 11 - Powderman

MINN-10-LAB

LABORERS: Counties of Itaska and St. Louis Counties North of T-55	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.73	.35	.15	.25	
CLASS II	9.83	.35	.15	.25	
CLASS III	9.98	.35	.15	.25	
CLASS IV	10.03	.35	.15	.25	
CLASS V	10.08	.35	.15	.25	
CLASS VI	10.13	.35	.15	.25	
CLASS VII	10.23	.35	.15	.25	
CLASS VIII	10.33	.35	.15	.25	

CLASS I - Unskilled Laborers, Laborers; wrecking & demolition; Bricklayer tender, drill runner helper, Landscape gardner, Sod layer & nurseryman Pipehandler (water, gas, cast iron); Salamander Heater & blower tender; Carpenter tender; Stonemasons tender
CLASS II - Bituminous Shoveler, bottom man (sewer, water or gas trench), Cement hnadler (bulk or bag); Chain saw man, compaction equipment (hand operated); Concrete mixer operator (1 bag), Concrete Shoveler, tamper & puddler (paving) Concrete Vibrator, Conduit layers (w/o wiring); Dumper (wagon, truck, etc.), Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer man & paving busters, Kettleman (Bituminous or lead), Mortar mixer, Power buggy, Joint drawer, tunnel laborer (atmospheric pressure)
CLASS III - Bituminous Tamper, Cofferdam work, Caisson work
CLASS IV - Drill Runner (Heavy, including churn drill)
CLASS V - Bituminous Raker, Floater & Utility Man, Pipelayers (sewer, water, gas); Leadman (Gunite)
CLASS IV - Nozzleman
CLASS VII - Powderman
CLASS VIII - Tunnel miner

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MINN-11-LAB

LABORERS: COUNTIES OF BENTON, KANABEC, MILLE LACS & STEARNS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.85	.55	.35	.40	
CLASS 2	8.90	.55	.35	.40	
CLASS 3	8.95	.55	.35	.40	
CLASS 4	9.00	.55	.35	.40	
CLASS 5	9.10	.55	.35	.40	
CLASS 6	9.25	.55	.35	.40	
CLASS 7	9.30	.55	.35	.40	
CLASS 8	9.35	.55	.35	.40	

CLASS 1 - Bricklayer Tender, Carpenter, Drill Runner Helper, Laborers-Wrecking & Demolition, Landscape Gardner, Pipe Handler (water, Gas & Cast Iron); Salamander Heater & Blower Tender, Sod Layer & Nurseryman; Stonemasons Tenders; Unskilled Laborers
CLASS 2 - Form Setter (Municpal Type Curb & Sidewalk, Form Setter (Pavement) cooverman (Batch Trucks); Cement Handler (Bulk or Bag); Chain Saw Man; compaction equipment (Hand operated); Concrete Mixer (1 bag); Concrete Shoveler Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (wagon, truck, etc.); Jackhammerman, Joint Sawer, Kettleman (Bituminous or Lead); Mortar mixers, Paving Buster, Power Buggy, Tunnel Laborer (Atmospheric pressure)
CLASS 4 - Bituminous Raker, Floater & Utility Man;, Caisson work, Cofferdam
CLASS 5 - Leadman
CLASS 6 - Gunnite
CLASS 7 - Pipelayer (Sewer, water & Gas)
CLASS 8 - Powderman, Tunnel Miner

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MINN-12-LAB

LABORERS: Counties of Blue Earth, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Houston, LeSueur. Mower, Nicholett, Olmsted, Rice, Steele, Wabasha, Waseca & Winona	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 9.50	.35	.15		
CLASS 2	9.60	.35	.15		
CLASS 3	9.65	.35	.15		
CLASS 4	9.75	.35	.15		
CLASS 5	9.90	.35	.15		
CLASS 6	9.95	.35	.15		
CLASS 7	10.00	.35	.15		

CLASS 1 - Unskilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & blower Tender; Sod Layer & Nurseryman, Stonemason tender.
CLASS 2 - Bituminous shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag) Chain Saw Shoveler; Tamper & Puddler (Paving); Concrete Vibrator; Condit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Drill) Dumper (wagon, Truck Jackhammerman; Joint Sawyer, Kettlemen (Bituminous or Lead); Mortar Mixers; Paving Buster; Power Buggy; Tunnel Laborer (Atmospheric Pressure).
CLASS 3 - Bituminous Tamper
CLASS 4 - Bituminous Raker; Floater & Utility Man; Caisson Work; Cofferdam
CLASS 5 - Nozzleman (Gunite)
CLASS 6- Pipelayer (Sewer, Water & Gas) Laser Beam
CLASS 7 - Powderman - Tunnel Miner

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MINN-13-LAB

LABORERS Counties of Aitkin, Koochiching, Morrison, & Sibley	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.25	.35	.15		
CLASS 2	8.35	.35	.15		
CLASS 3	8.40	.35	.15		
CLASS 4	8.50	.35	.15		
CLASS 5	8.60	.35	.15		
CLASS 6	8.65	.35	.15		
CLASS 7	8.70	.35	.15		
CLASS 8	8.75	.35	.15		

CLASS 1 - Skilled Laborers, Bricklayer & carpenter Tenders; Drill Runner Helpers; Laborers Wrecking & demolition, Landscape, Pipe Handler (Water, Gas, Cast Iron), Salamander Heater & Blower Tender, Sod Layer & Nurseryman; Stonemason Tender
CLASS 2 - Bituminous Shoveler, Bottom Man (Sewer, Water or gas Trench), Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag); Chain Saw Man, Compaction equipment (hand operated), Concrete mixer (1 bag); Concrete Shoveler, Tamper & Puddler (paving), Concrete vibrator, Conduit layers (w/o wiring); Drill runner (Heavy, incl. Churn driver Dumper (wagon truck, etc.); Jackhammerman, Joint Sawer, Kettleman (Bituminous or Lead), Mortar Mixer Paving Buster, Power Buggy; Tunnel Laborer (Atmospheric pressure)
CLASS 3 - form setters (Municipal type curb & Sidewalk) formsetter (pavement)
CLASS 4 - Bituminous Tamper, caisson work & cofferdam
CLASS 5 - Bituminous raker, floater & utility man; Leadman
CLASS 6 - Nozzleman (Gunnite)
CLASS 7 - Pipelayer, (Sewer, water & Gas)
CLASS 8 - Powderman, Tunnel Miner

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MINN-14-LAB

LABORERS: Counties of Carlton, Cook, Lake, & St. Louis - South at T-55	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 9.13	.40	.45	.50	
CLASS II	9.23	.40	.45	.50	
CLASS III	9.38	.40	.45	.50	
CLASS IV	9.43	.40	.45	.50	
CLASS V	9.48	.40	.45	.50	
CLASS VI	9.53	.40	.45	.50	
CLASS VII	9.63	.40	.45	.50	
CLASS VIII	9.73	.40	.45	.50	

CLASS I - Unskilled Laborers, Laborers; Wrecking & Demolition; Bricklayer tender, Drill runner helper, Landscape Gardner, Sod Layer & Nurseryman Pipehandler (water, gas, cast iron); Salamander heater & blower Tender; Carpenter Tender; Stonemasons Tender
CLASS II - Bituminous Shoveler, Bottom man (sewer, water or gas trench), Cement handler (bulk or bag); Chain saw man, compaction equipment (hand operated); Concrete mixer operator (1 bag), Concrete Shoveler, Tamper & puddler (paving) Concrete Vibrator, Conduit layers (w/o wiring); Dumper (wagon, truck, etc.), Formsetter (municipal type curb & side walk) Formsetter (pavement); Jackhammer man & paving busters, Kettleman (Bituminous or lead), Mortar mixer, Power buggy, Joint darwer, tunnel laborer (atmospheric pressure)
CLASS III - Bituminous Tamper, Cofferdam work, Caisson work
CLASS IV - Drill Runner (Heavy, including churn drill)
CLASS V - Bituminous Raker, Floater & Utility Man, Pipelayers (sewer, water, gas); Leadman (Gunite)
CLASS IV - Nozzleman
CLASS VII - Powderman
CLASS VIII - Tunnel Miner

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MINN-7M-PEO

POWER EQUIPMENT OPERATORS: ZONE 1 Counties of Anoka, Carver, Cook Dakota, Hennepin, Lake, Ramsey, St. Louis, Scott & Washington, Sherburne County south of the northern boundary of T-33-N and east of the west ern boundary of R-27-W, Wright county east of and including Highway #25, Chisago County south of the northern boundary of T-34-N and that part consisting substantially of the cities of Thompson, Colquet, Scanlon & Carlton	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$15.30	.70	.55		.05
GROUP 2	12.01	.70	.55		.05
GROUP 3	11.65	.70	.55		.05
GROUP 4	11.52	.70	.55		.05
GROUP 5	11.43	.70	.55		.05
GROUP 6	10.55	.70	.55		.05
GROUP 7	10.05	.70	.55		.05

GROUP 1 - Helicopter Pilot
GROUP 2 Crane with over 139' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rated capacity
GROUP 3 - Cableway Op., Concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, Dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & Bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mile., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op., (Boom Type), Truck crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, self-propelled, Travelling Soil

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 4 (Cont'd)

Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Lanucherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps dr crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similr type, Pick-up sweeper, 1 cui yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op., (or similar type) well point installation, dismatling or repair mechanic
GROUP 6 - Air compressor Op. 375 CFM or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray, concrete mixer op. 14S and under, concrete op. (Multi. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. Augers and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shoudering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman, conveyor Op., deckhand, Fireman, tank Car Heater op., Gravel screening plant op., greaser levermen, mech. helper mech. space heater, Oiler, Self-prop. vib. pactor op., sheen foot roller tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-6-PEO

POWER EQUIPMENT OPERATORS:

ZONE 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Counties of Aitkin, Blue Earth, Carlton, Dodge, Fairbault, Fillmore, Freeborne, Goodhue, Houston, Kanabec, LeSueur, Mille Lacs, Mower, Olmsted, Steele, Wabasha, Waseca, Winona & Washington; The remainder of Chisago, Sherburne & Wright Counties; Koochiching County East of a North-South Line From the Canadian Boarder to Pelland-The Western Right-of-Way of U. S. Hwy. 71 from Pelland to Big Falls & Minn. Hwy. #6; Itaska County East of the Western Right-of-way of Minn. Hwy. #6; Morrison County east of the western Right-of-Way of U.S. Hwy. #371 & U.S. Hwy #10 from Little Falls to the Morrison Benton County lines; Benton Co. East of the western-Right-of-Way of U. S. Hwy #10; and in Martin, Nicollet, Sibley & Stearns Counties, East of the Western Right-of-way of Minn. Hwy. #15. In every case the entire corporation limits of cities, towns & villages located on the boundaried described as highways shall be included in this area					
GROUP 1	$15.00	.70	.55		.05
GROUP 2	11.71	.70	.55		.05
GROUP 3	11.35	.70	.55		.05
GROUP 4	11.23	.70	.55		.05
GROUP 5	11.13	.70	.55		.05
GROUP 6	10.25	.70	.55		.05
GROUP 7	9.75	.70	.55		.05

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 1 - Helicopter Pilot

GROUP 2 Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates" capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, Dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & Bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mile., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op., (Boom Type), Truck crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, self-propelled. Travelling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Lanucherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similr type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op., (or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray, concrete mixer op. 14S and under, concrete op. (Multi. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shoudering mach. Op. stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman, conveyor Op:, deckhand, Fireman, tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper mech. space heater, Oiler, Self-prop. vib. pactor op., sheen foot roller tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-7-PEO

POWER EQUIPMENT OPERATORS:

ZONE 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
The Remainder of Benton, Itaska Koochiching, Morrison, Nicollet, Sibley & Stearns Cos.					
GROUP 1	$14.55	.70	.55		.05
GROUP 2	10.37	.70	.55		.05
GROUP 3	9.72	.70	.55		.05
GROUP 4	9.58	.70	.55		.05
GROUP 5	9.50	.70	.55		.05
GROUP 6	8.97	.70	.55		.05
GROUP 7	8.57	.70	.55		.05

GROUP 1 - Helicopter Pilot

GROUP 2 Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, Dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & Bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mile., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op., (Boom Type), Truck crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumporete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, self-propelled. Travelling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Lanucherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similr type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op., (or similar type) well point installation, dismatling or repair mechanic

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POWER EQUIPMENT OPERATORS: (CONT'D

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray, concrete mixer op. 14S and under, concrete op. (Multi. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shoudering mach. Op. stump chipper op., tractor op, (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman, conveyor Op., deckhand, Fireman, tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper mech. space heater, Oiler, Self-prop. vib. pactor op., sheen foot roller tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN 62 TD

TRUCK DRIVERS: Areas 1 and 2 Twin City & Duluth Metro Area Counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington, Wright, Sherburne, Chisago south of T-34-N, Carlton, Cook, Lake, St. Louis & Itaska Co., East of T-H-6	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches);Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; slurry Driver.

GROUP 3 - Bituminous Distributor; (1-Man Operatin); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel type used for any purpose) Pilot car driver, self-propelled Packer; Slurry Operator; single Axle Trucks.

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MINN-55-TD

TRUCK DRIVERS Area 3 Southeastern Area Counties of Dodge, Fillmore, Freeborn, Goodhue, Mower, Olmsted, Rice, Steele, Wabasha & Winona Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.15	.40	.50		
GROUP 2	8.85	.40	.50		
GROUP 3	8.75	.40	.50		
GROUP 4	8.55	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches);Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; slurry Driver.

GROUP 3 - Bituminous Distributor; (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel type used for any purpose) Pilot car driver, self-propelled Packer; Slurry Operator; single Axle Trucks.

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MINN-7-TD

TRUCK DRIVERS: Area 4 Mankato Area	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COUNTIES OF: Blue Earth, LeSueur Nicollet and Waseca					
GROUP 1	8.62	.40	.50		
GROUP 2	8.32	.40	.50		
GROUP 3	8.22	.40	.50		
GROUP 4	8.02	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches);Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; slurry Driver.

GROUP 3 - Bituminous Distributor; (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel type used for any purpose) Pilot car driver, self-propelled Packer; Slurry Operator; single Axle Trucks.

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MINN-5-TD

TRUCK DRIVERS - Area 5 Western Area	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Counties of Aitkin, Benton, Fairbault, Kanabec, Koochiching LeSueur, Mille Lacs, Morrison, Sibley, Stearns, Remainder of Chisago & Itaska Counties					
GROUP 1	8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches);Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; slurry Driver.

GROUP 3 - Bituminous Distributor; (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel type used for any purpose) Pilot car driver, self-propelled Packer; Slurry Operator; single Axle Trucks.

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NO: OH79-2043
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision No. OH78-2157, dated November 24, 1978, in 43 FR 55205
DESCRIPTION OF WORK: Heavy and Highway Construction

BRICKLAYERS & STONE MASONS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ALLEN, AUGLAIZE, MERCER & VAN WERT COS.	$12.29		.60		.02
ASHLAND, CRAWFORD, HARDIN, HOLMES, MARION, MORROW, RICHLAND, & WAYNE (except Twps. of Milton & Chippewa) Cos. & WYANDOT Co. (except Twps. of Crawford, Richland, Ridge & Tymochtee)					
Bricklayers	12.23	.70	1.00		.02
Sewer Bricklayers	12.23	.70	1.00		.02
ASHTABULA COUNTY					
Bricklayers	11.21	.95	.70		
Sewer Bricklayers	11.46	.95	.70		
ATHENS COUNTY	11.75	.60	.60		.05
BROWN, BUTLER, CLERMONT, HAMILTON, PREBLE (Twps. of Dixon, Gratis, Israel, Lanier, & Somers), & WARREN COS.	12.845	.65	.35		.02
CARROLL, STARK & TUSCARAWAS Cos., MAHONING Co. (Twp. of Smith), COLUMBIANA Co. (Townships of Butler, Hanover, Knox & West)	12.29	.95	.70		.01
CHAMPAIGN, CLARK & LOGAN COS.	10.72	.85	.75		.03
CLINTON & HIGHLAND COS.	9.25				
COLUMBIANA CO., (Twps. of Center, Elk Run, Fairfield, Middletown, New Waterford, Perry, Salem & Unity), MAHONING CO. (except Smith Twp.)	11.74	.75	1.00		.02

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BRICKLAYERS & STONEMASONS (CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COLUMBIANA County (Twps. of E. Liverpool, Franklin, Madison, St. Clair, Washington, Wayne & Yellow Creek), JEFFERSON Co. (Twps. of Bush, Creek & Saline)	$11.15	.60	.50		
COSHOCTON, GUERNSEY, KNOX, LICKING, MORGAN, MUSKINGUM Counties	10.70	.60	.90		.10
CUYAHOGA Co. & MEDINA Co. (except the Twps. of Chatham, Wadsworth, Guilford, Westfield, Sharon, Lafayette, Harrisville, Homer, Litchfield & Spencer)	12.65	1.05	1.20		.01
DARKE, MIAMI, & SHELBY Cos.	11.48	.85	.75		.03
DEFIANCE, PAULDING, PUTNAM & WILLIAMS Cos., FULTON Co. (except Twps. of Amboy, Fulton & Swan Creek), HENRY CO. (except Twps. of Barlo, Damascus, Liberty, Marion, Monroe, Richfield, Washington & that part of Harrison outside City limits of Napolean)	11.97	1.06	.50		
DELAWARE, FRANKLIN, MADISON, PICKAWAY & UNION COS.					
Bricklayers	12.29	.80	1.00		.03
ERIE, HANCOCK & HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.) WYANDOT (Tymochtee, Crawford, Ridge, & Richland Twps.) & ISLAND OF LAKE ERIE North of SANDUSKY Cos.	11.84	.60	.80		.01
FAIRFIELD, HOCKING & PERRY Cos.	10.43	.60	.90		.10
FAYETTE, ROSS & PIKE COS.	12.20				
GALLIA & MEIGS Cos.	12.05	.50			
GEAUGA & LAKE Cos.	13.12	.60	1.00		*
GREENE & MONTGOMERY Cos. & the Remainder of PREBLE CO.	11.93	.85	.75		.03

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BRICKLAYERS & STONEMASONS (CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HARRISON Co. & the Remainder of JEFFERSON Co.	$ 11.33	.50			.02
JACKSON & VINTON Cos.	12.05				.05
LAWRENCE County	11.50		.50		.05
LORAIN Co. & MEDINA Co. (Chatham, Harrisville, Homer, Litchfield, & Spencer Twps.)	12.85		.60	*	.01
LUCAS Co., the remainder of HENRY, FULTON & WOOD Cos.	12.425	1.06	1.30		.01
MEDINA (Remainder of Co.,) PORTAGE, SUMMIT & WAYNE COS. (Twps. of Milton & Chippewa)					
Bricklayers	13.16	.88	.55		.02
TRUMBULL COUNTY	12.24	.75	.50		.02
WASHINGTON Co., & the remainder of NOBLE CO.	11.30	.50			.04
FOOTNOTE: a. 2 paid holidays:	Independence Day & Labor Day				
CARPENTERS & PILEDRIVERMEN					
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS.					
Carpenters	11.55	.55	1.00		.03
Piledrivermen	11.84	.55	1.00		.03
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM UNION, VAN WERT, & WYANDOT COS					
Carpenters	11.47	.60	1.00		.04
Piledrivermen	12.12	.60	1.00		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASHLAND, CRAWFORD, ERIE (East of B&O Railroad Tracks), HURON, LORAIN and RICHLAND Counties					
Carpenters	$11.59	.85	$1.00	a	.06
Piledrivermen	12.60	.85	1.52		.03
ERIE (West of B&O Railroad Tracks), OTTAWA, SANDUSKY and SENECA Counties and City of Fostoria in WOOD and HANCOCK Counties					
Carpenters	11.59	.85	1.00	a	.06
Piledrivermen	12.99	1.06	.75		.05
ASHTABULA, CUYAHOGA, GEAUGA and LAKE Counties					
Carpenters	12.87	.85	1.25		.03
Piledrivermen	12.60	.85	1.52		.03
ATHENS, HOCKING, VINTON and WASHINGTON Counties					
Carpenters	11.47	.60	1.00		.04
Piledrivermen	12.12	.60	1.00		.04
BELMONT and MONROE Counties					
Carpenters	10.75	.92	.95		.02
Piledrivermen	11.82	.50	.50		.03
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON and WARREN Counties					
Carpenters	13.20	.60	.65		.075
Piledrivermen	13.20	.60	.65		.075
CARROLL, STARK, TUSCARAWAS and WAYNE Counties					
Carpenters	11.88	.60	.70		.02
Piledrivermen	12.36	.60	.70		.02
COLUMBIANA, HARRISON & JEFFERSON Counties					
Carpenters	10.75	.92	.95		.02
Piledrivermen	11.85	5.5%	10%		.5%

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE and SHELBY Counties					
Carpenters	$11.55	.90	$ 1.35		.07
Piledrivermen	11.55	.90	1.35		.07
DEFIANCE, HENRY, PAULDING and WILLIAMS COUNTIES					
Carpenters	12.26	1.06	.75		
Piledrivermen	12.99	1.06	.75		.05
FULTON, HANCOCK, LUCAS and WOOD COUNTIES, excluding the City of Fostoria in HANCOCK and WOOD COUNTIES					
Carpenters; Piledrivermen	12.99	1.06	.75		.05
MAHONING and TRUMBULL COUNTIES					
Carpenters	11.69	1.22	1.20		.05
Piledrivermen	12.48	1.22	1.20		.05
MEDINA, PORTAGE and SUMMIT COUNTIES					
Carpenters	12.95	.50	.90		.02
Piledrivermen	12.60	.85	1.52		.03
FOOTNOTE: a. 2 Paid Holidays: Memorial Day and Independence Day.					
CEMENT MASONS:					
CUYAHOGA, FULTON, GEAUGA, HANCOCK, HENRY, LAKE, LORAIN, LUCAS, PUTNAM, and WOOD COUNTIES	12.73	.60	.45		.02
ASHTABULA, BROWN, BUTLER, CLERMONT, COLUMBIANA, DEFIANCE, ERIE, HAMILTON, HIGHLAND, HURON, MAHONING, MEDINA, OTTAWA, PAULDING, PORTAGE, SANDUSKY, SENECA, STARK, SUMMIT, TRUMBULL, WARREN and WILLIAMS	12.08	.60	.45		.02
REMAINING COUNTIES	11.28	.60	.45		.02
ELECTRICIANS:					
ADAMS and SCIOTO COUNTIES, JACKSON COUNTY (All but Coal, Jackson, Liberty, Milton and Washington Twps.), PIKE County (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish and Union)	11.60	.50	3%+.60	1.00	.04

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, & VAN WERT COS. & WYANDOT Co. (West of Crane, Pitt, & Tymochtee Twps.)	$ 12.41	.45	3%+.37		.04
ASHLAND, CRAWFORD, MARION, MORROW & RICHLAND Cos., WYANDOT CO. (Remainder of County). KNOX Co. (North ½ including Clinton, Howard, Liberty, Monroe & Union Twps.), & HURON CO. (Twps. of Greenwich, New Haven, Richmond & Ripley	12.30	.45	3%+.50		.1%
ASHTABULA Co. (all but Colebrook, Orwell, Wayne, Williamsfield & Windsor Twps.)	13.05	.90	3%+.85		.2%
ATHENS, MEIGS, MONROE, MORGAN, NOBLE and WASHINGTON Cos., and VINTON CO. (East of Clinton, Elk and Swan Twps.)	11.55	.50	3%+.80	1.25	.04
BELMONT Co.	11.70	.50	3%+.35	1.00	.04
BROWN, CLERMONT & HAMILTON COUNTIES					
Within 18 Mi. of Hamilton County Court House	12.90	.70	3%+.60		½%
From 18 to 21 Miles	13.20	.70	3%+.60		½%
From 21 to 25 Miles	13.30	.70	3%+.60		½%
Over 25 Miles	13.45	.70	3%+.60		½%
BUTLER County & WARREN CO. excluding Clear Creek, franklin & Wayne Twps.):					
West of Interstate 75	12.35	.50	3%+.75		½%
East of Interstate 75	12.90	.50	3%+.75		½%
CHAMPAIGN & CLARK Cos. & MADISON CO. (Twps. of Paint, Pike, Somerford, Stokes & Union)	11.64	.75	3%+.90		.04

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS. & WARREN CO. (Rem. of Co.)					
Within 11 Mi. Radius of 3rd & Main Streets, Dayton	$12.43	.75	3%+1.00		.5%
Beyond 11 Mi. Radius	12.66	.75	3%+1.00		.5%
COLUMBIANA Co. (except twps.of Butler, Fairfield, Knox, Perry, Salem & Unity)	11.90	.95	3%+.48		.07
COSHOCTON Co., GUERNSEY, KNOX (Jackson, Clay, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, and College Twps.), LICKING CO., MUSKINGUM, PERRY, TUSCARAWAS CO. (S½ incl. Twps. of Auburn, Clay, Rush, York, Salem, Jefferson, Oxford, Washington, Perry, and Bucks)	11.40	.40	3%+.85		.03
CUYAHOGA CO., LORAIN CO. (Twp. of Columbia), & GEAUGA Co. (Twps. of Bainbridge, Chester & Russell)	13.75	.55	3%+.48		.02
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD COS.	13.80	.65	3%+.55		.1%
DELAWARE, FAIRFIELD, FRANKLIN & UNION COS., MADISON (Rem. of Co.) & PICKAWAY CO. (Excl. Deer Creek, Perry, Pickaway, Salt Creek & Wayne Twps.)	12.18	.38	3%+1.00		.06
ERIE CO., HURON CO. (Rem. of Co.)	13.05	.73	3%		.1%
FAYETTE, HIGHLAND, HOCKING, & ROSS COS. & JACKSON CO. (Rem. of Co.), PICKAWAY, PIKE & VINTON COS.	12.35	.40	3%		.02
GALLIA CO.	12.27	.50	3%+.80	1.00	.04

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
HARRISON & JEFFERSON COUNTIES & CARROLL County (South of Fox, Harrison, Rose and Washington Twps.)	$ 13.50	7%	10%	10%	½%
HOLMES & STARK Counties, the remainder of CARROLL and TUSCARAWAS Counties, COLUMBIANA County (Knox Twp.), MAHONING County (Smith twp.) and WAYNE County (south of Baughman, Chester, Green and Wayne Twps.)	12.60	.50	3%+.50		.3%
LAKE COUNTY & GEAUGA Co. (all but Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell, & Troy Twps.)	13.13	.70	3%+.70		.3%
LAWRENCE COUNTY	11.82	.50	3%+.80	1.00	.04
LORAIN County (remainder of Co.) and MEDINA County (Twps. of Litchfield and Liverpool)	13.25	.75	3%+.80		.1%
MAHONING County (excluding Milton and Smith Twps.), TRUMBULL Co. (Twps. of Hubbard and Liberty) and COLUMBIANA COUNTY (Twps. of Butler, Fairfield, Perry, Salem and Unity)	13.03	.59	7%		.3%
SUMMIT County, the remainder of MEDINA & WAYNE Counties & PORTAGE County (excluding Twps. of Charleston, Edinburg, Freedom, Hiram, Palmyra, Paris and Windham)	12.81	.74	3%+.65		.2%
ASHTABULA (Remainder of County), Remainder of PORTAGE And TRUMBULL Counties, GEAUGA County (Twps. of Auburn, Middlefield, Parkman and Troy), and MAHONING County (Twp. of Milton)	13.39	.60	7%		.7%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
ADAMS (Part), BROWN, CLERMONT & HAMILTON Cos. & the South half of BUTLER & WARREN Cos.					
Structural & Ornamental	$12.33	.90	1.20		.03
Reinforcing	11.53	.90	2.00		.02
ALLEN, AUGLAIZE, CLINTON, DARKE, GREENE, MERCER, MIAMI, MONTGOMERY, PREBLE & SHELBY COS., The North ½ of BUTLER & WARREN Cos. the West 2/3 of CHAMPAIGN & LOGAN COS., The West 3/4 of CLARK CO. & the West 4/5 HIGHLAND CO., Dayton Metropolitan Area	10.96	.90	1.25		.04
Outside Dayton Metro area	11.11	.90	1.25		.04
ASHLAND, CARROLL, COSHOCTON, HOLMES, RICHLAND, STARK, TUSCARAWAS & WAYNE COS.	12.58	.80	.95		.05
CUYAHOGA, ERIE, GEAUGA, HURON, LAKE, LORAIN, MEDINA & SUMMIT, Cos., & ASHTABULA CO. (except The N/2 ½), PORTAGE CO. (except the Ravenna Ordnance Depot)	12.72	1.05	1.30		.03
ASHTABULA (Remainder of Co.)	12.00	1.86	1.01		.15
ATHENS, MEIGS, MORGAN, NOBLE & WASHINGTON COS.	11.87	.75	.85		.01
BELMONT, GUERNSEY, HARRISON, JEFFERSON & MONROE COS.	11.93	.80	.95		.03
COLUMBIANA, MAHONING & TRUMBULL COS. & The Ravenna Ordnance Depot in PORTAGE CO.	12.03	.40	1.30		.07
CRAWFORD, FAYETTE, HARDIN, HOCKING, JACKSON (N ½ of Co.), KNOX, MARION, MORROW, MUSKINGUM, PERRY, PIKE (Pt.), ROSS, VINTON, WYANDOT, & The rem. of CHAMPAIGN, CLARK, HIGHLAND & LOGAN COS.	11.55	.90	1.95		.05
DELAWARE, FAIRFIELD, LICKING, MADISON, PICKAWAY & UNION COS.	11.45	.90	1.95		.05
FRANKLIN CO.	11.30	.90	1.95		.05
DEFIANCE, PAULDING, PUTNAM, VAN WERT & WILLIAMS COS.	11.80	.90	1.45		.02
FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, SANDUSKY, SENECA, & WOOD COS.	12.66	1.06	1.22		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GALLIA, LAWRENCE, SCIOTO, ADAMS (Pt.), JACKSON (S½ of Co.), and PIKE (Pt.) COUNTIES:					
10 mi. from Union Hall in Ashland, Kentucky	$11.27	.90	$1.05		.01
10 to 15 mi. from Union Hall	11.42	.90	1.05		.01
15 to 20 mi. from Union Hall	11.52	.90	1.05		.01
20 mi. and over from Union Hall	11.62	.90	1.05		.01
PAINTERS:					
ADAMS, HIGHLAND, JACKSON, PIKE, And SCIOTO COUNTIES					
Brush	12.55		.50		
Spray	13.55		.50		
ALLEN, AUGLAIZE, DEFIANCE, HARDIN, MERCER, PAULDING, PUTNAM, SHELBY, VAN WERT And WILLIAMS Counties	10.80	.73[4]	.50		.03
ASHLAND, CRAWFORD, MARION, MORROW, & RICHLAND Counties					
Brush	9.80		.50		
Structural Steel	10.30		.50		
Spray	10.55		.50		
ATHENS & HOCKING Counties:					
Brush	12.00				
Spray	12.65				
BELMONT, JEFFERSON, & HARRISON COS.	10.05	.50	.40		
BROWN, CLERMONT & HAMILTON Cos.					
Brush	12.50		.25		25.00p/yr
Spray	12.90		.25		25.00p/yr
BUTLER & WARREN Counties					
Brush	10.73				
Spray	11.23				
CARROLL, HOLMES, STARK, TUSCARAWAS & WAYNE Counties					
Brush	10.61	.93	.60		.02
Spray	11.14	.93	.60		.02
Structural Steel	11.32	.93	.60		.02
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY & PREBLE COUNTIES					
Brush; Roller	12.59		.80		.08
Structural Steel	12.99		.80		.08
Spray	13.09		.80		.08
COSHOCTON:					
Brush	8.10				
Roller	8.10				
Spray; Sandblasting	8.60				
Sandblasting pot tend	7.60				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (CONT'D)					
ASHTABULA, CUYAHOGA, GEAUGA, & LAKE COUNTIES, LORAIN (North East Part) and PORTAGE & SUMMIT Counties (North of the Ohio Turnpike):					
Brush	$12.21	.67	1.00		.05
Bridge and open steel; closed steel over 55'	12.91	.67	1.00		.05
Closed steel below 55'; Spray	12.61	.67	1.00		.05
DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, MADISON, PICKAWAY And UNION Counties					
Brush	11.39	.65	.65		.02
Structural Steel	11.69	.65	.65		.02
Spray	11.89	.65	.65		.02
ERIE, HANCOCK, HURON, SANDUSKY, SENECA and WYANDOT Counties					
Brush	10.15	.50	.70		50 00 p/yr
Structural Steel and Bridges	10.60	.50	.70		50.00 p/yr
FULTON, HENRY, LUCAS, OTTAWA and WOOD Counties					
Brush	11.28	1.06	1.10		
Spray	11.83	1.06	1.10		
Structural Steel	11.53	1.06	1.20		
GALLIA, LAWRENCE, MEIGS, and VINTON Counties					
Brush; Roller	10.70			c	
Sandblasting; Spray; Waterblasting	11.00			c	
GUERNSEY County					
Brush; Roller; Sandblasting and Steamcleaning	9.50				
KNOX, LICKING, MUSKINGUM and PERRY COUNTIES:					
Sandblasting; Steel; Bridge Spray	9.00				
	9.45				
LORAIN COUNTY (Remainder of Co.)					
Brush	11.38			d	
Spray; Sandblasting	11.85			d	
Roller	11.60			d	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
COLUMBIANA, MAHONING & TRUMBULL COS. and the Ravenna Ordnance Depot in PORTAGE County					
Brush	$13.55	.75	1.00		
Spray	13.25	.75	1.00		
ROSS COUNTY					
Brush	10.50				
Spray	10.75				

FOOTNOTES: c. 6 paid holidays: Decoration Day; July 4th; Thanksgiving Day; Christmas Day; New Year's Day; & Veteran's Day
d. 2 paid holidays: Labor Day and July 4th

PLUMBERS & STEAMFITTERS:					
ADAMS, ATHENS, GALLIA, HIGHLAND, JACKSON, LAWRENCE, PIKE, SCIOTO, & VINTON COS.	12.47	.55	.75		
ALLEN, AUGLAIZE, HARDIN, MERCER, SHELBY & VAN WERT COS.	12.80	.50	.75		.06
ASHLAND, CRAWFORD, ERIE, HURON, KNOX, LORAIN, MORROW, RICHLAND & WYANDOT COS.	13.23	.60	.88		.05
ASHTABULA, CUYAHOGA, GEAUGA & LAKE COS., MEDINA CO. N. of RT. 18 & Smith Rd. & SUMMIT CO. N. of Rt. 303					
Plumbers	12.88	.90	1.10		.02
Pipefitters	12.45	1.22	1.30		.05
BELMONT CO. & MONROE CO. South of RT. 78	11.20	.40	9%	10%	.05
BROWN, CLERMONT, HAMILTON & WARREN COS. (N. of Rte. #63 excluding Lebanon and S. Lebanon)					
Plumbers; Gas Fitters	12.82	1.05	1.30		.07
Steamfitters; Pipefitters	13.00	1.025	1.30		.08

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS (CONT'D)					
BUTLER Co. North Half	$13.05	.90	$1.00		.05
BUTLER Co. (South Half) and Warren (S. of Rte. #63 including Lebanon and S. Lebanon) Cos	13.12	.80	1.10		.02
CARROLL Co. (except Twps. of Ross, Monroe, Union, Lee, Orange, Perry & London), STARK & WAYNE COS.	12.12	.50	.70	e	.05
CARROLL (Twps. of Ross, Monroe, Union, Lee, Orange, Perry & London) COSHOCTON, GUERNSEY, HOLMES, MORGAN (South of State Route #78 & from McConnelsville West on State route #37 to the Perry Co. line), MUSKINGUM, NOBLE, & TUSCARAWAS Cos.	12.55	.50	.60		.08
CHAMPAIGN, CLARK & LOGAN COS., GREENE Co. (Twps. of Cedarville, Ceasar Creek, New Jasper, Jefferson, & Ross), MADISON Co. (West of Rt. 38 including the City of London)	12.40	.83	.85		.04
CLINTON, DARKE, FAYETTE, MIAMI, MONTGOMERY, PREBLE & GREENE Co. (Remainder of Co.)	12.46	.80	1.05		.03
COLUMBIANA (excluding Washington & Yellow Creek Twps. & Liverpool Twp. secs. 35 & 36 - West of County Rd. #427), MAHONING Cos. & TRUMBULL Co. (Hubbard & Liberty Twps. Youngstown Municipal Airport & the Filtration Plant of the Mahoning Valley Sanitary District	12.29	1.37	.50		.03
COLUMBIANA (Washington & Yellow Creek Twps., & Liverpool Twp. secs 35 & 36 West of County Rd. #427), HARRISON AND JEFFERSON COUNTIES	12.61	.50	8%	8%	.12

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS (CONT'D)					
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD Cos.	$13.13	$ 1.10	$ 1.05		.09
DELAWARE, FAIRFIELD, FRANKLIN, HOCKING, LICKING, MARION, PERRY, PICKAWAY, ROSS & UNION Cos. & MADISON (remainder of Co.)	13.00	.93	.82		.06
MEIGS, MONROE (Rem. of Co.), MORGAN (Remainder of Co.), & WASHINGTON COS.	11.73	.52	.60		.045
PORTAGE Co. & the remainder of MEDINA & SUMMIT Cos.	12.15	.85	1.00		.05
TRUMBULL CO. (Remainder of Co.)	12.60	.97	.90		.03
HARRISON AND JEFFERSON Cos.	12.61	.50	8%	8%	.12

FOOTNOTE:
e. One paid holiday: Labor Day providing employee has worked 5 consecutive days before and after the holiday.

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LABORERS	ZONE 1 Basic Hourly Rates	ZONE 2 Basic Hourly Rates	ZONE 3 Basic Hourly Rates
GROUP I	$10.88	$9.85	$9.42
GROUP II	11.005	9.975	9.545
GROUP III	11.08	10.05	9.62
GROUP IV	11.23	10.20	9.77
GROUP V	11.53	10.50	10.07

FRINGE BENEFITS FOR ALL ZONES AND CLASSIFICATIONS
$.80 - Health & Welfare
.80 - Pension
.10 - Education and/or Apprentice Training

GROUP I - Laborers (construction); plant laborers or yardmen; right-of-way laborers; landscape laborer; utility man or handyman; joint setter; flagman; carpenter helper; waterproofing laborer; slurry seal; seal coating surface treatment or road mix laborer; asphalt laborer; Dump man (batch trucks); Sign installer; Guardrail & fence installers; mesh handlers & placers; concrete curing applicator; scaffold erector, Riprap laborer & grouter; grade checker
GROUP II - Asphalt raker; concrete puddler; kettle man (pipeline); machine driven tools; mason tender; mortar mixer; sheeting & shoring man; surface grinder man; power buggy or power wheelbarrow
GROUP III - form setter; bottom man; Welder helper (pipeline); concrete saw man; cutting with burning torch; pipelayer; hand spiker (railroad); car pusher (without air); undergroundman (working in sewer & waterline, cleaning, repairing & reconditioning); Tunnel laborer (without air) and caisson; cofferdam (below 25 feet deep); air track & wagon drill
GROUP IV - blaster; Powder man; muckers; wrencher (mechanical joints & utility pipeline); yarner; top lander
GROUP V - Curb setter & cutter; miner without air; concrete crew in tunnels; utility pipeline tapper; gunnite nozzle man; waterline caulker

ZONE DEFINITIONS

Zone 1 - Cuyahoga, Geauga & Lake Cos.
Zone 2 - Ashtabula, Erie, Huron, Lorain, Lucas, Mahoning, Medina, Ottawa, Portage, Stark, Summit, Trumbull & Wood Cos.
Zone 3 - Remainder of Counties

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POWER EQUIPMENT OPERATORS ZONE 1 - Columbiana, Mahoning & Trumbull Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	12.01	.65	.80		.14
CLASS II	11.32	.65	.80		.14
CLASS III	10.68	.65	.80		.14
CLASS IV	10.27	.65	.80		.14
CLASS V	10.17	.65	.80		.14
CLASS VI	12.28	.65	.80		.14

CLASS I - Asphalt planer heater; Austin western & similar type; Backhoe; Batch plant-central mix; Batch plant-portable concrete; berm builder-automatic; Backfiller w/drag attachments; Boat derrick; Boat-tug; boring mach. attached to tractor; bullclam; Bulldozer; C.M.I. road builder & similar types; Cable placer & layer; carrier-straddle; Carryall - scraper or scoop; Chicago boom; Compactor w/blade attached; Concrete spreader finisher comb., crane; Crane-stationary or climbing; crane-electric overhead; Crane-side boom; Crane truck; Crane-tower; Derrick-boom Derrick-car;Diggers-wheel (not trencher or road widener); Double nine; drag line; dredge; drill-Kenny or similar type; electromatic; Fork lift; frankie pile; Gradall; Grader-power; Gurry; Gurry-self-propelled; High lift; Hoist-monorail; Hoist-stationary & mobile tractor; Hoist-2 or 3; Jackall; Jumbo mach.; Kocal or Kuhlman; land-seagoing vehicle; Loader - Elevating; Loader-front end; Locomotive; Mechanic as welder; Metro clip harvester w/boom; Mucking mach.; paver-asphalt finishing mach.; Paver - road concrete; Paver-slipform; Place crete mach; Post driver; Power driven hydraulic pumps & jacks; pump crete machine; Regulator-ballast; Rigs-drilling; shovels; Spikemaster; stonecrusher; Tie puller & Loader; Tie tamper; tractor-double boom; tractor w/attachments; Trucks-boom; truck-tire-assigned to job; Trench mach.; Tunnel machine (Mark 21 Java or similar); Whirley
CLASS II - Asphalt plant; bending machine; Boring mach.; Chip harvester w/o boom; cleaning mach.-pipeline type; Coating Mach-pipeline type; Concrete belt placer; concrete finisher; concrete planer or asphalt; Concrete spreader; Elevator; fork lift walk behind; form line mach.; Grease truck op.; Grout pump; gunnite mach.; Hack bolting Mach.; Hydraulic scaffold; paving breaker; Pipe dream; Pot firemen; Power broom; Refrigeration plant; Sasgen derrick; seeding Mach.; self-propelled mobile vibrator compactor or roller; Hoist-single drum; Soil Stabilizer (pump type); Spray cure Mach.-Self propelled; straw blower mach.; Sub-grader; Tube Finisher or broom C.M.I. or similar type; Tugger Hoist

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POWER EQUIPMENT OPERATORS
ZONE 1 - Columbiana, Mahoning & Trumbull Counties (Cont'd)

CLASS III - batch plant-job related; boiler op.; Compressor (125 CFM or over); Curb builder (self-propelled); Generator-steam; Jack-hydraulic driven; Mixer-concrete; Mulching Mach.; Pin puller; Pulverizer; Pump; Road finishing mach. (pulltype); roller; Saw-concrete-self-propelled; signal man; spray cure mach.-motor powered; Spreader (side driver shoulder attachment); tractor; Trencher-form; Water Blaster
Class IV - Brake man; compressor under 125 CFM; Conveyor; Conveyor 12 feet or under other than servicing bricklayers; deck hand; Drill wagon; Fireman; Generator sets; heaters-portable power (2 to 5); Helper-mechanic, Jacks Hydraulic (railroad); Ladavator; Roller (walk behind 1 ton or over); Steam jenny; Syphons; Vibrator-gasoline; Welding machines (2) (Fuel burning)
CLASS V - Oiler
CLASS VI - Rigs-pile driving or caisson type

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POWER EQUIPMENT OPERATORS	ZONE 2 Basic Hourly Rates	ZONE 1 Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Educatio and/or Appr. Tr.
CLASS A	$13.58	$12.84	.71	1.00		.15
CLASS B	13.48	12.72	.71	1.00		.15
CLASS C	12.64	11.68	.71	1.00		.15
CLASS D	11.97	11.25	.71	1.00		.15
CLASS E	9.78	8.89	.71	1.00		.15

CLASS A - Air compressor on steel erection; Asphalt plant engineer (Cleveland District Only); Boiler Op.; compressor or generator when mounted on rig; Cableway; combination concrete mixer & tower; Concrete plants (over 4 yds. cap.); Concrete pumps; Cranes (all types incl. A frames, boom trucks, cherry pickers); Derricks; Draglines; Dredge (dipper clam or suction); Elevation grader or euclid loader; Floating equipment (all types); Helicopter crew (hoist or winch); hoes (all types); Hoisting engines (including shaft & tunnel work); Industrial type tractor; Jet engineer dryer (D6 or D8) diesel tractor; Locomotives (standard guage); Maintenance Op. Class A; Mixer (paving single or double drum); Mucking mach.; Multiple scraper; piledriving mach. (all types); power shovel; Quad 9 (double pusher); Refrigerating mach. (Freezer operation); Rotary drill on caisson work; Slip form paver; Tower derricks; Tree shredder; Trepch mach (over 24" wide); Truck mounted concrete pump; Tug boat; tunnel mach. and/or mining machine; Wheel excavator
CLASS B - Asphalt paver; Automatic subgrader mach. Self propelled (CMI type); Boring mach. Op. (more than 48"); Bulldozers; Endloader; Rolman Loader (production type dirt); Lead grease man; Maintenance Op., Class B (in Zone 2 Portage & Summit Cos. only); Power grader; Power scraper; Push Cat; Trench mach. (24" wide & under)
CLASS C - Air compressor on tunnel work (low pressure); asphalt plant engineer (in Zone 2 Portage & Summit Cos. only); Locomotive (narrow guage); Concrete mixers (more than 1 bag cap.); Mixers (1 bag cap. - side loader); Power boiler over 15 lb. pressure; Pump op. installing & operating well points; Pumps (4" & over discharge); Rollers (asphalt); Utility op. (small equipment); Welding mach. & generators.

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POWER EQUIPMENT OPERATOR (CONT'D)

CLASS D - Back fillers; Bar (joint & mesh installing mach.); Batch Plant; Boring mach. Op. (48" or less); Bull floats; Burlap & curing mach.; Compressor (portable, sewer, hvy. & hwy.); Concrete plant (4 yd. & under cap.); concrete saw (multiple); Conveyors (hwy.); Crusher,deckhand; drill highway (w. integral power); Farm type tractors w/attachs. (hwy.); Finishing Mach.; Fireman (floating equipment, all types); fork lift (Hwy.); form Trenchers; Hydro hammer; Hydro seeder; Pavement breaker; Plant mixers; Post driver; Post Hole digger (power auger); Power brush burner; Power form handling Equip.; Road widening trencher; Rollers (brick, grade, macadam); self- propelled power spreader ; self-propelled power subgrader; Steam fireman; Tractor (pulling sheepfoot roller or grader); vibratory compactor w/integral power

CLASS E - Drum fireman (asphalt plant); Helpers; Inboard-outboard, motor boat-launch; Oil heaters (asphalt plant); Oilers; Power driven heaters; Pumps (under 4" discharge); Signalmen; Tire repairmen

ZONE DEFINITIONS

ZONE 2 - Ashtabula, Cuyahoga, Erie, Geauga, Lake, Lorain, Medina, Portage & Summit Counties

ZONE 3 - Remainder of Counties

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TRUCK DRIVERS ZONE 1 - CUYAHOGA, LAKE & GEAUGA COUNTIES	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	8.70	26.00a	26.00a	b&c	
CLASS II	8.85	26.00a	26.00a	b&c	
CLASS III	9.20	26.00a	26.00a	b&c	
CLASS IV	9.20	26.00a	26.00a	b&c	

CLASS I - Straight & dumps (including asphalt); Warehouseman; Straight fuel
CLASS II - Semi fuel; semi pole drivers (hauling steel pipe); & semi tractor drivers.
CLASS III - Ready-mix; agitator or bulk concrete drivers; dry batch truck.
CLASS IV - Euclids; darts; tank asphalt spreaders; low boys; carry-all driver; tournarockers; hi-lifts; fork lifts; extra long trailers & semi pole trailers except when hauling steel pipe; double book-up tractor trailers including beam track & railroad siding; semi tractor & tri-axle trailer; tandem tractor, Tandem trailer & tri-axle trailer; tag along trailer, expandable trailers, Loads (requiring road permits)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Per week per employee

b. One week's paid vacation for one year of service; two weeks for five years; three weeks for ten years & four weeks for seventeen years.

c. Seven paid holidays: A through F plus National Election Day.

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TRUCK DRIVERS ZONE II - Remainder of the State	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$9.12	25.00a	9.00a		.05
CLASS II	9.17	25.00a	9.00a		.05
CLASS III	9.22	25.00a	9.00a		.05
CLASS IV	9.32	25.00a	9.00a		.05
CLASS V	9.42	25.00a	9.00a		.05
CLASS VI	9.59	25.00a	9.00a		.05

CLASS I - 4 wheel service truck; 4 wheel dump trucks; batch trucks; oil distributors; asphalt distributors
CLASS II - Tandems
CLASS III - Semi tractor trucks; pole trailers; fuel trucks
CLASS IV - All trucks five axle & over
CLASS V - Asphalt oiler spraybar man when operated from cab
CLASS VI - Euclid wagons; Euclid end dumps; low boys; heavy duty equipment over 12 cu yds capacity when used exclusively for transportation; truck mechanics

FOOTNOTE:
a. Per week Per employee

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LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADAMS, ATHENS, GALLIA, LAWRENCE, MEIGS, & SCIOTO COS., JACKSON CO. (except Coal, Jackson, Liberty, Milton & Washington Twps.), PIKE CO. (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish & Union), & VINTON CO. (E. of Clinton, Elk, & Swan Twps.):					
Cable splicers; Linemen welders	$14.00	.50	3%+.50	1.00	½%
Linemen	12.73	.50	3%+.50	1.00	½%
Operators: All mechanized equipment	10.18	.50	3%+.50	1.00	½%
Groundmen	8.27	.50	3%+.50	1.00	½%
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT, & WYANDOT (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge & Salem) Cos.:					
Linemen	12.63	.60	3%		½%
Equipment operators	11.37	.60	3%		½%
Groundmen; Truck drivers	8.44	.60	3%		½%
ASHLAND, CRAWFORD, HURON (Twps. of Richmond, New Haven, Ripley & Greenwich), KNOX (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown & Jefferson), MARION, MORROW, RICHLAND, & WYANDOT (Twps. of Sycamore, Crane, Eden, Pitt, Antrim & Tymochee) COS.:					
Equipment operators; Linemen	12.30	.45	3%+.50		½%
Line truck driver	8.00	.45	3%+.50		½%
Groundmen	7.38	.45	3%+.50		½%
ASHTABULA, except Twps. of Colebrook, Orwille, Wayne, Williamsfield, & Windsor:					
Cable splicers; Equipment ops.; Line truck drivers; & Linemen	13.05	.90	3%+.85		½%
Groundmen:					
0 - 6 mos.	7.20	.90	3%+.85		½%
6 - 12 mos.	8.50	.90	3%+.85		½%
Over 12 mos.	9.80	.90	3%+.85		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASHTABULA (Twps. of Colebrook, Wayne, Williamsfield, Orwell, & Windsor), COLUMBIANA (Twps. of Butler, Fairfield, Perry, Salem, & Unity), GEAUGA (Twps. of Auburn, Middlefield, Parkman, Burton, & Troy), MAHONING (excl. Smith Twp.), PORTAGE (Charleston, Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris, Windom Twps.), & TRUMBULL COS.:					
Cable splicers; Linemen; Operator - poledigging equipment	$14.07	.45	3%		½%
Groundmen:					
1st 6 mos.	7.035	.45	3%		½%
2nd 6 mos.	8.44	.45	3%		½%
2nd yr.	9.85	.45	3%		½%
3rd yr.	10.55	.45	3%		½%
Over 3 yrs.	11.26	.45	3%		½%
BROWN, CLERMONT, & HAMILTON COS.:					
ZONE I: UP to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati:					
Linemen; Machine ops.	12.90	.70	3%+.60		½%
Groundmen	9.68	.70	3%+.60		½%
ZONE II: Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati:					
Linemen; Machine ops.	13.20	.70	3%+.60		½%
Groundmen	9.90	.70	3%+.60		½%
ZONE III: Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati:					
Linemen; Machine ops.	13.30	.70	3%+.60		½%
Groundmen	9.98	.70	3%+.60		½%
ZONE IV: Over 25 mi. radius from Hamilton Co. Court House, Cincinnati:					
Linemen; Machine ops.	13.45	.70	3%+.60		½%
Groundmen	10.09	.70	3%+.60		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUTLER, WARREN (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union & Washington Twps.) COS.:					
ZONE I: West of Interstate #75:					
Linemen	12.35	.50	3%+.75		½%
Cable splicers	12.85	.50	3%+.75		½%
Groundmen:					
0 - 1 yr.	6.175	.50	3%+.75		½%
1 - 2 yrs.	7.41	.50	3%+.75		½%
Over 2 yrs.	8.645	.50	3%+.75		½%
ZONE II: East of Interstate #75:					
Linemen	12.90	.50	3%+.75		½%
Cable splicers	13.40	.50	3%+.75		½%
Groundmen:					
0 - 1 yr.	6.45	.50	3%+.75		½%
1 - 2 yrs.	7.74	.50	3%+.75		½%
Over 2 yrs.	9.03	.50	3%+.75		½%
CARROLL (N ½ incl. Fox, Harrison, Rose & Washington Twps.), COLUMBIANA (Knox Twp.), HOLMES, MAHONING (Smith Twp.), STARK, TUSCARAWAS (W. of Auburn, Clay, Rush, & York Twps.), & WAYNE (S. of Baughman, Chester, Green & Wayne Twps.) COS.:					
Cable splicers; Linemen	12.60	.50	3%+.50		.3%
Line equipment ops.	11.10	.50	3%+.50		.3%
Groundmen; Truck drivers	7.50	.50	3%+.50		.3%
CARROLL (S. of Fox, Harrison, Rose & Washington Twps.), HARRISON, & JEFFERSON COS.:					
Linemen; Line equipment ops.; Truck drivers	13.50	7%	10%	10%	½%
Groundmen	8.78	7%	10%	10%	½%
Cable splicers	14.00	7%	10%	10%	½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHAMPAIGN, CLARK, GEAUGA (Bainbridge, Russell & Chester Twps.), LORAIN (Columbia Twp.), MONROE, MORGAN, NOBLE, & WASHINGTON COS.:					
Cable splicers; Equipment ops.; Linemen	$13.11	.50	3%		½%
Groundmen:					
0 - 6 mos.	6.33	.50	3%		½%
6 - 12 mos.	6.71	.50	3%		½%
12 - 18 mos.	7.13	.50	3%		½%
18 & over mos.	7.52	.50	3%		½%
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, WARREN (Wayne, Clear Creek, & Franklin Twps.), COS.:					
Cable splicers; Linemen	12.43	.75	3%+1.00		½%
Operators:					
Hole digging equipment, cranes, hydraulic lift or bucket	12.43	.75	3%+1.00		½%
Line truck with winch or pole & steel handling	9.32	.75	3%+1.00		½%
Non-specialized truck & misc. equipment	7.46	.75	3%+1.00		½%
Groundmen - truck driver:					
0 - 1 yr's experience	6.84	.75	3%+1.00		½%
Over 1 yr's experience	7.46	.75	3%+1.00		½%
COLUMBIANA (Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West & Yellow Creek Twps.):					
Linemen; Heavy equipment ops.	11.03	8%	7%		½%
Groundmen & truck drivers	9.97	8%	7%		½%
Cable splicers	11.43	8%	7%		½%
COSHOCTON, GUERNSEY, MUSKINGUM, PERRY, & TUSCARAWAS (Rem. of Co.):					
Cable splicers; Equipment ops.; Linemen	12.13	.50	3%		½%
Groundmen:					
Beginning	6.17	.50	3%		½%
After 6 mos.	6.57	.50	3%		½%
After 12 mos.	7.02	.50	3%		½%
After 18 mos.	7.44	.50	3%		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CUYAHOGA CO.:					
Cable splicers; Equipment ops.; & Linemen	$14.28	.50	3%		½%
Advanced truck driver (winch) groundmen	9.28	.50	3%		½%
Beginning truck driver groundmen	7.85	.50	3%		½%
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.:					
Linemen	14.26	.50	3%	a	½%
Technicians	13.76	.50	3%	a	½%
Cable splicers	14.51	.50	3%	a	½%
Operator Class I	11.36	.50	3%	a	½%
Operator Class II	10.01	.50	3%	a	½%
Groundmen:					
Driver 1st 6 mos.	7.16	.50	3%	a	½%
Driver 2nd 6 mos.	7.77	.50	3%	a	½%
Driver 3rd 6 mos.	8.58	.50	3%	a	½%
DELAWARE, MADISON, PICKAWAY (Twps. of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenburg, Scioto, Walnut, & Washington), & UNION COS.:					
Cable splicers; Equipment ops.; & Linemen	13.11	.50	3%		½%
Groundmen:					
Beginning	6.17	.50	3%		½%
After 6 mos.	6.57	.50	3%		½%
After 12 mos.	7.02	.50	3%		½%
After 18 mos.	7.44	.50	3%		½%
ERIE, & HURON (Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, & New London Twps.):					
Cable splicers; Equipment ops.; & Linemen	13.05	.73	3%		½%
Beginning truck driver groundman; Beginning groundman	7.18	.73	3%		½%
Advanced truck driver (winch) groundman; Advanced groundman (over 2 yrs.' experience)	8.48	.73	3%		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FAIRFIELD, KNOX (Butler, Clay, College, Harrison, Hilliar, Jackson, Morgan, Milford, Miller, & Pleasant), & LICKING COS.:					
Cable splicers; Linemen; Operators: All mechanized equipment	$12.03	.60	3%		½%
Groundmen - truck driver over 1 yr.	9.53	.60	3%		½%
Groundmen - truck driver 0 - 1 yr.	8.51	.60	3%		½%
Groundmen:					
Starting	6.07	.60	3%		½%
6 - 12 mos.	6.49	.60	3%		½%
12 - 18 mos.	6.92	.60	3%		½%
18 mos. & over	7.34	.60	3%		½%
FAYETTE, HIGHLAND, HOCKING, JACKSON (Coal, Jackson, Liberty, Milton, & Washington Twps.), PICKAWAY (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), PIKE (excl. Camp Creek, Marion, Newton, Scioto, Sunfish, & Union Twps.), ROSS, VINTON (W. ½ of Co., incl. Clinton, Elk & Swan Twps.) COS.:					
Linemen; Equipment operators	10.95	.28	3%		½%
Truck drivers	6.47	.28	3%		½%
Groundmen	6.17	.28	3%		½%
FRANKLIN CO.:					
Cable splicers; Linemen	10.88	.50	3%		½%
Operators:					
0 - ½ yr.	7.30	.50	3%		½%
½ - 1 yr.	8.52	.50	3%		½%
1 yr. or more	9.81	.50	3%		½%
GEAUGA (excl. Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman & Troy Twps.), & LAKE COS.:					
Cable splicers; Equipment ops.; & Linemen	12.88	.70	3%+.70		½%
Truck drivers	9.02	.70	3%+.70		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Groundman more than 2 yrs.' experience	8.37	.70	3%+.70		½%
Groundman less than 2 yrs.' experience	7.08	.70	3%+.70		½%
LORAIN (Exclu. Columbia Twp.), & MEDINA (Litchfield & Liverpool Twps.) COS.:					
Cable splicers; Equipment ops.; & Linemen	13.25	.75	3%+.80		½%
Beginning truck driver groundman; Beginning groundman	7.29	.75	3%+.80		½%
Advanced truck driver (winch) groundman; Advanced groundman (over 2 yrs.' experience)	8.61	.75	3%+.80		½%
MEDINA (Brunswick, Chatham, Granger, Guilford, Harrisville, Hinckley, Homer, Lafayette, Medina, Montville, Sharon, Spencer, Wadsworth, Westfield, & York Twps.), PORTAGE (Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantus, Randolph, Ravenna, Rootstown, Shalersville Streetsboro & Suffield Twps.), SUMMIT, & WAYNE (Northern ½ of Co.) COS.:					
Linemen	12.81	.74	3%+.65		½%
Cable splicers	13.61	.74	3%+.65		½%
Equipment ops.	9.61	.74	3%+.65		½%
Truck drivers; Groundman	6.41	.74	3%+.65		½%

FOOTNOTE:
a. 10 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; Christmas Eve; Christmas Day; New Year's Eve, & Good Friday

SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES: Bucks, Chester Delaware, Montgomery & Philadelphia

DECISION NO.: PA79-3009

DATE: Date of Publication

Supersedes Decision No.: PA78-3053 dated August 11, 1978 in 43 FR 35871

DESCRIPTION OF WORK: Building Construction, including single family homes and garden type apartments up to including 4 stories Chester County Building Construction Only

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE 1	$12.46	.90	1.05		.08
ZONE 2	11.10	.70	.75		.025

AREA COVERED BY ASBESTOS WORKERS

ZONE 1 - Chester, Delaware, Montgomery, Philadelphia and Remainder of Bucks County

ZONE 2 - Bridgeton, Durham, Lower Makefield, Middletown Falls, Morristown, New Hope. Newton, Nockamixon, Plumstead Riegelsville, Solebury, Tullytown, Tinicum, Upper Makefield and Yardley Townships in Bucks County

BOILERMAKER	13.775	1.075	1.00		.02
BRICKLAYERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	9.75	.77	.80		.02
New Residential:					
Under 4 stories	10.73	.77	.80		.02
All other Work:					
ZONE 1	11.38	1.10	1.00		.02
ZONE 2	10.96	.87	1.75		.02
ZONE 3	11.46	1.07	.95		.02

AREA COVERED BY BRICKLAYERS ZONES

ZONE 1 - Bucks, Chester, Philadelphia Counties, Radnor and Haverford Township in Delaware County, Lower Marion, Abington, Upper Moreland and Cheltenhan Townships in Montgomery COunty

ZONE 2 - Remainder of Delaware County

ZONE 3 - Remainder of Montgomery County

DECISION NO. PA79-3009

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Rehabilitation work to include demolition, repair and alteration, on any existing structure of not more than four (4) stories which is intended for predominently resident use	8.77	1.88	1.30		.12
Residential:					
Under 4 stories	8.03	1.03	1.35		.12
All other work	10.27	2.33	1.35		.12
CEMENT MASONS:					
Rehabilitation work to include demolition, on any existing structure of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	9.00	1.19	1.55		
All other work:					
ZONE 1	10.00	1.74	1.55		
ZONE 2	8.70	.58	.42		
ZONE 3	9.79		1.65		

AREA COVERED BY CEMENT MASONS ZONES

ZONE 1 - Bucks, Delaware and Philadelphia COunties, Remainder of Chester County and Remainder of Montgomery County

ZONE 2 - Oxford, Kenneth Square, Avondale and Longwood Townships in Chester County

ZONE 3 - Pennsburg and Pottstown Townships in Montgomery County

DECISION NO. PA79-3009

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRYWALL FINISHERS:					
Rehabilitation work to include demolition, repair and alteration, on any existing structures of not more than four (4) stories which is intended for predominently residential use	8.75	.89	.50		.03
All other work	9.70	1.44	.75	.85	.03
ELECTRICIANS:					
Rehabilitation work to include demolition, repair and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	13.02	.72	.48		.24
ZONE 2	11.20	.50	.40		.17
ZONE 3	11.34	.50	.37		.06
ELECTRICIANS					
ZONE 1					
Commercial	13.03	.78	3%+.78		.26
Residential up to and including 4 stories	11.77	6%	3%+.71		2%
ZONE 2					
Commercial	13.03	4.75%	8%		1.5%
Residential up to and including 3 stories	10.57	3.4%	1%+2.6%		1.5%
ZONE 3					
Commercial	12.87	6%	3%+10%		1/2 of 1%
Residential up to and including 3 stories	8.725	4.4%	1%+3%		1/2 of 1%
ZONE 4					
Commercial	11.90	9%	9%		1/4 of 1%
ZONE 5					
Commercial	11.59	.78	3%+.30		.03
ZONE 6					
Commercial	11.20	6%	3%+1.00		.02
ZONE 7					
Commercial	11.80	7%	3%+1.00		.02
ZONE 8					
Commercial	13.87	7%	3%+.60		.15

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AREA COVERED BY ELECTRICIANS ZONES

ZONE 1

Bucks County - starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U.S. Highway 13 and under the Pennsylvania Railroad bridge to Route 09113, north 09113 to Route 152, north along ROute 152 to the Rumeville Road, east on Rumeville Road to Route 344, north on Route 344 to the junction of Spurs 281 and 252, continue north on Spur 252 to Route 09028, west on 09028 to Route 152, north on 152 to TR 232, north on TR 532 to Tr 113, north on TR 113 to TR 232 at Anchor Inn, northeast on TR 232 and continue northeast along Route 659 to Route 09060, west on 09060 to Route 402, north on 402 to the Borough line at the southwest corner of the Borough of New Hope. The Borough of New Hope is excluded.

starting at the Delaware River and proceeding southwest along the Plumstead-Solebury and the Plumstead-Buckingham Township lines to Route 09064, northwest on 09064 to U.S. Highway 611 south on 611 to the spur of Route 270, northwest along the spur to Route 397, southwest on 397 to Route 350, southeast on 350 to Route 395, southwest on 395 to Route 09069, southeast on 09069 to Route 09041 southwest on 09041 to the Montgomery County line.

Delaware County - that portion east of a line following State Highway 320 from Montgomery County to Maple, then along the Springfield Road to Saxer Avenue, along Saxer Avenue to Powell Road, along Powell Road to State Highway 420 and continuing in a straight line to the Delaware River.

Montgomery County - that portion southeast of a line following Lower State Road from Bucks County southwest to the Bethlehem Pike (U.S. Highway 309), south on the Bethlehem Pike to the Penllyn Pike, southwest on the Penllyn and Blue Bell Pikes to the Wissahickon Creek, southeast on the Wissahickon Creek to the Butler Pike to North Lane near Conshohocken Borough, southwest onNorth Lane to Schuylkill River and continuing southeast in a line to the SPring Mill Road and southwest on the Spring Mill Road to Delaware County.

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Philadelphia County - In its entirety.

ZONE 2
Bucks County - Hilltown and New Britain Townships in their entirety; that portion of telford Borough northeast of County Line Road (Main Street) and bounded by West Rockhill and Hilltown Township; that portion of Dublin Borough west of State Highway 313, and that portion of Doylestown and Warrington Townships and Doylestown Borough northwest of a line following U.S. Highway 611 south from Route 09064 to the spur of Route 270, and proceeding northwest along the spur to Route 397, southwest on 397 to Route 350, southeast on 350 to Route 395, southwest on 395 to Route 09069, southeast on 09069 to Route 09041, southwest on 09041 to the Montgomery County Line.

Chester County - East Coventry, East Vincent, West Vincent, East Pikeland, West Pikeland, Uwchlan, Upper Uwchlan, East Brandywine, Schuylkill and Charlestown Townships in their entirety, and that portion of Caln, East Caln, West Whiteland, East Whiteland, Tredyffrin, Willstown, Easttown Townships and the Borough of Downingtown north of U. S. Highway 30.

Delaware County - That portion of Radnor Township north of U.S. Highway 30 and west of State Highway 320.

Norristown, Montgomery County - That portion northwest of a line following Lower State Road from Bucks County southwest to the Bethlehem Pike (U.S. Highway 309), south on Bethlehem Pike to the Penllyn Pike, southwest on the Penllyn and BLue Bell Pikes to Wissahickon Creek, southeast on the Wissahickon Creek to the Butler Pike, southwest on the Butler Pike,to North Lane near Conshohocken Borough, southeast on North Lane to the Schuylkill River and continuing southeast in a line to the Spring Mill Road, southwest on the Spring Mill Road to Delaware County; but excluding Upper Hanover, Douglas, Upper Pottsgrove, West Pottsgrove Townships and also excluding that portion of the

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Borough of Pottstown north and west of a line drawn northeast on Keim Street from the Schuylkill River to the Reading Railroad northwest on the railroad to Madison Street, to High Street, east on High Street to Green Street, north on Green Street and northeast on Mintzer Street to the Lower Pottsgrove Township Line, along this township line and the borough line northwest to Adams Street and the Beehive Road, northeast on the Beehive Road to the Township Line at Mervine Street in the State of Pennsylvania.

ZONE 3
Chester County - That portion south of U.S. Highway 30 and north and west of U. S. Highway 1

Delaware County - That portion south of U.S. Highway 30 and north of that part of U.S. Highway 1 between U.S. Highway 202 and the Chester County Line, and east of that part of U.S. Highway 202 between U.S. Highway 1 and the Delaware Line, and west of a line extending from Montgomery County along State Route 320 to Maple, then along the Springfield Road to Saxer Avenue, along Saxer Avenue to Powell Road; along Powell Road to State Highway 420; along 420 and continuing in a straight line to the Delaware River in the State of Pennsylvania.

ZONE 4
Chester County - Oxford, Avondale and Kenneth Square Twps.

ZONE 5
Chester County - West Clan, West Brandywine, Honey Brook, Wallace, West Nantmeal, East Nantmeal, Warwick, South Coventry, Valley Twps. and Coatesville.

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Montgomery County - West Pottsgrove, Upper Pottsgrove, Douglas Twps. Pottstown.

ZONE 6
Bucks County - Plumstead, Bedminster, Tinicum, Hockomixon, Bridgeton and Durham Townships in their entireties, and that portion of Haycock and Springfield Townships east of a line following State Highway 412, from Northampton County south to Route 09071 to State Highway 212, along highway 212 to Route 09068, and along 09068 to State Highway 313. Also included is that portion of Dublin Borough east of State Highway 313.

ZONE 7
Bucks County - East Rock Hill, West Rock Hill, Milford and Richland Townships in their entirety and that portion of Haycock and Springfield Townships West of a line following State Highway 212 from Northampton County South to Route 09071 along 09071 to State Highway 212, along Highway 212 to Route 09068 and along 09068 to State Highway 313

Montgomery County - Upper Hanover in its entirety

ZONE 8
Bucks County - That portion east of a line starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U.S. Highway 13 and under the Pennsylvania Railroad Bridge to Route 09113, north along 09113 to Route 152, north along Route 152 to the Hulmeville Rd., east on the Hulmeville to Route 344, north on Route 344 to the junction of Spurs 281 and 252 continue north on Spur 252 and Route 09028, west on 09028 to Route 152, north on 152 to TR 532, north on TR 532 to TR 113, north on TR 113 to TR 232 as Anchor Inn, northeast on TR 232 and continue northeast along Route 659 to Route 09060, West on 09060 to Route 402, north on 402 to the Borough line at the southwest corner of the Borough of New Hope. The Borroughs of New Hope and Bristol are included.

DECISION NO. PA79-3009	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	12.815	.895	.69	a+b	.03
Elevator Constructors Helpers	8.97	.895	.69	a+b	.03
Elevator Constructors Helpers (Prob.)	6.41				
GLAZIERS					
ZONE 1	10.53	.50	.30		.01
ZONE 2	9.19	.40	.40		.01

AREA COVERED BY GLAZIERS ZONES

ZONE 1 - Delaware and Philadelphia Counties, Remainder of Bucks, Chester and Montgomery Counties

ZONE 2 - Milford, West Rockville, Richland, E. Rockville, Haycock, Durham, Springfield, Richlandtown, Sqoherton, Hockamixon Townships in Bucks County, Warwock, S. Coventry, E. Coventry, N. Coventry, Spring City and Royersford Townships in Chester County, Pottstown, Lower Pottsgrove, Limerick, Lower Frederick, Upper Salford, Sounderton, Greeland, Upper Hanover, New Hanover, Douglas, Marlboro Twps. in Mongtomery County

IRONWORKING:					
Rehabilitation work to include demolition, repair and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	10.67	2.05			.04
All other work					
ZONE 1	10.36	.79	1.11		.05
ZONE 2	10.53	.79	1.11		.05
ZONE 3					
Structural & Ornamental Reinforcing	12.62	1.14	1.36		.04
	12.07	.84	1.61		.01

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AREA COVERED BY IRONWORKERS ZONES

ZONE 1 - Bucks County

ZONE 2 - Chester County

ZONE 3 - Delaware, Montgomery and Philadelphia Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Rigger, machinery mover	12.20	1.14	1.36		
LABORERS:					
Rehabilitation work to include demolition, repair and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use:					
CLASS I	6.95	.90	.65		
CLASS II	7.05	.90	.65		
CLASS III	7.10	.90	.65		
CLASS IV	7.25	.90	.65		
CLASS V	7.35	.90	.65		
CLASS VI	6.89	.90	.65		

CLASSIFICATIONS DEFINITIONS

CLASS I - Stripping & dismantling concretef orm work, loading, carrying 7 handling of all reinforced steel 7 steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers 7 all pther pheumatic tools, building scaffolds, raking, shoveling 7 tamping of asphalt, spading & concretepit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying non metallic pipe & caulking, all other types of Laborers

CLASS II - Mason tender, power buggies, burners on demolition

CLASS III - Wagon drill operator (single)

CLASS IV - Powdermen, wagon drill operator (multiple), circular caissons excavation: Caisson groundmen, Underpinning excavation: Laborers, working at depth of 8 feet or under

CLASS V - Caisson bottom man

CLASS VI - Yard workers

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
New Residential under 4 stories	7.78	.90	.65		.025
All other work					
CLASS I	9.00	.90	.65		
CLASS II	9.10	.90	.65		
CLASS III	9.15	.90	.65		
CLASS IV	9.30	.90	.65		
CLASS V	9.40	.90	.65		
CLASS VI	8.94	.90	.65		

CLASSIFICATIONS DEFINITIONS

CLASS I - Stripping & dismantling concretef orm work, loading, carrying 7 handling of all reinforced steel 7 steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers 7 all other pheumatic tools, building scaffolds, raking, shoveling 7 tamping of asphalt, spading & concretepit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying non metallic pipe & caulking, all other types of Laborers

CLASS II - Mason tender, power buggies, burners on demolition

CLASS III - Wagon drill operator (single)

CLASS IV - Powdermen, wagon drill operator (multiple), circular caissons excavation: Caisson groundsun, Underpinning excavation: Laborers, working at depth of 8 feet or under

CLASS V - Caisson bottom man

CLASS VI - Yard Workers

LANDSCAPE LABORERS:				
CLASS I	8.00	.95	.65	c
CLASS II	8.50	.95	.65	c

CLASSIFICATIONS DEFINITIONS

CLASS I - Landscape Laborers

CLASS II - Farm tractor driver, hydroseeder nozzle man and mulcher nozzle man

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
ZONE 1	8.61	.225	.10		
ZONE 2	9.15	.50	.15		.01
ZONE 3	7.69	.40	.25		
ZONE 4	7.75	.25	.25		.02

AREA COVERED BY LATHERS ZONES

ZONE 1 - Delaware, Montgomery and Philadelphia Counties, Remainder of Bucks and Chester Counties

ZONE 2 - Coatesville & lower part of Chester County

ZONE 3 - Milford, Trumbersville, Richland, Quakertown, Springfield, Durham, Riegelsville, Bridgetown, Moxkamixon, Tinicum, Plumstead, Dublin, Bedminister, Haycock, East Rockhill, Perkasie, Bellersville, West Rockhill Townships in Bucks County

ZONE 4 - Solebury, New Hope, Upper Makefield, Wrightstown, Newton, Yardley, Lower Makefield, Morrisville, Falls, Tullytown Townships in Bucks County

LEAD BURNERS	10.75	.40	.25	d	.01
LINE CONSTRUCTION					
ZONE 1					
Linemen	14.15	.45	3%		1%
Groundmen	8.49	.45	3%		1%
Winch truck operator	9.91	.45	3%		1%
ZONE 2					
Linemen, cable splicers, heavy equipment operator, truck driver	13.87	7%	3%		
Groundman, winch operator	11.10	7%	3%		

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AREA COVERED BY LINE CONSTRUCTION

ZONE 1 - Remainder of Bucks County, Chester, Delaware, Montgomery, Philadelphia Counties

ZONE 2 - Bucks County: That portion east of a line starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U. S. Highway 13 and under the Pennsylvania Railroad Bridge to Route 09113, north along 09113 to Route 152, north along Route 152 to the Bulmeville Rd., east on the Bulmeville to Route 344, north on Route 344 to the junction of Spurs 281 and 252, continue north on Spur 252 and Route 09028, west on 09028 to Route 152, north on 152 to Tr 532, north on Tr 532 to Tr 113, north on Tr 113 to Tr 232 at Anchor Inn, northeast on Tr 232 and continue northeast along Route 689 to Route 09060, west on 09060 to Route 402, north on 402 to the Borough Line at the southwest corner of the Borough of New Hope. The Boroughs of New Hope and Bristol are included

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	12.54	.87	1.07		
MILLWRIGHTS	10.82	2.13	1.30		.12
PAINTERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structures of not more than four (4) stories which is intended for predominently residential use:				4	
ZONE 1	8.00	.625	.40		.06
All other work:					
ZONE 1					
Brush	10.745	1.125	.40		.06
Spray, steel & swing	10.995	1.125	.40		.06
Roller	10.745	1.125	.40		.06
ZONE 2					
Commercial, brush	10.58	.85	1.00		
Commercial, spray	11.08	.85	1.00		
ZONE 3					
Brush	9.35	.70	.65		
Steel and spray	10.40	.70	.65		
Roller	9.35	.70	.65		
ZONE 4					
Brush	10.54	1.10	1.10	1.00	
Steel	11.29	1.10	1.10	1.00	

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AREA COVERED BY PAINTERS ZONES

ZONE 1 - Bucks & Philadelphia Counties: Randnor, Haverford, Newton, Maple, Springfield, Upper Darby, Barby, Ridley, Tinicum & Yeondon Townships in Delaware County, Cheltenahm, Abington, Upper and Lower Moreland, Springfield Whitemarsh, Plymouth, Upper Dubling, Horsham, Whitpain, Upper and Lower Gwynodd, Lower Marion, Upper Southampton, Lower Southampton Townships in Montgomery County

ZONE 2 - Chester County and Remainder of Delaware County

ZONE 3 - Pottstown, Pottsgrove, New Hanover and Douglas Townships in Montgomery County

ZONE 4 - Remainder of Montgomery County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAPERHANGERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure of not more than four (4) stories which is intended for predominantly residential use	8.54	.55	.35		
PILEDRIVERMEN	11.12	2.33	1.35	g	.12
POINTERS, CAULKERS AND CLEANERS	11.75	.40	.70		
PLASTERERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure or not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	8.825	.78			.01
All other work					
ZONE 1	11.71	.93			.01
ZONE 2	9.81		1.65		.01
ZONE 3	8.97	.65			.01
ZONE 4	9.45				.01

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AREA COVERED BY PLASTERERS ZONES

ZONE 1 - Bucks & Philadelphia Counties; remainder of Chester County, Remainder of Montgomery County

ZONE 2 - Pennsburg Township in Mohtgomery County

ZONE 3 - Longwood, Kennett Square, Avondale and Oxford Townships in Chester County

ZONE 4 - Delaware County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure or not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	11.24	.81	1.30		.14
All other work:					
ZONE 1	12.77	.81	1.30		.14
ZONE 2	8.50	.485	.82		.036
ZONE 3	10.02	.57	.92		.06

AREA COVERED BY PLUMBERS ZONES

ZONE 1 - Delaware & Philadelphia Counties; Remainder of Bucks County: Tedyffrin, E. Whiteland, W. Whiteland, Easttown, E. Goshen, W. Goshen, W. Chester, E. Bradford, Westown, Birmingham, Twps. & Thornbury City Townships in Chester County, Lower Marion, Horsham, Upper Dublin, Moreland, Lower Moreland, Abington, Springfield and Cheltenham Townships in Montgomery County

ZONE 2 - Remainder of Chester & Montgomery County

ZONE 3 - Milford, Trumbaversville, West Rockhill, Sellerville, Perkesie, East Rockhill, Richland, Quackertown, Haycock, Norkamixon, Bridgeton, Durham, Riegelsville Townships in Bucks County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Rehabilitation work to include demolition, repair and alteration, on any existing structure or not more than four (4) stories which in intended for predominently residential use:					
ZONE 1					
Composition, damp and waterproofers	10.17	.70	.60		
All other work:					
ZONE 1					
Commercial					
Composition, damp & water-proofers	12.77	1.40	.95	e	
Roofers Assistant	6.00	1.40	.95	e	
ZONE 2					
Commercial					
Composition & state	8.35	.25	.25		
ZONE 3					
Commercial					
Composition roofers	11.62	1.33	.80		
ZONE 4					
Commercial				e	
Composition, damp & water-proofing	10.60	.45	.25	f	
Slate, tile & asgestos	11.15	.45	.25	f	
Precast Slab	11.40	.45	.25	f	
ZONE 5					
Residential reroofers	9.32	.65	.55		

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AREA COVERED BY ROOFERS ZONES

ZONE 1 - Delaware, Montgomery and Philadelphia Counties, Remainder of Bucks and Chester Counties

ZONE 2 - Milford, Trumbbaversville, Richland, Quakertown, Strongfield, Durham, Reiglville Townships in Bucks County

ZONE 3 - Solesbury, New Hope, Upper Makefield, Wrightstown, Newton, Yardley, Lower Makefield, Morrisville, Falls, Tullytown and Bistol Townships in Bucks County

ZONE 4 - Parksbury Township in Chester County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS					
ZONE 1 (Commercial)	13.30	1.02	1.18		.13
ZONE 2 (Residential)	7.15				
ZONE 3 (Commercial)	11.41	1.33	.80		.03

AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE 1 - Remainder of Bucks, Chester, Delaware, Montgomery & Philadelphia Counties

ZONE 2 - Chester, Delaware, Montgomery Counties and Buck's County excluding the Townships of Falls, Buckingham, Newton, Upper and Lower Makefield, Solesbury, Plumstead and Wrightstown

ZONE 3 - Townships in Bucks County; Plumstead, Solesbury, Buckingham, Wrights-town, Upper and Lower Makefield, Newton and Falls

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use	7.58	1.58	1.30		.12
All other work	9.43	2.03	1.35		.12
SPRINKLER FITTERS					
ZONE 1	12.31	.75	1.05		.08
ZONE 2	12.04	.60	.90		.10

AREA COVERED BY SPRINKLER FITTERS ZONES

ZONE 1 - Bucks, Chester, Delaware & Montgomery COunties

ZONE 2 - Philadelphia County

STEAMFITTERS					
ZONE 1	12.66	.80	1.45		.11

AREA COVERED BY STEAMFITTERS ZONES

ZONE 1 - Bucks, Delaware, Philadelphia Counties and Reainder of Montgomery County

STONE MASONS					
ZONE 1	10.03	.87	1.07		
ZONE 2	11.46	1.07	.95		.02
ZONE 3	10.75	.95	.78		.01
ZONE 4	9.30	.77	.75		

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AREA COVERED BY STONE MASONS ZONES

ZONE 1 - Delaware & Philadelphia Counties; Remainder of Bucks County

ZONE 2 - Montgomery County

ZONE 3 - Chester County

ZONE 4 - Bristol Township in Bucks County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS	12.19	.87	1.07		
TILE SETTERS					
Rehabilitation work to include demolition, repair and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential	9.25	1.10	.90		.14
All other work	9.77	1.35	1.13		.14
WELDERS - rate prescribed for craft performing operation to which welding is incidental.					

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Paid Holidays (Where Applicalbe):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E- Thanksgiving Day; F- Christmas Day.

Footnotes:

a. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F, plus the Friday after Thanksgiving Day.

c. Holidays: July 4th; Labor Day and Thanksgiving Day.

d. Holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the day preceding and following the holiday.

e. Holidays: Election Day

f. Holidays: Labor Day and Election Day

g. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve providing the employee has worked 45 full days for the same employer during the 120 calendar days prior to the holiday & is available for work the days preceding & following the holiday.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS I	12.75	7%	10.3%	a	1.8%
CLASS II	12.34	7%	10.3%	a	1.8%
CLASS III	11.47	7%	10.3%	a	1.8%
CLASS IV	11.26	7%	10.3%	a	1.8%
CLASS V	10.95	7%	10.3%	a	1.8%
CLASS VI	10.78	7%	10.3%	a	1.8%
CLASS VII	10.27	7%	10.3%	a	1.8%
CLASS VIII	9.53	7%	10.3%	a	1.8%

CLASSIFICATIONS DEFINITIONS

CLASS I - Handling steel and stone in connection with erection; cranes doing hook work; any machines handling machinery; cable spinning machines; Helicopters; machines similar to the above

CLASS II - Engineers working with dock builders and pile drivers, all types of cranes, all types of backhoes; cableways; draglines; keystones, all types of shovels; derricks; trench shovels; trenching machines; pippin type backhoes; hoist with two towers; pavers 21E and over; all types overhear cranes; building hoists - double drum (unless used as single drum); mucking machines in tunnel; gradalls; front-end loaders over 3 cu. yd., boat captain; tandem scraper; tower type crane operation, erecting, dismantling, jumping or jacking; drill self-contained (drillmaster type); fork lift (20 ft. and over), mortar patrols (fine grade), batch plant with mixer: Machines similar to the above

CLASS III - Conveyors (except building conveyors), building hoists (single drum), scrapers and tournapulls, asphalt plant engineers, roller (high grade finishing); caterpillar-type tractors with frontend overhead loaders and rubbertired loaders 2 c.y. up to & including 3 c.y., maintenance engineers with tools; spreaders, high or low pressure boilers, concrete pumps, well drillers, forklift trucks of all types; bulldozers D-7 or equivalent and over; ditch witch type trencher, motor patrol; machines similar to the above

CLASS IV - Concrete breaking machines, rollers and machines similar to the above

CLASS V - All bulldozers under D-7, tractors including rubber-tired type with front and overhead loaders under 2 c.y., seaman pulverizing mixer, welders and maintenance engineers, tireman on power equipment, maintenance engineer (Power boat), and machines similar to the above

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CLASSIFICATIONS DEFINITIONS CONT'D

CLASS VI - Conveyors (building), welding machines, heaters, wellpoints, compressors, farm tractors, form line graders, road finishing machines, pumps, power broom (self contained), seed spreader and machines similar to the above

CLASS VII - Fireman

CLASS VIII - Oilers and deck hand (personnel boats)

FOOTNOTE:
a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day providing the employee works the day before and after the holiday.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	8.695	.7675	.775	a+b	
CLASS II	8.795	.7675	.775	a+b	
CLASS III	8.995	.7675	.775	a+b	

CLASSIFICATIONS DEFINITIONS

CLASS I - Warehouseman, checker, fork lift driver, stake body truck (single axle), 1½ ton and under vehicles

CLASS II - Truck driver over 1½ tons, dump trucks, tandem and batch trucks, semi-trailers, agitator mixer trucks, and dumporete type vehicles, asphalt distributors, farm tractor when used for transportation, stake body truck (tandem)

CLASS III - Euclid type, off-highway equipment - back or belly dump trucks and double - hitched equipment straddle (Rosa) carrier, lowbed trailers

FOOTNOTES:
a. Employer will earn one (1) vacation day every two (2) months up to a maximum of five (5) vacation days (40 hours pay) per calendar year. During each two (2) consecutive month period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all days of vacation, employees with five (5) years or more senority shall be eligible for two (2) weeks of vacation.

b. Paid Holidays: Memorial Day; Independence Day; Labor Day; Veterans Day and (5) personal holidays for employees who have worked a minimum of thirty days and are on the employer's senority list, provided he works the schedule work days before and after the said holidays.

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SUPERSEDEAS DECISION

STATE: RHODE ISLAND
DECISION NO. RI79-2039
Supersedes Decision Nos. RI78-3050, dated July 21, 1978 in 43 FR 31551; RI78-3051, dated July 21, 1978 in 43 FR 31555; and RI78-3052, dated July 21, 1978 in 43 FR 31559
COUNTIES: STATEWIDE
DATE: Date of Publication
DESCRIPTION OF WORK: Building (including Residential), Heavy, Highway, and Marine Construction Projects

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.38	1.25	1.33		
BOILERMAKERS	12.30	1.05	10%		.02
BRICKLAYERS; Stonemasons:					
Cities, Towns or Townships of Charlestown, Hopkinton, Peace Dale, Richmond, South Kingstown Wakefield, & Westerly	10.35	1.00	1.00		.01
Remainder of State	10.35	1.10	1.15		.01
CARPENTERS; Millwrights; Pile-drivermen; & Soft floor layers:					
Cities of Providence, Pawtucket, East Providence, Central Falls, Cranston, Warwick, Woonsocket; Towns of Barrington, Burrillville, Warren, Bristol, West Warwick, East Greenwich, West Greenwich, North Providence, Johnston, Cumberland, Lincoln, Smithfield, North Smithfield, Foster, Scituate, Gloucester, Coventry, North Kingstown, South Kingstown, Exeter, Narragansett, Westerly, & Charlestown:					
Commercial building	10.50	.65	.90		.05
Residential	8.60	.65	.90		.05
Millwrights	10.75	.65	.90		.05
City of Newport; Towns of Middletown, Portsmouth, Jamestown, Tiverton, Little Compton, New Shoreham (Block Island), & Prudence Island:					
Carpenters; Soft floor layers	9.83	.65	.90		.03
Millwrights (except cities of Tiverton & Little Compton); Piledrivermen	10.43	.65	.90		.03
Millwrights (Cities of Tiverton & Little Compton)	11.30	.90	1.00		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS; Plasterers:					
Woonsocket, N. Smithfield, Burrillville, Chepachet, Cumberland (N 1/3), & Lincoln	$10.35	1.00	1.00		.01
Remainder of State:					
Cement masons	10.60	.90	.45		
Plasterers	9.80	.90	.45		
ELECTRICIANS:					
Tiverton & Little Compton	10.10	4%+.20	3%+1.00	4%+.20	½%
Westerly Township	11.30	1.50	3%+1.10		½%
Remainder of State	10.50	.73	3%+1.65		.02
ELEVATOR CONSTRUCTORS	10.715	.495	.32	a&b	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.50	.495	.32	a&b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.36				
GLAZIERS	9.65	.62	1.38		.01
IRONWORKERS:					
Ornamental; Reinforcing; & Structural	10.33	1.10	2.10		.05
LABORERS:					
Laborers; Carpenter tenders; Cement finisher tenders; Mason tenders & Wrecking laborers	8.50	.60	.80		.10
Asphalt rakers; Azdemen; Pipe trench bracers; Demolition burners; Chain saw ops.; Fence & guard rail erectors; Setters of metal forms for roadways; Mortar mixers; Pipelayers; Riprap & dry stonewall builders; Highway stone spreaders; Pneumatic tools ops.; Wagon drill ops.; Tree trimmers; Barco type jumping tampers; Mechanical grinder ops.; Plasterers' tenders; Scaffold builders; & Morter mixers	8.75	.80	.80		.10
Air track ops.; Block pavers; Rammers; & Curb setters	9.00	.60	.80		.10
Blasters; Powderman	9.25	.60	.90		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Newport Co. (Southern ½)	10.05	.65	.55		.01
Remainder of State	10.19	.65	.85		.01
MARBLE SETTERS; Terrazzo workers; & Tile setters	10.25	1.00	1.00		
PAINTERS:					
Adamsville, Compton, Little Compton, North Tiverton, Sakonnet, & Tiverton:					
Brush; Tapers:					
New construction	10.96	.82	1.20		.04
Repaint	9.26	.82	1.20		.04
Sandblasting; Spray:					
New construction	11.96	.82	1.20		.04
Repaint	10.26	.82	1.20		.04
Steel	13.08	.82	1.20		.04
Remainder of State:					
Brush; Roller; Tapers	10.05	.60	.95		
Structural steel; Steamcleaning	10.30	.60	.95		
Air power brush	10.55	.60	.95		
Spray & sand or water blasting	11.05	.60	.95		
PAINTERS, sign:					
Bristol, Kent, & Providence Cos.	7.44	.26	.35	.53+c+d	
PLUMBERS	10.66	.90	1.95		.07
ROOFERS:					
Composition, Waterproofers	10.00	.65	.45		
Slate, Tile, Precast concrete	10.20	.65	.45		
Helpers, Class "A"	9.15	.65	.45		
Helpers, Class "B"	8.60	.65	.45		
SHEET METAL WORKERS	10.28	.96	1.55		.11
SPRINKLER FITTERS	11.56	.75	1.05		.01
STEAMFITTERS	11.35	.83	1.28		.07
HEAVY & HIGHWAY CONSTRUCTION					
BRICKLAYERS; Stonemasons; Catch basins; Manhole builders	10.55	1.00	1.00		.01
CARPENTERS; Piledrivermen:					
Bristol, Kent, Providence & Washington (excluding Block Island) Cos.	10.51	.65	.90		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS; Millwrights; Piledrivermen; & Wharf, bridge & dock carpenters:					
Newport County & Block Island	$10.68	.65	.90		.03
CEMENT MASONS & FINISHERS	8.50	.50	.35		
ELECTRICIANS:					
Little Compton & Tiverton	10.10	4%+.20	3%+1.00	4%+.20	½%
Westerly Township	11.30	1.50	3%+1.10		½%
Remainder of State	10.50	.73	3%+1.65		.02
IRONWORKERS:					
Ornamental; Reinforcing; & Structural	10.33	1.10	2.10		.05
LABORERS:					
Laborers; Carpenter & Cement finisher tenders & wrecking laborers	8.50	.60	.80		.10
Adzeman; Asphalt rakers; Barco-type jumping tampers; Chain saw ops.; Concrete & power buggy ops.; Concrete saw ops.; Demolition burners; Fence & guard rail erectors; Highway stone spreaders; Mechanical grinder ops.; Mortar mixers; Pipelayers; Pipe trench bracers; Pneumatic tool ops.; Riprap & dry stonewall builders; Setters of metal forms for roadways; Stumper ops.; Tree toppers; Tree trimmers; Wagon drill ops.; Wood chipper ops.	8.75	.60	.80		.10
Air track drill ops.; Pavers; Rammers; Curb setters	9.00	.60	.80		.10
Blasters & Powdermen	9.25	.60	.80		.10
Open air caisson, Underpinning and boring crew:					
Bottom man	9.25	.60	.80		.10
Laborer, top man	8.50	.60	.80		.10
Driller	9.37	.60	.80		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	$11.48	.70	3%+.50	e	3/8%
Equipment operators	10.36	.70	3%+.50	e	3/8%
Driver groundman	9.70	.70	3%+.50	e	3/8%
Groundman	8.16	.70	3%+.50	e	3/8%
PAINTERS:					
Adamsville, Compton, Little Compton, North Tiverton, Sakonnet, & Tiverton:					
Brush; Tapers:					
New construction	10.96	.82	1.20		.04
Repaint	9.26	.82	1.20		.04
Sandblasting; Spray:					
New construction	11.96	.82	1.20		.04
Repaint	10.26	.82	1.20		.04
Steel	13.08	.82	1.20		.04
Remainder of State:					
Brush; Roller; Tapers	10.05	.60	.95		
Structural steel; Steamcleaning	10.30	.60	.95		
Air power brush	10.55	.60	.95		
Spray & sand or water blasting	11.05	.60	.95		
PAINTERS, sign:					
Bristol, Kent, & Providence Cos.	7.44	.26	.35	.53+c+d	
PLUMBERS	10.66	.90	1.95		.07
WELDERS receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO. RI79-2039

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 7 paid holidays: A through F, plus Day after Thanksgiving
b. Employer contributes 8% basic hourly rate for 5 years or more of service; 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
c. 9 paid holidays: A through F, plus V. J. Day; Columbus Day; & Veterans Day
d. One year's seniority - one week's paid vacation; 2 years' seniority - 2 weeks' paid vacation
e. 7 paid holidays: A through F; plus Columbus Day provided employee has been employed 5 working days prior to the holiday and provided the employee works the scheduled work days immediately preceding and following the holiday.

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POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Digging Machines; Ross Carriers; Cranes; Pile Drivers; Lighters; Locomotives; Derricks; Hoists; Pavers; and Front End Loaders 3 yds. and over	$11.265	.95	$ 1.15		.10
Economobile type equipment	11.04	.95	1.15		.10
Fork Lift	10.84	.95	1.15		.10
Firemen and Oilers	8.79	.95	1.15		.10
Bulldozers; Graders; Spreaders; Tractors; Scrapers and Rollers	9.84	.95	1.15		.10
Front-end Loaders less than 3 yards	10.09	.95	1.15		.10
Pippin type backhoes	10.19	.95	1.15		.10
Maintenance Engineers	9.79	.95	1.15		.10
Well-point Installation	9.915	.95	1.15		.10
Gas or electric driven pumps; heater; Concrete Mixers; Concrete Pumps; Stone Crushers; Air Compressors; Welding Machines and Generators for light plants	9.34	.95	1.15		.10
BRIDGES, CAISSONS, DOCKS, MARINES PIERS, SUB-BASEMENT SUBTERRANEAN, TUNNELS, and HEAVY CONSTRUCTION					
Digging Machines; Cranes; Pile-drivers; Lighters; Locomotives; Derricks; Hoists; Pavers; & Front end loaders, 3 yds. & over	11.89	.95	1.15		.10
Firemen and Oilers	9.365	.95	1.15		.10
Bulldozers; Graders; Spreaders; Scrapers; Rollers	10.54	.95	1.15		.10
Front-end Loaders, less than 3 yds.	10.79	.95	1.15		.10
Maintenance Engineers	10.69	.95	1.15		.10

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POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Well-point Installation Crews	$10.715	.95	$ 1.15		.10
Gas or electric driven pumps; Heaters; Concrete Mixers; Concrete Pumps; Stone Crushers; Air Compressors; Welding Machines; and Generators for light plants	9.79	.95	1.15		.10
Boat and Tug Operators	11.615	.95	.15		.10
Deckhands	10.015	.95	1.15		.10

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POWER EQUIPMENT OPERATORS WATER and SEWERLINE PROJECTS, HIGHWAY and BRIDGE INCIDENTAL TO HIGHWAY CONSTRUCTION PROJECTS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$11.595	.95	$ 1.15		.10
CLASS 2	10.745	.95	1.15		.10
CLASS 3	10.125	.95	1.15		.10
CLASS 4	8.375	.95	1.15		.10
CLASS 5	10.075	.95	1.15		.10
CLASS 6	10.575	.95	1.15		.10
CLASS 7	10.195	.95	1.15		.10
CLASS 8	10.175	.95	1.15		.10
CLASS 9	9.825	.95	1.15		.10
CLASS 10	9.195	.95	1.15		.10
CLASS 11	9.175	.95	1.15		.10
CLASS 12	8.975	.95	1.15		.10
CLASS 13	9.645	.95	1.15		.10
CLASS 14	8.975	.95	1.15		.10
CLASS 15	10.025	.95	1.15		.10

CLASS 1: Digging Machines; Cranes; Pile Drivers; Lighters; Locomotives; Derricks; Hoists; Pavers; Front End Loaders (3 to 4 yds.); Economobiles; and Rose Carriers

CLASS 2: Forklifts

CLASS 3: Firemen

CLASS 4: Oilers

CLASS 5: Bulldozers; Spreaders; Rollers; Tractors

CLASS 6: Front End Loaders, less than 3 yards

CLASS 7: Scrapers; Graders; Dozer Pusher Operators

CLASS 8: Pipping type Backhoe Operators

CLASS 9: Maintenance Engineers

CLASS 10: Gas and Electric driven heaters; Pumps; Concrete Mixers; Stone Crushers; Air Compressors; Light Plants; Welding Machines; Concrete Pumps

CLASS 11: Mechanics and Welders (inside)

CLASS 12: Bulldozers in Pits

CLASS 13: Shovel Operators; Front End Loaders, 3 cu. yds. and over; Dragline and Crane Operators in material yards

CLASS 14: Test Boring Machine Operators

CLASS 15: Well Point Installation Crews

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TRUCK DRIVERS HEAVY and HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 7.62	.7425	.80	a+b	
CLASS II	7.77	.7425	.80	a+b	
CLASS III	7.82	.7425	.80	a+b	
CLASS IV	7.92	.7425	.80	a+b	
CLASS V	8.02	.7425	.80	a+b	
CLASS VI	8.27	.7425	.80	a+b	
CLASS VII	8.52	.7425	.80	a+b	

CLASS I: Pick-up Trucks; Station Wagons and Panel Trucks

CLASS II: Two axle, helpers on low beds

CLASS III: Three axle equipment

CLASS IV: Four and five axle equipment

CLASS V: Low Bed Trailers; Special Earth Moving Equipment under 35 tons, Mechanics; Paving Restoration vehicle and Vac Baul

CLASS VI: Special Earth Moving Equipment over 35 tons

CLASS VII: Trailers when used on a double hook-up (pulling 2 trailers)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: A through F; Washington's Birthday, Columbus Day, Veteran's Day, V-J Day, providing employee has worked at least one day in the calendar week in which the holiday falls.

b. Employee who has been on the payroll for 1 year or more but less than 5 years and has worked 150 days during the last year of employment shall receive 1 week's paid vacation; 5 years or more - 2 weeks' paid vacation.

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SUPERSEDEAS DECISION

STATE: South Dakota
DECISION NUMBER: SD79-5121
COUNTIES: Meade & Pennington
DATE: Date of Publication
Supersedes Decision No. SD78-5126 dated September 8, 1978, in 43 FR 40189
DESCRIPTION OF WORK: Building projects (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$11.44	.50	1.00		
Boilermakers	12.30	.85	1.00		.02
Bricklayers, Stonemasons	10.90		.30		
Carpenters:					
Carpenters, Acoustical Drywall Applicators	10.81	.30			.05
Piledrivermen	11.06	.30			.05
Millwrights	11.31	.30			.05
Cement Masons	9.50	.35	.40		
Electricians:					
Within 15 miles radius of Rapid City Post Office					
Electricians	10.65	.40	3%	6%	½%
Cable Splicers	11.20	.40	3%	6%	½%
Within 15 to 35 miles radius of Rapid City Post Office					
Electricians	11.05	.40	3%	6%	½%
Cable Splicers	11.60	.40	3%	6%	
Outside 35 miles radius of Rapid City Post Office					
Electricians	12.15	.40	3%	6%	½%
Cable Splicers	12.70	.40	3%	6%	½%
Ironworkers	11.05	.70	1.25		.25
Laborers:					
Laborers; Power tool operator (all mechanical, air, gas, or electric tools, including self-propelled buggies, wagon and air track drills); Pipelayer (nonmetallic); Sandblasting	6.62	.50	.15		
Mortar Mixer, Mason tender, Plaster tender	6.77	.50	.15		
Gunnite nozzleman, Powderman, Miner, Timberman	7.12	.50	.15		
Painters:					
Brush	7.79				
Spray	8.29				
Tapers	8.04				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterers	$ 9.85				
Plumbers, Steamfitters	11.04	.75	.60		.03
Sheet Metal Workers	11.35				.005
Sprinkler Fitters	10.55	.75	1.05		.08
Welders, Riggers: Receive rate prescribed for craft performing operation to which welding or rigging is incidental					

SUPERSEDEAS DECISION

STATE: South Dakota
DECISION NUMBER: SD79-5122
COUNTY: Minnehaha
DATE: Date of Publication
Supersedes Decision No. SD78-5102 dated June 9, 1978, in 43 FR 25278
DESCRIPTION OF WORK: Building projects (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$11.44	.50	1.00		.02
Boilermakers	12.30	.85	1.00		.05
Bricklayers, Stonemasons	11.35	.45	.40		
Carpenters:					
Carpenters, Piledrivers, Drywall, and Acoustical	10.21		.20		.05
Millwrights	11.17		.20		.05
Cement Masons	10.10				
Electricians:					
Electricians	10.40	.40	3% + .50		1/2%
Cable Splicers	11.44	.40	3% + .50		1/2%
Glaziers	8.14				
Laborers:					
Labors	4.35				
Mortar Mixers, Paving Breakers, Jack Hammer Operator Nozzleman (gunnite, sandblast and shetcrete)	4.60				
Lathers	9.96				.01
Painters:					
Brush	8.40				
Spray	8.90				
Tapers	8.65				
Plasterers	9.36				.01
Plumbers, Steamfitters	10.00	.55	.45	.43	.03
Sheet Metal Workers	9.97		.35	1.00	
Sprinkler Fitters	10.55	.75	1.05		.08
Welders: Receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise
DECISION NO.: TX79-4051
DATE: Date of Publication
Supersedes Decision No. TX78-4115, dated December 1, 1978, in 43 FR 56408.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes & garden type apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving Incidental to Building Construction in Tarrant Co. and for Paving & Utilities Incidental to Building Construction in remaining Cos.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.50	.76		.03
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS & STONEMASONS:					
ZONE 1 - Grayson County	10.10				
ZONE 2 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	10.88	.45	.50		.07
ZONE 3 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.	10.88	.45	.50		.04
CARPENTERS:					
ZONE 1 - Grayson County:					
Carpenters	10.43	.55	.40		.005
Millwrights	10.83	.55	.40		.005
Piledrivermen	10.93	.55	.40		.005
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
Carpenters	10.60	.55	.45		.07
Millwrights	11.50	.55			.07
CEMENT MASONS:					
ZONE 1 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.	9.645	.40	.60		
ZONE 2 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	9.485	.55	.60		.01
ELECTRICIANS:					
ZONE 1 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.:					
Electricians	11.13	.60	7%		7/10%
Cable splicers	11.38	.60	7%		7/10%
ZONE 2 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman & Rockwall Cos.:					
Electricians	11.03	.60	7%		1%
Cable splicers	12.13	.60	7%		1%
ELEVATOR CONSTRUCTORS:					
Mechanics	10.09	.895	.56	4%+a+b	.025
Helpers	70%JR	.895	.56	4%+a+b	.025
Helpers (Probationary)	50%JR				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	$ 9.59	.40	.55		.025
IRONWORKERS:					
ZONE 1 - Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto (excluding northwest corner), Rockwall, Tarrant & Wise (excluding northwest 1/2) Cos.	9.93	.55	1.15		.07
ZONE 2 - Palo Pinto (northwest corner) & Wise (northwest 1/2)	9.523	.55	1.00		.10
LABORERS:					
ZONE 1 - Grayson County:					
GROUP 1 - Unskilled laborers	6.42	.275	.30		
GROUP 2 - Air tool operator (jackhammer, vibrator), mason tenders & mortar mixers, pipelayers	6.67	.275	.30		
ZONE 2 - Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos.:					
GROUP 1	6.32	.275	.40		.02
GROUP 2	6.47	.275	.40		.02
GROUP 3	6.57	.275	.40		.02
GROUP 4	6.72	.275	.40		.02

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - All hand digging dirt work and backfilling; firing of salamanders, loading and unloading of materials to and from hoist or cages; loading and unloading of tools and equipment; wheeling, placing and pouring of concrete; all excavation; handling of lumber, steel, cement; distribution of all materials; flagging trucks; miscellaneous job clean-up; wrecking and razing of buildings and all structures; cleaning and clearing of all debris; handling of broken concrete or other damaged or undamaged materials; removing, moving, handling and greasing of forms, wrecking forms; storing materials to storage place; slip form jacks, scaffold buildiers, checking materials and tools in and out of receiving lots and sheds; tool house men; landscaper; asphalt ironer and raker; waterproofing tender; dumper; spotter; concrete pumpcrete pipe (handling and laying); carpenter tender

GROUP 2 - All power tool and equipment operators (gas, electric or air); cutting torch man; concrete grademan; power buggy operator; wagon drill operator, well driller, drilling rig tender; cement finisher tender; metal pan and steel form men; handling creosoted materials; liquid acids or like materials when injurious to health, eyes, skin or clothes; all newly developed equipment which replaces wheelbarrows or buggies previously used by laborers, scale man on batch plants; concrete flagman

GROUP 3 - Concrete & clay pipe (handling & laying); mason handler; scaffold builder; mason tender; hod carriers mortar mixers; lather tenders, plaster tenders; water pump operators up to 4 inches; cement mason tenders; mortar mixers; hod carriers; dry mixers; tank cleaning; all pipe doping, treating & wrapping, including all men working with dope, mortar & plaster mixing machines, grout machines; pump crete machines, gunite mixing machines, including placing & cleaning of pipe & conduits used in placing of concrete, handling & placing of gunite materials from stockpiles, screening sand, running sand dryer & loading & operating sand blaster, except nozzle, conveying, stocking & handling of all materials for brick masons, lathers, cement finishers, plasterers; ditch work over 6 ft. & cleaning out drill piers

GROUP 4 - Sand blaster, blaster powderman; Gunite worker; gunite worker; gunite nozzleman & terrazzo grinder

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$11.28				.04
LINE CONSTRUCTION:					
Linemen; Mlnemen operators	12.15		3%		1/2%
Cable splicers	13.37		3%		1/2%
Groundman, 1st 6 months	7.29		3%		1/2%
Groundman, 2nd 6 months	7.90		3%		1/2%
Groundman, 1 year & over	8.51		3%		1/2%
MARBLE, TILE & TERRAZZO WORKERS: Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	9.95		.30		
MARBLE & TILE FINISHERS: Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties	7.40				
PAINTERS:					
ZONE 1 - Collin, Dallas, Denton, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties:					
GROUP 1 - Brush	9.905	.45	.50		.07
GROUP 2 - All wall covering work; Paper, fabric, sheeting, flexwood, etc.	10.155	.45	.50		.07
GROUP 3 - Ames tools operator	10.03	.45	.50		.07
GROUP 4 - Structural steel, stage work, bosun chair, spray gun, sandblasting & window jacks, fire escapes	10.28	.45	.50		.07
ZONE 2 - Hood, Johnson, Palo Pinto, Tarrant & Wise Counties:					
GROUP 1	10.805		.20		.12
GROUP 2	11.055		.20		.12
GROUP 3	12.055		.20		.12

GROUP 1 - Brush

GROUP 2 - Spray; Wallcovering; Pressure roller; Sandblasting; Structural steel; Bosun Chair, Window jack & window sill; stage; fire escape; steel storage tanks; stilts; mittens; ames tools, drywall finishing

GROUP 3 - Steeple jack (radio and TV towers, smoke stacks, chimneys and water towers, and similar facilities and flag poles aton buildings located closer to the edge of the building than the height of the pole); Toxic material rate (creosote, coal tar products or similar materials injurious to the skin)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
ZONE 1 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	$ 9.44	.45		.50	.03
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.	10.41				.01
PLUMBERS & STEAMFITTERS	10.52	.43	1.00		.10
ROOFERS:					
ZONE 1 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman & Rockwall Counties:					
GROUP 1 - Slate & tile	9.435				
GROUP 2 - Composition and built-up roofing, dampproofing & bituminous waterproofing	9.285				
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.					
GROUP 1 - Slate, tile, asbestos roofing & siding	9.385				.05
GROUP 2 - Composition, built-up, damp & water proofing, kettlemen	9.235				.05
SHEET METAL WORKERS:					
ZONE 1 - Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Rockwall, Tarrant & Wise Cos.	10.71	.50	.66		.13
ZONE 2 - Palo Pinto Co.	10.88				.07
SOFT FLOOR LAYERS	9.84	.40	.40		.03
SPRINKLER FITTERS	11.60	.75	1.05		.08
TRUCK DRIVERS:					
ZONE 1 - Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Cos.	4.25				
ZONE 2 - Denton, Hood, Johnson, Palo Pinto, Tarrant & Wise Cos.	4.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 months - none; 6 months to 5 years - 2%; over 5 years - 4% of basic hourly rate
b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - Dallas County:					
GROUP 1	$ 8.015	.65	.90		
GROUP 2	9.63	.65	.90		
GROUP 3	10.03	.65	.90		

POWER EQUIPMENT OPERATORS (ZONE 1) CLASSIFICATION DEFINITIONS

GROUP 1 - Oilers

GROUP 2 - Air compressor, water pumps, welding machines (2 to 6 machines) & generators; Blade grader, towed; Flex plane; Form grader; Concrete mixer, less than 14 cu. ft.; Pulsometer; Wagon drill operator; Conveyor; Hoist, single drum; Scraper, 3 cu. yd. or less; Bob cat with loader; All other equipment of similar nature coming under the light equipment class, when power operated

GROUP 3 - Heavy duty mechanic; Asphalt mixer operator on job; Blade grader, self-propelled; Bull clam; Backfiller; Bulldozer & all cat type tractors; Backhoe; Concrete mixers, over 14 cu. ft.; Crusher operator on job; Concrete batch plant operator; Clam shell; Cranes (all types); Truck mounted or crawler requires oiler including groves (hydraulic) or similar type over 12½ ton capacity; Escalated rate on crane and derricks booms: .01c per hour, per foot over 90' including jib; draglines; derricks, power operated (all types); DW-10 caterpillar, 5-8 Euclid and similar tractors; Elevating grader, self-propelled; Foundation drilling machines (all); Forklifts, used in handling machinery on construction; Gradeall; Hoist, motor driven, 2 drums or more; Locomotive crane; Mixmobile; Paving mixers (all types); Pile drivers; Pumcrete machines; Pneumatic rollers, self-propelled; Shovels, power operated; Scrapers, over 3 cu. yds.; Scoopmobile; Trenching machine, all types; Winch trucks, when pole and winch is used; Water well drilling machines, used on construction; Well point pump; Welding machines (7 to 13 machines); All other equipment of similar nature coming under heavy equipment class, when power operated

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (CONT'D):					
ZONE 2 - Collin, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties:					
GROUP 1	$7.815	.65	1.00		.10
GROUP 2	9.43	.65	1.00		.10
GROUP 3	9.83	.65	1.00		.10

POWER EQUIPMENT OPERATORS (ZONE 2) CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman

GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants; Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor Including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; All other equipment of similar nature coming under the Light Equipment Classification, when power operated

GROUP 3 - Ford Tractor or like with any attachments (except blade and mower on rear)); Drilling Machines (all types); Scoopmobiles; Hoists, two drums or more; Forklifts (over 25 ft.); Winch Trucks; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic ft. or over; Blade Graders, self-propelled; Cableways; Cranes-power operated to 100 ft.; Derricks, power operated (all types); Gradall; Hy-Ho; Hop-Fo; Paving Mixers (all types); File Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Classification, when power operated

[FR Doc. 79-13339 Filed 5-3-79; 8:45 am]

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federal register

Friday
May 4, 1979

Part IV

Department of Justice

U.S. Parole Commission

Paroling, Recommitting and Supervising Federal Prisoners

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DEPARTMENT OF JUSTICE

U.S. Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final rules.

SUMMARY: The Commission has adopted a number of substantive revisions to its Paroling Policy Guidelines. These revisions include revisions of the offense severity table, time ranges, and policy statements. In addition, the Commission has expanded the coverage of its Youth Guidelines to include any prisoner under the age of 22 at the time of his offense, and has made certain revisions in the guidelines that govern decisions to re-parole after parole has been granted and revoked. In general these changes reflect a decrease in expected terms of incarceration and constitute an explicit statement of the Parole Commission's views regarding the use of imprisonment as a criminal sanction.

EFFECTIVE DATE: June 4, 1979 (see section entitled Implementation).

FOR FURTHER INFORMATION CONTACT: Barbara Meierhoefer, Research Unit, United States Parole Commission, 320 First Street, NW., Washington, D.C. 20537 Tel: (202) 724–3095.

SUPPLEMENTARY INFORMATION:

The Proposal and its Purpose

On October 11, 1978, the U.S. Parole Commission published in the **Federal Register** (43 FR 46859) a proposal to revise the offense severity table and policy instructions contained in the Commission's Paroling Policy Guidelines at 28 CFR 2.20. As a supplement to this proposal, the Commission also published a proposed rule on December 4, 1978 (43 FR 56681) under which all prisoners under 22 years of age at the time of conviction would be considered under the Youth Guidelines regardless of the type of sentence imposed.

Though the initial proposal related specifically to revising the definitions and relative severity rankings of the offense examples at § 2.20, it was recognized that this extremely complex area would, of necessity, bring up collateral issues. Therefore, the proposal allowed for an extended period of public comment, and expressly solicited views on any aspect of the offense severity table or the guidelines themselves.

The purpose of the proposal was threefold. First, it was in attempt to clarify some of the abiguities inherent in the existing severity table. There were offense behavior examples which needed to be added to the table because the Commission was encountering such cases more frequently than before.

Second, there were certain listed offenses which needed to be defined more specifically. These modifications reflected a clarification of existing Commission policy.

Third, there were modifications that represented an actual change of Commission policy. In response to continuing feedback from both Commission personnel and others, certain offense behaviors were moved from one severity category to another for the reason that the behavior in question was considered to be either more or less serious than the other offenses with which it was grouped. In some instances, an offense behavior example was simply transferred to a new category. In other cases, an already existing example was divided into two examples to distinguish certain aggravating or mitigating circumstances, with these more specific, newly defined examples then placed in different severity categories.

Public Comment

To insure a broad range of public comment, the Commission, in addition to the usual publication and posting of the proposal, sent copies of the proposal to a mailing list composed of over 1,000 interested persons, and also announced its intention to hold public hearings. A series of hearings were conducted by the Commission in Atlanta, Georgia (December 4 & 5, 1978), Denver, Colorado (December 7 & 8, 1978) and Washington, D.C. (December 14–16, 1978). Included were hearings conducted at the Bureau of Prisons' Atlanta and Englewood facilities. Testimony was received from 69 witnesses, generating over 3,000 pages of transcript. Those giving their views included federal inmates, defense and prosecution attorneys, representatives from the judiciary, enforcement agencies, the Bureau of Prisons, the Probation Service, and state correctional systems, and scholars in the field.

In addition to the hearings, the Commission received 52 letters from members of the public representing the same range of interests.

As the providers of the comment came from a variety of backgrounds, their viewpoints were likewise varied. A 36 page summary of all comments received is available in the Commission's Public Reading Room and through the contact person noted above.

Five of the most common subjects of concern, which are addressed by this final rule, were: (1) The appropriateness of the ranking and/or division of offense behavior examples, particularly drug offenses; (2) the necessity to reexamine the reparole guidelines; (3) the appropriateness of the time ranges for both parole and reparole guidelines; (4) the treatment of youthful offenders; and (5) the salient factor score. Some of the information received was used in the following revisions and additions to the proposal. Other information is being considered for inclusion in the examples of aggravating and mitigating offense circumstances in the Commission's Guideline Application Manual.

Changes from the Proposal

1. *Property Offenses*—(a) The ceiling for low and low moderate severity property offenses has been raised from $1,000 to $2,000 in response to public comment pointing out the effects of inflation.

(b) A minimum rating of moderate severity has been established for automobile thefts involving three or fewer cars, and a minimum rating of high severity for automobile thefts involving more than three cars. An exception (low severity rating) is provided for car thefts where there was no damage, the car was kept for a short duration, and the theft was not for resale. On the basis of testimony received regarding current prosecutorial practices, the Commission expects to see these latter cases primarily on parole violation.

2. *Counterfeiting Offenses*—(a) The ceiling for low and low moderate severity counterfeiting offenses has likewise been raised from $1,000 to $2,000.

(b) The table now specifies that these offenses refer to the counterfeiting of both currency and other media of exchange.

3. *Breaking and Entering*—(a) The specific listing for "bank or post office" has been deleted. Breaking and entering of these establishments will now be treated the same as other commercial establishments. [See footnote #(2)].

(b) Breaking and entering/burglary—residence (unoccupied) has been deleted from the high severity category. Comment expressed disapproval of the distinction in severity on the basis of whether or not the residence was occupied. There was a feeling that this condition was largely a matter of chance. Any invasion of an inhabited residence (whether or not the owner

was actually present) was felt to be a very high severity offense because of its implied disregard of the possibility that some occupant might be present or might soon return.

4. *Gambling Law Violations*—(a) In response to comment received from prosecutors, gambling offenses in which the offender had no proprietary or managerial interest were placed in the low severity category.

(b) In the examples used to define small, medium and large scale gambling operations, it was pointed out during the hearings that different types of gambling operations have different levels of profitability. Therefore, the "daily gross" levels for different types of gambling offenses have been varied within each severity category. The profitability of the operation was calculated on the following approximations: Sports books: 5% of gross wagers accepted; Horse books: 20% of gross wagers accepted; and Numbers bankers: 40% of gross wagers accepted. It is to be noted that these "daily gross" dollar figures are only examples to help the Commission determine the scale of the operation (i.e., small, medium or large scale).

(c) Small, medium and large scale gambling operations were each lowered one category in severity from the proposal.

5. *Violent Crimes*—No change has been made from the proposal.

6. *Extortion, Threatening Communictions, and Robberies by Threat*—(a) Threatening communications (e.g., mail/phone)—not for purposes of extortion and no other overt act, was raised from the moderate to the high severity category.

(b) One or two instances of robbery are now included in the very high category and three or four instances are listed in the Greatest I category.

7. *Bribery*—(a) In response to extensive comment from a variety of sources, the footnote dealing with bribery was altered somewhat to make it clear that the Commission does not consider this offense to be merely equivalent with other property offenses. Bribery offenses are tied to the value of the bribe or favor only to insure that it is never treated as *less* serious than a property offense. The aggravating feature of breach of the public trust is made explicit.

8. *Drug Law Violations*—(a) These offense behaviors received more comment than any other. The bulk of the comment indicated that the proposed time to be served for small sales of non-opiates were still too long. These offenses have been further broken down to differentiate between very small/small/medium/and large scale offenders.

(b) An offense example to cover the opiate addict selling very small quantities of opiates has been added to the moderate severity category.

(c) In response to comments that the Commission was not dealing adequately with the organizational role that the offender may have played in drug offenses, the Commission added a condition of "proprietary or managerial interest" (in addition to the large scale nature of the offense) for an offense to be placed in the Greatest I category.

(d) The Commission has done away with the label "soft drugs", and substituted "drugs, other than specifically categorized".

(e) It is to be noted that the "weight/purity/dosage" figures are only examples to help the Commission determine the seriousness of the crime, a determination that may ultimately depend on other relevant factors.

9. *Alcohol Law Violations*—(a) Testimony received indicated the necessity of adding "cigarette law violations" (e.g., evaded tax or interstate transportation) to this category, and to make it clear that if the violation involved tax evasion, the offense was then to be rated under the appropriate property offense category.

10. *Possession and Transportation of Explosives*—No change has been made from the proposal.

11. *Obstruction of Justice*—(a) Numerous comments indicated that this term actually covered a number of different criminal acts, some of which are more serious than others. Thus, the category was differentiated into: (1) obstructing justice or perjury; (2) misprision of felony and (3) harboring a fugitive.

(b) It was felt that obstructing justice; and perjury constitute such a deliberate assault upon the machinery of justice that the offender assumes the equivalent culpability of the person who committed the underlying offense, and should be rated accordingly.

(c) The offense behaviors of misprision and harboring were divided into the low and moderate severity categories according to the severity of the underlying offense.

12. *Selective Service Act Violators*—No change has been made from the proposal.

13. Escape offenses were deleted from the offense table because they are now included in the Commission's new rescission guidelines.

14. In addition to these substantive changes, certain editorial revisions were also made. For example, the marihuana and hashish offense categories were combined, the footnotes have been rearranged to increase readability, and certain redundant definitional phrases were deleted.

15. The December proposal pertaining to offenders under 22 years of age being considered under the youth guidelines was added to the rules as part of § 2.20(h) rather than as a footnote. Also, the wording was changed to indicate that the age at the time of the offense was controlling for these purposes rather than the age at the time of conviction. This change was made to conform to the treatment of age in other portions of our regulations.

ADDITIONS TO THE PROPOSAL

1. *Other changes in the offense severity table at § 2.20 were as follows*—(a) The offense of Carnal Knowledge has been added to the severity table as follows:

High

Carnal Knowledge

NOTE.—Except that carnal knowledge in which the relationship is clearly voluntary, the victim is not less than 14 years old, and the age difference between offender and victim is less than four years shall be rated as a low severity offense.

(b) The offense of Mann Act—force (now listed in the very high severity category) has been raised to the Greatest I category as follows:

Greatest I

Sex Act—force [e.g., forcible rape or Mann Act [use of force]]

2. *Modification of the Reparole Guidelines [§ 2.21]*—(a) The customary term for administrative violations has been reduced to conform to the general reduction in customary terms for low severity offenses (see below).

(b) The employment/school record criterion for distinguishing between positive and negative supervision history has been eliminated because, in practice, these were rarely cited as reasons for classifying a releasee as having "negative history".

(c) The Commission will now recalculate the salient factor score in revocation cases involving new criminal conduct rather than automatically applying the "poor" risk category for determining the appropriate guideline range. A number of those commenting felt that the reparole guidelines were too harsh and that there remained "risk" differences between violators which should be taken into account. Reanalysis of the revised April 1, 1977 Salient Factor Score gives support to this suggestion. Since each parole violator would lose at least three points

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(Items A, B, E) on the salient factor score, total scores could fall into the poor, fair, or good risk categories only.

(d) It is specified that the original *guideline* type (rather than sentence type) is controlling in the determination of the applicable reparole guidelines, except that a parole violator who has been committed with a new federal sentence in excess of one year shall be considered under the guideline type applicable to the new sentence.

(e) If a change in Commission policy concerning applicable guideline type results in a more favorable guideline range than the original guideline type, the more favorable guideline range will apply to the violator term.

3. *Parole Guideline Time Ranges [§ 2.20].*—(a) The Commission received a great deal of comment suggesting modification of the time ranges, particularly for the two lowest offense severity categories, the two highest severity categories, and for the very good risk prognosis categories. In response, the Commission has adjusted these ranges slightly, with the result likely to be less time served in prison for those offenders.

4. *Treatment of Youthful Offenders [§ 2.20(h)].*—(a) The comment indicated that there was some concern over the treatment of extremely youthful offenders. The Commission has specified that the factor of extreme youthfulness (i.e., less than 18 years old) shall be considered a mitigating factor in setting the release date. It is noted that the Commission sees very few of these cases.

5. *Salient Factor Score.*—Though there have been numerous suggestions regarding the salient factor score—particularly the "employment" item—it is felt that it would be premature to revise the score at this time. There are currently two studies (one in-house and one external) to evaluate the salient factor score, and the Commission will await the results of these studies before assessing revision of the salient factor score.

However, there have been minor modifications to the score sheet which serve to clarify Commission policy. Item C was modified to read "Age at behavior leading to First Commitment", and a note was added regarding the Commission's policy on counting findings of guilt which do not result in actual convictions under Item A. In addition, the wording on Item B was changed from "incarcerations" to "commitments" to conform to the wording on the other items on the scale. None of these changes represent a departure from prior Commission policy.

Implementation

1. These guidelines will be applied to all prisoners sentenced on or after June 4, 1979; and to all prisoners sentenced prior to June 4, 1979 who receive their initial parole hearing on or after June 4, 1979.

2. If these guideline revisions result in a guideline range *more favorable* to a prisoner who has already had a parole hearing, such prisoner shall have the guideline range recalculated at his or her next regularly scheduled hearing, and his or her case reconsidered pursuant to the revised guideline range.

3. Workload considerations prohibit the Commission from reviewing every case prior to the next regularly scheduled parole consideration. However, the following procedures have been established whereby certain prisoners who are favorably affected may apply for a special record review.

(a) Restrictions: A record review will *not* be conducted in the following cases:

1. Prisoners with effective parole dates;

2. Prisoners with regularly scheduled parole hearings prior to December 1, 1979;

3. Prisoners with a mandatory release date prior to December 1, 1979;

4. Prisoners with a presumptive parole date prior to December 1, 1979; or

5. Prisoners whose newly calculated guideline range does not have either a minimum or maximum limit at least six months more favorable than the previously calculated guideline range.

(b) The following procedures will be employed for special record reviews:

1. The prisoner must apply for a special record review on the forms to be provided the institution. Applications will be accepted beginning July 15, 1979.

2. A regional examiner panel will first determine whether or not the applicant is eligible for a special record review.

3. If the case is found not eligible due to the above restrictions, the prisoner will be sent a rejection. This, of course does not preclude calculation and consideration under the new guidelines at the next regularly scheduled parole consideration.

4. If the case is found eligible, a new decision will be entered, provided that any decision which is above the recalculated guidelines shall be referred to the National Commissioners under the procedures of § 2.24(a).

5. As these reviews are considered in the nature of a "reopen", a finding of noneligibility will not be appealable.

Conclusion

Accordingly, pursuant to the provisions of 18 U.S.C. 4203 (a)(1) and 4204 (a)(6), 28 CFR Chapter I, Part 2, is amended as set forth below to become effective in the manner described above.

Dated: April 27, 1979.

Cecil C. McCall,
Chairman, U.S. Parole Commission.

Sections 2.20 and 2.21 are revised to read as follows:

§ 2.20 Paroling policy guidelines; statement of general policy.

(a) To establish a national paroling policy, promote a more consistent exercise of discretion, and enable fairer and more equitable decision-making without removing individual case consideration, the United States Parole Commission has adopted guidelines for parole release consideration.

(b) These guidelines indicate the customary range of time to be served before release for various combinations of offense (severity) and offender (parole prognosis) characteristics. The time ranges specified by the guidelines are established specifically for cases with good institutional adjustment and program progress.

(c) These time ranges are merely guidelines. Where the circumstances warrant, decisions outside of the guidelines (either above or below) may be rendered.

(d) The guidelines contain examples of offense behaviors for each severity level. However, especially mitigating or aggravating circumstances in a particular case may justify a decision or a severity rating different from that listed.

(e) An evaluation sheet containing a "salient factor score" serves as an aid in determining the parole prognosis (potential risk of parole violation). However, where circumstances warrant, clinical evaluation of risk may override this predictive aid.

(f) Guidelines for reparole consideration are set forth at § 2.21.

(g) The Commission shall review the guidelines, including the salient factor score, periodically and may revise or modify them at any time as deemed appropriate.

(h)(1) The Adult Guidelines shall apply to all offenders except as specified in paragraph (h)(2) of this section.

(2) The Youth/NARA Guidelines will apply to any offender sentenced under the Youth Corrections Act, the Narcotic Rehabilitation Act, or the Juvenile Justice Act, and to any other offender who was less than 22 years of age at the time the current offense was committed, regardless of sentence type. If an offender was less than 18 years of age at the time of the current offense, such youthfulness shall, in itself, be considered as a mitigating factor.

ADULT GUIDELINES FOR PAROLE DECISIONMAKING

Offense characteristics-severity of offense behavior (examples)	Offender characteristics-parole prognosis (salient factor score)			
	Very good (11–9)	Good (8–6)	Fair (5–4)	Poor (3–0)
Low				
Alcohol or cigarette law violations, including tax evasion (amount of tax evaded less than $2,000)[1].				
Gambling law violations (no managerial or proprietary interest).				
Illicit drugs, simple possession.				
Marihuana/hashish, possession with intent to distribute/sale [very small scale (e.g., less than 10 lbs. of marihuana/less than 1 lb. of hashish/less than .01 liter of hash oil)].	≤6 mo	6 to 9 mo	9 to 12 mo	12 to 16 mo.
Property offenses (theft, income tax evasion, or simple possession of stolen property) less than $2,000.				
Low Moderate				
Counterfeit currency or other medium of exchange [(passing/possession) less than $2,000].				
Drugs (other than specifically categorized), possession with intent to distribute/sale [very small scale (e.g., less than 200 doses)].				
Marihuana/hashish, possession with intent to distribute/sale [small scale (e.g., 10–49 lbs. of marihuana/1–4.9 lbs. hashish/.01–04 liters of hash oil)].				
Cocaine, possession with intent to distribute/sale [very small scale (e.g., less than 1 gram of 100% purity, or equivalent amount)].	≤8 mo	8 to 12 mo	12 to 16 mo	16 to 22 mo.
Gambling law violations—managerial or proprietary interest in small scale operation [e.g., Sports books (estimated daily gross less than $5,000; Horse books (estimated daily gross less than $1,500); Numbers bankers (estimated daily gross less than $750)].				
Immigration law violations.				
Property offenses (forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell) less than $2,000.				
Moderate				
Automobile theft (3 cars or less involved and total value does not exceed $19,999)[2].				
Counterfeit currency or other medium of exchange [(passing/possession) $2,000–$19,999].				
Drugs (other than specifically categorized), possession with intent to distribute/sale [small scale (e.g., 200–999 doses)].				
Marihuana/hashish, possession with intent to distribute/sale [medium scale (e.g., 50–199 lbs. of marihuana/5–19.9 lbs. of hashish/.05–19 liters of hash oil)].				
Cocaine, possession with intent to distribute/sale [small scale (e.g., 1.0–4.9 grams of 100% purity, or equivalent amount)].				
Opiates, possession with intent to distribute/sale [evidence of opiate addiction and very small scale (e.g., less than 1.0 grams of 100% pure heroin, or equivalent amount)].	10 to 14 mo	14 to 18 mo	18 to 24 mo	24 to 32 mo.
Firearms Act, possession/purchase/sale (single weapon: not sawed-off shotgun or machine gun).				
Gambling law violations—managerial or proprietary interest in medium scale operation [e.g., Sports books (estimated daily gross $5,000–$15,000); Horse books (estimated daily gross $1,500–$4,000); Numbers bankers (estimated daily gross $750–$2,000)].				
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) $2,000–$19,999.				
Smuggling/transporting of alien(s).				

ADULT GUIDELINES FOR PAROLE DECISIONMAKING—Continued

Offense characteristics-severity of offense behavior (examples)	Offender characteristics-parole prognosis (salient factor score) Very good (11–9)	Good (8–6)	Fair (5–4)	Poor (3–0)
High				
Carnal knowledge [6] Counterfeit currency or other medium of exchange [(passing/possession) $20,000–$100,000]. Counterfeiting [manufacturing (amount of counterfeit currency or other medium of exchange involved not exceeding $100,000)]. Drugs (other than specifically listed), possession with intent to distribute/sale [medium scale (e.g., 1,000–19,999 doses)]. Marihuana/hashish, possession with intent to distribute/sale [large scale (e.g., 200–1,999 lbs. of marihuana/20–199 lbs. of hashish/.20–1.99 liters of hash oil)]. Cocaine, possession with intent to distribute/sale [medium scale (e.g., 5–99 grams of 100% purity, or equivalent amount)]. Opiates, possession with intent to distribute/sale [small scale (e.g., less than 5 grams of 100% pure heroin, or equivalent amount) except as described in moderate]. Firearms Act, possession/purchase/sale (sawed-off shotgun(s), machine gun(s), or multiple weapons). Gambling law violations—managerial or proprietary interest in large scale operation [e.g., Sports books (estimated daily gross more than $15,000); Horse books (estimated daily gross more than $4,000); Numbers bankers (estimated daily gross more than $2,000)]. Involuntary manslaughter (e.g., negligent homicide). Mann Act (no force—commercial purposes). Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) $20,000–$100,000. Threatening communications (e.g., mail/phone)—not for purposes of extortion and no other overt act.	14 to 20 mo...	20 to 26 mo...	26 to 34 mo...	34 to 44 mo.
Very High				
Robbery—(1 or 2 instances). Breaking and entering—armory with intent to steal weapons. Breaking and entering/burglary—residence; or breaking and entering of other premises with hostile confrontation with victim. Counterfeit currency or other medium of exchange [(passing/possession)—more than $100,000 but not exceeding $500,000. Drugs (other than specifically listed), possession with intent to distribute/sale [large scale (e.g., 20,000 or more doses) except as described in Greatest I]. Marihuana/hashish, possession with intent to distribute/sale [very large scale (e.g., 2,000 lbs. or more of marihuana/200 lbs. or more of hashish/2 liters or more of hash oil)]. Cocaine, possession with intent to distribute/sale [large scale (e.g., 100 grams or more of 100% purity, or equivalent amount) except as described in Greatest I]. Opiates, possession with intent to distribute/sale [medium scale or more (e.g., 5 grams or more of 100% pure heroin, or equivalent amount) except as described in Greatest I]. Extortion [threat of physical harm (to person or property)]. Explosives, possession/transportation. Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) more than $100,000 but not exceeding $500,000.	24 to 36 mo...	36 to 48 mo...	48 to 60 mo...	60 to 72 mo.
Greatest I				
Aggravated felony (e.g., robbery: weapon fired or injury of a type normally requiring medical attention). Arson or explosive detonation [involving potential risk of physical injury to person(s) (e.g., premises occupied or likely to be occupied)—no serious injury occurred]. Drugs (other than specifically listed), possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 200,000 doses)]. Cocaine, possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 1 kilogram of 100% purity, or equivalent amount)]. Opiates, possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 50 grams of 100% pure heroin, or equivalent amount)]. Kidnaping [other than listed in Greatest II; limited duration; and no harm to victim (e.g., kidnaping the driver of a truck during a hijacking, driving him to a secluded location, and releasing victim unharmed)]. Robbery (3 or 4 instances). Sex act—force [e.g., forcible rape or Mann Act (force)]. Voluntary manslaughter (unlawful killing of a human being without malice; sudden quarrel or heat of passion).	40 to 52 mo...	52 to 64 mo...	64 to 78 mo...	78 to 100 mo.

ADULT GUIDELINES FOR PAROLE DECISIONMAKING—Continued

Offense characteristics-severity of offense behavior (examples)	Offender characteristics-parole prognosis (salient factor score) Very good (11–9)	Good (8–6)	Fair (5–4)	Poor (3–0)
Greatest II				
Murder: Aggravated felony—serious injury (e.g., robbery: injury involving substantial risk of death, or protracted disability, or disfigurement) or extreme cruelty/brutality toward victim. Aircraft hijacking. Espionage. Kidnaping (for ransom or terrorism; as hostage; or harm to victim) Treason.	52+ mo	64+ mo	78+ mo	100+ mo. Specific upper limits are not provided due to the limited number of cases and the extreme variation possible within category.

YOUTH/NARA GUIDELINES FOR DECISIONMAKING

Low				
Alcohol or cigarette law violations, including tax evasion (amount of tax evaded less than $2,000) [1] Gambling law violations (no managerial or proprietary interest). Illicit drugs, simple possession. Marihuana/hashish, possession with intent to distribute/sale [very small scale (e.g., less than 10 lbs. of marihuana/less than 1 lb. of hashish/less than .01 liter of hash oil)]. Property offenses (theft, income tax evasion, or simple possession of stolen property) less than $2,000.	≤ 6 mo	6 to 9 mo	9 to 12 mo	12 to 16 mo.
Low Moderate				
Counterfeit currency or other medium of exchange [(passing/possession) less than $2,000]. Drugs (other than specifically categorized), possession with intent to distribute/sale [very small scale (e.g., less than 200 doses)]. Marihuana/hashish, possession with intent to distribute/sale [small scale (e.g., 10–49 lbs. of marihuana/1–4.9 lbs. hashish/.01–.04 liters of hash oil)]. Cocaine, possession with intent to distribute/sale [very small scale (e.g., less than 1 gram of 100% purity, or equivalent amount)]. Gambling law violations—managerial or proprietary interest in small scale operation [e.g., Sports books (estimated daily gross less than $5,000; Horse books (estimated daily gross less than $1,500); Numbers bankers (estimated daily gross less than $750)]. Immigration law violations. Property offenses (forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell) less than $2,000.	≤ 8 mo	8 to 12 mo	12 to 16 mo...	16 to 20 mo.
Moderate				
Automobile theft (3 cars or less involved and total value does not exceed $19,999) [22]. Counterfeit currency or other medium of exchange [(passing/possession) $2,000–$19,999]. Drugs (other than specifically categorized), possession with intent to distribute/sale [small scale (e.g., 200–999 doses)]. Marihuana/hashish, possession with intent to distribute/sale [medium scale (e.g., 50–199 lbs. of marihuana/5–19.9 lbs. of hashish/.05–.19 liters of hash oil)]. Cocaine, possession with intent to distribute/sale [small scale (e.g., 1.0–4.9 grams of 100% purity, or equivalent amount)]. Opiates, possession with intent to distribute/sale [evidence of opiate addiction and very small scale (e.g., less than 1.0 grams of 100% pure heroin, or equivalent amount)]. Firearms Act, possession/purchase/sale (single weapon: not sawed-off shotgun or machine gun). Gambling law violations—managerial or proprietary interest in medium scale operation [e.g., Sports books (estimated daily gross $5,000–$15,000); Horse books (estimated daily gross $1,500–$4,000); Numbers bankers (estimated daily gross $750–$2,000)]. Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) $2,000–$19,999. Smuggling/transporting of alien(s).	8 to 12 mo	12 to 16 mo...	16 to 20 mo...	20 to 26 mo.

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YOUTH/NARA GUIDELINES FOR DECISIONMAKING—Continued

Offense characteristics-severity of offense behavior (examples)	Offender characteristics-parole prognosis (salient factor score)			
	Very good (11–9)	Good (8–6)	Fair (5–4)	Poor (3–0)
High				
Carnal Knowledge[3]				
Counterfeit currency or other medium of exchange [(passing/possession) $20,000–$100,000].				
Counterfeiting [manufacturing (amount of counterfeit currency or other medium of exchange involved not exceeding $100,000)].				
Drugs (other than specifically listed), possession with intent to distribute/sale [medium scale (e.g., 1,000–19,999 doses)].				
Marihuana/hashish, possession with intent to distribute/sale [large scale (e.g., 200–1,999 lbs. of marihuana/20–199 lbs. of hashish/.20–1.99 liters of hash oil)].				
Cocaine, possession with intent to distribute/sale [medium scale (e.g., 5–99 grams of 100% purity, or equivalent amount)].				
Opiates, possession with intent to distribute/sale [small scale (e.g., less than 5 grams of 100% pure heroin, or equivalent amount) except as described in moderate].	12 to 16 mo...	16 to 20 mo...	20 to 26 mo...	26 to 32 mo.
Firearms Act, possession/purchase/sale (sawed-off shotgun(s), machine gun(s), or multiple weapons).				
Gambling law violations—managerial or proprietary interest in large scale operation [e.g., Sports books (estimated daily gross more than $15,000); Horse books (estimated daily gross more than $4,000); Number bankers (estimated daily gross more than $2,000)].				
Involuntary manslaughter (e.g., negligent homicide)				
Mann Act (no force-commercial purposes)				
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) $20,000–$100,000.				
Threatening communications (e.g., mail/phone)—not for purposes of extortion and no other overt act.				
Very High				
Robbery—1 or 2 instances				
Breaking and entering—armory with intent to steal weapons				
Breaking and entering/burglary—residence; or breaking and entering of other premises with hostile confrontation with victim.				
Counterfeit currency or other medium of exchange [(passing/possession)—more than $100,000 but not exceeding $500,000] [Drugs (other than specifically listed), possession with intent to distribute/sale [large scale (e.g., 20,000 or more doses) except as described in Greatest I].				
Marihuana/hashish, possession with intent to distribute/sale [very large scale (e.g., 2,000 lbs. or more of marihuana/200 lbs. or more of hashish/2 liters or more of hash oil)].	20 to 26 mo...	26 to 32 mo...	32 to 40 mo...	40 to 48 mo.
Cocaine, possession with intent to distribute/sale [large scale (e.g., 100 grams or more of 100% purity, or equivalent amount) except as described in Greatest I].				
Opiates, possession with intent to distribute/sale [medium scale or more (e.g., 5 grams or more of 100% pure heroin, or equivalent amount) except as described in Greatest I].				
Extortion [threat of physical harm (to person or property)]				
Explosives, possession/transportation				
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) more than $100,000 but not exceeding $500,000.				
Greatest I				
Aggravated felony (e.g., robbery: weapon fired or injury of a type normally requiring medical attention).				
Arson or explosive detonation [involving potential risk of physical injury to person(s) (e.g., premises occupied or likely to be occupied)—no serious injury occurred].				
Drugs (other than specifically listed), possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving over 200,000 doses)].				
Cocaine, possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 1 kilogram of 100% purity, or equivalent amount)].				
Opiates, possession with intent to distribute/sale [managerial or proprietary interest and very large scale (e.g., offense involving more than 50 grams of 100% pure heroin, or equivalent amount)].	30 to 40 mo...	40 to 50 mo...	50 to 60 mo...	60 to 76 mo.
Kidnaping [other than listed in Greatest II; limited duration; and no harm to victim (e.g., kidnaping the driver of a truck during a hijacking, driving him to a secluded location, and releasing victim unharmed)].				
Robbery (3 or 4 instances)				
Sex act—force [e.g., forcible rape or Mann Act (force)]				
Voluntary manslaughter (unlawful killing of a human being without malice; sudden quarrel or heat of passion).				

YOUTH/NARA GUIDELINES FOR DECISIONMAKING—Continued

Offense characteristics-severity of offense behavior (examples)	Offender characteristics-parole prognosis (salient factor score)			
	Very good (11–9)	Good (8–6)	Fair (5–4)	Poor (3–0)
Greatest II				
Murder:				
Aggravated felony—serious injury (e.g., robbery: injury involving substantial risk of death, or protracted disability, or disfigurement) or extreme cruelty/brutality toward victim.	40+ mo.....	50+ mo.....	60+ mo.....	76+ mo.
Aircraft hijacking	Specific upper limits are not provided due to the limited number of cases and the extreme variation possible within category.			
Espionage				
Kidnaping (for ransom or terrorism; as hostage; or harm to victim)				
Treason				

[1] Alcohol or cigarette tax law violations involving $2,000 or more of evaded tax shall be treated as a property offense (tax evasion).

[2] Except that automobile theft (not kept more than 72 hours; no substantial damage; and not theft for resale) shall be rated as low severity. Automobile theft involving a value of more than $19,999 shall be treated as a property offense. In addition, automobile theft involving more than 3 cars, regardless of value, shall be treated as no less than high severity.

[3] Except that carnal knowledge in which the relationship is clearly voluntary, the victim is not less than 14 years old, and the age difference between offender and victim is less than four years shall be rated as a low severity offense.

General Notes

A. These guidelines are predicated upon good institutional conduct and program performance.

B. If an offense behavior is not listed above, the proper category may be obtained by comparing the severity of the offense behavior with those of similar offense behaviors listed.

C. If an offense behavior can be classified under more than one category, the most serious applicable category is to be used.

D. If an offense behavior involved multiple separate offenses, the severity level may be increased.

Other Offenses

(1) Conspiracy shall be rated for guideline purposes according to the underlying offense behavior if such behavior was consummated. If the offense is unconsummated, the conspiracy will be rated one step below the consummated offense. A consummated offense includes one in which the offender is prevented from completion only because of the intervention of law enforcement officials.

(2) Breaking and entering not specifically listed above shall normally be treated as a low moderate severity offense; however, if the monetary loss amounts to $2,000 or more, the applicable property offense category shall be used. Similarly, if the monetary loss involved in a burglary or breaking and entering (that is listed) constitutes a more serious property offense than the burglary or breaking and entering itself, the appropriate property offense category shall be used.

(3) Manufacturing of synthetic drugs for sale shall be rated as not less than very high severity.

(4) Bribery of a public official (offering/accepting/soliciting) or extortion (use of official position) shall be rated as no less than moderate severity for those instances limited in scope (e.g., single instance and amount of bribe/demand less than $20,000 in value); and shall be rated as no less than high severity in any other case. In the case of a bribe/demand with a value in excess of $100,000, the applicable property offense category shall apply. The extent to which the criminal conduct involves a breach of the public trust, therefore causing injury beyond that describable by monetary gain, shall be considered as an aggravating factor.

(5) Obstructing justice (no physical threat)/perjury (in a criminal proceeding) shall be rated in the category of the underlying offense concerned, except that obstructing justice (threat of physical harm) shall be rated as no less than very high severity.

(6) Misprision of felony shall be rated as moderate severity if the underlying offense is high severity or above. If the underlying offense is moderate severity or less, it shall be rated as low severity.

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(7) Harboring a fugitive shall be rated as moderate severity if the underlying offense is high severity or above. If the underlying offense is moderate severity or less, it shall be rated as low severity.

Definitions

a. "Other media of exchange" include, but are not limited to, postage stamps, money orders, or coupons redeemable for cash or goods.

b. "Drugs, other than specifically categorized" include, but are not limited to, the following, listed in ascending order of their perceived severity: amphetamines, hallucinogens, barbiturates, methamphetamines, phencyclidine (PCP). This ordering shall be used as a guide to decision placement within the applicable guideline range (i.e., other aspects being equal, amphetamines will normally be rated toward the bottom of the guideline range and PCP will normally be rated toward the top).

c. "Equivalent amounts" for the cocaine and opiate categories may be computed as follows: 1 gm. of 100% pure is equivalent to 2 gms. of 50% pure and 10 gms. of 10% pure, etc.

d. The "opiate" category includes heroin, morphine, opiate derivatives, and synthethic opiate substitutes.

Salient Factor Score

Register Number.....

Name.....

Item A.....☐
- No prior convictions (adult or juvenile) = 3
- One prior conviction = 2
- Two or three prior convictions = 1
- Four or more prior convictions = 0

Item B.....☐
- No prior commitments (adult or juvenile) = 2
- One or two prior commitments = 1
- Three or more prior commitments = 0

Item C.....☐
- Age at behavior leading to first commitment (adult or juvenile):
  - 26 or older = 2
  - 18–25 = 1
  - 17 or younger = 0

Item D.....☐
- Commitment offense did not involve auto theft or check(s) (forgery/larcency) = 1
- Commitment offense involved auto theft [X], or check(s) [Y], or both [Z] = 0

Item E.....☐
- Never had parole revoked or been committed for a new offense while on parole, and not a probation violator this time = 1
- Has had parole revoked or been committed for a new offense while on parole [X], or is a probation violator this time [Y], or both [Z] = 0

Item F.....☐
- No history of heroin or opiate dependence = 1
- Otherwise = 0

Item G.....☐
- Verified employment (or full-time school attendance) for a total of at least 6 months during the last 2 years in the community = 1
- Otherwise = 0

Total Score.....☐

NOTE: For purposes of the Salient Factor Score, an instance of criminal behavior resulting in a judicial determination of guilt or an admission of guilt before a judicial body shall be treated as if a conviction, even if a conviction is not formally entered.

§ 2.21 Reparole consideration guidelines.

(a) If revocation is based upon administrative violations only [i.e., violations other than new criminal conduct] the following guidelines shall apply.

Positive Supervision History (Examples)	*Customary Time To Be Served Before Rerelease*
a. No serious alcohol/drug abuse and no possession of weapon(s) [and].	6 months.
b. At least 6 months from date of release to date of violation behavior [and].	Do.
c. Present violation represents first instance of failure to comply with parole regulations of this term.	Do.
Negative Supervision History (Examples)	
a. Serious alcohol/drug abuse (e.g., readdiction to opiates) or possession of weapon(s) [or].	6–9 months.
b. Less than 6 months from date of release to date of violation behavior [or].	Do.
c. Repetitious or persistent violations	Do.

(b)(1) If a finding is made that the prisoner has engaged in behavior constituting new criminal conduct, the appropriate severity rating for the new criminal behavior shall be calculated. New criminal conduct may be determined either by a new federal, state, or local conviction or by an independent finding by the Commission at revocation hearing. As violations may be for state or local offenses, the appropriate severity level may be determined by analogy with listed federal offense behaviors.

(2) The guidelines for parole consideration specified at 28 CFR 2.20 shall then be applied. The original guideline type [e.g., adult, youth] shall determine the applicable guidelines for the parole violator term, except that a violator committed with a new federal sentence of more than one year shall be treated under the guideline type applicable to the new sentence.

(3) Time served on a new state or federal sentence shall be counted as time in custody for reparole guideline purposes. This does not affect the computation of the expiration date of the violator term as provided by §§ 2.47(b) and 2.52 (c) and (d).

(c) The above are merely guidelines. A decision outside these guidelines (either above or below) may be made when circumstances warrant. For example, violations of an assaultive nature or by a person with a history of repeated parole failure may warrant a decision above the guidelines. Minor offense(s) (e.g., minor traffic offenses, vagrancy, public intoxication) shall normally be treated under administrative violations.

[FR Doc. 79-13677 Filed 5-3-79; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is adopting the "preponderance of the evidence" standard to govern the resolution of disputed factual issues at parole determination proceedings. This rule extends to parole proceedings the standard of persuasion presently applicable by statute in parole revocation proceedings.

EFFECTIVE DATE: This rule will be effective beginning with parole hearings held on June 4, 1979.

FOR FURTHER INFORMATION CONTACT: Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street, N.W., Washington, D.C. 20537; telephone 202–724–3092.

SUPPLEMENTARY INFORMATION: On Thursday, March 8, 1979, the U.S. Parole Commission invited public comment on a proposed addition to 28 CFR 2.19 that would require the Commission to resolve disputes of fact in parole determination pleadings by a preponderance of the evidence. See 44 FR 12692 (March 3, 1979).

Such disputes may range from questions about the prisoner's past employment history to questions about the prisoner's relative culpability with regard to co-defendants or the extent of loss suffered by the victims of the crime. Whenever disputes of fact that are critical to the parole decision-making process have not been settled at trial, the Commission must exercise its independent fact-finding authority. See *Rosati* v. *Haran*, 459 F. Supp. 1148, 1160 (E.D. N.Y. 1977).

Selection of a Standard of Persuasion

The Commission's principal intent in adopting the preponderance standard is to ensure that parole decisions are based on information that the Commission has concluded, at a minimum, to be more likely true than not. The Commission believes that the mere possibility that an allegation is

true, even if the possibility is a substantial one, is not sufficient as a reason to deny parole.

The Commission concluded that the preponderance standard strikes an appropriate balance between the competing interests of society, which is concerned that offenders be held accountable for their crimes and that release will not jeopardize the public safety, and the prisoner, who has an important stake in a reasonable and fair parole decision. See 18 U.S.C. 4206. Under this standard, the Commission will be able to consider enough information for it to meet these important societal concerns, while affording a sufficient degree of protection to the prisoner in conjunction with the various procedural guarantees already afforded by statute and the Commission's regulations.[1]

The Problem of Unadjudicated Offenses

Some comments raised the issue of whether the Commission should, under any standard, consider aggravating circumstances about the prisoner's offense behavior when such circumstances may be legally defined as separate criminal offenses.

This situation occurs because prosecutors do not always obtain convictions upon all or the most serious offenses disclosed by the facts. This happens primarily because of plea bargaining. An average of 85 percent of all federal convictions are obtained by pleas, rather than by trials, and many of these pleas result in the dismissal of charges that are nonetheless supported by persuasive evidence.

Another reason for failure to convict on the most serious offense disclosed by the facts is jurisdictional; state charges are frequently dropped when federal prosecution is commenced for a less serious federal offense.

The problem is so common that the question is not simply whether the Commission should consider unadjudicated offense information in its decisions, but whether the Commission could afford to ignore such information and still fulfill the functions required of it by its enabling statute.

In the Commission's view, consideration of a wide scope of reliable information about the actual criminal transaction underlying the conviction is essential to a responsible paroling practice. Without such information, parole decisions would not reflect a realistic understanding either of the seriousness of the offense or of the relative danger that the offender's release may pose to the public safety. Moreover, serious disparities inherent in prosecutorial decisions would be unavoidably magnified by intolerably disparate parole decisions.

(a) *The Concern for Realism.*—If the Commission were to restrict its consideration to pleaded counts alone, it would frequently lack critical explanatory information about the "nature and circumstances of the offense," a consideration required by law: 18 U.S.C. 4206(a).

One frequently occurring prosecutorial practice is that of taking a plea to a lesser included charge, a practice that results in convicting the defendant for what is really a hypothetical behavior. A bank robber who kidnapped a teller may plead guilty to attempted robbery or bank larceny. See *Bistram* v. *U.S. Board of Parole*, 535 F.2d 329, 330 (5th Cir. 1976). An extortionist may plead guilty to a conspiracy to commit extortion. See *Billiteri* v. *U.S. Board of Parole*, 541 F.2d 438 (2d Cir. 1976). The Commission could not begin to treat such a plea as if it described a real event, for any available explanatory information would relate to the transaction that actually occurred.

In such cases as white collar crimes, the pleaded counts usually do not reflect anything near the actual dollar amounts involved, even though the nature of the unlawful behavior is established. Thus, in order to answer essential questions as to the amount of harm done and the scale of the offense, the Commission must look to information that was reflected in the dismissed counts. See *Manos* v. *U.S. Board of Parole*, 399 F. Supp. 1103 (M.D. Pa. 1975). These were obviously questions that the Congress thought proper for the Commission to ask. See 2 U.S. Code Cong. & Ad. News at 359 (1976).

(b) *The Concern for the Public Safety.*—Another consideration is what the offense behavior reveals about the offender himself, i.e., his likely motivation and characteristics. The need for realism in this regard is especially important in considering the degree to which the offender has shown himself capable of violent or dangerous behavior. One example of this would be a case in which the prisoner had been convicted of interstate transportation of stolen goods, not a particularly threatening type of behavior. However, the prisoner had originally been charged by local authorities with being the perpetrator of a robbery in which those goods were stolen. The robbery charge was dropped when the Federal conviction was obtained, even though there was "strongly probative" evidence of guilt. See *Lupo* v. *Norton*, 371 F. Supp. 156 (D. Conn. 1974). Likewise in *Narvaiz* v. *Day*, 444 F. Supp. 36 (W.D. Okla. 1977), information explaining the circumstances underlying a Firearms Act conviction disclosed behavior that amounted to extortion and kidnapping. The Commission could not conceivably ignore persuasive evidence that shows the prisoner to be a very different sort of release risk from that indicated by his plea.[2]

(c) *The Concern for Avoiding Disparity.*—Parole decision-making in both the federal and state systems also serves the function of preventing disparities in prosecutorial practices from being transferred to the highly visibly point at which the offender is finally released from prison.

It is unquestionable that significant disparities exist in the treatment of different types of offenders. For example, white collar offenders are more likely to strike a bargain to a lesser charge than bank robbers. Disparities also exist in the handling of similarly situated offenders. Depending upon local prosecutorial practices and caseloads, some offenders will be able to strike a favorable bargain while others will be brought to trial on all charges.

The criminal justice system has become dependent upon the sentencing judge and the parole authority to bring some measure of realism and consistency to criminal punishments. If they were not able to do so, the terms of the plea agreement would to a great extent predetermine the sentence. This would place in the hands of prosecutors a far greater degree of influence over sentencing and parole choices than they now possess, a transfer of discretionary authority that would not be acceptable. (Guidelines for prosecutorial discretion may be one way of ameliorating the present situation, if such guidelines made it more difficult for prosecutors to drop serious charges unless they had genuine doubts about the supporting evidence.)

Changes From the Proposal

The rule as adopted carries an additional statement clarifying the Commission's previous policy that if the Government has presented its evidence

[1] For example, a parole applicant is given the right to be heard in person, pre-hearing disclosure of the information to be considered, the right to present evidence, the right to have a representative, written reasons for parole denial, and the right to take an administrative appeal. See 18 U.S.C. 4206, 4208 and 4215.

[2] The Commission agrees with the reasoning of the Supreme Court in *Williams* v. *New York*, 337 U.S. 241 (1949), in which the Court permitted sentencing judges to consider unadjudicated offense information.

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at trial and the defendant has been found not guilty, the Commission will not consider such evidence.

Implementation

The revised rule set forth below will be effective at all initial hearings beginning June 4, 1979. It is the general consensus of the Commission that its present practice [under a "persuasiveness" test adapted from *United States* v. *Weston*, 448 F. 2d 626, 633 (9th Cir. 1971)] has in the past afforded prisoners sufficient protection against reliance upon inaccurate allegations that the reopening of cases heard prior to June 4, 1979 would not be likely to change any decision and would be administratively unfeasible in any event.

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR, Chapter I, Part 2, § 2.19, is amended to include a new paragraph (c) as set forth below:

§ 2.19 Information considered.

* * * * *

(c) The Commission may take into account any substantial information available to it in establishing the prisoner's offense severity rating, salient factor score, and any aggravating or mitigating circumstances, provided the prisoner is apprised of the information and afforded an opportunity to respond. If the Prisoner disputes the accuracy of the information presented, the Commission shall resolve such dispute by the preponderance of the evidence standard; that is, the Commission shall rely upon such information only to the extent that it represents the explanation of the facts that best accords with reason and probability. However, the Commission shall not consider in any determination, charges upon which a prisoner was found not guilty after trial unless reliable information is presented that was not introduced into evidence at such trial (e.g., a subsequent admission or other clear indication of guilt).

(18 U.S.C. 4201–4218)

Dated: May 1, 1979.

Cecil C. McCall,

Chairman, United States Parole Commission.

[FR Doc. 79-14041 Filed 5-3-79; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: United States Parole Commission, Justice.

ACTION: Final Rule.

SUMMARY: From time to time sentencing judges, defense attorneys, prosecutors, and other interested persons make written recommendations to the Parole Commission concerning the parole of a federal prisoner. This rule will clarify the factors that a recommendation for or against parole should address in order to be of greatest possible usefulness in the Commission's decision-making process.

EFFECTIVE DATE: June 4, 1979.

FOR FURTHER INFORMATION CONTACT: Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street, NW., Washington, D.C. 20537; telephone 202/724–3092.

SUPPLEMENTARY INFORMATION: On September 20, 1978, the U.S. Parole Commission published for public comment a proposed rule clarifying its position with regard to recommendations for and against the release on parole of particular prisoners. While this proposal was addressed generally to sentencing judges, defense attorneys, prosecutors, and other interested persons who may from time to time make recommendations concerning the parole of a prisoner, the Commission was especially desirous of addressing the concerns expressed by some federal judges that their recommendations concerning parole were not being followed by the Commission.

The point that the Commission wished to stress in this rule was that a recommendation for parole can be given weight in the parole determination only to the extent it supplies information which the Commission can use in framing a set of reasons for parole release that satisfies the statutory criteria for parole at 18 U.S.C. 4206. This section requires the Commission to consider whether release of the prisoner would depreciate the seriousness of the offense or promote disrespect for the law, and whether release of the prisoner would jeopardize the public welfare. These are the considerations that are critical to a parole release decision, and if they are to be satisfied, the statute requires that the Commission furnish specific information in its reasons, and in particular its reasons for any decision above or below the guidelines at 28 CFR 2.20. The Commission's expectation is that once this restriction on its discretion is better understood, judges and others will be better able to express their opinions to the Parole Commission in a way that the Parole Commission can respond to.

On January 29, 1979, a letter was sent to all United States District Judges enclosing a copy of the proposed rule requesting their comments. Replies were received from approximately 20 judges. Most letters expressed approval of the proposed rule, and all were appreciative of the Commission's continuing efforts to improve communication between it and the federal judiciary.

The rule also clarifies the Commission's present practice that no recommendation pursuant to a plea agreement by a federal prosecutor may be considered as binding the Commission to make any parole decision other than that which it will reach by its independent exercise of discretion. It is also important that defense attorneys be aware that prosecutors do not have authority to promise any particular parole result in the context of a negotiated plea.

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR, Chapter I, Part 2, § 2.19 is amended to include a new paragraph (d) as set forth below:

§ 2.19 Information considered.

* * * * *

(c) Recommendations and information from sentencing judges, defense attorneys, prosecutors, and other interested parties are welcomed by the Commission. In evaluating a recommendation concerning parole, the Commission must consider the degree to which such recommendation provides the Commission with specific facts and reasoning relevant to the statutory criteria for parole (18 U.S.C. 4206) and the application of the Commission's guidelines (including reasons for departure therefrom). Thus, to be most helpful, a recommendation must state its underlying factual basis and reasoning. However, no recommendation (including a prosecutorial recommendation pursuant to a plea agreement) may be considered as binding upon the Commission's discretionary authority to grant or deny parole.

(18 U.S.C. 4201–4218)

Dated: May 1, 1979.

Cecil C. McCall,

Chairman, United States Parole Commission

[FR Doc. 79-14042 Filed 5-3-79; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is publishing new rules governing the disclosure of documents. These rules reconcile the different sets of exemptions to disclosure that are contained in the Parole Commission and Reorganization Act of 1976 and the Privacy Act of 1974, by making the Parole Commission Act exemptions apply to all disclosure requests for Commission documents. This simplification reflects the fact that there has been no significant difference in actual disclosure practice resulting from the different standards. In addition, the rules for the first time set forth the Commission's procedural rules for handling disclosure requests under the Privacy Act of 1974.

EFFECTIVE DATE: June 4, 1979.

FOR FURTHER INFORMATION CONTACT: Herman Levy, Office of the General Counsel, United States Parole Commission, 320 First Street NW., Washington, D.C. 20537; telephone 202–724–3092.

SUPPLEMENTARY INFORMATION: On August 17, 1977, the U.S. Parole Commission published a proposed set of disclosure rules that had the principal purpose of consolidating the exemptions to disclosure in the Privacy Act of 1974 with those of the Parole Commission and Reorganization Act: see 18 U.S.C. 4208(c). The proposal was a response to the problem of two separate sets of disclosure exemptions (with little or no substantive distinction in the material that could actually be withheld) applying to the same documents. The Commission determined that the Parole Commission Act exemptions were the more suitable ones, partly because of their simplicity and applicability in the context of parole documentation, and partly because they are the same exemptions that appear in Rule 32, F.R. Crim. P.

After approval of the Department of Justice, and after considerable revision in the light of public comment and meetings between Parole Commission staff and prisoners' representatives, the Commission finally approved the set of rules set forth below.

The rule represents a significant change from the original proposal in the following areas:

(1) The final rule requires institution staff to provide prisoners with notice of initial hearings and interim review hearings 60 days in advance of such hearing. This procedure will resolve the question raised in public comment as to whether 18 U.S.C. 4208(b) requires the Commission to afford the prisoner only notice, or an opportunity for actual disclosure, at the statutory thirty day mark.

(2) The language at § 2.55(d) explaining the summarization requirement of 18 U.S.C. 4208(c) has been revised to meet concerns that summaries of exempted information might not be specific enough to give the prisoner a sufficient understanding as to the nature of the exempted material (i.e., the assertions about the prisoner).

However, the rule recognizes that there may be some cases in which very little or no factual precision can be conveyed in a summary, for example, where the disclosure of any factual details would enable the prisoner to discover the identity of a confidential source. The Commission could not disregard relevant information of this nature, especially if it concerns the prisoner's potential for dangerous future behavior. See 18 U.S.C. 4206(a)(2). The rule is designed to ensure that such general summaries are not given unless clearly necessary.

(3) A section has been added to cover document disclosure when cases are reopened under 28 CFR 2.28. The sixty day notice rule would not apply in these instances (except when a new initial hearing is ordered) because such hearings are ordered in circumstances in which expeditious action is desired by both the prisoner and the Commission.

Some of the public comments urged the Commission not to exempt the presentence investigation report from the reach of disclosure under § 2.56. However, this document is viewed by the Commission as a court document that cannot be disclosed without the express permission of the court. This view is in conformity with the legal opinion of the General Counsel of the Administrative Office of the United States Courts. Since the judiciary has by no means adopted a uniform approach to disclosure of the presentence investigation report, the Commission's only option is to permit as much disclosure as the courts generally approve (review of the report prior to the parole hearing and discussion of its disclosable contents at the hearing) and to require that the prisoner obtain any further disclosure (i.e., copies of the report) directly from the sentencing court. The Commission also suggests that prisoner representatives who wish to obtain a copy of the presentence investigation report contact the sentencing court to arrange for direct disclosure from the court or for express permission for the Bureau of Prisons to copy the report for the prisoner. The sixty day advance notice period should be more than adequate for this purpose.

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(b), 28 CFR, Chapter I, Part 2, § 2.55 is revised to read as follows; present § 2.56 through § 2.58 are redesignated as §§ 2.57 through 2.59 respectively, and a new § 2.56 is added as follows.

Dated: May 1, 1979.

Cecil C. McCall,

Chairman, United States Parole Commission.

§ 2.55 Disclosure of file prior to parole hearings: Prehearing review.

(a) *Procedure.* (1) At least 60 days prior to a scheduled hearing pursuant to §§ 2.12 or 2.14, each prisoner shall be furnished a notice of his right to request disclosure of the reports and other documents that may be relied upon by the Commission in making its determination.

(2) Upon request by the prisoner, review of disclosable documents in the institution file will be permitted by the Bureau of Prisons, pursuant to its regulations, within fifteen days of the request. Such review may be requested prior to the hearing, or at any other time thereafter.

(3) The prisoner shall be permitted to obtain, prior to a parole hearing, copies of any disclosable documents within the scope of this section that may have been retained in the Commission's regional office file, provided that the regional office receives such request at least thirty days in advance of such hearing to allow for processing.

(b) *Scope of disclosure.* The scope of disclosure under this section shall be limited to the following reports and other documents which the Commission utilizes in making its parole determinations:

(1) At initial hearings and reconsideration hearings, official reports and other documents conveying relevant information concerning the prisoner's offense behavior, prior record, history and characteristics, institutional performance, and parole release plan.

(2) At interim review hearings pursuant to § 2.14 of these rules, official reports and other documents informing the Commission of factors which have changed, or which may have changed, since the date of the last hearing.

(c) *Exemptions to disclosure.*—A document may be withheld from disclosure to the extent it contains:

(1) Diagnostic opinions, which if known to the prisoner could lead to a serious disruption of his institutional program;

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(2) Material which would reveal a source of information obtained upon a promise of confidentiality; or

(3) Any other information, which if disclosed, might result in harm, physical or otherwise to any person. (18 U.S.C. 4208(c)).

(d) *Summarization of material withheld.* (1) If any document, or portion thereof, is deemed by the originating agency to fall within an exemption to disclosure, and non-disclosure appears warranted, such agency shall identify the material to be withheld and the basis for withholding under paragraph (b) of this section, and shall furnish for disclosure to the prisoner a summary conveying the general nature of the assertion(s) contained in the document withheld, with as much specificity as circumstances will permit. However, such summary should not be so specific that the protected items of information would be subject to identification.

(2) All official reports bearing upon the parole determination should be sent to the institution in which the prisoner is confined. Preparation for disclosure (including any necessary summarizing) must be completed prior to the submission of the report.

(3) Documents which have not been cleared for disclosure or summarized may not be considered by the Commission in its determination, without a signed waiver of disclosure from the prisoner.

(e) *Waivers of disclosure.* If any document relevant to the parole determination has not been disclosed to the prisoner within the time limits specified in this rule, the prisoner shall be offered the opportunity to waive prehearing disclosure of such document without prejudice to the prisoner's right to review the document (or a summary thereof) at any time thereafter. If the prisoner chooses not to sign a waiver, the examiner panel shall continue the hearing to the end of the docket, or to the next docket, in order to permit adequate disclosure. A continuance for the purpose of permitting disclosure may not be extended beyond the next hearing docket.

(f) *Late-received documents.* In the event an official report or other document is received following the parole hearing but during the pendency of the parole determination proceeding, and such document contains new and significant adverse information, the prisoner shall be placed on the next docket for a re-hearing and the document shall be promptly forwarded for inclusion in the prisoner's institutional file. The Commission shall notify the prisoner of such hearing and of his right to request disclosure of the document pursuant to the provisions of this section. If such document is determined not to contain new and significant information, it shall not be considered in the parole determination.

(g) *Reopened cases.* Whenever a case is reopened for a new hearing under § 2.28 or related sections, the relevant supporting document(s) shall be sent to the institution wherein the prisoner is confined and the prisoner shall be informed of his right to request disclosure of such documents.

(18 U.S.C. 4208)

§ 2.56 Disclosure of Parole Commission regional office file (Privacy Act disclosure).

(a) *Procedure.* Copies of disclosable documents pertaining to a prisoner or parolee which are contained in the Regional Office files of the Commission may be obtained at any time by that prisoner or parolee upon written request pursuant to the Privacy Act of 1974. Such request shall be answered within forty business days of its receipt, absent an emergency. Other persons may obtain copies of such documents only upon proof of authorization from the prisoner or parolee concerned.

(b) *Scope of disclosure.* Disclosure under the Privacy Act of 1974 shall extend to Commission documents concerning the prisoner or parolee making the request. Documents which are contained in the regional file and which are prepared by agencies other than the Commission shall be referred to the appropriate agency for a response pursuant to its regulations, unless such document has previously been prepared for disclosure pursuant to § 2.55 or is fully disclosable on its face. Any request for copies of court documents (including the presentence investigation report) must be directed to the appropriate court.

(c) *Exemptions to disclosure.* A document may be withheld from disclosure to the extent it contains:

(1) Diagnostic opinions, which if known to the prisoner could lead to a serious disruption of his institutional program;

(2) Material which would reveal a source of information obtained upon a promise of confidentiality; or

(3) Any other information, which if disclosed, might result in harm, physical or otherwise, to any person.

(d) *Specification of documents withheld.* Documents that are withheld pursuant to paragraph (c) of this section shall be identified for the requester together with the applicable exemption for withholding each document or portion thereof. In addition, the requester must be informed of his or her right to appeal any non-disclosure to the Office of Privacy and Information Appeals (Associate Attorney General).

(e) *Hearing record.* Upon request by the prisoner or parolee concerned, the Commission shall promptly make available a copy of any verbatim record (e.g. tape recording) which it has retained of a hearing, pursuant to 18 U.S.C. 4208(f).

(f) *Costs.* In any case in which reproduction costs exceed three dollars (e.g. reproduction of over thirty pages or of one cassette and twenty-four pages), prisoners will be notified that they will be required to reimburse the United States for such reproduction costs. The Regional Commissioner may waive such reimbursement upon a showing of the prisoner's inability to pay. The Regional Commissioner may require payment in advance of making a disclosure in circumstances where deemed necessary.

(g) *Cross References.* The Commission's authority to promulgate rules governing disclosure pursuant to the Privacy Act of 1974 may be found at 28 CFR 16.85.

(5 U.S.C. 552(a)(j)(2))

§§ 2.57 through 2.59 [Redesignated from §§ 2.56 through 2.58]

[FR Doc. 79-14043 Filed 5-3-79; 8:45 am]
BILLING CODE 4410-01-M

federal register

Friday
May 4, 1979

Part V

Department of Agriculture

Forest Service

Proposed Guidelines for Land and Resource Management Planning in the National Forest System

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 219]

National Forest System Land and Resource Management Planning

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture proposes to issue regulations to guide land and resource management planning in the National Forest System. These rules require an integration of planning for National Forests and Grasslands, including the timber, range, fish and wildlife, water, wilderness, and recreation resources, together with resource protection activities and coordinated with fire management and the use of other resources, such as minerals. The proposed rules will implement provisions of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976.

DATE: Comments should pertain to the Secretary of Agriculture's proposed regulations and should cite the specific section and **Federal Register** page number. Comments must be submitted on or before July 3, 1979.

ADDRESSES: Send comments to Chief, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013. All written submissions will be available for public review in room 4021, South Agriculture Building, 12th and Independence Avenue SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Charles R. Hartgraves, Director, Land Management Planning, P.O. Box 2417, Washington, D.C. 20013, 202–447–6697.

1. Purpose

The Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA) (88 Stat. 476, et seq.), as amended by the National Forest Management Act of 1976 (NFMA) (90 Stat. 2949, et seq.) (16 U.S.C. 1601–1614), specifies that an interdisciplinary approach will be used in land and resource management planning and that there will be a periodic review of the planning process, followed by any necessary amendments, to keep it current with statutory requirements. These statutes also provide for the establishment and revision of national, regional and local resource goals and objectives which are based on a periodic assessment of the future supply and demand of renewable resources from public and private forest and range lands. Achievement of these goals and objectives is the purpose of the planning process provided in these regulations. These acts also require public participation in the development, review and revision of land and resource management plans, and the coordination of such plans with State and local units of government and other Federal agencies.

These rules apply to all land and resources management plans developed hereafter for the National Forest System.

These rules require an integration of planning for national forests and grasslands, including the timber, range, fish and wildlife, water, wilderness, and recreation resources, together with resource protection activities and coordinated with fire management and the use of other resources, such as minerals. By October 1985, plans required by these regulations should be developed for all National Forest System lands.

2. Introduction

The first draft of the proposed rules was published in the August 31, 1978, **Federal Register** (43 FR 39046). The public was invited to comment on the proposed rules through October 30, 1978. However, as a result of numerous requests, the comment period was extended until December 16, 1978. From August 1978 until the present time, the Department has not only received written submissions, the forest Service and Department have maintained an "open door" policy with the public and interest groups to obtain new input and keep the public aware of current events. The Committee of Scientists has continued to conduct public meetings during this time to complete its report to the Secretary and also receive additional input. The Committee's final report was submitted to the Secretary of Agriculture on February 22, 1979 and is printed at the end of these proposed regulations. In addition, two public meetings were held to discuss the August 31, 1978 draft rules. The Department has received letters from members of Congress, Federal and State agencies, representatives of various interests groups, as well as the general public. Individual letters and a Public Comment Analysis are available for review in the office of Land Management Planning, Forest Service, Washington, D.C. and offices of the Regional Forester, located in Albuquerque, New Mexico; Atlanta, Georgia, Denver, Colorado; Juneau, Alaska; Milwaukee, Wisconsin; Missoula, Montana; Ogden, Utah; Portland, Oregon; and San Francisco, California. As a consequence of this public input and related activities, it was decided to revise the draft and resubmit the regulations to the public in draft form accompanied by a draft environmental impact statement (DEIS). The DEIS documents and explains the significant differences between the August 31, 1978 draft and this revised draft, discusses and evaluates other alternatives, and contains a summary analysis of public comments. The DEIS has been published with these proposed regulations and follows the Summary of Public Comment Analysis. Additional copies of the DEIS are available upon request from the office of Land Management Planning, Forest Service, Washington, D.C.

3. Summary of Public Comment Analysis

A total of 737 individual responses were received containing 5,373 individual references to various sections of the proposed rules. Forty-two percent of the 5,373 comments were general in nature; that is, they addressed broad overall issues (relating to, for example, recreation, wildlife, and wilderness) and 58 percent contained specific references.

Approximately 52 percent of the comments were from local organizations and individuals; 44 percent were from national organizations (e.g., Sierra Club, National Forest Products Association), 3 percent from government agencies (Federal, State and local); less than 1 percent of the replies were in other forms, such as petitions.

The greatest interest was expressed in the Resource Management and Guidelines section (219.10), particularly § 219.10(d) Timber Resource, which accounted for 56 percent of all specific comments. The next largest group of comments related to § 219.9 Forest Planning Process, followed § 219.8 Forest Planning Procedures.

The **Federal Register** of August 31, 1978 also contained two alterate versions proposed by environmental and industry groups, specifically § 219.10(d)(2) Timber Producing Lands and 219.10(d)(4) Determination of the Allowable Sale Quantity. Comments on these alternatives were considered in redrafting these sections.

It was evident from the interpretations made by the public that the proposed rules needed clarification. For example, the proposed rules allow for "consideration" of a departure from nondeclining yield; comments received indicated many people felt that departures would be considered "routine." The regulations require that

alternatives (departures) to the base timber harvest schedule be formulated and considered when certain specific conditions exist in the forest unit or local area. All harvest schedules, including proposed departures from the base schedule, must be calculated under the constraint that long-term sustained-yield capacity can be achieved at the end of the planning period.

Outline

The basic outline of the regulations in this draft has been restructured for clarity. Sections have been added in an attempt to improve ease of understanding.

Changes in format are illustrated below:

New Outline	*August 31, 1978 Outline*
219.1 Purpose	219.1 Purpose
219.2 Scope and Applicability	219.2 Scope and Applicability
219.3 Definitions	219.3 Definitions
219.4 Planning Levels	219.4 Planning Levels
219.5 Planning Process	
219.6 Interdisciplinary Approach	219.5 Interdisciplinary Approach
219.7 Public Participation	219.6 Public Participation
219.8 Coordination of Public Planning Efforts	219.7 Coordination of Public Planning Efforts
219.9 Regional Planning Procedure	
219.10 Criteria for Regional Planning Actions	
219.11 Forest Planning Procedure	219.8 Forest Planning Procedure
219.12 Criteria for Forest Planning Actions	219.9 Forest Planning Process
219.13 Management Standards and Guidelines	219.10 Resource Management Standards and Guidelines
219.14 Research	219.11 Research
219.15 Revision of Regulations	
219.16 Transition Period	219.12 Transition Period

Summary Analysis of Public Comments

219.1 Purpose. In response to limited public comments that this section is somewhat unclear and confusing, the set of principles for all levels of planning was expanded to reflect (1) protection and improvement of the quality of all renewable resources, not limited only to soil, air, and water; (2) the inclusion of pest management practices into land and resource management planning; (3) clarification of the purpose of an interdisciplinary approach to planning activities; and (4) the inclusion of the desire to coordinate Forest Service planning efforts with adjacent private landowners.

One of the previous principles, "balanced consideration of all renewable resources and their various uses" was reworded. The statement was criticized because various resource values cannot be adequately measured to permit marginal comparisons.

219.2 Scope and Applicability. It was suggested that regulations and agreements executed pursuant to the legislative acts specifically named in § 219.2, as well as other major legislation and direction, should be added. The comments showed the meaning of this section was not fully understood. The proposed regulations concern planning, and this section addresses the scope of the planning regulations and their applicability to the lands being administered. It recognizes that there are other more specific planning requirements which may apply to certain lands. This section is not meant to identify every statute which may need to be considered and implemented through the planning process. The section has been rewritten to make clear that it relates to planning requirements. It was also suggested that a provision be added that all plans adopted since the passage of the National Forest Management Act (October 1976) would be brought into conformity with the proposed rules. This subject is covered in § 219.16 Transition Period.

219.3 Definitions. Terms such as "economic efficiency," "diversity," "environmental assessment," and "capability" were considered unclear or confusing. Most of the definitions were restated more clearly, and several new terms suggested by the public and the Committee of Scientists were defined: integrated pest management, standards, guidelines, policy, Program, Assessment, real dollar value, multiple use, management direction, management practices, environmental documents, and sustained yield of the several products and services.

The definitions included in the original § 219.10(d) Resource Management Standards and Guidelines for the timber resource were modified and moved to § 219.3 for organizational conformity.

219.4 Planning Levels. Originally § 219.4 attempted to describe the flow of information and management direction among the national, regional and forest levels of planning. Public response indicated that the linkage between the 3–tiered planning process of the Forest Service was unclear and, therefore, weakened accountability. It also appeared to be "top/down planning" without the benefit of forest capability information being available at the national level. This section has been rewritten to clarify the iterative nature of the three levels of planning.

The public is shown how planning criteria govern the planning process and how management standards and guidelines govern management practices, including monitoring practices. Procedural standards are addressed separately in detail in the new § 219.9 Regional Planning Procedure and § 219.11 Forest Planning Procedure. Planning criteria for regional and forest planning in compliance with NEPA are included in § 219.10 and 219.12, respectively. The revised regulations contain an expanded and more detailed role and function of national, regional and forest planning. Management standards and guidelines are detailed in the new § 219.13 Management Standards and Guidelines.

219.5 Interdisciplinary Approach. This section is renumbered § 219.6. Most of the Committee of Scientists proposed language has been adopted in the revised version. The role and responsibilities of the team have been more clearly specified. The revision includes requirements for composition of the team and for qualifications for team members.

The public's request for greater interagency cooperation and coordination is specifically addressed as one of five specific functions to be performed by the interdisciplinary team to achieve integration in planning. This topic is farther addressed in § 219.8 Coordination of Public Planning Efforts.

Concern was expressed that the responsible Forest Service official has "too much power over the team." The interdisciplinary team will prepare all land and resource management plans. The regional forester will be responsible for preparation and implementation of the regional plan and approval of forest plans, while the Chief, Forest Service, will have responsibility for approval of regional plans. The forest supervisor will be responsible for preparation and implementation of the forest plan. The forest supervisor will also appoint and supervise the interdisciplinary team, which will develop the forest plan under the NEPA process. After consideration of this concern, the Department has determined that the responsible Forest Service official (regional forester or forest supervisor) is obligated to guide and manage the team which will be composed of various disciplines.

219.6 Public Participation. This section became § 219.7 in the new outline. Comments suggested that this section was not specific enough and, therefore, weakened the public participation process.

In response to the public and the Committee of Scientists' report, the

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proposed rules state the intent to public participation, and encourage participation throughout the planning process.

Another topic of concern was how public participation would be evaluated, summarized, and used by the Forest Service. A paragraph was developed specifically stating how public participation input would be analyzed and evaluated (219.7(e)).

Respondents indicated that the amount of time allowed for public response to planning activities was unrealistic. The Department agreed this was a valid concern, and increased the amount of time allowed for written comments on national and regional planning from 60 days to 90 days.

The subject of scheduling public participation activities at specific points in the planning process is addressed in the new § 219.7(b). Section 219.7(c) requires that public participation will begin with publication of a notice in the media. All public participation will be coordinated with the National Environmental Policy Act requirements and its regulations.

The request for greater Federal, State and local agency participation is addressed in specific detail in new § 219.8 Coordination of Public Planning Efforts.

219.7 Coordination of Public Planning Efforts. This section has been renumbered § 219.8, and considerably expanded. Public comments suggested that this section lacked specific guidelines for coordinating public planning efforts, thereby leaving decisions entirely to the discretion of the responsible Forest Service official. An interdisciplinary team will prepare all plans under the direction of a Forest Service official. The proposed rules require that planning be thoroughly coordinated among all levels of government to promote efficient management of the resources from the National Forest System.

The comments indicated that greater attention should be given to coordinating planning efforts with adjacent private landowners. This was considered a valid concern which was not adequately addressed in the August 31, 1978 proposed rules, and the new draft specifically requires this coordination (219.8(b)(1)).

Criteria are specified pertaining to coordination of planning efforts at each level of the Forest Service. An entire new subsection is devoted to better facilitation of State and local government participation through the requested appointment of an official by each Governor to work closely with the Forest Service.

219.8 Forest Planning Procedure. Significant revisions of the second draft are reflected in the new §§ 219.5 Planning Process, § 219.9 Regional Planning Procedure, § 219.10 Criteria for Regional Planning Actions, § 219.11 Forest Planning Procedure, and § 219.12 Criteria for Forest Planning Actions. These revisions attempted to resolve areas of confusion, such as:

1. Specific responsibilities and accountability of Forest Service officials. This subject is now addressed in § 219.5, 219.9, and 219.11.

2. The administrative appeal procedures for regional and forest plans.

These have been changed due to conflicts with amendment and revision provisions of the NFMA, which require that significant changes in plans be made in accordance with the planning process. Under new § 219.7 Public Participation, paragraph (o), the administrative appeal procedure is addressed; i.e., planning decisions pursuant to the NFMA regulations will be excluded from review under 36 CFR 211.19 and any other administrative appeal procedures. The development of land management plan under section 6 of the National Forest Management Act and these regulations is more like a rulemaking process than an adjudicatory process. Anticipated grievances should be addressed during the planning process. A proposed plan could not be significantly changed without complying with planning process requirements, such as public participation; therefore, any decision on appeal would be limited to remanding the plan to the interdisciplinary team for reconsideration. Since there is ample opportunity during plan development for public involvement and coordination, administrative appeals would only prolong the resolution of controversial issues. After final plan approval, a management decision may be appealed on the grounds of nonconformity or because a decision otherwise constitutes an appealable grievance. The Chief's decision regarding the selected harvest schedule under § 219.12(d)(2) may be appealed to the Secretary of Agriculture.

3. Strong public support for availability of copies of plans upon request.

The new draft regulations remain unchanged regarding the various locations where plans must be available. The Federal Government cannot require county courthouses or State offices to maintain copies of the plans, as requested by some respondents and the Committee of Scientists. Copies of environmental impact statements and land and resource management plans will be available upon request.

4. The relationship between national, regional and forest planning.

As previously discussed, a significant revision is reflected in § 219.4 Planning Levels, as well as the development of separate sections on forest and regional planning.

5. Expansion of requirements for documentation of the planning procedures and process followed.

A system must be maintained that records decisions made and actions followed in the development, revision, and amendment of regional and forest plans. The planning process records are detailed in new §§ 219.9 and 219.11.

6. The relationship between scheduling of activities and associated budget levels.

This is addressed in new § 219.5 Planning Process under (j) Plan Implementation, where basic minimum requirements are stated.

7. The revision of a forest plan every 15 years was considered too lenghty.

A revision of the forest plan is mandatory every 10 years, or earlier if significant changes have occurred. The conditions on the land covered by the forest plan must be reviewed every 5 years in conjunction with the Program o determine if management direction, conditions, or public demands have changed significantly.

8. Economic analysis comments.

Economic efficiency was thought by some respondents to be the major criteria for development of a plan. In § 219.1 Purpose, the Department stated its policy for management of National Forest System lands; i.e., they will be managed in a manner sensitive to economic efficiency standards.

The public suggested detailed requirements for determining irretrievable resource commitments, opportunity costs and assessment of benefits and costs.

Additional requirements have been provided under new § 219.5(e), (f), (g), and (h) of the planning process.

9. Formulation of alternatives.

Some respondents suggested the development of a "no-change" rather than "no-action" alternative. This is basically a misunderstanding of terminology. Language in the proposed rules now follow Council on Environmental Quality regulations. Refer to new § 219.5(f) Planning Process.

219.9 Forest Planning Process. The public asked that specific methods and

procedures applied during the planning process be clearly stated.

The planning process is the same for all land and resource management planning and was moved to the new § 219.5. The forest planning process is detailed in new § 219.12 Criteria for Forest Planning Actions. Criteria specific to regional planning was placed in new § 219.19.

The public comments on § 219.9 Forest Planning Process centered particularly on the relationships between national and forest planning process. This particular concern necessitated the developent of § 219.9 and 219.10, which depict the linkage between the national and forest levels; i.e., the regional plan. This linkage and flow of information is also further discussed in § 219.4 Planning Levels. Procedural standards are described for the forest plan in § 219.11 and for the regional plan in § 219.9. Management standards and guidelines are detailed in § 219.13.

219.10 Resource Management Standards and Guidelines. A change in the format of this section has been made and the section renumbered § 219.13 Management Standards and Guidelines. All headings designating functional resources have been deleted to reflect the integrated planning process. Planning criteria previously contained in § 219.10 are contained in § 219.12 Criteria for Forest Planning Actions.

Major resource issues and concerns identified by the public and the Committee of Scientists have been addressed in § 219.12, Criteria for Forest Planning Actions. Standards and guidelines applicable to all resources and management practices are stated in the new § 219.13(b). The Forest Service Manual contains additional standards and guidelines for management of resources and are referenced in the regulations.

The following concerns were addressed in the new § 219.12 and 219.13. Committee of Scentists' recommendations were used in revising these sections. The following describes the Department's rationale for dealing with the identified issues and concerns:

219.10(a) Fish and Wildlife. Material which was addressed in this section has been moved to § 219.12(g).

Species selected as indicators should include invertebrates. If invertebrates were included, the situation would be unmanageable because of the large number of species. Therefore, it was concluded, and agreed to by the Committee of Scientists, that invertebrate life forms should not be included.

Effects of proposed changes in diversity an fish and wildlife should be evaluated. All managment practices must provide for and maintain diversity of plant and animal communities to meet the multiple-use objectives of the planning area. There will be evaluations conducted regarding prior and present conditions. Populaion trends will be monitored. Diversity is covered in new § 219.13(g).

Measures should be prescribed to promote conservation of threatened and endangered species. The forest plan will give direction to prescribe management practices which protect and enhance critical habitat of threatened and endangered species. Refer to § 219.12(g).

219.10(b) Range Resource—Determination of present and potential grazing and range development opportunities. The forest plan will contain an estimate of the capability of the rangelands to produce food and cover for wildlife, as well as estimates of the potential forage for livestock. Data will be collected on rangeland conditions and trends.

Establishment of measures to prevent overgrazing. The forest plan, in accordance with criteria established in the Forest Service Manual, will analyze the capability of the land to produce forage without permanent impairment of rangelands. Grazing management systems will be established through direction in the Manual.

Application of economic analysis to range management. Economic analysis is addressed in § 219.5 for all resources.

219.10(c) Recreation Resource. Planning criteria for recreation are now in the new § 219.12(i).

Public comment indicated this section was conceptually sound, but additional language is needed to ensure implementation. In addition to the goals established in the regional plan and requirements of the Forest Service Manual, implementation is ensured through the direction, in regulations, of specific requirements that must be accomplished to meet the demands for recreation opportunities.

Additional items suggested for inclusion were: Trail development and maintenance, recreaction standards for transportation, guidelines for recreation development, guidelines for recreation development and use to protect resources, coordination with State outdoor recreation plans, wilderness recreation planning, evaluation of econimic and environmental impacts of recreation activities, and the adverse effects or recreation on other management activities with plans for mitigation. These items will be dealt with in the planning process with specific guidelines provided through Forest Service Manual direction. Site-specific development standards will be provided in the forest plan. Project implementation will be within standards set by the forest plan.

Direction should be provided on how recreation data will be used in the planning process. Recreation data will be used to help identify lands suitable for recreation opportunities, assess the need for future recreation facilities, and develop alternatives. Data needs vary according to planning problems. Data will be periodically evaluated for accuracy and reliability.

219.10(d) Timber Resource. This material is now included in §§ 219.12 and 219.13. Due to the large number of comments, the following discussion is presented by subparagraphs.

219 10(d) Definitions. The main concern expressed was that the definitions for timber could not be easily understood. The definitions have been rewritten for clarity and moved to § 219.3 Definitions to achieve continuity.

219.10(d)(2) Timber Producing Lands. The idenitfication of lands not suited for timber production received considerable attention and the comments can be divided into three classes. The August 31 draft was: (1) Too restrictive: (2) adequate because it provides management flexibility; or (3) in need of more explicit standards.

A major area of conflict involved the establishment of specific national biologic standards for classifying lands as suitable for timber production rather than allowing regional establishment of such a standard. Another was the need for an economic analysis to determine suitablility. The proposed rules have been revised to improve clarity and to give direction regarding relative economic sutiability of lands for timber production. The minimum biological growth standard will be established by the regional plan. The function of this standard is to remove from consideration, and therefore analysis, those lands that are clearly unable to produce timber. This will provide a cost savings in the analysis that follows. Refer to § 219.12(b)(2).

219.10(d)(3) Silvicultural Systems. Comments centered around the need to clarify: (1) The criteria for the selection of the silvicultrual system and cutting method, (2) how criteria are established for the maximum size of forest openings, and (3) requirements for diversity of plant and animal communities.

Information on the selection of silvicultural systems and cutting methods was consolidated and moved

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to § 219.13(c) and (d) in order to emphasize that the selection affects all resources, not just timber. These criteria require that all silvicultrual systems and cutting methods be the best suited for the multiple-use objectives of the area, based upon an interdisciplinary evaluation.

The Department has determined that limits on the size of openings will be established through the regional planning and the NEPA process. Criteria are contained in §§ 219.10(d) and 219.12(c); management standards and guidelines are in § 219.13(d).

The background statements and the legislative history indicated that a primary concern was the rate of conversion of hardwoods to conifers. The Proposed standards for diversity and conversion of forest types have been expanded with more emphasis on type conversions. Additional requirements have been specified to ensure coordination with other Federal, State and local agencies. Specific requirements for designation and management of special interest areas and research natural areas have been added in the revised regulations.

219.10(d)(4) Determination of the Allowable Sale Quantity. Departures from the base timber harvest schedule received a great deal of comment. The comments suggested the need to: (1) Define approval authority for departures, (2) provide detailed criteria to ensure that departures are based on truly exceptional circumstances, and (3) question validity of local economic stability as a departure criterion.

With the exception of specifying that the Chief, Forest Service, must approve departures, the revised regulations are similar to the original draft concerning this issue. The Department has determined that consideration of local economic disruptions should be maintained.

219.10(d)(5) Harvest Schedule Selection. There were relatively few comments on this section and revisions reflect suggestions by the Committee of Scientists. The requirements remain essentially unchanged from the original draft and have been incorporated into several sections.

219.10(d)(6) Control Measures and 219.10(d)(7) Monitoring. Many commentors suggested that control measures and monitoring requirements should be integrated in the regulations. This recommendation has been adopted in the revised draft.

The major concern was that specific control measures for timber harvest activities are lacking. Material on control measures has been incorporated into several sections. For controls on timber harvest activities, see § 219.13(i). Additional monitoring and control measures are required to be established in regional and forest planning. See §§ 219.5(k), 219.9(i) and 219.11(i).

219.10(e) Water and Soil Resource. This material is now contained in § 219.12(k). *Include evaluation of effects of changes in sediment output.* All plans must comply with requirements of Federal, State and local governments. Watershed conditions which will affect water pollution will be evaluated. Instream flow requirements are determined by standards in the Forest Service Manual. New § 219.13(e) states that "Special attention shall be given to land and vegetation along both sides of all perennial streams, lakes, and other bodies of water. No management practices will be permitted which seriously and adversely affect water conditions or fish habitat."

Consideration of increasing water yield through manipulation of vegetative cover. Any management practice that involves manipulation of vegetative cover must assure conservation of soil and water resources. Watershed conditions that influence water yield also must be evaluated.

Identification of impacts of impoundments upon fish, wildlife, and water resources. The regulations specifically state that impacts of impoundment must be identified. Guidelines for identification are contained in the Forest Service Manual.

Clarify direction for floodplains and wetlands protection. The regulations specifically state measures, in accordance with applicable Executive Orders, that will be adopted with respect to the restoration and preservation of floodplain values and protection of wetlands.

Forest Service should meet minimum water quality standards and follow a policy of improvement of water quality. All management practices will conserve water resources and meet requirements of other legislation with respect to water quality standards. Instructions will be contained in technical Forest Service Handbooks.

219.10(f) Wilderness Resource. This material is now contained in §§ 219.12(e) and 219.12(f).

Modified management on lands adjacent to wilderness. The effects of management of lands adjacent to wilderness will be evaluated using criteria developed by the interdisciplinary team.

Evaluation of plant diversity and rare and endangered species. When an area is considered for potential wilderness, the effects of long-term changes in plant (and animal) species will be considered.

The interdisciplinary team should propose eligible lands for wilderness use, based on current resource analysis. Lands suited for wilderness will be considered as a normal part of the planning process by the interdisciplinary team. The forest supervisor has authority to recommend an area for wilderness consideration in the forest plan. (The Congress has approval authority for wilderness designation pusuant to the National Wilderness Preservation Act.)

All areas should be considered for wilderness designation in the "first generation" of forest plans. The Department has determined that areas identified for uses other than wilderness during RARE II need not be re-evaluated for wilderness until the first revision of the forest plan. This is addressed in detail in § 219.12(e).

Section 219.10(f)(2), which deals with revision of forest plans, is unclear and confusing in the following area: "How do contiguous lands become available for uses other than wilderness?" All lands are evaluated for multiple use during the planning process. An area contiguous to existing wilderness will be evaluated for its wilderness potential through the process, and can become available for uses other than wilderness.

Section 219.10(f)(3) is in conflict with 219.10(f)(1) and could be legally challenged. These sections were not in conflict and have been clarified in the revised regulations.

It is inappropriate to focus only on limiting visitor use in wilderness management. Direction for limiting visitor use is provided in the forest plan, in accordance with periodic estimates of the maximum levels of use that will not impair the wilderness values. Additional management direction, such as dispersal of use by trail location management, will be addressed in the forest plan.

Consideration of non-renewable resources is lacking. A new subsection on minerals has been added to the forest plan criteria under § 219.12(j).

219.11 Research. This material is now contained in § 219.16. *Establishment of Research Natural Areas through the planning process.* A new subsection is devoted to this subject (219.12(m)) in response to public request and the Committee of Scientists' recommendation.

Emphasize cooperative research efforts with other public and private research activities. Research needs will be identified during the monitoring and evaluation described in § 219.5 Planning Process, and continually reviewed. These needs are addressed in the formulation of overall programs, and include private lands as well as public lands.

Basic research should be mandated by proposed rules rather than the planning process. The rules are process oriented to identify research needs. Basic research is an integral part of the research program and will continue.

219.12 Transition Period. This material is now contained in § 219.17.

Will proposed regulations be applicable to existing management practices? Until development of a forest plan under the promulgated NFMA regulations, land may be managed under existing plans.

Will plans developed between the passage of NFMA and final regulations have priority for being brought into conformity with NFMA? These plans have attempted to incorporate as much of the provisions of NFMA as possible.

4. Record of Decision

The Draft Environmental Impact Statement (DEIS) analyzes alternative regulations for National Forest System resource planning. Based on the analysis, I have decided to propose that Alternative No. 6 be considered as the preferred Alternative. The proposed regulations are printed in this issue of the Federal Register and follow this DEIS. The public review and comment period expires 60 days following the date of this Record of Decision, or the date of publication in the Federal Register whichever is later.

The National Forest Management Act has directed the development of the proposed regulations by identifying standards and guidelines to be addressed and by establishing a Committee of Scientists to review and advise on this effort. The Act reduced the range of alternatives available for development of the regulations. Nevertheless, alternatives of terminology, planning processes, regulation language, etc., have been developed through extensive public involvement, by the Committee of Scientists, and evaluated during this process, including preparation of this DEIS.

Implementation of the proposed regulations may take place after publication of a Final Environmental Statement, and final printing of the regulations in the Federal Register following initial public review and comment. Questions regarding this Draft Environmental Statement should be sent to the USDA Forest Service, Land Management Planning, P.O. Box 2417, Washington, D.C. 20013.

This Draft Environmental Statement was filed with the Environmental Protection Agency.

Dated: April 18, 1979.

Bob Bergland,
Secretary.

5. Draft Environmental Impact Statement

Proposed Regulations for National Forest System Planning

1920 Land Management Planning

Forest Service, USDA

Lead Agency: United States Department of Agriculture, Washington, D.C. 20013.

Responsible Official: Bob Bergland, Secretary of Agriculture, Washington, D.C. 20013.

For Further Information Contact: Charles R. Hartgraves, Director, Land Management Planning, P.O. Box 2417, Washington, D.C. 20013. (202–447–6697).

Abstract:

This Draft Environmental Impact Statement (DEIS) analyzes and evaluates alternative sets of proposed regulations developed in response to Section 6 of the National Forest Management Act. The regulations prescribe the process for preparation of all land and resource management plans developed hereafter for each administrative unit of the National Forest System. Also prescribed, and integrated into the planning process, are a number of technical standards which govern the conduct of management practices. The DEIS describes the conceptual basis for the planning process described in the proposed regulations, and the issues central to their need.

The alternative regulations are procedural. Though their promulgation has only indirect effects on the quality of the human environment, there are important policy matters to consider in the use and application of a given alternative. This is especially true in the application of technical standards (specified management standards and guidelines) whose impacts are variable depending upon where they are applied. The qualitative nature of effects is addressed in this Draft Environmental Impact Statement. Specific impacts will be discussed in detail and in quantitative terms in regional and forest level plans prepared under these proposed regulations. An environmental impact statement will be prepared for such plans pursuant to Council on Environmental Quality and Forest Service National Environmental Policy Act regulations.

Summary

Draft Environmental Impact Statement

Proposed Regulations for National Forest

System Resource Planning

1920 Land Management Planning

Forest Service, USDA

Responsible Federal Agency: United States Department of Agriculture, Washington, D.C. 20013.

Responsible Official: Bob Bergland, Secretary of Agriculture, Washington, D.C.

For Information Contact: Charles R. Hartgraves, Director, Land Management Planning, USDA Forest Service, P.O. Box 2417, Washington, D.C. 20013. (202–447–6697).

Date of Transmission to EPA and to the public: Draft: May 4, 1979.

Summary

I. The Department of Agriculture proposes to issue regulations to guide land and resource management planning for the National Forest System. This Draft Environmental Impact Statement analyzes and evaluates alternative sets of proposed regulations developed in response to the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), as amended by the National Forest Management Act of 1976 (NFMA). The latter statute requires that regulations be issued which describe the process for developing and revising land management plans for administrative units of the 187 million-acre National Forest System. The regulations explain the process and contain management guidelines and standards which relate to the national, regional, and local resource goals established by the Forest Service Renewable Resources (RPA) Program. This insures that economic, environmental, and ecological aspects are consistent with the RPA, Multiple Use-Sustained Yield Act, and other statutes which affect Forest Service activities. The regulations require integrated planning throughout the NFS for the management, protection, and use of timber, range, fish and wildlife, water, recreation, and wilderness resources. The required integration is accomplished with the aid of interdisciplinary teams, public participation, and is coordinated with the land management planning processes of States and local government's and other Federal agencies.

The NFMA was enacted to resolve long-standing issues about managing National Forest resources. The central or primary issues and concerns which are discussed in this DEIS and which the proposed regulations address are:

—The conceptual framework for the integrated planning process

—The interdisciplinary approach to planning

—Diversity of tree species and plant and animal communities

—The role of economic analysis

—The determination of lands not suited for timber production

—Departures (limitations on timber removal)

—Size of openings created by harvest cutting

—Public participation

—Management of wilderness areas, and disposition of roadless areas.

—Coordination in planning between Federal, State, and local governments

—Buffer strips in riparian zones.

II. Alternatives Considered In This Draft Environmental Impact Statement.

An infinite variety exists of ways for language to capture the intent of NFMA in process, management standards, and guidelines. Alternatives presented in this DEIS cover language to address the central issues and concerns mentioned above. Since NFMA mandates development of regulations, a "no change" alternative was not created for presentation, discussion, and evaluation in the DEIS.

The seven alternatives are:

1. Forest Service Draft Regulations as published in the **Federal Register**, Vol. 43, No. 170, august 31, 1978, as further explained and evaluated in a published Environmental Assessment Report, and Supplement, dated August 24, and September 12, 1978, respectively.

2. Environmental Group's proposals for § 219.10(d), as published in the **Federal Register**, August 31, 1978.

3. Timber Group's proposals for § 219.10(d), as published in the **Federal Register**, August 31, 1978.

4. Committee of Scientists Final Report to the Secretary of Agriculture (2–22–79), and recommended regulations attached thereto.

5. Public comment; the summary or consensus view for several of the issues which represents the wishes or suggestions of the "Public at large".

6. The Preferred Alternative: Revised draft regulations, with provisions for nationally established standards for buffer strips and harvest cut openings.

7. Revised draft regulations identical in all respects to Alternative No. 6 EXCEPT that standards for riparian buffer zones and harvest cut opening sizes will be established through the regional planning process.

III. NFMA requires an integrated plan for each administrative unit of the NFS. The planning process prescribed establishes an interdependency of land management and resource planning.

It is virtually impossible to quantify the specific effects of implementing any of the alternative regulation proposals. The regulations direct the process of preparing and revising plans, and have no direct effect on the human environment, nor do they commit land or resources. The regulations only establish procedures for planning future commitments.

Effects on the production of goods and services are conjectural and cannot be verified until the planning is completed. Anticipated impacts will be identified in plans prepared pursuant to the regulations and to the NEPA process.

Some general qualified effects or impacts of the alternatives are presented in table form by issues. Foe example, each alternative enhances plant and animal diversity, protects soil and water values and the visual resource, and ensures long term productivity. The relative contribution toward enhancement of each alternative is illustrated in the appropriate tables. The actual results, quantitatively, will not be known until individual plans are completed.

IV. Consultation with others, including the public, was extensive and was a major factor in developing the proposed action discussed in this DEIS. The public was invited to comment on the first draft of the regulations which appeared in the **Federal Register** August 31, 1978. Two public hearings were also conducted specifically to obtain views. From the initial inception of work to develop the regulations through to the present time, the Forest Service and the Department have maintained an open door policy with the public and interest groups to obtain information as well as to explain work and progress. Seventeen Committee of Scientists meetings were opened to the public, and a total of 737 individual responses containing 5,373 distinct references to various parts of the draft regulations were received, a substantial number of which were elaborate, detailed, and explicit. Included were letters from memers of Congress, Federal and State Agencies, representatives of various interest groups, as well as the general public. As a consequence it was decided to revise the draft regulations and to republish them accompanied by an environmental impact statement.

Following is a list of Federal agencies, State governments, national organizations from which written comments were received following publication of the draft regulations on August 31, 1978. Comments from individuals were too numerous to list here, but these names will be published in the Final Environmental Statement. All respondents (737) will be sent a copy of the DEIS as published in this issue of the **Federal Register**.

Federal Agencies

Library of Congress, Environment and Natural Resources, Congressional Research Service, Washington, D.C. 20540.
U.S. Environmental Protection Agency, Office of Federal Activities, Washington, D.C.
U.S. Department of Interior, Bureau of Reclamation.
U.S. Department of Interior, Heritage Conservation and Recreation Service.
Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service.
Department of Transportation, Federal Highway Administration, Highway Planning Office.
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State of Alaska, Office of the Governor, Director of Policy, Development, and Planning, Juneau, Alaska.
Montana Department of Fish and Game, Wildlife Division, Helena, Montana.
Placer County, Conservation Task Force, Aubum, California.
Council of State Governments, Lexington, Kentucky.
Western States Legislative Forestry Task Force, Sacramento, California.
Commissioner of Public Lands, State of Washington, Department of Natural Resources, Olympia, Washington.
Office of State Forester, Forestry Department, Salem, Oregon.
Department of Natural Resources, Atlanta, Georgia.
Department of Natural Resources, Denver, Colorado.
State of Washington, Department of Game, Olympia, Washington.
Council of State Planning Agencies, National Governor's Association, Washington, D.C.
Wildlife and Fisheries Commission, State of Louisiana, New Orleans, LA.
Idaho Department of Fish and Game, Boise, Idaho.
Dixie Lee Ray, Governor, Office of the Governor, Olympia, Washington.
Nevada Department of Fish and Game, Reno, Nevada.
Minnesota State Legislature (Senator Bob Lessard), St. Paul, Minnesota.
Elko County, Elko, Nevada.
East Central Planning and Development Region, Comprehensive Studies Division, Saginaw, Michigan.
Placer County, Conservation Task Force, Auburn, California.
Buncombe City Soil and Water Conservation District, Asheville, North Carolina.
East Central Idaho, Planning and Development Association, Rexburg, Idaho.
State Planning Coordinator, Governor's Office, Carson City, Nevada.
State Conservationist, Idaho, U.S. Department of Agriculture, Boise, Idaho.

Organizations

Tennessee Citizens for Wilderness, League of Women Voters, Simpson Timber Company, Sierra Club (including many local Chapters), Texas Committee on Natural Resources, Ozark—Mahoning Company, Citizens Committee to Save our Public Lands, Ohode, Defenders of Wildlife.
Animal Protection Institute of America, Kern Plateau Association, Group Against Smog and Pollution, Cascade Holistic Economic Consultants, The Wilderness Society, Northwest Pine Association, Atlantic Richfield Company, Appalachian Mountain Club, National Catholic Rural Life Conference, Hammermill Paper Company, Idaho Mining Association, Idaho Environmental Council, MECCA.
Friday Harbor Laboratories, Edward Hines Lumber Company, MAPC, East Central Idaho Planning and Development Association.
Audubon Society (including State Chapters), The Headwaters Association, The Conservation Foundation, Western Forestry and Conservation Association, Western Timber Association.
Paul Bunyan Lumber Company, The Bunker Hill Company, Arcata Redwood, American Forestry Association, The Dawes Arboretum, Boise Cascade Corporation, Timber Products Company.
Colorado Mining Association, M. L. King Co., The Mountaineers, Alaska Lumber and Pulp Co., Inc., Isaak Walton League (including local Chapters), Wyoming Sawmills, Inc., True Oil Co.
Southern Idaho Forestry Association, Fourply, Inc., Helena Environmental Information Center, Environmental Action of Michigan, Inc., Idaho Conservation League, Brookings Plywood Corp., Idaho Pole Co., International Ecology Society, Hitchcock and Pinkstaff.
Cheveron U.S.A., Inc., Aspen Wilderness Workshop, Inc., New England Trail Rider Association, The Annaconda Co., Texaco, Inc., Friends of the Earth, Far West Ski Association, St. Regis Lumber Co.
California Association of 4-Wheel Drive Clubs, Inc., Wildlife Management Institute, Sun Studs, Inc., Bostman Industry Association, Day Mines, Inc., Wyoming Mineral Corp.
Louisiana-Pacific Corp., Evansville Veneer and Lumber Co., Industrial Forestry Association, Owens-Illinois, Inc., Headwaters, The Ptarmigans, Michigan United Conservation Clubs, Resources for the Future.
Hampton Tree Farms, Inc., SWF Plywood Co., American Hardwood Industries, Inc., International Paper Co., The Robert Dollar Co., Potlalch Corp.
The Northcoast Environmental Center, Greater Snake River Land Use Congress, Forest Land Services, Inc., National Forest Product's Association, National Wildlife Federation, Sierra Club Legal Defense Fund, Inc.
Lake Pleasant Forest Products Corp., Ellinson Lumber Co., American Plywood Association, Federation of Western Outdoor Clubs, Alaska Loggers Association, Outdoors Unlimited, Inc., Wausau Papers, The Gila Wilderness Committee, John Muir Institute.
South Carolina Enviromental Coalition, The Nature Conservancy, Federal Timber Purchasers Association, Minnesota Forest Industries, Tennessee Forestry Association, OSPRIG.
Oregon Wilderness Coalition, L. D. McFarland Co., Weyerhauser Co., American Petroleum Institute, Gulf Lumber Co. Inc., SE Lumber Manufactures Association, Appalachian Hardwood Manufacturers, Inc.
Rocky Mountain Oil and Gas Association, SE Alaska Conservation Council, Inc., Herbert Lumber Co., Independent Petroleum Association, Allied Timber Co., Mauk Forest Products, Inc., Arroyo Grande Resource Conservation District, Alpine Lakes Protection Society, Seaboard Lumber Co., Scott Paper Co.
Burrill Lumber Co., Westvaco, Rocky Mountain Energy Co., Champion Timberlands, Endangered Species Committee of California, Elsa Wild Animal Appeal, Forest Engineers, Inc.
Packaging Corporation of America, A.C. Dutton Lumber Co., Protection of New Hampshire Forests, Citizens for Northern Idaho Wilderness, Diamond International Corp.
Umpqua Wilderness Defenders, Champion International Corp., The Anschutz Corp., Alaska Women for Timber, Freinds of Wildlife, Bohemia, Inc., Puget Sound Plywood, Inc., Society of American Foresters, Western Wood Products Association.
Brady, Blackwell Associates, P.C., New Mexico Wilderness Study Committee, M.A. Rigoni, Inc., Tennessee River Pulp and Paper Co., Bell-Gates Lumber Corp., Central Cascades Conservation Council, Burlington Northern, Buse Timber and Sales, Inc.
Boyd Lumber Co., Brunswick Pulp Land Co., Kogap Lumber Industries, Mead-World, Tenneco Inc., Canal Wood Corp., National Resources Defense Council, Shell Oil Co.
Clearwater Forest Industries, Montana Pole and Treating Plant, Schnabel Lumber Co., Consolidated Papers, Inc., Idaho Stud Mill.
Motocycle Industry Council, Inc., Finch, Pruyn and Co., Inc., NLBMBA, Kinzia Corp., U.S. Ski Association, Brown-Bledsoe Lumber Co., J. Gibson McIlvain Co., The Brazier Co., Williamette Industries, Inc., Merrill and Ring, Inc., The McGinnis Lumber Co., Inc., Hoking Valley Rock Shop, Bowater.

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I. Introduction

Development Background

The Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), as amended by the National Forest Management Act of 1976 (NFMA), is a comprehensive framework and primary source of direction to the Forest Service to fulfill its mandate to manage the National Forest System (NFS). The central element of the Act is the institution of land and resource management planning as a basic means to achieve effective use and protection of renewable resources and a proper balance of the use of NFS lands.

The Act sets forth under Section 6 that the Secretary of Agriculture must prescribe NFS land and resource management planning regulations. The standards and guidelines in these new regulations must be incorporated into NFS land and resource management plans and every effort is to be made to complete such plans by September 30, 1985.

A draft of the proposed regulations was published in the **Federal Register**, Vol. 43, No. 170, August 31, 1978 (pp. 39046–39059) for public review and comment. An Environmental Assessment Report and Supplement were also prepared dated August 24, and September 13, 1978, respectively. These draft regulations had been under preparation since the spring of 1977, when the Secretary of Agriculture appointed a Committee of Scientists to provide advice and counsel on the development of the regulations required by Section 6 of NFMA. Publication of the draft regulations prompted

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substantial comments, suggestions, and recommendations from the general public, and various resource and environmental groups. It was, therefore, decided to revise the August 31, 1978 draft regulations and to resubmit regulations to the public in draft form to be accompanied by a draft environmental impact statement (DEIS). These revised draft regulations and alternatives thereto are presented in this draft environmental impact statement for public review and comment.

Management of the National Forest System (NFS)

The Forest Service administers 187 million acres of Federal land located in 44 States, Puerto Rico, and the Virgin Islands. Except where special, restricted uses are prescribed by law, this land is managed under the concept of multiple use (as defined by the Multiple Use-Sustained Yield Act of 1960) for a variety of products and services including wood, water, wildlife and fish, forage, wilderness, and outdoor recreation. The enduring resource of the National Forest System is its capability to meet a wide variety of public needs. Multiple-use management provides the architecture for harmoniously nurturing the balance between productive ecosystem longevity and societal desires. Careful analysis of use relationships and available opportunities within a context of equitable distribution and just compensation are required to meet the goals embodied in the Multiple Use Sustained Yield Act of 1960. So that the various uses are harmonized to minimize conflicts and adverse impacts on the land, the relative values of the different resources are considered in determining forest and rangeland resource use patterns that will meet the needs of the American people.

Evolution of National Forest System Planning

During the early 1900's, most National Forest System lands were inaccessible, public demands for goods and services were low, and conflicts among resource uses were minor. Priority was given to protecting these pubic lands from fires, damaging insects and diseases, and unauthorized use. Resource production and use served local rather than regional or national needs. Most Forest Service planning in that era centered on specific work plans for forest land rehabilitation, protection and reforestation.

By the late 1930's, however, there existed a general public awareness that more intensive management of the National Forests—and the utilization of their various renewable resources on a sustained-yield basis—should also serve the national interest. This prevalent philosophy, coupled with a need for vital timber during World War II, spawned a dramatic expansion of National Forest resource management and utilization in the 1940's and 1950's.

Although early laws governing the establishment and administration of the National Forests referred only to timber and water resources, the other resources—wildlife, forage, and outdoor recreation—have always been protected and managed. By 1939, the Forest Service had made clear its policy to administer the National Forests on multiple-use principles.

Following World War II, the agency completed an appraisal of the Nation's forest situation and developed the concept of composite resource planning. The various resources were inventoried, and a composite plan prepared that described types of vegetation, location of streams and other bodies of water, areas requiring special management, planned recreation areas, primary transportation routes, and other pertinent factors.

Recognizing the lack of specific statutory direction to manage all the resources of the National Forests under multiple-use principles, the Forest Service proposed a multiple-use act in the late 1950's. Passage of the Multiple Use-Sustained Yield Act of 1960 provided congressional endorsement of the Forest Service policy and practice of equal consideration of all National Forest renewable resources.

Land management planning was formalized into a distinct process upon passage of the Multiple-Use Sustained-Yield Act. Until shortly after passage of the National Environmental Policy Act of 1969, this process was commonly referred to as "multiple-use planning," and the basic documents that described how the various resource uses would be coordinated were called "multiple-use plans." Separate plans were made for each National Forest Ranger District.

These multiple-use plans usually zoned National Forest System land and included specific coordinating requirements to ensure compatability of resource uses. They did not set resource development goals. Such goals were established by separate resource development plans prepared for each National Forest. The Ranger District multiple-use plans were used to coordinate the actions taken to achieve the objectives of the National Forest System resource development plans.

District Rangers were also required to prepare a special impact analysis before undertaking any significant resource development project. The analysis contained a statement on the nature and scope of the project, the expected impact the project would have on each resource, and how the project would be carried out to conform to the multiple-use plan requirements. The format of these reports was similar to that of present-day environmental impact statements.

In the early 1960's, another factor had also entered the resource picture—intensified public concern for environmental policy. Suddenly, it seemed, the Nation realized that clean air, clean water, and natural beauty were just as important to its standard of living as industrial products. Increased concern for the Nation's forest lands was part of this awakening environmental consciousness. Many Americans became aware of the National Forest System and realized that although these public lands contained most of the Nation's remaining natural resources, there were limits to their uses.

The desire for a quality environment, however, did not lessen the need for forest products and services from the National Forests. On the contrary, while concern for the environment reached new heights, so did the demand for products and services. One result of this was the passage of the 1964 Wilderness Act. Since the 1920's, the Forest Service has identified and designated areas of high wilderness value on the National Forests. Development of these areas was precluded under direction by the Secretary of Agriculture or the Chief, Forest Service. The Wilderness Act created the National Wilderness Preservation System and provided for the designation of Federal land to be preserved in their natural state.

By the mid-1960's, the Forest Service was caught in a dilemma. On one hand, conficting demands for forestry resources were increasing rapidly; on the other hand, the renewable resource base was perceived as shrinking with the implementation of the Wilderness Act. Some critics claimed that management of the National Forest System was out of balance, that some uses were being increased at the expense of others, and that the Forest Service was ignoring its mandate to manage the National Forest System for multiple uses. And, seemingly, the public wasn't being given a chance to formally influence the Forest Service decisionmaking process. The Forest Service land management planning

process changed in three major aspects in response to these public concerns and to the National Environmental Policy Act (NEPA) of 1969.

The first change converted Ranger District multiple-use plans to land management unit plans. (Unit plans are considerably more detailed. They apply to geographic areas containing similar social and physical resources and land characteristics rather than to Ranger Districts, and they are accompanied by environmental impact statements.)

The second change incorporated more strict interdisciplinary analyses into the planning process. (Before NEPA, multiple-use plans received multidisciplinary review. After NEPA review was accomplished through interdisciplinary interaction.)

The third change formally involved the public in forming and reviewing unit plans.

In August 1974, Congress enacted the Forest and Rangeland Renewable Resources Planning Act (RPA). Although it did not significantly change existing Forest Service land managment planning procedures, it made the development and maintenance of National Forest System land and resource management unit plans statutory requirements. It re-emphasized that an interdisciplinary approach be used in the development and maintenance of land management plans. It required that periodic comprehensive programs be developed that would integrate all Forest Service activities. And it more directly involved Congress in evaluating Forest Service programs and in assigning priorities. The RPA also provided for an assessment of the Nation's renewable resources, including those of the National Forest System. This Assessment provides the basic information for planning.

The National Forest Management Act of 1976 amended RPA to provide additional statutory direction on the preparation and revision of National Forest System land and resource management plans.

Major highlights of NFMA are land management planning, timber management actions, and public participation in Forest Service decisionmaking. Also featured are requirements for coordination with planning processes of State and local governments and other Federal agencies, and an interdisciplinary approach to plan developent and maintenance. It reaches beyond the 187 million acres of the National Forest System to recognize the importance of scientific research and cooperation with State and local governments and private landowners. So, in effect, it addresses all three major areas of Forest Service operations in carrying out its national forestry leadership role—management of the National Forest System, natural resources research, and cooperative forestry assistance to State and private landowners.

A major part of the NFMA is devoted to strengthening the Forest and Rangeland Renewable Resources Planning Act (RPA). All but one of the first 12 sections are amendments to it, nearly tripling the length of the Resources Planning Act. Some of these amendments include requirements for recommendations in the RPA Program which evaluate major Forest Service program objectives; explain opportunities for all forest and rangeland owners to improve their lands; recognize the need to improve and protect soil, water and air; and state national goals relating to all renewable resources.

Land management planning direction is the core of the Act. Regulations will be issued describing the process for development and revision of land management plans. Management guidelines will deal with overall NFS land management and require that lands be identified according to their suitability for resource management.

These guidelines will relate to the RPA Program goals to ensure that economic, environental, and ecological aspects are consistent with the Multiple-Use Sustained-Yield Act and RPA.

They will provide for the diversity of tree species and plant and animal communities, with research and management evaluation to prevent impairment of the land's productivity.

Each National Forest System unit will prepare, through an interdisciplinary team approach and with the aid of public participation, an integrated, comprehensive land management plan to be revised at least every 15 years. The land management plan and supporting functional plans must be integrated.

NFMA Act contains direction on harvest scheduling practices followed by the Forest Service. The annual allowable harvest sale quantity from each National Forest will generally be limited to a quantity equal to or less than a quantity which can be removed annually on a sustained-yield basis. The Act gives the flexibility to depart from this policy through land managment planning, including public participation. Departures from the standard policy must be in harmony with multiple-use objectives of the land management plan.

Land areas not suitable for timber production will be identitied in land management plans considering physical, economic and other factors. They are not to be harvested for 10 years except for salvage sales or sales to protect other multiple-use values. Such lands will be reviewed every 10 years thereafter and may be returned to production if appropriate.

Silvicultural standards will insure that, generally, stands of trees shall be harvested when mature (culmination of mean annual increment of growth). However, timber stand improvement measures, salvage operations and removal of trees for multiple-use purposes are not precluded. This means that stands of trees within the National Forests in general shall be sawtimber rather than pulpwood size before harvesting. The Act also directs that diversity of plant and animal species should be provided for and appropriate tree species diversity maintained. In brief, there should be no large-scale conversions of National Forest lands to a single-tree species.

The Act incorporates into law the substance of the so-called "Church Guidelines." These guidelines include the caution that clearcutting should only be used where it is the optimum method.

Public participation in development and revision of land and resource management planning was a prime priority in congressional thinking. The phrases "public participation" or "public involvement" are used 11 times in the Act and are clearly indicated in other sections.

A Committee of Scientists—composed of non-Forest Service personnel—was established to help develop regulations for all land management planning, including timber and other resource plans, by providing scientific advice and counsel, and to insure that the planning process is interdisciplinary.

Regulations must be written to carry out the public participation aspects of the law. Not only has Congress ordered fuller public participation in the decisionmaking process, but it also made rules so the public can participate with relative ease.

Direction for Planning and Management

Planning for resource allocation and the conduct of subsequent management activities require (1) the best available resource data and information, including the views of citizens and special interest groups, other Federal, State and local agencies, and (2) the synthesis and evaluation of such data and information utilizing professional and administrative judgments as to how best to meet statutory goals and objectives and achieve the interests and expectations

of the public. To accomodate these requirements, all Forest Service activities are grouped into 12 program elements comprised of eight resource elements (recreation, wilderness, wildlife and fish, range, timber, water, minerals, and human and community development) and four support elements (protection, lands, soils, and facilities).

Resource program elements are defined as major Forest Service mission-oriented endeavors that fulfill statutory or executive requirements and indicate a collection of activities from the various operating programs required to accomplish the agency mission.

Support program elements are activities and costs that do not primarily benefit a single resource element. However, these elements encompass the activities that are necessary to maintain and facilitate outputs of several or all resource elements.

The mission elements that follow for each program element provide overall national direction for the activities within that element. Land managment planning is the prinicpal device for conveying management direction to an from the national level to National Forest planning areas.

Resource Program Elements—1. *Recreation.* The primary mission of this element is to provide outdoor recreation opportunities for the Nation. This includes all activities necessary to protect, administer, and develop outdoor recreational opportunities within the National Forest System so that they meet their appropriate share of the Nation's existing and anticipated demand compatible with other resource values; protect, manage, and provide trails and other access to the scenic and cultural resources within the National Forest System; conduct research to improve the effectiveness of providing and managing outdoor recreational opportunities; and provide technical assistance and advice to non-Federal landowners for dispersed recreation.

2. *Wilderness.* The primary mission of this element is to secure the benefits of an enduring resource of wilderness by assuring that suitable, needed, and available National Forest System lands will be designated for preservation and protection in their natural condition. National Forest System wildernesses are administered for the use and enjoyment of the American people so as to leave the resource unimpaired for future use and enjoyment, to preserve their wilderness character, and to provide for the gathering and disseminating of information regarding their use.

The classification and study of National Forest System areas for possible wilderness designation are included in the Lands support element, while the management of such areas is included in the Recreation resource element. Wilderness research is related to recreation research to provide knowledge to manage and protect wildernesses and unique ecological features.

3. *Wildlife and Fish.* The primary mission of this element is to provide productive wildlife and fish habitats, with special emphasis on threatened and endangered species. Management of wildlife and fish habitats is closely coordinated with the States, because States have prime responsibility for management of wildlife and fish populations. This coordination includes maintaining close working relations among National Forest System units and other Federal, State, and private land managers. The element includes activities necessary to protect, administer and develop National Forest System wildlife and fish habitats; assist non-Federal land managers through coopertive forestry programs; and develop new knowledge through research on the environmental requirements of wildlife and fish and attainable management alternatives under these requirements.

4. *Range.* The primary mission of this element is to provide for efficient ways of livestock grazing on forest and rangelands commensurate with other commodity, environmental, social, and aesthetic needs. Ecological and management information about range ecosystems is provided for non-livestock purposes, such as endangered plants and wild free-roaming horses and burros. This element includes all those activities that bear directly upon management, use, and protection of National Forest System range resources; cooperative activities for the use and improvement of non-Federal forested ranges; and research to provide a sound technical and ecological base for range management, use and protection.

5. *Timber.* The primary mission of this element is to enhance the growth, utilization, and utility of wood and wood products to help meet the Nation's short- and long-term needs. It includes management activities in the National Forest System and on non-Federal lands, as well as research activities that contribute to the improvement, growth, and timely and efficient harvests of timber from forest land, consistent with other resource values; the efficient processing and utilization of wood and wood-related products; and the development of better management methods.

6. *Water.* The primary mission of this element is to protect, conserve, and enhance water resources within the National Forest System consistent with other resource values. This element also includes watershed and river basin planning and development, in cooperation with States and other agencies, designed to increase knowledge about the water resource. Included are research and cooperative activities to meet water quality and quantity standards onsite and offsite to reduce pollution and to improve water resource features.

7. *Minerals.* The primary mission of this element is to integrate the exploration and development of mineral resources within the National Forest System, with the use and protection other of resource values. Research and cooperative activities related to the reclamation of mined lands are also included.

8. *Human and Community Development.* The primary mission of this element is to help people and communities to help themselves. The element includes activities that provide: Youth development through resource conservation work and learning experiences; adult employment and training opportunities through various Federal human resource programs; rural community planning development information and services; and technical forestry assistance and research for urban areas in the establishment, management, and protection of open space and the use of trees and woody shrubs.

Support Program Elements—1. *Protection.* The primary mission of this element is to protect and maintain forest and rangelands. It includes insect and disease control, fire protection, law enforcement, development of knowledge through research, and the technical assistance needed for National Forest System and other public and private forest and rangelands.

2. *Lands.* The primary mission of this element is to assist in land management planning and provide special land-use administration, landownership adjustment, multiresource studies, and new knowledge through research which primarily benefits multiple resource element outputs. These activities cover technical assistance and cooperation on non-Federal lands as well as within the National Forest System.

3. *Soils.* The primary mission of this element is to protect, conserve, and enhance the soil productivity of forest and rangelands. It includes the development of new knowledge through research, surveys, protection, rehabilitation, and improvement activities directed toward non-Federal lands as well as within the National Forest System.

4. *Facilities.* The primary mission of this element is to provide and maintain capital improvements such as buildings, roads, fences, bridges, dams, and airfields.

Central Issues and Concerns Addressed by Alternative Regulations

The NFMA was enacted to resolve long-standing issues concerning the management of National Forest resources. It clarified rules about the use of silvicultural practices and required that certain land and resource management planning practices be developed and used. The proposed regulations respond to the NFMA by prescribing a planning process and technical standards and guidelines to govern planning and management activities. The central or primary issues and concerns which the proposed regulations attempt to address are described as follows:

1. *The Conceptual Framework for The Integrated Planning Process.* There are many major proven conceptual models for planning-decisionmaking policy formulation. Which model or combination is best suited to congressional direction that the Forest Service define a unified planning process with supporting guidelines and standards to implement on each administrative unit of the National Forest System? Should emphasis be on process or on prescription? To what extent and detail should the relationships among and between planning levels and resource management functions be defined?

2. *The Interdisciplinary Approach to Planning.* The primary concerns are the purpose of the interdisciplinary team, who and what disciplines should be represented on the terms, what should be the professional and technical qualifications of team members, and what are the responsibilities of team leaders?

3. *Diversity of Tree Species and Plant and Animal Communities.* Congressional intent concerning "diversity" seems clear: It will be considered in planning, and it is to be provided and maintained by management. The basic issue is whether the regulations should be very specific or provide discretionary authority in providing diversity through management practices and activities. Of further concern is whether to prescribe by regulation how to measure diversity, and should existing diversity be maintained and reduced only to achieve necessary multiple-use objectives.

4. *The Role of Economic Analysis.* NFMA requires economic analysis of management program alternatives to determine economic consequences, and that economic analysis will be undertaken at all appropriate places throughout the planning process. At issue is the nature of economic tests which might be made, and whether Congress intended that benefits must exceed costs for each and every proposed management practice.

5. *Determination of Lands Not Suited for Timber Production.* At issue is the role that economics should exert in determining lands not suited for timber production. Some critics argue that NFMA prohibits management practices where costs exceed benefits and that, as a consequence, timber harvesting may not occur where benefits are less than costs. Another interpretation is that a strict economic test is not required, but rather that economics be one of several criteria used to determine suitability for harvest.

6. *Departures (Limitations on Timber Removal).* The National Forest Management Act limits the sale of timber from each National Forest to a quantity which can be removed annually in perpetuity on a sustained-yield basis with discretion to depart from this policy in order to meet overall multiple-use objectives. This provision to depart is not in Section 6, but in Section 11 (or Section 13 of the amended RPA). This separation has raised the issue of whether the determination of the timber allowable sale quantity and departures should be handled outside of the forest planning process or as a separate and distinct step after the forest plan has been completed.

7. *Size of Openings Created by Harvest Cutting.* Controversy over timber harvest methods on National Forest lands sparked the NFMA legislation. Congress debated whether to mandate strict nondiscretionary prescriptions for the management of National Forest lands and resources, or to require development of regulations to guide a planning process which would incorporate certain technical standards and guidelines to govern management activities. The latter course was taken, but the issue of prescription vs. planning process continued during development of the proposed regulations. The crucial issue is how specific should be the standards and guidelines for planning and managing each of the resources, for example, to prescribe in regulations the maximum size of openings created by harvest cuts, or instead describe the process by which the size of such openings would be determined on the basis of more site specific information.

8. *Public Participation.* The minimal elements of adequate public involvement are mentioned in the NFMA: the public must be adequately informed throughout the planning process; plans must be available in convenient locations; documents forming a plan must be integrated and located together to facilitate public review; and procedures for public participation must be identified in regulations covering the planning process.

The issues are the adequacy provided within the regulations for allowing the public to influence the decision process. Should the scope and level of public involvement be in regulations or discretionary? Should regulations define the agency as an active participant in representative democracy? In the past this role has been reserved for elected officials. Should public participation be required in certain steps of the planning process?

9. *Management of Wilderness Areas and Disposition of Roadless Areas.* NFMA provides little guidance about wilderness resource planning. Issues to resolve through the proposed regulations are the need to identify and appraise additional candidate areas and whether to establish maximum allowable levels of use.

10. *Coordination in Land Use Planning between Federal, State and Local Governments.* Planning by different entities that does not consider mutual goals and policies can frustrate National Forest management. The issues are the need to be aware of, evaluate, and consider the plans and policies of other planning bodies, and to involve appropriate representatives from them in National Forest planning activities.

11. *Buffer Strips in Riparian Zones.* At issue is the question of whether regulations should prescriptively designate a uniform protective strip around water bodies or provide criteria for protection that allows for local management variability.

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II. The Affected Environment

The affected environment is the entire National Forest System, approximately 187 million acres of Federal land administered by the Forest Service. The System consists of 154 National Forests totalling 183.4 million acres, 19 National Grasslands with 3.8 milion acres, and about 0.5 million acres of smaller purchase units, land utilization projects, and research areas. Initial reservation of public domain land contributed 160 million acres to the system with the remaining 28 million acres acquired by purchase, exchange, transfer, or other forms of acquisition.

The majority of land, 163.8 million acres, is located in the western portion of the United States, including Alaska. Approximately 23.9 million acres are located in the East. Although the land base is not evenly distributed throughout the country, National Forests and Grasslands provide an opportunity for all people to enjoy the many goods and services they offer. Lands within the NFS span a broad range of land forms and environment. For a discussion of land surface divisions, the reader is referred to work by Edwin H. Hammond.[1]

Vegetation. The vegetation of the National Forest System is as diverse as the plains, valleys, and mountains on which it grows.

For a thorough discussion about the relationship of vegetation to various generalized ecosystems in this Nation, the reader is referred to work by Robert G. Bailey.[2] Potential natural vegetation of the United States was mapped by A. W. Kuchler in 1966.[3] This mapping represents vegetation that would occur naturally in a given area if succession were not interrupted.

Air. The Nation's air quality is mandated by the Clean Air Act (Pub. L. 88–206) and its amendments. the 1977 amendments (Pub. L. 95–95) specified, among other things, certain Federal areas, such as national parks, wilderness, national monuments, national seashores, and other areas of special national or regional values, be designated for air quality protection.

The amendment adopted a system by which the entire nation would be designated specific air quality classes. Three categories were established—Class I, Class II, and Class III. Presently, each class represents a defined, allowable increase in particulate matter and sulfur dioxide. Class I allows the smallest pollution increment.

Clean Air Act Amendments initially classified all lands. Mandatory Class I status was given to international parks, national wilderness areas over 5,000 acres in size, national memorial parks that exceed 5,000 acres, and national parks that exceed 6,000 acres and were in existence on the date of enactment of the 1977 Clean Air Act Amendments. All other areas, (except those redesignated Class I by regulation prior to August 7, 1977) were designated Class II.

Section 164 of the Act gives State and federally recognized Indian Tribes authority to redesignate classifications for areas within their geographic boundaries. This authority was constrained to the extent that mandatory Class I areas could not be redesignated and certain other areas may be redesignated only as Class I or II.

Environmental Amenities. Perception of our environment is primarily a visual experience, but our senses of smell, taste, touch, and hearing contribute to complete our perception of environmental amenities. Maintenance of air quality provides environments pleasant to our senses of smell and enhances opportunities to enjoy expanded views and vistas.

The landscape character of this Nation can be described in terms of land and rock forms (topography), waterbodies, and vegetative patterns. These are components of the visual resource that, when seen in varying combinations, can be used to evaluate the visual quality of an area. Maintenance and protection of the visual resource is an important factor for the millions of people who view National Forests, and management of this resource is an important part of total land and resource management within the National Forest System.

Noise, or more precisely the lack of it, is an amenity savored by the American public. Complete solitude may usually be obtained within wilderness and more remote roadless areas. A quite, relaxed environment can be found throughout most National Forests and Grasslands. But other users often prefer noise and bustle. The management challenge for the National Forest System is to provide a cross-section of environments the many publics wish to use.

Resource Use. Management of the lands and renewable surface resources of the National Forest System emphasizes the continuous production of all their values for the American people. In contrast, management emphasis for lands administered by the National Park Service is preservation of areas of natural, historical, recreational, or scenic attractions. The National Wildlife Refuges are managed to protect various wildlife species.

For a more complete description of the resource uses made of an planned for on the National Forest System, the reader is urged to review the Draft Environmental Impact Statement for the 1980 Update of the Forest Service RPA Program. This document, released for public review on March 27, 1979, is available from Forest Service Regional Offices and headquarters in Washington, D.C.

Cultural Resource. Development of this Nation can be traced through many remaining archeological and historica sites, an invaluable asset for study of what has preceded us. However, the cultural resource on National Forests and Grasslands is neither fully discovered nor totally understood. Historical sites are being discovered as we continue to know more of this land. Though the resource has not been completely inventoried, if is protected by law and is recognized as an integral part of the total Forest Service land and resource management program.

Socio-economic Environment. This is related to population and demand for goods and services. Our 220 million residents rely upon the wealth of natural resources this country can provide for food, shelter, and employment. In addition, many seek escape from normal activities that surround them and find relief in natural attractions that abound in mountains, lakes, and valleys of this diverse land. The National Forest System provides both physical needs essential for comfort and diversified environments that promote quality of life.

Direct cash receipts from the National Forest System in fiscal year 1977 totaled a little more than $691.5 million. Timber receipts were by far the largest source, with receipts from mineral leases and royalties second. Fees from grazing and other permits were third. Twenty-five percent of the receipts received were returned to counties and States where the revenue originated for the purpose of funding schools and developing secondary roads. Additional receipts in the form of deposits and value added bring the total to more than $1 billion.

Total dollar reciepts are not a large factor when compared to the Nation's income, but they do represent much more than returns to the U.S. Treasury. The direct benefit created by the sale and use of National Forest and Grassland resources accounts for more than 180,000 person-years of employment. Indirect benefits from supporting industries add additional employment and dollar incomes to this total. Investments in transportation systems, cooperative assistance, and other non-quantifiable factors are also positive benefits derived from the National Forest System.

For many, the National Forest System is a special place remembered because of a recreational experience. It has symbolic meaning for those living within its shadows or concern for management of this Federal land, whether they depend upon it, have intimate knowledge of it, or only recogize it as "being there."

Land use decisions can affect each and every individual. Those with an economic or specialized recreation interest can be affected if areas are identified for wilderness use. Others with more of a preservation orientation may be disturbed if a favorite roadless area becomes available for use of its commodity resources, and roads are built into the area. Various uses of land are complex in nature and at times conflicting. What is ideal for one group of individuals may adversely effect others. Within this framework, the process for planning and managing the National Forest System must occur.

III. Evaluation Criteria

Criteria for evaluating alternative regulations are based primarily on the specific guidelines and standards identified in the National Forest Management Act. The options for developing the regulations are evaluated on the basis of their relative effectiveness in carrying out the intent of the law. This requirement not only narrows the range of available alternatives but also reduces the degree of evaluation required in proposing the regulations. The following evaluation criteria will be applied:

1. *NFMA Requirements.* Alternatives will be evaluated on the basis of how well they achieve the specific requirements of the National Forest Management Act. In some instances it may be necessary to interpret the "intent" of the Act in order to make this evaluation.

2. *Scientific and Technical Adequacy.* A number of issues contained in the proposed regulations relate to scientific and highly technical aspects of natural resource management. While there may be general agreement among the scientific community on most of these issues, some disagreement does exist and much political controversy has surrounded these technical aspects of management. The scientific and technical aspects of various alternatives must be separated from the political controversies which surround them, and evaluated solely on the basis of generally accepted scientific knowledge.

3. *Acceptability to Diverse Publics.* General acceptance of the regulations is essential if the planning process is to be responsive to the specific concerns identified during the legislative history of the Act. Alternatives will be evaluated on the basis of input from public participation. Acceptability will continue to be determined as the preferred alternative regulations are published in the Federal Register for public review and comment.

4. *Environmental Protection.* The Act specifically requires that certain environmental protection standards be established. Alternatives will be judged on the basis of the adequacy of the environmental protection afforded by the standards. This will be expressed in terms of how the alternatives affect overall environmental quality.

5. *Timber Supply.* The RPA requires development of a Program which is to provide for the protection, management, and development of the NFS. This program and alternatives, if any, shall include specific identification of outputs and benefits, and recommendations which recognize the need to protect and improve soil, water and air quality; and which state national goals in recognition of the interrelationships between and interdependence within the renewable resources managed and produced in the NFS. The NFMA provides for a planning process as part of the RPA Program, and requires guidelines or standards to govern management activities which affect commodity production, particularly timber. Alternatives for planning discussed in this DEIS affect timber production and hence supply in various ways. Alternatives will be judged on the basis of their tendency to maintain or increase supply goals consistent with the current RPA Program.

6. *Administrative Requirements*—(a) *Compliance with Executive Order No. 12044.* Alternatives will be evaluated against direction that regulations be as simple and clear as possible; that regulations shall achieve legislative goals effectively and efficiently; that regulations shall not impose unnecessary burdens on the economy, on individuals, on public or private or organizations, or on State and local governments.

(b) *Accountability.* Evaluation will be made as to how visible accountability is made through regulation in terms of who is responsible for actions and decisions.

(c) *Capability to Implement.* Forest Service programs and personnel requirements are subject to constraints set by Congress and the Executive branch. Alternatives will be evaluated in light of personnel and skill requirements, and time required to undertake and complete planning actions specified.

(d) *Flexibility.* In the application of resource management standards and guidelines, it must be recognized that local resource conditions vary considerably, thus necessitating special requirements or exceptions. Alternatives must be evaluated on the basis of the extent to which they provide adequate safeguards against resource damage or abuse and the extent to which they permit local management discretion.

[1] Hammond, Edwin H. 1964. Analysis of Properties in Land Form Geography: An application to Broad Scale Land Form Mapping. Annals of the Association of American Geographer. Volume 54:11–23.
[2] Bailey, Robert G. 1976. Ecoregions to the United States. U.S. Department of Agriculture, Forest Service. Map and Discussion.
[3] Kuchler, A. W. 1966. Potential Natural Vegetation Map. U.S. Department of Interior, Geological Survey. Map and Discussion.

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Procedural standards necessary to address special needs and exceptions must be judged on the basis of their ability to maintain quality, conformity, and adequate review of management actions while not burdening the entire management system with truly trivial details.

IV. Alternatives Considered

A variety of approaches could be used to develop regulations in response to Section 6 of the NFMA. Variations within the actual planning process, the definitions of specific terms, and establishment of various standards could be developed in numerous ways.

There are at least two sets of alternatives to develop and consider. One set concerns planning process. The other concerns regulatory language, style, and structure in terms of describing the rules which are to be applied through the planning process to management of National Forest System lands and resources.

The Planning Process Framework. The Forest Service has been involved since its creation in the development of a land management process. This process for allocating resources, determining outputs, and measuring impacts and tradeoffs has evolved from practical application mostly at the forest level. Intense public interest in management of the National Forests has produced modifications in the evolving planning process. This public interest culminated in passage of the NFMA which requires the Forest Service to define, through rulemaking, a unified planning process with supporting guidelines and standards to be implemented on every administrative unit of the National Forest System. NFMA thus created the need to evaluate current planning and decisionmaking in detail and set the stage for developing the function and content of land management plans. If the present planning system is to be improved, as NFMA strongly implies, then knowledge is needed about general planning theory. This would provide a conceptual basis for developing operational planning process alternatives.

The advantages and limitations of varous planning process concepts and approach possibilities are described in material appended to and made part of the minutes of the May 24–26, 1977.

Committee of Scientists Meeting. A brief description of planning concepts and approaches appears in the Appendix of this DEIS.

The alternative regulations presented in this DEIS are a composite structure of mixed scanning and the systems theory and mutual causal approach. This selection best provides for the interdisciplinary approach to integrated planning mandated by NFMA.

Alternatives for Regulation Language to Address Central Issues: NFMA mandates development of regulations to set forth a process for the development, adoption and revision of National Forest System land and resource management plans. The regulations are also to contain standards and guidelines to govern the conduct of management activities. As a consequence of this mandate, a "no change" alternative was not created for presentation, discussion, and evaluation in this DEIS. The only realistic "no change" alternative might have been planning as currently practiced according to direction in Forest Service Manual 8200. The continuation of this direction is clearly not what Congress intended by enacting NFMA.

There are an infinite variety of ways for language to capture the intent of NFMA in management guidelines and standards. The alternatives presented in this statement cover language to address the central issues and concerns presented in Section 1.

The various alternative language sets proposed are described below and are arranged by source in the order corresponding to the eleven central issues identified in Section I. However, in the interest of brevity, and to facilitate analysis, some of the language presented is in summary form. All of the original material is available for review in its original form at Forest Service Headquarters, in Room 4021 South Agriculture Building, Washington, D.C. Except for the text of the Committee of Scientists Report and comments received from the pubic, this material is reproduced in the Appendix of this DEIS. The reader is urged to refer to it simultaneously with the study and review of this statement. There are seven alternatives. Each is briefly described or characterized as follows:

Alternative 1—Forest Service Draft Regulations (**Federal Register**, August 31, 1978)

The original draft regulations are largely procedural in nature. The process which is to be followed in making land management decisions is outlined with greatest emphasis upon planning at the forest level. National, regional, and forest levels of planning are implied; however, the draft contains very little detail for regional planning. For the most part, the resource standards and guidelines which appear in the draft can be characterized as broad statements of concerns which must be addressed throughout the planning process. For several issues, the draft language is merely a restatement of the NFMA requirements. The management standards for determining lands not suitable for timber production are among the most detailed of all the standards presented. the draft requires both biological growth minimums and economic efficiency considerations. The biological growth minimums are not specified nationally, but are required to be stated in the regional plans. Protection standards for streams and lakes are not specified, but are required to be stated in the forest plans. Standards for selection of silvicultural systems and for size limits for openings created by cutting are to be determined by the regional planning process. Departures would be handled at the forest planning level. Throughout the draft, the primary emphasis is upon procedures to be followed and concerns to be addressed, all within a highly flexible framework which would permit a great deal of local (forest level) management discretion. It is functional in its approach to formulating standards and guidelines, and not specific that the determinations of localized standards and guidelines is part of, and as a consequence a result of, the planning process.

Alternative 2—Environmental Groups' Proposals for § 219.10(d) (**Federal Register** August 31, 1978)

This alternative addresses only two issues; the determination of lands not suitable for timber production, and procedures for allowing departures from nondeclining yield. This proposal specifies a national minimum biological growth potential for timber production. Under the requirements of this alternative, no timber harvesting would occur for at least 10 years on National Forest System lands on which the biological growth potential is below 50 cubic feet per acre per year growth of industrial wood in natural stands. There are several other factors to be used in the determination, including size and location of isolated tracts, nonmarketable species, slope and soil stability. In addition to these constraints, an economic efficiency test is required for the determination. Lands are not to be harvested for at least 10 years if direct benefits from growing and harvesting timber are less than the anticipated direct costs to the government, including interest on capital investments. Direct costs and direct benefits are defined. This alternative stipulates that departures may be considered only after the forest plan has been approved. In other words, departure determinations would not be permitted as part of the Forest land and resource management planning process. All proposed departures are submitted to the Chief, Forest Service, via the Regional Forester. If approved, the Chief would then direct the forest supervisor to prepare the proposals and a draft and final EIS. Final approval for all departures rests with the Secretary.

Alternative 3—Timber Groups' Proposals for § 219.10(d) (**Federal Register** August 31, 1978)

This alternative addresses two issues: determination of lands not suitable for timber production, and departures from nondeclining yield. This proposal emphasizes the role of timber production targets assigned to the forests through the RPA Program. Consequently, suitability determination (as opposed to nonsuitability) is stressed and is recognized as being largely dependent upon the ability of the forests to meet the assigned targets. A minimum biological growth potential is to be specified by the regional plan, and economic analysis is required to determine if lands are efficient for producing timber. Lands would not be used for timber production if those lands were not needed to meet the assigned targets and they were not efficient for producing timber. Departures would be considered and formulated if no timber harvest alternatives could achieve the assigned goals, or if implementation of the alternatives would result in local economic instability or inadequately maintain local or national supply needs. Departures would not require approval above the forest planning level.

Alternative 4—Committee of Scientists Final Report to the Secretary (February 9, 1979), and Recommended Regulations attached thereto.

The Committee of Scientists reviewed the original draft regulations and recommended alternative language and, in some instances, completely new material for inclusion in the regulations Generally, the Committee's proposals expand and add specific detail to the original draft (August 31, 1978) regulation. A number of organizational changes for regulation material are also suggested. The Committee's revisions include the addition of considerably more detail to the relationship among planning levels (national, regional, and forest), specifications for the interdisciplinary planning approach, rationale and requirements for public participation, more substantial requirements for coordination, and more specific requirements for resource standards and guidelines, including wilderness management, riparian zones, fish and wildlife, and diversity. The Committee has proposed a new and detailed treatment of regional planning similar to forest planning. The Committee's recommendations for lands not suited for timber and for departures, similar to those of the August 31, 1978 draft, are more specific and clear. An added requirement for departures specifies that each must be approved by the Chief, Forest Service. Though the Committee recommends a 50-meter buffer strip for riparian zones, it agrees with the August 31, 1978 draft that the maximum size for openings created by timber cutting be set by regional plans or regional silvicultural guides, not be set as a national standard.

Alternative 5—Public Comment.

Many of the public comments represent extreme differences of opinion as well as broad philosophical differences for many issues. The number of detailed comments offered and the wide-ranging scope of many do not lend themselves to a systematic description. The interdisciplinary team has conducted a thorough review of all public comments received, both from hearings and from written responses. It is important to note that there does appear to be consensus for several broad issues. These include the value of an interdisciplinary approach, the inadequacy of the minimum of two specialists for the interdisciplinary team, the inadequate treatment of regional planning, and the value of public participation and coordination requirements. Most disagreement among the public appears to be centered around the lands not suitable issue, procedures for allowing departures, the question of whether or not maximum size openings should be set by national regulations or by the regional or forest plan, and the issue of determining protection standards for streams and lakes. On balance, the public comments reflect one common theme: both the general public and special interest groups consistently expressed the opinion that the regulations should include more specific, detailed requirements for planning and management. This concern is found throughout the comments and applies equally to those commentors who agreed and to those who disagreed with different points raised by the August 31, 1978 draft. This concern was not confined to the consideration of individual issues, nor was it directed solely at the resource management standards and guidelines. Comments which reflect this theme were directed toward almost every major issue, including many of the purely procedural requirements specified in the original draft.

Alternative 6—The Preferred Alternative: Revised draft regulations, with provisions for nationally established standards for buffer strips and harvest cut openings.

This alternative is the end result of public involvement and work by the Committee of Scientists with the Forest Service in the process of developing the regulations required by NFMA. A number of organizational changes, the incorporation of new material, and more specific direction have considerably changed the alternative compared to the original draft of August 31, 1978. Most of the Committee of Scientists recommendations are reflected in this alternative. It is important to point out here that these recommendations were also strongly influenced by interactions of interest groups with the Committee. Key substantive coverage by this alternative includes the following: More detail concerning the relationships among planning levels; detailed provisions for the conduct of regional planning; more thorough treatment and clarity of purpose concerning public participation and coordination activities; more specific concerning determinations of lands not suited for timber production with the direction that biological growth potential minimums be set in regional plans, and lands be ranked for their economic efficiency for producing timber; requirements that departures from non-declining yield be analyzed through the NEPA environmental assessment process and be approved by the Chief; setting of maximum size of harvest cut openings (40-, 80-, or 160-acre maximums depending on geographic location) with exceptions provided for through regional plans where larger openings will produce more desirable combinations of benefits; and special protection of streams and lakes by requiring special attention to strips 100 feet along both sides of perennial streams, lakes and other bodies of water. Organizational changes include addition of material concerning regional planning, and separation of planning process criteria from resource management standards and guidelines. The planning process has been clarified and expanded explicitly to cover national and regional, as well as forest level planning.

Alternative 7—Revised draft regulations identical in all respects to Alternative No. 6 except that standards for riparian buffer zones and harvest cut opeing sizes will be established through regional planning process.

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Alternatives by Issues: Regulatory language sets follow for the eleven selected issues discussed in Section I. Since Alternatives 6 and 7 are idential except for issues 7 and 11, Alternatives No. 7 is discussed only for these two issues.

Issue No. 1—Conceptual Framework for an Integrated Planning Process.

Alternative 1: The August 31, 1978 draft regulations are a mix of approaches with emphasis given to a "process" oriented approach. Three levels of planning (forest, regional, and national) are described in terms of information flows. However, the planning process is described only in terms of forest level planning and is not related to the other two levels.

Alternative 2: This issue is not addressed.

Alternative 3: This issue is not addressed.

Alternative 4: The Committee of Scientists endorses the "process" approach as opposed to a "prescriptive approach." It is recommended that the important interactive nature of the three levels of planning be conveyed in the regulations, and that the regulations also specify procedures for developing the regional plan and its content similar to requirements specified for forest plans.

Alternative 5: Most comments relating to this issue concerned the relationship between national and other plans. Many commenters objected to what they considered to be planning from the "top/down" to the forests. A number of commenters pointed out that more specific language was needed to insure that local activities are based upon local capability and not simply assigned targets from the regional plan or the RPA national Program. The treatment of regional planning in the draft regulations was considered to be grossly deficient. It was suggested a complete revision be made to include this issue and be mandatory that an environmental impact statement be prepared for each regional plan.

Several commenters proposed that more specific language be included to ensure that timber plans would be integrated with other planning efforts.

Alternative 6: The recommendations of the Committee of Scientists have been adopted in the preferred alternative. In addition, a great deal more detail has been added to planning criteria and requirements throughout the entire planning process. Although the revised regulations contain many more "prescriptive" requirements than the earlier draft, the revised version is more "process" oriented than the original draft. A completely new section devoted entirely to a description of the "planning process" has been added. There is also an expanded, much more detailed treatment of the role and function of national, regional, and forest level planning. The interrelationships among the planning levels have been outlined. There are two new separate sections devoted to regional planning. One describes in detail the regional planning procedure and the other establishes criteria for regional planning actions. The requirements for forest planning have been expanded and are detailed in the same manner as those for regional planning. Provisions are made through regional planning to provide a range of objectives which forest plans must address through the planning process.

Issue No. 2—The Interdisciplinary Approach to Planning.

Alternative 1: The August 31, 1978 draft states that an interdisciplinary approach shall be followed. With the exception of a requirement for two or more specialties to be represented, no specific requirements for team make-up or qualifications are given. Complete discretion is given to the forest supervisor for deciding both composition and qualifications.

Alternative 2: This issue is not addressed.

Alternative 3: Proposal does not address this issue.

Alternative 4: The Committee recommends more specific language on:

1. Description of interdisciplinary process;
2. Actual philosophy that is to guide the team; and
3. Requirements for composition of team and for qualifications of members.

Alternative 5: There was general agreement that an interdisciplinary approach was needed throughout the planning process. A frequent criticism of the draft regulations with respect to this issue was there were too few specific guidelines for composition of the team and qualifications for team members. There was almost universal agreement that the minimum of the two disciplines was inadequate. The comments contained some disagreement concerning the degree of authority that the "responsible Forest Service official" could or should have over the interdisciplinary team. It was suggested that the regulations should include some means to encourage outside consultation and use of non-Forest Service expertise, as well as more coordination with State and local resource specialists. Some commenters suggested that State and local government representation on the interdisciplinary team should be required.

Alternative 6: Most of the Committee of Scientists' proposed language has been adopted. The role and responsibilities of the team have been more clearly specified. This includes requirements for composition of the team and for qualifications for team members.

Issue No. 3—Diversity.

Alternative 1: The August 31, 1978 draft requires that inventory information include quantitative data for determining species and community diversity. The forest planning section also specifies that each management alternative include provisions for diversity and that effects of each alternative on diversity be estimated. There is also a specific requirement to estimate diversity effects for fish and wildlife. Methods or measures of diversity are unspecified.

Alternative 2: This issue is not addressed.

Alternative 3: Proposal does not address this issue.

Alternative 4: The Committee generally supports treatment of diversity in the regulations. Recommendations for clarifying and strengthening the language in a number of places are included. The Committee recommends against requiring the use of quantitative diversity indices. In addition, the Committee adds to the regulations specific language to ensure that planned type conversions must be justified by detailed analysis showing biological, economic, and social consequences.

Alternative 5: Some commenters suggested that the draft regulations were not specific enough and that the requirements did not meet the intent of the NFMA. The concern was voiced that the regulations should have dealt more specifically with forest-type conversions (i.e., conversion of Eastern hardwood forests to softwoods). It was suggested that, with few exceptions, the regulations should prohibit forest-type conversions. Some commenters stressed the need for closer State and local cooperation on the general issue of diversity. The need for designating "research natural areas" and other types of preservation areas was noted.

Alternative 6: The Committee of Scientists' recommendations for clarifying language and establishing criteria have been adopted for this alternative. Management standards and guidelines for diversity have been expanded with more emphasis on type conversions. Additional requirements have been specified to ensure coordination with other Federal, State, and local agencies. Specific requirements for designation and

management of special interest areas and research natural areas have been added.

Issue No. 4—The Role of Economic Analysis.

Alternative 1: The August 31, 1978 draft regulations suggest that population and employment data be collected, that demand projections be used, and require that expected benefits be included in this analysis. Specific requirements for analysis include effects on distribution of goods, services and uses, changes in payments to local governments, income, employment, and economic efficiency. Direct and indirect benefits and costs are to be estimated using standards and practices to be established later by the Chief, Forest Service. Economic impact estimates of different range management alternatives on local livestock industry are also required. It is required that lands be classified as not suitable for timber production if "an economic • analysis reveals that the lands are not efficient for producing timber."

Alternative 2: The overall issue of economic analysis is not addressed. Economic efficiency analysis for the classification of lands suitable for timber would be provided for in this alternative as part of the regulation recommended under Issue No. 5 (See Issue No. 5, Alternative No. 2.)

Alternative 3: The proposal does not address the general issue of economic analysis. Some economic evaluation requirements are included in "suitable lands" requirements. (See Issue No. 5, Alternative No. 3.)

Alternative 4: The Committee concludes that language in the draft regulations dealing with economic analysis is often vague and must be improved if direction is to be clear. The Committee has proposed more specific direction for ensuring that competent economic analysis occurs in all appropriate places in the planning process and are displayed for consideration of the economic consequences of alternatives.

Alternative 5: Some commenters who addressed this issue declared that the draft regulations were seriously deficient with regard to analysis requirements and specific standards. It was suggested that some type of economic efficiency analysis should be required to ensure that all activities would yield the maximum net public benefits possible. Many of the suggested revisions to the regulations would require the Forest Service to conduct rather detailed analysis of benfits and costs for all planning activities, including evaluation of both market and non-market goods. Some disagreement was expressed regarding the importance of local economic stability concerns. Many felt that local economic impacts should be a prime consideration in the evaluation of plans while others considered this to be an inappropriate function of Forest Service planning. It was suggested that, in addition to an "environmentally preferable" alternative, the plans should include an "economically preferable" alternative. Some commenters stressed the need for detailed economic analysis for potential wilderness areas and for present and potential mineral and energy development areas. The need for a more thorough treatment of present and future "demand assessment" for both market and non-market goods was also noted.

Alternative 6: Substantial requirements relating to economic efficiency analysis, evaluation criteria, and guiding principles for management have been added in this alternative. Additional analysis requirements have been specified for regional and forest planning, including supply and demand assessments and economic impact evaluation for alternatives considered. The role of economic analysis in the determination of lands not suitable for timber production and consideration of community stability objectives have been clarified. Requirements have been specified for economic evaluation of values foregone by wilderness designation.

Issue No. 5—Determination of Lands Not Suited for Timber Production.

Alternative 1: The August 31, 1978 draft regulations outline a process for determining lands not suited:

1. Lands are considered "not capable" if biological growth potential is below a minimum set by the regional plan.
2. Lands are "not available" if they have already been designated from some other use.
3. Lands are "not suited" if timber production would result in adverse impacts upon soils, productivity, watershed, threatened or endangered species, or cannot be restocked in 5 years.
4. Lands that have been classified as "capable, available, and suitable" are to be further reviewed during the formulation of alternatives stage of planning and are classed as "not available" if management objectives for the area preclude timber production or limit production to the point where silvicultural standards cannot be met.
5. Lands that are classed as "capable, available, and suitable" may be classified as "not suited" if an economic analysis reveals that these lands are not efficient for producing timber.
6. No timber harvesting can occur for at least 10 years on lands "not suitable."

Alternative 2: This alternative includes the following limits for identifying timber producing lands:

1. Lands are "not capable" if biological growth potential is below 50 cubic feet per acre per year of industrial wood in natural stands (higher standard may be established by regional plan).
2. "Not available" if lands are administratively or legislatively withdrawn.
3. Lands are "not suited" if:

A. They consist of isolated tracts of commerical forest land (stringers) such that organizing and scheduling periodic harvest is impractical;

B. They contain non-marketable timber species;

C. Slope is equal to or greater than the angle of repose of the soil, or the critical angle for slope stability;

D. Lands have solid types for which erosion rates during the first 10 years following logging would cause loss of soil greater than the amount that would be generated naturally through periodic weathering during one period of rotations; or

E. No technology has been developed or is expected to be developed in the next 10 years, that is or will be available and feasible for use in the forest during such period, that will enable timber production from the land without significant or long-lasting resource damage to soil, productivity, or watershed conditions; without significant adverse impact on threatened or endangered species; and with assurance that such lands can be adequately restocked within 5 years after final harvest.

4. Lands classified as "capable, available, and suited" for timber production are further identified as:

A. "Not available" for timber production if those lands will be managed to meet objectives of the forest plan that either preclude timber production or limit timber production to the point where silvicultural systems and resources could not be employed within the standards and guidelines for silvicultural systems and resources protection contained in these regulations and in the forest plan;

B. "Not suited" for timber production if the anticipated direct benefits from growing and harvesting timber are less than the anticipated direct costs to the government, including interest on capital investments required by timber production activities. Specific standards and practices for making the economic analysis required by this section are to be established by the Chief, Forest

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Service in regulations which shall be effective on the same date as these regulations, and shall be applied uniformly and nationally, provided that in determining net benefits from timber production the following principles shall be followed:

(1) Direct benefits include the anticipated revenue from harvesting timber crops, and any benefits that can be reasonably attributed to increased production of other services such as forage, water flows, and wildlife;

(2) Direct costs include the anticipated investments, maintenance, and operating management and planning costs attributable to timber production activities, and any costs that can be reasonably attributed to decreased production of other services and to mitigation measures necessitated by the impacts of timber production. In the case of roads, only the additional investments in the road system required by timber growth and harvesting activities are to be included in direct costs; and

(3) The rate of interest used to discount future benefits and costs shall be equal to the rate expected for alternative uses of Federal funds, as set by the Office of Management and Budget.

5. No timber harvesting shall occur on lands classified as "not capable" or "not available," for timber harvesting and for 10 years on lands "not suited," excluding salvage sales and other special circumstances.

Alternative 3: The alternative makes a key factor upon which suitability determinations will be made on the production goals assigned to the forest through the regional plan from the RPA Program. The proposal requires that timber producing lands be identified in the following manner:

1. "Not capable" if biological growth potential is below minimum standard defined by the regional plan.

2. "Not available" if the land is legislatively or administratively withdrawn from timber production.

3. "Not suited" if technology is not now available or none is expected to be developed within the next 10 years that would permit harvesting which meets silvicultural guidelines.

4. Lands classified as "capable, available, and suited" will be further reviewed and identified as "not suited" if those lands are not needed to meet production goals from the regional plan and "lands are not efficient for producing timber." Additional economic analysis requirements for this determination include: "Any economic analysis will be based on the assumptions that the lands are managed primarily for timber production and are in fully regulated condition; that technically feasible management practices are applied which have a net economic benefit given anticipated future price levels and cost levels reasonable and directly related to efficient and prudent timber management; and that the cost of administration, protection, and access are borne proportionately by those other resource values produced while the land is under primary management for timber."

Alternative 4: The August 31, 1978 draft provides for a 5-step process for identifying lands not suited. The Committee does not consider this adequate and recommends the following procedure:

1. Lands are screened to determine if they are "available" for (i.e., not already designated for other use) timber production;

2. "Available" lands are then screened to identify areas that are "not suitable" for timber production because of physical, technical, biological (including a minimum productivity standard), or environmental factors;

3. Lands passing these tests are then subjected to economic analysis and ranked to determine their relative economic efficiency for commercial timber production; and

4. Alternative land management plans are formulated, lands are allocated to timber harvest on a cost-effective basis, and these allocations then may be adjusted and revised on the basis of multiple-use considerations.

Alternative 5: There was a great deal of disagreement in the public comments regarding this issue. Some felt the draft regulations were too restrictive while many others considered the regulations far too open-ended. A number of comments suggested that more specific requirements for economic efficiency criteria for suitable lands be included. Some commenters stated that the Environmental Groups' proposal would fulfill the requirements of NFMA, but that this proposal was unrealistic and too inflexible. It was suggested that this determination should consider factors such as slope, angle of repose of the soil, soil stability, areas of isolated tracts and non-marketable species. The biological growth standard for determining suitable lands was a major area of conflict. A number of possible revisions were suggested including regulation requirements for minimum growth standards. A minimum standard of 20 cubic feet acre per year was frequently mentioned. Other proposed limits were 50 cubic feet per acre per year, 50–80 in undeveloped areas and, 25–30 in developed areas. Other commenters proposed that standards not be set in regulations, but in either the regional plan or forest plans.

Alternative 6: The treatment of this issue in this alternative is based upon the Committee of Scientists' recommended language and organization. Minimum biological growth standards to be used in the determination of timber production capability will be established by the regional plan using the criteria specified in the regulations. Lands with potential for commercial timber production will be evaluated using the assumptions and criteria in the regulations to determine their relative economic efficiency for this use. Lands which are more "efficient" (relative to other lands) will be allocated for timber production before less "efficient" lands are used. There is no minimum economic return specified in the regulations, nor is there a firm requirement that net benefits must exceed costs for this use.

Issue No. 6—Departures.

Alternative 1: The August 31, 1978 draft requires that the allowable sale quantity be determined on the principle of sustained yield and only based on lands "capable, available and suitable." The following requirements for all alternatives are specified:

1. For the base harvest schedule the planned sale and harvest for any future decade must be equal to or greater than the planned sale and harvest for the preceding decade, providing that the planned harvest is not greater than long-term sustained yield capacity (non-declining flow).

2. Long-term sustained-yield, base timber harvest schedules, and departures are subject to the following guidelines:

A. "For the long-term sustained-yield capacity and the base harvest degree of timber utilization consistent with the goals, assumptions and standards contained in or used in preparation of the current Renewable Resource Program and regional plan. For the long-term sustained-yield capacity, the management and utilization assumptions must reflect those projected for the fourth decade of the regional plan. For the base harvest schedule, the management and utilization assumptions must reflect the projected changes in practices for the four decades of the regional plan. Beyond the fourth decade, the assumptions must reflect those projected for the fourth decade of the regional plan."

B. "For departure alternatives to the base harvest schedule which provide outputs above the current regional plan, assume an appropriate management intensity."

C. "In accordance with the established standards, assure that all even-aged stands scheduled to be harvested during the planning period shall generally have reached the culmination of mean annual increment of growth. Mean annual increment must be based on management intensities and utilization standards expressed as units of measure consistent with the regional plan, Exceptions to those standards are permitted for the use of sound silvicultural practices, such as thinning or other stand improvement measures; for salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack; for the improvement of age-class distribution; or for the removal of particular species of trees after consideration has been given to the multiple uses of the area being planned and after completion of the public participation process applicable to the preparation of the forest plan."

D. "For all harvest schedules, achieve a forest structure by the conclusion of the scheduling period that will enable perpetual timber harvest thereafter at the long-term sustained-yield capacity, consistent with the long-range multiple-use objectives of the alternatives."

3. Departures should be considered under any of the following conditions:

A. "None of the timber harvest alternatives formulated has the capacity to produce the goods, services, or uses to meet objectives specifed for the area by the regional plan."

B. "Attainment of the multiple-use objectives of the forest plan will be enhanced by more rapid and efficient achievement of the long-term sustained-yield capacity of the forest owing to present forest structure or by reducing high mortality losses."

C. "Implementation of the base harvest schedule would cause instability or dislocation in the economic area in which the forest is located."

4. The proposal also specifies how the harvest schedule is to be selected:

A. "Selection of a harvest schedule must be made following a comparison of management alternatives * * * This comparison must include an evaluation of the sustained-yield goals, silvicultural standards and guidelines, and the effects of timber removal on other resources * * * The selected harvest schedule provides the allowable sale quantity, or the quantity of timber that may be sold from the area of land covered by the forest plan for the plan period. Within the planning period, the volume of timber to be sold in any one year may exceed the average annual allowable sale quantity so long as the total amount sold for the planned period does not exceed the allowable sale quantity."

Alternative 2: The proposal would not permit departures within the regular planning process, but specifies that a forest plan may be amended to increase or decrease the allowable sale in the following manner;

1. Regional Forester may ask the Chief, Forest Service to "consider" departure if departure would "enhance" multiple use objectives by:

A. Improving age-class distribution;

B. Reducing high mortality losses; or

C. Reducing conflicts.

2. The Regional Forester must submit a report giving information to support recommended departure.

3. The Chief may agree to "consider" departures and direct the Forest Supervisor to prepare proposals, and draft and final EIS's are required for proposals.

4. In formulating proposed departures, the following is required:

A. Each departure proposed shall reflect management direction established in the forest plan regarding constraints on harvest, type of silvicultural systems to be used, and silvicultural standards and guidelines. Lands that would be affected by the increase or decrease in harvest level shall be specifically identified;

B. Each departure shall assume a degree of timber utilization and management intensities consistent with those assumed in the preparation of the base timber harvest schedule and demonstrate that forest structure by the end of the planning horizon would enable perpetual harvest thereafter at the long-term sustained-yield capacity; and

C. Each departure shall be evaluated in accordance with regulations covering estimated effects of alternatives and compared with the forest plan. Such comparison shall include an evaluation of the consistency of the departure with the multiple-use objectives of the forest plan.

5. The Secretary, after review of the final EIS, must approval all departure proposals.

Alternative 3: The proposed alternative altered the provisions set out in Alternative No. 1 in the following ways:

1. For base timber harvest schedule(s) "the planned sale and harvest for any future decade must be equal to or less than the long-term sustained-yield capacity" rather than the preceding decade and "the total harvest must also be the maximum achievable from the forest during the first rotation."

2. Add an exception to the standards for assuring that all even-aged stands scheduled to be harvested generally have reached the culmination of mean annual increment of growth—"for the improvement of age-class distribution."

3. "For all harvest schedules, other than the base harvest schedule, achieve a forest structure by the conclusion of the forest rotation that will enable sustained-yield capacity, consistent with the long-range multiple-use objectives of the alternatives."

4. An additional condition for departure was added. "Implementation of an alternative plan would provide greater public benefits, including, but not limited to a combined flow of public and private timber that better meets local and national demands or achieving to the extent possible a better balance between expenditures for timber management and the return to the Federal Government from the sale of timber and the value of other related uses."

5. Additional factors were added in the step for selecting the harvest schedule:

A. "Selection of harvest schedule must be made following a comparison of management alternative and the public benefit to be achieved from each."

B. "The responsible Forest Service official shall describe in writing the justification for the selection made and the standards used."

Alternative 4: The Committee recommends adoption of the principles in the August 31, 1978 draft with the addition of:

1. Statement of basic policy with regard to timber harvest scheduling;

2. Language to make clear that departures from the base harvest schedule and the planning required for departures is discretionary; and

3. Authority for approving any departure above the base timber schedule should lie with the Chief.

Alternative 5: A number of commenters stated that the regulations should simply prohibit departures. Others suggested that very detailed criteria should be provided to ensure that departures are only allowed under truly exceptional circumstances. Some commenters stated that detailed criteria would be impractical. There was a good deal of conflict regarding the issue of

whether or not local economic conditions should be considered as a justification for departures.

Alternative 6: The Committee of Scientists' proposals have been adopted. With the exception of specifying that the Chief, Forest Service, must approve departures, this alternative for the regulations is similar to the original draft requirement concerning this issue. Consideration of local economic disruptions has been maintained.

Issue No. 7—Size of Openings Created by Harvest Cutting

Alternative 1: The August 31, 1978 draft requires that maximum size limits for clearcutting will be determined through the regional planning process.

Alternative 2: This issue is not addressed.

Alternative 3: The proposal does not address the issue.

Alternative 4: The Committee alternative agrees with the August 31, 1978 draft that maximum size limits be set regionally.

Alternative 5: A number of commenters have asserted that the draft regulations lack the degree of specificity required by NFMA. There is major public conflict regarding the issue of whether or not the regulations should set size limits for harvest openings throughout the National Forest System. Some commenters have strongly criticized the draft regulations for the absence of nationwide standards for size and spacing of harvest openings. Others have emphasized that the regulations should not set national standards but rather these standards should be set by the forest or the region, by species or forest type, and justified, in an environmental impact statement.

Alternative 6: This alternative for the regulations establishes the maximum size for openings created by timber cutting. These maximum sizes are: 80 acres for the Douglas fir forest type of California, Oregon, and Washington; 100 acres of the hemlock-Sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types. There are provisions for exceptions to these size limits. These are:

1. Regional plans may specify smaller maximum sizes for geographic areas or forest types based upon the factors detailed in the revised regulations.

2. Regional plans will include provisions for exceptions that will permit larger size openings than those specified in the regulations. The minimum set of factors to be considered for exceptions is outlined in the revised regulations. Forest plans must conform to the size limitations established by the regional plan. Any exceptions (except catastrophic losses) to exceed the 60-100- or 40-acre maximum size limits must be approved by the Chief, Forest Service. At least 30 days public notice must be given before the size limits may be exceeded.

Alternative 7: This alternative requires that maximum size limit for harvest cut openings will be determined through the regional planning process.

Issue No. 8—Public Participation.

Alternative 1: The August 31, 1978 draft regulations use a theme of criteria to achieve compliance and uniformity. This concept of rulemaking provides latitude for adaptation to future social changes, but does not specifically state standards on the role the public may exercise the decision process. Standards are established for the availability of documents and their required residence. Criteria for the type of meetings to be held and where in the process they are to take place are discretionary in this version of the regulations.

Alternative 2: The proposal does not address this issue.

Alternative 3: The proposal does not address this issue.

Alternative 4: The Committee of Scientists' version of the regulations contain more specific requirements in several areas. The Committee felt that the vague and broad discretion in the August 31, 1978 draft regulations "lead to discontent and an unhappy, uninformed public."

The more specific areas recommended by the Committee of Scientists are:

1. A general policy statement and objectives of public participation.

2. Provide for a mutual program of information and educational exchange.

3. Provide explicitly for public participation at: the beginning of the process, after conclusion of inventories and assessment, and before a preferred alternative is chosen.

4. The responsible official should show evidence that all public input to the plan has been analyzed, evaluated and considered.

5. More specific language on the kind of places to meet such as county courthouses in affected counties.

6. The nature of public participation be made more explicit by:

A. Stressing that informal activities are to be encouraged for information exchange.

B. Stating that notifications shall be made highly visible.

C. Officials responsible shall continue to meet all other obligations for carrying out public participation requirements.

7. The public should be made aware of the kinds of informational materials that will be available. In summary, the Committee of Scientists' version of the regulations on public participation in the planning process proposes more prescriptive rules than the August 31, 1978 draft regulations.

Alternative 5: It was suggested that the regulations should include detailed statements specifying how public participation will be evaluated, summarized and used throughout the planning process. Many felt that the time limits set out for public review and comment upon plans were too short. The question was that the proposed regulations required little coordination with State and local planning agencies. It was suggested that a requirement be added to include public input priorities in national and regional plans, as well as local plans.

Alternative 6: Much of the language and organization recommended by the Committee of Scientists has been adopted in this alternative. As a result, this version is significantly more detailed than the original draft. This revision includes explicit material on the purpose of public participation, required public notices, and the manner in which public input will be used in the planning process. In addition, the public participation responsibilities of the interdisciplinary team have been clarified. One important change has been made to the limitation for public comments. This alternative provides for 90 days for written responses for national and regional planning comments (original draft specified 60 days).

Issue No. 9—Management of Wilderness Areas and Disposition of Roadless Areas.

Alternative 1: The August 31, 1978 draft regulations require that:

1. Lands designated by Congress or the Forest Service as suitable for wilderness will be studied for possible inclusion in the Wilderness System; lands designated to be managed for non-wilderness will not be considered for possible wilderness in the first generation of forest plans.

2. During the 15th-year revision (second generation) of forest plans, other areas will be evaluated for possible wilderness designation.

3. The "appropriateness" of designating the lands under 2 above will be considered.

4. Forest plans must provide direction for management of designated Wilderness and Primitive Areas.

Alternative 2: This issue is not addressed.

Alternative 3: The proposal does not address this issue.

Alternative 4: Committee recommends clarifying language to address two issues: Identifying and appraising additional candidate areas, and establishing maximum allowable levels of use. Key provisions include:

1. Forest plans will include an evaluation of the wilderness resource present and provide management planning for it.

2. All potentially eligible lands should be considered at each revision of the forest plan.

3. Costs and benefits should be considered in the same way as are other resources in considering wilderness status.

4. Criteria for designation should be evaluated continuously as experience dictates; and

5. Determination of "carrying capacity" should be made for each area.

Alternative 5: Several commenters pointed out that the regulations should include more specific considerations of standards and guidelines for management of lands adjacent to designated Wilderness and roadless areas. It was suggested that the regulations be revised to make it clear that the Forest Service would evaluate the wilderness potential for areas not included in the RARE II inventory. It was felt that some regulation guidelines were needed to specify how wilderness potential would be determined. The need for a requirement for detailed economic analysis for trade-offs relating to wilderness designation was also noted. The draft regulations were criticized for the absence of minerals development considerations for roadless areas. Some commenters suggested that it was inappropriate to focus only upon limiting visitor use in Wilderness Areas and that some consideration should be given to use impacts from adjacent areas.

Alternative 6: The proposals recommended by the Committee of Scientists have been adopted in this alternative. In addition, the language of the original draft has been altered in order to clarify the factors to be considered in evaluating wilderness potential and wilderness area management. Minerals development considerations are not addressed specifically in regard to wilderness issues; however, provisions for these concerns are included elsewhere in the revised regulations. Requirements are specified to ensure that levels and kinds of wilderness use are evaluated and considered in wilderness management. Special attention is also required for off-site impacts and adjacent area management.

Issue No. 10—Coordination.

Alternative 1: The August 31, 1978 draft requires coordination with "other affected public entities and Indian tribes." Notice of preparation or revision of forest plans must be given to State agencies, Indian tribes, and heads of county boards affected. Documentation of all consultation is required.

Alternative 2: This issue is not addressed.

Alternative 3: The proposal does not address the issue.

Alternative 4: Committee proposes substitute language to assure that other governmental units understand how they can be involved in Forest Service planning, that the Forest Service make real efforts at coordination, and that Forest Service planners will evaluate and consider the plans of other governmental units as they develop plans. Specifically, recommendations include requirements that:

1. The responsible Forest Service officals be aware of the plans and policies of other units of government;

2. Appropriate State and local government representatives be involved and consulted;

3. A request be made of each State for appointment of a person to coordinate State involvement;

4. The forest plan document that plans, programs and policies of other units of government have been analyzed;

5. Coordination take place at crucial times in the planning process;

6. An attempt to be made to identify goals and plans of owners of intermingled private lands; and

7. That there be coordination within the Forest Service in the designation of special purpose areas.

Alternative 5: Most commenters stated that the regulations lacked specific guidelines and were not sufficient to ensure coordination. There were suggestions indicating the need for closer cooperation between Forest Service activities and State and local governments. Some commenters felt that the regulations should allow for more State or local control over Forest Service activities. It was suggested that the regulations should include provisions for other Federal agencies and State and local government representatives to serve on the interdisciplinary team. It was proposed that coordination with affected private landowners also be required.

Alternative 6: With some minor modifications, the Committee of Scientists' detailed proposals have been adopted.

Issue No. 11—Buffer Strips in Riparian Zones.

Alternative 1: This version of the regulations speaks indirectly to management of the riparian zone under water and soil resources. These regulations direct that existing or potential watershed conditions that will influence soil productivity, water yield, water pollution or hazardous events will be evaluated.

Alternative 2: Not addressed.

Alternative 3: Not addressed.

Alternative 4: This alternative provides prescriptive regulatory language as protection for the riparian zone. It provides for special attention to be given to a strip zone approximately 30 meters wide along both sides of all perennial streams, lakes and other bodies of water. Any activities conducted in this zone would be carried out so as not to result in detrimental change and only carried out if multiple-use benefits exceed costs.

Alternative 5: Many of the commenters stated that the draft regulations did not provide adequate safeguards for water quality and habitat protection. It was suggested that control be established for all activities along lakes and streams. Proposed control measures ranged from prohibiting activities in these areas (various distances were suggested, from 50 feet either side to 600 feet) to a requirement that controls be established in the regional plan. These regional controls would include standards for streamflow, sedimentation, and water temperature. The public comment on the August 31, 1978 draft regulations were in summary, all more concerned with the need for more prescriptive language.

Alternative 6: The treatment of this issue in this alternative is based primarily upon the recommendations of the Committee of Scientists. This alternative proposes that special attention be given to lands and vegetation for approximately 100 feet along both sides of all perennial streams, lakes, and other bodies of water. All management activities which seriously and adversely affect water conditions or fish habitat will be permitted only if conducted so as to protect these waters from detrimental change. Interdisciplinary teams will determine constraints to be placed on management activities in the zone to assure protection of water quality and other multiple-use values.

Alternative 7: This alternative requires that special attention be given to riparian zones (perennial streams, lakes and other bodies of water). The

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zone will be identified using criteria established in regional plans.

V. Effects of Implementation

A major effect of the alternative regulations proposed—if adopted—will be to integrate land management planning and functional (resource) planning. Planning of lands and resources of the National Forest System will be conducted by interdisciplinary teams rather than by individual resource or functional staff units.

In many cases the same people and skills will be involved but in a different way. Some additional personnel ceilings will be required because of new skill requirements such as analysts, economists, biologists and writers.

Although resource management planning has always been a major responsiblity in the Forest Service, the emphasis has primarily been on functional planning rather than on integrated resource planning (called multiple-use planning, unit planning, multi-disciplinary planning, etc.). In most instances functional planning remained a separate activity. Functional planning and land management planning often were carried out relatively independently, and budgeting was still along functional lines; the outcome was inevitable: land management planning became in itself a function, much like range management, timber management, and engineering. NFMA requires an integrated plan for each unit of the National Forest System. The planning process prescribed in the alternatives establishes an interdependency of land management and resource planning.

The specific effects of implementing any of the alternative regulation proposals are virtually impossible to quantify. Regulations developed to direct the process of preparation and revision of land management plans have no direct effect on the human environment. The regulations do not commit land or resources. They only establish procedures, and standards and guidelines for planning future commitments. Some general qualified effects or impacts of alternatives are presented below in table form by issues.

Actual effects on the production of goods and services will be determined and verified when the planning is completed. Impacts will be identified in regional or in individual forest plans. These plans are subject to a complete environmental assessment with maximum public participation. Effects generated by the land and resource management alternatives will be analyzed in the environmental impact statement prepared during the actual planning effort.

There are several provisions within each alternative that affect the output of goods and services, particularly timber production. The determination of the allowable sale quantity will directly affect the level of timber available from the National Forests. This is particularly true if departures from non-declining flow are considered and selected. The identification of lands not suited for timber production may reduce the commercial forest land base, particularly where the minumum biological growth potential standard is set above the current minimum of 20 cubic feet per acre per year. Also, establishment of the maximum size of harvest cut opening and riparian zone buffer areas will affect the overall cost of timber production or the total level of supply.

Generally, some outputs will decline temporarily. However, the capacity exists to expand activities with higher level investments so that most outputs could be increased in the long run.

	Number of forest plans	Annual costs	Increased man years	Man years
Fiscal year:				
1979	10	$19,860,000	30	80
1980	30	21,100,000	60	120
1981	30	22,500,000	60	180
1982	30	22,860,000	60	240
1983	30	23,200,000	40	280
1984	20	14,700,000	10	290
1985	4	12,000,000		

These costs reflect an increase for what has been land use or land management planning historically. New skill requirements, the need for additional personnel ceilings, and the uncertainty of the availability of the skills could require more contracting and resultant higher costs. Monitoring requirements may also add significantly to costs.

The effects of implementing alternative regulations on the physical and biological environment are not measurable except qualitatively. Each alternative set of regulations enhances plant and animal diversity, protects soil and water values and the visual resource, and insures long-term productivity. The actual results will be known after the individual forest or regional plans are completed.

The alternative regulations require that a monitoring and evaluation process be identified and adhered to as a part of plan implementation. This process will: reveal how well the objectives of the forest plan have been met; quantify the effects of management activities upon the physical and biological environment; and develop a data basis for plan updating.

There is no reliable way to estimate quantitatively the effect on the economic environment of promulgating any of the alternative regulations. It is assumed that better management decisions will result from improved economic analysis, because these decisions will be based on cost effectiveness data. Overall management of the NFS should become more cost effective and efficient.

Effects upon the social environment are difficult to quantify. No significant impacts or differences between alternatives are anticipated. The social environment is defined as the composit of social variables likely to be affected by planning for management of the NFS: Population dynamics, community economy, educational quality, health and environment, housing quality, leisure opportunities, community identity, minorities, and land use and tenure. Specific social effects will be determined and evaluated through the planning process for the appropriate level of planning. Public participation is required throughout the development and revision of all plans, resulting in more public awareness and understanding of National Forest System management. This particular requirement is responsive to the concerns expressed before the NFMA was passed and specifically to Section 6(d) of the Act.

Relative Effects of Alternatives by Issues:

To establish a basis for measuring anticipated implementation effects of each alternative, an independent set of key variables was identified by the interdisciplinary team for each issue. These variables are the factors affected by alternatives. The tables show in relative terms how the alternatives impact the factors listed. Language for Alternative No. 6 and 7 is the same for all issues except 7 and 11. Therefore, impacts for Alternative 7 are shown only for these two issues.

Issue No. 1—The conceptual framework for an integrated planning process. As discussed earlier there are a number of different conceptual frameworks for attempting both vertical and horizontal integration of the planning process. Integration requires a link vertically between the organizational hierarchy of national, regional and local levels, and a merging functionally at the local level the planning of range, wildlife and fish, recreation, timber, water, minerals, and other resources. Therefore, the conceptual method chosen has a significant effect on further options for resolving other issued. For example the incremental approach limits public participation in long-range decisions, while mixed scanning framework tends to enhance this option. (See appendix A)

The practical concerns surrounding this choice relate to such basic items as public participation, the decision process, and agency responsiveness. The alternative choice for how the regulations are to be promulgated under a given conceptual framework may have long reaching effects on how the integrated planning process will be carried out.

Issue No. 1.—*Relative Effect of Alternatives*

Impacts of alternative on	Alternative No. 1	2	3	4	5	6
Public Perception of Process [1]	2	N/A	N/A	4	4	5
Agency Responsiveness to Goal with Issues [2]	L	N/A	N/A	M	H	M+
Planning and Decisionmaking Process [3]	2	N/A	N/A	4	5	4

[1] On a continuum of increasing understanding from 1 to 5, with 5 high.
[2] Response to external stimuli as low, moderate or high.
[3] On a continuum of increasing complexity from 1 to 5, with 5 high.

Issue No. 2—Interdisciplinary Approach. The major debates over regulations on the interdisciplinary teams and approach have focused on technical more than behavioral characteristics. Team composition and leadership have been discussed from differing viewpoints, as well as individual qualifications necessary for legitimate memberships. In addition there has been continuing concern over the role the interdisciplinary team will play in the decisionmaking process. The key effects evaluated for this issue are team formation, duties and qualifications.

Issue No. 2.—*Relative Effect of Alternatives*

Impact of alternative on	Alternative No. 1	2	3	4	5	6
Team Formation [1]	1	N/A	N/A	3	4	4
Team Duties [2]	2	N/A	N/A	4	4	4
Team Member Qualifications [3]	1	N/A	N/A	4	3	4

[1] Continuum from (1) discretionary to (5) specific composition.
[2] Continuum from (1) weak to (5) strong direction given.
[3] Continuum from (1) discretionary to (5) specific requirements.

Issue No. 3—Diversity. Diversity is the condition of being different. The classification, measurement and control of the elements which make up diversity of forests and ranges are activities associated with managing renewable resources. It is the proportional distribution of diverse situations, such as different habitats, that determines the availability of timber, wildlife, range production, recreation, streamflow, aesthetics and other benefits. Therefore, diversity determinations have important implications in terms of opportunities for resource planning and management options.

Issue No. 3.—*Relative Effects of Alternatives*

Impacts of alternative on	Alternative No. 1	2	3	4	5	6
Genetic variability [1]	No change	N/A	N/A	No change	Increase	Increase
Timber Supply [2]	No change	N/A	N/A	No change	Decrease	No change
Planning Process [3]	2	N/A	N/A	2	3	2

[1] Relative to current situation.
[2] Continuum from (1) to (5) toward increasing complexity.

Issue No. 4—Role of Economic Analysis. Analysis for determination of both efficiency and impact has generated considerable debate. Much of it centers on the "state of the art" and

the possibilities of a given technique being universally practical for nationwide implementation. The nature of economic tests to be made and whether Congress intended that benefits must exceed costs for proposed management practices are the key considerations for measuring effects of alternatives in the issue.

Issue No. 4.—*Relative Effects of Alternatives*

Impact of alternatives on	Alternative No.					
	1	2	3	4	5	6
Planning Process [1]	2	2	2	4	4	3
Nature of Analysis Required [2]	2	4	3	4	5	3
Capability of Forest Service to Implement Direction [3]	4	3	3	2	1	3
Timber Supply [4]	3	1	4	3	2	3

[1] Increasing complexity on a scale of (1) to (5).
[2] Continuum from (1) none specified to (5) specific processes in terms of complexity or rigor.
[3] Low to High on a scale of (1) to (5).
[4] Relative to current situation where 3 is the current situation; below 3 indicates reduced supply, and above 3 indicates an increase.

Issue No. 5—Lands not Suited for Timber Production. The issue in the "lands not suited for timber production" question appears to be a means, not ends, question. There is little disagreement over the desired results that there should be identified in the land management planning process lands not suited for timber production. The debate focuses on where in the process this identification should occur and how prescriptive the analysis screens should be in the regulations.

Issue No. 5.—*Relative Effects of Alternatives*

Impact of alternatives on	Alternative No.					
	1	2	3	4	5	6
Regulated Commerical Timber Base and Supply [1]	No change	Decrease	No change	No change	N/A	No change
Total Commerical Timber Base and Supply [2]	3	5	2	2	N/A	3
Wildlife Habitat Abundance/Diversity [3]	3/3	4/3	2/3	3/3	N/A	3/3
Planning Process [4]	2	5	2	4	N/A	4
Amenities [5]	4	4	3	4	N/A	4

[1] Compared to current situation.
[2] Compared to current situation on a scale of (1) least to (5) most reduction excluding consideration of the role of economics issue.
[3] In terms of increasing abundance and diversity on a scale of (1) to (5), 5 high.
[4] Increasing complexity on a scale of (1) to (5).
[5] In terms of tendency to improve overall quality of water and visual resources, scale (1) to (5), 5 high.

Issue No. 6—Departures. The National Forest Management Act requires as a general policy that the Secretary limit the sale of timber from each National Forest to quantity which can be removed annually in perpetuity on a sustained-yield basis with the discretion to depart from this policy in order to meet overall multiple-use objections. This provision is found in a separate section of the Act (Section 11, or Section 13 of the amended RPA) from the Land Management Planning provisions (Section 6). This separation has caused some interests to believe that the determination of the timber allowable sale quantity should be handled either outside of the land management planning process or as a separate and distinct step after the land management plan has been completed.

Provisions within Section 6 clearly provide that decisions on the level of timber harvest be made within the integrated land management planning process.

Issue No. 6.—*Relative Effects of Alternatives*

Impacts on alternatives on	Alternative No.					
	1	2	3	4	5	6
Planning Process [1]	2	5	2	3	N/A	3
Opportunity to change Short Term Timber Supply [2]	4	1	5	3	N/A	3

[1] On a scale of (1) low to (5) high toward increasing difficulty to implement the process.
[2] On a scale of (1) to (5) toward increasing agency flexibility to make determinations.

Issue No. 7—Size of Openings. At debate is the issue of the size of harvest cut opening to be allowed within a given silvicultural system. Should size standards be stated prescriptively or should size be determined through the planning process on a regional or site specific basis?

Issue No. 7.—*Relative Effects of Alternatives*

Impacts of alternatives on	Alternative No.						
	1	2	3	4	5	6	7
Discretion to Manipulate Vegetation including Wildlife Habitat [1]	4	N/A	N/A	4	2	3	4
Per Acre Harvest Costs [2]	No change	N/A	N/A	No change	Increase	Increase	No change
Water Quality [3]	2	N/A	N/A	2	4	3	2
Timber Supply [4]	No change	N/A	N/A	No change	Decrease	Decrease	No change

[1] In terms of improving habitat quality, scale of (1) to (5), 5 high.
[2] Relative to current situation.
[3] On a scale of (1) to (5) toward increasing sedimentation.
[4] Relative to current situation. Increase harvest costs means some marginal sales become unavailable, thus reducing harvests in some areas.

Issue No. 8—Public Participation. Public participation in Forest Service decisionmaking has been an issue of considerable experimentation and debate since the passage of the National Environmental Policy Act in 1969. Central to the issue is the openness that shall be maintained by the agency so that the public may become informed about National Forest matters and, if sufficiently interested, to participate through various forums in the development, review and revision of land management plans.

Issue No. 8.—*Relative Effects of Alternatives*

Impacts of alternatives on	Alternative No.					
	1	2	3	4	5	6
Planning Process [1]	2	N/A	N/A	4	4	4
Public's Awareness and Understanding [2]	2	N/A	N/A	4	4	5

[1] Increasing complexity on a scale of (1) to (5).
[2] Increasing improvement on a scale of (1) to (5).

Issued No. 9—Management of Wilderness Areas and Disposition of Roadless Areas. How often and to what extent shall wilderness values be considered? At issue is the question of whether undeveloped areas should be considered for wilderness during each major plan revision if they are still in an essentially natural state, and should maximum levels of use be deferred through regulations?

Issue No. 9.—*Relative Effects of Alternatives*

Impacts of alternatives on	Alternative No.					
	1	2	3	4	5	6
Disposition of RARE II Areas [1]	No	N/A	N/A	Yes	Yes	No
Use of Areas [2]	2	N/A	N/A	4	5	4

[1] To consider in land and resource management plan before 1985.
[2] Process for determining potentials of areas and limitations to be placed on them is from (1) discretionary and unspecified to (5) required and specific.

Issue No. 10—Coordination. At issue is the amount and level of coordination that should be required during land and resource management planning between the Forest Service and other planning entities. Whether prescriptive requirements or process direction for achieving desired end results is the matter to be evaluated.

Issue No. 10.—*Relative Effects of Alternatives*

Impact of alternative on	Alternative No.					
	1	2	3	4	5	6
Planning Process [1]	2	N/A	N/A	4	5	3
Levels of Awareness and [2]	2	N/A	N/A	4	5	3

[1] Increasing complexity on a scale of (1) to (5).
[2] Increasing improvement on a scale of (1) to (5).

Issue No. 11—Buffer Strips in Riparian Zones. The riparian ecosystem represents one of the richest areas in terms of flora and fauna within the Forest System. The scientific community is divided on whether this ecosystem is fragile or resilient. There are many demands in this zone; for aesthetics, water quality considerations, recreation opportunities, road construction opportunities, wood, forage and wildlife opportunities. It's also a nice place to eat your lunch.

Conflicting demands for uses in these areas are escalated in the more arid parts of the West where this ecosystem is more scarce. The principal issue is the degree to which the regulations prescribe the protection standards for riparian areas.

Issue No. 11.—*Relative Effects of Alternatives*

Impacts of alternative on	Alternative No.						
	1	2	3	4	5	6	7
Planning Process [1]	1	N/A	N/A	5	3	5	4
Per Acre Harvest Costs [2]	No change	N/A	N/A	Increase	Increase	Increase	No change
Amenity Values [3]	No change	N/A	N/A	Increase	Increase	Increase	No change
Timber Supply [4]	1	N/A	N/A	2	3	2	1

[1] Increasing complexity on a scale of (1) to (5).
[2] Relative to current situation.
[3] Water and scenic quality.
[4] Relative to current situation on a scale of (0) no reduction to (9) most reduction.

VI. Evaluation of the Alternatives

Various approaches for planning, numerous definitions of terms, and a variety of alternative descriptions and language for management standards and guidelines were analyzed and evaluated almost continuously throughout the development of the proposed regulations. The following is an evaluation of how the alternative sets of regulations meet the evaluation criteria described in Section III.

Between Alternative Evaluation

Selection Criteria [1]	Alternative No.						
	1	2	3	4	5	6	7
Effectiveness of Meeting Congressional Intent on NFMA	3	2	2	4	4	4	3
Basis in Technical and Scientific Principle	3	2	3	5	2	4	5
Acceptable to Public	1	2	1	4	N/A	5	4
Environmental Protection Adequacy	2	3	2	4	3	5	4
Timber Supply	3	1	5	2	1	2	4
Conformity with Executive Order #12044 Concerning Regulations Simplicity-Clarity/ Economic Burden [2]	3/2	3/5	3/2	2/3	N/A	5/3	5/2
Establishing Accountability	2	4	2	4	4	4	4
Capability to Implement	5	4	5	3	3	3	3
Flexibility Provided	4	2	5	4	2	3	4

[1] Ratings are on a scale of (1) low to (5) high in terms of how the alternative regulation sets meet the criteria listed. See Section III for a full description of each criteria.
[2] Higher number indicates greater burden.

Rationale for Rating Alternatives and for the Selection of the Preferred Alternative:

The alternative planning processes and language sets described to address the central issues have been analyzed and evaluated in this statement. The NFMA established bounds within which to develop the regulations. It required that a Committee of Scientists assist in the development of guidelines and procedures. By utilizing this prescribed method, including provisions for public participation, the range of alternatives for consideration narrowed to the preferred alternative proposed for adoption. This set of regulations will be published in the **Federal Register** for further public comment before final adoption. It also appears with the other alternatives in the Appendix of this DEIS.

Meeting Congressional Intent on NFMA:

NFMA presents congressional policy concerning the balance between protection of the environment and the need to provide adequate supplies of wood products. With this policy direction, Congress endorsed the concept that silvicultural prescription should be determined by the professional resource manager, not the legislator. Congress expects, however, that the regulations called for in NFMA will provide better controls on management planning and decisionmaking and that these controls will be influenced by interdisciplinary planning, and substantial public participation throughout the planning process.

The August 31, 1978 draft regulations met the intent of NFMA, but provided more discretion in the selection and use of guidelines and standards governing management activities. The revised draft (the preferred alternative) represents a sensible compromise between discretionary management and management by inflexible rules. The alternative retains the option for more explicit management controls and direction if future management under the proposed regulations fails to meet congressional expectations.

Basis in Technical and Scientific Principles:

There are substantial differences of opinion on many of the issues for which direction is provided in the alternative regulations. Congress, recognizing these differences, directed the Secretary to appoint a Committee of Scientists for advice in the preparation of these regulations. The interdisciplinary team that prepared this statement believes that the Committee of Scientists' version of the regulations represents the state of the art in technical and scientific areas. In most instances, alternatives 6 and 7 are based upon the Committee's technical and scientific recommendations. The August 31, 1978 draft, and the Environmental and Timber groups' proposals do not contain the same level of prescribed precision as the aforementioned two versions because they dealt only with two specific issues. There was wide variation in the public comments. Issues raised by the public were also reviewed by the Committee of Scientists.

It is possible, as the state-of-the-art evolves in such areas as resource valuation, diversity measurements, etc., that direction will have to be modified to accommodate new techniques and approaches.

Acceptability to the Public:

In evaluating public reaction to alternative regulations, more than 5,300 separate comments, as well as the texts of specific proposals from the general public and Environmental and Timber groups, were reviewed. In addition, the Committee of Scientists proposals were examined in depth. All of the above information was used in alternative evaluation. While none of the alternative regulation sets will be acceptable to all interested groups, the interdisciplinary team concludes that the Preferred Alternative incorporates the most acceptable version to all publics. This is because this version expresses the most acceptable regulation in that it describes in more specific language the actions to be taken by the Forest Service during the land management planning process. This factors, coupled with the degree of environmental protection, weighed heavily in selecting Alternative 6 as the Preferred Alternative.

Adequacy of Protection Afforded the Environment:

Public concern about environmental protection helped secure passage of the National Forest Management Act. The alternatives considered ranged from considerable flexibility at the national forest level in the August 31, 1978 version, to a more detailed approach to environmental protection proposed by the Committee of Scientists. Some of the key elements between alternatives were size of openings, riparian zone protection, determination of lands not suited for timber management, diversity, public participation, coordination with other planning units and interdisciplinary teams.

The August 31, 1978 regulations provided considerable discretion in riparian zone protection, and provisions for diversity, but so do the revised regulations. The detail and clarity of requirements mandated in the Preferred Alternative should, however, result in more complete, balanced consideration for environmental protection during the land management planning process.

Timber Supply.

Many of the provisions of NFMA directly affect timber supply, while others such as diversity and buffers have an indirect affect though the cost of producing and/or harvesting timber. It is difficult to separate other events and factors affecting timber supply from these regulations.

The NFMA provisions and the implementing regulations were also influenced by other laws such as the Endangered Species Act or events such as RARE II.

Some issues assessed affect timber supply in different ways. Several issues such as lands not suited affect the land base available. Others, the size of opening for example, affects the cost of harvesting timber, because marginal timber from smaller areas may be excluded from harvesting. Thus, the supply could be reduced, incurring higher costs.

The August 31, 1978 version provided more discretion to the land manager in selecting and using guidelines and criteria that affect timber supply. Four of the other alternatives reduce that discretion and are expected to reduce supply to varying degrees or increase the costs of maintaining or increasing supply. In balance with the other criteria, while a greater supply of timber would be available under the timber industry alternative, overall RPA objectives including an increased supply of timber through more intensive management from the national forests can be achieved with the Preferred Alternative.

Comformity with Executive Order No. 12044:

Executive Order No. 12044 directs that regulations prepared be as simple and as clear as possible. An evaluation of alternative language sets for regulations display a considerable range from simple to complex descriptions of direction and intent. The August 31, 1978 version of the regulations reflects a rather informal process-oriented approach while other versions, such as the Committee of Scientists and the Preferred Alternative are more explicit.

While the President's Executive Order prescribes simplicity and a reduction in implementation and economic burdens, it also requires the agency to be responsive to public comment. Public comment on the original draft regulations addressed the need to provide more specific and prescriptive language. The dichotomy of this evaluation results in ranking two different regulation language sets high for different reasons, i.e., the draft regulations, because of their simple language, and the Preferred Alternative because of their response to public comments. The interdisciplinary team carrying out this evaluation felt that the need to respond to public comment was an important factor to be considered. Nevertheless all alternatives tend to be slightly inflationary because of their overall tendency to increase costs to manage the National Forest System as well as to slightly reduce the supply of timber.

Accountability:

The regulations must clearly state who is responsible for certain actions, the nature and extent of responsibilities delegated, and clearly describe the appeal mechanisms in terms of substance and procedures.

Relative to the other alternatives, the August 31, 1978 draft regulations are considered to be weak in this respect. The principal reasons for this low ranking are:

1. August 31, 1978 draft implies that a great many decisions will be made during the regional planning process, but does not specify what the regional plan is, or how it will be done, or who is responsible for it.

2. Draft does not clearly define the role and responsibility of the interdisciplinary team.

3. With the exception of the regional planning shortcoming, the appeal procedures are adequate.

The Environmental Groups' proposal addresses accountability in the departures issue. Both the Chief and Secretary are identified as responsible for approving departures. There is, therefore, a high degree of accountability for this issue. The Timber Groups' alternative does not alter the draft with respect to this point. The Committee of Scientists' proposals add specifications and requirements for regional planning, interdisciplinary approach and clarifying details to the appeals process. This alternative is considered to possess a higher degree of accountability than does the August 31, 1978 draft or the Timber Groups' proposals. The public comments stressed the need for more details on regional planning and the interdisciplinary approach. Suggested revisions were similar to those of the Committee of Scientists' alternative. The Preferred Alternative has incorporated the concerns voiced by the Committee of Scientists and the public comments.

Capability to Implement:

The evaluation of feasibility is related to personnel and skill requirements, and the time required to undertake and complete planning actions specified. Neither the August 31, 1978 draft regulations nor the Timber Groups' proposal would significantly affect either of these factors. The Environmental Groups' alternative would require more detailed economic evaluation for lands not suitable for timber harvest, and a more detailed, time consuming procedure for departures. The Environmental Groups' alternative is, therefore, considered to be somewhat more demanding than the August 31, 1978 draft and Timber Groups' proposal. The Committee of Scientists alternative is extremely demanding as a result of suggested revisions to the interdisciplinary team approach, economic analysis requirements, diversity provisions, public participation requirements, coordination, and required riparian buffer zones. Public comments indicate the need for more expanded interdisciplinary teams, greater public participation and coordination, more detailed economic analysis, and longer time limits for public review of plans. The public comments can be considered somewhat less demanding than the Committee of Scientists' alternative, but more demanding than the August 31, 1978 draft or Environmental or Timber Groups' proposals. Since the Preferred Alternative largely reflects the Committee of Scientists' proposals, the feasibility of this alternative is considered to be the same as for the Committee of Scientists' alternative.

Flexibility:

Flexibility is related to the degree to which regulations permit site-specific management discretion and allowance for exceptional circumstances. Both the August 31, 1978 draft and the Timber Groups' alternatives are considered to be highly flexible, especially with regard to openings created by cutting, biological growth minimums for timber, and protection standards for streams and lakes. The Environmental Groups' alternative is highly inflexible with regard to minimum biological growth stands. The Committee of Scientists proposal would result in somewhat less flexibility than the draft, primarily as a result of the riparian buffer zone requirements. The Committee's proposals to determine size opening standards at the regional level are identical to those of the August 31, 1978 draft. Many public comments were directed toward site specific concerns and were, therefore, highly inflexible when considered from the viewpoint of national regulations. The revised regulations are based primarily upon the revisions suggested by the Committee of Scientists and the concerns voiced throughout the public comments. While the revised regulations do not include a

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national biological growth minimum for timber harvest, they do include a number of detailed standards including maximum size for openings created by cutting; riparian buffer zone; more detailed requirements for coordination, public participation, diversity and forest type conversions; wilderness management and roadless area evaluation. As a result of these requirements, the Preferred Alternative provides compromise flexibility.

VII. Consultation with Others

Opportunities for public involvement in the development of the regulations have been made available beginning with the enactment of the NFMA in 1976. The Work Plan Outline was made available on March 5, 1977. It identified the tasks to be completed in the development of the regulation including the opportunity for public participation in the effort.

A Committee of Scientists (see Appendix H) was appointed by the Secretary of Agriculture in response to Section 6(h) of the Act, which charged the Committee to "provide scientific and technical advice and counsel on proposed guidelines and procedures to assure that an effective interdisciplinary approach is proposed and adopted." However, the Secretary broadened this charter to include advice and counsel on all parts of Section 6 of the Act. The Committee met many times in various locations (see Appendix G). Its work was conducted in two phases. The first was to work with Forest Service personnel to consider and prepare language for the regulations. This phase terminated upon publication of the draft regulations which appeared in the August 31, 1978 Federal Register. The second phase of the Committee's work was to evaluate the draft regulations and to prepare a report to the Secretary. This phase was completed when the Committee submitted its report to the Secretary on February 22, 1979. This report, together with the Committee's proposed regulations, is the basis for the Committee of Scientists' alternative discussed in the DEIS.

The public, (State, local officials, interest group representatives and others) was given the opportunity to attend the Committee of Scientists meetings and frequently participated in the discussions. The complete minutes of all these meetings are available for review in the Forest Service Headquarters, Land Management Planning, Room 4021, South Agriculture Building, 12th and Independence Ave. SW, Washington, D.C., and in the Library of Congress, and in Forest Service Regional Office headquarters.

The public was also given the opportunity to attend other meetings convened especially to obtain comments on the August 31, 1978 draft regulations. The proceedings of those meetings were published and are also available for review at Forest Service headquarters.

The Forest Service received 737 letters containing 5,373 identifiable comments concerning the August 31, 1978 draft regulations. These letters and comments are available for review along with the report and its summary of the analysis of this public comment. These comments, the suggestions received through meetings open to the public, the work of the Committee of Scientists, and the technical reports prepared by the Forest Service staff, form the basis of the alternatives discussed in this statement, and all influenced the development of the revised draft regulations, and the preferred alternative. The public will have an additional opportunity to review and comment on this draft environmental statement before the proposed regulations are finalized. Comments must be received within 60 days after the draft environmental statement is published.

Appendix

A. Summary of Theories, Concepts, and Approaches to Planning
B. Forest Service Draft Regulations, Federal Register, Vol. 43, No. 170, August 31, 1978
C. Environmental Groups' Proposals for Section 219.10(d), Federal Register, August 31, 1978
D. Timber Groups' Proposals for section 219.10(d), Federal Register, August 31, 1978
E. Committee of Scientists' Recommended Regulations, February 22, 1979, attachment to Committee's Report to the Secretary of Agriculture
F. Forest Service Revised Draft Regulations, the Preferred Alternative Recommended for Adoption
G. Dates and Locations of Committee of Scientists' Meetings, and other Public Meetings.
H. Names and Affiliations of the Committee of Scientists Appointed by the Secretary of Agriculture, pursuant to Section 6(h) of the National Forest Management Act.
I. Text of Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976.

Note.—Only Appendix material F, G, and H is included with this DEIS as published in this issue of the Federal Register. Item E follows the regulations as published herein.

Appendix A

Planning Process or System Alternatives which were considered are described below. For a more complete discussion, the reader is referred to the minutes of the May 24–26, 1977 Committee of Scientists' meeting.

1. Incrementalism: Policy of decisionmaking as variations on the past. The land manager views public policy and decisionmaking as a continuation of the past government activities with only incremental modifications. This process is based on the successive comparison of a limited array of policies or decision alternatives.

2. Rationalism: Policy or decisionmaking as efficient goal achievement. A rational policy or decision is one that is correctly designed to maximize or minimize net value achievement. Policy and decisionmaking is approached through means-ends analysis. First, the desired ends are determined, then the alternative means to achieve them are designed.

3. Mixed Scanning: Policy and decisionmaking as variations on the past in line with modified efficient goal achievement. This process is a mixture of Incrementalism and Rationalism. It attempts to limit the details and explores longer run alternatives.

4. System Theory: Policy and decisions as rational system output. This theory is an extension of the scientific method. The problem is defined, objectives set, alternatives developed and evaluated, and a decision made as to the preferred course of action. A mechanism of monitoring and updating is needed.

5. Group Theory: Policy and decisionmaking as a group equilibrium. This is based on the belief that interaction among groups is the central fact of political decisionmaking. Groups struggle: Policy and decisions result when equilibrium between groups is reached.

6. Game Theory: Policy as rational choice in competitive situations. This is the making of rational decisions in situations where participants have choices to make and the outcome depends on the choices made by each of them. There is no independently best choice. This theory provides a way of thinking clearly about policy or decision choices in conflict situations.

7. Institutionalism Theory: Policy and decisionmaking as inherent institutional activity. The activities of individuals and groups are generally directed toward governmental institutions. Public policy and decisions are authoritatively determined, implemented, and enforced by governmental institutions.

8. Elite Theory: Policy or decision as the preference of an elite. Elites shape mass opinion on policy or decision questions more than do the masses because the latter are apathetic and ill-informed. In other words, policies flow from elites to the masses: they do not arise from the masses.

9. Anti-Planning: Policy and decisionmaking as output of an individual decisionmaker. This is a common form of planning. A system or problem exists which needs to be managed. The manager studies aspects of the problem he deems important, utilizes data from staff, and decides what to do.

Major problems outside the planning realm itself greatly constrain the type of planning procedure which can be used. Two concepts of considerable importance are "paradigm" and "people". A "paradigm" is a set of conceptual constructs which govern the viewpoints of people involved in a planning process. The people are referred to as "hierarchists," "individualists," and "mutualists," who use different paradigms, respectively "one way causal," "random process," and "mutual causal." These notions were also considered and used as part of the conceptual basis for designing the planning process.

Appendix G

Committee of Scientists and other Meeting Dates and Locations:

May 24–26, 1977—Washington, D.C.
June 19–21, 1977—Boise, Idaho
July 27–28, 1977—Juneau, Alaska
August 29–30, 1977—Denver, Colorado
September 21–23, 1977—Minneapolis, Minnesota
October 27–18, 1977—San Francisco, California
December 1–2, 1977—Atlanta, Georgia
January 16–18, 1978—Phoenix, Arizona
February 23–24, 1978—Biloxi, Mississippi
March 29–30, 1978—Dallas, Texas
April 17–18, 1978—Washington, D.C.
July 14, 1978—Washington, D.C.
September 28–29, 1978—Denver, Colorado
November 1–2, 1978—Seattle, Washington
December 7–8, 1978—Sacramento, California
January 8–9, 1979—Houston, Texas
January 26, 1979—Washington, D.C.

Public Meetings on the National Forest Management Act Regulations:

September 15, 1978—Washington, D.C.
November 27, 1978—Washington, D.C.

Appendix H

Members of the Committee of Scientists appointed by the Secretary of Agriculture, pursuant to Section 6(h) of NFMA:

Dr. Arthur W. Cooper, Committee Chairman, Botanist and Professor, School of Natural Resources, North Carolina State University, Raleigh, North Carolina.
Dr. Thadis W. Box, Dean, College of Natural Resources and Professor of Range Science, Utah State University, Logan, Utah.
Dr. R. Rodney Foil, Mississippi Agricultural and Forestry Experiment Station, Mississippi State, Mississippi, and specialist in forest resource management.
Dr. Ronald W. Stark, Forest Entomologist and Coordinator of Research, University of Idaho, Moscow, Idaho.
Dr. Earl L. Stone, Jr., Soil Scientist and Professor, Department of Agronomy, Cornell University, Ithaca, New York.
Dr. Dennis E. Teeguarden, Professor of Forestry Economics, College of Natural Resources, University of California, Berkeley, California, and specialist in applying operations research to forest resource allocation problems.
Dr. William Webb, Wildlife Biologist, formerly Professor in Wildlife Management, State University of New York, Syracuse, New York, now retired.

It is proposed to amend 36 CFR by adding a new Part 219, Consisting of Subpart A to read as follows:

PART 219—PLANNING

Subpart A—National Forest System Land and Resource Management Planning

Sec.
219.1 Purpose.
219.2 Scope and Applicability.
219.3 Definitions.
219.4 Planning Levels.
219.5 Planning Process.
219.6 Interdisciplinary Approach.
219.7 Public Participation.
219.8 Coordination of Public Planning Efforts.
219.9 Regional Planning Procedure.
219.10 Criteria for Regional Planning Actions.
219.11 Forest Planning Procedure.
219.12 Criteria for Forest Planning Actions.
219.13 Management Standards and Guidelines.
219.14 Research.
219.15 Revision of Regulations.
219.16 Transition Period.

Authority.—Sec. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613); and 5 U.S.C. 301.

Subpart A—National Forest System Land and Resource Management Planning

§ 219.1 Purpose.

(a) The regulations in this subpart set forth a process for developing, adopting, and revising land and resource management plans for the National Forest System. The purpose of the planning process is to meet the requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, (hereafter RPA) including procedures established by the National Environmental Policy Act of 1969 (hereafter NEPA) for assessing environmental impacts. These regulations prescribe how land and resource management planning shall be conducted on National Forest System lands. The resulting plans will provide for multiple use and sustained yield of products and services from the National Forest System.

(b) Plans guide all natural resource management activities and establish management standards and guidelines for the National Forest System. They determine resource management practices, harvesting levels and procedures under the principles of multiple use and sustained yield and the availability and suitability of lands for resource management. All levels of planning will be based on the following principles:

(1) Consideration of the relative values of all renewable resources;

(2) Establishment of goals and objectives for the sustained yield of products and services resulting from multiple-use management without impairment of the productivity of the land;

(3) Protection and, where appropriate, improvement of the quality of renewable resources;

(4) Preservation of important historic, cultural and natural aspects of our national heritage;

(5) Provision for the safe use and enjoyment of the forest resources by the public;

(6) Protection of all forest and rangeland resources from depredations by the forest pests, using ecologically compatible means;

(7) Coordination with the land and resource planning efforts of other Federal agencies, State and local governments, Indian tribes, and adjacent private landowners;

(8) A systematic, interdisciplinary approach to ensure coordination and integration of planning activities for multiple-use management;

(9) Early and frequent public participation;

(10) Establishment of quantitative and qualitative standards and guidelines for land and resource planning and management;

(11) Management of National Forest System lands in a manner that is sensitive to economic efficiency; and

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(12) Responsiveness to changing conditions in the land and preferences of the American people.

§ 219.2 Scope and applicability.

These regulations apply to all lands in the National Forest System. Planning requirements for managing special areas, such as wilderness, wild and scenic rivers, national recreation areas, and national trails, shall be included in land and resource management planning pursuant to these regulations. Whenever the special area authorities require additional planning, those authorities shall control in implementing the planning process under these regulations.

§ 219.3 Defintions.

For purposes of this subpart the following words shall have these meanings:

(a) "Allowable sale quantity": The quantity of timber that may be sold from the area of land covered by the forest plan for a time period specified by the plan. This quantity is usually expressed on an annual basis as the average annual allowable sale quantity.

(b) "Assessment": The Renewable Resource Assessment required by the RPA.

(c) "Capability": A measure of the potential of a unit of land to produce resources, supply goods and services, and allow resource uses under an assumed set of management practices and at a given level of management intensity. Capability depends upon current conditions and site conditions such as climate, slope, landform, soils and geology, as well as the application of management practices, such as silviculture or protection from fire, insects, and disease.

(d) "Corridor": A linear strip of land which has ecological, technical, economic, social, or similar advantages over other areas for the present or future location of transportation or utility rights-of-way within its boundaries.

(e) "Diversity": The number of different plant an animal species and each species' abundance, and the distribution and abundance of different natural plant and animal communities within the area covered by a land and resource management plan.

(f) "Economic efficiency analysis": A comparison of the values of resource inputs (costs) required for a possible course of action with the values of resource outputs (benefits) resulting from such action. In this analysis, incremental market and nonmarket benefits are compared with investment and physical resource inputs.

(g) "Environmental assessment": An analysis of alternative actions and their predictable short- and long-term environmental effects, which include physical, biological, economic and social factors and their interactions. It also means the concise public document required by the regulations for implementing the procedural requirements of NEPA. (40 CFR 1508.9).

(h) "Environmental documents": A set of concise documents meeting the requirements of the regulations meeting the procedural provisions of NEPA, (40 CFR 1508.10).

(i) "Even-aged silviculture": The combination of actions that results in the creation of stands in which trees of essentially the same age grow together. Managed even-aged forests are characterized by a distribution of stands of varying ages (and therefore tree sizes) throughout the forest area. Regeneration in a particular stand is obtained during a short period at or near the time that the stand has reached the desired age or size and is harvested. Clearcutting, shelterwood cutting, seed tree cutting, and their many variations are the cutting methods used to harvest the existing stand and regenerate a new one. In even-aged stands, thinnings, weedings, cleanings, and other cultural treatments between regeneration cuts are often beneficial. Cutting is normally regulated by scheduling the area of harvest cutting to provide for a forest that contains stands having a planned distribution of age classes.

(j) "Goal": A concise statement of the state or condition that a land and resource management plan is designed to achieve. A goal is usually not quantifiable and may not have a specific date for completion.

(k) "Guidelines": An indication or outline of policy or conduct.

(l) "Integrated pest management": A process in which all aspects of a pest-host system are studied and weighed to provide the resource manager with information for decisionmaking. Integrated pest management is, therefore, a part of forest or resource management. The information provided includes the impact of the unregulated pest population on various resources values, alternative regulatory tactics and strategies, and benefit/cost estimates for these alternative strategies. Regulatory strategies are based on sound silvicultural practices and ecology of the pest-host system. Strategies consist of a combination of tactics such as stand improvement plus selected use of pesticides. The overriding principle in the choice of strategy is that it is ecologically compatible or acceptable.

(m) "Long-term sustained yield capacity": The highest uniform wood yield from lands being managed for timber production that may be sustained under a specified intensity of management consistent with multiple-use objectives.

(n) "Management concern": An issue or problem requiring resolution, or condition constraining management practices identified by the interdisciplinary team.

(o) "Management direction": A statement of goals and objectives and management practices for attaining them.

(p) "Management intensity": The relative cost of a possible management direction and/or management practice.

(p) "Management practice": A specific action, measure, or treatment applied to a planning area or part thereof.

(r) "Multiple use": "The management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some lands will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairmant of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output." (16 U.S.C. 531(a))

(s) "Objective": A specific statement of measurable results to be achieved within a stated time period. Objectives reflect alternative mixes of all outputs or achievements which can be attained at a given budget level. Objectives may be expressed as a range of outputs.

(t) "Policy": A guiding principle upon which is based a specific decision or set of decisions.

(u) "Program": The Renewable Resource Program required by the RPA.

(v) "Public issue": A subject or question of widespread public interest relating to management of National Forest System lands identified through public participation.

(w) "Public participation activities": Meetings, conferences, seminars, workshops, tours, written comments, response to survey questionnaires, and

similar activities designed and held to obtain comments from the general public and specific publics about National Forest System land management planning.

(x) "Real dollar value": A value from which the effect of change in the purchasing power of the dollar has been removed.

(y) "Responsible Forest Service official": The individual who has been delegated the authority to carry out a specific action.

(z) "Silvicultural system": A combination of interrelated actions whereby forests are tended, harvested, and replaced. The combination of management practices used to manipulate the vegetation results in forests of distinctive form and character, and this determines the combination of multiple resource benefits that can be obtained. Systems are classified as even-aged and uneven-aged.

(aa) "Standards": A principle requiring a specific level of attainment.

(bb) "Suitability": The appropriateness of applying certain resource management practices to a particular unit of land, as determined by an analysis of the economic and evironmental consequences and the alternative uses foregone. A unit of land may be suitable for a variety of individual or combined management practices.

(cc) "Sustained-yield of the several products and services": "The achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forest without impairment of the productivity of the land." (16 U.S.C. 531(b))

(dd) "Timber harvest schedule": The quantity of timber planned for sale and harvest, by time period, from the area of land covered by the forest plan. The first period, usually a decade, of the selected harvest schedule provides the allowable sale quantity. Future periods are shown to establish that sustained yield will be achieved and maintained.

(ee) "Timber production": The growing, tending, harvesting and regeneration of regulated crops of industrial wood. Industrial wood includes logs, bolts or other round sections cut from trees for industrial or consumer use, except fuelwood.

(ff) "Uneven-aged silviculture": The combination of actions that result in the creation of forests in which trees of several or many ages may grow together. Managed uneven-aged forests may take several forms depending upon the particular cutting methods used. In some cases, the forest is essentially similar throughout, with individual trees of many ages and sizes growing in close association. In other cases, small groups of trees of similar age may be intermingled with similar groups of different ages; although the groups are even aged, they are not recorded separately. Finally, an uneven-aged forest may contain two or three distinct age classes on the same area, creating a storied forest. Under uneven-aged silviculture, regeneration is obtained several or many times during the period required to grow an individual tree ot maturity. Single-tree selection cutting, group selection cutting, and other forms of partial cutting are used to harvest trees, obtain regeneration, and provide appropriate intermediate culture. Cutting is usually regulated by specifying the number of proportion of trees of particular sizes to retain within each area, thereby maintaining a planned distribution of size classes. Scheduling by area harvest is often used as well.

§ 219.4 Planning levels.

(a) The planning process requires a continuous flow of information and management direction among the three Forest Service administrative levels: national, regional, and designated forest planning area. Management direction shall: be based principally upon locally derived information about production capabilities; reflect conditions and circumstances observed at all levels; and become increasingly specific as one moves from the national to regional level, and from the regional to designated forest planning area. In this structure, regional planning is the principal device for conveying management direction from the national level to designated forest planning areas and for conveying information from such areas to the national level.

(b) Planning levels and relationships are set forth in paragraphs (b)(1) through (3) of this section

(1) *National.* The Chief, Forest Service, shall develop the Assessment which will analyze the present and future demands for and supplies of the Nation's forest and rangeland renewable resources. Where possible,demands shall be assessed over a range of prices. The Chief shall also analyze opportunities to improve or extend the uses of the Nation's forest and rangeland renewable resources. The assessment of supply will indicate the feasible range of alternative mixes of outputs which may be forthcoming at each of various reasonable cost levels. This estimate will be based on the capabilities for each planning area. Through the planning process described in § 219.5 and based on the Assessment, the Chief shall develop a recommended Program. In formulating this Program, the costs of supply and the relative values of both market and non-market outputs will be considered. The Program shall include national renewable resource goals and quantified objectives based upon various budget location priorities and under various reasonable and estimated total budget levels. A protion of each national goal and objective, expressed as a range of outputs, shall be assigned to each region and shall be incorporated into each regional plan. The objectives assigned to each region will be based on local supply capabilities and market conditions. Economic efficiency and potential environmental effects will be considered in these assignments.

(2) *Regional.* Each regional forester shall develop a regional plan in accordance with the procedures, standards, and guidelines specified in this subpart. The required planning process is established in § 219.5. Procedural requirements for regional plans are established in §§ 219.9 and 219.10, and resource management standards and guidelines are set forth in § 219.13. The regional planning process will respond to and incorporate the program direction established by the Chief, Forest Service, under paragraph (b)(1) of this section. Regional objectives shall be assgned to designated forest planning areas. These assignments will be based upon: supply capabilities, socio-economic assessments, potential environmental effects, economic efficiency criteria, community stability objectives, and resource management standards and guidelines which have been established by the planning process. The regional forester may request adjustment of assigned regional objectives prior to their incorporation into the plan. Any adjustment will require the approval of the Chief, Forest Service.

(3) *Forest.* Forest plans shall be developed for all lands in the National Forest System in accordance with the procedures, standards, and guidelines specified in this subpart. The planning process is established in § 219.5, and procedures are set forth in § 219.11. Resource management standards and guidelines are established in § 219.13. One forest plan ma be prepared for all lands for which a forest supervisor has responsibility, or separate forest plans may be prepared for each national forest, or combination of national forests, within the jurisdiction of a single

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forest supervisor. These forest plans will constitute the land and resource management plans developed in accordance with section 6 of the RPA and will include all resources management planning. Forest plans will address the goals and objectives established by the regional plan. The objectives assigned to each forest will be evaluated in order to assure that they are compatible with local supply and demand, economic efficiency, community stability, and potential environmental effects. Based upon this evaluation, the forest supervisor may request adjustment of assigned objectives prior to their incorporation into the forest plan. Any such adjustment will require the approval of the regional forester.

(c) The transfer of information among planning levels is particularly important for the process actions in paragraphs (c)(1) through (4) of this section. Process actions are further described in § 219.5.

(1) *Public issues and management concerns.* The Assessment is dependent upon the identification of issues and concerns which are national in scope and significance. Information on these national issues and concerns, along with issues and concerns which are regional or local in nature, should be maintained at the regional or forest level and provided to the Assessment. Consitency regarding the location, nature, and importance of national issues and concerns should be maintained among the three levels.

(2) *Analysis of the management situation.* The Assessment is heavily dependent on both supply and demand information pertaining to each of the resources. This information pertains to existing and future conditions. Resource supply potentials and use opportunities will be surveyed and maintained at the Forest or State level and summarized for use at the regional or national level. Assumptions and methodology for projecting regional, or national resource demands will be compatible.

(3) *Proposed Program alternatives.* The Program is formulated from the Assessment analysis of policy issues, and from alternative program objectives prepared at the national level and reviewed and evaluated at the regional and forest levels for feasibility and compatibility with regional and forest plans.

(4) *Final Program direction.* After finalization of the Program, objectives are distributed to the regions, which in turn distribute regional objectives to each of the designated forest planning areas. State and Private Forestry program levels are coordinated with each of the states in the region. Research proposed programs and objectives are coordinated with the primary research station(s) in the region, although research activities in the region may be carried out by other research stations.

(d) Although no separate statement will be prepared, the Program will contain the elements included in an environmental impact statement pursuant to section 102(2)(C) of NEPA, as provided in §§ 1502.14–1502.16 of Title 40. An environmental impact statement will be prepared for each regional plan, forest plan, revision, and significant amendment.

§ 219.5 Planning Process.

(a) *General planning approach.* The NEPA environmental assessment process will be included in the process for development of a plan. Except where the planning process requires additional action, a single process will be used to meet the planning requirements and the NEPA process. The planning process adapts to changing conditions by identifying public issues, management concerns, and use and development opportunities. It shall consist of a systematic set of interrelated actions which include at least those set forth in paragraphs (b) through (k), of this section that lead to management direction. Planning actions, in addition to those in this section may be necessary in particular situations. Some actions may occur simultaneously, and it may be necessary to repeat an action as additional information becomes available.

(b) The interdisciplinary team will identify and evaluate public issues, management concerns, and resource use and development opportunities, including those identified through public participation activities and coordination with other Federal agencies, State and local governments, and Indian tribes throughout the planning process. All public issues and management concerns are investigated and evaluated in order of their apparent importance. The responsible Forest Service official shall determine the major public issues, management concerns, and use and development opportunities to be addressed in the planning process.

(c) *Planning criteria.* Criteria will be prepared to guide the planning process and to guide management direction. Planning criteria may apply to collection and use of inventory data and information, analysis of the management situation, and the design and formulation of alternatives. Decision criteria will be developed and used to evaluate alternatives and to select one alternative to serve as the proposed plan. All criteria shall be developed by the interdisciplinary team and approved by the responsible Forest Service official, who shall also approve any revisions to these criteria. Generally, criteria will be based on:

(1) Laws, executive orders, regulations, and Forest Service Manual policy;

(2) Goals and objectives in the Program and regional plans;

(3) Recommendations and assumptions developed from public issues, management concens, and resource use and development opportunities;

(4) The plans and programs of other Federal agencies, State and local governments and Indian tribes;

(5) Ecological, technical and economic factors;

(6) Guidelines for economic analysis practices established by the Chief, Forest Service, that will become effective within one year after final publication of these planning rules in the **Federal Register**; and

(7) The resource management standards and guidelines in § 219.13.

(d) *Inventory data and information collection.* Each responsible Forest Service official shall obtain and keep current inventory data appropriate for planning and managing the resources under his administrative responsibility, and shall assure that the interdisciplinary team has access to the best available data, which may require that special inventories or studies be prepared. The interdisciplinary team will collect, assemble, and use data, maps, graphic material, and explanatory aids, to the degree necessary to plan effectively and execute the environmental assessment. Existing data will be used in planning unless such data is inadequate. Data and information needs may vary as planning problems develop from identification of public issues, management concerns, and resource use and development opportunities. Methods used to gather data will be consistent with those used to monitor consequences of activities resulting from planning and management. Data will be stored for ready retrieval and comparison and periodically will be evaluated for accuracy and effectiveness.

(e) *Analysis of the management situation.* The analysis of the management situation is an assessment of the ability of the planning area to supply goods and services in response to society's demand for those goods and services. The analysis will display the capability and suitability of the forest to supply outputs and uses, and projected demands for the outputs or uses over time. It will identify any special conditions or situations which involve hazards to the resources of the planning area and their relationship to proposed and possible actions being considered. The analysis will determine:

(1) Ranges of various goods, services and uses that are feasible under existing conditions at various levels of expenditure;

(2) Projections of demand, using best available techniques, with both price and non-price information which, in conjunction with supply cost information, will be used to evaluate the level of demand that maximizes net public benefits; to the extent possible, demand will be assesed as a price-quantity relationship;

(3) Potential to resolve public issues and management concerns;

(4) Technical and economic feasibility of providing the levels of goods, services, and uses resulting from assigned goals and objectives; and

(5) The need, as a result of this analysis, to establish or change management direction.

(f) *Formulation of alternatives.* A reasonable range of practical alternatives as provided in paragraphs (f) (1) and (2) of this section will be formulated by the interdisciplinary team. Alternatives shall be described in draft and final environmental impact statements. The purpose of the management practices proposed will be clearly stated for each alternative.

(1) Initial analysis will include alternatives representative of the range of possible outputs of resources available at each of several expenditure levels. Alternatives chosen for evaluation will be presented in detail in the environmental impact statement. In formulating these alternatives, the following criteria will be met:

(i) Each alternative will be capable of being achieved;

(ii) An alternative representing no change in existing resource outputs, the no-action alternative, will be included;

(iii) All alternatives will provide the treatments needed to restore renewable resources;

(iv) Each identified major public issue and management concern will be addressed in an alternative; and

(v) Each alternative will represent the most cost-effective combination of management practices that can meet the objectives established in the alternative.

(2) Each alternative will state at least;

(i) The conditions and uses that will result from long-term application of the alternative;

(ii) The goods and services to be produced, and the timing and flow of these resource outputs; and

(iii) Resource management standards and guidelines.

(g) *Estimated effects of alternatives.* The interdisciplinary team shall estimate and display the physical, biological, economic, and social effects of implementing each alternative. These effects will include at least the following:

(1) The expected outputs for the planning periods, including appropriate marketable goods and services, as well as non-market items, such as protection and enhancement of soil, water and air, and preservation of aesthetic and cultural resource values;

(2) The relationship between local, short-term uses of the renewable resources and the maintenance and enhancement of long-term productivity;

(3) The adverse environmental effects which cannot be avoided;

(4) Resource commitments that are irreversible;

(5) Direct and indirect benefits and costs, estimated in accordance with paragraph (c)(6) of this section will be detailed enough to:

(i) Determine the expected administrative costs of implementing the plan;

(ii) Estimate the real dollar value of all outputs attributable to each plan alternative to the extent that dollar values can be assigned to nonmarket goods and services, using physical outputs or relative indices of value when such values may not be reasonably assigned;

(iii) Estimate real-dollar investments and operating costs;

(iv) Estimate which alternative comes nearest to maximizing net public benefits using a comparison of discounted benefits to discounted cost; and

(v) Evaluate the economic effects of alternatives, including the distribution of goods and services, the payment of taxes and charges, receipt shares, payments to local government, and income and employment in all affected communities, including but not limited to the local community.

(6) Estimate effects on minority groups and civil rights; and

(7) Determine effects on prime farmlands, wetlands and flood plains.

(h) *Evaluation of alternatives.* The interdisciplinary team will evaluate the significant physical, biological, economic and social effects of each management alternative according to the planning decision criteria. The evaluation will include a comparative analysis of all management alternatives and will compare economic efficiency and distributional aspects, outputs of goods and services, and protection and enhancement of environmental resources. The responsible Forest Service official will review the interdisciplinary team's evaluation, will recommend a preferred alternative or alternatives to be identified in the draft environmental impact statement.

(i) *Selection of alternative.* After publication of the draft environmental impact statement, the interdisciplinary team will evaluate public comments and, as necessary, revise the appropriate alternative. The responsible Forest Service official will recommend the selected alternative for the final environmental impact statement using the decision criteria developed pursuant to § 219.5(c). The official shall document the selection with a description of the benefits, relative to other alternatives as described in paragraph (h) of this section.

(j) *Plan implementation.* Implementation of the plan (selected alternative) is a continuous activity composed of three annual processes: program budget proposals, program budget allocations, and project implementation. During the implementation of each plan the following requirements, as a minimum, will be met:

(1) The responsible Forest Service official shall assure that annual program proposals and implemented projects are in compliance with the plan;

(2) Program budget allocations meet the objectives and are consistent with all applicable standards and guidelines specified in the plan; and

(3) Plan implementation is in compliance with §§ 219.9(c) and 219.11(d).

(k) *Monitoring and evaluation.* At intervals established in the plan, management activities will be evaluated on a sample basis to determine how well objectives have been met and how closely management standards and guidelines have been applied. The results of monitoring and evaluation may be used to analyze the management situation during revision of the plan as provided in paragraphs (k) (1), (2) and (3) of this section.

(1) The plan will describe the following monitoring activities:

(i) The actions, effects, or resources to be measured, and the frequency of measurements;

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(ii) Expected precision and reliability of the monitoring process; and

(iii) The time when evaluation will be reported.

(2) Evaluation reports will contain for each monitored management activity at least a quantitative estimate of performance comparing outputs and services and their costs with those projected by the plan and documentation of evaluated measured effects.

(3) Based upon the evaluation reports, the responsible Forest Service official will make changes in management direction, or revise or amend the plan as necessary to meet the goals and objectives.

§ 219.6 Interdisciplinary Approach.

(a) A team representing several disciplines shall be used at each level of planning. The purpose of such a team is to coordinate and integrate planning activities. Through interactions among its members, the team will integrate knowledge of the physical, biological, economic and social sciences, and design arts into the planning process. Team functions include, but are not limited to:

(1) Assessing the problems and resource use and development opportunities associated with the production of goods and services;

(2) Obtaining the public's views about possible decisions;

(3) Coordinating planning activities within the Forest Service and with local, State and other Federal agencies;

(4) Developing the land and resource management plan and associated environmental impact statement pursuant to the planning process;

(5) Giving the responsible Forest Service official an integrated perspective on land and resource management planning; and

(6) Establishing monitoring and evaluation standards and requirements for planning and management activities.

(b) The team shall be composed of Forest Service personnel who collectively represent specialized areas of technical knowledge about natural resource management applicable to the area being planned. The team will consider problems collectively, rather than separating them along disciplinary lines. The team may consult persons other than Forest Service employees when required specialized knowledge does not exist within the team itself.

(c) The responsible Forest Service official, in appointing team members, shall determine and consider the qualifications of each team member on the basis of the complexity of the planning problem. Each team member shall, as a minimum, either have successfully completed a course of study in an accredited college or university leading to a bachelor's or degree in one or more specialized areas of assignment or have recognized expertise and experience in professional investigative, scientific, or other responsible work in specialities which members represent. In addition to technical knowledge in one or more resource specialities, members should possess other attributes which enhance the interdisciplinary process that, as a minimum, should include:

(1) An ability to solve complex problems;

(2) Skills in communication and group interaction;

(3) Basic understanding of land and natural resource planning concepts, processes, and analysis techniques; and

(4) The ability to conceptualize planning problems and feasible solutions.

(d) The responsible Forest Service official shall appoint a leader of the inderdisciplinary team. Team leadership should be assigned to individuals possessing both a working knowledge of the planning process and the ability to communicate effectively with team members. The team leader shall coordinate the array of specialists, focusing their attention on team goals.

§ 219.7 Public Participation.

(a) The land and resource management planning process determines how the lands of the National Forest System are to be managed. The public shall be encouraged to participate throughout the planning process. The intent of public participation is to:

(1) Inform the public of Forest Service land and resource planning activities;

(2) Provide the public with an understanding of Forest Service programs and proposed actions;

(3) Ensure that the Forest Service understands the needs and concerns of the public;

(4) Broaden the information base upon which land and resource management planning decisions are made; and

(5) Demonstrate, to the extent practicable, the use of public input in reaching planning decisions.

(b) Public participation in the preparation of draft environmental statements for planning shall begin with the publication of a notice of intent in the **Federal Register**. After this publication, all public participation for land and resource management planning shall be coordinated with that required by the NEPA and its implementing regulations.

(c) Public participation, as deemed appropriate by the responsible Forest Service official, will be used early and often throughout the development, revision, and significant amendment of plans. Public participation shall begin with a media notice, which includes the following information:

(1) The description of the proposed planning action;

(2) The description and map of the geographic area affected;

(3) The issues expected to be discussed;

(4) The kind, extent, and method(s) of public participation to be used;

(5) The times, dates, and locations scheduled or anticipated, for public meetings;

(6) The name, title, address, and telephone number of the Forest Service official who may be contacted for further information; and

(7) The location and availability of documents relevant to the planning process.

(d) Public participation activities should be appropriate to the area and people involved. Means of notification should be appropriate to the level of planning. Public participation activities may include, but are not limited to, requests for written comments, meetings, conferences, seminars, workshops, tours, and similar events designed to foster public review and comment. To ensure effective public participation, the objectives of participation activities will be defined beforehand by the interdisciplinary team. The Forest Service shall state the objectives of each participation activity to assure that the public understands what type of information is needed and how this information relates to the planning process.

(e) Public comments will be analyzed individually, and by type of group and organization to determine common areas of concern and geographic distribution. The results of this analysis will be evaluated to determine the variety and intensity of viewpoints about ongoing and proposed planning, and management standards and guidelines. Conclusions about comments will be used to the extent practicable in decisions that are made.

(f) The primary purpose of public participation is to broaden the information base upon which planning decisions are made. Public participation activities also will help in monitoring and evaluation of implemented plans. Suitable public participation formats, requirements, and activities will be determined by the responsible Forest Service official.

(g) All scheduled public participation activities will be documented by a summary of the principal issues discussed, comments made, and a register of participants.

(h) At least 30 days' public notice will be given for public participation activities associated with the development of national or regional plans. At least 15 days' public notice will be given for activities associated with forest plans. Any notice requesting written comments on national and regional planning will allow at least 90 calendar days for responses. A similar request about forest planning will allow at least 30 calendar days for responses.

(i) A list of individuals and groups known to be interested in or affected by the plan shall be maintained. They shall be notified of public participation activities.

(j) The responsible Forest Service official, or his representative, shall attend all Forest Service public participation activities.

(k) Copies of approved plans will be available for public review, as follows:

(1) The Assessment and the Program will be available at national headquarters, each regional office, each forest supervisor's office, and each district ranger's office;

(2) The regional plan will be available at national headquarters, that regional office and regional offices of contiguous regions, each forest supervisor's office of forests within and contiguous to that region, and each district ranger's office in that region;

(3) The forest plan will be available at the regional office for that forest, that forest supervisor's office and forest supervisors' offices contiguous to that forest, each district ranger's office in that forest, those district rangers' offices in other forests that are contiguous to that forest, and at least one additional location determined by the forest supervisor, which will offer convenient access to the public; and

(4) The above plans may be made available at other locations convenient to the public.

(l) Supporting documents to plans will be available at the office where the plan was developed.

(m) Upon issuance of a draft environmental impact statement on a plan, revision, or significant amendment, and concurrent with the public participation activities of this section, the public shall have a 3-month period to review the statement for the proposed plan, revision, or significant amendment. During that time, additional public participation activities will take place to review the actions proposed in the draft environmental impact statement.

(n) Fees for reproducing requested documents will be charged according to the Forest Service schedule for Freedom of Information Act request (7 CFR 1.1 et seq., Appendix A).

(o) Public participation activities set forth in this section are designed to accomodate all public input, including objections to any aspect of planning under this regulation. Therefore, objections to planning decisions pursuant to this regulation are excluded from review under § 211.19 and any other administrative appeal procedure. This exclusion does not affect the right to appeal decision implementation, after final plan approval, on the grounds of nonconformity with the plan or because a decision otherwise constitutes an appealable grievance. This exclusion also does not affect the right to appeal the Chief's decision under § 219.12(d)(2).

§ 219.8 Coodination of Public Planning Efforts.

(a) Efficient management of the resources of the National Forest System benefits from planning that is thoroughly coordinated among all levels of government, including other Federal agencies, State and local governments, and Indian tribes. Such coordination ensures that government objectives, policies, and programs for resource management are compatible to the extent possible. Therefore, the Forest Service shall coordinate its national, regional, and forest planning with the equivalent and related planning efforts of other Federal agencies, State and local governments, and Indian tribes.

(b) The responsible Forest Service official, through the interdisciplinary team, shall coordinate Forest Service planning with land and resource management planning of other affected government entities and Indian tribes to ensure that planning includes:

(1) Recognition of the objectives of other Federal, State and local governments, and owners of intermingled and adjacent private lands, as expressed in their plans and policies;

(2) An assessment of the interrelated impacts of these plans and policies;

(3) A determination of how each Forest Service plan should deal with the impacts identified; and

(4) Where conflicts are identified, consideration of alternatives for their resolution.

(c) The responsible Forest Service official shall give notice of the preparation, revision, or significant amendment of a land and resource management plan, along with a general schedule of anticipated planning actions, to the State Clearinghouse (OMB Circular A-95) for circulation among State agencies. The same notice will be mailed to all Tribal or Alaska Native leaders whose tribal lands may be impacted, and to the heads of county boards for the counties that are involved. These notices shall be issued simultaneously with the public notice required in § 219.7(b).

(d) To facilitate coordination with State governments, regional foresters will seek agreements with Governors or their designated representatives on procedural measures such as exchanging information, providing advice and participation, and time frames for receiving State government input and review. If an agreement is not reached, the regional forester will provide an opportunity for Governor and State agency review, advice, and suggestion on guidance that the regional forester believes could affect or influence State government programs.

(e) The responsible Forest Service official and the interdisciplinary team, in developing land and resource plans, shall meet with the designated State official (or designee), advisory persons, representatives of other Federal agencies and Indian tribal governments at the beginning of the planning process to develop procedures for coordination. As a minimum, such conferences shall also be held after public issues and management concerns have been identified and prior to recommending the selected alternative. Such conferences may be held in conjunction with other public participation activities, provided that the opportunity for government officials to participate in the planning process is not thereby reduced.

(f) The responsible Forest Service official shall conduct, during the planning process, an appraisal of the planning and land use policies of other Federal agencies, State and local governments and Indian tribes. The appraisal intensity will be appropriate to the planning level and requirements of the envisioned plan. This appraisal will include, but not be limited to, plans affecting renewable natural resources and minerals, recreation, community and economic development, land use, transportation, wildlife, water and air pollution control, cultural resources, and energy. The interdisciplinary team will document this appraisal in the planning process records.

(g) The responsible Forest Service official, in the development of forest plans and to the extent feasible, shall notify the owners of lands that are

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intermingled with, or dependent for access upon, national forest lands, and on which management is being practiced similar in character to that being practiced on adjacent national forest lands. Planning activities should then be coordinated to the extent feasible with these owners. The results of this coordination shall be included in the plan as part of the appraisal required in paragraph (f) of this section.

(h) The responsible Forest Service official, in developing the forest plan, shall seek input from other Federal, State and local governments, universities, and private research organizations in resolving management concerns in the planning process and in identifying areas where additional research is needed. This input should be included in the discussion of the research needs of the designated forest planning area.

§ 219.9 Regional Planning Procedure.

(a) *Regional plan.* Regional planning will provide forest planning areas with goals and objectives, regional issue resolution, and program coordination for National Forest System, State and Private Forestry, and Research. A plan will be developed for each administratively designated region in the National Forest System. The preparation of a regional plan, revision, or significant amendment will comply with the requirements of the planning process established in §§ 219.5 and 219.10 and this section.

(b) *Responsibilities.* The Chief, Forest Service, shall establish agency-wide policy for regional planning and approve all regional plans, revisions, or significant amendments. The regional forester shall be responsible for the preparation of a regional plan, and revisions or significant amendments to the regional plan. The regional interdisciplinary team shall develop a regional plan using the process established in § 219.5 which shall include the steps in paragraphs (b) (1) and (2) of this section.

(1) A draft environmental impact statement will be prepared, describing the proposed plan, revision, or significant amendment. A notice of intent to prepare this statement will be issued in the Federal Register. The draft statement will identify a preferred alternative. Beginning at the time of notification in the Federal Register, the statement will be available for public comment for 90 days or 3 months, whichever is longer, at convenient locations in the vicinity of the lands covered by the plan, revision, or significant amendment. During this period, and in accordance with the provisions in § 219.7, the responsible Forest Service official shall publicize and hold public participation activities as deemed appropriate for adequate public input.

(2) A final environmental impact statement will be prepared, and after the regional forester has reviewed and concurred in the statement, the regional forester shall recommend to the Chief that it be filed with the Environmental Protection Agency. At least 30 days are required between the date of notice of filing of the final environmental impact statement and the decision fo implement actions specified in the plan, revision, or significant amendment. The plan, revision, or significant amendment shall be based on the selected alternative.

(c) Plan approval. The Chief, Forest Service, shall review the proposed plan, revision, or significant amendment and the final environmental impact statement and take either of the actions in paragraphs (c)(1) and (2) of this section.

(1) Approve the proposal and the environmental impact statement. If approved, the proposal will not become effective until at least 30 days after publication of the notice of the filing of the final environmental impact statement. After such 30-day period, the Chief shall, in compliance with § 1505.2 of Title 40, attach to the proposal a concise public record of decision which documents the approval. The record of decision will accomplish the following:

(i) State the decision;

(ii) Identify all alternatives considered in making the decision on the plan, revision, or significant amendment;

(iii) Specify the preferred alternative or alternatives;

(iv) Identify and discuss all factors considered by the Forest Service in making the planning decision, including how such factors entered into its decision; and

(v) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adapted, and, if not, why they were not.

(2) Disapprove the proposal or the environmental impact statement, which shall be returned to the regional forester with a written statement of the reasons for disapproval. The Chief may also specify a course of action to be undertaken by the regional forester in order to remedy the deficiencies, errors, or omissions of the proposal or environmental impact statement.

(d) *Conformity.* The regional forester shall manage the national forest lands under his jurisdiction in accordance with the regional plan. The regional forester or area director shall assure that all State and Private Forestry programs planned with the States or other governmental agencies are coordinated with the regional plan. The research station director shall use the regional plan to identify research needs for National Forest System lands. Differences between annual budget proposals and actual funding allocations may require the regional forester to make changes in scheduling. When each regional plan is approved, each forest plan in that region will be revised or amended to bring it into conformity as soon as practicable. When each regional plan is revised or amended the affected forest plans will be revised or amended to conform as soon as practicable.

(e) *Amendment.* The regional forester may amend the regional plan through an environmental assessment which will be used to determine the significance of proposed amendments. Where significance indicates the preparation of an environmental impact statement is necessary, the amending process will follow the same procedure as used in the preparation of the plan. If the amendment is determined not to be significant, it may be implemented by the responsible official after public notice. The regional plan will be reviewed for possible amendment in conjunction with the development of the Assessment and Program or whenever the funded and implemented program deviates significantly from the 5-year levels specified in the regional plan.

(f) *Revision.* The regional forester shall determine by an analysis of the management situation whether a revision is necessary because conditions or the demands of the public in the region have changed significantly. Revision will not become effective until considered and approved in accordance with the requirements for the development and approval of a regional plan.

(g) *Planning records.* The regional forester and the interdisciplinary team will develop and maintain a system that records decisions and activities that result from the process of developing a regional plan, revision or significant amendment. This system will contain all planning records including a work plan to guide and manage planning, the precedures which were used in completing each planning action and the results of those actions. These records document the accomplishment of legal and administrative planning requirements. They include at least the draft environmental impact statement, final environmental impact statement, regional plan, and record of decision. The adequacy of the record system will be approved by the regional forester.

(h) *Regional plan content.* The following general format and content outline is required for all regional plans. In addition, the regional forester may specify formats and require further content within the following outline appropriate to the planning needs of that region:

(1) A brief description of the major public issues and management concerns which are pertinent to the region, indicating the disposition of each issue or concern;

(2) A summary of the analysis of the regional management situation, including a brief description of the existing management situation, demand and supply projections for resource commodities and services, production potentials, and resource use and development opportunities;

(3) Description of management direction including programs, goals and objectives;

(4) A distribution of regional objectives to each of the forest planning areas, and additional objectives added to reflect specific regional needs;

(5) Management standards and guidelines and those specific standards and guidelines listed in paragraph (d) of § 219.10;

(6) Description of the monitoring and evaluation necessary to determine and report achievements and effects;

(7) Appropriate references to information used in development of the regional plan; and

(8) The names of interdisciplinary planning team members, together with a summary of each member's qualifications and areas of expertise;

(i) *Monitoring and evaluation.* Monitoring and evaluation of planned actions and effects will be carried out in compliance with § 219.5(k). Monitoring and evaluation will include, but is not limited to:

(1) Management practices relating to regional or subregional programs;

(2) State and Private Forestry programs carried out in conjunction with states or other governmental agencies;

(3) Economic and social impact on regional public;

(4) Resource outputs or environmental impacts which relate to areas more widespread than national forests or States;

(5) Research programs which are related to other research activities or ongoing management practices on a regional scale; and

(6) National System programs.

§ 219.10 Criteria for Regional Planning Actions.

(a) The regional interdisciplinary team, as directed by the regional forester, shall follow the process and procedures established in §§ 219.5 through 219.9 in preparing the regional plan, revision, or significant amendment. The appropriate planning actions of the regional planning process will be guided by at least the criteria provided in paragraphs (b) through (g) of this section. Additional planning criteria may be found in the guidelines for managing specific renewable resources set forth in the Forest Service Manual.

(b) In addition to public issues and management concerns identified through public participation and coordination, each regional plan shall address issues and concerns referred from national or forest planning. Some management concerns that should be considered in regional and in forest planning are the needs to:

(1) Provide goods and services efficiently;

(2) Produce timber and wood fiber;

(3) Manage and utilize range resources and improve range grazing;

(4) Manage fire to improve and protect resources;

(5) Protect resources from disease, pests and similar threats;

(6) Enhance water quality and quantity, soil productivity, and restore watershed conditions;

(7) Adjust landownership as needed to support resource management goals;

(8) Provide various recreation options;

(9) Maintain or improve fish and wildlife habitats;

(10) Improve critical and essential habitats of threatened or endangered plant and animal species;

(11) Assess probabilities of mineral exploration and development for immediate and future needs, and consider non-renewable resources in the mangement of renewable natural resources;

(12) Construct, operate, and maintain transportation facilities;

(13) Identify, protect, and enhance the visual quality;

(14) Require corridors to the extent practicable, to minimize adverse environmental impacts caused by the proliferation of separate rights-of-way;

(15) Discover, manage, protect, and interpret cultural resource values which are qualified or many qualify for inclusion in the National Register of Historic Places; and

(16) Identify typical examples of important botanic, equatic, and geologic types, and protect them through establishment of research natural areas.

(c) Regional plans will contribute and respond to the Assessment and Program by providing long-range policies, goals, and objectives contained in the Program; resource production objectives for each forest plan; and guidelines to resolve public issues and management concerns identified through public participation and coordination activities.

(d) Each regional plan will establish standards and guidelines for:

(1) The maximum size, dispersal, and size variation of tree openings created by the application of even-aged managment and the state of vegetation that will be reached before a cutover area is no longer considered an opening, using factors enumerated in § 219.13(d);

(2) The biological growth potential to be used in determining the capability of land for timber production as required in § 219.12(b)(1)(ii);

(3) Recommended transportation corridors and associated standards for forest planning, such as standards for corridors, for transmission lines, pipelines, and water canals. The designation of corridors shall not preclude the granting of separate rights-of-way over, upon, under, or through the public lands where the authorized official determines that confinement to a corridor is not appropriate;

(4) Identify potential uses of available air quality increments (42 U.S.C. 7473(b)) and protect the portion of the increment needed to implement forest plans; and

(5) The unit of measure for expressing mean annual increment as required in § 219.12(d)(1)(ii)(C).

(e) Public participation and coordination activities will be adapted to the circumstances of regional planning. Particular efforts will be made to involve regional and national representatives of interest groups. Coordination will stress involvement with appropriate Federal agencies, State and local governments, and Indian tribes. Regional foresters will seek agreements with Governors, or their designated representatives, on procedures for coordination in accordance with section 219.8(d).

(f) Data for regional planning will be based principally on information from forest planning, with other data provided by the States, other Federal agencies, and private sources. Very little new data will be gathered through land and resource inventories. Data and information standards and guidelines established nationally will be followed in structuring and maintaining required data.

(g) The regional analysis of the management situation will, as appropriate, consider results of each

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forest's analysis of the management situation.

§ 219.11 Forest Planning Procedure.

(a) *Forest Plan.* The preparation of a forest plan, revision, or significant amendment will comply with the requirements of the planning process established in §§ 219.5 and 219.12 and this section.

(b) *Responsibilities.* The forest supervisor and the interdisciplinary team shall have the responsibilities set forth in paragraphs (b) (1) and (2) of this section.

(1) *Forest supervisor.* The forest supervisor shall have overall responsibility for the preparation and implementation of the forest plan and shall appoint and supervise the interdisciplinary team.

(2) *Interdisciplinary team.* The team shall implement the public participation and coordination activities. The team shall continue to function even though membership may change, and shall monitor and evaluate planning results and recommended revisions and amendments. The interdisciplinary team shall develop a forest plan, revision, or significant amendment using the planning process established in § 219.5, including the steps in paragraphs (b)(2)(i) and (ii) of this section.

(i) A draft environmental impact statement will be prepared, describing the proposed plan, revision, or significant amendment. A notice of intent to prepare this statement will be issued in the **Federal Register**. The draft statement will identify a preferred alternative. Beginning at the time of notification in the **Federal Register**, the statement will be available for public comment for 90 days or 3 months, whichever is longer, at convenient locations in the vicinity of the lands covered by the plan, revision, or significant amendment. During this period, and in accordance with the provisions in § 219.7, the responsible Forest Service official shall publicize and hold public participation activities as deemed appropriate for adequate public input.

(ii) A final environmental impact statement will be prepared, and after the forest supervisor has reviewed and concurred in the statement, the forest supervisor shall recommend to the regional forester that it be filed with the Environmental Protection Agency. At least 30 days are required between the date of notice of filing of the final environmental impact statement and the decision to implement actions specified in the plan, revision, or significant amendment. The plan, revision, or significant amendment shall be based on the selected alternative.

(c) *Approval process.* The regional forester shall review the proposed plan, revision, or significant amendment and the final environmental impact statement and take one of the actions in paragraphs (c)(1) through (3) of this section.

(1) Approve the proposal and the environmental impact statement. If approved, the proposal will not become effective until at least 30 days after publication of the notice of the filing of the final environmental impact statement. After such 30-day period, the regional forester shall, in compliance with § 1505.2 of Title 40, attach to the proposal a concise public record of decision which documents the approval. The record of decision will accomplish the following:

(i) State the decision;

(ii) Identify all alternatives considered in making the decision on the plan, revision, or significant amendment;

(iii) Specify the preferred alternative or alternatives;

(iv) Identify and discuss all factors considered by the Forest Service in making the planning decision, including how such factors entered into its decisions; and

(v) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and, if not, why they were not.

(2) Disapprove the proposal or the environmental impact statement, which shall be returned to the forest supervisor with a written statement of the reasons for disapproval. The regional forester may also specify a course of action to be undertaken by the forest supervisor in order to remedy the deficiencies, errors, or omissions of the proposal or impact statement.

(3) Transmit to the Chief, Forest Service, for approval or disapproval, if the selected harvest schedule is not the base timber harvest schedule for the designated forest planning area as required in § 219.12(d)(2).

(d) *Conformity.* As soon as practicable after approval of the plan, revision, or significant amendment, the forest supervisor shall ensure that, subject to valid existing rights, all outstanding and future permits, contracts, cooperative agreements, and other instruments for occupancy and use of affected lands are in conformity with the plan. All subsequent administrative activities affecting such lands, including budget proposals, will be in compliance with the plan. The forest supervisor may change proposed scheduling to respond to minor differences between planned annual budgets and appropriated funds. Such scheduled changes will be considered an amendment to the forest plan, but shall not require preparation of an environmental impact statement unless the changes significantly alter the relationship between levels of multiple-use goods and services projected under planned budget proposals as compared to those levels projected with actual appropriations. An environmental impact statement will be prepared if the scheduling changes will result in significant adverse environmental impacts not taken into account in an existing environmental impact statement.

(e) *Amendment.* The responsible Forest Service official may amend a plan through an environmental assessment or through the procedures established for the preparation and approval of the forest plan. Such an amendment will be deemed significant if the assessment indicates the need to prepare an environmental process will follow the same procedure as in the preparation of the plan. If, based on the environmental assessment, the amendment is determined not to be significant, it may be implemented by the forest supervisor following appropriate public notification.

(f) *Revision.* A forest plan will be revised at least every 10 years, or more frequently whenever the forest supervisor determines that conditions or the demands of the public in the area covered by the plan have changed significantly. The interdisciplinary team may, through the monitoring and evaluation process, recommend a revision of the forest plan at any time. Revisions are not effective until considered and approved in accordance with the requirements for the development and approval of a forest plan. The forest supervisor shall review the conditions on the land covered by the plan at least every 5 years to determine whether conditions or demands of the public have changed significantly.

(g) *Planning records.* The forest supervisor and interdisciplinary team will develop and maintain a system that records decisions and activities that result from the process of developing a forest plan, revision, or significant amendment. Records will be maintained that support analytical conclusions and alternative plans made by the team and approved by the forest supervisor throughout the planning process. Such supporting records provide the basis for the development of, revision, or significant amendment to the forest plan and associated environmental documents.

(h) *Forest plan content.* The forest plan will contain the following:

(1) A brief description of the major public issues and management concerns which are pertinent to the forest, indicating the disposition of each issue or concern;

(2) A summary of the analysis of the management situation, including a brief description of existing management situations, demand and supply conditions for resource commodities and services, production potentials, and use and development opportunities;

(3) Long-range policies, goals, and objectives, and the specific management direction and practices to achieve the goals and objectives of the plan;

(4) Proposed vicinity, timing, standards and guidelines for proposed and probable management practices;

(5) Monitoring and evaluation requirements which are pertinent at the forest level;

(6) Appropriate references to information used in development of the forest plan; and

(7) Names of the interdisciplinary planning team members, together with a summary of each member's qualifications and primary responsibilities or contributions to the forest planning effort.

(i) *Monitoring and evaluation.* Monitoring and evaluation of planned actions and effects will be carried out in compliance with § 219.5(k) and paragraphs (i) (1) through (3) of this section. In addition, management practices associated with each of the resources planned will be evaluated with reference to the standards and guidelines contained in the forest plan through monitoring on an appropriate sample basis. Methods used to monitor consequences of activities resulting from planning and management practices will be consistent with those used to gather data and information.

(1) Monitoring requirements in the forest plan will include descriptions of:

(i) Activities, practices and effects that will be measured and the frequency of measurements;

(ii) Expected precision and reliability of the monitoring process; and

(iii) The time at which evaluation reports will be prepared.

(2) An evaluation report will be prepared for management practices monitored and will contain at least the following:

(i) A quantitative estimate of performance comparing outputs and services with those projected by the forest plan;

(ii) Documentation of measured effects, including any change in productivity of the land;

(iii) Recommendations for changes;

(iv) A list of needs for continuing evaluation of management systems and for alternative methods of management; and

(v) Unit costs associated with carrying out the planned activities as compared with unit costs estimated in the forest plan.

(3) Based upon the evaluation reports, the interdisciplinary team shall recommend to the forest supervisor such changes in management direction, revisions, or amendments to the forest plan as deemed necessary.

§ 219.12 Criteria for Forest Planning Actions.

(a) In the preparation of the proposed forest plan, revision, or significant amendment, the interdisciplinary team, as directed by the forest supervisor, shall follow the planning process established in §§ 219.5 through 219.8, 219.11, and in this section. The criteria in paragraphs (b) through (m) of this section provide the minimum requirements to be considered if appropriate for the forest being planned. Additional planning criteria may be found in the guidelines for managing specific renewable resources set forth in the Forest Service Manual.

(b) Each forest plan will identify lands available, capable, and suitable for timber production and harvesting during the planning process in accordance with the planning criteria in paragraphs (b) (1) through (5) of this section.

(1) During the analysis of the management situation, data on all National Forest System lands will be reviewed and those lands meet all of the requirements of paragraphs (b)(1) (i) through (iv) of this section will be tentatively identified as available, capable and suitable for timber production. Those lands that fail to meet any of these requirements will be designated as not suited for timber production.

(i) The land has not been legislatively or administratively withdrawn from timber production.

(ii) The biological growth potential for the land is equal to or exceeds the minimum standard for timber production defined in the regional plan.

(iii) Technology is available that will ensure timber production from the land without irreversible resource damage to soils, productivity, and watershed conditions, or without significant adverse impact on threatened or endangered species.

(iv) There is reasonable assurance that such lands can be adequately restocked within 5 years after final harvest as provided in § 219.13(h)(3).

(2) Lands that have been tentatively identified as available, capable, and suitable for timber production in paragraph (b)(1) of this section will be further reviewed and assessed prior to the formulation of alternatives to determine their potential economic efficiency in commercial timber production. On the basis of this assessment lands will be ranked by appropriate benefit-cost criteria to establish relative potential economic efficiency in meeting the timber production goals for the planning area. This assessment will compare the anticipated direct benefits of growing and harvesting trees to the anticipated direct costs to the government, including capital expenditures required by timber production and the interest on those expenditures, in accordance with § 219.5 and in paragraphs (b)(2) (i) through (iii) of this section.

(i) Direct benefits are expressed by expected future stumpage prices.

(ii) Direct costs include the anticipated investments, maintenance, operating, and management and planning costs attributable to timber production activities, and any costs that may be reasonably attributed to mitigation measures necessitated by the impacts of timber production. Only the additional expenditures required for timber growing and harvesting activities, including the cost of the road system apportioned to timber are to be included in direct costs.

(iii) Economic efficiency analysis is to be based on the assumption that the lands are managed primarily for timber production and the intensity of management and degree of timber utilization are determined in accordance with paragraph (d)(1)(ii)(A) of this section. Rotation periods will be consistent with those assumed for purposes of determining the long-term sustained-yield capacity as provided in paragraph (d)(1)(ii)(C) of this section. Economic analysis must consider costs and returns from conversion of existing timber inventory in addition to long-term potential yield.

(3) During the formulation of each alternative, combinations of resource activities will be defined to meet management objectives. These combinations of resource activities shall consider the relative potential economic efficiency of lands for timber production as determined in paragraph (b)(2) of this section.

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(4) During the evaluation of each alternative, lands shall be tentatively identified as not suited for timber production if:

(i) Based on a consideration of multiple-use objectives for the planning area, the land is determined suitable for resource uses that preclude timber production;

(ii) Other multiple uses of the area limit timber production activities to the point where the silvicultural standards and guidelines set forth in section 219.13 cannot be met; or

(iii) The lands are not cost-effective in meeting forest objectives which require vegetation manipulation for the alternative under consideration.

(5) Selection among alternatives shall be done in accordance with § 219.5(i). Lands identified as tentatively not suited in paragraph (b)(4) will be designated as not suited for timber production in the selected alternative.

(c) When vegetation is altered by management, the methods, timing, and intensity of the practices determine the level of benefits that can be obtained from the affected resources. The vegetation management practices chosen for each vegetation type and circumstance will be defined in the forest plan with applicable standards and guidelines and the reasons for the choices. Where more than one vegetation management practice will be used in a vegetation type, the conditions under which each will be used will be clearly defined. The choices will be based upon thorough reviews of technical and scientific literature and practical experience, with appropriate evaluation of this knowledge for relevance to the specific vegetation and site conditions. On National Forest System land, the vegetation management practice chosen will comply with the management standards and guidelines specified in § 219.13(c).

(d) The forest plan will provide the determination of the allowable sale quantity and the corresponding timber harvest schedule. Planning criteria for scheduling and consideration of departures from the base harvest schedule will be addressed in § 219.5(f) and include the criteria in paragraphs (d) (1) and (2) of this section.

(1) Alternatives shall be formulated that include determinations of the quantity of the timber that may be sold during the planning period. These determinations will be based on the principle of sustained yield and consider only those lands currently identified as capable, available and suitable, for timber production which meet the constraints set out in § 219.13. For each managment alternative, the determination will include a calculation of the long-term sustained-yield capacity and the base harvest schedule and when appropriate, a calculation of timber harvest alternatives that may depart from the base harvest schedule as provided in paragraph (d)(1) (i) through (iii) of this section.

(i) For the base harvest schedule the planned sale and harvest for any future decade will be equal to or greater than the planned sale and harvest for the preceding decade provided that the planned harvest is not greater than the long-term sustained-yield capacity.

(ii) The determinations of the long-term sustained-yield capacity, base harvest schedules, and departure alternatives to the base harvest schedule will be made on the basis of the guidelines which follows:

(A) For the long-term sustained-yield capacity and the base harvest schedule, assume an intensity of management and degree of timber utilization consistent with the goals, assumptions, and standards contained in, or used in the preparation of the current Program and regional plan. For the base harvest schedule, the management and utilization assumptions will reflect the projected changes in practices for the four decades of the regional plan. Beyond the fourth decade, the assumptions will reflect those projected for the fourth decade of the regional plan;

(B) For departure alternatives to the base harvest schedule which provide outputs above the current regional plan, assume an appropriate management intensity;

(C) In accordance with the established standards, assure that all even-aged stands scheduled to be harvested during the planning period shall generally have reached the culmination of mean annual increment of growth. Mean annual increment will be based on management intensities and utilization standards assumed in paragraphs (d)(1)(ii)(A) and (B) of this section and expressed as units of measure consistent with the regional plan. Exceptions to these standards are permitted for the use of sound silvicultural practices, such as thinning or other stand improvement measures; for salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or which are in imminent danger from insect or disease attack; or for the removal of particular species of trees after consideration has been given to the multiple uses of the area being planned and after completion of the public participation process applicable to the preparation of a forest plan; and

(D) For all harvest schedules, achieve a forest structure by the conclusion of the scheduling period that will enable perpetual timber harvest thereafter at the long-term sustained-yield capacity, consistent with the long-range multiple-use objectives of the alternative.

(iii) An alternative providing for departures from the base harvest schedules will be considered and formulated when any of the following conditions occur:

(A) Attainment of the multiple-use objectives of the forest plan can be enhanced by more rapid and efficient achievement of the long-term sustained-yield capacity of the forest owing to present forest structure or by preventing and reducing high mortality losses from any cause;

(B) Implementation of the base harvest schedule would cause instability or dislocation in the economic area in which the forest is located; or

(C) None of the alternatives already formulated provide a timber harvest schedule that meets the goals and objectives of the Program as provided in § 219.4(b)(3).

(2) The selected harvest schedule provides the allowable sale quantity (the quantity of timber that may be sold from the area of land covered by the forest plan) for the plan period. If the selected harvest schedule is not the base timber harvest schedule for the designated forest planning area, the forest plan will be transmitted to the Chief, Forest Service, for approval. The decision of the Chief may be appealed to the secretary pursuant to the procedures in § 219.11.

(e) Lands identified in the second roadless area review and evaluation process (RARE II) as lands to be managed for purposes other than wilderness need not be assessed for wilderness in development of the initial generation of forest plans prepared under this subpart. When revising the forest plan, roadless areas within an adjacent to the forest, will be evaluated and considered for recommendation as potential wilderness areas, as provided in paragraphs (e) (1) and (2) of this section

(1) During analysis of the management situation the following areas will be evaluated:

(i) All previously inventoried wilderness resources not yet designated;

(ii) Areas contiguous to existing wilderness, primitive areas, or administratively proposed wildernesses, regardless of agency jurisdiction;

(iii) Areas, regardless of size, that are contiguous to roadless and undeveloped areas in other Federal ownership that have identified wilderness potential; and

(iv) Areas designated by Congress for wilderness study, administrative proposals pending before Congress, and other legislative proposals pending which have been endorsed by the administration.

(2) Each area designated for evaluation under paragraph (e)(1) of this section will be evaluated in terms of current national guidelines or, in their absence, by criteria developed by the interdisciplinary team with public participation. In the latter case, the criteria will include as a minimum:

(i) The values of the area as wilderness;

(ii) The values foregone and effects on management of adjacent lands as a consequence of wilderness designation;

(iii) Feasibility of management as wilderness, in respect to size, non-conforming use, land ownership patterns, and existing contractual agreements or statutory rights;

(iv) Proximity to other designated wilderness, and relative contribution to the National Wilderness Preservation System; and

(v) The anticipated long-term changes in plant and animal species diversity, including the diversity of natural plant and animal communities of the forest planning area and the effects of such changes on the values for which wilderness areas were created.

(f) The forest plan will provide direction for the management of designated wilderness and primitive areas in accordance with the provisions of Part 293. In particular, it will:

(1) Provide for limiting and distributing visitor use of specific portions in accord with periodic estimates of the maximum levels of use that allow natural processes to operate freely and that do not impair the values for which wilderness areas were created; and

(2) By evaluating the extent to which wildfire, insect, and disease control measures may be desirable for protection of either the wilderness or adjacent areas, provide for such measures when appropriate.

(g) Fish and wildlife habitats will be managed to maintain viable populations of all existing native vertebrate species in the planning area and to maintain and improve habitat of management indicator species. To meet this goal, management planning for the fish and wildlife resource will meet the requirements set forth in paragraph (g)(1) through (7) of this section and the guidelines in Chapter 2630, Forest Service Manual.

(1) The desired future condition of fish and wildlife, where technically possible, will be stated in terms both of animal population trends and of amount and quality of habitat.

(2) Management indicator species will be identified for planning, and the reasons for their selection will be given. The species considered shall include at least: Endangered and threatened plant and animal species identified on State and Federal lists for the planning area; species with special habitat needs that may be influenced significantly by planned management programs; species commonly hunted, fished, or trapped; and additional plant or animal species selected because their population changes are believed to indicate effects of management activities on other species of a major biological community or on water quality. On the basis of available scientific information, the effects of changes in vegetation type, timber age classes, community composition, rotation age, and year-long suitability of habitat related to mobility of management indicator species will be estimated. Where appropriate, measures to mitigate adverse effects will be prescribed.

(3) Biologists from State fish and wildlife agencies and other Federal agencies shall be consulted by the interdisciplinary team in order to coordinate planning with State plans for fish and wildlife.

(4) Access and dispersal problems of hunting, fishing, and other visitor uses will be considered.

(5) The effects of pest and fire management on fish and wildlife populations will be considered.

(6) Population trends of the management indicator species shall be monitored and relationships to habitat changes determined. This monitoring shall be done in cooperation with State fish and wildlife agencies, to the extent practicable.

(7) Critical habitat for threatened and endangered species will be determined, and measures shall be prescribed to prevent the destruction or adverse modification of such habitat. Objectives will be determined for threatened and endangered species that will provide for, where possible, their removal from listing as threatened and endangered species through appropriate conservation measures, including the designation of special areas to meet the protection and management needs of such species.

(b) Identify lands suitable for grazing and browsing in accordance with criteria in paragraphs (b) (1) through (3) of this section and guidelines established in Forest Service Manual 2210.

(1) The procedures used and data obtained will include, but not be limited to, the following:

(i) Range condition and trend studies;

(ii) Records of actual use by domestic livestock, feral estimated percentage utilization of key forage species;

(iii) An estimate of the capability of the rangelands to produce suitable food and cover for the management indicator species of wildlife; and

(iv) An estimate of the present and potential supply of forage for sheep, cattle, and feral animals.

(2) In the analysis of management situation, assess the capability of the planning area to produce forage without permanent impairment of the resources, considering the condition of the vegetation, statutory, and administrative withdrawals, characteristics of soil and slope, and accessibility to grazing and browsing animals.

(3) Alternative range management practices will consider:

(i) Grazing management systems;

(ii) Methods of altering successional stages for range management objectives, including vegetation manipulation as described in § 219.13(c);

(iii) Evaluation of pest problems, and availability of integrated pest management systems;

(iv) Possible conflicts or beneficial interactions among domestic, feral, and wild animal populations, and methods of regulating these;

(v) Physical facilities such as fences, water development, and corrals, necessary for efficient management;

(vi) Existing permits, cooperative agreements, and related obligations; and

(vii) Measures to protect, manage, and control wild free-roaming horses and burros as provided in Part 222, Subpart B. (i) A broad spectrum of dispersed and developed recreation opportunities in accord with identified needs and demands will be provided. Planning to achieve this will be governed by the goals of the regional plan, the requirements of paragraph (i) (1) through (8) of this section, and the guidelines in Chapter 2310, Forest Service Manual.

(1) Forest planning will identify:

(i) The physical and biological characteristics that make land suitable for recreation activities;

(ii) The recreational preferences of user groups; and

(iii) Recreation opportunities on the National Forest System lands.

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(2) The supply of recreational facilities to meet present and future needs in the area surrounding the forest will be appraised.

(3) Alternatives will include consideration of establishment of physical facilities, regulation of use, and recreation opportunities responsive to current and anticipated user demands.

(4) In formulation and analysis of alternatives as specified in § 219.5 (f) and (g), interactions among recreation activities and other multiple uses shall be examined. This examination shall consider the impacts of the proposed recreation activities on other uses and values and the impacts of other uses and activities associated with them on recreation opportunities, activities, and quality of experience.

(5) Development and evaluation of alternatives under paragraphs (i) (3) and (4) of this section will be coordinated to the extent feasible with present and proposed recreation activities of local and State land use or outdoor recreation plans, particularly the State Comprehensive Outdoor Recreation Plan and recreation opportunities already present and available on other public and private lands, with the aim of reducing duplication in meeting recreation demands.

(6) Modification of land ownership patterns to meet present and future recreation needs will be considered.

(7) Off-road vehicle use will be planned and implemented to minimize adverse effects on the land and resources, promote public safety, and minimize conflicts with other uses of the National Forest System lands. Forest planning will evaluate the potential effects of vehicle use off-roads and, on the basis of the requirements of Part 295, and the guidelines in Chapter 2355, Forest Service Manual, classify areas and trails of National Forest System lands as to whether or not off-road vehicle use may be permitted.

(j) The effects of mineral exploration and development in the planning area will be considered in the management of renewable resources. When available, the following will be recognized in the forest plan:

(1) Active mines within the area of land covered by the forest plan;

(2) Outstanding or reserved mineral rights;

(3) The probable occurrence of various minerals, including locatable, leasable, and common variety;

(4) The potential for future mineral development; and

(5) The probable effect of renewable resource allocations and management on mineral resources and activities, including exploration and development.

(k) The water and soil management guidelines set forth in Chapter 2510, Forest Service Manual and paragraph (k) (1) through (6) of this section will be followed in planning the management of the water and soil resources.

(1) Current water uses, both consumptive and non-consumptive, within the area of land covered by the forest plan, including instream flow requirements, will be determined.

(2) Existing impoundments, transmission facilities, wells, and other man-made developments on the area of land covered by the forest plan will be identified.

(3) The probable occurrence of various levels of water volumes, including extreme events which would have a major impact on the planning area, will be estimated.

(4) Plans shall comply with the requirements of the Federal Water Pollution Control Act, as amended by the Clean Water of 1977, the Safe Drinking Water act, and all substantive and procedural requirements of Federal, State, and local governmental bodies with respect to the provision of public water systems and the disposal of waste water.

(5) Existing or potential watershed conditions that will influence soil productivity, water yield, water pollution, or hazardous events, will be evaluated.

(6) Measures, as directed in applicable Executive Orders, to minimize risk of flood loss and to restore and preserve floodplain values, and to protect wetlands, will be adopted.

(l) Forest planning will provide for the indentification, protection, interpretation and management of cultural resources on National Forest System lands. Planning for the resource will be governed by the requirements of Federal laws pertaining to historic preservation, the guidelines in Chapter 2360, Forest Service Manual, and the criteria in paragraphs (l) (1) through (3) of this section:

(1) Forest planning will:

(i) Provide an overview of known data relevant to history, ethnography, and prehistory of the area under consideration, including known cultural resource sites;

(ii) Identify areas requiring more intensive inventory;

(iii) Provide for evaluation and identification of sites for the National Register of Historic Places;

(iv) Provide measures for the protection of cultural resources from vandalism and other human depredation, and natural destruction;

(v) Identify the need for maintenance of historic sites on, or eligible for inclusion in, the National register of Historic Places; and

(vi) Identify opportunities for interpretation of cultural resources for the education and enjoyment of the American public.

(2) In the formulation and analysis of alternatives, interactions among cultural resources and other multiple uses shall be examined. This examination shall consider impacts of the management of cultural resources on other uses and activities and impacts of other uses and activities on cultural resource management.

(3) Development and evaluation of program alternatives will be coordinated to the extent feasible with the State cultural resource plan and planning activities of the State Historic Preservation Office and State Archaeologist and with other State and Federal agencies.

(m) Forest planning will provide for the establishment of Research Natural Areas (RNA's). Each plan will make provision for the identification of examples of important forest, shrubland, grassland, alpine, aquatic, and geologic types that have special or unique characteristics of scientific interest and importance and that are needed to complete the national network of RNA's. Biotic, aquatic, and geologic types needed for the network will be identified using a list provided by the Chief, Forest Service. Authority to establish RNA's is delegated to the Chief in § 2.60(a) of Title 7 and in § 251.23. The plan will recommend establishment of areas. Guidance for the selection of areas suitable for RNA's and for the preparation of establishment reports is provided in section 4063, Forest Service Manual.

§ 219.13 Management standards and guidelines.

(a) Management of National Forest System lands requires adherence to the planning principles stated in § 219.1. specific management requirements to be met in accomplishing goals and objectives include, as a minimum, those in paragraphs (b) through (i) of this section.

(b) All management practices will:

(1) Conserve soil and water resources and not allow significant or permanent impairment of the productivity of the land;

(2) Minimize serious or long-lasting hazards from flood, wind, wildfire, erosion, or other natural physical forces, except as these are specifically accepted, as in Wilderness;

(3) Prevent or reduce serious, long-lasting hazards from pest organisms under the principles of integrated pest management;

(4) Protect streams, streambanks, shorelines, lakes, wetlands, and other bodies of water as provided under paragraphs (e) and (f) of this section;

(5) Provide for and maintain diversity of plant and animal communities to meet overall multiple-use objectives, including, where appropriate and to the degree practicable, management practices to preserve endemic and desirable naturalized plant and animal species similar to those existing in the planning area;

(6) Be monitored and evaluated as required in § 219.5(k) to assure that practices preserve critical soil, watershed, fish, wildlife, recreation, and aesthetic values; maintain vegetative productivity; and reduce hazards from insects, disease, weed species, and fire;

(7) Prior to project implementation, the potential physical, biological, aesthetic, cultural, engineering, and economic impacts, will be assessed in addition to the consistency of the project with the multiple uses planned for the general area;

(8) Ensure that fish and wildlife habitats are managed to maintain viable populations of all existing native vertebrate species and to improve habitat of selected species, coordinated with appropriate State fish and wildlife agencies and monitored in cooperation with these agencies, to the extent practicable;

(9) Include measures for preventing the destruction or adverse modification of critical habitat for threatened and endangered species;

(10) Provide that any existing transportation and utility corridor, and any right-of-way that is capable of accommodating the facility or use from an additional compatible right-of-way, be designated as a right-of-way corridor. Subsequent right-of-way grants shall, to the extent practicable, and as determined by the authorized official, be confined to designated corridors;

(11) Ensure that any roads constructed through contracts, permits, or leases are designed according to standards appropriate to the planned uses, considering safety, cost of transportation, and effects upon lands and resources;

(12) Provide that all roads are planned and designed to re-establish vegatative cover on the total disturbed area within a reasonable period of time, not to exceed 10 years after the termination of a contract, lease or permit, unless the road is determined necessary as a permanent addition to the National Forest Transportation System; and

(13) Maintain air quality at a level that is adequate for the protection and use of National Forest System resources and that meets or exceeds applicable Federal, State and/or local standards or regulations, as required by the guidelines in Chapter 2120, Forest Service Manual.

(c) Management practices that involve vegetation manipulation of tree cover for any purpose will:

(1) Be best suited to the multiple-use goals established for the area with all potential environmental, biological, cultural resource, aesthetic, engineering, and economic impacts, as stated in the regional and forest plans, being considered in this determination;

(2) Assure that lands can be adequately restocked within 5 years after final harvest as provided in paragraph (h)(3) of this section, except where permanent openings are created for wildlife habitat improvement, vistas, recreation uses and similar practices;

(3) Not be chosen primarily because it will give the greatest dollar return or the greatest output of timber, although these factors shall be considered, with long-term costs and benefits rather than immediate or short-term returns being used in economic analysis;

(4) Be chosen after considering potential effects on residual trees and adjacent stands;

(5) Avoid permanent impairment of site productivity and assure conservation of soil and water resources;

(6) Provide the desired effects on water quantity and quality, wildlife and fish habitat, regeneration of desired tree species, recreation uses, aesthetic values, and resource yields; and

(7) Be practical in terms of transportation and harvesting requirements, and total costs of preparation, logging, and administration.

(d) When tree openings are created by the application of even-aged management, the provisions of paragraphs (d)(1) and (2) of this section apply.

(1) The blocks or strips cut shall be shaped and blended with the natural terrain to achive aesthetic and wildlife habitat objectives to the extent practicable. Openings will be located to achieve the desired combination of multiple objectives. Regional plans will provide guidance on the dispersion of openings, and size variations of openings, in relation to topography, climate, geography, local land use patterns, forest type and other factors. The regional plan will specify the state of vegetation to be reached before a cutover is no longer considered an opening.

(2) Individual cut blocks, patches, or strips will conform to the maximum size limits for areas to be cut in one harvest operation established by the regional plan according to geographic areas and forest types. This limit may be less than, but shall not exceed, 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 100 acres for the hemlock-sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types except as provided in paragraphs (d)(2) (i) through (iii) of this section:

(i) Cut openings larger than those specified may be permitted where larger units will produce a more desirable combination of benefits. Such exceptions will be provided for in regional plans. The following factors will be considered in determining size limits by geographic areas and forest types: Topography; relationship of units to other natural or man-made openings and proximity of units; coordination and consistency with adjacent forests and regions; effect on water quality and quantity; effect on scenic values; effects on wildlife and fish habitat; regeneration requirements for desirable tree species based upon the latest research findings; transportation and harvesting system requirements; natural and biological hazards to survival of residual trees and surrounding stands; and relative total costs of preparation, logging, and administration of harvest cuts of various sizes. Specifications for such exception will include the particular conditions under which the larger size is permitted and set a new maximum size permitted under those conditions.

(ii) The size limits may be exceeded on an individual timber sale basis after 60 days public notice and review by the regional forester.

(iii) The established limit shall not apply to the size of areas harvested as a result of natural catastrophic condition such as fire, insect and disease attack, or windstorm.

(e) Special attention shall be given to land and vegetation for approximately 100 feet along both sides of all perennial streams, lakes, and other bodies of water. No management practices will be permitted which seriously and adversely affect water conditions or fish habitat. Such changes include increases in water temperatures or chemical composition, blockages or water course, or deposits of sediment that are likely to seriously

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and adversely affect water conditions or fish habitat. Topography, vegetation type, soil, climatic conditions, management objectives, and other factors will be considered in determining what management practices may be performed within these areas and the constraints to be placed upon their performance in order to assure protection of water condition, fish habitat or other multiple-use values.

(f) Conservation of soil and water resources involves the analysis, protection, enhancement, treatment, and evaluation of soil and water resources, and their responses under management and will be guided by instructions in official technical handbooks. These handbooks must show specific ways to avoid or mitigate damage, and maintain or enhance productivity on specific sites. These handbooks may be regional in scope or, where feasible, specific to physiographic or climatic provinces.

(g) Diversity of plant and animal species and communities will be considered throughout the planning process. Inventories will include quantitative data making possible the evaluation of species and community diversity in terms of its prior and present condition. for each planning alternative, the interdisciplinary team will consider how diversity of species and communities will be preserved and enhanced by various mixes of resource outputs and uses, including the effects of proposed management practices on existing plant and animal species and communities in the planning area. The selected alternative will provide for plant and animal community diversity to meet the overall multiple-use objectives of the planning area. To the extent consistent with the requirement to provide for diversity, management practices, where appropriate and to the extent practicable, will preserve and enhance species and communities diversity similar to that which would be expected in an unmanaged part of the planning area. Reductions in existing plant and animal community diversity will be made only where needed to meet overall multiple-use management objectives. Planned type conversions of the species will be justified by a detailed analysis showing biological, economic, and social consequences, and the relation of such conversions to the process of natural change.

(h) The management requirements in paragraph (h) (1) through (7) of this section apply to timber harvest and cultural treatments.

(1) No timber harvesting shall occur during the planning period on lands classified as not suited for timber production pursuant to § 219.12(b) (1) through (5) except as necessary to protect other multiple-use values or activities that meet other objectives on such lands if the forest plan establishes that such actions are appropriate.

(2) The selected harvest schedule provides the allowable sale quantity, the quantity of timber that may be sold from the area of land covered by the forest plan during the planning period. Within the planning period, the volume of timber to be sold in any one year may exceed the average annual allowable sale quantity so long as the total amount sold for the planning period does not exceed the allowable sale quantity. Nothing in this standard shall prohibit salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger of insect or disease attack where consistent with silvicultural and environmental standards. Such timber may either substitute for timber that would otherwise be sold under the plan or, if not feasible, be sold over and above the planned volume.

(3) When trees are cut to achieve multiple-use objectives, including timber production, the cuttings will be made in such a way as to assure that lands can be adequately restocked within 5 years after final harvest. Research and experience will indicate that the harvest and regeneration practices planned can be expected to result in adequate restocking. Adequate restocking means that the cut area will contain the minimum number, size distribution, and species composition of regeneration as specified in regional silvicultural guides attached to the forest plan for each forest type. Five years after final harvest means 5 years after clearcutting, 5 years after final overstory removal in shelterwood cutting, 5 years after the seed tree removal cut in seed tree cutting, or 5 years after selection cutting.

(4) Cultural treatments such as thinning, weeding, and other partial cutting may be included in the forest plan where they are intended to increase the rate of growth of remaining trees, favor commercially valuable tree species, favor species or age classes which are most valuable for wildlife, or achieve other multiple-use objectives.

(5) Harvest levels based on intensified management practices will be decreased no later than the end of each planning period if such practices cannot be completed substantially as planned.

(6) Timber harvest cuts designed to regenerate an even-aged stand of timber will be carried out in a manner consistent with the protection of soil, watershed, fish and wildlife, recreation, and aesthetic resources, and the regeneration of the timber resource.

(7) Timber shall not be harvested where such treatment would favor an abnormal increase in injurious insects and disease organisms.

(i) Monitoring will ensure as a minimum that:

(1) Lands are adequately restocked within 5 years after the final harvest cut;

(2) Lands identified as not suited for timber production will be examined every 10 years to determine if they have become suitable;

(3) Maximum size limits for harvest areas are evaluated to determine whether such size limits should be continued; and

(4) Destructive insects and disease organisms do not increase following management activities.

§ 219.14 Research.

(a) Research needs for management of the National Forest System will be identified during planning and continually reviewed during evaluation of implemented plans. Particular attention will be given to research needs identified during the monitoring and evaluation described in § 219.5(k). These identified needs will be included in formulating overall programs, which involve private as well as public forest and rangelands.

(b) Priorities for research needed for management of the National Forest System will be established and budgeted at the research station and national levels. Priorities will be based upon the information gathered at all planning levels of the National Forest System.

(c) An annual report at the national level will include, but not be limited to, a description of the status of major research programs which address these needs, significant findings, and how this information is to be applied in National Forest System management.

§ 219.15 Revision of regulations.

The regulations in this subpart shall be regularly reviewed and, when appropriate, revised. The first such review shall be completed no later than 6 years after the approval date of these regulations. Additional reviews shall occur at least every 5 years thereafter.

§ 219.16 Transition period.

(a) Until a forest planning area of the National Forest System land is managed under a forest plan developed pursuant to these regulations and approved by the regional forester, the land may continue to be managed under existing land use and resource plans. As soon as practicable, existing plans will be amended or revised to incorporate standards and guidelines in this subpart. Pending approval of a forest plan, existing plans may be amended or revised to include management requirements not inconsistent with the provisions of the Forest and Rangeland Renewable Resources Planning Act, as amended, and these regulations.

(b) A forest plan may become effective prior to the development and approval of its related regional plan, provided that the forest plan will be reviewed upon regional plan approval, and if necessary, amended to comply with regional management direction. If such an amendment is significant, it will be made pursuant to the requirements for the development of a forest plan.

Final Report of the Committee of Scientists

February 22, 1979

A Report of the Committee of Scientists to the Secretary of Agriculture Regarding Regulations Proposed by the United States Forest Service to Implement Section 6 of the National Forest Management Act of 1976.

For the Committee of Scientists.

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Executive Summary

This report presents the Committee of Scientists' evaluation of the draft regulations for implementing section 6 and related sections of the National Forest Management Act of 1976. It consists of a discussion of broad issues, a section-by-section analysis of the draft regulations, and a set of proposed regulations.

Our review leads to the following general conclusions:

(1) In spite of some deficiencies, the draft regulations are a major step forward in Forest Service policy. A single plan for each National Forest, rather than functional plans for each resource and unit plans, and the proposed vertical integration of the RPA planning process are far-reaching changes.

(2) Many of the criticisms that have been leveled at the draft regulations have arisen from an incomplete reading of them. The regulations must be read in their entirety to be understood. We recommend more extensive cross-referencing to alleviate this problem.

(3) The regulations have been criticized as being too process oriented. We believe the legislative history of NFMA supports the fact that they should be process oriented. We recommend further clarification and definition of the planning process.

(4) The degree of specificity of the draft regulations has been hotly debated. We conclude that the regulations do lack specificity in many key areas. We recommend that they be specific in establishing the principles of land management planning and the process to be used in applying these principles. We recommend, however, that the regulations not be specific with regard to prescriptions for on-the-ground management problems.

(5) Interdisciplinarity was a key concern of Congress and the language of the NFMA requires that a process to insure interdisciplinarity must be embodied in the planning regulations. We recommend more specific language

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on three issues: (1) A description of the interdisciplinary process, (2) the philosophy that is to guide the interdisciplinary team, and (3) the requirements for composition of the team and for qualifications of its members. We have been told that other legislation may prevent persons who are not Forest Service employees from being appointed to interdisciplinary teams. We propose a strategy to allow State personnel to work with teams if it proves impossible for them to serve as members of them.

(6) The proposed planning process to insure interdisciplinary planning as described in §§219.8, 219.9, and 219.10 is sound. This is evident when the sections are read as three parts of the whole. However, we propose changes in the draft regulations in several areas: clarification of the role of public participation; strengthening of the inventory requirements to assure adequate information for RPA planning and to insure ties to monitoring; clearer statement of planning objectives; more explicit evaluation criteria; clarification of the role of economic analysis and the requirements for treating diversity; and strengthening of the section outlining standards for formulating alternatives.

(7) We believe the regulations should contain statements of the Secretary of Agriculture's policy in certain key areas and we recommend such language in appropriate sections.

(8) Ongoing activities such as proposed Congressional allocations of wilderness and the RARE II process are contradictions and are counterproductive to RPA planning, goals, and processes. Congress, the administration, and the Forest Service must allow the process to run through at least one full iteration to demonstrate its potential and to establish its credibility.

(9) Citizens have expressed concern that prior regulations often did not make clear who was responsible for given actions. We find the present draft regulations adequate and definite in this regard.

(10) The proposed three-tiered planning concept involving national, regional, and forest planning is sound. The regional plan, an addition proposed by the Forest Service to the two levels required by RPA/NFMA, serves as a critical link between national and local planning. The draft regulations do not adequately convey the important iterative nature of the three levels of planning or the critical importance of the regional plan. We recommend clarifying and strengthening the description of the national and forest plan and their interactions and propose a new section dealing with the regional plan. We concur with the Forest Service proposal that many controversial management practices such as size of clearcuts, standards for biological growth potential, and silvicultural systems, be governed by the standards set in regional plans.

(11) The vital need for upward and downward flows of information in RPA/NFMA planning is implicit in the draft regulations but not clearly stated. It must be made clear that the goals and objectives of RPA planning are synthesized from upward flow of capabilities and demands at the local level.

The draft regulations deal with a number of important issues in forest planning and management. Among the most complex and controversial of these are: lands suitable for timber production, timber harvest scheduling and departures from nondeclining yield, silvicultural standards, diversity, wilderness, and coordination of public planning efforts. Our analyses and recommendations with regard to those are:

(12) The draft regulations provide a five step process for identifying lands not suited for timber production. We think this is not adequate, and we propose a different process with the following steps:

—Lands are screened to determine whether they are available (i.e., not already designated for other uses) for timber production;

—Available lands are then screened to identify areas that are not suitable for timber production because of physical, technical, biological (including a minimum productivity standard), or environmental factors;

—Lands passing these tests are then subjected to economic analysis and ranked to determine their relative economic efficiency for commercial timber production; and

—Alternative land management plans are formulated and lands are allocated to timber harvest on a cost-effective basis. An iterative procedure allows adjustment and revision on the basis of multiple-use considerations.

(13) Analysis of provisions of sections 6 and 13 of NFMA as they relate to timber harvest schedules and provisions for departure leads to the following three recommendations. First, implementation of sections 6 and 13 should be integrated because the intent of NFMA is that timber harvest schedules, including ceilings and departures, be integrated with planning for all resources. Second, section 13 of NFMA should be implemented by (a) stipulating that in the case of a base timber harvest schedule, the planned sale and harvest for any future decade must be equal to or greater than that in the previous decade, provided that the long run sustained yield ceiling is not exceeded and (b) by requiring that departures from the base harvest schedule be examined and evaluated during the planning process when certain conditions exist, subject to the constraint that the long run sustained yield capacity can be achieved at the end of the planning period. Third, determination of timber harvest schedule should be an integral part of the resource planning process and not an appendage to it. We recommend, however, that clarifying language be adopted which would emphasize the fact that consideration of departures is discretionary and that, if an upward departure is proposed, final approval for it should lie with the Chief, Forest Service.

(14) The proposed regulations have been criticized as not specific enough with respect to silvicultural standards and as not clarifying the fact that resource protection standards should apply equally to all uses and resources. The structure of proposed § 219.10 seems to imply that each resource is to be treated without consideration of others. We recommend cross-referencing of § 219.10 with the section on interdisciplinarity. More importantly, we recommend inclusion of a new subsection at the beginning of § 219.10. This subsection provides:

—Standards that all management activities must meet;

—Standards more detailed than those of the draft regulations that must be met when silvicultural systems are chosen;

—Standards that must be met when openings are created by cutting, including the size of clearcuts. We recommend that no national size limit on clearcuts be established but that this be done at the regional level for geographic areas and forest types;

—Standards for protection of streams, including designation of a 30-meter strip on either size of all perennial water bodies to receive special consideration in planning and monitoring;

—Special consideration for the conservation of soil and water resources (p. 107); and

—Specific direction for consideration of diversity generally and type conversions specifically.

As a result of these changes, the section on silvicultural systems should embody controls on timber cutting only.

(15) Provision for "diversity" as required by NFMA is one of the most perplexing issues dealt with in the draft regulations. We believe it is impossible to write specific regulations to "provide for" diversity. We believe the interdisciplinary team should treat diversity as a major concern throughout the planning process and any changes in diversity should be identified and justified. Diversity is dealt with in several places in the regulations (219.9(c), (e), (f), 219.10(a); (b) and (d)) and we discuss the implications of these requirements in our report. We recommend clarifying and strengthening language in a number of places.

(16) The NFMA provides little guidance as to planning for the wilderness resource. The draft regulations treat, but do not fully resolve, two difficult issues: (1) Identifying and appraising additional candidate areas and (2) establishing maximum allowable levels of use. We recommend clarifying language to address both. Key provisions include: (1) evaluation of the wilderness resource and management planning for it in forest plans; (2) all potentially eligible lands should be considered at each revision of the forest plan; (3) costs and benefits should be weighed in considering wilderness status as with other resources; (4) criteria for designation should be evaluated continuously as experience dictates; and (5) determination of "carrying capacity" should be made for each area.

(17) Coordination among Federal, State and local governments is particularly poor in land use planning and management. We conclude that the requirements in the draft regulations for coordination are inadequate. We propose substitute language to assure that other governmental units understand how they can be involved in Forest Service planning, that the Forest Service make real efforts at coordination, and that Forest Service planners will evaluate and consider the plans of other governmental units as they develop regional and forest plans.

Other issues, although not so hotly debated, are nonetheless important and their resolution is critical to the success of the RPA/NFMA planning process. These include: public participation, adequacy of inventories, standards for resources other than timber and wilderness, economic analysis, monitoring, research, and consideration of mineral and visual resources. With regard to these matters, we conclude and recommend:

(18) Although the proposed regulations offer a good general framework for public participation, we feel they lack specificity and we propose additional language.

(19) Each forest plan should be based on sound detailed inventories of soils, vegetation, water resources, and wildlife and the other resources to be managed. Too often, such data are scanty or lacking. Another problem is lack of compatibility of data from comparable or even adjoining regions. As with monitoring, existing budgets are inadequate to rectify these deficiencies, and adequate budgets should be earmarked for these purposes.

(20) The guidance provided in the sections relating to resources other than timber (219.10(a), (b), (c) and (e)) is frequently limited and dwarfed by the detail provided for timber. This is an inevitable outcome of NFMA and its legislative history. The draft material on fish and wildlife (219.10(a)) appears to have general acceptance. We recommend several changes, the most important of which is substitution of the term "management indicator species" for "selected species". We recommend new, rewritten language for the sections on range (219.10(b)) and recreation (219.10(c)) which we think will insure more adequate treatment of these resources. The water and soil resources section (219.10(e)) should be titled "Water resource"; soil is treated adequately elsewhere.

(21) Competent economic analysis at all appropriate places in the planning process was clearly directed by RPA/NFMA. We propose language to provide additional guidance in evaluating management options.

(22) Any evaluation process demands some level of systematic inspection and measurement (i.e., monitoring). Special administrative and budgetary attention must be devoted to this activity.

(23) The resolution of research issues in forest management will depend on findings of numerous scientists in the Forest Service, universities, and the private sector. More effective coordination among all such research efforts, and between research results and planning operations in the National Forest System, is needed. The present level of coordination does not appear to be adequate. In addition, research needs identified by the planning process should be communicated speedily to appropriate research units.

(24) The draft regulations provide no real direction for consideration of mineral resources in the land allocation process. We recommend that a section providing such direction, appropriately cross-referenced to Forest Service and other agency regulations, be added to § 219.10. Furthermore, there is no treatment of visual resources in the draft. The Forest Service manual currently contains direction for consideration of esthetic values and we recommend that this serve as the basis for general guidance to be inserted in our new § 219.10(a) in the final regulations.

Finally, reflections on the draft regulations and our experience in evaluating them leads us to certain conclusions and recommendations:

(25) The planning process that will follow the approval of regulations will produce a vast amount of new practical experience which may point to areas for improvement. We recommend formal provisions for continued evaluation and revision of the regulations.

(26) Planning is costly. Additional costs will be measured in inventory, monitoring, and research requirements to implements to implement planning and to insure protection of all resources. We believe the estimates of planning costs by USADA are grossly conservative. If this RPA planning process is to work, it must be funded at a realistic level.

(27) Interdisciplinary planning and management require an adequate pool of resource specialists from various disciplines. Selective hiring, retraining, or appropriate arrangements with other agencies and private institutions may be required to provide sufficient numbers of such specialists without disrupting other programs.

(28) Successful implementation of the RPA/NFMA process depends on the prompt development of a set of final regulations and on support of them through at least one complete iteration of the process, by all constituencies with interest in the National Forests. We appeal to all for a constructive period of dialogue, common effort, and cooperation so that the process may succeed.

Introduction

In our preliminary report accompanying draft regulations for implementing Section 6 of the National Forest Management Act, as amended [1], we stated that the report containing our technical review of the draft regulations, prepared as required by law for the Secretary of Agriculture, would be published so that the public might be informed of the committee's views. The following report contains our views and fulfills our obligations under section (h) of RPA/NFMA.

[1] The Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA) (88 Stat. 476, *et seq.*), as amended by the National Forest Management Act of 1976 (NFMA) (90 Stat. 2949, *et seq.*), hereafter referred to as RPA/NFMA.

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Although the background of the committee's formation and responsibility was described in the preliminary report, a brief synopsis may be helpful. The committee is composed of seven members and is authorized by section 6(h)(1) of RPA/NFMA. Although the statutory charge to the committee is to "provide scientific and technical advice and counsel on proposed guidelines and procedures to assure that an effective interdisciplinary approach is proposed and adopted," the peculiar structure of the RPA/NFMA required the committee to consider all aspects of section 6 and, in addition, other section, particularly section 13, dealing with limitations on timber removal. The National Academy of Science, in a report to the Secretary of Agriculture, recommended that "The committee deliberations should embrace all parts of section 6 of the Act," and the charge to the committee from the Secretary included this broader mandate.

Our work took place in two phases. In the first, we worked with Forest Service staff in preparing language to be considered for incorporation in the draft regulations. Although such active involvement was perhaps not envisioned by Congress when it authorized the committee, it turned out to be the only practical way for us to operate. Meetings during this first phase were held throughout the country and were fully open to the public. Concerns of two major types were discussed. These involved the planning process itself and a number of critical issues that became fairly obvious on the basis of Congressional and other public debate over management of the National Forests. The first phase culminated in publication of the draft regulations on August 31, 1978.

In the second phase of our work we evaluated the draft regulations and prepared this report. This work required additional public meetings and intensive discussions of several unresolved issues identified for special study in a letter to the committee from the Assistant Secretary of Agriculture. These included: lands suitable for timber production, departures from non-declining yield, silvicultural standards, diversity, wilderness, and coordination of public planning efforts. In addition, discussion was devoted to a number of less controversial issues which are, nonetheless, critical to successful implementation of the Forest Service Planning process. These included: public participation, the relationships among plans at the forest, regional, and national level, and the need for more clearly defined standards to guide planning for resources other than timber.

Evaluating the regulations has proven difficult. Although the draft regulations may seem to have certain obvious deficiencies, many of the technical issues inherent in them are not amenable to straightforward technical or scientific solution. In fact, there are instances where the best scientific solution is inconsistent with Congressional direction.

In evaluating regulations related to planning, our standards were technical soundness of the process and the clarity with which it is explained. First of all, the process proposed had to be one that would work or could be made to work. Second, the explanation of the process in the regulations had to be sufficiently clear so that intelligent private citizens, whose interests might be affected by management of the National Forests, could understand it. The standard used was that for journalistic adequacy: who, what, when, how and where. The regulations must explain who is responsible for planning, what is to be done, and when, how and where it is to be done.

The standards for judging proposed technical solutions to major issue areas are more difficult to articulate. In many of these areas, there is no consensus on the nature of the technical standards to be involved and the degree of specificity that is desirable. Honest, competent professionals simply disagree and there may be, therefore, more than one technically acceptable solution. In such cases, we have identified either what we consider to be the most acceptable solution or what appear to be a reasonable range of alternatives with their reasonably predictable consequences.

Our discussions, analyses, and sources of information can be found in the minutes of our meeting. These are available at the Library of Congress and the Forest Service Washington office and regional offices.

In the last analysis, of course, our report represents our best judgment on the difficult issues inherent in National Forest planning.

We acknowledge the assistance of a number of persons who have worked with us and attended our meetings. First, we acknowledge the excellent presentations on several subjects made by invited consultants. These expositions helped bring several complex issues, including timber harvest scheduling and wilderness, into clearer focus. Their presentations are in the minutes of our meetings. We also thank the members of interest groups and of the general public who attended our meetings. This regular public participation brought a valuable dimension to our work. The representatives of interest groups were particularly helpful in casting up altenative views of complex issues. In fact, alternative language presented to us in this way has, in several cases, been used in recommended changes. We are indebted especially to the Silviculture Task Force appointed by the Forest Service in the fall of 1978. Its report helped us analyze the difficult matter of silvicultural standards and served as the basis for much of our text on that subject. We also thank all other Forest Service staff members who worked with us. Finally, we must express our deep personal thanks to Messrs. C. Rex Hartgraves, Donald L. Funking, and John W. Russell and Mrs. Joyce Parker, for their dedicated efforts. Although we frequently disagreed, we were always able to work together constructively. If the Forest Service can bring the same dedication to implementing these regulations that these persons brought to writing them, we are sure the outcome will be positive.

Organization of Report

Because of the length of this report, the complexity of the issues with which it deals, and the variable intensity of public attitudes toward these issues, a word about its organization is appropriate.

After the introductory material, the report is organized into three parts. The first deals with some of the broader, philosophical questions implicit in the regulations. Our views on these questions are important because they indicate the philosophical basis for evaluation of the draft regulations. Many questions, of course, relate to more than one section of the regulations, and appropriate cross-referencing is provided. The second part is a section-by-section analysis of the draft regulations. Here the report analyzes each issue considered in conjunction with each section of the regulations. Some of these issues are of major importance and public concern, and they were discussed intensively. The key issues are: silvicultural standards, identification of lands suitable for timber production, timber harvest scheduling and departures from non-declining yield, and coordination of intergovernmental planning. Other significant issues involve vertical intergration of the RPA planning effort, the content and role of the regional plan.

public participation, and the work of the interdisciplinary team.

As a result of our analysis of the proposed regulations, we have recommended insertion of new material that will necessitate changes in the numbering of certain sections. For the sake of clarity, the section numbers referred to in the text are those found in the Proposed Rules published in the Federal Register on August 31, 1978. Where changes recommended by the committee necessitate a change in section numbering in proposed regulation language, reference to our revised language is indicated, for example, by '219.10(a)(6)'.

The following table summarizes the main sections of the published version and of our version:

Published version		Committee version		Page
219.1	Purpose	Same		36
219.2	Scope and Applicability	Same		40
219.3	Definitions	Same		40
219.4	Planning Levels	Same		44
219.5	Interdisciplinary Approach	Same		51
219.6	Public Participation	Same		59
219.7	Coordination of Public Planning Efforts			69
		219.8	Regional Planning	46
219.8	Forest Planning Procedure	219.9	Forest Planning Procedure	82
219.9	Forest Planning Process	219.10	Forest Planning Process	83
219.10	Resource Management Standards and Guidelines	219.11	Resource Management Standards and Guidelines.	95
219.11	Research	219.12	Research	159
		219.13	Revision of Regulations	165
219.12	Transition Period	219.14	Transition Period	165

The final section is a full draft of the regulations as they will appear with changes recommended by the committee of scientists.

The Broader Issues

A number of broad, philosophical issues permeate the regulations and the process by which they were drafted. Some of these were apparent to the committee when it began its work, others became apparent during the drafting work, and others are apparent only in retrospect. Because our perceptions of these issues influenced the way we evaluated the draft regulations, it is important for the serious student of the regulations to be aware of them. Although others need not accept our views, we hope that our arguments are persuasive.

The Regulations Must Be Read In Their Entirety To Be Understood

The draft regulations are a long and complex document that must be read in their entirety to be understood. They lay out a planning process into which a number of technical standards are incorporated. One cannot understand how a resource such as timber is treated, for example, by reading the section on timber alone. The reader must first understand the planning process, then the technical standards pertaining to the timber resource, and finally the way in which standards fit into planning generally. The process proposed is an integrated one and the regulations themselves are integrated.

Unfortunately, it is clear that many reviewers of the regulations have not read them in their entirety. If they had, they would have found that their concerns were adequately treated. We have proposed additional continuity and cross-referencing in our proposed revisions. Even these changes will not help if issues are treated out of context. Therefore, we urge the reader to consider the regulations in their entirety before forming an opinion on them.

The Draft Regulations Must Be Placed In Proper Perspective

The draft regulations must be put into their proper perspective to be understood. Although the regulations have been roundly attacked by virtually everyone who has read them, the majority of these critics fail to acknowledge that, despite inadequacies, the regulations represent a major step forward for the Forest Service. For the first time the agency has attempted to put down on paper for all the public to see the procedures by which it will conduct its land management planning. For an agency that has traditionally resisted putting such direction outside of its manual, this represents a major change in policy. Furthermore, we regard the draft as an honest effort by the Forest Service to meet the mandates of Congress as expressed in RPA/NFMA. Apparent failure to meet these mandates at all points is due both to lack of clarity or certain purpose in the law and to the technical difficulties of developing such sweeping regulations.

The regulations also represent an important advance on several other counts. First, they require that, except as required by other statutes, the functional planning for individual resources and uses that has been so characteristic of Forest Service planning in the past be integrated into a single plan. The process "is intended to integrate all functional resource planning and thereby improve upon previous planning methods." The previously used unit planning procedures are no longer used; instead, the product is a comprehensive and integrated blueprint for the management of an entire National Forest. In our judgment the process embodied in the draft is conceptually sound and is capable of implementation if adequate resources are provided. Finally, the regulations establish a system of vertical integration for the RPA planning effort. These changes are far-reaching. If they are improved in the final regulations, activated by the Forest Service, and adequately funded, they bode well for the quality of the agency's future planning efforts.

Having complimented the Forest Service on the draft regulations, we are compelled to say that the draft is deficient on several counts. A number of the proposed procedures may not fully meet the intent of Congress or are less than adequate. We will document these deficiencies in our report and propose wording to resolve them. At the same time we urge the Forest Service's critics to recognize the far-reaching advances in this draft. The draft regulations go much more than halfway toward resolving most of the problems Congress addressed in NFMA.

The Regulations Are Process Oriented and This Is Appropriate

One of the two most persistent criticisms of the draft regulations is that they are too "process oriented." We consider this criticism to be invalid,—somewhat akin criticizing a skunk for smelling bad. A skunk is a skunk and planning is, by its very nature, process oriented.

In fact, the legislative history of RPA/NFMA clearly bears out that Congress deliberately chose a planning process, rather than prescriptive guidelines, as the preferred method of dealing with the complex issues confronting the National Forest system. This was the choice inherent in the debate between the Randolph and Humphrey bills in the Senate and the conference committee ultimately had to rationalize two bills, both of which placed heavy emphasis on

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planning. RPA/NFMA is planning legislation. It stresses the interdisciplinary nature of the planning approach (section 6(b)) and requires that the Secretary promulgate regulations that "* * * set out the process for the development and revision of the land management plans * * *" (section 6(g)).

Clarity in expressing the requirements of planning is important on another count. Congress went to considerable lengths to make clear that all future Forest Service planning was to be open and accompanied by significant opportunities for public participation. For public participation to be effective, the public and interest groups must understand clearly what is being done, by whom, and in what order. Therefore, the regulations governing planning must be clear and explicit. Otherwise, public participation may be frustrated and the planning process embroiled in procedural controversy.

Consequently, we support the process oienfed nature of the regulations and, in fact, recommend changes to clarify and make more explicit the planning requirements.

The Draft Regulations Lack Specificity In a Number of Critical Areas

The other most persistent criticism is that the draft regulations are not specific enough. The degree to which regulations should prescribe actions and procedures, as opposed to providing general policy guidance, has pervaded our discussions. This issue was also hotly debated in Congress.

Some observers argue that Congress intended that many specifics not included in the Act itself should be included in the implementing regulations. Others contend that the specifics should be included in the Forest Service Manual, not in these regulations. From either point of view, the issue is: How specific can the regulations be expected to be? How definitive should the guidance to the Forest Service planners, and the public, be?

There is no simple answer to these questions. After considerable study we have concluded that the regulations must be quite specific in one respect, and quite non-specific in another. We believe that the regulations must be specific in establishing the principles of land management planning and in establishing the process to be used by the Forest Service in applying those principles. We are equally strong in our belief that the regulations should not be specific in regard to the prescriptions for the solution of on-the-ground land management problems such as choice of silvicultural system or maximum size of harvest operations in a single block. We believe that when an exacting set of policy statements is adopted and a rigourous planning procedure is used, the most desirable solution to specific problems will be discovered by the interdisciplinary team, presented to the Forest Supervisor, and approved by the Regional Forester.

The majority of the proposals in the report provide more specificity on the principles of land management planning and on the planning process to be used. These proposals are intended primarily to provide specific guidance to Forest Service officers on policy and the planning process. Equally important, they will make it clearer to the interested public what the Forest Service must do to identify the critical areas of concern, the policies which are established, and the procedures to be followed in resolving the critical issues.

The Structure of the Proposed Forest Planning Process is Sound

A major requirement of RPA/NFMA is that the Forest Service adopt an interdisciplinary process (section 6(b)) to govern future planning for management of units of the National Forest system. It is important that the process proposed be workable and that responsibilities for its execution be clearly described. Although the regulations could be structured in a variety of ways in order to achieve these goals, we are satisfied that the principles inherent in §§ 219.8, 219.9, and 219.10 as they are now conceived are compatible with, and conducive to, the interdisciplinary planning envisioned by Congress.

A great deal of effort and thought both on the part of the Forest Service and the committee, went into developing an appropriate structure for the rules to guide forest planning. Initially, consideration was given to a section that would integrate the planning requirements and processes with resource standards and guidelines. It was felt that such an organization would emphasize the integrated nature of the planning and management called for by RPA/NFMA on the National Forests. The proposed language that emerged from these attempts seemed to us to be too long to be grasped readily and so complex that it obscured the basic intent of the section. A better alternative, therefore, was separate sections, one describing planning procedures, one enumerating the planning process, and a third containing the basic standards and guidelines for planning and managing individual resources. This concept is reflected by §§ 219.8, 219.9, and 219.10 of the draft regulations.

We are aware that this treatment seems to have the effect of isolating procedures from process and treatment of all resources from the planning process itself. Although a number of reviewers have pointed out this potential weakness, we consider it more apparent than real. If §§ 219.8, 219.9, and 219.10 are treatd as three parts of an integrated process, as intended, then the unity of the process should be evident.

The regulations Should State the Secretary of Agriculture's Policy in a Number of critical Areas

Early in our deliberations we saw a need for inclusion in the regulations of broad general statements of principle in many areas. The RPA/NFMA does provide some policy principles which were established by the Congress. However, the act itself and its legislative history indicate that Congress left the formulation and clarification of many of these principles to the Secretary of Agriculture.

We spent considerable time discussing and drafting statements of principle which were included in the earlier drafts of the regulations. We were cautioned by the representatives of the Office of General Counsel that such general principles were often subject to varying interpretations, and thus could become the targets for legal actions.

We acknowledge this difficulty, but continue to support the idea of including Secretarial statements of intent on policy matters. For exemple, it is our belief that a general statement on the purpose of an interdisciplinary approach is desirable. We do not believe that such a general policy statement would be more vulnerable to litigation than any of the specific guidelines laid down in direct response to a Congressional mandate.

Policy guidance is also important because of the unique nature of these regulations. Typical government agency regulations are designed to explain how the public is to be regulated by the agency. The RPA/NFMA regulations are different because they explain to the public how the Forest Service will govern *itself* with regard to its planning practices, and the limits that will be placed on certain management practices by the agency itself. In light of this peculiarity, it is vary important that the policies that the Forest Service evolves to govern its planning and subsequent management of the National Forests be available to the public in clearly understandable form. This fact further

emphasizes the need for specific wording in the regulations. The general standard that can be established is that the public must know the policies that guide Forest Service actions and it must know *who* is going to do *what* and *how* in implementing policies.

We are unanimous, therefore, in our feeling that the regulations as now drafted would be much more helpful to the Forest Service and the public if they contained general policy guidance from the Secretary of Agriculture to supplement, clairfy, and extend the policies established by Congress in RPA/NFMA. We propose such general policy guidance at appropriate places in this report. These statements generally form the lead-in language to the sections of the regulations dealing with major issue areas.

The RPA/NFMA Planning Process Can Resolve Many Problems Inherent in Management of the National Forests and Deserves the Chance To Work

From the very beginning of our work, we have been convinced that the planning process established in RPA/NFMA is sound in concept, workable, and also capable of resolving many of the present controversies over management of the National Forests.

Unfortunately, there are now a number of on-going or proposed activities that are inconsistent with the RPA planning process. The most obvious of these are Congressional proposals to allocate wilderness and the Forest Service's RARE II wilderness planning exercise. We recognize that these activities began well before regulations for implementing NFMA were developed. We further recognize that both are political responses to a terrible land allocation dilemma. Despite this, we emphasize that RPA/NFMA clearly states that wilderness is a co-equal value to be considered in planning for allocation of the lands of the National Forest System. Wilderness can be dealt with rationally and the RPA/NFMA planning process is the way to do it.

Wilderness is not the only resource that gives rise to proposals for separate treatment. Proposals to increase the amount of timber cut on the National Forests have been made periodically, most recently through the President's anti-inflation effort. If the RPA/NFMA planning process is to achieve its potential, and the credibility essential to acceptance, it must be allowed to work. It must be allowed to run through at least one full iteration, from the National Assessment and Program to the development of regional and forest plans and back to the National Assessment Program. Such a cycle cannot be completed before 1985, and, of course, it is not realistic to expect political forces to refrain from efforts to intervene in the process over that long period of time. In our view, Congress itself must prevent downgrading of its own legislative design for management of the National Forests.

The Draft Regulations and Their Revisions Were Developed With Full Public Input and This Trend Should Be Continued

All activities in developing these draft regulations were completely open to the public. All documents were made freely available and an open dialogue with the public was maintained. This openness was continued through revision of the regulations and drafting of our final report.

A report prepared by the Conservation Foundation [2] points out that this degree of public involvement is probably "unique in Forest Service experience." The meetings of the committee provided a continuing forum for interchange on alternatives among agency personnel, environmental and industry representatives, and the committee itself. The Conservation Foundation found this degree of interaction "truly impressive" and suggested that it might well lead to better regulations than would have emerged from the more traditional, internalized rule-making process. Despite this vigorous effort at full public participation, attendance at meetings of the committee has largely been limited to representatives of groups with clear interests in the outcome of the regulation-drafting process. Few members of the general public have attended.

Although we can hardly be considered an impartial body in this regard, we agree strongly with The Conservation Foundation's assessment. Although complete openness can create serious procedural problems in developing a document as complex and controversial as these regulations, in the long run the process itself benefits.

One major thrust of RPA/NFMA is to require full public participation in Forest Service planning. The draft regulations make a sincere effort to incorporate such participation, and our revisions are aimed at improving and clarifying the proposed procedures. It is our strong hope that the spirit of openness will continue and will pervade the entire future forest planning effort.

The Proposed Three-Tiered Planning Concept Involving National, Regional and Forest Planning Is Sound

RPA/NFMA specifies two levels of planning for the National Forest system: (1) The National Assessment and Program, which involve the forest resources of the entire nation, including those of the National Forests, and (2) land and resource management planning for individual units of the National Forest system. Early in development of these regulations, the Forest Service proposed that a third level, regional planning, be instituted. Such plans, one for each of the nine Forest Service regions, would serve as a link between national and local planning, as a means for aggregating capabilities of individual National Forests and for formulating and disaggregating national goals and targets, and as a means of dealing with difficult technical issues that transcend the concerns of individual forests.

There has been no substantive criticism of the concept of the regional plan. We believe that the idea is sound and urge that it be incorporated in the final regulations. However, there has been criticism that the role of the regional plan, its content, and the procedures by which it is to be developed are not well enough described in the draft regulations. We find this criticism to be valid and propose changes to deal with it.

The importance of regional plans needs to be emphasized. Although they are not mentioned anywhere in legislation, regional plans have assummed a vital role in the RPA/NFMA planning process. As we show in the next section, they provide the mechanism for aggregating the capabilities of individual forests and for assigning goals to individual National Forests. Furthermore, the regional level is where some of the most difficult issues, such as size of clearcuts, rotation age, and choice of silvicultural system, are assigned for resolution. The importance of these issues varies by regions. Although we have some reservations about this assignment, we conclude that it is both rational and appropriate. It is rational because the regions seem a reasonable place to develop standards for practices that simply are not amenable to regulation by national standards, and appropriate because it seems to most nearly meet the intent of Congress that standards for certain practices be developed "by forest type or geographic region." However, we here must stress the

2 Shands, W. E., P. R. Hagenstein and M. Roche. 1978. *Changing ground: future directions for the National Forests.* Draft report. The Conservation Foundation. September 26, 1978.

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obvious. Once the assignment of such crucial determinations has been made to the regions and to the Regional Foresters, *there is no place else they can be assigned.* The hot potato has been tossed in the Regional Forester's lap and he *must* deal with it. Development of adequate regional plans is truly crucial to the success of RPA planning, and the Forest Service must make it the highest order of priority once these regulations are approved.

To Be Successful, RPA/NFMA Planning Must Involve Both Upward and Downward Flows of Information on the Demand for and Supply of the Renewable Resources

An important requirement of the RPA/NFMA planning process is that demand for, and supply of, the renewable resources of the National Forests must be assessed and that a National Program equating demands and supplies be formulated on the basis of this information. THe RPA/NFMA planning process should begin with on-the-ground assessments of the capabilities of each National Forest to supply goods and services at various budgetary levels, and the local demand for these goods and services. Planning at the national level should take into account these local data, insure that national demands are considered, and then allocate regional and forest targets in light of reasonable budget levels. There must be a continuous iteration and interchange of information between levels on availability of resources, demand, and budgetary considerations. Therefore, it follows that regulations defining the RPA planning process should clarify the iterative nature of the process.

The draft regulations have been criticized by a number of different interests for failing to convey an adequate concept of RPA planning. This criticism is perhaps mostly clearly explained by Resources for the Future [3] (RFF) in its draft comments on the regulations. RFF states that the draft regulations leave the impression that "the goals, objectives, and indeed in operational terms, *the production targets* are synthesized from high level intelligence absent relevant information," and "The planning process represented * * * conveys the impression that the National Forest system targets are divined in some manner independently of the basic information which should result from a rational planning process * * *."

[3] Bowes, M., J. Haigh and J. Krutilla. 1978. *Review and evaluation of proposed rules for National Forest System land and resource management planning.* Comments by Resources for the Future. December 15, 1978.

We find these criticisms valid in some degree, although the impression may result from incomplete wording in the draft regulations rather than from an intention to express any other philosophy. During all discussion of the draft regulations, their iterative nature was stressed and it was always indicated that the National Assessment and Program should be solidly founded on data gathered at the National Forest Level. Therefore, we propose language to clarify the original intention of the regulations. In preparing our language, we have given close attention to material provided by RFF.

The Planning Process Itself Must Be Flexible and Subject to Future Examination and Revision

Although the planning process that is embodied in the regulations as we have revised them is sound, there is no reason to suppose that it cannot be improved. The entire planning effort that will take place once these regulations are approved will produce a vast amount of practical experience that does not now exist. Furthermore, research efforts, both inside and outisde the Forest Service, likely will concentrate attention on the problem areas in which present knowledge limits our ability to devise entirely appropriate regulation.

Therefore, it is our opinion that the regulations should provide for their own continued evaluation and periodic revision on the basis of new experience and information. We propose a new section at the end of the regulations to embody this concept.

Monitoring of the Consequences of Management Is Vital to the Success of Planning

A recurrent theme in the Congressional debate on RPA/NFMA was the need for systems of monitoring that would provide information on the impacts and consequences, and allow compensatory modification of management plans where needed. A requirement in the original RPA act to "* * * study personnel requirements as needed to satisfy existing and ongoing programs" (section 3(4)) was amended to "* * * implement and monitor * * * programs (NFMA section 5). Since "monitoring" is an exceedingly general term, however, this requirement does not speak unequivocally to on-the-ground observations. Elsewhere RPA/NFMA mentions monitoring only in section 6(g)(3)(C), and only in connection with research on management systems, which we will discuss later.

Nevertheless, several other requirements of Section 6(g), namely (2)(C); (3)(E)(i–iii), and (3)(F)(v), can be fulfilled in practice only through some systematic inspection, measurement, or "monitoring" during and after management activities, coupled with provisions for evaluation and for changes in management as needed. The draft regulations provide for this in § 219.9(j) and elsewhere, as we will note later.

Some general comments about monitoring are appropriate here. The concept implied by the legislation and expressed in the draft regulations is sound in principle and far-reaching. Implementation in full detail will be more difficult than generally recognized and will require some substantial changes in present practices. Non-scientists sometimes consider monitoring and research to be the same thing; they confuse data gathering with evaluation. In the context of land management, the difference is great.

In the first place, the alterations in, say, soil, water, or vegetation following some activity such as grazing, organized camping, or timber harvesting must be differentiated from large natural variations and natural changes over time. Except when these alterations are overwhelmingly great or obvious, detection with certainty calls for an array of provisions and skills, such as prior selection of key areas to sample, or compatibility of methods and accuracy in both the initial inventory and subsequent monitoring.

In the second place, monitoring involves gathering data on the state of certain environmental indicators, such as soil disturbance, stream sediment load, or populations of a wildlife species. Any changes in the state of these indicators attributable to management activities must then be evaluated to determine whether these do indeed point to "substantial and permanent impairment of the productivity of the land" at one extreme, or perhaps to marked enhancement at the other, or to more moderate impacts, unfavorable or favorable. The evaluation depends on knowing what these indicators tell us about the behavior of the systems involved. Such knowing, in turn, is derived from research and codified experience. Without such experience to design the process and interpret the results, monitoring can be futile or wasteful.

Obviously, monitoring can provide data for further research, and new research is often necessary to determine what the changes signify in terms of productivity of the land and the state of the resources, it supports. To be useful in land management, monitoring must extend over time and be carefully executed. For these reasons, it is costly in both money and manpower.

Forest Service budgets and personnel are insufficient to support either the monitoring process that Congress envisioned in drafting RPA/NFMA, or the yet more comprehensive requirements of the draft regulations. If the monitoring and evaluation process is to succeed to the degree required for the success of RPA/NFMA, then special administrative and budgetary attention must be devoted to it. The committee is fearful that this will require more awareness and sensitivity than existing processes of the Federal and Congressional budgetary bureaucracy allow.

Regulations Must Clearly Specify Who Is Responsible for Making Decisions

Citizens frequently express, with frustration, the view that it is impossible to find out who in an agency is responsible for a given decision. During our meetings, the charge was often heard that current Forest Service regulations do not make clear what official at which level has responsibility for intitiating, or approving, a given action.

The Forest Service is well aware of this problem and has sought to speak to it throughout the proposed regulations. Section 219.4, which describes the relationships among planning levels, also spells out the roles of the Chief of the Forest Service and the Regional Foresters with respect to the development of the National Assessment and Program and the regional plans. Section 219.4(c) and 219.8(e) describe the responsibilities of the Forest Supervisor and the Regional Forester in development and approval of the forest plan. As noted elsewhere, there is a requirement (219.9(i)(8)) that the names of interdisciplinary team members and a summary of their qualifications be included in the plan when it is published.

We find that the proposed regulations are adequate and definitive with regard to the issue of responsibility and propose no changes in this regard.

Balanced Planning for Management of Renewable Resources Requires an Appropriate Balance of Interests Among Forest Service Personnel

We have already pointed out the need for adequate numbers of personnel in the Forest Service if the planning envisioned in these regulations is ever to come about. There is, however, another equally important feature of the personnel issue and that involves the balance (mix) of professional backgrounds possessed by the Forest Service in general and its planners in particular.

Interdisciplinary planning and subsequent effective management depend upon an adequate pool of capable resource specialists trained in the various involved disciplines. There is, in our minds, a question as to whether the Forest Service now has the appropriate mix of personnel to meet the demands of such a planning effort. A number of important disciplines do not appear to be represented in numbers proportional to the demand that a major planning effort will create. For the interdisciplinary concept to work, each resource must be adequately represented on the team. There must be a person on the team who understands each resource, can act as an effective spokesperson for the resource, and, perhaps more important, who can understand the effects on a given resource of alternative management practices proposed for other resources. Wildlife simply cannot be represented on interdisciplinary teams by foresters who like to hunt or fish any more than timber can be by a wildlife manager who enjoys trees. Interdisciplinary planning depends on an adequate pool of capable resurce specialists in the various disciplines involved.

The Forest Service can create the needed pool of talent either by selective hiring or by retraining of existing personnel. Both strategies will work, but must be pursued vigorously if the agency is to produce the necessary personnel mix in time to develop the first set of forest plans. Even with shifts in hiring emphasis and internal retraining, we feel that it is unlikely that the agency can produce the appropriate mix in time to develop the first set of forest plans, given current restraints on personnel ceilings and existing workloads.

Proposed Management Practices Must Be Economically Justifiable and Supported by Competent Economic Analysis

The RPA/NFMA specifically requires economic analyses as a part of the process by which management programs are examined and their implications made clear. In fact, one of the major thrusts of RPA/NFMA is to require the Forest Service to analyze and make public the economic consequences of its programs. References in Section 6(g) require the regulations to * * * "insure consideration of the economic and environmental aspects of various systems of renewable resource management* * *" (section 6(g)(3)(A)), to consider economics in selecting harvesting systems (6(g)(3)(E,F)), and to utlilize economic considerations in determining which lands are not suited for timber production (section 6(k)). Furthermore, section 6(1) directs the Secretary to "formulate and implement, as soon as practicable, a process for estimating the long-term costs and benefits to support the program evaluation requirements of this Act." These directives, taken collectively, represent a strong instruction to the Secretary to insure competent economic analysis at all appropriate places in the planning process, and to display for consideration the economic consequences of each alternative management program, so far as they can be reasonably determined.

Some commentators contend that RPA/NFMA establishes that the National Forests are to be managed economically and efficiently and that public money is not to be spent in applications or for practices that are submarginal (where costs exceed benefits).[4] We agree that congressional direction of this sort is evident only in one area, that is, the determination of lands suitable for timber production. The legislative history of the act implies Congressional concern that timber harvesting is generally not to take place when, by some rules of reason, public benefits are less than production costs. However, we do not agree that RPA/NFMA provides a Congressional mandate to assure that benefits exceed costs for each and every management practice proposed for the National Forests. We believe that a full determination of benefits and costs must be made for all proposed management practices, but that the cost-benefit ratio is only one of a variety of criteria that may be used as a basis for finally approving any given management practice. The basic problem is that Congress has not given clear or consistent direction regarding the use of economic criteria for managing the National Forest system.

In any case, it is clear that economic analysis must permeate the planning regulations. We have several times proposed definite language defining the nature of the economic tests to be made during planning. Relatively little of this language has survived through to the draft regulations. Rather, the language in the draft dealing with economic analysis is often vague and must be improved if

[4] For a clear exposition of this view, see particularly Bowes, Haigh and Krutilla, op cit.

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direction is to be clear. We will propose language at several places that we hope will resolve this difficulty.

The need for personnel to execute the analyses once their character has been decided deserves comment. The Forest Service informally has estimated that its staff resources in this area fall substantially short of those required to carry out the analyses envisioned in the regulations. As we have pointed out elsewhere, adequate personnel are absolutely vital to the ultimate success of planning. Unless serious efforts are made both to provide adequate funding and to bring a larger amount of expertise than now appears to exist in the agency to bear on economic analysis, the Congress and the public are likely to be disappointed in the quality and usefulness of the work contained in the first generation of forest plans.

Adequate Inventory Data Are Essential to Sound Plans Because Such Data Are Not Now Available for Many Forests or Resources, the Foundation for the First Generation of Forest Planning is Likely To Be Shaky

No plan is better than the resource inventory data that support it. Each forest plan should be based on sound, detailed inventories of soils, vegetation, water resources, wildlife, and the other resources to be managed. It is equally true that regional plans and the National Assessment and Program will only be as good as on-the-ground assessment of resources and capabilities at the forest level.

Unfortunately, it does not follow that truly adequate resource data will be available to support the development of every plan. In many cases, inventory data are too fragmentary or insufficiently detailed to allow firm judgments in developing management programs of the complexity demanded by RPA/NFMA. In other cases, data on certain organisms, resources, or management effects have simply never been gathered. For example, in the development of stand prognosis models for projections of timber yields, it was found that appropriate data were available for only a few species and in a few commercial timber areas. Even adjoining forests have not taken comparable data or have taken data in a form incompatible with the model. In the case of other resources, lack of inventory data is even more pronounced.

Another inventory-related problem that has inhibited planning is the general lack of compatibility among inventory efforts of different government agencies. In the past, relatively little effort has been devoted to coordination and compatibility of resource inventory programs. However, within the last year the Department of Agriculture, the Department of Interior and the Corps of Engineers have entered into an interagency agreement that offers the hope of better compatibility among future inventory efforts. We are encouraged by this step and urge the Forest Service to insure that its future inventory efforts are compatible both with other programs in the Department of Agriculture, chiefly the Soil Conservation Service, and with those other federal agencies.

The time schedule on which the first generation of plans must be developed precludes the gathering of much new inventory data. Basically, each forest will have to make do with what it has, or what it can reasonably obtain in a short time from accessible sources and existing inventory procedures. In practice, what this means is that the data base for a number of plans is likely to be marginally adequate or even shaky. Even if a Federal Government-wide crash program of data acquisition and storage were to begin tomorrow, it would not provide adequate data in time to be of much value in developing the first forest plans.

It is our opinion that there is little that can be done to rectify this deficiency immediately. All parties with interests in National Forest planning will simply have to recognize that the Forest Service cannot remedy decades of national indifference toward basic resource data in 5 years. Programs designed to remedy inventory deficiencies should begin while the first cycle of forest planning is taking place. Then, better data should be available for consideration in time for the first scheduled revisions. The Forest Service will simply have to do the best it can with what it has, while setting in motion the machinery to assure more competent data at the earliest possible time. It is also imperative that adequate attention be given in the budgetary process to the need for better inventory data programs. Without the necessary support, in money and personnel, the data base necessary to support planning can never be obtained.

The Requirement to "Provide for Diversity" Is One of the Most Difficult Issues Dealt with in These Regulations

Diversity is one of the more perplexing issues dealt with in these regulations. Section 6(g)(3)(B) of RPA/NFMA requires that the regulations specify guidelines for land management plans developed to achieve the Program goals which "provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives, and within the multiple-use objectives of a land management plan adopted pursuant to this section, provide, where appropriate, to the degree practicable, for steps to be taken to preserve the diversity of tree species similar to that existing in the region controlled by the plan." This enunciates the significant Congressinal policy that multiple-use management shall maintain a wide variety of plant and animal species in a variety of communities on National Forest system lands, and that steps are to be taken to provide this variety. Conversely it is clear that Congress did not favor management practices which result in a limited variety of species and communities unless it is demonstrated that such reduction of variety is needed to achieve overall multiple-use objectives.

Although the statement of policy is clear, there remains a great deal of room for honest debate on the translation of policy into management planning requirements and into management programs. Section 6(g)(3)(B) is the combination of materials from the House and Senate. The first portion of the section is taken directly from the Senate bill; the remainder is a slightly rewritten portion of the House bill. The Conference Committee simply melded the two and added the second qualifier "where appropriate." Thus, the final language starts with a general statement about diversity of plant and animal communities and concludes with a specific caveat regarding tree species' diversity. The Conference Report [5] states that the House portion was added because "it is the intent of the Conferees that where the resource plan is developed separately from the land management plan, that this provision would govern the resource plan as well."

The major issues in the Congressional deliberations was concern with forest type conversions, and especially with conversion of eastern hardwood stands to pine. The Senate Agriculture Committee Report [6] makes this clear by stating that "the requirement in S3091 that the guidelines provide for diversity of plant and animal communities does not preclude conversion of timber stands from one type to another.

[5] 94th Congress, Second Session, Report 94-1335, hereafter Conference Report.
[6] 94th Congress, Second Session, Report 94-893, hereafter Senate Report.

However, the Committee is aware of the widespread public concern over conversion of eastern hardwood forests to pines. No conversion should be permitted unless it would be consistent with multiple use management and it is provided for in a land managment plan developed with full public participation and review." Thus, type conversions are not prohibited, but are to be used only when fully studied and justified.

The intent of Congress is clear: (1) Diversity is to be considered throughout the planning process, (2) steps are to be taken to maintain or increase diversity of plant and animal species and communities by management, and (3) management measures which tend to reduce diversity are to be used only when shown to be necessary to achieve overall multiple use objectives.

Translation of Congressional policy into reasonable regulations has proved a formidable task. Diversity has become a controversial and hotly debated issue. There are those who believe that Congress gave the Forest Service wide latitude in providing for diversity. They believe the two qualifiers "where appropriate" and "to the degree practicable" indicate the granting of rather wide latitude. These persons tend to feel the draft regulations are too restrictive and go far beyond the intent of Congress in providing for diversity. Other persons believe that diversity is a major key to making the National Forests attractive and productive of wildlife. They believe the regulations must be very specific and provide little discretionary authority to the Forest Service. These persons tend to feel that the lure of monetary returns from pure forests of pine will produce biological deserts and visual blight. They tend also to feel that less diverse forests are unstable communities, while diverse forests are stable and productive.

The Committee concludes that reason lies between these polarized positions. We believe the regulations should go beyond a narrow and limited restatement of the language of the Act to assure that the Forest Service shall indeed "provide for" diversity by maintaining and preserving existing variety, and to encourage steps to be taken to increase variety where that is appropriate. However, we believe it impossible to write regulations which are specific on how this is to be done in all regions, in a wide variety of vegetation types, and with a wide range of natural and human factors to consider. We believe it reasonable to specify that the interdisciplinary team consider diversity a major concern, and deal with it at several important junctures in the planning process. Most important, the regulations must assure that changes in diversity required by each alternative shall be identified, and that when significant changes are involved there shall be a detailed justification showing why those changes are needed to meet overall objectives of the Program.

Concern for diversity is stated at several places in the draft regulations rather than in a single section (219.9, *'219.10(a)(6)'*). We approve this format because it would insure that diversity considerations are addressed at several important junctures in the planning process. In addition, the planning process requires concern for diversity in many other places. The interdisciplinary team must assess environmental effects and determine consequences of alternate management strategies throughout the planning process. This insures concern for diversity at many stages, since both abundance and variety are objectives of multiple use management.

We worked closely with Forest Service personnel on the definition of diversity. We advised that a simple dictionary definition be adopted, i.e., that diversity means variety. We believe the definition given at § 219.3(b) is scientifically and technically adequate. The legislative history confirms that this straightforward definition meets the intent of Congress. The positive policy direction established is to maintain variety and productivity through integrated multiple-use management.

No matter how diversity is defined, its measurement is complex. We have studied the question as to whether the regulations should specify use of a diversity index to measure diversity and to monitor effects of management. Various indices are used in ecological research to express complex inter- and intra-specific relationships in a natural community by use of a single numerical expression. Although several mathematical formulations have been used in ecological research, there is no substantial agreement on the meaning or significance of the figures derived. Thus, we believe use of any of the present diversity indices would divert attention from the objective of considering variety throughout the planning process. If the proposed regulations required gathering masses of complex inventory data which are extremely difficult to interpret, there would be little assurance that diversity would be maintained or enhanced.

Coordination of the Research Efforts of the Forest Service, Universities and Private Entities Is Vital if the Latest Technology and Research Findings Are To Be Incorporated Systematically Into Forest Management Programs

During the course of its deliberations, the committee has been impressed by the fact that resolution of many of the present "issues" in forest management will depend on the research findings of the many scientists in the Forest Service, the universities, and the private sector. Numerous projects are now under way that are expressly designed to deal with such problems as effects of clearcutting, maintenance of diversity, prediction of the consequences of management alternatives, refinement in the use of economic analysis, and other problems central to the forest planning process.

Therefore, it is vital that there be close and effective coordination between these research efforts and planning operations in the National Forest system. We find that, although much effort appears to be devoted to such coordination, it is not really effective in bringing managers and those with new research findings together in a way that will assure translation of the findings into new, or altered, management practices. This problem, is of course, not unique to the Forest Service. It characterizes all government resource management programs that have research components. We do not have any solutions to offer. We merely wish to point out that the Forest Service bears a particularly heavy burden, because of its emphasis on planning and on research, to assure that the taxpayers' dollars are not wasted on ineffective or unheeded research efforts. The Technology Transfer Task Force, recently established by the Forest Service, is an effort to deal with this problem.

It is also true that much new, vitally-needed, research will be identified as efforts to resolve the complex issues inherent in multiple use management of renewable resources are intensified. Throughout our report we stress that such new research will be needed in the area of economic analysis. It is equally obvious that careful efforts to carry out the different silvicultural systems in a way that is compatible with protection of the environment will identify areas in which our present knowledge is inadequate. A focused, coordinated effort by all persons and entities with interest in the nation's forests will be the most effective means of getting this enormous research task done.

Competent Planning Will Be Costly and Resources Must Be Made Available

Although it is not possible to estimate accurately what it will cost to implement these regulations, the cost will be high! Additional costs will be incurred, not only in planning, but also in inventory requirements and in the monitoring and research necessary to insure protection of soil, water, and other resources. Although these costs will initially be high, they should decrease with time. We assume the members of Congress who debated this legislation in committee and on the floor recognized that they were establishing a planning process which required input of very substantial "new" funds. We also assume they recognized the need for additional personnel in a wide variety of disciplines to insure that the planning is truly interdisciplinary. Functional planning will be eliminated, and a more integrative process will take its place. Detailed inventories, public participation, coordination, complex economic analysis, and monitoring each has associated costs. We can only hope that Congress intended to fund fully the efforts it demanded. Otherwise RPA/NFMA will be a hollow exercise. To be sure, some economy can be achieved by the elimination of current functional and unit planning. However, it is our opinion that these savings will quickly be consumed by the heavy data and personnel demands of the new planning envisioned by RPA/NFMA.

Integrated planning for multiple resources by interdisciplinary teams is neither simple nor easy. New methods must be developed, and the Forest Service must be given the resources, the personnel, the time, and the latitude to develop and test new and innovative ideas. Unless funds and personnel are approved, RPA/NFMA will prove to be a step backward in the management of the National Forest system. The RPA/NFMA provided that the administration's budget submitted to Congress should be commensurate with the management activities prescribed for the National Forests. Because in the first year of this act the administration's budget requires a serious reduction in force of the Forest Service, we are fearful that neither the administration nor the Congress will acknowledge, in financial terms, the increased demands imposed by RPA/NFMA.

Very rough estimates of the costs of planning alone in the near future are available from several sources. Although the Senate included no additional costs for planning in its estimates of the costs of S. 3091 (p. 57) and the House Interior Committee Report [7] (p. 46–47) repeats the same data (which emanated from the Congressional Budget Office), the House Report does contain a supplemental statement on H.R. 15069 from the Department of Agriculture indicating that the costs of planning incurred under section 6 would be $20 million per year from 1977–1981. The fact that the Congressional Budget Office failed to include costs for planning in its data brings into question our assumption that Congress recognized the potential cost of the planning effort it created. The USDA recognizes that planning will cost money; we regard its estimates as grossly conservative. Therefore, we emphasize what was said earlier—if this process is to work, it must be funded at a realistic level.

If the additional funds and manpower needed to execute the planning process described in these regulations and to implement the management programs that derive from planning are not made available, one of two situations may occur. First, the Forest Service will have to adjust its activity within existing levels of funding and manpower to get plans done. In this event, it is likely that plans will not meet the full intent of these regulations and that other important on-going management tasks will be neglected. Alternatively, plans may not be completed within the time limits prescribed in the statutes. In the worst of circumstances, both events may occur. Such a situation would clearly be tragic and would subvert the good intentions of Congress.

Successful Implementation of the RPA/NFMA Depends on the Prompt Development of a Set of Final Planning Regulations and on Support of Them by the Various Constituencies With Interests in the National Forests

The last 10 years have not been happy ones for the National Forests or for the Forest Service, the agency and the lands that it manages have been submerged in controversy. Professional judgments have been called into question and long accepted practices denounced. Court decisions have rendered the agency almost without authority to manage National Forest lands as it felt they should be managed. Eventually, Congressional action in the form of RPA/NFMA was needed to provide a sound legislative basis for operation of the National Forest system.

The final regulations cannot speak to every issue that has been raised about management of the national Forests, nor can they resolve every foreseeable concern that each interest group might have. Rather, a workable product that does the best possible job of dealing with the issues must be approved and put to work. The National Forests should not sit forever in limbo.

We also emphasize that, in order to work, the planning process envisioned by these regulations must be supported by all parties with interests in the National Forests. The process can be made to work, but not if it is approached divisively. Implementation of these regulations can being about either of two futures. The next few years can be a constructive period of dialogue, common effort and cooperation, or they can be a continuation of the present paralysis of mistrust, bickering and negativism. It is clear that the nation's interests will be served only by diligent pursuit of the former, constructive path.

Section-by-Section Analysis

Here we provide a section-by-section analysis of the draft regulations. We discuss each issue that we have considered to be significant in relation to the section of the regulations in which it occurs. Each of these significant issues, and a number of others of lesser magnitude, is discussed in a common format. A brief statement of the issue and its background is given. We provide our interpretation of the intent of Congress, as we can discern it based upon RPA/NFMA and legislative history documents. The content and intent of the draft regulations are summarized and criticized. Finally, where appropriate, we provide new or substitute language. In those few cases where there is no discussion of a section of the draft regulations, it can be assumed that we accept that wording and would support its adoption as written.

219. Purpose

We find this section to be an adequate statement of the purpose of the planning process described in the regulations. No major criticisms of the section have been brought to our attention, either at our meetings or through written comments. Therefore, with one minor addition, we recommend adoption of the wording as proposed. In order to make clear that protection and preservation from pests by ecologically compatible means is the principle that should guide the incorporation of pest management practices into plans, we recommend that an additional section (j) be added at the end as follows:

"(j) Protection and preservation of all forest resources from depredations by forest pests by ecologically compatible means."

219.2 Scope and Applicability

We recommend adoption of this section as written in the draft.

219.3 Definitions

We have little substantive comment to make about this section. Although there has been considerable criticism of a number of the proposed definitions, and many substitutes have been proposed, we do not find the substitutes materially better than those proposed by the Forest Service. Furthermore, we do not find any definitions proposed by the Forest Service that would materially limit the planning process or which would put a special, or inappropriate, meaning on any term. Therefore, with certain suggestions, we recommend that the language of the draft be adopted.

Because of their importance throughout the regulations, we suggest that the definitions of silvicultural terms now included in § 219.10(d)(1), including even-aged management, silvicultural systems, and uneven-aged management, be moved to § 219.3. Furthermore, we concur with the recommendations of the Forest Service Silvicultural Task Force that the wording of these definitions should be changed. The definition of *silvicultural systems* should be changed to make clear that the silvicultural system used has a major effect upon all resources, and not just on the timber resource. The definition should be expanded to make clear that:

1. The form and character of forests produced determine the level of benefits that can be obtained from all resources, not just timber.

2. A silvicultural system includes all management actions used in manipulation of vegetation. Thus, the system includes the cutting methods used to harvest trees, provisions for regeneration and intermediate culture, and all other techniques used such as seeding, planting, fertilization, pruning, site preparation, weed control, slash disposal, etc.

3. Reference to classification on the basis of harvest cutting method is eliminated.

We propose the following substitute definition:

"( ) "Silvicultural Systems:" A silvicultural system is a combination of interrelated actions whereby forests are tended, harvested, and replaced. The combination of management actions used in this process to manipulate the vegetation results in forests of distinctive form and character, and this determines the combination of multiple resource benefits that can be obtained. Systems are classified as even aged and uneven aged." The definition of even-aged management should be changed slightly to:

1. Eliminate reference to clearcutting, shelterwood cutting, and seed tree cutting as silvicultural systems. In spite of use of this terminology in Agriculture Handbook 445 and elsewhere, these are cutting methods, not silvicultural systems. All three cutting methods are used to create essentially the same form and character of forest.

2. Recognize that clearcutting, shelterwood, and seed tree cutting have many variations. They are not precise and distinct cutting methods, but statements of general intent. There are many variations in degree, extent, timing, and arrangement of cutting that can be used to meet particular multiple use needs.

3. Include information on regulation of cutting under even-aged silviculture.

The definition of uneven-aged management should also be change in a manner parallel to the definition of even-aged management to:

1. Eliminate reference to cutting methods as systems.

2. Indicate that there are cutting methods other than single-tree selection and group selection that can lead to uneven-aged forests.

3. Include information on regulation and make the point that unevenaged regulation may often include both volume and area control.

We propose the following substitute definitions:

"( ) "Even-aged Silviculture": The combination of actions that results in the creation of stands in which trees of essentially the same age grow together. Managed even-aged forests are characterized by a distribution of stands of varying ages (and therefore tree sizes) throughout the forest area. Regeneration in a particular stand is obtained during a short period at or near the time that the stand has reached the desired age or size and is harvested. Clearcutting, shelterwood cutting, seed tree cutting, and their many variations are the cutting methods used to harvest the existing stand and regenerate a new one. In even-aged stands, thinnings, weedings, cleanings, and other cultural treatments between regeneration cuts are often beneficial. Cutting is normally regulated by scheduling the area of harvest cutting to provide for a forest that contains stands having a planned distribution of age classes."

"( ) "Uneven-aged Silviculture": The combination of actions that results in the creation of forests in which trees of several or many ages may grow together. Managed uneven-aged forests may take several forms depending upon the particular cutting methods used. In some cases, the forest is essentially similar throughout, with individual trees of many ages and sizes growing in close association. In other cases, small groups of trees of similar age may be intermingled with similar groups of different ages; although the groups are even aged, they are not recorded separately. Finally, an uneven-aged forest may contain two or three distinct age classes on the same area, creating a storied forest. Under uneven-aged silviculture, regeneration is obtained at several or many times during the period required to grow an individual tree to maturity. Single-tree selection cutting, group selection cutting, and other forms of partial cutting are used to harvest trees, obtain regeneration, and provide appropriate intermediate culture. Cutting is usually regulated by specifying the number of proportion of trees of particular sizes to retain within each area, thereby maintaining a planned distribution of size classes. Scheduling by area harvest is often used as well."

At a number of places throughout the text we have urged that the principles of integrated pest management govern the choice and application of pest management practices. Accordingly, we propose that the following definition be included:

"( ) "Integrated Pest Management": A process in which all aspects of a pest-host system are studied and weighed to provide the resource manager with an information base for decisionmaking. Integrated pest management is, therefore, a part of forest or resource management. The information provided includes the impact of the unregulated pest population on various resource values, alternative regulatory tactics and strategies, and cost/benefit estimates for these alternative strategies. Regulatory strategies are based on sound silvicultural practices and ecology of the pest-host system and may consist of a single tactic such as application of a pesticide, or a combination of tactics such as stand improvement plus selected use of pesticides. The overriding principle in the choice of strategy is that it is ecologically compatible or acceptable."

Finally, certain other terms could be misinterpreted and should be defined. These include: *Guidelines, policy, procedure, Regional Area Guides, Regional Silvicultural Guides, standards,* and *type conversions.* We recommend that the Forest Service

[7] 94th Congress. Second Session Report 94–1478, Part 2, hereafter House Report.

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prepare such definitions and include them in the final regulations.

219.4 Planning Levels

We have previously discussed the importance of the three-tiered planning concept and of the regional plan. In addition, we have pointed out that the wording of the draft regulations does not adequately convey the important iterative nature of the three levels of planning.

The proposed regulations describe the Congressional requirement that the Chief of the Forest Service develop the National RPA Assessment and Program. They further require that each regional forester develop a plan for his region. The latter plans must both contribute to, and respond to, the national RPA Program by providing (1) long-range policy, goals, and objectives for the region assigned by the national program; (2) the ability of the region to achieve the assigned output levels of goods and services; (3) resource objectives for the land in each forest plan; and (4) guidelines to resolve public issues and management concerns, including such matters as size of clearcuts to be used in different forest types. It is at the regional level, therefore, that the Secretary of Agriculture is to meet the expectation of Congress that he "prescribe, according to geographic area, forest types or, other suitable classifications, appropriate systems of silviculture" and, on the basis of similar classifications, "maximum size limits for areas to be cut in one harvest operation" (NFMA, 6(g)(3)(F)(iv)). The regulation concludes with general statements relating to the forest supervisor's responsibility for developing the forest plan and with general provisions for the scope and content of that plan.

Although the general structure of this section is adequate, changes are needed to (1) make clear the iterative exchanges among the various planning levels and (2) the procedures for developing the reginal plan and its content.

Therefore, we propose the following language to be inserted in lieu of the existing 219.4:

"219.4 Planning Levels

The planning process includes detailed upward flows of information on local production capabilities and costs as well as local and regional demands. The national level aggregates local information, ensures that national demands are considered, and decides on the appropriate level of national, regional, and local activities and budget allocations under various reasonable and likely total budget levels.

(a) National. The Chief, Forest Service, shall formulate the Renewable Resources Assessment which will analyze the present and future demands for and supplies of the nation's forest and rangeland renewable resources. Demands will be assessed over a range of prices including the price which would equate supply and demand. The assessment of supply will indicate the feasible range of alternative mixes of outputs which may be forthcoming at each of various reasonable cost levels and will be based on the capabilities of local land units. The Chief shall also analyze opportunities to improve or extend the uses of the nation's forest and rangeland renewable resources. The Chief shall develop a recommended renewable resource program, based on the assessment, which will best meet the needs of the general public giving consideration to the costs of supply and the relative values of outputs as determined through the assessment of demands for both market and non-market outputs. The program will include quantified national renewable resource goals and objectives and the portion of each national goal and objective expressed as a range of outputs, which shall be assigned to each region for the regional plans. The ranges of regional goals and objectives will be based on local supply capabilities and costs so that a region can be expected to achieve the assigned level of goods and sevices from National Forest land. The goals and objectives will be re-evaluated and adjusted in subsequent revisions to reflect changes in relative values of goods and services and changes in the costs and capability in supplying such outputs.

(b) Regional. Each Regional Forester shall develop a regional plan designed to accomplish the region's assigned portion of the national program. The regional plan shall meet the minimum content requirements described in *'219.8'*, shall be developed utilizing the inderdisciplinary approach described in 219.5, and shall utilize the public participation and coordination requirements generally described in 219.6 and 219.7, and as further specified in *'219.8(c)'*.

(c) Forest. Forest plans shall be developed for all lands in the National Forest system. One forest plan may be prepared for all lands for which a Forest Supervisor has responsibility, or separate forest plans may be prepared for each National Forest, or combination of National Forests, within the jurisdiction of a single Forest Supervisor. These forest plans will constitute the land management plans developed in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act and will include all resource management planning. Forest plans must identify the range of resource capability information which is needed to formulate national, regional and local goals and objectives. In particular, they should indicate a range of alternative mixes of outputs which would be forthcoming at each of various reasonable budget levels for the local planning unit. Forest plans will be consistent with the goals and objectives set forth in the regional plan."

In addition, we propose a new section to be entitled Regional Plan, to be worded as follows, with subsequent sections renumbered:

" '219.8' Regional plan

(a) Regional plans must contribute to and respond to the Renewable Resource Assessment and Program by providing the following as a minimum:

(1) Long-range regional policies, goals, and objectives assigned by the National Program;

(2) Resource production objectives for each forest plan consistent with the regional plan;

(3) Guidelines to resolve public issues and management concerns, including those specific items mentioned in *'219.8(e)'* and those items identified through public participation and coordination activities.

(b) An environmental impact statement shall be prepared for each regional plan or revision thereof.

(c) In preparing the regional plan, the Regional Forester shall be guided by the general requirements for operation of the interdisciplinary team (219.5), for public participation and environmental impact statement preparation (219.6) and for coordination (219.7). However, public participation and coordination activities shall be adapted to the circumstances of regional planning. Particular efforts shall be made to involve regional and national representatives of interest groups. Coordination shall stress involvement by appropriate state, multi-state and regional agencies and entities. Efforts shall be made to obtain appointment of the designated state official described in *'219.7(d)(1)'* and to coordinate with each state through that person.

(d) Because Forest Service regions are heterogeneous, contain diverse topography, soils and forest types, and reflect widely differing political and social circumstances, the Regional Forester shall include in the regional plan a discussion of these specific differing conditions and circumstances. He may do this through preparation of Regional Area Guides as defined in § 219.8.

(e) In addition to public issues and management concerns identified through public participation and coordination, each regional plan shall:

(1) Prescribe according to geographic areas, forest types, or other suitable classifications, appropriate systems of silviculture to be used within the region;

(2) Determine, according to geographic areas, forest types; or other suitable classifications, at least the maximum size limits for areas to be cut in one harvest operation. In establishing such size limits, the factors enumerated in *'219.10(a)(3)(ii)'* shall specifically be considered;

(3) Set standards for biological growth potential to be used in determining the capability of land for timber production as required in *'219.10(d)(2)'*;

(4) Set standards, by forest type or species, for assuring that all stands of trees have reached the culmination of mean annual increment prior to harvest;

(5) Define the management intensity and utilization standards to be used in determining harvest levels for the region;

(6) Specify by geographic areas, forest types, or other suitable classifications, the minimum number, size, distribution, and species composition of regeneration necessary to define adequate restocking as required in *'219.10(d)(2)'*.

(7) Establish the alternate cost standard(s) or price(s) to be used in determining the potential economic suitability of land for commercial timber production as required in *'219.10(d)(2)'*. These prescriptions, size limits, and standards shall be justified through the use of appropriate scientific and technical criteria and may be established either as an integral part of the regional plan or through Regional Silvicultural Guides as defined in § 219.3. If guides are prepared, then such preparation shall be subject to the same public participation and approval requirements as pertain to the regional plan and they shall be considered as a part of the regional plan. When geographic areas or forest types occur in more than one region, prescriptions, size limits, and standards shall be prepared to assure their compatibility as well as the compatibility of inventory data and monitoring techniques. In the event that regional plans establish different prescriptions, size limits, or standards for the same geographic area or forest type, each regional plan involved shall explain and justify such differences.

(f) The regional forester shall transmit the proposed regional plan to the Chief, Forest Service, for approval. The Chief shall review the transmittal and take either of the following actions:

(1) Approve the transmittal, which may become effective 30 days after the date on which the final environmental impact statement is filed with the Environmental Protection Agency, and attach to the plan a statement documenting approval; or

(2) Disapprove the transmittal, which shall be returned to the Regional Forester with a written statement of the reasons for such disapproval.

(g) When each regional plan is approved, each forest plan prepared under these regulations will be revised or amended to bring it into conformity as soon as practicable.

(h) For purposes of administrative review pursuant to § 211.19 of this title, the approval or disapproval of the regional plan shall be the only decision subject to review. The period for submission of a notice of appeal shall run from the date of filing of the final environmental impact statement with the Environmental Protection Agency.

(i) All regional plans must be reviewed after each National Program is adopted, or whenever the Regional Forester or the Chief of the Forest Service deems it desirable. Revisions must be prepared in accordance with the requirements outlined in the section for preparation of regional plans, and will not become effective until approved in accordance with the provisions of *'219.8(f)'*."

219.5 Interdisciplinary Approach

A key provision of RPA/NFMA requires that Forest Service planning use a "systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences." This requirement appears in section 6(b) of RPA/NFMA and was contained in one of the two original sections of the RPA/NFMA relating to planning when it was passed in 1974. One of the key concerns of Congress as it framed RPA/NFMA, therefore, was to insure that this requirement would be met during the planning process. The Senate Bill actually contained a statement that regulations promulgated by the Secretary of Agriculture "shall include * * * specifying how the interdisciplinary approach * * * will be implemented." Although this requirement was not included in the compromise bill adopted by the Conference Committee, the Conference Report states that "The Conferees anticipate that the regulations promulgated under amendments to present section 5 of the RPA will specify how the interdisciplinary approach required by the RPA will be implemented (including the manner in which the expertise of affected state agencies will be obtained and used in the preparation of plans) * * *" Therefore, it is clear that the regulations must include provisions that describe how the interdisciplinary approach will be implemented. In short, they must do more than state that an interdisciplinary approach will be used. They must describe how it will work.

There is a special burden on the Committee of Scientists with regard to the interdisciplinarity requirement, because section 6(h) of NFMA states that the second of the Committee's two charges is "* * * to assure that an effective interdisciplinary approach is proposed and adopted." We have taken this admonition to heart in our analysis of the regulations and, as we will show, find that the material contained in the draft regulation is not adequate to "assure an effective interdisciplinary process."

The Committee feels that there are three issues central to assuring that an effective interdisciplinary approach is adopted. These are:

1. The composition of the team and the qualifications of its members.
2. The philosophy that guides the team while it operates.
3. The actual planning process that the team uses.

Requirements must be spelled out in each of these areas in order to provide a satisfactory framework within which the team can work.

The draft regulations provide (219.5) only the barest of guidance as to the composition of the team, the qualifications of its members, and the philosophy that will guide its operation. Much more detail is provided about the planning process that is to be used (219.5). The draft is, therefore, deficient in its requirements for interdisciplinarity.

Discussions of implementation of the interdisciplinarity requirement occupied much time at our meetings, and it is clear from these discussions that assuring an interdisciplinary approach through regulations is very difficult. There are a number of pitfalls, and a discussion of these will reveal some of the problems that the Committee feels should be addressed in the final regulations.

Obviously, the composition of a planning team and the qualifications of its members are crucial to its success. It is clear that listing in the regulations the disciplines to be included on each planning team will not assure

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interdisciplinarity nor will a detailed elaboration of qualifications assure team members who are capable of interdisciplinary interaction. Therefore, we concur with the requirements of the draft regulations that provide for flexibility with regard to the number and qualifications of members of teams and with the requirement that the names of team members and their qualifications be contained in the plan (219.9(i)(8)). However, we feel that more specific requirements are necessary, and we suggest substitute language.

As we have stated, immediate implementation of the draft regulations, or of our suggested alternatives, will place great stress on the professional resources of the Forest Service. Past staffing patterns, combined with recent limitations on personnel ceilings, will make it difficult to activate large numbers of interdisciplinary teams in the near future. Rather than using this difficulty as a reason for faulty or abbreviated planning, the agency should begin immediately to seek increased specialist assistance through short-term employment arrangements, and to implement accelerated training and retraining efforts for current employees.

The statement from the Conference Report that " * * * the manner in which the expertise of affected state agencies will be obtained and used in the preparation of plans * * *" makes it clear that involvement of the states in Forest Service planning was a desirable feature in Congress' eyes. The same view was presented to us in our meetings, paricularly by Forest Service and state personnel in Alaska. There, it was made clear that the success of Region 10's planning effort could in large part be attributed to the fact that state personnel participated as full members of the interdisciplinary teams. Original drafts of the regulations dealing with interdisciplinarity included the provision that persons other than Forest Service employees might also be appointed to interdisciplinary teams. We have been informed that this procedure may be contrary to certain provisions of the Federal Advisory Committee Act, although we have not been given a copy of the legal ruling. This situation seems to constitute another of those interesting situations where the intentions of Congress may well be foiled by its own legislative actions. The Committee believes very strongly that state personnel, and other private citizens where appropriate, should be able to serve on interdisciplinary teams. On the assumption that this is, at least for the moment, not legally possible, the Committee proposes no language to deal with the matter for inclusion in the section on interdisciplinarity but rather includes proposals for consideration in § 219.7 (coordination).

The philosophy that guides a team is also crucial to its success. Its essential features are that appropriately qualified team members interact in an essentially continous manner so as to give consideration to all resources, and to the effects of management of one resource upon other resources. The final product must be the result of cooperative effort among all team members and not just a series of individual disciplinary reports integrated together. The draft regulations provide very little language expressing the flavor of this philosophy, and the Committee therefore proposes additional language.

The planning process described in § 219.9 certainly can be implemented by a properly constituted, properly managed interdisciplinary team. Properly executed, the proceses envisioned can lead to interdisciplinary consideration, evaluation, and resolution of issues. As indicated later, we find the planning process adequate and consistent with the interdisciplinary requirements of RPA/NFMA.

In order to incorporate the above comments into the final regulations, we propose the following substitute language for § 219.5 in its entirety:

"219.5 Interdisciplinary Approach

The Forest Service shall use an interdisciplinary approach at each level of planning in the National Forest system to assure that plans provide for multiple use and sustained yield of the products and services to be obtained from the National Forests in accordance with the Multiple Use-Sustained Yield Act of 1960. This approach must insure coordinated planning for outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness. Land management systems, harvest levels, and procedures must be determined with due consideration for (1) their effects on all resources, (2) the definition of "multiple use" and "sustained yield" as provided in the Multiple Use-Sustained Yield Act of 1960, and (3) the availability of lands and their suitabilities for resource management. The interdisciplinary approach shall also incorporate public participation (219.6) and coordination with other levels of government and with other federal agencies (219.7).

(a) An interdisciplinary team shall be used at each planning level to carry out interdisciplinary planning and to advise the responsible Forest Service official. Through essentially continuous interactions, the team shall insure that planning achieves the goals of multiple use and sustained yield management, by giving consideration to all resources and to the effects of management of one resource upon other resources. The interdisciplinary team shall be guided by the fact that the forests and rangelands of the National Forest system are ecosystems and, hence, that management for goods and services requires an awareness of the interdependencies among plants, animals, soil and the other environmental factors that occur within such ecosystems. Proposed management programs must be both consistent with the nature of these interactions and based upon the results of economic and social analysis. Of necessity, the interdisciplinary team must be composed of individuals with different technical backgrounds representing different disciplines. However, the team must inventory resources, assess management needs and opportunities, make economic and social analyses, develop and evaluate alternative management programs, and recommend a selected alternative in a manner that reflects integrated analysis throughout. The interdisciplinary team may choose any one or a combination of the many techniques and strategies available for achieving interdisciplinary planning. Throughout, however, the interdisciplinary team shall bear in mind that the goal is a technically sound and integrated management plan.

(b) The Forest Service official responsible for development of a plan shall determine the size of the interdisciplinary team and appoint its members. The team shall be composed of Forest Service personnel who collectively represent the appropriate areas of specialized knowledge about natural resources management applicable to the area being planned. The official shall also appoint the leader of the team, and may change the membership of the team as deemed necessary. Where Forest Service employees with appropriate expertise or qualifications are not available, the team shall consult persons other than Forest Service employees.

Note.—If it proves legally possible for persons other than Forest Service employees to serve as members of teams, we recommend that the last clause of the last sentence of (b) read: "the official may also appoint persons other than Forest Service employees as team members."

(c) In the appointment of the interdisciplinary team, the responsible Forest Service official shall determine and consider the relevance of the qualifications of each potential team member on the basis of the areas of major concern being addressed in planning for the land area under consideration. Each team member shall, as a minimum, have either (1) successfully completed a course of study in an accredited college or university leading to a bachelor's or higher degree in the member's specialized area of assignment or (2) recognized expertise and experience in professional investigative, scientific or other responsible work in the speciality which the member represents. Where available, certification programs will be used both to assure competency of individual team members and to document disciplinary representation. Field experience in the area to be planned shall be considered a desirable attribute for potential team members.

(d) In implementing the plan, the Forest Supervisor will assure an interdisciplinary approach by using a staff of several disciplines. If the Forest Supervisor determines that a new team is needed for evaluation or revision (219.9(j)) of the plan, a new interdisciplinary team will be appointed."

219.6 Public Participation

The need for participation by the public during the development of Forest Service plans and policies was stressed throughout the debate preceding the passage of NFMA. It seems clear in retrospect that many of the problems the Forest Service encountered in gaining public acceptance for its management programs stemmed directly from the agency's failure to inform and involve the public in its decision-making process. Despite strong efforts in the mid-1970's to develop effective public involvement programs, some skepticism about the Forest Service's efforts and sincerity still exists.

Congress recognized this problem and included specific language mandating public participation as an integral part of planning at several key places in its amendments to section 5 of the original RPA. The most explicit is in section 6(d) which states (1) that "the Secretary shall provide for public participation in the development, review, and revision of land management plans"; and (2) that plans or revisions shall be made "available to the public at convenient locations in the vicinity of the affected unit for a period of at least three months before final adoption, during which period the Secretary shall publicize and hold public meetings or comparable processes at locations that foster public participation in the review of such plans or revisions." the first requirement originated in the Senate and the second in the House bill. Section 6(f)(1) embodies a provision of the original Senate bill that requires plans to "form one integrated plan for each unit of the National Forest system, incorporating in one document or set of documents, available to the public at convenient locations, all of the features required by this section." In addition, public participation is required in regard to several specific actions, such as in exceeding the maximum size of clear cuts and in developing exceptions to the standards that insure that trees have reached the culmination of mean annual increment prior to harvest. Finally, the Secretary is given general authority (section 14 of (RPA/NFMA) to establish regulations relating to Forest Service public participation programs and to establish such advisory boards as he deems necessary. This latter provision originated in the Senate, and the Senate Report (p. 40) makes it clear that the Senate envisioned advisory boards at "the national level and for each region and National Forest." The conference report makes it clear that Congress intended that the regulations governing the planning process specify "procedures to insure public participation."

The minimal elements of adequate public participation can be drawn from these provisions. The public must be adequately informed of Forest Service planning activities throughout the process, the plans must be available in convenient locations, and the documents forming a plan must be integrated and located together at a convenient location so as to allow public inspection of them. Furthermore, the procedures devised to insure public participation must be clearly spelled out in the regulations governing the planning process.

The importance of public participation in Forest Service planning and of the need for a clear and unequivocal set of regulations to govern it was stressed to us at our meetings and in written material submitted to us. Without clear regulations the public does not know what is being done, when it is being done, or how to influence the course of events. It was also made clear that, to be entirely satisfactory, the regulations governing public participation must require Forest Service officials to evaluate public input and to show how that input was considered in reaching planning decisions.

Recent efforts of the Forest Service seem to us to emphasize its clear dedication to meaningful public participation. We have already called attention to the openness with which these draft regulations were prepared. The Forest Service deserves a great deal of the credit for this; it made clear from the beginning that full public participation was desired. The public participation effort associated with RARE II is also impressive. Regardless of one's attitude toward RARE II, one must be impressed with the enormous effort the Forest Service has made to solicit public comment and involvement in the process.

The proposed regulations do specify requirements for public participation that the Forest Service must meet as it carries out its planning activities at each level. They require that public participation be used throughout the development, revision, and significant amendment of plans, although the scope and kind of participation is left to the discretion of the Forest Service official. This process begins with the notification in the **Federal Register** of intent to prepare a draft environmental impact statement. Certain notice requirements are spelled out and responsible officials are allowed the latitude to adapt to the circumstances with which they are confronted. The draft regulations require that a list of interested individuals and groups be kept and notified of all public participation activities. All activities must be documented. Plans are to be made available at certain specified locations and availability at other locations convenient to the public is discretionary.

Although the proposed regulations offer a good general framework for public participation, it is our view that more specific requirements in several areas should be included. Although the proposed regulations are long, and will be made longer by the addition of the material we propose, we consider the additional specificity necessary. It is particularly important that regulations specifying the way in which the public can be involved in planning are clear, because these are the "ground rules" that the public will read and use to govern its actions.[1] Vagueness and unreasonable discretion can only lead to discontent and an unhappy, uninformed public.

We propose additions in the following areas:

1. There should be, in addition to a general policy statement at the beginning of the section, a brief

[1] We are indebted to the Environmental Protection Agency for several ideas and concepts which we "borrowed" from its draft regulations for public participation in several water quality programs issued July 31, 1978.

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statement of the objectives of public participation. This statement should specify that the purpose is to obtain the views of the public on the issues to be dealt with in planning, to inform the public of proposed Forest Service actions, and to solicit responses to these proposed actions. The purpose is a mutual program of information exchange and education involving the public and its resource management specialists. Public participation should not be construed as a vote-gathering mechanism; rather, it is a mechanism for insuring well informed, thoroughly considered, and completely open decisionmaking by the Forest Service.

2. Public participation should take place at a certain minimum number of specified key steps in the planning process. Specifying these steps will assure that the public has an opportunity to participate "throughout" the process and will provide guidance to the Forest Service official in establishing a process adapted to the conditions of the plan he is developing. The regulation should be modified to require public participation, at a minimum, (1) at the beginning of the process, (2) after the conclusion of inventories and assessment, and (3) before a preferred alternative is chosen.

3. In addition to the requirement for documentation in the draft regulations (219.6(h)), the final regulations should require the responsible official to show evidence that he has analyzed, evaluated, and considered all public input obtained during the process of developing a plan. Although this is a requirement of NEPA regulations, we feel it advisable that it be restated in the context of these regulations.

4. Some effort should be made to specify the kinds of places that would meet the "other convenient locations" wording in the law. Although there is clearly no end to the places that could be specified, we suggest that, as a minimum, at least the county court houses or public libraries in the counties directly affected by the plan be specified.

5. So as to clarify the scope of activities included as public participation, we recommend moving the definition of public participation activities from § 219.3 to 219.6.

6. The direction contained in the first sentence of section (b) of the draft regulations needs to be clarified. As presently worded, the responsible Forest Service official is free to determine the nature of the public participation for any planning effort. We propose that clearer direction be provided by:

a. Stressing that informal activities are to be encouraged so that free exchanges of information and views between the Forest Service and the public are the outcome;

b. Stating that obscure notification, as in the legal pages, shall not be acceptable as the sole means of public announcement of proposed meetings;

c. Indicating that public participation does not remove the responsible official's obligation to meet with and provide information to persons under other authorities.

7. Finally, the public is entitled to some general guidance as to the kinds of informational materials that will be available for use in conjunction with the public participation program. Although the character of these clearly should not be specified in regulations, the public is entitled to know that the Forest Service intends that these materials be designed to encourage public understanding and involvement, that they summarize complex issues, that they present alternative courses of action and their estimated consequences and, above all, that they be clearly written.

To resolve these points, we propose the following new wording, for inclusion instead of the existing 219.6:

"219.6 *Public participation*

(a) Land and resource planning determines how the public lands of the National Forest system are to be managed. Therefore, it is Forest Service policy that the public have the opportunity to participate and become involved throughout the planning process and that plans at every level consider the issues and concerns raised by the public. The objectives of public participation are to: Insure that the public understands Forest Service programs and proposed actions, and that the Forest Service understands public concerns; assure that no significant decisions are made without consultation with interested and affected segments of the public; assure that Forest Service actions are responsive to the maximum extent feasible to public concerns; and demonstrate that public concerns are evaluated and considered.

(b) As used in this section, public participation activities include public hearings, meetings, conferences, seminars, workshops, tours and similar activities scheduled and held to obtain comments from the general public and specific "publics." It also includes solicitation of written comments from individuals and groups.

(c) The responsible Forest Service official shall use public participation throughout the development, revision, and significant amendment of plans. Public participation activities as defined in (b) above should be appropriate to the level of planning, geographic area or areas, and people involved. Means of notification should be appropriate to the level of planning. Activities which unreasonably inhibit the public or the Forest Service from freely expressing views because of onerous legal requirements or the necessity for technical qualifications on the part of participants should be avoided. In no case should public hearings be the only form of public participation used. Public participation activities should be scheduled at times convenient to the public. Informational materials provided during public participation should be clearly written, should summarize complex technical materials in a manner appropriate for public and media uses, and should be designed to encourage the public to participate in significant decisions, particularly where alternative courses of action are proposed. When documents are summarized, the location of the full document should be noted. Significant issues that are to be the subject of decisionmaking should be stressed. Whenever possible, the social, economic, and environmental consequences of proposed decisions should be clearly stated.

(d) Public participation activities shall be initiated by media notice which includes the following information:

(1) Description of the proposed planning action;

(2) Descriptions of the geographic area to be planned with maps if appropriate;

(3) The issues expected to be discussed;

(4) The kind and extent of public participation to be used;

(5) The times, dates, and locations scheduled or anticipated for public meetings;

(6) The name, title, address, and telephone number of the Forest Service official who may be contacted for further information; and

(7) The location and availability of documents relevant to the planning process.

Notice of subsequent public participation activities shall include, as a minimum, a statement of the issue(s) to be discussed and the general nature of the public response desired. Such notice shall be given directly by U.S. mail or other means to any individual or group who has requested direct notification and by any other appropriate media notice. With regard to notice of any public participation activities, publication as a legal notice shall not be acceptable as the sole means of public notification.

(e) Public participation activities in the preparation of a draft environmental statement for planning shall begin with the publication of a notice of intent to prepare a draft environmental impact statement in the Federal Register. After this publication, all public participation activities for land and resource management planning, including those required by the National Environmental Policy Act, shall be conducted simultaneously.

(f) Public notice will be given at least 30 calendar days prior to activities associated with the development of national or regional plans. Public notice will be given at least 15 calendar days prior to activities associated with forest plans. Any notice requesting written comments on national and regional planning will allow at least 60 calendar days for responses, and on forest planning will allow at least 30 calendar days for responses.

(g) In the preparation of forest plans, the Forest Supervisor shall schedule public participation activities as a minimum at the following points in the planning process: (1) At the beginning of the planning effort as required in (e) above; (2) after completion of the inventory and assessment process and prior to the development and selection of alternatives; and (3) prior to the selection of the preferred alternative.

(h) A list of individuals and groups known to be interested in or affected by the plan shall be maintained. They shall be notified of public participation activities.

(i) The responsible Forest Service official or his representative shall attend all Forest Service public participation activities.

(j) All scheduled public participation activities shall be documented by a summary of the principal issues discussed, comments made, and a register of those in attendance. In addition, the plan shall contain written material demonstrating that the significant issues raised during public participation have been analyzed and evaluated as required in 219.9(a) and summarizing the Forest Service's response to them.

(k) Copies of draft and approved plans shall be reasonably available for public review as follows:

(1) Renewable Resource Assessment and Renewable Resource Program shall be available at national headquarters, each regional office, each Forest Supervisor's office, and each District Ranger's office;

(2) The regional plan shall be available at national headquarters, at the regional office and the offices of contiguous regions, at each Forest Supervisor's office of forests within and contiguous to that region, and at each District Ranger's office in that region;

(3) The forest plan shall be available at the regional office for that forest, at that Forest Supervisor's office and the Forest Supervisor's offices contiguous to that forest, at each District Ranger's office in that forest, at those District Ranger's offices in other forests that are contiguous to that forest, and at the county or court houses or public libraries in the counties (or similar government units) where the forest is located.

(4) For public information purposes, copies of the above plans may be made available at other convenient locations.

(l) Supporting documents to plans shall be available at the office where the plan was developed.

(m) Upon issuance of a draft environmental impact statement on a forest plan, revision or significant amendment, and concurrent with the public participation activities under paragraph (g) of this section, the public shall have a 3-month period to review the statement for the proposed forest plan, revision or significant amendment. During that time additional public participation activities will take place to review the actions proposed in the draft environmental impact statement.

(n) Fees for reproducing requested documents may be charged according to the Forest Service schedule for Freedom of Information Act requests (7 CFR 1.1 et seq., Appendix A).

(o) Compliance with the formal public participation requirements of this section does not remove the requirement for the responsible Forest Service official to meet with, or supply relevant information to, interested parties."

219.7 Coordination

There is a major concern at present about the real or apparent lack of coordination among government programs. Proliferation of programs at the federal, state, and local levels has led to duplication, conflicts in agency missions and, sometimes, contradictory efforts by public agencies. In no area are these problems more evident than in land use planning and management. Recent federal legislation, for example the Coastal Zone Management Act of 1972, section 208 of the Clean Water Act of 1972, and the National Environmental Policy Act, attempt to mediate and resolve such conflicts.

Although governmental coordination was not a major concern in deliberations on future National Forest management, Congress did speak to this issue. A major finding of RPA/NFMA (section 2(2)) is that the public interest will be served by the Forest Service developing, "in cooperation with other agencies," a national renewable resource program. There is also a requirement, transferred from section 5 of the original RPA to the section 6 on National Forest planning of RPA/NFMA, calling for coordination of Forest Service unit (National Forest) planning with other federal, state and local governments. The Conference Report (p. 27) states that the conferees "anticipate that the regulations * * * will specify * * * the manner in which the expertise of affected state agencies will be obtained and used in the preparation of plans * * *"

As we indicated in our discussion of interdisciplinarity, we feel that coordination with other levels of government can be a major factor in the successful completion, approval, and implementation of any plan. The benefits of close coordination with state agencies, for example, were made clear to us at several locations. The apparent success of the regional planning effort in Alaska is a prime example.

Federal land managers, including those of the Forest Service, recognize the threats to the lands they manage resulting from the failure of governments to coordinate their actions. In a study still underway by the Conservation Foundation, such managers identified the expansion of small communities within or near their borders as the most serious threat to the purposes of the unit in their charge. The impacts of such development include problems such as water and air pollution, destruction of wildlife habitat and interference with wildlife migration routes, aesthetic blight, and constant demands for federal lands to provide community facilities. However, the same study showed, through documented field interviews, that federal "field level managers have a relatively low level of understanding and interest in such planning efforts as Section 208 Areawide Wastewater Management, Coastal Zone planning and State Comprehensive Outdoor Recreation Plans. These planning processes appear to be useful mechanisms for resolving conflicts and recognizing cooperative management opportunities." It is painfully clear that uncoordinated planning by different levels of government that fails to consider mutual goals and policies is a major cause of threats to federal lands.

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Although coordination will not, in itself, resolve these problems, it will provide the framework within which they can be identified and discussed, and through which alternatives for their resolution can be developed.

The proposed regulations require that planning be coordinated with other governmental entities and that responsible Forest Service officials "shall consult systematically and as often as appropriate" with such entities. There is also a requirement that notice of intent to prepare or revise a plan shall be given through the A–95 State Clearinghouse process. Consultation must be documented in the record of the plan. Beyond these very minimal requirements, the scope and nature of the coordination effort is left entirely to the discretion of the responsible Forest Service official.

It is our opinion that the draft regulations for coordination are not adequate. They neither meet the intent of Congress nor provide a clear set of requirements that will assure an optimum coordination process on the part of the Forest Service. The proposed regulations require little more than a mutual review of plans. We feel that the proposed regulations neither allow other governmental units to understand how they can become involved in Forest Service planning nor require the Forest Service to make more than a *pro forma* effort at real coordination. Although extensive coordination could possibly be accomplished under the proposed regulations, it is not required nor are its minimal elements spelled out.

This deficiency is all the more serious in light of the apparent legal barriers against state officials serving on interdisciplinary teams. As we have stated, we would much prefer to see state agency personnel actually serve as members of planning teams. Although we propose a strategy to avoid the problems that are created by the absence of such service, the strategy is awkward and untested. Almost all comments on the regulations from state agencies indicated a desire to have their personnel serve on interdisciplinary teams. We feel that the goals of RPA/NFMA would best be achieved by this alternative and we urge the Forest Service to push to put it into practice.

Finally, it has been brought to our attention that these regulations represent an excellent opportunity to coordinate certain actions within the Forest Service, particularly the handling of administratively designated special purpose areas such as research natural areas, geologic areas, botanic areas, etc. The procedure for designation of such areas is now included in the Forest Service manual. We agree with the proposal that designation of such areas be considered in the planning process and such designation be made a part of the regulations.

Throughout our discussion on this coordination we have consistently maintained that the regulations must spell out standards that will promote a positive, constructive interaction between the Forest Service and other federal agencies and state and local governments. These minimum standards should include:

1. A clear statement of the elements of coordination and an obligation that the responsible Forest Service official:

—Be aware of the objectives of other federal, state and local governments as expressed in plans, policies, etc.;

—Assess mutual impacts of these;

—Determine how plans can deal with the issues identified;

—Where conflicts are identified, develop and discuss the alternative programs or policies which might contribute to their resolution.

2. A positive requirement that state agency representatives or other qualified persons be involved and consulted as the interdisciplinary team executes the planning process. If state representatives cannot be appointed to teams, then some other mechanism must be established to provide the desired link. As indicated in the proposed regulations such consultation should be documented in the record of the plan.

3. Although A–95 notification with subsequent coordination allows for notice to be given to state and local governments of the initiation of planning, it is not a useful vehicle for effecting real, ongoing communication between different levels of government. Therefore, we suggest that the regulations require the responsible Forest Service official to seek from the Governor of each state appointment of a designee who would then, on the Governor's behalf, coordinate state and local government input into each plan. The designee would be responsible for the work of the advisory mechanism proposed in item 2 preceding. The requirement should make clear that the Forest Service desires either an official with natural resource experience, such as the chief officer of the appropriate state natural resource agency, or the state planning officer if more appropriate in a given state. While no Governor can be required to appoint such a person, the important point is that the person would be responsible for notifying state agencies and local governments of the Forest Service planning effort and for coordinating their input into the plan.

4. The regulations should require that, in the preparation of plans at each level, the Forest Service show evidence that it has considered the plans, programs, and policies of other units of government which effect national forest management. Non-federal plans and policy documents to be considered should include: Local and/or state land use plans; state economic development or growth plans; state population and growth profections; state transporation plans; state wildlife plans; state comprehensive outdoor recreation plans; section 208 areawide waste treatment plans; state coastal zone management plans; and state energy plans. The forest plan should reflect the fact that the interdisciplinary team studied the relevant state or local plans, policy, and program documents and used, where possible and appropriate, material from them. Without such a requirement, there is no assurance that other plans will be considered.

5. The regulations should insure that coordination, as with public participation, takes place at a certain minimum number of critical times during the planning process. As the regulations stand now, consultation shall take place "systematically and as often as appropriate." Such a guideline is too discretionary. We suggest that, as a minimum, the opportunity for coordination be required (1) at the beginning of the planning process, (2) after issues and opportunities for management are identified and prior to the development and selection of alternatives, and (3) prior to the selection of the preferred alternative.

6. The private lands that exist intermingled with National Forest lands throughout the systme pose a special coordination problem. The goals of the owners of these lands and the management practices followed can have a major impact on National Forest lands. The reverse is, of course, also true. Therefore, it would seem to be desirable that a special effort be made in conjuction with forest planning to identify the goals and plans of the owners of intermingled lands and, to the maximum extent feasible, coordinate management acitvties on the two classes of ownership.

7. A provision should be included calling for coordination within the Forest Service in the establishment of administratively designated special purpose areas.

8. Finally, the requirements for coordination should be reiterated at appropriate locations in conjunction with the requirements on forest planning (219.8 and 219.9). Such repetition would clarify the full intent of the planning process and would strengthen its integrity.

In order to incorporate these provisions, we recommend that the following material be substituted in its entirety for the existing 219.7:

"219.7 *Coordination of public planning efforts*

Efficient management of the resources of the National Forest system requires that planning be thoroughly coordinated among all levels of government, including state and local jurisdictions, and multi-county and multi-state bodies. Such coordination is necessary in order to insure wise use of regional and local resources and to insure, consistent with requirements of federal law, that governmental objectives, policies, and programs for management of those resources are compatible to the greatest extent possible. Therefore, the Forest Service shall maintain ongoing coordination of its national, regional, and forest planning with the equivalent and related planning efforts of state, local and other federal government agencies and with Indian tribes.

(a) The responsible Forest Service official, through the interdisciplinary team, shall coordinate Forest Service planning with land and resource management planning processes of other affected public entities, and Indian tribes.

(b) The purpose of coordination is to insure that plans at every level in the Forest Service include:

(1) An awareness and discussion of the objectives of other federal, state, and local governments and owners of intermingled private lands as expressed in their plans and policies;

(2) An assessment of the mutual impacts of these plans and policies;

(3) A determination of how each Forest Service plan should deal with the issues and impacts identified; and

(4) Where conflicts are identified, a presentation of the alternatives for their resolution.

(c) The responsible Forest Service official shall give notice of the preparation or revision of a forest plan along with a general schedule of anticipated planning steps to the State Clearinghouse (OMB Circular A–95) for circulation among state agencies. The same notice will be mailed to all Tribal or Alaska Native leaders to the extent Indian Reservations or Alaskan Native corporations are impacted, and to the heads of county boards for the counties that are involved. These notices shall be issued simultaneously with the public notice required in section *'219.6(e)'*.

(d) In order to facilitate state and local government participation in the planning process, the Chief of the Forest Service shall:

(1) Ask the Governor of each state or territory to designate a single official of that state to serve as the contact person for the Forest Service. In seeking designation of a state official, the Chief shall specify that the Forest Service desires that such appointment shall be either an official with natural resource experience, such as the chief officer of the appropriate state natural resource agency, or an official with responsibility for statewide planning if such appointment is more appropriate to a given state. Contacts with state and local governments relating to the National Assessment, National Program, and regional plan shall be coordinated through the designated state official, and state inputs into those planning activites shall be coordinated by that person. In the case of forest plans, contact shall be through the designated state official or through a person designated to serve in his stead.

(2) In the case of forest plans, ask that the Governor or his designee specified in (1) above appoint appropriate state and local government representatives to participate with the interdisciplinary team in coordinating the input of state and local governments to the forest planning process.

Note: This language becomes unnecessary if it is possible for state personnel to serve as members of interdisciplinary teams.

(e) In the development of forest plans, the Forest Supervisor and his interdisciplinary team shall meet with the designate state official (or his designee), state advisory persons, and representatives of other federal agencies and Indian tribal governments at the beginning of the planning process to develop procedures for coordination. As a minimum, the opportunity for such conferences shall also be required at the following additional times: after issues and opportunities for management have been identified and prior to the development and selection of alternatives; and prior to the selection of the preferred alternative. Such conferences may be held in conjunction with other public participation activities, provided that the opportunities for other governmental officials to participate in the planning process are not thereby reduced.

(f) During the planning process, the responsible Forest Service official shall conduct an inventory, appropriate to each given level of planning, of multi-state, state, multi-county, and local planning and land use regulatory activity. This inventory shall include, but not be limited to, plans affecting renewable natural resources and minerals, recreation, community and economic development, land use, transportation, wildlife, growth, water and air pollution control, and energy. Plans at each level shall document this inventory and discussion of the plans of other entities. Where state and local plans contain population or economic growth projections, this discussion shall specifically analyze these and show their appropriateness, or inappropriateness, for use in meeting the requirements of 219.9(c)(3)(viii). The discussion shall be adequate to meet the purposes described in *'219.7(b)'* above.

(g) In the development of forest plans, the responsible official shall, to the extent feasible, notify in the manner required in (c) above the owners of lands that are intermingled with, or dependent for access upon, National Forest lands and on which management is being practiced similar in character to that being practiced on adjacent National Forest lands. He shall then coordinate, to the extent feasible, his planning activities with these owners. The results of this coordination shall be included in the plan as a part of the inventory required in (f) above.

(h) In developing the forest plan, the responsible Forest Service official shall seek input from other federal, state, and local governments, universities and private research organizations in resolving management problems identified in the planning process and in identifying areas where additional research is needed. This consultation shall be included in the discussion of the research needs of the forest being planned.

(i) The responsible Forest Service official, through the interdisciplinary team, shall coordinate forest planning activities with the efforts of the appropriate forest and range experiment station to identify and study lands meriting consideration for designation as research natural areas, geologic areas, botanic areas, or other special purpose areas. Such coordination shall include at least obtaining recommendations from the station as to areas that should be identified and protected pending study for potential designation.

(j) A continuing program of monitoring shall be carried out that includes consideration of the effects of national forest management on land, resources and communities adjacent to or near the National Forest being planned and the

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effects upon national forest management of activities on nearby land managed by other federal or governmental agencies or under the jurisdiction of local governments."

In addition, we suggest certain changes in sections 219.8 and 219.9.

In 219.8, insert a new paragraph (c) and reletter the remainder of the section as follows:

"(c) *Intergovernmental coordination.* The Forest Supervisor shall contact multi-state, state, multi-county, county, and other local agencies responsible for various planning, development and regulatory programs including, but not limited to, water quality, pest management, recreation, air quality, community development, land use regulation, energy, wildlife, and transportation. The plans, policies and programs of these agencies will be analyzed for their relevance to the forest plan. The Forest Supervisor will systematically consult with these agencies, through the advisory committee, in the development of the forest plan."

In 219.9, revise the introductory language by adding the phrase "and other applicable statutes" at the end of the first sentence and by removing the word "generally" from the second sentence.

In 219.9, revise (a) so that the first sentence reads as follows:

"(a) *Identification of issues, concerns and opportunities.* Public issues, management concerns, and resource use and development opportunities identified through public involvement activities and intergovernmental coordination activities will be analyzed continually in the planning process by the interdisciplinary team."

In 219.9(b) add a new numbered paragraph (4) and renumber the remainder as follows:

"(4) The plans and programs of other federal agencies and the plans, policies and programs of multi-state agencies, state, and local governments."

In 219.9(c)(3) add a new numbered section:

"(xiii) lands meriting consideration for designation under special administrative classification, such as research natural areas, geologic areas, botanic areas, etc."

In 219.9(c) add a new numbered paragraph (4) and renumber the remainder:

"(4) Informational needs must include the plans of other federal agencies and those of state agencies and local jurisdictions relating to resource management, land use, and community development."

In 219.9(e)(2) add a new numbered section (v):

"(v) provision for lands administratively designated as special purpose areas or requiring further study for potential designation such as research natural areas, geologic areas, botanic areas, etc."

In 219.9(i) add a new paragraph (4) and renumber the remainder:

"A description and analysis of the policies, plans, and programs of other federal agencies, multi-state agencies, state, multi-county agencies, and local jurisdictions likely to affect or be affected by National Forest management activities."

219.8 Forest Planning Procedure

This section of the draft regulations is the first of three describing the activities to be carried out as land management plans are developed for each national forest (p. 12). It spells out the planning procedure, that is, the major actions that must be taken and the procedural requirements that must be met as a forest plan is prepared. The section specifies that the Forest Supervisor is responsible for preparation of the plan and that the plan is to be developed by an interdisciplinary team appointed by, and responsible to him. It specifies that the interdisciplinary team shall develop the plan in a manner consistent with the National Environmental Policy Act and that a draft and final environmental impact statement will be prepared for each forest plan, revision, and amendment with significant environmental impacts. Requirements for administrative review, conformity, revision, and amendment are also spelled out.

We consider that the planning procedures outlined in 219.8 are generally satisfactory. The procedures proposed are rational and lay out, in broad terms, the major responsibilities and actions that must be taken. We do, however, recommend certain minor changes in wording. These include:

1. Reword the first sentence of 219.8(b) to read:

"Records shall be maintained that support environmental assessments and alternative plans made by the team and decisions made by the Forest Supervisor throughout the planning process."

2. See new 219.8(c) proposed on p. 80.

3. Reword 219.8(e)(1) as follows:

"(1) Approve the transmittal, which may become effective 30 days after the date on which the final environmental impact statement is filed with the Environmental Protection Agency, and attach to the plan a statement documenting approval; or"

4. Reword 219.8(f) as follows:

"(f) *Administrative review.* For purposes of administrative review pursuant to 211.19 of this title, the approval or disapproval of the plan, revision, or significant amendment, shall be the only decision subject to review. The period for submission of a notice of appeal shall run from the date of submission of the final environmental impact statement to the Environmental Protection Agency."

5. In 219.8(i) delete the word "In" at the beginning of the last sentence and capitalize "The."

219.9 Forest Planning Process

This section of the regulations provides guidelines for the conduct of the planning process at the forest level (p. 12). Since it provides the framework for making land management decisions we believe that the various requirements are as important as the specific resource management standards in the section to follow.

In general, 219.9 calls for a planning process that is consistent with the various requirements of NEPA and RPA/NFMA. It calls for the identification of public issues, for specification of objectives and "planning criteria," for formulation and comparative evaluations of mutually exclusive land management alternatives, for selection of a preferred alternative, and finally for monitoring the outcome of management actions to "determine how well the objectives of the forest plan have been met."

We believe that these several steps are generally consistent with planning methods in the public sector. The planning process described has the potential to ensure that interdisciplinary consideration of all resources uses is achieved. It also provides for an unprecedented degree of public participation throughout the whole planning process.

We gave advice to the Forest Service staff on the technical and scientific aspects of the planning process as the draft regulations were developed. Some of this advice is reflected in the proposed regulations and some is not.

We believe that the draft regulations have particular deficiencies in the following areas:

1. The role of public participation is not adequately clarified. Frequent reference is made to public participation in the planning process, but its function is not adequately defined. Indeed, 219.9(a) and (b) appear to suggest that planning and decisionmaking will be controlled and guided by the requirements of achieving a political consensus at the forest level. We do not believe this was intended, nor do we believe that public participation should be substituted for objective analysis of management alternatives directed toward maximizing the public benefits. A clear, positive statement of policy is needed to guide the interdisciplinary team's use of information from public participation. We have attempted to provide such policy guidance in our proposed language for 219.6(a). We recommend that (a) and (b) of 219.9 be revised to reflect this guidance.

2. The forest planning process should be related to the RPA Assessment and Program. Section 6 of RPA/NFMA clearly establishes that the forest plan is an element of the National program, which in turn is derived from the Assessment. Section 219.9 does not appear to present a planning process or method required to provide the information needed for the Assessment and Program. As an example, 219.9(e)(1) requires that at least four alternatives be formulated and evaluated; only two of these have any relationship to the National Program. Sections 219.9(f) and (g) make no reference to the RPA Assessment and Program at all. Guidelines, methods of analysis, and criteria are needed that are consistent with the information and analytical requirements of the RPA Assessment and Program.

3. Planning objectives should be specifically stated. As it stands, 219.9 provides only indirect, or at best fuzzy, guidance on the primary objective to which the planning effort is directed. If we were planners operating at the forest level, we would look to the regulations for an operational objective to govern the formulation and evaluation of land management plans. None is to be found in the proposed regulations—only a statement that criteria will be prepared throughout the planning process. On several occasions we expressed our concern about this deficiency. We repeat advice given earlier: the planning process should be directed to achieving a level and mix of resource services that maximizes public benefits, subject to technical, environmental, administrative, and budgetary constraints.

4. The role and function of economic analysis should be clarified. Earlier we have pointed out the importance of economic analysis to the RPA/NFMA planning process. We stressed that proposed management practices on the National Forests must be subjected to economic analysis and that such analyses are important in the evaluation of alternatives. The Forest Service needs to clarify in 219.9 how such economic analyses are to be used in decisionmaking.

5. The inventory section (219.9(c)) has certain deficiencies. It enumerates inventory and information requirements and appears somewhat distorted by specific mention of several items required or implied by the language of NFMA. We have no quarrel with their inclusion. There is no equivalent mention, however, of timber type, volume and growth rate, nor of the range resource, or habitat for other than selected animal species. We doubt that all readers of the regulations will understand that these are sufficiently included under "existing plant life" (219.9(c)(2) (iii)). Accordingly, we suggest a more explicit statement.

In the past, data needed for management of individual resources frequently were collected through separate inventories by the functional units concerned. The present need for additional and more detailed inventory data to be used both in interdisciplinary planning and as a baseline in monitoring will call for marked changes in these past procedures. We believe it will be technically feasible and administratively desirable to devise single or combined surveys to gather much of the vegetation data needed for 219.9(c). The methods by which this is done, however, are neither well developed nor appropriate to regulation. Hence, their elaboration is left to the Manual or technical handbooks.

6. Several important provisions for meeting the requirements for diversity in RPA/NFMA are included in 219.9. Section 219.9(c)(2) requires that inventories provide "* * * quantitative data for determining species and community diversity." Since §§ 219.9(f)(3)(vi) and (vii) require an historical analysis of diversity compared to diversity in unmodified natural communities, the inventory data will have to include information on ecological dynamics as well as an analysis of the effects of primative and modern man on trends of ecological succession. We believe this inventory requirement is adequate, considering the state of the art of diversity measurement.

The draft regulations require that each alternative formulated include an analysis of its effects on diversity. They require that the analysis be related to multiple use objectives and to suitability and capability of the land. We believe that § 219.9(e)(2)(vi) should be clarified and strengthened.

A requirement that changes in diversity be assessed is contained in § 219.9(f)(3)(vi) and (vii). We believe the draft regulations are adequate in requiring analysis of how each alternative affects diversity, and of how the proposed changes relate to natural dynamic ecological processes. The specific reference to tree species diversity in subsection (vii) is desirable at this point because it insures that contemplated type conversions will be studies on both forest and range lands. Forest type conversions are also covered in our new *'219.10(a)(6)'*, but we believe the repetition is desirable.

Diversity is not specifically mentioned § 219.9(g) and (h). However, the interdisciplinary team is required to evaluate significant physical, biological, economic, and social effects. Diversity is certainly one of the significant biological effects, and it may be desirable to indicate clearly which effects are to be evaluated. Therefore, we propose that a reference to the physical biological, economic, and social effects listed in subsection (f)(3) be made.

7. The section on formulation of alternatives (219.9(e)) establishes standards for designing the set of alternative land management plans, one of which will be slected as the preferred alternative. The proposed wording has several deficiencies. First, the alternatives that must be formulated are incommensurable since each is designed with a different set of criteria. There is no logical relationship among the alternatives. Second, only one alternative must be consistent with the RPA Program goals for the unit. If the preferred alternative (forest plan) is to be a logical, consistent element of the RPA Program, *all* alternatives must be consistent with the regional plan.

In the following comments, we provide specific recommendations for changes in the proposed regulations. To an extent, these are responsive to the deficiencies noted above. However, the development of regulation language which fully addresses the above points is beyond our responsibilities. That is a task for the Forest Service staff.

Changes recommended are:

1. See proposed change in § 219.9(a).

2. In § 219.9(b) revise (4) as follows and add a new section (5):

"(4) The ecological, technical and economic feasibility of management alternatives; and

(5) The resource management standards and guidelines found in 219.10 of this part."

3. See proposed additional new subsection for § 219.9(b).

4. Delete the present § 219.9(c)(2) and replace with the following:

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"(2) Inventory data must be of a detail appropriate for the management decisions to be made and include at least the following:

(i) Geology and mineral characteristics; (ii) soils, their productivity and behavior under use: (iii) natural water occurrences, including quality and quantity, and wetlands, and flood plains; (iv) existing plant life, including maps of actual and potential plant communities, quantitative measurements of occurrence and condition of timber species, quantitative estimates of range condition and trend, forage availability, and the capability of each site; (v) existing fish and wildlife; (vi) habitat conditions for management indicator species; (vii) existing recreational facilities; (viii) quantitative data for determining species and community diversity; and (ix) threatened and endangered plant and animal species."

5. In § 219.9(c)(3) reword (i), (vii), and (xi) as follows:

"(i) Climatic, geologic, soil hazards, wildfire potential and major potential insect, disease, and other pest problems;"

"(vii) Location and extent of existing mineral claims, and known potential mineral and geothermal resources;"

"(xi) Fire history and effects of fire exclusion and management opportunities;"

6. See proposed new subsections 219.9(c)(3)(xiii) and 219.9(c)(4).

7. In 219.9(d) revise the wording of (1), (3), and (5) as follows:

"(1) The opportunities for providing on a sustainable basis alternative levels and mixes of various goods, services, and uses. Such an assessment shall analyze the productive capabilities of the area under alternative assumptions as to the intensity of management practices and expenditure levels. The assessment of management opportunities shall be consistent with the scope, procedures, and assumptions of the National Assessment required under section 3 of RPA;"

"(3) Projections of public demand and price trends for the various goods, services, and uses for the period covered by the forest plan. To the extent possible, demand will be assessed as a price-quantity relationship;"

"(5) Technical and economic feasibility of providing the levels of goods, services, and uses assigned to the forest by the regional plan and of meeting public demand."

8. In § 219.9(e) rewrite the introductory language and rewrite (1) as follows:

"(e) *Formulation of alternatives.* Based on the analysis of the management situation, a set of management objectives will be developed to guide the formulation of alternative plans. These objectives will provide a statement of the purpose of the actions proposed in each alternative. A reasonable range of alternative land management plans will be formulated by the interdisciplinary team and described in draft and final environmental impact statements.

(1) Reasonable range of alternatives. The alternative land management plans shall be formulated to provide alternative levels and mixes of goods, services, and resource uses for each of several alternative expenditure levels, provided that: (i) Each is capable of being chosen as the selected alternative; (ii) the alternatives include a no-change alternative which will represent existing levels of resource inputs and outputs; (iii) the alternatives provide for varying degrees in the elimination of backlogs of needed treatment for the restoration of renewable resources; and (iv) the alternatives are capable of supplying the range of goods, services, and resource uses allocated to the unit in the regional plan. The range of goods and services allocated to the unit must be consistent with the resource production capability of the unit as determined in the analysis of the management situation described in § 219.9(d)."

9. Rewrite § 219.9(e)(2)(iv) as follows:

"(iv) An analysis of the changes in diversity of plant and animal species and communities, the relation of those changes to capability and suitability, and their relation to achievement of overall multiple-use objectives."

10. See proposed new § 219.9(e)(2)(v).

11. Substitute the following wording for § 219.9(f) in its entirety:

"(f) *Estimated effects of management alternatives.* The physical, biological, economic, and social effects of implementing each alternative shall be estimated and displayed. Estimation of effects will involve at least:

(1) Expected changes in the physical and biological conditions including but not limited to: (i) Soil productivity and plant life; (ii) water quantity and quality, flood plains and wetlands and watersheds; (iii) air quality; (iv) esthetic values; (v) fish and wildlife; (vi) anticipated diversity of plant and animal communities compared to that diversity existing in the area being planned and to the diversity which might be expected to occur under natural forces unaffected by people; (vii) diversity of tree species in relation to that existing and that expected to occur on surrounding areas of similar soil; and (viii) the adverse effects on the human environment which cannot be avoided.

(2) Expected changes in economic and social conditions including but not limited to: (i) Local employment, payrolls, and income, direct and induced; (ii) revenue sharing with local governments; (iii) receipts to the Federal Treasury and capital improvements on the National Forest provided by users; (iv) resource commitments that are irreversible; (v) the relationship between local short-term use of the National Forest and the maintenance and enhancement of its long-term productivity; (vi) required local government services; (vii) prices for and supply of goods and services; (viii) economic stability; (ix) income from property yield and income taxes collected by state and local governments; (x) flow of resources from other lands; (xi) incidence of plan costs and benefits among affected groups; (xii) population in terms of composition, structure, and civil rights; and (xiii) effects on prime farmlands in the area surrounding the forest.

(3) Expected direct benefits and costs of the alternative expressed in present value terms computed with an appropriate interest rate including, but not limited to, the produced goods and services, administrative costs, and the protection and, as appropriate, enhancement of resource values. Direct and indirect benefits and costs will be estimated in accordance with standards and practices for economic analysis established by the Chief, Forest Service. Benefit values shall be based, where possible, on willingness to pay in an actual market. Physical outputs shall be reported for all goods and services provided. Capital investments and operating costs shall be reported separately and shall be charged proportionately to resource outputs which will be realized. Estimated costs shall include the value of resource opportunities foregone.

(4) A benefit-cost analysis including but not limited to (i) the values and costs identified in (2) and (3) above; (ii) the value of existing capital assets, including land, at the beginning and end of the period covered by the plan; and (iii) an economic efficiency indicator, such as benefit/cost ratio or estimated present net worth."

12. In § 219.9(g) reword the first sentence as follows:

"(g) *Evaluation of preferred alternatives.* The interdisciplinary team will evaluate the significant physical, biological, economic, and social effects of management alternatives, according to the planning criteria, including at least those effects listed in subsection (f)(1) and (2) of this section."

13. See proposed new § 219.9(i)(4).

14. In § 219.9(j) revise the introductory language, add new wording to (2)(i), add a new (2)(v), and reword (3) as follows:

"(j) *Monitoring and evaluation.* At intervals established in the forest plan, an evaluation must be made to determine how well objectives of the forest plan have been met. Management activities associated with each of the resources planned shall be evaluated through monitoring on an appropriate sample basis. Methods used to monitor consequences of activities resulting from planning and management activities will be consistent with those used to gather inventory data and will be sufficiently accurate to detect change."

"(2)(i) a quantitative estimate of performance comparing actual accomplishments with those that were anticipated in the plan;"

"(2)(v) unit costs associated with carrying out the planned activities as compared with unit costs estimated in the plan."

"(3) Based upon the evaluation reports, the Forest Supervisor will make such changes in management direction, or revisions or amendments to the forest plan as deemed necessary to meet the forest goals and objectives."

219.10 Resource management standards and guidelines

The NFMA is legislation born in controversy over harvest methods and their application on National Forest lands. Debate in both houses was primarily about the degree of statutory prescription of harvesting practices. Although much debate centered on clearcutting, concern was also expressed about other types of even-aged management, about the effects of timber harvest on "fragile" soils and water resources, and hence about the need for management standards.

The resulting legislation describes the results expected rather clearly, and places emphasis on the development of regulations to guide the planning process in achieving these results. Section 6(g)(3) contains the statutory response to the timber harvesting practices that precipitated the controversy.

We have heard and read much about what others believe the details of Congressional intent may have been. Review of the legislative history and discussion with principals and participants in the debates, however, have led us to believe that the chief criteria for evaluation of these regulations should be pragmatic and scientific, rather than narrowly legal. Our analysis is essentially our answer to the questions posed by section 6(g)(3): Do the "regulations * * * specify * * * guidelines * * * for plans * * * which * * *

(A) Insure consideration of the economic and environmental aspects of the various systems of * * * management * * * to provide for outdoor recreation (including wilderness), range, timber, watershed, wildlife, and fish;

(B) Provide for diversity * * *

(C) Insure research on and * * * evaluation of the effects of each management system * * *

(D) Permit increases in timber harvest if * * *

(E) Insure that timber will be harvested * * * only where * * *

(F) Insure that * * * cuts designed to regenerate an even-aged stand * * * will be used * * * only where * * *".

Section 219.10 of the draft regulations establishes standards and guidelines to be met in planning for and managing each of the major renewable resources. The section is long, general in respect to some resources, and very detailed in respect to others. In terms of substantive requirements, it is the most demanding section of the regulations. A major difficulty, not completely resolved in the draft regulations, is presented by our conviction that the resource protection concerns should apply equally to all forest uses, and that interaction among uses and protection of major resources values should be dominant themes.

Elsewhere we have given our reasons why a separate section containing resource standards apart from the discussion of the planning process is acceptable. Such separation may seem to imply that each resource is to be treated without consideration of others. A number of reviewers have seen this as a weakness or have feared that organization by resource use would perpetuate the functional planning of the past. The draft has also been criticized on grounds that the standards and guidelines for each resource appear to have been developed independent of each other with no commonality to tie them together. This criticism has some validity. On the other hand, considerations such as some relating to wildlife and recreation, or the need for continued evaluation of lands for wilderness potential, are specific to individual resources.

Another criticism directed toward this section is the great emphasis placed on timber management. This emphasis, however, simply reflects the heavy emphasis on timber management practices in the legislative history and the Act itself. If the treatment were more limited, or if it were submerged in an integrated fashion with the treatment of other resources, the Forest Service likely would be accused of avoiding NFMA's requirements.

We see no easy solution to any of these criticisms. However, we do recommend certain changes that may minimize the difficulties encountered and better demonstrate the conformity of the section with the intent of NFMA. One change involves cross-referencing the more definitive language we propose for interdisciplinarity in § 219.5. This language makes clear that the interdisciplinary team must consider all resources and must integrate the effects of their management as it evaluates alternatives. Another change is to place a subsection of general provisions at the beginning of § 219.10. These state, first, the requirements applicable to all management activities and, thereafter, those relating to silviculture, protection of soil and water resources, and diversity. All of the latter bear on more than one of the individual resources treated under draft regulations 219.10(a) through (f). A suggested organization of the proposed initial general subsection is as follows:

219.10(a) All resource uses

(a)(1) All management activities.

(2) Choice of silvicultural systems.

(3) Control of openings.

(4) Protection of streams and lakes.

(5) Conservation of soil and water resources.

(6) Diversity.

We wish to emphasize here that it is in this section that we propose that the difficult issue of silvicultural standards be treated. The language that we propose accomplishes, we think, two purposes. First, it makes clear that silvicultrual practices affect the management of all resources and that this fact must be recognized in planning. Second, it provides reasonable additional specificity with regard to silvicultural practices. Although we do not go as far as some might wish us to, we believe the proposed language will provide adequate protection for National Forest resources from the potential damages of unwisely applied silvicultural practices.

Suggested language for our proposed § 219.10(a) and (a)(1) is given below, followed by discussion and suggested language for each of the other five topics to be dealt with in this new section.

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Note.—This section will become § 219.11 if our proposed new section on the regional plan is adopted.

"219.10 Resource management standards and guidelines

The standards and guidelines set forth in this section will, as appropriate, be included in the planning criteria, or be applied throughout the planning process. Such application shall be only in a manner consistent with the interdisciplinary requirements of § 219.5.

(a) *All resource uses.* Certain standards and guidelines will apply to all resource uses:

(1) All management activities. All management activities must:

(i) Not allow significant or permanent impairment of the productivity of the land;

(ii) Provide means for minimizing serious or long-lasting hazards from flood, wind, wildfire, erosion, or other natural physical forces, except as these are specifically accepted, as in wilderness;

(iii) Provide means for prevention and reduction of serious or long-lasting hazards from pest organisms. The guiding principles will be those of integrated pest management;

(iv) Assure protection for streams, streambanks, shorelines, lakes, wetlands, and other bodies of water as provided under (a)(4) and (a)(5) below;

(v) Maintain diversity in plant and animal communities and preserve the variety of endemic and desirable naturalized plant and animal species currently found in the area covered by the forest plan;

(vi) Be monitored and evaluated as required in 219.9(j) to assure that activities are carried out in a manner consistent with the protection of soil, watershed, fish and wildlife, recreation, and esthetic values, consistent with the maintenance of timber and range productivity, and consistent with reduction of hazards from insects, disease, weed species, and fire."

(2) Vegetation management practices.—RPA/NFMA requires particular attention to the choice of silvicultural systems, and especially the use of the even-aged system and related harvest methods and operations. Since silvicultural techniques are simply ways of manipulating forest vegetation for a variety of purposes, they are most appropriately treated as a general provision applicable to all uses other than wilderness. Hence, we concur with the recommendations of the Forest Service Task Force on Silviculture concerning the location and wording of the standards and guidelines governing choice of silvicultural systems and related topics.

Direction on the choice of silvicultural systems and cutting methods formerly scattered throughout § 210.10(d) of the draft regulations should be consolidated and moved to the front of § 219.10. Doing so emphasizes that this choice affects all resources on the affected land, not timber alone. The criteria in the present draft regulations follow NFMA in requiring that clearcutting be used only where it is the optimum method (219.10(d)(3)(iv)) whereas other systems, generally, need only be "appropriate" (219.10(d)(3)(i)). This material has been revised to require that *all* silvicultural systems and cutting methods should be the ones best suited for the multiple-use objectives of the area, taking into account all resources involved, together with ecological factors and soil fertility.

In addition, we feel that this section should be written so that it applies to all vegetation manipulation practices regardless of the form of the vegetation (grass, brush, trees, etc.) and regardless of whether the operations are for production of forage for livestock, trees for timber, habitat for wildlife, etc.

Our proposed wording for § 219.10(a)(2) is intended to provide such guidance in all vegetation manipulation:

"(2) Vegetation management practices. When vegetation is altered by management, the methods, timing, and intensity of the practices determine the level of benefits that can be obtained from the various resources. The vegetation management practices chosen for each vegetation type and circumstance will be defined in the forest plan with a display of the alternatives examined and the reasons for the final choices. where more than one vegetation management system will be used in a vegetation type, the conditions under which each will be used will be clearly defined. The choices will be based upon thorough reviews of technical and scientific literature and practical experience, with appropriate evaluation of this knowledge for relevance to the specific vegetation and site conditions. On National Forest land, the chosen alternative will:

(i) Be the one best suited to achieve the multiple-use goals established for the area, including consideration of all potential environmental, biological, esthetic, engineering, and economic impacts, as stated in the regional and forest plans;

(ii) Assure that forested lands can be adequately restocked within 5 years after final harvest, except where permanent openings are created for wildlife habitat improvement, vistas, recreation uses, and similar activities;

(iii) Not be chosen primarily because it will give the greatest dollar return or the greatest output of any one product or service, although these factors shall be considered. Both short- and long-term costs and benefits shall be used in economic analysis rather than immediate or short-term returns;

(iv) In meeting the requirements of *'219.10(a)(1) (ii)'* and *'(iii)'* above, give particular attention to potential effects on residual and adjacent vegetation;

(v) Avoid permanent impairment of site productivity, and assure conservation of soil and water resources in accord with *'219.10(a)(5)'*;

(vi) Provide the desired effects on water quantity and quality, wildlife and fish habitat, regeneration of desired plant species, recreation uses, esthetic values, and resource yields;

(vii) Be practical to use in terms of such factors as administration, costs of sales, transportation, and related considerations; and

(viii) Preserve and maintain species and community diversity as required in *'219.10(a)(6)'*."

(3) Openings created by cutting.—All cutting creates openings. These vary in size, shape, and proximity, depending first, of course, on the silvicultural system and cutting method, but also upon a large variety of other considerations. Examples of the latter are terrain limitations and opportunities, susceptibility to wind damage, roading costs and consequences, snow trapping for increased water yield, watershed protection and wildlife benefits, as well as regeneration of desired species. All of these and others that might be named are wholly local in their applicability. Width rather than area is often the element controlling wildlife use and regeneration of certain species.

Awareness of such diversity seems to have weighed upon the Senate Committee as it regarded public concern as well as its own discussion of the issue of clearcut size because it chose neither to establish nor to require a universal limit on maximum size. The Senate Report noted that "The size of clear cutting units had been a subject of wide public comment and Committee considerations. The Committee expects the Secretary to establish appropriate limits on size of units to be cut based on the best available scientific evidence, management plan goals, and the guides in this bill on overall decisionmaking. The Committee expects the Secretary to write specific guidelines and hold the average size of clearcuts as low as practicable". The section-by-section

analysis stated that "there are established by geographic areas, forest types, or other suitable classifications, the maximum size limits for clearcuts in one harvest operation, * * *".

The NFMA applied this requirement not only to clearcuts but also to "seed tree cutting, shelterwood cutting, and other cuts designed to regenerate an even-age stand of timber * * *" (section 6(g)(3)(F)) but again specified limits, rather than a single limit, to be based upon geographic areas, forest types or other suitable classifications.

We interpret the language of NFMA to mean: (a) Seed tree and shelterwood cutting should be subject to locally adapted maximum size limits for the same reasons clearcutting is, although the limits may well differ, and (b) to be meaningful, the limits must take account of the variety of situations in which cutting will occur. There simply is no scientific justification for establishing any single maximum (or minimum) area limit for the entire nation, nor yet for any region as a whole. In our view, the sole technical purpose of maximum size limits is as an outside safeguard against the unpredictability of natural events and on-the-ground misjudgments or excesses of zeal. That purpose is served only when the limits are made appropriate to particular sets of terrain, soil, climatic probabilities, and vegetation. A single arbitrary value, selected as a compromise, must necessarily prevent or needlessly hamper planning operations at some locations while providing wholly inadequate safeguards to more difficult or hazard-prone situations at others.

The present draft regulations require that each regional plan establish maximum limits for the area to be cut in one harvest operation, according to geographical area and forest type (219.10(d)(3)(vii)). These provisions spell out no less than ten factors that must be considered in setting these limits. Furthermore, the regional plan is subject to the environmental impact statement process.

Again, we emphasize that such limits should be applied to all cutting methods under the even-age system, not to clearcutting alone.

In our opinion, this procedure, although cumbersome, agrees with the evaluation and intent of Congress, as expressed above, and provides the mandated control of cutting limits with flexibility. Paralleling our discussion of choice of silvicultural systems, we recommend that the provisions of § 219.10(d)(3) (v) and (vi) of the draft regulations be transferred to the new prosition indicated as "control of openings" in our outline (p. 98). These provisions are repeated here for clarity and to emphasize where they would fit into our revision of § 219.10;

"(3) Control of openings. when openings are created by the application of an even-aged silvicultural system:

(i) The blocks or strips cut shall be shaped and blended with the natural terrain to achieve esthetic and wildlife habitat objectives to the extent practicable; and

(ii) Individual cut blocks, patches, or strips must conform to the maximum size limits for areas to be cut in one harvest operation established by the regional plan according to geographic areas and forest types. The following factors must be considered in determining size limits by geographic areas and forest types: Topography; relationship of units to other natural or man-made openings and proximity of units; coordination and consistency with adjacent forest and regions; effects on water quality and quantity; effects on wildlife and fish habitat; regeneration requirements for desirable tree species based upon the latest research findings; transportation and harvesting system requirements; natural and biological hazards to survival of residual trees and surrounding stands; and relative total costs of preparation, logging, and administration of harvest cuts of various sizes. The size limits may be exceeded after 30 days public notice and after review by the responsible official one level above the official who normally would approve the harvest proposal. The established limit shall not apply to the size of areas harvested as a result of natural catastrophic condition such as fire, insect and disease attack, or windstorm."

(4) Protection of streams and lakes.—The concern for protection of water quality expressed in RPA/NFMA is addressed at several places in the draft regulations, as discussed in the next pages. Such protection calls for appropriate care in conduct of all management activities over entire watersheds. The strips or zones immediately adjacent to stream courses and lake margins pose particular problems, however. They often have a special importance not only to water quality but to the production of many kinds of benefits. On the one hand, such zones frequently are the most productive of timber and forage; riparian vegetation is critical to several kinds of wildlife; much recreation use is water-oriented; and the most logical and economic transportation routes may follow water courses. On the other hand, improper application of some management activities, or application without greater than normal care within these zones may damage vulnerable streams and lake margins, and degrade water quality.

The problem, then, is to find ways to reap the potential benefits from riparian strips while assuring that no management activity will "seriously and adversely affect water conditions and fish habitat" (NFMA, section 6(g)(3)(E)(iii)).

Specific region-wide prescriptions for treatment of such fixed width strips would inhibit multiple use planning, often for adjacent lands as well as for the strips themselves. Moreover, such prescriptions would invariably lead to many absurdities in application.

Accordingly, we accept the recommendation of the Forest Service Task Force on Silviculture that a strip on either side of all perennial water bodies be designated to receive special consideration in preparing the forest plan and in monitoring its effects. We concur with the Task Force's recommendation that the width of this strip be 30 meters, but emphasize that this is a wholly arbitrary value, proposed solely for administrative guidance. The interdisciplinary team must consider strips of this width but may recommend prohibition of, or constraints on activities for less than the 30 meter width, or far more than this width, as particular circumstances dictate.

The purpose of the proposed language that follows is to assure intensive planning for an extremely important fraction of the forest area. No activity is specifically prohibited, but the activities allowed, and the way they are conducted, must be compatible with the values being protected.

"(4) Protection of streams and lakes. During the inventory, planning, and monitoring processes, special attention shall be given to a strip approximately 30 meters wide along both sides of all perennial streams, lakes, and other bodies of water. All management activities within these strips, such as timber harvest, road and campground location or construction, range improvements, or fish and widlife habitat modifications, will be conducted in such a way as to protect these waters from detrimental changes, in compliance with § 219.10(e) (4), (5), and (6), and to the extent that total multiple use benefits exceed costs. Such changes include increases in water temperatures or chemical composition, blockages of water course, or deposits of sediment that are likely to seriously and adversely affect water conditions or fish habitat. The interdisciplinary team will

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consider topography, vegetation type, soil, climatic conditions, management objectives, and other factors in determining what activities may be performed within these strips and the constraints to be placed upon their performance in order to assure protection of water quality or other multiple use values. Documentation of the steps taken to meet this requirement shall be included in the plan as required in § 219.9(i)(5)."

(5) Conservation of soil and water resources.—A significant interest during the debate on NFMA was assuring protection of the soil and water resources on National Forest lands. Consequently, the Act expresses strong concern about protecting streams and lakes, assuring the soil productivity will not be impaired, and preventing irreversible damage to soil in the course of management and use.

The draft regulations respond to these concerns at several points. Briefly, inventories of soil and water must be maintained, with attention to special conditions and hazards (219.9(c) (2) through (4)). Analyses of capability and suitability for resource management must consider the levels of use that can be sustained with attention to situations that involve possibility of serious or irreversible damage (219.9(d)). As the interdisciplinary team formulates alternative forest plans, it must estimate their effects, including protection or possible enhancement of soil and water resources, expected changes in soil productivity and water quality and quantity, and relationships between short-term use and maintenance of long-term productivity *'(219.9(f)(1))'*. Finally, "management activities associated with each of the resources planned" must be evaluated on a schedule prescribed in the forest plan. Documentation of measured effects, including productivity of the land, is required (219.9(j)).

The foregoing apply to management of all resources. Two additional requirements (219.10 (d)(3)(D) and (d)(6)(iv)) apply specifically to timber production. A requirement for special planning attention to streamside and lakeside strips, such as proposed immediately above, would provide further safeguards for protection of soil and water at the critical meeting zone of the two resources.

These separate paragraphs represent some redundancy, responding in part to similar redundancy in the act. The separate mention throughout the sequence of inventory, planning, control and follow-up may diminish visibility to casual readers but actually insures that concerns for soil and water are integrated into planning and treat all of the secondary resources they support, rather than being single items on an environmental checklist.

Accordingly, we believe that the cited regulations, viewed in their entirety, form a comprehensive requirement that more than meets Congressional intent. These regulations are indeed open to the familar charge of lack of specificity. On the other hand, nothing would be more futile than attempting specific direction for a myriad of physical situations by regulation; and nothing would be more destructive to responsible multiple use planning than imposing a few simple textbook generalizations or rules of thumb as operational requirements.

In actual practice, maintenance of soil productivity, protection of water quality, and minimizing damage to either entails a large number of site-specific and activity-specific provisions. As a means of consolidating and making visible the numerous requirements cited above, and indicating the mechanisms for application, we propose addition of the following:

"(5) Conservatin of soil and water resources. The analysis, protection, enhancement, treatment, and evaluation of soil and water resources, and their responses under management, as required by § 219.9 (c), (d), (f), (j), and *'219.10(a)'*, will be guided by instructions in official technical handbooks. These handbooks will indicate site-specific and activity-specific practices aimed at avoiding or mitigating damage, and maintaining or enhancing productivity. They will also establish performance standards and tolerance limits for such effects as soil disturbance, erosion, compaction, nutrient losses, stream turbidity, and wetland and flood plain impacts, taking account of applicable federal and state regulations respecting water. These handbooks may be regional in scope or, where feasible, specific to geological or climatic provinces."

(6) Diversity.—The majority of land management activities have some influence on the diversity of species and communities of living organisms. Some of these influences are small and some result in significant changes in presence, abundance, and distribution. As indicated in our discussion of the diversity issue, we believe that RPA/NFMA clearly established the Congressional policy that multiple-use management shall maintain a wide variety of plant and animal species in a variety of communities on National Forest system lands. As we have also indicated, there is a great deal of public concern on this matter. Many feel that diversity alone is the key to acceptable multiple-use management. Although we disagree with this simplistic view, we nevertheless believe it highly desirable to include a section on diversity here where it applies to all land management activities. In this way, it is highly visible to the public who review these regulations, and also to the Forest Service planners who will be responsible for seeing that diversity is "provided for." We also propose that this section deal with the difficulty issue of type conversions by specifying that such conversions may be considered only when they are needed to meet multiple-use objectives and when they are thoroughly justified by appropriate analyses. Because of the importance of the type conversion issue, we suggest that the term "type conversion" be defined in 219.3.

The following language is proposed for § 219.10(a)(6):

"(6) Diversity. Diversity of plant and animal species shall be considered throughout the planning process, and in the selection of a forest plan. Inventories shall include quantitative data which make it possible to assess past and present species and community diversity (219.9(c)(2)). Each alternative considered shall include a determination of how diversity of species and communities will be affected, including discussion of changes in diversity which have taken place, and a comparison of the proposed action to this historical framework (219.9(f)(1) (vi) and (vii)). To the extent practicable the objective shall be to preserve and increase species and community diversity so that it will be at least similar to that which would be expected in an unmanaged area in the region. Reductions in diversity may be considered only where needed to meet overall multiple-use management objectives. Planned type conversions must be justified by a detailed analysis showing biological, economic, and social consequences and the relation of that conversion to natural dynamic processes."

Beyond the need to reorganize substantially the introductory language to § 219.10, other major changes must be made in the section. Section 219.10 contains language intended to meet some of the most difficult and demanding requirements of RPA/NFMA. Therefore, adequate regulations in this section are mandatory. Although the language of the draft regulations is a reasoned approach by the Forest Service to these requirements, in our opinion it often falls short of the specificity necessary to establish appropriate guidelines and standards in these

critical and controversial areas. The following sections of our report summarize our evaluation of these issues and of the requriements of the draft, and lay out our recommendations for new or additional language.

219.10(a) Fish and wildlife resource

At least six different drafts of the Fish and Wildlife section have been available for review and comment over a period of approximately 18 months. As a result the published draft appears to have general acceptance. There are two technical matters which we believe should be changed to further improve this section. These have to do with the concept of "selected species" and with requirements for coordination with the states.

The term "selected species" is introduced in § 219.10(a)(2) and used several additional times in the following paragraphs. The "selected species" concept involves identification of a number of species which are to be the focus of management activities, and which are to be monitored to determine the effects of management. These species are selected because it is never possible to manage an area so that every species will be considered. The species involved fall into two categories. Species in one group are included because of particular interest in them. Endangered species are in this group since they must be considered as primary concerns to meet the requirements of the Endangered Species Act. Species in the second group are chosen because they indicate the consequences of management on other species whose populations fluctuate in some measurable manner with the indicator species.

We do not believe the term "selected species" will be readily identified as a technical term used to characterize these very important species. To make the terminology more precise we propose the term *"management indicator species"* be used in place of "selected species" in sections (2), (3), and (6) of the fish and wildlife section. To accommodate this change and to be more specific about the concept involved, we urge the following wording be adopted in place of the present (2):

"(2) Management indicator species will be identified as concerns for planning, and justification for their selection will be given. These species shall include at least: endangered and threatened plant and animal species identified on state and federal lists for the area of the planning unit; species with speical habitat needs that may be influenced significantly by planned management programs; species commonly hunted, fished, or trapped; and additional plant or animal species selected because their population changes are believed to indicate effects of management activities on other speicies of a major biological community or on water quality. On the basis of available scientific information, the effects of changes in vegetation type, timber age classes, community composition, rotation age, and year-long suitability of habitat related to mobility of management indicator species will be estimated. Where appropriate, measures to mitigate adverse effects will be prescribed."

Coordination between the Forest Service and state fish and wildlife agencies is especially important because of the traditional and legal division of responsibility. State agencies have managed the populations while the Forest Service has managed the habitats which support those populations. Legislative history of RPA/NFMA indicates that Congress clearly envisioned a close state-federal liaison in fish and wildlife management planning (Senate Report).

As we have pointed out, it would be most effective to appoint state biologists to interdisciplinary teams. It is our hope that this will be possible and that, consequently, state wildlife biologists will be appointed routinely as members of interdisciplinary teams. Should it prove necessary to use our advisory committee strategy, we certainly trust that such committees would include state biologists to ensure coordination and mutual understanding of the complex issues involved. In addition, we recommend that (3) and (6) of the fish and wildlife section be strengthened by substituting the following language:

"(3) Biologists from state fish and wildlife agencies and other federal agencies shall be invited to participate in the work of the interdisciplinary team. The forest plan shall be coordinated with the state strategic fish and wildlife plans, to the extent practicable."

"(6) Population trends of the management indicator species shall be monitored and relationships to habitat changes determined. This monitoring shall be done in cooperation with state fish and wildlife agencies, to the extent practicable."

Consideration of diversity is important in regard to fish and wildlife. Many persons equate high diversity with wildlife abundance, community stability, and biological productivity. Therefore, the diversity requirements here may be a critical public issue, even though scientific support for such simplistic notions may be lacking. The primary diversity requirement in § 219.10(a) of the draft regulations is in (6) which requires that: "Effects of proposed changes in diversity on fish and wildlife will be evaluated." In addition (2) requires that mitigation of adverse effects will be prescribed. Subsection (2), as modified by our recommendation, also requires that effects of management activities on year-long suitability of habitat shall be related to mobility of the management indicator species. This clearly focuses attention on interspersion and juxtaposition of a variety of habitat types, and thus assures additional concern for diversity.

We believe these provisions, with those in our new § 219.10(a)(6), insure that diversity will be given consideration in planning, that steps will be considered to prevent major adverse consequences, and that variety of communities and vegetation types will be assured.

In addition, we recommend that, in the first sentence of § 219.10(a), the word "native" be added after the word "existing." Section 219.10(a) will become 219.10(b) if our proposed new § 219.10(a) is adopted.

219.10(b) Range resource

The laws governing National Forests clearly indicate that rangelands are to be considered as co-equals to forest land. The title of the RPA is "The Forest and Rangeland Renewable Resources Planning Act of 1974." The act to amend RPA, the National Forest Management Act of 1976, reaffirms the national objectives of planning both forests and rangelands for the production of multiple goods and services. While the NFMA tends to be specific in its requirements about timber harvest, silvicultural standards, and other criteria to be used in timber production, the same is not so for rangelands. We believe, however, that Congress intended that the rangelands of the National Forest system be planned with the same care as the forested areas (section 6(e)(1)) and with similar application of multiple-use, sustained-yield concepts.

The draft regulations (219.10(b)) require that the ability of the range to supply long-term grazing and browsing be determined, and that range management systems be prescribed, according to seven "standards or guidelines." These outline how productive ability of rangeland will be included in the planning process.

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We believe that these regulations (1) do not provide sufficient guidelines on how such productive ability is to be determined, (2) do not adequately relate forage production to timber, wildlife, and other products from rangelands, (3) do not specify how and when successional stages may be manipulated to meet multiple-use objectives, and (4) do not emphasize that rangeland management, like timber management, directs how other resources may be used.

The current draft regulations lump the commonly accepted measurements used to determine range condition and trend into a single statement in 219.10(b)(1). It appears to us that these vegetation measurements could be incorporated into a general vegetation inventory, with increased efficiency and better integration of animal management (both wild and domestic) with timber, recreation, and other uses that affect the same vegetation resource.

It is technically possible, and we believe administratively desirable, to combine all vegetation inventories, whether for timber, range, wildlife or recreation uses, into a single survey. For the purposes of livestock and wildlife management we believe that at a minimum the inventory should determine, by defined soil units, the present vegetation and the approximate seral stage of the community, the potential plant community, the amounts of usable forage and productive plant cover, and the character or degree of soil disturbance. In addition, trend studies should be established to monitor change in the range plant communities.

We do not think it appropriate to designate specific techniques for study of range conditions and trends. At present, the possibility of uniform improved methods is being studied by three groups: An interagency task force, a committee of the Society for Range management, and a group of western university scientists. As long as the principles indicated above are followed, the Forest Service should be free to select the most appropriate method.

We believe that the regulations can be made more explicit by incorporating the concepts contained in the following alternate language, to be substituted for the present § 219.10(b):

Note.—This section will become 219.10(c) if our proposed new § 219.10(a) is adopted.

"(b) *Range resource.* Rangelands within the National Forest system will be inventoried, planned for, and managed according to the standards and guidelines set forth below:

(1) Rangelands. Each forest plan shall identify lands available, capable, and suitable for grazing and/or browsing by wild, domestic, and feral animals. The procedures and data to be acquired include, but are not limited to, the following:

(i) Range condition and trend studies conducted on each forest during the vegetation inventory as described in § 219.9(c)(2). These data will form the basis for the range management plan;

(ii) Records of actual use by domestic livestock, feral animals, and management indicator species of wildlife, and estimated percentage utilization of key forage species;

(iii) Analysis of vegetation data to determine range capability. This will consider:

(A) An estimate of the current ability of the rangelands to produce suitable food and cover for the management indicator species of wildlife;

(B) An estimate of the present supply of foreage for sheep, cattle, and feral animals; and

(C) An estimate of the potential ability to produce feed and cover for wild, domestic, and feral animals;

(iv) Analysis of range's ability to produce wild, feral, and domestic animals without permanent impairment of the resource will be based upon the condition of the vegetation, statutory and/or administrative withdrawals, characteristics of soil and slope, and accessibility to grazing and/or browsing animals.

(2) Range management systems. Management systems, including the existing system, will be considered in an alternatives analysis as required by § 219.9(f). Each alternative will meet the requirements of *'219.10(a)'* and will include consideration of at least the following:

(i) Grazing mangement systems;

(ii) Methods of altering successional stages for range management objectives, including vegetation manipulation as described in *'219.10(a)'*;

(iii) Evaluation of pest problems, and availability of integrated pest management systems;

(iv) Possible conflicts or beneficial interactions among domestic, feral, and wild animal populations, and methods of regulating these;

(v) Physical facilities such as fences, water points, and corrals, necessary for efficient management; and

(vi) Existing permits, cooperative agreements, and related obligations.

(3) Each management plan will include a mechanism for monitoring range trend in accord with the evaluation requirements of § 219.9(j).

(4) Plans shall comply with laws relating to the use of the range resource, particularly the Federal Land Policy and Management Act of 1976, the Bankhead Jones Farm Tenant Act (50 Stat. 526, as amended), and the Wild Horses and Burros Protection Act (85 Stat. 649).

(5) The economic and social impacts on small communities and the local livestock industry will be evaluated in the selection of alternatives for management."

219.10(c) Recreation resource

Although the legislative history of RPA/NFMA has few comments dealing directly with recreation, the inclusion of recreation among the multiple uses specified by Congress is a reaffirmation of intent to provide recreation opportunities.

Managing for recreation requires different kinds of data and mangement concepts than does most other activities. While recreation must have a physical base of land or water, the product—recreation experience—is a personal or social phenomenon. Although, the managment is resource based, the actual recreational activities are a result of people, their perceptions, wants, and behavior.

The draft regulations for recreation (219.10(c)) state that the Forest Service will provide for resource activities to enhance a broad spectrum of recreational opportunities. This general requirement is then followed by five "standard and guidelines."

We believe that these draft regulations are inadequate in the following respects: (1) They do not sufficiently recognize the *social* and *psychological* aspects of recreation; (2) they do not explictly provide for analysis of the effect of recreational uses on other resources, nor the effects of other uses on the quality and quantity of recreational activities; and (3) they do not show how information about recreation opportunities gained in the monitoring process required in 219.9(j) will be used.

Much of the data necessary for recreation management should be gathered during the inventory and information collection phase (219.9(c)). Some of the people-oriented data such as user identification and interests will be obtained in the identification of issues (219.9(a)) and the analysis of the management situation (219.9(d)). We recommend that specific references to recreation and its data needs be included in these sections of the regulations.

We believe the draft regulations can be improved by substituting the following language for the present 219.10(c):

Note.—This section will become 210.10(d) if our proposed new 219.10(a) is adopted.

"219.10(c) *Recreation resource.* Management planning will provide for a broad spectrum of dispersed and developed recreation opportunities in accord with identified needs and demands. Planning will be governed by the goals of the regional plan, the general requirements of §§ 219.9 and 219.10(a), and the specific requirements of paragraphs (1) through (7) below:

(1) Each forest plan will identify the lands available, capable, and suitable for recreation.

(i) The physical and biological characteristics that make land suitable for recreation activities will be identified during the inventory process (219.9(c)).

(ii) During the analysis of issues, the recreational preferences and behavior of present user groups and those of the foreseeable future will be used to identify recreation opportunities on the National Forest and associated lands.

(2) The supply of recreational facilities to meet present and future needs in the area surrounding the forest will be appraised.

(3) Following (1) and (2) above, alternatives will be developed to provide a wide array of recreation opportunities responsive to current and anticipated user demands. The alternatives will include consideration of management need, establishment of physical facilities, and regulation of use.

(4) In formulation and analysis of alternative forest plans as specified in § 219.9(e) and (f), interactions among recreation activities and other multiple uses shall be examined. This examination shall consider:

(i) Impacts of the proposed recreation activities on other uses and values;

(ii) Impacts of other uses and activities asssociated with them on recreation opportunities, activities, and quality of experience; and

(iii) Mechanisms for mitigating any undesirable physical and social effects resulting from recreational opportunities.

(5) Development and evaluation of program alternatives under subsections (3) and (4) must be coordinated to the extent feasible with:

(i) Present and proposed recreation activities of local and state land use or outdoor recreation plans, particularly the State Comprehensive Outdoor Recreation Plan; and

(ii) Recreation opportunities already present and available on other public and private lands, with the aim of reducing duplication in meeting recreation demands.

(6) Modification of land ownership patterns to meet present and future recreation needs will be considered.

(7) The overall monitoring and evaluation program (219.9(j)) will include:

(i) Evaluation of changes in, or damage to, other resources resulting from recreation activities, and effectiveness of mitigation mechanisms developed under (4)(iii) of this subsection; and

(ii) Assessment of the adequacy of programs and activity opportunities in terms of present and future use."

219.10(d) Timber Resource

This section presents material relating to management of the timber resource. The issues dealt with here are complex and controversial. We have analyzed them throughly, and have sought assistance from various persons. Although we accept generally the proposed treatment of the timber resource in this section, we recommend greater specificity and some reorganization. This section will become § 219.10(e) if our proposed new § 219.10(a) is adopted.

(1) *Definitions*—As we have pointed out, the definitions of even-aged management, silvicultural systems, and uneven-aged management should be moved to the general definitions section (219.3). To clarify certain ambiquities that have been pointed out, we suggest the following changes:

1. "Average annual sale volume" should be defined.

2. The words "the silvicultural systems that will be used" are not part of timber harvest scheduling and should be removed from the definition.

Finally, all remaining definitions should be moved to an introductory section placed in § 219.10(d)(4).

(2) *Timber producing lands*—Section 6(k) of RPA/NFMA requires that the Secretary "identify lands within the management area which are not suited for timber production considering physical, economic, and other pertinent factors to the extent feasible, as determined by the Secretary, and shall assure that * * * no timber harvesting shall occur on such lands for a period of 10 years." Lands which are identified as unsuitable are to be reviewed at least every 10 years, and shall be returned to timber production whenever the Secretary determines that conditions have changed so that they have become suitable.

The proposed regulations contain provisions designed to implement these requirements (219.10(d)(2)). We reviewed the legislative history of RPA/NFMA regarding the marginal lands issue and the proposed rules. We believe that the rules should be substantially revised to clarify both the process used to identify lands unsuitable for timber production and to specify the economic criteria to be employed. In the following sections, we review legislative history and the proposed rules. We then propose an alternative rule with the recommendation that the principles which it embodies be included in the final regulations.

The legislative history shows that the Senate and House held differing views regarding the issue of marginal lands.

Senate bill 3091 contained very specific directions regarding an economic criterion for determining suitability. Section 6(d)(H)(iii) states:

"(iii) Identify the relative productivity of land for timber production and assure that timber production is not a management goal on lands where the estimated cost of production will exceed the economic return; *Provided,* That the estimated cost of production will include only direct timber productin costs and not access, protection, revegetation and administrative costs for multiple-use purposes * * *"

The Senate Report stated that the Committee wanted "to ensure that public funds are not invested in growing timber for commercial purposes on areas where the anticipated economic return is less than the cost of production. The Committee also declared that "it is not the intent of this bill to prevent the sale of marketable timber." Finally, the Committee declared it expected the Secretary to continue to harvest timber to achieve "other resource objectives on areas where commercial production may not be feasible."

In the House, amendments to the House version of NFMA to incorporate the Senate provisions were rejected on a voice vote in the Committee on Agriculture (House Report). Arguments against the Senate provisions included: (1) Ambiquity of the language as drafted; (2) the draft provision would foster litigation; (3) it provided excessive discretion to the Secretary in making a determination relative to what lands are marginal and the basis for making the determination; (4) difficulties in allocating benefits and costs as between all the various uses; and (5) discrimination against timber.

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The Conference substitute adopted by both houses dropped the specific economic test to determine suitability of land for timber production, yet retained four significant requirements: (1) The Secretary must identify lands that are not suitable for timber production; (2) the Secretary is to *consider to the extent feasible physical, economic, or other factors,* as determined by the Secretary; (3) no timber harvesting shall occur on unsuitable lands for 10 years; and (4) lands identified as unsuitable may be returned to timber production.

The Conference Report does *not* contain any declaration of intent regarding requirement (2) above. The conferees merely stated that in making such indentification (i.e., of suitability), "* * * the Secretary need not follow the present Forest Service classifications," and that "* * * there may be other 'pertinent factors' which the Secretary may consider in making the determination regarding the suitability of lands for timber production."

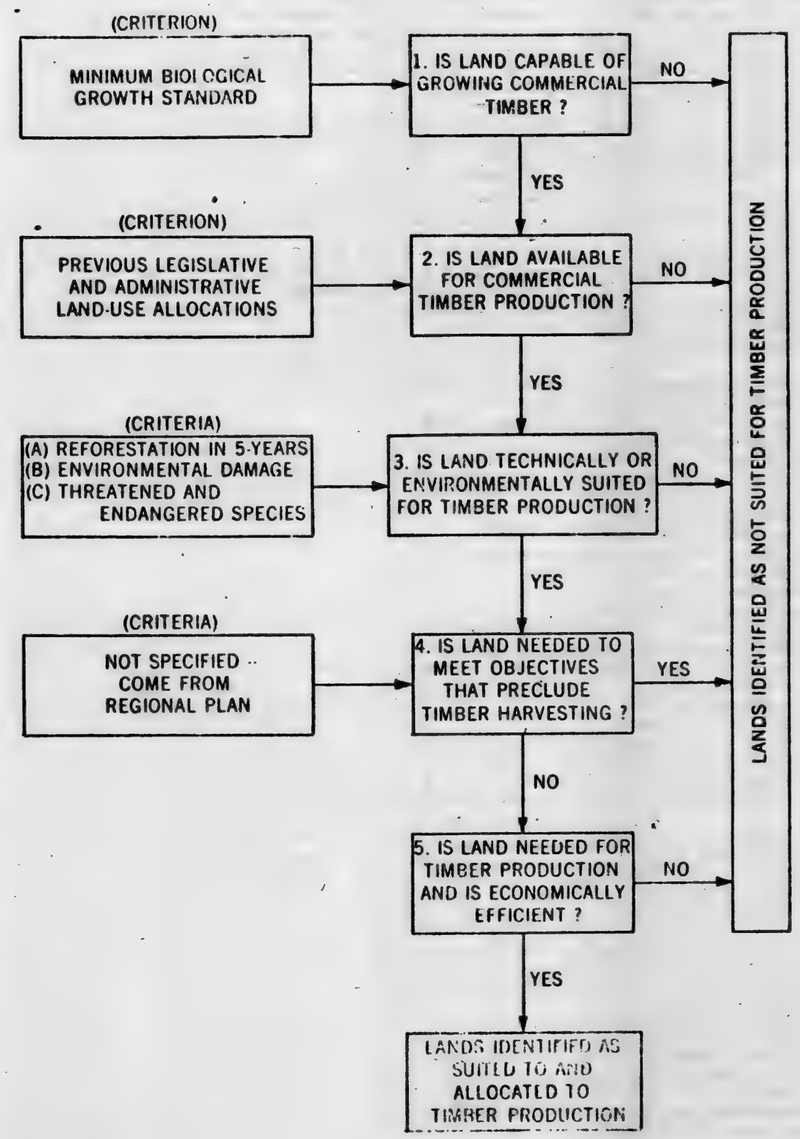
Since the Conference Report is not specific regarding conferee's full intent, we are forced to infer a hypothesis on the basis of *both* what the conferees *did* say and what they *did not* say.

Rather than adopting the Senate's specific benefit-cost rule, the conferees directed the Secretary to "consider" economic factors. Moreover, the Secretary is given rather broad discretionary authority to consider "other pertinent factors," as he may determine are appropriate. At the same time, it is fairly clear that the conferees did not want the Secretary to harvest timber on lands where by some rule of reason public benefits were less than production costs. The conferees compromised by agreeing to language that avoided prescribing a specific formula for determining economic suitability, but which does appear to require a weighing of the economic consequences of investing in timber production. Moreover, in both the Senate and House, there was expectation that the Secretary might harvest timber to achieve other multiple-use purposes on areas where timber production was economically unfeasible.

The process for identifying lands unsuited for timber production described in the draft regulations consists of 5 steps (Fig. 1). These involve questions and criteria, with each step leading to the identification of unsuitable lands. According to the draft, land is identified as unsuitable if:

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FIGURE 1
PROCESS FOR IDENTIFYING LANDS NOT SUITED FOR TIMBER PRODUCTION
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1. The land's biological growth potential is less than a minimum standard (as provided in the regional plan); or

2. The land is not available for timber production because it has already been legislatively or administratively allocated to an alternative use that precludes timber harvesting; or

3. The land cannot be harvested under present or anticipated technology without assurance that adequate regeneration can be obtained within 5 years after harvest, or without damage to soils, productivity, watershed conditions, or threatened or endangered species; or

4. The land is needed to meet nontimber objectives given in the regional plan; or

5. The land is not economically efficient for producing timber (benefits less than costs).

Of these 5 tests, the second and third appear straightforward and reasonable. The are included in our alternative proposal.

The first test—a minimum biological productivity test—is arbitrary and perhaps unnecessary. It is arbitrary because there is no objective basis for establishing a minimum standard. It can be argued that it is unnecessary because a proper economic analysis will identify those lands whose potential biological productivity is too low for commerical use. However, such an arbitrary standard can be useful because it removes from consideration, and therefore from analysis, those lands that are plainly unable to produce commercial timber. There may be a cost saving in the analytical process if such lands are removed before analysis. Therefore, we will accept the Forest Service's argument that such a test is useful. However, the biological growth standard should not be set so high as to preclude the application of economic analysis to the determination of suitability.

The fourth test is merely a definition. Clearly, if land is allocated to an alternative use it is unsuitable for timber production and thus the test is not an operation criterion. What test will be applied to determine if the land is needed "to meet nontimber objectivies?"

The fifth test—economic efficiency—is not stated in sufficient detail to establish either intent, policy, or analytical procedures. In this regard, we note that both the environmental groups and The National Forest Products Association proposed more detailed rules on economic analysis.

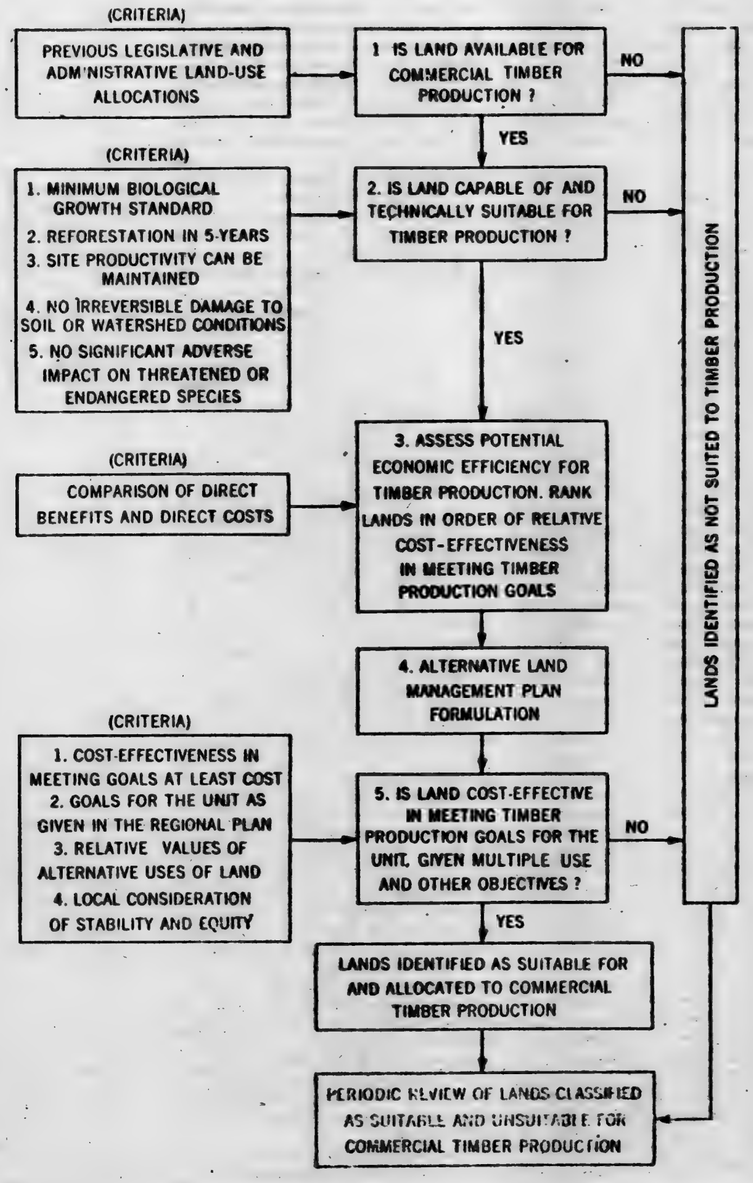
Having considered these deficiencies in the draft regulations, we propose an alternative process for identifying lands unsuited for timber production (Fig. 2). The process includes consideration of biological, technical, environmental, and economic factors, and consists of 5 steps. These are shown sequentially, but steps 3 through 5 must be conducted simultaneously and iteratively during land management planning. The process includes some features of the draft rules but it also differs in substantive ways. The main elements are:

1. Lands are first screened to determine if they are available to be considered for allocation to timber production. This screening is accomplished by identifying lands that have already been designated for nontimber use by previous legislative action or administrative decision. Such lands are not subject to any further consideration in the land allocation process. Presumably, this first step would be conducted during the inventory and data and information collection phase of the overall land management planning process. This first screen is the same as step 2 in the draft rules.

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FIGURE 2

ALTERNATIVE PROCESS FOR IDENTIFYING LANDS NOT SUITED FOR TIMBER PRODUCTION



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2. Lands that are available are next screened to identify areas that are not suitable for timber production because of physical, technical, biological, or environmental factors. *The minimum biological standard concept is included here.* Another example is revegetation following harvest: land that cannot be reforested within 5 years after harvesting is classified as unsuitable. Criteria for making this determination are the same as those proposed in the draft regulations in § 219.10(d)(2)(i) (A) and (C).

At this point, the alternative process departs from the draft regulations in terms of the sequence of steps, concepts, and details of the tests to be performed.

3. Lands that have passed screening tests (1) and (2) are now subject to economic analysis to determine their potential economic efficiency if used to grow commercial crops of timber. The analysis requires comparison of "benefits" and "costs" in the form of an economic efficiency index such as benefit-cost ratio or present net worth. This analysis is responsive to the Senate language regarding an economic criterion for determining suitability. However, the proposed procedure does not at this stage determine if land is suitable for timber production. The final determination regarding suitability is made in the overall multiple-use land allocation decision when output goals, secondary benefits and costs, and other policy objectives are considered. In step 3, the economic analysis is used to rank areas according to their *relative* economic efficiency in timber production. This ranking may be based on differences in long-run timber production costs, or alternatively on the basis of a cost-effectiveness criterion such as benefit-cost ratio. The details of the procedure are more appropriately specified in Manual rather than in regulations. However, the proposed regulation calls for a ranking based on an economic criterion which, when combined with additional information about the production goals associated with the forest unit, is used to identify those lands which are most suitable economically for timber production.

The proposed rule permits two different measures of benefit in conducting economic analyses of the economic efficiency of timber production: alternative cost, and receipts from the sale of timber, expressed as stumpage price.

Alternative cost standard here means the most expensive unit of wood that the National Forests in the region are to supply to the market under the disaggregated RPA goals assigned to the region. Suppose, for example, that in region X, the RPA planning process has set a timber production target of 25 million board feet and that the last 1 million board feet required will cost $100 per thousand board feet to grow and harvest. For any area within any National Forest in the region, the $100 becomes the alternative cost standard. Areas within the forest would be ranked according to their relative capacity to supply wood at a production cost less than the alternative cost standard, or according to the ratio of alternative cost to production cost. It may be necessary in most regions to establish alternative cost standards for each major commercial species of timber and for different subregions.

This approach is somewhat novel, and has not been tested by the Forest Service or by us. It requires economic information from the RPA Assessment and Program planning process that may not be readily available at the present time. It has the advantage, however, of linking the identification of suitable lands directly to the key policy decisions regarding national regional timber output targets. Benefits would be measured in terms of potential site-specific cost savings to the government of meeting regional production goals.

The second benefit measure—stumpage price—is conventionally used in the private sector in assessing economic returns to investment in timber production. Stumpage price information is readily available at the forest level. However, because of market imperfections and other factors, stumpage price may be an imperfect measure of the social value of public timber supplies. Considerations other than market price of timber enter public policy decisions regarding timber production goals from the National Forest system. Thus, using stumpage price as an element in a normative criterion for ranking areas according to relative economic efficiency in timber production is subject to serious deficiencies. Yet in the absence of an established procedure for deriving a policy-determined alternative cost-standard, stumpage price may be the only practical approach to the measurement of direct timber benefits. The proposed draft rule allows either measure of benefit to be used. However, we strongly recommend that studies be conducted to determine which of the two methods is most appropriate to analyses of the economic feasibility of timber production on National Forest system lands.

4. In this step, alternative land management plans for the unit are formulated in accordance with requirements of § 219.9(e). This step is conducted simultaneously with step 5.

5. This step is conducted as an element of the overall land management planning process at the point where alternative plans are being developed for analysis and evaluation by the interdisciplinary team. Each alternative plan will presumably have an associated timber production target. Those lands identified as potentially economically suitable for timber use are allocated to timber harvest on a cost-effective basis (using production cost (per unit or benefit-cost criteria) to the point where the goal is satisfied. However, at this point, multiple-use objectives—that is, secondary benefits and costs of timber production—must also be considered, and as a result some lands that are cost-effective for timber use may be judged more suitable for an alternative use. Correspondingly, some lands that are apparently *not* cost-effective may be allocated to timber harvesting—that is, judged suitable—if complementary nontimber benefits are considered. The Senate committee recognized this situation in its report accompanying S. 3091: "It (i.e., the Committee) expects the Secretary to continue to utilize timber harvesting and other cultural practices to achieve the other resource objectives on areas where commercial production may not be feasible."

These decisions cannot be expresssed in a simple, technically acceptable rule, and we have not tried to do so here. Information on the secondary benefits and costs—including the opportunity cost of foregoing nontimber uses of a site—is not readily available or estimated with scientifically acceptable techniques. Under the circumstances, the best that can be done in a rule is to direct plannérs to (a) follow a particular process; (b) give consideration to certain specific criteria (Fig. 2), and (c) document and display the information used. Thus the proposed procedure does not lay down a specific formula for making a comprehensive benefit-cost test to determine suitability for timber, but it does clearly require a type of benefit-cost analysis with the implicit objective of classifying lands as suitable for timber use if (other things equal) direct costs are less than direct benefits, or if net benefits from timber use, including complementary benefits and opportunity costs, are positive. We believe the same type of test should apply to identifying the suitability of lands for management purposes other than timber production. Indeed, such a test is implicit in the proposed procedure.

The alternative process for identifying unsuitable lands differs from the draft regulations in the following ways:

1. It reverses the order in which economic efficiency analysis and multiple use allocations are made. In the draft regulations, an economic analysis of the suitability of land for timber production is conducted *after* multiple-use planning and apparently only for those lands *not needed* for nontimber purposes. The alternative proposed here calls for an economic analysis on *all* lands that pass screens (1) and (2) *prior to* the development of alternative land management plans.

2. It defines more specifically the type of economic analysis to be performed, and how the economic information is to be used in the land management planning process in which the final determinations of unsuitability versus suitability for timber production are made.

We have put these ideas into an alternative rule for consideration. We propose that the following language be substituted for the present § 219.10(d)(2):

"(2) Timber producing lands. Each forest plan shall identify lands available, capable, and suitable for timber production and harvesting. This identification will occur as two distinct actions in the planning process in accordance with the following guidelines and standards:

(i) In the collection and use of inventory data and information all National Forest system lands will be reviewed and lands will be identified as:

(A) Available for timber production if the land has not been legislatively or administratively withdraw from timber production; or;

(B) Capable for timber production if the biological growth potential for the land is equal to or exceeds the minimum standard for timber production defined in the regional plan or if technology is available that will insure timber production from the land without irreversible resource damage to soils, productivity, and watershed conditions, and without significant adverse impact on threatened or endangered species, and with reasonable assurance that such lands can be adequately restocked within 5 years after final harvest.

(C) Lands not meeting the requirements of (A) and (B) above will be identified as not suited for timber production.

(ii) Prior to the formulation and evaluation of land management alternatives and timber harvest schedules, lands that are classified as

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available and capable for timber production shall be futher reviewed and assessed to determine their potential economic efficiency in commercial timber production in accordance with the following practices, standards, and requirements. The potential economic efficiency of commercial timber production shall be assessed by comparing the anticipated direct benefits of growing and harvesting trees to the anticipated direct costs to the government, including interest and capital investments required by timber production activities. On the basis of the assessment of benefits and costs, lands will be ranked by appropriate benefit-cost criteria to establish relative potential economic efficiency in meeting the timber production goals for the unit. Specific standards and practices for making the economic analyses required by this section are to be established by the Chief, Forest Service, in regulations which shall be effective within one year following publication in the **Federal Register** of these rules for national forest system land and resource management planning.

Provided: That in assessing benefits and costs the following principles shall be followed:

(A) Direct benefits are expressed in terms of alternative cost standards or by stumpage prices as provided by the regional plan. Alternative cost is the cost to the government of growing and harvesting the last or marginal unit of each major type of commercial timber that the National Forests in the region are to supply as provided in the current National Renewable Resource Program. In the absence of such standards, direct benefits may be measured in terms of the anticipated receipts from harvesting timber crops;

(B) Direct costs include the anticipated investments, maintenance, operating, and management and planning costs attributable to timber production activities, and any costs that may reasonably be attributed to mitigation measures necessitated by the impacts of timber production. Only the additional expenditures required for timber growing and harvesting activities, including the road system, are to be included in direct costs;

(C) The rate of interest used to discount future benefits and costs of timber production shall be equal to the rate used in the National Renewable Resources Program; and

(D) Economic analyses are based on the assumptions that the lands are managed primarily for timber production with intensity of management and degree of timber utilization determined in accordance with § 219.10(d)(4)(ii)(A). However, the practices associated with a particular intensity of management must be economically efficient. Rotation periods shall be consistent with those assumed for purposes of determining the long-term sustained yield capacity as provided in § 219.10(d)(4)(ii). Economic analyses shall consider costs and returns from conversion of existing timber inventory in addition to long-term potential yield.

(iii) During formulation of alternatives and alternative evaluation and selection, combinations of resource activities and outputs must be defined and evaluated in terms of meeting management objectives. During these actions, land that has been classified as available and capable for timber production, and has been assessed as economically suitable or unsuitable for commercial production, shall be further reviewed and allocated to the various multiple uses, including timber, outdoor recreation, watershed, range, wildlife and fish, and wilderness, to meet management objectives for the unit. During this process, land shall be identified as unsuitable for timber harvesting if:

(A) Given multiple-use and other constraints, the lands are not cost-effective in meeting the timber production goals for the alternative plan under consideration;

(B) Based on a consideration of multiple-use objectives for the area, the land is allocated to resource uses that preclude timber production; or

(C) Other joint multiple uses of the area limit timber production activities to the point where the silvicultural standards and guidelines set forth in *'219.10(a)'* and 219.10(d)(3) cannot be met.

(iv) Allocation of land, whether or not potentially economically efficient for timber production, to the various multiple uses, including commercial timber production, shall consider the multiple-use objectives for the unit specified in the regional plan, cost-effectiveness in meeting all resource use goals including timber production, relative values of the different resources and their uses, complementary relationships among the uses, regional and local stability, and such other criteria as have been determined in accordance with § 219.9(b).

(v) No timber harvesting shall occur on lands classified as not suitable for timber production during the planning period as provided under paragraphs (i) and (iii) above, except that salvage sales or sales necessary to achieve other multiple-use objectives, such as control of insects and disease, may be made if the forest plan establishes that such actions are appropriate and that timber will be harvested in accordance with the provisions of *'§ 219.10(a)'* and § 219.10(d)(3). When the plan is revised, or at least every 10 years, all lands classified as not capable, available, *or* suitable for timber shall be reviewed and where changed conditions permit, lands will be reclassified as capable, available, and suitable for timber production. Lands classified as not suitable for timber production shall continue to be treated for reforestation purposes, particularly with regard to the protection of multiple-use values."

(3) Silvicultural systems.—If definitions and general provisions relating to silvicultural practices and vegetative manipulation are moved to the beginning of §§ 219.3 and 219.10, respectively, the section relating to silvicultural systems (§ 219.10(d)(3)) will be devoted solely to specific items unqiue to timber management. Thus, the section will be reduced to an enumeration of primary controls over timber cutting activities. Our proposed substitute language for § 219.10(d)(3) is:

"(3) Controls on timber cutting. (i) When trees are cut to achieve multiple-use objectives, including timber production, the cuttings will be made in such a way as to:

(A) Assure that lands can be adequately restocked within 5 years after final harvest. Research and experience must indicate that the harvest and regeneration practices planned can be expected to result in adequate restocking. Adequate restocking means that the cut area must contain the minimum number, size, distribution, and species composition of regeneration as specified in Regional Silvicultural Guides attached to the forest plan for each forest type. Five years after final harvest means 5 years after clearcutting, 5 years after final overstory removal in shelterwood cutting, 5 years after cutting in selection cutting; and

(B) Provide a means of minimizing serious or long lasting hazard from insects, disease, windthrow, wildfire, or other natural forces.

(ii) Cultural treatments such as thinning, weeding, and other partial cutting may be included in the forest plan where they are intended to increase the rate of growth of remaining trees, favor commercially valuable tree species, favor species or age classes which are more valuable for wildlife, or to achieve other multiple-use objectives.

(iii) Timber cutting activities shall met the requirements for preserving and maintaining species and community diversity required in *'219.10(a)(6)'*."

(4) Determination of the allowable sale quantity.—Section 13 of RPA as amended by NFMA gives new statutory direction to the Secretary of Agriculture regarding limitations on timber removal from units of the National Forest System. Two key requirements of section 13(a) concern the establishment of *long-term* timber harvest levels for planning periods at least one decade in duration (and, in practice, up to thirty decades). The first directs that the Secretary " * * * shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis * * *" The second, however, further provides "That, in order to meet overall multiple-use objectives, the Secretary may establish an allowable sale quantity for any decade which departs from the projected long-term average sale quantity that otherwise would be established * * *" Such departures must be consistent with multiple-use objectives of the land management plan, and may be made only after public participation in the planning process. Authority to make planned departures is discretionary.

We studied section 13(a) continuously during the process of developing the proposed regulations. We requested and received several studies of timber harvest scheduling problems under the Act by consultants drawn from academic, private, and public organizations. We sought guidance as to congressional intent from Forest Service officers and others. Four issues, all addressed in the proposed regulations, emerged from this research. They are:

Issue 1. Should regulations for implementing the requirements of section 13(a) be integrated with those of section 6, which primarily relates to land management planning, or developed separately?

Issue 2. What should be the operational interpretation of the first element of section 13(a), which in a literal sense appears to put a ceiling on the amount of timber that can be harvested from a National Forest?

Issue 3. Under what conditions should the Secretary exercise his discretionary authority in section 13(a) to establish a timber harvest level greater than the amount that might otherwise be established under the ceiling provision?

Issue 4. How should the process used to establish an allowable timber sale quantity be integrated with the process for establishing the harvestable quantity or yield of all forest services (recreation, wildlife, water, etc.) from the forest unit?

Issue 1. The proposed regulations require that interdisciplinary planning teams formulate land management alternatives that include determination of the quantity of timber that may be sold for each decade during the planning period. The regulations also provide specific standards and guidelines by which such determinations will be made, and they require a planning process in which the selection of a timber harvest level is made simultaneously with the development and selection of a land management plan encompassing all multiple uses. As we understand it, *the intent of the regulation is to insure that the establishment of timber harvest schedules including ceilings and planned departures, if any are proposed, are integrated comprehensively with the planning for all forest resources.* Thus, the proposed regulations combine the requirements of section 6 and section 13 in a single land management planning process.

We believe that such an approcach is sound on technical and scientific grounds. Indeed, we believe that the requirement of section 6(b) of RPA (as amended) can be satisfied only with a regulation which includes the elements enumerated above. We therefore strongly recommend that the Secretary adopt regulations that provide for such a process.

Issue 2. We were given conflicting interpretations of the precise, operational meaning of the critical phrase" * * * equal to or less than a quantity which can be removed annually in perpetuity on a sustained yield basis * * *" One interpretation is that the planned harvest and sale of timber may fluctuate upward or downward from decade to decade provided that it does not exceed a ceiling level equal to the long-term sustained yield capacity of a forest with a balanced age-class (or tree diameter class) distribution. In our view, the meaning is consistent with the grammar used in section 13(a) and with the meaning of the term "sustained yield capacity" as commonly found in forestry literature. However, various individuals and the Forest Service hold the view that section 13(a) mandates the nondeclining yield harvest policy first promulgated by the Forest Service in 1973 in Emergency Directive 13. Under this policy, the allowable sale quantity in the first decade of a multi-decade planning period is limited to a quantity

no greater than the amount that could be sustained for the whole period. In application, the planned harvest quantity might rise over that established for the first decade of the planning period, but a harvest schedule that features an unsustainable quantity for the first decade is considered unacceptable and is rejected from any consideration.

We recognize that interpretation and implementation of section 13(a) involve fundamental legal and policy considerations that go beyond those special, narrow functions which Congress assigned us in section 6(h). Yet it was not possible to give effective advice regarding an interdisciplinary approach to planning for forest resources, including timber, without at the same time giving counsel regarding the regulations for implementing section 13(a). We therefore worked with Forest Service staff to develop regulations which jointly address issues 2 and 3.

With respect to issue 2, the proposed regulations require that the interdisciplinary planning team establish for *each* land management alternative: (1) An estimate of a long-term sustained yield capacity and (2) *a base timber harvest schedule* that constrains planned harvests to nondeclining yield levels. In western National Forests, where timber harvest levels are of great importance, the calculated allowable harvest under the base timber harvest schedule may be less than long-term sustained yield capacity if the present forest is substantially understocked, or it may be greater if present stocks are greater than the quantity needed to meet long-term sustained yield objectives. In any case, if the base timber harvest exceeds the long-term sustained yield capacity, justification for such a departure must be provided as described below. Furthermore, any timber harvest schedule formulated as an alternative to the base schedule must have the capacity to eventually reach long-term sustained yield capacity. Specific rules are provided to govern the calculations.

The proposed regulation therefore incorporates the second interpretation of section 13(a) as described above, and refers to it as the "base timber harvest schedule." In a strict technical sense, the proposed rules for calculating the base timber harvest schedule are not precisely equivalent to the computational techniques currently used by the Forest Service to implement its nondeclining yield policy. Under present practice, harvest levels are permitted to fluctuate upward or downward during the postconversion period. In contrast, the proposed regulations stipulate that in the base timber harvest schedule the planned sale and harvest for any future decade must equal or exceed that in the previous decade, provided the ceiling is not exceeded.

The effect of the proposed draft regulation on timber harvest levels is difficult to predict because many factors other than harvest scheduling policy are involved. However, other things being equal, the base timber harvest in the first decade of the planning period under the proposed regulation will probably be less than what would otherwise be calculated under present practice.

Issue 3. Section 13(a) does not stipulate the conditions under which harvest ceilings may be exceeded except by general reference to multiple-use objectives. Again, we were given different interpretations of Congressional intent. One view is that Congress intended the departure provision to be exercised as an exception to the base timber harvest level only under extraordinary conditions, such as a national emergency. Others argue that Congress intended the Forest Service to adopt a more flexible approach to harvest scheduling than would otherwise be the case under nondeclining yield, but to make departures only to achieve specific objectives on particular forest units and after following an orderly planning process with full public participation.

The proposed regulation reflects the second of these two views. Specifically, it requires that alternatives (departures) to the base timber harvest schedule be formulated and considered when certain specific conditions exist in the forest unit or local area. These alternatives are to be developed for *each* land management plan under consideration, and are to be designed under the same standards as applied to the base schedule. *All harvest schedules, including proposed departures from the base schedule, must be calculated under the constraint that long-term sustained yield capacity can be achieved at the end of the planning period.* All harvest schedules are to be subjected to comparative evaluation in conformance with the requirements of NEPA. In these evaluations, the volume expected from the base timber harvest schedule is used as the standard. The selected harvest schedule may be either the base schedule or one of the alternatives, but in any case must be supported with accompanying justification and is selected simultaneously with the land management plan with which it is associated. These provisions are to be applied to each forest unit on a case-by-case basis. Thus, in application, some forest units may select an alternative involving a departure while other units will select the base schedule corresponding to nondeclining yield.

It is important to note that the proposed regulation requires only that departures be *formulated* and *considered* under the conditions specified in § 219.10(d)(4)(iii). Although many persons have criticized the regulations as requiring departures from the base schedule, *no such language appears in the draft.* The only requirement is that departures be considered when certain trigger conditions occur. Departures may be made if these conditions exist, but they are not required and must be justified when proposed. Each of these triggers can be traced back either to NFMA or to its legislative history. The second (B) is found specifically in language in the Conference Report which states that section 13 of NFMA "gives the Secretary discretion to vary the allowable sale quantity where he determines that so doing would meet multiple use management objectives and would be consistent with the basic directives of the Multiple-Use Sustained-Yield Act of 1960. The Conferees understand that the Secretary may choose to exercise this discretion for a number of reasons, including, but not limited to, such things as the desirability of improving the age-class distribution on a forest to facilitate future sustained yield management, or the desirability of reducing high mortality losses." The first (A) and third (C) can be tracked back to the economic provisions of sections 6(a) and (g) of NFMA, and (C) is described as one of several multiple-use considerations discussed by Senators Humphrey and Hatfield in a colloquy during the September 30, 1976, Senate debate on the conference report.

We believe that the draft regulations which deal with these fundamental, sensitive issues in public land management are technically sound, capable of implementation at the forest level, responsive to optimum multiple use of resources in a dynamic society, and consistent with the specific wording of section 13(a). The rules provide flexibility in establishing timber harvest quantities to meet specific objectives, and at the same time insure achievement of sustained yield, as required by the Multiple-Use-Sustained Yield Act of 1960.

We do not believe that application of the departure provisions poses any threat of overcutting a National Forest, since any proposed departure must have

demonstrated potential to achieve long-term sustained yield capacity. On the other hand, in some cases we believe substantial public benefits could result from planned, controlled departures, and that where the public benefits are compelling, such departures should be made. It should be emphasized that departures may be either upward or downward relative to the base schedule, depending upon the specific objectives sought. None can be made without comparing benefits and costs, considering environmental impacts, and seeking public participation in the planning process. The proposed approach and planning process in essence merely applies the principles of the National Environmental Policy Act of 1969 to the unique problem of establishing timber harvest quantities on the National Forests.

We recommend adoption of the principles contained in the draft regulations as they pertain to timber harvest quantities. However, because of the controversial nature of this section, and because of the misunderstandings that seem to attend the draft language, we further recommend changes in the draft regulation. First, we recommend that a statement of basic policy with regard to timber harvest scheduling be included in the regulation. Second, we recommend some changes in the introductory language to § 219.10(d)(4)(iii) to make clear that departures from the base schedule and the planning required for them are discretionary. Finally, we recommend that the authority for approving any departure above the base timber schedule lie with the Chief of the Forest Service and that this be stated in the regulations. Moving the authority for such decision to the Chief will, in our opinion, assure careful consideration and public discussion of a proposal for departure above the base schedule.

Issue 4. The proposed regulations visualize a planning process in which a base timber harvest schedule and alternatives to it are developed for *each* alternative land management plan under consideration for the forest unit. Under this approach, the land management plan and harvest schedule are selected simultaneously, with the same public participation requirements, and in the context of a joint environmental impact statement. As an alternative, it has been suggested that proposed departures from the base timber harvest schedule be developed and considered only after a preferred land management plan (and its associated base timber harvest schedule) is selected. Presumably, this approach has the merit of reducing both the cost and complexity of the planning process. We have considered this issue and recommend adoption of the procedure in the proposed regulations. The extra costs of examining departures from the base schedule under each alternative land management plan will be negligible. Moreover, the feasibility and effects of departures will in part be determined by the nature of the land management plan itself, and should be considered in the process of selecting the preferred plan. Furthermore, it requires only one round of public participation activities and preparation of environmental impact statements, whereas the other alternative would require two rounds. Finally, we find language in the Conference Report (p. 28) that states that the conferees anticipate "that the amount of timber to be harvested from any National Forest system lands shall be determined only through the process of preparing land management plans * * *." It seems clear to us that Congress intended this fundamental decision to be made as an integral part of the planning process and not as an appendage to it.

In light of these comments, we recommend the following additions and changes in § 219.10(d)(4):

1. Revise the introductory paragraph of § 219.10(d)(4) to read as follows:

"(4) Determination of the allowable sale quantity. The elements of this section are a statement of policy with respect to the determination of the quantity of timber to be sold from a National Forest. The elements of this policy are described in the following process. The interdisciplinary team shall formulate alternatives that include determination of the quantity of timber that may be sold during the planning period. These determinations must be based on the principle of sustained yield and consider only those lands capable, suitable, and available for timber production which meet the constraints set out in *'219.10(a)'* and 219.10(d)(3). For each management alternative, the determination must include a calculation of the long-term sustained yield capacity and the base harvest schedule and, when appropriate, a calculation of timber harvest schedule alternatives that may depart from the base harvest schedule as provided in paragraphs (i) through (iii).

2. Revise the introductory language to § 219.10(d)(4)(iii) so that it reads as follows:

"(iii) Departures from the base harvest schedules will be forumlated, considered, and subjected to comparative analysis as part of the planning process when any of the following conditions occur:"

3. In § 219.10(d)(4)(iii)(A) insert the words "multiple-use" between the words "meet" and "objectives."

4. In § 219.10(d)(4)(iii)(B) add at the end "or by preventing and reducing high mortality losses from any cause."

5. In § 219.10(d)(5) following the third sentence add the following: "If the selected harvest schedule is not the base timber harvest schedule or in any decade exceeds the calculated long-term sustained yield capacity for the forest unit, the land management plan shall be transmitted to the Chief, Forest Service, for approval. The Chief shall review the selected harvest schedule, and take one of two actions:

(i) Approve the selected harvest schedule, and attach to the associated land management plan a statement documenting approval; or

(ii) Disapprove the selected harvest schedule, and return the land management plan to the Regional Forester with a written statement of the reasons for such disapproval.

(6) Control measures.—We recommend adoption of this section with the following addition:

"(v) Timber harvest cuts using any system do not create a situation favorable to abnormal increase of injurious insects and diseases."

(7) Monitoring.—We recommend adoption of this section with the following addition:

"(iv) Destructive insects and disease organisms do not increase following management activities."

219.10(e) Water and soil resources

We have few comments on this section. We do feel that, since virtually all of the language in the section relates to water, the title of the section should be changed to "Water." Furthermore, the extensive provisions for protection of the soil resource throughout the regulations (as we have revised them) should, in our opinion, provide assurance of protection and wise management of this resource. This section will become § 219.10(f) if our proposed new § 219.10(a) is adopted.

219.10(f) Wilderness resource

Wilderness is recognized in NFMA (section 6(e)(1)) as one of the resource uses that must be provided for in preparing plans for units of the National Forest system. In addition, the planning regulations must insure consideration of the "economic and environmental aspects of the various systems of renewable resource management * * * to provide for outdoor recreation (including

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wilderness) * * *." Beyond these general statements the act provides no further guidance concerning wilderness. It does seem clear, however, that Congress did intend for wilderness potential to be considered in the development of land management plans. As we have stated earlier (p. 15), we consider the RPA/NFMA planning process to be a rational way to deal with the difficult issues concerning wilderness. It is also important that wilderness be adequately considered in planning so that important portions of our natural heritage can be protected, not only for purposes of preservation sake, but for their importance to research and education.

The draft regulations treat, but do not fully resolve, two difficult issues regarding the wilderness resource. The first is identifying and appraising additional candidate areas to be proposed for detailed study or formal Congressional designation as Wilderness Areas. The second is establishing maximum allowable levels of use for each Wilderness Area. The introductory language to § 219.10(f) in the draft regulations, however, speaks entirely about management planning and not at all about identification of additional candidate areas. A third issue not treated is the intensity of management that should be practiced in any given wilderness area. This matter is not treated in the draft regulations. We agree with this omission. We feel that intensity of wilderness management should not be covered in regulations because flexibility is needed to develop appropriate management strategies. Recent experience, including the Eastern Wilderness Act, shows that areas that have previously been exploited by man are being designated as wilderness. Forest Service land managers should be allowed the flexibility to incorporate new technology and new concepts in managing the wilderness resource.

In light of these above comments, we recommend that the introductory language to section (f) be revised as follows:

Note.—This section will become § 219.10(g) if our proposed new § 219.10(a) is adopted.

"(f) Wilderness resource. Each forest plan will evaluate the wilderness resource present and, when appropriate, recommend areas for wilderness designation. In addition, each plan will provide management planning for lands which are designated units of the National Wilderness Preservation System and for lands specifically designated for wilderness study by Congress or recommended by the administration for possible inclusion in the system. The requirements set forth in paragraphs (1) through (4) shall apply to all forest plans.

Paragraphs 219.10(f) (1) through (3) of the draft regulations provide direction for identifying areas of potential value as designated wilderness, at each revision of the forest plan. We find certain deficiencies in the wording. First, (2) is unclear and seems to constrain consideration of potential wilderness to certain lands, largely those which have previously been recognized as having wilderness potential. We feel that all potentially eligible lands should be considered at each revision of the forest plan, regardless of their past history of consideration. Second, because wilderness designation involves elimination of other management opportunities, there should be a requirement that the planning process weigh relative costs and benefits in this, as in other, resources.

Criteria employed in the current RARE II (Roadless Area Review and Evaluation), moreover, dominate § 219.10(f)(3) and the RARE II process itself preempts any immediate action at the level of forest planning. Hence the cited paragraphs are aimed at an uncertain future date. It seems certain that new criteria and priorities will emerge as total acreage in the National Wilderness Preservation System grows. Thus we believe that the planning process would be served better by requirements to develop appropriate criteria from time to time, with public participation, rather than embedding the RARE II criteria in regulations.

Therefore, we recommend the following wording to replace paragraphs (2) and (3) of § 219.10(f):

"(2) At least at 15-year intervals, the lands within the forest meeting the criteria of the National Wilderness Preservation Act of 1964, will be evaluated and considered for recommendation as to future status. The areas to be evaluated will include:

(i) Existing wilderness and primitive areas;

(ii) All previously inventoried wilderness resources not yet designated;

(iii) Areas contiguous to existing wilderness, primitive areas, or administration-proposed wildernesses, regardless of agency jurisdiction;

(iv) Areas, regardless of size, that are contiguous to roadless and undeveloped areas in other federal ownership that have identified wilderness potential; and

(v) Areas designated by Congress for wilderness study, administration proposals pending before Congress, and other legislative proposals pending which have been endorsed by the administration.

(3) Each area designated for examination under subsection (2) above will be evaluated either in terms of current national guidelines or, in their absence, by criteria developed by the interdisciplinary team with public participation. In the latter case, the criteria must consider as a minimum:

(i) The values of the area as wilderness;

(ii) The values foregone and effects on management of adjacent lands as a consequence of wilderness designation;

(iii) Feasibility of management as wilderness, as in respect to size, nonconforming use, and land ownership patterns;

(iv) Proximity to other designated wilderness, and relative contribution to the National Wilderness Preservation System; and

(v) The anticipated long-term changes in plant and animal species' diversity and in diversity of natural communities of the National Forest and the effects of such changes on the wilderness system."

Maintenance of the unique opportunities for research, education, and human enjoyment of wilderness plainly depends on minimal evidence of man an his works, and minimal damage by users. Yet already the wild quality of some portions of some designated Wilderness Areas is being degraded by excessive human activities. Managerial options available to prevent or repair such over-use are essentially only two: (1) Diversion of visitors to less heavily used portions or corridors of an area; or (2) restrictions on number of visitors, or the duration and condition of their visit. The first option deserves continuous study but physical features of the area will often limit its applicability. Both this and the second option, limitations on visitors, should be applied before damage is generally evident or before "wilderness experience" attributes for visitors are impaired.

Paragraph 219.10(f)(4) specifies particular attention to determining when visitors use "must be held to levels that allow natural processes to operate freely * * *". In practice, this latter provision might well place exclusive emphasis on visable physical damage, rather than on its early manifestations or impaired quality of visitor experience. It may also entail reacting after degradation or impairment is apparent, with the then difficult task of reducing established levels and patterns of use. A sounder alternative would be to estimate tolerable limits of use, or "carring capacity," in advance and to regulate visitor numbers accordingly.

This approach obviously parallels the use of carrying capacity for range and wildlife resources, and the "allowable cut" in timber management. Although methods for determining "carrying capacity" of wilderness are not well advanced at this time, we believe reasonable and objective estimates can be made and frequently updated as experience grows. Such estimates would facilitate planning in advance to avoid or mitigate impairment of the paramount values for which Wilderness Areas were designed by Congress.

Accordingly, we recommend that § 219.10(f)(4) specifically require estimates of such "carrying capacity" for each Wilderness Area or selected portions within, and use of these estimates in planning wilderness management. The following wording would accomplish this:

"(4) The forest plan must provide direction for the management of designated wilderness and primitive areas. In particular, it must:

(i) Provide for limiting and distributing visitor use to a level equal to or less than carrying capacity, defined as the maximum level of use that will allow natural processes to operate freely, and that does not impair the values for which wilderness areas were created; and

(ii) Evaluate the extent to which measures against wildfire, insects, and diseases may be desirable for protection of either the wilderness or adjacent areas, and provide for such measures when appropriate."

Other resources to be treated in § 219.10

Several reviewers of the draft regulations have pointed out that they contain no real provision for consideration of *mineral resources*.[1] Although the "location and extent of existing mineral claims, and known and potential mineral deposits" is one of the informational requirements of § 219.9(c)(5), the regulations provide no real direction for consideration of mineral resources in the land allocation process.

This fact can be traced back to the RPA itself which stresses only the renewable resources (timber, wildlife, water, wilderness, recreation, range) and to section 1 the Multiple Use-Sustatined Yield Act which states that "Nothing herein shall be construed so as to affect the use or administration of the mineral resources of national forest lands * * * *" Furthermore, existing Forest Service regulations (Part 252) and other federal laws and regulations govern claims, leasing and extraction on National Forest lands. It can therefore be argued that the subject of mineral resources lies outside the jurisdiction of these regulations.

We feel, however, that minerals must be taken into account during the planning process. There is little logic to deciding the allocation of National Forest lands for various purposes without attention to all reasonably foreseeable uses, which in some forests include recovery of minerals. We suggest a section added to § 219.10 to specify inclusion of minerals in the land allocation process and to insure consideration of mineral recovery as a legitimate use of National Forest land. This section should be appropriately cross-referenced to other sections of the Forest Service regulations (e.g. 252), and those of other agencies, dealing with mineral resources on National Forest land. Because of our limited expertise in the area of minerals, we cannot recommend any language. Several detailed suggestions have been submitted through the public comment process, and we suggest that these contain the basis of an appropriate treatment.

There is, likewise, no treatment of the *visual resource* in the draft regulations. Various commentators have pointed out this dificiency, and we agree that visual and esthetic considerations should be acknowledged in the final regulations. Esthetic resources and impacts are mentioned specifically in NFMA only in section 6(g)(3)(F) and then only as considerations in applying and carrying out even-aged management. The current Forest Service manual contains direction for incorporating visual and esthetic considerations into management practices. Such material could serve as the basis for brief general guidance in the regulations. Therefore, we recommend that a guideline expressing concern for visual or esthetic resources be added as one of the general standards applicable to all management systems as described in our recommended new *'219.10(a)'*. Because of our lack of expertise we will not propose specific language.

219.11 Research

We combine our analysis of monitoring, research, and control because of the close relationship between research and monitoring activities, and because NFMA treats these subjects together. Our comments should be read in context with our general discussion (p. 33) and our discussion of § 219.9, particularly as these discussions relate to subsection 219.9(j) which deals with monitoring.

The NFMA provides a non-specific charge with respect to monitoring, as noted on p. 21 of our report. Otherwise, research and monitoring are called for at only one point (6(g)(3)(C)) and then only in a particular context: "The regulations shall include, but not be limited to * * * (3) specifying guidelines for land management plans * * * which * * * (C) insure research on and (based on continuous monitoring and assessment in the field) evaluation of the effects of each management system to the end that it will not produce substantial and permanent impairment of the productivity of the land."

The Conference Report, which developed this language from the previous Senate draft clarified its purpose and stated that, "The conferees intend that such research and evaluation will be done on a sample basis for each management system." The earlier Senate committee consideration [Senate Report] had expressed its intention that there be "an overall program of on-the-ground monitoring and evaluation, coupled with research," to insure sound management. "If research or evaluation established that a management system or method is producing impairment of the productivity of the land, such system or method will be modified or discontinued" * * * Particular mention was made of "nutrient degradation" of forest soils as a matter requiring attention.

It is clear that Senate committee members and the conferees intended on-the-ground research to insure that the methods of forest management, of themselves, would not lead to substantial and permanent impairment of productivity.

The draft regulations address this intent somewhat obliquely, going far beyond it in major respects but relegating eventual decisions on basic research to the research branch of the Forest Service.

Monitoring and evaluation are established as an integral part of the planning process in § 219.9(j) of the draft regulations. Moreover, they provide for feedback from the required evaluation reports to modify management direction or the forest plan itself if "forest goals and objectives" are not being met on an environmentally sound basis. Thus monitoring and evaluation are made part of an overall control loop which is independent of day-to-day operational

[1] The terms mineral resources and minerals are used in their broadest sense to include both hardrock minerals ("locatables" such as gold, silver, copper, etc.) covered by the Mining Law of 1872, on public domain lands and minerals covered by the Mineral Leasing Act of 1920, ("leasables" such as coal, oil, gas, etc.) on all federal lands.

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activities, but concerned with their ultimate effects on the ground.

These are key provisions. Not only do they meet the congressional requirements for discontinuing operations and systems that impair productivity, damage water resources, or fail to insure restocking, but if taken seriously they establish a formal system of surveillance and evaluation of on-the-ground impacts of management over time. This seems particularly useful in view of the short tenure of many district rangers and supervisors in particular offices, relative to the time often required to reveal the environmental consequences of inappropriate action. Section 219.9(j) of the draft regulations specifically refers to "management activities associated with each of the resources planned * * *" It is further buttressed, with respect to timber harvest, by requirments under § 219.10(d)(6) (Control measurement) of the draft regulations. The applicability of 219.9(j) is reiterated in our proposed management guidelines for all resources *'(219.10(a))'*, range (219.10(b)), and recreation (219.10(c)). The effectiveness of these provisions in practice is likely to depend as much on administrative arrangements for timely field evaluation and prompt reaction to it, as on funding for monitoring itself. The additional costs for the prescribed monitoring itself, however, will be substantial.

The foregoing provisions do not, however, address the matter of research on long-term effects of management systems—the concerns which underly section 6(g)(3)(C) of NFMA. Instead, paragraphs 219.11(a), (b), and (c) of the draft regulations call for identifying research needs during the initial process of planning and in subsequent evaluation. These expressed needs are to be included in formulating overall programs of research. Section 219.11(b) provides that input from all planning levels of the National Forest system will determine research priorities of the research station and national level.

Hence, § 219.11 entails a far more general view of research needs, and is a less direct, or seemingly diffuse, approach to meeting them than is required by section 6 of NFMA. The evident reason for this indirection is that the research branch of the Forest Service, including the forest experiment stations, is separate from the National Forest system and must also serve the research needs of other public and industrial and nonindustrial forest lands. Its activities are neither directed nor funded by any provision of NFMA.

As a matter of record, however, the ecological and soil impacts of timber management systems, including nutrient losses and removals, were being investigated at the Forest Service forest experiment stations even when the Senate Committee expressed its concern. These investigations continue. Thus the specific intent of 6(g)(3)(C), as revealed by its history, is already being met.

Nevertheless, the interdisciplinary teams charged with detailed planning of multiple use management will encounter may critical shortages of information, especially in respect to new approaches, and noncommodity resources. Integrated management of pests—which include insects, microorganisms and weeds—fire management, recreation management, and wilderness management are evident examples. This lack is especially acute because our expectations, our awareness of the detailed knowledge developed in other branches of science, far outrun both available information and the present pace of research in natural resource management. It is likely such lack of information will frustrate some of the best intentioned planning efforts or perhaps force cut-and-try, efforts that will place excessive burdens on the monitoring and evaluation system indicated above. We believe that paragraphs 219.11(a)–(c) should be amplified or phrased more strongly, to make clear how the research essential to implementation of the multiple use objectives of the NFMA will be identified. Regulation language, however, obviously is no substitute for the additional total research support that will be necessary.

We are aware that the problems and delays encountered in moving new research findings into application are probably more severe than in agriculture. These difficulties stem in part from lags in communication and understanding, since forestry has no parallel to agriculture's extension service despite a similar total land area to be managed. An equal source of difficulty is that the feasibility and practicality of much forest land management research can be tested only through long-term results from full-scale application. This calls for a pattern different from the conventional research and development model of test tube to pilot plant to operational use. The "technology transfer" study currently conducted by State and Private Forestry branch of the Forest Service is attempting to develop such patterns. At the same time, the information requirement for selection of the silvicultural system (219.10(d)(3)(ii)) of the draft regulations, carried over in our proposed *'219.10(a)(2)'*, coupled with the required identification of research needs or information failures revealed during the evaluation of management effect (219.9(j)) as specified below should facilitate the flow and use of applicable research results.

In light of these comments, we recommend that the following section be substituted for the present § 219.11:

"219.11 Research

(a) Research needs for management of the National Forest system will be identified during the planning process and reviewed subsequently on a continuing basis through evaluation of implemented plans. Research needs identified during planning will be forwarded through administrative channels to the office of the Chief, Forest Service, and shall become part of the annual report described in (c) below along with a description of the active and proposed research program addressing these needs.

(b) Particular attention will be given to the results of the monitoring and evaluation efforts conducted under § 219.9(j). If these efforts identify management systems or practices that are not successfully meeting stated objectives, or are resulting in substantial and permanent impairment of the productivity of the land, as a result of inadequate information or technology, the research needs identified will be immediately forwarded to the Chief, Forest Service, for subsequent action by the management of Forest Service research activities.

Identified needs will be included in formulating overall programs involving research needs on other public lands and on industrial and nonindustrial private lands. The research priorities for management of the National Forest system will be established and budgeted at the research station and national levels based on input of the National Forest system at all planning levels with due consideration to problems and opportunities identified in (a) above and through the results of the monitoring and evaluation process described in § 219.9(j).

(c) An annual report at the national level will include, but not be limited to, a description of the status of major research programs, significant findings, and how this information is to be applied in National Forest system management."

219.12 Transition period

The wording of this section of the draft regulations has been available for comment for over a year. There have been few comments raised about it at any of our meetings. We therefore conclude that the section is probably adequate to govern the complex set of circumstances that will occur between the time when the first forest plans are completed and September 30, 1985, when all such plans must be completed. We suggest, however, that this section be carefully re-examined to determine if it is adequate to allow the Forest Service to operate a National Forest on its existing management plan until a fully completed plan approved under these regulations is in force.

Provision for Revision of the Regulations Themselves

As mentioned earlier, we believe that the regulations which govern the planning process should be subject to regular re-examination and revision, if appropriate. Such provision would serve two purposes. First, it would make clear to all parties that no aspect of the planning process is immutable and that procedures that now may be controversial, or based on partial knowledge, can be revised in the light of experience and new findings. Further, it would allow for adjustments to new technology, both in planning and in resource management practices.

We propose the following new section to appear at the end of the regulations:

"'219.13' Revision of regulations

These regulations shall be subjected to regular review and, when appropriate, revision. Such review and revision may occur whenever it is deemed necessary, but the first such review shall be completed no later than 6 years after the approval date of these regulations. Additional reviews shall occur at least every 5 years thereafter. The Secretary shall consider the use of a Committee of Scientists to assist in this review and revision. The committee shall not be the same as the one that participated in drafting the initial set of regulations. It shall operate in the manner provided in section 6(h) of the National Forest Management Act of 1976. The process of revision shall take place with full opportunity for public participation. Such public participation shall be generally similar to that required in these regulations for regional planning [§ 219.6].

Full Draft of Regulations Proposed by the Committee of Scientists

The following material is a draft of the full regulations for National Forest System Land and Resource Management Planning which incorporates all additions, deletions, and wording changes proposed by the Committee of Scientists.

PART 219—PLANNING

Subpart A—National Forest System Land and Resource Management Planning

Sec.
219.1 Purpose.
219.2 Scope and applicability.
219.3 Definitions.
219.4 Planning levels.
219.5 Interdisciplinary approach.
219.6 Public participation.
219.7 Coordination of public planning efforts.
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219.10 Forest planning process.
219.11 Resource management standards and guidelines.
219.12 Research.
219.13 Revision of regulations.
219.14 Transition period.

Authority. The provisions of this subpart are issued pursuant to sections 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613); and 5 U.S.C. 301.

§ 219.1 Purpose

These regulations set forth a process for the development, adoption, and revision of National Forest System land and resource management plans in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. The environmental impact assessment process established by the National Environmental Policy Act of 1969, is contained within this land management planning process. General resource management standards and guidelines which apply to specific renewable resources are set forth in this subpart. These regulations describe how land and resource management planning shall be conducted on National Forest System lands. The resulting plans will provide for multiple use and sustained yield of products and services from the National Forest System. Plans guide all natural resource management activities. They determine forest management systems, harvesting levels and procedures under the principles of multiple use and sustained yield, and the availability and suitability of lands for resource management. All levels of planning will reflect the following principles:

(a) Balanced consideration of all renewable resources and their various uses;

(b) Establishment of goals and objectives for the sustained yield of products and services without impairment of the long-term productivity of the land;

(c) Protection of and, where appropriate, improvement of the quality of soil, water, and air resources;

(d) Preservation of important historic and cultural resource aspects of our national heritage;

(e) A systematic interdisciplinary approach;

(f) Coordination with the resource planning efforts of state and local governments, other federal agencies, and Indian tribes;

(g) Early and frequent public participation;

(h) Responsiveness to changing conditions of the land and desires of the American people;

(i) Provision for the safe use and enjoyment of the forest resources by the public; and

(j) Protection and preservation of all forest resources from depredations by forest pests by ecologically compatible means.

§ 219.2 Scope and applicability

These regulations apply to all lands of the National Forest System. Any area within the National Forest System subject to acts of Congress which are more specific than the Forest and Rangeland Renewable Resources Planning Act, as amended, such as the Wild and Scenic Rivers Act, National Trails System Act, Wilderness Act, national recreation areas acts, and other similar statutes specifically designating lands for particular uses, also are subject to the general provisions of the Forest and Rangeland Renewable Resources Planning Act, as amended, and to these regulations. In the event of conflict between the general and specific acts, the act specifically designating an area for a particular use shall be controlling.

§ 219.3 Definitions

For purposes of this subpart the following words shall have these meanings:

(a) "Capability": The ability or potential of a unit of land to produce resources, supply goods and services, and allow resource uses under an assumed set of management practices or at a given level of management intensity. Capability depends upon a fixed set of conditions which are relatively stable overtime, including, but not limited to, climate, slope, landform, soils, and geology. Most land has an inherent capability to produce one or more resources, or goods and services, or allow resource uses, under natural conditions.

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(b) "Diversity": The number of different plant and animal species and each species' abundance, plus the distribution and abundance of different natural plant and animal communities within the area covered by a land and resource management plan. A large number of species and a variety of natural bilological communities in an area is described as a high level or degree of ecological diveristy.

(c) "Economic efficiency analysis": A comparison of the values of the resource inputs (costs) required for plan implementation with the values of resource outputs (benefits) resulting from plan implementation. Benefits are expected to exceed costs.

(d) "Environmental assessment": All activities related to analyzing alternative actions and their predicatable short- and long-term environmental effects, which include physical, biological, economic, and social factors and their interactions.

(e) "Even-aged silviculture": The combination of actions that results in the creation of stands in which trees of essentially the same age grow together. Managed even-aged forests are characterized by a distribution of stands of varying ages (and therefore tree sizes) throughout the forest area. Regeneration in a particular stand is obtained during a short period at or near the time that the stand has reached the desired age or size and is harvested. Clearcutting, shelterwood cutting, seed tree cutting, and their many variations are the cutting methods used to harvest the existing stand and regenerate a new one. In even-aged stands, thinnings, weedings, cleanings, and other cultural treatments between regeneration cuts are often beneficial. Cutting is normally regulated by scheduling the area of harvest cutting to provide for a forest that contains stands having a planned distribution of age classes.

(f) "Goal": A concise statement of the desired state or condition that a land and resource management policy or program is designed to achieve. A goal is usually not quantifiable and may not have a specific date by which it is to be completed. Goals are the statements of principle from which objectives are developed.

(g) "Guidelines":

(h) "Integrated pest management": A process in which all aspects of a pest-host system are studied and weighed to provide the resource manager with an information base for decisionmaking. Integrated pest management is, therefore, a part of forest or resource management. The information provided includes the impact of the unregulated pest population on various resource values, alternative regulatory tactics and strategies, and cost/benefit estimates for these alternative strategies. Regulatory strategies are based on sound silvicultural practices and ecology of the pest-host system and may consist of a single tactic such as application of a pesticide, or a combination of tactics such as stand improvement plus selected use of pesticides. The overriding principle in the choice of strategy is that it is ecologically compatible or acceptable.

(i) "Management intensity": Management activities and the funding levels associated with them. Management intensity will vary according to site productivity and resource allocation.

(j) "Management concern": Consideration of conflicts, management problems, and constraints. Such concerns include policy, goals, and objectives.

(k) "Objective": A clear and specific statement of planned results to be achieved within a stated time period. Objectives are subordinate to goals, are narrower and shorter in range, and have an increased probability of attainment. Time periods for completion, and outputs or achievements that are measureable and quantifiable, are specified.

(l) "Policy":

(m) "Procedure":

(n) "Public issue": A subject or question of widespread public discussion or interest regarding management of National Forest System lands.

(o) "Regional Area Guides":

(p) "Regional Silvicultural Guides":

(q) "Responsible Forest Service official": That individual who has been delegated the authority to carry out a specific action under the authorities of the Secretary of Agriculture.

(r) "Silvicultural systems": A silvicultural system is a combination of interrelated actions whereby forests are tended, harvested, and replaced. The combination of management actions used in this process to manipulate the vegetation results in forests of distinctive form and character, and this determines the combination of multiple resource benefits that can be obtained. Systems are classified as even aged and uneven aged.

(s) "Standards":

(t) "Suitability": The appropriateness of applying certain resource management activities to a given unit of land, as determined by an analysis of the environmental and economic consequences and the alternative uses foregone.

(u) "Type conversions":

(v) "Uneven-aged silviculture": The combination of actions that results in the creation of forests in which trees of several or many ages may grow together. Managed uneven-aged forests may take several forms depending upon the particular cutting methods used. In some cases, the forest is essentially similar throughout, with individual trees of many ages and sizes growing in close association. In other cases, small groups of trees of similar age may be intermingled with similar groups of different ages; although the groups are even aged, they are not recorded separately. Finally, an unevenaged forest may contain two or three distinct age classes on the same area, creating a storied forest. Under uneven-aged silviculture, regeneration is obtained at several or many times during the period required to grow an individual tree to maturity. Single-tree selection cutting, group selection cutting, and other forms of partial cutting are used to harvest trees, obtain regeneration, and provide appropriate intermediate culture. Cutting is usually regulated by specifying the number or proportion of trees of particular sizes to retain within each area, thereby maintaining a planned distribution of size classes. Scheduling by area harvest is often used as well."

§ 219.4 Planning levels

The planning process includes detailed upward flows of information on local production capabilities and costs as well as local and regional demands. The national level aggregates local information, insures that national demands are considered, and decides on the appropriate level of national, regional, and local activities and budget allocations under various reasonable and likely total budget levels.

(a) National. The Chief, Forest Service, shall formulate the Renewable Resources Assessment which will analyze the present and future demands for and supplies of the nation's forest and rangeland renewable resources. Demands will be assessed over a range of prices including the price which would equate supply and demand. The assessment of supply will indicate the feasible range of alternative mixes of outputs which may be forthcoming at each of various reasonable cost levels and will be based on the capabilities of local land units. The Chief shall also analyze opportunities to improve or extend the uses of the nation's forest and rangeland renewable resources. The

Chief shall develop a recommended renewable resource program, based on the assessment, which will best meet the needs of the general public giving consideraiton to the costs of supply and the relative values of outputs as determined through the assessment of demands for both market and non-market outputs. The program will include quantified national renewable resource goals and objectives and the portion of each national goal and objective expressed as a range of outputs, which shall be assigned to each region for the regional plans. The ranges of regional goals and objectives will be based on local supply capabilities and costs so that a region can be expected to achieve the assigned level of goods and services from National Forest land. The goals and objectives will be re-evaluated and adjusted in subsequent revisions to reflect changes in relative values of goods and services and changes in the costs and capability in supplying such outputs.

(b) Regional. Each Regional Forester shall develop a regional plan designed to accomplish the region's assigned portion of the national program. The regional plan shall meet the minimum content requirements described in § 219.8, shall be developed utilizing the interdisciplinary approach described in § 219.5, and shall utilize the public participation and coordination requirements generally described in § 219.6 and § 219.7, and as further specified in § 219.8(c).

(c) Forest. Forest plans shall be developed for all lands in the National Forest system. One forest plan may be prepared for all lands for which a Forest Supervisor has responsibility, or separate forest plans may be prepared for each National Forest, or combination of National Forests, within the jurisdiction of a single Forest Supervisor. These forest plans will constitute the land management plans developed in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act and will include all resource management planning. Forest plans must identify the range of resource capability information which is needed to formulate national, regional, and local goals and objectives. In particular, they should indicate a range of alternative mixes of outputs which would be forthcoming at each of various reasonable budget levels for the local planning unit. Forest plans will be consistent with the goals and objectives set forth in the regional plan.

§ 219.5 Interdisciplinary approach

The Forest Service shall use an interdisciplinary approach at each level of planning in the National Forest System to assure that plans provide for multiple use and sustained yield of the products and services to be obtained from the National Forests in accordance with the Multiple Use-Sustained Yield Act of 1960. This approach must insure coordinated planning for outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness. Land management systems, harvest levels, and procedures must be determined with due consideration for (1) their effects on all resources, (2) the definition of "multiple use" and "sustained yield" as provided in the Multiple Use-Sustained Yield Act of 1960, and (3) the availability of lands and their suitabilities for resource management. The interdisciplinary approach shall also incorporate public participation (§ 219.6) and coordination with other levels of government and with other federal agencies (§ 219.7).

(a) An interdisciplinary team shall be used at each planning level to carry out interdisciplinary planning and to advise the responsible Forest Service official. Through essentially continuous interactions, the team shall insure that planning achieves the goals of multiple use and sustained yield management, by giving consideration to all resources and to the effects of management of one resource upon other resources. The interdisciplinary team shall be guided by the fact that the forests and rangelands of the National Forest System are ecosystems and, hence, that management for goods and services requires an awareness of the interdependencies among plants, animals, soil and the other environmental factors that occur within such ecosystems. Proposed management programs must be both consistent with the nature of these interactions and based upon the results of economic and social analysis. Of necessity, the interdisciplinary team must be composed of individuals with different technical backgrounds representing different disciplines. However, the team must inventory resources, assess management needs and opportunities, make economic and social analyses, develop and evaluate alternative management programs, and recommend a selected alternative in a manner that reflects integrated analysis throughout. The interdisciplinary team may choose any one or a combination of the many techniques and strategies available for achieving interdisciplinary planning. Throughout, however, the interdisciplinary team shall bear in mind that the goal is a technically sound and integrated management plan.

(b) The Forest Service official responsible for development of a plan shall determine the size of the interdisciplinary team and appoint its members. The team shall be composed of Forest Service personnel who collectively represent the appropriate areas of specialized knowledge about natural resources management applicable to the area being planned. The official shall also appoint the leader of the team, and may change the membership of the team as deemed necessary. Where Forest Service employees with appropriate expertise or qualifications are not available, the team shall consult persons other than Fores' Service employees.

Note.—If it proves legally possible for persons other than Forest Service employees to serve as members of teams, the last clause of the last sentence of (b) should read: "the official may also appoint persons other than Forest Service employees as team members."

(c) In the appointment of the interdisciplinary team, the responsible Forest Service official shall determine and consider the relevance of the qualifications of each potential team member on the basis of the areas of major concern being addressed in planning for the land area under consideration. Each team member shall, as a minimum, have either (1) successfully completed a course of study in an accredited college or university leading to a bachelor's or higher degree in the member's specialized area of assignment or (2) recognized expertise and experience in professional investigative, scientific, or other responsible work in the specialty which the member represents. Where available, certification programs will be used both to assure competency of individual team members and to document disciplinary representation. Field experience in the area to be planned shall be considered a desirable attribute for potential team members.

(d) In implementing the forest plan, the Forest Supervisor will assure an interdisciplinary approach by using a staff of several disciplines. If the Forest Supervisor determines that a new team is needed for evaluation or revision (219.9(j)) of the plan, a new interdisciplinary team will be appointed.

§ 219.6 Public participation

(a) Land and resource planning determines how the public lands of the National Forest System are to be managed. Therefore, it is Forest Service

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policy that the public have the opportunity to participate and become involved throughout the planning process and that plans at every level consider the issues and concerns raised by the public. The objectives of public participation are to: Insure that the public understands Forest Service programs and proposed actions, and that the Forest Service understands public concerns; assure that no significant decisions are made without consultation with interested and affected segments of the public; assure that Forest Service actions are responsive to the maximum extent feasible to public concerns; and demonstrate that public concerns are evaluated and considered.

(b) As used in this section, public participation activities include public hearings, meetings, conferences, seminars, workshops, tours and similar activities scheduled and held to obtain comments from the general public and specific "publics." It also includes solicitation of written comments from individuals and groups.

(c) The responsible Forest Service official shall use public participation throughout the development, revision, and significant amendment of plans. Public participation activities as defined in (b) above should be appropriate to the level of planning, geographic area or areas, and people involved. Means of notification should be appropriate to the level of planning. Activities which unreasonably inhibit the public or the Forest Service from freely expressing views because of onerous legal requirements or the necessity for technical qualifications on the part of participants should be avoided. In no case should public hearings be the only form of public participation used. Public participation activities should be scheduled at times convenient to the public. Informational materials provided during public participation should be clearly written, should summarize complex technical materials in a manner appropriate for public and media uses, and should be designed to encourage the public to participate in significant decisions, particularly where alternative courses of action are proposed. When documents are summarized, the location of the full document should be noted. Significant issues that are to be the subject of decisionmaking should be stressed. Whenever possible, the social, economic, and environmental consequences of proposed decisions, should be clearly stated.

(d) Public participation activities shall be initiated by media notice which includes the following information:

(1) Description of the proposed planning action;

(2) Descriptions of the geographic area to be planned with maps if appropriate;

(3) The issues expected to be discussed;

(4) The kind and extent of public participation to be used;

(5) The times, dates, and locations scheduled or anticipated for public meetings;

(6) The name, title, address, and telephone number of the Forest Service official who may be contacted for further information; and

(7) The location and availability of documents relevant to the planning process.

Notice of subsequent public participation activities shall include, as a minimum, a statement of the issue(s) to be discussed and the general nature of the public response desired. Such notice shall be given directly by U.S. mail or other means to any individual or group who has requested direct notification and by any other appropriate media notice. With regard to notice of any public participation activities, publication as a legal notice shall not be acceptable as the sole means of public notification.

(e) Public participation activities in the preparation of a draft, environmental statement for planning shall begin with the publication of a notice of intent to prepare a draft environmental impact statement in the Federal Register. After this publication, all public participation activities for land and resource management planning, including those required by the National Environmental Policy Act, shall be conducted simultaneously.

(f) Public notice will be given at least 30 calendar days prior to activities associated with the development of national or regional plans. Public notice will be given at least 15 calendar days prior to activities associated with forest plans. Any notice requesting written comments on national and regional planning will allow at least 60 calendar days for responses, and on forest planning will allow at least 30 calendar days for responses.

(g) In the preparation of forest plans, the Forest Supervisor shall schedule public participation activies as a minimum at the following points in the planning process: (1) At the beginning of the planning effort as required in (e) above; (2) after completion of the inventory and assessment process and prior to the development and selection of alternatives; and (3) prior to the selection of the preferred alternative.

(h) A list of individuals and groups known to be interested in or affected by the plan shall be maintained. They shall be notified of public participation activities.

(i) The responsible Forest Service official or his representative shall attend all Forest Service public participation activities.

(j) All scheduled public participation activities shall be documented by a summary of the principal issues discussed, comments made, and a register of those in attendance. In addition, the plan shall contain written material demonstrating that the significant issues raised during public participation have been analyzed and evaluated as required in § 219.10(a) and summarizing the Forest Service's response to them.

(k) Copies of draft and approved plans shall be reasonably available for public review as follows:

(1) Renewable Resource Assessment and Renewable Resource Program shall be available at national headquarters, each regional office, each Forest Supervisor's office, and each District Ranger's office;

(2) The regional plan shall be available at national headquarters, at the regional office and the offices of contiguous regions, at each Forest Supervisor's office of forests within and contiguous to that region, and at each District Ranger's office in that region;

(3) The forest plan shall be available at the regional office for that forest, at that Forest Supervisor's office and the Forest Supervisor's offices contiguous to that forest, at each District Ranger's office in that forest, at those District Ranger's offices in other forests that are contiguous to that forest, and at the county court houses or public libraries in the counties (or similar government units) where the forest is located.

(4) For public information purposes, copies of the above plans may be made available at other convenient locations.

(l) Supporting documents to plans shall be available at the office where the plan was developed.

(m) Upon issuance of a draft environmental impact statement on a forest plan, revision, or significant amendment, and concurrent with the public participation activities under paragraph (g) of this section, the public shall have a 3-month period to review the statement for the proposed forest plan, revision or significant amendment. During that time additional public participation activities will take place to review the actions proposed in the draft environmental impact statement.

(n) Fees for reproducing requested documents may be charged according to the Forest Service schedule for Freedom of Information Act requests (7 C.F.R. 1.1. et seq., Appendix A).

(o) Compliance with the formal public participation requirements of this section does not remove the requirement for the responsible Forest Service official to meet with, or supply relevant information to, interested parties.

§ 219.7 Coordination of public planning efforts.

Efficient management of the resources of the National Forest System requires that planning be thoroughly coordinated among all levels of government, including state and local jurisdictions, and multi-county and multy-state bodies. Such coordination is necessary in order to insure wise use of regional and local resources and to insure, consistent with requirements of federal law, that governmental objectives, policies, and programs for management of those resources are compatible to the greatest extent possible. Therefore, the Forest Service shall maintain ongoing coordination of its national, regional, and forest planning with the equivalent and related planning efforts of state, local and other federal government agencies and with Indian tribes.

(a) The responsible Forest Service official, through the interdisciplinary team, shall coordinate Forest Service planning with land and resource management planning processes of other affected public entities, and Indian tribes.

(b) The purpose of coordination is to insure that plans at every level in the Forest Service include:

(1) An awareness and discussion of the objectives of other federal, state, and local governments and owners of intermingled private lands as expressed in their plans and policies;

(2) An assessment of the mutual impacts of these plans and policies;

(3) A determination of how each Forest Service plan should deal with the issues and impacts identified; and

(4) Where conflicts are identified, a presentation of the alternatives for their resolution.

(c) The responsible Forest Service official shall give notice of the preparation or revision of a forest plan along with a general schedule of anticipated planning steps to the State Clearinghouse (OMB Circular A–95) for circulation among state agencies. The same notice will be mailed to all Tribal or Alaska Native leaders to the extent Indian Reservations or Alaskan Native corportations are impacted, and to the heads of county boards for the counties that are involved. These notices shall be issued simultaneously with the public notice required in § 219.6(e).

(d) In order to facilitate state and local government participation in the planning process, the Chief of the Forest Service shall:

(1) Ask the Governor of each state or territory to designate a single official of that state to serve as the contact person for the Forest Service. In seeking designation of a state official, the Chief shall specify that the Forest Service desires that such appointment shall be either an official with natural resource experience, such as the chief officer of the appropriate state natural resource agency, or an official with responsibility for statewide planning if such appointment is more appropriate to a given state. Contacts with state and local governments relating to the National Assessment, National Program, and regional plan shall be coordinated through the designated state official, and state inputs into those planning activities shall be coordinated by that person. In the case of forest plans, contact shall be through the designated state official or through a person designated to serve in his stead.

(2) In the case of forest plans, ask that the Governor or his designee specified in (1) above appoint appropriate state and local government representatives to participate with the interdisciplinary team in coordinating the input of state and local governments to the forest planning process.

Note.—This language becomes unnecessary if it is possible for state personnel to serve as members of interdisciplinary teams.

(e) In the development of forest plans, the Forest Supervisor and his interdisciplinary team shall meet with the designated state official (or his designee), state advisory persons, and representatives of other federal agencies and Indian tribal governments at the beginning of the planning process to develop procedures for coordination. As a minimum, the opportunity for such conferences shall also be required at the following additional times: After issues and opportunities for management have been identified and prior to the development and selection of alternatives; and prior to the selection of the preferred alternative. Such conferences may be held in conjunction with other public participation activities, provided that the opportunities for other governmental officials to participate in the planning process are not thereby reduced.

(f) During the planning process, the responsible Forest Service official shall conduct an inventory, appropriate to each given level of planning, of multi-state, state, multi-county, and local planning and land use regulatory activity. This inventory shall include, but not be limited to, plans affecting renewable natural resources and minerals, recreation, community and economic development, land use, transportation, wildlife, growth, water and air pollution control, and energy. Plans at each level shall document this inventory and discussion of the plans of other entities. Where state and local plans contain population or economic growth projections, this discussion shall specifically analyze these and show their appropriateness, or inappropriateness, for use in meeting the requirements of § 219.10(c)(3)(viii). The discussion shall be adequate to meet the pruposes described in § 219.7(b) above.

(g) In the development of forest plans, the responsible official shall, to the extent feasible, notify in the manner required in (c) above the owners of lands that are intermingled with, or dependent for access upon, National Forest lands and on which management is being practiced similar in character to that being practiced on adjacent National Forest lands. He shall then coordinate, to the extent feasible, his planning activities with these owners. The results of this coordination shall be included in the plan as a part of the inventory required in (f) above.

(h) In developing the forest plan, the responsible Forest Service official shall seek input from other federal, state, and local govenments, universities and private research organizations in resolving management problems identified in the planning process and in identifying areas where additional research is needed. This consultation shall be included in the discussion of the research needs of the forest being planned.

(i) The responsible Forest Service official, through the interdisciplinary team, shall coordinate forest planning acitivities with the efforts of the appropriate forest and range experiment station to identify and study lands meriting consideration for designation as research natural areas, geologic areas, botanic areas, or other special purpose areas. Such coordination shall include at least obtaining recommendations from the station as to areas that should be identified and protected pending study for potential designation.

(j) A continuing program of monitoring shall be carried out that includes

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consideration of the effects of national forest management on land, resources, and communities adjacent to or near the National Forest being planned and the effects upon national forest management of activities on nearby land managed by other federal or governmental agencies or under the jurisdiction of local governments.

§ 219.8 Regional plan

(a) Regional plans must contribute to and respond to the Renewable Resource Assessment and Program by providing the following as a minimum:

(1) Long-range regional policies, goals, and objectives assigned by the National Program;

(2) Resource production objectives for each forest plan consistent with the regional plan;

(3) Guidelines to resolve public issues and management concerns, including those specific items mentioned in § 219.8(e) and those items identified through public participation and coordination activities.

(b) An environmental impact statement shall be prepared for each regional plan or revision thereof.

(c) In preparing the regional plan, the Regional Forester shall be guided by the general requirements for operation of the interdisciplinary team (§ 219.5), for public participation and environmental impact statement preparation (§ 219.6) and for coordination (§ 219.7). However, public participation and coordination acitivities shall be adapted to the circumstances of regional planning. Particular efforts shall be made to involve regional and national representatives of interest groups. Coordination shall stress involvement by appropriate state, multi-state and regional agencies and entities. Efforts shall be made to obtain appointment of the designated state official described in § 219.7(d)(1) and to coordinate with each state through that person.

(d) Because Forest Service regions are heterogeneous, contain diverse topography, soils, and forest types, and reflect widely differing political and social circumstances, the Regional Forester shall include in the regional plan a discussion of these specific differing conditions and circumstances. He may do this through preparation of Regional Area Guides as defined in § 219.3(o).

(e) In addition to public issues and management concerns identified through public participation and coordination, each regional plan shall:

(1) Prescribe according to geographic areas, forest types, or other suitable classifications, appropriate systems of silviculture to be used within the region;

(2) Determine, according to geographic areas, forest types, or other suitable classifications, at least the maximum size limits for areas to be cut in one harvest operation. In establishing such size limits, the factors enumerated in § 219.11(a)(3)(ii) shall specially be considered;

(3) Set standards for biological growth potential to be used in determing the capability of land for timber production as required in § 219.11(e)(1);

(4) Set standards, by forest type or species, for assuring that all stands of trees have reached the culmination of mean annual increment prior to harvest;

(5) Define the management intensity and utilization standards to be used in determining harvest levels for the region;

(6) Specify by geographic areas, forest types, or other suitable classifications, the minimum number, size, distribution, and species composition of regeneration necessary to define adequate restocking as required in § 219.11(e)(1).

(7) Establish the alternate cost standard(s) or price(s) to be used in determining the potential economic suitability of land for commercial timber production as required in § 219.11(e)(1). These prescriptions, size limits, and standards shall be justified through the use of appropriate scientific and technical criteria and may be established either as an integral part of the regional plan or through Regional Silvicultural Guides as defined in § 219.3(p). If guides are prepared, then such preparation shall be subject to the same public participation and approval requirements as pertain to the regional plan and they shall be considered as a part of the regional plan. When geographic areas or forest types occur in more than one region, prescriptions, size limits, and standards shall be prepared to assure their compatibility as well as the compatibility of inventory data and monitoring techniques. In the event that regional plans establish different prescriptions, size limits, or standards for the same geographic area or forest type, each regional plan involved shall explain and justify such differences.

(f) The Regional Forester shall transmit the proposed regional plan to the Chief, Forest Service, for approval. The Chief shall review the transmittal and take either of the following actions:

(1) Approve the transmittal, which may become effective 30 days after the date on which the final environmental impact statement is filed with the Environmental Protection Agency, and attach to the plan a statement documenting approval; or

(2) Disapprove the transmittal, which shall be returned to the Regional Forester with a written statement of the reasons for such disapproval.

(g) When each regional plan is approved, each forest plan prepared under these regulations will be revised or amended to bring it into conformity as soon as practicable.

(h) For purposes of administrative review pursuant to § 211.19 of this title, the approval or disapproval of the regional plan shall be the only decision subject to review. The period for submission of a notice of appeal shall run from the date of filing of the final environmental impact statement with the Environmental Protection Agency.

(i) All regional plans must be reviewed after each National Program is adopted, or whenever the Regional Forester or the Chief of the Forest Service deems it desirable. Revisions must be prepared in accordance with the requirements outlined in the section for preparation of regional plans, and will not become effective until approved in accordance with the provisions of § 219.8(f).

§ 219.9 Forest planning procedure

(a) *Responsibility.* The Forest Supervisor and the interdisciplinary team shall have the following responsibilities:

(1) Forest Supervisor. The Forest Supervisor shall have overall responsibilty for the preparation and implementation of the forest plan and shall appoint and supervise an interdisciplinary team.

(2) Interdisciplinary team. The team shall develop a proposed forest plan using the planning process in a manner consistent with the National Environmental Policy Act of 1969, and its implementing regulations. The team will implement the public participation and coordination requirements in preparing the draft and final environmental impact statements, forest plan, revisions, and amendments thereto. The team will continue to function, even though membership may change, and will monitor and evaluate planning results and recommend revisions and amendments.

(b) *Planning process records.* Records shall be maintained that support environmental assessments and alternative plans made by the team and decision made by the Forest Supervisor throughout the planning process. Such supporting records will provide the basis for the draft and final environmental statements and the development of, revision, or significant amendment to, the forest plan.

(c) *Intergovernmental coordination.* The Forest Supervisor shall contact multi-state, state, multi-county, county, and other local agencies responsible for various planning, development, and regulatory programs including, but not limited to, water quality, pest management, recreation, air quality, community development, land use regulation, energy, wildlife, and transportation. The plans, policies and programs of these agencies will be analyzed for their relevance to the forest plan. The Forest Supervisor will systematically consult with these agencies, through state advisory personnel, in the development of the forest plan.

(d) *Draft environmental impact statement.* Proposed forest plans, revisions, or significant amendments will be described in the draft environmental impact statement. A notice of intent to prepare this statement will be issued. Beginning at the time of notification in the Federal Register of the issuance of the statement, this statement will be available for public comment for 90 days or 3 months, whichever is longer, at convenient locations in the vicinity of the lands covered by the plan, revision, or significant amendment. During this period, and in accordance with the provisions in section § 219.6, the responsible Forest Service official shall publicize and hold meetings or comparable activities as he deems appropriate to foster public participation.

(e) *Final environmental impact statement.* A final environmental impact statement on a forest plan will be prepared by the interdisciplinary team, and after review and concurrence, the Forest Supervisor will propose that it be filed by the Regional Forester at least 30 days prior to actions which are based upon the selected alternative for the plan, revision, or significant amendment. The forest plan, revision, or significant amendment shall be based on the selected alternative.

(f) *Forest plan approval.* The Forest Supervisor shall transmit the proposed forest plan, revision, or significant amendment, to the Regional Forester for approval. The Regional Forester shall review the transmittal and take either of the following actions:

(1) Approve the transmittal, which may become effective 30 days after the date on which the final environmental impact statement is filed with the Environmental Protection Agency, and attach to the plan a statement documenting approval; or

(2) Disapprove the transmittal, which shall be returned to the Forest Supervisor with a written statement of the reasons for such disapproval.

(g) *Administrative review.* For purposes of administrative review pursuant to § 211.19 of this title, the approval or disapproval of the plan, revision, or significant amendment, shall be the only decision subject to review. The period for submission of a notice of appeal shall run from the date of submission of the final environmental impact statement to the Environmental Protection Agency.

(h) *Conformity.* As soon as practicable after approval of the plan, revision, or significant amendment, the Forest Supervisor shall insure that, subject to valid existing rights, all outstanding and future permits, contracts, cooperative agreements, and other instruments for occupancy and use of affected lands are in conformity with the plan. In addition, all subsequent administrative activities affecting such lands, including budget proposals, shall be in compliance with the plan. Changes in the scheduling of management activities proposed in the forest plan may be made by the Forest Supervisor to respond to differences between annual budget proposals and appropriated funds. Such scheduled changes will be considered an amendment to the forest plan, but shall not require preparation of an environmental impact statement unless the changes significantly alter the relationship between levels of multiple-use goods and services projected under planned budget proposals as compared to those levels projected with actual appropriations.

(i) *Amendment.* The Forest Service may amend a plan through an environmental assessment. Such an amendment will be deemed significant if the assessment indicates the need to prepare an environmental impact statement. If such a need is indicated, the amending process will follow the same procedures as for the preparation of the plan. If the amendment is determined not to be significant, it may be implemented by the Forest Supervisor after public notice.

(j) *Revision.* A forest plan must be revised at least every 15 years, or whenever the Forest Supervisor determines that conditions in the area covered by the plan or the demands of the public have changed significantly. Revisions will not become effective until considered and approved in accordance with the requirements for the development and approval of a forest plan. The Forest Supervisor will review the conditions on the land covered by the plan at least every 5 years to determine whether conditions have changed significantly.

§ 219.10 Forest planning process

In the preparation of a proposed forest plan, revision, or significant amendment, the interdisciplinary team, as directed by the Forest Supervisor, shall follow a process in compliance with the national Environmental Policy Act of 1969, and its regulations and other applicable statutes. That process shall include at least the following actions:

(a) *Identification of issues, concerns, and opportunities.* Public issues, management concerns, and resource use and development opportunities identified through public involvement activities and intergovernmental coordination activities will be analyzed continually in the planning process by the interdisciplinary team. These analyses will be periodically reviewed by the Forest Supervisor who shall determine the major issues, management concerns, and use and development opportunities to be addressed in the planning process. The interdisciplinary team may recommend additions or changes for consideration and decision by the Forest Supervisor.

(b) *Development of planning criteria.* Criteria will be prepared to guide development of the forest plan, revision, or significant amendment, throughout the planning process. Planning criteria usually will apply to collection and use of inventory data and information, analysis of the management situation, the design and formulation of alternatives, and the estimation of effects of alternatives. Criteria will be used to evaluate alternatives and to select one alternative to serve as the proposed forest plan. Planning criteria may need to be revised as planning proceeds, and the interdisciplinary team will make a record of any significant change in the criteria. Generally, criteria will be based on:

(1) Laws, executive orders, and regulations;

(2) Goals and objectives in the renewable resource program and regional plans, and policy statements from higher officials;

(3) Recommendations developed from public issues, management concerns, and resource use and development opportunities;

(4) The plans and programs of other federal agencies and the plans, policies, and programs of multi-state agencies, state, and local governments;

(5) The ecological, technical, and economic feasibility of management alternatives; and

(6) The resource management standards and guidelines found in § 219.11 of this part.

(c) *Inventory data and information collection.* (1) Each Forest supervisor shall obtain and keep current inventory data appropriate for making planning and management decisions about the land and the resources under his administrative responsibility. The interdisciplinary team will collect inventory data and information, with pertinent maps, graphic material, and explanatory aids, to the degree necessary to plan effectively and carry out the environmental assessment. Inventory data and information needs may vary as planning problems develop from identification of issues, concerns, and opportunities.

(2) Inventory data must be of a detail appropriate for the management decisions to be made and include at least the following: (i) Geology and mineral characteristics; (ii) soils, their productivity and behavior under use; (iii) natural water occurrences, including quality and quantity, and wetlands and flood plains; (iv) existing plant life, including maps of actual and potential plant communities, quantitative measurements of occurrence and condition of timber species, quantitative estimates of range condition and trend, forage availability, and the capability of each site; (v) existing fish and wildlife; (vi) habitat conditions for management indicator species; (vii) existing recreational facilities; (viii) quantitative data for determining species and community diversity; and (ix) threatened and endangered plant and animal species.

(3) Informational needs generally may include: (i) Climatic, geologic, and soil hazards, wildfire potential, and major potential insect, diesease, and other pest problems; (ii) existing structural facilities and other physical changes on the land; (iii) existing transportation facilities and systems and transmission corridors for expected public utility needs; (iv) existing water developments and appropriated and reserved water rights; (v) applicable air and water quality standards, and area designation of air quality; (vi) land ownership patterns and jurisdictions, legislatively and administratively designated areas; (vii) location and extent of existing mineral claims, and known potential mineral and geothermal resources; (viii) economic and social data, such as population and employment patterns; (ix) property included in or eligible for inclusion in the National Register of Historic Places and other cultural resources; (x) quality of the visual resource; (xi) fire history and effects of fire exclusion and fire management opportunities; (xii) existing roadless areas; and (xiii) lands meriting consideration for designation under special administrative classification, such as research natural areas, geologic areas, botanic areas, or other special purpose areas.

(4) Informational needs must include the plans of other federal agencies and those of state agencies and local jurisdictions relating to resource management, land use, and community development.

(5) Methods used to gather inventory data will be consistent with those used to monitor consequences of activities resulting from planning and management. Inventory data and information will be stored for ready retrieval and comparison and periodically will be evaluated for accuracy and effectiveness.

(d) *Analysis of the management situation.* Based upon the inventory data and other relevant information, an analysis of capability and suitability of the area for resource management will be made to determine:

(1) The opportunities for providing on a sustainable basis alternative levels and mixes of various goods, services, and uses. Such an assessment shall analyze the productive capabilities of the area under alternative assumptions as to the intensity of management practices and expenditure levels. The assessment of management opportunities shall be consistent with the scope, procedures, and assumptions of the National Assessment required under section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

(2) Special conditions or situations which involve hazards that may cause serious or irreversible damage, and their relationship to alternative activities;

(3) Projections of public demand and price trends for the various goods, services, and uses for the period covered by the forest plan. To the extent possible, demand will be assessed as a price-quantity relationship;

(4) Opportunities to resolve public issues and management concerns; and

(5) Technical and economic feasibility of providing the levels of goods, services, and uses assigned to the forest by the regional plan and of meeting public demand.

(e) *Formulation of alternatives.* Based on the analysis of the management situation, a set of management objectives will be developed to guide the formulation of alternative plans. These objectives will provide a statement of the purpose of the actions proposed in each alternative. A reasonable range of alternative land management plans will be formulated by the interdisciplinary team and described in draft and final environmental impact statements.

(1) Reasonable range of alternatives. The alternative land management plans shall be formulated to provide alternative levels and mixes of goods, services, and resource uses for each of several alternative expenditure levels, provide that: (i) Each is capable of being chosen as the selected alternative; (ii) the alternatives include a no-change alternative which will represent existing levels of resource inputs and outputs; (iii) the alternatives provide for varying degrees in the elimination of backlogs of need treatment for the restoration of renewable resources; and (iv) the alternatives are capable of supplying the range of goods, services, and resource uses allocated to the unit in the regional plan. The range of goods and services allocated to the unit must be consistent with the resource production capability of the unit as determined in the analysis of the management situation described in 219.10(d).

(2) Alternative content. Each management alternative will contain at least: (i) A statement of future overall condition and various uses anticipated to be the result of the long-term management of the forest under the alternative; (ii) a statement of the goods and services that can be expected to be produced from selected resources; (iii) a statement of the time and vicinity of management activities which will be expected to occur to accomplish the anticipated production of goods and services, and control and mitigation of adverse environmental effects; (iv) an analysis of the changes in diversity of plant and animal species and communities, the relation of those changes to capability and suitability, and their relation to achievement of overall multiple-use objectives; and (v) provision for lands administratively designated as special purpose areas or requiring further study for potential designation such as research natural areas, geologic areas, botanic areas, or other special purpose areas.

(f) *Estimated effects of alternatives.* The physical, biological, economic, and social effects of implementing each alternative shall be estimated and displayed. Estimation of effects will involve at least:

(1) Expected changes in the physical and biological conditions including but not limited to: (i) Soil productivity and plant life; (ii) water quantity and quality, flood plains and wetlands and watersheds; (iii) air quality; (iv) esthetic values; (v) fish and wildlife; (vi) anticipated diversity of plant and animal communities compared to that diversity existing in the area being planned and to the diversity which might be expected to occur under natural forces unaffected by people; (vii) diversity of tree species in relation to that existing and that expected to occur on surrounding areas of similar soil; and (viii) the adverse effects on the human environment which cannot be avoided.

(2) Expected changes in economic and social conditions including but not limited to: (i) Local employment, payrolls, and income, direct and induced; (ii) revenue sharing with local governments; (iii) receipts to the Federal Treasury and capital improvements on the National Forest provided by users; (iv) resource commitments that are irreversible; (v) the relationship between local short-term use of the National Forest and the maintenance and enhancement of its long-term productivity; (vi) required local government services; (vii) prices for and supply of goods and services; (viii) economic stability; (ix) income from property yield and income taxes collected by state and local governments; (x) flow of resources from other lands; (xi) incidence of plan costs and benefits among affected groups; (xii) population in terms of composition, structure, and civil rights; and (xiii) effects on prime farmlands in the area surrounding the forest.

(3) Expected direct benefits and costs of the alternative expressed in present value terms computed with an appropriate interest rate including, but not limited to, the produced goods and services, administrative costs, and the protection and, as appropriate, enhancement of resources values. Direct and indirect benefits and costs will be estimated in accordance with standards and practices for economic analysis established by the Chief, Forest Service. Benefit values shall be based, where possible, on willingness to pay in an actual market. Physical outputs shall be reported for all goods and services provided. Capital investments and operating costs shall be reported separately and shall be charged proportionally to resource outputs which will be realized. Estimated costs shall include the value of resource opportunities foregone.

(4) A benefit-cost analysis including but not limited to (i) the values and costs identified in (2) and (3) above; (ii) the value of existing capital assets, including land, at the beginning and end of the period covered by the plan; and (iii) an ecosomic efficiency indicator, such as benefit/cost ratio or estimated present net worth.

(g) *Evaluation of preferred alternatives.* The interdisciplinary team will evaluate the significant physical, biological, economic, and social effects of managment alternatives, according to the planning criteria, including at least those effects listed in subsection (f)(1) and (2) of this section. The Forest Supervisor will review the interdisciplinary team evaluation and will recommend a preferred alternative to be indicated in the draft environmental impact statement.

(h) *Selection of alternative.* After publication of the draft environmental impact statement, the interdisciplinary team will evaluate public comments and revise, as necessary, a recommended alternative. The Forest Supervisor will recommend the selected alternative for the final environmental impact statement using evaluation criteria developed pursuant to § 219.10(b).

(i) *Plan content.* The interdisciplinary team shall insure that the forest plan consists of one document or set of documents in a standard format containing at least:

(1) A brief description of the identified major public issues and management concerns;

(2) Descriptions and appropriate maps of the area covered by the forest plan;

(3) Goals and objective from the current regional plan;

(4) A description and analysis of the policies, plans, and programs of other federal agencies, multi-state agencies, state, multi-county agencies, and local jurisdictions likely to affect or be affected by National Forest management activities.

(5) Tabulations of expected types and amounts of goods, services, or uses for the time periods given in the regional plan;

(6) Proposed vicinity, timing, and standards and guidelines for proposed and probable activities;

(7) Monitoring and evaluation requirements;

(8) Appropriate references to information used in development of the forest plan; and

(9) The names of the interdisciplinary team members, together with a summary of each member's qualification in a particular discipline.

(j) *Monitoring and evaluation.* At intervals established in the forest plan, an evaluation must be made to determine how well objectives of the forest plan have been met. Management activities associated with each of the resources planned shall be evaluated through monitoring on an appropriate sample basis. Methods used to monitor consequences of activities resulting from planning and management activities will be consistent with those used to gather inventory data and will be sufficiently accurate to detect change.

(1) Monitoring requirements of the plan shall include descriptions of:

(i) those activities to be measured and the frequency of measurements;

(ii) expected precision and reliability of monitoring processes; and (iii) when evaluation reports will be prepared.

(2) Evaluation reports must be prepared and, for each management activity monitored, must contain at the least the following: (i) A quantitative estimate of performance comparing actual accomplishments with those that were anticipated in the plan; (ii) documentation of measured effects, including any change in productivity of the land; (iii) recommendations for changes; (iv) a list of needs for continuing evaluation of management systems and for alternative methods of management; and (v) unit costs associated with carrying out the planned activities as compared with unit costs estimated in the plan.

(3) Based upon the evaluation reports, the Forest Supervisor will make such changes in management direction, or revisions or amendments to the forest plan as deemed necessary to meet the forest goals and objectives.

§ 219.11 Resource management standards and guidelines.

The standards and guidelines set forth in this section will, as appropriate, be included in the planning criteria, or be applied throughout the planning process. Such application shall be only in a manner consistent with the interdisciplinary requirements of § 219.5.

(a) *All resource uses.* Certain standards and guidelines will apply to all resource uses:

(1) All management activities. All management activities must:

(i) Not allow significant or permanent impairment of the productivity of the land;

(ii) Provide means for minimizing serious or long-lasting hazards from flood, wind, wildfire, erosion, or other natural physical forces, except as these are specifically accepted, as in wilderness;

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(iii) Provide means for prevention and reduction of serius or long-lasting hazards from pest organisms. The guiding principles will be those of integrated pest management;

(iv) Assure protection for streams, streambanks, shorelines, lakes, wetlands, and other bodies of water as provided under (a)(4) and (a)(5) below;

(v) Maintain diversity in plant and animal communities and preserve the variety of endemici and desirable naturalized plant and animal species currently found in the area covered by the forest plan; and

(vi) Be monitored and evaluated as required in § 219.10(j) to assure that activities are carried out in a manner consistent with the protection of soil, watershed, fish and wildlife, recreation, and esthetic values, consistent with the maintenance of timber and range productivity, and consistent with reduction of hazards from insects, disease, weed species, and fire.

(2) Vegetation management practices. When vegetation is altered by management, the methods, timing, and intensity of the practices determine the level of benefits that can be obtained from the various resources. The vegetation management practices chosen for each vegetation type and circumstance will be defined in the forest plan with a display of the alternatives examined and the reasons for the final choices. Where more than one vegetation management system will be used in a vegetation type, the conditions under which each will be used will be clearly defined. The choices will be based upon thorough reviews of technical and scientific literature and practical experience, with appropriate evaluation of this knowledge for relevance to the specific vegetation and site conditions. On National Forest land, the chosen alternative will:

(i) Be the one best suited to achieve the multiple-use goals established for the area, including consideration of all potential environmental, biological, esthetic, engineering, and economic impacts, as stated in the regional and forest plans;

(ii) Assure that forested lands can be adequately restocked within 5 years after final harvest, except where permanent openings are created for wildlife habitat improvement, vistas, recreation uses, and similar activities;

(iii) Not be chosen primarily because it will give the greatest dollar return or the greatest output of any one product or service, although these factors shall be considered. Both short- and long-term costs and benefits shall be used in economic analysis rather than immediate or short-term returns;

(iv) In meeting the requirements of § 219.11(a)(1)(ii) and (iii) above, give particular attention to potential effects on residual and adjacent vegetation;

(v) Avoid permanent impairment of site productivity, and assure conservation of soil and water resources in accord with § 219.11(a)(5);

(vi) Provide the desired effects on water quantity and quality, wildlife and fish habitat, regeneration of desired plant species, recreation uses and esthetic values, and resource yields;

(vii) Be practical to use in terms of such factors as administration, costs of sales, transportation, and related considerations; and

(viii) Preserve and maintain species and community diversity as required in § 219.11(a)(6).

(3) Control of openings. When openings are created by the application of an even-aged silvicultural system:

(i) The blocks or strips cut shall be shaped and blended with the natural terrain to achieve esthetic and wildlife habitat objectives to the extent practicable; and

(ii) Individual cut blocks, patches, or strips must conform to the maximum size limits for areas to be cut in one harvest operation established by the regional plan according to geographic areas and forest types. The following factors must be considered in determining size limits by geographic areas and forest types: Topography; relationship of units to other natural or man-made openings and proximity of units; coordination and consistency with adjacent forests and regions; effects on water quality and quantity; effects on wildlife and fish habitat; regeneration requirements for desirable tree species based upon the latest research findings; transportation and harvesting system requirements; natural and biological hazards to survival of residual trees and surrounding stands; and relative total costs of preparation, logging, and administration of harvest cuts of various sizes. The size limits may be exceeded after 30 days public notice and after review by the responsible official one level above the official who normally would approve the harvest proposal. The established limit shall not apply to the size of areas harvested as a result of natural catastrophic condition such as fire, insect and disease attack, or windstorm.

(4) Protection of streams and lakes. During the inventory, planning, and monitoring processes, special attention shall be given to a strip approximately 30 meters wide along both sides of all perennial streams, lakes, and other bodies of water. All management activities withing these strips, such as timber, harvest, road and campground location or construction, range, improvements, or fish and wildlife habitat modifications, will be conducted in such a way as to protect these waters from detrimental changes, in compliance with § 219.11(f) (4), (5), and (6), and to the extent that total multiple-use benefits exceed costs. Such changes include increases in water temperatures or chemical composition, blockages of water courses, or deposits of sediment that are likely to seriously and adversely affect water conditions or fish habitat. The interdisciplinary team will consider topography, vegetation type, soil, climatic conditions, management objectives, and other factors in determining what activities may be performed within these strips and the constraints to be placed upon their performance in order to assure protection of water quality or other multiple-use values. Documentation of the steps taken to meet this requirement shall included in the plan as required in § 219.10(i)(5).

(5) Conservation of soil and water resources. The analysis, protection, enhancement, treatment, and evaluation of soil and water resources, and their responses under management, as required by § 219.10(c), (d), (f), (j), and 219.11(a), will be guided by instructions in official technical handbooks. These handbooks will indicate site-specific and activity-specific practices aimed at avoiding or mitigating damage, and maintaining or enhancing productivity. They will also establish performance standards and tolerance limits for such effects as soil disturbance, erosion, compaction, nutrient losses, stream turbidity, and wetland and flood plain impacts, taking account of applicable federal and state regulations respecting water. These handbooks may be regional in scope or, where feasible, specific to geological or climatic provinces.

(6) Diversity. Diversity of plant and animal species shall be considered throughout the planning process, and in the selection of a forest plan. Inventories shall include quantitative data which make it possible to assess past and present species and community diversity (219.10(c)(2)). Each alternative considered shall include a determination of how diversity of species and communities will be affected, including discussion of changes in diversity which have taken place, and a comparison of the proposed action to this historical framework (219.10(f)(1)(vi) and (vii)). To the extent practicable, the objective shall be to preserve and increase species and community diversity so that it will be at least similar to that which would be expected in unmanaged areas in the region. Reductions in diversity may be considered only where needed to meet overall multiple-use management objectives. Planned type conversions must be justified by a detailed analysis showing biological, economic, and social consequences and the relation of that conversion to natural dynamic processes.

(7) Esthetic consideration.

(b) *Fish and wildlife resource.* A principal responsibility of the Forest Service is to manage habitats in order to maintain viable populations of all existing native vertebrate species and to maintain and improve habitat of management indicator species. To meet that responsibility, management planning of the fish and wildlife resource will include the requirements set forth in paragraphs (1) through (8).

(1) The desired future condition of fish and wildlife, where technically possible, will be stated in terms both of animal population trends and of amount and quality of habitat.

(2) Management indicator species will be identified as concerns for planning, and justification for their selection will be given. These species shall include at least; endangered and threatened plant and animal species identified on state and federal lists for the area of the planning unit; species with special habitat needs that may be influenced significantly by planned management programs; species commonly hunted, fished, or trapped; and additional plant or animal species selected because their population changes are believed to indicate effects of management activities on other species of a major biological community or on water quality. On the basis of available scientific information, the effects of changes in vegetation type, timber age classes, community composition, rotation age, and year-long suitability of habitat related to mobility of management indicator species will be estimated. Where appropriate, measures to mitigate adverse effects will be prescribed.

(3) Biologists from state fish and wildife agencies and other federal agencies shall be invited to participate in the work of the interdisciplinary team. The forest plan shall be coordinated with the state strategic fish and wildlife plans, to the extent practicable.

(4) Access and dispersal problems of hunting, fishing, and other visitor uses will be considered.

(5) The effects of pest management on fish and wildlife populations will be considered.

(6) Population trends of the management indicator species shall be monitored and relationships to habitat changes determined. This monitoring shall be done in cooperation with state fish and wildlife agencies, to the extent practicable.

(7) Critical habitat for threatened and endangered species will be determined, and measures shall be prescribed to prevent the destruction or adverse modifications of such habitat. Consideration shall be given to opportunities for improving their habitat.

(8) Effects of proposed changes in diversity on fish and wildlife will be evaluated.

(c) *Range resource.* Rangelands within the National Forest System will be inventoried, planned for, and managed according to the standards and guidelines set forth below:

(1) Rangelands. Each forest plan shall identify lands available, capable, and suitable for grazing and/or browsing by wild, domestic, and feral animals. The procedures and data to be acquired include, but are not limited to, the following:

(i) Range condition and trend studies conducted on each forest during the vegetation inventory as described in § 219.10(c)(2). These data will form the basis for the range management plan;

(ii) Records of actual use by domestic livestock, feral animals, and management indicator species of wildlife, and estimated percentage utilization of key forage species;

(iii) Analysis of vegetation data to determine range capability. This will consider:

(A) An estimate of the current ability of the rangelands to produce suitable food and cover for the management indicator species of wildlife;

(B) An estimate of the present supply of forage for sheep, cattle, and feral animals; and

(C) An estimate of the potential ability to produce feed and cover for wild, domestic, and feral animals; and

(iv) Analysis of range's ability to produce wild, feral, and domestic animals without permanent impairment of the resource will be based upon the condition of the vegetation, statutory and/or administrative withdrawals, characteristics of soil and slope, and accessibility to grazing and/or browsing animals.

(2) Range management systems. Management systems, including the existing system, will be considered in an alternatives analysis as required by § 219.10(f). Each alternative will meet the requirements of § 219.11(a) and will include consideration of at least the following:

(i) Grazing management systems;

(ii) Methods of altering successional stages for range management objectives, including vegetation manipulation as described in § 219.11(a)(2);

(iii) Evaluation of pest problems, and availability of integrated pest management systems;

(iv) Possible conflicts or beneficial interactions among domestic, feral, and wild animal populations, and methods of regulating these;

(v) Physical facilities such as fences, water points, and corrals, necessary for efficient management; and

(vi) Existing permits, cooperative agreements, and related obligations.

(3) Each management plan will include a mechanism for monitoring range trend in accord with the evaluation requirements of § 219.10(j).

(4) Plans shall comply with laws relating to the use of the range resource, particularly the Federal Land Policy and Management Act of 1976, the Bankhead Jones Farm Tenant Act (50 Stat. 526, as amended), and the Wild Horses and Burros Protection Act (85 Stat. 649).

(5) The economic and social impacts on small communities and the local livestock industry will be evaluated in the selection of alternatives for management.

(d) *Recreation resource.* Management planning will provide for a borad spectrum of dispersed and developed recreation opportunities in accord with identified needs and demands. Planning will be governed by the goals of the regional plan, the general requirements of §§ 219.10 and 219.11(a), and the specific requirements of paragraphs (1) through (7) below:

(1) Each forest plan will identify the lands available, capable, and suitable for recreation.

(i) The physical and biological characteristics that make land suitable for recreation activities will be identified during the inventory process (219.10(c)).

(ii) During the analysis of issues, the recreational preferences and behavior of present user groups and those of the foreseeable future will be used to identify recreation opportunities on the National Forest and associated lands.

(2) The supply of recreational facilities to meet present and future

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needs in the area surrounding the forest will be appraised.

(3) Following (1) and (2) above, alternatives will be developed to provide a wide array of recreation opportunities responsive to current and anticipated user demands. The alternatives will include consideration of management need, establishment of physical facilities, and regulation of use.

(4) In formulation and analysis of alternative forest plans as specified in § 219.10(e) and (f), interactions among recreation activities and other multiple uses shall be examined. This examination shall consider:

(i) Impacts of the proposed recreation activities on other uses and values;

(ii) Impacts of other uses and activities associated with them on recreation opportunities, activities, and quality of experience; and

(iii) Mechanisms for mitigating any undesirable physical and social effects resulting from recreational opportunities.

(5) Development and evaluation of program alternatives under subsections (3) and (4) must be coordinated to the extent feasible with:

(i) Present and proposed recreation activities of local and state land use or outdoor recreation plans, particularly the State Comprehensive Outdoor Recreation Plan; and

(ii) Recreation opportunities already present and available on other public and private lands, with the aim of reducing duplication in meeting recreation demands.

(6) Modification of land ownership patterns to meet present and future recreation needs will be considered.

(7) The overall monitoring and evaluation program (219.10(j)) will include:

(i) Evaluation of changes in, or damage to, other resources resulting from recreation activities, and effectiveness of mitigation mechanisms developed under (4)(iii) of this section; and

(ii) Assessment of the adequacy of programs and activity opportunities in terms of present and future use.

(e) *Timber resource.* To insure production of timber products and related forest benefits, the requirements and procedures set forth in this section will be included in the planning process.

(1) Timber producing lands. Each forest plan shall identify lands available, capable, and suitable for timber production and harvesting. This identification will occur as two distinct actions (Fig. 2) in the planning process in accordance with the following guidelines and standards:

(i) In the collection and use of inventory data and information, all National Forest System lands will be reviewed and lands will be identified as:

(A) Available for timber production if the land has not been legislatively or administratively withdrawn from timber production; or;

(B) Capable for timber production if the biological growth potential for the land is equal to or exceeds the minimum standard for timber production defined in the regional plan or if technology is available that will insure timber production from the land without irreversible resource damage to soils, productivity, and watershed conditions, and without significant adverse impact on threatened or endangered species, and with reasonable assurance that such lands can be adequately restocked within 5 years after final harvest.

(C) Lands not meeting the requirements of (A) and (B) above will be identified as not suited for timber production.

(ii) Prior to the formulation and evaluation of land management alternatives and timber harvest schedules, lands that are classified as available and capable for timber production shall be further reviewed and assessed to determine their potential economic efficiency in commercial timber production in accordance with the following practices, standards, and requirements. The potential economic efficiency of commercial timber production shall be assessed by comparing the anticipated direct benefits of growing and harvesting trees to the anticipated direct costs to the government, including interest and capital investments required by timber production activities. On the basis of the assessment of benefits and costs, lands will be ranked by appropriate benefit-cost criteria to establish relative potential economic efficiency in meeting the timber production goals for the unit. Specific standards and practices for making the economic analyses required by this section are to be established by the Chief, Forest Service, in regulations which shall be effective within one year following publication in the Federal Register of these rules for National Forest System land and resource management planning. *Provided:* That in assessing benefits and costs, the following principles shall be followed:

(A) Direct benefits are expressed in terms of alternative cost standards or by stumpage prices as provided by the regional plan. Alternative cost is the cost to the government of growing and harvesting the last or marginal unit of each major type of commercial timber that the National Forests in the region are to supply as provided in the current National Renewable Resource Program. In the absence of such standards, direct benefits may be measured in terms of the anticipated receipts from harvesting timber crops;

(B) Direct costs include the anticipated investments, maintenance, operating, and management and planning costs attributable to timber production activities, and any costs that may reasonably be attributed to mitigation measures necessitated by the impacts of timber production. Only the additional expenditures required for timber growing and harvesting activities, including the road system, are to be included in direct costs;

(C) The rate of interest used to discount future benefits and costs of timber production shall be equal to the rate used in the National Renewable Resources Program; and

(D) Economic analyses are based on the assumptions that the lands are managed primarily for timber production with intensity of management and degree of timber utilization determined in accordance with § 219.11(e)(3)(iii)(A). However, the practices associated with a particular intensity of management must be economically efficient. Rotation periods shall be consistent with those assumed for purposes of determining the long-term sustained yield capacity as provided in § 219.11(e)(3)(iii). Economic analyses shall consider costs and returns from conversion of existing timber inventory in addition to long-term potential yield.

(iii) During formulation of alternatives and alternative evaluation and selection, combinations of resources activities and outputs must be defined and evaluated in terms of meeting management objectives. During these actions, land that has been classified as available and capable for timber production, and has been assessed as economically suitable or unsuitable for commercial production, shall be further reviewed and allocated to the various multiple uses, including timber, outdoor recreation, watershed, range, wildlife and fish, and wilderness, to meet management objectives for the unit. During this process, land shall be identified as unsuitable for timber harvesting if:

(A) Given multiple-use and other constraints, the lands are not cost-effective in meeting the timber production goals for the alternative plan under consideration;

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(B) Based on a consideration of multiple-use objectives for the area, the land is allocated to resource uses that preclude timber production; or

(C) Other joint multiple uses of the area limit timber production activities to the point where the silvicultural standards and guidelines set forth in §§ 219.11(a) and 219.11(e)(2) cannot be met.

(iv) Allocation of land, whether or not potentially economically efficient for timber production, to the various multiple uses, including commercial timber production, shall consider the multiple-use objectives for the unit specified in the regional plan, cost-effectiveness in meeting all resource use goals including timber production, relative values of the different resources and their uses, complementary relationships among the uses, regional and local stability; and such other criteria as have been determined in accordance with § 219.10(b).

(v) No timber harvesting shall occur on lands classified as not suitable for timber production during the planning period as provided under paragraphs (i) and (iii) above, except that salvage sales or sales necessary to achieve other multiple-use objectives, such as control of insects and disease, may be made if the forest plan establishes that such actions are appropriate and that timber will be harvested in accordance with the provisions of §§ 219.11(a) and 219.11(e)(2). When the plan is revised, or at least every 10 years, all lands classified as not capable, available, *or* suitable for timber shall be reviewed and where changed conditions permit, lands will be reclassified as capable, available, and suitable for timber production. Lands classified as not suitable for timber production shall continue to be treated for reforestation purposes, particularly with regard to the protection of multiple-use values.

(2) Controls on timber cutting. (i) When trees are cut to achieve multiple-use objectives, including timber production, the cuttings will be made in such a way as to:

(A) Assure that lands can be adequately restocked within 5 years after final harvest. Research and experience must indicate that the harvest and regeneration practices planned can be expected to result in adequate restocking. Adequate restocking means that the cut area must contain the minimum number, size, distribution, and species composition of regeneration as specified in Regional Silvicultural Guides attached to the forest plan for each forest type. Five years after final harvest means 5 years after clearcutting, 5 years after final overstory removal in shelterwood cutting, 5 years after cutting in selection cutting; and

(B) Provide a means of minimizing serious or long lasting hazard from insects, disease, windthrow, wildfire, or other natural forces.

(ii) Cultural treatments such as thinning, weeding, and other partial cutting may be included in the forest plan where they are intended to increase the rate of growth of remaining trees, favor commercially valuable tree species, favor species or age classes which are more valuable for wildlife, or to achieve other multiple-use objectives.

(iii) Timber cutting activities shall meet the requirements for preserving and maintaining species and community diversity required in § 219.11(a)(6)).

(3) Determination of the allowable sale quantity. The elements of this section are a statement of policy with respect to the determination of the quantity of timber to be sold from a National Forest. The elements of this policy are described in the following process. The interdisciplinary team shall formulate alternatives that include determination of the quantity of timber that may be sold during the planning period. These determinations must be based on the principle of sustained yield and consider only those lands capable, suitable, and available for timber production which meet the constraints set out in §§ 219.10(a) and 219.11(e)(2). For each management alternative, the determination must include a calculation of the long-term sustained yield capacity and the base harvest schedule and, when appropriate, a calculation of timber harvest schedule alternatives that may depart from the base harvest schedule as provided in paragraphs (ii) through (iv).

(i) As used in this section, the following definitions apply:

(A) "Allowable sale quantity": The quantity of timber that may be sold from the area of land covered by the forest plan for a time period specified by that plan. This quantity is usually expressed as an average annual sale volume.

(B) "Average annual sale volume":

(C) "Long-term sustained yield capacity": The highest uniform wood yield from those lands in a forest being managed for timber production that may be sustained under a specified intensity of management consistent with multiple-use objectives.

(D) "Timber harvest schedule": A description of quantity and the time period in which timber is planned for sale and harvest from the area of land covered by the forest plan. The first period, usually a decade, of the selected harvest schedule provides the allowable sale quantity. Future periods are shown only to establish that sustained yield will be achieved and maintained.

(E) "Timber production": The growing, tending, harvesting, and regeneration of regulated crops of industrial wood. Industrial wood includes, logs, bolts, or other round sectins cut from trees for industrial consumer use except fuelwood.

(ii) For the base harvest schedule the planned sale and harvest for any future decade must be equal to or greater than the planned sale and harvest for the preceing decade provided that the planned harvest is not greater than the long-term sustained yield capacity.

(iii) The determinations of the long-term sustained yield capacity, base harvest schedules, and departure alternatives to the base harvest schedule will be made on the basis of the guidelines which follow:

(A) For the long-term sustained yield capacity and the base harvest schedule assume an intensity of management and degree of timber utilization consistent with the goals, assumptions, and standards contained in, or used in the preparation of, the current Renewable Resource Program and regional plan. For the long-term sustained yield capacity, the management and utilization assumptions must reflect those projected for the fourth decade of the regional plan. For the base harvest schedule, the management and utilization assumptions must reflect the projected changes in practices for the four decades of the regional plan. Beyond the fourth decade, the assumptions must reflect those projected for the fourth decade of the regional plan.

(B) For departure alternatives to the base harvest schedule which provide outputs above the current regional plan, assume an appropriate management intensity.

(C) In accordance with the established standards, assure that all even-aged stands scheduled to be harvested during the planning period shall generally have reached the culmination of mean annual increment of growth. Mean annual increment must be based on management intensities and utilization standards assumed in paragraphs (A) and (B) of this subsection and expressed as units of measure consistent with the regional plan. Exceptions to these standards are permitted for the use of sound silvicultural practices, such as thinning or other stand improvement measures; for salvage or sanitation harvesting of timber stands which are

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substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack; or for the removal of particular species of trees after consideration has been given to the multiple uses of the area being planned and after completion of the public participation process applicable to the preparation of a forest plan.

(D) For all harvest schedules, achieve a forest structure by the conclusion of the scheduling period that will enable perpetual timber harvest thereafter at the long-term sustained yield capacity, consistent with the long-range multi-use objectives of the alternative.

(iv) Departures from the base harvest schedules will be formulated, considered, and subjected to comparative analysis as part of the planning process when any of the following conditions occur:

(A) None of the timber harvest alternatives formulated has the capacity to produce the goods, services, or uses to met multiple-use objectives specified for the area by the regional plan.

(B) Attainment of the multiple-use objectives of the forest plan will be enhanced by more rapid and efficient achievement of the long-term sustained yield capacity of the forest owing to present forest structure or by preventing or reducing high mortality losses from any cause.

(C) Implementation of the base harvest schedule would cause instability or dislocation in the economic area in which the forest is located.

(4) Harvest schedule selection. Selection of a harvest schedule must be made following a comparison of management alternatives. This comparison must include an evaluation of the sustained yield goal, silvicultural standards and guidelines, and the effects of timber removal on other resources. The selected harvest schedule provides the allowable sale quantity, or the quantity of timber that may be sold from the area of land covered by the forest plan for the plan period. If the selected harvest schedule is not the base timber harvest schedule or in any decade exceeds the calculated long-term sustained yield capacity for the forest unit, the land management plan shall be transmitted to the Chief, Forest Service, for approval. The Chief shall review the selected harvest schedule, and take one of two actions:

(i) Approve the selected harvest schedule, and attach to the associated land management plan a statement documenting approval; or

(ii) Disapprove the selected harvest schedule, and return the land management plan to the Regional Forester with a written statement of the reasons for such disapproval.

Within the planning period, the volume of timber to be sold in any one year may exceed the average annual allowable sale quantity so long as the total amount sold for the planned period does not exceed the allowable sale quantity. Nothing in this standard shall prohibit the responsible Forest Service official from providing for salvage or sanitation harvesting of timber stands as which are substantially damaged by fire, windthrow or other catastrophe, or which are in imminent danger from insect or disease attack, provided such harvest is consistent with silvicultural and environmental standards. This timber may either substitute for timber that would otherwise be sold under the plan or, if not feasible, be sold over and above the planned volume.

(5) Control measures. As a minimum, control measures must be established to insure that:

(i) Harvest levels based on intensified management practices are decreased no later than the end of each planning period if such practices cannot be completed substantially as planned;

(ii) Prior to sale, the potential physical, biological, aesthetic, engineering, and economic impacts have been assessed on each advertised sale area, as well as the consistency of the sale with the multiple uses of the general area, providing that harvested areas should be dispersed so that normal streamflow charateristics are not appreciably changed;

(iii) Cut blocks, patches, or strips are shaped and blended to the extent practicable with the natural terrain to achieve asthetic and wildlife habitat objectives;

(iv) Timber harvest cuts designed to regenerate an even-aged stand of timber are carried out in a manner consisent with the protection of soil, watershed, fish and wildlife, recreation, and aesthetic resources, and the regeneration of the timber resource; and

(v) Timber harvest cuts using any system do not create a situation favorable to abnormal increase of injurious insects and diseases.

(6) Monitoring. As a minimum, monitoring measures must be established to insure that:

(i) Lands are adequately restocked within the time planned for regeneration after the final harvest cut;

(ii) Lands identified as not suited for timber production will be examined to determine if conditions have changed so that these lands may be returned to timber production at the time of revision of the forest plan or every 10 years;

(iii) Maximum size limits for areas to be cut in one entry are evaluated to determine whether such size limits continue to meet silvicultural and management objectives; and

(iv) Destructive insects and disease organisms do not increase following management activities.

(f) *Water resource.* In order to provide high-quality water sufficient to meet human and environmental needs and to insure protection from loss of life, property, or physical and biological values resulting from floods, avalanches, and other water related events, the requirements set forth in paragraphs (1) through (8) will be followed in planning the management of the water and soil resources.

(1) Current water uses (both consumptive and non-consumptive) within the area of land covered by the forest plan, including instream flow requirements, will be determined.

(2) Existing impoundments, transmission facilities, wells, and other man-made developments on the area of land covered by the forest plan will be identified.

(3) The probable occurrence of various levels of water volumes, including extreme events which would have a major impact on the planning area, will be estimated.

(4) Plans shall comply with the requirements of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, the Safe Drinking Water Act, and all substantive and procedural requirements of federal, state, and local governmental bodies with respect to the provision of public water systems and the disposal of waste water.

(5) Existing or potential watershed conditions that will influence soil productivity, water yield, water pollution, or hazardous events, will be evaluated.

(6) Measures, as directed in applicable Executive Orders, to minimize risk of flood loss and to restore and preserve floodplain values, and to protect wetlands, will be adopted.

(g) *Wilderness resource.* Each forest plan will evaluate the wilderness resource present and, when appropriate, recommend areas for wilderness designation. In addition, each plan will provide management planning for lands which are designated units of the National Wilderness Preservation System and for lands specifically designated for wilderness study by Congress or recommended by the administration for possible inclusion in the system. The requirements set forth in paragraphs (1) through (4) shall apply to all forest plans.

(1) The interdisciplinary team will collect and use information about existing and potential wilderness values for those lands identified by Congress or by the Forest Service as lands suitable for further study for possible inclusion in the System. Lands identified in previous planning processes as lands to be managed for purposes other than wilderness need not be assessed for wilderness in development of the initial generation of forest plans prepared under these regulations.

(2) At least at 15-year intervals, the lands within the forest meeting the criteria of the National Wilderness Preservation Act of 1964, will be evaluated and considered for recommendation as to future status. The areas to be evaluated will include:

(i) Existing wilderness and primitive areas;

(ii) All previously inventoried wilderness resources not yet designated;

(iii) Areas contiguous to existing wilderness, primitive areas, or administration-proposed wildernesses, regardless of agency jurisdiction;

(iv) Areas, regardless of size, that are contiguous to roadless and undeveloped areas in other federal ownership that have identified wilderness potential; and

(v) Areas designated by Congress for wilderness study, administration proposals pending before Congress, and other legislative proposals pending which have been endorsed by the administration.

(3) Each area designated for examination under subsection (2) above will be evaluated either in terms of current national guidelines or, in their absence, by criteria developed by the interdisciplinary team with public participation. In the latter case, the criteria must consider as a minimum:

(i) The values of the area as wilderness;

(ii) The values foregone and effects on management of adjacent lands as a consequence of wilderness designation;

(iii) Feasibility of management as wilderness, as in respect to size, nonconforming use, and land ownership patterns;

(iv) Proximity to other designated wilderness, and relative contribution to the National Wilderness Preservation System; and

(v) The anticipated long-term changes in plant and animal species' diversity and in diversity of natural communities of the National Forest and the effects of such changes on the wilderness system.

(4) The forest plan must provide direction for the management of designated wilderness and primitive areas. In particular, it must:

(i) Provide for limiting and distributing visitor use to a level equal to or less than carrying capacity, defined as the maximum level of use that will allow natural processes to operate freely, and that does not impair the values for which wilderness areas were created; and

(ii) Evaluate the extent to which measures against wildfire, insects, and diseases may be desirable for protection of either the wilderness or adjacent areas, and provide for such measures when appropriate.

(h) *Mineral resources.*

§ *219.12 Research*

(a) Research needs for management of the National Forest System will be identified during the planning process and reviewed subsequently on a continuing basis through evalution of implemented plan. Research needs identified during planning will be forwarded through administrative channels to the office of the Chief, Forest Service, and shall become part of the annual report described in (c) below along with a description of the active and proposed research program addressing these needs.

(b) Particular attention will be given to the results of the monitoring and evaluation efforts conducted under § 219.10(j). If these efforts identify management systems or practices that are not successfully meeting stated objectives, or are resulting in substantial and permanent impairment of the productivity of the land, as a result inadequate information or technology, the research needs identified will be immediately forwarded to the Chief, Forest Service, for subsequent action by the management of Forest Service research activities.

Identified needs will be included in formulating overall programs involving research needs on other public lands and on industrial and nonindustrial private lands. The research priorities for management of the National Forest System will be established and budgeted at the research station and national levels based on input of the National Forest System at all planning levels with due consideration to problems and opportunities identified in (a) above and through the results of the monitoring and evaluation process described in § 219.10(j).

(c) An annual report at the national level will include, but not be limited to, a description of the status of major research program, significant findings, and how this information is to be applied in National Forest System management.

§ *219.13 Revision of regulations.*

These regulations shall be subjected to regular review and, when appropriate, revision. Such review and revision may occur whenever it is deemed necessary, but the first such review shall be completed no later than 6 years after the approval date of these regulations. Additional reviews shall occur at least every 5 years thereafter. The Secretary shall consider the use of a Committee of Scientists to assist in this review and revision. It shall operate in the manner provided in section 6(h) of The National Forest Management Act of 1976. The process of revision shall take place with full opportunity for public participation. Such public participation shall be generally similar to that required in these regulations for regional planning (§ 219.8).

§ *219.14 Transition period.*

Until such time as an area of National Forest Ssytem land is managed under a forest plan approved by the Regional Forester, such areas of land may continue to be managed under existing land-use and resource plans. As soon as practicable, exisiting plans will be amended or revised to incorporate standards and guidelines in this subject. Pending approval of a forest plan, existing plans may be amended or revised to include management requirements not inconsistent with the provisions of the Forest and Rangeland Renewable Resources Planning Act, as amended, and these regulations.

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Friday
May 4, 1979

Part VI

Department of Housing and Urban Development

Section 8 Housing Assistance Payments Program; Special Procedures for Moderate Rehabilitation Program

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 882

Section 8 Housing Assistance Payments Program—Existing Housing; Special Procedures for Moderate Rehabilitation Program

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: The Department is amending the Section 8 Existing Housing Program regulations to add two new Subparts which establish policies, procedures and operating guidelines for a new Moderate Rehabilitation Program. This Program provides for the upgrading of substandard housing units to comply with certain Housing Quality Standards and provides in standard housing units, for the repair or replacement of major building systems or components in danger of failing.

EFFECTIVE DATE: May 24, 1979.

FOR FURTHER INFORMATION CONTACT: Cheryl D. Patton, Moderate Rehabilitation Division, Department of Housing and Urban Development, Washington, D.C. 20410. (202) 755-5380. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On December 28, 1978, proposed additions to the Section 8 Existing Housing Program regulations (24 CFR Part 882), to establish a Moderate Rehabilitation Program were published in the **Federal Register**, at 43 FR 60752, for public comment. Interested parties were given until January 29, 1979 to submit comments. More than 90 individuals and organizations submitted written comments. Due to the volume of comments and numerous requests that the comment period be extended, all comments received prior to March 1, 1979 were considered. Numerous changes are being made in the proposed regulations in response to these comments. A discussion of the principal changes and of the more recurrent and significant comments is set forth below.

1—Organization

Subpart D is being revised to rearrange several of the sections to place them in a more logical order, to add several new sections in response to comments, and to address some areas not mentioned in the proposed regulations. Subpart E is also being revised to add several new paragraphs, to clarify procedures and to specify additional suggested requirements.

2—Purpose of the Program

While there are several Departmental objectives that the Moderate Rehabilitation Program could further, the proposed regulations did not specify a particular objective. However, the emphasis was clearly toward neighborhood revitalization since a funding preference was provided to PHAs in metropolitan areas which proposed to concentrate the Program in a specific neighborhood. Several comments suggested that this bias towards targeting was inappropriate particularly since the Moderate Rehabilitation Program is a part of the Existing Housing Program and could be used for providing mobility to lower-income families and for providing housing opportunities in areas outside of low income and minority concentration.

Based on these comments, a paragraph is being added to § 882.401 detailing three possible objectives of the Moderate Rehabilitation Program, i.e., (1) freedom of housing choice and spatial deconcentration of assisted housing into areas outside of low income and minority concentrations, (2) prevention of displacement of lower-income Families in areas undergoing private rehabilitation, and (3) neighborhood preservation and revitalization. PHAs must indicate in their applications which (one or more) of these objectives they propose to promote with the Program. Application requirements are also being expanded to require the PHA to specify which of these objectives it plans to pursue as well as the feasibility of achieving that objective(s). To provide each of the objectives with equal weight in ranking approvable proposals, a preference is no longer being provided for applications which target. The field office must still, however, review the overall feasibility of the proposed program in meeting the stated objective.

3—Administrative Fees

One of the major concerns of many commenters was the administrative fee that the PHA will receive for administering a Moderate Rehabilitation Program.

The Department recognizes that many PHAs have recommended that the administrative fees for the Existing Housing Program be revised. A research analysis of this fee structure will be commenced soon; however, until this study is completed and the fee structure is revised as necessary, it has been determined that the Moderate Rehabilitation Program administrative fees will be based on a system of preliminary and ongoing administrative costs as in the Existing Housing Program.

The maximum allowable administrative fee for preliminary expenses in the Moderate Rehabilitation Program is $500 per unit for the initial project placed under an Annual Contributions Contract and $400 per unit for subsequent projects. These amounts were determined appropriate based on the following functions and costs: (a) rehabilitation and temporary relocation responsibilities—$300 per unit; (b) initial development of the application, plans for administration and local government coordination, and administrative capacity—$100 per unit; and (c) limited outreach to families, receipt and verification of family applications, and provision of program information to families selected to participate in the program—$100.

The cost of providing rehabilitation services is based on estimates submitted by PHAs and Community Development Agencies administering rehabilitation programs similar to the Moderate Rehabilitation Program. The cost of the remaining two categories of functions is based on an analysis of the preliminary fee in the Existing Housing Program, taking into account the differences between the two programs. The $500 maximum for initial projects consists of reimbursement for functions (a) through (c) listed above, and the $400 maximum for subsequent projects is based on functions (a) and (c).

It is emphasized that the maximum amounts are not automatic and Field Offices will review PHAs' justifications to determine the type and amount of preliminary administrative expenses which are necessary for successful program implementation.

The Department encourages use of the Moderate Rehabilitation Program to upgrade units occupied by lower-income families in buildings with 20 or fewer units, and recognizes that the fee for preliminary expenses may need to be increased when economies of scale cannot be achieved. Additionally, studies indicate that rehabilitation administrative expenses increase proportionate to the amount and type of rehabilitation. Therefore, in limited cases, PHAs may request reimbursement for preliminary expenses in excess of the maximum allowable amount per unit. Any such request must be fully documented by the PHA and be based on the actual necessary costs of providing rehabilitation assistance to owners of buildings with 20 or fewer units or to owners whose rehabilitation costs exceed $5,000 per unit.

Examples of justifiable costs of providing additional assistance to owners of a small number of units include the increased efforts to identify and discuss the Program with those owners who may be reluctant to become involved with a subsidized housing program; travel associated with inspecting units in scattered locations; processing of a larger number of owner proposals; provision of more intensive financing counseling and work write-up and cost estimating assistance; and preparation, monitoring, or review of an increased number of contractual documents and owner certifications.

With respect to the costs associated with selecting owners' proposals which require more than $5,000 of rehabilitation per unit, PHAs would need to justify costs based on the complexity of the necessary rehabilitation, e.g., replacement of major electrical, plumbing or heating systems. Additional assistance could be justified based on more complex work write-ups and cost estimates; increased time to monitor rehabilitation; and provision of increased temporary relocation services and monitoring.

The administrative fee for ongoing expenses in the Moderate Rehabilitation Program is the same fee allowed in the Existing Housing Program—the higher of $15 or 8½ percent of the Existing Housing Fair Market Rent for a two-bedroom, non-elevator unit in the market area. Major PHA responsibilities after the rehabilitation and initial leasing of units are identical in the two programs, for example, annual inspections of units, reverification of family income and composition, certification and briefing of new families entering the program due to turnover, and review of utility allowances. It is noted that the family turnover rates and associated administrative expenses experienced by many PHAs administering the Existing Housing Program should be reduced in the Moderate Rehabilitation Program since the subsidy is tied to the unit and families cannot elect to move to another unit and continue to receive assistance.

4—Housing for the Handicapped

Housing for the handicapped, removal of architectural barriers, development of Independent Group Residences or other activities to provide access to the handicapped are Departmental priorities. Therefore, as suggested in several comments, the removal of architectural barriers is an eligible activity under the Moderate Rehabilitation Program. Making a unit barrier-free is not included as a Housing Quality Standard except in connection with Independent Group Residences and is thus not generally required. However, where there is a handicapped person occupying a unit or the owner wishes to make the unit available for a handicapped individual, rehabilitation to make the unit accessible to these individuals is considered an eligible rehabilitation cost, provided that the unit meets the criteria in the definition of Moderate Rehabilitation and the cost of the work can be supported within the Fair Market Rent limitations.

PHAs should provide technical assistance, where necessary, to owners wishing to make units barrier free. Where the PHA does not have this expertise, it should, to the extent feasible within administrative cost constraints, consult or subcontract with an experienced entity.

Several changes are being made in the regulations to facilitate the Department's goal of providing suitable housing for the handicapped.

a. A PHA may approve gross rents which exceed the Moderate Rehabilitation Fair Market Rent (FMR) by up to 10 percent where the higher rent is necessary to support the costs of making the physical modifications to a unit and/or structure which are necessary to make the unit(s) accessible to handicapped or disabled persons occupying or expected to occupy the unit(s).

b. A PHA may select, for up to 5 percent of the units in its Program, units which could not meet the $1000 minimum standard without the rehabilitation needed to provide access to a handicapped individual occupying or expected to occupy the unit.

c. Section 882.517(g) is being amended to include the fact that discrimination due to handicap is not allowed. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on handicap and compliance with this Section and HUD regulations and requirements issued thereunder is a requirement for participation in the Program.

5—Eligible Types of Housing

Section 882.401 is being revised to make it clear that all housing excluded under the Existing Housing Program, such as nursing homes and reformatories, is excluded under Moderate Rehabilitation and to exclude all housing which is otherwise Federally assisted, or has received federal assistance in the 12 months prior to the Owner submitting a proposal (e.g. projects assisted under Section 236 or 221(d)(3) (BMIR) of the National Housing Act). Units assisted under the Section 8 Existing Housing Program which meet the Housing Quality Standards but have a major system or component in danger of failing are exempt from this rule. To ensure that units are assisted under only one program, the Existing Housing Contract must be terminated prior to the date a Moderate Rehabilitation Contract becomes effective.

Conversion of Section 23 units to the Moderate Rehabilitation Program is prohibited by the regulations since the Department will publish regulations to address conversions and operational issues of the Section 23 program. Section 23 units with short term leases will continue to be converted to the Section 8 Existing Program rather than Moderate Rehabilitation since the Department's commitment is to continue assistance to the families occupying these units. Projects with long term leases will either be continued under the Section 23 program with some increase in rents to reflect higher costs subject to the availability of funds or will be considered for acquisition by PHAs under the public housing program.

In response to a comment pointing out the possible problems and delays associated with field office approval on a case-by-case basis, the field office is allowed to make a determination that elevator units for families are permissible for all or a portion of the PHA's Moderate Rehabilitation Program rather than on a case-by-case basis. The field office may, of course, choose to review each building individually in making its determination.

Several comments concerned the use of units owned by State and local governments under the program. After consideration of the comments, it has been determined that a PHA may select units owned by a State or unit of general local government for participation in the Moderate Rehabilitation Program only under the following circumstances:

a. HUD must review and approve the site, assuring that the site is in conformance with the site and neighborhood standards of the Program. This HUD review may be accomplished on a neighborhood rather than on a case-by-case basis.

b. The State or unit of general local government may not retain ownership of the property but must sell the property to another owner prior to the PHA's entering into an Agreement with respect to the property.

Since the Department is encouraging cooperation and coordination between the PHA and the local government and since local governments are becoming increasingly involved in the policies and

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activities of the PHAs, it was determined that these additional requirements are necessary.

In addition to these requirements, field office monitoring of these units will be more intensive in that the field office, in its management reviews of the PHA, is required to review the files on each unit owned, or formerly owned, by a State or unit of general local government to assure that selection was accomplished in accordance with the PHA's administrative plan and HUD regulations and that initial contract rents were calculated appropriately.

6—Definitions

The definition of Moderate Rehabilitation is being changed in response to comments which suggested that a differing minimum amount of rehabilitation would discriminate against owners of 12 or fewer units. Based on these comments and other suggestions concerning the minimum amount of rehabilitation required, the minimum has been changed to $1,000 per unit regardless of the number of units in the building. The definition is also being amended to clarify that the unit must be in substandard condition to qualify under paragraph (a) of the definition and to emphasize that routine maintenance will not be considered Moderate Rehabilitation. An exception to the substandard condition requirement of the definition to provide barrier-free housing is discussed in the preamble in section 4—Housing for the Handicapped.

The definition is also being amended to clarify that the $1,000 per unit minimum may include both the cost of work to be accomplished within a unit and a prorated amount of the work to be done on common systems or areas affecting the unit (e.g., central heating system repair, lobby renovations, etc.). While the statute allows the Secretary "to make assistance available * * * to any unit in a housing project which, on an overall basis, reflects the need for such upgrading", it has been determined that in order to make the best possible use of housing assistance funds, only units requiring at least $1,000 of rehabilitation work are eligible for assistance under the Program.

A definition of Statement of Family Responsibility is being added along with a new § 882.415 in response to several comments. Since there is no Certificate of Family Participation in the Moderate Rehabilitation Program, the proposed regulations did not provide for a document to be signed by the family in which they agree to assume the responsibilities required through their participation in the Program. The Statement is a HUD form and is an agreement between the family and the PHA specifying the responsibilities of each party. Should the family not fulfill these responsibilities, it is grounds for termination of assistance.

7—ACC Provisions

A new section on the ACC has been added specifying that there will be a single ACC Part I for the Moderate Rehabilitation Program of a PHA and that all units for which metropolitan or non-metropolitan contract authority is reserved in a fiscal year for a PHA will constitute a separate project with a 17-year term. Assistance will be available for any unit for up to 15 years. Certain controlled accounts will be maintained by project and most reports and financial forms will be submitted by project rather than by program as is done in the Existing Housing Program. Separate project accounts will be maintained for each Moderate Rehabilitation project rather than one account for the entire Program.

8—Contract and Lease Term

Consistent with the Department's policy that owners not use the Section 8 programs, including the Moderate Rehabilitation Program, to obtain financing and then drop out of the Program at the end of the initial 5 year term of the HAP Contract, Section 882.404 is being amended to specify that the HAP Contract will be for a 15-year term. While this policy may discourage some owners from participating in the Program, the Department is interested in assuring that the rehabilitated units will be available to lower-income families for the longest possible time.

The proposed regulations did not state whether a 30 day termination clause would be allowed in leases under the Program. Several comments addressed this issue, the majority of which expressed concern that owners might not participate in the Program without such a clause in the lease. The Department has determined that since the Moderate Rehabilitation Program is a project based program and terminating the tenancy of a family will often result in termination of housing assistance, the owner should not have the right to terminate a family's tenancy by merely issuing a 30 day notice to vacate. A section on terminations is thus being added (discussed later in the preamble), and the term of the lease is being amended to specify that a lease of longer than one year must contain a 30 day termination clause on the part of the family. No such termination clause is allowed for the owner.

9—Housing Quality Standards

The Housing Quality Standard for energy efficiency is being revised to state that caulking and weatherstripping will be required in every unit rehabilitated under the Program. Other energy conserving improvements, such as storm windows and insulation are required if they are determined to be practicable, cost effective and financially feasible. Comments were received advocating both the inclusion and exclusion of the cost of these improvements in the rehabilitation cost. While the proposed regulations were not specific on this point, it has been determined that, since these improvements are being required and due to the difficulty of accurately calculating cost savings from improvements, the cost of installing the required energy efficient improvements should be included as a rehabilitation cost in the computation of rents. Specific instructions on the improvements that are required and the method of determining cost effectiveness of other improvements will be contained in a PHA Handbook.

A new Housing Quality Standard is being added involving site and neighborhood standards. Since the subsidy is tied to the unit in this Program, it has been decided that the site and neighborhood standards applicable to the Section 8 Substantial Rehabilitation Program should be applied. The Department is considering amending the site and neighborhood standards for all of its programs; however, until changes are made effective for all Departmental programs, the Moderate Rehabilitation standards will conform to the current Substantial Rehabilitation site and neighborhood standards.

10—Financing

A large number of comments suggested that the Moderate Rehabilitation Program could function more effectively and more rehabilitation could be achieved by allowing Section 312 financing of Moderate Rehabilitation units. Nevertheless, the Department has determined to prohibit the use of the Section 312 program as a means of financing rehabilitation under the Moderate Rehabilitation Program. This decision was based upon the facts that combining the two programs could be viewed as a double subsidy to owners and the Section 312 program could be used more effectively on units not receiving Section 8 assistance, thus promoting the rehabilitation of twice the number of units possible if the two programs were combined. Waivers of this policy by the Assistant Secretaries for Housing and Community Development will be considered on a case-by-case basis where the combination of the programs is proposed for good cause, such as, to achieve an income mix in a building, to prevent displacement of lower income families, or to provide mobility opportunities to lower income families.

It was suggested that various HUD insurance or rehabilitation loan programs could be used in financing rehabilitation under the Moderate Rehabilitation Program. Among these programs are HUD/FHA mortgage insurance programs under Sections 223(f), 221(d)(3) and 221(d)(4) of the National Housing Act; HUD/FHA rehabilitation loan insurance programs under Title I and Sections 241, 203k, 220(d)(3)(A) and 220(h) of that Act; and GNMA Tandem and Mortgage-Backed Securities Programs.

While the use of any of these programs to obtain financing for rehabilitation under the Moderate Rehabilitation Program is possible, each program has requirements and operating procedures which must be followed in addition to those for the Moderate Rehabilitation Program. These procedures may conflict and may preclude the use of these insurance programs with the Moderate Rehabilitation Program. At present, there are no special procedures to interface Moderate Rehabilitation processing with HUD/FHA mortgage insurance processing. For additional information on any of these insurance or loan programs, a HUD/FHA-approved lender should be contacted since any application for these programs must be made through or to a HUD/FHA-approved financial institution.

11—Relocation

One of the major concerns of most commenters was the relocation requirements of the Program. Many expressed the view that requiring Uniform Act-level assistance to displaced lower income families was unnecessary while others suggested that requiring the local government to assume the costs of permanent displacement would virtually exclude non-Community Development entitlement localities from participating in the Moderate Rehabilitation Program.

In response to these comments a revised relocation policy is being established which protects families from being displaced without appropriate assistance, while not requiring that the local government sign off on the Moderate Rehabilitation application agreeing to assume responsibility for permanent relocation payments.

The revised policy prohibits permanent displacement (i.e., it does not permit a PHA to select a building where permanent displacement of tenants will be necessary). The only exception to this policy is if a PHA submits an approvable relocation strategy which states that no tenant will be displaced unless that tenant is in a unit which is overcrowded or underoccupied or the owner is combining two or more occupied units resulting in fewer units than tenants after rehabilitation; states that no tenant will be required to move until suitable alternative housing is available; provides for assistance to displaced tenants in securing alternative housing at a price they can afford; and specifies the source of funding for any moving costs and relocation payments. While the regulations provide for assistance to tenants similar to that required under the Uniform Act, the tenant will be provided suitable alternative housing within his/her ability to pay rather than a choice between such housing and a replacement housing payment. The PHA may choose to make a replacement housing payment to a Family but such a decision is at the sole option of the PHA. By imposing the restrictions on displacement and payments to displacees outlined above, much of the uncertainty on the part of the local governments who may be asked to fund relocation payments should be eliminated thus making it easier for the local government to assume this responsibility.

While the PHA may provide any assistance needed by temporarily relocated tenants (such as assistance in finding a unit) and be reimbursed for these expenses through the preliminary administrative fee, the PHA will not be responsible for any direct payments to tenants (such as moving costs or increased housing expenses). Payments for temporary relocation costs remain the responsibility of the owner. Costs and sevices associated with permanent displacements must be assumed by another entity unless the PHA proposes to fund these payments from other than HUD-related housing funds.

Much concern was expressed regarding the potential displacement of single persons and over-income tenants. To address these concerns, serveral changes and clarifications have been made to the regulations. It has been determined that a lower-income single person (even if not elderly or handicapped) occupying a unit in a Moderate Rehabilitation proposal may be assisted under the Program, because under 24 CFR Part 812 a lower-income person is eligible if displaced. If the occupant were required to move, he/she would then be a displaced person under 24 CFR Part 812 and therefore eligible for reoccupany. Since no purpose would be served by going through the motions of requiring a move and immediate reoccupancy, such persons are treated as eligible occupants. In addition, the owner must certify in the proposal that he/she has not terminated without good cause the tenancy of any family in the 12 months prior to entering into the Moderate Rehabilitation Program. For those over-income tenants who are displaced because there will not be sufficient suitable-sized units available after rehabilitation, the regulations require that the PHA assure that they receive appropriate assistance and are reimbursed for moving costs.

12—Other Federal Requirements

The applicability of labor standards, environmental, historic preservation, and fair housing and equal opportunity requirements was the subject of numerous comments. Under new procedures being developed by the Department for the National Environmental Policy Act, the Moderate Rehabilitation Program will be exempt from the requirements of NEPA whenever the cost of rehabilitation under the Program will be less than 75 percent of the value of the property after rehabilitation. The other requirements are categorized to indicate which affect the PHA's selection of units and which affect the owner and the rehabilitation work and are discussed in greater detail below.

a. Civil Rights Laws

The laws requiring fair housing practices are familiar to PHAs and owners throughout the country. Executive Order 11063, "Equal Opportunity in Housing," prohibit discrimination based on race, color, creed, or national origin in any federally assisted housing program. Title VI of the Civil Rights Act of 1964 provides that no person shall be excluded from participation in any federally assisted program on the basis of race, color, or national origin. The most comprehensive fair housing law is Title VIII of the Civil Rights Act of 1968, which bans discrimination based on race, color, religion, sex, and national origin in all housing, federally assisted or not. PHAs and other qualified agencies applying

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for a Moderate Rehabilitation Program must include certifications of their intent to comply with and to require participating owners comply with fair housing requirements in their applications to HUD.

b. Environmental Requirements.

Although the Moderate Rehabilitation Program is exempt from NEPA as discussed above, participants in the Moderate Rehabilitation Program must comply with requirements of several other environmental protection laws. Since the Program does not involve new construction or substantial amounts of rehabilitation, the most significant impact of these laws is the requirement that PHAs include enviromental concerns in their list of project selection criteria.

The Clean Air Act and the Federal Water Pollution Control Act are laws designed to restore and maintain clean air and water. PHAs should give consideration at time of project selection to projects which conform most closely to the principles of environmental protection. Also, a clause which requires owners to comply with Clean Air and Water Acts must be included in contracts with owners, if contract rents over the maximum total term of the PHA Contract exceed $100,000.

There are two other environmental protection requirements which PHAs should keep in mind in their selection of proposals. Executive Order 11988, "Floodplain Management," and Executive Order 11990, "Protection of Wetlands." Both Executive Orders require public notice before any federally assisted action can be taken in a floodplain or new construction begun in a wetland. Since the Moderate Rehabilitation Program does not involve new construction or site selection, Executive Order 11990 should have little or not effect. The public notice is the only requirement of Executive Order 11988 on the Moderate Rehabilitation Program.

Another law concerned with the hazards of floods is the Flood Disaster Protection Act of 1973. This law is the only environmental law that requires some specific action by the owner. For those projects undertaken in a community having special flood hazards and in which HUD flood insurance is available, the owner must agree to purchase flood insurance to cover his property. The federally subsidized insurance can be purchased over the phone, and the cost is minimal.

The environmental protection laws are designed to regulate major federal or private actions which could endanger plant and animal life or otherwise harm the environment. Their impact is not directed at a program such as Moderate Rehabilitation, which involves small amounts of repair to existing housing. Those requirements, such as flood protection, which affect the program are beneficial and easily handled by an owner of a small number of units.

c. Historic Preservation Requirements

The necessity for compliance with historic preservation laws (National Historic Preservation Act, Archeological and Historic Preservation Act, and Executive Order 11593) has been questioned. The people commenting on these requirements are concerned with the possibilities of complex rules, delays, and additional expense. However, the historic preservation laws should present no great obstacle to the administration of the Section 8 Moderate Rehabilitation Program. The amount of rehabilitation involved in the program is not substantial. It is unlikely that the rehabilitation will be significant enough to require long deliberation by historic preservation officials before approval. Also, historic preservation officials are concerned primarily with the exterior of a building. Much of the rehabilitation in the Moderate Rehabilitation Program, such as repairs to plumbing, wiring, interior walls, and heating/air-conditioning systems, should not involve alteration of the exterior at all. In addition, historic preservation requirements apply to historic sites, districts, and buildings only.

Public housing agencies and builders in these areas should already have some experience in dealing with requirements for historic preservation. No exemptions or thresholds apply to historic preservation, and the requirements also cover buildings being privately rehabilitated. Therefore, it would be inappropriate for any HUD program to be exempt from these requirements. HUD is not seeking an exemption because it supports the principles stated in the National Historic Preservation Act, "that the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people."

d. Discrimination Based on Handicap

Section 504 of the Rehabilitation Act of 1973 basically requires only that the PHA and owner not discriminate against a person based on that person's handicap. As in the Existing Housing Program, individual owners are required to comply with provisions specifying nondiscrimination in tenant selection and employment. Regulations implementing Section 504 have not been published for effect by the Department; however, it is anticipated that these regulations will contain provisions which take into consideration the feasibility of physical alterations for accessibility, and providing barrier-free units may be required by some owners as part of the rehabilitation to be accomplished under the program.

e. Equal Employment Opportunity Requirements

Participants in the Moderate Rehabilitation Program are required to comply with three Equal Employment Opportunity laws. The first, Executive Order 11246, "Equal Employment Opportunity," applies to all federally assisted construction contracts for $10,000 and over. Executive Order 11246 prohibits discrimination on the basis of race, color, creed, sex, or national origin in the hiring or employment of individuals. A clause stating a commitment to equal employment opportunity requirements must be included in all non-exempt contracts.

The second applicable Equal Employment Opportunity law is Section 3 of the Housing and Urban Development Act of 1968, which provides that project-area lower-income residents and small businesses be used for federally assisted housing construction, whenever feasible. For the Moderate Rehabilitation Program, Section 3 covers those Agreements and Contracts where total Contract Rents over the maximum term of the Contract exceed $500,000. A clause agreeing to utilize project-area residents and businesses to the greatest extent feasible must be included in all non-exempt contracts or subcontracts.

Executive Order 11625, "Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise", calls for the participation of all federal departments and agencies in an effort to increase minority enterprises. To assist in furthering minority enterprise participation in the Program, PHAs administering the Moderate Rehabilitation Program must maintain a list of contractors, including minority contractors, to be provided to owners. The PHA may obtain assistance from the HUD field office in developing this list.

f. Labor Standards Requirements

The Moderate Rehabilitation Program is subject to four laws generally

designated as Labor Standards. The laws are designed to guarantee that workers on federally assisted construction projects will not receive substandard wages, treatment, or fringe benefits. To avoid unduly burdening contractors willing to work on smaller projects, none of the Labor Standards laws covers Section 8 contracts of fewer than 9 units.

Many commenters questioned the rationale for requiring compliance with labor standards provisions, particularly the Davis-Bacon Act, in the Moderate Rehabilitation Program. It was pointed out that other HUD repair programs such as Section 223(f) are exempt from these provisions and requiring that owners comply with these Acts would significantly raise rehabilitation costs. The Department acknowledges these comments; however, the statute requires that all Section 8 Agreements covering nine or more assisted units must comply with these requirements. Therefore, they must be retained in the regulations.

The Davis-Bacon Act provides that construction workers will be paid not less than the wages prevailing in the locality for similar work, as determined by the Department of Labor. The Contract Work Hours and Safety Standards Act provides that construction workers will be paid time and a half for overtime work. The Copeland Act aids in enforcing the Davis-Bacon Act by prohibiting "kick-backs" to employers. Under this Act, contractors are required to furnish wage statements to their employees. These statements help guarantee that only allowable deductions, those for the benefit of or requested by the employee (e.g., medical insurance, union dues, charitable contributions), are deducted from the employee's wages. The National Apprenticeship Act sets standards for the employment of apprentices and trainees. Apprentices and trainees enrolled in programs approved by the Department of Labor may be paid at less than the prevailing wage rate for similar work. Contractors must employ the same ratio of apprentices and trainees at their federally assisted work sites as they do in the rest of their work force. Contractors on larger projects are also encouraged to employ apprentices and trainees in the ratio suggested by the Department of Labor and to employ 25 percent of trainees in their first year of training.

Clauses relating to the Labor Standards laws must be included in all non-exempt contracts or subcontracts. Contractors are required to keep payroll and employment records to show their compliance with the laws. HUD is committed to assuring that the workers on the construction it assists do not receive substandard pay or treatment.

13—Contract Rents

The majority of the comments expressed concern as to the adequacy of the Fair Market Rents—a) establishing them at only 120 percent of the Existing FMRs and b) allowing the Moderate Rehabilitation FMRs to be exceeded only with prior HUD approval after rehabilitation had commenced. The FMRs are being maintained at 120 percent of the Existing Housing FMRs. These rents should be sufficient in most market areas to encourage owners to participate in the program. The regulations are being revised, however, to provide for a more liberal exception rent policy. Specifically, the PHA will have authority to approve gross rents which exceed the Moderate Rehabilitation FMRs by up to 10 percent (1) in areas approved by the field office as having high median rents and (2) on a case-by-case basis to provide necessary physical modifications of housing for handicapped and disabled individuals or to meet the needs of families needing four or more bedrooms. Additionally, the field office may approve gross rents up to 120 percent of the Moderate Rehabilitation FMRs on a case-by-case basis during rehabilitation to cover unexpected costs.

There were numerous comments on the initial calculation of gross rents; comments varied from those suggesting that the formula was too complicated and that only a rent reasonableness test should apply, to those who felt a strict income/expense approach should be used. It was determined that a "reasonableness" approach to the rents was not appropriate since it would be difficult to determine a reasonable rent for a unit which has been recently moderately rehabilitated and since the rents in a marginal neighborhood (to which the Program may be targeted) are often depressed and a "comparable" rent may not be sufficient to compensate the owner for rehabilitation. Therefore, the base rent calculation in the proposed regulations has been retained with the exception that if the owner believes the base rent as calculated is too low, the PHA may approve a higher rent based upon an estimate of the actual costs of owning, managing and maintaining the unit after rehabilitation. A formula for this computation which will specify what costs are eligible and will allow for a reasonable return on the owner's investment will be included in a PHA Handbook.

In response to several comments, the rent calculation is being revised to allow the owner to receive rents sufficient to repay a short term rehabilitation loan on the required improvements over the term of the rehabilitation loan that the owner obtains rather than over 15 years, if the total cost of rehabilitation under the Program is less than $15,000. This flexibility is allowed to facilitate the obtaining of a loan by an owner of only a small number of units or an owner needing to accomplish only a minimum of rehabilitiation. A 15 year amortization is required on a contract specifying a rehabilitation cost of $15,000 or more since an owner should be able to secure a 15 year loan for amounts of that size. Additionally, it was determined that an owner would be more likely to remain in the Moderate Rehabilitation Program, leasing to lower-income families, if the owner were reimbursed for rehabilitation costs over the 15 year term of the Contract.

Several commenters suggested that higher contracts rents should be allowed than established in the Agreement if actual rehabilitation costs exceed the estimate. Flexibility is allowed for recomputing rents to cover the cost of unexpected work items uncovered in the rehabilitation or imposed by a change in local codes. This flexibility should be sufficient since an owner should, in most cases, sign a fixed price contract with a general contractor prior to signing the Agreement and beginning rehabilitation work. This process is detailed in the regulations and allowance is made at the feasibility analysis for increasing rents based on a contractor's price which is higher or lower than estimated.

A new section has been added entitled "Contracts Rents at End of Rehabilitation Loan Term." Since the regulations now allow for the repayment of a rehabilitation loan over a shorter term than the HAP Contract, if the total rehabilitation cost is less than $15,000, it will be necessary to reduce the rents at the end of the loan period in order to exclude the amount of debt service no longer required. The new section provides for a reduction in contract rents to the base rent plus appropriate annual and special adjustments.

14—Rent Adjustments

Several comments pointed out that, by computing the annual adjustment on the gross rent, we were over-compensating the owner since we were increasing the portion of the rent fixed for amortization of the rehabilitation loan as well as the rent for management and maintenance. In response to these comments, the

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regulations are being revised to apply the annual adjustment factor to the base rent or contract rent (after the rehabilitation loan has been repaid).

The suggestion that the PHA have the authority to approve special adjustments has been rejected since under the statute HUD must approve special adjustments. It was also pointed out that the audited financial statements may be an undue burden on small owners; therefore the threshhold for requiring audited statements has been increased to 20 units.

15—Very Low-Income Families

The Act requires that at least 30 percent of all Section 8 units be occupied by Very Low-Income Families. It was ponted out in the comments that this requirement might be difficult to achieve in Moderate Rehabilitation since tenancts will be allowed to remain in occupancy. A new section has thus been added which specifies that owners will be required to attempt to achieve this 30 percent Very Low-Income Goal; however, the PHA will be allowed to meet this 30 percent requirement in its combined Existing Housing and Moderate Rehabilitation Programs.

16—Vacancy Payments and Security Deposits

To address concerns that the vacancy payments procedure is too complicated and the payments are too generous, the vacancy payments provisions of the program are being amended. To allow for a normal rent-up period and to minimize vacancy claims at initial occupancy, an owner may not receive payments at initial occupancy if the unit is leased within the first 15 days. For vacancies after initial occupancy, an owner will be allowed to retain the housing assistance payment received at the beginning of the month for the month in which a tenant vacates, provided the unit remains vacant for the remainder of the month. If the unit remains vacant for up to an additional 30 days, the owner may receive 80 percent of the contract rent for this additional vacancy period. This revised policy would provide for payments for a vacancy period of from 31–60 days depending upon when the tenant vacated the unit. This new policy should simplify paper work and should provide adequate vacancy protection for owners. To provide consistency between the Moderate Rehabilitation Program and Existing Housing Program, the Existing Housing Program regulations are being revised in a separate publication to conform the vacancy payments provisions, where appropriate, to those being published for Moderate Rehabilitation.

In addition, the Existing Housing Program regulations (and Moderate Rehabilitation, by reference) are being amended in a separate publication to allow an owner to be compensated for damages or other amounts owed by the tenant up to an amount equal to two months' rather than one month's Contract Rent. It is anticipated that this amendment will encourage owner participation in the two programs since it should provide improved protection against excessive tenant damage.

17—PHA Management

The Department recognizes that it is sometimes difficult to interest owners in providing assisted housing for lower-income families due to the anticipated management difficulties of such projects. Where this is the case and where an owner is only willing to provide such housing under the Program if the PHA will manage that housing, the Department will allow, under certain conditions, the PHA to manage units for which it administers the HAP Contract under the Moderate Rehabilitation Program. The application and attachments, contract terms and other requirements of this section closely parallel those established in Section 882.117 for the Existing Housing Program.

A PHA, with prior HUD approval, may manage units for which it administers the Contract provided (1) no other PHA is able and willing to administer the HAP Contract, (2) it is necessary to provide housing for lower-income families, i.e., there is no management alternative, (3) the PHA is capable of managing the units, (4) the management contract is for a term of one year, renewable for only one year at a time, (5) the management fee meets certain specified criteria, (6) rents may only exceed the Fair Market Rent with prior HUD approval, and (7) the PHA keeps separate accounts and records for these projects. In addition to these requirements, there will be extensive HUD review and monitoring of these units.

18—Application Requirements

Since it is anticipated that State Agencies and Regional PHAs will be involved in the Program, an application requirement that the PHA specify the primary area(s) in which units will be rehabilitated and the approximate number of units per area is being added. This information is necessary to determine consistency with local Housing Assistance Plans.

A number of comments expressed concern over the requirement that the PHA specify in the application the proposed bedroom distribution and elderly/non-elderly breakdown of units. They felt that without specific buildings in mind this requirement would be difficult to meet. Such specificity is needed, however, in order to determine compliance with the Housing Assistance Plan and to reserve appropriate housing assistance funds. The field office will be flexible in granting amendments to the ACC to accommodate bedroom redistributions; however, it should be noted that the field office must work within the constraints of HAP needs and available funds.

Language is also being added to the regulations to require that if a PHA does not have rehabilitation expertise and if there is a local public rehabilitation agency capable of and willing to provide rehabilitation technical assistance, the PHA must subcontract with that agency. The Department does not want to create competing public rehabilitation agencies within a locality and is interested in fostering coordination between the local government and PHA.

A requirement is being added that the PHA specify in the application which (one or more) of the three purposes of the Program it plans to achieve. If the PHA proposes to use the Program for deconcentration, the application must demonstrate that there are units available outside of areas of low income and minority concentration which are appropriate for the Program. The PHA must also certify that it will not select units in an area of minority concentration unless it proposes a balanced Program which will provide for comparable units outside areas of minority concentration.

If the PHA proposes to target the Program, it must adequately describe the neighborhood and demonstrate there are units which meet the site and neighborhood standards of the Program. Additionally, if the PHA proposes to target to a neighborhood undergoing private reinvestment to prevent displacement, the PHA must demonstrate that the Program will be workable in that neighborhood. If the Program is to be targeted to a deteriorating neighborhood, the PHA must demonstrate that the Program is appropriate for the neighborhood and the chief executive officer must provide a letter of endorsement of the application describing other activities in the neighborhood.

The relocation requirements are modified to coincide with the new relocation policy. The PHA must, therefore, either state that no permanent displacement will be allowed or must provide its strategy for conforming with the relocation requirements of the program.

Several State and regional PHAs questioned the feasibility of obtaining a concurrence on the application from the chief executive officer of the local government in each locality in which they propose to operate the program. This requirement is, therefore, changed to require a concurrence from the chief executive of all localities with approved Housing Assistance Plans. However, even in localities without approved HAPs, the chief executive officer concurrence is required where the PHA proposes to target the program to a specific area, and where the local government agrees to assume the responsibility for payments to displaced tenants.

19—Evaluation of Applications

To conform to requirements of regulations concerning application review, 24 CFR Part 891, processing of applications will include the Section 213 procedure of notifying the local government of the receipt of an application and soliciting comments on the application from the local government. Language has also been added to specify that the Part 891 regulations must be followed in application review and that local government comments will be considered in evaluating applications.

20—Leasing Schedule

In response to comments suggesting that the field office should monitor rehabilitation as well as leasing, the regulations are revised to require both a rehabilitation and leasing schedule. The regulations require that the rehabilitation schedule be established in order that all units in the project will be under Agreement with in 15 months of ACC execution. Due to concern about the tightness of the leasing schedule, particularly for large projects and for the first year of operation of the program, a provision has been added which allows for more flexibility in the rehabilitation and leasing schedules in the first year and for projects of over 1,000 units.

21—Owner Proposals

Pursuant to comments, the following changes have been made in the requirements for owner proposals:

(a) Due to Lead Based Paint requirements, the owner must specify the year in which the unit(s) was constructed.

(b) The owner must provide information concerning the family size and household type of current tenants in order to assess the need for permanent displacement due to a family's overcrowding of a unit and to determine whether present occupancy will conform to the household types specified in the application.

(c) The proposal must contain a certification that the owner has not evicted any tenant without good cause in the twelve months preceeding submittal of the proposal.

(d) The owner must present plans for managing and maintaining the unit(s). A PHA Handbook will provide guidance in assessing the owner's management plan and in assisting an owner to develop a viable plan.

(e) Several comments suggested that allowing owners to have a separate waiting list would be unfair to Families on the PHA's Existing Housing waiting list who had been waiting, often for years, for housing assistance. Based on these comments and to provide for more uniform administration of the program, the regulations are revised to require that an owner select tenants from referrals made by the PHA from the PHA's Existing Housing waiting list. The requirement for an Affirmative Fair Housing Marketing Plan is thus eliminated.

22–PHA Selection of Units to be Rehabilitated and Assistance to Owners

Based on comments that the regulations were too vague on when the PHA selected proposals and units for participation in the program, §§ 882.506 and 882.507 are being revised. As revised, the regulations specify a step by step process from public notice to owners through the entire pre-construction process. Initial screening of proposals is suggested to eliminate any clearly inappropriate or unresponsive proposals.

The preliminary feasibility analysis has been expanded to include a preliminary assessment of relocation needs and the feasibility of energy conserving improvements as well as a preliminary estimate of gross rents. It was believed that these assessments and estimates need to be done at this stage since such information is important in the selection of units and the determination of family eligibility.

A paragraph on selection of proposals is being added to clarify that an inspection and preliminary feasibility analysis should be accomplished prior to this selection. This paragraph also specifies that the PHA must make public its method of selecting proposals.

Language is being added to clarify that the $1000 minimum amount of rehabilitation requirement pertains to rehabilitation work necessary to correct significant deficiencies in the unit and not routine maintenance. The exception to this requirement involves rehabilitation to make a unit barrier-free and is discussed in the preamble under Housing for the Handicapped.

A mandatory preference is being established for the proposal which indicates the most rehabilitation per unit. Since units will not be selected until after the preliminary feasibility analysis, such a preference should be more easily administered. Where the PHA has proposed and HUD approved the concentration of the Program in a neighborhood, the PHA may refuse to accept proposals for units located in other neighborhoods. Therefore, proposals for units in the targeted neighborhood may receive preference over all other proposals regardless of the amount of rehabilitation proposed. If the PHA is proposing to use the Program for deconcentration, the PHA need not adhere strictly to this preference if the proposals indicating the greatest amount of rehabilitation are for units located in areas of minority concentration.

Numerous comments suggested other preferences be mandated in the regulations; however, it was decided that a minimum of preferences should be required and that the PHA be given the discretion to set preferences to meet local needs. Some of the preferences suggested which may be considered by PHAs include: owners proposing to assist less than 40 percent of the units in a building; owners proposing to provide barrier-free housing or to establish Independent Group Residences; and owners proposing to provide units for large families.

It is also noted in the paragraph on selection of proposals that HUD review of the site, where a State or unit of general local government owns the units, should be requested at this point.

After selection of proposals, the PHA must notify the owners of their selection and the tentative number of units to be assisted. After determining the eligibility of tenants residing in these units, the PHA must adjust the number of units approved to exclude any unit(s) occupied by tenants ineligible to receive housing assistance payments. In response to several comments, we are clarifying the policy that the Agreement will not over any unit(s) occupied by tenants not eligible to receive housing assistance payments.

The paragraph on work write-ups is being amended to specify that work not

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necessary to bring the unit(s) up to program standards may not be included in the cost estimate upon which the rents will be based. While the owner may accomplish additional rehabilitation at this time, contract rents may include only that amount necessary to repay that part of the loan attributable to essentail items.

A new paragraph on selection of contractors is being added. PHAs may assist owners in selecting capable contractors but must, at a minimum, provide owners with a list of contractors, including minority contractors and require that these contractors be provided an opportunity to submit bids or proposals for the work.

The comments reflected some confusion as to whether an owner could rehabilitate only a portion of the units in a building. Some suggested that this flexibility be allowed in order to encourage partially subsidized projects and to minimize displacement while others suggested that to rehabilitate only a portion of a building would adversely affect the assisted units. The Department recognizes that requiring an owner to rehabilitate every unit in a building to meet Program standards (which may often be local codes) could be financially infeasible unless a HAP Contract is executed on each unit. However, to enter into a HAP Contract on all units would either preclude occupancy by any over income tenants or commit, but not use, limited housing assistance funds for units occupied by tenants who can afford the contract rent after completion of the rehabilitation. Since these are unacceptable alternatives, it has been determined that partial assistance in a building will be allowed in the Moderate Rehabilitation Program provided that the unassisted units do not adversely affect the assisted units. PHAs will not be required to inspect each unassisted unit; however, owners will be required to certify prior to the execution of a HAP Contract that any unassisted units in the building meet the Housing Quality Standards of the Section 8 Existing Housing Program. It is noted that unassisted units need not meet the higher standards of the Moderate Rehabilitation Program if the PHA proposes to use local codes rather than the Housing Quality Standards and, in any event, this requirement is not a substantial change from previous requirements since the common areas, building systems and components had to meet acceptable standards prior to the addition of this new requirement.

There were also several suggestions that the PHA be required to inspect units during rehabilitation. This requirement was in the proposed regulations and is being retained.

23—Vacancies at Rent-up

Several comments suggested that the owner notify the PHA in all cases of any potentially vacant units 60 days prior to completion of rehabilitation. Since the rehabilitation work under this program may in some cases take less than 60 days to accomplish, an option has been retained to allow notification as late as when the Agreement is executed.

24—Acceptance of Units

Since the contract rent may be based upon the term as well as the interest rate of the rehabilitation loan, an owner whose total rehabilitation costs as specified in the Agreement are less than $15,000 and who wants contract rents based upon a loan term of less than 15 years must include in the certification the actual term of the loan. Additionally, in response to comments the section has been clarified to require that the PHA review and accept the owners' certifications rather than verify them.

In response to several comments, particularly from State and regional agencies, the five day requirement for PHAs to review the evidence of completion and inspect the completed units has been changed to 10 days.

Additionally, since the contract rents are based upon the owner's certification of cost and, in some incidences, loan terms, the Contract may not be executed until the owner provides, and the PHA accepts, the appropriate certification(s).

25—Utility Allowances

It was also suggested that utility allowances be established for each building in the Program as is done in the substantial Rehabilitation Program. However, due to the type of buildings expected in the Moderate Rehabilitation Program, often including single family and small multifamily buildings, it has been determined that an overall utility allowance schedule for the entire PHA Program is appropriate. To take into account larger buildings, the regulations have been amended to allow the PHA to establish, based upon one year's actual consumption data after rehabilitation, a separate utility allowance for each building in which 20 or more units are assisted.

In response to several comments, a provision is also being added requiring that adjustments to utility allowances be implemented no later than concurrently with the next income reexamination or lease renewal, whichever comes first.

26—Termination of Tenancy

Since the Moderate Rehabilitation Program is a project-based program, many commenters pointed out that a family should have more protection against an owner terminating its tenancy and jeopardizing its housing assistance. The eviction section is thus being revised to establish the tenant's right to occupany and to allow an owner to terminate a family's tenancy only for good cause and in accordance with State and local law. The owner must notify the family of any proposed termination, stating the cause for the termination. The owner must also notify the PHA of any proposed termination and, while PHA authorization of eviction is not required in the final rule, the PHA must assure that the termination is being performed in accordance with the procedures of this section.

The requirements of this section, except for the role of the PHA, are similar to those being considered by the Department for the Section 8 New Construction Program (24 CFR Part 880). The Part 880 regulations will be published for comment, and based upon the comments received on those regulations, the Moderate Rehabilitation Program regulations may be amended since the Department is interested in providing as much uniformity as possible in the administration of its Section 8 programs.

27—Failure to Lease to Eligible Families

A number of commenters expressed concern that owners would use the Agreement to obtain financing for the rehabilitation of their units and then either not lease the units to eligible families or drop out of the program once their rehabilitation loan is repaid. Based on these comments and the Department's concern that the program meet both its objectives of rehabilitating housing and providing housing assistance to lower-income families, the mandatory contract term is 15 years (discussed earlier in the preamble) and a provision has been added which states that an owner who fails to lease vacant units to eligible families, in addition to other remedies, will have the number of units under HAP Contract reduced and may be suspended or debarred from future participation in any HUD program. This section is also being revised, since the owner is required to fill vacancies from the PHA waiting list, to state that the owner may not fill any vacancy with ineligible families without violating the contract.

28—Family Participation

One commenter suggested that a family should not continue to be assisted if it vacates its unit in violation of the lease and causes the PHA to pay vacancy payments. This suggestion has been included in Section 882.517(d).

In response to comments suggesting clarification, a statement is being added to § 882.517(e) indicating that an assisted family which is forced to move through no fault of its own will not be required to move nor will assistance be terminated unless the family rejects without good reason the offer of acceptable alternative housing.

Some PHA's suggested that it may be unworkable to require that a family be given a preference for a Certificate in the PHA's Existing Housing Program when it is forced to move due to a change in family size and the HAP Contract cannot be cancelled. The Department has determined that providing appropriate assistance to these families is of primary importance and thus has retained this requirement. Since this preference is a regulatory requirement, the PHA must adopt this preference notwithstanding any existing preference in order to participate in the Moderate Rehabilitation Program. Where necessary, the PHA will have to amend its Existing Housing Program administrative plan to establish such a preference.

PHA's also expressed concern over the means for the conversion of a Moderate Rehabilitation unit to an Existing Housing unit when a HAP Contract is cancelled. A provision has been added to clarify that the units will remain under the Moderate Rehabilitation ACC, which will provide for Existing Housing units, in order that no ACC amendments will be necessary. The converted unit will remain in the Moderate Rehabilitation project and will be treated for reporting and financial purposes as a Moderate Rehabilitation unit.

29—Maintenance, Operation and Inspections

A section has been added which states the owner's responsibility to manage and maintain the assisted units and the PHA's responsibility for inspecting and monitoring the quality of all the units in the program. This section provides for a rent reduction where the owner does not provide the services agreed to under the Contract. Additionally, if the unit is not maintained in a decent, safe, and sanitary condition, the PHA may abate housing assistance payments to the owner and may cancel the HAP Contract.

A paragraph has also been added to detail HUD's rights and responsibilities if the PHA which is administering the HAP Contract is also managing the units for the owner. Additional HUD involvement is necessary in these circumstances since the PHA is in the position of supervising and evaluating its own activities.

30—Miscellaneous Comments

Several suggestions were made by commenters which were not incorporated into the regulations. A summary of the more recurrent comments and the rationale for their rejection follows.

a. Several commenters suggested that there should be a special allocation of Moderate Rehabilitation units in order not to reduce the number of Existing Housing units a locality will receive. While Moderate Rehabilitation will be considered part of the Existing Housing goal in FY 1979, the recently revised HAP forms contain a separate goal for Moderate Rehabilitation. Beginning in FY 1980 Moderate Rehabilitation funds will be allocated on the basis of a HAP goal for the Program and will not directly reduce the Existing Housing allocation.

b. A few commenters suggested that owners be allowed to apply directly to the HUD field office for assistance under the Moderate Rehabilitation Program. Since PHA involvement is required by the statute and since the Department does not want to establish competing programs in the same market area, this option was not included in the final regulations.

c. There was some objection to the exclusion of PHA-owned properties, HUD-held properties, mobile homes, and owner-occupied units from the program. PHA-owned properties are excluded unless another PHA administers the Contract on the units due to the inherent conflict of interest involved with a PHA establishing its own rents and monitoring its own performance. HUD-held properties were excluded since there is a separate program for disposing of these properties. A variation of the Moderate Rehabilitation Program will be proposed shortly to assist in the disposal of HUD-held properties; however, that program will operate under separate regulations in another Part. It has been determined that, as in the Substantial Rehabilitation Program, mobile homes are inappropriate for assistance. Owner-occupied units are excluded since the statute provides for only rental assistance under the Section 8 programs, the exception being for units in a co-operative.

NEPA

A Finding of Inapplicability respecting the National Environment Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Accordingly, 24 CFR Part 882 is revised as follows by adding new Subparts D and E:

Subpart D—Special Procedures for Moderate Rehabilitation—Basic Policies

Sec.
882.401 Applicability, scope, and purpose.
882.402 Definitions.
882.403 ACC provisions.
882.404 Term of housing assistance payments contract and lease.
882.405 Housing quality standards.
882.406 Financing.
882.407 Relocation.
882.408 Other federal requirements.
882.409 Initial contract rents.
882.410 Contract rents at end of rehabilitation loan term.
882.411 Rent adjustments.
882.412 Establishment of income limit schedules; 30 percent occupancy by very low-income families.
882.413 Payments for vacancies.
882.414 Subcontracting of owner services.
882.415 Responsibility of the family.

Subpart E—Special Procedures for Moderate Rehabilitation—Program Development and Operation

Sec.
882.501 Distribution of funds.
882.502 Invitations for moderate rehabilitation program applications.
882.503 Submission of applications.
882.504 Processing of applications.
882.505 Annual contributions contract; schedule of rehabilitation and leasing.
882.506 Obtaining and screening proposals from owners.
882.507 Assistance to owners and selection of units.
882.508 Agreement to enter into housing assistance payments contract.
882.509 Rehabilitation period.
882.510 Completion of rehabilitation.
882.511 Execution of housing assistance payments contract.
882.512 Overcrowded and under occupied units.
882.513 Adjustment of allowance for utilities and other services.
882.514 Termination of tenancy.
882.515 Reduction of number of units covered by contract.

Sec.
882.516 Public notice to lower-income families; waiting list.
882.517 Family participation.
882.518 Reexamination of family income and composition.
882.519 Maintenance, operation and inspections.

Subpart D—Special Procedures for Moderate Rehabilitation—Basic Policies

§ 882.401 Applicability, Scope and Purpose.

(a) *General.* This Subpart D and Subpart E set forth the policies and procedures for requests made by Public Housing Agencies (PHAs) for approval by HUD of a Moderate Rehabilitation Program, and the procedures to be used by PHAs in initiating and administering a Moderate Rehabilitation Program. The Moderate Rehabilitation Program is designed to be used to achieve one or more of the following objectives: (1) freedom of housing choice and spatial deconcentration of assisted housing into areas outside of low income and minority concentrations, (2) prevention of displacement of Lower-Income Families in areas undergoing private rehabilitation, and (3) neighborhood preservation and revitalization. PHAs must indicate in their applications which of these objectives they proposed to promote with the Program.

(b) *Eligible Applicants.* PHAs, including State Housing Finance and Development Agencies authorized to participate under 24 CFR Part 883, eligible to participate in the Program are those who (1) have the ability to operate a rehabilitation program, or (2) will subcontract with a qualified agency or entity, or (3) will develop the capability to operate a rehabilitation program, all in accordance with Section 882.503(a)(7).

(c) *Eligible and Ineligible Properties.* (1) Except as provided in paragraphs (2) through (7) of this Section, housing, suitable for moderate rehabilitation as defined in § 882.402 is eligible for inclusion under the Moderate Rehabilitation Program. Existing structures of various types may be appropriate for this Program including single-family houses, multi-family structures and Independent Group Residences. (2) Housing (i) which is or has been within twelve months prior to the Owner's submittal to the PHA of a proposal, subsidized under any federal housing program, except housing assisted under Subparts A and B of this Part which meets the Performance Criteria of the Housing Quality Standards but has a major building system or component in danger of failure (provided that the Existing Housing Contract is terminated before the Moderate Rehabilitation Contract takes effect), or (ii) which is owned by the PHA administering the ACC under this Program, or (iii) which is a project with a HUD-held mortgage or is a HUD-owned project is not eligible for assistance under this Program. (3) Nursing homes, units within the grounds of penal, reformatory, medical, mental and similar public or private institutions, and facilities providing continual psychiatric, medical or nursing services are not eligible for assistance under the Moderate Rehabilitation Program. (4) Housing owned by a State or unit of general local government is not eligible for assistance under this Program unless: (i) HUD has reviewed and approved the site prior to the execution of an Agreement, and (ii) the State or unit of a general local government sells the property to another Owner prior to execution of an Agreement. (5) High rise elevator projects for Families with children may not be utilized unless HUD determines there is no practical alternative. (HUD may make this determination for a locality's Moderate Rehabilitation Program in whole or in part and need not review each building on a case-by-case basis.) (6) Mobile homes may not be utilized in this Program. (7) No Section 8 assistance may be provided with respect to any unit occupied by an Owner; however, cooperatives will be considered as rental housing for purposes of this Program.

(d) *Applicability of Subparts A, B, C and F.* Sections 882.102 (Definitions), 882.109 (Housing Quality Standards), and 882.112 (Security and Utility Deposits) of Subpart A and Sections 882.201 (Allocations of Contract Authority to Field Offices), 882.202 (Determination of Number and Types of Units to be Assisted), 882.216 (Inapplicability of Low-Rent Public Housing Model Lease and Grievance Procedures), and 882.217 (HUD Review of Contract Compliance) of Subpart B are applicable to the Moderate Rehabilitation Program. Other sections which have been modified for this Program are repeated or referenced in Subparts D and E with appropriate amendments. Provisions of Subpart C, Administration of Program by Contract Administrator on Behalf of HUD, which was issued as a proposed rule on April 10, 1979, may apply to Subparts D and E. Provisions of Subpart F, Special Provisions for Mobile Home Owners, when published, will not apply to Subparts D and E.

§ 882.402 Definitions.

In addition to the definitions set forth in § 882.102, the following will apply:

Agreement to Enter Into Housing Assistance Payments Contract (*"Agreement"*). A written agreement between the Owner and the PHA that, upon satisfactory completion of the rehabilitation in accordance with requirements specified in the Agreement, the PHA will enter into a Housing Assistance Payments Contract with the Owner.

Eligible Family (*"Family"*). A family as defined in § 882.102, including lower-income single persons as provided in § 882.407(a).

Moderate Rehabilitation. Rehabilitation involving a minimum expenditure of $1,000 for a unit, including its prorated share of work to be accomplished on common areas or systems, to:

(a) Upgrade to Decent, Safe and Sanitary condition to comply with the Housing Quality Standards or other standards approved by HUD, from a condition below those standards (improvements being of a modest nature and other than routine maintenance); or

(b) Repair or replace major building systems or components in danger of failure.

Statement of Family Responsibility. An agreement, in the form prescribed by HUD, between the PHA and a Family to be assisted under the Program, stating the obligations and responsibilities of the two parties.

§ 882.403 ACC provisions.

(a) *Single ACC.* (1) All of the Moderate Rehabilitation units administered by a PHA under the Housing Assistance Payments Program (except where the PHA's area of operation is within the jurisdiction of more than one HUD field office) will be covered by and administered under a single ACC, Part I.

(2) All Moderate Rehabilitation units for which contract authority is reserved for a PHA in the same fiscal year will constitute one project unless metropolitan and nonmetropolitan contract authority is utilized, in which case two projects will be established. Should contract authority for units in two or more applications from a PHA be reserved in the same fiscal year, the ACC Part I will be amended to indicate a single project utilizing metropolitan or nonmetropolitan contract authority for that fiscal year with the unit count and annual contributions commitment for that project(s) being the total for all units for which contract authority is reserved during the fiscal year.

(3) The ACC term for each project will be 17 years.

(b) *Maximum Total ACC Commitments.* The maximum total annual contribution will be established in accordance with § 882.505(a). The fee for the regular costs of PHA administration and the HUD-approved preliminary costs will be payable out of this total.

(c) *Project Account.* (1) A project account will be established and maintained by HUD as a specifically identified and segregated account for each project. The account will contain the sum of the amounts by which the maximum annual commitment exceeds the amount actually paid out for the project under the ACC each year. Payments will be made from this account when needed to cover increases in Contract Rents or decreases in Gross Family Contributions for (i) housing assistance (including vacancy) payments, (ii) the amount of the fee for PHA costs of administration, and (iii) other costs specifically approved by the Secretary.

(2) When a HUD-approved estimate of required payments under the ACC for a fiscal year exceeds the maximum annual commitment, and would cause the amount in the project account to be less than 40 percent of the maximum, HUD will, within a reasonable period of time, take such additional steps authorized by Section 8(c)(6) of the U.S. Housing Act of 1937, as may be necessary, to assure that payments under the ACC will be adequate to cover increases in Contract Rents and decreases in Gross Family Contributions.

§ 882.404 Term of housing assistance payments contract and lease.

(a) *Term of Housing Assistance Payments Contract.* The Contract for any unit rehabilitated in accordance with the Program must be for a term of 15 years. However, the Contract term may in no case extend beyond the expiration of the ACC term for the applicable project.

(b) *Term of Lease.* The term of the Lease for each unit must be for not less than one year. The Lease may, or in the case of a lease for a term of more than one year must, contain a provision permitting termination on 30 days' advance written notice by the Family.

(c) *Renewals of Lease.* Any renewal or extension of the Lease term for any unit must in no case extend beyond the remaining term of the Contract.

§ 882.405 Housing quality standards.

In addition to the standards set forth in Section 882.109, the following will apply:

(a) *Energy Efficiency-Performance Requirement.* Caulking and weatherstripping are required as energy conserving improvements. Other appropriate energy conserving improvements such as insulation and storm windows must be accomplished by the Owner as part of the rehabilitation under this Program, to the extent that the PHA determines these improvements to be practicable, cost effective and financially feasible. (See § 882.507(b).)

(b) *Site and Neighborhood-Performance Requirement.* In addition to meeting the standards required in Section 882.109(k), the site must:

(1) Be adequate in size, exposure and contour to accommodate the number and type of units proposed; adequate utilities and streets must be available to service the site. (The existence of a private disposal system and private sanitary water supply for the site, approved in accordance with local law, may be considered adequate utilities.)

(2) Be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto.

(3) Promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(4) Be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

(5) Be so located that travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, is not excessive. (While it is important that housing for the elderly not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.)

§ 882.406 Financing.

(a) *Types.* Any type of public or private financing may be utilized with the exception of the rehabilitation loan program under Section 312 of the Housing Act of 1964.

(b) *Use of Contract as Security for Financing.* An Owner may pledge, or offer as security for any loan or obligation, an Agreement or Contract entered into pursuant to this Program, provided that (1) such security is in connection with a unit(s) rehabilitated pursuant to this Program and (2) the terms of the financing or any refinancing must be approved by the PHA in accordance with standards provided by HUD. Any pledge of the Agreement or Contract, or payments thereunder, will be limited to the amounts payable under the Contract in accordance with its terms.

§ 882.407 Relocation.

(a) *General.* (1) Moderate Rehabilitation will involve only a limited amount of work on dwelling units which can usually be accomplished with tenants in residence. Also, an Agreement and Contract will not be entered into on units occupied by families not eligible for housing assistance payments after completion of the rehabilitation. (Units occupied by lower-income single persons, even if not elderly or handicapped may be included because under 24 CFR Part 812 a lower-income person is eligible if displaced, and the occupant, if required to move, would be displaced and thus eligible for reoccupancy.) Accordingly, temporary relocation or permanent displacement will not be required except in limited circumstances (see paragraph (b) of this section).

(2) To assure minimal displacement (i) no application for the Program will be approved which proposes PHA selection of proposals where permanent displacement of tenants will be necessary unless the PHA has submitted and HUD has approved a relocation strategy in accordance with § 882.503(a)(11) and paragraphs (b) through (h) of this section, and (2) an Owner must certify in the proposal that no tenant has been forced to move without cause in the twelve month period preceding the submittal of the proposal to the PHA.

(b) *Determination of Necessity for Displacement and Notice to Tenants.* The provisions of this paragraph (b) (1) and (2) apply only where the PHA has an approved relocation strategy (see paragraph (a)(2)(i) of this section).

(1) The PHA must determine, in consultation with the Owner, as promptly as possible after notification of selection of units for participation in the Program (§ 882.507(e)), the need for any tenant in a building proposed for

rehabilitation to be permanently displaced. A tenant will only be displaced if there will not be sufficient suitable-sized units available after rehabilitation. The determination of suitable size will be made in accordance with § 882.109(c) and, for those units to be included in the Agreement, in accordance with § 882.209(a)(2). Unless a tenant is determined by the PHA and Owner to be displaced based on these criteria or unless the Owner evicts the tenant for cause and in accordance with § 882.514, the tenant will be allowed to remain in or return to the unit or a suitable-sized unit in the building or complex after rehabilitation.

(2) If there are not suitable alternative units meeting the requirements of paragraph (d)(1) of this section available for any tenant who will be displaced, the PHA may not enter into an Agreement for any units in that building.

(3) Not later than 30 days after the Owner is notified of selection of units for participation in the Program (§ 882.507(e)), each tenant occupying a unit in a building in which units will be rehabilitated under the Program must be issued either a notice stating that he/she will be displaced or a notice stating the tenant's right to remain in or return to the current unit or another unit in the same complex. These notices must be in accordance with paragraphs (c) and (d) and issued in accordance with paragraph (e) of this section.

(c) *Tenants Permitted to Continue in Occupancy.* (1) If the tenant is issued a notice in accordance with paragraph (b)(3) of this section stating the tenant may continue in occupancy, the notice must state the following tenant rights:

(i) After the completion of the rehabilitation, the tenant will have the right to lease and occupy a decent, safe and sanitary dwelling located within the same building or complex.

(ii) During the period between execution of the Agreement and execution of the Contract, the tenant will not be required to move from the dwelling unit, other than for cause, unless the work cannot be done with the tenant in residence. If any such move is required, (A) not more than one temporary relocation will be required, (B) the temporary relocation will be to a decent, safe and sanitary dwelling in a location that is not generally less desirable with respect to public and commercial facilities and the occupant's place of employment than the location of the dwelling to be rehabilitated, (C) the Owner will pay the actual reasonable out-of-pocket expenses, including moving costs (see paragraph (f)) and any increase in monthly housing costs (rent and utilities), incurred by the tenant in connection with the moves and/or temporary relocation, and (D) the temporary relocation will not be for more than six months. If for unforeseen reasons the rehabilitated unit is not ready for occupancy within the six months, the tenant will be notified of the earliest date by which it will be ready, and the tenant in that case will have the right either to agree to wait until the extended date or to request that it be treated as permanently displaced in accordance with paragraph (d) of this section.

(2) If the tenant is a Family which is eligible to receive housing assistance payments the notice must state, in addition to the provisions specified in paragraph (c)(1) of this section, the following:

(i) The Family will be allowed to occupy that unit for the term of the Contract unless the Family is evicted for cause and in accordance with § 882.514 or is required to move for other good reason such as changes in Family size. If the Family is required to vacate the dwelling during the term of the Contract for any reason other than for cause, such as a change in Family size, the PHA will assure that the Family is provided assistance in accordance with § 882.517(e).

(ii) The amount of rent payable by the Family will be determined in accordance with 24 CFR Part 889; however, the Family will not be required to pay more than the Gross Rent for the unit established in accordance with Program requirements.

(d) *Tenants Who Are to be Permanently Displaced.* The provisions of this paragraph (d) apply only where the PHA has an approved relocation strategy (see paragraph (a)(2)(i) of this section). If the tenant is issued a notice in accordance with paragraph (b)(3) of this section stating that the tenant will be displaced, that notice must state the tenant's rights as specified in this paragraph.

(1) The tenant will not be required to move until after being given a reasonable choice of opportunities to relocate to an affordable decent, safe and sanitary dwelling unit meeting the standards of Section 882.109, which is in a location that is not generally less desirable, with respect to public and commercial facilities and the occupant's place of employment, than the location of the dwelling to be rehabilitated. If the tenant is a minority or lower-income family, it must be given reasonable opportunities to relocate to a decent, safe and sanitary dwelling that is not located in an area of low-income and/or minority concentration if such opportunities are available.

(2) The PHA's obligation under paragraph (d)(1) may be met for Lower-Income Families by offering publicly-owned housing or privately-owned housing that is assisted under the Section 8 program or other housing subsidy for which the tenant is eligible.

(i) If the PHA determines, at its sole option, that relocation to privately-owned unsubsidized housing is appropriate for a Family eligible to receive housing assistance payments under the Moderate Rehabilitation Program, the PHA must make a lump sum payment to the Family equal to 48 times the amount, if any, necessary to reduce the monthly housing cost (rent and utilities) for a suitable decent, safe and sanitary replacement dwelling to 25 percent of the monthly gross income of all adult members of the Family's household.

(ii) To be eligible for this payment the Family must lease and occupy a decent, safe and sanitary dwelling unit within one year after the displacement.

(iii) The lump sum payment will be computed as follows. First, twenty-five percent of the Family's monthly gross income will be subtracted from the lesser of (A) the monthly housing cost of a decent, safe and sanitary replacement dwelling meeting the standards of § 882.109, or (B) the monthly housing cost of a decent, safe and sanitary replacement unit actually occupied by the displaced tenant. Second, the remaining amount will be multiplied by 48.

(3) The tenant will be provided appropriate advisory services including:

(i) Explaining the tenant's rights and responsibilities (see § 882.517(c));

(ii) Providing current and continuing information on the availability and rental costs of replacement units which are decent, safe and sanitary;

(iii) Ensuring that the relocation process does not result in different or separate treatment on account of race, color, religion, national origin, sex or source of income;

(iv) Assuring that during the period between execution of the Agreement and displacement, the unit occupied by the tenant is maintained in a safe and habitable condition; and

(v) Minimizing hardships to persons in adjusting to relocation.

(4) The tenant will be reimbursed for moving expenses. The tenant may elect to receive a fixed payment for moving expenses which will consist of a moving expense allowance not to exceed $300 (determined in accordance with the applicable approved Federal Highway Administration schedule (49 CFR 25.153)) and a dislocation allowance of $200, or the tenant may elect to be reimbursed for actual reasonable expenses for the items listed in paragraph (f) of this section.

(e) *Manner of Notices.* Any notice which is required under this section must be personally served, receipt documented, or sent by certified or registered first-class mail, return receipt requested. Each notice must be written in plain understandable language. Recipients who are unable to read and understand the notice must be provided with appropriate explanation and counseling. Each notice must indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

(f) *Moving Expenses.* Reasonable moving expenses in connection with temporary relocation or permanent displacement of tenants include:

(i) Transportation of the tenant and personal property from the unit to be rehabilitated to the replacement unit and return to the rehabilitated unit, if applicable. Transportation costs for a distance beyond 50 miles are not eligible unless the PHA determines that relocation beyond 50 miles is justified;

(ii) Packing, crating, unpacking and uncrating of the personal property;

(iii) Disconnecting, dismantling, removing, reassembling and reinstalling relocated household appliances and other personal property;

(iv) Storage of the personal property as the PHA determines to be necessary;

(v) Insurance of the personal property in connection with the move and necessary storage; and

(vi) Other moving-related expenses as the PHA may determine to be reasonable and necessary.

(g) *Responsibility for Relocation Payments and Assistance.* (1) The PHA will have the administrative responsibility for assuring that appropriate relocation payments are made to displaced or temporarily relocated tenants and will be directly responsible for providing all services specified in this section. Advisory services provided by the PHA to tenants temporarily relocated are eligible costs to be reimbursed from the preliminary administrative funds.

(2) The provision and funding of payments on account of temporary relocation of tenants will be the responsibility of the Owner. The Contract Rent computation, as specified in § 882.409, may at the Owner's option include relocation costs for those units to be assisted under the Program; however, the Owner must make appropriate relocation payments to any tenant temporarily relocated, regardless of income or whether the tenant will occupy a unit which is under the Agreement. No Owner will be selected for participation in the Program unless the Owner agrees, in the proposal, to assume this responsibility.

(3) Services to tenants permanently displaced will not be considered eligible costs for reimbursement under the Moderate Rehabilitation or any other HUD assisted housing programs. Unless an entity, such as the local government, agrees in writing to assume responsibility for providing funds for relocation payments and services associated with permanent displacement from other sources or unless the PHA demonstrates that it has funds available from other than HUD-assisted housing programs, an application for Moderate Rehabilitation from a PHA which proposes to allow permanent displacement of tenants will not be approved.

(h) *Appeal Procedures.* A tenant who believes he/she has not received the proper relocation payments or opportunities to relocate to decent, safe and sanitary housing to which the tenant is entitled under this section may appeal to the PHA. The tenant is entitled to an informal hearing as if the tenant were determined ineligible for the Program (§ 882.517(g)). Should the tenant not be satisfied with the PHA's disposition of the matter, the tenant may appeal to the HUD field office.

(i) *Applicability of Uniform Act.* The relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations at 24 CFR Part 42 apply only to the displacement of any person (owner or tenant) that results from the acquisition of real property for a project assisted under this Program if the acquisition is by a PHA or other State agency (defined at 24 CFR 42.85). When the Uniform Act is applicable, the provisions of this section do not apply, except for paragraphs (a) and (g).

§ 882.408 Other Federal requirements.

(a) Participation in this Program requires compliance with the Equal Opportunity requirements specified in § 882.111.

(b) Additionally, in selecting among proposals the PHA must take into consideration compliance with the following:

(1) Executive Order 11988, Floodplains Management;

(2) Executive Order 11990, Protection of Wetlands;

(3) National Historic Preservation Act (Pub. L. 89-665);

(4) Archeological and Historic Preservation Act of 1974; and

(5) Executive Order 11593 on Protection and Enhancement of the Cultural Environment.

If the PHA proposes to select a building which is on or eligible for the National Register of Historic Places, the PHA must contact the HUD field office prior to approval to assure compliance with paragraphs (b) (3), (4), and (5) of this section.

(c) The PHA and Owner must agree to comply with the requirements of the following, where applicable:

(1) Clean Air Act and Federal Water Pollution Control Act;

(2) Flood Disaster Protection Act of 1973;

(3) Section 504 of the Rehabilitation Act of 1973 (as implemented in 24 CFR Part 8),

(4) Executive Order 11246, Equal Employment Opportunity (for all construction contracts of over $10,000);

(5) Executive Order 11625, Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise; and

(6) Labor Standards Provisions contained in the following acts (for Agreements covering 9 or more assisted units):

(i) Davis-Bacon Act;

(ii) Contract Work Hours and Safety Standards Act;

(iii) Copeland Anti-Kickback Act; and

(iv) National Apprenticeship Act.

§ 882.409 Initial contract rents.

(a) *Fair Market Rent Limitation.* The initial Gross Rent for any Moderate Rehabilitation unit specified in the Agreement (§ 882.508(a)(3)) must not exceed the Moderate Rehabilitation Fair Market Rent applicable to the unit on the date that the Agreement is executed except by up to 10 percent as provided in paragraph (b) of this section. Additionally, as provided in paragraph (d) of this section, changes may be made in the Contract Rent subsequent to the signing of the Agreement which result in Gross Rents which exceed the Moderate Rehabilitation Fair Market Rent by up to 20 percent. The Fair Market Rent Schedule for Moderate Rehabilitation will be 120 percent of the Existing Housing Fair Market Rent Schedule.

(b) *Exception Rents.* The PHA may approve initial Gross Rents which exceed the applicable Moderate Rehabilitation Fair Market Rents by up

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to 10 percent in the following circumstances:

(1) For all units of a given size or type in specified areas where HUD has determined that median rents for standard units of that size or type in the area are from 10 to 20 percent higher than the Existing Housing Fair Market Rents. Such a determination by HUD may be made on a case-by-case basis or by area upon receipt from the PHA of documentation demonstrating the necessity for exception rents in the area.

(2) On a case-by-case basis, where the PHA has made a written determination that the higher Gross Rent is necessary (i) to meet the needs of families needing four or more bedrooms, or (ii) to provide the physical modifications to a unit and/or structure which are necessary to meet the needs of the handicapped or disabled.

(c) *Determination of Initial Contract Rents.* (1) The PHA must establish a base rent for each unit. This base rent will be the average rent charged for the unit during the 18 months preceding the date the Owner submitted the proposal to the PHA plus an adjustment not to exceed the amount obtained by application of the appropriate annual adjustment factor established by HUD (see § 882.411(a)(1)). However, the Owner may request a higher base rent on the ground that the base rent is insufficient to allow for adequate management and maintenance of the unit. The PHA may approve a higher base rent established by determining the estimated costs to the Owner of owning, managing and maintaining the rehabilitated unit. This higher base rent will be calculated using a HUD prescribed formula.

(2) In addition the PHA must determine the monthly per unit cost to the Owner of repaying a rehabilitation loan to finance the cost of the rehabilitation specified in the Agreement and the cost of any necessary temporary relocation payments to be made by the Owner to Families to be assisted under the Program. In making this calculation, the PHA must use the interest rate at which the Owner proposes to obtain his rehabilitation loan (the HUD–FHA maximum interest rate for multifamily housing plus ½ percent Mortgage Insurance Premium will be used where the Owner does not obtain a loan) and a loan period as follows:

(i) A 15-year term if the total amount of rehabilitation established in the feasibility analysis (Section 882.507(h)) equals or exceeds $15,000.

(ii) The actual term of the rehabilitation loan obtained by the Owner if the total amount of rehabilitation established in the feasibility analysis is less than $15,000.

(iii) A 15-year term if the Owner does not obtain a loan to finance all or part of the rehabilitation.

(3) The initial Contract Rent for the unit must be the lesser of (i) the base rent as established in paragraph (c)(1) of this section plus the monthly cost of amortization of a rehabilitation loan as established in paragraph (C)(2), or (ii) the Moderate Rehabilitation Fair Market Rent or exception rent for that unit size (see parargraphs (a) and (b) of this section), minus any applicable Allowance for Utilities and Other Services attributable to the unit.

(d) *Changes in Initial Contract Rents during Rehabilitation.* (1) The Contract Rents established pursuant to paragraph (c) will be the Contract Rents on the effective date of the Contract exept under the following circumstances:

(i) When, during rehabilitation, work items are discovered which (A) could not reasonably have been anticipated or are necessitated by a change in local codes or ordinances, and (B) were not listed in the work write-up prepared or approved by the PHA, and (C) will require additional expenditures which would make the rehabilitation infeasible at the Contract Rents established in the Agreement. Under these circumstances, the PHA will:

(A) Approve a change order to the rehabilitation contract, or amend the work write-up if there is no rehabilitation contract, specifying the additional work to be accomplished and the additional cost for this work,

(B) Recompute the Contract Rents, within the limits specified in paragraph (d)(4) of this section, based upon the revised cost estimate, and

(C) Prepare and execute an amendment to the Agreement stating the additional work required and the revised Contract Rents.

(ii) When the actual cost of the rehabilitation performed is less than that estimated in the calculation of Contract Rents for the Agreement.

(iii) When the actual interest rate or term (if the total cost of the work established in the feasibility analysis is less than $15,000) of the rehabilitation loan differs from that anticipated in the calculation of Contract Rents for the Agreement.

(iv) When the actual relocation payments made by the Owner to temporarily relocated Families varies from the cost estimated in the calculation of Contract Rents for the Agreement.

(2) Should changes occur as specified in paragraph (d)(1) (ii), (iii) or (iv) (either an increase or decrease), the PHA will recalculate the Contract Rents in accordance with paragraph (c) of this section and amend the Contract or Agreement, as appropriate, to reflect the revised rents.

(3) The PHA must review and approve the Owner's certification that the rehabilitation costs, temporary relocation costs, interest rate and term (if the total cost of the work to be performed under the Agreement is less than $15,000) on which the Contract Rents are based are the actual costs incurred, interest rate and loan term (where applicable). (See § 882.510(c).)

(4) In establishing the revised Contract Rents, the PHA must determine that the resulting Gross Rents do not exceed the Moderate Rehabilitation Fair Market Rent or the exception rent under paragraph (b) of this section, in effect at the time of execution of the Agreement. The Fair Market Rent or exception rent, as appropriate, may only be exceeded when the PHA determines in its calculations specified in paragraph (d)(1)(i) of this section that it will be necessary for the revised Gross Rent to exceed the Moderate Rehabilitation Fair Market Rent or exception rent. Should this determination be made, the PHA may not execute a revised Agreement until it receives HUD field office approval of such an exception. The HUD field office may approve revised Gross Rents which exceed the Fair Market Rents by up to 20 percent for reasons specified in paragraph (d)(1)(i) of this section upon proper justification by the PHA of the necessity for the increase.

§ 882.410 Contract rents at the end of rehabilitation loan term.

For a Contract where the Owner accomplished less than $15,000 of rehabilitation and the initial Contract Rent was based upon a loan term shorter than 15 years, the Contract must provide for reduction of the Contract Rent effective with the rent for the month following the end of the term of the rehabilitation loan. The amount of the reduction will be the monthly cost of amortization of the rehabilitation loan. This reduction should result in a new Contract Rent equal to the base rent established pursuant to § 882.409(c)(1) plus all subsequent adjustments.

§ 882.411 Rent adjustments.

(a) *Annual and Special Adjustments.* Contracts Rents will be adjusted as provided in paragraphs (a) (1) and (2) of this section upon submittal to the PHA by the Owner of a revised schedule of Contract Rents, provided that the unit is in decent, safe, and sanitary condition and that the Owner is otherwise in compliance with the terms of the Lease and Contract. Subject to the foregoing, adjustments of Contract Rents will be as follows:

(1) The Annual Adjustment Factors which are published annually by HUD (see Schedule C, 24 CFR Part 888) will be utilized. On or after each anniversary date of the Contract, the Contract Rents may be adjusted effective with the month following the submittal by the Owner of a revised schedule of Contract Rents which may be no higher than Rents established by applying the applicable Annual Adjustment Factor most recently published by HUD to (1) the Contract Rent minus the monthly amortization amount of the rehabilitation loan, or (2) the Contract Rent established pursuant to § 882.410 at the end of the rehabilitation loan term. These increased Contract Rents must then be examined in accordance with paragraph (b) of this section and may be adjusted accordingly. Contract Rents may be adjusted upward or downward, as may be appropriate; however, in no case may the adjusted rents be less than the Contract Rents on the effective date of the Contract except as provided in § 882.410.

(2) A special adjustment, subject to HUD approval, to reflect increases in the actual and necessary expenses of owning and maintaining the unit which have resulted from substantial general increases in real property taxes, utility rates, assessments and utilities not covered by regulated rates, may be recommended by the PHA for approval by HUD but only if and to the extent that the Owner clearly demonstrates that these general increases have caused increases in the Owner's operating costs which are not adequately compensated for by annual adjustments. The Owner must submit financial information to the PHA which clearly supports the increase. For Contracts of more than twenty units, the Owner must submit audited financial information.

(b) *Overall Limitation.* Notwithstanding any other provisions of this part, adjustments as provided in this section must not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by the PHA (and approved by HUD in the case of adjustments under paragraph (a)(2)). However, unless the rents have been adjusted in accordance with § 882.410, this limitation should not be construed to prohibit differences in rents between assisted and comparable unassisted units to the extent that differences existed with respect to the initial Contract Rents.

§ 882.412 Establishment of income limit schedules; 30 percent occupancy by very low-income families.

(a) *Income Limit Schedules.* Income Limit Schedules for Moderate Rehabilitaion will be the same as those established pursuant to § 882.113(a).

(b) *Occupancy by Very Low-Income Families.* (1) Owners in the Moderate Rehabilitation Program will be required under the Contract to lease, to the maximum extent feasible, at least 30 percent of the units under Contract to Very Low-Income Families.

(2) The PHA must administer its Moderate Rehabilitation Program and Existing Housing Program under this Part so that at least 30 percent of the Families assisted by the PHA under these Programs are Very Low-Income Families. To this end the PHA may refer Very Low-Income Families to other Owners rehabilitating vacant units under the Moderate Rehabilitation Program or provide assistance to such Families through its Existing Housing Program.

§ 882.413 Payments for Vacancies.

(a) *Vacancies from Execution of Contract to Initial Occupancy.* If a Contract unit which has been rehabilitated in accordance with this Program is not leased within 15 days of the effective date of the Contract, the Owner will be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract, provided that the Owner (1) has complied with § 882.509 (d) and (e) (2); (2) has taken and continues to take all feasible actions to fill the vacancy; and (3) has not rejected any eligible applicant except for good cause acceptable to the PHA.

(b) *Vacancies after Initial Occupancy.* (1) If an Eligible Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner may receive the housing assistance payments due under the Contract for so much of the month in which the Family vacates the unit as the unit remains vacant. Should the unit continue to remain vacant, the Owner may receive from the PHA a housing assistance payment in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding an additional month. However, if the Owner collects any of the Family's share of the rent for this period, the payment must be reduced to an amount which, when added to the Family's payments, does not exceed 80 percent of the Contract Rent. Any such excess must be reimbursed by the Owner to the PHA. The Owner will not be entitled to any payment under this paragraph (b)(1) unless the Owner: (i) immediately upon learning of the vacancy, has notified the PHA of the vacancy or prospective vacancy, and (ii) has taken and continues to take all feasible actions specified in paragraphs (a)(2) and (3) of this section. (2) If the Owner evicts an Eligible Family, the Owner will not be entitled to any payment under paragraph (b)(1) of this section unless the PHA determines that the Owner complied with all requirements of § 882.514, the Contract, and all applicable State and local laws.

(c) *Prohibition of Double Compensation for Vacancies.* The Owner will not be entitled to housing assistance payments with respect to vacant units under this section if the Owner is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the HCD Act of 1974 or payments for unpaid rent under § 882.112 (Security and Utility Deposits)).

§ 882.414 Subcontracting of owner services.

(a) *General.* Any Owner may contract with any private or public entity to perform for a fee the services required by the Agreement, Contract or Lease, provided that such contract may not shift any of the Owner's responsibilities or obligations.

(b) *PHA Management.* If the Owner and a PHA wish to enter into a management contract, they may do so provided that:

(1) The Housing Assistance Payments Contract with respect to the housing involved is administered by another PHA, or

(2) Should another PHA not be available and willing to administer the Housing Assistance Payments Contract, the PHA agrees to comply with the following requirements.

(i) The PHA must submit to HUD an application consisting of a copy of the proposed management contract and documentation showing that:

(A) Performance of the management functions by the PHA is necessary to provide housing for Lower-Income Families, i.e. no management alternative exists;

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(B) The PHA has or will have the capability to perform adequately the management functions for the units as proposed in the application taking into consideration the relevant characteristics of the housing and the Families, e.g., scattered site or multifamily projects; and

(C) The management contract meets the conditions of paragraphs (b)(2) (ii) and (iii).

(ii) The term of the proposed management contract must not exceed one year in order that the parties and HUD may evaluate the effectiveness of such a contract and renew it from year to year if justified. For similar reasons, the contract must include a clause which will allow either party to terminate, or HUD to require termination of, the contract on 90 days' advance written notice.

(iii) The compensation to the PHA must be in the form of a fixed fee to cover all routine management services including routine legal services and local travel. The amount of the fixed management fee must be negotiated between the Owner and the PHA and approved by HUD. The fee must be specified as dollars per unit rather than a percent of Contract Rent and must be sufficient to adequately compensate the PHA for the cost of providing the services, including the prorated fair share of all indirect and overhead costs so as to assure that costs of this management function are not shifted to other HUD-assisted programs. The fee must also be shown to be reasonable when compared with fees paid to private firms in similar management situations, such as management of Section 8 Existing Housing units and FHA projects. Costs of non-routine repairs and replacements, taxes, insurance, utilities and other non-routine items established in the contract to be paid by the PHA must be paid by the owner to the PHA in addition to the fixed fee.

(iv) Notwithstanding the provisions of § 882.409 (b) and (c)(3), a PHA may not approve, without prior HUD approval, rents which exceed the appropriate Moderate Rehabilitation Fair Market Rent for a unit for which it provides the management functions under this section.

(v) PHAs must keep separate accounts and records of their activities in performing the management functions pursuant to this section.

§ 882.415 Responsibility of the family.

A Family receiving housing assistance under this Program must fulfill all of its obligations under the Lease with the Owner and the Statement of Family Responsibility. Failure of the Family to meet its responsibilities under the Lease or Statement of Family Responsibility may be grounds for termination of assistance by the PHA. Should the PHA determine to terminate assistance to the Family, provisions of § 882.517(g) must be followed.

Subpart E—Special Procedures for Moderate Rehabilitation—Program Development and Operation

§ 882.501 Distribution of funds.

Contract and budget authority will be assigned to and allocated for metropolitan and non-metropolitan areas by each HUD field office pursuant to 24 CFR, Part 891, Review of Applications for Housing Assistance; Allocation of Housing Assistance Funds.

§ 882.502 Invitations for moderate rehabilitation program applications.

(a) *Sending of Invitation.* The HUD field office must initiate implementation of its program with respect to Moderate Rehabilitation by sending invitations for Moderate Rehabilitation Program applications for areas in the field office's jurisdiction where the Housing Assistance Plan (HAP) indicates a goal for Existing Housing in fiscal year 1979 or a goal for Moderate Rehabilitation Housing in fiscal year 1980 and subsequent years, where there are eligible applicants in accordance with § 882.401(b), and where there is a supply of housing suitable for moderate rehabilitation. These invitations may solicit applications for both the Existing Housing Program and Moderate Rehabilitation Program or may request only Moderate Rehabilitation applications. These invitations must be distributed in the same manner as specified in § 882.203(a).

(b) *Contents of Invitation.* The invitation must indicate: (1) that applications may be submitted by PHAs, (2) the amount of contract authority available and the estimated number of units the authority is expected to support, for both metropolitan and non-metropolitan areas, (3) the deadline for submission of applications (which will generally be 60 calendar days but must be at least 15 calendar days after the date invitations are sent (see paragraph (a) of this section)), (4) the fact that copies of the application, other forms, and Program regulations may be obtained from the HUD field office, (5) such other basic information as the field office may specify. If the invitation is for both Existing Housing and Moderate Rehabilitation applications, the invitation must also contain the information specified in § 882.203(b).

§ 882.503 Submission of applications.

The application for a Moderate Rehabilitation Program will be submitted by a PHA to the HUD field office. Advice and assistance in the preparation of the application are available from the HUD field office.

(a) *Contents.* The application must:

(1) Indicate the primary area(s) in which units will be rehabilitated under the Program and the approximate number of units to be located in each area.

(2) Indicate the types of housing (e.g., detached, walkup, elevator) expected to be utilized in the proposed project, the total number of units expected to be utilized by unit size (number of bedrooms), and the approximate number of units for occupancy by elderly, handicapped, or disabled.

(3) Demonstrate that the units requested in paragraph (a)(2) of this section are consistent with the applicable Housing Assistance Plan, or in the absence of such a Plan, that the proposed application is responsive to the condition of the housing stock in the community and the housing assistance needs of Lower-Income Families residing in or expected to reside in the community and that there is or will be available in the area public facilities and services adequate to serve the housing proposed to be assisted.

(4) Demonstrate that the applicant qualifies as a PHA and is legally qualified and authorized to participate in the Section 8 Moderate Rehabilitation Program for the area in which the Program is to be carried out and include in such demonstration (i) the relevant enabling legislation, (ii) any rules and regulations adopted or to be adopted by the agency to govern its operation, and (iii) a supporting opinion from the agency counsel. If the PHA already has an ACC for an Existing Housing Project, this demonstration will not be required if the PHA submits a statement that it is qualified to participate based on the same documentation.

(5) Include a statement that the housing standards to be used in the operation of the Program will be those set forth in §§ 882.109 and 882.405 or that variations in the Acceptability Criteria are proposed. In the latter case, each proposed variation must be specified and justified. Should the PHA propose to use local code standards which are more restrictive than the Housing Quality Standards, no justification need be submitted.

(6) Include a proposed schedule specifying the number of units to be rehabilitated and leased by quarter.

(7) Include a description of the rehabilitation expertise and experience of the PHA.

(i) A PHA without rehabilitation expertise may not propose to hire staff to perform these functions if it can subcontract with an experienced and qualified agency or entity.

(ii) If there is a local Community Development Agency or other local public agency which is qualified and willing to provide rehabilitation technical assistance, the PHA must propose to subcontract with that agency, if the PHA does not possess that rehabilitation expertise.

(iii) If the PHA proposes to subcontract with any public or private rehabilitation entity, the PHA must specify the subcontractor and detail the subcontractor's experience in rehabilitation. A memorandum of intent between the PHA and any subcontractor specifying the obligations of each party must be submitted with the application.

(iv) Should the PHA not have the expertise and should an entity with such expertise not be available, the PHA must demonstrate how it proposes to obtain that expertise and detail the qualifications of any staff to be hired, if known, in the application.

(8) Include a description of the PHA's experience in administering housing or other programs and provide other information which evidences present or potential administrative capability for the proposed Program including experience with the Section 8 Existing Housing Program.

(9) Indicate which of the Program objectives specified in § 882.401(a) the PHA proposes to achieve.

(i) If the PHA proposes to use the Program to achieve deconcentration, the PHA must demonstrate that there are sufficient units in need of moderate rehabilitation in areas outside of low income and minority concentrations within the area of operation of the PHA which can be rehabilitated within the Fair Market Rent limitations of the Program. The PHA must also certify that in selecting units for participation in the Program, it will not select units located in: (A) An area of minority concentration unless sufficient, comparable opportunities exist for housing for minority Families outside areas of minority concentration; or (B) A racially mixed area if the units will cause a significant increase in the proportion of minority to nonminority residents in the area.

(ii) If the PHA proposes to concentrate its activities in a specific neighborhood(s), the application must contain a map outlining the neighborhood boundaries and a description of neighborhood characteristics, including demographics, owner/renter status of current residents, extent of vacancy and overall condition of the housing stock. The PHA must demonstrate that there are units within the neighborhood which can meet the site and neighborhood standards pursuant to § 882.405(b).

(A) If the Program is to be concentrated in a neighborhood undergoing private reinvestment and the Program is to be used to prevent displacement, the PHA must so state in its application and must demonstrate that there are units in the neighborhood suitable for moderate rehabilitation and which can be rehabilitated within the Fair Market Rent limitations of the Program.

(B)If the Program is to be concentrated in a neighborhood to reverse or prevent neighborhood deterioration, the PHA must demonstrate that the Program is appropriate to the needs of the proposed neighborhood. The application must also contain a letter from the chief executive officer of the local government indicating the locality's endorsement of the application and describing other public and private improvements completed, underway and/or planned for this neighborhood to complement the Moderate Rehabilitation Program.

(10) Indicate the types of financing expected to be used under the Program particularly Federal, State or local financing programs, and describe the availability of the financing. Statements from these financing sources as to their willingness to finance rehabilitation under this Program should be submitted where available. Types of financing could include but are not limited to Community Development Block Grant loan and grant programs, State Agency rehabilitation loan programs, Neighborhood Housing Services programs and private rehabilitation loan programs. HUD mortgage insurance programs may be used to help secure financing; however, Section 312 rehabilitation loans may not be used in conjunction with the Program.

(11) Include:

(i) A certification that no buildings will be selected for participation in the Program where permanent displacement of tenants will be required; or

(ii) A statement of the PHA's relocation strategy including:

(A) A description of the circumstances under which permanent displacement of tenants will be allowed (i.e. overcrowded or under-occupied units or the combination of occupied units);

(B) A certification that the PHA will comply with requirements specified in § 882.407.

(C) A certification that the PHA will provide a preference for Certificates in its Section 8 Existing Housing Program to Families displaced as a result of Moderate Rehabilitation or a certification from the PHA administering the Section 8 Existing Housing Program in the area that it will provide such a preference.

(D) A certification that the PHA will provide a preference for any Family displaced under the Program in its referral of Families to Owners of vacant Moderate Rehabilitation units and that it will give a preference to these Families in any assisted housing owned and/or managed by the PHA.

(E) If the PHA proposes to assume the responsibility for any assistance or payments to permanently displaced tenants, a certification that the funds for these purposes will come from other than HUD-assisted housing programs.

(F) If any entity other than the PHA agrees to assume the responsibility for assistance or payments to displacees under the Program, a certification from an official of that entity to that effect.

(12) If the PHA is proposing to rehabilitate units in a locality with an approved Housing Assistance Plan, include a statement from the chief executive officer of the local government indicating local government approval of the submission of the application, stating that the application is consistent with the local Housing Assistance Plan and providing any additional comments.

(b) *Other Submissions.* The PHA must submit the following items with the application or after application approval but no later than with the PHA executed ACC.

(1) An equal opportunity housing plan.

(i) The plan must describe the PHA's policies and procedures for:

(A) Fulfilling the requirements of § 882.508(a), Public Notice to Owners, and § 882.516, Public Notice to Lower-Income Families.

(B) Achieving the participating of Owners of units in areas outside of low income and minority concentrations, if the PHA has indicated that the objective of the Program will be deconcentration (see paragraph (a)(9) of this section).

(C) Selecting from among eligible applicant Families those to be referred to Owners for filling vacant units rehabilitated under the Program, including any provisions establishing preferences for selection.

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(D) Providing assistance to a Family who has applied for a vacant unit assisted under the Program, who has been rejected by the Owner and who believes that the Owner's rejection was the result of unlawful discrimination. (See § 882.509(e)(3)).

(ii) The plan must also include signed certification of the applicant's intention to comply with Title VI of the Civil Rights Act of 1964; Title VIII of the Civil Rights Act of 1968; Executive Order 11063; Executive Order 11246; Section 3 of the Housing and Urban Development Act of 1968; and if the housing assistance will be used within a locality which has a Housing Assistance Plan, a certification that the PHA will take affirmative action to provide opportunities to participate in the Program to those elderly persons expected to reside in the locality and those Familys expected to reside in the community as a result of current or planned employment as indicated in the Housing Assistance Plan.

(2) Estimates of financial requirements for preliminary costs, ongoing administrative costs and housing assistance payments on the prescribed forms.

(3) A proposed schedule of Allowance for Utilities and Other Services with a justification of the amounts proposed.

(4) An Administrative Plan.

(i) The plan must contain: a statement of the PHA's overall approach and objectives in administering the Moderate Rehabilitation Program, a description of the procedures to be used in carrying out each administrative function, and a statement of the number of employees proposed for the Program, by position and functions to be performed. Where a subcontractor such as the Community Development Agency, other local government staff or private entity will be utilized to perform any of the functions of the PHA, the staff and procedures of the subcontractor must be described, as well as how the PHA plans to coordinate with, review and monitor the subcontractor's operation.

(ii) The following functions should be addressed in addition to those required in § 882.204(b)(3)(ii): outreach to Owners; selection of proposals, including any preferences for selection; initial inspection of units; preparation of feasibility analyses, work write-ups, and cost estimates; establishment of rents; financing counseling; preparation of loan applications; assistance to Owners in the selection of contractors; execution, review and monitoring of Agreements and Contracts; oversight of rehabilitation including inspection of units during rehabilitation; final inspection of units; review of Owners' cost certifications; and rehousing Families who move.

(iii) The plan must also contain the relocation policy and procedures of the PHA. The PHA must detail how temporary relocation will be minimized and under what circumstances such relocation will be allowed. The responsibilities of the PHA and Owners as specified in § 882.407 must be clearly delineated and the PHA must indicate how it will monitor the Program to assure that proper relocation payments and assistance are provided and that any temporary relocation does not exceed six months in duration. Additionally, it must be stated that no Owner will be selected for participation unless the Owner agrees to make relocation payments to those tenants temporarily relocated, in accordance with § 882.407. Should the PHA propose to allow permanent displacement of tenants, and this policy has been specified in the PHA's application and approved by HUD, this section must detail how the PHA will monitor the Program to assure that displacement is minimized, that proper relocation payments and assistance are provided, and that other requirements of Section 882.407 are met. This section of the administrative plan must clearly delineate the responsibilities of the PHA, Owners and the entity proposing to fund any costs associated with permanent displacement.

§ 882.504 Processing of applications.

(a) *Initial Screening of Applications.* Promptly after receipt of an application, HUD will determine whether or not the application is complete. If an application is incomplete, the PHA must be so notified and will be given until the deadline date or, if necessary, a reasonable time thereafter within which to complete the application.

(b) *Local Government Comment.* Pursuant to Section 213 of the HCD Act and regulations issued pursuant thereto (24 CFR Part 891), no later than 10 working days after receipt of an application (or completion of initial screening and determination that the application is acceptable for further processing), HUD will send a notification to the chief executive officers of units of general local government of those localities which are identified in the application as primary areas in which units will be rehabilitated under the Program. This notification will advise the local government that HUD has received an application for housing assistance and will invite local government comments on the application in accordance with Part 891.

(c) *Evaluation of Applications.* HUD may begin its evaluation immediately upon receipt of the application, but no final decision of approval or disapproval of the application may be made until after the deadline for receipt of applications or the end of the opportunity for response referred to in paragraph (b) of this section, whichever is later. Each application will be evaluated by HUD on the basis of the factors specified in this paragraph (c). HUD will consider in its evaluation any comments submitted by the local government, and conformance with local government comments submitted consistent with Part 891 may be required. Should the available contract authority not be sufficient to fund all approvable applications, HUD will list the applications in a rank order based on its assessment of which applications have the best combination of the following:

(1) The demonstrated capacity of the PHA and/or its subcontractor(s) to provide the rehabilitation technical assistance to Owners required under the Program;

(2) The availability of financing resources, both assisted and unassisted, as demonstrated through statements from financing agencies (for example, local Community Development or State agency rehabilitation loan programs);

(3) The PHA's experience with the Section 8 Existing Housing Program and/or the PHA's overall administrative capability;

(4) The potential of achieving, as expeditiously as possible, the rehabilitation and leasing of housing units under this Subpart; and

(5) The overall feasibility of the proposed program in meeting the objective specified in the application.

(d) *Disapproval, Conditional Approval, or Approval of Applications.* If an application is disapproved, HUD must notify the PHA by letter indicating the reasons for disapproval. If an application can be approved only if certain changes are made, HUD must notify the PHA by letter stating that the application can be approved if the PHA adopts, within a specified reasonable time as determined by HUD, the changes required by HUD. If an application is approved, the PHA will be sent a notification of application approval.

§ 882.505 Annual contributions contract; schedule of rehabilitation and leasing.

(a) *Maximum Total ACC Commitment.* The maximum total annual contribution that may be contracted for will be the total for all the units of the Moderate Rehabilitation Fair Market Rents.

(b) *Transmittal of ACC and Execution of ACC by HUD.* These functions must be performed as specified in § 882.206 (a) and (b).

(c) *Schedule of Rehabilitation and Leasing.* The ACC will include a provision relating to expeditious rehabilitation and leasing of units under the Program. HUD will review the PHA-proposed schedule specifying the number of units that are expected to be under an Agreement and the number of units expected to be leased by the end of each three-month period, and will make such changes as it determines to be appropriate. In its transmittal of the ACC to the PHA, HUD will include the HUD-approved schedule. This schedule will be established so as to implement HUD policy that all units in a Section 8 Moderate Rehabilitation project of 100 units or more must be under an Agreement within 15 months and leased by Eligible Families within 18 months of execution of the ACC for that project. In the case of smaller programs, a shorter time period may be established by HUD. Additionally, HUD may approve a schedule which allows as long as 21 months for Agreements and as long as 24 months for leasing for the first project undertaken by a PHA or for projects of over 1,000 units. HUD may modify the unit mix and/or reduce the number of units and/or the amount of the annual contributions commitment if, in the determination of HUD, the PHA fails to demonstrate a good faith effort to adhere to this schedule or if other reasons justify a reduction in the number of units or change in the unit mix.

§ 882.506 Obtaining and screening proposals from owners.

(a) *Public Notice to Owners.* Promptly after receiving the executed ACC, and thereafter as may be necessary, the PHA must make known to the public through publication in a newspaper of general circulation as well as through minority media and other suitable means, the availability and nature of the Program. The notice must inform Owners where they may apply for the Program and must be made in accordance with the PHA's HUD-approved equal opportunity housing plan and with the HUD guidelines for fair housing requiring the use of the equal housing opportunity logotype, statement and slogan.

(b) *Owner Proposals.* The PHA must develop a proposal format for Owners wishing to apply for participation in the Program which will require, at a minimum, the following information: (1) Name, address and phone number of Owner, (2) Address of building to be rehabilitated and date of construction, (3) Number, type (elevator/nonelevator) and bedroom size of unit(s) to be rehabilitated, (4) Rent(s) charged by bedroom size during the previous 18 months, (5) Number and size of vacant unit(s), (6) Number of units the Owner proposes to be assisted after rehabilitation by bedroom size and family characteristics (size and household type) of present tenants, (7) Whether the Owner anticipates that permanent displacement or temporary relocation of tenants will be necessary and the anticipated length of any temporary relocation. If temporary relocation is anticipated, the Owner must indicate willingness to assume the responsibilities specified in § 882.407. (8) A certification that no tenant has been forced to move without cause in the twelve month period preceding the submittal of the proposal, (9) The prior participation of the Owner in HUD Programs, and (10) The Owner's plans for managing and maintaining the unit(s) under the proposal.

(c) *Initial Screening of Proposals.* The PHA should review all proposals submitted and make an initial determination, based on the data submitted in the proposal, of those proposals which are clearly inappropriate or unresponsive to the PHA's advertisement. For example, if the PHA has certified in its application that no permanent displacement will be allowed, any proposal which would involve displacement must be rejected at this stage. Similarly, if the Owner suggests that temporary relocation exceeding six months will be required to complete the rehabilitation proposed, that proposal must be rejected. Should the PHA reject a proposal, the Owner must be notified in writing with a statement of the reason(s).

§ 882.507 Assistance to owners and selection of units.

(a) *Initial Inspection.* For all proposals not rejected in the initial screening, the PHA must inspect the property with the Owner and tenant(s) if possible. A determination must be made by the PHA as to the specific work items which need to be accomplished to bring the unit(s) to be assisted up to the Housing Quality Standards specified in § 882.109 and § 882.405 (or other standards as approved in the PHA's application) and/or to repair or replace major building systems or components in danger of failing. The PHA, as soon as possible following the inspection, must provide the Owner with a written list of deficiencies.

(b) *Preliminary Feasibility Analysis.*—A rough cost estimate and cash flow analysis of the property following rehabilitation must be made by the PHA. A determination of the necessity for any permanent displacement and/or temporary relocation and a preliminary estimate of the cost of any temporary relocation must be made by the PHA. If the proposal is determined to be feasible, analysis of additional energy conserving improvements which may be cost effective and which may be accomplished within the Fair Market Rent limitations of the Program must be made. The Owner must be required to provide energy conserving improvements in accordance with § 882.405(a). A preliminary estimate of Gross Rents should be made based upon the estimates of rehabilitation, temporary relocation and energy conserving improvements costs.

(c) *Selection of Proposals.* After the initial inspection and preliminary feasibility analysis, the PHA should select among Owner proposals those proposals which it will approve. The PHA must establish a method of selecting among Owner proposals and must make this method known to any Owner submitting or planning to submit a proposal. Proposals must be approved in accordance with criteria established by the PHA, including any PHA rules for preferences as approved by HUD (see § 882.503(b)(4)(ii)) and in accordance with the following requirements:

(1) No proposal found infeasible by the PHA in the preliminary feasibility analysis may be approved unless the Owner can demonstrate that the allowable rent will be sufficient to rehabilitate, manage and maintain the unit(s) adequately;

(2) If, during the preliminary feasibility analysis, it is determined by the PHA that the work necessary to bring a unit(s) to the Housing Quality Standards, or other standards approved for the Program, or to repair or replace major systems is not sufficient to meet the $1000 per unit minimum amount of rehabilitation requirement, that unit(s) may not be assisted under the Program.

(3) If a unit(s) does not meet the requirement of paragraph (c)(2) but the Owner is proposing to accomplish at least $1000 per unit of rehabilitation by including work to make the unit(s) accessible to a handicapped or disabled individual occupying the unit(s) or expected to occupy the unit(s), the PHA may approve such units not to exceed 5

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percent of the units under its Program. The rehabilitation must make the unit(s), and access and egress to the unit(s), barrier-free with respect to the handicap or disability of the individual in residence or expected to be in residence.

(4) A preference must be provided to those proposals which indicate in the preliminary feasibility analysis the greatest dollar amount of necessary rehabilitation per unit. This preference need not be adhered to strictly if the PHA is proposing to use the Program for deconcentration (§ 882.503(a)(9)) and the proposals indicating the greatest amount of rehabilitation are located in areas of minority concentration.

(5) Prior to the approval of any unit(s) owned by a State or unit of general local government, the PHA must contact HUD and request HUD review of the site. The PHA may not enter into an Agreement on any such unit(s) until HUD approval of the site is obtained and the State or unit of general local government has sold the unit(s) to another Owner.

(d) *Notification of Owners.* When the PHA has selected the proposals which it plans to approve, the PHA must notify all Owners specifying:

(1) Whether their proposal has been rejected or approved;

(2) If the proposal was rejected, the reason(s) for rejection and the Owner's right to appeal to the PHA the PHA's basis for rejection;

(3) The tentative number of units to be assisted; and

(4) That the Owner should request all tenants residing in units tentatively selected for participation in the Program to contact the PHA to submit an application.

(e) *Selection of Units.* The PHA must take the applications and determine the eligibility of all tenants residing in approved units who wish to apply for the Program. After eligibility of all tenants has been determined, the Owner must be informed of any adjustment in the number of units to be assisted. In order to make the most efficient use of housing assistance funds, an Agreement may not be entered into covering any unit occupied by a family which is not eligible to receive housing assistance payments. Therefore, the number of units approved by the PHA for a particular proposal must be adjusted to exclude any unit(s) determined by the PHA to be occupied by a family not eligible to receive housing assistance payments. Eligible Families must also be briefed at this stage as to their rights and responsibilities under the Program § 882.517(c)).

(f) *Work Write-ups and Cost Estimates.* Should the Owner agree with the assessment of the PHA as to the work that must be accomplished, the preliminary feasibility of the proposal, and the number of units to be assisted, the Owner, with the assistance of the PHA where necessary, must prepare detailed work write-ups including specifications and plans (where necessary) so that a cost estimate may be prepared. The work write-up will describe how the deficiencies specified in paragraph (a) of this section are to be corrected including minimum acceptable levels of workmanship and materials. From this work write-up, the Owner, with the assistance of the PHA, must prepare a cost estimate for the accomplishment of all items specified in this section. While this work write-up may include items of routine maintenance or other items which are not among the deficiencies specified in the initial inspection (paragraph (a)), these extra items may not be included in the rehabilitation cost upon which the Contract Rent(s) is based.

(g) *Selection of Contractor.* The PHA should discuss with the Owner the selection of a competent contractor to undertake the rehabilitation. The PHA must provide the Owner a list of contractors, including minority contractors, and must require that these contractors be provided an opportunity to submit bids or proposals for the work. The PHA must also, to the fullest extent possible, promote opportunities for minority contractors to participate in the Program.

(h) *Feasibility Analysis.* After a firm price has been secured from the contractor selected by the Owner, a feasibility analysis of the proposal must be conducted by the PHA and the Owner. This analysis will be similar to the preliminary analysis specified in paragraph (b) of this section. The work to be accomplished and/or rents to be specified in the Agreement may be adjusted to reflect the contractor's price.

(i) *Financing.* The PHA must discuss with the Owner the various financing options available. The PHA, where necessary, must also assist the Owner in the preparation of an application for rehabilitation financing.

(j) *Preparation of Lease Form.* The PHA, where necessary, must assist the Owner in the preparation of a form of tenant Lease which meets the following requirements:

(1) Term of Lease. The term of the lease must be consistent with § 882.404(b).

(2) Required Provisions. The Lease must contain the HUD-prescribed provisions in Appendix I except for paragraph (e). In addition, a provision implementing § 882.514 must be included.

(3) Prohibited Provisions. The Lease must not contain any clause which falls within the classifications of HUD-prescribed prohibited lease provisions in Appendix II.

§ 882.508 Agreement to enter into housing assistance payments contract.

(a) *Provisions.* Prior to the commencement of any rehabilitation under this Part, the PHA must enter into an Agreement with the Owner which contains among other requirements the following:

(1) A statement that the Owner agrees to bring the unit(s) into compliance with the Housing Quality Standards or other standards approved for the Program in accordance with the work write-up specified in § 882.507(f). The work write-up and cost estimate will be an attachment to the Agreement.

(2) A date by which rehabilitation will have commenced and a deadline date by which the rehabilitation will be completed and the unit(s) ready for occupany.

(3) An anticipated Contract Rent which will be paid to the Owner after rehabilitation is completed and the Contract is executed. This rent will be established in accordance with § 882.409(c).

(4) The term of the Contract. The term must be consistent with § 882.404(a).

(5) If there are units in the building which will not be assisted under the Program, a statement that the Owner agrees to bring the unassisted units into compliance with the Housing Quality Standards specified in § 882.109 by the completion date referred to in paragraph (a)(2) of this section.

(6) The form of Contract, as an exhibit.

(b) *Preparation and Execution.* The Agreement must be prepared by the PHA in the form prescribed by HUD and include all required information in paragraph (a) of this section and a provision specifying the Owner's responsibility for making relocation payments to Families temporarily displaced. The PHA will provide the Owner with one executed copy of the Agreement and retain at least one copy for its records.

§ 882.509 Rehabilitation period.

(a) *Timely Performance of Work.* After execution of the Agreement, the Owner must promptly proceed with the rehabilitation work as provided in the Agreement. In the event the work is not so commenced, diligently continued, or completed, the PHA will have the right to rescind the Agreement, or take other appropriate action. Although extensions of time may be granted, no increases in Contract Rents may be granted for delays.

(b) *Inspections.* The PHA must inspect, as appropriate, during rehabilitation to ensure that work is proceeding on schedule and is being accomplished in accordance with the terms of the Agreement, particularly that the work meets the acceptable levels of workmanship and materials specified in the work write-up.

(c) *Changes.* (1) The Owner must submit to the PHA for approval any changes from the work specified in the Agreement which would alter the design or the quality of the required rehabilitation. The PHA may condition its approval of such changes on a reduction of the Contract Rents. If changes are made without prior PHA approval, the PHA may determine that Contract Rents must be reduced or that the Owner must remedy any deficiency as a condition for acceptance of the unit(s).

(2) Contract Rents may not be increased except in accordance with provisions of § 882.409(d).

(d) *Vacancies from Execution of Contract to Initial Occupancy.* At the time the Contract is executed, the Owner will be required to submit a list of dwelling unit(s) leased as of the effective date of the Contract and a list of the unit(s) not so leased, if any. The Owner will be entitled to housing assistance payments for any unleased unit(s), pursuant to § 882.413(a), only if the Owner has fully complied with the requirements of that section and of this paragraph.

(e) *Initial Occupancy.* (1) In filling a vacant unit(s) which is being rehabilitated under the Agreement, the Owner must select from those Eligible Families on the PHA's waiting list. The PHA will refer Eligible Families to the Owner for this purpose.

(2) In order that the unit(s) might be promptly occupied, 60 days prior to the scheduled completion of the rehabilitation, or the date the Agreement is executed, whichever is later, the Owner must notify the PHA of any unit(s) which it is anticipated will be vacant on the anticipated effective date of the Contract. The PHA will notify one or more appropriate size Families on its waiting list of the availability of the unit.

(3) Since the Owner is responsible for tenant selection, the Owner may refuse any Family provided that the Owner does not unlawfully discriminate. Should the Owner reject a Family, and should the Family believe that the Owner's rejection was the result of unlawful discrimination, the Family may request the assistance of the PHA in resolving the issue. If the issue cannot be resolved promptly, the Family may file a complaint with HUD and the PHA may refer the Family to the next available unit.

§ 882.510 Completion of rehabilitation.

(a) *Notification of Completion.* The Owner must notify the PHA when the work is completed and submit to the PHA the evidence of completion and certifications described in paragraphs (b) and (c) of this section.

(b) *Evidence of Completion.* Completion of the unit(s) must be evidenced by furnishing the PHA with the following:

(1) A certificate of occupancy and/or other official approvals as required by the locality.

(2) A certification by the Owner that:

(i) The unit(s) has been completed in accordance with the requirements of the Agreement;

(ii) The unit(s) is in good and tenantable condition;

(iii) The unit(s) has been rehabilitated in accordance with the applicable zoning, building, housing and other codes, ordinances or regulations, as modified by any waivers obtained from the appropriate officials;

(iv) Any unit(s) built prior to 1950 is in compliance with applicable HUD Lead Based Paint regulations (24 CFR Part 35);

(v) If applicable, the Owner has complied with the provisions of the Agreement relating to the payment of not less than prevailing wage rates and that to the best of the Owner's knowledge and belief there are no claims of underpayment concerning alleged violations of said provisions of the Agreement. In the event there are any such pending claims to the knowledge of the Owner or PHA, the Owner will be required to place a sufficient amount in escrow, as determined by the PHA, to assure such payments; and

(vi) If there are units in the building which will not be assisted under the Program, the units comply with the Housing Quality Standards specified in § 882.109.

(c) *Actual Cost and Rehabilitation Loan Certifications.* The Owner must provide the PHA with a certification of the costs incurred for the rehabilitation and any temporary relocation as well as the interest rate and term (if the total cost of rehabilitation under the Agreement is less than $15,000) of any rehabilitation loan. The Owner must certify that these are the actual costs, interest rate, and term (where applicable). The PHA must review for completeness and accuracy and accept these certifications subject to the right of post audit. The PHA must then establish the Contract Rents as provided in § 882.409 which will be subject to reduction based on a post audit.

(d) *Review and Inspections.* (1) Within ten working days of the receipt of the evidence of completion, the PHA must review the evidence of completion for compliance with paragraph (b) of this section.

(2) Within the same time period, a PHA representative must inspect the unit(s) to be assisted to determine that the unit(s) has been completed in accordance with the Agreement and meets the Housing Quality Standards or other standards approved by HUD for the Program. If the inspection discloses defects or deficiencies, the inspector must report these in detail.

(e) *Acceptance.* (1) If the PHA determines from the review and inspection that the unit(s) has been completed in accordance with the Agreement, the unit(s) will be accepted.

(2) If there are any items of delayed completion which are minor items or which are incomplete because of weather conditions, and in any case which do not preclude or affect occupancy, and all other requirements of the Agreement have been met, the unit(s) must be accepted. An escrow fund determined by the PHA to be sufficient to assure completion for items of delayed completion must be required, as well as a written agreement between the PHA and the Owner, to be included as an exhibit to the Contract, specifying the schedule for completion. If the items are not completed within the agreed time period, the PHA may terminate the Contract or exercise other rights under the Contract.

(3) If other deficiencies exist, the PHA must determine whether and to what extent the deficiencies are correctable, and whether the Contract Rents should be reduced. The Owner must be notified of the PHA's decision. If the corrections required by the PHA are possible, the PHA and the Owner must enter into an agreement for the correction of the deficiencies within a specified time. If the deficiencies are corrected within the agreed period of time, the PHA must accept the unit(s).

(4) Otherwise, the unit(s) may not be accepted, and the Owner must be notified with a statement of the reasons for nonacceptance.

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§ 882.511 Execution of housing assistance payments contract.

(a) *Time of Execution.* Upon acceptance of the unit(s) by the PHA pursuant to § 882.510(e) and acceptance of the certifications by the PHA pursuant to § 882.510(c), the Contract will be executed by the Owner and the PHA. The effective date must be no earlier than the PHA inspection which provides the basis for acceptance as specified in § 882.510(e).

(b) *Changes from Agreement.* The Contract Rents may be higher or lower than those specified in the Agreement in accordance with requirements of § 882.409(d).

(c) *Unleased Unit(s).* At the time of execution of the Contract, the PHA must examine the lists of dwelling units leased and not leased, referred to in § 882.509(d), and must determine whether or not the Owner has met the obligations under that section with respect to any unleased unit(s) and for which unit(s) it will make vacancy payments if the unit(s) is not leased within 15 days. The Owner must indicate in writing either concurrence with this determination or disagreement, reserving all rights to claim vacancy payments for the unleased unit(s) pursuant to the Contract, without prejudice by reason of the Owner's signing the Contract.

§ 882.512 Overcrowded and under occupied units.

If the PHA determines that a Contract unit is not decent, safe, and sanitary by reason of increase in Family size, or that a Contract unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to the unit will not be abated; however, the Owner must offer the Family a suitable alternative unit should one be available and the Family will be required to move. If the Owner does not have a suitable available unit, the PHA must assist the Family in finding an appropriate dwelling unit following the procedure specified in § 882.517(e) and require the Family to move to such a unit as soon as possible. In no case will a Family be forced to move unless the Family rejects without good reason the offer of a unit which the PHA judges to be acceptable.

§ 882.513 Adjustment of allowance for utilities and other services.

The PHA must determine, at least annually, whether an adjustment is required in the Allowance for Utilities and Other Services applicable to the dwelling units in the Program, on grounds of changes in utility rates or other change of general applicability to all units in the Program. The PHA may also establish a separate schedule of allowances for each building of 20 or more assisted units, based upon at least one year's actual utility consumption data following rehabilitation under the Program. If the PHA determines that an adjustment should be made in its Schedule of Allowances or if it establishes a separate schedule for a building which will change the allowance, the PHA must then determine the amounts of adjustments to be made in the amount of rent to be paid by affected Families and the amount of housing assistance payments and must notify the Owners and Families accordingly. Any adjustment to the Allowance must be implemented no later than at the Family's next reexamination pursuant to § 882.518 or at lease renewal, whichever is earlier.

§ 882.514 Termination of tenancy.

(a) *Applicability.* The provisions of this section apply to all decisions by an Owner to terminate the tenancy of a Family residing in a unit under Contract during or at the end of the Family's lease term.

(b) *Entitlement of Families to Occupancy.*

(1) *General.* The Owner may not terminate any tenancy except upon the following grounds: (i) Material noncompliance with the lease; (ii) Material failure to carry out obligations under any State landlord and tenant act, or (iii) Other good cause, which may include the refusal of a Family to accept an approved modified lease form (see paragraph (d) of this section). No termination by an Owner will be valid to the extent it is based upon a lease or a provision of State law permitting termination of a tenancy solely because of expiration of an initial or subsequent renewal term. All terminations must also be in accordance with the provisions of any State and local landlord tenant law and paragraph (c) of this section.

(2) *Notice of Good Cause.* The conduct of a tenant cannot be deemed "other good cause" under paragraph (b)(1)(iii) of this section unless the Owner has given the Family prior notice that the grounds constitute a basis for termination of tenancy. The notice must be served on the Family in the same manner as that provided for termination notices under State and local law.

(3) *Material Noncompliance.* The term material noncompliance with the lease includes (i) one or more substantial violations of the lease or (ii) repeated minor violations of the lease which disrupt the livability of the building, adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities, interfere with the management of the building or have an adverse financial effect on the building. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a material noncompliance with the lease. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law will constitute a minor violation.

(c) *Termination Notice.* (1) The Owner must give the Family a written notice of any proposed termination of tenancy, stating the grounds and that the tenancy is terminated on a specified date and advising the Family that it has an opportunity to respond to the Owner. (2) When a termination notice is issued for other good cause (paragraph (b)(1)(iii) of this section), the notice will be effective, and it will so state, at the end of a term and in accordance with the termination provisions of the lease, but in no case earlier than 30 days after receipt by the Family of the notice. Where the termination notice is based on material noncompliance with the lease or material failure to carry out obligations under a State landlord and tenant act pursuant to paragraph (b)(1) (i) or (ii) of this section, the time of service must be in accord with the lease and State law. (3) In any judicial action instituted to evict the Family, the Owner may not rely on any grounds which are different from the reasons set forth in the notice. A copy of the notice must be furnished simultaneously to the PHA and the PHA must determine that the proposed termination is being performed in accordance with the procedures required in this section.

(d) *Modification of Lease Form.* The Owner may, with the prior approval of the PHA, modify the terms and conditions of the lease form effective at the end of the initial term or a successive term, by serving an appropriate notice on the Family, together with the offer of a revised lease or an addendum revising the existing lease. This notice and offer must be received by the Family at least 30 days prior to the last date on which the Family has the right to terminate the tenancy without being bound by the modified terms and conditions. The Family may accept the modified terms and conditions by executing the offered revised lease or addendum, or may reject the modified terms and conditions by giving the Owner written notice in accordance with the lease that he/she intends to terminate the tenancy. Any increase in rent must in all cases be governed by Section 882.411 and other applicable HUD regulations.

(e) *Continued Assistance.* Should the Family be evicted in accordance with this section, the PHA will have no obligation to continue assistance to the Family.

§ 882.515 Reduction of number of units covered by contract.

(a) *Limitation on Leasing to Ineligible Families.* Owners may not lease any of the assisted units under Contract to ineligible families. Failure on the part of the Owner to comply with this prohibition is a violation of the Contract and grounds for all available legal remedies, including suspension or debarment from HUD programs and reduction of the number of units under the Contract, as set forth in paragraph (b) of this section. Once the PHA has determined that a violation exists, the PHA must notify HUD of its determination and the suggested remedy(ies). At the direction of HUD, the PHA must take the appropriate action.

(b) *Reduction for Failure to Lease to Eligible Families.* If, at any time beginning six months after the effective date of the Contract, the Owner fails for a continuous period of six months to have at least 90 percent of the assisted units leased or available for leasing by Eligible Families, because families occupying units who were initially eligible have become ineligible, the PHA may, on at least 30 days' notice, reduce the number of units covered by the Contract. The PHA may reduce the number of units to the number of units actually leased or available for leasing plus 10 percent (rounded up). If the Owner has only one unit under Contract and if one year has elapsed since the date of the last housing assistance payment, the Contract may be terminated with the consent of the Owner.

(c) *Restoration.* The PHA will agree to an amendment of the Contract, to provide for subsequent restoration of any reduction made pursuant to paragraph (b) of this section if:

(1) The PHA determines that the restoration is justified by demand,

(2) The Owner otherwise has a record of compliance with obligations under the Contract, and

(3) Contract authority is available.

§ 882.516 Public notice to lower-income families; waiting list.

(a) *Public Notice to Lower-Income Families.* (1) If the PHA does not maintain a waiting list for its Existing Housing Program pursuant to § 882.207(b) which is sufficient to provide applicants for the units under the Moderate Rehabilitation Program, the PHA must, promptly after receiving the executed ACC, make known to the public the availability of the Program in accordance with § 882.207(a).

(i) The notice must state that assistance under this Program will be available only in specified units which have been rehabilitated under the Program.

(ii) The notice must also state that current occupants of housing assisted under the Act and applicants on a waiting list for any such housing (except for those Families on the Section 8 Existing Housing waiting list) must apply separately if they wish to be considered for assistance under the Program. In addition, the notice must state that such applicants will not lose their place on the public housing or other waiting list.

(iii) The notice must be made in accordance with the PHA's HUD-approved plan and with the HUD guidelines for fair housing requiring the use of the equal housing opportunity logotype, statement and slogan.

(2) If the PHA has a waiting list for its Existing Housing Program which is sufficient to provide applicants for the units under the Moderate Rehabilitation Program, the PHA need not advertise the availability of assistance under this Program, until the next time it advertises under that program, but must refer Families on the Existing Housing waiting list.

(b) *Waiting List.* Any Family on the waiting list must be allowed to refuse participation in the Moderate Rehabilitation Program without losing its place on the waiting list for Existing Housing.

§ 882.517 Family participation.

(a) *Initial Determination of Family Eligibility.* (1) The PHA will be responsible for determining Family eligibility for participation, in accordance with 24 CFR Part 889. The PHA is responsible for verifying the sources and amount of the Family's Income and other information necessary for determining eligibility and the amount of the assistance payments.

(2) Every applicant for participation must complete and sign the form of application prescribed by HUD.

(3) The PHA must maintain a system to assure that it will be able to assist all Families selected to participate within its ACC authorization and that it will comply, to the maximum extent feasible, with the unit distribution in the ACC.

(4) PHA records on applicants and Families selected to participate must be maintained so as to provide HUD with racial, gender, and ethnic data and must be retained for three years.

(b) *Selection of Families for Participation.* The PHA must select Families for participation in accordance with the provisions of the Program and in accordance with the PHA's application, including any PHA requirements or preferences as approved by HUD (see § 882.503(b)(1)(i)(C)). The PHA must select Families eligible for housing assistance payments currently residing in units which are designated for rehabilitation under the Program without requiring that these Families be placed on the waiting list. If assistance under this Part is being concentrated in a neighborhood (see § 882.503(a)(9)), the PHA may establish a preference for applicants currently residing in that neighborhood who are being directly displaced by HUD programs.

(c) *Briefing of Families.* (1) When a Family is initially determined to be eligible for housing assistance payments (§ 882.507(e)) or is selected for participation (§ 882.517(b)), the PHA must provide the Family with information as to the Gross Family Contribution and the PHA's schedule of Allowances for Utilities and Other Services. Each Family must also, either in group or individual sessions, be provided with a full explanation of the following:

(i) Family and Owner responsibilities under the Lease and Contract;

(ii) Significant aspects of the applicable State and local laws;

(iii) Significant aspects of Federal, State and local fair housing laws;

(iv) The fact that the subsidy is tied to the unit and the Family must occupy a unit rehabilitated under the Program;

(v) The Family's options under the Program should the Family be required to move due to an increase or decrease in Family size; and

(vi) The Family's options under the Program if it decides to move from its rehabilitated unit.

(2) For all Families residing in units to be rehabilitated, whether or not they will be displaced, the briefing must include notices and discussions of relocation and displacement rights and policies specified in § 882.407.

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(d) *Continued Participation When Assisted Family Wishes to Move.*

(1) If an assisted Family notifies the PHA that it wishes to find another dwelling unit within the area in which the PHA has determined that it is able to enter into Contracts or that it has found another unit to which it wishes to move, the PHA, unless it determines that the Owner is entitled to payments pursuant to § 882.413 due to the Family's vacating the unit in violation of the lease or pursuant to Section 882.112 on account of nonpayment of rent or other amount owed under the Lease and that the Family has failed to satisfy any such liability or unless it determines the Family to be ineligible, may:

(i) Give the Family a preference as a currently assisted Family wishing to move and provide it with the next available Section 8 Existing Housing Certificate of Family Participation or refer the Family to the next available unit rehabilitated under the Program, or

(ii) Place the Family on its Section 8 Existing Housing Program waiting list as if they had just applied.

(2) If the PHA determines the Family to be ineligible, provisions of paragraph (g) of this section must be followed.

(3) If an assisted Family wishes to move out of the area in which the PHA has determined that it is able to enter into Contracts and the Family qualifies under paragraph (e)(1) of this section, the Family may obtain housing assistance in the jurisdiction to which it is moving, provided that the Family obtains a Certificate of Family Participation from the appropriate PHA in the new jurisdiction or the PHA in the new jurisdiction refers the Family to a unit rehabilitated under the Program. The appropriate PHA must treat the Family either as a Family to whom the PHA is already providing assistance who wishes to move to another unit or as a resident who has submitted an application for assistance.

(e) *Continued Participation When Assisted Family Forced to Move.* Should an assisted Family which qualifies for continued assistance be forced to move through no fault of its own, such as an increase or decrease in Family size, the Family may continue to receive housing assistance through one of the following means, in the order stated:

(1) The PHA must refer the Family to the Owner of any appropriate vacant unit which has been rehabilitated under the Program if such a vacancy exists.

(2) The PHA must refer the Family to the Owner of the next vacant unit which will be rehabilitated under the Program provided that a vacancy will occur within a reasonable time after the Family is notified to vacate its present unit.

(3) If the PHA has a Section 8 Existing Housing Program and Certificates are available, the PHA must offer the Family a Certificate of Family Participation and assist the Family in finding a suitable replacement unit.

(4) The PHA must offer the Family the next available, suitable unit owned or managed by the PHA under another program.

(5) The PHA must assist the Family in locating other assisted or unassisted available housing in the locality within the Family's ability to pay.

In no case will a Family be forced to move nor will assistance be terminated unless the Family rejects without good reason the offer of a unit which the PHA judges to be acceptable.

(f) *Continued Participation of Family When Contract is Terminated.* Should an Owner evict an assisted Family in violation of the Contract or otherwise breach the Contract and the Contract for the unit is terminated, the assisted Family, if it is eligible for continued assistance, may continue to receive housing assistance through the conversion of the Moderate Rehabilitation unit allocation to an Existing Housing unit. The Family must then be treated as any certified Family under Subparts A and B and must be issued a Certificate of Family Participation and assisted by the PHA in finding a suitable replacement unit. The unit will then be considered an Existing Housing unit and all requirements of Subparts A and B will be applicable except that the term of any Existing Housing Contract may not extend beyond the term of the initial Moderate Rehabilitation Contract. If the family is determined ineligible for continued assistance, the Certificate may be offered to the next Family on the PHA's Existing Housing waiting list. The units will remain under the Moderate Rehabilitation ACC which provides for such a conversion of units; therefore, no amendment to the ACC will be necessary to convert to Existing Housing units.

(g) *Families Determined by the PHA to be Ineligible.* If a family is determined by the PHA to be ineligible in accordance with the PHA's HUD-approved Administrative Plan, either at the application stage or after assistance has been provided on behalf of the family, the PHA must promptly notify the family by letter of the determination and the reasons for it and the letter must state that the famtly has the right within a reasonable time (specified in the letter) to request an informal hearing. If, after conducting such an informal hearing, the PHA determines that the family is ineligible, it must so notify the family in writing. The procedures of this paragraph do not preclude the family from exercising its other rights if it believes it is being discriminated against on the basis of race, color, creed, religion, sex, handicap, or national origin. The PHA must retain for three years a copy of the application, the notification letters, the family's response if any, the record of any informal hearings, and a statement of final disposition.

§ 882.518 Reexamination of family income and composition.

A reexamination of Family Income, composition and redetermination of Gross Family Contribution must be conducted by the PHA as specified in § 882.212. A Family's eligibility for housing assistance payments will continue until the amount payable by the Family equals the Gross Rent for the dwelling unit it occupies. However, the termination of eligibility at that point will not affect the Family's other rights under the Lease. Any resumption of housing assistance payments as a result of subsequent changes in income or rents or other relevant circumstances will be contingent upon the availability of assistance under the Contract (see § 882.515). A Family may at any time request a redetermination of its Gross Family Contribution on the basis of changes in Family Income or other relevant circumstances.

§ 882.519 Maintenance, operation, and inspections.

(a) *Maintenance and Operation.*— The Owner must provide all the services, maintenance and utilities as agreed to under the Contract, subject to abatement of housing assistance payments or other applicable remedies if the Owner fails to meet these obligations.

(b) *Periodic Inspection.* In addition to the inspections required prior to execution of the Contract, the PHA must inspect or cause to be inspected each dwelling unit under Contract at least annually and at such other times as may be necessary to assure that the Owner is meeting the obligations to maintain the unit in decent, safe and sanitary condition and to provide the agreed upon utilities and other services. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

(c) *Units not Decent, Safe and Sanitary.* If the PHA notifies the Owner that the unit(s) under Contract are not being maintained in decent, safe and sanitary condition and the Owner fails to take corrective action (including corrective action with respect to the Family where the condition of the unit is the fault of the Family) within the time prescribed in the notice, the PHA may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments (even if the Family continues in occupancy) and termination of the Contract on the affected unit(s). If the Family was not at fault and wishes to be rehoused in another dwelling unit with Section 8 assistance and the PHA terminates the Contract, the PHA must assist the Family in accordance with § 882.517(f).

(d) *PHA Management.* Where the PHA is managing units on which it is also administering the Housing Assistance Payments Contract pursuant to a management contract approved by HUD in accordance with § 882.414(b)(2), HUD will make reviews of project operations, including inspections, in addition to required PHA reviews. These HUD reviews will be sufficient to assure that the Owner and the PHA are in full compliance with the terms and conditions of the Contract and the ACC. Should HUD determine that there are deficiencies, it may exercise any rights or remedies specified for the PHA under the Contract or reserved for HUD in the ACC, require termination of the management contract, or take other appropriate action.

Issued at Washington, D.C., April 30, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[Docket No. R-79-582]

[FR Doc. 79-13957 Filed 5-3-79; 8:45 am]

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federal register

Friday
May 4, 1979

Part VII

Securities and Exchange Commission

Off-Board Trading Restrictions; Price Protection for Public Limit Orders

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

Off-Board Trading Restrictions

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proceeding and proposed rulemaking.

SUMMARY: The Commission announces the commencement of a proceeding, including public hearings to consider the amendment of national securities exchange rules as they relate to restricted off-board trading. Amendment is specifically made to the rules which limit or condition the ability of members to engage in over-the-counter transactions in securities that are listed and registered, or securities that are admitted to unlisted trading privileges on a national securities exchange. The Commission is proposing to amend those exchange rules to preclude their application to certain securities which were not traded on an exchange on April 26, 1979, or which were traded on an exchange on April 26, 1979, but failed to remain so thereafter.

DATES: Public hearings will begin Wednesday, June 20, 1979, at 10 a.m. Persons wishing to appear at the hearing should contact André Weiss of the Commission staff not later than June 1, 1979, and submit the text of any prepared statements not later than four business days prior to their appearance. Written presentations of views, data and arguments (other than those submitted as prepared statements) should be submitted no later than June 15, 1979, and written presentations responding to the written or oral presentations of others should be submitted no later than July 22, 1979.

ADDRESSES: Public hearings will be held in Room 776 at the headquarters office of the Securities and Exchange Commission, which is located at 500 North Capitol Street, Washington, D.C. 20549. All written submissions should refer to File No. 4–220 and be delivered as follows: 30 copies to George A. Fitzsimmons, Secretary of the Commission, Room 892, at the above address and one copy to André Weiss, Room 390, at the above address. Copies of all written submissions and hearing transcripts will be made available at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: André Weiss, Division of Market Regulation, Room 390, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202) 376–7470.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced a proceeding, pursuant to section 19(c) [15 U.S.C. 78s(c)] of the Securities Exchange Act of 1934 ("Act") [15 U.S.C. 78a *et seq.*, as amended by the Securities Acts Amendments of 1975 ("1975 Amendments"), Pub. L. No. 94–29, 89 Stat. 97, (June 4, 1975)], to consider rulemaking to amend existing rules of national securities exchanges ("exchanges") which limit or condition the ability of members of those exchanges to effect transactions otherwise than on an exchange ("off-board trading restrictions") in securities which are listed or admitted to unlisted trading privileges on those exchanges. The Commission is proposing Rule 19c–3 which would prevent off-board trading restrictions from applying, with certain exceptions, to any equity security or class of equity securities (collectively, "Rule 19c–3 Securities") [1] (i) which was not traded on an exchange on April 26, 1979,[2] or (ii) which was traded on an exchange on April 26, 1979, but ceases to be listed and registered or admitted to unlisted trading privileges pursuant to Section 12(f)(1)(A) of the Act on an exchange for any period of time thereafter.[3] The Rule would provide a limited exception for any equity security or class of equity securities issued in connection with a statutory merger, consolidation or similar plan of reorganization in exchange for any equity security or class of equity securities which was traded on an exchange continuously between April 26, 1979, and the date of the plan of reorganization. [4]

In connection with this proceeding, the Commission will conduct public hearings commencing at 10:00 a.m. Wednesday, June 20, 1979, in Room 776 at the Commission's headquarters in Washington, D.C. The attention of interested persons is directed to materials cited or referred to herein, copies of which are available at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C., (File Nos. 4–180, SR–Amex–77–3, SR–Amex–77–18, and S7–735–A).[5] The information contained in these files is hereby incorporated into the record of this proceeding. While a restatement of views previously expressed is, therefore, not necessary, persons wishing to participate in this proceeding may, of course, refer to any material previously submitted. In addition to appearing at the scheduled public hearings, interested persons are invited to submit written presentations of views, data and arguments concerning proposed Rule 19c–3 and the issues discussed in this release, and to submit written presentations responding to written or oral presentations made by others to the extent possible by the dates established for receipt of such materials.

I. Discussion

A. Prior Commission Action Concerning Off-Board Trading Restrictions

The exchange rules addressed in this proceeding have previously been the subject of Commission [6] and

[1] *See* proposed Rule 19c–3(a). By its terms, the Rule would preclude the application of off-board trading restrictions to any equity security or class of equity securities which is not a "covered security," *i.e.*, a security which on April 26, 1979, and continuously thereafter, is covered by off-board trading restrictions. *See* Rule 19c–3(b)(3). Exchange-traded options would be excluded from the scope of the Rule and would therefore continue to be subject to the off-board trading restrictions currently imposed by exchanges trading standardized options. *See* Rule 19c–3(a). For a general discussion of some of the market structure problems resulting from multiple trading of options, *see* Report of the Special Study of the Options Markets to the Securities and Exchange Commission, Comm. Print No. 96–1FC3, 96th Cong., 1st Sess., Chapter VIII (1978).

[2] In order to limit the anti-competitive effects of current off-board trading restrictions and to preserve the existing over-the-counter market to the greatest extent possible, the effective date of proposed Rule 19c–3, if adopted, would be retroactive to the date of issuance of this release. *See* note 19 *infra*. The Commission specifically solicits public comment on the proposed effective date.

[3] *See* proposed Rule 19c–3(b)(3). Thus, if, at any time in the future, an exchange traded security becomes traded exclusively over-the-counter (either because of voluntary delisting or otherwise) it would be treated in the same manner as a security which was traded exclusively in the over-the-counter market on April 26, 1979.

[4] *See* proposed Rule 19c–3(b)(3)(iii).

[5] *See* notes 8, 12, 13 and 15 *infra*.

[6] *See, e.g.*, Securities and Exchange Commission Report-rule 394 (September 14, 1965), *reprinted in* Study of the Securities Industry Report, ("House Study") Hearings Bef. the Subcomm. on Com. & Fin. of the House Comm. on Interstate & For. Com., 92nd Cong., 2d Sess., at 3362 (1972); and SEC, *Report of the Securities and Exchange Commission on Rules of National Securities Exchanges Which Limit or Condition the Ability of Members to Effect Transactions Otherwise Than on Such Exchanges* (September 2, 1975).

Footnotes continued on next page

Congressional studies [7] as well as two prior regulatory proceedings.[8] The first of these regulatory proceedings ("rule 19c–1 Proceeding") culminated in the adoption of Rule 19c–1 under the Act [17 CFR 240.19c–1] removing off-board trading restrictions with respect to agency transactions ("off-board agency restrictions") by members of exchanges with qualified third market makers and non-member block positioners.[9] The second proceeding ("Rule 19c–2 Proceeding") has focused on a proposed amendment to Rule 19c–1 expanding the coverage of that rule [10] and the proposal of Rule 19c–2, which would remove all remaining off-board trading restrictions with respect to certain equity securities. In addition, the Commission proposed four alternative rules specifically designed to negate or minimize any possibilities for overreaching that might arise as a result of the adoption of proposed Rule 19c–2.[11]

In January 1978, the Commission issued a statement on the development of a national market system ("January Statement") [12] in which it outlined a series of proposals designed to achieve certain national market system objectives. In that statement, the Commission also announced that it was deferring a final decision on proposed Rule 19c–2 and the attendant alternative overreaching rules until such time as the Commission could evaluate industry and self-regulatory organization responses to the various national market system initiatives announced in the January Statement. On March 22, 1979, the Commission issued a status report on the development of a national market system ("Status Report") [13] in which it assessed the progress made during 1978 toward achievement of the initiatives outlined in the January Statement and also described certain goals which it believed should be achieved in the near term to facilitate development of a national market system. In the Status Report, the Commission stated:

> Notwithstanding [the Commission's] determination [in the January Statement] to defer consideration of removal of off-board trading restrictions as they apply to securities which are now listed, the Commission believes that many of the arguments raised by commentators in support of retaining these restrictions, even if accurate as to securities which are currently traded primarily in an exchange environment, may not be applicable to or warrant extension of these rules to securities which are currently traded exclusively over-the-counter. Thus, the Commission is concerned that future extension of off-board trading restrictions to securities now traded exclusively over-the-counter upon their initial exchange listing may not be justified under the Act. . . .
>
> The Commission continues to believe that, in areas involving potentially profound market structure change, such as the elimination of remaining off-board trading restrictions, use of controlled, limited experiments may be both prudent and instructive. In addition, a proposal of this type could permit over-the-counter market makers to experience a trading environment in which last sale and quotation information is made available on a real time basis.[14]

To address these concerns, the Commission indicated its intent to commence this rulemaking proceeding.[15]

B. Proposed Rule 19c–3

In both the Rule 19c–1 and 19c–2 Proceedings, the Commission, in evaluating whether the purposes which may be served by the retention of off-board trading restrictions outweigh their anti-competitive impact, has been cognizant of the applicable statutory objectives of the Act and has endeavored to consider both the benefits which may be expected to flow from removal of off-board trading restrictions as well as the possible risks of adverse consequences resulting from that action.[16] In determining to commence this proceeding, the Commission has carefully considered the comments submitted in connection with its earlier proceedings concerning off-board trading restrictions, particularly those comments submitted in connection with the Commission's ongoing Rule 19c–2 Proceeding.

Although the Commission has not completed its deliberations with respect to proposed Rule 19c–2, it is concerned that, as companies continue to list their securities on exchanges which have rules precluding over-the-counter market making by their members, the anti-competitive consequences of off-board trading restrictions on participants in the trading markets (particularly exchange member firms currently competing as market makers) are extended to those securities.[17] Unless this consequence of off-board trading restrictions is eliminated, it appears that over-the-counter trading and competition between the over-the-counter market and exchange markets will be effectively precluded in an ever-increasing number of securities.

As a preliminary matter, it appears that proposed Rule 19c–3 is necessary or appropriate to conform the rules of the various exchanges to the requirements of the Act in that adoption of the proposal would remove burdens on competition which, insofar as they act to eliminate over-the-counter market making in securities upon their initially becoming exchange traded, may not be necessary or appropriate in furtherance of the purposes of the Act. Thus, the Commission is concerned that the continued retention of off-board trading restrictions with respect to securities currently traded exclusively in the over-the-counter market may be inconsistent with two of the important purposes sought to be achieved by the development of a national market system, namely, assuring the opportunity for "fair competition among brokers and dealers . . . and between

Footnotes continued from last page

Commission, on or before the ninetieth day following enactment of the 1975 Amendments, report the results of its review to the Congress and commence a proceeding, pursuant to Section 19(c) of the Act, to "amend any such rule imposing a burden on competition which does not appear to the commission to be necessary or appropriate in furtherance of the purposes" of the Act. *See* Securities Exchange Act Release No. 11628 (September 2, 1975), 40 FR 41808.

[7] *See, e.g.*, House Study, at 126–28.

[8] The record of these proceedings (including transcripts of public hearings and written views, data and arguments submitted during the proceedings) is contained in File No. 4–180.

[9] *See* Securities Exchange Act Release No. 11942 (December 19, 1975), 41 FR 4507, ("December Release") The Rule 19c–1 Proceeding was commenced in accordance with Section 11A(c)(4)(A) of the Act [15 U.S.C. 78–1(c)(4)(A)], added by the 1975 Amendments which directed the Commission to review all exchange rules "which limit or condition the ability of members to effect transactions in securities otherwise than on such exchanges." That section required that the

[10] *See* Securities Exchange Act Release No. 13662 (June 23, 1977), 42 FR 33510 ("June Release"). In December 1977, the Commission adopted the proposed amendment to Rule 19c–1. That rule, as amended, now precludes the application of off-board trading restrictions to any agency transaction in exchange traded equity securities except those in which a member acts as agent for both buyer and seller in the same transaction ("in-house agency cross restrictions"). *See* Securities Exchange Act Release No. 14325 (December 30, 1977), 43 FR 1327.

[11] *See* June Release, *supra* note 10, at 111–131. 42 FR at 33525–27.

[12] Securities Exchange Act Release No. 14416 (January 26, 1978), 43 FR 4354. (File No. S7–735–A).

[13] Securities Exchange Act Release No. 15671 (March 22, 1979), 44 FR 20360. (File No. S7–735–A).

[14] *Id.* at 45–46, 44 FR at 20367.

[15] *Id.* at 46, 44 FR at 20367. The initiation of this proceeding is part of the Commission's continuing effort "to deal with the various issues presented by off-board trading rules in proceedings addressed to all exchanges." *See* Securities Exchange Act Release No. 15376 (December 1, 1978), at 12, 43 FR 58684, at 58687 ("Amex Order"). In the Amex Order, the Commission (with two Commissioners dissenting) approved two proposed rule changes of the Amex that liberalized Amex's listing requirements with respect to domestic (SR–Amex–77–3) and foreign (SR–Amex–77–18) issuers. The Commission understood that those rule changes would expand the universe of securities to which Amex's off-board trading restrictions could be applied, but preferred to deal with issues relating to off-board trading restrictions in a generic fashion (rather than in the context of an individual exchange's proposed rule changes). Consistent with this determination, the Commission stated that it would

> * * * be alert for a more appropriate framework * * * within which to adress some or all of the broad issues raised in this proceeding.

Id. at 18, n.42, 44 FR at 58689, n.42.

[16] *See* December Release, *supra* note 9; June Release, *supra* note 10.

[17] For example, in 1977 and 1978, an aggregate of approximately 85 issues formerly traded exclusively in the over-the-counter market were listed on the new York Stock Exchange, Inc. ("NYSE") and the Amex. The pattern of companies trading initially in the over-the-counter market and then seeking exchange listing as they become larger and more well-established is an historical one (although certain companies, for various reasons, prefer to remain over-the-counter companies regardless of size).

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exchange markets and markets other than exchange markets," [19] and preserving and strengthing the nation's securities markets.[19]

In addition, the Commission questions whether the arguments against adoption of proposed Rule 19c–2 advanced in the 19c–2 Proceeding,[20] even if valid in connection with that proposed rule (as it would affect securities traded on exchanges), are significant when considered in connection with proposed Rule 19c–3, which would eliminate off-board trading restrictions only with respect to securities now traded exclusively in the over-the-counter market which become listed or admitted to unlisted trading privileges on an exchange for the first time. Adoption of Rule 19c–3 would also not appear to involve the potential for the kind of dramatic and radical effects on the existing exchange markets which have been predicted in the Rule 19c–2 Proceeding. In this more limited context, the Commission believes that it may well conclude that the anti-competitive effects of off-board trading restrictions outweigh any purposes such restrictions arguably may be said to serve as to securities currently traded in exchange markets.

The potential impact of removal of off-board trading restrictions for Rule 19c–3 Securities would appear to be far different from the potential impact of complete removal of remaining restrictions concerning off-board principal transactions and in-house agency crosses. Proposed Rule 19c–3 would apply almost exclusively to securities which are currently the subject of trading—and, in many cases, very active trading—in the over-the-counter market.[21] Since most firms currently providing continuous over-the-counter markets with respect to securities traded exclusively over-the-counter are exchange members, when a security becomes exchange traded for the first time, the pre-existing over-the-counter market for that security is seriously impaired, if not, as a practical matter, extinguished. This situation is to be contrasted with the consequences of adopting proposed Rule 19c–2, which would permit over-the-counter trading by these same exchange members in securities now confined, to a significant degree, to exchange trading.

Furthermore, proposed Rule 19c–3 would permit investors and issuers of Rule 19c–3 Securities to continue to enjoy whatever benefits would flow from an active over-the-counter market existing concurrently with exchange markets. Proposed Rule 19c–3, if adopted, might also create new incentives to improve existing market linkage facilities and to develop new facilities to meet the needs of a more complex trading structure and would appear to provide a test of the sufficiency of existing and developing national market system facilities to ensure an appropriate integration of trading in disparate locations and to safeguard the integrity of such a market.

Finally, to test the consequences of removal of off-board trading restrictions and the ability of existing and developing facilities of a national market system to ameliorate any of those consequences which might be regarded as adverse, it would appear beneficial to observe the effects of trading in securities listed and registered or admitted to unlisted trading privileges on one or more exchanges under circumstances permitting exchange members the fullest opportunity to continue or commence competitive over-the-counter trading in those same securities. In addition, if Proposed Rule 19c–3 is adopted, it will be possible to observe a trading environment free of the constraints imposed by off-board trading restrictions, but tempered in most instances by the discipline of comprehensive, multiple market real-time last sale reporting and other national market system mechanisms and regulations.[22] If the Rule is adopted, both the Commission and the securities industry may gain valuable experience as to the dynamics of active competition between exchange markets and the over-the-counter market-experience which will assist the Commission in fulfilling its statutory mandate to facilitate the establishment of a national market system.

II. Additional Considerations

A. Equal Regulation

As a preliminary matter, it does not appear that the adoption of proposed Rule 19c–3 will require that any other exchange or Commission rules need be modified or abrogated as a prerequisite to the adoption of proposed Rule 19c–3 in order to assure equal regulation of all market makers.[23] The experience to be provided by the adoption of the Rule should assist the Commission in determining whether any Commission of self-regulatory rules regulating the activities of market makers should be eliminated or modified or whether they should be expanded to apply to all market participants performing similar functions. In responding to proposed Rule 19c–3, however, commentators are requested to address this matter and to focus on the following additional considerations:

B. Competitive Impact of Rule 19c–3

Section 23(a) of the Act requires the Commission to consider, in rulemaking proceedings, "the impact that such rule or regulation may have on competition" and precludes the Commission from adopting any rule or regulation "which would impose a burden on competition not necessary or appropriate in furtherance of the purposes of [the Act]."

As the Commission has previously stated, off-board trading restrictions impose burdens on competition.[24] The purpose of this proceeding is to remove those burdens as they apply to Rule 19c–3 Securities. However, in addition to the question of whether the burdens on competitions resulting from off-board trading rules generally, as they would apply to Rule 19c–3 Securities, are necessary or appropriate in furtherance of the purposes of the Act, the Commission recognizes that proposed Rule 19c–3 may raise other concerns.

For example, since the scope of proposed Rule 19c–3 is generally limited to securities which are currently traded exclusively in the over-the-counter market, Rule 19c–3 initially would affect primarily specialists on those exchanges which derive most of their original common stock listings from the over-the-counter market, as well as such exchanges. Specialists who are members of those exchanges will be forced to compete with over-the-counter market makers for order flow in Rule 19c–3 Securities, whereas specialists who are members of exchanges deriving most of their listings from other exchanges would at least initially be less subject to such additional competition. As a preminimary matter, the Commission does not believe that this disparate effect should preclude the adoption of proposed Rule 19c–3 or require a modification of its terms. However, commentators are requested to address the implications of this effect as well as any other concerns relating to the impact of proposed Rule 19c–3 on competition.

C. Scope of Proposed Rule 19c–3

Rule 19c–3 as proposed would apply to virtually all securities listed on an exchange for the first time after the date of this release. As a result, although most of these securities would be reported securities and would therefore be the subject of last sale and quotation information and might also be included in market linkage systems, some small number of Rule 19c–3 Securities would not become reported securities.[25] As a preliminary matter, the Commission questions whether the absence of last sale information would justify the continuing application of off-board trading restrictions to those few securities in light of the perceived anti-competitive effects of those rules. The Commission has, however, proposed Rule 19c–3 in alternative forms, one of which would be applicable to all Rule 19c–3 Securities, and one of which would be applicable only to Rule 19c–3 Securities which are reported securities. Commentators are specifically requested to address this issue.

D. Issuer Consideration of Whether To Apply for Listing With Respect to Rule 19c–3 Securities

The Commission understands that certain issuers whose securities are currently traded in the over-the-counter market would view the application of the Rule to their securities as a positive factor in determining whether to list their securities. In this connection, the Commission is interested in receiving the views of those issuers whose common stock is currently traded exclusively in the over-the-counter market (and who meet Amex or NYSE original listing requirements) as to whether the adoption of the Rule would cause those issuers to consider listing.

III. Text of Proposed Rule and Request for Comment

The Securities and Exchange Commission hereby proposes to adopt Rule 19c–3 under the Act [17 CFR § 240.19c–3] pursuant to its authority under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)], and particularly Sections 2, 3, 6, 11, 11A, 17, 19 and 23 thereof [15 U.S.C. 78b, 78c, 78f, 78k, 78k–1, 78q, 78s and 78w]. This rule proposal is intended to amend the rules of national securities exchanges to conform those rules to the requirements of the Act and to further the purposes of the Act, particularly the protection of investors, the maintenance of fair and orderly markets, and the removal of impediments to and the facilitation of the establishment of a national market system. The text of proposed Rule 19c–3 is as follows:

§ 240.19c–3 Governing off-board transactions by members of national securities exchanges.

The rules of each national securities exchange shall provide as follows:

(a) No rule, stated policy or practice of this exchange shall prohibit or condition, or be construed to prohibit, condition or otherwise limit, directly or indirectly, the ability of any member to effect any transaction otherwise than on this exchange in any [reported security] [equity security or class of equity securities] [26] listed and registered on this exchange or as to which unlisted trading privileges on this exchange have been extended (other than a put option or call option issued by the Options Clearing Corporation) which is not a covered security.

(b) For purposes of this rule, (1) The term "Act" shall mean the Securities Exchange Act of 1934, as amended.

(2) The term "exchange" shall mean a national securities exchange registered as such with the Securities and Exchange Commission pursuant to Section 6 of the Act.

(3) The term "covered security" shall mean

(i) Any equity security or class of securities which—

(A) Was listed and registered on an exchange on April 26, 1979, and

(B) Remains listed and registered on at least one exchange continuously thereafter;

(ii) Any equity security or class of equity security which

(A) Is traded on one or more exchanges on April 26, 1979, pursuant to unlisted trading privileges permitted by section 12(f)(1)(A) of the Act, and

(B) Remains traded on any such exchange pursuant to such unlisted trading privileges continuously thereafter.

(iii) Any equity security or class of equity securities listed and registered on an exchange after April 26, 1979, issued in connection with a statutory merger, consolidation or similar plan of reorganization (including a reincorporation or change of domicile) in exchange for an equity security or class of equity securities described in subparagraphs (b)(3)(i) or (b)(3)(ii) of this rule.

(4) The term "reported security" shall mean

(i) Any equity security or class of equity securities designated as "qualified securities" pursuant to section 11A(a)(2) of the Act and for which transaction reports are required to be collected, processed and made available pursuant to § 240.11Aa3–1 ([proposed] Rule 11Aa3–1 under the Act); and

(ii) Any other equity security or class of equity securities for which transaction reports are required to be collected, processed and made available pursuant to any effective transaction reporting plan.

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[18] *See* Section 11A(a)(1)(C)(ii) of the Act. As indicated by the Senate Committee on Banking, Housing and Urban Affairs, the 1975 Amendments approached the problem "of encouraging the development and implementation of a national market system from the point of view of preserving the competing markets for securities that have developed. . . ." Senate Comm. on Banking, Housing & Urb. Affs., *Report to Accompany S.249*, S. Rep. No. 94–75, 94th Cong., 1st Sess. 8 (Comm. Print 1975).

[19] Section 11A(a)(1)(A) under the Act states as a finding of the Congress that the nation's securities markets must be preserved and strengthened. It should be noted, however, that, consistent with that section, proposed Rule 19c–3 is not intended to *per se* preserve the over-the-counter market for a security by assuring that the over-the-counter market does not lose all or part of its existing order flow to the exchanges. Rather, the Rule is designed to ensure that over-the-counter market makers have a continuing opportunity to compete in an appropriate manner for order flow when securities traded in the over-the-counter market become exchange traded. *Cf.* June Release, *supra* note 10, at 55, 42 FR at 33517.

[20] The concerns expressed with respect to proposed Rule 19c–2 related principally to "fragmentation", "overreaching" and "internalization."

The term "fragmentation" refers to the dispersion of order flow among market centers. *See generally* June Release, *supra* note 10, at 45–69, 42 FR at 33516–33519.

The term "overreaching" refers to the possibility that broker-dealer firms may take advantage of their customers by executing retail transactions as principal at prices less favorable to those customers than could have been obtained had those firms acted as agent. *See generally id.* at 70–84, 42 FR at 33519–33521.

The term "internalization," when used with respect to the activities of an integrated broker-dealer making markets over-the-counter, refers to the withholding of retail orders from other market centers for the purpose of executing them "in-house," as principal, without exposing those orders to buying and selling interest in those other market centers. *See generally id.* at 49–66, 42 FR at 33516–33517; *see also* letter from Roger E. Birk, President, Merrill Lynch & Co., Inc., to Andrew M. Klein, Director, Division of Market Regulation, dated October 4, 1977, contained in File No. 4–160.

[21] Only those few securities which are exchange traded immediately upon issuance would not be previously traded in the over-the-counter market.

[22] *See* Status Report, *supra* note 13, at 46, 44 FR 20360, 20367.

[23] The Act defines a class of persons or markets as subject to "equal regulation" if—no member of the class has a competitive advantage over any other members thereof resulting from a disparity in their regulation under [the Act] which the Commission determines is unfair and not necessary or appropriate in furtherance of the purposes of [the Act.]

See Section 3(a)(36) of the Act. The Act also empowers the Commission to adopt rules to "assure equal regulation of all markets for qualified securities." Section 11A(c)(1)(F) of the Act. For a general discussion of "equal regulation" concerns, *see* December Release, *supra* note 9, at 24–25, 41 FR at 4514, and June Release, *supra* note 10, at 85–90, 43 FR at 33521.

[24] *See* December Release, *supra* note 9, at 2, 41 FR at 4507; June Release, *supra* note 10, at 36, 42 FR at 33514; January Statement, *supra* note 12, at 39–40, 43 FR at 4360.

[25] Those equity securities which are listed solely on regional exchanges and which do not substantially meet Amex or NYSE listing standards are not eligible to be reported securities.

[26] If the proposed rule is to cover all equity securities or classes of equity security (other than options) newly listed on exchanges, delete subparagraphs (b)(4), (5), and (6).

(5) The term "transaction report" shall mean a report containing the price and volume associated with a completed transaction involving the purchase or sale of a security.

(6) The term "effective transaction reporting plan" shall mean any plan for collecting, processing and making available transaction reports with respect to transactions in reported securities approved by the Commission pursuant to § 240.11Aa3–1 ([proposed] Rule 11Aa3–1 under the Act).

(Secs. 2, 3, 6, 11, 17, 19, 23, Pub. L. 78–291, 48 Stat. 881, 882, 885, 891, 897, 898, 901, as amended by Secs. 2, 3, 4, 6, 14, 16, 18, Pub. L. 94–29, 89 Stat. 97, 104, 110, 137, 146, 155 (15 U.S.C. 78b, 78c, 78f, 78k, 79q, 78s, 78w, as amended by Pub. L. 94–29 (June 4, 1975)); Sec. 7, Pub. L. 94–29, 89 Stat. 111 (15 U.S.C. 78k–1))

As indicated above, interested persons are invited to submit written presentations of views, data and arguments concerning proposed Rule 19c–3 and the issues discussed above (including written presentations responding to written or oral presentations of others). Persons wishing to appear at the public hearings should contact André Weiss, Division of Market Regulation, Room 390, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 376–7470, not later than June 1, 1979. The public hearings will be held beginning June 20, 1979, at 10:00 a.m., in Room 776 at the above address. Persons intending to appear at the hearings should submit the text of any prepared statements not later than four business days prior to their appearance and are invited, at the time of their appearance, to make copies of their statements available to interested persons attending the hearings. Written presentations of views, data and arguments should be submitted not later than June 15, 1979 and written presentations responding to the written or oral presentations of others should be submitted not later than July 22, 1979.[27] All submissions, together with the transcripts of the public hearings, will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C.

[27] Although, as a matter of practice, the Commission has, in its discretion, accepted comments submitted in connection with its rulemaking proceedings after the specified comment period, the Commission wishes to explicitly note that, in connection with this proceeding, comments submitted after July 22, 1979, will not be accepted as a part of the record or considered by the Commission unless the comment period is formally extended.

By the Commission.

George A. Fitzsimmons,
Secretary.

April 26, 1979.

[Release No. 34–15769; File No. 4–220]
[FR Doc. 79–13969 Filed 5–3–79; 8:45 am]
BILLING CODE 8010–01–M

[17 CFR Part 240]

Price Protection for Public Limit Orders

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission proposes to adopt a rule providing protection for all displayed public limit orders against executions at inferior prices by requiring satisfaction of those orders at their limit prices (or, under certain circumstances, the transaction price). The proposal is part of the Commission's program to facilitate the establishment of a national market sytem.

DATES: Comments should be submitted on or before July 15, 1979.

ADDRESSES: Persons wishing to submit written views, data and arguments should file ten copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7–778 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Brandon Becker, Division of Market Regulation, Securities and Exchange Commission, Room 321, 500 North Capitol Street, Washington, D.C. 20549 (202) 755–8749.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announced today that, as part of its program to facilitate the establishment of a national market system, it has published for comment proposed Rule 11Ac1–3 (17 CFR § 240.11Ac1–3) under the Securities Exchange Act of 1934 (the "Act") [15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94–29 (June 4, 1975)], which, if adopted, would require inter-market price protection for all displayed public limit orders in certain securities. The proposed rule, which would apply to transactions in securities covered by the rule executed by brokers and dealers on and after July 1, 1981, would require any broker or dealer executing a transaction in a security covered by the rule at a price inferior to the price of any displayed public limit orders to satisfy those orders either simultaneously with, or immediately after, such an execution.

I. Background

Protection for limit orders—particularly public limit orders—has been a matter of active Commission concern and study for a number of years. During that time, the Commission has considered, and received substantial public comment on, various regulatory proposals and suggested data processing and communications facilities designed to achieve comprehensive inter-market protection for limit orders. In publishing proposed Rule 11Ac1–3 for comment, the Commission has given careful consideration to those earlier proposals and the comments received in response thereto, and has preliminarily determined that the proposed rule is necessary in order to provide a basis for the type of mandatory inter-market order interaction which is appropriate at this stage in the evolution of a national market sytem.

As early as 1973, the Commission, in its *Policy Statement on the Structure of a Central Market System*, called for the implementation of certain rules designed to "[tie] the individual market centers together" and thereby "reduce or eliminate market fragmentation." [1] One of those rules, the so-called "auction trading" rule, would have provided for "price priority protection for all public orders through the [national market] system" and would have required satisfaction of public limit orders prior to execution of "any transaction anywhere else in the system at an inferior price (a lower price, in the case of a bid, or a higher price, in the case of an offer)." [2]

In 1975, following enactment of the Securities Acts Amendments of 1975 (the "1975 Amendments"),[3] the

[1] SEC, *Policy Statement on the Structure of a Central Market System*, Securities Exchange Act Release No. 10076 (March 29, 1973), at 17–18 ("Policy Statement").

[2] Policy Statement, *supra* note 1, at 18–19.

[3] Pub. L. No. 94–29 (June 4, 1975). The 1975 Amendments, among other things, amended the Act by adding Section 11A which directed the Commission to facilitate the establishment of a national market system in accordance with certain Congressional findings and objectives. *See* Sections 11A (a) (1) and (2) of the Act [15 U.S.C. 78k–1 (a)(1) and (a)(2)]. The legislative history of the 1975 Amendments indicates a clear Congressional interest in the achievement of protection for public limit orders. The Senate Committee on Banking, Housing and Urban Affairs ("Senate Committee") stated in its report on S. 249 regarding the national market system provisions of that bill (which were incorporated in the 1975 Amendments) that:

[W]ith respect to securities which are suitable for auction trading, the Committee believes every effort

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Commission further addressed the need for inter-market limit order protection. In its release announcing adoption of Rule 19c–1 under the Act (17 CFR § 240.19c–1), which amended exchange off-board trading restrictions to permit exchange members to execute agency transactions in listed securities over-the-counter with qualified third market makers or non-member block positioners, the Commission stated:

> The Commission believes that public limit orders and the intended function of the specialist's limit order book have important roles in our securities markets, and that displacement of proposed transactions between securities customers (or their brokers) and market makers by such orders, under certain circumstances, is appropriate in the public interest and for the protection of investors to ensure the fairness of the markets and an opportunity for public orders to meet without the participation of a dealer.[4]

The Commission then called for the development of a computerized central limit order repository, or

> Composite book [which] would permit the effective integration of existing market makers (both exchange and third market) by ensuring continuation and extension of the public's ability to obtain priority in competing for executions [and] provide brokers and dealers with an efficient and practical means by which all limit orders, regardless of origin, can be protected on a national basis.[5]

The Commission also indicated its belief that, once such a composite book was in place,

> All transactions, regardless of size, should be required to satisfy orders on that book at the same or a a better price either immedately before, simultaneously with or immediately after execution.[6]

In March 1976, the Commission and the National Market Advisory Board ("NMAB") [7] issued a release jointly soliciting public comments on certain issues relating to the development and implementation of a composite book, including the policy and technical questions associated with certain specified characteristics of any composite book.[8] In that release, the Commission and the NMAB also sought comment on possible alternative approaches to achieving "the goals sought in the composite book project. * * *" [9] Extensive written comments were received from numerous individuals, firms and self-regulatory organizations.[10] In addition, the NMAB, following extensive deliberations on issues associated with the development of (and alternatives to) a composite book, provided comprehensive written comments on these issues to the Commission in January 1977.[11]

On January 26, 1978, the Commission issued a statement (the "January Statement") on the development of a national market system in which it set forth its views as to those steps which should be taken to facilitate development of the kind of national market system envisioned by the Congress and mandated by the 1975 Amendments.[12] With respect to the need for limit order protection, the Commission, after considering the numerous comments received concerning the Commission's suggestion for a composite book as well as the views of the NMAB, requested the self-regulatory organizations to take joint action

> To develop and implement a central limit order file (the 'Central File') for public agency orders to buy and sell qualified securities in specified amounts at specified prices ('public limit orders').[13]

The Commission described the objectives and method of operation of the proposed Central File as follows:

> The objectives of a Central File are relatively simple: to make available a mechanism in which public limit orders can be entered and queued for execution in accordance with the auction trading principles of price and time priority and by means of which such orders can be assured of receiving an execution prior to the execution of any other order by a broker of dealer at the same or an inferior price * * *.
>
> Public limit orders would assume their place in, and have an equal opportunity to achieve an execution throughout, that system without regard to the market or geographical location from which those orders were entered or in which other transactions required to yield priority to orders in the Central File were effected. Execution priority for orders entered in the Central File over all other orders would be required by rule.[14]

The Commission then requested each self-regulatory organization to inform the Commission of its willingness to undertake joint implementation of a Central File and urged the self-regulatory organizations to submit a

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should be made to design the national market system in such a way that public investors in these securities receive the benefits and protections associated with auction-type trading.

Senate Comm. on Banking, Housing and Urb. Affs., *Report to Accompany S. 249*, S. Rep. No. 94–75, 94th Cong., 1st Sess. 16 (1975) ("Senate Report"), *reprinted in*, [1975] U.S. Code Cong. & Ad. News 179, 194–95. One important benefit which the Senate Committee found public investors would enjoy when trading in an ideal auction-type market as opposed to a purely dealer market was that

> * * * limited price orders [of investors] would have to be satisfied before any transaction could be effected * * * by any participant in that market at a price less favorable to the other party [than the limit order price].

Id., [1975] U.S. Code Cong. & Ad. News at 194.

[4] Securities Exchange Act Release No. 11942 (December 19, 1975) ("December Release"), at 49, 41 FR 4507, 4519 (footnote omitted).

[5] December Release, *supra* note 4, at 49–50, 41 FR at 4510 (footnote omitted).

[6] *Id.* at 50, 41 FR at 4520.

[7] The NMAB was established by the Commission, in accordance with Section 11A(d)(1) of the Act [15 U.S.C. 78k–1(d)(1)], on September 30, 1975, and conducted public meetings on a regular basis between October 1, 1975, and December 30, 1977.

Section 11A(d) of the Act [15 U.S.C. 78k–1(d)], added by the 1975 Amendments, directed the NMAB to furnish to the Commission its views on significant regulatory proposals made by the Commission or any self-regulatory organization, concerning the establishment, operation or regulation of the securities markets. The 1975 Amendments also directed the NMAB to recommend to the Commission the steps it found appropriate to facilitate the establishment of a national market system and to study the possible need for modifying the Act's scheme of self-regulation so as to adapt it to a national market system (including the possible need to establish a new self-regulatory organization to administer the national market system).

In addition to its report to the Congress of the results of its study of self-regulation, the NMAB submitted to the Commission its views on a number of issues associated with the establishment of a national market system, including the desirability and feasibility of a composite limit order book.

[8] Securities Exchange Act Release No. 12159 (March 2, 1976), 41 FR 19274.

[9] *Id.* at 13, 41 FR at 19277.

[10] These comments are contained in File No. S7–619.

[11] *See* letter from the National Market Advisory Board to the Chairman and the Commissioners of the Securities and Exchange Commission, dated January 28, 1977 ("NMAB Letter"). In that letter, the NMAB strongly endorsed the general concept of limit order protection:

> [P]rotection of limit orders to the maximum extent practical is a desirable objective in and of itself. Limit orders, which constitute a significant portion of the orders placed with respect to listed securities, not only serve a useful purpose for investors but also contribute to the strength and orderliness of the market. They provide depth and liquidity (i) by facilitating stabilizing trades (sales in rising markets and purchases in falling markets) at prices reasonably related to preceding trades, (ii) by facilitating the assembly of the opposite side of 'block transactions', and (iii) by narrowing the spread between the bid and asked.
>
> Providing system-wide protection of limit orders would also help to reduce market 'fragmentation' (in the sense of failure of the best bid to meet the best offer) by significantly reducing the possibility of a transaction occurring in any market at a price outside the spread of the limit orders in the system without satisfying the better bids and offers represented by such limit orders. Certain means of system-wide protection of limit orders could also serve to enhance competition by affording wider access to information about limit orders and a greater opportunity for specialists and market makers to compete in providing the other side of limit orders.

NMAB Letter at 7–8 (footnote omitted). The NMAB commented favorably on industry efforts to develop alternatives to a composite book but stated that

> * * * [s]ince it is not clear that a suitable alternative can be found and agreed upon within [a few months], the [NMAB] recommends that the Commission pursue its analysis and decision-making process with respect to a composite book while industry efforts are proceeding.

Id. at 28.

[12] Securities Exchange Act Release No. 14416 (January 26, 1978), 43 FR 4354.

[13] *Id.* at 34, 43 FR at 4359 (footnote omitted).

[14] *Id.* at 34–36, 43 FR at 4359 (footnote omitted).

joint plan for its design, construction and operation.[15]

In response to this request, the Commission received several proposals describing alternative means of achieving the goal of inter-market limit order protection. The National Association of Securities Dealers, Inc. ("NASD") submitted a "Technical Plan for the Development of a National Market System" ("Technical Plan") describing an electronic facility (based upon the technology and computer facilities of the existing NASDAQ electronic inter-dealer quotation system)" functionally similar to the Central File proposed by the Commission in the January Statement. The Technical Plan proposed that all qualified brokers would be permitted to enter limit orders into the facility for execution by qualified market makers [16] based upon price and time priority within the system. The NASD's Board of Governors, however, expressly reserved judgment on the policy and regulatory issues associated with the implementation of the facility described in the Technical Plan, stating that further study was necessary to determine whether exclusion of non-public limit orders from the Central File and whether protection of orders entered in the File against executions at the same price as well as executions at an inferior price would be appropriate. [17]

Most other self-regulatory organizations opposed creation of a Central File as described in the January Statement. These commentators argued that the kind of priority proposed to be afforded public limit orders entered into the Central File [18] would have significant and deleterious effects on the exchange trading process. In essence, these commentators asserted that such a preference for public limit orders would provide a major trading advantage to those orders, thereby creating a disincentive to the commitment of market making capital by dealers, and would eventually lead to the elimination of exchange trading floors by inexorably forcing all trading into a fully automated trading system.[19] In addition, several self-regulatory organizations suggested that, in lieu of the immediate implementation of a Central File, the Commission should permit the participants in the Intermarket Trading System ("ITS") [20] sufficient time to attempt to provide limit order protection on an inter-market basis using the ITS. Specifically, the New York Stock Exchange, Inc. ("NYSE") and the MSE submitted proposals which envisioned the electronic dissemination and display of limit order information from each market center and use of the ITS to assure inter-market price protection of displayed limit orders in any market.[21]

The NYSE and MSE proposals did, however, differ in their treatment of the question of whether or not intermarket price protection should be mandatory. The NYSE, on the one hand, suggested that such protection should be provided on a voluntary basis rather than by the imposition of a rule. The NYSE stated:

> Undoubtedly competitive pressures will force each market center's participants to reach out through ITS for better prices, rather than to effect executions in their own market centers at inferior prices. The [NYSE], for its part, will also strongly encourage its members to reach through ITS any time a better price is available anywhere in the system. These pressures, consistent with an agent's responsibilities to his customer, will protect limit orders throughout the system against transactions at inferior prices.[22]

The MSE disagreed, arguing that "competitive pressures alone [would not provide] sufficient impetus for market participants to change voluntarily the manner in which and the location at which they trade."[23] Instead, the MSE called for the adoption of a Commission rule requiring protection of all displayed limit orders against executions at inferior prices.[24]

On March 22, 1979, the Commission issued a release on the development of a national market system in which it assessed the progress made during the past year toward achievement of a national market system and indicated the Commission's views as to those issues which next should be resolved and those steps which next should be taken to continue progress towards that system.[25] In that Status Report, the Commission indicated that it was refocusing its attention from immediate implementation of the type of Central File described in the January Statement to near-term achievement of nationwide price protection for all public limit orders. The Commission stated:

> While the Commission cannot predict accurately the consequences of implementing a limit order protection system based on affording orders in a Central File priority over all other buying and selling interest, the Commission recognizes the possibility that introduction of a system based upon the absolute time priority concept could have a radical and potentially disruptive impact on the trading process as it exists today. Therefore, industry and Commission efforts should be concentrated on the achievement of nation-wide price protection for all public limit orders based upon the principle of price priority.
>
> The Commission believes that nationwide price protection—whereby any appropriately displayed public limit order for a qualified security is assured of receiving an execution prior to any execution by a broker or dealer at an inferior price—should be a basic characteristic of a national market system.[26]

In addition to establishing inter-market limit order price protection as a near-term national market system objective, the Commission indicated its willingness to permit the ITS participants to experiment with and enhance that system as a means of providing price protection. The Commission requested that each of the self-regulatory organizations commit to working actively together to develop and implement a joint plan which, at a minimum, would call for establishing a pilot program for providing price protection for a limited number of multiply-traded securities by the end of calendar year 1980.[27]

Finally, the Commission indicated its intention to propose a rule requiring mandatory price protection on an inter-market basis. The Commission stated that the proposed rule

> [would have] an effective date sufficiently distant to afford time for the industry to design and put in place procedures and facilities needed to assure price protection for all public limit orders in qualified securities.[28]

II. Discussion

A. Description of Proposed Rule

The proposed price protection rule, Rule 11Ac1–3 under the Act (17 CFR § 240.11Ac1–3), would require that all public limit orders[29] which are collected in a particular market center [30] and disseminated by that market center for display in other market centers ("displayed public limit orders"), receive intermarket price protection against executions at inferior prices. The proposed rule would prohibit any broker or dealer, on and after the effective date of the rule, from executing a transaction in any market center, in any security subject to its provisions, at a transaction price[31] inferior to the price of any displayed public limit order unless that broker or dealer, either simultaneously with or immediately after execution of the transaction, satisfies all such displayed public limit orders which are at superior prices.[32]

The prices at which the displayed public limit orders would be satisfied would depend upon the relation of the proposed transaction price to the best bid and offer made available by a market center under the Commission's quotation rule, Rule 11Ac1–1 under the Act (17 CFR § 240.11Ac1–1). If the transaction price is not more than ⅛ point outside the best quotation (*i.e.*, lower than the highest bid or higher than the lowest offer), all displayed public limit orders at superior prices would be satisfied at their limit prices; if the transaction price is ¼ point or more outside the best quotation, all displayed public limit orders at superior prices would be satisfied at the transaction price.[33]

Coverage of the proposed rule would be limited to reported securities [34] included in a market linkage system implemented or operated in accordance with a plan approved by the Commission under Section 11A(a)(3)(B) of the Act [15 U.S.C. 78k–1(a)(3)(B)].[35] The rule would therefore cover all securities included in the ITS, the only market linkage system implemented thus far pursuant to a Section 11A(a)(3)(B) plan,[36] although the definition of market linkage system contained in the proposed rule is broad enough to cover the automated multiple-dealer trading system of the CSE ("CSE System") [37] if it joins with another self-regulatory organization to file a Section 11A(a)(3)(B) plan covering the implementation or operation of the CSE System.

Finally, the proposed rule contains an exemptive provision permitting the Commission to exempt from the provisions of proposed Rule 11Ac1–3, either unconditionally or on specified terms and conditions, any broker, dealer or reported security if the Commission determines that such exemption is consistent with the public interest, the protection of investors and the removal of impediments to, and perfection of the mechanisms of, a national market system. The proposed exemptive provision is designed to address only extraordinary circumstances where relief from the operation of the rule would clearly be warranted, such as malfunctions in communication and data processing facilities needed to transmit and display limit order information or to route orders between and among market centers. If the proposed rule is adopted, the Commission does not intend to grant exemptions to the price protection rule which would have the effect of exempting entirely market centers with relatively little trading in securities covered by the rule [and brokers and dealers trading in those markets.[38]

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[15] *Id.* at 36, 43 FR at 4359.

[16] In the January Statement, the Commission stated that: [i]t currently appears that, for technological among other reasons, it may be appropriate to confine the capacity to execute against public limit orders in the Central File to persons performing market making functions in a qualified market. *Id.*, 43 FR at 4359.

[17] *See* letter from Gordon S. Macklin, President, NASD, to George A. Fitzsimmons, Secretary, SEC May 30, 1978, contained in File No. S7–735–A.

[18] In the January Statement, the Commission proposed that public limit orders entered in the Central File would have absolute priority over all other orders at the same price. *See* January Statement, *supra* note 12, at 35–36, 43 FR at 4359.

[19] *See, e.g.*, letter from Richard B. Walbert, President, Midwest Stock Exchange, Inc. ("MSE"), to George A. Fitzsimmons, Secretary, SEC, November 24, 1978 ("MSE Letter"), at 34–36, contained in File No. S7–735–A.

[20] The ITS is an inter-market communications linkage, implemented jointly by several exchanges in 1978 pursuant to a plan approved by the Commission [15 U.S.C. 78k–1(a)(3)(B)], which provides facilities and procedures for the routing of orders for the purchase and sale of multiply-traded securities between market centers for executive. *See* Securities Exchange Act Release Nos. 14661 (April 14, 1978) and 15058 (August 11, 1978), 43 FR 17419 and 36732. All Self-regulatory organizations other than the Cincinnati Stock Exchange ("CSE") and the NASD are participating in the ITS and 405 securities are currently traded through the system. The ITS participants expect that 500–600 securities will be traded in the system by July 1, 1979, and discussions are continuing between the ITS participants and the NASD regarding linking "third market" dealers through the ITS.

[21] *See* letter from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary, SEC, May 31, 1978 ("NYSE Letter"); MSE Letter, *supra* note 19. Both letters are contained in File No. S7–735–A.

[22] NYSE Letter, *supra* note 21, at 25.

[23] MSE Letter, *supra* note 19, at 43.

[24] *Id.* at 42–43.

[25] Securities Exchange Act Release No. 15671 (March 22, 1979) ("Status Report"), 44 FR 20360.

[26] *Id.* at 18–19, 44 FR at 20362–63 (footnotes omitted). The Commission stated that, for purposes of determining which orders are to be afforded inter-market price protection, the term "public limit order" should be construed as any limit order to purchase or sell a qualified security not for the proprietary account of a broker or dealer or any person associated with a broker or dealer which is entered into a market center's limit order repository (whether that be a specialist's book or some other similar mechanism) and displayed in other market centers. *Id.* at 19, n. 24, 44 FR at 20362, n. 24.

[27] *Id.* at 23–24, 44 FR at 20363.

[28] *Id.* at 25, 44 FR at 20363.

[29] The term "public limit order" would be defined to mean any limit order for the account of any person other than a registered broker or dealer or an associated person of a registered broker or dealer. As discussed more fully in note 49 *infra*, the Commission specifically solicits public comment on the appropriateness of this definition.

[30] The term "market center" would be defined to mean, with respect to any reported security, (i) any exchange on which or through whose facilities transactions in that security are executed, and (ii) any third market marker who executes, in that capacity, transactions in that security.

[31] The term "transaction price" would be defined to mean, with respect to a transaction in a reported security, the price of that transaction required to be reported pursuant to a transaction reporting plan approved by the Commission pursuant to proposed Rule 11Aa3–1 under the Act (17 CFR § 240.11Aa3–1) (exclusive of any commission, commission equivalent or differential charged in connection with the transaction).

[32] Nothing in the proposed rule, however, would prevent a broker or dealer from satisfying all displayed public limit orders at superior prices to his proposed transaction price prior to the execution of the transaction (sometimes referred to as "walking down the book") so that, at the time of execution, no such orders would remain at superior prices (and, therefore, the broker or dealer would have no obligations under the proposed rule). However, in situations where the proposed transaction price is sufficiently away from the market so that the "gap print pricing" provisions of the price protection rule would be triggered if the broker-dealer did not "walk down the book," the Commission expects, if the proposed rule is adopted, to encourage brokers and dealers to provide displayed limit orders with "gap print pricing" in accordance with proposed Rule 11Ac1–3 rather than executing limit orders first at their limit prices than executing the proposed transaction.

The Commission notes that avoidance of "gap print pricing" by "walking down the book" is, of course, possible today in connection with block transactions executed in the "primary" market center (and which would otherwise be subject to the procedures specified in NYSE Rule 127). Commentators who believe that "walking down the book" prior to effecting a block transaction, to the extent it may occur if the proposed rule is adopted, can, and should, be prevented are requested to describe whatever methods or procedures they believe will be appropriate to ensure that the "gap price printing" requirements of the rule would not be avoided.

[33] The requirement that displayed public limit orders be satisfied at the transaction price (as opposed to the limit prices) is based on, although not identical to, the "gap printing" principle embodied in NYSE Rule 127.

[34] The term "reported security" would be defined to mean (i) any equity security or class of equity securities designated as 'qualified securities' pursuant to Section 11A(a)(2) of the Act and for which transaction reports are required to be collected, processed and made available pursuant to § 240.11Aa3–1 ([proposed] Rule 11Aa3–1 under the Act); and

[35] Section 11A(a)(3)(B) of the Act authorizes the Commission, in furtherance of the statutory directive to facilitate the establishment of a national market system, by rule or order, to authorize or require self-regulatory organizations to act jointly with respect to matters as to which they share authority under [the Act] in planning, developing, operating, or regulating a national market system (or a subsystem thereof) or one or more facilities thereof . . . .

[36] See Securities Exchange Act Release Nos. 14661 (April 14, 1978) and 15058 (August 11, 1978), 43 FR 17419 and 36732.

[37] As a practical matter, however, all securities which are currently traded actively in the CSE System would be covered by the proposed rule because they are also included in the ITS.

(ii) any other equity security or class of equity securities for which transaction reports are collected processed and made available pursuant to an effective transaction reporting plan.

The language of the definition of "reported security" is taken from the recently proposed amendments to Rule 17a–15 under the Act (17 CFR § 240.17a–15), which would, among other things, redesignate that rule as Rule 11Aa3–1 under the Act and establish procedures for amendment of transaction reporting plans. Securities Exchange Act Release No. 15250 (October 20, 1978), 43 FR 50808. If the proposed amendments are not adopted, the definition of "reported security," for purposes of proposed Rule 11Ac1–3, would be changed to read as follows: (1) The term "reported security" shall mean any equity security or class of equity securities as to which last sale information is reported in the consolidated transaction reporting system contemplated by § 240.17a–15 (rule 17a–15 under the Act).

[38] The Commission has, in connection with the implementation of the consolidated transaction reporting system pursuant to Rule 17a–15 under the Act (17 CFR § 240.17a–15) and the consolidated quotation system pursuant to Rule 11Ac1–1 under the Act (17 CFR § 240.11Ac1–1), granted exemptions

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B. Major Issues

The following is a dicussion of certain issues raised by proposed Rule 11Ac1–3 which deserve special attention or on which public comment is specificially solicited.

1. *Need for Commission Rulemaking.* As the Commission stated in its recent Status Report, the Commission's first priority for the near term in facilitating the establishment of a national market system is the achievement of "nation-wide price protection for public limit orders against executions at inferior prices," [39] and that, as an initial step towards this end, the Commission would afford the proponents of the ITS "time to experiment with and further enhance that system as a means of providing intermarket price protection for public limit orders." [40]

As the Commission stated in the Status Report, it currently appears that "two types of initiatives are necessary to achieve nation-wide price protection for displayed public limit orders by means of the ITS." [41] The first of these initiatives is collective action on the part of the self-regulatory organizations to (i) provide for the collection, dissemination and display of limit order information from each market center, and (ii) substantially improve the operating characteristics of the ITS.[42] The second of these initiatives is the proposal of a Commission rule requiring inter-market price protection.[43] The Commission believes, as a preliminary matter, that such a rule appears appropriate in the public interest and for the protection of investors and will further facilitate the establishment of a national market system. In particular, it appears that the rule will contribute to ensuring the fairness of the markets and will help provide an opportunity for public orders to meet without the participation of a dealer.[44] In addition, adoption of the proposed rule might increase the potential for competition between and among market centers.[45]

As discussed above, however, the NYSE, in its submission describing its proposal for inter-market price protection, argued that such a rule was not necessary and that competitive forces alone would ensure that public limit orders represented in the various market centers are protected against inferior executions. The Commission believes that such arguments deserve further exploration, and the Commission requests commentators to provide their views as to whether competitive forces alone would be sufficient to ensure inter-market price protection for all displayed public limit orders.

2. *Effective Date.* The proposed effective date for Rule 11Ac1–3 is July 1, 1981. The Commission believes that the proposed effective date is sufficiently distant to afford time for the industry to design and put into place procedures and facilities needed to assure price protection for all public limit orders in securities included in a market linkage system.[46] The Commission wishes to reemphasize, however, that it expects a pilot program in inter-market price protection to begin before the end of calendar year 1980—well before the proposed effective date of Rule 11Ac1–3.[47]

In the Commission's recent national market system Status Report, the Commission requested each self-regulatory organization to inform the Commission in writing, by May 1, 1979, of its commitment to work actively with other such organizations on a plan for the development and implementation of procedures and mechanisms for inter-market price protection.[48] The Commission expects that plan, which is to be submitted to the Commission by September 1, 1979, to specify the steps by which a pilot program will be implemented and provide that, during the period the pilot is in operation, use of the price protection procedures and mechanisms described in the plan will be mandatory for brokers and dealers in market centers participating in the pilot, notwithstanding the fact that Rule 11Ac1–3, if adopted, will not yet be effective.

3. *Coverage of Rule 11Ac1–3.* As discussed above, proposed Rule 11Ac1–3 would provide inter-market price protection only for displayed public limit orders.[49] However, as the Commission noted in the Status Report, the Commission believes it is appropriate to address, in context of this proposal, whether there are any regulatory policy or practical reasons to limit the application of the price protection concept solely to public limit orders.[50] As the Commission stated:

> It may be that, in addition to protection of public limit orders, price protection can easily be afforded to all displayed bids and offers at the market, whether public or professional, such that any displayed quotation would be entitled to price protection up to the amount of its associated quotation size.[51]

In discussing the possible merits of a price protection system affording inter-market protection for all displayed bids and offers at the market (in addition to displayed public limit orders away from the market), the Commission stated that it may be that:

> [p]roviding price protection to all buying and selling interest collected by a particular market center and disseminated by that market center as part of its current bid or offer will not only improve liquidity but also avoid a number of practical problems and trading anomalies which seem certain to arise from restricting price protection to public limit orders.
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> For example, in order to provide price protection for public limit orders at the market, but not for other buying and selling interest displayed as part of the current quotation, it will be necessary to develop a separate composite display of prices and sizes reflecting that portion of each market center's current quotation representing by public limit orders. Second, confinement of nation-wide price protection to public limit orders could result in buying and selling interest at the market in a given market center (*e.g.*, represented dealer interest) being bypassed as public limit orders in that market at inferior prices are required to be filled by orders transmitted from another market.[52]

In light of those factors, the Commission concluded that:

> It would appear that, if nation-wide price protection is to be accomplished in a fair manner consistent with the purposes of the Act, it ultimately should encompass protection for all buying and selling interest displayed by a particular market center as part of its current bid or offer—regardless of whether or not that interest is comprised of public limit orders—as well as all displayed public limit orders away from the market at prices superior to the price of a proposed transaction. In this context, nation-wide price protection for public limit orders should be viewed as an interim step toward, and experiment in, the achievement of price protection for all displayed orders.[53]

The Commission is interested in receiving the views of the self-regulatory organizations, the securities industry and the investing public as to (i) whether the goal of price protection for all displayed quotations is desirable and feasible, and, if so, (ii) whether it would be appropriate to bypass the interim step of providing price protection only for displayed public limit orders and proceed directly to the enhanced goal.[54] Persons favoring modifying proposed Rule 11Ac1–3 to provide for price protection for all published bids and offers comprising a market center's current quotation and for public limit orders away from the market should discuss any unique technical or practical problems arising from such an approach which are not present in achieving price protection only for public limit orders. Commentators should also discuss whether, in their view, achievement of price protection for all displayed buying and selling interests at the market without first achieving the interim goal of price protection only for public limit orders would require a greater lead time than achievement of the interim goal alone and, therefore, whether adjustment of the proposed effective date of the rule, as modified, would be necessary.[55]

4. *Gap Print Pricing.* Proposed Rule 11Ac1–3 would require that, in situations where the proposed transaction price is ¼ point or more outside the best quotation, displayed public limit orders would have to be satisfied at the transaction price rather than at their limit prices.[56] This requirement embodies the principle of "gap price printing," which currently applies to certain block transactions executed on the NYSE and which the Commission identified in its recent Status Report as as feature which should be implemented as part of a program of inter-market price protection for public limit orders. In this regard, the Commission stated:

> As a preliminary matter, the Commission believes that, unless compelling arguments are presented to the contrary, gap price printing for displayed public limit orders away from the market should be a characteristic of price protection in the national market system.[57]

The Commission specifically solicits the views of interested persons as to (i) whether gap price printing should be a characteristic of price protection in a national market system, and, if so, (ii) whether the method of gap price printing provided in proposed Rule 11Ac1–3 is the most appropriate means of achieving that result. Persons favoring alternative methods of gap price printing are requested to provide a justification for each alternative proposed as well as draft language implementing each such alternative.

5. *Size Limitation.* Proposed Rule 11Ac1–3, if adopted, would provide for inter-market price protection for all displayed public limit orders regardless of size. It has been argued that it might be appropriate to impose size limitations on limit orders entered into a particular market center's limit order facility and afforded inter-market protection in order "to avoid possible problems associated with institutional 'step-ins' and other possible trading disruptions. * * *" [58] The Commission specifically solicits comment on whether limitations on the size of public limit orders afforded inter-market price protection are appropriate, and, if so, whether such limitations should (i) be included as part of Rule 11Ac1–3 (instead of being a matter addressed by the rules of each market center which govern the use of that market center's limit order facility), and (ii) be imposed in connection with all transactions at prices inferior to displayed public limit orders or only in connection with block transactions (*e.g.*, if a block were to be executed in a particular market center at a price which would trigger application of proposed Rule 11Ac1–3 and there was a public limit order for 20,000 shares at a better price in that or another market center, only a limited amount of the order (say 2,500 shares) would be required to be satisfied pursuant to the rule).[59]

6. *Effects on Competition.* Section 23(a)(2) of the Act [15 U.S.C. 78w(a)(2)] requires the Commission, in adopting rules under the Act, to consider the anti-competitive effects of such regulation and to balance any anticompetitive impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has, as an initial matter, examined proposed Rule 11Ac1–3 in light of the standards cited in section 23 (a)(2) and is aware that adoption of the proposed rule may have effects on competition. However, because, in part, the impact of proposed Rule 11Ac1–3 on competition may be to increase the potential for competition between and among markets, and will certainly increase the potential for competition among brokers and dealers and among orders, the Commission is unable to conclude, as a preliminary matter, that adoption of the proposal would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Moreover, because it appears to the Commission that the proposal will facilitate the establishment of a national market system and further other purposes of the Act,[60] the burdens on competition which

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to certain exchanges based on their trading volume. *See, e.g.*, Securities Exchange Act Release Nos. 11385 (April 30, 1975), 40 FR 1988 (exemption from transaction reporting requirements of Rule 17a–15 for Intermountain Stock Exchange); 15010 (July 28, 1978), 43 FR 33976 (exemption from Rule 11Ac1–1 for CSE in securities not included in the CSE System); 15011 (July 28, 1978), 43 FR 33983 (exemption From Rule 11Ac1–1 for Spokane Stock Exchange); 15012 (July 28, 1978), 43 FR 33978 (exemption from Rule 11Ac1–1 for Intermountain Stock Exchange); 15013 (July 28, 1978), 43 FR 33981 (partial exemption from Rule 11Ac1–1 for Philadelphia Stock Exchange, Inc.). Certain of the exchange to which these exemptions have been granted are also not participants in either of the pilot market linkage systems currently in operation. As further progress is made in the establishment of a national market system, particularly when inter-market price protection for displayed public limit orders is achieved, the Commission intends to reexamine those exemptions to determine whether the existence of trading in securites with multiple trading interest in a market center which does not report its transactions in the consolidated transaction reporting system, does not make its quotations available pursuant to the Commission's quotation rule, and is not linked to other market centers through a market linkage system, is consistent with the goals and objectives of a national market system.

[39] Status Report, *supra* note 25, at 14, 44 FR at 20362.

[40] *Id.* at 20, 44 FR at 20363.

[41] *Id.* at 20–22, 44 FR at 20363.

[42] In addition, if the ITS is used to provide inter-market price protection, it will be necessary either to find a way to provide a link between the CSE System and the ITS or have CSE System terminals available in each market center.

[43] Status Report, *supra* note 25, at 24, 44 FR at 20363.

[44] *See* Section 11A(a)(1)(C)(v) [15 U.S.C. 78k–1(a)(1)(C)(v)]. *See also* note 4 *supra* and accompanying text. The legislative history of the 1975 Amendments indicates that the Commission has clear authority to adopt such a rule. The Senate Committee stated in its report on S. 249 that:

> The Committee is satisfied that S. 249 grants the Commission complete and effective authority to implement a system for the satisfaction of public limit orders.
>
> Senate Report, *supra* note 3, at 18, [1975] U.S. Code Cong. & Ad. News at 196.

[45] *See* Section 11A(a)(1)(C)(ii) of the Act [15 U.S.C. 78k–1(a)(1)(C)(ii)]. *But see* discussion *infra* at pp. 30–40.

[46] *See Status Report*, *supra* note 25, at 25, 44 FR at 20363.

[47] *Id.* at 23, 44 FR at 20363.

[48] *See id.* at 23–24, 44 FR at 20363.

[49] As noted above, the definition of "public limit order" would not include any order for the account of a registered broker or dealer or a person associated with a registered broker or dealer. *See* note 29 *supra*. The proposed definition would thus exclude from the protections afforded by the rule orders for the account of natural persons associated with registered brokers and dealers, such as registered representatives, as well as broker-dealer proprietary orders which are entered from off-floor and, arguably, are not generated under circumstances where the broker-dealer has a time and place advantage over non-professionals. The Commission specifically solicits comment on whether orders in these categories, or others, should also be treated as "public limit orders" for purposes of determining inter-market price protection. In addition, the Commission solicits the views of interested persons as to whether inter-market price protection should be afforded to all displayed limited price orders—not just public limit orders (however defined).

[50] Status Report, *supra* note 25, at 27, 44 FR at 20364 (footnote omitted).

[51] *Id.*

[52] *Id*, at 27–28, 44 FR at 20364 (footnote omitted).

[53] *Id.* at 29–30, 44 FR at 20364

[54] *Id.* at 30, 44 FR at 20364.

[55] *Id.*

[56] *See* note 33 *supra* and accompanying text.

[57] Status Report, *supra* note 25, at 19, n.26, 44 FR at 20363, n.26

[58] NYSE Letter, *supra* note 21, at 22. The Commission specifically solicits comment on the nature of such possible problems and trading disruptions, and whether such problems or disruptions, should they occur, would have different impacts on various categories of market participants, *e.g.*, members placing proprietary orders from on-floor or off-floor institutional customers or customers who are individuals.

[59] Persons favoring limiting the imposition of size limitations for inter-market price protection to block transactions should also describe with particularity how the term "block" should be defined for this purpose.

[60] *See generally* Policy Statement, *supra* note 1 et 18–21. December Release, *supra* note 4, at 47–53. 41 FR at 4519–21. Securities Exchange Act Release No.

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arguably would flow from implementation of proposed Rule 11Ac1–3 appear to be justified by the regulatory benefits gained by its adoption.

Proposed Rule 11Ac1–3, if adopted, could affect competition in several ways. First, it would appear that adoption of the proposal would, to some degree, improve the competitive opportunities for specialists on regional exchanges who, in order to attract order flow, currently provide a form of "primary market protection," *i.e.*, they may agree to execute, as principal, a limit order on their book when there has been an execution in the "primary" market at a price inferior to the limit price and, in certain circumstances, where a transaction has occurred in the "primary" market at the limit price.[61] Requiring satisfaction of displayed public limit orders in the manner contemplated by proposed Rule 11Ac1–3 could, in the Commission's view, reduce the burden and risk to regional specialists associated with providing that protection today (although regional specialists would appear to continue to have to provide "primary market protection" against transactions at the limit price), and thereby enhance their ability to compete for order flow.

On the other hand, because the proposed rule, if adopted, would, for all practical purposes, require the clearing of all public limit orders in all markets in connection with any block transaction executed away from the market, it would no longer be possible to avoid limit orders in one market—particularly limit orders on the book in the "primary" market—by executing the block in some other market center where limit order interest may be minimal. As a result, adoption of the proposal arguably may adversely affect the ability of the regional exchanges to continue to attract blocks for execution.

The Commission notes, however, that avoidance of buying and selling interest in the "primary" market is asserted to be only one of a number of factors which may influence the selection of a market center where a particular block transaction is to be executed. Moreover, adoption of the rule would only prevent "transporting" block transactions to a market center to avoid public limit order interest and not "transporting" blocks to avoid buying and selling interests of the specialist acting as dealer and that of other persons represented in the "primary" market which is not on the specialist's book and which may well be much more substantial than the interest requested in that market in the form of limit orders. As a result, it is not possible to determine at this time whether adoption of proposed Rule 11Ac1–3 would have any significant impact on regional exchanges.

Even if the adoption of proposed Rule 11Ac1–3 results in some burdens on competition (which the Commission is not yet prepared to conclude), the Commission believes that such burdens, if they develop, appear to be outweighed by the regulatory purposes to be achieved by the proposal. Adoption of proposed Rule 11Ac1–1 would appear, as a preliminary matter, to further substantiate the purposes of the Act, particularly the Commission's mandate under Section 11A(a) of the Act to facilitate the establishment of a national market system and to assure, consistent with efficient execution capability and the practicability of execution of investors' orders in the best market, an opportunity for investors' orders to be executed without the participation of a dealer.

In addressing proposed Rule 11Ac1–3, commentators are specifically requested to comment on the potential competitive impact of this proposed regulation and the preliminary views expressed herein so that the Commission may further evaluate the proposal in light of section 23(a)(2) of the Act.

III. Request for Public Comment

The Securities and Exchange Commission hereby proposes Rule 11Ac1–3 (17 CFR § 240.11Ac1–3) pursuant to its authority under the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*, as amended by Pub. L. 94–29 (June 4, 1975)], and particularly Sections 2, 3, 6, 10, 11, 11A, 15, 17, and 23 thereof [15 U.S.C. 78b, 78c, 78f, 78j, 78k, 78k–1, 78*o*, 78q, and 78w]. The text of the proposed rule is as follows:

§ 240.11Ac1–3 Price protection for public limit orders.

(a) *Definitions.* For purposes of this section, (1) The term "reported security" shall mean

(i) Any equity security or class of equity securities designated as "qualified securities" pursuant to section 11A(a)(2) of the Act and for which transaction reports are required to be collected, processed and made available pursuant to § 240.11Aa3–1 ([proposed] Rule 11Aa3–1 under the Act); and

(ii) Any other equity security or class of equity securities for which transaction reports are collected, processed and made available pursuant to any effective transaction reporting plan.

(2) The term "registered broker or dealer" shall mean any person registered as a broker or dealer under section 15 of the Act.

(3) The term "limit order" shall mean an order for the purchase or sale of one or more round lots of a reported security at a specified price, or at a more favorable price if obtainable.

(4) The term "public limit order" shall mean a limit order for the account of a person other than a registered broker or dealer or an associated person of a registered broker or dealer.

(5) The term "displayed public limit order" shall mean a public limit order as to which information regarding its price and size is (i) collected by the market center in which it is represented, and (ii) disseminated by such market center for electronic display in other market centers.

(6) The term "market center" shall mean, with respect to any reported security, (i) any national securities exchange ("exchange") on which or through whose facilities transactions in that security are executed, and (ii) any third market maker who executes, in that capacity, transactions in that security.

(7) The term "third market maker" shall mean any broker or dealer (other than a person making markets exclusively in odd-lots) who holds himself or herself out as being willing to buy and sell a reported security for his or her own account on a regular and continuous basis otherwise than on an exchange in amounts of less than block size (including any such broker who also represents, as agent, otherwise than on an exchange, orders to buy and sell such securities on behalf of any other person).

(8) The term "market linkage system" shall mean any communications and data processing facility which (i) permits orders for the purchase and sale of a reported security, and responses to such orders, to be transmitted from one market center trading in such security to another such market center, or (ii) provides for electronic storage and execution of orders for the purchase and sale of a reported security entered from more than one market center.

(9) The term "transaction price" shall mean, with respect to a transaction in a reported security, the price of that transaction to be reported pursuant to an effective transaction reporting plan (exclusive of any commission, commission equivalent or differential charged in connection with the transaction).

(10) The term "transaction report" shall mean a report containing the price and volume associated with a completed transaction involving the purchase or sale of a security.

(11) The term "effective transaction reporting plan" shall mean any plan for collecting, processing and making available transaction reports with respect to transactions in reported securities approved by the Commission pursuant to § 240.11Aa3–1 ([proposed] Rule 11Aa3–1 under the Act).

(12) The terms "bid" and "offer" shall have the meaning provided in § 240.11Ac1–1 (Rule 11Ac1–1 under the Act).

(b) *Price protection requirement.* On and after July 1, 1981, no broker or dealer may execute a transaction in any market center, in any reported security which is included in a market linkage system implemented or operated in accordance with a plan approved by the Commission pursuant to section 11A(a)(3)(B) of the Act, at a transaction price inferior to the price of any displayed public limit order unless such broker or dealer, either simultaneously with or immediately after execution of such transaction, satisfies all such displayed public limit orders (i) at their limit prices, or, (ii) in the event the transaction price is more than ⅛ point above the lowest offer for such security made available by any market center trading in such security (in the case of limit orders to sell) or more than ⅛ point below the highest bid for such security made available by any market center trading in such security (in the case of limit orders to buy), at the transaction price.

(c) *Exemptions.* The Commission may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any broker, dealer or reported security if the Commission determines that such exemption is consistent with the public interest, the protection of investors and the removal of impediments to, and perfection of the mechanisms of, a national market system.

(Secs. 2, 3, 6, 11, 15, 17, 23, Pub. L. 78–291, 48 Stat. 881, 882, 885, 891, 895, 897, 901, as amended by Secs. 2, 3, 4, 6, 11, 14, 18, Pub. L. 94–29, 89 Stat. 97, 104, 110, 121, 137, 155 (15 U.S.C. 78b, 78c, 78k, 78*o*, 78q, 78w, as amended by Pub. L. 94–29 (June 4, 1975)); Sec. 10, Pub. L. 78–291, 48 Stat. 89 (15 U.S.C. 78j); Sec. 7, Pub. L. 94–29, 89 Stat. 111 (15 U.S.C. 78k–1))

Interested persons are invited to submit written presentations of views, data and arguments concerning proposed Rule 11Ac1–3 under the Act and the issues discussed above, including any impact on competition which would result from adoption of the proposal. Persons wishing to make such submissions should file ten copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549, not later than July 15, 1979. All submissions should refer to File No. S7–778 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C.

By the Commission.

George A. Fitzsimmons,
Secretary.

April 26, 1979.

[Release No. 34–15770; File No. S7–778]

[FR Doc. 79–13980 Filed 5–3–79; 8:45 am]

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Footnotes continued from last page

13662 (June 23, 1977) at 63–69, 42 FR 33510, 33518–19, January Statement, *supra* note 12, at 13–14, 33–37, 43 FR at 4355–56, 4359, Status Report, *supra* note 25, at 14–30, 44FR at 20363–64.

[61] Generally, market protection against "primary" market executions at the limit price (as opposed to protection against executions at prices inferior to the limit price) is "on volume," *i.e.*, the number of shares executed in the regional exchange will be in a specified ratio to the number of round lots executed in the "primary" market; the ratio is negotiated between the regional specialist and the broker placing an order with him and generally ranges between 1:1 (one share is given protection on the regional exchange for each share executed in the "primary" market), and 1:5 (one share is given protection on the regional exchange for each five shares executed in the "primary" market).

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Friday
May 4, 1979

Part VIII

Securities and Exchange Commission

Statement of Management on Internal Accounting Control; Proposed Rules

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 211, 229, 240, 249]

Statement of Management on Internal Accounting Control

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: Since the enactment of the Foreign Corrupt Practices Act of 1977, interest in the effectiveness of internal accounting controls has been enhanced. To provide information about the effectiveness of systems of internal accounting control, the Commission is proposing for comment rules which would require inclusion of a statement of management on internal accounting control in annual reports on Form 10–K filed with the Commission under the Securities Exchange Act of 1934, and in annual reports to security holders furnished pursuant to the proxy rules. The Commission also is proposing that such statement be examined and reported on by an independent public accountant.

DATES: Comments should be received by the Commission on or before July 31, 1979.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7–779. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: James J. Doyle, (202–472–3782), Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATON: The Securities and Exchange Commission is proposing for public comment amendments to Form 10–K (17 CFR 249.310); Regulation 14A (17 CFR 240.14a–1 et seq.); and Regulation S–K (17 CFR 229.20). The proposed amendments, if adopted, would require inclusion of a statement of management on internal accounting control in Forms 10–K and in annual reports to security holders furnished pursuant to Rule 14a–3 (17 CFR 240.14a–3). To standardize the disclosure requirements, the information to be included in the statement of management on internal accounting control would be specified in proposed new Item 7 of Regulation S–K.

The amendments are proposed to be adopted in two stages. As of dates after December 15, 1979, and prior to December 16, 1980, for which audited balance sheets are required, the statement of management on internal accounting control would be required to include the following:

1. Management's opinion as to whether, as of the date of such audited balance sheet, the systems of internal accounting control of the registrant and its subsidiaries provided reasonable assurances that specified objectives of internal accounting control were achieved; and

2. A description of any material weaknesses in internal accounting control communicated by the independent accountants of the registrant or its subsidiaries which have not been corrected, and a statement of the reasons why they have not been corrected.

For periods ending after December 15, 1980, for which audited statements of income are required, the statement of management on internal accounting control would be required to include management's opinion as to whether, for such periods, the systems of internal accounting control of the registrant and it subsidiaries provided reasonable assurances that the specified objectives of internal accounting control were achieved. In addition, the statement of management on internal accounting control would be required to be examined and reported on by an independent public accountant for such periods.

Thus, initially the management opinion which would be required would extend only to conditions existing as of the balance sheet date, and the statement of management would not be required to be examined and reported on by an independent accountant. There would be a specific disclosure requirement relating to any material weaknesses in internal accounting control communicated by the independent accountants which have not been corrected.

After the initial stage, the management opinion which would be required would extend to conditions which existed during the periods for which audited statements of income are required, and the statement of management would be required to be examined and reported on by an independent public accountant.

I. Background and Basis for Proposed Rules

In December, 1977, Congress enacted the Foreign Corrupt Practices Act of 1977 ("FCPA").[1] Among other things, the FCPA requires that issuers subject to the registration and reporting provisions of the Securities Exchange Act of 1934, as amended, devise and maintain a system of internal accounting control sufficient to provide reasonable assurances that

(i) Transactions are executed in accordance with management's general or specific authorization;

(ii) Transactions are recorded as necessary (a) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (b) to maintain accountability for assets;

(iii) Access to assets is permitted only in accordance with management's general or specific authorization; and

(iv) The recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.[2]

While the FCPA, which was effective upon enactment,[3] contains a specific statutory requirement that certain issuers devise and maintain an effective system of internal accounting control, the establishment and maintenance of such a system have always been important responsibilities of management. An effective system of internal accounting control has always been necessary to produce reliable financial statements and other financial information generated from the accounting system, as well as to assure that assets and transactions of the business are adequately controlled.

The Commission believes that information regarding the effectiveness of an issuer's system of internal accounting control may be necessary to enable investors to better evaluate management's performance of its stewardship responsibilities and the reliability of interim financial statements and other unaudited financial information generated from the accounting system, and that, therefore,

[1] Title I of Pub. L. No. 95–213 (December 19, 1977).

[2] These internal accounting control provisions of the FCPA are codified in Section 13(b)(2)(B) of the Securities Exchange Act of 1934, 15 U.S.C. 78m(b)(2)(B).

[3] The Commission discussed the enactment of the FCPA in Accounting Series Release No. 242 (Securities Exchange Act Release No. 14478, February 15, 1978, 43 FR 7752), in which it stated: "Because the Act became effective upon signing, it is important that issuers subject to the new requirements review their accounting procedures, systems of internal accounting controls and business practices in order that they may take any actions necessary to comply with the requirements contained in the Act." The Commission also discussed the provisions of the FCPA in Securities Exchange Act Release No. 34–15570 (44 FR 10964), February 15, 1979.

the proposed rules may be necessary to the interests of investors and other users of financial information.[4]

In proposing to require a statement of management on internal accounting control, the Commission is not setting forth detailed, prescriptive rules for control procedures and techniques which will ensure compliance with the internal accounting control provisions of the FCPA. The Commission believes that the control procedures and techniques which will provide for compliance with those provisions must be determined in the context of the circumstances of each issuer, and it is the responsibility of management to make those determinations.

As noted above, the Commission is proposing that, for periods ending after December 15, 1980, for which audited statements of income are required, the statement of management on internal accounting control be examined and reported on by an independent public accountant. Because of the independent public accountant's expertise with respect to internal accounting control and the fact that internal accounting control is integral to preparation of financial statements, the Commission believes that an examination by an independent public accountant of a statement of management on internal accounting control would result in increased reliability of such a statement. It should be emphasized, however, that the independent accountant's responsibility will be more limited than that of management. The responsibility for complying with the substantive internal accounting control provisions of the FCPA, as well as with the disclosure requirements of these proposed rules, rests with the issuer and its management.

The Commission notes that increasing attention recently has been focused on the need for a "management report" directed to management responsibilities for financial reporting. The principal initiative in this regard was taken by the Cohen Commission, which recommended, among other things, that companies include with the financial statements a report that acknowledges management's responsibilities with respect to the financial information reported.[5] The Financial Executives Institute ("FEI") responded to the Cohen Commission's recommendation by endorsing the furnishing of a management report and, in June 1978, issued suggested guidelines for preparation of a management report. Those guidelines generally follow the recommendations of the Cohen Commission. In addition, the American Institute of Certified Public Accountants ("AICPA") formed the Reports by Management Special Advisory Committee, consisting of financial executives, attorneys, a financial analyst, and other users of financial information, to consider the Cohen Commission's recommendations pertaining to management reports and to develop guidance on matters that should be included in a management report. In December 1978, the Reports by Management Special Advisory Committee issued, for public comment, a report of its tentative conclusions and recommendations.[6]

The Cohen Commission's report, the FEI guidelines, and the AICPA Special Advisory Committee's tentative report each contain the suggestion that a management report include an assessment of the company's system of internal accounting control.[7] This aspect of a management report has received significantly more attention than any other, in large part as a result of the enactment of the FCPA.

It should be noted that the management statement which the Commission is proposing today does not involve matters other than internal accounting control that might be included in a management report. The Commission intends to follow closely the further initiatives of the private sector and will consider the need to propose additional rules relating to such other matters. In the meantime, the Commission encourages issuers to provide meaningful disclosure regarding management responsibilities. At this time, however, the Commission is proposing to require only the more limited management statement discussed and set forth below.

[4] The Commission on Auditor's Responsibilities ("Cohen Commission") concluded that users of financial information are interested in whether controls are adequate to reduce the risk of loss of assets through unauthorized use or misappropriation and to produce reliable financial information, and that users may need to be informed, as part of adequate disclosure, about the condition of controls. See the Commission on Auditor's Responsibilities: "Report, Conclusions, and Recommendations" (1978) (hereinafter cited as "Cohen Commission Report"), p. 55. See also M. V. Brown, "Auditors and Internal Controls: An Analyst's View," *CPA Journal* 47 (September, 1977), pp. 27–31.

[5] Cohen Commission Report. See generally pp. 78–80.

[6] Tentative Conclusions and Recommendations of the Reports by Management Special Advisory Committee, AICPA, December 8, 1978.

[7] The example of a management representation regarding assessment of the company's system of internal accounting control contained in the tentative report of the Reports by Management Special Advisory Committee is limited to "errors or irregularities that could be material to the financial statements" (*id.* at p. 8.). As discussed herein, neither the internal accounting control provisions of the FCPA nor the representations which would be required in the proposed statement of management on internal accounting control are so limited. *See also* Securities Exchange Act Release No. 15570, *supra.*, n.3.

II. Discussion of Proposed Rules

A. Management Opinion

Proposed Item 7(a) of Regulation S–K would require a statement of management's opinion as to whether, as of any date after December 15, 1979, and prior to December 16, 1980, for which an audited balance sheet is required, and for periods ending after December 15, 1980, for which audited statements of income are required, the systems of internal accounting control of the registrant and its subsidiaries provided reasonable assurances that:

1. Transactions were executed in accordance with management's general or specific authorization;

2. Transactions were recorded as necessary (a) to permit preparation of financial statements in conformity with generally accepted accounting principles (or other applicable criteria), and (b) to maintain accountability for assets;

3. Access to assets was permitted only in accordance with management's general or specific authorization; and

4. The recorded accountability for assets was compared with the existing assets at reasonable intervals and appropriate action was taken with respect to any differences.

1. Objectives of Internal Accounting Control. Proposed Item 7(a) is based upon the broad objectives of internal accounting control stated in the FCPA. In this regard, the Commission recognizes that systems of internal accounting control must be designed to fit individual circumstances. Numerous factors, such as the types of products or services provided, types of customers, degree of centralization, and methods of data processing, will affect the choice of control procedures that may be necessary or appropriate to achieve the broad control objectives. Consequently, it is not practicable to prepare a comprehensive list of internal accounting control procedures, nor is it possible to prepare a list of certain internal accounting control procedures which would be appropriate for all organizations.

2. Internal Accounting Controls. The Commission believes that it is important to emphasize that the scope of internal accounting control cannot be defined in terms of types of control procedures or in terms of organizational or functional departments. Any factors within an organization which affect the achievement of the objectives of internal

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accounting control must be considered in evaluating the effectiveness of a system of internal accounting control, and may often include factors which also are concerned with what the authoritative auditing literature defines as "administrative control."[8]

In this connection, the AICPA's Special Advisory Committee on Internal Accounting Control emphasized the importance to the effectiveness of systems of internal accounting control of factors in addition to specific internal accounting control procedures.

> The internal accounting control environment established by management has a significant impact on the selection and effectiveness of a company's accounting control procedures and techniques.
>
> The control environment is shaped by several factors. Some are clearly visible, like a formal corporate conduct policy statement or an internal audit function. Some are intangible, like the competence and integrity of personnel. Some, like organizational structure and the way in which management communicates, enforces, and reinforces policy, vary so widely among companies that they can be contrasted more easily than they can be compared.
>
> Although it is difficult to measure the significance of each factor, it is generally possible to make an overall evaluation. The committee believes that an overall evaluation of a company's internal accounting control environment is a necessary prelude to the evaluation of control procedures and techniques.
>
> A poor control environment would make some accounting controls inoperative for all intents and purposes because, for example, individuals would hesitate to challenge a management override of a specific control procedure. On the other hand, a strong control environment, for example, one with tight budgetary controls and an effective internal audit function, can have an important bearing on the selection and effectiveness of specific accounting control procedures and techniques.[9]

The Commission concurs with the foregoing statements of the Special Advisory Committee regarding the importance of the control environment to the effectiveness of a system of internal accounting control. The Commission also agrees that, in addition to the overall importance of an environment which provides a high level of control consciousness, individual environmental factors, such as strong budgetary controls and an effective, objective internal audit function, can contribute directly to achievement of internal accounting control objectives and must be considered in evaluating whether reasonable assurance of achievement of such objectives is provided.

3. Reasonable Assurance. Like the specified objectives of internal accounting control, the phrase "reasonable assurance" is contained in the FCPA. The concept of reasonable, as opposed to absolute, assurance is incorporated in the proposed rules in recognition that it is not in the interest of shareholders for the cost of internal accounting control to exceed the benefits thereof. Such benefits, and in many cases such costs, are not likely to be precisely quantifiable. Therefore, many decisions on reasonable assurance will necessarily depend in part on estimates and judgments by management which are reasonable under the circumstances.

Consideration of the benefits of internal accounting controls generally will involve some degree of estimation of the possible effects and the likelihood of occurrence of various future conditions and events. In addition, the benefits to be considered often may include not only quantitative benefits, such as reduction in exposure to theft of assets, but also qualitative benefits, such as the reputation of the company and its management. For example, the benefits to be considered in connection with evaluating controls intended to prevent bribes and other illegal payments cannot be meausured solely by the amounts of such payments which might be prevented. Rather, as the Commission repeatedly has emphasized,[10] the relationship between such illegal payments, and other questionable activities—whether or not the amounts are significant—and the reputation of the company and integrity of its management is a significant benefit to be considered. The Commission recognizes that placing a value on such qualitative factors will almost invariably involve judgments by management.

Many managements may decide that it is desirable to discuss in the statement on internal accounting control the concept of reasonable assurance and the extent to which decisions on reasonable assurance depend on management estimates and judgments. Some may believe that such a discussion is essential for informed use of the statement.[11] Comments are requested on whether such a discussion should be required in all statements of management on internal accounting control.

The Commission recognizes that there are limitations upon the effectiveness of any system of internal accounting control.[12] However, limitations upon the effectiveness of a system of internal accounting control do not limit the responsiblility of registrants to maintain a system of internal accounting control which provides reasonable assurances that the objectives of internal accounting control are achieved. Indeed, the fact that errors may arise as a result of human frailties, that systems of internal accounting control may be circumvented as a result of collusion or overridden by management,[13] and that changes in conditions may require changes in control procedures, mandates ongoing review and monitoring of any internal accounting control system if such reasonable assurance is to be provided.

4. Evaluation of Internal Accounting Controls—a. Conceptual Elements. The Commission believes that specific methods of approaching and implementing evaluations of systems of internal accounting control will vary from company to company. Accordingly, the proposed rules do not specify the method of or procedures to be performed in an evaluation of internal accounting control.

However, the Commission believes that evaluations by managements of systems of internal accounting control should encompass certain conceptual

[8] See Statement on Auditing Standards No. 1, AICPA, Section 320.27, for the definition of administrative control. That statement also recognizes, at Section 320.29, that administrative controls and accounting controls are not mutually exclusive.

[9] Tentative Report of the Special Advisory Committee on Internal Accounting Control, AICPA, September 15, 1978 (hereinafter cited as "Tentative Report"), p. 9. See generally pp. 9–12 for a discussion of the control environment. The Special Advisory Committee was formed to develop criteria for evaluating internal accounting controls. The Tentative Report was issued to solicit comments from interested parties and, thus, is not the final work product of the Special Advisory Committee The Special Advisory Committee plans to issue a final report in the near future.

[10] See generally Report of the Securities and Exchange Commission on Questionable and Illegal Payments and Practices Submitted to the Committee on Banking, Housing and Urban Affairs, United States Senate (May 12, 1976); Also see, e.g., *S.E.C. v. Sharon Steel Corporation*, Civil No. 77–1631 (D.C.D.C., September 20, 1977) and *S.E.C. v. Ormand Industries, Inc.*, Civil No. 77–0790 (D.C.D.C., May 9, 1977).

[11] The Cohen Commission's example of a management report includes such a discussion. See Cohen Commission Report, p. 79.

[12] Limitations of internal accounting control are discussed in Statement on Auditing Standards No. 1, AICPA, Secton 320.4.

[13] In this regard, in February 1979 the Commission adopted Regulation 13B–2, which expressly prohibits the falsifiction of corporate books, records, or accounts and prohibits the officers and directors of an issuer from making false, misleading or incomplete statements to any accountant in connection with any audit or examination of the issuer's financial statements or the preparation of required reports. See Securities Exchange Act Release No. 15570, *supra.*, n.3.

elements.[14] Determination of whether a system of internal accounting control provides reasonable assurances that the broad objectives of internal accounting control are achieved generally will involve the following:

- First, evaluation of the overall control environment;
- Second, translation of the broad objectives of internal accounting control into specific control objectives applicable to the particular business, organizational and other characteristics of the individual company;
- Third, consideration of the specific control procedures and individual environmental factors which should contribute to achievement of the specific control objectives;
- Fourth, monitoring of control procedures and consideration of whether they are functioning as intended; and
- Finally, consideration of the benefits (consisting of reductions in the risk of failing to achieve the objectives) and costs of additional or alternative controls.

The first element of such a determination is evaluation of the overall control environment. The Commission recognizes that such evaluations will require a careful exercise of management's judgment, generally involving consideration of matters such as the organizational structure, including the role of the board of directors; communication of corporate procedures, policies and related codes of conduct; communication of authority and responsibility; competence and integrity of personnel; accountability for performance and for compliance with policies and procedures; and the objectivity and effectiveness of the internal audit function. The role of the board of directors in overseeing the establishment and maintenance of a strong control environment, and in overseeing the procedures for evaluating a system of internal accounting control, is particularly important. The Commission has often stressed the importance of audit committees to enable boards of directors to better fulfill their oversight responsibilties with respect to an issuer's accounting, financial reporting and control obligations.[15]

A strong control environment will not, in itself, provide a basis for reasonable assurance that the broad objectives of internal accounting control are achieved. However, the Commission agrees with the AICPA's Special Advisory Committee on Internal Accounting Control that

> [i]t is unlikely that management can have reasonable assurance that the broad objectives of internal accounting control are being met unless the company has an environment that establishes an appropriate level of control consciousness.[16]

For that reason, an evaluation of the overall control environment is a necessary first step in evaluating a system of internal accounting control.

The second and third conceptual elements of an evaluation of a system of internal accounting control might be characterized as review of the system. The effectiveness of the design of control procedures in place cannot be evaluated without first relating the broad objectives of internal accounting control to the particular circumstances of a company. The AICPA's Special Advisory Committee on Internal Accounting Control found a transaction cycle approach a convenient way to develop illustrative specific control objectives and examples of specific control procedures and techniques.[17] Some companies might use a transaction cycle approach in reviewing the system; others might organize a review of the system by functional area within the organization or use some other approach or combination of approaches. Regardless of the way in which the review of the system is organized, what is important is that the specific control objectives appropriate for the company, and the specific control procedures and individual environmental factors which should contribute to achievement of those specific objectives, are identified and considered.

The fourth conceptual element of an evaluation of a system of internal accounting control might be characterized as monitoring compliance with control procedures. Management must have reasonable assurance not only that the system of internal accounting control is appropriately designed, but also that it is functioning as designed. In addition, knowledge that adherence to company policies and procedures will be monitored is an important element of an overall control environment. Monitoring compliance with control procedures may take place through observation and supervision and through testing of controls in effect. An objective, effective internal audit function can play an important role in monitoring compliance.

The final conceptual element of an evaluation of a system of internal accounting control might be characterized as determination of reasonable assurance. As discussed previously, determining whether reasonable assurance of achievement of control objectives is provided often will depend in part on estimates and judgments by managements.

b. *Documentation.* Appropriate documentation is important to each aspect of an evaluation of internal accounting control. The overall control environment often will be enhanced by written policies and procedures, formalized reporting responsibilities within the organization, and written descriptions of authority and responsibility. Very few, if any, registrants could perform an effective review of their systems of internal accounting control without documenting their specific control objectives and the control procedures in place which should contribute to achieving those objectives. Documentation of tests of controls in effect is necessary to determine that the tests were appropriately planned and performed and that the results of the tests were appropriately considered. Because of the judgmental aspects of cost-benefit analyses, a record of the bases for management's conclusions with respect to reasonable assurance considerations may be particularly important.

c. *Performance of Evaluation Procedures.* Because of the interaction of numerous factors both within and outside the organization which affects the choice of control procedures necessary to obtain reasonable assurances that the broad objectives of internal accounting control have been achieved, control systems are necessarily dynamic. As a result ot this dynamic nature and the possiblitites

[14] The Commission believes that the conceptual elements discussed herein also are reflected in the Tentative Report of the AICPA's Special Advisory Committee on Internal Accounting Control (see Note 11, *supra*). The Commission believes that the work of the Special Advisory Committee should be very useful to managements by providing a framework which will be helpful to all companies in establishing an approach, or appraising the effectiveness of an existing approach, to evaluate whether the broad objectives of internal accounting control are achieved. However, the Special Advisory Committee's Tentative Report does not represent a manual that can be followed by companies in evaluating their accounting control systems. This was recognized by the Special Advisory Committee (at p. 8 of the Tentative Report): "[T]he approach to an evaluation suggested in this report is not the only way an evaluation can be performed, and the criteria included * * * are not and cannot be detailed rules. However, the committee believes that the recommendations in this report should help management in its continuing evaluation and monitoring of internal accounting control."

[15] See Securities Exchange Act Release No. 14970 (43 FR 31045), July 18, 1978, in which the Commission proposed rules requiring issuers to state whether they have an audit committee and whether it performs "customary functions" of such committees, and which includes a discussion of previous Commission actions regarding audit committees. The Commission adopted the proposal in Securities Exchange Act Release No. 15384 (43 FR 58522), December 6, 1978, after amending it to require disclosure of the functions which the audit committee actually performs.

[16] Tentative Report, p. 8.

[17] See Tentative Report, p. 12.

that controls may be circumvented or overridden and that compliance with control procedures may deteriorate, evaluation of any system of internal accounting control requires ongoing review of the system and monitoring compliance with control procedures.

It should be emphasized that the management opinion which would be required by proposed Item 7(a) for periods ending after December 15, 1980 would encompass reasonable assurances of achievement of the broad objectives of internal accounting control during the periods for which audited statements of income are required. The Commission believes that effective, ongoing evaluations of systems of internal accounting control often may result in identification of the need for and implementation of improvements in a system. To the extent that such improvements are necessitated by changing circumstances (including both circumstances which affect the benefits of controls by changing the risks of failing to achieve the broad objectives of internal accounting control and circumstances which change the costs of controls) and are made on a timely basis, the Commission believes that they do not indicate that the system did not provide reasonable assurances of achievement of the objectives of internal accounting control. In this connection, the Commission encourages the process of interaction between registrants and their independent accountants whereby independent accountants suggest ways in which management might improve its internal accounting controls.

On the other hand, weaknesses which have existed but have not been identified on a timely basis as a result of inadequate procedures for review and monitoring of the system of internal accounting control would indicate that the system did not provide reasonable assurances of achievement of the objectives of internal accounting control throughout the period and, therefore, would preclude an unqualified management opinion under proposed Item 7(a) for periods ending after December 15, 1980. Of course, any weaknesses which have been identified but not appropriately corrected also would preclude such an unqualified opinion.

The Commission recognizes that some registrants may conclude that maintenance of review and monitoring procedures which will be sufficient to obtain reasonable assurances that the objectives of internal accounting control are achieved does not require performance of all such procedures at all locations in each reporting period. Because of the dynamic nature of internal accounting control and the resultant continuing nature of the evaluation process, the extent and timing of the review and monitoring of a system of internal accounting control are among the cost-benefit judgemnts involved in the concept of reasonable assurance. In its determinations regarding the need to take enforcement action with respect to the internal accounting control provisions of the FCPA, among other things the Commission will consider the nature of weaknesses in a system of internal accounting control and efforts to identify and correct such weaknesses.

B. "Material Weaknesses" in Internal Accounting Control

Proposed Item 7(b) of Regulation S–K would require that statements of management on internal accounting control as of dates after December 15, 1979 and prior to December 16, 1980 include a description of any "material weaknesses" in internal accounting control which have been communicated by the independent accountants of the registrant or its subsidiaries which have not been corrected and a statement of the reasons why they have not been corrected.

Present auditing standards with respect to internal accounting control are directed to, and were developed in the context of, examinations of financial statements. Under generally accepted auditing standards, the auditor's purpose in reviewing and evaluating internal accounting control is not to determine whether the broad objectives of internal accounting control have been achieved, but rather to form a basis for determining the scope of the examination of the financial statements. Under present auditing standards,[18] the responsibility of an independent public accountant for reporting on the results of the review and evaluation of internal accounting control performed in connection with an examination of financial statements is limited to reporting to management and the board of directors or audit committee "material weaknesses" which came to the accountant's attention.[19]

[18] See Statement on Auditing Standards No. 20, AICPA.

[19] A "material weakness" is defined in Statement on Auditing Standards No. 1, AICPA, Section 320.68, as [a] condition in which the auditor believes the prescribed procedures or the degree of compliance with them does not provide reasonable assurance that errors or irregularities in amounts that would be material in the financial statements being audited would be prevented or detected within a timely period by employees in the normal course of performing their assigned functions.

The examination by an independent public accountant of the statement of management on internal accounting control which would be required by proposed Item 7(c) of Regulation S–K would be required initially for periods ending after December 15, 1980. The Commission believes it is appropriate in the first, more limited, stage of the proposed rules, wherein an examination by an independent public accountant would not be required by the proposed rules, to require disclosure by management relating to any uncorrected "material weaknesses" communicated by independent accountants as a result of their present responsibilities with respect to examinations of financial statements, including disclosure of the reasons why such "material weaknesses" were not corrected.

It should be noted that the independent accountant will have certain responsibilities, including revision of his report on the financial statements to include an explanatory paragraph, in the event management does not appropriately disclose uncorrected "material weaknesses" under proposed Item 7(b).[20]

C. Examination by Independent Public Accountant

Proposed Item 7(c) of Regulation S–K would require that, for periods ending after December 15, 1980, the statement of management on internal accounting control be examined and reported on by an independent public accountant.

Independent public accountants have long been involved with internal accounting control. The auditing profession's second standard of field work states:

> There is to be a proper study and evaluation of the existing internal control as a basis for reliance thereon and for the determination of the resultant extent of the tests to which auditing procedures are to be restricted.[21]

In addition, the objectives of internal accounting control set forth in the FCPA, which are the same as those in proposed Item 7(a) of Regulation S–K, were taken directly from Section 320.28 of Statement on Auditing Standards No. 1. Because of the independent public accountant's expertise with respect to internal accounting control and the fact that internal accounting control is integral to preparation of financial statements, the Commission believes

[20] Statement on Auditing Standards No. 8, AICPA, sets forth the independent accountant's responsibilities when the accountant is aware of any material inconsistencies or material misstatements of fact in documents containing audited financial statements.

[21] Statement on Auditing Standards No. 1, AICPA, Section 150.02.

that an examination by an independent public accountant of a statement of management on internal accounting control would result in increased reliability of such a management statement.

1. *Objectives of Examination.* Proposed Item 7(c) specifies that the examination be sufficient to enable the independent public accountant to express an opinion as to (1) whether the representations of management in response to proposed Item 7(a) are consistent with the results of management's evaluation of the systems of internal accounting control, and (2) whether such management representations are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the registrant's financial statements. The proposed examination by an independent public accountant of the statement of management on internal accounting control would, therefore, require expansion of the independent public accountant's present responsibilities with respect to internal accounting control.

To reach an opinion, as would be required by proposed Item 7(c)(1), as to whether the management representations were consistent with the results of management's evaluation of the systems of internal accounting control, the independent public accountant would have to review management's procedures for reviewing, monitoring and evaluating the systems of internal accounting control and the results thereof. The purposes of this review would be to determine whether the management representations recognized any conditions which indicated that reasonable assurances of achievement of the objectives of internal accounting control were not provided, and to determine that management's procedures for reviewing, monitoring and evaluating the systems of internal accounting control were not insufficient as a basis for its representations. Although the independent accountant would not necessarily be required to perform independent tests to reach the opinion which would be required under proposed Item 7(c)(1), that opinion would, of course, also have to reflect any other knowledge which the accountant may have as a result of an examination of the financial statements, as a result of the more extensive examination procedures which would be required under proposed Item 7(c)(2), or through other means.

The independent public accountant's responsibilities under proposed Item 7(c)(2) would be more extensive. To reach the reasonableness opinion which would be required under proposed Item 7(c)(2) the independent accountant would, in effect, have to reach independent conclusions as to whether the systems of internal accounting control provided reasonable assurances that transactions were recorded as necessary to permit preparation of annual and interim financial statements in conformity with generally accepted accounting principles; that transactions in amounts which would be material when measured in relation to the registrant's financial statements were appropriately authorized; and that assets in amounts which would be material when measured in relation to the registrant's financial statements were appropriately safeguarded, and there was appropriate accountability for such assets.

The independent public accountant would, therefore, have to independently evaluate and test the underlying bases for management's conclusions as to the effectiveness of the design and functioning of the systems of internal accounting control and as to cost-benefit considerations, to the extent that those conclusions relate to reasonable assurances of achievement of the objectives of internal accounting control with respect to transactions and assets in amounts which would be material when measured in relation to the registrant's financial statements.

It should be emphasized that the materiality limitation contained in proposed Item 7(c)(2) would apply only to the objectives and scope of the independent public accountant's examination. The proposed materiality limitation reflects a cost-benefit judgment by the Commission with respect to the appropriate extent of the independent accountant's examination for purposes of the proposed rule. In contrast, the management representations which would be required by proposed Item 7(a) would not be, and the internal accounting control provisions of the FCPA are not, so limited. Rather each extends to reasonable assurances that the broad objectives of internal accounting control were achieved, without regard to materiality of amounts.

2. *Examination and Reporting Standards.* The Commission recognizes that examinations by independent public accountants of statements of management on internal accounting control will require development of appropriate professional standards with respect to such matters as examination procedures; procedures for consideration of other knowledge, gained from the accountant's examination of the financial statements or other means, which may be inconsistent with management's representations; and procedures when the accountant believes that management does not have a sufficient basis for its representations. The Commission notes that a task force of the AICPA's Auditing Standards Board is currently considering the general issue of reporting to the public on internal accounting control. The Commission believes that it is appropriate to continue its past policy of permitting the accounting profession to determine the standards and procedures underlying accountants' reports as long as this policy is consistent with the interests of investors, the federal securities laws, and the Commission's rules and regulations thereunder.

Since the standards applicable to reporting should be integrated with those applicable to the conduct of the examination, the Commission also believes that it is appropriate to allow the accounting profession to take the lead in determining the standards applicable to the specific form and content of an accountant's report on an examination of a statement of management on internal accounting control.

Accordingly, the Commission urges the AICPA's Auditing Standards Board to continue its study of reporting on internal accounting control in the light of the Commission's proposed requirement for an examination by an independent public accountant of a statement of management on internal accounting control, and to be prepared to adopt, on a timely basis, an authoritative pronouncement which sets forth the standards and procedures to be followed in connection with such an examination, and the form and content of a report thereon. The Commission intends to follow this work closely. If it appears that sufficient progress is not being made toward development of appropriate standards and procedures, the Commission will undertake to develop such standards and procedures.

III. Other Issues

A. Costs of Proposed Rules

The Commission is aware that in most cases an expansion of the independent accountant's work with respect to internal accounting control would be necessitated by this proposal. While such an expansion of work would probably result in additional costs to

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registrants,[22] the Commission believes that such costs likely would be in large part of an initial rather than a continuing nature. In addition, the Commission believes that in many instances the additional work of the independent accountant with respect to internal accounting control would result in reductions in costs of the examination of the financial statements, as independent accountants would be able to place more reliance on internal accounting control.[23] The Commission believes that the additional costs of the proposed requirement that the statement of management on internal accounting control be examined by an independent public accountant would be outweighed by the increased reliability of the statement of management which would result from such examination.

The Commission believes that the benefits of new requirements to present and prospective investors should outweigh any additional costs involved. Since the benefits of the proposed examination by an independent public accountant of the statement of management oninternal accounting control are not subject to quantification, and the measurement of costs includes many variables which are highly uncertain, the weighing of costs and benefits of such an examination will inevitably require the Commission's judgment. The Commission specifically requests comments on the costs and benefits of the proposed requirement for examination by an independent public accountant, including possible alternatives to the proposed scope of such examination.

In particular, comments are requested on the costs and benefits of the following alternatives to the proposed examination by an independent public accountant:

1. A requirement for an examination which would be sufficient to enable the independent public accountant to express an opinion as to whether the representations of management in response to proposed Item 7(a) are reasonable. In effect, this would require the independent public accountant to reach independent conclusions as to whether the systems of internal accounting control provided reasonable assurances (cost-benefit judgments not limited to material amounts) of achievement of the broad objectives of internal accounting control.

2. No requirement for an examination by an independent public accountant. Rather, require registrants to state whether or not the statement of management on internal accounting control had been examined by an independent public accountant, and require the filing of the relate accountant's report if an affirmative statement is made. This would, of course, also require development of professional standards for examinations of statements of management on internal accounting control. It might also necessitate specific professional standards for responsibilities of an independent accountant as a result of association with such a statement of management which accompanies audited financial statements.

To the extent possible, commentators are requested to supply empirical data in support of their comments.

In addressing this issue, commentators also are requested to consider whether certain registrants should be exempted from the requirement that the proposed statement of management be examined and reported on by an independent public accountant. The costs of such an examination may fall with the greatest severity on smaller registrants; however, systems of internal accounting control of smaller registrants may be generally less sophisticated and less well documented so that examination by an independent public accountant may be particularly needed.

As part of its response to issues relating to the impact on small businesses of the disclosure requirements of the federal securities laws, the Commission recently announced the adoption of a simplified form, Form S–18, under the Securities Act.[24] Form S–18 is available to issuers not subject to the Commission's continuing reporting requirements when they register securities to be sold for cash not exceeding an aggregate offering amount of $5 million. Comments are also specifically requested on whether a registrant filing on Form S–18, and thereby becoming subject to the reporting provisions of section 15(d) of the Securities Exchange Act, should be exempt from the requirement for an examination by an independent public accountant with respect to the statement of management on internal accounting control contained in its initial annual report on Form 10–K.[25]

B. Disclosure of Basis for Management Opinion

In addition to the opinion which would be required by proposed Item 7(a) of Regulation S–K (and, in the initial stage, the disclosures relating to uncorrected "material weakness" which would be required by proposed Item 7(b)), registrants are encouraged to include in the statement of management on internal control whatever information they believe would make the statement most useful. Some may believe that disclosure of the basis for the management opinion, including a description of the general approach applied in evaluating internal accounting controls and the extent to which the procedures comprised by such approach were performed in the periods encompassed by such opinion, should be required. Comments on this issue are specifically requested.

C. Signing of Management Statement

Some may believe that the statement of management should be required to be signed by a certain representative or representatives of management, such as the chief executive officer or the chief financial officer. Comments of this issue are specifically requested.

IV. Proposed Effective Dates

The Commission recognized that the enactment of the FCPA has prompted many registrants to reevaluate their procedures for reviewing, monitoring and evaluating their systems of internal accounting control and that issuance of these rule proposals may provide additional focus for such reevaluation. The Commission also recognizes that, as a result of recently establishing sound procedures for reviewing, monitoring and evaluating their systems for internal accounting control, some registrants may have identified and corrected conditions which had not provided reasonable assurance conditions of achievement of the objectives of internal accounting control.

Accordingly, these amendments are proposed to be effective with respect to reports for fiscal periods ending after December 15, 1979. Statements of management on internal accounting control would not be required for reports for periods ending prior to December 15, 1979. In addition, by proposing to adopt these amendments in two stages as discussed herein, representations regarding the effectiveness of systems of internal accounting control would be required to encompass only conditions existing as of and after the end of the first fiscal period for which amendments would be effective.

Nevertheless, it again should be emphasized that the FCPA was effective upon enactment in December 1977. Registrants would be well advised to ensure that any weakness in internal accounting control are identified and corrected on the most timely basis.

V. Authority for and Request for Comment on Scope of Proposed Amendments

The Commission is not at this time proposing to require the disclosures outlined in this release in registration statements filed pursuant to the Securities Act on 1933. The Commission recognizes, however, that much of the rationale which supports the furnishing of this information to investors in Securities Exchange Act filings may apply with equal force to Securities Act registration statements. The Commission therefore should be extended to filings under that Act. In that connection, the Commission invites commentators to consider whether the applicability of these proposals to Securities Act registration statements would have any impact—whether favorable or unfavorable—on the capital formation process and whether the Commission should consider exempting any category of issuers from those requirements, should it determine to extend them to Securities Act registration statements.

The Commission also invites comment concerning whether it would be appropriate to extend these requirements to Forms N–1 and N–2 for use by open-end and closed-end management investment companies; Form N–1R for annual reports of registered management investment companies; Form N–6R for annual reports of small business investment companies; and to Forms U5A, U5B, U5S, and U–6B–Z promulgated under the Public Utility Holding Company Act of 1935. Similarly, commentators are requested to consider whether these disclosure items should be incorporated in Forms 20 and 20–K for use by certain foreign private issuers.

The Commission is proposing these amendments pursuant to its general rulemaking authority contained in Section 23(a) of the Securities Exchange Act of 1934, 15 U.S.C. 78w(a). That provision empowers the Commission to promulgate "such rules and regulations as may be necessary or appropriate to implement the provisions" of the Act.

The internal accounting control requirements of the Foreign Corrupt Practices Act—which these amendments would, in part, implement—appear in Section 13(b)(2)(B) of the Securities Exchange Act, 15 U.S.C. 78m(b)(2). The various disclosure forms and schedules which these proposals would amend have been promulgated pursuant to Sections 12, 13, 14 and 15(d) of the 1934 Act, 15 U.S.C. 78*l*, 78m, 78n, 78*o*.

Section 23(a) of the Securities Exchange Act requires the Commission to consider the impact which any proposed rule would have on competition. While the Commission is not aware of any competitive impact likely to result from the proposals described in this release, commentators are invited to address that issue.

VI. Request for Comments

All interested persons are invited to submit their views and comments on the foregoing in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before July 31, 1979. Such communications should refer to File S7–779 and will be available for public inspection.

VII. Text of Proposed Rules

In consideration of the foregoing, it is proposed to amend 17 CFR Chapter II as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S–K.

1. By amending § 229.20 by adding Item 7 to read as follows:

§ 229.20 Information required in document.

* * * * *

Item 7. Statement of management on internal accounting control. (a) State management's opinion as to whether, as of any date after December 15, 1979 and prior to December 16, 1980 for which an audited balance sheet is required, and for periods ending after December 15, 1980 for which audited statements of income are required, the systems of internal accounting control of the registrant and its subsidiaries provided reasonable assurances that:

(1) Transactions were executed in accordance with management's general or specific authorization;

(2) Transactions were recorded as necessary (i) to permit preparation of financial statements in conformity with generally accepted accounting principles (or other applicable criteria), and (ii) to maintain accountability for assets;

(3) Access to assets was permitted only in accordance with management's general or specific authorization; and

(4) The recorded accountability for assets was compared with the existing assets at reasonable intervals and appropriate action was taken with respect to any differences.

(b) For statements of management on internal accounting control as of dates after December 15, 1979 and prior to December 16, 1980, describe any material weaknesses in internal accounting control which have been communicated by the independent accountants of the registrant or its subsidiaries which have not been corrected, and state the reasons why they have not been corrected.

(c) For periods ending after December 15, 1980, the statement of management on internal accounting control shall be examined and reported on by an independent public accountant. The examination shall be sufficient to enable the independent public accountant to express an opinion as to (1) whether the representations of management in response to paragraph (a) are consistent with the results of management's evaluation of the systems of internal accounting control; and (2) whether such representations of management are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the registrant's financial statements.

Instructions. 1. The statement of management on internal accounting control should accompany the financial statements.

2. The independent public accountant's report of examination shall accompany or be included within the accountant's report on the financial statements.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

2. By amending § 240.14a–3 by adding a new paragraph (b)(4), renumbering present paragraphs (b)(4) to (12) as (b)(5) to (13), and amending the references to the renumbered paragraphs as follows (changes italicized):

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b) * * *

(4) The report shall contain a statement of management on internal accounting control prepared in accordance with the provisions of Item 7 of Regualtion S–K.

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[22] As to the basic proposal for a statement of management on internal accounting control, the Commission believes that this proposal will not establish requirements for maintenance of systems of internal accounting control which exceed those already required by the FCPA. Consequently, the costs of providing the proposed statement of management on internal accounting control should not be substantial.

[23] However, registrants' selections of independent accountants for examinations of statements of management on internal accounting control would not be restricted to the same independent accountants who are engaged to examine the financial statements.

[24] *See* Securities Act Release No. 6049, April 3, 1979 (44 FR 21502).

[25] Similarly, the Commission has amended its requirements to permit Form S–18 registrants to include in their initial filing on Form 10–K, in lieu of similar information called for by Form 10–K, information concerning the registrant's business, the remuneration of its officers and directors, and the interest of management and others in certain transactions which had been provided in the registration statement on Form S–18.

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(5) **Note 1:** Subparagraph (b) (*11*) permits * * *.

(6) [No change.]

(7) **Note:** subparagraph (b) (*11*) permits * * *.

(8) [No change.]

(9) [No change.]

(10) **Note:** Pursuant to the undertaking required by the above paragraph, (b) (*10*) * * *.

(11) Subject to the foregoing requirements, the report may be in any form deemed suitable by management and the information required by subparagraphs (b)(*5*) to (b)(*10*) * * *.

(12) Subparagraphs (b)(*5*) through (b)(*11*) shall not apply * * *.

(13) [No change.]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

3. By amending § 249.310 by renumbering Items 13–15 of Part II as Items 14–16 and by adding a new Item 13 to Part I to read as follows:

§ 249.310 Form 10–K, annual report pursuant to section 13 or 15d of the Securities Exchange Act of 1934.

* * * * *

Item 13. Statement of Management on Internal Accounting Control. A statement of management on internal accounting control shall be furnished in accordance with the provisions of item 7 of Regulation S–K.

* * * * *

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

April 30, 1979.

[Release No. 34–15772, File No. S7–779]

[FR Doc. 79–14013 Filed 5–3–79; 8:45 am]

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federal register

Friday
May 4, 1979

Part IX

Department of Energy

Economic Regulatory Administration

Mandatory Petroleum Allocation Regulations; Motor Gasoline Allocation Base Period and Adjustments

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DEPARTMENT OF ENERGY

10 CFR Part 211

Mandatory Petroleum Allocation Regulations; Motor Gasoline Allocation Base Period and Adjustments

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Interim Final Rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing an interim final rule on an emergency basis that will be effective through September 30, 1979 and provides as follows:

1. The rule continues use of an updated base period beyond May 31, 1979, when Activation Order No. 1 is due to expire.

2. The rule designates the November 1977 through October 1978 period as the base period year. [This is a change from Activation Order No. 1, which proposed using the corresponding months in *1977* during the base period July through October.]

3. This rule provides for an unusual growth adjustment. Beginning in May 1979, retail sales outlets, wholesale purchaser-consumers and bulk purchasers may substitute their average monthly purchases in the period October 1978 through February 1979 as their base period volume if that average was at least ten percent greater than their total purchases in the applicable base period month. Base period suppliers will be required to make these adjustments for qualified purchasers, without any need for DOE approval.

If a purchaser had multiple suppliers in the base period month, each base month supplier will be required to supply the portion of the adjustment attributable to it during the October through February period. Base period suppliers will also be required to supply, on a pro rata basis, volumes not attributable to any base month supplier (such as surplus gasoline purchased from a non-base month supplier during the October through February period). Suppliers responsible for supplying the adjusted volumes will be able to certify the increases upward to their suppliers on a proportional basis.

4. The rule allows substitution of the October 1978 through February 1979 monthly average as the April 1979 base period volume if that average was at least 35 percent greater than purchases in April 1978.

5. The rule codifies the provisions of both the Activation Order and Guidelines (with appropriate modifications to reflect the adoption of the growth adjustment provision and other changes suggested by the comments). As a result, reference need be made to only one document. Because the Activation Order, which was scheduled to run through May 1979, overlaps today's rule, the Activation Order is revoked for May 1979.

For periods after September 30, 1979, we are proposing to adopt on a permanent basis the rule adopted today on an interim basis. Comments are requested on this rule either in writing or at the hearings scheduled as noted below. DOE will review these comments and, if appropriate, modify the rule accordingly.

DATES: Effective date: May 1, 1979; adjustment provision effective for April 1979. Ceases to be effective: September 30, 1979. Requests to speak for Washington hearing by May 25, 1979. Requests to speak for San Francisco hearing by June 8, 1979. Written comments by July 10, 1979. Washington, D.C. hearing date: June 7, 1979; San Francisco, California hearing date: June 19, 1979.

ADDRESSES: Written comments and requests to speak for Washington, D.C. hearing to: Office of Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA–R–79–23, Washington, D.C. 20461. Requests to speak for San Francisco hearing to: Department of Energy, 111 Pine Street, 3rd floor, Attention: Mr. Robert Laffel, San Francisco, California, 94111. Washington, D.C. hearing location: Room 3000A, 12th Street and Pennsylvania Avenue, Washington, D.C.; San Francisco hearing location: Holiday-Golden Gateway Inn, 1500 Van Ness Avenue, San Francisco, California 94109.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, 2000 M Street NW., Room 2214B, Washington, D.C. 20461. (202) 254–3345.

William Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B–110, Washington, D.C. 20461. (202) 634–2170.

William Caldwell (Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 2304, Washington, D.C. 20461. (202) 254–8034.

Alan Lockard (Office of Fuels Regulation), Economic Regulatory Administration, 2000 M Street NW., Room 6222, Washington, D.C. 20461. (202) 254–7422.

Joel M. Yudson (Office of General Counsel), Department of Energy, 1000 Independence Avenue SW., Room 6A–127, Washington, D.C. 20585. (202) 252–6744.

SUPPLEMENTAL INFORMATION:

I. Background
II. Procedural Requirements
A. Section 553(b) of the Administrative Procedure Act and Section 501 of the DOE Act
B. Section 404 of the DOE Act
C. Section 7 of the FEA Act
D. Section 553(d) of the Administrative Procedure Act
E. Executive Order 12044
III. Comments Received
IV. Amendments Adopted
A. Base period update and relation to Subpart A
B. Unusual growth adjustment
C. Notice
D. Resolution of disputes
E. New wholesale purchasers
F. Supplier responsibility for assignments made after November 1, 1977
G. Reassignments, including three-party agreements
H. Branded resellers
I. Temporary exigent circumstances adjustment
J. Redirection of product
K. Inter-Refiner Sales
L. Other matters
M. Specific comments requested
N. Revocation of Activation Order
V. Written Comments and Public Hearing Procedures

I. Background

Based on our determination that there was a significant possibility of gasoline shortages and resulting dislocations in the industry for the period of March through May 1979, we issued an order (Activation Order No. 1, 44 FR 11202, February 28, 1978) ("Activation Order") activating for that period the portion of the Standby Petroleum Product Allocation Regulations (44 FR 3928, January 18, 1979) with regard to updating the gasoline base period. The Activation Order provides that the motor gasoline allocation base period for each month will be the corresponding month during the period July 1977 through June 1978 rather than the corresponding month in 1972 as previously provided under the regulations. The updated base period was considered necessary to prevent the significant disruptions in the gasoline distribution system which would occur during a shortage situation if an allocation system based on distribution patterns in effect seven years ago were used.

On March 14, 1979 we issued Guidelines to the Activation Order (44 FR 16480, March 19, 1979) by which we intended to clarify the application of the standby regulations and Activation Order in circumstances not explicitly addressed in those documents. For example, the Guidelines clarified the manner in which base period volumes would be determined for current months corresponding to base period months in which a firm made no purchases. In the preamble to the Guidelines, we solicited comments as to a mechanism to enable a purchaser with unusually low purchases in one or more months of the base period to receive an upward adjustment to its base period volume to reflect its actual average monthly purchases.

Since the issuance of both the Activation Order and the Guidelines, many gasoline retailers have requested from the ERA Regional Offices adjustments to their base period volumes as established by the Activation Order. DOE's Office of Hearings and Appeals (OHA) has also received a large number of requests for relief from firms experiencing difficulties in obtaining adequate supplies of gasoline. Over 7,000 requests for relief have been submitted to the OHA and the Regional Offices. Although the OHA has granted many requests both individually and by class exception for the three months of the Activation Order, we believe a regulatory change codifying the updated base period and adopting an automatic adjustment provision is necessary to provide relief for May 1979 and for subsequent months. If such a provision is not adopted immediately DOE will not be able to grant relief as quickly as it is needed and many marketers will be unable to obtain adequate supplies of gasoline and will experience financial hardship.

On April 17, 1979, we issued a Notice of Intent to Issue a Final Rule (44 FR 23537, April 20, 1979) which announced our tentative determination, based on the comments received until that date, to issue a new rule on the subject. In the Notice of Intent we stated, among other things, our intent to adopt an unusual growth provision with a ten percent growth threshold beginning for the month of May 1979 and a 35 percent threshold for April 1978.

Following the issuance of the Notice of Intent, and partly in response thereto, on April 19, 1979, the OHA issued a Proposed Decision and Order (DEE 3728) and an Interim Decision and Order (DEN 3726, 44 FR 24025, April 23, 1979) implementing by class exception a growth adjustment for April 1979 for firms whose gasoline purchases grew by 35 percent between April 1978 and the October 1978 through February 1979 period. The OHA action was taken because OHA recognized that the issuance of today's rule would probably be too late to afford actual relief to firms seeking gasoline in the month of April 1979.

Today's amendments are being adopted on an emergency basis effective May 1, 1979 for four months. The public has had notice and an opportunity to comment on the substance of the provisions we are adopting through its comments solicited by DOE on the Activation Order and the Guidelines. In addition, we are soliciting comments and will hold hearings on whether this interim rule should be made permanent. DOE will review the comments and other relevant parts of the record and issue a final rule with whatever modifications are appropriate. The specific statutory requirements applicable to emergency rulemakings have been satisfied as follows:

A. Section 553(b) of the Administrative Procedure Act and Section 501 of the DOE Act

Section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) requires that general notice of proposed rulemaking shall be published in the Federal Register unless persons subject to it are named and have actual notice of the proposal. Except when notice or hearing is required by statute, the requirement for a notice of proposed rulemaking does not apply when the agency finds (and incorporates the findings and a brief statement of its reasons) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest.

Under section 501(e) of the Department of Energy Organization Act (Pub. L. 95–91, DOE Act), we may waive the prior notice and hearing requirements of subsections (b), (c) and (d) of section 501 upon our finding that strict compliance with these requirements is likely to cause serious harm or injury to the public health, safety or welfare.

We believe findings waiving the section 553(b) and section 501 requirements can be made. The possibility of our extending the updated base period and other features of the Activation Order and Guidelines and adopting an adjustment mechanism for recent growth has been publicly known for more than thirty days. We have already received substantial public comment on the substance of today's rule. As was stated in the notices announcing the Activation Order and the Guidelines, an updated base period is necessary immediately to reduce the dislocations and competitive imbalances which would likely have been caused by continued use of the 1972 base period. Similarly, the addition of an adjustment mechanism is a necessary component to provide relief in the substantial number of instances where growth has occurred during or after the updated base period and the base period volumes provided by the base period change will be inadequate to prevent the harm which will befall many gasoline marketers and their customers unless gasoline is made quickly available to them.

Finally, to the extent that we are extending the use of an updated base period beyond May 31, 1979 and will use the corresponding months of 1978 as base period months for June through at least September of 1979 rather than the corresponding months of 1977, our action today will enable the petroleum industry to plan gasoline distribution for the summer months. In accordance with section 501, we will receive both oral and written comments on this action within a reasonable period after issuance of this rule.

B. Section 404 of the DOE Act

Section 404(a) of the DOE Act requires that the Federal Energy Regulatory Commission (FERC) be notified whenever the Secretary of Energy proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of functions transferred to him under section 301 or section 306 of the DOE Act. If the FERC determines, within such period as the Secretary may prescribe, that the proposed action may significantly affect any of its functions under sections 402(a)(1), (b) and (c)(1) of the DOE Act, the Secretary shall immediately refer the matter to the FERC.

The FERC has been notified of this rule and has notified the ERA that it has declined to determine that these guidelines may significantly affect one of its functions under the sections noted above.

C. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (Pub. L. 93–275, "FEA Act"), the ERA Administrator shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

However, the prior review required may be waived for a period of fourteen days if there is an emergency situation which requires making effective the action proposed to be taken at a date earlier than would permit the EPA Administrator the five working days opportunity for prior comment. Notice of any such waiver shall be given to the EPA Administrator and filed with the **Federal Register** with the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the factual situation in such detail as is determined will apprise the EPA and the public of the reasons for such waiver.

We have determined that the five working days opportunity for prior comment by the EPA Administrator should be waived. The reasons for the waiver are the same ones which support making this rule immediately effective and are set forth in the preceding sections of this preamble. Furthermore, at the time of their issuance, a copy of the Guidelines, which referenced the Activation Order and requested comments on the adoption of an adjustment mechanism, was sent to the EPA Administrator. The Administrator had no comments on that document.

A copy of this rule has been provided to the EPA and the EPA Administrator's comments, if any, will be considered in the promulgation of the final rule.

D. Section 553(d) of the Administrative Procedure Act

Section 553(d) of the Administrative Procedure Act requires that a substantive rule will not become effective less than thirty days after its publication. This requirement will not be applicable if an agency finds good cause to waive this requirement and publishes this finding together with the rule.

The need for immediate adoption of this rule provides good cause to waive the section 553(d) requirement.

E. Executive Order 12044

The sixty-day advance public comment period required for proposed rulemakings pursuant to Executive Order 12044, entitled "Improving Government Regulations" (43 FR 12661, March 23, 1978) and DOE's implementing procedures, DOE Order 2030.1 (44 FR 1032, January 3, 1979), have been waived by the Deputy Secretary of Energy as they relate to the interim final rule. Prior to the issuance of a final rule, the rulemaking procedures, including the preparation of a regulatory analysis if one is required, will be satisfied.

III. Comments Received

A. Introduction

Hearings were held on the Activation Order and the Guidelines on March 21, 22 and 23, 1979. A total of 422 written and oral comments on the Activation Order and the Guidelines were received representing the following groups: major refiners (14); large independent refiners (2); small refiners (18); branded marketers (181); non-branded marketers (149); trade associations (31); industrial users (6); utilities (1); governmental representatives (13) and miscellaneous commenters (7). In addition, a number of recent comments addressed the April 17 Notice of Intent. The issues discussed in the comments are analyzed here. Although a number of the major issues overlap, such as the selection of a base period year and the adoption of a growth provision, we have presented them separately. All comments received up to the preparation of this notice, including those that were late filed, were considered.

B. Selection of a base period year

In the preamble to the Activation Order, we asked whether the use of an updated base period should be extended, what the most appropriate base period is, and whether there would be any merit in preserving firms' actual unadjusted base period uses as a minimum allocation entitlement. Almost all of the commenters addressed these questions.

The specific base period year selected in the Activation Order, July 1, 1977 through June 30, 1978, drew the most attention. Those for and against were almost evenly divided. Those in favor (137) felt that it was the fairest period available in recent market history; those opposed (125) indicated a variety of reasons which ranged from underlifting of allocation entitlements during the period selected (primarily for price consideration) which caused them to favor earlier periods of high purchases, to new businesses with low starting volumes in the base period and growth afterward which caused them to favor more recent periods. Branded (96) and non-branded (104) marketers commenting divided almost evenly on this subject while refiners were almost unanimous in their support for some updated base period.

The second major alternative suggested as a base period year was the calendar year 1978. A 1978 calendar year base period received 82 comments in favor. Those in favor were predominantly marketers (63), both branded and non-branded, who felt that the corresponding months in 1978 more accurately reflected the marketplace than did the base period selected in the Activation Order.

Seventy-eight marketers and trade associations (representing both branded and non-branded firms) were in favor of a choice of volumes from either 1972 or an updated base period, whichever were higher; they alleged that a choice would be the fairest mechanism which would protect their business interests.

The last major alternative suggested was the "rolling" base period, in which a firm's allocation entitlement for a month would be based on its purchases in the corresponding month of the previous year. Refiners (16) and some marketers (17—a few of which included trade associations) were predominantly in favor of a rolling base period.

While many firms favored complete deregulation, others recognized that in a time of shortage, effective allocation regulations are needed. Commenters stated that using 1972 as a base period year worked only when significant volumes of surplus product existed to accommodate shifting demand patterns. Continuing the use of 1972 as the base period year in a time of shortage would cause distortions between regions which grew at different rates since 1972 and would disadvantage those firms which also grew significantly since 1972 but did not receive adjustments to their base period use. Furthermore, they stated, placing 1972-based allocations in the hands of those firms whose needs have declined leads to unwarranted brokering of product.

On the other hand, other commenters pointed out that the complete abandonment of 1972 as the base period year would legitimize the practices of suppliers that sold at uncompetitive prices or used other unfair practices to discriminate against particular classes of purchasers. Firms whose purchases declined generally favored retaining 1972 allocation entitlements as a floor for current entitlements. The independent wholesale marketers and jobbers of Texaco, Inc. pointed out the following specific unfair practices in the 1977–78 base period that reduced their purchases: (a) the reduction of jobber margins, (b) the reduction of commissions to commission agents, (c) directly reduced allocations and limitations on growth for certain classes only, and (d) rebates for direct refiner-supplied retailers but not jobber-supplied retailers.

Commenters opposed to using the choice of either the higher of 1972 or 1978 volumes as base period volumes pointed out that under such a scheme

firms whose needs have grown since 1972 would receive less than if a single current twelve-month period were selected. Some refiners stated that if purchasers were given the choice between the higher of 1972 or 1978 purchases, their supply obligations would be greatly inflated and their allocation fractions would decline significantly.

Those persons commenting in favor of the July 1977 through June 1978 base period stated that the period chosen in the Activation Order was the most recent twelve-month period of "normal" gasoline distribution. They contended that the last half of 1978, and particularly the last two months of 1978, was marked by gasoline shortages, unusually high demand and increasing prices.

On the other hand, marketers from one state indicated that the second half of *1977* was distorted and should not be used as a base period year. Furthermore, the point was made that the transition between June and July of 1979 from June 1978 to July 1977 volumes would cause unnecessarily abrupt dislocations during peak driving months because demand levels were different in the two years and many firms had different suppliers. Persons commenting in favor of calendar year 1978 as the base period year asserted that the aberrations during the second half of 1978 were not as severe as some commenters pictured them and that it is essential that the base year reflect, as closely as possible, the most recent historical period.

Those commenters in favor of a rolling base period pointed out that such a concept will always reflect the most recent pattern of purchases, that it would provide certainty to all firms in that their present actions will determine their future rights and obligations, and that it would be simple to administer. Those opposed to a rolling base period stated that such a scheme would discourage conservation, since no firm would wish to reduce its purchases. Commenters representing independent marketers stated that under such a mechanism, they could be faced with the choice of purchasing product at high prices, which would squeeze their profit margin, or of reducing their purchases, which would cause them to have a lower entitlement the following year. Adoption of a rolling base period would tend to favor refiner and jobber-operated retail sales outlets. As one independent marketer stated, under a rolling base period, he would "roll right out of business."

C. Growth Adjustment

There was widespread agreement that some provision was needed to account for significant changes in volumes of gasoline purchased by firms during or after the base period. It was stated that the updated base period did not reflect recent changed circumstances, such as where large capital investments were made, where there was a change in ownership of a firm, where a method of marketing changed or where new businesses or residential areas or a new highway opened in the vicinity of a retail station.

Firms commenting on the large number of applications filed with the OHA stated that the exceptions process is inadequate and relief cannot be obtained as quickly as necessary. Furthermore, requiring individual firms to file for exception relief has placed a large burden on small businesses that, typically, do not have the necessary expertise or resources.

Commenters differed as to the necessary scope of the adjustment procedure. Marketers took the position that to assure compliance by prime suppliers who, it was alleged, were not all acting in accordance with the Guidelines, the adjustment provision should be automatic and mandatory. Certain refiners stated that prime suppliers should not be forced to accept adjustments because that will lead to the inflation of supply obligations without adequate consideration being given to their ability to supply all of their customers. However, giving such discretion to suppliers, it was contended, would provide further opportunity for unfair preferential treatment. One refiner did suggest an adjustment mechanism, similar to the one we are adopting, that would allow firms to substitute as their base period use their October 1978 through January 1979 average monthly purchases in instances where such an average was at least ten percent greater than a firm's base period purchases.

One commenter, a United States Senator, stated that although providing for an automatic growth adjustment is a step in the right direction, the choice of October 1978 through February 1979 as the recent averaging period discriminates in favor of areas that have high winter demands *vis-a-vis* states, such as Nevada, with low historical purchases during the winter months. The Senator stated that in his state, Nevada, the summer months are the peak demand months and a standard measure beyond the base period is needed to measure growth.

Others commenting on an automatic growth adjustment stated that we should clarify which suppliers would be responsible for supplying adjusted volumes and that a firm's eligibility for an adjustment should be based on an increase over its aggregate base period purchases in a month and not on its purchases from a particular supplier. Another commenter indicated that bulk purchasers should be eligible for an adjustment. We also received comments from mid-level marketers who believe that the adjustment provision should apply directly to their increased purchases as well as to the growth of retail sales outlets and wholesale purchaser-consumers.

Lastly, one refiner commented that basing an adjustment on a comparison with purchases in a particular month does not account for monthly fluctuations in deliveries which randomly may occur at the end of one month or the beginning of the next. The typical volume of a delivery was stated to be approximately 8,000 gallons. We believe that the additional volumes required to be supplied as a result of such fluctuations will not have major impact.

D. Inter-Refiner Sales

In the preamble to the Activation Order, we solicited comments as to whether the allocation regulations should be changed to relieve refiners and other suppliers of the obligation to supply gasoline to refiners.

Commenters were evenly divided on this issue. Certain refiners stated that in times of shortage, a refiner which sold gasoline in the base period to other refiners will have to reduce the volume of gasoline it makes available to its other customers. In the alternative they asserted that they would be forced to purchase gasoline on the spot market and, under the price rules, would in effect subsidize the refiner and the customers of the refiner purchasing the product, at the expense of their own customers. The firms opposed to continuing such obligations indicated that such sales generally were outside the normal chain of distribution and were done primarily to balance inventories.

Firms in favor of continuing supply obligations to refiners that purchased motor gasoline in the base period asserted that in many instances such sales are essential to their continuing ability to supply gasoline and are a regular, not aberrational, source of their supply. They pointed out that many small and independent refiners are also marketers of gasoline and are

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purchasers of substantial volumes of gasoline.

One trade association representing a number of refiners proposed that a rule be adopted which would include as a supply obligation ongoing sales to refiners, but exclude "deviational" sales that do not reflect normal distribution of product. Under this suggestion, regular and recurring spot market purchases by a refiner, even if from different sellers, would give rise to supply obligations.

E. *Temporary Exigent Circumstances*

One of the provisions in the Activation Order and the Guidelines which drew the most attention provided that a purchaser could use his purchases in the corresponding month of the previous year if the purchaser suffered a decrease in purchases during the base period month as a result of a "temporary exigent circumstance." Since the issuance of the Activation Order, there has been difficulty in defining precisely what a temporary exigent circumstance is. The difficulty in defining the term has caused many disputes between purchasers and suppliers. As to the relief provided by the provision, commenters stated that if a temporary exigent circumstance occurred during the base period, purchases in a later period rather than an earlier one would better reflect current needs.

F. *Base Date for Price Regulations*

In the Activation Order, we solicited comments as to whether a more recent date than May 15, 1973 should be used as a base date for the price regulations. The consensus among the commenters was that the current base date was a reference point which firms understand and that changing it would not provide sufficient benefit to outweigh the massive confusion that would occur. Specifically, it was pointed out that an updated base date for pricing purposes, without the retention of 1973 margins as a minimum, would have a disastrous effect on the independent segment of the petroleum industry.

G. *Regulatory Procedures*

There was widespread agreement among the commenters that the updated base period was initially implemented with inadequate notice which was a major cause of the dislocations in March 1979. Many commenters stated that future changes should occur only after giving the industry time to plan and after the receipt of public comment.

There was comment that repeated 90 day activation orders would not provide for a stable regulatory environment and that a permanent rule is necessary and that the confusion was compounded by the need to refer to more than one document. On commenter stated that the adoption of a rule should not be delayed by further hearings. Another stated that a rulemaking proceeding should be instituted to update permanently the base period. Finally, one group questioned our legal authority to promulgate rules without first soliciting the views on the specific regulations proposed.

H. *Unleaded Gasoline*

One commenter specifically pointed out that the allocation rules for unleaded gasoline set forth at 10 CFR 211.108 are not causing great disruptions because they are generally being ignored. It suggested that the allocation of unleaded gasoline should be based on historical requirements for that product.

IV. Amendments adopted

A. *Base Period Update and Relation to Subpart A*

Through September 30, 1979, we have updated the motor gasoline base period and codified the Guidelines by amending Subpart F of 10 CFR Part 211. In § 211.101 we have made clear that the provisions of Subpart F prevail over any inconsistent provisions of Subpart A. In particular, we wish to emphasize that the assignment procedures permitting suppliers to supply new purchasers of motor gasoline on an interim basis pending an ERA assignment and allowing upward certification during that time are effective notwithstanding any inconsistent language in § 211.10 or § 211.12. The only change adopted in Subpart A is in § 211.13(c), which has been amended to provide that the adjustments allowed under §§ 211.104 and 211.105 are certifiable by a wholesale purchaser-reseller to its suppliers in proportion to that part of its base period use received from each supplier.

In § 211.102, the definition of "base period" is changed to mean the month of the period November 1977 through October 1978 corresponding to the current month. This replaces the 1972 base period year of the earlier permanent regulations and the July 1977 through June 1978 base period year of Activation Order No. 1. By excluding the months of November and December 1978, we believe that most of the serious 1978 distortions will not be included in the base period.

B. *Unusual Growth Adjustment*

A significant new feature of this rule is § 211.104, which provides an unusual growth adjustment. It provides the following:

1. *Eligibility and size of adjustment.* Beginning in May 1979, a retail sales outlet, wholesale purchaser-consumer or a bulk purchaser of motor gasoline (or its predecessor whose allocation it received) is eligible for an automatic growth ajustment in any month if it purchased gasoline during at least three of the months during the period October 1978 through February 1979 and the monthly average volume of such purchases from all suppliers during those months was at least ten percent greater than the aggregate amount of its actual motor gasoline purchases during the base period month from all suppliers. In such a case it can substitute as its base period volume its average monthly purchases in those months of the October 1978 through February 1979 period during which it purchased gasoline. The purchaser's base period suppliers will be *required* to supply the adjusted volumes.

While it would always be useful to develop a growth mechanism which is favorable to every firm and state, we are constrained to choose the October 1978—February 1979 period as the period in which to measure growth, since it is the only recent period following the base period but before March 1, 1979 when allocation of gasoline became widespread. By changing the base period to include the corresponding summer months of 1978 rather than 1977, we have provided that firms in all states will, this summer, be entitled to their actual purchases during the most recent corresponding period in which the market situation was relatively normal. For winter months, similarly, firms that qualify for the adjustment will be entitled to volumes based on recent winter purchases rather than the previous winter's purchases. We have added into the 5-month averaging period October 1978, the last month of the base period, because during that month gasoline demand levels continued nationally at levels approaching those of the summer months. In addition, any adjustment provision we could have adopted that would have been based on a case-by-case comparison to specific qualitative standards would inevitably have led to many disputes between suppliers and purchasers which would have delayed the effective implementation of an adjustment mechanism.

The automatic adjustment provisions are available only for retail sales outlets, wholesale purchaser-consumers and bulk purchasers, but not to mid-level marketers. This is because jobber and other marketer growth will be reflected in their increased sales to retail sales outlets. Since increased sales to retail outlets will increase mid-level marketer supply obligations and these increased obligations can in turn be certified upward to their base period suppliers, mid-level marketers will receive their share of growth adjustments.

The adoption of the growth provision eliminates much of the need for, and problems associated with, a temporary exigent circumstance provision. However, since there are firms which did not experience significant growth after the base period and which experienced a temporary exigent circumstance during the base period, we have decided to continue the use of a temporary exigent circumstance provision which allows a purchaser to substitute its earlier volumes as a base period volume.

As indicated in our Notice of Intent, the rule will also provide relief for the month of April 1979 in extraordinary circumstances thereby confirming what has already been done by OHA through a class exception. If the average monthly gasoline purchases by a retail sales outlet, wholesale purchaser-consumer or bulk purchaser in the months it purchased motor gasoline in the period October 1978 through February 1979 were at least 35 percent higher than its total April 1978 purchases from all suppliers, the October 1978–February 1979 average monthly purchase figure may be substituted for its April 1978 purchases as its base period use.

Any relief a firm is entitled to under an OHA decision, whether issued before or after this rule, the benefits of which exceed that provided by this rule, will be effective notwithstanding this rule unless modified by the OHA.

2. *Apportionment among suppliers.* The portion of the adjustment that each base period supplier is required to supply shall be derived on the following basis: If the amount of the adjustment, i.e., the average monthly volumes supplied during the October 1978 through February 1979 period in excess of actual base period purchases, is attributable to particular base period suppliers, then each such supplier will be responsible for the portion of the adjustment it supplied. If a purchaser's aggregate average monthly purchases in the October 1978 through February 1979 period does not average ten percent greater than its aggregate purchases in the base period month, no base period supplier is required to supply it additional volumes as an adjustment, even though any particular supplier may have provided greater than ten percent more product in the October 1978 through February 1979 period than in the base period month. If a portion of the adjustment is not attributable to any of those suppliers that supplied the purchaser during the base period month, then that portion of the adjustment will be supplied by all the base month suppliers based on the proportional share of gasoline the firm purchased from each supplier in that month.

A supplier shall make the adjustment under section 211.104 without a request by a wholesale purchaser or bulk purchaser to the extent that the supplier's records indicate that the purchaser is eligible for the adjustment. As noted above, adjustment to a purchasers' base period use for a particular month will automatically become part of a supplier's supply obligations that in turn can be certified upward to its base suppliers.

3. *Examples.* A few examples will serve to illustrate the operation of the adjustment provision:

Example 1. Facts. Purchaser P, a retail sales outlet, purchased 50 gallons of gasoline from Firm X and 45 gallons of gasoline from Firm Y during May 1978. During June 1978 it purchased a total of 90 gallons, all from Firm X. It was closed and purchased no gasoline during October and November 1978. During each of the months December 1978 and January 1979 it purchased 100 gallons from Firm X. During February 1979 it purchased 100 gallons from Firm Y.

Analysis. Firm P's average monthly purchases during those months of the October 1978 through February 1979 period that it purchased motor gasoline is 100 gallons per month.

It is not eligible for a growth adjustment for the month of May 1979 because its average monthly purchases during the October 1978 through February 1979 period, 100 gallons, is less than ten percent greater than its total monthly purchases during May 1978, 95 gallons.

For the month of June 1979 it is eligible for a growth adjustment because its average monthly purchases in the October 1978 through February 1979 period, 100 gallons, is ten percent greater than its June 1978 purchases, 90 gallons. Its adjusted base period volume for June 1979 will be 100 gallons. Firm X, its only June 1978 supplier, is responsible for supplying the entire 100 gallons.

Example 2. This example illustrates the situation where a firm purchased gasoline from multiple suppliers during a base period month and during the five-month averaging period. While we recognize that the operation of the rule becomes quite complex where many suppliers are involved, we expect these cases to be rare because most retail sales outlets did not purchase motor gasoline from multiple suppliers in any one month.

Facts. In June 1978, Purchaser P purchased a total of 36,000 gallons; Firm X supplied it 24,000 gallons and Firm Y supplied it 12,000 gallons. In the October 1978 through February 1979 period, its monthly purchases from each supplier were as follows: Firm X supplied 30,000 gallons in each of the five months October 1978 through February 1979. Firm Y supplied it 15,000 gallons in each of the months October 1978 through January 1979. Firm Z supplied it 15,000 gallons during February 1979. Firm P's monthly purchases are tabulated in Table 1.

Table 1.—*Firm P's Monthly Purchases (thousands of gallons)*

	June 1978	Oct. 1978	Nov. 1978	Dec. 1978	Jan. 1979	Feb. 1979
Firm X	24	30	30	30	30	30
Firm Y	12	15	15	15	15	0
Firm Z	0	0	0	0	0	15
Total	36	45	45	45	45	45

Analysis. Firm P's total purchases in the corresponding base period month of June 1978 was 36,000 gallons. Its total purchases during the October 1978 through February 1979 period is 225,000 gallons, or 45,000 gallons per month. From June 1978 to the averaging period, its purchases grew by 9,000 gallons per month, a 25 percent increase. Therefore, it is eligible for an unusual growth adjustment. Its adjusted base period volume will be 45,000 gallons for the month of June 1979.

The suppliers responsible for supplying the volumes will be its base period suppliers, Firm X and Firm Y. Their respective obligations will each consist of two parts: the adjusted volumes attributable to them and their prorated share of the volumes supplied by Firm Z during the averaging period.

The attributable monthly volumes are calculated as follows: During the October 1978 through February 1979 period, Firm X supplied a total of 150,000 gallons, or 30,000 gallons a month. During that period, Firm Y supplied a total of 60,000 gallons, or an average of 12,000 gallons a month (averaged over the five months that Firm P purchased gasoline and not the four months that Firm Y supplied). Thus, the attributable portions of the adjustment to be supplied by Firm X and Firm Y are

30,000 gallons and 12,000 gallons, respectively.

The total unattributable portion of the adjustment is 3,000 gallons (i.e., the 15,000 gallons supplied by Firm Z divided by five). The 3,000 gallons will be supplied by Firms X and Y in proportion to the volumes they supplied during the base period month, i.e., two to one, respectively. Thus Firm X will supply an additional 2,000 gallons and Firm Y an additional 1,000 gallons.

Therefore, Firm X's obligation to Firm P for June 1979 is 30,000 gallons plus 2,000 gallons or a total of 32,000 gallons. Firm Y's obligation to Firm P for June 1979 is 12,000 gallons plus 1,000 gallons or a total of 13,000 gallons.

C. Notice

Each supplier which, during the base period, sold motor gasoline to a wholesale purchaser or end-user entitled to an allocation level which is a percentage of a base period use shall, under § 211.103(e), report by June 15, 1979 to each of those purchasers the volume of motor gasoline which it sold or otherwise transferred to that purchaser in each month of the base period year. (This is a restatement of the requirement that is contained in § 211.12(c) of Subpart A and in § 211.12(c) as it was amended under the Activation Order, except that the latter required such notification to have been provided by March 26, 1979. With the change in the base period, and the adoption of an adjustment provision, suppliers will be required to reaffirm their supply obligations.)

In addition, under new § 211.104(f), to ensure purchasers will be informed of the size of the growth adjustment that their suppliers recognize, by June 15, 1979 each motor gasoline supplier shall also report to each of its base period purchasers which its records indicate as eligible for a growth adjustment the monthly average gasoline purchases which it supplied during the October 1978 through February 1979 period that were at least ten percent higher than the volumes it supplied during any base period month. Although the notification is not required until June 15, 1979, adjustments are required to be made in May 1979.

Each firm desiring to receive an adjustment for volumes not attributable to a particular base period supplier is required to notify each base period supplier of the additional amount of the adjustment to be added to its base period use from that supplier. A purchaser requesting such an additional amount will be required to notify a base period supplier of the following: (1) Its aggregate purchases in a base period month: (2) its average monthly gasoline purchases for those months, of the October 1978 through February 1979 period, in which it purchased gasoline; (3) the portion of its growth adjustment attributable to the particular supplier; and (4) the amount of the *un*attributable portion of the adjustment required to be supplied by the supplier (i.e., the supplier's prorated share of the unattributable volumes). Because we are concerned that purchasers should not have to disclose proprietary data to their base period suppliers, who in some cases may be their competitors, purchasers will not be required to disclose to one supplier specific volumes which were supplied by other firms.

D. *Resolution of Disputes*

If a supplier and purchaser disagree over the volumes required to be supplied as a base period volume or as an adjusted base period volume, under section 211.103(f), application for resolution of the dispute may be made to the appropriate DOE enforcement division, i.e. to either an ERA Regional Office or the DOE Office of Special Counsel. DOE may require the production of any relevant information necessary to resolve the dispute. If a supplier's position is determined to be incorrect, it will be obligated to make up any volumes it should have supplied but did not.

E. *New Wholesale Purchasers*

Section 211.105(a) incorporates the assignment procedures for new wholesale purchasers that were contained in the Guidelines, Paragraphs No. 2(a) and 7. Appropriate modification has been made to conform volumes that will be assigned to new purchasers to those volumes that purchasers may obtain under the adjustment provision of section 211.104. The section provides that where a firm made no purchases from any supplier during a base period month, a supplier and the purchaser shall attempt to agree mutually to a base-period use. That agreed-upon volume does not formally become effective until an ERA regional office, upon application, issues an assignment order. In the interim, however, pending an assignment order, the supplier may supply agreed-upon volumes, provided application for an assignment has been filed. If those volumes exceed volumes which are later assigned, the difference must be deducted from base period volumes in future months.

If the purchaser purchased motor gasoline during at least three months of the October 1978 through February 1979 period, and the monthly average of those purchases generally reflects an appropriate base period volume, ERA will assign a base-period use which equals those average monthly purchases.

As to firms which purchased motor gasoline in fewer than three months from October 1978 through February 1979, an evaluation will be done by the ERA Regional Office of the base-period volume of comparable firms in the same area before it makes an assignment of a base-period use. Such evaluation and assignment shall be made pursuant to the "Guidelines for Evaluation of Applications for Assignment of Supplier and Base Period Use to New Gasoline Retail Sales Outlets."

If (1) a wholesale purchaser-reseller has accepted and is supplying proposed base period volumes to a purchaser that does not have base period volumes for a base period month; and (2) the purchaser or supplier (on behalf of the purchaser) has applied to ERA for an assignment for those months; then the wholesale purchaser-reseller may, on an interim basis, include such volumes in its sales obligations as a temporary adjustment and may upward certify such volumes to its supplier. In the interim, the wholesale purchaser-reseller's supplier shall include such volumes as part of its base-period supply obligations pending an ERA assignment.

F. *Supplier Responsibility for Assignments Made After November 1, 1977*

Section 211.105(b) provides the means for determining base period suppliers for firms which had no previous base period supplier and received an assignment of a base period volume and supplier from ERA after the beginning of the base period (that is, after November 1, 1977). If such a firm is eligible for a growth adjustment under § 211.104, *i.e.*, it has a monthly average volume in the October 1978 through February 1979 period which is at least ten percent greater than the firm's actual purchases in a base period month, as determined under section 211.104(a), then the firm's base period suppliers will be determined as follows:

(1) The *assigned* supplier must supply the assigned or adjusted base period volumes, whichever are higher, for (a) the base period months between November 1, 1977 and the assignment's effective date and (b) those base period months between the effective date of the assignment and October 31, 1978 in which the firm made no purchases.

(2) The firm's *actual* suppliers must supply the adjusted base period volumes for the base period months between the assignment's effective date and October 31, 1978 in which there were purchases.

The portion of the adjustment each supplier is required to supply shall be derived on the basis described in § 211.104(b).

If such a firm is not eligible to receive an automatic adjustment under section 211.104 (because either its October 1978 through February 1979 average monthly purchases were not at least ten percent higher than its average monthly purchases during the base period month or it purchased motor gasoline in fewer than three months of the October 1978 through February 1979 period), its actual purchases and suppliers during the base period month will determine base period volumes and suppliers.

(3) Assignments made under Activation Order No. 1 and the Guidelines thereto will remain valid, but ERA may, upon application, make and upward adjustment to a firm's base period use based upon the assignment procedures for new wholesale purchasers.

G. *Reassignments, Including Three-Party Agreements*

Section 211.105(c) is the rule which corresponds directly to Paragraph No. 3 of the Guidelines relating to reassignments. It applies to purchasers to whom assignment orders were issued after November 1, 1977 which terminated one supply obligation and established another (i.e., reassignments, including three-party agreements).

For the current months corresponding to base period months prior to the effective date of the assignment order, the newly assigned supplier will be the base-period suppler. Its supply obligation as a result of the reassignment will equal the volumes reassigned, or the actual purchases during the corresponding month of the base period from the supplier whose obligations were terminated, whichever is less. If actual base-period purchases from the supplier whose obligations were terminated exceed the volumes reassigned, the original base period supplier shall be the base-period supplier for the difference. Any other actual suppliers, whether they supplied before or after effectiveness of the assignment order, shall also be base period suppliers for the actual volumes supplied. The newly assigned base period supplier shall also be responsible for supplying the unattributable portion of the adjusted base period volumes determined under section 211.104 which would otherwise be the responsibility of the supplier whose obligations were terminated. If an application is made to the ERA regional office for an assignment, the rule allows—but does not require—the newly-assigned supplier to supply on an interim basis the difference between the assigned volumes and the actual purchases from the supplier whose obligations were terminated for the portion of the base period prior to effectiveness of the assignment. Pending ERA action on the assignment application, it may upward certify such volumes to its supplier. That supplier shall then include such volumes as part of its supply obligations pending ERA action.

For those base-period months after the reassignment order was issued, actual purchases and actual suppliers will determine base-period volumes and supply obligations.

H. *Branded resellers*

Section 211.105(d) adopts the branding section of Paragraph No. 8 of the Guidelines, and also replaces the previous similar provisions of paragraphs (b), (c) and (d) of § 211.105. It provides that any wholesale purchaser-reseller of motor gasoline which is a branded independent marketer and which has a base period supplier different from the firm that was its supplier on February 28, 1979 under whose brand it was selling on that date, may, at its option, designate as its base period supplier that supplier which was its supplier on February 28, 1979 and terminate its supplier/purchaser relationship with all its other base period suppliers. If a designation is so made, the firm that supplied the purchaser on February 28, 1979 will become the purchaser's sole base-period supplier and will supply the purchaser's base period volumes as part of its supply obligations. It may certify upward such volumes to its supplier, which in turn shall include volumes certified as part of its supply obligations.

A wholesale purchaser-reseller which designates a firm as its sole base period supplier pursuant to section 211.105(d) shall provide, by June 15, 1979, written notice of the designation and the corresponding terminations to any suppliers which supplied the wholesale-purchaser reseller during the base period. Such wholesale purchaser-reseller shall also provide written notice by the same date to the designated supplier of the amount of the wholesale purchaser-reseller's base period use which had been supplied by other suppliers during the base period and which is to be supplied by the designated supplier. The notice to the designated supplier shall include the names and addresses of the actual suppliers during the base period and of the wholesale purchaser-reseller and the location of any facility, including any retail sales outlet concerned.

Since this provision was contained in the Guidelines in substantially the same form, in most cases the necessary notices will already have been provided.

I. *Temporary Exigent Circumstance Adjustment*

Section 211.105(e) continues, for retail sales outlets only, the provision in the guidelines relating to temporary exigent circumstances. Middle level marketers, which were eligible to use the provision in the Activation Order and Guidelines, will now have to petition the Office of Hearings and Appeals for relief.

If a retail sales outlet has experienced a temporary exigent circumstance for a month during the base period year causing at least a ten percent reduction in its normal purchases for that month, its base-period volume may be revised to equal those volumes purchased in the corresponding month in the period November 1976 through October 1977. Its base-period supplier for these volumes will be the supplier from whom the purchases were reduced because of the exigency. The purchaser shall notify the supplier, who shall supply the additional volumes if the purchaser is qualified under this rule to receive them.

No assignment by the ERA Regional Office is required. For any month, if it is eligible, a retail sales outlet may, at its option, receive base period volumes determined under the adjustment provision of § 211.104 or the procedures of § 211.105(e), but not both. The upward certification provision of § 211.12(c) discussed above in connection with growth adjustments applies as well to adjustments made under § 211.105(e).

If the supplier is a major refiner subject to the jurisdiction of DOE's Office of Special Counsel, then notification of the temporary exigent circumstance and the use of corresponding months of the November 1976 through October 1977 period must be provided by the refiner to the DOE audit team assigned to that refiner. Notification should be provided by the refiner as soon as practicable after it is informed by its purchaser.

As stated in the rule and in the Guidelines, "temporary exigent circumstances" includes, but is not limited to:

(1) Facility shutdowns, including either the purchaser's facility or the supplier's facility;

(2) Limited access to facility (such as where the street in front of a retail station was being repaired and access to the station was therefore impaired);

(3) Supplier's inability to deliver (a supplier's declaration of an allocation fraction less than one (1.0) will not, by itself, be an adequate demonstration of a supplier's inability to deliver);

(4) Reduced capability of purchaser to function as a normal business, including financial difficulties impacting volume, but does not include an unwillingness of purchaser to purchase because of a lawful price.

If a purchaser believes that its supplier's price during the base period was unlawful, it should file a complaint with the DOE's Office of Enforcement or Office of Special Counsel, as appropriate. If a purchaser was unwilling to purchase product at a price which was determined in an enforcement action by DOE to violate the DOE price regulations, the update of the base period will not affect any enforcement action or any remedy thereunder.

In general, a *prima facie* case for the finding of a temporary exigent circumstance can be made in every instance in which purchases in a base period month were at least 10 percent less than in the corresponding month of the previous year and was abnormally low in comparison to other months during the base period.

J. *Redirection of Product*

The rule provides in § 211.107(c) that pursuant to the procedures of Subpart G of Part 205, if sufficient supplies of gasoline are available to mitigate the adverse impact on firms unable to obtain adequate volumes of product, ERA may redirect product or take other appropriate action to enable a purchaser to obtain in any month up to 75 percent of its base-period volume for that month. This section is also derived from a paragraph in the Guidelines and is independent of the authority contained in § 211.14(a) and § 205.39. However, its adoption is not meant to preclude the use, where appropriate, of other applicable provisions.

K. *Inter-Refiner Sales*

In view of the lack of clear support for such a provision, we have decided not to adopt at this time the exclusion of inter-refinery sales from a refiner's supply obligations. Hardships created by inter-refinery sales for individual refiners can be dealt with, as they have in the past, through case-by-case exceptions relief.

L. *Other Matters*

Section 211.106(c)(2)(ii), relating to the closing of retail sales outlets prior to June 1, 1974, has been deleted. Section 211.106(b)(4), relating to the 1973–1974 growth adjustment in § 211.13(b)(1), has also been deleted.

M. *Specific Comments Solicited*

We solicit comments as to whether firms which shifted volumes from one retail outlet to another under the 30 percent rule of § 211.106(b)(3)(ii) between November 1, 1977 and February 28, 1979 should, in every instance, be allowed to upward certify growth or temporary exigent circumstance adjustments.

Under the rule adopted, suppliers and purchasers will be able to agree on base period volumes for new stations and begin supplying them pending ERA action. However, the one-time growth adjustment we have adopted today will not account for growth of existing retail sales outlets after March 1, 1979. Therefore, without setting forth specific regulatory language, we are proposing and are requesting specific comment on a rule, suggested by a refiner, that would, within certain limitations, allow suppliers without ERA approval, to adjust their branded and unbranded wholesale purchaser-reseller base period volumes to reflect the following:

1. A change in the operator of a retail outlet;

2. A change in ownership in a retail outlet involving the sale of land or the making of improvements (or both) by the supplier to the operator of a retail outlet;

3. Changes in physical characteristics through reconstruction or expansion of a retail outlet resulting in a significant increase in the operator's business;

4. Changes in marketing strategy; such as, conversion from full to self-service, car wash, conversion of stock, etc.;

5. Significant changes in the supply/demand balance in a particular market area served by a retail outlet, such as, closing of other retail outlets, opening of new shopping centers and subdivisions, and building of new roads.

Suppliers would only be permitted to make such adjustments in amounts which would affect suppliers' applicable allocation fractions in any month by less than 2 percent. This would provide limited flexibility within the current regulations while assuring that other purchasers who did not undergo changed circumstances would only be minimally affected.

We are not changing our present regulations on the allocation of unleaded gasoline at this time, but are specifically requesting comment on appropriate modifications to our unleaded gasoline allocation rules so that they may more closely follow current demand patterns and to provide special allocations for the production of "gasohol." In this connection if unleaded gasoline shortages occur, we solicit information, which we intend to share with the Environmental Protection Agency (EPA), as to whether the regulations of the EPA requiring the sale of unleaded gasoline at retail outlets selling leaded gasoline could yield unintended results, such as requiring a station that runs out of unleaded gasoline to close down, even though it has available supplies of leaded gasoline for which there is demand by the motoring public during a period of general gasoline shortages.

Some comments prepared and received subsequent to our April 17 Notice of Intent objected to comparing actual purchases in a base period month to the monthly average in the period October 1978–February 1979 to measure growth. One objection was that, by comparing to a period during the fall and winter months, those regions of the country that have peak demand in the summer may show no growth at all, even though the actual growth on an annual average basis may be well in excess of 10%. We recognize that this may be a problem with the growth adjustment mechanism in this rule. We therefore specifically request comments on an appropriate growth adjustment mechanism that will take into account seasonal demand variations, regional shifts in population and other factors. In particular, suggestions as to an appropriate and equitable means of accounting for growth are requested.

N. *Revocation of Activation Order*

Because the provisions of both the Activation Order and the Guidelines have been incorporated in the rule adopted today, the February 22, 1979 order activating certain portions of the standby product allocation regulations will be revoked for May 1979.

V. Written Comment and Public Hearing Procedures

A. *Written Comments*

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the matters contained in the interim rule or matters which should be included in a final rule. Comments should be submitted by 4:30 p.m., e.d.t., July 10, 1979 to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Motor Gasoline Allocation Base Period." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. *Public Hearings*

1. *Procedure for Requests to Make Oral Presentation.* If you have any interest in the matters discussed in the rule, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by 4:30 p.m., local time, on the dates set forth in the "Dates" section of this notice for the respective hearings. You should also provide a phone number where you may be contacted through the day before the hearings.

If you are selected to be heard, you will be so notified before 4:30 p.m., e.d.t., May 30, 1979 for the Washington, D.C. hearing and by June 13, 1979 for the San Francisco, California hearing. You will be required to submit one hundred copies of your statement to the hearing location, indicated in the "Addresses" section of this notice, before 4:30 p.m., e.d.t., June 6, 1979 for the Washington, D.C. hearing, and on the morning of the hearing for the San Francisco hearing.

2. *Conduct of the Hearings.* We reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearings. These will not be judicial-type hearings. Questions may be asked only by those conducting the hearings. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at each hearing to the respective addresses indicated above for requests to speak before 4:30 p.m., local time, on the day before each hearing. If you wish to have a question asked at the hearings, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at the hearings, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire record of the hearings, including the transcripts, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA–152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase copies of the transcripts of the hearings from the reporter.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Activation Order No. 1 to the Standby Petroleum Product Allocation Regulations is revoked and Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective May 1, 1979 and ceasing to be effective midnight, September 30, 1979.

Issued in Washington, D.C., May 1, 1979.

David J. Bardin,
Administrator, Economic Regulatory Administration.

1. Paragraph (c) of § 211.13 is amended by revising subparagraph (c)(1) to read as follows:

§ 211.13 Adjustments to base period volume.

* * * * *

(c) *Adjustments to a wholesale purchaser-reseller's base period use for new and increased allocation entitlements of purchasers.* (1) A wholesale purchaser-reseller shall be entitled to receive an adjustment to its base period use whenever (i) it is notified pursuant to § 205.30(d) of an assignment to supply a new wholesale purchaser; or (ii) it is notified of an adjustment granted pursuant to § 211.12(h), § 211.13(e), § 211.104, § 211.105, § 211.125(b) or § 211.145(b) to the base period use of a wholesale purchaser entitled to receive an allocation from that wholesale purchaser-reseller, in an amount equal to the increases in the allocation entitlements or new allocation entitlements which the wholesale purchaser-reseller is to supply. * * *

* * * * *

2. Paragraph (a) of § 211.101 is revised to read as follows:

§ 211.101 Scope.

(a) This subpart applies to the mandatory allocation of all motor gasoline produced in or imported into the United States. Unless otherwise specified in, or inconsistent with, this subpart, the provisions of sections 211.9–211.13 of this part apply to this subpart. Where inconsistent with the provisions of Subpart A of this part, the provisions of this subpart shall prevail.

* * * * *

3. Section 211.102 is amended by revising the definition of "base period" to read as follows:

§ 211.102 Definitions.

For purposes of this subpart—

"Base period" means the month of the period November 1977 through October 1978 corresponding to the current month.

* * * * *

4. Section 211.103 is amended by revising paragraph (e) and adding paragraph (f) to read as follows:

§ 211.103 Allocation levels.

* * * * *

(e) *Base period volume.* (1) By June 15, 1979, each supplier which, during the base period, sold motor gasoline to a wholesale purchaser or end-user entitled to an allocation level which is a percentage of a base period use shall report to each of those purchasers, the volume of motor gasoline which it sold to or transferred to that purchaser in each month of the base period year.

(f) *Resolution of disputes.* If a supplier and purchaser disagree over the volumes required to be supplied as a base period volume or as an adjusted base period volume, application for resolution of the dispute should be made to the appropriate DOE enforcement division. DOE may require the production of any relevant information necessary to resolve the dispute. If a supplier's position is determined to be incorrect, it will be obligated to make up any volumes it should have supplied but did not.

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5. A new § 211.104 is added to read as follows:

§ 211.104 Unusual growth adjustment.

(a)(1) Beginning in May 1979, if a retail sales outlet, wholesale purchaser-consumer or a bulk purchaser of motor gasoline with an allocation level determined by reference to a base period use, or its predecessor whose allocation it received, purchased gasoline during at least three of the months during the period October 1978 through February 1979 and the monthly average volume of such purchases from all suppliers in the months it purchased gasoline was at least ten percent greater than the aggregate amount of its actual motor gasoline purchases in a base period month from all suppliers, it can substitute as its base period use for the current month corresponding to that base period month its average monthly purchases in those months of the October 1978 through February 1979 period that it purchased motor gasoline. The purchaser's base period suppliers will be required to supply the adjusted volumes as determined in paragraph (b) of this section.

(2) For the month of April 1979, if the average monthly gasoline purchases by a retail sales outlet, wholesale purchaser-consumer or bulk purchaser in the months it purchased motor gasoline in the period October 1978 through February 1979 were at least thirty-five percent higher than its total April 1978 purchases from all suppliers, its October 1978 through February 1979 average monthly purchases of motor gasoline in the months it purchased motor gasoline may be substituted for its April 1978 purchases as its base period use.

(b) The portion of the adjustment that each base period supplier is required to supply shall be derived on the following basis: If the amount of the adjustment, i.e., the average monthly volumes supplied during the October 1978 through February 1979 period in excess of actual base period purchases, is attributable to particular base period suppliers, then each such supplier will be responsible for the portion of the adjustment it supplied. If a portion of the adjustment is not attributable to a particular base period supplier, then that portion of the adjustment will be supplied by all the base period suppliers based on the proportional share of gasoline the firm purchased from each supplier in the base period month.

(c) A supplier shall make the adjustment under paragraph (a) of this section without a request by a wholesale purchaser or bulk purchaser to the extent that the supplier's records indicate that the purchaser is eligible for the adjustment. However, if a purchaser's average monthly purchases in the October 1978 through February 1979 period does not average ten percent greater than its aggregate purchases in the base period month, no base period supplier is required to supply it additional volumes as an adjustment under this section even though the particular supplier may have provided greater than ten percent more product in the October 1978 through February 1979 period than in the corresponding base period month.

(d) Each firm desiring to receive an adjustment for volumes not attributable to particular base period suppliers shall notify each base period supplier of the additional amount of the adjustment to be added to its base period use. For purposes of the notification, a purchaser will certify to its supplier (1) its aggregate purchases in a base period month; (2) its average monthly purchases during the October 1978 through February 1979 period; (3) the portion of the growth adjustment attributable to the particular supplier; and (4) the amount of the unattributable portion of the adjustment requied to be supplied by the supplier. A purchaser is not required to disclose to one supplier the specific volumes supplied by any other supplier.

(e) An adjustment to a purchaser's base period use for a particular month determined under this section will automatically become part of the supplier's supply obligations and that supplier in turn may certify the adjustment upward to its base period suppliers.

(f) By June 15, 1979, each motor gasoline supplier shall report to each of its base period purchasers described in paragraph (a) of this section the monthly average gasoline purchases which it supplied during the October 1978 through February 1979 period that were at least ten percent higher than the volumes it supplied during any base period month.

6. Section 211.105 is amended by deleting paragraphs (a) through (d) and replacing it with a provision to read as follows:

§ 211.105 Supplier/purchaser relationships.

(a) *New wholesale purchasers.* (1) Where a firm made no purchases from any supplier during a base period month, a supplier and the purchaser shall attempt to agree mutually to a base-period use. That agreed-upon volume does not become formally effective until an ERA regional office, upon application, issues an assignment order. In the interim, pending an assignment order, the supplier may supply agreed-upon volumes, provided application for an assignment has been filed. If those volumes exceed volumes which are later assigned, the difference must be deducted from base period volumes in future months.

(2)(i) If the purchaser purchased motor gasoline during at least three months of the October 1978 through February 1979 period, and the monthly average of those purchases reflect an appropriate base period volume, ERA will assign a base-period use which equals those average monthly purchases.

(ii) As to firms which purchased motor gasoline in fewer than three months from October 1978 through February 1979, an evaluation will be done by the ERA Regional Office of the base-period volume of comparable firms in the same area before it makes an assignment of a base-period use. Such evaluation and assignment shall be made pursuant to the "Guidelines for Evaluation of Applications for Assignment of Supplier and Base Period Use to New Gasoline Retail Sales Outlets".

(3)(i) A wholesale purchaser-reseller has accepted and is supplying proposed base period volumes to a purchaser that does not have base period volumes for a a base period month; and (ii) the purchaser or supplier (on behalf of the purchaser) has applied to ERA for an assignment for those months; then the wholesale purchaser-reseller may, on an interim basis, include such volumes in its base-period use as a temporary adjustment and may upward certify such volumes to its supplier. The wholesale purchaser-reseller's supplier shall include such volumes as part of its base-period supply obligations in the interim pending an ERA assignment.

(b) *Supplier responsibility for assignments made after November 1, 1977.* This paragraph applies to firms which had no previous base period supplier and received an assignment of a base period volume and supplier from ERA after the beginning of the base period (that is, after November 1, 1977).

(1) If such a firm is eligible for a growth adjustment under § 211.106, i.e., it has a monthly average volume in the October 1978 through February 1979 period which is at least 10 percent greater than the firm's actual purchases in a base period month (as determined under § 211.106(a)), then the firm's base period suppliers will be determined as follows:

(i) The assigned supplier must supply the assigned or adjusted base period volumes, whichever is higher, for (A) the base period months between November 1, 1977 and the assignment's effective date and (B) the base period months between the effective date of the assignment and October 31, 1978 in which the firm made no purchases, and

(ii) The firm's actual suppliers must supply the adjusted base period volumes for the base period months between the assignment's effective date and October 31, 1978 in which there were purchases.

The portion of the adjustment each supplier must supply shall be derived on the basis described in § 211.104(b).

(2) If such a firm is not eligible to receive an automatic adjustment in a month under § 211.104 (because either its October 1978 through February 1979 average monthly purchases were not at least ten (10) percent higher than its average monthly purchases during the base period month or it purchased motor gasoline in fewer than three months of the October 1978 through February 1979 period), then actual purchases and suppliers during the base period month will determine base period volumes and suppliers.

(3) Assignments made under Activation Order No. 1 and the Guidelines thereto will remain valid, but ERA may, upon application, make an upward adjustment to a firm's base period use based upon the assignment procedures set forth in paragraph (a) of this section.

(c) *Reassignments.* This paragraph applies to purchasers to whom assignment orders were issued during or after the base period which terminated one supply obligation and established another (i.e., reassignments, including three-party agreements).

(1) For the current months corresponding to base period months prior to the effective date of the assignment order, the newly assigned supplier will be the base-period supplier. Its supply obligation as a result of the reassignment will equal the volumes reassigned, or the actual purchases during the corresponding month of the base period from the supplier whose obligations were terminated, whichever is less. If actual base-period purchases from the supplier whose obligations were terminated exceed the volumes reassigned, the original base period supplier shall be the base-period supplier for the difference. Any other actual suppliers, whether they supplied before or after effectiveness of the assignment order, shall also be base period suppliers for the actual volumes supplied. The newly assigned base period supplier shall also be responsible to supply unattributable adjusted base period volumes determined under § 211.104 which would otherwise be the responsibility of the supplier whose obligations were terminated. The newly-assigned supplier, if it is willing, may, if an application is made to the ERA regional office for an assignment, supply on an interim basis the difference between the assigned volumes and the actual purchases from the supplier whose obligations were terminated for the portion of the base period prior to effectiveness of the assignment, pending ERA action on the assignment application, and may upward certify such volumes to its supplier which will include such volumes as part of its supply obligations pending ERA action.

(2) For those base-period months after the reassignment order was issued, actual purchases and actual suppliers will determine base-period volumes and supply obligations.

(d) *Branded resellers.* (1) Any wholesale purchaser-reseller of motor gasoline which is a branded independent marketer and which has a base period supplier different from the firm that was its supplier on February 28, 1979 under whose brand it was selling on that date, may, at its option, designate as its base period supplier that supplier which was its supplier on February 28, 1979 and terminate its supplier/purchaser relationship with all its other base period suppliers. If a designation is so made, the firm that supplied the purchaser on February 28, 1979 will become the purchaser's sole base-period supplier and will supply the purchaser's base period volumes as part of its supply obligations. It may certify upward such volumes to its supplier, which in turn will include volumes certified as part of its supply obligations.

(2) A wholesale purchaser-reseller which designates a firm as its sole base period supplier pursuant to this section shall provide, by June 15, 1979, written notice of the designation and the corresponding terminations to any suppliers which supplied the wholesale-purchaser reseller during the base period. Such wholesale purchaser-reseller shall also provide written notice by the same date to the designated supplier of the amount of the wholesale purchaser-reseller's base period use which had been supplied by other suppliers during the base period and which is to be supplied by the designated supplier. The notice to the designated supplier shall include the names and addreases of the actual suppliers during the base period and of the wholesale purchaser-reseller and the location of any facility, including any retail sales outlet concerned.

(e) *Temporary exigent circumstance adjustment.* (1) If a retail sales outlet has experienced a temporary exigent circumstance for a month during the base period year causing at least a ten percent reduction in its normal purchases for that month, its base-period volume may be revised to equal those volumes purchased in the corresponding month in the period November 1976 through October 1977. Its base-period supplier for the previous period's volumes will be the supplier from whom the purchases were reduced because of the exigency. The purchaser shall notify the supplier, who shall supply the additional volumes. No assignment by the ERA Regional Office is required. For any month, if it is eligible, a retail sales outlet may, at its option, receive base period volumes determined under the adjustment provision of section 211.104 or the procedures of this paragraph but not both. The upward certification provison of section 211.13(c) applies to adjustments made under this paragraph.

(2) If the supplier is a major refiner subject to the jurisdiction of DOE's Office of Special Counsel, then notification of the temporary exigent circumstance and the use of corresponding months of the November 1976 through October 1977 period should be provided by the refiner to the DOE audit team assigned to that refiner. Notification should be provided by the refiner as soon as practicable after it is informed by its purchaser.

(3) "Temporary exigent circumstances" includes, but is not limited to,

(i) Facility shutdowns, including either the purchaser's facility or the supplier's facility;

(ii) limited access to facility;

(iii) supplier's inability to deliver (a supplier's declaration of an allocation fraction less than one (1.0) will not, by itself, be an adequate demonstration of a supplier's inability to deliver);

(iv) reduced capability of purchaser to function as normal business, including financial difficulties impacting volume, but does not include an unwillingness of purchaser to purchase because of a lawful price.

7. Section 211.106 is amended by deleting subparagraph (b)(4) and subparagraph (c)(2)(ii).

8. Section 211.107 is amended by revising paragraph (c) to read as follows:

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§ 211.107 Method of allocation.

* * * * *

(c) Pursuant to the procedures of Subpart G of Part 205, if sufficient supplies of gasoline are available to mitigate the adverse impact on firms unable to obtain adequate volumes of product, ERA may redirect product or take other appropriate action to enable a purchaser to obtain in any month up to 75 percent of its base-period volume for that month.

PART 211 [AMENDED]

9. Part 211 is amended by removing Activation Order No. 1 from the Appendix to Part 211—Special Rule No. 1.

[Docket No. ERA-R-79-23]
FR Doc. 79-14054 Filed 5-3-79; 10:36 am]
BILLING CODE 6450-01-M]

Economic Regulatory Administration

10 CFR Part 211

Motor Gasoline Allocations Base Period and Adjustments

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Public Conference and Notice of Request for Written Comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it will hold a public conference on Tuesday, May 8, 1979 to review § 211.104 (Unusual Growth Adjustments) of the Interim Final Rule issued May 1, 1979 entitled "Motor Gasoline Allocation Base Period and Adjustments." DOE is holding this conference to review § 211.104 because information in comments received after the closing date of the rulemaking proceedings concerning the Interim Final Rule suggest that a modification in § 211.104 may be required prior to the expiration date of the above referenced rule. The public is invited to attend the conference. Speakers will be designated by DOE.

DOE will accept written comments concerning § 211.104 of the Interim Final Rule until 4:30 p.m. Friday, May 11, 1979. Comments received thereafter will be considered by DOE in its consideration of the Final Rule proposed in Docket No. ERA-R-79-23.

DATES: Conference date: Tuesday, May 8, 1979, 9:30 a.m. Written comments (10 copies) by 4:30 p.m. Friday, May 11, 1979.

ADDRESSES: Send written comments to Public Hearings Management, Docket No. ERA-R-79-23-A, Room 2313, 2000 M Street, NW., Washington, D.C. 20461

CONFERENCE LOCATION: Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), 2000 "M" Street NW., Room 2214C, Washington, D.C. 20461, (202) 254-5201.

Joel Yudson (Office of General Counsel), Forrestal Building, 1000 Independance Ave. SW., Room 6-A-127, Washington, D.C. 20585, (202) 252-6744.

Issued in Washington, D.C. on May 1, 1979.

David J. Bardin,
Administrator, Economic Regulatory Administration.

[Docket No. ERA-R-79-23-A]
[FR Doc. 79-14162 Filed 5-3-79; 2:08 pm]
BILLING CODE 6450-01-M

federal register

Friday
May 4, 1979

Part X

Department of State

Agency for International Development

Personnel Regulations

DEPARTMENT OF STATE

Agency for International Development

[22 CFR Parts 220, 221, 222]

Personnel; Proposed Rulemaking

AGENCY: Agency for International Development, Department of State.

ACTION: Proposed rulemaking.

SUMMARY: These proposed regulations are being published pursuant to Section 401 of the International Development and Food Assistance Act of 1978, October 6, 1978, Pub. L. 95–424, 92 Stat. 956, and Section 625 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2385.

The purpose of these proposed regulations is to extend the Foreign Service personnel system to all employees of AID, both in the United States and abroad, who are responsible for planning and implementing AID's overseas development programs and activities.

DATE: It is proposed that the regulations take effect on October 1, 1979.

FOR FURTHER INFORMATION: Contact Mr. Kenneth Fries, Office of the General Counsel at (202) 632–8218.

Dated: May 2, 1979.

Markham Ball,
General Counsel.

CHAPTER II—AGENCY FOR INTERNATIONAL DEVELOPMENT

Subchapter B—Personnel

Part 220 GENERAL PROVISIONS
Part 221 EMPLOYMENT
Part 222 MISCELLANEOUS PROVISIONS

CFR Chapter II—Agency for International Development, Department of State

Subchapter B—Personnel

PART 220—GENERAL PROVISIONS

Sec.
220.01 Statement of authority.
220.02 Purpose.
220.03 Definitions.
220.04 Position management.

PART 221—EMPLOYMENT

Sec.
221.01 Employment in the Foreign Service.
221.02 Tours of assignment.

PART 222—MISCELLANEOUS PROVISIONS

Sec.
222.01 Implementing regulations.
222.02 Construction.
222.03 Effective date.

PART 220—GENERAL PROVISIONS

§ 220.01 Statement of Authority.

This subchapter of Chapter II is promulgated pursuant to section 401 of the International Development and Food Assistance Act of 1978, October 6, 1978, Pub. L. 95–424, 92 Stat. 956, 22 U.S.C. 2385a, and section 625 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2385.

§ 220.02 Purpose.

The purpose of this subchapter is to extend the Foreign Service personnel system to all employees of the Agency for International Development (A.I.D.) in the United States and abroad who are responsible for planning and implementing A.I.D.'s overseas development programs and activities, so that those persons will have significant overseas experience or understanding of the overseas development process. An extended application of the Foreign Service personnel system within A.I.D. is intended to ensure that—

(a) The employees of A.I.D. effectively serve the interests of the United States, both in the United States and abroad;

(b) A.I.D.'s personnel system can better adjust to frequently changing program and work-force composition requirements;

(c) A framework is provided to meet the particular requirements of A.I.D., including the need to have personnel serve overseas and meet language and technical skill requirements; and

(d) All employees who work in the United States and abroad within a single structure of positions, and in common endeavor to plan, carry out and directly support A.I.D.'s overseas program, may be brought within a single personnel system.

§ 220.03 Definitions.

(a) "A.I.D." means the Agency for International Development, or any successor agency primarily responsible for administering programs under part I of the Foreign Assistance Act of 1961, as amended.

(b) "Administrator" means the Administrator of A.I.D.

§ 220.04 Position Management.

(a) Under such regulations as he may prescribe, the Administrator may, notwithstanding the provisions of Chapter 51 of title 5 of the United States Code, classify positions in A.I.D., both abroad and in the United States, that he designates as Foreign Service positions to be occupied by Foreign Service employees of A.I.D., and establish such positions in relation to the grades provided for the Foreign Service of the United States: *Provided,* That such actions shall be carried out in a manner consistent with the purposes of this Subchapter and with the principles of position classification established in Chapter 51 of title 5 of the United States Code.

(b) As of the effective date of this Subchapter, each position in A.I.D. shall be reviewed and redesignated, if necessary, as to the service in which the incumbent should serve. A position shall be designated as a General Schedule position rather than a Foreign Service position only if the position is in the United States, and if it is determined (1) that the functions of such position are primarily of a clerical, administrative or program support character and can be performed without significant overseas experience or understanding of the overseas development process; or (2) that such position requires continuity of incumbency and specialized knowledge and skill to the extent that it is not practicable for incumbents of such position to be assigned abroad. Any person aggrieved by the designation made pursuant to this subsection of a position in which he or she is serving may appeal the designation to the Administrator. Such designation shall remain in effect pending the appeal provided for herein and pending any other appeal an employee may make, and shall be set aside only if arbitrary or capricious.

(c) A position designated as a Foreign Service position in accordance with paragraph (b) of this section which becomes vacant may be occupied thereafter only by a Foreign Service employee: *Provided, however,* That at any time when the number of non-Foreign Service employees filling positions in A.I.D.'s headquarters office in the United States which are designated as Foreign Service positions does not exceed 10 per centum of the number of such positions, such a position, when it becomes vacant, may, at the discretion of the Administrator, be filled by a non-Foreign Service employee.

(d) A position designated as General Schedule in accordance with paragraph (b) of this section may be temporarily designated Foreign Service whenever the Administrator deems it advisable in order to administer properly the rotation

policies provided for in § 221.02 of this subchapter: *Provided,* That only vacant General Schedule positions may be so redesignated.

(e) In furtherance of the policy of this Subchapter, as provided in § 220.02, to the extent consistent with law, regulation, and staffing and promotion policies generally applicable to AID employees, the Administrator shall encourage employees who are not in the Foreign Service, who serve or wish to serve in positions designated as Foreign Service positions, and who are qualified for appointment in the Foreign Service, to convert to the Foreign Service.

PART 221—EMPLOYMENT

§ 221.01 Employment in the Foreign Service.

The limitation in paragraph (2) of section 625(d) of the Foreign Assistance Act of 1961, as amended, regarding periods of assignment in the United States shall be extended to allow initial assignments in the United States for a period not to exceed three years for the purpose of carrying out any of the functions under the Foreign Assistance Act.

§ 221.02 Tours of Assignment.

(a) Pursuant to such regulations as he may prescribe, the Administrator shall establish tours of assignment for A.I.D.'s Foreign Service employees.

(b) Subject to section 933 of the Foreign Service Act of 1946, as amended, regarding mandatory leave in the United States, the Administrator shall, by such regulations as he may prescribe, establish policies for rotation between assignments, including transfers among positions whether in the United States or abroad.

PART 222—MISCELLANEOUS PROVISIONS

§ 222.01 Implementing Regulations.

(a) notwithstanding the provisions of this Subchapter, existing rules and regulations of or applicable to employment in A.I.D., to the extent not inconsistent with the provisions of this Subchapter, shall remain in effect until revoked or until modified or superseded by implementing regulations promulgated in accordance with the provisions of paragraph (b) of this section.

(b) The Administrator may prescribe such administrative, implementing regulations as are necessary and desirable in order to carry out the provisions of this Subchapter (and such authority may be delegated as he deems necessary). Such implementing regulations may not revoke, suspend, supersede, or otherwise modify this Subchapter.

§ 222.02 Construction.

If any provision of this Subchapter or the application of any provision to any circumstance or persons shall be held invalid, the validity of the remainder of this Subchapter and the applicability of such provision to other circumstances or persons shall not be affected thereby.

§ 222.03 Effective Date.

This Subchapter shall become effective on October 1, 1979.

Description of the Personnel Regulations for the Agency for International Development

Summary

The purpose of these regulations is to bring the employees of AID who are primarily responsible for planning and implementing its overseas development programs and activities into a unified personnel system, which is the Foreign Service personnel system.

Extension of the Foreign Service personnel system within AID is intended to ensure that the employees of AID effectively serve the interests of the United States both in the U.S. and abroad; that AID's personnel system can better adjust to frequently changing program requirements; that the particular personnel requirements of AID can be better met; and that all employees of AID who plan, carry out and directly support AID's overseas activities are employed within a single personnel system.

The regulations provide that AID will expand its Foreign Service in the following ways:

As of the effective date of the regulations, all positions within AID's headquarters office in Washington will be reviewed and designated as to the type of personnel system in which the incumbent should serve.

Positions will be designated as General Schedule (GS) rather than Foreign Service (FS) only if the functions of such positions are primarily clerical, administrative, or support in nature, and if they can be performed without significant overseas experience or understanding of the overseas development process; or if the positions require such continuity and specialized skill that it is not practicable for incumbents to be subject to overseas assignment.

After positions are designated, as vacancies occur, only Foreign Service employees will be allow to fill Foreign Service designated positions (except that once the number of non-Foreign Service incumbents is less than 10%, other than Foreign Service employees may fill up to 10% of the FS-designated positions). Foreign Service employees may be assigned temporarily to GS positions that are vacant, as appropriate in the implementation of the Agency's rotation policies.

During the interim period between position designation and the time when a GS incumbent vacates a position, each GS employee filling an FS-designated position will be encouraged to convert into the Foreign Service under existing rules and regulations regarding such conversion.

Other significant provisions of the regulations are:

AID proposes to extend the current two-year limitation on initial Foreign Service assignments in the U.S. from two to three years. The two-year limit has inhibited the initial hiring of employees into the Foreign Service and is not consistent with the expanded Foreign Service system provided for under these regulations. A three year limit will give the Agency needed extra time to ensure a proper match between overseas position requirements and employees qualifications, while, at the same time, will continue to ensure that Foreign Service employees do serve overseas and obtain the overseas experience that is being sought.

The regulations will give the Administrator of AID direct authority to establish tours of assignment both in and out of Washington, subject to the Foreign Service Act provision regarding mandatory home leave.

The effective date for implementing the regulations is October 1, 1979.

Section-by-Section Description

Part 220—General Provisions

Section 220.01. Statement of authority. This section states the source of authority for the promulgation of these regulations. That authority is section 401 of the International Development and Food Assistance Act of 1978 as well as section 625 of the Foreign Assistance Act of 1961.

Section 220.02. Purpose. This section explains the purpose of these regulations: to extend the Foreign Service personnel system to all employees of AID, both in the United States and abroad, who are responsible for planning and implementing AID's overseas development programs and activities. The regulations provide that such extended application of the Foreign Service personnel system within AID is intended to ensure that both the

employees of AID and AID's personnel system can more effectively and more efficiently serve the interests of the United States and the interests of AID in carrying out the overseas development programs of the United States and in adapting to changing requirements in AID's overseas programs and its work force composition.

Section 220.03. Definitions. This section defines the terms "AID" and the "Administrator" of AID.

Section 220.04. Position management. Subsection (a) of this section restates the authority to designate and classify positions as Foreign Service positions which currently exists in section 441 of the Foreign Service Act of 1946, as amended. This authority is restated in these regulations in order to confirm AID's longstanding administrative interpretation of section 441 as applied to personnel and postions in AID. The restatement of authority also makes clear that such authority is to be used in a manner consistent with the purposes of these regulations and with the basic principles of position classification which are used throughout the Federal Government.

Subsection (b) of this section provides for the position designation of each position in AID as of the effective date of the regulations. The position designation is to indicate the service in which the incumbent of such position should be serving. Positions may be designated, for example, as General Schedule, Foreign Service, Senior Executive Service or in some other manner which specifically denotes the nature of the service in which the incumbent should be serving. If the choice of service is between the Foreign Service and General Schedule positions in the Civil Service, the regulations establish specific criteria that must be used in making the choice. Those criteria are that a position may be designated GS rather than FS only if the position is in the United States and if it is determined that the functions of the position are primarily clerical or support in character and that the functions can be performed without significant overseas experience or understanding of the overseas development process, or if it is determined that a position requires continuity of incumbency and specialized knowledge and skill to the extent that it is not practicable for incumbents of the position to be assigned abroad.

These criteria of subsection (b) are designed to increase significantly the use of Foreign Service authorities in positions that are directly related to the functions of policy making, program planning, or program direction of the overseas development functions of AID. It is expected that agency management will confer with representatives of employee unions before making position designations under subsection (b). The regulations provide that individuals may appeal to the Administrator the designations of the positions that they themselves occupy. In addition, they, of course, may appeal to some other authority (e.g., the Merit Systems Protection Board) if they establish the grounds for such authority to consider their case. Designations will not be set aside unless arbitrary or capricious. Designations will remain in effect while appeals are pending.

Subsection (c) of this section provides that positions designated as Foreign Service positions in accordance with subsection (b) may be occupied after they initially become vacant only by a Foreign Service employee, except as provided under a 10 percent formula described hereinafter.

This subsection means that if a position is designated as Foreign Service but is currently occupied by a non-Foreign Service employee, that non-Foreign Service employee will be able to continue his employment as long as he remains in that position. Only after the position becomes vacant would it be reserved for Foreign Service. For example, a position might be a Senior Executive Service position for purposes of the GS person presently filling the position, but would become a Foreign Service position rather than an SES position once the current incumbent vacates the position. Non-Foreign Service employees will be able to be removed from the Civil Service or from positions they occupy only as provided under existing law and regulations. AID has carefully reviewed the option of requiring existing GS employees in Foreign Service-designated positions to convert into the Foreign Service, and has decided that such action would be particularly unfair to its current employees, would subject the Agency to the risk of losing many highly competent employees, would create considerable turmoil in personnel administration both during and long after any transition period, and would be more harmful to the efficient operation of the Agency than the benefits of enforced conversion to the Foreign Service seems to warrant.

The proviso to subsection (c) of this section provides that once the number of non-Foreign Service employees in FS-designated positions reaches a number which is less than 10 percent of the total number of FS-designated positions in the headquarters office in Washington, then the Administrator may make exceptions to the rule that only FS employees may fill FS-designated positions, so long as the number of non-Foreign Service employees in such positions does not exceed 10 percent of the total number of FS-designated positions in Washington. While the objective of having Foreign Service employees fill critical Foreign Service-designated positions in Washington continues to be the main objective of AID's personnel administration, the 10 percent exception will allow the Administrator a measure of flexibility in obtaining personnel to meet particular Agency needs, including persons with special skills, women and members of minorities, when such people are not available as Foreign Service employees.

Subsection (d) provides that Foreign Service employees on rotation may also serve in General Schedule-designated positions if such General Schedule positions are not occupied by General Schedule employees, as is now the case for all of AID's positions in Washington. As a technical matter, the positions would be temporarily redesignated as Foreign Service positions during the incumbency of Foreign Service employees.

Subsection (e) provides that, to the extent consistent with existing law, regulation, and staffing and promotion policies, employees shall continue to be encouraged to convert to the Foreign Service. This encouragement is particularly applicable to GS employees in Foreign Service-designated positions, but will also be applicable to any AID employees who wish to serve in the Foreign Service and are qualified to do so.

Part 221—Employment

Section 221.01. Employment in the Foreign Service. This section amends the existing limitation in paragrph (2) of section 625(d) of the Foreign Assistance Act, to provide that initial assignments of Foreign Service officers within the United States may not exceed a period of three years for the purposes of carrying out any of the functions under the Foreign Assistance Act. The two year limitation as currently in the law is too restrictive in light of the underlying intent of the regulations that AID significantly expand the assignment of its Foreign Service officers to positions in its Washington office. The revised three year limitation will enable AID to make initial assignments to Washington in the same way that it makes rotational assignments to Washington, and will still provide assurance that Foreign Service employees continue to be assigned abroad after a relatively short time in Washington.

Section 221.02. Tours of Assignment. Subsection (a) of this section authorizes the Administrator to establish tours of duty for AID's Foreign Service employees. This authority currently exists in section 522 of the Foreign Service Act of 1946, as amended, and section 625(d) of the Foreign Assistance Act of 1961, as amended. However, this authority is not so directly stated as provided herein, particularly, as noted above, with regard to initial tours of assignment. Therefore, the Administrator's authority is clearly stated in these regulations.

Subsection (b) of this section authorizes the Administrator to establish policies for rotation between assignments, including transfers to and from the United States, as well as transfers between positions abroad and between positions in the United States. It is expected that different rotational policies will apply to employees in diffeent skill categories, and that the periods of required service overseas in relation to periods of service in Washington will vary among skills categories, depending on the number of overseas and Washington positions available to people in each skill category. The Administrator is expected and authorized to rotate Foreign Service employees in such a way as to put their experience abroad and in the United States to its best use, and to provide each of these employees with a progression of assignments calculated to enhance his professional growth.

The Administrator's authority in subsection (b) regarding rotation policies is made subject to section 933 of the Foreign Service Act, which provides a statutory basis for mandatory "home leave" of Foreign Service officers assigned abroad, to be taken in the United States. Section 933 provides that during the period between 18 months and 36 months of service abroad each Foreign Service employee is required to take "home leave" in the United States. This is a desirable provision and AID intends it to be clear that the provision continues to be applicable to AID's Foreign Service employees.

Part 222—Miscellaneous Provisions

Section 222.01. Implementing Regulations. Subsection (a) of this section provides that existing administrative rules and regulations shall remain in effect until they can be revised in accordance with these new regulations except to the extent they may be clearly inconsistent with these regulations.

Subsection (b) provides that the Administrator is authorized to prescribe administrative regulations to implement the new regulations established in this subchapter. Such administrative regulations will be subordinate to the regulations established pursuant to law in this subchapter and they may not revoke, suspend, supersede or otherwise modify such regulations.

Section 222.02. Construction. This section provides that, if any provision of these regulations or its application to any circumstances or persons is deemed to be invalid, the validity of the remainder of the rest of the regulations and their applicability to other circumstances or persons shall not be affected.

Section 222.03. Effective Date. The effective date of these regulations is October 1, 1979. This date should provide AID sufficient time to analyze its Washington positions and to make the position designations that are required to be completed as of the effective date of the regulations, and also to prepare the revised administrative regulations that will be needed at the time these regulations take effect.

[FR Doc. 79-14239 Filed 5-3-79; 11:09 am]
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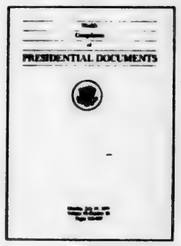
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federal register

Monday
May 7, 1979

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26745 **Community Action Programs** CSA revises income poverty guidelines; effective 6-6-79

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Rules and Regulations

Federal Register
Vol. 44, No. 89
Monday, May 7, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 979

Melons Grown in South Texas, Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses for the functioning of the South Texas Melon Committee. It will enable the committee to collect assessments from first handlers on all assessable melons and to use the resulting funds for its expenses.

EFFECTIVE DATE: May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Charles R. Brader, Acting Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202–447–4722.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 979 (44 FR 22038) regulating the handling of melons grown in South Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the committee, established under the marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

The budget and rate of assessment have not been determined significant under USDA criteria for implementing Executive Order 12044. They should be approved as soon as possible because the committee's initial fiscal period began May 1, 1979, and the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable melons handled from the beginning of such period. Handlers and other interested persons offered no disagreement when given an opportunity to submit information and views on the expenses and assessment rate at three open meetings of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

Part 979 is amended by adding a new § 979.201 as follows:

§ 979.201 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending April 30, 1980, by the South Texas Melon Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to $95,150.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one and one half cents ($0.015) per 40-pound container or equivalent quantity, of melons handled by him as the first handler thereof during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: May 2, 1979.

D. S. Kuryloski,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-14141 Filed 5-4-79; 8:45 am]
BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1430

Milk, 1978–1979 Price Support

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Final rule.

SUMMARY: Pursuant to the Food and Agriculture Act of 1977, and based on the 9.0 percent increase in the parity index from October 1, 1978, to April 1, 1979, the support price was increased from $9.64 per hundredweight to $10.51, effective April 1, 1979. The announced price is for milk containing 3.5 percent milkfat. This price is equivalent to $10.76 for milk containing 3.67 percent milkfat.

The whey solids-not-fat value used in calculating the CCC purchase price for cheese was reduced from 15 to 2 cents per hundredweight to reflect estimates of lower market prices of whey products during the last half of the marketing year.

EFFECTIVE DATE: April 1, 1979.

ADDRESSES: Procurement and Sales Division, ASCS, USDA, 5741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Donald E. Friedly, Agricultural Economist, Dairy Branch, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 5741 South Building, P.O. Box 2415, Washington, D.C. 20013, (202–447–3571).

SUPPLEMENTARY INFORMATION: Section 201 of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, requires that the price of milk be adjusted at midyear to reflect any estimated change in the parity index (index of prices paid by farmers, interest, taxes and wage rates) during the first six months of the marketing year. In that regard, as published in the March 30, 1979 "Agricultural Prices" report, the parity index increased 9.0 percent between October 1, 1978, the beginning of the marketing year, and April 1, 1979.

On January 25, 1979, a notice was published in the Federal Register (44 FR 5147) inviting comments concerning the semiannual adjustment in the support price for milk and the prices and terms of purchase by CCC of butter, cheese, and nonfat dry milk. On February 1, a similar notice was also issued in a USDA press release.

Discussion of Comments

The Department received 79 written comments from dairy farmers, dairy cooperatives and associations, general farm organizations, dairy product manufacturers, consumers and their advocacy groups, and other farm-interested persons and organizations. Twenty-five comments included recommendations to increase the support price. Of these, 15 commenters recommended a level of support at 80

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percent of parity, three at 90 percent of parity, and two at 100 percent of parity. Five commenters recommended an increase without specifying the amount. Eight commenters were against a support price increase. The recommendations of the 17 dairy farmer cooperatives and associations who responded, are summarized as follows: Twelve for increasing the manufacturing margins used in calculating CCC's purchase prices, six for maintaining CCC's sales prices of dairy products for unrestricted use at no less than 110 percent of their current purchase prices, five for purchasing process cheese at an announced price, six that purchase prices to butter-nonfat dry milk manufacturers and cheese manufacturers be increased by equal amounts per hundredweight of milk, eight for allocating half of the support price increase for milk to the purchase prices of butter and half to nonfat dry milk, and nine that CCC reduce the value for whey in calculating the purchase price for cheese (two of these were for elimination of the whey value), and three that CCC establish a higher butter price at terminal markets on the west coast. Recommendations were received from 27 consumers and one consumer advocacy group concerning the level of support: Two recommended an increase in the support price, three were against increasing the support price and 21 were in favor of eliminating the program.

Support Price Adjustment

The parity index was 757 on October 1, 1978, and 825 on April 1, 1978. Thus, the support price for milk was increased 9.0 percent to $10.51 per hundredweight effective April 1, 1978.

The results of the semiannual support price adjustment were described in a USDA press release. The latest available statistics of the Federal Government were used in making determinations under this rule.

Most of the cooperative associations recommended that the support price be increased to 80 percent of parity as of April 1. This would have raised the support price to $10.81 per hundredweight. The support price was set at $10.51, the legal minimum because it minimizes the inflationary impact on the nation's economy, and the resulting 87-cent increase in the support price is estimated to be sufficient to assure an adequate supply of milk for both the short and long term. Any larger increase in the support price would add to inflationary pressures, encourage surplus milk production and discourage consumption.

Manufacturing Margins

The manufacturing margins used in calculating the CCC purchase prices for dairy products are designed to reflect the average cost of manufacturing butter and nonfat dry milk on one hand, and that of cheese, on the other. The level of the purchase prices should be such that manufacturers as a group will be able to pay producers the announced support price for milk. If average manufacturing costs exceed the manufacturing margins, dairy plants on the average would not realize enough revenue over costs to pay the support price to farmers when market prices of dairy products are at or near CCC's purchase price levels.

The manufacturing margins were last increased on April 1, 1978. These same margins were continued for April-September 1979 because any increase would have tended to be inflationary. Average prices received by producers were within three cents per hundredweight of the support price in June 1978, the last month in which CCC purchased all three dairy products during the entire month. Average prices received by producers in March 1979 were within three cents of the new support price and dairy product prices were near the new CCC purchase price levels. Therefore, there will be no lag in reaching the support price which normally occurs when the support price is raised to a level over prices received by producers during the period before the increase. It is expected that the average prices received by producers during April-September 1979 will be at least equal to the support price.

Adjustment of manufacturing margins will again be considered at the beginning of the 1979–80 marketing year.

Relative Increases in the CCC Purchase Prices for Butter and Nonfat Dry Milk

Since nonfat dry milk and butter are made from the same whole milk, manufacturers must receive enough revenue from the sale of both products to pay a given price for milk to producers. In the past several years, the price support increases have been divided equally per hundredweight of milk between butter and nonfat dry milk, based on the yield of each product from 100 pounds of whole milk. CCC purchase prices apparently were in about the proper relationship to each other in the year beginning October 1, 1976, since CCC purchased quantities of fat and nonfat solids contained in the dairy products roughly in proportion to their respective production. During the 1977–78 marketing year, CCC's nonfat dry milk purchases increased relative to butter purchases, which may indicate that this price relationship may have been somewhat out of line. However, CCC's butter outlets are limited and butter purchased in excess of domestic donation requirements might eventually have to be converted into butteroil (a costly operation) before it could be donated abroad under Pub. L. 480.

The support increase on April 1, 1979, was divided equally between the two products. This action should not encourage abrupt changes in consumption production, and CCC removal patterns for these products. Any sharp changes could result in serious disposal and inventory problems for CCC.

Allocating a greater increase to the purchase price of nonfat dry milk would result in reduced consumption of solids-not-fat in fluid milk, nonfat dry milk and other dairy products, thereby resulting in greater production of nonfat dry milk, increased sales to CCC, and additions to CCC's large inventory of nonfat dry milk. The further increases in the retail prices of low fat and skim milk, low fat dairy products, and cottage cheese would impact substantially on consumers. Low fat and skim milk sales now comprise about 38 percent of fluid milk sales in Federal milk orders (compared to only 17 percent 10 years ago). Cottage cheese and ice milk consumption has increased 13-14 percent in the past 10 years.

Allocating a greater increase to the purchase price of butter would result in sharp price increases in butter prices and for high butterfat items such as ice cream. It would substantially increase butter purchases by CCC, a product for which CCC's outlets are limited. Also, it could be more costly for CCC to dispose of surplus butter than nonfat dry milk because butter purchased in excess of domestic donation requirements might eventually have to be converted into butteroil before it could be donated abroad under Pub. L. 480.

Whey Value

In October 1978–March 1979, the CCC purchase price for cheese was 1.5 cents per pound less than it otherwise would have been because it was expected that strong demand and increased market prices for whey would result in a return over costs equal to about 1.5 cents for each pound of cheese manufactured.

In the last six months, the average market price for dried whey has declined from 14 to about 10 cents per pound. Stocks of whey products are up sharply and cheese manufacturers are expected to realize a return over costs equal to about 0.25 cent for each pound of cheese manufactured during April–September 1979.

CCC Purchase Price for Butter at West Coast Terminal Markets

The butter differential pricing system was established to conform to commercial practice as much as possible. The rationale is to encourage commercial movement of butter from the surplus areas toward the deficit areas.

The major surplus area for dairy products is in the upper midwest and butter not purchased by CCC moves from there to meet commercial needs—mostly to the South and the heavy populated East. Beginning about a decade ago, a surplus area developed in the West, and several west coast price adjustments have been made to keep the butter in commercial channels as much as possible and to keep price support purchases by CCC as close to the points of production as possible. To set a CCC purchase price at west coast terminal markets higher than at locations in the surrounding area could encourage movement of butter to terminal markets in excess of commercial needs. This in turn would result in sales to CCC at the higher terminal market purchase prices. Thus, it would encourage unnecessary and uneconomic movement of butter.

Terminating the Program

The Secretary is required by law (7 U.S.C. 1446) to support the price of milk and to adjust the support price to reflect changes in the party index. Comments that the program be terminated were not considered for that reason.

Final Rule

Based on the $10.51 support price, paragraphs (a)(1), (b)(1) and (b)(2) of 7 CFR 1430.282 are revised to read as follows:

§ 1430.282 Price support program for milk.

(a)(1) The general level of prices to producers for milk will be supported from April 1 through September 30, 1978, at $10.51 per hundredweight for manufacturing milk, subject to adjustment as provided for by law.

* * * * *

(b) (1) Commodity Credit Corporation will consider offers of butter, Cheddar cheese, and nonfat dry milk in bulk containers meeting specifications in the announcements at the following prices:

(In dollars per pound)

Commodity and location	Produced before Apr. 1, 1979	Produced on or after Apr. 1, 1979
Cheddar Cheese: Standard moisture, 37.5–39.0%: [1]		
40-pound blocks, U.S. Grade A, or higher	1.06	1.16
500 pounds in fiber barrels, U.S. Extra Grade [2]	1.03	1.13
Nonfat Dry Milk, Spray Process, U.S. Extra Grade: [3]		
Unfortified	.7575	.79
Fortified (Vitamins A & D)	.795	.805
Butter: *U.S. Grade A or Higher:*		
New York, N.Y., and Jersey City, Newark and Secaucus, New Jersey	1.755	1.24

[1] The price per pound for cheese which contains less than 37.5 percent moisture shall be as specified in Form ASCS-150. Copies are available in offices listed in (a)(4).

[2] Also includes granular cheese.

[3] Upon inspection bags do not fully comply with specifications, the price paid will be subject to a discount of .50 cent (½ cent) per pound of nonfat dry milk.

(2) Offers to sell butter at any location for which a price is not specifically provided for in this section will be considered at the price set forth in this section for New York City, less 60 percent of the lowest published domestic railroad through freight rate for frozen butter per pound gross weight for a 60,000 pound carlot, in effect at the beginning of the 1978–79 marketing year (October 1), from such other point to New York City. The minimum price at any location shall be the price at New York City minus 2.5 cents per pound. Bulk butter offered in the area consisting of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, must have been produced in such states. Butter produced elsewhere is ineligible for offering to CCC in such states.

(Sec. 201, 401, Pub. L. 439, 81st Cong., 63 Stat. 1052, 1054, as amended (7 U.S.C. 1446, 1421); secs. 4 and 5, Pub. L. 806, 80th Cong., 62 Stat. 1070, 1072, as amended (15 U.S.C. 714 b and c).)

Note.—A Final Impact Statement is available from Donald E. Friedly, Agricultural Economist, Dairy Branch, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 8741 South Building, P.O. Box 2415, Washington, D.C. 20013, (202–447–3571).

Note.—This regulation has been determined not significant under the USDA criteria implementing Executive Order 12044.

Signed at Washington, D.C., on April 30, 1979.

Ray Fitzgerald,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-14139 Filed 5-4-79; 8:45 am]

BILLING CODE 3410-05-M

FEDERAL ELECTION COMMISSION

11 CFR Part IX

Presidential Election Campaign Fund; Presidential Primary Matching Fund

AGENCY: Federal Election Commission.

ACTION: Final rule: Announcement of Effective Date and Deletion of Existing Regulations.

SUMMARY: On Wednesday, April 4, 1979, (44 FR 20338–20348) the Commission published the text of revised regulations to implement the Presidential Primary Matching Fund which were submitted to Congress on February 16, 1979, pursuant to 26 U.S.C. 9039(c). Corrections were published on Friday, April 13, 1979 (44 FR 22407), and Monday, April 30, 1979 (44 FR 25193).

The revised regulations supercede the regulations presently in 11 CFR, Chapter 1, Subchapter C, Parts 130 through 134. The Commission announces that the revised regulations will become effective as of Monday, May 7, 1979, and concurrently deletes existing regulations appearing in 11 CFR, Chapter 1, Subchapter C.

EFFECTIVE DATE: Monday, May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Ann Fiori, Assistant General Counsel for Legislation and Regulations, 1325 K Street, Northwest, Washington, D.C. 20463 (202) 523–4143.

SUPPLEMENTARY INFORMATION: 26 U.S.C. 9039(c) requires that any rule or regulation prescribed by the Commission to implement Chapter 96 of Title 26, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. If neither House of Congress disapproves of the regulations within 30 legislative days after their transmittal, the Commission may finally prescribe the regulations in question. The revised regulations being made effective by this announcement were transmitted to the Congress on February 16, 1979. Thirty legislative days passed as of the close of business May 1, 1979.

"11 CFR Chapter IX, Parts 9031 through 9038 (44 FR 20341–20348, as

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corrected at 44 FR 22407 and 44 FR 25193), are effective as of Monday, May 7, 1979. Regulations presently appearing in 11 CFR, Chapter 1, Subchapter C, Parts 130 through 134, are hereby deleted as of May 7, 1979."

Dated: May 2, 1979.

Joan D. Aikens,

Chairman, Federal Election Commission.

[FR Doc. 79-14201 Filed 5-4-79; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

Airworthiness Directives; AVCO Lycoming

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Lycoming O-360-E1A6D and LO-360-E1A6D engines installed in Piper PA-44 type airplanes. It requires an inspection and replacement where necessary of the eight P/N LW38-275 engine mounting bracket attach bolts system for correct torque. The purpose of the requirement is to preclude failure of the engine to aircraft mounting. This failure can lead to an unsafe condition.

DATE: May 9, 1979. Compliance is required as set forth in the AD.

ADDRESSES: AVCO Lycoming Service Bulletins may be acquired from the manufacturer at AVCO Lycoming Division, Williamsport, Pennsylvania 11701.

FOR FURTHER INFORMATION CONTACT: E. Manzi, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: There had been reports of loose, broken and missing bolts on the subject aircraft engines. The result has been severe engine vibration and some unscheduled landings. The correction is to inspect and retorque the bolts and replace where necessary. This information was the subject of an airmail dispatch to all known owners of the subject airplanes. Since this deficiency affects air safety, notice and public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

AVCO Lycoming. Applies to O-360-E1A6D Series engines, Serial Number L-101-77 through L-347-77, L-352-77 and LO-360—E1A6D Series engines, Serial Number L-101-72 through L-319-72, L-321-72 through L-324-72, L-326-72 through L-339-72, L-341-72 through L-348-72, L-350-72 installed in the Piper Model PA-44 aircraft.

Compliance required before further flight, unless already accomplished, except that the aircraft may be flown in accordance with FAR 21.197 to a base where the inspection can be performed.

To prevent loss of integrity of the engine to aircraft mounting due to loosening of the engine mounting bracket attaching bolts, inspect the eight part number LW38-2.75 mounting bolts for correct torque. Mounting bolts found to be 200 inch-pounds or less of torque when measured in the tightening direction must be replaced and torqued to 360 inch-pounds. Those mounting bolts found to be less than 360 inch-pounds but greater than 200 inch-pounds must be retorqued to 360 inch-pounds.

Effective date: This amendment is effective May 9, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on April 25, 1979.

Louis L. Cardinali,

Acting Director, Eastern Region.

[Docket No. 78-EA-121; Amdt. 39-3462]

[FR Doc. 79-13865 Filed 5-4-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

Canadair Aircraft; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an airworthiness directive applicable to Canadair CL-44D4 and CL-44J type airplanes that involves the following problems: (1) fire-proofing the fire extinguishing system fittings in the engine nacelles to enhance the airworthiness of the system; (2) adding a metal bracket to support the float in outer auxiliary fuel tanks so as to preclude over-pressurizing the tank and, (3) providing drain holes in the engine cowling area and altering scupper and fuel line draining to reduce the risk of fire from oil accumulating in the engine cowl areas. All of the foregoing items are presently covered by AD's promulgated by Transport Canada.

DATE: May 9, 1979. Compliance is required as set forth in the AD.

ADDRESSES: Canadair Service Bulletins may be acquired from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT: F. Covelli, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: On page 60174 of the **Federal Register** for December 26, 1978, the FAA proposed a rule to issue an AD applicable to Canadair CL-44D4 and CL-44J. Interested parties were given time in which to submit written data or views. No comments were received.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adopting the AD as published.

Effective date: This amendment is effective May 9, 1979.

Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.

Issued in Jamaica, New York, on April 25, 1979.

Louis J. Cardinali,

Acting Director, Eastern Region.

Canadair: Applies to Models CL-44D4, and CL-44J aircraft.

Compliance required within the next 1700 hours in service and, if applicable, upon application for U.S. registration and airworthiness certification, after the effective date of this AD unless already accomplished.

1) (Docket No. 78-EA-82)

In order to fireproof the engine fire extinguishing system fittings in inboard and outboard nacelles, accomplish the following:

a. Wrap the fittings with asbestos tape and then coat them with a suitable end dip as described in Paragraphs "2" and "3" of Canadair Service Bulletin No. CL-44D4-480, dated December 11, 1972, or an equivalent alteration.

2) (Docket No. 78-EA-85)

To minimize the chance of over-pressurizing the outer auxiliary fuel tanks during pressure refueling, and to eliminate wear caused by possible interference between float arm and valve casing, accomplish the following:

a. Alter the modulator and shut-off pilot valves by riveting a fabricated angle to the float, re-identify them; re-identify the fuel level control valve assembly; and functionally check the altered valves all in accordance with the "Modification Procedure" of Canadair Service Bulletin No. CL-44-485, dated April 5, 1978.

3) (Docket No. 78-EA-86)

In order to reduce the probability of flammable fluid fires within the engine cowling areas and reduce the risk of damaging engine oil and fuel drain lines located on the engine bottom cowls, accomplish the following:

a. Alter the engine cowling and drain lines in accordance with the "Modification" paragraph of Canadair Service Bulletin No. CL-33D4-486 dated May 12, 1978, on an equivalent alteration.

Any equivalent method of compliance must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region. Upon request with substantiating data submitted through an FAA Maintenance Inspector, the compliance time may be changed by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

The aircraft may be flown in accordance with FAR 21.197 to a location where the AD can be accomplished.

Compliance with this AD must be noted in the logbook of the aircraft by referencing the AD number and the specific item complied with: ex. AD 78-7-7 (2) if item (2) is being accomplished.

[Docket Nos. 78-EA-82; 78-EA-85; 78-EA-86 Amdt. No. 39-3458]

[FR Doc. 79-13866 Filed 5-4-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

Piper Aircraft; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends airworthiness directive AD 78-02-01 applicable to Piper PA-31T and PA-31T1 type airplanes which requires an inspection of the main landing gear actuating cylinder rod and bearing assembly and replacement of hollow shank rods where found. The purpose of the amendment is to add serial numbers to AD 78-02-01 and revise the service bulletin.

DATE: May 9, 1979. Compliance is required as set forth in the AD.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 11745.

FOR FURTHER INFORMATION CONTACT: K.Tunjian, Systems & Equipment Section, AEA-213, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-3372.

SUPPLEMENTARY INFORMATION: Since the same air safety concern exists as for the original AD, notice and public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 78-02-01, as follows:

1. Delete the words "through 31T-7720040" and insert in lieu thereof the words "through 31T-7820077, and Model PA-31T1 airplanes, serial numbers 31T-7804001 through 31T-7804006".

2. Delete the words "No. 570, dated June 22, 1977," from paragraph (2), and insert in lieu thereof the words "No. 57A, dated August 30, 1978."

Effective date: This amendment is effective May 9, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on April 25, 1979.

Louis J. Cardinali,

Acting Director, Eastern Region.

[Docket No. 78-EA-108; Amdt. 39-3460]

[FR Doc. 79-13867 Filed 5-4-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

Piper Aircraft; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends airworthiness directive AD 78-12-06 applicable to Piper PA-31T and PA-31T1 type airplanes which required a check of the nose wheel. The purpose of the amendment is to add an additional acceptable replacement nose wheel which will eliminate repeated inspections.

DATE: May 9, 1979. Compliance is required as set forth in the AD.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven Pennsylvania 11745.

FOR FURTHER INFORMATION CONTACT: K. Tunjian, Systems & Equipment Section, AEA-213, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-3372.

SUPPLEMENTARY INFORMATION: Since the amendment is relieving in nature, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 78-12-06, as follows:

1. In sub-paragraph (a), after the words "6 ply rating", add ", or Piper P/N 551-782, B. F. Goodrich P/N 3-1076."

2. In sub-paragraph (c), before the words "is installed", add "or Piper P/N 551-782, B. F. Goodrich P/N 3-1076."

Effective date: This amendment is effective May 9, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on April 25, 1979.

Louis J. Cardinali,

Acting Director, Eastern Region.

[Docket No. 78-EA-119; Amdt. 39-3461]

[FR Doc. 79-13868 Filed 5-4-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area, Chester, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Chester, South Carolina, Transition Area and lowers the base of controlled airspace north of the Chester Municipal Airport from 1200 to 700 feet AGL. A new public use instrument approach procedure, NDB RWY 17, has been developed and the additional controlled airspace is required to protect aircraft executing the approach procedure.

EFFECTIVE DATE: May 30, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and

Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404–763–7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on Thursday, March 1, 1979 (44 FR 11557), which proposed the alteration of the Chester, South Carolina, Transition Area. No objections were received from this Notice.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, May 30, 1979, by adding the following:

Chester, South Carolina

". . . within three miles each side of the 353° bearing from the Chester RBN (Latitude 34°46'56" N., Longitude 81°11'48" W.), from the 7-mile radius area to 8.5 miles north of the RBN . . ."

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on April 25, 1979.

Phillip M. Swatek,
Director, Southern Region.

[Airspace Docket No. 79–SO–13]
[FR Doc. 79–13869 Filed 5–4–79; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 71

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Transition Area, Lake Wales, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: A public use Standard Instrument Approach Procedure has been developed for the Lake Wales Airport and additional controlled airspace is necessary for containment of IFR operations. This rule will lower the base of controlled airspace in the vicinity of the Lake Wales Airport from 1,200 to 700 above ground.

EFFECTIVE DATE: 0901 GMT, June 14, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Ronald T. Niklasson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404–763–7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on Monday, March 5, 1979 (44 FR 12045), which proposed the designation of the Lake Wales, Florida, transition area. No objections were received from this Notice.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, June 14, 1979, by adding the following:

Lake Wales, Florida

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Lake Wales Municipal Airport (latitude 27°53'39"N., longitude 81°37'12"W.) excluding that portion within the Lakeland, Florida, transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on April 25, 1979.

Phillip M. Swatek,
Director, Southern Region.

[Airspace Docket No. 79–SO–17]
[FR Doc. 79–13870 Filed 5–4–79; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 71

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Transition Area, Clayton, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will designate the Clayton, Alabama, Transition Area and will lower the base of controlled airspace within a 6.5 mile radius of the Clayton Municipal Airport from 1,200 to 700 feet AGL to accommodate Instrument Flight Rule (IFR) operations. A new public use instrument approach procedure has been developed for the Clayton Municipal Airport, and the additional controlled airspace is required to protect aircraft conducting Instrument Flight Rule (IFR) operations.

EFFECTIVE DATE: June 14, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404–763–7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on Monday, March 19, 1979 (44 FR 16440), which proposed the designation of the Clayton, Alabama, transition area. No objections were received from this notice.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, June 14, 1979, by adding the following:

Clayton, Alabama

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of Clayton Municipal Airport (Latitude 31°53'00" N, Longitude 85°29'00" W.)

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administation has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations,

the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on April 25, 1979.

Phillip M. Swatek,
Director, Southern Region.

[Airspace Docket No. 79–SO–16]
[FR Doc. 79–13871 Filed 5–4–79; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Parts 121 and 135

Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft and Air Taxi Operators and Commercial Operators; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments accomplish clarifications and correct certain minor omissions and typographical errors noted in Regulatory Review Program Amendment Nos. 121–147 and Revision of Part 135. These amendments are necessary to express correctly the FAA's intended statement of the rules. In addition, the compliance date is extended for the instrument rating requirement applicable to pilots in command of aircraft under visual flight rules.

EFFECTIVE DATE: May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 755–8716.

SUPPLEMENTARY INFORMATION: In September 1978 Amendment Nos. 121–147, 127–135, and Revision of Part 135 were issued under the Regulatory Review Program. A Review of those amendments shows that there were minor errors and omissions and that clarifying changes are needed in some sections of Parts 121 and 135. Also, it has been determined that it is necessary to extend the compliance date of one requirement. The reasons for each of the amendments are explained below:

1. § 121.9. There was a typographical error in this section. The phrase "E through K" should read "E through V" as proposed in Notice No. 77–17.

2. § 135.10. The FAA has received numerous petitions requesting exemptions from the instrument rating requirement prescribed in § 135.243(b)(3). As a result, the FAA has determined that additional rule making regarding that requirement should be initiated before compliance with the requirement becomes mandatory. Accordingly, this amendment extends the compliance date for the instrument rating requirement until December 1, 1980. After this amendment becomes effective, the FAA will issue a notice of proposed rule making and propose appropriate changes to the rule requiring an instrument rating in § 135.243(b)(3).

3. § 135.67. It has been determined that the Air Traffic Service has procedures for collecting and disseminating information regarding potentially hazardous meteorological conditions and irregularities in communications or navigational facilities. Therefore, it is not necessary to require the pilot to request that this information be disseminated and the words "and request that the information be disseminated" are deleted. This will relieve pilots of an unnecessary burden.

4. § 135.149. In § 135.149(d) the reference to "§ 21.205" was a typographical error. It should read "§ 21.305".

5. § 135.245. Section 135.243(b)(4) allows a pilot in command of a helicopter to operate visual flight rules (VFR) below a ceiling without holding an instrument rating. Section 135.245 requires all second-in-command pilots to hold an instrument rating. This requirement is greater than that for pilots in command. To correct this unintended and anomalous result, § 135.245 has been revised by adding an amended first paragraph designated (a) and by adding a new paragraph (b) to allow second-in-command helicopter pilots to fly other than over-the-top without requiring an instrument rating.

6. Section 135.335. This section has been revised to clarify which subsections apply to both simulators and training devices and which apply to only simulators. Additionally, § 135.335(c) has been redesignated paragraph (d) and a new paragraph (c) has been added to make it clear that an appropriate simulator or other training device may be used by more than one certificate holder.

It should also be noted that in the explanation of § 135.227, the reference in the second sentence of the second paragraph to "§ 135.229" was a typographical error. It should have read "§ 135.227".

Since these amendments extend a compliance date and are clarifying and editorial in nature and implement changes required to carry out the intent of amendments under revised Part 135, or are relaxatory, and impose no additional burden on any person, I find that notice and public procedure are unnecessary and that good cause exists for making them effective in less than 30 days. However, the FAA invites interested persons to submit such written data, views, or arguments as they may desire regarding these amendments. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before July 9, 1979, will be considered by the Administrator and these amendments may be changed in the light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The Amendments

Accordingly, Parts 121 and 135 of the Federal Aviation Regulations are amended, effective May 7, 1979, as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

§ 121.9 [Amended]

1. By revising this section to delete the letter "K" and substitute in its place the letter "V".

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

2. By amending § 135.10 to delete § 135.10(a)(4), by redesignating paragraph (c) as (d), and by adding a new paragraph (c) to read as follows:

§ 135.10 Compliance dates for certain rules.

* * * * *

(c) A certificate holder or pilot is allowed until December 1, 1980, to comply with the instrument rating requirement of § 135.243(b)(3).

(d) * * *

§ 135.67 [Amended]

3. By revising this section to delete the words "and request that the information be disseminated" at the end of the paragraph.

§ 135.149 [Amended]

4. By revising § 135.149(d) to delete the reference to "§ 21.205" and substitute in its place "§ 21.305".

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§ 135.245 [Amended]

5. By revising § 135.245 to amend the existing paragraph and designate it as (a) and to add a new paragraph (b) to read as follows:

§ 135.245 Second in command qualifications.

(a) Except as provided in paragraph (b), no certificate holder may use any person, nor may any person serve, as second in command of an aircraft unless that person holds at least a commercial pilot certificate with appropriate category and class ratings and an instrument rating. For flight under IFR, that person must meet the recent instrument experience requirements of Part 61 of this chapter.

(b) A second in command of a helicopter operated under VFR, other than over-the-top, must have at least a commercial pilot certificate with an appropriate aircraft category and class rating.

6. By revising § 135.335 to amend paragraph (b), redesignate paragraph (c) as (d), and add a new paragraph (c) to read as follows:

§ 135.335 Approval of aircraft simulators and other training devices.

* * * * *

(b) * * *

(1) * * *

(i) The certificate holder; and

(ii) The particular maneuver, procedure, or crewmember function involved.

(2) * * *

(3) Additionally, for aircraft simulators, it must be—

(i) Approved for the type aircraft and, if applicable, the particular variation within type for which the training or check is being conducted; and

(ii) Modified to conform with any modification to the aircraft being simulated that changes the performance, functional, or other characteristics required for approval.

(c) A particular aircraft simulator or other training device may be used by more than one certificate holder.

(d) In granting initial and final approval of training programs or revisions to them, the Administrator considers the training devices, methods, and procedures listed in the certificate holder's curriculum under § 135.327.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1355(a), 1421 through 1430, and 1502); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, since these amendments extend a compliance date and are editorial and clarifying in nature, or are relaxatory, and impose no additional burden on any person, the Federal Aviation Administration has determined that the anticipated impact is so minimal that an evaluation is not required.

Issued in Washington, D.C., on April 27, 1979.

[Docket No. 16087; Amdt. Nos. 121–152 and 135–1]

[FR Doc. 79–13873 Filed 5–4–79; 8:45 am]

BILLING CODE 4910–13–M

CIVIL AERONAUTICS BOARD

14 CFR Part 287

Interlocks With Commercial Lending Institutions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., April 30, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: The CAB is extending the expiration date of a regulation exempting air carriers from obtaining prior Board approval of interlocking relationships with commercial lending institutions. The Board is extending the expiration date, at the request of Braniff Airways, until September 30, 1979, pending final action on a jurisdictional question.

DATES: Adopted: April 30, 1979. Effective: April 30, 1979.

FOR FURTHER INFORMATION CONTACT: Mark Frisbie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5442.

SUPPLEMENTARY INFORMATION: On March 23, 1966, the Board adopted 14 CFR 287.3a (31 FR 5121, March 30, 1966), exempting air carriers from obtaining prior Board approval for interlocking relationships with commercial lending institutions as long as the air carrier does not engage in leasing transactions with the commercial lending institution. The exemption was originally granted on a 3-year experimental basis, and has been extended for 1- or 2-year intervals since then. It is due to expire on April 30, 1979.

The Deregulation Act of 1978 (Pub. L. 95–504) amended section 409 of the Federal Aviation Act, governing interlocking relationships, to apply only to such relationships between persons "substantially engaged in the business of aeronautics" rather than to persons "engaged in any phase of aeronautics," as it had previously read. The Board is considering, in Dockets 31725, 30595, and 24420, whether any interlocking relationships between air carriers and commercial lending institutions are within its jurisdiction under the new amendment. Pending determination of the jurisdiction matter, we are continuing the exemption in § 287.3a. When the jurisdictional question has been resolved, we will decide whether to make the exemption permanent, extend it for another definite period, or allow it to expire. We find the exemption to be in the public interest for the same reasons that led us to adopt it originally: the burden of monitoring interlocks and applying for approval in the marginal situations covered by the rule is much greater than the public benefits that might result from such a requirement. Our past experience confirms this judgment.

Because of the imminent expiration date of the current rule, because the underlying issues are being considered in other proceedings, and because this is a substantive rule that grants or recognizes an exemption, we find for good cause that notice and public procedure are impracticable, unnecessary, and contrary to the public interest, and that the rule should be made effective immediately.

Accordingly, the Civil Aeronautics Board amends § 287.3a of 14 CFR Part 287, *Exemption and application of certain interlocking relationships*, to read as follows:

§ 287.3a Exemption of air carriers with respect to interlocking relationships with commercial lending institutions.

In addition to the exemptions provided in §§ 287.2 and 287.3, and subject to the other provisions of this part, air carriers are hereby relieved from the provisions of section 409 of the Act and Part 251 of this chapter with respect to any interlocking relationship between any such air carrier and a commercial lending institution which does not lease aircraft to the air carrier: *Provided, however,* That such exemption shall expire on September 30, 1979, and shall extend only to the relationship involving a director of the air carrier who is not an officer or employee of the air carrier or a stockholder holding a controlling interest in the air carrier (or the representative or nominee of any such person) and who is not a member of the commercial lending institution: *Provided, further,* That in order to qualify for an exemption under this section air carriers shall file with the Bureau of Pricing and Domestic Aviation annual reports on or before April 1 of each year showing for the previous calendar year (a) the names and addresses of all directors of the air carrier who were also directors, officers, or employees of commercial lending institutions; (b) the names and addresses of such commercial lending institutions; and (c) a description of all transactions between the air carrier (and/or its directors, who were also officers or directors of commercial lending institutions) and such commercial lending institutions.

(Secs. 101(3), 204(a), 409, 416, 72 Stat. 737, 743, 92 Stat. 1738, 1731; (49 U.S.C. 1301, 1324, 1379, and 1386))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[Reg. ER–1130, Amdt. No. 11]

[FR Doc. 79–14230 Filed 5–4–79; 8:45 am]

BILLING CODE 6320–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 231, 261

Offerings of Debt Securities Pursuant to Trust Indentures

AGENCY: Securities and Exchange Commission.

ACTION: No-action position.

SUMMARY: The Commission announces that it will not take enforcement action against persons offering debt securities for public sale pursuant to Regulation A (17 CFR 230.251 et seq.) under the Securities Act of 1933 (15 U.S.C. 77a et seq.) who do not comply with applicable provisions of the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) although such compliance is technically required.

EFFECTIVE DATE: May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Norman Schou, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, (202) 755–1240.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announced today that it will not take enforcement action against any issuer of debt securities in an offering exempt from the registration requirements of the Securities Act of 1933 pursuant to Regulation A thereunder, of $1,500,000 or less, if the issuer should offer the securities for public sale without filing or qualifying the trust indenture covering such securities under the Trust Indenture Act of 1939.

The Congress recently authorized the Commission to raise the ceiling on public offerings exempt from registration pursuant to Regulation A under Section 3(b) of the Securities Act of 1933 from $500,000 to $1,500,000 in May 1978 and to $2,000,000 in October 1978.[1] Although a trust indenture is required to be used in public offerings of debt securities exceeding $250,000 by the same issuer in any consecutive twelve month period, the indenture used is not required to be filed under the Trust Indenture Act of 1939 if the indenture limits the aggregate principal amount outstanding under it to $1,000,000 aggregate principal amount of securities during any consecutive thirty-six month period. As a result, offerings of debt securities pursuant to Regulation A under the revenue ceiling of $500,000 were able to meet the exemption from qualification requirements of the Trust Indenture Act of 1939. When, pursuant to the new Congressional authorization, the Commission raised the ceiling on offerings exempt from registration pursuant to Regulation A, it made that exemption available for the first time to offerings subject to the qualification provisions of the Trust Indenture Act of 1939.

In light of the policy considerations underlying the Congressional authorization to raise the ceiling on Regulation A offerings, the filing and qualification of trust indentures covering those issues under the Trust Indenture Act of 1939 would appear to impose burdens on issuers in small offerings which were not contemplated by Congress. It should be noted that when the $1,000,000 threshold for qualification of indentures under the Trust Indenture Act was adopted in 1939 the ceiling on offerings permitted to be exempt from registration under Section 3(b) of the Securities Act was $100,000. Accordingly, although the Trust Indenture Act technically appears to require the use of a trust indenture qualified under the provisions of that Act for any public offering of debt securities of the same issuer exceeding $1,000,000 in any consecutive thirty-six month period, the Commission will not take any enforcement action against such an issuer for failure to qualify an indenture under the Trust Indenture Act pursuant to Regulation A, provided that the indenture limits the amount of securities to be outstanding under it to $1,500,000 during any consecutive twelve month period. Issuers of such securities in amounts exceeding $250,000 will remain subject to the requirement of Section 308 of the Trust Indenture Act that an indenture be used which need not contain the qualifying provisions but which, in the Commission's view, should provide for a trustee in order to facilitate the collective enforcement of security holders' rights although use of a trustee is not a statutory requirement in indentures which are not qualified under the Trust Indenture Act.

This position will remain effective until the Congress amends the Trust Indenture Act so as to provide a statutory exemption from qualification or to indicate an intention that qualification is required. If the Commission should raise the ceiling on the Regulation A exemption from $1,500,000 to $2,000,000, qualification will not be required of any indenture limiting the amount of securities to be outstanding under it to $2,000,000 in any consecutive twelve month period.

Accordingly, Parts 231 and 261 of Title 17 of the Code of Federal Regulations are amended by adding this release thereto.

By the Commission.

Shirley E. Hollis,
Assistant Secretary.

April 25, 1979.

[Release Nos. 33–6059; 39–524]

[FR Doc. 79–14148 Filed 5–4–79; 8:45 am]

BILLING CODE 8010–01–M

[1] Pub. L. 95–283, May 21, 1978 and Pub. L. 95–425, October 6, 1978.

DEPARTMENT OF DEFENSE

32 CFR Part 806b

Air Force Privacy Act Program; Correction

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Correction to final rule.

SUMMARY: This document corrects a final rule that appeared at page 23080 in the Federal Register of Wednesday, April 18, 1979.

FOR FURTHER INFORMATION CONTACT: Captain Robert N. Veeder, (202) 694–3431.

SUPPLEMENTARY INFORMATION: Subpart E—Exempting Systems of Records, as published in 44 FR 23080, April 18, 1979, should be corrected to read as follows:

Delete the first paragraph under Subpart E and change 806b.16 to read as follows:

§ 806b.16 General and specific exemptions.

(a) The Secretary of the Air Force may exempt Air Force systems of records from certain parts of the Privacy Act. There are two kinds of exemptions: general and specific. The general

exemption relieves systems of records from most requirements of the Act; the specific exemption from only a few.

(b) The exemption index below shows for which parts of the Privacy Act exemptions may be claimed. "No" means that no exemption may be taken; "yes" means that an exemption may be taken. Note that the index provides a cross reference to this part.

Carol M. Rose,
Air Force Federal Register Liaison Officer.
[FR Doc. 79-14167 Filed 5-4-79; 8:45 am]
BILLING CODE 3910-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 164

Navigation Safety Regulations; Radar Requirement for Certain Tankers of 10,000 Gross Tons or More

AGENCY: Coast Guard, DOT.

ACTION: Interim Final Rule.

SUMMARY: This rule amends the Navigation Safety Regulations by requiring oil and bulk hazardous material tankers of 10,000 gross tons or more, when operating on the navigable waters of the United States except the Panama Canal or St. Lawrence Seaway, to be equipped with a dual radar system, having short-range and long-range capabilities, and each with true-north features. The radar display presentation provided by these features makes information more easily assimilable by the watch officer. This rule implements one of the directives of the Port and Tanker Safety Act of 1978.

EFFECTIVE DATE: This amendment is effective on June 1, 1979.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81) (CGD 79-033), U.S. Coast Guard, Washington, DC 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Fred A. Schwer, Project Manager, Office of Marine Environment and Systems (G-WLE-4/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, (202) 426-4958.

SUPPLEMENTARY INFORMATION: This regulation implements the Port and Tanker Safety Act of 1978 (Pub. L. 95-474). It is being promulgated because the statute does not impose any direct requirements upon vessels, but instead instructs the agency: "In issuing regulations * * * the Secretary shall require that any self-propelled vessel * * * (J) of 10,000 gross tons or above * * * be equipped with (i) a dual radar system, with short-range and with long-range capabilities and each with true-north features * * *." The statute also states that this radar equipment is to be required on specified vessels not later than June 1, 1979.

Notice and public procedure thereon are impracticable and unnecessary because this regulation prescribes exactly what is mandated by the statute. The purpose of any notice and public procedure thereon is to give the public a timely and meaningful opportunity to participate in the rulemaking process. Here, the rulemaking consists merely of a repetition of the statutory mandate. Receiving public comment, where no discretion is being exercised and a purely ministerial act is being performed, would serve no useful purpose.

The public is invited to comment on the enforcement policy discussed below. The Coast Guard will consider those comments and may modify its enforcement policy in their light.

Drafting Information

The principal persons involved in drafting this rule are Mr. Fred A. Schwer, Project Manager, Office of Marine Environment and Systems and Mr. Michael N. Mervin, Project Attorney, Office of Chief Counsel.

Discussion

This amendment modifies 33 CFR Part 164.37, which was published as a final rule on July 24, 1978 (43 FR 32122). That rule requires that, after June 1, 1979, all vessels of 10,000 gross tons or more, when operating on the navigable waters of the United States except the Panama Canal and St. Lawrence Seaway, be equipped with two radar systems capable of independent operation. The Port and Tanker Safety Act of 1978 (PTSA) added additional requirements and excluded certain foreign vessels, including those in innocent passage or transiting an international strait. This interim rule applies only to tankers subject to the PTSA.

At the time the "two radar" rule was being developed, consideration was given to inclusion of minimum standards for ships' radars. However, the existing international standard for marine radars, Resolution A-222 (VII) of the Inter-Governmental Maritime Consultative Organization (IMCO), was being revised by that organization. It was expected that work on the revised standard would be completed by January of 1979 and that the United States could then publish a standard which would not conflict with IMCO's.

The PTSA was signed on October 17, 1978. Tankers of 10,000 gross tons or above are required by that law to have a dual radar system with long and short range capabilities and true north features. Both of these requirements were being addressed by IMCO's Sub-committee on Safety of Navigation as part of the new international radar standard and it was anticipated that the standard would fully comply with the statutory mandate. It was decided, therefore, to wait until the new standard became available and then implement the PTSA as part of a minimum standard for all required radars. IMCO did not complete the work on the revision in January as expected. It is possible that it may be accomplished in September of this year, but that will be too late to accommodate the June 1, 1979, implementation date specified in the PTSA. It became necessary then to issue this interim rule to comply with the mandate of the PTSA. When the revised international radar standard does become available, the Coast Guard expects to be able to publish a parallel U.S. standard.

It is the Coast Guard's present intention when drafting the United States standard to "grandfather" existing radar installations which comply with the presently existing IMCO standard. New installations after that date will have to comply with the new IMCO standard. However, because of the PTSA, existing installations on tankers addressed by the Act will have to have the long and short range and true north features, even though they are not required by the present IMCO standard.

In deciding on an interim enforcement policy pending the finalization of the new international standard, the Coast Guard considered the capabilities of radars currently in use. It is recognized that some radars are effective at closer ranges than that selected; however, there is a practical limit below which most radars are ineffective. In addition, action to avoid accidents must be taken while the danger is a reasonable distance away. Accordingly, pending promulgation of Coast Guard regulatory standards after finalization of new international standards, the Coast Guard interim policy will be to consider a short range capability of 3 miles or less to be in compliance with the statutory mandate promulgated below. Many radars are capable of effective use at ranges of beyond 16 miles; however, detection of objects at this range will normally allow sufficient time to evaluate the information and take corrective action, if required. Accordingly, pending promulgation of regulatory standards, the Coast Guard interim policy will be to consider a long range capability of 16 miles or more to be in compliance with the statutory mandate promulgated below.

"True-north features" is another way of saying that the radar display is stabilized in azimuth so that, when so selected and regardless of the vessel's heading, the indicated true north direction remains unchanged. Both radars must have this feature.

The Coast Guard anticipates that the requirements imposed by this interim rule can be met by most radars currently in use on vessels of 10,000 gross tons or over; however, there are radars on some vessels that do not have true-north features and some vessels may not yet have dual radars installed.

This interim final rule has been evaluated in accordance with DOT "Regulatory Policies and Procedures," 44 FR 11033 (February 26, 1979). A copy of the final evaluation may be obtained from: Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590, (202-426-1477).

In consideration of the foregoing, Part 164 of Chapter I, Title 33, Code of Federal Regulations is amended by designating the existing text of § 164.37 as paragraph (a) and adding a new paragraph (b) as follows:

PART 164—NAVIGATION SAFETY REGULATIONS

§ 164.37 Equipment: Vessels of 10,000 gross tons or more.

(a) * * *

(b) On each tanker of 10,000 gross tons or more that is subject to Section 5 of the Port and Tanker Safety Act of 1978 (46 U.S.C. 391a), the dual radar system required by this part must have a short range capability and a long range capability and each radar must have true north features consisting of a display that is stabilized in azimuth.

(46 U.S.C. 391a; 49 CFR 1.46(n)(4).)

Dated: May 1, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard Commandant.

[CGD 79-033]
[FR Doc. 79-14224 Filed 5-4-79; 8:45 am]
BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of Implementation Plans, Louisiana; Correction

AGENCY: Environmental Protection Agency

ACTION: Final rule; correction

SUMMARY: On March 28, 1979 (44 FR 18490) a final rule was published for Louisiana. In noting the receipt of the State implementation plan revision, an incorrect paragraph number under § 52.970 was used. This notice corrects that error.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield (214) 767-2742.

SUPPLEMENTARY INFORMATION: In FR Doc. 79-9231 appearing at 44 FR 18490 in the Federal Register of Wednesday, March 28, 1979, the following correction is made: on page 18491, under Subpart T—Louisiana, action number 1, paragraph "(8)" under paragraph (c) is changed to paragraph "(12)".

Dated: April 6, 1979.

Earl Keil,
Acting Regional Administrator.

[FRL 1230-6]
[FR Doc. 79-13691 Filed 5-4-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 65

Approval of a Delayed Compliance Order Issued by the Morgan County, Ala., Board of Health to the Goodyear Tire & Rubber Co., Morgan County, Ala.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order issued by the Morgan County, Alabama, Board of Health to Goodyear Tire and Rubber Company. The Order requires the Goodyear Tire and Rubber Company to bring air emissions from its Latex Dip Unit Nos. 2 and 3 at Morgan County, Alabama, into compliance with State air pollution control regulations contained in the federally approved Alabama State Implementation Plan (SIP). Because of the Administrator's approval, the Goodyear Tire and Rubber Company's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATE: This rule takes effect on May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Robert R. Geddis, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308, Telephone Number: (404) 881-4253.

ADDRESS: A copy of the State Delayed Compliance Order, any supporting material, and any comments received in response to a prior Federal Register notice proposing approval of the Order are available for public inspection and copying during normal business hours at: U.S. Environmental Protection Agency; Region IV, Air Enforcement Branch, 345 Courtland Street, NE., Atlanta, Georgia 30308.

SUPPLEMENTARY INFORMATION: On October 2, 1978, the Regional Administrator of EPA's Region IV Office published in the Federal Register, 43 FR 45407, a notice proposing approval of a delayed compliance order issued by the Morgan County, Alabama, Board of Health to Goodyear Tire and Rubber Company. The notice asked for public comments by November 1, 1978, on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice.

Therefore, the delayed compliance order issued to the Goodyear Tire and Rubber Company is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places the Goodyear Tire and Rubber Company on a schedule to bring its Latex Dip Unit Nos. 2 and 3 into compliance as expeditiously as practicable with Alabama Air Pollution Regulation 4.1.1, part of the federally approved Alabama State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Goodyear Tire and Rubber Company to delay compliance with the SIP regulations covered by the Order until June 1, 1979. The facility is unable to comply immediately with these regulations.

EPA has determined that its approval of the Order shall be effective May 7, 1979, because of the immediate need to place the Goodyear Tire and Rubber Company on a schedule which is effective under the Clean Air Act for compliance with the applicable

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requirement(s) in the Alabama State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: April 30, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.51:

§ 65.51 EPA Approval of State delayed compliance orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
*	*	*	*	*	*
Goodyear Tire and Rubber Company (Latex Dip Unit Nos. 2 and 3).	Morgan County, Ala.	DCO–78–20	Section 4.1.1	10/2/78	5/1/79
*	*	*	*	*	*

[FRL 1211–8]
[FR Doc. 79–14219 Filed 5–4–79; 8:45 am]
BILLING CODE 6560–01–M

40 CFR Part 65

Delayed Compliance Order for the Town of Rockport, Maine

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby issues a Delayed Compliance Order to the Town of Rockport, Maine. The Order requires the municipality to bring air emissions from its open burning dump into compliance with certain regulations contained in the federally-approved Maine State Implementation Plan (SIP). The Town of Rockport's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATE: This rule takes effect on May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. R. W. DiNardo, engineer, 617/223–5610 or Mr. Wesley Marshall, attorney, 617/223–5600 both at EPA, Region I, Room 2103, J.F.K. Federal Building, Boston, Massachusetts 02203.

ADDRESS: The Delayed Compliance Order, supporting material, and any comments received in response to a prior Federal Register notice proposing issuance of the Order are available for public inspection and copying during normal business hours at: EPA, Region I, Room 2103, J.F.K. Federal Building, Boston, Massachusetts 02203.

SUPPLEMENTARY INFORMATION: On January 26, 1979, the Regional Administrator of EPA's Region I Office published in the Federal Register, 44 FR 5475, a notice setting out the provisions of a proposed delayed compliance order for the Town of Rockport, Maine. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments or requests were received in response to the proposal notice.

Therefore, a delayed compliance order effective this date is issued to the Town of Rockport, Maine by the Administrator of EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places the Town of Rockport, Maine on a schedule to bring its solid waste disposal system into compliance as expeditiously as practicable with Section 100.2.2 of the Maine Department of Environmental Protection Air Pollution Control Regulations, a part of the federally-approved Maine State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and reporting requirements. Although Section 113(d)(C) of the Act normally requires emission monitoring in an ORDER, no reasonable system of emission monitoring for the Town of Rockport's open burning dump site exists. If the conditions of the Order are met, it will permit the Town of Rockport to delay compliance with the SIP regulation covered by the Order until July 1, 1979. The Town is unable to immediately comply with these regulations.

EPA has determined that the Order shall be effective May 7, 1979, because of the need to immediately place the Town of Rockport, Maine on a schedule for compliance with the applicable requirement of the Maine State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: April 28, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.240:

§ 65.240 Federal delayed compliance orders issued under section 113(d)(1), (3), and (4) of the Act.

* * * * *

Source	Location	Order No.	Date of FR Proposal	SIP regulation involved	Final compliance date
*	*	*	*	*	*
(Town of Rockport)	(Maine)	(A–SS–77–591)	(January 26, 1979).	(100.2.2)	(July 1, 1979)
*	*	*	*	*	*

[FRL 1205–1]
[FR Doc. 79–14218 Filed 5–4–79; 8:45 am]
BILLING CODE 6560–01–M

40 CFR Part 65

Delayed Compliance Order for the Town of Camden, Maine

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: The Administrator of EPA hereby issues a Delayed Compliance Order to the Town of Camden, Maine. The Order requires the municipality to bring air emissions from its open burning dump into compliance with certain regulations contained in the federally-approved Maine State Implementation Plan (SIP). The Town of Camden's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule takes effect on May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. R. W. DiNardo, engineer, 617/223–5610 or Mr. Wesley Marshall, attorney, 617/223–5600 both at EPA, Region I, Room 2103, J.F.K. Federal Building, Boston, Massachusetts, 02203.

ADDRESS: The Delayed Compliance Order, supporting material, and any comments received in response to a prior Federal Register notice proposing issuance of the Order are available for public inspection and copying during normal business hours at: EPA, Region I, Room 2103 J.F.K. Federal Building, Boston, Massachusetts 02203.

SUPPLEMENTARY INFORMATION: On January 26, 1979, the Regional Administrator of EPA's Region I Office published in the Federal Register, 44 FR 5476, a notice setting out the provisions of a proposed delayed compliance order for the Town of Camden, Maine. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments or requests were received in response to the proposal notice.

Therefore, a delayed compliance order effective this date is issued to the Town of Camden, Maine by the Administrator of EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places the Town of Camden, Maine on a schedule to bring its solid waste disposal system into compliance as expeditiously as practicable with Section 100.2.2 of the Maine Department of Environmental Protection Air Pollution Control Regulations, a part of the federally-approved Maine State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and reporting requirements. Although Section 113(d)(C) of the Act normally requires emission monitoring in an ORDER, no reasonable system of emission monitoring for the Town of Camden's open burning dump site exists. If the conditions of the Order are met, it will permit the Town of Camden to delay compliance with the SIP regulation covered by the Order until July 1, 1979. The Town is unable to immediately comply with these regulations.

EPA has determined that the Order shall be effective May 7, 1979, because of the need to immediately place the Town of Camden, Maine on a schedule for compliance with the applicable requirement of the Maine State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: April 28, 1979.

Douglas M. Costle,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.240:

§ 65.240 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
*	*	*	*	*	*
(Town of Camden)	(Maine)	(A–SS–77–592)	(January 26, 1979).	(100.2.2)	(July 1, 1979)
*	*	*	*	*	*

[FRL 1204–8]
[FR Doc. 79–14217 Filed 5–4–79; 8:45 am]
BILLING CODE 6560–01–M

40 CFR Part 180

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 4-Amino-6-(1,1-Dimethylethyl)-3-(Methylthio)-1,2,4-Triazin-5(4H)-One

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one on barley grain and wheat grain at 0.75 part per million (ppm), barley straw and wheat straw at 1 ppm, and wheat forage at 2 ppm. The regulation was requested by Mobay Chemical Corp. This rule establishes maximum permissible levels for residues of the subject pesticide on barley grain, wheat grain, barley straw, wheat straw, and wheat forage.

EFFECTIVE DATE: Effective on May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, D.C. 20460 (202/755–7013).

SUPPLEMENTARY INFORMATION: On August 2, 1978, notice was given (43 FR 33961) that Mobay Chemical Corp., Chemagro Agricultural Div., P.O. Box 4913, Hawthorne Road, Kansas City, MO 64120, had filed a pesticide petition

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(PP 8F2091) with the EPA. This petition proposed that 40 CFR 180.332 be amended to establish tolerances for combined residues of the herbicides 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one and its triazinone metabolites in or on the raw agricultural commodities wheat forage at 2 ppm, barley straw and wheat straw at 1 ppm, and barley grain and wheat grain at 0.75 ppm. (A related document proposing food and feed additive regulations for residues of the subject pesticide appears elsewhere in today's Federal Register.) No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included rat acute oral lethal dose (LD_{50}) studies, a rabbit teratogenicity study with a no-observed-effect level (NOEL) of 30 milligrams (mg)/kilogram (kg) of body weight (bw) (highest level fed), a rat teratogenicity study with an NOEL of 100 mg/kg bw (highest level fed), a 2-year dog feeding study with an NOEL of 100 ppm, a two-year rat feeding study with an NOEL of 300 ppm, an 18-month mouse carcinogenicity study (negative at 2,500 ppm, the highest level fed), a three-generation rat reproduction study with an NOEL of 300 ppm, and a mouse mutagenicity study with an NOEL of 20 mg/kg bw (highest level tested).

Tolerances have previously been established for residues of the subject herbicide on a variety of raw agricultural commodities at levels ranging from 7 ppm to 0.01 ppm. Food additive tolerances have previously been established for residues of the herbicide in processed potatoes (including potato chips) at 3 ppm and sugarcane molasses at 2 ppm. A feed additive tolerance has also previously been established in sugarcane molasses at 2 ppm. These previously established tolerances (except processed potatoes) result in a theoretical maximal residue contribution (TMRC) of 0.23 mg/day in a 1.5-kg diet compared with a maximal permissible intake (MPI) of 1.5 mg/day for a 60-kg man, or 15.36 percent of the MPI. These tolerances contribute an additional 7.79 percent of the MPI based on an acceptable daily intake of .025 mg/kg bw/day, for a total of 23.15 percent of the MPI. Should all other pending tolerances be established 27.37 percent of the MPI will be utilized. Other feed additive tolerances previously established are processed potato waste (dried) at 3 ppm, sugarcane bagasse at 0.5 ppm, and dried tomato pomace at 2 ppm.

There are no regulatory actions pending against the registration of the subject pesticide. The nature of the residues of the pesticide is adequately delineated, and an adequate analytical method (a gas chromatographic procedure using an electron capture detector) is available for enforcement purposes. No other considerations are involved in establishing the proposed tolerances, nor are desirable data lacking from the petition.

Residues could occur in the eggs; milk; and the meat, fat, and meat byproducts of livestock, but such residues would be adequately covered by existing tolerances (section 180.6(a)(2) applies).

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the proposed tolerances established by amending 40 CFR 180.332 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before June 6, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on May 7, 1979, Part 180 is amended as set forth below.

(Section 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Dated: April 26, 1979.

James M. Conlon,
Acting Deputy Assistant Administrator for Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Part 180, Subpart C, § 180.332, is amended by alphabetically inserting barley grain and wheat grain at 0.75 ppm, barley straw and wheat straw at 1 ppm, and wheat forage at 2 ppm in the table to read as follows:

§ 180.332 4-Amino-6-(1,1-dimethylethyl)-3-methylthio)-1,2,4-triazin-5(4*H*)-one; tolerances for residues.

* * * * *

Commodity:	Parts per million
* * * * *	
Barley, grain	0.75
Barley, Straw	1
* * * * *	
Wheat, forage	2
Wheat, grain	0.75
Wheat, straw	1

[FRL 1216-4; PP8F2091/R304]
[FR Doc. 79-14200 Filed 5-4-79; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

41 CFR Part 14H–1

Designation of Contracting Officer Positions

April 23, 1979.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Amendment to Final rule.

SUMMARY: This document amends the present designation of contracting officer position titles contained in the Bureau of Indian Affairs Procurement Regulations at 41 CFR 14H–1.451–2 to reflect changes in position titles and duties that have taken place since the last such publication in the Federal Register of April 1, 1976 (41 FR 13923).

EFFECTIVE DATE: This amendment is effective immediately May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Donald F. Asbra, Chief, Contracting and Grants Administration Staff, Bureau of Indian Affairs, Department of Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20245. Telephone number area code (703) 235–8061.

SUPPLEMENTAL INFORMATION: The primary author of this Regulation is Mr. Donald F. Asbra, address above.

Chapter 14H of 41 CFR was published beginning on Page 13659 of the August 28, 1969, Federal Register (34 FR 13659). Chapter 14H contains the Bureau of Indian Affairs Procurement Regulations which supplement the Federal Procurement Regulations (41 CFR 1) and the Interior Procurement Regulations (41 CFR 14).

Since this amendment involves internal Bureau procedures, advance notice and public comments are deemed unnecessary and are dispensed with under the exception provided in (b)(3) of 5 U.S.C. 553 (1970). Since delay in the amendment becoming effective could delay the internal processing in the Bureau with a resultant delay in providing services to Indian and Alaskan Native people, the 30-day deferred effective date is dispensed with under the exception quoted above.

The Department of Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, 41 CFR 14H–1.451–2 is revised to read as follows:

§ 14H–1.451–2 Designation of contracting officer positions.

(a) Each of the following organizational titles is designated as a contracting officer position:

(1) Headquarters Office Officials:

(i) Commissioner.

(ii) Deputy Commissioner.

(iii) Director, Office of Administration.

(iv) Chief, Contracting and Grants Administration Staff.

(v) Contract Specialist (Operations).

(vi) Chief, Division of Property Management.

(vii) Chief, Division of Facilities Engineering, Albuquerque, New Mexico.

(viii) Chief, Branch of Contract Services, Division of Facilities Engineering, Albuquerque, New Mexico.

(ix) Chief, Indian Technical Assistance Center, Denver, Colorado.

(x) Chief, Contracts Group, Indian Technical Assistance Center, Denver, Colorado.

(xi) Property and Supply Officer, Field Administrative Office, Albuquerque, New Mexico.

(2) Area Office Officials:

(i) Area Director.

(ii) Area Administrative Officer.

(iii) Area Property and Supply Officer except the Albuquerque and Navajo Area Property and Supply Officers.

(iv) Director, Seattle Liaison Office, Seattle, Washington.

(v) Contract Administrator, Aberdeen and Juneau Area Offices.

(vi) Chief, Branch of Contracting and Procurement Services, Navajo Area Office.

(vii) Supervisory Contract Specialist, Minneapolis and Portland Area Offices.

(viii) Area Contracts and Grants Officer, Albuquerque, Billings and Eastern Area Offices.

Forrest J. Gerard,
Assistant Secretary—Indian Affairs.
[FR Doc. 79-14147 Filed 5-4-79; 8:45 am]
BILLING CODE 4310-02-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

42 CFR Parts 205 and 206

Research Projects Relating to Maternal and Child Health Services and Crippled Childrens' Services and Research and Demonstration Projects Relating to Child Welfare Services; Withdrawal of Regulations

AGENCY: Office of Human Development Services, DHEW.

ACTION: Withdrawal of Regulations.

SUMMARY: The Childrens' Bureau, within the Administration for Children, Youth and Families (ACYF), HDS, withdraws the publication of Part 205, Research Projects Relating to Maternal and Child Health Services and Crippled Childrens' Services, and Research or Demonstration Projects Relating to Child Welfare Services, and Part 206, Administrative Procedure.

Part 205 was published in the March 4, 1969 Federal Register (34 FR 3743) and amended in the September 19, 1973 Federal Register (38 FR 26201). These regulations cover the same areas and conflict with the Department's regulations in 45 CFR Part 74, Administration of Grants. Other information in Part 205 to be withdrawn is made available to the research community through publication of program announcements in the Federal Register and mailings to organizations who have expressed interest in these programs. Therefore, these regulations are unnecessary.

Part 206 was published in the September 11, 1969 Federal Register (11 FR 177A–537). Part 206 is being withdrawn because it is not necessary to regulate administrative procedure.

The withdrawal of Parts 205 and 206 is part of the Department's Common Sense initiative to reduce unnecessary and duplicative regulations.

FOR FURTHER INFORMATION CONTACT: Norman Goldstein, Director, Grants and Contract Management Division, Office of Human Development Services, 337 F.5 Humphrey Building, Washington, D.C. 20201, (202) 245–1589.

Dated: April 3, 1979.

Arabella Martinez,
Assistant Secretary for Human Development Services.

Approved: April 30, 1979.

Joseph A. Califano, Jr.,
Secretary.

[FR Doc. 79-14203 Filed 5-4-79; 8:45 am]
BILLING CODE 4110-92-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1060

CSA Income Poverty Guidelines (Revised)

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is revising its income poverty guidelines. The Economic Opportunity Act of 1964, as amended requires yearly revisions of the poverty guidelines for use by every agency administering programs under the Act in which the poverty guidelines are used to judge eligibility for participating in programs. These annual revisions assure that the income guidelines reflect the changes in the cost of living.

EFFECTIVE DATE: This rule is effective June 6, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Wall, Policy, Planning and Analysis Division, Community Services Administration, Office of Policy, Planning and Evaluation, 1200 19th Street, N.W., Washington, D.C. 20506, Telephone: (202) 632–8630, Teletypewriter: (202) 254–6218.

SUPPLEMENTARY INFORMATION: The Community Services Administration revisions of the updated poverty guidelines constitute compliance with the legislatively mandated requirement of Section 625 of the Economic Opportunity Act of 1964, as amended. This revision is not significant since the only change being made reflects the changes in the Consumer Price Index which is required by the previously mentioned section of the EOA. The text defining "Income" and "A Farm Residence" remains unchanged.

This amendment to § 1060.2 revises the guidelines previously published in § 1060.2–1—§ 1060.2–2 (CSA Instruction 6004–1k).

Authority: The provisions of this subpart are issued under Sec. 602, 78 Stat. 530, 42 U.S.C. 2942.

Graciela (Grace) Olivarz,
Director.

45 CFR 1060.2–1 through 1060.2–2 are revised to read as follow:

Sec.
1060.2–1 Applicability.
1060.2–2 Policy.

§ 1060.2–1 Applicability.

This subpart applies to all grants financially assisted under Titles II, III–B and VII of the Economic Opportunity Act of 1964, as amended, if such assistance is administered by the Community Services Administration.

§ 1060.2–2 Policy.

(a) The attached income guidelines are to be used for all those CSA-funded programs, whether administered by a grantee or delegate agency, which use CSA poverty income guidelines as admission standards. These guidelines do not supersede alternative standards of eligibility approved by CSA.

(b) The guidelines are also to be used in certain other instances where required by CSA as a definition of poverty, e.g., for purposes of data collection and for defining eligibility for allowances and reimbursements to board members. Agencies may wish to use these guidelines for other administrative and statistical purposes as appropriate.

(c) The attached guidelines are based upon Table 15 of the U.S. Bureau of the Census, *Current Population Reports*, Series P–60, No. 116, "Money Income and Poverty Status of Families and Persons in the United States: 1977", and the Economic Report of the President, January 1979, Table B–49 and December press release.

(d) The following definitions, from *"Current Population Reports"*, P–60, No. 81, Bureau of the Census, December 1973 have been adopted by CSA for use with the attached poverty guidelines.

(1) *Income.* Refers to total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but not including food or rent in lieu of wages. They include receipts from self-employment or from own farm or business after deductions for business or farm expenses. They include regular payments from public assistance, social security, unemployment and workmen's compensation, strike benefits from union funds, veterans benefits, training stipends, alimony, child support and military family allotments or other regular support from an absent family member or someone not living in the household; government employee pensions, private pensions and regular insurance or annuity payments; and income from dividends, interest, rents, royalties or income from estates and trusts. For eligibility purposes, income does not refer to the following money receipts: any assets drawn down as withdrawals from a bank, sale of property, house or car, tax refunds, gifts, one-time insurance payments or compensation for injury; also to be disregarded is non-cash income, such as the bonus value of food and fuel produced and consumed on farms and the imputed value of rent from owner-occupied farm or non-farm housing.

(2) *A Farm Residence.* Is defined as any dwelling on a place of 10 acres or more with $50 or more annual sales of farm products raised there; or any place less than 10 acres having product sales of $250 or more.

Attachment

Community Services Administration

Poverty Income Guidelines For All States Except Alaska and Hawaii

	Non-farm family	Farm family
Size of family unit:		
1	$3,400	$2,910
2	4,500	3,840
3	5,600	4,770
4	6,700	5,700
5	7,800	6,630
6	8,900	7,560

For family units with more than 6 members, add $1,100 for each additional member in a non-farm family and $930 for each additional member in a farm family.

Poverty Guidelines For Alaska

	Non-farm family	Farm family
Size of family unit:		
1	$4,270	$3,650
2	5,540	4,810
3	7,010	5,970
4	8,380	7,130
5	9,750	8,290
6	11,120	9,450

For each family unit with more than 6 members, add $1,370 for each additional member in a non-farm family and $1,160 for each additional member in a farm family.

Poverty Guidelines For Hawaii

	Non-farm family	Farm family
Size of family unit:		
1	$3,920	$3,350
2	5,130	4,420
3	6,450	5,490
4	7,710	6,560
5	8,970	7,630
6	10,250	8,700

For family units with more than 6 members, add $1,280 for each additional member in a non-farm family and $1,070 for each additional member in a farm family.

[CSA Instruction 6004–1L]
[FR Doc. 79–14004 Filed 5–4–79; 8:45 am]
BILLING CODE 6315–01–M

DEPARTMENT OF THE INTERIOR

50 CFR Part 26

Fish and Wildlife Service

Public Entry and Use

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation: Correction.

SUMMARY: This document corrects a special regulation relating to the opening of certain national wildlife refuges to public access, use, and recreation in Oklahoma published at 44 FR 15495, March 14, 1979.

FOR FURTHER INFORMATION CONTACT: Robert A. Karges, Refuge Manager, P.O. Box 448, Cache, Okla. 73527 at 405–371–2402.

SUPPLEMENTARY INFORMATION: In FR Doc. 79–7672, appearing at page 15495, March 14, 1979 make the following correction:

On page 15498, under the heading of "Oklahoma," paragraph 14 appearing in the second column under "Wichita Mountains Wildlife Refuge" should read:

"(14) Public display or consumption of alcoholic beverages, including beer containing 3.2% (or less) alcoholic content by weight, is prohibited."

Dated: April 27, 1979.

W. O. Nelson, Jr.,
Regional Director, Albuquerque, N. Mex.
[FR Doc. 79–14133 Filed 5–4–79; 8:45 am]
BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Salmon Fishery; Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California

Correction

In FR Doc. 79–12395, appearing at page 24291 in the issue for Wednesday, April 25, 1979, there were numerous typographical errors in two of the discussion topics under Supplementary Information. Those discussion topics which appeared on page 24292, are correctly reprinted below:

The Fisheries

The ocean salmon fishery primarily harvests chinook and coho salmon. It includes commercial harvesters and recreational participants. Events in the ocean also affect the numbers of fish returning to spawning grounds and fisheries as far as several hundred miles inland. Coho and chinook salmon range widely during their lives in the ocean, and are harvested in the ocean while the stocks are mixed. The quality of chinook and coho which are harvested depends on both location and time of capture. Market qualities are affected by size and maturity of the fish, type of fishing gear, and the degree of care in handling and processing. All of these factors affect prices, market supplies, and demands.

Fishery Management Options

Six management options were assembled on February 9, 1979, in a document entitled "Selected Options for Managing 1979 Ocean Salmon Fisheries off Washington, Oregon and California" and were considered by the Pacific Council. This document was included as Appendix X in the supplement to the fishery management plan dated March, 1979. The options were recommended, in whole or in part, by representatives of California's (Option II), Oregon's (Option III), and Washington's (Option IV) fishery agencies and by representatives of the commercial trollers (Option I) and Indian fishermen (Option V). Option VI was developed by the Council's salmon plan development team to demonstrate the effect the regulations would have if shifts in fishing effort between states prior to August 1 could be reduced or eliminated through an "Area Registration Plan." This document was widely distributed. The Council conducted three additional public hearings during the last week of February to receive public comment on these options. As a result of these hearings, the salmon management plan development team defined for the Council five optional regulatory packages and analyzed their impacts. The fifth package (identified in the document as Option E) would permit a higher harvest rate off California but still consistent with escapement needs, while recognizing the need for more stringent restrictions on harvests off the Oregon and Washington coasts, and at the same time try to keep the impacts of the regulations as comparable as possible for the three states to avoid detrimental impacts due to shifts in fishing effort. A slight modification of this option was adopted by the Council as being most consistent with the objectives of the FMP. Although these regulations are more restrictive than recommended by California, slightly more restrictive than recommended by Oregon, and less restrictive than recommended by Washington, they are intended to reconcile differing resource needs along the Pacific Coast, and distribute impacts of catch reductions equitably. The Director of the Washington Department of Fisheries filed a minority report with the Secretary on March 16. That report expressed concern, also expressed by others, that the measures adopted by the Council would be insufficient to ensure adequate escapements for some runs of salmon, and recommended ocean catch quotas and restrictions on fishing fleet mobility. These alternatives were considered both by the Council and by the Assistant Administrator during review of the FMP. However, while such measures would further restrict the ocean fisheries, existing management systems are insufficient to implement such measures effectively at this time, particularly on an emergency basis.

The regulations published here are intended to prevent overfishing of the ocean fishery and minimize impacts on weaker stocks, while equitably apportioning the increased regulatory burden and minimize shifts in fishing effort along the coast. While the regulations are similar to the 1978 regulations, several important changes have been made. These changes shorten the seasons for commercial and recreational salmon fishing and reduce the catch limit for recreational fishermen. There are 325 fishing days open for commercial salmon fishing in 1979, summed over the seasons in the States of Washington, Oregon, and California, as compared to 521 days in 1978. There are 479 fishing days available for recreational salmon fishing in 1979, compared with 737 days available in 1978. The catch limit for recreational fishermen is reduced from three salmon per day to two salmon per day, except north of Cape Falcon, Oregon, where three salmon may be kept providing that no more than two are coho or chinook. The regulations for 1979 are summarized in the table below:

BILLING CODE 1505–01–M

Proposed Rules

Federal Register
Vol. 44, No. 89
Monday, May 7, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 120]

Business Loan Policy; Proposed Rule

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: Many business owners have separated the ownership of some or all fixed assets into one business entity and the operating phase of the business into another entity. This separation is done for legitimate business reasons such as tax benefits or limitation of liability. It has not been clear to applicants or participants which loans to such concerns are eligible under Small Business Administration rules and what factors are considered in determining an eligible situation. SBA is proposing a rule to clarify when a loan can be made to permit two related companies to borrow funds to benefit both companies.

DATE: Comments by: July 6, 1979.

ADDRESSES: Comments, in duplicate, may be addressed to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street N.W., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:
Robert H. Bartlett, Chief, Program Operations Division, Office of Financing, Small Business Administration, Telephone 202–653–6470.

SUPPLEMENTARY INFORMATION: The SBA considered excluding loans or loan guaranties to related companies when the use of the loan would benefit directly or indirectly the passive entity that was not the prime operating concern. Such an action, however, would put SBA in the position of penalizing those operators that take advantage of Federal tax laws, limitations on liability or other sound business procedures. We determined that such a Related Company Transaction Policy by SBA would not reflect the intent of the Small Business Act.

Several provisions that would result in an expanded eligibility scope, such as requiring only a majority of the ownership of the two entities be identical, were also considered. We determined that these provisions would be confusing to all parties and allow many otherwise ineligible investment businesses to become eligible for SBA loans.

More restrictive provisions were also considered, such as (1) restricting the eligibility to real property only; (2) restricting the amount of lease (rental) payments to amounts necessary to cover debt service, and costs of insurance, taxes, and maintenance of the property; and (3) requiring the lease to contain an irrevocable option for the operating business to purchase the property at depreciated cost at the termination of the lease. These provisions were rejected because they could result in the loss of some tax benefits, reduce our flexibility to assist small firms; and impose undue governmental restrictions on managerial discretion.

It is proposed to amend § 120.2(d), Part 120, of SBA Regulations by renumbering the present subparagraph (10) as (12) and inserting a new subparagraph (10) as follows:

PART 120—BUSINESS LOAN POLICY

§ 120.2 Business loans and guarantees

* * * * *

(d) Financial assistance will not be granted by SBA:

(10) If the applicant (whether proprietorship, partnership or corporation) owns and leases real or personal property to an otherwise eligible small business concern and the loan proceeds are to be used to directly benefit the applicant (e.g. purchase real or personal property to be leased to the eligible small business concern or refinance debts previously incurred for such purpose), notwithstanding that benefits will also flow to small business concern, unless all of the following conditions are met to qualify the applicant as an "alter ego" of the otherwise eligible small business concern:

(i) The small business concern is an eligible small business and the proposed use of proceeds would be eligible for such assistance if the small business concern were the owner of the property that is owned or to be owned by the applicant.

(ii) The proceeds of the loan to be used to benefit directly such applicant will be used only to acquire or improve real or personal property for the exclusive use of such small business concern (including eligible refinancing);

(iii) The ownership interest(s) in the applicant shall be completely identical with and in the same proportion as the ownership interest(s) in such small business concern, and this identity of interests shall remain unchanged until the loan is repaid in full or SBA sooner gives approval to a change.

(iv) Collateral includes an assignment of the lease between the applicant and the small business concern and a lien on the property itself and the lease shall be for a term of not less than the term of the loan.

(v) The small business concern must be either a guarantor or co-borrower and the owners of the small busines concern and the applicant must also guarantee the loan.

(Catalog of Federal Domestic Assistance Programs No. 59.001, 59.002, 59.003, 59.010, 59.012, 59.013, 59.014, 59.017, 59.018, 59.020, 59.021, 59.022, 59.023, 59.024, 59.025, 59.027)

Dated: April 27, 1979.

William H. Mauk, Jr.,
Acting Administrator.

[FR Doc. 79–14280 Filed 5–4–79; 8:45 am]

BILLING CODE 8025–01–M

[14 CFR Part 71]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Designation of Airway Segments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend V–151 eastward from Providence, R.I., to begin at a point north of Hyannis, Mass., and to extend V–203 southeastward from Norwich, Conn., to begin at a point west of Nantucket, Mass. This action would help to reduce the congestion in the Hyannis and Nantucket areas by providing two additional airways.

DATE: Comments must be received on or before May 31, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA New England Region, Attention: Chief, Air Traffic Division, Docket No. 79–NE–1, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Mr. Everett McKisson, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 428–3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803. All communications received on or before May 31, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 428–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would extend V–151 eastward from its terminal at Providence to begin at the INT of Hyannis 316°T(338°M) and Providence 079°T(094°M) radials and go direct to Providence. It is also proposed to extend V–203 southeastward from its present terminal at Norwich to begin at the INT of Nantucket 255°T(270°M) and Norwich 128°T(134°M) radials and go direct to Norwich. Designation of the two additional airway segments would help to reduce congestion in the Hyannis and Nantucket areas and improve the traffic flow on present routes to and from these terminals. The proposed airways are designed to bypass restricted areas sufficiently to cause no interference with either airway or restricted area operations.

ICAO Considerations

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows.

Under V–151 "From Providence, R.I." is deleted and "From the INT of Hyannis, Mass., 316° and Providence, R.I., 079° radials, via Providence;" is substituted therefor.

Under V–203 "From Norwich, Conn.," is deleted and "From the INT of Nantucket, Mass., 225° and Norwich, Conn., 120° radials, via Norwich;" is substituted therefor.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act. (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on April 30, 1979.

B. Keith Potts,
Acting Chief, Airspace and Air Traffic Rules Division.

[Airspace Docket No. 79–NE–1]

[FR Doc. 79–13872 Filed 5–4–79; 8:45 am]

BILLING CODE 4910–13–M

[14 CFR Parts 71 and 73]

Establishment of Temporary Restricted Areas and Alteration of Continental Control Area

Correction

In FR Doc. 79–12463 appearing on page 23877 in the issue of Monday, April 23, 1979 make the following correction:

On page 23878, the restricted area for "R–6714G Brave Shield 20, Wash." should have read as follows:

R–6714G Brave Shield 20, Wash.

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Boundaries. Beginning at Lat. 46°54'30"N., Long. 120°15'00"W.; to Lat. 46°59'00"N., Long. 119°57'00"W.; to Lat. 46°49'00"N., Long. 119°15'00"W.; to Lat. 46°48'00"N., Long. 119°15'00"W.; to Lat. 46°46'00"N., Long. 119°03'00"W.; to Lat. 46°40'00"N., Long. 118°57'00"W.; to Lat. 46°39'00"N., Long. 119°22'00"W.; to Lat. 46°27'00"N., Long. 119°41'00"W.; to Lat. 46°33'00"N., Long. 120°09'00"W.; thence along the southern boundaries of R-6714C/B and the eastern boundaries of R-6714B/A to the point of the beginning, but excluding the airspace at and below 2,200 feet MSL within a 1½ NM radius of Vantage, Wash., Airport, and within a corridor extending northward from the airport and conforming to the boundaries of the Columbia River.

Designated altitudes. 200 feet AGL up to and including FL 200.

Time of designation. Continuous, 0001 August 16 to 2359, local time, August 23, 1979.

Controlling agency. Federal Aviation Administration, Seattle ARTC Center.

Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[21 CFR Parts 193 and 561]

Proposed Feed and Food Additive Tolerances for 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one in the milled fractions of barley (except flour) and wheat (except flour) at 3 parts per million (ppm). This amendment would establish maximum permissible levels for residues of the subject pesticide in the milled fractions of barley and wheat (except flour).

DATE: Comments must be received on or before June 6, 1979.

ADDRESS COMMENTS TO: Mr. Robert Taylor, Product Manager (PM) 25, Office of Pesticide Programs, Registration Division (TS-767), EPA, East Tower, 401 M Street, SW., Washington DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Taylor, PM 25, at the above address (202/755-7013).

SUPPLEMENTARY INFORMATION: On August 2, 1978, the EPA published in the **Federal Register** (43 FR 33961) a notice that Mobay Chemical Corp., Chemagro Agricultural Div., P.O. Box 4913, Hawthorne Road, Kansas City, MO 64120, had submitted a petition (FAP 8H5187). This petition proposed that 21 CFR 561.41 be amended by the establishment of a regulation permitting combined residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one and its triazinone metabolites in the milled fractions of barley (except flour) and wheat (except flour) resulting from application of the herbicide to growing barley and wheat with tolerance limitations of 3 ppm.

Subsequently, the Agency amended the petition by expanding the proposed tolerances to include the milled fractions of barley (except flour) and wheat (except flour) as processed foods (21 CFR 193.25). Because of the potential increase in exposure of humans to residues of the subject pesticide as a result of the expanded tolerances, the tolerances are being proposed at this time to provide an opportunity for public comment. (A related document establishing tolerances for residues of the subject herbicide on barley grain and straw and wheat forage, grain, and straw appears elsewhere in today's **Federal Register**.)

The data submitted in the petition and all other relevant material have been evaluated, and it is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136). The toxicological data considered in support of the proposed tolerances included rat acute oral lethal dose (LD_{50}) studies, a rabbit teratogenicity study with a no-observed-effect level (NOEL) of 30 milligrams (mg)/kilogram (kg) of body weight (bw) (highest level fed), a two-year dog feeding study with an NOEL of 100 ppm, a two-year rat feeding study with an NOEL of 300 ppm, an 18-month mouse carcinogenicity study (negative at 2,500 ppm, the highest level fed), a three-generation rat reproduction study with an NOEL of 300 ppm, and a mouse mutagenicity study with an NOEL of 20 mg/kg bw (highest level tested).

Tolerances have previously been established (40 CFR 180.332) for residues of the subject herbicide on a variety of raw agricultural commodities at levels ranging from 7 ppm to 0.01 ppm. Food additive tolerances have previously been established for residues of the herbicide in processed potatoes (including potato chips) at 3 ppm and sugarcane molasses at 2 ppm. A feed additive tolerance has also previously been established in sugarcane molasses at 2 ppm. These previously established tolerances (except processed potatoes) result in a theoretical maximal residue contribution (TMRC) of 0.23 mg/day in a 1.5-kg diet compared with a maximal permissible intake (MPI) of 1.5 mg/day for a 60-kg man or 15.36 percent of the MPI. These tolerances contribute an additional 7.79 percent of the MPI based on an acceptable daily (ADI) of .025 mg/kg/day, for a total of 23.15 percent of the MPI. Should all other pending tolerances be established, 27.37 percent of the MPI will be utilized. Other feed additive tolerances previously established are processed potato waste (dried) at 3 ppm, sugarcane bagasse at 0.5 ppm, and dried tomato pomace at 2 ppm.

There are no regulatory actions pending against the registration of the subject pesticide. The nature of the residues of the pesticide is adequately delineated and an adequate analytical method (a gas chromatographic procedure using an electron capture detector) is available for enforcement purposes. No other considerations are involved in establishing the proposed tolerances, nor are desirable data lacking from the petition.

Residues could concur in eggs; milk; and the meat, fat, and meat byproducts of livestock, but such residues would adequately be covered by existing tolerances (section 180.6(a)(2) applies).

The pesticide is considered useful for the purpose for which tolerances are sought. Therefore, it is proposed that 21 CFR 193.25 and 561.41 be amended as set forth below.

Any person who has registered or submitted and application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before June 6, 1979, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must bear a notation indicating both the subject and the petition/document control number, "FAP 8H5187/P14". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of PM 25, Room 359, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348).)

Dated: April 24, 1979.

Douglas D. Campt,
Acting Director, Registration Division.

It is proposed that Parts 193 and 561 be amended as follows:

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

1. Part 193, Subpart A, § 193.25 is revised by reformatting the section into a columnar listing and alphabetically inserting the milled fractions of barley (except flour) and wheat (except flour) at 3 ppm as follows:

§ 193.25 4-amino-6-(1,1-dimethylethyl)-3-methylthio)-1,2,4-triazin-5(4H)-one.

Tolerances are established for combined residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one and its triazinone metabolites in or on the following processed foods when present therein as a result of application of this herbicide to growing crops:

Food:	Parts per million
Barley, milled fractions (except flour)	3
Potatoes, processed (inc. potato chips)	3
Sugarcane molasses	2
Wheat, milled fractions (except flour)	3

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

2. Part 561, § 561.41 is amended by revising the table to include the milled fractions of barley (except flour) and wheat (except flour) at 3 ppm as follows:

§ 561.41 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one.

* * * * *

Feed:	Parts per million
Barley, milled fractions (except flour)	3
Potato waste, processed (dried)	3
Sugarcane bagasse	0.5
Sugarcane molasses	2
Tomato pomace, dried	2
Wheat, milled fractions (except flour)	3

[FRL 1218-7; FAP 8H5187/P14]

[FR Doc. 79-14300 Filed 5-4-79 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Cleveland, Bradley County, Tenn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Cleveland, Bradley County, Tennessee.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Planners Office, 70 Second Street, N.E., Cleveland, Tennessee 37311. Send comments to: Mayor Dechero or Mr. Joe Edwards, City Engineer, 190 Church Street, N.E., Cleveland, Tennessee, 37311.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Cleveland, Bradley County, Tennessee, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Mouse Creek	Just downstream of Mohawk Road.	774
	Just downstream of Mouse Creek Road.	790
	Just upstream of Sunset Avenue.	794
	Just upstream of 25th Street	805
	Just upstream of 20th Street	814
	Just downstream of 17th Street.	815
	Just upstream of U.S. Highway 11 and 64.	833
	Just upstream of Smith Drive.	841
	Just upstream of Blue Springs Road.	871
Fillauer Branch	Just upstream of Ocoee Street.	789
	Just downstream of Westview Drive.	790
	Just downstream of Weeks Drive.	797
	Just upstream of McIntire Street.	806
	Just upstream of 25th Street	814
Woolen Mill Branch	Just downstream of Inman Street.	826
	Just downstream of Oak Street.	829
	Just upstream of Broad Street.	836
	Just downstream of Euclid Avenue.	844
	Just downstream of Cincinnati Avenue.	859
	Just downstream of 14th Street.	883
West Fork Woolen Mill Branch	Just upstream of King Edward Avenue.	866
	Just upstream of Blythe Avenue.	870
	Just upstream of Aurora Street.	880
	Just upstream of 18th Street.	887

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-6408]

[FR Doc. 79-13767 Filed 5-4-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determination, for the Township of Upper Allen, Cumberland County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Upper Allen, Cumberland County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Upper Allen Township Office.

SEND COMMENTS TO: Mr. Ray E. Trimmer, President of the Commission of Upper Allen, 52 Gettysburg Pike, Mechanicsburg, Pennsylvania 17055.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Upper Allen, Cumberland County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yellow Breeches Creek	Lisburn Road	375
	Wheel Road	389
	Macadam Road	395
	Pa. Route 114	399
	Bishop Road	404
	Gilbert Road	413
	Macadam Drive	416
	Conrail	416
	Grantham Road	419
Trout Run	College Avenue	413
	Conrail	413
	Grantham Road	419
	Mill Road	413
	U.S. Route 15	427
	Gettysburg Pike	430
	Dirt Lane	430
	Lisburn Road	436
	Corporate Limits	447

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-6405]

[FR Doc. 79-13766 Filed 5-4-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of Prospect Park, Delaware County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Prospect Park, Delaware County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Office, 720 Maryland Avenue, Prospect Park, Pennsylvania.

SEND COMMENTS TO: Mr. William R. Goodworth, Council President of Prospect Park, 19 Pennsylvania Avenue, Prospect Park, Pennsylvania 19076.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or Toll Free Line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Prospect Park, Delaware County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stony Creek	Downstream Corporate Limits.	60
	Upstream side of Dam north of 13th Street.	69
	Upstream Corporate Limits	72
	Downstream Corporate Limits.	10
Darby Creek	Downstream Corporate Limits.	10
	Upstream Corporate Limits	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-13762 Filed 5-4-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of Rutledge, Delaware County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

below for selected locations in the Borough of Rutledge, Delaware County, Pennsylvania. These base (100-year) flood elevations are the basis of the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of the Borough Secretary, Rutledge, Pennsylvania. Send comments to: Mr. Nicholas Ossman, Rutledge Council President, 102 Sylvan Avenue, Rutledge, Pennsylvania 19070.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Rutledge, Delaware County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stony Creek	Downstream Corporate Limits at Melrose Terrace.	98
	Upstream Corporate Limits at Morton Avenue.	114

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-13763 Filed 5-4-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of Ridgway, Elk County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Ridgway, Elk County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, 108 Main Street, Ridgway, Pennsylvania. Send comments to: Honorable Robert Neilson, Mayor of

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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Ridgway, 108 Main Street, Ridgway, Pennsylvania 15853.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Ridgway, Elk County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clarion River	Downstream side of Main Street.	1,375
	Downstream side of Dam	1,379
	Upstream side of Dam	1,383
Elk Creek	Confluence with Clarion River	1,376
	Upstream side of North Broad Street.	1,377
	200 feet upstream of Depot Street.	1,380
	Downstream side of Conrail	1,396
	800 feet upstream of Conrail.	1,400
Gallagher Run	Confluence with Elk Creek	1,376
	9,350 feet upstream of North Broad Street at Driveway.	1,384
	Upstream side of Depot Street.	1,394
	Downstream side of Main Street.	1,400
	4,550 feet upstream of Main Street at Driveway.	1,410
	8,660 feet upstream of Main Street.	1,421
	13,700 feet upstream of Main Street at Footbridge.	1,432

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5401]
[FR Doc. 79-13760 Filed 5-4-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Decherd, Franklin County, Tenn.; Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Decherd, Franklin County, Tennessee. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Decherd City Hall, Decherd, Tennessee. Send comments to: Mayor William T. Brown or Mr. Kenneth Layman, Jr., City Recorder, P.O. Box 488, Decherd, Tennessee 37324.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Decherd, Franklin County, Tennessee, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wagner Creek	Just upstream of Sharp Spring Road.	880
	U.S. Highway 41A Bridge (Upstream).	909
	Just upstream of Old Decherd Road.	914
Sink Hole	Entire Shoreline	946

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5418]
[FR Doc. 79-13759 Filed 5-4-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Cowan, Franklin County, Tenn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Cowan, Franklin County, Tennessee. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, City of Cowan, Cowan, Tennessee 37318. Send comments to: Mayor Rodgers or Ms. Mildred Hatchatt, Councilperson, City Hall, Cowan, Tennessee 37318.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Cowan, Franklin County, Tennessee, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Miller Creek	Approximately 850 feet downstream of Oak Street.	845
	Just downstream of Oak Street.	955
Boiling Fork Creek	Just downstream of Goshen Road.	943
	Just downstream of Louisville and Nashville Railroad.	949

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5408]
[FR Doc. 79-13758 Filed 5-4-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Chattanooga, Hamilton County, Tenn., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Chattanooga, Hamilton County, Tennessee.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Chattanooga, Tennessee. Send comments to: Honorable Charles A. Rose, Mayor of Chattanooga, City Hall, East 11th Street, Chattanooga, Tennessee, 37402.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Chattanooga, Hamilton County, Tennessee, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tennessee River	Downstream Corporate Limits.	651
	Walnut Street	657
	Downstream of Chickamauga Dam.	661
	Upstream Corporate Limits	666
Mountain Creek	Confluence with Tennessee River.	653
	North Runyan Road	663
	Valley Bridge Road	683
	Upstream Corporate Limits	714
Stringers Branch	Confluence with Mountain Creek.	653
	Upstream Corporate Limits	653
Lookout Creek	Confluence with Tennessee River.	654
	Dixie Highway	654
	Upstream Corporate Limits	658
Chattanooga Creek	Confluence with Tennessee River.	655
	East 36th Street	657
	Wilson Road	659
	Upstream Corporate Limits	663
South Chickamauga Creek.	Confluence with Tennessee River.	659
	Lightfoot Mill Road	667
	Shallowford Drive	673
	Upstream Corporate Limits	688
West Chickamauga Creek.	Confluence with South Chickamauga Creek.	677
	Upstream Corporate Limits	677
Spring Creek	Confluence with West Chickamauga Creek.	677
	Upstream Corporate Limits	678
North Chickamauga Creek.	Confluence with Tennessee River.	661
	Hamil Road	661
	Old Hixon Pike	668
	Upstream Corporate Limits	670

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5407]

[FR Doc. 79–13786 Filed 5–4–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Weslaco, Hidalgo County, Tex., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Weslaco, Hidalgo County, Texas.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publicaion of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Office of Planning, City Hall, 500 S. Kansas Ave., Weslaco, Texas 78596.

Send comments to: Mayor Joe B. Sanchez or Mr. Robert M. Hopkins, City Manager, City Hall, 500 Kansas Street, Weslaco, Texas 78596.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Weslaco, Hidalgo County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973.

(Pub L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Ponding Area No. 1	Northwest of Texas Boulevard at U.S. Expressway 83.	74
Ponding Area No. 2	Intersection of San Benito Street and Calle de la republica.	74
Ponding Area No. 3	Intersection of Texas Boulevard and Mesquite Street.	74
Ponding Area No. 4	Intersection of Bridge Avenue and Llano Grande Street.	74
Ponding Area No. 5	South of Weslaco Cemetery Intersection of Queen Palm and Palm Boulevard.	72

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5411]

[FR Doc. 79–13770 Filed 5–4–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of New Eagle, Washington County, Pa., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of New Eagle, Washington County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, 157 Main Street, New Eagle, Pennsylvania. Send comments to: Mr. Raymond Dombrowski, Council President of New Eagle, 157 Main Street, New Eagle, Pennsylvania 15067.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202–755–5581 or toll-free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of New Eagle, Washington County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongahela River	Downstream Corporate Limits.	753
	Upstream Corporate Limits	754

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5402]

[FR Doc. 79–13781 Filed 5–4–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Borough of Scottdale, Westmoreland County, Pa.; Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Scottdale, Westmoreland County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, Scottdale, Pennsylvania. Send comments to: Honorable Frederick Eberharter, Mayor of Scottdale, 10 Mount Pleasant Road, Scottdale, Pennsylvania 15683.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, 202–755–5581 or Toll Free Line 800–424–8872. Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Scottdale, Westmoreland County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Jacobs Creek	Downstream Corporate Limits.	1,028
	Confluence of Stauffer Run	1,035
	Upstream Corporate Limits	1,035
Stauffer Run	Mt. Pleasant Road	1,035
	Upstream Corporate Limits	1,035

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI–5405]

[FR Doc. 79–13784 Filed 5–4–79; 8:45 am]

BILLING CODE 4210–23–M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Chester, Windsor County, Vt., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Chester, Windsor County, Vermont.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Chester, Vermont. Send comments to: Mr. Prentice Hammond, Town Manager, Town of Chester, Town Office, Chester, Vermont 05144.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Chester, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Williams River	Downstream corporate limit	512
	Just downstream of the Green Mountain Railroad first crossing located approximately 500 feet downstream of the Green Mountain Turnpike.	521
	Just upstream of the Green Mountain Turnpike.	530
	Approximately 6150 feet upstream of the Green Mountain Turnpike.	545
	200 feet upstream of the Green Mountain Railroad second crossing located 1.45 miles upstream of the Green Mountain Turnpike.	554
	Approximately 850 feet downstream of the confluence of Kingdom Valley Brook.	585
	Just upstream of Pleasant Street.	571
	Just downstream of First Avenue.	586
	Just upstream of Depot Street.	592
	Approximately 3250 feet upstream of Church Street.	610
	Just downstream of Colburn Road.	623
	Just downstream of Baileys Mills Road.	638
	Just upstream of Baileys Mills Road.	644
	Approximately 100 feet downstream of Thompson Road.	654
	Approximately 60 feet downstream of Jewett Road.	664
	60 feet upstream of Jewett Road.	668
	Approximately 80 feet downstream of the private road located approximately 1430 feet upstream of Jewett Road.	670
	Just upstream of the private road located approximately 1430 feet upstream of Jewett Road.	674
	Just downstream of the Green Mountain Railroad third crossing located approximately 3425 feet upstream of Jewett Road.	686
	Approximately 100 feet upstream of the Green Mountain Railroad third crossing located approximately 3425 feet upstream of Jewett Road.	691
	Approximately 100 feet upstream of the Green Mountain Railroad fourth crossing located approximately 5600 feet upstream of Jewett Road.	707
	Approximately 140 feet downstream of the Green Mountain Railroad fifth crossing located approximately 7630 feet upstream of Jewett Road.	721
	100 feet upstream of the Green Mountain Railroad fifth crossing located 7630 feet upstream of Jewett Road.	730
	100 feet downstream of the sixth Green Mountain Railroad crossing located approximately 1175 feet downstream of the first crossing of State Highway 103.	746
Williams River	Approximately 180 feet downstream of the State Route 103 first crossing.	755
	Just downstream of the Green Mountain Railroad seventh crossing located approximately 330 feet downstream of Duttonsville Gulf Road.	761
	Just downstream of Duttonsville Gulf Road.	766
	Just upstream of Duttonsville Gulf Road.	771
	Approximately 2500 feet upstream of Duttonsville Gulf Road.	795
	Approximately 840 feet downstream of the second crossing of State Route 103.	814
	Just upstream of the second crossing of State Route 103.	823
	Approximately 540 feet upstream of the second crossing of State Route 103.	830
	Approximately 1510 feet downstream of Smokeshire Road.	862
	Just downstream of Smokeshire Road.	921
	Approximately 560 feet upstream of Smokeshire Road.	932
	Approximately 1500 feet upstream of Smokeshire Road.	948
	930 feet downstream of the confluence of Chase Brook.	1005
	420 feet downstream of the confluence of Chase Brook.	1011
	200 feet downstream of the confluence of Chase Brook.	1018
	780 feet upstream of the confluence of Chase Brook.	1036
Middle Branch Williams River.	At confluence with Williams River.	566
	Just upstream of the Green Mountain Railroad.	571
	Just downstream of South Main Street.	581
	100 feet downstream of Grafton Street.	602
	Just upstream of School Street footbridge.	611
	2370 feet upstream of the School Street footbridge.	635
	610 feet downstream of the first crossing of Joe Swett Road.	655
	Just downstream of the first crossing of Joe Swett Road.	662
	1400 feet upstream of the first crossing of Joe Swett Road.	680
	Approximately 3000 feet downstream of the second crossing of Joe Swett Road.	702
	30 feet downstream of the second crossing of Joe Swett Road.	739
	Just upstream of the second crossing of Joe Swett Road.	743
	1230 feet upstream of the second crossing of Joe Swett Road.	760
	1200 feet downstream of the State Route 11 crossing located approximately 3900 feet downstream of the Andover Branch confluence.	780
	Just upstream of the State Route 11 first crossing located approximately 3900 feet downstream of the Andover Branch confluence.	796

Middle Branch Williams River.	350 feet downstream of the State Route 11 second crossing located approximately 2200 feet downstream of the Andover Branch confluence.	815
	1200 feet downstream of the Andover Branch confluence.	830
	Confluence of Andover Branch.	847
	Just upstream of Kingsbury Road.	851
	2000 feet upstream of Kingsbury Road.	875
	3500 feet upstream of Kingsbury Road.	891
	300 feet downstream of the third crossing of State Route 11.	930
	920 feet downstream of the upstream corporate limits.	945
	Upstream corporate limits	958
South Branch Williams River.	Confluence with Middle Branch Williams River.	572
	Approximately 490 feet upstream of State Route 103.	580
	Approximately 1130 feet upstream of State Route 103.	580
	Approximately 400 feet downstream of State Route 35.	695
	Approximately 120 feet upstream of State Route 35.	661
	Approximately 1230 feet upstream of State Route 35.	708
	4000 feet downstream of the Popple Dungeon Road crossing approximately 2.6 miles downstream of Ethan Allen Road.	876
	2340 feet downstream of the Popple Dungeon Road crossing approximately 2.6 miles downstream of Ethan Allen Road.	895
	Approximately 1260 feet downstream of the Popple Dungeon Road crossing approximately 2.6 miles downstream of Ethan Allen Road.	910
	380 feet downstream of the Popple Dungeon Road crossing approximately 2.6 miles downstream of Ethan Allen Road.	925
	Just upstream of the Popple Dungeon Road crossing approximately 2.6 miles downstream of Ethan Allen Road.	940
	Approximately 1850 feet upstream of the Popple Dungeon Road crossing approximately 2.6 miles downstream of Ethan Allen Road.	960
	3560 feet upstream of the Popple Dungeon Road crossing approximately 2.6 miles downstream of Ethan Allen Road.	990
	980 feet downstream of the private driveway located 1.6 miles downstream of Ethan Allen Road.	1020
	Just downstream of the private driveway located 1.6 miles downstream of Ethan Allen Road.	1050
	1225 feet upstream of the private driveway located 1.6 miles downstream of Ethan Allen Road.	1090
	680 feet downstream of the wooden footbridge located 1.0 mile downstream Ethan Allen Road.	1120
South Branch Williams River.	Just downstream of the wooden footbridge located 1.0 mile downstream of Ethan Allen Road.	1140
	360 feet upstream of the wooden footbridge located 1.0 mile downstream of Ethan Allen Road.	1160
	1300 feet upstream of the wooden footbridge located 1.0 mile downstream of Ethan Allen Road.	1190
	550 feet downstream of the Popple Dungeon Road crossing located 2825 feet downstream of Ethan Allen Road.	1220
	230 feet downstream of the Popple Dungeon Road crossing located 2825 feet downstream of Ethan Allen Road.	1240
	Just upstream of the Popple Dungeon Road crossing located 2825 feet downstream of Ethan Allen Road.	1258
	1060 feet upstream of the Popple Dungeon Road crossing located 2825 feet downstream of Ethan Allen Road.	1285
	800 feet downstream of Ethan Allen Road.	1315
	150 feet downstream of Ethan Allen Road.	1340
	775 feet downstream of Ethan Allen Road.	1370
	125 feet downstream of the Popple Dungeon Road crossing located 1525 feet upstream of Ethan Allen Road.	1390
	430 feet upstream of the Popple Dungeon Road crossing located 1525 feet upstream of Ethan Allen Road.	1410
	1550 feet upstream of the Popple Dungeon Road crossing located 1525 feet upstream of Ethan Allen Road.	1440
	40 feet upstream of the private driveway located 4200 feet upstream of Ethan Allen Road.	1472
Lovers Lane Brook	Mouth at Middle Branch Williams River.	581
	Just upstream of State Route 11.	595
	1690 feet upstream of State Route 11.	595
	80 feet downstream of Maple Street.	599
	Just upstream of Maple Street.	603
	Just upstream of Depot Street.	606
	1000 feet upstream of Depot Street.	610
	800 feet upstream of Church Street.	620
	Just downstream of Church Street.	625
	Just upstream of Church Street.	626
	2200 feet upstream of Church Street.	641
Andover Branch	At confluence with Middle Branch Williams River.	847
	Just downstream of State Route 11.	854
	Just upstream of State Route 11.	857
	720 feet upstream of State Route 11.	865
	1950 feet upstream of State Route 11.	885
	3250 feet upstream of State Route 11.	905
	Confluence of Potash Brook	932
	80 feet downstream of Potash Brook Road.	941
	80 feet upstream of Potash Brook Road.	949
Andover Branch	1140 feet upstream of Potash Brook Road.	965
	1870 feet upstream of Potash Brook Road.	980
	2760 feet upstream of Potash Brook Road.	995
Potash Brook	At confluence with Andover Branch.	932
	465 feet upstream of confluence with Andover Branch.	950
	1060 feet upstream of confluence with Andover Branch.	970
	1730 feet upstream of confluence with Andover Branch.	980
	2280 feet upstream of confluence with Andover Branch.	1010
	2965 feet upstream of confluence with Andover Branch.	1030
	3170 feet upstream of confluence with Andover Branch.	1041
Kingdom Valley Brook	Mouth at Williams River	570
	60 feet downstream of the Green Mountain Turnpike.	571
	Just upstream of Green Mountain Turnpike.	583
	480 feet upstream of Green Mountain Turnpike.	608
	990 feet upstream of Green Mountain Turnpike.	622
	1370 feet upstream of Green Mountain Turnpike.	629
	2220 feet upstream of Green Mountain Turnpike.	640
	2900 feet upstream of Green Mountain Turnpike.	650
	3320 feet upstream of Green Mountain Turnpike.	662
	4250 feet upstream of Green Mountain Turnpike.	678
Great Brook	At downstream corporate limits.	585
	Just downstream of Gould Road.	594
	Just upstream of Gould Road	600
	Just downstream of Chandler District Road.	606
	Just upstream of Chandler District Road.	612
	960 feet downstream of Mineral Springs Road.	619
	1400 feet upstream of Mineral Springs Road.	626
	Just downstream of the private drive located 1925 feet downstream of Baltimore Road.	637
	Just upstream of the private drive located 1925 feet downstream of Baltimore Road.	643
	50 feet downstream of Baltimore Road.	645
	Just upstream of Baltimore Road.	650
	60 feet downstream of Great Brook Road.	737
	Just downstream of Duttonsville Gulf Road.	745
	Just upstream of Duttonsville Gulf Road.	747
	Upstream Corporate limits	748

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-8412]

[FR Doc. 79-13771 Filed 5-4-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Kewaunee, Kewaunee County, Wis., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Kewaunee, Kewaunee County, Wisconsin.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, City Clerk's Office, 413 Milwaukee, Kewaunee, Wisconsin. Send comments to: Ms. Lorna Rodie, City Clerk, City of Kewaunee, City Hall, 413 Milwaukee, Kewaunee, Wisconsin 54216.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll free 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Kewaunee, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measures required by 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kewaunee River	Mouth at Lake Michigan	584
	5460 feet downstream of County Highway E.	584
	Just upstream of County Highway E.	585
	4830 feet upstream of County Highway E.	586
Lake Michigan	General shoreline	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-8413]

[FR Doc. 79-13772 Filed 5-4-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of South Milwaukee, Milwaukee County, Wis., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of South Milwaukee, Milwaukee County, Wisconsin.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 2005 10th Avenue, South Milwaukee, Wisconsin. Send comments to: Honorable Chester Grobschmidt, Mayor, City of South Milwaukee, City Hall, 2005 10th Avenue, South Milwaukee, Wisconsin 53172.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of South Milwaukee, Wisconsin, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. the community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Oak Creek	Oak Creek Parkway (downstream crossing) (25 feet*).	598
	6th Avenue (25 feet**)	602
	6th Avenue (100 feet**)	617
	15th Avenue (downstream crossing) (10 feet*).	642
	Milwaukee Avenue (10 feet*)	651
Lake Michigan	200 feet southeast of intersection of Hawthorne Avenue and Park Drive.	584

*Upstream from centerline.
**Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-8414]

[FR Doc. 79-13773 Filed 5-4-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of South Haven, Van Buren County, Mich., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of South Haven, Van Buren County, Michigan.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 539 Phoenix Street, South Haven, Michigan. Send comments to: The Honorable Richard Lewis, Mayor, City of South Haven, City Hall, 539 Phoenix Street, South Haven, Michigan 49090.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202–755–5581 or toll free line 800–424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of South Haven, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Michigan	Entire reach within City of South Haven.	584
Black River	At the mouth with Lake Michigan.	584
	At upstream corporate limits	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-8415]

[FR Doc. 79-13774 Filed 5-4-79; 8:45 am]

BILLING CODE 4210-23-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

[29 CFR Ch. XII]

Semi-Annual Agenda of Regulations Under Review and Development

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Publication of Semi-annual Agenda of Regulations under Review and Development.

SUMMARY: This notice contains the semi-annual list of existing Regulations FMCS Regulations presently under review by the Service and the list of proposed Regulations currently under development. The Regulations discussed are those governing Arbitration Services, Federal Sector, Health Care, and Arbitration under the Insecticide, Fungicide, and Rodenticide Act. The list is published pursuant to Section 2(a) of Executive Order 12044.

FOR FURTHER INFORMATION CONTACT: Scott Kruse, General Counsel, or David Vaughn, Associate General Counsel, Federal Mediation and Conciliation Service, Washington, D.C. 20427, (202) 653–5305, FTS 653–5305.

SUPPLEMENTARY INFORMATION: This Agenda of Regulations under development or review by Federal Mediation and Conciliation Service is published semi-annually pursuant to Section 2(a) of Executive Order 12044. The initial list of Regulations was contained in paragraph 5 of the report published at 43 FR 54139. This Agenda has been approved by the Director of FMCS.

The following Regulations are under review or development:

1. The review of Regulations governing FMCS Arbitration Services (29 CFR Part 1404) has been completed. Revised Regulations were published at 44 FR 13006 and became effective on April 15, 1979. Inquiries regarding the Arbitration Regulations may be directed to David Vaughn, Associate General Counsel, (202) 653–5305.

2. The review of Regulations governing FMCS Mediation Services in

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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the Federal Sector (29 CFR Part 1425) listed priviously is continuing. Revision of the Regulations is necessary in order to comply with Section 7134 of the Civil Service Reform Act of 1978 and to incorporate changes in FMCS procedures due to the evolving nature of federal sector labor relations. A regulatory analysis is not required for these Regulations. Internal agency review of the Regulation continues. Publication in the Federal Register of draft regulations is expected in the near future. Inquiries regarding the Federal Sector Regulations may be directed to David Vaughn, Associate General Counsel or Nancy Broff, Assistant General Counsel (202) 653–5305.

3. FMCS has under development new regulations to delineate the role of the Service and the parties in the operation of the Health Care Amendments of 1974 (P. L. 96–360). Those amendments to the Labor-Management Relations Act of 1947 (Taft-Hartley) give certain special authority to FMCS to prevent or minimize labor disputes in the health care industry and confer on the parties to health care labor disputes certain special notice and participation responsibilities. The proposed Regulation would interpret and apply the amendments. A regulatory analysis is not required for those regulations. A notice of proposed rulemaking for the health care regulations was published at 44 FR 14577. Inquiries regarding the proposed health care Regulations may be directed to Scott Kruse, General Counsel, or David Vaughn, Associate General Counsel, (202) 653–5305.

4. FMCS is in the process of developing new Regulations as to how FMCS will make appointments of arbitrators for disputes regarding compensation for use or development of data in connection with the registration of pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (Public Law 95–386, September 30, 1978), and as to the procedure and rules that will be applicable to such arbitration proceedings. Development of Regulations is necessary for FMCS to perform its statutory responsibility under FIFRA. A regulatory analysis is not required for these Regulations. Internal agency review continues. Publication in the Federal Register of advance notice of rulemaking is expected in the near future. Inquiries regarding the FIFRA Regulations may be directed to Alice Everitt, Special Assistant to the Director, (202) 653–5226.

Wayne L. Horvitz,
Director.

[FR Doc. 79-14229 Filed 5-4-79; 8:45 am]

BILLING CODE 6732-01-M

VETERANS ADMINISTRATION

[38 CFR Part 3]

Veterans Benefits; Proximate Results, Secondary Conditions

AGENCY: Veterans Administration.

ACTION: Proposed Regulatory Development.

SUMMARY: The Veterans Administration is proposing to amend its regulation which grants service connection for a disability which is proximately due to a service-connected disease or injury. This amendment results from a report made by the National Academy of Sciences. The effect of this action is to grant service connection for ischemic heart disease or other cardiovascular disease developing in a veteran who has a service-connected amputation of one lower extremity at or above the knee or service-connected amputations of both lower extremities at or above the ankles.

DATES: Comments must be received on or before June 6, 1979. It is proposed to make this change effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until June 18, 1979.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle, Jr. (202–389–3005).

SUPPLEMENTARY INFORMATION: Public Law 94–433 (90 Stat. 1374), the Veterans Disability Compensation and Survivor Benefits Act of 1976, ordered a scientific study to determine if there is a causal relationship between the amputation of an extremity and the subsequent development of cardiovascular disorders.

The study was made by the Medical Follow-up Agency of the National Academy of Sciences. The resulting report, "Service-connected Traumatic Limb Amputations and Subsequent Mortality from Cardiovascular Disease and Other Causes of Death" analyzed statistically valid samples of veterans having service-connected extremity amputations matched by age, sex, and war period with nonamputee veterans.

The report indicates that veterans who have suffered an amputation of both legs or of one leg at or above the knee, have a significantly higher risk of dying from diseases of the cardiovascular system.

As a result of these findings we are amending § 3.310 to provide service connection for ischemic heart disease or other cardiovascular disease developing in veterns who have suffered service-connected amputation of one lower extremity at or above the knee or service-connected amputation of both lower extremities at or above the ankles.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions or objections regarding these documents to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until June 18, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the above address and room number.

Approved: May 1, 1979.

By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

Section 3.310 is revised to read as follows:

§ 3.310 Proximate results, secondary conditions.

(a) *General.* Disability which is proximately due to or the result of a service-connected disease or injury shall be service connected. When service connection is thus established for a secondary condition, the secondary condition shall be considered a part of the original condition.

(b) *Cardiovascular disease.* Ischemic heart disease or other cardiovascular disease developing in a veteran who has a service-connected amputation of one lower extremity at or above the knee or service-connected amputations of both lower extremities at or above the ankles, shall be held to be the proximate result of the service-connected amputation or amputations. (38 U.S.C. 210(c), 310, 331)

[FR Doc. 79-14174 Filed 5-4-79; 8:45 am]

BILLING CODE 6320-01-M

[38 CFR Part 21]

Education Benefits; Approval of Courses

AGENCY: Veterans Administration.

ACTION: Proposed Regulation.

SUMMARY: The Veterans Administration always has considered the class schedules of resident courses, other than flight courses, not leading to a standard college degree to be an integral part of the approval of such courses. Agreements negotiated with State approving agencies to pay them for their services have provided that approvals for these courses would include approvals for their class schedules. However, the Code of Federal Regulations has made no mention of this policy. The amended regulation corrects this by specifically setting forth this policy.

This amendment will serve to place in the code of Federal Regulations an approval requirement which previously was stated only in negotiated agreements between the Veterans Administration and the State approving agencies.

DATE: Comments must be received on or before June 6, 1979. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Send writen comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the above address during normal business hours until June 18, 1979.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, Washington, DC 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: Section 21.4250(a) is amended to state that approvals of resident courses (other than flight courses) not leading to a standard college degree must include approval of course schedules as well. this includes both full-time and part-time schedules.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), until June 18, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: May 1, 1979.

By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

In § 21.4250, the introductory portion of paragraph (a) preceding subparagraph (1) is revised to read as follows:

§ 21.4250 Approval of courses.

(a) *General.* A course of education, including the class schedules of a resident course (other than a flight course) not leading to a standard college degree, offered by a school must be approved by the State approving agency for the State in which the school is located, or by the State approving agency which has appropriate approval authority, or, where appropriate, by the Veterans Administration.

(38 U.S.C. 1772)

* * * * *

[FR Doc. 79-14175 Filed 5-4-79; 8:45 am]

BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

Approval and Promulgation of Implementation Plans; Nevada State Plan Revision Inspection/Maintenance Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Revisions to the Nevada Revised Statutes and Air Quality Regulations for Mobile Equipment have been submitted to the Environmental Protection Agency (EPA) by the Governor for the purpose of revising the Nevada State Implementation Plan (SIP). The intended effect of these revisions is to establish an annual motor vehicle inspection and maintenance program in the urban areas of Nevada. This Notice provides a description of the proposed revisions, discusses the applicable Clean Air Act requirements, and invites public comments on the revisions especially with respect to the requirements of Part D of the Clean Air Act, "Plan Requirements for Nonattainment Areas."

DATES: Comments may be submitted up to July 6, 1979.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A–4), Environmental Protection Agency, Region IX 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions and EPA's associated Evaluation Report are contained in document file No. NAP–NV–9 and are available for public inspection during normal business hours at the EPA Region IX Library at the above address and at the following locations:

Nevada Department of Conservation & Natural Resources, Division of Environmental Protection, 201 South Fall Street, Carson City, NV 89710.

Washoe Council of Governments, 241 Ridge Street, Reno, NV 89502.

Clark County Department of Comprehensive Planning, Environmental Planning Division, 200 East Carson Avenue, Las Vegas, NV 89101.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air & Hazardous Materials Division, EPA, Region IX 415–556–2938.

SUPPLEMENTARY INFORMATION:

Background

Amendments to the Nevada Revised Statutes, Chapter 445, adopted during the 1977 session of the State Legislature, provide authority and guidance for the State Environmental Commission and the State Department of Motor Vehicles to establish an annual inspection and maintenance (I/M) program. The Regulations for mobile equipment were jointly adopted on August 16, 1978 by the State Environmental Commission and the State Department of Motor Vehicles. The State Department of Motor Vehicles and the Peace Officers of the State are the administering agencies for these regulations.

These statutes and regulations revise the State carbon monoxide (CO) and ozone control strategies, particularly in the two counties where the I/M program applies: Clark and Washoe. The revision was also submitted in partial fulfillment of new provisions of the Clean Air Act, enacted in August 1977 (Public Law 95–95). Section 172(b) (11) (B) requires that an I/M program be part of the SIP for areas unable to attain the carbon monoxide or ozone standards by December 31, 1982. The State has requested an extension beyond 1982 for two nonattainment areas: Las Vegas Valley in Clark County (CO and ozone) and Truckee Meadows in Washoe County (ozone). Separate **Federal Register** notices address all other provisions of the State's nonattainment area plans for these two areas.

Description of Proposed Revisions

On December 29, 1978 the Governor of Nevada submitted Statutes and Regulations which together provide an inspection and maintenance program for portions of Nevada, including the Las Vegas and Truckee Meadows areas. This legislation and supporting regulations establish in progressive steps a mandatory annual I/M program for all used light-duty vehicles being registered or re-registered in counties with more than 100,000 population. The regulations provide that, on or after July 1, 1979, such vehicles in Clark and Washoe Counties must have evidence of compliance with State exhaust emission standards.

The program requires a motor vehicle owner to obtain a certificate of compliance with the State emission standards and federal emission control equipment requirements. This certificate must be obtained from a State authorized inspector, complying with all State regulations concerning testing equipment and procedures. The State regulations establish standards for licensing inspection stations, which may include service stations and fleet stations.

The inspection test measures emissions from vehicles at both low and fast idle speeds. The engine is then adjusted to the manufacturer's specifications, such as timing and dwell. The emissions are again measured at the two engine speeds. If the measurements after adjustment of the engine are in compliance, the vehicle is issued a certificate of compliance. The inspection with adjustments usually requires 15 to 20 minutes of operator time.

The program provides for exceptions to the requirements of inspection and maintenance. These exceptions include, among others, heavy duty motor vehicles, light duty motor vehicles more than 15 years old, and motorcycles. In addition, these requirements do not apply to vehicles changing registration under specific circumstances and vehicles for which necessary repair costs exceed fixed amounts.

Any vehicle not complying with these requirements is prohibited from operating on public roads. No vehicle may be registered if it violates the I/M requirements. In addition, a violation of any regulation under the program is punishable as a misdemeanor.

The regulations include a program for informing the public of the reasons and methods for the emission control inspection.

The following is a list of statutes and regulations which are considered in this notice.

Nevada Revised Statutes

Engine Emission Controls

445.610, Definitions.
445.620, Power of Commission to Prescribe Uniform Emission Standards for Internal Combustion Engines.
445.625, Information Concerning Emission Control Programs: Collection, Interpretation, Correlation; open to public.
445.630, Commission Regulations: Control of Motor Vehicle Emissions; Program of Motor Vehicle Inspection and Testing.
445.632, Regulations of Department of Motor Vehicles: Licensing of Stations; Manner of Inspection; fee, bond, insurance, pamphlet for vehicle owners.
445.634, Inspection of Stations; grounds for Suspension, revocation of station's license.
445.635, Compulsory motor vehicle emission inspection program: When evidence of compliance required for certain used motor vehicle in certain areas.
445.640, Evidence of emission control compliance prerequisite to transfer of used motor vehicle in certain areas.
445.650, Exceptions to requirement of evidence of emission control compliance.
445.660, State Department of Conservation and Natural Resources to provide assistance.
445.670, Evidence of compliance prerequisite to registration of vehicle in certain areas; submission of evidence of compliance by owner, lessee of fleet of vehicles.
445.680, Installation, inspection of motor vehicle pollution control device.
445.690, Exemption of certain classes of motor vehicles; waiver from provisions of NRS 445.630 to 445.670, inclusive.
445.700, Fees: Amounts; collection and deposit; use of money; maximum inspection fees.
445.705, Unlawful acts.
445.710, Penalties.

Air Quality Regulations for Mobile Equipment

1 Definitions.
2.1 Severability.
2.2 Circumvention.
3.1 Pollution control devices.
3.2 Visible smoke; gasoline-powered.
3.3 Visible emissions; diesel-powered.
3.4 Visible emissions above 1500 meters; diesel-powered.
3.5 Devices made after January 1, 1970; stationary rails.
3.6 Devices made prior to January 1, 1970; stationary rails.
3.7 Exceptions.
3.8 Motor vehicle inspection standards.
3.9 Time of Implementation.
3.10 Licensing of authorized station required.
3.11 Application, fee for stations; issuance of license.
3.12 Approval of inspectors.
3.13 Fleet station.
3.14 Waivers.
4.1 Prescribed inspection test procedures.
4.2 Exhaust gas analyzer performance specifications.
4.3 Inspection and certification.
4.4 Certificates of compliance; responsibility.
4.5 Approved authorized station sign.
4.6 Authorized station's bond.
4.7 Misleading advertising; false information.
4.8 Approved inspector/license stipulations.
4.9 Denial, revocation of station license; grounds.
4.10 Licensing hearings.
4.11 Judicial review of license.
4.12 Denial of an inspector's license.
4.13 Denial; revocation of an inspector's license.
4.14 Inspector licensing hearings.
4.15 Judicial review of inspector licensing.
4.16 Certificate of compliance.
4.17 Certificate of compliance; purchase.
4.18 Certificate of compliance; responsibility.
4.19 Fleet stations.
4.20 Penalties.

Discussion

These regulations replace portions of Article 1, *Definitions*, and all of Article 11, *Mobile Equipment* in the State of Nevada Air Quality Regulations, as contained in the approved SIP. These changes appear to be consistent with 40 CFR Part 51 requirements and have the effect of strengthening the SIP. In addition to the requirements of Part 51, the I/M regulations, in their entirety, must satisfy specific criteria for approval under Part D, Section 172(b)(11)(B), of the Clean Air Act.

The general requirements for the I/M programs are set out in a February 24, 1978 memorandum from the EPA Administrator to the Regional Administrator (reprinted in the **Federal Register** on May 19, 1978, 43 FR 21673. Additionally, EPA published a General Preamble for Proposed Rulemaking on Approval of Plan Revision for Nonattainment Areas (44 FR 20372, April 4, 1979) which identifies the major considerations that will guide EPA's evaluation of each nonattainment plan submittal, including I/M program. These requirements include certification of adequate legal authority and a commitment to develop, adopt, and implement the I/M program as expeditiously as practicable.

All of the above general requirements appear to be met through the submitted Statutes and Regulations which include adequate legal authority and provide for full implementation of the Nevada I/M program as expeditiously as practicable. In addition to complying with EPA's general requirements, the Nevada I/M program is also consistent with EPA policy in that the Statutes and Regulations provide for:

1. Regular periodic inspections of all vehicles for which emission reductions are claimed in the SIP;

2. Maintenance and retesting of failed vehicles to provide for compliance with applicable emission standards;

3. Prohibition against vehicle registration for operating on public roads for any vehicle which does not comply with the applicable exhaust emission requirements;

4. Quality control regulations and procedures for the inspection system including:

a. Minimum specifications for emission analyzers,

b. Required calibrations of all types on analyzers, and

c. Minimum record keeping;

5. A program to inform the public of the location and operating hours of service establishments with approved emission analyzers;

6. The licensing of inspection facilities which insure that the facility:

a. Has obtained, prior to licensing, analytical instrumentation which has been approved for use by the appropriate state, local, or regional government agency,

b. Has received instructions in the proper use of the instruments and in vehicle testing methods and has demonstrated proficiency in these methods, and

c. Agrees to maintain records and submits to inspections;

7. Penalties for facilities which fail to follow prescribed procedures and for misconduct; and

8. Records to be maintained including the description (make, year, license number, etc.) of each vehicle inspected, and its emissions test results and the calibration of testing equipment.

In addition, as a result of the cut points used and the starting date of the program, it appears that implementation of the regulations will result in emission reductions of 25 percent for both hydrocarbons and carbon monoxide by December 31, 1987, in accordance with EPA policy.

In summary, the Statutes and Regulations listed and discussed in this Notice appear to meet the requirements of 40 CFR Part 51 and Section 172 of the Clean Air Act, and are consistent with EPA policy.

Public Comments

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations and statutes submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before July 6, 1979, will be considered. Comments received will be available for public inspection at the Nevada Department of Conservation and Natural Resources, Clark County Department of Comprehensive Planning, Washoe Council of Governments, EPA Region IX Library and the EPA Public Information Reference Unit.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110 and Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

(Secs. 10, 129, 171 to 178, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)).)

Dated: March 28, 1979.

Paul De Falco, Jr.,
Regional Administrator

[FRL 1217–7]

[FR Doc. 79-14218 Filed 5-4-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

State and Federal Administrative Orders Revising the Illinois State Implementation Plan; Proposed Approval of an Administrative Order Issued by Illinois Pollution Control Board to Commonwealth Edison Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order issued by the Illinois Pollution Control Board to Commonwealth Edison Company. The Order requires the company to bring air emissions from coal fired boilers at its Kincaid Generating Station located near Sicily, Christian County, Illinois, into compliance with certain regulations contained in the federally approved Illinois State Implementation Plan (SIP), by October 31, 1981. Because the Order has been issued to a major source and it relaxes particulate emissions of the SIP, it must be approved by U.S. EPA before it becomes effective as a SIP revision under the Clean Air Act. 42 U.S.C. § 7410. If approved by U.S. EPA, the relaxation will constitute a revision to the SIP. The purpose of this notice is to invite public comment on U.S. EPA's proposed approval of the Order.

DATE: Written comments must be received on or before June 6, 1979.

ADDRESSES: Comments should be submitted to Director, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Dave Lueck, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–2205.

SUPPLEMENTARY INFORMATION: Commonwealth Edison Company (Edison) operates a coal-fired steam powered electric generating station in Christian County, Illinois. The plant is commonly known as Kincaid Station.

On December 1, 1977, Edison filed a petition for variance from the emission limit for particulate matter applicable to the Kincaid Station until such time as Edison can complete construction of new control equipment. Variance is requested from Rule 203(g)(1)(B) of the State of Illinois Pollution Control Board Rules and Regulations for Air Pollution. A public hearing was held in this matter on June 1, 1978 in conformity with the notice of hearing requirements set forth in 40 CFR, Part 51.4. No citizens appeared at the hearing and the Illinois Pollution Control Board received no public comment in the matter.

On July 20, 1978, the Illinois Pollution Control Board granted Edison's variance petition. Pursuant to Section 110 of the Clean Air Act, the Administrator of the United States Environmental Protection Agency must approve the Order of the Illinois Pollution Control Board granting Edison's petition as a revision to the Illinois SIP before it may become effective. 42 U.S.C. § 7410. Today's action proposes approval of the State Order.

After efforts to improve the collection efficiency of existing pollution control equipment at Kincaid Station, Edison concluded that the installation of new control equipment would be necessary to meet the Illinois particulate emission standard. The new facilities proposed include two new electrostatic precipitators to be operated in tandem with the existing precipitators, and a single new stack through which all the Kincaid flue gases will be vented after treatment by the precipitators. Edison estimates that the construction of the new precipitators and the new stack will cost in excess of $60 million. Engineering estimates indicate that the new precipitators should be ready for service by October 1981 and that the new stack will be completed in mid 1979.

Kincaid Station is located adjacent to Peabody Coal Company's Mine 10, which is the sole supplier of the coal used at Kincaid. In March of 1977, a coal washer was completed at Mine 10 and therefore only washed coal is now being supplied to the Kincaid Station. An inteterminate amount of unwashed coal is in the storage piles at Kincaid Station and must be disposed of. Edison estimates that there are approximately 400,000 tons of mixed washed and unwashed coal in storage which they propose to burn on a 50–50 basis with known washed coal until all of the unwashed coal in storage has been utilized. The combination of washed and unwashed coal will yield a maximum particulate emission of 0.4 lbs./MBTU. The washed coal under existing precipitator will yield 0.3 lbs./MBTU and the washed coal utilizing the new precipitator equipment will result in an emission of no more than 0.1 lbs./MBTU. Edison therefore requested interim limits of 0.4 lbs./MBTU until the unwashed is completely utilized, estimated by Edison to be no later than July 1, 1979. Edison further requested a limitation of 0.3 lbs./MBTU's until October 31, 1981, the target date for operation of the new equipment. Subsequent to November 1, 1981, Edison will be in compliance with the regulations.

Edison alleged that the operation of the Kincaid Station has no adverse effect on total suspended particulate ambient air quality in the area. Consultants retained by Edison to evaluate the impact of particulate emission from Kincaid on ambient air quality reported their conclusions. The Consultants concluded that the contribution of the Kincaid Station to existing air quality levels of plant vicinity was very small and that operation of the station should not threaten or prevent the attainment of the ambient total suspended particulate standards in the plant vicinity. In addition, the Consultants used emissions data representative of the year 1977. Therefore, this relaxation will not consume Prevention of Significant Deterioration (PSD) increment. Testimony at the hearing indicated that there would be no problem regardless of the use of 50% unwashed coal.

Edison alleged that denial of this variance would impose substantial hardships upon Edison and its customers in the form of increased costs or power outages. In order to make up for the loss or derating of the Kincaid units, Edison would have to reserve the right to ask for power from neighboring electric utilities at substantial cost or run the risk of being unable to supply the power requirements of its customers at certain times. In addition, Edison claimed it would be faced with replacing Kincaid's output with extended use of higher cost units.

The Illinois Pollution Control Board found that under the conditions of the proposed variance the emissions from Kincaid will not prevent attainment or maintenance of air quality standards. The Board further found that denial of this variance petition would cause arbitrary and unreasonable hardship upon Edison and its customers. The Board therefore granted Edison variance from Rule 203(g)(1)(B) of the Pollution Control Board Rules and Regulations Chapter 2: Air Pollution, as applicable to the Kincaid Station until October 31, 1981 subject to certain conditions. The Board issued the following Order along with its opinion granting the variance:

"Order

It is the Order of the Pollution Control Board that:

1. Commonwealth Edison Company be granted variance fom Rule 203(g)(1)(B) of the Board's Air Pollution Regulations for its Kincaid facility until October 31, 1981 subject to the following conditions:

A. Until March 1, 1979 particulate emissions shall be limited to a rate of no more than 0.4 lbs./MBTU of actual heat input.

B. From March 1, 1979 until March 1, 1981 emissions of particulate matter from Kincaid Unit No. 1 shall not exceed the rate of 0.3 lbs./MBTU of actual input.

C. From March 1, 1979 Until October 15, 1981 emissions of particulate matter from Kincaid No. 2 shall not exceed 0.3 lbs./MBTU of actual heat input.

D. Edison shall construct, install and begin operation of new particulate removal control equipment and a new chimney at its Kincaid Station during the term of this variance and shall report its progress to the Agency every three months starting September 1, 1978.

E. Within 45 days of the adoption of this Order, the Commonwealth Edison Company shall execute and forward to the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706 a Certification of Acceptance and Agreement to be bound to all terms and conditions of this Order. The 45 day period shall be held in abeyance during any period this matter is being appealed. The form of said certification shall be as follows:

Certification

I (We), _____ having read and fully understand the Order of the Illinois Pollution Control Board in PCB 77–316 hereby accept said Order and agree to be bound by all of ther terms and conditions thereof.

Signed _____
Title _____
Date _____

The source has heretofore agreed to be bound by the terms of this Order.

Because this Order has been issued to a major source of particulate emissions and relaxes the standard of compliance and applicable emission limitation, it must approved by EPA before it becomes effective as a revision to the Illinois SIP.

All interested persons are invited to submit written comments on the proposed SIP revision. Written comments received by the date specified above will be considered in determining whether EPA may approve the revision. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 52.

(42 U.S.C. 7413, 7601.)

Dated: April 23, 1979.

John McGuire,
Regional Administrator, Region B.

[FRL 1218-1]
[FR Doc. 79-14213 Filed 5-4-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 65]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of Delayed Compliance Order Issued by the State of Wyoming, Department of Environmental Quality to CF&I Steel Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the State of Wyoming, Department of Environmental Quality, to CF&I Steel Corporation, Sunrise Mine, located in Sunrise, Wyoming. The order requires CF&I Steel Corporation to bring air emissions from iron ore driers No. 1 and No. 2 at the Sunrise Mine located in Sunrise, Wyoming, into compliance with applicable regulations, contained in the Wyoming State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by this order. The purpose of this notice is to invite public comment on ERA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before June 6, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Mrs. Cay White, Enforcement Division, EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, telephone (303) 837–2361.

SUPPLEMENTARY INFORMATION: CF&I Steel Corporation has mining operations in Sunrise, Wyoming. The order under consideration is concerned with emissions from iron ore driers No. 1 and No. 2 at the Sunrise Mine which are subject to the Wyoming Air Quality Standards and Regulations, Section 14(g). This regulation limits particulate emissions from process industries and is part of the federally-approved Wyoming State Implementation Plan. The order requires compliance with the regulations by July 1, 1979, through implementation of the following schedule for the installation of control equipment:

1. February, March, April 1979—Design Engineering.
2. March and April 1979—Fabricate auxiliaries.
3. April 1979, Final design parameters—selection of contractor.
4. April and May 1979—Receipt of equipment.
5. May 1979—Contractor installation.
6. June 1979—Compliance testing.
7. June 30, 1979—Compliance.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Act. EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has preliminarily determined that the order complies with those requirements, but specifically requests public comment on those matters.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulations covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Wyoming SIP. Compliance with the proposed order will not exempt the CF&I Steel Corporation from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: April 20, 1979.

Alan Merson,
Regional Administrator, Region VIII.

[Docket No. A-79-6; FRL 1212-6]
[FR Doc. 79-14221 Filed 5-4-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 65]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Main Board of Environmental Protection to Georgia-Pacific Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Maine Board of Environmental Protection to Georgia-Pacific Corporation. The order requires the company to bring air emissions from its Chip and Saw Mill and its Kraft Mill in Woodland, Maine into compliance with certain regulations contained in the federally approved Maine State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

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DATE: Written comments must be received on or before June 6, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region I, Room 2103, J.F.K. Federal Building, Boston, MA 02203. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Attorney Wesley Marshall at 617/223-5600 or engineer William Torrey at 617/223-5330, both at the following address: U.S. Environmental Protection Agency, J.F.K. Federal Building, room 2103, Boston, Massachusetts 02203.

SUPPLEMENTARY INFORMATION: Georgia-Pacific Corporation operates a chip and saw mill and a Kraft Mill at Woodland, Maine. The order under consideration addresses emissions from the facilities, which are subject to Section 600 of title 38 of the Maine Revised Statutes Annotated. This section (38 M.R.S.A. § 600) limits the emission of particulates from fuel burning equipment, and is part of the federally approved Maine State Implementation Plan. The order requires final compliance with the regulation by June 30, 1979 through installation of additional equipment.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Maine SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: April 21, 1979.

William Adams,
Regional Administrator, Region I.

[FRL 1217-5]
[FR Doc. 79-14226 Filed 5-4-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 65]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of Delayed Compliance Order Issued by the State of Wyoming, Department of Environmental Quality to United States Steel Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the State of Wyoming, Department of Environmental Quality, to United States Steel Corporation, Western Ore Operation located near Atlantic City, Wyoming. The order requires U.S. Steel Corporation to bring emissions from the waste gas fan on lines #1 and #2 of the agglomerating process at the Western Ore Operation near Atlantic City, Wyoming, into compliance with applicable regulations contained in the Wyoming State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by this order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before June 6, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Mrs. Cay White, Enforcement Division, EPA, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, telephone (303) 837-2361.

SUPPLEMENTARY INFORMATION: U. S. Steel Corporation operates a facility known as the Western Ore Operation near Atlantic City, Wyoming. The order under consideration concerns particulate emissions from the waste gas fan on lines #1 and #2 of the agglomerating process at this facility which are subject to the Wyoming Air Quality Standards and Regulations Section 14(g). This regulation limits particulate emissions from process industries and is part of the federally-approved Wyoming State Implementation Plan. The order requires compliance with the regulations by July 1, 1979, through implementation of the following schedule for the installation of control equipment:

1. November 1978–May 1979—Construction of particulate matter air pollution control equipment.

2. May–July 1, 1979—Testing of the equipment so as to bring into compliance with Section 14 (g).

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Act. EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has preliminarily determined that the order complies with those requirements, but specifically requests public comment on those matters.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Wyoming SIP. Compliance with the proposed order will not exempt the U. S. Steel Corporation from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: April 20, 1979.

Alan Merson,
Regional Administrator, Region VIII.

[Docket No. A-79-6]
[FR Doc. 79-14222 Filed 5-4-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 85]

Emission Control System Performance Warranty

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule; Correction.

SUMMARY: The Federal Register Notice for the Proposed Emission Performance Warranty Regulations which appeared on page 23784 of the Federal Register for Friday, April 20, 1979, incorrectly stated the closing dates for submitting written comments. In addition, the Notice omitted the times for the Public Hearings.

DATES: The following is a correct statement of the dates and addresses relevant to the emission performance warranty:

Comments will be accepted until July 6, 1979. The first hearing will be held from 9:00 to 4:30 on May 22, 1979, and continue on May 23, 1979, if necessary. The second hearing will be held from 9:00 to 4:30 on May 31, 1979, and continue on June 1, 1979, if necessary. Any persons desiring to participate in the hearings should notify EPA of his or her intention along with an outline of the points to be discussed and the time needed to discuss these points no later than 10 days prior to the hearing at which the party wishes to participate.

ADDRESSES: Send written comments to: Central Docket Section (A-130) Environmental Protection Agency, 401 M Street, S.W., Washington D.C. 20460. A person should submit his or her intention to participate in a hearing along with an outline of discussions to: Director, Mobile Source Enforcement Division (EN-340), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. The first hearing will be held at the following location: General Accounting Office Auditorium, 7th Floor, 441 G Street, N.W., Washington, D.C. The second hearing will be held at the following location: Royal Court Room, Ascot House, 1100 South Michigan Street, Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT: Mr. David Feldman, Mobile Source Enforcement Division (EN-340) Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202) 755-0298.

Dated: April 30, 1979.

Benjamin R. Jackson,
Deputy Assistant Administrator for Mobile Source and Noise Enforcement. (EN-337).

[FRL 1218-8]
[FR Doc. 79-14214 Filed 5-4-79; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 466]

Financing of PSRO Hospital Review Activities

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed Rule.

SUMMARY: This proposal sets forth a new method for reimbursing the cost of hospital review conducted under the authority of Professional Standards Review Organizations (PSROs). It applies to review of hospital care provided to patients eligible under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children's (MCH-CC) programs. It would implement Sections 1861(w), 1815(b), and 1168 of the Social Security Act, as amended by Section 112 of Pub. L. 94-182.

DATE: We will consider written comments or suggestions received by July 6, 1979.

ADDRESS: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P. O. Box 2372, Washington, D.C. 20013.

In commenting, please refer to HSQ-32-P. Organizations and agencies are requested to send comments in duplicate. Comments will be available for public inspection, beginning approximately two weeks from today, in Room 5231 of the Department's offices at 330 C Street, SW., Washington, D.C., on Monday through Friday from 8:30 a.m. to 5 p.m. (202-245-0950).

FOR FURTHER INFORMATION CONTACT: Daniel E. Nickelson, Health Standards and Quality Bureau, HCFA, Mary E. Switzer Building, Room 5127, 330 C Street, SW, Washington, D.C. 20201, (202-245-8717).

SUPPLEMENTARY INFORMATION:

Background

Establishment of Professional Standards Review Organizations (PSROs) was mandated by Congress in the 1972 Amendments to the Social Security Act (Pub. L. 92-603). The primary responsibilities of PSROs are to assure that health care services and items provided and paid for under Medicare, Medicaid, and the Maternal and Child Health and Crippled Children's Services Program (Title XVIII, XIX and V of the Social Security Act, respectively), are medically necessary, meet professionally recognized standards of care, and are provided at the most economical level possible consistent with quality care.

PSROs are required to review institutional care (hospitals, and long-term care facilities) and, eventually, ambulatory care. Presently, however, PSRO efforts have focused primarily on inpatient care provided in short-stay hospitals. By statute (Section 1155(e) of the Social Security Act), the PSRO may carry out its review responsibility with respect to hospital care in two ways: First, the PSRO can delegate its review responsibilities to the hospitals in its area that are capable and willing to perform such review activities (delegated review); secondly, if the PSRO finds that a hospital is not qualified or is not willing to perform certain or all review activities, the PSRO conducts those review functions for the hospital (nondelegated review). The PSROs reviewing long-term care may only delegate long-term care review if the long-term care facility (skilled nursing facility or intermediate care facility) is certified as a "distinct part" of a short-stay hospital. Otherwise, PSROs may not delegate long-term care review (Section 1155(e)(1) of the Social Security Act, 42 U.S.C. 1320c-4).

PSRO administrative budgets are funded by annual HEW appropriations in the form of grants. PSRO hospital review activities, however, are funded through a different mechanism based on Section 112 of Public Law 94-182.

Prior to this law, the method of funding for review activities was dependent on whether the hospital was delegated or nondelegated. Delegated review costs were reimbursed to the hospitals by the Medicare Trust Funds, which was then reimbursed from Titles XIX and V funds for the costs of Titles XIX and V patient review. Nondelegated review costs, payable from the HEW annual appropriations, were included as

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part of the PSRO's administrative budget. Since annual appropriations were always limited, PSROs had the incentive to delegate review activities in order to conserve funds in their own operating budgets. (See Senate Report No. 94–569, 94th Congress, 1st Session, December 31, 1975. pp. 10–11).

The statute corrected this situation by requiring that the full cost of performing review for Medicare, Medicaid, and Maternal and Child Health and Crippled Children hospital patients in both delegated and nondelegated hospitals come from the Medicare Trust Funds. As was previously the case with delegated hospitals, appropriate adjustments are then made to cover the cost of delegated and nondelegated review of Titles XIX and V admissions. Delegated long-term care review is also reimbursed from Medicare Trust Funds if the long-term care institution is a "distinct part" of a delegated hospital. Hospitals that only participate in the Medicaid program are reimbursed by the PSRO.

Concern regarding the cost of PSRO hospital review has recently been raised by a number of sources, including some at the Department level, elsewhere in the Executive Branch and, most notably, in Congress. Congress acted on this concern by setting a limit on the use of Fiscal Year 1979 Medicare Trust Funds for PSRO hospital review. Additionally, these concerns have focused attention on the need for the PSRO to have the means to control delegated and nondelegated hospital review costs. This control is necessary to assure that PSRO review will become as efficient as possible. The proposed procedures for controlling PSRO review expenditures are discussed below.

Proposed New Procedures

Currently, delegated hospitals receive the total reasonable costs incurred for delegated review. Under this system, we cannot limit the total payments to the hospitals by the fiscal intermediary. Therefore, although we can limit the expenditures for nondelegated review, through the PSRO budget, we cannot assure that the total payments for PSRO review remain within the budget limitations set by the Congress.

To solve this problem we are proposing that HCFA provide each PSRO with an overall budget for the costs of hospital review in its area. Within these cost parameters, the PSRO would develop a plan, including estimated costs, for the conduct of delegated and non-delegated review.

1. *Reimbursement for Delegated Review.* Each delegated hospital would develop a budget based on the specific review objectives negotiated with the PSRO and the estimated workload necessary to meet those objectives. The workload would include the estimated number of admissions and the manner in which they would be reviewed. It would include the costs for concurrent and preadmission review, and medical care evaluation studies, if these functions have all been delegated. Long-term care review that is delegated to a skilled nursing facility (SNF) or intermediate care facility (ICF) certified as a distinct part of a short-stay hospital may be included as part of the hospital's review budget if the SNF and ICF costs are included with the hospital's acute care costs on a single Medicare cost report. The negotiated budget would become a ceiling on total reimbursement to the hospital. The hospital would be reimbursed for actual costs for delegated review, not to exceed the budget ceiling. The ceiling could not be exceeded without prior approval of the PSRO, within the limits of its areawide budget.

The budget negotiations between the hospital and the PSRO would have to be concluded 30 days prior to the beginning of the hospital's cost reporting year. The PSRO would inform the hospital and the hospital's Medicare fiscal intermediary of the budget at that time.

The hospital, either monthly or quarterly, would submit a statement to its Medicare fiscal intermediary (or to the PSRO if the hospital does not participate in the Medicare program) requesting reimbursement for the delegated review. If there were a substantial change in the review process at the hospital during the cost reporting year, the negotiated budget could be modified upon approval of the PSRO, within the constraints of the areawide budget. The PSRO would inform both the hospital and the hospital's Medicare fiscal intermediary of the change at least 30 days before the effective date of the change. There would be no retroactive adjustments to the budget.

The hospital would have to maintain records and submit reports to the PSRO or the Secretary as required by the Secretary.

2. *Reimbursement for Nondelegated Review.* Reimbursement for nondelegated review would be based on standards analogous to those that hospitals would have to meet to be reimbursed for delegated review. The PSRO would be required to specify its review objectives, the estimated number of admissions to be reviewed and in what manner, and the costs to be incurred. This budget could not be exceeded without prior approval from HCFA.

The PSRO would be reimbursed by the Secretary as part of the PSRO's grant under 42 CFR Part 462 unless the nondelegated hospital elected to pay the PSRO for its review activities in the hospital and receive reimbursement.

If the hospital elected to pay the PSRO, the hospital would notify the PSRO in writing. The PSRO would then develop the review plan and a review budget for the hospital. Monthly prospective payments to the PSRO would be in the amounts determined by the PSRO, consistent with its review budget at the hospital. Payment would be due on the first working day of the month. Failure to pay on time could cause the Secretary to require that payment for review of the hospital come directly to the PSRO.

Definitions

Definitions for the language used in these regulations are included in a new Part 466—PSRO Hospital Review that will be published soon by the Department. These regulations will become a Subpart E of Part 466 when they are issued in final. The definitions include the following:

"Act" means the Social Security Act (42 U.S.C. Chapter 7).

"Delegated hospital" means a hospital to which PSRO review functions are delegated.

"Hospital" means a health care institution or distinct part of a health care institution as defined in Section 1861(e)–(g) of the Act, other than a Christian Science Sanitorium operated or listed and certified by the First Church of Christ Scientist, Boston, Massachusetts.

"Intermediate care facility (ICF)" means a health care institution or distinct part of an institution that provides health related care and services to individuals who do not require hospital or skilled nursing facility care.

"Nondelegated hospital" means a hospital in which the PSRO conducts review activities using its own review procedures, and has not delegated review activities to the hospital.

"PSRO" means a Professional Standards Review Organization.

"PSRO review" means a review performed by a PSRO or by a hospital review committee to which the PSRO has delegated review functions.

"Secretary" means the Secretary of Health, Education, and Welfare or any other officer or employee of the Department to whom the pertinent authority has been delegated.

"Skilled nursing facility (SNF)" means a health care institution that is primarily engaged in providing skilled nursing care or rehabilitative services to injured, disabled, or sick persons.

42 CFR Chapter IV is amended by adding a new Part 466, Subpart E to read as follows:

PART 466—PSRO HOSPITAL REVIEW

Subparts A–D [Reserved]

Subpart E—Financing of Review Activities

Sec.
466.60 Applicability and scope.
466.61 Areawide budget and individual hospital budgets.
466.62 Reimbursement to delegated hospitals.
466.63 Reimbursement for nondelegated hospitals.

Authority: Secs. 1102, 1155, 1156, 1165, 1166, 1815(b), and 1861(w) of the Social Security Act (42 U.S.C. 1302, 1320c–4, 1320c–5, 1320c–14, 1320c–17, 1395g(b), and 1395(w)).

Subparts A–D [Reserved]

Subpart E—Financing of Review Activities

§ 466.60 Applicability and scope.

This subpart establishes requirements and procedures for financing PSRO review activities in both delegated and nondelegated hospitals. It implements Sections 1861(w), 1815(b), and 1166 of the Act.

§ 466.61 Areawide budget and individual hospital budgets.

(a) Each fiscal year, HCFA will set a total areawide PSRO hospital review budget ceiling for each PSRO designated under Part 462 of this chapter. These areawide budgets will be based on the total amount budgeted by the Congress for PSRO hospital review and the projected level of PSRO hospital review in each PSRO area.

(b) Each PSRO will then establish an annual budget ceiling for each hospital in its area, based on the projected level of review in each hospital and the areawide budget ceiling. The PSRO may modify the ceiling for any hospital during the fiscal year, so long as it does not exceed its total areawide ceiling.

§ 466.62 Reimbursement to delegated hospitals.

Reimbursement to delegated hospitals for the conduct of the PSRO review activities will be as follows:

(a) Not later than 90 days prior to the close of a hospital's cost reporting year, it must provide the PSRO an estimate of direct review expenditures for Federal program review activities for the coming cost reporting year. This estimate must be in a format prescribed by the Secretary.

(b) Long-term care review which is delegated to a SNF or and ICF that is certified as a distinct part of a short-stay hospital may be included as part of the hospital's review budget if the SNF or ICF costs are included with the hospital's acute care costs on a single Medicare cost report.

(c) Based on the informtion received from the hospital and subsequent negotiations, the PSRO will set an annual budget ceiling at least 30 days prior to the next cost reporting year. The PSRO must inform the hospital and the hospital's Medicare fiscal intermediary of the annual budget ceiling.

(d) The hospital must send a statement to its Medicare fiscal intermediary (or PSRO, if it does not participate in the Medicare program), requesting reimbursement for PSRO review. This can be done on a monthly or quarterly basis.

(e) There will be no retroactive adjustments in the budget ceiling. If there is a substantial change in the review process at the hospital during a cost reporting year, the PSRO may, on its own initiative or at the request of the hospital, modify the hospital's budget ceiling (as long as it does not cause the area total to exceed the areawide ceiling). The PSRO must inform both the hospital and the hospital's Medicare fiscal intermediary (if there is one) of such change at least 30 days prior to the date it takes effect.

(f) The hospital will be reimbursed for its actual costs of performing review, up to its budget ceiling. Hospitals delegated for only some review activities will also be subject to budget ceilings. Fiscal intermediaries will be responsible for the audits and final settlements with hospitals.

(g) The hospital must maintain records, and submit reports regarding its review activities to the PSRO or the Secretary, as required by the Secretary.

§ 466.63 Reimbursement for nondelegated hospitals.

(a) A nondelegated hospital may elect to pay the PSRO for its review activities in the hospital and receive reimbursement from the Medicare and Medicaid programs.

(b) If the hospital elects to pay the PSRO:

(1) The hospital must notify the PSRO in writing of its election.

(2) Payment may commence only at the beginning of the PSRO's budget year.

(3) The hospital must make monthly prospective payments to the PSRO in the amounts determined by the PSRO, based on the review budget established for that hospital. The hospital must assure that the PSRO receives the payment by the first working day of each month in which review activities are to be performed.

(4) The hospital's election to pay the PSRO directly may be withdrawn by the Secretary if the hospital does not make timely payments as required under paragraph (b)(3) of this section.

(c) If the hospital does not elect to pay the PSRO, the PSRO will be funded by the Secretary, as part of the PSRO's grant under Part 462 of this subchapter, based on the review budget established for that hospital.

(Catalog of Federal Dosmestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare-Hospital Insurance)

Note.—The Health Care Financing Administration has determined that this document does not require the preparation of a regulatory analysis under Executive Order 12044.

Dated: April 13, 1979.

Leonard D. Schaeffer,
Administrator, Health Care Financing Administration.

Approved: April 30, 1979.

Joseph A. Califano, Jr.,
Secretary.

[FR Doc. 79-14202 Filed 15-4-79; 8:45 am]

[BILLING CODE 4110-35-M]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

[45 CFR Ch. XI]

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: National Foundation on the Arts and the Humanities.

ACTION: Publication of the Semiannual Agenda of Regulations (Improving Government Regulations).

SUMMARY: The President's Executive Order on Improving Government Regulations, Executive Order 12044, requires each Federal agency to publish at least twice a year a list of significant regulations under development. The Foundation plans to publish its semiannual agenda by the first Monday in May and the first Monday in November each year.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Wade, General Counsel, National Endowment for the Arts, 2401 E Street, N.W., Washington, D.C. 20506, 202–634–6588 or Mr. Joseph Schurman, General Counsel, National Endowment for the Humanities, 806 15th Street, N.W., Washington, D.C. 20506, 202–724–0367.

M Y 7 7 9 UMI

SUPPLEMENTARY INFORMATION:

Semiannual Agenda of Regulations

At the present time there are no significant regulations under development or review in the Foundation itself or in its components, the Federal Council on the Arts and the Humanities, the National Endowment for the Arts, or the National Endowment for the Humanities.

Joseph D. Duffey,
Chairman, National Endowment for the Humanities, and Chairman, Federal Council on the Arts and the Humanities.
Livingston L. Biddle,
Chairman, National Endowment for the Arts.
[FR Doc. 79-14109 Filed 5-4-79; 8:45 am]
BILLING CODE 7536-01-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

Changes in the Rules Relating to Noncommercial Educational FM Broadcast Stations: Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Action herein extends the time for filing comments and reply comments in a proceeding involving changes in the rules relating to noncommercial educational FM Broadcast Stations. Requests were filed by National Association of Broadcasters, National Public Radio and jointly by McGraw-Hill Broadcasting Company and Taft Broadcasting Company who stated the additional time was needed to prepare comments.

DATES: Comments must be filed on or before October 15, 1979, and reply comments must be filed on or before November 30, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jonathan David, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 26, 1979.

Released: April 27, 1979.

In the matter of changes in the rules relating to noncommercial educational FM broadcast stations, docket No. 20735.

1. On June 7, 1978, the Commission adopted a *Further Notice of Proposed Rule Making*, 43 F.R. 27682, in the above-captioned proceeding. The dates for filing comments and reply comments were set for January 2 and February 15, 1979, then were later extended to April 2 and May 15, 1979, respectively at 44 FR 21021 on April 9, 1979.

2. The Commission received three motions for extension of time: National Public Radio ("NPR") requested an additional six months and the National Association of Broadcasters and McGraw-Hill Broadcasting Company jointly with Taft Broadcasting Company ("NAB" and "McGraw-Taft") requested a 90-day extension beyond the date of the issuance of the Report and Order addressing the Channel 6/FM interference problem.

3. McGraw-Taft asserts that one of the major controversial issues being considered in this proceeding is the need for adequate standards to protect Channel 6 television stations from educational FM interference. It states that the Commission indicated that it had not yet resolved the issue of interference to Channel 6 reception by educational FM stations but it expected to do so in a Report and Order. McGraw-Taft notes that the Report and Order has not yet been released and until it is, parties concerned with the interference problem are not reasonably in a position to comment on the proposed Table or to propose alternative allocations within Channel 6 service areas. NAB concurs with McGraw-Taft and states that it is essential that the Report and Order proposing a resolution of basic issues relating to protection of Channel 6 television stations from educational FM interference be released prior to the date that comments are due so that parties be given an opportunity to comment on it prior to or in conjunction with the proposed Table of Assignments. NPR states that its primary concern is the protection of present public radio services and the expanded capability of public radio to extend and improve its services. It adds that it is most concerned that all interested parties have sufficient opportunity to complete the extensive technical and engineering research necessary to support their filings.

4. In an Order released April 2, 1979, the Commission stated that at the time the above requests were filed it had not made a decision as to the amount of time that should be granted. However, it noted that since action was required because of the imminence of the current expiration date, it was, on its own motion, granting a 30-day extension to May 2, and June 18, 1979, for the filing of comments and reply comments, respectively. It pointed out that before the expiration of the 30-day period it would decide what action to take on the above pending requests.

5. The Commission's Office of the Chief Engineer is preparing a Report and Order on the Channel 6 interference considerations, which Report is expected to be ready for public release by July 15, 1979. We agree that comment on this report would be helpful in considering the issues raised in the subject *Further Notice*. Therefore, in order to provide an opportunity for comment on it in the context of the proposed Table of Assignments, we are extending the comment date 90 days from the expected date of release of this study.

6. Accordingly, it is ordered, that the requests filed by the National Association of Broadcasters, National Public Radio and jointly by McGraw-Hill Broadcasting Company and Taft Broadcasting Company are granted to the extent that the dates for filing comments and reply comments are extended to and including October 15, and November 30, 1979, respectively, and are denied in all other respects.

7. This action is taken pursuant to authority contained in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[Docket No. 20735; FCC 79-245]
[FR Doc. 79-14140 Filed 5-4-79; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 178]

Shipping Container Specifications; Withdrawal of Certain Bureau of Explosives Delegations of Authority

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau (MTB) proposes to issue an amendment to the Department's Hazardous Materials Regulations withdrawing or cancelling the remaining delegations of authority to the Bureau of Explosives (B of E) in Part 178 of 49 CFR. However, the B of E would continue to play a very important role in the testing of explosives and other hazardous materials for MTB. This action is being taken as the second step in conforming existing programs with the purposes of the Hazardous Materials Transportation Act.

DATE: Comments must be received on or before June 30, 1979.

ADDRESS: Comments must be addressed to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Five copies of comments are requested.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Ofice of Hazardous Materials Regulation, 2100 Second Street S.W., Washington, D.C. 20590, 202-755-4962.

SUPPLEMENTARY INFORMATION: On August 17, 1978, the Materials Transportation Bureau published Docket No. HM-163; Amdt. Nos. 171-41, 173-119, 178-49 (43 FR 36445). These referenced amendments constituted the first action in an overall phased program to withdraw all of the delegations of authority to the B of E in 49 CFR Parts 100-199. The MTB will continue to use the service and expertise of the B of E laboratory for the testing of explosives and other hazardous materials. Results of tests performed by the B of E will be forwarded to the MTB for review and final disposition. The preamble to the above referenced amendments clearly stated the reasons for the action taken as well as those to be considered in future rulemaking. In view of the above referenced preamble, repeating it again in this notice is not deemed necessary.

The Bureau realizes that it is necessary to provide for continuity and continued effectiveness of existing B of E approvals and authorizations for a specified transition period. Accordingly, a new section 171.19 was added earlier under Docket No. HM-163A (Amdt. No. 171-45) to provide for continued effectiveness of subject approvals and authorizations until their expiration dates or until December 31, 1984, whichever is earlier.

These proposed changes should have little or no economic impact on the private sector, consumers, State or local governments since these proposals would merely require approval from MTB instead of the B of E. Also, in some instances the requirement for MTB to receive certain reports and to witness certain tests would be deleted.

For simplicity, all paragraphs affected by these proposed amendments, which now read the same, have been grouped together with the present wording and the proposed amendment. Comments regarding this format will be appreciated and useful for future rulemaking actions under Docket HM-163.

Primary drafters of this document are Darrell L. Raines, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, and George W. Tenley, Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, 49 CFR Part 178 would be amended as follows:

Regulation affected	Present wording	Proposed amendment
§ 178.1-9(a), § 178.4-8(a), § 178.5-9(a), § 178.6-10(a), § 178.14-8(a)	(a) *Apparatus.* Standard required. Detail prints can be obtained from Bureau of Explosives.	(a) *Apparatus.* Standard required. Detail prints may be obtained from the Associate Director for HMR.
§ 178.1-9(d), § 178.4-8(d), § 178.5-9(d), § 178.6-10(d), § 178.14-8(d)	(d) *When required.* By each manufacturer, and each shipper who fills and ships new or used carboys; during each 6 months of each year, one series each year to be witnessed by representative of Bureau of Explosives; separate tests required for: (1) * * *	(d) *When required.* By each manufacturer, at intervals not to exceed 6 months; separate tests required for: (1) * * *
§ 178.1-10	Approval of veneer, plywood and laminated wood boxes.	Boxes of veneer, plywood and laminated wood;
§ 178.1-10(a)	(a) Boxes of veneer, plywood, laminated wood, or any combination thereof, which comply with §§ 178.1-1 to 178.1-10 (except § 178.1-7 (a), (c), and (d)) are approved provided:	(a) Boxes of veneer, plywood, laminated wood, or any combination thereof, which comply with §§ 178.1-1 to 178.1-10 (except § 178.1-7 (a), (c), and (d) are authorized provided:
§ 178.1-10(a)(2)	(2) That complete inner packing and box specifications have been filed with and approved by the Bureau of Explosives.	(2) That these boxed carboys pass the regular test prescribed in § 178.1-9. Copy of the most recent test report must be retained until further tests are made or for five years from the test.
§ 178.1-10(a)(3)	That these boxed carboys pass the regular tests prescribed in § 178.1-9.	(3) [Delete].
§ 178.1-10(a)(4)	(4) That boxed carboys after a minimum service period of 6 months pass the test prescribed in § 178.1-9.	(4) [Delete].
§ 178.1-10(a)(5)	That a detailed report of tests prescribed under paragraph (a)(4) of this section has been filed with and accepted as satisfactory by the Bureau of Explosives.	(5) [Delete].
§ 178.4-8(g)	(g) *Internal pressure test.* Bottles shall be capable of withstanding a sustained internal pressure of 20 p.s.i. gauge for a 15-day period. Bottle manufacturer shall demonstrate to Bureau of Explosives that bottles of a proposed design will meet this test prior to start of production.	(g) *Internal pressure test.* Bottles shall be capable of withstanding a sustained internal pressure of 20 p.s.i. gauge for a 15-day period.
§ 178.6-7(a)	(a) The complete inner packing and drum specification must be filed with and approved by the Bureau of Explosives.	(a) [Delete].
§ 178.13-3(a), First sentence	(a) Carboys shall be made of polyethylene with no plasticisers or additives and have a maximum melt index value of 2.5 grams per 10 minutes as determined in accordance with method acceptable to the Bureau of Explosives.	(a) Carboys shall be made of polyethylene with no plasticisers or additives and have a maximum melt index value of 2.5 grams.
§ 178.13-4(a)(1)	(1) Specification for each size outside container must be filed by each plant prior to start of production and be approved by the Bureau of Explosives.	(1) Specifications for each size outside container must be kept on file by each manufacturer.
§ 178.21-3(a), Note 1; § 178.24-2(a), Note 1	Note 1: Properties to be obtained by a test method approved by Bureau of Explosives. Other materials may be added which shall not affect the properties specified in paragraph (a) of this section.	Note 1: Other materials may be added which shall not affect the properties specified in paragraph (a) of this section.

Regulation affected	Present wording	Proposed amendment
§ 178.59–16(a), Last sentence; § 178.60–20(a), Last sentence	In all cases, the filling material as installed in the cylinder must be approved by the Bureau of Explosives.	(a) In all cases, the filling material as installed in the cylinder must be examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 178.59–16(b), First sentence; § 178.60–20(b), First sentence	Porosity of filling to be 80 percent or less except that filling with a porosity in excess of 80 percent but not in excess of 92 percent, may be used when tested with satisfactory results under the supervision of the Bureau of Explosives.	(b) Porosity of filling to be 80 percent or less except that filling with a porosity in excess of 80 percent but not in excess of 92 percent, may be used when tested with satisfactory results under the supervision of the Bureau of Explosives and approved by the Associate Director for OE.
§ 178.59–21	(a) For seamless cylinders, contracted for by the United States Navy or United States Coast Guard, made of steel commercially known as 4130X the prescribed limitations of carbon content, yield point, and elongation of steel are hereby waived provided the cylinders otherwise comply with §§ 178.59–1 to 178.59–20 and the following conditions:	(a) [Delete].
	(b) The following chemical analysis is authorized. (See Note 1.)	(b) [Delete].
	Designation: 4130X (percent) Carbon 0.25/0.35. Manganese 0.40/0.90. Phosphorus 0.04 max. Sulphur 0.05 max. Silicon 0.20/0.35. Chromium 0.80/1.10. Molybdenum 0.15/0.25. Zirconium —— Nickel ——	
	Note 1: A heat of steel made under the above specification, check chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the tolerances published by the American Iron and Steel Institute in Table 6–4 of "Supplementary Information July 1958, Alloy Steel: Semi-finished, Hot Rolled and Cold Finished Bars, July 1955," are not exceeded; or provided the variation in chemical analysis is approved by the Bureau of Explosives.	
	(c) Minimum wall thickness must be such that the wall stress under interior pressure of 1,000 pounds per square inch will not exceed 18,000 pounds per square inch when calculated by the formula: $S=\{P(1.3D^2+0.4d^2)\}/(D^2-d^2)$ Where: S = wall stress in pounds per square inch; P = 1,000 pounds per square inch; D = outside diameter in inches; d = inside diameter in inches.	(c) [Delete].
	(d) The elongation of the steel must be at least 20 percent in 2 inches.	(d) [Delete].
	(e) The test pressure under § 178.59–12 must be at least 1,000 pounds per square inch.	(e) [Delete].
	(f) Flattening test: Between knife edges, wedge shaped, 60° angle, rounded to ½ inch radius; test 1 cylinder[1] taken at random out of each lot of 200 or less, after hydrostatic test. The cylinders must pass test without cracking to 6 times wall thickness.	(f) [Delete].
	(g) Reports of manufacture and tests of the cylinder shells must include the following additional information: Chemical analysis data on manganese, chromium, molybdenum, and other alloy materials present, if any; definite statement as to the heat-treatment used.	(g) [Delete].
§ 178.80–7(a), Footnote 1; § 178.81–7(a), Footnote 1; § 178.82–7(a), Footnote 1; § 178.83–7(a), Footnote 1; § 178.84–7(a), Footnote 1; § 178.87–7(a), Footnote 1; § 178.88–6(a), Footnote 1; § 178.90–6(a), Footnote 1; § 178.91–7(a), Footnote 1.. § 178.80–9(d), Last sentence; § 178.82–9(d), Last sentence; § 178.115—8(d), Last sentence.	Rolling hoops of pliable solid rubber or other suitable material are also authorized when approved as to type and construction by the Bureau of Explosives. Equally efficient types of closures are authorized upon demonstration and proof of satisfactory tests to representative of Bureau of Explosives.	Footnote 1. Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded. (d) Other types of closures are authorized if they perform without failure under the tests required by this section and a record of such tests is retained during the period the closure is in use.

Regulation affected	Present wording	Proposed amendment
§ 178.80–14(a), § 178.82–14(a), § 178.97–12(a), § 178.98–12(a), § 178.99–12(a), § 178.110–11(a), § 178.115–13(a).	(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing are authorized upon demonstration and proof of satisfactory tests to representative of Bureau of Explosives. Leakers shall be rejected or repaired and retested. Removable head containers not required to be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested to be retained until further tests are made or for 1 year, whichever period is shorter.	(a) Each cotainer shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers not required to be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.
§ 178.81–9(e), § 178.83–9(e), § 178.88–8(e), § 178.90–8(e)	(e) Other threaded closures may be authorized by the Bureau of Explosives upon demonstration of equal efficiency.	(e) Other types of closures are authorized if they perform without failure under the tests required by this section and a record of such tests is retained during the period the closure is in use.
§ 178.81–14(a), § 178.83–14(a), § 178.87–14(a), § 178.88–13(a), § 178.90–13(a), § 178.91–14(a), § 178.107–12(a), § 178.108–12(a), § 178.117–14(a).	(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing are authorized upon demonstration and proof of satisfactory tests to representative of Bureau of Explosives. Leakers shall be rejected or repaired and retested.	(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.
§ 178.82–9(c)	(c) For closure with threaded plug or AEP, the seat (flange, etc.) for plug, or cap, must have 3 or more complete threads; two drainage holes of not over 9/64 inch diameter are allowed. Plug, or cap, must have sufficient length of thread to engage 3 threads when screwed home with gasket in place. Closures of screw-thread type or closed by other positive means, of any material or design, may be authorized by the Bureau of Explosives for use, upon satisfactory proof of efficiency.	(c) For closure with threaded plug or cap, the seat (flange, etc.) for plug or cap, must have 3 or more complete threads; two drainage holes of not over 9/64 inch diameter are allowed. Plug, or cap, must have sufficient length of thread to engage 3 threads when tightened with gasket in place. Other types of closures are authorized if they perform without failure under the tests required by this section and a record of such tests is retained during the period the closure is in use.
§ 178.84–14(a)	(a) Each container, with lining material applied, shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing are authorized upon demonstration and proof of satisfactory tests to representative of Bureau of Explosives. Leakers shall be rejected or repaired and retested. Removable head containers not required to be tested with heads in place except that samples taken at random and closed as for use, of each type and size, every 4 months. Samples last tested to be retained until further tests are made or for 1 year, whichever period is shorter.	(a) Each container, with lining material applied, shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associated Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers not required to be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.
§ 178.85–13(a)	(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 100 pounds per square inch. Equally efficient means of testing are authorized upon demonstration and proof of satisfactory tests to representative of Bureau of Explosives. Leakers shall be rejected or repaired and retested.	(a) Each drum shall be tested with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 100 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.
§ 178.87–13(a)(3)	(3) Periodic drop tests will not be required after initial drop tests at start of manufacture, on containers of a construction in excess of minimum specification requirements approved by the Bureau of Explosives. Changes in construction (drum, lining, or closures) must also be approved by the Bureau of Explosives for use, after submission of proof as to efficiency, to continue this exemption.	(3) Periodic drop tests will not be required after initial drop tests at start of manufacture, on containers of a construction in excess of minimum specification requirements approved by the Associate Director for OE. Any change in construction of drum, lining, or closure must be approved by the Associate Director for OE.
§ 178.89–5(c)	(c) Flanged spout for filling and emptying container welded in place or attached in a manner approved by Bureau of Explosives.	(c) Flanged spout for filling and emptying container welded in place or attached in a manner approved by the Associate Director for OE.
§ 178.89–12(a)	(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 5 pounds per square inch. Equally efficient means of testing are authorized upon demonstration and proof of satisfactory tests to representative of Bureau of Explosives. Leakers shall be rejected or repaired and retested.	(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 5 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE.
§ 178.92–9(a)	(a) Each container must be provided with safety devices approved as to type and location by the Bureau of Explosives and found to prevent the bursting of the normally charged container when it is placed in a fire. See § 173.124(a)(4) of this chapter.	(a) Each drum must have safety devices approved as to type and location by the Associate Director for OE. See § 173.124(a)(4) of this chapter.

Regulation affected	Present wording	Proposed amendment
§ 178.101–12(a)	(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch. Equally efficient means of testing are authorized upon demonstration and proof of satisfactory tests to representative of Bureau of Explosives. Leakers shall be rejected or repaired or retested. Removable head containers not required to be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated over 4 months. Samples last tested to be retained until further tests are made or for 1 year, whichever period is shorter.	(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers not required to be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last test must be retained until further tests are made for 1 year.
§ 178.109–7(a)	(a) Of screw-thread type or secured by screw-thread device; openings over 2.3" not authorized; suitable gaskets required. Vented closing device of type approved by the Bureau of Explosives are authorized when specified by the purchaser	(a) Of screw-thread type or secured by screw-thread device; openings over 2.3" not authorized; suitable gaskets required. Vented closing devices must be approved by the Associate Director for OE.
§ 178.109–12(a)	(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 10 pounds per square inch. Equally efficient means of testing are authorized upon demonstration and proof of satisfactory tests to representative of Bureau of Explosives. Leakers shall be rejected or repaired and retested.	(a) Each drum shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 10 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested.
§ 178.115–8(c)	(c) For closure with threaded plug or cap, the seat (flange, etc.) for plug, or cap, must have 3 or more complete threads; two drainage holes of not over 5/64 inch diameter are allowed. Plug, or cap, must have sufficient length of thread to engage 3 threads when screwed home with gasket in place. Threaded closures having fewer threads are authorized for containers having a capacity of 12 gallons or less when such closures are approved by the Bureau of Explosives upon proof of satisfactory tests.	(c) For closure with threaded plug or cap, the seat (flange, etc.) for plug or cap, must have 3 or more complete threads; two drainage holes of not over 5/64 inch diameter are allowed. Plug, or cap, must have sufficient length of thread to engage 3 threads when tightened with gasket in place. Other types of closures are authorized if they perform without failure under the tests required by this section and a record of such tests is retained during the period the closure is in use.
§ 178.115–8(c)(1), § 178.116–8(d), § 178.118–(c)(1)	(1) Closures of screw-thread type or closed by other positive means, of any material or design, may be authorized by the Bureau of Explosives for use, upon satisfactory proof of efficiency.	§ 178.115–8(c)(1)—[Delete]. § 178.116–8(d) and § 178.118–8(c)(1) would read: Other types of closures are authorized if they perform without failure under the tests required by this section and a record of such tests is retained during the period the closure is in use.
§ 178.116–13(a)	(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch for containers over 12 gallons capacity and at least 5 pounds for others. Equally efficient means of testing are authorized upon demonstration and proof of satisfactory tests to representative of Bureau of Explosives. Leakers shall be rejected or repaired and retested.	(a) Each drum shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch for containers over 12 gallons capacity and at least 5 pounds for others. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.
§ 178.118–8(b), Last sentence	Equally efficient types of closures are authorized upon demonstration and proof of satisfactory tests to representative of Bureau of Explosives.	(b) Other types of closures are authorized if they perform without failure under the tests required by this section and a record of such tests is retained during the period the closure is in use.
§ 178.118–13(a)	(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch for containers over 12 gallons capacity and at least 5 pounds for others. Equally efficient means of testing are authorized upon demonstration and proof of satisfactory tests to representative of Bureau of Explosives. Leakers shall be rejected or repaired and retested. Containers not required to be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every four months. Samples so tested must be retained until further tests are made.	(a) Each drum shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch for containers over 12 gallons capacity and at least 5 pounds for others. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Drums not required to be tested with heads in place except samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every four months. Samples so tested must be retained until further tests are made or for a period of one year.
§ 178.119–13(a)	(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch. Equally efficient means of testing are authorized upon demonstration and proof of satisfactory. Leakers shall be rejected or repaired and retested.	(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.
§ 178.131–6(a), Footnote 2	Footnote 2. Equally efficient closing devices may be authorized by the Bureau of Explosives upon demonstration of their ability to withstand tests prescribed in § 178.131–11.	Footnote 2. Other types of closures are authorized if they perform without failure under the tests required by this section and a record of such tests is retained during the period the closure is in use.

Regulation affected	Present wording	Proposed amendment
§ 178.132–7(a)	(a) Closures shall be of any type that will withstand prescribed drop tests without leakage, see § 178.132–11. Openings shall not exceed 9 inches in diameter in containers of 16-gallon capacity and larger nor 6½ inches in diameter in containers less than 16-gallon capacity. Larger openings may be authorized upon demonstration and proof of satisfactory closure test to the Bureau of Explosives. Gaskets required when necessary.	(a) Closures shall be of any type that will withstand prescribed drop tests without leakage, see § 178.132–11. Openings shall not exceed 9 inches in diameter in containers of 16-gallon capacity and larger nor 6½ inches in diameter in containers less than 16-gallon capacity. Larger openings may be used when approved by the Associate Director for OE.
§ 178.133–6(b)(1)	(1) Resin should have a maximum melt index value of 1.8 plus 0.4 per 10 minutes, and shall have a minimum average molecular weight of 21,000, as determined in accordance with methods acceptable to the Bureau of Explosives.	(1) Resin should have a maximum melt index value of 1.8 plus 0.4 per 10 minutes, and shall have a minimum average molecular weight of 21,000.
§ 178.136–7(a)	(a) Of screw-thread type or secured by screw-thread device; openings over 2.3 inches not authorized; suitable gaskets required; head openings only permitted. Vented closing devices of type approved by the Bureau of Explosives are authorized when specified by the purchaser.	(a) Of screw-thread type or secured by screw-thread device; openings over 2.3 inches not authorized; suitable gaskets required; head openings only permitted. Vented closing devices must be approved by the Associate Director for OE.
§ 178.182–2(b)	(b) Specifications for the outside container must be filled with an approval by the Bureau of Explosives.	[b] [Deleted]. Add paragraph (b) to § 178.182–3(b) to read: (b) Records of tests performed under this specification must be retained by the manufacturer for a period of one year following discontinuance of production.
§ 178.205–37(d)	(d) Tests to be conducted by or for each plant assembling and filling boxes at the initial start of production and must be repeated at intervals of four months thereafter; initial tests must be witnessed by a representative of the Bureau of Explosives. Samples last tested must be dated with date of test and must be retained until subsequent tests are conducted. Empty boxes with liners may be shipped to a central point for assembling, filling and testing in which case the Bureau of Explosives must be advised of test location	(d) Tests to be conducted by or for each plant assembling and filling boxes at the initial start of production and at intervals of four months thereafter. Samples last tested must be dated with date of test and must be retained until further tests are made.
§ 178.211–3(a)(1)(v)	(v) Other perforated or die cut areas of a size and location as authorized in writing by the Bureau of Explosives or Board of Transport Commissioners for Canada.	(v) Other perforated or die cut areas of a size and location may be used when approved by the Associate Director for OE.
§ 178.214–8(a), Last sentence	Boxes having handholes are authorized when approved by the Bureau of Explosives.	(a) Boxes having handholes may be used when approved by the Associate Director for OE.
(a) Specification for each type of container manufactured (under the specification) must be filed with and approved by the Bureau of Explosives. Changes in construction (container and closure)differing from specification thus filed must be approved before authorized for use.		(a) [Delete].
§ 178.224–3(a)	(a) Specification for each type of drum manufactured (under the specification) shall be filed with the Bureau of Explosives. Changes in construction (drum and closure) differing from specification thus filed must be approved by the Bureau of Explosives before authorized for use.	(a) [Delete].
§ 178.236–2(e)	(e) Conformance of sacks with paper strength requirements shalls be established by comparing the sums of the test values for all the walls of the new and unused sack with the sums of the respective strength values specified in paragraphs (a) and (b) of this section for the different walls of the sack by a method acceptable to the Bureau of Explosives.	(e) Conformance of sacks with paper strength requirements shall be established by comparing the sums of the test values for all the walls of the new and unused sack with sums of the respective strength values specified in paragraphs (a) and (b) of this section for the different walls of the sack in accordance with Uniform Freight Classification (UFC), Rule 40, or National Motor Freight Classification (NMFC) Item 200.
§ 178.237–2(e), § 178.238–2(e), § 178.239–2(e)	(e) Conformance of sacks with paper strength requirements shall be established by comparing the sums of the test values for all the walls of the new and unused sack with the sums of the respective strength values specified in paragraphs (a) and (b) of this section for the respective papers specified for the different walls of the sack by a method acceptable to the Bureau of Explosives.	(e) Conformance of sacks with paper strength requirements shall be established by comparing the sums of the test values for all the walls of the new and unused sack with the sums of the respective strength values specified in paragraphs (a) and (b) of this section for the respective papers specified for the different walls of the sack in accordance with Uniform Freight Classification (UFC), Rule 40, or National Motor Freight Classification (NMFC) Item 200.
§ 178.255–8(a)	(a) Safety devices are to be as required, subject to approval of the Bureau of Explosives, by shipping regulations.	(a) Safety devices must be approved by the Associate Director for OE.

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(49 U.S.C. 1804; 49 CFR 1.53, App. A. to Part 1, and paragraph (a)(4) of App. A, Part 106.)

The Materials Transportation Bureau has determined that this notice will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available in the public docket.

Issued in Washington, D.C., on April 27, 1979.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-13884 Filed 5-4-79; 8:45 am]

BILLING CODE 4910-60-M

Notices

Federal Register
Vol. 44, No. 89
Monday, May 7, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL RIGHTS COMMISSION

Alaska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Alaska Advisory Committee (SAC) of the Commission will convene at 5:30 pm and will end at 7:00 pm, on May 25, 1979, at the United Bank Alaska, 645 G Street, Anchorage, Alaska.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of the meeting is program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 1, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-14184 Filed 5-4-79; 8:45 am]

BILLING CODE 6335-01-M

Massachusetts Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) of the Commission will convene at 4:00 pm and will end at 6:00 pm, on May 23, 1979, at 34½ Beacon Street, Boston, Massachusetts.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 1, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-14185 Filed 5-4-79; 8:45 am]

BILLING CODE 6335-01-M

Washington Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a factfinding meeting of the Washington Advisory Committee (SAC) of the Commission, published Friday, April 13, 1979 (FR Doc. 79-11548) on page 22139 is hereby amended in the third paragraph which begins with "The purpose" * * * The end of that paragraph should read * * * " and the Port of Tacoma. The place, time and date will remain the same.

Dated at Washington, D.C., May 2, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-14186 Filed 5-4-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

Voluntary Product Standard Action of Withdrawal

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the withdrawal of Voluntary Product Standard PS 32-70, "Hinged Interior Wood Door Units."

This withdrawal action is being taken for the reason that PS 32-70 is adequately covered by the National Sash and Door Jobbers Association's standard 1-79, "NSDJA's Recommended Product Standard 1-79 for Interior Pre-Hung Door Units," and duplication is inappropriate and not in the public interest. This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the Federal Register of March 20, 1979, (44 FR 16961) to withdraw this standard.

The effective date for the withdrawal of this standard will be [July 6, 1979 notice in the Federal Register). This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

Ernest Ambler,

Director.

May 1, 1979.

[FR Doc. 79-14145 Filed 5-4-79; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council's Scientific and Statistical Committee and Billfish Advisory Subpanel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) and the Council has established a Scientific and Statistical Committee (SSC) and a Billfish Advisory Subpanel (AP) which will meet separately to review the Billfish Fishery Management Plan.

DATES: The AP will meet on Wednesday, May 16, 1979, at 1:30 p.m. and adjourn on Thursday, May 17, 1979, at approximately 12 noon. The SSC will meet on Thursday, May 17, 1979, at 1:30 p.m. and adjourn on Friday, May 18, 1979, at approximately 12 noon. The meetings are open to the public.

ADDRESS: The meetings will take place at the South Atlantic Fishery Management Headquarters, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

Dated: May 1, 1979.

Jack W. Gehringer,

Deputy Assistant, Administrator for Fisheries.

[FR Doc. 79-14078 Filed 5-4-79; 8:45 am]

BILLING CODE 3510-22-M

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Office of the Secretary

Advisory Panel for the South Atlantic Fishery Management Council; Notice of Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and the Office of Management and Budget Circular A-63 of March 1974, the Secretary of Commerce has determined that the renewal of the Advisory Panel for the South Atlantic Fishery Management Council (SAFMC) is in the public interest in connection with the performance of duties imposed on the Department by law.

The Advisory Panel for the South Atlantic Fishery Management Council was established on April 27, 1977 pursuant to Section 302(g)(2) of the Fishery Conservation and Management Act of 1976, Public Law 94-265 (16 U.S.C. 1852). The Panel is to provide the Council on a continuing basis, advice on assessments and specifications contained in the fisher management plan for each fishery within the Council's geographical area of concern; the preparation and submission of certain reports to the Secretary of Commerce or to the Council; and other necessary duties as may be required to carry out Council functions under the Act.

the Advisory Panel's membership will continue to be composed of persons actually engaged in the harvest of, or knowledgeable and interested in the conservation and management of, a given fishery. It will also continue with an authorized geographically balanced representation of not more than 150 members, and will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Panel's revised Charter will be filed with appropriate committees of the Congress, and with the Library of Congress.

Inquires or comments may be addressed to the Executive Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

Dated: May 1, 1979.

Guy W. Chamberlin, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc. 79-14163 Filed 5-4-79; 8:45 am]

BILLING CODE 3510-17-M

Commerce Technical Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that the Commerce Technical Advisory Board will hold a meeting on Thursday, May 31, 1979 from 8:00 a.m. until 5:00 p.m. and on Friday, June 1, 1979 from 8:30 a.m. until 12 o'clock noon at 8100 34th Avenue, South, Minneapolis, Minnesota.

The Board was established to study and evaluate the technical activities of the Department of Commerce and recommend measures to increase their value to the business community.

Tentative agenda items include:

1. Presentation on PLATO (Programmed Logic for Automatic Teaching Operations).
2. Presentation of Final Study of Federal Policy on Entrepreneurship of Technology-Based Industries.
3. Report on CTAB Study of STI Policies.
4. Report on Development of Human Resources for Technological Innovation.
5. Status Report on Domestic Policy Review of Industrial Innovation.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-served basis.

Copies of minutes and materials distributed will be made available for reproduction following certification by the Chairman, in accordance with the Federal Advisory Committee Act, in Room 3867, U.S. Department of Commerce, Washington, D.C. 20230.

Further information may be obtained from Mrs. Florence S. Feinberg, Administrator, Room 3867, U.S. Department of Commerce, Washington, D.C. 20230. Telephone (202) 377-5065.

Jordan J. Baruch,
Assistant Secretary for Science and Technology.

April 30, 1979.

[FR Doc. 79-14162 Filed 5-4-79; 8:45 am]

BILLING CODE 3510-18-M

Privacy Act of 1974; Adoption of Additional System of Records and Changes to Existing Systems

On January 16, 1979 the Department of Commerce gave notice (44 FR 3308) that it proposed to (1) add a system of records entitled Secretarial Correspondence File, COMMERCE/DEPT.—22; (2) revise a Department-wide system to include National Bureau of Standards records; and (3) amend the safeguards section of another Department-wide system. The purpose of this notice is to adopt these changes in final form.

1. The purpose of the system COMMERCE/DEPT.—22 is to furnish the Executive Secretariat with data that identify each item of correspondence and that provide the status of the reply. The Executive Secretariat is the central coordinating staff for reviewing the correspondence addressed to the Secretary of Commerce, Under Secretary, or Assistant Secretary for Congressional Affairs.

During the recent conversion process from a manual to an automated system, a review of the Executive Secretariat office procedures and of record categories indicated that the system of records may contain personal information, particularly in a case where the correspondent seeks assistance to resolve a personal matter. Therefore, in light of the new retrieval capabilities of the automated system, all Secretarial correspondence and related records will be maintained in the adopted Privacy Act system of records.

2. The Department Mailing List system, COMMERCE/DEPT.—19, is amended to include National Bureau of Standards (NBS) carpool locator records.

NBS maintains an automated carpool locator system of records that contains information on individuals who voluntarily submit applications to form carpools. The purpose of the system is to assist NBS employees in identifying other individuals who are interested in carpool membership.

3. The safeguards section of the system of records entitled: Freedom of Information and Privacy Request Records—COMMERCE/DEPT.—21, is amended to clarify that such records may be made publicly available under the Freedom of Information Act.

A letter dated January 5, 1979 transmitted a new system report for DEPT.—22 and a description of the changes to DEPT.—19 to the Congress and the Office of Management and Budget as required by the Privacy Act. Interested persons were invited to submit written data, views, or arguments on these systems, as well as on the revision to DEPT.—21, before February 15, 1979. No comments were received in response to the notice.

Therefore, the Department adopts the additional system and the amendments to the existing systems effective March 17, 1979. Because the complete text of these three systems, as revised, was published in the **Federal Register** on January 16, 1979, and the systems are adopted without further change, there is no need to republish at this time.

Authority: 5 U.S.C. 552a, Sec. 3, Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896).

Dated: April 30, 1979

Guy W. Chamberlin, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc. 79-14161 Filed 5-4-79; 8:45 am]

BILLING CODE 3510-17-M

Travel Service

Travel Advisory Board; Meeting

On April 16, 1979, notice was given in the **Federal Register** (74 FR, Page 22503), that the Travel Advisory Board would meet on May 17, 1979. Notice is hereby given that the Travel Adisory Board meeting will begin at 9:30 a.m., in Room 4830 of the Main Commerce Building, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

Established in July, 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended.

Agenda items are as follows:

1. USTS' FY 1980 Budget.
2. DRV Annual Convention—November 1979 (German Travel Agents Association) ABTA Annual Convention—November 1979 (British Travel Agents).
3. Traveler Cheque Promotion.
4. Knoxville Expo '82.
5. U.S. Mexico Consultative Mechanism Tourism Working Party.
6. Result of WTO Executive Council Meeting.
7. Latest information on possible meeting with Soviet Union.
8. USTS involvement in triangular tourism development—Egypt/Israel/USA.
9. FY 1979 Research Program.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements will be allowed.

Sue Barbour, Travel Advisory Board Liaison Officer, of the United States Travel Service, Room 1858, U.S. Department of Commerce, Washington, D.C. 20230, (telephone (202) 377-4752) will respond to public requests for information about the meeting.

Jeanne Westphal,
Acting Assistant Secretary for Tourism.

[FR Doc. 79-14165 Filed 5-4-79; 8:45 am]

BILLING CODE 3510-11-M

COUNCIL ON ENVIRONMENTAL QUALITY

Progress Report on Agency Implementing Procedures Under The National Environmental Policy Act

May 3, 1979.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only: Publication of Progress Report on Agency Implementing Procedures Under The National Environmental Policy Act.

SUMMARY: In response to President Carter's Executive Order 11991, on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). (43 FR 55978-56007; 40 CFR 1500-08.) Section 1507.3 of the regulations provides that each agency of the Federal Government shall adopt procedrues to supplement these regulations by July 30, 1979. The Council has indicated to Federal agencies its intention to publish a progress report on agency efforts to develop "implementing procedures", as they are called. The purpose of this progress report, which appears below, is to provide an update on where agencies stand in this process and to inform interested persons of when to expect the publication of proposed procedures for their review and comment.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006; 202-395-5750.

Progress Report on Agency Implementing Procedures Under The National Environmental Policy Act

At the direction of President Carter (Executive Order 11991), on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). These regulations appear at Volume 43 of the Federal Register, pages 55978-56007 and Volume 40 of the Code of Federal Regulations, Sections 1500-1508. Their purpose is to reduce paperwork and delay associated with the environmental review process and to foster environmental quality through better decisions under NEPA.

Section 1507.3 of the NEPA regulations provides that each agency of the Federal government shall adopt procedures to supplement the regulations. The purpose of agency "implementing procedures," as they are called, is to translate the broad standards of the Council's regulations into practical action in Federal planning and decisionmaking. Agency procedures will provide government personnel with additional, more specific direction for implementing the procedural provisions of NEPA, and will inform the public and State and local officials of how the NEPA regulations will be applied to individual Federal programs and activities.

The NEPA regulations themselves take effect on July 30, 1979 (with exceptions for certain highway and community development programs). It is imperative that final agency implementing procedures also be adopted by that date. Failure to do so would represent a violation of Section 1507.3 of the regulations. It could also raise more general concerns about the adequacy of an agency's compliance with NEPA.

In the course of developing implementing procedures, agencies are required to consult with the Council and to publish proposed procedures in the Federal Register for public review and comment. Proposed procedures must be revised as necessary to respond to the ideas and suggestions made during the comment period. Thereafter, agencies are required to submit the proposed final version of their procedures for 30 days review by the Council for conformity with the Act and the NEPA regulations. After making such changes as are indicated by the Council's review, agencies are required to promulgate their final procedures by July 30.

To ensure that these steps are completed on time, the Council recommended that agencies publish proposed procedures for comment in April. Because many agencies were unable to meet this deadline, the Chairman wrote the heads of numerous Federal agencies underscoring the Council's concern that agency procedures be adopted by July 30, 1979. The Chairman also indicated the Council's intention to publish a progress report on agency implementing procedures in the Federal Register

That progress report appears below. Its purpose is to provide an update on agency efforts to develop procedures and to inform interested persons of when to expect the publication of proposed procedures for their review and comment. The Council hopes that concerned members of the public will review these procedures to insure that the reforms required by President Carter and by the Council's regulations are implemented. Agencies preparing

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implementing procedures are listed under one of the following three categories:

1. On Schedule

This category includes agencies whose proposed procedures have either appeared in the **Federal Register** or been transmitted to the **Federal Register** for publication.

2. Good Progress

This category includes agencies which have developed a draft of implementing procedures as a basis for consultation with the Council. It is expected that these agencies will publish proposed procedures in the **Federal Register** during the month of May.

3. Limited Progress

This category includes agencies which have not yet produced a draft of procedures as a basis for consultation with the Council.

Category #1: On Schedule
Department of Agriculture
  Forest Service
  Soil Conservation Service
Central Intelligence Agency
Federal Maritime Administration
National Aeronautics and Space Administration

Category #2: Good Progress
Action
Advisory Council on Historic Preservation
Agency for International Development (State)
Animal and Plant Health Inspection Service (Agriculture)
Department of Defense
  Air Force
  Corps of Engineers (Civil Works)
Department of Energy
  Federal Energy Regulatory Commission
Environmental Protection Agency
Export-Import Bank
Federal Communications Commission
6Federal Trade Commission
General Services Administration
Department of Health, Education and Welfare
Department of the Interior
  Bureau of Indian Affairs
  Bureau of Land Management
  Bureau of Mines
  Bureau of Reclamation
  Fish and Wildlife Service
  Geological Survey
  Heritage Conservation and Recreation Service
  National Park Service
Department of Justic
National Capitol Planning Commission
Nuclear Regulatory Commission
Postal Service
Rural Electrification Administration (Agriculture)
Tennessee Valley Authority
Department of Transportation
  Federal Aviation Administration
  Federal Highway Administration
  Federal Railroad Administration
  Urban Mass Transportation Administration
Veteran's Administration

Category #3: Limited Progress [1]
Arms Control and Disarmament Agency
Army (Defense)
Civil Aeronautics Board
Coast Guard (Transportation)
Department of Commerce
Community Services Administration
Consumer Product Safety Commission
Department of Housing and Urban Development
Farmers Home Administration (Agriculture)
Interstate Commerce Commission
Department of Labor
Marine Mammal Commission
National Highway Traffic Safety Administration (Transportation)
National Science Foundation
Navy (Defense)
Overseas Private Investment Corporation
Pennsylvania Avenue Development Corporation
Securities and Exchange Commission
Department of State
Department of Treasury

The development of agency implementing procedures is a critical stage in Federal efforts to reform the NEPA process. These procedures must, of course, be consistent with the Council's regulations and provide the means for reducing paperwork and delay and producing better decisions in agency planning and decisionmaking.

Interested persons will have the opportunity to make their suggestions for improving agency procedures when they are published in the **Federal Register** in proposed form. Broad public participation at this crucial juncture could go a long way toward ensuring that the goals of the NEPA regulations are widely implemented in the day-to-day activities of government.

Nicholas C. Yost,
General Counsel.
[FR Doc. 79-14349 Filed 5-7-79; 8:45 am]
BILLING CODE 3125-01-M

DEPARTMENT OF JUSTICE

Council on the Role of Courts; Establishment

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. No. 92-463), as amended (Pub. L. No. 94-409), the Attorney General has determined that the establishment of the Council on the Role of Courts is in the public interest in accordance with the duties imposed on the Department of Justice by law.

[1] Progress at some agencies has been limited by special circumstances such as minimal experience with NEPA and other factors that require more extensive consultation with the Council. These agencies include the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration, Farm Credit Administration, and the Water Resources Council.

The Council will assist the Department of Justice's Office for Improvements in the Administration of Justice (OIAJ) in developing research projects aimed at devising solutions to pressing problems of the American court system. The Council will afford OIAJ access to the collective expertise of a diverse body of judges, law school professors, and attorneys who share OIAJ's concern with improving the fit between the institutional capabilities of courts and the functions they are called upon to perform. The issues the Council is expected to address include the following:

(1) What standards or criteria should be used to determine what types of cases should or should not be in courts?

(2) What are the categories of cases currently most troublesome to courts, and what institutional adjustments are called for in response?

(3) In what areas should access to courts be expanded and/or restricted?

(4) What are the sectors of court business that would benefit most from empirical examination?

Answers to any and all of these questions will help point the way to optimal allocation of OIAJ research funds. They should also assist the Office in its ongong effort to develop strategies for improving the administration of civil and criminal justice in the federal courts.

The Council will hold an estimated total of six meetings, at a rate of three per year. Its duties will be solely advisory in nature. Membership will be limited to a maximum of twenty-eight individuals, designated by the Assistant Attorney General of the Office for Improvements in the Administration of Justice.

Pursuant to OMB Circular No. A-63 (Revised), the General Services Administration has authorized, for good cause shown, the filing of the Council's charter less than fifteen days subsequent to the publication of this notice.

Persons interested in commenting on the establishment of the Council on the Role of Courts, or in obtaining further information, are requested to forward written submissions to Mr. Harry A. Scarr, Administrator, Federal Justice Research Program, U.S. Department of Justice, Washington, D.C. 20530.

Harry A. Scarr,
Administrator, Federal Justice Research Program.
[FR Doc. 79-14373 Filed 5-4-79; 10:16 am]
BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

April 30, 1979.

The USAF Scientific Advisory Board Aeronautics Panel will meet on May 23 and 24, 1979 at Wright-Patterson Air Force Base, Ohio from 8:30 a.m. to 5:00 p.m. each day. The purpose of the meeting is to review the F-107 engine development program.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

[FR Doc. 79-14171 Filed 5-4-79; 8:45 am]
Carol M. Rose,
Air Force Federal Register Liaison Officer.
BILLING CODE 3910-01-M

Department of the Army

Armed Forces Discharge Review/Correction Boards Reading Room; Operating Procedures

In FR Doc. 77-30712, published in the **Federal Register** (42 FR 56147) on October 21, 1977, the Department of the Army announced the establishment of the Armed Forces Discharge Review/Correction Boards Reading Room on the public concourse of the Pentagon. The Reading Room was established in accordance with the Stipulation of Dismissal in the lawsuit entitled *Urban Law Institute of Antioch College, Inc., et al. v. Secretary of Defense, et al.*

Notice is hereby given that the policy stated in 42 FR 56147 for the distribution of documents and assessment of fees by the Reading Room has been revised as follows:

1. Decisional Documents

a. Visitors to the Reading Room may reproduce individual case documents without charge on reproduction equipment located in the Reading Room.

b. Case documents will be provided by mail, subject to the following restrictions:

(1) The number of case documents which may be provided by mail, without charge, is limited to no more than 25 individual cases per requesting individual or organization each 30 days. A fee of $.10 per page will be charged for all documents provided in excess of this limitation.

(2) Requests for case documents should identify the documents being requested by the specific case number contained in the index. Research service in response to mail requests will not be provided by the Reading Room staff.

(3) Mail requests for case documents will be processed in the order they are received. The Reading Room staff will attempt to respond to requests for case documents within 30 calendar days after receipt of the request. In addition, if an applicant or counsel states in the request that the material is needed for a hearing scheduled on a specific date, a priority effort will be made to provide the case documents before that date.

2. Index of Decisions

a. A current copy of the index of decisions is available at the Reading Room at all times for use by visitors.

b. The index is available for sale either at the Reading Room or by mail.

c. The index consists of an initial publication (August 1977) and supplements published at 90-day intervals thereafter. The index is available for sale in any one of the following formats:

(1) Total index (initial publication and all quarterly supplements to date).

(2) Specific segments (e.g., initial publication only, 1st and 2nd supplements only, latest supplement only, etc.).

(3) Specific pages from one or more segments.

d. The initial index publication and each supplement contain two distinct parts. Part I is a listing of cases by case number within board groupings (e.g., all Army Discharge Review Board cases). Part II is a listing of cases according to the issues addressed in particular cases.

e. Whenever all or a portion of the index is provided to a requester, a copy of a current Subject/Category Listing will be provided to enable the user to translate numerical codes used in the index for "Reason for Discharge" and "Issues Addressed". No fee will be assessed for the listing.

3. Local Requests

Mail Requests from individuals or organizations located within the Washington, D.C. metropolitan area for either case documents or the index will not be honored.

4. Fees

Fees for the index will be assessed as follows:

a. Microfiche— $5.00 for the first microfiche and $.10 for each additional microfiche provided.

b. Paper Copy— no charge for first 20 pages and $.10 for each additional page provided.

If fees are to be assessed, the requester will be advised of the amount and the appropriate form of payment. Receipt of payment is required prior to providing requested documents. Requests for fee waiver will be considered on a case-by-case basis. A request for waiver of fees for paper copy will not normally be granted if the microfiche index is offered at no charge.

5. Mailing Address

Mail Requests for case documents or the index should be signed by the requester, dated, and mailed to: Director, DA Military Review Boards Agency, ATTN: SFBA (Reading Room), Room 1E520, The Pentagon, Washington, D.C. 20310.

6. Regulations

a. Requests made pursuant to 32 CFR 70.5(b)(9)(v) for regulations of a military department may be sent to the address provided in paragraph 5, above. The Reading Room is the proper recipient only of requests made under 32 CFR 70.5(b)(9)(v).

b. All requests for regulations received by the Reading Room will be reviewed and referred expeditiously to the appropriate activity of the military department concerned for action.

For further information contact: LTC James M. Danley, Military Assistant, DA Military Review Boards Agency, 202-695-5704.

Dated: April 30, 1979.

Francis X. Plant,
Director, DA Military Review Boards Agency.
[FR Doc. 79-14155 Filed 5-4-79; 8:45 am]
BILLING CODE 3710-08-M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS); Cottonwood Creek Project, in Shasta and Tehama Counties, Calif.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. *Action.*— The project consists of two multiple-purpose reservoirs to provide flood control, municipal and industrial water supply, irrigation, recreation, and anadromous fishery enhancement. Dutch gulch Lake would be constructed on the mainstem at a capacity of 900,000 acre-feet and

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Tehama Lake would be constructed on the south fork at a capacity of 700,000 acre-feet.

2. *Alternatives.*— Alternatives studied include: No action; headwater reservoir plan; and several combinations of headwater reservoirs and reservoirs at the authorized sites. Other alternatives, including reservoirs located outside the Cottonwood Creek basin, local flood protection projects, ground water development in Cottonwood Creek basin, and Sacramento River diversion and offstream storage plans, were studied but excluded from further consideration because they would be economically infeasible, locally unacceptable, out-of-basin projects that would not address problems and needs in the Cottonwood Creek basin, or featured in other multiple-purpose plans.

3. *Scoping of the DEIS.*—The scoping process has been substantially completed. In January 1977, a notice of initiation of study, containing a description of the project, and overview of the present studies, study schedule, a description of interagency coordination and public involvement program, maps, and the request for comments, was sent to all agencies and individuals known to have an interest in the project. Since then, two formal public meetings, each preceded by an informal public workshop, have been held in the area. Other agencies are kept informed through bi-monthly interagency coordination meetings held alternately in Sacramento and Red Bluff. Throughout the coordination outlined above, agency and public input has and continues to be received to help identify significant and non-significant issues regarding the project; therefore, no separate scoping meeting is being scheduled. The continuing public coordination has resulted in identification of the significant issues listed below:

Damage to anadromous fish resources in Cottonwood Creek and Sacramento River.

Damage to wildlife resources in Cottonwood Creek basin, and downstream along Sacramento River.

Increases of temperature and turbidity in Sacramento River.

Decrease in spawning gravels entering in Sacramento River.

Impact on archeological, historical, and paleontological resources.

Land use changes in Cottonwood Creek basin and downstream along Sacramento River.

Sociological and Economic changes in Cottonwood Creek basin.

Project area employment.

Future water supply needs in the local area.

Changes to environment in Sacramento-San Joaquin Delta and in State Water Project Services areas.

All interested parties are invited to call or write to suggest what additional issues are significant which should be discussed in detail in the DEIS and which issues are not significant enough for detailed study.

4. *Estimated Date of DEIS.*—A draft environmental impact statement is expected to be circulated for public review in February 1980.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Merritt Rice, Planning Engineer, Sacramento District, Corps of Engineers, 650 Capitol Mall, Sacramento, California 95814, telephone (916) 440–3557 (FTS 448–3557).

Dated April 17, 1979.

Donald M. O'Shei,
Colonel, CE, District Engineer.
[FR Doc. 79-14078 Filed 5-4-79; 8:45 am]
BILLING CODE 3710-GH-M

Intent To Prepare a Draft Environmental Impact Statement (DE); Sacramento River Deep Water Ship Channel, in Yolo, Solano, and Contra Costa Counties, Calif.

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. *Proposed action.*—The proposed project consists of deepening the existing deep water ship navigation channel. Existing depth is 30 feet below mean lower low water, and the proposed new depth will be 35 feet. The increased depth will permit increased movement of goods by ship to and from the Port of Sacramento in worldwide trade. Recreation, fish and wildlife habitat, and wetland improvements at sites of dredged material disposal are also proposed.

2. *Alternatives.*—Alternative methods for increasing movement of goods have been studied and found less economically and/or environmentally beneficial. Alternatives include: no action; increased use of LASH (lighter-aboard-ship) barges; and increased use of intermodal transportation (use of terminal facilities in the San Francisco Bay area and other west coast ports).

3. *Scoping of the DEIS.*— Scoping of the DEIS has been completed. Planning for the investigation leading to the proposal to deepen the existing ship channel began in 1971 as a result of resolutions by the Committee on Public Works, House of Representatives, dated 10 June 1968 and 11 December 1969. Public meetings were held in 1971 and 1976; several agencies with varied environmental expertise participated throughout the investigation; and an EIS/Working Paper was circulated for public review in 1976. Thus, the previous public meetings and public review of environmental documents have already resulted in an adequate scoping process. The most significant environmental concern has been the possiblity of increased salinity in the Bay-Delta estuary from a deepened channel, and mitigation needed to combat this. Another issue has been fish and wildlife habitat damage and mitigation for this. Consultant studies on salinity and assistance from State and Federal fish and wildlife agencies have recently been obtained.

4. *Estimated date of DEIS.*—A draft environmental impact statement is expected to be circulated for public review in June 1979.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Mark Capik, Planning Engineer, Sacramento District, Corps of Engineers, 650 Capitol Mall, Sacramento, CA 95814, telephone (916) 440–3369 (FTS 448–3369).

Dated: April 27, 1979.

Donald M. O'Shei,
Colonel, CE, District Engineer.
[FR Doc. 79-14077 Filed 5-4-79; 8:45 am]
BILLING CODE 3710-GH-M

Intent To Prepare a Draft Environmental Impact Statement; Avon to Stockton Portion of the San Francisco Bay to Stockton, Calif. (John F. Baldwin and Stockton Ship Channels) Project, in San Joaquin and Contra Costa Counties, Calif.

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. *Action.*—The project consists of deepening the existing deep water ship navigation channel. Existing depth is 30 feet below mean lower low water, and the new depth will be 35 feet. The increased depth will permit increased movement of goods by ship to and from the Port of Stockton and intermediate shipping points of Antioch, Pittsburg, and Port Chicago in the worldwide trade. Recreation, fish and wildlife habitat, and wetland improvements at sites of dredged material disposal are also included.

2. *Alternatives.*—Alternative methods for increasing movement of goods have been studied and found less economically and/or environmentally beneficial. Alternatives include: no action; increase use of LASH (lighter-aboard-ship) barges; deepen the Sacramento River Deep Water Ship Channel and route cargo to the Port of Sacramento; and route cargo requiring deeper draft vessels to ports in the San Francisco Bay area.

3. *Scoping of the DEIS.*—Scoping of the DEIS has been completed. Advanced planning and design of the project has been underway since 1967 after the project was authorized for construction by Congress in 1965. An EIS on rock bank protection for control of ship wave-wash erosion at selected sites was filed with the Council on Environmental Quality on 11 October 1971. Construction was initiated in 1971 with placement of the bank protection. Remaining construction was deferred for further design and environmental studies. An EIS/working paper was circulated for public review early in 1976, and a DEIS was circulated for public review later in 1976 with the result that further environmental studies were conducted. Thus, the previous environmental documents and considerable public coordination generated thereby has already reaulted in an adequate scoping process. The most significant environmental concern has been the possibility of increased salinity in the Bay-Delta estuary from a deepened channel, and mitigation needed to combat this. Another issue has been fish and wildlife habitat damage and mitigation for this. Consultant studies on salinity and assistance from State and Federal fish and wildlife agencies have been obtained in recent studies.

Estimated Date of DEIS.—A new draft environmental impact statement is expected to be circulated for public review in September 1979.

ADDRESS: Questions can be answered by: Mr. Mark Capik, Planning Engineer, Sacramento District, Corps of Engineers, 650 Capitol Mall, Sacramento, CA 95814, telephone (916) 440–3369 (FTS–448–3369).

Dated: April 25, 1979.

Donald M. O'Shei,
Colonel, CE, District Engineer.
[FR Doc. 79-14078 Filed 5-4-79; 8:45 am]
BILLING CODE 3710-GH-M

DEPARTMENT OF ENERGY

Rocky Flats Plant Site; Trespassing on DOE Property

Correction

FR Doc. published at page 22145 in the issue of Friday, April 13, 1979 was corrected on page 24625 in the issue of Thursday, April 26, 1979. In the last line of paragraph 4 of the correction on page 24625 (April 26, 1979), the word "Adjouins" should read "adjoins".

BILLING CODE 1505-01-M

Federal Energy Regulatory Commission

California, Resources Agency, et al.; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 27, 1979.

On April 19, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of California, Resources Agency Division of Oil and Gas

FERC Control Number: JD79–5421
API Well Number: 111–20783
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 367
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 16.1 MMcf.

FERC Control Number: JD79–5422
API Well Number: 11120778
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 366
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 59.9 MMcf.

FERC Control Number: JD79–5423
API Well Number: 11120758
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 365
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 36.1 MMcf.

FERC Control Number: JD79–5424
API Well Number: 111–20763
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 364
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 26.3 MMcf.

FERC Control Number: JD79–5425
API Well Number: 111–20806
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 300
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 0 MMcf.

FERC Control Number: JD79–5426
API Well Number: 111–20792
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 299
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 7.3 MMcf.

FERC Control Number: JD79–5427
API Well Number: 111–20836
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 202
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 4.4 MMcf.

FERC Control Number: JD79–5428
API Well Number: 111–20754
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 99
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 3.3 MMcf.

FERC Control Number: JD79–5429
API Well Number: 111–20767
Section of NGPA: 103
Operator: Continental Oil Company
Well Name: Grubb No. 296
Field: San Miguelito
County: Ventura
Purchaser: Pacific Lighting Service Co.
Volume: 2.9 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 22, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14188 Filed 5-4-79; 8:45 am]
BILLING CODE 6450-01-M

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Central Illinois Public Service Co.; Notice of Filing

May 1, 1979.

The filing Company submits the following:

Take notice that on April 27, 1979, Central Illinois Public Service Company (CIPS) tendered for filing proposed Third Revisions to Service Schedules B & C to Interconnection Agreement dated May 2, 1972, with Southern Illinois Power Cooperative (SIPC). The effective date of the proposed revisions is July 1, 1979.

CIPS indicates that said revised agreement revises the reservation charges for Short-Term Non-Firm and Firm Power transactions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before May 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER 79-336]
[FR Doc. 79-14180 Filed 5-4-79; 8:45 am]
BILLING CODE 6450-01-M

Consumers Power Co.; Notice of Tariff Change

May 1, 1979.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers Power) on April 26, 1979, tendered for filing Amendment No. 1 to the Facilities Agreement dated March 1, 1973 among Consumers Power Company, The Detroit Edison Company (Detroit Edison) and The Toledo Edison Company. The Commission previously designated this Facilites Agreement as Consumers Power Company Rate Schedule FERC No. 35.

Consumers Power states that Amendment No. 1 to the Facilites Agreement changes the scheduled in-service date of Detroit Edison's Lulu Station from on or about September 1, 1978 to on or about September 1, 1997, as Detroit Edison's forecasts of load growth and system requirements have changed since March 1, 1973, the date of the Facilities Agreement. Consumers Power states further that Lulu Station is presently being planned by Detroit Edison for installation with long-range generation additions scheduled in 1997.

Any person desiring to be heard or to protest said amendment should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions of protests should be filed on or before May 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of Amendment No. 1 are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-335]
[FR Doc. 79-14181 Filed 5-4-79; 8:45 am]
BILLING CODE 6450-01-M

Central Louisiana Electric Co.; Notice of Filing

May 1, 1979.

The filing Company submits the following:

Take notice that on April 27, 1979, Central Louisiana Electric Company (CLECO) tendered for filing a letter agreement with the City of Opelousas, Louisiana (CITY), dated March 22, 1979, which provides for the Sale by CLECO to the CITY of replacement energy.

CLECO states that the replacement energy is scheduled surplus power and energy to be provided from its generating units, which are larger and more efficient than those of the CITY. CLECO further states that the generating of replacement energy by CLECO for the CITY will conserve approximately 388,000 MMBTU of fuel annually.

CLECO proposes an effective date of March 27, 1979, and therefore requests waiver of the Commission's notice requirements.

According to CLECO copies of this filing were served upon the CITY and upon the Louisiana Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-336]
[FR Doc. 79-14180 Filed 5-4-79; 8:45 am]
BILLING CODE 6450-01-M

Equitable Gas Co.; Notice of Application

May 1, 1979.

Take notice that Equitable Gas Company ("Equitable"), on April 30, 1979, filed an Application for permission to file cost-of-service support for a major rate increase in the transportation rate for Carnegie Natural Gas Company ("Carnegie") in the form prescribed for minor rate increases under Section 154.63(3) and for a waiver of the major rate increase requirements contained in Section 154.63(f), Statements A, B, C, D, E, F, G, H, I, J, K, O, P and Q. The additional revenues resulting from said increase in the transportation rate for Carnegie accounts for approximately one-tenth of one (1) percent of Equitable's total sales.

Equitable states that copies of this Application have been served on Carnegie Natural Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before May 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-65]
[FR Doc. 79-14182 Filed 5-4-79; 8:45 am]
BILLING CODE 6450-01-M

Geological Survey, et. al.; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 27, 1979.

On April —, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

U. S. Geological Survey

FERC Control Number: JD79 5389
API Well Number: 30045061280000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Bolack C 8
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchases: El Paso Natural Gas Company
Volume: 2.6 MMcf.

FERC Control Number: JD79 5390
API Well Number: 30-045-22512
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Mudge 6A
Field: Blanco
County: San Juan
Purchases: El Paso Natural Gas Company
Volume: 2.6 MMcf.

FERC Control Number: JD79 5391
API Well Number: 30045210870000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Hardie 7
Field: Blanco Pictured Cliffs Gas
County: San Juan
Purchases: El Paso Natural Gas Company
Volume: 15.0 MMcf.

FERC Control Number: JD79 5392
API Well Number: 30045075510000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Johnston
Field: Blanco-Mesaverde Gas
County: San Juan
Purchases: El Paso Natural Gas Company
Volume: 7.3 MMcf.

FERC Control Number: JD79 5393
API Well Number: 30045211730000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Day A 16
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchases: El Paso Natural Gas Company
Volume: 14.6 MMcf.

FERC Control Number: JD79 5394
API Well Number: 30045210270000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Neil #14 PC
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchases: El Paso Natural Gas Company
Volume: 13.9 MMcf.

FERC Control Number: JD79 5395
API Well Number: 300452111500000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Mudge 35 PC
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchases: El Paso Natural Gas Company
Volume: 13.5 MMcf.

FERC Control Number: JD79 5396
API Well Number: 30045072880000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Lackey B 7
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchases: El Paso Natural Gas Company
Volume: 10.0 MMcf.

FERC Control Number: JD79 5397
API Well Number: 30-045-22399
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Fields 2A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 1297 MMcf.

FERC Control Number: JD79 5398
API Well Number: 30-045-22756
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Barnes 9A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 474 MMcf.

FERC Control Number: JD79 5399
API Well Number: 30-045-22773
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Mudge 3A (Pictured Cliffs)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 160 MMcf.

FERC Control Number: JD79 5400
API Well Number: 30-045-22773
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Mudge 3A (Mesaverde)
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 333 MMcf.

FERC Control Number: JD79 5401
API Well Number: 30-045-22798
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Vandewart A #3-A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 290 MMcf.

FERC Control Number: JD79 5402
API Well Number: 30-045-22748
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Warren 2-A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 236 MMcf.

FERC Control Number: JD79 5403
API Well Number: 30-045-22796
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Sunray #1-A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 466 MMcf.

FERC Control Number: JD79 5404
API Well Number: 30-045-22797
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Sunray #2-A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 505 MMcf.

FERC Control Number: JD79 5405
API Well Number: 30-045-22710
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Day A 2-A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 182 MMcf.

FERC Control Number: JD79 5406
API Well Number: 30-045-22364
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Roelofs 2-A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 232 MMcf.

FERC Control Number: JD79 5407
API Well Number: 30-045-22717
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Hughes 4-A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 255 MMcf.

FERC Control Number: JD79 5408
API Well Number: 30-045-22450
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Riddle C 3A
Field: Blanco
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 298 MMcf.

FERC Control Number: JD79 5409
API Well Number: 30-045-22427
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Jacques 1A
Field: Blanco
County: San juan
Purchaser: El Paso Natural Gas Company
Volume: 321 MMcf.

FERC Control Number: JD79 5410
API Well Number: 30-045-22510
Section of NGPA: 103
Operator: El Paso Natural Gas Company
Well Name: Mudge 11A
Field: Blanco

County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 415 MMcf.
FERC Control Number: JD79 5411
API Well Number: 30045061430000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Bolack C 7
Field: Blanco, South-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 3.0 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 22, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14187 Filed 5-4-79; 8:45 am]
BILLING CODE 6450-01-M

Ohio Power Co.; Notice of Tariff Change

May 1, 1979.

The filing Company submits the following:

Take notice that Ohio Power Company, on April 27, 1979, tendered for filing proposed changes in its FERC Electric Service Rate Schedule No. 18, applicable to service to Wheeling Electric Company. The proposed changes would increase revenues from jurisdictional sales and service by $8,216,000, based on the 12-month period ending December 31, 1979. Ohio Power Company proposes that the rates and charges and terms and conditions of service revised by this filing become effective June 26, 1979.

Copies of the filing were served upon Wheeling Electric Company and the Public Service Commission of West Virginia, Capital Building, Charleston, West Virginia.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[Docket No. ER79-332]
[FR Doc. 79-14193 Filed 5-4-79; 8:45 am]
BILLING CODE 6450-01-M

Pacific Power & Light Co.; Notice of Amended Rate Schedule Filing

May 1, 1979.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on April 26, 1979, tendered for filing, in accordance with Section 35.13 of the Commission's Regulations, a rate schedule establishing charges for emergency transfer service to Central Electric Cooperative, Inc., for the United States of America, Bonneville Power Administration (BPA).

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective November 30, 1979, which it claims is the date of commencement of service.

Copies of the filing were supplied to BPA.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[Docket No. ER79-331]
[FR Doc. 79-14194 Filed 5-4-79; 8:45 am]
BILLING CODE 6450-01-M

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Notice of Application

April 23, 1979.

Take notice that on April 10, 1979, Tennessee Gas Pipeline Company, A Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-260 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Consolidated Edison Company of New York, Inc. (Con Ed), one of Applicant's existing customers, to be purchased from National Fuel Gas Distribution Corporation (National Distribution) for the purpose of supplanting imported fuel oil used in the generating stations which are exempt from the provisions of the Powerplant and Industrial Fuel Act of 1978, all as more fully set forth in the application which is on file with the Commission and open to public inspection.[1]

It is indicated that the volumes to be purchased by Con Ed and transported by Applicant would be made available to Applicant by National Distribution through its affiliate, National Fuel Gas Supply Corporation (National Supply) in Potter County, New York, or, when required by operating conditions, at other existing interconnections between Applicant and National Supply as they may agree upon. Applicant would deliver equivalent volumes to Con Ed, or for its account, to Transcontinental Gas Pipe Line Corporation (Transco) at an existing interconnection in Bergen County, New Jersey, or, when required by operating conditions, at other existing interconnections between Applicant and Transco as they may agree to and/or to Con Ed at an existing delivery point in Westchester County, New York.

Applicant proposes to transport up to a total of 15,000,000 Mcf of gas per year, during each April 1 through October 31 period, with peak day and average day volumes being approximately 75,000 Mcf and 65,000 Mcf, respectively. Applicant proposes an initial term of one year with the expectation of a request for renewal for an additional year's authorization.

It is indicated that Applicant will charge 9.60 cents per Mcf of gas delivered to Transco for Con Ed's account and 10.18 cents per Mcf for gas delivered directly to Con Ed.

[1] The application was initially tendered for filing on April 10, 1979; however, the fee required by Section 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until April 18, 1979; thus, filing was not completed until the latter date.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 15, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,
Acting Secretary.
[Docket No.CP79-260]
[FR Doc. 79-14195 Filed 5-4-79;8:45 am]
BILLING CODE 6450-01-M

Upper Peninsula Power Co.; Notice of Filing

May 1, 1979.

The filing Company submits the following:

Take notice that on April 27, 1979, Upper Peninsula Power Company (UPPCO) tendered for filing an Agreement dated April 2, 1979 amending the contract between UPPCO and the City of Escanaba, Michigan (Escanaba) dated January 4, 1956.

UPPCO states that under this agreement, most power and energy delivered from UPPCO's system to Escanaba will be returned to UPPCO in kind from Escanaba's own generating station. Where Escanaba is unable to return all such energy in kind, it will pay UPPCO the same amount as it would have paid for energy generated in its own generating station, except that, in certain circumstances, UPPCO's currently effective rate for wholesale service to electric utilities (WR-1) will be applied.

UPPCO has requested waiver of the notice requirements of Section 35.3 of the Commission's regulations in order to permit the April 2, 1979 Agreement to become effective as of June 1, 1978. UPPCO has also requested waiver of the requirement that sales and revenue calculations be prepared.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[Docket No. ER79-334]
[FR Doc. 79-14196 Filed 5-4-79; 8:45 am]
BILLING CODE 6450-01-M

West Penn Power Co.; Notice of Certification

May 1, 1979.

Take notice that Presiding Judge Michel Levant on March 12, 1979 certified to the Commission a settlement agreement in these proceedings. The Judge indicates that it appears that all parties support the settlement. The terms of the settlement would increase annual revenues from the Bourough of Chambersburg, Pennsylvania by approximately $145,000 and would increase revenues from Metropolitan Edison by approximately $1,500, according to the Judge. The terms would also make some changes in the terms and conditions of service of Allegheny Electric Cooperative with respect to modification of maximum loads at delivery points, and the availability of voltage not previously specified at certain delivery points.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[Docket No. ER79-446]
[FR Doc. 79-14197 Filed 5-4-79; 8:45 am]
BILLING CODE 6450-01-M

Western Gas Interstate Co.; Notice of Proposed Changes In FERC Gas Tariff

May 1, 1979.

Take notice that on April 30, 1979, Western Gas Interstate Company, ("Western") tendered for filing proposed changes in its FERC Gas Tariff to be effective on June 1, 1979, consisting of the following tariff sheets.

Thirteenth revised Sheet No. 3A, Original Volume 1
Third Revised Sheet No. 1A, Original Volume 2

The proposed changes would increase revenues from jurisdictional sales and transportation based upon the twelve-month period ending December 31, 1978, as adjusted. Such revenue increase is exclusive of increases in purchased gas costs which will occur prior to the rates involved becoming effective and which would otherwise be recovered through the purchased gas adjustment clause provisions of Western's tariff.

Western states that the principal reasons for the proposed rate increase are: (1) increase in overall rate of return necessary to maintain its financial integrity; (2) increases in plant and related cost of service items; (3) increases in cost of materials, supplies, wages, services, and other operating expenses necessary to maintain and operate its pipelines system and appurtenances; (4) increase in working capital; and (5) increases in taxes other than income.

Western further states that in light of current uncertainties of the costs for transmission and compression by others, Western has included in the instant Notice of Rate Change "Alternative Tariff Sheets" which reflect the basic deficiency of $1,234,092 and includes 33.12¢/Mcf average

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transmission and compression by others cost under its Rate Schedule G–R in Original Volume No. 1 and Under Rate Schedules T–2 and T–3 of Original Volume No. 2. Pro Forma Tariff Sheets are also included to reflect proposed Section 21, "Transmission and Compression of Gas by Others Adjustment Provision" under General Terms and Conditions contained in Original Volume No. 1. Western requests that the "Alternative Revised Tariff Sheets" be made effective subject to the express condition that , thereafter, Western be permitted to file revisions to such tariff sheets from time to time to reflect changes in the cost of transmission and compression of gas by others resulting from variations in the volume of gas transported and from changes in the tariff prices of other natural gas companies for transmission and compression of gas.

Western states that there are other changes in its tariff in the sheets tendered but that these changes are either minor word changes for clarification, updating of required information, or changes required to bring such sheets into conformity with the proposed rates.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79–66]
[FR Doc. 79–14198 Filed 5–4–79; 8:45 am]
BILLING CODE 6450–01–M

Subcommittee on Ex Parte and Separation of Functions of the Advisory Committee on Revision of Rules of Practice and Procedure; Meeting

May 2, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given that the Subcommittee on Ex Parte and Separation of Functions of the Advisory Committee on Revision of Rules of Practice and Procedure will meet Tuesday, May 15, 1979 from 2 p.m. to 5 p.m., at the Federal Energy Regulatory Commission, North building, 825 North Capitol Street, NE., Room 3200, Washington, D.C.

The purpose of the subcommittee meeting is to continue discussion on a staff proposal on revising the Federal energy Regulatory Commission's rules on ex parte and separation of functions.

The meeting is open to the public. A transcript of the meeting will be available for public review and copying at FERC's Office of Public Information, Room 1000, 825 North Capitol Street, NE., between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday except Federal holidays. In addition, any person may purchase a copy of the transcript from the reporter.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–14176 Filed 5–4–79; 8:45 am]
BILLING CODE 6450–01–M

Office of the Special Counsel for Compliance

Exxon Co., U.S.A.; Consent Order

I. Introduction

Pursuant to 10 CFR 205.199J, the Office of the Special Counsel of the Department of Energy (DOE) hereby gives Notice of a Consent Order which was executed between Exxon Company, U.S.A. (Exxon) and the DOE on January 26, 1979. In accordance with that Section, DOE will receive comments with respect to this Consent Order. Although DOE has signed and tentatively accepted this Consent Order, DOE may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. Consent Order

Exxon is a refiner engaged in the production of crude oil, in refining, and in the marketing of petroleum products subject to DOE regulations.

Exxon historically recorded its foreign crude oil acquisition in its financial records at the time title passed to Exxon (the "purchase" method). However, on its FEO–96 forms and supporting schedules, Exxon through December 1974 reported foreign crude oil costs based on "runs-to-stills" adjusted annually for changes during the period in its LIFO (last in, first out) inventory of imported crude oil. In January 1975 Exxon changed its reporting basis from a "runs-to-stills" basis to a strict purchase basis, in order to more accurately reflect costs. That change necessitated a conforming change in the May 1973 cost from a "runs-to-stills" basis to a strict purchase basis for the reporting period August 1973 through December 1974. When Exxon made this conforming adjustment on a current FEO–96 it used an incorrect, understated May 1973 foreign crude oil cost. In order to correct this procedural problem, Exxon recalculated the cost available for pass-through for the period August 1973 through December 1977, using the "purchase" method for the entire period. The recalculation resulted in an overstatement of $3.980 million of total foreign and domestic crude oil increased cost available for pass-through.

Exxon has voluntarily made a "bank" adjustment on line 30 of the August 1978 EIA–14 to offset the $3.980 million overstatement to line 27.

In resolution of the issue raised, DOE and Exxon executed a Consent Order on January 25, 1979, the significant terms of which are as follows:

1. In consideration of Exxon's actions regarding the aforementioned adjustments, DOE agrees that Exxon will be deemed to be presently in compliance with 10 CFR 212.83 regarding the facts set forth herein; and that it would not be in the public interest to take any additional remedial action against Exxon with respect to this matter. Provided, however, that DOE reserves the right to take further remedial action with respect to the above mentioned understatement of recoveries if DOE determines that any of the information used to compute the same is not in accordance with the aforementioned terms and conditions of this agreement, or with applicable DOE regulations and rulings. Provided further that should it be found that the adjustment described herein, when reflected in the reporting period to which it applies, and whether combined with other adjustments, would appear to result in over-recovery of legitimate costs or prices in excess of maximum allowable prices, both parties reserve the right to take further action pertaining to the over-recovery of legitimate costs or prices in excess of maximum allowable prices.

2. This Consent Order shall be a final order by the DOE having the same force and effect as a Remedial Order issued pursuant to 10 CFR 205.199B, 43 FR 1930 (January 13, 1978).

3. The provisions of 10 CFR 205.199J including the publication of this Notice, are applicable to the Consent Order.

III. Submission of Written Comments

Interested persons are invited to comment in writing to Mr. Bill Eaton, Deputy Director, Southwest District, Office of the Special Counsel, Department of Energy, One Allen Center, Suite 660, 500 Dallas Avenue, Houston, Texas 77002. Copies of this Consent Order may be received free of charge by written request to this same address or by calling 713–226–5421.

Comments should be identified on the outside of the envelope and on documents submitted with the designation, "Comments on Exxon Consent Order." All comments received by 4:30 p.m. CST, on or before June 6, 1979, will be considered by DOE in evaluating the Consent Order.

Any information or data which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Issued in Washington, D.C. April 10, 1979.

Paul L. Bloom,
Special Counsel for Compliance.

[Case No. 0368R00189]
[FR Doc. 79–14223 Filed 5–4–79; 8:45 am]
BILLING CODE 6450–01–M

Commonwealth of Kentucky; Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136 et seq.) and 40 CFR Part 171 (39 FR 36446, October 9, 1974) and 40 FR 11698 (March 12, 1975), the Honorable Julian M. Carroll, Governor of the Commonwealth of Kentucky, has submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticide to the Environmental Protection Agency (EPA) for approval on a contingency basis. Contingent approval is being requested pending promulgation of final regulations implementing the Kentucky Pesticide Use and Application Act of 1972, and the Kentucky Pesticides Control Act of 1974. Copies of the laws and proposed regulations are attached to the Plan.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region IV, to approve this Plan on a contingency basis.

A summary of this Plan follows. The entire Plan, together with all attached appendices (except for sample examinations) may be examined during normal business hours at the following locations.

Pesticides Section, Department of Natural Resources and Environmental Protection, Pine Hill Plaza, U.S. 60, Frankfort, Kentucky 40601, 502/564–7274.
Pesticides Branch, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Room 204, Atlanta, Georgia 30308, 404/881–3222.
Federal Register Section, Program Support Division, Office of Pesticide Programs, EPA, Room 401, East Tower, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460, 202/755–4854.

Summary of Kentucky State Plan

The Kentucky Department of Natural Resources and Environmental Protection has been designated the State Lead Agency and has been authorized to cooperate with and enter into formal agreements with other agencies and/or educational institutions for purposes of implementing the Kentucky Pesticides Use and Application Act of 1972 (KRS 217B), and the Kentucky Pesticide Control Act of 1974 (KRS 217).

The Pesticides Section is the organization of the Kentucky Department of Natural Resources and Environmental Protection charged with the responsibility for unification of the Plan into a workable unit for the purpose of carrying out the provisions of FIFRA, Section 4, and Kentucky statutes related to pesticide application.

Formal agreements have been between the Kentucky Department of Natural Resources and Environmental Protection, Kentucky Department of Agriculture, and the Cooperative Extension Service, College of Agriculture, University of Kentucky.

The functions and responsibilities of the Kentucky Department of Natural Resources and Environmental Protection will be the testing, certification, and licensing of all private and commercial applicators, enforcement of Chapters 217 and 217B, Kentucky statutes and coordination of the State Plan.

The Kentucky Department of Agriculture's meat analysis laboratory will conduct pesticide product label verification analysis and residue analysis.

The Cooperative Extension Service will train Kentucky's applicators. The training will be in the form of oral, audio-visual, and slide-tape presentations accompanied by study guide pamphlets. All involved Extension personnel will be certified by the Department of Natural Resources and Environmental Protection in the Demonstration and Research category.

The Pesticides Section will work closely with other Divisions within the Department, such as the Division of Forestry, Water Resources, and Water Quality, in the administration of its responsibilities.

Legal authority for Kentucky's Certification Program is contained in the following laws:

1. Kentucky Pesticides Use and Application Act of 1972, KRS 217B.
2. Kentucky Pesticides Control Act of 1974, KRS 217.

Copies of the above laws are attached to the Plan. Regardless of which law an applicator is certified under, he will be subjected to the same standards, testing, record keeping provisions, criminal prohibitions, and other requirements imposed by Federal regulations.

The Plan indicates that the State Lead Agency and cooperating agencies have sufficient personnel and funds necessary to carry out the proposed programs.

The State estimates that 4,500 commercial applicators and 80,000–100,000 private applicators will need to be certified. Certification credentials for certified applicators will be supplied in the form of a wallet size card identifying the applicator and indicating whether certification is limited or covers all restricted-use pesticides.

An annual report will be submitted to EPA by the State Lead Agency on or before September 30th of each year, as well as special reports as required.

Kentucky will adopt the ten categories of commercial applicators listed in 40 CFR 171.3. In addition, category 7, Industrial, Institutional, Structural, and Health Related Pest Control will contain four subcategories as follows:

1. Structural Pest Control
2. Structural Fumigation Pest Control
3. Wood-destroying Organism Pest Control
4. General Pest Control

In order to become certified, commercial applicators must pass a written examination covering the standards of competency for the appropriate category(s), as well as the general standards for all categories (40 CFR 171.4 and 171.6). Aerial applicators will be required to demonstrate competence in specified areas within individual categories, in addition to general and specific category standards.

The Cooperative Extension Service will furnish training for all ten categories and the Kentucky Department of Natural Resources and Environmental Protection will test those individuals in the ten categories.

The initial training sessions were conducted prior to October 1976, and were held in several areas of the State in order to most effectively reach the persons of the State desiring to attend.

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The programs consisted of two phases, a general (core) phase and a specific category phase and required two to three days for completion. Follow-up programs and competency maintenance programs will be instituted as the need arises.

The Department of Natural Resources and Environmental Protection will issue proper credentials for certification upon assurance that an applicant has successfully completed the competency requirements for each category in which the applicant desires to become certified.

Private applicators (agricultural commodity producers) will be certified by satisfactorily completing a training course conducted by County Extension Agents.

County Extension Agents will be trained by Extension and Lead Agency specialists and certified by the Lead Agency. They, in turn, will hold instructional sessions for prospective private applicators using the EPA core manual as a basis for instruction. Following presentations of the training program, a discussion of the training materials will take place to determine how thoroughly the information has been absorbed by the applicators in attendance. Upon completion of the training by the private applicator, a certification competency statement shall be signed by the instructor and forwarded to the Department. Certification credentials shall then be transmitted to the applicator by the Department. Passage of a written competency test is an alternate means of certification.

For non-readers, the trainers will employ an oral procedure to assess competence with regard to the prescribed standards. In those cases, certification will be limited to the pesticide or pesticides for which the applicant is able to demonstrate competency. The applicant will also be counseled as to sources of advice and guidance necessary for the safe and proper use of each pesticide related to his certification. Following the oral training session, the prospective applicator will be questioned orally by the trainer. A competency statement will be signed by the trainer and forwarded to the Department. Slides and other visual aids will be employed in the training.

There are no Indian Reservations within the Commonwealth of Kentucky.

The Commonwealth of Kentucky does not, at present, reciprocate, but, the issue of reciprocity may be addressed at some future date.

Other regulatory activities listed in the State Plan which will supplement the Kentucky certification program are state registration, inspection; and sampling of pesticide products. Testing may also be done for detection of pesticide residues in crops, feeds, and soils. All dealers of restricted-use pesticides will be tested, certified, and licensed by the Department of Natural Resources and Environmental Protection. Records are required to be kept and are subject to inspection by the Department.

Kentucky will certify its applicators on a five-year basis. Commercial applicators and pest control operators are required to attend their respective spray schools at least two years in the five-year certification period. Area meetings are held throughout the State during the winter months for public relations and informational purposes. Private applicator competency will be maintained by materials transmitted through County Agents and field inspections on a county level.

Public Comments

Interested persons are invited to submit written comments on the proposed State Plan for the Commonwealth of Kentucky to the Chief, Pesticides Branch, Region IV, Environmental Protection Agency, Room 204, 345 Courtland Street, N.E. Atlanta, Georgia 30308. The comments must be received on or before June 7, 1979 and should bear the identifying notation OPP–42054. All written comments filed pursuant to this notice will be available for public inspection at the above mentioned location from 8:30 A.M. to 3:30 P.M., Monday through Friday.

Dated: April 24, 1979.

John C. White,
Regional Administrator, EPA, Region IV.

[FRL 1218–5; OPP 42054]
[FR Doc. 79–14210 Filed 5–4–79; 8:45 am]
BILLING CODE 6560–01–M

ENVIRONMENTAL PROTECTION AGENCY

Ambient Air Monitoring Reference and Equivalent Methods; Reference Method Designation Bendix Model 8101–B Oxides of Nitrogen Analyzer

Notice is hereby given that the EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975, 41 FR 52694, December 1, 1976), has designated another reference method for the measurement of ambient concentrations of nitrogen dioxide (NO_2). The new reference method is an automated method (analyzer) which utilizes the measurement principle (gas phase chemiluminescence) and calibration procedure specified in Appendix F of 40 CFR Part 50, as amended on December 1, 1976 (41 FR 52688). This NO_2 analyzer (Model 8101–B) was previously manufactured by the Bendix Corporation, but is no longer in production and is not currently available. The impetus for designating this method is based on the substantial number of these analyzers still in use by EPA and state and local environmental agencies, the readily designatable configuration and performance of the analyzer, and the availability of suitable test data on the analyzer previously acquired by EPA. Although initiated by EPA under 40 CFR 53.7, the designation is made with the complete cooperation of the Environmental and Process Instruments Division of the Bendix Corporation.

The method is identified as follows:

RFNA 0479–038, "Bendix Model 8101–B Oxides of Nitrogen Analyzer", operated on a 0–0.5 ppm range with a Teflon sample filter installed on the sample inlet line and with the following post-manufacture modifications:

1. Ozone generator and reaction chamber input-output tubing modification per Bendix Service Bulletin 8101B–2;
2. The approved converter material;
3. The revised and EPA-approved operation and service manual.

These items are mandatory and must be obtained from the Bendix Corporation.

The analyzer may be operated with or without any of the following optional modifications:

1. Perma Pure dryer/ambient air modification;
2. Valve cycle time modification;
3. Zero potentiometer centering modification per Bendix Service Bulletin 8101B–1;
4. Reaction chamber vacuum gauge modification.

A test analyzer representative of this method has been tested by EPA in accordance with the test procedures specified in 40 CFR Part 53 as amended on December 1, 1976 (41 FR 52694). After reviewing the results of these tests and other information, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method. The information will be kept on file at the EPA address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a reference method, this method is acceptable for use by States and other control agencies for purposes of § 51.17(a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042) and December 1, 1976 (41 FR 52688). For such purpose, the method must be used in strict accordance with the approved operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). User modifications of a designated method used for purposes of § 51.17(a), other than those specified in the method identification, are permitted only with prior approval of EPA, as provided in Part 53; see 40 CFR 51.17(a)(f) (41 FR 11255).

Owners of Bendix Model 8101–B analyzers should note that such analyzers require certain modifications to achieve designated status. These modifications include both hardware changes to the analyzer and a revised operation and instruction manual. The Bendix Corporation has agreed to provide both the mandatory modifications and the optional modifications for a reasonable period of time at reasonable cost. Alternatively, Bendix will supply appropriate modification kits for installation by analyzer owners. Users of the Model 8101–B analyzer should contact the Bendix Corporation, Environmental and Process Instruments Division, P.O. Box 831, Lewisburg, WV 24901 to determine what modifications are necessary to upgrade their analyzers to designated status, and to determine the cost and availability of such services. In many cases, the mandatory modifications may have already been made; however, the revised operation and instruction manual will still be necessary.

Designation of this reference method will provide assistance to the States in establishing and operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this action may be obtained by writing to the Director, Environmental Monitoring and Support Laboratory, Department E (MD–77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Stephen J. Gage,
Assistant Administrator for Research and Development.

May 2, 1979.

[FRL 1218–8]
[FR Doc. 79–14207 Filed 5–4–79; 8:45 am]
BILLING CODE 6560–01–M

Amendment to Experimental Use Permit

On Tuesday, April 17, 1979 (44 FR 22807), information appeared pertaining to the issuance of an experimental use permit, No. 677–EUP–15, to Diamond Shamrock Corporation. At the request of the company, that permit has been amended to increase the quantity of the fungicide chlorothalonil by 959.1 pounds (for a total of 38,172.1 pounds), and to add the State of Wyoming to the program. (PM–21, Room: E–305, Telephone: 202/755–2562).

Dated: April 27, 1979.

Douglas D. Campt,
Director, Registration Division.

[OPP 50416A; FRL 1218–3]
[FR Doc. 79–14212 Filed 5–4–79; 8:45 am]
BILLING CODE 6560–01–M

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 4090–EUP–21. Gulf Oil Co., Merriam, Kansas 66202. This experimental use permit allows the use of the remaining supply of approximately 88.8 pounds (the amount previously authorized) of the herbicide 2-(1,3,3-trimethyluredio)-1,3,4-thiadiazole-5-N,N-dimethyl sulfonamide on non-crop areas to evaluate control of general vegetation; this use was authorized in a previous experimental use permit. A total of 18.5 acres is involved; the program is authorized only in the States of Alabama, Arkansas, California, Georgia, Illinois, Iowa, Kansas, Kentucky, Maine, Michigan, Minnesota, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, Virginia, and Washington. The experimental use permit period is also extended, and the permit is now effective from March 2, 1979 to March 2, 1980. (PM–23, Room: E–351, Telephone: 202/755–1397).

No. 8730–EUP–6. Herculite Products, Inc., New York, New York 10010. This experimental use permit allows the use of 164 pounds of the insecticide gossyplure on cotton to evaluate control of pink bollworm. A total of 3,730 acres is involved; the program is authorized only in the States of Arizona and California. The experimental use permit is effective from April 3, 1979 to April 3, 1980. A permanent exemption from the requirement of a tolerance for residues of the active ingredient in or on cotton has been established (40 CFR 180.1043). (PM–17, Room: E–229, Telephone: 202–426–9245).

No. 2224–EUP–14. Mobil Chemical Company, Richmond, Virginia 23261. This experimental use permit allows the use of the remaining supply of approximately 64 pounds (the amount previously authorized) of the herbicide bifenox on flue-cured and burley tobacco to evaluate control of broadleaf weeds. A total of 0.7 of the original 32 acres is involved; the program is authorized in the States of Florida, Georgia, Kentucky, North Carolina, South Carolina, and Virginia. The experimental use permit is effective from March 29, 1979 to March 29, 1980. (PM–25, Room E–301, Telephone: 202/755–2196).

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated April 18, 1979.

Douglas D. Campt,
Acting Director, Registration Division.

[FRL 1218–4; OPP–50421]
[FR Doc. 79–14211 Filed 5–4–79; 8:45 am]
BILLING CODE 6560–01–M

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 42634–EUP–2. U.S. Department of Agriculture, Washington, D.C. 20250. This experimental use permit allows the use of 61 pounds of the insecticide 1–(8-methoxy-4,8-dimethyl-nonyl)-4-(1-metheiethyl) benzene on non-crop areas to evaluate control of imported fire ants. A total of 2,560 acres is involved; the program is authorized only in the State of Louisiana.

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The experimental use permit is effective from April 5, 1979 to April 5, 1980. (PM–17, Room: E–229, Telephone: 202/755–9425)

No. 538–EUP–9. O.M. Scott & Sons, Marysville, Ohio 43040. This experimental use permit allows the use of 87 pounds of the fungicide 3-[3,5-dichlorophenyl)-N-(1-mehtylethyl]-2,4-dioxo-1-imidazolidinecarboxamide on turfgrass to evaluate control of the turfgrass diseases, brown patch dollar spot, Fusairum patch, leaf spot, red leaf spot, and red thread. A total of 404,000 square feet is involved; the program is authorized only in the States of Indiana, Kentucky, Massachusetts, Pennsylvania, Ohio, Oregon, and Washington. This program was authorized in a previous experimental use program which was effective from july 12, 1978 to July 12, 1979. It is now authorized until November 12, 1979. (PM–21, Room: E–305, Telephone: 202/755–2562)

No. 1471–EUP–49. Elanco Products Company, Indianapolis, Indiana 46206. This experimental use permit allows the use of 10,500 pounds of the herbicide tebuthiuron on sugarcane to evaluate control of various weeds. A total of 11,617 acres is involved; the program is authorized only in the States of Florida, Louisiana, and Texas. The experimental use permit is effective from March 26, 1979 to March 26, 1981. A temporary tolerance for residues of the active ingredient in or on sugarcane has been established. Food additive regulations for residues of the active ingredient in syrup, molasses and bagasse have also been estabtished (21 CFR 193.415). (PM–25, Room: E–301, Telephone: 202/755–2196)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Douglas D. Campt,
Director, Registration Division.

[FRL 1219–2; OPP–50325]
[FR Doc. 79–14206 Filed 5–4–79; 8:45 am]
BILLING CODE 6560–01–M

Pesticide Products Containing 2-(2,4,5-trichlorophenoxy) propionic acid (silvex) and 2,4,5-trichlorophenoxy acetic acid (2,4,5-T); Objections and Request for Hearing

Notice is hereby given, pursuant to § 164.8 of the rules of practice (40 CFR 164.8) issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 et seq.), that objections and requests for a hearing were filed by, the Secretary of Agriculture of the United States and sixty-five (65) other parties, including manufacturers and formulators of pesticide products containing 2-(2,4,5-trichlorophenoxy) propionic acid (silvex) and 2,4,5-trichlorophenoxy acetic acid (2,4,5-T) in connection with the Administrator's notice of intent to cancel the forestry, rights-of-way, and pasture registrations for 2,4,5-T dated February 28, 1979, (44 FR 15893) and to the Administrator's notice of intent to cancel certain registrations of pesticide products containing silvex, dated February 28, 1979, (44 FR 15917) or both. These proceedings have been consolidated for hearing by order of the Chief Administrative Law Judge dated April 24, 1979.

For information concerning the issues involved and other details of these proceedings, interested persons are referred to the dockets of these proceedings on file with the Hearing Clerk, Environmental Protection Agency, Room 3708, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. (202/755–5443).

Edward B. Finch,
Administrative Law Judge.

May 2, 1979.

[FRL 1218–2; Docket No. 415, et al.]
[FR Doc. 79–14215 Filed 5–4–79; 8:45 am]
BILLING CODE 6560–01–M

Filing of Pesticide/Feed Additive Petitions

Pursuant to sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 9F2166. Dow Chemical Co., P.O. Box 1706, Midland, MI 48640. Proposes that 40 CFR 180.342 be amended by establishing tolerance limitations for residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] in or on the raw agricultural commodities peanuts at 0.5 part per million (ppm), peanut hulls and forage at 15.0 ppm, and peanut hay at 20.0 ppm. The proposed analytical method for determining residues is by gas chromatography utilizing a hydrogen flame ionization detector. PM12. (202/426–9425)

PP 9F2189. BASF Wyandotte Corp., 100 Cherry Hill Rd., P.O. Box 181, Parsippany, NJ 07054. Proposes that 40 CFR 180 be amended by establishing tolerance limitations for residues of the plant regulator *N,N*-dimethylpiperidinium chloride in or on the raw agricultural commodities:

Commodity:	Part per million
Eggs, milk	0.05
Meat, fat and meat byproducts of cattle, goats, hogs, horses, and sheep	0.10
Cottonseed	1.50
Cotton forage	3.00

The proposed analytical method for determining residues is by gas chromatography using nitrogen specific NPD detector. PM25. (202/755–2196)

FAP 9H5215. BASF Wyandotte Corp. Proposes that 21 CFR 561.197 be amended by establishing a regulation permitting residues of the plant regulator *N,N*-dimethylpiperidinium chloride in or on the animal feed cottonseed meal with a tolerance limitation of 2.5 ppm. PM25.

Interested persons are invited to submit written comments on these petitions to the Federal Register Section, Program Support Division (TS–757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW, Washington, DC 20460. Inquiries concerning these petitions may be directed to the designated Product Manager (PM) Registration Division (TS–767), Office of Pesticide Programs, at the above address, or by telephone at the numbers cited. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: April 30, 1979.

Douglas D. Campt,
Director, Registration Division.

[FRL 1219–1; PF–120]
[FR Doc. 79–14205 Filed 5–4–79; 8:45 am]
BILLING CODE 6560–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

EDP Examination, Scheduling, and Report Distribution; Amendment to Policy Statement

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Amendment to Policy Statement.

SUMMARY: Amends Policy statement to reduce burdensome paperwork requirement by requiring mandatory distribution of report comments to serviced banks only when conditions noted at an EDP servicer could adversely or materially affect the serviced institution.

EFFECTIVE DATE: April 30, 1979.

FOR FURTHER INFORMATION CONTACT: Joseph Jennings, Review Examiner, Automation Section, Federal Deposit Insurance Corporation, Washington, D.C. 20429, 202–389–4351.

Amendment to Interagency EDP Examination, Scheduling, and Report Distribution Policy Statement

In June, 1978, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Reserve Board, and the Comptroller of the Currency adopted an Interagency EDP Examination Policy Statement. This policy established procedures for joint or rotated examinations of data centers that provided services to more than one class of financial institution and it provided for distribution of report comments to all serviced institutions. The Policy Statement was published in the **Federal Register** on June 14, 1978 (43 FR 25739).

The joint or rotated examination program is functioning, but the dissemination of report comments has generated a considerable amount of paperwork. In an attempt to lessen the quantity of paperwork, the agencies have agreed to amend the mandatory distribution requirement to serviced banks in favor of distribution only when the conditions noted at a servicer could adversely or materially affect the serviced institution. These changes affect only Section III—Report Distribution Policies and Procedures, and the attached supersedes the original section.

Accordingly, effective April 30, 1979, the Policy Statement adopted by the Federal Deposit Insurance Corporation on June 9, 1978 is amended to read as follows:

III. *Report Distribution Policies and Procedures*

A. Distribution of report comments to all insured serviced institutions will be made only when the conditions noted at a servicer could adversely or materially affect the serviced institutions. The regional/district office of the examining agency (in the case of joint examinations, the authoring agency) has sole responsibility for notifying the management of the data center of its intent to distribute report comments. Such notification will only be provided in the cover letter transmitting the completed report to the data center.

B. The examining agency (in the case of joint examinations, the authoring agency) will furnish all other affected agencies (at the regional or district level) a copy of the completed report, a complete list of serviced institutions, and an outline of any request for corrective action. If the receiving agency feels additional follow-up is warranted, it will immediately request the initiating agency to do so.

C. When it is determined that report distribution is required, each affected agency will be responsible for reproducing and distributing the report comments to its serviced institutions. A transmittal letter will be used to advise each recipient that the comments are for their internal use only, are not to be construed to satisfy audit requirements, and remain the confidential property of the sending agency. A written receipt will be obtained from each recipient.

These procedures do not affect existing distribution agreements with State agencies. However, no State agency shall distribute report comments to any serviced institution without the expressed consent of the examining agency conducting the examination. The agency conducting the examination will be the only one permitted to provide nonparticipating State authorities copies of the report. In the case of joint examinations, participation by State agencies and report distribution to those State agencies will be decided on an individual basis (at the district or regional level) by the participating Federal agencies.

D. Regardless of the distributing agency, whenever report comments are to be distributed to serviced institutions they will be limited to the examiner's conclusions, recommendations, and comments. Matters of a proprietary or competitive nature relating to the servicer will be excluded from report comments prepared for distribution to serviced institutions, but will be contained in the report provided to the servicer and other Federal agencies. Requests for additional information will be considered on an individual basis. Each agency with serviced institutions will have access to examiner work papers in addition to the complete report (including confidential sections).

E. In cases where the servicer does not respond to corrective action requests, it may be necessary to report the status of uncorrected deficiencies to the serviced institutions. However, the regulatory agencies of all serviced institutions must first agree on the need for such distribution.

By order of the Board of Directors, April 23, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Acting Executive Secretary.

[FR Doc. 79–14225 Filed 5–4–79; 8:45 am]
BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Louis Dreyfus Corp. et al.; Filing of Complaint

Correction

In FR Doc. 79–13389, published at page 25509, on Tuesday, May 1, 1979, in the second column, after the signature the Docket No. should be added as follows: "[Docket No. 79–45]."

BILLING CODE 1505–01–M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 1, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before May 25, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5108, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Federal Communications Commission

The FCC requests clearance of a new, voluntary, single-time Letter of Inquiry and sample format for Costs and Revenues Involved in Production of Television Programs (1977–1978 Season).

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The Network Inquiry Special Staff of the FCC is charged with the responsibility of examining the relationship between the three commercial television networks and the suppliers of network television programs. Part of this task involves an examination of the costs and revenues associated with production of such programs of the 1977–1978 television season. The Network Inquiry Special Staff will be requesting a summary production budget for a typical series episode with a sample format of detailed categories of production budget with dollar amounts deleted. Additionally, the Staff is requesting a statement of total revenues received from all sources and total expenses associated with production and distribution of each series. The FCC estimates 47 suppliers of network programs will be asked to report and that each response will take approximately 3½ hours to complete.

Norman F. Heyl,
Regulatory Reports Review Officer.

[FR Doc. 79–14184 Filed 5–4–79; 8:45 am]
BILLING CODE 1610–01–M

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; New Systems of Records

AGENCY: General Services Administration.

ACTION: Notification of new systems of records.

SUMMARY: The purpose of this document is to give notice, pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of the existence of two new systems of records that are being maintained by GSA. The Federal Property Resources Service (FPRS) was established as a result of a reorganization. FPRS is maintaining two systems of records which consist of records that were previously a part of other GSA systems of records. As these records were a part of systems previously reported in the **Federal Register**, a new system report was not filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget.

DATES: Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before June 6, 1979. The new systems of records shall become effective as proposed without further notice on June 6, 1979, unless comments are received which would result in a contrary determination.

ADDRESS: Address comments to General Services Administration (BR), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. William Hiebert, Records Management Branch, Paperwork Management Division, (202) 566–0673.

Background

A change in the organization of GSA on July 18, 1978, resulted in the establishment of a new Federal Property Resources Service to carry out the utilization and disposal functions for real and personal property and stockpile material. Transferred to the new service from other GSA organizational elements were records subject to the provisions of the Privacy Act. These included:

a. The records from the system of records, Hazardous Materials Exposure History System GSA/FSS (42 FR 47778). These records are now being included as a part fo the new system of records, Hazardous Materials Exposure History System GSA/FPRS–2.

b. The employee related records on those employees transferred from other GSA organizational elements to the Federal Property Resources Service. These records were previously part of the following systems of records: Employee Related Files GSA/PBS–1 (42 FR 47760), Office-level Employee Records GSA/FPA–6 (42 FR 47760), and Employee Related Files GSA/FSS–8 (42 FR 47779). These records are now being included as part of the new system of records, Employee Related Files GSA/FPRS–1.

The proposed new systems of records are as follows:

GSA/FPRS–1 (23–00–0106)

SYSTEM NAME:

Employee related files.

SYSTEM LOCATION:

All or portions of the records are maintained at the division or branch levels of the various Federal Property Resources Service offices located in Crystal Square Building 5, Arlington, VA; General Services Building, 18th and F Streets NW., Washington, DC; and at regional office locations and stockpile depots at the addresses listed in the appendix following the notice GSA/FPRS–2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Federal Property Resources Service and applicants or potential applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of a variety of documents accumulated by operating officials and supervisors in administering personnel matters for or about employees. The following types of records are representative of the system: Records on equal employment opportunities; performance appraisals, potential performance appraisals, and supporting documents; promotion records; applications, resumes, and biographical and employment history documents; emergency locator and notification documents containing name, address, home telephone, and emergency contacts; employee training, counseling, and development documents; position descriptions; management and classification documents; records on awards; security clearance records; leave, pay, and time and attendance records; emergency duty rosters; team, and task force participation rosters and documents; Congressional files relating to employee relief bills; staffing information, including organizational rosters for both Central Office and regional personnel; retirement data; medical certifications for granting parking permits to handicapped; indebtedness complaints records; news releases; duty station assignments records; photographs; personnel plans; travel records; employee record cards containing summary information; and injuries and occupational disease records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 377); Title 5 U.S.C. generally; Title 31 U.S.C. generally; and Executive Order 9397.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses of these records are to the Office of Personnel Management in connection with recruitment activities and evaluation survey programs; to the Department of Labor in connection with settlement and adjudication of labor-management disputes; and additional routine uses as described in the appendix following the GSA notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card files and printouts.

RETRIEVABILITY:

Alphabetically by individual's name.

SAFEGUARDS:

Buildings employ security guards and records are maintained in areas accessible only to authorized personnel of FPRS. Any records containing information, the unauthorized disclosure of which could result in substantial harm, embarrassment, inconvenience, or unfairness to the individual, are filed in lockable cabinets.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER AND ADDRESS:

Director, Program Support Office (DA), Federal Property Resources Service, 18th and F Streets NW., Washington, DC. Mailing address: General Services Administration (DA), Washington, DC 20405.

NOTIFICATION PROCEDURES:

Individuals may obtain information about whether they are part of this system of records from the supervisor of the activity that the individual is or was employed with. If not known, general inquiries should be made to the systems manager.

RECORD ACCESS PROCEDURES:

Requests from individuals to access records should be addressed to the officials cited above. In person requests may also be made during normal business hours at each location listed in the appendix following the notice GSA/FPRS–2. For written requests, the individual should provide full name, address, and telephone number; approximate dates and places of employment; and any other information which the individual believes would facilitate locating the record. For personal visits, the individual should be able to provide some acceptable identification such as a driver's license or employment identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA rules for contesting records and for appealing initial determinations are contained in 41 CFR 105–64.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the individual, personnel forms, Congressional inquiries, committees, agency officials, third parties submitting indebtedness complaints, applications from individuals applying for positions, and doctors for individuals requesting handicapped parking permits.

GSA/FPRS–2 (23–00–0107)

SYSTEM NAME:

Hazardous materials exposure history system.

SYSTEM LOCATION:

Records are maintained at the GSA/FPRS stockpile depots at the addresses shown in the appendix following this notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel working or visiting storage areas containing hazardous materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of the daily dosage of radiation received and hourly exposure to dangerous levels of asbestos. The records are primarily used by officers and employees of the agency who have a need for the records in the performance of their duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act of 1970, as amended (84 Stat. 1590).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information on exposure readings is provided to the regulatory agencies charged with the responsibilities for regulating the handling of hazardous materials. Additional routine uses are contained in the appendix following the GSA notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper forms.

RETRIEVABILITY:

Filed alphabetically by individual's name.

SAFEGUARDS:

Buildings employ security guards and records are maintained in areas accessible only to authorized personnel of FPRS.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER AND ADDRESS:

Assistant Commissioner, Office of Property Management (DM), Crystal Square Building 5, Arlington, VA. Mailing address: General Services Administration (DM), Washington, DC 20406.

NOTIFICATION PROCEDURES:

Individuals may obtain information about whether they are part of this system of records from the director of the applicable activity that the individual is or was employed with. If not known, general inquiries should be made to the system manager.

RECORD ACCESS PROCEDURES:

Requests from individuals to access records should be addressed to the official cited above. In person requests may also be made during normal business hours at each location listed in the appendix following this notice. For written requests, the individual should provide full name, address, telephone number, period of employment, and the position held to assist the office in locating the record. For personal visits, the individual should be able to provide some acceptable identification such as driver's license or employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA rules for contesting records and for appealing initial determinations are contained in 41 CFR 105–64.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from film badges, dosimeters, other instrumentation, work logs, and medical examinations.

Appendix—GSA/FPRS Location Addresses

Regional Offices

Region 1: John W. McCormack, Post Office and Courthouse, Post Office Square, Boston, Massachusetts 02109.

Region 2: 26 Federal Plaza, New York, New York 10007.

Region 3: 7th and D Streets SW., Washington, D.C. 20407.

Region 4: 1776 Peachtree Street NW., Atlanta, Georgia 30309.

Region 5: 230 South Dearborn Street, Chicago, Illinois 60604.

Region 6: 1500 E. Bannister Road, Kansas City, Missouri 64131.

Region 7: 69 Taylor Street, Fort Worth, Texas 76102.

Region 8: Building 41, Denver Federal Center, Denver, Colorado 80225.

Region 9: 525 Market Street, San Francisco, California 94105.

Region 10: GSA Center, Auburn, Washington 98002.

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GSA/FPRS Stokpile Depots

GAS/FPRS Baton Rouge Depot, 2695 N. Sherwood Forest Drive, Baton Rouge, LA 70810.

GSA-FPRS Federal Service Center (C/D), 4747 Eastern Avenue, Building 1, Bell, CA 90201.

GSA-FPRS Bethlehem Depot, Bethlehem, PA 18015.

GSA-FPRS Belle Mead Depot, Belle Mead, NJ 08502.

GSA-FPRS Binghamton Depot, Binghamton, NY 13901.

GSA-FPRS Casad Depot, New Haven, IN 46774.

GSA-FPRS Depot, The Federal Depot, Clearfield, UT 84016.

GSA-FPRS Curtis Bay Depot, Baltimore, MD 21226.

GSA-FPRS Dayton Depot, 2400 West Dorothy Lane, Dayton, OH 45439.

GSA-FPRS Erie Depot, P.O. Box 344, Port Clinton, OH 43452.

GSA-FPRS Forth Worth Depot, 819 Taylor Street, Fort Worth, TX 76102.

GSA-FPRS Gadsden Depot, P.O. Box 918, Hammond, IN 46325.

GSA-FPRS Marion Depot, P.O. Box 348, Marion, OH 43302.

GSA-FPRS Building 7050, P.O. Box 6, Mira Loma, CA 91752.

GSA-FPRS New Bedford Depot, King Street and Nash Road, New Bedford, MA 20745.

GSA-FPRS Point Pleasant Depot, 2601 Madison Avenue, Point Pleasant, WV 25550.

GSA-FPRS Scotia Depot, Scotia, NY 12302.

GSA-FPRS Sharonville Depot, P.O. Box 41131, Cincinnati, OH 45241.

GSA-FPRS Somerville Depot, Somerville, NJ 08876.

GSA-FPRS Depot, Rough and Ready Island, Building 606, Stockton, CA 95203.

GSA-FPRS Topeka Depot, Building 301, Topeka, KS 66601.

GSA-FPRS Warren Depot, Warren, OH 44482.

GSA-FPRS Buffalo Depot (Address all mail to the Sharonville Depot).

GSA-FPRS Marietta Depot (Address all mail to Region 3).

GSA-FPRS Terre Haute Depot (Address all mail to the Sharonville Depot).

GSA-FPRS Voorheesville Depot (Address all mail to the Scotia Depot).

Dated: April 26, 1979.

Janice K. Mendenhall,

Controller-Director of Administration.

[FR Doc. 79-14070 Filed 5-4-79; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Advisory Council on Developing Institutions Meeting

The Advisory Council on Developing Institutions, established under Title III of the Higher Education Act of 1965 as amended, will meet May 23, 1979, from 9:00 a.m. to 4:00 p.m., in Room 3000 (the small conference room), Federal Office Building 6, 400 Maryland Avenue SW., Washington, D.C. 20202.

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), that a public meeting of the Subcommittee on the Annual Report of the Advisory Council on Developing Insitutions will be held May 23, 1979, from 9:00 a.m. to 4:00 p.m., in Room 3000 (the small conference room), Federal Office Building 6, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

The Advisory Council on Developing Institutions was established by Title III of the Higher Education Act of 1965, as amended. The Council is governed by the provisions of Part D of the General Education Provisions Act and of the Federal Advisory Committee Act (P.L. 92-463). The Council shall assist the Commissioner in identifying the characteristics of developing institutions through which the purpose of Title III may be achieved, and in establishing the priorities and criteria to be used in making grants under section 304(a) of that Title.

The meeting of the Subcommittee shall be open to the public.

The Proposed agenda includes:

(1) The preparation of the first draft of the Annual Report for 1979.

Other administrative matters and related business.

Records shall be kept in the form of the Council's Annual Report. Copies of the Annual Report will be available at a later date to the public at the Office of the Director of the College and University Unit, BHCE, located in ROB-3, Room 3036, 7th and D Streets, S.W.

Signed at Washington, D.C. on April 30, 1979.

Preston Valien,

Office of Education Delegate to the Council.

[FR Doc. 79-14173 Filed 5-4-79; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council on the Education of Disadvantaged Children; Meeting Relocated/Site Visits Postponed

This notice is to amend the notice of the meeting of the National Advisory Council on the Education of Disadvantaged Children which appeared in the Federal Register on Friday, April 27, 1979, on page 24936. The Council meeting which was scheduled to be held in Portland, Oregon on May 18 and 19, 1979, will now be held at 425-13th Street, N.W., Suite 1012, Washington, D.C., on the same dates. The site visits which were to be held on May 17 have been postponed indefinitely.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The entire meeting will be open to the public. For any additional information regarding the above meeting, please contact Mrs. Lisa Haywood at 202/724-0114.

Signed at Washington, D.C. on May 2, 1979.

Gloria E. Strickland,

Acting Executive Director.

[FR Doc. 79-14144 Filed 5-4-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing

Urban Initiatives Anti-Crime Program; Selected Public Housing Agencies With Less Than 1250 Units in Total Management

AGENCY: U.S. Department of Housing and Urban Development (HUD).

ACTION: Notice

SUMMARY: The Department is announcing a competition among Public Housing Agencies (PHAs) with less than 1250 units in total management. Interested PHAs will be asked to submit preliminary applications with basic information on crime rates, tenant characteristics and building characteristics. A limited number of PHAs then will be approved to submit full applications. Full applications will require comprehensive anti-crime proposals which address tenant activities, services, youth employment, security hardware, law enforcement, area-wide public/private partnership and improved PHA management of public safety programming. A total of $4.25M has been set-aside by HUD and the Department of Labor (DOL). Other Federal agencies may co-target additional resources after (up to ten) sites are selected.

FOR FURTHER INFORMATION CONTACT: Assistant Secretary for Housing, Attention: Mr. Lynn A. Curtis.

Telephone: (202) 755-2980. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Policy and Purpose

The Housing Act of 1937 states as a goal the provision of "decent, safe and sanitary" housing for every American family.

As part of President Carter's National Urban Policy, the Department of Housing and Urban Development (HUD) has directly addressed the goal of safety—through a comprehensive policy on crime prevention in public housing.

That policy has been further articulated, developed and refined by the Public Housing Security Demonstration Act of 1978.

The Urban Initiatives Anti-Crime Program announced in this Notice represents a synthesis and implementation of the Presidential Urban Policy and the Congressional security mandate.

The Program establishes a partnership among Federal agencies, Public Housing Agencies (PHAs), tenants and local governments. It recognizes that anti-crime programming must be tailored to the problems of individual communities.

This Notice invites PHAs with less than 1250 total public housing units in management to compete for awards. City-wide and county-wide PHAs are included. A separate Notice is announcing a competition among PHAs with 1250 or more total units in management.

Through a national competition, selected PHAs in different locations will receive awards. The PHAs must have serious crime and vandalism problems that can be substantially reduced by a comprehensive anti-crime program. PHAs must show evidence of a commitment and administrative capability for the successful implementation of such a program.

II. Funding Available

There is a total of $4.25M in FY 1979 funding available for the competition announced in this Notice.

The available resources are modernization loan authority from HUD, Community Development Block Grant (CDBG) discretionary funds from HUD, and Department of Labor (DOL) funds for youth employment and training provided under Youth Community Conservation and Improvement Projects (YCCIP).

The total amount available is distributed as follows:

HUD FY 1979 modernization loan authority	$3.85M
HUD FY 1979 CDBG discretionary funds	5.30M
DOL FY 1979 YCCIP youth employment and training funds	91.10M
Total	$4.25M

The amount of the modernization loan authority is an approximation. The exact amount will vary according to the Minimum Loan Interest Rate.

The size of awards from this total will range from $.25M to $1.00M, depending on need and the number of units in the housing project(s) targeted by the PHA. The application can be PHA-wide, but PHAs are encouraged to target on housing projects and buildings with the greatest need. The project(s) or building(s) chosen must have at least 100 public housing units in management.

A local match of at least 10 percent of the total budget requested in a PHA's application also will be required. The match must involve noncapital, nonhardware funding and/or in-kind services.

After awards are made, additional programs and funds may be co-targeted by the following Federal agencies: The Law Enforcement Assistance Administration (LEAA), ACTION, the Community Services Administration (CSA), the Economic Development Administration (EDA), the Department of Health, Education and Welfare (HEW), the Department of Interior, and the Fire Administration.

III. Preliminary Applications

Interested PHAs shall submit three copies of a Preliminary Application to the Director, Urban Initiatives Anti-Crime Program, Suite 6230, U.S. Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, by Friday, May 18, 1979 C.O.B. (5:30 PM Eastern Time).

Each Preliminary Application must include the following information:

1. For the *overall* law enforcement reporting area encompassed by the local government (e.g., city, town, or county, the official rate per 100,000 populations) in calendar year 1977 of the following crimes reported by the local law enforcement agency to the Uniform Crime Reporting Division of the Federal Bureau of Investigation:

Murder
Forcible rape
Robbery
Aggravated assault
Burglary
Larceny-theft
Motor vehicle theft
Violent crime (the total of murder, forcible rape, robbery and aggravated assault)
Property Crime (the total of burglary, larceny-theft, and motor vehicle theft)
Crime Index Total (the total of violent crime and property crime)

2. For the geographically smaller law enforcement reporting areas in which the PHA's housing projects are located (all units under management), the same information as in Item 1. For example, if crime is reported by police precinct, then the PHA shall list crime rates just for the precincts in which its public housing projects are located. The PHA shall identify those precincts and list crime rates for all of them combined. Thus, if precincts 1, 3 and 7 were identified, the rate for murder would be the sum total in those three places.

If there are *no* geographically smaller law enforcement reporting areas, this should be stated.

3. A letter signed by the head of the local law enforcement agency (e.g., Police Chief or Sheriff) certifying that the information supplied in Items 1 and 2 is accurate. (*Note:* This will be independently validated by HUD.)

4. The percentage of families receiving Aid for Dependent Children out of the total resident population managed by the PHA.

5. The percentage of elderly (65 and over) residents out of the total population.

6. For all units in management by the PHA, the percentages of highrise, walk up, and row house units.

7. A list of the number of housing projects in management by the PHA, the number of buildings in each project, and the number of units in each building.

8. A *one page*, single-spaced statement signed by the Executive Director of the PHA indicating the crime problem, what might be proposed to address the problem and the approximate amount of funding that would be requested from HUD and DOL.

IV. Timetable

After HUD receives Preliminary Applications on May 18, 1979, the following timetable will be followed:

(1) *Monday 21 May to Wednesday 23 May.* PHAs will be notified whether they have been approved or disapproved for proceeding from a Preliminary Application to a Full Application.

Only some applicants will be allowed to proceed to a Full Application. Details of the procedure for Full Applications will be given to approved PHAs. Approved PHAs will be asked to address the Program Areas in the Appendix to this Notice.

(2) *Friday, May 25 to Wednesday, June 6.* Regional conferences will be held in San Francisco, Calif., Chicago, Ill. and Washington, D.C., to provide technical assistance to PHAs proceeding with Full Applications. Details on the

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conferences will be supplied to these PHAs.

(3) *Monday, July 2.* Full Applications will be due by C.O.B. (5:30 P.M., Eastern Time).

(4) *Friday, July 13.* PHAs will be notified whether they have been approved or disapproved as Semifinalists. Only some PHAs which submit Full Applications will be approved as Semifinalists.

(5) *Monday, July 16 to Friday, August 10.* Over this period, HUD will critique Semifinalist Applications through telephone conference calls or in-person meetings with PHAs. PHAs will be given the opportunity to revise their Applications. Concurrence by local (e.g., city or county) government will be required.

(6) *Friday, August 24.* PHAs will be notified whether they have been approved or disapproved for awards. Only some Semifinalists will be approved. Up to ten awards will be made.

If needed, HUD reserves the right to alter these dates, subject to prior notification of all parties involved.

V. Sustainability

The Anti-Crime Program will make one-time awards. When salaries of personnel are requested, they can be funded for one year. Award winners will be required to demonstrate future sustainability.

VI. The Role of Tenants

HUD will require that the recognized tenant organization play a significant role in the application process and, should an award be made, the administration of the Program. For purposes of this Program, a "tenant organization" can include anything from a loosely-structured tenant activity group to a formally organized association with adopted by-laws.

VII. A–95 and Environmental Waivers

A–95 procedures shall be required for Semifinalists.

A finding of inapplicability under the National Environmental Policy Act has been made and is on file with the rules docket clerk. This Notice does not set standards.

Issued at Washington, D.C., April 26, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing Federal Housing, Commissioner.

ATTACHMENT

Program Areas

1. *PHA Responsibilities*

1.1 *Improved PHA Management of Crime Prevention—Including More and Better Trained PHA Controlled Public Safety and Community Service Officers*

For example:

Appointment of a highly qualified public safety coordinator for the Anti-Crime Program—who can relate to all of the below strategies, gain the support of other local agencies, and report directly to the PHA Director.

Increased use of higher quality PHA public safety officers, guards and community service representatives—using a standard curriculum that teaches both crime deterrence and human service troubleshooting sensitive to tenant needs.

Improvement of relations between PHA public safety personnel and police.

Improvement of PHA-tenant screening and eviction policies in response to anti-social behavior.

Improvement in the targeting of programs to specific tenant families and individuals associated with crime.

Implementation of a training program for project managers and maintenance foremen to teach them to identify and remedy potential security problems.

Maintenance of property at high levels—which may, for example, reduce vandalism of vacant projects for spare parts.

More attention to the exterior personalization of buildings to facilitate tenant social interaction, pride and stake.

Facilitation of tenant anti-crime organization.

1.2 *Rehabilitation of Facilities to House Anti-Crime Activities and Improvement of Physical Design to Make Buildings and Spaces Harder Targets*

For example:

Expansion and rehabilitation of on-site project and nearby neighborhood physical facilities to house employment, social, police and public safety anti-crime services.

Improvement of T.V. and other surveillance, as well as indoor and outdoor lighting.

Improvement of lobby access control and devices to facilitate tenant communication with police, public safety officers and community service representatives.

Improvement of locks, peepholes, door/window protection, and alarms.

Changes in physical design, spatial and circulation patterns, differentiated space, landscaping and fencing, and unit clustering to create defensible space, better protect tenants and allow them more control over their turf.

2. *Programs by and for Tenants*

2.1 *More and Improved Tenant Organization Against Crime—Including Patrols, Surveillance, Education and Training of Tenants in their Roles and Responsibilities*

For example:

Increased tenant cohesion and organization around crime prevention issues.

Implementation of "turf reclamation" and a sense of territoriality through community service organizers.

Expanded use of block/floor/lobby watches for surveillance.

Improvement of tenant-police relations and implementation of neighborhood conflict resolution forums.

Increased use of tenant anti-crime media campaigns, traveling crime prevention vans, educational workshops, crime reporting campaigns, and Operation Identification stenciling.

Inclusion of tenants in the planning and implementation of the entire Anti-Crime Program.

Provision of technical assistance and training to help tenants organize anti-crime efforts.

2.2 *Increased Full and Part-Time Employment of Tenants—Especially for Youths and Especially for Anti-Crime Activities In and Around the Project*

Summary

Examples are as follows:

Overall emphasis on "bridge" employment, training and counseling that moves away from illegal activities or legal "secondary market" jobs and towards legal "primary market" jobs.

Implementation of successful strategies used in the Job Corps.

Increased employment of tenants as community service officers, public safety officers, and lobby monitors.

Improved training and counciling for tenant community service officers, public safety officers and guards—including sensitivity to the needs, values and life-styles of tenants.

Increased training and employment of tenants to lead organized tenant anti-crime efforts and to increase tenant cohesion.

Increased training and employment of tenants in anti-crime and related services—including activities like recreation, education, and cultural pursuits that help bring tenants together.

Increased training and employment of tenants to install security hardward, make related capital improvements and architectural changes, and help maintain and rehab PHA property.

2.3 *More and Improved Services To Combat Crime or Assist Victims/Witnesses*

For example:

Increased services that operate to directly reduce crime—especially alcohol abuse, drug abuse, crisis intervention and youth programs.

Increased services that operate to assist victims/witnesses—including special programs for the elderly, single female household heads, victims of sexual abuse, and victims of child abuse.

Increased neighborhood justice center, legal, mediation/arbitration and restitution services.

Increased employment, child care, recreational, cultural, educational, financial and medical services.

More assistance in securing police, property return and general criminal justice services.

Improved coordination with Victim Compensation Boards.

Improved police training in victim/witness services.

Provision of technical assistance and training of outside professional staff and qualified tenants to administer these services.

3. *Local Government and Private Sector Responsibilities*

3.1 *Increased Use of Better Trained City Police Officers*

Summary

Examples are as follows:

Increased use of city police assigned to foot patrols, "verticale" patrols, family crisis intervention teams and two person team policing—with at least one partner having a cultural awareness of the tenant population and its needs.

Improved academy training of police assigned to projects—so that they are both crime deterers and human service troubleshooters accepted into and knowledgeable of the tenant community network.

Improved relations among PHA public safety personnel, police and tenants—including improved reporting of crime, possibly through special hotlines.

Implementation of precinct stations in projects.

Rationale

The Police Department is under the control of the Mayor, but law enforcement is so crucial for the HUD Anti-Crime Program that it needs to be broken out separately.

In addition, although PHA controlled and contracted public safety forces really are a management responsibility (see Section 1.1), they are discussed here because such forces are so closely tied to the police.

The traditional rationale for police in general is that they deter crime and apprehend criminals. This also is the basic rationale for PHA forces.

3.2 *Stronger Linkages with Programs from City Hall and Other Sources Which Co-target on the Project and the Surrounding Neighborhoods—Residential, Recreational, Commercial and Industrial*

Summary

Examples are as follows:

Initiation by City Hall of comprehensive targeted anti-crime planning, coordination, funding and implementation that complements programs in specific housing projects with efforts in nearby residential, recreational, commercial and industrial areas.

Increased anti-crime targeting and coordination from programs under local government and control—like Community Development Block Grants, CETA Prime Sponsor job slots, and criminal justice services.

Increased anti-crime targeting and coordination from neighborhood organizations.

Increased anti-crime targeting and coordination from business and industry, including the provision of employment opportunities.

Increased anti-crime targeting and coordination from city level offices of Federal agencies—like CSA and ACTION.

Increased anti-crime targeting and coordination from state agencies—for example, to gain HEW Title XX and LEAA State Planning Agency funds.

Increased anti-crime targeting and coordination with Federal discretionary programs—like HUD Neighborhood Development Organization (NDO) grants, HUD Neighborhood Strategy Area (NSA) grants, HUD Urban Development Action Grants (UDAG), HUD Section 701 planning grants, Economic Development Administration (EDA) grants, and Department of Interior Urban Parks grants.

[Docket No. N–79–825]
[FR Doc. 79–14150 Filed 5–4–79; 8:45 am]
BILLING CODE 4210–01–M

Urban Initiatives Anti-Crime Program; Selected Public Housing Agencies With 1250 or More Units in Total Management

AGENCY: U.S. Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: The Department is announcing a competition among Public Housing Agencies (PHAs) with 1250 or more units in total management. Applicants will be asked to prepare comprehensive anti-crime proposals which address tenant activities, services, youth employment, security hardware, law enforcement, area-wide public-private partnerships and improved PHA management of public safety programing. A total of $26M has been set-aside by HUD and the Department of Labor (DOL). Other Federal agencies may co-target additional resources after (up to twenty) sites are selected.

FOR FURTHER INFORMATION CONTACT: Assistant Secretary for Housing, Attention: Mr. Lynn A. Curtis. Telephone: (202) 755–2980 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Policy and purpose

The Housing Act of 1937 states as a goal the provision of "decent, safe and sanitary" housing for every American family.

As part of President Carter's National Urban Policy, the Department of Housing and Urban Development (HUD) has directly addressed the goal of safety—through a comprehensive policy on crime prevention in public housing.

That policy has been further articulated, developed and refined by the Public Housing Security Demonstration Act of 1978.

The Urban Initiatives Anti-Crime Program announced in this Notice represents a synthesis and implementation of the Presidential Urban Policy and the Congressional security mandate.

The Program establishes a partnership among Federal agencies, Public Housing Agencies (PHAs), tenants and local government. It recognizes that anti-crime programming must be tailored to the unique needs and problems of individual communities.

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This Notice invites PHAs with 1250 or more total public housing units in management to compete for funds. A separate Notice is announcing a competition among PHAs with less than 1250 units in management.

A National competition will select specific housing projects among PHAs in different locations. The housing projects must have serious crime and vandalism problems that can be substantially reduced by a comprehensive anti-crime program. The PHAs must show evidence of commitment and administrative capability for the successful implementation of such a program in the specific housing projects. Application and selection procedures are contained in this Notice.

II. Eligibility

A. *Total Units in Management.* The competition announced in this Notice is limited to PHAs with 1250 or more total public housing units in management. These can include city-wide and county-wide PHAs.

B. *Project Specific Applications.* The actual awards will not be PHA wide, but project specific. PHAs are asked to target on one public housing project. It can be family, elderly, or mixed in terms of age grouping. Applications that encompass more than one project will be considered—if the projects are contiguous to one another and if it can be demonstrated that comprehensive crime prevention for these projects is appropriate for whatever geographic area is covered.

The project(s) chosen must have a total of at least 200 public housing units in management. The project(s) must also have some form of tenant organization—which, for purposes of this program, can include anything from a loosely structured tenant activity group to a formally organized association with adopted by-laws.

C. *Sustainability.* This program represents a one time award. When salaries of personnel are requested, they can be funded for no more than one year. Applicant PHAs must demonstrate future sustainability of the Program as proposed.

III. Total Funding Available and Upper Limits to Budgets Proposed by PHAs

There is a total of $26M in FY 1979 funding available for the competition announced in this Notice.

A. *Distribution of Funding Available.* The available resources are modernization loan authority from the Department of Housing and Urban Development (HUD), HUD Community Development Block Grant (CDBG) discretionary funds and Department of Labor (DOL) funds for youth employment and training provided under Youth Community Conservation and Employment Projects (YCCIP).

The total amount available is distributed as follows:

HUD FY 1979 modernization loan authority	$17.15M
HUD FY 1979 CDBG discretionary funds	1.95M
DOL FY 1979 YCCIP youth employment-training funds	6.90M
Total	$26.00M

The amount of modernization loan authority is an approximation. The exact amount will vary according the the Minimum Loan Interest Rate.

B. *Upper Limits to Budgets Proposed by PHAs.* HUD and DOL will not set down rules on what proportion of a total funding request shall consist of HUD modernization funds, what proportion HUD CDBG discretionary funds, and what proportion DOL YCCIP youth employment and training funds.

However, PHAs must address the Program Areas listed in Section IV, and this will effect the distribution of funding from different sources.

In terms of the maximum total amount fo the Federally funded awards requested by a PHA in an application, the following guidelines shall be followed:

If the project(s) targeted for the anti-crime program contain—	The total Federal amount requested shall be—
200 to 1,000 units	Up to $ .50M
1,001 to 2,000 units	Up to $1.00M
2,001 to 3,000 units	Up to $2.00M
3,001 to 4,000 units	Up to $3.00M
4,001 + units	Up to $4.00M

These are upper limits. An applicant PHA can request less than the maximum.

HUD and DOL reserve the right to adjust the size of awards on a case-by-case basis.

C. *Upper Limits to Budgets Proposed When The Project(s) Have Received Urban Initiative Rehab/Management Awards.* A project which has received an Urban Initiative Rehab/Management award can be (but is not required to be) proposed by a PHA for an Anti-Crime award.

However, if an Urban Initiative Rehab/Management housing project is proposed, Urban Initiative Anti-Crime modernization funds will *not* be available for new modernization loan authority. Instead, HUD will require that some of the Urban Initiative Rehab/Management modernization funds already awarded be applied to the Anti-Crime Program.

Hence, Anti-Crime applications targeted on Rehab/Management housing projects can only request HUD CDBG discretionary and DOL YCCIP youth employment and training funds—but such applications must present a comprehensive plan that includes some of the Rehab/Management modernization funds for physical security.

In terms of the total size of the award (for HUD CDBG plus DOL YCCIP funds) requested by a PHA in such an application, the following guidelines shall be followed:

If the project(s) targeted for the anti-crime program contain—	The total Federal amount requested shall be—
200 to 1000 units	Up to $.17M
1001 to 2000 units	Up to $.33M
2001 to 3000 units	Up to $.67M
3001 to 4000 units	Up to $1.00M
4000 + units	Up to $1.33M

D. *Other Sources of Funds.* In addition to the $26M of Federal funds announced in this Notice, other Federal funds later may be co-targeted to semifinalists in the competition, and at least 10 percent of the total budget proposed in an application shall be *noncapital and nonhardware* local matching funds and/or in-kind services. This is explained in Section V.

IV. Program Areas

In response to widespread crime and fear of crime in public housing, HUD sponsored a series of conferences and reviews in 1978 to assemble the most knowledgeable anti-crime strategies based on the most recent information. On September 12 and 13, PHA officials, tenants and security directors were asked for recommendations at a conference in Washington, D.C. On October 2 and 3, other practitioners and experts were asked for their recommendations at another Washington, D.C. conference. HUD staff and an outside contractor also systematically reviewed what has and has not been successful—drawing on the TPP experience as well as many other programs.

The consensus from all of these perspectives was that no single approach has *the* answer to reducing crime in and around public housing. But there was agreement that a comprehensive approach must be taken in which the PHA, tenants and local authorities are equal partners in addressing both short run symptoms and long run causes. Broadly speaking, the most frequently proposed Program Areas were as follows:

1. *PHA Responsibilities*

Program Area 1.1 *Improved PHA Management of Crime Prevention—including More and Better Trained PHA Controlled Public Safety and Community Service Officers.*

Program Area 1.2 *Rehabilitation of Facilities to House Anti-Crime Activities and Improvement of Physical Design to Make Buildings and Spaces Harder Targets*

2. *Programs By and For Tenants*

Program area 2.1 *More and Improved Tenant Organization Against Crime—Including Patrols, Surveillance, Education and Training of Tenants in Their Roles and Responsibilities*

Program area 2.2 *Increased Full and Part-Time Employment of Tenants—Especially for Youths and Especially for Anti-Crime Activities In and Around the Project*

Program area 2.3 *More and Improved Services to Combat Crime or Assist Victims/Witnesses*

3. *Local Government and Private Sector Responsibilities*

Program area 3.1 *Increased Use of Better Trained City Police Officers*

Program area 3.2 Stronger Linkages with Programs from the Office of the Chief Executive Official of Local Government and Other Sources Which Co-Target on the Project and the Surrounding Neighborhoods—Residential, Recreational, Commercial and Industrial

Issued along with this Notice is the HUD Urban Initiatives Anti-Crime Guidebook. The Anti-Crime Guidebook gives the rationale for each of the preceding Program Areas, suggestions on what has worked in the past and evaluations of exemplary efforts.

PHAs are advised to familiarize themselves with the Anti-Crime Guidebook and to submit a comprehensive application. A comprehensive application must address each of the above Program Areas—1.1, 1.2, 2.1, 2.2, 2.3, 3.1, and 3.2.

V. Ways To Address the Program Areas

The Program Areas outlined in Section IV and detailed in the Anti-Crime Guidebook accompanying this Notice *can be addressed in a number of ways.* In its application, a PHA can:

A. Request funds from the $17.15M HUD modernization loan authority set-aside. (HUD will advise semifinalists on specific application requirements.)

B. Request funds from the $1.95M HUD CDBG discretionary set-aside. (HUD will advise semifinalists on specific application requirements.)

C. Request funds from the $6.90M DOL YCCIP youth employment and training set-aside. (DOL will advise semifinalists on specific application requirements.)

D. Demonstrate a plan for implementing programs from other Federal agencies—which may co-target additional funds after HUD and DOL designate semifinalist awardees.

E. Include a local match of appropriate *noncapital and nonhardware programs* equal to at least 10 percent of the total budget proposed. *NOTE: this is a requirement, not an option.*

F. Demonstrate that some Program Areas already are addressed by ongoing efforts in the targeted project(s). Such efforts should already be in place and require no new financing.

G. Propose managerial and organizational changes which do not require new funding.

In other words, a PHA might address some Program Areas through requests for HUD and DOL funds, some by suggesting how other Federal agencies might later co-target funds, some through the required minimum 10 percent local nonhardware match, some through activities already ongoing or security items in place, and some through managerial changes.

More than one of these ways of addressing the Program Areas might be applied to any one Program Area. For example, both Federal and local resources might be proposed for tenant anti-crime activity (Program Area 2.1), services (Program Area 2.2), or comprehensive area-wide links and public/private partnerships (Program Area 3.2).

It will help clarify the Program to review more carefully each of these ways (A through G) to address the Program Areas:

A. *Funds from the $17.15 HUD modernization loan authority set-aside.* The HUD modernization loan authority must be used to address Program Area 1.2 (rehabilitation of facilities and physical design for target hardening).

Eligible modernization activities are set forth in 24 CFR Part 868 and the *HUD Low Income Modernization Program Handbook 7485.9.*

Based on these regulations, the Anti-Crime Guidebook which accompanies this Notice suggests the kinds of modernization uses that are encouraged in the Program.

One such use is to rehabilitate public housing units physically so that they can house anti-crime activities—e.g., tenant crime prevention centers, social service and youth centers, runaway and halfway houses, job training centers, PHA security force headquarters, and police precinct stations on the project grounds. The purchase of new furniture or non-expendable equipment for such facilities also is an eligible modernization work item in *Handbook 7485.9.*

Other uses described in the Anti-Crime Guidebook include target hardening (windows, doors, locks, lighting, fencing, etc.), lobby access control, television surveillance, changes in circulation patterns, and redesign to create defensible space. Such uses translate directly into eligible modernization work items. Appendix 1 of *Handbook 7485.9* lists some, though not all, of such security-related work items. The numbers shown here are the numbers from the longer list of items in the *Handbook:*

14. Installation of new windows and doors.

25. Installation or replacement of cathodic protection systems.

29. Initial installation of fire and smoke detection and control equipment.

30. Initial installation of security equipment, including dead-bolt door locks, security screens, peep holes, electronic crime detection equipment, radio equipment, yard lighting, etc.

32. Installation of new mailboxes.

36. Construction of new sidewalks, exterior steps and stoops, driveways, etc.

38. Installation of traffic and parking barriers.

44. Development of outdoor recreational facilities and improvement of existing playground areas.

48. Landscaping, including planting of new trees and shrubs.

49. Installation of functional art items, such as visually appealing water fountains which serve as sprinkling or wading pools for children; artistically designed tot lots and playgrounds equipped with fantasy animal characters or objects; decorative trash receptacles that encourage usage; etc.

50. Initial purchase or replacement of nonexpendable equipment.

52. Architectural, engineering, and other consultant fees necessary to plan, design, and implement all or part of the modernization work.

53. Studies to determine the feasibility of proposed work and extent of needed work.

54. Salaries of technical and non-technical PHA personnel assigned full-time or part-time to the modernization program.

Regular modernization processing requirements as set forth in 24 CFR Part 868 and *Handbook 7485.9* will be modified in the following ways for the Anti-Crime Program:

1. The modernization preliminary application shall be incorporated as part of the Anti-Crime Program application that the PHA makes in response to this Notice.

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2. The Anti-Crime Program application shall be sent to HUD Central Office with a copy to the Manager of the HUD Area Office.

3. The HUD Area Office will make comments and recommendations to HUD Central Office on each Anti-Crime application, including modernization. The Area Office will review all proposed modernization work items for eligibility and review the budget for these items.

4. Based in part on Area Office recommendations, HUD Central Office will determine semifinalists and then finalists, as described in Section VI, below.

5. After Anti-Crime awards are made, the modernization Joint Field Review will be conducted by both Central Office and Area Office staff. The PHA then will submit a Modernization Final Application to the HUD Area Office, with a copy to HUD Central Office.

6. As part of the approval of the overall Anti-Crime Work Plan which award winners will be required to submit, HUD Area Offices will approve Modernization Final Applications—subject to concurrence by HUD Central Office.

B. *Funds from the $1.95M HUD CDBG discretionary set-aside.* This funding may address some activity in parts of Program Areas 1.1 (PHA management, public safety personnel and planning), 2.1 (tenant anti-crime programs), 2.2 (services), 3.1 (police) and 3.2 (comprehensive area-wide links and public/private partnerships). It also is meant to cover some supervisory personnel and training needed in various Program Areas.

See the Anti-Crime Guidebook for suggestions and evaluations of activities in these Program Areas.

PHAs shall work with local government in requesting CDBG discretionary funding. HUD will advise semifinalist PHAs on more specific application requirements and eligible items that pertain, in keeping with activity allowable in discretionary CDBG programs. For PHAs which reach the semifinalist stage, an application shall be made for these funds by the local government. For PHAs which receive awards, the grantee for the CDBG funds shall be the local government—which shall target the funds on the PHA.

C. *Funds from the $6.90M DOL YCCIP Youth Employment and Training Set-Aside.* This $6.90M covers jobs for youth living in housing projects receiving anti-crime awards.

1. The activity covered by these funds shall operate under the same rules as DOL formula-funded YCCIP projects, governed by P.L. 95-524, Title IV, Part A, Subpart A.

The YCCIP legislation encourages labor intensive employment for improvements of lasting value to the community. This should be work which otherwise would not be undertaken at the time by existing public programs.

2. In terms of the Program areas laid out in this Notice, the YCCIP funding addresses Program Area 2.3 (project youth employment). Whenever possible, the jobs provided shall be used to carry out activities in the other Program Areas. In effect, the YCCIP legislation places an emphasis on employing and training project youths in the physical rehabilitation, security-related modernization and other activity of Program Area 1.2.

However, the YCCIP legislation can also allow for employing and training project youths as PHA management security guards or public safety assistants in Program Area 1.1; staff for tenant-related anti-crime activity in Program Area 2.1, staff and paraprofessionals for services in Program Area 2.2; staff to assist police in Program Area 3.1; and staff to work with local government and other organizations in Program Area 3.2.

See the Anti-Crime Guidebook for suggestions on and evaluations of such youth employment programs.

3. Eligible job recipients must be aged 16 to 21, unemployed or underemployed and live in the housing project(s) targeted for the Anti-Crime Program.

4. The upper limit on the number of job slots that a PHA may request is 100. One job slot covers 12 months of work at 35 hours per week. A slot can be applied to more than one person over the 12 months and to full or part time employment. For example, one slot might be applied to one person working full time for six months and then another working full time for six months. Or the slot might be taken by two persons working part time over 12 months, etc.

Each participant shall be limited to a maximum enrollment of 12 months with no more than two terminations and reenrollments, provided age eligibility is met at the time of each reenrollment.

5. In terms of how the total amount requested by a PHA for YCCIP programming can be distributed:

At least 65 percent of the funds shall be used for participant wages and fringe benefits, unless adequate justification is provided in the proposal.

No more than 10 percent may be used by applicants for administrative costs.

Any remaining funds may be used for project related training of participants, project supervisors, service to participants, and for the acquisition, lease, or rental of materials, equipment, and supplies.

The PHA shall provide relevant employment, classroom and on-the-job training, professional supervision and work development. The objective is to transfer skills to later jobs with the PHA or other public or private employers in labor market sectors where there is a demand.

6. An initial orientation period of approximately one week should be provided. Training must be directly related to a participant's job. Where school youth are served, they must be in a structured combination work and education program. Educational agencies are to be encouraged to award academic credit for the competencies that participants gain from their employment.

7. Each project shall have an adequate number of skilled supervisors. There shall be at least the ratio of one full-time supervisor to every 12 youths, unless satisfactory justification for another ratio is provided. Supervisors shall have the skills needed to carry out the project and shall be able to instruct participants in those skills.

8. PHAs are encouraged to coordinate with the local labor movement (e.g., the local labor council) and may want to contact the local CETA prime sponsor for suggestions.

9. Further guidelines will be given to semifinalist PHAs.

D. *Plans for implementing programs from other Federal agencies—which may co-target additional funds after HUD and DOL designate semifinalist awardees.* The Law Enforcement Assistance Administration (LEAA), ACTION, the Community Services Administration (CSA), the Economic Development Administration (EDA), the Department of Health, Education and Welfare (HEW), the Interior Department, and the Fire Administration may co-target additional funds once semi-finalist and finalist award winners are determined by HUD.

These agencies cannot make a formal financial commitment at this time. However, the following summarizes the programs which the agencies may later co-target.

If a PHA is interested in any of these programs, its interest should be specified in the application—along with the kind of activity that would be implemented.

More complete procedures for applying for the following programs will be disseminated to PHAs which show an interest in them and reach the semifinalist stage of the competition:

1. *LEAA.* LEAA may co-target several discretionary grant programs—including the Community Anti-Crime Program (summarized in Appendix 1) and the Comprehensive Crime Prevention Program (summarized in Appendix 2). These efforts address Program Areas 2.1 (tenant anti-crime activities), 2.2 (services), 3.1 (links with the police), and 3.2 (area-wide links and public/private partnerships).

The new LEAA Victim/Witness Program presently is being formulated and may be co-targeted. Interested PHAs are advised to review the victim/witness illustrations in the Anti-Crime Guidebooks under Program Area 2.2 (services) and make proposals accordingly.

In addition, LEAA and ACTION soon will announce a new crime prevention program which may include tenant/community anti-crime activities, as well as city-wide anti-crime coalitions. Details of this program are not yet available. However, PHAs with an interest are encouraged to include in their proposals the possibility of working with the LEAA-ACTION effort. More information will be supplied to PHAs which make this inclusion and reach the semifinalist stage.

2. *ACTION.* Independent of the new LEAA-ACTION crime prevention program, ACTION may co-target VISTA volunteers (see Appendix 3 for a description) in Program Areas 2.1 (tenant anti-crime), 2.2 (services), 3.1 (linkages with police) and 3.2 (linkages with neighborhood organizations).

3. *CSA.* CSA may provide small supplements to Community Action Agencies (CAAs) with activities co-targeted on housing projects receiving awards. Those activities may address Program Areas 2.1 (tenant anti-crime activities), 2.2 (services), and 3.2 (linkages with neighborhood organizations). PHAs are encouraged to contact CAAs and write them into applications.

4. *EDA.* Activities proposed by PHAs in coordination with local government that include a significant economic development component may qualify for EDA assistance, subject to the availability of funds. Much of such assistance is limited to geographical areas designated by EDA. Program Area 3.2 (area-wide linkages and public/private partnerships) would be addressed.

5. *HEW.* HEW may co-target funds through the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA), the Administration on Aging (AoA), and the Administration on Children, Families and Youth (ACYF). The funds generally address Program Area 2.2 (services).

ADAMHA may consider funding professional staff and technical assistance for ongoing, new and innovative treatment and prevention programs. They would be directed at alcohol abuse, drug abuse and mental illness and targeted on the special needs of persons living in public housing. Such services may be physically located in or near public housing projects receiving Anti-Crime awards. Applicants are encouraged to provide descriptions of program needs for alcohol abuse, drug abuse and mental health programs as part of their overall Anti-Crime application. In developing these descriptions, applicants are encouraged to discuss their needs with State and local alcohol, drug abuse and mental health agencies and professionals.

In keeping with the provisions of the Older Americans Act of 1978, AoA may consider the location of multi-purpose senior centers in some housing projects receiving Anti-Crime awards. This would be done through agreements with local Aging agencies. AoA may consider service and technical assistance funding for such centers.

ACYF administers the Runaway Youth Act, which provides shelter, services and technical assistance for runaway or homeless youth. Where feasible, ACYF will encourage the development of working relationships among its grantees and the youth and service activities of the Anti-Crime Program. Where feasible, ACYF may participate in the delivery of technical assistance. It will attempt to locate its programs in PHA facilities and HUD-owned inner city properties.

6. *Interior Department.* Through Interior's Heritage Conservation and Recreation Service (HCRS), funds from the Urban Park Program may be co-targeted to neighborhoods nearby public housing projects receiving awards. Such funding would require careful coordination between the PHA and the Office of the Chief Executive of the local government. (See Appendix 4 for questions and answers on the program.) This would address Program Area 2.2 (services, including recreation) and Program Area 3.2 (area-wide linkages, including nearby places of recreation).

More generally, HCRS will be included in the Anti-Crime Program decision-making process on all recreational facilities.

7. *Fire Administration.* In keeping with the provisions of P.L. 95-498, the Fire Administration may target technical assistance, as available, on arson prevention and control in and around public housing sites receiving Anti-Crime awards.

E. *A local match of appropriate nonhardware programs equal to at least 10 percent of the total budget proposed. NOTE: This is a requirement, not an option.* Consistent with the President's National Urban Policy and the Public Housing Security Demonstration Act of 1978, the Anti-Crime Program seeks local partnerships among tenants, PHA officials, other local officials and the private sector. To demonstrate such cooperation, a local match is required equal to at least 10 percent of the total budget proposed in the application.

The match *cannot* cover physical modernization, rehab, hardware and related items under Program Area 1.2. The match *must* cover activities, professional and supervisory staff, salaries and related items under any of the other Program Areas—1.1, 2.1, 2.2, 2.3, 3.1, and 3.2.

The match can consist of local funds, local services and transfers of staff to work on the Program.

In order to emphasize flexibility and imaginative leveraging of diverse local resources, HUD will only illustrate what might be matched. Examples include Community Development Block Grant funds under the control of the Chief Executive Officer of the local government; dollar and staff contributions by the police, other local government, foundations, and profit or nonprofit organizations; and salaries of professionals hired for the Program to work on community-tenant anti-crime, social and human services, employment training, employment supervision, police, other criminal justice and planning activities.

PHA funds—e.g., operating subsidies—also can be used. However, for purposes of meeting the 10 percent match requirement, such funds must be for new anti-crime programs, not ongoing anti-crime programs.

F. *Program Areas already addressed by ongoing efforts in the targeted project(s). Such efforts should be in place and require no new financing. Some targeted housing projects may already have efforts in place that address one or more Program Areas. If this can be demonstrated, then the PHA, if it so chooses, needn't necessarily initiate any new activity in this Program Area. For example, a project may already have adequate security hardware—so it might forego new efforts in Program Area 1.2 and concentrate on the other Program Areas.*

(Note that ongoing programs can be used to satisfy the requirements that the PHA include activities for each Program Area—but cannot be used to satisfy the 10 percent local match.)

G. *Proposed managerial and organizational changes which do not require new funding.* Some Program Areas—in particular Program Area 1.1 (improved PHA public safety management) may be partially or wholly addressed by organizational and related improvements that reallocate existing PHA resources or alter existing procedures without costing more money. See the Anti-Crime Guidebook for suggestions.

VI. Critical Dates

The critical dates and periods of time for the competition are as follows. If needed, HUD reserves the right to alter the dates, subject to prior notification of all parties involved:

1. *Announcement of Competition:* Monday, April 30, 1979. All eligible PHAs will be sent the Notice.

2. *Regional Conferences:* Friday, May 18 to Friday, June 1. The purpose of each one-day conference, held in a different part of the country, will be to provide technical assistance and answer questions on how to fill out the application. PHAs are encouraged but not required to attend. If they do, they are required to have at least one PHA and one tenant representative. Representatives from local government and the police department also are encouraged to attend. Attendees must pay their own expenses.

Each conference will include a 9:00 a.m. to 12 noon and a 2:00 p.m. to 5:00 p.m. question/answer session. *There will be no other notification of the conferences.* Times and places are as follows:

Washington, D.C. On Friday, May 18, 1979. For PHAs in HUD Region III (Philadelphia). In Room 10233 (Departmental Conference Room) of HUD Headquarters, 451 Seventh Street, S.W., Washington, D.C.

New York, New York. On Wednesday, May 23, 1979. For PHAs in Regions I (Boston) and II (New York). In Room 305C, 26 Federal Plaza, New York, 10007.

San Francisco, California. On Thursday, May 24, 1979. For PHAs in HUD Regions VIII (Denver), IX (San Francisco), and X (Seattle). At 215 Fremont Street, San Francisco, California. (Signs in the lobby will designate a room.)

Chicago, Illinois. On tuesday, May 29, 1979. For PHAs in HUD Regions V (Chicago), VI (Ft. Worth) and VII (Kansas City). In Room 2025, 300 South Wacker Drive, Chicago, Illinois.

Atlanta, Georgia. On Friday, June 1, 1979. For PHAs in HUD Region IV (Atlanta). In the auditorium of the Richard B. Russell Building, 75 Spring Street, Atlanta, Georgia.

3. *Preliminary Competition Deadline:* Friday, June 22, 1979, COB (5:30 p.m., Eastern Time). In addition to the PHA, tenants must be involved in developing grant applications. Representatives from the Office of the Chief Executive Officer of the local governing body and the police department also must be involved. Applications should be sent to: Director, Urban Initiatives Anti-Crime Program, Suite 6230, U.S. Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. A copy must be sent concurrently to the appropriate HUD Area Office Manager.

4. *Review of Preliminary Applications by HUD:* Saturday, June 23 to Thursday, July 12, 1979. Assisted by recommendations from the Area Offices, a Central Office Review Committee will evaluate all proposals.

5. *Notification of Semifinalists:* Friday, July 13, 1979. By telephone and letter, HUD will designate some PHAs as semifinalists and inform the others that their applications have not been approved. *The designation of semifinalists will not assure an award. Only some of the semifinalists are likely to receive awards.* Appointments will be made with semifinalists to review their proposals with Central Office staff.

6. *Technical Assistance Feedback by HUD to Semifinalists:* Monday, July 16 to Friday, July 27, 1979. By telephone conference call or through a meeting in Washington, D.C., HUD Central Office staff and staff from other involved Federal agencies will critique the application of each semifinalist PHA. PHA, tenant and other representatives who come to Washington must pay their own way.

7. *Revised Application Submitted by Semifinalists:* Monday, July 30 to Friday, August 10, 1979. Each semifinalist PHA will have 14 days after the technical assistance feedback session to submit a revised application. Revisions are not required. The decision to revise is up to the PHA, based on the HUD critique. *Submission of a revised application will not assure an award.*

8. *Notification of Awards:* Friday, August 24, 1979. By telephone and letter, HUD will designate some semifinalists as award winners and inform others that their applications have not been approved. Up to 20 awards will be made. An application may be approved at a different level of funding from that proposed by the PHA.

Award "approval" is tentative—subject to the satisfaction of technical processing requirements. Funds cannot be drawn upon until Work Plans are approved for award winners. (A PHA's winning application will become its "Work Plan" subject to further refinement.)

For HUD modernization, funds may not be requisitioned against the approved modernization cost until all modernization requirements are met and the ACC has been executed.

Similarly, all requirements for HUD CDBG discretionary funds, DOL YCCIP youth employment and training funds, and funds from any other participating agencies must be met for Work Plan approval.

9. *Refinement and Approval of Work Plans:* Monday, August 27 to Friday, December 28, 1979. Over this time, site visits will be made to award winners by a technical assistance group composed of HUD Central and Area Office staff and other Federal agency staff. These site visits will incorporate the Joint Field Reviews required in modernization application processing.

The group making the site visits will work with a local Anti-Crime Oversight Team. Every award winner shall organize an Anti-Crime Oversight Team—with representatives from HUD Central Office (CO), the HUD Area Office, the PHA, the tenant organization, the Office of the local government's Chief Executive, the Police chief's office, and any other public or private contributors to the program. The PHA representative shall be the Anti-Crime Program Public Safety Coordinator.

In places already receiving Urban Initiative Rehab/Management grants, the Anti-Crime Oversight Team will be the existing MAP Team—plus the Program Public Safety Coordinator, a representative from the police, and a representative from any other contributor to the program.

The technical assistance group from HUD CO and other Federal agencies will propose to the Anti-Crime Oversight Team refinements in the Work Plan. If there are disagreements, negotiations will seek a compromise solution.

Revised Work Plans also will include Modernization Final Applications.

As part of the refinement of the Work Plan, an agreement must be reached on the exact amount of funds designated for tenant anti-crime activities (Program Area 2.1). The PHA must agree to establish an imprest fund for these monies and to advance each month a specified amount to the recognized tenant organization, which shall then administer all activities under Program Area 2.1.

All HUD CDBG discretionary funds will require concurrence by the Chief Executive of the local government.

Final approval of the Work Plan shall be made by the HUD Assistant Secretary for Housing in consultation with the PHA Board of Commissioners and other appropriate individuals. The Assistant Secretary for Housing shall have the authority to modify the level of funding, modify the kind of programs, or rescind an award if, at a later date, an agreement cannot be reached on a Work Plan.

It is anticipated that some award winners may be ready to proceed almost immediately with their Work Plans—while others may require more time to demonstrate that they can actually implement that they have proposed on paper, have assessed all the housing project's vulnerabilities, and have a local Anti-Crime Oversight Team that can function effectively.

10. *Hotline Open for Questions:* Monday, April 30 to Friday, December 28, 1979. Throughout this entire process, HUD CO staff will answer questions. Call 202–755–2980 or 202–755–6460. *These are not toll free numbers.*

VII. Administration and Monitoring

After the Work Plan is approved, the Program and its funding shall be administered on a day-to-day basis by the PHA, with the Anti-Crime Public Safety Coordinator having the lead and reporting directly to the PHA Executive Director.

When programs and funding are co-targeted by Federal agencies other than HUD and DOL, and when these Federal agencies retain administrative control, the Anti-Crime Public Safety Coordinator shall be responsible for integrating all activities.

All tenant anti-crime activities under Program Area 2.1 that may be financed through HUD CDBG discretionary funding shall be administered by the recognized tenant organization, through the PHA's monthly imprest fund described in Section VI.

The PHA shall have ultimate administrative authority, but shall be guided by the recommendations of the Anti-Crime Oversight Team. All major decisions shall be cleared with the Team.

The PHA shall submit Quarterly Reports to HUD CO on the Program. The Reports must first be cleared and revised according to the recommendations of the Anti-Crime Oversight Team.

For modernization, the HUD Area Office will have customary authority to approve requisitions.

In addition, HUD CO Anti-Crime Program Staff shall carefully monitor PHA activities and accounts—through site visits (accompanied by other Federal agency staff), standard monitoring requirements, and consultation with Area Office staff. As needed, HUD CO will require programmatic and budget modifications over the course of the Program.

VIII. Tenant Involvement and Civil Rights Requirements

All participating PHAs must comply with applicable laws pertaining to equal opportunity, as set forth in 24 CFR Section 868.4, and involve tenants in the planning and administration of the Program, as set forth in 24 CFR Section 868.5.

The recognized tenant organization shall play a significant role in the preparation of the application, refinement of the Work Plan and administration of the Program. The application must demonstrate such involvement.

The recognized tenant organization shall be represented on the Anti-Crime Oversight Team and shall administer tenant anti-crime activities under Program Area 2.1. Funds for these activities shall be advanced each month by the PHA to the recognized tenant organization through the imprest fund described in Section VI.

IX. Technical Assistance During Program Implementation.

Section VI specifies the technical assistance available from HUD and other agencies during the application process.

Over this time, PHAs and tenants are encouraged to consult with and gain technical assistance from various other entities—like local and state government, the police department, other Federal agencies and other public and private groups.

No consulting or technical assistance fees during this application period before awards are announced can be charged to the HUD Anti-Crime Program or entered into the Program budget as part of the application.

Technical assistance is an eligible work item according to Appendix 1 of *Handbook 7485.9*, which identifies:

> Architecture, engineering, and other consultant fees necessary to plan, design, and implement all or part of the modernization work.

To the extent that technical assistance for implementation of a comprehensive anti-crime effort is not permitted under *Handbook 7485.9*, HUD will allow PHAs to request up to $10,000 more in technical assistance (from the HUD CDBG discretionary funds available for the Anti-Crime Program).

HUD reserves the right to decide on, revise and adjust all requests for technical assistance.

As stated in Section V.C.5., at least 85 percent of the total DOL YCCIP funds applied for must be used for participant wages/benefits and no more than 10 percent for PHA administrative costs. Remaining funds may be used for "training of participants, project supervisors, and service to participants," among other items. Such activities address forms of technical assistance.

Technical assistance also may be available during implementation from other Federal agencies involved in the Anti-Crime Program. However, applicants should not at this time request technical assistance from other agencies as a budget line item.

X. Evaluation

An evaluation by an outside, independent contractor will be commissioned to assess the Program. HUD CO will finance the evaluation with funds in addition to the set-aside for the actual program.

XI. Submission Requirements

In order not to overburden PHA staffs in preparing proposals for the Program, HUD requests applications not longer than 20 pages. Supplementary material can be included in Appendices. Three copies of the application must be received by COB on Friday, June 22, 1979. They should be sent to: Director, Urban Initiatives Anti-Crime Program, Suite 6230, U.S. Department of Housing and Urban Development, Washington, D.C. 20410. An additional copy should be sent concurrently to the Manager of the appropriate HUD Area Office.

Each application must include the following information:

1. A brief description of the housing project(s) chosen—location, age, number of units in management, design, whether family or elderly or mixed, vacancy and turnover rates, rehabilitation and modernization needed, management and social problems, and plans already underway to improve the situation. If available, maps and pictures would be helpful.

2. To the extent possible, a brief profile of the tenants in the project chosen—including income distribution, unemployment rates (especially for ages 16–21), sex distribution, race distribution, percent of persons on AFDC, and percent of single parent families.

3. A brief description of relevant characteristics of the surrounding neighborhood and the city as a whole, including unemployment rates. If available, maps and pictures would be helpful.

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4. To the extent that information is available, a profile of crime rates in the project, the surrounding neighborhood, and the city as a whole. The relevant crimes are vandalism to dwelling units, associated property, and automobiles; physical assaults; sexual assaults; robbery; gang violence; drug abuse (sales, distribution and use); burglary; purse snatching; larceny; and auto theft. If available, maps showing crime patterns would be helpful.

5. A proposal that responds to the identified problems in a comprehensive way, identifies specific crimes that will be targeted in the Program and addresses each of the Program Areas outlined in Section IV and detailed in the Program Guidebook. Describe how each Program Area will be addressed, as explained in Section V of the Notice. Conclude with a summary of how everything proposed fits together in a complementary, reinforcing comprehensive way.

6. A summary of past PHA anti-crime experience. Append program writeups, if available.

A description of the PHA staff resources to be used in planning and implementing the Program. Identify by name and title the present PHA staff member or to-be-hired staff member who will serve as Public Safety Coordinator for the entire Program. This will be the official PHA contact—responsible directly to the PHA Director. Demonstrate why the Public Safety Coordinator has the ability and experience to relate to all the Program Areas—management, hardware, tenants, services, employment, police and PHA security personnel, and area-wide links.

8. A resolution by the PHA Board of Commissioners in support of the application.

9. A statement on how the proposal could be sustained in the future if Federal support were not available.

10. A description of how tenants, including but not limited to organized tenant groups, will participate in the effort. Include a letter from leaders of the valid and recognized tenant organization that demonstrates resident support for the proposed effort. Include the name and title of the official tenant representative for the Program. Describe the level of tenant organization in the housing project(s) and the experience of the tenant organization with anti-crime activities. Specify present PHA financial, organizational and other support for effective tenant participation. Describe how the tenant organization will directly control tenant anti-crime activities under Program Area 2.1 and will receive monthly advances from the PHA imprest fund, as described in Section VI.

11. A letter from the Chief Executive Officer of the (city, county, or other) local governing body approving the overall proposal, stating that it is consistent with the local Community Development Plan, and concurring on any HUD CDBG discretionary funding proposed.

12. A description of how the Chief Executive Officer of the local government, the police, other local government, and other public and private organizations will participate in the Program—through new funding, in-kind contributions and coordination.

13. A preliminary budget, with the total amount of Federal funds requested (HUD modernization, HUD CDBG discretionary and DOL YCCIP). The total shall be no greater than the limits set forth in Section III. For further guidance on the DOL YCCIP budget, see Appendix 5.

For modernization funds, a preliminary estimate is required for every work item proposed.

Do not include in the budget requests for funds from any of the Federal programs reviewed under Section V, Part D (even though the narrative of your proposal may express an interest in such programs).

In addition, at least 10 percent of the total budget should be a local match of nonhardware activity, as explained in Section V, Part E. This local match should be broken out from the items for Federal funding.

XII. Selection Criteria

All applications will be reviewed by a Proposal Review Committee composed of staff from HUD and DOL Headquarters in consultation with appropriate HUD Area Offices. The selection criteria are as follows:

1. Evidence that the project has serious crime and vandalism problems and vulnerabilities which can be addressed by the proposal.

2. Demonstration of an innovative, practical and comprehensive proposal by the PHA. Demonstration that the Program Areas outlined in Section IV and detailed in the Anti-Crime Guidebook are systematically addressed in a complementary and reinforcing way. *Even if proposals must later be scaled down or modified, there is a premium at this stage on forward-looking, creative plans grounded on past successes.*

3. Past and present anti-crime experience of the PHA and competence of the Public Safety Coordinator who will have day-to-day administrative responsibility.

4. General management and staff capability of the PHA. PHAs with previous anti-crime modernization or TPP experience will be judged on their performance. PHAs without previous experience will be judged on their potential.

5. Evidence that a valid and recognized tenant organization exists. Evidence that tenants have been systematically involved in the planning of the application and will be involved in the Work Plan refinement and administration of the Program, as specified in Section VIII, should an award be made.

6. Evidence that the Chief Executive Officer, the police, other local government, and other public and private organizations have intentions to commit new funds and/or new in-kind contributions to the Program—and that all parties involved can work well with the PHA. Consideration of the tentative amount and quality of the local match. Inclusion of a letter from the Chief Executive Officer of the local government.

7. Evidence that the proposal can be substained through other sources in the future.

8. Evidence that preliminary budget and job descriptions are appropriate, feasible, and within funding constraints.

XIII. Approval/Disapproval Actions

The HUD Assistant Secretary for Housing shall have final authority for approving and disapproving applications, taking into consideration recommendations of HUD and DOL Headquarters and Field Office staff. Other HUD Assistant Secretaries will co-sign as appropriate. An application may be approved at a different level of funding from that proposed by the PHA. Approval shall not be construed as precluding HUD from requiring modification of the approach or specifics described in the application.

By August 24, 1979, the HUD Assistant Secretary for Housing will evidence his approval or disapproval of each application by signing a letter to each PHA which submitted an application.

XIV. A–95 and Environmental Waivers

A–95 reviews shall not be required for preliminary applications, but will be required of semifinalist PHAs which request CDBG discretionary funds.

A finding of inapplicability under the National Environmental Policy Act has been made and is on file with the Rules Docket Clerk. This Notice does not set standards.

(Authority: Section 207 of the Housing and Community Development Amendments of 1978, P.L. 95–557, 92 Stat. 2080; Section 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d)).

Issued at Washington, D.C., April 26, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

Appendix 1

Community Anti-Crime Program Law Enforcement Assistance Administration

Appendix 1 excerpts descriptions of the Community Anti-Crime (CAC) Program of the Law Enforcement Assistance Administration (LEAA) originally published in the LEAA *Guide for Discretionary Grant Programs*, September 30, 1978.

Objective. To assist community organizations, neighborhood groups and individual citizens to become actively involved in activities designed to prevent crime, reduce the fear of crime, and contribute to neighborhood revitalization.

(1) To establish NEW community and neighborhood based anti-crime organizations and groups which can mobilize neighborhood residents to conduct crime prevention activities.

(2) To strengthen and/or expand existing community and neighborhood based anti-crime organizations and assist existing organizations involved in community improvement efforts to develop anti-crime programs.

(3) To develop improved understanding and cooperation of crime prevention activities among criminal justice officials and neighborhood residents.

(4) To integrate neighborhood anti-crime efforts with appropriate community development activities.

Contact. For further information about the Program, contact the Office of Community Anti-Crime Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531 (202/376–3985).

Appendix 2

Comprehensive Crime Prevention Program Law Enforcement Assistance Administration

Appendix 2 excerpts descriptions of the Comprehensive Crime Prevention Program of the Law Enforcement Assistance Administration (LEAA) originally published in the LEAA *Guide for Discretionary Programs*, September 30, 1978.

Objective. To test the effect of establishing well-planned, comprehensive, multifaceted crime prevention programs in medium size local jurisdictions (150,000 to 500,000 population) through:

(1) Coordinating available criminal justice and noncriminal justice governmental resources (e.g., social service agencies, schools, housing agencies, employment services, juvenile advocacy programs and services) in a concentrated crime prevention effort; and

(2) Enlisting and integrating business, industry, citizen, civic and neighborhood organizations, and other private resources in a coordinated crime prevention effort with criminal justice and noncriminal justice governmental resources in a local jurisdiction.

Contact. For further information on the program, contact the Office of Community Anti-Crime Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531 (202/376–3694).

Appendix 3

Volunteer in Service to America Program, ACTION

Appendix 3 briefly describes the Volunteers in Service to America (VISTA) Program.

Objective. VISTA supplements efforts of community organizations to eliminate poverty and poverty-related human, social, and environmental problems by enabling persons from all walks of life and all age groups to perform meaningful and constructive service as volunteers in situations where the application of human talent and dedication may help the poor to overcome the handicaps of poverty and poverty-related problems and secure opportunities for self-advancement.

Uses and Restrictions. VISTA provides full-time full-year volunteers at the request of community groups to work with low-income people to build their capacity for self-improvement through cooperative action to meet the basis human needs of the poor. Volunteers are assigned to sponsoring organizations which develop project goals and direct and supervise their activities. As part of sponsoring organizations, VISTA Volunteers assist the poor in the process of determining their individual and group needs. Once these needs are clearly established, the volunteer helps identify how and from where these needs can be met, and helps develop techniques for achieving community established goals.

Members of the poor community must actively participate in the development and implementation of the program. Low-income locally-recruited volunteers may be assigned to serve in their home communities, in teams with nationally-recruited specialist volunteers. Projects must be responsive to the needs and desires of the people who are to benefit from them to be funded by VISTA. Volunteers are not to displace employed workers, nor shall an agency supervising any volunteer program receive compensation for services of volunteers. Volunteers are not to be viewed as a permanent presence, but should accomplish their goals by leaving behind a program that can be carried on by the local community. Volunteers are not to be involved in religious, pro- or anti-labor, or political activities.

Appendix 4

Urban Park and Recreation Recovery Program Heritage Conservation and Recreation Service Department of Interior

Appendix 4 contains some questions and answers about the Urban Park Program of the Heritage Conservation and Recreation Service (HCRC).

What is the Urban Park Program? The Urban Park and Recreation Recovery Program is a new Federal program designed to provide grant funds to cities to revitalize their park and recreation facilities. The program is intended to conserve existing resources and retrieve reduced opportunities for enjoying the urban environment. The new program will be managed through a partnership of local, State, and Federal interests. It will also encourage the involvement of local neighborhood organizations and community groups.

What Types of Activity May Be Funded? Funds are available under three types of grants:

Rehabilitation grants are for rebuilding, remodeling, expanding, or developing existing outdoor or indoor recreation areas and facilities. Rehabilitation grants provide 70 percent of a project's costs.

Innovation grants are for personnel, facilities, equipment, supplies, and services designed to demonstrate innovative and cost-effective ways of augmenting park and recreation opportunities at the neighborhood level. Innovation grants provide 70 percent of a project's cost. Not more than 10 percent of total program funds awarded annually may be for innovation grants.

Recovery action program grants are for program planning and development, such as assessing resources and needs and coordinating involvement. Recovery action program grants provide 50 percent of a project's costs, and are not eligible for extra Federal dollars to match State contributions.

Will the Program Work with Other Federal Urban Programs? The Urban Park and Recreation Recovery Program will contribute to the Nation's total urban recovery effort by working with other Federal and State agencies that administer programs affecting urban areas. These programs are in a variety of fields including housing, urban development, employment, transportation, community services, voluntary action, and natural resources management.

Appendix 5

Sample Budget, Youth Community Conservation and Improvement Projects, Department of Labor

Appendix 5 may help applicant PHAs by providing a sample budget for Youth Community Conservation and Improvement Projects (YCCIP). For simplicity, the illustration is for a YCCIP component for $1.00M as part of a comprehensive anti-crime application. This does not necessarily mean that DOL and HUD expect all applications to be for this amount. See the Notice for guidelines on requested total YCCIP funding and distribution of line items within an overall request.

Percent	Amount	Function	Items
65	$650,000	1. Participants	Wages, benefits, expenses.
15	150,000	2. Work-Site Supervisors	Wages, benefits, expenses.
3	30,000	3. Job-Related Training	Materials, equipment services.
5	50,000	4. Work-Site Support	Materials, equipment supplies.
2	20,000	5. Supportive Services for Participants	Personal services, etc.
10	100,000	6. Administration	Direct program costs.
Total	$1,000,000		

This assumes the minimum amount allowed for participants' benefits and the maximum for administration. Assumed are $2.65/hr wages and 17% for fringe benefits and expenses. This would fund a minimum of 100 participant/years in 9 crews of eleven. Local projects will be encouraged to better these resources—for example, through the use of "public service employees" under other CETA title as supervisors.

[Docket No. N–79–928]
[FR Doc. 79–14149 Filed 5–4–79; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Bering Sea-Norton Sound Outer Continental Shelf (Tentative Sale No. 57); Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Correction

In FR Doc. 79–13296, appearing in the issue of Monday, April 30, 1979, on page 25274, make the following corrections:

(1) The heading should be corrected to read as it appears above by adding the "(Tentative Sale No. 57)".

(2) In the last column, under the undesignated center head *"Use of Information From Call"*, the first paragraph, the second line, insert the word "with" between "along" and "the".

BILLING CODE 1505–01–M

Lakeview District Office, Oregon; Restriction of Use of Motorized Vehicles on National Resource Lands

Notice is hereby given that use of motorized vehicles on specified public lands in the Black Hills of Lake County, Oregon, is restricted in accordance with the provisions of 43 CFR Parts 6010.4. This restriction does not apply to emergency, law enforcement, and Federal, or other Government vehicles while being used for official or emergency purposes, or vehicles authorized by permit or contract.

The areas affected by this designation and restriction notice are located approximately four miles south of Christmas Valley, Oregon. The legal description of the closed lands is:

Township 28 South, Range 17 East, Willamette Meridian,
Sec. 2, W½, E½ lying west of existing BLM road*
Sec. 3, all.*
Sec. 4, E½E½, lying east of BLM vehicle trail.
Sec. 10, E½NW¼ and NE¼ lying north of natural drainage.
Sec. 11, N½ lying north of natural drainage.
Approximate Total Acres 1,740.

*Except existing BLM roads providing access to interior of area. The areas and access corridors will be posted by signs on the boundaries and at common points of vehicular access.

Closure of this area is necessary to protect three plant species and their habitats: Cusick's buckwheat (*Eriogonum cusickii*), scapose silene (*Silene scaposa* var. *lobata*), and dwarf cork-seed (*Rhysopterus plurijugus*). The status of these threatened species is being reviewed by the U.S. Fish and Wildlife Service in compliance with the Endangered Species Act of 1973 (Pub. L. 93–205).

The restriction is effective from now until *November 1, 1980*, or until the current planning in the High Desert Resource Area is completed. The planning is expected to be completed by *January 1, 1980*. Maps showing the areas described above are available at the Bureau of Land Management, Lakeview District Office, 1000 South 9th Street, (P.O. Box 151), Lakeview, Oregon 97630.

Dated: April 30, 1979.

Richard A. Gerity,
District Manager.

[FR Doc. 79–14079 Filed 5–4–79; 8:45 am]
BILLING CODE 4310–84–M

North Atlantic Outer Continental Shelf; Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Correction

In FR Doc. 79–12890, appearing on page 24643, in the issue for Thursday, April 26, 1979, in the description of blocks withdrawn, insert the following block numbers in numerical order: 595 and 709.

BILLING CODE 1505–01–M

Wyoming; Application

April 26, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Montana-Dakota Utilities Co., of Bismarck, North Dakota filed an application for a right-of-way to construct a 4 inch pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 39 N., R. 98 W.,
Sec. 23, SE¼SW¼;
Sec. 26, NW¼NW¼.

The proposed pipeline will transport natural gas from their Moncrief #23–1 well located in the SE¼SW¼ section 23, southwesterly to tie into Montana-Dakota Utilities Co.'s existing gathering system located in the NW¼NW¼ section 26, T. 39 N., R. 93 W., Fremont County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[Wyoming 67647]
[FR Doc. 79–14081 Filed 5–4–79; 8:45 am]
BILLING CODE 4310–84–M

Wyoming; Application

April 26, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct one each, 4½, 8⅝, and 12¾ inch pipelines and three 6⅝ in pipelines for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 18 N., R. 93 W.,
Sec. 2, lots 7, 8, 10, 11, 12 and 13;
Sec. 10, S½NE¼, NW¼, NW¼SW¼ and NE¼SE¼;
Sec. 18, NE¼, SE¼NW¼, N½SW¼, SW¼SW¼ and NE¼SE¼.

The six proposed pipelines will transport natural gas from wells to various points of connection with Cities Service Gas Company's existing gathering lines in the area all within T. 18 N., R. 93 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[Docket No. Wyoming 67648]
[FR Doc. 79–14082 Filed 5–4–79; 8:45 am]
BILLING CODE 4310–84–M

Wyoming; Application

April 25, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 4½ inch pipeline and related facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 21 N., R. 99 W.,
Sec. 26, NW¼NW¼;
Sec. 34, NW¼NW¼.

The proposed pipeline will transport natural gas from the Klabzuba 1–23 well located in the SW¼ of section 23, in a southwesterly direction to a point of connection with their gathering line in the SW¼ of section 33, T. 21 N., R. 99 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[Wyoming 67647]
[FR Doc. 79–14081 Filed 5–4–79; 8:45 am]
BILLING CODE 4310–84–M

Wyoming; Application

April 26, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct one each, 4½, 8⅝, and 12¾ inch pipelines and three 6⅝ in pipelines for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 18 N., R. 93 W.,
Sec. 2, lots 7, 8, 10, 11, 12 and 13;
Sec. 10, S½NE¼, NW¼, NW¼SW¼ and NE¼SE¼;
Sec. 18, NE¼, SE¼NW¼, N½SW¼, SW¼SW¼ and NE¼SE¼.

The six proposed pipelines will transport natural gas from wells to various points of connection with Cities Service Gas Company's existing gathering lines in the area all within T. 18 N., R. 93 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[Docket No. Wyoming 67646]
[FR Doc. 79–14082 Filed 5–4–79; 8:45 am]
BILLING CODE 4310–84–M

Wyoming; Application

April 26, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 4½ inch pipeline for the of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 19 N., R. 92 W.,
Sec. 6, NE¼ SW¼.

The proposed pipeline will transport natural gas from a point in NE¼ SW¼ section 6, in a northerly direction to a point of connection with Cities Service Gas company's gathering line all within T. 19 N., R. 92 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly.

V 4 1 8 9 M Y 7 7 9 UMI

Persons submitting comments should include their name and address and send them to the District manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[Wyoming 67845]
[FR Doc. 79-14083 Filed 5-4-79; 8:45 am]
BILLING CODE 4310-84-M

Wyoming; Application

April 26, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch O.D. buried pipeline as an addition to their Moxa Arch Gathering System for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming
T. 18 N., R. 112 W.,
Sec. 4, lot 1.

The proposed pipeline will transport natural gas from the Champlin 149 Amoco H–1 well located in the N½NW¼ of section 3 T. 18 N., R. 112 W., to a point of connection with an existing pipeline located in the W½NW¼ of section 33 T. 19 N., R. 112 W., all within Uinta County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 N., Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[Wyoming 67367]
[FR Doc. 79-14084 Filed 5-4-79; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

Contract Negotiations With the Santiam Water Control District; Availability of the Proposed Contract for Public Review and Comment

The Department of the Interior, through the Bureau of Reclamation, is in the final stages of negotiating a contract with the Santiam Water Control District, Stayton, Oregon. The purpose of the proposed contract is to provide the district with a supplemental agricultural water supply. The proposed contrat is written pursuant to the Reclamation Project Act of 1939 (53 Stat. 1187) and the Flood Control Act of 1944 (58 Stat. 887).

The district requires a supplemental water supply to serve approximately 231 irrigable acres in 16 ownerships. Water service will be made available from the Willamette Basin Project constructed and operated by the Corps of Engineers. Section 8 of the Flood Control Act of 1944 authorizes the Secretary of the Interior to market water from Corps of Engineers' reservoirs for agricultural use.

The proposed contract will make available a maximum annual water supply of 496 acre-feet. The initial water rate will be $1.00 per acre-foot which is adjustable every 5 years. The term of the proposed contract is 40 years. The district must furnish its own facilities to divert and distribute the water and must obtain a diversion permit from the State of Oregon.

For further information, please contact Mr. Martin Fabricius, Agricultural Economist, Division of Water, Power, and Lands, attention code 440, 550 West Fort Street—Box 043, Boise, Idaho, telephone No. (208) 384–1162. Copies of the proposed contract form are available at the Bureau of Reclamation offices in Boise, Idaho, and in Salem, Oregon. A period of 30 days from the date of this publication will be allowed for receipt of written comments from the public. Comments should be addressed to the Regional Director, attention 440, Bureau of Reclamation, at the address shown above. All written correspondence concerning the proposed contract is available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

Dated: April 26, 1979.

R. Keith Higginson,
Commissioner of Reclamation.

[FR Doc. 79-13712 Filed 5-4-79; 8:45 am]
BILLING CODE 4310-09-M

Contract Negotiations With the Hildalgo County Water Improvement District No. 2; Availability of the Proposed Contract for Public Review and Comment

The Department of the Interior, through the Bureau of Reclamation, is in the final stages of negotiating a repayment contract with the Hildalgo County Water Improvement District No. 2, San Juan, Texas. The proposed contract will provide for repayment of a loan not to exceed $16,100,000 which will be used for major rehabilitation work on the district's water distribution system.

The district encompasses approximately 71,000 acres of irrigable land near San Juan, Texas. Major portions of the district's water distribution system are antiquated or dangerously deteriorated. The district proposes to replace and relocate two major pumping plants, line 7.1 miles of canal, install 55.3 miles of pipe laterals and 500 feet of siphons, purchase operation and maintenance equipment, and construct office and storage facilities.

For further information and copies of the proposed contract, please contact Mr. Ira M. Stevens, Repayment and Economics Branch; Division of Water, Land, and Power; Bureau of Reclamation, Herring Plaza Box H–4377, Amarillo, Texas 79101, telephone No. (806) 376–2445.

Comments on the proposed contract will be received on or before June 6, 1979. All written correspondence concerning the proposed contract is available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

Dated: April 26, 1979.

R. Keith Higginson,
Commissioner of Reclamation.

[FR Doc 79-13714 Filed 5-4-79; 8:45 am]
BILLING CODE 4310-09-M

Contract Negotiations With the Pioneer Water Co. California; Availability of the Proposed Contract for Public Review and Comment

The Bureau of Reclamation has completed the negotiation of a proposed amendatory contract between the United States and the Pioneer Water Company, Porterville, California, for a loan to construct a Small Reclamation Project. The major purpose of the proposed contract is to provide a cost escalation loan of $530,000 to assist in financing the completion of the surface-water distribution system initiated with an earlier loan of $467,000. The proposed contract was prepared pursuant to the Small Reclamation Projects Act of 1956 (70 Stat. 1044), as amended.

The original loan application of the Pioneer Water Company, prepared in 1968, was approved by the Secretary of the Interior on October 7, 1969. The original loan repayment contract was executed on March 5, 1971, and is identified as contract No. 14–06–200–5305A. The cost escalation since the loan application was prepared has resulted in the company being unable to complete the construction program as originally planned. The total estimated cost of the project is now $1,186,000, consisting of a district contribution of $189,000 and a loan amount of $997,000. There will be no change in the construction contemplated under the original application. The supplemental loan application was approved on December 7, 1978.

Pioneer Water Company is located just below Success Dam on the Tule River, about 65 miles south of Fresno, California. The company's water supply is derived from a decreed water right to 72 cubic feet per second of the flows of Tule River.

The original and supplemental loan will be repaid in 35 annual installments, the first which shall become due on February 1 of the year next following the year in which the company construction program is completed. Copies of the proposed contract and further information can be obtained by contacting the Regional Director, Mid-Pacific Region, Bureau of Reclamation, Attention A. J. Thayer, 2800 Cottage Way, Sacramento, California 95825, telephone No. (916) 484–4498.

All written comments on the contract must be received by the Regional Director on or before June 6, 1979. A summary of all written comments received will be submitted to the Secretary of the Interior for consideration prior to approval or disapproval of the contract.

Dated: April 26, 1979.

R. Keith Higginson,
Commissioner of Reclamation.

[FR Doc. 79-13713 Filed 5-4-79; 8:45 am]
BILLING CODE 4310-09-M

Fish and Wildlife Service

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for an amendment to permit PRT 2–1609 to authorize placing tags on all sea otters taken under the authority of this permit. This application has been submitted as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 18).

1. Applicant:
a. Name: Dr. G. L. Kooyman.
b. Address: Scripps Institution of Oceanography, University of California—San Diego, La Jolla, California 92093.
2. Type of Permit: Scientific research.
3. Name and Number of Animals: Sea otter (Enhydra lutris) 30.
4. Type of Activity: Tagging with Temple tags attached to web of hind flipper.
5. Location of Activity: Alaska and coastal water adjacent thereto.
6. Period of Activity: Through December 31, 1979.

The purpose of this application is to more permanently mark sea otters that are captured during the exercise of the authorization of this permit so that they can be later identified by other researchers doing long-term studies.

Concurrent with the publication of this notice in the Federal Register the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2–1609A. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240, on or before June 6, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia.

Dated: April 30, 1979.

Larry LaRochelle,
Acting Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 79-14158 Filed 5-4-79; 8:45 am]
BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Robert J. Behnke, Dept. of Fishery & Wildlife, Colorado State University, Fort Collins, Colorado 80523.

The applicant requests a permit to take (capture) and release Colorado River squawfish *(Ptychocheilus lucius)* and humpback chub *(Gila cypha)* in the Yampa River, Colorado, for scientific purposes.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2–4132. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before June 6, 1979. Please refer to the file number when submitting comments.

Dated: May 1, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-14159 Filed 5-4-79; 8:45 am]
BILLING CODE 4310-55-M

Threatened Species Permit; Receipt of Applications

The applicants listed below wish to apply for Captive Self-Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

These applications and supporting documents are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, USFWS, WPO, Washington, D.C. 20240. Interested persons may comment on these applications on or before June 6, 1979, by submitting written data, views, or arguments to the Director at the above address.

Applicant: Wilma M. L. Crawford, (PRT 2–4158). Rt. 4, box 336, Cumberland, Maryland 21502.
Applicant: Clifford Riggle (PRT 2–4156), RFD 1, Leland, Iowa 50453.

Please refer to the individual applicant and the appropriately assigned PRT 2– number when submitting comments.

Dated: April 26, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 79-14157 Filed 5-4-79; 8:45 am]
BILLING CODE 4310-55-M

V 44/89 MAY 7 79 UMI

Endangered Species Permit; Receipt of Application

Applicant: San Antonio Zoological Gardens and Aquarium, 3903 N St. Mary's St., San Antonio, Texas 78212.

The applicant requests a permit to export one male clouded leopard (*Neofelis nebulosa*) to the Zoologischer Garten Dresden, Dresden, East Germany, for zoological exhibition and enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4147. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before June 6, 1979. Please refer to the file number when submitting comments.

Dated: April 27, 1979.

Larry LaRochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-14150 Filed 5-4-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Wisconsin Department of Natural Resources, State Office Building, 3550 Mormon Coulee Road, La Crosse, Wisconsin 54601.

The applicant requests a permit to conduct surveys of Higgin's eye pearly mussel (*Lampsilis higginsi*), pink mucket pearly mussel (*Lampsilis orbiculata*), fat pocketbook pearly mussel (*Potamilus capax*), and any other endangered species encountered, taking vouchers of live specimens and salvaging dead ones to ascertain the presence of these species in pools 9-11 of the Mississippi and lower Wisconsin Rivers.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4077. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before June 6, 1979. Please refer to the file number when submitting comments.

Dated: May 1, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-14160 Filed 5-4-79; 8:45 am]

BILLING CODE 4310-55-M

COUNCIL ON THE ROLE OF COURTS

Fields of Antitrust, Torts, and Decedents' Estates; Meeting

Pursuant to section 10 of the Federal Advisory Committee Act (Pub. L. No. 92-463, 86 Stat. 770), as amended (Pub. L. No. 94-409, section 5(c), 90 Stat. 1247), notice is hereby given that the Council on the Role of Courts will meet in Washington, D.C. on May 18, 1979. The Council was advised only recently of the possible applicability of the Act to its proceedings, and as a result was unable to provide the full fifteen days notice prior to the meeting. The meeting, scheduled to begin at 9:00 a.m., will be held at the Federal Judicial Center, 1520 H Street, N.W.

The meeting will deal with the role of courts in the fields of antitrust, torts, and decendents' estates. The meeting will be open to the public, and minutes of the proceedings will be made available upon request. Minutes from the organizational session of the Council, held in New Orleans, Louisiana, on January 5 and 6, 1979, are also available. Additional information may be obtained from Mr. Harry A. Scarr, Administrator, Federal Justice Research Program, Department of Justice, Washington, D.C. 20530, phone: (202) 633-4016.

Harry A. Scarr,

Administrator, Federal Justice Research Program.

[FR Doc. 79-14374 Filed 5-4-79; 10:18 am]

BILLING CODE 4410-01-M

LEGAL SERVICES CORPORATION

Grants and Contracts

April 27, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: East Texas Legal Services in Nacogdoches, Texas to serve Chambers, Liberty, Hardin, Tyler, Jasper, Newton, Houston, Sabine, Shelby, Panola, Marian, Upshur, Camp, Wood, VanZandt, Henderson, Anderson and Rains Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, CO 80202.

Alice Daniel,

Acting President.

[FR Doc. 79-14085 Filed 5-4-79; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NASA Advisory Council (NAC) Aeronautics Advisory Committee; Meeting

The Informal Ad Hoc Advisory Subcommittee on Operating Systems and Safety of the NAC Aeronautics Advisory Committee will meet May 30-31, 1979, in Room 225, Building 1219 (Headquarters Building) NASA Langley Research Center, Hampton, Virginia. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the Sucommittee members and participants).

the Subcommittee was established to assist the NASA in identifying specific needs and objectives for improving the operational effectiveness and safety of transport aircraft which will depend on further research and technology in the several underlying technical disciplines, and to advise the NASA on the appropriateness and adequacy of its current and planned programs in this area. the Chairperson is Mr. J. D. Smith and there are 9 members of the Subcommittee.

Agenda

May 30, 1979

8:30 a.m.—Introductory Remarks
9:00 a.m.—NASA Review of Industry Participation in the Terminal Configured Vehicle Program

9:15 a.m.—NASA Review of the Evolution of Display Research in the Terminal Configured Vehicle Program
10:15 a.m.—NASA/FAA Status Report on Cockpit Display of Traffic Information
12:30 p.m.—NASA Research Simulation Facilities
1:45 p.m.—NASA Human Factors Research in Cockpit Displays
2:45 p.m.—NASA Use of Oculometer in Cockpit Research
3:15 p.m.—NOAA Overview of Weather Data in the Cockpit
4:00 p.m.—NASA Review of Avionic and Controls Program Planning

May 31, 1979

8:00 a.m.—NASA Special Reports on Related Activities
8:45 a.m.—Committee Member Report on Airport Pavement Performance Evaluation
10:15 a.m.—Tour of Related Research Facilities at Langley Research Center
1:00 p.m.—Committee Discussion and Formulation of Recommendations
5:00 p.m.—Adjourn

For further information contact Mr. Kenneth E. Hodge, Executive Secretary of the Informal Ad Hoc Subcommittee on Operating Systems and Safety, Code RJT, NASA Headquarters, Washington, DC 20546 (202/755-3000).

May 1, 1979.

Arnold W. Frutkin,

Associate Administrator for External Relations.

[Notice (79-50)]

[FR Doc. 79-14148 Filed 5-4-79; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD

Subcommittee and Full Commission; Meetings

The National Commission serves as the focal point for the observance of all International Year of the Child activities in the country, and for all United States cooperation on International Year of the Child observances with other counties. It will provide a forum of examining the fundamental needs of children; it will create a better understanding of the needs of children, both in the United States and abroad; it will incourage and/or coordinate Federal, state, and local programs to meet these needs; and it will write a report to the President on its activities and findings, including recommendations of future actions relating to the well-being of children.

Subcommittee Meeting

The National Commission's subcommittees will hold open meetings at the times and locations cited below. Attendance is limited by the space available. Anyone wishing to attend must call Benedict Latteri, 202/376-2435, by May 11, 1979 for the Media subcommittee meeting and by May 15, 1979 for the remaining subcommittee meetings.

a) Media Subcommittee will meet at the offices of the U.S. Committee for UNICEF; 331 East 38th Street, New York City, New York, from 1:00 p.m. to 5:00 p.m., on May 16, 1979.

b) Children's Involvement Subcommittee will meet at the National Commission's Office, 600 E Street, N.W., 5th Floor, Washington, D.C., from 12:00 p.m. to 4:00 p.m., on May 24, 1979.

c) Human Services Subcommittee will meet at the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C., Room 2010, from 12:00 p.m. to 4:00 p.m., on May 24, 1979

d) Corporate, Labor, and Professional Involvement Subcommittee will meet at the New Executive Office Building, 726 Jackson Place, N.W., Room 8103, Washington, D.C., from 1:00 p.m. to 4:00 p.m., on May 24, 1979.

e) State and Local Involvement Subcommittee will meet at the National Commission's Office, 600 E Street, N.W, 5th Floor, Washington, D.C., from 4:30 p.m. to 6:30 p.m., on May 24, 1979.

Full Commission Meeting:

The full Commission will meet at 9:00 a.m. to 3:30 p.m. on Friday, May 25, 1979 in the New Executive Office Building, Room 2010. The New Executive Office Building is located at 726 Jackson Place, N.W. Call Benedict J. Latteri for any additional information 202/376-2435).

Benedict J. Latteri,

Administrative Officer, National Commission on the International Year of the Child.

[FR Doc. 79-14200 Filed 5-4-79; 8:45 am]

BILLING CODE 6820-48-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Advisory Committee

Humanities Panel; Meeting

May 1, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: May 25, 1979. Time: 9 a.m. to 5:30 p.m. Room: 1134. Purpose: To review Research Collection Program applications submitted to the National Endownment for the Humanities for projects beginning after October 1, 1979.

2. Date: May 31—June 1, 1979. Time: 9 a.m. to 5:30 p.m. Room: 1023-1025. Purpose: To review Elementary and Secondary Education Program applications submitted to the National Endownment for the Humanities for projects beginning after October 1, 1979.

3. Date: June 4, 1979. Time: 9 a.m. to 5:30 p.m. Room: 1023-1025. Purpose: To review Elementary and Secondary Education Program applications submitted to the National Endownment for the Humanities for projects beginning after October 1, 1979.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated Janaury 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call 202-724-0367.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 79-14111 Filed 5-4-79; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Policy Research and Analysis and Science Resources Studies; Changed Meeting

The Advisory Committee for Policy Research and Analysis and Science Resouces Studies is holding a meeting in Washington on May 10 and 11, 1979. The meeting times of the open and closed sessions have been reversed on May 11, 1979 and are as follows:

Friday, May 11, 1979

8:30-9:45 a.m.—Subcommittee Meetings (open session)
Postcensal Survey (Room 1242)
Industrial Innovation and R & D Statistics (Room 1224)
9:45-11:00 a.m.—Subcommittee Meetings (open session)
Output Indicators (Room 1242)
Public Sector Innovation (Room 1224)
11:00-12:00—Subcommittee Reports (Room 1242, open session)
12:00-1:30 p.m.—Lunch
1:30-2:45 p.m.—Presentation of Proposal Oversight Report (Room 1242, closed session)

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2:45–4:00 p.m.—Discussion of PRA/SRS Strategic Plans (Room 1242, closed session)
Dr. Charles Falk, SRS
Dr. Alden Bean, PRA
Dr. Melvin Kranzberg, Closing Remarks

The original Notice appeared in the **Federal Register** on April 20, 1979, volume #44, No. 78, page 23606.

M. Rebecca Winkler,
Committee Management Coordinator.

May 2, 1979.

[FR Doc. 79-14166 Filed 5-4-79; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Commonwealth Edison Co.; Proposed Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) is considering the issuance of amendments to Facility Operating License Nos. DPR–39 and DPR–48 issued to Commonwealth Edison Company (the licensee) for operation of the Zion Station Units 1 and 2 (the facility) located in Zion, Illinois.

The amendments will involve changes to the common Technical Specifications for both Zion Units 1 and 2 to increase the total peaking factor limit, F_Q, from 1.86 to 1.93.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By June 6, 1979, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendments to the subject facility operating licenses. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this **Federal Register** Notice and Section 2.714 of 10 CFR, and must be filed with the Secretary of the Commission, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Mr. Phillip P. Steptoe, Isham, Lincoln and Beale, One First National Plaza, Chicago, Illinois 60690, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to the action, see the application for amendments dated March 22, 1979, which is available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Dated at Bethesda, Maryland, this 27th day of April 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[Docket Nos. 50–295 and 50–304]
[FR Doc. 79-13950 Filed 5-4-79; 8:45 am]
BILLING CODE 7590-01-M

Draft Regulatory Guides; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment drafts of a proposed revision to a guide and a related new guide in its Regulatory Guide Series together with drafts of their associated value/impact statements. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Proposed Revision 3 to Regulatory Guide 1.35 entitled "Inservice Inspection of Ungrouted Tendons in Prestressed Concrete Containments" and temporarily identified by its task number, SC 810–4, describes a basis for developing an appropriate inservice inspection and surveillance program for ungrouted tendons in prestressed concrete containment structures sof light-water-cooled reactors. The related guide is entitled "Determining Prestressing Forces for Inspection of Prestressed Concrete Containments," and its task number is SC 807–4. It describes in greater detail, as a supplement to Regulatory Guide 1.35, guidance for determining the prestressing forces to be used in the inservice inspection and surveillance program.

These draft guides and their associated value/impact statements are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review, have not been reviewed by the NRC Regulatory Requirements Review Committee, and do not represent an official NRC staff position.

Public comments are being solicited on all drafts, the guides (including any implementation schedule) and their draft value/impact statements. Comments on the draft value/impact statements should be accompanied by supporting data. Comments on all drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by June 22, 1979.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides or the latest revision of published guides (which may

be reproduced) or for placement on an automatic distribution list for single copies of future guides or draft guides in specific divisions should be made in writing to the U.S. Nulcear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 30th day of April 1979.

For the Nuclear Regulatory Commission.

Guy A. Arlotta,
Director, Division of Engineering Standards, Office of Standards Development.

[FR Doc. 79-14154 Filed 5-4-79; 8:45 am]
BILLING CODE 7590-01-M

George V. Taplin, M.D.; Filing of Petition for Rule Making

Notice is hereby given that Dr. George V. Taplin, Division of Nuclear Medicine, University of California, Los Angeles, California, has filed with the Nuclear Regulatory Commission a petition for rule making dated March 28, 1979, requesting the Commission to amend its regulation "Human Uses of Byproduct Material," 10 CFR Part 35.

On February 20, 1979 the Commission published in the *Federal Register* (44 FR 10358), effective March 22, 1979, amendments to its regulation 10 CFR Part 35, to permit physicians greater latitude, when they use certain low risk diagnostic radiopharmaceuticals, by no longer designating the FDA authorized clinical procedures. However, the amendments require the physicians to follow the package insert regarding chemical and physical form, route of administration and dosage range when they perform clinical procedures that have not been approved by FDA. These restrictions do not apply if the physicians perform the FDA approved clinical procedures that are listed in the package insert.

The petitioner requests that the Commission reconsider and rescind the requirement that physicians must use an approved radiopharmaceutical strictly in accord with the manufacturers' package insert.

The petitioner states that:

This change is in direct opposition to the current objectives of both the NRC and FDA which permit physicians to use approved drugs according to their best knowledge and judgment and in the interest of the patient. In my opinion this new regulation will hinder the development of new safe applications of approved drugs especially in the case of Technetium labeled DTPA and prevent its widespread use as a routine lung imaging agent in the diagnosis of pulmonary embolism.

The petitioner states also that:

My specific disagreement with this new restriction is that it would preclude the use of Technetium 99m DTPA as an aerosol by inhalation for lung imaging. This application and route of administration provide the physician with additional useful medical information while exposing the patient to lower levels of radiation and from the approved applications for brain and kidney imaging wherein doses from 5 to 20 mCi per examination are administered intravenously * * *.

Enclosed with the petition are reprints of two pertinent articles by Dr. George V. Taplin and Dr. Sawtantra K. Chopra.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. A copy of the petition may be obtained by writing the Division of Rules and Records at the below address.

All persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by July 6, 1979.

For further information contact: Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone: 301–492–7086.

Dated at Washington, D.C. this 30th day of April 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,
Secretary of the Commission.

[Docket No. PRM–35–1]
[FR Doc. 79-13952 Filed 5-4-79; 8:45 am]
BILLING CODE 7590-01-M

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 55 to Facility Operating License No. DPR–46, issued to Nebraska Public Power District, which revised the Technical Specifications for operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. The amendment is effective as to the date of its issuance.

The amendment modifies the Technical Specifications to: (1) permit operation of the facility during Cycle 5 with 112 exposed 7x7 fuel assemblies loaded with the initial core replaced with an equivalent number of fresh 8x8R fuel assemblies, designed and fabricated by the General Electric Company (GE) and (2) revise limits based on transient and accident analysis for the Cycle 5 core loading.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 31, 1979 and supplemented March 22 and April 16, 1977, (2) Amendment No. 55 to License No. DPR–46, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Auburn Public Library, 118—15th Street, Auburn, Nebraska 68305. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 27th day of April 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,
Chief,
Operating Reactors Branch No. 3, Division of Operating Reactors.

[Docket No. 50–298]
[FR Doc. 79-14152 Filed 5-4-79; 8:45]
BILLING CODE 7590-01-M

Wisconsin Public Service Corp. (Kewaunee Nuclear Power Plant); Hearing

In the Matter of Wisconsin Public Service Corp. (Kewaunee Nuclear Power Plant).

V 4 4 / 8 9 MAY 7 79 UMI

Wisconsin Public Service Corporation, Green Bay, Wisconsin, is the holder of License No. DPR–43 which authorizes the company to operate the Kewaunee Nuclear Power Plant. The license was issued originally on December 21, 1973, and will expire on August 6, 2008.

On July 19, 1978, the Acting Director of Inspection and Enforcement, pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282), and 10 CFR 2.205 of the Commission's regulations, served on the Licensee a Notice of Violation, together with a Notice of Proposed Imposition of Civil Penalties. The Notice of Proposed Imposition of Civil Penalties, incorporating by reference the Notice of Violation, alleged that the Licensee was responsible for three separate items of noncompliance which were violations of the Commission's regulations and license conditions and set forth the civil penalty to be assessed for each violation. These alleged violations were based on the results of an inspection of licensed activities on May 3–5 and 18 and June 5, 1978, particularly with regard to a personnel exposure that occurred in the reactor cavity on May 2, 1978.

The Licensee sent an answer dated August 10, 1978, to the Notice of Proposed Imposition of Civil Penalties. In response to the Licensee's answer, the Acting Director of Inspection and Enforcement withdrew one item of noncompliance and served the Licensee with an amended Notice of Violation and amended Notice of Proposed Imposition of Civil Penalties by letter dated December 7, 1978. The Licensee responded to the amended Notices in a letter dated January 2, 1979. After due consideration of the Licensee's response, the Acting Director issued an Order Imposing Civil Penalties on February 22, 1979, in the total amount of seven thousand dollars ($4,000 for Item 1 and $3,000 for Item 2). By letter dated March 15, 1979, the Licensee requested a hearing.

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Title 10, Code of Federal Regulations, Part 2, notice is hereby given that a hearing will be held before Administrative Law Judge Ivan W. Smith, at a time and place to be set by Judge Smith.

The issues for Judge Smith to consider and decide shall be:

(a) Whether the Licensee committed violations of the technical specifications of License No. DPR–43 designated as Items 1 and 2 in the Notice of Violation issued to Licensee; and

(b) Whether the Order Imposing Civil Penalties as it relates to Items 1 and 2 in the Notice should be sustained.

A prehearing conference will be held by Judge Smith at a date and place to be set by him, to consider pertinent matters in accordance with the Commission's Rules of Practice. The date and place of hearing will be set at or after the prehearing conference and noticed in the **Federal Register.**

Pursuant to 10 CFR 2.705, an answer to this Notice may be filed by the Licensee not later than May 28, 1979.

Required papers may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Chief, Docketing and Service Branch or by delivery to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, 20555. A copy of papers filed should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC, 20555.

Pending further order of Judge Smith, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. Pursuant to 10 CFR 2.785, the Commission authorizes an Atomic Safety and Licensing Appeal Board to exercise the authority and perform the review functions which would otherwise be exercised and performed by the Commission. The Appeal Board will be designated pursuant to 10 CFR 2.787, and notice as to membership will be published in the **Federal Register.**

Dated at Washington, DC, this 30 day of April 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,
Secretary of the Commission.

[Docket No. 50–305; License No. DPR–43]
[FR Doc. 79–13651 Filed 5–4–79; 8:45 am]
BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
An estimate of the number of forms that will be filled out;
An estimate of the total number of hours needed to fill out the form; and
The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley F. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

Department of Agriculture

Agency Clearance Officer—Donald W. Barrowman—447–6202.

Revisions

Farmer's Home Administration
*Appraisal Report—Farm Tract
FmHA 422–1
On occasion
Applicants, Lenders 60,000 Responses; 6,000 hours
Charles A. Ellett, 395–5080.

Food and Nutrition Service
Part 235 State Administrative Expense
On occasion
State Educational Agencies 171 Responses; 114 hours
Charles A. Ellett, 395–5080

Food and Nutrition Service
Regulations (7 CFR 250) Donation of Food Commodities for use in U.S.
FNS–51
On occasion
State distri. agencies for child nutrition programs, 1,020 responses; 10,080 hours
Charles A. Ellett, 395–5080

Food and Nutrition Service
Report of Child Nutrition Operations
FNS–10 Monthly
State educational agencies, 672 responses; 672 hours,
Charles A. Ellett, 395–5080

Food and Nutrition Service.
Annual Report of Meal Service in Schools
FNS–47
Annually
State educational agencies, 56 responses; 630 hours
Charles A. Ellett, 395–5080

Extensions

Food and Nutrition Service
Nutrition Education and Training Program (REGS)
FNS–42
Quarterly
State agencies and FNS regional offices, 280 responses; 1,008 hours
Charles A. Ellett, 395–5080

Food and Nutrition Service
Procedure for Requesting Technical Assistance When Establishing, Maintaining and Expanding Food Service Facilities in Schools
On occasion
Public and private schools 120 responses; 240 hours
Charles A. Ellett, 395–5080

Department of Energy

Agency Clearance Officer—Albert H. Linden—566–9021

New Forms

Information Requirements for Implementing Section 405 of FUA
ERA–322
on occasion
Electric powerplants, 200 responses; 40,000 hours
Jefferson B. Hill, 395–5867

Information Requirements for Regulations to Grant Temporary Public Interest
ERA–316R
On occasion
Powerplants 1,400, responses; 4,200 hours
Jefferson B. Hill, 395–5867

Department of Health, Education, and Welfare

Agency Clearance Officer—Peter Gness—245–7488

New Forms

Health Services Administration
Needs Assessment for Natural Family Planning
Single time
Title X grantees, 731 responses; 240 hours
Richard Eisinger, 395–3214

Department of Housing and Urban Development

Agency Clearance Officer—John T. Murphy—755–5190

New Forms

Policy Development and Research
Minority and Women-Owned Research Contractor Survey
Single time
Minority and women-owned research contractors, 500 responses; 165 hours
Arnold Strasser, 395–5080

Extensions

Housing Production and Mortgage Credit
*Application for Title I Contract of Insurance
FH–21
On occasion
Title I, lenders 7,000, responses; 1,400 hours
Arnold Strasser, 395–5080

Housing Production and Mortgage Credit
Title I Loan Reporting Manifest
FH–4
On occasion
Banks, savings and loans, credit unions, lenders, 300,000 responses; 30,000 hours
Arnold Strasser, 395–5080

Department of Labor

Agency Clearance Officer—Philip M. Oliver—523–6341

Extensions

Employment and Training Administration
In-Season Farm Labor Report
ETA 223 Monthly
St. agen. for agr. rept. areas and crop act. mtg. cov. req., 1,900 responses; 1,900 hours
Arnold Strasser, 395–5080

Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79–14253 Filed 5–4–79; 8:45 am]
BILLING CODE 3110–01–M

PRESIDENTIAL COMMISSION ON WORLD HUNGER

Subcommittee Meetings

Meetings of the Domestic, Agriculture Policy, Consumer and Nutrition and the International Policy Subcommittees scheduled for May 8, 1979 and May 18, 1979, respectively (44 FR 24661, April 26, 1979) have been cancelled.

Donald B. Harper,
Administrative Officer, Presidential Commission on World Hunger.

[FR Doc. 79–14110 Filed 5–4–79; 8:45 am]
BILLING CODE 6820–87–M

SECURITIES AND EXCHANGE COMMISSION

American Stock Exchange, Inc. et al.; Filing of Proposed Rules Changes and Order Approving Proposed Rules Changes

April 27, 1979

In the Matter of:

American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006 (SR–Amex–79–6);
Chicago Board Options Exchange, Incorporated, LaSalle at Jackson, Chicago, Illinois 60604 (SR–CBOE–79–4);
Midwest Stock Exchange, Incorporated, 120 South LaSalle Street, Chicago, Illinois 60603 (SR–MSE–79–11);
Pacific Stock Exchange Incorporated, 618 South Spring Street, Los Angeles, California 90014 (SR–PSE–79–3);
Philadelphia Stock Exchange, Inc., 17th Street & Stock Exchange Place, Philadelphia, Pennsylvania 19103 (SR–Phlx–79–4).

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is hereby given that the American Stock Exchange, Inc. ("Amex"); the Chicago Board Options Exchange, Incorporated

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("CBOE"); the Midwest Stock Exchange, Incorporated ("MSE"); the Pacific Stock Exchange Incorporated ("PSE"); and the Philadelphia Stock Exchange, Incorporated ("Phlx") (collectively referred to as "the options exchanges"), filed with the Commission copies of proposed rule changes to permanently permit options transactions to be effected on the options exchanges until 4:10 p.m. New York time.[1] The proposed rule changes also provide that an options exchange may complete one trading rotation in any class of options contracts, even though completion of the rotation would result in the effecting of transactions on the exchange after 4:10 p.m. New York time, if: (1) trading in the underlying security opens or re-opens after 3:45 p.m. New York time, and (2) promptly thereafter, and before 4:10 p.m. New York time, the options exchange commences an opening or re-opening rotation in the corresponding options class. In addition, the rule change proposals filed by the CBOE, MSE and PSE delete from the rules of these exchanges references to closing rotations conducted after the close of regular trading each day.[2]

The purpose of the proposed rule changes is to continue, on a permanent basis, an existing experiment involving uniform daily closing hours and uniform closing procedures among the options exchanges. This experimental program was approved by the Commission by order dated October 18, 1978 (the "October Order")[3] and was commenced on October 23, 1978. The experiment initially was scheduled to terminate on February 28, 1979, but was extended through April 28, 1979, by order of the Commission.[4] The proposals also are for the purpose of providing a limited exception to the uniform closing time in situations where a trading rotation in an options class is initiated as a result of the opening or reopening of trading in the primary market for the underlying security at or near the close of trading.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, with the requirements of Section 6 of the Act. This Section requires, among other things, that the rules of national securities exchanges be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission originally approved the uniform closing hours experiment because of its concerns that daily closing rotations as conducted by some of the options exchanges, and the resulting disparity in closing hours among the options exchanges, might not be in the public interest or consistent with the promotion of just and equitable principles of trade. For the same reasons, the Commission also published for comment proposed Securities Exchange Act Rules 9b–3, 9b–4(A), and 9b–4(B) addressing these issues.[5]

To assist the Commission in resolving these issues, the options exchanges monitored the final ten minutes of trading during the trial period and submitted to the Commission the results of their monitoring efforts.[6] The Commission has evaluated these reports, along with the comments received on proposed Rules 9b–3, 9b–4(A), and 9b–4(B), in connection with its determination that the rule change proposals filed by the options exchanges are consistent with the requirements of the Act.

The Commission believes that the six-month trial period has provided ample opportunity for the options exchanges and other interested persons to comment on the issues underlying these rule change proposals. The Commission, therefore, finds good cause for approving the proposed rules changes prior to the thirtieth day after the date of publication of notice of filing thereof.

Interested persons are invited to submit written data, views and arguments concerning the submissions within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File Nos. Sr–Amex 79–6; SR–CBOE–79–4; SR–MSE–79–11; SR–PSE–79–3; and SR–Phlx–79–4.

Copies of the submissions, all subsequent amendments, and all written submissions which are filed with the Commission with respect to the proposed rule changes, and of all written communications relating to the proposed rule changes between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. ¶552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rules changes referenced above be, and they hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 15765; SR–Amex–79–6 etc.]
[FR Doc. 79–14177 Filed 5–4–79; 8:45 am]
BILLING CODE 8010–01–M

[1] The CBOE's rule proposal provides that options transactions may be effected on the Exchange until ten minutes after the normal time set for the close of trading on the primary exchange listing the underlying stocks. The closing time for such primary exchange currently is 4:00 p.m. New York time.

[2] A closing rotation is a procedure used to close trading in an options class by providing for bids and offers to be made, and orders to be executed, one series at a time. Prior to October 23, 1978, the CBOE, MSE and PSE conducted such rotations after the close of regular options trading each day.

[3] Securities Exchange Act Release No. 15241 (October 18, 1978), 43 FR 49867 (October 25, 1978). No comments were received.

[4] Securities Exchange Act Release No. 15593 (February 28, 1979), 44 FR 12525 (March 7, 1979). No comments were received.

[5] Securities Exchange Act Release No. 15503 (January 17, 1979), 44 FR 4703 (January 23, 1979). Proposed Rule 9b–3 under the Act would prohibit any national securities exchange from conducting or employing any trading rotation in options if, during the rotation (with respect to options series in such class not yet called), new orders could not be placed on the limit order book or existing orders could not be cancelled or replaced. Proposed Rules 9b–4(A) and (b–4(B) are alternative proposals which would prohibit exchange-listed options trading after 4:00 p.m. and 4:10 p.m. New York time, respectively. The comment period for these rule proposals expired February 21, 1979. Seven comments were received.

[6] Consistent with the policies of the Division of Market Regulation, during the final two months of the trial period, the options exchanges also monitored the effects of the limited exception to the 4:10 p.m. closing time. During this time, circumstances permitting use of the exception have not arisen on any of the options exchanges.

Jersey Central Power and Light Co.; Proposed Issuance and Sale of Preferred Stock and Request for Exemption From Competitive Bidding

April 27, 1979

In the Matter of JERSEY CENTRAL POWER & LIGHT CO., Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960.

Notice is hereby given that Jersey Central Power & Light Company ("Jersey Central"), an electric utility subsidiary of General Public Utilities Corporation ("GPU"), a registered holding company, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement concerning the proposed transaction.

Jersey Central proposes to issue and sell up to an aggregate stated value of $60,000,000 of cumulative preferred stock ("Preferred Stock"), all shares of which will have the same stated value of either $25 or $100 per share. None of the shares of the Preferred Stock may be redeemed before five years after date of issuance if such redemption is for the purpose of refunding them through the use, directly or indirectly, of borrowed funds or the issuance of other preferred stock having a lower effective cost than the effective dividend cost of the Preferred Stock. Other terms of the Preferred Stock, including the dividend rate and an expected mandatory redemption provision designed to retire all the Preferred Stock within a period of years, will be supplied by amendment.

The net proceeds from the sale of the Preferred Stock will be used to pay all or a portion of Jersey Central's short-term bank loans outstanding at the date of sale and to reimburse its treasury for funds previously expended therefrom. Jersey Central requests an exemption from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5). It refers to the nuclear accident at Unit No. 2 of the Three Mile Island nuclear generating station ("TMI–2"), which accident occurred on March 28, 1979. Jersey Central owns an undivided 25% interest in TMI–2, the remainder being owned by Pennsylvania Electric Company (25%) and Metropolitan Edison Company (50%), associate companies of Jersey Central. Expenditures for the clean-up and repair of TMI–2 and the purchase of replacement energy will subject the GPU system, including Jersey Central, to a serious cash drain for an indeterminable period. In view of these uncertain and exceptional conditions, Jersey Central believes that competitive bidding for its preferred stock is not now feasible.

Jersey Central believes that it may be possible to effect such sales through private placement or a negotiated public offering, or both. Jersey Central proposes to explore with a group of prospective underwriters the prospects for such private or public offering and, among other things, to obtain their recommendations for the sequence and size of such sales. It is hereby authorized to do so.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Board of Public Utilities of the State of New Jersey has jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction thereover.

Notice is further given that any interested person may, not later than May 21, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 21021; 70–6297]
[FR Doc. 79–14179 Filed 5–4–79; 8:45 am]
BILLING CODE 8010–01–M

Midwest Stock Exchange, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

April 27, 1979

In the Matter of The Midwest Stock Exchange, Incorporated, Suite 1200, 120 South LaSalle Street, Chicago, Illinois 60603.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is hereby given that on April 23, 1979, the Midwest Stock Exchange, Incorporated ("MSE") filed with the Commission copies of a proposed rule change which permits the MSE, upon a determination that it is in the interest of maintaining a fair and orderly market or for the protection of investors, to make application to the Commission to strike from trading and listing any class or series of options contracts not exclusively traded on the MSE even though all options contracts in that class or series have not expired.

The proposed change would amend MSE Article XVI, Rule 4, to include the following: Notwithstanding the foregoing provisions, whenever the Exchange determines in the interest of maintaining a fair and orderly market or for the protection of investors that a class or series of option contracts previously approved for Exchange option transactions and not exclusively traded on the Exchange should no longer be approved, the Exchange may make application to the Securities and Exchange Commission to strike from trading and listing such class or series of option contracts.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MSE–79–10.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 522, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to exchanges on which standardized options are trading, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Commission understands that the proposed rule change is intended to facilitate the MSE's application to the Commission to strike from trading and listing American Express Company call options, which are traded on the Chicago Board Options Exchange, Incorporated ("CBOE") and the American Stock Exchange, Inc.

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("Amex") as well as on the MSE, and thereby facilitate the orderly implementation of the pending combination of the options markets of the MSE and the CBOE.[1]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

April 27, 1979.

[Rel. No. 34-15766; SR-MSE-79-10]
[FR Doc. 79-14181 Filed 5-4-79; 8:45 am]
BILLING CODE 8010-01-M

May 1, 1979.

Rogers & Wells Profit-Sharing Plan; Filing of Application for an Order Pursuant to Section 3(a)(2) of the Securities Act of 1933 Exempting From the Provisions of Section 5 of the Act Interests or Participations in the Rogers & Wells Profit-Sharing Plan

In the matter of the Rogers & Wells Profit-Sharing Plan, 1666 K Street N.W., Washington, D.C. 20006.

Notice is hereby given that Rogers & Wells (hereinafter referred to as "Applicant" or "Firm"), a law firm organized as a partnership under the laws of the District of Columbia, on March 5, 1979, filed an application for an exemption from the registration requirements of the Securities Act of 1933 ("Act") for participations or interests issued in connection with the Roger & Wells Profit-Sharing Plan ("Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below

Established in 1977, the Plan provides benefits for its participants distributable upon retirement, disability or death. Partners and employees of the Firm who are 25 years old and have completed at least six months of service are eligible to participate in the Plan. The maximum annual contribution made by the Firm on behalf of each eligible participant is 7 percent of the portion of his compensation which exceeds the Social Security taxable wage base or such lesser integration level as may be determined by the Firm. The Firm may determine in any year to contribute a lesser amount or to make no contributions. Participants are not required to contribute to the Plan, but are permitted to make voluntary contributions which, in general, may not exceed an average of 10 percentof their compensation, as defined in the Plan.

The Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (Applicant's partners) who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended ("Code"), and, therefore, the exemption provided by Section 3(a)(2) of the Act for interests or participations in employee benefit plans would appear to be inapplicable to the Plan. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a stock bonus to pension, profit-sharing, or annuity plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Internal Revenue Service has by letter dated August 17, 1978 determined that the Plan meets the requirements for qualification under Section 401(a) of the Code.

Applicant states that the assets of the Plan are held by the Trustees, who are three partners in the Firm, pursuant to the terms of the Plan and Affiliation Agreement, which together constitute the Trust. The Trustees may purchase insurance policies on the life of a participant, upon his request, so long as the aggregate of premiums paid on the policies on the life of a participant does not exceed certain specified percentages of the aggregate Firm contributions to his account. Any contributions not invested in insurance polices are retained in the investment fund, which the Trustees are authorized to invest, subject to the direction of the Firm as Plan Administrator, in such manner as they deem advisable. The Trustees have invested the fund in the general account of the New England Life Insurance Company, which has a guaranteed minimum rate of interest, currently 9 percent. The Trustees must maintain separate accounts for Firm contributions made on behalf of each participant and any contributions made by a participant.

Applicant states that the Firm, as Plan Administrator, has full authority, in its discretion, to direct the Trustees in the investments of the Trust. The participant has no right to direct the Plan Administrator as to the manner in which his account shall be invested. In addition, as Plan Administrator, the Firm is responsible for the day-to-day administration of the Plan.

Applicant contends that the reason for excluding Keogh plans from the exemption generally afforded by Section 3(a)(2) was concern that such an exemption might be used to mass-market Keogh plans to unsophisticated self-employed persons.

Applicant submits that the elements about which Congress expressed concern are absent in this instance, and that therefore an exemption would be appropriate. The Plan covers employees of a single employer, which is a law firm engaged in furnishing legal services of a type which necessarily involves financially sophisticated and complex matters. The risks associated with the sale of multi-employer plans are therefore absent, Applicant states, as it can be assumed that the Firm is able to represent adequately its interests and those of its employees. Moreover, the Firm exercises both fiduciary and administrative responsibilities in connection with the Plan.

In addition, the Plan is subject to the fiduciary standards and the full reporting and disclosure requirements of the Employees' Retirement Income Security Act of 1974 ("ERISA").

Applicant concludes that for the foregoing reasons, granting the requested exemption would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than May 28, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following May 28, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Divison of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[Rel. No. 6065; 18-4]
[FR Doc. 79-14180 Filed 5-4-79; 8:45 am]
BILLING CODE 8010-01-M

[1] Securities Exchange Act of 1934 Release No. 15762 (April 24, 1979).

Schnader, Harrison, Segal & Lewis; Filing of Application Pursuant to Section 3(a)(2) of the Securities Act of 1933 for an Order Exempting From the Provisions of Section 5 Interests or Participations in Connection With the H.R. 10 Retirement Plan

In the Matter of H.R. 10 Retirement Plan of Schnader, Harrison, Segal & Lewis, 1719 Packard Building, Philadelphia, PA 19102.

Errata

Page 2 of the above-captioned Notice erroneously stated that Applicant's contribution is 1.5% of participant's compensation in excess of $17,000 instead of 1.5% of compensation not in excess of $17,000 and 8.5% of compensation in excess of $17,000.

George A. Fitzsimmons,
Secretary.

[Rel. No. 6091; 18-17]
[FR Doc. 79-14179 Filed 5-4-79; 8:45 am]
BILLING CODE 8010-01-M

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Open Meeting

The Select Commission on Immigration and Refugee Policy will hold its first meeting on Tuesday, May 22, 1979, at 2:00 p.m. in Room 2010 of the New Executive Office Building, 726 Jackson Place, Washington, D.C. The agenda will consist of preliminary organizational and business matters including appointment of a staff director.

The meeting will be open to the public with seating available for approximately 60 persons. A section will be reserved for the media. Written statements may be filed with the Commission before or after the meeting.

The Select Commission on Immigration and Refugee Policy was created by Public Law 95-412, signed October 5, 1978. The Commission is charged with a comprehensive review of U.S. immigration laws, policies, and procedures. Membership on the Commission includes four Cabinet members, four members of the House Committee on the Judiciary, four members of the Senate Committee on the Judiciary, and four members appointed by the President, including former Governor Reubin Askew, Chairman. Upon completion of its work, the Commission will submit its recommendations to the Congress and the President.

Inquiries may be addressed to: Select Commission on Immigration and Refugee Policy, Suite 636, Safeway Building, 521 12th Street, N.W., Washington, D.C. 20530. Telephone: 202-724-7452.

Dated: May 2, 1979.

Jean Arrowsmith,
Interim Coordinator.

[FR Doc. 79-14172 Filed 5-4-79; 8:45 am]
BILLING CODE 4910-23-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Informal Airspace Meeting

AGENCY: New England Regional Office, Federal Aviation Administration (FAA), Department of Transportation (DOT).

SUBJECT: Notice is hereby given that a public informal airspace meeting will be held by the FAA at the Hilton Hotel, Logan International Airport, East Boston, Massachusetts, on Thursday, May 31, 1979, at 7:00 p.m.

The purpose of this meeting is to give interested persons the opportunity to comment on a proposal to revise the Boston, Massachusetts, Terminal Control Area (TCA).

The rationale for this proposal is addressed in full in Federal Aviation Administration (FAA) Notice 78-19 published in the Federal Register on January 4, 1979, (44 FR 1322) (Docket No. 18905; Notice No. 78-19). Any person may obtain a copy of this Notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058.

The public is invited to attend this informal airspace meeting to present facts pertinent to the safe and efficient use of navigable airspace as it relates to the proposal.

Comments may also be submitted in writing at this meeting or within five days thereafter addressed to the following: Operations, Procedures and Airspace Branch, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION: Contact Mr. William Keepers, Chief, Logan International Airport Traffic Control Tower (ATCT), FAA, East Boston, Massachusetts 02128, Telephone (617) 567-2628. Office hours: 8:00 a.m. to 4:30 p.m.

Issued on April 27, 1979.

Donald L. Turner,
Chief, Operations, Procedures and Airspace Branch.

[FR Doc. 79-13874 Filed 5-4-79; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Debt Series—No. 9-79

The Secretary of the Treasury announced on May 1, 1979, that the interest rate on the notes designated Series A-1989, described in Department Circular—Public Debt Series—No. 9-79, dated April 26, 1979, will be 9¼ percent. Interest on the notes will be payable at the rate of 9¼ percent per annum.

Paul H. Taylor,
Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 79-14168 Filed 5-4-79; 8:45 am]
BILLING CODE 4810-40-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decision-Notice

April 19, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before June 6, 1979. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of

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protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before June 6, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. Homme, Jr.,
Secretary.

MC 200 (Sub-334F), filed February 5, 1979. Applicant: RISS INTERNATIONAL CORPORATION, a Delaware corporation, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting (1) *catalogs, magazines, and printed paper*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), serving (a) Effingham, IL, as an intermediate point on U.S. Hwy 40, (b) Salem, IL, as an intermediate point on U.S. Hwy 50, and (c) Mt. Vernon, IL, as an off-route point, all in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Kansas City, MO.)

MC 35320 (Sub-186F), filed January 30, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2250, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and components of ammunition), serving the facilities of Middletown Manufacturing Co., Division of Leggett and Platt, Inc., at or near Simpsonville, KY, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Louisville, KY, or Washington, DC.)

MC 35320 (Sub-187F), filed January 30, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, ammunition parts, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Klote International, Inc., at or near Maryville, TN, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Knoxville, TN, or Washington, DC.)

MC 35320 (Sub-188F), filed January 30, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and components of ammunition), serving the facilities of Hapco, at or near Abingdon, VA, as an

off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Knoxville, TN, or Washington, DC.)

MC 35320 (Sub-189F), filed January 29, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, ammunition parts, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Ship Shop, Inc., at or near Maryville, TN, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Knoxville, TN, or Washington, DC.)

MC 35320 (Sub-190F), filed January 29, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, ammunition parts, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Schlegal Tennessee, Inc., at or near Maryville, TN, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Knoxville, TN, or Washington, DC.)

MC 35320 (Sub-198F), filed January 30, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and components of ammunition), serving the facilities of The Columbus McKinnon Corp., at or near Damascus and Abingdon, VA, as off-route points in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Knoxville, TN, or Washington, DC.)

MC 48221 (Sub-22F), filed January 29, 1979. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, NE 68107. Representative: Richard E. Closner, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in IA (except Glenwood and Sioux City), to Denver, CO. (Hearing site: Omaha, NE.)

MC 52921 (Sub-32F), filed January 29, 1979. Applicant: RED BALL, INC., P.O. Box 520, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, from Monroe, LA, to points in OK; and (2) *materials, supplies, and equipment* used in the manufacture and distribution of paper and paper products (except commodities in bulk), from points in OK, to Monroe, LA. (Hearing site: Oklahoma City, OK.)

MC 61231 (Sub-135F), filed January 25, 1979. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351 Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Granite City, IL, to points in CO, MN, MT, UT, and WY. (Hearing site: St Louis, MO.)

MC 66100 (Sub-23F), filed January 24, 1979. Applicant: D. P. BONHAM TRANSFER, INC., 318 South Adeline, P.O. Drawer G, Bartlesville, OK 74003. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials* (except commodities in bulk), from the facilities of the Celotex Corporation, at or near Marrero, LA, to points in the United States (except AK and HI); and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: New Orleans, LA.)

MC 75320 (Sub-211F), filed January 28, 1979. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rubber and rubber products*, from the facilities of Denman Rubber Manufacturing Co., at or near Leavittsburg, OH, to points in AL, AR, IA, KS, LA, MS, MO, NE, OK, TN, and TX; and (2) *materials, equipment, and supplies* used in the manufacture of rubber and rubber products (except commodities in bulk), in the reverse direction. (Hearing site: Cleveland, OH.)

MC 87730 (Sub-29F), filed January 18, 1979. Applicant: R.W. BOZEL TRANSFER, INC., 4500 Hollins Ferry Rd., Baltimore, MD 21227. Representative: Maurice S. Bozel, 303 Felton Road, Lutherville, MD 21093. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs*, from the facilities of American Home Foods, Division of American Home Products Corporation, at or near Milton, PA, to points in DE, MD, VA, WV, and DC. (Hearing site: Baltimore, MD, or Philadelphia, PA.)

MC 95540 (Sub-1079F), filed February 5, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, as described in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in NC and VA, to points in the United States (except AK and HI). (Hearing site: Charlotte, NC, or Washington, DC.)

MC 115730 (Sub-61F), filed December 6, 1978. Applicant: THE MICKOW CORP., An Indiana Corporation, P.O. Box 1774, 531 S.W. Sixth St., Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fabricated metal products* and *iron and steel articles*, between Shenandoah, IA, Corsicana, TX, Dublin, GA, Wooster, OH, and Chicago, IL, and (2) *fabricated metal products*, from the points named

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in (1) above, to those points in the United States in and east of MT, WY, CO, and NM, restricted to the transportation of traffic originating at or destined to the plantsites of Farmaster Division of Wicks Corp. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 116371 (Sub-15F), filed January 30, 1979. Applicant: LIQUID CARGO LINES LIMITED, P.O. Box 289, Clarkson, Ontario, Canada L5J 2Y4. Representative: Wilhelmina Boersma, 1600 First Federal Building, 1001 Woodward Avenue, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in foreign commerce only; over irregular routes, transporting *sulfonic acid*, in bulk, in tank vehicles, from Detroit and Port Huron, MI, to the facilities of Witco Chemical, at Chicago, IL. (Hearing site: Detroit, MI, or Buffalo, NY.)

MC 119741 (Sub-141F), filed January 30, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Swift & Company, at or near East St. Louis, IL, to points in IA, KS, MO, and NE. (Hearing site: Chicago, IL.)

MC 119741 (Sub-142F), filed January 30, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk, in tank vehicles), from the facilities of Green Bay Canning Corp., at Green Bay, WI, to points in IA, KS, MO, NE, ND, OK, and SD. (Hearing site: Green Bay, WI.)

MC 121060 (Sub-91F), filed January 30, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of United States Steel Corporation, at or near (a) Gary, IN, and (b) Joliet, Waukegan, and South Chicago, IL, to points in AL, AR, FL, GA, KY, LA, MO, MS, NC, SC, and TN, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL.)

MC 125470 (Sub-42F), filed January 29, 1979. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, R.R. 4, Norfolk, NE 68701. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *irrigation systems, and equipment, materials, and supplies* used in the manufacture and distribution of irrigation systems, between the facilities of Lindsay Manufacturing Co., at or near Columbus, Lindsay, and Newman Grove, NE, on the one hand, and, on the other, points in the United States (except AK, HI, and NE), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Omaha or Norfolk, NE.)

MC 127820 (Sub-11F), filed January 30, 1979. Applicant: TRANS-SERVICE, INC., 1943 South Lawn Extension, Coschocton, OH 43812. Representative: Taylor C. Burneson, 1631 Northwest Professional Plaza, Columbus, OH 43220. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials* and *asbestos fibre cement pipe*, from the facilities of Johns-Manville Sales Corp., at or near Waukegan, IL, to points in NY, OH, PA, and WV, and (2) *insulation board*, from the facilities of Johns-Manville Perlite Corp., at or near Rockdale, IL, to points in NY, OH, PA, and WV, under continuing contracts in (1) with Johns-Manville Sales Corp., of Oak Brook, IL, and in (2) with Johns-Manville Perlite Corp., of Rockdale, IL. (Hearing site: Columbus, OH, or Chicago, IL.)

MC 135070 (Sub-31F), filed January 29, 1979. Applicant:JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *air conditioning and heating duct work and registers;* and (2) *equipment, materials, and supplies* used in the installation of the commodities named in (1) above, from the facilities of Goodman Manufacturing Corp., at or near Houston, TX, to points in the United States (except AK and HI). (Hearing site: Houston or Amarillo, TX.)

Note.—Dual operations may be involved.

MC 142941 (Sub-32F), filed January 22, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 N. 25th Ave., Phoenix, AZ 85009. Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near (a) Estherville and Sioux City, IA, and (b) Worthington, MN, to points in CA, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 142941 (Sub-33F), filed January 22, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 N. 25th Ave., Phoenix, AZ 85009. Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in CA, IL, NY, OR, PA, WA, and WI, to St. Paul, MN. (Hearing site: St. Paul, MN, or Phoenix, AZ.)

MC 142941 (Sub-35F), filed February 6, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 N. 25th Ave., Phoenix, AZ 85009. Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in CO, MN, NE, and WI, to Salt Lake City, UT. (Hearing site: Salt Lake City, UT, or Phoenix, AZ.)

MC 142941 (Sub-37F), filed February 9, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 N. 25th Ave., Phoenix, AZ 85009. Respresentative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned foods*, from points in CA, to the facilities of Owatonna Canning Company, at Owatonna, MN. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 142980 (Sub-2F), filed January 29, 1979. Applicant: PROCESSING TRANSPORTATION, INC., P.O. Box 68 (Tanners Church Road), Conley, GA 30027. Representative: Mark C. Ellison, P.O. Box 872, Atlanta, GA 30301. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic bags*, from College Park, GA, to points in AL, FL, GA, KY, LA, MS, NC, OH, SC, TN, and VA, under continuing contract(s) with Dixie Bag Company, of College Park, GA. (Hearing site: Atlanta, GA.)

MC 145441 (Sub-18F), filed January 29, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *insulators, insulator components, electrical wiring, and pottery*, from LeRoy, NY, to points in AZ, AR, CA, CO, FL, ID, KS, LA, NV, NM, OK, OR, TX, UT, and WA. (Hearing site: Buffalo, NY, or Little Rock, AR.)

Note.—Dual operations may be involved.

MC 145910 (Sub-2F), filed January 25, 1979. Applicant: LAURENCE A. MESSAM, d.b.a. RITTMAN PARCEL DELIVERY, P.O. Box 363, Rittman, OH 44270. Representative: John L. Alden, 1396 West Fifth Avenue, P.O. Box 12241, Columbus, OH 43212. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles, and materials, equipment, and supplies* used in the manufacture of plastic articles, (except commodities in bulk), between the facilities of Imperial Plastics, Inc., at or near Rittman, OH, on the one hand, and, on the other, points in AL, AR, CO, DE, GA, IA, IL, IN, KS, KY, LA, MD, MS, MO, MI, NC, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WV, and DC, under continuing contract(s) with Imperial Plastics, Inc., of Rittman, OH. (Hearing site: Columbus, OH, or Washington, DC.)

MC 146071 (Sub-1F), filed January 30, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Ronald V. Dreckman, P.O. Box 306, Whitehall, WI 54773. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Huron Dressed Beef, Inc., at or near Huron, SD, to points in WI. (Hearing site: Eau Claire or Madison, WI.)

MC 146231F, filed January 26, 1979. Applicant: SEATON SMITHSON FLEGEL and JERRY DEAN FLEGEL, d.b.a. S. S. FLEGEL TRUCKING, Route 1, Box 867, Prineville, OR 97754. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood products* and *lumber*, between points in Jefferson, Deschutes, Crook, Grant, Union, and Baker Counties, OR, on the one hand, and, on the other, points in Shasta, Tehama, and Lassen Counties, CA, Yakima, Okanogan, Klickitat, and Walla Walla Counties, WA, and Canyon, Payette, and Ada Counties, ID. (Hearing site: Portland, OR).

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Permanent Authority Application Decision Notice

Correction

In FR Doc. 78-33798 appearing at page 56981 in the issue of Tuesday, December 5, 1978, the following changes should be made.

1. On page 56986, second column, third paragraph, the Sub number for MC 110525 should read, "Sub-1267F".

2. On page 56989, third column, second complete paragraph, the sub number for MC 134355 should read, "Sub-37F".

3. On page 56992, first column, eleventh line, the designation State "NY" should be inserted between "NJ" and "OH" under MC 139498.

4. On page 56993, third column, second complete paragraph, the MC number reading "144279" should read, "144297".

5. On page 56995, first column, first complete paragraph, the MC number preceding Sub-255F should read, "MC 1515".

[Decisions Volume No. 51]
BILLING CODE 1505-01-M

Permanent Authority Applications; Decision-Notice

Correction

In FR Doc. 79-12715 appearing at page 24217 in the issue of April 24, 1979. Make the following corrections on page 24220:

(1) In the second column, change "MC 114273 (Sub-545TA)" to read "MC 114273 (Sub-545F)".

(2) In the third column, change "MC 115093 (Sub-17TA)" to read "MC 115093 (Sub-17F)".

(3) Also in the third column, change "MC 115162 (Sub-448TA)" to read "MC 115162 (Sub-448F)".

BILLING CODE 1505-01-M

Permanent Authority Applications; Decision-Notice

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR §1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application was published in the **Federal Register**. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

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On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, members Boyle, Eaton, and Liberman.

H.G. Homme, Jr.,
Secretary.

MC 13087 (Sub-48F), filed February 5, 1979. Applicant: STOCKBERGER TRANSFER & STORAGE, INC., 524 Second Avenue S.W., Mason City, IA 50401. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products*, and *meat byproducts*, and *articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of John Morrell & Co. at or near Estherville, IA, to points in IN, IL, MN, MO, and WI, restricted to the transportation of traffic originating at the above named facilities. (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 18037 (Sub-9F), filed February 2, 1979. Applicant: CHAS. LEVY CIRCULATING CO., a corporation, 1200 N. Branch St., Chicago, IL 60622. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting *magazines*, from Detroit, MI, to points in IL, IN, IA, KY, OH and WI, under continuing contract(s) with Look Magazine, Incorporated of New York, NY. (Hearing site; Chicago, IL.)

MC 21866 (Sub-111F), filed February 1, 1979. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Avenue, Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *printing presses*, and (2) *materials, parts*, and *supplies* used in the manufacture of printing presses, (except commodities in bulk), from the facilities of Graphic Systems, division of Rockwell International Corporation, at points in Berks County, PA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, OK, and TX (except Pennsylvania). (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 27817 (Sub-152F), filed February 1, 1979. Applicant: H. C. GABLER, INC., R. D. #3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk), from the facilities of The Pillsbury Company, at or near Mechanicsburg, PA, to points in DE, MD, NJ, NY, OH, VA, WV, and DC, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Washington, DC or Harrisburg, PA.)

MC 29886 (Sub-360F), filed December 12, 1978, previously noticed in the FR issue of March 15, 1979. Applicant: DALLAS & MAVIS FORWARDING CO., INC., An Indiana Corporation, 4314 39th Ave., Kenosha, WI 53142. Representative: Albert P. Barber (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *material handling equipment, winches, compaction and road making equipment, rollers, mobile cranes, and highway freight trailers*, and (2) *parts, attachments, and accessories* for the commodities named in (1) above, (except commodities in bulk), between the facilities of Hyster Company, at or near (a) Danville and Kewanee, IL, (b) Crawfordsville, IN, and (c) Berea, KY, on the one hand, and, on the other, points in CT, DE, IN, MA, MD, ME, MI, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Washington, DC, or Atlanta, GA.)

Note.— This republication is to include PA as a destination point.

MC 41406 (Sub-114F), filed February 5, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles* from the facilities of United States Steel Corporation at or near (a) Gary, IN, and (b) Joliet and South Chicago, IL, to points in Kenosha, Milwaukee, and Racine Counties, WI, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Chicago, IL, or Washington, DC.)

MC 41406 (Sub-115F), filed February 5, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of A. J. Gerrard and Company at or near Florence, AL, to the facilities of A. J. Gerrard and Company at or near DesPlaines, IL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 41406 (Sub-116F), filed February 5, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between Cleveland, OH, on the one hand, and, on the other, points in AL, FL, GA, KY, LA, MN, MO, NC, OK, SC, SD, TN, TX, and VA. (Hearing site: Cleveland, OH, or Chicago, IL.)

MC 41406 (Sub-117F), filed February 2, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel, metal castings, and forgings*, from points in Chippewa County, MI, to points in the United States (except AK and HI), and (2) equipment, materials, and supplies used in the manufacture of the commodities named in (1) above, in the reverse direction. (Hearing site: Chicago, IL, or Detroit, MI.)

MC 41700 (Sub-20F), filed January 30, 1979. Applicant: TOSE, INC., 424 W. Fourth Street, Bridgeport, PA 19405. Representative: Anthony C. Vance, 1307 Dolly Madison Blvd., McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between New Haven, CT, and Seekonk, MA; from New Haven over Interstate Hwy 95 to Providence, RI, then over U.S. Hwy 44 to Seekonk, and return over the same route, serving the intermediate point of Providence, RI, (2) between Easton, PA, and Port Jervis, NY; (a) over PA Hwy 611, and (b) from Easton over U.S. Hwy 22 to PA Hwy 33 to East Stroudsburg, then over U.S. Hwy 209 to Port Jervis, and return over the same route, serving all intermediate points, (3) between Penns Grove, NJ, and Philadelphia, PA; from Penns Grove over U.S. Hwy 130 to junction U.S. Hwy 40, then over U.S. Hwy 40 and the Delaware Memorial Bridge to junction DE Hwy 9, then over DE Hwy 9 to junction U.S. Hwy 13, and then over U.S. Hwy 13, to Philadelphia, and return over the same route, serving all intermediate points, (4) between Camden, NJ, and Phillipsburg, NJ; from Camden over U.S. Hwy 30 to junction PA Hwy 611 and Philadelphia, PA, (a) then over PA Hwy 611 to Easton, PA, then over U.S. Hwy 22 to Phillipsburg, and return over the same route, serving all intermediate points, (b) then over U.S. Hwy 309 to Allentown, PA, then over U.S. Hwy 22 to Phillipsburg, and return over the same route, serving all intermediate points, (5) between Pottstown, PA, and Allentown, PA; from Pottstown over PA Hwy 100 to junction PA Hwy 29, then over PA Hwy 29 to Allentown, and return over the same route, serving all intermediate points, and (6) between Pottstown, PA, and junction NY Hwy 52 and U.S. Hwy 209; from Pottstown, over PA Hwy 100 to junction PA Route 9, then over PA Route 9 to junction U.S. Hwy 6, then over U.S. Hwy 6 to junction U.S. Hwy 209, then over U.S. Hwy 209 to junction NY Hwy 52, and return over the same route, serving no intermediate points, for operating convenience only. (Hearing site: Philadelphia, PA, or Washington, DC.)

No. MC 42487 (Sub-802F), Filed February 2, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Applicant's Representative: V. R. Oldenburg, P. O. Box 3062, Portland, OR 97208. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, transporting *general commodities* except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, assembled automobiles, and machinery which because of size or weight requires special equipment. Serving the facilities of A.B. Chance Company, subsidiary of Emerson Electric Co. at Centralia, MO, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing site: St. Louis, MO.)

MC 60157 (Sub-27F), filed February 5, 1979. Applicant: C. A. WHITE TRUCKING COMPANY, a corporation, 5327 N. Central Expressway, Suite 310, Dallas, TX 75205. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pipe*, from the facilities of Jones & Laughlin Steel Corporation at or near Gainesville, TX, to points in IN, IL, NE, MI, KS, TN, WI, AL, MS, NM, MN, NC, FL, and GA. (Hearing site: Dallas or Fort Worth, TX.)

MC 69710 (Sub-216F), filed February 5, 1979. Applicant: SPECTOR INDUSTRIES, INC., d/b/a SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 S. LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Dow Chemical Co., at Midland, MI, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Chicago, IL.)

MC 100666 (Sub-427F), filed January 25, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *lumber and lumber products*, from the facilities of Tolleson Lumber Co. at or near Perry and Fitzgerald, GA to those points in the United States in and east of NM, CO,

NE, ND and SD. (Hearing site: Dallas, TX.)

MC 100666 (Sub-431F), filed February 5, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *metal and metal articles*, from the facilities of South Carolina Steel Corp., at or near Greenville, SC, to points in AL, AR, DE, GA, KY, LA, MD, MS, MO, NC, TN, TX, VA, and WV. (Hearing site: Dallas, TX.)

MC 102616 (Sub-972F), filed January 25, 1979. Applicant: COASTAL TANK LINES, INC. 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum pitch*, in bulk, in tank vehicles, from Catlettsburg, KY, to points in AL, AR, CT, DE, FL, GA, IA, IL, IN, LA, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, WI, WV, and DC. (Hearing site: Washington DC or Chicago, IL.)

MC 107496 (Sub-1184F), filed January 30, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, from St. Joseph, MO., to points in the United States (except AK and HI). (Hearing site: Des Moines, IA or Kansas City MO.)

MC 107496 (Sub-1185F), filed January 30, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, in interestate or foreign commerce, over irregular routes, transporting *vegetable oil*, in bulk, from points in IA, to points in IL. (Hearing site: Des Moines, IA or Chicago, IL.)

MC 107496 (Sub-1186F), filed February 2, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, in interestate or foreign commerce, over irregular routes, transporting *liquid fertilizer*, in bulk, from Chaffee, MO., to points in AR, IL, KY, MO, and TN. (Hearing site: Des Moines, IA or Kansas City, MO.)

MC 112617 (Sub-420F), filed January 26, 1979. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interestate or foreign commerce, over irregular routes, transporting (1) *crude light oil of coal tar*, in bulk, in tank vehicles, from Hamilton and Middletown, OH, to Catlettsburg, KY, and (2) *petroleum, and petroleum products*, in bulk, in tank vehicles, from Catlettsburg, KY, to points in IN and OH. (Hearing site: Louisville, KY or Washington, DC).

MC 113408 (Sub-10F), filed February 1, 1979. Applicant: DOT LINES, INC., 1000 Findlay Road, Lima, OH 45802. Representative: Paul F. Beery, 275 E. State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automobile parts*, between Cleveland and Lima, OH, on the one hand, and, on the other, Louisville, KY. (Hearing site: Columbus, OH, or Washington, DC.)

MC 113666 (Sub-149F), filed January 29, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: D. R. Smetanick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *zinc, zinc oxide, zinc dust, lead sheet, metallic cadmium, zinc dross, zinc residue, and zinc skimmings, and* (2) *materials, equipment and supplies* used in the production of zinc and zinc oxide, between Josephtown, PA, on the one hand, and, on the other points in the United States (except AK and HI). (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 114457 (Sub-474F), filed February 1, 1979. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *containers, container closures, and materials* used in the manufacture and distribution of containers (except commodities in bulk), from Baltimore, MD and Chicago, IL, to Fort Madison, IA. (Hearing site: Baltimore, MD or St. Paul, MN.)

MC 115496 (Sub-114F), filed February 5, 1979. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31041. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *expanded utherthane panels and expanded plastic materials*, from Dallas , TX, and Greer, SC, to those points in the United States in and east of TX, AR, MO, IL, and WI. (Hearing site: Atlanta, GA, or Dallas, TX.)

MC 115826 (Sub-376F), filed January 25, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting (1) *foodstuffs*, from the facilities used by Miami Margarine Co., at or near Albert Lea, MN, to points in the United States, (except points in AK, HI, ME, MN, NH, ND, SD and VT), restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations; and (2) *meat, from Waterloo, IA, to points in NM. (Hearing site: Denver, CO.)*

MC 115826 (Sub-391F), filed February 4, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts*, and *articles* distributed by meat-packing houses, as described in section A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at or near Cedar Rapids, Cherokee, and Des Moines, IA, to points in CO, restricted to the transportation originating at the named facilities and destined to the indicated destinations. (Hearing site: Denver, CO.)

MC 117686 (Sub-239F), filed February 5, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chain saws, snow-throwers, garden equipment, lawn equipment, turf equipment*, and *golf course care equipment*, from the facilities of The Toro Company at or near (a) Windom, and Minneapolis, MN, and (b) Tomah, WI, to points in AL, AR, FL, GA, KY, LA, MN, NC, SC, and TN, restricted to the transportation of traffic originating at and destined to the named points. (Hearing site: Minneapolis, MN, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 119777 (Sub-354F), filed January 11, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85–East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, Ky 42431. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *roofing, shingles*, and (2) *accessories* for the commodities in (1) above from Stephens and Camden, AR, to points in AL, LA, OK, KY, MS, TN and TX. (Hearing site: Little Rock, AR or Memphis, TN.)

Note.—Dual operations may be involved.

MC 119777 (Sub-359F), filed February 5, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Box Drawer "L", Madisonville, Ky 42431. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *manganese ore, manganese oxide*, and *soil compounds*, from El Paso, TX, Rosiclare, IL, and Philadelphia, PA, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Houston or Dallas, TX.)

Note:—Dual operations may be involved.

MC 123407 (Sub-535F), filed February 1, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46838. Representative: H. E. Miller, Jr., (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *refrigerated ice dispensers*, in bags, *metal telephone booths, space heaters*, and *cooking stoves*, between Belleville and Evansville, IL, on the one hand, and, on the other, points in the United States (except AK, HI, and IL). (Hearing site: St. Louis, MO.)

MC 123407 (Sub-536F), filed February 5, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46838. Representative: H. E. Miller, Jr., (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *buildings* knocked down or in sections, and *building parts*, from Dallas, TX, to points in AR, AZ, KS, LA, MO, MS, NM, and OK. (Hearing site: Dallas, TX.)

MC 123407 (Sub-540F), filed February 1, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46838. Representative: H. E. Miller, Jr., (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *buildings*, from Houston, TX, to points in AR, LA, OK, WY, KS, MS, NM, AZ, CA, CO, WA, OR, and UT. (Hearing site: Houston, TX.)

MC 123407 (Sub-541F), filed February 5, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *construction materials*, and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of construction materials, between points in the United States (except AK and HI), restricted in (1) above to the transportation of traffic originating at the facilities of the Celotex Corporation, and restricted in (2) above to the transportation of traffic destined to the above named facilities. (Hearing site: Washington, DC, or Chicago, IL.)

MC 123407 (Sub-543F), filed February 1, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *buildings*, from Spanish Fork, UT, to points in the United States (except AK and HI). (Hearing site: Houston, TX.)

MC 123407 (Sub-545F), filed February 6, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum and zinc die castings, plastic injection moldings, doors* and *windows, and (2) materials* and supplies used in the manufacture and distribution of the commodities named in (1) above, (a) from St. Paul, MN, and Rice Lake and Turtle Lake, WI, to points in the United States (except LA, MS, AR, GA, NC, IL, IA, MO, and TN), and (b) from points in the United States (except LA, NY, MI, OH, PA, VA, MO, TN, and IL), to the origins in (a) above. (Hearing site: St. Paul, MN.)

MC 124236 (Sub-94F), filed February 5, 1979. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 1200 Simons Building, Dallas, TX 75201. Representative: Sam Hallman, 4555 First National Bank Building, Dallas, TX 75202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, from Pryor, OK, to points in AR. (Hearing site: Dallas, TX, or Tulsa, OK.)

MC 124887 (Sub-67F), filed February 1, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *refractories, magnesite, magnesite products, limestone, and limestone products*, from the facilities of Basic, Inc., at or near Maple Grove and Bettsville, OH, to points in TN, NC, SC, AL, FL, TX, VA and GA, and (2) *magnesite and magnesite products*, from Port St. Joe, FL, to those points in the United States in and east of ND, SD, NE, KS, OK and TX. (Hearing site: Jacksonville or Tallahassee, FL.)

MC 127187 (Sub-48F), filed February 5, 1979. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Blvd., Fergus Falls, MN 56537. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural chemicals* (except in bulk, in tank vehicles), from Great Falls, MT, (1) to points in CO, IA, ID, KS, MN, MO, NE, ND, OH, OR, SD, WA, and WI, and (2) to ports of entry on the international boundary line between the United States and Canada at points in MT. (Hearing site: Fargo, ND.)

MC 128616 (Sub-26F), filed February 6, 1979. Applicant: GELCO COURIER SERVICES, INC., P.O. Box 1975, St. Paul, MN 55111. Representative: Sally G. Galway (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commercial papers, documents*, and *written instruments*, as are used in the business of banks and banking institutions, (except currency and negotiable securities), (1) between

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those points in IN on and south of U.S. Hwy 40 and points in Jefferson and Daviess Counties, KY, and (2) between Cincinnati, OH, on the one hand, and, on the other points in KY, under continuing contract(s) with banks and banking institutions. (Hearing site: Louisville, KY, or Indianapolis, IN.)

MC 133566 (Sub-129F), filed February 5, 1979. Applicant: GANGLOFF & DOWNHAM TRUCKING COMPANY, INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts*, and *articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities used by Fischer Packing Co., a subsidiary of Wilson Foods Corporation, at Louisville, KY, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 133566 (Sub-130F), filed February 5, 1979. Applicant: GANGLOFF & DOWNHAM TRUCKING COMPANY, INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt liquor*, from Trenton, NJ, to points in MI, IL, IN, TN, OH, KY, IA, MN, WI, NE, KS, MO, GA, and FL. (Hearing site: New York, NY.)

MC 134288 (Sub-94F), filed February 5, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of Vlassic Foods, Inc., at or near Memphis, Bridgeport, and Imlay City, MI, to points in ND, SD, NE, KS, NM, IA, MO, WI, IL, IN, OH, MI, PA, A and NY. (Hearing site: Sioux City, IA, or Denver, CO.)

MC 134477 (Sub-323F), filed February 2, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicles, in interstate or foreign commerce, over irregular routes, transporting *cleaning and washing compounds, buffing and polishing compounds, textile softener, lubricants, hypochlorite solution, deodorants, disinfectants, paints, plastic bags*, and *filters*, (except commodities in bulk), from the facilities of Economics Laboratory, Inc. at or near Joliet, IL, to points in CO, IA, MO, NE, and SD. (Hearing site: St. Paul, MN.)

MC 135797 (Sub-178F), filed February 5, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pallets*, from Fayetteville, AR, to points in IA, KS, MO, OK, and TX. (Hearing site: Little Rock, AR.)

MC 136786 (Sub-147F), filed February 5, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Avenue, Des Moines, IA 50321. Representative: William L. Libby, 7525 Mitchell Road, Eden, Prairie, MN 55343. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products, and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (2) *foodstuffs* (except the commodities described in (1) above), in mixed loads with the commodities named in (1) above, from the facilities of Oscar Mayer & Co., Inc., at (a) Beardstown, IL, and (b) points in IA, to points in PA, NJ, NY, NC, MD, SC, and VA. (Hearing site: Minneapolis, MN, or Madison, WI.)

MC 138946 (Sub-12F), filed February 1, 1979. Applicant: MARKET TRANSPORT, LTD., 33 NE Middlefield Road, Portland, OR 97211. Representative: Mick I. Goyak, 555 Benjamin Franklin Plaza, One SW Columbia, Portland, OR 97528. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *empty containers*, from Portland and Beaverton, OR, to Winters, CA, under continuing contract(s) with Columbia Distributing Co. Maletis, Inc., and Portland Distributing Co., both of Portland, OR. (Hearing site: Portland, OR, or San Francisco, CA.)

Note.—Dual operations may be involved.

MC 139006 (Sub-6F), filed February 1, 1979. Applicant: RAPIER SMITH, R. R. 5, Loretto Road, Bardstown, KY 40004. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wooden barrels*, (1) between Pekin, IL, and Overpeck, OH, (2) from Lebanon, KY, to Tullahoma, TN, and (3) from Tullahoma, TN, to points in KY. (Hearing site: Cincinnati, OH.)

MC 140277 (Sub-10F), filed February 2, 1979. Applicant: VAN ZEE EXPRESS, LTD., 1612 North Cliff, Sioux Falls, SD 57103. Representative: M. Mark Menard, P.O. Box 480, Sioux Falls, SD 57101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bags, envelopes, packets, pouches, wrappers and bag ties*, from Sioux Falls, SD, to Baltimore, MD, South Plainfield, NJ and points in Kansas and Oklahoma, under continuing contract(s) with American Western Corporation of Sioux Falls, SD. (Hearing site: Sioux Falls, SD or Sioux City, IA.)

MC 140717 (Sub-13F), filed January 25, 1979. Applicant: JULIAN MARTIN, INC., P.O. Box 3348 (Highway 25 West), Batesville, AR 72501. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and articles distributed by meat packing houses as defined* in Sections A and C of Appendix I to the report in the *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodites in bulk), from the facilities of Swift & Co. at (a) Rochelle and St. Charles, IL; (b) Glenwood, Des Moines, Marshalltown and Sioux City, IA; and (c) Grand Island, NE, to points in CA, AZ, UT, OR, WA and NV, under continuing contracts with Swift & Co. of Chicago, IL. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 141167 (Sub-6F), filed January 25, 1979. Applicant: LANGDON TRANSPORTATION, INC., 5202 Industry Avenue, Pico Rivera, CA 90660. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. To operate as a *contract carrier, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting (1) plastic articles* (except commodities in bulk), from the facilities of Amoco Container Company, at La Mirada, CA, to points in the United States (except AK, CA and HI); (2) *materials, equipment and supplies*, used in the manufacture of the commodities named in (1) above, (except commodities in bulk and those requiring special equipment), (a) between the facilities of Amoco Container Company, at La Mirada, CA, Orlando, FL, Monroe, GA, Seymour, IN, Mora and St. Paul, MN, Langhorne, PA, Beech Island, SC, and Chippewa Falls, WI; and (b) from Tarpon Springs, FL, New Hyde Park, NY, Greer, SC, and Arlington, TX, to the facilities of Amoco Container Company, at La Mirada, CA, all of the services in (1) and (2) above to be performed under continuing contract(s) with Amoco Container Company at La Mirada, CA. (Hearing: Los Angeles, CA.)

MC 142857 (Sub-3F), filed February 5, 1979. Applicant: MCC TRANSPORTATION CO., INC., 1311 West Seventh Street, Little Rock, AR 72201. Representative: Mark J. Andrews, Suite 1000, 1660 L Street, NW, Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, (1) *unfrozen bakery products*, from the facilities of Meyer's Bakeries, Inc., at or near Blytheville and Hope, AR, to points in the United States (except AK and HI), and (2) *equipment, materials*, and *supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk) and flour, in bulk, in the reverse direction, under continuing contract(s) with Meyer's Bakeries, Inc., of Little Rock, AR. CONDITION: Prior or coincidental cancellation at applicant's written request of permit in MC-142857 Sub 1 issued December 18, 1977. (Hearing site: Washington, DC, or Little Rock, AR.)

MC 143267 (Sub-48F), filed January 22, 1979. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic drain channels and gratings* for plastic drain channels, from the facilities of ACO Drain Incorporated at or near Chardon, OH, to those points in the United States in and east of MN, IA, MO, KS, OK, and TX. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 143616 (Sub-15F), filed February 2, 1979. Applicant: M & S TRANSPORT LINES, INC., P.O. Box 417, Sultana, CA 9366. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wire and steel coil*, from Hope, AR, to points in the United States (except AK, HI, and AR), under continuing contract(s) with Hope Wire Products of Hope, AR. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 143616 (Sub-16F), filed February 2, 1979. Applicant: M & S TRANSPORT LINES, INC., P.O. Box 417, Sultana, CA 93666. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting materials and supplies used in the manufacture of tractor trailer hitches, (except commodities in bulk), between points in the United States under continuing contract(s) with (1) Holland Pacific Hitch Company of Milpitas, CA, (2) Holland Hitch Company, (3) Holland Hitch Forwarding Company, (4) Holland Atlant Hitch Company, (5) Holland Hitch of Texas Company, (6) Holland Wire Products Company, (7) Holland Hitch of Canada Company, and (8) Holland Hitch R.V.E. Condition: Applicant must submit additional evidence on its status as a contract carrier under the criteria set forth in Ex Parte No. MC-119 *Policy Statement Regarding the "Rule of Eight"* in contract carrier applications served January 8, 1979. (Hearing site: San Francisco, CA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 144117 (Sub-29F), filed February 5, 1979. Applicant: T. L. C. LINES, INC., 1666 Fabick Drive, P.O. Box 1090, Fenton, MO 63026. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except frozen foods, and commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Hershey Chocolate Company, Div. of Hershey Foods Corp., at Derry Township, (Dauphin County) PA, and the facilities of Y & S Candies, Inc. at East Hempfield Township, (Lancaster County) PA, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Pittsburgh or Philadelphia, PA.)

MC 144716 (Sub-1F), filed February 1, 1979. Applicant: M. D. NELSEN, d.b.a. NELSEN TRANSPORTATION COMPANY, Newman Grove, NE 68758. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Norfolk Iron & Metal Company, at or near Norfolk, NE, to points in CO, IL, IN, IA, KS, MI, MN, MO, MT, ND, OK, SD, UT, WI, and WY. (Hearing site: Omaha, NE.)

MC 145317 (Sub-3F), filed February 1, 1979. Applicant: QUALITY SERVICE TANK LINES, INC., 9022 Perrin Beitel, San Antonio, TX 78217. Representative: Charles E. Munson, 500 West Sixteenth St., P.O. Box 1945, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, in bulk, from points in Nueces County, TX, to points in LA, AR, and OK. (Hearing site: Corpus Christi or Dallas, TX.)

MC 145837 (Sub-2F), filed February 1, 1979. Applicant: WIRT TRANSPORT CO., 400 Martin Street, Bay City, MI 48706. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fly ash*, from the facilities of the Consumers Power Company at Essexville, West Olive, Erie, Lansing and Muskegon, MI, to points in IL, IN, and OH, under continuing contract(s) with Consumers Power Company of Jackson, MI. (Hearing site: Washington, DC, or Chicago, IL).

MC 145877 (Sub-1F), filed January 26, 1979. Applicant: DAVID L. HUSTED, d.b.a. COMMUNITY CAB COMPANY, 709½ N. Mead St., St. Johns, MI 48879. Representative: David L. Husted (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automotive parts*, between the facilities of Federal Mogul Corp. at St. Johns, MI, on the one hand, and, on the other, points in OH, IN, IL, IA, and MI, under a continuing contract(s) with Federal Mogul Corp. of St. Johns, MI. (Hearing site: Lansing, MI or Detroit, MI.)

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MC 146177 (Sub-2F), filed February 2, 1979. Applicant: DEAN W. KRUIZE, d.b.a. KRUIZE TRUCKING, Route #1, Sibley, IA 51249. Representative: Edward A. O'Donnell, 1004—29th Street, Sioux City, IA 51104. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed and feed ingredients*, from the facilities of Farmland Industries, Inc., at or near Corson, SD, to the facilities of Farmers Co-Op Elevator of Sibley, at or near Sibley, IA, under continuing contract(s) with Farmers Co-Op Elevator of Sibley, IA.

[Decision Volume No. 45]

[FR Doc. 79-14241 Filed 5-4-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 89.

Monday, May 7, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

[M-216 Amdt. 2; May 2, 1979]

Notice of deletion of item from the May 3, 1979 meeting agenda.

TIME AND DATE: 10 a.m., May 3, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 3. Docket 35083, Exemption application of Deutsche Lufthansa Aktiengesellschaft (BIA, OGC, BPDA, BLJ).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: BIA's proposed draft order would have granted Lufthansa and exemption and delineated a policy on 402 exemptions for future application. Since the policy statement should receive more thorough consideration than the timing of the Lufthansa item would allow, Item 3 should be deleted from the May 3, 1979 agenda. Lufthansa's exemption—without a policy statement—was granted by BIA under delegated authority since existing policy affecting it is clear. The proposed 402 exemption policy will be sent to the Board in a few days, as an information memorandum. Accordingly, the following Members have voted that agency business requires the deletion of Item 3 to the May 3, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

[S-904-79 Filed 5-3-79; 3:35 pm]

BILLING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD.

[M-216 Amdt. 3: May 2, 1979]

Notice of deletion of item from the May 3, 1979 meeting agenda.

TIME AND DATE: 10 a.m., May 3, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 13. Docket 29789, Houston/New Orleans-Yucatan Route Proceeding (memo 6382-F., OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 13 is being deleted from the May 3, 1979 agenda because Chairman Cohen needs additional time to review the case. Accordingly, the following Members have voted that agency business requires the deletion of Item 13 to the May 3, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

[S-905-79 Filed 5-3-79; 3:35 pm]

BILLING CODE 6320-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

TIME AND DATE: 10 a.m., Wednesday, March 28, 1979.

LOCATION: Room 456, Westwood Tower, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the public—

Matters To Be Discussed

1. *Benzidine Dyes: Petition CP 79-1.*—The staff will brief the Commission on issues related to the possible carcinogenicity of certain benzidine-type dyes. In November, 1978, Artist Craftsmen of New York, Inc. and others, petitioned the Commission to ban benzidine-type dyes. The Commission plans to consider this petition at its April 5 meeting.

2. *Briefing on Chain Saw Voluntary Standard Development.*—The staff will brief the Commission on the status of efforts by the Chain Saw Manufacturers Association to develop a voluntary safety standard to address risks associated with "kickback" of chain saws. The Commission has been participating in CSMA's standards development process.

3. *Briefing on Teratology Project.*—The staff will brief the Commission on possible teratological reproductive problems associated with room deodorizers and room odorizers.

Agenda approved March 16, 1979.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, suite 300, 1111 18th Street NW., Washington, D.C. 20207 (202) 634-7700.

[S-888-79 Filed 5-3-79; 8:58 am]

BILLING CODE 6355-01-M

4

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda [1]

TIME AND DATE: 9:30 a.m., Thursday, March 29, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public—

Matters To Be Discussed

1. *Television Receivers: Fire Containment.*—In November, 1977, the commission terminated part of its standards development proceeding for television receivers. At that time, the Commission also extended until April 30, 1979 the time for developing a safety standard addressing fire hazards associated with televisions or withdrawing the proceeding. At this meeting, the Commission will consider extending the development time in order for the staff to continue its examination of subpoenaed data on televisions.

2. *Asbestos.*—The staff and Commission will discuss information which CPSC has on asbestos, as well as information on the actions other agencies are taking. In July, 1977, the Commission granted, in part, a petition in which the Health Resource Group asked the Commission to take action on certain asbestos containing products. At this meeting, the Commission will consider the other portions of that petition, HP 77-9.

In addition, based on new information it has received, the Commission will discuss the obtaining of further information on asbestos that may be present in some hand-held hair dryers.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts,

[1] Agenda approved March 16. Agenda revised March 27, with the addition of the second paragraph of Item 2.

Assistant Secretary, suite 300, 1111, 18th Street NW., Washington, D.C. 20207 (202) 634–7700.

[S–884–79 Filed 5–3–79; 8:58 am]
BILLING CODE 6355–01–M

5

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda [1]

TIME AND DATE: 2 p.m., Friday, March 30, 1979.

LOCATION: Eight floor conference room, 1111 18th Street NW., Washington, D.C.

STATUS: Closed to the public—

Carcinogen Policy Litigation

The staff and Commission will continue their discussion of issues related to this case, *Dow Chemical* v. *CPSC* (Civil Action 78–1166, W.D. La., 1979). The Commission held other meetings on this matter March 1, 7, 15 and 22, closed under exemption 10: litigation).

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, assistant Secretary, suite 300, 1111, 18th Street NW., Washington, D.C. 20207 (202) 634–7700.

[S–885–79 Filed 5–3–79; 8:45 am]
BILLING CODE 6355–01–M

6

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda [1]

TIME AND DATE: Commission briefing, 10 a.m., Wednesday, April 4, 1979.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Part open, part closed—A. Open to the public:

Matters To Be Discussed

1. *Briefing on Emerging Hazards: Home Wiring Systems.*—The staff will brief the Commission on its recommendation that the Commission establish a priority project on the hazards of residential fires associated with electrical wiring or components.

B. Closed in part to the public—Open in part:

2. *Briefing on Benzene Ban.*—In May, 1978, the Commission proposed to ban benzene as an ingredient or contaminant in consumer products. At this meeting, the staff will brief the Commission on options for Commission action on the proposal. The Commission has voted to close portions of this briefing under exemption 9: possible significant frustration of agency action.

[1] Agenda approved March 23, 1979. Time changed March 29, from 10 a.m. to 2 p.m.

[1] Agenda approved march 23, 1979. Agenda revised march 30 to change the order of the items, and to close portions of the Benzene Ban discussion.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, suite 300, 1111, 18th Street NW., Washington, D.C. 20207 (202) 634–7700.

[S–886–79– Filed 5–3–79; 8:58 am]
BILLING CODE 6355–01–M

7

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda [1]

TIME AND DATE: 9:30 a.m., Thursday, April 5, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

Matters To Be Discussed

1. *Possible Substantial Product Hazard: Crib Rails, ID 78–92, –98, and –99.*—The staff has recommended that the Commission accept and monitor the corrective action plans in this matter involving possible hazards associated with plastic teething rails for cribs. The corrective action has been implemented by Okla Homer Smith Furniture, the manufacturer, and by Sears, Roebuck & Co. and Montgomery Ward & Co., who sold the cribs.

2. *Possible Substantial Product Hazard: Bench Grinders, ID 78–78, –110, –111, –112, and –113 (OS 646).*—The staff has recommended that the Commission accept and monitor the corrective action plans in this matter involving certain six-inch bench grinders manufactured by McGraw-Edison, and sold by Montgomery Ward & Co., J. C. Penney, Inc., K-Mart Corp., and Western Auto.

3. *Possible Substantial Product Hazard: Refrigerator/Freezer Defrost Timers, ID 79–1, and –4.*—The staff has recommended that the Commission accept and monitor the corrective action plans in this matter involving a possible shock hazard associated with certain timers for refrigerator/freezers. Mallory manufactured the timers, which are used in refrigerator/freezers sold by Sears, Roebuck & Co.

4. *Possible Substantial Product Hazard: Automatic Fire and Burglar Control Corp., fire and burglar alarm, ID 78–11 (OS 643).*—The staff has recommended that the Commission accept and monitor the corrective action plan meant to correct a possible fire hazard associated with certain fire and burglar alarms manufactured by this firm.

5. *Final PPPA Exemption: Cholestyramine.*—In February, 1974, the Commission proposed to exempt anhydrous cholestyramine in powder form from child-resistant packaging requirements of the Poison Prevention Packaging Act. At that time, the Commission also stayed the special packaging requirement for the drug. At this meeting, the Commission will consider a final exemption for the drug.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Office of the Secretary, suite 300, 1111 18th Street NW., Washington, D.C. 20207, (202) 634–7700.

[S–887–79 Filed 5–3–79; 8:58 am]
BILLING CODE 6355–01–M

8

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda [1]

TIME AND DATE: 9:30 a.m., Wednesday, April 11, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Part open, part closed—A. Open to the public.

Matters to be Considered

1. *Briefing on Export Regulation.*—The staff will brief the Commission on a proposed regulation to implement requirements for notifying the Commission before export of items that do not comply with CPSC standards and regulations. The staff and Commission will discuss the possible need to reconsider existing Commission policies in light of the Commission's reauthorization act of 1978, and in light of possible formulation of a government-wide policy on the export of noncomplying items.

2. *Briefing on Asbestos in Hair Dryers.*—The staff will report to the Commission on the status of actions it is taking with regard to possible hazards associated with asbestos in hand-held hair dryers. The staff met with manufacturers and retailers of hair dryers in a public meeting April 5.

B. Closed to the public.

3. *Briefing on Civil Penalty Matter,* Case Project No. 782218; CA 79–9.—The staff will brief the Commission on actions it proposes to take on this enforcement matter. Closed under exemption 10: possible civil action.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, suite 300, 1111 18th Street NW., Washingon, D.C. 20207 (202) 634–7700.

[S–888–79 Filed 5–3–79; 8:58 am]
BILLING CODE 6355–01–M

[1] Agenda approved March 30. Revised April 10, with the deletion of the Briefings on a Uniform Safety Alert Symbol, and the addition of the Briefings on Asbestos in Hair Dryers, and on the Civil Penalty Matter. In voting to add these item, the Commission determined that agency business requires consideration of the items without seven days advance notice.

9

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda [1]

TIME AND DATE: 9:30 a.m., Thursday, April 12, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

Matters to be Discussed

1. *Emerging Hazards: Home Wiring Systems.*—The Commission will consider a staff recommendation that it establish a priority project on the hazards of home fires associated with electrical wiring or components. The staff briefed the Commission on this matter on April 4.

2. *CB Antennas.*—The Commission will consider issues related to a possible standard for Citizens' Band base-station antennas and television antennas. In June, 1978, the Commission issued labeling regulations to warn of possible electrocution hazards associated with these antennas. The staff briefed the Commission on this matter February 28, 1979.

3. *Benzene Ban.*—In May, 1978, the Commission proposed to ban benzene as an ingredient or contaminant in consumer products. At this meeting, the Commission will consider options for actions on that proposal. The staff briefed the Commission on this matter April 4.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, suite 300, 1111 18th Street NW., Washington, D.C. 20207 (202) 634–7700.

[S–889–79 Filed 5–3–79; 8:58 am]
BILLING CODE 6355–01–M

10

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, April 18, 1979.

LOCATION: Third floor hearing room 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

Matters To Be Discussed

1. *Briefing on Boston Burn Demonstration Project.*—CPSC staff and staff from Project Burn Prevention will brief the Commission on Phase III of a four-year study meant to reduce the burn injury rate in Boston through an experimental program designed to promote preventive and emergency behavior.

2. *Briefing on Status of Older Projects.*—The staff will brief the Commission on its analysis of older, non-priority projects not on the Commission's Operating Plan, and will make recommendations for realigning the list of projects under CPSC consideration.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, suite 300, 1111 18th Street NW., Washington D.C. 20207 (202) 634–7700.

Agenda approved April 10, 1979.

[S–890–79 Filed 5–3–79; 8:58 am]
BILLING CODE 6355–01–M

[1] Agenda approved March 30, 1979; revised April 3 to add item on CB Antennas (previously scheduled for April 5).

11

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda [1]

TIME AND DATE: Commission meeting, 9:30 a.m., Thursday, April 19, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Part open, part closed—A. Open to the public.

Matters To Be Discussed

1. *Export Regulation.*—The Commission and staff will discuss implementation of requirements for notifying the Commission before export of items that do not comply with CPSC standards and regulations. The Commission will also consider the possible need to reexamine existing policies in light of the Commission's 1978 Reauthorization act, and in light of possible formulation of a government-wide policy on the export of noncomplying items. The staff briefed the Commission on this matter April 11.

2. *Hair Dryers/Asbestos: Status Briefing.*—The staff will report to the Commission on the status of actions it is taking with regard to posssible hazards associated with asbestos in hand-held hair dryers.

B. Partly open, partly closed to the public.

3. *Amusement Ride Activities: Summer of 1979.*—The staff will brief the Commission on actions the staff plans to take during the summer of 1979 to help reduce injuries associated with amusement rides. The staff will also discuss issues related to ongoing litigation involving amusement rides; This latter portion will be closed to the public (closed under exemption 10: litigation).

C. Closed to the public.

4. *Aluminum Wiring Litigation.*—The staff and Commission will discuss legal issues related to this case involving aluminum wiring (*CPSC* v *Anaconda,* Civil Action #78–1054 and 78–1070, DC Cir.). Closed under exemption 10: litigation.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary. Office of the Secretary, suite 300, 1111 18th Street NW., Washington, D.C. 20207 (202) 634–7700.

[S–891–79 Filed 5–3–79; 8:58 am]
BILLING CODE 6355–01–M

[1] Agenda approved April 10, 1979. Agenda revised April 13, with the addition of items 2 and 3. Agenda revised April 17 with the addition of item 4. In adding these items, the Commission determined that agency business requires considering these matters without seven days advance notice.

12

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 9:30 a.m. (10 a.m., April 27), Wednesday, April 25, Thursday, April 26, and Friday, April 27 (if needed).

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

Matters To Be Discussed

Operating Plan.—The Commission and staff will discuss issues related to CPSC's Operating Plan for Fiscal Year 1980.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, suite 300, 1111 18th Street NW., Washington, D.C. 20207 (202) 634–7700.

Agenda approved April 13, 1979.

[S–892–79 Filed 5–3–79; 8:58 am]
BILLING CODE 6355–01–M

13

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda [1]

TIME AND DATE: 10 a.m., Thursday, May 3, 1979.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the public.

Matters To Be Considered

1. *Hair Dryers/Asbestos.*—The staff will report to the Commission on the status of actions it is taking to deal with possible hazards associated with asbestos in hand-held hair dryers.

2. *Operating Plan.*—The Commission and staff will discuss the Evaluation Program, as part of the continuing consideration of CPSC's Operating Plan for Fiscal Year 1980. The Commission previously discussed the Operating Plan at meetings on April 25, 26 and 27.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, suite 300, 1111 18th Street NW., Washington, D.C. 20207 (202) 634–7700.

[S–893–79 Filed 5–3–79; 8:58 am]
BILLING CODE 6355–01–M

14

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, May 3, 1979.

[1] Agenda revised April 30 to add item 1. The Commission previously revised the agenda April 27, by deciding to consider the Operating Plan at this meeting, rather than considering the previously-scheduled Selection of Toxicological Advisory Board (TAB) members, which will be rescheduled.

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PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting following the special open meeting.

MATTER TO BE CONSIDERED:

Agenda, Item Number, and Subject

General—1—Proposed agreement between the United States and Mexico concerning the use of the frequencies in the 470–512 and 806–890 MHz bands for land mobile purposes along the U.S./Mexican border.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: May 2, 1979.

[S–805–79 Filed 5–3–79; 10:55 am]

BILLING CODE 6712–01–M

15

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, May 8, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTER TO BE CONSIDERED:

Agenda, Item Number, and Subject

Broadcast—1—Notice of Inquiry concerning Deregulation of Commission Rules.

Broadcast—2—Notice of Proposed Rulemaking concerning Derregulation of Large Radio Markets.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: May 2, 1979.

[S–0712–01 Filed 5–3–79; 10:55 am]

BILLING CODE 6712–01–M

16

FEDERAL ELECTION COMMISSION

DATE AND TIME: 10 a.m., Thursday, May 10, 1979.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory opinions:

Draft AO 1979–13 A. Pearce Godley, Chairman, Raymond International, Inc., Employees Political Action Committee (RayPAC).

Draft AO 1979–14 H. K. Hawkins, State Chairman, American Party in Georgia.

1980 Elections and related matters.
Pending Legislation: Response to request from Senate Rules Committee re S. 623.
Ethics in Government Act: Proposed procedures disclosure reports FEC personnel (continued from May 3, 1979).
Budget execution report.
Appropriations and budget.
Response to Senate Rules and Administration request on authorization.
Classification actions.
Routine administrative matters.

Portions closed to the public

(following open session).

Compliance, litigation, personnel, labor/management relations, audits continued from the meetings of April 11, 19, 25, 26, and May 3.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, 202–523–4065.

[S–803–79 Filed 5–3–79; 3:31 pm]

BILLING CODE 6715–01–M

17

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., May 9, 1979.

PLACE: Hearing room A, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary (202) 275–4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda however, all public documents may be examined in the Office of Public Information.

Power Agenda—291st Meeting, May 9, 1979, Regular Meeting (10 a.m.)

CAP–1. Docket No. ER79–213, Public Service Co. of Indiana.
CAP–2. Docket No. ER78–186, Pacific Gas & Electric Co.
CAP–3. Docket No. ER79–258, Duke Power Co.
CAP–4. Docket Nos. ER78–828 and EL78–18, Nantahala Power & Light Co., et al.
CAP–5. Docket No. ER78–515, The Montana Power Co.
CAP–6. Docket No. ER78–388, Missouri Power & Light Co.
CAP–7. Docket No. ER78–76, Southern Co. Services, Inc.
CAP–8. Docket No. ER78–522, Virginia Electric & Power Co.
CAP–9. Docket No. ES79–30, Interstate Power Co.
CAP–10. Project No. 2800, Lawrence Hydroelectric Associates and Essex Co.

Miscellaneous Agenda—291st Meeting, May 9, 1979, Regular Meeting

CAM–1. Docket No. RA79–24, Exxon Co. U.S.A.
CAM–2. Docket No. RO79–13, Chester P. Dolley & Atlantic Oil Co.
CAM–3. Docket No. RA79–19, Lundry-Thagard Oil Co.
CAM–4. Docket No. RA79–13, Martin Exploration Co.

Gas Agenda—291st Meeting, May 9, 1979, Regular Meeting

CAG–1. Docket No. RP75–98, McCulloch Interstate Gas Corp.
CAG–2. Docket No. RP73–3 (PGA 77–3a) and RP73–3 (PGA 78–3), Transcontinental Gas Pipe Line Corp.
CAG–3. Docket No. RP79–64, Florida Gas Transmission Co.
CAG–4. Docket Nos. RP79–53 and RP79–54, Arkansas Louisiana Gas Co.; Docket No. RP79–42, Columbia Gas Transmission Corp.; Docket No. RP79–47, Consolidated Gas Supply Corp.; Docket No. RP79–37, El Paso Natural Gas Co.; Docket No. RP79–35, Florida Gas Transmission Co.; Docket No. RP79–43, Michigan Wisconsin Pipe Line Co.; Docket No. RP79–32, Mid Louisiana Gas Co.; Docket No. RP79–38, Natural Gas Pipeline Co. of America; Docket No. RP79–41, Northern Natural Gas Co.; Docket No. RP79–34, Panhandle Eastern Pipe Line Co.; Docket No. RP79–45, Sea Robin Pipeline Co.; Docket No. RP79–48, Southern Natural Gas Co.; Docket No. RP79–52, Tennessee Gas Pipeline; Docket No. RP79–40, Texas Eastern Transmission Corp.; Docket No. RP79–31, Texas Gas Transmission Corp.; Docket No. RP79–33, Trunkline Gas Co.; Docket No. RP79–46, Transcontinental Gas Pipe Line Corp.; Docket No. RP79–44, United Gas Pipe Line Co.
CAG–5. Docket No. RP77–98, Natural Gas Pipeline Co. of America.
CAG–6. Docket No. AR64–2, Texaco, Inc. & Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
CAG–7. Docket Nos. CS76–64, et al., B. S. Phillips, et al.
CAG–8. Docket No. CI78–816, Exxon Corp.
CAG–9. Docket No. CI79–91, Texas Gas Exploration Corp.
CAG–10. Docket Nos. CS71–181 et al., Herman Lang (Herman Lang & Raymond Brown d.b.a. L & B Oil & Gas Co., et al.).
CAG–11. Docket Nos. CI61–1621 et al., Prosper Energy Corp. et al.
CAG–12. Docket No. G–11809, Marathon Oil Co. (Operator) et al.
CAG–13. Docket No. CP79–179, Columbia Gulf Transmission Co.
CAG–14. Docket No. CP79–42, SBA Robin Pipeline Co. & Transcontinental Gas Pipeline Corp.
CAG–15. Docket No. CP79–157, Great Lakes Gas Transmission Co.
CAG–16. Docket No. CP77–383 (phase II), Panhandle Eastern Pipe Line Co.; Docket No. CP77–423 (phase II), Colorado Interstate Gas Co.; Docket No. CP79–19, Mountain Fuel Supply Co.
CAG–17. Docket No. CP77–241, Bluebonnet Gas Corp.
CAG–18. Docket No. CP79–189, Michigan Wisconsin Pipeline Co. and Trunkline Gas Co.
CAG–19. Docket No. CP79–78, Panhandle Eastern Pipe Line Co. & Trunkline Gas Co.
CAG–20. Docket No. CP78–45. Transcontinental Gas Pipe Line Corp.

Power Agenda—292nd Meeting, May 9, 1979, Regular Meeting

I. Licensed project matters

P–1. Project No. 516 and Docket No. E–7791, South Carolina Electric & Gas Co.
P–2. Project No. 2808, Maine Hydroelectric Development Corp.

II. Electric rate matters

ER–1. Docket No. ER79–70, Detroit Edison Co.
ER–2. Docket No. ER79–150, Southern California Edison Co.
ER–3. Docket No. ER79–97, Tuscon Gas & Electric Co.

Miscellaneous Agenda—292nd Meeting, May 9, 1979, Regular Meeting

M–1. Docket No. RM79–6, Procedures governing the collection and reporting of information associated with the cost of providing electric service.
M–2. Proposed rulemaking for calculation of the working cash component of working capitol allowance for electric utilities.
M–3. Reserved.
M–4. Reserved.
M–5. Docket No. RM79–5, Proposed rule of energy relating to protection of essential agricultural uses from curtailment of natural gas deliveries by interstate pipeline.
M–6. Docket No. RM79–21, Regulations inplementing the alternate fuel cost ceiling on incremental pricing under the Natural Gas Policy Act of 1978.
M–7. Report of the Alaskan Delegate on the system design inquiry.

Gas Agenda—292nd Meeting, May 9, 1979, Regular Meeting

I. Producer Matters

CI–1. Docket No. CS78–509, J. Walter Duncan Jr., et al.

Kenneth F. Plumb,
Secretary.

[S–806–79 Filed 5–3–79; 11:07 a.m.]

BILLING CODE 6450–01–M

18

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published April 30, 1979; 44 FR 25351.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m. May 2, 1979.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number and Company

CP–5. CI75–45 *et.al.*, Tenneco Oil Co. et al.

Kenneth F. Plumb,
Secretary.

[S–889–79; Filed 5–3–79; 11:07 am]

BILLING CODE 6450–01–M

19

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., May 3, 1979.

PLACE: 1700 G Street NW., Sixth floor, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202–377–6677).

MATTERS TO BE CONSIDERED: Consideration of 1978 W–2 Distribution.

Announcement is being made at the earliest practicable time.

No. 235, May 3, 1979.

[S–802–79 Filed 5–3–79; 2:50 pm]

BILLING CODE 6720–01–M

20

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: April 27, 1979; 44 FR 21954.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., May 3, 1979.

CHANGE IN THE MEETING: Addition of the following item to the open session:

9. Proposed domestic tariff circular letter.

[S–882–79 Filed 5–3–79; 8:56 am]

BILLING CODE 6730–01–M

21

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: May 2, 3, and 10, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open and closed (changes).

MATTERS TO BE CONSIDERED:

Wednesday, May 2; 1:00 p.m.

1. The meeting titled "Discussion of Upgrade Rule and Supporting Guidance" was postponed. The meeting titled "Discussion of S–3 Rulemaking" was delayed from 10:30 a.m. to 1:30 p.m.

Thursday, May 3; 9:30 a.m.

1. The briefing on Offsite Radiation Levels at Three Mile Island and Interagency Radiological Assistance Program will begin at 9:30 a.m. instead of 10:30 a.m. as previously announced.

2. At 10:30 a.m., the Commission will hold a briefing on Status of of Maine Yankee—Actions Required by Show Cause Order of 3/13/79 (approximately 1 hour, public meeting).

Thursday, May 3; 1:30 p.m.

1. Continuation of discussion of S–3 Rulemaking (approximately 1½ hours, public meeting).

2. Discussion of format for Executive Branch Analysis (approximately 1 hour, public meeting—portions will be closed—Exemption 1). (Rescheduled from 10:30 a.m.)

Thursday, May 10; 2:00 p.m.

1. Discussion of actions related to Three Mile Island (approximately 2½ hours, public meeting).

Additional Information

The Commission voted 5–0 on April 30, that pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business required that the Discussion of S–3 Rulemaking, held on May 2, be held on less than one week's notice to the public. Prompt discussion was required to permit consideration of this important issue.

CONTACT PERSON FOR MORE INFORMATION: Roger Tweed (202) 634–1410.

Roger M. Tweed,
Office of the Secretary.

[S–800–79 Filed 5–3–79; 1:42 pm]

BILLING CODE 7590–01–M

22

OVERSEAS PRIVATE INVESTMENT CORPORATION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S–817–79 Filed 4–25–79; 12:25 p.m.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., Tuesday May 1, 1979.

CHANGE IN THE MEETING: Additional Agenda Item for the Open Session.

The Chairman of the OPIC Board is, ex officio, the Administrator of AID. Due to the resignation of Governor John J. Gilligan, AID Administrator and the anticipated interim period prior to the nomination and confirmation of a succeeding AID Administrator, it will be necessary to designate an Acting Chairman of the OPIC Board to perform certain official duties. Accordingly, the OPIC Board appoved the designation of

the Honorable J. Bruce Llewellyn, President of OPIC, as Acting Chairman of the OPIC Board, until the assumption of office by the Chairman, ex officio. This action was taken during the meeting of May 1, 1979 with no opportunity for prior notification.

CONTACT PERSON FOR MORE INFORMATION: Elizabeth A Burton, Corporate Secretary, 202–632–1839.

Elizabeth A. Burton,

May 1, 1979.

[S–901–79 Filed 5–3–79; 2:44 pm]

BILLING CODE 3210–01–M

23

PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Thursday, May 3, 1979, at 9:30 a.m.

PLACE: Room 828, 320 First Street, N.W., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTER TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 15 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: A. Ronald Peterson, Analyst; (202) 724–3094.

[S–897–79 Filed 5–3–79; 10:56 am]

BILLING CODE 4410–01–M

24

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [44 FR 24692 April 28, 1979].

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, April 23, 1979.

CHANGES IN MEETING: Additional item.

The following additional item was considered at a closed meeting held on Wednesday, May 2, 1979, at 4:30 p.m.

Regulatory matter regarding financial institution.

Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

May 2, 1979.

[S–894–79 Filed 5–3–79; 9:25 am]

BILLING CODE 8010–01–M

Reader Aids

Federal Register

Vol. 44, No. 89

Monday, May 7, 1979

INFORMATION AND ASSISTANCE

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

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12411 3–7–79 / Entry of certain articles of steel; documents and information required

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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(Revised as of October 1, 1978)

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_____	Title 42—Public Health (Parts 400 to End)	$5.50	$_____
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_____	Title 46—Shipping (Parts 30 to 40)	3.25	_____
_____	Title 46—Shipping (Parts 156–165)	4.25	_____
_____	Title 46—Shipping (Parts 166 to 199)	3.00	_____
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